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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 531, 536, 772, 831, 841, 842, 846, 870, and 890

RIN 3206–AE16

Interim Relief

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The U.S. Office of Personnel Management (OPM) is publishing final regulations at 5 CFR parts 531, 536, 772, 831, 841, 842, 846, 870, and 890 to provide agencies with the authorities necessary to take personnel actions providing interim relief under the *Whistleblower Protection Act of 1989*, Public Law 101–12, codified at 5 U.S.C. 7701(b)(2)(A). These regulations address the areas of: (1) Taking personnel actions to effect interim relief, (2) pay and benefits administration, and (3) the effect of interim relief on entitlement to retirement, health, and life insurance benefits for the period of time an employee, former employee, or applicant for employment remains in an interim relief status.

EFFECTIVE DATE: March 2, 1992.

FOR FURTHER INFORMATION CONTACT: For parts 531 and 536: Robert T. Gatewood (202) 606–2858 or FTS 266–2858; for part 772: Gary D. Wahlert (202) 606–2920 or FTS 266–2920; and for parts 831, 841, 842, 846, 870, and 890: Patricia A. Rochester (202) 606–0299 or FTS 266–0299.

SUPPLEMENTARY INFORMATION: OPM published for comment proposed regulations on this subject in the **Federal Register** on February 5, 1991, on pages 4562–4567. Comments and suggestions were received from eight agencies and one union. These comments and suggestions, along with the rationale for and explanation of changes to various parts of the Code of Federal Regulations, are discussed below.

The *Whistleblower Protection Act of 1989* (WPA) provided that prevailing parties in an appeal to the Merit Systems Protection Board (MSPB) ". . . shall be granted the relief provided in the decision, and remaining in effect pending the outcome of any petition for review. . . ." The final regulations authorize agencies to take interim personnel actions to provide a prevailing applicant or employee the interim relief ordered in an MSPB initial decision. Interim personnel actions include, but are not limited to, interim appointments, interim repromotions after demotions, and interim within-grade increases.

1. Part 772—When Interim Relief Is Appropriate and When It Is Effective

Two commenters suggested that the regulations address the question of whether or not interim relief is only appropriate when an appellant alleges that an appealed action was taken in reprisal for whistleblowing. In response, OPM has amended § 772.101 to clarify that the interim relief provisions of the WPA apply to MSPB appeals involving employees and applicants for employment—as opposed to, for example, applicants for retirement—whether or not whistleblowing issues are involved.

Two commenters suggested that the circumstances should be defined under which an agency determines that it would be "unduly disruptive to the work environment" under the WPA for the appellant to be returned or to be present at the place of employment. OPM believes that the WPA authorized agencies to make this determination as the agency sees fit on a case-by-case basis and that it would be inappropriate for OPM to restrict an agency's exercise of this authority. The regulations note that, when such an "unduly disruptive" determination is made, the individual affected is placed in a paid, non-duty status with all of the compensation and benefits he or she would receive had the individual been placed in a paid, duty status on interim relief.

Several commenters raised questions about whether interim relief is required in all instances, whether interim relief is required when the appellant rather than the agency files a petition for review, and whether time limits for effecting interim relief should be set. With respect to the first issue, OPM notes that interim relief is never appropriate unless an MSPB initial decision orders such relief. A typical situation where interim relief would not be ordered might involve a 30-day suspension which had been served and the employee was returned to duty by the time the MSPB issued an initial decision. Even where interm relief has been ordered, OPM believes, after further review of the WPA, that interim relief is only appropriate if a petition for review is filed (or will be filed) with the full Board. In this regard, OPM notes that the current MSPB practice of advising agencies to implement interim relief "if a petition for review is filed" appears to be consistent with this position.

With respect to the second issue of whether interim relief is required when the petitioner is an appellant, OPM notes that the WPA requires interim relief "pending the outcome of any petition for review" (emphasis supplied) without noting the identity of the petitioner. As a result, OPM believes that interim relief is required, whether the petitioner is the agency or the appellant. If the petitioner is the appellant (e.g., when a removal is mitigated to a demotion by the initial decision and only the appellant challenges the decision), interim relief would still be appropriate because the appeal has not yet reached finality (the matter is still under adjudication and could result in the initial decision being overturned and the agency's action completely sustained). OPM also notes that the current MSPB practice of ordering interim relief as noted above appears to be consistent with this position.

Finally, with respect to the third issue about time limits, OPM believes that such limits are unnecessary. In this regard, the WPA only requires that the effective date of interim relief be the same date as the MSPB decision ordering relief. No additional constraints are provided by law. In view of the position stated above that interim relief is only appropriate if there is (or will be) a petition for review, OPM has concluded that an agency must initiate interim relief by the time a petition for review is filed by the agency and, when a petition is filed by the appellant, must initiate interim relief within a

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reasonable time after it becomes aware of the appellant's petition for review. Again, and in any circumstance, the effective date of the interim relief must be the date of the MSPB initial decision.

Accordingly, OPM is amending § 772.102 to clarify the conditions under which a grant of interim relief is appropriate and to describe the timing of an agency's actions to initiate interim relief.

2. Part 772—Ending of Relief Provided by an Interim Personnel Action

The relief provided by an interim personnel action ends upon the issuance of a final Board order under 5 U.S.C. 7701(b)(2)(A) or when a party withdraws a petition for review such that no petition remains pending at the full Board. The ending of relief provided by an interim personnel action in such circumstances is not subject to adverse action procedures and is neither appealable nor grievable. In this regard, one commenter noted that, even though interim relief may be ended by a final Board order sustaining the agency's action and the ending of relief is not appealable or grievable, the applicant or employee could still continue to challenge the agency's original action by seeking review by the Court of Appeals for the Federal Circuit. OPM agrees.

An interim personnel action may be ended sooner in certain other circumstances. These include the reaching of a settlement agreement which involves cancelling the interim personnel action, the requesting by the applicant or employee that the interim personnel action be cancelled after he or she secures other employment, leaves the agency or retires, or the removing under adverse action procedures of an employee from an interim appointment for cause such as misconduct during the interim relief period.

3. Part 772—Employee Entitlements While in an Interim Relief Status

Several commenters questioned whether an employee or former employee who is a prevailing party and is granted interim relief must be returned to the exact position the employee occupied prior to the agency's action, e.g., the position occupied before the employee was removed, demoted, etc. OPM believes that since the WPA does not require "cancellation" of the action appealed, placement in the same position would not be necessary in order for the agency to provide all of the benefits of interim relief envisioned by the WPA.

OPM believes, however, that if the employee is not returned to the same position, he or she must be returned to a similar position of the same grade and pay and which would provide for the same benefits (e.g., basic pay, overtime, differential pay, locality pay, within-grade increases, gain-sharing, merit increases granted under the Performance Management and Recognition System, OWCP benefits, life insurance, health insurance, retirement coverage, leave accrual, status, tenure, retention level, and, as appropriate, participation in the Thrift Savings Plan) in order to be in compliance with the intent of the WPA. In addition, it is noted that employees in an interim relief status are subject to the same rules affecting other employees, e.g., 5 CFR Part 752, Adverse Actions; 5 CFR Part 432, Performance Based Reduction in Grade and Removal Actions; 5 CFR Part 351, Reduction in Force; etc. Any disputes as to whether a similar position provided the same benefits as the former position would be an appropriate subject for review by MSPB.

Accordingly, OPM is amending § 772.102 by clarifying that interim relief requires that an employee be placed in the same or similar position occupied prior to the agency's action.

With regard to participation in the Thrift Savings Plan, one commenter suggested that the Federal Retirement Thrift Investment Board be informed about the possible impact of interim relief on its activities. OPM agrees with this suggestion and will provide information about the interim relief program to the Thrift Board. OPM will consult with the Board concerning benefits questions that may be brought to OPM's attention.

With regard to RIF actions that might affect an employee on interim relief, one commenter suggested that the final regulations address matters such as bump and retreat rights that might be affected by interim appointments. OPM has declined to elaborate in regulation on this subject but notes that the guiding principle to be followed is that employees serving under interim appointments should be treated for RIF purposes as if the disputed or appealed actions had not occurred (and whether or not the employees were returned to their original positions or to the same or similar positions).

Two commenters suggested that the period of time between the date of an action taken (e.g., removal) and the effective date of interim relief should not be creditable for qualifications, time in grade, or other staffing purposes except to the extent normally permitted. OPM agrees. The final regulations should not be construed to entitle an employee on interim relief to credit for that period of time for these purposes.

Another commenter also suggested that time spent in an interim relief status (i.e., the time between the effective date and the ending date of interim relief) should not be counted toward completion of an employee's probationary period. OPM disagrees. OPM believes that interim relief service should be counted toward completion of the probationary period because the employee is in a pay status (contrary to the time period between a separation and the beginning of interim relief noted in the paragraph above where no pay is provided).

Additional staffing guidance concerning interim relief appointments will be issued after these regulations are published.

4. Part 772—Back Pay and Attorney Fees

Interim relief does not entitle the applicant or employee to awards of back pay or attorney fees. Decisions concerning these awards will be made after a decision is issued by the full Board, or after an initial decision becomes final pursuant to 5 U.S.C. 7701(e)(1)(A).

One commenter questioned whether interim relief ordered in the case of appealed enforced leave would require the agency to restore the leave at issue. OPM believes that such restoration during interim relief would effectively constitute back pay and thus not be permissible under the WPA.

5. Part 531—Interim Within-Grade Increases

Under OPM's current regulations at part 531, if an agency properly grants a within-grade increase, there is no mechanism for specifically terminating the employee's entitlement to the within-grade increase. However, when the personnel action being appealed is the withholding of a within-grade increase, the only possible interim relief is the interim granting of the within-grade increase. Should the full Board ultimately sustain the agency's withholding of the within-grade increase, the agency needs a mechanism for terminating the interim relief, i.e., terminating the employee's entitlement to the within-grade increase, which no longer has a legal basis. OPM is amending part 531 to permit agencies to grant interim within-grade increases, which may be terminated or made permanent, as appropriate, after the Board's final action.

The break in service immediately

preceding an interim appointment is not creditable service for within-grade increase purposes. If the Board's final action overturns a removal and the employee has received a within-grade increase during the interim appointment, the break in service is cancelled and the agency must recompute the effective date of the within-grade increase to reflect the additional period of creditable service.

One commenter questioned whether the effective date of an interim within-grade increase should be on any date other than the effective date of the interim relief. In this regard, OPM believes that the WPA did not intend for interim relief personnel actions to supersede the normal requirements of title 5 of the United States Code. Section 5335 of that title sets several conditions for the granting of within-grade increases including one that such an increase is made effective as of the "beginning of the next pay period" following completion of the required waiting period and one that an acceptable level of competence determination has been made at the end of the waiting period. With respect to the second condition, an MSPB initial decision ordering interim relief is the practical equivalent of a competence determination.

Two commenters asked whether agencies can recover the payment of an interim within-grade increase after a final determination by the Board upholding the agency's denial of the appellant's within-grade increase. OPM notes that the interim relief provision of the law itself is the authority for the payment of the interim increase and there is no basis for recovering the increase if the agency prevails before the full Board. The termination of such interim relief when the agency prevails does not negate the legitimacy of the interim relief and therefore does not create an indebtedness to the United States for the monies paid to the appellant during the interim relief period. Similarly, and contrary to the suggestion of another commenter, making the effective date of the termination of an interim within-grade increase at the end of the pay period in which the Board's decision becomes final does not result in an overpayment to the employee for monies received during the period of interim relief.

One commenter observed that the purpose of interim relief was the return of a withdrawn benefit to an employee who prevails in an MSPB initial decision. The commenter noted that, in the case of within-grade increases, the benefit is not withdrawn and thus the employee could not have restored to him or her a benefit the employee never had. OPM notes, however, that the interim relief in such situations is a determination that the employee is performing at an acceptable level of competence. The lack of such a determination itself is a bar to granting of the within-grade increases, and it is the negative determination, rather than its consequences, that gives rise to an appeal right. The WPA protects an employee by giving the employee the relief he or she would have received if the appealed action had not occurred. In the case of within-grade increases, the appealed action is the negative determination of the employee's competence, not the withholding of the within-grade increase. Once the employee receives the interim relief, i.e., a determination that the employee is performing at an acceptable level of competence, there is no further bar to granting the interim within-grade increase.

6. Part 531—Highest Previous Rate

OPM believes that the use of a rate of pay as an employee's highest previous rate under part 531 when that rate of pay was received solely during a period of interim relief should not be permitted. If the legal basis for the interim rate of pay is removed, e.g., the agency's action is ultimately sustained by the full Board, OPM does not believe it would be appropriate to fix an employee's pay based on the rate of pay received solely during the period of interim relief. Accordingly, OPM is amending part 531 to reflect this position.

7. Part 536—Grade and Retention

Under existing regulations, a break in service of 1 workday or more normally terminates an employee's entitlement to grade or pay retention. (The *Supplementary Information* portion of the proposed regulations erroneously referred to a 3-day break.) Since in virtually all cases of interim relief involving removal actions, more than 1 workday will elapse between the effective date of the removal and the effective date of the interim personnel action, OPM is amending part 536 so that entitlement to grade and pay retention may be continued during a period of interim relief and not be lost because of the break in service of more than 1 workday. This permits employees to keep retained grade and pay benefits as if no personnel action, e.g., removal, had taken place.

8. Part 831—Retirement, Part 841—Federal Employees Retirement System—General Administration, and Part 842—Federal Employees Retirement System—Basic Annuity

OPM is amending the current regulations to make clear that an employee with an interim appointment under the interim relief provisions in 5 U.S.C. 7701(b)(2)(A) may be covered under the Civil Service Retirement System or the Federal Employees Retirement System, as appropriate.

Agencies are required to notify OPM when they appoint on an interim basis an individual who had previously retired so that OPM can suspend the annuity payments until final disposition of the appeal case before the MSPB or until the interim appointment is otherwise ended. If the MSPB decision requiring interim relief is reversed by the full Board and the employee's separation is sustained or the employee agrees to terminate the interim appointment, the employee's annuity will be resumed effective the day after the interim appointment terminates. The annuitant will be deemed to have been a reemployed annuitant during the interim appointment for the limited purpose of applying for any benefits for which he or she qualifies under the provisions of 5 U.S.C. 8344 or 8468. If the initial MSPB decision canceling the agency's separation action (and thereby retroactively reinstating or restoring the employee) is not appealed and becomes the MSPB's final action, if a final MSPB decision cancels the separation, or if the agency agrees to cancel the separation, the employing agency must notify OPM. The agency's notice to OPM should include a request that OPM specify the amount of any erroneous payment—including recurring annuity payments or refunded retirement deductions—to be recovered by the employing agency from any back pay to which the employee may be entitled.

These regulations provide that waiver consideration under 5 U.S.C. 8346(b) or 5 U.S.C. 8470(b) will not be given to any part of an erroneous payment collected from the individual's back pay adjustment. While this provision is contrary to the court's final decision in the case of *Day* v. *OPM*, 833 F.2d 1580 (Fed. Cir. 1987), it is consistent with Congressional intent expressed in the legislative history of section 1221(j) of the *Whistleblower Protection Act of 1989*. In this regard, the Joint Explanatory Statement at S 2784 of the *Congressional Record* on March 16, 1989, states that "[t]he waiver provisions under sections 8346(b) and 8470(b) of title 5 should not be applicable." Thus, part of the impact of section 1221(j) is to negate the holding of the Federal Circuit in *Day* that OPM is required to grant equitable waiver consideration under 5 U.S.C. 8346(b) to a successful appellant before recovering through offset against a back pay award. However, an individual may request a waiver of the unrecovered portion of the erroneous retirement benefit when there is no back pay or the back pay is insufficient to cover the entire erroneous payment.

In adopting these regulations in final form as revised, OPM has taken into consideration a number of comments made on the proposed regulations as discussed below.

One commenter asked whether an employee who had CSRS coverage when separated will be coded as CSRS when the employee receives an interim appointment under § 772.102, without regard to the length of the break in service and whether the reference in § 831.201(b)(6) to CSRS is a generic term and applies equally if the employee had CSRS offset coverage at separation. The answer to both questions is "yes."

A commenter suggested that § 831.305(d) be amended to include a specific reference to the alternative form of annuity (AFA) lump sum, if it must be returned upon cancellation of the employee's removal. Even though "retirement benefits" as used includes both annuity payments and refunded retirement deductions including the AFA lump sum, for the sake of clarity, OPM has revised the language of this section so that it refers to overpaid annuity and lump sum retirement deductions. OPM has also amended § 841.506 to reflect this same intent.

One commenter suggested that the reference to lump sum payment in § 831.2011 concerning the effect of Part 772 on CSRS lump sum payments be changed to "refund of retirement contributions." OPM did not adopt this suggestion since lump sum payment as used in this section refers to a one-time payment of the employee's retirement contributions in contrast to the monthly payment of an annuity. OPM believes that it is clear what is intended if the section is considered in the context of Subpart T of the regulations and the discussion of the comment above about the AFA lump sum.

At the suggestion of another commenter, OPM added language to §§ 831.805(e) and 841.506(e) to indicate that annuity suspended because of an interim appointment will be increased by the Cost of Living Allowances (COLA) and other adjustments provided by law during the period that the annuity is suspended.

One commenter recommended that the reference in § 841.507 to lump sum payment be changed to "refund of retirement contributions." As with the comment above on § 831.2011, lump sum payment refers to a one-time payment of the employee's retirement contributions in contrast to the monthly payment of an annuity. OPM understands that "refund" is commonly used to refer to a lump sum payment of retirement contributions. However, OPM prefers to use the term "lump sum" that is embodied in the definition of lump sum credit provided in law at section 8331(8) of title 5, United States Code.

A commenter requested that OPM make a clear statement about the waiver of overpayments if the agency's action is upheld by the full Board. In this regard, the agency's success on the original removal issue would not cancel out the interim appointment and therefore should not create any overpayments. The only overpayments that OPM can foresee would be the occasional instance where there is a delay between the date of the interim appointment and the notification to OPM to suspend the annuity. OPM does not believe that there is any reason to authorize waiver of such overpayments. OPM intends to collect any payments that occur under the normal overpayment procedures. Also, the fact that OPM is suspending payment of an annuity during the period of an interim relief appointment and will only resume payment prospectively should eliminate any situations where there would be a dual payment of salary and annuity benefits. If there is an actual overpayment, OPM does not know of any authority that would permit authorization of a waiver or nonrecovery of the overpayment as a policy. Where an overpayment occurs, the agency must continue to deal with each case as it comes up under the appropriate waiver authority it has for dealing with the particular overpayment involved. If an overpayment of annuity is involved, such waiver requests must be referred to the Retirement and Insurance Group at OPM for consideration as provided in the current FPM guidance.

Another commenter asked for a clarification of the situation where the agency is ordered by MSPB to provide interim appointment after the employee has been separated for more than 365 days. OPM believes that the intent of the WPA is that the employee is placed in the same or similar position he or she was in prior to removal. Therefore, the employee should be restored to the same benefits coverage he or she had at the time of removal.

A commenter asked that additional language be added to the regulation to address the impact on annuity payments or eligibility for refunds where the interim appointments last for less than 1 year, for 1 year to less than 5 years, and for 5 years or more. OPM does not intend to include such a discussion in the regulations, but, instead, will provide additional guidance to agencies later on this topic. In this regard, OPM does note that at the end of the interim appointment, if the individual does not qualify for a supplemental or redetermined annuity, he or she may only receive a refund of the retirement deductions taken during the interim appointment. If the individual has one or more but less than 5 years of service in the interim appointment, he or she may qualify for a supplemental annuity if all other conditions for entitlement are met. If the individual has 5 or more years of service, he or she may qualify for a redetermined annuity. There is no difference in the effect of the individual's length of service under an interim appointment than there would be for any other reemployed annuitant.

OPM rejected a suggestion that the regulations be revised to cover situations when an employee becomes disabled while employed under an interim appointment. The current regulations provide the result OPM believes should apply here, i.e., employees on interim relief appointments could apply for benefits. Additional information on this topic will be provided in future guidance.

OPM also rejected a suggestion that the regulations be made more clear as to whether an annuitant in an interim appointment is treated as a reemployed annuitant. The regulations as proposed already specify that the individual is not subject to the provisions for reemployed annuitants. Additional discussion of indicator codes, salary reduction, etc., will be provided in FPM guidance.

9. Part 846—Federal Employees Retirement System—Electing Coverage

OPM is amending § 846.201(b) in the current regulations governing an employee's opportunities to elect FERS coverage. Because the order of interim relief is based on an initial finding that cancellation of a separation is appropriate, giving an employee an interim appointment under 5 U.S.C. 7701(b)(2)(A) will not convey a new opportunity for the employee to elect FERS coverage even though under normal circumstances a break in service would give rise to an election right.

A commenter suggested that an individual serving under an interim appointment be allowed to elect FERS coverage to be consistent with the provisions allowing the employee a new health benefits enrollment opportunity and an opportunity to increase the level of coverage for life insurance when the period of separation exceeds 180 days. OPM does not adopt this suggestion for the reason noted in the above paragraph. It is appropriate not to allow a FERS election based on a break in service followed by interim relief which is premised on the likelihood of the individual's prevailing in his or her attempt to cancel the break in service. The health and life insurance programs, on the other hand, provide specific opportunities for enrollees to change enrollments based on their changed circumstances and needs for current coverage. This insurance program concept—unlike the retirement program, which is intended to provide benefits at the end of an employee's career—is the basis for the opportunity to make insurance changes upon an interim appointment.

10. Part 870—Basic Life Insurance and Part 890—Federal Employees Health Benefits Program

OPM amends the current regulations on health benefits and life insurance to allow coverage of an employee given an interim appointment under § 772.102 of this chapter.

Like any other employees with a break in service exceeding 3 days, employees who are given interim appointments generally may enroll in any health benefits plan or option for which they are otherwise eligible. However, if the individual is an annuitant and the annuity is suspended, the health insurance held as an annuitant is transferred to the employing agency.

For employees on interim appointments, the life insurance they had when they last separated from service is reinstated; however, if there is a break in service of at least 180 days, they may increase their level of coverage. If they are annuitants, the life insurance coverage they have as annuitants does not affect their coverage when they are reemployed.

If the final outcome of the appeal is to reverse the separation and award back pay, the regular rules governing cancellation of an erroneous separation apply.

One commenter asked what happens if an individual elects FEHB coverage during the interim appointment or increases FEGLI coverage (if there was a break in service of more than 180 days) and then is retroactively restored to his or her previous position and there is no break in service between the interim appointment and the restoration. The back pay guidance in FPM Supplement 990–2, Book 550, S8–9b assumes that the individual is not Federally employed when he or she is retroactively restored. In extension of the current guidance, an individual with an interim appointment and FEHB coverage could choose either to have the FEHB restored, or simply to continue the insurance held during the interim appointment. Since there is no break in service, there is no opportunity to newly enroll or change enrollment. If the individual had a break in service exceeding 180 days and, upon receiving the interim appointment, chooses to increase his or her life insurance coverage, he or she keeps the new coverage when the restoration occurs. Additional guidance on this topic will be issued by OPM in the future.

One commenter asked what would happen to an individual's TCC coverage during the interim appointment and whether the individual would get a new TCC right if MSPB affirms the agency's removal of the individual. In this instance, like anyone else who acquires regular FEHB coverage, the TCC coverage would stop when the regular coverage becomes effective. Also, like anyone else removed (for a reason other than gross misconduct), the individual would have a new right to TCC.

One commenter asked if an individual who has been separated more than 180 days and elects a higher level of life insurance coverage can carry the higher level coverage into retirement. In this regard, retiring employees can continue options (including levels of additional insurance) if they have had the option (or level) for at least 5 years before retirement.

One commenter asked if an individual has conversion rights under health and life insurance upon separation from an interim appointment. OPM has determined that the individual would have such rights.

11. Part 772—Processing Interim Personnel Actions

Guidance on preparing official documentation to effect an interim personnel action is located in FPM Supplement 296–33. When an interim action is effected, the agency must retain in the individual's Official Personnel Folder (OPF) the Notification of Personnel Action (SF 50) documenting the action that gave rise to the appeal. If the initial decision granting interim relief is later overturned or the interim personnel action is otherwise cancelled, the SF 50 documenting the interim action must be removed from the OPF when the cancellation is effected. When a final Board order is issued, the agency must follow the instructions in FPM chapter 296 and FPM Supplement 296–33 to document the actions required by the decision.

12. Miscellaneous Comments/Suggestions

One commenter stated that an alleged violation of the WPA and these regulations concerning interim relief should be grievable under 5 U.S.C. 7103(a)(9). With regard to interim relief, OPM notes WPA and these regulations do not apply to arbitration awards reversing agency actions. Under the adjudicatory scheme established by Congress, matters covered by chapters 43 and 75 of title 5 of the U.S.C. may be raised under either an applicable negotiated grievance procedure (NGP) or under the appellate procedures described in chapter 77 of that title (i.e., appeals to MSPB), but not both. An employee choosing to seek review under an NGP is not covered by the interim relief provisions which are associated with chapter 77 MSPB appeals. In addition, unlike MSPB initial decisions, arbitration awards (whether concerning matters under Chapters 43 and 75 or other matters) are "final" and thus equivalent to final Board decisions or initial MSPB decisions which have become final under statute. Relief ordered by arbitration awards must be effected by agencies on a "noninterim" or permanent basis. Finally, since Congress only provided for MSPB to order interim relief, OPM believes that only MSPB has authority (through its compliance/enforcement procedures) to insure that an agency has properly complied with that order. To allow grievances on such matters would be inconsistent with the carefully crafted and integrated scheme of administrative and judicial review established by Congress through the *Civil Service Reform Act of 1978* as modified by the WPA.

One commenter wondered why part 300 or other parts of the CFR concerning employment were not referenced in connection with interim relief. OPM did not refer to the "normal" employment parts of the regulations because it believes interim relief is a unique action associated only with the appellate process.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it applies only to Federal employees.

List of Subjects in 5 CFR Parts 531, 536, 772, 831, 841, 842, 846, 870, 890

Administrative practice and procedure; Government employees; retirement; health benefits; life insurance.

U.S. Office of Personnel Management.
Constance Berry Newman,
Director.

Accordingly, OPM amends parts 531, 536, 772, 831, 841, 842, 846, 870, and 890 of title 5 of the Code of Federal Regulations as follows:

PART 531—PAY UNDER THE GENERAL SCHEDULE

1. The authority citation for part 531 continues to read as follows:

Authority: 5 U.S.C. 5115, 5338, and chapter 54; E.O. 12748; subpart A issued under section 302 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101-509), 104 Stat. 1462, and E.O. 12736; subpart B also issued under 5 U.S.C. 5333, 5402, and 7701(b)(2); subpart D also issued under 5 U.S.C. 7701(b)(2); subpart E also issued under 5 U.S.C. 5336.

2. Section 531.203 is amended by removing the word "or" at the end of paragraph (d)(2)(v); redesignating paragraph (d)(2)(vi) as (d)(2)(vii); and adding a new paragraph (d)(2)(vi), to read as follows:

§ 531.203 General provisions.

* * * * *

(d) * * *

(2) * * *

(vi) A rate received solely during a period of interim relief under the interim relief provisions of 5 U.S.C. 7701(b)(2)(A); or

* * * * *

3. In § 531.406, the second sentence of paragraph (a) is revised to read as follows:

§ 531.406 Creditable service.

(a) *General.* * * * Service credit is given during this employment for periods of annual, sick, and other leave with pay; advanced annual and sick leave; service under a temporary or term appointment; and service under an interim appointment made under § 772.102 of this chapter. * * *

* * * * *

4. In § 531.407, paragraph (c) is amended by removing the word "and" at the end of paragraph (c)(5); removing the period and adding a semicolon and the word "and" at the end of paragraph (c)(6); and adding a new paragraph (c)(7), to read as follows:

§ 531.407 Equivalent increase determinations.

* * * * *

(c) * * *

(7) An interim within-grade increase terminated under § 531.414(c) of this part.

5. A new § 531.414 is added to subpart D, to read as follows:

* * * * *

§ 531.414 Interim within-grade increase.

(a) An interim within-grade increase shall be granted to an employee who has:

(1) Appealed a negative within-grade increase determination to the Merit Systems Protection Board under 5 U.S.C 5335(c); and

(2) Been granted a favorable within-grade increase determination under the interim relief provisions of 5 U.S.C. 7701(b)(2).

(b) An interim within-grade increase granted under paragraph (a) of this section shall become effective on the first day of the first pay period beginning on or after the date of the favorable within-grade increase determination.

(c) If the final decision of the Merit Systems Protection Board upholds the negative within-grade increase determination, an interim within-grade increase granted under this section shall be terminated at the end of the pay period in which the Board's decision becomes final.

(d) If the final decision of the Merit Systems Protection Board overturns the negative within-grade increase determination, an interim within-grade increase granted under this section shall be made permanent and shall be granted retroactively to the first day of the first pay period beginning on or after completion of the applicable waiting period.

(e) An employee may not appeal the termination of an interim within-grade increase under paragraph (c) of this section.

PART 536—GRADE AND PAY RETENTION

6. The authority citation for part 536 continues to read as follows:

Authority: 5 U.S.C. 5361-5366 and 7701(b)(2); § 536.307 also issued under 5 U.S.C. 552, Freedom of Information Act, Pub. L. 92-502.

7. In § 536.202, a new paragraph (c) is added, to read as follows:

§ 536.202 Period of grade retention.

* * * * *

(c) Notwithstanding § 536.207(a)(1) of this part, grade retention shall continue to apply to an employee serving under an interim appointment made under § 772.102 of this chapter for the duration of the original 2-year period if the employee's grade was retained under this part in the appointment immediately preceding the interim appointment.

8. In § 536.205, paragraph (f) is redesignated as (g) and a new paragraph (f) is added, to read as follows:

§ 536.205 Determination of rate of basic pay.

* * * * *

(f) Notwithstanding § 536.209(a)(1) of this part, pay retention shall continue to apply to an employee serving under an interim appointment made under § 772.102 of this chapter if the employee's pay was retained under this part in the appointment immediately preceding the interim appointment.

* * * * *

PART 772—INTERIM RELIEF

9. A new part 772 is added to title 5 of the Code of Federal Regulations to read as follows:

PART 772—INTERIM RELIEF

Subpart A—General

Sec.
772.101 Basic authority.
772.102 Interim personnel actions.

Authority: 5 U.S.C. 1302, 3301, 3302, and 7301; Pub. L. 101-12.

Subpart A—General

§ 772.101 Basic authority.

This part establishes a mechanism for agencies to provide interim relief to employees and applicants for employment who prevail in an initial decision issued by the Merit Systems Protection Board (MSPB) as required by the *Whistleblower Protection Act of 1989*, Pub. L. 101-12 (codified at 5 U.S.C. 7701(b)(2)(A)). The interim relief provisions of the law are applicable whether or not alleged reprisal for whistleblowing is at issue in an appeal to MSPB.

§ 772.102 Interim personnel actions.

When an employee or applicant for employment appeals an action to MSPB and the appeal results in an initial decision by an MSPB administrative judge granting interim relief under 5 U.S.C. 7701(b)(2)(A) and a petition for review of the initial decision is filed (or will be filed) with the full Board under 5

U.S.C. 7701(e)(1)(A), the agency shall provide the relief ordered in the initial decision by taking an interim personnel action subject to the following terms:

(a) Interim personnel actions, except interim within-grade increases under § 531.414 of this chapter, shall be made effective upon the date of issuance of the initial decision and must be initiated on or before the date of a petition for review by the agency or within a reasonable time after the date it becomes aware of a petition for review by the appellant;

(b) The relief provided by interim personnel actions shall end:

(1) When the full Board issues a final decision on a petition for review filed by an applicant for employment, employee, and/or agency under 5 U.S.C. 7701(e)(1)(A),

(2) When the initial decision becomes final pursuant to an action of the full Board or pursuant to a decision by an applicant for employment, employee, and/or agency to withdraw (or change intentions to file) any petition for review filed under 5 U.S.C. 7701(e)(1)(A), or

(3) When the applicant for employment or employee requests or reaches agreement with the agency that the interim relief ordered in the initial decision be cancelled;

(c) Interim relief shall entitle the applicant for employment or employee to the same compensation and benefits he or she would receive if the relief effected had not been on an interim basis except as provided in paragraph (f) of this section;

(d) Upon the taking of an interim personnel action, the agency shall place the applicant for employment or employee in a paid, duty status, in the same or similar position previously occupied, unless the agency determines that the return or presence of the individual would be unduly disruptive to the work environment, whereupon the agency may place him or her in a paid, *non-duty* status (with the applicant for employment or employee receiving the same compensation and benefits he or she would be entitled to if placed on interim relief in a paid, *duty* status) during the pendency of a petition for review to the full Board under 5 U.S.C. 7701(e)(1)(A);

(e) An interim personnel action shall not be taken if the MSPB administrative judge, pursuant to 5 U.S.C. 7701(b)(2)(A)(i), determines that granting interim relief is not appropriate;

(f) An interim personnel action under this part shall not entitle the applicant for employment or employee to an award of back pay or attorney fees; and

(g) The agency shall follow the instructions in Federal Personnel Manual Supplement 296–33 and Federal Personnel Manual Chapter 296 in taking an interim personnel action.

PART 831—RETIREMENT

10. The authority citation for Part 831 is amended in part to add a cite for § 831.201(b)(6) as set out below:

Authority: 5 U.S.C. 8347

* * * § 831.201(b)(6) also issued under 5 U.S.C. 7701(b)(2); * * *

11. In § 831.201, paragraph (b) is amended by removing the period at the end of (b)(5) and adding the semicolon in its place, and by adding (b)(6) to read as follows:

§ 831.201 Exclusions from retirement coverage.

* * * * *

(b) * * *

(6) The employee receives an interim appointment under § 772.102 of this chapter and was covered by CSRS at the time of the separation for which interim relief is required.

* * * * *

12. In Subpart H, a new § 831.805 is added to read as follows:

§ 831.805 Effect of part 772 of this chapter on CSRS annuity benefits.

(a) *Agency notification to OPM.* (1) When it is determined that a CSRS retiree is to be given interim relief under 5 U.S.C. 7701(b)(2)(A), the employing agency must notify OPM of the effective date of the interim appointment under § 772.102 of this chapter. The notice must specify that the appointment is required by the *Whistleblower Protection Act of 1989.*

(2) Upon receiving a final MSPB order requiring cancellation of the retiree's separation or after the retiree and the agency agree to cancel the separation, the employing agency must notify OPM and request the amount of the erroneous payment to be covered under § 550.805(e) of this chapter from any back pay adjustment to which the employee may be entitled.

(b) *Suspension of annuity payments during the appointment.* Except as provided in paragraph (d)(4) of this section, the provisions of 5 U.S.C. 8344 will not apply while the retiree is employed in an interim appointment under § 772.102 of this chapter. In all cases, OPM will suspend the retiree's annuity effective on the commencing date of the interim appointment. The suspension will last until the interim appointment ends.

(c) *Employee deductions and agency contribution.* For the duration of the interim appointment, the agency will withhold the appropriate employee deduction and contribute the matching agency contribution as prescribed by OPM.

(d) *Erroneously paid retirement benefits.* (1) Any erroneous payment of a CSRS annuity or a lump sum credit, including the alternative form of annuity lump sum, resulting from the action which led to the interim appointment under § 772.102 of this chapter will be determined when the MSPB initial decision overturning the employee's separation becomes final, when the Board issues a final order cancelling the separation, or when the agency agrees to cancel the separation.

(2) If OPM determines that an overpayment has occurred and the employee is entitled to receive back pay because of the cancelled separation, the overpaid retirement benefits must be deducted to the extent they can be recovered from the back pay adjustment as required by 5 CFR 550.805(e).

(3) Amounts recovered from back pay will not be subject to waiver consideration under the provisions of 5 U.S.C. 8346(b). If there is no back pay or the back pay is insufficient to recover the entire erroneous payment, the employee may request that OPM waive the uncollected portion of the overpayment. If waiver is not granted, the employee must repay the erroneous payment.

(4) If the MSPB action does not result in cancellation of the separation, the retiree may apply for any additional benefits for which he or she qualifies under the provisions of 5 U.S.C. 8344.

(e) *Resumption of annuity payments.* (1) If the retiree withdraws his or her objection to the separation or MSPB issues a final order sustaining the retiree's separation, the employing agency must notify OPM of the date that the interim appointment ends so that annuity payments may be resumed.

(2) OPM will resume annuity payments effective the day after the interim appointment ends. The annuity rate will be adjusted to reflect any cost-of-living increases or other adjustments that would have been made during the period the annuity was suspended.

13. In Subpart T, a new § 831.2011 is added to read as follows:

§ 831.2011 Effect of part 772 of this chapter on CSRS lump-sum payments.

(a) An interim appointment under § 772.102 of this chapter does not affect the lump-sum payment of retirement contributions made to a separated employee unless it becomes effective within 31 days of the employee's separation from the service. An interim appointment effective within 31 days of

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the employee's separation makes the employee ineligible for the lump-sum payment. Payments made in error will be collected under subpart M of part 831 of this chapter.

(b) When an employee's separation is cancelled after the MSPB initial decision becomes final, when the Board issues a final order cancelling the employee's separation, or when the agency and the employee agree to cancel the separation, the agency must notify OPM and request the amount of the erroneous lump-sum payment.

(c) At the time the employee's separation is cancelled, the agency must deduct the amount of the lump-sum payment from any back pay to which the employee is entitled as required by 5 CFR 550.805(e).

(d) Amounts recovered from back pay will not be subject to waiver consideration under 5 U.S.C. 8346(b). If there is no back pay or the back pay is insufficient to recover the erroneous payment, the employee may request that OPM waive the recovery of the uncollected portion of the overpayment. If waiver is not granted, the employee must repay the erroneous payment.

PART 841—FEDERAL EMPLOYEES RETIREMENT SYSTEM—GENERAL ADMINISTRATION

14. The authority citation for subpart E of part 841 is amended in part to add the following cites for § 841.506 and 841.508 to read as follows:

Authority: 5 U.S.C. 8461 * * *; § 841.506 also issued under 5 U.S.C. 7701(b)(2); § 841.508 also issued under section 505 of Pub. L. 99-335.

§§ 841.506 and 841.507 [Redesignated as §§ 841.507 and 841.508]

15. In part 841, subpart E is amended by redesignating §§ 841.506 and 841.507 as §§ 841.507 and 841.508, respectively, and adding a new § 841.506 to read as follows:

§ 841.506 Effect of part 772 of this chapter on FERS payments.

(a) *Agency notification to OPM.* (1) When it is determined that a FERS employee is to be given interim relief under 5 U.S.C. 7701(b)(2)(A), the employing agency must notify OPM of the effective date of the interim appointment under § 772.102 of this chapter. The notice must specify that the appointment is required by the *Whistleblower Protection Act of 1989.*

(2) When the MSPB initial decision cancelling the employee's separation becomes final, when the Board issues a final order cancelling the retiree's separation, or when the agency agrees to cancel the separation, the employing agency must notify OPM of the date the interim appointment ends and request the amount of the erroneous payment to be recovered under § 550.805(e) of this chapter from any back pay adjustment to which the employee may be entitled.

(b) *Suspension of annuity payments during the appointment.* Except as provided in paragraph (d)(2) of this section, the provisions of 5 U.S.C. 8468 will not apply while the retiree is employed in an interim appointment under § 772.102 of this chapter. In all cases, OPM will suspend the retiree's annuity effective on the commencing date of the interim appointment. The suspension will last until the interim appointment ends.

(c) *Employee deductions and normal cost percentage.* For the duration of the appointment, the agency will withhold the appropriate employee deduction and contribute the total amount of the normal cost percentage for the employee as prescribed by OPM. If and when a separation action is cancelled, the agency must make the corrections specified under § 841.507 of this subpart.

(d) *Erroneously paid retirement benefits.* (1) Any erroneous payment of a FERS annuity or a lump sum credit, including the alternative form of annuity lump sum, resulting from the action which led to the interim appointment under § 772.102 of this chapter will be determined when the initial MSPB decision cancelling the separation action becomes final, when the Board issues a final order cancelling the separation of the retiree, or when the agency agrees to cancel the separation.

(2) If the MSPB action does not result in cancellation of the separation, the retiree may apply for additional benefits under 5 U.S.C. 8468 for which he or she qualifies based on the service performed during the interim appointment.

(e) *Resumption of annuity payments.* (1) If the retiree withdraws his or her objection to the separation or MSPB issues a final order sustaining the retiree's separation, the employing agency must notify OPM of the date the interim appointment ends so that annuity payments may be resumed.

(2) OPM will resume annuity payments effective the day after the interim appointment ends. The annuity rate will be adjusted to reflect any cost-of-living increases or other adjustments that would have been made during the period the annuity was suspended.

16. In § 841.507, a new paragraph (d) is added to read as follows:

§ 841.507 Correction of unjustified or unwarranted personnel action.

* * * * *

(d) (1) Any FERS benefits—lump-sum payments or annuity benefits—paid based on a separation that is later cancelled are considered erroneous payments that must be repaid to OPM. Agencies must deduct such payments from any back pay adjustment to which the employee may be entitled as required by 5 CFR 550.805(e).

(2) Amounts recovered from back pay will not be subject to waiver consideration under 5 U.S.C. 8470(b). If there is no back pay, or the back pay is insufficient to recover the entire erroneous payment, the employee may request that OPM waive recovery of the uncollected portion of the overpayment. If waiver is not granted, the employee must repay the erroneous payment.

PART 842—FEDERAL EMPLOYEES RETIREMENT SYSTEM—BASIC ANNUITY

17. The authority citation for part 842 is amended to revise the cites for §§ 842.105 and 842.106 to read as follows:

Authority: 5 U.S.C. 8461(g) * * * § 842.105 also issued under 5 U.S.C. 8402(c)(1) and 7701(b)(2); § 842.106 also issued under sec. 7202(m)(2) of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101-508, and 5 U.S.C. 8402(c)(1); * * *

18. § 842.105 is amended by adding a new paragraph (c) to read as follows:

§ 842.105 Regulatory exclusions.

* * * * *

(c) Paragraph (a) of this section does not deny FERS coverage to an employee who receives an interim appointment under § 772.102 of this chapter and was covered by FERS at the time of the separation for which interim relief is required.

PART 846—FEDERAL EMPLOYEES RETIREMENT SYSTEM—GENERAL ADMINISTRATION

13. The authority citation for part 846 is revised to read as follows:

Authority: 5 U.S.C. 8461(g); § 846.201(b) also issued under 5 U.S.C. 7701(b)(2); § 846.202 also issued under section 301(d)(3) of Pub. L. 99-335.

14. Section 846.201(b) is revised to read as follows:

§ 846.201 Elections to become subject to FERS.

* * * * *

(b) *Separated employees who are reemployed.* A former employee who, after June 30, 1987, becomes reemployed and subject to CSRS may elect, during the 6-month period beginning on the date he or she becomes subject to CSRS, to become subject to FERS, except that an employee serving under an interim appointment under the authority of § 772.102 of this chapter is not eligible to elect to become subject to FERS.

* * * * *

PART 870—BASIC LIFE INSURANCE

21. The authority citation for part 870 is revised to read as follows:

Authority: 5 U.S.C. 8716; § 870.202(c) also issued under 5 U.S.C. 7701(b)(2).

22. In § 870.202, a new paragraph (c) is added to read as follows:

§ 870.202 Exclusions.

* * * * *

(c) Paragraph (a) of this section does not deny coverage to an employee serving under an interim appointment established under § 772.102 of this chapter.

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

23. The authority citation for part 890 is revised to read as follows:

Authority: 5 U.S.C. 8913; § 890.102 also issued under 5 U.S.C. 1104, 5 U.S.C. 7701(b)(2) and Pub. L. 100–654; § 890.803 also issued under sec. 303 of Pub. L. 99–569, 100 Stat. 3190, sec. 188 of Pub. L. 100–204, 101 Stat. 1331, sec. 204 of Pub. L. 100–238, 101 Stat. 1744, and 50 U.S.C. 403p, 22 U.S.C. 4060(c) and 4069c–1; Subpart K also issued under title II of Pub. L. 100–654; Subpart L also issued under sec. 599C of Pub. L. 101–513, 104 Stat. 2064.

24. In § 890.102, paragraph (d) is revised to read as follows:

§ 890.102 Coverage.

* * * * *

(d) Paragraph (c) of this section does not deny coverage to:

(1) An employee appointed to perform "part-time career employment," as defined in section 3401(2) of title 5, United States Code, and 5 CFR part 340, subpart B; or

(2) An employee serving under an interim appointment established under § 772.102 of this chapter.

* * * * *

[FR Doc. 92–2226 Filed 1–30–92; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 915

[Docket No. FV-91-449IR]

Avocados Grown in South Florida; Relaxation of Grade Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule relaxes grade requirements for Florida avocados to permit handlers to ship avocados of dissimilar varieties in the same container when they are shipped to destinations within the production area (South Florida). Currently, all of the avocados in a particular container for shipment to any destination must have similar varietal characteristics in order to meet the current minimum grade requirement of U.S. No. 2. This action is expected to facilitate the picking and preparation of avocados for production area markets when more than one avocado variety matures at the same time, and help the Florida avocado industry more efficiently market its crop in production area markets.

DATES: This rule becomes effective January 31, 1992. Comments must be received by March 2, 1992.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule to: Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456. Three copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours. All comments should reference the docket number, date, and page number of this issue of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Gary D. Rasmussen, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–5331.

SUPPLEMENTARY INFORMATION: This interim final rule is issued under the Marketing Agreement and Marketing Order No. 915, as amended (7 CFR Part 915), regulating the handling of avocados grown in South Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This interim final rule has been reviewed by the Department of Agriculture (Department) in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act and rules issued thereunder are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are about 40 handlers of Florida avocados subject to regulation under Marketing Order No. 915, and about 300 avocado producers in the production area in South Florida. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural services firms are defined as those whose annual receipts are less than $3,500,000. The majority of the avocado handlers and producers may be classified as small entities.

The interim final rule amends § 915.306 (7 CFR 915.306) by relaxing grade requirements so that handlers may ship avocados of dissimilar varieties in the same container when they are shipped to destinations within the production area. Currently, all of the avocados in a particular container shipped to any destination must have similar varietal characteristics in order to meet the current minimum grade requirement of U.S. No. 2. This grade requirement is defined in the United States Standards for Grades of Florida Avocados. Container regulations for Florida avocados are specified in §§ 915.305 and 915.306.

This action is designed to facilitate the picking and preparation of avocados for production area markets when more than one avocado variety matures at the same time, and help the Florida avocado industry more efficiently market its crop. Sometimes growers and handlers have relatively small quantities of avocados consisting of several different varieties ready for picking and packing at the same time, which they intend to ship to markets within the production area only.

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These growers and handlers believe that they could save time and expense if they were permitted to commingle these avocados in the same packing and shipping containers.

Currently, avocados imported into the United States must grade at least U.S. No. 2, as provided in § 944.28 (7 CFR 944.28). Since this action does not change the minimum grade requirement of U.S. No. 2 specified in § 915.306 (7 CFR 915.306) for avocados handled to points outside the production area, there is no need to change the avocado import regulation. Section 8e of the Act (7 U.S.C. 608e–1) requires that whenever specified commodities, including avocados, are regulated under a Federal marketing order, imports of that commodity into the United States must meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity.

Maturity requirements for Florida avocados handled to points both within and outside the production area are specified in § 915.332. These requirements, based on minimum weights and diameters, remain in effect unchanged by this rule.

Since shipments of this season's Florida avocado crop are currently in progress, this action is being taken on an interim final basis with a 30-day comment period. This action relaxes current requirements, and was unanimously recommended by the committee.

Based on the above, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant material presented and other available information, it is found that this interim final rule will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined, upon good cause, that it is impracticable, unnecessary and contrary to the public interest to give preliminary notice and opportunity to comment, and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) This action relaxes grade requirements for certain Florida avocados; (2) Florida avocado handlers are aware of this action which was unanimously recommended by the committee at a public meeting and they will need no additional time to comply with the relaxed requirements; (3) shipment of the 1991–92 season Florida avocado crop is currently in progress; and (4) this interim final rule provides a 30-day comment period and any comments received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 915

Avocados, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 915 is amended as follows:

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

1. The authority citation for 7 CFR part 915 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 915.306 is amended by revising paragraphs (a) and (a)(1) to read as follows:

Note: This section will appear in the annual Code of Federal Regulations.

§ 915.306 Florida avocado grade, pack, and container marking regulation.

(a) No handler shall handle any variety of avocados grown in the production area unless:

(1) Such avocados grade at least U.S. No. 2, except that avocados handled to destinations within the production area may be placed in containers with avocados of dissimilar varietal characteristics.

* * * * *

Dated: January 27, 1992.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92–2319 Filed 1–30–92; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1421

Grains and Similarly Handled Commodities

AGENCY: Commodity Credit Corporation (CCC), USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations at 7 CFR part 1421 with respect to the farmer-owned reserve (FOR) program which is conducted by CCC in accordance with section 110 of the Agricultural Act of 1949 (1949 Act), as amended. This rule is necessary in order to implement the changes made to section 110 by the Food, Agriculture, Conservation, and Trade Act of 1990 (1990 Act). The amendment made by this rule simply codifies the determination made by the Secretary of Agriculture that 1991 crop wheat may not be pledged as collateral for FOR loans.

EFFECTIVE DATE: January 31, 1992.

FOR FURTHER INFORMATION CONTACT: Craig Jagger, Food Grains Group, Commodity Analysis Division, USDA–ASCS, P.O. Box 2415, Washington, DC 20013 or call (202) 720–7923.

SUPPLEMENTARY INFORMATION: This amendment has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512–1 and it has been designated as "major". A Final Regulatory Impact Analysis has been prepared and is available from the above-named individual.

The title and number of the Federal assistance program, as found in the catalogue of Federal Domestic Assistance, to which this notice applies is Grain Reserve Program—10.067.

It has been determined that the Regulatory Flexibility Act is not applicable because CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of these determinations.

This program is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Section 110 of the 1949 Act sets forth the statutory authority for the FOR program which was added to the 1949 Act by the Food and Agriculture Act of 1977. FOR was originally intended to encourage producers to store wheat and feed grains during times of surplus for orderly marketing at a later time. As noted in the Conference Report to the 1990 Act, however, experience has shown that the FOR has not operated in an efficient manner:

> The managers feel that the FOR has not been operated in an efficient manner in the recent past. The changes made in this section are intended to provide for a more moderate transition of grain into and out of the reserve. The managers note that the program has, in the past, had the effect of completely isolating the reserve from the market—some wheat from the 1978 crop remains in the reserve at the time this Act is being completed. The managers intend that the changes made in the Act will allow for a more orderly flow of grain into and out of the FOR. Accordingly, the amendments adopted in the conference substitute become effective December 1, 1990, to govern the administration of the FOR as of that date.

In order to ensure that unreasonably large quantities of grain are not placed for the FOR, the 1990 Act amended section 110 to provide that the maximum quantity of wheat in the FOR cannot exceed 450 million bushels and the maximum quantity of feed grains cannot exceed 900 million bushels; there are no minimum quantities which must be maintained in the FOR. The maximum quantity of wheat in the FOR may be established within the range of 300–450 million bushels and the maximum quantity of feed grains within a range of 600–900 million bushels.

Entry into the FOR is triggered based upon price and stocks-to-use ratios. Section 110 provides:

(1) *Discretionary Entry*—The Secretary may make extended loans available to producers of wheat or feed grains if:

(A) The Secretary determines that the average market price for wheat or corn, respectively, for the 90-day period prior to December 15 for wheat or March 15 for feed grains is less than 120 percent or the current loan rate for wheat or corn, respectively;

(B) As of the appropriate date specified above the Secretary estimates that the stocks-to-use ratio on the last day of the current marketing year will be:

(i) In the case of wheat, more than 37.5 percent; and

(ii) In the case of corn, more than 22.5 percent.

(2) *Mandatory Entry*—The Secretary shall make extended loans available to producers of wheat or feed grains if the conditions specified in subparagraphs (A) and (B) of paragraph (1) are met for wheat and feed grains, respectively.

Section 110 provides that the determination of whether or not there will be entry of wheat into the FOR will be announced by December 15 of the year in which the crop of wheat was harvested and, in the case of feed grains, March 15 of the year following the year in which the crop of corn was harvested.

If entry into the FOR is allowed, as noted in the Conference Report, the terms and conditions of the FOR loans are designed to allow greater flexibility to producers than was previously allowed under section 110:

> The current statutory restrictions on access to FOR grain severely restrict usefulness of the FOR. The amendments adopted in the Conference substitute will allow producers to gain access to FOR-held grain to encourage producers to redeem grain from the FOR as market conditions and individual marketing plans warrant. The amendments allow all producers to redeem FOR loans at any time without imposition of penalties, as exist in current law. The amendments also provide that once market prices reach 95% of the current established price for the commodity, storage payments will end, and loans extended for FOR grain will begin accruing interest once market prices each (sic) 105% of the established price for the commodity.

Storage payments will be paid with respect to FOR grain after the fact on a quarterly basis. Section 110 also provides:

> The Secretary shall cease making storage payments whenever the price of wheat or feed grains is equal to or exceeds 95 percent of the then current established price for the commodities, and for any 90-day period immediately following the last day on which the price of wheat or feed grains was equal to or in excess of 95 percent of the then current established price for the commodities.

Although the FOR program was intended to ensure that grain would come out of the FOR when prices were high, producers have shown a reluctance to repay FOR loans. In large part, this is due to the storage payments which they could earn under the FOR and due to special Internal Revenue Code tax provisions which allow producers the option to defer the declaration of the proceeds of CCC price support loans as income until the maturity of the loan.

In order to ensure orderly management of the FOR, section 110 provides that producers may, if entry is allowed, only enter the FOR after the maturity of the regular 9-month price support loan expired. Also, in order to provide for equitable treatment of producers, section 110 provides that the Secretary shall take regional differences into consideration when administering the FOR.

As discussed above the determination as to whether there will be entry into the FOR is based upon a review of the market prices for the 90 days immediately preceding the determination, as well as upon a projection of the estimated stocks-to-use ratio which is projected to exist at the end of the marketing year for wheat and corn, respectively. Accordingly, on December 16, 1991, the Secretary announced that the 1991 stocks-to-use ratio was less than 37.5 percent and that the 90-day market price was in excess of 120 percent of the 1991 price support level.

Based on a review of existing and projected market conditions, the Secretary has no authority to allow the 1991 crop wheat into the FOR. This final rule amends 7 CFR part 1421 to set forth this determination. Since this amendment merely codifies an existing determination, no further rulemaking is necessary.

List of Subjects in 7 CFR Part 1421

Grains, Loan programs/agriculture, Oilseeds, Peanuts, Price support programs, Reporting and recordkeeping requirements, Warehouses.

Accordingly, 7 CFR part 1421 is amended as follows:

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

1. The authority citation for 7 CFR part 1421 continues to read as follows:

Authority: 7 U.S.C. 1421, 1423, 1425 and 1445e; 15 U.S.C. 714b and 714c.

2. Section 1421.742 is revised to read as follows:

§ 1421.742 Reserve quantity.

(a) The maximum quantity of 1990 crop wheat which may be stored under the provisions of section 110 of the Agricultural Act of 1949, as amended, is 300 million bushels. No quantity of 1990 crop feed grains may be stored under the provisions of section 110 of the Agricultural Act of 1949, as amended.

(b) No quantity of 1991 crop wheat may be stored under the provisions of section 110 of the Agricultural Act of 1949, as amended.

Signed at Washington, DC, on January 24, 1992.

John A. Stevenson,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 92-2356 Filed 1-30-92; 8:45 am]

BILLING CODE 3410-05-M

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 92-005]

Brucellosis in Cattle; State and Area Classifications

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are amending the brucellosis regulations concerning the interstate movement of cattle by changing the classification of Mississippi from Class B to Class A. We have determined that Mississippi now meets the standards for Class A status. This action relieves certain restrictions on the interstate movement of cattle from Mississippi.

DATES: Interim rule effective January 27, 1992.

Consideration will be given only to comments received on or before March 31, 1992.

ADDRESSES: To help ensure that your written comments are considered, send an original and three copies to Chief,

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Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket 92–005. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. John Kopec, Senior Staff Veterinarian, Cattle Diseases and Surveillance Staff, VS, APHIS, USDA, room 729, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–6188.

SUPPLEMENTARY INFORMATION:

Background

Brucellosis is a contagious disease affecting animals and man, caused by bacteria of the genus *Brucella.*

The brucellosis regulations contained in 9 CFR part 78 (referred to below as the regulations) provide a system for classifying States or portions of States according to the rate of brucella infection present, and the general effectiveness of a brucellosis control and eradication program. The classifications are Class Free, Class A, Class B, and Class C. States or areas that do not meet the minimum standards for Class C are required to be placed under Federal quarantine.

The Brucellosis Class Free classification is based on a finding of no known brucellosis in cattle for the 12 months preceding classification as Class Free. The Class C classification is for States or areas with the highest rate of brucellosis. Class B and Class A fall between these two extremes. Restrictions on moving cattle interstate become less stringent as a State approaches or achieves Class Free status.

The standards for the different classifications of States or areas entail maintaining (1) a cattle herd infection rate not to exceed a stated level during 12 consecutive months; (2) a rate of infection in the cattle population (based on the percentage of brucellosis reactors found in the Market Cattle Identification (MCI) program—a program of testing at stockyards, farms, ranches, and slaughter establishments) not to exceed a stated level; (3) a surveillance system that includes testing of dairy herds, participation of all slaughtering establishments in the MCI program, identification and monitoring of herds at high risk of infection—including herds adjacent to infected herds and herds from which infected animals have been sold or received, and have an individual herd plan in effect within a stated number of days after the herd owner is notified of the finding of brucellosis in a herd he or she owns; and (4) minimum procedural standards for administering the program.

Before the effective date of this interim rule, Mississippi was classified as a Class B State because of its herd infection rate and its MCI reactor prevalence rate. However, after reviewing its brucellosis program records, we have concluded that the State of Mississippi meets the standards for Class A status.

To attain and maintain Class A status, a State or area must (1) not exceed a cattle herd infection rate, due to field strain *Brucella abortus*, of 0.25 percent or 2.5 herds per 1,000 based on the number of reactors found within the State or area during any 12 consecutive months, except in States with 10,000 or fewer herds; (2) maintain a 12 consecutive months MCI reactor prevalence rate not to exceed one reactor per 1,000 cattle tested (0.10 percent); (3) have an approved individual herd plan in effect within 15 days of locating the source herd or recipient herd; and (4) maintain the specified surveillance system.

Therefore, we are removing Mississippi from the list of Class B States in § 78.41(c) and adding it to the list of Class A States in § 78.41(b). This action relieves certain restrictions on moving cattle interstate from Mississippi.

Immediate Action

Robert Melland, Administrator of the Animal and Plant Health Inspection Service, has determined that there is good cause to publish this interim rule without prior opportunity for public comment. Immediate action is warranted to remove unnecessary restrictions on the interstate movement of cattle from Mississippi.

Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these conditions, there is good cause under 5 U.S.C. 553 to make it effective upon signature. We will consider comments that are received within 60 days of publication of this interim rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. It will include discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have on effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

Cattle moved interstate are moved for slaughter, for use as breeding stock, or for feeding. Changing the status of Mississippi from Class B to Class A reduces certain testing and other requirements governing the interstate movement of cattle from Mississippi. However, cattle from certified brucellosis-free herds moving interstate are not affected by this change.

The principal group affected would be the owners of noncertified herds in Mississippi not known to be affected with brucellosis who seek to sell cattle.

There are an estimated 27,000 herds in Mississippi that could potentially be affected by this rule change. We estimate that 98 percent of these herds are owned by small entities. During fiscal year 1991, Mississippi tested 168,967 eligible cattle at livestock markets. We estimate that approximately 5 percent of this testing was done to qualify cattle for interstate movement for purposes other than slaughter. Testing costs approximately $1.50 per head. Since herd sizes vary, larger herds will accumulate more savings than small herds. Also, not all herd owners will choose to market their cattle in a way that accrues these cost savings. The overall effect of this rule on small entities should be to provide very small economic benefit.

Therefore, we believe that changing Mississippi's brucellosis status will not significantly affect market patterns, and will not have a significant economic impact on the small entities affected by this interim rule.

Under these circumstances, the Animal and Plant Health Inspection

Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

List of Subjects in 9 CFR Part 78

Animal diseases, Brucellosis, Cattle, Hogs, Quarantine, Transportation.

Accordingly, 9 CFR part 78 is amended as follows:

PART 78—BRUCELLOSIS

1. The authority citation for part 78 continues to read as follows:

Authority: 21 U.S.C. 111–114a–1, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

§ 78.41 [Amended]

2. Paragraph (b) of § 78.41 is amended by adding "Mississippi," immediately after "Kentucky,".

3. Paragraph (c) of § 78.41 is amended by removing "Mississippi,".

Done in Washington, DC, this 27th day of January 1992.

Robert Melland,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92–2353 Filed 1–30–92; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 25

RIN 3150-AD66

NRC Licensee Reinvestigation Program

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to require a reinvestigation program for NRC licensee personnel with "Q" and "L" access authorizations and to amend the fee schedule to recover the investigative costs. The reinvestigation program is consistent with the Department of Energy's program for its contractors and is consistent with NRC's policy of reinvestigating its own employees, consultants, contractors, experts and panel members. This amendment is necessary to achieve a higher level of assurance that licensee personnel with access to Restricted Data or National Security Information remain eligible for such access.

EFFECTIVE DATE: March 31, 1992.

FOR FURTHER INFORMATION CONTACT: Duane G. Kidd, Division of Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–4127.

SUPPLEMENTARY INFORMATION:

Background

The NRC currently requires a reinvestigation every five years for its employees, consultants, contractors, experts, and panel members with "Q" or "L" access authorization, but does not require a reinvestigation for licensee personnel with the same level of access authorizations. A recommendation was made in the 1988 GAO Report "NRC's Security Clearance Program Can Be Strengthened" and amplified in 1989 hearings before Congressman Synar that NRC have a reinvestigation program for its "L" cleared employees, consultants, contractors, experts, and panel members to assure their continued reliability, integrity, and trustworthiness. The rationale behind that recommendation applies equally to licensee personnel with "L" and "Q" access authorizations.

The final rule establishes the requirement that licensee personnel, whose access authorizations were granted five or more years ago are subject to a reinvestigation similar in scope to that required for NRC employees and contractors and consistent with that required by the Department of Energy for its contractors who have access to Restricted Data or National Security Information. The final rule also amends Appendix A "Fees for NRC Access Authorization" to recover the costs of the reinvestigations required by these changes. The rule does, however, allow for recognition of other Federal agencies, principally the Department of Energy's, reinvestigations. In cases where NRC can verify an appropriate reinvestigation by another Federal agency, there is no charge to the licensee or other organization. Where there is no other reinvestigation, or the reinvestigation does not meet NRC requirements, the fee is assessed. However, the assessed fee is usually nominal, as reflected in appendix A.

Public Comments

On July 31, 1991, the Commission published a proposed rule for comment in the Federal Register (56 FR 36113) to require a reinvestigation program for NRC licensee personnel with "Q" and "L" access authorizations and amend the fee schedule to recover investigative costs. The comment period expired on September 13, 1991. One comment was received from the public on October 7, 1991, after the comment period had closed. The comment concurred with the concept of the proposed reinvestigation program but objected to a procedural aspect of its implementation. Specifically, the proposed rule would have required a licensee to submit duplicate original applications for reinvestigation both to NRC and to any other Federal agency conducting reinvestigations in those cases where a licensee was subject to both programs. The commenter recommended that an original packet be submitted to only one agency, and that the licensee provide NRC with an abbreviated format listing critical identifying data for the employee and information concerning the reinvestigation package submitted to the other agency (e.g., DOE). Since the paperwork burden on affected licensees would be substantially reduced by the commenter's recommendations and copies of the original security clearance package can be obtained from the reinvestigating agency, if required in specific individual cases, this comment has been adopted and the final rule revised to adopt this comment.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final regulation is the type of action described as a categorical exclusion in 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These requirements were approved by the Office of Management and Budget, approval number 3150–0046.

Regulatory Analysis

The Commission has prepared a regulatory analysis on this final regulation. The analysis examines the costs and benefits or the alternatives

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considered by the Commission. The analysis is available for inspection in the NRC Public Document Room, Room LL6, 2120 L Street, NW. (Lower Level), Washington, DC. Single copies of the regulatory analysis may be obtained from Duane G. Kidd, Division of Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–4127.

Regulatory Flexibility Certification

Based upon the information available at this stage of the rulemaking proceeding and in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Commission certifies that this final rule does not have a significant economic impact on a substantial number of small entities. This rulemaking only applies to those licensees and others who generate, receive, safeguard and store National Security Information or Restricted Data (as defined in 10 CFR part 25). Approximately 31 NRC licensee and other license related interests are affected under the provisions of 10 CFR part 25. Because these licensees are not classified as small entities as defined by the NRC's size standards (December 9, 1985; 50 FR 50241), the Commission finds that this rule does not have a significant economic impact upon a substantial number of small entities.

Backfit Analysis

The NRC has determined that the backfit rule, ~~10 CFR 50.~~109, does apply to this final rule because it falls within the criteria of 10 CFR Part 50.109(a)(1), but that a backfit analysis is not required because this final rule qualifies for exemption under 50.109(a)(4)(iii) that reads "That the regulatory action involves . . . redefining what level of protection to the . . . common defense and security should be regarded as adequate."

List of Subjects in 10 CFR Part 25

Classified information, Criminal penalty, Investigations, Reporting and recordkeeping requirements, Security measures.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR part 25.

PART 25—ACCESS AUTHORIZATION FOR LICENSEE PERSONNEL

1. The authority citation for part 25 continues to read as follows:

Authority: Secs. 145, 161, 68 Stat. 942, 948, as amended (42 U.S.C. 2165, 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); E.O. 10865, as amended, 3 CFR 1959–1963 COMP., p. 398 (50 U.S.C. 401, note); E.O. 12356, 47 FR 14874, April 6, 1982.

Appendix A also issued under 96 Stat. 1051 (31 U.S.C. 9701).

For the purposes of sec. 223, 68 Stat. 958, as amended, (42 U.S.C. 2273), §§ 25.13, 25.17(a), 25.33 (b) and (c) are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 25.13 and 25.33(b) are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 25.8, paragraph (c) is revised to read as follows:

§ 25.8 Information collection requirements: OMB approval.

* * * * *

(c) This part contains information collection requirements in addition to those approved under the control number specified in paragraph (a) of this section. These information collection requirements and the control numbers under which they are approved are as follows:

(1) In §§ 25.17(b), 25.21(c), 25.27(a), 25.29, and 25.31, NRC Form 237 is approved under control number 3150–0050.

(2) In §§ 25.17(c), 25.21(c), 25.27(b), 25.29, 25.31, SF–86 is approved under control number 3150–0007.

(3) In § 25.21(b), NRC Form 354 is approved under control number 3150–0026.

(4) In § 25.33, NRC Form 136 is approved under control number 3150–0049.

(5) In § 25.35, NRC Form 277 is approved under control number 3150–0051.

3. In § 25.17, paragraph (e) is revised to read as follows:

§ 25.17 Approval for processing applicants for access authorization.

* * * * *

(e) Applications for access authorization or access authorization renewal processing must be accompanied by a check or money order, payable to the United States Nuclear Regulatory Commission, representing the current cost for the processing of each "Q" and "L" access authorization, or renewal request. Access authorization and access authorization renewal fees will be published each time the Office of Personnel Management notifies NRC of a change in the rates it charges NRC for the conduct of investigations. Any such changed access authorization or access authorization renewal fees will be applicable to each access authorization or access authorization renewal request received upon or after the date of publication. Applications from individuals having current Federal access authorizations may be processed more expeditiously and at less cost, since the Commission may accept the certification of access authorization and investigative data from other Federal Government agencies that grant personnel access authorizations.

4. Section 25.19 is revised to read as follows:

§ 25.19 Processing applications.

Each application for access authorization or access authorization renewal, together with its accompanying fee, must be submitted to the NRC Division of Security. If necessary, the NRC Division of Security may obtain approval from the appropriate Commission office exercising licensing or regulatory authority before processing the access authorization or access authorization renewal request. If the applicant is disapproved for processing, the NRC Division of Security shall notify the submitter in writing and return the original application (security packet) and its accompanying fee.

5. In § 25.21, paragraph (a) is revised and paragraph (c) is added to read as follows:

§ 25.21 Determination of initial and continued eligibility for access authorization.

(a) Following receipt by the NRC Division of Security of the reports of the personnel security investigations, the record will be reviewed to determine that granting an access authorization or renewal of access authorization will not endanger the common defense and security and is clearly consistent with the national interest. If such a determination is made, access authorization will be granted or renewed. Questions as to initial or continued eligibility will be determined in accordance with part 10 of chapter I.

* * * * *

(c)(1) Except as provided in paragraph (c)(2) of this section, NRC "Q" and "L" access authorizations expire five years from the date of issuance. If a continued "Q" or "L" access authorization is required, an application for renewal must be submitted at least 120 days prior to its expiration date. Failure to make a timely application will result in expiration of access authorization. Access authorization for which a timely application for renewal has been made may be continued beyond the expiration date pending final action on the application. An application for renewal must include:

(i) A statement by the licensee or other person that the individual continues to require access to classified National Security Information or Restricted Data; and

(ii) A personnel security packet as described in § 25.17(c).

(2) An exception to the access authorization expiration date, the time for submission of renewal applications, and the paperwork required for renewal applications is provided for:

(i) Those individuals whose original access authorization date of issuance is more than five years old as of the effective date of this final rule. For those individuals, an application for renewal must be submitted by September 28, 1992; and

(ii) Those individuals who have a current and active access authorization from another Federal agency, are subject to a reinvestigation program by that agency that is determined by NRC to meet NRC's requirements (the DOE Reinvestigation Program has been determined to meet NRC's requirements), and for which the licensee or other person has notified NRC of the applicability of this exception at least 120 days prior to the original expiration date of the access authorization. For those individuals, the licensee or other person may submit to NRC, concurrent with its next submission to the other government agency (after the effective date of this rule), a completed NRC Form 237, "Request for Access Authorization," containing the individual's full name, to include Social Security Number, date of birth, type of request, i.e., renewal, Reinvestigation Submittal Date, and Agency Conducting Reinvestigation, signed by a licensee or licensee contractor official as the supporting documentation for an NRC access authorization renewal application. Any NRC access authorization continued in response to a renewal application submitted pursuant to this paragraph will, thereafter, not expire until the date set by the other government agency for the next reinvestigation of the individual pursuant to the other agency's reinvestigation program provided that period is no longer than seven years from the date of the NRC renewal. At that time (and at the time of each subsequent reinvestigation of the individual), the licensee or other person may again submit, concurrent with its submission to the other government agency, a completed NRC Form 237, "Request for Access Authorization," containing the individual's full name, Social Security Number, date of birth, type of request, i.e., renewal, Reinvestigation Submittal Date, and Agency Conducting Reinvestigation, signed by a licensee or licensee contractor official as the supporting documentation for an NRC access authorization renewal application. Failure to file a renewal application concurrent with the submission of an individual's SF-86 to the other government agency pursuant to their reinvestigation requirements, even if less than five years has passed since the date of issuance or renewal of the NRC "Q" or "L" access authorization, will result in the expiration of the individual's NRC access authorization.

6. Section 25.23 is revised to read as follows:

§ 25.23 Notification of grant of access authorization.

The determination to grant or renew access authorization will be furnished in writing to the licensee or organization that initiated the request. Upon receipt of the notification of original grant of access authorization, the licensee or organization shall obtain, as a condition for grant of access authorization and access to classified information, an executed "Classified Information Nondisclosure Agreement" (SF-312) from the affected individual. The individual shall also be given a security orientation briefing in accordance with § 95.33 of this chapter. The signed SF-312 must be promptly forwarded to the NRC Division of Security. Records of access authorization grant and renewal notification must be maintained by the licensee or other organization for three years after the access authorization has been terminated by the NRC Division of Security. This information may also be furnished to other representatives of the Commission, to licensees, contractors, or other Federal agencies. Notifications of access authorization will not be given in writing to the affected individual except:

(a) In those cases in which the determination was made as a result of a Personnel Security Hearing or by Personnel Security Review Examiners, or

(b) When the individual also is the official designated by the licensee to whom written NRC notifications are forwarded.

7. Section 25.25 is revised to read as follows:

§ 25.25 Cancellation of requests for access authorization.

When a request for an individual's access authorization or renewal of access authorization is withdrawn or cancelled, the requestor shall notify the NRC Division of Security immediately by telephone so that the full field investigation, National Agency Check with Credit Investigation or other personnel security action may be discontinued. The requestor shall identify the full name and date of birth of the individual, the date of request, and the type of access authorization ("Q" or "L") or access authorization renewal requested. The requestor shall confirm each telephone notification promptly in writing.

8. In § 25.27, paragraph (a) is revised to read as follows:

§ 25.27 Reopening of cases in which requests for access authorizations are cancelled.

(a) In conjunction with a new request for access authorization (NRC Form 237) or renewal of access authorization for individuals whose cases were previously cancelled, new fingerprint cards (FD-257) in duplicate and a new Security Acknowledgment (NRC Form 176) (for cases where no final access authorization was previously issued) must be furnished to the NRC Division of Security along with the request.

* * * * *

9. In § 25.31, a new paragraph (d) is added to read as follows:

§ 25.31 Extensions and transfers of access authorizations.

* * * * *

(d) The date of an extension or transfer of access authorization may not be used to determine when a request for renewal of access authorization is required. Access authorization renewal requests must be timely submitted, in accordance with § 25.21(c).

10. Appendix A to part 25 is revised to read as follows:

APPENDIX A TO PART 25—FEES FOR NRC ACCESS AUTHORIZATION

Category	Fee
Initial "L" Access Authorization	[1] $45
Reinstatement of "L" Access Authorization	[1] 45
Extension or Transfer of "L" Access Authorization	[1] 45
Renewal of "L" Access Authorization	[1] 45
Initial "Q" Access Authorization	2,600
Initial "Q" Access Authorization (expedited processing)	3,000
Reinstatement of "Q" Access Authorization	[2] 2,600
Reinstatement of "Q" Access Authorization (expedited processing)	[2] 3,000
Extension or Transfer of "Q"	[2] 2,600
Extension or Transfer of "Q" (expedited processing)	[2] 3,000
Renewal of "Q" (Initial five year reinvestigation)	[1] 1,500
Renewal of "Q" (subsequent five year reinvestigations)	[1] 45

[1] If the NRC determines, based on its review of available data, that a full field investigation is necessary, a fee of $2,600 will be assessed prior to the conduct of the investigation.

[2] Full fee will only be charged if investigation is required.

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Dated at Rockville, MD, this 17th day of January 1992.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 92-2301 Filed 1-30-92; 8:45 am]

BILLING CODE 7590-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 140 and 145

Commission Central Regional Office; Change of Address

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule amendments.

SUMMARY: The Commodity Futures Trading Commission is amending its regulations to include the new address for its recently relocated Central Regional Office. This office, while remaining in the same city, has moved to a new location in Chicago, Illinois.

EFFECTIVE DATE: January 31, 1992.

FOR FURTHER INFORMATION CONTACT: Gerry Smith, Office of the Executive Director, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, (202) 254-6090.

SUPPLEMENTARY INFORMATION: Commission regulation 140.2 is being amended to reflect the fact that the Central Regional Office of the Commission has been moved. The Central Regional Office of the Commission has moved from the Sears Tower, 46th floor, 233 South Wacker Drive, Chicago, Illinois 60606 to 300 South Riverside Plaza, suite 1600 North, Chicago, Illinois 60606.

Certain other provisions of the Commission's regulations contain references to or addresses of the Commission's Central Regional Office. The appropriate changes have been made to reflect the new addresses in each of these provisions.

Based upon the foregoing, pursuant to its authority contained in section 2(a)(11) of the Commodity Exchange Act, 7 U.S.C. 4a(j) (1976), the Commission hereby amends parts 140 and 145 of the Code of Federal Regulations as follows.

The foregoing rules shall be effective immediately. The Commission finds that the amendments relate solely to agency organization, practice and procedure and that the public procedures and publication prior to the effective date of the amendments, in accordance with the Administrative Procedure Act, as codified, 5 U.S.C. 553, are not required.

List of Subjects

17 CFR Part 140

Authority, delegations, Conflict of interests, Organization and functions.

17 CFR Part 145

Confidential business information, Freedom of information.

17 CFR parts 140 and 145 are amended as follows:

PART 140—[AMENDED]

1. The authority citation for part 140 continues to read as follows:

Authority: 17 U.S.C. 12a.

2. Section 140.2 is amended by revising paragraph (b) to read as follows:

§ 140.2 Regional Offices—Regional Directors.

* * * * *

(b) The Central Regional Office is located at 300 South Riverside Plaza, suite 1600 North, Chicago, Illinois 60606 and is responsible for enforcement of the act and administration of programs of the Commission in the States of Illinois, Indiana, Michigan, Ohio and Wisconsin.

* * * * *

PART 145—[AMENDED]

3. The authority citation for part 145 continues to read as follows:

Authority: Public Law 89-554, 80 Stat. 383, Public Law 90-23, 81 Stat. 54, Public Law 93-502, 88 Stat. 1561-1564 (5 U.S.C. 552); Sec. 101(a), Public Law 93-463, 88 Stat. 1389 (5 U.S.C. 4a(j)); Public Law 99-570.

§ 145.6 Commission offices to contact for assistance; registration records available.

(a) Whenever this Part directs that a request be directed to the FOI, Privacy and Sunshine Acts compliance staff at the principal office of the Commission in Washington, DC, the request shall be made in writing and shall be addressed or otherwise directed to the Assistant Secretary for FOI, Privacy and Sunshine Acts Compliance, Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. The telephone number of the compliance staff is (202) 254-3382. Requests for public records directed to a regional office of the Commission pursuant to § 145.0(c) and 145.2 should be sent to:

Division of Economic Analysis, Commodity Futures Trading Commission, One World Trade Center, suite 4747, New York, New York 10048, Telephone: (212) 466-2061.

Division of Trading and Markets, Commodity Futures Trading Commission, 300 South Riverside Plaza, suite 1600 North, Chicago, Illinois 60606, Telephone: (312) 353-5990.

Division of Trading and Markets, Commodity Futures Trading Commission, 510 Grain Exchange Building, Minneapolis, Minnesota 55415, Telephone: (612) 370-3255.

Division of Trading and Markets, Commodity Futures Trading Commission, 4900 Main Street, suite 721, Kansas City, Missouri 64112, Telephone: (816) 374-6602.

Division of Enforcement, Commodity Futures Trading Commission, 10880 Wilshire Blvd., suite 1005, Los Angeles, California 90024, Telephone: (213) 209-6783.

* * * * *

Issued in Washington, DC, on January 27, 1992, by the Commission.

Joan A. Webb,

Secretary to the Commission.

[FR Doc. 92-2312 Filed 1-30-92; 8:45 am]

BILLING CODE 6351-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 272

[FRL-4096-0]

Hazardous Waste Management Program: Codification of Approved State Hazardous Waste Program for Illinois

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: Under the Resource Conservation and Recovery Act of 1976, as amended (RCRA), the United States Environmental Protection Agency (EPA) may grant Final Authorization to States to operate their hazardous waste management programs in lieu of the Federal program. EPA uses part 272 of title 40 of the Code of Federal Regulations (40 CFR part 272) to codify its authorization of State programs and to incorporate by reference those provisions of State statutes and regulations that EPA will enforce under RCRA section 3008. Thus, EPA intends to codify the Illinois authorized State program in 40 CFR part 272. The purpose of today's Federal Register (FR) notice is to codify EPA's approval of recent revisions to Illinois' program.

DATES: Codification of Illinois' revised authorized hazardous waste program shall be effective March 31, 1992 unless EPA publishes a prior **Federal Register** action withdrawing this immediate final rule. All comments on Illinois' codification must be received by 4:30 p.m., March 2, 1992. The incorporation of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 31, 1992.

ADDRESSES: Written comments should be sent to Gary Westefer, Illinois Regulatory Specialist, Office of RCRA, U.S. EPA, Region V, 77 West Jackson Boulevard, HRM–7J, Chicago, Illinois 60604, (312) 886–7450, (FTS: 886–7450).

FOR FURTHER INFORMATION CONTACT: Gary Westefer, Illinois Regulatory Specialist, Office of RCRA, U.S. EPA, Region V, 77 West Jackson Boulevard, HRM–7J, Chicago, Illinois 60604, (312) 886–7450, (FTS: 886–7450).

SUPPLEMENTARY INFORMATION:

Background

On September 12, 1989, EPA published in the **Federal Register** notice of its decision to codify Illinois' then authorized hazardous waste program (see 54 FR 37649). Effective April 30, 1990, EPA granted authorization to Illinois for additional certain revisions to the State hazardous waste program (see 55 FR 7320). In this notice, EPA is codifying the currently authorized State hazardous waste program in Illinois.

EPA codifies its approval of State programs in 40 CFR part 272, and incorporates by reference therein the State statutes and regulations that EPA will enforce under section 3008 of RCRA. Although EPA has the authority to enforce authorized standards in Illinois' hazardous waste program without codification of those standards, this effort will provide clearer notice to the public of the scope of the authorized program in Illinois.

Revisions to Illinois' and other State hazardous waste programs are necessary when Federal statutory or regulatory authority is modified. The codification of Illinois' authorized program in subpart O of part 272 is intended to enhance the public's ability to discern the current status of the authorized State program and clarify the extent of Federal enforcement authority. For a fuller explanation of EPA's codification of Illinois' authorized hazardous waste management programs, see 54 FR 37649 (September 12, 1989).

Certification under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this action will not have a significant economic impact on a substantial number of small entities. It intends to codify the decision already made to authorize Illinois' program and has no separate effect on handlers of hazardous waste in the State or upon small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Compliance with Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

List of Subjects in 40 CFR Part 272

Administrative practice and procedure, Confidential business information, Hazardous waste transportation, Hazardous waste, Incorporation by reference, Indiana lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Dated: January 14, 1992.

Valdas V. Adamkus,

Regional Administrator.

For the reasons set forth in the preamble, subpart O of 40 CFR part 272 is amended as follows:

PART 272—APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

1. The authority citation for part 272 continues to read as follows:

Authority: Secs. 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

2. Section 272.700 is amended by revising the last sentence of paragraph (a) and by revising paragraph (b) to read as follows:

§ 272.700 State authorization.

(a) * * * EPA's approvals of revisions to Illinois' base program were effective on March 5, 1988 (see 53 FR 126), and on April 30, 1990 (see 55 FR 7320).

(b) Illinois is not authorized to implement any HSWA requirements in lieu of EPA unless EPA has explicitly indicated its intent to allow such action in a **Federal Register** Notice granting Illinois' authorization.

* * * * *

3. Section 272.701 is amended by revising the introductory text and paragraphs (a)(1), (a)(2)(i) (a)(2)(ii) introductory text, (b), (c) and (d) to read as follows:

§ 272.701 State-administered program: Final authorization.

Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), Illinois has final authorization for the following elements submitted to EPA in Illinois' base program and program revision applications for final authorization and approved by EPA effective on January 31, 1986 (see 51 FR 3778), January 5, 1988 (see 53 FR 126), and April 30, 1990 (see 55 FR 7320).

(a) *State Statutes and Regulations.* (1) The following Illinois regulations and statutes are incorporated by reference and codified as part of the hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.:*

(i) Illinois Administrative Code, title 35, part 702, sections 702.101–702.104; 702.110–702.187; part 703, sections 703–100–703.246; part 709, sections 709.102–709.603; part 720, sections 720.101–702.122, appendix A; part 721, sections 721.101–721.133; appendices A, B, C, G, H, I, J, Z; part 722, sections 722.110–722.151; part 723, sections 723.110–723.131; part 724, sections 724.101–724.451, appendices A, D, E; part 726, sections 726.120–726.180; and part 729, sections, 729.100–729.321; (January 1, 1985, as amended January 1, 1986 and January 1, 1987).

(ii) Illinois Revised Statutes, Chapter 111½, section 1003.53, section 1020 (a), (b), and section 1022.4 (as amended, effective August 25, 1986).

(2) * * *

(i) Illinois Revised Statutes, chapter 111½, sections 1001 through 1003.52; sections 1003.54 through 1005.1; sections 1007 through 1007.1; section 1020(c); sections 1020.1 through 1022.3; sections 1022.5 through 1022.6; sections 1030 through 1034; and section 1039 parts a, d, g, k.

(ii) Illinois Administrative Code, title 35, part 700, sections 700.101–700.504; part 702, section 702.105–702.109; part 705, section 705.101–705.212; part 720, section 720.140–720–141; and title 2, part 1826, sections 1826.101–1826.503 and title

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2, part 1826, sections 1826-101-1826.503, appendices A, B.

* * * * *

(b) *Memorandum of Agreement.* The Memorandum of Agreement between EPA—Region V and the Illinois Environmental Protection Agency, signed by the EPA Regional Administrator on January 26, 1990, is codified as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(c) *Statements of Legal Authority.* The Illinois Attorney General's Statements for final authorization signed by the Attorney General of Illinois on June 4, 1985, July 15, 1986, and May 26, 1988, are codified as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(d) *Program Description.* The Program Description and any other materials submitted as part of the original application or as supplements thereto are codified as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

[FR Doc. 92-2159 Filed 1-30-92; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 272

[FRL-4096-6]

Hazardous Waste Management Program Codification of Approved State Hazardous Waste Program for Michigan

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: Under the Resource Conservation and Recovery Act of 1976, as amended (RCRA), the United States Environmental Protection Agency (EPA) may grant Final Authorization to States to operate their hazardous waste management programs in lieu of the Federal program. EPA uses part 272 of title 40 of the Code of Federal Regulations (40 CFR part 272) to codify its authorization of State programs and to incorporate by reference those provisions of State statutes and regulations that EPA will enforce under RCRA Section 3008. Thus, EPA intends to codify the Michigan authorized State program in 40 CFR part 272. The purpose of today's **Federal Register** is to codify EPA's approval of recent revisions to Michigan's program.

DATES: Codification of Michigan's revised authorization hazardous waste program shall be effective March 31, 1992 unless EPA publishes a prior **Federal Register** action withdrawing this immediate final rule. All comments on Michigan's codification must be received by the close of business March 2, 1992. The incorporation of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 31, 1992.

ADDRESSES: Written comments should be sent to Ms. Judy Greenberg, Michigan Regulatory Specialist, Office of RCRA, U.S. EPA Region V, 77 West Jackson Boulevard, HRM-7J, Chicago, Illinois 60604, Phone: (312) 886-4179 [FTS: 886-4179].

FOR FURTHER INFORMATION CONTACT: Judy Greenberg, Michigan Regulatory Specialist, Office of RCRA, U.S. EPA Region V, 77 West Jackson Boulevard, HRM-7J, Chicago, Illinois 60604, Phone: (312) 886-4179 [FTS: 886-4179].

SUPPLEMENTARY INFORMATION:

Background

On February 21, 1989, and May 1, 1990, EPA published notices in the **Federal Register** (FR) of its decisions to codify Michigan's then authorized hazardous waste program (see 54 FR 48608 and 55 FR 18112, respectively). Since then, EPA has granted authorization to Michigan for additional revisions to the State hazardous waste program Cluster III authorization at 56 FR 18517 (April 23, 1991). In this notice, EPA is codifying the currently authorized State hazardous waste program in Michigan.

EPA codifies its approval of State programs in 40 CFR part 272, and incorporates by reference therein the State statutes and regulations that EPA will enforce under section 3008 of RCRA. Although EPA has the authority to enforce authorized standards in Michigan's hazardous waste program without codification of those standards, this effort will provide clearer notice to the public of the scope of the authorized program in Michigan.

Revisions to Michigan's and other State hazardous waste programs are necessary when Federal statutory or regulatory authority is modified. The codification of Michigan's authorized program in subpart X of part 272 is intended to enhance the public's ability to discern the current status of the authorized State program and clarify the extent of Federal enforcement authority. For a fuller explanation of EPA's codification of Michigan's authorized hazardous waste program, see 54 FR 48608 (February 21, 1989) and 55 FR 18112 (May 1, 1990).

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this action will not have a significant economic impact on a substantial number of small entities. It intends to codify the decision already made to authorize Michigan's program and has no separate effect on handlers of hazardous waste in the State or upon small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

List of Subjects In 40 CFR Part 272

Administrative practice and procedure, Confidential business information, Hazardous waste transportation, Hazardous waste, Incorporation by reference, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Dated: January 14, 1992.

Valdas V. Adamkus,

Regional Administrator.

For the reasons set forth in the preamble, subpart X of 40 CFR part 272 is amended as follows:

PART 272—APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

1. The authority citation for part 272 continues to read as follows:

Authority: Secs. 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

2. Section 272.1150 is amended by revising paragraphs (a) and (b) to read as follows:

§ 272.1150 State authorization.

(a) The State of Michigan is authorized to administer and enforce a hazardous waste management program in lieu of the Federal program under subtitle C of the Resource Conservation and Recovery Act of 1976 (RCRA), 42 U.S.C. 6921 *et seq.* subject to the Hazardous and Solid Waste Amendments of 1984 (HSWA) (Public Law 98-616, November 8, 1984), 42 U.S.C. 6926 (c) and (g). The Federal program for which a State may receive authorization is defined in 40 CFR part 271. The State's program, as administered by the Michigan Department of Natural Resources, was approved by EPA pursuant to 42 U.S.C. 6926(b) and part 271 of this chapter. EPA's approval of Michigan's base program was effective on October 30, 1986 (see 51 FR 36804). EPA's approval of the revisions to Michigan's base program was effective on January 23, 1990 (see 54 FR 46808) and RCRA Cluster III authorization effective June 24, 1991 (see 56 FR 18517).

(b) Michigan is authorized to implement certain HSWA requirements in lieu of EPA. EPA has explicitly indicated its intent to allow such action in a **Federal Register** notice granting Michigan authorization and RCRA Cluster III authorization effective June 24, 1991 (see 56 FR 18517).

* * * * *

3. Section 272.1151 is amended by revising the introductory text, paragraphs (a)(1)(ii), (a)(3)(ii), (b), (c) and (d) to read as follows:

§ 272.1151 State-administrated program: Final authorization.

Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), Michigan has final authorization for the following elements submitted to EPA in Michigan's base program and program revision applications for final authorization and approved by EPA effective on October 30, 1986 (see 51 FR 36804), January 23, 1990 (see 54 FR 46808), and RCRA Cluster III authorization effective June 24, 1991 (see 56 FR 18517).

(a) * * *

(1) * * *

(ii) Michigan Administrative Code, Rules 299.9101–9206(3)(g), 299.9206(4)–9208(1), 299.9208(3)–9209(1), 9209(4)–(9209(6), 299.9210(2)–9211(1)(a), 299.9211(1)(c)–9212(4), 299.9212(6)–9212(7), 299.9212(8)(b)–9213(1)(a), 299.9213(1)(c), 299.9213(2)–9214(6)(b), 299.9215–9217, 299.9220, 299.9222, 299.9224–9225, 299.9301–9304(1)(b), 299.9304(1)(d)–299.9401(5), 299.9402, 299.9404(1) introductory text, 299.9404(1)(b)–9405, 299.9407–9408(1), 299.9409–9410, 299.9501–9504(1) introductory text, 299.9504(1)(b)–9506, 299.9508–9508(1)(g), 299.9508(1)(i)–9521(1)(b), 299.9521(2)–9522, 299.9601–9611(2)(a), 299.9611(3)–9623(1)(b), 299.9623(3)–9710, 299.9801–9804, 299.11001–11008 (1985 Annual Michigan Administrative Code Supplement, as supplemented by the April 1988 Michigan Register, pages 3–107, and the January 1989 Michigan Register, pages 1–27). Copies of the Michigan regulations that are incorporated by reference in this paragraph are available from the Department of Management and Budget's Publication Office, 7461 Crowner Drive, Lansing, Michigan 48913, Phone: (517) 322–1897. Copies may be inspected at: U.S. EPA Headquarters Library, PM 211A, 401 M Street, SW., Washington, DC 20460. Phone: (202) 382–5926; U.S. EPA Region V, Office of RCRA, Regulatory Development Section, 230 S. Dearborn St., 13th Floor, Chicago, IL. Phone: Ms. Judy Greenberg, (312) 886–4179; and at the Office of the Federal Register, 1100 L Street, NW., room 8401, Washington, DC.

(3) * * *

(ii) Michigan Administrative Code Rules 299.9208(2), 299.9209 (2) and (3), 299.9210(1), 299.9211(1)(b), 299.9212 (5) and (8)(a), 299.9213(1) (b) and (d), 299.9214(6)(c), 299.9218–9219, 299.9221, 299.9223, 299.9226, 299.9304(1)(c), 299.9401(6), 299.9403, 299.9404(1)(a), 299.9406, 299.9408 (2) and (3), 299.9411–9412, 299.9504(1)(a), 299.9507, 299.9508(1)(h), 299.9523, 299.9611(2) (b) and (c), 299.9623(2), 299.9711, 299.9901–9906 (1985 Michigan Administrative Code Annual Supplement, as supplemented by the April 1988 Michigan Register, pages 3–107, and the January 1989 Michigan Register, pages 1–27).

(b) *Memorandum of Agreement.* The Memorandum of Agreement between EPA—Region V and the Michigan Department of Natural Resources, signed by the EPA Regional Administrator on February 7, 1991, is codified as part of the authorized hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(c) *Statement of Legal Authority.* The Michigan Attorney General's Statements for final authorization signed by the Attorney General of Michigan on October 25, 1985, and supplements to that Statement dated June 3, 1986, September 19, 1986, September 7, 1988, and July 31, 1990, are codified as part of the authorized hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(d) *Program Description.* The Program Description dated June 30, 1984, and the supplements thereto dated June 30, 1986, September 12, 1988, and July 31, 1990, are codified as part of the authorized hazardous waste management program under subtitle C of RCRA, U.S.C. 6921 *et seq.*

[FR Doc. 92–2100 Filed 1–30–92; 8:45 am]

BILLING CODE [illegible]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 652

[Docket No. 911180-2022]

Atlantic Surf Clam and Ocean Quahog Fisheries

AGENCY: National Marine Fisheries Service, (NMFS), NOAA, Commerce.

ACTION: Notice of final 1992 fishing quotas.

SUMMARY: NMFS issues this notice of final quotas for the Atlantic surf clam and ocean quahog fisheries for 1992. These quotas were selected from a range defined as optimum yield (OY) for each fishery. The intended effect of this action is to establish allowable harvests of surf clams and ocean quahogs from the exclusive economic zone in 1992.

EFFECTIVE DATE: January 1, 1992, through December 31, 1992.

ADDRESSES: Copies of the Mid-Atlantic Fishery Management Council's Analysis and Recommendations are available from John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, room 2115, Federal Building, 300 South New Street, Dover, DE 19901.

FOR FURTHER INFORMATION CONTACT: Myles Raizin, Resource Policy Analyst, 508–281–9104.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries (FMP) directs the Secretary of Commerce (Secretary), in consultation with the Mid-Atlantic Fishery Management Council (Council), to specify quotas for surf clams and ocean quahogs on an annual basis from within ranges that have been identified as an OY for each fishery.

For surf clams, the quota must fall within the range of 1.85 million bushels and 3.40 million bushels. For ocean quahogs, the quota must fall within the range of 4.00 million bushels and 6.00 million bushels.

A notice of proposed 1992 quotas was published in the **Federal Register** on November 20, 1991 (56 FR 58537) with a comment period ending December 16, 1991. No comments on this notice were received.

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In specifying the quotas, the Secretary considered the latest available stock assessments prepared by NMFS, data reported by harvesters and processors, and other relevant information concerning exploitable biomass and spawning biomass, fishing mortality rates, stock recruitment, projected effort and catches, and areas closed to fishing. This information was presented in a written report prepared by the Council and adopted by the Regional Director, Northeast Region, NMFS.

Final quotas of 2.85 million bushels for surf clams and 5.3 million bushels for ocean quahogs are specified by the Secretary. These quotas are identical to those specified by the Secretary for the 1991 fisheries.

Surf Clams

The 1992 quota for surf clams of 2.85 million bushels is identical to the base quota for the Mid-Atlantic region and Nantucket Shoals combined for the years 1986 through 1991. The potential harvest of 300,000 bushels for the Georges Bank Area (i.e., base quota in those years for this area) was not added to this quota on the assumption that the area east of 69° west longitude will be closed for fishing in 1992 due to the danger of paralytic shellfish poisoning. Under the current FMP, the Mid-Atlantic, Nantucket Shoals, and Georges Banks Areas are combined. Therefore, the 300,000 bushels could be taken in the areas west of 69° west longitude. However, with the decline in abundance of surf clams in the Mid-Atlantic Area and the absence of a significant year class since 1976 off New Jersey and 1977 off Delmarva, conservation of the resource is best served by maintaining the current quota of 2.85 million bushels.

Ocean Quahogs

The 1992 quota for ocean quahogs is 5.3 million bushels. Since only 2 percent of the minimum biomass estimate is removed each year, this level of quota is conservative in regard to biological restrictions. However, the heavy concentration of the active fishery, and the subsequent decrease of catch per unit of effort, on the southern 10 percent of the resource has caused the Council to recommend, and the Secretary to specify, this level of quota.

The final quotas for the 1992 Atlantic surf clam and ocean quahog fisheries are as follows:

1992 SURF CLAM/OCEAN QUAHOG QUOTAS

Fishery	1992 final quotas (in bushels)
Surf clam	2,850,000
Ocean quahog	5,300,000

Other Matters

This action is taken under authority of 50 CFR 652.21 and in compliance with E.O. 12291.

List of Subjects in 50 CFR Part 652

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: January 28, 1992.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 92-2387 Filed 1-28-92; 4:30 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 57, No. 21
Friday, January 31, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1210

[WRPA Docket No. 1; FV-91-275]

RIN 0581-AA32

Watermelon Research and Promotion Plan; Proposed Amendments to Procedures for Nominating Producer and Handler Members to the National Watermelon Promotion Board and Proposed Amendments to Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule invites comments on proposed amendments to an interim final rule relating to the Watermelon Research and Promotion Plan's procedures for nominating producer and handler members to the National Watermelon Promotion Board (Board). In addition, comments are invited on proposed amendments to the rules and regulations relating to the determination of a handler. This action would simplify voting procedures used at nomination conventions, set a date by which nominee qualification forms must be received by the U.S. Department of Agriculture (Department), and clarify that nominees are responsible for directly forwarding their qualification statements to the Board for forwarding to the Department. This action would further clarify who is a handler for the purposes of paying assessments due the Board. This proposed rule would also update OMB control numbers assigned to Part 1210.

DATES: comments must be received by March 2, 1992.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, room 2533, South Building, P.O. Box 96456, Washington, DC 20090-6456. Comments should reference Docket Number FV-91-275 and the date and page number of this issue of the **Federal Register**. Copies of all comments received will be made available for public inspection in the office of the Docket Clerk, USDA-AMS, room 2533, South Building, 14th and Independence Avenue S.W., Washington, DC between 8 a.m. and 4:30 p.m., Monday through Friday except holidays.

FOR FURTHER INFORMATION CONTACT: Richard H. Mathews, Marketing Order Administration Branch, F&V, AMS, USDA, room 2533-South, P.O. Box 96456, Washington, DC 20090-6456; telephone (202) 720-9917.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under the Watermelon Research and Promotion Plan (Plan) (7 CFR part 1210). The plan is effective under the Watermelon Research and Promotion Act (7 U.S.C. 4901-4916), hereinafter referred to as the Act.

This proposed rule has been reviewed by the U.S. Department of Agriculture (Department) in accordance with Departmental Regulation No. 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small business will not be unduly or disproportionately burdened.

The Act and Plan provide that all producers (not including persons engaged in the growing of less than five acres of watermelons) and handlers of watermelons are subject to regulation under the Plan for watermelons produced in the contiguous 48 States. The plan provides that watermelon producers and handlers, as those terms are defined by the Plan, may participate in the procedures by which producers and handlers are nominated for membership on the Board. The Board conducts nationally coordinated research and promotion programs, including paid advertising, designed to result in an increase in demand, and thus an increase in per capita watermelon consumption with a resulting benefit to the industry. The Act and Plan further provide that watermelon producers and handlers pay equal assessments for operating the program. The Act and Plan provide that handlers are responsible for collecting and submitting both producer and handler assessments to the Board, reporting their handling of watermelons, and for maintaining records necessary to verify their reportings.

There are approximately 750 watermelon handlers and 5,000 watermelon producers subject to regulation under the Plan. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $3,500,000 and small agricultural producers are defined as those having receipts of less than $500,000. The majority of watermelon handlers and producers may be classified as small entities.

This action would not have a significant economic impact on small producers or handlers. This action would benefit producers and handlers by simplifying the voting procedures employed at nomination conventions. Producers and handlers would also benefit from this action through the further clarification of who is a handler for the purpose of paying assessments.

Based on the experience of its first two years of oversight of this program, the Department recommends that paragraph (f) of § 1210.401 relating to nomination procedures be amended to provide a final date by which nominee and convention information required by § 1210.401 must be received by the Department and to clarify that nominees are responsible for forwarding their required qualification statements and other specified information to the Department through the Board. The Department recommends that July 15 be the date by which all nominee qualification statements and other specified information be received by the Department so that the Department will have sufficient time to review and verify the information and make appropriate appointments prior to the beginning of the next term of office. Information in the qualification statements is confidential and, as worded, paragraph (f) of § 1210.401 requires the convention chairperson to forward the qualification

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statements to the Secretary of Agriculture (Secretary). To better ensure confidentiality, the Department recommends that the nominees be directly responsible for forwarding their qualification statements to the Secretary through the Board.

The Subpart—Procedures for Nominating Producer and Handler Members to the National Watermelon Promotion Board, effective September 15, 1989, was published as an interim final rule with request for comment in the September 15, 1989, issue of the **Federal Register** (54 FR 38202). Written comments were invited from interested persons until November 14, 1989. One comment was received.

The commenter believes that the voting procedures of paragraph (h) of § 1210.403 should be simplified by eliminating the requirement that each nominee for each of the positions be elected separately. It was recommended that both nominees for each position be elected simultaneously. Using this procedure, the convention chairperson would open the floor to the nomination of candidates for possible election as a Board member nominee for each available position. Each position would be dealt with separately; i.e., candidates for one position would be nominated and then elected before the convention moves on to the next available position. Each eligible voter would vote for two of the nominees on one ballot. The two nominees receiving the greatest number of votes, and at least a simple majority of the votes cast, would be elected as the district's Board members nominees for the position. There would be no designation, as is currently the practice, of first and second choice nominees.

The experience of nomination conventions held since the effective date of the nomination procedures has demonstrated the need for this recommended amendment. Under existing procedures, each Board member nominee is elected separately with the first elected designated as the industry's first choice nominee and the second elected designated as the industry's second choice nominee. A result has been the belief of some second choice nominees that they will not receive consideration by the Secretary for appointment. This belief has resulted in the late submittal of qualification statements and in some cases the disqualification of candidates for failing to submit required qualification statements. Another problem has been the misconception of some first choice nominees that they would automatically be confirmed by the Secretary as the Board member from their district. The proposed amendment would eliminate the designation of candidates as first and second choice; thereby eliminating the misconceptions that currently exist among Board member nominees. This action would save the time by reducing participant confusion and the number of ballots necessary for the election of nominees.

Section 1210.404 would be amended to revise the existing Office of Management and Budget (OMB) control number and to add a second such number. Since publication of the nomination procedures, two actions involving the OMB have necessitated amendment of § 1210.404. First, the Department is now using a standardized qualification form for all advisory committees and boards. This form has been approved by the OMB and assigned OMB Control Number 0505–0001. Referral to this number would be added to § 1210.404. Second, the OMB has reapproved the information collection provisions of the national watermelon promotion program and assigned OMB Control Number 0581–0093. This action would change the existing number (0581–0158) to the newly assigned number (0581–0093). Section 1210.540 would also be amended to revise the existing OMB control number (0581–0158) to the newly assigned number (0581–0093).

Based on experience, the Department and Board recommend the amendment of § 1210.517 of the Rules and Regulations, Determination of handler. It is believed that changes to this section are necessary to further clarify who is a handler for the purposes of payment of assessments to the Board.

The Department recommends the addition of a new paragraph (a)(3) of § 1210.517 to read as follows:

> Producer purchases watermelons from another producer. The producer purchasing the watermelons is the first handler.

This addition would clarify that a producer who purchases watermelons from one or more producers, in any amount and for whatever purposes, becomes a handler under the Plan and the rules and regulations thereunder. The addition of this paragraph would necessitate the redesignation of paragraphs (a)(3) through (a)(11) as (a)(4) through (a)(12), respectively.

Further, the Board recommends inserting "/Commission House" after Broker and Broker's each time they occur in existing paragraphs (a)(8) and (a)(9) (redesignated paragraphs (a)(9) and (a)(10) respectively) of § 1210.517. This addition clarifies that Commission Houses, for assessment purposes under the Plan, are treated the same as Brokers.

In compliance with OMB regulations (5 CFR part 1320) which implement the Paperwork Reduction Act (PRA) of 1980 (44 U.S.C. 3501 *et seq.*), this proposed rule contains no new information collection or recordkeeping requirements from those already approved by the OMB under OMB Control Numbers 0518–0093 and 0505–0001. Approximately 750 handlers and 5,000 producers would be affected by these provisions.

Based on available information, the Administrator of the Agricultural Marketing Service has determined that the issuance of this proposed rule would not have a significant economic impact on a substantial number of small entities.

All written comments received in response to this publication by the date specified herein will be considered prior to issuance of any final rule.

List of Subjects in 7 CFR Part 1210

Agricultural promotion, Agricultural research, Market development, Reporting and recordkeeping requirements, Watermelons.

Recommended Amendments

For the reasons set forth in the preamble, chapter XI of title 7 is proposed to be amended as follows:

PART 1210—WATERMELON RESEARCH AND PROMOTION PLAN

1. The authority citation for 7 CFR part 1210 continues to read as follows:

Authority: 7 U.S.C. 4901–4916.

2. Section 1210.401 is amended by revising the paragraph after (f)(2) to read as follows:

§ 1210.401 District conventions.

* * * * *

(f) * * *

(2) * * *

This information must be provided by the chairperson to the Board in a manner that will ensure receipt, at the addresses specified in the call, within 14 calendar days of the district convention's completion; but not later than July 8 for positions to become effective the following January 1. The Board must forward such information to the Secretary, in a manner that will ensure receipt, within 21 calendar days of completion of the district convention; but not later than July 15 for positions to become effective the following January 1. Further, the chairperson will immediately arrange for completion of qualification statements and other specified information by each nominee and each nominee shall qualify by forwarding such information to the Board within 14 calendar days of completion of the district convention; but not later than July 8 for positions to become effective the following January 1. The Board must forward the completed qualification statements and other specified information to the Secretary, in a manner that will ensure receipt within 21 calendar days of completion of the district convention; but not later than July 15 for positions to become effective the following January 1.

3. Section 1210.403 is amended by revising paragraph (h) to read as follows:

§ 1210.403 Voting procedures.

* * * * *

(h) Two nominees shall be elected for each of the two producer and two handler positions from each district on the Board. The two nominees for each position shall be elected simultaneously. The convention chairperson will open the floor to the nomination of candidates for possible election as a Board member nominee for each available position. Each position will be dealt with separately (i.e., candidates for one position will be nominated and then elected before the convention moves on to the next available position). Each eligible voter may vote for two of the nominees on one ballot. The two nominees receiving the greatest number of votes, and at least a simple majority of the votes cast, will be elected as the district's Board member nominees for the position. No individual elected as a nominee for Board membership may be a candidate on subsequent Board member nominee ballots (i.e., four different producer names and four different handler names must be submitted as nominees from each district to the Secretary of Agriculture). There shall be no designation of first and second choice nominees.

4. Section 1210.404 is revised to read as follows:

§ 1210.404 Paperwork Reduction Act assigned number.

The Office of Management and Budget (OMB) has approved the information collection request contained in this subpart under the provisions of 44 U.S.C. chapter 35, and OMB Control Numbers 0505–0001 and 0581–0093 have been assigned. OMB Control Number 0505–0001 applies to the qualification form filed by each nominee and OMB Control Number 0581–0093 applies to the remaining information collection provisions of this subpart.

5. Section 1210.517 is amended by redesignating paragraphs (a)(3) through (a)(11) as paragraphs (a)(4) through (a)(12) respectively, adding a new paragraph (a)(3), and revising redesignated paragraphs (a)(9) and (a)(10) to read as follows:

§ 1210.517 Determination of handler.

* * * * *

(a) * * *

(3) Producer purchases watermelons from another producer. The producer purchasing the watermelons is the first handler.

* * * * *

(9) Broker/Commission House receives watermelons from a producer and sells such watermelons in the Broker's/Commission House's name. In this instance, the Broker/Commission House is the first handler, regardless of whether the Broker/Commission House took title to such watermelons.

(10) Broker/Commission House, without taking title or possession of watermelons, sells such watermelons in the name of the producer. In this instance, the producer is the first handler.

* * * * *

6. Section 1210.540 is revised to read as follows:

§ 1210.540 Paperwork Reduction Act assigned number.

The information collection and recordkeeping requirements contained in this part have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35 and have been assigned OMB Control Number 0581–0093.

Dated: January 27, 1992.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92–2320 Filed 1–30–92; 8:45 am]

BILLING CODE 3410–02–M

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 91–045]

Movement and Handling of Pork and Pork Products From Sonora, Mexico

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We propose to allow additional pork and pork products from Sonora, Mexico, including fresh, chilled, or frozen pork and pork products, to transit the United States for immediate export to other countries. Additionally, we are proposing to relieve certain restrictions on the intransit movement of pork and pork products from Sonora, Mexico, that are currently eligible to transit the United States. We are taking this action based on investigations indicating that pork and pork products from Sonora present a relatively low risk of transmitting hog cholera, which exists in Mexico. The intended effect of this action is to allow additional movements of pork and pork products from Sonora, Mexico, through the United States without presenting a significant risk of introducing hog cholera into the United States.

DATES: Consideration will be given only to comments received on or before March 2, 1992.

ADDRESSES: To help ensure that your written comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 91–045. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. John H. Blackwell, Senior Staff Microbiologist, Import-Export Products Staff, USDA, APHIS, VS, room 756–A, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7834.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations), among other things, govern the importation into the United States of pork and pork products in order to prevent the introduction into the United States of hog cholera. The regulations also stipulate the conditions under which animal products and materials may transit the United States for immediate export. Section 94.15 of the regulations provides, among other things, that only animal products and materials that are eligible for entry into the United States may transit the United States. Section 94.9 of the regulations sets forth conditions for the entry of pork and pork products from countries where hog cholera exists. Among other things, § 94.9 requires that the pork and pork products—(1) have been treated in accordance with one of the approved procedures of this section, (2) were

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prepared in an inspected establishment that is eligible to have its products imported into the United States under the Federal Meat Inspection Act, and (3) shall be accompanied by a certificate issued by an official of the national government of the country of origin.

The Ministry of Agriculture and Water Resources (Secretaria de Agricultura Y Recursos Hidraulicas (SARH)) of Mexico has requested that the United States allow fresh, chilled, and frozen pork and pork products from Sonora, Mexico, to transit the United States for immediate export. This request was made because Mexico has experienced problems in exporting fresh, chilled, and frozen pork and pork products to other countries because of its limited ocean port facilities. To export the quantity of fresh, chilled, and frozen pork and pork products that it is capable of supplying to foreign countries, the SARH has determined that utilizing U.S. deep-water, ocean ports would facilitate Mexico's exportation of fresh, chilled, and frozen pork and pork products. Although Mexico is affected with hog cholera, Mexican authorities have declared the State of Sonora free of hog cholera. Recently, USDA officials met with Mexican representatives knowledgeable in disease prevention, epidemiology, and diagnostic methods. This U.S./Mexican team inspected animal processing and testing facilities within the distinct regions of Sonora. The USDA officials were encouraged by the findings upon their preliminary investigation of the sites visited. Additionally, these officials noted the factors that would reduce the risk of hog cholera being present in Sonora: (1) Sanitary control by SARH; (2) Active support by the private sector represented by the Sonoran Pork Producers Council (porticultores); (3) Paucity of swine production in the northern regions of Baja California, Sinaloa, and Chihuahua, all of which border Sonora; and (4) Natural geographical barriers between the above northern regions and Sonora. For example: the Sierra Madre mountain chain forms the boundary between Sonora and the State of Chihuahua; the Pacific Ocean (Gulf de California) forms the western boundary of Sonora. In addition, movement of animals along Highway 15, the major north-south throughway, and Highway 40, the major east-west throughway from Baja California, is controlled by SARH inspectors. Finally, the Sonoran prohibition against swine and pork products from entering Sonora from other Mexican States, as well as from countries affected by livestock diseases exotic to the United States, is enforced.

Based upon the USDA review of the situation in Sonora, Mexico; the level of Mexican veterinary health expertise; the restrictive entry of pork and pork products into Sonora; the support of SARH programs by porticultores; and the natural geographical boundaries of Sonora; we believe that, under certain conditions, pork and prok products from Sonora, Mexico, that do not meet the requirements of § 94.9 for entry into the United States, could transit the United States without presenting a significant risk of introducing hog cholera into this country. Specifically, we propose to amend § 94.15 to allow these products to transit the United States for immediate export to other countries if the following conditions, explained below, are met: (1) Any person desiring to transport pork and pork products from Sonora, Mexico, across the United States for immediate export would have to first obtain a permit from the Animal and Plant Health Inspection Service (APHIS) Import-Export Products Staff in Hyattsville, Maryland; (2) The pork and pork products would have to be sealed in Sonora, Mexico, in a leakproof container with serially-numbered seals approved by APHIS; (3) The person moving the pork or pork products through the United States would be required to notify the port inspector, in writing, of certain facts, explained below, concerning the pork or pork products prior to their arrival in the United States; (4) The pork or pork products would be required to transit the United States under Customs bond; and (5) The pork or pork products would be required to be exported from the United States within the time period specified on the permit.

Permits

The proposal would require that the person moving the pork or pork products through the United States obtain a permit from the Import-Export Products Staff, APHIS, before transporting pork or pork products across the United States for immediate export to other countries. The application for the permit would tell APHIS who would be involved in the transportation, how many and what type of pork and pork products would be transported, when they would be transported, and the method and route of shipment to the United States. This information, and the actual permit issued, would enable APHIS to track and monitor the movement to determine whether it was made in accordance with the regulations. These permits would be issued to allow the pork or pork products only to transit the United States.

Containers

The proposal requires that the pork and pork products be sealed in Sonora, Mexico, in a leakproof container with serially-numbered seals approved by APHIS. This container would be required to remain sealed at all times while transiting the United States. Such action would help prevent the introduction of exotic livestock diseases into the United. States Also, sealing the container would help alert APHIS inspectors to any tampering with a container or its contents.

Written Notification

The proposal would require that the person moving the pork or pork products through the United States notify the port inspector, in writing, of certain facts concerning the pork or pork products before the reach the port of arrival in the United States. The person moving the pork or pork products through the United States would be required to notify APHIS of the times and dates that the pork or pork products are expected at the port of arrival in the United States. The person moving the pork or pork products through the United States would also be required to provide the time schedule and route to be followed through the United States for all shipments. This information, along with the permit number and serial numbers of the seals on the containers, would help APHIS keep abreast of the whereabouts of the pork or pork products during their transit across the United States for immediate export. This information would also help us ensure that the pork or pork products actually leave the United States.

Customs Bond and Time Limit for Transit

The proposal would require the pork or pork products to transit the United States under Customs bond. This Customs bond would require that the person moving the pork or pork products through the United States or his/her agent, usually a licensed and bonded Custom House Broker, guarantee that the pork or pork products meet the requirements of the regulations. Further, to discourage the use of circuitous routes, the pork or pork products would be required to be exported from the United States within a time period specified on the permit. The time limit would allow a reasonable time for transit based upon the port of arrival, the port of export, and any time needed for storage. Any pork or pork products exceeding this time limit or transited in violation of any of the requirements of the permit or this regulation would be destroyed or otherwise disposed of at the Administrator's discretion.

User Fees

Finally, we have published a proposed rule, "User Fees—Agricultural Quarantine and Inspection Services, Phytosanitary Certificates, Animal Quarantine Services, Veterinary Diagnostics, Export Health Certificates" (56 FR 37481–37499; August 7, 1991), that contains provisions for collecting APHIS user fees for certain certification, inspection, and testing services we provide. No final regulations have yet been published in that matter. However, if we adopt the proposed APHIS user fees, certain fees may apply to the services provided for in this document.

Executive Order 12291 and Regulatory Flexibility Act

This proposal has been reviewed in conformance with Executive Order 12291 and has been determined not to be a "major rule." Based on information compiled by the Department, it has been determined that this proposed rule, if adopted, would have an effect on the economy of less than $100 million; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and would not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The proposed change to 9 CFR part 94 would allow additional pork and pork products from Sonora, Mexico, including fresh, chilled, or frozen pork and pork products, to transit the United States for immediate export to other countries. Additionally, it would relieve certain restrictions on the intransit movement of pork and pork products from Sonora, Mexico, that are currently eligible to transit the United States. Based on current Mexican exports of pork and pork products, the Department does not anticipate a large volume of shipments transiting the United States. Mexico exported 900 metric tons of pork and pork products worldwide to countries other than the United States in 1989. This represented only about 0.03 percent of total world exports of pork and pork products. Assuming that Mexico would want to transit all of its pork and pork products destined for other countries through the United States, there would be approximately 50 truckloads transiting the United States annually (calculated using the 900 metric tons exported in 1989 as a parameter and assuming that each truck load is about 40,000 pounds). Using the average quoted freight rates of $1.97 per mile and a distance of 513 miles between Nogales (Arizona) and San Diego (California),[1] the proposed change would yield a total revenue of about $51,000 to businesses in the United States. Because the current Interstate Commerce Commission regulations forbid Mexican carriers from hauling the product beyond the border zone, small U.S. specialized transport companies and brokerage houses would benefit.

At present, Mexico is the third largest partner of the United States. The United States exported $25 billion worth of goods and services to Mexico in 1989 and imported $28 billion worth of goods and services from Mexico. Seventy-five percent of the total trade was carried overland by trucks. Mexican pork and pork products transiting the United States would represent a small fraction of the total carried overland by trucks. However, facilitating export opportunities for the Mexican pork industry may provide incentives for continued efforts to eradicate hog cholera from infected Mexican States.

Under these circumstances, the Administrator of the Animal an Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock and livestock products, Meat and meat products, Milk, Poultry and poultry products.

Accordingly, we propose to amend 9 CFR part 94 as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), NEWCASTLE DISEASE (AVIAN PNEUMOENCEPHALITIS), AFRICAN SWINE FEVER, AND HOG CHOLERA: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 would be revised to read as follows:

Authority: 7 U.S.C. 147a, 150ee, 161, 162, and 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, and 134f; 31 U.S.C. 9701; 42 U.S.C. 4331, 4332; 7 CFR 2.17, 2.51, and 371.2(d).

2. Section 94.15 would be amended by redesignating the introductory paragraph and paragraphs (a) and (b) as paragraphs (a), (1), and (2), respectively, and by adding a new paragraph (b) to read as follows:

§ 94.15 Animal products and materials; movement and handling.

* * * * *

(b) Pork and pork products from Sonora, Mexico, that are not eligible for entry into the United States in accordance with the regulations in this part may transmit the United States for immediate export if the following conditions are met:

(1) The person desiring to move the pork or pork products through the United States obtains a United States Veterinary Permit for Importation and Transportation of Controlled Materials and Organisms and Vectors (VS Form 16–6). (An application for the permit may be obtained from the Import-Export Products Staff, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782.)

(2) The pork and pork products are sealed in Sonora, Mexico, in leakproof container, and the container remains sealed during the entire time that it is in transit across the United States, from the point of arrival to its exportation.

(3) The person moving the pork or pork products through the United States notifies, in writing, the Plant Protection and Quarantine Officer at the United States port of arrival prior to such transiting. The notification must include the following information regarding the pork and pork products:

(i) Permit number;

(ii) Times and dates of arrival in the United States;

(iii) Time schedule and route to be followed through the United States; and

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[1] This example represents the most likely route for transit of pork and pork products to other countries such as Japan, which imports such products from Mexico.

(iv) Serial numbers of the seals on the containers.

(4) The pork or pork products transit the United States under Customs bond and are exported from the United States within the time limit specified on the permit. Any pork or pork products that have not been exported within the time limit specified on the permit or that have not been transited in accordance with the permit or applicable requirements of this part will be destroyed or otherwise disposed of as the Administrator may direct pursuant to section 2 of the Act of February 2, 1903, as amended (21 U.S.C. 111)/

Done in Washington, DC, this 27th day of January 1992.

Robert Melland,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92-2354 Filed 1-30-92; 8:45 am]

BILLING CODE 3410-34-M

Food Safety and Inspection Service

9 CFR Parts 318 and 319

[Docket No. 87-015P]

RIN 0583-AA76

Use of Binders in Certain Cured Pork Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to amend the Federal meat inspection regulations to permit the use of food starch-modified, sodium caseinate, isolated soy protein, and carrageenan as binders in cured pork products labeled as "Ham Water Added" and "Ham and Water Products—X% of Weight is Added Ingredients." The use of such binders would prevent purging of the pumped brine solution from the products. This proposed rule is in response to petitions submitted by various companies and industry associations.

DATES: Comments must be received on or before March 2, 1992.

ADDRESSES: Written comments to: Policy Office, Attn: Linda Carey, FSIS Hearing Clerk, room 3171, South Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250. (See also "Comments" under "Supplementary Information.")

FOR FURTHER INFORMATION CONTACT: Charles Edwards, Director, Product Assessment Division, Regulatory Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 205-0080.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Agency has determined that this proposed rule is not a major rule under Executive Order 12291. It would not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to complete with foreign-based enterprises in export or domestic markets.

Effects on Small Entities

The Administrator, FSIS, has made an initial determination that this proposed rule would not have a significant economic impact on a substantial number of small entities. The proposal would permit the use of certain binders to prevent purging of added brine solution in specific cured pork products. Manufacturers opting to use such binders would incur labeling expenses in revising the ingredients statements of their labels to show the presence of such binders, and incur costs of purchasing such binders. However, the use of these binders would be voluntary.

Currently, there are approximately 1,079 establishments, both large and small, producing "Ham Water Added" and "Ham and Water Products—X% of Weight is Added Ingredients." Decisions by individual manufacturers on whether the use binders in these pork products would be based on their conclusions that the benefits would outweigh the implementation costs.

Comments

Interested persons are invited to submit written comments concerning this proposed rule. Written comments should be sent to the Policy Office at the address shown above and should refer to Docket Number 87-015P. All comments submitted in response to this proposal will be available for public inspection in the Policy Office from 9 a.m. to 12:30 p.m. and from 1:30 p.m. to 4 p.m., Monday through Friday.

Background

FSIS has been petitioned to permit the following substances as binders to prevent purging of added brine solution in certain cured pork products, as provided in 9 CFR 319.104, as follows:

1. *Food starch-modified*, submitted by Corn Refiners Association, Inc., Washington, DC, to be used at a level not to exceed 2 percent of the product formulation. The Federal meat inspection regulations do not currently permit the use of food starch-modified for any purpose in meat food products.

The Food and Drug Administration (FDA) lists food starch-modified as a direct food additive at 21 CFR 172.892 for use in foods when used in accordance with good manufacturing practices.

2. *Sodium caseinate*, submitted by DVM Campina, Inc., Stone Mountain, GA, to be used at a level not to exceed 2 percent of the product formulation. The Federal meat inspection regulations permit the use of sodium caseinate as a binder and extender at a level sufficient for purpose in imitation sausage, nonspecific loaves, soups, and stews (9 CFR 318.7(c)(4)).

FDA lists sodium caseinate as generally recognized as safe (GRAS) for use in foods at 21 CFR 182.1748 when used in accordance with good manufacturing practices.

3. *Isolated soy protein*, submitted by Protein Technologies International, St. Louis, MO, to be used at a level not to exceed 2 percent of the product formulation. The use of isolated soy protein has been permitted in certain meat food products since 1965 as a result of a final rule published by the Department (30 FR 8673). The Federal meat inspection regulations permit the use of isolated soy protein as a binder and extender in sausage, chili con carne, spaghetti with meatballs, and similar products at levels ranging between 2 percent and 12 percent, depending on the product in which it is used (9 CFR 318. 7(c)(4)).

Although FDA does not currently list isolated soy protein in its regulations, FDA has determined, in a February 8, 1977, memorandum, that isolated soybean protein is a food and therefore GRAS.[1] During the development of this rulemaking, FSIS reconfirmed FDA's earlier determination. FDA has permitted the use of isolated soy protein in a variety of foods, including meat products, when used within good manufacturing practices.

4. *Carrageenan*, submitted jointly by Hercules, Wilmington, DE, and FMC Corporation, Rockland, ME, to be used at a level not to exceed 1.5 percent of the product formulation. The Federal

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[1] A copy of this memorandum is available for public review in the FSIS Hearing Clerk's office. Copies may be obtained, without charge, from the FSIS Hearing Clerk.

meat inspection regulations permit the use of carrageenan as an extender and stabilizer in breading mixes and sauces at the level sufficient for purpose in formulating meat products (9 CFR 318.7(c)(4)).

FDA lists carrageenan at 21 CFR 172.620 as a direct food additive that may be safety used in the amount necessary as an emulsifier, stabilizer, or thickener in foods when used in accordance with good manufacturing practices. It is common practice in the meat industry to use these terms of technical functions interchangeably with "binder." Thus, these functions are considered in this rulemaking under the category of "binders."

Regulations on Cured Pork Products

Section 319.104 of the Federal meat inspection regulations (9 CFR 319.104) provides standards of composition and labeling requirements for cured pork products depending on the product's minimum protein fat-free content; for example, "Ham", "Ham with Natural Juices", "Ham Water Added", and "Ham and Water Product—X% of Weight is Added Ingredients." However, 9 CFR 319.104 does not currently provide for the use of binders or extenders in these products. FSIS has determined that it is appropriate to permit the addition of certain binders and extenders in the cured pork products labeled as "Ham Water Added" and "Ham and Water Product—X% of Weight is Added Ingredients" for the reasons discussed below.

During manufacturing, the cured pork products labeled as "Ham Water Added" and "Ham and Water Product—X% of Weight is Added Ingredients" are pumped with a brine solution in an amount equal to various percentages of the weight of the green ham. These two products are normally packaged in clear plastic and are enclosed by a vacuum seal. As the brine drains from the product, it settles in the package around the product. This drained brine solution may appear to consumers as excessive and may create an aesthetically displeasing product. As a result, some retailers remove and discard these products well before the shelf life expiration date, creating economic losses for both industry and consumers. None of the ingredients in the brine solution, either alone or in combination, serves to completely control purging of the moisture in these products.

The petitioners contend that the addition of food starch-modified, sodium caseinate, isolated soy protein, or carrangeenan to these products will prevent moisture purge. They have supplied technical data and information supporting their claims regarding the technical effects of these individual binders at the requested used levels.[2]

After reviewing the petitioners' technical data and information, the Administrator believes that (1) the proposed use of these binders would be in compliance with applicable FDA requirements, (2) their use would be functional and suitable for the products intended, (3) the substances would be used at the lowest level necessary to accomplish their intended technical effect, and (4) the use of these substances in products would not render them adulterated, misbranded, or otherwise not in accordance with the requirements of the Federal Meat Inspection Act. In addition, the use of binders would not affect the protein fat-free calculations for the products to which they are added. All added nonmeat proteins are subtracted from the total protein of the finished product by the laboratory before calculating the protein fat-free value of the product.

FSIS proposes to allow the use of carrageenan at a level not to exceed 1.5 percent of the product formulation, and food starch-modified, sodium caseinate, and isolated soy protein at a level not to exceed 2 percent of the product formulation. These substances would not be permitted in combination with one or more such substances because the data presented by the petitioners involved only the use of each individual binder.

Manufacturers opting to use any such binder would be required to list the binder in the ingredients statement by its common or usual name in order of predominance (9 CFR 317.2(f)(1)). This would necessitate approval and printing of new labels.

The Proposal

For the reasons discussed in the preamble, FSIS is proposing to amend 9 CFR part 318 and 319 of the Federal meat inspection regulations to read as follows:

List of Subjects

9 CFR Part 318

Meat inspection, Food additives.

9 CFR Part 319

Meat inspection, Standards of identity.

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS; REINSPECTION AND PREPARATION OF PRODUCTS

1. The authority citation for part 318 would continue to read as follows:

Authority: 7 U.S.C. 450, 1901–1906; 21 U.S.C. 601–695; 7 CFR 2.17, 2.55.

2. In the chart in § 318.7(c)(4), the Class of substance "Binders and extenders" would be amended by adding at the end thereof the following:

§ 318.7 Approval of substances for use in the preparation of products.

* * * * *

(c) * * *

(4) * * *

Class of substance	Substance	Purpose	Products	Amount
*	*	*	*	*
Binders and extenders	Carrageenan	To prevent purging of added brine solution.	Cured pork products as provided in 9 CFR 319.104.	Not to exceed 1.5 percent of product formulation; not permitted in combination with other binders approved for use in cured pork products; in accordance with 21 CFR 172.602.
	Food starch modified	do	do	Not to exceed 2 percent of product formulation; not permitted in combination with other binders approved for use in cured pork products; in accordance with 21 CFR 172.892.

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[2] A copy of the supporting data is available for public review in the FSIS Hearing Clerk's office.

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Class of substance	Substance	Purpose	Products	Amount
	Sodium caseinate	do	do	Not to exceed 2 percent of product formulation; not permitted in combination with other binders approved for use in cured pork products; in accordance with 21 CFR 182.1748.
	Isolated soy protein	do	do	Not to exceed 2 percent of product formulation; not permitted in combination with other binders approved for use in cured pork products.

* * * * *

PART 319—DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION

3. The authority citation for part 319 would continue to read as follows:

Authority: 7 U.S.C. 450, 1901–1906; 21 U.S.C. 601–695; 7 CFR 2.17, 2.55.

4. Section 319.104 would be amended by adding a new paragraph (d) to read as follows:

§ 319.104 Cured pork products.

* * * * *

(d) The binders provided in § 318.7(c)(4) of this subchapter for use in cured pork products may be used singly in those cured pork products labeled as "Ham water added" and "Ham and water product—X% of weight is added ingredients." These binders are not permitted to be used in combination with one or more such binders approved for use in cured pork products. When any such substance is added to these products, the substance shall be designated in the ingredients statement by its common or usual name in order of predominance.

Done at Washington, DC, on January 3, 1992.

Ronald J. Prucha,

Acting Administrator.

[FR Doc. 92–2357 Filed 1–30–92; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 40 and 49

[PS–27–91]

RIN 1545–AQ04

Special Rules for Use of Government Depositaries Under Chapter 33

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations relating to deposits of excise taxes imposed on communications services and air transportation. These proposed regulations reflect changes made by the Omnibus Budget Reconciliation Acts of 1989 and 1990 and affect persons required to collect and pay over those taxes. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written comments, and requests to speak and outlines of oral comments to be presented at the public hearing must be received by March 31, 1992. The public hearing is scheduled for Tuesday, April 28, 1992, beginning at 10 a.m.

ADDRESSES: Send comments, and requests to speak and outlines of oral comments to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044 (Attention: CC:CORP:T:R (PS–27–91), room 5228). In the alternative, comments, and requests to speak and oral outlines may be hand delivered to: CC:CORP:T:R (PS–27–91), Internal Revenue Service, room 5528, 1111 Constitution Avenue, NW., Washington, DC 20224. The public hearing will be held in the IRS Commissioner's Conference Room, room 3313, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Ruth Hoffman, (202) 566–4475; concerning comments, and requests to speak and oral outlines, Bob Boyer, Regulations Unit, (202) 377–9231 (not toll-free calls).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collections of information should be sent to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, T:FP, Washington, DC 20224.

The requirements for collection of information in this proposed regulation are in §§ 40.6302(c)–3(b)(2)(ii), 40.6302(c)–3(b)(2)(iii), 40.6302(c)–3(e), and 40.6302(c)–3(f)(2)(ii). This information is required by the Internal Revenue Service to verify compliance with section 6302(c) of the Internal Revenue Code. This information will be used to determine the amount of tax and whether deposits of such tax have been computed correctly. The likely respondents and/or recordkeepers are businesses and other organizations.

These estimates are an approximation of the average time expected to be necessary for a collection of information. They are based on such information as is available to the Internal Revenue Service. Individual respondents and recordkeepers may require more or less time, depending on their particular circumstances.

Estimated total annual recordkeeping burden: 240,000 hours.

Estimated average annual burden per recordkeeper: 60 hours.

Estimated number of recordkeepers: 4000.

Estimated total annual reporting burden: 2,050 hours.

Estimated average burden per respondent: 0.5 hour.

Estimated number of respondents: 4000.

Estimated frequency of responses: On occasion.

Background

On January 3, 1991, temporary regulations (T.D. 8328) relating to requirements for returns, payments, and deposits of tax for excise taxes currently reportable on Form 720 were published in the **Federal Register** (56 FR 179). A notice of proposed rulemaking (PS–65–90) cross-referencing the temporary regulations was published in the **Federal Register** for the same day (56 FR 233). Those proposed and temporary regulations include rules relating to taxes imposed under chapter 33 of the Code of communications and air transportation, but special rules for deposits of chapter 33 taxes were reserved. This document amends the proposed regulations by adding special deposit rules for chapter 33 taxes.

Chapter 33 Taxes

In chapter 33, section 4251 imposes a tax on amounts paid for communications services, section 4261 imposes a tax on amounts paid for taxable air transportation of persons, and section 4271 imposes a tax on amounts paid for taxable air transportation of property. In each case, the person making the payment subject to tax is liable for the tax. However, section 4291 provides that the person receiving the payment subject to tax must collect the amount of the tax from the person making that payment and pay over the tax to the government. Under existing regulations and §§ 40.6011(a)–1T and 40.6302(c)–1T, any person required to collect and pay over tax must file returns and make deposits of tax.

Current Rules

Because persons required to collect and pay over chapter 33 taxes often keep their accounts on the basis of amounts billed or tickets sold, rather than on the basis of actual collections, existing regulations under § 49.6302(c)–1(a)(1)(iii) allow such persons to compute the amount to be deposited on the basis of amounts billed or tickets sold (the "considered collected" method). Under this method, the tax included in amounts billed or tickets sold during a semimonthly period is considered collected during the second following semimonthly period. Rev. Proc. 76–45, 1976–2 C.B. 668, which applies to certain communications tax return filers that deposit tax under the considered collected method, provides a rule for reporting tax on Form 720 based on amounts billed.

Under section 6302(e), persons using the considered collected method must deposit certain taxes within three banking days after the end of the first week of the semimonthly period in which the tax is considered collected (a one-week speed-up of deposits from what § 49.6302(c)–1(a)(1)(ii) would otherwise require). This speed-up applies to the taxes imposed by section 4261 (a) and (b) (relating to domestic air transportation of persons) and section 4251 (relating to communications). For air transportation taxes not subject to section 6302(e), § 49.6302(c)–1(a)(1)(ii) requires deposits based on the considered collected method to be made within three banking days after the end of the semimonthly period in which the tax is considered collected.

Explanation of Proposed Regulations

Changes are being proposed because there has been considerable confusion regarding the considered collected method. These proposed regulations replace the considered collected method with the "alternative method" of computing the amount of tax to be deposited and reported on Form 720. The proposed method is an alternative to the general 9-day rule for computing deposits of these taxes provided under § 40.6302(c)–1T. These proposed regulations also reflect the statutory deposit requirements under section 6302(e), and clarify points in existing rules.

Alternative Method

The alternative method of computing the amount of tax to be deposited and reported is in substance the same as the considered collected method. Under the alternative method, deposits and returns of tax are based upon amounts billed or tickets sold, rather than on actual collections. Amounts billed or tickets sold during a semimonthly period are considered as collected during the first week of the second following semimonthly period.

In order to use the alternative method, a person must maintain a separate account into which items of federal excise tax that are included in amounts billed or tickets sold to customers are recorded (the "billings account"). This is distinguished from an account into which items of federal excise tax are recorded when actually received from customers (the "revenue account"). A person may use the alternative method for taxes imposed by one section of chapter 33 and the 9-day rule for taxes imposed by other sections of chapter 33. In such cases, a person would only be required to maintain a billings account relating to taxes for which the alternative method is used, and would maintain a revenue account for other chapter 33 taxes.

Period to Which Deposits Relate

One of the points clarified by these proposed regulations is that the alternative method deposit for a semimonthly period is based on the amounts of tax that are considered as collected during the period, and not on the amounts billed or the tickets sold during the period. Thus, for example, the tax related to amounts billed on June 1, 1992, is considered as collected during the period of July 1st through 7th, and must be included in the deposit of tax for the first semimonthly period of the third calendar quarter of 1992.

Some chapter 33 filers erroneously applied the considered collected method by crediting deposits to the quarter in which the tax was included in amounts billed or tickets sold. If those persons begin using the alternative method provided by these regulations in the third quarter of 1992, their deposits computed on the basis of amounts billed or tickets sold during June 1992 will be credited to the third quarter. This will not result in a failure to deposit penalty for the second quarter of 1992, because the proposed regulations provide that the amount of tax to be reported on the Form 720 for the second quarter is the amount of tax included in amounts billed or tickets sold in April and May 1992.

Time to Deposit

Section 6302(c) authorizes the Secretary to prescribe regulations relating to the time to make deposits of tax. These proposed regulations set forth the time to deposit chapter 33 taxes and incorporate special rules for sections 4251 and 4261 (a) and (b) provided by section 6302(e). To simplify reporting and administration, these proposed regulations provide that all deposits of chapter 33 taxes under the alternative method are due at the same time. Thus, under these proposed regulations, the deposit for a semimonthly period is due by the third banking day after the end of the first week of that semimonthly period. For example, the deposit of taxes considered as collected during the period of July 1 through 7, 1992, is due by July 10, 1992.

Reporting of Tax

Another point clarified by these proposed regulations is the amount of tax to be reported on returns of tax by chapter 33 filers. A chapter 33 filer using the actual collections method for computing deposits during a calendar quarter must report the amount of tax actually collected during the quarter on the return filed for that quarter. A chapter 33 filer using the alternative method for computing deposits during a calendar quarter must report the amount of tax considered as collected during the quarter on the return filed for that quarter. The amount of tax considered as collected will reflect items of adjustment (*e.g.*, overpayments) relating to prior quarters within the period of limitations on credits and refunds.

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Change of Method

Chapter 33 filers may change between (1) computing deposits and reporting tax based on actual collections and (2) computing deposit and reporting tax using the alternative method. However, only one method may be used during a calendar quarter, and the Commissioner must be notified on any change in method.

Special Analyses

It has been determined that these proposed rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and therefore an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted, consideration will be given to any written comments that are timely submitted (preferably a signed original and eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying. A public hearing has been scheduled for April 28, 1992. Requests to speak may be submitted by anyone that timely submits written comments.

The rules of § 601.601(a)(3) of the Statement of Procedural Rules (26 CFR part 601) shall apply to the public hearing. A person wishing to make oral comments at the public hearing shall file written comments and submit an outline of the oral comments to be presented at the hearing and the time to be devoted to each topic by March 31, 1991.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes, exclusive of the time consumed by answering questions from the panel for the government.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Because of access restrictions, visitors cannot be permitted beyond to lobby of the Internal Revenue Building before 9:45 a.m.

Drafting Information

The principal author of these regulations is Ruth Hoffman, Office of Assistant Chief Counsel (Passthroughs and Special Industries), Internal Revenue Service. However, personnel from other offices of IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 40

Administrative practice and procedure, Excise taxes.

26 CFR Part 49

Exicse taxes, Telegraph, Telephone, Transportation.

Proposed Amendments to the Regulations

Accordingly, 26 CFR parts 40 and 49 are proposed to be amended as follows:

Note: The section numbers cited in the instructional paragraphs below as proposed sections reflect the section numbers as they would appear in the final rule (example: § 40.6302(c)–1). They do not reflect the "T" suffix currently found in the temporary rule version (example: § 40.6302(c)–1T).

Paragraph 1. The authority for part 40 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Proposed § 40.6302(c)–1 published January 3, 1991 (56 FR 233) by cross-referencing temporary regulations published the same day (56 FR 179) is amended as follows:

1. Paragraph (a) is amended by adding a new sentence between the third and fourth sentences.
2. Paragraph (b)(2) is revised.
3. Paragraph (b)(3) is amended by adding to the first sentence the language ", 40.6302(c)–3 (relating to the alternative method for computing deposits of taxes under sections 4251, 4261, and 4271)," following the language "(relating to deposits of section 4681 taxes)".
4. Paragraph (c)(1) is amended by adding to the last sentence the language ⅓", sections 4251, 4261, and 4271 taxes to which § 40.6302(c)–3 (relating to the alternative method for computing deposits of taxes under sections 4251, 4261, and 4271) applies," following the language "section 4681 taxes".
5. The added and revised provisions read as follows:

§ 40.6302(c)–1 Use of Government depositaries.

(a) * * * Section 40.6302(c)–3 provides an alternative method for computing the amount of deposits of taxes imposed by sections 4251, 4261, and 4671 (relating to communications services and air transportation). * * *

(b) * * *

(2) *Amount of deposit.* Except as otherwise provided in paragraph (c) of this section (relating to safe harbor rules for 9-day taxes) or in §§ 40.6302(c)–2(a)(2) (relating to safe harbor rules for section 4681 taxes) and 40.6302(c)–3 (relating to the alternative method for computing deposits of taxes under sections 4251, 4261, and 4271), the deposit of tax for any semimonthly period (as defined in paragraph (d) of this section) shall not be less than the amount of net tax liability incurred during that semimonthly period.

Par. 3. Proposed § 40.6302(c)–3 published January 3, 1991 (56 FR 233) by cross-referencing temporary regulations published the same day (56 FR 179) is revised to read as follow:

§ 40.6302(c)–3 Special rules for use of Government depositories under chapter 33.

(a) *Overview.* This section sets forth an alternative method for computing the amount of deposits of taxes imposed by chapter 33, and provides rules relating to the time for making a deposit and the amount of tax to be reported on the return of tax for each quarter by persons using the alternative method. Chapter 33 includes the taxes imposed by section 4251 on communications services, section 4261 (a) and (b) on air transportation of persons, section 4261(c) on use of international air travel facilities, and section 4271 on air transportation of property. Section 40.6302(c)–1 sets forth the general 9-day rule for computing deposits of these taxes.

(b) *Alternative method for computing deposits—(1) In general—(i) Alternative method.* Any person required to collect and pay over any tax imposed by chapter 33 may compute the amount of such tax to be deposited on the basis of amounts considered as collected (the "alternative method") instead of on the basis of actual collections of tax.

(ii) *Using more than one method to compute deposits.* A person may compute deposits of tax imposed by one or more sections of chapter 33 using the alternative method provided by this section and compute deposits of taxes imposed by other sections of chapter 33 on the basis of amounts actually collected using the 9-day rule of § 40.6302(c)–1. For purposes of this paragraph (b)(1)(ii), the taxes imposed by section 4261 (a) and (b) are treated as one section.

(2) *Applicability—*(1) *In general.* A person may use the alternative method with respect to a tax only if the person—

(A) Separately accounts for the tax in accordance with paragraph (b)(2)(ii) of this section; and

(B) Makes a return of the tax on the basis of the amount of the tax that is considered as collected.

(ii) *Separate account.* The account required under paragraph (b)(2)(i)(A) of this section (the "separate account") shall reflect for each month—

(A) All items of the tax that are included in amounts billed or tickets should to customers during the month; and

(B) Items of adjustment relating to the tax for prior months within the period of limitations on credits or refunds.

(iii) *Change of method.* Only one method of computing deposits may be used during a calendar quarter. Before changing the method a person uses to compute the amount of tax to be deposited and reported for a calendar quarter, the person must notify the Commissioner so that proper adjustments may be made in order to properly reflect that person's collections of excise tax.

(3) *Period during which tax is considered as collected.* For purposes of this section, the tax included in amounts billed or tickets sold during the semimonthly period (as defined in § 40.6302(c)–1(d)) is considered as collected during the first week of the second following semimonthly period. Thus, the tax included in amounts billed or tickets sold during the first semimonthly period of a calendar month is considered as collected during the period of the 1st through the 7th of the following month; the tax included in amounts billed or tickets sold during the second semimonthly period of a calendar month is considered as collected during the period of the 16th through 22nd of the following month.

(4) *When amounts are billed.* For purposes of this section, an amount is billed on the earlier of the date the amount is received or the date a bill for the amount is rendered.

(c) *Time to deposit.* Under the alternative method, the deposit of tax for any semimonthly period shall be made by the third banking day after the end of the first week of that semimonthly period. Thus, for example, the deposit for the semimonthly period beginning to July 1, 1992, (relating to amounts billed between June 1 and 15, 1992) is due by July 10, 1992, three banking days after July 7, the end of the first week of the semimonthly period.

(d) *Amount of deposit.* Under the alternative method, the deposit of tax for any semimonthly period shall not be less than the net amount of the tax that is considered as collected during the first week of that semimonthly period. The net amount of tax that is considered as collected during a semimonthly period shall be either the net amount of tax reflected in the separate account for the corresponding semimonthly period of the preceding month or one-half the net amount of tax reflected in the separate account for the preceding month.

(e) *Reporting of tax.* If a tax is deposited under the alternative method, the return of tax for the calendar quarter shall report the net amount of the tax that is considered as collected during that calendar quarter and not the amount of the tax that is actually collected or the amount billed during the quarter. The amount to be reported for each month is the net amount of tax reflected in the separate account for the preceding month. Thus, amounts billed in June, July, and August are considered as collected during July, August, and September, and are reported as the collections of tax for July, August, and September (the third calendar quarter). The net amount of tax reflected in the separate accounts for June, July, and August is the amount reported as collections for the third quarter.

(f) *Transitional rule for third calendar quarter of 1992*—(1) *Applicability.* This paragraph (f) applies if the person—

(i) Erroneously applied the "considered collected" method provided under § 49.6302(c)–1(a)(1)(iii) of this chapter in the second calendar quarter of 1992 by calculating deposits of a chapter 33 tax on the basis of amounts billed or tickets sold during the quarter rather than on the basis of taxes considered as collected during the quarter; and

(ii) Uses the alternative method provided under this section to calculate deposits and the return of that tax for the third quarter of 1992.

(2) *Rule*—(i) *Crediting of deposits.* If this paragraph (f) applies, any such deposits computed on the basis of amounts billed on tickets sold during June 1992 are credited to the third calendar quarter of 1992.

(ii) *Return to tax for the second calendar quarter of 1992.* If this paragraph (f) applies, the amount of tax to be reported on the person's Form 720 for the second calendar quarter of 1992 shall be the amount of tax included in amounts billed or tickets sold in April and May 1992.

(3) *Example.* The application of this paragraph (f) may be illustrated by the following example:

(a) *Facts.* (i) X, a corporation, has been providing air transportation subject to tax under section 4261 (a) and (b) for several years and is required to collect and pay over these taxes. X maintains a separate account in which all items of these taxes are recorded. For calendar quarters beginning before July 1, 1992, including the second quarter of 1992, X erroneously applied the "considered collected" method of computing deposits of these taxes by treating the tickets sold during each quarter as the collections for the quarter. For quarters beginning after June 30, 1992, X uses the alternative method provided by this section for computing deposits of these taxes.

(ii) For the period March 1, 1992, through June 30, 1992, X's separate account reflects the following amounts of tax:

Mar. 1st–15th	$4,000
Mar. 16th–31st	4,000
Apr. 1st–15th	7,000
Apr. 16th–30th	7,000
May 1st–15th	5,000
May 16th–31st	5,000
June 1st–15th	9,000
June 16th–30th	9,000

(iii) During the period April through July of 1992, X made the following deposits:

Date	Amount	Credited to
Apr. 10th	$4,000	1st quarter.
Apr. 27th	4,000	1st quarter.
May 12th	7,000	2nd quarter.
May 26th	7,000	2nd quarter.
June 10th	5,000	2nd quarter.
June 25th	5,000	2nd quarter.
July 10th	9,000	2nd quarter.
July 27th	9,000	2nd quarter.

(iv) X credited the April deposits (relating to tickets sold in March) to the first quarter of 1992 and reported the tax included in tickets sold in March as first quarter collections on the Form 720 for the first quarter. X followed the same procedure for deposits in the second quarter; the May, June, and July deposits (relating to the April, May, and June tickets sold) were credited to the second quarter.

(b) *Deposit requirement; transitional rule.* In order to use the alternative method, X must deposit and report the amount of tax that is considered as collected in the quarter rather than the amount of tax included in tickets sold during the quarter. Under paragraph (f)(2)(i) of this section, X's July deposits (related to the tickets sold in June) will be credited to the third quarter of 1992. X must report on the form 720 for the second quarter only the $24,000 tax included in the April and May tickets sold. The amount of tax included in the tickets sold in June must be reported on the Form 720 for the third quarter.

(g) *Cross reference.* For general provisions relating to use of Government depositaries, see § 40.6302(c)–1.

(h) *Effective date.* This section is effective July 1, 1992, for deposits of taxes that are considered as collected after June 30, 1992, (i.e., amounts billed or tickets sold after May 31, 1992), and for returns of tax for quarters beginning after March 31, 1992.

Par. 4. Proposed § 40.9999–1(g) published January 3, 1991 (56 FR 233) by cross-referencing temporary regulations published the same day (56 FR 179) is revised to read as follows:

§ 40.9999-1 Examples.

* * * * *

(g) *Example relating to air transportation tax; alternative method for deposits.*

Example 8. (1) *Facts.* P, a corporation engaged in the provision of air transportation subject to tax under section 4261 (a) and (b), is responsible for collecting and paying over that tax. P files Form 720 on a quarterly basis to report the tax. P is not required to report any other taxes on its Form 720. P maintains a separate account in which all items of air transportation tax included in tickets sold are recorded. P uses the alternative method provided by § 40.6302(c)-3 for computing deposits of these taxes. For the last month of 1992 and the first two months of 1993, P's separate account reflects the following:

Dec. 1st–15th	$11,000
Dec. 16th–31st	11,000
Jan. 1st–15th	7,500
Jan. 16th–31st	7,500
Feb. 1st–15th	9,500
Feb. 16th–28th	9,500
Total 56,000	

(2) *Filing requirement.* P must continue to file a Form 720 for each calendar quarter (§ 40.6011(a)-1(a)) until P files a final return in accordance with § 40.6011(a)-2. P's Form 720 for the fourth calendar quarter of 1992 reporting air transportation tax for that quarter is due by Monday, March 1, 1993. The Form 720 would ordinarily be due by February 28, 1993 (the last day of the second month after the end of the calendar quarter (§ 40.6071(a)-2)); but because February 28, 1993, is a Sunday, P has until that Monday to file.

(3) *Deposit and reporting requirement; alternative method.*

(i) P is required to make semimonthly deposits of tax (§ 40.6302(c)-1(b)(1)). Under the alternative method (§ 40.6302(c)-3), deposits of air transportation tax are due by the third banking day after the end of the week during which the tax is considered as collected. The tax is considered as collected during the first week of the second semimonthly period following the semimonthly period in which the tickets were sold to the customers § 40.6302(c)-3(b)(3)). Thus, the tax included in tickets sold during the period December 1992 through February 1993 is considered as collected as follows:

For Dec. 1st–15th	Jan. 1st–7th
For Dec. 16th–31st	Jan. 16th–22nd
For Jan. 1st–15th	Feb. 1st–7th
For Jan. 16th–31st	Feb. 16th–22nd
For Feb. 1st–15th	Mar. 1st–7th
For Feb. 16th–28th	Mar. 16th–22nd

Accordingly, P meets the semimonthly deposit requirement for the first quarter of 1993 if P makes the following deposits:

By Jan. 12th	$11,000
By Jan. 27th	11,000
By Feb. 10th	7,500
By Feb. 25th	7,500
By Mar. 10th	9,500
By Mar. 25th	9,500

Under the alternative method, these deposits are credited to the first calendar quarter of 1993 (the period during which the taxes were considered as collected (§ 40.6302(c)-3(e)(1)). P's Form 720 for the first quarter of 1993 reports the $56,000 of air transportation taxes considered as collected during that quarter (§ 40.6302(c)-3(e)(2)).

Par. 5. Part 49 is amended as follows:

1. The authority for part 49 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

2. Proposed regulation § 49.0-1(b) published January 3, 1991 (56 FR 233) cross-referencing temporary regulations published the same day (56 FR 179) is amended by adding a new last sentence to read as follows:

§ 49.0-1 Introduction.

* * * * *

(b) * * * Section 49.6302(c)-1(a)(1)(iii) (relating to semimonthly periods) shall not apply for calendar quarters beginning after June 30, 1992.

Fred T. Goldberg, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 92-1723 Filed 1-30-92; 8:45 am]

BILLING CODE 4830-01-M

Notices

Federal Register
Vol. 57, No. 21
Friday, January 31, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

Recipients of Fiscal Year 1991 Section 515 Loan Funds

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice.

SUMMARY: The Farmers Home Administration (FmHA) has compiled a list of all recipients of FY 1991, section 515 loan funds. This action is taken to inform the public of recipients of FY 91 section 515 funds. The intended effect is public awareness.

FOR FURTHER INFORMATION CONTACT: Cynthia L. Reese-Foxworth, Loan Assistant, Rural Rental Housing Branch, Multi-Family Housing Processing Division, FmHA, USDA, room 5337, South Agriculture Building, Washington, DC, 20250, telephone (202) 720-1606 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

Programs Affected

This program is listed in the Catalog of Federal Domestic Assistance under Number 10.415, Rural Rental Housing Loans.

Discussion of Notice

The information available is an 65 page compilation that lists borrower names, names of the general partners, project name and location, number of units developed, and FmHA loan amount. This information is available to all interested parties and can be obtained by writing the following address: USDA, FmHA, Multi-Family Housing Processing Division, Room 5337-S, Washington, DC, 20250. The request must be accompanied by a self-addressed, self-stamped envelope. Envelopes must be a minimum of 11″ × 9″ in size, and bear first class postage of $1.65. Requests without the required return envelope and postage will not be acknowledged or responded to.

Dated: January 24, 1992.

LaVerne Ausman,

Administrator, Farmers Home Administration.

[FR Doc. 92-2350 Filed 1-30-92; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF COMMERCE

Bureau of the Census

[Docket No. 920119-2019]

Annual Capital Expenditures Survey

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of Consideration.

SUMMARY: Notice is hereby given that the Bureau of the Census is considering a proposal to conduct a pilot and pretest of the Annual Capital Expenditures Survey for the years 1991 and 1992 under the authority of title 13, United States Code, sections 193 and 224. This survey has been submitted to the Office of Management and Budget for approval in accordance with the Paperwork Reduction Act, Public Law 96-511, as amended. On the basis of information and recommendations received by the Bureau of the Census, the data have significant application to the needs of the public and industry and are not available from nongovernmental or governmental sources.

DATES: Any suggestions or recommendations concerning the proposed survey should be submitted in writing on or before March 2, 1992.

ADDRESSES: Director, Bureau of the Census, Washington, DC 20233.

FOR FURTHER INFORMATION CONTACT: John Berry on (301) 763-7464.

SUPPLEMENTARY INFORMATION: The primary users of these data will be numerous Government agencies, including the Bureau of the Census, Bureau of Economic Analysis, Bureau of Labor Statistics, and the Treasury Department. Other users will include other Government agencies, business firms, academics, and research and consulting organizations. The data will be used for calculation of the National Income and Product Accounts and to measure and analyze fixed capital stocks and capital formation. Companies in the survey represent private nonfarm businesses. The information to be develop from this survey is necessary for comprehensive and detailed measurement of capital investment. Copies of the proposed form are made available on request to the Director, Bureau of the Census, Washington, DC 20233.

Dated: January 23, 1992.

Barbara Everitt Bryant,

Director, Bureau of the Census.

[FR Doc. 92-2346 Filed 1-30-92; 8:45 am]

BILLING CODE 3510-07-M

Foreign-Trade Zones Board

[Docket No. 35-91]

Foreign-Trade Zone 123—Denver, Colorado. Proposed Subzone Storage Technology Corporation Information Storage Equipment Plant Boulder County, CO, Amendment to Application

Notice is hereby given that the application submitted by the City and County of Denver, Colorado, grantee of FTZ 123, requesting special-purpose subzone status for the information storage equipment manufacturing facilities of Storage Technology Corporation (StorageTek) located in Boulder County, Colorado (56 FR 28862, 6/25/91), has been amended to include additional products and components. The new finished products are spare parts and field replaceable units (duty rates range from zero to 3.9 percent). The new components are transceivers, fiber optic cables, structural foam array, batteries, and packaging materials. The duty rates on the components range from zero to 8.5 percent (HTS categories 8517, 9001, 3921, 8507, 3923). The application remains otherwise unchanged.

The comment period is reopened until March 1, 1992.

Dated: January 24, 1992.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 92-2381 Filed 1-30-92; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of opportunity to request administrative review of antidumping or countervailing duty order, finding, or suspended investigation.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party as defined in section 771(9) of the Tariff Act of 1930 may request, in accordance with section 353.22 or 355.22 of the Commerce Regulations, that the Department of Commerce ("the Department") conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity to request a review

Not later than February 29, 1992, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in February for the following periods:

Antidumping duty proceedings	Period
Austria: Railway track maintenance equipment (A-433-064)	02/01/91-01/31/92
Canada: Racing plates (A-122-050)	02/01/91-01/31/92
Japan: Benzyl paraben (A-588-816)	10/10/90-01/31/92
Japan: Carbon steel butt-weld pipe fittings (A-588-602)	02/01/91-01/31/92
Japan: Melamine (A-588-056)	02/01/91-01/31/92
Japan: Mechanical transfer presses (A-588-810)	02/01/91-01/31/92
The Federal Republic of Germany: Sodium thiosulfate (A-428-807)	10/19/90-01/31/92
The People's Republic of China: Heavy forged hand held tools, finished or unfinished, with or without handles (A-570-803)	10/19/90-01/31/92
The People's Republic of China: Natural bristle paint brushes (A-570-501)	02/01/91-01/31/92
The People's Republic of China: Sodium thiosulfate (A-570-805)	12/12/90-01/31/92
The Republic of Korea: Certain small business telephone systems and subassemblies thereof (A-580-803)	02/01/91-01/31/92
United Kingdom: Sodium thiosulfate (A-412-805)	10/19/90-01/31/92
Countervailing duty proceedings	
Peru: Cotton sheeting & sateen (C-333-001)	01/01/91-12/31/91
Peru: Cotton yarn (C-333-002)	01/01/91-12/31/91
Saudi Arabia: Carbon steel wire rod (C-517-501)	01/01/91-12/31/91
Thailand: Malleable iron pipe fittings (C-549-803)	01/01/91-12/31/91

In accordance with § 353.22(a) of the Commerce regulations, an interested party may request in writing that the Secretary conduct an administrative review of specified individual producers or resellers covered by an order, if the requesting person states why the person desires the Secretary to review those particular producers or resellers. If the interested party intends for the Secretary to review sales of merchandise by a reseller (or a producer if that producer also resells merchandise from other suppliers) which was produced in more than one country of origin, and each country of origin is subject to a separate order, then the interested party must state specifically which reseller(s) and which countries of origin for each reseller the request is intended to cover.

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B-099, U.S. Department of Commerce, Washington, DC 20230. Further, in accordance with § 353.31 of the Commerce Regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the Federal Register a notice of "Initiation of Antidumping (Countervailing) Duty Administrative Review", for requests received by February 29, 1992.

If the Department does not receive by, February 29, 1992, a request for review of entries covered by an order or finding listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute, but is published as a service to the international trading community.

Dated: January 24, 1992.

Joseph A. Spetrini,

Deputy Assistant Secretary.

[FR Doc. 92-2384 Filed 1-30-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-583-009]

Color Television Receivers, Except for Video Monitors, From Taiwan; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On November 18, 1991, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on color television receivers, except for video monitors, from Taiwan. The review covers one manufacturer/exporter of this merchandise to the United States and the period April 1, 1989 through March 31, 1990 (sixth review).

We gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of comments received, we have changed the final results from those in the preliminary results of review.

EFFECTIVE DATE: January 31, 1992.

FOR FURTHER INFORMATION CONTACT: G. Leon McNeill or Maureen Flannery, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-2923.

SUPPLEMENTARY INFORMATION:

Background

On November 18, 1991, the Department of Commerce (the Department) published in the **Federal Register** (56 FR 58225) the preliminary results of its administrative review of the antidumping duty order on color television receivers, except for video monitors, from Taiwan (49 FR 18336, April 30, 1984). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act) and 19 CFR 353.22 (1990).

Scope of the Review

Imports covered by the review are shipments of color television receivers (CTVs), except for video monitors, complete or incomplete, from Taiwan. The order covers all CTVs regardless of tariff classification. This merchandise is currently classifiable under items 8528.10.80, 8529.90.15, and 8540.11.00 of the Harmonized Tariff Schedules (HS). HS item numbers are provided for convenience and Customs purposes. The written description remains dispositive. The review covers one manufacturer/exporter of CTVs, except for video monitors, from Taiwan for the period April 1, 1989 through March 31, 1990 (sixth review). Final results of review for other manufacturers/exporters for that period were published in the **Federal Register** on December 16, 1991 (56 FR 65218).

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results as provided by § 353.22(c) of the Commerce Regulations. We received comments from Zenith Electronics Corp. (Zenith) and Proton. In addition, we corrected an error in the preliminary results. For the preliminary results, where there was no identical or similar home market model match to the U.S. sale at the same level of trade, we used constructed value (CV) as the basis of foreign market value (FMV). For these final results, we compared the U.S. sale to a home market sale of identical or most similar merchandise, as appropriate, at a different level of trade.

Comment 1: Zenith argues that the Department used the incorrect U.S. tax base in determining the amount of commodity tax and value added tax (VAT) to add to United States price (U.S. price). Zenith notes that the duty paying value (DPV), *i.e.*, the tax base, for determining the amount of commodity tax for merchandise from bonded warehouses is defined in the preliminary results as the ex-factory price. Zenith claims that the DPV used by the Department to determine the commodity tax for bonded-factory shipments to the United States is overstated because it includes elements which are not included in an ex-factory price. According to Zenith, these elements include U.S. selling, general, and administrative (SG&A) expenses, profit attributable to the U.S. subsidiary, and estimated antidumping duties. Zenith also contends that the DPV is inflated by the inclusion of imputed Taiwan import duties, which would not be included in the ex-factory price of export merchandise where import duties are not collected by reason of exportation of the merchandise. Zenith advocates determining the DPV by deducting f.o.b. charges, such as foreign inland freight and brokerage, from the f.o.b. price.

Zenith also claims that the tax base used for calculating the VAT, defined in the preliminary results of review as the price to the unrelated customer, is overstated because it includes expenses which are incurred after the merchandise is exported from Taiwan. Zenith argues that the Department should use as the VAT base the price at which the merchandise is sold for exportation, whether or not it is the price to an unrelated purchaser.

Proton argues that the amount of tax which would have been collected on sales to the United States should be based on the commodity tax actually paid by the respondent on its sales in the home market. Accordingly, Proton contends that the imputed commodity tax on the U.S. sale should be based on the actual DPV of the home market comparison model, adjusted, where necessary, for differences in merchandise (difmer).

Proton argues that the price charged to unrelated parties in the home market is the appropriate tax base on which to calculate the VAT, since the VAT is only imposed in the home market and not on exports. However, it contends that, if the VAT is based on U.S. prices, the Department should continue to use the price to the unrelated customer in the United States as the tax base. Proton claims that this is consistent with the Department's methodology in other antidumpng cases, *e.g., High Information Content Flat Panel Displays and Display Glass Therefor from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition* (56 FR 32376, July 16, 1991).

Department's Position: We disagree with Zenith. Also, we disagree with Proton that we should base the amount of commodity tax added to U.S. price on the home market DPV, or the VAT base on the home market price to the unrelated customer. In this case, we have calculated the commodity tax base and the VAT base in a manner consistent with our prior practice in the television cases. *See, e.g.*, our response to Comment 2 in *Color Television Receivers, Except for Video Monitors, from Taiwan; Final Results of Antidumping Duty Administrative Review* (56 FR 31378, July 10, 1991) (*Fifth Taiwan CTV Review*), and our response to comment 1 in *Color Television Receivers, Except for Video Monitors, from Taiwan; Final Results of Antidumping Administrative Review* (56 FR 65218, December 16, 1991) (*Fourth and Sixth Taiwan CTV Review*).

The commodity tax base in Taiwan, or the DPV, is submitted by each firm and approved by the Taiwan authorities. For CTVs sold from bonded factories in Taiwan, the DPV is the ex-factory price; for CTVs sold from unbonded factories, the DPV consists of production costs, SG&A costs, and profit, *i.e.*, the price to the first unrelated customer. The VAT tax base in Taiwan is the price to the first unrelated customer.

In order to ensure that FMV and U.S. price are comparable, and to impose the tax at a point comparable to the point at which the home market tax is assessed, it is necessary to determine at what point in the manufacturing/marketing chain the tax authority in Taiwan would have imposed the taxes on the exported merchandise. Accordingly, we have calculated the U.S. commodity tax base for each type of sale (*i.e.*, whether from a bonded or unbonded warehouse) and the VAT base by applying the same formulae used to calculate the home market tax bases. In other words, we used the terms and conditions of home market sales to determine the imputed tax base for U.S. sales. Therefore, with regard to the commodity tax, we used the ex-factory price of the merchandise for sales from bonded factories. This price is not overstated because it includes the same elements as are in the home market ex-factory price, which serves as the base for the commodity tax. For unbonded factories, we used the price to the first unrelated customer in the United States as the U.S. tax base. For the VAT, we used the price to the first unrelated customer in the United States as the U.S. tax base, not the price at which the merchandise is sold for exportation, since the home market VAT base is the price to the first unrelated customer. The tax rate in Taiwan was then applied to the U.S. tax base to determine the amount of tax that should be added to U.S. price, pursuant to 19 U.S.C. 1677a(d)(1)(C).

Comment 2: Zenith argues that the Department is required to measure the amount of tax which is passed through to home market purchasers, pursuant to 19 U.S.C. 1677a(d)(1)(C). As support for its argument, Zenith relies on decisions by the Court of International Trade (CIT) in *Zenith Electronics Corporations* v. *United States*, 633 F. Supp. 1382 (Ct. Int'l Trade, 1986), *appeal dismissed*, 875 F.2d. 291 (Fed. Cir. 1989) (*Zenith I*), *Daewoo Electronics Company, Ltd.* v. *United States*, 712 F. Supp. 931 (Ct. Int'l Trade, 1989) (*Daewoo*), and *Zenith*

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Electronics Corporation v. *United States*, Slip Op. 91–66 (July 29, 1991) (*Zenith II*). Moreover, citing *Daewoo Electronics Company, Ltd.* v. *United States*, 760 F. Supp. 200 (Ct. Int'l Trade, 1991), Zenith argues that, because Proton benefits from tax adjustments to U.S. price, it should be required to establish its entitlement to such adjustments by determining the amount of home market tax incidence, in accordance with a methodology chosen by the Department. Zenith argues that since the respondent has not established its entitlement to a tax adjustment, and the Department has failed to determine the home market tax incidence, there is no basis for a tax adjustment to U.S. price.

Department's Position: We do not agree with the CIT's decisions in *Zenith I*, *Daewoo*, or *Zenith II*, but have not had an opportunity to appeal this issue on its merits. Consistent with our long-standing practice, we have not attempted to measure the amount of tax incidence in the Taiwan home market. We do not agree that the statutory language, limiting the amount of adjustment to the amount of commodity tax "added to or included in the price" of CTVs sold in the Taiwan home market, requires the Department to measure the home market tax incidence. See our response to Comment 1 in the *Fifth Taiwan CTV Review* and our response to Comment 2 in the *Fourth and Sixth Taiwan CTV Review*. Regarding Zenith's argument that Proton must establish entitlement to the tax adjustment to U.S. price, we are satisfied that the record shows that the tax was charged and paid on the home market sales. Therefore, the respondent is entitled to the adjustment to U.S. price.

Comment 3: Zenith argues that the Department incorrectly failed to cap the amount of tax added to U.S. price by the amount of home market tax included in the home market price of the comparison model, and has incorrectly adjusted FMV for differences between the amount of home market tax and the amount of tax added to U.S. price. Zenith cites the CIT's decision in *Zenith I* as support for its argument that the amount of tax added to U.S. price must not exceed the amount of tax included in the home market price, and that the Department is prohibited from using the authority of 19 U.S.C. 1677b(a)(4)(B) to make a circumstances-of-sale (COS) adjustment to FMV for differences in taxes in order to neutralize the tax adjustment.

Proton also argues that the Department should not make a COS adjustment to FMV for the difference between home market and U.S. commodity taxes, citing the CIT decision in *Zenith Electronics Corporation* v. *United States*, 755 F. Supp. 397 (Ct. Int'l Trade, 1990) as support for its arguments. Accordingly, Proton claims that the commodity tax should be added to U.S. price without an adjustment to home market price.

Department's Position: We disagree with Zenith and Proton. In this case, we followed our practice established in prior administrative reviews regarding the calculation of commodity tax and COS adjustments for differences in actual and imputed commodity taxes. We did not "cap" or otherwise reduce the amount of imputed tax added to U.S. price as this would have been inconsistent with our efforts to make an appropriate "apples-to-apples" comparison between FMV and U.S. price. In order to avoid artificially inflating or deflating margins as a result of differences between Taiwan commodity taxes and the imputed taxes added to U.S. price, we have made a COS adjustment equal to the difference between the tax collected in Taiwan and the imputed tax calculated on the U.S. sales. *See* our response to Comments 3 and 4 in the *Fifth Taiwan CTV Review*, our response to Comment 1 in *Color Television Receivers from the Republic of Korea; Final Results of Antidumping Duty Administrative Review* (56 FR 12702, March 27, 1991) (*Fifth Korean CTV Review*), and our response to Comment 3 in the *Fourth and Sixth Taiwan CTV Review*.

Comment 4: Regarding adjustments to FMV for home market selling expenses, Zenith argues that the Department has failed to take into account earnable interest on payments made after an obligation to pay is incurred. Zenith reasons that, when an obligation is paid after it is incurred, the respondent has, in effect, been granted "delayed payment terms," and the benefit from paying these obligations on a delayed basis should be taken into account when calculating the true cost of a claimed selling expense. According to Zenith, the true cost of an after-sale rebate, for example, should be measured as the amount of the paid rebate less any interest earned during the period that payment of the rebate was outstanding. Accordingly, Zenith argues that the Department should reduce the adjustment to FMV for home market selling expenses by the amount of any interest earnable as a result of delayed payment of those expenses.

Department's Position: We disagree with Zenith. We avoid imputing expenses or costs when a company quantifies or documents its actual expenses, and when the company's quantification accurately reflects the expense to the seller. Since we have determined that the respondent has accurately quantified its home market selling expenses, and that its claim accurately reflected these expenses, we have not reduced them by the amount of any imputed "savings" realized as a result of delayed payment. See our response to Comment 6 in the *Fifth Taiwan CTV Review*, our response to Comment 2 in *Television Receivers, Monochrome and Color, From Japan; Final Results of Antidumping Duty Administrative Review* (56 FR 56189, November 1, 1991) (*Tenth Japanese TV Review*), and our response to Comment 4 in the *Fourth and Sixth Taiwan CTV Review*.

Comment 5: Zenith argues that the Department should deduct antidumping-related legal expenses from exporter's sales price (ESP). Zenith notes that under 19 U.S.C. 1677a(e)(2), the Department shall remove from ESP "the amount, if any, of expenses generally incurred by or for the account of the exporter in the United States in selling identical or substantially identical merchandise." According to Zenith, antidumping-related legal expenses are selling expenses because they are incurred as a result of a respondent selling the merchandise under review in the United States at prices below FMV. Moreover, Zenith argues that there is no basis for retaining in ESP legal expenses incurred as a result of an antidumping proceeding when all other legal expenses incurred by a foreign company's U.S. subsidiary are deducted from ESP.

Department's Position: We disagree with Zenith. As we have stated in previous reviews of this order, the antidumping duty order on color television receivers from the Republic of Korea, and the antidumping finding on color television receivers, monochrome and color, from Japan, we do not consider legal expenses incurred in defending against an allegation of dumping to be expenses incurred in selling the merchandise in the United States. As a result, we have not deducted these expenses from ESP in these final results. Moreover this position was recently affirmed in *Zenith II*. See our response to Comment 3 in the *Tenth Japanese TV Review*, our response to Comment 5 in the *Fifth Korean CTV Review*, and our response to Comment 5 in the *Fourth and Sixth Taiwan CTV Review*.

Comment 6: Zenith argues that the Department should deduct from U.S. price payments of estimated antidumping duties and any expenses related to such payments. According to Zenith, these items should be deducted from U.S. price, along with the estimated ordinary duties paid, because 19 U.S.C. 1677a(d)(2)(A) specifically requires that "United States import duties" and charges "incident to bringing the merchandise from the place of shipment in the country of exportation to the place of delivery in the United States" be deducted from U.S. price.

Department's Position: We disagree with Zenith. As we have stated in previous reviews of this order, we believe that deducting estimated amounts of antidumping duties in our calculations would result in inaccurate margins. We do not consider payments of estimated antidumping duties to be expenses related to the sales of the merchandise under consideration for this review period. Further, given the possibility that these estimated duties could vary significantly from duties that may be assessed, we do not consider them to be "expenses" within the meaning of section 772(d)(2)(A) of the Tariff Act for the purpose of determining U.S. price. Finally, estimated duties and duties assessed are paid by the importer which, in some cases, is unrelated to the party whose sales are under review. As a result, we have not deducted them from U.S. price in these final results. See our response to comment 4 in the *Tenth Japanese TV Review*, our response to Comment 6 in the *Fifth Korean CTV Review*, and our response to Comment 6 in the *Fourth and Sixth Taiwan CTV Review*.

Comment 7: Zenith contends that the Department erroneously treated selling commissions in the United States as though they consisted entirely of indirect selling expenses. Zenith argues that commissions compensate the recipient for both direct and indirect selling expenses incurred on behalf of the respondent. Zenith argues that, since FMV has already been adjusted for direct selling expenses, an offset to FMV comprised of indirect selling expenses up to the full amount of the U.S. commission overcompensates for the indirect portion of the commission and effectively negates the deduction from U.S. price of the direct expense portion of the commission. Accordingly, Zenith claims that commissions should be broken down into their direct and indirect expense components, and that the offset to FMV should be capped at the level of the indirect expense portion.

Zenith also argues that all indirect selling expenses incurred in the home market on commissioned U.S. sales should be deducted from U.S. price. Zenith is concerned that unless this adjustment is made, such expenses may be commingled with home market indirect expenses included in offsets to FMV.

Department's Position: We disagree with Zenith. Section 353.56(b)(1) of our regulations requires us to make an adjustment for situations in which a commission is paid in one market but not in the other market. That adjustment is limited to "the amount of the other selling expenses" allowed in the other market. We do not interpret this regulation as requiring us to limit the offset to a specific portion of the expenses of the commissionaire. Indeed, it is not necessary to examine how the recipient of the commissions spends the money because, to the seller, such monies represent direct expenses incurred as a result of that particular sale. As a result, we have offset the full amount of the U.S. commissions in these final results. *See* our response to Comment 4 in *Television Receivers, Monochrome and Color, from Japan; Final Results of Antidumping Duty Administrative Review* (56 FR 37339, August 6, 1991), our response to Comment 9 in the *Fifth Taiwan CTV Review*, and our response to Comment 7 in the *Fourth and Sixth Taiwan CTV Review*.

Regarding Zenith's concern over the possible existence of home market expenses that might be associated with commissioned U.S. sales, we find nothing in the record to suggest that such indirect expenses exist, and Zenith has not pointed to evidence in the record to indicate to the contrary. See our response to Comment 9 in the *Fifth Taiwan CTV Review*, our response to Comment 7 in the *Fifth Korean CTV Review*, and our response to Comment 7 in the *Fourth and Sixth Taiwan CTV Review*.

Comment 8: Zenith contends that, where CV is relied upon as the basis for FMV, the Department should include in its calculation of CV both home market inland freight and Taiwan home market taxes. According to Zenith, these items must be included among the "general expenses" component of CV because 19 U.S.C. 1677b(e)(1)(B) requires that general expenses encompass what is "usually reflected in sales of merchandise of the same general class or kind as the merchandise under consideration." Zenith argues that since a home market price-based FMV relies upon delivered prices, CV general expenses must include home market inland freight, which is "usually reflected" in the home market sales price. Also, Zenith argues that, in view of the Department's insistence that differences between home market taxes and imputed taxes added to U.S. price are subject to COS adjustments, which are limited to selling expenses adjustments under 19 CFR 353.56, the Taiwan commodity tax and VAT must be included as a general expense in calculating CV.

In addition, citing the CIT's decision in *Zenith II*, Zenith argues that, with regard to COS adjustments made to CV, the Department should ensure that these adjustments are not allowed to reduce the amount of general expenses and profit included in CV so that it falls below the minimum levels required by the statute.

Department's Position: For these final results of review, the Department did not use CV as the basis of FMV. In cases where the U.S. model had no identical or most similar match in the home market at the same level of trade, we compared the U.S. model to the identical or most similar home market model, as appropriate, at a different level of trade. Therefore, we need not address Zenith's comments on this issue.

Comment 9: Zenith contends that the Department's method of calculating the cash deposit rate as a percentage of Proton's statutory U.S. price of the reviewed entries understates the best estimate of ultimate liability on future entries. Zenith notes that the U.S. Customs Service (Customs) uses the entered value as the value against which the cash deposit rate is applied, while the Department determines cash deposit rates on the basis of U.S. price. Zenith argues that, because the entered value is often lower than the U.S. price, especially when, as in this case, a large amount is added to U.S. price for tax adjustments, the dollar amount of the cash deposit is less than it would be if the Department used the entered value to calculate the cash deposit.

Department's Position: In this review, we have followed our practice as explained in previous reviews. See, *e.g.*, our response to Comment 10 in the *Fifth Taiwan CTV Review* and our response to Comment 9 in the *Fourth and Sixth Taiwan CTV Review*. Use of this practice was affirmed by the CIT in Zenith II. Section 736(a)(1) of the Traiff Act requires the Department to instruct Customs to "assess an antidumping duty equal to the amount by which the FMV of the merchandise exceeds the United States price of the merchandise." Thus,

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we are required to calculate an assessment rate based upon the reviewed entries' statutory U.S. price, not upon the entered value of the merchandise.

The actual assessment rate also serves as the best estimate for cash deposit purposes for all subsequent entries not yet subject to review. We use this rate because at the time the merchandise is entered, its U.S. price has yet to be determined. Insofar as cash deposits must be made at time of entry, we instruct Customs to determine the amount of the required deposits by basing it upon a percentage of the only value available, *i.e.*, the entered value. However, if it is determined after a subsequent review that the amount of estimated duties deposited on these entries is less than the actual amount to be assessed, we will collect the difference together with interest.

Comment 10: Proton argues that the Department should not have deducted from home market price expenses incurred with respect to home market sales, and should not have deducted from USP those expenses incurred with respect to U.S. sales. It argues that such COS adjustments should be made only to FMV. Proton cites 19 U.S.C. 1677b(a)(4) of the statute and the CIT's decision in *Timken Company* v. *United States*, 673 F. Supp. 495, 509–12 (CIT 1987) (*Timken*) as support for its argument.

Department's Position: We disagree with Proton. Proton cites to 19 U.S.C. 1677b(a)(4) of the statute and *Timken* for its claim that COS adjustments should only be made to FMV. However, as stated in previous administrative reviews, we are not following the CIT's decision in *Timken*. We continue to maintain that 19 U.S.C. 1677b does not prohibit us from deducting selling expenses from ESP, and that our adjustments to ESP are in accordance with 19 U.S.C. 1677a(e)(2), which states that ESP shall be adjusted by deducting from it the amount of "expenses generally incurred by or for the account of the exporter in the United States in selling identical or substantially identical merchandise." Accordingly, we made appropriate adjustments to ESP for warranties, guarantees and servicing, credit, direct advertising and promotion, royalties, and commissions. *See* our response to Comment 12 in the *Fifth Taiwan CTV Review*, our response to Comment 19 in *Television Receivers, Monochrome and Color, from Japan; Final Results of Antidumping Duty Administrative Review* (56 FR 38417, August 13, 1991), and our response to Comment 10 in the *Fourth and Sixth Taiwan CTV Review.*

Comment 11: Proton contends that the Department erred in using a negative cost for difmer between U.S. Model VT-331 and home market model VT-330. It argues that the home market model is more costly than the U.S. model and, therefore, that the FMV should be reduced rather than increased by the amount of the difmer.

Department's Position: We agree with Proton, and have made the appropriate corrections to the computer program for these final results.

Final Results of the Review

As a result of comments received, we have revised our preliminary results and we determine the following margin exists for the period April 1, 1989 through Marcy 31, 1990:

Manufacturer/exporter	Margin (percent)
Proton Electronic Industrial Co., Ltd	1.32

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between U.S. price and FMV may vary from the percentage stated above. The Department will issue appraisement instructions directly to Customs.

Furthermore, the following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of color television receivers, except for video monitors, from Taiwan entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Tariff Act, and will remain in effect until the final results of the next administrative review: (1) The cash deposit rate for Proton will be that established in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in previous reviews or the original less-than-fair-value investigation, the cash deposit rate will continue to be the rate published in the most recent final results or determination for which the manufacturer or exporter received a company-specific rate; and (3) the cash deposit rate for any future entries from all other manufacturers or exporters who are not covered in this or prior administrative reviews or the original less-than-fair-value investigation, and who are unrelated to the reviewed firms or any previously reviewed firm, will be 2.57 percent. This rate is the most current non-best information available rate for any firm in this proceeding. (*See Fourth and Sixth Taiwan CTV Review.*)

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22 (1990).

Dated: January 22, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-2382 Filed 1-30-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-056]

Melamine From Japan; Intent To Revoke Antidumping Finding

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of intent to revoke antidumping finding.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the antidumping finding on melamine from Japan. Interested parties who object to this revocation must submit their comments in writing no later than February 29, 1992.

EFFECTIVE DATE: January 31, 1992.

FOR FURTHER INFORMATION CONTACT: Robert J. Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On February 2, 1977, the Department of Treasury published an antidumping finding on melamine from Japan (42 FR 6366). The Department has not received a request to conduct an administrative review of this finding for the most recent four consecutive annual anniversary months.

The Department may revoke an antidumping duty order or finding if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by § 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this antidumping finding.

Opportunity to Object

No later than February 29, 1992, interested parties, as defined in § 353.2(k) of the Department's regulations, may object to the

Department's intent to revoke this antidumping finding.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B-099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties do not request an administrative review by February 29, 1992, in accordance with the Department's notice of opportunity to request administrative review, or object to the Department's intent to revoke by February 29, 1992, we shall conclude that the finding is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 353.25(d).

Dated: January 24, 1992.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 92-2303 Filed 1-30-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-028]

Roller Chain, Other Than Bicycle, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative reviews.

SUMMARY: In response to requests by the petitioner, the American Chain Association, the Department of Commerce has conducted administrative reviews of the anitdumping finding on roller chain, other than bicycle, from Japan. The reviews cover one firm, Sugiyama Chain Co., Ltd., and various Japanese exporters of Sugiyama products to the United States for the periods April 1, 1981, through March 31, 1983; April 1 1983, through March 31, 1985; April 1, 1985, through March 31, 1986; April 1, 1986 through March 31, 1987; and April 1, 1989, through March 31, 1990. These reviews indicate the existence of dumping margins during the periods. As a result of these reviews, the Department of Commerce has preliminarily determined to assess antidumping duties equal to the calculated differences between United States price and foreign market value.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: January 31, 1992.

FOR FURTHER INFORMATION CONTACT: Jay Camillo or Robert J. Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On November 4, 1991, the Department of Commerce (the Department) published in the **Federal Register** (56 FR 56401) the final results of its last administrative review of the antidumping findings on roller chain, other than bicycle, from Japan (38 FR 9226, April 12, 1973). The American Chain Association, the petitioner, requested that we conduct these administrative reviews in accordance with 19 CFR 353.22(a). We published notices of initiation of the antidumping duty administrative reviews on May 20, 1986 (51 FR 18475), July 9, 1986 (51 FR 24883), May 20, 1987 (52 FR 18937), and June 1, 1990 (55 FR 22366). The Department has now conducted these administrative reviews with respect to Sugiyama Chain Co., Ltd. (Sugiyama) and various Japanese trading companies, in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of the Review

Imports covered by these reviews are shipments of roller chain, other than bicycle, from Japan. The term "roller chain, other than bicycle," as used in this review, includes chain, with or without attachments, whether or not plated or coated, and whether or not manufactured to American or British standards, which is used for power transmission and/or conveyance. Such chain consists of a series of alternately-assembled roller links and pin links in which the pins articulate inside the bushings and the rollers are free to turn on the bushings. Pins and bushings are press fit in their respective link plates. Chain may be single strand, having one row of roller links or multiple strand, having more than one row of roller links. The center plates are located between the strands of roller links. Such chain may be either single or double pitch and may be used as power transmission or conveyor chain.

These reviews also cover leaf chain, which consists of a series of link plates alternately assembled with pins in such a way that the joint is free to articulate between adjoining pitches. These reviews further cover chain model numbers 25 and 35. During the review periods, roller chain, other than bicycle, was classified under various provisions of the Tariff Schedules of the United States Annotated (TSUSA), from item numbers 652.1400 through 652.3800, and is currently classifiable under Harmonized Tariff System (HTS) item numbers 7315.11.00 through 7616.90.00. The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

This review covers one manufacturer/exporter of roller chain, other than bicycle, from Japan, Sugiyama Chain Co., Ltd., and various Japanese exporters of Sugiyama products to the United States for the periods April 1, 1981, through March 31, 1983; April 1, 1983, through March 31, 1985; April 1, 1985, through March 31, 1986; April 1, 1986, through March 31, 1987; and April 1, 1989, through March 31, 1990.

The Department attempted to verify the information submitted by Sugiyama for the period April 1, 1985 through March 31, 1986, but was unable to do so. Therefore, for the 1985-86 review period, the Department has resorted to use of the best information available (BIA) for assessment and cash deposit purposes. As BIA, we selected the highest non-BIA rate of any firm in a prior review period. Moreover, we limited our selection of BIA to reviews actually conducted by the Department of Commerce, and thus disregarded the rates for the reviews and LTFV investigation completed by the U.S. Department of the Treasury, because the administrative record, supporting the Commerce Department reviews are more complete. In this case, as BIA we selected the 43.29 percent rate calculated by the Department in its first completed roller chain review. (See Roller Chain, Other Than Bicycle, From Japan Results of Administrative Review of Antidumping Finding (46 FR 44488, September 4, 1981).

During the conduct of these reviews, the Department made a determination that Sugiyama and its primary home market customer were related for purposes of application of the antidumping law. On July 19, 1991, we issued a deficiency letter requesting that Sugiyama report the prices to its first unrelated customers in the home market, in view of the fact that most of its reported home market sales were now to related customers. On August 21, 1991, we received Sugiyama's response to our deficiency letter, accompanied by replacement computer tapes and printouts. In our July 19, 1991 letter, we advised Sugiyama that since this was a deficiency letter, we would not be requesting further information or additions, and we would utilize what they submitted to the extent such information was usable.

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As a result of our review of the deficiency submissions, we have concluded that the new tapes submitted by Sugiyama of home market sales to unrelated customers are inadequate and incapable of use by the Department in making its dumping calculations. The submission does not detail quantities for each transaction, and only provides list prices rather than actual selling prices. Further, the submission provides no actual sales dates rather, it lists as a date of sale for each transaction, the entire review period in question, e.g. 4/1/89–3/31/90. Accordingly, it is impossible for the Department to utilize this information for purposes of making the required calculations and comparisons. Therefore, we determined to reject this submission and resort to BIA whenever we had any unmatched U.S. sales. As BIA for the unmatched sales, we have resorted to use of the 43.29 percent rate discussed above.

United States Price

In calculating United States price (USP), the Department used both purchase price and exporter's sales price (ESP), as defined in section 772(b)(c) of the Tariff Act. For those sales made directly to unrelated parties prior to importation into the United States, we based USP on purchase price. We calculated the purchase price based on packed, go-down Tokyo port, FOB Tokyo port, C&F West Coast, or CIF West Coast prices to unrelated purchasers in the United States. Where applicable, we made deductions for foreign inland freight, ocean freight, marine insurance, and brokerage and handling. No other adjustments were claimed or allowed.

Where sales to the first unrelated purchaser occurred after importation into the United States, we based USP on ESP. We calculated ESP based on the packed price. Terms of sale were FOB Japan, CIF, or C&F Tokyo port. We made deductions, where appropriate, for U.S. and foreign inland freight, U.S. and foreign brokerage and handling, ocean freight, marine insurance, and U.S. import duties. In accordance with section 772(e)(2) of the Tariff Act, we made additional deductions, where appropriate, for advertising expenses, credit expenses, and indirect selling expenses. Indirect selling expenses include U.S. and Japanese-incurred selling expenses and inventory carrying costs. In accordance with section 772(e)(1) of the Tariff Act, we also deducted commissions, where applicable. No other adjustments were claimed or allowed.

Foreign Market Value

In accordance with section 773(a)(1)(A) of the Tariff Act, we calculated foreign market value (FMV) based on packed delivered prices to unrelated customers in Japan. In calculating FMV, we used home market prices when sufficient quantities of identical or similar merchandise were sold in Japan. For each category of similar merchandise where there were insufficient sales in the home market, we calculated FMV on the basis of constructed value information, if provided, in accordance with section 773(a)(2) of the Tariff Act. We calculated constructed value as the sum of materials, fabrication costs, general expenses, profit, and U.S. packing.

For comparisons involving purchase price sales, where applicable, we made deductions for inland freight, advertising, and direct selling expenses. We made circumstance-of-sale adjustments for differences in credit expenses pursuant to 19 CFR 353.56. We deducted home market packing costs and added U.S. packing costs. Also, where applicable, we adjusted FMV for differences in merchandise. No other adjustments were claimed or allowed.

For comparisons involving ESP sales, we made deductions from FMV, where appropriate, for foreign inland freight, credit expenses, and advertising. We deducted home market indirect selling expenses, including inventory carrying costs, product liability expenses, quality control expenses, and other indirect selling expenses. The deduction of home market indirect selling expenses was limited to the amount of indirect selling expenses and commissions incurred on behalf of sales in the U.S. market, in accordance with 19 CFR 353.56. We deducted home market packing costs and added U.S. packing costs. Also, where applicable, we adjusted FMV for difference in merchandise. No other adjustments were claimed or allowed.

For U.S. sales that could not be matched with contemporaneous home market sales of such or similar merchandise, we used BIA because Sugiyama did not provide the Department with the information necessary to calculate FMVs based upon either home market prices of such or similar merchandise or constructed value. As BIA we used the highest non-BIA rate for any firm in a prior review period.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following weighted-average margins exist:

Company	Review period	Margin percent
Sugiyama/I&OC	4/1/81–3/31/82	2.67
Sugiyama/Harima Enterprises/San Fernando	4/1/81–3/31/82	[1] 0
Sugiyama/Hokoku	4/1/81–3/31/82	1.25
Sugiyama/I&OC	4/1/82–3/31/83	14.21
Sugiyama/Harima Enterprises/San Fernando	4/1/82–3/31/83	[1] 0
Sugiyama/Hokoku	4/1/82–3/31/83	3.23
Sugiyama/I&OC	4/1/83–3/31/84	28.58
Sugiyama/Harima Enterprises/San Fernando	4/1/83–3/31/84	[1] 0
Sugiyama/Hokoku	4/1/83–3/31/84	0.005
Sugiyama/I&OC	4/1/84–3/31/85	0
Sugiyama/Harima Enterprises/San Fernando	4/1/84–3/31/85	[1] 0
Sugiyama/Hokoku	4/1/84–3/31/85	0
Sugiyama	4/1/85–3/31/86	43.29
Sugiyama/Fugi Lumber	4/1/85–3/31/86	43.29
Sugiyama/San Fernando (Japan)	4/1/85–3/31/86	43.29
Sugiyama/I&OC	4/1/85–3/31/86	43.29
Sugiyama/Hokoku	4/1/85–3/31/86	43.29
Sugiyama	4/1/86–3/31/87	18.16
Sugiyama/I&OC	4/1/89–3/31/90	43.29
Sugiyama/Harima Enterprises/San Fernando	4/1/89–3/31/90	[1] 0
Sugiyama/Hokoku	4/1/89–3/31/90	1.32

[1] No shipments during the period; rate is from the last period in which there were shipments.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice, may request disclosure within 5 days of publication, and may request a hearing within 10 days of publication. Any hearing, if requested, will be held as early as convenient for the parties but not later than 44 days after the date of publication or the first workday thereafter. Case briefs from interested parties may be submitted not later than 14 days before the date of the hearing. Rebuttal briefs and rebuttal comments, limited to issues raised in the case briefs, may be filed not later than 7 days after the submission of the case briefs. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between USP and FMV may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of the final results of these administrative reviews for all shipments of roller chain, other than bicycle, from Japan entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed companies will be that established in the final results of the review for the 1989–90 period; (2) for merchandise exported by manufacturers or exporters not covered in these reviews but covered in previous reviews or the original less-than-fair-value investigation, the cash deposit rate will continue to be the rate published in the most recent final results or determination for which the manufacturer or exporter received a company-specific rate; (3) if the exporter is not a firm covered in these reviews, earlier reviews, or the original investigation, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in the final results of these reviews, earlier reviews, or the original investigation, whichever is the most recent; (4) the cash deposit rate for any future entries from all other manufacturers or exporters, who are not covered in these or prior administrative reviews and who are unrelated to the reviewed firms or any previously reviewed firm, will be 1.32 percent. This is the most current non-BIA rate for any firm in this proceeding.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.53a(a) (1985).

Dated: January 27, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92–2383 Filed 1–30–92; 8:45 am]

BILLING CODE 3510-DS-M

USAF Medical Center, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Decision: Denied. Applicants have failed to establish that domestic instruments of equivalent scientific value to the foreign instruments for the intended purposes are not available.

Reasons: Section 301.5(e)(4) of the regulations requires the denial of applications that have been denied without prejudice to resubmission if they are not resubmitted within the specified time period. This is the case for each of the listed dockets.

Docket Number: 91–041. *Applicant:* USAF Medical Center, Building 0468, 5th Street, Kessler AFB, MS 39534. *Instrument:* Automated Karyotyping System, Model Cytoscan RK2. *Manufacturer:* Image Recognition System, United Kingdom. *Date of Denial Without Prejudice to Resubmission:* September 5, 1991.

Docket Number: 91–098. *Applicant:* Princeton University, Molecular Biology Department, Lewis Thomas Labs, Washington Road, Princeton, NJ 08544. *Instrument:* 60 SM1 Stereo-microscopes with Filter Sets. *Manufacturer:* Oriental Scientific Instruments, China. *Date of Denial Without Prejudice to Resubmission:* October 9, 1991.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 92–2304 Filed 1–30–92; 8:45 am]

BILLING CODE 3510-DS-M

National Institute of Standards and Technology

[Docket No. 911219–1319]

RIN 0693–AA97

Proposed Federal Information Processing Standard for Secure Hash Standard

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice; request for comments.

SUMMARY: A Federal Information Processing Standard (FIPS) for Secure Hash Standard (SHS) is being proposed. This proposed standard specifies a Secure Hash Algorithm (SHA) for use with the proposed Digital Signature Standard (DSS) announced in the **Federal Register** (56 FR 42980 dated August 30, 1991). Additionally, for applications not requiring a digital signature, the SHA is to be used whenever a secure hash algorithm is required for Federal applications.

The hash standard provides a formula for providing a numeric value (called a "message digest") of a message (or more generically, any digital information). The formula is devised so that virtually any change to the message will result in a change to the message digest. Thus, at any time the message digest can be recalculated and compared to the original. If they are not identical, then the information has changed. This provides a mechanism to check the integrity of data.

The DSS proposed a public-key based Digital Signature Algorithm (DSA) for use in verifying to a recipient the integrity of data and the identity of the sender of the data. At the time that the DSS was proposed, NIST stated that it was reviewing candidate hashing functions for use with the DSA.

The purpose of this notice is to solicit views from the public, manufacturers, and Federal, state, and local government users prior to submission of this proposed standard to the Secretary of Commerce for review and approval.

The proposed standard contains two sections: (1) an announcement, which provides information concerning the applicability, implementation and maintenance of the standard; and (2) specifications which deal with the technical aspects of the standard. Only the announcement section of the standard is provided in this notice. Interested parties may obtain copies of the specifications section from the Standards Processing Coordinator (ADP), National Institute of Standards and Technology, Technology Building, room B–64, Gaithersburg, MD 20899, telephone (301) 975–2816.

DATES: Comments on this proposed standard must be received on or before (April 30, 1992.)

ADDRESSES: Written comments concerning the proposed standard should be sent to: Director, Computer Systems Laboratory, ATTN: Proposed FIPS for Secure Hash Standard (SHS), Technology Building, room B–154, National Institute of Standards and Technology, Gaithersburg, MD 20899.

Written comments received in response to this notice will be made part of the public record and will be made available for inspection and copying in the Central Reference and Records Inspection Facility, room 6020, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Mr. Miles Smid, National Institute of Standards and Technology, Gaithersburg, MD 20899, telephone (301) 975–2938.

SUPPLEMENTARY INFORMATION: NIST has been notified that Department of Defense authorities have approved the use of the SHS with the DSS to sign unclassified data processed by "Warner Amendment" systems (10 U.S.C. 2315

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and 44 U.S.C. 3502(2)) as well as classified data in selected applications.

Dated: January 27, 1992.

John W. Lyons,

Director.

FIPS PUB YY

Federal Information Processing Standards Publication YY—Draft—1992 January 22 Announcing a Secure Hash Standard

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Institute of Standards and Technology (NIST) after approval by the Secretary of Commerce pursuant to section 111(d) of the Federal Property and Administrative Services Act of 1949 as amended by the Computer Security Act of 1987, Public Law 100–235.

Name of Standard: Secure Hash Standard.

Category of Standard: ADP Operations, Computer Security.

Explanation: This Standard specifies a Secure Hash Algorithm (SHA), which is necessary to ensure the security of the Digital Signature Algorithm (DSA). When a message of any length $< 2^{64}$ bits is input, the SHA produces a 160-bit output called a message digest. The message digest is then input to the DSA which computes the signature for the message. Signing the message digest rather than the message often improves the efficiency of the process, because the message digest is usually much smaller than the message. The same message digest should be obtained by the verifier of the signature when the received version of the message is used as input to the SHA. The SHA is called secure because it is designed to be computationally infeasible to recover a message corresponding to a given message digest, or to find two different messages which produce the same message digest. Any change to a message in transit will, with very high probability, result in a different message digest, and the signature will fail to verify. The SHA is based on principles similar to those used by Professor Ronald L. Rivest of MIT when designing the MD4 message digest algorithm [1], and is closely modelled after that algorithm.

Approving Authority: Secretary of Commerce.

Maintenance Agency: Computer Systems Laboratory, National Institute of Standards and Technology.

Applicability: This standard is applicable to all Federal departments and agencies for the protection of unclassified information that is not subject to section 2315 of title 10, United States Code, or section 3502(2) of title 44, United States Code. This standard is required for use with the Digital Signature Standard and whenever a secure hash algorithm is required for federal applications. Private and commercial organizations are encouraged to adopt and use this standard.

Applications: The SHA is appropriate for use with the Digital Signature Standard, which in turn may be used in electronic mail, electronic funds transfer, software distribution, data storage, and other applications which require data integrity assurance and data origin authentication. The SHA can also be used whenever it is necessary to generate a condensed version of a message.

Implementations: The SHA may be implemented in software, firmware, hardware, or any combination thereof. Only implementations of the SHA that are validated by NIST will be considered as complying with this standard. Information about the requirements for validating implementations of this standard can be obtained from the National Institute of Standards and Technology, Computer Systems Laboratory, Attn: SHS Validation, Gaithersburg, MD 20899.

Export Control: Implementations of this standard are subject to Federal Government export controls as specified in title 15, Code of Federal Regulations, parts 768 through 799. Exporters are advised to contact the Department of Commerce, Bureau of Export Administration for more information.

Patents: Implementations of the SHA in this standard may be covered by U.S. and foreign patents.

Implementation Schedule: This standard becomes effective six months after the publication date of this FIPS PUB.

Specifications: Federal Information Processing Standard (FIPS YY) Secure Hash Standard (affixed).

Cross Index

a. FIPS PUB 46–1, Data Encryption Standard.
b. FIPS PUB 73, Guidelines for Security of Computer Applications.
c. FIPS PUB 140–1, Security Requirements for Cryptographic Modules.
d. FIPS PUB XX, Digital Signature Standard.

Qualifications: While it is the intent of this standard to specify a secure hash algorithm, conformance to this standard does not assure that a particular implementation is secure. The responsible authority in each agency or department shall assure that an overall implementation provides an acceptable level of security. This standard will be reviewed every five years in order to assess its adequacy.

Waiver Procedure: Under certain exceptional circumstances, the heads of Federal departments and agencies may approve waivers to Federal Information Processing Standards (FIPS). The head of such agency may redelegate such authority only to a senior official designated pursuant to section 3506(b) of title 44, United States Code. Waiver shall be granted only when:

a. Compliance with a standard would adversely affect the accomplishment of the mission of an operator of a Federal computer system; or
b. Compliance with a standard would cause a major adverse financial impact on the operator which is not offset by Government-wide savings.

Agency heads may act upon a written waiver request containing the information detailed above. Agency heads may also act without a written waiver request when they determine that conditions for meeting the standard cannot be met. Agency heads may approve waivers only by a written decision which explains the basis on which the agency head made the required finding(s). A copy of each decision, with procurement sensitive or classified portions clearly identified, shall be sent to: National Institute of Standards and Technology; ATTN: FIPS Waiver Decisions, Technology Building, room B–154, Gaithersburg, MD 20899.

In addition, notice of each waiver granted and each delegation of authority to approve waivers shall be sent promptly to the Committee on Government Operations of the House of Representatives and the Committee on Government Affairs of the Senate and shall be published promptly in the **FEDERAL REGISTER.**

When the determination on a waiver applies to the procurement of equipment and/or services, a notice of the waiver determination must be published in the Commerce Business Daily as a part of the notice of solicitation for offers of an acquisition or, if the waiver determination is made after that notice is published, by amendment to such notice.

A copy of the waiver, any supporting documents, the document approving the waiver and any accompanying documents, with such deletions as the agency is authorized and decides to make under 5 United States Code section 552(b), shall be part of the procurement documentation and retained by the agency.

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[1] "The MD4 Message Digest Algorithm," Advances in Cryptology-CRYPTO '90 Proceedings, Springer-Verlag, 1991, pp. 303–311.

Where to Obtain Copies of the Standard: Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. When ordering, refer to Federal Information Processing Standards Publication YY (FIPS PUB YY), and identify the title. When microfiche is desired, this should be specified. Prices are published by NTIS in current catalogs and other issuances. Payment may be made by check, money order, deposit account or charged to a credit card accepted by NTIS.

[FR Doc. 92-2380 Filed 1-30-92; 8:45 am]

BILLING CODE 3510-CN-M

National Technical Information Service Advisory Board; Open Meeting

SUMMARY: The Advisory Board was established by statute (Public Law 100-519) on October 24, 1988, and received its charter on September 15, 1989. Its function is to advise the Secretary of Commerce and the Director of the National Technical Information Service on the general policies and operations of the National Technical Information Service (NTIS), including policies in connection with fees and charges for its services.

TIME AND PLACE: February 6, 1992 from 9 a.m. to 5 p.m. and February 7, 1992 from 9 a.m. to 5 p.m. The meeting will take place at the Department of Commerce, Hebert C. Hoover Building, 14th St. & Constitution Ave., NW., room 1412, Washington, DC 20230.

AGENDA:

Time	Item	Responsible
	Thursday, February 6	
9:00	1. Opening	
	1.1. Welcome by Dr. Donald Johnson, Acting Director of NTIS.	Johnson.
	1.2. Adoption of the Agenda.	Carpenter.
	1.3. Adoption of the Report of the Fourth Meeting.	
9:30	2. New Developments at NTIS.	Johnson.
11:00	3. Total Quality Management Program at NTIS.	Clark, Francis.
1:30	4. Technology Transfer/Intellectual Property Issues (followup to Advisory Board's fourth meeting).	Johnson.
2:30	5. Role of academic, public, government, industry and school libraries in enhancing access to NTIS information.	Shill.
4:30	Public Participation	Carpenter.
5	Adjournment.	
	Friday, February 7	
9	6. An R&D laboratory for information science at NTIS.	Freeman.
10	7. NSF study of the U.S. scientific and technical information system: review and discussion of implications for NTIS.	King, Griffiths, or Carroll.
1:30	8. Advice and Recommendations by the Board.	Carpenter.
	8.1. NTIS 1991 Annual Report.	
	8.2. NTIS in the FY 1993 Budget.	
3:30	Public Participation.	
4	9. Closing	Carpenter.
	9.1. Chairmen's Summary.	
	9.2. Plan for Rotation of Board Membership.	
	9.3. Planning for Future Meetings.	
	9.4. Adjournment.	

PUBLIC PARTICIPATION: The meeting will be open to public participation. Approximately thirty minutes each day will be set aside for oral comments or questions as indicated in the agenda. Approximately twenty seats will be available for the public including five seats reserved for the media. Seats will be available on a first-come first-serve basis. Any member of the public may submit written comments concerning the committee's affairs at any time before and after the meeting. Copies of the minutes of the meeting will be available within thirty days from the address given below.

FOR FURTHER INFORMATION CONTACT: Dottie MacEoin, Public Affairs Officer, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161. Telephone: (703) 487-4778; Fax: (703) 487-4009.

Dated: January 27, 1992.

Donald R. Johnson,

Acting Director, National Technical Information Service.

[FR Doc. 92-2388 Filed 1-30-92; 8:45 am]

BILLING CODE 3510-34-M

National Oceanic and Atmospheric Administration

[Docket No. 920123-2023]

International Great Lakes Datum (1985): A New Vertical Datum Reference for the Vertical Control Network in the Great Lakes

AGENCY: Ocean and Lake Levels Division, National Ocean Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: Notice is hereby given of the establishment of a new vertical datum to which the height (elevation) values for the Great Lakes Vertical Control Network will be referenced. The new Datum will be known as the "International Great Lakes Datum (1985)", and will be referred to as "IGLD (1985)". The International Great Lakes Datum (1985) will replace the present Datum which is known as "International Great Lakes Datum (1955)"; and referred to as "IGLD (1955)".

The Ocean and Lake Levels Division, National Ocean Service, NOAA, in conjunction with the Canadian Hydrographic Service, Department of Fisheries and Oceans, Canada, is in the process of defining the new Datum and readjusting the Vertical Control Network in the Great Lakes to this new datum. The end result will be improved height values for published vertical control points (bench marks). Low water datum for each lake will be adjusted to the new datum. Completion is scheduled for 1992. Until then, the published height values will continue to be referenced to IGLD (1955).

FOR FURTHER INFORMATION CONTACT:

Bench Marks and Lake Levels

Chief, Great Lakes Section, Ocean and Lake Levels Division, National Ocean Service, NOAA, Rockville, Maryland 20852, Telephone (301) 443-8047.

Charting

Chief, Nautical Charting Division, Coast and Geodetic Survey, National Ocean Service, NOAA, Rockville, Maryland 20852, Telephone (301) 443-8660.

[FR Doc. 92-2322 Filed 1-30-92 8:45 am]

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COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: March 2, 1992.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: On August 20, September 13, November 1 and December 2, 1991 the Committee for Purchase from the Blind and Other Severely Handicapped published notices (56 FR 42985, 46602, 56199/200, and 61234) of proposed additions to the Procurement List. After consideration of the material presented to it concerning capability of qualified nonprofit agencies to produce the commodities and provide the services at a fair market price and impact of the addition on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities or services to the Government.
2. The action will not have a severe economic impact on current contractors for the commodities or services.
3. The action will result in authorizing small entities to furnish the commodities or services to the Government.
4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the commodities or services proposed for addition to the Procurement List.

Accordingly, the following commodities and services are hereby added to the Procurement List:

Commodities

Shirt, Woman's,
8410-01-229-9436 thru
8410-01-229-9503
Pancake Mix,
8920-00-782-6353
8920-01-250-9522

Services

Food Service Attendant,
Travis Air Force Base, California.
Janitorial/Custodial,
Naval Complex,
Pensacola, Florida.
Janitorial/Custodial,
IRS Philadelphia Service Center,
11631 Caroline Road,
Philadelphia, Pennsylvania.

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Beverly L. Milkman,
Executive Director.

[FR Doc. 92-2360 Filed 1-30-92; 8:45 am]

BILLING CODE 6820-33-M

Procurement List Proposed Additions and Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to and deletion from procurement list.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and delete commodities previously furnished by such agencies.

COMMENTS MUST BE RECEIVED ON OR BEFORE: March 2, 1992.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities to the Government.
2. The action does not appear to have a severe economic impact on current contractors for the commodities.
3. The action will result in authorizing small entities to furnish the commodities to the Government.
4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the commodities proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

It is proposed to add the following commodities to the Procurement List:

Skid, Wood
3990-00-NSH-0065
(Requirements of the Government Printing Office, Washington, DC only).
Short-Run Printing, Books and Pamphlets
7690-00-NSH-0024
(Requirements for Fairchild Air Force Base, WA only).
Short-Run Printing, Flat Forms
7690-00-NSH-0025
(Requirements for Fairchild Air Force Base, WA only).
Scraper, Ice
7920-01-323-0793
Badge, Qualification
8455-01-113—2631

Deletions

It is proposed to delete the following commodities from the Procurement List:

Portfolio, Plastic
7510-00-558-1572
7510-00-558-1573
Paper, Teletypewriter Roll
7530-00-019-7837
7530-00-019-7850

7530-00-019-8810
7530-00-019-7463
7530-00-019-7849
7530-00-019-8608
7530-00-272-9811
7530-00-285-3054
7530-00-019-6931
7530-00-286-7766
Clothes Stop
8465-00-377-5701

Beverly L. Milkman,
Executive Director.

[FR Doc. 92-2361 Filed 1-30-92; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Policy Board Task Force on the Future of American Nuclear Forces

AGENCY: Notice of Task Force meeting.

SUMMARY: The Defense Policy Board Task Force on the Future of American Nuclear Forces will meet in closed session on 13–14 February 1992 from 0800 to 1700 at the RDA Logicon Facility located at 6053 West Century Blvd., Los Angeles, California. The mission of the Task Force is to provide the Secretary of Defense, Deputy Secretary of Defense and the Under Secretary of Defense for Policy with independent, informed advice and opinion concerning matters relating to U.S. nuclear force policy. At the meeting the Task Force will hold classified discussions on national security matters.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92-463, as amended (5 U.S.C. App. II, (1982), it has been determined that this Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Dated: January 27, 1992.

L.M. Bynum,
Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92-2342 Filed 1-30-92; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Invitation for Proposals From States for Projects Designed to Hasten or Increase the Adoption, in a Market Environment, of Energy Efficiency and Renewable Energy Technologies and Practices

AGENCY: Department of Energy.

ACTION: Notice of Program Interest.

SUMMARY: The U.S. Department of Energy (DOE) is interested in obtaining unsolicited proposals from States under 10 CFR 600.15. DOE may award grants or cooperative agreements to States, to fund (in whole or in part) cooperative or joint ventures to promote the wide-scale adoption of certain energy efficiency and renewable energy technologies and practices. In addition to State and DOE participation, a project may involve other partners, e.g., private or non-profit sector parties, utilities, or local governments. States which propose projects in response to this notice are encouraged to include other such participants in their project proposals. Proposers will be expected to provide at least 50 percent of a project's funding.

DATES: To guarantee consideration, proposals must be received by June 30, 1992, except for NICE^3 proposals which are due April 30, 1992. Proposals shall be considered as meeting the deadline if they are either (1) received on or before the deadline date or (2) postmarked on or before the deadline date and received in time for submission to the review panel. Applications which do not meet the deadline will be considered late applications and may not be considered. Proposals should be submitted to the appropriate DOE regional Support Office. Addresses are listed under the next heading.

FOR FURTHER INFORMATION CONTACT: Requests for technical or programmatic information as well as project proposals should be directed to the following.

Region 1: Mr. Hugh Saussy, Director, Boston Support Office, U.S. Department of Energy, 1 Congress Street, room 1101, Boston, MA 02114-2021.

Region 2: Mr. Charles Baxter, Director, New York Support Office, U.S. Department of Energy, 26 Federal Plaza, room 3437, New York, NY 10278.

Region 3: Mr. Christopher G. McGowan, Director, Philadelphia Support Office, U.S. Department of Energy, 1421 Cherry Street, Philadelphia, PA 19102.

Region 4: Mr. Buddy L. Jackson, Director, Atlanta Support Office, U.S. Department of Energy, 730 Peachtree Street, NE., Suite 876, Atlanta, GA 30308.

Region 5: Mr. Kenneth G. Johnson, Director, Chicago Support Office, U.S. Department of Energy, 9800 South Cass Avenue, Building 201, Argonne, IL 60439.

Region 6: Mr. Curtis E. Carlson, Jr., Director, Dallas Support Office, U.S. Department of Energy, 1440 West Mockingbird Lane, Suite 305, Dallas, TX 75247.

Region 7: Mr. Ronald J. Brown, Director, Kansas City Support Office, U.S. Department of Energy, 911 Walnut Street, 14th Floor, Kansas City, MO 64106.

Region 8: Mr. Al Hymer, Director, Denver Support Office, U.S. Department of Energy, 1075 South Yukon Street, P.O. Box 26274-Belmar Branch, Lakewood, CO 80226.

Region 9: Ms. Martha Dixon, Director, San Francisco Support Office, U.S. Department of Energy, 1333 Broadway, Oakland, CA 94612.

Region 10: Ms. Kathy M. Vega, Director, Seattle Support Office, U.S. Department of Energy, 800 Fifth Avenue, suite 3950, Seattle, WA 98104.

SUPPLEMENTARY INFORMATION: DOE has identified the following broad areas as those in which it is most interested in receiving proposals from States: (1) Alternative Vehicle Fuels and Technologies; (2) Energy Efficient Electric Motors and Drives; (3) Municipal and Industrial Waste Minimization; (4) Renewable Energy Electric Technologies; (5) Building Energy Efficiency; and (6) proposals to host the national conferences for the following DOE State grant programs: Weatherization Assistance Program; State Energy Conservation Program; and Institutional Conservation Program. Other topics may be considered, e.g., strategies/approaches for incorporating renewable energy and energy efficiency technologies into Clean Air Act implementation plans. Prior to developing and submitting proposals in areas outside the enumerated categories, however, States should consult the DOE Support Office contacts listed above.

The first five areas of interest enumerated above have been chosen because: (1) RD&D results and technologies appear cost competitive and are ready for broader market penetration; (2) potential energy, environmental, and economic benefits exist; and (3) they represent areas in which States are in a unique position to undertake or broker demonstrations, outreach activities, or to overcome institutional and other barriers. The national conferences are a primary means of providing for training needs and for technology and information transfer between DOE and the States and among the States.

In addition DOE and the Environmental Protection Agency may jointly award matching grants to several States under the National Industrial competitiveness through Environment, Energy and Economics (NICE^3) program. NICE^3 proposals are limited to those from large industrial States where industry is both energy-intensive and generates substantial amounts of waste.

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Purpose

The primary purpose of the energy efficiency and renewable energy demonstration grants is to promote innovative or promising approaches, by States and others, to increase the market penetration of cost-effective technologies and practices in the areas outlined above and to provide a process whereby States may formally express interest and submit proposals for hosting of certain national program conferences.

Availability of Funds

Approximately $25 million may be available in FY 1992 and 1993 funds for new and renewal projects. Approximately 30 awards may be made. Awards, if any, will be based on a combination of DOE need and project merit within each category. In most instances, cost sharing, on at least a dollar for dollar basis will be required.

All projects submitted by the published deadline will be reviewed by December 31, 1992. Any awards, thereafter, will be on a schedule to be agreed to by DOE and the awardee. Budget and project periods may be negotiated to fit the needs of particular projects. Award may be by means of amendment to an existing grant or by separate grant or cooperative or joint venture agreement.

Eligible Applicants

States (as defined in statute and regulation governing the State Energy Conservation, Institutional Conservation, or Weatherization Assistance Programs) and entities which are agencies of States are eligible to apply. Applicants are encouraged, where appropriate, to propose cooperative projects or joint ventures in partnership with local government, private and non-profit sector organizations, and others.

Additional information, including program announcements and application format, on NICE[3] as well as the other, more general, categories in which DOE has expressed interest may be obtained from the Support Office contact listed above.

Evaluation Criteria

All proposals submitted under this Notice of Program Interest will be evaluated in accordance with 10 CFR 600.14. Selection will be based on criteria set forth in 10 CFR 600.14, including: overall merit, objectives and probability of achieving them, proposer's facilities, and qualifications of critical project personnel. In addition, proposals, other than those related to the hosting of national conferences, will be evaluated for their uniqueness or innovation of concept; replicability; funding or other resources either provided by the proposer or leveraged from non-governmental sources (proposers will be expected to provide at least 50 percent of a project's funding); and potential for increasing energy technology market penetration.

Review Process

The first tier evaluation will be at the Support Office level. Subsequent to first tier evaluation, proposals selected for further consideration may be reviewed, within each of the six categories, by representatives of the Deputy Assistant Secretaries for Technical and Financial Assistance, Building Technologies, Utility Technologies, Industrial Technologies, and/or Transportation Technologies. Final selection will be made by the Deputy Assistant Secretary for Technical and Financial Assistance.

After the first tier evaluation, NICE[3] proposals will be reviewed by a panel comprised of members representing DOE's Office of Conservation and Renewable Energy, the Environmental Protection Agency and the Department of Commerce.

DOE reserves the right to fund, in whole or in part, any, all, or none of the proposals submitted in response to this notice.

J. Michael Davis,

Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 92-2374 Filed 1-30-92; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. QF92-68-000]

Kimmon Quartz Ltd.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

January 24, 1992.

On January 17, 1992, Kimmon Quartz Ltd. (Applicant), of 785 Freeman Road, Hoffman Estates, Illinois 60195, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207(b) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Fort Worth, Texas, and will include two cogeneration modules each with a synchronous generator. Thermal energy recovered from the facility will include uses such as space heating and cooling, and lighting. The electric power production capacity of the facility will be 550 Kw. The primary fuel will be natural gas. Construction of the facility will begin July 20, 1992.

Any person desiring to be heard or objecting to the granting of qualifying status should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed within 30 days after the date of publication of this notice in the **Federal Register** and must be served on the Applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2326 Filed 1-30-92; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5192-002 California]

Lind and Associates; Availability of Environmental Assessment

January 24, 1992.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for minor license for the proposed Upper Rock Creek Project, to be located on Upper Rock Creek in El Dorado County, near Placerville, California, and has prepared an Environmental Assessment (EA) for the proposed project. In the EA, the Commission's staff has analyzed the project and has concluded that approval of the proposed project, with appropriate mitigative measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, room 3308, of the Commission's office at

941 North Capitol Street, NE.,
Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2325 Filed 1-30-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER92-64-000 and ER92-66-000]

Northeast Utilities Service Co. and Western Massachusetts Electric Co.; Filing

January 27, 1992.

Take notice that on January 21, 1992, Northeast Utilities Service Company and Western Massachusetts Electric Company tendered their responses to the deficiency letter issued in the above two dockets.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before February 3, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2323 Filed 1-30-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. OR92-3-000]

Sinclair Oil Corp v. Amoco Pipeline Co; Complaint

January 24, 1992.

Take notice that on January 3, 1992, pursuant to Section 13(1) of the Interstate Commerce Act (ICA) (49 U.S.C. 13(1) (1991) and rules 206 and 212 of the Rules of Practice and Procedure, Sinclair Oil Corporation (Sinclair) filed a complaint against Amoco Pipeline Company (APL) alleging that APL has engaged in unduly discriminatory and unreasonably preferential practices affecting the transportation service provided by APL to Sinclair.

Sinclair requests that the Commission institute an investigation into APL's refusal to respond to Sinclair's repeated requests for a pipeline interconnection and APL's practices and policy concerning the establishment of shipper interconnections. Sinclair asks that the Commission: (1) Require APL to file its connection policy with the Commission; (2) require APL to fully disclose all facts and circumstances surrounding its application of that policy to Sinclair and others; (3) consolidate this investigation with APL's rate proceeding currently pending in Docket No. IS90-30-000; (4) find that APL's denial of a pipeline interconnect to Sinclair is an unjust and unreasonable practice violative of Section 1(6) of the ICA, is unjustly preferential under section 3(1) of the ICA, and produces unduly discriminatory rates in violation of section 2 of the ICA; and (5) utilize such authority under the ICA as may be appropriate to remedy the foregoing unlawful actions of APL.

Any person desiring to be heard or to protest said complaint should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214, 385.211. All such motions or protests should be filed on or before February 24, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. Answers to this complaint shall be due on or before February 24, 1992.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2324 Filed 1-30-92; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-4098-7]

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information (202) 260-5073 OR (202) 260-5075.

Availability of Environmental Impact Statements Filed January 20, 1992 Through January 24, 1992 Pursuant to 40 CFR 1506.9.

EIS No. 920021, Draft EIS, AFS, CA, North Fork Kern/South Fork Kern Wild and Scenic Rivers Management Plan, Implementation, Sequoia and Inyo National Forests, Tulare and Kern Counties, CA, Due: March 31, 1992, Contact: David M. Freeland (619) 376-3781.

EIS No. 920022, Draft EIS, AFS, CA, CASA-Guard Timber Sale, Implementation, Sequoia National Forest, Cannell Meadow Ranger District, Tulare and Kern Counties, CA, Due: March 16, 1992, Contact: Susan Porter (209) 784-1500.

EIS No. 920023, Draft EIS, AFS, CA, Cottonwood and Golf Timber Sales, Implementation, Timber Harvesting in the Breckenridge Compartment, Sequoia National Forest, Greenhorn Ranger District, Kern County, CA, Due: March 16, 1992, Contact: Linda Brett (209) 784-1500.

EIS No. 920024, Draft EIS, FRC, NB, Kingsley, Dam Project (FERC. No. 1417) and North Platte/Keystone Diversion Dam (FERC. No. 1835) Hydroelectric Project, Application for Licenses, Near the confluence of the North/South Platte, Keith, Lincoln, Garden, Dawson and Gosper Counties, NB, Due: March 31, 1992, Contact: S. Ronald McKitrick (202) 219-2783.

EIS No. 920025, Draft EIS, SFW, IA, Brushy Creek State Recreation Area (BCSRA) Dam and Lake Project, Implementation, Funding, NPDES Permit and Section 404 Permit, Des Moines River, Several Counties, IA, Due: March 17, 1992, Contact: David Pederson (612) 725-3596.

EIS No. 920026, Final EIS, FHW, WI, WI-TH 67/Oconomowoc Bypass Corridor Improvement and Relocation, Summit Avenue to existing WI-TH-67 near Lang Road, Funding and Section 404 Permit, City of Oconomowoc, Waukesha County, WI, Due: March 02, 1992, Contact: Robert W. Cooper (608) 264-5940.

EIS No. 920027, Final EIS, AFS, CA, WA, OR, Nothern Spotted Owl Management Plan in the National Forests, Implementation, CA, OR and WA, Due: March 02, 1992, Contact: Jerald N. Hutchins (503) 326-7460.

EIS No. 920028, Draft EIS, FHW, UT, UT-35/Utah Forest Highway 5 and Wolf Creek Road, Improvement, North Fork Provo River Bridge to Stockmore, Funding and Section 404 Permit, Duchesne, Wasatch and Summit Counties, UT, Due: March 16, 1992, Contact: William Bud (303) 236-3410.

EIS No. 920029, Final EIS, COE, CA, Hanson Dam Flood Control and Recreation Project, Construction, Operation, and Maintenance, San Gabriel Rivers, Los Angeles County, CA, Due: March 02, 1992, Contact: Ed Louie (213) 894-0240.

EIS No. 920030, Third Draft Supplem, UMT, CA, Los Angeles Metro Rail Rapid Transit Project, Updated Information and Change in the Designation of the Locally Preferred Alternative to the Pico/San Vincente Alternative, Stations at Olympic/Crenshaw and Pico/San Vicente, Funding, Los Angeles County, CA, Due: March 16, 1992, Contact: Ms. Portia Palmer (202) 366–0096.

Amended Notices

EIS No. 910429, Draft EIS, AFS, OR, Canyon Integrated Resource Project, Resource Management Plan, Implementation, Siskiyou National Forest, Illinois Valley Ranger District, Josephine County, OR, Due: February 11, 1992, Contact: William J. Gasow (503) 479–5301. Published FR—01-31-92 Review period extended.

EIS No. 920011, Draft EIS, BLM, WY, West Rocky Butte (WRB) Track Coal Lease Application (WYW122586) combined with the existing Rocky Butte Tract (WYW78633) Logical Mining Unit (LMU) Mine Leasing and Land Acquisition, Powder River Basin, Campbell County, WY, Due: March 16, 1992, Contact: Roger Wickstrom (307) 775–6106. Published FR 01-17-92—Title Correction and Telephone.

Dated: January 28, 1992.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 92-2385 Filed 1–30–92; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-4096-8]

Environmental Impact Statements and Regulations: Availability of EPA Comments

Availability of EPA comments prepared January 13, 1992 Through January 17, 1992 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260–5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 05, 1991 (56 FR 14096).

Draft EISs

ERP No. D-AFS-J65184-UT Rating EC2, Uinta National Forest Plan Amendment, Rangeland Ecosystem Management Plan, Implementation, Utah-Wasatch, Utah, Toole and Juab Counties, UT.

Summary: EPA believes additional discussion on why the alternative for management of vegetative communities was eliminated from detailed analysis is needed.

ERP No. D-AFS-J65186-MT Rating Lo1, Bent Flat Timber Sale, Timber Harvest, Road Construction/Reconstruction, Implementation, Flathead National Forest, Spotted Bear Range District, Flathead County, MT.

Summary: EPA has no objections to the Flathead National Forest's preferred alternative.

ERP No. D-NOA-L90023-WA Rating EC2, Olympic Coast National Marine Sanctuary, Management Plan, Site Designation, NPDES Permit and COE Permit, Olympic Peninsula, WA.

Summary: EPA expressed environmental concerns based on the potential for adverse effects from unregulated commercial vessel traffic and bombing practices at Sealion rock. EPA is providing information on EPA's regulatory authority to help the National Oceanic and Atmospheric Administration (NOAA) clarify some of their discussion on ocean dumping. Additional information is needed to describe the decision process for hydrocarbon activities and the trophic relationships of the marine biota described in the Environmental Setting Discussion.

ERP No. DS-AFS-J67009-MT Rating EC2, Montanore Mine/Mill Project, Construction and Operation, Additional Information and Modifications, Permit Approval, section 404 Permit, Special Use Permit, Kootenia National Forest, Lincoln and Sanders Counties, MT.

Summary: EPA appreciates the Forest Service's efforts to address the major environmental issues associated with the Montanore project and looks forward to working through remaining air and water quality concerns with the Service.

Final EISs

ERP No. F-MMS-A02233-00 1992 Central and Western Gulf of Mexico Outer Continental Shelf (OCS) Oil and Gas Sales 139 and 141. Lease Offering.

Summary: EPA objects to proposed unrestricted leasing without inclusion of protective environmental stipulations. EPA is encouraged by the effort that MMS has undertaken to conduct air quality monitoring and ozone modelling studies. EPA will formally request comments on new information pertaining the Gulf of Mexico's NPSDES general permit.

ERP No. F-VAD-L99002-WA Seattle-Tacoma Area National Cemetery Construction Alternative Site Selection, Illahee Site in Kitsap County, Sultan site in Snohomish County and Seatac and Tacoma Sites in King County, WA.

Summary: EPA believes that the issues were adequately addressed.

Other

ERP No. S-DOD-A10063-00, Proposed Action to Conduct Research and Development Activities Which Would Give the United States the Capability to Produce and Deploy an Integrated, Comprehensive Theater Missile Theater (TMD) (56 FR 56634).

Summary: EPA reviewed the Notice of Intent and provided generic comments to the Department of Defense.

Dated: January 28, 1992.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 92-2386 Filed 1–30–92; 8:45 am]

BILLING CODE 6565-50-M

[OPP-00316; FRL-4045-5]

FIFRA Scientific Advisory Panel Subpanel; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of open meeting.

SUMMARY: There will be a 1-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel (SAP) Subpanel to review an application submitted pursuant to section 5 of FIFRA by the Monsanto Company for an experimental use permit (EUP) for field testing of a cotton plant that has been genetically engineered to express an insecticidal *Bacillus thuringiensis* delta endotoxin. There will also be an oral informational presentation by Dr. George Hallberg (Iowa Department of Natural Resources, Geological Bureau), co-ordinator of the FIFRA Scientific Advisory Panel Subpanel, on the National Survey of Pesticides in Drinking Water Wells. Dr. Hallberg will summarize the Subpanel's findings/review of the Agency's National Pesticide Survey Phase II Report released January 9, 1992. The meeting will be open to the public.

DATES: The meeting will be held on Tuesday, February 25, 1992, from 8:30 a.m. to 4:30 p.m.

ADDRESSES: The meeting will be held at: Crystal Mall Building Number 2, Fishbowl Conference Room, 1921 Jefferson Davis Highway, Arlington, VA, 22202.

FOR FURTHER INFORMATION CONTACT: By mail: Robert B. Jaeger, Designated Federal Official, FIFRA Scientific Advisory Panel (H7509C), Office of Pesticide Programs, U.S. Environmental

Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 821C, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5369/5244.

Copies of documents relating to this review process for the EUP may be obtained by contacting: By mail: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 1128, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–6434.

SUPPLEMENTARY INFORMATION: The Subpanel is to meet in order to review an application submitted pursuant to section 5 of FIFRA by the Monsanto Company for an EUP to allow the field testing of several forms of the *Bacillus thuringiensis* var. *kurstaki* (B.t.k.) insect control protein as expressed in cotton. Monsanto is requesting larger scale testing in order to further evaluate the performance of the expressed proteins against lepidopteran pests in the various geographical areas in which cotton is commercially produced. Five different experiments are proposed: Economic Threshold Evaluations, Gene Evaluations, Population Dynamics and Threshold Treatment Determinations.

The Subpanel will be chaired by Dr. Edward Bresnick, a member of the SAP. The members of the Subpanel are: Dr. Glenn Galau, University of Georgia; Dr. Kathleen Keeler, University of Nebraska - Lincoln; Dr. George Kennedy, North Carolina State University; Dr. William McCarthy, Penn State University; and Dr. Rick Wetzler, Tufts University.

Any member of the public wishing to submit written comments should contact Robert B. Jaeger at the address or the phone number given above to be sure that the meeting is still scheduled and to confirm the Subpanel's agenda. Interested persons are permitted to file written statements before the meeting. To the extent that time permits and upon advance notice to the Designated Federal Official, interested persons may be permitted by the chairman of the Scientific Advisory Panel to present oral statements at the meeting. There is no limit on written comments for consideration by the Subpanel, but oral statements before the Subpanel are limited to approximately 5 minutes. Since oral statements will be permitted only as time permits, the Agency urges the public to submit written comments in lieu of oral presentations.

Information submitted as a comment in response to this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public docket. Information not marked confidential will be included in the public docket without prior notice. The public docket will be available for public inspection in room 1128 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. All statements will be made part of the record and will be taken into consideration by the Subpanel.

Persons wishing to make oral and/or written statements should notify the Designated Federal Official and submit ten copies of a summary no later than February 10, 1992, in order to ensure appropriate consideration by the Subpanel.

Inquiries concerning the availability of copies of the National Pesticide Survey Phase II Report should be directed to the National Technical Information Service (NTIS), telephone 1–800–336–4700, or write to NTIS, Order Desk, 5285 Port Royal Road, Springfield, VA 22161. Request the *National Pesticide Survey Phase II Report*, EPA 570/09–91–020, PB 92–120831. Questions about the survey may be directed to the Safe Drinking Water Hotline at 1–800–426–4791 from 8:30 a.m. to 4:30 p.m., Monday through Friday, except federal holidays.

Copies of the Subpanel's report of their recommendations will be available 5–10 working days after the meeting and may be obtained by contacting the Public Response and Program Resources Branch at the address or telephone number given above.

Dated: January 27, 1992.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc 92–2368 Filed 1–30–92; 8:45 am]

BILLING CODE 6560-50-F

[OPP–30000/29C; 4010–9]

Inorganic Arsenicals; Extension of the Comment Period for Preliminary Determination to Cancel Registration of Pesticide Products Containing Inorganic Arsenicals Registered for Non-Wood Preservative Use

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period.

SUMMARY: On October 7, 1991, EPA issued a preliminary determination to cancel the registration of arsenic acid, which is used as a desiccant on cotton. In response to several requests, EPA is reopening the comment period, which expired December 6, 1991, and extending the deadline to submit comments to June 5, 1992.

DATES: Written comments, identified by the document control number 30000/29B, must be received by EPA on or before June 5, 1992.

ADDRESSES: By mail, submit comments to: Public Docket and Freedom of Information Section, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 1128, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. Telephone number (703) 305–5805.

Information submitted in any comment concerning this Notice may be claimed confidential by marking any part or all of that information "Confidential Business Information" (CBI). Information so marked will not be disclosed to the public except in accordance with the procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public docket. Information not marked CBI may be disclosed to the public by the EPA without prior notice to the submitter. The inorganic arsenicals public docket, which contains all the non-CBI written comments and the corresponding index, will be available for public inspection and photocopying in room 1128 at the Virginia address given above, from 8 a.m. to 4 p.m., Monday through Friday, except for legal holidays.

FOR FURTHER INFORMATION CONTACT: Lisa Engstrom, Special Review Branch (H7508W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Room 2N6, Westfield Building, 2800 Crystal Drive, Arlington, VA (703) 308–8031.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 7, 1991 (56 FR 50576), EPA issued a proposed decision to cancel the registration of arsenic acid. That document allowed a 60–day comment period, to close on December 6, 1991. Arsenic acid is used as a desiccant on cotton in parts of Texas and Oklahoma. EPA based its proposed decision on cancer risks to workers exposed to arsenic acid estimated to be as high as 2×10^{-2}.

Several organizations which represent cotton producers in the affected areas, most notably the National Cotton Council of America and the Texas Farm

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Bureau, requested additional time to develop data needed to address specific information gaps noted in the October 7, 1991 proposed decision. In addition to compiling information and data, the organizations noted that during the 6-month extension they would be developing an exposure mitigation program. They assert, and EPA agrees, that risk to workers during the extended comment period would be negligible since concerns associated with arsenic acid exposure occur with long term exposure to arsenic acid. Other groups have pointed out that the comment period occurred during the cotton harvest season in the affected areas. Thus, growers were not in a position to provide timely comments.

The October 6, 1991 proposed decision invited commenters to submit information to assist EPA in developing risk and benefit analyses. EPA believes the proponents of the extension are likely to be those in the best position to supply this information. Thus, EPA is granting a 6-month extension of the comment period for the Inorganic Arsenic Preliminary Determination, which will now close June 5, 1992.

Dated: January 21, 1992.

Linda J. Fisher,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 92-2279 Filed 1-30-92; 8:45 am]

BILLING CODE 6560-50-F

[OPPTS-62115; FRL-4046-6]

Model Worker Training Course for Lead Abatement Professionals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of request for preproposals.

SUMMARY: As a part of the development and implementation of a national accreditation plan for lead abatement professionals, EPA is sponsoring the development of role-specific model training courses. Despite ongoing lead abatement activities in many States, few have lead training programs. EPA is concerned about safety issues surrounding untrained workers involved in lead abatement activity, which includes potentially adverse effects on abatement workers and residents, especially young children. Thus it is crucial that quality training becomes available without delay. EPA is responding to this need by developing model training materials, of which the Model Worker Training Course is a component. The model course will then be distributed to labor training organizations and other training entities such as the Regional Lead Training Centers in an effort to assure course quality and availability. This notice describes the eligibility and criteria for the selection of preproposals for model course development.

DATES: All preproposals must be submitted to EPA by February 28, 1992.

ADDRESSES: Preproposals should be sent to the following address: John Heisler (TS-799), Environmental Assistance Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: John Heisler at the address listed under the ADDRESSES unit or by telephone at (202) 260-7269.

SUPPLEMENTARY INFORMATION: The FY 1992 House Appropriations language mandates EPA to administer the development of a model worker training course for lead abatement workers. The purpose of this notice is to announce the availability of funds for the development of a worker training course. A cooperative agreement will be formed between EPA and a nonprofit organization, familiar with lead-based paint abatement activities, that can demonstrate experience in the development and delivery of hands-on training programs for workers engaged in lead-based paint abatement activities.

Any nonprofit organization which is not an agency of a State or local government is eligible to apply. For the purposes of eligibility for this cooperative agreement, State or local governments do not include State or local government supported institutions of higher education.

I. Administrative Requirements

The award recipient who develops curricula and/or educational materials with award funds will provide copies of these materials to EPA by the end of the project period.

The award program will be administered in compliance with 41 CFR parts 29-70 and OMB Circulars A-110, A-133 and A-21 or A-122. All applicants will be required to certify to a drug-free workplace in accordance with 20 CFR part 98 and to comply with the New Restrictions on Lobbying published at 29 CFR part 93.

The award is subject to matching share requirements. The recipient is responsible for providing a matching share of 5 percent.

II. Evaluation Process and Criteria

Preproposals submitted for the cooperative agreement solicited in this notice will be evaluated on a competitive basis by EPA staff. The following factors, which are not listed in the order of importance, will be considered in the evaluations of the preproposals.

A. Program Design

The course should be approximately 3 days long, focusing on teaching abatement workers the fundamentals of protecting themselves and the residents from lead exposure hazards associated with abatement. The course should effectively convey the seriousness of the health hazards associated with lead exposures. The abatement techniques and the importance of careful cleanup and personal protection should be stressed.

Considering the variable levels of education associated with the worker population, the curriculum should not be exclusively based on lecture material, it should strive to hold the interest of the students. It is imperative that the safety message is effectively presented, so the course should be based on a multimedia format such as videos, hands-on experience and site visits. The curriculum should be flexible enough to effectively train students with limited educational experience. Multi or bilingual editions of course materials and presentations may also be considered in developing a curriculum.

B. Program Experience

The applicant must include the following information on the organization:

a. Experience with lead-related issues with an emphasis on lead-based paint.

b. Experience with the development of adult education courses with emphasis on training individuals with limited educational experience.

c. Experience with providing hands-on training.

d. A summary of any lead-related courses already being taught and a description of the materials being used to teach those courses.

e. Qualifications of key personnel.

C. Budget

A detailed budget should be included that will describe the amount of money used in all aspects of course development, in addition to the amount that is to be the non-Federal share.

III. Application Procedures and Notification of Selection

Preproposals are due by February 28, 1992. Preproposals should be approximately 10 pages in length. Notice of selection as a possible award recipient will not constitute approval of the final proposal as submitted. Prior to the actual awarding of the cooperative agreement, representatives of the potential recipient and EPA will begin negotiations concerning various components of the program, such as funding levels and course materials. The project budget is anticipated to be approximately $120,000. All preproposals must be received no later than 4:30 p.m., on February 28, 1992.

Dated: January 27, 1992.

Joseph A. Cara,

Acting Director, Office of Pollution Prevention and Toxics.

[FR Doc. 92-2369 Filed 1-30-92; 8:45 am]

BILLING CODE 6560-50-F

[FRL-4099-2]

Bayou Aux Carpes Site, LA; Superfund; Response and Remedial Actions, Proposed Settlements, etc.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of request for amendment of section 404(c) determination and request for comment.

SUMMARY: Notice is hereby given that Shell Pipe Line Corporation (Shell) has petitioned the Environmental Protection Agency (EPA) for reconsideration of exceptions identified in EPA's October 16, 1985 Final Determination concerning the Bayou Aux Carpes site in Jefferson Parish, Louisiana pursuant to section 404(c) of the Clean Water Act. Shell has requested this amendment in order to (1) temporarily discharge dredged or fill material associated with performing emergency work on an existing pipeline located in (underneath) the restricted section 404(c) area; and (2) except from the Bayou Aux Carpes section 404(c) restriction future discharges associated with routine operation and maintenance of this pipeline.

EPA is requesting comments on Shell's proposal for reconsideration of exceptions. In particular, EPA is interested in determining whether the proposed pipe relocation procedure or the proposed routine operation and maintenance activities on the pipeline will result in unacceptable adverse effects under section 404(c). In addition, EPA is interested in determining whether activities proposed by Shell are comparable in terms of potential impacts to those currently excepted in the October 16, 1985 Bayou Aux Carpes Final Determination.

DATES: Written comments concerning this request for amendment must be submitted to EPA on or before February 18, 1992.

ADDRESSES: Copies of the request and supporting documentation are available for public inspection upon request at the following location: U.S. Environmental Protection Agency, Office of Wetlands, Oceans, and Watersheds, Wetlands Division, 499 South Capitol Street, SW., Fairchild Building, room 723, Washington, DC 20009.

Comments must be submitted in writing to: William S. Garvey, Chief, Elevated Cases Section, Mail Code (A-104F), U.S. EPA, 401 M Street SW., Washington, DC 20460. Written comments may also be sent by facsimile to Mr. Garvey at (202) 260-7546.

FOR FURTHER INFORMATION CONTACT: Specific details are available from Mr. Joseph P. DaVia (EPA) at (202) 260-1602.

SUPPLEMENTARY INFORMATION: On December 18, 1991, Shell Pipe Line Corporation (Shell) formally applied to the U.S. Environmental Protection Agency (EPA) for reconsideration of the October 16, 1985 Final Determination of the U.S. Environmental Protection Agency's Assistant Administrator for External Affairs concerning the Bayou Aux Carpes site in Jefferson Parish, Louisiana pursuant to section 404(c) of the Clean Water Act. Additional information supporting this request was received by EPA Headquarters on January 17, 1992 and January 21, 1992. Specifically, Shell has requested permission to temporarily discharge dredged or fill material associated with performing work to relocate an existing pipeline in the section 404(c) restricted Bayou Aux Carpes site. A vertical relocation of this pipeline is necessary to allow completion of a Federal hurricane protection levee adjacent to the section 404(c) restricted area. In addition, Shell has further requested in a January 10, 1992 letter to EPA to except from its section 404(c) restriction future discharges associated with routine operation and maintenance of this Shell pipeline located in the section 404(c) restricted site.

The October 16, 1985 Bayou Aux Carpes Final Determination restricts the use of the Bayou Aux Carpes site for any discharges of dredged or fill material, including those associated with the original Harvey Canal-Bayou Barataria Levee Project. However, this restriction specifically excepts: (1) Discharges necessary for completion of the modified Harvey Canal-Bayou Barataria Levee Project, as described in the Wilson Order of November 16, 1976 (replacement of the closure at the confluence of Bayou Aux Carpes and Bayou Barataria with floodgates is a necessary element of such completion); (2) discharges associated with the routine operation and maintenance of the Southern Natural Gas Pipeline Company pipeline as long as dredged or fill material is placed in piles with breaks in between to allow inundation of adjacent wetlands and as long as pre-maintenance contours are restored and; (3) discharges associated with projects with the sole purpose of habitat enhancement specifically approved by EPA. Discharges associated with these three classes of activities may take place provided they are authorized by a Corps of Engineers section 404 permit.

The Bayou Aux Carpes Final Determination states that based on the current record, only the three specifically identified exceptions to the section 404(c) restriction are justified. The Final Determination also states that should the landowners in the future identify any other specific activities which would require some discharge or dredged or fill material and which would have only minor impacts, they may, of course, apply to EPA for reconsideration of the October 16, 1985 decision with respect to those particular activities.

Currently, Shell has in place a temporary six inch by-pass pipeline which does not impact the section 404(c) restricted area. Shell has stated that, due to unstable soil conditions, this pipeline configuration is not practicable as a permanent replacement for the existing ten inch pipeline. Shell has stated that they are presented with an emergency situation because the existing temporary by-pass pipeline joints have repeatedly failed and accidental releases of gaseous raw mix have occurred.

Proposed Activities

Shell has provided documentation to EPA with the following description of the proposed pipeline relocation activity. The preferred technique is to vertically relocate the pipeline by directional drilling under both the canal and levee (horizontal drilling underneath the canal and levee). The general pipeline alignment will not change; however, the depth at which the pipe is buried will increase. Directionally controlled horizontal drilling is a "trenchless" construction method used for the installation of buried pipelines. Excavation from the surface is not required when this

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method is utilized except to open a small temporary trench to facilitate drill entry and final fitting of pipe joints.

The existing Shell pipeline traverses under the Westwego-Harvey Canal Westbank Hurricane Protection Levee (V-levee) in an east-west direction, into and through the section 404(c) restricted area. For the proposed V-levee replacement crossing, the horizontal drilling rig would be positioned on the east end of the drilled segment approximately 100 feet into the Bayou Aux Carpes section 404(c) area. A pilot hole would be drilled and reamed under the levee and canal to an exit point outside of the restricted section 404(c) area. When the drill penetrates the surface at the exit point opposite the horizontal drill rig, the pilot hole is complete. Enlarging the pilot hole is accomplished using either pre-reaming passes prior to pipe pull back or simultaneously during pull back. Drilling fluid (mud) would be used in pilot hole drilling and ream and pull back operations. The primary component of the drilling fluid would be fresh water existing at the site. If the subsurface materials encountered consist chiefly of sands and silt, Shell proposes to add bentonite to the water to increase its viscosity, stabilize the drilled hole and provide lubrication during pull back. Shell expects that less than 20 cubic yards of dry bulk bentonite would be required for subject installation. This amount would be reduced if clay is present in the subsurface. Fluid returning to the rig location would be contained and reused. Pipe fabrication will take place on the existing right of way to the west of the drilled segment outside of the section 404(c) area. The drilled segment will be designed to provide a minimum of five feet of cover beneath the borrow canal adjacent to the newly constructed hurricane protection levee. A new six inch temporary by-pass pipeline would be placed across the surface of the section 404(c) restricted area and extend to the westerly end of the project to allow the pipeline to remain in service during the work.

Trenched excavation would be required for the installation of six inch stopple fittings for a new temporary by-pass pipeline, 10 inch stopple fittings for the permanent pipeline, and working space to tie-in the existing 10 inch pipeline with the new 10 inch drilled crossing pipe. The dimensions of the open trenched excavation area on a worst case basis would measure 10 feet wide, 150 feet long, and 5 feet in depth. Spoil material from each excavation would be temporarily placed adjacent to the excavation until completion of the drilled crossing when the spoil would be returned to the trench. Total volume of excavated material would be approximately 300 cubic yards, which includes excavation of the drilling fluid return pit. This return pit would measure approximately 10 feet x 10 feet x 5 feet (depth). Shell equipment and materials onsite would include: Drill rig, control van, power skid, rig ramp, crane, mud tank, mud pump, and drill pipe storage. The drilling rig and related equipment would be supported on timber mats covering an area approximately 50 feet wide and 100 feet in length. Access to the drill site would be across a timber plank road running from the levee to the drill site. The plank road would be approximately 25 feet wide and 120 feet long.

The total surface impact to the section 404(c) restricted area for all proposed activities as described above, would be confined to an area 75 feet wide and 250 feet in length, or approximately 0.43 acres.

Upon completion of the proposed drilling project, the equipment and timber mat would be removed from the site. All excess drilling fluid remaining at the drilling rig location would be recovered and disposed of at an appropriate location outside of the section 404(c) restricted area. All excavated material would be returned and the impacted area restored to pre-project conditions. If necessary, organic materials from the borrow canal would be used to return the impacted area to pre-project elevations. Shell estimates that drilling operations would be completed in one week from start up time, with an additional one week for cleanup and site restoration. Upon approval of the requested amendment from EPA and authorization by the Corps of Engineers, and in accordance with other applicable regulations, Shell would commence work immediately.

In addition to the proposed pipeline relocation as described above, Shell further requests reconsideration of the Bayou Aux Carpes Final Determination by having EPA except from its section 404(c) restrictions future discharges associated with routine operation and maintenance of Shell's Yscloskey-Norco 10 inch products pipeline as long as dredged or fill material is placed in piles with breaks in between to allow inundation of adjacent wetlands and as long as pre-maintenance contours are restored. This second request is identical to the exception described in the October 16, 1985 Bayou Aux Carpes Final Determination for routine operation and maintenance activities of the existing Southern Natural Gas Pipeline Company's pipeline located within the area restricted by EPA's action under section 404(c).

EPA believes that a 15 day public comment period is appropriate for this action due to potential public safety concerns associated with technical complications that Shell has experienced. To date, Shell has experienced problems with the existing six inch temporary by-pass pipeline including failure of pipeline joints and subsequent minor accidental release of gaseous raw mix.

Dated: January 24, 1992.

Robert H. Wayland,

Director, Office of Wetlands, Oceans, and Watersheds.

[FR Doc. 92-2370 Filed 1-30-92; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to Office of Management and Budget for Review

January 23, 1992.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of these submissions may be purchased from the Commission's copy contractor, Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20036, (202) 452-1422. For further information on these submissions contract Judy Boley, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on these information collections should contact Jonas Neihardt, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395-4814.

OMB Number: 3060-0457.

Title: Amendment of part 22 of the Commission's Rules to Establish Standards for Conducting Comparative Cellular Renewal Proceedings (Report and Order, CC Docket No. 90-358).

Action: Revised collection.

Respondents: Businesses or other for-profit (including small businesses).

Frequency of Response: On occasion reporting.

Estimated Annual Burden: 90 responses; 3.44 hours average burden per response; 310 hours total annual burden.

Needs and Uses: The Commission through a notice of proposed rulemaking

(NPRM) released 9/19/90 solicited public comment to establish the standards for conducting comparative renewal proceedings between an applicant seeking renewal of its license in the Domestic Public Cellular Radio Telecommunications Service and challengers filing competing applications. Twenty-eight parties filed comments in response to the NPRM and nineteen parties filed reply comments. The majority of the commentors supported most of the tentative conclusions. With certain modifications, the attached Report and Order adopts all of the tentative conclusions, except the proposal for a bifurcated renewal hearing procedure. The Commission decided to adopt a rebuttable presumption of a renewal expectancy preference to those renewal applicants who demonstrate a *prima facie* case under the standards set forth in the attached rules. The information is used by FCC staff to conduct comparative renewal proceedings for preventing possible abuses by speculative applicants who might file competing applications against renewal applications solely to extract payments from the existing licenses. With these rules we intend to deter the filing of speculative applications by thinly or non-capitalized entities having little interest in providing cellular service and maximize the utilization of the Commission's resources.

OMB Number: 3060-0095.

Title: Annual Employment Report—Cable Television.

Form Number: FCC Form 395–A/395–AS.

Action: Extension of a currently approved collection.

Respondents: Businesses or other for-profit (including small businesses).

Frequency of Response: Annually.

Estimated Annual Burden: 2,605 responses; 1.52 hours average burden per response; 3,960 hours total annual burden.

Needs and Uses: The Annual Employment Report—Cable Television (FCC Form 395–A) is a data collection device used to assess and enforce the Commission's EEO requirements. The report identifies employees by gender, race, color and/or national origin in nine major job categories. Every cable entity with 6 or more employees and all Satellite Master Antenna Television Systems serving 50 or more subscribers and having 6 or more employees must file annually a full FCC Form 395–A. However, cable entities with 5 or fewer employees must only file sections I, II and VII of the FCC Form 395–A and thereafter need not file again unless its employment increases. In addition, cable entities with 6 or more employees will file a Supplemental Investigation Sheet (FCC Form 395–AS) once every 5 years. The data is used by FCC staff to monitor a cable unit's efforts to afford equal employment opportunity in employment. The data is also used to assess industry trends.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92–2308 Filed 1–30–92; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Center for Disease Control

Mine Health Research Advisory Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control (CDC) announces the following National Institute for Occupational Safety and Health (NIOSH) committee meeting.

Name: Mine Health Research Advisory Committee (MHRAC).

Times and Dates: 9 a.m.–5 p.m., February 19, 1992. 9 a.m.–12 noon, February 20, 1992.

Place: CDC, Auditorium A, 1600 Clifton Road, NE, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: The Committee is charged with advising the Secretary of Health and Human Services on matters involving or relating to mine health research, including grants and contracts for such research. Additionally, the Committee assesses mine health research needs and advises on the conduct of mine health research.

Matters to be Discussed: The agenda will include the NIOSH Director's remarks and charge to the Committee; an overview of NIOSH mining-related research; a report from the MHRAC Planning Subcommittee; the current status of the National Occupational Health Survey—Mining; and a summary of current NIOSH musculoskeletal disorder research. Agenda items are subject to change as priorities dictate.

Contact Person for Additional Information: Betty H. Dryden, Committee Management Specialist, Office of the Deputy Director, NIOSH, CDC, 1600 Clifton Road, NE, Mailstop D–26, Atlanta, Georgia 30333, telephone 4040/639–1530 or FTS 236–1530.

Dated: January 23, 1992.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 92–2337 Filed 1–30–92; 8:45 am]

BILLING CODE 4160-19-M

Centers for Disease Control

National Institute for Occupational Safety and Health; Meeting

The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control (CDC) announces the following meeting.

Name: "Frontline Health-Care Workers: A National Conference of Device-Mediated Bloodborne Infections," sponsored by CDC, the Food and Drug Administration, and the Occupational Safety and Health Administration.

Times and Dates: 8 a.m.–6 p.m., August 17–18, 1992. 8:30 a.m.–3:30 p.m., August 19, 1992.

Place: Hyatt Regency Washington on Capitol Hill, 400 New Jersey Avenue, NW., Washington, DC 20001.

Status: Open to the public, limited only by the space available.

Purpose: The purposes of this meeting are:

- To focus attention on sharps injuries and performance safety of medical devices and instruments.
- To bring together device manufacturers and users/purchasers to facilitate understanding of needs and interventions pertaining to device-mediated infections.
- To facilitate private sector initiatives for technology advancement, including the development of infection prevention devices and strategies.

Contract Person for Additional Information: Laura Timperio, PACE Enterprises, Inc., 17 Executive Park Drive, NE, Suite 200, Atlanta, Georgia 30329, telephone 404/633–8810 or Fax 404/633–6745.

Dated: January 27, 1992.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 92–2336 Filed 1–30–92; 8:45 am]

BILLING CODE 4160-19-M

National Committee on Vital and Health Statistics (NCVHS) Subcommittee on Long Term Care Statistics: Cancellation of Meeting

This notice announces the cancellation of a previously announced meeting.

Federal Register Citation of Previous Announcement: 57 FR 1747, January 15, 1992.

Previously Announced Time and Date: 10 a.m.–4:30 p.m., February 4, 1992.

Change in the Meeting: This meeting has been cancelled.

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Contact Person for More Information: Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, National Center for Health Statistics, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone 301/436-7050 or FTS 436-7050.

Dated: January 28, 1992.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 92-2458 Filed 1-30-92; 8:45 am]

BILLING CODE 4160-18-M

Health Resources and Services Administration

Filing of Annual Report of Federal Advisory Committee

Notice is hereby given that pursuant to section 13 of Public Law 92-463, the Annual Report for the following Health Resources and Service Administration's Federal Advisory Committee has been filed with the Library of Congress:

Advisory Commission on Childhood Vaccines

Copies are available to the public for inspection at the Library of Congress Newspaper and Current Periodical Reading Room, room 1026, Thomas Jefferson Building, Second Street and Independence Avenue, SE., Washington, DC, or weekdays between 9 a.m. and 4:30 p.m. at the Department of Health and Human Services, Department Library, HHS North Building, room G-619, 330 Independence Avenue, SW., Washington, DC, telephone (202) 619-0791. Copies may be obtained from: Ms. Rosemary Havill, Vaccine Injury Compensation Program, Bureau of Health Professions, room 702, 6001 Montrose Road, Rockville, Maryland 20852, Telephone (301) 443-6593.

Dated: January 27, 1992.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 92-2340 Filed 1-30-92; 8:45 am]

BILLING CODE 4160-15-M

Public Health Service

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection requests it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The following request have been submitted to OMB since the list was last published on Friday, January 10, 1992.

(Call PHS Reports Clearance Officer on 202-245-2100 for copies of package)

1. Evaluation of Health Promotion Activities in Southern Rural Communities—New—Public and private organizations are developing and implementing community health promotion programs (CHPS) in the rural south. Little is known about the implementation process in communities with few resources. The role played by community health centers and other primary care-providers who serve low-income populations will be evaluated. Respondents: Individuals or households; State or local governments; Non-profit institutions.

	Number of respondents	Number of responses per respondent	Average burden per response
In-person interviews with program staff	100	1	1 hr.
Telephone interviews with key community leaders	120	1	.5 hr.

Estimated Total Annual Burden—160 hours.

2. Grantee Reporting Requirements for the Ryan White Comprehensive AIDS Resources and Emergency Act of 1990 Title III, part B—new—section 2664 of the Ryan White CARE Act requires reporting on the number of individuals to whom the grantee provides early intervention services pursuant to the grant, epidemiological and demographic data on the population of such individuals, the average cost of providing each category of early intervention services, and the aggregate amounts expended for each category. Respondents: State or local governments; Non-profit institutions; Number of Respondents: 120; Number of Responses per Respondent: 2; Average Burden per Response: 28 hours; Estimated Annual Burden: 6,720 hours.

3. Follow-up of Tuberculosis Patients Exposed to Multiple Chest Fluoroscopies—New—Former tuberculosis patients who were irradiated during their treatment will be asked to respond to a telephone questionnaire which assesses information about cancer and its risk factors, in order to estimate radiation risks. This is the fourth follow-up of patients hospitalized for tuberculosis between 1930 and 1954. Respondents: Individuals or households; Number of Respondents: 3,500; Number of Responses per Respondent: 1; Average Burden per Response: .167 hours.; Estimated Annual Burden: 585 hours.

OMB Desk Officer: Shannah Koss-McCallum

Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated above at the following address: Human Resources and Housing Branch, New Executive Office Building, room 3002, Washington, DC. 20503.

Dated: January 17, 1992.

Sandra K. Mahkorn,

Deputy Assistant Secretary for Public Health Policy.

[FR Doc. 92-1867 Filed 1-30-92; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Assistant Secretary for Public and Indian Housing

[Docket No. N-92-3384]

Submission of Proposed Information Collection to OMB Forms Required for the Comprehensive Grant Program

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information

collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposal. Comments should refer to the proposal by name and should be sent to:

Jennie Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

David Cristy, Reports Management Officer, Department of HUD, 451 Seventh Street, SW, room 4176, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 Seventh Street, SW., room 4176, Washington, DC 20410, telephone (202) 708-0050. This is not a toll-free number. Copies of the documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB, for expedited processing, an information collection package with respect to the forms required for the Comprehensive Grant Program (CGP). The CGP was authorized by section 14 of the U.S. Housing Act of 1937, as amended by section 119 of the Housing and Community Development (HCD) Act of 1987 and section 509 of the Cranston-Gonzales National Affordable Housing Act (NAHA). It is also requested that OMB complete its review within seven days.

The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35);

(1) *Title of the information collection proposal:* Forms Required for the Comprehensive Grant Program.

(2) *Office of the agency to collect the information:* Office of the Assistant Secretary for Public and Indian Housing.

(3) *Description of the need for the information and its proposed use:* The data that will be collected on the forms is necessary for HUD to determine that a PHA/IHA has complied with applicable statutory and regulatory requirements relative to planning, implementing, and monitoring the CGP. HUD will use the information to approve a PHA's/IHA's Comprehensive Plan, reserve its formula share of the national allocation for the CGP, and to monitor its performance.

(4) *Agency form numbers:* Form HUD-52831; Form HUD-52832; Form HUD-52833; Form HUD-52834; Form HUD-52835; Form HUD-52836; Form HUD-52837; Form HUD-52839; Form HUD-52840; Form HUD-52842.

(5) *Members of the public who will be affected by the proposal:* Public and Indian Housing Authorities.

(6) *How frequently information submissions will be required:* Varies.

(7) *An estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response:* See the enclosed charts.

(8) *Type of request:* New.

(9) *The names and telephone numbers of an agency official familiar with the proposal:* Janice D. Rattley, Office of Public and Indian Housing, (202) 708-1800.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: January 23, 1992.

Joseph G. Schiff,

Assistant Secretary for Public and Indian Housing.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Forms Required for the Comprehensive Grant Program.

Office: Office of Public and Indian Housing.

Description of the need for the information and its proposed use: This new information collection is required by the Comprehensive Grant Program which will be implemented for PHAs/IHAs with 500 units or more in FY 1992 and for PHAs/IHAs with 250 or more units beginning in FY 1993. The information is necessary to determine that a PHA/IHA has complied with applicable statutory and regulatory requirements relative to planning, implementing, and monitoring the CGP. HUD will use the information to approve a PHA's/IHA's Comprehensive Plan, reserve its formula share of the national allocation for the CGP, and to monitor its performance.

Form Numbers: Form HUD-52831; Form HUD-52832; Form HUD-52833; Form HUD-52834; Form HUD-52835; Form HUD-52836; Form HUD-52837; Form HUD-52839; Form HUD-52840 Form HUD-52842;

Respondents: Public and Indian Housing Authorities;

Frequency of submission: The first two years of the Comprehensive Grant Program will be an anomaly because a PHA/IHA is required to submit a Comprehensive Plan in its first year of participation in the program and HUD will phase in two groups. (i.e. PHAs/IHAs over 500 units in FY 1992 and PHAs/IHAs 250-499 units in FY 1993). This submission requires the PHA/IHA to thoroughly analyze all physical and management needs which necessitates burden hours and paperwork requirements that will not be required on an annual basis. Refer to the enclosed charts for specific details.

Total Estimated Burden Hours—1st Year—188,237.5
Total Estimated Burden Hours—2nd Year—177,277
Total Estimated Burden Hours—3rd Year—53,352

Status: New.

Contact: Janice D. Rattley; HUD (202) 708-1800, Jennie Main, OMB (202) 395-6880.

Date: January 23, 1992.

Supporting Statement for Request for OMB Approval of Forms Required for the Comprehensive Grant Program

A. Justification

1. Section 14 of the U.S. Housing Act of 1937, as amended by Section 119 of the Housing and Community Development (HCD) Act of 1987 established the Comprehensive Grant Program (CGP), which provides for the allocation of modernization funds to larger Public Housing Agencies (PHAs) and Indian Housing Authorities (IHAs) on the basis of a formula. Section 509 of the Cranston-Gonzalez National Affordable Housing Act (NAHA) established the formula allocation methodology for the program.

Beginning in FY 1992, PHAs/IHAs that own or operate 500 or more dwelling units will participate in the CGP. Beginning in FY 1993, PHAs/IHAs that own or operate 250 or more dwelling units will participate in the CGP. PHAs/IHAs below the threshold for participation in the CGP will remain in the competitive Comprehensive Improvement Assistance Program (CIAP).

The Department of Housing and Urban Development (HUD) published a proposed rule on the CGP in the **Federal Register** on April 26, 1991, and a final rule was transmitted to the Office of Management and Budget on December 24, 1991.

The enclosed draft forms reflect the information collection requirements set forth in the final rule. These forms will be included as appendices in a CGP Handbook that provides instructions, guidance and processing procedures for implementing the program. We are in the process of finalizing the Handbook and would greatly appreciate expedited clearance of the forms to allow us time to complete the Handbook for a series of ten training sessions that begin the week of February 3, 1992.

The forms are consistent with the requirements of the HCD Act of 1987 and the NAHA. The forms for which we are requesting expedited clearance are as follows:

a. Form HUD-52831—Executive Summary of Preliminary Estimated Costs—This form will be prepared as part of the submission of the original Comprehensive Plan and every sixth year thereafter when the Plan is updated. This form summarizes the estimated cost for physical improvements at each of the PHA's/IHA's developments, for improving the PHA's/IHA's management operations, for providing for nondwelling structures and equipment, and administrative and other costs. This form provides a summary of the cost of the overall needs of the PHA/IHA and allows for a quick comparison of cost among developments.

b. Form HUD-52832—Physical Needs Assessment—This form will be submitted as part of the submission of the original Comprehensive Plan, every sixth year thereafter when the Plan is updated, and/or when the needs identified therein change significantly. This form will provide a description of all unfunded physical improvement needs at each of the PHA/IHA developments and the estimated cost. The physical improvement will be described in broad work categories, e.g., kitchens, bathroom, etc. and the PHA will provide a total preliminary estimated cost for each development. The form will also provide the PHA's/IHA's assessment of the development's viability.

c. Form HUD-52833—Management Needs Assessment—This form will be submitted as part of the submission of the original Comprehensive Plan, every sixth year thereafter when the Plan is updated, and/or when the needs identified therein change significantly. This form will identify all unfunded management improvements needed to upgrade the management and operation of the PHA/IHA, either PHA/IHA-wide or by specific development, and the estimated cost. The management improvements will be described in broad categories, e.g., rent collection, security, etc. and the PHA will provide a preliminary estimated PHA/IHA-wide cost for each broad category.

d. Form HUD-52834—Five Year Action Plan—This form will be submitted as part of the submission of the original Comprehensive Plan. This form has a rolling base, i.e., an updated form will be submitted annually that eliminates the activities in year one (which were chosen by the PHA/IHA to be funded the previous year) and adds a new fifth year. This form delineates the physical and management improvements identified in the Needs Assessments (Form HUD-52832 and Form HUD-52833) that the PHA intends to fund over a five-year period and the estimated cost. The improvements that will be funded in each of the five years will be described in broad work categories, e.g., kitchens, bathrooms, security, etc., with an estimated cost for each broad work category.

e. Form HUD-52835—Local Government Statement—This form will be submitted as part of the submission of the original Comprehensive Plan and thereafter submitted annually with the Annual Statement. This form provides certification by the local government relative to resident consultation, consistency with its low-income housing needs and coordination of drug elimination activities.

f. Form HUD-52836—PHA/IHA Board Resolution Approving Comprehensive Plan or Annual Statement—This form will be submitted as part of the submission of the original Comprehensive Plan and thereafter submitted annually. This form provides certification by the governing body of the PHA/IHA, i.e., the Board of Commissioners, relative to compliance with statutory and regulatory requirements, and HUD policies and procedures.

g. Form HUD-52837, Annual Statement/Performance and Evaluation Report—(a combined form)

(1) This form will be submitted annually prior to the reservation of funds to describe the activities that the PHA/IHA plans to undertake with the current year's funds, and on an as needed basis when major changes require that the Annual Statement be amended. This form will provide a detailed description of the proposed physical and/or management improvement items, e.g., replace kitchen cabinets, repair bathroom floors, provide training to resident security force, and the estimated cost of each item for developments that will be funded for modernization work.

(2) This form will be submitted annually after the end of the program year to report on the PHA/IHA's actual progress in implementing the annual grant. This form will provide the cumulative amount of the funds obligated and expended on an annual basis until all funds have been expended.

h. Form HUD 52839—Actual Comprehensive Grant Cost Certificate—This form will be submitted one time for each annual grant that is completed or terminated. This form provide an accounting of the funds actually expended from each approved annual grant.

i. Form HUD-52840—Comprehensive Grant Program Amendment—This form will be prepared annually by HUD and utilized as the document that obligates the current year's funds for a PHA/IHA. A separate amendment will be prepared for a PHA's/IHA's formula share of CGP funds and/or a grant allocation from the set-aside for emergencies or natural disasters. The PHA/IHA will be required to sign and return the document to HUD.

j. Form HUD-52842—Annual Statement/Performance and Evaluation Report on Replacement Reserve—If a PHA/IHA has used CGP funds to fund a replacement reserve, it will annually submit this form until all funds in the replacement reserve have been expended. This form provides a description of funds held in a replacement reserve account, interest accrued on the account, and the expenditure of funds from this account on approved CGP activities.

2. The information must be collected to satisfy statutory requirements for providing funding to PHAs/IHAs on a formula basis and to monitor program implementation.

3. We do not know of any improved information technology to reduce burden.

4. All required information was closely examined to avoid duplication.

5. To the extent possible, a PHA that has an approved Comprehensive Plan for Modernization (CPM) developed under the CIAP, it may modify the CPM to meet the requirements for a Comprehensive Plan under the CGP.

6. The collection of this information does not involve small businesses. Beginning in FY 1992, smaller PHAs/IHAs, which own or operate less than 500 dwelling units, will continue to compete for assistance under CIAP, as set forth in 24 CFR Part 968, Subpart B. Beginning in FY 1993, PHAs/IHAs which own or operate less than 250 dwelling units will continue to compete for assistance under CIAP.

7. The information collection cannot be collected less frequently.

8. There are no special circumstances that require the collection to be conducted in a manner which is inconsistent with the guidelines in 5 CFR 1320.6.

9. Interest Groups and PHA/IHA representatives were consulted extensively during preparation of the proposed and final rules. The public

comments received in response to the paperwork requirements outlined in the proposed rule resulted in changes which have been incorporated into the final rule and the paperwork requirements described above.

10. There is no assurance of confidentiality provided to PHAs/IHAs. All information collections are subject to resident and local government consultation requirements and are available for inspection by the public.

11. There is no personal or sensitive information included in the information collection.

12. There is no additional cost to the Federal Government or the respondents.

13. See attached Summary of Burden Hours.

14. The burden hours associated with this request are totally attributable to information required for implementing a new program.

15. Not applicable. There are no plans to publish the information collection for statistical use.

B. Collection of Information Employing Statistical Methods

Not applicable.

COMPREHENSIVE GRANT PROGRAM PAPERWORK BURDEN HOURS 1ST YEAR

Description of information collection	Section of 24 CFR affected	Number of respondents	Number of responses per respondents	Total annual responses	Hours per responses	Total hours
Executive summary of preliminary estimated costs form HUD-52831	968.320(d)(1) 905.672(d)(1)	407	1	407	10	4,070
Physical needs assessment form HUD-52832	968.320(d)(2) 905.672(d)(2)	407	1	407	252	102,564
Management needs assessment form HUD-52833	968.320(d)(3) 905.672(d)(3)	407	1	407	110	44,770
Five-year action plan form HUD 52834	968.320(d)(5) 905.672(d)(5)	407	1	407	40	16,280
Local government statement-form HUD 52835	968.320(d)(6) 905.672(d)(6)	407	1	407	0.5	203.5
PHA/IHA board resolution approving comprehensive plan or annual statement form HUD 52836 [1].	968.320(d)(7) 905.672(d)(7)	407	1	407		
Annual statement/performance evaluation report form HUD-52837:						
a. Prior to fund reservation	968.330(a) 905.678(a)		1	407	50	20,350
b. End of program year	968.340(b) 905.684(b)					
Actual comprehensive grant cost certificate form HUD-52839	968.335(e) 905.681(e)					
Comprehensive grant program amendment form HUD-52840 [2]	968.330(j) 905.678(j)	407		407		
Annual statement performance and evaluation report of replacement review for form HUD-52842.	968.340(b) 905.684(b)					
Total annual paperwork burden hours			188,237.5			

[1] Forms are completed by HUD for PHA/IHA Representative's signature.

[2] During the First year, the approval of the Comprehensive Plan and fund reservation will not occur until September. Therefore, there will be no activity in these categories during the initial year.

COMPREHENSIVE GRANT PROGRAM PAPERWORK BURDEN HOURS 2ND YEAR

Description of information collection	Section of 24 CFR affected	Number of respondents	Number of responses per respondents	Total annual responses	Hours per responses	Total hours
Executive summary of preliminary estimated costs form HUD-52831	968.320(d)(1) 905.672(d)(1)	447	1	447	10	4,470
Physical needs assessment form HUD-52832	968.320(d)(2) 905.672(d)(2)	447	1	447	170	75,990
Management needs assessment form HUD-52833	968.320(d)(3) 905.672(d)(3)	447	1	447	100	44,700
Five-year action plan form HUD 52834	968.320(d)(5) 905.672(d)(5)	854	1	407 447	10 20	4,070 8,940
Local government statement-form HUD 52835	968.320(d)(6) 905.672(d)(6)	854	1	854	0.5	427
PHA/IHA board resolution approving comprehensive plan or annual statement form HUD 52836 [1].	968.320(d)(7) 905.672(d)(7)	854	1	854		
Annual statement/performance evaluation report form HUD-52837:						
a. Prior to fund reservation	968.330(a) 905.678(a)	854	1	407 447	50 20	20,350 8,940
b. End of program year	968.340(b) 905.684(b)	407	1	407	20	8,140
Actual comprehensive grant cost certificate form HUD-52839	968.335(e) 905.681(e)	200	1	200	5	1,000
Comprehensive grant program amendment form HUD-52840 [1]	968.330(j) 905.678(j)	854	1	854		
Annual statement performance and evaluation report of replacement review for form HUD-52842.	968.340(b) 905.684(b)	50	1	50	5	250
Total annual paperwork burden hours						177,277

COMPREHENSIVE GRANT PROGRAM PAPERWORK BURDEN HOURS 3RD YEAR

Description of information collection	Section of 24 CFR affected	Number of respondents	Number of responses per respondents	Total annual responses	Hours per responses	Total hours
Five-year action plan form HUD 52834	968.320(d)(5)	854	1	407	10	4,020
	905.672(d)(5)			447	5	2,235
Local government statement—form HUD 52835	968.320(d)(6)	854	1	854	0.5	427
	905.672(d)(6)					
*PHA/IHA board resolution approving comprehensive plan or annual statement form HUD 52836..	968.320(d)(7)	854	1	854		
	905.672(d)(7)					
Annual statement/performance evaluation report form HUD-52837:						
a. Prior to fund reservation	968.330(a)	854	1	407	50	20,350
	905.678(a)			447	20	8,940
b. End of program year	968.340(b)	854	1	407	20	8.140
	905.684(b)			447	10	4,470
Actual comprehensive grant cost certificate form HUD-52839	968.335(e)	854	1	854	5	4,270
	905.681(e)					
*Comprehensive grant program amendment form HUD-52840	968.330(j)	854	1	854		
	905.678(j)					
Annual statement/performance and evaluation report of replacement review for form HUD-52842.	968.340(b)	100	1	100	5	500
	905.684(b)					
Total annual paperwork burden hours						53,352

Attachments

BILLING CODE 4210-33-M

Executive Summary of Preliminary Estimated Costs
Physical and Management/ Operations Needs
Comprehensive Grant Program (CGP)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. XXXX-XXXX (Exp. MM/DD/YY)

Public Reporting Burden for this collection of information is estimated to average 10.0 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (XXXX-XXXX), Washington, D.C. 20503. Do not send this completed form to either of these addresses.

PHA/IHA Name	Federal Fiscal Year

Development Number/ Name	Total Current Units	Total Preliminary Estimated Hard Cost	Per Unit Hard Cost	Exceeds Reasonable Cost	Percentage of Vacant Units

Total Preliminary Estimated Hard Cost for Physical Needs	$
Total Preliminary Estimated Cost for PHA -Wide Management/Operations Needs	$
Total Preliminary Estimated Cost for PHA-Wide Nondwelling Structures and Equipment	$
Total Preliminary Estimated Cost for PHA-Wide Administration	$
Total Preliminary Estimated Cost for PHA-Wide Other	$
Grand Total of PHA Needs	$
Signature of Executive Director X	Date

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form HUD-52831 (12/31/91)
ref Handbook 7485.3

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Instructions for Preparation of Form HUD-52831—Executive Summary of Preliminary Estimated Costs for Physical and Management/Operations Needs

Report Submission: Prepare one form HUD-52831 for the entire PHA/IHA and submit to HUD as part of the submission of the original Comprehensive Plan in the first year of participation in the CGP and every sixth year when a complete revision of the Comprehensive Plan is required. Use as many pages of this form as necessary to cover all developments within the PHA's/IHA's inventory.

Heading Instructions:

PHA/IHA Name—Enter the Public Housing Agency (PHA)/Indian Housing Authority (IHA) name.

Federal Fiscal Year—Enter the FFY in which the Comprehensive Plan is being submitted.

Column Instructions:

Development Number/Name—Enter the State abbreviation, the PHA number and the development number, which may be abbreviated as VA 30-1. Also enter the development name, if any.

Total Current Units—For each development, enter the total number of current units as identified in the ACC.

Total Preliminary Estimated Hard Cost—For each development, enter the Total Preliminary Estimated Hard Cost for Needed Physical Improvements from Form HUD-52832, Physical Needs Assessment.

Per Unit Hard Cost—For each development, enter the Per Unit Hard Cost from form HUD-52832, Physical Needs Assessment.

Exceeds Reasonable Cost—For each development, enter Yes or No as to whether the hard cost exceeds 90% of TDC from form HUD-52832, Physical Needs Assessment.

Percentage of Vacant Units—For each development, enter the percentage of vacant units from form HUD-52832, Physical Needs Assessment.

Total Preliminary Estimated Hard Cost for Physical Needs—Enter the total for all amounts entered in the column, Total Preminary Estimated Hard Cost.

Total Preliminary Estimated Cost for PHA-Wide Management/Operations Needs—Enter the Total Preliminary Estimated PHA-Wide Cost from form HUD-52833, Management Needs Assessment.

Total Preliminary Estimated Cost for PHA-Wide Nondwelling Structures and Equipment—Enter the total preliminary estimated cost for PHA-wide nondwelling structures and equipment that are currently needed and will be needed within the next five years.

Total Preminary Estimated Cost for PHA-Wide Administration—Enter the total preminary estimated cost for PHA-wide administration that are currently needed and will be needed within the next five years.

Total Preminary Estimated Cost for PHA-Wide Other—Enter the total preliminary estimated cost for PHA-wide other costs that are currently needed and will be needed within the next five years.

Grand Total of PHA Needs—Enter the sum of preliminary estimated costs for Physical Needs, PHA-wide Management/Operations Needs, PHA-Wide Nondwelling Structures and Equipment, PHA-Wide Administration and PHA-Wide Other.

Physical Needs Assessment

Comprehensive Grant Program (CGP)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. XXXX-XXXX (Exp. MM/DD/YY)

Public Reporting Burden for this collection of information is estimated to average 210.0 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (XXXX-XXXX), Washington, D.C. 20503. Do not send this completed form to either of these addresses.

PHA/IHA Name

☐ Original

☐ Revision Number ________

Development Number

Development Name

DOFA Date

Development Type:	Occupancy Type:	Structure Type:	Number of Buildings	Vacant Units
Rental ☐	Family ☐	Detached/ Semi-Detached ☐	Current Bedroom Distribution	Number ____
Turnkey III ☐	Elderly ☐	Row ☐	0 ____ 1 ____ 2 ____	%
Mutual Help ☐	Mixed ☐	Walk-Up ☐	3 ____ 4 ____ 5 ____	Total Current Units
Section 23, Bond Financed ☐		Elevator ☐	5+ ____	

General Description of Needed Physical Improvements	Urgency of Need (1-5)

Total Preliminary Estimated Hard Cost for Needed Physical Improvements $

Per Unit Hard Cost $

Hard Cost Exceed 90% of TDC (If Yes, attach viability analysis.) Yes ☐ No ☐

Development Has Long-Term Physical and Social Viability Yes ☐ No ☐

Development Will Meet Modernization and Energy Conservation Standards in FFY ________ Date Assessment Prepared: ________

Source(s) of Information

Page ___ of ___

form HUD-52832 (12/31/91)
ref Handbook 7485.3

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Instructions for Preparation of Form HUD-52832—Physical Needs Assessment

Report Submission: Prepare a separate form HUD-52832 for each development in the PHA's/IHA's inventory, which is eligible for Comprehensive Grant Program (CGP) funding. Submit these forms to HUD as part of the submission of the original Comprehensive Plan in the first year of participation in the CGP and every sixth year when a complete revision of the physical needs assessment is required. On an as-needed basis, submit a revised form for any development whose physical needs have significantly changed since the last needs assessment and the PHA/IHA wishes to include these needs in the Action Plan. Use only one page per development or development group. Developments which are contiguous and treated as one development for management purposes may be grouped together.

Heading Instructions:

PHA/IHA Name—Enter the Public Housing Agency (PHA)/Indian Housing Authority (IHA) name.

Original or Revision Number -- Self-explanatory. Every sixth year a new original is prepared.

Development Number—Enter an 11-digit alpha numeric code as follows: two-digit State code (alpha); two-digit Field Office code (numeric); P for public housing or B for Indian Housing; three-digit PHA/IHA number (numeric); and three-digit development number (numeric). For example, VA36P05OO01.

Development Name—Enter the name of the development, if any.

DOFA Date—Enter the Date of Full Availability (DOFA).

Check the appropriate box that describes the type of development, the type of occupancy, and the type of structure. Also enter the number of buildings.

Current Bedroom Distribution—Enter the current number of units for each bedroom size and the total number of current units in the development as identified in the ACC.

Vacant Units—Enter the number of vacant units as of the date this form is prepared and the percentage of vacant units to the total number of units in the development.

Column Instructions:

General Description of Needed Physical Improvements:

Enter a general description of all unfunded physical improvements that must be undertaken to bring the development (dwelling and nondwelling structures, dwelling and nondwelling equipment, and site) up to a level at least equal to the modernization and energy conservation standards and to comply with other program requirements. Include any replacements of equipment, systems and structural elements that will be needed, assuming routine and timely maintenance, within the next five years. Exclude any physical improvement needs for PHA-wide non-dwelling structures and equipment. Enter only physical improvements that are eligible for CGP funding. Do not enter any physical improvements already funded by CIAP or other sources which the PHA/IHA plans to complete.

Describe the proposed improvements in broad categories, such as kitchens, bathrooms, roofs, electrical systems, heating systems, landscaping, non-dwelling structures, lead-based paint testing, lead-based paint abatement, physical accessibility, etc. Include all broad categories of needed work without regard to the availability of funds.

If there are no current needs and the PHA/IHA does not anticipate any replacement needs within the next five years, enter a statement to that effect in this section. Such a statement does not preclude the PHA/IHA from amending the needs assessment at any time within the five-year period if unforeseen needs arise or from identifying new needs which have occurred when the needs assessment is revised every sixth year.

If the development is a Turnkey III, indicate the number of vacant or non-homebuyer-occupied units planned for substantial rehabilitation.

If the development is a Mutual Help and will be at least 10 years old during the next five years, indicate the number of units that are planned for one-time substantial rehabilitation.

Urgency of Need:

For each broad category of work identified under the General Description of Needed Physical Improvements, enter a number that corresponds to the urgency of the need at that development relative to other developments, with "1" reflecting the most urgent need and "5" reflecting the least urgent need. In determining the urgency of need, assign a "1" to activities required to correct emergency conditions and to meet statutory or other legally mandated requirements, such as lead-based paint testing.

Total Preliminary Estimated Hard Cost for Needed Physical Improvements:

Enter the total preliminary estimated hard cost for the broad work categories listed in the General Description of Needed Physical Improvements, excluding any management improvements, administration, architectural/engineering fees, relocation or other soft costs, and any hard costs for PHA/IHA-wide nondwelling structures and equipment.

Per Unit Hard Cost:

Divide the Total Preliminary Estimated Hard Cost for Needed Physical Improvements by the total number of current units in the development and enter the per unit hard cost.

Hard Cost Exceed 90% of TDC:

Check Yes or No as to whether the Total Preliminary Estimated Hard Cost for Needed Physical Improvements exceeds 90% of computed Total Development Cost (TDC) for the development. **Note:** If Yes is checked, the PHA/IHA may not include work categories/items, except for emergency work, in its Action Plan or Annual Statement unless it submits, and HUD approves, a request to exceed 90% of TDC. **Note:** If Yes is checked, attach the viability analysis.

Development Has Long-Term Physical and Social Viability:

Check Yes or No as to whether the PHA/IHA has determined that the development has long-term physical and social viability. **Note:** If No is checked, attach the viability analysis and an explanation of what actions are proposed regarding the nonviable development.

Development Will Meet Modernization and Energy Conservation Standards in FFY:

Estimate the FFY in which it is anticipated that the development will meet the modernization and energy conservation standards.

Source(s) of Information:

Identify the source(s) of information used to develop the General Description of Needed Physical Improvements. Retain such information in PHA/IHA files (1) as supporting documentation for the needs assessment, (2) for post-review by HUD, or (3) for submission to HUD upon request.

form HUD-52832

Management Needs Assessment
Comprehensive Grant Program (CGP)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. XXXX-XXXX (Exp. MM/DD/YY)

Public Reporting Burden for this collection of information is estimated to average 100.0 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (XXXX-XXXX), Washington, D.C. 20503. Do not send this completed form to either of these addresses.

PHA/IHA Name	☐ Original ☐ Revision Number ________

General Description of Management/Operations Needs	Urgency of Need (1-5)	Preliminary Estimated PHA-Wide Cost
Total Preliminary Estimated PHA-Wide Cost		$

All Identified Management Needs will be met in FFY ________ Date Assessment Prepared ________________

Source(s) of Information

Page ___ of ___

form HUD-52833 (12/31/91)
ref Handbook 7485.3

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Instructions for Preparation of Form HUD-52833—Management Needs Assessment

Report Submission: Prepare one form HUD-52833 for the entire PHA/IHA and submit to HUD as part of the submission of the original Comprehensive Plan in the first year of participation in the Comprehensive Grant Program (CGP) and every sixth year when a complete revision of the management needs assessment is required. On an as-needed basis, submit a revised form whenever management needs have significantly changed since the last needs assessment and the PHA/IHA wishes to include those needs in the Action Plan.

Heading Instructions:

PHA/IHA Name—Enter the Public Housing Agency (PHA)/ Indian Housing Authority (IHA) Name.

Original or Revision Number – Self-explanatory. Every sixth year a new original is prepared.

Column Instructions:

General Description of Management/Operations Needs:

Enter a general description of all unfunded improvements needed to upgrade the management and operation of the PHA/IHA and of each viable development so that decent, safe and sanitary living conditions will be provided. Enter only management improvements that are eligible for CGP funding.

Do not enter any management improvements already funded by CIAP or other sources which the PHA/IHA plans to complete.

Identify all current needs related to the mandatory areas set forth in the CGP Handbook 7485.3. To the extent that any of these needs are addressed in an existing document, cross-reference that document. For PHAs, an existing document includes a HUD-approved action plan based on a HUD monitoring review conducted before implementation of the Public Housing Management Assessment Program (PHMAP), a Memorandum of Agreement (MOA) or an Improvement Plan (IP). For IHAs, an existing document includes a HUD-approved Management Improvement Plan (MIP) based on the Administrative Capability Assessment (ACA) or Field Office monitoring. For example, improve rent collection—see MOA.

In addition, at the PHA's/IHA's option, include other management and operations needs identified through a self-assessment or identified under the PHMAP for PHAs, but not set forth in an MOA or IP.

Describe the needs in broad categories, such as rent collection, preventive maintenance, security, etc. Include all broad categories of needs without regard to the availability of funds.

If there are no current needs and the PHA/IHA does not anticipate any management needs within the next five years, enter a statement to that effect in this section. Such a statement does not preclude the PHA/IHA from amending the needs assessment at any time within the five-year period if unforeseen needs arise or from identifying new needs which have occurred when the needs assessment is revised every sixth year.

Urgency of Need:

For each broad category of need identified under the General Description of Management/Operations Needs, enter a number that corresponds to the relative urgency of the need, with "1" reflecting the most urgent need and "5" reflecting the least urgent need.

Preliminary Estimated PHA-Wide Cost:

Enter the preliminary estimated PHA-wide cost for each broad category of need described in the General Description of Management/Operations Needs and the total.

All Identified Management Needs will be met in FFY: – Estimate the FFY in which it is anticipated that all identified management needs will be met.

Source(s) of Information:

Identify the source(s) of information used to develop the General Description of Management/Operations Needs. Retain such information in PHA/IHA files (1) as supporting documentation for the needs assessment, (2) for post-review by HUD, or (3) for submission to HUD upon request.

Five-Year Action Plan
Part I: Summary
Comprehensive Grant Program (CGP)

**U.S. Department of Housing
and Urban Development**
Office of Public and Indian Housing

OMB Approval No. XXXX-XXXX (Exp. MM/DD/YY)

Public Reporting Burden for this collection of information is estimated to average 30.0 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (XXXX-XXXX), Washington, D.C. 20503. Do not send this completed form to either of these addresses.

PHA/IHA Name	Locality (City/County & State)	☐ Original ☐ Revision No. ____

A. Development Number/Name/ Physical Improvement	Year 1 FFY:____	Year 2 FFY:____	Year 3 FFY:____	Year 4 FFY:____	Year 5 FFY:____
	See Annual Statement				
B. Physical Improvements Subtotal					
C. Management Improvements					
D. PHA-wide Nondwelling Structures and Equipment					
E. Administration					
F. Other					
G. Replacement Reserve					
H. Total CGP Funds					
I. Total Non-CGP Funds					
J. Grand Total					

Signature of Executive Director	Date	Signature of Field Office Manager (Regional Administrator in co-located office)	Date

Page ___ of ___

form HUD-52834 (12/30/91)
ref Handbook XXXX.X

Five-Year Action Plan
Part I: Summary (Continuation)
Comprehensive Grant Program (CGP)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

A. Development Number/Name/ Physical Improvement	Year 1 FFY:___	Year 2 FFY:___	Year 3 FFY:___	Year 4 FFY:___	Year 5 FFY:___
	See Annual Statement				

Five-Year Action Plan
Part II: Supporting Pages
Physical Needs
Comprehensive Grant Program (CGP)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

Year 1 FFY:___	Year 2 FFY:___			Year 3 FFY:___			Year 4 FFY:___			Year 5 FFY:___		
	Development Number/Name	Major Work Category	Estimated Cost	Development Number/Name	Major Work Category	Estimated Cost	Development Number/Name	Major Work Category	Estimated Cost	Development Number/Name	Major Work Category	Estimated Cost
See Annual Statement												
	Subtotal of Estimated Cost											

Page ___ of ___

form HUD-52834

Five-Year Action Plan

Part III: Supporting Pages
Management Needs
Comprehensive Grant Program (CGP)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

Year 1 FFY:___	Year 2 FFY:___		Year 3 FFY:___		Year 4 FFY:___		Year 5 FFY:___	
	Major Work Category*	Estimated Cost	Major Work Category*	Estimated Cost	Major Work Category*	Estimated Cost	Major Work Category*	Estimated Cost
See Annual Statement								
	Subtotal of Estimated Cost							

*Asterisk any work planned that is development specific and show the development no. in parenthesis.

Page ___ of ___

form HUD-52834

Instructions for Preparation of Form HUD-52834—Five-Year Action Plan

Report Submission: Prepare one form HUD-52834 for the entire PHA/IHA and submit to HUD as part of the submission of the original Comprehensive Plan in the first year of participation in the Comprehensive Grant Program (CGP). Thereafter, submit annually an updated form to eliminate the previous year and to add a new fifth year so that the form always covers the present five-year period beginning with the current year. Use as many pages of this form as necessasry to cover all proposed work.

Part I: Summary

Heading Instructions:

PHA/IHA Name—Enter the Public Housing Agency (PHA)/Indian Housing Authority (IHA) name.

Locality (City/County & State)—Enter the City/County and State where the PHA/IHA Central Office is located.

Original/Revision No.—Check the appropriate box. If a revision, enter the revision number, e.g., #1, #2, etc.

Year 1—Enter the current FFY.

Years 2 through 5—Enter each successive FFY.

A. Development Number/Name/Physical Improvements:

Enter the number and name, if any, of each development that will be allocated funding for physical improvements during the five-year period covered by this Action Plan.

Years 2 through 5

For each development entered in A., enter the estimated amount of CGP funds to be allocated for physical improvements (development accounts 1450 through 1475) during each year of years 2 through 5. If the PHA is submitting an Annual Statement covering all or a portion of year 2, the PHA should so indicate in the column for year 2.

B. Physical Improvements Subtotal:

Enter the estimated subtotal amount of CGP funds to be allocated for physical improvements during each year of years 2 through 5.

C. Management Improvements:

Enter the estimated amount of CGP funds to be allocated for management improvements, including those that are PHA-wide and/or development-specific, (development account 1408) during each year of years 2 through 5. **Note:** The estimated amount may not exceed 10% of the annual grant.

D. PHA-wide Nondwelling Structures and Equipment: Enter the estimated amount of CGP funds to be allocated for PHA-wide nondwelling structures and equipment during each year of years 2 through 5.

E. Administration:

Enter the estimated amount of CGP funds to be allocated for administrative expenses (development account 1410) during each year of years 2 through 5. Note: The estimated amount may not exceed 7% of the annual grant; up to 9% with prior HUD approval.

F. Other: Enter the estimated amount of CGP funds to be allocated for other expenses (development accounts 1411, 1415, 1430, 1440, 1495,) during each year of years 2 through 5.

G. Replacement Reserve:

Enter the estimated amount of CGP funds to be allocated to the replacement reserve (development account 1490) in accordance with the requirements of Handbook 7485.3.

H. Total CGP Funds:

Enter the total amount of CGP funds that is estimated to be made available for each year of years 2 through 5. This is the sum of A through G.

I. Total Non-CGP Funds: Enter the estimated amount of non-CGP funds (e.g., Community Development Block Grant funds, CIAP funds being reprogrammed for use under the CGP, etc.) to be allocated in support of the CGP during each year of years 2 through 5.

J. Grand Total: Enter the total of H and I.

Part II: Supporting Pages—Physical Needs

FFY:

Year 1—Enter the current FFY.

Years 2 through 5—Enter each successive FFY.

Development Number/Name:

Enter the development number (e.g., 1 - 5) and name, if any, of each development which will be funded in each year of years 2 through 5. Enter "PHA-wide" if PHA-wide nondwelling structures and equipment will be funded.

Major Work Category:

For each development entered or for PHA-wide, enter the major work categories for which CGP funding will be allocated in each year of years 2 through 5. The work categories should be descried in broad terms, such as kitchens, bathrooms, electrical, site, etc. A work category may encompass various components, e.g., the major work category of kitchens may include ranges, refrigerators, cabinets, floors, range hoods, etc. List the major work categories in priority order, taking into consideration the relative urgency of need, as identified on form HUD-52832, Physical Needs Assessment.

Estimated Cost:

For each major work category entered, enter the estimated hard cost that will be allocated in each year of years 2 through 5. Enter the subtotal for each year of years 2 through 5. This subtotal should not exceed the total of B and D on the Part I: Summary for each year of Years 2 through 5.

Part III: Supporting Pages—Management Needs

FFY:

Year 1—Enter the current FFY.

Years 2 through 5—Enter each successive FFY.

Major Work Category:

Enter the major work categories for which CGP funding will be allocated, including work identified through the Public Housing Management Assessment Program (PHMAP) for PHAs or the Administrative Capability Assessment (ACA) for IHAs, or through audits, HUD monitoring reviews or PHA self-assessments, in each year of years 2 through 5. The work categories should be described in broad terms, such as improve rent collection. A work category may encompass various components, e.g., staff training, hiring a consultant to develop a rent collection policy, automation, etc. List the major work categories in priority order, taking into consideration the relative urgency of need, as identified on form HUD-52833, Management Needs Assessment. If a particular work category is targeted to a specific development, e.g., conduct study to determine the feasibility of resident management, denote by an asterisk and enter the development number in parenthesis.

Estimated Cost:

For each major work category entered, enter the estimated cost that will be allocated in each year of years 2 through 5. Enter the subtotal for each year of years 2 through 5. This subtotal should not exceed the total of C on the Part I: Summary for each year of Years 2 through 5.

Local Government Statement

Comprehensive Grant Program (CGP)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. XXXX-XXXX (Exp. MM/DD/YY)

Public Reporting Burden for this collection of information is estimated to average 0.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (XXXX-XXXX), Washington, D.C. 20503. Do not send this completed form to either of these addresses.

As Chief Executive Officer of the unit of general local government/Indian tribe

known as ____,

in which the (name of Public Housing Agency (PHA) or Indian Housing Authority (IHA)) ______________________

____ operates,

I certify to the following:

1. The PHA/IHA developed the Comprehensive Plan/Annual Statement in consultation with local government officials/Indian tribal officials and with residents of the developments covered by the Comprehensive Plan/Annual Statement, in accordance with the requirements of the Comprehensive Grant Program;

2a. For PHAs, the Comprehensive Plan/Annual Statement is consistent with the unit of general local government's assessment of its low-income housing needs (as evidenced by its Comprehensive Housing Affordability Strategy (CHAS) under 24 CFR Part 91, if applicable), and that the unit of general local government will cooperate in providing resident programs and services; or

2b. For IHAs, the Comprehensive Plan/Annual Statement is consistent with the appropriate governing body's assessment of its low-income housing needs and that the appropriate governing body will cooperate in providing resident programs and services; and

3. The PHA's/IHA's proposed drug elimination activities are coordinated with and supportive of local drug elimination strategies and neighborhood improvement programs, if applicable. Where additional on-duty police are being funded under the Comprehensive Grant Program, such police will only provide additional security and protective services over and above those for which the local/tribal government is contractually obligated to provide under the Cooperation Agreement.

Note: The Comprehensive Plan includes the Action Plan.

Name of Chief Executive Officer:	Signature of Chief Executive Officer and Date: X

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

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PHA/IHA Board Resolution Approving Comprehensive Plan or Annual Statement

Comprehensive Grant Program (CGP)

U.S. Department of Housing
and Urban Development
Office of Public and Indian Housing

Acting on behalf of the Board of Commissioners of the below-named Public Housing Agency (PHA)/Indian Housing Authority (IHA), as its Chairman, I make the following certifications and agreements to the Department of Housing and Urban Development (HUD) regarding the Board's approval of (check one or more as applicable):

☐ Comprehensive Plan Submitted on ______________________

☐ Action Plan / Annual Statement Submitted on ______________________

☐ Amendments to Comprehensive Plan Submitted on ______________

☐ Amendments to Action Plan / Annual Statement Submitted on ______________________

I certify on behalf of the: (PHA/IHA Name) ____________________________________ that:

1. The PHA/IHA will comply with all policies, procedures, and requirements prescribed by HUD for modernization, including implementation of the modernization in a timely, efficient, and economical manner;
2. The PHA/IHA has established controls to ensure that any activity funded by the CGP is not also funded by any other HUD program, thereby preventing duplicate funding of any activity;
3. The PHA/IHA will not provide to any development more assistance under the CGP than is necessary to provide affordable housing, after taking into account other government assistance provided;
4. The proposed physical work will meet the modernization and energy conservation standards under 24 CFR 968.115 or 24 CFR 905.603;
5. The proposed activities, obligations and expenditures in the Annual Statement are consistent with the proposed or approved Comprehensive Plan of the PHA/IHA;
6. The PHA/IHA will comply with applicable civil rights requirements under 24 CFR 968.110(a) or 24 CFR 905.115, and, where applicable, will carry out the Comprehensive Plan in conformity with Title VI of the Civil Rights Act of 1964, the Fair Housing Act, and Section 504 of the Rehabilitation Act of 1973;
7. The PHA has adopted the goal of awarding a specified percentage of the dollar value of the total of the modernization contracts, to be awarded during subsequent FFYs, to minority business enterprises and will take appropriate affirmative action to assist resident-controlled and women's business enterprises under 24 CFR 968.110(b); or the IHA will, to the greatest extent feasible, give preference to the award of modernization contracts to Indian organizations and Indian-owned economic enterprises under 24 CFR 905.165;
8. The PHA/IHA has provided HUD with any documentation that the Department needs to carry out its review under the National Environmental Policy Act (NEPA) and other related authorities in accordance with 24 CFR 968.110(c), (d) and (m) or 24 CFR 905.120(a), (b), and (j), and will not obligate, in any manner, the expenditure of CGP funds, or otherwise undertake the activities identified in its Comprehensive Plan/Annual Statement, until the PHA/IHA receives written notification from HUD indicating that the Department has complied with its responsibilities under NEPA and other related authorities;
9. The PHA/IHA will comply with the wage rate requirements under 24 CFR 968.110(e) and (f) or 24 CFR 905.120(c) and (d);
10. The PHA/IHA will comply with the relocation assistance and real property acquisition requirements under 24 CFR 968.110(g) or 24 CFR 905.120(e);
11. The PHA/IHA will comply with the requirements for physical accessibility under 24 CFR 968.110(h) or 24 CFR 905.120(f);
12. The PHA/IHA will comply with the requirements for access to records and audits under 24 CFR 968.110(i) or 24 CFR 905.120(g);
13. The PHA/IHA will comply with the uniform administrative requirements under 24 CFR 968.110(j) or 24 CFR 905.120(h);
14. The PHA/IHA will comply with lead-based paint testing and abatement requirements under 24 CFR 968.110(k) or 24 CFR 905.120(i);
15. The PHA/IHA has complied with the requirements governing local/tribal government and resident participation in accordance with 24 CFR 968.320(b) and (c), 968.330(d) and 968.340 or 24 CFR 905.672(b), (c), and 905.678(d), and 905.684, and has given full consideration to the priorities and concerns of local/tribal government and residents, including any comments which were ultimately not adopted, in preparing the Comprehensive Plan/Annual Statement and any amendments thereto;
16. The PHA/IHA will comply with the special requirements of 24 CFR 968.310(d) or 24 CFR 905.666(d) with respect to a homeownership development; and
17. The PHA will comply with the special requirements of 24 CFR 968.235 with respect to a Section 23 leased housing bond-financed development.

Attested By: Board Chairman's Name: Board Chairman's Signature & Date: X	(Seal)

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Annual Statement/Performance and Evaluation Report
Part I: Summary
Comprehensive Grant Program (CGP)

U.S. Department of Housing
and Urban Development
Office of Public and Indian Housing

OMB Approval No. XXXX-XXXX (Exp. MM/DD/YY)

Public Reporting Burden for this collection of information is estimated to average 75.0 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (XXXX-XXXX), Washington, D.C. 20503. Do not send this completed form to either of these addresses.

PHA/IHA Name	Comprehensive Grant Number	FFY of Grant Approval

☐ Original Annual Statement ☐ Reserve for Disasters/Emergencies ☐ Revised Annual Statement/Revision Number ______ ☐ Performance and Evaluation Report for Program Year Ending ________

Line No.	Summary by Development Account	Total Estimated Cost		Actual Cost*	
		Original	Revised	Obligated	Expended
1	Total Non-CGP Funds				
2	1408 Management Improvements 1/				
3	1410 Administration 2/				
4	1411 Audit				
5	1415 Liquidated Damages				
6	1430 Fees and Costs				
7	1440 Site Acquisition				
8	1450 Site Improvement				
9	1460 Dwelling Structures				
10	1465.1 Dwelling Equipment—Nonexpendable				
11	1470 Nondwelling Structures				
12	1475 Nondwelling Equipment				
13	1495.1 Relocation Costs				
14	1490 Replacement Reserve				
15	Amount of Annual Grant (Sum of lines 2-14)				
16	Amount of line 15 Related to LBP Testing				
17	Amount of line 15 Related to LBP Abatement				
18	Amount of line 15 Related to Section 504 Compliance				

1/ Management Improvement cost may not exceed 10% of line 15.

2/ Administrative cost may not exceed 7% of line 15 (or 9% of line 15 for PHAs/IHAs having an unusually large geographic area). *to be completed at the end of each program

Signature of Executive Director and Date	Signature of Field Office Manager (or Regional Administrator in co-located office) and Date
X	X

Page 1 of 4

form HUD-52837 (12/31/91)
ref Handbook 7485.3

Annual Statement/Performance and Evaluation Report

Part II: Supporting Pages
Comprehensive Grant Program (CGP)

**U.S. Department of Housing
and Urban Development**
Office of Public and Indian Housing

Development Number/ Name or PHA-Wide	General Description of Proposed Work Items	Development Account Number	Estimated Cost			Funds Obligated *	Funds Expended *	Status of Proposed Work *
			Original	Revised *	Difference *			

*To be completed at the end of the program year.

Page ___ of ___

form HUD-52837

Annual Statement/Performance and Evaluation Report

Part III: Implementation Schedule
Comprehensive Grant Program (CGP)

U.S. Department of Housing
and Urban Development
Office of Public and Indian Housing

Development Number/ Name or PHA-Wide	Implementation Schedule						Reasons for Revised Target Dates
	Funds Obligated			Funds Expended			
	Original	Revised *	Actual *	Original	Revised *	Actual *	

*To be completed at the end of the program year

Page ___ of ___

form HUD-52837

Actual Comprehensive Grant Cost Certificate

Comprehensive Grant Program (CGP)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-XXXX (Exp. MM/DD/YY)

Public Reporting Burden for this collection of information is estimated to average 5.0 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (2577-XXXX), Washington, D.C. 20503. Do not send this completed form to either of these addresses.

PHA/IHA Name	Comprehensive Grant Number
	FFY of Grant Approval

The PHA/IHA hereby certifies to the Department of Housing and Urban Development as follows:

1. That the total amount of Modernization Cost (herein called the "Actual Modernization Cost") of the Comprehensive Grant, is as shown below:

A. Original Funds Approved	$
B. Revised Funds Approved	$
C. Funds Advanced	$
D. Funds Expended (Actual Modernization Cost)	$
E. Amount to be Recaptured (A–D)	$
F. Excess of Funds Advanced (C–D)	$

2. That all modernization work in connection with the Comprehensive Grant has been completed;
3. That the entire Actual Modernization Cost or liabilities therefor incurred by the PHA/IHA have been fully paid;
4. That there are no undischarged mechanics', laborers', contractors', or material-men's liens against such modernization work on file in any public office where the same should be filed in order to be valid against such modernization work; and
5. That the time in which such liens could be filed has expired.

Signature of Executive Director X	Date

For HUD Use Only

The Cost Certificate is approved for audit.

Approved for Audit (Director, Public Housing Division) X	Date

The audited costs agree with the costs shown above.

Verified (Director, Public Housing Division) X	Date
Approved (Field Office Manager or, in co-located office, Regional Administrator) X	Date

Previous Edition is Obsolete

Page ___ of ___

form HUD-52839 (12/31/91)
ref Handbook 7485.3

Instructions for Preparation of Form HUD-52839—Actual Comprehensive Grant Cost Certificate

General Instructions:

Prepare and submit to the HUD Field Office an original and one copy of Form HUD-52839 for each terminated or completed annual grant under the Comprehensive Grant Program (CGP).

Heading Instructions:

PHA/IHA Name—Enter the Public Housing Agency (PHA)/ Indian Housing Authority (IHA) name.

Comprehensive Grant Number—Enter the unique Comprehensive Grant Number for the grant for which this form is being submitted. This number is the same number as on Form HUD-52837, Annual Statement, for the same grant.

Federal Fiscal Year of Grant Approval—Enter the FFY in which the annual grant was originally approved.

Line Instructions:

Line 1A, Original Funds Approved—For the identified grant, enter the total CGP funds originally approved by HUD through a CGP Amendment to the Consolidated Annual Contributions Contract(s).

Line 1B, Revised Funds Approved—For the identified grant, enter the total revised CGP funds approved by HUD. This amount will generally be the same as the amount on Line 1A. This amount will be less than the amount on Line 1A where HUD is terminating the grant or otherwise recapturing grant funds.

Line 1C, Funds Advanced—For the identified grant, enter the total funds advanced by HUD. This amount may never exceed the amount on Line 1A and should be the same amount as on Line 1B.

Line 1D, Funds Expended—For the identified grant, enter the total funds expended (total cash disbursed) by the PHA/IHA. This amount may never exceed the amount on Line 1A and should be the same amount as on Line 1B.

Line 1E, Amount To Be Recaptured (A minus D)—For the identified grant, enter the amount to be recaptured by subtracting Line 1D from Line 1A.

Line 1F, Excess of Funds Advanced (C minus D)—For the identified grant, enter the excess of funds advanced by subtracting Line 1D from Line 1C; this is the amount to be remitted by the PHA/IHA to HUD. If Line 1D is greater than Line 1C, enter the figure in brackets; this is the amount of funds owed by HUD to the PHA/IHA.

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Comprehensive Grant Program (CGP) Amendment

To Consolidated Annual Contributions Contract or
To Mutual Help Consolidated Annual Contributions Contract

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

Whereas, (Public Housing Agency / Indian Housing Authority) ______________________________

______________________________ (herein called the "PHA/IHA")

and the United States of America, Secretary of Housing and Urban Development (herein called "HUD") entered into Consolidated Annual Contributions Contract(s) (ACC) Number(s) ______________________________

______________________________,

dated ______________; and/or Mutual Help Consolidated ACC(s) Number(s) ______________________________

______________________________,

dated ______________ (herein called the "ACCs");

Whereas, HUD has agreed to provide comprehensive grant assistance, upon execution of this Amendment, to the PHA/IHA in the amount to be specified below for the purpose of assisting the PHA/IHA in financing improvements to the physical condition of existing public/Indian housing developments and upgrades to the management and operation of such developments in order to ensure that such developments continue to be available to serve low-income families:

$ ______________________________ for Fiscal Year 19 ______
(the amount of comprehensive grant funds now being approved for this fiscal year);

$ ______________________________ for Fiscal Year 19 ______ for a combined
(the amount of comprehensive grant funds now being approved from prior fiscal years);

total of $ ______________________________ ; to be referred to under Comprehensive Grant

Number ______________________________, plus funds previously provided during this

fiscal year of $ ______________________________ for a combined

grand total of $ ______________________________.

Whereas, HUD and the PHA/IHA are entering into this Comprehensive Grant Program Amendment Number ______________.

Now Therefore, the ACCs are amended as follows:

1. The ACCs are amended to provide comprehensive grant assistance in the amounts specified above for modernization of PHA/IHA developments (including section 23 leased-housing bond financed, Mutual Help and Turnkey III). This amendment is a part of the ACCs.
2. The modernization work shall be carried out in accordance with all HUD regulations and other requirements applicable to the Comprehensive Grant Program.
3. In accordance with the HUD regulations, the Comprehensive Plan has been adopted by the PHA/IHA and approved by HUD, and may be amended from time to time. The modernization work shall be carried out as described in the Comprehensive Plan, including the Action Plan.
4. Subject to the provisions of Part II of the ACCs, and to assist in the modernization, HUD agrees to disburse to the PHA/IHA from time to time as needed, up to the amount of funding assistance specified above.
5. The PHA/IHA shall continue to operate each development (for section 23 leased-housing bond financed, after the expiration of the respective lease terms, the PHA shall continue to operate each development) as low-income housing in compliance with the ACCs, as amended, the United States Housing Act of 1937 (the "Act") and all HUD regulations and requirements for a period of twenty years after the last disbursement of comprehensive grant assistance. However, the provisions of Section 308(B) and (C) of the ACC (Article 14.2 of the Mutual Help Consolidated ACC) shall remain in effect for so long as HUD determines there is any outstanding indebtedness of the PHA/IHA to HUD which arose in connection with any development(s) under the ACCs and which is not eligible for forgiveness, and provided further that, for a period of ten years following the last payment of operating subsidy to the PHA/IHA, no disposition of any development covered by this amendment shall occur unless approved by HUD.
6. Section 404 of Part II of the ACC (Article 4.2 of the Mutual Help Consolidated ACC) shall not be applicable to the Comprehensive Grant.

7. If the PHA/IHA does not comply with any of its obligations under this Amendment, HUD may direct the PHA/IHA to terminate all work described in the Annual Statement. In such case, the PHA/IHA shall only incur additional costs with HUD approval.
8. Implementation or use of funding assistance provided under this Amendment is subject to attached corrective action order(s) (mark one): ☐ Yes ☐ No
9. The Grantee acknowledges its responsibility for adherence to this Amendment by subgrantees to which it makes funding assistance hereunder available.

The parties have caused this Amendment to be effective as of the date of execution on behalf of the United States, as stated below.

U.S. Department of Housing and Urban Development	By: Title:	Date:
PHA/IHA Executive Director	By: Title:	Date:

Annual Statement/Performance and Evaluation Report on Replacement Reserve

Comprehensive Grant Program (CGP)

U. S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. xxxx-xxxx (exp.mm/dd/yy)

Public reporting burden for this collection of information is estimated to average 5.0 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (**must be the same as the OMB No.**), Washington, D.C. 20503. Do not send this completed form to either of these addressees.

Part I: Summary

PHA/IHA Name:

Submission: (mark one)
☐ Original Annual Statement ☐ Revised Annual Statement
☐ Performance & Evaluation for Program Year ending:

Section 1: Replacement Reserve Status Must be completed each year there is balance in the replacement reserve.	Estimated	Actual
1. Current Year Replacement Reserve Interest Earned (account 6200/1420.7)		
2. Current Year Replacement Reserve Withdrawal (equals line 13 of section 2, below)		
3. Net Impact on Replacement Reserve (line 1 minus line 2; equals line 15 of section 2, below)		
4. Current Year Funding for Replacement Reserve (line 14 of form HUD-52837)		
5. Replacement Reserve Balance at End of Previous Program Year (account 2830)		
6. Replacement Reserve Balance at End of Current Program Year (line 4 + line 5 + (or -) line 3) (account 2830)		

PROOF

Section 2: Replacement Reserve Withdrawal Report Complete this section if there is Withdrawal/Expenditure activity.	Current Program Year Estimated Cost		Current Program Year Actual Cost
Summary by Account (6200 subaccount)	Column 1 Original	Column 2 Revised	Column 3 Expended
1. Reserved			
2. 1408 Management Improvements			
3. 1410 Administration			
4. 1415 Liquidated Damages			
5. 1430 Fees & Costs			
6. 1440 Site Acquisition			
7. 1450 Sites Improvements			
8. 1460 Dwelling Structures			
9. 1465 Dwelling Structures/Equipment			
10. 1470 Nondwelling Structures			
11. 1475 Nondwelling Equipment			
12. 1495 Relocation Costs			
13. Replacement Reserve Withdrawal (sum of lines 2 -12)			
14. 1420.7 Replacement Reserve Interest Income	( )	( )	( )
15. Net Withdrawal from Replacement Reserve (lines 13 - 14)			
16. Amount of line 13 related to LBP Testing			
17. Amount of line 13 related to LBP Abatement			
18. Amount of line 13 related to Section 504 Compliance			
19. Amount of line 13 related to Emergencies			

Signature of the Executive Director & Date:

X

Signature of the Field Office Manager & Date:
(or, in co-located offices, the Regional Administrator)

X

form HUD-52842 (12/30/91)
ref. Handbook YYYY

Instructions
Annual Statement/Performance and Evaluation Report on Replacement Reserve

For the Annual Statement:

Prepare form HUD-52842 once the CGP replacement reserve has been established by the PHA and funded by HUD. Submit one form HUD-52842 annually with form HUD-52837, Annual Statement/Performance and Evaluation Report, as long as the PHA/IHA maintains a balance in the replacement reserve or has withdrawal/expenditure activity from the replacement reserve.

Form HUD-52482 is divided into two parts. Section 1 of Part I (Replacement Reserve Status) provides a report of the current year interest earned, current year withdrawals, current year funding of the replacement reserve, and ending balance of the replacement reserve. Section 2 of Part I (Replacement Reserve Withdrawal Report) is only completed if the PHA has withdrawn from the replacement reserve and has expenditure activity. Part II is the same format as Part II of form HUD-52837 and provides a current year report by development account of the use of the replacement reserve withdrawal(s).

For the Performance and Evaluation Report:

At the end of each program year, complete the actual columns for Part I and Part II, where there has been expenditure activity.

Part I: Summary

PHA/IHA Name - Enter the Public Housing Agency (PHA)/Indian Housing Authority (IHA) name.

Type of Submission - Check the appropriate box to indicate whether the submission is the Original Annual Statement, the Revised Annual Statement (and revision number), or the Performance and Evaluation Report for Program Year Ending (enter date; e.g., 6/30/93).

Section 1 - Replacement Reserve Status:

Line 1 - Current Year Replacement Reserve Interest Earned (Account 6200/1420.7) - Enter the estimated amount of interest to be earned on the replacement reserve during the current program year in the "Estimated" column. If Section 2 is completed, this amount must equal Line 14, Column 1 (or 2, if applicable) of Section 2. At the end of the program year, enter the actual interest earned in the "Actual" column. This amount must equal Line 14, Column 3 of Section 2.

Line 2 - Current Year Replacement Reserve Withdrawal - Enter the estimated amount to be withdrawn from the replacement reserve during the current program year in the "Estimated" column. If Section 2 is completed, this amount must equal Line 13, Column 1 (or 2, if applicable) of Part II. At the end of the program year, enter the actual withdrawal amount in the "Actual" column. This amount must equal Line 13, Column 3 of Section 2.

Line 3 - Net Impact on Replacement Reserve - Enter the difference between Line 1 and Line 2. This amount must equal Line 15 of Section 2.

Line 4 - Current Year Funding for Replacement Reserve - Enter the amount of the increase to the replacement reserve in the appropriate column. This amount must equal Line 14 of Part I of form HUD-52837.

Line 5 - Replacement Reserve Balance at End of Previous Program Year - Enter the replacement reserve balance from the previous program year (Account 2830). This amount will be the same for the "Estimated" and "Actual" columns.

Line 6 - Replacement Reserve Balance at End of Current Program Year - Enter the sum of Lines 4 and 5 plus or minus Line 3. For the "Actual" column, the number entered must agree with the year end closing balance of the replacement reserve.

Section II - Replacement Reserve Withdrawal Report

(Must be completed if replacement reserve funds have been withdrawn in current year.)

Line 1 - Reserved - Do not use at this time.

Lines 2 - 12 - Summary by Account

Column 1 - Original Current Program Year Estimated Cost -
For each line, enter the original current program year estimated cost for all work to be undertaken in a particular development account as a result of the current year withdrawal of funds from the replacement reserve.

Column 2 - Revised Current Program Year Estimated Cost -
For each line, enter any current program year cost decrease or increase after initial approval by HUD.

Column 3 - Expended Current Program Year Actual Cost -
For each Line, enter the actual amount of funds expended as of the end of the current program year.

Note: If the amount expended in Column 3 is less than the budgeted amount in Column 1 (or 2, if applicable), then the PHA shall include the unexpended amount in the subsequent years estimate or provide an explanation of the change from the estimate.

PROOF

Line 13 - Replacement Reserve Withdrawal -
Enter the sum of lines 2 through 12. The amount in Column 1 (or 2, if applicable) must equal the estimated amount entered on Line 2 of Section 1. The amount entered in Column 3 must equal the actual amount entered on Line 2 of Section 1.

Line 14 - Replacement Reserve Interest Income - Enter the interest income earned on replacement reserve (bracketed). The amount entered in Column 1 (or 2, if applicable) must equal the estimated amount entered on Line 1 of Section 1. The amount entered in Column 3 must equal the actual amount entered on Line 1 of Section 1.

Line 15 - Net Withdrawal from Replacement Reserve - Subtract from Line 13, the amount inside the brackets on Line 14 and enter on Line 15. The amount in Column 1 (or 2, if applicable) must equal the estimated amount of Line 3 of Section 1. The amount entered in Column 3 must equal the actual amount entered on Line 3 of Section 1.

Sample:

Line 13 - Replacement Reserve Withdrawal. $10,000
Line 14 - Replacement Reserve Interest Income............(500)
Line 15 - Net Withdrawal from Replacement Reserve. .$ 9,500

Line 16 - Amount of Line 13 Related to Lead-Based Paint (LBP) Testing - Enter the amount of line 13 related to LBP testing in Column 1 (or 2, if applicable). At the end of the program year, enter the actual amount in Column 3.

Line 17 - Amount of Line 13 Related to LBP Abatement - Enter the amount of line 13 related to LBP abatement in Column 1 (or 2, if applicable). For example, if windows are being replaced, estimate the portion of the funding which is directly related to LBP abatement. At the end of the program year, enter the actual amount in column 3.

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Line 18 - Amount of Line 13 Related to Section 504 Compliance - Enter the amount of line 13 related to Section 504 compliance in Column 1 (or 2, if applicable). At the end of the program year, enter the actual amount in Column 3.

Line 19 - The PHA/IHA shall exhaust its replacement reserve before being eligible to apply for funding for emergencies from the $75 million reserve. Where applicable, enter the amount of the replacement reserve to be used for emergencies in Column 1 (or 2, if applicable). At the end of the program year, enter the actual amount in Column 3.

Part II: Supporting Pages

Development Number/Name or PHA-wide - Enter the 11-digit alpha numeric code of the development (e.g., VA36P030-001) or the abbreviated code (e.g., VA-30-1) where the work items will be undertaken. PHA-wide activity, enter "PHA-wide" and a short title of the activity (e.g., PHA-wide rent collection).

General Description of Proposed Work Items - For each development entered, enter a general description of all work items (physical or management, as applicable) that will be undertaken at that development with the available funding before listing work items to be undertaken at other developments. After listing all work items for all developments being funded, enter a general description of PHA-wide activities, such as management improvements, administrative costs, equipment, etc. When work items are subsequently deleted, draw a line through the General Description, Development Account Number, and Estimated Cost. When work items are subsequently added, enter the new work item under the appropriate development number. Enter the quantity of the work item as a percentage or whole number. Do not specify the per unit cost or quality of materials.

Development Account Number - For work items that will be funded from replacement reserves funds, enter the appropriate development account which corresponds to the work item described under the General Description of Proposed Work Items column. For appropriate development accounts, refer to Appendix 4:1 of Handbook 7485.3, as revised.

Estimated Cost - For each work item described, enter the Original Estimated Cost. Then enter a subtotal for each development. Also, enter the Original Estimated Cost for each PHA-wide activity and a grand total for Part II. Where the estimated cost is revised, enter a Revised Estimated Cost as appropriate. Enter the difference between the Original and Revised Estimated Costs.

PROOF

Status of Proposed Work - At the end of each program year, complete this section and submit to HUD for the Performance and Evaluation Report. For each work item listed, prepare a brief description of the status of the item, e.g., work completed, contract awarded on 5/2/93, etc. Explain the addition, deletion or modification of any work items, such as the addition of any emergency work.

[FR Doc. 92-2299 Filed 1-30-92; 8:45 am]

BILLING CODE 4210-33-C

Office of Administration

[Docket No. N-92-3383]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposals.

ADDRESS: Interested persons are invited to submit comment regarding these proposals. Comments should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708-0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collections of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the Agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: January 17, 1992.

John T. Murphy,

Director, Information Resources Management Policy and Management Division.

Proposal: HUD Acquisition Regulation (FR-2473).

Office: Administration.

Description of the need for the information and its proposed use: The HUD Acquisition Regulation was issued to implement and supplement the Federal Acquisition Regulation. The information collection required of the public is solely in connection with the procurement process.

Form number: HUD-770, HUD-444.1, and HUD-661.1.

Respondents: Individuals or Households, State or Local Governments, Businesses or Other For-Profit, Non-Profit Institutions, and Small Businesses or Organizations.

Frequency of submission: On Occasion.

Reporting burden:

Information Collection	No. of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Preparation of Consolidated Supply Program Bid	300		1		8		2,400
Organizational Conflict of Interest Certification	300		1		.02		6
Organization Conflicts of Interest Clause	5		1		.5		2.5
Proposal Content Outline	300		1		195		58,500
Determination of Award Fee Earned	8		1		2		16
Key Personnel	30		1		4		120
Clearance of Personnel	5		1		5		25
Project Management System	800		1		5		4,000
Contract Employee Travel	50		1		.5		25
Report of Inventions and Subcontracts	1		1		.2		.2
Contractor's Release and Assigament of Rebates	150		1		.5		75
Certification	300		1		.1		30
Proposal Preparation	60		1		1		60
Subcontracting Plan	50		1		.5		25
Security Information	60		1		1		60

Total Estimated Burden Hours: 66,185.

Status: Revision.

Contact: Robert Lloyd, HUD, (202) 708-0294; Jennifer Main, OMB, (202) 395-6880.

Date: January 17, 1992.

Proposal: Comments on the Title V/Surplus Property Program (FR-2620).

Office: Community Planning and Development.

Description of the need for the information and its proposed use: This one-time survey will determine what potential users know of the program, and give the Department guidance on how to improve the dissemination of information.

Form number: None.

Respondents: State or Local Governments, Businesses or Other For-Profit and Non-Profit Institutions.

Frequency of submission: One-time.

Reporting Burden:

	No. of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Survey	100		1		1		100

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Total estimated burden hours: 100.

Status: New.

Contact: William A. Molster, HUD, (202) 708–4300; Jennifer Main, OMB, (202) 395–6880.

Date: January 17, 1992.

Proposal: Requisition for Development or Modernization Funds.

Office: Public and Indian Housing.

Description of the need for the information and its proposed use: The 1937 Housing Act, as amended, authorizes the Department to assist Public Housing Agencies (PHAs) and Indian Housing Agencies (IHAs) in developing and rehabilitating lower income housing. The Form HUD–5402A is submitted by PHA/IHA to obtain financial assistance.

Form number: HUD-5402A.

Respondents: State or Local Governments.

Frequency of submission: Other.

Reporting Burden:

	No. of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD-5402A	2,300		25		.333		19,147

Total estimated burden hours: 19,147.

Status: Reinstatement.

Contact: William Thorson, HUD, (202) 708–4703; Jennifer Main, OMB, (202) 395–6880.

Date: January 17, 1992.

[FR Doc. 92–2318 Filed 1–30–92; 8:45 am]

BILLING CODE 4210-01-M

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-92-1917; FR-2934-N-63]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

ADDRESSES: For further information, contact James N. Forsberg, room 7262, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–4300; TDD number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Steward B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A–10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 56 FR 23789 (May 24, 1991).

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to James N. Forsberg at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

All properties in this week's Notice are located on Air Force bases that are being closed pursuant to the 1988 Base Closure and Realignment Act. The Department of the Air Force is the landholding and disposal agency. For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact: U.S. Air Force: John Carr, Realty Specialist, HQ–AFBDA/BDR, Pentagon, Washington, DC 20330–5130; (703) 693–0674; (This is not a toll-free number.)

Dated: January 24, 1992.

Paul Roitman Bardack,

Deputy Assistant Secretary for Economic Development.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 01/31/92

Arkansas—Eaker Air Force Base

Eaker Air Force Base is located in Blytheville, Arkansas 72317–5000. All the properties will be excess to the needs of the Air Force on or about December 15, 1992. Properties shown below as suitable/available will be available at that time. The Air Force has advised HUD that some properties may be available for interim lease for use to assist the homeless prior to that date.

The base covers 2,700 acres and contains 928 housing units and 199 government-owned buildings. The properties that HUD has determined suitable and which are available include various types of housing; office and administration buildings; indoor and outdoor recreational facilities; warehouses and multi-use buildings; child care centers; maintenance, storage and other more specialized structures.

Suitable/Available Properties

Property Numbers: 199210040–199210042
Type Facility: Housing—818 duplex units with two, three and four bedrooms; wood with brick veneer fronts; 10 single family houses with four and five bedrooms; and 25–4 unit buildings with two story four bedroom units; four playgrounds.

Property Number: 199210045
Type Facility: Office/administration—30 buildings; 188 to 49,000 sq. ft.; one and two story; concrete block, metal, shingle or masonry construction.

Property Numbers: 199210046–199210047
Type Facility: Recreation—20 outdoor areas which includes athletic fields (track, softball, baseball), swimming pools, golf courses, volleyball court, basketball courts, tennis court. Eight indoor facilities which includes gym, theatre, library, bowling, youth and recreation centers, hobby shop; concrete block, masonry or metal/brick construction.

Property Numbers: 199210048–199210055
Type Facility: Temporary living quarters and dorms—8 buildings; 3,414 to 41,000 sq. ft.; one and two story; wood/brick veneer and brick masonry buildings.

Property Numbers: 199210056, 199210072
Type Facility: Warehouses/multi-use buildings—39; metal, concrete block, shingle, wood or plywood frame; one and two story; 64 to 45,960 sq. ft.; includes cold storage facilities, maintenance shops, traffic management facility, storage shed, thrift shops and other specialty type facilities.

Property Numbers: 199210057–199210059
Type Facility: Hospitals—3 buildings; one story concrete block; 1,084 sq. ft. animal clinic; 5,249 sq. ft. dental clinic; and 54,089 sq. ft. composite medical bldg.

Property Numbers: 199210060–199210062
Type Facility: Child care centers—3 buildings; 2,098 to 8,365 sq. ft.; brick, concrete block and hadite block construction.

Property Numbers: 199210063–199210065, 199210073
Type Facility: Stores and services—4 buildings; 4,299 sq. ft. exchange service station; 32,925 sq. ft., one story concrete block exchange sales store; 3,370 sq. ft., one story wood frame packaging store; 38,575 sq. ft., one story concrete block/metal commissary.

Property Number: 199210066
Type Facility: Airfield related buildings—14; 96 to 49,000 sq. ft.; shingle, metal or concrete block structures, e.g. hangars, aircraft general purpose bldgs., jet engine maintenance shops, control centers.

Property Number: 199210068
Type Facility: Vehicle maintenance facilities—3; 2,032 to 29,350 sq. ft.; one story metal frame buildings.

Property Number: 199210069
Type Facility: Fuels/related storage facilities—40 buildings; steel, fiberglass and porcelain type; e.g. service stations, diesel storage, pump stations, jet fuel storage.

Property Number: 199210070
Type Facility: Hazardous storage buildings—6; 96 to 3,000 sq. ft.; one story metal structures.

Property Number: 199210071
Type Facility: Munitions facilities—21 buildings; 412 to 4,864 sq. ft.; concrete block; storage igloos and magazines.

Property Number: 199210074
Type Facility: Fire Station—Building 100; 15,717 sq. ft.; concrete masonry/asbestos cement shingles frame.

Property Number: 199210075
Type Facility: Chapel—Building 525; 17,602 sq. ft.; one story frame with brick veneer.

Property Numbers: 199210076–199210077
Type Facility: Laboratories—2 buildings; 4,200 sq. ft. precision measurement equipment lab; and 3,775 sq. ft. audio-visual photo lab.

Property Number: 199210078
Type Facility: Bank; 2,367 sq. ft.; one story concrete block; lease restrictions.

Property Number: 199210079
Type Facility: Land; 1,962 acres; restrictive agricultural lease.

Unsuitable Properties

Property Number: 199210067
Type Facility: Detached latrines—3; 264 sq. ft. concrete block structures.

Property Number: 199210043
Type Facility: Housing—23 buildings; cracked foundations, therefore, structural deficiencies.

Louisiana—England Air Force Base

England Air Force Base is located in Alexandria, Louisiana 71311–5000. All the properties will be excess to the needs of the Air Force on or about December 15, 1992. Properties shown below as suitable/available will be available at that time. The Air Force has advised HUD that some properties may be available for interim lease for use to assist the homeless prior to that date.

The base covers 2,282 acres and contains 294 housing units and 193 government-owned buildings. The properties that HUD has determined suitable and which are available include one and two story family housing; office and administration buildings; recreational facilities and areas; educational, business and commercial buildings; maintenance, storage and other specialized structures.

Suitable/Available Properties

Property Numbers: 199210080–199210081
Type Facility: Housing—294 buildings with 598 dwelling units; one and two story; wood or masonry frame; 1,190 to 6,701 sq. ft.

Property Number: 199210082
Type Facility: Office and administration—28 buildings; 228 to 40,006 sq. ft.; one and two story; wood, brick, block or masonry frame; presence of asbestos in several structures.

Property Numbers: 199210083–199210084
Type Facility: Recreation—18 facilities and 10 parcels of land; i.e. swimming pools, gym, theatre, riding stables, bowling, library, golf course, arts and crafts center, baseball, soccer, and softball fields, track and tennis court; presence of asbestos in some structures.

Property Number: 199210085
Type Facility: Dorms and dining areas—14 buildings; 3,902 to 25,715 sq. ft.; brick or masonry frame; one, two, and three story; presence of asbestos in some structures; includes dorms, officers club, NCO club and dining hall.

Property Number: 199210086

Type Facility: Educational/training—14 buildings; 740 to 45,716 sq. ft.; wood or masonry frame; one and two story; presence of asbestos in a few structures; includes classrooms, child care center, school, education office and field training facility.

Property Number: 199210087

Type Facility: Hospitals—3 related buildings—medical storage, hospital and bio environment; metal or masonry frame; presence of asbestos in hospital.

Property Number: 199210088

Type Facility: Business and Commercial—6 buildings; 1,925 to 34,326 sq. ft.; masonry frame and possible asbestos in the commissary; other structures include mini mall, photo lab, post office, service station and base package store.

Property Number: 199210089

Type Facility: Storage/Warehouses—38 buildings, including igloos, supply and equipment warehouses, records storage, commissary warehouse, retail exchange warehouse, cold storage and open storage facilities; 225 to 60,960 sq. ft.; one story; wood, block, metal, brick or concrete construction; presence of asbestos in several structures.

Property Number: 199210090

Type Facility: Maintenance shops—20 buildings; 228 to 34,176 sq. ft.; one story; block, metal or steel construction; presence of asbestos in several structures.

Property Number: 199210091

Type Facility: Airfield related facilities—36 buildings including vehicle fuel station, petroleum operations building, aircraft general purpose, control center, shop avionics, air freight terminal, etc.; 240 to 79,537 sq. ft.; block, metal, wood, concrete or masonry frame; presence of asbestos in some structures.

Property Number: 199210092

Type Facility: Fire facility—Building 500; 13,658 sq. ft.; one story masonry frame; presence of asbestos.

Property Number: 199210093

Type Facility: Chapel—Building 1601; 11,484 sq. ft.; one story masonry frame.

Property Number: 199210094

Type Facility: Land, airfield, runways—25 parcels; 10 to 398,099 square yards; concrete or asphalt.

Unsuitable Properties

Property Number: 199210095

Type Facility: Fuel storage containers—14 hazardous storage containers.

California—Mather Air Force Base

Mather Air Force Base is located in Sacramento County, California, 95655–5000. All the properties will be excess to the needs of the Air Force on or about September 30, 1993. Properties shown below as suitable/available will be available at that time. The Air Force has advised HUD that some properties may be available for interim lease for use to assist the homeless prior to that date.

The Base consists of approximately 5715 acres, 315 Government-owned buildings and 1271 housing units that have been reviewed by HUD for suitability for use to assist the homeless. The properties that HUD has determined suitable and which are available include various types of housing; office and administrative buildings; recreational, maintenance, and storage facilities; and other more specialized structures.

Suitable/Available Properties

Property Numbers: 199210017–199210020

Type Facility: Housing—207 buildings/414 units Wherry duplexes (two to three bedrooms); 857 family houses (one to four bedrooms); buildings have reinforced concrete block, wood and stucco frame construction; presence of asbestos.

Property Number: 199210021

Type Facility: Temporary Living Quarters—18 buildings; one, two, and three story wood, concrete block and stucco structures; presence of asbestos.

Property Number: 199210022

Type Facility: Office/Administration—60 buildings; one, two and three story structures; presence of asbestos.

Property Number: 199210023

Type Facility: Recreation—32 facilities including theater, gymnasium, library, bowling alley, recreation center, arts and crafts center, youth center, pools, bath houses, museum buildings; presence of asbestos.

Property Number: 199210024

Type Facility: Aircraft and Airport Related Facilities—33 buildings; one to two story structures including hangars, storage facilities and maintenance shops; presence of asbestos.

Property Number: 199210025

Type Facility: Maintenance and Engineering Facilities—36 buildings; one story structures including storage, shop and maintenance buildings; presence of asbestos.

Property Number: 199210026

Type Facility: Training Facilities—15 buildings; one to two story concrete, wood and metal classroom/education buildings; presence of asbestos.

Property Number: 199210027

Type Facility: Stores and Services—7 buildings; one story structures including stores, service station exchange and cold storage building; presence of asbestos.

Property Number: 199210028

Type Facility: Chapels—2 buildings; one story concrete block and masonry concrete structures; presence of asbestos.

Property Number: 199210029

Type Facility: Chapels—2 fire facilities and 2 fire stations; presence of asbestos.

Property Number: 199210030

Type Facility: Audio Visual—3 buildings; one story photo lab and training aid shops; presence of asbestos.

Property Number: 199210031

Type Facility: Miscellaneous—6 buildings; one story child care centers, correction facility, dining and mess halls; presence of asbestos.

Property Number: 199210032

Type Facility: Storage Facilities—61 buildings; one story metal, steel, wood or concrete storage buildings or sheds; presence of asbestos.

Property Number: 199210033

Type Facility: Warehouses—7 buildings; one to two story structures; presence of asbestos.

Property Number: 199210034

Type Facility: Vehicle Shops—6 buildings; one story concrete block, wood, steel frame and metal shops; presence of asbestos.

Property Number: 199210035

Type Facility: Traffic Check House—1 building; two story concrete block structure.

Property Number: 199210036

Type Facility: Fuel Facilities—8 buildings; one story structures.

Property Number: 199210037

Type Facility: Explosives and Munitions Facilities—5 buildings; one story concrete or concrete block storage structures.

Property Number: 199210038

Type Facility: Hazardous Storage Facilities—11 buildings; one story metal storage structures.

Property Number: 199210039

Type Facility: Land—Recreation Areas and Airfield Properties including softball/football/soccer fields, running track, riding stables, golf course, taxiway and runways, (approximately 5716 acres).

South Carolina—Myrtle Beach Air Force Base

Myrtle Beach Air Force Base is located in Horry County, South Carolina 29579–5000. All the properties will be excess to the needs of the Air Force on or about March 31, 1993. Properties shown below as suitable/available will be available at that time. The Air Force has advised HUD that some properties may be available for interim lease for use to assist the homeless prior to that date.

The base covers approximately 3,800 acres, 190 Government-owned buildings and 448 residential buildings with 800 units of housing that have been reviewed by HUD for suitability for use to assist the homeless. The properties that HUD has determined suitable and which are available include various types of housing; office and administrative buildings; recreational, maintenance, and storage facilities; and other more specialized structures.

Suitable/Available Properties

Property Number: 199210001

Type Facility: Housing—448 buildings with a total of 800 dwelling units; two, three, and four bedroom single family dwellings and duplexes with attached carports.

Property Number: 199210002

Type Facility: Dormitories/Quarters—13 buildings; two to three story masonry and block structures.

Property Number: 199210003

Type Facility: Miscellaneous—14 buildings; one to two story structures including a chapel, theater, recreation center, child care centers, retail sales stores and dining hall.

Property Number: 199210004

Type Facility: Hospital—1 three story base hospital and 6 one story medical support buildings.

Property Number: 199210005

Type Facility: Office/Administration—53 buildings; one to two story modular, block, wood and brick structures.

Property Numbers: 199210006–199210008

Type Facility: Recreation—15 buildings and land including bath houses, bowling center, gymnasium, golf course buildings, three soccer fields, six tennis courts, three softball fields, four youth ball fields, track, campground, golf course and driving range.

Property Number: 199210009

Type Facility: Utility Type Facilities—45 buildings; one story structures including warehouses, shops and sheds.

Property Number: 199210010

Type Facility: Security—3 police buildings; one story masonry structures including a jail.

Property Number: 199210011

Type Facility: Storage—15 buildings; one story metal, concrete and masonry ammunition storage structures.

Property Numbers: 199210012–199210013

Type Facility: Airfield and Related Properties—25 support buildings and land including hangars, maintenance shops, fire station, eight-story control tower, runways, taxiways and aprons.

Property Numbers: 199210014–199210015

Type Facility: Land—approximately 17 acres used as a mobile home park and 1678 acres of forest.

Unsuitable Properties

Property Number: 199210016

Type Facility: Small Arms building

Reason: Extensive Deterioration.

California—George Air Force Base

George Air Force Base is located in San Bernardino County, California, 92394–5000. All the properties will be excess to the needs of the Air Force on or about December 31, 1992. Properties shown below as suitable/available will be available at that time. The Air Force has advised HUD that some properties may be available for interim lease for use to assist the homeless prior to that date.

The Base covers 5,340 acres and contains 732 individual properties that have been reviewed by HUD for suitability for use to assist the homeless. The 666 properties that HUD has determined suitable and which are available include various types of housing; office and administrative buildings; recreational, maintenance, and storage facilities; and other more specialized structures.

Suitable/Available Properties

Property Numbers: 199120001–199120420

Type Facility: Housing—420 buildings with a total of 1,636 dwelling units; buildings have 1, 2, 3, 4, 6, or 8 units each; wood/stucco frame construction; possible asbestos

Property Numbers: 199120421–199120467, 199120470–199120473

Type Facility: Office/administration—51 buildings ranging in size from 200 sq. ft. on 1 floor to 56,600 sq. ft. on 3 floors; wood or concrete block construction; several trailers; possible asbestos

Property Numbers: 199120474–199120483, 199120485–199120505

Type Facility: Recreation—21 buildings and 10 parcels of land, including theatre, recreation center, bowling center, gym, library, craft center, shop, youth center, golf course buildings, pools, bathhouses; 7 baseball, softball, and soccer fields; track; golf course; driving range; possible asbestos

Property Numbers: 199120506–199120508, 199120511–199120520, 199120527–199120547

Type Facility: Temporary living quarters, dorms, lodges, and ancillary sheds—34 buildings; 1 and 2 story wood, concrete, and concrete block structures; 4700 sq. ft. to 25000 sq. ft. for living quarters; 380 sq. ft. to 2400 sq. ft. for sheds; possible asbestos

Property Numbers: 199120548–199120587

Type Facility: Aircraft and airport related facilities—40 structures including hangers, shops, tower, terminal, lab, docks, storage, control center, navigation station, runways; sizes up to 86,000 sq. ft.; possible asbestos

Property Numbers: 199120588–199120597, 199120599–199120606

Type Facility: Maintenance and engineering facilities—20 buildings; concrete and wood; 200 sq. ft. to 17,000 sq. ft.; possible asbestos

Property Numbers: 199120609–199120618

Type Facility: Training facilities—10 buildings; education center and 9 classroom buildings; concrete and wood; 1200 sq. ft. to 16,800 sq. ft.; possible asbestos

Property Numbers: 199120619–199120630

Type Facility: Stores and services—12 buildings; 10 stores and 2 gas stations; wood and concrete; 1800 sq. ft. to 30,700 sq. ft.; possible asbestos

Property Numbers: 199120631–199120632

Type Facility: Chapels—2 buildings; 4800 sq. ft. wood; 24,100 sq. ft. concrete; possible asbestos

Property Number: 199120633

Type Facility: Hospital—3 story, concrete block, 147,000 sq. ft.; possible asbestos

Property Numbers: 199120634–199120635

Type Facility: Fire facilities—2 buildings; fire station and command center; possible asbestos

Property Numbers: 199120636–199120638

Type Facility: Audio visual and photo lab—3 buildings; wood and concrete; 1800 sq. ft. to 2300 sq. ft.; possible asbestos

Property Numbers: 199120639–199120645

Type Facility: Vehicle shops—7 buildings; concrete; 74 sq. ft. to 33,000 sq. ft.; possible asbestos

Property Numbers: 199120646–199120655

Type Facility: Misc.—10 buildings; wood and concrete; 1 story; dining halls, mess halls, food service, child care centers; 1800 sq ft to 19,000 sq ft; possible asbestos

Property Numbers: 199120656–199120666

Type Facility: Communications/electronic—11 buildings; concrete block and wood; 1 story shops and

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sheds; 108 sq ft to 10,200 sq ft; possible asbestos

Property Numbers: 199120667–199120678
Type Facility: Warehouses—12 buildings; 1124 sq. ft. to 70,000 sq. ft.; wood, concrete, and concrete block; possible asbestos

Suitable/Unavailable Properties

Property Numbers: 199120468–199120469
Type Facility: Office—2 one story wood structures; possible asbestos

Property Number: 199120484
Type Facility: Recreation—one story wood structure; possible asbestos

Property Numbers: 199120509–199120510, 199120521–199120526
Type Facility: Temporary living quarters—8 one story wood structures; possible asbestos

Property Number: 199120598
Type Facility: Maintenance and engineering—one story wood structure; possible asbestos

Unsuitable Properties

Property Number: 199120679
Type Facility: Small arms
Reason: Within 2000 ft. of flammable or explosive material

Property Numbers: 199120680–199120687
Type Facility: Hazardous storage facilities—8 buildings
Reason: Within 2000 ft. of flammable or explosive material

Property Numbers: 199120688–199120713
Type Facility: Explosives and munitions facilities—26 buildings
Reason: Within 2000 ft. of flammable or explosive materials

Property Numbers: 199120714–199120732
Type Facility: Fuel facilities—19 structures
Reason: Within 2000 ft. of flammable or explosive materials

Illinois—Chanute Air Force Base

Chanute Air Force Base is located in Rantoul, Champaign, County, Illinois, 61866. The 123 properties listed below were reported excess to the needs of the Air Force in 1990. They are presently vacant and available for application for use to assist the homeless. The remainder of the approximately 800 properties at the Base will be reviewed for suitability for use to assist the homeless on or about January 1992.

Suitable/Available Properties

Property Numbers: 189030224–189030301
Type Facility: Housing (Chapman Courts)—78 2-unit residential buildings; wood frame; termite damage; need major rehab; possible asbestos; possible easement restrictions

Property Numbers: 189030302–189030312
Type Facility: Housing (Chapman Courts)—11 4-unit residential buildings; wood frame; termite damage; need major rehab; possible asbestos; possible easement restriction

Property Numbers: 189030313–189030342
Type Facility: Housing (Chapman Courts)—30 1-unit residential buildings; wood frame; termite damage; need major rehab; possible asbestos; possible easement restriction

Property Number: 189030343
Type Facility: Housing (Chapman Courts, Bldg 5)—2707 sq. ft.; 1 story wood frame; termite damage; possible asbestos; need major rehab; possible easement restriction

Property Number: 189030344
Type Facility: Warehouse (Bldg. 732)—13336 sq. ft.; 2 story wood frame; needs structural repairs

Property Number: 189030345
Type Facility: Band facility (Bldg. 118)—3996 sq. ft.; 1 story wood frame; needs structural repairs

Property Number: 189030346
Type Facility: Cold storage (Bldg. 107)—17118 sq. ft.; 1 story wood frame; needs rehab; potential utilities

New Hampshire—Pease Air Force Base

Pease Air Force Base is located in Rockingham County, New Hampshire, 03803. The Base covers 4,257 acres and includes a hospital, theatre, bowling alley, 2 chapels, over 2,000 bachelor bed spaces, and 1,200 military multifamily housing units. The New Hampshire Air National Guard is expected to continue operations on a portion of the Base. HUD has reviewed information on 798 properties located at the Base and has found 689 to be suitable for possible use to assist the homeless. All suitable/available properties listed below are vacant.

Suitable/Available Properties

Property Number: 189040320–189040323
Type Facility: 3 open mess and 1 dining hall

Property Number: 189040324
Type Facility: Credit union building

Property Numbers: 189040325–189040326
Type Facility: 2 bachelor quarters buildings

Property Number: 189040327
Type Facility: Hospital heat plant

Property Number: 189040328
Type Facility: Hospital

Property Number: 189040329
Type Facility: Trailer (hospital office space)

Property Numbers: 189040330–198040322
Type Facility: 3 training facilities

Property Numbers: 189040333–198040334
Type Facility: 2 child care facilities

Property Number: 189040335
Type Facility: Fire station

Property Numbers: 189040059–189040319
Type Facility: 261 4-unit residences

Property Number: 189040347–189040349
Type Facility: 2 sales stores

Property Number: 189040350
Type Facility: Commissary

Property Numbers: 189040351–189040352
Type Facility: 2 chapels

Property Number: 189040383
Type Facility: Single family residence

Property Number: 189040384
Type Facility: Rod and gun club

Property Number: 189040385
Type Facility: Motor pool

Property Numbers: 189040386–189040394
Type Facility: 9 dormitories

Property Numbers: 189040395–189040404
Type Facility: 10 residences with detached garage

Property Numbers: 189040405–189040467
Type Facility: 63 2-unit residences with detached garage

Property Numbers: 189040468–189040471
Type Facility: 4 6-unit residences with attached garage

Property Numbers: 189040472–189040715
Type Facility: 244 detached housing storage sheds

Property Numbers: 189040720, 189040721, 189040726
Type Facility: 3 communications facilities

Property Numbers: 189040734–189040742
Type Facility: 9 recreational facilities, including library, bowling center, theatre, gymnasium, youth center, bath house, and automotive shop

Property Numbers: 189040743–189040751
Type Facility: 9 small concrete munitions storage buildings

Property Numbers: 189040752–189040771
Type Facility: 20 administrative facilities

Property Numbers: 189040773–189040788, 189040790–189040793, 189040795–189040805
Type Facility: 31 miscellaneous buildings used for office, administrative, educational, laboratory, traffic check, storage, maintenance, and other purposes

Property Number: 189010534
Type Facility: Bldg. 8, Newington Road

Property Number: 189010535
Type Facility: Temp. lodging facility, Bldg. 94, Rockingham Drive

Unsuitable Properties

Property Number: 189040360
Type Facility: Golf course

Reason: Within airport runway clear zone
Property Number: 189010536
Type Facility: Vehicle fuel station
Reason: Within 2000 ft. of flammable or explosive material

Property Numbers: 189010537, 189010538
Type Facility: Jet fuel pumphouses
Reason: Within 2000 ft. of flammable or explosive material

Property Number: 189010539
Type Facility: Weapons storage area
Reason: Within 2000 ft. of flammable or explosive material

Property Numbers: 189040336–189040346
Type Facility: Family housing, Bldgs. 369–371, 373–375, 377–380, 382
Reason: Within airport runway clear zone

Property Number: 189040348
Type Facility: Service station
Reason: Other

Property Numbers: 189040353–189040359
Type Facility: Bldgs. 398–401, 403, 405, 407
Reason: Within airport runway clear zone

Property Numbers: 189040361–189040373
Type Facility: Industrial facilities
Reason: Within 2000 ft. of flammable or explosive material

Property Numbers: 189040374–189040382, 189040727–189040733
Type Facility: Aircraft operations buildings
Reason: Within 2000 ft. of flammable or explosive material

Property Numbers: 189040716–189040719
Type Facility: Utility plants
Reason: Other

Property Numbers: 189040722–189040725
Type Facility: Communications facilities
Reason: Within 2000 ft. of flammable or explosive material

Property Numbers: 189040772–189040794
Type Facility: Bus shelters
Reason: Other

Property Number: 189040789
Type Facility: Utility station
Reason: Other

Property Numbers: 189040806, 189040808, 189040825–189040829
Type Facility: Sewage pump stations
Reason: Other

Property Numbers: 189040807, 189040809, 189040814, 189040819–189040820, 189040822–189040824
Type Facility: Pump stations
Reason: Other

Property Numbers: 189040810–189040813, 189040815–189040816, 189040821, 189040830–189040851
Type Facility: Power stations
Reason: Other

Maine—Loring Air Force Base

Suitable/Available Properties

Buildings

Bldgs. 1–16
Family Housing Annex, Loring Air Force Base
U.S. Route #1
Caswell, ME, Aroostook, Zip: 04750–
Federal Register Notice Date: 01/31/92
Property Numbers: 189010590–189010605
Status: Excess
Comment: 1116 sq. ft. each; 1 story frame residence; no utilities; asbestos and radon tests pending; fuel tanks removed; sewage line needs repair.

Colorado—Lowry Air Force Base

Suitable/Available Properties

Land

NTMU—Partial Area
Lowry Air Force Base
Denver, CO, Denver, Zip: 80230–5000
Federal Register Notice Date: 01/31/92
Property Number: 189010254
Status: Excess
Location: West of Aspen Terr. housing area and South of (AFAFC) along the base boundary
Comment: Approximately 20 acres; sloping parts in the area.

[FR Doc. 92–2186 Filed 1–30–92; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–942–02–4730–12]

Idaho; Filing of Plats of Survey

The plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9 a.m., January 22, 1992.

The plat representing the dependent resurvey of portions of the subdivisional lines and 1898 meanders of the Kootenai River in section 23, and the subdivision of section 23, T. 62 N., R. 2 E., Boise Meridian, Idaho, Group No. 813, was accepted, January 15, 1992.

This survey was executed to meet certain administrative needs of the Bureau of Land Management.

All inquiries concerning the survey of the above described land must be sent to the Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706.

Dated: January 22, 1992.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 92–2305 Filed 1–30–92; 8:45 am]

BILLING CODE 4310-GG-M

INTERSTATE COMMERCE COMMISSION

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. The parent corporation and address of its principal office is:

Guardian Industries Corp., 43043 West Nine Mile Road, Northville, Michigan 48167

2. Guardian Transportation Corp., a wholly-owned subsidiary of Guardian Industries Corp., will provide transportation services to the Guardian Industries Corp. wholly-owned subsidiaries listed hereafter.

3. Wholly-owned subsidiaries which will participate in the operations, and their state(s) of incorporation are:

Buchim Incorporated, Incorporated in California
Cue Industries, Inc., Incorporated in Delaware
Double Seal Glass Company, Inc., Incorporated in Michigan
Falconer Glass Industries, Inc., Incorporated in Delaware
Glass Guard Industries, Inc., Incorporated in Massachusetts
Guardian Automotive Products, Inc., Incorporated in Delaware
Guardian Fiberglass, Inc., Incorporated in Delaware
Guardian Industries Distribution Center, Inc., Incorporated in Michigan
Guardian Industries Distribution Center, Inc., Incorporated in Oregon
Guardian Transportation Corp., Incorporated in Delaware
Guardian Walled Lake Fabrication Corp., Incorporated in Michigan
Guardian Fabrication, Inc., Incorporated in Delaware
Windsor Plastics, Inc., Incorporated in Nevada
Windsor Plastics, Inc., Incorporated in Texas
Guardian Glass Company, Incorporated in Ohio
Capital of Pasco, Inc., Incorporated in Delaware

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92–2341 Filed 1–30–92; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Bureau of Prisons

Intent To Prepare Draft Environmental Impact Statement for the Construction of a Metropolitan Detention Center (MDC) in Philadelphia, Philadelphia County, PA

AGENCY: Bureau of Prisons, Justice.

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ACTION: Notice of intent to prepare Draft Environmental Impact Statement (DEIS).

SUMMARY

Proposed Action

The U.S. Department of Justice, Federal Bureau of Prisons has determined that a new Metropolitan Detention Center (MDC) is needed in its system. A number of options in and around downtown Philadelphia, Pennsylvania will be evaluated. This proposal calls for the construction of a 750 bed facility to house individuals in a full range of security levels (i.e., minimum, low, medium, high, maximum) who are awaiting trial or sentencing by the Federal Courts.

Additionally, the site would be used for road access, inmate housing, administration, programs and services, parking and support facilities. Enclosed and secure exercise areas would be included in the facility.

In the process of evaluating the tract of land, several aspects will receive a detailed examination including utilities, traffic patterns, noise levels, visual intrusion, threatened and endangered species, cultural resources, and socio-economic impacts.

Alternative

In developing the DEIS, the options of no action and alternative sites for the proposed facility will be fully and thoroughly examined.

Scoping Process

During the preparation of the DEIS, there will be numerous opportunities for public involvement in order to determine the issues to be examined. A scoping meeting will be held at a location convenient to the citizens of Philadelphia. The meeting will be well publicized and will be held at a time which will make it possible for the public and interested agencies or organizations to attend. In addition, a number of informal meetings have already been held and will be continued by representatives of the Bureau of Prisons with interested community leaders, officials and citizens.

DEIS Preparation

Public notice will be given concerning the availability of the DEIS for public review and comment.

ADDRESSES: Questions concerning the proposed action and the DEIS can be answered by: Ms. Debra J. Hood, Site Selection and Environmental Review Specialist, Federal Bureau of Prisons, 320 First Street, NW., Washington, DC 20534, (202) 514-6462.

Dated: December 31, 1991.

Patricia K. Sledge,

Chief, Site Selection and Environmental Review Branch.

[FR Doc. 92-246 Filed 1-30-92; 8:45 am]

BILLING CODE 4410-05-M

Intent To Prepare Draft Environmental Impact Statement (DEIS) for the Construction of a Federal Correctional Complex (FCC) in Elkton, OH

AGENCY: Bureau of Prisons, Justice.

ACTION: Notice of intent to prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY

Proposed Action

The U.S. Department of Justice, Federal Bureau of Prisons has determined that additional institutions are needed in its system. The Bureau will evaluate a proposed site located in Elkton, Ohio for the construction of these facilities.

The Federal Bureau of Prisons proposes to construct a correctional complex of four facilities. The complex could include a high security facility to house approximately 500 inmates, medium and low security federal correctional institutions to house approximately 750 and 1,000 inmates respectively, and a minimum security camp to house approximately 500 inmates.

Additionally, the site would be used for road access, inmate housing, administration, programs and services, parking and support facilities.

In the process of evaluating the tract of land, several aspects will receive a detailed examination including utilities, traffic patterns, noise levels, visual intrusion, threatened and endangered species, cultural resources, and socio-economic impacts.

Alternatives

In developing the DEIS, the options of no action and alternative sites for the proposed facility will be fully and thoroughly examined.

Scoping Process

During the preparation of the DEIS, there will be numerous opportunities for public involvement in order to determine the issues to be examined. A scoping meeting will be held at a location convenient to the citizens of Elkton. The meeting will be well publicized and will be held at a time which will make it possible for the public and interested agencies or organizations to attend. In addition, a number of informal meetings have already been held and will be continued by representatives of the Bureau of Prisons with interested community leaders, officials and citizens.

DEIS Preparation

Public notice will be given concerning the availability of the DEIS for public review and comment.

ADDRESSES: Questions concerning the proposed action and the DEIS can be answered by:

Debra J. Hood, Site Selection Specialist, Federal Bureau of Prisons, 320 First Street, NW., Washington, DC 20534, (202) 514-6462.

Dated: January 22, 1992.

Patricia K. Sledge,

Chief, Site Selection and Environmental Review Branch.

[FR Doc. 92-1968 Filed 1-30-92; 8:45 am]

BILLING CODE 4410-05-M

DEPARTMENT OF LABOR

Employment Standards Administration Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR part 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., room S-3014, Washington, DC 20210.

New General Wage Determination Decisions

The numbers of the decisions added to the Government Printing Office document entitled "General Wage Determination Issued Under the Davis-Bacon and Related Acts" are listed by Volume, State, and page numbers(s).

Volume I:		
Virginia	VA91-62 (Jan. 31, 1992)	p. All
Virginia	VA91-74 (Jan. 31, 1992)	p. All
Virginia	VA91-75 (Jan. 31, 1992)	p. All
Virginia	VA91-76 (Jan. 31, 1992)	p. All
Volume II:		
Texas	TX91-31 (Jan. 31, 1992)	p. All
Texas	TX91-39 (Jan. 31, 1992)	p. All

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number (s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume: I:		
Florida	FL91-1 (Feb. 22, 1991)	p. 101, p. 102
New Jersey	NJ91-3 (Feb. 22, 1991)	p. 721, 724
Pennsylvania.	PA91-1 (Feb. 22, 1991)	p. 953, pp. 954, 960
Pennsylvania.	PA91-2 (Feb. 22, 1991)	p. 965, pp. 966–968, pp. 970–972
Pennsylvania.	PA91-16 (Feb. 22, 1991)	p. 1077, p. 1078
Pennsylvania.	PA91-17 (Feb. 22, 1991)	p. 1079, p. 1082
Pennsylvania.	PA91-18 (Feb. 22, 1991)	p. 1085, pp. 1086, 1088–1091
Pennsylvania.	PA91-20 (Feb. 22, 1991)	p. 1099, pp. 1100–1103
Pennsylvania.	PA91-22 (Feb. 22, 1991)	p. 1111, pp. 1115–1117
Virginia	VA91-25 (Feb. 22, 1991)	p. All
Volume II:		
Iowa	IA91-2 (Feb. 22, 1991)	p. 29, pp. 30–32
Illinois	IL91-1 (Feb. 22, 1991)	p. 69, p. 73
Illinois	IL91-8 (Feb. 22, 1991)	p. 145, p. 146
Illinois	IL91-17 (Feb. 22, 1991)	p. 225, p. 226
Kansas	KS91-6 (Feb. 22, 1991)	p. 363, pp. 364–365
Louisiana	LA91-1 (Feb. 22, 1991)	p. 391, p. 392
Louisiana	LA91-5 (Feb. 22, 1991)	p. 405, pp. 406–407
Michigan	MI91-1 (Feb. 22, 1991)	p. 441, pp. 456, 460
Michigan	MI91-2 (Feb. 22, 1991)	p. 461, pp. 463–464
Michigan	MI91-3 (Feb. 22, 1991)	p. 477, p. 479
Michigan	MI91-4 (Feb. 22, 1991)	p. 491, pp. 492, 495
Michigan	MI91-5 (Feb. 22, 1991)	p. 499, pp. 501–503, 511

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Michigan	MI91-7 (Feb. 22, 1991)	p. 515
Michigan	MI91-12 (Feb. 22, 1991)	p. 543, pp. 546–550
Oklahoma	OK91-1 (Feb. 22, 1991)	p. All
Oklahoma	OK91-20 (Feb. 22, 1991)	p. 1011, p. 1012
Texas	TX91-27 (Feb. 22, 1991)	p. All
Texas	TX91-29 (Feb. 22, 1991)	p. All
Texas	TX91-30 (Feb. 22, 1991)	p. All
Texas	TX91-38 (Feb. 22, 1991)	p. All
Texas	TX91-43 (Feb. 22, 1991)	p. All
Volume III:		
California	CA91-2 (Feb. 22, 1991)	p. All
Montana	MT91-8 (Feb. 22, 1991)	p. 279, p. 280
Washington.	WA91-1 (Feb. 22, 1991)	p. 451, pp. 452–453, 458, p. 460
Washington.	WA91-2 (Feb. 22, 1991)	p. 477, pp. 479–482, 484
Washington.	WA91-3 (Feb. 22, 1991)	p. 487, pp. 488–492
Washington.	WA91-5 (Feb. 22, 1991)	p. 495, pp. 496–497
Washington.	WA91-6 (Feb. 22, 1991)	p. 499, p. 500
Washington.	WA91-7 (Feb. 22, 1991)	p. 501, p. 502
Washington.	WA91-10 (Feb. 22, 1991)	p. 520a, p. 520b

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from:

Superintendent of Documents, U.S.
Government Printing Office,
Washington, DC 20401, (202) 783–3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Singed at Washington, DC this 24 day of January 1992.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 92–2173 Filed 1–30–92; 8:45 am]

BILLING CODE 4510-27-M

Employment and Training Administration

ABB Power IBEW et al.; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 10, 1992.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 10, 1992.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 21st day of January 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
ABB Power IBEW	Bloomington, IN	01/21/92	01/07/92	26,743	Zinc oxide discs.
American Tourister, Inc. ILGPN	Cranston, RI	01/21/92	12/20/91	26,744	Luggage warehousing.
Blaw Knox Equipment (Wkrs)	Pittsburgh, PA	01/21/92	01/07/92	26,745	Steel mill equipment.
Bluefield Dist. Co. (Wkrs)	Bluefield, WVa	01/21/92	01/09/92	26,746	Appliances.
Borg Warner Automotive Transmission (Wkrs)	Frankfort, IL	01/21/92	01/13/92	26,747	Transmission bands.
ConAgra, Inc. AFGM	Minneapolis, MN	01/21/92	01/08/92	26,748	Oat flour and flakes.

APPENDIX—Continued

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Davol, Inc. URW	Cranston, RI	01/21/92	01/07/92	26,749	Extrusion, molding, assembly, packaging.
Ford Motor Co—Tulsa Glass Plant (UAW)	Tulsa, OK	01/21/92	12/19/91	26,750	Auto parts for windows, backlites.
Halliburton Serv. (Wkrs)	Abilene, TX	01/21/92	01/07/92	26,751	Oil and gas.
Halliburton Services (Wkrs)	Wichita Falls, TX	01/21/92	12/30/91	26,752	Oil and gas.
Harwood Companies, Inc. (Wkrs)	Marion, VA	01/21/92	01/13/92	26,753	Bath robes, pajamas.
Howmet Corporation (Wkrs)	Whitehall, MI	01/21/92	01/09/92	26,754	Machining facility.
Prarie Wood Inc. (Wkrs)	Humptulips, WA	01/21/92	12/09/91	26,755	Shakes and shingles.
RMI Titanium Co. (OCAW)	Ashtabula, OH	01/21/92	12/31/91	26,756	Titanium sponge.
Roydon Wear, Inc. (Wkrs)	Statesboro, GA	01/21/92	01/07/92	26,757	Pants.
Santa Fe Drilling Co. (Wkrs)	Houston, TX	01/21/92	01/05/92	26,758	Oil and gas.
Tobin Hamilton Co., Inc. (Co)	Mansfield, MO	01/21/92	01/03/92	26,759	Shoes.
Unisys Corp. (Wkrs)	Flemington, NJ	01/21/92	01/10/92	26,760	Personal computers.
Vulcan Materials Co. (Wkrs)	Jacksonville, FL	01/21/92	01/04/92	26,761	Crushed limestone aggregate.

[FR Doc. 91-2332 Filed 1-30-91; 8:45 am]

BILLING CODE 4510-30

[TA-W-26,504]

Carbonaire, Inc. Palmerton, Pennsylvania; Affirmative Determination Regarding Application for Reconsideration

By letters of January 8, 1992 and January 14, 1992 both the company and the local Teamsters Union, respectively, requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for workers at the subject firm. The Department's Negative Determination was issued on December 30, 1991 and published in the **Federal Register** on January 9, 1992 (57 FR 931).

Its claimed that the Department's survey was inadequate and that one of Carbonaire's largest customers purchased imported ammonia.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this January 24, 1992.

Robert O. Deslongchamps,

Director, Office of Legislation & Actuarial Services, Unemployment Insurance Service.

[FR Doc. 92-2330 Filed 1-30-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-26,177]

Comtek Manufacturing of Oregon, Inc.; Beaverton, OR; Negative Determination Regarding Application for Reconsideration

By an application dated October 11, 1991, a former worker requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice was signed on October 11, 1991 and published in the **Federal Register** on October 29, 1991 (56 FR 55690).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

Investigation findings show that the workers produced sheet metal component parts for electronic devices. Investigation findings show that the facility closed in December 1991.

The former worker states that Comtek was located on Tektronix' property in Beaverton and that from 60 to 70 percent of its production was for Tektronix. Its also claimed that increased imports of oscilloscopes adversely affected the production of subparts and components.

Investigation files show the Comtek was a subsidiary and captive supplier to Tektronix with less than 25 percent of its production going to Tektronix facilities whose workers are certified eligible to apply for adjustment assistance. Further, the components formerly produced by Comtek are now being produced by other domestic firms in the area.

Although workers at Tektronix in Vancouver, Washington were certified eligible to apply for adjustment assistance (TA-W-24,925), less than a substantial amount of Comtek's production was shipped to Vancouver. Further, the Vancouver plant closed in December 1990. The major portion of Comtek's worker separations occurred when Comtek closed in December 1991.

Conclusion

After review of the application and investigation findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 22nd day of January 1992.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, Unemployment Insurance Service.

[FR Doc. 92-2334 Filed 1-30-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-26,707]

Inter-City Products (USA); Red Bud, IL; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on December 30, 1991, in response to a worker petition which was filed on December 30, 1991, by the Sheet Metal Workers International Association, Local 459, on behalf of workers at Inter City Products (USA), Red Bud, Illinois.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 23rd day of January, 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92-2333 Filed 1-30-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-26,544]

Northern Processors, Inc.; Traverse City, MI; Negative Determination Regarding Application for Reconsideration

By an application dated January 3, 1992, a company official requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice for petition TA-W-26,544 was signed on December 20, 1991 and published in the Federal Register on January 9, 1992 (57 FR 931).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

Northern Processors, Inc., is a service firm that contracts management services to other oil and gas exploration and producing companies. Northern Processors does not produce any oil or gas on its own.

Its stated that Northern Processors has a common tie of ownership with the Preston Oil Company and works exclusively for the Preston Oil Company.

The Department's denial is based on the fact that the workers do not produce an article within the meaning of the Trade Act of 1974 nor are they corporately related to any firm that produces an article whose workers are already under certification. Workers at the Preston Oil Company are not under a worker group certification.

This issue was previously addressed in the Department's negative determination issued on December 20, 1991.

Conclusion

After review of the application and investigation findings, I conclude that there has been no error or misinterpretation of the facts or of the law which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this January 24, 1992.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, Unemployment Insurance Service.

[FR Doc. 92-2331 Filed 1-30-92; 8:45 am]

BILLING CODE 4510-30-M

Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In the matter of:

TA-W-26,281—Shell Oil Company, Shell Offshore, Incorporated, New Orleans, Louisiana
TA-W-26,305—Shell Oil Company Administration and E&P, Houston, Texas and operating in the following States and locations:
  TA-W-26,305A—New York
  TA-W-26,305B—New Jersey
  TA-W-26,305C—Illinois
  TA-W-26,305D—Washington
  TA-W-26,305E—District of Columbia
TA-W-26,307—Shell Oil Company Development, Houston, Texas
TA-W-26,309—Shell Oil Company, Products Organization, Houston, Texas
TA-W-26,310—Shell Oil Company, Shell Western E&P, Incorporated, Headquartered in Houston, Texas and Operating at various locations in the following States:
  TA-W-26,310A—Alaska
  TA-W-26,310B—California
  TA-W-26,310C—Colorado
  TA-W-26,310D—Louisiana
  TA-W-26,310E—Michigan
  TA-W-26,310F—Montana
  TA-W-26,310G—Oklahoma
  TA-W-26,310H—Texas (except Houston)

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 13, 1991, applicable to all workers of Shell Oil Company, Shell Offshore, Inc., New Orleans, Louisiana (TA-W-26,281); Shell Oil Company, Administration and E&P, Houston, Texas (TA-W-26,305); Shell Development Company, Inc., headquartered in Houston, Texas and operating at various locations in Alaska, California, Colorado, Louisiana, Michigan, Montana, Oklahoma and Texas (except Houston). The notice was published in the Federal Register on December 27, 1991 (56 FR 67103, 67104).

New information received by the Department indicates that significant worker separations occurred at the Shell Oil Company, Administration and E&P in several States (New York, New Jersey, Illinois, and Washington) and the District of Columbia. Accordingly, the Department is amending the subject certification by including the several States where worker separations occurred at Shell Oil Company, Administration and E&P.

The amended notice applicable to TA-W-26,305 is hereby issued as follows: "All workers of Shell Oil Company, Shell Offshore, Incorporated, New Orleans, Louisiana (TA-W-26,281); Shell Oil Company, Administration and E&P, Houston, Texas (TA-W-26,305) and operating the following States and locations:

New York—TA-W-26,305A
New Jersey—TA-W-26,305B
Illinois—TA-W-26,305C
Washington—TA-W-26,305D
District of Columbia—TA-W-26,305E

Shell Development Company, Houston, Texas (TA-W-26,307); and Shell Western E&P, Incorporated, headquartered in Houston, Texas and operating at various locations in the below cited States who became totally or partially separated from employment on or after September 15, 1991 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974:"

TA-W-26,310A—Alaska
TA-W-26,310B—California
TA-W-26,310C—Colorado
TA-W-26,310D—Louisiana
TA-W-26,310E—Michigan
TA-W-26,310F—Montana
TA-W-26,310G—Oklahoma
TA-W-26,310H—Texas (except Houston)

I further determine that all workers at Shell Products Organization, headquartered in Houston, Texas (TA-W-26,309) are denied eligibility to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed in Washington, DC on the 17th day of Janaury 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92-2329 Filed 1-30-92; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL SCIENCE FOUNDATION

Ocean Sciences Review Panel; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Name: Ocean Sciences Review Panel.

Date and Time: February 21, 1992; 8:30 a.m. to 5 p.m..

Place: National Science Foundation, 1800 G Street, NW., room 543, Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Richard B. Lambert, Associate Program Director, Physical Oceanography Program, National Science Foundation, 1800 G Street, NW., room 609, Washington, DC 20550 Telephone: (202) 357-9614.

Purpose of Meeting: To provide advice and recommendations concerning financial support for ocean circulation research.

Agenda: Review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions 4 and 6 of 5 U.S.C. 552 b. (c) (4) and (6) of the Government in the Sunshine Act.

Dated: January 28, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR. Doc. 92-2335 Filed 1-30-92; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-443]

Public Service Company of New Hampshire; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-86 issued to the Public Service Company of New Hampshire (PSNH, the licensee) for operation of the Seabrook Station located in Rockingham County, New Hampshire.

Enviromental Assessment

Identification of Proposed Action

The proposed amendment would change the license to transfer partial ownership of Seabrook Station from PSNH to North Atlantic Energy Corporation (NAEC), a wholly-owned subsidiary of Northeast Utilities (NU).

The proposed action is in accordance with the licensee's application for amendment dated November 13, 1990, as supplemented by letters dated January 14, 1991, and August 28, 1991.

The Need for the Proposed Action

The licensee, PSNH, proposes to transfer its ownership share of Seabrook Station to NAEC. The transfer to NAEC is required to reflect the pending merger of PSNH and NU. This action would transfer only the ownership-interest of PSNH to NAEC. In a separate application, it was requested that the authority to operate Seabrook be transferred from PSNH to a separate subsidiary of NU, the North Atlantic Energy Service Company (NAESCO). The transfer of the PSNH's ownership interest to NAEC will not affect the operation of the facility or the facility's Technical Specifications.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed changes to the license. The proposed revisions would allow PSNH to transfer its ownership interest in Seabrook Station to NAEC. There will be no changes to the operation and maintenance staff, or to the facility or the environment as a result of the license amendment. No changes are being made in the types or amounts of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure.

Accordingly, the Commission concludes that this proposed action would result in no significant radiological or non-radiological environmental impact.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts of plant operation.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Seabrook Station.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and consulted with the Department of Justice regarding an anti-trust review.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed license amendment.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

The Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with this action was published in the **Federal Register** on February 28, 1991 (56 FR 8373). A petition for leave to intervene, which was filed following this notice, was denied by the Atomic Safety and Licensing Board. The Commission's affirmance of that denial became final agency action on November 15, 1991.

For further details with respect to this action, see the application for amendment dated November 13, 1990, as supplemented by letters dated January 14, 1991, and August 28, 1991, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, Lower Level, 2120 L Street, NW., Washington, DC 20555, and at the local public document room, located at Exeter Public Library, 47 Front Street, Exeter, New Hampshire 03833.

Dated at Rockville, Maryland, this 27th day of January 1992.

For the Nuclear Regulatory Commission.

Walter R. Butler,

Director, Project Directorate I-3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 92-2349 Filed 1-30-92; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-396]

Environmental Assessment and Finding of No Significant Impact Regarding Proposed Order Authorizing Dismantling of Facility and Disposition of Component Parts; University of Virginia

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an Order authorizing the University of Virginia (UVA) to dismantle their Cooperatively Assembled Virginia Low Intensity Educational Reactor (CAVALIER) located on the licensee's campus in Charlottesville, Virginia, and to dispose of the reactor components in accordance with the application dated February 28, 1990, as supplemented on June 17, 1991.

Environmental Assessment

Identification of Proposed Action

By application dated February 28, 1990, as supplemented, UVA requested authorization to decontaminate and dismantle the CAVALIER, to dispose of its components parts in accordance with the proposed Decommissioning Plan, and to terminate Facility Operating License No. R-123. The CAVALIER was shut down in March 1988, and has not operated since then. Following reactor shutdown, the fuel was removed from the core and transferred to the University of Virginia pool reactor (UVAR, Facility Operating License No. R-66, Docket No. 50-62) which is located in the same building.

Opportunity for hearing was afforded by a "Notice of Proposed Issuance of Orders Authorizing Disposition of Component Parts and Terminating Facility License" published in the **Federal Register** on April 22, 1991, (56 FR 16350). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

Need for Proposed Action

In order to terminate the facility license and transfer the area to the UVAR, the dismantling and decontamination activities proposed by the University of Virginia must be accomplished.

Environmental Impact of the Proposed Action

All decontamination will be performed by trained personnel in accordance with previously reviewed procedures and will be overseen by experienced health physics staff. Solid and liquid waste will be removed from the facility and managed in accordance with NRC requirements. The UVA staff has calculated that the collective dose equivalent to the UVA staff and public for the project will be less than 0.5 person-rem.

The above conclusions were based on all proposed operations being carefully planned and controlled, all contaminated components being removed, packaged, and shipped offsite, or transferred to another NRC license, and that radiological control procedures will be in place that help to ensure that releases of radioactive wastes from the facility are within the limits of 10 CFR part 20 and are as low as reasonably achievable (ALARA).

Based on the review of the specific proposed activities associated with the dismantling and decontamination of the University of Virginia CAVALIER facility, the staff has determined that there will be no significant increase in the amounts of effluents that may be released offsite, and no significant increase in individual or cumulative occupational or population radiation exposure.

The staff has also determined that the proposed activities will not result in any significant impacts on air, water, land, or biota in the area.

Alternative Use of Resources

The only alternative to the proposed dismantling and decontamination activities is to maintain possession of the reactor. This approach would include monitoring and reporting for the duration of the safe storage period. However, the University of Virginia intends to use the area for other academic purposes.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed action based upon the foregoing environmental assessment. We conclude that the proposed action will not have a significant effect on the quality of the human environment.

For detailed information with respect to this proposed action, see the application for dismantling, decontamination and license termination dated February 28, 1990, as supplemented, and the Safety Evaluation prepared by the staff. These documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555.

Dated at Rockville, Maryland, this 23rd day of January 1992.

Seymour H. Weiss,

Director, Non-Power Reactors, Decommissioning and Environmental Project Directorate, Division of Advanced Reactors and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 92-2302 Filed 1-30-92; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Auxiliary and Secondary Systems; Meeting

The Subcommittee on Auxiliary and Secondary Systems will hold a meeting on February 14, 1992, room F-110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Friday, February 14, 1992—8:30 a.m. Until the Conclusion of Business

The Subcommittee will discuss the proposed resolution of Generic Issue 57, "Effects of Fire Protection System Actuation on Safety Related Equipment," and other fire-related matters.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions and representatives of the NRC staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the ACRS Staff Engineer, Mr. Thomas S. Rotella, P.E., (telephone 301/492-8972) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: January 23, 1992.

Gary R. Quittschreiber,

Chief, Nuclear Reactors Branch.

[FR Doc. 92-2347 Filed 1-30-92; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-348 and 50-364]

Southern Nuclear Operating Company, Inc. Consideration of Issuance of Amendments to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to facility Operating License Nos. 50-348 and 50-364 issued to Southern Nuclear Operating Company, Inc. (SUNOPCO or the licensee) for operating of the Joseph M. Farley Nuclear Plant, Units 1 and 2 (Farley), located in Houston County, Alabama.

The licensee is currently required to submit their Radial Peaking Factor Limit Report 60 days before initial criticality following any refueling outage. The licensee has requested that the 60 day requirement be dropped, and that they be required to submit the Radial Peaking Factor Limit Report before entry into Mode 2 following any refueling outage. The proposed amendments would allow greater operational flexibility. The amendments request is a supplement to their amendments request dated July 15, 1991, as supplemented September 10, 1991. The original amendments request was noticed on December 26, 1991 (56 FR 66014).

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendments request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequence of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration.

Southern Nuclear Operating Company, Inc. has reviewed the proposed changes and has determined that the proposed amendments does not involve a significant hazards consideration since the proposed changes will not:

[Involve a significant increase in the probability or consequences of an accident previously evaluated.]

1. Since the reporting requirements are an administrative change, this change does not involve a significant increase in the probability or consequence of an accident previously evaluated in the Farley FSAR. With the exception of the reporting schedule, no other changes to the reporting requirements are made.

[Create the possibility of a new or different kind of accident from any accident previously evaluated.]

2. This administrative change in reporting requirements does not create the possibility of a new of different kind of accident from any previously evaluated in the Farley FSAR since only the time for reporting requirements has changed. Therefore, the probability of a new or different kind of accident is not created.

[Involve a significant reduction in a margin of safety.]

3. This administrative change is not safety-related and therefore does not involve any reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposed to determine that the amendments request involved no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within thirty (30) days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By March 2, 1992, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at Houston-Love Memorial Library, 212 W. Burdeshaw Street, P.O. Box 1369, Dothan, Alabama 36302. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board Panel, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board Panel will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or

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controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendments request involves no significant hazards consideration, the Commission may issue the amendments and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

If the final determination is that the amendments requests involves a significant hazards consideration, any hearing held would take place before the issuance of any amendments.

Normally, the Commission will not issue the amendments until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendments before the expiration of the 30-day notice period, provided that its final determination is that the amendments involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Elinor G. Adensam: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to James H. Miller, III, Esq., Balch and Bingham, P.O. Box 306, 1710 Sixth Avenue North, Birmingham, Alabama 35201, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board Panel that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendments dated January 10, 1992, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at Houston-Love Memorial Library, 212 W. Burdeshaw Street, P.O. Box 1369, Dothan, Alabama 36302.

Dated at Rockville, Maryland, this 24th day of January 1992.

For the Nuclear Regulatory Commission.

Stephen T. Hoffman,

Project Manager, Project Directorate II-1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 92-2348 Filed 1-30-92; 8:45 am]

BILLING CODE 7590-01-M

NUCLEAR WASTE TECHNICAL REVIEW BOARD

Panel Meeting

Pursuant to its authority under section 5051 of Public Law 100-203, the Nuclear Waste Policy Amendments Act (NWPAA) of 1987, the Nuclear Waste Technical Review Board's Panel on Transportation & Systems has scheduled a meeting with the Department of Energy (DOE) for March 10 and 11, 1992. The meeting which is open to the public, will be held at the Board's Arlington, Virginia, offices, and sessions have tentatively been scheduled to begin at 9 a.m., on both days. The meeting will focus on three subjects:

System Safety and Human Factors

From its inception, the Board has underscored the need for the DOE to incorporate the precepts of system safety and human factors engineering into the waste management process. The DOE has responded to the Board's recommendations in this area by having a consultant develop a draft program plan for system safety. A portion of the March meeting will be devoted to discussing the elements of this draft plan, the features being considered for incorporation into the plan, and initial thoughts on how to implement the plan. There also will be follow-up discussion on the DOE's progress in incorporating human factors considerations into this program.

Transportation Related Facility Studies

The DOE has been conducting two studies on transportation infrastructure, facilities, and capabilities at and near utility sites. The results of these studies could affect how spent fuel may be shipped from these sites. One study, the Facility Infrastructure and Capability Assessment (FICA), examines capabilities—such as crane capacity and existence of rail spurs—at the various sites. The second study, the Near Site Transportation Infrastructure (NSTI) study, examines the modal options for transporting the fuel from each of the reactor sites. Since both studies are coming to completion, a portion of the meeting will be devoted to discussion of the major findings.

MRS Conceptual Design

The DOE intends to build a monitored retrievable storage (MRS) facility that would provide away-from-reactor interim storage of spent fuel prior to disposal. The simplest version would offer pure storage capability. However, functions other than storage—such as accumulation and consolidation of shipment loads into larger loads—also have been considered as possible useful expansions of the MRS concept. A new conceptual design for the MRS is being completed by a member of the DOE management and operations (M&O) contractor team. The panel has requested a review of the key features of this design.

Transcripts of the March 10 and 11 meeting will be available on a library-loan basis from Victoria Reich, Board librarian, beginning April 29, 1992. For more information, contact Paula N. Alford, Director, External Affairs, Nuclear Waste Technical Review Board, 1100 Wilson Boulevard, suite 910, Arlington, Virginia 22209; (703) 235-4473.

Dated: January 28, 1992.

William D. Barnard,

Executive Director, Nuclear Waste Technical Review Board.

[FR Doc. 92-2327 Filed 1-30-92; 8:45 am]

BILLING CODE 6820-A-M

POSTAL SERVICE

International Surface AO Mail To Canada

AGENCY: Postal Service.

ACTION: Proposed changes in rate schedules for surface AO mailings to Canada.

SUMMARY: Pursuant to its authority under 39 U.S.C. 407, the Postal Service is proposing to establish one-ounce rate increments for surface AO mailings to Canada. Included are regular printed matter, small packets, and publishers' periodicals weighing between four ounces and one pound. The Postal Service also proposes to adjust the rate levels applicable to surface mailings to Canada of publishers' periodicals weighing three ounces or less.

DATES: Comments on the proposed changes must be received on or before March 2, 1992.

ADDRESSES: Director, Offices of Rates, Rates and Classification Department, U.S. Postal Service, Washington, DC 20260-5350. Copies of all written comments will be available for public inspection and photocopying at the above address between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: John F. Alepa (202) 268-2650.

SUPPLEMENTARY INFORMATION: Printed matter is paper on which words, letters, characters, figures, images, or any combination of them have been reproduced by any process other than handwriting or typewriting. Printed matter does not have the character of a bill or statement of account, or of actual or personal correspondence.

"Regular printed matter" includes all printed matter other than books, sheet music, and publishers' periodicals. Commercial items such as advertising matter, catalogs, and price lists are included. The maximum permitted weight for regular printed matter to Canada is four (4) pounds, except catalogs and directories which may weigh up to 11 pounds.

"Publishers' periodicals" are domestically approved second-class publications. Such periodicals must be published at a stated frequency with the intent to continue publication indefinitely. The primary purpose of publishers' periodicals must be the transmission of information. They may consist of original or reprinted articles on a single topic or variety of topics, listings, photographs, illustrations, graphs, a combination of advertising and nonadvertising matter, comic strips, legal notices, editorial material, cartoons, or other subject matter. (See Chapter 4 of the Domestic Mail Manual for a complete list of the requirements for publishers' periodicals.) Only publishers and registered news agents qualify for the publishers' periodicals rate. When mailed by individuals, this type of publication is subject to regular printed matter postage. The maximum permitted weight for publishers' periodicals to Canada is 30 pounds.

"Small packets" are another type of Other Articles (AO) mail that the Postal Service considers to be printed matter mail. The offer a convenient and economical means for sending small quantities of merchandise, commercial samples, or documents which do not have the character of current and personal correspondence. The maximum permitted weight for small packets to Canada is two (2) pounds.

As shown in the table attached, the Postal Service proposes to modify the rate schedules for surface mailings to Canada of regular printed matter, small packets, and publishers' periodicals so that uniform one-once rate increments would apply to items weighing up to one pound. The current rate schedules contain only two-ounce rate increments between four ounces and one pound. The proposed increase in the number of weight steps would result in rate schedules that more closely conform to the actual weights mailers of surface printed matter items sent to Canada. The proposal would serve the needs of mailers by simplifying rate application and, for items weighing five, seven, nine, eleven, thirteen or fifteen ounces, would mean lower postage.

Concurrent with the foregoing change, the Postal Service proposes to increase the rate for each of the first three weight steps within the publishers' periodicals rate schedule by two cents. This slight adjustment in rate levels is necessary to maintain reasonable relationships between the publishers' periodicals rate schedule and the rate schedules applicable to other mail services to Canada.

As required by the Postal Reorganization Act, the proposed changes would result in rates that (1) would not apportion the costs of the service so as to impair the overall value of the service to the users; (2) would apportion the costs of all postal operations to all users on a fair and equitable basis; (3) would be fair and reasonable; and (4) would not be unduly or unreasonably discriminatory or preferential.

Although 39 U.S.C. 407 does not require advance notice and opportunity for submission of comments, and the Postal Service is exempted by 39 U.S.C. 410(a) from the advance notice requirements of the Administrative Procedure Act regarding proposed rulemaking (5 U.S.C. 553), the Postal Service invites interested persons to submit written data, views, or arguments concerning the proposed changes.

Authority: 39 U.S.C. 407, 410.

Stanley F. Mires,

Assistant General Counsel, Legislative Division.

SURFACE AO

Ounces [1]	Small packets and regular printed matter Canada (rates)	Publishers' periodical Canada (rates)
1	$0.36	$0.32
2	.58	.36
3	.80	.46
4	1.02	.54
5	1.14	.60

SURFACE AO—Continued

Ounces [1]	Small packets and regular printed matter Canada (rates)	Publishers' periodical Canada (rates)
6	1.26	.65
7	1.38	.70
8	1.50	.76
9	1.62	.81
10	1.74	.87
11	1.86	.92
12	1.98	.98
13	2.10	1.03
14	2.22	1.09
15	2.34	1.14
16	2.46	1.20

[1] Up to and including.

[FR Doc. 92-2384 Filed 1-30-92; 8:45 am]

BILLING CODE 7710-12-M

RESOLUTION TRUST CORPORATION

Coastal Barrier Improvement Act; Property Availability; New Orleans East, Orleans Parish, LA

AGENCY: Resolution Trust Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as New Orleans East, located in the City of New Orleans, Orleans Parish, Louisiana, is affected by section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written notices of serious interest to purchase or effect other transfer of the property may be mailed or faxed to the RTC until April 30, 1992.

ADDRESSES: Copies of detailed descriptions of the property, including maps, can be obtained from or are available for inspection by contacting the following person: Gerald Cashman, Oversight Manager, Resolution Trust Corporation, Tulsa Consolidated Office, 4606 South Garnett Road, Tulsa, Oklahoma 74146, (918) 587-7600, Fax (918) 560-0258.

SUPPLEMENTARY INFORMATION: The property is located between Chef Menteur Highway on the South, Interstate Highway 10 (I-10) on the North, Maxent Levee on the East, and Michoud Boulevard on the West. The site is adjacent to the Bayou Savauge National Wildlife Refuge, and it contains wetlands and archaeological resources. The property is covered property within the meaning of Section 10 of the Coastal Barrier Improvement Act of 1990, Public Law 101-591 (12 U.S.C. 1441a-3).

Characteristics of the property include: The property is approximately 2,809 acres of primarily undeveloped land. Included on the site are about 402 acres of wetlands, waterways, bayous, drainage lagoons, canals, and a lake. There are no man made improvements on the site, however, the property does contain approximately 20-25 acres of cultivated land. Archaeological artifacts have been discovered on the "Big and Little Oak Islands," a portion of the property which is about 18-19 acres in size. The archaeological site on the property is listed on the National Register of Historic Places.

Property size: Approximately 2,809 acres.

Written notice of serious interest in the purchase or other transfer of the property must be received on or before April 30, 1992 by the Resolution Trust Corporation at the address stated above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;
2. Agencies or entities of State or local government; and
3. "Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notices of serious interest to purchase or effect other transfer of the property must be submitted by April 30, 1992. To Gerald Cashman at the above **ADDRESSES** and in the following form:

Notice of Serious Interest
Re: New Orleans East
Federal Register Publication
Date: __________

1. Entity name.
2. Declaration of eligibility to submit Notice under criteria set forth in Coastal Barrier Improvement Act of 1990, Public Law 101-591, section 10(b)(2), (12 U.S.C. 1441a-3(b)(2)).
3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).
4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.
5. Authorized Representative (Name/Address/Telephone/Fax).

Dated: January 24, 1992.

Resolution Trust Corporation
William J. Tricarico,
Assistant Executive Secretary.

[FR Doc. 92-2328 Filed 1-30-92; 8:45 am]

BILLING CODE 6714-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-30289; International Series No. 361; File No. SR-AMEX-91-20]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Warrants on a Basket of Ten Foreign Currencies

January 27, 1992.

On August 12, 1991, the American Stock Exchange, Inc. ("AMEX" or "Exchange") submitted to the Securities and Exchange Commission "SEC or "Commission"), pursuant to section 19(b)(2) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b-4 thereunder,[2] a proposed rule change to list and trade warrants based on a basket of ten major foreign currencies.

Notice of the proposed rule change was published for comment and appeared in the **Federal Register** on October 8, 1991.[3] AMEX amended the proposal on November 25, 1991,[4] and notice of the amendment appear in the **Federal Register** on December 12, 1991.[5] No comments were received on the proposal. This order approves the proposal.

I. Description of the Proposal

The AMEX proposes to list and trade cash-settled warrants based on a basket of ten major foreign currencies ("Foreign Currency Basket Warrants"), which are weighted in accordance with the U.S. Dollar Index (Fed USDX") established and published by the Federal Reserve Board ("Fed").[6] The currencies and their

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1991).

[3] See Securities Exchange Act Release No. 29753 (September 27, 1991), 56 FR 50741.

[4] This amendment provides that the proposed warrants can only be settled in U.S. dollars. Originally, the proposal would have permitted settlement by means of physical delivery of the underlying currencies, at the discretion of the holder, or by payments in U.S. dollars.

[5] See Securities Exchange Act Release No. 30037 (December 5, 1991), 56 FR 64820.

[6] The U.S. Dollar Index is calculated by the Fed and is based on the change in exchange rates relative to a specified March 1973 base period. The value of this change is weighted based on each index component country's average share of multilateral world trade for the five years 1972-76. March 1973 was chosen as a base period because the world's major trading nations agreed at that time to allow their currencies to float freely in connection with international market forces. Accordingly, FED USDX is a measure of the overall international value of the dollar versus ten major foreign currencies.

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weightings within the basket are as follows: (1) Deutsche Mark (20.8%); (2) Japanese Yen (13.6%); (3) French Franc (13.1%); (4) British Pound (11.9%); (5) Canadian Dollar (9.1%); (6) Italian Lira (9%); (7) Dutch Guilder (8.3%); (8) Belgian Franc (6.4%); (9) Swedish Krona (4.2%); and (10) Swiss Franc (3.6%).[7] Accordingly, the value of Foreign Currency Basket Warrants is expected to fluctuate in accordance with changes in the rate of exchange between the U.S. dollar and the individual currencies included in the Fed USDX.[8]

The Exchange proposes to trade Foreign Currency Basket Warrants under the same listing standards, suitability and disclosure requirements that apply to foreign currency warrants as specified in the Exchange's rules.[9] Consistent with the Foreign Currency Warrant Approval Orders, the AMEX represents that the Foreign Currency Basket Warrant issues will conform to existing listing guidelines.[10] Specifically, the listing guidelines of the Exchange require that: (1) The issuer shall have assets in excess of $100,000,000 and otherwise substantially exceed the Exchange's size and earnings requirements;[11] (2) The term of the warrants shall be for a period ranging from one to five years from the date of issuance; and (3) the minimum public distribution of such issues shall be 1,000,000 warrants together with a minimum of 400 public holders, and have an aggregate market value of $4,000,000.

The AMEX further proposes that the Foreign Currency Basket Warrants must be direct obligations of their issuer, subject to cash-settlement during their term, and either exercisable throughout their life (*i.e.*, American style) or exercisable only on their expiration date (*i.e.*, European style).[12] Cash-settlement of these instruments will be based upon the value of the Foreign Currency Basket in relation to a pre-determined base price for the Foreign Currency Basket. In particular, with a Foreign Currency Basket Warrant structured as a "put," if the value of the Foreign Currency Basket falls below a pre-determined base price, the warrant can be expected to increase in value. Conversely, a Foreign Currency Basket Warrant structured as a "call" would increase in value if the value of the Foreign Currency Basket were to rise above a pre-determined base price. As with options, warrants which are "out-of-the-money" at the end of the stated term expire worthless.

Because Foreign Currency Basket Warrants are derivative in nature and closely resemble standardized foreign currency options, the Exchange has proposed safeguards that are designed to meet the investor protection concerns raised by the trading of Foreign Currency Basket Warrants. First, pursuant to Commentary .01 to AMEX Rule 411, the Exchange recommends that the Foreign Currency Basket Warrants be sold only to investors whose accounts have been approved for options trading pursuant to AMEX Rule 921.[13] Second, pursuant to Commentary .01 of AMEX Rule 411, if a member or member organization undertakes to effect a transaction in Foreign Currency Basket Warrants for a customer whose account has not been approved for options trading, such member of member organization must make a careful determination that such warrants are suitable for the customer. Third, prior to the commencement of trading of Foreign Currency Basket Warrants, the Exchange will distribute a circular to its membership calling attention to the specific risks associated with these products.

II. Discussion

The Foreign Currency Basket Warrants are the first warrants proposed to be traded on a U.S. exchange that are based on a basket of foreign currencies. As discussed below, the Commission is satisfied that the proposal is consistent with section 6(b)(5) of the Act, in that it should help remove impediments to a free and open securities market and facilitate transactions in securities by providing investors with a means by which to hedge their exposure to fluctuations in the value of foreign currencies.[14]

While no comments were submitted questioning the legal status of the warrants, the Commission nevertheless has analyzed the Foreign Currency Basket Warrants and found them to be "securities" within the meaning of section 3(a)(10) of the Act and thus within the Commission's jurisdiction. Under section 3(a)(10) of the Act a "security" is defined as "any put, call, straddle, option or privilege entered into on a national securities exchange relating to foreign currency (emphasis added)." The Foreign Currency Basket Warrant "relates" to foreign currency because its value is based upon the ten foreign currencies that comprise the basket.[15] Moreover, because the Foreign Currency Basket Warrant is the economic equivalent of a long-term option, and in any event will be structured as a put or call, the Foreign Currency Basket Warrants are properly characterized as long-term puts, calls or options relating to foreign currency.[16]

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[7] World-wide, the ten countries included in the Fed USDX account for approximately one-half of all international trade. See Financial Instrument Exchange ("FINEX"), USDX Futures and Options ("USDX Report"), at 3, October 1989.

[8] See text following note 12, *infra*.

[9] See Securities Exchange Act Release Nos. 24555 (June 5, 1987), 52 FR 22570 and 26152 (October 3, 1988), 53 FR 39832 ("Foreign Currency Warrant Approval Orders").

[10] See Section 106 of the AMEX Company Guide.

[11] The creditworthiness of an individual issuer is very important because a warrant is not a standardized option backed by the Options Clearing Corporation. Accordingly, the AMEX imposes minimum earning and asset requirements that each issuer must satisfy for the purpose of ensuring that the issuer has sufficient financial means to meet its settlement obligations under the warrants. Specifically, Section 101(A) of the AMEX Company Guide at a minimum requires stockholders equity of $4 million and pre-tax income of $750,000 in the issuer's last fiscal year or in two of its last three fiscal years.

[12] Prior to expiration, a holder may exercise no fewer than 1,000 warrants at any one time. However, the Exchange has indicated that a continuous market for the warrants will be provided regardless of order size. See supra note 9.

[13] AMES Rule 921 provides that no member or member organization shall accept an options order from a customer unless that customer is approved to trade options. To approve a customer for options trading the member or member organization must exercise due diligence to learn the essential facts as to the customer and his investment objectives and financial situation.

[14] Pursuant to section 6(b)(5) of the Act the Commission must predicate approval of any new securities product upon a finding that the introduction of such product is in the public interest. Such a finding would be difficult with respect to a warrant that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns. In the case of the Foreign Currency Basket Warrants, these products will benefit U.S. investors by allowing them to obtain differential rates of return on a capital outlay if the value of the Foreign Currency Basket moves in a favorable direction within a specified time period. Thus, the trading of these warrants will provide investors with a valuable hedging vehicle that should reflect accurately the relative value of the U.S. dollar with respect to the currencies of ten major industrial nations throughout the world.

[15] While section 4c(f) of the CEA excludes from CFTC jurisdiction options "on" foreign currency rather than options that "relate" to foreign currency as under the Act, the Commission does not find this distinction to be significant. The relevant clauses in the CEA and Act were intended to divide jurisdiction pursuant to where the foreign currency options trade. In any event, the Foreign Currency Basket Warrants are "on" foreign currency.

[16] Whether or not the currency basket is a foreign currency is irrelevant because its value is established by its various foreign currencies. Therefore, warrants on a basket of foreign currencies are "securities" because they literally are puts, calls, or options that relate to foreign currency regardless of whether the underlying instrument is characterized as a basket or index. The cash-settled nature of the warrants does not change the fact that they relate to foreign currency. Indeed, several cash-settled warrants on foreign currency have been trading on national securities exchanges for

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While Foreign Currency Basket Warrants are "securities," due to their derivative nature the Commission believes that these warrants only should be sold to investors capable of evaluating and bearing the risks associated with trading in these instruments, and that adequate disclosure of the risks of these products must be made to investors. In this regard, the Commission notes that the rules and procedures of the Exchange that address the special concerns attendant to the secondary trading of foreign currency warrants will be applicable to the Foreign Currency Basket Warrants. In particular, by imposing the special suitability and disclosure requirements noted above, the AMEX has addressed adequately the potential public customer concerns that could arise from the derivative nature of Foreign Currency Basket Warrants. Moreover, the Exchange plans to distribute a circular to its members calling attention to the specific risks associated with Foreign Currency Basket Warrants and, pursuant to the Exchange's listing guidelines, only substantial companies capable of meeting their warrant obligations will be eligible to issue the warrants.

In addition, the Commission notes that the Foreign Currency Basket Warrants will be subject to the same surveillance procedures as the AMEX's other foreign currency warrants.[17] Moreover, in light of the design of the Foreign Currency Basket and the developed markets for the foreign currencies included in the basket, the Commission believes that the market for Foreign Currency Basket Warrants will not be readily susceptible to manipulation.

The Commission further believes that the listing and trading of Foreign Currency Basket Warrants on the Exchange will not adversely affect the spot and/or derivative foreign currency markets. First, the Commission notes that the interbank foreign currency spot market is an extremely large, diverse market comprised of banks and other financial institutions worldwide. That market is supplemented by equally deep and liquid markets for standardized options and futures on foreign currencies and options on those futures. An active over-the-counter market also exists in options on foreign currencies. The addition of exchange-traded warrants based on FINEX's U.S. Dollar Index ("FINEX USDX")[18] available to investors should not increase the potential for manipulating the market for foreign currencies, because of the cost of carrying these warrants relative to other similar products.

Second, the Commission notes that the FINEX has traded USDX futures since November 1985 and options on USDX futures since September 1986 and that it is unaware of any market disruptions resulting from the trading of these derivative products on the USDX. In addition, changes in the value of the Foreign Currency Basket Warrants also can be expected to correlate closely with changes in the FINEX USDX. The FINEX's USDX parallels the Fed's USDX because the index calculation formula, currency composition, and relative currency weightings are the same for both indexes. The FINEX USDX is calculated and continuously updated on a 24-hour basis according to real-time currency quotations from hundreds of foreign currency market participants world-wide. The Index, in turn, is disseminated by Reuters and other information vendors.[19] The FINEX has traded USDX futures since November 1985 and options on USDX futures since September 1986.

Third, as noted above, the AMEX will apply its existing foreign currency warrant surveillance procedures to the warrants, which the Commission previously has found to be adequate to surveil for manipulation and other abuses involving the warrant market and the underlying foreign currencies.[20] Accordingly, the Commission does not believe that the introduction of Foreign Currency Basket Warrants by the Amex will have a significant adverse effect on the underlying interbank foreign currency market.

Finally, the Commission realizes that the warrants, unlike standardized options, do not contain a clearinghouse guarantee but are instead dependent upon the individual credit of the issuer. This heightens the possibility that an exerciser of warrants may not be able to receive full cash settlement upon exercise. To some extent this risk is minimized by the Exchanges' standard that warrant issuers possess at least $100,000,000 in assets. In any event, financial information regarding the issuer will be disclosed or incorporated in the prospectus accompanying the offering of the warrants.

There is a systemic concern, however, that broker-dealers or broker-dealer subsidiaries issuing index warrants or providing a hedge for the issuer will incur position exposure. This position exposure, if left partially hedged or dynamically hedged, could not only create a risk of non-performance but add a systemic risk in that the broker-dealer will have to dynamically hedge the position to minimize losses should the market turn against it. To date the warrant issuances have been so small in relation to the broker-dealer issuer's (or underwriter's) total equity positions as not to raise significant concerns. Nevertheless, the Exchange should continue to monitor this area.

For the reasons set forth above, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5)[21]

It therefore is ordered, Pursuant to section 19(b)(2) of the Act,[22] that the proposed rule change (SR-AMEX-91-20) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[23]

[FR Doc. 92-2345 Filed 1-30-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30286; File No. SR-OCC-91-16]

Self-Regulatory Organizations; The Options Clearing Corporation; Filing of Proposed Rule Change Relating to a Modification of the Margin Calculation for a Clearing Member's Customers' Account and a Firm Non-Lien Account

January 24, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 7, 1991, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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almost five years. *See* letter from Richard G. Ketchum, Director, Division of Market Regulation, SEC, to Robert B. Hiden, Jr., Sullivan and Cromwell, and Benjamin D. Krause, AMEX, dated April 21, 1987.

[17] Currently, the AMEX trades a variety of cash-settled warrants based on the Deutsche Mark and Japanese Yen.

[18] The FINEX is a division of the New York Cotton Exchange.

[19] Real-time quotes worldwide are collected by Reuters and then disseminated. See USDX Report, *supra* note 7, at 3.

[20] See *supra* note 9.

[21] 15 U.S.C. 78f(b)(5) (1982).

[22] 15 U.S.C. 78s(b)(2) (1982).

[23] 17 CFR 200.30-3(a)(12) (1991).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would modify the method by which margin is calculated for positions carried in a Clearing Member's customers' account or firm non-lien account with OCC.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of this proposed rule change is to modify the logic within OCC's Theoretical Intermarket Margin System ("TIMS") which calculates margin for positions carried in a Clearing Member's customer's account with OCC.[1] In particular, OCC proposes to eliminate the logic which reduces to zero any premium margin credit or additional margin credit for each class group comprising a given product group. Accordingly, this filing would delete paragraph (d)(3) from Rule 601 (applicable to stock options) and paragraphs (d)(3) and (d)(4) from Rule 602 (applicable to non-equity options).

1. Background

OCC requires its Clearing Members to adjust their margin deposits with OCC in the morning on every business day pursuant to calculations performed by OCC overnight. OCC imposes a margin requirement on short positions in each Clearing Member account and gives margin credit for unsegregated long positions.[2] Within TIMS, the margin requirement or credit for positions in a class group (a class group consists of all put and call options relating to the same underlying interest)[3] in a given Clearing Member account is equal to the liquidating value of those positions based on premium levels at the close of trading on the preceding trading day. Margin requirements and credits within a class group are offset against each other providing a net premium margin requirement or credit for each class group. To determine additional margin amounts, TIMS also calculates an upside variation and a downside variation for each class group.

Premium margin amounts are then totaled across all class groups within a product group (a product group consists of two or more class groups whose underlying assets exhibit a sufficient price correlation to warrant margining on a combined basis)[4] as are the upside and downside variations. Only at the product group level is premium margin combined with additional margin (*i.e.*, the greater requirement of the upside or downside variations) to arrive at a total margin amount for a given Clearing Member account.[5] Two differences exist in the TIMS methodology, however, for calculating a Clearing Member's margin requirements (or credits) for its market professionals' accounts (*i.e.*, firm accounts and market-makers' accounts) versus its customers' account. First, segregated long positions in a customers' account are not offset against short positions in the same series of options, and such long positions are not assigned any value for margin calculation purposes because OCC does not have a lien on such positions.

Second, in calculating product group margin in a customers' account, margin credits, if any, for each class group within a product group are reduced to zero.[6] That is, for a Clearing Member's customers' account, a premium margin credit for one class group cannot offset premium margin requirements for another class group or an additional margin credit for one class group cannot offset additional margin requirements for another class group. As described below, this reduction to zero affects only those long positions in a customers' account for which a Clearing Member has submitted spread instructions to OCC in accordance with Rule 611, and which are, by operation of Rule 611, deemed to be unsegregated long positions. It is this second difference that OCC would eliminate.

2. Modification to Margin Calculation for a Customers' Account

Under Rule 611, a Clearing Member may submit written instructions to OCC designating any segregated long position in its customers' account which the Clearing Member desires OCC to release from segregation. To file spread instructions, the Clearing Member must simultaneously carry in a short position an equal number of options contracts of the same class of option for the account of such customer. This is, before a Clearing Member may instruct OCC to release a long position from segregation, the long position must be spread (on a contract-for-contract basis) against a short position in the same class of option held in the account of the same customer. Once OCC releases the long position, it will be deemed unsegregated and subject to OCC's lien. Accordingly, any premium margin credit calculated for the unsegregated long position will be permitted to offset the premium margin requirement imposed on the short position but only up to the amount of the margin imposed.

For certain spreads, however, TIMS calculates a premium margin credit amount which may exceed the premium margin required for the short position. However, because TIMS reduces premium margin credits in a customers' account to zero, the excess premium margin credit amount cannot be used to offset any additional margin requirement for the short side of the spread at the product group level. Nor can the premium margin credit be used to offset any premium margin requirement for another class group within the same product group. In those instances, a Clearing Member may be required to deposit margin collateral in excess of the net risk of a spread position in its customers' account even though the spread positions are not a liability to OCC. Therefore, OCC proposes to remove from TIMS the logic which reduces class group premium margin credits to zero. Currently, no margin credit would be given for "negative" upside or downside variations (*see* Rule 601(c)(1)(E) for equity options and Rule 602(c)(2)(B) for non-equity options). Except for the treatment of segregated long positions, OCC would calculate margin for a Clearing Member's customers' accounts the same as it calculates margin for a Clearing Member's market professionals' account.

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[1] This proposed modification would also impact margin calculations for firm non-lien accounts. Currently, however, no Clearing Member maintains such an account with OCC.

[2] A long position is "unsegregated" if OCC has a lien on the position (*i.e.*, has recourse to the value of the position in the event the Clearing Member does not perform an obligation to OCC). Long positions in firm accounts and market-maker accounts are unsegregated. Long positions in the Clearing Member's customers' account are unsegregated only if the Clearing Member submits instructions to that effect in accordance with Rule 611 (*i.e.*, "spread instructions").

[3] Under Rule 602, a class group also consists of market baskets, commodity options, and futures subject to margin at OCC because of a cross-margining program with a commodity exchange, and, upon the Commission's approval of File No. SR–OCC–91–5, Index Participations ("IPs") relating to the same underlying interest.

[4] All class groups of equity options form a single product group. By contrast class groups for non-equity options are organized into several product groups including such product groups as stock index options and long term Treasury options.

[5] Unlike premium margin which can either be a requirement or a credit, no margin credit is given for additional margin. Thus, additional margin is always a margin requirement or zero (*i.e.*, never a margin credit against premium margin).

[6] The reduction of margin credits to zero at the class group level is residual logic from the old margin methodologies used before TIMS. Under those old methodologies, product group margin was not calculated and, for customer accounts, class group margin credits were artificially reduced to zero so that they would not be applied against other class margin requirements. This logic was simply carried over and incorporated into TIMS during the course of its development without significant analysis. OCC nonetheless believes that retention of this logic, which results in the over-margining of positions, is incompatible with one of the purposes of TIMS, namely to reduce substantially the potential for over- or under-margining options positions.

This modification of TIMS does not increase OCC's risk and is consistent with the treatment of unsegregated long positions in a Clearing Member's customers' account under OCC's liquidation rules. In the event of a Clearing Member default, OCC may liquidate an unsegregated long position and, because of its lien, use the proceeds to, among other things, offset the costs of liquidating a short position whether such short position is in the same class group or another class group in the customers' account. Moreover, this modification is consistent with the TIMS' goal of calculating margin requirements based upon the risk of liquidating options positions carried by a defaulting Clearing Member.

This proposed rule change is consistent with the requirements of Section 17A of the Act because it will reduce demands on Clearing Member liquidity by eliminating the deposit of excessive margin collateral in positions carried in a customers' account without adversely affecting the securities under OCC's control or for which it is responsible.

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments were not and are not intended to be solicited by OCC for the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) as the Commission may designate up to ninety days of such date if it finds that such longer period is appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve the proposed rule change or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements regarding the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to File No. SR-OCC-91-16 and should be submitted by February 21, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-2343 Filed 1-30-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-25459]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

January 24, 1992.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by February 18, 1992 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Public Service Company of Oklahoma (70-7929)

Public Service Company of Oklahoma ("PSC-OK"), 212 East Sixth Street, Tulsa, Oklahoma 74119, a public-utility subsidiary company of Central and South West Corporation, a registered holding company, has filed a declaration under section 12(d) of the Act and rule 44 thereunder.

PSC-OK proposed to sell to St. John Medical Center ("St. John") for $528,340 four three phase, 13.2/4.16 kV, step-down transformers and associated equipment and facilities (collectively, "Transformation Facilities"). The Transformation Facilities are located on St. John's premises in Tulsa, Oklahoma. PSC-OK arrived at the price through arms-length negotiation and the proposed purchase price is in excess of the Transformation Facilities book value net of depreciation as of November 30, 1991 of $302,216.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

[FR Doc. 92-2344 Filed 1-30-92 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Investment Advisory Council; Meeting

Time and Date: 8:30 a.m.-5 p.m. Wednesday, January 29, 1992.

Place: The meeting will be held in Administrator's Conference Room on the seventh floor of SBA headquarters at 409 Third Street, SW., Washington, DC.

Purpose: The meeting is being held to discuss such matters concerning the Small Business Investment Company (SBIC) and Specialized Small Business Investment Company (SSBIC) programs as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, contact William Molloy, room 6500, U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416, telephone (202) 205-6510.

Dated: January 14, 1992.

Wayne S. Foren,

Associate Administrator for Investment.

[FR Doc. 92-2378 Filed 1-30-92; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 99000063]

Commonwealth Enterprise Fund, Inc.; Application for a Small Business Investment Company License

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1991)) by Commonwealth Enterprise Fund, Inc., 10 Post Office Square, suite 1090, Boston, MA 02109, for a license to operate as a small business investment company (SBIC) under section 301(d) of the Small Business Investment Act of 1958 (the Act), as amended, (15 U.S.C. 661 et. seq.) and the Regulations promulgated thereunder.

The proposed officers, directors and shareholders of the Applicant are as follows:

Name	Title	Percentage of ownership
Massachusetts Minority Enterprise Investment Corporation, 100 Franklin Street, Boston, Massachusetts 02110.	Sole Stockholder.	100
Ralph Seufter, State Street Bank & Trust Co., 225 Franklin Street, Boston, Massachusetts 02110.	Chairman/Director.	
Milton J. Benjamin, Jr., Massachusetts Community Development Finance Corp., 10 Post Office Square, Boston, Massachusetts 02109.	Director.	
Susan Dunnagin, Shawmut Bank, One Federal Street, Boston, Massachusetts 02211.	Treasurer/Director.	
John N. Henderson III, Midwest Paper Products Co., 12350 E. 9 Mile Road, Warren, Michigan 48089.	Director.	
Jesse Lanier, Springfield Food System, Inc., 622 State Street, Springfield, Massachusetts 01109.	Director.	
Janet Maher, Fleet Bank of Massachusetts, 28 State Street, Boston, Massachusetts 02109.	Director.	
Paul Peterson, Bay Bank, 7 New England Executive Park, Burlington, Massachusetts 01803.	Director.	
Tom Schumpert, Massachusetts Minority Enterprise Investment Corp., 100 Franklin Street, Boston, Massachusetts 02110.	President/Director.	
Gail Snowden, Bank of Boston, P.O. Box 2016, Boston, Massachusetts 02110.	Director.	
Henry Turner, Boston University School of Management, 685 Commonwealth Avenue, Boston, Massachusetts 02215.	Director.	
Gabrielle E. Greene, Community Development Finance Corporation, 10 Post Office Square, Suite 1090, Boston, Massachusetts 02109.	Director.	

The proposed sole stockholder, Massachusetts Minority Enterprise Investment Corporation (MEIC), is a community development corporation owned by a consortium of Massachusetts-based depository institutions. Beneficial holders of 10 percent or more of the voting securities of MEIC are as follows:

Name	Percentage of ownership
Shawmut Bank, N.A., One Federal Street, Boston, Massachusetts 02211	24
Bank of Boston, P.O. Box 2016, Boston, Massachusetts 02110	24
Fleet Bank of Massachusetts, 28 State Street, P.O. Box 2097, Boston, Massachusetts 02106-2197	24
BayBanks Middlesex, 175 Federal Street, Boston, Massachusetts 02109	12
State Street Bank & Trust Co., 225 Franklin Street, Boston, Massachusetts 02110	10

Commonwealth Enterprise Fund, Inc. will be managed by Community Development Finance Corporation (CDFC). The Commonwealth of Massachusetts is the sole stockholder of CDFC. Gabrielle E. Greene will have primary responsibility for all the operations of Commonwealth Enterprise Fund, Inc.

As a section 301(d) Licensee, the Applicant will provide assistance solely to small business concerns which contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

The Applicant, a corporation organized under the laws of the Commonwealth of Massachusetts, will begin operations with a capitalization of $2,000,010. The applicant will conduct its activities solely within the Commonwealth of Massachusetts and will be a source of equity capital and long term funds for qualified small business concerns.

Matters involved in SBA's consideration of the Application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the existing company under their management, including profitability and financial soundness in accordance with the Act and the Regulations.

Notice is further given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Associate Administrator for Investment, Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

A copy of the Notice will be published in a newspaper of general circulation in Boston, Massachusetts.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: January 21, 1992.

Wayne S. Foren,

Associate Administrator for Investment.

[FR Doc. 92-2379 Filed 1-30-92; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Air Traffic Subcommittee of the Aviation Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Air Traffic Subcommittee of the Aviation Rulemaking Advisory Committee.

DATES: The meeting will be held on February 26, 1992, at 9:30 a.m..

ADDRESSES: The meeting will be held at the National Business Aircraft Association, 1200 18th Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Aaron Boxer, Designated Federal Official, Air Traffic Rules and Procedures Service, Federal Aviation Administration, telephone: 202–267–8783.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app. II), notice is hereby given of a meeting of the Air Traffic Subcommittee to be held on February 26, 1992, at the National Business Aircraft Association, 1200 19th Street, NW., Washington, DC. The agenda for this meeting will include:

- History and current status of stuck microphones.
- A report from the Mode S working Group; FAA's response to subcommittee's recommendations.
- A progress report from the Pilot Procedures at Non-Towered Airports Working Group.
- A progress report from the Unmanned Aerospace Vehicles Working Group.
- Deletion of nonparticipating members from subcommittee's roster.

Attendance is open to the interested public but will be limited to the space available. The public may present written statements to the subcommittee at any time by providing 30 copies to the Executive Director, or by bringing the copies to him at the meeting. Arrangements may be made by contacting the person listed under the heading "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Washington, DC, on January 27, 1992.

Aaron Boxer,

Executive Director, Air Traffic Subcommittee, Aviation Rulemaking Advisory Committee.

[FR Doc. 92–2366 Filed 1–30–92; 8:45 am]

BILLING CODE 4910–13–M

Aviation Rulemaking Advisory Committee, Training and Qualifications Subcommittee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Training and Qualifications Subcommittee of the Aviation Rulemaking Advisory Committee.

DATES: The meeting will be held on February 27, 1992, at 9 a.m.

ADDRESSES: The meeting will be held at FAA Headquarters in the MacCraken Room, 10th Floor, 800 Independence Avenue SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mrs. Etta Schelm, Flight Standards Service (AFS–200), 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–8166.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app. II), notice is hereby given of a meeting of the Training and Qualification Subcommittee to be held on February 27, 1992, at the FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591. The agenda for this meeting will include progress reports from the General Aviation Working Group, Air Carrier Working Group, and Cabin Safety Working Group.

Attendance is open to the interested public but may be limited to the space available. The public must make arrangements in advance to present oral at any time. Arrangements may be made by contacting the person listed under the heading "**FOR FURTHER INFORMATION CONTACT.**"

Because of increased security in Federal buildings, members of the public who wish to attend are advised to arrive in sufficient time to be cleared through building security.

Issued in Washington, DC on January 27, 1992.

David R. Harrington,

Executive Director, Training and Qualifications Subcommittee, Aviation Rulemaking Advisory Committee.

[FR Doc. 92–2365 Filed 1–30–92; 8:45 am]

BILLING CODE 4910–13–M

Aviation Security Advisory Committee; Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of Aviation Security Advisory Subcommittee Meeting.

SUMMARY: Notice is hereby given of a meeting of the Policy and Procedures subcommittee of the Aviation Security Advisory Committee.

DATES: The meeting will be held February 14, 1992, from 9 a.m. to 3:30 p.m.

ADDRESSES: The meeting will be held in room 200 at the Air Transport Association (ATA), 1709 New York Ave., NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: The Office of the Assistant Administrator for Civil Aviation Security, ACS, 800 Independence Avenue, SW., Washington, DC 20591, telephone 202–267–9863.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2 of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app. II), notice is hereby given of a meeting of the Policy and Procedures Subcommittee of the Aviation Security Advisory Committee to be held February 14, 1992, in room 200, at the Air Transport Association, 1709 New York Ave, NW., Washington, DC.

The Policy and Procedures Subcommittee of the Aviation Security Advisory Committee is co-chaired by the Airport Association Council International (AACI), the American Association of Airport Executives (AAAE), and the Air Transport Association (ATA). The agenda for this meeting will include discussions on the FAA policy directive implementing FAR 107.29, airport security coordinators; inclusion of specified cargo-only air carriers as FAR 108 carriers for security purposes; and the criminal records background check rule. Attendance at the February 14 meeting is open to the public but limited to space available. Members of the public may address the subcommittee only with the written permission of the co-chairs, which should be arranged in advance. The chairs may entertain public comment if, in its judgment, doing so will not disrupt he orderly progress of the meeting and will not be unfair to any other person. Members of the public are welcome to present written material to the subcommittee at anytime.

Persons wishing to present statements or obtain additional information should contact ATA, 1709 New York Ave., NW., Washington, DC 20006, telephone (202) 626–4000; AACI, 1220 19th St., NW., Washington, DC 20036, telephone (202) 293–8500; AAAE, 4212 King St, Alexandria, VA. 22302, telephone (703) 824–0500.

Issued in Washington, DC on January 27, 1992.

O.K. Steele,

Assistant Administrator for Civil Aviation Security.

[FR Doc. 92–2364 Filed 1–30–92; 8:45 am]

BILLING CODE 4910-13-M

Golden Triangle Regional Airport, Columbus, MS; Intent To Rule on Application

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent to rule on application to impose and use the revenue from a passenger facility charge (PFC) at the Golden Triangle Regional Airport, Columbus, Mississippi.

SUMMARY: The Federal Aviation Administration (FAA) proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at the Golden Triangle Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and 14 CFR part 158.

On January 17, 1992, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Golden Triangle Regional Airport Authority was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than May 6, 1992.

DATES: Comments must be received on or before March 2, 1992.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: FAA/Airports District Office, 120 North Hangar Drive, suite B, Jackson, Mississippi 39208–2306.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. R. E. Smith, Executive Director of the Golden Triangle Regional Airport Authority at the following address: 2080 Airport Road, Columbus, Mississippi 39701.

Comments from air carriers and foreign air carriers may be in the same form as provided to the Golden Triangle Regional Airport Authority under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Elton E. Jay, Principal Engineer, FAA Airports District Office, 120 North Hangar Drive, suite B, Jackson, Mississippi 39208–2306. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: March 1, 1992.

Proposed charge expiration date: March 1, 2007.

Total estimated PFC revenue: $480,000.00.

Brief description of proposed project(s): Renovate terminal building; seal taxiway and aprons; security equipment; overlay and groove runway.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the office of the Golden Triangle Regional Airport Authority.

Issued in Atlanta, Georgia, on January 17, 1992.

Stephen A. Brill,

Manager, Airports Division, Southern Region.

[FR Doc. 92–2363 Filed 1–30–92; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement: Blair County, PA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Blair County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: John A. Gerner, District Engineer, Federal Highway Administration, 228 Walnut Street, P.O. Box 1086, Harrisburg, Pennsylvania 17108–1086, Telephone: (717) 782–3411; G. Edward Stoltz, District Liaison Engineer, Pennsylvania Department of Transportation, 1620 North Juniata Street, Hollidaysburg, PA 16648, Telephone: (814) 696–7170.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Pennsylvania Department of Transportation (PennDOT), will prepare an Environmental Impact Statement (EIS) for improvement of a portion of U.S. Route 22 between U.S. Route 220 and Short Mountain. The proposed project will begin at the interchange of U.S. Route 22 with U.S. Route 220 approximately 2 miles west of the Borough of Hollidaysburg, Pennsylvania and will end approximately 10 miles east of the Borough of Hollidaysburg at the intersection of U.S. Route 22 and PA 866 near the base of Short Mountain. Approximate length of the proposed study area would be 12 miles. Improvements in the study area are considered necessary to adequately provide for a safe and efficient transportation system to serve the existing and future transportation needs of the area.

A phased approach will be utilized to complete the preliminary design studies for this proposed highway project. Included in the first phase of the preliminary engineering and environmental studies will be a detailed needs analysis, an environmental overview, and a preliminary alternatives analysis. The second and final phase will include a detailed alternatives analysis, technical studies, and the preparation of an Environmental Impact Statement.

Alternatives under consideration will include, but are not limited to: (1) Taking no action; (2) Transportation System Management (TSM) improvement to existing U.S. Route 22; (3) constructing a four-lane limited access highway on a new location (either north or south of Hollidaysburg, Pennsylvania). Additional alternatives may be evaluated based on the findings and recommendations of the Phase 1 studies and public and agency involvement process. Incorporated into and studied with the various build alternatives will be design variations of grade and alignment.

During the preparation of the EIS, the following subject areas will be investigated: Traffic; air quality; noise and vibration; surface water resources; aquatic environments; floodplains; groundwater; soils and geology; wetlands; vegetation and wildlife; endangered species; agricultural lands assessment; visual; socioeconomics and land use; construction impacts; energy; municipal, industrial, and hazardous waste facilities; historic and

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archaeological structures and sites; section 4(f) evaluation; wild and scenic rivers; natural and wild areas and national natural landmarks.

Information describing the proposed action and study process (EIS Plan of Study) will be sent to appropriate Federal, State, and local agencies and to private organizations and citizens who have previously expressed or are known to have an interest in this project to solicit comments. A series of public meetings will be held in the area during the winter of 1992; summer of 1992; and summer of 1993.

Public notices of the time and place of these meetings and any required public hearings will be given in a timely fashion. The Draft EIS will be available for agency and public review and comment prior to the public hearing. Public involvement and interagency coordination will be maintained throughout both phases of the study process. A formal scoping meeting will be held upon request.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning the proposed action should be directed to PennDOT at the address provided above.

(Catalog of Federal Domestic Assistance Number 20.205, Highway Research Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: January 23, 1992.

George L. Hannon,

Assistant Division Administrator, Harrisburg, Pennsylvania.

[FR Doc. 92–2307 Filed 1–30–92; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

January 27, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0054.

Form Number: IRS Form 1000.

Type of Review: Revision.

Title: Ownership Certificate.

Description: Form 1000 is used by citizens, resident individuals, fiduciaries, and partnerships and nonresident partnerships in connection with interest on bonds of a domestic, resident foreign, or nonresident foreign corporation containing a tax-free covenant and issued before January 1, 1934. IRS uses the information to verify that the correct amount of tax was withheld.

Respondents: Individuals or households, businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents/Recordkeepers: 1,500.

Estimated Burden Hours Per Respondent/Recordkeeper: 3 hours, 10 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 4,740 hours.

OMB Number: 1545–1161.

Regulation ID Number: CO–8–90 NPRM and Temporary.

Type of Review: Extension.

Title: Consolidated Return Regulations—Modification of Rules Relating to Intercompany Transactions and Distributions of Property.

Description: This regulation requires a statement to be attached to a consolidated Federal income tax return by those groups which entered into certain intercompany transactions before the effective date of the temporary regulation (March 15, 1990), and that the treatment of these transactions will be different than that of transactions entered into after March 15, 1990.

Respondents: Businesses or other for-profit.

Estimated Number of Respondents: 2,500.

Estimated Burden Hours Per Respondent: 2 hours.

Frequency of Response: Other (One Time Only).

Estimated Total Reporting Burden: 5,000 hours.

Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 92–2358 Filed 1–30–92; 8:45 am]

BILLING CODE 4830-01-M

Public Information Collection Requirements Submitted to OMB for Review

January 27, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Special Request: Because there was legislation pending to repeal special tax, the Bureau of Alcohol, Tobacco and Firearms (BATF) has been forced to delay submission of this "Request for OMB Review." As a result of this delay, BATF is requesting approval from the Office of Management and Budget by February 10, 1992 in order for their Printing and Distribution contractor to do the required computer programming to coincide with the structure of the forms and to timely print, assemble and mail these renewal packages to the taxpayer By May 1, 1992.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512–0500.

Form Number: ATF F 5630.5R and ATF F 5630.5RC.

Type of Review: Revision.

Title: Special Tax "Renewal" Registration and Return and Special Tax Location Registration.

Description: 26 U.S.C. chapters 51, 52 and 53 authorities authorize the collection of special occupational tax from persons engaging in certain alcohol, tobacco or firearms businesses. ATF F 5630.5R and ATF F 5630.5RC are used for the annual renewal cycle to both compute and report the tax, and as an application for registry as required by statute. Upon receipt of the tax, a special tax stamp is issued.

Respondents: Individuals or households, State and local governments, Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents: 402,000.

Estimated Burden Hours Per Response: 24 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 160,800 hours.

Clearance Officer: Robert N. Hogarth, (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, room 3200, 650 Massachusetts Avenue, NW., Washington, DC 20226.

OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 92–2359 Filed 1–30–92; 8:45 am]

BILLING CODE 2330

Office of Thrift Supervision

Pacific Coast Federal Savings and Loan Association of America; Replacement of Conservator with a Receiver

Notice is hereby given that, pursuant to the authority contained in § 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly replaced the Resolution Trust Corporation as Conservator for Pacific Coast Federal Savings and Loan Association of America, San Francisco, California ("Association"), OTS. No. 8836, with the Resolution Trust Corporation as sole Receiver for the Association, on July 12, 1991.

Dated: January 24, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92–2314 Filed 1–30–92; 8:45 am]

BILLING CODE 6720-01-M

[AC–5; OTS No. 2630]

Advantage Bank, S.S.B., Kenosha, Wisconsin; Final Action; Approval of Conversion Application

Notice is hereby given that on January 13, 1992, the Office of the Chief Counsel, Office of Thrift Supervision, acting pursuant to delegated authority, approved the application of Advantage Bank, S.S.B., Kenosha, Wisconsin for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1776 G Street, NW., Washington, DC 20552, and the Central Regional Office, Office of Thrift Supervision of Chicago, 11 East Wacker Drive, Chicago, Illinois 60601.

Dated: January 24, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92–2315 Filed 1–30–92; 8:45 am]

BILLING CODE 6720-01-M

[AC–4; OTS No. 2389]

First Federal Savings Bank of Iowa, Davenport, Iowa; Final Action; Approval of Conversion Application

Notice is hereby given that on January 10, 1992, the Office of the Chief Counsel, Office of Thrift Supervision, acting pursuant to delegated authority, approved the application of First Federal Savings Bank of Iowa, Davenport, Iowa for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Information Service Division, Office of Thrift Supervision, 1776 G Street, NW., Washington, DC 20552, and the Des Moines Area Office, Office of Thrift Supervision, Regency West 2, 1401 50th Street, suite 300, West Des Moines, Iowa 50265–5924.

Dated: January 24, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92–2316 Filed 1–30–92; 8:45 am]

BILLING CODE 6720-01-M

[AC–3; OTS No. 0684]

Suburban Federal Savings and Loan Association, Flossmoor, Illinois 60422, Final Action; Approval of Conversion Application

Notice is hereby given that on January 13, 1992, the Office of the Chief Counsel, Office of Thrift Supervision, acting pursuant to delegated authority, approved the application of Suburban Federal Savings and Loan Association, Flossmoor, Illinois, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1776 G Street, NW, Washington, DC 20552, and the Central Regional Office, Office of Thrift Supervision of Chicago, 11 East Wacker Drive, Chicago, Illinois 60601.

Dated: January 24, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92–2317 Filed 1–30–92; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF VETERANS AFFAIRS

Disciplinary and Grievance Procedures; MP-5, Part II, Chapter 8

AGENCY: Department of Veterans Affairs.

ACTION: Notice with request for comments.

SUMMARY: Section 203 of the Department of Veterans Affairs Health-Care Personnel Act of 1991 (Pub. L. 102–40) dated May 7, 1991, revised the disciplinary, grievance and appeal procedures for employees appointed under 38 U.S.C. 7401(1). This notice contains the regulations which implement the new procedures.

DATES: Comments must be received on or before March 2, 1992. Comments will be available for public inspection March 11, 1992. The proposed effective date of these regulations is 30 days after publication of this notice.

ADDRESSES: Send written comments to: Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, room 170 of the above address between the hours of 8 a.m. to 4:30 p.m., Monday through Friday (except holidays) until March 11, 1992.

FOR FURTHER INFORMATION CONTACT: George W. Williams, Chief, Employee Relations and Performance Management Service (058), Office of Personnel and Labor Relations, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 535–8874.

SUPPLEMENTARY INFORMATION: Previously, VA policy for action was based on inaptitude, inefficiency, or misconduct and was applicable to all non-probationary VA employees appointed to positions pursuant to 38 U.S.C. 7401(1) (formerly 4104). This notice provides new VA regulations governing adverse actions based on conduct or performance, grievance procedures, and appeals. In line with congressional intent, these regulations are designed, to the extent possible, to parallel the title 5 disciplinary and adverse action system and to eliminate

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barriers to taking actions in a timely manner. Major features of the new regulations include permitting the delegation of decision authority, elimination of the requirement for a predecisional hearing before a Disciplinary Board and the establishment of grievance and appeal procedures. These regulations promote the use of progressive disciplinary actions and streamline the disciplinary process so that required corrective action can be taken in a timely fashion. For purposes of clarity and consistency with the title 5 system, these regulations adopt the term "disciplinary action" to refer to any adverse action which is not specifically defined by law as a major adverse action.

Approved: January 22, 1992.

Edward J. Derwinski,

Secretary of Veterans Affairs.

Chapter 8. Disciplinary and Grievance Procedures

Section A. Disciplinary and Major Adverse Actions

1. Scope and Authority

a. This section governs disciplinary and major adverse actions based on conduct or performance in the Department of Veterans Affairs (VA). The provisions of this section apply to VA employees holding a full-time, permanent appointment under 38 U.S.C. 7401(1) who have satisfactorily completed the probationary period required by 38 U.S.C. 7403(b). Included in this category are: Physicians, dentists, podiatrists, optometrists, nurses, nurse anesthetists, physician assistants and expanded-function dental auxiliaries. Henceforth, "employee(s)" will be the term used to refer to the above categories in this section, unless otherwise specified.

b. Excluded from the provisions of this section are interns and residents appointed pursuant to 38 U.S.C. 7406. Probationers and 7405 appointees are also excluded.

(Authority: 38 U.S.C. 501(a), 7401, 7403(b), 7405, 38 U.S.C. 7461–7464.)

2. References

a. Section 203 of the Department of Veterans Affairs Health-Care Personnel Act of 1991 (Pub. L. 102–40).

b. Title 38, United States Code, chapter 74.

3. Definitions

Unless otherwise noted, the following definitions apply to this chapter only.

a. *Disciplinary Actions.* These are adverse actions, other than major adverse actions, which include admonishment and reprimand based on conduct or performance.

b. *Admonishment.* An official letter of censure to an employee for minor act(s) of misconduct or deficiency in competence. This letter normally remains in the employee's Official Personnel Folder (OPF) for two years.

c. *Reprimand.* An official letter of censure to an employee for an act of misconduct or deficiency in competence. A reprimand is a more severe disciplinary action than an admonishment. This letter normally remains in the employee's OPF for three years.

d. *Major Adverse Actions.* These are suspension, transfer, reduction in grade, reduction in basic pay, and discharge based on conduct or performance.

e. *Suspension.* The involuntary placement of an employee, for disciplinary reasons, in a non-duty, non-pay status for a temporary period of time.

f. *Transfer.* The involuntary movement of an employee from one VA facility to another (under separate managerial authority) based on conduct or performance and without a break in service.

g. *Reduction in Grade.* The involuntary assignment to a lower grade on the same pay schedule based on conduct or performance.

h. *Reduction in Basic Pay.* The involuntary reduction, based on conduct or performance, of the annual rate of basic pay to which an employee is entitled under 38 U.S.C. 7404, including above minimum entrance rates and special entrance rates authorized under 38 U.S.C. 7455. This does not apply to reductions in pay, other than basic pay, such as the loss of physician or dentist special pay or head nurse differential, other differentials, allowances or premium pays such as standby, oncall, shift, overtime, Sunday, holiday, night work, hazardous duty, and interim geographic adjustment.

i. *Discharge.* The involuntary separation of an employee from employment based on conduct or performance.

j. *Disciplinary Appeals Board.* The three-member board designated to hear an employee's appeal of a major adverse action which is based in whole or in part on a question of professional conduct or competence.

k. *Professional Conduct or Competence.* A question of professional conduct or competence involves direct patient care and/or clinical competence. The term clinical competence includes issues of professional judgment.

l. *Mixed Case.* This is a case that includes both (1) a major adverse action arising out of a question of professional conduct or competence, and (2) a major adverse action which does not arise out of a question of professional conduct or competence, or a disciplinary action.

m. *Grade.* The established grades for the positions covered by this chapter will be as defined by 38 U.S.C. 7404, and the qualification standards issued pursuant to 38 U.S.C. 7402 (see MP–5, part II, chapter 2 and its supplement).

(Authority: 38 U.S.C. 501(a), 7421.)

4. Responsibilities and Authorities

The Chief Medical Director (CMD) or designee will appoint Disciplinary Appeals Boards to hear appeals of major adverse actions and will review and take appropriate action on all decisions rendered by Disciplinary Appeals Boards.

(Authority: 38 U.S.C. 501(a).)

5. Disciplinary Actions

a. Types of Disciplinary Actions

This paragraph applies to adverse actions, other than major adverse actions, which include admonishment and reprimand based on conduct or performance (refer to paragraph 3 of this section for definitions).

b. Procedural Entitlements

(1) Prior to taking disciplinary action, employees must be given advance written notice of the action proposed. The advance notice of proposed action must contain the following information:

(a) The nature of the action proposed (i.e., admonishment);

(b) A statement of the specific charges upon which the proposed action is based, including names, dates, places, and other data sufficient to enable the employee to fully understand the charges and to respond to them;

(c) A statement of any specific law, regulation, policy, procedure, practice or other specific instruction (national, local or otherwise) that has been violated as it pertains to the charge(s) (if applicable);

(2) The right to reply orally or in writing, or both orally and in writing, and to submit affidavits and other documentary evidence in support of the reply;

(3) The right to a reasonable amount of time to submit the reply or replies (time limits may vary according to the circumstances but in no event should be less than five calendar days);

(4) The right to review the material relied upon to support the reasons for the proposed action;

(5) Identification of the official who will receive any oral and/or written replies;

(6) The right to a written decision as soon as possible after his or her reply has been fully considered or after the expiration of the time allowed for reply, if the employee does not reply;

(7) The right to be represented by an attorney or other representative of the employee's choice at all stages of the case; and

(8) The right to grieve the disciplinary action, if any.

c. Employee's Reply

(1) If the employee requests an opportunity to reply orally, the decision official or designee will receive the employee's reply. Any official designated to receive the reply must have the authority to recommend what final decision should be made.

(2) A written summary signed by the official hearing the oral reply must be made part of the record.

d. Arriving at a Final Decision

(1) The decision official will give full and impartial consideration to the employee's reply, if any; the recommendation of the designee to hear an oral reply, if any oral reply was made; and all evidence of record. If the decision official finds one or more of the charges in the advance notice sustained, he or she will determine an appropriate action.

(2) A decision adverse to the employee must be based only on the charges stated in the notice of proposed action. If none of the charges are sustained, either in whole or in part, no action may be imposed, regardless of any record of past discipline cited in the notice.

(3) The penalty may not be more severe than that proposed in the notice of proposed action.

(4) If the notice of proposed action is determined to be procedurally defective to the detriment of the employee's substantive rights, or if it is found that additional reasons other than those set forth should be considered, or that the appropriate action should be more severe than that proposed, the notice of proposed action will be rescinded and a new notice of proposed action issued.

(5) If it is determined that the appropriate action is a major adverse action, the procedures outlined in paragraph 6 below will apply.

e. Decision

The decision will be in writing and will contain the following information:

(1) A statement of whether any of the charges sustained arose out of a question of professional conduct or competence.

(2) A statement that consideration has been given to all evidence developed, including the employee's reply(ies).

(3) A statement of the decision official's determination regarding which charges, if any, in the advance notice were sustained, and which charges, if any, were not sustained.

(4) If a record of prior disciplinary actions was cited in the advance notice, the decision will indicate the weight which was given to the past record, in determining proper action. If any aggravating or mitigating factors were considered in determining the action, a statement regarding this shall be included.

(5) A statement concerning the employee's rights to file a grievance, and the time limit within which it must be filed.

f. Appeals of Disciplinary Actions

(1) If the disciplinary action involves or includes a question of professional conduct or competence, the employee may appeal it under the grievance procedures contained in section B of this chapter.

(2) If the disciplinary action does not involve or include a question of professional conduct or competence, the employee may appeal the action under the grievance procedure in section B of this chapter. However, if the employee is covered by a collective bargaining agreement under 5 U.S.C. chapter 71, and the negotiated grievance procedure includes disputes over these actions within its scope, the employee may elect to appeal the action through the negotiated grievance procedure or the grievance procedure in section B of this chapter, but not both. The employee shall elect which grievance procedure will be used. The timely filing of a grievance under either procedure shall constitute an irrevocable election. Grievances filed under the negotiated grievance procedure must be filed in accordance with the provisions of the applicable negotiated grievance procedure. Reference should be made to the negotiated agreement for the appropriate steps and time limits.

g. Withdrawal of action

(1) After two years, admonishments will be removed from the OPF and destroyed. However, in cases of patient abuse, an admonishment may be retained in the OPF indefinitely. The employee's supervisor may, after six months, make a written request to the Personnel Officer that the admonishment be withdrawn, if the employee's conduct so warrants.

(2) After three years, a reprimand will be removed from the OPF and destroyed. However, in cases of patient abuse, the reprimand may be retained in the OPF indefinitely. The employee's supervisor may, after two years, make a written request to the Personnel Officer that the reprimand be withdrawn, if the employee's conduct so warrants.

(3) If the request for early withdrawal is initiated by a supervisor below the level of the official who issued the action, it must be approved at or above the level of the initial decision official.

(4) Since the admonishment or reprimand may be appealed under the grievance procedure initially and, except in patient abuse cases, will automatically be removed from the OPF after two or three years, respectively, a grievance may not be filed based on a supervisor's decision not to remove it earlier than the expiration date.

(Authority: 38 U.S.C. 501(a), 7421, 7461, 7463.)

6. Major Adverse Actions

a. Types of Actions

This paragraph applies to suspensions, transfers, reductions in grade, reductions in basic pay, and discharges.

b. Burden of Proof

When taking a major adverse action against an employee, the Department bears the burden of proving by a preponderance of evidence the charges that form the basis for the action.

c. Procedural Entitlements

(1) Prior to taking a major adverse action, the employee must be given 30 calendar days advance written notice of the action proposed. The advance notice of proposed action must contain the following information:

(a) The nature of the action proposed;

(b) The specific charges upon which the proposed action is based, including the details and circumstances (i.e., names, dates, places, and other data) constituting the basis for action, sufficient to enable the employee to fully understand the charges and to afford the employee a fair opportunity to respond to them;

(c) Any specific law, regulation, policy, procedure, practice, or other specific instruction that has been violated as it pertains to each charge;

(d) A statement of the employee's past disciplinary record when such record is to be relied upon as evidence or considered as part of the basis for the proposed action. Specific previous infractions and penalties will be cited and identified and the employee will be advised that he or she may reply orally or in writing, or both orally and in writing, with respect to those previous infractions. The statement will also advise the employee that he or she may submit supporting evidence, including affidavits, and may make a statement concerning the use to be made of the past record in determining proper action;

(2) The right to reply orally or in writing, or both orally and in writing, and to submit affidavits and other documentary evidence in support of the reply;

(3) The right to a reasonable amount of time to submit the reply(ies). Time limits may vary according to the particular circumstances in each case. However, the employee must be allowed a minimum of seven days from date of receipt of the notice of proposed action, but no more than 30 days from date of the written notice of charges. The proposing/deciding official may grant extensions beyond 30 days only when good cause is shown;

(4) The right to review the material relied upon to support the reasons for the proposed action;

(5) Identification of the official who will receive any oral or written replies;

(6) The right to representation by an attorney or other representative of the employee's choice at all stages of the case;

(7) Identification of the decision official;

(8) The right to a written decision within 21 days of receipt of the employee's reply, if any, or of the expiration of the reply period if no reply is made (see subparagraph g (1) and (2) below); and

(9) The right to grieve or appeal, as appropriate, any major adverse action effected.

d. Exceptions to 30 day Advance Notice

The requirement for a 30-day advance notice period may be shortened if there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed (38 U.S.C. 7462(b)(1)(A)). This exception is concerned solely with shortening the advance notice period. In order for the "crime provision" or "crime exception" to be invoked, there must be reasonable cause to believe that the employee has committed a crime for which the employee may be imprisoned. The employee must still be afforded a reasonable amount of time, but not less than 7 days, to reply orally and/or in writing to a notice of proposed adverse action.

e. Employee's Reply

(1) If the employee requests an opportunity to reply orally, the decision official, or designee, will receive the employee's reply. Any official designated to receive the reply must have the authority to recommend what final decision should be made.

(2) A written summary of the oral reply must be made and placed in the adverse action file.

f. Arriving at a Final Decision on the Proposed Action

(1) The decision on a proposed major adverse action will be made by an official who is in a higher position than the official who proposed the action, unless the action is proposed by the Secretary.

(2) The decision official will give full and impartial consideration to the employee's reply, if any, and all evidence of record. If the decision official finds, by a preponderance of the evidence, that one or more charges in the advance notice are sustained, he or she will determine the appropriate action. If none of the charges are sustained, either in whole or in part, no action may be imposed, regardless of any past record cited in the notice.

(3) Any penalty imposed by the decision official may not be more severe than the action specified in the notice of proposed action.

(4) If the notice of proposed action is determined to be procedurally defective to the detriment of the employee's substantive rights, or if it is found that additional reasons other than those set forth should be considered, or that the appropriate action should be more severe than that proposed, the notice of proposed action will be rescinded and a new notice of proposed action issued.

(5) If additional evidence becomes available to further support the charges in the advance notice, but does not necessarily provide a basis to alter the charges or the proposed action, the employee will be afforded the opportunity to respond to the new evidence before a final decision is made.

g. Decision

(1) The deciding official shall render a decision in writing within 21 days of his/her receipt of the employee's reply(ies). The decision will be delivered to the employee at least five days prior to the effective date of the action, whenever possible. The five day period does not apply to indefinite suspensions.

(2) A decision on a proposed major adverse action may be held in abeyance at the request of the employee and agreement by the deciding official, in order for the employee to seek counseling or treatment for a condition covered under the Rehabilitation Act of 1973 (see 29 U.S.C. 701, et seq.). The employee must provide acceptable documentation for his or her request which, at a minimum, establishes both a qualifying handicapping condition and a causal connection between the handicapping condition and the cited misconduct and/or deficiency in performance. However, an abeyance of this nature may not exceed one year.

(3) The decision letter must contain the following:

(a) A statement of the specific charges that are sustained and those that are not sustained;

(b) When a major adverse action is imposed, a statement as to whether any of the charges sustained arose out of a question of professional conduct or competence;

(c) A statement that consideration has been given to all evidence developed, including the employee's reply. If the employee replies both orally and in writing, both must be mentioned;

(d) If a record of prior disciplinary actions was cited in the advance notice, a statement that the action takes the past record, as cited in the advance notice, into consideration in determining proper action and the weight given to this past record;

(e) A statement of the effective date (not less than 30 days from receipt of notice of proposed action), if the action imposed is a major adverse action. If the action is a suspension, the inclusive dates of the suspension will be stated;

(f) A statement specifying the employee's appeal rights, and the time limits within which any appeal must be filed;

h. Appeals of Major Adverse Actions

(1) If the major adverse action does not involve or include a question of professional conduct or competence, an employee may elect to seek review of the decision under the grievance procedure described in section B of this chapter. However, if the employee is covered by a collective bargaining agreement under 5 U.S.C. chapter 71 and the negotiated grievance procedure includes disputes over these actions within its scope, the employee may elect to appeal the action through the negotiated grievance procedure or the grievance procedure in section B of this chapter, but not both. The employee shall elect which grievance procedure will be used. The timely filing of a grievance under either procedure shall constitute an irrevocable election. Time limits for filing a grievance under the

VA procedure are governed by the provisions of section B of this chapter. Grievances filed under the negotiated grievance procedure must be filed in accordance with the provisions of the applicable negotiated agreement.

(2) If the major adverse action is based in whole or in part (i.e., mixed case) on a question of professional conduct or competence, the employee may appeal the Disciplinary Appeals Board under the provisions in section C of this chapter.

(3) If the employee does not request a hearing in the request for an appeal, the Board may elect to conduct a hearing or make a decision based on a review of the record.

(4) Appeals to the Disciplinary Appeals Board must be submitted to the CMD or designee so as to be received within 30 days after the date of service of the written decision on the employee. The 30 day time limit may not be extended.

(5) An issue of whether a matter or question concerns, or arises out of, professional conduct or competence is not itself subject to any grievance procedure provided by law, regulation, or collective bargaining and may not be reviewed by any other agency.

(Authority: 38 U.S.C. 501(a), 7421, 38 U.S.C. 7461–7464.)

Section B. Grievances

1. Scope and Authority

a. General

This section governs employee grievances under the VA grievance procedure.

b. Employee Coverage

This section applies to all permanent and probationary physicians, dentists, podiatrists, optometrists, nurses, nurse anesthetists, physician assistants, and expanded-function dental auxiliaries.

c. Disciplinary and Adverse Actions Covered

Disciplinary and major adverse actions, other than major adverse actions which involve questions of professional conduct or competence, are covered by the grievance procedures described in this section.

(Authority: 38 U.S.C. 501(a), 7421, 38 U.S.C. 7461–7464.)

2. References

Section 203 of the Department of Veterans Affairs Health-Care Personnel Act of 1991 (Pub. L. 102–40); 38 U.S.C. 501(a), 7421, 38 U.S.C. 7461–7464.

3. Responsibilities

The CMD and other key management officials are responsible for delegating authority to appropriate officials to decide grievances. The CMD and facility Directors, as appropriate, will designate such officials in writing.

(Authority: 38 U.S.C. 501(a), 7421, 38 U.S.C. 7461–7464.)

4. Definitions

a. Grievance

A request by an employee, or group of employees, for personal relief in a matter of concern or dissatisfaction relating to employment which is subject to the control of agency management. Matters not covered by the grievance procedure may be found in paragraph 14 of this section.

b. Employee

Any physician, dentist, podiatrist, optometrist, nurse, nurse anesthetist, physician assistant, or expanded-function dental auxiliary covered in the scope of this section. Former employees of VA are also included, but only in connection with a grievance over actions resulting in loss of pay (for example, a former employee charged with 8 hours absence with leave (AWOL) who has requested that the 8 hours of pay be restored). Former employees must have filed a timely grievance in accordance with the provisions of this chapter in order to receive consideration.

c. Bargaining Unit Employee

An employee included in an appropriate unit, pursuant to 5 U.S.C. 7112 and 7135, for which a labor organization has been accorded exclusive recognition.

d. Personal Relief

A specific remedy directly benefiting the grievant(s), but may not include a request for disciplinary or other action affecting another employee.

e. Grievance File

A separate file subject to the Privacy Act which contains all documents related to the grievance, including, but not limited to, statements of witnesses, records or copies thereof, the report of the hearing if one is held, statements made by the parties to the grievance, and the decision.

f. Decision Official

An official designated to (1) receive and attempt to adjust formal grievances; (2) refer formal grievances for further review and inquiry; and (3) decide formal grievances based on the results of impartial reviews and recommendations.

(Authority: 38 U.S.C. 501(a), 7421, 38 U.S.C. 7561–7464.)

5. Representation

a. Election of Representation

An employee may present a grievance with or without representation.

b. Designation of Representative

An employee has the right, to be accompanied, represented, and advised by a representative of his or her choice at any stage of the procedure. If a grievance is presented under the formal grievance procedure, designation of a representative will be in writing and will be submitted to the decision official. Any change of representative will be in writing.

c. Disallowance of Designated Representative

An employee's representative who is employed by VA may be disallowed by an official with supervisory authority over that representative because of priority needs of that employee's service, unreasonable cost to the Government, conflict of position, or conflict of interest.

(Authority: 38 U.S.C. 501(a), 7421, 38 U.S.C. 7461–7464.)

6. Time Limits for Processing Grievance

a. Time Limits

A decision on a grievance will be issued within the shortest time frame possible. To ensure timely and orderly processing, the following time limits are established for each stage of the grievance procedure:

(1) Informal Procedure.

(a) 15 days from the date of the incident or action on which the grievance is based for employee to initiate grievance. When an employee is informed of a final decision that has not yet been effected, the period to present a grievance is counted from the date of notification of the action.

(b) 10 days for completion of action under the informal procedure.

(2) Formal Procedure.

(a) 10 days for employee to file a written grievance under the formal procedure after completion of the informal procedure, or 15 days from the date of service of a decision where a grievance originated at the formal process (see paragraph 9, this section).

(b) 10 days for deciding official to adjust, reject, or refer grievance for inquiry by examiner or for technical review after employee files formal grievance.

(c) 30 days for completion of the inquiry and submission of report when the examiner is appointed locally.

(d) 45 days for completion of the inquiry and submission of report when an examiner from outside the facility is appointed.

(e) 30 days for Central Office to issue technical reviews when requested to do so by the decision official.

(f) 15 days for issuance of the decision after the decision official receives the examiner's report of findings and recommendations or the Central Office technical review.

b. Grievance on Continuing Condition or Practices.

An employee may present a grievance concerning a continuing practice or condition at any time. Situations caused by actions which were taken or occurred on a specific date (e.g., admonishments, reprimands, or shift assignments) are not considered continuing conditions for these purposes despite any continuing effects they may have.

c. Delays in Processing Grievances

Management officials will ensure that grievances are processed promptly. Management delays in any stage of the grievance procedure beyond the prescribed time limits will be explained to the employee and the employee's representative. Such delays should be rare. If the employee delays in any stage of the grievance procedure, management will determine whether there was good cause and whether the grievance should continue to be processed. Such delays, explanations, and determinations will be documented for the record. This includes any delay created by the denial of an employee's representative or by challenge to the denial.

(Authority: 38 U.S.C. 501(a), 7421, 38 U.S.C. 7461–7464.)

7. Informal Grievance Procedure

a. Presenting Grievance Under Informal Procedure

An employee desiring consideration of a grievance must first seek informal adjustment of the matter through supervisory channels. This informal procedure will not be utilized when grieving disciplinary and major adverse actions, where grievances will be initiated at the formal step of the grievance procedure (see paragraph 9 of this section). The employee's request for informal adjustment of a grievance should be made as soon as possible, but not later than 15 days after the date of the incident or action upon which the grievance is based, or the date upon which the employee became aware of, or should have become aware of, the incident or action upon which the grievance is based (see paragraph 6a of this section).

b. Resolving Grievance

The supervisor to whom a grievance has been presented for informal adjustment will attempt to resolve it as expeditiously as possible, seeking the advice and assistance of others where necessary, and will give the employee a written decision on the matter within 10 days from the date of the request for informal consideration. If the relief sought is not granted, the employee shall be advised of the right to present the grievance under the formal procedure.

c. Mandatory Use of Informal Procedure

Normally, the employee must complete processing under the informal procedure before a grievance will be accepted for processing under the formal procedure. However, when the authority to resolve the matter is reserved to the Secretary, the informal procedure will not be used. This informal procedure will not be utilized when grieving disciplinary and major adverse actions, where grievances will be initiated at the formal step of the grievance procedure (see paragraph 9 of this section).

8. Formal Grievance Procedure

a. Presenting Grievance Under Formal Procedure

If the employee is not satisfied with the decision at the informal stage, or is grieving a disciplinary or major adverse action (see paragraph 9 of this section), he/she may present the grievance under the formal procedure. The formal grievance must be submitted in writing through the employee's immediate supervisor, within 10 days after completion of the informal procedure, or 15 days from the date of service of a decision where a grievance originates at the formal process (see paragraph 9, this section). The immediate supervisor or other official receiving the employee's formal grievance will refer it promptly through channels to the appropriate decision official. The time limit may be extended by management when good cause is shown by the employee.

b. Contents of Formal Grievance

(1) A formal grievance will be submitted in writing, will contain sufficient detail to identify and clarify the basis for the grievance, and will specify the personal relief requested by the employee. It will contain the following information:

(a) The specific action or incident on which the grievance is based; the date the action or incident occurred (if known), and the date the employee first learned of the action or incident (if appropriate).

(b) The reasons for which the employee believes that the action was unjustified or that he/she was treated unfairly; and/or the specific policy (department, facility, etc.), written agreement, or regulation violated and how it affected the employee.

(c) The corrective action desired by the employee.

(2) If the formal grievance does not contain a statement of the grievance giving essentially the information specified above, the decision official will return the grievance to the employee so that the necessary information may be furnished. If the employee fails to provide necessary information after being provided with an opportunity to do so, the decision official should cancel the grievance following procedures contained in paragraph 10 of this section.

c. Group Grievances

When a group of employees has an identical formal grievance, it will be considered in the same manner as an individual complaint and the decision will be binding on all employees. The group will select one individual case for processing under the provisions of the formal grievance procedure.

d. Adjustment or Referral of Grievance by Decision Official

Unless the decision official rejects or returns the grievance for additional information, that official will review the employee's grievance and the grievance file and explore the possibility of adjusting the grievance to the employee's satisfaction. If the decision official is unable to resolve the grievance in a manner acceptable to the employee, the grievance will be referred for inquiry by an examiner (see paragraph 12 of this section) or for technical review by an appropriate official (see paragraph 11 of this section) within 10 days of the decision official's receipt of the formal grievance.

(Authority: 38 U.S.C. 501(a), 7421, 38 U.S.C. 7461–7464.)

9. Grievances Over Disciplinary and Major Adverse Actions

a. Grievances over disciplinary and major adverse actions will be filed at the formal stage described in paragraph 8 of this section without first filing under the informal procedure. In cases of a major adverse action, the employee is entitled to a hearing before a grievance examiner, if requested.

b. Grievances initiated under the formal stage must be filed within 15 days from the date of service of the decision letter as indicated by paragraph 6a of this section.

c. Except as provided in subparagraphs a and b above, all other provisions of this section apply.

(Authority: 38 U.S.C. 501(a), 7421, 38 U.S.C. 7461–7464.)

10. Rejection, Return, or Cancellation of a Grievance

a. Reasons for Rejection of a Grievance

The decision official may reject a grievance only for one or more of the following reasons:

(1) The relief sought is not personal to the grievant. Relief in the form of a request to discipline another employee will not be considered appropriate;

(2) The matter(s) is(are) not covered by the VA grievance procedure (see paragraph 14 of this section);

(3) The grievance was not filed in a timely manner (see paragraph 6, this section, for specific time limits). A grievance may be rejected under the formal procedure based on a failure to timely file at either the formal or informal stage.

b. Written Notification of Rejection of Formal Grievance

The grievant and his/her representative will be notified in writing when a formal grievance is rejected, and provided with the specific reason(s) for the rejection.

c. Reasons for Return

(1) Insufficient detail was furnished to clearly identify the matter being grieved;

(2) The personal relief sought is not specified.

d. Written Notification of Return of Grievance

The grievant and his/her representative will be notified in writing when a grievance is returned, and provided with the specific reason(s) for the return. A reasonable time will be identified for resubmission of the grievance.

e. Reasons for Cancellation of Grievance

A grievance may be cancelled, either wholly or partially as appropriate, by the decision official under any of the following conditions:

(1) At the employee's request;

(2) Termination of the employee's employment, unless the personal relief sought by the employee involves monetary issue(s) and can be granted after termination of employment;

(3) Death of the employee, unless the grievance involves a matter which would have entitled the employee to pay, or benefits;

(4) Failure of the employee to furnish required information; or

(5) Failure of the employee to duly proceed with advancement of the grievance.

f. Written Notification of Cancellation of Formal Grievance

The grievant and his or her representative will be notified in writing when a grievance is cancelled, and provided with the specific reason(s) for the cancellation.

(Authority: 38 U.S.C. 501(a), 7421, 38 U.S.C. 7461–7464.)

11. Technical Review

a. In cases where the facts are not in dispute and the primary issue involves only the interpretation of regulation or policy, instead of appointing an examiner, the decision official may forward the grievance for technical review and recommendations through appropriate channels to the Office of Personnel and Labor Relations (058A) in Central Office. Situations where "the facts are not in dispute" are those instances where management essentially agrees with the grievant's statement of facts in the formal grievance, and the primary issue in dispute is regulatory or policy interpretation. The grievant and his or her representative will be provided with a copy of the decision official's referral letter to Central Office. Upon receipt of the request, the grievance will be forwarded to the appropriate organizational element in Central Office which has technical program responsibility in the matter(s) disputed. A technical review will be conducted and the resulting recommendations transmitted by an appropriate Central Office line official to the decision official who will resolve the grievance as indicated in paragraph 13 of this section.

b. Matters covered under section A of this chapter which are subject to review under the grievance procedure, may only be resolved through a technical review if the employee waives the right to a formal review by a grievance examiner. Such waivers shall be in writing.

(Authority: 38 U.S.C. 501(a), 7421, 38 U.S.C. 7461–7464.)

12. Review of Grievance Examiner

a. Appointment of Grievance Examiner

(1) In cases where an examiner is required, the decision official may appoint a subordinate employee to act as the grievance examiner or request an examiner be appointed from outside the local area. The grievance examiner will be fair, impartial, and objective, with demonstrated analytical and factfinding skills. The grievance examiner will not be assigned cases in his or her work unit, service, or organizational component, and must be an employee who has not been involved in the matter being grieved and who does not occupy a position subordinate to any official who recommended, advised, made a decision, or who otherwise is or was involved in the matter being grieved. The grievant and any designated representative will be informed of the assignment. The examiner assigned will promptly review the case and determine the nature and scope of the inquiry appropriate to the issue(s) involved in the grievance.

(2) In cases arising from disciplinary actions involving professional conduct or competence as covered under section A of this chapter, the grievance examiner will be selected from the panel of employees designated to serve on Disciplinary Appeals Boards. Notice of the grievance examiner's name on the panel list must have been provided at least 30 days prior to his or her selection as an examiner.

b. Formal Review

At the examiner's discretion, the grievance inquiry may consist of:

(1) The securing of documentary evidence, including the solicitation of such technical advice as may be needed or compelling expert VA testimony;

(2) Personal or telephone interviews (statements of witnesses obtained by the examiner should be under oath or affirmation, without a pledge of confidentiality);

(3) A group meeting;

(4) A hearing;

(5) Any combination of the above.

c. Hearings

(1) Formal hearings should be limited to grievances involving complex matters or where important factual matters are in dispute. The decision to schedule a hearing is the prerogative of the examiner, except in grievances over major adverse actions where the employee has the right to a hearing, if requested.

(2) If a hearing is held, the examiner will determine how the hearing will be

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recorded, and will have a verbatim transcript or written summary of the hearing prepared. The record will include all pertinent documents submitted and accepted by the examiner. The examiner will make the transcript a part of the record of the proceedings. When the hearing is not recorded verbatim, a summary of pertinent portions of the testimony will be made by the examiner. The summary will constitute the report of the hearing and is made a part of the record of the proceedings.

d. Administering Oaths or Affirmations

For purposes of this section, examiners are authorized to administer oaths or affirmations to those individuals providing testimony relative to the grievance.

e. Preparation of Examiner's Report

The examiner will prepare a report of findings and recommendations, and submit that report, with the grievance file, to the decision official. The examiner will also furnish a copy of the report to the employee and the employee's representative.

f. Time Limits for Examiner's Report

Except in unusual cases, the time limit for submission of the report and the grievance file to the decision official is 30 days for local grievance examiners or 45 days for grievance examiners from outside the facility, after receipt of written notification of appointment as the grievance examiner.

(Authority: 38 U.S.C. 501(a), 7421, 38 U.S.C. 7461–7464.)

13. Decision of Grievance

a. Action by Decision Official—Technical Review

Central Office technical reviews (paragraph 11a, this section) and the resulting recommendations will be forwarded to the formal grievance decision official, and will serve as the basis for the final decision. The decision official will issue the decision to the employee within 15 days after the technical review is received from Central Office.

b. Action by Decision Official—Examiner's Report

Upon receipt of the grievance examiner's report of findings and recommendations, the decision official will accept, modify, or reject the examiner's recommendation and issue a written decision to the employee within 15 days after the recommendation is received. The employee's representative will also receive a copy of the decision.

(1) If the decision official modifies or rejects the examiner's recommendations, the written decision will include a specific statement of the reason for the modification or rejection. Modification or rejection of recommendations of the grievance examiner will be limited to the following grounds:

(a) The recommendation(s) are contrary to law, regulation, or published Department policy;

(b) The recommendation(s) are not supported by the preponderance of the evidence;

(2) The decision official may elect to grant the relief sought by the employee without regard to the examiner's recommendation.

(Authority: 38 U.S.C. 501(a), 7421, 38 U.S.C. 7461–7464.)

14. Matters Excluded From Coverage Under the Grievance Procedure

The following actions and complaints are excluded from coverage under the grievance procedure:

a. Major adverse actions taken under section A of this chapter which involve a question of professional conduct or competence.

b. Disputes over whether a matter or question concerns, or arises out of, professional conduct or competence.

c. Separation during probationary period.

d. Complaints arising from failure to receive special advancement.

e. Complaints arising from failure to receive a promotion or reassignment.

f. Complaints arising from dissatisfaction with grade or pay on initial appointment.

g. Complaints arising from actions taken due to the individual's physical or mental condition.

h. Complaints arising from dissatisfaction with proficiency rating.

i. An action which terminates a temporary promotion within a maximum period of 2 years and returns the employee to the position from which the employee was temporarily promoted, or reassigns the employee to a different position that is not at a lower grade or pay than the position from which the employee was temporarily promoted.

j. The content of published VA or VHA regulations and policies. (An employee's allegation that locally established policy is in conflict with existing Department policy or regulation may be handled as indicated in paragraph 13a of this section.)

k. A decision which is subject to final administrative review by the Federal Labor Relations Authority (FLRA), or the Office of Workers' Compensation Programs (OWCP) under law or regulations of the FLRA, or the OWCP; or any other matter for which final administrative authority lies outside VA.

l. Allegations of discrimination on the basis of race, color, religion, sex, national origin, age (over 40) and/or handicap, in connection with any decision or action. Such allegations may only be pursued as complaints of discrimination, pursuant to regulations of the Equal Employment Opportunity Commission. Complaints of discrimination are excluded from the grievance procedure. However, other disputes related to the case are not precluded from review under the grievance procedures. Accordingly, a grievance concerning a matter or matters about which the employee has filed a complaint of discrimination must be rejected, either wholly or partially, as appropriate.

m. A preliminary warning notice of an action which, if effected, would be covered under a grievance or appeal system or excluded from coverage by other paragraphs of this section.

n. Nonadoption of a suggestion, disapproval of a discretionary award or disagreement with the amount of an award.

o. A matter which includes specified relief that is not personal to the grievant or is not subject to the control of management.

p. A matter covered by a negotiated grievance procedure. However, an employee may elect to use the VA grievance procedure described in this section or the negotiated grievance procedure in the case of a disciplinary or major adverse action covered under section A of this chapter which does not involve a question of professional conduct or competence.

q. A grievance of an individual from outside VA.

r. Grievances concerning the number of positions to be filled, or the grade level at which positions are filled.

s. An action taken in accordance with the terms of a formal agreement voluntarily entered into by an employee.

t. Matters that are not directly related to the employee's conditions of employment.

u. Matters involving the methods, means or technology of performing work.

v. Determinations and authorizations, including those delegated by the Secretary, to approve, disapprove, change, discontinue special pay or to decide upon waivers of special pay refund obligations. Examples of these include, but are not limited to: determinations on special pay amounts relating to geographical locations, exceptional qualifications, executive positions, and scarce medical or dental specialties.

w. Designations of employees to serve on the panel from which members of Disciplinary Appeals Boards are selected, designations of employees to serve on Disciplinary Appeal Boards or the appointment of a grievance examiner.

x. All matters for which review procedures are already established in VA policy.

y. A decision not to remove an admonishment or reprimand from an employee's Official Personnel Folder prior to the expiration date.

(Authority: 38 U.S.C. 501(a), 7421.)

Section C. Appeals to the Disciplinary Appeals Board

1. Scope, Authority and Definitions

This section governs appeals of major adverse actions which arise out of (or which include) a question of professional conduct or competence in the Department of Veterans Affairs (VA). Major adverse actions are suspensions (including indefinite suspensions), transfers, reductions in grade, reductions in basic pay, and discharges. A question of professional conduct or competence involves direct patient care and/or clinical competence. The term clinical competence includes issues of professional judgement. This section applies to VA employees holding a full-time, permanent appointment under 38 U.S.C. 7401(1) who have satisfactorily completed the probationary period required by 38 U.S.C. 7403(b). Included in this category are: Physicians, dentists, podiatrists, optometrists, nurses, nurse anesthetists, physician assistants and expanded-function dental auxiliaries. The above categories of individuals are included in the term employee(s) as used in this section unless otherwise specified.

(Authority: 38 U.S.C. 501(a), 7401, 7403(b), 7421, 38 U.S.C. 7461–7464.)

2. References

a. Section 203 of the Department of Veterans Affairs Health-Care Personnel Act of 1991.

b. 38 U.S.C. 501(a), 7421, 7461, 7462, 7464.

3. Filing an Appeal to the Disciplinary Appeals Board

a. Initiating an Appeal

An employee subjected to a major adverse action which is based in whole or in part on a question of professional conduct or competence, may file a written notice of appeal to the Disciplinary Appeals Board under the provisions of this section. The employee may request a hearing before the Board. Any such request must be submitted in writing and accompany the employee's notice of appeal. The appeal must contain, (1) the appellant's name, address, telephone number, designation of representative (if any), (2) a copy of the notice of action proposed and decision letter, (3) a statement as to whether he/she is requesting a hearing before the Board, (4) why the appellant believes the major adverse action taken was in error, and (5) a statement describing the expected relief. The original appeal and the request for hearing, if any, must be submitted to the Chief Medical Director (CMD) or his designee so as to be received within 30 days after the date of service of the written decision on the employee. Submission of the appeal must be by personal service, facsimile, or certified mail—return receipt requested. A copy of the appeal must be served to the decision official who took the action being appealed and to any management representative of record.

b. Establishing Timeliness of an Appeal

For purposes of computing the 30 day period for filing an appeal, the date of service of the written decision on the employee will be determined by the date of receipt by the employee of the personal delivery, the signed receipt of certified mail, or presumed to be five days after depositing the decision in the U.S. mail if no acknowledged receipt is available.

c. Representation

The employee may be represented by an attorney or other person of his/her choice.

(Authority: 38 U.S.C. 501(a), 7421, 38 U.S.C. 7461–7464.)

4. Appointment of Disciplinary Appeals Boards

a. General

The CMD or designee shall appoint Disciplinary Appeals Boards in accordance with this section to hear appeals of major adverse actions involving questions of professional conduct or competence as defined in section A of this chapter. Such Boards shall be referred to as Disciplinary Appeals Boards. Each Board will be comprised of three VA employees, each of whom shall be of the same grade (and Enhanced Qualifications or Assignments (EQA), where appropriate) as, or be senior in grade to, the employee who is appealing the action. For purposes of this section, the term grade is defined by the provisions of 38 U.S.C. 7404, and the qualification standards issued pursuant to 38 U.S.C. 7402 (see MP–5, part II, chapter 2 and its supplement). At least two of the members of the Board shall be employed in the same category of position as the employee who is appealing the action. For purposes of this section, a member employed in the same category of position is one who is employed in the same occupation (e.g., physician, nurse, dentist) as the appellant and has sufficient professional knowledge to evaluate the specific issues to clinical competence and/or direct patient care involved in the appeal.

b. Panel Notice

Notice of a name being on the list will be provided at least 30 days prior to the selection of the individual to serve on a Board.

5. Jurisdiction

The Disciplinary Appeals Boards appointed under this section shall have exclusive jurisdiction to review any case which arises out of (or which includes) a question of professional conduct or competence, and in which a major adverse action was taken under section A of this chapter.

(Authority: 38 U.S.C. 501(a), 7462, 7463.)

6. Powers of the Chairman

The Chairman's authority includes, but is not limited to:

a. Taking proper steps to expedite the hearing of evidence, and speaking and acting for the Board;

b. Ruling on all questions arising during the proceedings, such as admissibility of evidence offered during the hearing, calling of witnesses, order of introduction of witnesses, etc.;

c. Obtaining further evidence concerning any issue under consideration by the Board at any stage of the proceedings;

d. Acting as the presiding officer, directing the regular and proper conduct of the proceedings, and authenticating, by his/her signature, instructions and proceedings of the Board;

e. Ruling on questions of disqualification of any member of the Board. In cases where the Chairman is the challenged member, the question shall be resolved in accordance with paragraph 7e of this section;

f. Scheduling the specific hour and dates of hearings;

g. Closing the record;

h. Administering oaths or affirmations made by individuals giving testimony;

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i. Ruling on motions from the parties, and

j. Calling witnesses on behalf of the Board.

(Authority: 38 U.S.C. 501(a).)

7. Procedure

a. Determining Jurisdiction

When a Board is convened to consider an appeal, the Board shall first determine whether the case is properly before it prior to considering the merits of the appeal. The Board shall determine whether the matter appealed is a major adverse action as defined in section A of this chapter and involves a question of professional conduct or competence, and was filed timely. The determination of jurisdiction will be made as soon as practicable. The Board will make a record of its determination.

(1) The record of decision in any mixed case shall include a statement by the Board of its exclusive jurisdiction, citing 38 U.S.C. 7462(a)(2) as the authority and the basis for such exclusive jurisdiction. A mixed case is one that includes both (a) a major adverse action arising out of a question of professional conduct or competence, and (b) a major adverse action which does not arise out of a question of professional conduct or competence or a disciplinary action.

(2) If necessary, the Board may develop the record to establish jurisdiction.

(3) If the Board determines that the appeal is not properly before it, (e.g., that it lacks jurisdiction), the Board shall fully set forth its reasons, including a statement of the appropriate appeal procedure. The CMD will take appropriate action on the decision of the Board as described in paragraph 9c of this section.

b. Type of Hearing

The employee has the right to a hearing before the Board in connection with his/her appeal of an adverse action. If the employee does not ask for a hearing before the Board, the Board may elect to conduct a hearing without the appellant or may consider the evidence of record, including any evidence developed by the Board. Formal hearings will be conducted in accordance with paragraph 8 of this section.

c. Technical Advisors

Employees may be designated to serve as technical advisors to the Board and assist in the development and review of the case.

d. Presence of Board Members

No Board hearing will proceed unless all members are present.

e. Disqualification

A Board member will be disqualified for service if the Chairman rules that the Board member initiated or participated in the initiation of charges, had direct personal knowledge of the case or facts giving rise to the action, or if his/her relationship with the appellant or officials involved in recommending or deciding on the disputed action creates a question of bias. Any party to the case or member of the Board may make a motion to disqualify a Board member. The Chairman will rule on the disqualification for service of any member of the Board. In cases where the Chairman is the challenged member, or if a member of the Board questions the ruling of the Chairman, the Board will make the ruling as to disqualification by majority vote in closed session.

f. Mental/Physical Condition of Employee

In the course of the hearing, if the appellant raises an issue of his/her mental or physical condition in relation to the charges, the appellant will be given the opportunity to present evidence relating to the condition. If appropriate, the Board may refer the matter to a Physical Standards Board for review so that the Board may determine whether the matter was appropriately before the Board as a chapter 8 action, or whether it should have been processed under MP-5, part II, chapter 9, and related supplements for consideration of physical and/or mental incapacity. If, however, the appellant is alleging discrimination on the basis of a handicapping condition, he/she should be referred to the EEO discrimination complaint process, which is the exclusive procedure for reviewing allegations of discrimination, and the hearing shall then proceed on the merits of the charges.

g. Closing of Record

At the conclusion of the hearing, the Chairman will close the record unless he/she authorizes parties to submit written closing arguments, briefs, or documents identified for introduction into evidence. Should this be the case, the record will close on the date set by the Chairman. If the appellant does not request an oral hearing, the record will close on the date the Board Chairman sets as the final date for the receipt of submissions.

(Authority: 38 U.S.C. 501(a), 7421, 38 U.S.C. 7461–7464.)

8. Formal Hearings

a. Notifications

The Board Chairman shall notify the appellant, the head of the facility, and any designated representatives when a hearing is scheduled. The initial notice from the Chairman shall include the following:

(1) The names of the Board members and technical advisor, if used;

The specific hour and dates of the scheduled hearing;

(3) The date by which submissions must be made to the Chairman in connection with motions from the parties (e.g., to request rescheduling of hearing if good cause can be shown, as well as motions in other areas); and,

(4) The date by which witness lists must be exchanged, which must include statements as to what testimony each witness is expected to provide as well as any objections either party may have to the other's witnesses. Service will be by personal delivery or certified mail—return receipt requested.

b. Exclusion of Individuals During Proceeding

Prior to testifying (or, if subject to recall), no witness will be permitted to hear the testimony being given by another witness unless the witness is the appellant, the charging official, or is assisting in the representation of either party. In any event, the Chairman of the Board will make the final determination on exclusion of individuals during any phase of the proceeding.

c. Oaths

The Chairman and Secretary of the Board shall have the authority to administer oaths or affirmations which will be made by all individuals giving testimony.

d. Verbatim Record

A verbatim record shall be maintained of Board hearings (see subparagraph g below for further details).

e. Witnesses

Both the appellant and management will have the right to call witnesses. The Chairman will, on his/her own initiative, call such witnesses on behalf of the Board as he/she deems necessary. A patient, with his/her consent, may be a witness, provided there has been a medical determination that he/she has the capacity to testify and that his/her appearance as a witness will not be detrimental to his/her health and welfare. The Chairman has the final authority to determine the acceptability of any witness.

f. Scheduling of Hearing

The hearing will be conducted on official Government time, without charge to leave of the employees concerned, provided that such employees are otherwise in an active duty and pay status.

g. Record of Hearing

(1) A verbatim record of the hearing proceedings will be prepared.

(2) The employee and/or his/her representative shall be provided a copy of the transcript of the formal hearing after authentication.

(Authority: 38 U.S.C. 501(a), 7421, 38 U.S.C. 7461–7464.)

9. Disciplinary Appeals Board Decisions

a. Findings

The Board shall, with respect to each charge appealed, sustain the charge, dismiss the charge, or sustain the charge in part and dismiss the charge in part.

b. Decision

The Board has full authority to render a decision on an appeal. The Board shall reach a decision within 45 calendar days of completion of the hearing, if a hearing is convened. In any event, a decision will be made by the Board no later than 120 calendar days after the appeal is received by the CMD or designee.

(1) If any charge is sustained in whole or in part, the Board shall approve the action as imposed; approve the action with modification, reduction, or exception; or reverse the action.

(2) If none of the charges are sustained in whole or in part, the Board will reverse the decision.

c. Action by the CMD

The CMD shall execute the Board's decision in a timely manner, but in no case later than 90 calendar days after the Board's decision is received by the CMD. Pursuant to the Board's Decision, the CMD may order reinstatement, award back pay, and provide such other remedies as the Board found appropriate relating directly to the proposed action, including expungment of records relating to the action.

(1) However, if the CMD finds a decision of the Board to be clearly contrary to the evidence or unlawful, the CMD may:

(a) reverse the decision of the Board; or

(b) vacate the decision of the Board and remand the matter to the Board for further consideration.

(2) If the decision, while not clearly contrary to the evidence or unlawful, is found to be not justified by the gravity of the charges, the CMD may mitigate the adverse action imposed.

(3) The CMD's execution of a Board's decision, or the mitigated action if appropriate, shall be the final administrative action in the case.

d. Case Record

The case record will consist of the notice of proposed adverse action, appellant's reply (if any), all evidence (documents or testimony) relied upon by the Board in reaching its decision, notice of decision to appellant, appellant's request for a hearing, CMD's appointment of the Board, Board communications and notices related to the hearing, any Board rulings or submissions of the parties, verbatim record of any formal hearing, Board Action (VA Form 10–2543), CMD's execution of the Board's recommendation, and any Notification of Personnel Action (SF–50B).

(Authority: 38 U.S.C. 501(a), 7421, 38 U.S.C. 7461–7464.)

10. Review of Records

The Chairman of a Board may review records or information covered by 38 U.S.C. 5701 and 7332 in accordance with 7464(c)(1) of title 38.

(Authority: 38 U.S.C. 501(a), 7421, 38 U.S.C. 7461–7464.)

Section D. Designation of Panel Members

1. Scope and Authority

This section governs the designation of employees to serve on the panel from which Disciplinary Appeals Board members and grievance examiners will be appointed to hear appeals of major adverse actions and disciplinary actions involving a question of professional conduct or competence.

(Authority: 38 U.S.C. 501(a), 512(a), 7421, 38 U.S.C. 7461–7464.)

2. References

a. Section 203 of the Department of Veterans Affairs Health-Care Personnel Act of 1991.

b. 38 U.S.C. 501(a), 7421, 7464; Section 203 of Public Law 102–40.

3. Responsibilities

The Chief Medical Director or designee will periodically designate employees to serve on the panel.

(Authority: 38 U.S.C. 501(a), 512(a), 7421, 38 U.S.C. 7461–7464.)

4. Panel Designations

Decisions related to the designation or termination of the designation of any individual to serve on the panel are not subject to review under any grievance or appeal procedure.

(Authority: 38 U.S.C. 501(a), 38 U.S.C. 7461–7464.)

5. Training

All employees designated for the panel shall receive training in the functions and duties of Disciplinary Appeals Boards and grievance procedures.

(Authority: 38 U.S.C. 501(a), 512(a), 7421, 38 U.S.C. 7461–7464.)

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Sunshine Act Meetings

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This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at its open meeting held at 10:05 a.m. on Tuesday, January 28, 1992, the Corporation's Board of Directors determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Director T. Timothy Ryan, Jr., (Office of Thrift Supervision), Vice Chairman Andrew C. Hove, Jr., and Chairman William Taylor, that corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Memorandum re: FICO Industry Semi-Annual Assessment of Savings Association Insurance Fund Members.

Memorandum re: Definition of Highly Leveraged Transactions.

By the same majority vote, the Board further determined that no notice earlier than January 23, 1992, of these changes in the subject matter of the meeting was practicable.

The Board further determined, by the same majority vote, that Corporation business also required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of a memorandum and resolution regarding authorized procedures for certain FDIC insurance applications made necessary by the new banking law.

The Board further determined, by the same majority vote, that no earlier notice than today, January 28, 1992, of this change in the subject matter of the meeting was practicable.

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Dated: January 28, 1992.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 92-2441 Filed 1-28-92; 5:09 pm]

BILLING CODE 6714-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at its closed meeting held at 10:36 a.m. on Tuesday, January 28, 1992, the Corporation's Board of Directors determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Director T. Timothy Ryan, Jr. (Office of Thrift Supervision), Vice Chairman Andrew C. Hove, Jr., and Chairman William Taylor, that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendation regarding the liquidation of depository institutions' assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 47,777
New Hampshire Loan Sales
Various Banks
State of New Hampshire
Matters relating to the Corporation's liquidation activities.

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting were practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), and (c)(9)(B)).

Dated: January 28, 1991.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 92-2442 Filed 1-28-92; 5:09 pm]

BILLING CODE 6714-01-M

FEDERAL TRADE COMMISSION

TIME AND DATE: 2:00 p.m., Wednesday, March 4, 1992.

PLACE: Federal Trade Commission Building, Room 532, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions Open to Public:

(1) Oral Argument in Schering Corp., Docket 9232.

Portions Closed to the Public:

(2) Executive Session to follow Oral Argument in Schering Corp., Docket 9232.

CONTACT PERSON FOR MORE INFORMATION: Bonnie Jansen, Office of Public Affairs: (202) 326-2161. Recorded Message: (202) 326-2711.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 92-2433 Filed 1-28-92; 4:34 pm]

BILLING CODE 6750-01-M

FEDERAL TRADE COMMISSION

TIME AND DATE: 2:00 p.m., Thursday, March 26, 1992.

PLACE: Federal Trade Commission Building, Room 532, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions Open to Public.

(1) Oral Argument in Textron, Inc., Docket 9226.

Portions Closed to the Public:

(2) Executive Session to follow Oral Argument in Textron, Inc., Docket 9226.

CONTACT PERSON FOR MORE INFORMATION: Bonnie Jansen, Office of Public Affairs: (202) 326-2161. Recorded Message: (202) 326-2711.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 92-2434 Filed 1-28-92; 4:34 pm]

BILLING CODE 6750-01-M

RESOLUTION TRUST CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:07 p.m. on Tuesday, January 28, 1992, the Board of Directors of the Resolution Trust Corporation met in closed session to consider matters relating to the resolution of a failed thrift institution.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), and concurred in by Chairman William Taylor, Vice Chairman Andrew C. Hove, Jr., and Director T. Timothy Ryan, Jr. (Director of the Office of Thrift Supervision), that corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b).

The meeting was held in the Board Room of the Federal Deposit Insurance Corporation Building located at 550—17th Street, N.W., Washington, D.C.

Dated: January 28, 1992.

Resolution Trust Corporation.

John M. Buckley,

Executive Secretary.

[FR Doc. 92-2479 Filed 1-29-92; 10:54 am]

BILLING CODE 6714-01-M

SECURITIES AND EXCHANGE COMMISSION

AGENCY MEETING:

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of February 3, 1992.

A closed meeting will be held on Tuesday, February 4, 1992, at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the mattters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the schedule matters at a closed meeting.

Commissioner Roberts, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Tuesday, February 4, 1992, at 10:00 a.m., will be:

Settlement of injunctive actions
Settlment of administrative proceedings of an enforcement nature
Institution of administrative proceedings of an enforcement nature
Institution of injunctive actions

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, pleases contact: Paul Atkins at (202) 272-2000.

Dated: January 28, 1992.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-2490 Filed 1-29-92; 11:14 am]

BILLING CODE 8010-01-M

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federal register

Friday
January 31, 1992

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 170

Establishment and Discontinuance Criteria for LORAN-C; Nonprecision Approach Procedures; Proposed Rule

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 170

[Docket No. 26758; Notice No. 92-1]

RIN 2120-AD68

Establishment and Discontinuance Criteria for LORAN-C; Nonprecision Approach Procedures

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This proposed rule prescribes benefit-cost based criteria for the establishment and discontinuance of LORAN-C nonprecision approach procedures at airports. Under the proposed criteria, the FAA would consider traffic density, passengers served, and aircraft operating efficiencies along with the cost of establishing and maintaining an approach. The criteria would provide a guide to FAA management to assure the cost-effective placement of LORAN-C approaches. This regulation, if promulgated, would implement the requirements of Public Law 100-223, which requires the publication of criteria for navigational aids and airport traffic control towers.

DATES: Comments must be received on or before April 30, 1992.

ADDRESSES: Send comments on the rule in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-210), Docket No. 26758, 800 Independence Ave., SW., Washington, DC 20591; or deliver comments in triplicate to: FAA Rules Docket, room 915-G, 800 Independence Ave., SW., Washington, DC 20591.

Comments may be examined in the Rules Docket, weekdays except Federal Holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Emerson, Office of Aviation Policy and Plans (APO-220), Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; telephone (202) 267-3298.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in these preliminary rulemaking procedures by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in triplicate to the address above. All communications received on or before the closing date for comments will be considered by the Administrator before taking further rulemaking action. Persons wishing the FAA to acknowledge the receipt of their comment submitted in response to this notice must submit with those comments a preaddressed, stamped postcard on which the following statement is made: "Comments to Docket No. 26758." The postcard will be date stamped and returned to commenter. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket. A final rule will be issued, if it is determined to be in the public interest to proceed with further rulemaking after considering the available data and comments received in response to the Notice of Proposed Rulemaking.

Availability of NPRM

Any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center (APA-230), 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484. Requests should identify the number of this notice. Persons interested in being placed on the mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedures.

Background

The FAA has the responsibility to establish or discontinue LORAN-C nonprecision approach procedures through the national airspace system when activity levels and safety considerations merit such action.

The FAA, and its predecessor agency, have been developing, approving, and publishing criteria for approach procedures since 1951. Currently, establishment and discontinuance criteria for certain navigation facilities and control towers are published in an internal FAA document: Airway Planning Standard Number One-Terminal Air Navigation Facilities and Air Traffic Control Services (FAA Order No. 7031.2C). The existing document does not include the criteria for LORAN-C nonprecision approaches to runways. The Airport and Airway Safety and Capacity Expansion Act of 1987, Public Law 100-223, section 308 (49 U.S.C. 1348), mandated that certain criteria be promulgated through Federal regulations.

A LORAN-C nonprecision approach procedure is established under FAA Handbook 8260.3B, United States Standard for Terminal Instrument Procedures (TERPS), as amended, which provides guidance for preparation, approval, and promulgation of terminal instrument approach procedures. LORAN-C operates through a low-frequency transmission of timed signals, with controlled coded pulses that furnish nonprecision guidance to pilots with properly equipped aircraft. The LORAN-C signal is transmitted by groups of three to six stations, called chains; each chain includes a designated master station and several secondary stations.

In a separate rulemaking, the FAA published a new part 170 to the Federal Aviation Regulations (14 CFR part 170) to list the criteria on which it will base its decision to establish or discontinue certain navigation facilities and procedures. On January 3, 1991, the FAA published The Establishment and Discontinuance Criteria for Airport Traffic Control Tower Facilities (56 FR 336). It is anticipated that, in the future, part 170 will include criteria for other kinds of navigation facilities and services. The LORAN-C criteria are proposed as subpart C of the new part.

Proposed Criteria

New benefit-cost criteria for LORAN-C nonprecision approaches would be established by the regulation proposed. The criteria are explained in detail in FAA report number FAA-APO-90-5 Establishment Criteria for LORAN-C Approach Procedures. The criteria for LORAN-C approaches require that, to be eligible for establishment, a candidate runway must meet all FAA standards for nonprecision approaches and must have life-cycle benefits that exceed life-cycle costs. Discontinuance criteria state that a LORAN-C approach is subject to discontinuance when the present value of its remaining life-cycle benefits falls below the level of the cost of its continued maintenance.

The economic benefit of the LORAN-C approach is improved efficiency associated with a lower approach minimum which permits the runway to remain open at times when weather conditions would otherwise have closed the airport, thereby reducing flight disruptions. A safety benefit for LORAN-C was not included in the benefit-cost analysis. LORAN-C provides a nonprecision approach signal that guides a pilot to a specific heading that is in line with a runway. Upon descending to a specified altitude, it is then necessary for a pilot to complete the approach and landing visually or to execute a missed approach if the runway is not in sight. Because the descent to the runway must be made visually, the level of safety is considered the same as landing during visual flight rules conditions.

The costs of initiating a LORAN-C approach relate to investment and maintenance. Investment costs include the initial costs associated with the development, publication, and flight testing of a LORAN-C approach. Maintenance costs consist of annual flight inspection and annual updating of procedures. For discontinuance of an approach, the Agency need only consider maintenance costs. There are no unique added costs to implement the discontinuance decision.

Explicit dollar values assigned to passenger time and aircraft operating costs provide a basis for comparing benefits to costs. LORAN-C economic benefits are based on future aviation activity projected in FAA's annual Terminal Area Forecast which contains airport-specific forecasts. Benefits and cost are based on a 15-year life cycle and are discounted to their present value using a 10 percent discount rate as directed by the Office of Management and Budget. The 15-year life cycle is the same as that used for most other FAA navigational facilities criteria.

How the Criteria Are Applied

FAA would use the benefit-cost criteria to determine the eligibility of runways for LORAN-C nonprecision approach procedures. A runway would be eligible for establishment of a LORAN-C approach procedure when the ratio of the benefits to the costs of establishment equals or exceeds 1.0 and all other requirements of the criteria are met. A LORAN-C approach procedure may be discontinued if the benefits expected to be realized over the remainder of its life cycle fall below its recurring maintenance costs.

Meeting the economic criteria is usually a necessary condition to include a site in the FAA budget; however, it is not a guarantee that a site will be funded.

Criteria Results

Runways at 4,078 airports from the Terminal Area Forecast were examined to determine their current benefit-cost (B/C) ratio. Of this universe, 1,778, or 44 percent, have at least one runway with a B/C ratio of 1.0 or greater with the remaining 56 percent falling below the criteria standard. The results show that 73 percent of the airports not qualifying have a B/C ratio below .25.

Need for the Regulation

This rule is proposed in compliance with the Airport and Airway Safety and Capacity Expansion Act of 1987, Public Law 100-223 (49 U.S.C. 1348), which requires the promulgation of regulations to establish criteria for the installation of airport control towers and other navigational aids. Its fundamental purpose is to improve the efficiency of FAA resource allocation. Also, the rule would assist in the establishment of airport and funding priorities.

Regulatory Evaluation Summary

Introduction

The promulgation of this regulation is expected to have no direct cost impact on the public. There is only a minimal administrative cost to the FAA of applying the proposed criteria. The FAA uses an automated benefit-cost calculation procedure which provides results at minimal cost. This procedure is embodied in the Aviation Data Analysis (ADA) system maintained by the Office of Aviation Policy and Plans. ADA uses a 15-year forecast of aviation activity, as well as economic and other values, to estimate life-cycle B/C ratios. This proposed rule would merely formalize this application of criteria as part of normal agency procedures. The benefit of the proposed rule would be to inform the public of the benefit-cost criteria the FAA uses to allocate resources for establishment of LORAN-C nonprecision approach procedures and further to assure adequate consideration of the efficiency effects of potential LORAN-C approaches. Since this action would have no cost impact to the public and would have a positive, although unquantifiable, benefit, further regulatory evaluation is unnecessary.

International Trade Impact Analysis

This rule has no effect on the sale of foreign aviation products or services in the United States or on the sale of American products or services in foreign countries.

Regulatory Flexibility Determination

The Regulatory Flexibility Act (RFA) of 1980 was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by Government regulations. The RFA requires agencies to review rules which may have "a significant economic impact on a substantial number of small entities."

This proposed rule would provide a guide for internal FAA management in the establishment and discontinuance of LORAN-C nonprecision approaches. The rule would not have any cost impact; therefore, FAA certifies that this rule would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Federalism Implications

The regulations herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this regulation would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

Since the proposal contained in this FAA document would impose only a minimal administrative cost on the FAA, the estimated benefits are expected to exceed the estimated costs of their implementation. For the reasons discussed above, this proposal, if adopted, would not have significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is not required. In addition, for the same reasons, the proposal is not a "major rule" under Executive Order 12291 and is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

List of Subjects in 14 CFR Part 170

Air traffic control, Navigation (air).

The Proposed Amendment

For the reasons set forth in the preamble, the FAA proposes to amend part 170 of the Federal Aviation Regulations (14 CFR part 170) as follows:

PART 170—ESTABLISHMENT AND DISCONTINUANCE CRITERIA FOR AIR TRAFFIC CONTROL SERVICES AND NAVIGATIONAL FACILITIES

1. The authority citation for part 170 is revised to read as follows:

Authority: 49 U.S.C. app. 1343, 1346, 1348, 1354(a), 1355, 1401, 1421, 1422 through 1430, 1472(c), 1502, and 1522; 49 U.S.C. 106(g).

2. Part 170 is amended by adding subpart C consisting of §§ 170.21, 170.23, and 170.25 to read as follows:

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Subpart C—LORAN–C

Sec.

170.21 Scope.
170.23 LORAN–C Establishment Criteria.
170.25 LORAN–C Discontinuance Criteria.

Subpart C—LORAN–C

§ 170.21 Scope.

This subpart sets forth establishment and discontinuance criteria for LORAN–C.

§ 170.23 LORAN–C Establishment Criteria.

(a) The following criteria in paragraphs (a)(1) through (a)(6) of this section, along with general facility and navigational aid establishment requirements, must be met before a runway can be eligible for a LORAN–C approach.

(1) A runway must have landing surfaces judged adequate by the FAA to accommodate aircraft expected to use the approach and meet all FAA-required airport design criteria for nonprecision runways.

(2) A runway must be found acceptable for IFR operations as a result of an airport airspace analysis conducted in accordance with the current FAA regulations and provisions.

(3) The LORAN–C signal must be of sufficient quality and accuracy to pass an FAA flight inspection.

(4) It must be possible to remove, mark, or light all approach obstacles in accordance with FAA marking and lighting provisions.

(5) Appropriate weather information must be made available.

(6) Air-to-ground communications must be available at the initial approach fix minimum altitude and at the missed approach altitude.

(b) A runway meets the establishment criteria for a LORAN–C approach when it satisfies paragraphs (a)(1) through (a)(6) of this section and the estimated value of benefits associated with the LORAN–C approach equals or exceeds the estimated costs (benefit-cost ratio equals or exceeds one). As defined in § 170.3 of this part, the benefit-cost ratio is the ratio of the present value of the LORAN–C life-cycle benefits (PVB) to the present value of LORAN–C life-cycle costs (PVC):

$$PVB/PVC > 1.0$$

(c) The criteria do not cover all situations which may arise and are not used as a sole determinant in denying or granting the establishment of a non-precision LORAN–C approach for which there is a demonstrated operational or air traffic control requirement.

§ 170.25 LORAN–C Discontinuance Criteria.

A LORAN–C nonprecision approach may be subject to discontinuance when the continued maintenance costs (PVCM) of the LORAN–C approach exceed the present value of its remaining life-cycle benefits (PVB):

$$PVB/PVCM < 1.0$$

Issued in Washington.

John M. Rodgers,

Director of Aviation Policy and Plans, APO–1.

[FR Doc. 92–2103 Filed 1–30–92; 8:45 am]

BILLING CODE 4910-13-M

federal register

Friday
January 31, 1992

Part III

Office of the United States Trade Representative

Generalized System of Preferences (GSP): Information on Imports During First 10 Months of 1991 and Invitation of Comments

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences (GSP); Information on Imports During First 10 Months of 1991 and Invitation of Comments

AGENCY: Office of the United States Trade Representative.

SUMMARY: This notice provides information only and has no legal effect. It informs the public of certain import statistics for the period from January through October 1991 and affords the public an opportunity to comment on certain discretionary decisions the President may make with respect to the GSP program. These decisions concern: (1) The GSP "competitive need" limits set forth in section 504(c) of the Trade Act of 1974, as amended (the "1974 Act") (19 U.S.C. 2464(c)); (2) the "de minimis waiver" authority set forth in section 504(d)(2) of the 1974 Act; and, (3) the redesignation authority set forth in section 504(c)(5) of the 1974 Act. Presidential decisions concerning the application of competitive need limits and other product-related decisions stemming from the 1991 Annual Review are expected to be announced in April, and implemented on July 1, 1992.

FOR FURTHER INFORMATION CONTACT: GSP Subcommittee, Office of the United States Trade Representative, 600 17th Street NW., room 517, Washington, DC 20506. The telephone number is (202) 395–6971.

SUPPLEMENTARY INFORMATION:

I. Competitive Need Limits

Pursuant to section 504(c), any GSP eligible beneficiary country that exported to the United States during the most recent calendar year a quantity of any one GSP eligible article in excess of (1) $25 million indexed to the U.S. Gross National Product (GNP) since 1974, or (2) 50 percent of the value of total U.S. imports of the article, is to be removed from GSP eligibility not later than July 1 of the next calendar year. Based on preliminary data and subject to revision, the dollar limit is expected to be approximately $97,102,458 for calendar year 1991.

II. Reduced Competitive Need Limits

Pursuant to section 502(c)(2) of the 1974 Act, a general review of the GSP was initiated in 1985 and the results of the review were announced on January 2, 1987 (52 FR 389). The purpose of the general review was to determine whether beneficiary countries had become sufficiently competitive in GSP-eligible products, on a product and country specific basis. For beneficiaries found to be sufficiently competitive with respect to a product, the percentage competitive need limit was reduced to 25 percent and the dollar limit was reduced to $25 million, indexed to the nominal growth of U.S. GNP since 1984. Based on preliminary data and subject to revision, the dollar limit for beneficiaries found to be sufficiently competitive is expected to be approximately $37,912,226 for the calendar year 1991.

III. Discretionary Decisions

A. De Minimis Waivers

Section 504(d)(2) of the 1974 Act permits the President to disregard the 50 percent "competitive need" limit with respect to any eligible article if the value of total imports of the article during the most recent calendar year did not exceed $5 million, adjusted annually to reflect changes in the U.S. GNP. This *de minimis* level is expected to be approximately $11,403,596 for calendar year 1991.

B. Redesignation of Eligible Articles

If a country is no longer a beneficiary developing country with respect to an eligible article because imports exceeded the competitive need limits in a prior year, then, pursuant to section 504(c)(5) of the 1974 Act, the President may redesignate the beneficiary developing country with respect to the eligible article if imports do not exceed the competitive need limits in a subsequent year.

IV. Implementation of Competitive Need Limits, Waivers, and Redesignations

A proclamation will be issued to be effective July 1, 1992, making the adjustments that are required by section 504(c) of the 1974 Act and announcing the discretionary decisions referred to in this notice, on the basis of official data covering all of calendar year 1991.

It should be emphasized that the information set forth below covers only the first 10 months of 1991. Partial year data is being published now to provide the maximum possible advance indication of adjustments that may be made to meet the requirements of section 504(c) of the Trade Act and to afford the opportunity for comment on the possible discretionary decisions.

List I below shows specific GSP-eligible articles for beneficiaries which have already exceeded estimated competitive need limitations (i.e. a beneficiary supplied over $97,102,458 or $37,912,226 in the case where a beneficiary has been found sufficiently competitive in the product, during January-October 1991) or have been graduated from the GSP in early years pursuant to the President's discretionary authority.

List II below shows beneficiaries which are approaching the competitive need limitations (i.e. a beneficiary accounted for over 42 percent of the value of total U.S. imports and/or over $80.6 million, or in the case where a beneficiary has been found to be sufficiently competitive, over 21 percent and/or $31.5 million during January-October 1991).

List III below shows beneficiaries which, despite accounting for more than 50 percent (or 25 percent in the case of a beneficiary found sufficiently competitive in a product) of the value of total U.S. imports of an article, may be eligible to receive GSP benefits through the *de minimis waiver* (i.e. where a beneficiary accounted for more than the applicable percentage limit but the value of total U.S. imports of the item was less than $11,403,596 during January-October 1991).

List IV below shows beneficiaries which are currently ineligible for GSP duty-free treatment but which may be eligible for redesignation to GSP status pursuant to the President's discretionary authority (i.e. a beneficiary accounted for less than 50 percent, or 25 percent in the case of products determined to be sufficiently competitive, of the value of U.S. imports and the value of U.S. imports of the article from the beneficiary developing country was less than the applicable dollar limit during January-October 1991).

V. Public Comments

All written comments with regard to these decisions should be addressed to: GSP Subcommittee, Office of the U.S. Trade Representative, 600 17th Street NW., room 517, Washington, DC 20506. All submissions should conform to the information requirements of 15 CFR part 2007. Furthermore, each party providing comments should indicate on the first page of the submission its name, the relevant HTS subheading(s), the beneficiary country or territory of interest, and the type of action (i.e. the use of the President's *de minimis* waiver authority, etc. * * *) in which the party is interested.

These statements must be accompanied by twelve copies, in English, of all comments and must be received by the Chairman of the GSP Subcommittee of the Trade Policy Staff Committee no later than 5 p.m., Wednesday, February 19. All such packages should be delivered to the Office of the U.S. Trade Representative, 600 17th Street NW., room 517, Washington, DC 20506. Comments received after the deadline will not be accepted. If the comments contain business confidential information, twelve copies of a non-confidential version of the comments along with twelve copies of the confidential version must be submitted. A justification as to why the information contained in the submission should be treated confidentially must be included in the submission. In addition, the submission containing confidential information should be clearly marked "confidential" at the top and bottom of each page of the submission. The version that does not contain confidential information should also be clearly marked, at the top and bottom of each page, "public version" or "non-confidential."

Written comments submitted in connection with these decisions will be available for public inspection shortly after the filing deadline by appointment only with the staff of the USTR Public Reading Room, except for information granted "business confidential" status pursuant to 15 CFR 2007.7. The USTR Public Reading Room is located at the address listed above, in room 101. Appointments may be made from 10 a.m. to noon and 1 p.m. to 4 p.m. by calling (202) 395-6186. Other requests and questions should be directed to the GSP Information Center at USTR by calling (202) 395-6971.

David A. Weiss,

Chairman, Trade Policy Staff Committee.

BILLING CODE 3190-01-M

LIST I : COUNTRIES GRADUATED OR EXCEEDING COMPETITIVE NEED LIMITS
1991 U.S. IMPORTS - JANUARY THROUGH OCTOBER

FLAGS	HTSUS	PARTNER	IMPORTS	SHARE
* R	0603.10.70	Colombia	78,601,930	88.2%
* H	2203.00.00	Mexico	114,558,570	16.6%
G D	2825.90.15	Brazil	7,950,544	80.1%
G D	2827.59.05	Israel	2,027,095	86.6%
G	2903.40.00	Israel	49,655	0.1%
*	2918.90.30	Bahamas	288,275,915	84.0%
G D	2933.40.10	Israel	2,142,225	58.0%
G D	2933.90.47	Mexico	180,664	12.4%
*	4412.11.20	Indonesia	179,926,892	78.6%
* D H	6810.11.00	Mexico	63,834	2.9%
2	7113.19.50	Israel	128,370,800	10.8%
*	7113.19.50	Thailand	125,989,022	10.6%
G	7202.21.10	Brazil	4,893,897	41.6%
* H	7202.21.50	Brazil	4,786,680	9.5%
* H	7202.30.00	Brazil	20,636,838	20.2%
G	7307.91.50	Brazil	3,920,853	7.3%
G	7323.94.00	Mexico	7,194,025	11.0%
G D	7605.11.00	Venezuela	1,876	0.0%
G	7605.21.00	Venezuela	2,335,683	14.3%
*	8407.34.20	Mexico	280,026,954	17.6%
* R	8408.20.20	Brazil	167,277,318	85.3%
* R	8409.91.91	Mexico	61,749,109	8.5%
* R	8415.90.00	Mexico	66,161,127	30.9%
2 R	8428.90.00	Mexico	65,411,939	24.7%
*	8501.40.40	Mexico	135,168,793	86.4%
*	8504.40.00	Mexico	97,424,215	14.7%
	8507.30.00	Mexico	97,601,093	31.8%
*	8521.10.00	Thailand	197,031,957	9.6%
	8521.10.00	Malaysia	218,503,904	10.7%
* R	8523.11.00	Mexico	55,050,827	26.7%
*	8527.21.10	Mexico	179,588,448	23.8%
* R	8527.21.10	Brazil	38,653,927	5.1%
*	8536.50.00	Mexico	213,222,399	31.6%
*	8544.51.80	Mexico	197,722,728	53.5%
*	8708.21.00	Mexico	446,828,412	75.7%
	8708.29.00	Mexico	103,906,113	10.7%
*	8802.30.00	Brazil	124,617,911	9.3%
*	9401.20.00	Mexico	116,883,911	71.5%
* H	9401.61.40	Yugoslavia	1,365,893	1.1%
* H	9401.69.60	Yugoslavia	43,266,512	19.6%
G	9401.90.40	Yugoslavia	884,147	3.8%

FLAGS: 'G'=Grad; '*'=Excl full yr; '1'=Excl Jan/Jun;
'2'=Excl Jul/Dec; 'R'=Reduced limits apply; 'D'=De min;
'X'=Reduced limit waiver; 'H'=Grad, Reduced limit would apply;
'Z'=Subject to reduced limits, All limits waived.

LIST II : COUNTRIES APPROACHING COMPETITIVE NEED LIMITS
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D	0202.30.20	Dominican Republic	304,214	72.6%
D	0203.22.10	Hungary	181,391	100.0%
D	0210.20.00	Uruguay	5,641,948	87.2%
D	0210.90.20	Israel	109,626	66.3%
D	0303.32.00	Fiji	7,547	100.0%
D	0303.77.00	Mexico	139,320	81.0%
D	0305.10.40	Thailand	11,161	42.9%
D	0306.24.20	Philippines	973,332	65.6%
*	0702.00.60	Mexico	56,898,660	99.2%
	0703.20.00	Mexico	12,719,979	56.0%
* D	0704.10.40	Mexico	1,210,636	92.4%
* D	0704.10.60	Mexico	22,020	100.0%
* D	0704.20.00	Mexico	2,327,888	99.6%
* D	0705.11.40	Mexico	2,718,114	98.9%
* D	0705.19.40	Mexico	849,852	86.8%
D	0706.90.20	Mexico	4,774,739	95.7%
D	0706.90.30	Mexico	133,875	48.6%
*	0707.00.20	Mexico	30,183,225	96.4%
*	0707.00.40	Mexico	17,167,275	94.2%
D	0707.00.60	Mexico	1,496,151	57.9%
D	0708.10.20	Guatemala	2,943,220	91.8%
* R	0708.10.40	Mexico	7,864,800	63.0%
D	0708.90.05	Mexico	140,891	57.1%
D	0708.90.30	Ecuador	137,127	57.2%
D	0709.10.00	Colombia	63,563	54.7%
D	0709.10.00	Chile	49,517	42.6%
D	0709.20.10	Chile	1,169,647	49.1%
* D	0709.30.20	Mexico	3,198,638	98.7%
* D	0709.30.40	Mexico	7,353,028	99.9%
D	0709.40.40	Mexico	1,217,338	92.6%
*	0709.60.00	Mexico	91,220,077	76.7%
D	0709.90.05	Mexico	5,604,719	78.5%
D	0709.90.13	Mexico	1,954,720	99.8%
D	0709.90.16	Mexico	2,602,107	98.3%
*	0709.90.20	Mexico	37,509,293	98.0%
D	0710.22.10	Guatemala	8,442	71.9%
D	0710.22.15	Guatemala	7,844	100.0%
D	0710.22.25	Mexico	208,380	49.9%
D	0710.29.30	Dominican Republic	1,318,116	99.3%
D	0710.80.50	Israel	4,436	100.0%
D	0710.80.65	Guatemala	528,020	48.7%
2 D	0710.80.70	Guatemala	4,815,686	64.5%
D	0710.80.93	Guatemala	2,161,357	57.0%
D	0710.80.93	El Salvador	1,625,884	42.9%
D	0711.10.00	Israel	115,677	83.4%
D	0711.20.15	Mexico	1,268,024	86.0%
D	0712.90.10	Israel	1,033,257	56.1%
D	0713.20.20	Mexico	6,883,882	79.5%
D	0713.90.10	India	1,567,425	80.3%
D	0714.10.00	Costa Rica	4,475,583	95.0%

LIST II : COUNTRIES APPROACHING COMPETITIVE NEED LIMITS
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	D		0714.20.00	Dominican Republic..	1,134,415	97.3%
	D		0714.90.10	Dominican Republic..	3,060,851	43.2%
	D		0714.90.20	Jamaica.............	4,712,167	46.0%
	D		0802.50.40	Turkey..............	336,782	60.9%
*			0804.50.60	Mexico..............	27,599,960	88.8%
	D		0804.50.80	Thailand............	365,506	51.4%
	D		0805.90.00	Jamaica.............	270,108	69.7%
*			0807.10.20	Mexico..............	46,539,534	65.2%
	D		0807.10.30	Mexico..............	5,619,304	90.8%
	D		0807.10.60	Israel..............	4,290	100.0%
*		R	0807.10.70	Mexico..............	12,451,381	38.1%
*	D		0807.20.00	Mexico..............	1,519,594	47.2%
	D		0810.10.20	Mexico..............	526,234	87.3%
*			0810.10.40	Mexico..............	13,728,992	90.8%
*	D	R	0810.90.40	Mexico..............	8,055,373	74.7%
*			0811.10.00	Mexico..............	19,801,041	78.2%
	D		0811.20.20	Chile...............	1,866,176	42.7%
	D		0811.90.10	Costa Rica..........	1,971,904	71.0%
	D		0811.90.50	Costa Rica..........	583,375	77.0%
	D		0811.90.55	Guatemala...........	1,223,143	63.4%
*			0813.10.00	Turkey..............	13,482,021	97.5%
*	D	R	0813.30.00	Argentina...........	984,086	42.9%
	D		0813.40.10	Thailand............	1,061,456	98.0%
	D		0904.20.70	Mexico..............	1,683,105	43.6%
	D		0910.99.40	Mexico..............	402,112	44.4%
	D		0910.99.40	Turkey..............	442,630	48.9%
*	D		1005.90.40	Argentina...........	1,223,373	65.2%
	D		1006.30.10	Brazil..............	403,987	93.0%
	D		1007.00.00	Argentina...........	160,826	77.3%
*	D		1102.30.00	Thailand............	1,356,343	89.0%
	D		1106.30.20	Ecuador.............	746,240	99.4%
	D		1212.92.00	Colombia............	8,175	100.0%
	D		1403.90.40	Mexico..............	1,571,005	71.7%
	D		1515.30.40	Brazil..............	3,911,650	49.5%
	D		1515.30.40	India...............	3,908,335	49.5%
	D		1515.60.00	Mexico..............	2,987,360	97.9%
	D		1518.00.40	Mexico..............	764,639	46.0%
	D		1519.11.00	Malaysia............	1,131,110	72.4%
	D		1601.00.40	Argentina...........	52,200	76.8%
	D		1602.50.05	Mexico..............	19,650	90.0%
	D		1602.50.09	Argentina...........	1,485,415	51.6%
	D		1604.14.50	Thailand............	2,137,910	93.8%
	D		1604.15.00	Chile...............	5,103,019	73.7%
			1604.16.10	Morocco.............	7,533,217	42.3%
	D		1604.16.30	Morocco.............	280,722	58.0%
	D		1604.16.40	Morocco.............	439,660	57.1%
	D		1605.90.10	Thailand............	1,850,783	44.3%
			1701.11.02	Guatemala...........	46,745,792	49.8%
	D		1702.30.20	Dominican Republic..	52,718	43.6%
	D		1702.90.35	Dominican Republic..	2,387,958	77.3%

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	D		1702.90.40	Brazil..............	979,000	99.1%
	D		1703.10.30	Barbados............	1,164,695	61.8%
	D		1703.90.30	Lebanon.............	45,455	85.4%
1			1905.90.90	Mexico..............	15,115,565	57.2%
*			2001.90.39	Mexico..............	29,372,546	73.8%
1	D		2005.80.00	Thailand............	4,365,012	93.6%
*	D	R	2005.90.55	Mexico..............	2,230,482	46.2%
	D		2005.90.85	Lebanon.............	256,613	55.9%
	D		2006.00.70	Thailand............	1,924,438	44.0%
	D		2006.00.90	Thailand............	189,443	73.5%
	D		2007.99.40	Thailand............	256,440	77.7%
	D		2007.99.48	Chile...............	137,764	57.9%
*	D	R	2007.99.50	Brazil..............	1,880,018	23.3%
	D		2008.19.15	Dominican Republic..	3,060,389	43.8%
	D		2008.19.25	Israel..............	27,221	100.0%
	D		2008.19.30	Turkey..............	380,908	57.3%
	D		2008.30.37	Argentina...........	51,665	52.4%
	D		2008.30.95	Israel..............	156,328	81.0%
	D		2008.99.23	Dominican Republic..	589,557	76.8%
	D		2008.99.35	Thailand............	1,379,712	60.2%
	D		2008.99.45	Dominican Republic..	557,128	75.5%
	D		2008.99.50	Dominican Republic..	564,430	56.8%
	D		2008.99.80	Dominican Republic..	1,091,027	54.0%
	D		2009.30.10	Mexico..............	1,309,764	99.1%
	D		2009.30.20	Brazil..............	350,568	46.3%
	D		2208.90.05	Trinidad and Tobago.	196,951	52.1%
	D		2208.90.50	Mexico..............	1,366,607	100.0%
	D		2208.90.75	Colombia............	789,738	43.2%
	D		2306.30.00	Argentina...........	1,232,166	88.3%
	D		2401.20.20	Cameroon............	1,263,736	53.5%
			2401.20.50	Indonesia...........	7,301,760	42.9%
*			2402.10.80	Dominican Republic..	18,617,317	58.0%
	D		2515.11.00	Brazil..............	27,353	81.7%
*			2603.00.00	Mexico..............	47,265,305	79.1%
	D		2607.00.00	Mexico..............	799,063	42.1%
	D		2620.90.90	Mexico..............	2,440,350	88.5%
	D		2707.60.00	Mexico..............	194,005	86.8%
	D		2811.19.10	Mexico..............	238,112	64.9%
	D		2815.30.00	Poland..............	1,075,000	67.7%
	D		2824.10.00	Mexico..............	7,004,382	98.2%
	D		2825.50.30	Mexico..............	1,952,955	99.5%
	D		2825.70.00	Chile...............	2,892,226	74.0%
	D		2827.39.20	India...............	202,521	72.9%
	D		2827.51.10	Israel..............	2,602,058	86.9%
	D		2827.51.20	Israel..............	908,920	71.8%
	D		2827.59.50	Israel..............	1,633,786	76.3%
	D		2827.60.20	India...............	307,202	85.5%
	D		2833.23.00	Turkey..............	63,060	77.5%
	D		2833.26.00	Mexico..............	1,340,067	64.3%
	D		2833.29.30	Mexico..............	11,806	100.0%

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	D		2833.29.50	Mexico	3,811,630	59.7%
	D		2834.22.00	Mexico	139,050	52.5%
	D		2834.29.20	Mexico	1,402,496	97.6%
	D		2836.91.00	Chile	6,456,580	99.5%
	D		2840.11.00	Turkey	2,683,044	99.6%
	D		2841.20.00	Poland	285,216	42.9%
	D	R	2843.21.00	Mexico	334,240	92.8%
	D		2843.30.00	Yugoslavia	1,358,367	45.5%
	D		2901.10.30	Mexico	39,726	100.0%
	D		2903.69.30	Israel	345,597	51.8%
	D		2905.13.00	Mexico	1,180,171	87.1%
	D		2905.16.00	Mexico	2,338,567	64.2%
			2905.31.00	Mexico	51,409,865	61.7%
	D		2905.32.00	Brazil	927,765	75.6%
	D		2905.44.00	Mexico	1,466,878	50.4%
	D		2905.49.50	Mexico	520,772	50.5%
	D		2907.11.00	Mexico	1,579,080	55.3%
	D		2907.15.10	India	107,298	89.8%
	D		2909.30.20	Israel	467,007	51.3%
	D		2909.42.00	Mexico	1,723,859	84.5%
	D		2914.12.00	Brazil	3,715,531	43.5%
	D		2915.21.00	Mexico	6,775,451	64.0%
			2915.24.00	Mexico	7,122,944	48.7%
*	D	R	2915.31.00	Brazil	2,365,269	73.6%
	D		2915.39.10	Mexico	576,814	55.5%
	D		2916.31.20	Mexico	405,141	94.4%
	D		2917.35.00	Mexico	3,523,547	61.3%
	D		2918.15.10	Israel	3,616,100	42.4%
	D		2920.10.10	India	98,947	47.5%
	D		2920.90.10	Israel	1,549,458	96.3%
	D		2921.49.30	India	327,622	79.5%
	D		2922.11.00	Brazil	1,382,683	44.2%
	D		2922.29.25	India	389,585	53.6%
	D		2924.21.10	Israel	3,713,286	46.7%
	D		2924.29.02	Hungary	35,388	96.4%
	D		2930.10.00	Mexico	1,605,805	46.0%
	D		2931.00.25	Brazil	5,111,349	52.9%
1	D		2933.19.25	Guatemala	3,973,174	99.1%
	D		2933.59.18	Israel	2,875,104	98.7%
	D		2934.90.12	Brazil	5,056,178	84.2%
			2934.90.14	Brazil	13,249,536	86.7%
	D		2934.90.16	Israel	470,522	90.3%
	D		2934.90.18	India	90,024	60.8%
	D		2935.00.05	India	149,080	60.6%
	D		2935.00.33	Poland	640,615	100.0%
	D		2935.00.44	Yugoslavia	362,683	90.1%
	D		2937.22.00	Bahamas	4,461,628	55.3%
*		R	2937.92.10	Mexico	8,067,507	39.2%
			2941.50.00	Yugoslavia	6,850,986	53.0%
	D		3001.10.00	Argentina	625,280	52.2%

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	D		3003.40.00	Hungary	422,424	53.7%
*			3203.00.50	Mexico	6,174,556	51.2%
2	D	R	3207.40.10	Mexico	2,999,407	40.5%
*	D		3301.12.00	Brazil	3,024,531	66.6%
	D		3301.19.10	Israel	953,009	72.7%
2			3402.90.10	Mexico	5,439,620	46.2%
	D		3404.20.00	Mexico	558,138	42.6%
			3501.10.10	Hungary	5,669,761	46.5%
	D		3702.20.00	Mexico	305,740	51.8%
	D		3802.90.20	Mexico	2,404,130	65.3%
	D		3806.30.00	Argentina	863,513	74.0%
	D		3808.30.20	Israel	236,080	94.1%
	D		3812.30.20	Mexico	844,735	44.9%
	D		3814.00.20	Argentina	994,514	75.3%
	D		3823.20.00	Trinidad and Tobago	592,993	43.8%
	D		3823.90.32	Argentina	978,134	99.7%
2	D		3917.33.00	Mexico	5,887,477	51.8%
	D		3920.59.50	Mexico	724,723	47.3%
			3920.71.00	Mexico	8,791,408	52.9%
2			3926.90.87	Mexico	7,034,040	53.0%
	D		4006.10.00	Peru	182,512	46.2%
			4007.00.00	Malaysia	11,138,890	77.0%
			4008.19.10	Malaysia	6,185,006	53.9%
2			4011.91.50	Israel	9,675,974	67.2%
1			4013.10.00	Mexico	7,247,594	44.9%
*			4015.11.00	Malaysia	88,427,573	71.2%
			4015.19.10	Malaysia	32,415,432	44.8%
	D		4016.99.25	Thailand	5,642,701	53.2%
			4104.10.20	Argentina	7,260,541	58.4%
	D		4104.10.40	Argentina	476,949	55.4%
	D		4104.29.30	India	2,261,294	57.6%
2	D		4104.31.20	Thailand	7,031,986	92.1%
	D		4104.39.20	Thailand	2,293,022	77.0%
*	D		4106.20.60	India	5,722,623	56.3%
*	D	R	4107.29.30	Argentina	1,900,744	29.1%
	D		4107.29.60	Indonesia	1,464,022	42.9%
	D		4107.90.60	Mexico	2,242,610	45.2%
	D		4109.00.70	Brazil	246,999	71.5%
	D		4202.22.35	Philippines	82,432	99.5%
	D		4205.00.60	Argentina	369,727	62.1%
	D		4302.20.60	Brazil	30,337	47.8%
	D	R	4409.10.60	Mexico	705,141	35.6%
*		R	4411.11.00	Brazil	8,701,034	52.2%
	D		4411.19.20	Mexico	3,077,468	42.2%
*	D	R	4411.19.20	Brazil	1,821,475	25.0%
	D		4411.29.60	Mexico	265,906	62.8%
	D		4411.29.90	Mexico	527,516	49.9%
*	D		4412.11.50	Indonesia	5,893,494	73.7%
	D		4412.12.15	Brazil	5,380,476	98.7%
	D		4412.19.10	Brazil	53,820	100.0%

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	D		4412.19.40	Indonesia	2,930,110	70.4%
*	D		4412.29.30	Indonesia	3,191,313	42.0%
*	D		4412.29.40	Brazil	2,363,683	46.8%
	D		4412.99.10	Brazil	84,326	100.0%
	D		4412.99.50	Brazil	594,973	58.6%
	D		4416.00.90	Mexico	579,523	88.5%
	D		4421.90.10	Honduras	781,932	92.9%
	D		4421.90.30	Mexico	882,798	59.5%
	D		4601.10.00	Madagascar	211,148	53.6%
	D		4802.60.10	Mexico	2,247,821	65.3%
	D		4804.49.00	Mexico	48,484	59.3%
	D		4809.10.20	Venezuela	13,356	65.2%
	D		4815.00.00	Brazil	18,093	74.5%
*	D		4818.50.00	Mexico	5,123,643	50.6%
	D		4820.90.00	Mexico	5,593,078	60.3%
	D		5102.10.60	Hungary	82,613	42.9%
	D		5208.31.20	India	395,591	99.3%
	D		5208.32.10	India	236,882	94.3%
	D		5208.41.20	India	3,375,711	96.7%
	D		5208.42.10	India	2,248,842	91.0%
	D		5208.51.20	India	656,572	97.8%
	D		5208.52.10	India	303,473	84.2%
	D		5209.31.30	India	357,839	80.3%
	D		5209.41.30	India	789,654	82.6%
	D		5310.90.00	India	303,201	75.8%
	D		5311.00.60	Mexico	319,090	59.9%
	D		5607.10.00	Thailand	861,677	54.3%
	D		5607.29.00	Brazil	2,237,851	50.4%
	D		5607.30.20	Philippines	3,252,119	92.8%
	D		5702.20.10	India	345,881	94.2%
2			6210.10.20	Mexico	93,861,393	92.7%
	D		6304.99.25	India	474,047	98.9%
2			6307.90.60	Mexico	64,015,281	99.5%
2			6406.10.65	Dominican Republic	94,205,155	51.2%
	D		6406.10.72	Mexico	745,301	99.8%
	D		6501.00.60	Czechoslovakia	90,632	95.3%
	D		6504.00.60	Mexico	1,415,787	48.0%
*	D	R	6702.90.65	Thailand	1,947,067	32.0%
	D		6802.10.00	Mexico	751,025	42.6%
	D		6802.22.00	Mexico	848,942	42.5%
	D		6806.20.00	Mexico	1,198,828	81.1%
	D		6807.10.00	Mexico	4,345,628	43.3%
	D		6810.19.50	Mexico	2,894,312	45.9%
	D		6811.30.00	Mexico	69,308	94.2%
	D		6814.90.00	India	629,750	46.8%
	D		6902.10.50	Mexico	4,676,416	70.7%
	D		6905.10.00	Venezuela	2,959,051	49.9%
	D		6905.90.00	Mexico	3,538,158	66.9%
	D		7002.10.20	Mexico	249,443	44.6%
	D		7005.29.25	Mexico	1,068,829	43.6%
1			7008.00.00	Mexico	5,739,449	48.4%
	D		7012.00.00	India	618,872	63.9%
			7103.99.10	Thailand	62,108,917	54.0%
	D		7106.91.50	Peru	3,140,777	74.9%
*	D		7113.11.20	Thailand	4,916,769	50.3%
			7113.19.25	Peru	18,627,266	42.5%
	D		7113.20.21	Malta and Gozo	1,131,991	92.9%
	D		7113.20.30	Mauritius	722,689	45.6%
	D	R	7115.90.20	Mexico	835,038	23.1%
*			7202.19.50	Mexico	12,017,331	44.6%
	D		7306.30.30	Mexico	1,936,227	59.7%
	D		7307.91.30	Mexico	1,294,290	60.4%
	D		7308.20.00	Brazil	2,137,042	82.0%
	D		7314.11.60	Mexico	275,852	78.1%
	D		7319.20.00	Malaysia	1,768,323	58.9%
	D		7319.30.10	Malaysia	896,397	59.3%
			7321.11.30	Mexico	72,081,942	92.2%
			7322.90.00	Mexico	11,109,849	51.8%
	D		7325.91.00	Mexico	741,758	82.1%
2	D		7401.10.00	Mexico	2,852,072	98.6%
*			7402.00.00	Chile	61,478,580	47.6%
	D		7403.12.00	Peru	178,782	100.0%
*			7403.19.00	Chile	18,765,505	95.4%
	D		7403.29.00	Mexico	370,981	43.3%
		R	7407.21.90	Brazil	9,797,252	31.4%
	D		7409.11.10	Brazil	112,398	49.0%
	D		7412.10.00	Colombia	68,038	42.1%
*	D		7413.00.10	Peru	3,447,725	50.5%
	D		7413.00.50	Mexico	875,521	76.2%
	D		7416.00.00	Barbados	316,435	56.4%
			7418.10.20	India	21,642,406	42.0%
	D		7603.10.00	Bahrain	934,091	54.9%
	D		7604.10.30	Yugoslavia	1,636,522	64.4%
	D		7606.91.60	Mexico	3,322,003	61.1%
	D		7614.10.50	Brazil	338,319	93.5%
	D		7614.90.20	Venezuela	4,886,540	76.2%
	D		7801.99.30	Mexico	252,356	92.5%
	D		7803.00.00	Mexico	776,960	51.5%
	D		7901.20.00	Peru	235,362	79.4%
	D	R	7903.10.00	Mexico	2,008,083	21.5%
	D		7905.00.00	Peru	320,176	42.0%
	D		8104.90.00	Mexico	3,651,040	92.2%
	D		8112.91.50	Chile	7,066,408	77.8%
			8207.12.30	Mexico	18,865,103	47.3%
	D		8215.99.22	Mexico	179,515	70.4%
			8301.40.60	Mexico	71,955,866	42.0%
	D		8301.50.00	Mexico	2,146,561	83.1%
	D		8302.49.20	Mexico	213,949	62.3%
	D		8410.12.00	Brazil	51,144	59.0%
*		R	8415.82.00	Mexico	27,018,109	33.1%

LIST II : COUNTRIES APPROACHING COMPETITIVE NEED LIMITS
1991 U.S. IMPORTS - JANUARY THROUGH OCTOBER

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*			8419.19.00	Mexico	35,891,461	85.1%
	D		8419.90.10	Mexico	3,359,449	47.2%
			8422.90.05	Mexico	7,798,575	59.2%
*			8424.20.10	Mexico	13,695,765	81.8%
	D		8426.11.00	Yugoslavia	3,723,500	50.2%
*		R	8429.11.00	Brazil	6,552,262	26.0%
			8431.42.00	Mexico	9,722,446	52.6%
	D		8483.50.40	Malaysia	287,110	58.5%
2			8501.40.60	Mexico	27,339,630	73.6%
			8504.50.00	Mexico	77,395,832	49.1%
	D		8509.20.00	Mexico	541,531	44.4%
*			8509.90.20	Mexico	35,710,213	65.9%
*			8512.40.40	Mexico	88,696,034	86.7%
			8512.90.20	Mexico	11,940,680	57.4%
	D		8513.90.20	Thailand	4,274,405	68.3%
			8516.10.00	Mexico	10,949,992	49.4%
1			8516.80.80	Mexico	15,178,116	49.2%
			8517.10.00	Thailand	81,551,366	11.5%
			8519.91.00	Mexico	78,560,017	43.7%
	D		8535.21.00	Mexico	4,502,944	61.4%
2			8535.40.00	Mexico	13,667,563	50.6%
			8536.10.00	Mexico	13,625,809	42.7%
			8536.61.00	Mexico	17,488,473	44.5%
*		R	8539.90.00	Mexico	23,837,047	60.9%
			8541.40.80	Mexico	12,726,632	65.4%
			8542.80.00	Malaysia	34,208,451	46.6%
			8544.19.00	Mexico	6,063,024	48.1%
	D		8545.90.20	Mexico	1,320,842	89.5%
	D		8547.10.40	Mexico	173,278	71.0%
		R	8548.00.00	Mexico	18,646,384	23.8%
	D		8607.12.00	Israel	3,894,662	64.8%
	D		8701.30.50	Poland	4,608,572	45.3%
			8713.10.00	Mexico	8,261,661	67.0%
			9001.50.00	Mexico	32,551,016	42.6%
	D		9010.20.50	Israel	1,655,579	44.1%
	D		9013.10.30	Israel	1,421,068	62.7%
	D		9014.10.60	Israel	872,750	44.5%
	D		9014.80.10	Israel	2,100,000	79.6%
			9018.90.80	Mexico	82,463,904	17.9%
			9018.90.80	Dominican Republic	84,423,687	18.3%
1			9019.20.00	Mexico	34,461,432	44.2%
*			9022.29.40	Mexico	31,762,758	99.1%
	D		9022.90.70	Mexico	987,560	99.8%
*	D	R	9025.11.20	Brazil	1,274,258	44.8%
1			9026.80.60	Mexico	24,779,484	52.4%
			9028.90.00	Mexico	5,641,611	42.0%
	D		9029.10.40	Israel	127,150	51.0%
	D		9032.20.00	Mexico	5,862,190	74.0%
			9032.89.60	Mexico	86,296,111	20.6%
	D		9102.29.04	Philippines	4,035,546	47.4%

LIST II : COUNTRIES APPROACHING COMPETITIVE NEED LIMITS
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			9107.00.40	Mexico	6,459,781	44.8%
	D		9305.10.80	Israel	487,360	50.6%
	D		9401.90.25	Indonesia	1,202,819	47.9%
	D		9403.30.40	Czechoslovakia	86,548	49.0%
*		R	9403.60.80	Thailand	33,914,242	4.4%
			9403.90.60	Mexico	5,990,521	51.9%
			9404.90.20	Mexico	7,664,833	51.8%
			9405.50.30	India	7,530,111	43.3%
	D		9405.91.40	Mexico	1,074,748	80.6%
*	D	R	9504.20.60	Brazil	1,165,256	26.2%
	D		9506.61.00	Indonesia	2,032,753	80.8%
			9603.29.40	Mexico	9,787,871	43.2%
1	D		9603.30.40	Mexico	3,381,820	52.4%
	D		9606.29.20	Thailand	485,396	58.7%
		R	9613.80.20	Mexico	7,997,903	67.8%
	D		9614.20.60	Turkey	162,144	89.0%
	D		9614.20.80	Turkey	124,515	74.0%

LIST III : POSSIBLE de MINIMIS ITEMS
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FLAGS	HTSUS	PARTNER	IMPORTS	SHARE
D	0202.30.20	Dominican Republic..	304,214	72.6%
D	0203.22.10	Hungary	181,391	100.0%
D	0210.20.00	Uruguay	5,641,948	87.2%
D	0210.90.20	Israel	109,626	66.3%
D	0303.32.00	Fiji	7,547	100.0%
D	0303.77.00	Mexico	139,320	81.0%
D	0305.10.40	Thailand	11,161	42.9%
D	0306.24.20	Philippines	973,332	65.6%
* D	0704.10.40	Mexico	1,210,636	92.4%
* D	0704.10.60	Mexico	22,020	100.0%
* D	0704.20.00	Mexico	2,327,888	99.6%
* D	0705.11.40	Mexico	2,718,114	98.9%
* D	0705.19.40	Mexico	849,852	86.8%
D	0706.90.20	Mexico	4,774,739	95.7%
D	0706.90.30	Mexico	133,875	48.6%
D	0707.00.60	Mexico	1,496,151	57.9%
D	0708.10.20	Guatemala	2,943,220	91.8%
D	0708.90.05	Mexico	140,891	57.1%
D	0708.90.30	Ecuador	137,127	57.2%
D	0709.10.00	Colombia	63,563	54.7%
D	0709.10.00	Chile	49,517	42.6%
D	0709.20.10	Chile	1,169,647	49.1%
* D	0709.30.20	Mexico	3,198,638	98.7%
* D	0709.30.40	Mexico	7,353,028	99.9%
D	0709.40.40	Mexico	1,217,338	92.6%
D	0709.90.05	Mexico	5,604,719	78.5%
D	0709.90.13	Mexico	1,954,720	99.8%
D	0709.90.16	Mexico	2,602,107	98.3%
D	0710.22.10	Guatemala	8,442	71.9%
D	0710.22.15	Guatemala	7,844	100.0%
D	0710.22.25	Mexico	208,380	49.9%
D	0710.29.30	Dominican Republic..	1,318,116	99.3%
D	0710.80.50	Israel	4,436	100.0%
D	0710.80.65	Guatemala	528,020	48.7%
2 D	0710.80.70	Guatemala	4,815,686	64.5%
D	0710.80.93	Guatemala	2,161,357	57.0%
D	0710.80.93	El Salvador	1,625,884	42.9%
D	0711.10.00	Israel	115,677	83.4%
D	0711.20.15	Mexico	1,268,024	86.0%
D	0712.90.10	Israel	1,033,257	56.1%
D	0713.20.20	Mexico	6,883,882	79.5%
D	0713.90.10	India	1,567,425	80.3%
D	0714.10.00	Costa Rica	4,475,583	95.0%
D	0714.20.00	Dominican Republic..	1,134,415	97.3%
D	0714.90.10	Dominican Republic..	3,060,851	43.2%
D	0714.90.20	Jamaica	4,712,167	46.0%
D	0802.50.40	Turkey	336,782	60.9%
D	0804.50.80	Thailand	365,506	51.4%
D	0805.90.00	Jamaica	270,108	69.7%

LIST III : POSSIBLE de MINIMIS ITEMS
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D	0807.10.30	Mexico	5,619,304	90.8%
D	0807.10.60	Israel	4,290	100.0%
* D	0807.20.00	Mexico	1,519,594	47.2%
D	0810.10.20	Mexico	526,234	87.3%
* D R	0810.90.40	Mexico	8,055,373	74.7%
D	0811.20.20	Chile	1,866,176	42.7%
D	0811.90.10	Costa Rica	1,971,904	71.0%
D	0811.90.50	Costa Rica	583,375	77.0%
D	0811.90.55	Guatemala	1,223,143	63.4%
* D R	0813.30.00	Argentina	984,086	42.9%
D	0813.40.10	Thailand	1,061,456	98.0%
D	0904.20.70	Mexico	1,683,105	43.6%
D	0910.99.40	Mexico	402,112	44.4%
D	0910.99.40	Turkey	442,630	48.9%
* D	1005.90.40	Argentina	1,223,373	65.2%
D	1006.30.10	Brazil	403,987	93.0%
D	1007.00.00	Argentina	160,826	77.3%
* D	1102.30.00	Thailand	1,356,343	89.0%
D	1106.30.20	Ecuador	746,240	99.4%
D	1212.92.00	Colombia	8,175	100.0%
D	1403.90.40	Mexico	1,571,005	71.7%
D	1515.30.40	Brazil	3,911,650	49.5%
D	1515.30.40	India	3,908,335	49.5%
D	1515.60.00	Mexico	2,987,360	97.9%
D	1518.00.40	Mexico	764,639	46.0%
D	1519.11.00	Malaysia	1,131,110	72.4%
D	1601.00.40	Argentina	52,200	76.8%
D	1602.50.05	Mexico	19,650	90.0%
D	1602.50.09	Argentina	1,485,415	51.6%
D	1604.14.50	Thailand	2,137,910	93.8%
D	1604.15.00	Chile	5,103,019	73.7%
D	1604.16.30	Morocco	280,722	58.0%
D	1604.16.40	Morocco	439,660	57.1%
D	1605.90.10	Thailand	1,850,783	44.3%
D	1702.30.20	Dominican Republic..	5[illegible],718	43.6%
D	1702.90.35	Dominican Republic..	2,387,958	77.3%
D	1702.90.40	Brazil	979,000	99.1%
D	1703.10.30	Barbados	1,164,695	61.8%
D	1703.90.30	Lebanon	45,455	85.4%
1 D	2005.80.00	Thailand	4,365,012	93.6%
* D R	2005.90.55	Mexico	2,230,482	46.2%
D	2005.90.85	Lebanon	256,613	55.9%
D	2006.00.70	Thailand	1,924,438	44.0%
D	2006.00.90	Thailand	189,443	73.5%
D	2007.99.40	Thailand	256,440	77.7%
D	2007.99.48	Chile	137,764	57.9%
* D R	2007.99.50	Brazil	1,880,018	23.3%
D	2008.19.15	Dominican Republic..	3,060,389	43.8%
D	2008.19.25	Israel	27,221	100.0%
D	2008.19.30	Turkey	380,908	57.3%

LIST III : POSSIBLE de MINIMIS ITEMS
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	D		2008.30.37	Argentina	51,665	52.4%
	D		2008.30.95	Israel	156,328	81.0%
	D		2008.99.23	Dominican Republic	589,557	76.8%
	D		2008.99.35	Thailand	1,379,712	60.2%
	D		2008.99.45	Dominican Republic	557,128	75.5%
	D		2008.99.50	Dominican Republic	564,430	56.8%
	D		2008.99.80	Dominican Republic	1,091,027	54.0%
	D		2009.30.10	Mexico	1,309,764	99.1%
	D		2009.30.20	Brazil	350,568	46.3%
	D		2208.90.05	Trinidad and Tobago	196,951	52.1%
	D		2208.90.50	Mexico	1,366,607	100.0%
	D		2208.90.75	Colombia	789,738	43.2%
	D		2306.30.00	Argentina	1,232,166	88.3%
	D		2401.20.20	Cameroon	1,263,736	53.5%
	D		2515.11.00	Brazil	27,353	81.7%
	D		2607.00.00	Mexico	799,063	42.1%
	D		2620.90.90	Mexico	2,440,350	88.5%
	D		2707.60.00	Mexico	194,005	86.8%
	D		2811.19.10	Mexico	238,112	64.9%
	D		2815.30.00	Poland	1,075,000	67.7%
	D		2824.10.00	Mexico	7,004,382	98.2%
	D		2825.50.30	Mexico	1,952,955	99.5%
	D		2825.70.00	Chile	2,892,226	74.0%
	D		2827.39.20	India	202,521	72.9%
	D		2827.51.10	Israel	2,602,058	86.9%
	D		2827.51.20	Israel	908,920	71.8%
	D		2827.59.50	Israel	1,633,786	76.3%
	D		2827.60.20	India	307,202	85.5%
	D		2833.23.00	Turkey	63,060	77.5%
	D		2833.26.00	Mexico	1,340,067	64.3%
	D		2833.29.30	Mexico	11,806	100.0%
	D		2833.29.50	Mexico	3,811,630	59.7%
	D		2834.22.00	Mexico	139,050	52.5%
	D		2834.29.20	Mexico	1,402,496	97.6%
	D		2836.91.00	Chile	6,456,580	99.5%
	D		2840.11.00	Turkey	2,683,044	99.6%
	D		2841.20.00	Poland	285,216	42.9%
	D	R	2843.21.00	Mexico	334,240	92.8%
	D		2843.30.00	Yugoslavia	1,358,367	45.5%
	D		2901.10.30	Mexico	39,726	100.0%
	D		2903.69.30	Israel	345,597	51.8%
	D		2905.13.00	Mexico	1,180,171	87.1%
	D		2905.16.00	Mexico	2,338,567	64.2%
	D		2905.32.00	Brazil	927,765	75.6%
	D		2905.44.00	Mexico	1,466,878	50.4%
	D		2905.49.50	Mexico	520,772	50.5%
	D		2907.11.00	Mexico	1,579,080	55.3%
	D		2907.15.10	India	107,298	89.8%
	D		2909.30.20	Israel	467,007	51.3%
	D		2909.42.00	Mexico	1,723,859	84.5%

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	D		2914.12.00	Brazil	3,715,531	43.5%
	D		2915.21.00	Mexico	6,775,451	64.0%
*	D	R	2915.31.00	Brazil	2,365,269	73.6%
	D		2915.39.10	Mexico	576,814	55.5%
	D		2916.31.20	Mexico	405,141	94.4%
	D		2917.35.00	Mexico	3,523,547	61.3%
	D		2918.15.10	Israel	3,616,100	42.4%
	D		2920.10.10	India	98,947	47.5%
	D		2920.90.10	Israel	1,549,458	96.3%
	D		2921.49.30	India	327,622	79.5%
	D		2922.11.00	Brazil	1,382,683	44.2%
	D		2922.29.25	India	389,585	53.6%
	D		2924.21.10	Israel	3,713,286	46.7%
	D		2924.29.02	Hungary	35,388	96.4%
	D		2930.10.00	Mexico	1,605,805	46.0%
	D		2931.00.25	Brazil	5,111,349	52.9%
1	D		2933.19.25	Guatemala	3,973,174	99.1%
	D		2933.59.18	Israel	2,875,104	98.7%
	D		2934.90.12	Brazil	5,056,178	84.2%
	D		2934.90.16	Israel	470,522	90.3%
	D		2934.90.18	India	90,024	60.8%
	D		2935.00.05	India	149,080	60.6%
	D		2935.00.33	Poland	640,615	100.0%
	D		2935.00.44	Yugoslavia	362,683	90.1%
	D		2937.22.00	Bahamas	4,461,628	55.3%
	D		3001.10.00	Argentina	625,280	52.2%
	D		3003.40.00	Hungary	422,424	53.7%
2	D	R	3207.40.10	Mexico	2,999,407	40.5%
*	D		3301.12.00	Brazil	3,024,531	66.6%
	D		3301.19.10	Israel	953,009	72.7%
	D		3404.20.00	Mexico	558,138	42.6%
	D		3702.20.00	Mexico	305,740	51.8%
	D		3802.90.20	Mexico	2,404,130	65.3%
	D		3806.30.00	Argentina	863,513	74.0%
	D		3808.30.20	Israel	236,080	94.1%
	D		3812.30.20	Mexico	844,735	44.9%
	D		3814.00.20	Argentina	994,514	75.3%
	D		3823.20.00	Trinidad and Tobago	592,993	43.8%
	D		3823.90.32	Argentina	978,134	99.7%
2	D		3917.33.00	Mexico	5,887,477	51.8%
	D		3920.59.50	Mexico	724,723	47.3%
	D		4006.10.00	Peru	182,512	46.2%
	D		4016.99.25	Thailand	5,642,701	53.2%
	D		4104.10.40	Argentina	476,949	55.4%
	D		4104.29.30	India	2,261,294	57.6%
2	D		4104.31.20	Thailand	7,031,986	92.1%
	D		4104.39.20	Thailand	2,293,022	77.0%
*	D		4106.20.60	India	5,722,623	56.3%
*	D	R	4107.29.30	Argentina	1,900,744	29.1%
	D		4107.29.60	Indonesia	1,464,022	42.9%

LIST III : POSSIBLE de MINIMIS ITEMS
1991 U.S. IMPORTS - JANUARY THROUGH OCTOBER

D	4107.90.60	Mexico...............	2,242,610	45.2%
D	4109.00.70	Brazil...............	246,999	71.5%
D	4202.22.35	Philippines..........	82,432	99.5%
D	4205.00.60	Argentina............	369,727	62.1%
D	4302.20.60	Brazil...............	30,337	47.8%
D R	4409.10.60	Mexico...............	705,141	35.6%
D	4411.19.20	Mexico...............	3,077,468	42.2%
* D R	4411.19.20	Brazil...............	1,821,475	25.0%
D	4411.29.60	Mexico...............	265,906	62.8%
D	4411.29.90	Mexico...............	527,516	49.9%
* D	4412.11.50	Indonesia............	5,893,494	73.7%
D	4412.12.15	Brazil...............	5,380,476	98.7%
D	4412.19.10	Brazil...............	53,820	100.0%
D	4412.19.40	Indonesia............	2,930,110	70.4%
* D	4412.29.30	Indonesia............	3,191,313	42.0%
* D	4412.29.40	Brazil...............	2,363,683	46.8%
D	4412.99.10	Brazil...............	84,326	100.0%
D	4412.99.50	Brazil...............	594,973	58.6%
D	4416.00.90	Mexico...............	579,523	88.5%
D	4421.90.10	Honduras.............	781,932	92.9%
D	4421.90.30	Mexico...............	882,798	59.5%
D	4601.10.00	Madagascar...........	211,148	53.6%
D	4802.60.10	Mexico...............	2,247,821	65.3%
D	4804.49.00	Mexico...............	48,484	59.3%
D	4809.10.20	Venezuela............	13,356	65.2%
D	4815.00.00	Brazil...............	18,093	74.5%
* D	4818.50.00	Mexico...............	5,123,643	50.6%
D	4820.90.00	Mexico...............	5,593,078	60.3%
D	5102.10.60	Hungary..............	82,613	42.9%
D	5208.31.20	India................	395,591	99.3%
D	5208.32.10	India................	236,882	94.3%
D	5208.41.20	India................	3,375,711	96.7%
D	5208.42.10	India................	2,248,842	91.0%
D	5208.51.20	India................	656,572	97.8%
D	5208.52.10	India................	303,473	84.2%
D	5209.31.30	India................	357,839	80.3%
D	5209.41.30	India................	789,654	82.6%
D	5310.90.00	India................	303,201	75.8%
D	5311.00.60	Mexico...............	319,090	59.9%
D	5607.10.00	Thailand.............	861,677	54.3%
D	5607.29.00	Brazil...............	2,237,851	50.4%
D	5607.30.20	Philippines..........	3,252,119	92.8%
D	5702.20.10	India................	345,881	94.2%
D	6304.99.25	India................	474,047	98.9%
D	6406.10.72	Mexico...............	745,301	99.8%
D	6501.00.60	Czechoslovakia.......	90,632	95.3%
D	6504.00.60	Mexico...............	1,415,787	48.0%
* D R	6702.90.65	Thailand.............	1,947,067	32.0%
D	6802.10.00	Mexico...............	751,025	42.6%
D	6802.22.00	Mexico...............	848,942	42.5%

LIST III : POSSIBLE de MINIMIS ITEMS
1991 U.S. IMPORTS - JANUARY THROUGH OCTOBER

D	6806.20.00	Mexico...............	1,198,828	81.1%
D	6807.10.00	Mexico...............	4,345,628	43.3%
D	6810.19.50	Mexico...............	2,894,312	45.9%
D	6811.30.00	Mexico...............	69,308	94.2%
D	6814.90.00	India................	629,750	46.8%
D	6902.10.50	Mexico...............	4,676,416	70.7%
D	6905.10.00	Venezuela............	2,959,051	49.9%
D	6905.90.00	Mexico...............	3,538,158	66.9%
D	7002.10.20	Mexico...............	249,443	44.6%
D	7005.29.25	Mexico...............	1,068,829	43.6%
D	7012.00.00	India................	618,872	63.9%
D	7106.91.50	Peru.................	3,140,777	74.9%
* D	7113.11.20	Thailand.............	4,916,769	50.3%
D	7113.20.21	Malta and Gozo.......	1,131,991	92.9%
D	7113.20.30	Mauritius............	722,689	45.6%
D R	7115.90.20	Mexico...............	835,038	23.1%
D	7306.30.30	Mexico...............	1,936,227	59.7%
D	7307.91.30	Mexico...............	1,294,290	60.4%
D	7308.20.00	Brazil...............	2,137,042	82.0%
D	7314.11.60	Mexico...............	275,852	78.1%
D	7319.20.00	Malaysia.............	1,768,323	58.9%
D	7319.30.10	Malaysia.............	896,397	59.3%
D	7325.91.00	Mexico...............	741,758	82.1%
2 D	7401.10.00	Mexico...............	2,852,072	98.6%
D	7403.12.00	Peru.................	178,782	100.0%
D	7403.29.00	Mexico...............	370,981	43.3%
D	7409.11.10	Brazil...............	112,398	49.0%
D	7412.10.00	Colombia.............	68,038	42.1%
* D	7413.00.10	Peru.................	3,447,725	50.5%
D	7413.00.50	Mexico...............	875,521	76.2%
D	7416.00.00	Barbados.............	316,435	56.4%
D	7603.10.00	Bahrain..............	934,091	54.9%
D	7604.10.30	Yugoslavia...........	1,636,522	64.4%
D	7606.91.60	Mexico...............	3,322,003	61.1%
D	7614.10.50	Brazil...............	338,319	93.5%
D	7614.90.20	Venezuela............	4,886,540	76.2%
D	7801.99.30	Mexico...............	252,356	92.5%
D	7803.00.00	Mexico...............	776,960	51.5%
D	7901.20.00	Peru.................	235,362	79.4%
D R	7903.10.00	Mexico...............	2,008,083	21.5%
D	7905.00.00	Peru.................	320,176	42.0%
D	8104.90.00	Mexico...............	3,651,040	92.2%
D	8112.91.50	Chile................	7,066,408	77.8%
D	8215.99.22	Mexico...............	179,515	70.4%
D	8301.50.00	Mexico...............	2,146,561	83.1%
D	8302.49.20	Mexico...............	213,949	62.3%
D	8410.12.00	Brazil...............	51,144	59.0%
D	8419.90.10	Mexico...............	3,359,449	47.2%
D	8426.11.00	Yugoslavia...........	3,723,500	50.2%
D	8483.50.40	Malaysia.............	287,110	58.5%

LIST III : POSSIBLE de MINIMIS ITEMS
1991 U.S. IMPORTS - JANUARY THROUGH OCTOBER

D	8509.20.00	Mexico	541,531	44.4%
D	8513.90.20	Thailand	4,274,405	68.3%
D	8535.21.00	Mexico	4,502,944	61.4%
D	8545.90.20	Mexico	1,320,842	89.5%
D	8547.10.40	Mexico	173,278	71.0%
D	8607.12.00	Israel	3,894,662	64.8%
D	8701.30.50	Poland	4,608,572	45.3%
D	9010.20.50	Israel	1,655,579	44.1%
D	9013.10.30	Israel	1,421,068	62.7%
D	9014.10.60	Israel	872,750	44.5%
D	9014.80.10	Israel	2,100,000	79.6%
D	9022.90.70	Mexico	987,560	99.8%
* D R	9025.11.20	Brazil	1,274,258	44.8%
D	9029.10.40	Israel	127,150	51.0%
D	9032.20.00	Mexico	5,862,190	74.0%
D	9102.29.04	Philippines	4,035,546	47.4%
D	9305.10.80	Israel	487,360	50.6%
D	9401.90.25	Indonesia	1,202,819	47.9%
D	9403.30.40	Czechoslovakia	86,548	49.0%
D	9405.91.40	Mexico	1,074,748	80.6%
* D R	9504.20.60	Brazil	1,165,256	26.2%
D	9506.61.00	Indonesia	2,032,753	80.8%
1 D	9603.30.40	Mexico	3,381,820	52.4%
D	9606.29.20	Thailand	485,396	58.7%
D	9614.20.60	Turkey	162,144	89.0%
D	9614.20.80	Turkey	124,515	74.0%

LIST IV : POSSIBLE REDESIGNATION ITEMS
1991 U.S. IMPORTS - JANUARY THROUGH OCTOBER

FLAGS	HTSUS	PARTNER	IMPORTS	SHARE
*	0713.31.40	Thailand	347,596	18.3%
*	0807.20.00	Mexico	1,519,594	47.2%
* R	1005.90.20	Argentina	464,300	3.8%
*	1103.14.00	Thailand	0	0.0%
*	1605.10.20	Thailand	6,051,853	41.0%
*	1605.10.20	Malaysia	3,399,076	23.0%
*	1701.11.01	Dominican Republic	52,249,053	11.8%
*	1701.11.01	Brazil	46,750,076	10.5%
*	1701.11.02	Brazil	4,596,542	4.9%
*	1701.12.01	Brazil	0	0.0%
*	1701.91.21	Brazil	0	0.0%
*	1701.99.01	Brazil	0	0.0%
2	1901.90.90	Mexico	1,492,497	16.1%
* R	2007.99.50	Brazil	1,880,018	23.3%
* R	2202.10.00	Mexico	11,546,102	15.6%
*	2203.00.00	Mexico	0	0.0%
* R	2804.69.10	Brazil	2,160,410	7.9%
*	2906.11.00	Brazil	3,686,251	15.4%
2	2916.39.15	India	3,987,279	15.1%
*	2918.22.10	Turkey	0	0.0%
2	2929.90.50	Bahamas	0	0.0%
*	2933.39.25	Brazil	0	0.0%
2	3402.90.10	Mexico	5,439,620	46.2%
* R	3823.90.40	Brazil	921,334	12.4%
*	3904.21.00	Brazil	0	0.0%
*	3909.10.00	Israel	437,086	6.1%
*	4011.10.00	Brazil	41,548,155	4.2%
*	4011.20.00	Brazil	19,116,724	2.8%
*	4104.10.40	India	32,502	3.7%
*	4104.21.00	Argentina	3,511,669	37.0%
*	4104.22.00	Argentina	572,503	4.8%
*	4104.29.50	Argentina	929,473	14.0%
*	4104.29.90	Argentina	533,864	2.5%
*	4104.31.50	Argentina	826,280	7.1%
*	4104.31.60	Argentina	6,678,742	18.9%
*	4104.31.80	Argentina	21,525,855	27.8%
*	4104.39.50	Argentina	0	0.0%
*	4104.39.60	Argentina	5,635,432	27.3%
*	4104.39.80	Argentina	9,540,059	28.6%
*	4105.20.60	Argentina	0	0.0%
*	4106.12.00	India	39,286	7.7%
*	4106.19.00	India	108,894	3.8%
*	4106.20.30	India	1,965,356	37.3%
* R	4107.21.00	Argentina	12,000	8.9%
*	4107.29.60	Argentina	304,418	8.9%
*	4107.90.60	Argentina	0	0.0%
*	4109.00.70	Argentina	0	0.0%
*	4411.19.40	Brazil	2,262,158	20.0%
*	4411.21.00	Brazil	0	0.0%

LIST IV : POSSIBLE REDESIGNATION ITEMS
1991 U.S. IMPORTS - JANUARY THROUGH OCTOBER

*	R	4411.29.60	Brazil...............	33,366	7.8%
*		4411.29.90	Brazil...............	4,714	0.4%
*		4412.12.20	Brazil...............	5,441,588	11.1%
*		4412.12.20	Indonesia............	16,281,359	33.2%
*		4412.12.50	Brazil...............	259,018	16.2%
*		4412.12.50	Indonesia............	451,843	28.3%
*		4412.29.30	Brazil...............	727,992	9.5%
*		4412.29.30	Indonesia............	3,191,313	42.0%
*		4412.29.40	Brazil...............	2,363,683	46.8%
*		4412.29.40	Indonesia............	835,701	16.5%
*		4421.90.50	Brazil...............	285,158	6.9%
*		4421.90.60	Brazil...............	217,451	2.9%
*		4823.20.10	Brazil...............	0	0.0%
*	R	6406.10.65	Brazil...............	10,282,992	5.5%
*		6406.99.60	Argentina............	3,457,437	34.4%
*		6810.11.00	Mexico...............	0	0.0%
*		6905.10.00	Mexico...............	1,185,033	19.9%
*	R	6908.10.20	Thailand.............	2,394,152	20.1%
*		6910.10.00	Mexico...............	18,675,856	38.5%
*	R	6910.10.00	Brazil...............	2,847,772	5.8%
*	R	6910.90.00	Brazil...............	92,619	2.0%
*	R	6911.90.00	Brazil...............	34,826	0.1%
*		6912.00.44	Brazil...............	8,751,228	10.1%
*		7113.11.50	Thailand.............	48,110,997	34.0%
*		7113.20.50	Thailand.............	977,945	4.4%
*		7116.10.10	Thailand.............	2,412	0.3%
*		7116.20.10	Thailand.............	15,524,882	23.6%
*		7202.19.50	Mexico...............	12,017,331	44.6%
*		7202.21.50	Brazil...............	0	0.0%
*		7202.30.00	Brazil...............	0	0.0%
*		7307.21.50	Brazil...............	0	0.0%
*	R	7314.19.00	Mexico...............	208,153	3.2%
2	R	7402.00.00	Mexico...............	4,295,238	3.3%
*		7402.00.00	Chile................	61,478,580	47.6%
*		7403.11.00	Chile................	69,691,098	12.7%
*		7403.12.00	Chile................	0	0.0%
*		7403.13.00	Chile................	718,594	9.1%
*		7403.21.00	Chile................	0	0.0%
*		7403.22.00	Chile................	61,807	17.8%
*		7403.23.00	Chile................	0	0.0%
*		7403.29.00	Chile................	0	0.0%
*		7604.10.30	Venezuela............	0	0.0%
*		7604.29.30	Venezuela............	0	0.0%
*	R	8409.91.91	Brazil...............	31,457,878	4.3%
*	R	8409.99.99	Brazil...............	25,397,050	10.0%
*		8419.19.00	Israel...............	38,721	0.0%
*		8419.90.10	Israel...............	27,301	0.3%
*	R	8429.20.00	Brazil...............	328,641	2.1%
*		8429.30.00	Brazil...............	0	0.0%
*	R	8431.49.90	Brazil...............	21,431,624	5.5%

LIST IV : POSSIBLE REDESIGNATION ITEMS
1991 U.S. IMPORTS - JANUARY THROUGH OCTOBER

*		8471.99.30	Mexico...............	29,557,339	8.0%
*		8522.10.00	Mexico...............	1,523,492	36.9%
*	R	8543.80.90	Mexico...............	26,943,937	6.7%
*		9025.11.20	India................	950,065	33.4%
*		9401.30.40	Yugoslavia...........	0	0.0%
*		9401.40.00	Thailand.............	0	0.0%
*		9401.61.40	Yugoslavia...........	0	0.0%
*	R	9401.61.60	Thailand.............	2,164,788	1.3%
*		9401.69.60	Yugoslavia...........	0	0.0%
*	R	9401.69.80	Thailand.............	2,235,262	8.9%
*	R	9403.30.80	Thailand.............	689,577	0.6%
*	R	9403.40.90	Thailand.............	4,422,042	4.9%
*	R	9403.50.90	Thailand.............	1,885,566	0.8%
*	R	9403.60.80	Thailand.............	33,914,242	4.4%
*		9405.30.00	Thailand.............	78,403,127	31.4%
*		9405.91.30	Mexico...............	4,193,380	21.8%

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Part IV

Small Business Administration

13 CFR Part 122

Business Loans; Microloan Demonstration Program; Interim Rule

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SMALL BUSINESS ADMINISTRATION

13 CFR Part 122

Business Loans; Microloan Demonstration Program

AGENCY: Small Business Administration.

ACTION: Interim rule.

SUMMARY: On October 28, 1991 the President signed Public Law 102-140 (1991 legislation), the Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act of 1992. Section 609(h) of that law added a new subsection (m) to section 7 of the Small Business Act, 15 U.S.C. 636. Such new subsection authorizes the Small Business Administration (SBA) to establish a Microloan Demonstration Program (Program). This interim final rule, published as such in accordance with Public Law 102-140, implements this new Program.

DATES: This rule shall be effective January 31, 1992. Comments by March 2, 1992.

ADDRESSES: Written comments should be addressed to John Cox, Director, Office of Financing, U.S. Small Business Administration, 409 Third Street, SW., Eighth Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: John Cox, 202-205-6490.

SUPPLEMENTARY INFORMATION: Public Law 102-140, enacted October 28, 1991, established a Microloan Demonstration Program. The rule states that the Program, in accordance with the 1991 legislation, is effective for five years and that its purpose is to assist women, low-income, and minority entrepreneurs, business owners, and other individuals possessing the capability to operate successful business concerns and to assist small business concerns in those areas suffering from a lack of credit due to economic downturn. Under the Program, SBA is authorized to make direct loans to qualified intermediary lenders who will use the proceeds to make short-term, fixed interest rate microloans, of not more than $25,000, to startup, newly established and growing small business concerns. Further, SBA may make grants to such intermediaries to be used to provide intensive marketing, management, and technical assistance to any microloan borrower. In addition, SBA is authorized to make two (2) grants for each year of the Program to nonprofit third party entities to provide marketing, management, and technical assistance to assist low-income individuals obtain, with or without loan guarantees, private sector financing for their businesses.

Under the rule, an intermediary lender is a private, nonprofit entity or a nonprofit community development corporation. It is eligible to participate in this Program if it has at least one year of experience making microloans to startup, newly established, or growing small business concerns and providing, through its own organization, intensive marketing, management, and technical assistance to its borrowers. SBA believes it essential that the intermediary itself provide the required marketing, management, and technical assistance to its microloan borrowers. As such, an intermediary is prohibited from contracting for or engaging the services of another entity for the provision of such services, whether or not such entity is affiliated with the intermediary.

An intermediary lender's application to SBA for a loan must include certain specified information. Among other items, the application must describe the type of businesses to be assisted, the geographic area to be served and its economic and unemployment characteristics, and the local economic credit markets.

Additionally, the application must describe the extent to which the intermediary will provide microloans to small business concerns located in rural areas. A rural area is defined to mean any political subdivision or unincorporated area (1) in a nonmetropolitan county (as defined by the Secretary of Agriculture) or its equivalent, or (2) in a metropolitan county or its equivalent that has a resident population of less than 20,000 if the SBA has determined such political subdivision or area to be rural. The 1991 legislation requires, and this rule so states, that at least one half of all the intermediaries receiving SBA loans under this Program shall agree to provide microloans to small business concerns in rural areas. SBA has interpreted this provision to mean that one-half of the intermediaries funded will provide a significant percentage of microloans to small business concerns located in rural areas.

The rule requires each participating intermediary to establish a Microloan Revolving Fund (MRF) comprised of the proceeds of any SBA loan extended to the intermediary together with a required match of funds from non-Federal sources. The MRF will be used for no purpose other than this Program. Each intermediary lender shall be required to contribute to its MRF, from non-Federal sources, fifteen percent (15%) of the total amount of SBA loans made to an intermediary. All microloan disbursements and repayments must be made from and paid into this fund. Further, the intermediary will repay its obligations to SBA from this fund. SBA shall perfect a first lien security interest in the MRF.

Any loan made by SBA to an intermediary shall be for a term of 10 years and the interest rate shall be fixed, at the time of loan approval, at a rate equal to the rate determined by the Secretary of the Treasury for obligations of the United States with a maturity of 5 years, adjusted to the nearest one-eighth of 1 percent. An intermediary shall not be required to make any repayment of principal or interest during the first year of any loan made by SBA to the intermediary. SBA shall receive a first security position on the note receivable with respect to each microloan made by the intermediary under this Program.

The 1991 legislation imposes limits on the amount an intermediary may borrow from SBA under this Program. Specifically, the statute states that no loan shall be made to an intermediary by SBA if the total amount outstanding and committed to the intermediary from the fund established under section 4(c) of the Small Business Act would, as a result of such loan, exceed $750,000 in the first year of the intermediary's participation in this program, and $1,250,000 in the remaining years of the intermediary's participation. Further, in no case shall the intermediaries in any one State receive more than $1,000,000, in the aggregate (excluding grants), from SBA during such State's first year of Program participation or more than $1,500,000, in the aggregate (excluding grants), from SBA in any subsequent year of Program participation.

The 1991 legislation imposes several restrictions on the microloan made by an intermediary which are codified in this regulation. First, the proceeds of any microloan made by an intermediary under this Program shall be used by the small business concern exclusively for working capital and/or the acquisition of materials, supplies, furniture, fixtures, and equipment. Further, under the 1991 legislation, the maximum rate of interest which an intermediary may charge on a microloan shall be not more than four percentage points above the prime lending rate as determined by the SBA and published quarterly in the Federal Register. Third, a microloan should generally be not more than $10,000. An intermediary may make a microloan of more than $15,000 only if the borrower demonstrates that it is unable to obtain credit elsewhere at comparable interest rates and that it has good prospects of success. However, in no case shall an intermediary make a microloan of more than $25,000 to one borrower, or have more than $25,000 outstanding and committed to any one borrower, including any affiliates. The maturity of a microloan by an intermediary shall not exceed six (6) years.

Under the 1991 legislation SBA shall not review a microloan prior to the intermediary's approval of such loan. However, any microloan borrower shall be required to meet SBA's business eligibility requirements as set forth in part 120 and elsewhere in part 122 of title 13, Code of Federal Regulations (CFR). Further, the rule also makes if clear that the microloan borrowers must comply with parts 112, 113, 116, and 117 of title 13, CFR. There parts generally prohibit discrimination on the grounds of race, color, age, national origin, religion, sex, marital status, or disability.

This rule requires each intermediary establish a loan loss reserve fund (LLRF) in addition to the MRF which must be maintained until all obligations owed to the SBA under this Program are repaid. The LLRF, in which the SBA shall have a security interest, would be used to supplement the MRF when the intermediary incurs losses as a result of microloans made under this Program. In the first year of an intermediary's participation in this Program the LLRF must be maintained at a level equal to fifteen percent (15%) of the outstanding balance of the notes receivable owed to the intermediary under the Program. After the first year, LLRF for each intermediary must be maintained at a level, determined by SBA, which reflects the intermediary's total loss experience attributable to microloans made under this Program, but in no event shall the level exceed fifteen percent (15%). The funds used to create the LLRF may come from the MRF.

The 1991 legislation authorizes SBA to make grants to an intermediary for marketing, management, and technical assistance to be provided to borrowers in conjunction with the microloan. In the first and second years of an intermediary's participation in the Program, the SBA may make a grant in an amount not in excess of twenty percent (20%) of the total outstanding balance of SBA loans made to such intermediary. After the second year, the SBA grants shall not exceed ten percent (10%) of such balance. With respect to any grant made by the SBA the intermediary shall contribute an amount equal to one-half of the amount of the grant, such contribution to be obtained solely from non-Federal sources, and may include indirect costs or in-kind contributions paid for under non-Federal programs.

The 1991 legislation also authorizes SBA to make grant money available to nonprofit entities, which are not participating intermediaries, to provide marketing, management and technical assistance to low-income individuals seeking to start or enlarge their small businesses. The grant can only be made if the nonprofit entity agrees to work with the individuals to secure loans in amounts not to exceed $15,000, in the aggregate, from private sector lenders. In each year of this Program, SBA is authorized to make no more than two grants to non-intermediaries, each not to exceed $125,000. The nonprofit entity must contribute an amount equal to twenty percent (20%) of the amount of the SBA grant from non-Federal sources.

Compliance With Executive Order 12291 and 12612, the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., and Paperwork Reduction Act, 44 U.S.C. ch. 35

For purposes of Executive Order 12291, SBA certifies that this rule will not constitute a major rule because it is not likely to have an annual effect on the economy of $100 million or more, will not result in a major increase in costs for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, and will not have significant adverse effects on competition. SBA makes this certification based upon the fact that the appropriation for the demonstration Program established herein totals $15 million and does not affect State or local government.

For purposes of the Regulatory Flexibility Act, SBA certifies that this rule will not have a significant economic impact on a substantial number of small entities for the same reason that it would not be a major rule.

For purposes of the Paperwork Reduction Act, SBA certifies that no new paperwork requirements are imposed by this rule.

For purposes of Executive Order 12612, SBA certifies that this rule will not have federalism implications warranting the preparation of a Federalism Assessment.

List of Subjects in 13 CFR Part 122

Loan Programs—business, Small business.

For the reasons set out in the preamble, part 122 of title 13, Code of Federal Regulations, is amended as follows:

PART 122—[AMENDED]

1. The Authority citation for part 122 is revised to read as follows:

Authority: 15 U.S.C. 634(b)(6), 15 U.S.C. 636(a), and Pub. L. 102-140.

2. Part 122 of title 13, Code of Federal Regulations is amended by adding to subpart B, §§ 122.61 and 122.61-1 through 122-61-11 to read as follows:

§ 122.61 Microloan Demonstration Program.

§ 122.61-1 Policy.

(a) *Program.* The Act authorizes a five (5) year Microloan Demonstration Program through which the SBA is to make direct loans to qualified intermediary lenders who will use the proceeds to make short-term, fixed interest rate microloans to startup, newly established, and growing small business concerns. In conjunction with loans to qualified intermediaries, the Agency is also authorized to make grants to such intermediaries to be used to provide intensive marketing, management, and technical assistance to any borrower of a microloan. In addition, the Act authorizes the SBA to make grants to nonprofit entities to provide marketing, management, and technical assistance to assist low-income individuals obtain, with or without loan guarantees, private sector financing for their businesses. This Microloan Demonstration Program terminates October 28, 1996.

(b) *Purpose.* The purpose of the Microloan Demonstration Program is to assist women, low-income, and minority entrepreneurs, as well as business owners, and other individuals possessing the capability to operate successful business concerns and to assist small business concerns in those areas suffering from a lack of credit due to economic downturn.

§ 122.61-2 Definitions.

(a) *Deposit account* means a demand, time, savings, passbook, or like account maintained with an insured depository institution, other than an account evidenced by a certificate of deposit.

(b) *Grant* shall have the same meaning as in section 3 of the Federal Grant and Cooperative Agreement Act, 31 U.S.C. 6302.

(c) *Insured depository institution* shall have the same meaning as in section 3(c) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(c).

(d) *Intermediary* means a private, nonprofit entity or a private nonprofit community development corporation, as approved by SBA.

(e) *Microloan* means a short-term, fixed interest rate loan of not more than $25,000 made by an intermediary to a startup, newly established or growing small business concern.

(f) *Non-Federal sources* means funds acquired from other than the Federal Government and may include indirect costs or in-kind contributions paid for under non-Federal programs.

(g) *Rural area* means any political subdivision or unincorporated area.

(1) in a nonmetropolitan county (as defined by the Secretary of Agriculture), or its equivalent thereof; or

(2) in a metropolitan county or its equivalent that has a resident population of less than 20,000 if the Administration has determined such political subdivision or area to be rural.

§ 122.61–3 Participation of intermediary.

(a) *Eligibility*. An intermediary shall be eligible to receive loans and grants under the Microloan Demonstration Program if it has at least one year of experience making and servicing microloans to startup, newly established, or growing small business concerns and by itself providing intensive marketing, management, and technical assistance to its borrowers.

(b) *Application*. Each application submitted by an intermediary to the SBA for a loan under this program shall include a description of:

(1) The type of businesses to be assisted;

(2) The average size of the loans to be made;

(3) The geographic area to be served and its economic and unemployment characteristics;

(4) The economic status of the businesses in such geographic area and an analysis of their credit and technical assistance needs;

(5) Any marketing, management, and technical assistance to be provided in connection with microloans made;

(6) The local economic credit markets, including the costs associated with obtaining credit locally;

(7) The qualifications of the applicant to carry out the purpose of this program as set forth in § 122.61–1(b);

(8) Any plan of the intermediary to involve private sector lenders in assisting selected microloan borrowers;

(9) The extent to which the intermediary will provide microloans to small business concerns in rural areas; and

(10) Such other information as may be required by the SBA, and as provided for in the official Program Announcement, to adequately evaluate the applicant's management and technical expertise and operational history.

§ 122.61–4 Microloan Revolving Fund.

(a) *Establishment of fund*. Every participating intermediary shall establish a Microloan Revolving Fund comprised of the proceeds of any SBA loan extended to the intermediary pursuant to this program along with the contribution from non-Federal sources required in § 122.61–5. The intermediary shall maintain such Microloan Revolving Fund as a deposit account with an insured depository institution.

(b) *Disbursements and repayments*. All microloan disbursements made by an intermediary and repayments by microloan borrowers under this program shall come from and be repaid to the intermediary's Microloan Revolving Fund. Additionally, each intermediary shall repay all obligations owed the SBA under this program from such fund (the fund, at SBA's direction shall be supplemented for this purpose, when necessary, with proceeds from the Loan Loss Reserve Fund established pursuant to § 122.61–8). Except as otherwise provided by SBA, each Microloan Revolving Fund shall be used for no other purpose.

(c) *SBA lien*. SBA shall perfect a security interest in the Microloan Revolving Fund of each intermediary participant in this program. Such security interest shall provide SBA a first lien position with respect to such fund. SBA may foreclose on such security interest upon default of the intermediary participant or upon violation of these regulations or the terms of the loan agreement, entered into pursuant to § 122.61–11, by the intermediary participant.

§ 122.61–5 Portion of Intermediary's Microloan Revolving Fund From Non-Federal Sources.

As a condition of any loan made by the SBA to an intermediary, each intermediary shall be required to contribute, from non-Federal sources, fifteen percent (15%) of the loan amount to its Microloan Revolving Fund. Such contribution may be used to establish the Loan Loss Reserve Fund as required pursuant to § 122.61–8.

§ 122.61–6 Conditions on SBA loan to intermediary.

(a) *Loan Maturity and Interest Rate*. Any loan made by the SBA to an intermediary under this program shall be for a term of 10 years and the interest rate shall be fixed, at the time of approval of the loan by SBA, at a rate equal to the rate determined by the Secretary of the Treasury for obligations of the United States for a maturity period of 5 years, adjusted to the nearest one-eighth of 1 percent.

(b) *Repayment by Intermediary*. An intermediary shall not be required to make any repayment of principal or interest during the first year of any loan made by the Agency to such intermediary. However, interest will accrue during such time period.

(c) *Fees and Collateral*. Except as otherwise provided in this section, the Agency shall not charge an intermediary any fee with respect to a loan it makes to the intermediary under this program. The SBA shall receive a first lien position on the note receivable with respect to each microloan which the intermediary makes under this program.

(d) *Loan Limits by SBA*. Notwithstanding any other provision of law to the contrary, no loan shall be made to an intermediary by SBA under this program if the total amount outstanding and committed (excluding outstanding grants) to such intermediary (and its affiliates, if any) from the business loan and investment fund established under section 4(c) of the Act would, as a result of such loan, exceed $750,000 in the first year of such intermediary's participation in this program, and $1,250,000 in the remaining years of the intermediary's participation in the program.

(e) *Rural assistance*. At least one-half of all the intermediaries receiving a loan pursuant to this program shall agree to provide a significant percentage of microloans to small business concerns located in rural areas.

§ 122.61–7 Microloan made by intermediary to eligible concern.

(a) *General*. An intermediary shall make short-term, fixed interest rate microloans to startup, newly established, and growing small business concerns. Such concerns must be eligible to receive financial assistance under section 7(a) of the Act.

(b) *Purpose*. The proceeds of a microloan made under this program shall be used exclusively for working capital and/or the acquisition of materials, supplies, furniture, fixtures, and equipment.

(c) *Interest rate*. The Act provides that notwithstanding any provision of the laws of any State or the constitution of any State pertaining to the rate or amount of interest that may be charged, taken, received or reserved on a loan, the maximum rate of interest which an intermediary may charge on a microloan under this program shall be not more than four (4) percentage points above the prime lending rate as determined by the SBA and published in the **Federal Register** on a quarterly basis.

(d) *Amount of microloan.* Generally, a microloan made under this program should be not more than $10,000. An intermediary may make a microloan of more than $15,000 only if the borrower demonstrates that it is unable to obtain credit elsewhere at comparable interest rates and that it has good prospects for success. In no case shall an intermediary make a microloan of more than $25,000 to one borrower, or have more than $25,000 outstanding and committed to any one borrower, including affiliates, under this program.

(e) *Maturity of microloan.* No microloan made by an intermediary under this program shall exceed six (6) years.

(f) *Review.* The SBA shall not review a microloan made under this program prior to the approval of such loan by the intermediary.

(g) *Compliance with other Parts.* All microloans made by intermediaries under this program must comply with parts 112, 113, 116, and 117 of this title. Part 112 prohibits discrimination on the grounds of race, color, or national origin. Part 113 prohibits discrimination based upon race, color, religion, sex, marital status, disability, or national origin. Part 116 prescribes policies of general application. Part 117 prohibits discrimination based upon age.

§ 122.61-8 Intermediary Loan Loss Reserve Fund.

(a) *General.* Each intermediary shall establish a Loan Loss Reserve Fund (LLRF), as a deposit account with an insured depository institution. The LLRF, and earnings thereon, shall be maintained until all obligations owed to the SBA under this program are repaid. Such LLRF shall account for losses incurred in the Microloan Revolving Fund. The LLRF may be established using the funds required to be contributed from non-Federal sources pursuant to § 122.61-5.

(b) *Level of Loan Loss Reserve Fund in first year.* In the first year of an intermediary's participation in this program its LLRF shall be maintained in an amount equal to fifteen percent (15%) of the outstanding balance of the notes receivable owed to the intermediary under this program.

(c) *Level of Loan Loss Reserve Fund in subsequent years.* For each year subsequent to its first year of participation, an intermediary shall maintain its LLRF at a level which reflects the intermediary's total loss experience as a result of participation in this program, as determined by the SBA on a case-by-case basis, but in no event shall the intermediary be required to maintain the LLRF at a level which exceeds fifteen (15) percent of the outstanding balance of the notes receivable owed to the intermediary under this program.

(d) *SBA lien.* SBA shall perfect a security interest in the LLRF of each intermediary participant in this program. Such security interest shall provide SBA a first lien position with respect to such fund. SBA may foreclose on such security interest upon default of the intermediary participant or upon a violation of these regulations or the terms of the loan agreement, entered into pursuant to § 122.61-11, by the intermediary participant.

§ 122.61-9 SBA grants to intermediary for marketing, management, and technical assistance.

(a) *General.* As an integral part of the receipt of a microloan under this program a borrower shall receive intensive marketing, management, and technical assistance. Any intermediary which receives a loan from the SBA under this program shall be eligible to receive from the SBA a grant, the proceeds of which shall be used to provide, through its own organization, such marketing, management, and technical assistance to microloan borrowers. In the first and second years of an intermediary's participation in the program, the SBA may give a grant to such intermediary in an amount not in excess of twenty (20) percent of the total outstanding balance of SBA loans made to such intermediary under this program. In the third and subsequent years of an intermediary's participation under this program, the amount of the SBA grant shall not exceed ten (10) percent of the total outstanding balance of SBA loans made to such intermediary under this program.

(b) *Contribution of intermediary to grant.* With respect to any grant made by the SBA under this program the intermediary shall contribute an amount equal to one-half of the amount of the grant. The intermediary's contribution shall be obtained solely from non-Federal sources, and may include indirect costs or in-kind contributions paid for under non-Federal programs.

§ 122.61-10 SBA grants to non-intermediary for marketing, management, and technical assistance.

(a) *Purpose.* In connection with this microloan program, the SBA may provide grants to nonprofit entities, which are not participating intermediaries, to provide marketing, management, and technical assistance to low-income individuals seeking to start or enlarge their small business concerns. Such a grant may be made only if such nonprofit entity agrees to work with such individuals to secure loans in amounts not to exceed $15,000 in the aggregate from private sector lenders, regardless of whether the nonprofit entity provides a loan guarantee.

(b) *Amount of grant.* In each year of this microloan program, the SBA may make no more than two (2) grants to non-intermediaries, each not to exceed $125,000.

(c) *Contribution by nonprofit entity.* As a condition to its receipt of a grant from the SBA under this program, the nonprofit entity shall contribute an amount equal to twenty (20) percent of the amount of the SBA grant. The contribution from the nonprofit entity shall come solely from non-Federal sources, and may include indirect costs or in-kind contributions paid for under non-Federal programs.

§ 122.61-11 Program procedure.

(a) *Participation of intermediary by State.* Any entity believing itself qualified as an intermediary may seek to participate in the Microloan Demonstration Program by applying to SBA. SBA may approve such applications based upon criteria set forth at § 122.61-3. In no case, however, shall SBA approve more than two (2) intermediaries in any one State in any one year of the program as Microloan Demonstration Program participants. In no case shall the intermediaries in any one State receive more than $1,000,000 in the aggregate (excluding grants), from SBA during such State's first year of Program participation. The intermediaries in any one State shall not receive more than $1,500,000, in the aggregate (excluding grants), from SBA during any succeeding year of Program participation.

(b) *Prospective intermediaries.* (1) Necessary application forms, including the loan agreement and grant agreement, will be mailed to prospective intermediaries seeking such information from SBA as part of an official Program Announcement.

(2) The completed application shall be submitted in original and two copies to such SBA office location as designated in the Program Announcement.

(3) The applicant shall make its best effort to deliver the complete application to the designated location by the due date and time specified. Late applications may be accepted at the discretion of SBA.

(4) Submission of a completed application, including the loan

agreement and the grant agreement, by the prospective intermediary constitutes, on the part of such prospective intermediary, acceptance of and willingness to be bound by the terms and conditions set forth in the application, including the loan agreement and the grant agreement.

(c) *Grant procedure for non-intermediaries.* (1) Any nonprofit entity, which is not a participating intermediary, believing itself qualified to provide marketing, management, and technical assistance to low-income individuals seeking to enlarge their small business concern may forward to SBA information regarding their ability to undertake such assistance, as well as any other information deemed appropriate by SBA.

(2) Any grant awarded to a non-intermediary will be awarded and administered according to the terms and conditions set forth in the grant agreement.

Dated: December 18, 1991.

Patricia Saiki,

Administrator.

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Part V

Department of Transportation

Research and Special Programs Administration

49 CFR Parts 171 et al.

Marine Pollutants; Notice of Proposed Rulemaking

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 172, 173, 174 and 176

[Docket No. HM-211; Notice No. 92-2]

RIN 2137-AC16

Marine Pollutants

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: RSPA proposes to amend the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180) to list and regulate, in all modes of transportation, those materials identified as marine pollutants by the International Maritime Organization. The proposed changes are necessary, in part, to implement the provisions of Annex III, an annex of the 1973 International Convention for the Prevention of Pollution from Ships, as modified by the Protocol of 1978 (MARPOL 73/78), and in order that the HMR more thoroughly address environmentally hazardous materials. The intended effect is to increase the level of safety associated with the transportation of environmentally hazardous materials.

DATES: Comments must be received on or before March 2, 1992.

ADDRESSES: Address comments to the Dockets Unit, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590. Comments should identify the docket and be submitted, if possible, in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard showing the docket number (i.e., Docket HM-211). The Dockets Unit is located in room 8419 of the Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366-5046. The public dockets may be reviewed between the hours of 8:30 a.m. to 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: John A. Gale (202-366-4488) Office of Hazardous Materials Standards, RSPA, 400 Seventh Street SW., Washington, DC 20590 or Lt. Cmdr. Phillip Olenik (202-267-1577), Office of Marine Safety, Security, and Environmental Protection, (G-MTH-1) U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001.

SUPPLEMENTARY INFORMATION: MARPOL 73/78 is the international agreement to prevent and control accidental and operational discharges of pollution from ships. It includes the 1973 International Convention for the Prevention of Pollution from Ships and the 1978 Protocol which modified and incorporated the 1973 Convention. It includes a framework agreement setting forth general obligations, and five annexes that relate to particular sources of marine pollution. Annexes I and II, which relate to the transport of oil and harmful substances, respectively, carried in bulk, are mandatory for all MARPOL 73/78 Parties. The other three annexes are optional: Annex III, which relates to the transport of harmful substances in packaged form; and Annexes IV and V, which regulate ship-generated sewage and garbage, respectively.

The United States ratified the 1978 Protocol (which incorporates with modifications the 1973 Convention) and Annexes I and II on August 12, 1980. The Protocol entered into force for the United States on October 2, 1983. On December 30, 1987, the United States ratified optional Annex V. Annex IV is still the subject of ongoing review.

On June 10, 1991, the United States ratified optional Annex III. This ratification was transmitted to the International Maritime Organization (IMO) on July 1, 1991, and on July 1, 1992, Annex III will become mandatory. In order to assist the public in understanding this NPRM, RSPA has reprinted the text of Annex III as an attachment to this preamble.

Annex III, which is entitled "Regulations for the Prevention of Pollution by Harmful Substances Carried by Sea in Packaged Form or in Freight Containers, Portable Tanks or Road and Rail Tank Wagons," sets forth general regulations for the transport of harmful packaged substances. Many of these substances, such as pesticides and herbicides, are known to kill or retard the growth of marine life and to bioaccumulate in marine organisms, causing potential danger to the food chain, including health risks to humans as well as to birds and other wildlife that eat fish or shellfish. Regulation 1.3 of Annex III states, in part, that the Government of each Party to the Convention shall issue detailed requirements on the packaging, marking, labeling, documentation, stowage, quantity limitations and exceptions for preventing or minimizing pollution of the marine environment. Annex III provides that the packaging of harmful substances must be adequate to minimize the hazard to the marine environment posed by their specific contents. Packages must be marked to indicate that the contents are harmful to the environment, and must be stowed so as to minimize the risk to the marine environment. In addition, a shipping paper or manifest setting forth the harmful substances on board must be carried. Finally, parties are permitted to prohibit or impose quantity limitations on the carriage of certain very hazardous substances. As with all other MARPOL 73/78 annexes, parties to Annex III are required to apply their regulations to ships of non-party countries using their ports or off-shore terminals.

Regulation 1.1 of Annex III states, in part, that the regulations of the Annex apply to "harmful substances" in packaged form. Regulation 1.1.1 of Annex III identifies "harmful substances" as those substances identified as marine pollutants under the 1990 consolidated edition of the International Maritime Dangerous Goods (IMDG) Code. Marine pollutants are identified in the individual schedules and the General Index of the IMDG Code by the letters "P" or "PP". The letters "PP" identify those materials that are considered severe marine pollutants and are regulated when in concentrations of 1% or more. The letter "P" identifies those commodities that are marine pollutants when in concentrations of 10% or more. Under the IMDG Code, a material that meets the definition of a marine pollutant must: (1) Have the words "marine pollutant" appear in association with the basic description on the shipping papers; (2) have the technical name of the marine pollutant appear on shipping papers and package markings for generic shipping descriptions; (3) have its package marked with the marine pollutant mark which is a triangular symbol with a fish with an "X" through it and with the words "marine pollutant" at the bottom; (4) be classified as a Class 9 hazardous material (Dangerous good) unless the material meets another hazard class or division; and (5) if shipped under Class 9, be transported in packages that meet the testing criteria for Packing Group III. In order to comply with the provisions of Annex III, RSPA is proposing to amend the HMR by adopting requirements for the transportation of those materials identified as marine pollutants under the IMDG Code. Because these materials are transported over or near bodies of water, even in the air, rail and highway modes of transport, with the possibility of being released in a fashion that could cause substantial damage to the aquatic environment, RSPA is proposing to regulate these commodities in all modes of transportation.

RSPA also believes that by adopting the provisions of Annex III in all modes of transportation, materials that are known to present an environmental hazard when released into the environment would be more thoroughly regulated. Upon review of those materials currently subject to the HMR, RSPA has found that commodities which only present an environmental hazard, and not necessarily an acute health hazard, may not be adequately regulated.

The need to regulate marine pollutants in all modes of transportation was demonstrated when on July 14, 1991, a tank car containing 19,000 gallons of metam sodium, a pesticide included on the list of marine pollutants, fell into the Sacramento River in California. The resulting damage to the environment and economic costs were substantial.

In a news release issued on August 21, 1991, the Chemical Manufacturers Association (CMA) stated that "CMA believes that the MARPOL list could be useful in identifying potentially water-polluting chemicals even when those products are shipped by highway or rail. Either using MARPOL or some other manner of identifying and regulating materials harmful to the environment is an idea whose time has come."

RSPA currently regulates those environmentally hazardous materials that are designated as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA; Pub. L. 96–510) and those hazardous wastes listed by the U.S. Environmental Protection Agency (EPA) under the Resource Conservation and Recovery Act (RCRA; Pub. L. 94–580) which require a Uniform Hazardous Waste Manifest (see 40 CFR part 262). Under both CERCLA and RCRA, EPA is the sole Federal agency authorized to designate materials as hazardous substances or hazardous wastes. Even though many of the materials on the list of marine pollutants are not currently designated as hazardous materials under CERCLA or RCRA, RSPA sees the need to ensure the safe transportation of marine pollutants. While this rulemaking is dependent on Annex III to identify materials that present environmental hazards, in the future, RSPA may also propose adoption of criteria to define environmentally hazardous materials that are not listed by EPA under CERCLA or RCRA and that are not listed by name in the list of marine pollutants.

In this NPRM, RSPA is proposing to regulate marine pollutants in a manner similar to the way those pollutants are treated under the IMDG Code and the way RSPA currently regulates CERCLA hazardous substances as hazardous materials in the HMR. In the following paragraphs of the Review by Section portion of this preamble, RSPA sets out this proposal.

Review by Section

Section 171.1

This section would be amended to expand the scope of the HMR to regulate the transportation of marine pollutants by intrastate, as well as by interstate, transportation.

Section 171.8

The definition of "Hazardous substance" would be editorially revised and a definition of "Marine pollutant" would be added. To meet the definition of marine pollutant, a material would have to be listed in appendix B to § 172.101, and would have to meet or exceed a concentration of 1% of the total amount in a package for severe marine pollutants and 10% of the total amount in a package for materials identified as marine pollutants. In addition, a mixture or solution containing more than one material listed in appendix B to § 172.101, would be a marine pollutant if the total concentration of the materials listed in appendix B to § 172.101 in one package equals or exceeds (1) ten percent of the total amount in the package or (2) one percent of the total amount in the package for materials that are identified as severe marine pollutants. An exception from the definition of marine pollutant would be provided for packages which contain less than one pound of a marine pollutant. In order for the U.S. to be in conformance with the provisions of Annex III, this exception would not apply to the transportation of marine pollutants by vessel. The definition of "hazardous material" would also be revised to include the phrase "marine pollutant."

Section 171.11

This section would be revised to note that shipments made in accordance with the ICAO Technical Instructions must conform to the requirements in the HMR related to marine pollutants.

Section 171.12a

This section would be revised to note that shipments from Canada must conform to the requirements in the HMR related to marine pollutants.

Section 171.15

This section would be revised to require that incidents involving marine pollutants be reported immediately to the National Response Center. RSPA believes that this requirement is necessary in order that appropriate authorities will be notified of incidents involving marine pollutants.

Section 172.101

The proper shipping name and hazard class for a material that meets the definition of marine pollutant, and does not meet the definition of another hazard class, would be "Environmentally hazardous substance, liquid or solid, n.o.s., class 9," respectively. This description is the same as that for CERCLA hazardous substances that meet no other hazard class in the HMR. Non-bulk packagings would be selected from §§ 173.203 or 173.213, and would have to withstand the testing criteria for Packing Group III. Bulk packagings would be selected from either §§ 173.240 or 173.241, as appropriate. A special provision, "N50", would be added to these two shipping descriptions that would except marine pollutants, that meet no other hazardous material definition, from the labeling requirements of Part 172. In addition, in order to easily identify the proper shipping name for a marine pollutant that is properly classified as a Class 9 material, the entry "Marine pollutants, liquid or solid, n.o.s., see Environmentally hazardous substances, liquid or solid, n.o.s." would be added to the § 172.101 Hazardous Materials Table.

Appendix to § 172.101

The appendix to § 172.101, which identifies CERCLA hazards substances, would be renamed "Appendix A to § 172.101." An appendix B to § 172.101, entitled "List of Marine Pollutants," would be added that would list those substances identified as marine pollutants by the IMO in the IMDG Code. The first column of the list, entitled "S.M.P.," would identify those materials which are severe marine pollutants by the letters "PP". One difference between the list of marine pollutants as proposed in appendix B to § 172.101 and those substances identified as marine pollutants in the IMDG Code, is that RSPA is not proposing to list generic shipping names as marine pollutants as is done in the IMDG Code. These commodities would still be subject to the requirements for marine pollutants, however, if the material described under the generic

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entry meets the definition of marine pollutant in § 171.8.

Section 172.203

Paragraph (1) would be added to this section to require the technical name of the material to be added in parentheses when the name of the marine pollutant is not identified in the proper shipping name. In addition, this section would require the words "Marine pollutant" to appear in association with the basic description. For domestic transportation, RSPA is not proposing to adopt the IMDG Code requirement that generic pesticide shipping descriptions include the percentage of the specific pesticide in the mixture.

Section 172.322

This section would be added to require that non-bulk packages containing marine pollutants be marked with the technical name of the marine pollutant. In addition, the marine pollutant mark would have to appear on bulk and non-bulk packages containing marine pollutants. Transport vehicles and freight containers that contain packages of marine pollutants would also have to be marked. However, except for transportation by vessel, transport vehicles and freight containers that contain less than 1,000 pounds aggregate gross weight of packages of marine pollutants would be excepted from this marking requirement. In addition, an exception from the marine pollutant mark is provided for small quantities of marine pollutants in combination packagings.

RSPA recognizes that this marking will be in addition to the hazard warning labels and placards that are required for those commodities that are currently subject to the HMR. RSPA believes these proposed marking requirements are in conformance with the provisions of Annex III and the IMDG Code and that the burden that they will impose will be minimal. However, RSPA is requesting comments relative to the impact and benefits of requiring the marine pollutant mark, in addition to any hazard warning labels and placards, for shipments by highway, air, and rail.

Section 173.12

This section would be amended to require lab packs containing marine pollutants to comply with the requirements of §§ 172.203(l) and 172.322.

Section 173.140

This section would be amended to add marine pollutants to the definition of Class 9. If a marine pollutant meets the definition of another hazard class, however, the class of the material would be determined in accordance with § 173.2a. Marine pollutants that meet no other hazard class would be classified as a Class 9 material and would be shipped under the proper shipping name of "Environmentally hazardous substance, liquid or solid, n.o.s."

Section 173.150

This section would be amended to provide that combustible liquids in non-bulk packagings that meet the definition of marine pollutant are subject to the requirements of the HMR.

Section 174.25

This section would be amended to require that the words "Marine Pollutant" appear on switching orders, receipts and tickets in association with shipping descriptions for marine pollutants.

Section 176.70

This section would be added to prescribe minimum stowage requirements for marine pollutants in vessel transportation.

RSPA would also revise several other sections so that a consumer commodity that meets the definition of a marine pollutant would have to comply with the shipping paper requirements of the HMR.

Administrative Notices

A. Executive Order 12291

The effect of this rule, as proposed, does not meet the criteria specified in section 1(b) of Executive Order 12291 and is, therefore, not a major rule, but it is considered a significant rule under the regulatory procedures of the Department of Transportation (44 FR 11034) because of the significant public and congressional interest. This proposed rule does not require a Regulatory Impact Analysis, or an environmental assessment or impact statement under the National Environmental Policy Act (42 FR 4321 et seq.). A preliminary regulatory evaluation is available for review in the Docket.

B. Executive Order 12612

This proposed action has been analyzed in accordance with the principles and criteria in Executive Order 12612 and, based on the information available at this time, RSPA does not believe that the proposed rule would have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

The Hazardous Materials Transportation Act contains an express preemption provision (49 app. U.S.C. 1804(a)(4)) that preempts State and local requirements on certain covered subjects (including the designation, description, and classification of hazardous materials) unless the State or local requirement is substantively the same as the Federal requirement on that subject. Thus, RSPA lacks discretion in this area.

C. Impact on Small Entities

This proposal would have minimal impact on shippers and carriers of marine pollutants, some of whom may be small business entities. Based on limited information concerning the size and nature of entities likely affected by this proposed rule, I certify this proposal will not, if promulgated, have a significant economic impact on a substantial number of small entities under criteria of the Regulatory Flexibility Act. This certification is subject to modification as a result of a review of comments received in response to this proposal.

D. Paperwork Reduction Act

The information collection requirements contained in proposed § 172.203(1) are covered under Office of Management and Budget (OMB) control number 2137–0034 (expiration date June 30, 1992) which was issued by OMB under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511). Modifications to these existing criteria are being submitted to OMB for review and approval.

List of Subjects

49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporated by reference, Reporting and recordkeeping requirements.

49 CFR Part 172

Hazardous materials transportation, Hazardous waste, Labels, Markings, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 173

Explosives, Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

49 CFR Part 174

Hazardous materials transportation, Radioactive materials, Railroad safety.

49 CFR Part 176

Hazardous materials transportation, Maritime carriers, Radioactive materials, Reporting and recordkeeping requirements.

Attachment—Annex III

Regulations for the Prevention of Pollution by Harmful Substances Carried by Sea in Packaged Form

Regulation 1—Application

1 Unless expressly provided otherwise, the regulations of this Annex apply to all ships carrying harmful substances in packaged form.

1.1 For the purpose of this Annex, harmful substances are those substances which are identified as marine pollutants in the International Maritime Dangerous Goods Code (IMDG Code).[*]

1.2 Guidelines for the identification of harmful substances in packaged form are given in the appendix to this Annex.

1.3 For the purposes of this Annex, packaged form is defined as the forms of containment specified for harmful substances in the IMDG Code.

2 Such carriage of harmful substances is prohibited except in accordance with the provisions of this Annex.

3 To supplement the provisions of this Annex, the Government of each Party to the Convention shall issue, or cause to be issued, detailed requirements on packing, marking, labelling, documentation, stowage, quantity limitations and exceptions for preventing or minimizing pollution of the marine environment by harmful substances.[*]

4 For the purposes of this Annex, empty packagings which have been used previously for the carriage of harmful substances shall themselves be treated as harmful substances unless adequate precautions have been taken to ensure that they contain no residue that is harmful to the marine environment.

5 The requirements of this Annex do not apply to ships' stores and equipment.

Regulation 2—Packing

Packages shall be adequate to minimize the hazard to the marine environment having regard to their specific contents.

Regulation 3—Marking and labelling

1 Packages containing a harmful substance shall be durably marked with the correct technical name (trade names alone shall not be used) and, further, shall be durably marked or labelled to indicate that the substance is a marine pollutant. Such identification shall be supplemented where possible by any other means, for example by the use of the relevant United Nations number.

2 The method of marking the correct technical name and of affixing labels on packages containing a harmful substance shall be such that this information will still be identifiable on packages surviving at least three months' immersion in the sea. In considering suitable marking and labelling, account shall be taken of the durability of the materials used and of the surface of the package.

3 Packages containing small quantities of harmful substances may be exempted from the marking requirements.[*]

Regulation 4—Documentation

1 In all documents relating to the carriage of harmful substances by sea where such substances are named, the correct technical name of each such substance shall be used (trade names alone shall not be used) and the substance further identified by the addition of the words "MARINE POLLUTANT".

2 The shipping documents supplied by the shipper shall include, or be accompanied by, a signed certificate or declaration that the shipment offered for carriage is properly packaged and marked or labelled and in proper condition for carriage to minimize the hazard to the marine environment.

3 Each ship carrying harmful substances shall have a special list or manifest setting forth the harmful substances on board and the location thereof. A detailed stowage plan which sets out the location of the harmful substances on board may be used in place of such special list or manifest. Copies of such documents shall also be retained on shore by the owner of the ship or his representative until the harmful substances are unloaded.

4 When the ship carries a special list or manifest or a detailed stowage plan, required for the carriage of dangerous goods by the International Convention for the Safety of Life at Sea, 1974, as amended, the documents required by this regulation may be combined with those for dangerous goods. Where documents are combined, a clear distinction shall be made between dangerous goods and harmful substances covered by this Annex.

Regulation 5—Stowage

Harmful substances shall be properly stowed and secured so as to minimize the hazards to the marine environment without impairing the safety of the ship and persons on board.

Regulation 6—Quantity Limitations

Certain harmful substances may, for sound scientific and technical reasons, need to be prohibited for carriage or be limited as to the quantity which may be carried aboard any one ship. In limiting the quantity, due consideration shall be given to size, construction and equipment of the ship as well as the packaging and the inherent nature of the substances.

Regulation 7—Exceptions

1 Jettisoning of harmful substances carried in packaged form shall be prohibited except where necessary for the purpose of securing the safety of the ship or saving life at sea.

2 Subject to the provisions of the present Convention, appropriate measures based on the physical, chemical and biological properties of harmful substances shall be taken to regulate the washing of leakages overboard provided that compliance with such measures would not impair the safety of the ship and persons on board.

Appendix—Guidelines for the Identification of Harmful Substances in Packaged Form

For the purposes of this Annex, substances identified by any one of the following criteria are harmful substances:

—Bioaccumulated to a significant extent and known to produce a hazard to aquatic life or to human health (Hazard Rating "+" in column A[*]); or

—Bioaccumulated with attendant risk to aquatic organisms or to human health with a short retention of the order of one week or less (Hazard Rating "Z" in column A[*]); or

—Liable to produce tainting of seafood (Hazard Rating "T" in column A[*]); or

—Highly toxic to aquatic life, defined by an $LC_{50}/96$[**] hour less than 1 ppm (Hazard Rating "4" in column B[*]).

Annex III—MARPOL 73/78

GESAMP Hazard Profiles

A	B	C	D	E
+ .... Z........................ T........................	4			

In consideration of the foregoing, parts 171, 172, 173, 174 and 176 of title 49, Code of Federal Regulations, would be amended to read as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. The authority citation for part 171 would continue to read as follows:

Authority: 49 App. U.S.C. 1802, 1803, 1804, 1805, 1808 and 1818; 49 CFR Part 1.

2. In § 171.1, paragraph (a)(3)(iv) would be added to read as follows:

§ 171.1 Purpose and scope.

* * * * *

(a) * * *

(3) * * *

(iv) Marine pollutants.

* * * * *

§ 171.8 [Amended]

3. In § 171.8, the definition of "hazardous substance" would be amended by removing the word "Appendix" and replacing it with the phrase "Appendix A" in paragraphs (1), (2), and (3)(i).

4. In § 171.8, the definition of "hazardous material" would be revised and the definition of "marine pollutant" would be added in appropriate alphabetical order to read as follows:

---

[*] Reference is made to the International Maritime Dangerous Goods Code (IMDG Code) adopted by the Organization by resolution A.81(IV) as it has been or may be amended by the Maritime Safety Committee.

[*] Reference is made to the Composite List of Hazard Profiles, prepared by the IMO/FAO/UNESCO/WMO/WHO/IAEA/UN/UNEP Joint Group of Experts on the Scientific Aspects of Marine Pollution (GESAMP) which is circulated annually by the Organization by means of BCH circulars to all IMO Member States.

[**] The concentration of a substance which will, within the specified time (generally 96 hours) kill 50% of the exposed group of test organisms. LC_{50} is often specified in mg/1 (parts per million (ppm)).

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§ 171.8 Definitions and abbreviations.

* * * * *

Hazardous material means a substance or material, including a hazardous substance and a marine pollutant, which has been determined by the Secretary of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and which has been so designated.

* * * * *

Marine Pollutant, for the purposes of this subchapter, means a material in a package where the total concentration of material(s) listed in Appendix B to § 172.101 in the package equals or exceeds (1) ten percent or (2) one percent for material(s) that are identified as severe marine pollutants. However, except for transportation by vessel, a material which, in an individual package, is composed of a total of no more than 500 grams (1 pound) or 500 milliliters (1 pint) of materials listed in Appendix B to § 172.101, is not considered to be a marine pollutant for the purposes of this subchapter.

* * * * *

5. In § 171.11, paragraph (d)(13) would be added to read as follows:

§ 171.11 Use of ICAO Technical Instructions.

* * * * *

(d) * * *

(13) Package containing marine pollutants, as defined in § 171.8 of this subchapter, must conform to the requirements of §§ 172.203(1) and 172.322 of this subchapter.

6. In § 171.12a, paragraph (b)(15) would be added to read as follows:

§ 171.12a Canadian shipments and packagings.

* * * * *

(b) * * *

(15) Packages containing marine pollutants, as defined in § 171.8 of this subchapter, must conform to the requirements of §§ 172.203(l) and 172.322 of this subchapter.

7. In § 171.15, paragraph (a)(4) would be redesignated as paragraph (a)(5) and a new paragraph (a)(4) would be added to read as follows:

§ 171.15 Immediate notice of certain hazardous materials incidents.

(a) * * *

(4) There has been a release of a marine pollutant from a package.

* * * * *

PART 172—HAZARDOUS MATERIALS TABLE AND HAZARDOUS MATERIALS COMMUNICATIONS REQUIREMENTS AND EMERGENCY RESPONSE INFORMATION REQUIREMENTS

8. The authority citation for part 172 would continue to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, and 1808; 49 CFR part 1, unless otherwise noted.

§ 172.101 [Amended]

9. In the § 172.101 Table, the following changes would be made:

a. The entry "*Marine pollutants, liquid or solid, n.o.s., see* Environmentally hazardous substances, liquid *or* solid n.o.s." would be added to Column 2 in appropriate alphabetical order; and

b. The entries "Environmentally hazardous substances, liquid, n.o.s." and "Environmentally hazardous substances, solid, n.o.s." would have special provision "N50" added to column 7.

Appendix to § 172.101 [Amended]

10. The title to the appendix to § 172.101 would be revised to read "Appendix A to § 172.101 List of Hazardous Substances and Reportable Quantities".

11. A new appendix B to § 172.101 would be added to read as follows:

Appendix B to § 172.101

List of Marine Pollutants

1. This appendix lists potential marine pollutants as defined in § 171.8 of this subchapter.

2. If a marine pollutant meets the definition of any hazard class or division as defined in this subchapter, other than Class 9, the class of the material must be determined in accordance with § 173.2a of this subchapter.

3. This appendix contains two columns. The first column, entitled "S.M.P." (for severe marine pollutants), identifies whether a material is a severe marine pollutant. If the letters "PP" appear in this column for a material, the material is a severe marine pollutant, otherwise it is not. The second column, entitled "Marine Pollutant", lists the marine pollutants.

APPENDIX B TO §172.101 LIST OF MARINE POLLUTANTS

S.M.P. (1)	Marine Pollutant (2)
	Acetone cyanohydrin, stabilized
	Acetylene dibromide
	Acetylene tetrabromide
	Acetylene tetrachloride
	Acraldehyde, inhibited
	Acrolein, inhibited
	Acrylic aldehyde, inhibited
	Alcohol C-12 - C-15 poly(1-3) ethoxylate
	Alcohol C-13 - C-15 poly(1-6) ethoxylate
	Alcohol C-6 - C-17 (secondary)poly(3-6) ethoxylate
	Aldicarb
PP	Aldrin
	Alkylphenols, liquid, n.o.s. (*including C2-C8 homologues*)
	Alkylphenols, solid, n.o.s. (*including C2-C8 homologues*)
	Allyl bromide
	Allyl chloride
	ortho-Aminoanisole
	Aminocarb
	Ammonium arsenate
	Ammonium dinitro-o-cresolate
	Amyl mercaptans
	ortho-Anisidines
	Arsenates, liquid, n.o.s.
	Arsenates, solid, n.o.s.
	Arsenic
	Arsenic acid, liquid
	Arsenic acid, solid
	Arsenic bromide
	Arsenic chloride

S.M.P.	Marine Pollutant
(1)	(2)
	Arsenic compounds, liquid, n.o.s. *including arsenates n.o.s.; arsenites, n.o.s.; arsenic sulfides, n.o.s.; and organic compounds of arsenic, n.o.s.*
	Arsenic compounds (pesticides)
	Arsenic compounds, solid, n.o.s. *including arsenates, n.o.s.; arsenites, n.o.s.; arsenic sulfides, n.o.s.; and organic compounds of arsenic, n.o.s.*
	Arsenic pentoxide
	Arsenic sulfides, n.o.s.
	Arsenic tribromide
	Arsenic trichloride
	Arsenic trioxide
	Arsenic trisulfide
	Arsenical dust
	Arsenical flue dust
	Arsenical pesticides, liquid, flammable, toxic, n.o.s.
	Arsenical pesticides liquid, toxic, flammable, n.o.s.
	Arsenical pesticides, liquid, toxic, flammable, n.o.s. *flashpoint not less than 23 degrees C*
	Arsenical pesticides, liquid, toxic, n.o.s.
	Arsenical pesticides, solid, toxic, n.o.s.
	Arsenious chloride
	Arsenite, solid, n.o.s.
	Arsenites, liquid, n.o.s.
	Arsenous bromide
	Arsenous chloride
PP	Azinphos-methyl
PP	Azinphos-ethyl
	Barium compounds, n.o.s
	Barium cyanide
	Bendiocarb
	Benquinox
	Benzyl chlorocarbonate
	Benzyl chloroformate
PP	Binapacryl
	Biphenyl phenyl ether and diphenyl oxide, mixtures
PP	Brodifacoum
	Bromine cyanide
	Bromoallylene
	ortho-Bromobenzyl cyanide
	Bromocyane
	Bromoform
PP	Bromophos-ethyl
	3-Bromopropene
	Bromoxynil
	2-Butenal, inhibited
	Butyl benzenes
	Butyl benzyl phthalate
	normal-Butyl chloride
	Butylphenols, liquid
	Butylphenols, solid
	para-tertiary-butyltoluene
	Cacodylic acid
PP	Cadmium compounds
	Cadmium sulphide
	Calcium arsenate
	Calcium arsenate and calcium arsenite, mixtures, solid
	Calcium cyanide
	Calcium naphthenate
PP	Camphechlor
	Camphor oil
	Carbaryl
	Carbofuran
	Carbon bisulphide
	Carbon disulfide
	Carbon tetrabromide
	Carbon tetrachloride
PP	Carbophenothion
	Cartap hydrochloride
PP	Chlordane
	Chlorfenvinphos
	Chlorinated paraffins (C-10 - C-13)
	Chlorine
	Chlorine cyanide, inhibited
	Chlormephos
	4-Chloro-2-nitrotoluene
	Chloro-ortho-nitrotoluene
	2-Chloro-5-trifluoromethylnitrobenzene
	para-Chlorobenzyl chloride, liquid or solid
	Chlorobenzylchlorides
	2-Chlorobutadiene-1,3, inhibited
	1-Chlorobutane
	Chlorodinitrobenzenes
	Chloroform

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S.M.P. (1)	Marine Pollutant (2)
	1-Chloroheptane
	1-Chlorohexane
	Chloronitroanilines
	Chloronitrotoluenes *liquid*
	Chloronitrotoluenes, *solid*
	1-Chlorooctane
PP	Chlorophenates, liquid
PP	Chlorophenates, solid
	Chlorophenols, liquid
	Chlorophenols, solid
	Chlorophenyltrichlorosilane
	Chloroprene, inhibited
	1-Chloropropane
	2-Chloropropane
	2-Chloropropene
	1-Chloropropene
	3-Chloropropene
	alpha-Chloropropylene
	1-Chloropropylene
	2-Chloropropylene
	Chlorotoluenes
PP	Chlorpyriphos
PP	Chlorthiophos
	Chromium oxychloride
	Chromyl chloride
	Coal tar
	Coal tar naphtha
	Cocculus
	Copper acetoarsenite
	Copper arsenite
	Copper chloride
PP	Copper cyanide
	Coumachlor
PP	Coumaphos
	Creosote (coal tar)
	Creosote (wood tar)
	Cresols (*o-; m-; p-*)
PP	Cresyl diphenyl phosphate
	Cresylic acid
	Cresylic acid sodium salt
	Crotonaldehyde, inhibited
	Crotonic aldehyde
	Crotoxyphos
	Cumene
	Cupric arsenite
	Cupric chloride
PP	Cupric cyanide
	Cupriethylenediamine solution
	Cuprous chloride
	Cyanide mixtures
	Cyanide solutions
	Cyanides, inorganic, n.o.s.
	Cyanogen bromide
	Cyanogen chloride, inhibited
	Cyanophos
PP	Cyhexatin
PP	Cypermethrin
	2,4-D
PP	DDT
	Decyl acrylate
	DEF
	Di-allate
	Di-n-Butyl phthalate
PP	Dialifos
PP	Diazinon
	1,2-Dibromethene
	1,1-Dibromoethane
	1,2-Dibromoethane
	1,2-Dibromoethylene
	Dibromomethane
PP	Dichlofenthion
	Dichloroanilines
	o-Dichlorobenzene
	p-Dichlorobenzene
	1,3-Dichlorobenzene
	1,2-Dichlorobenzene
	1,4-Dichlorobenzene
	Dichlorobenzene (meta; ortho; para)
	2,2-Dichlorodiethyl ether
	1,1-Dichloroethane
	1,2-Dichloroethane

S.M.P.	Marine Pollutant
(1)	(2)
	Dichloroether
	Dichloroethyl ether
	Dichloroethyl oxide
	1,1-Dichloroethylene, inhibited
	1,6-Dichlorohexane
	Dichlorophenols, liquid
	Dichlorophenols, solid
	2,4-Dichlorophenoxyacetic acid (see also 2,4D)
	2,4-Dichlorophenoxyacetic acid diethanolamine salt
	2,4-Dichlorophenoxyacetic acid dimethylamine salt
	2,4-Dichlorophenoxyacetic acid triisopropylamine salt
	Dichlorophenyltrichlorosilane
	1,1-Dichloropropane
	1,2-Dichloropropane
	1,3-Dichloropropane
	Dichloropropane
PP	Dichlorvos
	Dicrotophos
PP	Dieldrin
	Diisopropylbenzenes
PP	Dimethoate
	Dimethylarsinic acid
	Dimethylphenols, liquid or solid
	Dinitro-o-cresol, solid
	Dinitro-o-cresol, solution
	Dinitrochlorobenzenes, liquid or solid
	Dinitrophenol, *dry or wetted with less than 15 per cent water, by mass*
	Dinitrophenol solutions
	Dinitrophenol, *wetted with not less than 15 per cent water, by mass*
	Dinitrophenolates *alkali metals, dry or wetted with less than 15 per cent water, by mass*
	Dinitrophenolates, *wetted with not less than 15 per cent water, by mass*
	Dinobuton
	Dinoseb
	Dioxacarb
	Dioxathion
	Diphacinone
	Diphenyl
	Diphenyl ether
	Diphenyl oxide
	Diphenyl oxide and biphenyl phenyl ether mixtures
PP	Diphenylamine chloroarsine
PP	Diphenylchloroarsine, solid or liquid
	Disulfoton
	DNOC
	DNOC (pesticide)
PP	Dodecylphenol
	Drazoxolon
	Edifenphos
PP	Endosulfan
PP	Endrin
PP	EPN
PP	Ethion
	Ethoprophos
	Ethyl acrylate, inhibited
	Ethyl chlorothioformate
	Ethyl fluid
	5-Ethyl-2-picoline
	Ethyl propenoate, inhibited
	2-Ethyl-3-propylacrolein
	Ethyl tetraphosphate
PP	Ethyldichloroarsine
	Ethylene chloride
	Ethylene dibromide
	Ethylene dibromide and methyl bromide mixtures, liquid
	Ethylene dichloride
	2-Ethylhexenal
	Ethylidene dichloride
	Fenamiphos
PP	Fenitrothion
PP	Fenpropathrin
	Fensulfothion
PP	Fenthion
PP	Fentin acetate
PP	Fentin hydroxide
	Ferric arsenate
	Ferric arsenite
	Ferrous arsenate
PP	Fonofos
	Formetanate
PP	gamma-BHC
	Gasoline, leaded

S.M.P. (1)	Marine Pollutant (2)
PP	Heptachlor
	Heptenophos
	normal-Heptyl chloride
PP	Hexachlorobutadiene
	1,3-Hexachlorobutadiene
	Hexaethyl tetraphosphate *liquid*
	Hexaethyl tetraphosphate, *solid*
	normal-Hexyl chloride
	Hydrocyanic acid, anhydrous, stabilized
	Hydrocyanic acid, anhydrous, stabilized, absorbed in a porous inert material
	Hydrocyanic acid, aqueous solutions *not more than 20% hydrocyanic acid*
	Hydrogen cyanide, anhydrous, stabilized
	Hydrogen cyanide, anhydrous, stabilized, *absorbed in a porous inert material*
	Hydroxydimethylbenzenes, liquid or solid
	Ioxynil
	Isoamyl mercaptan
	Isodecyl acrylate
	Isodecyl diphenyl phosphate
	Isofenphos
	Isooctyl nitrate
	Isoprocarb
	Isopropenyl chloride
	Isopropenylbenzene
	Isopropyl chloride
	Isopropylbenzene
PP	Isoxathion
	Lead acetate
	Lead arsenates
	Lead arsenites
	Lead compounds, soluble, n.o.s.
	Lead cyanide
	Lead nitrate
	Lead perchlorate, solid or solution
	Lead tetraethyl
	Lead tetramethyl
PP	Lindane
	London Purple
	Magnesium arsenate
	Malathion
	Maneb or Maneb preparations with not less than 60% maneb
	Maneb *or* Maneb preparations *with not less than 60 per cent maneb*
	Maneb stabilized *or* Maneb preparations, stabilized *against self-heating*
	Manganese ethylene-1,2-bis dithiocarbamate
	Manganese ethylene-1,2-bis-dithiocarbamate, stabilized against self-heating
	Mephosfolan
	Mercaptodimethur
	Mercarbam
PP	Mercuric acetate
PP	Mercuric ammonium chloride
PP	Mercuric arsenate
PP	Mercuric benzoate
PP	Mercuric bisulphate
PP	Mercuric bromide
PP	Mercuric chloride
PP	Mercuric cyanide
PP	Mercuric gluconate
	Mercuric iodide
PP	Mercuric nitrate
PP	Mercuric oleate
PP	Mercuric oxide
PP	Mercuric oxycyanide, desensitized
PP	Mercuric potassium cyanide
PP	Mercuric Sulphate
	Mercuric sulphide
PP	Mercuric thiocyanate
PP	Mercurol
PP	Mercurous acetate
PP	Mercurous bisuphate
PP	Mercurous bromide
PP	Mercurous chloride
PP	Mercurous nitrate
PP	Mercurous salicylate
PP	Mercurous sulphate
PP	Mercury acetates
PP	Mercury ammonium chloride
PP	Mercury based pesticides, liquid, flammable, toxic, n.o.s.
PP	Mercury based pesticides, liquid, toxic, flammable, n.o.s.
PP	Mercury based pesticides, liquid, toxic, n.o.s.
PP	Mercury based pesticides, solid, toxic, n.o.s.
PP	Mercury benzoate
PP	Mercury bichloride

S.M.P.	Marine Pollutant
(1)	(2)
PP	Mercury bisulphates
PP	Mercury bromides
PP	Mercury compounds, liquid, n.o.s.
PP	Mercury compounds, solid, n.o.s.
PP	Mercury compounds, solid, n.o.s.
PP	Mercury cyanide
PP	Mercury gluconate
PP	Mercury (I) (mercurous) compounds (pesticides)
PP	Mercury (II) (mercuric) compounds (pesticides)
	Mercury iodide
	Mercury iodide, *solution*
PP	Mercury nucleate
PP	Mercury oleate
PP	Mercury oxide
PP	Mercury oxycyanide, desensitized
PP	Mercury potassium cyanide
PP	Mercury potassium iodide
PP	Mercury salicylate
PP	Mercury sulfates
PP	Mercury thiocyanate
	Metaarsenic acid
	Metam-sodium
	Methacrylonitrile, inhibited
	Methamidophos
	Methanethiol
	Methidathion
	Methomyl
	ortho-Methoxyaniline
	Methyl bromide and ethylene dibromide mixtures, liquid
	1-Methyl-4-ethylbenzene
	2-Methyl-5-ethylpyridine
	Methyl mercaptan
	2-Methyl-2-phenylpropane
	Methyl salicylate
	3-Methylacroleine, inhibited
	Methylchlorobenzenes
	Methylchloroform
	Methylene bromide
	Methylene dibromide
	Methylnaphthalenes, liquid
	Methylnaphthalenes, solid
	Methylnitrophenols
	2-Methylpyridine
	4-Methylpyridine
	alpha-Methylstyrene
	Methylstyrenes, inhibited
	Methyltrithion
	Methylvinylbenzenes, inhibited
PP	Mevinphos
	Mexacarbate
	Mirex
	Monocrotophos
	Motor fuel anti-knock mixtures
	Motor fuel anti-knock mixtures or compounds
	Nabam
	Naled
	Naphtha, coal tar
	Naphthalene, crude *or* refined
	Naphthalene, molten
	Naphthenic acids, liquid
	Naphthenic acids, solid
PP	Nickel carbonyl
PP	Nickel cyanide
PP	Nickel tetracarbonyl
	Nitrates, inorganic, n.o.s.
	Nitrites, inorganic, n.o.s.
	3-Nitro-4-chlorobenzotrifluoride
	Nitrobenzotrifluorides
	Nitrocresols
	Nitroxylenes, (o-; m-; p-)
	Nonylphenol
PP	Organotin compounds, liquid, n.o.s.
PP	Organotin compounds (pesticides)
PP	Organotin compounds, solid, n.o.s.
PP	Organotin pesticides, liquid, flammable, toxic, n.o.s., *flash point less than 23deg C*
PP	Organotin pesticides, liquid, toxic, flammable, n.o.s.
PP	Organotin pesticides, liquid, toxic, n.o.s.
PP	Organotin pesticides, solid, toxic, n.o.s.
	Orthoarsenic acid
	Osmium tetroxide
	Oxamyl

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S.M.P.	Marine Pollutant
(1)	(2)
	Oxydisulfoton
	Paraoxon
PP	Parathion
PP	Parathion-methyl
PP	PCBs***
	Pentachloroethane
PP	Pentachlorophenol
PP	Pentachlorophenol
	Pentalin
	Pentanethiols
	Perchloroethylene
	Perchloromethylmercaptan
	Petrol, leaded
PP	Phenarsazine chloride
PP	Phenthoate
	1-Phenylbutane
	2-Phenylbutane
	Phenylethylene, inhibited
PP	Phenylmercuric acetate
PP	Phenylmercuric compounds, n.o.s.
PP	Phenylmercuric hydroxide
PP	Phenylmercuric nitrate
	2-Phenylpropene
PP	Phorate
PP	Phosalone
	Phosmet
PP	Phosphamidon
PP	Phosphorus, white *or* yellow dry *or* under water *or* in solution
PP	Phosphorus white, or yellow, molten
	Picolines
	Pindone (and salts of)
	alpha-Pinene
	Pirimicarb
PP	Pirimiphos-ethyl
PP	Polychlorinated biphenyls
PP	Polyhalogenated biphenyls, liquid *or* Terphenyls liquid
PP	Polyhalogenated biphenyls, solid *or* Terphenyls, solid
	Potassium arsenate
	Potassium arsenite
PP	Potassium cuprocyanide
	Potassium cyanide
PP	Potassium cyanocuprate I
PP	Potassium cyanomercurate
	Potassium dihydrogen arsenate
PP	Potassium mercuric iodide
	Promecarb
	Propaphos
	Propenal, inhibited
	Propenyl chloride (cis-; trans-)
	Propoxur
	Propyl chloride
	Propylene dichloride
	Propylidene dichloride
	Prothoate
	Prussic acid, anhydrous, stabilized
	Prussic acid, anhydrous, stabilized, absorbed in a porous inert material
PP	Pyrazophos
	Quinalphos
	Rotenone
	Salithion
	Selenic acid
PP	Silver arsenite
	Silver cyanide
PP	Silver orthoarsenite
	Sodium arsanilate
	Sodium arsenate
	Sodium arsenite, aqueous solutions
	Sodium arsenite (pesticide)
	Sodium arsenite, solid
	Sodium cacodylate
PP	Sodium copper cyanide, solid
PP	Sodium copper cyanide solution
PP	Sodium cuprocyanide, solid
PP	Sodium cuprocyanide, solution
	Sodium cyanide
	Sodium dinitro-o-cresolate, *dry or wetted with less than 15 per cent water, by mass*
	Sodium dinitro-ortho-cresolate, wetted *with not less than 15 per cent water, by mass*
	Sodium metaarsenite
	Sodium orthoarsenate
PP	Sodium pentachlorophenate
	Strontium arsenite

S.M.P.	Marine Pollutant
(1)	(2)
	Strontium orthoarsenite
	Strychnine *or* Strychnine salts
	Styrene monomer, inhibited
	Sulfotep
PP	Sulprophos
	Sym-Dichloroethyl ether
	Temephos
	TEPP
PP	Terbufos
	1,1,2,2-Tetrabromoethane
	Tetrabromomethane
	Tetrachloroethane
	1,1,2,2-Tetrachloroethylene
	Tetrachloromethane
	Tetrachlorophenol
	Tetraethyl dithiopyrophosphate
	Tetraethyl lead, liquid
	Tetramethyllead
	Thallium chlorate
	Thallium compounds, n.o.s.
	Thallium compounds (pesticides)
	Thallium compounds (pesticides)
	Thallium nitrate
	Thallium sulfate
	Thallous chlorate
	Thiocarbonyl tetrachloride
	Triaryl phosphates, isopropylated
PP	Triaryl phosphates, n.o.s.
	Triazophcs
	Tribromomethane
PP	Tributyltin compounds
	Trichlorfon
	Trichlorobenzenes, liquid
	Trichlorobutene
	Trichlorobutylene
	1,1,1-Trichloroethane
	1,1,2-Trichloroethane
	Trichloroethylene
	Trichloromethane
	Trichloromethane sulphuryl chloride
	Trichloromethyl sulphochloride
	Trichloronat
	1,2,3-Trichloropropane
	Tricresyl phosphate (less than 1% ortho-isomer)
PP	Tricresyl phosphate (not less than 1% ortho-isomer)
	Tricresyl phosphate *with more than 3 per cent ortho isomer*
	Triethylbenzene
	Trimethylene dichloride
PP	Triphenyltin compounds
	Tritolyl phosphate (less than 1% ortho-isomer)
PP	Tritolyl phosphate (not less than 1% ortho-isomer)
	Trixylenyl phosphate
	Turpentine
	Turpentine substitute
	Vinylbenzene, inhibited
	Vinylidene chloride, inhibited
	Vinyltoluenes, inhibited *mixed isomers*
	Warfarin (and salts of)
	White arsenic
PP	White phosphorus, dry
PP	White phosphorus, molten
PP	White phosphorus, wet
	White spirit, low (15-20%) aromatic
	Xylenols
PP	Yellow phosphorus, dry
PP	Yellow phosphorus, molten
PP	Yellow phosphorus, wet
	Zinc alkaryl dithiophosphate (C-7 - C-16)
	Zinc alkyl dithiophosphate (C-3 - C-14)
	Zinc arsenate *or* Zinc arsenite *or* Zinc arsenate and Zinc arsenite mixtures.
	Zinc bromide
	Zinc chloride, anhydrous
	Zinc chloride, solution
PP	Zinc cyanide
	Zinc phosphide

12. In § 172.102, paragraph (c)(5) would be amended by adding special provision "N50" in appropriate alphanumerical order:

§ 172.102 Special provisions.

* * * * *

(c) * * *

* * * * *

N50 For Class 9 materials that meet only the definition of marine pollutant, and do not meet the definition of a hazardous substance, or a hazardous waste or the definition in § 173.140(a) of this subchapter, the labeling requirements of this part do not apply.

* * * * *

§ 172.200 [Amended]

13. In § 172.200, in the introductory text of paragraph (b) the phrase "hazardous waste or a hazardous substance," would be removed and replaced with the phrase "hazardous substance, hazardous waste or a marine pollutant,".

§ 172.203 [Amended]

14. In § 172.203, paragraph (c)(1)(i) would be amended by removing the word "appendix" and replacing it with the phrase "Appendix A".

15. In § 172.203, paragraph (l) would be added to read as follows:

§ 172.203 Additional description requirements.

* * * * *

(l) *Marine pollutants.* (1) If the proper shipping name for a material which is a marine pollutant does not identify by name the component which makes the material a marine pollutant, the name of that component must appear in parentheses in association with the basic description. Where two or more components which make a material a marine pollutant are present, the names of at least two of the components most predominantly contributing to the marine pollutant designation must appear in parentheses in association with the basic description.

(2) The words "Marine Pollutant" shall be entered in association with the basic description for each marine pollutant.

* * * * *

§ 172.324 [Amended]

16. In § 172.324, paragraph (a)(1) would be amended by removing the word "appendix" and replacing it with the phrase "Appendix A".

17. Section 172.322 would be added to read as follows:

§ 172.322 Marking of packages of marine pollutants.

(a) For each non-bulk packaging that contains a marine pollutant—

(1) If the proper shipping name for a material which is a marine pollutant does not identify by name the component which makes the material a marine pollutant, the name of that component must be marked on the package in parentheses in association with the basic description. Where two or more components which make a material a marine pollutant are present, the names of at least two of the components most predominantly contributing to the marine pollutant designation must appear in parentheses in association with the basic description; and

(2) The marking specified in paragraph (e) of this section shall be placed in association with the hazard warning labels or, in the absence of any labels, in association with the proper shipping name.

(b) A bulk packaging that contains a marine pollutant must be marked with the marking specified in paragraph (e) of this section. The marking must appear on two opposite sides of the package and must be visible from the direction it faces.

(c) A transport vehicle or freight container that contains a package subject to the marking requirements of paragraphs (a) or (b) of this section, must be marked with the marking specified in paragraph (e) of this section. The marking must appear on two opposite sides of the transport vehicle or freight container, and must be visible from the direction it faces.

(d) The marking specified in paragraph (e) of this section is not required—

(1) For a severe marine pollutant (see Appendix B to § 172.101), on a combination package containing inner packagings each of which has contents less than:

(i) 0.5 liters (17 ounces) or less for liquids; or

(ii) 500 grams (17.6 ounces) or less for solids.

(2) For a marine pollutant, other than a severe marine pollutant, on a combination package containing inner packagings each of which has contents less than:

(i) 5 liters (1 gallon) or less for liquids.

(ii) 5 kilograms (11 pounds) or less for solids.

(3) Except for transportation by vessel, on a transport vehicle or freight container that contains less than 454 kg (1,000 pounds) aggregate gross weight of non-bulk packages containing marine pollutants.

(e) *Marine pollutant mark.* The marine pollutant mark must conform to the following:

(1) Except for size, the marine pollutant mark must appear as follows:

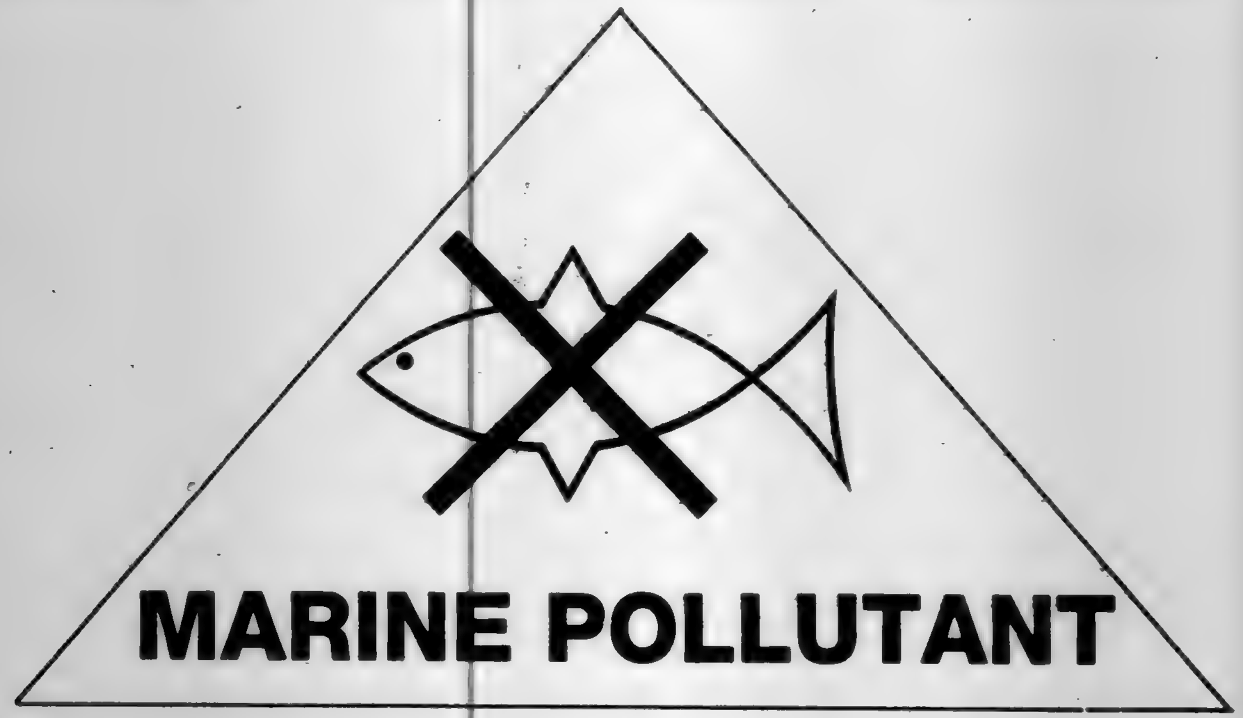

(2) The symbol, letters and border must be black and the background color white. For non-bulk packagings, each side of the marking must be at least 100 mm (3.9 inches), except in the case of packagings which, because of their size, can only bear smaller marks. For bulk packagings, each side of the marking must be at least 250 mm (9.8 inches).

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

18. The authority citation for part 173 would continue to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805, and 1808; 49 CFR part 1, unless otherwise noted.

19. In § 173.12, the word "and" would be removed from the end of paragraph (d)(1), in paragraph (d)(2) the "." would be removed and replaced with a ";", and paragraph (d)(3) would be added to read as follows:

§ 173.12 Exceptions for shipments of waste materials.

* * * * *

(d) * * *

(3) Packagings containing marine pollutants must be described as required in § 172.203(l) of this subchapter and marked as required in § 172.322 of this subchapter.

§ 173.29 [Amended]

20. In § 173.29, paragraph (b)(3) would be amended by removing the phrase "hazardous substance or a hazardous waste." and replacing it with the phrase "hazardous substance, hazardous waste or marine pollutant."

21. In § 173.140, paragraph (b) would be revised to read as follows:

§ 173.140 Class 9—Definitions.

* * * * *

(b) Meets the definition in § 171.8 of this subchapter for a hazardous substance, hazardous waste or marine pollutant.

§ 173.150 [Amended]

22. In § 173.150, paragraph (c) would be amended by removing the phrase "hazardous substance or hazardous waste" and replacing it with the phrase "hazardous substance, hazardous waste, or marine pollutant", and paragraphs (f)(2), (f)(3) and (f)(4) would be amended by removing the phrase "hazardous substance or hazardous waste" and replacing it with the phrase "hazardous substance, hazardous waste, or marine pollutant".

§ 173.151 [Amended]

23. In § 173.151, paragraph (c) would be amended by removing the phrase "hazardous substance or hazardous waste" and replacing it with the phrase "hazardous substance, hazardous waste, or marine pollutant".

§ 173.152 [Amended]

24. In § 173.152, paragraph (c) would be amended bwith the phrase "hazardous substance, hazardous waste, or marine pollutant".

§ 173.153 [Amended]

25. In § 173.153,,paragraph (c)(3) would be amended by removing the phrase "hazardous substance or hazardous waste" and replacing it with the phrase "hazardous substance, hazardous waste, or marine pollutant".

§ 173.154 [Amended]

26. In § 173.154, paragraph (c) would be amended by removing the phrase "hazardous substance or hazardous waste" and replacing it with the phrase "hazardous substance, hazardous waste, or marine pollutant" and paragraph (d) would be amended by removing the phrase "hazardous substance or a hazardous waste," and replacing it with the phrase "hazardous substance, hazardous waste, or marine pollutant,".

§ 173.155 [Amended]

27. In § 173.155, paragraph (c) would be amended by removing the phrase "hazardous substance or hazardous waste" and replacing it with the phrase "hazardous substance, hazardous waste, or marine pollutant".

§ 173.421-2 [Amended]

28. In § 173.421-2, paragraphs (b)(1)(i) and (b)(2)(i) would be amended by removing the phrase "hazardous waste or hazardous substance" and replacing it with the phrase "hazardous substance, hazardous waste, or marine pollutant".

29. In § 173.425, paragraph (b)(8) would be amended by adding the following paragraph to the end of the existing regulatory text:

§ 173.425 Transport requirements for low specific activity (LSA) radioactive materials.

* * * * *

(b) * * *

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(8) * * * Packages that contain a marine pollutant must be marked in accordance with § 172.322 of this subchapter.

* * * * *

PART 174—CARRIAGE BY RAIL

30. The authority citation for part 174 would continue to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1808, 49 CFR 1.53(e), 1.53, app. A to part 1.

31. In § 174.25, paragraph (b)(5) would be added to read as follows;

§ 174.25 Additional information on way bills, switching orders and other billings.

* * * * *

(b) * * *

(5) For any entry for a material that is a marine pollutant, the words "Marine Pollutant" must be entered in association with the basic description.

* * * * *

PART 176—CARRIAGE BY VESSEL

32. The authority citation for part 176 would continue to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805, 1808; 49 CFR 1.53, app. A to part 1.

33. Section 176.70 would be added to read as follows:

§ 176.70 Stowage requirements for marine pollutants.

(a) Marine pollutants must be properly stowed and secured to minimize the hazards to the marine environment without impairing the safety of the ship and the persons on board.

(b) Where stowage is permitted "on deck or under deck", under deck stowage is preferred except when a weather deck provides equivalent protection.

(c) Where stowage "on deck only" is required, preference should be given to stowage on well-protected decks or to stowage inboard in sheltered areas of exposed decks.

Issued in Washington, DC on January 27, 1992, under authority delegated in 49 CFR part 106, appendix A.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 92-2321 Filed 1-30-92; 8:45 am]

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Friday
January 31, 1992

Part VI

Department of the Treasury

Fiscal Service

31 CFR Parts 349 and 356

Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds; Proposed Rule

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DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Parts 349 and 356

[Department of the Treasury Circular, Public Debt Series No. 1-92]

Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds

AGENCY: Bureau of the Public Debt, Fiscal Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: This proposed rule, published for comment, sets out the terms and conditions that will govern the sale and issuance by the Department of the Treasury of all marketable Treasury bills, notes, and bonds ("securities") offered to the public for sale, all of which are issued exclusively in book-entry form. This rule will apply to securities held in the book-entry system established by the Department and maintained through the Federal Reserve Banks, commonly referred to as the commercial book-entry system, as well as to those held in the TREASURY DIRECT system (31 CFR part 357). Part 356, for the most part, consolidates into one document the terms and conditions which currently exist in a variety of other documents. It will replace the provisions found in 31 CFR part 349, relating to the offering of Treasury bills, and those found in the various individual offering circulars, relating to the offering of Treasury notes and bonds.

DATES: Comments must be submitted on or before March 31, 1992. Comments are particularly invited on § 356.13, Net long position; § 356.14, Bidding for customers; § 356.16, Certification; § 356.17, Payment for securities; and Appendix A, Department of the Treasury Single Bidder Criteria.

ADDRESSES: Comments should be sent to: Office of Financing, Bureau of the Pubic Debt, room 534, E Street Building, Washington, DC 20239–0001. Comments received will be available for public inspection and copying at the Treasury Department Library, room 5030, Main Treasury Building, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: Michael W. Sunner, Deputy Assistant Commissioner, Office of Financing, Bureau of Public Debt, or Margaret V. Marquette, Attorney-Adviser, Bureau of the Public Debt (202) 219–3350. Questions regarding submission of bids by computer should be directed to Alan Zucker, Office of Financing, Bureau of the Public Debt (202) 219–3350.

SUPPLEMENTARY INFORMATION: The terms and conditions of sale of marketable book-entry Treasury bills, notes, and bonds have, heretofore, appeared in a number of different documents, including 31 CFR part 349 for Treasury bills, the official offering circulars for each issue of a Treasury bond or note, the offering announcements, and various press releases. This part combines into a single document the terms and conditions of the securities contained in these various publications, and, together with the offering announcement for each offering, specifies the conditions under which the securities will be offered for sale.

Part 356 contains several changes to the terms and conditions that apply to the sale of securities.

First, this part clarifies who is a customer and the requirements associated with bidding for customers.

Second, it contains a change in the net long position reporting requirement. This change should reduce substantially the number of bidders that have to report their net long positions. Formerly, all bidders had to report positions exceeding $200 million. Under this part, the reporting threshold amount to be reported will depend on the offering amount and will be stated in the offering announcement, including the attached highlights, for each offering. For example, where the offering amount is approximately $10 billion, the reporting threshold will be $2 billion. The reporting threshold will vary depending on the offering amount. See Exhibit A.

The net long position, as described in this part, includes positions in "when issued" trading and in futures and forward contracts. The Department is considering factoring options and repurchase and reverse repurchase transactions into its net long position reporting requirement. In addition, the Department is considering modifying its position regarding the treatment, for net long position reporting purposes, of STRIPS components. Comments on these modifications to the net long position provision are particularly solicited.

Third, on the matter of noncompetitive bidding, the new rule provides that a bidder may not submit a noncompetitive bid if it holds positions in "when issued" trading or in futures or forward contracts. Furthermore, a bidder submitting a competitive bid for its own account may not submit a noncompetitive bid for its own account.

Fourth, this part requires that all bidders bidding competitively or noncompetitively provide a written certification stating that they are in compliance with the terms and conditions set out in this part and applicable offering announcements.

Fifth, this part specifies only two methods of payment for securities, namely, payment in full with submission of the tender and payment by an authorized charge to a depository institution's funds account at a Federal Reserve Bank.

Sixth, this part provides for submission by computer of competitive and noncompetitive bids. Such submissions are restricted to those bidders that have prearranged to have a computer-to-computer connection with a Federal Reserve Bank.

Seventh, this part requires customers who are awarded $500 million or more in an auction to provide written confirmation of their bids to the Federal Reserve Bank where the bid was submitted. Any submitter submitting a bid for a customer must notify the customer of this confirmation requirement.

Eighth, the Single Bidder Criteria, incorporated in this part, have been expanded to include additional categories of investors. The criteria are to be used in applying the provisions related to maximum award limitations and net long position reporting requirements. The criteria are an attempt to convey the Department's intent that bidders may not aggregate bids for the purpose of securing a disproportionate share of securities in any auction.

Procedural Requirements

It has been determined that this document is not a major regulation as defined in E.O. 12291 and a regulatory impact analysis is not required.

Although this rule is being issued in proposed form to secure the benefit of public comment, the notice and public procedures requirements of the Administrative Procedure Act are inapplicable, pursuant to 5 U.S.C. 553(a)(2). As no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) do not apply.

The collections of information contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collections of information should be sent to the Office of Management and Budget, Paperwork Reduction Project (1535–________), Washington, DC 20503, with copies to Bureau of the Public Debt,

Forms Management Officer,
Washington, DC 20239–1300.

The collections of information in this proposed rule are in §§ 356.11(a), 356.12, 356.13, and 356.14 (b) and (c). This information is required by the Department of the Treasury to conduct auctions of Treasury marketable securities, and will be used to process bids submitted for the purchase of Treasury marketable securities and to ensure compliance with the provisions of this Part. The likely respondents are individuals and households, State and local governments, businesses and other for-profit institutions, non-profit institutions, and small businesses and organizations.

Estimated total annual reporting burden: 126,225 hours.
Estimated average annual burden hours per respondent: .51 hours.
Estimated number of respondents: 247,500.
Estimated annual frequency of responses: on occasion.

List of Subjects in 31 CFR Part 356

Bonds, Federal Reserve System, Government securities, Securities.

For the reasons set forth in the preamble, 31 CFR Chapter II, Subchapter B, is proposed to be amended as follows:

PART 349—[REMOVED]

Part 349 is removed.

Part 356 is added to read as follows:

PART 356—SALE AND ISSUE OF MARKETABLE BOOK-ENTRY TREASURY BILLS, NOTES, AND BONDS (DEPARTMENT OF THE TREASURY CIRCULAR, PUBLIC DEBT SERIES NO. 1–92)

Subpart A—General Information

Sec.
356.0 Authority for sale and issue.
356.1 Applicability.
356.2 Definitions.
356.3 Book-entry securities and systems.
356.4 Functions of Federal Reserve Banks.
356.5 Description of securities.

Subpart B—Bidding, Certifications, and Forms of Payment

356.10 Offering announcement.
356.11 Submission of bids.
356.12 Noncompetitive and competitive bidding.
356.13 Net long position.
356.14 Bidding for customers.
356.15 Single bidder.
356.16 Certifications.
356.17 Forms of payment for securities.

Subpart C—Determination of Auction Awards and Settlement

356.20 Determination of auction awards.
356.21 Awards of securities.
356.22 Announcing auction results.
356.23 Notice of successful competitive bids and confirmation of large customer bids.
356.24 Settlement of awarded securities.

Subpart D—Miscellaneous Provisions

356.30 Payment of interest on notes and bonds.
356.31 STRIPS.
356.32 Taxation.
356.33 Reservation of rights.
356.34 Reservation as to terms and conditions.
356.35 Changes in market borrowing.

Appendix A—Department of the Treasury, Single Bidder Criteria

Appendix B—Formulas and Tables

Exhibit A—Sample Announcements, Including Highlights, of Treasury Offerings to the Public

Exhibit B—Sample Autocharge Agreement to Deliver and Charge for Securities Awarded in Department of the Treasury Auctions

Exhibit C—Minimum Par Amounts for STRIPS

Authority: 5 U.S.C. 301; 31 U.S.C. 3102, *et seq.*

Subpart A—General Information

§ 356.0 Authority for sale and issue.

The Secretary of the Treasury is authorized under chapter 31 of title 31, United States Code, to issue obligations, to fix their form, terms, and conditions, and to offer them for sale under such regulations as the Secretary may prescribe.

§ 356.1 Applicability.

Unless otherwise specified in an offering announcement, the provisions in this part, including the appendices, govern the sale and issuance of all marketable Treasury securities and any other obligations issued by the Secretary that, by the terms of the offering announcement, are made subject to this part.

§ 356.2 Definitions.

In this part, unless the context indicates otherwise:

Accrued interest means an amount payable to the Department for such part of the next semiannual interest payment that represents income attributed to the period prior to the date of issue.

Auction means a bidding process by which the Department sells marketable Treasury securities to the public.

Autocharge agreement means a written agreement between a submitter and a depository institution, acknowledged by a Federal Reserve Bank, which authorizes a Federal Reserve Bank to deliver securities awarded to the submitter at auction to the book-entry account of the depository institution, unless delivery to a TREASURY DIRECT account is authorized, and to charge a funds account of the depository institution for the settlement amount of the securities. (See exhibit B for sample autocharge agreement.)

Bid means an offer to purchase a stated par amount of securities, either competitively or noncompetitively, in an auction.

Bidder means an individual or entity that bids either directly or through an entity authorized to submit for bidders in an auction. Bidder also means one or more entities and/or individuals which, because of their affiliation, have the potential to act in concert with respect to formulating or entering a bid in a Treasury auction. (See appendix A for further definition of bidder.)

Book-entry security means a security the issuance and maintenance of which are represented by an entry on the records, electronic or otherwise, of the Treasury, or its agent, or a book-entry custodian.

Callable security means a security that may be redeemed prior to maturity at the option of the Secretary on any interest payment day or days by giving at least 4 months' notice but not more than 1 year's notice, as specified in an offering announcement.

Competitive bid means a bid to purchase a stated par amount of securities at a yield or discount rate specified by the bidder.

Corpus means the principal component of a stripped security and future callable semiannual interest payments, if any.

CUSIP means Committee on Uniform Securities Identification Procedures.

CUSIP number means the unique identifying number assigned to each separate security issue and each separate STRIPS component. CUSIP numbers are provided by the CUSIP Service Bureau of Standard & Poor's Corporation.

Customer means a bidder that has made a commitment with a depository institution or dealer to bid competitively or noncompetitively on the bidder's behalf, for an amount of securities in an auction directly at a Federal Reserve Bank or the Bureau of the Public Debt, or through an intermediary depository institution or dealer.

Dated date means the date from which interest accrues. The dated date and issue date are the same except when the date from which interest accrues is prior to the issue date.

Dealer means an entity that is registered or has given notice of its status as a government securities broker

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or government securities dealer pursuant to Section 15C(a)(1) of the Securities Exchange Act of 1934.

Department means the United States Department of the Treasury.

Depository institution means an entity described in section 19(b)(1)(A), excluding subparagraph (vii), of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)). Under section 19(b)(1)(A) of the Federal Reserve Act, the term "depository institution" includes:

(1) Any insured bank as defined in 12 U.S.C. 1813 or any bank which is eligible to make application to become an insured bank under 12 U.S.C. 1815;

(2) Any mutual savings bank as defined in 12 U.S.C. 1813 or any bank which is eligible to make application to become an insured bank under 12 U.S.C. 1815;

(3) Any savings bank as defined in 12 U.S.C. 1813 or any bank which is eligible to make application to become an insured bank under 12 U.S.C. 1815;

(4) Any insured credit union as defined in 12 U.S.C. 1752 or any credit union which is eligible to make application to become an insured credit union under 12 U.S.C. 1781;

(5) Any member as defined in 12 U.S.C. 1422; and

(6) Any savings association (as defined in 12 U.S.C. 1813) which is an insured depository institution (as defined in the Federal Deposit Insurance Act, 12 U.S.C. 1811 *et seq.*) or is eligible to apply to become an insured depository institution under such Act.

Discount means the difference between the par amount of a security and the amount paid for the security, when the amount paid is less than par.

Discount rate, also referred to as "bank discount rate", means an annualized rate on bills, expressed in percentage terms and based on a 360-day year.

Federal Reserve Bank means a Federal Reserve Bank or a branch of a Federal Reserve Bank.

Foreign add-on means the amount, if any, by which the amount awarded on a noncompetitive basis to foreign and international monetary authority accounts held in custody at a Federal Reserve Bank in a Treasury bill auction exceeds their holdings of maturing bills.

Funds account means a cash account maintained by a depository institution at a Federal Reserve Bank.

Interest rate means an annual percentage rate applied to a specific issue of notes or bonds by which interest payments are calculated. (See Appendix B for methods and examples of interest calculations on notes and bonds.)

Investment rate or yield, also referred to as "coupon equivalent yield", means an annualized rate of return on bills, expressed in percentage terms and based on the number of days to maturity, a 365- or 366-day year, the amount of discount, and actual purchase price.

Issue date means the date specified in the offering announcement on which settlement takes place, the issuance of a security as an obligation of the United States is entered on the books of the Treasury, and from which interest normally begins to accrue.

Marketable security means a security that is transferable, i.e., may be bought and sold in the secondary market.

Maturity date means the date specified in the offering announcement on which a security becomes due and payable, and ceases to earn interest.

Minimum to hold means the smallest amount of a security that will be issued to a bidder and may be held in any book-entry account. Unless otherwise stated in the offering announcement, the minimum to hold is the same as the minimum bid amount given in the offering announcement.

Multiple to hold means the smallest additional amount of a security that will be issued to a bidder and may be held in any book-entry account above the minimum to hold. Unless otherwise stated in the offering announcement, the multiple to hold is the same as the multiple to bid amount given in the offering announcement.

Noncompetitive bid means a bid to purchase securities at the weighted average yield or discount rate of accepted competitive bids.

Par means the stated value of a security, without premium or discount, which will be paid at maturity.

Premium means the difference between the par amount of a security and the amount paid for the security, when the amount paid is greater than par.

Public offering means the par amount of securities offered to the public for purchase in an auction. For all bills except cash management bills, the public offering is the amount specified in the offering announcement, less securities awarded in the auction to the Federal Reserve Banks (in exchange for maturing securities held for their own account) and for the account of foreign and international monetary authorities (up to the amount of maturing securities held by foreign and international accounts). For notes, bonds, and cash management bills, the public offering is the same as the amount specified in the offering announcement.

Secretary means Secretary of the Treasury.

Security means a Treasury bill, note, or bond, each as described in this Part, and any other obligation issued by the Secretary that, by the terms of the applicable offering announcement, is made subject to this Part. Security includes an interest or principal component under the STRIPS program (see below).

Settlement means final and complete payment made by a successful submitter for securities awarded in an auction and delivered to a submitter or its designee.

STRIPS (Separate Trading of Registered Interest and Principal of Securities) means the Department's program under which eligible securities are authorized to be separated into principal and interest components, and traded separately. These components are maintained in book-entry form on the books of a Federal Reserve Bank.

Submitter means the individual or entity submitting bids directly to a Federal Reserve Bank or the Bureau of the Public Debt for its own account, for the account of others, or both.

Tender means the document (i.e., preprinted form or letter) or computer-to-computer submission to a Federal Reserve Bank or the Bureau of the Public Debt by which a bidder bids for securities.

TINT (Treasury Interest Payment) means an interest component associated with a stripped security.

TREASURY DIRECT means the TREASURY DIRECT Book-Entry Securities System. (See 31 CFR Part 357, subpart C).

Weighted average means the average of the accepted competitive yields or discount rates bid, weighted by the par amount of securities allotted at each yield or discount rate.

Yield means yield to maturity and is the annualized rate of return on a note or bond expressed in percentage terms.

§ 356.3 Book-entry securities and systems.

Securities issued subject to this part shall be held in either of two systems for maintaining book-entry securities, described below. Securities may be transferred from one system to the other in accordance with Treasury regulations governing book-entry Treasury bills, notes, and bonds. See Department of the Treasury Circular No. 300 and Department of the Treasury Circular, Public Debt Series No. 2–86 (31 CFR parts 306 and 357).

(a) *Commercial book-entry system.*[1] The commercial book-entry system is established, maintained, and operated by the Federal Reserve Banks, acting as fiscal agents of the United States, pursuant to 12 U.S.C. 391. The Federal Reserve Banks maintain book-entry accounts for themselves, depository institutions, and other authorized entities, such as government and international agencies and foreign central banks. In their accounts, depository institutions maintain securities held for their own account and for the accounts of others, including other depository institutions and dealers, which may, in turn, maintain accounts for their customers; institutional investors; governmental entities; and individuals.

(b) *TREASURY DIRECT.* Securities are held in TREASURY DIRECT if they are credited to an account maintained on the records of the Department of the Treasury, Bureau of the Public Debt.

§ 356.4 Functions of Federal Reserve Banks.

Federal Reserve Banks, as fiscal agents of the United States, are authorized to perform all activities necessary to carry out the provisions of this Part and any offering announcements.

§ 356.5 Description of securities.

Securities offered pursuant to this part are offered exclusively in book-entry form and are direct obligations of the United States, issued under chapter 31 of title 31 of the United States Code. These securities are subject to the terms and conditions set forth in this part, as well as the general regulations governing United States securities (31 CFR part 306), the regulations governing book-entry Treasury bills, notes, and bonds (31 CFR part 357), and the offering announcements, all to the extent applicable. When Treasury issues additional securities with the same CUSIP number as outstanding securities, all securities with the same CUSIP number are considered the same security.

(a) *Treasury bills.* Treasury bills are issued at a discount, pay par at maturity, and have maturities of not more than one year.

(b) *Treasury notes.* Treasury notes are issued with a stated rate of interest, pay interest semiannually, and pay par at maturity. They are sold at discount, par, or premium, depending upon the auction results. They have maturities of at least one year, but of not more than ten years.

(c) *Treasury bonds.* Treasury bonds are issued with a stated rate of interest, pay interest semiannually, and pay par at maturity. They are sold at discount, par, or premium, depending upon the auction results. They have maturities of more than ten years.

Subpart B—Bidding, Certifications, and Forms of Payment

§ 356.10 Offering announcement.

The Department provides public notice of the sale of bills, notes, and bonds by issuing an offering announcement, including accompanying highlights. The offering announcement lists the specifics of each offering, e.g., term and type of security, CUSIP number, issue and maturity dates, and payment terms. The offering announcement and this Part, including the Appendices, specify the terms and conditions of sale, including the amount of the offering, the description of the security, the date and closing time for the receipt of bids, the maximum award limitations, the maximum recognized bid at a single yield, and the net long position reporting amount. Any special provisions or conditions pertaining to a particular sale will also be included in the offering announcement. To the extent that the provisions of an offering announcement are inconsistent with the provisions of this Part, the provisions of the offering announcement will control. (See Exhibit A for sample announcements, including highlights.)

§ 356.11 Submission of bids.

(a) *General.* (1) Except as otherwise provided in this Section, bids must be submitted in an approved tender format. Bids may be submitted directly to a Federal Reserve Bank that accepts tenders or to the Bureau of the Public Debt, Washington, DC, or through a depository institution or dealer that is authorized, pursuant to § 356.14, to submit bids on behalf of customers. Competitive and noncompetitive bids must be received prior to the closing times specified in the offering announcement. Bids not received by such time will not be recognized in the auction. Bids for securities, once accepted, are binding on the submitter and its customers, if any.

(2) If the awarded securities are to be issued in the commercial book-entry system, a submitter must have on file at a Federal Reserve Bank a certificate listing those individuals who are authorized to submit tenders on its behalf. The certificate must be duly executed by an authorized person on behalf of the submitter. A tender will not be recognized if the individual submitting the tender is not listed on the certificate. The submitter is responsible for any tenders by individuals who are designated on the certificate as authorized to submit bids on behalf of the submitter.

(b) *Submission of paper tenders.* Paper tenders should be on preprinted forms of the Federal Reserve Bank to which the tender is submitted or preprinted forms of the Bureau of the Public Debt, and should provide the information requested on the form. Paper tenders in any other form or incomplete tenders may be accepted or rejected at the option of the Department.

(1) The submitter is responsible for ensuring that the paper tender is received at the Federal Reserve Bank or the Bureau of the Public Debt, Washington, DC, by the applicable closing time. Noncompetitive bids that are submitted by mail are considered timely if postmarked (U.S. Postal Service cancellation date) prior to the auction date and received on or before the issue date.

(2) Neither the Federal Reserve Bank nor the Treasury shall be, in any way, responsible for any authorized paper tender submissions, delays, errors, or omissions in the submission of paper tenders.

(c) *Submission of tenders by computer.* Competitive and noncompetitive tenders may be submitted through a computer-to-computer connection with a Federal Reserve Bank. Tenders may be submitted by computer only by those submitters that have prearranged to have a computer-to-computer connection with a Federal Reserve Bank.

(1) For computer tenders to be transmitted to a Federal Reserve Bank, the submitter must use a software application provided by the Federal Reserve System or comply with the computer-to-computer communications standards for Treasury auctions. Incomplete tenders or transmissions that do not comply with the communications standards may be accepted or rejected at the option of the Department.

(2) A hardcopy tender should not be submitted to confirm or verify a tender submitted by computer.

(3) The submitter is responsible for ensuring that the computer tender is received at the Federal Reserve Bank by the applicable closing time. When submitting tenders by computer, the submitter bears sole risk for any disruption or failure in the operation of its own computer, any electronic-based

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[1] Upon the adoption of a final rule therefor, the commercial book-entry system will be referred to as Treasury/Reserve Automated Debt Entry System (TRADES).

communications facilities, or any communications lines between the submitter and the Federal Reserve Bank. For tenders submitted by computer, the time stamp on the Federal Reserve Bank's computer determines the time of receipt. The submitter is responsible for the accuracy of its transmissions. A submitter should contact the Federal Reserve Bank to which the tender was submitted if the submitter does not receive timely acknowledgement of the transmission. If there are disruptions or failures with the Federal Reserve Bank's computer or communications facilities that result in a submitter's tenders not being received timely, the Department at its option may accept or reject such tenders.

(4) The submitter is responsible for any unauthorized use of equipment on its premises to submit tenders. Neither the Federal Reserve Bank nor the Treasury shall be, in any way, responsible for any delays, errors, or omissions in the submission of tenders.

§ 356.12 Noncompetitive and competitive bidding.

(a) *General.* All bids for issues of securities must state the par amount of securities bid for and must equal or exceed the minimum bid amount stated in the offering announcement. Bids that exceed the minimum bid amount must be in the multiple stated in the offering announcement.

(b) *Noncompetitive.* A bidder submitting a competitive bid for its own account for an issue of securities may not submit a noncompetitive bid for its own account for the same issue of securities.

(1) *Maximum recognized bid.* A noncompetitive bid should not exceed the maximum allowable amount for noncompetitive bids by a bidder. If a bid exceeds the maximum allowable amount, it will be reduced by the Department to conform with the amount stated in the offering announcement. For example, if in a bill auction in which the maximum allowable amount specified in the offering announcement is $1 million, a bidder submits a noncompetitive bid which is in excess of $1 million, the Department will reduce the bid to $1 million.

(2) *Additional restrictions.* A bidder may not submit a noncompetitive bid if it holds positions, in the Treasury security being auctioned, in "when issued" trading, or in futures or forward contracts. A noncompetitive bidder for a security being auctioned may not enter into any agreement to purchase or sell or otherwise dispose of the security being auctioned in when-issued trading or futures or forward contracts, nor may it commit to sell the security prior to the designated closing time for receipt of competitive bids.

(c) *Competitive.* A bidder submitting a noncompetitive bid for its own account for an issue of securities may not submit a competitive bid for its own account for the same issue of securities. A competitive bid must show the yield or discount rate bid, expressed in the appropriate number of decimals as specified in the offering announcement. Fractions may not be used.

(1) *Maximum recognized bid.* There is no limitation on the maximum dollar amount that a bidder may bid for competitively, either at one yield or discount rate or at different yields or discount rates. However, a competitive bid by a bidder at a single yield or discount rate that exceeds the amount which is determined by multiplying the public offering amount by the percentage specified in the offering announcement as the "maximum recognized bid at a single yield" will be reduced to that amount. For example, if the offering announcement specifies that the "maximum recognized bid at a single yield" is 35% of the public offering, where the public offering is $10 billion, the maximum bid amount that will be recognized at any one yield or discount rate from any bidder is $3.5 billion.

(2) *Net long position.* Each competitive bidder must also certify its net long position as specified in § 356.13.

§ 356.13 Net long position.

(a) *Reporting the net long position.* When bidding competitively, a bidder must report its net long position in the security being offered when the total of all of its bids for that security and the bidder's net long position in the security equals or exceeds the reporting amount specified in the offering announcement. A bidder that is a customer must report such position to the Treasury through a depository institution or dealer as provided in § 356.14(c).

(b) *Determination of net long position.* The net long position must be determined as of the time specified in the offering announcement. For example, the offering announcement may require the position to be determined as of one-half hour prior to the closing time for receipt of competitive tenders. A net long position includes positions, in the Treasury security being auctioned, in "when-issued" trading, and in futures and forward contracts. For purposes of this Part, a futures contract includes any contract which is cash-settled on, or calls for delivery of, the specific security being auctioned. Holdings of outstanding securities with the same CUSIP number as the new offering must be included if the offering announcement identifies the new offering as an additional issue of an outstanding security. For example, an additional issue of bills with three months to maturity previously offered as six-month bills have the same CUSIP number and are considered the same security. Therefore, holdings of the outstanding six-month bills must be included in the position report. For securities eligible for STRIPS, the STRIPS components bought or sold in when-issued trading should be included in the calculation of net long position only if the bidder holds all components necessary for reconstitution into the security to be auctioned. A net short position should not be reported and will not be used to determine the bidder's auction award. Repurchase and reverse repurchase transactions, securities lending transactions, and options are not included in the calculation. For example, in the case of a repurchase transaction, if a bidder owns $100 million of a security outright and finances $75 million through repurchase agreements, the $100 million remains in the bidder's net long position.

§ 356.14 Bidding for customers.

Depository institutions and dealers may submit bids, either competitively or noncompetitively or both, for their own account, for customers, or for customers of those customers, subject to the requirements set out below in paragraphs (a), (b), (c) and (d) of this section. Others are permitted to submit bids only for their own account.

(a) *Payment.* A submitter that submits a bid on behalf of a customer unconditionally agrees to make payment for securities awarded on the basis of such bid.

(b) *Customer lists.* (1) A customer list must be submitted or be available, as provided below, whenever bids are submitted on behalf of customers. This customer list must include customers and customers of those customers, where applicable.

(2) For competitive bids, the submitter must submit with the tender a customer list that includes, for each customer, the name of the customer, and the amount and yield or discount rate bid by each customer. A bidder may not aggregate customer bids by yield or discount rate on the customer list.

(3) For noncompetitive bids, the customer list must provide, for each customer, the name of the customer and the amount bid. For mailed tenders, the customer list must be submitted with the tender. For other than mailed tenders,

the customer list should accompany the tender. If the customer list is not submitted with the tender, information for the list must be complete and available for review by the deadline for submission of noncompetitive tenders. The customer list should be received by the Federal Reserve Bank on auction day.

(4) Bids submitted on behalf of trust estates must identify on the customer list the name or title of the trustee; a reference to the document creating the trust with date of execution; and the employer identification number of the trust.

(c) *Net long position of customers.* A submitter, when submitting a competitive bid for a customer, must report the customer's net long position in the security being offered when the total of all the customer's bids for that security, including bids not placed through the submitter, and the customer's net long position in the security equals or exceeds the reporting amount specified in the offering announcement. The report is to be based on inquiry made of the customer, and the inquiry and response are to be documented by the submitter. Where the net long position must be reported, the submitter must indicate the amount of the position either on a separate tender submitted for the customer or on the customer list. If the submitter has reason to believe that a customer's information is incorrect or if the customer is unable or unwilling to report its net long position, the customer's bid shall not be submitted by the submitter.

(d) *Notice of certification requirement.* Submitters that submit bids on behalf of customers are responsible for notifying those customers of the certification requirement set out in § 356.16 of this part.

§ 356.15 Single bidder.

Bidders will be treated collectively as a single bidder under this Part where such bidders, because of their affiliation, as defined in the Department's Single Bidder Criteria, found in appendix A to this Part, have the potential for aggregating bids. A bidder determination will be made for purposes of maximum awards for noncompetitive and competitive bids, and for reporting of net long position. See §§ 356.12 and 356.13. A bidder determination will be made for all individuals and entities participating in an auction, whether bidding directly or through others.

§ 356.16 Certification.

(a) *Submitters.* All submitters bidding competitively or noncompetitively by paper tender must certify on the tender that they are in compliance with this Part and applicable offering announcements governing the sale and issue of securities. All submitters bidding competitively or noncompetitively by electronic tender must have on file with the Federal Reserve Bank to which the tender is submitted, prior to the time the submitter submits a bid in an auction, a written certification that they are in compliance with this Part and applicable offering announcements governing the sale and issue of securities. The certification must be signed and dated, and provided to the Federal Reserve Bank not less than annually.

(b) *Customers.* All customers bidding competitively or noncompetitively through submitters must have on file with the submitter, prior to the time the submitter submits a bid in an auction, a written certification that they are in compliance with this Part and applicable offering announcements governing the sale and issue of securities. The certification, to be retained by the submitter, must be signed and dated, and provided to the submitter not less than annually.

§ 356.17 Forms of payment for securities.

Payment for securities must be made either by payment in full with submission of the tender or by an authorized charge to a depository institution's funds account at a Federal Reserve Bank, as specified in this section and subject to Section 356.24 of this Part.

(a) *TREASURY DIRECT.* (1) For securities to be held in TREASURY DIRECT, payment in full means payment of the par amount and accrued interest, if any, with submission of the tender.

(i) For bills, payment must be by cash, depository institution (cashier's or teller's) check, certified check, currently dated Treasury and fiscal agency checks made payable to the submitter, or definitive Treasury securities maturing on or before the settlement date, but which are not overdue as defined in the general regulations governing United States securities (31 CFR Part 306.25). Also, maturing securities held in TREASURY DIRECT may be reinvested as payment for new securities that are being offered, provided that the appropriate transaction request is received timely. For notes or bonds, payment must be in one of the forms described above for bills, or by personal check.

(ii) Checks submitted to a Federal Reserve Bank must be made payable to that particular Bank and checks submitted to the Bureau of the Public Debt must be made payable to the Bureau of the Public Debt. Tenders accompanied by checks that do not meet these criteria will be rejected.

(2) Payment may also be made by an authorized charge to a depository institution's funds account at a Federal Reserve Bank. Depository institutions submitting tenders on behalf of TREASURY DIRECT bidders may make payment by authorizing a charge to the institution's funds account at a Federal Reserve Bank.

(b) *Commercial book-entry system.* (1) For securities to be held in the commercial book-entry system, payment in full means payment of the par amount and accrued interest, if any, with submission of the tender. Payment in full is to be one of the means specified above under (a)(1).

(2) Payment may also be made by an authorized charge to a depository institution's funds account at a Federal Reserve Bank.

(i) A depository institution with a funds account submitting tenders directly to a Federal Reserve Bank may make payment by instructing the Bank to charge its funds account upon delivery of the securities.

(iii) A submitter that chooses not to use its funds account at a Federal Reserve Bank, and a dealer or any other entity that does not have a funds account at a Federal Reserve Bank, must enter into an autocharge agreement which must be on file at a Federal Reserve Bank prior to submission of tenders. The autocharge agreement is an agreement between a submitter and a depository institution authorizing a designated Federal Reserve Bank to charge the depository institution's funds account upon delivery of the awarded securities.

Subpart C—Determination of Auction Awards and Settlement

§ 356.20 Determination of auction awards.

(a) *Determining the range and amount of accepted competitive bids.*—(1) *Accepting bids.* Determinations of awards in auctions are made at the Bureau of the Public Debt in Washington, DC, after the closing time for receipt of bids. In determining auction awards, all recognized noncompetitive bids received by the closing time specified in the offering announcement are first accepted in full. Then competitive bids are accepted, starting with those at the lowest yields or discount rates through successively higher yields or discount rates, up to the amount required to meet the public offering. Bids at the highest accepted yield or discount rate will be prorated (as described below), if necessary. If the amount of noncompetitive bids accepted were to account for most of, or exceed the public offering, competitive bids would be accepted in excess of the public offering in an amount determined by the Department to be sufficient to provide a fair determination of the weighted average yield or discount rate.

(2) *Prorating bids.* Proration of bids is necessary whenever the total amount of bids at the highest accepted yield or discount rate exceeds the amount of the public offering remaining to be sold after acceptance of noncompetitive bids and competitive bids at the lower yields or discount rates. Proration is the process by which bids at the highest yield or discount rate of accepted competitive bids are partially allotted by the Department for the purpose of allotting a par amount of securities close to the public offering. The percentage of securities to be allotted to each bidder at the highest accepted yield or discount rate is derived by dividing the balance of the amount needed to meet the public offering by the total dollar amount of bids recognized at the highest accepted yield or discount rate. Next, this percentage is applied to each bid at the highest accepted yield or discount rate. Where application of this percentage results in an amount which is less than the minimum to hold amount specified in the offering announcement, the minimum to hold amount will be allotted to the bidder. If the application of this percentage results in an amount which is greater than the minimum to hold amount but is not in a multiple specified in the offering announcement, the next higher multiple to hold will be allotted to the bidder.

(b) *Determining the discount amount for bills and the interest rate for new note and bond issues.* (See appendix B for formulas and tables.) (1) *Bills.* The discount amount for bills awarded to a successful bidder will be based on the appropriate discount rate, which, in the case of a competitive bidder, will be the discount rate bud, and, in the case of a noncompetitive bidder, will be the weighted average discount rate of all accepted competitive bids. The discount amount is calculated by converting the discount rate to its corresponding price for $100, applying the appropriate multiplier to compute the cost of the bill actually purchased, and subtracting that cost from the par amount of the bill.

(2) *Notes and bonds.* The interest rate established in the auction is used to calculate the interest to be paid on the auctioned notes or bonds. After a determination is made as to which bids are accepted, an interest rate will be established, at a ⅛ of one percent increment, which produces a price equivalent to the weighted average yield closest to, but not above, par.

(c) *Determining purchase prices for awarded securities.* (See appendix E for formulas and tables.) (1) *Noncompetitive bids.* The submitter will pay the price equivalent to the weighted average yield or discount rate of accepted competitive bids. Price calculations will be rounded to three decimal places on the basis of price per hundred, e.g., 97.432.

(2) *Competitive bids.* The submitter will pay the price equivalent to the yield or discount rate bid for the securities awarded at each accepted yield or discount rate. Price calculations will be rounded to three decimal places on the basis of price per hundred, e.g., 99.954.

§ 356.21 Awards of securities.

(a) *Awards of securities to the System Open Market Account and Foreign and International Monetary Authorities.* Noncompetitive awards made to Federal Reserve Banks for the System Open Market Account and as agents for foreign and international monetary authorities will be issued at the price equivalent to the weighted average yield or discount rate of accepted competitive bids.

(b) *Awards to Submitters.* In auctions where bids at the highest accepted yield or discount rate are prorated under § 356.20(a)(2) of this part, the Federal Reserve Banks are responsible for prorating awards for submitters at the percentage announced by the Department. For example, if 80 percent is the announced percentage at the highest yield or discount rate, then each bid at that rate or yield shall be awarded 80 percent. Hence, a bid for $100,000 at the highest accepted yield or discount rate would be awarded $80,000. In all cases, awards will be for, at least, the minimum to hold, and awards must be in an appropriate multiple to hold. For example, Treasury bills may be issued with a minimum to hold of $10,000 and multiples to hold of $5.000. Where a $100,000 bid is accepted at the high discount rate, and the percent awarded at the high discount rate was 11 percent, the award to that bidder would be $15,000, because bills cannot be held in an amount of $11,000. Awards at the highest accepted yield or rate are adjusted upwards, if necessary, to an appropriate multiple to hold. If tenders at the highest accepted rate were prorated at, for example, a rate of 4 percent, the award for a $100,000 bid would be $10,000, instead of $4,000, in order to meet the minimum to hold for a bill issue.

(c) *Awards to customers.* In auctions where bids at the highest accepted yield or discount rate are prorated under Section 356.20(a)(2) of this Part, depository institutions and dealers are responsible for prorating awards for their customers at the same percentage as that announced by the Department. For example, if 80 percent is the announced percentage at the highest yield or discount rate, then each customer bid at that rate or yield shall be awarded 80 percent. The same prorating rules apply to customers as apply to submitters.

(d) *Limitation on auction awards.*(1) Noncompetitive. The maximum allowable award that will be made to any bidder is specified in the offering announcement.

(2) Competitive. The maximum award that will be made to any bidder in an auction is specified in the offering announcement as a percentage of the public offering. The award will take into account the bidder's net long position as reported under § 356.13 if the sum of the award and the net long position equals or exceeds the maximum award percentage specified in the offering announcement. In that case, the bidder's award would be reduced by the amount necessary to reduce the sum of the award and net long position to the maximum award. For example, in a note auction with a $10 billion public offering and a 35 percent limit, the maximum award would be $3.5 billion. For a bidder with a reported net long position of $1 billion, the maximum award would be $2.5 billion.

§ 356.22 Announcing auction results.

After the conclusion of the auction, the Department will make an official announcement of the auction results through a press release. The press release will announce the amounts of bids recognized and accepted, the range of accepted bids and their price equivalent, the weighted average yield or discount rate, and the interest rate (for a new note or bond). The press release will also include any other pertinent information such as a breakdown of the amounts of noncompetitive and competitive bids recognized and accepted from the public, the amounts recognized and accepted from the System Open Market Account and foreign and international monetary authorities, and the minimum par amount required to strip a STRIPS-eligible note or bond.

§ 356.23 Notice of successful competitive bids and confirmation of large customer bids.

(a) *Notice of awards.* Notice of awards will be provided by a Federal Reserve Bank or the Department to submitters of successful competitive bids. Submitters of noncompetitive bids will be notified only when the price at the weighted average yield of accepted competitive bids is over par or if the bid is not accepted in full.

(b) *Confirmation of award to customer by submitter.* A submitter submitting a bid for a customer is responsible for notifying its customer of the award.

(c) *Confirmation of award and settlement amount to a depository institution having an autocharge agreement with a submitter.* Not later than the day after each auction, the appropriate Federal Reserve Bank will notify each depository institution that has entered into an autocharge agreement with a submitter as to the amount to be charged to the institution's funds account at the Federal Reserve Bank on the issue date.

(d) *Customer bid confirmation to Federal Reserve Bank.* Any customer that is awarded $500 million or more in an auction must furnish, no later than the day following the auction, written confirmation of its bid to the Federal Reserve Bank where the bid was submitted. A submitter submitting a customer bid is responsible for notifying its customer of this confirmation requirement.

§ 356.24 Settlement of awarded securities.

(a) Settlement amount. (1) The settlement amount includes any premium payable on the securities where the purchase price of the awarded securities is over par.

(2) The settlement amount includes accrued interest, where such interest applies.

(i) If the accrued interest payable is specified in the offering announcement, such amount must be submitted with the tender if the tender is accompanied by payment in full, or paid by a charge to a funds account at a Federal Reserve Bank.

(ii) If the accrued interest payable is determined in the auction, such amount will either be subtracted from the refund amount, if applicable, or collected from the submitter.

(iii) If settlement is made in TREASURY DIRECT in exchange for maturing book-entry securities, any accrued interest payable will be collected from the submitter.

(b) TREASURY DIRECT. Bidders awarded securities to be held in TREASURY DIRECT must settle by one of the payment methods described in § 356.17(a).

(c) Commercial book-entry system. Bidders awarded securities to be held in the commercial book-entry system must settle by one of the payment methods described in § 356.17(b). If the submitter has authorized payment through a charge to a depository instutition's funds account at a Federal Reserve Bank, the settlement amount will be charged to the institution's funds account upon delivery of the awarded securities.

(d) Refunds to submitters. If the tender is accompanied by an amount greater than the settlement amount, the balance will be refunded to the submitter following the auction.

(e) Submitters are responsible for payment. A submitter unconditionally agrees to pay timely for any securities awarded to it or its customers through the auction process.

Subpart D—Miscellaneous Provisions

§ 356.30 Payment of principal and interest on notes and bonds.

Principal on notes and bonds will be paid on the maturity date as specified in the offering announcement unless the security is called pursuant to its terms and in accordance with appropriate public notice. Interest on notes and bonds accrues from the issue date, unless an earlier date is specified in the offering announcement. Interest is payable on a semiannual basis on the interest payment dates specified in the offering announcement through the date that the principal become payable. In the event any principal or interest payment date is a Saturday, Sunday, or other day on which the Federal Reserve Banks are not open for business, the amount is payable (without additional interest) on the next business day.

§ 356.31 STRIPS.

(a) *General.* A note or bond may be designated in the offering announcement as eligible for the STRIPS program. At the option of the holder, any such security may be "stripped", i.e., divided into separate components maintained on the commercial book-entry system. The separate STRIPS components are the corpus and all TINTs associated with the stripped security. Each corpus has a separate CUSIP number. All TINTs with the same maturity date have the same CUSIP number, regardless of the underlying security from which the interest payments were stripped. The CUSIP numbers for the corpus and TINTs are provided in the offering announcement if not previously announced. The offering announcement also provides the payment dates for the principal component and the TINTs.

(b) *Minimum par amounts required for STRIPS.* For a note or bond to be stripped into the components described above, the par amount of the note or bond must be in an amount which, based on its interest rate, will produce a semiannual interest payment in a multiple of $1,000. Appendix D to this part provides the minimum par amounts required to strip a note or bond at various interest rates, as well as the corresponding interest payments. Amounts greater than the minimum par amount must be in multiples of that amount. The minimum par amount required to strip a particular security will be provided in the press release announcing the auction results.

(c) *Reconstituting a security.* A note or bond eligible for the STRIPS program may be stripped into its components at any time from its issue date until its call or maturity. A stripped note or bond may be reconstituted in accordance with the **Federal Register** notice on this subject published May 12, 1987, at 52 FR 17885.

(d) *Applicable regulations.* Unless otherwise provided in this part, the Department's general regulations governing United States securities (31 CFR Part 306) apply to notes or bonds separated into their STRIPS components.

§ 356.32 Taxation.

Securities issued under this part subject to all taxes imposed under the Internal Revenue Code of 1986. The securities are exempt from all taxation now or hereafter imposed on obligations or interest thereon by any State or political subdivision of a State, except as provided in 31 U.S.C. 3124.

§ 356.33 Reservation of rights.

The Secretary reserves the right to accept or reject or refuse to recognize any or all bids or tenders submitted under this Part. This reservation includes the Secretary's right, as the result of an improper certification or other misrepresentation, or failure to pay timely for awarded securities, to declare any bidder or submitter ineligible to participate in any future auction or auctions for its own account, for the account of others, or both. The Secretary also reserves the right to award more or less securities than the amount of securities specified in the offering announcement. The Secretary further reserves the right to waive any provision or provisions of this Part for any or all bidders or submitters.

Decisions of the Secretary under this Section shall be final.

§ 356.34 Reservation as to terms and conditions.

The Secretary reserves the right to supplement or amend provisions of this Part. Public notice of such changes will be provided.

§ 356.35 Changes in market borrowing.

The Secretary reserves the right to modify the terms and conditions of new securities and to depart from the customary pattern of securities offerings at any time.

§ 356.36 Paperwork Reduction Act approval.

The collections of information contained in §§ 356.11(a), 356.12, 356.13, and 356.14(b) and (c) of this part have been approved by the Office of Management and Budget under control number 1535-______.

Appendix A to Part 356

Department of the Treasury—Single Bidder Criteria

A single bidder is one or more entities and/or individuals which, because of their affiliation, have the potential to act in concert with respect to formulating or entering a bid in a Treasury auction. For the purpose of this definition, an affiliation is deemed to exist if there is (a) control in management (including investment strategy), (b) control through ownership (defined as 25 percent or more), or (c) an agreement, formal or informal, written or oral, to act together for the purpose of acquiring securities.[1]

Each group of bidders set forth below constitutes a single bidder for purposes of bidding in Treasury auctions. The examples do not reflect all bidder situations, nor are they intended to be synonymous with definitions of distinct legal entities. Rather, they propose to reflect the Department's intent that no bidder, whether acting separately or in conjunction with another individual or entity, secure a disproportionate share of securities offered in an auction.

Examples of "Single Bidder"

(a) Family—A married person, his or her spouse, any unmarried adult children having a common address and/or household, and a minor child, as defined by the law of the place of the child's domicile, constitute a single bidder. (A minor child may not submit tenders individually or jointly with an adult bidder.) The fact that a minor's parent is acting as natural guardian when bidding for a minor is irrelevant when determining the status of the bidders.

(b) Individuals Acting as Guardian, Custodian, Trustee, or Other Fiduciary—An individual acting as a guardian, custodian, trustee, or other fiduciary is a single bidder and is a separate bidder when acting in his/her individual capacity.

(c) Guardian, Custodian, Trustee, or Other Fiduciary—

(1) When an entity is acting as trustee or custodian for "directed" trust or agency accounts, each trust or agency account constitutes a separate bidder.

(2) When an entity is acting as trustee or custodian for "managed" trust or agency accounts, the accounts are to be treated collectively.

(3) When an entity is investing collective investment funds, the entity is considered a single bidder when acting on behalf of the various beneficiaries of the fund, but is a separate bidder when acting in a proprietary capacity.

(d) Affiliations among Individuals, Partnerships, and/or Corporations ("IPC")—The bidder, any IPC that controls the bidder ("Controlling IPC"), any other partnership or corporation that is controlled by the Controlling IPC, and any partnership or corporation directly or indirectly controlled by the bidder constitute a single bidder. "Control" means, with respect to a corporation, directly or indirectly owning, controlling, or having power to vote 25 percent or more of any class of voting securities of the corporation, and with respect to a partnership, a direct or indirect interest or right in 25 percent or more of the net worth or earnings of such partnership.

(e) Mutual Fund (Includes Money Market Fund) or Pension Fund—Mutual funds or pension funds having a common management constitute a single bidder.

(f) Investment Agent/Money Manager—Accounts for which an individual, firm, or association has discretion to purchase, hold, and dispose of securities constitute a single bidder.

(g) Political Subdivision—

(1) A state government (includes any of the 50 states and the District of Columbia) constitutes a single bidder.

(2) A unit of local government (includes any county, city, municipality, or township, or other unit of general government, as defined by the Bureau of the Census for statistical purposes) constitutes a single bidder.

(3) A commonwealth, territory, or possession constitutes a single bidder.

Any trust, investment, or other funds of any of the above are considered part of the single bidder, except where such funds are legally required to be invested separately.

Questions concerning applicability and interpretation of the single bidder criteria should be directed to the Office of Financing, Bureau of the Public Debt, Washington, DC 20239-0001. (Telephone 202/219-3350).

Appendix B to Part 356

Formulas and Tables

I. Computation of Interest on Treasury Bonds and Notes

A. Regular Half-Year Payment Period

Computation of interest on Treasury bonds and notes is made on a semiannual basis. The regular interest payment period is a full half-year of six calendar months. Examples of half-year periods are: (1) February 15 to August 15, (2) May 31 to November 30, and (3) February 29 to August 31 (in a leap year). Calculation of a six-month interest payment for an 8% $1,000 note is made in this manner: ($1,000 × .08) ÷ 2 = $40. Specifically, a semiannual interest payment represents one half of one year's interest, and is computed on this basis regardless of the actual number of days in the half-year involved.

B. Daily Interest Decimal

In cases where an interest payment period is shorter or longer than six months or where accrued interest is payable by an investor, a daily interest decimal, based on the actual number of days in the half-year or half-years involved, must be computed. The number of days in any half-year period is shown in Table 1 below.

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[1] The single bidder definition does not include entities that are specifically prohibited by law from exchanging investment information and advice with their affiliates.

TABLE 1

Interest Period	Beginning and ending days are 1st or 15th of the months listed under interest period (number of days)		Beginning and ending days are the last days of the months listed under interest period (number of days)	
	Regular Year	Leap Year	Regular Year	Leap Year
January to July	181	182	181	182
February to August	181	182	184	184
March to September	184	184	183	183
April to October	183	183	184	184
May to November	184	184	183	183
June to December	183	183	184	184
July to January	184	184	184	184
August to February	184	184	181	182
September to March	181	182	182	183
October to April	182	183	181	182
November to May	181	182	182	183
December to June	182	183	181	182

Table 2 below sets forth the daily interest decimals covering interest from 1/8% to 20% on $1,000 for one day in increments of 1/8 of one percent. These decimals represent 1/181, 1/182, 1/183, or 1/184 of a full semiannual interest payment, depending on which half-year is applicable.

TABLE 2

Decimal for one day's interest on $1,000 at various rates of interest, payable semiannually or on a semiannual basis, in regular years of 365 days and in years of 366 days (to determine applicable number of days, see TABLE 1).

Rate per Annum (percent)	Half-Year of 184 Days	Half-Year of 183 Days	Half-Year of 182 Days	Half-Year of 181 Days
1/8%	0.003396739	0.003415301	0.003434066	0.003453039
1/4%	0.006793478	0.006830601	0.006868132	0.006906077
3/8%	0.010190217	0.010245902	0.010302198	0.010359116
1/2%	0.013586957	0.013661202	0.013736264	0.013812155
5/8%	0.016983696	0.017076503	0.017170330	0.017265193
3/4%	0.020380435	0.020491803	0.020604396	0.020718232
7/8%	0.023777174	0.023907104	0.024038462	0.024171271
1%	0.027173913	0.027322404	0.027472527	0.027624309
1-1/8%	0.030570652	0.030737705	0.030906593	0.031077348
1-1/4%	0.033967391	0.034153005	0.034340659	0.034530387
1-3/8%	0.037364130	0.037568306	0.037774725	0.037983425
1-1/2%	0.040760870	0.040983607	0.041208791	0.041436464
1-5/8%	0.044157609	0.044398907	0.044642857	0.044889503
1-3/4%	0.047554348	0.047814208	0.048076923	0.048342541
1-7/8%	0.050951087	0.051229508	0.051510989	0.051795580
2%	0.054347826	0.054644809	0.054945055	0.055248619
2-1/8%	0.057744565	0.058060109	0.058379121	0.058701657
2-1/4%	0.061141304	0.061475410	0.061813187	0.062154696
2-3/8%	0.064538043	0.064890710	0.065247253	0.065607735
2-1/2%	0.067934783	0.068306011	0.068681319	0.069060773
2-5/8%	0.071331522	0.071721311	0.072115385	0.072513812
2-3/4%	0.074728261	0.075136612	0.075549451	0.075966851
2-7/8%	0.078125000	0.078551913	0.078983516	0.079419890
3%	0.081521739	0.081967213	0.082417582	0.082872928
3-1/8%	0.084918478	0.085382514	0.085851648	0.086325967
3-1/4%	0.088315217	0.088797814	0.089285714	0.089779006

TABLE 2 (Continued)

3-3/8%	0.091711957	0.092213115	0.092719780	0.093232044
3-1/2%	0.095108696	0.095628415	0.096153846	0.096685083
3-5/8%	0.098505435	0.099043716	0.099587912	0.100138122
3-3/4%	0.101902174	0.102459016	0.103021978	0.103591160
3-7/8%	0.105298913	0.105874317	0.106456044	0.107044199
4%	0.108695652	0.109289617	0.109890110	0.110497238
4-1/8%	0.112092391	0.112704918	0.113324176	0.113950276
4-1/4%	0.115489130	0.116120219	0.116758242	0.117403315
4-3/8%	0.118885870	0.119535519	0.120192308	0.120856354
4-1/2%	0.122282609	0.122950820	0.123626374	0.124309392
4-5/8%	0.125679348	0.126366120	0.127060440	0.127762431
4-3/4%	0.129076087	0.129781421	0.130494505	0.131215470
4-7/8%	0.132472826	0.133196721	0.133928571	0.134668508
5%	0.135869565	0.136612022	0.137362637	0.138121547
5-1/8%	0.139266304	0.140027322	0.140796703	0.141574586
5-1/4%	0.142663043	0.143442623	0.144230769	0.145027624
5-3/8%	0.146059783	0.146857923	0.147664835	0.148480663
5-1/2%	0.149456522	0.150273224	0.151098901	0.151933702
5-5/8%	0.152853261	0.153688525	0.154532967	0.155386740
5-3/4%	0.156250000	0.157103825	0.157967033	0.158839779
5-7/8%	0.159646739	0.160519126	0.161401099	0.162292818
6%	0.163043478	0.163934426	0.164835165	0.165745856
6-1/8%	0.166440217	0.167349727	0.168269231	0.169198895
6-1/4%	0.169836957	0.170765027	0.171703297	0.172651934
6-3/8%	0.173233696	0.174180328	0.175137363	0.176104972
6-1/2%	0.176630435	0.177595628	0.178571429	0.179558011
6-5/8%	0.180027174	0.181010929	0.182005495	0.183011050
6-3/4%	0.183423913	0.184426230	0.185439560	0.186464088
6-7/8%	0.186820652	0.187841530	0.188873626	0.189917127
7%	0.190217391	0.191256831	0.192307692	0.193370166
7-1/8%	0.193614130	0.194672131	0.195741758	0.196823204
7-1/4%	0.197010870	0.198087432	0.199175824	0.200276243
7-3/8%	0.200407609	0.201502732	0.202609890	0.203729282
7-1/2%	0.203804348	0.204918033	0.206043956	0.207182320

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TABLE 2 (Continued)

7-5/8%	0.207201087	0.208333333	0.209478022	0.210635359
7-3/4%	0.210597826	0.211748634	0.212912088	0.214088398
7-7/8%	0.213994565	0.215163934	0.216346154	0.217541436
8%	0.217391304	0.218579235	0.219780220	0.220994475
8-1/8%	0.220788043	0.221994536	0.223214286	0.224447514
8-1/4%	0.224184783	0.225409836	0.226648352	0.227900552
8-3/8%	0.227581522	0.228825137	0.230082418	0.231353591
8-1/2%	0.230978261	0.232240437	0.233516484	0.234806630
8-5/8%	0.234375000	0.235655738	0.236950549	0.238259669
8-3/4%	0.237771739	0.239071038	0.240384615	0.241712707
8-7/8%	0.241168478	0.242486339	0.243818681	0.245165746
9%	0.244565217	0.245901639	0.247252747	0.248618785
9-1/8%	0.247961957	0.249316940	0.250686813	0.252071823
9-1/4%	0.251358696	0.252732240	0.254120879	0.255524862
9-3/8%	0.254755435	0.256147541	0.257554945	0.258977901
9-1/2%	0.258152174	0.259562842	0.260989011	0.262430939
9-5/8%	0.261548913	0.262978142	0.264423077	0.265883978
9-3/4%	0.264945652	0.266393443	0.267857143	0.269337017
9-7/8%	0.268342391	0.269808743	0.271291209	0.272790055
10%	0.271739130	0.273224044	0.274725275	0.276243094
10-1/8%	0.275135870	0.276639344	0.278159341	0.279696133
10-1/4%	0.278532609	0.280054645	0.281593407	0.283149171
10-3/8%	0.281929348	0.283469945	0.285027473	0.286602210
10-1/2%	0.285326087	0.286885246	0.288461538	0.290055249
10-5/8%	0.288722826	0.290300546	0.291895604	0.293508287
10-3/4%	0.292119565	0.293715847	0.295329670	0.296961326
10-7/8%	0.295516304	0.297131148	0.298763736	0.300414365
11%	0.298913043	0.300546448	0.302197802	0.303867403
11-1/8%	0.302309783	0.303961749	0.305631868	0.307320442
11-1/4%	0.305706522	0.307377049	0.309065934	0.310773481
11-3/8%	0.309103261	0.310792350	0.312500000	0.314226519
11-1/2%	0.312500000	0.314207650	0.315934066	0.317679558
11-5/8%	0.315896739	0.317622951	0.319368132	0.321132597
11-3/4%	0.319293478	0.321038251	0.322802198	0.324585635

TABLE 2 (Continued)

11-7/8%	0.322690217	0.324453552	0.326236264	0.328038674
12%	0.326086957	0.327868852	0.329670330	0.331491713
12-1/8%	0.329483696	0.331284153	0.333104396	0.334944751
12-1/4%	0.332880435	0.334699454	0.336538462	0.338397790
12-3/8%	0.336277174	0.338114754	0.339972527	0.341850829
12-1/2%	0.339673913	0.341530055	0.343406593	0.345303867
12-5/8%	0.343070652	0.344945355	0.346840659	0.348756906
12-3/4%	0.346467391	0.348360656	0.350274725	0.352209945
12-7/8%	0.349864130	0.351775956	0.353708791	0.355662983
13%	0.353260870	0.355191257	0.357142857	0.359116022
13-1/8%	0.356657609	0.358606557	0.360576923	0.362569061
13-1/4%	0.360054348	0.362021858	0.364010989	0.366022099
13-3/8%	0.363451087	0.365437158	0.367445055	0.369475138
13-1/2%	0.366847826	0.368852459	0.370879121	0.372928177
13-5/8%	0.370244565	0.372267760	0.374313187	0.376381215
13-3/4%	0.373641304	0.375683060	0.377747253	0.379834254
13-7/8%	0.377038043	0.379098361	0.381181319	0.383287293
14%	0.380434783	0.382513661	0.384615385	0.386740331
14-1/8%	0.383831522	0.385928962	0.388049451	0.390193370
14-1/4%	0.387228261	0.389344262	0.391483516	0.393646409
14-3/8%	0.390625000	0.392759563	0.394917582	0.397099448
14-1/2%	0.394021739	0.396174863	0.398351648	0.400552486
14-5/8%	0.397418478	0.399590164	0.401785714	0.404005525
14-3/4%	0.400815217	0.403005464	0.405219780	0.407458564
14-7/8%	0.404211957	0.406420765	0.408653846	0.410911602
15%	0.407608696	0.409836066	0.412087912	0.414364641
15-1/8%	0.411005435	0.413251366	0.415521978	0.417817680
15-1/4%	0.414402174	0.416666667	0.418956044	0.421270718
15-3/8%	0.417798913	0.420081967	0.422390110	0.424723757
15-1/2%	0.421195652	0.423497268	0.425824176	0.428176796
15-5/8%	0.424592391	0.426912568	0.429258242	0.431629834
15-3/4%	0.427989130	0.430327869	0.432692308	0.435082873
15-7/8%	0.431385870	0.433743169	0.436126374	0.438535912
16%	0.434782609	0.437158470	0.439560440	0.441988950

TABLE 2 (Continued)

16-1/8%	0.438179348	0.440573770	0.442994505	0.445441989
16-1/4%	0.441576087	0.443989071	0.446428571	0.448895028
16-3/8%	0.444972826	0.447404372	0.449862637	0.452348066
16-1/2%	0.448369565	0.450819672	0.453296703	0.455801105
16-5/8%	0.451766304	0.454234973	0.456730769	0.459254144
16-3/4%	0.455163043	0.457650273	0.460164835	0.462707182
16-7/8%	0.458559783	0.461065574	0.463598901	0.466160221
17%	0.461956522	0.464480874	0.467032967	0.469613260
17-1/8%	0.465353261	0.467896175	0.470467033	0.473066298
17-1/4%	0.468750000	0.471311475	0.473901099	0.476519337
17-3/8%	0.472146739	0.474726776	0.477335165	0.479972376
17-1/2%	0.475543478	0.478142077	0.480769231	0.483425414
17-5/8%	0.478940217	0.481557377	0.484203297	0.486878453
17-3/4%	0.482336957	0.484972678	0.487637363	0.490331492
17-7/8%	0.485733696	0.488387978	0.491071429	0.493784530
18%	0.489130435	0.491803279	0.494505495	0.497237569
18-1/8%	0.492527174	0.495218579	0.497939560	0.500690608
18-1/4%	0.495923913	0.498633880	0.501373626	0.504143646
18-3/8%	0.499320652	0.502049180	0.504807692	0.507596685
18-1/2%	0.502717391	0.505464481	0.508241758	0.511049724
18-5/8%	0.506114130	0.508879781	0.511675824	0.514502762
18-3/4%	0.509510870	0.512295082	0.515109890	0.517955801
18-7/8%	0.512907609	0.515710383	0.518543956	0.521408840
19%	0.516304348	0.519125683	0.521978022	0.524861878
19-1/8%	0.519701087	0.522540984	0.525412088	0.528314917
19-1/4%	0.523097826	0.525956284	0.528846154	0.531767956
19-3/8%	0.526494565	0.529371585	0.532280220	0.535220994
19-1/2%	0.529891304	0.532786885	0.535714286	0.538674033
19-5/8%	0.533288043	0.536202186	0.539148352	0.542127072
19-3/4%	0.536684783	0.539617486	0.542582418	0.545580110
19-7/8%	0.540081522	0.543032787	0.546016484	0.549033149
20%	0.543478261	0.546448087	0.549450549	0.552486188

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C. Short First Payment Period

In cases where the first interest payment period for a bond or note covers less than a full half-year period (a "short coupon"), the daily interest decimal is multiplied by the number of days from but not including the issue date, to and including the first interest payment date, resulting in the amount of the interest payable per $1,000. In cases where the par amount of securities is greater than $1,000, the appropriate multiple should be applied to the unrounded interest payment for $1,000.

Example

A 2-year note paying 8⅜ percent interest was issued on July 2, 1990, with the first interest payment due on December 31, 1990. The number of days in the full half-year period of June 30 to December 31, 1990, was 184 (see Table 1). The number of days for which interest actually accrued was 182 (not including July 2, but including December 31). The daily interest decimal, $0.227581522 (see Table 2, line for 8⅜ percent, under the column for half-year of 184 days), was multiplied by 182, resulting in a payment of $41.419837004 per $1,000. Since the note was issued in a minimum denomination of $5,000, $41.419837004 was multiplied by 5, resulting in a payment of $207.099185020, or $207.10, for a $5,000 note. For $20,000 of these notes, $41.419837004 would be multiplied by 20, resulting in a payment of $828.39674008 ($828.40).

D. Long First Payment Period

In cases where the first interest payment period for a bond or note covers more than a full half-year period (a "long coupon"), the daily interest decimal is multiplied by the number of days from but not including the issue date, to and including the last day of the fractional period that ends one full half-year before the interest payment date. That amount is added to the regular interest amount for the full half-year ending on the first interest payment date, resulting in the amount of interest payable for $1,000. In cases where the par amount of securities is greater than $1,000, the appropriate multiple should be applied to the unrounded interest payment amount for $1,000.

Example

A 5-year 2-month note paying 7⅞ percent interest was issued on December 3, 1990, with the first interest payment due on August 15, 1991. Interest for the regular half-year portion of the payment was computed to be $39.375 per $1,000. The fractional portion of the payment, from December 3 to February 15, fell in a 184-day half-year (August 15, 1990, to February 15, 1991). Accordingly, the daily interest decimal for 7⅞ percent was $0.213994565. This decimal, multiplied by 74 (the number of days from but not including December 3, 1990, to and including February 15), resulted in interest for the fractional portion of $15.835597810. When added to $39.375 (the normal interest payment portion ending on August 15, 1991), this produced a first interest payment of $55.210597810, on $55.21 per $1,000. For $7,000 of these notes, $55.210597810 would be multiplied by 7, resulting in an interest payment of $386.474184670 ($386.47).

E. Accrued Interest

Accrued interest will be payable by the purchaser of a Treasury bond or note when interest accrues prior to the issue date of the security. Because the purchaser receives a full interest payment despite having held the security for only a portion of the interest payment period, the Treasury is compensated through the payment of accrued interest at settlement.

If accrued interest covers a fractional portion of a full half-year period, the number of days in the full half-year period and the stated interest rate will determine the daily interest decimal to be used in computing the accrued interest. The decimal is multiplied by the number of days that interest has accrued prior to settlement. If a reopened bond or note has a long first interest payment period (a "long coupon"), and the settlement date for the reopened issue is less than six full months before the first interest payment, the accrued interest will fall into two separate half-year periods, and a separate daily interest decimal must be multiplied by the respective number of days in each half-year period during which interest has accrued. All accrued interest computations are rounded to five decimal places for a $1,000 par amount, using normal rounding procedures. Accrued interest for securities of an amount greater than $1,000 is calculated by applying the appropriate multiple to accrued interest payable for $1,000, taken to five decimal places.

Examples

(1) Involving One Half-Year:

An 8¾ percent bond, originally issued on August 15, 1990, as a 30-year bond with a first interest payment date of February 15, 1991, was reopened as a 29-year 9-month bond on November 15, 1990. Interest had accrued for 92 days, from August 15 to November 15. The regular interest period from August 15 to February 15, 1991, covered 184 days. Accordingly, the daily interest decimal, $0.237771739, multiplied by 92, resulted in accrued interest payable of $21.874999988, or $21.87500, for each $1,000 bond purchased. If the bonds are in the amount of $150,000, then 150 is multiplied by $21.87500, resulting in an amount payable of $3,281.25.

(2) Involving Two Half-Years:

A 10¾ percent bond, originally issued on July 2, 1985, as a 20-year 1-month bond, with a first interest payment date of February 15, 1986, was reopened as a 19-year 10-month bond on November 4, 1985. Interest had accrued for 44 days, from July 2 to August 15, 1985, during a 181-day half-year (February 15 to August 15); and for 81 days, from August 15 to November 4, during a 184-day half-year (August 15, 1985, to February 15, 1986). Accordingly, $0.296961326 was multiplied by 44, and $0.292119565 was multiplied by 81, resulting in products of $13.066298344 and $23.661684765, which, added together, resulted in accrued interest payable of $36.727983109, or $36.72798, for each $1,000 bond purchased. If the bonds are in the amount of $11,000, then 11 is multiplied by $36.72798, resulting in an amount payable of $404.00778 ($404.01).

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II. FORMULAS FOR CONVERSION OF BOND AND NOTE YIELDS TO EQUIVALENT PRICES[3]

Definitions

P = price per 100 (dollars), rounded to three places, using normal rounding procedures

C = the regular annual interest per $100, payable semiannually, e.g., 10.125 (the decimal equivalent of a 10-1/8% interest rate)

i = nominal annual rate of return or yield, based on semiannual interest payments and expressed in decimals, e.g., .0719

n = number of full semiannual periods from the issue date to maturity, except that, if the issue date is a coupon frequency date, n will be one less than the number of full semiannual periods remaining to maturity. Coupon frequency dates are the two semiannual dates based on the maturity date of each note or bond issue. For example, a security maturing on November 15, 1995, would have coupon frequency dates of May 15 and November 15.

r = (1) number of days from the issue date to the first interest payment (regular or short first payment period), or (2) number of days in fractional portion (or "initial short period") of long first payment period

s = (1) number of days in the full semiannual period ending on the first interest payment date (regular or short first payment period), or (2) number of days in the full semiannual period in which the fractional portion of a long first payment period falls, ending at the onset of the regular portion of the first interest payment

$v^n = 1 / [(1 + i/2)]^n$ = present value of 1 due at the end of n periods

$a_{\overline{n|}} = (1 - v^n) / (i/2) = v + v^2 + v^3 + \ldots + v^n$ = present value of 1 per period for n periods

A = accrued interest

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[3] In the following examples, intermediate rounding is used to allow the reader to follow the calculations. In actual practice, the Treasury does not round prior to determining the final result.

A. For bonds and notes with a regular first interest payment period:

Formula:

$$P[1 + (r/s)(i/2)] = (C/2)(r/s) + (C/2)a_{\overline{n}|} + 100\ v^n$$

Example:

For an 8-3/4% thirty-year bond, issued May 15, 1990, due May 15, 2020, with interest payments on November 15 and May 15, solve for the price per 100 (P) at a yield of 8.84%.

Definitions:

C = 8.75
i = .0884
r = 184 (May 15 to November 15, 1990)
s = 184 (May 15 to November 15, 1990)
n = 59 (There are 60 full semiannual periods, but n is reduced by 1 because the issue date is a coupon frequency date.)

$v^n = 1 / [(1 + .0884 / 2)]^{59}$, or .077940

$a_{\overline{n}|} = (1 - .077940) / .0442$, or 20.861086

Resolution:

$$P[1 + (r/s)(i/2)] = (C/2)(r/s) + (C/2)a_{\overline{n}|} + 100\ v^n \quad \text{or}$$

$$P[1 + (184/184)(.0884/2)] = (8.75/2)(184/184) + (8.75/2)(20.861086) + 100(.077940)$$

(1) $P[1 + .0442] = 4.375 + 91.267251 + 7.7940$

(2) $P[1.0442] = 103.436251$

(3) $P = 103.436251 \div 1.0442$

(4) $P = 99.057892$

(5) $P = 99.058$

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B. For bonds and notes with a short first interest payment period:

Formula:

$$P[1 + (r/s)(i/2)] = (C/2)(r/s) + (C/2)a_{\overline{n}|} + 100\ v^{n}$$

Example:

For an 8-1/2% two-year note, issued April 2, 1990, due March 31, 1992, with interest payments on September 30 and March 31, solve for the price per 100 (P) at a yield of 8.59%.

Definitions:

C = 8.50
i = .0859
n = 3
r = 181 (April 2 to September 30, 1990)
s = 183 (March 31 to September 30, 1990)
$v^{n} = 1 / [(1 + .0859 / 2)]^{3}$, or .881474
$a_{\overline{n}|} = (1 - .881474) / .04295$, or 2.759627

Resolution:

$P[1 + (r/s)(i/2)] = (C/2)(r/s) + (C/2)a_{\overline{n}|} + 100\ v^{n}$ or

$$P[1 + (181/183)(.0859/2)] = (8.50/2)(181/183) + (8.50/2)(2.759627) + 100(.881474)$$

(1) $P[1 + .042481] = 4.203552 + 11.728415 + 88.1474$

(2) $P[1.042481] = 104.079367$

(3) $P = 104.079367 \div 1.042481$

(4) $P = 99.838143$

(5) $P = 99.838$

C. For bonds and notes with a long first interest payment period:

Formula:

$$P[1 + (r/s)(i/2)] = [(C/2)(r/s)]v + (C/2)a_{\overline{n|}} + 100\ v^n$$

Example:

For an 8-1/2% five-year two-month note, issued March 1, 1990, due May 15, 1995, with interest payments on November 15 and May 15 (first payment on November 15, 1990), solve for the price per 100 (P) at a yield of 8.53%.

Definitions:

C = 8.50
i = .0853
n = 10
r = 75 (March 1 to May 15, 1990, which is the fractional portion of the first interest payment)
s = 181 (November 15, 1989, to May 15, 1990)
v = 1 / (1 + .0853 / 2), or .959095
v^n = $1 / (1 + .0853 / 2)^{10}$, or .658589
$a_{\overline{n|}}$ = (1 - .658589) / .04265, or 8.004947

Resolution:

$$P[1 + (r/s)(i/2)] = [(C/2)(r/s)]v + (C/2)a_{\overline{n|}} + 100\ v^n \quad \text{or}$$

$$P[1 + (75/181)(.0853/2)] = [(8.50/2)(75/181)].959095 + (8.50/2)(8.004947) + 100(.658589)$$

(1) $P[1 + .017673] = 1.689014 + 34.021025 + 65.8589$

(2) $P[1.017673] = 101.568939$

(3) $P = 101.568939 \div 1.017673$

(4) $P = 99.805084$

(5) $P = 99.805$

D. (1) For bonds and notes reopened during a regular interest period where the purchase price includes predetermined accrued interest.

(2) For new bond and note issues accruing interest from the coupon frequency date immediately preceding the issue date, with the interest rate established in the auction being used to determine the accrued interest payable on the issue date.

Formula:

$$(P + A)[1 + (r/s)(i/2)] = C/2 + (C/2)a_{\overline{n|}} + 100\ v^n$$

Where $A = [(s-r) / s](C/2)$

Example:

For a 9-1/2% ten-year note, interest accruing from November 15, 1985, issued November 29, 1985, due November 15, 1995, with interest payments on May 15 and November 15, solve for the price per 100 (P) at a yield of 9.54%. Accrued interest is from November 15 to November 29 (14 days).

Definitions:

$C = 9.50$

$i = .0954$

$n = 19$

$r = 167$ (November 29, 1985, to May 15, 1986)

$s = 181$ (November 15, 1985, to May 15, 1986)

$v^n = 1 / [(1 + .0954/2)]^{19}$, or .412570400

$a_{\overline{n|}} = (1 - .412570) / .0477$, or 12.315094

$A = [(181 - 167) / 181](9.50 / 2)$, or .367403

Resolution:

$$(P + A)[1 + (r/s)(i/2)] = C/2 + (C/2)a_{\overline{n|}} + 100\ v^n \quad \text{or}$$

$$(P + .367403)[1 + (167/181)(.0954/2)] = (9.50/2) + (9.50/2)(12.315094) + 100(.412570)$$

(1) $(P + .367403)[1 + .044011] = 4.75 + 58.496697 + 41.2570$

(2) $(P + .367403)[1.044011] = 104.503697$

(3) $(P + .367403) = 104.503697 \div 1.044011$

(4) $(P + .367403) = 100.098272$

(5) $P = 100.098272 - .367403$

(6) $P = 99.730869$

(7) $P = 99.731$

E. For bonds and notes reopened during the regular portion of a long first payment period:

Formula:

$$(P + A)[1 + (r/s)(i/2)] = (r'/s'')(C/2) + C/2 + (C/2)a_{\overline{n}|} + 100\,v^n$$

Where $A = AI' + AI$
$AI' = (r'/s'')(C/2)$
$AI = [(s-r) / s](C/2)$

and r = number of days from the reopening date to the first interest payment date

s = number of days in the semiannual period for the regular portion of the first interest payment period

r' = number of days in the fractional portion (or "initial short period") of the first interest payment period

s'' = number of days in the semiannual period ending with the commencement date of the regular portion of the first interest payment period

Example:

For a 10-3/4% 19-year 9-month bond due August 15, 2005, originally issued on July 2, 1985, and reopened on November 4, 1985, with interest payments on February 15 and August 15 (first payment on February 15, 1986), solve for the price per 100 (P) at a yield of 10.47%. Accrued interest is from July 2 to November 4.

Definitions:
$C = 10.75$
$i = .1047$
$n = 39$
$r = 103$ (November 4, 1985, to February 15, 1986)
$s = 184$ (August 15, 1985, to February 15, 1986)
$r' = 44$ (July 2 to August 15, 1985)
$s'' = 181$ (February 15 to August 15, 1985)
$v^n = 1 / [(1 + .1047 / 2)]^{39}$, or .136695
$a_{\overline{n}|} = (1 - .136695) / .05235$, or 16.491022
$AI' = (44 / 181)(10.75 / 2)$, or 1.306630
$AI = [(184 - 103) / 184](10.75 / 2)$, or 2.366168
$A = AI' + AI$, or 3.672798

Resolution:

$$(P + A)[1 + (r/s)(i/2)] = (r'/s'')(C/2) + C/2 + (C/2)a_{\overline{n}|} + 100\,v^n, \text{ or}$$

$$(P + 3.672798)[1 + (103/184)(.1047/2)] = (44/181)(10.75/2) + 10.75/2 + (10.75/2)(16.491022) + 100(.136695)$$

(1) $(P + 3.672798)[1 + .029305] = 1.306630 + 5.375 + 88.639243 + 13.6695$
(2) $(P + 3.672798)[1.029305] = 108.990373$
(3) $(P + 3.672798) = 108.990373 \div 1.029305$
(4) $(P + 3.672798) = 105.887344$
(5) $P = 105.887344 - 3.672798$
(6) $P = 102.214546$
(7) $P = 102.215$

F. For bonds and notes reopened during a short first payment period:

Formula:

$$(P + A)[1 + (r/s)(i/2)] = (r''/s)(C/2) + (C/2)a_{\overline{n}|} + 100\ v^{n}$$

Where $A = [(r''-r) / s](C/2)$

and r'' = number of days from the original issue date to the first interest payment date

Example:

For a 10-1/2% 8-year note due May 15, 1991, originally issued on May 16, 1983, and reopened on August 15, 1983, with interest payments on November 15 and May 15 (first payment on November 15, 1983), solve for the price per 100 (P) at a yield of 10.53%. Accrued interest is from May 16 to August 15. This example does not reflect an issue actually made by the Treasury.

Definitions:

$C = 10.50$

$i = .1053$

$n = 15$

$r = 92$ (August 15, 1983, to November 15, 1983)

$s = 184$ (May 15, 1983, to November 15, 1983)

$r'' = 183$ (May 16, 1983, to November 15, 1983)

$v^{n} = 1 / [(1 + .1053 / 2)]^{15}$, or .463170

$a_{\overline{n}|} = (1 - .463170) / .05265$, or 10.196201

$A = [(183 - 92) / 184](10.50 / 2)$, or 2.596467

Resolution:

$$(P + A)[1 + (r/s)(i/2)] = (r''/s)(C/2) + (C/2)a_{\overline{n}|} + 100\ v^{n} \quad \text{or}$$

$$(P + 2.596467)[1 + (92/184)(.1053/2)] = (183/184)(10.50/2) + (10.50/2)(10.196201) + 100(.463170)$$

(1) $(P + 2.596467)[1 + .026325] = 5.221467 + 53.530055 + 46.3170$

(2) $(P + 2.596467)[1.026325] = 105.068522$

(3) $(P + 2.596467) = 105.068522 \div 1.026325$

(4) $(P + 2.596467) = 102.373539$

(5) $P = 102.373539 - 2.596467$

(6) $P = 99.777072$

(7) $P = 99.777$

G. For bonds and notes reopened during the fractional portion (initial short period) of a long first payment period:

Formula:

$$(P + A)[1 + (r/s)(i/2)] = [(r'/s)(C/2)]v + (C/2)a_{\overline{n|}} + 100\ v^n$$

Where $A = [(r'-r) / s](C/2)$

and r = number of days from the reopening's settlement date to the end of the short period

r' = number of days in the short period

s = number of days in the semiannual period ending with the end of the short period

Example:

For a 9-3/4% 6-year 2-month note due December 15, 1994, originally issued on October 15, 1988, and reopened on November 15, 1988, with interest payments on June 15 and December 15 (first payment on June 15, 1989), solve for the price per 100 (P) at a yield of 9.79%. Accrued interest is from October 15 to November 15.

Definitions:

$C = 9.75$
$i = .0979$
$n = 12$
$r = 30$ (November 15, 1988, to December 15, 1988)
$s = 183$ (June 15, 1988, to December 15, 1988)
$r' = 61$ (October 15, 1988, to December 15, 1988)
$v = 1 / (1 + .0979 / 2)$, or .953334
$v^n = [1 / (1 + .0979 / 2)]^{12}$, or .563563
$a_{\overline{n|}} = (1 - .563563) / .04895$, or 8.915975
$A = [(61 - 30) / 183](9.75 / 2)$, or .825820

Resolution:

$(P + A)[1 + (r/s)(i/2)] = [(r'/s)(C/2)]v + (C/2)a_{\overline{n|}} + 100\ v^n$ or

$$(P + .825820)[1 + (30/183)(.0979/2)] = [(61/183)(9.75/2)](.953334) + (9.75/2)(8.915975) + 100(.563563)$$

(1) $(P + .825820)[1 + .008025] = 1.549168 + 43.465378 + 56.3563$

(2) $(P + .825820)[1.008025] = 101.370846$

(3) $(P + .825820) = 101.370846 \div 1.008025$

(4) $(P + .825820) = 100.563821$

(5) $P = 100.563821 - .825820$

(6) $P = 99.738001$

(7) $P = 99.738$

Note: This example does not reflect an actual Treasury issue

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III. COMPUTATION OF PURCHASE PRICES, DISCOUNT RATES, AND INVESTMENT RATES (EQUIVALENT COUPON-ISSUE YIELDS) FOR TREASURY BILLS

A. Conversion of the discount rate to a purchase price for Treasury bills of all lengths:

Formula:

$P = 100 (1 - dr/360)$

Where d = discount rate, in decimals

r = number of days remaining to maturity

p = price per 100 (dollars)

Example:

For a bill issued November 24, 1989, due February 22, 1990, at a discount rate of 7.61%, solve for price per 100 (P).

Definitions:

$d = .0761$

$r = 90$ (November 24, 1989 to February 22, 1990)

Resolution:

$P = 100 (1 - dr/360)$

(1) $P = 100 [1 - (.0761) (90)/360]$

(2) $P = 100 (1 - .019025)$

(3) $P = 100 (.980975)$

(4) $P = 98.0975$

(5) $P = 98.098$

Note: Purchase prices per $100 are rounded to three decimal places, using normal rounding procedures.

B. Computation of purchase prices and discount amounts based on price per $100, for Treasury bills of all lengths:

1. To determine the purchase price of any bill, divide the par amount by 100 and multiply the resulting quotient by the price per $100.

Example

To compute the purchase price of a $10,000 13-week bill sold at a price of $98.098 per $100, divide the par amount ($10,000) by 100 to obtain the multiple (100). That multiple times 98.098 results in a purchase price of $9,809.80.

2. To determine the discount amount for any bill, simply subtract the purchase price from the par amount of the bill.

Example

For a $10,000 bill with a purchase price of $9,809.80, the discount amount would be $190.20, or $10,000 − $9,809.80.

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C. Conversion of prices to discount rates for Treasury bills of all lengths:

Formula:

$$d = \left[\frac{100-P}{100} \times \frac{360}{r} \right]$$

Where P = price per 100 (dollars)
d = discount rate
r = number of days remaining to maturity

Example:

For a 26-week bill issued December 30, 1982, due June 30, 1983, with a price of $95.930, solve for the discount rate (d).

Definitions:

P = 95.930

r = 182 (December 30, 1982, to June 30, 1983)

Resolution:

$$d = \left[\frac{100-P}{100} \times \frac{360}{r} \right]$$

$$(1)\ d = \left[\frac{100-95.930}{100} \times \frac{360}{182} \right]$$

$$(2)\ d = [.0407 \times 1.978022]$$

$$(3)\ d = .080506$$

$$(4)\ d = 8.051\%$$

Note:
Since April 18, 1983, bills have been sold only on a discount rate basis, where the discount rates bid are submitted with two decimals, e.g., 7.32%. In price-basis auctions, discount rates calculated from prices were rounded to three places, using normal rounding procedures. This particular example reflects an actual price-basis auction.

D. Calculation of investment rates (equivalent coupon-issue yields) for Treasury bills:

1. For bills of not more than one half-year in length:

Formula:

$$i = \left[\frac{100-P}{P} \times \frac{y}{r}\right]$$

Where i = investment rate in decimals

P = price per 100 (dollars)

r = number of days remaining to maturity

y = number of days in year following the issue date; normally 365 but, if the year following the issue date includes February 29, then y is 366.

Example:

For a cash management bill issued June 1, 1990, due June 21, 1990, with a price of \$99.559 (computed from a discount rate of 7.93%), solve for the investment rate (i).

Definitions:

$P = 99.559$
$r = 20$ (June 1, 1990, to June 21, 1990)
$y = 365$

Resolution:

$$i = \left[\frac{100-P}{P} \times \frac{y}{r}\right]$$

$$(1)\ i = \left[\frac{100-99.559}{99.559} \times \frac{365}{20}\right]$$

$$(2)\ i = [.004430 \times 18.25]$$

$$(3)\ i = .080848$$

$$(4)\ i = 8.08\%$$

Note:

In the Treasury's auction results press releases, investment rates are shown to two decimal places.

2. For bills of more than one half-year in length:

Formula: $P\,[1 + (r - y/2)(i/y)]\,(1 + i/2) = 100$

This formula must be solved by using the quadratic equation, which is:

$$ax^2 + bx + c = 0$$

Therefore, rewriting the bill formula in the quadratic equation form gives:

$$\left[\frac{r}{2y} - .25\right]i^2 + \left(\frac{r}{y}\right)i + \left(\frac{P-100}{P}\right) = 0$$

and solving for "i" produces:

$$i = \frac{-b + \sqrt{b^2 - 4ac}}{2a}$$

Where i = investment rate in decimals
$b = r / y$
$a = (r / 2y) - .25$
$c = (P - 100) / P$
P = price per 100 (dollars)
r = number of days remaining to maturity
y = number of days in year following the issue date; normally 365, but if the year following the issue date includes February 29, then y is 366.

Example:
For a 52-week bill issued June 7, 1990, due June 6, 1991, with a price of $92.265 (computed from a discount rate of 7.65%), solve for the investment rate (i).

Definitions:
r = 364 (June 7, 1990, to June 6, 1991)
y = 365
P = 92.265
b = 364 / 365, or .997260
a = (364 / 730) - .25, or .24863
c = (92.265 - 100) / 92.265, or -.083835

Resolution:

$$i = \frac{-b + \sqrt{b^2 - 4ac}}{2a}$$

$$(1)\ i = \frac{-.997260 + \sqrt{(.997260)^2 - 4[(.24863)(-.083835)]}}{2(.248630)}$$

(Continued)

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$$(2)\ i = \frac{-.997260 + \sqrt{.994528 + .083376}}{.497260}$$

$$(3)\ i = (-.997260 + 1.038222)\ /\ .497260$$

$$(4)\ i = .040962\ /\ .497260$$

$$(5)\ i = .082375 \quad \text{or}$$

$$(6)\ i = 8.24\%$$

Exhibit A to Part 356

Sample Announcements, Including Highlights of Treasury Offerings to the Public

I. Treasury Quarterly Financing Announcement including Highlights;
II. Treasury Weekly Bill Announcement including Highlights; and
III. Treasury Cash Management Bill Announcement including Highlights.

Format I—Treasury Quarterly Financing Announcement

For Release When Authorized at Press Conference

May 1, 19XX

Contact: Office of Financing, 202/219–3350

The Treasury will auction two notes and one bond totaling approximately $37,000 million, to be issued May 15, 19XX. This offering will provide about $18,025 million of new cash and will refund $18,976 million of securities maturing that date.

In addition to the public holdings, Federal Reserve Banks hold $3,662 million of the maturing securities for their own accounts, which may be refunded by issuing additional amounts of the new securities at the average yield of accepted competitive tenders.

The maturing securities held by the public include $1,099 million held by Federal Reserve Banks as agents for foreign and international monetary authorities. Amounts bid for these accounts by Federal Reserve Banks will be added to the offering. Bids for such accounts will be accepted at the average yield of accepted competitive tenders.

The 9-¾-year note and 30-year bond being offered today will be eligible for the STRIPS program.

Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C.

Details about each of the new securities are given in the attached offering highlights and in the Treasury Department's Uniform Offering Circular.

Attachment

HIGHLIGHTS OF TREASURY OFFERINGS

[May 19XX Quarterly Financing]

Offering amount	$13,500	$11,750 million	$11,750 million.
Description of offering:			
Term and type of security	3-year notes	9¾ year notes	30-year bonds of 20XX.
Series	Series S–19XX	Series A–20XX	Bonds of May 20XX.
CUSIP number	912827 A7 7	912827 ZX 3	912810 EJ 3.
Auction date	May 7, 19XX	May 8, 19XX	May 9, 19XX.
ssue date	May 15, 19XX	May 15, 19XX	May 15, 19XX.
Dated date	May 15, 19XX	February 15, 19XX	May 15, 19XX.
Maturity date	May 15, 19XX	February 15, 20XX	May 15, 20XX.
Interest rate	Determined based on the average of accepted competitive bids.	7¾%	Determined based on the average of accepted competitive bids.
Yield	Determined at auction	Determined at auction	Determined at auction.
Interest payment dates	November 15 and May 15	August 15 and February 15	November 15 and May 15.
Minimum bid amount	$5,000	$1,000	$1,000.
Multiples	$5,000	$1,000	$1,000.
Accrued interest payable by investor	None	$19.05387 per $1,000	None.
Premium or discount	Determined at auction	Determined at auction	Determined at auction.
STRIPS information:			
Minimum amount required	Not applicable	$800,000	Determined at auction.
Corpus CUSIP number	Not applicable	912820 AZ 0	912803 AW 3.
New TINT CUSIP number	Not applicable	Not applicable	912833 LD 0.
New TINT due date	Not applicable	Not applicable	May 15, 20XX.

The following rules apply to all securities mentioned above:

Submission of Bids:	
Noncompetitive bids	Accepted in full up to $5,000,000 at the weighted average yield of accepted competitive bids.
Competitive bids	(1) Must be expressed as an an annual yield with two decimals, e.g., 7.10%. (2) [illegible]ng position for each bidder must be reported when the sum of the total bid amount, at [illegible]yields, and the net long position are $2 billion or greater. (3) Net long position as of one half-hour prior to the closing time for receipt of competitive bids must be reported.
Maximum recognized bid at a single yield	35% of offering amount.
Maximum award	35% of offering amount.
Receipt of tenders:	
Noncompetitive tenders	Prior to 12:00 noon Eastern time on auction day.

Competitive tenders	Prior to 1:00 p.m. Eastern time on auction day.
Payment terms	Full payment with tender or by charge to a funds account on issue date.

Format II—Treasury Weekly Bill Announcement

For Release at 2:30 p.m.

October 9, 19XX

Contact: Office of Financing, 202/219-3350

Treasury's Weekly Bill Offering

The Treasury will auction two series of Treasury bills totaling approximately $18,800 million, to be issued October 18, 19XX. This offering will provide about $1,375 million of new cash, as the maturing weekly bills are currently outstanding in the amount of $17,421 million.

Federal Reserve Banks hold $4,294 million of the maturing bills for their own accounts, which may be refunded within the offering amount at the weighted average discount rate of accepted competitive tenders.

Federal Reserve Banks hold $1,104 million as agents for foreign and international monetary authorities, which may be refunded within the offering amount at the weighted average discount rate of accepted competitive tenders. Additional amounts may be issued for such accounts if the aggregate amount of new bids exceeds the aggregate amount of maturing bills.

Tenders for the bills will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C.

Details about each of the new securities are given in the attached offering highlights and in the Treasury Department's Uniform Offering Circular.

Attachment

HIGHLIGHTS OF TREASURY OFFERINGS OF WEEKLY BILLS

Offering amount	$9,400 million	$9,400 million.
Description of offering:		
Term and type of security	91-day bill	182-day bill.
CUSIP number	912794 VR 2	912794 WE 0.
Auction date	October 15, 19XX	October 15, 19XX.
Issue date	October 18, 19XX	October 18, 19XX.
Maturity date	January 17, 19XX	April 18, 19XX.
Original issue date	January 18, 19XX	October 18, 19XX.
Currently outstanding	$19,127 million	
Minimum bid amount	$10,000	$10,000.
Multiples	$5,000	$5,000.

The following rules apply to all securities mentioned above:

Submission of Bids:	
Noncompetitive bids	Accepted in full up to $1,000,000 at the weighted average discount rate of accepted competitive bids.
Competitive bids	(1) Must be expressed as a discount rate with two decimals, e.g., 7.10%. (2) Net long position for each bidder must be reported when the sum of the total bid amount, at all discount rates, and the net long position are $2 billion or greater. (3) Net long position must be reported one half-hour prior to the closing time for receipt of competitive bids.
Maximum recognized bid at a single yield	35% of public offering.
Maximum award	35% of public offering.
Receipt of Tenders:	
Noncompetitive tenders	Prior to 12:00 Eastern time on auction day.
Competitive tenders	Prior to 1:00 p.m. Eastern time on auction day.
Payment terms	Full payment with tender or by charge to a funds account on issue date.

Format III—Treasury Cash Management Bill Announcement

For Release at 2:30 p.m.

August 27, 19XX

Contact: Office of Financing 202/219–3350

Treasury to Auction Cash Management Bills

The Treasury will auction approximately $5,000 million of 16-day Treasury cash management bills to be issued September 3, 19XX.

Competitive tenders will be received at all Federal Reserve Banks and Branches. Noncompetitive tenders will *not* be accepted. Tenders will not be received at the Bureau of the Public Debt, Washington, D.C.

Details about the new security are given in the attached offering highlights and in the Treasury Department's Uniform Offering Circular.

Attachment

HIGHLIGHTS OF TREASURY OFFERING OF 16-DAY CASH MANAGEMENT BILL

Offering	$5,000 million.
Description of offering:	
Term and type of security.	16-day Cash Management Bill.
CUSIP number	912794 XG 4.
Auction date	August 29, 19XX.
Issue date	September 3, 19XX.
Maturity date	September 19, 19XX.
Original issue date	March 21, 19XX.
Currently outstanding	$20,125 million.
Minimum bid amount	$1,000,000.
Multiples	$1,000,000.
Minimum to hold amount.	$10,000.
Multiples	$5,000.
Submission of bids:	
Noncompetitive bids	Not accepted.
Competitive bids	(1) Must be expressed as a discount rate with two decimals, e.g., 7.10%.

HIGHLIGHTS OF TREASURY OFFERING OF 16-DAY CASH MANAGEMENT BILL—Continued

	(2) Net long position for each bidder must be reported when the sum of the total bid amount, at all discount rates, and the net long position are $2 billion or greater. (3) Net long position must be reported one half-hour prior to the closing time for receipt of competitive bids.
Maximum recognized bid at a single yield.	35% of offering amount.
Maximum award	35% of offering amount.
Receipt of tenders:	
Noncompetitive tenders.	Not accepted.
Competitive tenders	Prior to 1:00 p.m. Eastern time on auction day.

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HIGHLIGHTS OF TREASURY OFFERING OF 16-DAY CASH MANAGEMENT BILL—Continued

Payment terms	Full payment with tender or by charge to a funds account on issue date.

Exhibit B to Part 356

Sample Autocharge Agreement To Deliver and Charge for Securities Awarded in Department of the Treasury Auctions

Federal Reserve Bank of ______
Attention: (Name of Fiscal Officer)
(Address)
(Address)

To Whom It May Concern:

I. The depository institution ("DI") and the submitting entity ("Submitter"), as identified below, agree that

(a) The Submitter is authorized to submit tenders to the Federal Reserve Bank of ______ ("Bank");

(b) The Bank is authorized to deliver, as provided herein, Treasury securities awarded to the Submitter through the auction process;

(c) The Bank, or other Federal Reserve Bank identified in Section II below, is authorized to change the DI's funds account for payment of awarded securities that are delivered by the Bank hereunder. Such charge is to be made at the same time the securities are delivered;

(d) The Submitter [ ] is, [ ] is not authorized to submit TREASURY DIRECT tenders. Where such tenders are authorized, the Bank is instructed to deliver awarded securities to the TREASURY DIRECT Book-Entry System and charge the DI's funds account for the securities delivered; and

(e) The Bank [ ] is, [ ] is not authorized to deliver the awarded securities to the DI's securities account at a Federal Reserve Bank other than the Bank.

The above authorizations apply to:
[ ] bills [ ] notes [ ] bonds

II. For securities to be delivered to a Federal Reserve Bank other than the Bank receiving the tender, the Submitter must complete the following:

Awarded securities are to be delivered hereunder by the Bank to the DI's securities account at the Federal Reserve Bank of

______

III. The following wire instructions are to be used by the Bank to deliver securities to the DI:

Wire Instructions: ______

IV. General Provisions.

This agreement is effective on the date it is received by the Bank, although the Bank normally will not act under the agreement until it has acknowledged receipt of such.

The Submitter hereunder is the entity submitting bids to a Bank for its own account or for the account of others. The Submitter is responsible to the Treasury for full payment of all securities awarded, including any securities awarded under customer bids submitted by the Submitter.

Any Federal Reserve Bank identified herein is authorized to act on information in any tender in the name of the Submitter that reasonably appears to be valid and genuine. The DI, by executing this agreement, guarantees the authority and signature of the person signing this agreement on behalf of the Submitter.

This agreement will remain in effect until written notice is received by the Bank from either the DI or the Submitter that the agreement has been terminated, provided that if securities are scheduled to be delivered hereunder, such notice must be received in accordance with the termination procedures hereafter described.

As to termination action by the DI, written notice of termination will not be effective unless received by a Fiscal/Securities Department officer of the Bank not later than 8:30 a.m. (the Bank's time) on the business day prior to the issue date of the securities scheduled to be delivered hereunder. Such termination action by the DI shall not affect the Submitter's responsibility to make full payment for the securities awarded.

As to termination action by the Submitter after an auction but prior to delivery of awarded securities, the written notice of termination will not be effective, and this agreement shall remain in full force and effect, unless the Submitter has provided to the Bank, and the latter has acknowledged, a new autocharge agreement executed by a DI having a funds account at a Federal Reserve Bank.

Written notices to be sent hereunder in connection with the termination of this autocharge agreement shall be sent by either the Submitter or the DI to the Bank authorized to receive tenders hereunder.

In the event that this autocharge agreement is terminated, it is the sole responsibility of the party terminating the agreement to notify the other party hereto.

Agreed to by ______
(Full DI Name and ABA #)
Signature: ______
Name: ______
Title: ______
Date: ______

Agreed to by ______
(Full Name of Submitter)
Signature: ______
Name: ______
Title: ______
Date: ______

Acknowledged By: Federal Reserve Bank of ______
("Bank"):
Signature: ______
Name: ______
Title: ______
Date: ______

DI's signature and wire instructions verified by:
(For use only by Federal Reserve Bank named in Section II above)
Signature: ______
Name: ______
Title: ______
Date: ______
Federal Reserve Bank of ______

Instructions for Completing the Autocharge Agreement

1. Depository Institution: This is the DI whose funds account at a Federal Reserve Bank will be debited, under this autocharge agreement, for the price of Treasury securities awarded at auction to the Submitter. Also, this DI must have a book-entry securities account at the Federal Reserve Bank to which securities will be delivered against payment on settlement day pursuant to the autocharge agreement and the Submitter's tender submission.

2. Submitter: The Submitter must identify the full name of the entity that is submitting bids under this autocharge agreement. The name shown on the autocharge agreement should be the same as that appearing on related tender forms.

3. Bank: This is the Federal Reserve Bank to which the Submitter will be submitting tenders in Treasury auctions.

4. Signature for DI: This is the signature of an officer of the DI having authority to enter into or terminate this autocharge agreement, and whose signature is on file at the Federal Reserve Bank where the DI has a funds account.

5. Signature for Submitter: This is the signature of an officer of the Submitter having authority to enter into or terminate the autocharge agreement.

6. Signature for Bank: This is the signature of an officer of the Bank having authority to acknowledge this autocharge agreement.

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EXHIBIT C TO PART 356

MINIMUM PAR AMOUNTS FOR STRIPS

MINIMUM FACE AMOUNTS WHICH ARE MULTIPLES OF $1000 REQUIRED IN ORDER TO PRODUCE INTEREST PAYMENTS THAT ARE MULTIPLES OF $1000.

COUPON (%)	MINIMUM FACE ($)	INTEREST PAYMENT ($)
0.125	1600000.00	1000.00
0.250	800000.00	1000.00
0.375	1600000.00	3000.00
0.500	400000.00	1000.00
0.625	320000.00	1000.00
0.750	800000.00	3000.00
0.875	1600000.00	7000.00
1.000	200000.00	1000.00
1.125	1600000.00	9000.00
1.250	160000.00	1000.00
1.375	1600000.00	11000.00
1.500	400000.00	3000.00
1.625	1600000.00	13000.00
1.750	800000.00	7000.00
1.875	320000.00	3000.00
2.000	100000.00	1000.00
2.125	1600000.00	17000.00
2.250	800000.00	9000.00
2.375	1600000.00	19000.00
2.500	80000.00	1000.00
2.625	1600000.00	21000.00
2.750	800000.00	11000.00
2.875	1600000.00	23000.00
3.000	200000.00	3000.00
3.125	64000.00	1000.00
3.250	800000.00	13000.00
3.375	1600000.00	27000.00
3.500	400000.00	7000.00
3.625	1600000.00	29000.00
3.750	160000.00	3000.00
3.875	1600000.00	31000.00
4.000	50000.00	1000.00
4.125	1600000.00	33000.00
4.250	800000.00	17000.00
4.375	320000.00	7000.00
4.500	400000.00	9000.00
4.625	1600000.00	37000.00
4.750	800000.00	19000.00
4.875	1600000.00	39000.00
5.000	40000.00	1000.00
5.125	1600000.00	41000.00
5.250	800000.00	21000.00
5.375	1600000.00	43000.00
5.500	400000.00	11000.00
5.625	320000.00	9000.00
5.750	800000.00	23000.00
5.875	1600000.00	47000.00
6.000	100000.00	3000.00
6.125	1600000.00	49000.00
6.250	32000.00	1000.00
6.375	1600000.00	51000.00
6.500	400000.00	13000.00
6.625	1600000.00	53000.00
6.750	800000.00	27000.00
6.875	320000.00	11000.00
7.000	200000.00	7000.00
7.125	1600000.00	57000.00
7.250	800000.00	29000.00
7.375	1600000.00	59000.00
7.500	80000.00	3000.00
7.625	1600000.00	61000.00
7.750	800000.00	31000.00
7.875	1600000.00	63000.00
8.000	25000.00	1000.00
8.125	320000.00	13000.00
8.250	800000.00	33000.00
8.375	1600000.00	67000.00
8.500	400000.00	17000.00
8.625	1600000.00	69000.00
8.750	160000.00	7000.00
8.875	1600000.00	71000.00
9.000	200000.00	9000.00
9.125	1600000.00	73000.00
9.250	800000.00	37000.00
9.375	64000.00	3000.00
9.500	400000.00	19000.00
9.625	1600000.00	77000.00
9.750	800000.00	39000.00
9.875	1600000.00	79000.00
10.000	20000.00	1000.00
10.125	1600000.00	81000.00
10.250	800000.00	41000.00
10.375	1600000.00	83000.00
10.500	400000.00	21000.00
10.625	320000.00	17000.00
10.750	800000.00	43000.00
10.875	1600000.00	87000.00
11.000	200000.00	11000.00
11.125	1600000.00	89000.00
11.250	160000.00	9000.00
11.375	1600000.00	91000.00
11.500	400000.00	23000.00
11.625	1600000.00	93000.00
11.750	800000.00	47000.00
11.875	320000.00	19000.00
12.000	50000.00	3000.00
12.125	1600000.00	97000.00
12.250	800000.00	49000.00
12.375	1600000.00	99000.00
12.500	16000.00	1000.00
12.625	1600000.00	101000.00
12.750	800000.00	51000.00
12.875	1600000.00	103000.00
13.000	200000.00	13000.00
13.125	320000.00	21000.00
13.250	800000.00	53000.00
13.375	1600000.00	107000.00
13.500	400000.00	27000.00
13.625	1600000.00	109000.00
13.750	160000.00	11000.00
13.875	1600000.00	111000.00
14.000	100000.00	7000.00
14.125	1600000.00	113000.00
14.250	800000.00	57000.00
14.375	320000.00	23000.00
14.500	400000.00	29000.00
14.625	1600000.00	117000.00
14.750	800000.00	59000.00
14.875	1600000.00	119000.00
15.000	40000.00	3000.00
15.125	1600000.00	121000.00
15.250	800000.00	61000.00
15.375	1600000.00	123000.00
15.500	400000.00	31000.00
15.625	64000.00	5000.00
15.750	800000.00	63000.00
15.875	1600000.00	127000.00
16.000	25000.00	2000.00
16.125	1600000.00	129000.00
16.250	160000.00	13000.00
16.375	1600000.00	131000.00
16.500	400000.00	33000.00
16.625	1600000.00	133000.00
16.750	800000.00	67000.00
16.875	320000.00	27000.00
17.000	200000.00	17000.00
17.125	1600000.00	137000.00
17.250	800000.00	69000.00
17.375	1600000.00	139000.00
17.500	80000.00	7000.00
17.625	1600000.00	141000.00
17.750	800000.00	71000.00
17.875	1600000.00	143000.00
18.000	100000.00	9000.00
18.125	320000.00	29000.00
18.250	800000.00	73000.00
18.375	1600000.00	147000.00
18.500	400000.00	37000.00
18.625	1600000.00	149000.00
18.750	32000.00	3000.00
18.875	1600000.00	151000.00
19.000	200000.00	19000.00
19.125	1600000.00	153000.00
19.250	800000.00	77000.00
19.375	320000.00	31000.00
19.500	400000.00	39000.00
19.625	1600000.00	157000.00
19.750	800000.00	79000.00
19.875	1600000.00	159000.00
20.000	10000.00	1000.00

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Dated: January 21, 1992.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 92-2096 Filed 1-29-92; 8:45 am]

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federal register

Friday
January 31, 1992

Part VII

Department of Labor

Employment Standards Administration, Wage and Hour Division

29 CFR Part 500

Employment Standards Administration; Migrant and Seasonal Agricultural Worker Protection Act; Final Rule

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DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

29 CFR Part 500

Employment Standards Administration; Migrant and Seasonal Agricultural Worker Protection Act

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: The U.S. Department of Labor is effecting a regulatory change that requires increased amounts of vehicle liability insurance as mandated by the Migrant and Seasonal Agricultural Worker Protection Act (MSPA), 29 U.S.C. 1841(b)(1)(C). The Act and the pertinent regulation, 29 CFR 500.121(b), require that the vehicle liability insurance carried by covered employers engaged in transporting migrant and seasonal farmworkers be no less than the amount established by the Interstate Commerce Commission (ICC) for carriers which transport passengers. The ICC, in accordance with the requirements established by the Department of Transportation, increased the amount of vehicle liability insurance coverage required for passenger common carriers (49 FR 1991, Jan. 17, 1984) effective November 19, 1985. The MSPA vehicle liability coverage insurance requirement, therefore, must also increase by operation of law. The MSPA regulation is modified so the new, higher insurance requirements will be enforced effective February 1, 1992.

EFFECTIVE DATE: These final regulations will become effective February 1, 1992.

FOR FURTHER INFORMATION CONTACT: Solomon Sugarman, Chief, Branch of Farm Labor Programs, Division of Farm Labor, Child Labor, and Polygraph Standards, Office of Program Operations, Wage and Hour Division, Employment Standards Administration; Telephone (202) 523–7605. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department issued a Notice (56 FR 64216, December 9, 1991) of its intent to conform the vehicle liability insurance coverage provisions of these regulations to the amounts established for passenger common carriers by the Interstate Commerce Commission (ICC) effective November 19, 1985, and enforce the higher insurance requirements effective February 1, 1992. The notice requested comments on how the increased liability insurance coverage required for the transportation of agricultural workers will affect their transportation and employment. The notice also stated that the insurance increases are required by law. While the public's views on the potential impact of the regulatory change would not provide a basis for not implementing the change required by operation of law, the Department nevertheless requested public input to more fully understand the impact on the regulated community. While several comments opposing the regulatory change have been received, the change, as indicated above, is necessitated by operation of law. Thus, the comments can not be addressed in this rulemaking.

I. Paperwork Reduction Act

This regulation does not contain any new information collection requirements and does not modify any existing requirements. Thus, the regulation is not subject to section 3504(h) of the Paperwork Reduction Act, 44 U.S.C. 3504(h).

II. Background

Pursuant to section 401(b)(3) of MSPA (29 U.S.C. 1841(b)(3)), farm labor contractors, agricultural employers, and associations which transport migrant and seasonal agricultural workers are required to maintain certain minimum levels of insurance coverage sufficient to satisfy liability for personal injury and damage to property, unless the worker(s) being transported are covered by workers' compensation insurance or a liability bond that has been approved by the Secretary of Labor. Section 401(b)(3) of MSPA provides that the required level of vehicle liability insurance coverage shall be at least the amount required for common carriers of passengers under part II of the Interstate Commerce Act (49 U.S.C. 301 *et seq.*), and any successor provision of subtitle IV of title 49 United States Code, and regulations prescribed thereunder. This MSPA statutory directive was implemented in the Department of Labor regulation promulgated in 1983 after the enactment of MSPA (29 CFR 500.121(b)). That regulation sets forth the ICC and Department of Transportation (DOT) insurance requirement in effect at the time that the MSPA regulation was originally promulgated.

The insurance requirements under the Interstate Commerce Act were increased through rulemaking by the ICC on January 17, 1984, effective on November 19, 1985. The revised ICC regulation (49 CFR 1043.2(b)(1)(ii)) prescribes minimum vehicle liability insurance coverage requirements for various classes of passenger carriers based on motor vehicle seating capacity:

15 or fewer passengers	More than 15 passengers
$1,500,000	$5,000,000

The current ICC regulation sets a combined minimum coverage requirement for personal injury and property damage, rather than prescribing separate minimum requirements for each of these insurance categories, as was done in the previous DOT regulation incorporated into the MSPA regulation in 1983. The Department recognizes that the revised insurance coverage minimums apply by operation of law under MSPA and, therefore, must be incorporated into the MSPA regulations. The Department also recognizes that a reasonable transition period is necessary to allow affected members of the public to respond to the change. Therefore, on December 9, 1991, the Department issued a Notice (56 FR 64216) of its intent to conform the MSPA regulations and enforce the above-listed higher vehicle liability insurance coverage requirements, effective February 1, 1992.

Executive Order 12291

The changes made in this rulemaking are necessitated by operation of law (29 U.S.C. 1841(b)(3)). Of approximately 12,000 current MSPA registrants (including 2,100 full-time farm labor contractor employees who are not subject to these insurance requirements), fewer than 1,000 (943) farm labor contractors obtained transportation authorization and were subject to these insurance requirements. Growers and associations may also be subject to insurance requirements but the number of such potentially affected growers and associations, who are not required to register under MSPA, is unknown. Moreover, an unknown portion of the MSPA-regulated community is independently subject to the same vehicle liability insurance coverage requirements under the Interstate Commerce Act. Thus, this regulation is not considered a major rule under Executive Order 12291, because this rule will not independently result in (1) an annual effect in the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or foreign markets. Accordingly, no regulatory impact analysis has been prepared.

Regulatory Flexibility Analysis

While the Department has invited input from the public on the potential effects of implementing the increases in the liability insurance coverage required under MSPA, no notice of proposed rulemaking was required for this rule under 5 U.S.C. 553(b). Therefore, the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) pertaining to regulatory flexibility analyses do not apply to this rule. See 5 U.S.C. 601(2).

Administrative Procedure Act

On December 9, 1991 (56 FR 64216), notice was published in the **Federal Register**, announcing that the new vehicle liability insurance levels set forth herein would be enforced as of February 1, 1992. These levels were established by Interstate Commerce Commission regulations effective November 19, 1985, and, pursuant to the statutory provisions of MSPA, are, as a matter of law, required to be implemented under MSPA. Because of the statutory requirements, and to avoid undue confusion caused by changing the date previously announced, good cause is found to waive the normal requirement for publication not less than 30 days before the effective date of the rule.

Document Preparation

This document was prepared under the direction and control of John R. Fraser, Acting Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

List of Subjects in 29 CFR Part 500

Administrative practice and procedure, Agricultural associations, Agricultural worker, Aliens, Carpooling, Day-Haul, Farmer, Farm labor contractor, Health, Housing, Housing standards, Immigration, Insurance, Investigation, Migrant agricultural workers, Migrant labor, Motor carriers, Motor vehicle safety, Occupational safety and health, Penalties, Reporting requirements, Seasonal agricultural workers, Transportation, Wages, Manpower training programs, Labor, Safety.

For the reasons set forth above, 29 CFR part 500 is amended as set forth below:

Signed at Washington, DC, on this 29th day of January 1992.

Lynn Martin,
Secretary of Labor.

Carl M. Dominguez,
Assistant Secretary for Employment Standards.

John R. Fraser,
Acting Administrator, Wage and Hour Division.

PART 500—MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION

1. The authority citation for Part 500 continues to read as follows:

Authority: Pub. L. 97–470, 96 Stat. 2583 (29 U.S.C. 1801–1872), Secretary's Order No. 6–84, 49 FR 32473; Sec. 210A(f), Pub. L. 99–603, 100 Stat. 3359 (8 U.S.C. 1161(f)).

2. Paragraphs (a) and (b) of § 500.121 are revised to read as follows:

§ 500.121 Coverage and level of insurance required.

(a) Except to the extent that a liability bond pursuant to § 500.124 of this part has been approved by the Secretary, or that workers' compensation insurance is applicable as provided in § 500.122, a farm labor contractor, agricultural employer or agricultural association shall, in order to meet the insurance requirements in § 500.120, obtain a policy of vehicle liability insurance. As required by section 401(b)(3) of MSPA, 29 U.S.C. 1841(b)(3), the level of insurance shall be at least the amount required for common carriers of passengers under Part II of the Interstate Commerce Act (49 U.S.C. 301 *et seq.*), and any successor provision of subtitle IV of title 49, United States Code, and regulations prescribed thereunder.

(b) The amounts of vehicle liability insurance required by the Secretary are those set forth in Interstate Commerce Commission (ICC) regulations, 49 CFR 1043.2(b)(1)(ii) for passenger carriers, which provisions are incorporated in this part. Users of these regulations are cautioned to research in the **Federal Register** and the Code of Federal Regulations whether amendments to 49 CFR 1043.2(b)(1)(ii), have been promulgated by the ICC. The amounts of vehicle liability insurance set forth below are those that existed as of January 31, 1992 and are provided for information purposes only:

Insurance Required for Passenger Equipment

15 or fewer passengers	More than 15 passengers
$1,500,000	$5,000,000

(Source: 49 CFR 1043.2(b)(1)(ii)—1985)

Note: The ICC regulation listed above sets a combined minimum coverage requirement for personal injury and property damage.

* * * * *

[FR Doc. 92–2511 Filed 1–30–92; 8:45am]

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Part VIII

Department of the Interior

Bureau of Indian Affairs

Mission Valley Power Utility, Montana; Notice of General Revenue Rate Increase

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Mission Valley Power Utility, Montana

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Public Notice of General Revenue Rate Increase for Mission Valley Power Utility.

SUMMARY: Pursuant to 25 CFR part 175 the Bureau of Indian Affairs is establishing the general revenue rates for operating and maintaining the Mission Valley Power Utility. The rates are based on a cost of service study prepared by the Mission Valley Power Utility Board. The study and the rate recommendations were subject to the review and evaluation of the Mission Valley Power Consumer Council. In addition, the rate setting process included opportunity for the review and input of the general power user.

The general revenue rate increase is comprised of actions in three areas; (1) Revenue Requirements, (2) Cost of Service Allocation, and (3) Rate Design.

EFFECTIVE DATE: The general revenue rate increased addressed in this notice will become effective March 1, 1992.

FOR FURTHER INFORMATION CONTACT: Portland Area Director, Portland Area Office, Bureau of Indian Affairs, 911 N.E. 11th Ave., Portland, Oregon 97232–4169, telephone FTS 429–6750; commercial (503) 231–6750.

Authority: The authority to issue this document is vested in the Secretary of the Interior by 5 U.S.C. 301 and the Act of August 14, 1914 (38 Stat. 583, 25 U.S.C. 385).

This notice of final general revenue rate increase and related information is published under the authority delegated to the Assistant Secretary—Indian Affairs by the Secretary of the Interior in 209 DM 8 and redelegated by the Assistant Secretary—Indian Affairs to the Area Director in 10 BIAM 2 incorporating 230 DM 3.2(C), and in accordance with section 175 of title 25 of the Code of Federal Regulations, which provide for the Area Director to set service fees and electric power rates to cover the cost of providing electric power service to customers.

SUPPLEMENTARY INFORMATION: In 1985 The Comprehensive Review Report, Flathead Indian Irrigation Project developed for the Secretary of the Interior identified inadequacies and needs in both the fiscal status and physical facilities of what is now the Mission Valley Power Utility. This report is the basis for several subsequent actions that have led to this general revenue rate increase.

In 1988 the Confederated Salish and Kootenai Tribes contracted with the Bureau of Indian Affairs to operate the power utility under Pub. L. 93–638. Mission Valley Power was created by the Tribes to carry out their responsibilities under the contract. In addition, a five member utility board was created to set policies and oversee management of the Mission Valley Power Utility. The Mission Valley Power Consumer Council was also created to facilitate public involvement in policy formulation and to handle consumer complaints.

Subsequent to Tribal takeover of management of the utility a Long Range System Planning Report was completed in 1989 and 1990 by the Utility Board. This was followed by a cost-of-service study and by independent review and evaluation by the Consumer Council.

On July 31, 1991, the formal rate setting process was initiated by mailing an announcement of the intent to increase rates to every power user. In addition, on August 1, 1991, a formal legal announcement was printed in the local newspapers. Public information meetings were held on August 27, 28, and 29, 1991, at separate locations within the service area. Following the public information meetings a separate public hearing was held on September 10, 1991 to receive public comment on the proposed rate increase. Formal written comments for the record were received until October 7, 1991, 60 days after the process was initiated. There were 50 people at the public hearing and 18 gave oral comments on the record. Approximately 60 written comments were received by the close of the public record.

This process is consistent with 25 CFR 175, the Tribes' Public Law 93–638 contract document for operaton of the utility and the Mission Valley Power Operations Manual. The final rates have been reviewed and approved by the Portland Area Director, BIA, pursuant to 25 CFR 175.12. The Area Director's decision is dated December 20, 1991.

Revenue Requirements

The general revenue rate is increased by 8%. This is the first such rate increase the utility has implemented in 15 years. Even with the 8% rate increase Mission Valley Power's rates remain the lowest among the comparable surrounding utilities. The need for this rate increase is substantiated by the Long Range Planning Report developed by the Mission Valley Power Utility Board.

Cost of Service Allocation

The general revenue rate increase is to be allocated among the user classes in the following manner.

Residential—9.0% increase
General—9.0% increase
Irrigation—9.0% increase
Large Commercial—9.0% increase
Small Commercial—4.5% increase
Area Lights—9.0% increase
Unmetered Street Lights—9.0% increase

In February 1989 a customer survey was conducted which generally indicated that the power users favored the idea of basing rates on a "cost-of-service" approach. The cost-of-service approach is also standard utility practice. Based on these considerations a cost of service study was completed in July 1991 by the Utility Board and was subsequently reviewed by the Consumer Council. This was the first such cost of service study conducted for the utility. The final allocation schedule accurately reflects the cost of providing service to the seven user groups.

Rate Design

The rate design will be adjusted to provide for an $11.00 Minimum Bill. This bill will include the cost of delivery of the first 137 kwh for Residential Customers and the first 116 kwh for General Customers. This adjustment in rate design was necessary to remedy the under-recovery of power service costs associated with seasonal users.

Rate Schedule

The rate schedule has been published in the Portland Area Director's decision letter dated December 20, 1991. The schedule has also been published in local newspapers and distributed to individual power users.

Dated: January 28, 1992.

Bernard Topash,

Acting Portland Area Director.

[FR Doc. 92–2621 Filed 1–30–92; 11:17 am]

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Agent Orange Act of 1991	102–4	105 Stat. 12; 38 U.S.C. 316. 105 Stat. 20; 38 U S.C. 354 note.
Persian Gulf Conflict Supplemental Authorization and Personnel BenefitsAct of 1991.	102–25	105 Stat. 94; 20 U.S.C. 1070 note.
Higher Education Technical Amendments of 1991	102–26	105 Stat. 126; 20 U.S.C. 1070 note.
Department of Veterans Affairs Health—Care Personnel Act of 1991.	102–40	105 Stat. 203; 38 U.S.C. 7461. 105 Stat. 207; 38 U.S.C. 7461 note; 7464.
Niobrara Scenic River Designation Act of 1991	102–50	105 Stat. 255; 16 U.S.C. 1274 note.
National Literacy Act of 1991	102–73	105 Stat. 344; 20 U.S.C. 1211.
Veterans' Benefits Programs Improvement Act of 1991	102–86	105 Stat. 419; 38 U.S.C. 8163. 105 Stat. 420; 38 U.S.C. 8164.
Intelligence Authorization Act, Fiscal Year 1991	102–88	105 Stat. 436; 10 U.S.C. 2796. 105 Stat. 436; 10 U.S.C. 2796 note.
Defense Production Act Extension and Amendments of 1991	102–99	105 Stat. 488; 50 U.S.C. app. 2158.
Emergency Unemployment Compensation Act of 1991	102–107	105 Stat. 543; 26 U.S.C. 3304 note.
Foreign Relations Authorization Act, Fiscal Years 1992 and 1993	102–138	105 Stat. 661; 8 U.S.C. 1182 note.
Departments of Commerce, Justice, and State, the Judiciary, and RelatedAgencies Appropriations Act, 1992.	102–140	105 Stat. 783.
Department of Transportation and Related Agencies Appropriations Act,1992.	102–143	105 Stat. 942, 948.
Emergency Unemployment Compensation Act of 1991	102–164	105 Stat. 1052.
Aroostook Band of Micmacs Settlement Act	102–171	105 Stat. 1145; 25 U.S.C. 1721 note.
To provide for the termination of the application of title IV of theTrade Act of 1974 to Czechoslovakia and Hungary.	102–182	105 Stat. 1239; 19 U.S.C. 3202.
National Defense Authorization Act for Fiscal Years 1992 and 1993	102–190	105 Stat. 1422; 10 U.S.C. 2320 note. 105 Stat. 1548; 10 U.S.C. 2687 note.105 Stat. 1549. 105 Stat. 1578; 42 U.S.C. 7274g.
Patent and Trademark Office Authorization Act of 1991	102–204	105 Stat. 1639; 35 U.S.C. 41. 105 Stat. 1640; 15 U.S.C. 1113. 105 Stat.1642; 35 U.S.C. 41 note.
To establish the Silvio O. Conte National Fish and Wildlife Refugealong the Connecticut River, and for other purposes.	102–212	105 Stat. 1656, 1657.
Food, Agriculture, Conservation, and Trade Act Amendments of 1991.	102–237	105 Stat. 1828; 7 U.S.C. 1444f. 105 Stat. 1854; 7 U.S.C. 4201 note.
Coast Guard Authorization Act of 1991	102–241	105 Stat. 2214–2216.
Intermodal Surface Transportation Efficiency Act of 1991	102–240	105 Stat. 1953; 23 U.S.C. 127. 105 Stat. 1969; 23 U.S.C. 154 note. 105 Stat.2002; 23 U.S.C. 146 note. 105 Stat. 2081, 2082, 2086; 15 U.S.C. 1392 note.105 Stat. 2119, 2120; 49 U.S.C. app. 1622. 105 Stat. 2123, 2126, 2127. 105Stat. 2149, 2150; 49 U.S.C. app. 2311.
Federal Deposit Insurance Corporation Improvement Act of 1991	102–242	105 Stat. 2251; 12 U.S.C. 1831n. 105 Stat. 2278; 12 U.S.C. 1823. 105 Stat.2318; 12 U.S.C. 1831q. 105 Stat. 2339; 12 U.S.C. 4308. 105 Stat. 2349; 12U.S.C. 1817 note. 105 Stat. 2355; 12 U.S.C. 1828 note.

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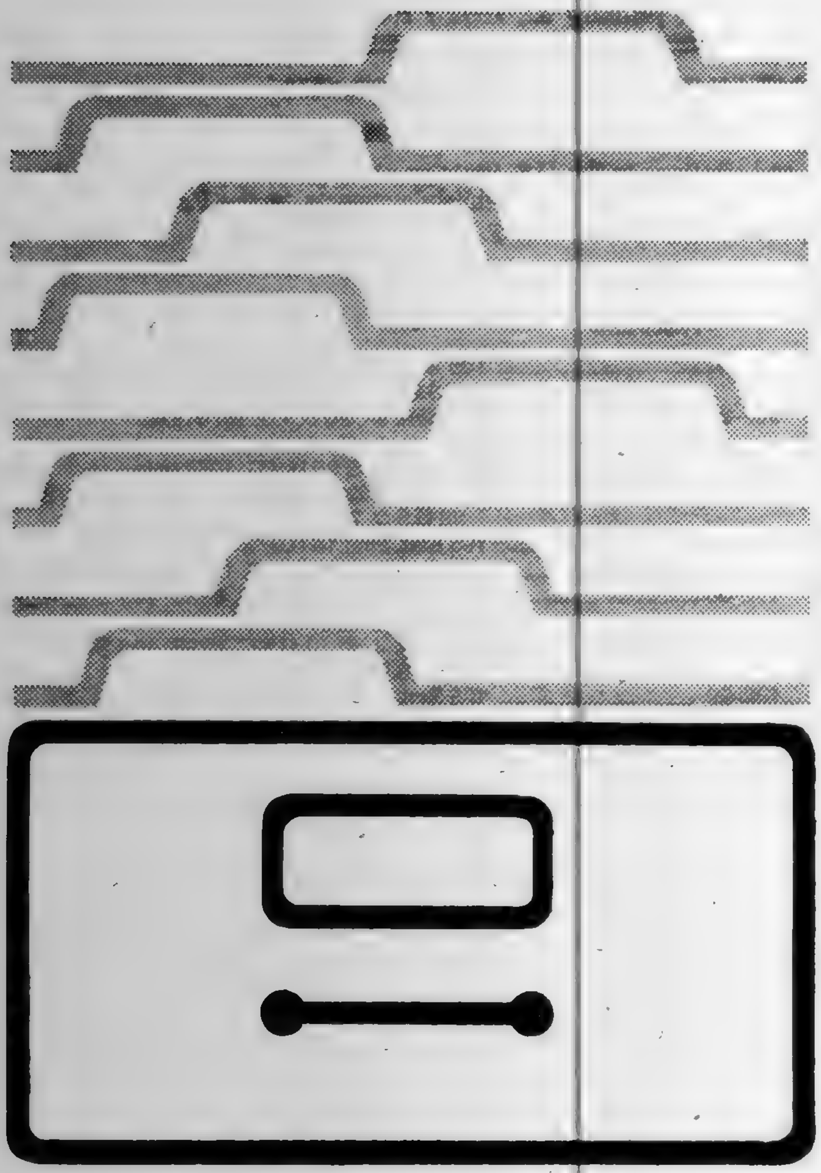

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Rules and Regulations

Federal Register
Vol. 57, No. 22
Monday, February 3, 1992

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 1

Implementation of the Program Fraud Civil Remedies Act of 1986; Correction

AGENCY: Office of the Secretary, USDA.

ACTION: Correction.

SUMMARY: The Secretary of Agriculture is redesignating 7 CFR part 1, entitled "Subpart K—Procedures Related to Administrative Hearings Under the Program Fraud Civil Remedies Act of 1986," as "Subpart L—Procedures Related to Administrative Hearings Under the Program Fraud Civil Remedies Act of 1986."

EFFECTIVE DATE: February 3, 1992.

FOR FURTHER INFORMATION CONTACT: David C. Rector, Deputy Director for Policy, Office of Finance and Management, room 4094–S, U.S. Department of Agriculture, Washington, DC 20250, Telephone No. (202) 720–8748.

SUPPLEMENTARY INFORMATION: The USDA rule implementing the Program Fraud Civil Remedies Act was published in final form on Thursday, March 7, 1991 (56 FR 9581 et seq.), erroneously bearing a heading designating it as subpart K of 7 CFR part 1, subtitle A. Therefore, the rule is being redesignated as "subpart L—Procedures Related to Administrative Hearings under the Program Fraud Civil Remedies Act of 1986."

List of Subjects in 7 CFR Part 1

Claims, Civil fraud.

PART 1 — [CORRECTED]

Accordingly, in title 7 Code of Federal Regulations, part 1 of subtitle A of title 7 is hereby amended by redesignating subpart K, §§ 1.301 through 1.346, as subpart L.

(Authority: 31 U.S.C. 3801–3812)

Done this 29th day of January 1992 at Washington, DC.

Edward Madigan,
Secretary of Agriculture.

[FR Doc. 92–2557 Filed 1–31–92; 8:45 am]

BILLING CODE 3410-90-M

Food and Nutrition Service

7 CFR Parts 271, 278 and 279

[Amdt. No. 334]

Food Stamp Program: Penalties for Unlawful Use or Acceptance of Food Stamp Coupons

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: The Mickey Leland Memorial Domestic Hunger Relief Act (Pub. L. No. 101–624; title XVII) amended the Food Stamp Act of 1977, as amended, (the Act) by making a number of modifications and additions to the penalties imposed against firms and persons for unlawful use or redemption of food stamp coupons. The purpose of this rule is to implement these statutory changes.

This final rulemaking provides for increased civil money penalties for trafficking in food coupons; permanent disqualification from the Food Stamp Program for accepting food coupons in exchange for firearms, ammunition, explosives or controlled substances; fines for the acceptance of loose coupons of denominations not authorized to be used in changemaking; and, fines against unauthorized persons who illegally accept or redeem food coupons. In addition, the rulemaking provides for increased criminal penalties against persons who unlawfully issue, redeem, use, transfer, acquire, alter or possess food coupons or food stamp benefit access devices. These changes are intended to broaden and strengthen anti-fraud provisions in the regulations for taking action on evidence of unauthorized use and redemption of food stamps and to improve the integrity of the Food Stamp Program.

DATES: This action is effective February 1, 1992. It should be noted that the statutory changes reflected in §§ 271.2 and 271.5 became effective November 28, 1990, as specified in Public Law No. 101–624.

FOR FURTHER INFORMATION CONTACT: Dwight Moritz, Coupon and Retailer Branch, Benefit Redemption Division, Food and Nutrition Service, Alexandria, Virginia 22302, (703) 305–2419.

SUPPLEMENTARY INFORMATION:

Classification

Executive Order 12291 and Department Regulation No. 1512–1

The Department has reviewed this rule under Executive Order 12291 and Department Regulation No. 1512–1 and the rule has been classified as "not major". The rule will affect the economy by less than $100 million a year. The rule is not likely to result in a major increase in costs or prices for consumers, industries, government agencies, or geographic regions. There will be no adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Although this rule will affect the business community, the effect would be of a non-economic nature and is not expected to be significant.

Executive Order 12372

The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the final rule and related Notice(s) to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983, or 48 FR 54317, December 1, 1983, as appropriate, and any subsequent notices that may apply), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (Pub. L. No. 96–354). The Administrator of the Food and Nutrition Service has certified that this action does not have a significant economic impact on a substantial number of small entities. The rule would have almost no impact on the vast majority of authorized firms, most of whom follow the program rules carefully.

Paperwork Reduction Act

This rule does not contain recordkeeping or reporting requirements subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Background

The Mickey Leland Memorial Domestic Hunger Relief Act (Pub. L. No. 101–624, title XVII) amended the Act by making a number of modifications and additions to the penalties imposed against firms and persons for unlawful use or redemption of food stamp coupons. A proposed rule dealing with these various modifications was published at 56 FR 23484 on May 21, 1991 and provided the public with a 30-day period to submit comments on the proposed provisions. A total of six comments were received regarding this proposed rule.

The major concerns raised by the commenters are discussed below. For a full explanation of the provisions of this final rule, the reader should refer to the preamble of the proposed rule, which was published at 56 FR 23484–87 on May 21, 1991.

This final rulemaking provides for increased civil money penalties for trafficking in food coupons; permanent disqualification from the Food Stamp Program for accepting food coupons in exchange for firearms, ammunition, explosives or controlled substances; fines for the acceptance of loose coupons of denominations not authorized to be used in changemaking; and fines against unauthorized persons who illegally accept or redeem food coupons. In addition, in accordance with the nondiscretionary provisions of Public Law No. 101–624, the rulemaking provides for increased criminal penalties against persons who unlawfully issue, redeem, use, transfer, acquire, alter or possess food coupons or food stamp benefit access devices.

Fines for the Acceptance of Loose Coupons (Section 278.6(l))

Section 1744 of Public Law No. 101–624 amends section 12(e) of the Act (7 U.S.C. 2021(e)) by providing the Secretary with the discretion to impose a fine against any retail food store or wholesale food concern that accepts food coupons that are not accompanied by the corresponding book cover (hereinafter referred to as "loose coupons"). This provision is not applicable to any denomination of coupons authorized by the Food Stamp Program regulations to be used for changemaking in food stamp transactions. Moreover, as one commenter pointed out, this provision is not applicable to coupons accepted from authorized providers of meals for the homeless, as specified in § 278.2(c) of the current regulations. In response to this comment, a technical amendment has been made to § 278.6(l) to reference this additional exception and correct the original oversight in the proposed rule.

The law provides the Secretary with the authority to establish the amount of fines imposed. Section 278.6(l) of this rule provides that the fine assessed against a firm found to have accepted loose coupons shall be $500 per investigation plus an amount that is equal to double the face value for each loose coupon that has been illegally accepted during the course of the investigation. The fine would have to be paid within 30 days of the firm's receipt of notification from FNS to pay the fine.

This rule also revises § 278.1(k) to provide that FNS may, consistent with current policy regarding a firm's business integrity, withdraw the authorization of any firm, including any location that is under the same ownership, that has failed to pay such a fine within 30 days.

The Department received very few comments on this provision. One commenter stated that the sanction/fine was too harsh given the context in which these types of violations usually occur. The commenter pointed out that the food industry in general has a very high rate of personnel turnover and that inadvertent errors on the part of firm personnel are bound to occur. The Department recognizes that this is sometimes the case. Consequently, as discussed in the proposal, fines for the acceptance of loose coupons will be imposed only when a clear pattern of abusive acceptance of loose coupons has been established and documented during the course of a formal investigation. The Department believes that a deterrent to prevent the illegal circulation of coupons as currency in places where such use of coupons has become common practice is necessary at this time and believes that the prescribed penalty is appropriate.

Another commenter acknowledged that the Department has the statutory authority to establish the amount of the fine that may be imposed on violators that accept loose coupons. However, this commenter argued that the Department has overstepped its statutory authority by asserting its prerogative to withdraw the authorization of any firm, including any location that is under the same ownership, that has failed to pay the fine in 30 days.

The Department does not agree with this commenter and believes that this provision will convey to firm management a sense of the seriousness with which the Department regards these violations while ensuring that the fines are paid in a timely manner. As in the proposed rule, the Department stresses here that administrative and judicial review are available to food concerns which are assessed fines under section 12 of the Act. Therefore, the penalties proposed for the illegal acceptance of loose coupons have been adopted as final with no changes.

Fines for Unauthorized Third Parties That Accept Food Stamps (Section 278.6(m))

Section 1745 of Public Law No. 101–624 provides the Secretary with the authority to impose a fine against any person not authorized to accept and redeem food coupons for violations of any provision of the Act or the program regulations, including the acceptance of food coupons. The Department interprets the term "person" to include a sole proprietorship, partnership, corporation or other legal entity, in addition to an individual.

Section 278.6(m) provides that the amount of such fine shall be $1,000 for each violation plus an amount that is equal to three times the face value of the coupons accepted.

No comments were received on this provision; thus, the amendment to § 278.6(m) is incorporated in this final rule with no changes.

Civil Money Penalties in Lieu of Permanent Disqualification for Trafficking

The Hunger Prevention Act of 1988, Public Law No. 100–435, provided the Secretary with the discretion to impose a civil money penalty (CMP) of up to $20,000 in lieu of permanent disqualification of a firm for trafficking in food coupons or other program benefit instruments if the Secretary determines that there is substantial evidence that the firm had an effective policy and program in effect to prevent violations of the Act and the program regulations.

Section 1743 of Public Law No. 101–624 changes the trafficking CMP to $20,000 per trafficking violation, rather than the current maximum of $20,000 per investigation. The law, however, specifies that the amount of trafficking CMPs imposed on a firm may not exceed $40,000 during a 2-year period.

Section 1743 of Public Law No. 101–624 also provides for the permanent disqualification of a firm for the sale of firearms, ammunition, explosives, or controlled substances and gives the Secretary discretion to impose a CMP in lieu of permanent disqualification if the Secretary determines that there is substantial evidence that the firm had an effective policy and program in effect to prevent violations of the Act and program regulations. The criteria applied in such a case would be the current criteria set forth in § 278.6(i).

This rule, therefore, amends § 278.6 to incorporate the above statutory changes into the program regulations. In addition, this rule amends § 271.2 to include the sale of firearms, ammunition, explosives or controlled substances in the definition of "trafficking."

The proposed rule set out a revision to the definition of "manager" included in Criterion 4 of § 278.6(i) of the regulations. The intent was to make the definition of manager conform with the definition suggested by House and Senate conferees in the Conference Report (H.R. Rep. No. 101-916, 2d Sess. 1098 (1990)). Under the proposed definition (published at 56 FR 23484 on May 21,1991), a person would be considered a part of firm "management" if that individual performs substantial supervisory responsibilities, i.e., supervises the work of other employees and directs the activities and work assignments of store employees.

Several comments were received with regard to the definition of "manager" as it relates to eligibility of a firm for a trafficking civil money penalty. In general, the commenters felt that the Department did not comply with the Congressional intent to narrow the definition of "manager" in this context, and rather proposed a definition that would broaden the types of employees that could be considered to be part of firm management, thus making it more likely that a firm would be determined ineligible for a civil money penalty in lieu of permanent disqualification for trafficking.

In addition, there seemed to be confusion on the part of commenters between the general definition of "firm management" as stated in § 271.2 of the March 28, 1991 proposed rule entitled "Food Stamp Program: Retailer/Wholesaler Changes" (56 FR 12857-65) and the definition of manager as it relates to determining eligibility of a firm for a trafficking civil money penalty, as set forth in the regulations at § 278.6(i). The purpose of the definition of "Firm management" included in § 271.2 is to establish in general the responsibility of store management personnel for compliance with Food Stamp Program rules and regulations. This definition of "Firm management" does not apply to § 278.6(i) of this rulemaking which defines "manager" exclusively for the purpose of determining eligibility for a civil money penalty in lieu of permanent disqualification for trafficking.

In response to the comments submitted, the Department has again revised the definition of manager for purposes of determining eligibility of a firm for a civil money penalty in lieu of permanent disqualification for trafficking. The pertinent part of § 278.6(i), Criterion 4 has been revised in this final rule to state: "For purposes of this section, a person is considered to be part of firm management if that individual has substantial supervisory responsibilities with regard to directing the activities and work assignments of store employees. Such supervisory responsibilities shall include the authority to hire employees for the store or to terminate the employment of individuals working for the store."

The Department believes that this revision adequately addresses concerns of the commenters and reflects the intent of Congress with regard to various levels of supervisory responsibility that exist within firm management structures in the food trade industry.

Other Technical Changes

Some technical changes have also been incorporated into the final rule to correct several oversights in the drafting of the proposal. The first entails an amendment to § 278.6(b) to ensure that any firm considered for a fine as specified under § 278.6(l) or § 278.6(m) shall have full opportunity to submit information in response to a charge letter sent by FNS which describes the basis for the administrative action taken by the Agency.

A second group of minor technical changes has been made to Part 279—Administrative and Judicial Review—Food Retailers and Wholesalers. These amendments have been made to ensure that retailers and wholesalers that are assessed a fine under § 278.6(1) or 278.6(m) are able to take advantage of their right to administrative and judicial review.

List of Subjects

7 CFR Part 271

Administrative practice and procedure, Food Stamps, Grant programs—social programs.

7 CFR Part 278

Administrative practice and procedure, Banks, Banking, Claims, Food stamps, Groceries—retail, Groceries, General line—wholesalers, Penalties.

7 CFR Part 279

Administrative practice and procedure, Food stamps, Groceries—retail, Groceries, General line—wholesaler.

Accordingly, 7 CFR parts 271, 278 and 279 are amended as follows:

1. The authority citation for parts 271, 278, and 279 continues to read as follows:

Authority: 7 U.S.C. 2011-2031.

PART 271—GENERAL INFORMATION AND DEFINITIONS

2. In § 271.2:

a. A definition for the term "Access device" is added in alphabetical order; and

b. The definitions of "Coupon" and "Trafficking" are revised.

The addition and revisions read as follows:

§ 271.2 Definitions.

Access Device means any card, plate, code, account number, or other means of access that can be used alone, or in conjunction with another access device, to obtain payments, allotments, benefits, money, goods, or other things of value, or that can be used to initiate a transfer of funds under the Food Stamp Act of 1977, as amended.

* * * * *

Coupon means any coupon, stamp, access device or type of certification provided pursuant to the provisions of this subchapter for the purchase of eligible food.

* * * * *

Trafficking means the buying or selling of coupons, ATP cards or other benefit instruments for cash or consideration other than eligible food; or the exchange of firearms, ammunition, explosives, or controlled substances, as the term is defined in section 802 of title 21, United States Code, for coupons.

* * * * *

3. In § 271.5, paragraph (b) is revised to read as follows:

§ 271.5 Coupons as obligations of the United States, crimes and offenses.

* * * * *

(b) *Penalties.* Any unauthorized issuance, redemption, use, transfer, acquisition, alteration, or possession of coupons, ATP cards, or other program access device may subject an individual, partnership, corporation, or other legal entity to prosecution under sections 15 (b) and (c) of the Food Stamp Act or under any other applicable Federal, State or local law, regulation or ordinance.

(1) Section 15(b)(1) of the Food Stamp Act reads as follows:

> Subject to the provisions of paragraph (2) of this subsection, whoever knowingly uses, transfers, acquires, alters, or possesses coupons, authorization cards, or access devices in any manner contrary to this Act or the regulations issued pursuant to this Act shall, if such coupons, authorization cards, or access devices are of a value of $5000 or more, be guilty of a felony and shall be fined not more than $250,000 or imprisoned for not more than twenty years, or both, and shall, if such coupons or authorization cards are of a value of $100 or more but less than $5000 or if the item used, transferred, acquired, altered or possessed is an access device that has a value of $100 or more but less than $5000 be guilty of a felony and shall upon the first conviction thereof, be fined not more than $10,000 or imprisoned for not more than five years, or both, and upon the second and any subsequent conviction thereof, shall be imprisoned for not less than six months nor more than five years and may also be fined not more than $10,000 or, if such coupons or authorization cards are of a value of less than $100, or if the item used, transferred, acquired, altered, or possessed is an access device that has a value of less than $100, shall be guilty of a misdemeanor, and upon the first conviction thereof, shall be fined not more than $1000 or imprisoned for not more than one year or both, and upon the second and any subsequent conviction thereof, shall be imprisoned for not more than one year and may also be fined not more than $1000. In addition to such penalties, any person convicted of a felony or misdemeanor violation under this subsection may be suspended by the court from participation in the food stamp program for an additional period of up to eighteen months consecutive to that period of suspension mandated by section 6(b)(1) of this Act.

(2) Section 15(b)(2) of the Food Stamp Act reads as follows:

> In the case of any individual convicted of an offense under paragraph (b)(1) of this section, the court may permit such individual to perform work approved by the court for the purpose of providing restitution for losses incurred by the United States and the State agency as a result of the offense for which such individual was convicted. If the court permits such individual to perform such work and such individual agrees thereto, the court shall withhold the imposition of the sentence on the condition that such individual perform the assigned work. Upon the successful completion of the assigned work the court may suspend such sentence.

(3) Section 15(c) of the Food Stamp Act reads as follows:

> Whoever presents, or causes to be presented, coupons for payment or redemption of the value of $100 or more, knowing the same to have been received, transferred, or used in any manner in violation of the provisions of this Act or the regulations issued pursuant to this Act, shall be guilty of a felony and, upon the first conviction thereof, shall be fined not more than $20,000 or imprisoned for not more than five years, or both, and upon the second and any subsequent conviction thereof, shall be imprisoned for not less than one year nor more than five years and may also be fined not more than $20,000 or if such coupons are of a value of less than $100, shall be guilty of a misdemeanor and, upon the first conviction thereof, shall be fined not more than $1,000 or imprisoned for not more than one year, or both, and upon the second and any subsequent conviction thereof, shall be imprisoned for not more than one year and may also be fined not more than $1,000. In addition to such penalties, any persons convicted of a felony or misdemeanor violation under this subsection may be suspended by the court from participation in the food stamp program for an additional period of up to eighteen months consecutive to that period of suspension mandated by section 6(b)(1) of this Act.

* * * * *

PART 278—PARTICIPATION OF RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS AND INSURED FINANCIAL INSTITUTIONS

4. In § 278.1, the first sentence of paragraph (j)(2) is revised, the word "or" is removed from the end of paragraph (k)(1)(iii), paragraph (k)(1)(iv) is redesignated as paragraph (k)(1)(v), and a new paragraph (k)(1)(iv) is added. The revision and addition read as follows:

§ 278.1 Approval of retail food stores and wholesale food concerns.

* * * * *

(j) *Denying authorization.* * * *

(2) The firm has failed to pay in full any fiscal claim assessed against the firm under § 278.7 or any fines assessed under § 278.6(l) or § 278.6(m). * * *

(k) *Withdrawing authorization.* (1) * * *

(iv) The firm has failed to pay fines assessed under § 278.6(l) or § 278.6(m); or

* * * * *

5. In § 278.6:

a. Paragraph (a) is amended by removing the words "in coupons or ATP cards" where they appear in the second sentence and replacing them with the words "as defined in § 271.2", and by revising the last sentence;

b. Paragraph (b)(1) is amended by revising the first three sentences;

c. Paragraph (b)(2)(i) is amended by removing the words "in food coupons, ATP cards or other benefit instruments" and replacing them with the words "as defined in § 271.2";

d. Paragraph (e)(1)(i) is amended by removing the words "in coupons or ATP cards" and replacing them with the words "as defined in § 271.2";

e. The introductory text of paragraph (i) is amended by removing the words "in food coupons, ATP cards or other program benefit instruments" in the first sentence and replacing them with the words "as defined in § 271.2", and by revising Criterion 4;

f. Paragraph (i)(2)(iii) is revised;

g. The introductory text of paragraph (j) is amended by revising the first sentence;

h. Paragraphs (l) and (m) are redesignated as (n) and (o) respectively, and new paragraphs (l) and (m) are added.

The addition and revisions read as follows:

§ 278.6 Disqualification of retail food stores and wholesale food concerns, and imposition of civil money penalties in lieu of disqualifications.

(a) *Authority to disqualify or subject to a civil money penalty.* * * * FNS may impose a civil money penalty of up to $20,000 for each violation in lieu of a permanent disqualification for trafficking, as defined in § 271.2, in accordance with the provisions of § 278.6(i) and § 278.6(j).

(b) *Charge letter*—(1) *General provisions.* Any firm considered for disqualification or imposition of a civil money penalty under paragraph (a) of this section or a fine as specified under paragraph (l) or (m) of this section shall have full opportunity to submit to FNS information, explanation, or evidence concerning any instances of noncompliance before FNS makes a final administrative determination. The FNS regional office shall send the firm a letter of charges before making such determination. The letter shall specify the violations or actions which FNS believes constitute a basis for disqualification or imposition of a civil money penalty or fine. * * *

* * * * *

(i) *Criteria for eligibility for a civil money penalty in lieu of permanent disqualification for trafficking.* * * *

Criterion 4. Neither firm ownership nor management were aware of, approved, benefitted from, or were in any way involved in the conduct or approval of trafficking violations. For purposes of this section, a person is considered to be part of firm management if that individual has substantial supervisory responsibilities with regard to directing the activities and work assignments of store employees. Such supervisory responsibilities shall include the authority to hire employees for the store or to terminate the employment of individuals working for the store.

* * * * *

(2) *Compliance training program standards.* * * *

(iii) Written materials, which may include FNS publications and program regulations that are available to all authorized firms, are used in the training program. Training materials shall clearly state that the following acts are prohibited and are in violation of the Food Stamp Act and regulations: the exchange of food coupons, ATP cards or other program access devices for cash; and, in exchange for coupons, the sale of firearms, ammunition, explosives or controlled substances, as the term is defined in section 802 of title 21, United States Code.

(j) *Amount of civil money penalty in lieu of permanent disqualification for trafficking.* A civil money penalty assessed in accordance with § 278.6(i) shall not exceed $20,000 for each violation, and shall not exceed $40,000 during a 2-year period. * * *

* * * * *

(l) *Fines for the acceptance of loose coupons.* FNS may impose a fine against any retail food store or wholesale food concern that accepts coupons that are not accompanied by the corresponding book cover, other than the denomination of coupons used for making change as specified in § 278.2(d) or coupons accepted from homeless meal providers as specified in § 278.2(c). The fine to be assessed against a firm found to be accepting loose coupons shall be $500 per investigation *plus* an amount equal to double the face value of each loose coupon accepted, and may be assessed and collected in addition to any fiscal claim established by FNS. The fine shall be paid in full within 30 days of the firm's receipt of FNS' notification to pay the fine. The Attorney General of the United States may institute judicial action in any court of competent jurisdiction against the store or concern to collect the fine. FNS may withdraw the authorization of the store, as well as other authorized locations of a multi-unit firm which are under the same ownership, for failure to pay such a fine as specified under § 278.1(k). FNS may deny the authorization of any firm that has failed to pay such fines as specified under § 278.1(j).

(m) *Fines for unauthorized third parties that accept food stamps.* FNS may impose a fine against any individual, sole proprietorship, partnership, corporation or other legal entity not approved by FNS to accept and redeem food coupons for any violation of the provisions of the Food Stamp Act or the program regulations, including violations involving the acceptance of coupons. The fine shall be $1,000 for each violation *plus* an amount equal to three times the face value of the illegally accepted food coupons. The fine shall be paid in full within 30 days of the individual's or legal entity's receipt of FNS' notification to pay the fine. The Attorney General of the United States may institute judicial action in any court of competent jurisdiction against the person to collect the fine. FNS may withdraw the authorization of any firm that is under the same ownership as an unauthorized firm that has failed to pay such a fine, as specified under § 278.1(k). FNS may deny authorization to any firm that has failed to pay such a fine, as specified under § 278.1(j).

* * * * *

6. In § 278.9, a new paragraph (i) is added to read as follows:

§ 278.9 Implementation of amendments relating to the participation of retail food stores, wholesale food concerns and insured financial institutions.

* * * * *

(i) *Amendment No. 334.* The program changes made to § 278.1 and § 278.6 by this amendment are effective February 1, 1992. The program changes made to § 271.2 and § 271.5 by this amendment are retroactively effective to November 28, 1990, as specified in Pub. L. No. 101-624.

PART 279—ADMINISTRATIVE AND JUDICIAL REVIEW—FOOD RETAILERS AND FOOD WHOLESALERS

§ 279.3 [Amended]

7. In § 279.3, paragraph (a)(2) is amended by adding the words "or imposition of a fine under § 278.6(l) or § 278.6(m);" to the end of the sentence.

§ 279.6 [Amended]

8. In § 279.6, paragraph (a) is amended by adding the words "or a fine" to the end of the paragraph.

§ 279.8 [Amended]

9. In § 279.8, paragraph (c) is amended by adding the words "or fine" after the words "civil money penalty" appear in the heading of the paragraph and after each of the three times the words "civil money penalty" appear in the first sentence.

10. In § 279.11, a new paragraph (c) is added to read as follows:

§ 279.11 Implementation of amendments relating to administrative and judicial review.

* * * * *

(c) *Amendment No. 334.* The program changes made to part 279 by this amendment are effective February 1, 1992.

Dated: January 28, 1992.

Phyllis R. Gault,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 92-2439 Filed 1-31-92; 8:45 am]

BILLING CODE 3410-30-M

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7 CFR Part 278

[Amt. No. 339]

Food Stamp Program: Authority To Require Retail Food Stores and Wholesale Food Concerns To Submit Taxpayer Identification Numbers

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the Food Stamp Program regulations at 7 CFR part 278 to require participating retail food stores or wholesale food concerns to furnish to the Food and Nutrition Service (FNS) taxpayer identification numbers including (a) the employer identification number of the firm and (b) the social security numbers of certain owners. Confidentiality and nondisclosure safeguards of taxpayer identification numbers are included in this final rule. Compiling a data base of taxpayer identification numbers will help to ensure that only properly authorized firms participate in the program.

DATE: This action is effective February 1, 1992.

FOR FURTHER INFORMATION CONTACT: Dwight Moritz, Coupon and Retailer Branch, Benefit Redemption Division, Food and Nutrition Service, Alexandria, Virginia, 22302, or telephone (703) 305-2418.

SUPPLEMENTARY INFORMATION:

Classification

Executive Order 12291/Secretary's Memorandum 1512-1

The Department has reviewed this rule under Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has classified it as "not major". The rule will affect the economy by less than $100 million a year. The rule is not likely to result in a major increase in costs or prices for consumers, industries, government agencies, or geographic regions. There will be no adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Although this rule will affect the business community, the effect will be of a non-economic nature and is not expected to be significant.

Executive Order 12372

The Food Stamp Program is listed in the *Catalog of Federal Domestic Assistance* under No. 10.551. For the reasons set forth in the final rule and related Notice(s) to 7 CFR part 3015, subpart V (Cite 48 FR 29115, June 24, 1983 or 48 FR 54317, December 1, 1983, as appropriate, and any subsequent notices that may apply), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Regulatory Flexibility Act

This action has also been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (Pub. L. No. 96–354). The Administrator of the Food and Nutrition Service has certified that this action does not have a significant economic impact on a substantial number of small entities. The rule simply provides for the collection of additional information to ensure that only properly authorized retail food stores and wholesale food concerns participate in the program.

Paperwork Reduction Act

This rule contains information collections subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). The title, description, and respondent description of the information collections are shown below with an estimate of the annual reporting and recordkeeping burdens. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Title: Form FNS–252, Food Stamp Program Application for Stores.

Description: In accordance with 7 CFR 278.1(a), the Department currently collects data from applicant retail food stores and wholesale food concerns using the Form FNS–252. The social security numbers and employer identification numbers will be collected as part of this data submission.

Description of Respondents: Retail food stores and wholesale food concerns.

Estimated Annual Reporting and Recordkeeping Burden:

Total Existing Burden Hours—18,679.
Total Increased Burden Hours—23,904.
Total Difference—5,225.

As required by section 3504(h) of the Paperwork Reduction Act of 1980, FNS submitted a copy of the proposed rule to OMB for its review of these information collection requirements. In the proposed rule, organizations and individuals were asked to submit comments regarding this burden estimate or any aspect of these information collection requirements, including suggestions for reducing the burden, to the Coupon and Retailer Branch, Benefit Redemption Division, (address above) and to the Office of Information and Regulatory Affairs, OMB, room 3208, New Executive Office Building, Washington, DC 20503, Attn: Laura Oliven, Desk Officer for FNS. No public comments regarding the burden estimate were received and the burden hour increase was approved by OMB. The OMB control number assigned to the reporting and recordkeeping requirements of Form FNS–252 is OMB No. 0584–0006.

Background

Section 1735 of Public Law No. 101–624, 104 Stat. 3359, the Food, Agriculture, Conservation and Trade Act of 1990, amended the Social Security Act and the Internal Revenue Code of 1986 to provide FNS statutory authority to require retail food stores and wholesale food concerns to furnish the following taxpayer identification numbers: The social security account numbers (SSNs) of the owners of these firms and the firm's employer identification number (EIN). This rule amends the Food Stamp Program regulations to require the collection of these numbers, specify what use may be made of them, and reference the penalties for unauthorized disclosure and solicitation. A proposed rule dealing with these requirements was published at 56 FR 40580 on August 15, 1991 and provided the public with a 30-day period to submit comments on the proposed provisions. A total of four comments were received regarding the proposed rule. The major concerns raised by the commenters are discussed below.

In accordance with section 1735, the Department will collect the EIN of each applicant or participating retail food store or wholesale food concern if one has been assigned by the Internal Revenue Service. The guidelines for requesting EINs reflect the provisions of Treasury Regulation § 301.6109–2 (26 CFR 301.6109–2). In addition, the Department will collect SSNs of sole proprietors and of partners in firms which are partnerships. If a partnership has both general and limited partners, SSNs are required only for the general partners. Further, the Department will collect SSNs of the owners of privately owned corporations. Privately owned corporations are those in which the shares or stock are not available for purchase by the general public. In these instances, the Department will collect the SSNs of up to five corporate owners. If there are five or fewer owners, SSNs of all must be provided. If there are more than five owners, SSNs of only the five largest shareholders (owners) are required. Privately owned corporations must also submit their EINs, along with owner SSNs, where applicable.

One commentor indicated that the Department should require SSNs only if identifying information cannot be obtained from alternative sources, and when the need for this information outweighs the risk of exposing an individual owner's SSN. The Department recognizes that confidentiality of SSNs is of great concern to individuals and has explored the possibility of alternative sources of information that would serve the same identifying purpose as SSNs. The Department found that no other source would consistently or accurately meet the Department's needs.

As noted below, section 1735 severely limits the access to the SSNs and EINs and establishes strict safeguards and severe penalties for unauthorized use and disclosure of these numbers. The Department will adhere to the access limits and safeguards and will strictly enforce these penalty provisions. Furthermore, access to the data base in which these numbers will be stored meets stringent computer security standards designed to safeguard unauthorized access to the numbers. Therefore, the proposed rulemaking concerning which taxpayer identification numbers must be submitted has been adopted without change in this final rule.

One commentor concurred with the intent and the language of the rule as written regarding the usage of SSNs and EINs. Compiling SSN and EIN data bases will help ensure that only properly authorized firms participate in the program. The Department will be able to compare the SSN of a person applying for authorization, as well as the EIN of the applicant firm, against SSNs and EINs of firms in a national data base to prevent disqualified firms from being reauthorized before the disqualification period expires. The Department will also be able to identify a firm which has been previously sanctioned for program violations. Such a firm is given more severe sanctions; e.g., violations that would warrant a 1-year disqualification for a first offender would result in a 2-year disqualification for a second offense and permanent disqualification for a third offense (7 CFR 278.6(e)).

In accordance with the language of section 1735, SSN and EIN information will be available only to officers and employees of the United States whose duties or responsibilities require access for the administration or enforcement of the Food Stamp Act. Further, no officer or employee of the Department of Agriculture shall have access to these numbers for any purpose other than the establishment and maintenance of a list of the names, SSNs and EINs in order to determine which applicants have been previously sanctioned, or convicted, under section 12 or 15 of the Act (7 U.S.C. 2021, 2024). The Department may use this information on sanctions and convictions in administering sections 9 and 12 of the Act (7 U.S.C. 2018, 2021). Three commentors provided comments on this portion of the proposed rulemaking.

One commentor suggested that in §§ 278.1 (q)(1)(iv) and (q)(2)(iv) the proposed wording "* * * for the purposes of this section * * *" be changed to "* * * for the purposes of § 278.1 (q)(1)(iv) * * *" and "* * * for the purposes of § 278.1(q)(2)(iv) * * *." The commentor believed that this would eliminate any possibility that former officers or employees would have access to SSNs and EINs. The Department agrees with this commentor and has revised the final rulemaking to incorporate this change.

Two other commentors addressed the issue of access to SSNs and EINs. One of these commentors asked that the Department establish strict rules to limit the chances for disclosure of SSNs since owners of multiple outlet stores are particularly subject to the risk of disclosure by processing clerks in both the private and public sector. The commentor further suggested that owners of multiple outlet stores submit the required SSNs only to a central processing office. The Department recognizes the legitimate concern of this commentor that privacy safeguards be established to prevent unauthorized disclosure of SSNs. However, to participate, all food stores must meet legislatively mandated eligibility criteria and be authorized and monitored on an individual site basis. Strong safeguards have been established by section 1735 and related legislation cited therein, and penalty provisions will be strictly enforced to protect against unauthorized use or disclosure of SSNs. Therefore, the Department has made no change in this regard in the final rule.

The second commentor strongly endorsed the safeguards contained within the proposed regulations to protect the privacy of retailers and wholesalers. Access to this information is to be *only* for the purpose of establishing and maintaining a list of names, and EINs of the retail food stores and wholesale food concerns for use in determining those applicants who have previously been sanctioned or convicted under the Food Stamp Act. Therefore, the commentor recommended that §§ 278.1(q)(1)(ii) and (q)(2)(ii) be clarified and amended so that "*only* officers and employees whose duties or responsibilities require access" be permitted access. The Department believes that this suggestion clarifies the intent of the law. Therefore, the final rulemaking reflects this commentor's suggestion.

Finally, this rule references the sanctions mandated by section 1735 for the willful and unauthorized disclosure of these numbers of receipt of these numbers due to willful solicitation. The sanctions mandated by section 1735 are those imposed by sections 7213 (a)(1), (2), (3) and (4) of the Internal Revenue Code (26 U.S.C. 7213). One commentor wrote to express strong support of the proposed penalty regulations and to urge the Department to strictly enforce the penalty provisions against employees who violate the confidentiality requirements of the law by unauthorized or willful disclosures.

The Department coordinated this rulemaking with both the Internal Revenue Service (Department of the Treasury) and the Department of Health and Human Services, in accordance with the provisions in section 1735.

List of Subjects in 7 CFR Part 278

Administrative practice and procedure, Banks, Banking, Claims, Food stamps, Groceries—retail, Groceries—general line and wholesaler, Penalties.

Accordingly, 7 CFR part 278 is amended as follows:

1. Authority citation for part 278 continues to read as follows:

Authority: 7 U.S.C. 2011–2031.

PART 278—PARTICIPATION OF RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS AND INSURED FINANCIAL INSTITUTIONS

2. In § 278.1:

a. Paragraph (b) is amended by redesignating paragraph (b)(5) as paragraph (b)(6), and by adding a new paragraph (b)(5);

b. Paragraph (q) is amended by:

1. Adding the words "Except for employer identification numbers (EINs) and social security numbers (SSNs)," to the beginning of the first sentence.

2. Adding two sentences to the end of the paragraph.

3. Adding new paragraphs (q)(1) and (q)(2).

The additions read as follows:

§ 278.1 Approval of retail food stores and wholesale food concerns.

* * * * *

(b) *Determination of Authorization.* * * *

(5) *Taxpayer identification numbers.* At the time of an initial request for authorization as well as reauthorization, an applicant firm must provide its employer identification number and social security numbers as described below:

(i) *Employer Identification Number.* The firm must provide its employer identification number (EIN) if one has been assigned to the firm by the Internal Revenue Service. The authority to request EINs and the guidelines for requesting EINs are set forth in section 6109(f) of the Internal Revenue Code of 1986 and Treas. Reg. § 301.6109–2 (26 CFR 301.6109–2).

(ii) *Social Security Number.* In addition to the EIN, the firm must provide the social security numbers (SSNs) of the following individuals:

(A) The SSN of an owner of a sole proprietorship.

(B) The SSNs of general partners of firms which are partnerships.

(C) The SSNs of up to five of the largest shareholders (owners) of privately owned corporations. (For purposes of this section, a privately owned corporation is one which has shares or stock that are not traded on a stock exchange or available for purchase by the general public.)

* * * * *

(q) *Safeguarding privacy.* * * * For safeguards with respect to EINs, see § 278.1(q)(1) below. For safeguards with respect to SSNs, see § 278.1(q)(2) below.

(1) *Employer identification numbers.* (i) The Department may have access to the EINs obtained pursuant to § 278.1(b)(5) only for the purpose of establishing and maintaining a list of the names and EINs of the stores and concerns for use in determining those applicants who previously have been sanctioned or convicted under section 12 or 15 of the Food Stamp Act of 1977 (7 U.S.C. 2021 or 2024). The Department may use this determination of sanctions

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or convictions in administering sections 9 and 12 of the Food Stamp Act of 1977 (7 U.S.C. 2018, 2021). See Treas. Reg. § 301.6109–2(b) (26 CFR 301.6109–2(b)).

(ii) The only persons permitted access to the EINs obtained pursuant to § 278.1(b)(5) are officers and employees of the United States whose duties or responsibilities require access to the EINs for the administration or enforcement of the Food Stamp Act of 1977. See Treas. Reg. § 301.6109–2(c)(1) (26 CFR 301.6109–2(c)(1)).

(iii) The Department shall provide for any additional safeguards that the Secretary of the Treasury determines to be necessary or appropriate to protect the confidentiality of the EINs. The Department may also provide for any additional safeguards to protect the confidentiality of EINs so long as these safeguards are consistent with any safeguards determined by the Secretary of the Treasury to be necessary or appropriate. See Treas. Reg. § 301.6109–2(c)(2) (26 CFR 301.6109–2(c)(2)).

(iv) EINs maintained by the Department pursuant to § 278.1(b)(5) are confidential. Except as provided in § 278.1(s)(1)(ii) above, no officer or employee of the United States who has or had access to any such EIN may disclose that number in any manner. For purposes of § 278.1(q)(1)(iv) the term *officer or employee* includes a former officer or employee. See Treas. Reg. § 301.6109–2(d) (26 CFR 301.6109(d)).

(v) Sections 7213(a) (1), (2) and (3) of the Internal Revenue Code of 1986 apply with respect to the unauthorized, willful disclosure to any person of EINs obtained by the Department pursuant to § 278.1(b)(5) in the same manner and to the same extent as sections 7213(a) (1), (2) and (3) apply with respect to unauthorized disclosure of returns and return information described in those sections. Section 7213(a)(4) of the Internal Revenue Code of 1986 applies with respect to the willful offer of any item of material value in exchange for any EIN obtained by the Department pursuant to § 278.1(b)(5) in the same manner and to the same extent as section 7213(a)(4) applies with respect to offers (in exchange for any return or return information) described in that section. See Treas. Reg. § 301.6109–2(e) (26 CFR 301.6109–2(e)).

(2) *Social Security Numbers.* (i) The Department may have access to SSNs obtained pursuant to § 278.1(b)(5) only for the purpose of establishing and maintaining a list of the names and SSNs for use in determining those applicants who previously have been sanctioned or convicted under section 12 or 15 of the Food Stamp Act of 1977 (7 U.S.C. 2021 or 2024). The Department may use this determination of sanctions and convictions in administering sections 9 and 12 of the Food Stamp Act of 1977 (7 U.S.C. 2018, 2021).

(ii) The only persons permitted access to the SSNs obtained pursuant to § 278.1(b)(5) are officers and employees of the United States whose duties or responsibilities require access to the SSNs for the administration or enforcement of the Food Stamp Act of 1977.

(iii) The Department shall provide for all additional safeguards that the Secretary of Health and Human Services determines to be necessary or appropriate to protect the confidentiality of the SSNs. The Department may also provide for any additional safeguards to protect the confidentiality of SSNs so long as these safeguards are consistent with any safeguards determined by the Secretary of Health and Human Services to be necessary or appropriate.

(iv) The SSNs and related records that are obtained or maintained by authorized persons are confidential, and no officer or employee shall disclose any such SSN or related record except as authorized. The term "related record" means any record, list, or compilation that indicates, directly or indirectly, the identity of any individual with respect to whom a request for a SSN is maintained. For purposes of § 278.1(q)(2)(iv) the term "officer or employee" includes a former officer or employee.

(v) The sanctions under sections 7213(a) (1), (2) and (3) of the Internal Revenue Code of 1986 will apply with respect to the unauthorized, willful disclosure to any person of SSNs and related records obtained or maintained in the same manner and to the same extent as sections 7213(a) (1), (2) and (3) apply with respect to unauthorized disclosures of returns and return information described in those sections. The sanction under section 7213(a)(4) of the Internal Revenue Code of 1986 will apply with respect to the willful offer of any item of material value in exchange for any SSN or related record in the same manner and to the same extent as section 7213(a)(4) applies with respect to offers (in exchange for any return or return information) described in that section.

* * * * *

Dated: January 28, 1992.

Phyllis R. Gault,

Acting Administrator.

[FR Doc. 92–2424 Filed 1–31–92; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Regulation 731]

Navel Oranges Grown in Arizona and Designated Part of California

AGENCY: Argicultural Marketing Service, USDA

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona navel oranges that may be shipped to domestic markets during the period from January 31 through February 6, 1992. Consistent with program objectives, such action is needed to establish and maintain orderly marketing conditions for fresh California-Arizona navel oranges for the specified week. Regulation was recommended by the Navel Orange Administrative Committee (Committee), which is responsible for local administration of the navel orange marketing order.

EFFECTIVE DATE: Regulation 731, § 907.1031, is effective for the period from January 31 through February 6, 1992.

FOR FURTHER INFORMATION CONTACT: Christian D. Nissen, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, room 2523–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–1754.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order No. 907 (7 CFR part 907), as amended, regulating the handling of navel oranges grown in Arizona and designated part of California. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, hereinafter referred to as the "Act."

This final rule has been reviewed by the Department of Agriculture (Department) in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of the use of volume regulations on small entities as well as larger ones.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 130 handlers of California-Arizona navel oranges subject to regulation under the navel orange marketing order and approximately 4,000 navel orange producers in California and Arizona. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.601] as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of California-Arizona navel oranges may be classified as small entities.

The California-Arizona navel orange industry is characterized by a large number of growers located over a wide area. The production area is divided into four districts which span Arizona and part of California. The largest proportion of navel orange production is located in District 1, Central California, which represented about 79 percent of the total production in 1990–91. District 2 is located in the southern coastal area of California and represented almost 18 percent of 1990–91 production; District 3 is the desert area of California and Arizona, and it represented slightly less than 3 percent; and District 4, which represented slightly less than 1 percent, is northern California. The Committee's revised estimate of 1991–92 production is 64,600 cars (one car equals 1,000 cartons at 37.5 pounds net weight each), as compared with 32,895 cars during the 1990–91 season.

The three basic outlets for California-Arizona navel oranges are the domestic fresh, export, and processing markets. The domestic fresh (regulated) market is a preferred market for California-Arizona navel oranges while the export market continues to grow. The Committee has estimated that about 68 percent of the 1991–92 crop of 64,600 cars will be utilized in fresh domestic channels (43,650 cars), with the remainder being exported fresh (14 percent), processed (16 percent), or designated for other uses (2 percent). This compares with the 1990–91 total of 16,675 cars shipped to fresh domestic markets, about 51 percent of that year's crop. In comparison to other seasons, 1990–91 production was low because of a devastating freeze that occurred during December 1990.

Volume regulations issued under the authority of the Act and Marketing Order No. 907 are intended to provide benefits to producers. Producers benefit from increased returns and improved market conditions. Reduced fluctuations in supplies and prices result from regulating shipping levels and contribute to a more stable market. The intent of regulation is to achieve a more even distribution of oranges in the market throughout the marketing season.

Based on the Committee's marketing policy, the crop and market information provided by the Committee, and other information available to the Department, the costs of implementing the regulations are expected to be more than offset by the potential benefits of regulation.

Reporting and recordkeeping requirements under the navel orange marketing order are required by the Committee from handlers of navel oranges. However, handlers in turn may require individual producers to utilize certain reporting and recordkeeping practices to enable handlers to carry out their functions. Costs incurred by handlers in connection with recordkeeping and reporting requirements may be passed on to growers.

Major reasons for the use of volume regulations under this marketing order are to foster market stability and enhance producer revenue. Prices for navel oranges tend to be relatively inelastic at the producer level. Thus, even a small variation in shipments can have a great impact on prices and producer revenue. Under these circumstances, strong arguments can be advanced as to the benefits of regulation to producers, particularly smaller producers.

The Committee adopted its marketing policy for the 1991–92 season on June 25, 1991. The Committee reviewed its marketing policy at district meetings as follows: Districts 1 and 4 on September 24, 1991, in Visalia, California; and Districts 2 and 3 on October 1, 1991, in Ontario, California. The Committee subsequently revised its marketing policy at a meeting on October 15, 1991. The marketing policy discussed, among other things, the potential use of volume and size regulations for the ensuing season. The Committee considered the use of volume regulation for the season. This marketing policy is available from the Committee or Mr. Nissen. The Department reviewed that policy with respect to administrative requirements and regulatory alternatives in order to determine if the use of volume regulations would be appropriate.

The Committee met publicly on January 28, 1992, in Newhall, California, to consider the current and prospective conditions of supply and demand and recommended, with 7 members voting in favor, 3 opposing, and 1 abstaining, that 1,700,000 cartons is the quantity of navel oranges deemed advisable to be shipped to fresh domestic markets during the specified week. The marketing information and data provided to the Committee and used in its deliberations was compiled by the Committee's staff or presented by Committee members at the meeting. This information included, but was not limited to, price data for the previous week from Department market news reports and other sources, preceding week's shipments and shipments to date, crop conditions and weather and transportation conditions.

The Department reviewed the Committee's recommendation in light of the Committee's projections as set forth in its 1991–92 marketing policy. The recommended amount of 1,700,000 cartons is equivalent to the amount specified in the Committee's shipping schedule. Of the 1,700,000 cartons, 83.6 percent or 1,421,200 cartons are allotted for District 1, and 16.4 percent or 278,800 cartons are allotted for District 2. Districts 3 and 4 are not regulated since approximately 78 percent of District 3's crop and 92 percent of District 4's crop to date have been utilized, and handlers would not be able to utilize their allotments.

During the week ending on January 23, 1992, shipments of navel oranges to fresh domestic markets, including Canada, totaled 1,647,000 cartons compared with 470,000 cartons shipped during the week ending on January 24, 1991. Export shipments totaled 373,000 cartons compared with 89,000 cartons shipped during the week ending on January 24, 1991. Processing and other uses accounted for 454,000 cartons compared with 1,920,000 cartons shipped during the week ending on January 24, 1991.

Fresh domestic shipments to date this season total 13,944,000 cartons compared with 14,504,000 cartons shipped by this time last season. Export shipments total 2,322,000 cartons compared with 1,937,000 cartons shipped by this time last season. Processing and other use shipments total 2,981,000 cartons compared with 6,035,000 cartons shipped by this time last season.

For the week ending January 23, 1992, regulated shipments of navel oranges to the fresh domestic market were 1,565,000 cartons on an adjusted allotment of 1,473,000 cartons which resulted in net overshipments of 92,000 cartons. Regulated general maturity shipments for the current week (January 24 through January 30, 1992) are estimated at 1,640,000 cartons on an adjusted allotment of 1,642,000 cartons. Thus, undershipments of 2,000 cartons could be carried forward into the week ending on February 6, 1992.

The average f.o.b. shipping point price for the week ending on January 16, 1992, was $9.40 per carton based on a reported sales volume of 1,355,000 cartons. The season average f.o.b. shipping point price to date is $10.03 per carton. The average f.o.b. shipping point price for the week ending on January 24, 1991, was $15.92 per carton; the season average f.o.b. shipping point price at this time last year was $10.30.

The Department's Market News Service reported that, as of January 28, demand for California-Arizona navel oranges is fairly light, and the market is about steady.

Committee members discussed implementing volume regulation at this time, as well as different levels of allotment. Three Committee members favored open movement at this time, while the majority of Committee members favored the issuance of general maturity allotment for Districts 1 and 2.

According to the National Agricultural Statistics Service, the 1990–91 season average fresh equivalent on-tree price for California-Arizona navel oranges was $7.75 per carton, 119 percent of the season average parity equivalent price of $6.52 per carton.

Based upon fresh utilization levels indicated by the Committee and an econometric model developed by the Department, the 1991–92 season average fresh on-tree price is estimated at $6.33 per carton, about 85 percent of the estimated fresh on-tree parity equivalent price of $7.44 per carton.

Limiting the quantity of navel oranges that may be shipped during the period from January 31 through February 6, 1992, would be consistent with the provisions of the marketing order by tending to establish and maintain, in the interest of producers and consumers, an orderly flow of navel oranges to market.

Based on considerations of supply and market conditions, and the evaluation of alternatives to the implementation of this volume regulation, the Administrator of the AMS has determined that this final rule will not have a significant economic impact on a substantial number of small entities and that this action will tend to effectuate the declared policy of the Act.

A proposed rule regarding the implementation of volume regulation and a proposed shipping schedule for California-Arizona navel oranges for the 1991–92 season was published in the September 30, 1991, issue of the **Federal Register** (56 FR 49432). The Department is currently in the process of analyzing comments received in this proposal and, if warranted, may finalize that action this season. However, issuance of this final rule implementing volume regulation for the regulatory week ending on February 6, 1992, does not constitute a final decision on that proposal.

Pursuant to 5 U.S.C. 553, it is further found and determined that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register**. This is because there is insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the Act.

In addition, market information needed for the formulation of the basis for this action was not available until January 29, 1992, and this action needs to be effective for the regulatory week which begins on January 31, 1992. Further, interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and handlers were apprised of its provisions and effective time. It is necessary, therefore, in order to effectuate the declared purposes of the Act, to make this regulatory provision effective as specified.

List of Subjects in 7 CFR Part 907

Marketing agreements, Oranges, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 907 is amended as follows:

1. The authority citation for 7 CFR part 907 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 907.1031 is added to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

§ 907.1031 Navel orange regulation 731.

The quantity of navel oranges grown in California and Arizona which may be handled during the period from January 31 through February 6, 1992, is established as follows:

(a) District 1: 1,421,200 cartons;
(b) District 2: 278,800 cartons;
(c) District 3: unlimited cartons;
(d) District 4: unlimited cartons.

Dated: January 29, 1992.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92–2666 Filed 1–31–92; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 916

[Docket No. FV–91–461IR]

Nectarines Grown in California; Temporary Relaxation of Size Requirements for Nectarines During the 1992 Season

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule temporarily relaxes the minimum size requirements for fresh shipments of May Glo variety nectarines to size 108 from the current size 96 for the period April 15, 1992, through May 5, 1992, after which period the minimum size would revert back to size 96 for the remainder of the season. This rule also relaxes the minimum size requirements for April Glo variety nectarines to size 108 from the current applicable tighter requirements for the entire 1992 shipping season. Relaxation of the minimum size requirements as specified should result in more May Glo and April Glo nectarines being shipped to the fresh market, and increased returns to California nectarine growers.

DATES: This interim final rule becomes effective April 15, 1992. Comments which are received by March 4, 1992 will be considered prior to issuance of any final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule to: Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456. Three copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours. All comments should reference the docket number, date, and page number ofthis issue of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Gary D. Rasmussen, Marketing

Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456; telephone: (202) 720–5331.

SUPPLEMENTARY INFORMATION: This interim final rule is issued under Marketing Agreement and Marketing Order No. 916 (7 CFR part 916) regulating the handling of nectarines grown in California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This interim final rule has been reviewed by the U.S. Department of Agriculture (Department) in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are about 245 California nectarine handlers subject to regulation under the marketing order covering nectarines grown in California, and about 740 producers of nectarines in California. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. A majority of these handlers and producers may be classified as small entities.

Fresh California nectarine shipments are currently regulated by grade, maturity, and size under Nectarine Regulation 14 (7 CFR 916.356, as amended at 56 FR 22106, May 14, 1991, and 56 FR 40220, August 14, 1991). These regulations have been issued on a continuing basis subject to amendment, modification, or suspension as may be recommended by the Nectarine Administrative Committee (committee) and approved by the Secretary. The committee met on December 4, 1991, and unanimously recommended that the minimum size requirements for May Glo and April Glo variety nectarines be temporarily relaxed during 1992 season.

The interim final rule relaxes the minimum size requirements for the May Glo variety nectarines to size 108 from size 96 for the period April 15 through May 5, 1992, by amending paragraphs (a)(2) and (a)(3) of § 916.356. Paragraph (a)(3) provides that no handler shall ship any package or container of May Glo variety nectarines unless the nectarines, when packed in molded forms (tray packs) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of standard pack, not more than 96 nectarines in the lug box, and unless such nectarines, when packed in any container, are of a size that a 16-pound sample, representative of the nectarines in the package or container, contains not more than 87 nectarines. Such nectarines are referred to size 96 fruit. Paragraph (a)(2) provides, for certain other specified varieties, that no handler shall ship any package or container of such nectarines unless the nectarines, when packed in molded forms (tray packs) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 108 nectarines in the lug box, and unless such nectarines, when packed in any other container, are of a size that a 16-pound sample, representative of the nectarines in the package or container, contains not more than 92 nectarines. Such nectarines are referred to as size 108 fruit.

The interim final fule also relaxes for the entire 1992 shipping season the minimum size requirements specified for April Glo variety nectarines specified in paragraphs (a)(6), (a)(7), and (a)(8) of § 916.356, by exempting that variety from such requirements and by adding a new paragraph (a)(9) specifying that April Glo variety nectarines must be at least size 108. Such nectarines are of a size that, when packed in molded forms (tray pack) in a No. 22D standard lug box, will pack, in accordance with the requirements of standard pack not more than 108 nectarines in a lug box; or are of a size that, in any other container, a 16-pound sample, representative of the nectarines in the package or container, contains not more than 92 nectarines. In the absence of these changes, April Glo nectarines would have had to meet the more restrictive size requirements specified in paragraphs (a)(6), (a)(7), and (a)(8) of § 916.356.

The minimum size requirements established for California nectarines recognize that larger sized nectarines provide greater consumer satisfaction than those of smaller sizes. Different minimum size requirements have been issued for the various nectarine varieties, reflecting both seasonal and varietal influences which affect average fruit sizes. Small minimum sizes generally have been established for earlier maturing varieties, while later maturing varieties, since they tend to attain a larger size at maturity, have been required to meet larger minimum sizes.

The desert area of the Coachella Valley is the growing area in California with the earliest nectarine harvests. Fruit grown in this area generally does not size as well as fruit grown in other areas of the State, due the onset of very hot weather early in season which retards further fruit growth and results in a relatively short growing season. In general, fruit grown in the Coachella Valley is smaller in size than fruit grown in other parts of the State. Nectarines have been grown commercially in the Coachella Valley for about six years.

Most May Glo and April Glo variety nectarines in California are grown in the Coachella Valley where they mature very early in the season at relatively small sizes compared with most other nectarines varieties grown in the State.

The May Glo and April Glo 1992 harvest season is expected to begin about mid-April in the Coachella Valley, and continue for about three weeks, depending on temperatures during the harvest period. May Glo nectarines from other parts of the State will continue to be shipped for several more weeks and are expected to reach the size 96 level. The size relaxations for May Glo and April Glo nectarines is for the 1992 season only to permit further evaluation of the sizing characteristics of these varieties in the Coachella Valley and other areas of the State.

It is the Department's view that this action will provide handlers and growers additional opportunities for marketing the 1992 season May Glo and April Glo nectarine crops.

Based on the above, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, the information and recommendations submitted by the commitee, and other information, it is found that this action will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined, upon good cause, that it is impracticable, unnecessary and contrary to the public interest to give preliminary notice prior to putting this rule into effect because: (1) It would be beneficial to nectarine growers and handlers to be apprised of this action as soon as possible; (2) this action temporarily relaxes requirements for May Glo and April Glo variety nectarines; (3) California nectarine handlers are aware of this action which was unanimously recommended by the committee at a public meeting and they will need no additional time to comply with the relaxed requirements; and (4) the rule provides a 30-day comment period, and any written comments received will be considered prior to any finalization of this interim final rule.

List of Subjects In 7 CFR Part 916

Marketing agreements, Nectarines, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 916 is amended as follows:

PART 916—NECTARINES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 916 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 916.356 is amended by revising the introductory text of paragraphs (a)(2), (a)(3), (a)(6), (a)(7), and (a)(8) and by adding a new paragraph (a)(9) to read as follows:

Note: This section will not appear in the Code of Federal Regualations.

§ 916.356 Nectarine Regulation 14.

(a) * * *

(2) Any package or container of May Glo variety nectarines through May 5, 1992, or Aurelio Grand, Maybelle, Mayfire, or Royal Delight variety nectarines, unless:

* * * * *

(3) Any package or container of May Glo variety nectarines on or after May 6, 1992, or Early Diamond, or Mayfair variety nectarines, unless:

* * * * *

(6) During the period April 15 through May 31 of each fiscal period, no handler shall handle any package or container of any variety of nectarines not specifically named in paragraphs (a)(2), (3), (4), or (5) of this section, except for April Glo variety nectarines, unless:

* * * * *

(7) During the period June 1 through June 30 of each fiscal period, no handler shall handle any package or container of any variety of nectarines not specifically named in paragraphs (a)(2), (3), (4), or (5) of this section, except for April Glo variety nectarines, unless:

* * * * *

(8) During the period July 1 through October 31, of each fiscal period, no handler shall handle any package or container of any variety of nectarines not specifically named in paragraphs (a)(2), (3), (4), or (5) of this section, except for April Glo variety nectarines, unless:

* * * * *

(9) During the 1992 shipping season, any package or container of April Glo variety nectarines, unless:

(i) Such nectarines, when packed in molded forms (tray packs) in a No. 22D standard lug box, are a size that will pack, in accordance with standard pack, not more than 108 nectarines in the lug box; or

(ii) Such nectarines, when packed other than as specified in paragraph (a)(9)(i) of this section, are of a size that a 16-pound sample, representative of the nectarines in the package or container, contains not more than 92 nectarines.

* * * * *

Dated: January 29, 1992.

Charles R. Brader,

Director, Fruit and Vegetable Division.

[FR Doc. 92–2496 Filed 1–31–92; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1007

[DA-92-04]

Milk in the Georgia Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action relaxes the limits on diversion of milk by cooperative associations and proprietary handlers for the months of January 1992 through August 1992 in the Georgia milk order. The suspension increases the amount of milk that may be shipped directly from the farm to nonpool plants and still be priced under the order. The suspension was requested by Carolina Virginia Milk Producers Association (CVMPA), a cooperative association that represents producers who supply the market. The suspension is necessary because of changed marketing conditions and to facilitate the continued pricing of milk from producers who have historically been associated with the market.

EFFECTIVE DATE: January 1, 1992.

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Chief, Order Formulation Branch, USDA/AMS/Dairy Division, room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 720–6274.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued December 27, 1991; published January 3, 1992 (57 FR 220).

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers who supply milk for the area will have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under the criteria contained therein.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and of the order regulating the handling of milk in the Georgia marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on January 3, 1992 (57 FR 220) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded an opportunity to file written data, views, and arguments thereon. One comment in support and one in opposition were received.

After consideration of all relevant material, including the proposal in the notice, the comments received, and other available information, it is hereby found and determined that for the months of January 1992 through August 1992 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1007.13 paragraphs (b)(4) and (b)(5).

Statement of Consideration

This action relaxes the limits on diversion of milk by cooperative associations and proprietary handlers under the Georgia milk order for the months of January 1992 through August 1992. The suspension allows more milk to be shipped directly from farms to nonpool plants and still be priced under the order.

The order provides that a cooperative association may divert up to 25 percent of the milk received at pool plants and that a proprietary handler may divert up to 25 percent of its nonmember milk received at its pool plant. The suspension increases the diversion allowance to all but 10 days' production of each producer during the month.

The suspension was requested by Carolina Virginia Milk Producers Association (CVMPA), a cooperative association having a substantial amount of milk pooled on the Georgia market. In support of its proposal, the cooperative said the suspension is needed because a decreased volume of milk is needed by pool plants in the Georgia marketing area. CVMPA said that on December 1, 1991, there was a significant shift of processed milk accounts from plants regulated by the Georgia milk order to other order plants. The cooperative also stated that it is not practical to shift producer milk supplies among orders until July or August because of the base plans in the Georgia order and neighboring orders.

Dairymen, Inc. (DI), stated in their opposition that essentially marketing conditions have not changed sufficiently to justify the suspension.

As indicated by CVMPA, there is a reduced need for producer milk at pool plants in the Georgia marketing area. The pounds of Class I utilization for December 1991 were approximately 49.6 million pounds as compared to 53.7 million pounds for December 1990 or a reduction of 7.5 percent. Without the suspension, CVMPA would have to inefficiently unload and reload milk at pool plants in order to keep it priced under the order. Alternatively the cooperative would not be able to pool the milk of producers historically associated with the market. No feasible alternative to suspension action exists until after the end of the base paying period under the orders in this region (July or August).

Accordingly, it is appropriate to suspend the diversion provisions of the Georgia milk order.

It is hereby found and determined that notice of proposed rulemaking, public procedure thereon, and thirty days' notice of the effective date hereof are impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area in that this action should obviate the need to inefficiently unload and reload milk at pool plants in order to keep it priced under the order.

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension. One comment in support and one in opposition were received.

Therefore, good cause exists for making this order effective less than 30 days from date of publication in the the **Federal Register**.

List of Subjects in 7 CFR Part 1007

Milk marketing orders.

It is therefore order, That the following provisions of the order (7 CFR part 1007) are hereby suspended for the months of January 1992 through August 1992.

PART 1007—MILK IN THE GEORGIA MARKETING AREA

1. The authority citation for 7 CFR part 1007 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 1007.13 [Suspended in Part]

2. In § 1007.13, paragraphs (b)(4) and (b)(5) are suspended from January 1, 1992, through August 31, 1992.

Signed at Washington, DC, on: January 28, 1992.

John E. Frydenlund

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 92–2351 Filed 1–31–92; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1413

1992 Wheat Program, Acreage Reduction and Loan Rates

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The 1992 acreage reduction program (ARP) percentage for wheat is 5 percent. On April 4, 1991, the Commodity Credit Corporation (CCC) issued a proposed rule with respect to the 1992 Production Adjustment Program for Wheat which is conducted by the CCC in accordance with the Agricultural Act of 1949 (1949 Act), as amended. This rule amends the regulations at 7 CFR part 1413 to set forth the acreage reduction percentage for the 1992 crop of wheat. This action is required by section 107B of the 1949 Act.

EFFECTIVE DATE: February 3, 1992.

FOR FURTHER INFORMATION CONTACT: Craig Jagger, Agricultural Economist, Commodity Analysis Division, USDA–ASCS, room 3740–S, P.O. Box 2415, Washington, DC 20013 or call (202) 720–7923.

SUPPLEMENTARY INFORMATION: The Final Regulatory Impact Analysis describing the options considered in developing this rule and the impact of the implementation of each option is available on request from the above-named individual.

This final rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation 1512–1 and has been designated as "major." It has been determined this program provision will result in an annual effect on the economy of $100 million or more.

The title and number of the Federal Assistance Program, as found in the catalog of Federal Domestic Assistance, to which this rule applies are:

Title	Number
Wheat Production Stabilization	10.058

It has been determined that the Regulatory Flexibility Act is applicable to this final rule because the CCC is required by Section 170B(o) of the 1949 Act to publish a notice of proposed rulemaking with respect to the subject matter of this rule. An Initial Regulatory Flexibility Analysis for the 1992 Wheat ARP was published along with the Preliminary Regulatory Impact Analysis of March 14, 1991. Copies of this analysis are available from the above-named individual.

It has been determined by an environmental evaluation that this action will not have significant impact on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

This program/activity is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

The amendments to 7 CFR part 1413 set forth in this final rule do not contain information collections that require clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35).

This final rule amends 7 CFR part 1413 to set forth the determination of the 1992 Production Adjustment Program for Wheat. General descriptions of the statutory basis for the determinations in this notice were set forth at 56 FR 13787 (April 4, 1991). Comments received during the specified comment period are summarized as follows:

The public was asked to comment on three 1992 wheat ARP options of 5 percent, 10 percent, and 15 percent. Fifty-four comments were received. Nearly half (25) of the 54 respondents favored a 5-percent ARP. These respondents included most of the National and State wheat producer organizations, one general farm organization, many trade groups, and 3 of 17 producers. Slightly more than one-third (19) of the respondents including two general farm organizations and 11 of 17 producers favored a 15-percent ARP. About one-tenth (6) of the respondents favored no ARP although this was not one of the options listed. The remaining 4 respondents favored a 10-percent ARP.

Respondents favoring lower ARPs noted that the U.S. needs to produce to maintain international market share. They also cited the income impact of reduced payment acres under flexibility provisions and the impacts on the rural infrastructure of acres idled under the conservation reserve program and annual commodity programs. Respondents favoring higher ARPs noted that wheat prices would be higher and Government costs would be lower with higher ARP levels.

After considering these comments, the Secretary announced an ARP of 5 percent—the level favored by about half of all respondents and by a substantial majority of producer organizations and agribusinesses. The Secretary determined that a 5-percent ARP would be implemented for several reasons. A 5-percent ARP would maintain U.S. competitiveness in world markets while balancing the risks of excessive supplies and possible shortages.

A 5-percent ARP also reflects the tightened U.S. supply situation and further emphasizes the desire of the U.S. to reduce its reliance on ARPs. It signals to competitors that the U.S. will not idle large amounts of acreage in order to support the world price level for wheat and also signals to domestic and foreign customers that the U.S. will be a reliable supplier.

A 5-percent ARP was estimated to increase U.S. wheat supplies by about 100 million bushels over 1991 levels. The following table shows the estimated impacts of three different 1992 ARP options based on May, 1991 estimates, the month in which the 1992 ARP decision was made.

TABLE.—ESTIMATED IMPACTS OF 1992 ARP OPTIONS

Item	Option 1	Option 2	Option 3
ARP (percent)	0	5	10
Participation (percent)	88	84	82
Planted acres (mil. acr.)	75.5	72.3	69.3
Production (mil. bu.)	2,460	2,370	2,280
Domestic use (mil. bu.)	1,195	1,180	1,165
Exports (mil. bu.)	1,195	1,175	1,155
Ending stocks (mil. bu.)	757	702	647
Season average producer price ($/bu.)	2.81	2.90	2.99
Deficiency payments ($ mil.)	2,506	2,094	1,770

The announced ARP level of 5 percent is 10 percentage points below the statutory maximum of 15 percent. The 1949 Act provides that an ARP of not more than 0 to 15 percent may be implemented if the ending stocks-to-use (S/U) ratio for the previous marketing year is equal to or less than 40 percent. When the 1992 ARP was announced, the S/U for the 1991 marketing year was estimated to be 28.2 percent. Because the 1991 S/U level is below 34 percent, the minimum 6-percent ARP imposed by Section 1104 of the Agricultural Reconciliation Act of 1990 does not apply.

Acreage Reduction. In accordance with section 107B(f)(1)(D) of the 1949 Act, the ARP has been established with respect to the 1992 crop of wheat at 5 percent. Accordingly, producers will be required to reduce their 1992 acreage of wheat for harvest from the crop acreage base established for wheat for a farm by at least this established percentage in order to be eligible for wheat price support loans, purchase, and payments.

List of Subjects in 7 CFR Part 1413

Acreage allotments, Cotton, Disaster assistance, Feed grain, Price support programs, Reporting and recordkeeping requirements, Rice, Soil conservation, Wheat.

Accordingly, 7 CFR part 1413 is amended to read as follows:

PART 1413—FEED GRAIN, RICE, UPLAND AND EXTRA LONG STAPLE COTTON, WHEAT AND RELATED PROGRAMS

1. The authority citation for 7 CFR part 1413 continues to read as follows:

Authority: 7 U.S.C. 1308, 1308a, 1309, 1441–2, 1444–2, 1444f, 1445b–3a, 1461–1469; 15 U.S.C. 714b and 714c.

2. Section 1413.54(a)(1) is revised to read as follows:

§ 1413.54 Acreage reduction program provisions.

(a) * * *

(1)(i) 1991 wheat, 15 percent;

(ii) 1992 wheat, 5 percent;

* * * * *

Signed January 23, 1992, at Washington, DC.

John A. Stevenson,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 92–2355 Filed 1–31–92; 8:45 am]

BILLING CODE 3410-05-M

Farmers Home Administration

7 CFR Part 1940

Implementation of Section 709 of the Cranston-Gonzalez National Affordable Housing Act of 1990 (Herein Referred to as the "Act")

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) adopts as final and amends its interim rule published February 20, 1991 (56 FR 6791). The intended effect is to provide guidance on the Rural Housing Targeting Set Aside (RHTSA) of sections 502, 504, 514, 515 and 524 housing funds in designated, underserved areas, make certain colonias located in the States of Texas, Arizona, New Mexico and California eligible for housing assistance and establish funding priority for colonias in certain circumstances.

EFFECTIVE DATE: March 4, 1992.

FOR FURTHER INFORMATION CONTACT: Joyce H. Akers, Senior Loan Specialist, Multi-Family Housing Processing Division, room 5347, telephone (202) 720–1608 or Robert Hall, Senior Loan Specialist, Single Family Housing Processing Division, room 5330, telephone (202) 720–1474. The address is: USDA–FmHA, South Agriculture Building, 14th and Independence Avenue SW., Washington, DC 20250–0700.

SUPPLEMENTARY INFORMATION: This rulemaking action has been reviewed under USDA procedures established in Departmental Regulation 1512–1, which implements Executive Order 12291 and has been determined to be "nonmajor" since the annual effect on the economy is less than $100 million and there will be no significant increase in cost or prices for consumers, individual industries, Federal, State or local Government agencies, or geographic regions. Furthermore, there will be no adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States enterprises to compete with foreign based enterprises in domestic or import markets.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act of 1969, Public Law 91–90, an Environmental Impact Statement is not required.

Programs Affected

These programs/activities are listed in the Catalog of Federal Domestic Assistance under Nos:

10.405 Farm Labor Housing Loans and Grants
10.410 Low Income Housing Loans
10.411 Rural Housing Site Loans
10.415 Rural Rental Housing Loans
10.417 Very Low Income Housing Repair Loans and Grants
10.427 Rural Rental Assistance Payments

Intergovernmental Consultation

For the reasons set forth in the final rule, related notice(s) to 7 CFR part 3015, subpart V, 10.410 and 10.417 are excluded from the scope of Executive Order 12372 which requires Intergovernmental consultation with State and local officials. The remaining programs are subject to intergovernmental consultation with State and local officials.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354), the undersigned has determined and certified by signature of this document that this rule will not have a significant economic impact on a substantial number of small entities since this rulemaking action does not involve a new or expanded program.

Discussion of Comments Received

An interim rule was published in the **Federal Register** (56 FR 6791) on February 20, 1991, and invited comments for a 60 day period ending April 22, 1991. Four comments were received and considered.

One commenter pointed out potential problems involving (1) the short timeframe in which applicants were given to utilize the program funds in fiscal year (FY) 91 and (2) the impact of annually changing eligible counties where there is general underuse of rural housing programs by certain groups. In addressing the first concern, the enabling legislation was signed by the President on November 28, 1990, and provided 180 days for implementation. Recognizing the short time period mandated for implementation, FmHA quickly promulgated regulations in less than 90 days. While we recognize the timeframe for use of the program funds in FY 91 was short, we had no discretion in the matter. In addressing the second concern, the Act clearly indicates that counties may change from FY 91 to FY 92. The Act sets up three criteria by which to select targeted counties, i.e., poverty level, substandard housing and previous use of housing funds. The first two elements will not change since such data is not available from the 1990 census. The only variable would be the amount of housing assistance received in a particular county when FY 86 obligation data is dropped and FY 91 obligation data is added. A county, having received more, or less, housing assistance in FY 86 and/or FY 91 could become eligible or ineligible for targeted housing assistance in FY 92. The Act does not provide flexibility to keep counties targeted for certain groups. In addition, the Act aims to target funds to truly underserved counties. If the county does receive substantially more assistance than other counties, it should no longer be considered so that other, less served counties can receive priority.

One commenter stated it was unclear how multi-family housing applications would be handled when filed, but not funded, in one fiscal year and the county was not selected as underserved the following year. Should such a situation arise, the application would compete for non-targeted housing funds, based upon its priority point score in relation to other preapplications. Multi-family housing applicants would be notified, through issuance of Form AD–622, "Notification of Preapplication Review," that should RHTSA funds be unavailable, or the county in which the proposed rental housing would be located is no longer considered a targeted county, the AD–622 would no longer have priority for funding and the loan request would compete with other preapplications in non-targeted counties.

One commenter stated RHTSA program goals would be better served when the 1990 census data for poverty levels and substandard housing were available. Inasmuch as this data is not available from the 1990 census, this comment cannot be considered.

One commenter was concerned that the Rio Grande Valley counties in Texas, including Hidalgo, Cameron, Willacy and Starr were not on the list of eligible RHTSA counties and that eligible colonias in these counties would not qualify for program funds. Hildago, Cameron, Willacy and Starr met the eligibility criteria based on poverty level population and substandard housing units, but received program funds during the previous 5 fiscal years in excess of the level permitted for eligibility. However, eligible colonias in these counties qualify for funds as published in paragraph III of the interim rule, independent of being listed as a RHTSA county.

One commenter suggested that the level used to define "substantially lower" amount of program fund assistance received by a county during the previous 5 fiscal years be changed from 40 percent to 35 percent to permit some counties, with higher rates of substandard housing and poverty, to be eligible. We developed and analyzed data using a 35 percent level, and the results indicated that the targeted program would not be as manageable. Using the lower percentage would open up too many more counties competing for limited loan dollars. Continuing with the 40 percent level has the least impact on counties already selected and does not include more counties than could reasonably be expected to receive RHTSA funds. We appreciate this suggestion but are not implementing the suggested change.

In addition, it was noted that FmHA used different criteria in determining funding levels in the 100 counties eligible for sections 502, 504 and 515 housing programs during FY 91. In the section 504 program, funding levels were based on each county's pro rata share of the funds available while in the sections 502 and 515 programs, formula elements and weights contained in this subpart were applied to the 100 counties participating in RHTSA. Additionally, funds were made available based upon groupings of counties in the Section 515 program; whereas, county groupings were not a consideration in determining funding levels in the sections 502 and 504 programs. Each state's funding level was the greater of the formula allocation or an established minimum. In developing the final rule, a standardized methodology is used, making the sections 502, 504 and 515 programs more consistent. The methodology is based on the 100 eligible counties receiving a pro rata share of the funds available, with minimum funding levels established. Using this methodology, the funds available more closely relate to the number of eligible counties within each state.

Because of changing funding levels and funding dates, all references to such have been removed from the **Federal Register**. In addition, the list of targeted counties has been removed and will be published annually by notice in the **Federal Register**.

List of Subjects in 7 CFR Part 1940

Accountability, Administrative practice and procedure, Grant programs—Housing and community development, Loan programs—Housing and community development, Low and moderate income housing—Rental, Reporting requirements.

Therefore, chapter XVIII, title 7, Code of Federal Register is amended by adopting the interim rule published on February 20, 1991 (56 FR 6791), as a final rule with the following amendments:

PART 1940—GENERAL

1. The authority citation for part 1940 continues to read as follows:

Authority: 42 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70.

Subpart L—Methodology and Formulas for Allocation of Loan and Grant Program Funds

2. Exhibit C to subpart L to part 1940 is revised to read as follows:

Exhibit C to Subpart L—Housing in Underserved Areas

I. Objective

A. To improve the quality of affordable housing by targeting funds under Rural Housing Targeting Set Aside (RHTSA) to designated areas that have extremely high concentrations of poverty and substandard housing and have severe, unmet rural housing needs.

B. To provide for the eligibility of certain colonias for rural housing funds.

II. Background

The Cranston-Gonzalez National Affordable Housing Act of 1990 (herein referred to as the "Act") requires that Farmers Home Administration (FmHA) set aside section 502, 504, 514, 515, and 524 funds for assistance in targeted, underserved areas. An appropriate amount of section 521 new construction rental assistance (RA) is set aside for use with seciton 514 and 515 loan programs. Under the Act, certain colonias are now eligible for FmHA housing assistance.

III. Colonias

A. Colonia is defined as any identifiable community that:

1. Is in the State of Arizona, California, New Mexico or Texas;

2. Is in the area of the United States within 150 miles of the border between the United States and Mexico, except that the term does not include any standard metropolitan statistical area that has a population exceeding 1 million;

3. Is designated by the State or county in which it is located as a colonia;

4. Is determined to be a colonia on the basis of objective criteria, including lack of potable water supply, lack of adequate sewage systems, and lack of decent, safe, and sanitary housing; and

5. Was in existence and generally recognized as a colonia before November 28, 1990.

B. Requests for housing assistance in colonias have priority as follows:

1. When the State did not obligate its allocation in one or more of its housing programs during the previous 2 fiscal years (FYs), priority will be given to requests for assistance, in the affected program(s), from regularly allocated funds, until an amount equal to 5 percent of the current FY program(s) allocation is obligated in colonias. This priority takes precedence over other processing priority methods.

2. When the State did obligate its allocation in one or more of its housing programs during the previous 2 FYs, priority will be given to requests for assistance, in the affected program(s), from RHTSA funds, until an amount equal to 5 percent of the current FY program(s) allocation is obligated in colonias. This priority takes precedence over other processing priority methods.

C. Colonias may access pooled RHTSA funds as provided in paragraph IV G of this exhibit.

IV. RHTSA

A. *Amount of Set Aside.* Set asides for RHTSA, from the current FY allocations, are established in attachment 1 of this exhibit (available in any FmHA State Office).

B. *Selection of Targeted Counties.*—1. *Eligibility.* Eligible counties met the following criteria: (1) 20 percent or more of the county population is at, or below, poverty level; (2) 10 percent or more of the occupied housing units are substandard; and (3) the average funds received on a per capita basis in the county, during the previous 5 FYs, were more than 40 percent below the State per capita average during the same period. Data from the most recent available Census was used for all three criteria, with criteria (2) and (3) based on the FmHA rural area definition.

2. *Selection.* The Act requires that 100 of the most underserved counties be initially targeted for RHTSA funds. In establishing the 100 counties, those with 28 percent or more of their population at, or below, poverty level and 13 percent or more of their occupied housing units substandard, have preference. If less than 100 counties meet this criteria, the remaining counties meeting the criteria in paragraph IV B 1 of this exhibit will be ranked, based upon a total of their substandard housing and poverty level percentages. The highest-ranking counties are then selected until the list reaches 100. The remaining counties are eligible for pool funds only.

C. *State RHTSA Levels.* In the section 502, 504, and 515 programs, each State's RHTSA level will be based on its number of eligible counties, with each county receiving a pro rata share of the total funds available. In order to ensure that a meaningful amount of assistance is available to each State, minimum funding levels may be established. When minimum levels are established, they are set forth on Attachment 1 of this exhibit (available in any FmHA State Office).

D. *Use of Funds.* To maximize the assistance to targeted counties, allocated program funds should be used in addition to RHTSA funds, where possible. The State Director has the discretion to determine the most effective delivery of RHTSA funds among the targeted counties within his/her jurisdiction. The 100 counties listed in attachment 2 of this exhibit (available in any FmHA State Office) are eligible for RHTSA funding consideration immediately. Colonias are also eligible for RHTSA funds as described in paragraph III of this exhibit.

E. *National Office RHTSA Reserve.* A limited National Office reserve is available on an individual case basis when the State is unable to fund a request from its regular or RHTSA allocation. The amount of the reserve, and the date it can be accessed and any conditions thereof, if applicable, are contained in attachment 1 of this exhibit (available in any FmHA State Office).

F. *Requests for Funds and RA.* All RHTSA funds are reserved in the National Office and requests for these funds and/or RA units must be submitted by the State Director, using the applicable format shown on attachment 4 or 5 of this exhibit (available in any FmHA State Office). The State Director is responsible for notifying the Director of Single Family Housing Processing Division (SFHPD) or Multi-Family Housing Processing Division (MFHPD) of any RHTSA funds and RA units authorized, but not obligated, by RHTSA pooling date.

G. *Pooling.* Unused RHTSA funds and RA will be pooled. Pooling dates and any pertinent information thereof are available on attachment 1 of this exhibit (available in any FmHA State Office). Pooled funds will be available on a first-come, first-served basis to all eligible colonias and all counties listed on attachments 2 and 3 of this exhibit (available in any FmHA State Office). Pooled RHTSA funds will remain available until the year-end pooling date.

H. [Reserved]

I. [Reserved]

J. *Requests for Assistance.* Requests for assistance in targeted counties must meet all loan making requirements of the applicable program Instructions, except as modified for colonias in paragraph III of this exhibit. For section 515, States may:

1. Issue Form AD–622, "Notice of Preapplication Review Action," up to 150 percent of the amount shown in attachment 1 of this exhibit (available in any FmHA State Office).

2. All AD–622s issued for applicants in targeted counties will be annotated, in Item 7, under "Other Remarks," with the following: "Issuance of this AD–622 is contingent upon receiving funds from the Rural Housing Targeting Set Aside (RHTSA). Should RHTSA funds be unavailable, or the county

in which this project will be located is no longer considered a targeted county, this AD-622 will no longer be valid. In these cases, the request for assistance will need to compete with other preapplications in non-targeted counties, based upon its priority point score."

V. [Reserved]

3. Attachments 1, 2, and 3 to exhibit C are removed.

Dated: December 31, 1991.

La Verne Ausman,

Administrator, Farmers Home Administration.

[FR Doc. 92-2560 Filed 1-31-92; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 103 and 245a

[INS No. 1432-91]

RIN 1115-AC13

One-Year Extension of Deadline for Filing Applications for Adjustment From Temporary to Permanent Residence for Legalized Aliens

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule implements section 245A of the Immigration and Nationality Act (INA), as amended by the Immigration Act of 1990 (IMMACT), by providing for a one-year extension of the deadline for processing of applicants for permanent residence under the Legalization Program and, as provided by IMMACT, amending the fee schedule to charge a late-filing fee of $40.00 in addition to the original $80.00 fee for filing Form I-698. This rule also provides for the sua sponte reopening and re-adjudicating without fee of those applications which were previously denied for late filing. In addition, this rule amends regulations providing for the issuance of an Order to Show Cause and Warrant of Arrest if the United States Attorney declines to prosecute a case involving fraud or willful misrepresentation or concealment of a material fact.

EFFECTIVE DATE: This final rule is effective February 3, 1992.

FOR FURTHER INFORMATION CONTACT: Jean M. Christiansen, Senior Immigration Examiner, Immigration and Naturalization Service, 425 I Street NW., room 7114, Washington, DC, 20536, telephone (202)514-3490.

SUPPLEMENTARY INFORMATION: On November 29, 1990, section 245A of the Immigration and Nationality Act was amended to provide for a one-year extension of the deadline for filing applications for adjustment from temporary to permanent resident status for legalized aliens. On July 8, 1991, the Service published an interim rule with request for comments in the **Federal Register** at 56 FR 31060-31061. The interim rule provided for the sua sponte reopening and re-adjudication of those applications which were denied for late filing. Related amendments were also made to 8 CFR 103.7(b)(1) to provide for a fee of $120.00 (filed with Form I-698, Application to Adjust Status from Temporary to Permanent Resident) from those who missed the original one-year filing deadline. The fee represents the cost for filing the original Form I-698 ($80.00) plus additional administrative costs incurred by the government in the administration of late applications ($40.00). Additionally, as throughout the Legalization Program, a "family cap" fee is provided. The maximum amount payable by a family (husband, wife and any minor children) is three hundred and sixty dollars ($360.00). The Service published an interim rule, with request for public comment, to allow Service Centers to accept, and consider timely filed, applications which were filed within forty-three months of approval for temporary residence.

The interim rule also amended 8 CFR 245a.1(e) by removing the provision for issuing an Order to Show Cause and Notice of Hearing (Form I-221) and Warrant for Arrest of Alien (Form I-200) if the United States Attorney declined to prosecute a case involving fraud or willful misrepresentation or concealment of a material fact, knowingly providing a false writing or document in making an application, knowingly making a false statement or representation, or engaging in any other activity prohibited by section 245A(c)(6) of the Act. This provision was also contained in 8 CFR 245a.2(t)(4), which was removed by an amendment which was published in the **Federal Register**, 53 FR 23382, on June 22, 1988. Not removing this provision in § 245a.1(e) at that time was an oversight.

The interim rule published on July 9, 1991, provided the public with a 30-day comment period which ended on August 8, 1991.

In response to the publication of the interim rule, the Service received fourteen comments. The discussion that follows summarizes the issues which have been raised relating to the interim rule and provides the Service's position on those issues. All of the comments were carefully reviewed and considered by the Service.

Eleven commenters expressed concerns related to the determination of the one-year extension of the deadline for filing applications for adjustment from temporary to permanent resident status for legalized aliens. Each of the eleven commenters stated that the additional twelve months would extend the filing period to forty two months, not forty three months as stated in the interim rule.

Section 245A(b)(1)(A) of the Immigration Reform and Control Act of 1986 (IRCA), clearly states, "The alien must apply for such adjustment during the one-year period beginning with the nineteenth month that begins after the date the alien was granted such temporary resident status." However, the statute is very clear concerning the provision for termination of temporary residence. Section 245A(b)(2)(C) of IRCA states that the Attorney General shall provide for termination of temporary resident status "at the end of the *thirty-first* month beginning after the date the alien is granted such status * * *" (Emphasis added).

The one-year extension, as provided by IMMACT, would extend the filing period to two years. As the language of the statute is clear that temporary resident status would not be terminated during this period, the decision was made that applications would be accepted until the end of the forty-third month. This decision was made based on Congressional intent that the Immigration Reform and Control Act of 1986 (IRCA) be a "liberal and generous" program.

Ten of the commenters also noted that 8 CFR 245a.3(e) should have been addressed in the interim rule by changing the reference to "30 months" from the date the application for temporary residence was approved and adjudicated on the basis of the existing record. This was an oversight by the Service and the final rule will amend 8 CFR 245a.3(e) by changing "30 months" to read: "43 months".

Three of the commenters expressed concern regarding the forty dollar late filing fee on applications filed on or after July 9, 1991, the date of publication of the interim rule in the **Federal Register**. The three commenters stated that the additional fee was excessive, and that the regulations did not explain how this fee was arrived at. The commenters also encouraged the INS to provide for outreach to those who missed their original deadline.

The forty dollar late filing fee was based on estimated additional administrative costs, which include, but are not limited to, mailers to each eligible applicant who has not yet filed an application for adjustment from temporary to permanent residence; cost of changing the message on the 800 information number; revision of Form M-306; staff time for responding to status inquiries, re-opening and re-adjudicating denials, etc. It is the opinion of the Service that additional outreach is not necessary, as approximately 96% of those eligible to file have applied for adjustment to permanent residence. Of those who have failed to apply, it is estimated that approximately 6,000 have adjusted to permanent resident status by other means. The Service continues to accept some 500 applications weekly.

List of Subjects

8 CFR Part 103

Aliens, Delegation of authority (Government agencies), Fees.

8 CFR Part 245a

Administrative practice and procedures, Aliens.

Accordingly, under the authority of 5 U.S.C. 522, 522a; 8 U.S.C. 1101, 1103, 1201, 1255a, 1255a note, 1304; 31 U.S.C. 9701; E.O. 12356, 47 FR 14874, 15557; 3 CFR, 1982 Comp., p. 166; and 8 CFR part 2, the interim rule amending 8 CFR parts 103 and 245a, which was published in the **Federal Register** at 56 FR 31060–31061 on July 9, 1991, is adopted as a final rule with the following changes:

PART 245a—ADJUSTMENT OF STATUS TO THAT OF PERSONS ADMITTED FOR LAWFUL TEMPORARY OR PERMANENT RESIDENT STATUS UNDER SECTION 245A OF THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED BY PUB. L. 99–603, THE IMMIGRATION REFORM AND CONTROL ACT OF 1986, AND PUB. L. 100–204, SECTION 902

1. The authority citation for part 245a is revised to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1255a and 1255a note.

§ 245a.3 [Amended]

2. In § 245a.3, paragraph (e) is amended in the last sentence by revising the reference to "30 months" to read: "43 months".

Dated: January 17, 1992.

Gene McNary,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 92–2443 Filed 1–31–92; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket 91–178]

Validated Brucellosis-Free States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: We are affirming without change an interim rule that amended the brucellosis regulations concerning the interstate movement of swine by adding Hawaii and New Mexico to the list of validated brucellosis-free States. We determined that they meet the criteria for classification as validated brucellosis-free States. The action relieved certain restrictions on moving breeding swine from Hawaii and New Mexico.

EFFECTIVE DATE: March 4, 1992.

FOR FURTHER INFORMATION CONTACT: Dr. Delorias M. Lenard, Senior Staff Veterinarian, Swine Diseases Staff, VS, APHIS, USDA, room 736, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301)436–7767.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule published in the **Federal Register** and effective on September 10, 1991 (56 FR 46108–46109, Docket Number 91–114), we amended the brucellosis regulations in 9 CFR part 78 that prescribe conditions for the interstate movement of cattle, bison, and swine, by adding Hawaii and New Mexico to the list of validated brucellosis-free States in § 78.43.

Comments on the interim rule were required to be received on or before November 12, 1991. We did not received any comments. The facts presented in the interim rule still provide a basis for the rule.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

Swine herd owners in Hawaii and New Mexico are affected by this action, which allows breeding swine to be moved interstate from Hawaii and New Mexico without being tested for brucellosis. Approximately 200 swine are tested annually for brucellosis in Hawaii and New Mexico, at an average cost to the seller of $5.00 per test, in order to be eligible for interstate movement. Using these numbers, we estimate that removing the testing requirement will result in a potential annual savings of $1,000 for swine herd owners in Hawaii and New Mexico. Of the approximately 3,000 swine herd owners nationwide who regularly ship breeding swine interstate, approximately 6 regularly ship breeding swine interstate from Hawaii and only one from New Mexico. All of these herd owners would be considered small entities.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

List of Subjects in 9 CFR Part 78

Animal diseases, Brucellosis, Cattle, Hogs, Quarantine, Transportation.

PART 78—BRUCELLOSIS

Accordingly, we are adopting as a final rule, without change, the interim rule amending 9 CFR 78.43 that was published at 56 FR 46108–46109 on September 10, 1991.

Authority: 21 U.S.C. 111–114a–1, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

Done in Washington, DC, this 29th day of January 1992.

Robert Melland,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92–2500 Filed 1–31–92; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91–CE–84–AD; Amendment 39–8173; AD 91–24–15]

Airworthiness Directives; Beech Models 1900 and 1900C Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the **Federal Register** and makes effective as to all persons an amendment adopting Airworthiness Directive (AD) 91–24–15, which was previously made effective by individual letter as to all known U.S. owners and operators of certain Beech Models 1900 and 1900C airplanes. The AD specified a modification to the instrument air plumbing to improve cold weather operation by draining accumulated moisture in the system. The Federal Aviation Administration (FAA) recently became aware of several reports of instrument air system failure on the affected airplanes because moisture accumulated in the instrument air system plumbing and froze. The actions specified by this AD are intended to prevent surface deice system failure, which could result in aerodynamic problems leading to loss of control of the airplane.

DATES: Effective March 2, 1992, as to all persons except those persons to whom it was made immediately effective by priority letter AD 91–24–15, issued November 18, 1991, which contained this amendment. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 2, 1992.

ADDRESSES: Service information that is applicable to this AD may be obtained from the Beech Aircraft Corporation, Commercial Service, Department 52, P.O. Box 85, Wichita, Kansas 67201–0085; Telephone (316) 676–7111. This information may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 91–CE–84–AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Dale Vassalli, Aerospace Engineer, Systems and Equipment Branch, Wichita Aircraft Certification Office, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946–4132; Facsimile (316) 946–4407.

SUPPLEMENTARY INFORMATION: On November 18, 1991, priority letter AD 91–24–15 was issued and made effective immediately as to all known U.S. owners and operators of Beech Models 1900 and 1900C airplanes. The AD required a modification to the instrument air plumbing in accordance with the instructions in Beech Service Bulletin (SB) No. 2428, dated October 1991, on certain Beech Models 1900 and 1900C airplanes that had not complied with Beech SB No. 2398, dated November 1991, or do not have the following installed: Kit Nos. 114–9038–1 S and 114–9038–3 S, or Kit Nos. 114–9038–5 S and 114–9038–7 S.

This AD was issued because of several reports of instrument air system failure on the affected airplanes. These airplanes are type certificated for flight into known icing conditions and use instrument air to operate the surface deice boot system. The surface deice boot system and air-driven instruments will still operate during loss of instrument air from one engine; however, loss of instrument air from both engines would shut down the surface deice boot system and air-driven instruments. It is possible that moisture could freeze and block both instrument air sources, thereby preventing the surface deice boot system from operating. In this situation, ice can form on the airplane in freezing conditions, which could cause aerodynamic problems leading to loss of control of the airplane.

The compliance time in this AD is presented in calendar time. The reasons for calendar time are (1) to assure that the modification is accomplished before the extreme cold weather since the unsafe condition would occur in freezing conditions; and (2) avoid inadvertent grounding of the affected airplanes because the usage rate varies throughout the fleet, i.e., one operator may utilize the airplane 25 hours time-in-service (TIS) in one week while another operator might not utilize the airplane 25 hours TIS in one month.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued to all known U.S. owners and operators of airplanes. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to § 39.13 of part 39 of the Federal Aviation Regulations to make it effective as to all persons.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

91-24-15 Beech: Amendment 39-8173; Docket No. 91-CE-84-AD.

Applicability: The model airplanes listed below, certificated in any category, that have not incorporated Beech Service Bulletin (SB) No. 2398, dated November 1991, or have not installed the following: Kit Nos. 114-9038-1 S and 114-9038-3 S, or Kit Nos. 114-9038-5 S and 114-9038-7 S.

Model	Serial Nos.
1900	UA-2 and UA-3 with Kit Nos. 114-9016-1 S and 114-9016-3 S installed.
1900C	UB-1 through UB-74 with Kit Nos. 114-9016-1 S and 114-9016-3 S installed.
1900C	UC-1 through UC-162.
1900C Military (C12J)	UD-1 through UD-6.

Compliance: Required within the next 30 calendar days after receipt of this AD, unless already accomplished.

To prevent aerodynamic problems caused by ice formation that could lead to loss of control of the airplane, accomplish the following:

(a) Modify the plumbing on both sides of the instrument air system in accordance with the Accomplishment Instructions of Beech Service Bulletin No. 2428, dated October 1991.

(b) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita Aircraft Certification Office.

(d) The modification required by this AD shall be done in accordance with Beech Service Bulletin No. 2428, dated October 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Beech Aircraft Corporation, Commercial Service, Department 52, P.O. Box 85, Wichita, Kansas 67201-0085. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 1100 L Street, NW.; room 8401, Washington, DC.

(e) This amendment (39-8173) becomes effective on March 2, 1992, as to all persons except those persons to whom it was made immediately effective by priority letter AD 91-24-15, issued November 18, 1991, which contained this amendment.

Issued in Kansas City, Missouri, on January 22, 1992.

Bobby W. Sexton,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-2436 Filed 1-31-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 91-NM-197-AD; Amendment 39-8152; AD 91-20-51]

Airworthiness Directives; Boeing Model 747-200, 747-300, and 747-400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the Federal Register an amendment adopting Airworthiness Directive (AD) T91-20-51, which was made effective previously to all known U.S. owners and operators of certain Boeing Model 747-200, 747-300, and 747-400 series airplanes by individual telegrams. This AD requires repetitive inspections of the engine number two and engine number three upper strut wing leading edge compartments; repetitive inspections of the strut drains to verify that the drains are not obstructed; and corrective action, if necessary. This amendment is prompted by a fire within engine strut number two of a Boeing Model 747-400 series airplane. The actions specified by this AD are intended to prevent a fire within the engine strut.

DATES: Effective February 18, 1992, to all persons except those persons to whom it was made immediately effective by telegraphic AD T91-20-51, issued September 24, 1991, which contained this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 18, 1992.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Transport Airplane Directorate, Rules Docket No. 91-NM-197-AD, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jon Regimbal, Aerospace Engineer, Seattle Aircraft Certification Office, Propulsion Branch, ANM-140S; FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056, telephone (206) 227-2687, fax (206) 227-1181.

SUPPLEMENTARY INFORMATION: On September 24, 1991, the FAA issued telegraphic AD T91-20-51, applicable to certain Boeing Model 747-200, 747-300, and 747-400 series airplanes, which requires repetitive inspections of the engine number two and engine number three upper strut wing leading edge compartments and of the strut drains to verify that the drains are not obstructed, and corrective action, if necessary. That action was prompted by a fire within engine strut number two on a Boeing Model 747-400 series airplane. Although the investigation is continuing, the fire appeared to have been caused by electrical arcing between the engine number one electrical power feeder cable and the engine number two fuel feed line in the upper strut wing leading edge compartment of engine strut number two. Arcing could result from chafing or other damage to the electrical power feeder cables. Arcing in this location can create a hole in the fuel tube and provide a simultaneous ignition source. This condition, if not corrected, could result in a fire within the engine strut.

Since similarities exist between the number two engine strut and the number three engine strut installations, and between the Model 747-400 and certain Model 747-200 and 747-300 engine strut installations, this potential unsafe condition may exist with regard to these installations on these airplane models.

When engine strut number two was inspected after the strut fire, the flammable fluid drains in the strut were found to be blocked. Such blockage would lead to the collection of fuel within the strut, which increases the risk of fire. Sufficient similarities exist between the strut drain installation on all four struts of the affected airplanes such that this potential problem may exist with regard to all strut drains on these airplanes.

The FAA has reviewed and approved Boeing Alert Service Bulletin 747-24A2168, dated September 24, 1991, which describes procedures to inspect the power feeder cables to detect chafing or damage to the fuel supply tube and procedures to ascertain whether the clearance between the engine fuel supply tube and the electrical power feeder cables is adequate.

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design, the FAA issued telegraphic AD T91-20-51 to require repetitive inspections of the engine number two and engine number three upper strut wing leading edge compartments for chafing or other damage to the fuel supply tube and the electrical power feeder cables, and to determine whether there is sufficient clearance between the engine fuel supply tube and the electrical power feeder cables. The AD also requires repetitive inspections of the strut drains to verify that the drains are not obstructed. Correction of discrepancies found as a result of the inspections is required prior to further flight. The required actions are to be accomplished in accordance with the service bulletin previously described.

Further, this AD also contains a requirement for operators to submit a report to the FAA of the conditions found as a result of the inspections of the electrical power feeder cables and the engine fuel supply tube.

Since it was found that immediate corrective action was required, notice and prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual telegrams issued on September 24, 1991, to all known U.S. owners and operators of certain Boeing Model 747-200, 747-300, and 747-400 series airplanes. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to § 39.13 of part 39 of the Federal Aviation Regulations (FAR) to make it effective to all persons.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

91-20-51. Boeing: Amendment 39-8152. Docket 91-NM-197-AD.

Applicability: Model 747-200 and 747-300 series airplanes, line numbers 679, 681, 685, 688, 701, 702, 703, 711, and 719; and Model 747-400 series airplanes, line numbers 696 through 734, inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent fire within the engine strut, accomplish the following:

(a) Within 10 days after the effective date of this amendment, inspect the electrical power feeder cables and the engine fuel supply tube in engine struts two and three for damage or chafing and minimum clearance of 0.375 inch, in accordance with Boeing Alert Service Bulletin 747-24A2168, dated September 24, 1991. If damage is found or if clearance is not within the specified limits, prior to further flight, repair any damage in accordance with that service bulletin and relocate the electrical power feeder cables so that the clearance is more than 0.375 inch. Repeat this inspection at the following intervals:

(1) If the clearance is less than 0.75 inch, repeat the inspection at intervals not to exceed 500 flight hours.

(2) If the clearance is 0.75 inch or greater, repeat the inspection at intervals not to exceed 1,000 flight hours.

(b) Within 10 days after the effective date of this amendment, and thereafter at intervals not to exceed 1,000 flight hours, perform a test of the strut drainage system on all four engine struts in accordance with Boeing Alert Service Bulletin 747-24A2168, dated September 24, 1991. Correct any discrepancies prior to further flight.

(c) Within 15 days after the effective date of this amendment, report the results of the initial inspections required by paragraph (a) of this AD to the Manager, Propulsion Branch, ANM-140S, Seattle Aircraft Certification Office, FAA, Transport Airplane Directorate, 1601 Lind Ave SW., Renton, Washington 98055-4056. (Facsimile messages may be sent via telephone number (206) 227-1181). Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB Control Number 2120-0056.

(d) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) The inspections required by this AD shall be done in accordance with Boeing Alert Service Bulletin 747 24A2168, dated September 24, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

(g) This amendment (39-8152), AD 91-20-51, becomes effective February 18, 1992, to all persons except those persons to whom it was made immediately effective by telegraphic AD T91-20-51, issued September 24, 1991, which contained the requirements of this amendment.

Issued in Renton, Washington, on January 3, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-2437 Filed 1-31-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 91-CE-42-AD; Amendment 39-8002; AD 91-10-01]

Airworthiness Directives; Collins Traffic Alert and Collision Avoidance (TCAS) II (or 94) Systems

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is

applicable to aircraft equipped with the Collins TCAS II (or 94) system. This action supersedes priority letter AD 91-10-01, which requires disconnecting the Traffic Alert and Avoidance system in aircraft equipped with the Collins TCAS II (or 94) system, and subsequent modification. Since issuance of priority letter AD 91-10-01, the manufacturer has issued a revision to the service information that is also an acceptable method of compliance. The original issue of the service information remains an acceptable method of compliance. The actions specified by this AD are intended to prevent altitude deviations, which could result in unnecessary pilot/controller communication and controller distraction.

DATES: Effective March 10, 1992. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 10, 1992. Comments for inclusion in the Rules Docket must be received on or before April 15, 1992.

ADDRESSES: Service information that is applicable to this AD may be obtained from Rockwell International, Avionics Group, 400 Collins Road NE., Cedar Rapids, Iowa 52498. This information may also be examined at the Rules Docket at the address below. Send comments on this AD in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 91-CE-42-AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Robert L. Klapprott, Systems and Equipment Branch Manager, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4416.

SUPPLEMENTARY INFORMATION: There have been several reports of Traffic Alert and Collision Avoidance System (TCAS) problems on aircraft that are equipped with the Collins TCAS II (or 94) system. The crew members of the involved aircraft report that targets suddenly appear or are moving at a very high rate of speed toward their aircraft, which causes a traffic advisory (TA) or resolution advisory (RA). This situation results when two TCAS equipped aircraft are in the same vicinity of a Mode S equipped aircraft, and one of the TCAS aircraft is at the same altitude. Under these circumstances, it is possible for the TCAS aircraft at the same altitude to misinterpret the reply evoked by the other TCAS aircraft as a Mode S reply. This results in the Mode S aircraft appearing closer than it actually is and a TA or RA being displayed to the crew. This causes the crew to quickly change altitude, which could result in an undesirable disruption of the Air Traffic Control System.

As a result, the FAA issued priority letter AD 91-10-01 on May 2, 1991, and made it effective immediately as to all known U.S. owners and operators of aircraft equipped with the Collins TCAS II (or 94) systems. The AD requires disconnecting the TCAS II (or 94) system, and subsequent modification in accordance with the instructions in Collins Service Bulletin (SB) C, dated April 24, 1991, or SB No. 7, dated April 4, 1991, whichever is applicable. Since that time, Collins has issued SB C, Revision 1, and SB No. 7, Revision 1, both dated May 20, 1991.

The FAA has determined that the actions required by AD 91-10-01 must still be accomplished and that the original version of the service information or the revision may be used. Since the condition described is likely to exist or develop in other aircraft equipped with Collins Traffic Alert and Collision Avoidance System II (or 94) systems of the same type design, this AD will retain the requirements of priority letter AD 91-10-01, but allow the modification to be accomplished in accordance with the instructions in either with the instructions in Collins Service Bulletin (SB) C, dated April 24, 1991, or No. 7, dated April 4, 1991, whichever is applicable; or Collins SB C, Revision 1, or SB No. 7, Revision 1, both dated May 20, 1991, whichever is applicable. This action will supersede priority letter AD 91-10-01.

Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and that good cause exists for making this amendment effective in less than 30 days. Although this action is in the form of a final rule that involves requirements affecting immediate flight safety and, thus, was not preceded by notice and public procedure, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket at the address given above. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR Part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C 1354(a), 1421, and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

91-10-01 Collins: Amendment 39-8002; Docket No. 91-CE-42-AD.

Applicability: All aircraft equipped with the Traffic Alert and Collision Avoidance (TCAS) II (or 94) systems that are installed in, but not limited to, the following aircraft, certificated in any category:

Boeing 727, 727C, 727-100/100C/200/200F airplanes; Boeing 747-100, 200, SR, SP airplanes; McDonnell Douglas DC9-81/82/83/87 and MD-88 airplanes; Aerospatialle ATR42-200/300 airplanes; Lockheed L1011-385-1 airplanes; DeHavilland DHC-7 airplanes; Saab SF340A/B airplanes; and Shorts Brothers SD3-60 airplanes.

Compliance: Required as indicated, unless already accomplished.

To prevent altitude deviations, which could result in unnecessary pilot/controller communication and controller distraction, accomplish the following:

(a) Within the next 25 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished (priority letter AD 91-10-01), accomplish the following:

(1) Pull and band the circuit breaker that applies electrical power to the TCAS II (or 94) system.

(2) Fabricate a placard with the following words in ⅛ inch high letters: "TCAS II Inoperative" or "TCAS 94 Inoperative" as appropriate. Install this placard adjacent to the TCAS control unit within the pilot's clear view and operate the aircraft accordingly.

(b) Reactivation of the TCAS II (or 94) system must be accomplished after modification of the Collins TTR-920 Computer in accordance with Collins Service Bulletin (SB) C, dated April 24, 1991, or No. 7, dated April 4, 1991, whichever is applicable, or Collins SB C, Revision 1, or SB No. 7, Revision 1, both dated May 20, 1991, whichever is applicable. This reactivation must be accomplished in accordance with a schedule acceptable to the administrator.

(c) Within the next 30 days after the effective date of this AD, unless already accomplished (priority letter AD 91-10-01), the airlines operating the aircraft affected by this AD must submit to the FAA for approval, a schedule for reactivation of the TCAS II (or 94) system.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate aircraft to a location where the requirements of this AD can be accomplished.

(e) An alternative method of compliance or adjustment of the compliance times that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita Aircraft Certification Office.

(f) The modification required by this AD shall be done in accordance with Collins Service Bulletin (SB) C, dated April 24, 1991, or Collins SB No. 7, dated April 4, 1991, whichever is applicable; or whichever of the following two revised service bulletins that is applicable: SB C, Revision 1, which incorporates the following pages:

Pages	Issue level	Date
4 and 5	Revision 1	May 20, 1991.
1, 2, 3 and 6	Original	April 24, 1991.

or Collins SB No. 7, Revision 1, which incorporates the following pages:

Pages	Issue level	Date
1, 4 and 8	Revision 1	May 20, 1991.
2, 3, 5, 6, 7, and 9 through 34.	Original	April 4, 1991.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Rockwell International, Avionics Group, 400 Collins Road, NE., Cedar Rapids, Iowa 52498. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, DC.

(g) This amendment (39-8002) supersedes Priority Letter AD 91-10-01.

(h) This amendment (39-8002) becomes effective on March 16, 1992.

Issued in Kansas City, Missouri, on January 24, 1992.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-2456 Filed 1-31-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 91-NM-126-AD; Amendment 39-8144; AD 92-02-06]

Airworthiness Directives; McDonnell Douglas Model DC-10 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to McDonnell Douglas Model DC-10 series airplanes, which currently requires structural inspections, reporting of the inspection results, and repair or replacement, as necessary, to ensure continued airworthiness as these airplanes approach the manufacturer's original fatigue design life goal. This amendment requires the modification of the existing sampling program: to: (a) require additional visual inspections of all Principal Structural Elements (PSEs) on certain airplanes, (b) include expanded/modified PSEs, (c) revise the reporting requirements, and (d) increase the sample size. This amendment is prompted by new data submitted by the manufacturer indicating that additional inspections and an expanded sample size are necessary to increase the confidence level of the statistical program to ensure timely detection of cracks in PSEs. Such cracking, if not detected and corrected, could result in a compromise of the structural integrity of these airplanes.

DATES: Effective March 9, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 9, 1992.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90801, Attention: Business Unit Manager, Technical Publications and Technical Administrative Support C1-L5B (54-60). This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California; or at the Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Maureen A. Moreland, Aerospace Engineer, Airframe Branch, ANM-121L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806-2425; telephone (310)988-5238.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD 89-22-10, Amendment 39-6330 (54 FR 42291, October 16, 1989), which is applicable to McDonnell Douglas Model DC-10 series airplanes, was published in the **Federal Register** on August 15, 1991 (56 FR 40581). The action proposed to (a) require additional visual inspections of all Principal Structural Elements (PSEs) on certain airplanes, (b) include expanded/modified PSEs, (c) revise the reporting requirements, and (d) increase the sample size.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due

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consideration has been given to the comments received.

Two commenters concurred with the proposed rule.

Two commenters stated that proposed paragraph (b) needs clarification to indicate that it is the May 1990 revision of the McDonnell Douglas Report No. L26-012, DC-10 Supplemental Inspection Document (SID), which is to be followed when reference to "that document" is used to specify Volumes II and III. The FAA concurs. Paragraph (b) of the final rule has been revised accordingly. Additionally, paragraph (a) has been revised to clearly identify the November 1988 revision of the SID as the pertinent service information source.

Three commenters recommended that the changes called out in the proposed rule be issued via a revision to AD 89-22-10. The FAA does not concur. The FAA's current policy is that, whenever a substantive change is made to an existing AD, regardless of whether the change is based on an intentional change or the correction of an unintentional error, the AD must be superseded, rather than revised. Substantive changes are those made to any instruction or reference that affects the substance of the AD, and includes part numbers, service bulletin and manual references, compliance times, applicability, methods of compliance, corrective action, inspection requirements, and effective dates. In the case of this AD rulemaking action, the changes being made to existing AD are considered substantive. This superseding AD is assigned a new amendment number and new AD number; the previous amendment is deleted from the system. This procedure facilitates the efforts of the Principal Maintenance Inspectors in tracking AD's and ensuring that the affected operators have incorporated the latest changes into their maintenance programs.

One commenter requested that the proposed AD be revised to permit repairs to be accomplished "in accordance with data approved by, or acceptable to, the FAA Administrator." This would permit approval of repairs by Designated Engineering Representatives (DERs) of the McDonnell Douglas Corporation or by organizations which hold SFAR 36 authorization. The FAA does not concur. While DERs and SFAR 36-authorized organizations are authorized to determine whether a design or repair method complies with a specific requirement, they are not authorized to make the discretionary determination as to what the applicable requirement is. Further, it is crucial that the FAA, as well as McDonnell Douglas, be aware of all repairs made to principal structural elements (PSEs) or to their configuration, and that damage tolerance analysis be performed on each repair to establish its effect on the fatigue life of the affected structure.

One operator recommended that the AD be revised to provide guidelines or a procedure by which an oprator could accomplish an inspectrion utilizing a substitute non-destructive testing (NDT) method and receive credit for inspections that were accomplished by that method prior to the FAA granting an alternate means of compliance. The FAA contends that the system currently in place addresses this concern. The nature of the SID program allows the operator to schedule the inspection of aircraft anytime between the start date and the end date. If an alternative method of compliance is granted for a substitute inspection prior to the end date for the mandated inspection, an operator may take retroactive credit for the substitute inspection, provided the inspection was accomplished prior to the end and the operator can produce documentation that the inspection was conducted in accordance with the approved substitute inspection procedures.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 423 Model DC-10 series airplanes of the affected design in the worldwide fleet. It is estimated that 252 airplanes of U.S. registry and 10 U.S. operators will be affected by this AD. Incorporation of the Supplemental Inspection Document program into an operator's maintenance program, as originally required by AD 89-22-10, is estimated to necessitate 1,000 work hours (per operator), at an average labor cost of $55 per work hour. Based on these figures, the cost to the 10 affected U.S. operators to initially incorporate the SID program is estimated to be $550,000.

The incorporation of the additional procedures of this AD action requires approximately 250 additional work hours per operator to accomplish, at an average labor cost of $55 per work hour. Based on these figures, the cost to the 10 affected U.S. operators to incorporate the revisions to the SID program is estimated to be $137,500.

The recurring inspection cost, as originally required by AD 89-22-10, is estimated to be 341 work hours per airplane per year. The procedures added to the program by this AD action require approximately 14 additional work hours per airplane per year to accomplish. The average labor charge is $55 per work hour. Based on these figures, the recurring inspection cost impact of this AD on U.S. operators is estimated to be $19,525 per airplane or $4,920,300 for the affected U.S. fleet.

Based on the above figures, the total cost impact of this AD is estimated to be $5,057,800 for the first year, and $4,920,300 for each year thereafter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39-6330 and by

adding the following new airworthiness directive:

92–02–08. McDonnell Douglas: Amendment 39–8144. Docket No. 91–NM–126–AD. Supersedes AD89–22–10, Amendment 39–6330.

Applicability: Model DC–10 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To ensure the continuing structural integrity of these airplanes, accomplish the following:

(a) Within one year after November 20, 1989, (the effective date of AD 89–22–10, Amendment 39–6330), incorporate a revision into the FAA-approved maintenance inspection program which provides for inspection of the Principal Structural Elements (PSEs) defined in section 2 of Volume I of McDonnell Douglas Report No. L26–012, "DC–10 Supplemental Inspection Document (SID)," dated November 1988, in accordance with section 2 of Volume III of the November 1988 document. The non-destructive inspection techniques set forth in Volume II of the SID, dated November 1988, provide acceptable methods for accomplishing the inspections required by this AD. All inspection results (negative or positive) must be reported to McDonnell Douglas, in accordance with the instructions of section 2 of Volume III of the SID, dated November 1988. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB Control Number 2120–0056.

(b) Within 6 months after the effective date of this AD incorporate a revision into the FAA-approved maintenance inspection program which provides for inspection of the Principal Structural Elements (PSEs) defined in section 2 of Volume I of McDonnell Douglas Report No. L26–012, DC–10 Supplemental Inspection Document (SID), dated May 1990, in accordance with section 2 of Volume III of the May 1990 document. The non-destructive inspection techniques set forth in section 2 and section 4 of Volume II of the SID, dated May 1990, provide acceptable methods for accomplishing the inspections required by this AD. All inspection results (negative or positive) must be reported to McDonnell Douglas, in accordance with the instructions of section 2 of Volume III of the SID, dated May 1990. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB Control Number 2120–0056.

(c) Cracked structure detected during the inspections required by paragraphs (a) and (b) of this AD must be repaired before further flight, in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

(e) An alternative method of compliance or adjustment of compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Los Angeles ACO.

(f) The inspection requirements shall be done in accordance with McDonnell Douglas Report No. L26–012, DC–10 Supplemental Inspection Document (SID), dated May 1990, which incorporates the following list of effective pages:

VOLUME I

Section	Page number(s)	Date
List of Effective Pages.	Pages A–D	May 1990 (Revision 1).
Introduction	Pages 1–2, 5, 7–9, and 11–20.	December 1988.
	Page 3–4	June 1988.
	Page 6 and 10	May 1990.
1	Pages 1–14	May 1990.
	Pages 15–24	December 1988.
2	Pages i–ii, A–D, 1–15, 19–20, 22–28, 30–41, 43–55, 58–63, 65–102, and 104–124.	December 1988.
	Pages 16–18, 21, 28, 29, 42, 56–57, 64, and 103.	May 1990.
3	Pages i–ii, A–B, 1–18, and 20–34.	December 1988.
	Page 19	May 1990.
4	Pages i–ii, A–D, and 1–70.	December 1988.
	Pages 71–137	May 1990.

VOLUME II

Section	Chapter	Page number(s)	Date
List of Effective Pages.		Pages A–O	May 1990 (Revision 1).
Table of Contents.		Pages i–ii	May 1990 (Revision 1).
1	20–00–00—20–20–00.	All	December 1988.
	20–30–00	Pages 1–24	
	20–40–00—20–60–00.	All	
	20–30–00	Pages 25–28	May 1990.
2	52–30–01	Pages 1 and 4–6.	December 1988.
	52–30–02	Pages 1 and 4–6.	

VOLUME II—Continued

Section	Chapter	Page number(s)	Date
	52–30–03	Pages 1 and 4–6.	
	52–30–04	Pages 1 and 3–6.	
	53–10–01	Pages 1–2, 4–5, 7–8, and 12.	
	53–10–02	Pages 1 and 3–7.	
	53–10–03	Pages 1 and 3–7, 9, and 11.	
	53–10–04	Pages 1, 6–8, and 11–14.	
	53–10–05	Pages 3–4	
	53–10–06	Pages 1, 4, 6–8, and 12.	
	53–10–07	Pages 1, 4–7, and 11–14.	
	53–10–08	Pages 1 and 5–7.	
	53–20–01	Pages Insert, 1, 3–8, and 10–13.	
	53–20–02	Pages Insert, 1, and 3–5.	
	53–20–03	Pages 1, 3–7, and 9.	
	53–20–04	Pages Insert, 1, 3–5, and 7.	
	53–30–01	Page 11	
	53–30–02	Pages Insert, 1, 3–6, and 8–9.	
	53–30–03	Pages Insert, 1, 3–7, 9, 11, and 14.	
	53–30–04	Pages 1 and 3–9.	
	53–30–05	Pages 1 and 3–9.	
	53–30–06	Pages 1 and 3–9.	
	53–30–07	Pages 1 and 3–9.	
	53–30–08	Pages 1 and 3–12.	
	53–30–09	Pages 1 and 3–13.	
	53–30–10	Pages 1 and 3–13.	
	53–30–11	Pages 1 and 3–13.	
	53–30–12	Pages 1, 3–7, 9–10, and 12.	
	53–40–01	Pages 1–2, 6, 11–14, 16–20, 22, 31–34, and 36–37	
	53–40–02	Pages 1, 3–8, and 10.	
	53–40–03	Pages 1, 3–6, and 8–9.	
	54–40–13	Pages 4–6, 8–9, 11–14, and 17.	
	54–40–13, Series 40.	Pages 1 ahd 3–10.	
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	54–40–15	Pages 1, 5, 7–9, 12, and 14.	
	54–40–16	Pages 1, 3–4 and 7–12.	

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	55-10-01	Pages 1, 3-7, and 9.	
	55-10-02	Pages 1 and 4-7.	
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	55-30-01	Pages 1-2 and 7-9.	
	55-30-02	Pages 1-2, 5-6, 8-11, 16, 18-19, 23, 25, 27-28, 30, and 39.	
	55-30-03	Pages 1 and 5-6.	
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	57-10-01	Pages 1, 5, 7, and 9.	
	57-10-02	Pages 1-2, 5-8, and 10.	
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	57-20-01	Pages 1-2, 10-11, and 14.	
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	53-30-02	Pages 2 and 7.	
	53-30-03	Pages 2, 8, 10, and 12-13.	
	53-30-04	Page 2	
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	53-30-10	Pages 2 and 14.	
	53-30-11	Pages 2 and 14.	
	53-30-12	Pages 2, 8, and 11.	
	53-40-01	Pages 3-5, 7-10, 15, 21, 23-30, 35.	
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	54-40-15	Pages 2, 5-6, 10-11 and 13.	
	54-40-16	Pages 2, 4-6 and 13.	
	55-10-01	Pages 2 and 8.	
	55-10-02	Pages 2-3 and 8-10.	
	55-10-03	Pages 2-3 and 8.	
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	55-30-03	Pages 2-4 and 7-8.	
	55-30-04	Pages 2-4 and 7.	
	57-10-01	Pages 2-4, 6, and 8.	
	57-10-02	Pages 3-4 and 9.	
	57-10-03	Pages 2-3, 6, and 11.	
	57-10-03, Series 30/40.	Pages 3-4, 6, and 10.	
	57-20-01	Pages 3-9, 12-13, and 15-16.	
	57-20-02	Pages 2-4, 7, 9, and 11-17.	
	57-20-03	Pages 2-4 and 8-11.	
	57-20-04	Pages 2-6, 8-9, 11, and 13.	
	57-20-05	Pages 2-4, 8-9, and 11.	
	57-20-06	Pages 1-4 and 8-15.	
	57-50-01	Pages 2, 4-5, and 10-13.	
	57-50-02	Pages 1, 3-4, 10-11, and 13-14.	
	57-50-03	Pages 3-4, 7-8, and 10.	
	57-40-04	Pages 2-4 and 9-11.	
	57-50-05	Pages 2 and 5-11.	
	57-50-06	Pages 2-4 and 6.	
3	PSE Cross Reference Table.	Pages 1-4	May 1990.
	AL.01	Pages 1-3	May 1990.
	RS.01-RS.22b.	All	May 1990.
	RS.23	Page 1	May 1990.
		Page 2	December 1988.
	RS.24-TI.01	All	May 1990.
	Probe/Transducer.	All	May 1990.
	Drawings	All	December 1988.
	Fastener	All	December 1988.
4		All	May 1990.

Volume III, in its entirety (sections 1-2 and appendices A-C), is dated May 1990; however, each page is not individually dated.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90801, Attention: Business Unit Manager, Technical Publications and Technical Administrative Support C1-L5B (54-60). Copies may be inspected at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California; or at the Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, DC.

(g) This amendment (39-8144, AD 92-02-08) becomes effective March 9, 1992.

Issued in Renton, Washington, on December 27, 1991.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-2438 Filed 1-31-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 91-NM-148-AD; Amendment 39-8160; AD 92-03-05]

Airworthiness Directives; SAAB-SCANIA Models SAAB SF340A and SAAB 340B Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain SAAB-SCANIA Models SAAB SF-340A and SAAB 340B series airplanes, which requires modification of the exit and dome light assemblies. This amendment is prompted by a recent design review which revealed that the existing combinations of power supply loads and the in-flight temperature gradient for the power packs in the emergency lighting system can lead to a reduction in power pack operating time. The actions specified by this AD are intended to prevent premature failure of the emergency lights after an emergency landing.

DATES: Effective March 9, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 9, 1992.

ADDRESSES: The applicable service information may be obtained from SAAB-SCANIA AB, Product Support, S-581.88, Linköping, Sweden. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2145; fax (206) 277-1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to certain SAAB-SCANIA Models SF-340A and SAAB 340B series airplanes, was published in the **Federal Register** on August 16, 1991 (56 FR 40813). That action proposed to require modification of the exit and dome light assemblies.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Both commenters supported the rule.

Since issuance of the Notice, SAAB-SCANIA has issued Revision 2 to Service Bulletin 340-33-030, dated September 27, 1991, which deletes certain airplane serial numbers that are not affected by this modification due to a different cabin configuration in these airplanes. The FAA has revised the final rule to cite this latest revision to the service bulletin as the appropriate source for service information. Furthermore, since the revised service bulletin changes the applicability, the final rule references this revised service bulletin for applicability.

The manufacturer noted that the company's name should be written as "SAAB-SCANIA" or "Saab-Scania," and that the airplane model names should be referred to as "SAAB SF340A" and "SAAB 340B." The FAA acknowledges this information and has revised the references to the manufacturer and airplane models accordingly throughout the rule.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

It is estimated that 121 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Required parts will cost approximately $297 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $42,592.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

92-03-05. SAAB-SCANIA: Amendment 39-8160. Docket No. 91-NM-146-AD.

Applicability: Models SAAB SF340A and SAAB 340B series airplanes; as listed in SAAB Service Bulletin 340-33-030, Revision 2, dated September 27, 1991; certified in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent premature failure of the emergency lights after an emergency landing, accomplish the following:

(a) Within 120 days after the effective date of this AD, modify the exit and dome light assemblies, in accordance with SAAB Service Bulletin 340-33-030, Revision 2, dated September 27, 1991.

(b) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The modification required by this AD shall be done in accordance with SAAB Service Bulletin 340–33–030, Revision 2, dated September 27, 1991, which contains the following list of effective pages:

Page No.	Revision level	Date
1–2, 4	2	September 27, 1991.
6–7	1	April 29,1991.
3, 5, 8–10	(original)	(undated).

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from SAAB-SCANIA AB, Product Support, S-581.88, Linköping, Sweden. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW, Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW, room 8401, Washington, DC.

(e) This amendment (39–8160), AD 92–03–05, becomes effective March 9, 1992.

Issued in Renton, Washington January 9, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–2503 Filed 1–31–92; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 91–NM–200–AD; Amendment 39–8153; AD 92–02–16]

Airworthiness Directives; Short Brothers, PLC, Model SD3–60 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Short Brothers Model SD3–60 series airplanes, which requires a one-time visual inspection of the rudder torque tube fitting to detect signs of exfoliation corrosion, and repair, if necessary; and an application of pre-treatment penetrant and corrosion preventative. This amendment is prompted by reports indicating that the rudder torque tube fitting has been subject to exfoliation corrosion. The actions specified by this AD are intended to prevent failure of the rudder torque tube fitting and reduced controllability of the airplane.

DATES: Effective March 9, 1992.

The corporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 9, 1992.

ADDRESSES: The service information referenced in this AD may be obtained from Short Brothers, PLC, 2011 Crystal Drive, suite 713, Arlington, Virginia 22202–3719. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Hank Jenkins, Standardization Branch, ANM–113; telephone (206) 227–2141; fax (206) 227–1320. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to Short Brothers Model SD3–60 series airplanes, was published in the **Federal Register** on October 23, 1991 (56 FR 54810). That action proposed to require a one-time visual inspection of the rudder torque tube fitting to detect signs of exfoliation corrosion, and repair, if necessary; and an application of pre-treatment penetrant and corrosion preventative.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter agreed with the proposed requirements of this AD.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described.

It is estimated that 60 airplanes of U.S. registry will be affected by this AD, that it will take approximately 5 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $16,500.

The regulation adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air Transportation, Aircraft, Aviation Safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. (1354)(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

92–02–16. Short Brothers: Amendment 39–8153. Docket 91–NM–200–AD.

Applicability. Model SD3–60 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the rudder torque tube fitting and reduced controllability of the airplane, accomplish the following:

(a) Within 90 days after the effective date of this AD, perform a visual inspection of the rudder torque tube fitting to detect signs of exfoliation corrosion, in accordance with Short Brothers Service Bulletin SD360–55–17, dated May 7, 1991.

(b) If exfoliation corrosion is found as a result of the inspection required by paragraph (a) of this AD, accomplish the following:

(1) Report findings of exfoliation corrosion to Short Brothers, PLC, in accordance with the service bulletin. The information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB Control Number 2120–0056.

(2) If the corrosion is within the limits specified in Part B of the service bulletin, prior to further flight, remove the corrosion and apply pre-treatment penetrant and

corrosion preventative in accordance with the service bulletin.

(3) If the corrosion exceeds the limits specified in Part B of the service bulletin, prior to further flight, repair in a manner approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(c) If no signs of exfoliation corrosion are found as a result of the inspection required by paragraph (a) of this AD, prior to further flight, apply pre-treatment penetrant and corrosion preventative in accordance with the service bulletin.

(d) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch ANM–113, FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM–113.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

(f) The inspection and application requirements of this AD shall be done in accordance with Short Brothers Service Bulletin SD360–55–17, dated May 7, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Short Brothers, PLC, 2011 Crystal Drive, suite 713, Arlington, Virginia 22202–3719. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, DC.

(g) This amendment (39–8153), AD 92–02–16, becomes effective March 9, 1992.

Issued in Renton, Washington, on January 3, 1992.

Darroll M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–2435 Filed 1–31–92; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

[Regulation No. 4]

RIN 0960–AD21

Federal Old-Age, Survivors, and Disability Insurance; Payment of Benefits to a Child Adopted by a Surviving Spouse

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: This final rule amends our regulations to reflect section 5104 of Public Law 101–508, the Omnibus Budget Reconciliation Act of 1990, enacted on November 5, 1990. Section 5104 amended section 216(e) of the Social Security Act (the Act) to provide that a child who is legally adopted by an insured person's surviving spouse after the insured's death may be entitled to child's insurance benefits if the child was either living with the insured individual or receiving at least one-half of his or her support from the insured individual at the time of the death of the insured individual. The provisions of section 5104 were effective with respect to child's insurance benefits payable for months after December 1990, but only on the basis of applications filed on or after January 1, 1991.

EFFECTIVE DATE: This rule is effective on February 3, 1992.

FOR FURTHER INFORMATION CONTACT: Cassandra Bond, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (301) 965–1794.

SUPPLEMENTARY INFORMATION: Prior to the enactment of section 5104 of Public Law 101–508, a child legally adopted by an insured person's surviving spouse after the insured's death was considered dependent upon the insured as of the date of death if: (1) The child was living in the insured's household at the time of the insured's death; (2) the child was not receiving regular contributions for his or her support from someone other than the insured or the insured's spouse, or from a public or private welfare organization, at the time of the insured's death; and (3) the insured had started adoption proceedings before he or she died, or the surviving spouse of the insured adopted the child within 2 years of the insured's death. As noted above, section 5104 of Public Law 101–508 amended the Act so that a child adopted by the insured's surviving spouse after the insured's death is considered dependent if the child was either living with or receiving one-half support from the insured at the time of the death of the insured. Section 5104 also eliminated the requirement that the child must not have been receiving regular contributions from any source other than the insured or the insured's spouse at the time of the insured's death. Section 5104 did not change the requirement in the Act that the insured must have started adoption proceedings before he or she died or the surviving spouse must have adopted the child within 2 years of the insured's death. This final rule amends § 404.362(c)(1) of our regulations to reflect this statutory change.

Regulatory Procedures

We are publishing this rule without prior notice and public comment thereon. The Department, even when not required by statute, as a matter of policy, generally follows the Administrative Procedure Act (APA) notice of proposed rulemaking and public comment procedures specified in 5 U.S.C. 553 in the development of regulations. The APA provides exceptions to its notice and comment requirements when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. We have determined that under 5 U.S.C. 553(b)(B) good cause exists for waiver of proposed rulemaking and public comment procedures in the case of this rule because we are only reflecting a statutory change. This change is not discretionary and does not involve the setting of policy. Therefore, opportunity for prior public comment is unnecessary and these changes to our regulations are being issued as a final rule.

Executive Order 12291

The Secretary has determined that this is not a major rule under Executive Order 12291 because the issuance of this regulation is not expected to result in significant costs. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act

This regulation imposes no new reporting or recordkeeping requirements subject to Office of Management and Budget clearance.

Regulatory Flexibility Act

We certify that this regulation will not have a significant economic impact on a substantial number of small entities because this rule will affect only individuals.

Therefore a regulatory flexibility analysis as provided in Public Law 96–354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance Program Nos. 93.802, Social Security Disability Insurance; 93.803, Social Security Retirement Insurance; and 93.805, Social Security Survivors Insurance)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure; Death benefits; Disability benefits; Old-Age, Survivors and Disability Insurance.

Dated: October 11, 1991.

Gwendolyn S. King,

Commissioner of Social Security.

Approved: November 12, 1991.

Louis W. Sullivan,

Secretary of Health and Human Services.

Part 404 of Title 20 of the Code of Federal Regulations is amended as follows:

PART 404—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE (1950–)

1. The authority citation for subpart D of part 404 is revised to read as follows:

Authority: Secs. 202, 203 (a) and (b), 205(a), 216, 223, 228(a)–(e), and 1102 of the Social Security Act; 42 U.S.C. 402, 403 (a) and (b), 405(a), 416, 423, 428(a)–(e), and 1302.

2. In § 404.362, paragraph (c)(1)(i) is revised; paragraph (c)(1)(ii) is removed; and paragraph (c)(1)(iii) is redesignated paragraph (c)(1)(ii) and republished to read as follows:

§ 404.362 When a legally adopted child is dependent.

* * * * *

(c) *Adoption by the insured's surviving spouse*—(1) *General.* If you are legally adopted by the insured's surviving spouse after the insured's death, you are considered dependent upon the insured as of the date of his or her death if—

(i) You were either living with or receiving at least one-half of your support from the insured at the time of his or her death; and,

(ii) The insured had started adoption proceedings before he or she died; or if the insured had not started the adoption proceedings before he or she died, his or her surviving spouse began and completed the adoption within 2 years of the insured's death.

* * * * *

[FR Doc. 92–2495 Filed 1–31–92; 8:45 am]

BILLING CODE 4190-29-M

Food and Drug Administration

21 CFR Part 177

[Docket No. 85F–0469]

Indirect Food Additives: Polymers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of polyestercarbonate resin produced by the condensation of 4,4′-isopropylidenediphenol, carbonyl chloride, terephthaloyl chloride, and isophthaloyl chloride for use in contact with food. This action is in response to a petition filed by the General Electric Co.

DATES: Effective February 3, 1992; written objections and requests for a hearing by March 4, 1992. The Director of the Office of the Federal Register approves the incorporations by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 of certain publications in 21 CFR 177.1585 (c)(1) and (c)(3), effective February 3, 1992.

ADDRESSES: Written objections may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–9500.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of October 29, 1985 (50 FR 43795), FDA announced that a food additive petition (FAP 5B3898) had been filed by the General Electric Co., Pittsfield, MA 01201, proposing that § 177.1580 *Polycarbonate resins* (21 CFR 177.1850) be amended to provide for the safe use of polycarbonate resins produced by condensation of 4,4′-isopropylidenediphenol, carbonyl chloride, terephthaloyl chloride, and isophthaloyl chloride for use in contact with food. Upon review of the chemistry of the condensation reaction and the composition of the product, the agency concluded that the new copolymer is a polyestercarbonate resin rather than a polycarbonate resin. Therefore, in a notice published in the **Federal Register** of May 8, 1991 (56 FR 21388), FDA amended the filing notice for the petition and proposed to establish a new food additive regulation, § 177.1585 *Polyestercarbonate resins* (21 CFR 177.1585), rather than to amend § 177.1580 as was proposed in the original filing notice.

In its evaluation of the safety of this additive, FDA has reviewed the safety of both the additive itself and the starting materials used to manufacture the additive. Although the additive itself has not been found to cause cancer, it has been found to contain residual amounts of methylene chloride which has been shown to cause cancer in test animals. Residual amounts of reactants and manufacturing aids, such as methylene chloride, are commonly found as contaminants in chemical products, including food additives. Therefore, the agency has evaluated the potential ingestion of this carcinogenic substance from its use in polyestercarbonate resins in contact with food.

I. Determination of Safety

Under section 409(c)(3)(A) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348(c)(3)(A)), the so-called "general safety clause" of the statute, a food additive cannot be approved for a particular use unless a fair evaluation of the data available to FDA establishes the additive is safe for the use. The concept of safety embodied in the Food Additives Amendment of 1958 is explained in the legislative history of the provision: "Safety requires proof of a reasonable certainty that no harm will result from proposed use of an additive. It does not—and cannot—require proof beyond any possible doubt that no harm will result under any conceivable circumstance." (H. Rept. 2284, 85th Cong., 2d sess. 4 (1958)). This definition of safety has been incorporated into FDA's food additive regulations (21 CFR 170.3(i)). The Delaney anticancer provision of the general safety clause of the Food Additives Amendment (section 409(c)(3)(A) of the act (21 U.S.C. 348(c)(3)(A))) provides further that no food additive shall be deemed to be safe if it is found to induce cancer when ingested by man or animal.

In the past, FDA has refused to approve the use of an additive that contained or was suspected of containing even minor amounts of a carcinogenic chemical, even though the additive as a whole had not been shown to cause cancer. The agency now believes, however, that developments in scientific technology and experience with risk assessment procedures make it possible for FDA to establish the safety of additives that contain carcinogenic chemicals but that have not themselves been shown to cause cancer.

In the preamble to the final rule permanently listing D&C Green No. 6, published in the **Federal Register** of April 2, 1982 (47 FR 14138), FDA explained the basis for approving the use of a color additive that had not been shown to cause cancer, even though it contains a carcinogenic impurity. Since that decision, FDA has approved the use of other color additives and food additives on the same basis.

An additive that has not been shown to cause cancer, but that contains a carcinogenic impurity, may properly be evaluated under the general safety clause of the statute using risk assessment procedures to determine whether there is a reasonable certainty that no harm will result from the proposed use of the additive. The agency's position is supported by *Scott* v. *FDA*, 728 F. 2d 322 (6th Cir. 1984). That case involved a challenge to FDA's decision to approve the use of D&C Green No. 5, which contains a carcinogenic chemical but has itself not been shown to cause cancer. Relying heavily on the reasoning in the agency's decision to list this color additive, the U.S. Court of Appeals for the Sixth Circuit rejected the challenge to FDA's action and affirmed the listing regulation.

II. Safety of Petitioned Use of the Additive

FDA estimates that the petitioned use of the polyestercarbonate resin as food packaging will result in levels of exposure to the additive that are quite low. FDA does not ordinarily consider toxicological testing to be necessary to determine the safety of an additive whose use will result in such low exposure levels (Refs. 1 and 2), and the agency has not required such testing here. However, the agency has reviewed the available toxicological data in its files for the starting materials used to manufacture this additive. No adverse effects were reported in these studies.

Because polyestercarbonate resin, which contains residual methylene chloride, has not been shown to cause cancer, the Delaney anticancer provision (section 409(c)(3)(A) of the Act) does not apply to it. However, FDA has evaluated the safety of this additive under the general safety clause, considering all available data and using risk assessment procedures to estimate the upper-bound limit of risk presented by the carcinogenic chemical that is present as an impurity in the additive. Based on this evaluation, the agency has concluded that the additive is safe under the proposed conditions of use.

The risk assessment procedures that FDA used in this evaluation are similar to the methods that the agency has used to examine the risk associated with the presence of minor carcinogenic impurities in various other food and color additives that contain carcinogenic impurities (see e.g., 49 FR 13018 at 13019, April 2, 1984). The risk evaluation of the carcinogenic impurity, methylene chloride, has two aspects: (1) Assessment of the worst-case exposure to the impurity from the proposed use of the additive; and (2) extrapolation of the risk observed in the animal bioassays to the conditions of probable exposure to humans.

A. Methylene Chloride

Based on the fraction of the daily diet that may be in contact with surfaces containing polyestercarbonate resin, and on the level of methylene chloride that may be present in the additive, FDA estimated the hypothetical worst-case exposure to methylene chloride from the use of polyestercarbonate resin food-contact articles to be less than 15 micrograms per person per day (Ref. 3). The agency used data in a National Toxicology Program report (No. 306: 1986), on inhalation studies in F344/N rats and $B6C3F_1$ mice to estimate the upper-bound limit of lifetime human risk from exposure to methylene chloride stemming from the proposed use of polyestercarbonate resins (Ref. 4). The results of the bioassays demonstrated that methylene chloride was carcinogenic in male and female $B6C3F_1$ mice under the conditions of the study. The test material caused an increased incidence of liver cell neoplasms and lung neoplasms in male and female mice.

The Center for Food Safety and Applied Nutrition's Cancer Assessment Committee reviewed these bioassays and other relevant data available in the literature and concluded that the findings of carcinogenicity were supported by this information on methylene chloride (Ref. 5). The committee further concluded that an estimate of the upper-bound human risk from exposure to methylene chloride stemming from the proposed use of polyestercarbonate resins could be calculated from the bioassays. The agency used female mouse data for risk assessment because the female mouse data were the most appropriate and demonstrated the highest potency for methylene chloride.

The agency used a quantitative risk assessment procedure (linear proportional model) to extrapolate from the dose used in the mouse inhalation study to the very low doses encountered under the proposed conditions of use. This procedure is not likely to underestimate the actual risk from very low doses and may, in fact, exaggerate it because the extrapolation models used are designed to estimate the maximum risk consistent with the data. For this reason, the estimate can be used with confidence to determine with reasonable certainty whether any harm will result from the proposed conditions and levels of use of the food additive.

Based on a worst-case exposure of less than 15 micrograms per person per day, FDA estimates that the upper-bound limit of individual lifetime risk from exposure to methylene chloride from the use of polyestercarbonate resins is 1×10^{-7}, or 1 in 10 million (Ref. 6). Because of numerous conservatisms in the exposure estimate, actual lifetime averaged individual exposure to methylene chloride is expected to be substantially less than the estimated daily intake, and therefore, the calculated upper-bound limit of risk would be less. Thus, the agency concludes that there is a reasonable certainty of no harm from exposure to methylene chloride that might result from the proposed use of polyestercarbonate resin food-contact articles.

B. Need for a Specification

The agency has also considered whether a specification is necessary to control the amount of methylene chloride impurity in the food additive. The agency finds that a specification is necessary to insure that the risk from methylene chloride resulting from the proposed use of the polyestercarbonate resins in food-contact application is insignificant and that use of the resin is safe. Therefore, the regulations set forth in this document prescribe that polyestercarbonate resin articles in the finished form shall not contain residual methylene chloride levels in excess of 5 parts per million.

III. Conclusion on Safety

FDA has evaluated the data in the petition and other relevant material. The agency concludes that the proposed uses for the additive in food-contact articles are safe. Based on this information the agency has also concluded that the additive will have its intended technical effect and, therefore, that a new § 177.1585 should be established as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

IV. Environmental Impact

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

V. Objections

Any person who will be adversely affected by this regulation may at any time on or before March 4, 1992, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday. FDA will publish notice of the objections that the agency has received or lack thereof in the Federal Register.

VI. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Carr, G.M., "Carcinogen Testing Programs," in "Food Safety: Where are We?" Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, p. 59, July 1979.

2. Kokoski, C.J., "Regulatory Food Additive Toxicology," in "Chemical Safety Regulation and Compliance," edited by F. Homburger, J.K. Marquis, and S. Karger, New York, NY, pp. 24 to 33, 1985.

3. Memorandum dated February 1, 1989, from the Food and Color Additive Review Section to the Indirect Additives Branch, concerning "FAP 5B3898—General Electric Co.—exposure to methylene chloride."

4. "Toxicology and Carcinogenesis Studies of Dichloromethane (Methylene Chloride) (CAS Reg. No. 75–09–2) in F344/N Rats and $B6C3F_1$ Mice" (Inhalation Studies), National Toxicology Program Technical Report Series, No. 306 (1986).

5. Memorandum of conference, from the Cancer Assessment Committee, "Methylene Chloride," dated January 20, 1983, August 8, 1984, and June 13, 1985.

6. Memorandum dated February 17, 1989, from the Quantitative Risk Assessment Committee, concerning estimation of upper-bound lifetime risk from methylene chloride for uses requested in FAP 5B3898 (General Electric Co.).

List of Subjects in 21 CFR Part 177

Food additives, Food packaging, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR Part 177 is amended as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

1. The authority citation for 21 CFR part 177 continues to read as follows:

Authority: Secs. 201, 402, 409, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 376).

2. New § 177.1585 is added to subpart B to read as follows:

§ 177.1585 Polyestercarbonate resins.

Polyestercarbonate resins may be safely used as articles or components of articles intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, or holding food, in accordance with the following prescribed conditions:

(a) Polyestercarbonate resins (CAS Reg. No. 71519–80–7) are produced by the condensation of 4,4'-isopropylidenediphenol, carbonyl chloride, terephthaloyl chloride, and isophthaloyl chloride such that the resins are composed of 70 to 85 percent ester, of which up to 10 percent is the terephthaloyl isomer. The resins are manufactured using a phthaloyl chloride/carbonyl chloride mole ratio of 2.3–4.0/1 and an isophthaloyl chloride/terephthaloyl chloride mole ratio of 9.0/1 or greater.

(b) *Optional adjuvants.* The optional adjuvant substances required in the production of resins identified in paragraph (a) of this section may include:

(1) Substances used in accordance with § 174.5 of this chapter.

(2) Substances identified in § 177.1580(b).

(3) Substances regulated in § 178.2010(b) of this chapter for use in polycarbonate resins complying with § 177.1580: *Provided,* That the substances are used in accordance with any limitation on concentration, conditions of use, and food types specified in § 178.2010(b) of this chapter.

(c) Polyestercarbonate resins shall conform to the specifications prescribed in paragraph (c)(1) of this section and shall meet the extractive limitations prescribed in paragraph (c)(2) of this section.

(1) *Specifications.* Polyestercarbonate resins identified in paragraph (a) of this section can be identified by their characteristic infrared spectrum. The solution intrinsic viscosity of the polyestercarbonate resins shall have a range of 0.50 to 0.58 deciliter per gram as determined by a method titled, "Intrinsic Viscosity (IV) of Lexan® Polycarbonate Resin by a Single Point Method Using Dichloromethane as the Solvent," developed by the General Electric Co., September 20, 1985, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies are available from the Division of Food and Color Additives, Center for Food Safety and Applied Nutrition (HFF–330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC.

(2) *Extractives limitations.* The polyestercarbonate resins to be tested shall be ground or cut into small particles that will pass through a U.S. standard sieve No. 6 and that will be held on U.S. standard sieve No. 10.

(i) Polyestercarbonate resins, when extracted with distilled water at reflux temperature for 6 hours, shall yield total nonvolatile extractives not to exceed 0.005 percent by weight of the resins.

(ii) Polyestercarbonate resins, when extracted with 50 percent (by volume) ethyl alcohol in distilled water at reflux temperature for 6 hours, shall yield total nonvolatile extractives not to exceed 0.005 percent by weight of the resins.

(iii) Polyestercarbonate resins, when extracted with *n*-heptane at reflux temperature for 6 hours, shall yield total nonvolatile extractives not to exceed 0.002 percent by weight of the resins.

(3) *Residual methylene chloride levels in polyestercarbonate resins.* Polyestercarbonate resin articles in the finished form shall not contain residual methylene chloride in excess of 5 parts per million as determined by a method titled "Analytical Method for Determination of Residual Methylene Chloride in Polyestercarbonate Resin," developed by the General Electric Co., July 23, 1991, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies are available from the Division of Food and

Color Additives, Center for Food Safety and Applied Nutrition (HFF-330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, or may be examined at the Office of the Federal Register, 1100 L St. NW., Washington, DC.

Dated: January 21, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-2403 Filed 1-31-92; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 3280

[Docket N-92-3381; FR-3183-N-01]

Manufactured Home Construction and Safety Standards

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, (HUD).

ACTION: Interpretative bulletin.

SUMMARY: The Department has been asked to determine whether a certain style of range hood, where the side of the projection is beveled inward at 30 degrees, could be regarded as meeting the requirements of 24 CFR 3280.204(a). Based upon a review of the range hood design and the available technical research, the Department has concluded that the range hood style in question provides equivalent performance to the requirements in § 3280.204(a) of the Manufactured Home Construction and Safety Standards.

EFFECTIVE DATE: This Interpretative Bulletin is effective on February 3, 1992.

FOR FURTHER INFORMATION CONTACT: David C. Nimmer, Director Office of Manufactured Housing and Regulatory Functions, Department of Housing and Urban Development, 451 Seventh Street, SW., room 9156, Washington, DC 20410-8000. Telephones: (voice) (202) 708-1590; (TDD) (202) 708-4594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

I. Background

The purpose of this Interpretative Bulletin (I.B.) is to announce a waiver with respect to the dimensional requirements for the metal range hood protecting kitchen cabinets over a cooking range or cook top as required by § 3280.204(a).

The applicable part of § 3280.204(a) states:

> The cabinet area over the cooking range or cook tops shall be protected by a metal hood (26-gauge sheet metal, or .017 stainless steel, or .024 aluminum, or .020 copper) with not less than a 3 inch eyebrow projecting horizontally from the front cabinet face. The 5/16 inch thick gypsum board or equivalent material which is above the top of the hood may be supported by the hood. A 3/8 inch enclosed air space shall be provided between the bottom surface of the cabinet and the gypsum board or equivalent material. The hood shall be at least as wide as the cooking range.

The Department has been advised that a certain style of range hood does not comply with the Standards in all respects. Because the side of the projection is beveled inward at 30 degrees, it does not provide the minimum 3 inch eyebrow for the entire width of the cooking range or cook top. Based upon other features of the style of range hood, the supplier has requested that the Department issue a waiver to the Standards in accordance with 24 CFR 3280.1(b).

The range hood style in question meets the Standards in all other respects. It has a 6 inch eyebrow projection in front of the cabinets, exceeding the Standards by 3 inches. The hood has a total depth of 18 inches, and conforms to the width requirement for the 12 inches directly underneath the cabinets. It is the first 3 inches of the hood projection that represent a slight non-conformance with the Standards. It appears that this situation has existed for some time and that most range hoods exceed the requirements of the Standards by a significant margin.

In 1976 the National Bureau of Standards issued a report "NBSIR 75-780, Evaluation of the Fire Hazard in a Mobile Home Resulting from an Ignition on the Kitchen Range." The testing demonstrated that a 26 gauge metal range hood could significantly increase the time between flame impingement on the bottom of the cabinet surface and ignition. The hood tested was as wide as the range with a hood height of 4½ inches". The eyebrow extended 5 inches from the face of the cabinets. The test demonstrated the effect of using a range hood against having no hood. Propagation of flame around different size hoods and hood configurations was not examined.

Based upon the available evidence, the Department finds that the range hood style in question provides equivalent performance to the requirements in § 3280.204(a) of the Standards. Since the Department's evaluation of the range hood style is that it provides at least equivalent protection to that offered under § 3280.204(a), the Secretary is issuing this Interpretative Bulletin to give notice that certain provisions of § 3280.204(a) are waived as follows:

Interpretative Bulletin C-1-91

Notice of Waiver, 24 CFR 3280.204(a)

Kitchen Cabinet Protection, dimensions of the range hood.

Section 3280.204(a) requires that the metal hood over the cooking range be at least as wide as the cooking range or cook top and project at least 3 inches horizontally from the front of the cabinets it protects.

Waiver of 24 CFR 3280.204(a)

The requirements in Section 3280.204(a) which states "the hood shall be at least as wide as the cooking range" is waived, provided that: (1) the width of the hood is maintained as wide as the range directly underneath the protected kitchen cabinet; (2) the angle at which the eyebrow is beveled inward does not exceed 30 degrees; (3) the horizontal projection from the cabinet face is at least 5 inches; (4) the installation of the range hood complies with § 3280.204(a) in all other respects. This Interpretative Bulletin, Notice of Waiver is issued pursuant to 24 CFR 3280.1(b) and 24 CFR 3282.113.

Accordingly, authority is exercised under 24 CFR 3280.1 and 24 CFR 3282.113 to issue an Interpretative Bulletin to give notice that certain provisions of § 3280.204(a) will be waived under certain circumstances.

Dated: January 16, 1992.

Ronald A. Rosenfeld,

General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 92-2418 Filed 1-31-92; 8:45 am]

BILLING CODE 4210-27-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 52

[FRL-4031-7]

Requirements for Preparation, Adoption and Submittal of Implementation Plans; Approval and Promulgation of Implementation Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action adds a general definition of volatile organic compounds (VOC) to EPA's regulations governing

the preparation of State implementation plans (SIP's) which are required under title I of the Clean Air Act (Act). Today's action also incorporates this definition into various SIP-related rules, including EPA's new source review rules and the Federal implementation plan (FIP) rules for the Chicago area. The definition excludes a number of organic compounds from the definition of VOC on the basis that they are negligibly reactive and do not contribute to tropospheric ozone formation.

EFFECTIVE DATE: This rule is effective March 4, 1992.

ADDRESSES: *Docket:* Pursuant to section 307(d)(1) (B), (I), and (U) of the Act, 42 U.S.C. 7607(d)(1) (B), (I), and (U), this action is subject to the procedural requirements of section 307(d). Therefore, EPA has established a public docket for this action, A-90-27, which is available for public inspection and copying between 8:30 a.m.-12 p.m. and 1:30 p.m-3:30 p.m., Monday through Friday, at EPA's Central Docket Section, South Conference Center, room 4, 401 M Street, SW., Washington, DC. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Kent Berry, Office of Air Quality Planning and Standards, Air Quality Management Division (MD-15), Research Triangle Park, NC 27711, phone (FTS) 629-5505, (919) 541-5505.

SUPPLEMENTARY INFORMATION: On June 28, 1989 (54 FR 27286), EPA promulgated changes to its new source review rules at 40 CFR 51.165 (Permit Requirements); 51.166 (Prevention of Significant Deterioration of Air Quality); Part 51, Appendix S (Emission Offset Interpretative Ruling); 52.21 (Prevention of Significant Deterioration of Air Quality); and 52.24 (Statutory Restriction on New Souces). One of the changes made was to amend the definition of VOC in these rules to exlude the compounds EPA had previously determined to be negligibly reactive (see 42 FR 35314, July 8, 1977; 44 FR 32043, June 4, 1979; 45 FR 32424, May 15, 1980; 45 FR 48941, July 22, 1980; 54 FR 1987, January 18, 1989). On August 18, 1989, the Minnesota Mining and Manufacturing Company (3M) filed a petition for review (*Minnesota Mining and Manufacturing Company* v. *EPA*, (D.C. Circuit No. 89-1500)) of these rules for EPA's failure to add certain perfluorocarbon (PFC) compounds to the list of exempt compounds that are negligibly reactive. On February 16, 1990, 3M submitted a rulemaking petition requesting EPA to take a number of associated actions with regard to PFC's.

On December 27, 1989 (54 FR 53088) and June 29, 1990 (55 FR 26814), as a result of a court order and Illinois' failure to adopt reasonably available control technology (RACT) for VOC sources in the Chicago area as required by the Act, EPA published proposed and final Federal RACT rules for the Chicago area of Illinois (Cook, Dupage, Kane, Lake, McHenry, and Will Counties). The rulemaking contained a definition of volatile organic material or volatile organic compound which, in effect, exluded from that definition certain organic compounds that EPA had determined in previously-issued policy statements were negligibly reactive and do not contribute to violations of the national ambient air quality standards (NAAQS) for ozone.

On March 18, 1991 (56 FR 11418), EPA revised the previously-issued policy statements and added five halocarbon compounds and four classes of perfluorocarbon compounds to the list of organic compounds which are considered negligibly reactive, do not contribute to violations of the ozone NAAQS, and may be excluded from SIP control measures intended to attain and maintain the ozone NAAQS. The compounds added to the negligibly-reactive list are listed in Table 1.

TABLE 1

Compound	Chemical name	CAS No.
HCFC 124	Ethane, 2-chloro-1,1,1,2-tetrafluoro-.	2837-89-0
HFC 125	Ethane, pentafluoro-	354-33-6
HFC 134	Ethane, 1,1,2,2,-tetrafluoro-.	359-35-3
HFC 143a	Ethane, 1,1,1-trifluoro-	420-46-2
HFC 152a	Ethane, 1,1-difluoro	75-37-6

Four Classes of Perfluorocarbon Compounds

1. Cyclic, branched, or linear, completely fluorinated alkanes.
2. Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations.
3. Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations.
4. Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

Proposed Actions

The EPA has determined that with respect to tropospheric ozone formation, the potential health and environmental impacts of the compounds that the Agency has determined to be negligibly-photochemically reactive (as reflected in March 18, 1991 revised policy statement) do not vary by location or use. Consequently, EPA believes that no purpose would be served by leaving the reactivity issue open to debate in individual SIP proceedings with respect to the compounds listed in the revised policy statement. Therefore, on March 18, 1991 (56 FR 11387), EPA also proposed to add a general definition of VOC to 40 CFR part 51 (Requirements for Preparation, Adoption and Submittal of Implementation Plans) to be used in all cases for developing SIP's to attain the ozone NAAQS. The proposed definition, to be codified at 40 CFR 51.100(s), tracked the definition of VOC currently promulgated in various sections of both parts 51 and 52 (51.165; 51.166; part 51, appendix S; 52.21; 52.24; 52.741) by excluding the 15 chemicals EPA has previously determined to be negligibly reactive and by adding the chemicals listed in Table 1 to the negligibly-reactive list. In addition, EPA proposed that the definition of VOC in each of the above sections be replaced by a reference to the general definition at section 51.100(s). As indicated in the March 18, 1991 proposal, compounds that EPA has determined to be negligibly reactive may not be used for emissions netting (see, e.g., 40 CFR 51.166(b)(2)(i)), offsetting (see 40 CFR part 51, appendix S), or trading (see Emissions Trading Policy Statement, 51 FR 43814, December 4, 1986) with reactive VOC's for ozone purposes. Likewise, increases or decreases of the listed negligibly-reactive compounds are to be ignored completely in any new source review (NSR) applicability determinations. Finally, the proposal indicated that if the proposed general definition were finally adopted, EPA would then withdraw as moot its revised policy statement on VOC reactivity.

The proposed revision to the Chicago FIP rules also proposed to delete a provision for a 1-year exclusion for four perfluorocarbon classes at the 3M Bedford Park facility in Cook County, Illinois. The provision which was proposed to be deleted from 40 CFR 52.741(a)(3) states:

> In addition, for the 3M Bedford Park facility in Cook County, the following compounds shall not be considered as volatile organic material or volatile organic compounds (and are, therefore, to be treated as water for the purpose of calculating the "less water" part of the coating or ink composition) for a period of time not to exceed one year after the date EPA acts on 3M's petition, pending as of the date promulgation of this rule, which seeks to have these compounds classified as exempt compounds: cyclic, branched, or linear, completely fluorinated alkanes, cyclic, branched, or linear, completely fluorinated ethers with no unsaturations, cyclic

branched, or linear, completely fluorinated tertiary amines with no unsaturations, and sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

The proposal indicated that upon final action on the proposed revision to the Chicago FIP, the exclusion for this facility will no longer be necessary since the proposed revision to the VOC definition allows these compounds to be excluded at all facilities in the counties covered by the FIP rules.

Comments on Proposal and EPA Responses

In accordance with section 307(d) of the amended Act, today's action is accompanied by a response to each of the significant comments, criticisms, and new data submitted in written or oral presentations during the comment period. Seven commenters submitted written comments in response to EPA's March 18, 1991 proposal. Any significant comments and EPA's responses are summarized below. Finally, in the proposal for today's action, EPA indicated that interested persons could request that EPA hold a public hearing on the proposed action (see section 307(d)(5)(ii) of the amended Act). The EPA received no such requests for a public hearing and, therefore, did not hold one.

Comment: One commenter noted that EPA's concern about the difficulties in measuring exempt VOC's used in paints and other coatings is not applicable to PFC's since current uses of PFC's do not include coatings.

Response: While this fact may reduce EPA's concern about the examples illustrating potential measurement difficulties that were discussed in the proposal, the Agency still believes that it is necessary for the purpose of determining compliance with today's action and other related actions to retain the proposed provisions allowing EPA or a State to require a source owner to provide monitoring methods and monitoring results demonstrating the amount of negligibly-reactive compounds in the source's emission. The commenter also urged EPA to carry forward the VOC definition to other related ozone SIP actions. As indicated above, this is the Agency's intent.

Comment: Another commenter urged that EPA finalize its proposal of October 24, 1983 (48 FR 49097) to add perchloroethylene to the list of negligibly-reactive VOC's. The commenter further asserted that "[t]here is no justification for control of this substance as a smog precursor."

Response: The March 18, 1991 proposed rule and simultaneous revision to EPA's negligible reactivity policy statement were largely in response to administrative petitions by 3M and the Alliance for Responsible CFC Policy (see 56 FR 11387 and 56 FR 11418). Thus, EPA expressly indicated that the proposed rule was "strictly limited to whether EPA should codify in regulatory form its current reactivity policy" and "does not extend to compounds not presently listed as negligibly reactive" (see 56 FR 11388, col. 3). Therefore, the commenter's request that EPA review the negligible reactivity of a compound not presently included in the existing reactivity policy is outside the scope of the proposed rule and today's final action.

There are additional impediments to addressing perchloroethylene in today's action. The 1983 "proposal" referenced by the commenter was a proposed revision to EPA's policy statement on negligibly reactive VOC's. No regulatory language was proposed, and EPA did not suggest that it would adopt any final regulation pursuant to the notice. As such, the 1983 action was published in the notices section of the **Federal Register**. Also, as suggested, EPA's then-existing policy statement was never finally revised to include perchloroethylene among the negligibly-reactive VOC's. In comparison, today's action promulgated a recently-proposed regulation addressing negligibly-reactive VOC's consistent with EPA's existing policy and codifies appropriate regulatory language, including a formal definition of VOC's. Thus, EPA could not take final regulatory action on the 1983 proposed revision to a policy statement in today's final rulemaking. Rather, EPA would have to first re-propose a regulatory definition of VOC's that excluded perchloroethylene. Such a course would interpose significant delay in this rulemaking. The EPA declines to take this path.

In sum, EPA limited the scope of this rulemaking to codification of its existing policy. If in this rulemaking, and in similar circumstances, EPA was required to address as a final regulatory matter every potentially related issue, Agency action would become increasingly intractable and in some cases virtually stymied (see also *Group Against Smog & Pollution* v. *U.S. EPA*, 665, F. 2d 1284 (D.C. Cir. 1981) (affirming EPA's discretion to limit reasonably the scope of rulemaking proceedings). Further, as discussed below, an administrative remedy exists for those seeking treatment of compounds as negligibly reactive.

Comment: One commenter requested that the VOC definition (1) specify a test method for determining negligible photochemical reactivity for the purpose of excluding other substances, (2) specify a vapor pressure cutoff (e.g., 0.1 mm of mercury at standard conditions) for exclusion of VOC's on the basis of their low volatility without regard to their atmospheric chemistry, and (3) allow for comparison of reactivity constants, i.e, kOH, with ethane to determine negligible reactivity. As noted previously, the March 1991 proposal was limited to formal codification of EPA's existing policy statement on negligibly-reactive compounds (see previous discussion and 56 FR at 11388, col. 3 (March 18, 1991)). The EPA did not intend to place into question in this rulemaking the consideration of whether additional compounds are negligibly reactive or its policy approach for determining what qualifies as a negligibly-reactive compound. The commenter has requested a fundamental revision of EPA's present policy. The commenter noted that EPA's proposed definition of VOC's included any compounds which participate in atmospheric photochemical reactions and excluded from regulation as VOC's only specified organic compounds. The commenter asserted that this definition exceeds the Agency's statutory authority and requested instead that EPA codify a definition of VOC's which allows for the exclusion of any compounds meeting, for example, certain vapor pressure cutoffs or other tests.

The EPA disagrees with the commenter's suggestion that EPA's definition of VOC exceeds its statutory authority to regulate ozone precursors. The EPA's definition embodies a reasonable policy choice to regulate organic compounds as VOC's absent an adequate showing and determination by EPA that a particular compound is negligibly reactive. There are tens of thousands of organic compounds in commerce. Further, almost every organic compound in the ambient air in a gaseous form is reactive. Only a very small percentage of the thousands of volatile organic compounds in commerce may be negligibly reactive. While it may be theoretically possible to craft a definition of VOC that includes test methods, vapor pressures, or other indicia of reactivity, this effort would involve a significant commitment of EPA's time and resources, including significant technical and policy analyses. The commenter himself did not present any technical data supporting his recommendations. The EPA has carefully weighed the prudence of revisiting its policy in today's final action considering, for example, the potential public resources involved and competing Agency priorities. Because there are thousands of organic compounds at issue and because a very small fraction of these compounds may be reactive, EPA has concluded that it is an administrative necessity and reasonable to define VOC to include all organic compounds except those EPA has determined to be negligibly reactive. The EPA's policy choice also was informed by the reasonable avenue for recourse available to those who disagree with EPA's policy approach. As the commenter acknowledged, EPA has reviewed and granted administrative petitions or formal requests seeking treatment of compounds as negligibly reactive. In fact, today's action effectively codifies in regulatory form EPA's approval of several such requests (see, e.g., 56 FR 11418 (March 18, 1991) revising EPA's then-existing policy on negligibly-reactive VOC's in light of two formal requests from 3M and the Alliance for Responsible CFC Policy). Now that EPA's existing policy has been formally codified, those seeking treatment of compounds as negligibly reactive could file an administrative petition with EPA requesting revision of the regulatory definition of VOC's (see 5 U.S.C. 553(e)). The EPA's balancing of complex policy considerations here is precisely the type of inquiry EPA has been charged with in carrying out its many statutory duties. In sum, the policy approach embodied in EPA's definition of VOC is reasonably related to the statutory goal of ensuring attainment and maintenance of the ozone NAAQS and is a policy choice clearly within the Agency's discretion.

Comment: Two commenters urged that EPA make clear that it will be reviewing ozone SIP's with a view to assuring that "excluded" compounds, however they may be regulated under State or local law, are not regulated as VOC's as part of a federally-approved SIP.

Response: As EPA has stated previously (45 FR 48941, July 22, 1980), the Agency will not approve or enforce measures controlling substances EPA has determined to be negligibly reactive as part of a federally-approved ozone SIP. However, EPA will not disapprove a plan regulating negligibly-reactive substances or otherwise seek to require States to exclude chemicals on EPA's list of negligibly-reactive compounds from their ozone SIP's. Under section 116 of the Act, States generally have the authority to go beyond the minimum Federal requirements of the Act. Accordingly, if a State chooses to regulate negligibly-reactive compounds as VOC's, such rules will still be enforceable by the State, but not by EPA.

Comment: The definition should provide further clarification of whether certain carbon compounds fall within the scope of the VOC definition by incorporating the definition of "organic compound" currently promulgated under 40 CFR 52.741(a).

Response: The EPA agrees with this suggestion and has included in the definition an exclusion for carbon monoxide, carbon dioxide, carbonic acid, metallic carbides and carbonates, and ammonium carbonate, which are effectively excluded by the definitions under 40 CFR 52.741(a). This is not a substantive change but merely a clarification of what carbon compounds are well understood by the scientific community not to be considered as organic, and, therefore, could not be volatile organic compounds. Similarly, minor technical changes have been made to identify the specific chemical name and structure of several of the listed compounds.

Comment: The definition should require that any compounds excluded from any VOC emission limit compliance determination be adequately quantified. Also, the provision allowing EPA or the State to require a source owner to submit monitoring methods or testing methods and results in order to exclude negligibly-reactive compounds should be dropped as long as the "adequately quantified" test is met.

Response: The EPA agrees with the first comment but, as noted above, continues to believe that the provision allowing the enforcement authority to place the burden for adequate quantification on the source owner is an appropriate mechanism for ensuring that emissions are adequately quantified. This authority is discretionary, so that if the enforcement authority believes that the excluded compounds are being adequately quantified or wants to quantify the excluded compounds itself, the authority need not be exercised.

Comment: The definition need not require that a test method for excluding negligibly-reactive compounds be submitted as a SIP revision because, among other reasons, it is unnecessary for issuing new source permits and operating permits. Instead, the definition could indicate that EPA will not be bound by a State determination if the determination has not been approved as part of the SIP.

Response: The EPA agrees with this suggestion and has modified the definition to indicate that EPA will not be bound by a State determination unless it is reflected in the applicable EPA-approved SIP, a construction permit issued pursuant to a new source review program approved or promulgated under title I of the Act, an operating permit issued pursuant to a program approved or promulgated under title V, or under other regulations adopted by EPA pursuant to the Act (e.g., 40 CFR part 60, New Source Performance Standards).

Comment: One commenter noted that the proposed definition contained some confusion about the roles of the source owner, the Administrator, and the State in excluding compounds for compliance determinations, including requiring and approving monitoring data for such purposes.

Response: The EPA agrees with this comment and has revised the definition of VOC's so as not to limit who may exclude, for the purpose of determining compliance, compounds EPA has determined to be negligibly reactive. Also, the authority to require and approve monitoring data for determining the amount of negligibly-reactive compounds is left to the "enforcement authority." The roles of EPA and the State have been clarified in the change discussed immediately above which provides that (where the State is the enforcement authority) EPA will not be bound by a State determination regarding monitoring or test methods appropriate for determining compliance unless the method is reflected in one of the EPA-approved or promulgated provisions noted.

Comment: The definition should not indicate that VOC will be measured by the test method in the approved SIP because test methods in the SIP's vary.

Response: The EPA does not agree with this comment. The VOC definition should be implemented through the provisions in the approved SIP. In fact, this commenter's suggested language for the VOC definition continues to incorporate this provision. Finally, if EPA determines that a nationally-uniform test method is appropriate to implement a particular program, it can so specify at that time.

Final Action

Today's final action is based upon the material in Docket No. A–90–27 and EPA's review and consideration of all comments received during the public comment period. As provided in EPA's March 1991 proposal and as modified in response to comments described above, the new definition of VOC at 40 CFR 51.100(s) will now govern EPA's consideration of negligibly-reactive VOC's in ozone SIP's. Thus, EPA hereby withdraws its prior policy statements regarding reactivity of VOC's in ozone SIP's as being moot. States are not obligated to exclude from control as a VOC those compounds that EPA has found to be negligibly reactive. However, EPA will neither approve nor enforce measures controlling negligibly-reactive compounds as part of a federally-approved ozone SIP. In addition, States should not include these compounds in their VOC emission inventories and may not take credit for controlling these compounds in their ozone control strategy. Further, negligibly-reactive compounds may not be used for emissions netting (see, e.g., 40 CFR 51.166(b)(2)(c)), offsetting (see 40 CFR appendix S), or trading with reactive VOC's (see Emission Trading Policy Statement, 51 FR 43814, December 4, 1986).

Pursuant to 5 U.S.C. 605(b), I hereby certify that this action will not have a significant economic impact on a substantial number of small entities because it relaxes current regulatory requirements rather than imposing new ones. This final rule was submitted to the Office of Management and Budget (OMB) as required by Executive Order (E.O.) 12291. The E.O. 12291 requires each Federal agency to determine if a regulation is a "major" rule as defined by the E.O. and "to the extent permitted by law," to prepare and consider a Regulatory Impact Analysis in connection with every major rule. Because this rule relaxes regulatory requirements, it is not "major" within the meaning of E.O. 12291. Drafts submitted to OMB for review, any written comments from OMB or other agencies, and any EPA written responses to those comments are included in the Docket. This action does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). This notice has no Federalism implications under E.O. 12612 since it imposes no new requirements on States or sources. Instead, it provides additional flexibility to States to exempt certain compounds from ozone SIP control programs and provides similar exemptions involving FIP and Federal NSR rules.

Assuming this rulemaking is subject to section 317 of the Act, the Administrator concludes, weighing the Agency's limited resources and other duties, that it is not practicable to conduct an extensive economic impact assessment of today's action since the rule promulgated today will relax current regulatory requirements. Accordingly, the Administrator simply notes that any costs of complying with today's action, any inflationary or recessionary effects of the regulation, and any impact on the competitive standing of small businesses, on consumer costs, or on energy use will be less than or at least not more than the impact that existed before today's action.

List of Subjects

40 CFR Part 51

Administrative practice and procedure, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

40 CFR Part 52

Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: January 21, 1992.

William K. Reilly,

Administrator.

For reasons set forth in the preamble, parts 51 and 52 of chapter I of title 40 of the Code of Federal Regulations are amended as follows:

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

1. The authority citation for part 51 continues to read as follows:

Authority: Sections 101(b) (1), 110, 160–169, 171–178, 301(a) and 501–507 of the Clean Air Act, 42 U.S.C. 7401(b) (1), 7410, 7470–7479, 7501–7508, 7601(a), and 7661–7661f.

2. Section 51.100 is amended by adding paragraph (s) to read as follows:

§ 51.100 Definitions.

* * * * *

(s) *Volatile organic compounds (VOC)* means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions.

(1) This includes any such organic compound other than the following, which have been determined to have negligible photochemical reactivity: Methane; ethane; methylene chloride (dichloromethane); 1,1,1–trichloroethane (methyl chloroform); 1,1,1–trichloro–2,2,2–trifluoroethane (CFC–113); trichlorofluoromethane (CFC–11); dichlorodifluoromethane (CFC–12); chlorodifluoromethane (CFC–22); trifluoromethane (FC–23); 1,2–dichloro 1,1,2,2–tetrafluoroethane (CFC–114); chloropentafluoroethane (CFC–115); 1,1,1–trifluoro 2,2–dichloroethane (HCFC–123); 1,1,1,2–tetrafluoroethane (HFC–134a); 1,1–dichloro 1–fluoroethane (HCFC–141b); 1–chloro 1,1–difluoroethane (HCFC–142b); 2–chloro–1,1,1,2–tetrafluoroethane (HCFC–124); pentafluoroethane (HFC–125); 1,1,2,2–tetrafluoroethane (HFC–134); 1,1,1–trifluoroethane (HFC–143a);1,1–difluoroethane (HFC–152a); and perfluorocarbon compounds which fall into these classes:

(i) Cyclic, branched, or linear, completely fluorinated alkanes;

(ii) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;

(iii) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and

(iv) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

(2) For purposes of determining compliance with emissions limits, VOC will be measured by the test methods in the approved State implementation plan (SIP) or 40 CFR part 60, appendix A, as applicable. Where such a method also measures compounds with negligible photochemical reactivity, these negligibility-reactive compounds may be excluded as VOC if the amount of such compounds is accurately quantified, and such exclusion is approved by the enforcement authority.

(3) As a precondition to excluding these compounds as VOC or at any time thereafter, the enforcement authority may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the satisfaction of the enforcement authority, the amount of negligibly-reactive compounds in the source's emissions.

(4) For purposes of Federal enforcement for a specific source, the EPA shall use the test methods specified in the applicable EPA-approved SIP, in a permit issued pursuant to a program approved or promulgated under title V of the Act, or under 40 CFR part 51, subpart I or appendix S, or under 40 CFR parts 52 or 60. The EPA shall not be bound by any State determination as to appropriate methods for testing or monitoring negligibly-reactive compounds if such determination is not reflected in any of the above provisions.

* * * * *

3. Section 51.165 is amended by revising paragraph (a) (1) (xix) to read as follows:

§ 51.165 Permit requirements.

(a) * * *

(1) * * *

(xix) *Volatile organic compounds (VOC)* is as defined in § 51.100(s) of this part.

* * * * *

4. Section 51.166 is amended by revising paragraph (b) (29) to read as follows:

§ 51.166 Prevention of significant deterioration of air quality.

* * * * *

(b) * * *

(29) *Volatile organic compounds (VOC)* is as defined in § 51.100(s) of this part.

* * * * *

5. Appendix S to part 51 is amended by revising paragraph II.A.20 to read as follows:

Appendix S to Part 51—Emission Offset Interpretative Ruling

* * * * *

II. * * *

A. * * *

20. *Volatile organic compounds (VOC)* is as defined in §51.100(s) of this part.

* * * * *

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.21 is amended by revising paragraph (b)(30) to read as follows:

§ 52.21 Prevention of significant deterioration of air quality.

* * * * *

(b) * * *

(30) *Volatile organic compounds (VOC)* is as defined in § 51.100(s) of this chapter.

* * * * *

3. Section 52.24 is amended by revising paragraph (f)(18) to read as follows:

§ 52.24 Statutory restriction on new sources.

* * * * *

(f) * * *

(18) *Volatile organic compounds (VOC)* is as defined in §51.100(s) of this chapter.

* * * * *

3. Subpart O—Illinois, § 52.741 is amended by revising the definition of "volatile organic material (VOM) or volatile organic compound (VOC)," in paragraph (a)(3) to read as follows:

§ 52.741 Control strategy: Ozone control measures for Cook, Dupage, Kane, Lake, McHenry and Will Counties.

(a) * * *

(3) * * *

Volatile organic material (VOM) or volatile organic compounds (VOC) is as defined in § 51.100(s) of this chapter.

* * * * *

[FR Doc. 92–2035 Filed 1–31–92; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[ME-2-2-5250; A-1-FRL-4095-2]

Approval and Promulgation of Air Quality Implementation Plans; Maine; Revised VOC Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving State Implementation Plan (SIP) revisions submitted by the State of Maine. These revisions correct deficiencies in the State's volatile organic compound (VOC) regulations in response to EPA's May 25, 1988 Ozone SIP call. The intended effect of this action is to approve of revisions to Maine's SIP which incorporate the current federal reasonably available control technology (RACT) requirements for VOC. These RACT corrections are a requirement of the Clean Air Act Amendments of 1990 (Section 182(a)(2)(A)). This action is being taken in accordance with section 110 of the Clean Air Act.

EFFECTIVE DATE: This rule will become effective on March 4, 1992.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA; Public Information Reference Unit, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; and the Bureau of Air Quality Control, Department of Environmental Protection, 71 Hospital Street, Augusta, ME 04333.

FOR FURTHER INFORMATION CONTACT: Anne Arnold, (617) 565–3166; FTS 835–3166.

SUPPLEMENTARY INFORMATION: On September 29, 1989 and December 5, 1989, the Maine Department of Environmental Protection (DEP) submitted revisions to its SIP. These revisions correct deficiencies in Maine's VOC regulations. On September 24, 1990 (55 FR 39017), EPA published a Notice of Proposed Rulemaking (NPR) which proposed approval but which outlined amendments necessary prior to final rulemaking. On June 5, 1991, Maine DEP resubmitted revisions to its SIP which incorporated the amendments outlined in EPA's NPR. No public comments were received on the NPR.

Background

Based on monitored ozone exceedances in Maine, EPA sent letters to the Governor of Maine on May 25, 1988 and November 8, 1988 informing him that the Maine SIP was substantially inadequate to achieve the national ambient air quality standard (NAAQS) for ozone in parts of Maine pursuant to section 110(a)(2)(H) of the pre-amended Clean Air Act. EPA requested that the State respond to the SIP call in two phases—the first in the near future and the second following EPA's issuance of a final policy on how the States should correct their SIPs. The first phase of the response to the SIP call was meant to consist of (1) correcting identified deficiencies in the existing SIP's VOC regulations, (2) adopting VOC regulations previously required or committed to but never adopted, and (3) updating the area's base year emission inventory.

On June 16, 1988, EPA sent a SIP call follow-up letter to the Maine DEP identifying specific technical inadequacies and inconsistencies in Maine's VOC regulations as compared to EPA national guidance. In response, on September 29, 1989 and December 5, 1989, Maine DEP submitted revisions to its SIP. On September 24, 1990 (55 FR 39017), EPA proposed approval of Maine's SIP revisions. EPA based this proposed approval on a determination that the submittal addressed the deficiencies identified in the SIP call.

On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. (Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. Sections 7401–7671q). In section 182(a)(2)(A) of the amended Act, Congress codified the requirement that states revise their SIPS for ozone nonattainment areas so that they conform with EPA's pre-amendment guidance. Areas designated nonattainment before enactment of the Amendments and which retained that designation and were classified as marginal or above as of enactment are required to meet the RACT fix-up requirement of section 182(a)(2)(A). Under section 182(a)(2)(A), those areas were required by May 15, 1991, to correct RACT as it was required under pre-amended section 172(b) as that requirement was interpreted in pre-amendment guidance.[1] The SIP call letters interpreted that guidance and indicated corrections necessary for specific nonattainment areas. Maine has areas classified as marginal or above and those areas are covered in the SIP. Therefore, it must address the RACT fix-up requirement.

Maine's Revisions

In response to the first phase of EPA's SIP call and EPA's follow-up letter, Maine adopted revisions on August 10, 1988 and September 27, 1989 to its two existing VOC regulations: Chapter 111 "Petroleum Liquid Storage Vapor Control," and Chapter 112 "Petroleum Liquid Transfer Vapor Recovery." The Maine DEP also amended its definition of VOC in Chapter 100 "Definitions." EPA is approving this definition in the final rulemaking notice on Maine's New Source Review and Related Revisions which is a separate action. In addition, Maine adopted a new "Paper Coater Regulation." This regulation supersedes three source-specific licenses which were incorporated into the SIP. The State officially requested to withdraw from the Maine SIP three source-specific licenses for the following paper coating sources: S.D. Warren of Westbrook, Eastern Fine Paper of Brewer, and Pioneer Plastics of Auburn. The September 24, 1990 (55 FR 39017) NPR summarizes the above changes in Maine's regulations.

EPA proposed to approve these revisions with the understanding that prior to final rulemaking the Maine DEP would make the necessary amendments to chapter 112 as outlined in the NPR. On May 22, 1991 Maine adopted the revisions to chapter 112 in accordance with amendments listed in the NPR. The necessary amendments and Maine's response are discussed below. Maine's regulations and EPA's evaluation are detailed in a memorandum dated November 12, 1991 entitled "Technical Support Document-Revised Maine VOC Regulations."

Amendments to Chapter 112

The definition of tank truck in chapter 112 includes an exemption for trucks with capacities of less than or equal to 3500 gallons. The Maine DEP stated that less than one percent of the total gasoline throughput in Maine is transferred by these "small capacity" tank trucks which the regulation exempts from control requirements. Therefore, the NPR stated that Maine DEP must justify this cut-off with a 5 percent demonstration.[2] In a letter dated October 23, 1990, EPA provided the Maine DEP with guidelines for this 5 percent demonstration in accordance with the EPA document "Issues Relating to VOC Regulations, Cutpoints, Deficiencies, and Deviations" (May 25, 1988). These guidelines included a calculation which resulted in the requirement that, in order to satisfy the 5 percent demonstration, no more than 0.8 percent of total gas throughput in Maine may be transported by the exempted tank trucks. In response, Maine DEP conducted a study of bulk gasoline terminal facilities in December 1990. These facilities kept a log of all exempted tank trucks that loaded gasoline at their plant. This survey documented that only 0.45 percent of Maine's total gasoline throughput is transported in exempted tank trucks, thus meeting the 5 percent demonstration requirement. However, it should be noted that, although this demonstration is sufficient to justify the 3500 gallon cut-off in Chapter 112 for purposes of responding to EPA's May 25, 1988 ozone SIP call, Maine may have to re-evaluate this cut-off and its effect throughout the entire gasoline marketing chain when they submit all of the control techniques guideline (CTG) regulations for approval into their SIP as required by the Clean Air Act Amendments of 1990. The demonstration may then result in a lower percentage of throughput allowed to the small trucks because of the various emission factors and their interdependency.

In addition, the NPR stated that Maine must amend its definition of tank truck to clarify that the 3500 gallon capacity cut-off applies to the total capacity of the tank truck or trailer including all of the compartments. Maine DEP amended the definition so that the 3500 gallon capacity cut-off includes all of the compartments.

Finally, the NPR required Maine to clarify the applicability of chapter 112. This regulation applied only to sources in existence prior to December 31, 1978, and did not apply to sources which have been constructed after that date. The new source performance standard (NSPS) for bulk gasoline terminals (40 CFR part 60, subpart XX) is applicable to sources which were constructed or modified after December 17, 1980. The NSPS for bulk gasoline terminals is as stringent as the RACT requirements for bulk gasoline terminals. However, sources which were constructed in the State of Maine after December 31, 1978 but before December 17, 1980 were not required to comply with RACT or the NSPS. In response to EPA's comments, Maine DEP removed the December, 1978 date. The regulation now requires all bulk gasoline terminals that have a daily throughput of gasoline of 20,000 gallons or more to install a vapor control system.[3]

Final Action

EPA is approving revisions to Chapter 111 "Petroleum Liquid Storage Vapor Control," Chapter 112 "Petroleum Liquid Transfer Vapor Recovery," and a new regulation Chapter 123 "Paper Coater Regulation," as a revision to the Maine SIP. In addition, EPA is withdrawing from the Maine SIP three source-specific licenses for the following paper coating sources: S.D. Warren of Westbrook, Eastern Fine Paper of Brewer, and Pioneer Plastics of Auburn. Today's action makes final the action proposed on September 24, 1990 (54 FR 39017). EPA received no adverse public comment on the proposed action. As a result, the Regional Administrator has reclassified this action from Table 1 to Table 2 under the processing procedures established on January 19, 1989 (54 FR 2214).

In addition, although this submittal preceded the date of enactment of the Clean Air Act Amendments of 1990, EPA is approving the submittal as fulfilling part of the requirements of section 182(a)(2)(a) of the amended Act. Maine's revised regulations, although submitted in response to the SIP call letter, also fulfill part of the RACT fix-up requirement.

Because EPA proposed approval of this submittal prior to enactment, EPA did not propose approval based on the requirements of new section 182(a)(2)(A). However, EPA believes that the good cause exception to notice-and-comment rulemaking applies and that the Agency, therefore, is not required to repropose approval of the submittal as meeting section

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[1] Among other things, the pre-amendment guidance consists of the VOC RACT portions of the Post-87 policy, 52 FR 45044 (Nov. 24, 1981); "Issues Relating to VOC Regulation Cutpoints, Deficiencies and Deviations, Clarification to appendix D of November 24, 1987 **Federal Register** Notice" (Bluebook) (notice of availability published in the **Federal Register** on May 25, 1988); and the existing CTGs.

[2] A 5 percent demonstration must prove that emissions from terminals as a result of Maine's regulation are within 5 percent of the emissions that would result if the terminals were subject to a regulation consistent with EPA requirements.

[3] The exemption for Searsport, Maine which was previously contained in chapter 112, approved on March 5, 1982 (47 FR 9462) and incorporated by reference at 40 CFR 52.1020(c)(16), has been removed from chapter 112, and the scope of the regulation has been expanded to include the entire state of Maine.

182(a)(2)(A). The Agency's action on a SIP or SIP elements is rulemaking that is subject to the procedural requirements of the Administrative Procedures Act (APA). Section 553(a)(B) of the APA provides that the Agency need not provide notice and an opportunity for comment if the Agency for good cause determines that notice and comment are "impracticable, unnecessary, or contrary to the public interest."

Notice and comment are impracticable and unnecessary in the present circumstance. Section 182(a)(2)(A) does not impose new requirements on the subject nonattainment areas. Rather, section 182(a)(2)(A) codifies the corrections nonattainment areas needed to make subject to the EPA SIP call letters issued in 1987 and 1988. Because the Maine SIP submittal meets the SIP call and, therefore, is consistent with the applicable pre-amendment guidance, EPA believes that the submittal also necessarily meets the requirements of section 182(a)(2)(A) of the amended Act. In EPA's earlier proposed approval of the Maine SIP, EPA provided notice and an opportunity for comment on the consistency of the state's rules with EPA's pre-enactment guidance. Since notice and an opportunity for comment have been provided on that set of issues, and section 182(a)(2)(A) does not expand those requirements, it is unnecessary to repeat that process. In addition, it is impracticable for the Agency to take such action because, in light of the statutory time constraints on acting on SIPs, such a process would divert valuable agency resources from action on the large number of SIPs addressing new substantive requirements.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 3, 1992. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Ozone.

Note: Incorporation by reference of the State Implementation Plan for the State of Maine was approved by the Director of the Federal Register on July 1, 1982.

Dated: January 10, 1992.

Julie Belaga,

Regional Administrator, Region I.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

Subpart U—Maine

2. Section 52.1020 is amended by adding paragraph (c)(30) to read as follows:

§ 52.1020 Identification of plan.

* * * * *

(c) * * *

(30) Revisions to the State Implementation Plan submitted by the Maine Department of Environmental Protection on September 29, 1989, December 5, 1989 and June 3, 1991.

(i) Incorporation by reference.

(A) Letters from the Maine Department of Environmental Protection dated September 29, 1989, and June 3, 1991 submitting a revision to the Maine State Implementation Plan.

(B) Chapter 111 "Petroleum Liquid Storage Vapor Control" and Chapter 123 "Paper Coater Regulation," effective in the state of Maine on October 3, 1989.

(C) Chapter 112 "Petroleum Liquid Transfer Vapor Recovery," effective in the State of Maine on June 9, 1991.

(ii) Additional materials.

(A) Letter from the Maine Department of Environmental Protection dated June 3, 1991 documenting the December 1990 survey conducted to satisfy the 5 percent demonstration requirement in order to justify the 3500 gallon capacity cut-off in chapter 112.

(B) Letter from the Maine Department of Environmental Protection dated December 5, 1989 requesting the withdrawal of operating permits for S.D. Warren of Westbrook, Eastern Fine Paper of Brewer, and Pioneer Plastics of Auburn incorporated by reference at 40 CFR 52.1020 (c)(11) and (c)(18).

(C) Nonregulatory portions of the submittal.

3. In § 52.1031 the table is amended by adding new entrys to State citations "111" and "112" and by adding a new State citation "123" to read as follows:

§ 52.1031 EPA-approved Maine regulations.

* * * * *

TABLE 52.1031.—EPA-APPROVED RULES AND REGULATIONS

State citation	Title/subject	Date adoped by State	Date approved by EPA	Federal Register citation	52.1020	
*	*	*	*	*	*	*
111	Petroleum Liquid Storage Vapor Control.	09/27/89	Feb. 3, 1992	[*FR* citation from published date].	(c)(30)	
*	*	*	*	*	*	*
112	Petroleum Liquid Transfer Vapor Recovery.	05/22/91	Feb. 3, 1992	[*FR* citation from published date].	(c)(30)	The exemption for Irving Oil Corporation in Searsport, Maine incorporated by reference at 40 CFR 52.1020(c)(18) is removed.

TABLE 52.1031.—EPA-APPROVED RULES AND REGULATIONS—Continued

State citation	Title/subject	Date adoped by State	Date approved by EPA	Federal Register citation	52.1020	
*	*	*	*	*	*	*
123	Paper Coater Regulation	09/27/89	Feb. 3, 1992	[*FR* citation from published date].	(c)(30)	The operating permits for S.D. Warren of Westbrook, Eastern Fine Paper of Brewer, and Pioneer Plastics of Auburn incorporated by reference at 40 CFR § 52.1020 (c)(11), (c)(11), and (c)(18), respectively, are withdrawn.

[FR Doc. 92-2515 Filed 1-31-92; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-26

[FPMR Amendment E-270]

Procurement Leadtimes

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: This regulation removes the procurement leadtime table from the Federal Property Management Regulations. This action is appropriate because the table is informational rather than regulatory and the table is also illustrated in the GSA publication, FEDSTRIP Operating Guide. This action will eliminate duplicate illustration of the table.

EFFECTIVE DATE: February 3, 1992.

FOR FURTHER INFORMATION CONTACT: Teresa Sorrenti, Deputy Director, Systems, Inventory, and Operations Management Center (703-305-6514).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. Therefore, a regulatory impact analysis has not been prepared. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for and consequences of this rule; has determined that the potential benefits to society from this rule outweigh the potential costs; has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101-26

Government property management.

For the reasons set forth in the preamble, 41 CFR part 101-26 is amended as follows:

PART 101-26—PROCUREMENT SOURCES AND PROGRAMS

1. The authority citation for part 101-26 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Subpart 101-26.1—General

2. Section 101-26.102-3 is amended by revising the introductory paragraph and paragraph (b) and (c) to read as follows:

§ 101-26.102-3 Procurement leadtime.

When GSA performs the purchasing services for other agencies or activities as contemplated by this § 101-26.102-3, calculation of the delivery dates required for the items involved must be based on the procurement leadtimes illustrated in the GSA publication, FEDSTRIP Operating Guide. These leadtimes are based on the normal time required after receipt of agency requisitions by GSA to effect delivery to destinations within the 50 States.

* * * * *

(b) If unusually large quantities or complex items are required, leadtime adjustments should be made to reflect the specfic requirement. As an example, standard furniture items can usually be delivered in less than 90 days after receipt of the requisition. However, for large quantity or complex orders requiring a definite quantity procurement, delivery times may range from 4 to 6 months. Footnotes relating to classes where this is a frequent occurence are shown in the procurement leadtime table illustrated in the FEDSTRIP Operating Guide.

(c) The procurement leadtime table illustrated in the FEDSTRIP Operating Guide does not apply to public exigency or other high priority requisitions; however, it should be used as a guide to establish realistic required delivery dates for such requisitions.

3. Section 101-26.104 is amended by revising paragraph (b) to read as follows:

§ 101-26.104 End-of-year submission of requisitions for action by GSA.

* * * * *

(b) Under the FEDSTRIP/MILSTRIP systems, the requisitions submitted to GSA are not required to reflect the applicable appropriation or fiscal year funds to be charged. The fund code entry on the requisition simply indicates to the supply source (GSA) that funds are available to pay the charge, thereby providing authority for the release of material and subsequent billing. Requisitions received by GSA in purchase authority format are normally converted to FEDSTRIP/MILSTRIP documentation so that processing can be accomplished expeditiously through a uniform system based on the use of automated equipment. Accordingly, primary responsibility rests with the ordering activity for ensuring that requisitions intended to be chargeable to appropriations expiring the last day of the fiscal year are submitted in sufficient time for GSA to consummate the necessary action before the end of the fiscal year. Requisitions submitted on or before the last day of the fiscal year may be chargeable to appropriations expiring on that date provided the ordering agency is required by law or GSA regulation to use GSA supply sources. When the ordering agency is not required to use GSA sources, requisitions for GSA stock items may be recorded as obligations provided the items are intended to meet a bona fide need of the fiscal year in which the need arises or to replace stock used in that fiscal year; requests for other than GSA stock items are to be recorded as obligations at the time GSA awards a contract for the required items. In the latter case, GSA procurement leadtimes illustrated in the GSA publication, FEDSTRIP Operating Guide, should be used as a guide for timely submission of these requisitions. The leadtimes referred to relate to the number of days between submission of a requisition and actual delivery of the items involved. While this may furnish some guidance to requisitioners, there is no direct relationship between those leadtimes and the time it takes for GSA to make an award of a contract.

* * * * *

Subpart 101-26.48 (§§ 101-26.4800–101-26.4801)—[Removed]

4. Subpart 101-26.48 is removed and reserved.

Dated: January 16, 1992.

Richard G. Austin,

Administrator of General Services.

[FR Doc. 92-2449 Filed 1-31-92; 8:45 am]

BILLING CODE 6820-24-M

FEDERAL MARITIME COMMISSION

46 CFR Parts 580, 581 and 583

[Docket No. 91-1]

Bonding of Non-Vessel-Operating Common Carriers

AGENCY: Federal Maritime Commission.

ACTION: Reconsideration of final rule.

SUMMARY: On October 8, 1991, the Federal Maritime Commission adopted a final rule implementing the Non-Vessel-Operating Common Carrier Amendments of 1990. Subsequently, the Commission received a Petition for Stay and Reconsideration or Clarification of the Final Rule from a conference of ocean common carriers and three individual vessel-operating common carriers. Upon reconsideration, the Commission has clarified its procedures for issuance of its list of NVOCCs in compliance with the 1990 Amendments and further clarified that common carriers can rely on an NVOCC's Tariff Rule No. 24 for a period of six months.

EFFECTIVE DATE: February 3, 1992.

FOR FURTHER INFORMATION CONTACT:

Bryant L. VanBrakle, Director, Bureau of Tariffs, Certification and Licensing, Federal Maritime Commission, 1100 L Street NW., Suite 10220, Washington, DC 20573, (202) 523-5796

Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 1100 L Street NW., Suite 12225, Washington, DC 20573, (202) 523-5740.

SUPPLEMENTARY INFORMATION: On October 8, 1991, the Commission adopted a final rule to implement the Non-Vessel-Operating Common Carrier ("NVOCC") Amendments of 1990 ("1990 Amendments"), 56 FR 51987, October 17, 1991. The rule became effective 30 days after publication in the **Federal Register**, *i.e.*, on November 18, 1991. The Commission now has before it a Petition for Stay and Reconsideration or Clarification of the Final Rule ("Petition") filed by the Inter-American Freight Conference, Bermuda Container Line Ltd., Great White Fleet Ltd., and Transportacion Maritima Mexicana, S.A. de C.V. ("Petitioners"). A reply to the Petition was received from the Pacific Merchant Shipping Association ("PMSA").

The Petition

Petitioners raise concerns with two parallel provisions of the final rule—§§ 583.7(b) and 581.11(b). First, they note that the Supplementary Information to the final rule indicates that § 583.7(b)(1) permits carriers to consult and rely on a list of tariffed and bonded NVOCCs provided by the Commission and that such a list will be updated "periodically." Petitioners are concerned that there may be delays in the distribution and receipt of the lists and, therefore, suggest that a period of effectiveness be designated on each list. They also urge that new lists be issued sufficiently in advance of the expiration date of the current list so that there would be no hiatus between the effectiveness of each list and its successor. Reconsideration is said to be appropriate here because the provision relating to such lists appeared for the first time in the final rule.

Second, Petitioners state that, under § 583.7(b)(2) of the final rule, carriers would be required to review the Commission's tariff files at the time of every shipment in order to determine whether an NVOCC has a tariff on file with an appropriate Rule No. 24. They believe that neither the final rule nor the Supplementary Information indicates that a carrier may rely on a copy of Rule No. 24 provided by an NVOCC. Petitioners believe that because the Commission previously permitted a six-month period of reliance on NVOCC tariff rules, and given the lack of any clear statement on the subject in the final rule, that no such period of reliance is permitted under the final rule.

Petitioners further argue that reconsideration is the more appropriate remedy because it could result in changes to the text of the final rule. A less preferable, but seemingly acceptable, remedy would, in their opinion, be an order of clarification. Lastly, in order to permit comment on their Petition, Petitioners suggest that the Final Rule be stayed.

Reply to Petition

Only one reply was received in response to the Petition. The Pacific Merchant Shipping Association, representing 45 ocean carriers on the West Coast, supports the Petition. PMSA likewise contends that an expiration date on the Commission's list of complying NVOCCs is necessary to eliminate confusion and that carriers should be permitted to consult a copy of an NVOCC's Tariff Rule No. 24. PMSA claims that, if carriers must verify every shipment of a particular NVOCC, they will be subject to an unreasonable burden.

Discussion

As an initial matter, Petitioners' request for a stay of the Final Rule has been mooted. Petitioners filed their Petition on November 12, 1991, six days before the final rule was to become effective. Given the time period for replies to petitions, the Commission was not in a position to address the merits of the stay request until after the final rule had actually gone into effect. *See* 46 CFR 502.262. In any event, we do not believe that a stay would have been appropriate under the circumstances.

Petitioners' concern about their perceived inability to consult a copy of an NVOCC's Tariff Rule No. 24 is unwarranted. There is nothing in the language of the final rule that requires a common carrier seeking to confirm an NVOCC's compliance to review that NVOCC's tariff on file with the Commission. To the contrary, § 583.7(b)(1) specifically states that a carrier can obtain proof of compliance by "* * * reviewing a *copy of the tariff rule* published by the NVOCC * * *." (Emphasis supplied). A common carrier is not required to consult the original NVOCC tariff on file with the Commission, but rather can rely upon any type of copy provided by the NVOCC. A carrier relying on such a copy of an NVOCC's Rule No. 24 will, therefore, be protected from any liability under section 10(b)(14) of the Shipping Act of 1984, 46 U.S.C. app. 1709(b)(14).

Petitioners' other concerns about the Commission's list of complying NVOCCs, its period of effectiveness, and the lack of advance notice of its effectiveness, will be alleviated by the procedure recently adopted by the Bureau of Tariffs, Certification and Licensing ("BTCL") to implement the final rule. On November 18, 1991, BTCL published its initial lists of NVOCCs in "substantial compliance." This list was made retroactive to November 4, 1991, and contains the words "effective until superseded" on its cover. The Commission provided 103 copies of the list to requestors. In addition, BTCL published an Information Bulletin to apprise the industry of the availability of the list. In the future, the Commission intends to publish advance notice of the availability of superseding lists of complying NVOCCs. Such notice will be published in the **Federal Register**, and the list itself will not become effective until five days after this notice. In an effort to apprise everyone in the ocean transportation industry of new lists of complying NVOCCs, the Commission will also publish an information bulletin that will be available to the trade press.

The Commission recognizes that under the Interim Rule, ocean common carriers or conferences were required to obtain documentation that a known NVOCC was tariffed and bonded. The Supplementary Information to the Interim Rule merely indicated that carriers could require "periodic resubmissions" of such documentation and the Commission, by order of clarification, later interpreted "periodic resubmission" to mean every six months. The final rule now requires common carriers to obtain proof of a known NVOCC compliance. However, the final rule and Supplementary Information did not expressly indicate how often a carrier must obtain proof of compliance for a particular NVOCC. It was our intention to continue the six-month policy. Therefore, if a carrier is relying on an NVOCC's Tariff Rule No. 24, it will be able to do so for a period of six months. This will avoid an excessive duplication of effort and is consistent with our prior practice under the interim rule. However, if a carrier is relying on the Commission's list of complying NVOCCs, it can do so only until such time as that list is superseded pursuant to the procedure described above.

The Commission does not believe that any modifications to the final rule are necessary based on the above discussion. The changes in Commission procedure, together with our clarification of the amount of time within which a carrier can rely on an NVOCC's Rule No. 24, should alleviate any problems carriers are actually experiencing with the final rule.

Therefore, it is ordered, that the "Petition for Stay and Reconsideration or Clarification" submitted by the Inter-American Freight Conference, Bermuda Container Line Ltd., Great White Fleet Ltd., and Transportation Maritima Mexicana, S.A. de C.V. is granted to the extent indicated above.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 92-2480 Filed 1-31-92; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 91-317; RM-7854]

Radio Broadcasting Services; Marshall, MN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 298C3 for Channel 296A at Marshall, Minnesota, and modifies the license for Station KBJJ(FM) to specify operation on the higher class channel, in response to a petition filed by Paradis Broadcasting of Marshall, Inc. See 56 FR 57607, November 13, 1991. The coordinates for Channel 298C3 at Marshall are 44-24-37 and 95-51-43. With this action, this proceeding is terminated.

EFFECTIVE DATE: March 13, 1992.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 91-317, adopted January 15, 1992, and released January 28, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1714 21st Street NW., Washington, DC 20036, (202) 452-1422.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Minnesota, is amended by removing Channel 296A and adding Channel 298C3 at Marshall.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch,
Policy and Rules Division,
Mass Media Bureau

[FR Doc. 92-2553 Filed 1-31-92; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 91-233; RM-7743]

Radio Broadcasting Services; Armijo, NM

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission substitutes Channel 296C for Channel 296C2 at Armijo, New Mexico, and modifies the license for Station KUCU(FM) (formerly KMYI) to specify operation on the higher class channel. See 56 FR 40844, August 16 1991. Channel 296C is allotted at Armijo in compliance with the Commission's minimum distance separation requirements with a site restriction of 47.3 kilometers (29.4 miles) southeast to avoid short spacings to Stations KBOM(FM), Channel 294C1, Los Alamos, New Mexico, and KHFM(FM), Channel 242C, Albuquerque, New Mexico. The coordinates for Channel 296C are North Latitude 34-41-46 and West Longitude 106-24-17. With this action, this proceeding is terminated.

EFFECTIVE DATE: March 13, 1992.

FOR FURTHER INFORMATION CONTACT: Victoria M. McCauley, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 91-233, adopted January 21, 1992, and released January 28, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under New Mexico, is amended by removing Channel 296C2 and adding Channel 296C at Armijo.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92–2552 Filed 1–31–92; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89–299; RM–6596, RM–6901]

Radio Broadcasting Services; Lopez and Dushore, PA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The commission grants in part and otherwise denies a Petition for Reconsideration filed by Stewart C. West of the Report and Order in this proceeding. See 55 FR 12870, April 6, 1990. While the petitioner was allowed to cure its failure to submit a certificate of service of his counterproposal, the petitioner has not provided a statement of continuing interest in the allotment of Channel 233A to Dushore. Therefore, no allotment to that community can be made. With this action, the proceeding is terminated.

EFFECTIVE DATE: March 13, 1992.

FOR FURTHER INFORMATION CONTACT: Elizabeth Beaty, Mass Media Bureau, (202) 632–6302.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Memorandum Opinion and Order, MM Docket No. 89–299, adopted January 21, 1992, and released January 28, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commissions's copy contractors, Downtown Copy Center, (202) 452–1422, 1714 21st Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Douglas W. Webbink,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92–2554 Filed 1–31–92; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 88–257; RM–6299, RM–6506]

Radio Broadcasting Services; Kingsville and Ingleside, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Riviera Broadcasting Company, licensee of Station KNGV(FM) [formerly Station KODK(FM)], Channel 224A, Kingsville, Texas, substitutes Channel 224C2 for Channel 224A at Kingsville, Texas, and modifies KNGV(FM)'s license to specify operation on the higher powered channel. At the request of Roy E. Henderson, d/b/a Spanish Aural Services Company, the Commission allots Channel 297A to Ingleside, Texas, as the community first local FM service. See 53 FR 22548, June 16, 1988, and Supplemental Information, *infra*. With this action, this proceeding is terminated.

EFFECTIVE DATE: March 13, 1992. The window period for filing applications for Ingleside, Texas, will open on March 16, 1992, and close on April 15, 1992.

FOR FURTHER INFORMATION CONTACT: Pamela Blumenthal, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 88–257, adopted January 21, 1992, and released January 28, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452–1422, 1714 21st Street NW., Washington, DC 20036.

Channel 297A and Channel 224C2 can be allotted to Ingleside and Kingsville, Texas, respectively, in compliance with the Commission's minimum distance separation requirements. Channel 297A can be allotted to Ingleside without the imposition of a site restriction. The coordinates for Channel 297A at Ingleside are North Latitude 27–52–54 and West Longitude 97–12–42. Channel 224C2 can be allotted to Kingsville with a site restriction of 28.2 kilometers (17.5 miles) east to avoid a short-spacing conflict with Station KQNN(FM), Channel 221A, Alice, Texas. The coordinates for Channel 224C2 at Kingsville are North Latitude 27–33–00 and West Longitude 97–35–00. Since Ingleside and Kingsville are located within 320 kilometers (199 miles) of the Mexican border, concurrence of the Mexican government has been obtained for these allotments. Furthermore, because the proposed transmitter site for Station KNGV(FM) is located within 80 kilometers of the Federal Communications Commission's monitoring station at Kingsville, Texas, the licensee should refer to the provisions of § 73.1030(c)(1)–(5) of the Rules governing protection of Federal Communications Monitoring Stations when filing its application.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 224A and adding Channel 224C2 at Kingsville, and by adding 297A, Ingleside.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92–2555 Filed 1–31–92; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 675

[Docket No. 911172–2021]

Foreign Fishing; Groundfish of the Bering Sea and Aleutian Islands

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final notice of initial specification of groundfish for 1992; notice of fishery closure; and request for comment.

SUMMARY: NMFS announces final specifications of total allowable catches (TACs) and initial apportionments for each category of groundfish in the Bering Sea and Aleutian Islands (BSAI) area during the 1992 fishing year and associated management measures. This action is necessary to establish harvest limits for groundfish during the 1992 fishing year and associated management

measures. The intended effect of this action is the conservation and management of groundfish resources in the BSAI area.

DATES: Effective at 0001 Alaska local time (A.l.t.) on January 1, 1992, through 2400 A.l.t., on December 31, 1992, or until changed by subsequent notice in the **Federal Register**.

ADDRESSES: Comments on directed fishing closures should be sent to Steven Pennoyer, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, Alaska 99802–1668. The final Environmental Assessment prepared for the 1992 TAC specifications may be obtained from the same address, or by calling 907–586–7230. The final Stock Assessment and Fishery Evaluation (SAFE) report may be requested from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone 907–271–2809.

FOR FURTHER INFORMATION CONTACT: Susan J. Salveson, Fisheries Management Biologist, Alaska Region, NMFS, 907–586–7229.

SUPPLEMENTARY INFORMATION: Groundfish fisheries in the BSAI area are governed by Federal regulations (50 CFR 611.93 and 675) that implement the Fishery Management Plan for the Groundfish Fishery in the Bering Sea and Aleutian Islands Area (FMP). The FMP was prepared by the North Pacific Fishery Management Council (Council) and approved by the Secretary of Commerce (Secretary) under the Magnuson Fishery Conservation and Management Act (Magnuson Act).

The FMP and implementing regulations require the Secretary, after consultation with the Council, to specify annually the TAC, initial domestic annual harvest (DAH), and initial total allowable level of foreign fishing (TALFF) for each target species and the "other species" category for the succeeding fishing year (§ 675.20(a)(7)). The sum of the species' TACs must be within the optimum yield (OY) range of 1.4 million to 2.0 million metric tons (mt) (§ 675.20(a)(2)). For 1992, the sum of TACs is equal to 1,999,855 mt, as indicated in Table 1.

TABLE 1.—OVERFISHING LEVELS, FINAL 1992 ACCEPTABLE BIOLOGICAL CATCH (ABC), TOTAL ALLOWABLE CATCH (TAC), INITIAL TAC (ITAC), AND ITAC APPORTIONMENTS OF GROUNDFISH IN THE BERING SEA (BS) AND ALEUTIAN ISLANDS (AI) MANAGEMENT AREA [1, 2]

Species and area	Overfishing level	ABC	TAC	ITAC=DAP [3, 4]
Pollock:				
BS [5]	1,770,000	1,490,000	1,300,000	1,105,000
AI	62,400	51,600	51,600	43,860
BD [6]	25,000	25,000	1,000	850
Pacific cod	188,000	182,000	182,000	154,700
Yellowfin sole	452,000	372,000	235,000	199,750
Greenland turbot	34,600	7,000	7,000	5,950
Arrowtooth flounder	114,000	82,300	10,000	8,500
Rock sole	260,800	260,800	40,000	34,000
Other flatfish	289,000	199,500	79,000	67,150
Sablefish:				
BS	1,840	1,400	1,400	1,190
AI	4,030	3,000	3,000	2,550
Pacific ocean perch:				
BS	3,540	3,540	3,540	3,009
AI	11,700	11,700	11,700	9,945
Other red rockfish [7]—BS	1,400	1,400	1,400	1,190
Sharpchin/Northern—AI	5,670	5,670	5,670	4,820
Shortraker/rougheye—AI	1,220	1,220	1,220	1,037
Other rockfish [8]:				
BS	400	400	400	340
AI	925	925	925	786
Atka mackerel	435,000	43,000	43,000	36,550
Squid	3,600	3,600	2,000	1,700
Other species [9]	27,200	27,200	20,000	17,000
Total	3,692,325	2,773,355	1,999,855	1,699,877

[1] Amounts are in metric tons: apply to entire Bering Sea (BS) and Aleutian Islands (AI) area unless otherwise specified.
[2] Zero amounts of groundfish are specified for Joint Venture Processing (JVP) and Total Allowable Level of Foreign Fishing (TALFF).
[3] Initial TAC (ITAC)=0.85 of TAC; initial reserve=TAC−ITAC=299,978.
[4] DAP=domestic annual processing=ITAC.
[5] Amounts of pollock ITAC specified for the "A" and "B" seasons are 442,000 mt and 663,000 mt, respectively.
[6] Bogoslof District (BD) subarea proposed under Amendment 17 to the FMP.
[7] "Other red rockfish" includes shortraker, rougheye, northern and sharpchin.
[8] "Other rockfish" includes *Sebastes* and *Sebastolobus* species except for Pacific Ocean perch and the "other red rockfish" species.
[9] "Other species" includes sculpins, sharks, skates, eulachon, smelts, capelin, and octopus.

A notice specifying proposed initial TAC, reserve, DAH, and TALFF amounts for the 1992 fishing year was published on November 20, 1991 (56 FR 58531). Comments were invited through December 16, 1991. No written comments were received. In addition, oral comments were heard, and public consultation with the Council occurred, during the Council meeting in Anchorage, Alaska, on December 3–9, 1991. Council recommendations and biological and economic data that were available at the Council's December meeting were considered in implementing these final 1992 specifications.

The specified TACs for each species are based on the best available biological and socioeconomic information. The Council, its Advisory Panel (AP), and its Scientific and Statistical Committee (SSC), at their September and December 1991 meetings, reviewed current biological information about condition of groundfish stocks in the BSAI area. This information was compiled by the Council's BSAI groundfish Plan Team and presented in the SAFE report for the BSAI groundfish fisheries in the 1992 fishing year. The Plan Team annually produces such a document as the first step in the process of specifying TACs. The SAFE report contains a review of the latest scientific analyses and estimates of each species' biomass and other biological parameters. From these data and analyses, the Plan Team estimates an acceptable biological catch (ABC) for each species category.

A summary of preliminary ABCs for each species for 1992 and other biological data from the September 1991 draft SAFE report were provided in the notice of proposed 1992 specifications (56 FR 58531; November 20, 1991). The Plan Team's recommended ABCs were reviewed by the SSC, AP, and Council at their September 1991 meetings. Based on the SSC's comments on technical methods, and new biological data not available in September, the Plan Team revised its ABC recommendations in the final SAFE report dated November 1991. The revised ABC recommendations were again reviewed by the SSC, AP, and Council at their December 1991, meetings. The SSC endorsed most of the Plan Team's recommendations for 1992 ABCs set forth in the final SAFE report. The SSC did recommend revisions to ABC amounts calculated for Aleutian Basin pollock, Pacific ocean perch, and Atka mackerel. A brief discussion of the SSC's revisions to the ABCs recommended by Plan Team follows:

Aleutian Basin (Bogoslof) Pollock

The SSC recommended that the projected estimate of 1992 exploitable biomass of Aleutian Basin pollock be based on a natural mortality rate (M) of .2, rather than .3 used by the Plan Team, for an increase in 1992 exploitable biomass from .444 million mt to .491 million mt. The SSC also recommended a more conservative exploitation rate of .25 times (M), or .05, compared to the Plan Team's recommended exploitation rate of .24. Using the SSC's exploitation rate against the revised estimate of exploitable biomass, the SSC's calculated recommendation for 1992 ABC is 25,000 mt.

Pacific Ocean Perch

The SSC recommended a more conservative exploitation rate for Pacific ocean perch relative to the rate used by the Plan Team. The SSC recommended that, as for other rockfish groups, an exploitation rate equal to natural mortality ($M = 0.05$) be used. Applying this rate to the current estimates of exploitable biomass in the Bering Sea and Aleutian Islands (70,800 mt and 234,000 mt) results in the SSC's recommended ABCs of 3,540 mt and 11,700 mt, respectively.

Atka Mackerel

Based on 1991 survey data, the SSC supports the Plan Team's procedure used to calculate an estimated 1992 ABC of 270,000 mt. This amount reflects an 11-fold increase of the ABC calculated for 1991 (24,000 mt). The SSC noted that the 1992 ABC calculated by the Plan Team is based on limited data. The SSC also heard testimony from NMFS that an abrupt increase in catch of Atka mackerel of the magnitude implied by the new ABC estimate would have uncertain effects on northern fur seals or other marine mammals, which feed heavily on Atka mackerel as they move through the Aleutian passes. In consideration of these concerns, the SSC recommended phasing in the Plan Team's estimate of ABC over a 6-year period and increasing the exploitation rate from M/6 in 1992 to M in 1997. Given this exploitation strategy, the SSC's recommended ABC for 1992 is 43,000 mt (.30/6)(870,000 mt exploitable biomass).

The Council adopted the SSC's recommendations for 1992 ABCs. The ABCs reflect harvest amounts that would not cause overfishing as defined in the FMP. The calculated levels of overfishing for each species category and recommended ABCs adopted by the Council are listed in Table 1.

The Council developed its TAC recommendations based on the final ABCs as adjusted for other biological and socioeconomic considerations. Each of the Council's recommended TACs for 1992 is equal to or less than the final ABC for each species category. Therefore, NMFS finds that the recommended TACs are consistent with the biological condition of groundfish stocks. The Council also recommended division of certain TACs between seasons and gear types, as described below.

Apportionment of TAC

As required by §§ 675.20(a)(3) and 675.20(a)(7)(i), each species TAC initially is reduced by 15 percent. The sum of these 15 percent amounts is the reserve. The reserve is not designated by species or species group, and any amount of the reserve may be reapportioned to a target species or the "other species" category during the year, providing that such reapportionments do not result in overfishing.

The initial TAC (ITAC) for each target species and the "other species" category at the beginning of the year, which is equal to 85 percent of TAC, is then apportioned between DAH and TALFF. Each DAH amount is further apportioned between two categories of U.S. fishing vessels. The domestic annual processing (DAP) category includes U.S. vessels that process catch on board or deliver it to U.S. fish processors. The joint venture processing (JVP) category includes U.S. fishing vessels working in joint ventures with foreign processing vessels authorized to receive catches in the exclusive economic zone.

In consultation with the Council, the initial amounts of DAP and JVP are determined by the Director, Alaska Region, NMFS (Regional Director). Consistent with the final notice of 1991 initial specifications, the Council recommended that 1992 DAP specifications be set equal to TAC and that zero amounts of groundfish be allocated to JVP and TALFF. In making this recommendation, the Council considered the continued growth in DAP harvesting and processing capacity and anticipates that 1992 DAP operations will harvest the full TAC specified for each BSAI groundfish species category.

The final TACs, ITACs, and initial apportionments of groundfish in the BSAI area for 1992 are given in Table 1 of this notice.

Regulations under § 675.20(a)(7)(i) require one-fourth of each proposed ITAC and the proposed first seasonal allowance of pollock (discussed below) be in effect at the start of a fishing year on an interim basis and remain in effect until superseded by a final **Federal Register** notice of initial specifications. Hence, the groundfish harvest specifications in Table 1 of this notice supersede the interim 1992 specifications published in Table 1 of the notice of proposed specifications (56 FR 58531; November 20, 1991).

Seasonal Allowances of Pollock TAC

Under § 675.20(a)(2)(ii), the TAC of pollock for each subarea of the BSAI area is allocated between two seasons (i.e. the roe season, January 1 through April 15, and the non-roe season, June 1 through December 31). Furthermore, the division of pollock TAC into seasonal allowances occurs after subtraction of reserves as provided under § 675.20(a)(3).

When specifying seasonal allowances of the pollock TAC, the Council considered the following nine factors listed in the FMP:

1. Estimated monthly pollock catch and effort in prior years;
2. Expected changes in harvesting and processing capacity and associated pollock catch;
3. Current estimates of, and expected changes in, pollock biomass and stock conditions; conditions of marine mammal stocks, and biomass and stock conditions of species taken as bycatch in directed pollock fisheries;
4. Potential impacts of expected seasonal fishing for pollock on pollock

stocks, marine mammals, and stocks and species taken as bycatch in directed pollock fisheries;

5. The need to obtain fishery data during all or part of the fishing year;

6. Effects on operating costs and gross revenues;

7. The need to spread fishing effort over the year, minimize gear conflicts, and allow participation by various elements of the groundfish fleet and other fisheries;

8. Potential allocative effects among users and indirect effects on coastal communities; and

9. Other biological and socioeconomic information that affects the consistency of seasonal pollock harvests with the goals and objectives of the FMP.

Based on the above criteria, the Council recommended that the seasonal allowances of the pollock ITAC specified for the Bering Sea subarea be set at the same relative levels as in 1991, or 40 percent of the ITAC during the roe season (442,000 mt) and 60 percent during the non-roe season (663,000 mt). As in 1991, the Council also recommended that the entire pollock ITAC specified for the Aleutian Islands subarea (43,860 mt) be made available at the beginning of the fishing year.

TABLE 2.—ALLOCATION OF POLLOCK TAC (MT) BY SEASON

Subarea	TAC [1]	ITAC [2]	Roe season [3]	Nonroe season [4]
Bering Sea	1,300,000	1,105,000	442,000	663,000
Aleutian Islands	51,600	43,860	43,860	Remainder.
Bogoslof District [5]	1,000	850	850	Remainder.

[1] TAC = total allowable catch.

[2] Initial TAC (ITAC) = 0.85 of TAC; 0.15 of TAC is apportioned to reserve.

[3] January 1 through April 15.

[4] June 1 through December 31.

[5] Authorized under inseason adjustment to protect Bogoslof District pollock until the effective date of Secretarial action on Amendment 17 to the FMP.

The Council has adopted Amendment 17 to the FMP that would establish the Bogoslof District as a third subarea for purposes of pollock stock management. Pending Secretarial approval or disapproval of Amendment 17, the Council recommended that directed fishing for pollock in the Bogoslof District be prohibited and that a 1,000 mt pollock TAC be specified for the Bogoslof District for bycatch purposes only. As such, seasonal allowances of the Bogoslof District pollock TAC would serve no purpose. An inseason adjustment has been implemented to prohibit directed fishing for pollock in the Bogoslof District (57 FR 2688; January 23, 1992) until Secretarial review of Amendment 17 is completed.

In reviewing the Council's recommended seasonal allowance of the pollock ITAC in the Bering Sea and Aleutian Islands management areas, NMFS considered how the recommended allowances address the factors listed above and mitigate potential problems associated with the pollock roe fishery.

In the Bering Sea subarea, the recommended roe season allowance of the pollock ITAC will prevent an inappropriate or unintended allocation of the pollock TAC between seasons and among industry sectors by limiting the roe season harvest to 40 percent of the ITAC of pollock in the Bering Sea subarea. This recommendation is consistent with the proportion of the pollock ITAC that was actually harvested by DAH fisheries during the roe season, but without roe season constraints, during 1986–1990.

As the DAP fishing effort has grown, larger DAP pollock harvests have occurred earlier in the fishing year. Two reasons for larger harvests include (1) the high value of pollock roe relative to other pollock products, and (2) the common property nature of the pollock resource and an open access management regime that gives no incentive to delay harvesting. Hence, without a specific seasonal catch limit, the potential exists for a disproportionately large roe season harvest. In this event, those vessels and processors that have the capacity to catch and process roe-bearing pollock most rapidly would have a competitive advantage over those elements of the industry that conduct slower, more evenly paced operations.

NMFS finds that the seasonal allocation of the Bering Sea pollock ITAC prevents an inappropriate or unintended allocation of the pollock TAC between seasons and among industry sectors. Furthermore, the specific allowance of 442,000 mt and 663,000 mt between the roe and non-roe seasons, respectively, will provide a reasonable balance between roe and non-roe season harvests. The recommended roe season catch limit will allow production of valuable pollock products while preventing an excessively disproportionate harvest in the roe season.

NMFS also finds that the roe season catch limit may help to prevent adverse effects on the ecosystem and on future pollock productivity from intensive fishing mortality during the roe season. Although no clear evidence is available to demonstrate that intensive fishing during a compressed season will have significant negative impacts on the ecosystem, the actual effects of such fishing are uncertain. The complexity of the ecosystem can easily mask any statistical relationship between the abundance of pollock eggs and larvae, and the future abundance of various pollock predators (including the threatened Steller sea lion) and of harvestable stocks of pollock. Given this uncertainty, conservative limitation of the roe season pollock harvest to 442,000 mt is reasonable.

The Council made no recommendation to allocate pollock by season in the Aleutian Islands subarea. Therefore, the entire 43,860 mt of pollock ITAC specified for this subarea will be available for harvest during the roe season, and any amount unharvested on April 15 will be available for harvest during the non-roe season beginning June 1, subject to other harvesting limitations.

NMFS considered the Council's recommendation not to allocate seasonally the Aleutian Islands pollock TAC and whether the potential for concentrated fishing effort could temporarily disrupt foraging efficiency of Steller sea lions on pollock, an important prey species for these marine mammals. The possible adverse effect of concentrating fishing effort on foraging activity of sea lions has been addressed in the rule that implemented Amendment 20 to the BSAI FMP and Amendment 25 to the FMP for Groundfish of the Gulf of Alaska (57 FR 2683; January 23, 1992).

Under a separate rule published in the **Federal Register** on January 6, 1992 (57 FR 381), the 1992 groundfish trawl fisheries in the BSAI and Gulf of Alaska (GOA) were delayed until January 20, 1992 when sea lion protection measures authorized under Amendments 20 and 25 became effective. NMFS implemented the 1992 season delay to assure that when the groundfish trawl fisheries began, they would be prosecuted in a manner that minimized potential adverse effects of these operations on sea lion foraging activity in sensitive habitat areas. Sea lion protection measures implemented under Amendments 20 and 25 include closure of areas around specified sea lion rookeries to fishing with trawl gear, and spatial and temporal restrictions on pollock harvests in the Gulf of Alaska.

Available information indicates that actions taken to disperse the harvest of pollock in the Gulf of Alaska under Amendment 25 to the GOA FMP are not directly applicable to the Aleutian Islands subarea. This subarea is a unique biogeographic area, significantly different from the GOA, with a narrow continental shelf, rugged bottom topography, and swift currents in the passes between the islands. NMFS observer data indicate that in recent years, a significant portion of the Aleutian Islands pollock harvest has occurred within 10 nm of sea lion rookeries. Since 1988, between 26 and 96 percent of the annual pollock catch in the Aleutian Island subarea was harvested within these areas. NMFS observer data also indicate that most of the domestic harvest of other groundfish species, including Atka mackerel, Pacific cod, and rockfish, has also occurred within 10 nautical miles of sea lion rookery sites. In contrast, a lower percentage of the 1990 GOA groundfish harvest occurred within 10 nm of rookery sites.

The amount of groundfish harvested in the Aleutian Islands subarea within 10 nm of sea lion rookeries indicates that significant amounts of groundfish are available within these areas and that fishing operations could potentially compete with sea lions for available groundfish. In response to the concern that all trawl operations could have potentially adverse effects on Steller sea lion foraging efficiency in sensitive habitat areas in the Aleutian Islands subarea, as well as potentially adverse physical interactions with trawl gear in those areas, fishing with trawl gear was prohibited within either 10 or 20 nm around sea lion rookery sites in the Aleutian Islands subarea under regulations that implement Amendment 20.

These regulations, together with the assumed availability of groundfish within the closed areas around Steller sea lion rookery sites in the Aleutian Islands subarea, are expected to provide effective protection to Steller sea lions in the Aleutian Islands subarea. NMFS has determined that seasonal allocations of the Aleutian Island pollock TAC would not be expected to provide additional protection for sea lions that would be meaningful. NMFS also has determined that the Council's recommendation not to implement seasonal allocations of the pollock ITAC in the Aleutian Islands subarea is consistent with Council objectives with respect to harvesting roe-bearing pollock.

With respect to the Council recommendation for seasonal allocations of the pollock ITAC in the Bering Sea subarea (Table 2), NMFS concurs with the nine findings considered by the Council as required by the FMP in setting seasonal apportionment of the pollock ITACs. The record of these considerations is summarized at Agenda D-2(c) for the December 1991 meeting of the Council and in appendix B of the SAFE report dated November 1991. By basing these findings on the biological and socioeconomic information contained in the final SAFE report dated November 1991, NMFS finds that the recommended seasonal allowances of pollock are based on, and consistent with, the types of information required by § 675.20(a)(2)(ii).

NMFS intends to further explore the desirability of spatially and temporally dispersing groundfish harvests in the Aleutian Islands subarea to further protect Steller sea lions. Any such action would be developed in consultation with the Council and, pending approval by the Secretary, implemented by regulatory amendment under authority of Amendment 20 to the FMP.

Apportionment of Pollock TAC to the Non-pelagic Trawl Gear Fishery

Regulations under § 675.24(c)(2) authorize the Secretary, in consultation with the Council, to limit the amount of pollock TAC that may be taken in the directed fishery for pollock using non-pelagic trawl gear. This authority is intended to reduce the amount of halibut and crab bycatch that occurs in non-pelagic trawl operations. Limitations on the amount of pollock taken in the non-pelagic trawl fishery were not implemented in 1991 because the amount of pollock taken with non-pelagic trawl gear and the associated bycatch of crab and halibut were sufficiently low as to eliminate the need for further restriction under separate regulatory action. Through September 29, 1991, the amount of pollock taken with non-pelagic trawl gear was less than 6 percent of the total pollock harvest. Relatively small harvest amounts of pollock with non-pelagic trawl gear are again anticipated in 1992. As such, the Council recommended that no regulatory action be taken to further restrict the amount of pollock TAC harvested with non-pelagic trawl gear in 1992.

NMFS concurs with the Council's recommendation that restrictions on the amount of pollock harvested with non-pelagic trawl gear are unncessary to significantly reduce bycatch of prohibited species.

Sablefish Gear Allocation

Regulations at § 675.24(c)(1) require that sablefish TACs for the Bering Sea and Aleutian Islands subareas be divided between trawl and hook-and-line/pot gear fisheries. Gear allocations of TACs are specified in the following proportions:

Bering Sea subarea: Trawl gear—50 percent; hook-and-line/pot gear—50 percent, and

Aleutian Islands subarea: Trawl gear—25 percent; hook-and-line/pot gear—75 percent.

Based on the 1992 TAC specifications in Table 1, trawl gear and hook-and-line/pot allocations of sablefish in each subarea are equivalent to the TACs and ITACs listed in Table 3.

TABLE 3.—FINAL GEAR SHARES OF SABLEFISH TAC

Subarea	Gear	Percent of TAC	Share of TAC (mt)	Share of ITAC (mt) [1]
Bering Sea	Trawl	50	700	595
	Hook-and-line/pot gear	50	700	595

TABLE 3.—FINAL GEAR SHARES OF SABLEFISH TAC—Continued

Subarea	Gear	Percent of TAC	Share of TAC (mt)	Share of ITAC (mt) [1]
Aleutian Islands	Trawl	25	750	638
	Hook-and-line/pot gear	75	2,250	1,912

[1] Initial TAC (ITAC) = 0.85 of TAC, rounded to the nearest whole mt; 0.15 of TAC is apportioned to reserve. The sum of both ITAC gear shares in a subarea is equal to the ITAC for that subarea in Table 1.

Directed Fishing Closures

A principal consideration for the Council in developing its 1992 TAC recommendations was assuring that the sum of the species TACs did not exceed the maximum OY of two million mt. After consideration of the amounts of each species category TAC that is required for bycatch in other directed fisheries, the Council recommended that ABC amounts specified for Greenland turbot, "other rockfish," and the trawl allocation of sablefish TAC are not sufficient to support directed fisheries. As such, TAC amounts for these species were set equal to ABC, with Council intent that these amounts would be used for bycatch purposes only. The Council also recommended that the TAC specified for arrowtooth flounder be specified at a level that would support bycatch amounts of this species in other directed fisheries. Although the 1992 ABC calculated for arrowtooth flounder would support a larger TAC, arrowtooth flounder normally is retained only as a bycatch species, and significant target operations for this species do not yet exist.

Given the directed fishing standards for Greenland turbot, sablefish, and "other rockfish" under § 675.20(h), the Regional Director, Alaska Region, NMFS (Regional Director), has determined that the entire initial TACs for these species are needed to support incidental catch amounts in directed fisheries for other groundfish species. As such, the Regional Director concurs with the Council's recommendation that directed fishing for sablefish with trawl gear and directed fishing for Greenland turbot and "other rockfish" be prohibited to prevent the specified TACs from being exceeded. Attainment of the "other rockfish" TACs in the Bering Sea and Aleutian Islands are of special concern, because the specified TACs are set at the overfishing level. Attainment of these TACs would require the closure of all fisheries that catch incidental amounts of "other rockfish" and could result in the foregone harvest of significant amounts of other groundfish species.

The Regional Director also concurs with the Council's recommendation to prohibit directed fishing for arrowtooth flounder and that a specified ITAC of 8,500 mt is sufficient to support bycatch amounts of arrowtooth flounder caught incidental to other directed fishing operations. Under authority provided at § 675.20(a)(8), the Regional Director is prohibiting directed fishing for Greenland turbot, "other rockfish," and arrowtooth flounder, and for sablefish harvested with trawl gear in the Bering Sea and Aleutian Islands management areas effective January 29, 1992.

Allocation of Prohibited Species Catch (PSC) Limits

Crab, Halibut, and Herring

PSC limits of red king crab and *C. bairdi* Tanner crab in specific zones (50 CFR 675.2) of the Bering Sea subarea and for Pacific halibut throughout the BSAI area are specified under § 675.21(a). The PSC limits are:

—200,000 red king crabs applicable to Zone 1;

—One million *C. bairdi* Tanner crabs applicable to Zone 1;

—Three million *C. bairdi* Tanner crabs applicable to Zone 2;

—4,400 mt of Pacific halibut (primary PSC limit) applicable to Zones 1 and 2H; and

—5,333 mt of Pacific halibut (secondary PSC limit) applicable to the entire BSAI area.

The PSC limit of Pacific herring caught while conducting any trawl operation for groundfish in the BSAI is 1 percent of the annual eastern Bering Sea herring biomass. Based on 1991 survey data, the projected 1992 Bering Sea-wide herring biomass is 95,649 mt, resulting in a 1992 herring PSC limit of 956 mt. Regulations under § 675.21(b) authorize the apportionment of each PSC limit into PSC allowances that are assigned to specified fishery categories. Existing regulations at § 675.21(b)(4) specify five DAP fishery categories for this purpose (midwater pollock, Greenland turbot, rock sole, yellowfin sole/other flatfish, and "other fisheries"). At its December 1991 meeting, the Council adopted the prohibited species allowances in Table 4 of this notice, based on the currently anticipated bycatch of crabs, halibut, and herring during the 1992 fishing year. The Council adopted the AP's recommendation to allocate zero amounts of prohibited species bycatch allowance to the Greenland turbot fishery category, which includes both the Greenland turbot and arrowtooth flounder trawl fisheries. The Council expressed its intent that specified TAC amounts for these two species be only available for bycatch purposes, and no directed fisheries for Greenland turbot or arrowtooth flounder should be allowed in 1992. As such, prohibited species bycatch allowances for the Greenland turbot category are not necessary.

TABLE 4.—FINAL 1992 PROHIBITED SPECIES CATCH ALLOWANCES

Fisheries	Zone 1	Zone 2	Zones 1+2H	BSAI-wide
Red king crab, number of animals:				
DAP flatfish	75,000			
DAP rocksole	85,000			
DAP turbot	0			
DAP other	40,000			
Total	200,000			

TABLE 4.—FINAL 1992 PROHIBITED SPECIES CATCH ALLOWANCES—Continued

Fisheries	Zone 1	Zone 2	Zones 1+2H	BSAI-wide
C. bairdi Tanner crab, number of animals:				
DAP flatfish	100,000	1,225,000		
DAP rocksole	700,000	300,000		
DAP turbot	0	0		
DAP other	200,000	1,475,000		
Total	1,000,000	3,000,000		
			Primary Halibut	Secondary Halibut
Pacific halibut, metric tons:				
DAP flatfish			743	901
DAP rocksole			660	800
DAP turbot			0	0
DAP other			2,997	3,632
Total			4,400	5,333
Pacific Herring, metric tons:				
Midwater pollock				573
DAP flatfish				134
DAP rocksole				0
DAP turbot				0
DAP other				249
Total				956

Remaining differences between the prohibited species bycatch allowances listed in Table 4 and those proposed (56 FR 58531; November 20, 1991) reflect differences between the proposed and final groundfish specifications in Table 1, changes in anticipated harvest of Pacific cod by trawl gear, and anticipated changes in fishery bycatch needs pending Secretarial approval of Amendment 19 to the FMP. This amendment was adopted by the Council at its December 1991 meeting, and would reduce the halibut PSC limit established for trawl gear from 5,333 mt to 5,033 mt and establish a separate halibut PSC mortality limit for non-trawl gear (750 mt). A regulatory amendment associated with Amendment 19 was also adopted by the Council that would revise the number of trawl fishery categories that are eligible to receive prohibited species bycatch allowances. Pending Secretarial approval, these changes to the management of prohibited species bycatch in the groundfish fisheries will be implemented under separate rulemaking that would supersede the PSC bycatch allowances specified in this notice. If approved and implemented in 1992, the bycatch of Pacific halibut by non-trawl fisheries and the bycatch of crab, halibut, and herring in the revised trawl fishery categories will be counted against the respective PSC allowances from the beginning of the 1992 fishing year.

Seasonal Apportionments of PSC Limits

Regulations at § 675.21(b)(2) authorize the Secretary, after consultation with the Council, to establish seasonal apportionments of prohibited species bycatch allowances among the fisheries to which bycatch has been apportioned. Under § 675.21(b)(2), the basis for any such apportionment must be based on the following types of information:

1. The seasonal distribution of prohibited species;
2. Seasonal distribution of target groundfish species relative to prohibited species distribution;
3. Expected prohibited species bycatch needs on a seasonal basis relevant to change in prohibited species biomass and expected catches of target groundfish species;
4. Expected variations in bycatch rates throughout the fishing year;
5. Expected changes in directed groundfish fishing seasons;
6. Expected start of fishing effort; and
7. Economic effects of establishing seasonal prohibited species apportionments on segments of the target groundfish industry.

At its December 1991 meeting, the Council recommended seasonal apportionments of each of the halibut bycatch allowances listed in Table 5. In making these recommendations, the Council adopted recommendations presented by its AP. The AP considered and balanced a variety of factors. In particular, it noted that bycatch allowances specified for 1991 resulted in premature closures of the Pacific cod and yellowfin sole trawl fisheries, an opportunity to harvest available groundfish was foregone.

TABLE 5.—FINAL SEASONAL ALLOCATION OF THE 1992 PACIFIC HALIBUT AND CRAB BYCATCH ALLOWANCES

Fishery	Percent	Seasonal bycatch allowance
Pacific Halibut		
DAP Flatfish:		
Jan. 01–Apr. 30	0	0
May 01–Aug. 02	50	451
Aug. 03–Dec. 31	50	450
DAP Rocksole:		
Jan. 01–Mar. 29	75	600
Mar. 30–Jun. 28	12.5	100
Jun. 29–Sep. 27	12.5	100
Sep. 28–Dec. 31	0	(¹)
DAP Turbot:		
Jan. 01–Dec. 31	0	0
DAP "other fishery":		
Jan. 01–Mar. 29	49	1,774
Mar. 30–Jun. 28	27	985
Jun. 29–Sep. 27	24	873
Sep. 28–Dec. 31	0	(¹)
Total Halibut		5,333
Red King Crab (number of crab)		
DAP "other fishery":		
Jan. 01–Mar. 29		19,600
Mar. 30–Jun. 28		5,100
Jun. 29–Sep. 27		15,300
Sep. 28–Dec. 31		(¹)
Total		40,000
C. Bairdi Tanner Crab (number of crab)		
DAP "other fishery":		
Zones 1 and 2		
Jan. 01–Mar. 29	132,000	990,500
Mar. 30–Jun. 28	17,000	121,125
Jun. 29–Sep. 27	51,000	363,375
Sep. 28–Dec. 31	(¹)	(¹)
Total	200,000	1,475,000

[1] Remainder.

The Pacific cod fishery shares the Pacific halibut bycatch allowance allocated to the "other fishery," and is expected to continue to be important as an early year target fishery due to the anticipated completion of the Bering Sea pollock roe fishery by mid-February and the delayed start of the flatfish fisheries until May 1 (§ 675.23(c)). Pacific cod is most vulnerable to trawl gear early in the year when the catch per unit of effort is highest and historical Pacific halibut bycatch rates are lowest. The AP conceded that the Pacific halibut bycatch apportionment could constrain the "other fishery" based on experience in 1990 and 1991. No quantitative estimate of this constraint can be made because resulting bycatch rates due to the vessel incentive program to reduce Pacific halibut bycatch in the Pacific cod trawl fishery are unknown. Regulations implementing this program (§ 675.26) became effective near the completion of the 1991 Pacific cod fishery, and the 1992 fishing year will be the first year that this fishery operates under the incentive program. The Secretary anticipates that prohibited species bycatch rates will be reduced in 1992 as the incentive program is implemented and enforced.

The Pacific cod trawl fishery could produce the largest economic return by having the opportunity to fish the resource early in the year. Consequently, the AP recommended that 76 percent of the Pacific halibut PSC allowance apportioned to the "other fishery" be made available in the first two quarters of 1992 to support the Pacific cod trawl fishery. The remainder of the Pacific halibut bycatch allowance is apportioned to the third and fourth quarters to support the rockfish fishery and directed fishery for pollock using non-pelagic trawl gear.

The AP also recommended that 75 percent of the Pacific halibut bycatch allowance apportioned to the rock sole fishery be allocated to the first quarter of 1992 when most of the rock sole TAC is harvested in the high-valued rock sole roe fishery. The remaining amounts of the rock sole halibut bycatch allowance are equally apportioned to the second and third quarter to support a small directed effort for rock sole outside the roe season.

As mentioned above, the yellowfin sole and "other flatfish" season is delayed until May 1 of each year to reduce high Pacific halibut and red king crab bycatch rates that occur earlier in the year (§ 675.23(c)). The Pacific halibut bycatch allowance apportioned to the yellowfin sole and "other flatfish" category is equally divided into two seasonal allocations: May 1–August 2, and August 3–December 31. The recommended allocation of the Pacific halibut bycatch allowance is intended to prevent an excessive bycatch of Pacific halibut in July and August when Pacific halibut become more vulnerable to shallow water fisheries and bycatch rates increase, thereby reducing the likelihood of a premature closure of the yellowfin sole fishery. The AP also recommended that the crab bycatch allowance apportioned to the "other fisheries" be seasonally allocated to ensure that amounts of crab bycatch allowance are available to support the non-roe pollock season in the Bering Sea (June 1–December 31).

The Council adopted the recommendations of the AP as an effective balance of the interests affected by the rock sole, yellowfin sole/other flatfish, and "other fisheries" prohibited species bycatch allowances.

The purpose of the seasonal apportionments of prohibited bycatch allowances is to assure some fishing opportunity for fisheries using bottom trawl gear in the second and third quarters of the year. In 1991, the bottom trawl fisheries for pollock and Pacific cod were closed in Zones 1 and 2H on May 3, and in the entire BSAI area on May 8. The fisheries were reopened during the first week of the third quarter of 1991 and then closed for the remainder of the year, resulting in a significant portion of the Pacific cod TAC remaining unharvested due to attainment of the halibut bycatch allowance specified for the "other fishery." Similarly, the BSAI was closed to fishing for yellowfin sole/other flatfish on October 15, when these fisheries attained their Pacific halibut bycatch allowance. The Council's recommended seasonal apportionments of the prohibited species bycatch allowances are intended to allow an increase amount of the groundfish OY to be harvested by providing for directed groundfish fisheries when catch per unit effort are high and corresponding prohibited species bycatch rates are relatively low.

In approving the Council's recommended seasonal apportionment of the Pacific halibut bycatch allowances to the rock sole, yellowfin sole/other flatfish, and "other fishery" categories, NMFS considered seven types of information specified at § 675.2(b)(2) as follows:

1. The biomass trends and distribution of Pacific halibut as summarized in appendix A of the SAFE report dated November 1991 and other scientific documents of the International Pacific Halibut Commission;

2. The seasonal distribution of the groundfish fisheries as described in the SAFE report dated November 1991 and other NMFS documents and the Council's recommendation that directed fisheries for Greenland turbot, arrowtooth flounder, "other rockfish," and sablefish with trawl gear be prohibited;

3. The expected Pacific halibut bycatch by each of the fishery categories that are eligible to receive prohibited species bycatch allowances based on historical bycatch rates presented in appendix C of the SAFE report dated November 1991;

4. The expected variations in bycatch rates throughout the year based on the same data referenced in item 3;

5. The establishment of roe and non-roe seasons for pollock in the Bering Sea; and the delay of directed fishing for flatfish species except rock sole until May 1;

6. The delay of the 1992 groundfish trawl fisheries until the effective date of sea lion protection measures (January 20, 1992); and

7. Resulting economic effects of seasonal apportionments of the prohibited species bycatch allowances are expected to be positive if more groundfish are harvested with non-pelagic trawl gear than otherwise would be possible without the seasonal apportionments. No data are available to quantify the marginal benefit of this action.

Groundfish PSC limits

No PSC limits for goundfish species are specified in this notice. Authority to annually specify PSC limits for groundfish species or species groups for which the TAC can be completely harvested by domestic fisheries is provided at § 675.20(a)(6). In practice, these PSC limits apply only to JVP or TALFF fisheries for species that have a zero JVP or TALFF apportionment. At this time, no groundfish are proposed to be allocated to either JVP or TALFF and specifications of groundfish PSC limits are unnecessary.

Classification

This action is authorized under 50 CFR 611.93(b) 675.20 and complies with Executive Order 12291.

NMFS prepared an environmental assessment on the 1992 TAC specifications, which concludes that no significant impact on the environment will result from their implementation.

Immediate effectiveness of the notice of directed fishing closures for Greenland turbot, "other rockfish," arrowtooth flounder, and sablefish allocated to trawl is necessary to prevent excessive harvests of these species. Without this action, specified TAC amounts will be prematurely reached and retention of these species will become prohibited, which is to the disadvantage of U.S. fishermen to retain bycatch amounts of these species. Therefore, the Assistant Administrator for Fisheries, NOAA, finds for good cause that it is impractical and contrary to the public interest to provide prior notice and comment or to delay its effective date. As immediate effectiveness of this action is necessary to benefit fishermen who would otherwise forego harvestable amounts of groundfish, the 30-day delayed effectiveness is also waived. However, interested persons are invited to submit comments in writing to the Regional Director (see ADDRESSES) above for 15 days after the effective date of this notice.

Pursuant to the requirements of section 7 of the Endangered Species Act, NMFS has determined that the TAC specifications for the 1992 BSAI groundfish fishery are not likely to jeopardize the continued existence and recovery of any endangered or threatened species.

List of Subjects

50 CFR Part 611

Fisheries, Foreign relations.

50 CFR Part 675

Fisheries, Reporting and recordkeeping.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: January 29, 1992.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 92-2536 Filed 1-29-92; 4:36 pm]

BILLING CODE 3510-22-M

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50 CFR Part 672

[Docket No. 911176-2018]

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: NMFS is establishing a directed fishing allowance and is prohibiting directed fishing for pollock in statistical area 62 in the Gulf of Alaska (GOA). This action is necessary to prevent the first quarter total allowable catch (TAC) for pollock in statistical area 62 in the GOA from being exceeded. The intent of this action is to promote optimum use of groundfish while conserving pollock stocks.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), January 28, 1992, through 12 midnight, A.l.t., March 29, 1992.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, Resource Management Specialist, Fisheries Management Division, NMFS, (907) 586-7228.

SUPPLEMENTARY INFORMATION:

The domestic and foreign groundfish fisheries in the exclusive economic zone of the GOA are managed by the Secretary of Commerce under the Fishery Management Plan for the Gulf of Alaska Groundfish Fishery (FMP) under the Magnuson Fishery Conservation and Management Act. The FMP was prepared by the North Pacific Fishery Management Council and is implemented by regulations appearing at 50 CFR 611.92 and parts 620 and 672.

The amount of a species or species group apportioned to a fishery is TAC, as stated in § 672.20(a)(2). Under the final notice of initial specifications (57 FR 2844; January 24, 1992), the TAC of pollock for the combined Western/Central (W/C) Regulatory Area in the GOA was established as 84,000 metric tons (mt).

Under regulations at 50 CFR 672.20(a)(2)(iv), the TAC for pollock in the combined W/C Regulatory Area is apportioned among statistical areas 61, 62, and 63, in proportion to the distribution of the pollock biomass as determined by the most recent NMFS surveys. Each apportionment is divided equally into the four quarterly reporting periods of the fishing year. The apportionment to statistical area 62 is 18,480 mt (57 FR 2844; January 24, 1992). This amount is further divided into quarterly allowances of 4,620 mt.

Within any fishing year, any unharvested amount of any quarterly allowance of TACs will be added in equal proportions to the quarterly allowances of the following quarters, resulting in a sum for each quarter not to exceed 150 percent of the initial quarterly allowance. Within any fishing year, harvests in excess of a quarterly allowance of any TAC will be deducted in equal proportions from the quarterly allowances of each of the remaining quarters of that fishing year.

Under § 672.20(c)(2), the Director of the Alaska Region, NMFS (Regional Director), has determined that the apportionment in statistical area 62 will soon be reached. Therefore, NMFS is establishing a directed fishing allowance of 3,970 mt, and is setting aside the remaining 650 mt of the current apportionment as bycatch to support other anticipated groundfish fisheries. The Regional Director has determined that the directed fishery soon will catch its directed fishing allowance. Consequently, under § 672.20(c)(2), NMFS is prohibiting directed fishing for pollock in GOA statistical area 62, effective from 12 noon, A.l.t., January 29, 1992, through 12 midnight, A.l.t., March 29, 1992.

After this closure, in accordance with § 672.20(g)(3), amounts of pollock retained on board a vessel in GOA statistical area 62 may not equal or exceed 20 percent of the aggregate amount of groundfish other than pollock retained at the same time by the vessel during the same trip as measured in round weight equivalents.

Classification

This action is taken under 50 CFR 672.20 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: January 28, 1992.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92-2392 Filed 1-28-92; 4:30 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 57, No. 22
Monday, February 3, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 273

[Amendment No. 346]

Food Stamp Program; Income Exemption for Homeless Households in Transitional Housing From the Mickey Leland Memorial Domestic Hunger Relief Act

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule proposes to amend the Food Stamp Program regulations to implement section 1721 of the Mickey Leland Memorial Domestic Hunger Relief Act (Pub. L. 101–624, title XVII, 104 Stat. 3786, November 28, 1990). This proposed provision allows an income exclusion for households living in transitional housing that is an amount equal to 50 percent of the maximum shelter allowance provided to families receiving Aid to Families with Dependent Children (AFDC) residing in permanent housing under a State agency's approved AFDC plan which includes an identifiable AFDC shelter allowance or component.

DATES: Comments must be received on or before March 4, 1992, to be assured of consideration.

ADDRESSES: Comments should be submitted to Judith M. Seymour, Eligibility and Certification Regulation Section, Certification Policy Branch, Program Development Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302. Comments can also be sent via fax to the attention of Ms. Seymour at (703) 756–4354. All written comments will be open for public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5 p.m., Monday through Friday) at 3101 Park Center Drive, Alexandria, Virginia, Room 720.

FOR FURTHER INFORMATION CONTACT: Questions regarding this proposed rulemaking should be addressed to Ms. Seymour at the above address or by telephone at (703) 305–2516.

SUPPLEMENTARY INFORMATION:

Classification

Executive Order 12291/Secretary's Memorandum 1521–1

This proposed rule has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1521–1. The Department has classified this rule as nonmajor. The rule will not have an annual effect on the economy of $100 million a year or more. The rule will have little or no effect on costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions. Further, the rule will not have significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Executive Order 12372

The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the proposed rule and related notice(s) to 7 CFR 3015, subpart V (48 FR part 29115, June 24, 1983), this Program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Regulatory Flexibility Act

The proposed rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601-et seq.). Betty Jo Nelsen, Administrator of the Food and Nutrition Service (FNS), has certified that this proposed rule will not have a significant economic impact on a substantial number of small entities. State and local welfare agencies will be the most affected to the extent that they administer the Program.

Paperwork Reduction Act

This proposed rule does not contain reporting on recordkeeping requirements subject to approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Background

The Mickey Leland Memorial Domestic Hunger Relief Act (Pub. L. 101–624, title XVII, 104 Stat. 3783, November 28, 1990) made a number of changes in the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.). This proposed rulemaking pertains to the provision of the Mickey Leland Memorial Domestic Hunger Relief Act (known hereafter as the Leland Act) which allows homeless households an income exclusion in an amount equal to 50 percent of the maximum shelter allowance provided to AFDC families living in permanent housing under a State agency's approved AFDC plan which includes an identifiable AFDC shelter allowance or component.

Section 906 of the Food, Agriculture, Conservation and Trade Act Amendments of 1991, Public Law 102–237, 105 Stat. 1818, December 13, 1991, added language to the Leland Act language which clarifies that this provision is effective only if the State agency calculates a shelter allowance to be paid under the State plan separate and apart from payments for other household needs even though it may be paid in combination with other allowances in some cases. This additional language confirms our interpretation of the Act as stated in this rule and in our February 22, 1991 and June 26, 1991 memoranda which provided for the implementation of this policy retroactive to October 1, 1990.

Currently, the regulations at 7 CFR 273.9(c)(1) provide that any gain or benefit which is not in the form of money payable directly to the household is excluded from income countable to the household for food stamp purposes. Also excluded from income are certain payments that are not payable directly to a household but are paid to a third party for a household expense. In addition, the Food Stamp Act currently excludes general assistance (GA) and public assistance (PA) "vendor payments" which are not made directly to the household but paid to a third party on behalf of the household to pay household expenses and are not part of the "normal" grant, i.e. shelter payments in excess of the maximum AFDC shelter allowance. Further, 7 CFR 273.9(c)(1)(ii)(D) excluded from income PA and GA housing assistance payments paid to a third party on behalf of a household residing in temporary housing, as long as the temporary housing unit lacked facilities for preparing and cooking hot meals or lacked refrigerated storage of food used for home consumption. This income exclusion was effective until September 30, 1990.

The exclusion of PA and GA housing assistance payments as required by 7 CFR 273.9(c)(1)(ii)(D) was mandated by section 807 of the Stewart B. McKinney Homeless Assistance Act (Pub. L. 100–77, as amended by section 10 of Public Law 101–220). The Stewart B. McKinney Homeless Assistance Act (known hereafter as the McKinney Act) amended section 5(k) of the Food Stamp Act to exclude from income the entire PA or GA payment made to a third party on behalf of a household residing in temporary housing provided that such a temporary housing unit lacked facilities for the preparation and cooking of hot meals or the refrigerated storage of food for home consumption. This provision recognized the special needs of families and individuals living in such temporary housing, including housing commonly known as "welfare hotels".

Subsequently, section 1721 of the Leland Act amended section 5(k)(2)(F) of the Food Stamp Act to exclude a portion of vendored housing payments made on behalf of PA and GA households residing in transitional housing for the homeless. The amount excluded would be an amount equal to 50 percent (rather than the entire amount as provided under the expired McKinney Act provision) of the maximum shelter allowance or component provided to families residing in permanent housing under the State agency's AFDC plan approved under part A of title IV of the Social Security Act (42 U.S.C. 601 et. seq.). This provision of the Leland Act was effective retroactively to October 1, 1990. Furthermore, section 1721 of the Leland Act no longer requires that temporary housing units must lack facilities for preparing and cooking hot meals or lack refrigerated storage of food used for home consumption in order to exempt PA or GA housing assistance payments from income for food stamp purposes, as was the case with the McKinney Act provision.

Congressional intent in approving section 1721 was to encourage and support efforts to move families living in welfare hotels into permanent housing through transitional housing programs. (House Report No. 101–569 Part 1, 101st Cong., 2nd Sess., July 3, 1990, p. 428). Thus, section 1721 provides a limited version of the special treatment previously provided to those families living in welfare hotels. Transitional housing was defined in section 422(12)(A) of the McKinney Act as housing which has the purpose of facilitating the movement of homeless individuals or families to independent living within a reasonable amount of time, as determined by the Secretary of Housing and Urban Development (HUD). Section 422(12)(A) also provides that transitional housing includes housing primarily designed to serve deinstitutionalized homeless individuals and other homeless individuals with mental disabilities, and homeless families with children. HUD has used this definition to develop supportive transitional housing for homeless individuals, and homeless families with children. The Department believes this definition is useful because of its flexibility. Therefore, the Department has decided not to promulgate regulations which would define the term "transitional housing" in connection with section 1721 of the Leland Act. State agencies must make case-by-case determinations as to whether housing for homeless households can be considered transitional or permanent considering the HUD definition of transitional housing as an evaluation criteria.

Accordingly, the Department is proposing to amend 7 CFR 273.9(c)(1)(ii) by revising paragraph (D) to implement section 1721 of the Leland Act retroactively to October 1, 1990. The revised paragraph would provide that payments made to a third party on behalf of a household living in transitional housing shall be excluded from income except for the amount equal to 50 percent of the maximum AFDC shelter allowance or component provided under the State agency's approved AFDC plan for families residing in permanent housing. The portion of the amount included as income under this provision shall be considered as a shelter cost and includable in the calculation of the excess shelter deduction. The Department wishes to emphasize that section 1721 does not apply to State agencies that do not have separately identifiable AFDC shelter allowances or components in their approved AFDC State Plan. Thus, the proposed rule would only affect certain State agencies.

The following example explains how the proposed rule would affect homeless households living in transitional housing which receive GA or PA housing vendor payments in States that have an identifiable AFDC shelter allowance. A household living in permanent housing receives PA benefits in the amount of $450 a month. The identifiable shelter component under the State's AFDC plan is $150. For food stamp purposes, $450 is counted as income. Another household lives in the same jurisdiction in transitional housing known as a "welfare hotel". The State agency pays the hotel $650 on the household's behalf. The household receives a PA grant in the amount of $300. (The $150 AFDC shelter component is included in the payment of $650 to the hotel.) The Leland Act does not change the policy whereby the $500 paid to the hotel over and above the normal AFDC shelter allowance is excluded from income for food stamp purposes. In addition, 50 percent of the $150 AFDC shelter allowance is also excluded. In this example, $75 is excluded from income for food stamp purposes. Consequently, the State agency must then count $375 as income for food stamp purposes ($300 AFDC grant + $75 of the shelter allowance). The household is then entitled to claim $75 in allowable rent expenses.

The following explains how the proposed rule affects households that receive a GA or PA housing vendor payment for transitional housing in States where there is no separately identifiable AFDC shelter allowance. A household living in permanent housing receives a PA grant in the amount of $450 a month. This amount is counted as income for food stamp purposes. Another household lives in the same jurisdiction in a "welfare hotel". The State agency pays the hotel $650 on the household's behalf and the household receives a full $450 PA grant. The full $450 is counted as income for food stamp purposes. Section 5(k)(2)(G) of the Food Stamp Act totally excludes the $650 hotel payment from income for food stamp purposes because the payment is considered special assistance over and above the normal PA grant. So no amount of the State agency's payment to the hotel qualifies for the shelter expense deduction because the entire amount is deducted from income under section 5(k)(2)(G) of the Food Stamp Act.

Implementation

Section 1781 of the Leland Act requires that section 1721 of the Leland Act be effective as of October 1, 1990. Accordingly, the Department issued a policy memorandum to all FNS Regional Offices on February 22, 1991 directing them to inform their State agencies of the effective date of section 1721. Based on that memorandum, State agencies should already be complying with section 1721 of the Leland Act for all households that newly applied on or after the October 1, 1990 effective date. The current caseload must be converted to the new provision at recertification, at household request, or when the case is reviewed, whichever occurs first and the State agency must provide restored benefits back to the effective date of October 1, 1990. If for any reason a State agency has failed to comply with section 1721, restored benefits must be provided back to October 1, 1990 or the date of the initial food stamp application, whichever is later.

List of Subjects in 7 CFR Part 273

Administrative practice and procedure, Aliens, Claims, Food stamps, Fraud, Grant programs-social programs, Penalties, Records, Reporting and recordkeeping requirements, Social security, Students.

Accordingly, 7 CFR part 273 is proposed to be amended as follows:

1. The authority citation of part 273 continues to read as follows:

Authority: 7 U.S.C. 2011-2032.

2. In § 273.9, paragraph (c)(1)(ii)(D) is revised to read as follows:

§ 273.9 Income and deductions.

* * * * *

(c) *Income exclusions.* * * *

(1) * * *

(ii) * * *

(D) Housing assistance payments made to a third party on behalf of a household residing in transitional housing for the homeless, except for an amount equal to 80 percent of the maximum AFDC shelter allowance or component provided to families residing in permanent housing under the States' plan for aid to families with dependent children approved under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.). This provision shall apply only to States where there is a separately identifiable AFDC shelter allowance or component. Any portion of the housing costs not excluded under this provision shall be an allowable shelter cost and includable in calculating the excess shelter deduction in accordance with paragraph (d)(5) of this section.

* * * * *

Dated: January 28, 1992.

Betty Jo Nelsen,

Administrator.

[FR Doc. 92-2415 Filed 1-31-92; 8:45 am]

BILLING CODE 3410-30-M

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 91-183]

Importation of Citrus Fruit From Australia

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to allow the importation of oranges, lemons, limes, mandarins, and grapefruit from Australia's Riverland district, an irrigated horticultural area in South Australia. We are taking this action because it appears that adequate means are available to prevent the introduction of fruit flies and other injurious insects into the United States. Adoption of this proposed rule would provide importers and consumers in the United States with an additional source of citrus.

DATES: Consideration will be given only to comments received on or before March 4, 1992.

ADDRESSES: To help ensure that your written comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 91-183. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Peter M. Grosser, Senior Operations Officer, Port Operations, PPQ, APHIS, USDA, room 632, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782; (301) 436-6799.

SUPPLEMENTARY INFORMATION:

Background

The Fruits and Vegetables regulations in 7 CFR 319.56 *et seq.* (referred to below as "the regulations") prohibit or restrict the importation of fruits and vegetables to prevent the introduction and dissemination of injurious insects, including fruit flies, that are new to or not widely distributed in the United States. Paragraphs (e) and (f) of § 319.56-2 contain requirements for the importation of certain fruits and vegetables based on their origin in a definite area or district. The definite area or district must meet certain criteria, including criteria designed to ensure that the area or district is free from all or certain injurious insects.

The regulations also provide, among other things, that all importations of fruits and vegetables, as a condition of entry, shall be subject to inspection at the port of first arrival, and to such treatment as may be required by a U.S. Department of Agriculture inspector (see § 319.56-6). Section 319.56-6 also provides that shipments of fruits and vegetables may be refused entry if the shipment is infested with fruit flies or other dangerous pests and an inspector determines the pests cannot be eliminated by disinfection or treatment.

Currently the regulations in § 319.56 do not provide for the importation of citrus from Australia. Both the Mediterranean fruit fly (*Ceratitis capitata* (Wiedemann)) and the indigenous Queensland fruit fly (*Dacus tryoni* (Frogg)), insects injurious to citrus, are known to attack citrus in Australia. These fruit flies are not widely distributed in the United States.

Recently the Australian Quarantine and Inspection Service requested that we consider allowing the entry of oranges (*Citrus sinensis* (Osbeck)); lemons (*C. limonia* (Osbeck) and *meyeri* (Tanaka)); limes (*C. aurantiifolia* (Swingle) and *latiifolia* (Tanaka)); mandarins, including satsumas, tangerines, tangors, and other fruits grown from this species or its hybrids (*C. reticulata* (Blanco)); and grapefruit (*C paradisi* (MacFad.)) from the Riverland district of South Australia. Trapping surveys [1] conducted by the Australian Quarantine and Inspection Service show the Riverland district to be free of all types of fruit flies.

The Riverland district of South Australia comprises the irrigated horticultural areas within 15 "hundreds," geographic subdivisions used in land surveying. The irrigated horticultural areas within the following "hundreds" constitute the pest-free Riverland district: Bookpurnong, Cadell, Gordon, Hamley, Holder, Katarapko, Loveday, Markaranka, Moorook, Murtho, Parcoola, Paringa, Pooginook, Pyap, Stuart, and Waikerie.

We propose to allow importation of oranges, lemons, limes, mandarins, and grapefruit into the United States from the Riverland district of Australia, without treatment for fruit flies, because the Riverland district meets the criteria contained in § 319.56-2 (e)(4) and (f). Specifically, we have determined that:

(1) Within the past 12 months, the Australian Quarantine and Inspection Service has conducted trapping

surveys [1] that show the Riverland district to be free from all fruit flies that attack citrus. The Administrator has determined that the survey methods employed by the Australian Quarantine and Inspection Service are adequate to detect infestations of the Mediterranean fruit fly, the Queensland fruit fly and other fruit flies destructive of citrus.

(2) The Australian Quarantine and Inspection Service has adopted and is enforcing requirements to prevent the introduction of fruit flies destructive of citrus into the Riverland district. The Australian Quarantine and Inspection Service has submitted to the Administrator detailed procedures for the conduct of pest surveys in the Riverland district, and for the enforcement of requirements to exclude fruit flies from this district.[2]

On the basis of the documentation provided by the Australians, and of the pest risk assessment prepared by the Animal and Plant Health Inspection Service (APHIS), it appears that oranges, lemons, limes, mandarins, and grapefruit may be imported from Australia's Riverland district without treatment for fruit flies, provided that the Riverland district remains free of fruit flies that attack citrus. We therefore propose this change to the regulations.

In response to the Australian Quarantine and Inspection Service's request, we also propose to allow oranges, lemons, limes, mandarins, and grapefruit to continue to be imported from the Riverland district in the event of a fruit fly infestation, subject to completion of an APHIS-authorized cold treatment for that fruit fly, and to all other applicable requirements of title 7 of the Code of Federal Regulations, "Subpart—Fruits and Vegetables." Section 319.56–2d of the regulations authorizes and sets forth cold treatments for the following fruit flies destructive of citrus: The Mediterranean fruit fly (*Ceratitis capitata* (Wiedemann)), fruit flies of the genus *Anastrepha*, and the Queensland fruit fly (*Dacus tryoni* (Frogg)). Entry would be limited to North Atlantic ports north of and including Baltimore if treatment is to be completed in the United States. The climatic conditions in the northeastern United States would ensure than any injurious pests accompanying shipments of citrus from the Riverland district prior to treatment would not pose a risk in that area. Entry would be allowed through any port if treatment has been completed prior to arrival in the United States. This provision would allow importers and exporters to respond to suddenly changed circumstances, such as a Mediterranean or Queensland fruit fly infestation, without unnecessarily interrupting fruit shipments or creating a significant risk of introducing fruit flies into the United States.

If a fruit fly destructive of citrus should be detected in the Riverland district, and no authorized cold treatment for this fruit fly appears in § 319.56–2d, importation of citrus from the Riverland district into the United States would be prohibited.

Pest risk analyses conducted by APHIS have determined that the pest-prevention and treatment measures proposed in this document would effectively prevent introduction into the United States of the Queensland fruit fly and other fruit flies destructive of citrus. Pest risk analyses conducted by APHIS have further determined that any other injurious insects that might be carried by citrus from Australia's Riverland district would be readily detectable by a U.S. Department of Agriculture inspector (see § 319.56–6).

A new section, § 319.56–2v, containing our proposed changes, would be added to the regulations.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this proposed rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this proposed rule, if adopted, would have an effect on the economy of less than $100 million; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and would not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The proposed regulations would permit importation of oranges, lemons, limes, mandarins, and grapefruit from the Riverland district of Australia into the United States. However, Australian citrus exporters indicate that navel oranges are the only commodity that would be exported to the United States on a regular basis. The majority of these oranges would enter U.S. markets from June through August, when domestic fresh navel orange supplies are at their lowest levels.

Australian industry officials estimate shipping volumes would range from 100,000 to 200,000 30-liter cartons annually, or appropriately 2,000 to 5,000 tons. Total annual U.S. production of navel oranges approximates 1.3 million tons; Florida's annual production averages 329,000 tons. Thus, the Australian exports would represent less than 2 percent of fresh Florida navel orange production, and less than .5 percent of total fresh navel orange production in the United States.

There are approximately 14,000 orange growers in the United States. Approximately 84 percent of all growers harvest less than 50 acres of oranges annually. These groves represent about 18 percent of the total acreage of oranges harvested. It is obvious that the orange industry consists primarily of small entities. However, since only minimal amounts of oranges will be entering the United States during U.S. orange growers' "off-season," it is unlikely that either small or large growers would be affected by the proposed regulatory change. The proposed change would simply increase the supply of fresh navel oranges in the United States during the summer months. It is not expected to have an impact on related U.S. industries.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR, part 3015, subpart V.)

List of Subjects in 7 CFR Part 319

Agricultural commodities, Fruit, Imports, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation.

Accordingly, we propose to amend 7 CFR part 319 as follows:

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[1] Information regarding how the surveys were conducted can be obtained from the individual listed under "**FOR FURTHER INFORMATION CONTACT.**"

[2] Information concerning this documentation may be obtained from the individual listed under "**FOR FURTHER INFORMATION CONTACT.**"

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 would continue to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151–167; 7 CFR 2.17, 2.51, and 371.2(c), unless otherwise noted.

2. In Subpart—Fruits and Vegetables, a new § 319.56–2v would be added to read as follows:

§ 319.56–2v Conditions governing the entry of citrus from Australia.

The Administrator has determined that the following geographic subdivisions, called "hundreds," of the Riverland district of South Australia, Australia, meet the criteria of § 319.56–2(e) and (f) with regard to the Mediterranean fruit fly (*Ceratitis capitata* (Wiedemann)) and the Queensland fruit fly (*Dacus tryoni* (Frogg)): Bookpurnong, Cadell, Gordon, Hamley, Holder, Katarapko, Loveday, Markaranka, Moorook, Murtho, Parcoola, Paringa, Pooginook, Pyap, Stuart, and Waikerie.

(a) Oranges (*Citrus sinensis* (Osbeck)); lemons (*C. limonia* (Osbeck) and *meyeri* (Tanaka)); limes (*C. aurantiifolia* (Swingle) and *latifolia* (Tanaka)); mandarins, including satsumas, tangerines, tangors, and other fruits grown from this species or its hybrids *(C. reticulata* (Blanco)); and grapefruit (*C. paradisi* (MacFad.)) may be imported from the Riverland district without treatment for the pests named in this paragraph, subject to paragraph (b) and all other applicable requirements of this subpart.

(b) If surveys conducted in accordance with § 319.56–2(f) detect, in the areas listed in this paragraph, the Mediterranean fruit fly (*Ceratitis capitata* (Wiedemann)), the Queensland fruit fly (*Dacus tryoni* (Frogg)), or other fruit flies for which a cold treatment authorized under § 319.56–2d of this subpart is available, the citrus will remain eligible for importation into the United States in accordance with § 319.56–2(e)(2), provided they undergo that treatment in accordance with the regulations, and provided all other applicable requirements of this subpart are met. If no approved treatment for the detected fruit fly appears in § 319.56–2d, importation of citrus from the Riverland district is prohibited. Entry is limited to North Atlantic ports north of and including Baltimore, MD, if treatment is to be completed in the United States. Entry may be through any port if treatment has been completed before arrival in the United States.

Done in Washington, DC, this 28th day of January 1992.

Robert Melland,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92–2499 Filed 1–31–92; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Part 998

[Docket No. FV-91-464]

Marketing Agreement 146 Regulating the Quality of Domestically Produced Peanuts; Proposed Increase in Expenses for the Peanut Administrative Committee for the 1991–92 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would increase the level of authorized expenses under Marketing Agreement No. 146 for the 1991–92 fiscal period. The proposed increase is needed for the Peanut Administrative Committee (committee) to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

DATES: Coments must be received by February 13, 1992.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456. Comments should reference the docket number and the date and page number of this issue of the Federal Register and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Tom Tichenor, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456, telephone 202–720–2170.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Agreement No. 146 (7 CFR part 998), regulating the quality of domestically produced peanuts. This agreement is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This proposed rule has been reviewed by the Department of Agriculture (Department) in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291, and has been determined to be a "non-major" rule.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed rule on small entities. The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproporationately burdened. Marketing agreements and orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 70 handlers of peanuts subject to regulation under Peanut Marketing Agreement 146 (7 CFR part 998). Also, there are about 47,000 peanut growers in the 16 States covered under the program. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.601) as those whose annual receipts are less than $3,500,000, Small agricultural producers also have been defined as those having annual receipts of less than $500,000. Some handlers who are signatory to the agreement are small entities, and a majority of the growers may be classified as small entities.

Under the marketing agreement, the assessment rate for a particular crop year applies to all assessable tonnage handled from the beginning of such year (i.e. July 1). An annual budget of expenses is prepared by the committee and submitted to the Department for approval. The members of the committee are handlers and producers of peanuts and are familiar with the committee's needs and with the costs for goods, services and personnel for program operations. Thus, they are in a position to formulate appropriate budgets. Such budgets are discussed at industry-wide public meetings and all directly affected persons have an opportunity to participate and provide input into their formulation. The handlers of peanuts who will be directly affected have signed the marketing agreement authorizing the expenses that may be incurred and the imposition of assessments.

A final rule establishing administrative expenses in the amount of $985,000 for the committee for the crop year ending June 30, 1992, was published in the **Federal Register** on May 14, 1991 (56 FR 22108).

The committee met on December 12, 1991, and reviewed a proposal to increase the 1991–92 budget by $24,258. This proposed increase would provide:

(1) $10,000 for the purchase of new computer equipment; and

(2) $14,258 for committee staff salary bonuses recognizing the increased work effort of each staff member during the 1991 calendar year in handling a record number of indemnification claims.

Thus, the Peanut Administrative Committee 1991–92 budget of $985,000 is proposed to be increased by $24,258 to $1,009,258. This proposed increase in budget expenses for the 1991–92 fiscal period was approved unanimously by the committee, the agency responsible for local administration of the marketing agreement.

This proposed action would not impose additional costs on handlers as current crop conditions are projected to yield sufficient assessment funds to cover the proposed increase in the budget. Therefore, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 7 CFR Part 998

Marketing agreements, Peanuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 998 be amended as follows:

PART 998—MARKETING AGREEMENT REGULATING THE QUALITY OF DOMESTICALLY PRODUCED PEANUTS

1. The authority citation for 7 CFR part 998 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 998.404 is amended by revising paragraph (a) to read as follows:

§ 998.404 Expenses, assessment rate, and indemnification reserve.

(a) *Administrative expenses.* The budget of expenses for the peanut Administrative Committee for the crop year beginning July 1, 1991, shall be in the amount of $1,009,258, such amount being reasonable and likely to be incurred for the maintenance and functioning of the committee and for such purposes as the Secretary may, pursuant to the provisions of the marketing agreement, determine to be appropriate.

* * * * *

Dated: January 27, 1992.

Robert C. Keeney,

Deputy Director Fruit and Vegetable Division.

[FR Doc. 92–2352 Filed 1–31–92; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91–CE–99–AD]

Airworthiness Directives; Piper Aircraft Corporation Models PA–34–200 and PA–34–200T Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD) that would be applicable to certain Piper Aircraft Corporation (Piper) Models PA–34–200 (Seneca) and PA–34–200T (Seneca II) airplanes. The proposed action would require an inspection to ensure that a clevis-head bolt is installed correctly in the nose gear centering spring assembly, reinstallation if found incorrectly installed or replacement if a hex-head bolt is installed, and the installation of a placard that references this installation. Reports of nose gear extension problems prompted the Federal Aviation Administration (FAA) to investigate the nose landing gear system on several of the affected airplanes. The FAA found that the nose gear centering spring assembly bolt was incorrectly installed in many instances. The actions specified by this AD are intended to prevent loss of control of the airplane during landing operations because of the inability to fully extend the nose landing gear.

DATES: Comments must be received on or before April 30, 1992.

ADDRESSES: Service information that is applicable to this AD may be obtained from the Piper Aircraft Corporation, Customer Services, 2926 Piper Drive, Vero Beach, Florida 32960. This information also may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91–CE–99–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Perry, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349; Telephone (404) 991–2910; Facsimile (404) 991–3606.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91–CE–99–AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion:

Several reports of nose gear extension problems prompted the FAA to investigate the nose landing gear system on certain Piper Aircraft Corporation (Piper) Models PA–34–200 (Seneca) and PA–34–200T (Seneca II) airplanes. The FAA found that the nose gear centering spring assembly bolt was incorrectly installed in many instances even though the Piper service maintenance and parts manual specifies the correct installation. Normally, bolts are installed with the bolt head up; however, this installation requires the bolt head down to prevent interference with an adjacent structure during nose landing gear actuation.

The manufacturer, Piper, has issued Service Bulletin (SB) No. 893, dated October 11, 1988, which specifies procedures for installing a part number (P/N) 400–910 clevis-head nose gear centering spring assembly bolt. This service bulletin also specifies the installation of placard P/N 582–943, which includes the following words: "Caution: Rod End Bolt on Nose Wheel Centering Device Must Be Installed With Head Down.——Refer To Service Manual." After examining the circumstances and reviewing all available information related to the incidents described above including the referenced service information, the FAA has determined that AD action should be taken to prevent loss of control of the airplane during landing operations because of the inability to fully extend the nose landing gear.

Since the condition described is likely to exist or develop in other Piper Models PA–34–200 and PA–34–200T airplanes of the same type design, the proposed AD would require an inspection to ensure that a clevis-head bolt is installed correctly in the nose gear centering spring assembly, reinstallation if found incorrectly installed or replacement if a hex-head bolt is installed, and installation of placard 582–943 that references this installation. The proposed actions would be done in accordance with Piper SB No. 893, dated October 11, 1988.

It is estimated that 2,048 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 1 hour per airplane to accomplish the proposed action, and that the average labor rate is approximately $55 an hour. Parts cost approximately $5 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $122,880.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

Piper Aircraft Corporation: Docket No. 91–CE–99–AD.

Applicability: Model PA–34–200 airplanes (serial numbers 34–7250001 through 34–7450220) and Model PA–34–200T airplanes (serial numbers 34–7570001 through 34–8170092), certificated in any category.

Compliance: Required within the next 100 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent loss of control of the airplane during landing operations because of the inability to fully extend the nose landing gear, accomplish the following:

(a) Inspect the nose gear centering spring assembly and determine whether a clevis-head bolt or hex-head bolt is installed.

(b) If a part number (P/N) 400–910 clevis-head bolt is installed, ensure that it is correctly installed in accordance with paragraph 2 of the Instructions and Sketch "A" in Piper Service Bulletin (SB) No. 893, dated October 11, 1988.

(1) If the bolt is correctly installed, install placard P/N 582–943 in accordance with paragraph 6(C) of the Instructions in Piper SB No. 893, dated October 11, 1988.

(2) If the bolt is incorrectly installed, disassemble and reinstall in accordance with paragraphs 3 through 6 of the Instructions in Piper SB No. 893, dated October 11, 1988, and install placard P/N 582–943 in accordance with paragraph 6(C) of the Instructions in Piper SB No. 893, dated October 11, 1988.

(c) If a hex-head bolt or a clevis-head bolt that is not P/N 400–910 is installed, replace with a P/N 400–910 clevis-head bolt in accordance with paragraphs 3 through 6 of the Instructions of Piper SB No. 893, dated October 11, 1988, and install placard P/N 582–943 in accordance with paragraph 6(C) of the Instructions in Piper SB No. 893, dated October 11, 1988.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, suite 210C, Atlanta, Georgia 30349. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta Aircraft Certification Office.

(f) All persons affected by this directive may obtain copies of the documents referred to herein upon request to the Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960; or may examine these documents at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on January 27, 1992.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–2457 Filed 1–31–92; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 0

[Docket No. R-91-1574; FR-2911-P-01]

RIN 2501-AB16

Standards of Conduct—Proposed Amendments

AGENCY: Office of the Secretary, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the Department's Standards of Conduct regulations at 24 CFR part 0, subpart A, which specify the responsibilities of the Department's ethics officials under the Standards of Conduct Program. The amendments proposed by this document would implement the Secretary's division of program responsibilities between the General Counsel, the Designated Agency Ethics Official, and the Assistant Secretary for Administration, the Alternate Agency Ethics Official. The proposed rule would provide for the Assistant Secretary for Administration to carry out his or her program responsibilities through the Department's newly created Office of Ethics, which reports directly to the Assistant Secretary for Administration. This proposed rule also would

implement the reorganization of the management of the Standards of Conduct Program at the Regional level. The specific revisions proposed by this document are discussed more fully in the **SUPPLEMENTARY INFORMATION** section below.

DATES: *Comment Due Date:* April 3, 1992.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Rules Docket Clerk, Office of General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Arnold J. Haiman, Office of Ethics, room 2158, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708-3815 or (202) 708-1112 (TDD). (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION:

Background

Executive Order 12674 of April 12, 1989, Principles of Ethical Conduct for Government Officers and Employees, directed each Federal agency head to ensure that the rank, responsibilities, authority, staffing and resources of the Designated Agency Ethics Official were adequate to ensure the effectiveness of each Federal agency's ethics program. Within HUD, the responsibility for operation of the Department's ethics or "Standards of Conduct" Program was delegated to the General Counsel, who serves as the Department's Designated Agency Ethics Official. The Assistant Secretary for Administration serves as the Alternate Agency Ethics Official. (See 55 FR 6051, February 21, 1990.)

In January 1990, the Secretary of HUD approved the establishment of a free-standing, independent office of Ethics within the Department's Office of Administration. The Secretary also approved a division of responsibilities for administration and operation of the Standards of Conduct program between the General Counsel and the Assistant Secretary for Administration. Under this division of responsibilities, the General Counsel would continue to provide all legal advice and assistance required for the administration of the Standards of Conduct Program. The Assistant Secretary for Administration is responsible for coordinating and managing the program. This authority includes developing, operating and monitoring all Standards of Conduct Program systems; developing and supervising the operation of Standards of Conduct education and training programs and providing counseling to Department employees, with assistance, when appropriate, from the Office of General Counsel. The Assistant Secretary for Administration would carry out these duties through the Office of Ethics.

The Standards of Conduct program also would be revised at the Regional level. The Regional Directors of Administration would have responsibility for implementing the Standards of conduct program in the Field, as prescribed by the Office of Ethics. The Regional Counsel would continue to serve as Deputy Counselors.

The amendments proposed by this document would implement the operational changes in the Department's administration of its Standards of conduct Program, as approved by the Secretary. This proposed rule would only amend the regulations at 24 CFR part 0, subpart A, which describe the responsibilities of the Department's ethics officials. The sections proposed to be amended are §§ 0.735–101, 0.735–102 and 0.735–104.

Section 0.735–101, Purpose, would be revised to state that all questions about, or requests for, interpretations of regulations governing the Standards of Conduct Program may be directed not only to the Department's Standards of Conduct Counselor, or a Deputy Counselor, as this section currently provides, but also to the Office of Ethics.

Section 0.735–102, Definitions, would be revised to include a definition for "Disclosure Form" and to list the definitions in alphabetical order.

Section 0.735–104, Interpretation and Advisory Service, would be retitled "Responsibilities of Ethics Officials", and would be revised to reflect the new division of responsibilities of the Department's ethics officials under the Standards of Conduct Program.

The purpose of this proposed rule is to implement the Secretary's plan to vest responsibility for the operation of the Department's Standards of Conduct Program in the newly formed, free-standing Office of Ethics.

Other Matters

Coordination

In accordance with the requirements of 5 CFR 735.104, this proposed rule has been reviewed by the Office of Personnel Management and the Office of Government Ethics.

Environmental Review

In accordance with 40 CFR 1508.4 of the regulations of the Council on Environmental Quality and 24 CFR 50.20(b) of the HUD regulations, the policies and procedures proposed in this document are determined not to have the potential of having a significant impact on the quality of the human environment, and, therefore, are categorically excluded the requirements of the National Environmental Policy Act of 1969. Accordingly, a Finding of No Significant Impact is not required.

Impact on Economy

This proposed rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. Analysis of the proposed rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Impact on Small Entities

In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this proposed rule does not have a significant economic impact on a substantial number of small entities. This proposed rule only would affect former, current and prospective Department employees, with respect to matters of standards of conduct as Department employees.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this proposed rule will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. This proposed rule only would affect former, current, and prospective Department employees, with respect to matters of standards of conduct as Department employees. As a result, the proposed rule is not subject to review under the Order.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this proposed rule does not have potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order.

Regulatory Agenda

This proposed rule was listed as sequence number 1314 in the Department's Semiannual Agenda of Regulations published on October 21, 1991 (56 FR 53380, 53388) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 0

Administrative practice and procedure, Conflict of interests.

Accordingly, 24 CFR part 0, subpart A would be revised as follows:

PART 0—STANDARDS OF CONDUCT

1. The authority citation for part 0 would be revised to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 201–212; E.O. 11222, E.O. 12674, 3 CFR, 1964–1965 Comp. P. 306; 5 CFR 735.101–412.

2. Section 0.735–101 would be revised to read in its entirety as follows:

§ 0.735–101 Purpose.

The maintenance of high standards of honesty, integrity and impartiality by Government employees is essential for the proper performance of the public business and the maintenance of confidence by citizens in their Government. To inform the public and Department staff as to the specific application of this general principle, this part sets forth the Department's regulations prescribing standards of conduct for, and governing the submission of statements of employment and financial interests by, its employees. All questions concerning, or requests for, opinions should be directed to the Department Counselor or to a Deputy Counselor, or the Office of Ethics in Headquarters.

3. Section 0.735–102 would be revised to read in its entirety as follows:

§ 0.735–102 Definitions.

Business entity means a corporation, company, firm, partnership, society, joint stock company, or any other organization or institution having a business purpose including, but not limited to:

(1) Non-profit organizations or institutions which own or operate housing units, and

(2) Educational and other institutions doing research and development or related work involving grants or other types of financial assistance from, or contracts with, the Government.

Department means the Department of Housing and Urban Development.

Disclosure Forms means both Public and Confidential Disclosure Forms.

Employee means an employee of the Department other than a Special Government employee.

Person means an individual human being.

Special Government employee means a person who is retained, designated, appointed or employed by the Department to perform temporary duties, with or without compensation, for not more than 130 days, during any period of 365 consecutive days, either on a full-time or intermittent basis, as defined in 18 U.S.C. 202.

4. Section 0.735–104 would be revised to read in its entirety as follows:

§ 0.735–104 Responsibilities of Ethics Officials.

(a) *General Counsel.* The General Counsel is the Department's Designated Agency Ethics Official and the Department's Standards of Conduct Counselor (Department Counselor). As the Designated Agency Ethics Official, the General Counsel has primary responsibility for the Department's Standards of Conduct program, and is vested with the duties and responsibilities of a designated agency ethics official as set forth in 5 CFR 2638.203 of the government-wide ethics regulations promulgated by the Office of Government Ethics.

(b) *Assistant Secretary for Administration.* The Assistant Secretary for Administration is the Alternate Agency Ethics Official. The Assistant Secretary for Administration is responsible for the day-to-day coordination and management of the Standards of Conduct program. The Assistant Secretary for Administration shall carry out his or her responsibilities under the Standards of Conduct Program through the Department's Office of Ethics.

(c) *Director of the Office of Ethics.* Under the direction of the Assistant Secretary for Administration, the Director of the Office of Ethics will coordinate and manage the Department's Standards of Conduct program. The Director of the Office of Ethics will undertake the day-to-day operation of the Standards of Conduct program.

(d) *Regional Director of Administration.* The Regional Director of Administration, in each Regional Office, is responsible for implementing the Standards of Conduct program in the Field, as directed by the Office of Ethics.

(e) *Regional Counsel.* The Regional Counsel, in each Regional Office, is responsible for undertaking those Standards of Conduct program duties, as directed by the Office of General Counsel.

(f) *Deputy Counselors.* The Associate General Counsel for Equal Opportunity and Administrative Law, the Assistant General Counsel for Personnel and Ethics Law, all Regional Counsels, the Director of the Office of Ethics, and any other employees designated by the Department Counselor, shall serve as the Department's Deputy Standards of Conduct Counselors (Deputy Counselors). The Deputy Counselors assist the General Counsel, as the Designated Agency Ethics Official, in carrying out responsibilities with respect to the Department's Standards of Conduct program and in providing advice to former, current and prospective Department employees regarding questions of conflicts of interest and on other matters relating to Standards of Conduct.

(g) *The Inspector General.* The Inspector General is the Deputy Counselor for employees of the Office of Inspector General. The Inspector General shall perform all necessary duties involving the Standards of Conduct program for employees of the Office of Inspector General. These duties include the collection, review and maintenance of all Public and Confidential Financial Disclosure Forms submitted by employees of the Office of Inspector General. The Inspector General shall provide advice and guidance to all former, current and prospective employees of the Office of Inspector General regarding matters related to the Standards of Conduct. legal advice to the Office of Inspector General regarding conflicts of interest and Standards of Conduct shall be provided by the Office of the Associate General Counsel for Program Enforcement.

Dated: December 11, 1991.

Jack Kemp,

Secretary.

[FR Doc. 92-2298 Filed 1-31-92; 8:45 am]

BILLING CODE 4210-32-M

VOL 57 ISS 22 FE 3 1992 UMI

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R-91-1577; FR-2874-P-01]

RIN No. 2506-AB08

Correction of Conditions Detrimental to Health and Safety in Community Development Block Grant-Funded Rehabilitation and Preservation Activities

AGENCY: Office of the Assistant Secretary for Community Planning and Development, CPD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise § 570.202, "Eligible Rehabilitation and Preservation Activities," of the Community Development Block Grant regulations to require that all health and safety violations be corrected in a property before CDBG funds could be used for any property improvements not necessary to correct conditions detrimental to health and safety. The purpose of this proposed rule is to assure appropriate targeting of monies available for property improvement and to encourage the development of local health and safety standards.

DATES: *Comment Due Date:* April 3, 1992.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Rules Docket Clerk, Office of General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: David M. Cohen, Director, Office of Urban Rehabilitation, Office of Community Planning and Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone (202) 708-2685. TDD number (202) 708-2565. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Background

This proposed rule would revise 24 CFR 570.202, "Eligible Rehabilitation and Preservation Activities", of the Community Development Block Grant (CDBG) regulations to require that all health and safety violations first be corrected in a property before CDBG funds could be used for any other improvements to that property. The proposed rule would exempt from its requirements certain properties assisted under specified circumstances.

CDBG grantees would be required to develop or adopt written minimum health and safety standards to which all non-exempted properties assisted in whole or in part with CDBG funds would be required to adhere, before CDBG funds could be used to pay the costs of other improvements or repairs. The determination as to what constitutes appropriate health and safety standards is the responsibility of each grantee.

Currently, CDBG rules do not obligate grantees to bring properties up to a standard condition, including the correction of all health and safety violations, except in cases where the grantee counts the property toward the achievement of its Housing Assistance Plan (HAP) goals of converting substandard units to standard units. In such cases, a grantee must follow the provisions of § 570.306 requiring that a local standard be established which, at a minimum, meets the section 8 Housing Quality Standards (HQS), and ensuring that any properties counted toward the recipient's HAP goals meet that standard.

In advance of this proposed regulatory change, the Department met with a number of public interest groups to solicit their views concerning the type of rehabilitation activities warranting exceptions to this proposed rule. This consultation was undertaken in the interest of assuring that certain locally established rehabilitation program objectives would remain feasible. As a result, it is proposed that properties assisted through the following specific programs be exempted from the requirement that all health and safety violations be corrected before general property improvements may be paid for with CDBG funds:

(1) Programs that provide emergency repairs;

(2) Programs that improve energy efficiency;

(3) Programs that provide for handicapped accessibility, or

(4) Programs that target specific areas for facade treatment (e.g., exterior paint programs) for the purpose of stimulating further investment in the area.

Additionally, the costs of water and sewer hookups to individual properties are exempted from the proposed rule.

It is important to note that the exemptions cited above will not apply to rehabilitation activities used to meet the national objective of aiding in the prevention or elimination of slums and blight, as defined under § 570.208(b). Specifically, when rehabilitation activities occur in a state or locally designated slum and blighted area, § 570.208(b) requires that all deficiencies that make a property substandard be eliminated before CDBG funds can be used for less critical work. The definition for substandard is locally determined, but at a minimum must meet HQS. For rehabilitation activities occurring outside of a slum and blighted area, § 570.208(b) limits rehabilitation to that which is necessary to eliminate specific conditions in a property that are detrimental to public health and safety.

Other Matters

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, room 10276, 451 Seventh Street, SW., Washington, DC 20410.

This proposed rule does not constitute a "major rule" as that term is defined in section 1(d) of the Executive Order on Federal Regulations issued on February 17, 1981. An analysis of the proposed rule indicates that it will not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In accordance with 5 U.S. C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this proposed rule does not have a significant economic impact on a substantial number of small entities. The proposed rule is limited in its scope to a refinement of the circumstances under which a recipient may make eligible expenditures for rehabilitation activity. Since the proposed rule only purports to govern the standards under which federal funds are expended, it is not anticipated that it would have significant impact on small entities.

Executive Order 12612, Federalism.

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism,* has determined that this proposed rule does not have "federalism implications" because it does not have substantial direct effects on the States (including their political subdivisions), or on the distribution of power and responsibilities among the various levels of government. While the proposed rule does add an additional requirement to the existing program regulations governing rehabilitation activities of block grant recipients, the change is relatively insignificant, is consistent with the statutory purposes of the program, and is being developed in consultation with recipients and public interest organizations concerned about the administration of CDBG-funded rehabilitation activity.

Executive Order 12606, the Family

The General Counsel, as the Designated Official under Executive Order 12606, the Family, has determined that this proposed rule does not have potential significant impact on family formation, maintenance, and general well-being. Its subject matter affects only the expenditure, by grantees, of funds received under the block grant program. Any affect on family-related concerns would be indirect and minor.

This proposed rule was listed as item 1444 in the Department's Semiannual Agenda of Regulations published on October 21, 1991 (56 FR 53380, 53415), in accordance with Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program number is 14.218.

List of Subjects in 24 CFR Part 570

Administrative practice and procedure, American Samoa, Community development block grants, Grant programs—housing and community development, Grant programs—education, Guam, Lead poisoning, Loan programs—housing and community development, Low and moderate income housing, Northern Mariana Islands, Pacific Islands Trust Territory, Puerto Rico, Reporting and record keeping requirements, Virgin Islands, Student aid.

Accordingly, part 570 of title 24 of the Code of Federal Regulations would be amended as follows:

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

Subpart C—Eligible Activities

1. The authority citation for part 570 would continue to read as follows:

Authority: Title I, Housing and Community Development Act of 1974, as amended (42 U.S.C. 5300–5320); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

§ 570.200 [Amended]

2. In § 570.200(e), the reference to "§ 570.202(b)(3)" would be revised to refer instead to "§ 570.202(c)(3)."

3. In § 570.202, paragraphs (a) through (e) would be redesignated as paragraphs (b) through (f), respectively, and a new paragraph (a) would be added, to read as follows:

§ 570.202 Eligible rehabilitation and preservation activities.

(a) *Establishment of health and safety standards.* (1) Except as provided in paragraph (a)(2) of this section, each grantee must develop or adopt written health and safety standards, with which each property assisted in whole or part under the grantee's CDBG program must comply, as a condition of using CDBG funds to pay costs associated with any other repairs or improvements to the property. Grantees may choose to use their local code as this standard or develop a standard which focuses on health and safety issues only. Examples of health and safety conditions which this standard would address may include but are not limited to: improper electrical wiring, lack of handrails on stairs, defective or inadequate heating systems, defective plumbing systems, especially broken fixtures or defective supply and waste lines.

(2) Properties assisted through the following specific programs are exempted from the requirement that all health and safety violations be corrected before CDBG funds are used to pay any other costs associated with the repair or improvement of these properties:

(i) Programs that provide emergency repairs;

(ii) Programs that improve energy efficiency;

(iii) Programs that provide handicapped accessibility;

(iv) Programs that target specific areas for facade treatment (e.g., exterior paint programs) for the purpose of stimulating further investment in the area;

(v) Programs that cover the costs of water and sewer hookups to individual properties.

Advance approval by HUD of exceptions under this paragraph (a)(2) is not required; however, the case files established for properties rehabilitated under the programs described in paragraphs (a)(2) (i) through (v) must contain documentation that the properties are excepted from the provisions of paragraph (a)(1) of this section and must cite the basis for the asserted exception.

(3) Properties assisted under the national objective of preventing or eliminating slums or blight are not subject to the requirements set out in paragraphs (a) (1) and (2) of this section, because rehabilitation activity associated with those properties is limited to the correction of substandard conditions, as defined in § 570.208(b) of this part, before other work may be done.

* * * * *

§ 570.208 [Amended]

4. In § 570.208(a)(3)(ii), the reference to "§ 570.202(b) (9) or (10)" would be revised to refer instead to "§ 570.202(c) (9) or (10)".

Dated: December 23, 1991.

S. Anna Kondratas,

Assistant Secretary for Community Planning and Development.

[FR Doc. 92–2297 Filed 1–31–92; 8:45 am]

BILLING CODE 4210-29-M

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24 CFR Part 570

[Docket No. R-92-1549; FR-2943-P-01]

RIN No. 2506-AB14

Community Development Block Grant Funded Code Enforcement

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the regulations at 24 CFR part 570 to provide that where CDBG-funded code enforcement activity results in the demolition or conversion of low/moderate income-housing, such housing must be replaced. The proposed rule also would provide that low/moderate-income persons displaced by such conversion or the demolition of any housing (i.e., as a direct result of code enforcement) would be provided relocation assistance at the levels described in, and in accordance with the requirements of, section 104(d) of the Housing and Community Development Act of 1974 or under the Uniform

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Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA).

DATES: *Comment Due Date:* March 3, 1992.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Rules Docket Clerk, Office of General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk at the above address.

FOR FURTHER INFORMATION CONTACT: H.J. Huecker, Director, or John Beale, Relocation and Real Estate Division, Office of Urban Rehabilitation, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone (202) 708-0336. (This is not a toll-free number.) Hearing- or speech-impaired persons may call the TDD number (202) 708-4594.

SUPPLEMENTARY INFORMATION:

Background

On August 17, 1988 (53 FR 31234), HUD published an interim rule setting forth the policies and requirements governing displacement, relocation, real property acquisition, and the replacement of low/moderate-income housing under the Community Development Block Grant (CDBG) programs, including the Entitlement Grants program, the State CDBG program, the HUD-administered Small Cities program, Section 108 Loan Guarantee program, and the Special Purpose Grants program (formerly Secretary's Discretionary Fund), and the Urban Development Action Grant (UDAG) program. One of the major purposes of the rule was to implement revisions to section 104(d) of the Housing and Community Development Act of 1974 (the Act) made by section 509 of the Housing and Community Development Act of 1987 (Pub. L. 100-242, approved February 5, 1988). Revised section 104(d) provides that grants under sections 106 and 119 of the Act may be made only if the grantee or state recipient certifies that it is following an antidisplacement and residential relocation plan (Plan).

The Plan must provide for (1) The replacement of occupied and vacant occupiable low/moderate-income dwelling units demolished or converted to another use in connection with a development project assisted under 24 CFR part 570; and (2) relocation assistance for all low/moderate-income persons who occupied housing that is demolished, or occupied a low/moderate-income housing unit that is converted to a use other than for low/moderate-income housing.

The August 17, 1988 interim rule generated several public comment, including the question of whether the section 104(d) requirements were triggered by CDBG-funded code enforcement activities. The Department responded to the public comments in the preamble to the July 18, 1990 final rule adopting the interim rule. (55 FR 29296) With respect to the question concerning the relationship of the section 104(d) requirements to CDBG-funded code enforcement activities, the final rule stated that "code enforcement activity is not covered under this [i.e., the final rule of July 18, 1990] rule." (55 FR 29297) The final rule further stated:

> [W]hile coverage is not statutorily required, the Department is concerned that code enforcement activities have a substantial impact upon the housing supply available to persons of low/moderate-income and may displace low/moderate income households. Accordingly, HUD will publish a proposed rule asking for public comment on a proposal to extend administratively the requirements of this rule to require that relocation assistance be provided to low/moderate-income persons displaced by the demolition of housing or the conversion of low/moderate-income dwelling units, and to require that low/moderate-income dwelling units converted to another use or demolished be replaced, if such demolition or conversion results from CDBG-assisted code enforcement activities. (55 FR 29297)

Under the provisions of the July 18, 1990 final rule, if CDBG funds are used to pay the actual cost of the demolition of low/moderate-income housing or the cost of converting a low/moderate-income dwelling unit to a use other than low/moderate-income housing, the section 104(d) requirement to replace such housing is triggered. In addition, any low/moderate-income person displaced by such CDBG-assisted conversion or by CDBG-funded demolition of any housing is eligible for section 104(d) relocation assistance.

Where CDBG assistance is used solely to pay the administrative costs of code enforcement (such as payment of the salaries of code enforcement inspectors who condemn buildings) and the resulting demolition or rehabilitation is not federally assisted, the statute does not mandate coverage, since the section 104(d)(2) requirements are limited to displacement "in connection with a development project assisted under section 106 or 119."

However, this proposed rule would treat CDBG-funded code enforcement activities that result in non-CDBG assisted demolition of housing or conversion of low/moderate-income housing in the same manner as when CDBG funds are used to pay the actual cost of demolition or conversion of low/moderate-income housing: the one-for-one replacement of housing and relocation assistance requirements, as provided under section 104(d), would be triggered.

Accordingly, the proposed rule would amend the provision for "one-for-one replacement of low/moderate-income dwelling units" and the definition of "displaced person" in §§ 570.496a(c)(1)(i) and (c)(3)(ii)(A) and §§ 570.606(c)(1)(i) and (c)(3)(ii). As amended, these provisions would state that:

> All occupied and vacant occupiable low/moderate-income dwelling units that are demolished or converted to a use other than as low/moderate-income dwelling units in connection with an activity assisted under this part must be replaced with low/moderate-income dwelling units. In addition, all such units that are demolished or converted to another use as a direct result of CDBG-funded code enforcement must be replaced with low/moderate-income dwelling units.
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> * * * * *
>
> The term "displaced person" means any low/moderate-income family or individual who moves from real property, or moves his or her personal property from real property, permanently, as a direct result of the conversion of a low/moderate-income dwelling unit or demolition, where such conversion or demolition results directly from an activity assisted under this part or from CDBG-funded code enforcement. This includes any permanent involuntary move for an assisted activity including any permanent move from the real property that is made: [thereafter picking up existing text of the amended paragraphs.]

The Department does not anticipate that the action proposed by this rule would have a significant impact on the code enforcement activities of CDBG recipients. Less than one-third of CDBG recipients use CDBG funds for code enforcement. Of those CDBG recipients that use CDBG funds for code enforcement, many have designed local programs that coordinate code enforcement with programs that provide housing assistance to low-income families who are displaced by code enforcement. These programs also provide assistance for rehabilitation or other measures that expand the supply of decent, safe sanitary, and affordable housing.

The Department, however, specifically seeks comment from the public on what they envision as possible consequences of the action proposed by this rule. For example, if the requirements of section 104(d) are triggered by CDBG-funded code enforcement activities, would localities shift their resources around so that local funds, rather than CDBG funds are used for code-enforcement activities which displace low-income persons? If localities are unable to use funds, other than CDBG funds, for code enforcement, would the result be a reduction in code enforcement activities? The Department invites comments on these issues, and also invites comments on possible alternative solutions to the problem of displacement of low-income persons by CDBG-funded code-enforcement activities.

Other Matters

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk at the above address.

Executive Order 12291

This proposed rule would not constitute a "major rule" as that term is defined in section 1(d) of the Executive Order 12291 on Federal Regulations issued by the President on February 17, 1981. An analysis of the proposed rule indicates that it would not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities. The proposed rule would ensure that housing or relocation assistance is provided to low/moderate income persons whose housing is demolished or converted.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this proposed rule would not have potential for significant impact on family formation, maintenance, and general well-being, and, therefore, is not subject to review under the order. The proposed rule would provide that families that are affected by displacement activity triggered by CDBG-funded code enforcement activity be eligible to receive assistance with respect to their relocation.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, will prepare a Federalism assessment to determine whether implementation of this proposed rule would have substantial, direct effects on States or their political subdivisions, or on the relationship between the Federal government and the States, or on the distribution of power and responsibilities between them and other levels of government. In preparing the Federalism assessment, the Department will take into consideration the public comments received on the proposed rule.

Regulatory Agenda

This proposed rule was listed as sequence number 1450 in the Department's Semiannual Agenda of Regulations published on October 21, 1991 (56 FR 53384, 43416) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

Catalog of Federal Assistance

The Catalog of Federal assistance program numbers are 14.218, 14.219, 14.221, 14.225, and 14.227.

List of Subjects in 24 CFR Part 570

Community development block grants; Grant programs: housing and community development; Loan programs: housing and community development; Low- and moderate-income housing; New communities; Pockets of poverty; Small cities.

Accordingly, 24 CFR part 570 would be amended to read as follows:

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

1. The authority citation for part 570 would continue to read as follows:

Authority: Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301–5320); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. In § 570.496a, paragraphs (c)(1)(i) and (c)(3)(ii)(A) introductory text would be revised to read as follows:

§ 570.496a Displacement, relocation, acquisition, and replacement of housing.

* * * * *

(c) * * *

(1) *One-for-one replacement of low/moderate-income dwelling units* (i) All occupied and vacant occupiable low/moderate-income dwelling units that are demolished or converted to a use other than as low/moderate-income dwelling units in connection with an activity assisted under this part must be replaced with low/moderate-income dwelling units. In addition, all such units that are demolished or converted to another use as a direct result of CDBG-funded code enforcement must be replaced with low/moderate-income dwelling units.

* * * * *

(3) * * *

(ii) *Displaced person* (A) The term "displaced person" means any low/moderate-income family or individual who moves from real property, or moves his or her personal property from real property, permanently, as a direct result of the conversion of a low/moderate-income dwelling unit (defined in paragraph (c)(3)(iii) of this section) or demolition, where the conversion or demolition results directly from an activity assisted under this part or results from CDBG-funded code enforcement. This includes any permanent involuntary move for an assisted activity, including any permanent move from the real property that is made:

* * * * *

3. In § 570.606, paragraphs (c)(1)(i) and (c)(3)(ii)(A) introductory text would be revised to read as follows:

§ 570.606 Displacement, relocation, acquisition, and replacement of housing.

* * * * *

(c) * * *

(1) *One-for-one replacement of low/moderate-income dwelling units.* (i) All occupied and vacant occupiable low/moderate-income dwelling units that are demolished or converted to a use other than as low/moderate-income dwelling units in connection with an activity assisted under this part must be replaced with low/moderate-income dwelling units. In addition, all such units that are demolished or converted to another use as a direct result of CDBG-

funded code enforcement must be replaced with low/moderate-income dwelling units.

* * * * *

(3) * * *

(ii) *Displaced person.* (A) The term "displaced person" means any low/moderate-income family or individual who moves from real property, or moves his or her personal property from real property, permanently, as a direct result of the conversion of a low/moderate-income dwelling unit (defined in paragraph (c)(3)(iii) of this section) or demolition, where the conversion or demolition results directly from an activity assisted under this part or from CDBG-funded code enforcement. This includes any permanent involuntary move for an assisted activity, including any permanent move from the real property that is made:

* * * * *

Dated: January 27, 1992.

Anna Kondratas,

Assistant Secretary for Community Planning and Development.

[FR Doc. 92-2298 Filed 1-31-92; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF JUSTICE

28 CFR Part 16

[AAG/A Order No. 60-92]

Exemption of Records System Under the Privacy Act

AGENCY: Department of Justice.

ACTION: Proposed rule.

SUMMARY: The Department of Justice proposes to exempt the U.S. Marshals Service Prisoner Processing and Population Management System, JUSTICE/USM-005, from the provisions of 5 U.S.C. 552a(c) (3) and (4), (d), (e) (1), (2), (3), (e)(5) and (e)(8) and (g). The exemptions are necessary to protect the security of prisoners, witnesses and informants, law enforcement personnel, and the public; and to prevent a serious threat to law enforcement activities and law enforcement communications systems.

DATES: All comments must be received by March 4, 1992.

ADDRESSES: All comments should be addressed to Patricia E. Neely, Staff Assistant, Systems Policy Staff, Information Resources Management, Justice Management Division, Department of Justice, Washington, DC 20530 (room 1103, CAB Building).

FOR FURTHER INFORMATION CONTACT: Patricia E. Neely (202) 514-6329.

SUPPLEMENTARY INFORMATION: The U.S. Marshals Service Prisoner Processing and Population Management System, JUSTICE/USM-005, is being published in full text in the Notice section of today's **Federal Register**.

This order relates to individuals rather than small business entities. Nevertheless, pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601-612, it is hereby stated that the order will not have a "significant economic impact on a substantial number of small entities."

List of Subjects in 28 CFR Part 16:

Administrative Practice and procedure; Courts; Freedom of information; Privacy; and the Sunshine Act.

The authority for this proposed rule is 5 U.S.C. 552a. Accordingly, pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order 793-78, it is proposed to amend 28 CFR 16.101 as set forth below.

Dated: January 2, 1992.

Harry H. Flickinger,

Assistant Attorney General for Administration.

PART 16—[AMENDED]

1. The authority for part 16 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a, 552b(g), 553; 18 U.S.C. 4203(a)(1); 28 U.S.C. 509, 510, 534; 31 U.S.C. 3717, 9701.

2. It is proposed to amend 28 CFR 16.101 by redesignating paragraph (q) as paragraph (s)[1] and by adding new paragraphs (q) and (r).

§ 16.101 Exemption of U.S. Marshals Service (USMS) systems—limited access, as indicated.

* * * * *

(q) The following system of records is exempt from 5 U.S.C. 552a(c) (3) and (4), (d), (e) (1), (2), (3), (e)(5) and (e)(8) and (g):

(1) U.S. Marshals Service Prisoner Processing and Population Management System (JUSTICE/USM-005)

These exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(j)(2).

(r) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because to release the disclosure accounting would permit the subject of a criminal proceeding to determine the extent or nature of law enforcement authorities' knowledge regarding his/her alleged misconduct or criminal activities. The disclosure of such information could alert the subject to devise ways in which to conceal his/her activities and/or prevent law enforcement from learning additional information about his/her activities, or otherwise inhibit law enforcement efforts. In addition, where the individual is the subject of an ongoing or potential inquiry/investigation, such release could reveal the nature thereof prematurely, and may also enable the subject to determine the identity of witnesses and informants. Such disclosure could compromise the ongoing or potential inquiry/investigation, endanger the lives of witnesses and informants, or otherwise impede or thwart law enforcement efforts.

(2) From subsection (C)(4) to the extent that the system is exempt from subsection (d).

(3) From subsection (d) because to permit unlimited access would permit the subject of a criminal proceeding to determine the extent or nature of law enforcement authorities' knowledge regarding his/her alleged misconduct or criminal activities. The disclosure of such information could alert the subject to devise ways in which to conceal his/her activities and/or prevent law enforcement from learning additional information about his/her activities, or otherwise inhibit law enforcement efforts. Disclosure would also allow the subject to obtain sensitive information concerning the existence and nature of security measures and jeopardize the safe and secure transfer of the prisoner, the safety and security of other prisoners, informants and witnesses, law enforcement personnel, and the public. In addition, disclosure may enable the subject to learn prematurely of an ongoing or potential inquiry/investigation, and may also permit him/her to determine the identities of confidential sources, informants, or protected witnesses. Such disclosure could compromise the ongoing or potential inquiry/investigation, endanger the lives of witnesses and informants, or otherwise impede or thwart law enforcement efforts. Disclosure may also constitute an unwarranted invasion of the personal privacy of third parties. Further, disclosure would reveal access codes, data entry codes and message routing symbols used in law enforcement communications systems. Access to such codes and symbols would permit the subject to impede the flow of law

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[1] Paragraph (o) was redesignated as paragraph (q) in a proposed rulemaking at 56 FR 44049 on September 6, 1991.

enforcement communications and compromise the integrity of law enforcement information, and thus present a serious threat to law enforcement activities. To permit amendment of the records would expose security matters, and would impose an impossible administrative burden by requiring that security precautions, and information pertaining thereto, be continuously reevaluated if contested by the prisoner, or by anyone on his or her behalf. Similarly, to permit amendment could interfere with ongoing or potential inquiries/investigations by requiring that such inquiries/investigations be continuously reinvestigated, or that information collected (the relevance and accuracy of which cannot readily be determined) be subjected to continuous change.

(4) From subsections (e)(1) and (5) because the system may contain investigatory information or information which is derived from information collected during official criminal investigations. In the interest of effective law enforcement and litigation, of securing the prisoner and of protecting the public, it may be necessary to retain information the relevance, necessity, accuracy, timeliness and completeness of which cannot be readily established. Such information may nevertheless provide investigative leads to other Federal or law enforcement agencies, or prove necessary to establish patterns of criminal activity or behavior, and/or prove essential to the safe and secure detention (and movement) of prisoners. Further, the provisions of (e)(1) and (e)(5) would restrict the ability of the USMS in exercising its judgment in reporting information during investigations or during the development of appropriate security measures, and thus present a serious impediment to law enforcement efforts.

(5) From subsection (e)(2) because the requirement to collect information from the subject individual would impede the information collection responsibilities of the USMS which is often dependent upon sources other than the subject individual for verification of information pertaining to security risks posed by the individual prisoner, to alleged misconduct or criminal activity of the prisoner, or to any matter affecting the safekeeping and disposition of the individual prisoner.

(6) From subsection (e)(3) because to inform individuals as required by this subject could impede the information gathering process, reveal the existence of an ongoing or potential inquiry/investigation or security procedure, and compromise law enforcement efforts.

(7) From subsection (e)(8) because to serve notice would give persons sufficient warning to compromise an ongoing or potential inquiry/investigation and thereby evade and impede law enforcement and security efforts.

(8) From subsection (g) to the extent that the system is exempt from subsection (d).

* * * * *

[FR Doc. 92–2460 Filed 1–31–92; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 795, 870, 872, 873, 874, 875, 876 and 886

RIN 1029–AB49

Abandoned Mine Land Reclamation Fund Reauthorization Implementation

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Notice of public hearings.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) of the United States Department of the Interior published a proposed rule on November 8, 1991 (56 FR 57376) which would amend OSM's Abandoned Mine Land Reclamation regulations in light of recently enacted changes to the Surface Mining Control and Reclamation Act of 1977 (SMCRA). This notice announces public hearings on the proposed rule. OSM will conduct public hearings in Washington, DC; St. Louis, Missouri, and Denver, Colorado on the proposed rule.

DATES: The public hearings are scheduled for February 19, 1992, at 9 a.m. local time.

ADDRESSES: The public hearings will be held at the following locations: South Interior Building Auditorium, 1951 Constitution Avenue, NW., Washington, DC; Robert A. Young Federal Building, 1222 Spruce Street, room 10.211, St. Louis, Missouri; and Brooks Towers, 2nd Floor Conference Room, 1020 15th Street, Denver, Colorado. Please note that the above Washington, DC and St. Louis, Missouri addresses differ from those contained in the prior **Federal Register** notices related to this proposed rule.

FOR FURTHER INFORMATION CONTACT: D.M. Lytton, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240; Telephone: 202–208–5365 (Commercial) or 268–5365 (FTS).

SUPPLEMENTARY INFORMATION: OSM published a proposed rule which would amend the Abandoned Mine Land Reclamation regulations, 30 CFR subchapter R, in light of recently enacted changes to title IV of the Surface Mining Control and Reclamation of Act of 1977, Public Law 95–87, as amended by Public Law 101–508 (November 5, 1990). The proposed rule was published in the **Federal Register**, on November 8, 1991 (56 FR 57376). On December 20, 1991 (56 FR 66003) a notice was published which extended the comment period to February 21, 1992.

OSM has received several requests to hold public hearings on the proposed rule. As a result, OSM has scheduled public hearings for February 19, 1992 at 9 am local time at the locations previously specified in this notice (see "**ADDRESSES**").

These hearings will continue until all persons wishing to testify have been heard. To assist the transcriber and ensure an accurate record, OSM requests that persons who testify at a hearing give the transcriber a written copy of their testimony.

Availability of Copies

Copies of these proposed regulations may be obtained from the U.S. Department of the Interior, Administrative Record, room 5131, 1100 L Street, NW., Washington, DC 20240. Telephone 202–343–5492 or any of OSM's Field Offices.

Dated: January 28, 1992

Brent Wahlquist,

Assistant Director, Reclamation and Regulatory Policy.

[FR Doc. 92–2509 Filed 1–31–92; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 1

RIN 2900–AF64

Regional Office Committees on Waivers and Compromises

AGENCY: Department of Veterans Affairs.

ACTION: Proposed Regulation.

SUMMARY: In order to comply with recent legislative changes to 38 U.S.C. 5302(b) (formerly 3102(b)), the Department of Veterans Affairs (VA) proposes to amend 38 CFR 1.964 by

creating a one-year time limit for application for waiver of collection of a home loan program indebtedness.

DATES: Comments must be received on or before March 4, 1992. Comments will be available for public inspection until March 16, 1992. This amendment is proposed to be effective 30 days after the date of publication of the final rules.

ADDRESSES: Interested persons are invited to send written comments to: Secretary of Veterans Affairs (271A), 810 Vermont Avenue, NW., Washington, DC 20420. Comments will be available for inspection in the Veterans Services Unit, Room 170, at the above address between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until March 16, 1992.

FOR FURTHER INFORMATION CONTACT: Peter Mulhern, (202) 233–3405.

SUPPLEMENTARY INFORMATION: Public Law 102–54 (June 13, 1991) revised 38 U.S.C. 5302(b) so that a request for waiver of a debt arising out of participation in the VA home loan program administered under authority of 38 U.S.C. chapter 37 must now be made within one year after the date on which the veteran receives notice of the loan program indebtedness. Prior to this legislation, there was no time limit imposed on a request for waiver of a home loan program debt. However, in order for this new one-year time limit to be imposed on a debtor requesting waiver, VA must send such notice by means of certified mail. If VA notifies the debtor of a home loan program debt by means other than certified mail, then there is no time limit imposed on the debtor in which to request waiver. As a result of this legislative change, VA must now amend one of its regulations (38 CFR 1.964) to comply with the new time limit placed on waiver requests of loan program debts.

The Secretary hereby certifies that this proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), this proposed rule is therefore exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604. The reason for this certification is that this proposed rule primarily affects only individuals indebted to the U.S. Government as a result of participation in programs administered by the Department of Veterans Affairs.

This proposed rule has also been reviewed under E.O. 12291 and has been determined to be nonmajor because it will not have a $100 million annual effect on the economy and will not have any adverse economic impact on or increase costs to consumers, individual industries, Federal, State, and local government agencies or geographic regions.

There is no Catalog of Federal Domestic Assistance number.

List of Subjects in 38 CFR Part 1

Claims, Administrative practice and procedures, Veterans.

Approved: December 20, 1991.

Edward J. Derwinski,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 1 is proposed to be amended as set forth below.

PART 1—GENERAL

1. The authority citation for part 1 is revised to read as follows:

Authority: Sections 1.955 to 1.970 issued under 38 U.S.C. 3720(a)(4) and 5302; 5 U.S.C. 5584.

2. In § 1.964, paragraph (e) is revised and an authority citation is added at the end of paragraph (e) to read as follows:

§ 1.964 Waiver; loan guaranty.

* * * * *

(e) *Application.* A request for waiver of an indebtedness under this section shall be made within one year after the date on which the debtor receives, by Certified Mail-Return Receipt Requested, written notice from VA of the indebtedness. If written notice of indebtedness is sent by means other than Certified Mail-Return Receipt Requested, then there is no time limit for filing a request for waiver of indebtedness under this section.

(Authority: 38 U.S.C. 5302(b))

* * * * *

[FR Doc. 92–2446 Filed 1–31–92; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 11–6–5280; FRL-4099–1]

Approval and Promulgation of Implementation Plans; California State Air Quality Implementation Plan Revision, South Coast Air Quality Management District

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA is proposing a limited approval and limited disapproval of a revision to the California State Implementation Plan (SIP) adopted by the South Coast Air Quality Management District (SCAQMD) on May 5, 1989. The California Air Resources Board (CARB) submitted these revisions to EPA on December 31, 1990.The revision concerns SCAQMD's Rule 109, Recordkeeping for Volatile Organic Compound Emissions, which prescribes recordkeeping requirements, VOC calculations and test methods to demonstrate compliance with VOC emission limits for a number of different source categories such as coatings, graphic arts, adhesives, and solvent cleaning operations. EPA has evaluated Rule 109 and is proposing a limited approval under section 110(k)(3) and 301(a) of the Clean Air Act Amendments of 1990 (CAAA) because these revisions strengthen the SIP. At the same time, EPA is proposing a limited disapproval under section 110(k) of Rule 109 because the rule does not fully meet the part D, section 182(a)(2)(A) requirement of the CAAA.

DATES: Comments must be received on or before March 4, 1992.

ADDRESSES: Comments may be mailed to: Daniel A. Meer, Chief, So. CA & AZ Rulemaking Section (A–5–3), Air & Toxics Division, Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105. FAX: (415) 744–1077.

Copies of the rule and EPA's evaluation report are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule are also available for inspection at the following locations:

California Air Resources Board, Stationary Source Section, Rule Evaluation Section, 1219 "K" Street, Sacramento, CA 94518.

South Coast Air Quality Management District, Public Information Center, 21865 E. Copley Drive, Diamond Bar, CA 91765–4185.

FOR FURTHER INFORMATION CONTACT: John Ungvarsky (A–5–3), Southern California/Arizona Rulemaking Section, Air & Toxics Division, Environmental Protection Agency, Region 9, San Francisco, CA 94105. Telephone: (415) 744–1188, FTS: 484–1188.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (CAA or the Act) that included the SCAQMD. 43 FR 8964; 40 CFR 81.305. Because the SCAQMD was unable to reach attainment date of December 31, 1982, California requested, and EPA approved, an extension of the attainment date to December 31, 1987. CAA section 172(a)(2). The SCAQMD did not attain the ozone standard by the approved attainment date. On May 26, 1988, EPA Region 9 notified the Governor of California that the SCAQMD's portion of the California SIP was inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, the Clean Air Act Amendments of 1990 (CAAA) were enacted. Public Law 101–549, 104 Stat. 1399, codified at 42 U.S.C. 7401–7671q. In section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies.

Section 182(a)(2)(A) applies to areas classified as marginal or above and requires such areas to adopt and correct RACT rules pursuant to pre-amended section 172(b) as interpreted in pre-amendment guidance.[1] EPA's SIP-Call used that guidance to indicate the necessary corrections for specific nonattainment areas. The Los Angeles—South Coast Air Basin Area is classified as extreme;[2] therefore, this area is subject to the RACT fix-up requirement and the May 15, 1991 deadline.

The State of California submitted many revised RACT rules to EPA for incorporation into its SIP on December 31, 1990, including the rule being acted on in this notice. This notice addresses EPA's proposed action for Rule 109, Recordkeeping for Volatile Organic Compound Emissions. This rule was found to be complete on February 28, 1991 pursuant to EPA's completeness criteria set forth in 40 CFR part 51, appendix V[3] and is being proposed for limited approval and limited disapproval.

SCAQMD Rule 109 establishes recordkeeping requirements for VOC emissions from coating, graphic arts, adhesives, and solvent cleaning operations. VOCs contribute to the production of ground level ozone and smog. Rule 109 is a new rule which has been adopted to meet EPA's SIP-Call and the section 182(a)(2)(A) CAAA requirements. The following is EPA's evaluation and proposed action for SCAQMD's Rule 109.

EPA Evaluation and Proposed Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAAA, EPA regulations and EPA policy. These requirements are found in section 110 and part D of the CAAA, at 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans), and in the guidance referred to in footnote 1. Among these provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of reasonably available control technology (RACT) for existing major stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents which specify the minimum requirements that a rule must contain in order to be approved into the SIP. Under the amended Act, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "fix-up" their RACT rules. See section 182(a)(2)(A). The EPA policy document on recordkeeping applicable to Rule 109 is *Recordkeeping Guidance document for Surface Coating Operations and the Graphic Arts Industry*, dated July 12, 1988. Further interpretations of EPA policy are found in the Blue Book. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

SCAQMD's Rule 109 is a new rule which was adopted to establish recordkeeping requirements for VOC emissions from coating, graphic arts, adhesives and solvent cleaning operations specific to fourteen source category rules. Rule 109 requires that daily records must be retained on-site for the most recent two-year period for the purpose of determining a rule's applicability, a source's exemption, and rule and permit condition compliance. Records must include:

—The applicable SCAQMD rule number applicable to the operation;
—The SCAQMD permit numbers for the units involved in the operation;
—The amount and type of VOC-containing material used in each permit unit or dispensing station (for non-permit units);
—Daily records of the VOC content, volumes, dilution ratios, and other specific data needed to demonstrate the applicability of an exemption or to demonstrate compliance; and
—VOC test methods and calculation procedures.

The fourteen rules to which the recordkeeping requirements of Rule 109 apply are as follows:

1104—Wood Flat Stock Coating Operations
1106—Marine Coating Operations
1107—Coating of Metal Parts and Products
1122—Solvent Cleaners (Degreasers)
1124—Aerospace Assembly and Component Coating Operations
1125—Can and Coil Coating Operations
1126—Magnet Wire Coating Operations
1128—Paper, Fabric, and Film Coating Operations
1130—Graphic Arts
1136—Wood Products Coatings
1145—Plastic, Rubber, and Glass Coatings and Adhesives
1151—Motor Vehicle and Mobile Equipment Non-Assembly Line Coating Operations
1164—Semiconductor Manufacturing
1168—Control of Volatile Organic Compound Emissions from Adhesive Applications.

Rule 109 consolidates recordkeeping and reporting requirements for fourteen coating, printing, and solvent cleaning rule categories into one rule. It requires percent solids calculations based on sufficient daily data to satisfy the EPA requirements for cross-line averaging and low solvent coatings.

EPA has evaluated SCAQMD's submitted Rule 109 for consistency with the CAAA, EPA regulations and EPA policy and has found that the revisions address and correct many deficiencies previously identified by EPA. These corrected deficiencies have resulted in clearer, more enforceable rules.

Although the approval of SCAQMD's Rule 109 will strengthen the SIP, these rules still contain deficiencies which were required to be corrected pursuant to the section 182(a)(2)(A) requirement of part D of the CAAA. These deficiencies are as follows:

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[1] Among other things, the pre-amendment guidance consists of those portions of the proposed Post-1987 Ozone and Carbon Monoxide Policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies and Deviations, Clarification to appendix D of November 24, 1987 **Federal Register** Notice" (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988); and the existing control technique guidelines (CTGs).

[2] SCAQMD was redesignated nonattainment and classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAAA. See 56 FR 56694 (November 6, 1991).

[3] EPA has since adopted completeness criteria pursuant to section 110(k)(1)(A) of the amended Act. See 56 FR 42216 (August 26, 1991).

(1) The rule fails to require that sources make and maintain usage records for add-on capture and control equipment, needed to demonstrate and ensure continuous compliance with limits in the rule;

(2) VOC calculation is allowed by EPA Methods 24 and 24A (for rotogravure) or by equivalent ASTM methods approved by the Executive Order without preventing the preemption of EPA enforcement for violations of rule limits when VOC emissions are measured by specified EPA test methods or without specifying which of the test methods, if any, take precedence in determining the occurrence of a violation. In addition, the rule does not specify the criteria by which equivalency is determined, and does not allow for resolution of dissenting opinions on equivalency.

(3) VOC calculation of low-solids adhesives, adhesive primers and stains are to be based on the mass of VOC per volume of material. EPA policy requires VOC calculations (for coatings containing solids) to be based on the mass of VOC per volume of coating, less water and less exempt compounds.

A detailed discussion of the deficiencies in Rule 109 can be found in the Technical Support Document for Rule 109 (dated January 15, 1992), which is available from the EPA Region 9 office. Because of these deficiencies, the rule is not approvable pursuant to section 182(a)(2)(A) of the CAAA because it is not consistent with the interpretation of section 172 of the pre-amended Act as found in the Blue Book and may lead to rule enforceability problems.

Because of the above deficiencies, EPA cannot grant full approval of this rule under section 110(k)(3) and part D. Also, because the submitted rule is not composed of separable parts which meet all the applicable requirements of the CAAA, EPA cannot grant partial approval of the rule under section 110(k)(3). However, EPA may grant limited approval of the submitted rule under section 110(k)(3) in light of EPA's authority pursuant to section 301(a) to adopt regulations necessary to further air quality by strengthening the SIP. The approval is limited in the sense that the rule strengthens the SIP. However, the rule does not meet the section 182(a)(2)(A) requirement of part D because of the noted deficiencies. Thus, in order to strengthen the SIP, EPA is proposing a limited approval of SCAQMD's submitted Rule 109 under section 110(k)(3) and 301(a) of the CAAA.

At the same time, EPA is also proposing a limited disapproval of Rule 109 because it contains deficiencies that have not been corrected as required by section 182(a)(2)(A) of the CAAA, and, as such, the rules do not meet the requirements of part D of the Act. Under section 179(a)(2), if the Administrator disapproves a submission under section 110(k) for an area designated nonattainment, based on the submission's failure to meet one or more of the elements required by the Act, the Administrator must apply one of the sanctions set forth in section 179(b) unless the deficiency has been corrected within 18 months of such disapproval. Section 179(b) provides two sanctions available to the Administrator: Highway funding and offsets. The 18 month period referred to in section 179(a) will begin at the time EPA publishes final notice of this disapproval. Moreover, the final disapproval triggers the federal implementation plan (FIP) requirement under section 110(c).

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Regulatory Process

Under 5 U.S.C. section 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Hydrocarbons, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7642.

Dated: January 21, 1992.

Daniel W. McGovern,

Regional Administrator.

[FR Doc. 92-2373 Filed 1–31–92; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[FRL 4098–9]

Approval and Promulgation of Implementation Plans; Proposed Partial Disapproval of New Jersey Implementation Plan for Ozone

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA is proposing to disapprove the New Jersey State Implementation Plan (SIP) for ozone to the extent that the New Jersey SIP does not provide for a 1.0 pound per square inch (psi) Reid Vapor Pressure (RVP) tolerance for ethanol blends. The Agency invites comments on the desirability of disapproving the SIP to the extent that it does not provide an exemption for ethanol blends. This action is in response to a petition for reconsideration submitted to the Agency by the Renewable Fuels Association (RFA).

DATES: The Agency does not plan to hold a public hearing on this proposed partial reconsideration of its approval of the New Jersey SIP unless one is requested. If a request for public hearing is not received by February 17, 1992, then a public hearing will not be held. Comments on this proposed rulemaking must be received no later than March 4, 1992. If a public hearing is held, the public comment period will remain open until 30 days after the public hearing. Please direct all correspondence to the addresses shown below.

ADDRESSES: Materials relevant to this rulemaking have been placed in Docket A–91–44 by EPA. The docket is located at the Air Docket Section (LE–131), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, in room M–1500, Waterside Mall, and may be inspected from 8:30 a.m. to 12:00 noon and from 1:30 p.m. to 3:30 p.m., Monday through Friday. A reasonable fee may be charged for copying docket material.

Comments should be submitted (in duplicate if possible) to the Air Docket Section at the above address. A copy should also be sent to Mr. Alfonse Mannato at the EPA address listed below.

U.S. Environmental Protection Agency,
Office of Air and Radiation, 401 M
Street, SW., (N–397F), Washington, DC
20460

FOR FURTHER INFORMATION CONTACT: Alfonse Mannato (202) 260–9040.

SUPPLEMENTARY INFORMATION:

I. Introduction

This notice describes EPA's proposed action to disapprove the New Jersey SIP for ozone to the extent that the SIP does not provide special treatment for ethanol blends by providing for a 1.0 psi RVP exemption for ethanol blends. The Agency invites comments on this issue. The remainder of this preamble is divided into two parts. The first provides the background for this proposed action, with respect to chronology and broad issues involved. The second section presents EPA's proposed action and rationale.

II. Background

On June 16, 1989, EPA published a **Federal Register**[1] notice announcing its approval of revisions to the New Jersey SIP which limited the volatility of gasoline to 9.0 psi from May 1 to September 15.[2] The SIP revision as approved did not provide for special treatment for ethanol blends and did not provide a 1.0 psi RVP exemption for ethanol blends. EPA approved the SIP revision as a whole, including a provision allowing supplier-specific waivers. The supplier-specific waiver provision permits the state to issue waivers if necessary to avoid dislocations in supply.

As described in the June 16, 1989 **Federal Register** notice cited above, EPA acted consistently with the requirements of sections 110 and 211 of the Clean Air Act.[3] Since EPA has promulgated federal RVP regulations,[4] inconsistent state controls are preempted under section 211(c)(4)(A). However, section 211(c)(4)(C) also permits the Administrator of EPA to exempt a state RVP program from such preemption if it is "necessary to achieve" the applicable NAAQS. As described in the June 16, 1989 notice, EPA explicitly found that the New Jersey revisions were "necessary to achieve" the National Ambient Air Quality Standard (NAAQS) within the meaning of section 211(c)(4)(C). In short, after accounting for the possible reductions from all other reasonably available control measures, New Jersey could demonstrate that these RVP controls were still required to meet the applicable NAAQS.

EPA has received a petition dated December 7, 1990 from the Renewable Fuels Association requesting that the Administrator "reconsider" the Agency's approval of the New Jersey SIP for ozone. The New Jersey SIP as approved does not provide for a 1.0 psi RVP exemption for ethanol blends. RFA asserted in its petition that their members who produce fuel ethanol are unable to market their product as a blending component with gasoline in New Jersey as a result of the lack of a 1.0 psi exemption. They also claim that EPA provided inadequate notice of the omission of the 1.0 psi RVP exemption on ethanol blends. In addition they assert that EPA failed to make a finding that elimination of the 1.0 psi waiver was necessary to achieve the NAAQS for ozone.

It is EPA's position that no specific finding was required that elimination of the 1.0 psi waiver was necessary for New Jersey to achieve the NAAQS for ozone. Because the 1 psi waiver issue was not raised during the public comment period, EPA's final rule on the NJ SIP did not address the absence of the 1 psi exemption. EPA approved the New Jersey SIP revisions in their entirety in 1989, including a supplier-specific waiver provision, based on a determination that the New Jersey rules, which did not contain a 1.0 psi waiver, were necessary to attain the ozone standard within the meaning of section 211(c)(4)(C).

Despite the Agency's position that no specific finding related to the elimination of the 1.0 psi waiver was necessary in approving the New Jersey SIP, the petitioners raise a number of points that have led the Agency to reopen the issue of approval of the New Jersey SIP revisions to the extent that such revisions did not provide for a 1.0 psi RVP waiver for ethanol blends. Because of the important issues raised, EPA is granting the petition and proposing to partially disapprove the New Jersey SIP for ozone.

Arguments Related to Notice

The petitioners argue that the **Federal Register** notices (both proposal and final rule) related to the New Jersey SIP revision[5] were inadequate to notify interested parties of the "elimination" of the 1.0 psi exemption for ethanol in New Jersey. They argue that both of these notices failed to mention the significant adverse effect of the SIP revision on alcohol blends despite the Agency's historical separate treatment of gasoline and alcohol blends. The petitioners also assert that both notices mention only that action was being taken to lower the RVP standard for gasoline and did not mention specifically alcohol blends.

Timing of New Jersey Adoption of the Volatility Regulations

RFA points out in its petition that New Jersey adopted the fuel volatility regulations at issue on January 27, 1989.[6] On March 22, 1989, EPA adopted the Phase I volatility regulations as a final rule.[7] These Phase I regulations, found in 40 CFR 80.27, established a 10.5 RVP requirement for gasoline in New Jersey from May 1 to September 15 and allowed for a 1.0 RVP allowance for ethanol blends.[8] The New Jersey volatility regulations, as noted above, required a 9.0 RVP standard and were found to be "necessary to achieve" the NAAQS by EPA. EPA proposed to approve the SIP revision on March 28, 1989[9] and issued a final rule approving the revision on June 16, 1989.[10]

National 1 psi Ethanol Exemption

At the time New Jersey adopted its volatility regulations, there was no federal standard applicable to the RVP of ethanol blends. In March 1989, two months after New Jersey's adoption of volatility regulations, EPA published the Phase I volatility standards as a final rule.[11] Under the Phase I final rule, an interim 1.0 psi allowance was provided for gasoline containing between 9 and 10% ethanol. This interim RVP allowance was included after the Agency considered practical problems that ethanol blenders would face in the absence of such an allowance. In general, the practical problems were related to the fact that the vast majority of ethanol blending occurs in tank trucks at the terminal.[12] EPA noted in the Phase I rule that it recognized the burden on ethanol blenders would be greater than that on other refiners.[13]

EPA continued the 1.0 psi exemption in the final rule for Phase II of its gasoline volatility regulations.[14] This decision was based on the conclusion that the 1.0 psi exemption should not adversely affect air quality overall and because of the potential economic harm to the ethanol industry that eliminating the exemption would create.

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[1] 54 FR 25572 (June 16, 1989).

[2] In 1989, the limitation on volatility was effective from June 30 to September 15.

[3] See 54 FR 25573 (June 16, 1989) for a detailed discussion of these provisions as applied to the New Jersey SIP revision discussed in this notice.

[4] 54 FR 11868 (March 22, 1989) and 55 FR 23665 (June 11, 1990).

[5] 54 FR 12854 (March 28, 1989) and 54 FR 25572 (June 16, 1989).

[6] N.J. Admin. Code tit. vii. ch. 27, sub. 25.

[7] 54 FR 11868 (March 22, 1989).

[8] *See* 40 CFR 80.27(a)(1) for applicable standards for 1989–1991 (Phase I) and 40 CFR 80.27(d) for provisions governing the treatment of ethanol blends.

[9] 54 FR 12854 (March 28, 1989).

[10] 54 FR 125572 (June 16, 1989).

[11] 54 FR 11868 (March 22, 1989).

[12] *Id.* at 11873.

[13] *Id.*

[14] FR 23665 (June 11, 1990).

Moreover, EPA expressed, in its final rule for approval of RVP provisions in the Maryland SIP, a commitment to the ethanol exemption which was embodied in the phase II volatility regulations.[15] Maryland's RVP SIP is of particular interest because that State also passed its RVP regulation without including a 1.0 psi exemption for ethanol. Maryland, which passed its RVP regulation in December 1989, also was unsure at the time of the passage of its regulation as to whether EPA would include the 1.0 psi exemption in its final Phase II RVP rule.[16] In final action on the Maryland SIP, EPA approved the SIP with the exception of its application to gasoline-ethanol blends. The 1 psi exemption issue was raised by RFA prior to final action on the Maryland SIP. EPA noted several reasons for that action. First, the action is consistent with the approach taken in EPA's phase II volatility regulations.[17] Second, Maryland's fuel volatility rule will be preempted by the federal rule beginning in 1992. Such preemption will not occur in the case of New Jersey, since its 1992 standard for RVP mirrors federal phase II standards except for the 1 psi exemption.

Availability of Ethanol in the Marketplace

RFA asserts in its petition that its members who produce fuel ethanol are unable to market their product as a blending component with gasoline as a result of the lack of a 1.0 psi volatility exemption for ethanol blends during the period of May 1 to September 15. RFA and the ethanol industry generally share the opinion that in order to effectively penetrate the marketplace, ethanol must be available for sale year round.

III. Proposed Action

Consistent with the above discussed support of a 1 psi ethanol exemption, EPA believes that it is appropriate to keep the federal 1.0 psi exemption in New Jersey. For this reason, EPA is proposing to disapprove the New Jersey SIP to the extent that it does not provide a 1.0 psi exemption for ethanol. Thus, only the 9.0 psi RVP limit in the New Jersey SIP would be exempted from preemption by the federal RVP regulations. The federal 1.0 psi exemption would remain in effect in New Jersey.

Based on RFA's petition and the various issues it raises, EPA is proposing to disapprove the New Jersey SIP revision to the extent that it does not provide a 1.0 psi RVP exemption for ethanol blends. The federal 1.0 psi RVP exemption in 40 CFR 80.27(d) would continue to apply to ethanol blends in New Jersey. The Agency invites public comments on the issues raised by RFA's petition. The petition, and other relevant documents, have been placed in the docket at the location listed in the "**ADDRESSES**" section of this notice

IV. Public Participation

EPA desires full public participation in arriving at final decisions in this rulemaking action. Comments are requested on EPA's proposed course of action and on the issues contained in this notice. EPA also requests comments on the costs and benefits of the proposed ethanol exemption.

All comments received by March 4, 1992, will be considered in EPA's final rulemaking. If a hearing is held, then comments must be received by 30 days after the hearing, comments should be directed to Docket A-91-44. All comments will be available for inspection during normal business hours at the EPA office listed in the addresses section of this notice.

Any commenter may assert that some or all of the information submitted is entitled to confidential treatment. The commenter providing information should clearly distinguish such information from other comments to the greatest extent possible, and clearly label it "Confidential Business Information." Submissions containing such proprietary information should be sent to the contact person listed above, and should not be submitted to the public docket. If a commenter wants EPA to base its decision on a submission labelled as confidential business information, then a non-confidential version of the document which summarizes the key data or information should be placed in the docket.

Information covered by a claim of confidentiality will be released by EPA only to the extent allowed by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies the submission when it is received by EPA, it may be made available to the public without further notice to the commenter or other person who submitted the information.

V. Administrative Designation and Regulatory Impact Analysis

This notice is issued as required by section 110 of the Clean Air Act as amended by the Clean Air Act Amendments of 1990. The Administrator's decision regarding the approval or disapproval of this plan revision is based on its meeting the requirements of sections 110 and 211 of the Clean Air Act, and 40 CFR part 51.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities.

This proposed regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order No. 12291. Any written comments received from OMB and any EPA response to those comments have been placed in the public rulemaking docket.

Authority: 42 U.S.C. 7401-7642.

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Ozone, Incorporation by reference.

Dated: January 22, 1992.

William K. Reilly,

Administrator.

[FR Doc. 92-2518 Filed 1-31-92; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 80

[FRL-4098-6]

Gasoline Detergent Additives Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public workshop.

SUMMARY: On February 13, 1992 the Environmental Protection Agency (EPA) will hold a public workshop to discuss issues related to the regulation of gasoline detergent additives. Section 211(l) of the Clean Air Act (CAA), as amended by the Clean Air Act Amendments of 1990, prohibits any person from selling or dispensing gasoline which does not contain additives to prevent the accumulation of deposits in motor vehicle engines and fuel supply systems. The prohibition is to take effect beginning January 1, 1995. Section 211(l) further provides for EPA to promulgate specifications for such additives by November 15, 1992. The purpose of this workshop is to gather data and to discuss issues related to the rulemaking.

DATES: The public workshop will be convened at 9 a.m. on February 13, and will continue throughout the day as long as necessary until 5 p.m. to complete the presentations and discussions. Comments on the workshop should be submitted as soon as is possible after the workshop as EPA will immediately begin work on the Notice of Proposed Rulemaking.

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[16] *Id.* at 23807.

[17] *Id.*

[18] *See* the discussion of gasoline-alcohol blends, including a discussion of preemption, in the notice announcing the final rule approving Maryland's ozone SIP revision. 56 FR 23804, 23807 (May 24, 1991).

ADDRESSES: The public workshop will be held at Domino's Farms Activity Room, 24 Frank Lloyd Wright Drive, Ann Arbor, Michigan 48105. Interested parties may submit written comments (in duplicate if possible) to Public Docket No. A–91–77, at: Air Docket Section (LE–131), U.S. Environmental Protection Agency, Attention: Docket No A–91–77, First Floor, Waterside Mall, Rm. M–1500, 401 M Street SW., Washington, DC 20460. Materials should also be submitted to the contact person.

Materials related to this rulemaking will be placed in Docket A–91–77 by EPA. The docket is located at the above address and may be inspected between 8:30 a.m. and noon and between 1:30 p.m. and 3:30 p.m., Monday through Friday. EPA may charge a reasonable fee for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Jeffrey Herzog, Standards Development and Support Branch, Emission Control Technology Division, U.S. Environmental Protection Agency, Mail Code SDSB–12, 2565 Plymouth Road, Ann Arbor, Michigan, 48105. Telephone: (313) 668–4227. Fax: (313) 668–4368.

SUPPLEMENTARY INFORMATION: As noted above, section 211(1) prohibits (effective January 1, 1995) gasoline from being provided to the ultimate consumer without additives to prevent the accumulation of deposits in engines and fuel supply systems. Section 211(1) also provides for EPA to issue specifications for the detergent additives by November 15, 1992.

As in previous rulemaking actions, EPA strongly encourages full public participation in the development and assessment of information that will be used in developing a final rule. Through this workshop and other cooperative efforts, EPA hopes to gather data and foster a common understanding of the issues involved. For those submitting comments, full supporting rationale, data, and detailed analysis should be submitted whenever possible, to allow EPA to make maximum use of comments.

EPA will make a brief presentation highlighting the issues, options, and plan for the development of the rulemaking. After EPA's presentation, attendees will be encouraged to ask questions and make oral presentations. Any person desiring to make a presentation at the public workshop should notify the contact person listed above of such intent at least seven days before the workshop. The contact person should also be provided an estimate of the time required for the presentation and notification of any need for audio/visual equipment beyond and overhead projector and 8 mm slide projector. A sign-up sheet will be available at the registration table the morning of the workshop to schedule the order of the presentations.

EPA suggests that enough copies of the statement or material for presentation be brought to the workshop for distribution to the audience (estimated at 100). In addition, it will be helpful for EPA to receive an advance copy of any statement or material for presentation before the scheduled workshop date, in order that EPA staff may give such material full consideration. Richard Rykowski, Senior Project Manager, Standards Development Support Branch, will be the presiding officer at the workshop. The workshop will be conducted informally.

Issues to be Addressed

A. Overview

EPA currently envisions a two phase program. In Phase I, the performance of detergent additives in keeping intake valves and fuel injectors clean (i.e.: a keep-clean standard) would be determined by test procedures closely resembling those employed by the California Air Resources Board (CARB) in its regulation of detergent additives (California Code of Regulations, title 13, section 2257). EPA is also considering implementing Phase I performance standards to ensure that an additive does not cause additional combustion chamber deposits over those caused by the base fuel alone.

In Phase II EPA envisions incorporating improved test procedures to determine additive performance in controlling intake valve, fuel injector, and combustion chamber deposits. EPA is also evaluating the feasibility of a keep-clean combustion chamber deposit standard for Phase II, whereby the ability to prevent deposits arising from the base fuel composition is considered in addition to the additive's incremental contribution to such deposits.

B. Certification Focus and Choice of Test Fuels

EPA envisions an approach similar to that employed by CARB whereby a refiner shall test the performance of an additive package in a test fuel(s) representative of that refiner's slate of fuel(s). The performance of an additive package over the refiner's slate of fuels and the range of fuels which could be certified by a given test program would be demonstrated by the submission of supporting technical data. However, it may be difficult to demonstrate that test results on select fuel(s) are applicable for all the fuels of varied composition produced by a refiner. This is a concern which EPA wishes to address if possible by defining the allowed variation in fuel parameters for a particular fuel to be considered sufficiently similar to the test fuel(s) to include in the certification. The fuel parameters which would likely be considered in determining a refiner's test fuel(s) include the following but are not necessarily limited to: Gravity, distillation, RVP, gum, sulfur, olefins, saturates, aromatics, and oxygenates.

EPA has considered several options for the choice of the certification test fuel(s). The option which appears most appropriate is for a refiner to test an additive's performance on both an average conventional and average reformulated fuel (Reformulated Gasoline Notice of Proposed Rulemaking, Docket A–91–02 (56 FR 31176, July 9, 1991)). Other options which are being considered for the test fuel specifications include: worse case fuel, average of all the refiners gasolines, and anti-dumping baseline fuel as proposed for the reformulated gasoline rulemaking (Reformulated Gasoline Notice of Proposed Rulemaking, Docket A–91–02). For all of the options EPA is considering the need for separate testing of summer and winter time fuels. Also, EPA currently envisions that the composition of the test fuel would need to be updated regularly to track changes in a refiner's fuel.

As a long term goal EPA contemplates moving toward the modeling of additive performance which would allow varying additive treatment level as needed by fuel batch. For this approach, however, the necessary data is currently not available, and considerable vehicle testing would be required.

EPA recognizes that the approach envisioned of certifying the fuel/additive combination may result in a greater testing burden for small refiners. However, an alternative additive based certification program does not appear feasible at this time. As a result, EPA is exploring ways in which this burden may be mitigated. Possible solutions include allowing small refiners to use certification test data from large refiners and the grouping of small refiners for certification testing.

C. Intake Valve and Fuel Injector Test Procedures

For Phase I EPA is considering using existing test procedures (ie: the BMW 380i intake valve and Chrysler 2.21 turbo fuel injector procedures) for the evaluation of an additive's performance regarding intake valve and fuel injector deposits. It is recognized that the vehicle technology used in these procedures is losing its representativeness for the in-use fleet and that for the BMW procedure the age of the test vehicles themselves is becoming a major concern. EPA encourages the development of replacement test procedures which are currently underway at the Coordinating Research Council (CRC). However, it is unlikely that these new procedures will be available in time for their use in Phase I. As mentioned earlier EPA envisions implementing improved test procedures in Phase II.

Despite the existence of available test procedures for Phase I, there are some outstanding issues associated with their use. The CRC and American Society of Testing and Materials (ASTM) have recently highlighted the need to standardize the current keep-clean test procedures for intake valve and fuel injector deposits. Regarding the BMW 380i intake valve test procedure, the agency is particularly concerned about vehicle uniformity, maintenance protocol, operational conditions, and documentation. One of the more prominent concerns is the need for temperature limits (ambient or coolant). The Agency is also concerned about the need to standardize the Chrysler 2.21 turbo fuel injector procedure. Any deficiency in the Chrysler 2.2(1) procedure mainly involves maintenance procedures. EPA envisions the use the forms of these test procedures as implemented by CARB with necessary changes. EPA intends to work with CARB to ensure that EPA and CARB' procedures are as similar as possible and to avoid the need for duplication of effort by the fuel producers in certifying fuels.

EPA is considering the adoption of the performance standards for these procedures as implemented by CARB. Satisfactory performance for the BMW 380i procedure would be an average deposit weight of less than 100mg over the accumulation of 10,000 miles. Satisfactory performance for the Chrysler 2.21 turbo test would be less than 5% flow restriction in any one injector over the accumulation of 10,000 miles.

D. Combustion Chamber Test Procedure

The literature illustrates that combustion chamber deposits arise from the base fuel itself, and are significantly increased by the use of some types of deterent additives. These deposits have a significant impact on increasing a vehicle's octane requirement, and may also contribute to increased emissions. Octane requirement increase (ORI) represents a cost to the consumer in that it necessitates the use of higher priced premium fuel. EPA believes that combustion chamber deposit control is desirable in order to prevent additional cost to the consumer and wishes to further evaluate the effect on emissions.

EPA is seeking to gather information on the feasibility of developing a test procedure for Phase I to evaluate an additive's performnce with regard to the control of combustion chamber deposits. For Phase I, EPA envisions that the focus of any combustion chamber deposit requirements would be on controlling additional deposits, and the octane requirement increase associated with the use of certain additives. EPA anticipates that the input of relevant data and testing experience from industry will be essential in developing a combustion chamber deposit test procedure and standard. In the interim period between Phase I and Phase II, EPA intends to gather data to evaluate the feasibility of setting requirements to control the octane requirement increase arising not only from additive use but from the base fuel itself.

E. Oil Viscosity Increase

Oil viscosity increase (OVI) has been cited as a potentially significant adverse side effect associated with the use of some detergent additives. OVI which causes the engine lubricant to move outside of manufacturer's specifications can result in reduced fuel economy, reduced engine durability, and may lead to increased emissions. EPA is seeking to gather information as to the need for, and form of test procedures and performance standards to determine an additive's effect on oil viscosity.

F. Enforcement

EPA is considering an enforcement protocol similar to that employed by CARB. The primary enforcement tool would be by mass balance at the terminal whereby use of the specified additive is quantified by a comparison of records showing amounts purchased and amounts used. Test procedures would be provided by the refiner to allow the quantification of the additive(s) used in finished fuel. Spot checks on the fuel after it leaves the terminal would be performed at the discretion of the agency to verify compliance. While spot checks may be difficult and burdensome, EPA knows of no other simple way to ensure the proper use of additives.

G. Long Term Goals

EPA desires to gain a better understanding of the mechanisms of deposit formation, deposit control, and the impact of deposits on emissions and other aspects of vehicle performance. EPA may serve a useful role as a collection point for test data and thus facilitate work toward the modeling of additive performance for a given fuel. The development of a performance model would serve to minimize the cost of certification. In the near term, data collected will be useful in refining EPA's test protocol for the Phase II rulemaking.

Dated: January 27, 1992.

Michael Shapiro,

Assistant Administrator for Air and Radiation.

[FR Doc. 92-2372 Filed 1-31-92; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 92-10, RM-7865]

Radio Broadcasting Services; Sanibel and San Carlos Park, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Ruth Communications Corporation, permittee of Station WRWX(FM), Channel 253A, Sanibel, Florida, seeking to reallot Channel 253A from Sanibel, Florida to San Carlos Park, Florida, and to modify its construction permit in accordance with Commission Rule 1.420(i). The coordinates are North Latitude 26-30-02 and West Longitude 81-54-16.

DATES: Comments must be filed on or before March 20, 1992, and reply comments on or before April 6, 1992.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: David G. O'Neil, Haley, Bader & Potts, 2000 M Street, NW., suite 600, Washington, DC 20036-3374 (Attorney for petitioner).

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 92-10, adopted January 15, 1992, and released January 28, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC

Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452–1422, 1714 21st Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92–2556 Filed 1–31–92; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 567 and 568

[Docket No. 91–62; Notice 2]

RIN 2127-AE27

Certification of Multistage Vehicles

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: This notice grants a request to extend the comment period on an agency proposal to amend the certification requirements that apply to incomplete vehicles other than chassis-cabs. An extension of the comment period is desirable to allow the Recreation Vehicle Industry Association (RVIA) sufficient time to consult with its members and submit comments. The members of the RVIA will be directly affected by this rulemaking and therefore are an important source of comments. The comment closing date is changed from January 31, 1992 to March 2, 1992.

DATES: Comments on Docket 91–62, Notice 2 must be received on or before March 2, 1992.

ADDRESSES: Comments should refer to Docket No. 91–62, Notice 2 and be submitted to: Docket Section, NHTSA, 400 Seventh Street SW., Washington, DC 20590. Docket hours are 9:30 to 4 pm. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Ken Rutland, Office of Vehicle Safety Standards, room 5320, 400 Seventh St., SW., Washington, DC 20590. Mr. Rutland can be reached by telephone at (202) 366–6565.

SUPPLEMENTARY INFORMATION: On December 3, 1991, NHTSA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to amend the certification requirements that apply to incomplete vehicles other than chassis-cabs. (56 FR 61392) Under the proposal, the certification label requirements that currently apply to chassis-cab incomplete vehicles would be extended to all incomplete vehicles.

The Recreation Vehicle Industry Association (RVIA), a trade association of over 500 manufacturers of recreation vehicles and their related suppliers, and 114 van converters, petitioned the agency, requesting a 45-day extension of the comment period. RVIA stated that it needed to meet and consult with its members before submitting its comments.

After reviewing the situation, NHTSA agrees with the petitioner that additional time is desirable to permit RVIA to submit its comments. As incomplete vehicle manufacturers, the RVIA members are a unique source of comments that would assist the agency in completing the rulemaking action proposed in the NPRM. In addition, the agency realizes that the individual members, for the most part small business entities, will not or cannot provide their input without the help of RVIA.

Accordingly, the agency believes that there is good cause for the extension and that the extension is consistent with the public interest. However, the 45-day extension requested by RVIA would be nearly as much additional time as the original time to comment. The agency believes that an additional 30 days, until March 2, 1992, would provide sufficient time for RVIA to consult with members and prepare comments for the docket.

Issued on January 29, 1992.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 92–2480 Filed 1–31–92; 8:45 am]

BILLING CODE 4910-59-M

Notices

Federal Register
Vol. 57, No. 22
Monday, February 3, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

Notice of Availability of Rural Housing Targeting Set Aside (RHTSA) Funds

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice.

SUMMARY: The Farmers Home Administration (FmHA) announces the availability of Rural Housing Targeting Set Aside (RHTSA) funds for Fiscal Year (FY) 1992. This action is taken to publish notice of the availability of sections 502, 504, 514, 515 and 524 loan/grant funds in targeted, underserved areas and certain colonias that are now eligible for FmHA housing assistance. The intended effect is to make the public aware of eligible targeted counties and targeted housing funds available through FmHA.

DATES: February 3, 1992.

FOR FURTHER INFORMATION CONTACT: Joyce H. Akers, Senior Loan Specialist, Multi-Family Housing Processing Division, at (202) 720–1608, or Bob Hall, Senior Loan Specialist, Single Family Housing Processing Division at (202) 720–1474. The address is USDA–FmHA, South Agriculture Building, 14th and Independence Ave., SW., Washington, DC 20250–0700.

SUPPLEMENTARY INFORMATION:

Programs Affected

These programs/activities are listed in the Catalog of Federal Domestic Assistance under Nos:

10.405	Farm Labor Housing Loans and Grants.
10.410	Low Income Housing Loans.
10.411	Rural Housing Site Loans.
10.415	Rural Rental Housing Loans.
10.417	Very Low Income Housing Repair Loans and Grant.
10.427	Rural Rental Assistance Payments.

Discussion of Notice

7 CFR, part 1940, subpart L contains the "Methodology and Formulas for Allocation of Loan and Grant Programs Funds." Exhibit C of subpart L contains information on RHTSA. The following guidance has been provided to FmHA field offices on Fiscal Year 1992 RHTSA funds and designated counties eligible for FmHA housing assistance:

FY 1992 RURAL HOUSING TARGETING SET ASIDE (RHTSA)

State	Very low-income 502 loans FY 1992 set aside	Low-income 502 loans FY 1992 set aside	Total 502 loans FY 1992 set aside	504 grants FY 1992 set aside	504 loans FY 1992 set aside	515 loans FY 1992 set aside
Alabama	738,000	1,107,000	1,845,000	18,000	16,000	775,000
Alaska	246,000	369,000	615,000	6,000	5,000	438,000
Arizona	492,000	738,800	1,230,000	12,000	11,000	516,000
Arkansas	1,230,000	1,846,000	3,076,000	30,000	27,000	1,291,000
Florida	246,000	369,000	615,000	6,000	5,000	438,000
Georgia	3,199,000	4,798,000	7,997,000	77,000	70,000	3,357,000
Idaho	246,000	369,000	615,000	6,000	5,000	438,000
Kentucky	2,706,000	4,060,000	6,766,000	65,000	59,000	2,840,000
Louisiana	1,230,000	1,846,000	3,076,000	30,000	27,000	1,291,000
Mississippi	1,476,000	2,215,000	3,691,000	36,000	32,000	1,549,000
Missouri	246,000	369,000	615,000	6,000	5,000	538,000
New Mexico	492,000	738,000	1,230,000	12,000	11,000	516,000
North Carolina	246,000	369,000	615,000	6,000	5,000	438,000
North Dakota	492,000	738,000	1,230,000	12,000	11,000	516,000
Puerto Rico	3,445,000	5,167,000	8,612,000	83,000	75,000	3,615,000
South Carolina	246,000	369,000	615,000	6,000	5,000	438,000
South Dakota	1,968,000	2,953,000	4,921,000	48,000	43,000	2,066,000
Tennessee	492,000	738,000	1,230,000	12,000	11,000	516,000
Texas	3,691,000	5,537,000	9,228,000	87,000	84,000	3,875,000
Utah	246,000	369,000	615,000	6,000	5,000	438,000
Virginia	984,000	1,476,000	2,460,000	24,000	22,000	1,033,000
West Virginia	246,000	369,000	615,000	6,000	5,000	438,000
State Total	24,603,000	36,909,000	61,512,000	594,000	539,000	27,260,000
Reserve	1,297,000	1,941,000	3,238,000	31,000	28,000	1,435,000
National Total	25,900,000	38,850,000	64,750,000	625,000	567,000	28,695,000

Minimum state funding levels are established in sections 502, 504 and 515, based upon national averages, as follows:

Section 502—Sufficient funds to obligate at least 10 initial loans of $51,000 each.

Section 504—Sufficient funds to obligate at least 1 initial loan/grant of $4,000.

Section 515—Sufficient funds to obligate at least 1 12-unit project of $36,500 per unit cost.

Section 514 funds of $815,000 and section 524 funds of $30,000, are available on a first-come, first-served basis.

800 units of new construction RA are available for section 515 requests.

The RHTSA reserve will be available on an as needed basis for SFH programs. For MF the reserve will be available only for patch-outs until April 1, 1992.

Pooling of unused RHTSA funds and RA is tentatively scheduled for July 3, 1992, and may be changed administratively, based upon fund usage.

All unused RHTSA funds and RA are subject to year-end pooling, tentatively scheduled for August 14, 1992.

100 COUNTIES ELIGIBLE IN FY 1992 FOR RHTSA FUNDS IMMEDIATELY AND AT POOLING

State	County name
Alabama	Dallas.
Alabama	Russell.
Alabama	Washington.
Alaska	Palmer.
Arizona	Apache.
Arizona	Coconino.
Arkansas	Desha.
Arkansas	Lee.
Arkansas	Lincoln.
Arkansas	Mississippi.
Arkansas	Woodruff.
Florida	Jefferson.
Georgia	Appling.
Georgia	Baker.
Georgia	Candler.
Georgia	Charlton.
Georgia	Clay.
Georgia	Echols.
Georgia	Emanuel.
Georgia	Jenkins.
Georgia	McIntosh.
Georgia	Pulaski.
Georgia	Screven .
Georgia	Taliaferro.
Georgia	Wheeler.
Idaho	Madison.
Kentucky	Bell.
Kentucky	Breathitt.
Kentucky	Casey.
Kentucky	Green.
Kentucky	Harlan.
Kentucky	Knott.
Kentucky	Knox.
Kentucky	Leslie.
Kentucky	Martin.
Kentucky	Robertson.
Kentucky	Whitley.
Louisiana	Catahoula.
Louisiana	Franklin.
Louisiana	Morehouse.
Louisiana	Richland.
Louisiana	St Landry.
Mississippi	Claiborne.
Mississippi	Greene.
Mississippi	Issaquena.
Mississippi	LeFlore.
Mississippi	Oktibbeha.
Mississippi	Washington.
Missouri	Pemiscot.
New Mexico	Mora.
New Mexico	San Juan.
North Carolina	Northampton.
North Dakota	Rolette.
North Dakota	Sioux.
Puerto Rico	Adjuntas.
Puerto Rico	Aguadilla.
Puerto Rico	Barranquitas.
Puerto Rico	Ciales.
Puerto Rico	Coamo.
Puerto Rico	Fajardo.
Puerto Rico	Guyama.
Puerto Rico	Humacao.
Puerto Rico	Jayuya.
Puerto Rico	Juana Diaz.
Puerto Rico	Rio Grande.
Puerto Rico	San Lorenzo.
Puerto Rico	San Sebastian.
Puerto Rico	Utuado.
South Caronlina	Jasper.
South Dakota	Charles Mix.
South Dakota	Corson.
South Dakota	Dewey.
South Dakota	Faulk
South Dakota	Jackson.
South Dakota	Mellette.
South Dakota	Shannon.
South Dakota	Todd.
Tennessee	Campbell.
Tennessee	Grainger.
Texas	Cochran.
Texas	Crosby.
Texas	Dimmit.
Texas	Duval.
Texas	Edwards.
Texas	Hudspeth.
Texas	Jim Wells.
Texas	Kenedy.
Texas	La Salle.
Texas	Maverick.
Texas	Presidio.
Texas	Real.
Texas	Reeves.
Texas	San Jacinto.
Texas	Zavala.
Virginia	Charlotte.
Virginia	Lee.
Virginia	Northampton.
Virginia	Scott.
West Virginia	Webster.

62 COUNTIES ELIGIBLE IN FY 1992 FOR RHTSA POOLED FUNDS ONLY

State	County name
Alabama	Clay.
Arkansas	Columbia.
Arkansas	Cross.
Arkansas	Jefferson.
Arkansas	Union.
Colorado	Dolores.
Florida	Glades.
Florida	Liberty.
Georgia	Dodge.
Georgia	Jasper.
Georgia	Laurens.
Georgia	Miller.
Georgia	Thomas.
Kentucky	Christian.
Kentucky	Garrard.
Kentucky	Madison.
Kentucky	Pulaski.
Louisiana	Acadia.
Louisiana	Assumption.
Louisiana	Iberville.
Louisiana	Sabine.
Minnesota	Clearwater.
Minnesota	Mahnomen.
Mississippi	Clarke
Mississippi	Monroe.
Missouri	Bollinger.
Missouri	Mercer.
Missouri	Oregon.
Missouri	Ozark.
Missouri	Reynolds.
Missouri	Scotland.
Missouri	Texas.
Missouri	Wayne.
Montana	Blaine.
New Mexico	Catron.
New Mexico	Torrance.
North Carolina	Perquimans.
North Carolina	Sampson.
North Carolina	Washington.
North Dakota	Benson.
Oklahoma	Okfuskee.
Texas	Bee.
Texas	Dawson.
Texas	Dickens.
Texas	Floyd.
Texas	Gaines.
Texas	Glasscock.
Texas	Gonzales.
Texas	Hale.
Texas	Jeff Davis.
Texas	Karnes.
Texas	Kleberg.
Texas	Lynn.
Texas	Madison.
Texas	Newton.
Texas	Parmer.
Texas	San Augustine.
Texas	Terry.
Virginia	Accomack.
West Virginia	Gilmer.
West Virginia	McDowell.
West Virginia	Monroe.

Dated: December 31, 1991.

La Verne Ausman,

Administrator, Farmers Home Administration.

[FR Doc. 92-2561 Filed 1-31-92; 8:45 am]

BILLING CODE 3410-07-M

Federal Grain Inspection Service

Request for Comments on the Applicants for Designation in the Geographic Area Currently Assigned to the Champaign (IL) Agency

AGENCY: Federal Grain Inspection Service (FGIS).

ACTION: Notice.

SUMMARY: FGIS requests interested persons to submit comments on the applicants for designation to provide official services in the geographic area currently assigned to Champaign-Danville Grain Inspection Departments, Inc. (Champaign).

DATES: Comments must be postmarked on or before March 19, 1992.

ADDRESSES: Comments must be submitted in writing to Homer E. Dunn, Chief, Review Branch, Compliance Division, FGIS, USDA, room 1647 South Building, P.O. Box 96454, Washington, DC 20090-6454. SprintMail users may respond to [A:ATTMAIL,O:USDA,ID:A36HDUNN]. ATTMAIL and FTS2000MAIL users may respond to !A36HDUNN. Telecopier users may send responses to the automatic telecopier machine at 202-720-1015, attention: Homer E. Dunn. All comments received will be made available for public inspection at the above address located at 1400 Independence Avenue, SW., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Homer E. Dunn, telephone 202-720-8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the December 2, 1991, **Federal Register** (56 FR 61223), FGIS asked persons interested in providing official services in the Champaign geographic area to submit an application for designation. Applications were to be postmarked by January 2, 1992. Champaign, Decatur Grain Inspection, Inc. (Decatur), and Thomas C. King and Gary Walker, proposing to incorporate and do business as Champaign-Danville Grain Inspection Departments, Inc. (King/Walker), each applied for the entire area currently assigned to Champaign.

FGIS is publishing this notice to provide interested persons the opportunity to present comments concerning the applicants for designation. Commenters are encouraged to submit reasons and pertinent data for support or objection to the designation of these applicants. All comments must be submitted to the Compliance Division at the above address.

Comments and other available information will be considered in making a final decision. FGIS will publish notice of the final decision in the **Federal Register**, and FGIS will send the applicant written notification of the decision.

Authority: Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: January 23, 1992.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 92–2507 Filed 1–31–92; 8:45 am]

BILLING CODE 3410-EN-F

Designation of the Frankfort (IN) and Jinks (IL) Agencies

AGENCY: Federal Grain Inspection Service (FGIS).

ACTION: Notice.

SUMMARY: FGIS announces the designation of Frankfort Grain Inspection, Inc. (Frankfort), and Robert H. Jinks dba Jinks Grain Weighing Service (Jinks), to provide official services under the United States Grain Standards Act, as amended (Act).

EFFECTIVE DATE: March 1, 1992.

ADDRESSES: Homer E. Dunn, Chief, Review Branch, Compliance Division, FGIS, USDA, room 1647 South Building, P.O. Box 96454, Washington, DC 20090-6454.

FOR FURTHER INFORMATION CONTACT: Homer E. Dunn, telephone 202-720-8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the September 1, 1991, **Federal Register** (56 FR 43580), FGIS announced that the designations of Frankfort and Jinks terminate on February 29, 1992, and asked persons interested in providing official services within the geographic areas currently assigned to these agencies to submit an application for designation. Applications were to be postmarked by October 3, 1991.

Frankfort and Jinks, the only applicants, each applied for the entire geographic area currently assigned to them. FGIS named and requested comments on the applicants for the Frankfort and Jinks area designations in the November 1, 1991, **Federal Register** (56 FR 56183). Comments were to be postmarked by December 16, 1991. FGIS received no comments by the deadline.

FGIS evaluated all available information regarding the designation criteria in section 7(f)(1)(A) of the Act; and according to section 7(f)(1)(B), determined that Frankfort and Jinks are able to provide official services in the geographic areas for which they applied.

Effective March 1, 1992, and terminating February 28, 1995, Frankfort is designated to provide official grain inspection and Class X or Class Y weighing, and Jinks is designated to provide Class X or Class Y weighing in the geographic areas specified in the September 1 **Federal Register**.

Interested persons may obtain official services by contacting Frankfort at 317-654-4602, and Jinks at 217-733-2714.

Authority: Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: January 23, 1992.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 92–2508 Filed 1–31–92; 8:45 am]

BILLING CODE 3410-EN-F

Request for Applications from Persons Interested in Designation to Provide Official Services in the Geographic Area Presently Assigned to the Eastern Iowa (IA) Agency

AGENCY: Federal Grain Inspection Service (FGIS).

ACTION: Notice.

SUMMARY: The United States Grain Standards Act, as amended (Act), provides that official agency designations shall end not later than triennially and may be renewed. The designation of Eastern Iowa Grain Inspection and Weighing Service, Inc. (Eastern Iowa), will terminate, according to the Act, and FGIS is asking persons interested in providing official services in the specified geographic area to submit an application for designation.

DATES: Applications must be postmarked on or before March 4, 1992.

ADDRESSES: Applications must be submitted to Homer E. Dunn, Chief, Review Branch, Compliance Division, FGIS, USDA, room 1647 South Building, P.O. Box 96454, Washington, DC 20090-6454. All applications will be made available for public inspection at this address located at 1400 Independence Avenue, SW., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Homer E. Dunn, telephone 202-720-8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act authorizes the Administrator of the FGIS to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services.

FGIS designated Eastern Iowa located at 1908 South Stark Street, Davenport, IA 52802, to officially inspect grain under the Act on August 1, 1989.

Section 7(g)(1) of the Act provides that designations of official agencies shall end not later than triennially and may be renewed according to the criteria and procedures prescribed in section 7(f) of the Act. The designation of Eastern Iowa ends on July 31, 1992.

The geographic area presently assigned to Eastern Iowa, in the States of Illinois and Iowa, pursuant to section 7(f)(2) of the Act, which will be assigned to the applicant selected for designation is as follows:

The southern area: Bounded on the North, in Iowa, by Interstate 80 from the western Iowa County line east to State Route 38; State Route 38 north to State Route 130; State Route 130 east to Scott County; the western and northern Scott County lines east to the Mississippi River;

Bounded on the East, from the Mississippi River, in Illinois, by the eastern Rock Island County line; the northern Henry and Bureau County lines east to State Route 88; State Route 88 south; the southern Bureau County line; the eastern and southern Henry County lines; the eastern Knox County line;

Bounded on the South by the southern Knox County line; the eastern and southern Warren County lines; the southern Henderson County line west to the Mississippi River; in Iowa, by the southern Des Moines, Henry, Jefferson, and Wapello County lines; and

Bounded on the West by the western and northern Wapello County lines; the western and northern Keokuk County lines; the western Iowa County line north to Interstate 80.

The northern area: Bounded on the North, in Iowa, by the northern Delaware and Dubuque County lines; in Illinois, by the northern Jo Daviess, Stephenson, Winnebago, Boone, McHenry, and Lake County lines;

Bounded on the East by the eastern Illinois State line south to the northern Will County line; the northern Will County line west to Interstate 55; Interstate 55 southwest to the southern Dupage County line;

Bounded on the South by the southern Dupage, Kendall, Dekalb, and Lee County lines; and

Bounded on the West by the western Lee and Ogle County lines; by the southern Stephenson and Jo Daviess County lines; in Iowa, by the southern Dubuque and Delaware County lines; and the western Delaware County line.

The following location, outside of the above contiguous geographic area, is part of this geographic area assignment: Leland Farmers Company, Leland, LaSalle County, Illinois (located inside Kankakee Grain Inspection Bureau, Inc.'s area).

Exceptions to Eastern Iowa's assigned geographic area are the following export port locations inside Eastern Iowa's area which have been and will continue to be serviced by FGIS: Cargill Elevator; Continental "B"; Continental "C"; Rialto Elevator; and Gateway Elevator, all in Chicago, Illinois.

Interested persons, including Eastern Iowa, are hereby given the opportunity to apply for designation to provide official services in the geographic area specified above under the provisions of section 7(f) of the Act and § 800.196(d) of the regulations issued thereunder. Designation in the specified geographic area is for the period beginning August 1, 1992, and ending July 31, 1995. Persons wishing to apply for designation should contact the Compliance Division at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated.

Authority: Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: January 23, 1992.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 92-2507 Filed 1-31-92; 8:45 am]

BILLING CODE 3410-EN-F

Food and Nutrition Service

Food Stamp Program: Maximum Allotments for Alaska, Hawaii, Guam, and the Virgin Islands

AGENCY: Food and Nutrition Service, USDA.

ACTION: General notice.

SUMMARY: The Department of Agriculture is updating the maximum food stamp allotments for participating households in Alaska, Hawaii, Guam, and the Virgin Islands. These adjustments, required by law, take into account changes in the cost of food and statutory adjustments.

EFFECTIVE DATE: October 1, 1991.

FOR FURTHER INFORMATION CONTACT: Judith M. Seymour, Supervisor, Eligibility and Certification Regulations Section, Certification Policy Branch, Program Development Division, Food Stamp Program, Food and Nutrition Service, USDA, Alexandria, Virginia 22302, (703) 756-2496.

SUPPLEMENTARY INFORMATION:

Publication

As required by law, State agencies implemented this action on October 1, 1991 based on advance notice of the new amounts. Based on regulations published at 47 FR 46485 (October 19, 1982) annual statutory adjustments to the maximum allotment levels, income eligibility standards, and deductions are issued by General Notices published in the **Federal Register** and not through rulemaking proceedings.

Classification

Executive Order 12291

This action has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been classified as non-major because it will not increase the Food Stamp Program's cost by more than $100 million annually. It will not result in a major increase in costs or prices except to the Federal Government, nor will it affect competition, productivity, employment, investment or innovation.

Executive Order 12372

The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in this Final rule and related Notice to 7 CFR part 3015, subpart V (48 FR 29116, June 24, 1983), this program is excluded from the scope of Executive Order No. 12372 which requires intergovernmental consultation with State and local officials.

Regulatory Flexibility Act

Betty Jo Nelsen, Administrator of the Food and Nutrition Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. The action will increase the amount of money spent on food through food stamps. However, this money will be distributed among the nation's food vendors, so the effect on any one vendor will not be significant.

Paperwork Reduction Act

This action does not contain reporting or recordkeeping requirements subject to review by the Office of Management and Budget.

Background

Thrifty Food Plan (TFP) and Allotments

The TFP is a plan for the consumption of foods of different types (food groups) that families might use to provide nutritious meals and snacks for family members. The plan suggests amounts of food for men, women, and children of different ages, and it meets most dietary standards. The cost of the TFP is adjusted monthly to reflect changes in the costs of the food groups.

The TFP is also the basis for establishing food stamp allotments. Food stamp allotments are adjusted periodically to reflect changes in food cost levels. Section 3(o)(11) of the Food Stamp Act of 1977, as amended (7 U.S.C. 2012(o)(11) provides for an adjustment on October 1, 1991, based upon 103 percent of the June 1991 cost of the TFP for a family of four persons consisting of a man and woman ages 20–50 and children 6–8 and 9–11. In June 1991, the cost of the TFP was $451 in Alaska, $578.20 in Hawaii, $530.70 in Guam, and $462.90 in the Virgin Islands.

The maximum food stamp benefit or allotment is paid to households which have no net income. For households which have some income, their allotment is determined by reducing the maximum allotment for their household size by 30 percent of the household's net income. To obtain the maximum food stamp allotment for each household size, the TFP costs for the four-person household were increased by 3 percent, dividual by four, multiplied by the appropriate household size and economy of scale factor, and the final result was rounded down to the nearest dollar.

Pursuant to section 3 of the Food Stamp Act (7 U.S.C. 2012(o)(3)), maximum food stamp benefits for Guam and the Virgin Islands cannot exceed those in the 50 States and D.C., so they are based upon the lower of their respective TFPs or the TFP for rural II Alaska. TFPs for Alaska and Hawaii are based upon an adjusted average for the six-month period that ends with June 1991. Since the Bureau of Labor Statistics (the source of food price data) no longer publishes monthly information to compute Alaska and Hawaii TFPs, the adjusted average provides a proxy for actual June 1991 TFP costs. The adjusted average is equal to January-June 1991 TFP costs for Alaska and Hawaii increased by the average percentage difference between the cost of the TFP in Alaska and Hawaii in June and the January-June average from 1976 through 1986 (a 1.53 percent increase over January-June costs in Alaska and a 1.82 percent increase in Hawaii). In addition, the urban Alaska allotment is the higher of the allotment that was in effect in urban areas on October 1, 1985 or 100.79 percent of the adjusted Anchorage TFP (see 50 FR 18456, dated May 1, 1984, and 51 FR 16281, dated May 2, 1986).

According to regulations published at 51 FR 16281, dated May 2, 1986, the allotment for rural I areas is the higher of the allotment that was in effect in each rural I area on October 1, 1985 or 128.52 percent of the Anchorage TFP (as adjusted). Nenana, Alaska was the only community designated as rural I by the May 1986 regulation which had a higher allotment on October 1, 1985 than 128.52 percent of the adjusted Anchorage TFP. Thus, beginning May 1, 1986 and continuing through Fiscal Year 1990, allotments for Nenana remained constant at the higher October 1, 1985 levels. Beginning with the October 1, 1990 adjustment, the amount which was 128.52 percent of the Anchorage TFP (as of June 1990) finally became higher than the allotments which were in effect on October 1, 1985 in Nenana. Thus, Nenana could begin to receive the identical allotment levels as all other rural I areas. Therefore, Nenana received the higher allotment levels given all other rural I Alaska areas during FY 1991. Since the allotments in effect in Nenana on October 1, 1985 continue to be lower than the allotment levels for all other rural I areas, Nenana will receive the higher, rural I, allotments during FY 1992 as well.

The rural II allotment is 156.42 percent of the adjusted Anchorage TFP (Alaska TFP). For further information concerning the allotments for urban Alaska, rural I Alaska, Nenana, and rural II Alaska, see 51 FR 16281, dated May 2, 1986.

The following table shows new allotments for urban Alaska, rural I Alaska rural II Alaska, Hawaii, Guam, and the Virgin Islands.

MAXIMUM ALLOTMENT AMOUNTS [1]—OCTOBER 1991 AS ADJUSTED

Household size	Urban Alaska [2]	Rural I Alaska [3]	Rural II Alaska [4]	Hawaii	Guam [5]	Virgin Islands [5]
1	$142	$181	$221	$181	$163	$149
2	261	333	405	333	300	262
3	374	477	580	477	430	375
4	475	606	737	606	546	476
5	564	719	875	720	649	566
6	677	863	1,051	864	778	679
7	748	954	1,161	955	860	750
8	855	1,091	1,327	1,091	983	858
Each Additional Member	+107	+136	+166	+136	+123	+107

[1] Adjusted to reflect the cost of food in June, adjustments for each household size, economies of scale, a 1.03 percent increase in the TFP and rounding.

[2] These levels are 100.79 percent of the Anchorage TFP, as adjusted.

[3] These levels are 128.52 percent of the Anchorage TFP, as adjusted. Nenana is included in rural I in accordance with regulations published at 51 FR 16281, dated May 2, 1986.

[4] These levels are 156.42 percent higher than the Anchorage TFP, as adjusted.

[5] Adjusted to reflect changes in the cost of food in the 48 States and DC, which correlate with price changes in these areas. Maximum allotments in these areas cannot exceed those in rural II Alaska.

Maximum allotments for the 48 States and DC were published in a separate notice in the **Federal Register**. These adjustments were made sooner than the adjustments for Alaska, Hawaii, Guam and the Virgin Islands because the data to accomplish the update for the 48 States and DC were available sooner than the data for the other areas.

(7 U.S.C. 2011–2032)

Dated: January 23, 1992.

Betty Jo Nelsen,

Administrator.

[FR Doc. 92–2417 Filed 1–31–92; 8:45 am]

BILLING CODE 3410-30-M

Food and Nutrition Services

Food Stamp Program: Maximum Allotments for the 48 States and DC, and Income Eligibility Standards and Deductions for the 48 States and DC, Alaska, Hawaii, Guam, and the Virgin Islands

AGENCY: Food and Nutrition Service, USDA.

ACTION: General notice.

SUMMARY: The Department of Agriculture is updating: (1) The maximum allotment levels, which determine the maximum amount of food stamps which participating households receive, (2) the gross and net income limits for food stamp eligibility which certain households may have, and (3) the standard deduction and maximum amounts for the excess shelter expense deduction available to certain households. These adjustments, required by law, take into account changes in the cost of living and statutory adjustments.

EFFECTIVE DATE: October 1, 1991.

FOR FURTHER INFORMATION CONTACT: Judith M. Seymour, Supervisor, Eligibility and Certification Regulations Section, Certification Policy Branch, Program Development Division, Food Stamp Program, Food and Nutrition Service, USDA, Alexandria, Virginia 22302, (703) 305–2496. Copies of the Regulatory Impact Analysis, which is summarized in this preamble, are also available from Ms. Seymour.

SUPPLEMENTARY INFORMATION:

Publication

As required by law, State agencies implemented this action on October 1, 1991 based on advance notice of the new amounts. Based on regulations published at 47 FR 46485–46487 (October 19, 1982) annual statutory adjustments to the maximum allotment levels, income eligibility standards, and deductions are issued by General Notices published in the **Federal Register** and not through rulemaking proceedings.

Classification

Executive Order 12291

This action has been reviewed under Executive Order 12291 and Secretary's Memorandum 1512–1. The Department considers it a major action because it will increase the Food Stamp Program's cost by more than $100 million. It will not result in a major increase in costs or prices except to the Federal Government, not will it affect competition, productivity, employment, investment or innovation.

Executive Order 12372

The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the Final rule related Notice(s) to 7 CFR part 3015, subpart V (48 FR 29116, June 24, 1983), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Regulatory Flexibility Act

Betty Jo Nelsen, Administrator of the Food and Nutrition Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. The action will increase the amount of money spent on food through food stamps. However, this money will be distributed among the nation's food vendors, so the effect on any one vendor will not be significant.

Paperwork Reduction Act

This action does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget (OMB).

Regulatory Impact Analysis

Need for Action

This action is required by sections 3(o) (1) and (11), 5(c) and 5(e)(4) of the Food Stamp Act of 1977, as amended (7 U.S.C. Secs. 2012(o) (1) and (11), 2014(c), and 2014(e)(4)).

Section 3(o)(11) requires that the October 1, 1991 change in food stamp allotments be based upon 103 percent of the June 1991 cost of the Thrifty Food Plan (TFP) for a family of four persons consisting of a man and woman ages 20–50 and children 6–8 and 9–11. Adjustments are made to take into account household size, economies of scale and a requirement to round the final results down to the nearest dollar increments. Section 5(c) requires that the income eligibility standards for the program be adjusted on October 1, 1991 based on changes in the Federal income poverty guidelines. Section 5(e)(4) requires that the standard deductions and the maximum amounts for the excess shelter expense deductions be adjusted on October 1, 1991 to the nearest lower dollar increments to reflect certain changes for the 12 months ending June 30, 1991.

Benefits

This action increases maximum food stamp allotments, income eligibility standards, and deductions based on the changing cost of living.

Costs

It is estimated that this action will increase the cost of the Food Stamp Program by approximately $1.488 billion in Fiscal Year 1992.

Background

Income Eligibility Standards

The eligibility of households for the Food Stamp Program, except those in which all members are receiving public assistance (PA) or supplemental security income benefits (SSI), is determined by comparing their incomes to the appropriate income eligibility standards (limits). Households containing an elderly or disabled member need to have net incomes below the net income limits, while households which do not contain an elderly or disabled member must have net incomes below the net income limit and gross incomes below the gross income limit. Households in which all members are receiving PA or SSI are categorically eligible; their incomes do not have to be below the income limits.

In addition, elderly individuals (and their spouses) who are unable to prepare meals because of certain disabilities, may be considered separate households, even if they are living and eating with another household. 7 U.S.C. 2012(i). The Act limits separate household status to those persons who meet both of the following requirements:

(1) Their own income may not exceed the net income eligibility standards, and

(2) The income of those with whom they reside may not exceed 165 percent of the poverty line.

The net and gross income are derived from the Federal income poverty guidelines. The net income limit is 100 percent of the guidelines; the gross income limit is 130 percent of the guidelines. The guidelines are updated annually. Based on that update, the Food Stamp Program's income eligibility standards are updated annually. The effective date of October 1 is required by the Food Stamp Act of 1977, as amended.

The revised income eligibility standards are as follows.

FOOD STAMP PROGRAM

[Oct. 1, 1991–Sept. 30, 1992]

Household size	48 States[1]	Alaska	Hawaii
Net Monthly Income Eligibility Standards (100 Percent of Poverty Level)			
1	$552	$691	$635
2	740	926	851
3	929	1,161	1,068
4	1,117	1,396	1,285
5	1,305	1,631	1,501
6	1,494	1,866	1,718
7	1,682	2,101	1,935
8	1,870	2,336	2,151
Each additional person	+189	+235	+217
Gross Monthly Income Eligibility Standards (130 Percent of Poverty Level)			
1	718	899	825
2	962	1,204	1,107
3	1,207	1,510	1,388
4	1,452	1,815	1,670
5	1,697	2,121	1,952
6	1,942	2,426	2,233
7	2,187	2,732	2,515
8	2,431	3,037	2,797
Each additional person	+245	+306	+282
Gross Monthly Income Eligibility Standards for Households Where Elderly Disabled Are a Separate Household (165 Percent of Poverty Level)			
1	911	1,140	1,047
2	1,221	1,528	1,404
3	1,532	1,916	1,762
4	1,843	2,304	2,119
5	2,154	2,691	2,477
6	2,464	3,079	2,834
7	2,775	3,467	3,192
8	3,086	3,855	3,549
Each additional person	+311	+388	+358

[1] Includes District of Columbia, Guam, and the Virgin Islands.

Thrifty Food Plan (TFP) and Allotments

The TFP is a plan for the consumption of foods of different types (food groups) that families might use to provide nutritious meals and snacks for family members. The plan suggests amounts of food for men, women, and children of different ages, and it meets dietary standards. The cost of the TFP is adjusted to reflect changes in the costs of the food groups.

The TFP is also the basis for establishing food stamp allotments. Food stamp allotments are adjusted periodically to reflect changes in food cost levels. Section 3(o)(11) of the Food Stamp Act of 1977, as amended (7 U.S.C. 2012(o)(11)), provides for an adjustment on October 1, 1991, based upon 103 percent of the June 1991 cost of the TFP for a family of four persons consisting of a man and woman ages 20–50 and children 6–8 and 9–11. In June 1991, the cost of the TFP was $360.10 in the 48 States and DC.

To obtain the maximum food stamp benefit for each household size, June 1991 TFP costs for the four-person household (of $360.10) were increased by 3 percent, divided by four, multiplied by the appropriate household size and economy of scale factor, and the final result was rounded down to the nearest dollar. The maximum benefit, or allotment, is paid to households which have no net income. For households which have some income, the individual household's allotment is determined by reducing the maximum allotment for the household's size by 30 percent of the individual household's net income.

The following table shows the net allotments for the 48 States and DC.

ALLOTMENT AMOUNTS [1]—OCTOBER 1991 AS ADJUSTED

Household size	48 States and D.C.
1	$111
2	203
3	292
4	370
5	440
6	528
7	584
8	667
Each additional person	+83

[1] Adjusted to reflect the cost of food in June, adjustments for each household size, economies of scale, a 3 percent increase in the TFP and rounding.

Deductions

Food stamp benefits are calculated on the basis of an individual household's net income. Deductions serve to lower household net income and thus to increase household benefits. When a household's net income decreases, its food stamp benefits increase.

The standard deduction is available to all households. The excess shelter expense deduction is available to households with extremely high shelter costs. There is a maximum amount for the excess shelter deduction for households with no elderly or disabled members but no maximum for households with elderly or disabled members. The standard deduction and the maximum amount for the excess shelter expense deduction for households with no elderly or disabled members are being adjusted by this Notice.

Adjustment of the Standard Deduction

Section 5(e) of the Food Stamp Act of 1977, as amended, provides that in computing household income, households shall be allowed a standard deduction. 7 U.S.C. 2014(e). This section of the Act also requires that this deduction be adjusted periodically. This deduction was last adjusted effective October 1, 1990. The Act requires that the adjustment in the level of the standard deduction shall take into account changes in the Consumer Price Index for All Urban Consumers (CPI–U) published by the Bureau of Labor Statistics (BLS) for items other than food. 7 U.S.C. 2014(e)(4). The adjustments are rounded to the nearest lower dollar pursuant to the requirements of Sec. 5(e). There are separate standard deductions for the 48 States and D.C., Alaska, Hawaii, Guam, and the Virgin Islands.

The following table shows the deductions resulting from the last adjustment, the unrounded results of this adjustment, and the new deduction amounts that went into effect on October 1, 1991.

STANDARD DEDUCTIONS FOR ALL HOUSEHOLDS

	Previous standard deductions (effective 10–1–90)	New unrounded numbers (10–1–91)	Standard deductions (effective 10–1–91)
48 States and DC	$116	$122.69	$122
Alaska	199	209.27	209
Hawaii	165	173.21	173
Guam	233	245.35	245
Virgin Islands	103	108.25	108

Adjustment of the Shelter Deduction

Section 5(e) of the Food Stamp Act of 1977, as amended, also provides that, in computing household income, households shall be allowed a deduction for certain excess shelter expenses. 7 U.S.C. 2014(e). There is a maximum amount for the excess shelter expense deduction, unless the household has an elderly or disabled member, in which case there is no maximum. The maximum amount for the excess shelter expense deduction is adjusted annually each October 1 based on changes in the shelter, fuel and utilities components of housing costs in the CPI–U published by BLS. There are separate shelter deductions for the 48 States and DC, Alaska, Hawaii, Guam, and the Virgin Islands.

The following table shows the maximum shelter deductions resulting from the last adjustment, the unrounded results of this adjustment, and the new maximum excess shelter deductions that went into effect October 1, 1991.

MAXIMUM SHELTER DEDUCTIONS FOR HOUSEHOLDS WITHOUT ELDERLY OR DISABLED MEMBER

	Previous shelter deductions (effective 10–1–90)	New unrounded numbers (10–1–91)	Shelter deductions (effective 10–1–91)
48 States and DC	$185	$194.13	$194
Alaska	323	337.36	337
Hawaii	265	276.99	276
Guam	225	235.56	235
Virgin Islands	137	143.23	143

(7 U.S.C. 2011–2032)

Dated: January 24, 1992.

Catherine Bertini,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 92–2416 Filed 1–31–92; 8:45 am]

BILLING CODE 3410–30–M

Forest Service

Trail Creek II Timber Sale, Boise National Forest, Boise County, ID; Intent To Prepare an Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement (EIS) for the Trail Creek II Timber Sale which is located on the Lowman Ranger District, Boise National

Forest. The project area, which lies southwest of the Deadwood Reservoir, is located approximately 100 miles northeast of Boise.

The Trail Creek II Timber Sale Area was analyzed under the Trail Creek Timber Sale Environmental Assessment in June, 1983. The Deciding Officer issued a Finding of No Significant Impact for timber harvesting within the analysis area in July, 1983. Following completion of the EA and the FONSI, the Trail Creek portion of the analysis area was pre-roaded to provide access for timber harvest. After completion of the road construction, the Trail Creek Timber Sale, which covered the northern two-thirds of the EA analysis area, was sold. The Trail Creek II Timber Sale, described in the 1990 Boise National Forest Plan as part of the Forest's Allowable Sale Quantity (ASQ), occurs in the southern one-third of the original EA analysis area. Trail Creek II has been scheduled in the Forest's 5-year Timber Sale Action Plan and the Firm and Tentative Sale Program for Offering by FY 1995.

A review of the 1983 Trail Creek EA indicates a need to supplement the original analysis and disclosure of effects to address current concerns and include standards described in the Boise National Forest Plan. A new analysis will be accomplished with the Trail Creek II EIS.

The agency invites written comments and suggestions on the scope of the analysis. The agency also hereby gives notice of the environmental analysis and decision-making process that will occur on the proposal so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATES AND TIMEFRAMES: The proposal has been previously scoped with a field trip and two mailings. A public field trip to the Trail Creek II Project Area was held on July 31, 1991 by staff from the Supervisor's Office and the Lowman Ranger District. Scoping letters were mailed from the Lowman Ranger District on September 14, 1990, and another set was mailed from the Boise National Forest Supervisor's Office on July 16, 1991 to people who may be affected by the decision.

Additionally, a legal notice and a public notice, which coincided with the first and second mailings respectively were published in the Idaho World and Idaho Statesman newspapers. Comments received from the field trip, the letters, and the notices, were used to guide the initial National Forest Management Act (NFMA) portion of the analysis.

Additional written comments concerning the proposal are encouraged. To be considered in the Draft Environmental Impact Statement (DEIS), comments should be submitted within 30 days following the publication of this announcement in the **Federal Register**.

ADDRESSES: Submit written comments to: District Ranger, Lowman Ranger District, Boise National Forest, HC77 Box 3020, Lowman, Idaho 83637.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed action and EIS to Chris L. Wagner, Project Leader, Lowman Ranger District, 208-259-3361.

SUPPLEMENTARY INFORMATION: The purpose of the proposed action is to implement the Boise National Forest Land and Resource Management Plan by treating timber stands within the project area. Specifically, management direction will attempt to do the following: (1) Improve forest health and the growth of timber stands, (2) contribute to the Forest's ASQ, (3) protect and enhance fisheries and wildlife habitat, and (4) enhance recreation opportunities.

Alternatives to the proposal will consider lesser amounts of individual activities and various combinations of the activities. The most significant differences between alternatives will be: (1) If any inventoried roadless area is treated; and (2) the amount of inventoried roadless area that is treated. A No Action (the project will not take place) alternative will also be considered in the analysis.

As lead agency, the Forest Service will analyze and document direct, indirect and cumulative environmental effects of the range of alternatives. Each alternative will include mitigation measures and monitoring requirements.

The EIS will tier to the Boise National Forest Land and Resource Management Plan (Forest Plan) FEIS (1990) which specifies goals, objectives, desired future conditions, management area direction and standards for the project area. The project area is located in the Lightning Creek and Deadwood Management Areas. Management direction for these areas emphasizes wildlife, timber, range, and visuals.

Preliminary issues for the proposal that have been identified to date include the following:

1. Timber stand conditions and forest health. Insect populations have caused increased growth loss and mortality.

2. Fish Habitat. Removal of barriers from Trail Creek is necessary to improve habitat.

3. Big game vulnerability and roads. Big game (elk, mule deer, and black bear) may be adversely affected if roads built within the project area remain open to hunting traffic at the conclusion of a timber harvest.

4. Eagle/osprey nesting and rearing sites. Nesting and rearing sites used by these species in the vicinity of Deadwood Reservoir may be adversely affected by a timber sale.

5. Threatened and Endangered Species. The Idaho Mountain Primrose may exist within the project area.

6. Water quality in the Deadwood River. Management activities on tributaries of the Deadwood River may affect its designation as a "stream segment of concern."

7. Shaded fuelbreaks. Shaded fuelbreaks, which were specified for use on the original Trail Creek Environmental Assessment, may no longer be of significant benefit for fire protection. The original brush disposal (BD) plan for the project area needs review for current standards and technology.

8. Cultural resources. A cultural resources survey will have to be completed for the project area.

9. Visual quality. Current desired future conditions and standards for visual quality within the project area were not addressed in the original EA. Two areas of concern are the viewsheds for the Deadwood Reservoir and the Lightning Ridge Trail.

10. Roadless/wilderness. Harvest prescriptions 6, 7, and 8 are within the Forest's Peace Rock Inventoried Roadless Area. All of the proposed harvest prescriptions (6, 7, 8, 18, 19, 20, 21, 22, and 23) are within the Kostmayer (HR 2213) Congressionally Proposed Wilderness Area. Timber harvest within the roadless/undeveloped areas may reduce wilderness characteristics and preclude the project area from future wilderness designation.

11. Trail usage. A timber harvest could close or damage, or otherwise interfere with, existing trails and trailheads.

12. Road use. Logging truck traffic could conflict with public use of roads which provide access to the Deadwood Reservoir area.

13. Economic feasibility/below cost sale. Careful sale design will be necessary to ensure that the sale yields more benefits than the costs associated with preparation and administration.

The scoping process for this project is intended to further define these and other preliminary issues.

Federal, State and local agencies, potential purchasers, and other organizations and individuals who may be interested in or affected by the decision are invited to participate in the scoping process. This process includes:

—Identifying significant issues.

—Determining potential cooperating agencies.

—Identifying groups or individuals interested or affected by the decision.

The analysis is expected to take approximately three months.

The draft environmental impact statement (DEIS) is scheduled to be completed and available for public review by June, 1992. The final environmental impact statement and Record of Decision are scheduled to be completed by August, 1992.

Morris Huffman, District Ranger, Lowman Ranger District, Boise National Forest, is the responsible official.

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency's notice of availability appears in the **Federal Register**. It is very important that those interested in the proposed action participate at that time. To be the most helpful, comments on the DEIS should be a specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see The Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3).

In addition, Federal court decisions have established that reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contents. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement. *City of Angoon* v. *Hodel*, (9th Circuit, 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to insure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the FEIS.

Dated: January 22, 1992.

Morris D. Huffman,

District Ranger, Lowman Ranger District, Boise National Forest.

[FR Doc. 92-2464 Filed 1-31-92; 8:45 am]

BILLING CODE 3410-11-M

Wild and Scenic River Suitability Study for Steamboat Creek, Umpqua National Forest, Douglas and Lane Counties, OR

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare a legislative environmental impact statement.

SUMMARY: Notice is hereby given that the Forest Service, USDA, will prepare a draft legislative environmental impact statement (LEIS) to determine the suitability or non-suitability of Steamboat Creek on the Umpqua National Forest for inclusion into the National Wild and Scenic Rivers System. The Forest Service invites written comments on management of Steamboat Creek and the scope of this project. In addition, the agency gives notice of this analysis so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATE: Comments concerning the scope and implementation of this proposal must be received by February 29, 1992.

ADDRESS: Submit written comments and suggestions concerning the scope of the analysis to Lee F. Coonce, Forest Supervisor, Umpqua National Forest, P.O. Box 1008, Roseburg, Oregon, 97470.

FOR FURTHER INFORMATION CONTACT: Questions and comments about this LEIS should be directed to Nancy Peckman, Interdisciplinary Team Leader, North Umpqua Ranger District, 18782 North Umpqua Highway, Glide, Oregon, 97443, phone (503) 496-3532.

SUPPLEMENTARY INFORMATION: The Omnibus Oregon Wild and Scenic Rivers Act of 1988 amended section 5(a) of the Wild and Scenic Rivers Act (Public Law 90-542, 82 Stat. 910, as amended) to include Steamboat Creek. Section 4(a) of the Act requires that rivers identified in section 5(a) shall be studied to show "* * * the characteristics which do or do not make the area a worthy addition to the system".

The eligible segment flows approximately 24 miles from the East Fork of Steamboat Creek downstream to its confluence with the North Umpqua River. The upper termini of the study area begins at the source of the East Fork in the middle of Section 1, Township 24 South, Range 2 East. Also included are lands generally within ¼ mile from each stream bank. Two outstanding remarkable values have been identified for this area: Fisheries and prehistoric. The Forest Service proposed action is to conduct a study to determine the suitability of Steamboat Creek for Wild and Scenic River designation. Preliminary alternatives will consider designation of the study segment as a Wild and Scenic River, in addition to other alternatives, such as recreation or scenic designations, to protect the river's identified values.

Lee F. Coonce, Forest Supervisor, Umpqua National Forest is the responsible official for preparing the suitability study. Edward R. Madigan, Secretary of Agriculture, U.S. Department of Agriculture, room 200-A, Administration Building, Washington, DC, 20250 is the responsible official for recommending wild and scenic river designation.

Public participation will be especially important at several points during the study process. The Forest Service will be seeking information, comments, and assistance from Federal, State and local agencies, tribes and other individuals or organizations who may be interested in or affected by this project. This information will be used in preparation of the draft LEIS.

Two public meetings will be held at the Umpqua National Forest Supervisor's Office on February 4 and 11, 1992 from 7-9 p.m. An Open House is also scheduled at the Supervisor's Office on February 11, 1992 from 2-7 p.m. The Supervisor's office is located at 2900 NW Stewart Parkway Roseburg, OR.

The draft LEIS is expected to be filed with the Environmental Protection Agency (EPA), and available for public review by May 1992. At that time, copies of the draft LEIS will be distributed to interested and affected agencies, organizations, and members of the public for their review and comment. EPA will publish a notice of availability of the draft LEIS in the **Federal Register**.

The comment period on the draft LEIS will be 90 days from the date the EPA notice appears in the **Federal Register**. It is very important that those interested in the management of the Umpqua National Forest participate at that time.

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft LEIS's must structure their participation in the environmental review of the proposal so that it is meaningful and alerts the agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft LEIS stage but that are not raised until after completion of the final LEIS may be waived or dismissed by the courts. *City of Angoon*

v. *Hodel*, 803 f. 2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this project participate by the close of the comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final LEIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft LEIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft LEIS. Comments may also address the adequacy of the draft LEIS or merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions on the National Environmental Policy Act, 40 CFR 1503.3).

After the comment period ends on the draft LEIS, comments will be analyzed and considered by the Forest Service in preparing the final LEIS. In the final LEIS, the Forest Service is required to respond to comments received (40 CFR 1503.4). The final LEIS is scheduled to be completed by October 1992. The Secretary of Agriculture will consider the comments, responses, and consequences discussed in the LEIS, applicable laws, regulations, and policies in making a recommendation to the President regarding the suitability of this river for inclusion into the National Wild and Scenic Rivers System. The final decision on inclusion of a river in the National Wild and Scenic Rivers System rests with the Congress of the United States.

Dated: January 28, 1992.

Mark A. Reimers,

Deputy Chief, Programs and Legislation.

[FR Doc. 92-2402 Filed 1-31-92; 8:45 am]

BILLING CODE 3410-11-M

Packers and Stockyards Administration

Posting of Stockyards

Pursuant to the authority provided under section 302 of the Packers and Stockyards Act (7 U.S.C. 202), it was ascertained that the livestock markets named below were stockyards as defined by section 302(a). Notice was given to the stockyard owners and to the public as required by section 302(b), by posting notices at the stockyards on the dates specified below, that the stockyards were subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*).

	Facility No., name, and location of stockyard	Date of posting
AL-185	Southern Star Stockyard, Inc, Rogersville, Alabama.	Dec. 2, 1991.
AL-186	Wood's Livestock Market, Ohatchee, Alabama.	Dec. 1, 1991.
DF-102	S & J Villari Livestock, Gumboro, Delaware.	Dec. 18, 1991.
MN-188	Central Livestock Association, Inc. Albany, Minnesota.	Nov. 27, 1991.

Done at Washington, D.C. this 28th day of January, 1992.

Harold W. Davis,

Director, Livestock Marketing Division, Packers and Stockyards Administration.

[FR Doc. 92-2502 Filed 1-31-92; 8:45 am]

BILLING CODE 3410-KM

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of Export Administration.

Title: International Import Certificate.

Form Numbers: BXA-645P; EAR Section 786.2.

OMB Approval Number: 0694-0017.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 4,314 hours.

Number of Respondents: 17,252.

Avg Hours Per Response: 15 minutes.

Needs and Uses: This collection of information is the certificate of the U.S. importer to the U.S. Government that he/she will import specific commodities into the U.S. and will not reexport such commodities except in accordance with U.S. export regulations.

Affected Public: Businesses or other for-profit institutions; small businesses or organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Gary Waxman, (202) 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 377-3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Gary Waxman, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: January 28, 1992.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 92-2481 Filed 1-31-92; 8:45 am]

BILLING CODE 3510-CW

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: 1992 Census of Transportation, Communications, and Utilities.

Form Number(s): Various.

Agency Approval Number: None.

Type of Request: New collection.

Burden: 276,000 hours.

Number of Respondents: 195,000.

Avg Hours Per Response: 1 hour and 25 minutes.

Needs and Uses: The Census Bureau will conduct the census of transportation, communications, and utilities as part of the 1992 Economic Censuses. The economic censuses are the primary source of facts about the structure and functioning of the Nation's economy. They provide essential information for government, business, and the public. In particular, census results serve as part of the framework for the national accounts; furnish sampling frames and benchmarks for economic surveys; and provide detailed, comprehensive information for use in policy making, planning, and program administration.

The 1992 Census of Transportation, Communications, and Utilities will use a mail canvass, supplemented by data from Federal administrative records, to measure the economic activity of nearly 0.9 million establishments classified in Division E of the Standard Industrial Classification. This sector is comprised mainly of establishments engaged in providing passenger and freight transportation; communications services; and electricity, gas, steam, water, or sanitary services to the general public or to other business enterprises.

Affected Public: Businesses or other for-profit organizations, non-profit institutions, small businesses or organizations.

Frequency: Every 5 years.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Maria Gonzalez, (202) 395-7313.

Agency: Bureau of the Census.

Title: Construction Project Report (Private Construction Projects).

Form Number(s): C-700.

Agency Approval Number: 0607-0153.

Type of Request: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

Burden: 12,000 hours.

Number of Respondents: 4,000.

Avg Hours Per Response: 15 minutes.

Needs and Uses: The Form C-700 is one of the three questionnaires used in the Construction Progress Reporting Surveys (CPRS). Statistics from the CPRS become part of the monthly value of new construction put in place series used by government agencies and private companies to monitor the amount of construction work done each month. These statistics are used by all levels of government to evaluate economic policy, to measure progress toward national goals, to make policy decisions, and to formulate legislation. The Census Bureau uses the information collected on the Form C-700 to publish estimates of the dollar value of new construction put in place at nonresidential building projects owned by private companies or individuals. These projects include industrial and manufacturing plants; office buildings; retail and service establishments such as shopping centers and restaurants; religious buildings; private schools and universities; hospitals and clinics; and miscellaneous buildings including recreational buildings, airline terminals, etc.

Affected Public: Businesses or other for-profit organizations, individuals or households.

Frequency: Monthly.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Maria Gonzalez, (202) 395-7313.

Copies of the above information collection proposals can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 377-3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: January 28, 1992.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 92-2487 Filed 1-31-92; 8:45 am]

BILLING CODE 3510-07-F

Foreign-Trade Zones Board

[Docket 79-91]

Foreign-Trade Zone 72—Indianapolis, IN; Application for Subzone; Hurco Machine Tool Plant, Indianapolis, IN; Extension of Public Comment Period

The comment period for the above case, requesting authority for special-purpose subzone status for the machine tool manufacturing facility of Hurco Companies, Inc., in Indianapolis, Indiana (56 FR 65040, 12/13/91), is extended to March 12, 1992, to allow interested parties additional time in which to comment on the proposal.

Comments in writing are invited during this period. Submissions should include 5 copies. Material submitted will be available at: Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, room 3716, 14th & Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: January 27, 1992.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 92-2543 Filed 1-31-92; 8:45 am]

BILLING CODE 3510-DS-M

[Docket No. 22-91]

Foreign-Trade Zone 151—Findlay, OH; Withdrawal of Application for Manufacturing for Findlex Corporation

Notice is hereby given of the withdrawal of the application submitted by the Community Development Foundation, grantee of FTZ 151, requesting authority for manufacturing for the auto and golf cart brake parts manufacturing plant for Findlex Corporation in Findlay, Ohio. The application was formally docketed on April 10, 1991.

The withdrawal is requested by the applicant because of changed circumstances, and the case has been closed without prejudice.

Dated: January 28, 1992.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 92-2544 Filed 1-31-92; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-351-602]

Carbon Steel Butt-Weld Pipe Fittings From Brazil Determination Not To Revoke Antidumping Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of determination not to revoke antidumping duty order.

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the antidumping duty order on carbon steel butt-weld pipe fittings from Brazil.

EFFECTIVE DATE: February 3, 1992.

FOR FURTHER INFORMATION CONTACT: Jay Camillo or Robert Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION: On December 13, 1991 the Department of Commerce (the Department) published in the Federal Register (56 FR 65041) its intent to revoke the antidumping duty order on carbon steel butt-weld pipe fittings from Brazil (51 FR 45152), December 17, 1986. The Department may revoke an antidumping duty order if the Secretary of Commerce concludes that it is no longer of interest to interested parties.

We had not received a request to conduct an administrative review of this order for the last four consecutive annual anniversary months and therefore published a notice of intent to revoke pursuant to § 353.25(d)(4) of the Department's regulations (19 CFR 353.25(d)(4)).

On December 30, 1991, McKenna & Cuneo, counsel to the petitioners and Harris & Ellsworth, counsel to Hackney, Inc., an interested party, objected to our intent to revoke this order. Therefore, we no longer intend to revoke the order.

Dated: January 23, 1992.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 92-2545 Filed 1-31-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-351-605]

Frozen Concentrated Orange Juice From Brazil; Preliminary Results and Termination in Part of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of preliminary results and termination in part of antidumping duty administrative review.

SUMMARY: In response to requests by petitioner and a respondent, the Department of Commerce has conducted an administrative review of the antidumping duty order on frozen concentrated orange juice (FCOJ) from Brazil. The review covers two producers and/or exporters of this merchandise to the United States and the period May 1, 1990 through April 30, 1991. We preliminarily determine the weighted-average dumping margins for both respondents, Frutropic and Branco Peres Citrus, during this period to be zero.

Because Citrosuco Paulista, Cargill Citrus Ltda., Coopercitrus Industrial Frutesp, and Montecitrus Trading were revoked from the antidumping duty order in the final results of the last review (56 FR 52510; October 21, 1991), we are terminating the review with respect to those four firms. Because Bacitrus Agro-Industria is a subsidiary of Citrosuco Paulista and exports no FCOJ under its own name, we are also terminating the review with respect to Bacitrus. In addition, Citrovale, another company for which a review was requested and initiated, made no sales of FCOJ to the United States during the review period. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: February 3, 1992.

FOR FURTHER INFORMATION CONTACT: Philip Pia or Michael Rollin, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On May 21, 1991, the Department of Commerce (the Department) published in the **Federal Register** a notice of "Opportunity to Request Administrative Review" (56 FR 23271) of the antidumping duty order on frozen concentrated orange juice from Brazil (52 FR 16426; May 5, 1987). In May 1991, Florida Citrus Mutual, the petitioner, and five respondents requested an administrative review of the order. We initiated the review, covering the period May 1, 1990 through April 30, 1991, on June 18, 1991 (56 FR 27943). Because four respondents, Cargill Citrus Ltda., Citrosuco Paulista, Coopercitrus Industrial Frutesp, and Montecitrus Trading, were revoked from the antidumping duty order in the final results of the last review (56 FR 52510; October 21, 1991), the Department is terminating the review of their sales for this period. Because Bacitrus Agro-Industria is a subsidiary of Citrosuco Paulista and exports no FCOJ under its own name, we are terminating the review with respect to Bacitrus. Citrovale made no sales of FCOJ to the United States during the review period. The Department has now conducted the review for the remaining two companies, Frutropic and Branco Peres Citrus, in accordance with section 751 of the Tariff Act of 1930 (the Act). The final results of the last administrative review were published on October 21, 1991 (56 FR 52510).

Scope of the Review

Imports covered by the review are shipments of frozen concentrated orange juice (FCOJ) from Brazil. The merchandise is currently classifiable under item 2009.11.00 of the Harmonized Tariff Schedule (HTS). The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

United States Price

In calculating the United States price, we used purchase price and exporter's sales price (ESP) as defined in section 772 of the Act. For those sales made directly to unrelated parties prior to importation into the United States, we based United States price on purchase price, in accordance with section 772(b) of the Act. Where sales to the first unrelated purchaser occurred after importation into the United States, we based United States price on ESP, in accordance with section 772(c) of the Act.

Purchase price was based on the packed f.o.b. price to unrelated purchasers in the United States. ESP was based on the packed delivered price to the first unrelated purchaser in the United States. For purchase price sales, where applicable, we made deductions for Brazilian brokerage expenses, discounts, export taxes, port fees, foreign inland freight and insurance. For ESP sales, we made deductions for discounts, U.S. duty and Customs' fees, harbor maintenance fees, U.S. inland freight and insurance, brokerage and handling expenses, ocean freight and marine insurance, credit expenses and indirect selling expenses. No other adjustments were claimed or allowed.

Foreign Market Value

The Department based foreign market value on third country f.o.b. price, in accordance with section 773 of the Act. We made deductions, were appropriate, for foreign inland freight, marine insurance, and export taxes. Where applicable, we deducted foreign packing expenses and added U.S. packing to home market price (packing costs were not incurred on bulk sales). We adjusted foreign market value for differences in credit expenses. In the case of comparisons to ESP sales, we made an adjustment for indirect selling expenses, limited by the amount of indirect selling expenses incurred in the United States. No other adjustments were claimed or allowed. Where distortions would have been created through the use of a monthly foreign market value, we calculated foreign market value for shorter periods. As we have done in previous reviews of this order, each such period begins when there was a significant change in the Minimum Export Price.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine the weighted-average margins for the period May 1, 1990 through April 30, 1991 to be:

Manufacturer/exporter	Margin (percent)
Branco Peres Citrus S.A.	Zero
Frutropic S.A.	Zero

Parties to the proceeding may request disclosure within five days and interested parties may request a hearing not later than ten days after the date of publication of this notice. Interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted no later than seven days after the time limit for filing the case brief. Any hearing, if requested, will be held seven days after the scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 353.35(e).

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than ten days after the representive's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under 19 CFR 353.38(c), are due.

The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, the following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed companies will be that established in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this review, but covered in previous reviews or the original less-than-fair-value investigation, the cash deposit rate will continue to be the company-specific rate published in the final results or final determination covering the most recent period; (3) if the exporter is not a firm covered in this review, previous reviews, or the original investigation, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in the final results of this review, or if not covered in this review, the most recent period or the original investigation; and (4) the cash deposit rate for any future entries from all other manufacturers or exporters who are not covered in this or prior administrative reviews, and who are unrelated to the reviewed firm or any previously reviewed firm, will be the "all other" rate established in the final results of this administrative review. This rate represents the highest rate for any firm in this administrative review (whose shipments to the United States were reviewed), other than those firms receiving a rate based entirely on best information available. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22 and 353.25.

Dated: January 24, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-2546 Filed 1-31-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-046]

Polychloroprene Rubber From Japan; Determination Not To Revoke the Antidumping Duty Finding

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Determination not to revoke the antidumping duty finding.

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the antidumping duty finding on polychloroprene rubber from Japan.

EFFECTIVE DATE: February 3, 1992.

FOR FURTHER INFORMATION CONTACT: Dennis U. Askey or Melissa G. Skinner, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-4851.

SUPPLEMENTARY INFORMATION: On December 13, 1991, the Department of Commerce (the Department) published in the **Federal Register** (56 FR 65043) its intent to revoke the antidumping finding on polychloroprene rubber from Japan (38 FR 33593, December 9, 1974). The Department offered interested parties an opportunity to comment. The Department may revoke an antidumping finding if the Secretary concludes that the finding is no longer of interest to interested parties. We did not receive a request for administrative review of the finding for the last five consecutive annual anniversary months, and therefore published a notice of intent to revoke the finding pursuant to 19 CFR 353.25(d)(4).

On December 19, 1991, E.I. DuPont de Nemours & Company, Inc., a domestic producer of polychloroprene rubber, objected to our intent to revoke the antidumping finding. Therefore, we no longer intend to revoke the finding.

Dated: January 23, 1992.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 92-2547 Filed 1-31-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-583-508]

Porcelain-on-Steel Cooking Ware From Taiwan; Determination Not To Revoke the Antidumping Duty Order

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Determination not to revoke the antidumping duty order.

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the antidumping duty order on porcelain-on-steel cooking ware from Taiwan.

EFFECTIVE DATE: February 3, 1992.

FOR FURTHER INFORMATION CONTACT: Dennis U. Askey or Melissa G. Skinner, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-4851.

SUPPLEMENTARY INFORMATION: On December 13, 1991, the Department of Commerce (the Department) published in the **Federal Register** (56 FR 65042) its intent to revoke the antidumping order on porcelain-on-steel cooking ware from Taiwan (51 FR 43416, December 2, 1986). The Department offered interested parties an opportunity to comment. The Department may revoke an antidumping order if the Secretary concludes that the order is no longer of interest to interested parties. We did not receive a request for administrative review of the order for the last five consecutive annual anniversary months, and therefore published a notice of intent to revoke the order pursuant to 19 CFR 353.25(d)(4).

On December 20, 1991, General Housewares Corp. (GHC), a domestic manufacturer of porcelain-on-steel cooking ware, objected to our intent to revoke the antidumping order. Therefore, we no longer intend to revoke the order.

Dated: January 23, 1992.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 92-2548 Filed 1-31-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-538-802]

Final Determination of Sales at Less Than Fair Value: Shop Towels From Bangladesh

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: February 3, 1992.

FOR FURTHER INFORMATION CONTACT: John Beck, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377–3464.

FINAL DETERMINATION:

Background

Since the publication of our affirmative preliminary determination on September 12, 1991 (56 FR 46411), the following events have occurred.

On September 10, 1991, Eagle Star Textile Mills, Ltd. (Eagle Star) and Sonar Cotton (B.D.), Ltd. (Sonar), respondents in this investigation, requested a postponement of the final determination and also requested a public hearing. Accordingly, we published a notice of postponement of the final determination on September 30, 1991 (56 FR 49458).

On October 9, 1991, petitioner in this investigation, Milliken & Company, requested a public hearing.

We concluded verification of the questionnaire responses between November 2 and 5, 1991, in Bangladesh for the two respondents in this investigation.

Respondents and petitioner filed case briefs on December 11 and 12, 1991, respectively, and rebuttal briefs on December 16 and 17, 1991, respectively. A public hearing was held on December 18, 1991.

Scope of Investigation

The product covered by this investigation is shop towels. Shop towels are absorbent industrial wiping cloths made from a loosely woven fabric. The fabric may be either 100 percent cotton or a blend of materials. Shop towels are currently classifiable under items 6307.10.2005 and 6307.10.2015 of the Harmonized Tariff Schedule (HTS). Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Period of Investigation

The period of investigation (POI) is October 1, 1990, through March 31, 1991.

Such or Similar Comparisons

We have determined for purposes of the final determination that the product covered by this investigation comprises a single category of "such or similar" merchandise.

Fair Value Comparisons

To determine whether sales of shop towels from Bangladesh to the United States were made at less than fair value, we compared the United States price (USP) to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

We based USP on purchase price for all companies, in accordance with section 772(b) of the Tariff Act of 1930 (the Act), both because the subject merchandise was sold to unrelated purchasers in the United States prior to importation into the United States and because exporter's sales price methodology was not indicated by other circumstances.

A. Eagle Star

We calculated purchase price based on packed, delivered C&F prices. We made deductions, where appropriate, for foreign inland freight, loading charges, forwarding and brokerage charges, port charges, carrying and handling charges, export charges, and ocean freight, in accordance with section 772(d)(2) of the Act. We adjusted purchase price for information contained in submissions presented after the preliminary determination as well as errors discovered at verification.

B. Sonar

We calculated purchase price based on packed, delivered C&F prices. We made deductions, where appropriate, for foreign inland freight, foreign brokerage and handling, and ocean freight, in accordance with section 772(d)(2) of the Act. We adjusted purchase price for information contained in submissions presented after the preliminary determination as well as errors discovered at verification.

Foreign Market Value

We calculated FMV based on constructed value (CV), in accordance with section 773(e) of the Act, because neither respondent sold such or similar merchandise in the home market or in any third-country market during the POI. The CV includes the cost of materials and fabrication of the merchandise exported to the United States, plus general expenses, profit, and packing.

A. Eagle Star

We used Eagle Star's CV data except in the following instances where the costs were not appropriately quantified or valued:

1. The Department allocated fabrication expenses based on the quantity of yarn consumed in production as a surrogate for the actual quantity of shop towels produced during the POI.

2. Depreciation on idle equipment was included and allocated between product lines on the basis of loom usage.

3. The Department rejected Eagle Star's claim for start-up costs, and therefore used actual costs incurred to produce shop towels.

4. Manufacturing costs were increased to include general depreciation expenses on common assets (boundary walls, general buildings, furniture etc.).

5. General and administrative (G&A) expenses and interest expenses were based on Eagle Star's financial statements and were calculated as a percent of cost of sales. The Department did not calculate an offset to interest expenses for an amount attributed to maintaining accounts receivable because Eagle Star did not have receivables.

6. Eagle Star did not include an amount for credit expense in reporting its U.S. selling expenses. As best information available (BIA), we calculated credit expense using the number of days between the date the merchandise was shipped and the date payment was received. We used a POI interest rate provided by Eagle Star during verification. See Comment 14 in the "Analysis of Comments Received" section of this notice.

We used Eagle Star's actual general expenses in accordance with section 773(e)(1)(B)(i) of the Act, because these expenses exceeded the statutory minimum of ten percent of the cost of materials and fabrication. For profit, we applied eight percent of the sum of the cost of materials, fabrication, and general expenses, pursuant to section 773(e)(1)(B)(ii) of the Act, because Eagle Star did not have any home market or third country sales on which to compute profit. We used U.S. selling expenses for CV because Eagle Star had no sales of the class or kind of merchandise in the home market or to any third country. We added U.S. packing costs.

Pursuant to § 353.56 of the Department's regulations (19 CFR 353.56), we made circumstance of sale adjustments for differences in credit expenses and inspection fees.

B. Sonar

We used Sonar's CV data except in the following instances where the costs were not appropriately quantified or valued:

1. Factory fabrication expenses were allocated to shop towels based on the ration of looms producing shop towels to the total looms in operation. The

allocated fabrication expenses were divided by the actual kilograms of shop towels produced rather than the standard weight per bale.

2. Depreciation on idle equipment was included and allocated between product lines based on loom usage.

3. The Department included overhead and depreciation expenses which Sonar failed to account for at verification and allocated them to shop towels based on loom usage.

4. G&A and interest expenses were based on Sonar's financial statements and were calculated as a percentage of cost of sales. The Department did not calculate an offset to interest expenses for an amount attributed to maintaining accounts receivable because Sonar did not have receivables.

5. Sonar did not include an amount for credit expense in reporting its U.S. selling expenses. Furthermore, Sonar did not report the date of receipt of payment for a number of its U.S. sales. As BIA, we calculated credit expense using the verified number of days between the date the merchandise was shipped and the date payment was received for those sales where the date of receipt of payment was available. For those sales where date of receipt of payment was not available, we used as BIA, the verified average time between the dates of shipment and receipt of payment for all other sales. We multiplied the result by a publicly available interest rate obtained from the countervailing duty investigation of shop towels from Bangladesh. See Comment 14 in the "Analysis of Comments Received" section of this notice.

We used Sonar's actual general expenses in accordance with section 773(e)(1)(B)(i) of the Act, because these expenses exceeded the statutory minimum of ten percent of the cost of materials and fabrication. For profit, we applied eight percent of the sum of the cost of materials, fabrication, and general expenses, pursuant to section 773(e)(1)(B)(ii) of the Act, because Sonar did not have any home market or third country sales on which to compute profit. We used selling expenses for CV because Sonar had no sales of the class or kind of merchandise in the home market to any third country. We added U.S. packing costs.

Pursuant to 19 CFR 353.56, we made circumstance of sale adjustments for differences in credit expenses and inspection fees.

Currency Conversion

In our analysis, we normally make currency conversions in accordance with 19 CFR 353.60, using the exchange rates certified by the Federal Reserve Bank of New York. Since the Federal Reserve Bank of New York does not provide exchange rate information for Bangladesh, we used the average exchange rate for Bangladesh for the POI published in the International Monetary Fund's International Financial Statistics.

Verification

As provided in section 776(b) of the Act, we verified information provided by the respondents by using standard verification procedures, including on-site inspection of the manufacturers' facilities, the examination of relevant sales and financial records, and selection of original source documentation containing relevant information.

Analysis of Comments Received

We invited interested parties to comment on the preliminary determination in this investigation. We received case and rebuttal briefs from the petitioner and the respondents.

Comment 1

Petitioner notes that during the course of this investigation, Eagle Star has claimed that its expenses should be adjusted for start-up operations. Petitioner assets that Eagle Star does not qualify as a start-up operation because it failed to show that it experienced any increase in efficiency after start-up. Petitioner asserts that low production is not a reason for a start-up adjustment, and in fact Eagle Star's low production was caused by market forces and production problems unrelated to production start-up. Petitioner maintains that shop towel production was simply an addition to related lines of business, and the production operations are so simple that there would be no resulting increase in efficiency after the start-up of operations. Also, petitioner contends that Eagle Star's start-up adjustments are wildly optimistic.

Eagle Star argues that its actual cost of manufacturing and its G&A expenses should be adjusted because it was only in operation for ten months and, therefore, is a start-up operation.

DOC Position

We agree with petitioner. In this case, Eagle Star did experience production problems but, according to its annual report, the problems were resolved prior to the POI. Market conditions, not start up, led to low production. Consequently, no start-up adjustments are appropriate.

Comment 2

Petitioner argues that the Department should use Eagle Star's total corporate financial statements to obtain general depreciation and G&A expenses rather than only the weaving unit's statements because the latter statements did not allocate to the weaving unit any expenses which benefit all of Eagle Star's units.

Eagle Star argues that the Department should accept the G&A and depreciation expenses reported on the weaving unit's audited financial statements rather than base the costs on the Eagle Star "consolidated" financial.

DOC Position

We agree with petitioner. The weaving unit's financial statements were prepared for tax reasons and represent only the incremental costs rather than the full costs of producing shop towels. Therefore, we have used Eagle Star's financial statements and allocated total corporate expenses on a cost of sales basis.

Comment 3

Petitioner contends that Eagle Star should include all indirect selling expenses in its CV calculations.

DOC Position

We agree with petitioner. At verification, it was found that company officials considered movement charges as selling expenses and included such movement charges in the selling expense account. The Department considers these expenses to be company-wide indirect selling expenses. We have, therefore, included them in the CV calculation.

Comment 4

Petitioner argues that Sonar's costs should be increased to account for the actual verified production weight.

Sonar also asserts that the Department should allocate total shop towel fabrication costs over the actual kilograms produced, contending that this would reduce the reported costs.

DOC Position

Consistent with both parties' recommendations, we have allocated total shop towel fabrication costs over actual kilograms produced to determine the actual fabrication costs per kilogram.

Comment 5

Petitioner argues that all of Sonar's production costs should be allocated to shop towels because Sonar does not allocate any fabrication costs to other products in its normal accounting records. However, petitioner contends that if costs are to be allocated among product lines, the allocation for Sonar and Eagle Star should be based on production volume rather than loom use, as suggested by respondents, because use of production volume is a standard accounting practice when the same machinery is capable of producing a range of products.

Sonar and Eagle Star argue that fabrication and depreciation expenses should be allocated among the products produced. Sonar asserts that loom usage is an appropriate method to allocate fabrication costs because it indicates the amount of time required to process the various products. Sonar maintains that the use of production volume would be inappropriate because shop towels require less processing time per kilogram than the other products.

DOC Position

We agree with respondents. Sonar produced products other than shop towels; therefore, it would be inappropriate for shop towels to bear manufacturing costs incurred to produce other products. In addition, the Department noted at verification that production of shop towels requires less processing time per kilogram of output than the other products produced. Thus, to produce shop towels and other products in equivalent amounts, the respondents did not need to devote as many looms to shop towel production. Since kilogram output in a given amount of processing time varies across product lines, we have determined that the relative processing time required for the various products is a more appropriate allocation basis and that this is best reflected by loom usage.

Comment 6

Petitioner argues that depreciation expenses on idle equipment were expenses that were actually incurred and reported by Sonar and Eagle Star for financial statement purposes. Therefore, these expenses should be allocated to production.

Sonar and Eagle Star argue that depreciation on idle looms should not be allocated to production because the looms will not lose value through obsolescence and were not used to produce shop towels.

DOC Position

We agree with petitioner. Sonar and Eagle Star depreciate all of their idle equipment for financial statement purposes. The depreciation did not relate specifically to any product, but was an expense incurred by the entire production operation. The Department allocated the financial statement expenses to shop towels based on loom usage in the same manner as the other overhead expenses. See Comment 5.

Comment 7

Petitioner argues that Sonar's total overhead expenses should be increased for any overhead expenses which Sonar failed to account for at verification.

Sonar cautions that the Department should be careful not to double count any overhead expenses, and should allocate such expenses among all product lines.

DOC Position

We agree with petitioner that Sonar's total overhead expenses should be increased for overhead expenses which Sonar failed to account for at verification. Therefore, we have included all overhead expenses from Sonar's financial records, and allocated them to shop towels based on loom usage. In doing so, we have been careful not to double count any overhead expenses.

Comment 8

Petitioner argues that Sonar's G&A and interest expenses should be allocated based on period sales.

Sonar argues that its G&A and interest expenses included expenses which were incurred for products that were produced but not sold during the POI. Therefore, some of these expenses should be allocated to the inventory of these other products.

DOC Position

We agree with petitioner. Sonar's G&A and interest expenses were incurred by the company as a whole during the fiscal year. These expenses relate to the firm's overall rather than to sales of a particular product. We have, therefore, allocated Sonar's G&A expenses and interest based on cost of sales, thereby accounting for them in the period in which they were incurred.

Comment 9

Petitioner argues that annual electricity, gas, and water expenses should not be divided in half to determine the six month POI expenses because it believes that shop towel production was higher during the POI.

Sonar argues that its methodology was appropriate and that, if anything, the production may have dropped in the second half of the year, resulting in overstated costs.

DOC Position

We agree that, in theory, electricity, gas and water expenses should vary in proportion to production. However, while Sonar produced additional product lines during the POI, the Department verified that shop towel production itself did not increase during this period. Therefore, any reallocation of annual utility expenses would result in no change to the reported shop towel manufacturing expenses. Accordingly, we have not reallocated these expenses.

Comment 10

Respondents contend that this antidumping investigation was improperly initiated because the petition failed to meet the requirements of 19 U.S.C. 1673a(b) (1). Respondents argue that, since the petition did not allege "the elements necessary for the imposition of the duty" and was not accompanied "by information reasonably available to the petitioner supporting this allegation", the Department erroneously initiated this investigation. Respondents note that the Department initiated this investigation on the basis of the financial statements of only one producer in Bangladesh, and then did not include this producer in its analysis. Respondents maintain that, since the Court of International Trade has held that the loss on financial statements does not constitute sufficient grounds for initiating a cost of production investigation, losses on a financial statement are also insufficient to justify the initiation of an entire antidumping investigation. Respondents cite *Huffy Corporation* v. *United States*, 632 F. Supp. 50 (Ct. Int'l. Trade, 1986).

Petitioner asserts that the initiation of this antidumping duty investigation was proper. Petitioner states that Shabnam was selected as a basis for initiating this case because the company offered the clearest and simplest evidence of dumping, since at the time of initiation the Department could not conclusively establish whether the other companies produced merchandise other than shop towels. Petitioner maintains that the case cited by respondents to support their claim that the Department erred in using Shabnam's financial statements to initiate this investigation is not applicable to this case.

DOC Position

We agree with petitioner. Respondents have confused the requirements of the statute for determining when there is a sufficient basis for initiating an antidumping investigation with the Department's regulatory guidelines for identifying appropriate questionnaire respondents. As the respondents correctly point out, to provide a basis for initiation, a petitioner must show the elements necessary for the imposition of an antidumping duty supported by information "reasonably available" to the petitioner, in accordance with 19 CFR 353.12(b). In this case, the petitioner presented information showing that a Bangladeshi firm which produced shop towels exclusively and sold such merchandise exclusively in the United States during calendar year 1990 had incurred a loss in the same period. This information was considered sufficient to warrant an investigation not merely because it indicated the company was operating at a loss, but because it was operating at a loss solely due to sales of a single product (the subject merchandise, shop towels) to a single market (the United States). Thus, considering in addition the information provided concerning injury caused by such imports, we determined that the petitioner had presented information in support of the elements necessary for the initiation of an antidumping duty investigation.

Moreover, the totality of the facts presented was distinct from those circumstances in which the Court of International Trade found a financial statement loss to be an insufficient basis for a cost of production investigation. There, the Court questioned the use of financial statements on the ground that an operating loss revealed in such statements may not relate to the cost of production, but instead may be attributable to other factors. These factors, namely a large capital investment and use of complicated accounting procedures, are not present in this case.

Once an antidumping investigation has been initiated, it is applicable to imports of the subject merchandise from the country as a whole. However, there is no statutory mandate that all producers and exporters of the subject merchandise in that country be investigated individually. Therefore, consistent with 19 CFR 353.42, the Department provided questionnaires to the two firms accounting for at least 60 percent of total sales of the merchandise under investigation. It is on the basis of the responses provided by these firms that we are determining there to have been sales at less than fair value.

Comment 11

Sonar contends that sales covered by invoice numbers SCML/48/90 and SCML/49/90 should be excluded from the final analysis, while the sales covered by invoice numbers SCML/86/91 and SCML/87/91 should be included. Sonar maintains that invoice numbers SCML/48/90 and SCML/49/90 were not made pursuant to a letter of credit, but rather according to a contract entered into before the POI. Sonar contends that invoice numbers SCML/86/91 and SCML/87/91 were made pursuant to a letter of credit opened during the POI, but that these invoices were inadvertently omitted from the sales listing.

Petitioner argues that the sales covered by invoice numbers SCML/48/90 and SCML/49/90 should not be excluded from the final analysis. Petitioner maintains that: (1) Sonar has used the date of the letter of credit as date of sale in all other instances; (2) almost all of the bales covered by these invoices were shipped pursuant to a letter of credit opened during the POI; and (3) the terms of sale were not finalized until the buyer opened the letter of credit during the POI. However, petitioner argues that if the Department recognizes the contract date as the date of sale, it should do so for only the 360 bales shipped as samples, not the total amount of bales shipped.

DOC Position

We agree with Sonar. Invoice numbers SCML/48/90 AND SCML/49/90 were verified to be made pursuant to a contract entered into before the POI and are, therefore, being excluded from our analysis. All other sales are being included in our analysis including sales that relate to invoice numbers SCML/86/91 and SCML/87/91.

Comment 12

Sonar contends that the Department should adjust for certain errors relating to ocean freight discovered at verification.

DOC Position

We agree with Sonar and are adjusting for all errors discovered at verification, not just those that relate to ocean freight.

Comment 13

Sonar maintains that there should be no deduction from United States price for marine insurance premiums. Although Sonar acknowledges that it did incur marine insurance on shipments made under invoice numbers SCML/48/90 and SCML/49/90, Sonar asserts that these sales were made prior to the POI. See Comment 11. Also, Sonar states that information obtained at verification clarified that the terms of sale for invoice number SCML/52/90, listed as CIF, were actually C&F. Furthermore, although the letters of credit for two other invoices examined at verification listed the terms of sale as CIF, Sonar claims that this was an error and that there were amendments to these letters of credit which showed the terms as C&F. However, Sonar states that these amendments could not be obtained due to the damage to the records during the cyclone in Bangladesh. Sonar notes that another shipment to one of its customers was cancelled when that customer did not agree to a C&F sales term.

Petitioner argues that Sonar has provided no documentation to prove that sales covered by invoices SCML/48/90 and SCML/49/90 were on a C&F basis. Thus, the Department should include payments of marine insurance for these sales.

DOC Position

We agree with Sonar. The information on the record leads to the conclusion that there were no CIF sales during the POI. Evidence to support this conclusion includes: 1) documents demonstrating that one sale listed as CIF was changed to C&F; 2) documents that show that a shipment was cancelled when a customer did not agree to C&F sales terms; and 3) documents that indicate that all other sales during the POI were on C&F sales terms.

Comment 14

Respondents contend that the Department cannot increase the CV of the shop towels produced by Sonar and Eagle Star by adding an imputed credit expense. Respondents also claim that there is no legal justification for reducing the purchase price for items other than movement charges, merely because the purchase price sales may include a credit expense incurred in the country of exportation. Respondents state that, in the past, the Department has taken the position that the CV should not be based on imputed costs. Both respondents claim that they did not extend credit to their United States customers, did not finance any accounts receivable and incurred no actual credit costs. Furthermore, respondents claim that imputing a credit expense as part of the SG&A expenses has the effect of inflating the statutory eight percent minimum amount for profit. Finally, respondents state that if the Department does decide to impute a credit expense, this expense should be based on information obtained during the verification. Sonar maintains that the Department should use verified information which shows the average period between date of shipment and date of receipt of payment. Sonar maintains that although it was unable to provide payment receipt documentation for every shipment because of the recent cyclone, the documentation on the record establishes that the period between the dates of shipment and receipt of payment is negligible. Eagle Star maintains that information from the verification should be used to establish date of receipt of payment and the interest rate on loans available to Eagle Star.

Petitioner disagrees with respondents' argument that adjustments for imputed credit expenses are not permissible where the U.S. price is based upon purchase price and foreign market value is based upon CV. Petitioner states that such adjustments are made frequently by the Department. Furthermore, petitioner states that the Department should adhere to its preliminary inputed credit adjustments in the final determination for Sonar, since Sonar's payment receipt documentation is incomplete and therefore unverifiable.

DOC Position

We agree with petitioner that adding an imputed credit expense to CV is reasonable and consistent with past practice (see e.g., Final Results of Antidumping Duty Administrative Review: Certain Valves and Connections, of Brass, for Use in Fire Protections System From Italy (55 FR 8971, March 9, 1990)). Furthermore, in the Final Results of Antidumping Duty Administrative Review: Certain Fresh Cut Flowers From Mexico (56 FR 1794, 1798, January 17, 1991), the Department stated that "extending credit on sales represents an opportunity cost to the seller; potential revenues from an immediate cash-for-goods sale are exchanged for the receipt of payment after some extended period. Money that would have been received had the goods been sold for cash up front could have been deposited to accrue interest. It is this additional accrued revenue which is forgone in extending credit. We have, therefore, imputed credit expenses in accordance with 19 CFR 353.56(a)(2)." During verification, Eagle Star voluntarily provided documentation supporting an interest rate available to it in Bangladesh during the POI. We have used this interest rate in our imputed credit calculations for Eagle Star. For imputed credit expenses for Sonar, we used verified data. However, to impute a credit expense for those sales where no information was available to determine the date of receipt of payment, we are using as BIA the verified average time between the dates of shipment and receipt of payment for all other sales. Also, consistent with our standard practice, we agree with respondents that there is no legal basis for reducing purchase price for items other than movement charges, *i.e.*, imputed credit expenses. We have therefore adjusted the FMV for imputed credit expenses.

Comment 15

Respondents assert that the inspection fee should not be added to CV as a surrogate for home market selling expenses. Respondents argue that there is no requirement that general expenses included in CV include selling expenses, unless such expenses are usually reflected in sales of shop towels in Bangladesh. While respondents do not object to the Department's substitution of U.S. general expenses for home market general expenses, respondents claim that inspection fees are relevant only to sales to a particular customer in the United States. However, respondents state that if these inspection fees are added to the CV, the Department should, at a minimum, not add inspection fees in comparisons made with sales where no inspection fees were incurred, as shown in the verification exhibits. Finally, respondents assert that if the inspection fees are added to CV, the Department must then make a sales-specific circumstance of sale adjustment to the FMV.

Petitioner argues that the Department can legitimately conclude that respondents would incur the same sort of inspection fees if shop towels were sold in the home market. Furthermore, petitioner states that these inspection fees cannot be ignored; if they are excluded from CV, petitioner argues that they must be deducted from U.S. price as a direct selling expense.

DOC Position

We agree with petitioner that these expenses cannot be ignored and have determined that these fees constitute a direct selling expense. We have, therefore, included a weighted-average fee in CV. We have also made a sales-specific circumstance of sale adjustment to the FMV by subtracting out the weighted-average fee from all transactions and adding in the actual fee for all applicable transactions.

Comment 16

Sonar argues that it made a clerical error and double counted stamping costs. It requests that the Department reduce the amount of its stitching expenses for a stamping fee that was also included in Sonar's packing expenses.

DOC Position

We agree with Sonar and have deducted the stamping charges from the stitching expenses.

Comment 17

Sonar argues that the Department should not include in CV any of the selling expenses included in Sonar's financial statements because those expenses have been verified as movement charges.

DOC Position

We agree with Sonar and have not included these movement charges in CV.

Comment 18

Eagle Star contends that all shop towels it shipped during the POI should be included in the Department's final analysis. Eagle Star maintains that the information from these shipments, collected at verification, better represents information about the company's pricing practices than the three shipments reported as having been sold within the POI.

Petitioner argues that Eagle Star's claim should be rejected since it is contrary to established Departmental practice and there is no justification to alter this practice in this case.

DOC Position

We agree with petitioner. There is no basis for the Department to change its sales reporting requirements in this investigation.

Comment 19

Eagle Star argues that its manufacturing costs should be allocated to the shop towels which were finished during the POI.

DOC Position

We disagree. Fabrication costs should be allocated to the quantity of shop towels produced during the POI, and Eagle Star's methodology did not account for work-in-process. The Department consequently allocated fabrication expenses based on the quantity of yarn consumed in production.

Continuation of Suspension of Liquidation

In accordance with section 735(d)(1) of the Act, we are directing the United States Customs Service (Customs) to continue to suspend liquidation of all entries of shop towels from Bangladesh, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after September 12, 1991, which is the date of publication of our preliminary determination in the **Federal Register**.

Customs shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the FMV of the merchandise subject to this investigation exceeds the USP as shown in the table below. This suspension of liquidation will remain in effect until further notice.

Producer/manufacturer/exporter	Margin percentage
Eagle Star Textile Mills, Ltd	42.31
Sonar Cotton Mills (B.D.) Ltd	2.72
All Others	4.60

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration. The ITC will make its determination whether these imports materially injure, or threaten material injury to, a U.S. industry within 45 days of the publication of this notice. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled.

However, if the ITC determines that such injury does exist, we will issue an antidumping duty order directing Customs officers to assess an antidumping on shop towels from Bangladesh entered, or withdrawn from warehouse, for consumption on or after the date of suspension of liquidation, equal to the amount by which the foreign market value of the merchandise exceeds the United States price.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d)), and 19 CFR 353.20.

Dated: January 27, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92–2549 Filed 1–31–92; 8:45 am]

BILLING CODE 3510-DS-M

[A–461–008]

Titanium Sponge From the U.S.S.R.; Termination of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of termination of antidumping duty administrative review.

SUMMARY: On September 18, 1991 (56 FR 47185), the Department of Commerce initiated an administrative review of the antidumping duty order on titanium sponge from the U.S.S.R. for the period August 1, 1990, through July 31, 1991, for titanium sponge manufactured by Techsnabexport. The Department has now decided to terminate this review.

EFFECTIVE DATE: February 3, 1992.

FOR FURTHER INFORMATION CONTACT: Fred Baker or Robert Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone (202) 377–5255.

SUPPLEMENTARY INFORMATION:

Background

On August 28, 1991, we received a request from Hi-Temp Speciality Metals, Inc. (Hi-Temp), an interested party, to conduct an administrative review of the antidumping duty order on titanium sponge from the U.S.S.R. for the period of August 1, 1990, through July 31, 1991. Hi-Temp requested that we review imports of titanium sponge manufactured by Techsnabexport. On September 18, 1991, we published a notice initiating that administrative review (56 FR 47185).

On December 9, 1991, Hi-Temp withdrew its request for review. Therefore, we are terminating the review of titanium sponge from the U.S.S.R. for the period August 1, 1990, through July 31, 1991.

This termination of review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22(a)(5).

Dated: January 24, 1992.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 92–2550 Filed 1–31–92; 8:45 am]

BILLING CODE 3510-DS-M

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC.

Docket Number: 91–172. *Applicant:* Federal Highway Administration, Pavements Division, HNR–20, 6300 Georgetown Pike, McLean, VA 22102. *Instrument:* Pavement Rut Testing Machine, Model A77. *Manufacturer:* MAP, France. *Intended Use:* The instrument will be used to test and evaluate the performance of asphaltic paving mixtures. *Application Received by Commissioner of Customs:* December 18, 1991.

Docket Number: 91–189. *Applicant:* University of New Hampshire, Electron Microscope Facility, Kendall Hall, Durham, NC 03824. *Instrument:* Electron Microscope Accessories. *Manufacturer:* Hitachi Ltd., Japan. *Intended Use:* The instruments are accessories to an existing electron microscope which is being used for studies of environmental samples such as incinerator ash, treatment plant sludge, etc., in order to provide better understanding of the effects of the effluents on the environment and to find better ways to treat effluents before they enter the environment. These accessories will also be used in courses for the training of seniors and graduate students in structural determination, fractography, and metallography. *Application Received by Commissioner of Customs:* December 11, 1991.

Docket Number: 91–190. *Applicant:* Vanderbilt University, Molecular Biology, Box 1820, Station B, Nashville, TN 37235. *Instrument:* Electron Microscope, Model CM 12. *Manufacturer:* N.V. Philips, The Netherlands. *Intended Use:* The instrument will be used for basic research into the structure of biological macromolecules and macromolecular assemblies. The overall goals of these studies are determination of the structure of these macromolecules and the relationships between their structure and biological function. This research will contribute to the education of undergraduate, graduate and postdoctoral students. *Application Received by Commissioner of Customs:* December 11, 1991.

Docket Number: 91–191. *Applicant:* Centers for Disease Control, NCEHIC, Cham 17/2415, Atlanta, GA 30333. *Instrument:* Mass Spectrometer, Model AP III. *Manufacturer:* PE Sciex, Canada. *Intended Use:* The instrument will be used for a variety of analyses, often of components present at trace levels in biological matrices. The focus of the work is on the highly sensitive analysis of cotinine levels in serum samples. *Application Received by Commissioner of Customs:* December 12, 1991.

Docket Number: 91–194. *Applicant:* U.S. Department of Agriculture, APHIS, National Veterinary Services Laboratories, 1800 Dayton Road, Ames, IA 50010. *Instrument:* Electron Microscope, Model CM 10/PC. *Manufacturer:* N.V. Philips, The Netherlands. *Intended Use:* The instrument will be used for the study of viruses, bacteria and cellular material to aid in the diagnosis of disease producing agents of animals and determine the quality of normal cell cultures and biological reagents. *Application Received by Commissioner of Customs:* December 17, 1991.

Docket Number: 91–195. *Applicant:* University of Georgia Complex, Carbohydrate Research Center, 220 Riverbend Road, Athens, GA 30602. *Instrument:* Mass Spectrometer, Model API III. *Manufacturer:* PE-Sciex, Canada. *Intended Use:* The instrument will be used to perform mass spectrometry/mass spectrometry and liquid chromatography/mass spectrometry experiments in the following research projects:

1. Determination of the structure of plant cells walls,
2. Determination of the structures of biologically active complex carbohydrates in plants,
3. Determination of the sites of glycosylation in glycoproteins,
4. Peptide sequencing,
5. Oligonucleotide sequencing,
6. Determination of the molecular weights of proteins and glycoproteins.

In addition, the instrument will be used in biochemistry courses for demonstration purposes and to provide hands-on experience in mass spectrometry. *Application Received by Commissioner of Customs:* December 18, 1991.

Docket Number: 91–196. *Applicant:* The University of Connecticut, Department of Physiology and Neurobiology, U–131, 354 Mansfield Road, Storrs, CT 06269–2131. *Instrument:* Electron Microscope, Model EM 910. *Manufacturer:* Carl Zeiss, Germany. *Intended Use:* The instrument will be used to determine structural and chemical (elemental) information at a microscopic level. The materials to be investigated are primarily biological tissues and cells and occasional samples of organic polymers, metallurgical samples, and geological materials. In addition, the instrument will be used in the courses Beginning and Advanced Electron Microscopy to instruct advanced undergraduate and graduate students in techniques for preparing, viewing and analyzing samples. *Application Received by Commissioner of Customs:* December 18, 1991.

Docket Number: 91–197. *Applicant:* Harvard Medical School, Department of Microbiology and Molecular Genetics, 200 Longwood Avenue, Boston, MA 02115. *Instrument:* Electron Microscope, Model H–7100. *Manufacturer:* Hitachi, Japan. *Intended Use:* The instrument will be used for the following research:

1. Studies of reovirus capsid structure and stability,
2. Subcellular localization of the secretion machinery and the cell division apparatus in *E. coli,*
3. Structure and mechanism of action of HSV–1ICP4,
4. Functional organization of the cell nucleus,
5. Studies on the production and mode of action of microcin B 17 and of cell aging in *E.Coli,*
6. Viruses, viral proteins and virally infected cells.

Application Received by Commissioner of Customs: December 18, 1991.

Docket Number: 91–198. *Applicant:* U.S. Department of Commerce/National Oceanic and Atmospheric Administration, Fluid Modeling Branch, ASMD, M–81 Page Road and I–40, Research Triangle Park, NC 27711. *Instrument:* Fast Response Flame-ionization Detector Hydrocarbon Analyzer System, Model HFR 300. *Manufacturer:* Combustion Ltd., United Kingdom. *Intended Use:* The instrument will be used within the Meteorological wind tunnel of the Fluid Modeling Facility of EPA. The wind tunnel is used for the simulation of the atmospheric boundary layer, primarily flow and diffusion of pollutants in complex situations such as around hills and buildings. Hydrocarbon gas is used as the tracer in these model simulations, and concentration patterns downwind of the source are measured with flame-ionization detectors. *Application Received by Commissioner of Customs:* December 18, 1991.

Docket Number: 91–199. *Applicant:* University of Wisconsin, 750 University Avenue, Madison, WI 53706. *Instrument:* Electron Microscope, Model CM 20. *Manufacturer:* N.V. Philips, The Netherlands. *Intended Use:* The instrument will be used for near atomic dimensions, defining structure chemistry and morphology with enhanced spatial resolution and sensitivity. The research topics include:

1. Rapid crystallization, gas entrainment and stabilized nano-cavities in metals,
2. Non-random structures in amorphous pure metals,
3. Nucleation of crystal phases in super cooled liquids,
4. Structural and chemical aspects of mineral reactions,
5. Micro-petrographic and crystal chemical detail of volcanic rocks,
6. Correlation of structure and magnetic properties in metamorphic rocks,
7. Characterization of grain boundary structures and chemistry in a variety of superconducting materials,
8. Atomic structures of grain boundaries and interfaces in metal/Ga As contacts,
9. Structure of metal/metal oxide catalysts,
10. Particles—particle aggregation in ceramic membrane filtration,
11. Chemical diffusion, structural change and crystalline nucleation in iron-doped magnesium aluminosilicate glasses.

Application Received by Commissioner of Customs: December 20, 1991.

Docket Number: 91–200. *Applicant:* Veterans Affairs Medical Center, Research Service, 2215 Fuller Road, Ann Arbor, MI 48105. *Instrument:* Electron Microscope, Model CM 10/PC. *Manufacturer:* N.V. Philips, The Netherlands. *Intended Use:* The instrument will be used for the study of various biological specimens, either from animals (rat or mouse predominantly), or cells grown in tissue culture. These specimens will be examined in the course of pursuing biomedical research investigations. This particular study involves the investigation of the nature and cause of impaired nerve regeneration after injury in aged animals compared to young animals, and will examine specimens of rat sciatic nerve, dorsal root ganglion and spinal cord. *Application Received by Commissioner of Customs:* December 10, 1991.

Docket Number: 91–201. *Applicant:* Western Maryland College, Two College Hill, Westminister, MD 21157. *Instrument:* Rapid Kinetics Apparatus, Model SFA–12M. *Manufacturer:* Hi-Tech Scientific, Ltd., United Kingdom. *Intended Use:* The instrument will be used for studies of alkyltriazenes, a class of compounds being studied as models of potential anti-cancer drugs. The experiments will involve measuring the very rapid rate of decomposition of alkyltriazenes by ultraviolet spectrocopy. *Application Received by Commissioner of Customs:* December 23, 1991.

Docket Number: 91–202. *Applicant:* Massachusetts Institute of Technology 77 Massachusetts, Avenue, Cambridge, MA 02139. *Instrument:* Crystal Growth Apparatus. *Manufacturer:* Moscow Power Engineering Institute, U.S.S.R. *Intended Use:* The instrument will be used for the growth of single crystals of high temperature superconductor materials. These crystals will be used to study the physics of the high temperature superconductors in an ongoing National Science Foundation funded program. *Application Received by Commissioner of Customs:* December 26, 1991.

Docket Number: 92–001. *Applicant:* The Pennsylvania State University, 202A Steidle Building, University Park, PA 16802. *Instrument:* Spectrofluorimeter, Model DX.17MV. *Manufacturer:* Applied Photophysics, United Kingdom. *Intended Use:* The instrument will be used to conduct fast kinetic experiments. In particular, the rate of formation and dissolution of iron disulfide formation experiment will precede the dissolution experiment in the same reactor. The research is being conducted in connection with coal desulfurization and acid-mine drainage problems. *Application Received by Commissioner of Customs:* January 15, 1992.

Docket Number: 92–002. *Applicant:* Bigelow Laboratory for Ocean Sciences, McKown Point, W. Boothbay Harbor, ME 04575. *Instrument:* Multi-Channel Calorimeter, Model MKIII. *Manufacturer:* Chemlab Instruments, United Kingdom. *Intended Use:* The instrument will be used for investigations of the concentrations of those ionic forms of those elements thought to be essential in the nutrition of marine planktonic algae. *Application Received by Commissioner of Customs:* January 15, 1992.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 92–2551 Filed 1–31–92; 8:45 am]

BILLING CODE 3510-DS-M

National Telecommunications and Information Administration

Meeting, CITEL Subcommittee, Spectrum Planning Advisory Committee

AGENCY: National Telecommunications and Information Administration, Commerce.

ACTION: Notice.

SUMMARY: In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that the CITEL Subcommittee of the Spectrum Planning Advisory Committee (SPAC) will meet on February 10, 1992, and on February 28, 1992 at 9:30 a.m. in room 1605 at the United States Department of Commerce, Herbert C. Hoover Building, 14th Street and Constitution Avenue NW., Washington, DC. Entrance to the building is at 14th Street and Pennsylvania Avenue NW.

The CITEL Subcommittee previously drafted the U.S. proposals for the recent Sixth Inter-American Telecommunications Conference (CITEL–VI). The meeting is open for public observation. A period will be set aside for oral comments or questions by the public which do not exceed 10 minutes each per member of the public. Other public statements regarding Subcommittee affairs may be submitted at any time before or after the meeting. Approximately 20 seats will be available for the public on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Inquiries may be addressed to the Convener SPAC/CITEL Subcommittee, Mr. William M. Moran, National Telecommunications and Information Administration, room 4716, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone 202–377–1866.

Dated: January 29, 1992.

W. Russell Slye,

Executive Secretary, Spectrum Planning Advisory Committee, National Telecommunications and Information Administration.

[FR Doc. 92–2534 Filed 1–31–92; 8:45 am]

BILLING CODE 3510-60-M

Office of General Counsel

[Docket No. 920135.2035]

Request for Comments on Technical Assistance Priorities for Commercial Law Reform in Central and Eastern Europe and the Baltic States

AGENCY: U.S. Department of Commerce.

ACTION: Notice and request for comments.

SUMMARY: This notice describes the Department's activities aimed at assisting Central and Eastern European countries and the Baltic states reform their commercial law and business practices consistent with market economy principles. The notice seeks public comment on these activities from parties interested in commercial developments in the region.

DATES: Comments should be received no later than February 24, 1992.

ADDRESSES: Written comments should be addressed to: Lynn S. West Special Counsel, United States Department of Commerce, 14th & Constitution Ave., NW., Room 5870, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Lynn S. West, Special Counsel, Office of the General Counsel, U.S. Department of Commerce, telephone (202) 377–0490, or Susan Gurley, Eastern Europe Business Information Center (202) 377–2645.

SUPPLEMENTARY INFORMATION: The dramatic political and economic changes in central and east European countries over the past two years, and more recent events in the Baltic states, have facilitated the adoption of market-based reforms in most of the countries of the region. While the pace of reform has varied among the countries, some have made substantial progress in creating a business climate that is attractive to western investors.

These developments have generated tremendous interest by U.S. businesses and potential investors in commercial opportunities in the region. Through its role as the United States government's liaison to the American business community, the Department of Commerce has received thousands of requests for information about the commercial and legal climate in the countries of the region. In particular, prospective American investors, exporters, and importers are eager to learn whether commercial and economic laws and regulations provide a sufficiently attractive environment for business and whether adequate legal protection exists for their interests in the transactions they may contemplate.

In response to these developments, the Department of Commerce has undertaken a number of initiatives to provide assistance to the countries of the region in understanding the legal underpinnings of a market economy and in developing the necessary reforms. The Department has also undertaken to provide timely information to the American business community on the progress of reform.

For example, in May 1990, the General Counsel of the Department of Commerce led a delegation of general counsels of major U.S. corporations to Poland and Hungary to discuss market economy regulation from the perspective of potential American investors. In April 1991, the Deputy General Counsel led a delegation of U.S. government legal experts to Bulgaria to provide assistance to the Bulgarian government in crafting new commercial laws. In November 1991, a similar delegation visited Albania to discuss possibilities and priorities for future U.S. assistance.

In November 1990, the Department initiated its Central and Eastern Europe Legal Texts Program, which distributes copies of over three hundred business laws and regulations from countries in the region, as well as the Baltic states, to interested parties for a nominal fee. This collection of laws is also available publicly at the Department's Law Library.

The Department has also received a commitment of $2.75 million from the Agency for International Development to provide technical assistance over the next three years to the countries of central and eastern Europe and the Baltic states to develop commercial laws consistent with market economy principals. Assistance will be focused in four particular areas: investment law, commercial dispute resolution, property rights, and government procurement.

REQUEST FOR COMMENTS: The Department of Commerce hereby invites interested individuals to comment by February 24, 1992, on their understanding of the progress of commercial law and regulatory reform in the countries of central and eastern Europe and the Baltic states, including first-hand perceptions, if any, of the problems and weakness in the legal climate for business from the perspective of potential U.S. investors, exporters, or importers. The Department also welcomes comments on the specific needs in these countries for assistance in the areas of investment law and regulation, commercial dispute resolution, protection of property rights, including both real and intellectual property, and rules and procedures relating to government procurement. In addition, the Department seeks comments on appropriate priorities and objectives for such assistance in light of existing private and public sector assistance efforts and activities.

Dated: January 29, 1992.

Wendell L. Willkie II,

General Counsel.

[FR Doc. 92-2486 Filed 1-31-92; 8:45 am]

BILLING CODE 3510-BW

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Textile Products Produced or Manufactured in the Federative Republic of Brazil

January 28, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing limits.

EFFECTIVE DATE: February 4, 1992.

FOR FURTHER INFORMATION CONTACT: Nicole Bivens Collinson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-5810. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being increased for swing and carryover.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 56 FR 60101 published November 27, 1991). Also see **Federal Register** notice 56 FR 12368, published on March 25, 1991.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

January 28, 1992.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on March 19, 1991 by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Federative Republic of Brazil and exported during the twelve-month period which began on April 1, 1991 and extends through March 31, 1992.

Effective on February 4, 1992, you are directed to amend further the directive dated March 19, 1991 to increase the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and the Federative Republic of Brazil:

Category	Adjusted twelve-month limit [1]
Sublevels in the aggregate	
300/301	5,996,617 kilograms.
317/326	16,580,754 square meters.
350	107,310 dozen.

[1] The limits have not been adjusted to account for any imports exported after March 31, 1991.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92-2478 Filed 1-31-92; 8:45 am]

BILLING CODE 3510-DR-F

Cancelling Export Visa Requirements for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Bangladesh

January 28, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs cancelling visa requirements.

EFFECTIVE DATE: February 3, 1992.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The existing export visa arrangement between the Governments of the United States and the People's Republic of Bangladesh is being amended to cancel the requirement for an export visa for cotton and man-made fiber textile products in part-Categories 340–Y/640–Y, 341–Y, and 647–T/648–T. Textile products in Categories 340/640, 341 and 647/648 which are exported on and after February 1, 1992 must be accompanied by a properly completed export visa for Categories 340/640, 341 and 647/648, respectively, before entry will be permitted.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 56 FR 60101, published on November 27, 1991). Also see 53 FR 46484, published on November 17, 1988; and 54 FR 23510, published on June 1, 1989.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

January 28, 1992.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 14, 1988, as amended, by the Chairman, Committee for the Implementation of Textile Agreements. That directive directed you to prohibit entry of certain cotton, wool and man-made fiber textile products, produced or manufactured in the People's Republic of Bangladesh which were not properly visaed by the Government of Bangladesh.

Effective on February 3, 1992, you are directed to amend further the November 14, 1988 directive to cancel the requirement for an export visa for shipments of cotton and man-made fiber textile products in part-Categories 340–Y/640–Y [1], 341–Y [2] and 647–T/648–T [3], produced or manufactured in Bangladesh and exported from Bangladesh on and after February 1, 1992. However, all shipments of textile products in Categories 340/640, 341 and 647/648, produced or manufactured in Bangladesh and exported from Bangladesh on and after February 1, 1992 must be accompanied by a properly completed export visa for Categories 340/640, 341 and 647/648, respectively, before entry will be permitted into the United States.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92–2485 Filed 1–31–92; 8:45 am]

BILLING CODE 3510–DR–F

CONSUMER PRODUCT SAFETY COMMISSION

Senior Executive Service: Performance Review Board; Membership

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of names of members.

SUMMARY: This notice lists the individuals who have been appointed to the Commission's Senior Executive Service Performance Review Board.

EFFECTIVE DATE: February 3, 1992.

ADDRESSES: Consumer Product Safety Commission, Office of the Secretary, Washington, DC 20207–001.

FOR FURTHER INFORMATION CONTACT: Joseph F. Rosenthal, Office of the General Counsel, Consumer Product Safety Commission, Washington, DC 20207–001, telephone 301–504–0980.

Members of the Performance Review Board are listed below:

Carol G. Dawson
Mary Sheila Gall
Thomas W. Murr, Jr.
Warren J. Prunella
Alfred L. Roma
Bert Simson
Jerry G. Thorn

Dated: January 28, 1992.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 92–2527 Filed 1–31–92; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board's Committee on Technology Options for Global Reach—Global Power: 1995–2020 (Support Panel) will meet on 20–21 February 1992, at HQ AFLC, Wright-Patterson AFB, OH, 8 a.m. to 5 p.m.

The purpose of this meeting is to receive briefings and gather information for the study.

The meeting will be closed to the public in accordance with section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–4811.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 92–2451 Filed 1–31–92; 8:45 am]

BILLING CODE 3910–01–M

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates/Time of Meeting: 18–19 February 1992.

Time: 0800–1700 hours daily.

Place: Pentagon.

Agenda: Members of the 1992 ASB Summer Study, "C2 on the Move" will meet to continue work on the study. The purpose of this Classified meeting is directed to interviews with commanders who participated in Desert Storm and Just Cause. Areas of interest are in both "real world" operational concerns and command and control areas. This meeting will be closed to the public in accordance with section 552b(c) of title 5, U.S.C., specifically subparagraph (1) thereof, and title 5, U.S.C., appendix 2, subsection 10(d). The classified and unclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contracted for further information at (703) 695–0781/0782.

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[1] Category 340–Y: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2046, 6205.20.2050 and 6205.20.2060; Category 640–Y: only HTS numbers 6204.23.0050, 6204.29.2030, 6206.40.3010 and 6206.40.3025.

[2] Category 341–Y: only HTS numbers 6204.22.3060, 6206.30.3010 and 6206.30.3030.

[3] Category 647–T: only HTS numbers 6103.23.0040, 6103.29.1020, 6103.43.1520, 6103.43.1540, 6103.49.1020, 6103.49.3014, 6112.12.0050, 6112.19.1050, 6112.20.1060, 6113.00.0044, 6203.23.0060, 6203.29.2030, 6203.43.2500, 6203.43.3500, 6203.43.4010, 6203.43.4020, 6203.49.1500, 6203.49.2010, 6203.49.2030, 6203.49.3030, 6210.40.1035, 6211.20.1525, 6211.20.3030 and 6211.33.0030; Category 648–T: only HTS numbers 6104.23.0032, 6104.29.1030, 6104.29.2038, 6104.63.2010, 6104.63.2025, 6104.69.2030, 6104.69.3026, 6112.12.0060, 6112.19.1060, 6112.20.1070, 6113.00.0052, 6117.90.0046, 6204.23.0040, 6204.29.2020, 6204.29.4038, 6204.63.2000, 6204.63.3000, 6204.63.3510, 6204.63.3530, 6204.69.2510, 6204.69.2530, 6204.69.3030, 6204.69.9030, 6210.50.1035, 6211.20.1555, 6211.20.6030, 6211.43.0040 and 6217.90.0060.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 92–2617 Filed 1–31–92; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates/Time of Meeting: 18–19 February 1992.

Time: 0800–1700 hours daily.

Place: Fort Monroe, Virginia.

Agenda: The Land Warfare Combat Identification 1992 Summer Study Panel of the Army Science Board will meet to receive briefings on the causes of fratricide in Operations Desert Storm, and Just Cause, historical and training settings. Work of the TRADOC–AMC Combat Identification Task Force will be presented. Materiel solutions to reduce fratricide will be discussed. This meeting will be closed to the public in accordance with section 552b(c) of title 5, U.S.C., specifically subparagraph (1) thereof, and title 5, U.S.C., appendix 2, subsection 10(d). The classified and unclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (703) 695–0781/0782.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 92–2616 Filed 1–31–92; 8:45 am]

BILLING CODE 3710-08-M

Potential Change in Operating Procedures Used by the Department of Army, Military Traffic Management Command, to Obtain and Schedule Commercial Transportation for Passenger Groups

AGENCY: Military Traffic Management Command, DoD.

ACTION: Request for public comment on change in operating procedures and mechanism used to coordinate, schedule and obtain commercial transportation for passenger groups.

SUMMARY: The military Traffic Management Command (MTMC) is considering change in the procedures and methods used to inform the carrier industry of passenger group movement requirements and to receive offers of service from the carrier industry. Under this change, current procedures using facsimile transmissions to communicate with industry will be discontinued effective June 1, 1992. In lieu of facsimile, MTMC will use an electronic value added network (electronic Mail) to obtain and schedule commercial transportation for passenger groups.

DATES: Comments received by March 1, 1992 will be considered in the course of implementing the planned communication system and operating procedures. Comments received after March 1, 1992 will be considered for future system improvements or modifications.

ADDRESSES: Comments should be sent to Commander, Military Traffic Management Command, ATTN: MTPT–P, room 626, 5611 Columbia Pike, Falls Church, VA 22041–5050.

FOR FURTHER INFORMATION CONTACT: Captain Cohen, (703) 756–1756 or Ms. Glasscock, (703) 756–1579.

SUPPLEMENTARY INFORMATION: MTMC arranges commercial transportation to support the movement of Department of Defense (DoD) sponsored passenger groups, using DoD approved commercial carriers. In recent years MTMC used facsimile transmissions to send passenger group requirements to approved carriers and to receive carrier offers of service. However, the number of carriers desiring to participate in MTMC controlled group passenger business increased to a level where communication by facsimile was no longer feasible, causing MTMC to impose a moratorium on additional carriers using facsimile. To accommodate increased carrier participation and expanded competition, MTMC plans to use a commercial electronic mail service to support simultaneous communications with a large number of DoD approved passenger carriers and carrier agents. This operating concept requires carriers, or their agents, to have access to a computer terminal and to subscribe to a electronic mail service at a nominal cost. More detailed information about computer requirements, electronic mail service and operating procedures are available from MTMC.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 92–2453 Filed 1–31–92; 8:45 am]

BILLING CODE 3710-08-M

Patent Licenses; non-Exclusive, Exclusive, or partially Exclusive, Expandable Grid For Stabilizing and Undersurface.

AGENCY: U.S. Army Engineers Waterways Experiment Station.

ACTION: Notice of availability for exclusive or partially exclusive licensing of U.S. Patent concerning Expandable Grid for Stabilizing and Undersurface.

SUMMARY: In accordance with 37 CFR 404.7(a)(l)(i) announcement is made of the availability of U.S. Patent 4,797,026 for licensing. This patent has been assigned to the United States of America as represented by the Secretary of the Army, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mrs. Norma E. Logue, United States Army, Corps of Engineers, Waterways Experiment Station, ATTN: CEWES–CT–C, Vicksburg, MS 39180–6199, (601) 634–3076.

SUPPLEMENTARY INFORMATION: The invention involves an expandable sand grid system for confining and stabilizing sand or other ungraded aggregates to form roadways. In roadway applications the grid may incorporate an asphalt wearing surface in the top 0.5 to 1 inch of the sand filled cells to permit truck type traffic with axle loads up to 53,000 pounds. The grids may also be stacked to form walls or revetments. Other significant grid uses include various erosion control applications. The grid is manufactured from strips of high-density polyethylene sheeting which are bonded to each other in an offset relationship such that they form a honeycomb arrangement of double-bell shaped cells when the grid is expanded for field use. In the expanded orientation, each cell has an area of approximately 40 square inches. The sand grid system preferably comprises 60 polyethylene strips each having a thickness of 50 mils, height of 8 inches, and a length of approximately 132 inches. The grid system has a collapsed orientation approximately 3.5 inches thick after manufacture and weights approximately 105 pounds. The relatively small volume of the collapsed grids are ideal for storage and transportability.

Two truck loads of grid material are sufficient for construction of 1 mile of 16-foot-wide single-lane roadway. During field use, the grid is expanded from its 3.5-inch thickness to 20 feet to form a honeycomb arrangement of 561 cells that cover an area 8 by 20 feet. The preferred depth of each confinement cell is 8 inches. The grid dimensions and material composition can be varied for specific applications.

Under the authority of section 11(a)(2) of the Federal Technology Transfer Act of 1986 (Pub. L. 99–502) and section 207 of Title 35, United States Code, the Department of the Army, Corps of Engineers, Waterways Experiment Station wishes to license the above United States Patent in an exclusive or partially exclusive manner to any party interested in manufacturing or selling the equipment covered by the above mentioned patent.

Each interested party is requested to submit a proposal for an exclusive or a partially exclusive license. The proposals for manufacturing and selling the equipment covered by the above mentioned patient will be evaluated using the following criteria, Existing Manufacturing Capability, Quality Control/Joint Strength, Cost/Square Foot, Marketing Experience, Royalties, and Small Business.

Kenneth L. Denton,
Army Federal Register Liaison Officer.
[FR Doc. 92–2452 Filed 1–31–92; 8:45 am]
BILLING CODE 3710–08–M

Department of the Navy

Finding of No Significant Impact for Closure of Naval Hospital Philadelphia, PA

Pursuant to Council on Environmental Quality regulations (40 CFR parts 1500–1508) implementing procedural provisions of the National Environmental Policy Act (NEPA), the Department of the Navy gives notice that an Environmental Assessment (EA) has been prepared and an Environmental Impact Statement is not being prepared for the proposed closure of Naval Hospital (NAVHOSP) Philadelphia, Pennsylvania. The proposed action includes establishing a temporary Branch Medical Clinic on Naval Station (NAVSTA) Philadelphia, and relocating elements of the Naval Ship Systems Engineering Station (NAVSSES) to existing buildings at NAVSTA Philadelphia.

The new clinic would consist of eleven modular units (trailers) assembled inside Building 133 to provide a medical facility of about 35,000 square feet. Relocation of NAVSSES would only require interior modifications to Building 662. The proposed action does not involve the disposal of NAVHOSP; this action will be the subject of appropriate subsequent environmental documentation.

The Secretary of Defense Commission on Base Closures and Realignments, pursuant to the Base Closure and Realignment Act of 1988 (Pub. L. 100–526), recommended NAVHOSP Philadelphia be closed. The Secretary of Defense accepted and the Congress concurred with the recommendation. In addition, the Congress exempted the closure decision from the provisions of NEPA; however, the provisions of NEPA apply to implementation of closures and realignments.

Given Congressional concurrence to close NAVHOSP, alternatives were examined for providing health care to Navy personnel stationed in the Philadelphia area, including no action, construction of a new medical facility on the grounds of the Philadelphia Veterans Administration Medical Center (VAMC), and establishment of a Branch Medical Clinic at NAVSTA Philadelphia. Under the no action alternative, NAVHOSP would close, NAVSSES would relocate, and no new medical facilities would be provided for Navy personnel in the Philadelphia area. While small medical clinics exist at a number of Navy locations in the Philadelphia area, no Branch Medical facilities exist at NAVSTA. The closure of NAVHOSP will leave Navy personnel at Navy Base Philadelphia without a nearby clinic, which is unacceptable from a health and safety perspective. Construction of a new medical facility on the grounds of the VAMC was initially proposed based on the medical needs projected for Naval Shipyard (NAVSHIPYD) Philadelphia and NAVSTA Philadelphia. However, medical facility requirements for NAVSHIPYD and NAVSTA have reduced with the planned closure of these two Navy bases by 1997, as recommended by the Commission on Base Closures and Realignments, pursuant to the Base Closure and Realignment Act of 1990 (PL 101–510). The proposed action of establishing a branch clinic of NAVSTA is the most practicable means of providing medical support for Navy personnel at NAVSHIPYD and NAVSTA until the closure actions are implemented.

Impacts associated with the proposed action are not significant. The closure of NAVHOSP will not significantly affect physical or biological resources in the area. The hospital building is considered eligible for listing on the National Register of Historic Places by the State Historic Preservation Officer. Additional studies will be conducted to determine whether the hospital and the other 57 buildings on the grounds of NAVHOSP, individually or collectively, are eligible for listing. If eligible, and in compliance with Section 106 of the National Historic Preservation Act, the State Historic Preservation Office, Advisory Council on Historic Preservation, and the Navy will negotiate a memorandum of agreement regarding listed or eligible resources prior to exceeding NAVHOSP. The Navy will ensure that historic structures are maintained and protected against vandalism and deterioration until disposal of the property. At that time, appropriate environmental documentation will be prepared on the possible impacts to these cultural resources.

A preliminary assessment conducted for NAVHOSP concluded that no hazardous wastes sites were present that would pose a risk to human health and safety. Asbestos containing materials are present in buildings on the grounds of NAVHOSP, including the hospital building. Cleanup of asbestos containing materials would occur prior to disposal of NAVHOSP. No impacts from hazardous materials would occur as a result of the closure of NAVHOSP.

Existing buildings at NAVSTA would be used to relocate NAVSSES, and establish the proposed Branch Medical Clinic. No impacts to physical or biological resources would occur at NAVSTA as a result of the proposed action. No impacts to cultural or historic resources listed or determined eligible for listing would occur for this establishment and relocation proposal.

Based on information gathered during preparation of the EA, the Navy finds that closure of NAVHOSP Philadelphia will not significantly impact the environment.

The EA prepared by the Navy addressing this action is on file and may be reviewed by interested parties at the place of origin: Commanding Officer, Northern Division, Naval Facilities Engineering Command, Building 77–L, U.S. Naval Base, Philadelphia, PA 19112–5000 (Attn: Mr. Ostermueller, Code 202.2), telephone (215) 897–6262. A limited number of copies of the EA are available to fill single copy requests.

This Finding Of No Significant Impact will become final in 30 days from the Federal Register publication date. The public is invited to submit comments on the proposed action to the address given above prior to the end of this period.

Dated: January 6, 1992.

Thomas J. Peeling,
Special Assistant for Environmental Planning, Shore Activities Division, Deputy Chief of Naval Operations, (Logistics).
[FR Doc. 92–2448 Filed 1–31–92; 8:45 am]
BILLING CODE 3810–AE–M

CNO Executive Panel; Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C, App. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel will meet February 20, 1992, from 9 a.m. to 5 p.m. in Alexandria, Virginia.

Purpose of this meeting is to review maritime environment issues as they impact naval vessel construction and operation and shore establishment environmental protection. The agenda of the meeting will consist of discussions of key issues related to environmental cleanup and protection of naval facilities.

For further information concerning this meeting, contact: Judith A. Holden, Executive Secretary to the CNO Executive Panel, 4401 Ford Avenue, room 601, Alexandria, Virginia 22302-0268, Phone (703) 756-1205.

Dated: January 22, 1992.

Wayne T. Baucino,

Lieutenant, JAGC, U.S. Naval Reserve, Alternate Federal Register Liaison Officer.

[FR Doc. 92-2477 Filed 1-31-92; 8:45 am]

BILLING CODE 3810-AE-F

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Hearing

AGENCY: National Assessment Governing Board; Education.

ACTION: Notice of hearing.

SUMMARY: The Council of Chief State School Officers, under contract to the National Assessment Governing Board (NAGB), U.S. Department of Education, is announcing a public hearing. This hearing will be conducted as part of the Council's contract for NAGB for the purpose of developing an assessment framework and specifications for the 1994 National Assessment of Educational Progress (NAEP) Geography Assessment Project. Public and private parties and organizations with an interest in the quality of geography assessment and geography education are invited to present written and oral testimony to the Council.

The hearing will focus on recommendations for the 1994 NAEP geography assessment to be conducted at grades 4, 8, and 12. The results of the hearing are particularly important because they will provide for broad public input in developing the geography assessment framework to be used in the 1994 NAEP. This assessment will be used to measure progress toward the National Education Goal #3, relating to student achievement. This hearing is being conducted pursuant to Public Law 100-297, Section 6(E), which states that "Each learning area assessment shall have goal statements devised through a national consensus approach, providing for active participation of teachers, curriculum specialist, local school administrators, parents and concerned members of the general public."

DATES: The date of the public hearing has been set for February 25, 1992 in Washington DC. The hearing will begin at 1:30 p.m. and adjourn at 4 p.m. If necessary, the adjournment time may be extended.

Persons desiring to present oral statements at the hearing shall submit a notice of intent to appear, postmarked no fewer than fourteen (14) days prior to the scheduled meeting date. The scheduling of oral presentations cannot be guaranteed for notices of intent received less than 14 days prior to the hearing.

Notices of intent to present oral statements shall be mailed to: Council of Chief State School Officers, One Massachusetts Avenue, NW., Washington, DC 20001-1431, Attn: Susan Munroe—Public Hearings.

LOCATION: Holiday Inn Governor's House, Washington, DC.

WRITTEN STATEMENTS: Written Statements may be submitted for the public record in lieu of oral testimony up to 30 days after the hearing. These statements should be sent directly to the Council (see aforementioned address) in the following format:

I. Issues and Questions Addressed: Identify the issue(s) and question(s) to which the testimony is directed. For example, "grade 4 geography objectives," or "what constitutes appropriate assessment".

II. Summary: Briefly summarize the major points and recommendations presented in the testimony.

III. Discussion: The narrative should provide information, points of view and recommendations that will enable the Council to consider all factors relevant to the question(s) the testimony addresses. Respondents are encouraged to limit this section of their written statements to five (5) pages. The discussions may be appended with documents of any length providing further explanation.

Written statements presented at the hearing will be accepted and incorporated into the public record. All written statements should follow the above format, as much as it is possible.

HEARINGS OBJECTIVES AND PROCEDURES: The Council seeks participation in the hearing from a wide spectrum of individuals and organizations to receive recommendations regarding the geographic proficiencies, knowledge, skills and strategies, to be assessed at grade levels 4, 8, and 12. The schedule of speakers shall be such as to provide a broad spectrum of viewpoints and interests, while being contained to a practical amount of time. The goal of the hearing is to provide the medium for maximum input and guidance from teachers, curriculum specialists, local school administrators, parents and concerned members of the general public. To assist in this, the Council of Chief State School Officers will give a brief introduction to the project at the hearing, with the majority of the time being devoted to presentations by scheduled speakers. As listed in the "Dates" section above, speakers wishing to present statements shall file notices of intent. To assist the Council in appropriately scheduling speakers, the written notice of intent to present oral testimony should include the following information: (1) Name, address and telephone number of each person to appear; (2) affiliation (if any); (3) a brief statement of the issues and/or concerns that will be addressed; and (4) whether a written statement will be submitted for the record. Individuals who do not register in advance will be permitted to register and speak at the meeting in order of registration, if time permits. Speakers should plan to limit their total remarks to no more than five (5) minutes.

While it is anticipated that all persons desiring to do so will have an opportunity to speak, time limits may not allow this to occur. The Council will make the final determination on selection and scheduling of speakers.

However, all written statements presented at the hearing will be accepted and incorporated into the public record. Written statements submitted in lieu of oral testimony should be received no later than 30 days after the hearing in order to be included in the public record. Written statements received after this date will be accepted; however, inclusion in the public record cannot be guaranteed.

A staff member from the Council of Chief State School Officers will preside at the hearing. The proceedings will be audiotaped. The hearing will also be signed for the hearing-impaired, and a bilingual speaker (Spanish-English) will be available on site if requests are made in advance.

ADDITIONAL INFORMATION: A draft framework outline for the 1994 assessment and draft assessment guidelines will be made available to anyone wishing to obtain more specifics on the project. Contact the Council of Chief State Officers at (202) 336-7020.

STEPS AFTER HEARING: The Council will review and analyze all comments and opinions received in response to this announcement. A report of the outcomes of the public hearing will be made available to the public upon request after May 1992.

The results of this public testimony, along with the Council's Geography Consensus committee work, will be used to formulate recommendations on the 1994 geography assessment for the National Assessment Governing Board. The Board, charged with developing the assessment framework and specifications, will take final action on the Council's recommendations in May 1992. The following documents will be forthcoming from these coordinated activities: (1) A framework for the 1994 geography assessment, including geography objectives to guide the 1994 assessment, specifications for the test content, and item specifications; (2) Background variables to be collected, as well as achievement data on a national basis, for example, on students, teachers and schools. Background variables should stress factors that are known to be consistently associated with geographic achievement, those that address distributional or equity issues, and those that are of special salience to policymakers; (3) Recommendations and examples of the format to be used to report assessment and background data in geography; (4) A final report describing the consensus process.

A record of all Council proceedings will be kept at the Council of Chief State School Officers until July 1993 and at the National Assessment Governing Board following that date, and will be available for public inspection.

Dated: January 28, 1992.

Diane Ravitch,

Assistant Secretary and Counselor to the Secretary.

[FR Doc. 92-2411 Filed 1-31-92; 8:45 am]

BILLING CODE 4000-01-M

ENDANGERED SPECIES COMMITTEE

Establishment of Date and Location for Public Hearing

AGENCY: Endangered Species Committee.

ACTION: Notice of establishment of date and location for public hearing.

SUMMARY AND DATES: On September 11, 1991, the Bureau of Land Management, Department of the Interior, filed an application with the Secretary of the Interior seeking an exemption from section 7 of the Endangered Species Act that would permit the Bureau to hold timber sales on 44 tracts remaining in the Bureau's 1991 timber sales program in Oregon. See 56 FR 48546, September 25, 1991, the Federal Register notice announcing receipt of the application. In accordance with 16 U.S.C. 1536(g) and 50 CFR 452.03, on October 1, 1991, the Secretary of the Interior made certain threshold determinations concerning the application and concluded that the application qualifies for consideration by the Endangered Species Committee. See 56 FR 54562, October 22, 1991, the **Federal Register** notice announcing the Secretary's determinations.

Under 16 U.S.C. 1536(g)(5) the Secretary, who serves as Chairman of the Endangered Species Committee, normally has 140 days from the date he determines the application qualifies for consideration to conduct an evidentiary hearing to develop the record from which he will prepare a report to the Committee under 16 U.S.C. 1536(g)(4)-(8) and 50 CFR part 452, and to complete the report and provide it to the Committee. However, section 1536(g)(5) permits this 140-day period to be extended upon the mutual agreement of the Secretary and the exemption applicant.

The Secretary of the Interior designated Harvey C. Sweitzer, an administrative law judge, to conduct the evidentiary hearing. The administrative law judge is assisted by the staff of the Endangered Species Committee, which includes the Division of General Law, Office of the Solicitor, Department of the Interior, and the Office of program Analysis, Department of the Interior. The evidentiary hearing, which began on January 8, 1992, and is scheduled to conclude January 30, 1992, is taking place in Portland, Oregon at the Federal Building (Old Bonneville Power Administration Building), 911 Northeast 11th Street, Portland, Oregon 97208. See 56 FR 57633, November 13, 1991, the **Federal Register** notice that appointed the Administrative Law Judge and established the date of the hearing.

Although the evidentiary hearing is all that is required by the Endangered Species Act for purposes of compiling a record for the Committee to review, the Chairman of the Endangered Species Committee has decided that for purposes of receiving background information, it is appropriate under the authority of 16 U.S.C. 1536(e)(7)(A) and 50 CFR 453.04, to provide the public an opportunity to comment on the Bureau of Land Management's exemption application. This public hearing will take place in Portland, Oregon, at the Federal Building (Old Bonneville Power Administration Building), 911 Northeast 11th Street, Portland, Oregon 97208, on February 12 and 13, 1992, beginning at 9:30 a.m. The Federal Building has a comfortable public auditorium which can accommodate approximately 300 people and will be made available to all interested persons effective at 8:30 a.m. on the above dates. A sign-up sheet will be available in the auditorium for those interested in addressing the committee beginning at 9 a.m. on February 12. The Chairman has requested that Mr. Timothy Glidden, Counselor to the Secretary of the Interior, serve as the Chairman of the public hearing. All interested persons are invited to attend and offer their comments. Mr. Glidden has the discretion to set the format and to set time limits. Due to the large number of expected witnesses, Mr. Glidden anticipates allowing approximately five minutes per witness.

The Endangered Species Act permits the Committee to take into account other testimony in addition to the evidentiary record and report. See 16 U.S.C. 1536(7)(h)(1)(A) and 50 CFR 453.03(a)(1). The comments received at the public hearing will be transcribed and made available for public inspection. In addition, the transcript will be given to the Endangered Species Committee as background information. The testimony will not be subject to cross examination or to other tests of evidence as was the case with the testimony admitted into the evidentiary hearing record.

FOR FURTHER INFORMATION CONTACT: Copies of the exemption application may be inspected without change and may be obtained for a fee of $221.00 at the Natural Resources Library, 1st Floor, Department of the Interior, 1849 C St., NW., Washington, DC 20240. The Administrative Record can also be reviewed at the Library, from 1 p.m. until 5 p.m. Monday through Friday. In addition, copies of the application are being offered for sale by the Superintendent of Documents, and will also be available for examination free of charge at all U.S. Government Depository libraries. Further, the application and the Administrative Record can be reviewed in Portland, Oregon, at the following location from 8-11 a.m. and 1-3 p.m. Pacific Time: Office of Environmental Affairs, Department of the Interior, 500 NE Multnomah Street, suite 600, Portland, Oregon 97232-2036. Because of the small size of the reviewing facility, persons wishing to review the documentation should telephone that facility at (503) 231–6157 or FTS 429–6157 to establish a time for the review.

SUPPLEMENTARY INFORMATION: Persons interested in offering their comments at the hearing should keep the following in mind. In order to grant an exemption the Endangered Species committee must make positive findings on the following criteria as they relate to the proposed BLM agency action of conducting the 44 timber sales:

(1) There are no reasonable and prudent alternatives to the agency action;

(2) The benefits of such action clearly outweigh the benefits of alternative courses of action consistent with conserving the species or its critical habitat, and such action is in the public interest;

(3) The action is of regional or national significance; and

(4) Neither the Federal agency concerned nor the exemption applicant made any irreversible or irretrievable commitment of resources with respect to the agency action that had the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures that would not violate section 7(a)(2) of the Endangered Species Act.

John E. Schrote,

Assistant Secretary—Policy Management and Budget and Staff to the Chairman, Endangered Species Committee.

[FR Doc. 92–2676 Filed 1–31–92; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF ENERGY

San Francisco Field Office

Financial Assistance Award (Grant)

AGENCY: U.S. Department of Energy (DOE).

ACTION: Grant Solicitation Announcement for Laser Fusion Research Applications.

SUMMARY: U.S. Department of Energy (DOE), San Francisco. Field Office (SF) announces that it plans to conduct a technically competitive solicitation for basic research experiments in high energy density studies at the National Laser User's Facility (NLUF) located at the University of Rochester Laboratory for Laser Energetics (UR/LLE). Universities or other higher educational institutions, private sector not-for-profit or for-profit organizations, or other entities are invited to submit grant applications. The total amount of funding expected to be available for the FY93 cycle of this program is $700,000 and multiple awards are anticipated. These awards are contingent upon the availability of the laser facilities at UR/LLE.

ADDRESSES: U.S. Department of Energy, San Francisco Field Office, 1333 Broadway, Oakland, CA 94612.

FOR FURTHER INFORMATION CONTACT: James H. Solomon of the DOE San Francisco Field Office, Contracts Management Division, telephone 510/273–7117.

SUPPLEMENTARY INFORMATION: GRANT SOLICITATION NUMBER: DE–PS03–92–SF19241.

The actual work to be accomplished will be determined by the experiments that are selected for award. Proposed experiments will be evaluated and ranked through scientific peer review against predetermined, published and available criteria. Final selection for awards will be made by the DOE from among the top ranked applications. It is anticipated that multiple grants will be awarded within the available funding. The unique resources of the NLUF are available to scientists for state-of-the-art experiments primarily in the area of inertial fusion and related plasma physics. Other areas such as spectroscopy of high ionized atoms, laboratory astrophysics, fundamental physics, material science, and biology and chemistry will be considered on a second priority basis. The LLE was established in 1970 to investigate the interaction of high power lasers with matter. Available at the LLE for NLUF researchers is the OMEGA laser, a trillion watt, 24-beam laser system (at 0.35 um) and the Glass Development Laser (GDL), a 250 billion watt, single beam prototype for OMEGA (at 0.35 um). the NLUF offers the capability for laser-matter interaction experiments or for using short (100 picosecond) pulses of laser light, X-rays, or neutron for probing the structure of matter. More technical information about the facilities and potential collaboration at NLUF can be obtained from: Dr. James Knauer, Manager, National Laser User's Facility, University of Rochester/LLE, 250 East River Road, Rochester, NY 14623.

The solicitation document contains all the information relative to this requirement for prospective applicant. The solicitation is targeted for release in Mid-February 1992. Recipients of the NLUF solicitation during the last (FY92) cycle of the program will automatically be sent a copy of the solicitation.

Sarah Eary,

Chief, M&O/DP/ER Branch, Contracts Management Division.

[FR Doc. 92–2521 Filed 1–31–92; 8:45 am]

BILLING CODE 6450-01-M

Office of Fossil Energy

[Docket No. EA-95]

Application by Maine Public Service Company, Alternative Energy, Inc. and Northeast Empire Limited Partnership #2 for Authorization to Transmit Electric Energy to a Foreign Country

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application to transmit electric energy across the international border between the U.S. and Canada.

SUMMARY: Maine Public Service Company (MPSC), Alternative Energy, Inc. (AEI) and Northeast Empire Limited Partnership #2 (the Partnership) (collectively the Applicants) have applied to the Office of Fossil Energy of the Department of Energy (DOE) for authorization to transmit electric energy to Canada. The energy will be generated by the Beaver-Ashland Project (Beaver-Ashland) and will be transmitted across the international border via an existing 138-kV electrical interconnection between MPSC and the New Brunswick Electric Power Commission (NB Power).

DATES: Comments, protests or requests to intervene must be submitted on or before March 4, 1992.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Electricity (FE–52), Office of Fuels Programs, Office of Fossil Energy, Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585. Docket Number EA–95 should appear clearly on the envelope and on the document contained therein.

FOR FURTHER INFORMATION CONTACT: Warren E. Williams (Program Office), 202–586–9629 or Lise Howe (Program Attorney) 202–586–2900.

SUPPLEMENTARY INFORMATION: On January 6, 1992, MPSC, AEI and the Partnership applied to the Office of Fossil Energy of the DOE pursuant to section 202(e) of the Federal Power Act for authorization to transmit electric energy from the U.S. to Canada as part of a transaction that ultimately will result in redelivery of the electric energy back into the U.S. for consumption in the State of Maine.

The Partnership, a Maine limited partnership, was formed for the single purpose of constructing and owning a wood-fired small power production facility, known as Beaver-Ashland, to be located in Ashland, Maine. Construction of the project is expected to begin by the end of the first quarter of 1993 and the facility is scheduled to generate electric energy from 1993 until December 31, 2021.

The Partnership will sell to Central Maine Power (CMP) 31,000 kilowatts of electric power which will be generated by the Beaver-Ashland facility, which is located in the service territory of MPSC.

The electric energy to be delivered to CMP will be transmitted from Ashland, Maine, through the utility system of MPSC, to NB Power in New Brunswick, Canada, as part of a transaction that will result in redelivery of the electric energy by NB Power to Maine Electric Power Company, which will wheel the power to the buyer, CMP. No electric energy from Beaver-Ashland will be sold in Canada.

Procedural Matters

Any person desiring to be heard or to protest this application should file a petition to intervene or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the rules of practice and procedures (18 CFR 385.211, 385.214).

Any such petitions and protests should be filed with the DOE on or before the date listed above. Additional copies of such petitions to intervene or protests also should be filed directly with:

Stephen A. Johnson, General Counsel, Maine Public Service Company, 209 State Street, P.O. Box 1209, Presque, Maine 04769

Lyndon Taylor, Attorney, Skadden, Arps, Slate, Meagher & Flom, 1440 New York Avenue, NW., Washington, DC 20005

Pursuant to 18 CFR 385.211, protests and comments will be considered by the DOE in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene under 18 CFR 385.214. Section 385.214 requires that a petition to intervene must state, to the extent known, the position taken by the petitioner and the petitioner's interest in sufficient factual detail to demonstrate either that the petitioner has a right to participate because it is a State Commission; that it has or represents an interest which may be directly affected by the outcome of the proceeding, including any interest as a consumer, customer, competitor, or security holder of a party to the proceeding; or that the petitioner's participation is in the public interest.

A final decision will be made on this application after a determination is made by the DOE that the proposed action will not impair the reliability of the U.S. electric power supply system.

Before an authorization can be issued, the environmental impacts of the proposed DOE action (i.e., granting the authorization, with any conditions and limitations, or denying it) must be evaluated pursuant to the National Environmental Policy Act of 1969 (NEPA). The NEPA compliance process is a cooperative, nonadversarial process involving members of the public, state governments and the Federal government. The process affords all persons interested in or potentially affected by the environmental consequences of a proposed action an opportunity to present their views, which will be considered in the preparation of the environmental documentation for the proposed action.

Intervening and becoming a party to this proceeding will not create any special status for the petitioner with regard to the NEPA process. Should a public proceeding be necessary in order to comply with NEPA, notice of such activities and information on how the public can participate in those activities will be published in the **Federal Register**, local newspapers and public libraries and/or reading rooms in the vicinity of the electric transmission facilities.

Copies of this application will be made available, upon request, for public inspection and copying at the Department of Energy, room 3F-070, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, 20585, from 9 a.m. to 4 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC on January 28, 1992.

Anthony J. Como,

Director, Office of Coal & Electricity, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-2525 Filed 1-31-92; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 91-112-NG]

GasMark, Inc; Application To Import and Export Natural Gas, Including Liquefied Natural Gas, From and To Canada and Other Countries

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application for blanket authorization to import and export natural gas, including liquefied natural gas.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on December 20, 1991, of an application filed by GasMark, Inc. (GasMark) for blanket authorization to import and export up to 200 Bcf of natural gas, including liquefied natural gas (LNG), over a two-year period commencing with the date of first import or export. GasMark intends to use existing pipeline and LNG facilities to implement the proposed imports and exports, and to submit quarterly reports detailing each transaction.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time, March 4, 1992.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, FE-50, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478.

FOR FURTHER INFORMATION CONTACT:

C. Frank Duchaine Jr., Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3G-087, FE-53, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-8233.

Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E-042, GC-14, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6667.

SUPPLEMENTARY INFORMATION: GasMark, a Texas corporation with its principal place of business in Houston, Texas, is a marketer of natural gas with the majority of its gas flowing under short- and medium-term marketing arrangements to utility and end-use customers. While the applicant anticipates most proposed transactions would involve the U.S. and Canada, it is requesting authority to import and export gas from and to countries other than Canada. GasMark indicates the authority requested in this docket, if granted, would supersede its existing blanket import authority (DOE/ERA Opinion and Order No. 176, 1 ERA Para 70,705).

The decision on GasMark's application for import authority will be made consistent with DOE's natural gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684), February 22, 1984). In reviewing natural gas export applications, domestic need for the gas to be exported is considered, and any other issues determined to be appropriate in a particular case, including whether the arrangement is consistent with the DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment on these matters as they relate to the requested import and export authority. The applicant asserts that this import/export arangement would be in the public interest. Parties opposing the arrangement bear the burden of overcoming this assertion.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321, *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have their written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and response filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of GasMark's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, January 23, 1992.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-2523 Filed 1-31-92; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 92-01-NG]

Markwest Hydrocarbon Partners, Ltd.; Application To Export Natural Gas to Mexico

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application for blanket authorization to export natural gas to Mexico.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on January 2, 1992, of an application filed by MarkWest Hydrocarbon Partners, Ltd. (MarkWest) requesting blanket authorization to export up to 125,000 MMBtu per day of natural gas over a two-year period beginning with the date of first delivery. MarkWest states that it will advise the DOE of the date of first delivery and submit quarterly reports detailing each transaction. MarkWest would use existing pipeline facilities to implement the proposed exports.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time, March 4, 1992.

ADDRESSES: Office of Fuels Programs, Fossil Energy, Forrestal Building, room 3F-056, FE-50, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9478.

FOR FURTHER INFORMATION CONTACT:

C. Frank Duchaine, Jr., Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3G-087, FE-53, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-8233.

Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E-042, GC-14, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-6667.

SUPPLEMENTARY INFORMATION: MarkWest, a Colorado limited partnership with its principal place of business in Englewood, Colorado, requests authorization to export natural gas purchased from U.S. producers to Mexican purchasers for varying terms not to exceed one year. All sales would result from arms-length negotiations, and prices would be determined by market conditions.

The export application will be reviewed under section 3 of the Natural Gas Act and the authority contained in DOE Delegation Order Nos. 0204-111 and 0204-127. In deciding whether the proposed export is in the public interest, domestic need for the natural gas will be considered, and any other issue determined to be appropriate, including whether the arrangement is consistent with DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment on these matters as they relate to the requested export authority. The applicant asserts that there is no current need for the domestic gas that would be exported under the proposed arrangement. Parties opposing this arrangement bear the burden of overcoming this assertion.

All parties should be aware that if DOE approves this requested blanket export authorization, it may designate a total authorized volume for the two-year term rather than a daily, monthly or annual limit in order to provide MarkWest with maximum flexibility of operation. Based on its requested export authorization of 125.000 MMBtu per day, MarkWest's two year authorization would be 91.25 Bcf of natural gas.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene to notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have their written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of MarkWest's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, January, 24, 1992.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs Office of Fossil Energy.

[FR Doc. 92-2522 Filed 1-31-92; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 91-81-NG]

Salmon Resources Ltd.; Ordering Granting Blanket Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of an order granting blanket authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order authorizing Salmon Resources Ltd. to import up to 100 Bcf of Canadian natural gas over a two-year period beginning on the date of first delivery after February 14, 1992.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, January 24, 1992.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-2524 Filed 1-31-92; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Cases Filed During the Week of December 20 Through December 27, 1991

During the Week of December 20 through December 27, 1991, the appeals and applications for exception or other relief listed in the appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: January 23, 1992.

George B. Breznay,

Director, Office of Hearings and Appeals.

List of Cases Received by the Office of Hearings and Appeals

[Week of December 20 through December 27, 1991]

Date	Name and location of applicant	Case No.	Type of submission
December 23, 1991.	American Industrial Contractors, Inc. Albuquerque NM.	LFA-0173	Appeal of an information request denial. If granted: American Industrial Contractors, Inc. would receive access to DOE information.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of December 20 through December 27, 1991]

Date	Name and location of applicant	Case No.	Type of submission
December 23, 1991.	Michael P. Dailey Cumberland, RI	LFA-0174	Appeal of an information Request Denial. If granted: The December 16, 1991 Freedom of Information Request Denial issued by the Western Area Power Administration would be rescinded, and Michael P. Dailey would receive access to DOE information.
December 23, 1991.	James L. Schwab Spokane, WA	LFA-0175	Appeal of an information request denial. If granted: The December 11, 1991 Freedom of Information Request Denial issued by the Albuquerque Field Office would be rescinded, and James L. Schwab would receive access to additional DOE documents concerning the investigation of his "whistleblower" complaint under DOE Order 5483.1A.
December 26, 1991.	Gulf/Miller Oil company Atlantic Beach, FL	RR300-123	Request for modification/rescission in the Gulf refund proceeding. If granted: The February 13, 1991 Dismissal Letter (Case No. RF300-11634) issued to Miller Oil Company would be modified regarding the firm's application for refund submitted in the Gulf refund proceeding.
December 27, 1991.	Texaco/Lonas Construction Co., Inc. Washington, DC.	RR321-102	Request for modification/rescission in the Texaco refund proceeding. If granted: The July 22, 1991 Decision and Order (Case No. RF321-9242) issued to Lonas Construction Co., Inc. would be modified regarding the firm's application for refund submitted in the Texaco refund proceeding.

REFUND APPLICATIONS RECEIVED

[Week of December 20 to December 27, 1991]

Date received	Name of refund proceeding/name of refund applicant	Case number
12/23/91	Gardner's Clark Station.	RF342-87
12/23/91	Schouten Oil Co. Inc.	RF342-88
12/23/91	Ray's Clark Super 100.	RF342-89
12/23/91	Arlen Fosburgh	RF342-90
12/23/91	Larry's Super 100 Station.	RF342-91
12/23/91	Chuck's Super "100".	RF342-92
12/23/91	Lee Britton Clark	RF342-93
12/23/91	Jack's Clark Station	RF342-94
12/23/91	Michael E. Egan	RF342-95
12/23/91	New Christian Life Fellowship.	RF335-57
12/23/91	Munir's Exxon	RF307-10207
12/23/91	Wayne Circle Exxon.	RF307-10208
12/23/91	Raleigh Tire & Service.	RF304-12668
12/24/91	Lee Apparel Co.	RF335-58
12/24/91	Ed's Clark Super 100 #1308.	RF342-96
12/24/91	Bob's Super 100	RF342-97
12/26/91	Clark Super 100, Donald Hayes.	RF342-98
12/26/91	Hashi Yanaga Super 100 #155.	RF342-99
12/26/91	Martin Donald Zinda.	RF342-100
12/26/91	Ron's Clark Super 100.	RF342-101
12/26/91	Grime Fighter Car Wash.	RF304-12669
12/20/91 thru 12/27/91.	Texaco refund, applications received.	RF321-18134 thru RF321-18153
12/20/91 thru 12/27/91.	Crude Oil, applications received.	RF272-90910 thru RF272-91273
12/20/91 thru 12/27/91.	Gulf Oil refund, applications received.	RF300-18821 thru RF300-19292

[FR Doc. 92-2531 Filed 1-31-92; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders During the Week of November 11 Through November 15, 1991

During the week of November 11 through November 15, 1991, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

International Association of Machinists and Aerospace Workers, Lodge 1018, 11/13/91, LFA-0158

The International Association of Machinists and Aerospace Workers, Lodge 1018, filed an Appeal from a determination issued by the Acting Assistant General Counsel for General Litigation (AAGC) of the DOE in response to their Request for Information submitted under the Freedom of Information Act (FOIA). In considering the Appeal, the DOE determined that under an unbroken line of cases decided by the federal courts, letters received by government attorneys from opposing counsel are not inter- or intra-agency documents within the meaning of exemption 5 of the FOIA, regardless of the existence of any possible privileges. The DOE, therefore, found that the AAGC should not have withheld a letter written by an attorney for Maywood, New Jersey, concerning a possible settlement of litigation by Maywood against the DOE. Accordingly, the Appeal was granted in part, denied in part, and remanded for the AAGC to either promptly release the letter or apply other possible FOIA exemptions, such as exemptions 4 or 7, to the letter.

Refund Applications

Atlantic Richfield Company/Mid Continent Systems, Inc., 11/14/91, RF304-4445

The DOE issued a Decision and Order granting a refund to Mid Continent Systems, Inc., (Mid Continent) a reseller and retailer that purchased 256,854,025 gallons of ARCO gasoline and distillates during the consent order period. Mid Continent elected to rely on the mid level presumption of injury and received a maximum refund of $50,000 in principal plus $24,939 in interest. Ordinarily, payment of the refund to the firm would have been withheld because Mid Continent is the subject of an unsatisfied remedial order obligation totalling approximately $1,700,000. However, after the commencement of the enforcement proceeding against Mid Continent, the firm filed a petition for protection under chapter 11 of the Bankruptcy Code. Because the court now exercises exclusive authority over the company's assets and liabilities, including the claims of its creditors, the Mid Continent refund will be issued to the bankruptcy trustee for approximate disbursement in accordance with the instructions of the Bankruptcy Court.

Atlantic Richfield Company/Vangas, Inc., 11/15/91, RF304-12514

The DOE issued a Supplemental Decision and Order concerning five Applications for Refund filed in the Atlantic Richfield subpart V special refund proceeding by Vangas, Inc., a reseller/retailer of natural gas liquid products. In considering the Vangas

Application, the DOE found that in the Getty Oil Company special refund proceeding, wholly-owned subsidiaries of the firm had submitted separate applications and, as a result, received refunds exceeding by $84,881 the refund the entities would have been entitled to receive had they been properly treated as a single firm. Rather than grant a refund in the ARCO proceeding and require that the excessive Getty refund be repaid, the DOE offset the excessive Getty refund against the larger requested ARCO refund. Vangas will receive the remaining ARCO refund amount, $25,844, after the offset. The offset amount will be transferred from the ARCO refund account to the Getty refund account.

Quantum Chemical Corporation/Jones & Murtha Distributing Co., Inc., 11/12/91, RF330–43

The DOE denied an Application for Refund filed by Energy Refunds, Inc., on behalf of the Jones & Murtha Distributing Co., Inc. (Jones & Murtha) in the Quantum Chemical Corporation (Quantum) special refund proceeding. According to the Quantum Implementation Order, on March 25, 1988, Quantum and the DOE entered into a Consent Order to resolve all matters relating to Quantum's compliance with the regulations concerning its sales of natural gasoline during the period August 1, 1973, through January 27, 1981. Quantum's sales of other NGL products were not included in the terms of the Consent Order. Because Jones & Murtha purchased middle distillates, it is not eligible to receive a refund in the Quantum special refund proceeding. Accordingly, the DOE has denied the applicant's Application for Refund.

Reading Company, 11/21/91, RF272–26255

The DOE granted an Application for Refund filed by the Reading Company in the subpart V crude oil special refund proceeding. The Reading Application was opposed by a consortium of twenty-eight states and two territories that claimed Reading, who operated a railroad during a portion of the refund period, was able to employ an automatic fuel cost adjustment factor under a regulatory scheme of the Interstate Commerce Commission to pass through crude oil overcharges. OHA rejected this argument and granted a refund in the amount of $37,645.

Seaco, Inc., 11/14/91, RF272–77329

The DOE issued a Decision and Order denying a refund in the subpart V crude oil special refund proceeding to Seaco, Inc. (Seaco). The denial was based upon the fact that Seaco, a reseller of asphalt emulsion, failed to rebut the presumption against refunds to resellers in this proceeding and consequently was ineligible to receive a refund.

Texaco, Inc./Coker's Pedigreed Seed Co., 11/13/91, RF321–7584

The DOE issued a Decision and Order in the Texaco, Inc., subpart V special refund proceeding concerning an Application for Refund filed by Northrup King Co., on behalf of purchases made by a subsidiary, Coker's Pedigreed Seed Co. The DOE determined that the right to a refund was transferred to Northrup when it purchased Coker's in 1988. The Decision stated that although potential refunds are not explicitly mentioned in the agreement, the language clearly indicates the intent of the prior owners to convey the right to a refund. Accordingly, Northrup was granted a refund equal to its full allocable share. The refund granted to Northrup in this Decision is $343 ($268 principal plus $75 interest).

The True Companies/Empire Gas Corporation, 11/14/91, RF195–3

The DOE issued a Decision and Order considering an Application for Refund filed by the Empire Gas Corporation (Empire) in The True Companies subpart V special refund proceeding. The firm requested a full volumetric refund of $79,740. In order to receive a refund at that level, applicants are required to demonstrate injury. The DOE made specific requests to the firm detailing the two step injury showing, including the submission of (i) banked cost data and (ii) some other data showing the overcharges had not been passed through. However, Empire never submitted complete bank information nor did it file complete information regarding the second step of the injury showing. In the absence of this material, the DOE found that Empire was entitled to a refund at the small claims presumptive level of $5,000, plus accrued interest of $4,747.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

American Biltrite Inc.	RF272–26760	11/14/91
American Biltrite Inc.	RF272–26760	....
Atchison County Farmers Union Cooperative et al.	RF272–77458	11/15/91
Atlantic Richfield Company/Brown and Dowling Arco et al.	RF304–3897	11/13/91
Atlantic Richfield Company/Corbo's Arco.	RF304–12609	11/14/91
Atlantic Richfield Company/James Dorsey.	RF304–12613	11/13/91
Atlantic Richfield Company/Nick's Arco et al.	RF304–12400	11/15/91
Atlantic Richfield Company/Peters Arco et al.	RF304–4344	11/12/91
Atlantic Richfield Company/Roberts Cash Carry.	RF304–6647	11/15/91
Streng's Arco Service Station.	RF304–6656	....
Atlantic Richfield Company/Thurston Arco.	RF304–12511	11/14/91
Citronelle-Mobile Gathering/Hudson General Corporation.	RF336–29	11/12/91
Enron Corporation/Permian Petroleum Co.	RF340–4	11/14/91
Enron Corporation/U.S. Compressed Gas Co.	RF340–12	11/12/91
Gulf Oil Corporation/Bole Oil Co., Inc./Allied Oil Co.	RF300–6097	11/12/91
Kay Bole....................	RF300–8241	....
Gulf Oil Corporation/J & J Service Station.	RF300–14051	11/12/91
Gulf Oil Corporation/Kepler's Fuel Co. et al.	RF300–12369	11/13/91
Gulf Oil Corporation/Robinot Co. et al.	RF300–12063	11/12/91
Monterey Peninsula U.S.D.	RC272–139	11/12/91
Phipps Houses Services, Inc.	RF272–57184	11/15/91
S.E. Rykoff & Co....	RF272–27813	11/14/91

Shell Oil Company/ Collins Shell et al.	RF315-00072	11/15/91
Shell Oil Company/ Darrell's Shell et al.	RF315-59	11/12/91
Texaco Inc./ Bushey's Sahara Texaco et al.	RF321-7017	11/12/91
Texaco Inc./ Elkhorn Truck Service.	RF321-8545	11/14/91
Elkhorn Texaco	RF321-17855	
Texaco Inc./ Fidler Concrete, Inc. et al.	RF321-8122	11/13/91
Texaco Inc./ Lawton's Texaco Service.	RF321-17909	11/15/91
Tidewater Inc. & Subsidiaries.	RF272-25366	11/12/91
Tidewater Inc. & Subsidiaries.	RF272-25366	
Transport Desgagnes, Inc..	RF272-73778	11/13/91
Transport Desgagnes, Inc..	RF272-73778	

Dismissals

The following submissions were dismissed:

Name	Case No.
Azalea Road Texaco	RF321-3597
Caprock Texaco	RF321-4510
Davis Texaco	RF321-5057
Decarlo Texaco	RF321-181
Dick Lumoreaux Arco	RF304-3732
Emory & Steve's Texaco	RF321-5031
English Auto Service Center	RF304-9050
Gene Stone's Texaco	RF321-7480
George Wilkins	RF272-76237
Herbert Malarkey Roofing	RF321-17462
Hines Texaco Service	RF321-5048
Joe Mele & Sons Texaco	RF321-17450
John L. Bond, Inc	RF300-11184
Lamb Construction Company	RF272-26201
Miles Texaco Service	RF321-710
Patrick's Service Station	RF300-13681
Revere Copper & Brass, Inc	RF272-77325
Rice Service Station	RF304-3997
Summer Street Texaco	RF321-5037
Tom Adams Texaco	RF321-9601
Triphammer Texaco	RF321-5022
Vito's Arco	RF304-12512

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E-234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: January 27, 1992.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 92-2530 Filed 1-31-92; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders During the Week of November 18 Through November 22, 1991

During the week of November 18 through November 22, 1991, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

United Union of Roofers, Waterproofers & Allied Workers, 11/19/91, LFA-0154

The United Union of Roofers, Waterproofers & Allied Workers filed an Appeal from a Freedom of Information Act (FOIA) determination issued by the Department of energy's Bonneville Power Administration (BPA). In that determination the BPA withheld the names, addresses and Social Security numbers of contractor employees pursuant to Exemption 6 of the FOIA. In considering the Appeal, the DOE found that the justification for withholding the requested information was adequate under the FOIA. Accordingly, the Appeal was denied.

Request for Exception

Local Oil Co., Inc., 11/20/91, LEE-0025

Local Oil Company, Inc. filed an Application for Exception which, if granted, would have relieved the firm of the requirement of preparing and filing DOE Form EIA-782B. The DOE issued a final Decision and Order which denied the exception request on the grounds that the firm had not shown that it experienced a serious hardship or gross inequity as a result of its obligation to file Form EIA-782B.

Refund Applications

Aratex Services, Inc., 11/21/91, RF272-25306, RD272-25306

Aratex Services, Inc. (Aratex) filed an application for refund as an end-user of refined petroleum products in the Subpart V crude oil refund proceeding. The firm's refund claim was based on its purchases of gasoline, lubricants, residual fuel oil, and petroleum-based dry cleaning solvents (mineral spirits), which it used in the rental and maintenance of industrial garments. The Applicant demonstrated the volume of its claims by consulting purchase records and by making reasonable estimates. A group of state governments filed a statement of objection to the firm's claim, and provided econometric evidence concerning the manufacturing and service industries as a whole. The DOE determined that the States had failed to produce any convincing evidence to show that Aratex had been able to pass on the crude oil overcharges to its customers, and found that the States' econometric evidence failed to properly address the individual situation of the Applicant. As in previous decisions, the DOE rejected the States' contention that economy-wide data constituted sufficient evidence to rebut the presumption that end-users such as Aratex were injured by crude oil overcharges. The DOE granted Aratex a refund of $263,404 based on its approved purchases of 329,255,560 gallons of petroleum products. The States' related Motion for Discovery was denied.

Atlantic Richfield Co./Magnatex Corporation, Starr Gas Co., 11/21/91, RF304-12390, RF304-12492, RF304-12493

The DOE issued a Decision and Order in the ARCO Special Refund proceeding concerning two competing Applications for Refund filed by McMickle and Edwards. A refund of $7,170 was originally granted to a firm that identified itself as the Starr Gas Company (Starr), based upon purchases of 6,802,722 gallons of ARCO products during the refund period. The Starr Application stated that there had been no change in ownership of Starr during or since the refund period. Subsequently, an Application for Refund was filed by the Magnatex Corporation (Magnatex) claiming that Starr was a wholly owned subsidiary of Magnatex from 1972 until Starr was liquidated in 1986; the Application also stated that certain assets of Starr had been sold to the West Texas Company. We later discovered that the original application had been filed by West Texas on behalf of Starr. Because the sale of Starr to West Texas involved only assets and because Magnatex successfully demonstrated that the firm owned 100% of the stock of Starr until the corporation's dissolution; a refund of $7,170 ($5,000 in principal and $2,170 in interest) was approved to Magnatex. McMickle and Edwards and West Texas were ordered to repay the refund of $7,170 originally granted to Starr.

Gulf Oil Corporation/Helena Marine Service, 11/22/91, RF300–11199

The DOE has granted an Application for Refund filed by Energy Refunds, Inc. on behalf of Helena Marine Service (Helena) in the Gulf Oil Corporation special refund proceeding. Helena submitted a claim for both its end-use purchases and its reseller purchases. In a previous Decision, the DOE concluded that an applicant cannot receive a refund based on presumption of injury for both its end-use and its reseller gallons. However, since the operations were independent, the DOE granted the applicant a refund using the larger of the presumptions. The total refund granted in this Decision is $19,648.

Shell Oil Co./Alpena Oil Co., Inc., Northwood Oil Co., Inc. 11/21/91, RF315–6515, RF315–6516

The DOE issued a Decision and Order granting two Applications for Refund filed in the Shell Oil Company (Shell) special refund proceeding on behalf of Alpena Oil Co., Inc. (Alpena), and Northwood Oil Co., Inc. (Northwood). Although Alpena and Northwood are currently under common ownership, the two firms requested that their applications be considered separately because they were separately owned and operationally distinct during the refund period. In a limited number of cases, we have granted refunds to two or more related firms under different presumptions of injury when they are so operationally distinct that the cost of preparing an injury showing for each of them would be the same as if they were two entirely unrelated entities. *See Shell Oil Company/Arne Moores Inter City Oil Co., Inc.*, 20 DOE ¶85,719 (1990) (*Arne Moores*); *Gulf Oil Corporation/Jennings-Watts Oil Co., Inc.*, 19 DOE ¶85,305 (1989) (*Jennings-Watts*). Because Alpena and Northwood satisfied the criteria outlined in *Arne Moores* and *Jennings-Watts*, we considered the two applications separately in determining the relevant presumption of injury. Both Alpena and Northwood were entitled to refunds under the $5,000 presumption based upon their respective purchases of 30,510,009 gallons and 33,570,268 gallons of Shell products. The total amount of the refunds approved in this Decision is $14,048 ($10,000 principal and $4,048 interest).

Shell Oil Co., Tank Lines, Inc., Horkey Oil Co., Inc. 11/18/91, RF315–8916, RF315–8917

The DOE issued a Decision and Order granting two applications for refund filed in the Shell Oil Company special refund proceeding by two commonly owned firms: Tank Lines, Inc., and Horkey Oil Company, Inc. Since the two firms are commonly owned, Tank Lines, Inc., indicated that its refund should be made payable to Horkey Oil Company, Inc. Therefore, we combined the purchase volumes of Tank Lines, Inc., and Horkey Oil Company, Inc., in order to determine their full allocable share and the appropriate presumption of injury. Tank Lines, Inc., demonstrated that it purchased 3,180,711 gallons of propane during the consent order period. Similarly, Horkey Oil Company, Inc., demonstrated that it purchased 102,569,919 gallons of motor gasoline and distillates during the consent order period. Thus, their full allocable share is 105,750,630 gallons (3,180,711 gallons plus 102,569,919 gallons), which falls under the medium-range presumption of injury. Accordingly, Horkey Oil Company, Inc., was granted a refund of $405 ($288 principal and $117 interest) on behalf of Tank Lines, Inc. For its own purchases of motor gasoline and distillates, Horkey Oil Company, Inc., was granted a refund of $13,025 ($9,272 principal and $3,753 interest). The total refund granted is $13,430 (comprised of $9,560 in principal and $3,870 in interest).

Texaco Inc./Big Save Texaco, 11/22/91, RF321–7642

The DOE issued a Decision and Order concerning an Application for Refund filed by Big Save Texaco (Big Save) in the Texaco Inc. special refund proceeding. The applicant was an indirect purchaser of Texaco products who was supplied by H. J. Tanner, Inc. (Tanner). Because Big Save provided a monthly schedule of its motor gasoline purchases from Tanner along with sample invoices confirming those figures, the DOE accepted Big Save's gallonage figures. However, the DOE discovered that Tanner had obtained approximately 98 percent of its motor gasoline purchases from Texaco and the remainder from Mobil Oil Corporation. Consequently, the DOE determined that Big Save's volumetric amount should be reduced by two percent. In this Decision, Big Save was granted a refund of $6,440, representing $5,054 principal and $1,386 interest.

Texaco Inc./Imperial Lumber Co., 11/22/91, RF321–17984

The DOE issued a Supplemental Order in the Texaco Inc. special refund proceeding regarding Imperial Lumber Co. (Imperial). In *Texaco Inc./Rancatti's, Garage*, Case No. RF321–6501 *et al.* (October 18, 1991), Imperial was granted a refund of $1,018 based upon its purchases of Texaco refined petroleum products. However, the Decision was returned as unclaimed and the DOE was subsequently unable to obtain a correct address for this applicant. The refund granted to Imperial was therefore rescinded.

Texaco Inc./Marshall's Texaco, 11/19/91, RF321–17918

On June 15, 1990, the DOE issued a Decision and Order in the Texaco Inc. refund proceeding concerning an Application for Refund filed by Marshall's Texaco, a retailer of Texaco products. That refund was based upon the applicant's claim that he operated the retail outlet from May 1978 to January 1981, and the volume of purchases at that location between those dates. Subsequently, the DOE determined that another applicant had operated the station until December 1978. On May 16, 1991, the DOE issued a Decision and Order requiring Robert Marshall, the owner of Marshall's Texaco, to repay that portion of its refund attributable to purchases made before December 1978, and to submit documentary evidence that he operated the station from that date until January 1981. Mr. Marshall failed to make the repayment or submit any documentary evidence. Accordingly, the DOE finds in the present Decision that the entire refund granted to Mr. Marshall should be rescinded.

Texaco Inc./Ray's Texaco, et al., 11/19/91, RF321–4637, et al

The DOE issued a Decision and Order concerning 14 Applications for Refund filed in the Texaco Inc. special refund proceeding. Each of the applicants purchased directly from Texaco and was a reseller whose allocable share is less than $10,000 or an end-user. Two applications included claims for purchases which were made indirectly through a Texaco supplier. The DOE had previously determined that indirect purchasers should be considered under procedures established for direct purchasers if their suppliers had not demonstrated injury. Accordingly, these purchases were considered with the direct purchases. The DOE determined that each applicant was eligible to receive a refund equal to its full allocable share. The sum of the refunds granted in this Decision is $30,652 ($23,939 principle plus $6,713 interest).

Refunded Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference

Room of the Office of Hearings and Appeals.

Atlantic Richfield Company/C&T ARCO.	RF304-12612	11/22/91
Atlantic Richfield Company/Logan Valley ARCO *et al.*	RF304-4821	11/21/91
Altantic Richfield Company/R & R Service Inc. *et al.*	RF304-10125	11/19/91
Altantic Richfield Company/Sinkler, Inc..	RF304-12618	11/18/91
Citronelle-Mobile Gathering/American Cyanamid Company.	RF336-14	11/20/91
City of Brady	RFRF272-66551	11/19/91
Eklof Marine Corporation *et al.*	RF272-341	11/18/91
Gulf Oil Corporation/Bobby's Gulf *et al.*	RF300-11707	11/20/91
Gulf Oil Corporation/Denton Public School *et al.*	RF300-12842	11/18/91
Gulf Oil Corporation/Haney's Automotive & Gulf.	RF300-18146	11/19/91
Gulf Oil Corporation/Haworth Oil Company.	RF300-13316	11/18/91
Gulf Oil Corporation/Holmes Oil Company, Inc..	RF300-21	11/18/91
Gulf Oil Corporation/Martin Marietta Corp. *et al.*	RF300-11704	11/18/91
Gulf Oil Corporation/Pelican Gulf Service *et al.*	RF300-14000	11/21/91
Lee Hy Paving Corp..	RF272-82	11/20/91
Phipps Houses Services, Inc..	RF272-50568	11/21/91
Phipps Garden Apartments.	RF272-78611	
Sutton Terrance	RF272-78612	
Reliance Electric Company	RF272-24471	11/20/91
Reliance Electric Company	RF272-24471	
Reliance Electric Company.	RF272-24471	
Saco Defense, Inc.	RF272-73775	11/20/91
Shell Oil Company/King Oil Company, Inc..	RF315-8920	11/21/91
Texaco Inc./Berry Oil & Tire Company *et al.*	RF321-10029	11/20/91
Texaco Inc./Bob's Texaco *et al.*	RF321-857	11/21/91
Texaco Inc./Buskrud Oil Co. *et al.*	RF321-12564	11/18/91
Texaco Inc./Chancellor's Texaco.	RF321-17945	11/21/91
Texaco Inc./Charlie's Texaco of Norfolk *et al.*	RF321-2215	11/22/91
Texaco Inc./City of Cincinnati *et al.*	RF231-10101	11/20/91
Texaco Inc./Eller Texaco *et al.*	RF321-11500	11/19/91
Texaco Inc./Industrial Raw Materials Corp. *et al.*	RF321-12147	11/18/91
Texaco Inc./Mike Burkholder Oil Co., Inc..	RF321-6418	11/20/91
Willis Oil Co.	RF321-8145	
Alvin B. Craig	RF321-8166	
Texaco Inc./Robert E. Way *et al.*	RF321-9335	11/18/91
Texaco Inc./Woodall's Texaco Service *et al.*	RF321-3258	11/18/91
Tulare City Elementary School District.	RF272-78897	11/22/91
Lowndes County School District.	RF272-78899	
Lakeville School District.	RF272-78935	
Vernon Paving Co..	RF272-73273	11/19/91
Vernon Paving Co..	RF272-73273	

Dismissals

The following submissions were dismissed:

Name	Case No.
Bexley Texaco	RF321-3306
Cyprus Minerals	RF272-74238
Fannin's Eastland Texaco	RF321-9043
Fremont City Schools	RF272-90261
International Transportation Service, Inc..	RF272-89137
Mike's Texaco	RF321-11126
North's Texaco	RF321-3147
The Fuller Associates	RF321-12443
Towanda Plaza Texaco	RF321-9044
Wonnell Getty	RF321-3197

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E-243, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: January 23, 1992

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 92-2532 Filed 1-31-92; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders During the Week of November 25 Through November 29, 1991

During the week of November 25 through November 29, 1991, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

David Dekok, 11/27/91, LFA-0163

The Office of Hearings and Appeals of the Department of Energy (DOE) issued a Supplemental Order correcting and clarifying a Freedom of Information Act (FOIA) appeal decision issued to David DeKok on November 5, 1991. *David DeKok,* 21 DOE ¶ 80,160 (1991). The Supplemental Order corrects DOE's prior directive that the Lawrence Livermore National Laboratory perform a search for records pursuant to the FOIA, and addresses that directive instead to the DOE Field Office, San Francisco. It also contains information concerning the DOE's Emergency Operations Center, that was obtained subsequent to the November 5, 1991 Decision.

Refund Applications

Gulf Oil Corporation/Empire Gas Corporation, 11/25/91, RF300–10104

The DOE issued a Decision and Order considering an Application for Refund filed by Empire Gas Corporation in the Gulf Oil Corporation special refund proceeding. The firm requested a full volumetric refund of $78,396, and in order to receive a refund at that level it was required to prove injury. The DOE made specific requests to the firm detailing the two step injury showing, including (i) banked cost data and (ii) some other data showing that overcharges had not been passed through. However, the firm never submitted complete bank information, and it never filed complete information regarding the second step of the injury showing. Although the DOE determined that the firm had not demonstrated injury at the full volumetric level, the DOE found that Empire was entitled to a refund at the mid-range presumptive level. Accordingly, the firm was granted a refund of $31,358, plus interest of $17,639.

Marathon Petroleum Co./Mid-Continent Systems, Inc., 11/26/91, RF250–2500, RF250–2501

The DOE issued a Decision and Order considering an Application for Refund filed by Mid-Continent Systems, Inc. in the Marathon Oil Company special refund proceeding. The firm requested a full volumetric refund of $34,741, and in order to receive a refund at that level it was required to prove injury. In connection with the injury showing, the DOE requested that the firm provide detailed and comprehensive banked cost data. However, the firm never submitted complete bank information. Although the DOE determined that the firm had not demonstrated injury at the full volumetric level, the DOE found that it was entitled to a refund at the midrange presumptive level. Accordingly, the firm was granted a refund of $15,699, plus interest of $8,121 for its Marathon motor gasoline purchases, and $67 in principal and $35 in interest for its purchases of Marathon middle distillates. The total refund was therefore $23,922. Mid-Continent has an unpaid DOE remedial obligation and is involved in a bankruptcy proceeding. The DOE therefore directed that the refund be paid to the trustee in bankruptcy.

National Lime & Stone Co., 11/27/91, RF272–77399

The DOE issued a Decision and Order granting a refund from the crude oil overcharge funds to National Lime & Stone Company (National), a firm represented by Petroleum Funds, Inc. (PFI). Because the DOE requires all PFI applicants to substantiate PFI's extrapolation of their purchases, National provided estimates based on 1973–1981 production records and 1974 and 1988–1990 fuel consumption records. The DOE granted National a refund of $5,742.

Shell Oil Co./Ohio Edison Co., 11/29/91, RF315–8990

The DOE issued a Decision and Order concerning the Application for Refund filed in the Shell Oil Company special refund proceeding by the Ohio Edison Company. A public utility, the Ohio Edison Company has certified that it will notify its state regulatory agency (Public Utilities Commission of Ohio) of any refund received and that it will pass through the amount of the refund to its customers through it fuel adjustment mechanism. The total refund granted in this Decision is $1,512 (comprised of $1,076 in principal and $436 in interest).

Shell Oil Co./Quality Oil Co. I, et al., 11/27/91, RF215–6978

The DOE issued a Decision and Order granting nine Applications for Refund filed in the Shell Oil Company (Shell) special refund proceeding on behalf of Quality Oil Company I (Quality) and its subsidiaries and affiliates. The OHA treated these applications as affiliated applications, combining the gallonages claimed in each to determine the relevant presumption of injury. The applicants claimed a total of 639,219,335 gallons of Shell products and were granted a maximum mid-level presumption refund of $50,000, plus $20,240 in interest.

Texco Inc./Shop & Gas Stores, J.D. & C.P. Boardman Properties, 11/27/91, RF321–3066, RF321–3828

The DOE issued a Decision and Order concerning two Applications for Refund filed in the Texaco Inc. special refund proceeding. The application for Shop and Gas Stores was filed by Alonzo Boardman, Inc. a corporation owned solely by Alonzo Boardman. Mr. Boardman was also the majority shareholder in Boardman Oil Company (Boardman Oil), a corporation that had already received a $50,000 refund in the Texaco proceeding. Boardman Oil was the sole supplier of Shop & Gas Stores. Boardman Oil and Shop & Gas Stores were determined to be affiliated and therefore the application on behalf of Shop & Gas Stores was denied. The application for J.D. and C.P. Boardman Properties (Boardman Properties) was filed by Alonzo Boardman's first cousin, Clayton Boardman. Clayton Boardman owned 50 percent of Boardman Properties and was a minority shareholder in Boardman Oil. It was determined that Boardman Oil and Boardman Properties were not affiliated and Boardman Properties was granted a refund of $10,976 ($8,572 principal plus $2,404 interest).

United Refining Co./McNaughton Oil Co., Inc., Steffens Keystone, Montaur Auto Service Co., 11/25/91, RF333–1, RF333–2, RF333–5

The Department of Energy (DOE) issued a Decision and Order granting refunds to three applicants in the United Refining Company (United) special refund proceeding. The applicants purchased refined petroleum products from United between November 1973 and April 1976. The OHA granted these three applicants refunds in the amounts of $2,472, 213 and $290, respectively.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Atlantic Richfield Company/Canopy Centers ARCO *et al.*	RF304–12545	11/26/91
Atlantic Richfield Company/English Auto Service Center *et al.*	RF304–3415	11/26/91
Borough of Girard *et al.*	RF272–82804	11/25/91
Citronelle-Mobile Gathering/Long Island Lighting Company.	RF336–33	11/26/91
Enron Corporation/Central Butane Gas Company.	RF340–13519	11/29/91
Evanite Fiber Corp., Permaglass Division.	RF272–75900	11/26/91
Gulf Oil Corporation/Fast Fare Inc.	RF300–12825	11/26/91
Gulf Oil Corporation/George E. Jarvis, Inc.	RF300–[illegible]	11/27/91
Gulf Oil Corporation/Tatum Brothers.	RF300–18519	11/29/91
Henderson Community Co-Op Association.	RF272–78537	11/25/91
Iowa Public Service Company.	RF272–65506	11/26/91
Lever Brothers Company, Inc.	RF272–17754 RD272–17754	11/27/91
School District of Three Lakes *et al.*	RF272–83202	11/25/91
Sioux County, Iowa	RC272–140	11/26/91
Texaco Inc./Aurora Maill Texaco *et al.*	RF321–6579	11/29/91
Texaco Inc./Boyd's Texaco *et al.*	RF321–11801	11/26/91
Texaco Inc./Carson's Texaco *et al.*	RF321–43	11/29/91

Texaco Inc./Clar's Texaco *et al.*	RF321-10204	11/25/91
Texaco Inc./	RF321-12654	11/29/91
J&L Texaco Service	RF321-12322	
Foxhoven Service	RF321-12323	
Crook Interstate Texaco.	RF321-12324	
Sterling Interstate Texaco.	RF321-12325	
Atwood Interstate Texaco.	RF321-12326	
Texaco Inc./Gary Zimmer Texaco *et al.*	RF321-12402	11/27/91
Texaco Inc./Guffey's Texaco *et al.*	RF321-9799	11/27/91
Texaco Inc./Tom's Texaco *et al.*	RF321-8341	11/29/91
Texaco Inc./Y Texaco *et al.*	RF321-1300	11/25/91
Uxbridge Public Schools *et al.*	RF272-82803	11/26/91

Dismissals

The following submissions where dismissed:

Name	Case No.
Axselle's Gulf Service	RF300-17889
Benton's Texaco	RF321-7842
Benton's Texaco	RF321-7841
Bud Hemet's Texaco Service	RF321-906
Buena Point Service	RF321-2382
Burkholder's Texaco #1	RF321-6486
Burkholder's Texaco #2	RF321-6487
D&C Enterprises	RF321-10254
Denny GLO Corporation	RF304-11606
Holland Texaco	RF321-1049
Hunter's Gulf Service	RF300-17885
Jenkins West End Texaco	RF321-14364
Johnson's Texaco of Renton	RF321-3722
Keith's Texaco on Boston	RF321-8053
Keith's Texaco on Marion	RF321-8052
Mallow Oil Company	RF300-17926
Maple Avenue Exxon	RF307-10192
Martin Oil Company	RF300-17927
Northlake Texaco	RF321-17129
Oakley Avenue Gulf	RF300-14229
Phillips Grocery	RF300-17877
Renners Express, Inc	RF300-12897
Riverton, WY	RF272-84618
Simco Texaco 2	RF321-14404
Valley Fuel Co., Inc	RF304-11482

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: January 23, 1992.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 92-2533 Filed 1-31-92; 8:45 am]

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Issuance of Decisions and Orders During the Week of December 30, 1991, Through January 3, 1992

During the week of December 30, 1991, through January 3, 1992, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Anne S. Kelley, 12/31/91, LFA-0165

Anne S. Kelley filed an Appeal from a denial by the Richland Field Office (Richland) of the DOE of a request for records which she had submitted under the Privacy Act. In considering the Appeal, the DOE found that Richland had conducted an adequate search for security records subject to the Privacy Act concerning Ms Kelley that would be under the control of the DOE or the Westinghouse Hanford Company, a price contractor of the DOE. Accordingly, the Appeal was denied.

International Brotherhood of Electrical Workers, Local Union No. 575, 1/3/92, *LFA-0170*

The International Brotherhood of Electrical Workers, Local Union 575, Portsmouth, Ohio, (IBEW) filed an Appeal from a determination issued by the DOE Field Office, Oak Ridge (DOE/OR), in response to a request for information submitted by the IBEW under the Freedom of Information Act (FOIA). The IBEW had requested a copy of the certified payroll records of Jess Howard Electric for the Duct Bank Job Project #34306 and the apprenticeship registration form for Jess Howard. Pursuant to the contract between the DOE and Martin Energy Systems (MMES), the Managing and Operating Contractor for the DOE's Portsmouth Enrichment Site, the certified payroll records were contractor records (*i.e.*, property of the contractor). With respect to the apprenticeship registration form, the Appellant and DOE/OR stated that it is a form required to be submitted not to the DOE, but to the Department of Labor. Moreover, a search of both the DOE/OR and the DOE's Portsmouth Enrichment Site Office files confirmed that the DOE did not have possession of these records. The DOE thus found that the documents sought by the Appellant were not "agency records" for purposes of the FOIA. The Appeal was accordingly denied.

Request for Exception

Fortmeyer's Inc., 12/30/91, LEE-0031

Fortmeyer's Inc. filed an Application for Exception from the requirement of the Energy Information Administration (EIA) that it file Form EIA-782B, the "Reseller/Retailers' Monthly Petroleum Product Sales Report." In considering the request, the DOE found that the firm was not adversely affected by the reporting requirement in a way that was significantly different from the burden borne by similar reporting firms. Accordingly, the exception request was denied.

Quad States Distributing, Inc., 1/2/91, LEE-0026

Quad States Distributing, Inc., filed an Application for Exception from the Energy Information Administration (EIA) requirement that it file Form EIA-782B, the "Reseller/Retailers' Monthly Petroleum Product Sales Report." In considering the Request, the DOE rejected the firm's assertion that data regarding it was irrelevant to the petroleum products reporting program and found that the firm was not adversely affected by the reporting requirement in a way that was significantly different from the burden borne by similar reporting firms. Accordingly, the exception request was denied.

Implementation of Special Refund Procedures

Salomon Inc, 1/2/92, LEF-0033

The DOE issued a Decision and Order Implementing procedures for the disbursement of $83,750,000, plus accrued interest, obtained under the terms of a Consent Order entered into with Solomon Inc (Salomon) on September 12, 1990, and finalized on November 13, 1990. The DOE determined that these should be distributed pursuant to subpart V. Purchasers of crude oil from Salomon during the consent order period may file Applications for Refund from the crude oil pool of consent order funds. Applications for Refund must be postmarked by June 30, 1992. Instructions for the completion of refund applications are set forth in the Decision.

Refund Applications

Anchor Continental, Inc., Lawter International, Inc., 1/3/92, RF272-62982, RF272-63545

The DOE issued a Decision and Order considering Applications for Refund filed by Anchor Continental, Inc., and Lawter International, Inc., in the subpart

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V crude oil special refund proceeding. Both companies sought refunds based on purchases of a number of different petroleum-based products, including resin oil. In evaluating the refund requests, the DOE reiterated its standard that it would presume that crude oil overcharges were included in the price of any product covered by the Emergency Petroleum Allocation of 1973 (EPAA) and primarily refined from crude oil at a crude oil refinery. The DOE pointed out that resin oil was not among the products covered by the EPAA. It also found that resin oil is produced primarily by catalytic cracking in an olefin cracker, rather than by refining in a crude oil refinery. Accordingly, the DOE concluded that the firm's requests for refunds based on resin oil purchases should be denied. However, based on purchases of refined petroleum products that were explicitly covered under the EPAA, Anchor was granted a refund of $5,808, and Lawter received a refund of $371.

Crown Forest Industries Limited, 1/3/92, RF272–49593, RD272–49593

The DOE issued a Decision and Order denying an Applications for Refund filed by Crown Forest Industries Limited (Crown) in the subpart V crude oil special refund proceeding. The applicant, a Canadian forest products company, had purchased fuel oil for its mill in Canada from Standard Oil of California (Chevron) through a subsidiary, Standard Oil of British Columbia (Chevron Canada). DOE regulations during the period of price controls exempted "export sales" from such controls. 10 CFR 212.53. While the regulations did not define the term "export sales," the DOE found that, based on FEA interpretations of the export sales provisions and the circumstances of the sale of fuel oil by Chevron to Crown, the sales were "export sales" which were exempt from mandatory price controls. If a product was exempt, it is axiomatic that overcharges cannot occur. Accordingly, Crown's Application for Refund was denied. A Motion for Discovery filed by a consortium of States was dismissed as moot.

Ministers Council of American Baptist Churches, USA, 12/31/91, RF272–74878

The DOE issued a Decision and Order considering an Application for Refund filed by the Ministers Council of American Baptist Churches, USA (the ABC), for a refund in the subpart V crude oil special refund proceeding. The Application was filed on behalf of all its member congregations. The ABC did not purchase the refined petroleum products on behalf of its member congregations, but instead was only seeking a refund on their behalf. However, the DOE does not accept claims for direct restitution filed on behalf of classes, associates, or trade groups. Under these circumstances, the Application for Refund was denied.

Quantum Chemical Corporation/Wilcox Oil Co., 1/2/92, RF330–46

The DOE issued a Decision and Order denying an Application for Refund submitted by Wilcox Oil Co. in the Quantum Chemical Corporation subpart V special refund proceeding. On June 1, 1984, the applicant, Billy T. Wilcox, sold all of the corporate stock of Wilcox Oil Co. In such a case, the right to seek a refund is transferred along with the stock sold. Accordingly, Mr. Wilcox is not eligible to receive a refund for Wilcox Oil Co. Therefore, the DOE has denied his Application.

Texaco Inc./Andy's Texaco, Jimmy Texaco Inc., 1/2/92, RF321–14613, RF321–18144

The DOE issued a Supplemental Order in the Texaco special refund proceeding concerning two Applications for Refund filed by separate individuals based upon the refined product purchases of the same retail motor gasoline outlet. In *Texaco Inc./Douglas Texaco*, Case No. RF321–991 (November 9, 1990), Jimmy Doiron was granted a refund of $8,866 based on purchases made by Jimmy Texaco Inc. during the period January 1975 to January 1981. Subsequently, an Application was filed by Edward Anderman on behalf of Andy's Texaco, requesting a refund on the basis of purchases made at the same retail outlet. The request included sales during a time period that overlapped the Jimmy Texaco request. The DOE learned that Mr. Anderman had operated the station from 1956 until he sold it to Mr. Doiron in 1978. The DOE also learned that Mr. Anderman had incorporated Andy's Texaco on February 18, 1975, and transferred the outlet to Mr. Doiron through a sale of stock. The DOE determined that since Mr. Doiron obtained the station through a complete stock transfer, all the rights of the corporation were transferred to him as a result. Therefore, Mr. Doiron is entitled to a refund starting with the incorporation date, February 1975, to January 1981. Mr. Doiron had been granted a refund for one month in which he was not entitled to the refund. Therefore, the DOE directed Mr. Doiron to remit $129 plus the interest that would have accrued had the erroneous payment remained in the escrow account. Mr. Anderman was granted a refund of $1,894 based on purchases made by Andy's Texaco prior to the incorporation data, March 1973 to January 1975.

Texaco Inc./Bob Lemons Texaco, et al., 1/3/92, RF321–6, Et al.

The DOE issued a Decision and Order concerning 12 Applications for Refund in the Texaco Inc. subpart V special refund proceeding. Each of the applicants was an indirect purchaser of Texaco products whose supplier either received a refund under the presumption of injury or indicated in its application that it did not intend to seek a refund based on a demonstration of injury. Therefore, the Applications were considered under the same procedures used to evaluate direct purchase claims. The supplier of two applicants purchased from suppliers other than Texaco. In those cases, the DOE determined that the per gallon volumetric refund amount for those two applicants should be reduced by the percentage of their supplier's motor gasoline that did not originate with Texaco. Each applicant was a reseller whose allocable share was less than $10,000; accordingly, they were not required to demonstrate injury. The sum of the refunds granted in this Decision is $29,395 ($22,855 principal plus $6,540 interest).

Texaco, Inc./Ellis Texaco, Rogers Texaco, 12/30/91, RF321–11892, RF321–12235

The DOE issued a Decision and Order concerning two Applications for Refund filed in the Texaco Inc. subpart V special refund proceeding with respect to a retail outlet that was a direct purchaser of Texaco refined products. One of the applicants, Lemuel Ellis, claimed that he owned the outlet from March 1973 through August 1977 and requested a refund for that period. The other applicant, Ruby Rogers, claimed that her deceased husband, William Rogers, owned the outlet from April 1973 through June 1977 and requested a refund for that period. Based on supplementary information provided by each applicant, the DOE determined that both applicants submitted incorrect information in their original Applications. The DOE found that the outlet was sold by Mr. Ellis to Mr. Rogers in January 1975. Consequently, Mr. Ellis was granted a refund for the period from March 1973 through December 1974. Mrs. Rogers was granted a refund for the period from January 1975 through July 14, 1977. The total of the refunds granted in this Decision is $1,087, representing $845 in principal and $242 in interest.

Texaco Inc./Leo Braito's Texaco, 12/31/91, RF321–18151

On June 15, 1990, the DOE issued a Decision and Order in the Texaco Inc. Subpart V special refund proceeding granting an Application for Refund based upon the refined product purchases of Le Braito's Texaco during the period March 1973 through December 1979. Subsequently, a second Application for Refund was filed based upon purchases of refined products at the same location for a period beginning with December 1978. Upon inquiry, Mr. Leo Braito, the first applicant, informed the DOE that his Application had been in error and that he had sold the Texaco outlet in December 1978 rather than 1979. Accordingly, the DOE determined that Mr. Braito must repay, with interest, that portion of the refund he had received that was attributable to purchases made after December 1978.

The Commonwealth of Massachusetts, 1/2/92, RF272–72465

The DOE issued a Decision and Order concerning an Application for Refund submitted by the Commonwealth of Massachusetts in the subpart V crude oil special refund proceeding. The Commonwealth's Application was based on purchases of refined petroleum products used for transportation, heating, road construction, and road surfacing. Massachusetts was granted a refund of $155,401 based on its purchase of 194,251,065 gallons of gasoline, diesel fuel, and heating fuels.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Atlanatic Richfield Company/Herring Service Station *et al.*	RF304–3720	12/31/91
Atlantic Richfield Company/Ronald J. Baudy Trucking *et al.*	RF304–3758	12/30/91
Atlantic Richfield Company/The Augsbury Corporation *et al.*	RF304–12374	12/30/91
Atlantic Richfield Company/Vandermoss Dino Service.	RF304–3709	12/31/91
Paul Hepfer Feed, Hardware & Gas.	RF304–3762	
Albany Propane gas Co., Inc..	RF304–10235	
Haniotes Mini Market.	RF304–12552	
City of Burlington, KS.	RC272–152	12/30/91
Enron Corporation/Union Carbide Chemicals & Plastics Co., Inc..	RF340–39	01/02/92
Gohmann Asphalt & Construction Inc..	RR272–84	12/31/91
Gohmann Asphalt & Construction Inc..	RD272–73790	
Gulf Oil Corporation/Dowling Fuel Company.	RR300–32	01/03/92
Oelum Corporation.	RR300–80	
Gulf Oil Corporation/Fast Fare, Inc..	RF300–18823	01/02/92
Gulf Oil Corporation/Kilgore Gulf.	RF300–11026	01/03/92
Armstrong Gulf Service.	RF300–11026	
Kelran Constructors, Inc..	RF272–74756	01/03/92
W.C. Striegel, Inc..	RF272–74777	
Lansing Board of Water & Light.	RF272–67211	01/02/92
Murphy Oil Corp./Tenneco Oil Company.	RF309–1307	01/03/92
NDH, Inc.	RF272–62599	12/31/91
NDH, Inc.	RD272–62599	
Orders & Haynes Paving.	RF272–62846	
Orders & Haynes Paving.	RF272–62846	
Pillsbury Company.	RF272–69342	12/30/91
Pillsbury Company.	RD272–69342	
Tesoro Petroleum Corp./J.F. Grossenbacher Oil Co. *et al.*	RF326–124	12/30/91
Tesoro Petroleum Corp./Santa Fe Engineering & Construction Co..	RF326–302	12/30/91
Honeymon Drilling Co..	RF326–303	
Toppers Oil Corporation.	RF326–305	
Texaco Inc./Bush Oil Co. *et al.*	RF321–13185	01/03/92
Texaco Inc./C.E. & B.F. Duquette Petroleum *et al.*	RF321–40	12/30/91
Texaco Inc./George Sadatoshi Yoshihara *et al.*	RF321–13506	12/30/91
Texaco Inc./Gill Reiling Service.	RF321–3374	12/30/91
Jim Dickeson	RF321–4314	
Kocian Texaco	RF321–2545	
Texaco Inc./Jeffers Texaco Service *et al.*	RF321–12713	12/30/91
Texaco Inc./Plateau Oil Company.	RF321–8872	01/03/92
Plateau Oil Co., Inc..	RF321–11665	
United Industry, Inc. *et al.*	RF272–16593	12/31/91

Dismissals

The following submissions were dismissed:

Name	Case No.
10–10 Truck Stop	RF300–18141
Adams Construction Corporation	RD272–55688
Adams Construction Corporation	RF272–55688
Barnhill's Gulf	RF300–12953
Burton E. Deitz Service Sta.	RF300–12993
Danbigh Gulf	RF300–12946
Danny's Texaco	RF321–11704
David High	RF300–18777
Doyal's Gulf Oil	RF300–17779
E.T. Simonds Construction Company.	RF272–18747
E.T. Simonds Construction Company.	RD272–18747
Eaton Asphalt Paving Co., Inc.	RD272–38399
Eaton Asphalt Paving Co., Inc.	RF272–38399
Fairburn Gulf Service	RF300–12992
Freeman Gulf	RF300–12656
General Asphalt Co., Inc.	RF272–57618
General Asphalt Co., Inc.	RD272–57618
Gernatt Asphalt Products, Inc.	RF272–16373
Grubbs Gulf Service	RF300–12836
Hank's Service Center Inc.	RF300–16524
Howard's Gulf	RF300–12762
Hugo Schulz Inc.	RD272–19838
Hugo Schulz Inc.	RF272–19838
Interchange Gulf	RF300–12772
Jack Morse	RF321–13505
Jack Morse	RF321–13504
Jack Morse	RF321–13503
Jiffy Mart & Stops Go	RF300–12965

Name	Case No.
John Teeter Coal Co.	RF300-12487
John's Gulf Service	RF300-18150
K.F. Jacobsen & Co., Inc.	RD272-21980
K.F. Jacobsen & Co., Inc.	RF272-21980
Ken Harris Texaco #1	RF321-11604
Kirby's Gulf	RF300-12927
Knight's Gulf	RF300-12963
Michigan Bell	RF300-18763
Ona Gulf	RF300-12955
Post Gulf Service	RF300-12848
Robert J. Quick	RF300-18525
Rollin's Gulf	RF300-12971
Scotch Plains Gulf	RF300-18675
Southeast-Atlantic Corporation	RF300-18363
Standard Construction Company, Inc.	RD272-37241
Standard Construction Company, Inc.	RF272-37241
Stuckey's Store No. 136 (Sycamore, Georgia).	RF321-15309
Tigrett Petroleum	RF300-18423
Village Store	RF300-12827
Walter Dotson Gulf Service Sta.	RF300-12981
Westview Texaco	RF321-11543
Willow Avenue Gulf Service	RF300-18676

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: January 27, 1992.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 92-2529 Filed 1-31-92; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 4099-4]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.)*, this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before January 31, 1992.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 260-2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: Reporting and Recordkeeping Requirements for the New Source Performance Standards (NSPS) for Portland Cement Industry (Subpart F)—(EPA No. 1051.05, OMB No. 2060-0025).

Abstract: This ICR is for an extension of an existing information collection in support of the Clean Air Act, as described under the general NSPS at 40 CFR part 60.7-60.8 and the specific NSPS, for particulate and visible emissions from Portland cement plants, at 40 CFR part 60.60. The information will be used by the EPA to direct monitoring, inspection, and enforcement efforts, thereby ensuring facility compliance with the NSPS.

Owners or operators of all new facilities subject to this NSPS must provide EPA, or a delegated State or local authority, with:

(1) Notification of the date of construction or reconstruction, (2) notification of the anticipated and actual dates of the start-up, (3) notification of the date of the initial performance test, and (4) a copy of the initial performance test results. Owners and operators of new facilities that must conduct continuous opacity monitoring (COM) will be required to submit: (1) Notification of the COM system demonstration, (2) notification that COM system data will be used during the initial performance test. Facilities that, as an alternative, are permitted to conduct opacity observations using EPA Method 9 must notify EPA of the anticipated date for conducting these observations.

Owners and operators of all facilities must provide EPA, or a delegated State or local authority, with:

(1) Reports, semiannually, of malfunctions and excess emissions; and (2) any physical or operational change to their facility which may result in an increase in the regulated pollutant emission rate. All facilities must also maintain records of the facility operation that document: (1) the occurrence and duration of any start-ups, shutdowns, and malfunctions; (2) initial performance test results; and (3) all visible emissions from continuous opacity monitoring (COM) or, where applicable, from daily observations taken in accordance with EPA Method 9.

Presently there are an estimated 78 subject facilities with an average annual growth of 4.3 new facilities over the next three years. All subject facilities must maintain records related to compliance for two years.

Burden Statement: Public reporting burden for facilities subject to this collection of information is estimated to average 51 hours per response including time for reviewing instructions, searching existing data sources, gathering and maintaining data, and completing and reviewing the collection of information. Public recordkeeping burden is estimated to average 279 hours annually.

Respondents: Businesses or other for-profit organizations.

Estimated Number of Respondents: 82.

Estimated Number of Responses Per Respondent: Two.

Estimated Total Annual Burden on Respondents: 31,189 hours.

Frequency of Collection: Semiannual reporting for existing facilities, with additional one-time reporting requirements for new facilities. Daily recordkeeping for all facilities.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM-223Y), 401 M Street, SW., Washington, DC 20460; and

Troy Hillier, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th St., NW., Washington, DC 20503.

Dated: January 28, 1992.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 92-2513 Filed 1-31-92; 8:45 am]

BILLING CODE 6530-50-M

[FRL-4099-5]

Public Water System Supervision Program Revision for the State of Utah

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Public notice is hereby given in accordance with the provisions of § 1413 of the Safe Drinking Water Act as amended, 42 U.S.C. 300f et seq., and 40 CFR 142.10, the National Primary Drinking Water Regulations, that the State of Utah has revised its approved Public Water System Supervision (PWSS) Primacy Program. Utah has developed drinking water regulations for Total Coliforms that correspond to the National Primary Drinking Water Regulations for Total Coliforms promulgated by EPA on June 29, 1989

(54FR 29544). EPA has approved this State program revision. This determination shall become effective March 4, 1992 and was based upon a thorough evaluation of Utah's PWSS programs which has met the requirements stated in 40 CFR 142.10.

Utah's PWSS program, as presented and evaluated, has indicated that it is fully capable of carrying out all of the areas required to achieve primary enforcement capability.

Any interested parties are invited to submit written comments on this determination, and may request a public hearing on or before March 4, 1992. If a public hearing is requested and granted, this determination shall not become effective until such time following the hearing that the Regional Administrator issues an order affirming or rescinding this action.

Requests for a public hearing should be addressed to: James J. Scherer, Regional Administrator, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, suite 500, Denver, CO 80202-2466.

Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request is made within thirty (30) days after this notice, a public hearing will be held.

Any request for a public hearing shall include the following: (1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing; (2) a brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such hearing; and (3) the signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of the responsible official of the organization or other entity.

Notice of any hearing shall be given not less than fifteen (15) days prior to the time scheduled for the hearing. Such notice will be made by the Regional Administrator in the **Federal Register** and in newspapers of general circulation in the State of Utah. A notice will also be sent to the person(s) requesting the hearing as well as to the State of Utah. The hearing notice will include a statement of purpose, information regarding time and location, and the address and telephone number where interested persons may obtain further information. The Regional Administrator will issue an order affirming or rescinding his determination upon review of the hearing record. Should the determination be affirmed, it will become effective as of the date of the order.

Should no timely and appropriate request for a hearing be received, and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become effective on March 4, 1992.

Please bring this notice to the attention of any persons known by you to have an interest in this determination.

All documents relating to this determination are available for inspection at the following locations: (1) U.S. EPA Region VIII Library, 999 18th Street, Denver, Colorado 80202-2466, 10 a.m.—4 p.m. (MST), Mon-Fri.; (2) Department of Environmental Quality, Division of Drinking Water, 288 North 1460 West, Salt Lake City, Utah 84114-4830, 8 a.m.-5 p.m. (MST), Mon-Fri.; (3) Provo City Library, 425 West Center, Provo, Utah 84601; and (4) the Cedar City Public Library, 136 West Center, Cedar City, Utah, Utah 84720.

FOR FURTHER INFORMATION CONTACT: Robert Clement, EPA Region VIII, Public Water Supply Program Section (8WM-DW) at the Denver address given above, telephone (303) 293-1417, (FTS) 330-1417.

Dated: January 21, 1992.

Jack W. McGraw,

Acting Regional Administrator, EPA, Region VIII.

[FR Doc. 92-2516 Filed 1-31-92; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4099-3]

Meeting Location Change for February 19-20 Meeting of the Coke Oven Batteries Advisory Committee

AGENCY: Environmental Protection Agency.

ACTION: Notice of meeting location change.

SUMMARY: The National Emission Standards for Coke Oven Batteries Advisory Committee is scheduled to meet on February 19 from 11 a.m. til 6 p.m., and on February 20 from 8:30 a.m. till 3 p.m. The meeting will now be held at the Washington Court Hotel, 525 New Jersey Avenue, Washington, DC. This is a change from the previously announced location.

ADDRESS: The Committee will meet at the Washington Court Hotel, 525 New Jersey Ave NW., Washington, DC 20001, (202) 628-2100.

FOR FURTHER INFORMATION CONTACT: For information on substantive matters please contact Amanda Agnew, Office of Air Quality Planning and Standards (919) 541-5268. For information on administrative matters please contact the Committee's Facilitator, Phil Harter, at (202) 887-1033.

Dated: January 28, 1992.

Chris Kirtz,

Designated Federal Official Coke Oven Battery Advisory Committee.

[FR Doc. 92-2514 Filed 1-31-92; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4099-7]

Stratospheric Ozone Protection Advisory Committee; Open Meeting—Thursday, February 20, 1992.

The next meeting of the U.S. Environmental Protection Agency's (EPA) Federal Advisory Council on Stratospheric Ozone Protection (STOPAC) will be held on Thursday, February 20, 1992. The meeting will take place from 9 a.m. to 1 p.m. at the holiday Inn Capital, 550 C Street SW., Washington, DC. The public is invited to attend and seating will be on a first come first serve basis.

The purpose of the meeting will be: To report on the status of the various title VI, Clean Air Act Amendment (CAA) rulemakings; to discuss the recently completed assessment reports prepared as background for the next round of negotiations for modifying the Montreal Protocol; and to discuss the petition for accelerated CFC phaseout submitted in early December 1991 by the Natural Resources Defense Council, Friends of the Earth, and Environmental Defense Fund.

For further information any member of the public may contact Martha Dye at (202) 260-6974 or write to the Division of Global Change, Office of Air and Radiation, U.S. Environmental Protection Agency, ANR-445, 401 M Street SW., Washington, DC 20460.

Dated: January 28, 1992.

Eileen B. Claussen,

Director, Office of Atmospheric and Indoor Air Programs.

[FR Doc. 92-2517 Filed 1-31-92; 8:45 am]

BILLING CODE 6560-50-M

[OPPTS-40022; FRL 4006-4]

Conditional Exemptions from TSCA Section 4 Test Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is granting conditional exemptions from Toxic Substances Control Act (TSCA) section 4 test rule

requirements to certain manufacturers of chemical substances subject to these rules.

DATES: These conditional exemptions are effective on February 3, 1992.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, rm. E-543B, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: This notice grants conditional exemptions from TSCA section 4 test rule requirements to all manufacturers of the chemical substances identified below who submitted exemption applications in accordance with 40 CFR 790.80. In each case, EPA has received a letter of intent to conduct the testing from which exemption is sought. Accordingly, the Agency has conditionally approved these exemption applications because the conditions set out in 40 CFR 790.87 have been met. All conditional exemptions thus granted are contingent upon successful completion of testing and submission of data by the test sponsors according to the requirements of the applicable test rule.

If the test requirements are not met and EPA terminates a conditional exemption under 40 CFR 790.93, the Agency will notify each holder of an affected conditional exemption by certified mail or **Federal Register** notice.

This conditional approval applies to all manufacturers who submitted exemption applications for testing of the chemical substances named in the final test rules listed below from October 1, 1990 through September 30, 1991. Any application received after that date will be addressed separately.

Chemicals	CAS No.	CFR Citation
cresols		
ortho-cresols	95-48-7	40 CFR 799.1250
meta-cresols	108-39-4	
para-cresols	106-44-5	
cumene	98-82-8	40 CFR 799.1285
dichlorobenzenes	106-46-7	40 CFR 799.1052
1,3-dichloropropanol	96-23-1	40 CFR 799.5055
diethylene glycol butyl ether	112-34-5	40 CFR 799.1560
isopropanol	67-63-0	40 CFR 799.2325
methyl ethyl ketoxime	96-29-7	40 CFR 799.2700
1,1,1-trichloroethane	71-55-6	40 CFR 799.4400
vinyl fluoride	75-02-5	40 CFR 799.1700

As provided in 40 CFR 790.80, processors are not required to apply for an exemption or conduct testing unless EPA so specifies in a test rule or in a special **Federal Register** notice.

Authority: 15 U.S.C. 2601, 2603.

Dated: January 22, 1992.

Charles M. Auer,

Director, Existing Chemical Assessment Division, Office of Pollution Prevention and Toxics.

[FR Doc. 92-2537 Filed 1-31-92; 8:45 am]

BILLING CODE 6560-50-F

[OPPTS-140172; FRL-4044-7]

Access to Confidential Business Information by ASCI Corporation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, ASCI Corporation (ASCI), of McLean, Virginia, for access to information which has been submitted to EPA under all sections of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

DATES: Access to the confidential data submitted to EPA will occur no sooner than February 18, 1992.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, TSCA Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, rm. E-545, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION: Under contract number 68-D2-0005, contractor ASCI, of 1365 Beverly Rd., McLean, VA, will assist the Office of Pollution Prevention and Toxics (OPPT) in administrative and graphic support services.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number 68-D2-0005, ASCI will require access to CBI submitted to EPA under all sections of TSCA to perform successfully the duties specified under the contract. ASCI personnel will be given access to information submitted to EPA under all sections of TSCA. Some of the information may be claimed or determined to be CBI.

In a previous notice published in the **Federal Register** of November 11, 1991 (56 FR 56216), ASCI was authorized for access to CBI submitted to EPA under all sections of TSCA. EPA is issuing this notice to extend ASCI's access to TSCA CBI under the new contract number 68-D2-0005.

EPA is issuing this notice to inform all submitters of information under all sections of TSCA that EPA may provide ASCI access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA Headquarters only.

Clearance for access to TSCA CBI under this contract may continue until September 30, 1994.

ASCI personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

Dated: January 24, 1992.

George A. Bonina,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 92-2539 Filed 1-31-92; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Bank Reports of Condition and Income: Proposed Change in Definition of One-to-Four Family Residential Mortgages

AGENCY: Federal Financial Institutions Examination Council.

ACTION: Request for comment.

SUMMARY: The Federal Financial Institutions Examination Council ("FFIEC" or "Examination Council") requests public comment on a proposed change in the definition of loans "secured by one-to-four family residential properties" as that term is used for purposes of reporting loans in the Reports of Condition and Income ("Call Reports") filed quarterly by insured commercial and FDIC-supervised savings banks. The definition of this loan category would be revised to include certain loans to builders for the construction of one-to-four family residences that have been pre-sold to home purchasers and meet certain other prudential criteria ("pre-sold residential construction loans"). These loans currently fall within the Call Report definition of "construction and land development" loans secured by real estate.

For state member banks that are supervised by the Federal Reserve Board ("FRB") and state nonmember commercial and savings banks supervised by the Federal Deposit Insurance Corporation ("FDIC"), the effect of this proposed Call Report definitional change would be to make certain pre-sold residential construction loans eligible for inclusion in the 50 percent risk weight category for risk-based capital purposes. This would occur because the risk-based capital guidelines issued by these two agencies incorporate the Call Report definition of "loans secured by one-to-four family residential properties" when identifying the types of loans included in the 50 percent risk weight category. For national banks that are supervised by the Office of the Comptroller of the currency ("OCC"), the proposed Call Report definitional change will have no effect on the risk weight for pre-sold residential construction loans because that agency's risk-based capital rules do not reference the Call Report definition for loans secured by one-to-four family residential properties. Savings associations supervised by the Office of Thrift Supervision ("OTS") prepare Thrift Financial Reports and not Call Reports. The OCC and OTS would have to amend their risk-based capital guidelines to lower the risk weight for pre-sold residential construction loans. Pre-sold residential construction loans are currently assigned a 100 percent risk weight by all four agencies.

DATE: Comments must be received by February 3, 1992.

ADDRESSES: Comments should be directed to Joe M. Cleaver, Executive Secretary, Federal Financial Institutions Examination Council, 1776 G Street, NW., Suite 850B, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: FRB—Rhoger H Pugh, Manager, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, 20th and Constitution Avenue, NW., Washington, DC 20551, (202) 728–5883.

FDIC—Robert F. Storch, Chief, Accounting Section, Division of Supervision, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429, (202) 898–8906.

OCC—David C. Motter, Special Assistant to the Chief National Bank Examiner, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219, (202) 874–4922.

SUPPLEMENTARY INFORMATION: The filing of Reports of Condition and Income, also known as Call Reports, is required quarterly by the Federal Reserve Board for state member banks, the Federal Deposit Insurance Corporation for insured state nonmember commercial and savings banks, and the Office of the Comptroller of the Currency for national banks. The Call Reports include a schedule in which banks report their holdings of loans and leases by loan category. Five categories of "loans secured by real estate" are reported, two of which are "construction and land development" loans ("construction loans") and loans "secured by one-to-four family residential properties" ("one-to-four family residential mortgages"). The instructions for the preparation of the Call Report contain definitions for these loan categories and the instructions indicate that loans secured by real estate "for one-to-four family residential property construction and land development purposes with original maturities of 60 months or less" are to be treated as "construction loans" rather than as "one-to-four family residential mortgages."

The FFIEC is proposing to revise the Call Report loan category definitions for "construction loans" and "one-to-four family residential mortgages" to place certain conservatively underwritten loans to builders for the construction of one-to-four family residences that have been pre-sold to home purchasers ("pre-sold residential construction loans") in the latter loan category. In order for banks to be able to report a one-to-four family residential construction loan as part of its "one-to-four family residential mortgages" in the Call Report, the loan would have to meet the following criteria:

(1) The builder has significant equity in the construction project before any drawdown is to be made under the construction loan.

(2) The home buyer has entered into a firm contract to purchase the home;

(3) The home buyer has made a substantial "earnest money" deposit that would be lost if the buyer caused the contract not to be consummated;

(4) The home buyer has obtained a firm commitment for a permanent qualifying mortgage loan; and

(5) The loan is made in accordance with other more broadly applicable sound lending principles.

These criteria are intended to ensure that both the builder and home purchaser have substantial equity at risk that would be lost by failing to fulfill their obligations. Comment is specifically requested on these builder equity and purchaser earnest money standards, including the most appropriate way to define and compute a builder's project equity and the percentages or amounts of builder equity and purchaser earnest money that should be at risk.

Effect of Proposed Definitional Change on Risk-Based Capital

The FRB, FDIC, OCC, and OTS have each adopted risk-based capital guidelines for the depository institutions under their supervision. At present, pre-sold residential construction loans are assigned a 100 percent risk weight under each agency's guidelines.

The guidelines issued by the FRB and FDIC specify that the 50 percent risk weight category includes loans fully secured by first liens on one-to-four family residential properties, provided such loans have been approved in accordance with prudent underwriting standards and are neither more than 90 days past due nor carried in nonaccrual status. These two agencies' guidelines further state that the types of properties that qualify as one-to-four family residential properties are listed in the Call Report instructions. Consequently, a change in the Call Report instructions that places certain pre-sold residential construction loans within the types of properties that qualify as one-to-four family residential properties would have the effect of reducing the risk weight applicable to qualifying pre-sold

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residential construction loans from 100 percent to 50 percent for state member and insured state nonmember banks.

Compliance with the specific criteria enumerated in the preceding section is intended to ensure that those pre-sold residential construction loans that are reportable as "one-to-four family residential mortgages" in the Call Report, provided they also meet prudent underwriting standards, will possess risk characteristics comparable to those normally present in the types of residential mortgages that are currently assigned a 50 percent risk weight by the FRB and FDIC and, therefore, that their inclusion in the 50 percent risk weight category is warranted.

The provision in the FRB and FDIC risk-based capital guidelines specifying that one-to-four family residential mortgages must be prudently underwritten in order to qualify for a 50 percent risk weight mandates that pre-sold residential construction loans must also comply with certain additional criteria. Moreover, a bank would be responsible for demonstrating to examiners that its pre-sold residential construction loans comply with these criteria. Failure to do so would result in the loans involved being assigned to the 100 percent risk weight category. The additional criteria for compliance are:

(1) The underlying lot is validly platted and bonded by the appropriate municipal regulatory authorities based on a determination that the development is permissible and that necessary infrastructure improvements (appropriate for a given project stage) have been substantially completed;

(2) The lot, the house under construction, and other improvements on the lost must serve as collateral for the construction loan; and

(3) Disbursement of loan funds under the construction loan by the bank is to be made to the builder in accordance with a reasonable construction budget and reasonable percentage-of-completion schedule.

Institutions must also incorporate other fundamental lending principles into their loan underwriting decisions for pre-sold residential construction loans. For example, institutions must be able to demonstrate that they have complied with their legal lending limits, that they have adequate market area knowledge, that builders have satisfactory payment and performance records, and that there are sufficient reserves and cashflow available to the builders.

In contrast to the FRB and FDIC risk-based capital guidelines, the guidelines adopted by the OCC do not contain a linkage to the Call Report definition of "one-to-four family residential mortgages." Therefore, for national banks, the proposed Call Report change will not alter the risk weight applicable to pre-sold residential construction loans. To reduce the risk weighting for these loans, the OCC would need to amend its risk-based capital rules. In this regard, the OCC is separately seeking public comment on a proposed change to its risk-based capital rules that would achieve such a reduction for national banks.

The Examination Council also notes that OTS has solicited public comment on a proposed amendment to its risk-based capital regulation for savings associations that would place certain pre-sold residential construction loans in the 50 percent risk weight category (56 FR 67551). The criteria for determining whether a pre-sold residential construction loan would be eligible for a 50 percent risk weight that are set forth in the OTS proposal and in this FFIEC proposal are the same.

Proposed Instructional Change

In the instructions for the preparation of the Bank Reports of Condition and Income, the Examination Council proposes to add to the list of loans to be included in Schedule RC–C, "Loans and Lease Financing Receivables," item 1(c), "Secured by one-to-four family residential properties," and to the list of loans to be excluded from Schedule RC–C, item 1(a), "Construction and land development," the following:

Loans made in accordance with sound lending principles to builders with substantial project equity for the construction of one-to-four family residences that have been pre-sold under firm contracts to purchasers who have obtained firm commitments for permanent qualifying mortgage loans and have made substantial "earnest money" deposits.

Dated: January 28, 1992.

Signed:

Joe M. Cleaver,

Executive Secretary, Federal Financial Institutions Examination Council.

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BILLING CODE 6210-01-M

Supervisory Policy Statement on Securities Activities

AGENCY: Federal Financial Institutions Examination Council.

ACTION: Statement of policy.

SUMMARY: The Federal Financial Institutions Examination Council (the "FFIEC"), which includes the Board of Governors of the Federal Reserve System ("FRB"), the Federal Deposit Insurance Corporation ("FDIC"), the National Credit Union Administration ("NCUA"), the Comptroller of the Currency ("OCC"), and the Office of Thrift Supervision ("OTS") (collectively, the "Agencies"), is approving this Statement of Policy mainly to update and revise its Supervisory Policy Statement on the "Selection of Securities Dealers and Unsuitable Investment Practices" which was approved by the FFIEC in April 1988 (the "April 1988 Supervisory Policy"), and subsequently adopted by the FRB, FDIC, NCUA, and the OCC.

The FFIEC recommended to its five member agencies that they adopt this Statement of Policy. The FRB, FDIC, OCC and OTS have done so. The NCUA will consider the adoption of the policy statement at their Board meeting on February 26, 1992. As adopted by the FRB, FDIC, OCC and OTS, it now supersedes the April 1988 Supervisory Statement of Policy.

This new Statement of Policy addresses the selection of securities dealers, requires depository institutions to establish prudent policies and strategies for securities transactions, defines securities trading or sales practices that are viewed by the agencies as being unsuitable when conducted in an investment portfolio, indicates characteristics of loans held for sale or trading, and establishes a framework for identifying when certain mortgage derivative products are high-risk mortgage securities which must be held either in a trading or held for sale account.

EFFECTIVE DATE: The FRB, FDIC, OCC, and OTS have adopted the Statement of Policy to be effective February 10, 1992.

FOR FURTHER INFORMATION CONTACT: At the FRB: Rhoger H. Pugh, Manager, Policy Development, Division of Banking Supervision and Regulation (202) 728–5883; Charles H. Holm, Supervisory Financial Analyst, Division of Banking Supervision and Regulation (202) 452–3502. At the FDIC: Sharon K. Lee, Capital Markets Specialist, Division of Supervision, (202) 898–6789; Robert F. Storch, Chief, Accounting Section, Division of Supervision (202) 898–8906. At the NCUA: Charles Felker (202) 682–9640. At the OCC: Owen Carney, Senior Advisor for Investment Securities (202) 874–5070; Jamie Newell, Senior Capital Markets Advisor (202) 874–5070. At the OTS: John M. Frech, Senior Accountant, Accounting Policy (202) 906–5649; J. Douglas Gordon, Senior Financial Economist (202) 906–5728.

SUPPLEMENTARY INFORMATION: In a number of cases where depository institutions have engaged in speculative or other non-investment activities in their investment portfolios, the portfolio managers appeared to have placed undue reliance on the advice of a securities sales representative. Some depository institutions have failed because of their speculative securities activities. Other institutions have had their earnings or capital impaired and the practical liquidity of their securities eroded by market value depreciation. Many of these problems may have been avoided had sound procedures been followed before using certain securities dealers.

These factors led to the development of a supervisory policy statement on the "Selection of Securities Dealers and Unsuitable Investment Practices" that was approved by the FFIEC in April 1988 and subsequently adopted by the FRB, FDIC, NCUA, and the OCC. That policy statement emphasized the importance of knowing the securities firms with whom a depository institution does business and also dealt with certain regulatory concerns pertaining to speculative and other activities improperly carried out in an institution's investment portfolio.

In addition, it identified risks associated with stripped mortgage-backed securities, residuals, and zero-coupon bonds and concluded that they may be unsuitable investments for depository institutions.

The FFIEC is now recommending adoption of this new Statement of Policy by each of its member agencies. If adopted, this Statement of Policy would supersede the April 1988 Policy Statement. This new Statement of Policy provides additional information on the development of a portfolio policy and strategies for securities and on securities practices that are inappropriate for an investment account. It also discusses factors that must be considered when evaluating whether the reporting of an institution's investment portfolio holdings is consistent with its intent and ability. In addition, this policy statement establishes a framework for determining when a mortgage derivative product is a high-risk mortgage security; and, once a mortgage derivative product is determined to be high-risk, it must be held in a trading or held for sale account.

Summary of Comments

On January 3, 1991, the FFIEC issued for comment a proposed Supervisory Policy Statement "Concerning Selection of Securities Dealers, Securities Portfolio Policies and Strategies and Unsuitable Investment Practices, and Stripped Mortgage-Backed Securities, Certain CMO Tranches, Residuals, and Zero-Coupon Bonds" (56 FR 263).

The proposed Statement of Policy informed insured depository institutions about:

- The selection of securities dealers;
- The documentation of policies and strategies for securities to be held for investment, held for sale or for trading purposes;
- Securities practices that are viewed by the federal financial institution regulators as being unsuitable when conducted in an investment portfolio; and
- Types of securities with volatile price or other high risk characteristics that are generally not suitable investments for depository institutions. Such securities may be subject to supervisory criticism, and depository institutions may be directed to establish a plan for disposal.

The FFIEC received 110 comment letters on the proposed Statement of Policy. Thirty-eight of the comments were from bank holding companies, fifteen were from state banks, fifteen were from thrift institutions, thirteen were from national banks, nine were from federal/state bank supervisory agencies, eight were from bank and thrift institution trade groups, eight were from consulting firms that perform work for banks and thrift institutions, and four were from other financial service corporations.

Of the 110 comment letters that were received, twenty-three were generally supportive of section I as proposed, and thirty-three were generally opposed to this Section. The remaining fifty-four did not indicate a view on section I. Twenty of the 110 comment letters received were generally supportive of section II as proposed, and sixty-five were generally opposed to section II. The remaining twenty-five did not indicate a view on section II.

Many of the commenters criticized section III. As a result of these comment letters, the Council proposed a revised section III on August 3, 1991 (56 FR 37095). The Council received over 90 comment letters on this proposal. Most of the commenters preferred changes in the quantitative criteria.

After giving due consideration to the comments received, the FFIEC has now decided to approve the Statement of Policy. The Statement of Policy as approved and recommended to the agencies contains revisions reflecting certain of the comments as set forth below. In addition, a discussion of the more significant comments, as well as the FFIEC's judgment as to their implication for the Statement of Policy as originally proposed, is presented below.

Section I: Selection of Securities Dealers

Comments received on section I generally addressed the following areas: (1) Clarifying the responsibilities of a board of directors in developing limits to transactions and business relationships with securities firms; (2) requiring institutions to obtain financial statements on securities firms with whom the institution does business; (3) establishing conflicts of interest policies; and (4) addressing the documentation burden for small insured depository institutions. The comments received on each of these areas are specifically addressed below.

1. Responsibilities of Boards of Directors

Several commenters expressed their concerns about the proposal's requirement that boards of directors or appropriate committees thereof develop lists of securities firms with whom management is authorized to do business and establish dollar limits on the types of transactions to be executed with each authorized securities firm. These commenters indicated that this requirement was an unnecessary expansion of director responsibilities. In addition, they indicated that they believed that depository institution management has the responsibility to establish operational strategies and to execute those strategies. In their opinion management should inform the board of directors about those strategies and the results of execution. The board would then be responsible for authorizing strategies to be executed and monitoring the performance of the execution.

The FFIEC agreed with the comments received on this issue. The language was changed to recognize the responsibilities of both managements and boards of directors in insured depository institutions.

2. Financial Statements of Securities Firms

Several commenters indicated that the proposed policy was too restrictive in this area. These commenters indicated that the proposed policy could essentially bar insured depository institutions from conducting business with reputable Wall Street firms that do not release financial statements since they are privately held or because they are subsidiaries or affiliates of securities firms whose financial statements are consolidated with the financial statements of the parent. In addition, a few of the commenters indicated that the designation of the securities dealer as a "primary broker/dealer in U.S. Government Securities" by the Federal Reserve should provide sufficient evidence that the securities firm is creditworthy.

The FFIEC has considered these comments and continues to believe that the management of an insured depository institution should only do business with securities firms that are willing to provide complete and timely disclosure of their financial condition.

3. Conflicts of Interest Policies

Several commenters acknowledged the need for corporate conflicts of interest policies to govern relationships between depository institution personnel and third parties such as securities brokers. However, these commenters indicated that the proposed policy statement may be too restrictive given the structure of many of the large securities firms. These commenters indicated that the large securities firms separate retail activities from institutional activities. Because of this structure, the commenters recommended that the proposed policy provide enough flexibility to address conflicts of interest in a given instance, rather than propose a broad policy.

The FFIEC agreed with this recommendation by suggesting that an institution's board of directors consider adopting a policy governing those situations when employees of the depository institution are directly involved in securities transactions for the institution and are also engaging in personal securities transactions with the same firm.

4. Documentation Burden for Small Insured Depository Institutions

A few commenters indicated that the documentation and other requirements that the proposed policy place upon managements and boards of directors of depository institutions in Sections I and II were overly burdensome for small, community-based depository institutions. They indicated that the FFIEC either reconsider adopting the policy or specifically exclude small, community-based depository institutions from the scope of the policy statement.

The FFIEC believes that the policy statement includes guidance for the prudent operation of investment securities functions. This guidance should benefit all depository institutions and should not be limited in application to depository institutions meeting only certain characteristics.

Section II: Securities Portfolio Policies and Strategies and Unsuitable Investment Practices

Comments received on section II primarily addressed the following concerns: (1) Clarifying various issues concerning trading v. investment; and (2) requesting various technical changes to the list of unsuitable investment practices. The comments received on each of these areas are specifically addressed below.

1. Trading v. Investment Issues

A number of commentators indicated that the FFIEC was establishing accounting and reporting guidance for loans and investment securities that is at variance with GAAP. The commentators indicated that the FFIEC should let the accounting profession establish accounting and reporting guidance on these issues. These commentators indicated that implementation of the accounting and reporting criteria in the policy statement would result in significant changes in current practice. As a result, these commentators indicated that the FFIEC should work with the Financial Accounting Standards Board ("FASB") and the American Institute of Certified Public Accountants ("AICPA") to promulgate accounting and reporting standards in this area. Other commentators indicated that they believed that mark-to-market accounting was inappropriate for investment securities and loans and should be dropped from the proposed policy statement.

The FFIEC believes that the policy statement reiterates established GAAP standards for accounting and reporting securities and loans that are held for investment, for sale, or for trading purposes. The policy statement does provide guidance for examiners to use in their consideration when evaluating whether the reporting of a depository institution's securities holdings is consistent with management's intent for such holdings.

Commentators also indicated that loans and investment securities that are held for sale should not be reported at the lower of cost or market. Rather, these commentators recommended that loans and investment securities held for sale should be reported at amortized cost with the market value disclosed in footnotes to financial statements or in supplementary schedules in regulatory reports.

The FFIEC believes that reporting securities and loans held for sale at amortized cost is not in compliance with existing GAAP standards. In addition, the FFIEC has observed that some depository institutions typically sell those securities with market gains and keep the remaining securities in portfolio with significant inherent market losses. This practice consistently overstates earnings and keeps loans and securities with low credit quality, extended maturities and little liquidity in portfolio. The FFIEC believes that dealing with such circumstances by additional disclosure doesn't deal with the asset quality problems as well as the fair presentation of the level of capital of the depository institution.

Many of the commentators indicated that loans should be excluded from the scope of this policy statement. Some of these commentators indicated that this policy statement provides guidance for investment securities activities and that accounting for loans is such an important topic that it deserves full and complete evaluation. Other commentators indicated that this proposal was designed to deal with questions arising from a depository institution's securities activities, not its lending activities. In their view, consideration of lending activities should only be addressed in a separate policy statement that is the result of detailed study and consideration.

However, GAAP requires loans held for sale or trading to be treated in a manner consistent with securities held for sale or trading.

Many commentators recommended that the proposed policy statement consider permitting the active management of U.S. Treasury or federal agency securities having remaining maturities of six months or less without automatically resulting in a depository institution classifying an entire investment portfolio as a trading account or held for sale. These commentators indicated that sophisticated investment managers typically liquidate these securities within six months of maturity at insignificant gains or losses (because of the fact that they are so close to maturity) in order to redeploy these funds.

The policy now specifically indicates that the remaining life of the security is one factor for examiners to consider when evaluating whether a security is held for sale or trading. The FFIEC believes that examiners will exercise judgment in this area.

A number of commentators expressed concern that examiners may arbitrarily and inconsistently require the transfer of securities originally in the investment portfolio to the trading account or the held for sale account. In addition, a number of commentators indicated that the factors may result in the continuation of subjective determinations by financial institutions, regulators, and independent auditors. The commentators indicated that the FFIEC should develop consistent implementation guidance to the examiners and should monitor the implementation by examiners to ensure that all depository institutions are treated consistently.

The FFIEC member Agencies intend to work closely together to reduce the risk of inconsistent application.

A number of commentators indicated that the factors that must be considered when evaluating management's intent for holdings of loans and investment securities excludes sales volumes that result from unanticipated or unforeseen conditions. These commentators indicated that there are times that securities are prudently sold in response to factors that were not foreseen or anticipated at the time the securities were purchased. These commentators indicated that these sales should be excluded when evaluating management's intent.

The FFIEC believes that this issue is addressed in the factors that examiners must consider when evaluating whether the reporting of a depository institution's securities holdings is consistent with management's intent for such holdings. The FFIEC believes that examiners will exercise judgment in this area.

A number of commentators objected to the policy criteria that only depository institutions that have strong capital and earnings can engage in securities trading activity in a closely supervised trading account. These commentators indicated that this criteria would seem to prohibit an institution suffering a temporary downturn in earnings from engaging in trading activities. These commentators suggested that strong liquidity and competent personnel should be substituted for "earnings."

The FFIEC agrees that strong liquidity and competent personnel are factors for determining whether an institution should engage in trading activities. However, the institution's earnings is another important factor that should be considered.

2. Unsuitable Investment Practices Issues

Many of the commentators expressed various concerns about this area of section II. A summary of their comments follows.

a. *Extended settlements.* A number of commentators indicated that the classification of all corporate or extended settlements for U.S. Government securities as unsuitable investment practices fails to consider that certain issues have regular way settlements up to 45 days. For example, some new issues of mortgage backed securities typically have a 45 day delay in settlement.

The FFIEC made a change to this section to accommodate the comments received.

b. "*Bond swapping.*" A number of commentators indicated that this term should be eliminated since the use of this term is very general and is much more generic than the activity described. The commentators indicated that these other activities should not be confused for the activities described under this term in the proposal.

The FFIEC made a change to this section to accommodate the comments received.

c. *Covered calls.* A number of commentators indicated that the proposed policy was too restrictive. Some commentators indicated that call writers can issue calls on a given date and subsequently purchase calls on a later date, effectively eliminating the call holder's ability to dislodge the securities when an "in the money" condition is present. Other commentators indicated that writers of covered calls do not always deliver securities to the call holder, rather they can settle with the call holder in cash. In these cases, the call holder has no claim to the underlying security and the call writer could still have the intent and ability to hold the security to maturity. In their view, historical cost accounting would still be appropriate in these circumstances. The FFIEC agreed with commentators with respect to covered call options that must be settled in cash.

d. *Delegation of discretionary investment authority.* Some commentators indicated that a policy statement requiring that all investment portfolio assets subject to discretionary management to be reported as held for sale was overly broad. In their view, this proposal did not take into account those situations where depository institutions in a common control group delegate their investment authority to subsidiary or affiliated investment advisers. Also, they indicated that this does not consider those situations where the management of the depository institution requires the third-party investment adviser to obtain approval from the depository institution prior to any securities transaction.

The FFIEC has made a change in this section to accommodate the comments received.

Section III: Mortgage Derivative Products, Other Asset Backed Products, and Zero-Coupon Bonds

Comments received on section III mainly addressed the following issues: (1) Whether the quantitative criteria proposed for determining high-risk mortgage securities in section III effectively distinguish high-risk mortgage derivative products from all other mortgage derivative products; (2) the analysis requirements for high-risk and nonhigh-risk mortgage derivative products; (3) the reporting treatment of high-risk mortgage derivative products; (4) the discretion given to examiners to determine whether mortgage derivative products are high-risk; (5) whether current holdings of mortgage derivative products were subject to the policy; and (6) whether the method of determining overall interest-rate risk reduction was appropriate. The **Federal Register** notice of August 2, 1991, specifically asked for comments on the first two issues. The comments received on each of these areas are specifically addressed below.

1. The Quantitative Criteria

A general principle underlying the 3-part test is that mortgage derivative products possessing average life or price volatility in excess of a standard fixed rate 30 year mortgage backed pass-through security are high-risk mortgage securities and are not suitable investments for depository institutions.

The August, 1991 proposal established three tests to use in determining when a mortgage derivative product becomes a high-risk mortgage security. These tests measured the weighted average life of the security, the average life sensitivity, and the price sensitivity of the security at the date of purchase and at subsequent periodic testing dates. The tests were based on the characteristics of a benchmark standard fixed rate 30 year mortgage backed pass-through security. However, the Council set the limits lower than the benchmark, to conform with a premium security with a coupon 100 basis points above the current coupon instrument.

Specific comments on the quantitative tests were received from 55 commenters. Many commenters noted that a newly issued current coupon mortgage pass-through would fail all three of the quantitative tests in the proposed policy. Current coupon mortgage pass-throughs have a higher weighted average life than the limit in the first test, extend or contract more than the second limit, and change in price by more than the limit in the third test of that version. Several commenters estimated that between 40 and 50 percent of mortgage derivative products would fail the three part test.

Thirty-five commenters wanted the first weighted average life test changed or eliminated. The great majority of these comments suggested increasing the weighted average life limit for nonhigh-risk treatment. Twenty-eight commenters requested changes in or abolishment of the weighted average life sensitivity test. Twenty-six commenters wanted the price sensitivity test changed or eliminated.

In response to these comments the Council has increased the limit on the weighted average life test to 10 years, and increased the price sensitivity test limit to a 17% move in price for a ±300 basis point shift in the yield curve. These values are consistent with the newly issued current coupon FNMA security discussed above.

In setting the limits for the 3-part test the Council looked to a current coupon pass-through that was newly issued by the Federal National Mortgage Corporation (FNMA). The current coupon in early September, 1991 was 8.5 percent. The consensus prepayment rate for that security in early September was 150 PSA. At that prepayment speed the pass-through had a weighted average life (WAL) of 9.7 years. The WAL after a 300 basis point parallel upward shift in Treasury rates equaled 12.0 years. A move down 300 basis points yielded a WAL of 3.8 years. Price fell by 16.3 percent when rates rose by 300 basis points and rose by 11.0 percent when rates fell by 300 basis points. This security is the benchmark security for the policy statement.

The Council set the WAL limit in test 1 at 10 years, just above the current coupon newly issued FNMA security. The WAL sensitivity test was set at +4 years for an increase of 300 basis points in rates, and −6 years for a 300 basis point fall in rates. For consistency among the 3 tests the WAL sensitivity test allows greater increases in WAL than that associated with the current coupon FNMA. Higher coupon securities have greater WAL sensitivity, but tend to have shorter WAL and lower price sensitivity than securities bearing a lower coupon. The limits on the price test were set at 17 percent to include the current coupon FNMA in the low-risk category.

2. Constant Spread

A number of commenters expressed concern about the process to be used to calculate price sensitivity. Many recognized that mortgage derivative products have embedded options that are best measured using option pricing methodologies. However, these commenters suggested that an option pricing methodology would be too complex to incorporate into this proposal. Some of these commenters suggested that a simple constant spread approach be used to estimate price sensitivity.

The Agencies have adopted an approach that is based on a constant spread to Treasury. The model assumes a fixed interest spread over the Treasury yield curve, and that the spread be determined by the bid side of the market at the time of purchase. The initial price to be used in the calculations should be the ask price.

3. Floaters

Fourteen commenters asked that the exemption from the first two tests for floaters be changed. In response to the comments on floaters the Council has changed the exemption for floaters to an exemption from tests 1 and 2 for all floaters below their cap.

Previously floaters would be exempt from tests 1 and 2 if their fully indexed rate was at least 125 basis points below the cap. Institutions may buy back caps for capped floaters to reinstate the exemption from those tests.

4. Reporting and Analysis Requirements

The Council received 22 comments on the requirements to analyze high-risk securities internally each quarter and analyze low-risk securities at least annually. Several commenters were concerned that the requirement to perform internal analysis quarterly on all high-risk products would add a prohibitive burden. Several were concerned that the requirement to obtain independent analysis of low-risk derivatives annually significantly raised the cost of holding those instruments. Many commenters asked for clarification as to which methods qualify as independent analysis for the purposes of testing nonhigh-risk securities.

In response to those comments, management may use industry calculators available in the marketplace for analysis of low-risk products. Management must understand the assumptions used in the model and insure that those assumptions are reasonable.

5. Designation of High-Risk Mortgage Derivative Products

Twenty-four commenters requested that the high-risk designation not be permanent and that high-risk securities be allowed to return to nonhigh-risk status if they later fall within the limits of all three tests. The Council agrees that high-risk securities may later become nonhigh-risk, and that high-risk securities later falling within the limits of the three tests for two consecutive quarters may be redesignated as nonhigh-risk.

6. Accounting Treatment of High-Risk Mortgage Derivative Products

Twenty-nine commenters asked for changes in the accounting treatment of high-risk securities. Most of these commenters were concerned that the accounting for high-risk mortgage derivative products deviated from GAAP treatment of investment securities. They noted that they might have the intent and ability to hold the instruments to maturity. After considering those comments the Council has decided to retain the proposed treatment for high-risk securities. The securities are to be used to reduce overall interest-rate risk. Because of the high price volatility and average life sensitivity of these high-risk securities, an institution may need to actively manage their portfolio to achieve effective interest rate risk reduction. Accordingly, these securities cannot be held as investments.

7. Examiner Discretion

Many commenters complained that examiners are given too much discretion to declare securities high risk in the policy. The Council has deleted a sentence allowing examiners to declare as high-risk a mortgage derivative product that the 3-part test determines to be low-risk. However, the policy contains langauge that allows the Agencies to take action to prevent circumvention of the guidelines.

8. Application of Policy to Current Holdings of High-Risk Products

Sixteen commenters asked that the grandfather clause be clarified so that the policy only affects securities purchased after the effective date of the policy. The Council agrees that the policy applies to all high-risk mortgage securities after the effective date of the policy. Purchases made prior to the effective date of this policy statement generally will be reviewed in accordance with previously-existing supervisory policies.

9. Method of Determining Overall Interest-Rate Risk Reduction

Eleven commenters suggested that the policy treat interest-rate risk reduction from a portfolio approach, and not on an individual security basis. For the purposes of the policy high-risk mortgage derivative products must reduce the institution's overall interest rate risk.

10. Other Issues

In response to several comments noting the lack of availability of a prospectus supplement until after purchase of many mortgage securities, the Council agrees that management may obtain the prospectus supplement after purchase if they perform the required analysis before purchase of the securities.

In response to several comments about examiner use of prepayment assumptions, the reference to examiner use of own prepayment assumptions has been deleted. Instead, examiners may use median industry prepayment assumptions when management's prepayment assumptions are unreasonable.

A number of commentators expressed concern that the burden of an annual test and the potential accounting implications of the annual test may cause financial institutions to avoid even the lowest risk CMO tranches. Further, it was suggested that these same institutions may exacerbate their overall interest rate risk by purchasing 30-year fixed rate MBS. To lessen the likelihood of these unintended effects, the agencies are considering designating a class of mortgage derivative products that, after initially being tested at the time of purchase, would be exempted from further testing.

These mortgage derivative products would have less average life and price sensitivity than a current coupon, fixed rate 30-year mortgage-backed pass through security. In addition, they would have a very low likelihood of becoming high-risk. Certain mortgage derivatives that meet the requirements of this designation could be held in the investment account, at cost, with no subsequent testing. Because this designation requires empirical analysis, the agencies have decided to study the issue further.

Council Action

After considering all of the comments received and making changes to the versions of the policy statements that were published for public comment as discussed above, the FFIEC has approved the Supervisory Policy Statement on Securities Activities and has recommended to its five member Agencies that each of them adopt the policy.

The text of the statement of policy follows.

Supervisory Policy Statement on Securities Activities

Purpose

This supervisory policy informs insured depository institutions about:

—recommended procedures to be used in the selection of a securities dealer;

—the need to document and implement prudent policies and strategies for securities, whether they are held for investment, trading, or for sale, and to establish systems and internal controls that are designed to ensure that securities activities are consistent with the policies and strategies;

—certain securities trading and sales practices that are viewed by the federal financial institution regulators as being unsuitable when conducted in an investment portfolio, thereby precluding the use of the amortized cost basis of accounting for securities holdings resulting from such practices. The substance of an institution's securities activities determines whether securities reported as investments are, in reality, held for trading or for sale. Securities held for trading must be reported at market value and securities held for sale must be reported at the lower of cost or market value. The guidance regarding securities held for sale or trading is also applicable to loans held for sale or trading;

—high-risk mortgage securities that are not suitable investment portfolio holdings for depository institutions. These securities may only be acquired to reduce an institution's interest rate risk and must be reported in the trading account at market value, or as assets held for sale at the lower of cost or market value. Examiners may seek the orderly divestiture of high-risk mortgage securities that do not reduce interest rate risk. Other products with risk characteristics similar to high-risk mortgage securities may be subject to the same supervisory treatment; and

—disproportionately large holdings of long-term zero-coupon bonds that are considered an imprudent investment practice. Such holdings will be subject to criticism by examiners who may seek their orderly disposal.

Background

In a number of cases where depository institutions engaged in speculative or other non-investment activities in their investment portfolios, the portfolio managers placed undue reliance on the advice of a securities sales representative. Some depository institutions have failed because of their speculative securities activities. Other institutions have had their earnings or capital impaired and the practical liquidity of their securities eroded by market value depreciation. Many of these problems could have been avoided had sound procedures been followed.

These factors led to the development of a supervisory policy statement on the "Selection of Securities Dealers and Unsuitable Investment Practices" that was approved by the Federal Financial Institutions Examination Council ("FFIEC") in April 1988. That policy statement emphasized the importance of knowing the securities firms with whom a depository institution does business and also dealt with certain regulatory concerns pertaining to speculative and other activities improperly carried out in an institution's investment portfolio.

In addition, it identified risks associated with stripped mortgage-backed securities, residuals, and zero-coupon bonds and concluded that they may be unsuitable investments for the vast majority of depository institutions.

This supervisory policy statement supersedes the April 1988 Policy Statement by providing additional information on the development of a portfolio policy and strategies for securities and on securities practices that are inappropriate for an investment account. It also discusses factors that must be considered when evaluating whether the reporting of an institution's investment portfolio holdings is consistent with its intent and ability. In addition, this policy statement contains expanded guidance on the suitability of acquiring and holding mortgage derivative products, other similar products, and zero coupon bonds.

Detailed guidance is provided in the following three sections.

Section I: Selection of Securities Dealers

Many depository institutions rely on the expertise and advice of a securities sales representative for recommendations concerning proposed investments and investment strategies and for the timing and pricing of securities transactions. Many of the problems depository institutions have experienced with their securities activities could have been avoided had sound procedures been followed.

It is essential that the management of a depository institution have sufficient knowledge about the securities firms and personnel with whom they are doing business. A depository institution should not engage in securities transactions with any securities firm that is unwilling to provide complete and timely disclosure of its financial condition. Management should review the securities firm's financial statements and evaluate the firm's ability to honor its commitments before entering into transactions with the firm and periodically thereafter. An inquiry into the general reputation of the dealer also is necessary. The board of directors, or an appropriate committee of the board,[1] should periodically review and approve a list of securities firms with whom management is authorized to do business. The board or an appropriate committee thereof should also periodically review and approve limits on the amounts and types of transactions to be executed with each authorized securities firm. Limits to be considered should include dollar amounts of unsettled trades, safekeeping arrangements, repurchase transactions, securities lending and borrowing, other transactions with credit risk, and total credit risk with an individual dealer.

At a minimum, depository institutions should consider the following in selecting and retaining a securities firm:

(1) The ability of the securities dealer and its subsidiaries or affiliates to fulfill commitments as evidenced by capital strength, liquidity and operating results. This evidence should be gathered from current financial data, annual reports, credit reports, and other sources of financial information.

(2) The dealer's general reputation for financial stability and fair and honest dealings with customers. Other depository institutions that have been or are currently customers of the dealer should be contacted.

(3) Information available from State or Federal securities regulators and securities industry self-regulatory organizations, such as the National Association of Securities Dealers, concerning any formal enforcement actions against the dealer, its affiliates or associated personnel.

(4) In those instances when the institution relies upon the advice of a dealer's sales representative, the background of the sales representative with whom business will be conducted in order to determine his or her experience and expertise.

In addition, the board of directors (or an appropriate committee of the board) must ensure that the depository institution's management has established appropriate procedures to obtain and maintain possession or control of securities purchased. In this regard, purchased securities and repurchase agreement collateral should only be left in safekeeping with selling dealers when: (1) The board of directors or an appropriate committee thereof is completely satisfied as to the creditworthiness of the securities dealer and (2) the aggregate market value of securities held in safekeeping in this manner is within credit limitations that have been approved by the board of directors (or an appropriate committee of the board) for unsecured transactions (see the October 1985 FFIEC Policy Statement entitled "Repurchase Agreements of Depository Institutions with Securities Dealers and Others"). Federal credit unions, when entering into a repurchase agreement with a broker/dealer, are not permitted to maintain the collateral with the broker/dealer (see part 703 of the National Credit Union Administration rules and regulations).

As part of the process of providing oversight over a depository institution's relationships with securities dealers, the board of directors may wish to consider adopting a policy concerning conflicts of interest when employees who are directly involved in purchasing and selling securities for the depository institution are also engaging in personal securities transactions with these same securities firms.

The board may also wish to adopt a policy applicable to directors, officers, and employees concerning the receipt of gifts, gratuities, or travel expenses from approved securities dealer firms and their personnel. (Also see in this connection the Bank Bribery Act, 18 U.S.C. 215, and interpretive releases.)

Section II: Securities Portfolio Policy and Strategies and Unsuitable Investment Practices

Policy and Strategies

A portfolio policy is a written description of authorized securities investment, trading and held for sale activities and the goals and objectives the institution expects to achieve through such activities. Strategies are written descriptions of the way management intends to achieve these goals and objectives and should address management's plans for each type of security (e.g., U.S. Treasuries, mortgage-backed securities, etc.) that will be used to carry out the portfolio policy. The portfolio policy and strategies should be consistent with the institution's overall business plan which may involve trading, held for sale, and investment activities. However, securities trading activity should only be conducted in a closely supervised trading account by institutions with strong capital and earnings and adequate liquidity. Each institution's portfolio policy and strategies must describe anticipated investment activities and either identify anticipated trading and held for sale activities or state that the institution will not enter into any trading or held for sale activities.

Securities activities must be conducted in a safe and sound manner. Each depository institution's board of directors should review and approve the overall portfolio policy and management's documented strategies annually, or more frequently if appropriate, and these approvals must be adequately documented. Furthermore, the board of directors or an appropriate committee thereof should review the institution's securities activities and holdings no less than quarterly. The board of directors or an appropriate committee thereof should also oversee the establishment of appropriate systems and internal controls that are designed to ensure that securities activities and holdings are consistent with the strategies of the institution and that the implementation of the strategies remains consistent with the portfolio policy's objectives.

When developing its portfolio policy and strategies, an institution should take into account such factors as asset/liability position, asset concentrations, interest rate risk, liquidity, credit risk, market volatility, and management's capabilities and desired rate of return. If the board of directors of a depository institution fails to adopt policies and strategies related to securities or if an institution fails to adhere to the policies and strategies approved by its board of directors, examiners may determine that some or all securities are held for sale or held for trading. Held for sale securities must be reported at the lower of cost or market value and trading activities must be reported at marked value.

Proper Reporting of Securities Activities

Securities must be reported in accordance with generally accepted accounting principles (GAAP)[2] consistent with the institution's intent to trade, to hold for sale or to hold for investment.

Depository institution investment portfolios are maintained to provide earnings consistent with the safety factors of quality, maturity, marketability, and risk diversification.

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[1] An appropriate committee of the board is a committee whose membership includes outside directors or whose actions are subject to review and ratification by the board of directors.

[2] In those cases where a difference in the interpretation of GAAP arises between an institution and its primary federal supervisory agency, the supervisory agency will require the institution to prepare its supervisory reports in accordance with the agency's interpretation.

Securities that are purchased to accomplish these objectives may be reported at their amortized cost only when the depository institution has both the intent and ability to hold the assets for long-term investment purposes. Transactions entered into in anticipation of taking gains on short-term price movements are not suitable as investment portfolio practices. Such transactions should only be conducted in a closely supervised securities trading account by institutions that have strong capital and earnings and adequate liquidity. Securities holdings that do not meet the reporting criteria for either investment or trading portfolios must be designated as held for sale.

Trading in the investment portfolio is characterized by a high volume of purchase and sale activity that, when considered in light of a short holding period for securities, clearly demonstrates management's intent to profit from short-term price movements. In such situations, a failure to follow accounting and reporting standards applicable to trading accounts may result in a misstatement of the depository institution's income and other published financial data and the filing of inaccurate regulatory reports. It is an unsafe and unsound practice to report securities holdings that result from trading transactions using reporting standards that are intended for securities held for investment purposes. Securities held for trading must be reported at market value, with unrealized gains and losses recognized in current income. Prices used in periodic revaluations should be obtained from sources that are independent of the securities dealer doing business with the depository institution. When prices are internally estimated by the portfolio manager (when reliable external price quotations are not available), they should be reviewed by persons independent of the portfolio management function.

A pattern of intermittent sales transactions in the investment portfolio may suggest that securities ostensibly held as long-term portfolio assets are actually held for sale. Securities held for sale must be reported at the lower of cost or market value with unrealized losses (and recoveries of unrealized losses) being recognized in current income. It is an unsafe and unsound practice to report securities held for sale using reporting standards that are intended for securities held for investment purposes.

It is the substance of an institution's securities activities that determines whether securities reported as being held as investment portfolio assets are, in reality, held for trading or for sale. Examiners will particularly scrutinize institutions that exhibit a pattern or practice of reporting significant amounts of realized gains on sales from their investment portfolio and that have significant amounts of unrecognized losses. If in the examiner's judgment such a practice has occurred, some or all of the securities reported as held for investment will be designated as held for sale or for trading.

On the other hand, infrequent investment portfolio restructuring activities that are carried out in conjunction with a prudent overall business plan and that do not result in a pattern of gains being realized and losses being deferred on investment portfolio securities will generally be viewed as an acceptable investment practice. Such activities usually would not result in the redesignation of securities held for investment as securities held for trading or for sale.

A number of factors must be considered when evaluating whether the reporting of a depository institution's investment portfolio securities holdings is consistent with management's intent for such holdings. Some of the factors relating to investment portfolio securities for each reporting period include:

(1) The dollar amount of gains realized from sales in relation to the dollar amount of losses realized from sales and in relation to unrealized losses for other investment portfolio securities;

(2) The dollar amount of gains and losses realized from sales in relation to net income and capital;

(3) The number of sales transactions resulting in gains and the number resulting in losses;

(4) The gross dollar volume of securities purchases and sales;

(5) The rapidity of turnover, including consideration of the length of time securities are owned prior to sale, the length of time securities are held after an unrealized gain is evident, and the remaining life of the security at the time of sale; and

(6) The reasons for the depository institution's engaging in specific transactions, and whether these reasons are consistent with the portfolio policy and strategies.

Some of the factors that also must be considered to evaluate the depository institution's ability to continue to hold investment portfolio securities include:

(1) The sources and availability of funding;

(2) The ability to meet margin calls and over-collateralization requirements related to leveraged holdings;

(3) Limitations such as capital requirements, the legality of certain securities holdings, liquidity requirements, legal lending limits, and prudential concentration limits; and

(4) The ability to continue as a going-concern and to liquidate assets in the normal course of business.

Reporting of Loans Held for Sale or Trading

Historically, depository institutions have tended to hold loans until maturity. Consequently, the application of lower of cost or market value accounting to portions of the loan portfolio has not been an issue except in those depository institutions that have regularly originated or purchased loans for purposes of subsequent sale. Nevertheless, as with debt securities, reporting loans at the lower of cost or market value is required when the institution does not have both the intent and ability to hold these loans for long-term investment purposes.

The factors listed above should also be considered when evaluating whether the reporting of loans is consistent with management's intent and ability to hold the loans. A pattern of originating loans at yields below market and subsequently selling them at par once the yield approximates market is another factor that will be considered when evaluating management's intent.

Unsuitable Investment Practices

The following activities raise specific supervisory concerns. The first six practices are considered unsuitable when they occur in a depository institution's investment portfolio. Such practices should only be conducted in an appropriately controlled and segregated trading or held-for-sale portfolio. Practices seven and eight involve an institution's transfer of control over individual assets, segments of the portfolio, or the entire portfolio to persons or companies unaffiliated with the institution. In such situations, the depository institution clearly no longer has the ability to hold the affected securities for investment purposes and such securities should be reported as held for sale. The ninth practice is wholly unacceptable under all circumstances.

In addition, certain of the following practices may violate state law in certain states. State-chartered depository institutions are therefore cautioned to consult with their state supervisors.

1. "Gains Trading"

"Gains trading" is characterized by the purchase of a security as an investment portfolio asset and the subsequent sale of that same security at a profit after a short-term holding period. Securities that cannot be sold at a profit are retained as investment portfolio assets. These "losers" are retained in the investment portfolio because investment portfolio holdings are accounted for at amortized cost, and losses are normally not recognized unless the security is sold. Gains trading often results in a portfolio of securities with one or more of the following characteristics: extended maturities, lower credit quality, high market depreciation, and limited practical liquidity. Frequent purchase and sale activity, combined with a short-term holding period for securities, clearly demonstrates management's intent to profit from short-term price movements. This indicates that other securities held in the investment portfolio may also be held for trading or for sale.

In many cases, "gains trading" involves the trading of "when-issued" securities, the use of "pair-off" transactions (including transactions involving off-balance sheet contracts), or "corporate" or "extended settlements" because these speculative practices afford an opportunity for substantial price changes to occur before payment for the securities is due.

2. "When-Issued" Securities Trading

"When-issued" securities trading is the buying and selling of securities in the period between the announcement of an offering and the issuance and payment date of the securities. A purchaser of a "when-issued" security acquires all the risks and rewards of owning a security and may sell the "when-issued" security at a profit before having to take delivery and pay for it. Purchases and subsequent sales of securities during the "when-issued" period may not be conducted in a bank's investment portfolio, but are regarded instead as a trading activity.

3. "Pair-Offs"

A "pair-off" is a security purchase transaction that is closed-out or sold at, or prior to, settlement date or expiration date. "Pair-offs" may also involve optional or mandatory off-balance sheet contracts (e.g., swaps, options on swaps, forward commitments and options on forward commitments).

In a "pair-off", an investment portfolio manager will commit to purchase a security. Then, prior to the predetermined settlement date, the portfolio manager will "pair-off" the purchase with a sale of the same security prior to, or on, the original settlement date. Profits or losses on the transactions are settled by one party to the transaction remitting to the counterparty the difference between the purchase and sale price. Like "when-issued" trading, "pair-offs" permit an institution to speculate on securities price movements without having to pay for the securities. Such transactions are regarded as a trading activity.

4. Corporate or Extended Settlements

Regular-way settlement for transactions in U.S. Government and Federal agency securities (other than mortgage-backed and derivative products) is one business day after the trade date. Regular-way settlement for corporate and municipal securities and stripped U.S. Treasury securities and similar products is five business days after the trade date. In addition, regular-way settlement for transactions in mortgage backed and mortgage derivative products varies and can be up to 45 to 60 days after trade date.

The use of an extended or corporate settlement method for U.S. Government securities purchases and an extended settlement period (more than 5 business days) for stripped U.S. Treasury securities and similar products appears to be offered by securities dealers in order to facilitate speculation on the part of the purchaser, similar to the profit opportunities available in a "pair-off" transaction. The use of a settlement period in excess of the regular-way settlement period appropriate for an instrument and, in any event beyond 60 days, in order to facilitate speculation is considered a trading activity.

5. Repositioning Repurchase Agreements

A repositioning repurchase agreement is a funding technique often used by dealers who encourage speculation through the use of "gains trading," "pair-off," "when-issued trading," and "corporate or extended settlement" transactions for securities which cannot be sold at a profit. The repositioning repurchase agreement is a service provided by the dealer so the buyer can hold the speculative position until it can be sold at a gain. The buyer purchasing the security pays the dealer a small "margin" that approximates the actual loss in the security. The dealer then agrees to fund the purchase of the security by buying it back from the purchaser under a resale agreement. Any dealer financing technique such as a repositioning repurchase agreement that is used to fund the speculative purchase of securities may be indicative of securities that were acquired with the intent to resell at a profit at or prior to settlement or after a short-term holding period. This activity is inherently speculative and is a wholly unsuitable investment practice for depository institutions. Securities acquired in this manner should be reported as either trading account assets or as securities held for sale.

6. Short Sales

A short sale is the sale of a security that is not owned. The purpose of a short sale generally is to speculate on the fall in the price of the security. Short sales are transactions that should be conducted as a trading activity and, when conducted in the investment portfolio, they are considered to be unsuitable.

A short sale that involves the delivery of the security sold short by borrowing it from the depository institution's investment portfolio should not be reported as a short sale. Instead, it should be reported as a sale of the underlying security with gain or loss recognized.

Short sales are not permissible activities for Federal credit unions.

7. Delegation of Discretionary Investment Authority

Some depository institutions have delegated the purchase and sale authority for all or a portion of their investment securities portfolio to a non-affiliated firm or to an individual who is not an employee of the institution or one of its affiliates. Such a delegation of authority is intended to obtain a higher total return on the portfolio than the institution would realize if it managed the portfolio itself. When an institution has delegated such authority to a non-affiliated firm or to one or more individuals who are not employees of the depository institution or its affiliates, then the depository institution no longer has the ability to control its own securities and all holdings for which such authority has been delegated must be reported as held for sale.

The centralized management of investment portfolios of affiliated depository institutions by the parent holding company or another affiliate is not ordinarily considered to be the delegation of investment authority.

Investment authority will also not be considered delegated to unaffiliated parties when a depository institution's portfolio manager is required to authorize a recommended purchase or sale transaction prior to its execution and the portfolio manager, in practice, reviews such recommendations and does, in fact, authorize such transactions.

8. Covered Calls

The writing of covered calls is an option strategy that, for a fee, grants the buyer of the call option the right to purchase a security owned by the option writer at a predetermined price before a specified future date. The option fee [3] received by the writing (selling) depository institution provides income and has the effect of increasing the effective yield on the portfolio asset "covering" the call.

Covered call programs have been promoted as hedging strategies because the fee received by the writer can be used to offset a limited amount of potential loss in the price of the underlying security. If interest rates rise, the call option fee can be used to partially offset the decline in the market value of a fixed rate security or the increased cost of market rate liabilities used to carry the security. However, there is no assurance that an option fee will completely offset the price decline on the security or the increased cost of liabilities and the resulting reduced spread between the institution's return on assets and funding costs.

As a practical matter, the gain on a security covered by a written call is limited to the amount of the difference between the carrying value of the security and the strike price at which the security will be called away. The potential for losses on the covered security is not similarly limited. In an effort to obtain higher yields, some portfolio managers have mistakenly relied on the theoretical hedging benefits of covered call writing, and have purchased extended maturity U.S. government or Federal agency securities. This practice can significantly increase risks taken by the depository institution by contributing to a maturity mismatch between its assets and its funding.

Institutions should only initiate a covered call program for securities when the board of directors or an appropriate board committee has specifically approved a policy permitting this activity. This policy must set forth specific procedures for controlling covered call strategies, including recordkeeping, reporting, and review of activity, as well as providing for appropriate management information systems to report the results. Since the purchaser of the call acquires the ability to call the security away from the institution that writes the option, the ability of that institution to continue to hold the security rests with an outside party. Securities held for investment against which call options have been written should therefore be redesignated as held for sale and reported at the lower of cost or market value.

However, if an option contract requires the writer to settle in cash, rather than by delivering an investment portfolio security, the institution writing the option maintains the ability to hold the security and, thus, the security may be reported as an investment. In this case, the option must still be reported at the lower of cost or market value.

Covered call writing is not a permissible activity for Federal credit unions.

9. "Adjusted Trading"

"Adjusted trading" is a practice involving the sale of a security to a broker or dealer at a price above the prevailing market value and the simultaneous purchase and booking of a different security, frequently a lower grade issue or one with a longer maturity, at a price greater than its market value. Thus, the broker or dealer is reimbursed for losses on the purchase from the institution and ensured a profit. Such transactions inappropriately defer the recognition of losses on the security sold and establish an excessive reported value for the newly acquired security. Consequently, such transactions are prohibited and may be in violation of 18 U.S.C. 1001–False Statements or Entries and 1005–False Entries.

Section III: Mortage Derivative Products, Other Asset Backed Products, and Zero-Coupon Bonds

Summary

Mortgage derivative products include Collateralized Mortgage Obligations ("CMOs"), Real Estate Mortgage Investment Conduits ("REMICs"), CMO and REMIC residuals, and Stripped Mortgage-Backed Securities ("SMBSs"). The cash flows from the mortgages underlying these securities are redirected to create two or more classes with different maturity or risk characteristics designed to meet a variety of investor needs and preferences.

Some mortgage derivative products exhibit considerably more price volatility than mortgages or ordinary mortgage pass-through securities and can expose investors to significant risk of loss if not managed in a safe and sound manner. This price volatility is caused in part by the uncertain cash flows that result from changes in the prepayment rates of the underlying mortgages.

In addition, because these products are complex, a high degree of technical expertise is required to understand how their prices and cash flows may behave in various interest rate and prepayment environments. Moreover, because the secondary market for some of these products is relatively thin, they may be difficult to liquidate should the need arise. Finally, there is additional uncertainty because new variants of these instruments continue to be introduced and their price performance under varying market and economic conditions has not been tested.

A general principle underlying this section is that mortgage derivative products possessing average life or price volatility in excess of a benchmark fixed rate 30-year mortgage-backed pass-through security are "high-risk mortgage securities" and are not suitable investments. All high-risk mortgage securities, as defined in detail below, acquired by depository institutions after February 10, 1992 must be carried in the institutions' trading account or as assets held for sale. On the other hand, mortgage derivative products that do not meet the definition of a high-risk mortgage security at the time of purchase should be reported as investments, held-for-sale assets, or trading assets, as appropriate. Institutions must ascertain no less frequently than annually that such products remain outside the high risk category.

Institutions that hold mortgage derivative products that meet the definition of a high-risk mortgage security must do so to reduce interest rate risk in accordance with safe and sound practices.[4] Furthermore, depository institutions that purchase high-risk mortgage securities must demonstrate that they understand and are effectively managing the risks associated with these instruments. Levels of activity involving high-risk mortgage securities should be reasonably related to an institution's capital, capacity to absorb losses, and level of in-house management sophistication and expertise. Appropriate managerial and financial controls must be in place and the institution must analyze, monitor, and prudently adjust its holdings of high-risk mortgage securities in an environment of changing price and maturity expectations.

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[3] Recognition of option fee income should be deferred until the option is exercised or expires. The covered call writer shall value the option at the lower of cost or market value at each report date.

[4] Notwithstanding the provisions of this supervisory policy requiring the use of high-risk mortgage securities to reduce interest rate risk, this supervisory policy is not meant to preclude an institution with strong capital and earnings and adequate liquidity that has a closely supervised trading department from acquiring high-risk mortgage securities for trading purposes. The trading department must operate in conformance with well-developed policies, procedures, and internal controls, including detailed plans prescribing specific position limits and control arrangements for enforcing these limits.

Prior to taking a position in any high-risk mortgage security, an institution should conduct an analysis to ensure that the position will reduce the institution's overall interest rate risk. An institution should also consider the liquidity and price volatility of these products prior to purchasing them. Circumstances in which the purchase or retention of high-risk mortgage securities is deemed by the appropriate federal regulatory authority to be contrary to safe and sound practices for depository institutions will result in criticism by examiners, who may require the orderly divestiture of high-risk mortgage securities. Purchases of high-risk mortgage securities prior to February 10, 1992 generally will be reviewed in accordance with previously-existing supervisory policies.

Securities and other products, whether carried on or off the balance sheet (such as CMO swaps, but excluding servicing assets), having risk characteristics similar to high-risk mortgage securities will be subject to the same supervisory treatment as high-risk mortgage securities.

Long-term zero coupon bonds also exhibit significant price volatility and may expose an institution to considerable risk. Disproportionately large holdings of these instruments may be considered an imprudent investment practice, which will be subject to criticism by examiners. In such instances, examiners may seek the orderly disposal of some or all of these securities. Assets slated for disposal are reported as assets held for sale at the lower of cost or market value.

Overview of the Securities

A. SMBSs consist of two classes of securities with each class receiving a different portion of the monthly interest and principal cash flows from the underlying mortgage-backed securities ("MBS"). In its purest form, an MBS is converted into an interest-only ("IO") strip, where the investor receives all of the interest cash flows and none of the principal, and a principal-only ("PO") strip, where the investor receives all of the principal cash flows and none of the interest. IOs and POs have highly volatile price characteristics based, in part, on the prepayment variability of the underlying mortgages. Therefore, IOs and POs will nearly always meet the definition of high risk in this policy.

From a market perspective, IOs and POs have relatively wide bid/ask spreads compared to mortgage-backed securities. This decreases the effectiveness of SMBSs as interest rate risk reduction tools from a price sensitivity perspective because interest rates and prepayments need to change by a significant amount before the price at which the security can be sold (i.e., the bid price) will exceed the price at which the security was purchased (i.e., the ask price).

B. CMOs and REMICs, hereinafter called CMOs, have been developed in response to investor concerns regarding the uncertainty of cash flows associated with the prepayment option of the underlying mortgagor. A CMO can be collateralized directly by mortgages, but more often is collateralized by MBSs issued or guaranteed by the Government National Mortgage Association (GNMA), Federal National Mortgage Association (FNMA), or Federal Home Loan Mortgage Corporation (FHLMC) and held in trust for CMO investors. In contrast to MBSs in which cash flow is received pro rata by all security holders, the cash flow from the mortgages underlying a CMO is segmented and paid in accordance with a predetermined priority to investors holding various CMO tranches. By allocating the principal and interest cash flows from the underlying collateral among the separate CMO tranches, different classes of bonds are created, each with its own stated maturity, estimated average life, coupon rate, and prepayment characteristics. Notwithstanding the importance of the CMO structure to an evaluation of the timing and amount of cash flows, it is essential to understand the coupon rates on the mortgages underlying the CMO to assess the prepayment sensitivity of the CMO tranches.

C. Residuals, in the traditional sense, are claims on any excess cash flows from a CMO issue or other asset-backed security remaining after the payments due to the holders of the other classes and after trust administrative expenses have been met. The economic value of a residual is a function of the present value of the anticipated excess cash flows. These cash flows are highly sensitive to prepayments and existing levels of market interest rates, and the mortgages underlying the CMO must be understood in order to assess this sensitivity. Accordingly, most of these residuals meet the definition of high-risk in this policy. Other factors affecting the market value of residuals include a lack of liquidity and a wide bid-ask price spread.

In addition, the 1986 legislation creating the REMIC structure requires that one class of each REMIC issue be designated the residual interest for tax purposes. Some of these REMIC residuals are not residuals in the traditional sense.

However, these REMIC residuals also are subject to this policy statement.

Definition of "High-Risk Mortgage Security"

In general, any mortgage derivative product that exhibits greater price volatility than a benchmark fixed rate thirty-year mortgage-backed pass-through security will be deemed to be high risk. For purposes of this policy statement, a "high-risk mortgage security" is defined as any mortgage derivative product that at the time of purchase, or at a subsequent testing date, meets any of the following tests.[5] In general, a mortgage derivative product that does not meet any of the three tests below will be considered to be a "nonhigh-risk mortgage security."

(1) Average Life Test

The mortgage derivative product has an expected weighted average life greater than 10.0 years.

(2) Average Life Sensitivity Test

The expected weighted average life of the mortgage derivative product:

a. Extends by more than 4.0 years, assuming an immediate and sustained parallel shift in the yield curve of plus 300 basis points, or

b. Shortens by more than 6.0 years, assuming an immediate and sustained parallel shift in the yield curve of minus 300 basis points.

(3) Price Sensitivity Test

The estimated change in the price of the mortgage derivative product is more than 17 percent, due to an immediate and sustained parallel shift in the yield curve of plus or minus 300 basis points.[6]

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[5] When the characteristics of a mortgage derivative product are such that the first two tests cannot be applied (such as with IOs), the mortgage derivative product remains subject to the third test.

[6] When performing the price sensitivity test, the same prepayment assumptions and same cash flows that were used to estimate average life sensitivity must be used. The only additional assumption is the discount rate assumption.

First, assume that the discount rate for the security equals the yield on a comparable average life U.S. Treasury security plus a constant spread. Then, calculate the spread over Treasury rates from the bid side of the market for the mortgage derivative product. Finally, assume the spread remains constant when the Treasury curve shifts up

Continued

In applying any of the above tests, all of the underlying assumptions (including prepayment assumptions) for the underlying collateral must be reasonable. All of the assumptions underlying the analysis must be available for examiner review. For example, if an institution's prepayment assumptions differ significantly from the median prepayment assumptions of several major dealers as selected by examiners, the examiners may use these median prepayment assumptions in determining if a particular mortgage derivative product is high risk.

The above tests may be adjusted in the event of a significant movement in market interest rates or to fairly measure the risk characteristics of new mortgage-backed products. Furthermore, each agency reserves the right to take such action as it deems appropriate to prevent circumvention of the definition of a high-risk mortgage security and other standards set forth in this policy statement.

Generally, a CMO floating-rate debt class will not be subject to the average life and average life sensitivity tests described above if it bears a rate that, at the time of purchase or at a subsequent testing date, is below the contractual cap on the instrument. (An institution may purchase interest rate contracts that effectively uncap the instrument.) For purposes of this policy statement, a CMO floating-rate debt class is a debt class whose rate adjusts at least annually on a one-for-one basis with the debt class's index. The index must be a conventional, widely-used market interest rate index such as the London Interbank Offered Rate (LIBOR). Inverse floating rate debt classes are not included in the definition of a floating rate debt class.

Supervisory Policy for Mortgage Derivative Products

Prior to purchase, a depository institution must determine whether a mortgage derivative product is high-risk, as defined above. A prospectus supplement or other supporting analysis that fully details the cash flows covering each of the securities held by the institution should be obtained and analyzed prior to purchase and retained for examiner review. In any event, a prospectus supplement should be obtained as soon as it becomes available.

Nonhigh-risk Mortgage Securities

Mortgage derivative products that do not meet the definition of high-risk mortgage securities at the time of purchase should be reported as investments, held-for-sale assets, or trading assets, as appropriate.

Institutions must ascertain and document prior to purchase and no less frequently than annually thereafter that nonhigh-risk mortgage securities that are held for investment remain outside the high-risk category. If an institution is unable to make these determinations through internal analysis, it must use information derived from a source that is independent of the party from whom the product is being purchased. Standard industry calculators used in the mortgage-related securities marketplace are acceptable and are considered independent sources. In order to rely on such independent analysis, institutions are responsible for ensuring that the assumptions underlying the analysis and the resulting calculation are reasonable. Such documentation will be subject to examiner review.

A mortgage derivative product that was not a high-risk mortgage security when it was purchased as an investment may later fall into the high-risk category. If this occurs, the mortgage derivative product must be redesignated as held for sale or trading. Once a mortgage derivative product has been designated as high-risk, it may be redesignated as nonhigh-risk only if, at the end of two consecutive quarters, it does not meet the definition of a high-risk mortgage security. Upon redesignation as a nonhigh-risk security, it does not need to be tested for another year.

High-Risk Mortgage Securities

An institution may only acquire a high-risk mortgage derivative product to reduce its overall interest rate risk. (Institutions meeting the guidance established in footnote 4 may also purchase these securities for trading purposes.) An institution that has acquired high-risk mortgage securities to reduce interest rate risk needs to manage its holdings of these securities because of their substantial prepayment and average life variability. Such management implies that the institution does not have both the intent and ability to hold high-risk mortgage securities for long-term investment purposes. Accordingly, high-risk mortgage securities that are being used to reduce interest rate risk should not be reported as investments at amortized cost, but must be reported as trading assets at market value or as held-for-sale assets at the lower of cost or market value.

In appropriate circumstances, examiners may seek the orderly divestiture of high-risk mortgage securities that do not reduce interest rate risk. These securities must be reported as held-for-sale assets at the lower of cost or market value.

An institution that owns or plans to acquire high-risk mortgage securities must have a monitoring and reporting system in place to evaluate the expected and actual performance of such securities. The institution must conduct an analysis that shows that the proposed acquisition of a high-risk mortgage security will reduce the institution's overall interest rate risk. Subsequent to purchase, the institution must evaluate at least quarterly whether this high-risk mortgage security has actually reduced interest rate risk.

The institution's analyses performed prior to the purchase of high-risk mortgage securities and subsequently thereafter must be fully documented and will be subject to examiner review. This review will include an analysis of all assumptions used by management regarding the interest rate risk associated with the institution's assets, liabilities and off-balance sheet positions. Analyses performed and records constructed to justify purchases on a post-acquisition basis are unacceptable and will be subject to examiner criticism. Reliance on analyses and documentation obtained from a securities dealer or other outside party without internal analyses by the institution are unacceptable and reliance on such third-party analyses will be subject to examiner criticism.

Management should also maintain documentation demonstrating that it took reasonable steps to assure that the prices paid for high-risk mortgage securities represented fair market value. Generally, price quotes should be obtained from at least two brokers prior to executing a trade. If, because of the unique or proprietary nature of the transaction or product, or for other legitimate reasons, price quotes cannot be obtained from more than one broker, management should document the reasons for not obtaining such quotes.

In addition, a depository institution that owns high-risk mortgage securities must demonstrate that it has established the following:

(1) A board-approved portfolio policy which addresses the goals and objectives the institution expects to achieve through its securities activities, including interest rate risk reduction

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or down 300 basis points. Discounting the aforementioned cash flows by their respective discount rates estimates a price in the plus and minus 300 basis point environments.

The initial price will be determined by the offer side of the market and used as the base price from which the 17 percent price sensitivity test will be measured.

objectives with respect to high-risk mortgage securities;

(2) Limits on the amounts of funds that may be committed to high-risk mortgage securities;

(3) Specific financial officer responsibility for and authority over securities activities involving high-risk mortgage securities;

(4) Adequate information systems;

(5) Procedures for periodic evaluation of high-risk mortgage securities and their actual performance in reducing interest rate risk; and

(6) Appropriate internal controls.

The board of directors, or an appropriate committee thereof, and the institution's senior management should regularly (at least quarterly) review all high-risk mortgage securities to determine whether these instruments are adequately satisfying the interest rate risk reduction objectives set forth in the portfolio policy. The depository institution's senior management should be fully knowledgeable about the risks associated with prepayments and their subsequent impact on its high-risk mortgage securities.

Failure to comply with this policy will be viewed as an unsafe and unsound practice.

Purchases of high-risk mortgage securities prior to February 10, 1992 generally will be reviewed in accordance with previously-existing supervisory policies.

Securities and other products, whether carried on or off the balance sheet (such as CMO swaps, but excluding servicing assets), having characteristics similar to those of high-risk mortgage securities will be subject to the same supervisory treatment as high-risk mortgage securities.

Supervisory Policy for Other Zero-Coupon, Stripped or Original Issue Discount (OID) Products

Zero-coupon, "stripped" and certain Original Issue Discount ("OID") securities are priced at large discounts to their face value prior to maturity and exhibit significant price volatility. "Stripped" securities are the interest or principal portions of U.S. Government obligations (which are separated and sold to depository institutions in the form of stripped coupons or stripped bonds (principal)), STRIPS, and such proprietary products as CATs or TIGRs.[7] Also, deep discount OID bonds have been issued by a number of municipal entities.

Although considered free from credit risk if issued directly by the U.S. Government, longer maturities of zero coupon, stripped, and deep discount OID products (generally, remaining maturities exceeding ten years) have displayed extreme price volatility. Therefore, disproportionately large long-maturity holdings of these instruments, in relation to the total investment portfolio or total capital of the depository institution, are considered an imprudent investment practice. Such holdings will be subject to criticism by examiners who may seek the orderly disposal of some or all of these securities. Securities slated for disposal must be reported as held-for-sale assets at the lower of cost or market value.

Other Considerations

Several states have adopted, or are considering, regulations that prohibit state-chartered banks from purchasing interest-only strips or other securities discussed above. Accordingly, state-chartered institutions should consult with their state regulator concerning the permissibility of these purchases.

Dated: January 28, 1992.

Joe M. Cleaver,

Executive Secretary, Federal Financial Institutions Examination Council.

[FR Doc. 92-2445 Filed 1-31-92; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL MARITIME COMMISSION

Jacksonville Port Authority, et al.

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC, Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in section 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-200607.

Title: Jacksonville Port Authority/Norwegian Specialized Autocarriers Terminal Agreement.

Parties: Jacksonville Port Authority Norwegian Specialized Autocarriers.

Synopsis: The Agreement, filed January 22, 1992, provides charges for parking and wharfage of Private Owned Vehicles (cargo). The Agreement includes a percentage discount for volume shipments of 50 vehicles or more from a single dealer to a single consignee.

By Order of the Federal Maritime Commission.

Dated: January 28, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 92-2419 Filed 1-31-92; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 92-04]

Interdean, A.G. v. Trans-Atlantic American Flag Liner Operators, et al., Notice of Filing of Complaint and Assignment

Notice is given that a complaint filed by Interdean, A.G. ("Complainant") against Trans-Atlantic American Flag Liner Operators ("TAFFLO"), Sea-Land Service, Inc., Lykes Bros. Steamship Co., Inc., and Farrell Lines, Inc. ("Respondents") was served January 28, 1992. Complainant alleges that Respondents engaged in violations of sections 10(b) (6), (10), (11) and (12) of the Shipping Act of 1984, 46 U.S.C. app. 1709(b)(6), (10), (11) and (12), by publishing in the TAAFLO tariff a time/volume rate program for U.S. military household goods that establishes both a minimum volume requirement so high that it can only be met by one shipper and an unreasonably large spread between such rates and TAAFLO's standard rates, with no legitimate economic reason.

This proceeding has been assigned to Administrative Law Judge Norman D. Kline ("Presiding Officer"). Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the Presiding Officer in this proceeding shall be issued by January 28, 1993, and the final decision of the Commission shall be issued by May 28, 1993.

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[7] STRIPS (Separate Trading of Registered Interest and Principal of Securities) is the U.S. Treasury program that permits separate trading and ownership of the interest and principal payments on certain long-term U.S. Treasury note and bond issues that are maintained in the book-entry system operated by the Federal Reserve Banks. CATs (Certificates of Accrual on Treasury Securities) and TIGRs (Treasury Investment Growth Receipts) are proprietary names for a form of coupon stripping that has been developed by securities firms. The securities firm purchases U.S. Treasury securities, delivers them to a trustee, and sells receipts representing the rights to future interest and/or principal payments from the U.S. Treasury securities held by the trustee.

Joseph C. Polking,

Secretary.

[FR Doc. 92-2488 Filed 1-31-92; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

[Announcement Number 208]

Public Health Conference Support Grant Program

Introduction

The Centers for Disease Control (CDC), the Nation's prevention agency, announces the availability of funds in Fiscal Year 1992 for the Public Health Conference Support Grant Program. The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to all of Healthy People 2000's priority areas, except HIV Infection (see announcement #201 for HIV entitled, "Public Health Conference Support Cooperative Agreement Program for Human Immunodeficiency Virus (HIV) Prevention," published December 13, 1991, (56 FR 65162). (For ordering a copy of Healthy People 2000, see the section Where To Obtain Additional Information.)

Authority

This program is authorized under section 301 (42 U.S.C. 241) and section 310 (42 U.S.C. 242n) of the Public Health Service Act.

Eligible Applicants

Eligible applicants include nonprofit and for-profit organizations. Thus, universities, colleges, research institutions, hospitals, public, private organizations, State, local government agencies, and small, minority- and or woman-owned businesses are eligible for these grants.

Availability of Funds

We anticipate approximately $200,000 will be available in Fiscal Year 1992 to fund approximately 12 awards. The awards range from $1,000 to $30,000 with the average award being approximately $15,000. The awards will be made for a 12-month budget and project period. Funding estimates may vary and are subject to change.

1. Grant funds may be used for direct cost expenditures: Salaries, speaker fees, rental of necessary equipment, registration fees, and transportation costs (not to exceed economy class fare) for non-Federal employees.

2. Funds may not be used for the purchase of equipment, payments of honoraria, alterations or renovations, organizational dues, entertainment/personal expenses, cost of travel and payment of a full-time Federal employee, per diem or expenses other than local mileage for local participants, or reimbursement of indirect costs. Although the practice of handing out novelty items at meetings is often employed in the private sector to provide participants with souvenirs, Federal funds cannot be used for this purpose.

Purpose

The purpose of the conference support grants is to provide partial support for specific non-Federal conferences in the areas of health promotion and disease prevention information/education programs. Applications are being solicited for conferences on: (1) Chronic disease prevention; (2) infectious disease prevention; (3) control of injury or disease associated with environmental, home, and workplace hazards; (4) environmental health; (5) occupational safety and health; (6) control of risk factors such as poor nutrition, smoking, lack of exercise, high blood pressure, stress and drug misuse; (7) health education and promotion; and (8) laboratory practices. Because conference support by CDC creates the appearance of CDC co-sponsorship, there will be active participation by CDC in the development and approval of those portions of the agenda supported by CDC funds. In addition, the CDC will reserve the right to approve or reject the content of the full agenda, speaker selection, and site selection. The CDC funds will not be expended for non-approved portions of meetings. Contingency awards will be made allowing usage of only 10% of the total amount to be awarded until a final full agenda is approved by CDC. This will provide funds for costs associated with preparation of the agenda. The remainder of funds will be released only upon approval of the final full agenda. CDC reserves the right to terminate co-sponsorship if it does not concur with the final agenda.

Because CDC's mission and programs relate to the promotion of health and the prevention of disease, disability, and premature death, only conferences focusing on such programmatic areas will be considered. Those topics concerned with health care and health services issues and areas other than prevention should be directed to other public health agencies.

Program Requirements

A. Manage all activities related to program content (e.g., objectives, topics, attendees, session design, workshops, special exhibits, speakers, fees, agenda composition and printing). Many of these items may be developed in concert with assigned CDC project personnel.

B. Provide draft copies of the agenda and proposed ancillary activities to CDC for approval. Submit copy of final agenda and proposed ancillary activities to CDC for approval.

C. Determine and manage all promotional activities (e.g., title, logo, announcements, mailers, press, etc.). CDC must review and approve of any materials with reference to CDC involvement or support.

D. Manage all registration processes with participants, invitees, and registrants (e.g., travel, reservations, correspondence, conference materials and handouts, badges, registration procedures, etc.).

E. Plan, negotiate, manage conference site arrangements, including all audio-visual needs.

F. Develop and conduct education and training programs on prevention.

G. Participate in the analysis of data from conference activities that pertain to the impact on prevention.

H. Collaborate with CDC staff in reporting and disseminating results and relevant prevention education and training information to appropriate Federal, State, and local agencies, and the general public.

Evaluation Criteria

Applications will be reviewed and evaluated according to the following criteria (TOTAL 100 POINTS):

A. Proposed Program and Technical Approach: 25 Points

Evaluation will be based on the relevance of conference to CDC's mission and program activities.

B. Applicant Capability: 10 Points

Evaluation will be based on the adequacy of applicant's resources (additional sources of funding, organization's strengths, staff time, etc.) available for the project.

C. The Qualification of Program Personnel: 20 Points

Evaluation will be based on the extent to which the proposal has described (a) the qualifications, experience, and commitment of the principal staff person, and his/her ability to devote adequate time and effort to provide effective leadership; (b) the competence of associate staff persons, discussion leaders, and speakers and presenters to accomplish the proposed conference; and (c) the degree to which the application demonstrates the knowledge of nationwide information and education efforts currently underway which may affect, and be affected by, the proposed conference.

D. Conference Objectives: 25 Points

Evaluation will be based on the overall quality, reasonableness, feasibility, and logic of the designed conference objectives, including the overall workplan and timetable for accomplishment. Evaluation will also be based on the likelihood of accomplishing conference objectives as they relate to disease prevention and health promotion goals, and the feasibility of the project in terms of operational plan.

E. Evaluation Methods: 20 Points

Evaluation will be based on the extent to which evaluation mechanisms for the conference will be able to adequately assess increased knowledge, attitudes, and behaviors of the target attendees.

F. Budget Justification and Adequacy of Facilities: Not Scored

The proposed budget will be evaluated on the basis of its reasonableness, concise and clear justification, and consistency with the intended use of grant funds. The application will also be reviewed as to the adequacy of existing and proposed facilities and resources for conducting conference activities.

Executive Order 12372 Review

Applications are not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

Catalog of Federal Domestic Assistance (CFDA)

The Catalog of Federal Domestic Assistance Number is 93.283.

Application Submission and Deadline

The original and two copies of the application must be submitted on PHS Form 5161-1 and in accordance with the schedule below. The schedule also sets forth the earliest possible award date:

Application deadline	Earliest possible award date
March 15, 1992	June 30, 1992.
July 1, 1992	September 30, 1992.

Applications must be submitted on or before the deadline date to: Mr. Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, Mailstop E-14, Atlanta, Georgia 30305.

1. Deadline

Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date, or

b. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. Late Applications

Applications that do not meet the criteria in 1.a. or 1.b., above are considered late applications and will be returned to the applicant.

Where to Obtain Additional Information

To receive additional written information call (404) 332-4561. You will be asked to leave your name, address, and phone number, and will need to refer to Announcement Number 208. You will receive a complete program description, information on application procedures, and application forms.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from Bill Foley, Grant Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, Atlanta, Georgia 30305, (404) 842-6630.

Please refer to Announcement Number 208 when requesting information and submitting an application.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017-001-00474-0) or Healthy People 2000 (Summary Report, Stock No. 017-001-00473-1) referenced in the **Introduction** through the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325 (telephone: 202-783-3238).

Dated: January 27, 1992.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 92-2459 File 1-31-92; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 91P-0482]

Low-Moisture Part-Skim Mozzarella Cheese Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to Beatrice Cheese, Inc., to market test a product designated as "low-moisture part-skim mozzarella cheese, contains ultrafiltered skim milk," that deviates from the U.S. standard of identity for low-moisture part-skim mozzarella cheese (21 CFR 133.158). The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the product, identify mass production problems, and assess commercial feasibility.

DATES: This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than May 4, 1992.

FOR FURTHER INFORMATION CONTACT: James Lin, Center for Food Safety and Applied Nutrition (HFF-414), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0122.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to Beatrice Cheese, Inc., 770 Springdale Rd., Waukesha, WI 53186.

The permit covers limited interstate marketing tests of a product that deviates from the U.S. standard of identity for low-moisture part-skim mozzarella cheese in 21 CFR 133.158 in that a protein concentrate, resulting from ultrafiltration of skim milk, is added to adjust the fat content of the milk used in making the finished product. The protein concentrate is referred to hereinafter as "skim milk protein concentrate (SMPC)."

SMPC is prepared by the partial removal of nonprotein constituents from skim milk with ultrafiltration, a physical separation technique, so that the finished dry SMPC contains not less than 70 percent protein. Safe and suitable pH adjusting ingredients are used to adjust the acidity of SMPC. Beatrice Cheese, Inc., stated that, in pilot plant trials, there were virtually no differences in functional characteristics and chemical properties between the cheese made using SMPC and that made using nonfat dry milk.

The purpose of this temporary permit is to allow distribution of low-moisture part-skim mozzarella cheese in which the cheese milk used would be standardized with the addition of SMPC. Beatrice Cheese, Inc., maintained that the use of SMPC will allow the test of an efficient method of standardizing the cheese milk. Beatrice Cheese, Inc., further stated that the use of SMPC could result in a significant cost savings to the industry with the potential benefit to consumers.

For the purpose of this permit, the name of the test product is "low-moisture part-skim mozzarella cheese, contains ultrafiltered skim milk." The label bears nutrition information in accordance with 21 CFR 101.9.

This permit provides for the temporary marketing of 20,000,000 pounds (9,071,940 kilograms) of the test product. The product will be manufactured in Beatrice Cheese, Inc., plants at the following locations: 211 E. Depot St., Marshfield, WI 54449; 445 Jefferson St., Fredericksburg, IA 50630; 240 North Ave., Gustine, CA 95322; Mitchell & Gillett St., Preston, IA 52069; 1002 MacArthur Rd., Whitehall, PA 18052; 1515 Puyallup St., P.O. Box 1150, Sumner, WA 98390–0229, and distributed nationwide.

Each of the ingredients used in the food must be declared on the label as required by the applicable sections of 21 CFR part 101. This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than May 4, 1992.

Dated: January 22, 1992.

Douglas L. Archer,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 92–2484 Filed 1–31–92; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 91G–0495]

American Maize-Products Co. and Roquette Corp.; Filing of Petition for Affirmation of GRAS Status

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the law offices of Keller and Heckman, on behalf of American Maize-Products Co. and Roquette Corp., have filed a petition (GRASP 1G0376) proposing that B-cyclodextrin be affirmed as generally recognized as safe (GRAS) for use as a formulation aid in the production of dry flavoring mixes for preparation of cocktail-type alcoholic beverages.

DATES: Written comments by April 3, 1992.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Gerald J. Buonopane, Center for Food Safety and Applied Nutrition (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–9519.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409 (21 U.S.C. 321(s), 348) and the regulations for affirmation of GRAS status in § 170.35 (21 CFR 170.35), notice is given that the law offices of Keller and Heckman, 1001 G St. NW., suite 500 West, Washington, DC 20001, on behalf of American Maize-Products Co., 1100 Indianapolis Blvd., Hammond, IN 46320–1094, and Roquette Corp., 1550 Northwestern Ave., Gurnee, IL 60031–2392, have filed a petition (GRASP 1G0376) proposing that B-cyclodextrin be affirmed as GRAS for use as a formulation aid in the production of dry flavoring mixes for preparation of cocktail-type alcoholic beverages.

The petition has been placed on display at the Dockets Management Branch (address above).

Any petition that meets the requirements outlined in §§ 170.30 and 170.35 (21 CFR 170.30 and 170.35) is filed by the agency. There is no prefiling review of the adequacy of data to support a GRAS conclusion. Thus, the filing of a petition for GRAS affirmation should not be interpreted as a preliminary indication of suitability of B-cyclodextrin for GRAS affirmation.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Interested persons may, on or before April 3, 1992, review the petition and/or file comments (two copies, identified with the docket number found in brackets in the heading of this document) with the Dockets Management Branch (address above). Comments should include any available information that would be helpful in determining whether the substance is, or is not, GRAS for the proposed use. A copy of the petition and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 22, 1992.

Douglas L. Archer,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 92–2395 Filed 1–31–92; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Open Meeting

AGENCY Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA is announcing the following district consumer exchange meeting: Minneapolis District Office, chaired by John Feldman, District Director. The topic to be discussed is food labeling reform.

DATES: Tuesday, February 4, 1992, 9 a.m. to 11 a.m.

ADDRESSES: Mosinee Nutrition Center, 503 High St., Mosinee, WI 54455.

FOR FURTHER INFORMATION CONTACT: Steve Davis, Public Affairs Specialist, Food and Drug Administration, U.S. Courthouse, 517 East Wisconsin Ave., rm. SB–06, Milwaukee, WI 53202, 414–297–3097.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's district offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: January 28, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-2396 Filed 1-31-92; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

[BPD-740-PN]

RIN 0938-AF56

Medicare Program; Recognition of the Joint Commission on the Accreditation of Healthcare Organizations Standards for Home Care Organizations

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed notice.

SUMMARY: In this notice, we propose to recognize the accreditation program of the Joint Commission on the Accreditation of Healthcare Organizations (JCAHO) for home health agencies (HHAs) that wish to participate in the Medicare or Medicaid programs. We have found that the accreditation process of this organization provides reasonable assurance that HHAs accredited by it meet the conditions required by Federal law and regulations. As a result of this determination, HHAs accredited by JCAHO would be "deemed" to meet the Medicare conditions of participation for HHAs, and therefore would not be subject to routine inspection by State survey agencies to determine their compliance with Federal requirements. They would, however, be subject to validation and complaint investigation surveys.

DATES: Written comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on April 3, 1992.

ADDRESSES: Mail written comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BPD-740-PN, P.O. Box 26676, Baltimore, Maryland 21207. If you prefer, you may deliver your written comments to one of the following addresses:

Room 309-G, Hubert H. Humphrey Building, 200 Independence Ave., SW. Washington, DC 20201,

or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

Due to staffing and resource limitations, we cannot accept audio, visual, or facsimile (FAX) copies of comments. In commenting, please refer to file code BPD-740-PN. Comments received timely will be available for public inspection as they are received, generally beginning approximately three weeks after publication of a document, in room 309-G of the Department's offices at 200 Independence Ave., SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: 202-245-7890).

FOR FURTHER INFORMATION CONTACT: John J. Thomas, (301) 966-4623.

SUPPLEMENTARY INFORMATION:

I. Background

A. Determining Compliance—Surveys and Deeming

Providers of health care services participate in the Medicare and Medicaid programs under provider agreements with HCFA (for Medicare) and State Medicaid agencies (for Medicaid). Generally, in order to enter into a provider agreement, an entity must first be certified by a State survey agency as complying with the conditions of participation or standards set forth in Federal law and regulations. Providers are subject to regular surveys by State agencies to determine whether the provider continues to meet these requirements.

The Social Security Act (the Act) includes provisions that permit certain providers of services to be exempt from routine surveys by the State survey agencies to determine compliance with the Medicare conditions of participation. Specifically, section 1865(a) of the Act permits providers which are accredited by a national accrediting organization to be "deemed" to meet the applicable Medicare conditions of participation. This section states that if the Secretary finds that the accreditation of the provider by its national accreditation body provides reasonable assurance that the Medicare conditions of participation are met, then the Secretary may "deem" the conditions of participation to be met.

A national accrediting organization may request the Secretary to recognize its program as providing reasonable assurance that the Medicare conditions of participation are met. The Secretary then examines the accrediting body's standards as well as its survey and accreditation process to determine if there is reasonable assurance that providers accredited by the organization meet the Medicare conditions of participation as HCFA would have applied them. If the Secretary recognizes the accrediting organization in this manner, any provider accredited by the national accrediting body will be "deemed" to meet the Medicare conditions of participation as the Secretary has recognized that the national accrediting body provides reasonable assurance that the conditions are met.

To implement section 1865(a) generally, the Secretary published a notice of proposed rulemaking in the **Federal Register** on December 14, 1990 (55 FR 51434). This proposed rule set forth the procedure that HCFA would use to review and approve national accrediting organizations that wish to be recognized as providing reasonable assurance that Medicare conditions are met. It also set forth the standards and procedures that HCFA would use to remove its approval of a national accrediting organization.

In section 4039(f) of the Omnibus Budget Reconciliation Act of 1987 (Pub. L. 100-203), Congress imposed a special requirement on HCFA's approval of national accrediting organizations. Under that section, our publication of a final rule deeming a provider, which is necessary to implement section 1865(a) of the Act, must follow publication of the proposed rule by at least 6 months. Therefore, HCFA may not permit deeming generally until the proposed rule published on December 14, 1990 is published in final form to be effective no sooner than June 14, 1991.

The purpose of this proposed notice is to provide notice of our intent to recognize the accreditation program of the Joint Commission of the Accreditation of Healthcare Organizations (JCAHO), a national accrediting organization, but only to the extent that it accredits home health agencies. This proposed notice is narrower than the proposed rule that was published on December 14, 1990, because that proposed rule applied to national accrediting organizations generally.

Because HCFA has determined that the JCAHO provides reasonable assurance that HHAs accredited by the JCAHO meet Medicare conditions, and because the December 14, 1990 proposed rule has not yet been published in final form, we are publishing this proposed notice. Under section 4039(f) of Public Law 100-203, final approval for JCAHO (if it occurs) will be complete with the publication of a final notice effective at the earlier of:

- Six months after the date of the publication of this proposed notice in the **Federal Register**; or

- Anytime after the publication of the December 14, 1990 proposed notice in final form in the **Federal Register**, which may be effective no earlier than June 14, 1991.

On December 31, 1987, we published in the **Federal Register** (52 FR 49510) a notice proposing to approve the accreditation programs of the National League for Nursing (NLN) and JCAHO. (Since that time NLN has incorporated the Community Health Accreditation Program (CHAP) subsidiary, and it is CHAP that conducts NLN's HHA survey and accreditation activities.) At about the same time, Congress enacted Public Law 100–203, which extensively revised the statutory requirements for the Medicare conditions of participation for home health agencies (HHAs) as well as the Medicare HHA survey and certification procedures. These broad statutory changes necessitated the development of the revised HHA conditions of participation as well as the surveyor interpretive guidelines and survey and certification regulations. Because HCFA's approval of the 1987 proposal was based on a comparison of the JCAHO an NLN accreditation standards with Medicare requirements which had become obsolete, it was impossible to finalize the approval until the statutory changes had been developed and incorporated into regulations and guidelines.

JCAHO has revised its accreditation standards to reflect the changes initiated by Public Law 100–203. Because we recently completed the development of the regulations and guidelines necessitated by Public Law 100–203, we were able to compare the accreditation standards of JCAHO to the relevant Medicare requirements in order to determine whether accreditation by JCAHO provides the required reasonable assurance that the Medicare requirements are met. We intend to examine and discuss the deeming of the CHAP standards in a separate proposed notice.

B. Home Health Agency Conditions of Participation and Requirements

The regulations specifying the Medicare conditions of participation for HHAs are located at 42 CFR part 484. These requirements implement the elements of the statutory definition of an HHA contained in section 1861(o) of the Act and the conditions of participation listed in section 1891 of the Act. In addition to the specific requirements it sets forth, section 1861(o) also contains general authorization for the Secretary to prescribe other requirements that are found necessary to protect the health and safety of the individuals who are served by HHAs. Additional requirements were developed under this authority and also are included in the conditions of participation contained in regulations. An HHA must meet the conditions of participation contained in the law and regulations to participate in the Medicare program.

II. Proposed Approval of JCAHO Accreditation

We believe that accreditation by JCAHO provides reasonable assurance that an HHA meets the Medicare conditions of participation for HHAs. We have reached this conclusion after a thorough examination of the JCAHO's accreditation program, including its standards and survey and accreditation process, which we discuss below.

Our initial comparison of the Medicare conditions of participation and survey procedures to the JCAHO home care standards, scoring guidelines, and survey procedures early this year revealed areas in which the JCAHO standards are more stringent than the Medicare requirements and areas in which Medicare requirements are more stringent than those of JCAHO. After our review of the 1991 JCAHO standards, scoring guidelines, and survey procedures (JCAHO's "Home Care Standards for Accreditation", "Accreditation Manual for Home Care", and "Key to Quality" respectively), we met with JCAHO to discuss the differences between the Medicare requirements and JCAHO standards. JCAHO then revised its standards, scoring guidelines, and survey procedures to reflect more closely the substance of the Medicare conditions and the process by which they are applied. The changes were adopted by JCAHO and forwarded to us in April 1991.

After receipt of the revised JCAHO materials, we compared the newly revised JCAHO standards, guidelines, and procedures with the Medicare HHA conditions of participation and survey procedures. After reviewing JCAHO's revised standards, guidelines, and procedures, we were convinced that the revised program provided reasonable assurance that all of Medicare's conditions of participation and survey requirements are contained in the JCAHO standards and survey procedures.

In evaluating the JCAHO accreditation standards and survey processes to determine if there was a reasonable assurance that the HHAs it accredits meet Medicare conditions of participation, we looked at both the individual JCAHO requirements and the overall effects of the JCAHO accreditation process. We examined the overall effects because we recognize that positive health care outcomes are achieved not only through adherence to specific requirements, but also through achievement of specific and general results. Accordingly, we first did a point by point comparison of the Medicare and JCAHO requirements to determine which ones could be directly matched and to establish whether the JCAHO standards were the same as the Medicare requirements. In cases where there were no directly comparable requirements, we looked at the effects of the combinations of related JCAHO requirements, and at the scoring guidelines and the survey process to determine whether the accreditation process as a whole provides us with reasonable assurance that Medicare requirements would be met.

In several instances, we referred to the scoring guidelines which accompany the JCAHO standards to assure ourselves of the JCAHO standards' conformity with the Medicare conditions. The scoring guidelines express parameters or common conditions that JCAHO surveyors use to make judgments and assign scores to key requirements. Although scoring guidelines are not standards, they set forth the intent of the standard and describe the JCAHO's expectations as to how a particular standard is to be met. These guidelines are consistently utilized by JCAHO surveyors in determining the score which will be applied to assess compliance with each JCAHO standard. When a JCAHO surveyor evaluates a standard as having partial, minimal, or noncompliance that is, when the scoring guideline has not been met or has been met only partially), a written recommendation results, and the accredited organization must then demonstrate evidence of correction of this deficiency and compliance with the standard within specified timeframes. We found that, in those instances where the JCAHO standard did not exactly duplicate a Medicare requirement (often because the JCAHO standard was a more general statement than the Medicare requirement), the scoring guidelines established a specific method of compliance with the standard that is fully consistent with the Medicare requirements. Therefore, the HHA must demonstrate compliance with a scoring guideline comparable to the applicable Medicare requirement before the JCAHO surveyor can find that the overall JCAHO standard has been met.

With regard to certain differences between Medicare and JCAHO survey procedures, JCAHO proposed to establish a separate survey process that conforms with the Medicare survey requirements for those JCAHO-accredited HHAs that wish to use their accreditation for purposes of participation in Medicare. JCAHO proposes, and we agree, that HHAs that are surveyed and accredited under its revised program would be "deemed" to meet the Medicare conditions of participation for HHAs, while those providers that elect to continue to be accredited under the original system would not be "deemed". Under this plan, those home care providers that do not or can not participate in Medicare as an HHA and are therefore currently not subject to Medicare survey (for example, durable medical equipment suppliers) would continue to be reviewed by the JCAHO, but would not be subject to JCAHO's Medicare-style HHA survey. The JCAHO would assure that its separate accreditation systems are clearly distinguishable to avoid any misunderstandings by the public. We discuss the differences between the Medicare and JCAHO survey requirements at greater length below.

In most cases, we were able to determine that the accreditation standards, scoring guidelines, and survey processes were equal or superior to Medicare requirements based on a simple comparison of standards. In some cases, however, our conclusions were based upon a more complex comparison of the systems. The discussion that follows details the differences between the Medicare requirements and the requirements of JCAHO which require such analysis. It also specifies certain stipulations and restrictions that we would establish in connection with our decision.

A. Differences Between JCAHO Standards and Medicare Conditions of Participation

When comparing the Medicare conditions of participation with the revised JCAHO standards for HHAs, we found two areas in which either JCAHO's standards or its scoring guidelines or both varied appreciably from the Medicare conditions of participation. Both of these requirements are found in 42 CFR 484.4 ("Personnel qualifications.") of the Medicare conditions of participation.

The first area of discrepancy is that the personnel qualifications in the JCAHO standards require only certification "by a nationally recognized accrediting body" for an occupational therapist as opposed to the more detailed qualifications contained in the Medicare conditions at § 484.4. Section 484.4 requires an occupational therapist to graduate from an occupational therapy curriculum that meets certain standards, to be eligible for the National Registration Examination of the American Occupational Therapy Association, to have State licensure, and to have 2 years experience. As the JCAHO applies this requirement, it includes—

- Eligibility for the National Registration Examination of the American Occupational Therapy Association;
- Graduation from an accredited occupational therapy curriculum; and
- Meeting State requirements for licensure.

We believe that these requirements provide us with reasonable assurance that an individual furnishing occupational therapy services for a JCAHO-accredited HHA would meet the personnel qualifications found in the Medicare conditions of participation.

The second area of discrepancy is that the JCAHO standards allow speech therapy, occupational therapy, and audiology services to be furnished by individuals who possess the "documented equivalent education, training, and/or experience" in place of graduation from a program approved by a nationally recognized accrediting body (or certification by such a body). The Medicare conditions at § 484.4 contain specific requirements which do not recognize equivalencies in training, education, or experience.

The JCAHO standards recognize that professional qualification may be demonstrated through a certification (or other formal credentialing) program administered by an appropriate national private professional membership or accrediting organization. They also recognize that equivalent qualification may be demonstrated by documented evidence of education or training or experience or by a combination of these factors that is equivalent to that required for award of the certification (or other professional credential) in question. They further require the individual furnishing the therapy services to meet any current legal requirements of licensure or registration. Although these requirements differ from that of the Medicare conditions, we believe that they do provide reasonable assurance that the Medicare standards have been met. The specific JCAHO requirement that all licensure and registration requirements must be met prevents unqualified or improperly trained individuals from furnishing therapy services on behalf of the accredited HHA. JCAHO materials also state that their recognition of more than one means of demonstrating qualification does not result in recognition of more than one qualification standard. In other words, all therapists must still meet the same standard of proficiency regardless of their educational or professional experience. Therefore, we are assured that individuals furnishing therapy services for a JCAHO-accredited HHA meet the qualification and proficiency standards that are sought by the Medicare conditions. It is also important to note that the revised JCAHO standards specifically require physical therapists, physical therapy assistants, social workers, and social work assistants to meet the qualifications criteria set forth in the Medicare HHA conditions of participation.

B. Differences Between JCAHO Survey and Accreditation and Medicare Survey and Certification Procedures

In HCFA's review of JCAHO's survey and accreditation process, we determined that there are differences that need to be addressed, but that overall, the JCAHO process contained all of the elements necessary to conclude that JCAHO's survey and accreditation process is comparable to HCFA's. The following is a discussion of the HCFA survey and certification process and the differences found between it and JCAHO's survey and accreditation process,

The Medicare survey and certification process, as required by statute, is outcome-oriented. The specifics of the process are outlined in section 1891 of the Act and in sections 2196 through 2202 of the "State Operations Manual" (SOM) used by State surveyors. The Medicare process requires that a standard survey be conducted of each HHA not later than 15 months after the date of its previous standard survey. The Statewide average of the interval between the standard surveys of individual HHAs must not exceed 12 months. The standard survey also is conducted for HHAs initially applying for Medicare approval.

The composition of the standard survey as outlined in the SOM includes five complete Medicare conditions of participation and a part of another condition. The standard survey includes, to the extent practicable, the selection of a case-mix stratified sample of individuals furnished items or services by the HHA with visits to the homes of some patients after receiving the consent of these patients. The purpose of the process is to evaluate the HHA by using a standardized reproducible assessment instrument(s) to determine whether the quality and scope of items and services furnished by the HHA to these individuals attained and maintained their highest practicable functional capacity as reflected in their plans of care and clinical records. The standard survey is also a survey of the quality of care and services furnished by the HHA as measured by indicators of medical, nursing, and rehabilitative care. The SOM describes the number of records to be reviewed by the State surveyor for record reviews and of home visits depending upon the size of the HHA.

An HHA that is found under a standard survey to have provided substandard care is subject to an extended survey. An extended survey includes conditions or parts of conditions not evaluated during the standard survey. The purpose of the extended survey is to review and identify the policies and procedures that produced the substandard care and to determine whether the HHA has complied with Federal requirements. The statute also allows Medicare to conduct an extended or partially extended survey of an HHA at the discretion of the State agency or the Secretary. If such a survey is conducted, it must be immediately after the standard survey, or, if this is not practical, no later than 2 weeks after the date of completion of the standard survey.

The Medicare program has very specific procedures for ensuring that deficiencies identified during a survey of an HHA are corrected. All deficiencies that are a violation of the Medicare statute and regulations are cited and sent to the HHA in writing on a "Statement of Deficiencies and Plan of Correction Form" (HCFA-2567) within 10 calendar days after the survey. The HHA is allowed 10 calendar days to respond to the citation, including an explanation of how and when it plans to correct the deficiencies.

HCFA may take adverse action when an HHA is found to be out of compliance with the Medicare conditions of participation. Adverse action may include alternative sanctions against the HHA or termination of the HHA's participation in the Medicare program or both. An evidentiary hearing may be held before an Administrative Law Judge if an HHA contests HCFA's decision to terminate its Medicare provider agreement or to impose alternative sanctions. The State or Federal surveyor who participates in a survey that results in HCFA's decision to take adverse action against an HHA may be called as a witness in such a hearing, and surveyor findings may be admitted as evidence. If adverse action is taken by HCFA after JCAHO accreditation has been withdrawn, JCAHO surveyors would be available to serve as witnesses if needed.

When comparing the Medicare survey and certification process with JCAHO's survey and accreditation process for HHAs, we found five areas in which JCAHO's accreditation process varies from the Medicare process.

The first area of discrepancy regarding the survey and certification process is that JCAHO maintains a 3-year accreditation cycle and notifies organizations 30 days in advance of the survey date. That is, if an HHA is found to be in substantial compliance with JCAHO's standards, that organization is awarded accreditation for 3 years (with or without recommendations). The HCFA survey for HHAs, on the other hand, is unannounced and is conducted annually, ranging from 9 to 15 months between standard surveys of individual HHAs.

Regarding this discrepancy, JCAHO proposes to implement an annual, unannounced survey process for those HHAs which request the use of JCAHO's accreditation for Medicare deeming purposes. These HHAs would be required to undergo annual, unannounced surveys for the purposes of meeting Medicare conditions of participation for HHAs. This designation will be distinguished in the accreditation award letter and official report, as well as by a separate accreditation certificate. We believe that these revisions, once adopted, provide us with reasonable assurance that the timing and frequency of JCAHO's surveys of HHAs requesting JCAHO accreditation for Medicare deeming purposes would meet the requirements for the annual, unannounced Medicare surveys of HHAs performed by the State survey agencies.

The second area of discrepancy regarding the survey and certification process is that JCAHO presently does not use a standardized functional assessment instrument in its survey and accreditation of HHAs. HCFA, however, does use such an instrument, as required by section 1891 of the Act. JCAHO has assured us that it believes the newly-implemented HCFA instrument is compatible with its own survey process and standards for accrediting HHAs and has agreed to use it. JCAHO has also assured us that its HHA surveyors will receive an orientation to this instrument and training in how to use it after JCAHO accreditation has been recognized by the Secretary. We believe that JCAHO's adoption of HCFA's assessment instrument and use of the instrument by JCAHO surveyors eliminates the discrepancy between the JCAHO requirements and the requirements for the HCFA instrument and its use by State agency surveyors.

The third area of discrepancy regarding the survey and certification process is that, although JCAHO's HHA survey and accreditation process provides for a review of a case-mix, stratified, random sample of patients' clinical records and requires from four to six patient home visits, we have determined that JCAHO's sample selection is not a true statistically random sample and is not of sufficient size. The HCFA survey and certification process requires that two case-mix, stratified random samples of patients' clinical records be drawn by State surveyors, one for record review with a home visit and the other for record review without a home visit. The stratification is based on the patient's primary admitting diagnosis, and the case-mix is based on the disciplines of the HAA personnel providing services to patients in their homes. The sample sizes drawn by State surveyors are directly related to the size of the HHA, as defined by the number of admissions during the 12 months preceding the survey. This sampling methodology helps the surveyor draw valid conclusions about the HHA based on the sample of records reviewed.

Regarding this discrepancy, JCAHO proposes to adopt a sampling procedure for record reviews that is identical to the HCFA procedure. The JCAHO also proposes to use sample sizes for record reviews which are identical to HCFA's. We believe that these revisions, once adopted, will eliminate the discrepancy relating to the sample selection process and sample size.

The fourth area of discrepancy is the timeframe and process for following up on deficiencies found by surveyors during an HHA survey. The Medicare program has very specific procedures for ensuring that deficiencies identified during a survey of an HHA are corrected. As stated above, all deficiencies that are a violation of the Medicare statute and regulations are cited and sent to the HHA in writing on a Statement of Deficiencies and Plan of Correction Form (HCFA-2567) within 10 calendar days after the survey. The HHA is allowed 10 days to respond to the citation including an explanation of how and when it plans to correct the deficiencies. The HHA is also notified that the HCFA–2567 (which contains the HHA's deficiencies and its proposed plan of correction) may be disclosed to the public, and that a future contact will be made to ensure that these plans of correction are fulfilled. A follow-up is made on all proposed plans of correction. In some instances, the follow-up is done by mail or telephone. In other instances, a revisit is made to the HHA to verify that the deficiencies have been corrected. The action taken by the State agency depends on the nature of the deficiency. An HHA cannot be initially approved or recertified unless an acceptable plan of correction is submitted by the HHA.

In the JCAHO process, its staff evaluates the results of the survey, the surveyors' recommendations, and other relevant information and, using scoring guidelines and decision rules, make a determination regarding accreditation. This determination can be for accreditation with commendation, accreditation with or without recommendations, conditional accreditation, or nonaccreditation. Certain recommendations affect the accreditation decision and should receive priority by the HHA in its plans for improvement (JCAHO calls these "type I recommendations)". JCAHO monitors progress in resolving type I recommendations through focused surveys or written progress reports, or both.

Before JCAHO staff make a recommendation for conditional accreditation or to terminate accreditation, the HHA is given an opportunity to review the survey findings and to submit documentation demonstrating that it was in compliance with the standards at the time of the survey. Alternatively, an HHA may request, within 20 calendar days of receiving the survey report, a validation survey which focuses on those areas that contributed to the recommendation of conditional accreditation or nonaccreditation.

If a conditional accreditation decision is made, the HHA is asked to submit, within 30 calendar days from receipt of the report, a plan of correction addressing the deficiencies outlined in the survey report. This plan must indicate what action will be taken to address the deficiencies and the timeframe for correction, which is not to exceed 6 months. If the plan is not acceptable to JCAHO, it makes a recommendation of nonaccreditation. If the plan is not accepted, a follow-up survey is then scheduled 6 months following JCAHO's approval of the plan of correction. After the follow-up survey, a recommendation regarding accreditation status is made.

The current turn-around time for the HHA to receive the written official accreditation report from JCAHO is approximately 45 days. JCAHO's decisionmaking process involves an analysis and validation of the surveyor's findings by staff in the departments of Accreditation Decision Processing and Home Care Accreditation Services.

Although there are differences between JCAHO's and HCFA's timeframes and procedures for following up deficiencies, JCAHO's process is comparable to the Medicare survey and certification process requirements regarding the follow-up of HHA deficiencies are met.

The fifth area of discrepancy is that JCAHO treats the following accreditation-related information as confidential:

- Information obtained from the home care organization before, during, and/or following the accreditation survey.
- All other materials that may contribute to the accreditation decision (for example, surveyor report forms).
- Standards compliance recommendations.
- Written staff analyses and Accreditation Committee minutes and agenda materials.

HCFA follows the rules of the Freedom of Information Act in making survey and certification information available to the public. When survey and certification information becomes part of HCFA's files, the information becomes available to the public; it may be read or copied. In accordance with the Privacy Act, personal identifiers (such as the names of beneficiaries, surveyors, and HHA employees) are deleted before disclosure. When releasing reports relating to survey and certification information, disclosure is made in a manner consistent with the requirements of section 1106 of the Social Security Act.

JCAHO's Executive Committee of the Board of Commissioners handles official, specific information requests from government agencies. Currently, JCAHO does not inform routinely HCFA and appropriate State agencies of its accreditation survey findings. In cases where a JCAHO HHA surveyor identifies any deficiency that poses a threat to public or patient safety, the JCAHO's President or a designee promptly recommends to the Accreditation Committee that the HHA be denied accreditation or have accreditation withdrawn, and provides written notification of this action to the authorities having jurisdiction. In cases where JCAHO surveyors identify any deficiency that poses an immediate threat to public or patient/client health or safety, the surveyors notify the HHA's chief executive officer and JCAHO central office staff. JCAHO's President is authorized to make a recommendation of nonaccreditation and to notify promptly the authorities having jurisdiction.

JCAHO has agreed to notify HCFA in the event that a Medicare-approved HHA receives a conditional accreditation decision. JCAHO accepts HCFA's requirement to submit accreditation findings and the official accreditation reports (to HCFA or to the appropriate State agency or to both) for those HHAs which request the use of JCAHO's accreditation for Medicare deeming purposes. Because JCAHO accepts HCFA's requirement to submit official accreditation reports, we find that the fifth area of discrepancy between JCAHO and HCFA requirements is eliminated.

Therefore, in light of the foregoing, we believe that we have reasonable assurance that JCAHO's revised survey and accreditation process provides reasonable assurance that JCAHO-accredited HHAs meets Medicare conditions of participation.

C. Proposed Stipulations Relating to JCAHO Accreditation

As stated above, in the proposed rule published in the **Federal Register** on December 14, 1990, we set forth the standards and procedures that we propose to use to remove approval from a national accrediting organization. As part of this proposed notice to approve JCAHO as a national accrediting organization for HHAs, we propose to apply to JCAHO the standards and procedures for removal of recognition that were set forth in the proposed rule that was published on December 14, 1990. We would remove recognition—

- If JCAHO should revise its standards in such a manner that they fail to provide reasonable assurance that JCAHO-accredited HHAs meet the Medicare conditions of participation. Conversely, if we should revise the Medicare HHA conditions of participation to such a degree that the JCAHO standards or accreditation policies would no longer provide reasonable assurance that the JCAHO-accredited HHAs meet the conditions of participation; or
- If HCFA's validation or complaint surveys reveal widespread, systematic, or unresolvable problems with the JCAHO accreditation process, thereby providing evidence that there is not

reasonable assurance that JCAHO-accredited HHAs meet the Medicare conditions of participation.

The December 14, 1990, proposed rule also would establish certain conditions for the continued approval of an accreditation program; we would set forth these as part of this proposed notice. They include the following:

- Our reservation of the right to perform, as appropriate, announced and unannounced validation and complaint surveys to ensure that JCAHO-accredited HHAs that participate in Medicare meet the Medicare conditions of participation.
- JCAHO's continued agreement to release JCAHO survey reports to HCFA. If the reports reveal deficiencies which we believe warrant action by HCFA, we would reserve the right to survey the HHAs with deficiencies, to withdraw recognition of the accreditation program if appropriate, and to apply any other appropriate corrective measures or sanctions. The information to be released includes the accreditation findings, supporting documentation, the official accreditation survey reports of JCAHO surveyors, and other related information.

We also propose to make our recognition of JCAHO's accreditation program contingent on JCAHO's continued agreement to—

- Report (to either the Office of the Inspector General or the State agency responsible for investigating fraud and abuse for Medicaid or to both) complaints received from persons working in the accredited HHA or any substantial complaints from others, anonymous or identified, concerning potential fraud and abuse violations, and any other indication of a Medicare program abuse encountered by JCAHO during a JCAHO inspection. We believe that this requirement is necessary to ensure that the fraud and abuse reporting which presently occurs (as a result of the State survey of the HHA) continues to occur.
- Make JCAHO surveyors available to serve as witnesses if adverse action is taken by HCFA after JCAHO accreditation has been withdrawn. We believe this requirement is necessary to ensure HCFA's continued ability to call as a witness any surveyor who participates in a survey that results in the initiation of an adverse action. We believe that it is necessary for HCFA to continue to be able to have access to all surveyors who participate in such surveys should an HHA contest HCFA's initiation of an adverse action and request an evidentiary hearing before an administrative law judge. Such access is necessary to ensure that HCFA may present a witness who can describe the conditions he or she personally observed while surveying the HHA.

Finally, we propose to make our approval of JCAHO's accreditation program contingent on the following revisions to JCAHO's survey and accreditation process (JCAHO already has agreed to implement these changes):

- Implementation of an annual, unannounced survey of those HHAs requesting JCAHO accreditation for Medicare deeming purposes.
- Adoption of the standardized functional assessment instrument used by HCFA and State agency surveyors and training of the JCAHO surveyors in its use.
- Adoption of a case-mix, stratified random sampling process and sample sizes of clinical records for review and home visits comparable to HCFA's.
- Maintenance of a timeframe and process for following up deficiencies found during an HHA survey comparable to HCFA's.

D. Conclusion

In conclusion, we believe that the JCAHO accreditation standards and survey processes, subject to the stipulations described above, provide the Secretary with reasonable assurance that the Medicare conditions of participation have been met. Accordingly, subject to those stipulations, we propose to deem home health programs accredited by JCAHO to be in compliance with the Medicare conditions of participation for HHAs in accordance with the authority provided in section 1865 of the Act.

III. Executive Order 12291

Excutive Order 12291 (E.O. 12291) requires us to prepare and publish an impact analysis for any proposed notice that would be likely to result in—

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with Foreign-based enterprises in domestic or export markets.

- In this notice, we propose to recognize the JCAHO accreditation process. This means that HHAs accredited by JCAHO ordinarily would not be subject to inspection by the Medicare State survey agencies to determine their compliance with Federal requirements. We believe that there would be no significant additional costs or savings realized as a result of this proposed notice.

IV. Information Collection Requirements

This proposed notice would not impose information collection requirements; consequently, they need not be reviewed by the Executive Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

V. Response to Comments

Because of the large number of items of correspondence we normally receive on a proposed notice, we are not able to acknowledge or respond to them individually. However, we will consider all comments that we receive by the date and time specified in the "DATES" section of this preamble, and, if we proceed with a final notice, we will respond to the comments in the preamble of that notice.

(Sec. 1865(a) of the Social Security Act (42 U.S.C. 1395bb(a) (Catalog of Federal Domestic Assistance Program No. 93.773, Medicare-Hospital Insurance, and No. 93.714, Medical Assistance Program)

Dated: September 3, 1991.

Gail R. Wilensky

Administrator, Health Care Financing Administration.

Approved: October 7, 1991.

Louis W. Sullivan,

Secretary.

[FR Doc. 92-2313 Filed 1-31-92; 8:45 am]

BILLING CODE 4120-01-M

National Institutes of Health

Establishment of Behavioral and Neurosciences Special Emphasis Panel

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776) and section 402(b)(6), of the Public Health Service Act, as amended (42 U.S. Code 282(b)(6)), the Director, National Institutes of Health (NIH), announces the establishment of the Behavioral and Neurosciences Special Emphasis Panel.

The Behavioral and Neurosciences Special Emphasis Panel will provide review of research applications and proposals relating to the behavioral and neurosciences.

Duration of this committee is continuing unless formally determined by the Director, NIH, that termination would be in the best public interest.

Dated: January 22, 1992.

Bernadine Healy, M.D.

Director, National Institutes of Health.

[FR Doc. 92-2401 Filed 1-31-92; 8:45 am]

BILLING CODE 4140-01-M

Establishment of Heart, Lung, and Blood Special Emphasis Panel

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776) and section 402(b)(6), of the Public Health Service Act, as amended (42 U.S. Code 282(b)(6)), the Director, National Institutes of Health (NIH), announces the establishment of the Heart, Lung, and Blood Special Emphasis Panel.

The Heart, Lung, and Blood Special Emphasis Panel will provide review of research applications and proposals relating to the clinical sciences.

Duration of this committee is continuing unless formally determined by the Director, NIH, that termination would be in the best public interest.

Dated: January 22, 1992.

Bernadine Healy,

Director, National Institutes of Health.

[FR Doc. 92-2400 Filed 1-31-92; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Meeting of the Sickle Cell Disease Advisory Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Sickle Cell Disease Advisory Committee, National Heart, Lung, and Blood Institute, February 14, 1992. The meeting will be held at the Federal Building, Conference Room B1-19, 7550 Wisconsin Avenue, Bethesda, Maryland 20892.

The entire meeting will be open to the public from 9 a.m. to adjournment to discuss recommendations on the implementation and evaluation of the Sickle Cell Disease Program. Attendance by the public will be limited to space available.

Ms. Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, room 4A21, Bethesda, Maryland 20892, (301) 496-4236, will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Clarice D. Reid, Chief, Sickle Cell Disease Branch, Division of Blood Diseases and Resources, NHLBI, Federal Building, room 508, Bethesda, Maryland 20892, (301) 496-6931, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 93.839, Blood Diseases and Resources Research, National Institutes of Health.)

Dated: January 27, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-2398 Filed 1-31-92; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Meeting of Pulmonary Diseases Advisory Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Pulmonary Diseases Advisory Committee, National Heart, Lung, and Blood Institute, February 20-21, 1992, at the National Institutes of Health, Building 31, C Wing, Conference Room 8, 9000 Rockville Pike, Bethesda, Maryland 20892.

The entire meeting will be open to the public from 8:30 a.m. to 5 p.m. on Thursday, February 20 and on Friday, February 21 from 8:30 to adjournment. The Committee will discuss scientific program needs and develop recommendations for future research directions. Attendance by the public will be limited to space available.

Ms. Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, room 4A-21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-4236, will provide a summary of the meeting and a roster of the Committee members.

Dr. Suzanne S. Hurd, Executive Secretary of the Committee, Westwood Building, room 6A16, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-7208, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 93.838, Lung Diseases Research, National Institutes of Health.)

Dated: January 27, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-2399 Filed 1-31-92; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

Indian Health Service; Medical Reimbursement Rates for Calendar Year 1992 Inpatient and Outpatient Medical Care

Notice is given that the Assistant Secretary for Health, under the authority of sections 321(a) and 322(b) of the Public Health Service Act (42 U.S.C. 248(a) and 249(b)), has approved the following reimbursement rates for inpatient and outpatient medical care in facilities operated by the Indian Health Service for Calendar Year 1992: Emergency Non-Beneficiaries, Beneficiaries of other Federal agencies, Medicare, and Medicaid Beneficiaries.

Inpatient Services Per Day

Hospital—$433

(In Alaska—Hospital $507)

Outpatient—$85

(In Alaska—$142)

Ambulatory surgery shall be charged at the current Medicare rates as published in the **Federal Register** by the Health Care Financing Administration.

Dated: January 23, 1992.

James O. Mason,

Assistant Secretary for Health.

[FR Doc. 92-2483 Filed 1-31-92; 8:45 am]

BILLING CODE 4160-16-M

Secretary's Council on Health Promotion and Disease Prevention; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following meeting of the Secretary's Council on Health Promotion and Disease Prevention, scheduled to meet Friday, February 28, 1992.

Name: Secretary's Council on Health Promotion and Disease Prevention.

Date and Time: February 28, 1992, 9 a.m. to 5 p.m., Lawton Chiles International House (Stone House), Fogerty International Center (Building 16), National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205.

Open, except for working lunch.

Purpose: The Secretary's Council on Health Promotion and Disease Prevention is charged to provide advice to the Secretary and to the Assistant Secretary for Health on national goals and strategies to achieve those goals for improving the health of the Nation through disease prevention and health promotion and to provide a link to the private sector regarding health promotion activities.

Agenda: This will be the ninth meeting of the Secretary's Council. The focus of this meeting is the Healthy People 2000 Action Series—a set of progress reports from PHS, the States, and the Healthy People 2000 Consortium.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Linda M. Harris, Ph.D., Staff Director for the Council, Office of Disease Prevention and Health Promotion, Public Health Service, U.S. Department of Health and Human Services, Washington, DC 20201, Telephone (202) 472-5370.

Agenda items are subject to change as priorities dictate.

J. Michael McGinnis,

Deputy Assistant Secretary for Health Director, Office of Disease Prevention and Health Promotion.

[FR Doc. 92-2412 Filed 1-3-92; 8:45 am]

BILLING CODE 4160-17-M

Indian Health Service; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HG (Indian Health Service) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services, Public Health Service (PHS), Chapter HG, Indian Health Service (IHS), 52 FR 47053-67, December 11, 1987, as most recently amended at 57 FR 1272, January 13, 1992, is amended to reflect the establishment of an Office of Contract Health Services for the Aberdeen Area Office to more accurately reflect current activities in the Area Office.

Under *Chapter HG, Section HG-20, Functions,* after the statement for *IHS Area Office (HGF), Information and Resources Management Programs,* amend the statement for the Aberdeen Area Office (HGFB) as follows:

(1) After the heading, *Office of Patient Care and Health Evaluation (HGFB7),* insert the statement:

Office of Contract Health Services (HGFB8). (1) Manages the contract health care and Medicare/Medicaid resources in accordance with program regulations; (2) collects and analyzes fiscal and logistical data as to impact on the overall health program; (3) provides interpretive reports to Area management; and (4) coordinates, advises and supports Area and Service Unit staff on the availability of financial resources in relation to their programs.

Dated: January 24, 1992.

Everett R. Rhoades,

Assistant Surgeon General, Director.

[FR Doc. 92-2482 Filed 1-31-92; 8:45 am]

BILLING CODE 4160-16-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-92-3197; FR-2914-N-03]

Announcement of Funding Awards Community Development Work Study Program

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Announcement of funding awards.

SUMMARY: The purpose of this Notice is to notify the public of funding decisions made by the Department in a competition for funding under the Community Development Work Study Program (CDWSP). The announcement contains the names and addresses of the award winners and the amount of the awards.

FOR FURTHER INFORMATION CONTACT: James H. Turk, Technical Assistance Division, Office of Technical Assistance, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, Telephone (202) 708-3176. The TDD number is (202) 708-0564. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: In a Notice published on March 6, 1991 (56 FR 9574), the public was informed of the availability of approximately $3 million to provide assistance to economically disadvantaged and minority students participating in work study programs. Section 107(c) of the Housing and Community Development Act of 1974, as amended, authorizes the CDWSP. Under this section, HUD is authorized to provide grants to institutions of higher education, either directly or through area-wide planning organizations or States, for the purpose of providing assistance to economically disadvantaged and minority students who participate in community development work study programs and are enrolled in full-time graduate or undergraduate programs in community or economic development, community planning, or community management. HUD awarded up to $3 million from the FY 1991 appropriations, and up to $3 million from the FY 1992 appropriations The list of awardees for FY 1991 was published on October 16, 1991 (56 FR 51912). This Notice announces the awardees for FY 1992.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101-235, approved December 15, 1989), the Department is publishing the CDWSP winners as follows:

COMMUNITY DEVELOPMENT WORK STUDY PROGRAM LIST OF WINNERS FOR FY 1992

[Grantees School Years 1992-1994]

	No. students funded	Amount funded
Region I:		
1. New Hampshire College	10	$290,300
Mr. Michael Swack, Community Economic Development Program, 2500 N. River Road, Manchester, NH 03104, Telephone: (603) 668-2211.		
Region III:		
2. Carnegie Mellon University	10	300,000
Dr. Harold Miller, School of Urban and Public Affairs, 5000 Forbes Avenue, Pittsburgh, PA 15213, Telephone: (412) 268-3841.		
3. University of Baltimore	10	252,120
Dr. Lawrence Downey, Department of Government and Public Administration, 1420 North Charles Street, Baltimore, MD 21201, Telephone: (301) 625-3172.		
4. Morgan State University	10	300,000
Dr. Elva Tillman, Institute for Urban Research, Soldiers' Armory, room 204, Baltimore, MD 21239, Telephone: (301) 319-3004.		
Region IV:		
5. Eastern Kentucky University	4	112,000
Dr. Terry Busson, Lancaster Avenue, Richmond, KY 40475, Telephone: (606) 622-1019.		
6. Clemson University	10	241,880
Dr. Herb Norman, College of Architecture, Lee Hall, Clemson, SC 29634, Telephone: (803) 656-3926.		
7. Triangle COG	19	522,350
Ms. Patricia White, Triangle Council of Governments, Research Triangle Park, Durham, NC 27709, Telephone: (919) 549-0551.		
University of North Carolina	5	
North Carolina State	6	

COMMUNITY DEVELOPMENT WORK STUDY PROGRAM LIST OF WINNERS FOR FY 1992—Continued

[Grantees School Years 1992–1994]

	No. students funded	Amount funded
North Carolina Central	7	
Region V:		
8. University of Wisconsin—Green Bay	5	103,600
Mr. Ray Hutchinson, Center for Public Affairs, 2420 Nicolet Drive, Green Bay, WI 54311, Telephone: (414) 465–2355.		
9. University of Illinois at Chicago	10	291,600
Dr. Charles Orlebeke, School of Urban Planning & Policy, 1007 W. Harrison, room 1180, Chicago, IL 60607, Telephone: (312) 996–2160.		
10. Mankato State University	8	230,948
Mr. Robert Barrett, Urban and Regional Studies Institute, Blue Earth County, Mankato, MN 56002, Telephone: (507) 389–1714.		
Region VI:		
11. North Central Texas COG	9	196,146
Mr. William J. Pitstick, Executive Director, P.O. Drawer COG, Arlington, TX 76005, Telephone: (817) 640–3300.		
University of North Texas	3	
University of Texas at Arlington	3	
University of Texas at Dallas	3	
Region VII:		
12. Iowa State University	6	156,156
Dr. Duane Shinn, Department of Community & Regional Planning, 126 College Design, Ames, IA 50011, Telephone: (515) 294–8958.		
	111	3,000,000

Dated: January 28, 1992.

S. Anna Kondratas,

Assistant Secretary for Community Planning and Development.

[FR Doc. 92–2541 Filed 1–31–92; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–020–00–4320–12]

Kingman Resource—Area Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting—Kingman Resource Area Grazing Advisory Board.

SUMMARY: The Kingman Resource Area Grazing Advisory Board will hold a meeting on Thursday, March 12, 1992. The meeting will start at 9 a.m. in the Phoenix District Office Conference Room, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

The agenda for the meeting will include:

1. Update of the Bureau's Exchange Program.
2. Status of the Bureau's Planning and Environmental Impact Statements.
3. Report on Range Improvements for FY 92.
4. Range Policy Update.
5. Request for Advisory Board Expenditures.
6. Arrangements for Future Meetings.

The meeting is open to the public. Anyone wishing to make oral or written statements to the Board is requested to do so through the office of the District Manager, 2015 West Deer Valley Road, Phoenix, Arizona 85927, at least seven (7) days prior to the meeting date.

Summary minutes of the Board meeting will be maintained in the District Office and be made available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: January 23, 1992.

Henri R. Bisson,

District Manager.

[FR Doc. 92–2405 Filed 1–31–92; 8:45 am]

BILLING CODE 4310–32–M

[AZ–020–00–4320–12]

Phoenix/Lower Gila Resource Areas Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting—Phoenix/Lower Gila Resource Areas Grazing Advisory Board.

SUMMARY: The Phoenix/Lower Gila Resource Areas Grazing Advisory Board will hold a meeting on Tuesday, March 10, 1992. The meeting will start at 9 a.m. in the Phoenix District Office Conference Room, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

The agenda for the meeting will include:

1. Update of the Bureau's Exchange Program.
2. Status of the Bureau's Planning and Environmental Impact Statements.
3. Report on Range Improvements for FY 92.
4. Range Policy Update.
5. Request for Advisory Board Expenditures.
6. Arrangements for Future Meetings.

The meeting is open to the public. Anyone wishing to make oral or written statements to the Board is requested to do so through the office of the District Manager, 2015 West Deer Valley Road, Phoenix, Arizona 85027, at least seven (7) days prior to the meeting date.

Summary minutes of the Board meeting will be maintained in the District Office and be made available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: January 24, 1992.

Henri R. Bisson,

District Manager.

[FR Doc. 92–2406 Filed 1–31–92; 8:45 am]

BILLING CODE 4310–32–M

[UT–080–02–4830–02]

Utah Vernal District Advisory Council; Meeting

AGENCY; Bureau of Land Management, Interior.

ACTION: Notice of Advisory Council Business Meeting.

SUMMARY: As authorized by the Federal Land Policy and Management, Act, Sec. 30. (A) and (B), the Utah Vernal District will hold an Advisory Council Business Meeting on Tuesday, March 17, 1992. The meeting will be held in the Vernal District Office Conference Room located at 170 South 500 East, Vernal, Utah. It will commence at 7 pm and is open to the public.

The purpose of the meeting is to receive the Council's individual or collective concerns or recommendations concerning the Draft Diamond Mountain Resource Management Plan/ Environmental Impact Statement (DMRMP).

Members of the general public who may wish to comment on the DMRMP to Council members may do so by contacting the Vernal District Manager, David E. Little, at (801) 789–1362, no later than close of business March 16, 1992. Comment time may be restricted, based on the number of persons desiring to comment.

FOR FURTHER INFORMATION CONTACT: R. Ray Tate, Public Affairs Specialist, telephone (801) 789–1362.

Dated: January 22, 1992.

David E. Little,

Vernal District Manager.

[FR Doc. 92–2463 Filed 1–31–92; 8:45 am]

BILLING CODE 4310-DO-M

[Docket No. NV020–4320–02]

Winnemucca District Grazing Advisory Board Meeting

SUMMARY: Notice is hereby given in accordance with Public Law 94–579 and section 3, Executive Order 12548, February 14, 1986, that a meeting of the Winnemucca District Grazing Advisory Board will be held on March 5, 1992. The meeting will begin at 10 a.m. in the conference room of the Bureau of Land Management Office at 705 East Fourth Street, Winnemucca, Nevada 89445.

The agenda for the meeting will include:

1. Public Statement
2. District Manager's Update
3. Update on Range Improvement Funds:
    FY92 Projects
    FY93 Projects
    FY94 Projects

The meeting is open to the public. Interested persons may make oral statements for the Board's consideration. Anyone wishing to make an oral statement should notify the District Manager, 705 East Fourth Street, Winnemucca, Nevada 89445 by February 14, 1992. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the Board meeting will be maintained in the District Office and available for public inspection (during regular business hours) within 30 days following the meeting.

Dated: January 22, 1992.

Ron Wenker,

District Manager.

[FR Doc. 92–2246 Filed 1–31–92; 8:45 am]

BILLING CODE 4310-HC-M

[MT-930-4212-12; MTM 33986]

Order Providing for Opening of Public Land in Phillips County; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This order opens land reconveyed to the United States in an exchange under the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1701 et seq. to the operation of the public land laws. No minerals were transferred in the exchange.

EFFECTIVE DATE: March 8, 1992.

FOR FURTHER INFORMATION CONTACT: Sandra Ward, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406–255–2949.

SUPPLEMENTARY INFORMATION:

1. In a land exchange the United States acquired the following surface estate:

Principal Meridian, Montana

T. 36 N., R. 31 E.,
sec. 32, E½

The area described contains 320.00 acres in Phillips County, Montana.

2. At 9 a.m. on March 8, 1992, the land will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on March 8, 1992, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Dated: January 23, 1992.

John A. Kwiatkowski,

Deputy State Director, Division of Lands and Renewable Resources.

[FR Doc. 92–2461 Filed 1–31–92; 8:45 am]

BILLING CODE 4310-DN-M

[CA-050-02-3110-10-B008, CACA 29388]

Realty Action; Classification Termination, Determination of Suitability and Exchange of Public and Private Lands in Butte, Shasta, and Tehama Counties, California

SUMMARY: Bureau of Land Management Order of Classification Recreation and Public Purposes S 078441, February 8, 1965, affecting M.D.M., T. 23N., R. 3E., Sec. 13, E2SESE is hereby terminated in its entirety and the land opened to operation under the public land laws and mining laws. Bureau of Land Management Order of Classification Public Sale CACA 27350 January 25, 1991 affecting M.D.M., T. 30N., R. 6W., Sec. 4, Lot 1, 2 (portion of NW), E2SE, N2NWSE, S2SWSE is hereby terminated in its entirety and the land opened to operation under the public land laws and mining laws. The lands in MD.M., T. 22N., R. 2E., Sec. 10, SENE were classified for exchange CACA 20077 on December 28, 1987, this parcel is no longer a part of exchange CACA 20077. The lands remain suitable for exchange and have been moved into exchange CACA 29388. All parcels in this exchange CACA 29388 were previously included in exchange classification CACA 27703 January 25, 1991 and are no longer needed for that exchange, the parcels have been moved into exchange CACA 29388.

The following described public lands and mineral estates are being exchanged under section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716). Not all of the lands identified below will be involved in the exchange. Some may be deleted to eliminate possible conflicts that could arise during processing. The final selection of properties will be made to achieve comparable values between the selected public land and the offered private land.

BUTTE COUNTY	
Selected Lands:	
M.D.M.	Acres
T. 22N., R. 2E., Sec. 10, SENE	40.0
T. 23N, R. 3E., Sec. 13, E2SESE	20.0
SHASTA COUNTY	
T. 30N., R. 1W.	
Sec. 2, Lot 10	40.0
Sec. 4, Lots 1, 2, 3, 4	60.6
R. 2E.,	
Sec. 18, Lot 1	40.70
T. 31N., R. 2W.,	
Sec. 8 NWNE	40.00
Sec. 22 E2NW	80.00
Sec. 22 SESW	40.00
R. 5W.,	
Sec. 14 Lots 4, 5, 6	1731
T. 32N., R. 5W.,	
Sec. 14 Lots 22, 26, E2NENESW	1034
Sec. 14 Lot 18	0.32
Sec. 14 Lots 8, 12, 13	8.36
Sec. 11 N2S2SWNESW, S2N2SWNESW	5.00
Sec. 20 Lots 1, 7, 11, 12, 16, 17, 18, 19, 20, 21, 22, 23, 24	105.56
Sec. 22 W2SESENE	5.00
T. 30N., R. 6W.,	
Sec. 4 Lot 1, 2 (of the NE), N2NWSE, S2SWSE, E2SE	280.00
T. 32N., R. 6W.,	
Sec. 24 Lot 86	3.39
Total	782.11 ±

In exchange for the above lands the United States will acquire the following described lands in Tehama County from the Trust for Public Land, 118 New Montgomery Street, San Francisco, California 94105–3607.

Offered Private Land

Tehama County

APN #'s and Acres

009–450–19–1 62.90 M.D.M., T. 29N., R. 3W.,
Sec. 33, 34, portion of 009110–35–1 70.74,
Sec. 33, portion of 009–110–36–1 75.81,
Sec. 33, portion of 009–120–09–1 57.81,
Sec. 34, portion of 009–120–15–1 15.94,
Sec. 34, portion of 009–120–02–1 194.00
M.D.M., T. 29N., R. 3W., Sec. 27, portion of
Total 481.83± Acres

DATES: This notice, as provided in 43 CFR 2201.1(b), shall segregate the public lands proposed for exchange. By publication of this notice, those vacant, unappropriated and unreserved public lands described above are segregated from settlement, location and entry under the public land laws, including the mining laws, but not the mineral leasing laws. The segregative effect shall terminate upon issuance of patent, upon publication in the **Federal Register** of a termination of the segregation, or two (2) years from the date of this notice, whichever occurs first.

FOR FURTHER INFORMATION CONTACT: Information concerning this exchange is available from Howard Matzat at the Redding Resource Area Office, 355 Hemsted Dr., Redding, California 96002; (916) 246–5325. For a period of forty-five (45) days interested parties may submit comments to Mark Morse, Area Manager, at the above listed address. Comments on exchange parcels should identify the subject parcel.

SUPPLEMENTARY INFORMATION: The purpose of this exchange is to acquire non-Federal lands which have high public values for riparian habitat, and river access along the Sacramento River.

The value of lands to be exchanged will be approximately equal. Full equalization of values will be achieved by payment to the United States by The Trust for Public Land an amount not to exceed 25 percent of the total value of the lands to be transferred out of public ownership.

Lands to be transferred from the United States will be subject to the following reservations, terms, and conditions:

1. A right-of-way for ditches or canals constructed by the authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945).
2. Authorized pipelines, power lines, roads, highways, telephone lines, mineral leases, and any other authorized land uses will be identified as prior existing rights.
3. All necessary clearances for archaeology, rare plants and animals, and hazardous materials shall be obtained prior to conveyance of title.

Mark T. Morse,

Redding Resource Area Manager.

[FR Doc. 92–2249 Filed 1–31–92; 8:45 am]

BILLING CODE 4310–40–M

[CA–050–02–4212–13, CACA 28345]

Notice of Realty Action; Classification Termination, Determination of Suitability and Exchange of Public and Private Lands in Shasta, and Trinity Counties, CA

AGENCY: Department of the Interior, Bureau of Land Management.

ACTION: Notice.

SUMMARY: Bureau of Land Management Order of Classification Recreation and Public Purposes C3 35 dated February 17, 1969 affecting M.D.M., T. 31N., R. 5W., Sec. 16, NENE, NENWNE, S2NWNWNE, S2NWNW, S2NE, is hereby terminated in its entirety and the land opened to operation under the public land laws and mining laws. The following described public lands and mineral estates are being exchanged under section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

Shasta County

Selected Lands

M.D.M.

T. 31N., R. 5W., Sec. 16, NENE, NENWNE, S2NWNWNE, S2NWNE, S2NE, E2E2E2SE.

Totaling 175±acres.

Shasta County AP #203–200–04–11, 203–230–11–11, 303–240–10–11.

In exchange for the above lands the United States will acquire the following described lands in Trinity and Shasta Counties from Dan Tucker, Dave Frase and Ron Bishop, 5200 Churn Creek Road, Suite M, Redding, California 96002.

Offered Private Land

APN No.'s	Acres
Shasta County:	
64–0[illegible]0–02–11	70.5± M.D.M., T. 32N., R. 5W., Sec. 5, Lots 1, 2.
65–5[illegible]0–01–11	175.7± T. 33N., R. 5W., Sec. 21, SWNE, E2NESW, SESW, W2SE.
Trinity County:	
09–5[illegible]10–45	22.0± M.D.M., T. 34N., R. 11W., Sec. 27 & 34 (portion of)

DATES: This notice, as provided in 43 CFR 2201.1(b), shall segregate the public lands proposed for exchange. By publication of this notice, those vacant, unappropriated and unreserved public lands described above are segregated from settlement, location and entry under the public land laws, including the mining laws, but not the mineral leasing laws. The segregative effect shall terminate upon issuance of patent, upon publication in the **Federal Register** of a termination of the segregation, or two (2) years from the date of this notice, whichever occurs first.

FOR FURTHER INFORMATION CONTACT: Information concerning this exchange is available from Howard Matzat at the Redding Resource Area Office, 355 Hemsted Dr., Redding, California 96002; (916 246–5325. For a period of forty-five (45) days interested parties may submit comments to Mark Morse, Area Manager, at the above listed address. Comments on exchange parcels should identify the subject parcel.

SUPPLEMENTARY INFORMATION: The purpose of this exchange is to acquire non-Federal lands which have high public values for riparian habitat and recreation along the Trinity River and Recreation lands near Keswick Lake.

The value of lands to be exchanged will be approximately equal. Full equalization of values will be achieved by payment to the United States by Dan Tucker, Dave Frase and Ron Bishop an amount not to exceed 25 percent of the total value of the lands to be transferred out of public ownership.

Lands to be transferred from the United States will be subject to the following reservations, terms, and conditions:

1. A right-of-way for ditches or canals constructed by the authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945).

2. Authorized pipelines, power lines, roads, highways, telephone lines, mineral leases, and any other authorized land uses will be identified as prior existing rights.

3. All necessary clearance for archaeology, rare plants and animals, and hazardous materials shall be obtained prior to conveyance of title.

Mark T. Morse,

Redding Resource Area Manager.

[FR Doc. 92–2248 Filed 1–31–92; 8:45 am]

BILLING CODE 4310–40–M

[NV-930-92-4212-24; N-38196]

Partial Termination of Segregative Effect and Clarification as to the Lands Remaining in Airport Lease Application N-38196, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice terminates the segregative effect on certain lands requested in airport lease application N-38196 and provides clarification as to the lands remaining in the application.

FOR FURTHER INFORMATION CONTACT: Mary Clark, Nevada State Office, 850 Harvard Way, P.O. Box 12000, Reno, NV 89520, (702) 785-6530.

EFFECTIVE DATE: February 3, 1992.

SUPPLEMENTARY INFORMATION: Airport lease application N-38196 was initially filed for the following described lands on June 14, 1983, and the lands became segregated from all forms of appropriation on that date:

Mount Diablo Meridian, Nevada

T. 18 S., R. 59 E.
  Secs. 25, 26, 35 and 36 lying north and east of Highway 95 (right-of-way CC-018191).

Those lands have since been resurveyed and are now more properly described as:

  Sec. 25, lots 1-8, N½;
  Sec. 26, lots 1, 4, 5, 6, 7, 12, 13, NE¼, NE¼NW¼, NE¼SE¼;
  Sec. 35, lot 1;
  Sec. 36, lots 1, 2, 3, 6-11, 16, NE¼NW¼, E½SE¼.

An amended application was filed on January 7, 1984. It did not include any of the above described lands. Therefore, pursuant to 43 CFR 2091.3-2(a)(2), the segregative effect as it pertains to the above described lands will terminate on (date of publication), and at 10:00 a.m. on that date the lands will become open to the operation of the public land laws and the mining laws.

A notice relative to the amended application was published in the **Federal Register** (49 FR 22138) on May 25, 1984. A recent review of the case record disclosed some discrepancies between the lands described in the amended application and the legal description contained in the May 25, 1984, **Federal Register** notice. Therefore, in order to clarify the record, the proper legal description of the lands that were requested in the amended application is provided below:

Mount Diablo Meridian, Nevada

T. 18 S., R. 60 E.,
  Sec. 30, those lands in lots 3 and 4, and the SE¼SW¼ lying south and west of powerline right-of-way Nev-055903;
  Sec. 31, lots 1, 2, 3, 4, E½SW¼, and those lands in the W½NE¼, SW¼SE¼NE¼, E½NW¼ and the SE¼ lying south and west of powerline right-of-way Nev-055903;
  Sec. 32, those lands in the SW¼SW¼ lying south and west of powerline right-of-way Nev-055903.
T. 19 S., R. 60 E.,
  Sec. 5, lots 3, 4, S½NW¼ (Resurveyed and now more properly described as lots 5, 6, 7 and 8);
  Sec. 6, lots 1-5, 8-11, S½NE¼, SE¼NW¼, W½E½NW¼SW¼, NE¼SW¼, E½SE¼SW¼, SE¼ (Resurveyed and now more properly as lots 1-5, 12-15, 17, 18, S½NE¼, SE¼NW¼ and SE¼);
  Sec. 7, that portion of the NE¼ lying north and east of Highway 95 (right-of-way CC-018138) (Resurveyed and now more properly described as lots 5, 6, 8, 14, 15 and 16).

The lands described above became segregated from all forms of appropriation under the public land laws and the mining laws on January 7, 1984, the date on which the amended application was filed.

Effective December 5, 1984, the amended application was rejected in part as to the following described lands:

Mount Diablo Meridian, Nevada

T. 19 S., R. 60 E.,
  Sec. 5, NW¼NW¼ of lot 4, NE¼SW¼NW¼ and SW¼SW¼NW¼ (Resurveyed and now more properly described as the NW¼NW¼ of lot 6, and the NE¼ and SW¼ of lot 7).

Pursuant to 43 CFR 2091.2-2(a)(2), the segregative effect as it pertains to the above described lands will terminate on February 3, 1992, and at 10 a.m. on that date the lands will become open to the operation of the public land laws and the mining laws.

On February 8, 1991, the applicant of record, Olympic Nevada, Inc., withdrew the following described lands from the airport lease application in favor of an exchange transaction:

Mount Diablo Meridian, Nevada

T. 19 S., R. 60 E.,
  Sec. 6 and 7, those lands south and west of Highway 95 (right-of-way CC-018138).

A notice of the partial withdrawal appeared in the **Federal Register** (56 FR 14120) on April 5, 1991, and at 10 a.m. on that date the lands became open to disposal by exchange.

Billy R. Templeton,
State Director, Nevada.

[FR Doc. 92-2407 Filed 1-31-92; 8:45 am]

BILLING CODE 4310-HC-M

[MT060-02-4333-11]

Wild and Scenic River Outfitters

AGENCY: Bureau of Land Management, Interior.

ACTION: Open Season for Commercial Permit Applications on the Upper Missouri National Wild and Scenic River.

SUMMARY: This notice establishes an "open season" for applying for Special Recreation Use Permits on the Upper Missouri National Wild and Scenic River in Montana required of all commercial float boating operations. Other requirements of commercial outfitting and guiding operations remain as outlined in the **Federal Register**, 44 FR 18743, March 29, 1979, entitled "Establishment of Recreation Use Permit System for the Upper Missouri National Wild and Scenic River."

ADDRESS AND DATES: Applications must be sent to the Lewistown District, Bureau of Land Management, Airport Road, Lewistown, Montana 59457 between January 1 and April 1, 1992.

FOR FURTHER INFORMATION CONTACT: Chuck Otto, Judith Resource Area Manager, Airport Road, Lewistown, Montana 59457.

Dated: January 21, 1992.

David L. Mari,
District Manager.

[FR Doc. 92-2247 Filed 1-31-92; 8:45 am]

BILLING CODE 4310-DN-M

Resource Management Plan Amendment, Marcopa County, AZ

AGENCY: Bureau of Land Management—Interior.

ACTION: Notice of intent to prepare a Category I Amendment to the Lower Gila South Resource Management Plan.

SUPPLEMENTARY INFORMATION: In accordance with CFR 1610.2(c), and 1610.3-1(d), notice is hereby given of intent to prepare a planning amendment document. This notice also constitutes the scoping notice required by regulation for the National Environmental Policy Act (40 CFR 1507.7).

(1) Description of the proposed planning action: The proposed action is to amend the Lower Gila South Resource Management Plan (RMP) completed in June 1988. The Category I planning amendment will be based upon existing statutory requirements and policies and will carry out the requirements of the Federal Land Policy and Management Act of 1976 (FLPMA). The RMP amendment and Environmental Assessment (EA) to be prepared will provide the basis for modifying the Land Tenure section of

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the Resource Management Plan to provide an exchange opportunity.

(2) Identification of the geographic area involved: The planning area involved within the Lower Gila South RMP is located within a portion of southwestern Maricopa County, Arizona.

(3) General types of issues anticipated: The proposed amendment addresses a change in the Land Tenure section of the Resource Management Plan.

(4) Disciplines to be represented and used to prepare the RMP amendment and Environmental Assessment will be the following: Lands, wildlife, botany, soils, archaeology, geology, range and hydrology.

(5) The kind and extent of public participation opportunities to be provided: Public participation will be carried out through participation in several comment periods to be announced in the **Federal Register** and local newspapers. There is a specific comment period for the governor to inform and seek comments from State and local agencies.

(6) Times, dates, and locations scheduled or anticipated for public meetings, hearings, conferences or gatherings, will be published in a local newspaper. All public input will be handled through written comments.

(7) The name, title, address and telephone number of the Bureau of Land Management official who may be contacted for further information: John Christensen, Area Manager, 2015 W. Deer Valley Rd., Phoenix, Arizona 85027. Phone: (602) 863–4464.

(8) The location and availability of documents relevant to the planning process: Documents will be available for public review at the Phoenix District Office, 2015 W. Deer Valley Road, Phoenix, Arizona.

Dated: January 23, 1992.

Henri R. Bisson,

District Manager.

[FR Doc. 92–2408 Filed 1–31–92; 8:45 am]

BILLING CODE 4310–32–M

[G–010–4331–10/G2–0105]

Notice of Intent To Prepare a Resource Management Plan Amendment/Environmental Assessment (RMPA/EA); New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent to prepare an Amendment to the Taos Resource Management Plan to analyze designating an Area of Critical Environmental Concern for La Cienega Mesa. The plan amendment will be called the "La Cienega Amendment to the Taos RMP".

SUMMARY: The Taos Resource Area (TRA), Bureau of Land Management (BLM) proposes an amendment to the Taos Resource Management Plan (RMP) which was completed in 1988. The amendment would expand the present La Cienega Mesa Special Management Area (SMA), which contains 1,493 acres to approximately 5063 acres and designate it as an Area of Critical Environmental Concern (ACEC). The proposed ACEC contains 3,556 acres of public lands administered by the BLM and 1,507 acres of private lands. The private lands will not be the subject of ACEC management prescriptions. This proposal is based on recent inventory and research which demonstrates that the archaeological resources in the area are more extensive and significant than what was known at the time the SMA was designated in the Taos RMP. The area contains nationally significant cultural resources.

The proposed ACEC is located 8 miles southwest of Santa Fe, New Mexico on public lands within the following sections of land:

New Mexico Principle Meridian

T. 15 N., R. 7 E.,
  Secs. 1, 2, 3, 10, and 11.
T. 15 N., R. 8 E.,
  Sec. 6.
T. 16 N., R. 7 E.,
  Secs. 25, and 36.
T. 16 N., R. 8 E.,
  Secs. 7, 8, 17, 18, 19, 20, 30, and 31.

ACEC's generally contain higher resource values; are more sensitive to disturbance; and require special management attention to protect and prevent irreparable damage. The RMP recognized that as new resource data is obtained, the boundaries and management prescriptions of the SMA's may be modified, and new SMA's and/or ACEC's could be identified and designated in the future. This is the case for the La Cienega Mesa SMA.

The issue to be addressed in the Amendment/EA is: should the La Cienega Mesa SMA be enlarged and designated an ACEC. The Management Prescriptions listed in the Taos RMP will be expanded for increased protection and management of the area. The BLM will attempt to acquire private lands within the ACEC boundary upon which significant cultural or riparian resources are located. These land acquisitions will only be pursued with willing sellers. The cultural resource values within the proposed ACEC now meet both the ACEC relevance and importance criteria. The resources meet the ACEC "importance" criteria because they are nationally and locally significant; and they are fragile, irreplaceable, and vulnerable to vandalism, erosion, and other impacts. The area meets the ACEC "relevance" criteria because it contains significant historic, cultural, and scenic values.

The Taos RMP has been reviewed and SMA status of La Cienega has been found to be inadequate to provide the higher level of protection, preservation, and management afforded by ACEC designation. Therefore, a Plan Amendment/EA to the Taos RMP is required. A team of interdisciplinary specialists with backgrounds in Archaeology, Wildlife Biology, Range Management, and Outdoor Recreation Planning will be involved in the preparation of the Plan Amendment/EA.

DATES: Interested parties may submit comments regarding this plan amendment through March 10, 1992.

ADDRESSES: Comments should be sent to Area Manager, Bureau of land Management, Taos Resource Area Office, 224 Cruz Alta Street, Taos, New Mexico 87571.

FOR FURTHER INFORMATION CONTACT: Paul R. Williams, BLM, Taos Resource Area Office, 224 Cruz Alta Street, Taos, New Mexico 87571, (505) 758–8851 or FTS 479–8801.

SUPPLEMENTARY INFORMATION: After the comment period on this Notice of Intent, the BLM will prepare a RMP Amendment/EA. Following the preparation of the RMP amendment/EA and a Record of Decision will be prepared. A Notice of Availability will announce the availability of the Plan Amendment/EA and Record of Decision in a subsequent **Federal Register**.

Dated: January 27, 1992.

Larry L. Woodard,

State Director.

[FR Doc. 92–2336 Filed 1–31–92; 8:45 am]

BILLING CODE 4310–FB–M

[ID–943–4214–11; IDI–15785]

Proposed Continuation of Withdrawal; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes that a 738.40 acre withdrawal for Powersite Classification No. 461 continue for an additional 20 years. The land is still needed for waterpower purposes. These lands will remain closed to surface entry, but have

been and will remain open to mineral leasing and mining.

DATES: Comments should be received by May 4, 1992.

FOR FURTHER INFORMATION CONTACT: Larry Lievsay, Idaho State Office, BLM, 3380 Americana Terrace, Boise, Idaho 83706, 208–384–3166.

The Bureau of Land Management proposes that the existing land withdrawal made by U.S.G.S. Order dated August 28, 1971, for Powersite Classification No. 461 be continued for a period of 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, insofar as it affects the following described land:

Boise Meridian

T. 3 N., R. 41 E.,
  Sec. 8, lots 9, 13 and 14;
  Sec. 9, lots 5 to 7, inclusive;
  Sec. 10, lot 3;
  Sec. 11, lots 6 and 7;
  Sec. 14, lots 6 to 11, inclusive;
  Sec. 15, lots 9 to 19, inclusive;
  Sec. 16, lots 7, 10, 12 to 17, inclusive.
T. 3 N., R. 42 E.,
  Sec. 4, lots 9 and 10;
  Sec. 5, lots 15 to 20, inclusive, 22, 23 and 24;
  Sec. 7, lots 12 to 18, inclusive;
  Sec. 8, lots 4 to 7, inclusive;
  Sec. 9, lots 11 to 13, inclusive;
  Sec. 10, lots 9 to 14, inclusive;
  Sec. 11, lots 5 to 11, inclusive;
  Sec. 12, lots 3 to 6, inclusive;
  Sec. 13, lots 10 to 17, inclusive;
  Sec. 14, lots 6 to 9, inclusive;
  Sec. 15, lots 3;
  Sec. 24, lots 5 to 8, inclusive.
T. 3 N., R. 43 E.,
  Sec. 19, lots 9 to 13, inclusive;
  Sec. 30, lots 13 to 15, inclusive;
  Sec. 31, lots 10 and 11;
  Sec. 32, lot 8.

The area described aggregates 738.40 acres in Bonneville County.

The withdrawal is essential for protection of waterpower potential development. The existing withdrawal closed the described land to surface entry, but not to mineral leasing and mining. No change in the segregative effect or use of the land is proposed by this action.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Idaho State Director at the above address.

The authorized officer of the Bureau of Land Management will undertake such investigations as necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued; and if so, for how long. The final determination of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

Dated: January 21, 1992.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 92–2306 Filed 1–31–92; 8:45 am]

BILLING CODE 4310-GG-M

[MT-930-4214-10; MTM 30912]

Cancellation of Withdrawal Application; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: By memorandum dated January 13, 1992, the U.S. Department of the Interior, Fish and Wildlife Service (FWS), canceled application MTM 30912 to withdraw lands for protection of the Charles M. Russell National Wildlife Refuge. The temporary segregative effect expired October 20, 1991.

EFFECTIVE DATE: February 3, 1992.

FOR FURTHER INFORMATION CONTACT: Sandy Ward, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406–255–2949.

SUPPLEMENTARY INFORMATION: Notice of the October 20, 1991, termination of the temporary segregative effect was published in the **Federal Register**, 56 FR 44099, September 6, 1991. Application MTM 30912 has been replaced by FWS mineral withdrawal application MTM 80092, published in the **Federal Register**, 56 FR 52281–3, October 18, 1991.

Dated: January 23, 1992.

John A. Kwiatkowski,

Deputy State Director, Division of Lands and Renewable Resources.

[FR Doc. 92–2462 Filed 1–31–92; 8:45 am]

BILLING CODE 4310-DN-M

[NV-943-92-4214-10; N-53591]

Proposed Withdrawal and Opportunity for Public Meeting; Nevada

January 21, 1992.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Fish and Wildlife Service proposes to withdraw 2,581.64 acres of public land for an addition to the Ash Meadows National Wildlife Refuge, Nye County, Nevada. This notice closes the land for up to two years from settlement, sale, location, and entry under the general land laws, including the U.S. mining laws. The land will remain open to mineral leasing.

DATES: Comments and requests for a public meeting must be received by May 4, 1992.

ADDRESSES: Comments and meeting requests should be sent to the Nevada State Director, BLM, P.O. Box 12000, Reno, Nevada 89520.

FOR FURTHER INFORMATION CONTACT: Mary Clark, BLM Nevada State Office, (702) 785–6530.

SUPPLEMENTARY INFORMATION: On January 16, 1992, a petition was approved allowing the U.S Fish and Wildlife Service to file an application to withdraw the following described public land from settlement, sale, location, or entry under the general land laws, including the mining laws, subject to valid existing rights:

Mount Diablo Meridian, Nevada

T. 17 S., R. 50 E.,
  Sec. 34, NE¼;
  Sec. 35, W½NE¼, N½NW¼, SW¼NW¼, W½SW¼, E½SE¼, NW¼SE¼.
T. 18 S., R. 50 E.,
  Sec. 1, lots 3, 4;
  Sec. 2, lots 1, 2, S½NE¼, SE¼;
  Sec. 12, W½NE¼, NW¼;
  Sec. 23, S½N½, S½;
  Sec. 24, E½NE¼, NW¼NE¼, W½SW¼.
T. 18 S., R. 51 E.,
  Sec. 7, NE¼, E½NW¼;
  Sec. 18, lots 2, 3, 4, SW¼NE¼, SE¼NW¼, E½SW¼;
  Sec. 19, lots 1, 2, SW¼NE¼, E½NW¼.

The area described contains 2,581.64 acres in Nye County.

The purpose of the proposed withdrawal is to reserve the land for an addition to the Ash Meadows National Wildlife Refuge.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the undersigned officer within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

For a period of 2 years from the date of publication of this notice in the Federal Register, the land will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. Uses of a temporary nature, that are compatible with the purposes for which the refuge is established, may be allowed during the segregative period, but only with the approval of an authorized official of the Bureau of Land Management. Controlled public uses for educational, recreational, or scientific purposes are examples.

The temporary segregation of the land in connection with a withdrawal application or proposal shall not affect administrative jurisdiction over the land, and the segregation shall not have the effect of authorizing any use of the land by the U.S. Fish and Wildlife Service.

Billy R. Templeton,

State Director, Nevada.

[FR Doc. 92-2409 Filed 1-31-92; 8:45 am]

BILLING CODE 4310-HC-M

Fish and Wildlife Service

Great Lakes Nonindigenous Aquatic Species Panel Meeting

AGENCY: Department of the Interior.

ACTION: Notice of meeting.

TIME AND DATE: The Great Lakes Panel on Nonindigenous Species will meet from 8:30 a.m. to 4 p.m. on Tuesday, February 18, 1992.

PLACE: The meeting will be held in the Piers 7 and 8 Room, Westin Harbour Castle Hotel, 1 Harbour Square, Toronto, Ontario, Canada.

STATUS: The meeting is open to the public. Interested persons may make oral statements to the Panel or may file written statements for consideration.

MATTERS TO BE CONSIDERED: A number of subjects will be discussed, including a review of the Task Force charter; an update of Task Force and U.S. Coast Guard efforts to implement the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990; selection of a chair and vice-chair; review of proposed policy recommendations concerning management, research, legislative, and budget needs and the research protocol; presentations on industry and local government perspectives on nonindigenous species activities; and other nonindigenous species issues and activities.

CONTACT PERSONS FOR MORE INFORMATION: Martha Reesman, Great Lakes Commission, the Argus Building, 400 Fourth Street, Ann Arbor, Michigan, at (313) 665-9135.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Great Lakes Panel on Nonindigenous Aquatic Species (Panel), a committee of the Aquatic Nuisance Species Task Force established under the authority of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (P.L. 101-646, 104 Stat. 4761, 16 U.S.C. 4701 *et seq.*, November 29, 1990). This will be the first meeting of the Great Lakes Panel since the Federal Advisory Committee Act charter for the Task Force was approved by the Secretary of the Interior on November 26, 1991. Ontario's Ministry of Natural Resources is cosponsoring the meeting. Summary minutes of meeting will be maintained by Coordinator, Aquatic Nuisance Species Task Force, room 840, 4401 North Fairfax Drive, Arlington, Virginia 22203 and the Great Lakes Panel Coordinator, Great Lakes Commission, The Argus Building, 400 Fourth Street, Ann Arbor, Michigan, and will be available for public inspection during regular business hours, Monday through Friday within 30 days following the meeting. Copies may be purchased for the cost of duplication.

Dated: January 29, 1992.

Gary Edwards,

Co-Chair, Aquatic Nuisance Species Task Force.

[FR Doc. 92-2528 Filed 1-31-92; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service (MMS)

Outer Continental Shelf (OCS)

Advisory Board Scientific Committee (SC); Plenary Session Meeting

This Notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Public Law 92-463, 5 U.S.C., Appendix I, and the Office of Management and Budget Circular A-63, Revised.

The OCS Advisory Board SC will meet Wednesday, March 18, and Thursday, March 19, 1992, at the Fairmont Hotel, University Place, 123 Baronne Street, New Orleans, Louisiana 70140, telephone (504) 529-7111.

Sessions will run from 8 a.m. to 5 p.m. The SC is an outside group of scientists which advises the Director, MMS, on the feasibility, appropriateness, and scientific value of the MMS' OCS Environmental Studies Program.

The meetings are open to the public. Approximately 30 visitors can be accommodated on a first-come-first-served basis at the plenary sessions.

A copy of the agenda may be requested from the MMS by writing Ms. Phyllis Treichel at the address below.

Other inquiries concerning the SC meeting should be addressed to Dr. Ken Turgeon, Chief, Environmental Studies Branch, Environmental Policy and Programs Division, Minerals Management Service, 381 Elden Street, Mail Stop 4310, Herndon, Virginia 22070. He may be reached by telephone at (703) 787-1717.

Dated: January 24, 1992.

Thomas Gernhofer,

Associate Director for Offshore Minerals Management.

[FR Doc. 92-2410 Filed 1-31-92; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Statue of Liberty National Monument Ellis Island, New York, NY; Intent to Extend Comment Period

Notice is hereby given that the National Park Service (NPS) will extend the period for written public comment on the use and treatment of the remaining deteriorating buildings on Ellis Island, Statue of Liberty National Monument, until Thursday, February 6, 1992. Submission of written comments should be made to the Chief of Urban Projects, 26 Wall Street, New York, NY 10005.

Views of the public regarding the impact on the historic characteristics of Ellis Island are being sought in order to fulfill NPS responsibilities under section 106 of the National Historic Preservation Act of 1966, as amended, and its implementing regulations (36 CFR Part 800).

This notice of intent to extend the comment period follows a public meeting at Ellis Island on December 17, 1991 at which time the NPS presented to the public a proposal for the use and treatment of the remaining deteriorating buildings as an international conference center with overnight facilities and a commercial facility serving park visitors and conferees. The proposal will result in the rehabilitation of 628,700 square feet in 20 buildings (2 of which with 245,000 square feet have already been rehabilitated) and the demolition of 69,800 square feet in 12 buildings.

Dated: January 24, 1992.

Steven H. Lewis,

Acting Regional Director.

[FR Doc. 92-2421 Filed 1-31-92; 8:45 am]

BILLING CODE 4310-70-M

Kalaupapa National Historical Park Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Kalaupapa National Historical Park Advisory Commission will be held at 10 a.m. on Monday, February 24, 1992 at the McVeigh Community Hall, Kalaupapa, Molkai, Hawaii.

The Advisory Commission was established by Public Law 95-565 to provide advice with respect to park development, operations, public visitation, and employee training.

Members of the Commission are as follows:

- Rev. David K. Kaupu, Chairman
- Mr. Robert L. Barrel
- Mrs. Kuulei Bell
- Mr. Shoichi Hamai
- Mr. Paul Harada
- Mr. Issac K. Keao
- Mr. Gloria F. Marks
- Mr. Ralston Nagata
- Mr. Henry K. Nalaielua
- Mr. Bernard Punikaia

This meeting will be devoted to review of the park's programs.

The meetings are open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing to receive further information on this meeting or who wish to submit written statements may contact Mr. Peter Thompson, Superintendent, Kalaupapa National Historical Park, Kalaupapa, Hawaii 96742; telephone (808) 567-6102.

Minutes of the meeting will be available for public inspection by June 1, 1992, in the Office of the Pacific Area Director, National Park Service, 300 Ala Moana Boulevard, room 6305, Honolulu, Hawaii.

Dated: January 23, 1992.

Lewis Albert,

Acting Regional Director, Western Region.

[FR Doc. 92-2422 Filed 1-31-92; 8:45 am]

BILLING CODE 4310-70-M

National Archeological Survey Initiative; Availability of the Draft Systemwide Archeological Inventory Program Document

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of availability of the National Park Service's draft Systemwide Archeological Inventory Program document.

SUMMARY: This notice announces the availability of the National Park Service's draft Systemwide Archeological Inventory Program document. This program is being developed during fiscal year 1992 under the National Archeological Survey Initiative. The goal of the program is to systematically locate, evaluate and document the majority of scientifically valuable archeological resources on National Park System lands over a projected period of 20 years.

DATES: The draft Systemwide Archeological Inventory Program document is available for public review and comment. Written comments should be submitted by February 28, 1992.

ADDRESSES: Copies of the draft document may be obtained by contacting Michele C. Aubry, Senior Archeologist, Anthropology Division, National Park Service, P.O. Box 37127, Washington, DC 20013-7127; telephone FTS/Commercial 202-343-1879. Comments on the draft document should be sent to the Chief, Anthropology Division, National Park Service, P.O. Box 37127, Washington, DC 20013-7127 or by FAX FTS/Commercial 202-343-5260.

FOR FURTHER INFORMATION CONTACT: Michele C. Aubry at FTS/Commercial 202-343-1879.

SUPPLEMENTARY INFORMATION: The National Park System consists of 358 nationally significant cultural, natural and recreational areas covering about 80 million acres of land in 49 States, American Samoa, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands. At the close of fiscal year 1990, about 53,000 prehistoric and historic archeological sites were known to be present on National Park System lands. An additional 364,000 to 389,000 sites are projected to exist in park areas.

The National Park Service's (NPS) archeological mission is to conserve, protect and manage archeological resources under its stewardship for long-term research and for appropriate public enjoyment. However, lack of information about the location, characteristics and significance of archeological resources on park lands seriously impairs the NPS's ability to meet its archeological mission and to effectively carry out its park planning, park operations, resources management, interpretation, and law enforcement responsibilities. Development and implementation of a systemwide archeological inventory program will enable the NPS to more effectively carry out these responsibilities. In addition, it will provide the framework to fulfill the archeological inventory and survey requirements contained in Executive Order 11593, in the National Historic Preservation Act (as amended), and in the Archaeological Resources Protection Act (as amended).

The draft Systemwide Archeological Inventory Program document sets forth the NPS's initial ideas on how a long-term, systemwide archeological inventory program might be crafted. Copies have been sent for concurrent review to NPS offices, the State Historic Preservation Officers, the National Conference of State Historic Preservation Officers, the Advisory Council on Historic Preservation, the Historic Preservation Officers and other officials of Federal land management agencies and Indian tribes with large landholdings near National Park areas, the Federal Preservation Forum, national Native American organizations, and national professional archeological societies. Other interested parties are invited to review the draft document and submit comments and suggestions for improvement.

Dated: January 28, 1992.

Jerry L. Rogers,

Associate Director, Cultural Resources, National Park Service.

[FR Doc. 92-2505 Filed 1-31-92; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 60-92]

Privacy Act of 1974; New System of Records

Pursuant to the Privacy Act (5 U.S.C. 552a), the Department of Justice, United States Marshals Service (USMS), proposes to establish a new Privacy Act system of records entitled "U.S. Marshals Service Prisoner Processing and Population Management System, JUSTICE/USM-005."

The USMS indicates that it previously included these records in a more generally described system of records entitled "U.S. Marshals Service Prisoner Transportation System, Justice/USM-003," but now proposes to more specifically characterize them in a new system. The new system describes a variety of identifying records on each prisoner which may be generated during the day-to-day processing, safekeeping, and disposition of prisoners in USMS custody while criminal proceedings are pending. A proposed rule to exempt the system from subsections (c)(3) and (4),

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(d), (e)(1), (2), (3), (e)(5) and (e)(8), and (g) of the Privacy Act can be found in the Proposed Rules Section of today's Federal Register.

Title 5 of the U.S.C. 552a(e)(4) and (11) provide that the public be given a 30-day period in which to comment on the routine uses of the proposed system of records. The Office of Management and Budget (OMB), which has oversight responsibilities under the Act, requires a 60-day period in which to conclude its review of the system.

Therefore, please submit any comments by March 4, 1992. The public, OMB, and the Congress are invited to submit written comments to Patricia E. Neely, Staff Assistant, Systems Policy Staff, Information Resources Management, Justice Management Division, Department of Justice, Washington, DC 20530 (Room 1103, CAB Building).

In accordance with 5 U.S.C. 552a(r), the Department has provided a report on this system to OMB and the Congress.

The system description is printed below.

Dated: January 2, 1992.

Harry H. Flickinger,

Assistant Attorney General for Administration.

JUSTICE/USM-005

SYSTEM NAME:

U.S. marshals Service Prisoner Processing and Population Management System.

SYSTEM LOCATION:

Each district office of the U.S. Marshals Service (USMS) maintains files on prisoners taken into U.S. Marshal custody for the respective district. See Appendix of Addresses published as JUSTICE/USM-999.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Prisoners taken into U.S. Marshal custody.

CATEGORIES OF RECORDS IN THE SYSTEM:

Any and all information necessary to complete administrative processes, safekeeping, health care, and disposition of individual Federal prisoners who are in custody pending criminal proceedings, together with any law enforcement related records generated during such custody. Records include a compilation of basic information on each prisoner taken into custody of the U.S. Marshal, covering identifying data, the reason for U.S. Marshal custody (e.g., Federal indictment, complaint, or writ), the court disposition of charges, dates of custody, and institutions to which committed or housed. Also included are Form USM-129, Prisoner Custody, Detention and Disposition Record (formerly DJ-100); prisoner photograph; personal history statement; fingerprint card; identification record; detainer notice; speedy trial notice; prisoner remand or order to deliver prisoner, and receipt for U.S. prisoner; property receipt; court records including writs, bail/bond release information, judgment and commitment and other court orders; medical records; prisoner custody alert notice; prisoner complaints or serious incident reports (and related investigatory information) filed by either the prisoner or by officials or by other individuals at the institution where the prisoner is housed and covering a wide range of potentially serious issues, e.g., medical treatment of prisoners, and attempted escapes or alleged prisoner misconduct or criminal activity; designation requests to the Bureau of Prisons (BOP) and BOP responses; information identifiable to informants, protected witnesses, and confidential sources; access codes and data entry codes and message routing symbols used to communicate with law enforcement officials regarding the custody and safekeeping of prisoners; and prisoner transportation requests to the Prisoner Transportation Division (and any related records) which may include sensitive security data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

18 U.S.C. 3149, 3193, 3604, 3621, 4002, 4006, 4086, 4282, 4285; 28 U.S.C. 509, 510, 568, 569; 5 U.S.C. 301; 44 U.S.C. 3101; and 28 CFR 0.111.

PURPOSE:

The Prisoner Processing and Population Management System is maintained to cover law enforcement and security related records which are generated in the local USMS district offices in connection with the processing, safekeeping, and disposition of Federal prisoners who are in custody pending criminal proceedings.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Relevant records or information may be disclosed under subsection (b)(3) of the Privacy Act as follows:

1. To other Federal, State, local or foreign law enforcement agencies, contract detention or medical facilities (1) who provide temporary custody or housing or care of prisoners, or who otherwise require information (a) to protect the safety and/or health of the prisoners, the public, and of law enforcement officials or (b) to otherwise ensure fair and proper treatment of prisoners during custody and transfer of custody or (2) who may also assist the USMS in pursuing any necessary inquiry/investigation of complaints, alleged misconduct or criminal activity. For example, relevant records or information may be disclosed to secure their safe and efficient transfer to other jurisdictions, to court appearances, or to the designated institution for service of sentence; to ensure that appropriate credit for time in custody is given; that appropriate medical treatment is provided; that all rights of the prisoner, whether statutory, humanitarian, or otherwise, are provided and protected; and to elicit information from which to initiate an inquiry/investigation and/or respond to prisoner complaints and reports of alleged misconduct or criminal activity; or, conversely, to enable those entities to respond to, or provide information relating to, such prisoner complaints or reports of misconduct or criminal activity.

2. To the appropriate Federal, State, local or foreign agency responsible for investigating, prosecuting, enforcing, defending, or implementing a statute, rule, regulation, or order to the extent that the information is relevant to the recipient's law enforcement function.

3. to the appropriate Federal, State, local, or foreign law enforcement agency where there is an indication of an actual or potential violation of civil or criminal laws, statutes, rules, or regulations within the jurisdiction of the recipient agency.

4. To the news media and the public pursuant to 28 CFR 50.2 unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

5. To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

6. To the National Archives and Records Administration (NARA) and to the General Services Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is stored in standard file cabinets. Duplicate copies of paper records are stored on magnetic discs.

RETRIEVABILITY:

Information is retrieved by name of prisoner and/or prisoner number.

SAFEGUARDS:

Paper records are stored in locked files. Access to computerized data is restricted through user identification and discrete password functions. In addition, USMS office suites are secured behind locked doors around the clock and access is restricted to USMS personnel with official identification.

RETENTION AND DISPOSAL:

Records are kept in active files until a prisoner has been transferred out of the district's custody or until his/her judicial proceedings have been completed. Records are then transferred to inactive files. The USMS is reviewing a proposed disposition schedule for these records. Upon approval by the USMS Records Management Officer and NARA, this section of the notice will be revised to identify the approved schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director for Operations Support, United States Marshals Service, 600 Army Navy Drive, Arlington, Virginia 22202-4210.

NOTIFICATION PROCEDURE:

Same as System Manager.

RECORD ACCESS PROCEDURE:

A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked "Privacy Access Request." It should clearly indicate name of requester, the nature of the record sought and approximate dates covered by the record. The requester shall also provide the required verification of identity (28 CFR 16.41(d)) and provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above, Attention: FOI/PA Officer.

CONTESTING RECORD PROCEDURES:

Individuals desiring the contest or amend information maintained in the system should direct their request to the System Manager listed above, Attention: FOI/PA Officer, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Information is received from the prisoner, the courts, Federal, State, local and foreign law enforcement agencies, and medical care professionals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e) (1), (2), (3), (e)(5) and (e)(8) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the **Federal Register**.

[FR Doc. 92–2476 Filed 1–31–92; 8:45 am]

BILLING CODE 4410-01-M

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984—Cable Television Laboratories, Inc./Tele-Communications, Inc./Viacom International Inc./Public Broadcasting Service

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Cable Television Laboratories, Inc. ("CableLabs"), Tele-Communications, Inc. ("TCI"), Viacom International Inc. ("Viacom") and Public Broadcasting Service ("PBS") on November 27, 1991 filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to this agreement and (2) the nature and objectives of this agreement. The notification was filed for the purpose of invoking the protections of Section 4 of the Act, which limit the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to section 6(b) of the Act, the identities of the parties to this agreement and the general areas of planned activity are given below.

The current parties are the following:

Cable Television Laboratories, Inc., 1050 Walnut Street, Suite 500, Boulder, Colorado 80302.

Tele-Communications, Inc., 4643 South Ulster Street, Suite 400, Denver, Colorado 80237.

Viacom International Inc., 1515 Broadway, New York, NY 10036.

Public Broadcasting Service, 1320 Braddock Place, Alexandria, Virginia 22314.

The area of planned activity is the participation and coordination with each other in a Request For Proposals ("RFP") for development of one or more Digital Compression Delivery System(s) that will enable cable television program suppliers to provide multiple programs per satellite transponder channel to cable television system headends and customers. The parties intend to evaluate the responses to the RFP and may independently award contract(s) to develop the System(s).

Joseph H. Widmar,

Director of Operations Antitrust Division.

[FR Doc. 92–2468 Filed 1–31–92; 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant To the National Cooperative Research Act of 1984—CAD/CAM Research and Development Partnership

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), The Joint Venture Research Program ("JVRP") on November 12, 1991, filed a written notification on behalf of CAD/CAM Research and Development Partnership ("CAD/CAM") simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the venture and (2) the nature and objective of the venture. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the partnership and its general areas of planned activity are given below.

Chrysler Corporation, located in Highland Park, Michigan.

Ford Motor Company, located in Dearborn, Michigan.

General Motors Corporation, located in Detroit, Michigan.

The Joint Venture Research Program of the Motor Vehicle Manufacturers Association is not a partner to the Partnership, but has provided administrative assistance and may continue to do so.

The Partners intend to identify opportunities for joining some aspects of their research and development efforts pertaining to CAD/CAM technology in order to avoid duplication of effort and expense and to help maintain the technological competitiveness of the United States automotive industry in world markets. Upon successful identification of such technological opportunities, the Partnership proposes to consider and may address the following objectives:

Scientific investigation into the practical application of computer aided design and manufacturing technologies for the automotive industry, including development of theoretical and experimental computer-based data models and data prototypes;

The development of uniform specifications (i.e., computer language) for manipulating data relevant to automotive engineering and design;

The collection, exchange and analysis of research information;

The development of testing and basic engineering techniques for use in proof of theories and concepts; and

The interaction with domestic and international organizations that influence the shape of emerging CAD/CAM technology, to encourage CAD/CAM research of potential utility to the automotive industry.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 92-2467 Filed 1-31-92; 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research Act of 1984, Great Lakes Composite Consortium, Inc.

Notice is hereby given that, on December 11, 1991, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), the Great Lakes Composite Consortium, Inc. ("GLCC") filed an additional written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing the identities of additional parties that have become members of GLCC. The additional written notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the GLCC advised that A.O. Smith Corporation, Milwaukee, WI; Basic Industry Research Laboratory, Evanston, IL; Charles Stark Draper Laboratory, Inc., Cambridge, MA; Cincinnati Milacron, Cincinnati, OH; Crucible Composites Company, East Troy, WI; Dexter Hysol Aerospace, Inc., Pittsburgh, CA; Georgia Institute of Technology, Atlanta, GA; Hexcel, Doublin, CA; Michigan Molecular Institute, Midland, MI; Newport News Shipbuilding, Newport News, VA; Northrop Corporation, Los Angeles, CA; Packer Engineering, Inc., Naperville, IL; Penn State University, University Park, PA; Peterson Builders, Inc., Sturgeon Bay, WI; Rockwell International Corporation, Los Angeles, CA; and Stevens Institute of Technology, Hoboken, NJ have become members of GLCC. In addition, GLCC advised that Gateway Technical College, Kenosha, WI; Marquette University, Milwaukee, WI; Michigan Technical University, Houghton, MI; Milwaukee Area Technical College, Milwaukee, WI; Milwaukee School of Engineering, Milwaukee, WI; University of Dayton, Dayton, OH; University of Wisconsin, Milwaukee, WI; University of Wisconsin, Kenosha, WI; and Wichita State University, Wichita, KS have joined GLCC on a non-dues basis.

No other changes have been made in either the membership or planned activity of the GLCC. Membership in GLCC remains open, and GLCC intends to file additional written notification disclosing all changes in membership.

On February 25, 1991, GLCC filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on March 15, 1991 (56 FR 11274).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 92-2471 Filed 1-31-92; 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research Act of 1984 National Center for Manufacturing Sciences, Inc.

Notice is hereby given that, on October 31, 1991, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), the National Center for Manufacturing Sciences, Inc. ("NCMS"), filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership and describing the status of its research projects. The notification was filed for the purpose of invoking the protections of the Act limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

The following companies recently were accepted as active members of NCMS: Applied Intelligent Systems, Inc., Ann Arbor, Michigan;Applied Science and Technology, Inc., Woburn, Massachusetts; Automated Precision, Inc., Gaithersburg, Maryland; Boride Corporation, Traverse City, Michigan; Control Gaging, Inc., Ann Arbor, Michigan; and Flavors Technology, Inc., Amherst, New Hampshire.

The following organizations recently were accepted as affiliate members of NCMS: Rensselaer Polytechnic Institute, Troy, New York; and Texas State Technical College, Waco, Texas.

The following company recently resigned as an active member of NCMS: Claris Corporation, Santa Clara, California.

The name of one NCMS active member cited in previous filings has been changed and should, therefore, be amended. The reference to "Savior" cited in previous filings should now refer to "Flexis Control Incorporated."

NCMS has initiated research efforts directed toward its objectives in the general areas of manufacturing data and factory control; manufacturing operations; manufacturing processes and materials: production equipment design, analysis, testing, and control; and technology transfer. Other projects directed toward its objectives in those areas are also under consideration. One such effort is a research project concerned with the development of rapid prototyping, which was initiated on October 16, 1991, and involved two NCMS active members (Texas Instruments Incorporated and United Technologies Corporation, acting through its Pratt & Whitney Group) and a non-NCMS member (Baxter Healthcare Corporation).

Except as indicated above, no other changes have been made in the membership, objectives, or planned activities of NCMS.

On February 20, 1987, NCMS filed its original notification pursuant to section 6(a) of the Act, notice of which the Department of Justice published in the **Federal Register** pursuant to section 6(b) of the Act on March 17, 1987 (52 FR 8375). NCMS filed additional notifications on April 15, 1988, and May 5, 1988, notice of which the Department published in the **Federal Register** on June 2, 1988 (53 FR 20194). NCMS also filed additional notifications on July 11, 1988, September 13, 1988, December 8, 1988, March 9, 1989, August 10, 1989, November 3, 1989, January 29, 1990, April 27, 1990, July 31, 1990, November 7, 1990, February 5, 1991, March 18, 1991, April 29, 1991, and July 25, 1991, notices of which the Department published in the **Federal Register** on August 19, 1988 (53 FR 31771), November 4, 1988 (53 FR 44680), January 18, 1989 (54 FR 2006), April 13, 1989 (54 FR 14878), September 18, 1989 (54 FR 38461), November 29, 1989 (54 FR 49122), February 28, 1990 (55 FR 7045), June 5, 1990 (55 FR 22964), August 28, 1990 (55 FR 35194), December 10, 1990 (55 FR 50786), March 12, 1991 (56 FR 10444), May 16, 1991 (56 FR 22740), June 13, 1991 (56 FR 27273) and September 4, 1991 (56 FR 43796), respectively.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 92-2470 Filed 1-31-92; 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research Act of 1984—Petroleum Environmental Research Forum

Notice is hereby given that, on November 19, 1991, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301, *et seq.* ("the Act") the participants in the Petroleum Environmental Research Forum ("PERF") Project No. 90-10, titled "Aerobic Biodegradation of MTBE—A Basic Fate and Biokinetics Evaluation," filed written notifications simultaneously with the Attorney General and with the Federal Trade Commission disclosing (1) the identities of the parties to the project and (2) the nature and objective of the research program to be performed in accordance with said project. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties participating in Project No. 90-10, together with the nature and objectives of the research program, are given below.

The current parties to PERF Project No. 90-10 identified by this notice are:

Amoco Oil Company, Naperville, IL 60566-7011.
Atlantic Richfield Company, Los Angeles, CA 90071.
B. P. America, Inc., Cleveland, OH 44128-2837.
Chevron Research Co., Richmond, CA 94802-0627.
Exxon Research and Engineering Company, Florham Park, NJ 07932-0101.
Mobil Oil Corporation, Fairfax, VA 22037-0001.
Phillips Petroleum Company, Bartlesville, OK 74004.
Shell Development Company, Houston, TX 77251-1380.

The nature and objective of the research program performed in accordance with Project No. 90-10 is to study the aerobic biodegradability of methyl-tertiary-butyl-ether (MTBE) in laboratory scale reactors. The work will consist of the following technical tasks: to study the progress of biodegradation of MTBE in typical activated sludge reactors, to evaluate the enhancement of its biodegradation by co-substrate addition, and to obtain kinetics coefficients. Information regarding participation in this Project may be obtained by contracting Dr. Paul T. Sun, Shell Development Company, P.O. Box 1380, Houston, Texas 77251-1380.

Joseph H. Widmar,
Director of Operations, Antitrust Division.

[FR Doc. 92-2469 filed 1-31-92; 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research Act of 1984—Petroleum Environmental Research Forum Research Program

Notice is hereby given that, on December 2, 1991, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), members of the Petroleum Environmental Research Forum, who are participants in a Research Program more specifically identified in paragraph 3 below, have filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the Research Program and (2) the nature and objectives of the Research Program. The Notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified conditions. Pursuant to section 6(b) of the Act, the identities of the parties participating in the project and the nature and objectives of the project are given below:

1. The parties to the Research Program are:

Amoco Oil Company, Research and Development Department, Naperville, IL.
Chevron Research and Technology Company, Richmond, CA.
Exxon Research and Engineering Company, Florham Park, NJ.
Stratco, Inc., Leawood, KA.
Texaco, Inc., Research and Development, Port Arthur, TX.
Union Oil Company of California, Brea, CA.

2. Letters of Intent to participate in said Research Program have been signed by:

B. P. America, Inc., Cleveland, OH.
Mobil Research and Development Corporation, Princeton, NJ.

3. The nature and objectives of the Research Program are to study the aerosol formation potential of sulfuric acid/hydrocarbon mixtures. The Research Program will include field testing of various sulfuric acid mixtures.

4. Information about participating in the Research Program may be obtained by contacting: Mr. Ralph Cecchetti, Exxon Research and Engineering Company, P.O. Box 101, Florham Park, NJ 07932-0101.

Membership in this Forum remains open, and the parties intend to file additional written notification disclosing all changes in membership to this Forum.

Joseph H. Widmar,
Director of Operations, Antitrust Division.

[FR Doc. 92-2472 Filed 1-31-92; 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research Act of 1984—Laboratory Study of the Electrical Resistivity of Brine Solutions at Elevated Temperature and Pressure

Notice is hereby given that, on January 2, 1992, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Southwest Research Institute ("SwRI") filed written notification simultaneously with the Attorney General and the Federal Trade Commission of a project entitled Laboratory Study of the Electrical Resistivity of Brine Solutions at Elevated Temperature and Pressure. The notification discloses (1) the identity of the parties to the project, and (2) the nature and objectives of this project. The notification was filed for the purpose of invoking the Act's provisions limiting the potential recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the project and its general area of planned activities are given below.

The parties to the project are: Amoco Production Company, Tulsa, OK; Conoco, Inc., Ponca City, OK; Exxon Production Research Company, Houston, TX; Mobil Research and Development Corporation, Dallas, TX; and Shell Development Company, Houston, TX.

The purpose of the project is to conduct a laboratory study by which the electrical resistivity of several brine solutions and mixtures will be measured and analyzed to provide a quantitative characterization of these solutions at temperatures up to 250 degrees Celsius and pressures up to 15,000 psi. The major research tasks are (1) the design and fabrication of a multiple-sample test fixture; (2) laboratory chemistry tests using sodium chloride and calcium chloride; (3) testing of brine solution concentrations prepared at or near room temperature which fell within the conventional range of electrical resistivity log interpretations charts; (4) testing of sodium chloride and calcium chloride brine solutions having salt concentrations sufficient to produce saturated solutions at temperatures up to 200 degrees Celsius and higher in the multiple-sample test fixture.

Membership in this project remains open, and the parties intend to file additional written notification disclosing all changes in membership of this project.

Joseph H. Widmar,

Director of Operations Antitrust Division.

[FR Doc. 92-2465 Filed 1-31-92; 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research Act of 1984—Wet Welding At Greater Depth—Phase II

Notice is hereby given that, on December 11, 1991, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Southwest Research Institute ("SwRI") filed a written notification simultaneously with the Attorney General and the Federal Trade Commission of a project entitled "Wet Welding At Greater Depth—Phase II." The notification discloses (1) the identities of the parties to the project and (2) the nature and objective of the project. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under the specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the project and its general areas of planned activities are given below.

The parties to the project are: Amoco Corporation, Naperville, IL (effective September 30, 1991); Chevron Corporation, Richmond, CA (effective September 30, 1991); Exxon Production Research Company, Houston, TX (effective September 30, 1991); Mobil Research & Development Corporation, Dallas, TX (effective September 30, 1991); and Shell Development Company, Houston, TX (effective September 30, 1991).

The purpose of the project is to perform a step-by-step progression in the investigation of the variables expected to improve wet welding electrode operability at water depths up to 300 feet of sea water. The major research tasks are: (1) testing of tubular versus solid wire electrodes; (2) selection of either tubular or solid wire technology based upon the extensive testing of such wire technology in laboratory welding experiments; (3) an optimization analysis of the following variable factors: level of carbonates and fluorides, level of ionizers, level of iron and manganese, and level of deoxidants; and (4) the formulation, manufacture and complete characterization of the hybrid electrode with the most desirable features.

Membership in this group research project remains open, and the parties intend to file additional written notification disclosing all changes in membership of this project.

Joseph H. Widmar,

Director of Operations Antitrust Division.

[FR Doc. 92-2466 Filed 1-31-92; 8:45 am]

BILLING CODE 4410-01-M

Bureau of Justice Statistics

Continuation of Justice Information Policy Assistance Program

AGENCY: Office of Justice Programs, Bureau of Justice Statistics.

ACTION: Solicitation for Award of Cooperative Agreement.

SUMMARY: The purpose of this notice is to announce a public solicitation for the continuation of the Bureau of Justice Statistics (BJS) Criminal Justice Information Policy program. The program, which has been in existence since 1978, serves as the primary liaison between BJS, the States, and other Federal agencies, on issues relating to the quality, content, management, use and exchange of criminal history record information (CHRI). Projects supported under the program include, but are not limited to, biannual major national conferences on criminal justice data quality, comprehensive national surveys of State criminal history date quality, numerous workshops on emerging issues such as the uses of Automated Fingerprint Identification Systems (AFIS) and forensic uses of DNA, the first joint Task Force on Disposition Reporting (including members of both State repositories and State judiciary), ongoing review of State legislative developments and preparation of a biannual compendium of State legislation, and extensive preparation of materials and training in areas such as data quality auditing.

The key element in all of these efforts is the extent to which the program provides for direct input by States, for coordination among the States on program activities, and for liaison between the project and other relevant agencies of the Federal Government such as the Federal Bureau of Investigation (FBI), the Immigration and Naturalization Service (INS), the Office of Technology Assessment (OTA), etc. The presently proposed project, which is designed to continue these activities, will be funded under a cooperative agreement.

DATES: Proposals must be postmarked on or before March 2, 1992.

ADDRESSES: Proposal should be mailed to: Applications Coordinator, Bureau of Justice Statistics, room 1144-D, 633 Indiana Avenue, NW 20531.

FOR FURTHER INFORMATION CONTACT: Carol G. Kaplan, Chief, Federal Statistics and Information Policy Branch at the above address. Telephone (202) 307-0759.

SUPPLEMENTARY INFORMATION:

Background

The Bureau of Justice Statistics Criminal Justice Information Policy Assistance (JIPA) program represents the primary response of BJS to its legislative charter to "Identify, analyze and participate in the security and information policies which impact on Federal and State criminal justice operations and related statistical activities." See section 302(c)(22) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 U.S.C. 3732(c)(22). The program is designed to assist State in upgrading the quality of State criminal history record systems and in addressing the issues which ensure the utility of criminal history records for both criminal and non-criminal justice purposes. The program also serves as a conduit for the coordination with States and other Federal agencies of high visibility BJS activities relating to, for example, the interstate system for the exchange of criminal history record data among States and with the FBI, development of a national fingerprint capability, development of procedures for presale firearm record check systems, etc.

The BJS Program was initiated over 15 years ago, concurrently with the issuance of Department of Justice Regulations set out at 28 CFR part 20 which required that States adopt procedures to ensure that criminal history records were accurate, complete, secure, and disseminated only to authorized users. Since its inception, projects undertaken under the program have focussed on the rapidly changing technology, legislation and policies affecting criminal history record systems. Of equal importance, the project has served as the primary liaison among the States on issues of data quality and criminal record exchange. It provides the direct liaison between the States and BJS in this area. The program also mainains liaison with the Bureau of Justice Assistance which administers the Edward Byrne State and Local Law Enforcement Formula Grant program. The 1990 amendments to the Omnibus Crime Control and Safe Streets Act of 1968, as amended, require that at least 5 percent of these grant funds be used for the improvement of criminal justice records.

Specifically, tasks funded under this program over the past 15 years have included the conduct of four national conferences on criminal justice data quality and data management. These conferences, which have each attracted over 125 persons from all parts of the country, have included speakers representing the Congress, the Department of Justice and State criminal justice practitioners, researchers, and members of the judiciary. Proceedings of these conferences, the most recent of which was held in Washington, DC, in June 1991, have also been prepared and widely distributed.

In addition to the national conferences, smaller workshops have been conducted to explore the issues and technologies in emerging areas such as automated fingerprint technology, forensic uses of deoxyribonucleic acid (DNA), dissemination techniques and strategies to improve data quality. Documents prepared on the basis of State input at these workshops have formed the basis for a series of BJS reports on varying issues relating to data quality and information policy. In addition to DNA and AFIS, reports in this series address "hot" files, investigative files, original records of entry and the release of data for non-criminal justice purposes such as employment screening. These reports are available through the National Criminal Justice Reference Service (NCJRS).

On the more operational level, the project has also produced reports and training materials detailing specific strategies for improving data quality and three manuals on the auditing of data quality in criminal history record systems. Periodic reports have also been prepared following studies of, for example, the potential liability of law enforcement personnel for erroneous release of identifiable criminal history records and the impact of new identification technologies (such as retinal scans).

On an ongoing basis the program also maintains contact with representatives of the State repositories and other State personnel having responsibility for operation of the State criminal record system. In addition to serving as a continuing resource regarding the status of criminal record systems in the States, the project monitors changes in State legislation impacting on privacy and record management and, on a biannual basis, collects and classifies State legislation in the *Compendium of State Privacy Legislation* which is issued by BJS. Full texts of statutes are maintained both by the project and at NCJRS.

Major national surveys are also conducted under this project. Most recently, the results of the first comprehensive review of the status of criminal history record systems and policies in all 50 States were analyzed and compiled as a report under the project. Other surveys have focussed on requirements of State legislation and the nature of State operating practices.

To establish better working relations between the State record repository and State judiciary, the first joint task force was established under the project to develop recommendations for better exchange of data between courts and the record center. A report on these findings is currently under preparation.

A key element in all of these activities has been the coordination of project efforts with State personnel and the extent to which the project has brought together States for the joint analysis of policies which effect the exchange of criminal data.

Another key component of activity under this project has focussed on the interstate exchange of identification and criminal record date and the procedures for linkage of data among States and with the Federal Government. In this connection, the project has served as a major source of coordination between BJS and the States and other Federal agencies such as the FBI, the INS, and the OTA.

Lastly, and most recently, the project has responded to increasing Federal interest in the development of procedures to identify felons who illegally attempt to purchase firearms. Activities have included conducting the National Conference on Improving the Quality of Criminal History Records. The Conference included a panel which specifically addressed State procedures to identify ineligible purchasers.

Objectives

The major purpose of this award is to support the continuation of activities currently being funded under the ongoing Criminal Justice Information program. The programmatic objective is to continue support for the joint efforts by BJS and the States, and, where appropriate, other relevant Federal agencies, in the development, analysis and implementation of policies and programs which improve the quality and utility of criminal history data.

Type of Assistance

Assistance will be made available under a cooperative agreement.

Statutory Authority

The cooperative agreement to be awarded pursuant to this solicitation will be funded by the Bureau of Justice Statistics consistent with its mandate under 42 U.S.C. 3732(c)(22).

Eligibility Requirements

The solicitation is open to non-profit organizations only.

Scope of Work

The objective of the proposed project is to continue activities initiated under the ongoing BJS Criminal Justice Information Policy program.

Specifically, the recipient of funds will:

1. Identify, on the basis of existing information and contact with the States, two issues relevant to current policies affecting criminal justice records, and prepare reports on these issues for publication by BJS. Preparation of such reports should include, as appropriate, analyses of existing State legislation, current technology, and State activity in the area under consideration. If necessary, a workshop of State representatives should be convened to discuss and provide input for the reports. Final decisions on subjects for these reports will be made by BJS.

2. Conduct the second BJS national survey of State criminal history record systems and prepare a report analyzing the survey results for publication by BJS. The goal of the survey will be to respond to requests from Congress, criminal justice practitioners, and researchers for information describing the existing status of criminal record systems nationally. The survey should be designed to replicate the original survey which provided data as of 1989 (see BJS publication *Survey of Criminal History Information Systems*, NCJ 125620) and to provide a comprehensive and national assessment of the status of record systems and policies in all 50 States as of 1991. Any modifications to the original survey, including the survey instrument, will be agreed to jointly with BJS.

3. Convene a major national conference to promote the public discussion of data quality issues, including technical developments, uses of data for felon identification checks, and interstate exchange of data. To provide for the broader review of presentations and relevant materials, the proceedings should be compiled for publication by BJS. The conference, to be hosted jointly with BJS, should include high level Federal, State and local policy makers, representatives of the judiciary, criminal justice practitioners, researchers, and, if

appropriate, representatives of State or Federal legislative bodies. Time and location for the meeting will be jointly agreed upon with BJS. Costs under the project should cover staff, materials, presentations and logistics, but not cover costs of attendee participation or travel.

4. Convene and conduct one meeting for a working group including representatives of the State repositories, judiciary, prosecutors, correctional agencies and other data users. This working group will develop recommendations and strategies for increasing the exchange and utility of criminal record data. The project should develop discussion materials and background information for use by the working group. Selection of persons to serve as part of the working group will be made jointly with BJS. A report describing the activities and recommendations of the working group should be prepared for submission to BJS.

5. Maintain a resource of information regarding State activity, legislation and CHRI status and provide ad hoc assistance to States and to BJS on these matters. This may include assisting States through referrals to other States, reference to written materials, etc. Also, the recipient of funds will conduct ad hoc activities at the request of BJS involving, for example, the informal rapid turn-around telephone survey of States on a particular current issue or the collation of materials on a new issues associated with CHRI technology or policy.

All products will be submitted on a schedule to be determined jointly with BJS. BJS anticipates that the products will be spaced throughout the period of the award.

Award Procedures

Proposals should describe in appropriate detail the efforts to be undertaken in furtherance of each of the activities described in the Scope of Work. Information should focus on activities to be undertaken in the initial 12 month period but should also include a general discussion of three year goals and objectives of the program. Information on staffing levels and qualifications should be included for each task and descriptions of experience relevant to the project should be included.

Applications will be competitively reviewed by a BJS selected panel which will make recommendations to the Director of BJS. Final authority to enter into a cooperative agreement is reserved for the Director who may, at his discretion, determine that none of the applications shall be funded.

Applications will be evaluated on the overall extent to which they respond to be goals of the criminal justice information program, demonstrate an understanding and ability to perform the specific activities to be conducted, and appear to be fiscally feasible and efficient. In particular, the applicant will be evaluated on the basis of:

1. Knowledge and expertise in the current and historical conditions of criminal justice records systems as they exist at both the State and Federal level. Particular emphasis will be given to knowledge and experience relating to current technologies, the status of State and Federal legislation, current and prior operating policies and a historical and current knowledge of the issues which affect the exchange of data between State and Federal systems.

2. Expertise in the identification and analysis of issues and policies which affect the operation of criminal history records systems, the exchange of data among States and the Federal Government, and the release of data for noncriminal justice purposes such as, for example, presale firearm checks.

3. Expertise and experience in the analysis of legislation and State regulations relating to criminal history records and the privacy of data maintained in the State criminal history record systems.

4. Contact and experience in dealing with Federal and State representatives on issues relating to criminal history record policies. Particular emphasis will be given to: (a) experience in dealing with relevant personnel in Federal agencies, such as INS, the FBI and the Bureau of Alcohol, tobacco and Firearms, on issues relating to the development and improvement of national criminal history record systems and the use of criminal record data for criminal and noncriminal justice purposes such as presale firearm background checks; and (b) ongoing organizational and staff connections with representatives of the States (including criminal justice practitioners, policy makers, and record management personnel) sufficient to ensure direct State input to products produced under the project.

5. Demonstrated ability to produce high quality reports and conduct national conferences and workshops on sensitive issues for an audience of professional policy analysts, researchers, criminal justice practitioners, legislators and the general public.

6. Demonstrated fiscal, management and organization capacity (including availability of professional and support staff) suitable for providing sound program management for this multi-faceted effort.

7. Reasonableness of estimated costs for the total project and for individual cost categories.

Application and Awards Process

An original and three (3) copies of a full proposal must be submitted on SF-424 (Revision 1988) including the Certified Assurances. Proposals must be accompanied by OJP Form 4061/6, Certifications Regarding Lobbying, Debarment, Suspension and other Responsibility Matters; and Drug Free Workplace. Applicants must complete the certificate regarding lobbying and, if appropriate, complete and submit Standard Form LLL, Disclosure of Lobbying Activities.

Proposals must include both narrative descriptions and a detailed budget. The narrative shall describe activities as discussed in the previous section. The budget shall contain detailed costs of personnel, fringe benefits, travel, equipment, supplies and other expenses. Contractual services or equipment must be procured through competition or the application must contain an applicable sole source justification.

Awards will be made for a period of 12 months with an option for two additional continuation years conditional upon availability of funds and the quality of the initial performance and products. Costs are estimated at not to exceed $425,000 for the initial 12-month period.

Steven D. Dillingham,

Director, Bureau of Justice Statistics.

[FR Doc. 92-2391 Filed 1-31-92; 8:45 am]

BILLING CODE 4410-18-M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Registration

By Notice dated October 8, 1991, and published in the Federal Register on October 17, 1991, (56 FR 52075), Abbott Laboratories, Attn: D-209, Abbott Park, Abbott Park, Illinois 60064-3500, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of benzoylecgonine (9180), a basic class of controlled substance listed in Schedule II.

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant

Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of a basic class of controlled substance listed above is granted.

Dated: January 22, 1992.

Gene R. Haislip,

Deputy Assistant Administration, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 92-2413 Filed 1-31-92; 8:45 am]

BILLING CODE 4410-09-M

DRUG ENFORCEMENT ADMINISTRATION

Manufacturer of Controlled Substances; Registration

By Notice dated October 8, 1991, and published in the Federal Register on October 17, 1991, (56FR52075), Applied Science labs, Division of Alltech Associates, Inc., 2701 Carolean Industrial Drive, P.O. Box 440, State College, Pennsylvania 16801, made application to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
N-ethylamphetamine (1475)	I
cis-4-Methylaminorex (1590)	I
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
3,4-methylenedioxyamphetamine (MDA) (7400).	I
N-hydroxy-3,4-methylenedioxyamphetamine (7402).	I
3,4-methylenedioxy-N-ethylamphetamine (7404).	I
3,4-methylenedioxymethamphetamine (MDMA) (7405).	I
Psilocybin (7437)	I
Psilocyn (7438)	I
Ethlyamine analog of phencyclidine (7455).	I
Pyrrolidine analog of phencyclidine (7458).	I
Thiophene analog of phencyclidine (7470).	I
Dihydromorphine (9145)	I
Normorphine (9313)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
1-phenylcyclohexylamine (7460)	II
Phencyclidine (7471)	II
Phenylacetone (8501)	II
1-piperidinocyclohexane-carbonitrile (PCC) (8603).	II
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Benzoylecgonine (9180)	II
Morphine (9300)	II
Oxymorphone (9652)	II

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: January 22, 1992.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 92-2414 Filed 1-31-92; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF JUSTICE

Foreign Claims Settlement Commission

Registration of Claims of U.S. Nationals Against the Government of Albania

AGENCY: Foreign Claims Settlement Commission of the United States, Justice.

ACTION: Notice.

SUMMARY: This notice announces the commencement by the Foreign Claims Settlement Commission of a program for registration of claims of United States nationals (U.S. citizens, corporations and other legal entities) against the Government of Albania for losses resulting from uncompensated nationalization, expropriation, confiscation, or other taking of real property and other property rights and interests by the Albanian regime which took power at the end of World War II.

DATES: The deadline for registration of claims is March 31, 1992.

FOR FURTHER INFORMATION CONTACT: David E. Bradley, Chief Counsel, Foreign Claims Settlement Commission of the United States, 601 D Street, NW., room 10430, Washington, DC 20579, (202) 208-7730 or FAX (202) 208-2816.

Notice of Commencement of Claims Registration Program, and of Program Completion Date

The Foreign Claims Commission of the United States, an independent, quasi-judicial agency within the U.S. Department of Justice, has begun a program which will enable United States nationals (private citizens, corporations, and other legal entities) to register claims against the Government of Albania for losses resulting from uncompensated nationalization, expropriation, confiscation, or other taking of real property and other property rights and interests by the Albanian regime which took power at the end of World War II.

Diplomatic relations between the Government of the United States and the Government of Albania were broken off after the end of World War II. Relations were reestablished on March 15, 1991. A Memorandum of Understanding signed on that day by the two Governments provides that, at the request of either Government, they shall enter into negotiations for the prompt settlement of claims and other financial and property matters that remain unresolved.

The information collected in the Commission's claims registration program will be turned over to the U.S. Department of State to serve as the possible basis for negotiation of a claims settlement agreement between the United States and Albania. The information will otherwise remain confidential.

Requests for claim registration forms should be directed to the following address: Foreign Claims Settlement Commission, Attn: Albanian Claims Regulate, Washington, DC 20579.

Forms may also be requested in person at the offices of the Commission, 601 D Street, NW., room 10430, Washington, DC, or by telephone at 202-208-7730.

The deadline for filing a registration form is March 31, 1992.

Note: The registration of a claim in this program will not constitute the filing of a formal claim against Albania. Nor will it ensure that a claim will be covered by any future agreement. Provisions for the formal filing of claims will be made at a later date. However, failure to file will lessen the amount of information available to the Department of State as a basis for pursuing a satisfactory claims settlement agreement, and thus could reduce the amount of any recovery available to pay claims.

Approval has been obtained from the Office of Management and Budget for the collection of this information. Approval No. 1105-0049, expiration date January 31, 1993.

Stanley J. Glod,

Chairman.

[FR Doc. 92-2429 Filed 1-31-92; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Advisory Council on Unemployment Compensation; Establishment

In accordance with the provisions of the Federal Advisory Committee Act and section 908 of the Social Security Act, as amended by the Emergency

Unemployment Compensation Act of 1991, the Secretary of Labor has established the Advisory Council on Unemployment Compensation (hereinafter called the Council).

The Council will advise the President and Congress on the effectiveness of the unemployment compensation program and shall conduct a study to evaluate the unemployment compensation program, including the purpose, goals, countercyclical effectiveness, coverage, benefit adequacy, trust fund solvency, funding of State administrative costs, administrative efficiency and any other aspect of the program and make recommendations for improvement.

No later than February 1, 1994, the Council shall prepare and submit a written report to the President and to the appropriate committees of Congress. This report will contain—

(1) the findings and recommendations of the Council as a result of its evaluation of the unemployment compensation program under section 908 of the Social Security Act; and

(2) the findings and recommendations with respect to determining eligibility for extended unemployment benefits on the basis of unemployment statistics for regions, States, or subdivisions of States.

The Council is established for four years.

The Unemployment Insurance Service of the Employment Training Administration of the Department of Labor will provide the Council with the appropriate administrative assistance.

Interested persons are invited to submit comments regarding the establishment of the Advisory Council on Unemployment Compensation. Such comments should be addressed to: Esther R. Johnson, Department of Labor, Employment and Training Administration, Unemployment Insurance Service, 200 Constitution Ave. NW., Washington, DC 20010; Telephone (202) 523–7831.

Signed at Washington, DC this 24th day of January, 1992.

Lynn Martin,

Secretary of Labor.

[FR Doc. 92–2512 Filed 1–31–92; 8:45 am]

BILLING CODE 4510–30–M

Employment and Training Administration

Job Training Partnership Act: Youth Opportunity Unlimited (YOU) Demonstration Projects

AGENCY: Employment and Training Administration, DOL.

ACTION: Notice of availability of funds and of Solicitation for Grant Applications (SGA).

SUMMARY: The Employment and Training Administration, U.S. Department of Labor, announces the intent to award grants on a competitive basis to conduct demonstration projects aimed at high-risk youth growing up in poverty inner-city neighborhoods and rural areas. The purpose of these grants will be to marshall public and private resources to improve lives of youth in these areas. These projects will emphasize the notion of community with resources concentrated into high-poverty inner-city neighborhoods and rural areas; provide for a fairly structured array of job training interventions; and requires a number of complimentary initiatives involving schools, the private sector and various local government and community agencies. Target neighborhoods for inner-city projects must have a poverty rate of a least 30 percent and rural areas must have poverty rate of at least 20 percent. Applications for urban grants must be submitted by the service delivery area(s) that operate programs under the Job Training Partnership Act (JTPA); and applications for rural grants must be submitted by State JTPA offices.

DATES: The applications will be available February 18, 1992. The requests must be made in writing to the address below. Telephone and telefacsimile (FAX) will not be honored. The request must cite SGA/DAA 92–002 and must include two (2) self-addressed labels. Requests will be honored on a first come, first served basis until the supply of 300 is exhausted. The closing date for receipt of proposals will be April 3, 1992, 2 p.m. Eastern time. Any applications not meeting the designated place, date, and time of delivery will not be considered.

ADDRESSES: Mail your request to obtain Solicitation for Grant Application (SGA) to: U.S. Department of Labor, Employment and Training Administration, Office of Grants and Contract Management, Division of Acquisition and Assistance, 200 Constitution Avenue, NW., room C–4305, Washington, DC 20210, Attention: Brenda Banks, Reference CSA/DAA 92–002.

FOR FURTHER INFORMATION CONTACT: Brenda Banks, Telephone: (202) 535–8702 (This is not a Toll Free Number).

SUPPLEMENTARY INFORMATION: The Employment and Training Administration, U.S. Department of Labor, will award approximately four (4) grants at $500,000 each for the first year of operations. Pending availability of funds, effective program operation and the needs of the Department, second-year support also will be provided. The period of performance will be one (1) year from date of execution by the Government.

Signed at Washington, DC on January 27, 1992.

Robert D. Parker,

ETA Grant Officer.

[FR Doc. 92–2510 Filed 1–31–92; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Endownment for the Arts.

ACTION: Notice.

SUMMARY: The National Endowment for the Arts (NEA) has sent to the Office of Management and Budget (OMB) a request for expedited clearance, by February 28, 1992, the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Comments on this information collection must be submitted by February 26, 1992.

ADDRESSES: Send comments to Mr. Dan Chenok, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., room 3002, Washington, DC 20503; (202–395–7316). In addition, copies of such comments may be sent to Ms. Judith E. O'Brien, National Endowment for the Arts, Administrative Services Division, room 203, 1100 Pennsylvania Avenue, NW., Washington, DC 20506; (202–682–5401).

FOR FURTHER INFORMATION CONTACT: Ms. Judith E. O'Brien, National Endowment for the Arts, Administrative Services Division, room 203, 1100 Pennsylvania Avenue, NW., Washington, DC 20506; (202–682–5401).

SUPPLEMENTARY INFORMATION: The Endowment requests the review of a revision of a currently approved collection of information. This entry is issued by the Endowment and contains the following information:

(1) The title of the form; (2) how often the required information must be reported; (3) who will be required or asked to report; (4) what the form will be used for; (5) an estimate of the number of responses; (6) the average

burden hours per response; (7) an estimate of the total number of hours needed to prepare the form. This entry is not subject to 44 U.S.C. 3504(h).

Title: FY 93 Opera-Musical Theater Application Guidelines.

Frequency of Collection: One time.

Respondents: State or local governments; Non-profit institutions.

Use: Guideline instructions and applications elicit relevant information from non-profit organizations and state or local arts agencies that apply for funding under specific Opera-Musical theater categories. This information is necessary for the accurate, fair and thorough consideration of competing proposal in the peer review process.

Estimated Number of Respondents: 325.

Average Burden Hours per Response: 26.03.

Total Estimated Burden: 8,459.

Judith E. O'Brien,

Management Analyst, Administrative Services Division, National Endowment for the Arts.

[FR Doc. 92-2420 Filed 1-31-92; 8:45 am]

BILLING CODE 7537-01-M

National Endowment for the Arts

International Exhibitions Federal Advisory Committee

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Federal Advisory Committee on International Exhibitions to the National Council on the Arts will be held on February 20, 1992 from 9:30 a.m.-5 p.m. in room M-07 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

Portions of this meeting will be open to the public from 9:30 a.m.-10:30 a.m. and 3:30 p.m-5 p.m. The topics will be welcoming remarks, updates and policy discussion.

The remaining portion of this meeting from 10:30 a.m.-3:30 p.m. is for the purpose of reviewing proposals for support under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, this session will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 92-2474 Filed 1-31-92; 8:45 am]

BILLING CODE 7537-01-M

Music Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Professional Training Section) to the National Council on the Arts will be held on February 19, 1992 from 9 a.m.-5:30 p.m. and February 20 from 9 a.m.-5 p.m. in room 730 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on February 20 from 4 p.m.-5 p.m. The topics will be policy discussion and guidelines review.

The remaining portions of this meeting on February 19 from 9 a.m.-5:30 p.m. and February 20 from 9 a.m.-4 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: January 28, 1992.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 92-455 Filed 1-31-92; 8:45 am]

BILLING CODE 7537-01-M

Museum Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Museum Advisory Panel (Special Exhibitions B Section) to the National Council on the Arts will be held on February 24-28, 1992 from 9:15 a.m.-5:30 p.m. in room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on February 24 from 9:15 a.m.-10 a.m. The topics will be opening remarks and general discussion.

The remaining portions of this meeting on February 24 from 10 a.m.-5:30 p.m. and February 25-28 from 9:15 a.m.-5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: January 27, 1992.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 92–2473 Filed 1–31–92; 8:45 am]

BILLING CODE 7537-01-M

Presenting and Commissioning Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Presenting and Commissioning (formerly Inter-Arts) Advisory Panel (Interdisciplinary Projects II Section) to the National Council on the Arts will be held on February 19–21, 1992 from 9 a.m.–7 p.m. and February 22 from 9 a.m.–5 p.m., in room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on February 22 from 2 p.m.–5 p.m. The topics will be guidelines review and policy discussion.

The remaining portions of this meeting on February 19–21 from 9 a.m.–7 p.m. and February 22 from 9 a.m.–2 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 21, 1991, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of § 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: January 27, 1992.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 92–2475 Filed 1–31–92; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste; Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold its 40th meeting on Thursday, February 20 and 21, 1992, 8:30 a.m.-5:00 p.m., room P–110, 7920 Norfolk Avenue, Bethesda, MD. The entire meeting will be open to public attendance. Notice of this meeting was previously published in the **Federal Register** Thursday, January 23, 1992 (57 FR 2793).

The agenda for the subject meeting shall be as follows:

A. Continue work on a systems analysis approach to review the overall high-level waste program.

B. Report on EPRI follow-on meeting concerning the EPA's High-Level Waste Standards.

C. Hear a presentation on the latest draft of EPA's high-level waste standards.

D. Report on recent attendances at the Low-Level Waste Forum Winter Meeting in San Diego, CA.

E. Hear a presentation on international safety principles for radioactive waste.

F. Discuss anticipated and proposed Committee activities, future meeting agenda, administrative, and organizational matters, as appropriate. Also, discuss matters and specific issues that were not completed during previous meetings as time and availability of information permit.

Procedures for the conduct of and participation in ACNW meetings were published in the **Federal Register** on June 6, 1988 (53 FR 20699). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and staff. The office of the ACRS is providing staff support for the ACNW. Persons desiring to make oral statements should notify the Executive Director of the office of the ACRS as far in advance as practical so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the Executive Director of the office of the ACRS, Mr. Raymond F. Fraley (telephone 301/492–4516), prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director or call the recording (301/492–4600) for the current schedule if such rescheduling would result in major inconvenience.

Date January 28, 1992.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 92–2491 Filed 1–31–92; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Mechanical Components; Meeting

The Subcommittee on Mechanical Components will hold a meeting on February 19, 1992, room P–110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, February 19, 1992—8:30 a.m. until the conclusion of business.

The Subcommittee will discuss the status of the motor-operated valve (MOV) and the check valve operability programs and other related matters.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the ACRS Staff Engineer, Mr. Elpidio G. Igne, (telephone 301/492–8192) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: January 27, 1992.

Gary R. Quittschreiber,

Chief, Nuclear Reactors Branch.

[FR Doc. 92–2493 Filed 1–31–92; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-334]

Duquesne Light Co., Ohio Edison Co., Pennsylvania Power Co., and Beaver Valley Power Station, Unit No. 1; Withdrawal of Application for Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) has granted the request of Duquesne Light Company (the licensee) to withdraw its September 4, 1990, application for proposed amendment to Facility Operating License No. DPR–66 for the Beaver Valley Power Station, Unit No. 1.

The proposed amendment would have revised the Appendix A Technical Specifications by changing the required number of operable incore-detector thimbles. Specifically, the change would have reduced the required number of operable incore-detector thimbles to 50% from 75%, and modified the Surveillance Requirements to provide for increased uncertainty allowances to account for the reduced minimum operability requirement.

The Commission has previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on January 10, 1991 (56 FR 1033). However, by letter dated December 23, 1991, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated September 4, 1990, and the licensee's letter dated December 23, 1991, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Dated at Rockville, Maryland this 24th day of January 1992.

For the Nuclear Regulatory Commission.

Albert W. De Agazio, Sr.,

Project Manager, Project Directorate I–4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 92–2492 Filed 1–31–92; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 30–31570–EA; ASLBP No. 92–657–02–EA; (Materials License No. 35–27026–01)]

Patrick K. C. Chun, M.D.; Notice of Hearing and Related Matters

January 27, 1992.

Before Administrative Judges: Morton B. Margulies, Chairman, Thomas D. Murphy, and Harry Rein.

Notice is hereby given that at the request of licensee Patrick K. C. Chun, M.D., a hearing will be conducted in the captioned proceeding in accordance with the provisions of subparts B and G of part 2 (Rules of Practice For Domestic Licensing Proceedings) of title 10 of the Code of Federal Regulations. (10 CFR part 2, subparts B and G). The time and place of hearing will be set by further notice.

On November 12, 1991, the Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support (Deputy Executive Director) issued an order titled "Patrick K. C. Chun, M.D.; Order Prohibiting Involvement in Certain NRC Licenced Activities (Effective Immediately)." 56 FR 58, 716–17.

The order alleges that Dr. Chun, in requesting an amendment to NRC License No. 13–23664–01, willfully misrepresented his association with the Tulsa Heart Center. It further alleges that as a result 10 CFR 30.9, which requires completeness and accuracy of information in applications, was violated. The Deputy Executive Director consequently found that he lacked the requisite reasonable assurance that Dr. Chun would conduct NRC-licensed activities in compliance with the Commission's requirements, and that the health and safety of the public would be protected. He then determined, among other things, that Dr. Chun is prohibited for one year from the date of the order from holding an NRC license or being named on an NRC license in any capacity. For a period of two years Dr. Chun was ordered to provide notice to the NRC of specified activities. Relying on 10 CFR 2.202 the order was made effective immediately. The order further provided that if Dr. Chun requested a hearing "the issue to be considered at such hearing shall be whether this Order should be sustained."

The order of November 12, 1991 was modified by a corrective order of November 27, 1991 to cure an inconsistency in the language in the ordering paragraphs IV. A and B. 56 FR 63, 985–86.

Dr. Chun has exercised his right to a hearing and as a result this formal adjudicatory proceeding was initiated. Before commencing the hearing, the Board requests that the parties confer and consider steps that will expedite the proceeding and reduce its costs. The matters to be considered should include the defining and simplifying of issues, the identifying of witnesses, the establishment of a schedule for further actions in the proceeding, including discovery, if any, and any other matters that may aid in the orderly disposition of the proceeding.

Dr. Chun should be aware that he has a right to be represented by counsel in all phases of the proceeding.

The parties should also consider settlement, a process encouraged by the Commission. Settlement can provide an expeditious and cost effective way of resolving the dispute.

The parties shall, by letter, report back to the Board no later than February 12, 1991, the results of their discussions. Future scheduling will depend on the achievements of the parties.

The NRC Staff is requested to serve copies of the documents underlying its charge against Dr. Chun as soon as practicable.

It is so ordered.

Bethesda, Maryland January 27, 1992.

For the Atomic Safety and Licensing Board.

Morton B. Margulies,

Chairman, Administrative Law Judge.

[FR Doc. 92–2494 Filed 1–31–92; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and budget

Agency Clearance Officer—Kenneth Fogash (202) 272–2142.

Upon written request copy available from: Securities and Exchange Commission, Office of Filings, Information and Consumer Services, Washington, DC 20549.

New

Rule 17AD–16; File No. 270–363

Notice is hereby given pursuant to the Paper work Reduction Act of 1980 (44 U.S.C. 3501 *et seq*), that the Securities and Exchange Commission has submitted for clearance proposed Rule 17Ad–16, which would require a registered transfer agent to provide written notice to a qualified registered securities depository when assuming or terminating transfer agent services on behalf of an issuer or when changing its name or address. Four hundred fifty transfer agents will incur an estimated average burden of thirty minutes to comply with the Rule.

The estimated average burden hours are made solely for purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even a representative survey or study of the costs of SEC rules and forms.

Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with SEC rules and forms to Kenneth A. Fogash, Deputy Executive Director, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549 and Gary Waxman, Clearance Officer, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: January 14, 1992.

[FR Doc. 92–2427 Filed 1–31–92; 8:45 am]

BILLING CODE 8010–01–M

Forms Under Review of Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash (202) 272–2142.

Upon written request copy available from: Securities and Exchange Commission, Office of Filings, Information and Consumer Services, Washington, DC 20594.

Extension

Form S–8, File No. 270–63

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for OMB approval a request for extension of clearance of Form S–8, used to register securities issued pursuant to employee benefit plans under the Securities Act of 1933.

It is estimated that approximately 2,854 Form S–8 registration statements are filed at an estimated average of 49 burden hours per form. The estimated average burden hours are made solely for purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even a representative survey or study of the costs of SEC rules and forms.

Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with SEC rules and forms to Kenneth A. Fogash, Deputy Executive Director, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549 and Gary Waxman, Clearance Officer, Office of Management and Budget (Paperwork Reduction Project 3235–0066), New Executive Office Building, room 3208, Washington, DC. 20503.

Dated: January 13, 1992.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–2428 Filed 1–31–92; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–30290; File No. SR-Amex-91–27]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to the Listing of Options on the S&P MidCap 400 Index

January 27, 1992.

I. Introduction

On October 10, 1991, the American Stock Exchange, Inc. ("Amex" or "Exchange"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and rule 19b-4 thereunder,[2] filed with the Securities and Exchange Commission ("Commission") a proposal to trade European-style [3] options on the Standard & Poor's ("S&P") Midcap 400 Index ("MidCap 400" and "Index"). This order approves the Amex's proposal.

The proposed rule change was noticed for comment in Securities Exchange Act Release No. 29855 (October 24, 1991), 56 FR 56252. An amendment to the proposed rule change was noticed for comment in Securities Exchange Act Release No. 30095 (December 18, 1991), 56 FR 67108.[4] No comments were received on the proposed rule change for the amendment.

II. Description of the Proposal

A. General

The Amex proposes to trade options on the MedCap 400, an index [5] composed of 400 domestic stocks from four broad-market sectors: Industrials, utilities, financials and transportation. Stocks from 61 separate industry groups are represented within the broad-market sectors.[6] The MedCap 400 is designed to track the performance of domestic stocks that fall in the middle-capitalization range of securities.

B. Composition of the Index

Currently, 246 companies in the Index are listed on the New York Stock Exchange ("NYSE"), 141 on the National Association of Securities Dealers ("NASD"), Automated Quotation System ("NASDAQ"), and 13 on the Amex. All NASDAQ stocks in the Index are designated as national market system securities by the NASD, meaning, among other things, that real-time last sale reports are available for these stocks. No one stock comprises more than 1.53% of the Index's total value (as of November 29, 1991) and the percentage weighting of the 50 largest in the Index accounts for only 34.51% of the Index's value.[7]

The market capitalization of the stocks in the Index ranges from a high of $5.64 billion to a low of $135.2 million, with the mean and median being $1.01 billion and $701.1 million, respectively.[8]

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1989).

[3] A European-style option only can be exercised during a limited period before the option expires.

[4] The Amex's amendment to the filing: (1) Modified the expiration cycle for the Index options. (2) provided for 2½ point strike price intervals for near-the-money series in near-term expiration months; (3) stated that the Index options would be settled based on the opening prices of component stocks; and (4) provided for the automatic execution of public customer Index options orders of up to 100 contracts in size.

[5] The calculation of a market-weighted index involves taking the summation of the product of the price of each stock in the index and the shares outstanding for each issue. In contrast, a price-weighted index involves taking the summation of the prices of the stocks in the index.

[6] Among others, the industry groups represented in the Index include: Aerospace/defense, oil and gas, restaurants, pharmaceuticals, waste management, railroads, shipping, electric utilities, insurance and specialty retailers. *See* Exhibit A to letter from Ellen T. Kander, Special Counsel, Options Division, Amex, to Howard L. Kramer, Assistant Director, Commission, dated January 2, 1992 ("Amex Letter").

[7] Exhibit E to Amex Letter, *supra* note 6.

[8] *Id.* at 2.

The total number of shares outstanding for the stocks in the Index ranges from a high of 253.3 million shares to a low of 5.14 million shares.[9] The price per share of the stocks in the Index ranges from a high of $212.51 to a low of $3.74.[10] Finally, the trading volume of the stocks in the Index ranges from a high of 1,601,349 average shares per day to a low of 5,997 average shares per day, with the median and mean being 133,318 and 79,663, respectively.[11]

C. Calculation of the Index and Contract Specifications

The MidCap 400 is calculated continuously,[12] using the last sale price for each component stock in the Index, and is disseminated every 15 seconds throughout the trading day.[13] To calculate the Index, the sum of the market value of the stocks in the Index is divided by the base period market value (divisor), and the result is multiplied by 100. In order to provide continuity for the Index's value, the divisor is adjusted periodically to reflect such events as changes in the number of common shares outstanding for component stocks, company additions or deletions, corporate restructurings and other capitalization changes.

The Amex proposes to use strike price intervals of 2½ points for certain near-the-money series in near-term expiration months when the Index is at a level below 200,5-point strike price intervals for other options series with expirations up to one year, and 25 to 50 point-strike price intervals for longer-term options. The Amex also proposes to list MidCap 400 options in the four consecutive near-term expiration months plus five additional further-term expiration months in the March cycle. For example, consecutive expirations of January, February, March and April plus the following June, September, December, March and June expirations would be listed.

In addition, the Exchange proposes that the Index value for purposes of settling MidCap 400 options ("Settlement Value") be calculated on the basis of opening market prices on the business day prior to the expiration date of such options ("Settlement Day").[14] Under the proposal, Settlement Day will normally be the Friday preceding "Expiration Saturday." [15] In the event that a component security in the Index does not trade on Settlement Day, the closing price from the previous trading day will be used to calculate the Settlement Value. Accordingly, trading in MidCap 400 options will normally cease on the Thursday preceding an Expiration Saturday.

D. Maintenance of the Index

In order to ensure that the MidCap 400 contains a representative sample of the stocks that represent the performance of the middle-capitalization segment of the market, S&P selects component securities based on the following market and economic criteria.[16] First, the company's market value must be between $300 million and $5 billion.[17] Second, the company's liquidity ratio must be 0.20 or higher.[18] Third, corporate insiders must not hold stock representing more than 60% of the value of the company and the company cannot have 50% or more of its stock held by other corporations.[19]

In addition, S&P considers industry group representation in selecting stocks for the MidCap 400. Moreover, in order to avoid "overweighting" of utility and financial stocks, electric utilities and regional bank stocks are selected on the basis of their geographic representation as well as the above criteria.[20] Finally, any stocks already in the S&P 500 Stock Index are excluded from the MidCap 400.

E. Position and Exercise Limits, Margin Requirements, Trading Halts and Other Applicable Exchange Rules

Consistent with classifying the MidCap 400 as broad-based, the proposal provides that Exchange rules that are applicable to the trading of options on broad-based indexes will apply to the trading of options on the Index.[21] Specifically, among others, Exchange rules governing margin requirements[22] and trading halt procedures[23] that are applicable to the trading of broad-based index options will apply to options traded on the Index. In addition, the Amex's proposal establishes a position limit of 25,000 contracts on the same side of the market, with no more than 15,000 of such contracts in series with the nearest expiration. Finally, the Exchange proposes to allow public customer orders in MidCap 400 options of up to 100 contracts in size to receive automatic execution through the Amex's automatic execution facility, termed Auto-Ex.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5).[24] The Commission finds that the trading of options on the Index will permit investors to participate in the price movements of the 400 securities on which the Index is based. The Commission also believes that the trading of options on the Index will allow investors holding positions in some or all of the underlying securities in the Index to hedge the risks

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[9] Exhibit A to Amex Letter, *supra* note 6.

[10] *Id.*

[11] *Id.*

[12] The MidCap 400 is calculated for S&P by Automated Data Processing ("ADP"), a subsidiary of S&P. Bridge Data also calculates the MidCap 400 and its calculation is used in the event that the ADP calculation of the Index value is unavailable.

[13] The Index is published daily in, among other places, The wall Street Journal and the The New York Times and is available during trading hours from quotation vendors such as ADP and Bridge Data. The Index formula is available in the S&P 500 Stock Index Directory.

[14] The aggregate exercise value of the option contract is calculated by multiplying the Index value by the Index multiplier, which is 100.

[15] For any given expiration month, the Index Options will expire on the third Saturday of the month.

[16] S&P makes four major weighting adjustments during the year, usually near the end of a calendar quarter, and monitors each MidCap 400 component stock on a daily basis for individual weighting adjustments and for corporate actions which may have an impact on the Index.

[17] *See* Special Report on the S&P MidCap 400 Index, enclosed with letter from Ellen T. Kander, Special Counsel, Options Division, Amex, to Howard L. Kramer, Assistant Director, Commission, dated January 7, 1992, at 7.

[18] The liquidity ration is determined by dividing a company's trading volume for the previous 12 months by the average number of total common shares outstanding. For example, if a company's average monthly trading volume over the previous 12 months was 500,000, and there were 12 million shares outstanding, then the company's liquidity ratio would be 0.50. *Id.* at 6.

[19] S&P, in making the determination as to whether a company has 50% or more of its stock held by other corporations, includes in its determination investment companies with greater than 5% ownership, but does not include broker-dealers holding shares in "street name." *Id.* at 8–9.

[20] In addition, some potential companies are eliminated from inclusion in the MidCap 400 for various reasons. For example, investment companies, such as closed-end mutual funds, are not included in the Index because their equity performance reflects the performance of a portfolio of securities rather than industry or company specific fundamentals. In addition, foreign companies are not included in the Index, except for some Canadian industrial companies which conduct a significant proportion of their business within the U.S. market and for which the majority of trading activity occurs on U.S. exchanges. Moreover, S&P excludes real estate investment companies and other investment trusts that allow investors to participate indirectly in the performance of real assets such as commercial or residential property. Finally, S&P excludes limited partnerships because their ownership and capitalization structure exposes investors to liabilities and tax treatment not found in corporate equity securities. *Id.* at 5–8.

[21] *See* Amex Rules 900C–980C.

[22] *See* Amex Rule 462.

[23] *See* Amex Rule 918C.

[24] 15 U.S.C. 78f(b)(5) (1988).

associated with their portfolios more efficiently and effectively. Accordingly, the Commission believes MidCap 400 options will provide investors with an important trading and hedging mechanism that should reflect accurately the overall movement of stocks in the middle-capitalization range of U.S. equity securities, a segment of the U.S. market that previously has not been the subject of standardized options trading. By broadening the hedging and investment opportunities of investors, the Commission believes that MidCap 400 options will serve to promote the public interest, protect investors, and contribute to the maintenance of fair and orderly markets.

The trading of MidCap 400 options, however, raises several issues, namely, issues related to index classification, index design, surveillance and market impact. The Commission believes, for the reasons discussed below, that the Amex has adequately addressed these issues.

A. Broad-Based Index

The Commission finds that classifying the Index as broad-based, and, thus, permitting Exchange rules applicable to the trading of broad-based index options to apply to MidCap 400 options is appropriate. Specifically, the Commission believes it is consistent with the Act to designate the Index as broad-based because the MidCap 400 reflects a substantial segment of the U.S. equities market, in general, and mid-level capitalized U.S. securities, in particular. The Index consists of 400 of the most actively traded middle-capitalized securities in the United States.[25] In addition, as of December 5, 1991, the total capitalization of the Index was approximately $378 billion. The MidCap 400 also includes stocks of companies from 61 different industry groups, no one of which dominates the Index.[26] Moreover, the Index represents a broad cross-section of domestic mid-level capitalized stocks, with no single stock comprising more than 1.53% of the Index's total value (as of November 29, 1991).[27] The percentage weighting of the fifty largest issues in the Index also accounts for only 34.51% of the Index's value. Finally, 236 (59%) of the 400 stocks includes in the Index, representing 68.1% of the capitalization of the Index currently, are the subject of standardized options trading, and many of the other Index component stocks are eligible for options trading.

B. Index Design and Structure

The broad diversification, large capitalization, and liquid markets of the Index's component stocks significantly minimizes the potential for manipulation of the Index. First, as discussed above, the Index represents a broad cross-section of the domestic mid-level capitalized stocks, with no single industry group or stock dominating the Index. Second, the overwhelming majority of the stocks that comprise the Index are actively traded, with a mean and median average daily trading volume of 133,318 and 79,663 shares, respectively.[28] Third, S&P has developed procedures and criteria designed to ensure that the Index maintains its broad representative sample of stocks in the middle-capitalization range of securities.[29] Accordingly, the Commission believes it is unlikely that attempted manipulations of the prices of a small number of issues would affect significantly the Index's value.

C. Surveillance

The Commission believes that a surveillance sharing agreement between an exchange proposing to list a stock index derivative product and the exchanges trading the stocks underlying the derivative product is an important measure for surveillance of the derivative and underlying securities markets. Such agreements ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the stock index product less readily susceptible to manipulation. In this regard, the Amex, NASD and the NYSE, along with other U.S. securities exchanges, are members of the Intermarket Surveillance Group ("ISG"), which provides for the exchange of all necessary surveillance information.[30]

D. Market Impact

The Commission believes that the listing and trading of MidCap 400 options on the Exchange will not adversely impact the underlying securities markets. First, as described below, the Index is broad-based and no one stock or industry group dominates the Index. Second, as noted above, the stocks contained in the Index have large capitalizations and are actively traded. Third, existing Amex stock index options rules and surveillance procedures will apply to MidCap 400 options. Fourth, the Exchange has established reasonable position and exercise limits for the MidCap 400 options that will serve to minimize potential manipulation and market impact concerns. Fifth, the risk to investors of contra-party non-performance will be minimized because the Index options will be issued and guaranteed by the Options Clearing Corporation just like other standardized options traded in the United States.

Finally, the Commission believes that the Amex's other proposed rule changes to accommodate the trading of MidCap 400 options are consistent with the Act. First, the Commission believes it is reasonable for the Amex to use 2½-point strike price intervals for near-the-money series in near-term months when the Index is below 200. This will enable investors to more finely tailor their options positions to achieve their investment objectives and, as Amex represented, will not result in capacity problems for the Options Price Reporting Authority ("OPRA") or options information vendors.[31] Second, the Commission believes that an Auto-Ex order size limit of 100 contracts for MidCap 400 options is reasonable because it will result in the efficient and timely execution of customer orders. Based on representations from the Amex, the Commission also believes that the Exchange will have sufficient processing capacity to accommodate the anticipated order flow through Auto-Ex resulting from this order size limit.[32] Third, the Commission believes the Amex's proposed expiration cycle for the MidCap 400 options is reasonable because it provides investors sufficient flexibility to establish their desired options positions.

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[25] Specifically, the mean and median capitalization for the 400 companies, as of December 30, 1991, was $1,014,594,000 and $701,119,000, respectively. Amex Letter, *supra* note 6, at 3.

[26] Specifically, as of November 29, 1991, the percentage weighting of MidCap stocks in the 10 largest industry groups was as follows: (1) Electric utilities, 13.57%; (2) banks, 8.98%; (3) health care services, 4.60%; (4) chemical and materials, 4.54%; (5) medical products and supplies, 4.14%; (6) foods and beverages, 4.02%; (7) specialty retailers, 3.60%; (8) computer hardware, 2.88%; (9) manufacturing, special services, 2.62%; and (10) computer software, 2.60%.

[27] Specifically, as of November 29, 1991, the percentage weighting of the 10 largest component stocks in the Index was 10.56%.

[28] For the six-month period ending November 1991, 346 of the 400 (86%) companies within the Index had an average daily trading volume greater than 30,000 shares per day. Those companies represent 91.25% of the market capitalization of the Index. The average daily trading volume of the 20 most heavily traded companies in the Index, representing 7.74% of the market capitalization of the Index, was 696,295 shares per day. Exhibit B to Amex Letter, *supra* note 6.

[29] *See supra* notes 10–20 and accompanying text.

[30] ISG was formed on July 14, 1983, among other things, to coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. *See* Intermarket Surveillance Group Agreement, July 14, 1983. The participation of exchanges within the ISG and their sharing of surveillance information is governed by an ISG agreement. The most recent amendment to the ISG agreement, which incorporates the original agreement and all amendments made thereafter, was signed by members January 29, 1990. *See* Second Amendment to Intermarket Surveillance Group Agreement, January 29, 1990.

[31] *See* letter from Charles H. Faurot, Assistant Vice President, Market Data Services, Amex, to Alden Adkins, Chief, Office of Automation and International Markets, Division of Market Regulation, Commission, dated January 16, 1992. Specifically, Amex represents that both the projected increase in: (1) The size of vendors' data bases to handle the additional options resulting from MidCap 400 options trading, and (2) the volume of information through OPRA as a result of the Index options will be minimal.

It Is Therefore Ordered, Pursuant to section 19(b)(2) of the Act [33] that the proposed rule change (File No. SR-Amex-91-27) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[34]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-2430 Filed 1-31-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30291; File No. SR-GSCC-92-01]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to the Netting of Zero Coupon Government Securities

January 27, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 21, 1992, the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would allow GSCC to continue to include in its netting system book-entry zero coupon Government securities.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, GSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements maybe examined at the places specified in Item IV below. GSCC has prepared summaries, set forth in section (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) On January 31, 1991, the Commission approved on a temporary basis, until April 30, 1992, a proposed rule change (File No. SR-GSCC-90-06) to expand GSCC's netting service to include zero-coupon Government securities ("zeros").[1] GSCC now requests that the Commission make such authority permanent.

In its approval order of January 31, 1991 ("approval order"), the Commission stated that it was approving the proposed rule change on a temporary basis "[i]n light of the significance of this proposal to GSCC and its clearing members, and in light of the probability that GSCC's methodology for risk analysis will be modified at a future date * * *" The Commission indicated that "[I]t believes that GSCC's method of determining the applicable margin factor [for zeros] is reasonable in light of the lack of historical data on which to base the margin assessment." The Commission noted, however, its concern about "the accuracy with which GSCC's current methodology reflects the historical and implied volatility of zeros."

Since the approval order was issued, GSCC has gained almost one year's experience in the netting of zeros without incurring any problems. GSCC's margining process for zeros remains conservative and prudent, and now has the benefit of the use of GSCC's internal price volatility data base. Moreover, as described below, it has modified and improved its risk assessment systems in various respects. In view of the above, GSCC believes that its method for margining zeros is an appropriate one.

1. Use of GSCC's Internal Price Volatility Data Base to Assess the Adequacy of GSCC's Margin Factors

As GSCC noted in its original rule filing, it is not aware of any satisfactory third party source of historical price volatility data on zeros from which to establish applicable margin factors. GSCC stated in that filing that it intended to develop and maintain its own historical price volatility base for zeros, as it does for all other securities eligible for the net, commencing at the time that it started to net zeros.

GSCC now has over one year's worth of its own price volatility data for zeros; this data base is sufficient for use in assessing and monitoring the adequacy of its margin factors for zeros. GSCC hereby represents that the information contained in this data base will be considered on a periodic basis by the Membership and Standards Committee of GSCC's Board of Directors ("Board") in reviewing the sufficiency of GSCC's margin factors for zeros.

2. Continued Use of a Conservative Margining Process

GSCC, in making zeros eligible for its net, recognized that these securities require different considerations from a margining perspective than do other Treasury securities ("non-zeros") because zeros generally are subject to greater price volatility than are non-zeros with the same maturity. In view of this, GSCC established a new, separate margin factor schedule for zeros, which takes into account, based on data contained in the Treasury Department's liquid capital standards, the greater price volatility presented by zeros in general, and the greater price volatility which arises as the remaining maturity of a zero security increases.

The currently applicable margin percentages for zeros range from being the same as those for non-zeros on the short end of the maturity spectrum to two-and-a-half times that applicable to non-zeros on longest term end. GSCC's internal price volatility data for zeros indicate that these percentages for zeros are prudent and conservative, particularly on the long end of the maturity spectrum, where the greatest exposure exists for GSCC.

3. Strengthening of GSCC's Margining Process Generally

Since the approval order was issued, GSCC has filed a proposed rule change (File No. SR-GSCC-91-04) to implement a number of changes to its margining

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[32] *See* letter from Omar F. Soykan, Director, Technical Planning, Information Technology Division, Amex, to Victoria Berberi-Doumar, Attorney, Office of Automation and International Markets, Division of Market Regulation, Commission, dated January 24, 1992.

[33] 15 U.S.C. 78s(b)(2) (1988).

[34] 17 U.S.C. 200.30-3(a)(12) (1990).

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[1] Securities exchange Act Release No. 28842 (January 31, 1991), 56 FR 5032.

and funds collection processes that will further strengthen that process. Certain of these changes will particularly complement GSCC's process for mitigating the risk arising from guaranteeing net settlement positions in zeros, and serve to ensure that this risk is minimal.

In sum, in view of GSCC's positive experience in the netting of zeros, the conservative nature of its margining process for zeros, its ability now to use internal price volatility data to assess the adequacy of its margin factors for zeros, and the general strengthening of GSCC's margining process, GSCC believes that its method for margining zeros is an appropriate one and that its authority to net zeros should be made permanent.

(b) The proposed rules change will help further GSCC's ability to ensure orderly settlement in the Government securities marketplace, by expanding the scope of Government securities eligible for its netting system. Thus it is consistent with Section 17A of the Act and the rules and regulations thereunder.

B. Self-Regulatory Organization's Statement on Burden on Competition

CSCC does not believe that the proposed rule change will have an impact on, or impose a burden on, competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments on the proposed rule change have not yet been solicited or received. Members will be notified of the proposed rule change, and comments will be solicited, by an Important Notice. GS will notify the Commission of any written comments received by GSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to such period that the self-regulatory consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principle office of GSCC. All submissions should refer to file number SR–GSCC–92–01 and should be submitted by February 24, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–2431 Filed 1–31–92; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–30292; File No. PTC–92–01]

Self-Regulatory Organizations; The Participants Trust Company; Notice of Filing of a Proposed Rule Change Relating to a Modification of its Rebate Policy

January 27, 1992.

Pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b), notice is hereby given that on January 10, 1992, Participants Trust Company ("PTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by PTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change.

The proposed rule change consists of modifications to PTC's rebate policy relating to excess earnings from principle and interest payments.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, PTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. PTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to modify PTC's policy with respect to the rebate of revenues to its Participants, as modified by PTC's Board of Directors on November 26, 1991, as hereafter described, and to file with the Commission a required policy statement on invested principal and interest payments received but not yet disbursed ("P&I").

The Commission, in its approval order of June 14, 1991, for the elimination by PTC of proration charges for the cost of financing P&I advances,[1] required that PTC's Board of Directors adopt a policy statement by December, 1991 "addressing the use of excess earnings from invested P&I receipts." Such a policy statement was adopted by PTC's Board of Directors on November 26, 1991 and was incorporated with the proposed revised policy on rebates. Accordingly, the policy statement on rebates is being filed for two reasons: To respond to the Commission's requirement for a Board Policy statement on invested P&I, and to obtain approval for a modification of the existing rebate policy as hereafter described.

In October 1990, PTC's Board of Directors adopted a specific policy on rebates which codified the goals of PTC's formation in 1989 as set forth in PTC's Offering Statement. The policy states that PTC may distribute revenues received from participants based on: earnings in event of such rebate, projected financial needs of PTC and the desirability of paying dividends. Under the current rebate policy, the source of the rebate is all sources of revenue, which includes income from invested P&I. The rebate of each participant, however, is calculated on the basis of a participant's pro rata share of total service fees. Under the proposed policy, each participant's rebate will be calculated on the basis of both its pro rata share of service fees and its pro rata share of income from invested P&I.

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[1] Securities Exchange Act Release No. 29311 (June 14, 1991), 56 FR 28763.

PTC intends to announce a distribution based on the new policy to all participants which were such as of December 31, 1991. At the current time, PTC anticipates that the total amount to be distributed will be approximately $15 million.

Since the proposed rule change provides for the equitable allocation of dues, fees, or other charges, PTC believes that the proposed rule change is consistent with the section 17A of Act.

(B) Self-Regulatory Organization's Statement on Burden on Competition

PTC does not believe that the proposed rule change will have an impact on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

PTC has not solicited, and does not intend to solicit, comments on the proposed rule change. PTC has not received any unsolicited written comments from participants or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, at the address above. Copies of such filing will also be available for inspection and copying at the principal office of PTC. All submissions should refer to file number SR-PTC-92-01 and should be submitted by February 24, 1992.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-2432 Filed 1-31-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC—18507; 812-7701]

The Galaxy Fund, et al.; Notice of Application

January 30, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: The Galaxy Fund (the "Trust"), SMA Equities, Inc. ("SMA"), and TBC Funds Distributor, Inc. ("TBC").

RELEVANT 1940 ACT SECTIONS: Exemption requested under section 6(c) from sections 18(f), 18(g) and 18(i).

SUMMARY OF APPLICATION: Applicants seek an order permitting existing and future portfolios of the Trust and other investment companies for which TBC acts or will act in the future as principal underwriter (together with the Trust, the "Companies") to offer three classes of shares in the same portfolio, which classes will be identical except for the allocation of certain expenses attributable to a shareholder services plan or a 12b-1 plan, voting rights, exchange privileges, class designation, and sales charges and transfer agency expenses assessed.

FILING DATE: The application was filed on March 19, 1991 and amended on September 16, 1991 and January 23, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applications with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 18, 1992, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, The Galaxy Fund, 440 Lincoln Street, Worcester, Massachusetts 01605-1959; SMA Equities, Inc., 440 Lincoln Street, Worcester, Massachusetts 01605-1959; and TBC Funds Distributor, Inc., One Boston Place, Boston, Massachusetts 02108.

FOR FURTHER INFORMATION CONTACT: Eva Marie Carney, Senior Attorney, at (202) 504-2274 or Max Berueffy, Branch Chief, at (202) 272-3016 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Trust is a Massachusetts business trust registered under the Act as an open-end management investment company. The Trust offers shares representing interests in the following investment portfolios: Money Market Fund, Government Fund, Tax-Exempt Fund, and U.S. Treasury Fund (hereinafter referred to, together with any future portfolios of the Trust and any existing and future portfolios of any other Company covered by the application declaring net investment income as a dividend to shareholders on a daily basis, as the "Daily Dividend Funds"), and Short-Term Bond Fund, Intermediate Bond Fund, High Quality Bond Fund, New York Municipal Bond Fund, Tax-Exempt Bond Fund, Small Company Equity Fund, Equity Value Fund, Equity Growth Fund, Equity Income Fund, International Equity Fund, and Asset Allocation Fund (hereinafter referred to, together with any future portfolios of the Trust and any existing and future portfolios of any other Company covered by the application declaring net investment income other than on a daily basis, as the "Non-Daily Dividend Funds"). (All Daily Dividend Funds and Non-Daily Dividend Funds are referred to collectively as "Funds.")

Shares of each Fund of the Trust are sold by SMA, the Trust's distributor and a registered broker-dealer. Fleet/Norstar Investment Advisors Inc. ("Fleet/Norstar") is the Trust's investment adviser and Wellington Management Company ("Wellington") is sub-adviser to the International Equity Fund. 440 Financial Group of Worcester, Inc. ("440 Financial") is the Trust's administrator and transfer and dividend disbursing agent. The Chase Manhattan Bank, N.A. ("Chase") is custodian for each Fund of the Trust. Prior to November 1, 1991, TBC served as the Trust's distributor.

2. Applicants wish to tailor certain shareholder and distribution services and related expenses to the investment needs of particular investors. To do so, applicants propose that each Company offer three different classes of shares of each of the Funds, denominated "Non-12b-1 Shares," "12b-1 Shares," and "Trust Shares."

3. Non-12b-1 Shares will be sold to the public through banks and other financial institutions which have entered into servicing agreements ("Shareholder Service Organizations") with a Company, pursuant to the Company's servicing plan ("Non-12b-1 Plan"), to provide necessary administrative support services to customers of Shareholder Service Organizations who are the beneficial owners of Non-12b-1 Shares. Such services may include sub-accounting, establishing and maintaining these customers accounts and records, aggregating and processing purchase and redemption orders, answering these customers routine inquiries regarding their investment in Non-12b-1 Shares, forwarding shareholder communications from the Company, and similar services. These services will not duplicate the services provided to the Funds by a Company's administrator, distributor, transfer agent, and custodian (the "Service Contractors"), which relate to the internal operations of the Funds, custody of assets, maintenance of Funds' books and records, or to the Funds' relationship with the record owners, rather than beneficial owners, of Non-12b-1 Shares, such as forwarding proxies and shareholder reports, processing purchase and redemption orders, and distributing prospectuses to record owners.

4. While a Non-12b-1 Plan will not authorize payments for activities intended to result in the sale of Non-12b-1 Shares, a Company will adopt and implement the plan for its Non-12b-1 Shares in accordance with procedures under rule 12b-1 under the Act, except that shareholders of Non-12b-1 Shares will not enjoy the voting rights specified in the rule.

5. Shareholders of Non-12b-1 shares will bear the expense of the Non-12b-1 Plan. A Fund of the Trust will pay a Shareholder Service Organization for its services under a Non-12b-1 Plan and the related servicing agreement ("Non-12b-1 Plan Payments") an amount not to exceed .60% of the average daily net asset value of the applicable Non-12b-1 Shares on an annualized basis. In the case of other Companies, the level of payments made pursuant to a Non-12b-1 Plan may vary based upon an independent determination of the Board of Directors/Trustees of the Company.

6. The 12b-1 Shares will be sold to investors purchasing directly from a Company's distributor or to clients of financial institutions which have entered into agreements with a Company ("12b-1 Organizations"), pursuant to the Company's plan of distribution ("12b-1 Plan"), to provide necessary distribution and administrative shareholder support services to their customers who directly or beneficially own 12b-1 Shares. Distribution activities financed in accordance with a 12b-1 Plan may include advertising and marketing, printing new prospectuses and sales literature, and paying broker-dealers and others for distribution assistance. A 12b-1 Plan may also provide for the furnishing of administrative support services of essentially the same nature as those furnished under a Non-12b-1 Plan. Distribution services provided under a Compnay's 12b-1 Plan will not duplicate the services provided to the Funds by the Company's distributor nor will the administrative shareholder support services provided under a 12b-1 Plan duplicate the services provided to the Funds by the Service Contractors.

7. A Company will adopt and implement a 12b-1 Plan for its 12b-1 Shares in accordance with Rule 12b-1 under the Act. Holders of 12b-1 Shares will bear the expense of the 12b-1 Plan. A Fund of the Trust will pay a Service Organization for its services provided according to the 12b-1 Plan and the related agreement ("12b-1 Plan Payments") an amount not to exceed 1.00% of the average daily net asset value of the applicable 12b-1 Shares on an annualized basis. In the case of other Companies, payments made pursuant to a 12b-1 Plan may vary based upon an independent determination by the Board of Directors/Trustees of the Company and subject to shareholder approval by the shareholders of the Company's affected class of Shares.

8. Trust Shares will be sold primarily to financial institutions and will not be subject to the additional expenses of a Non-12b-1 or 12b-1 Plan. A Company and its Service Contractors will provide no services to holders of Trust Shares that they do not provide to holders of Non-12b-1 or 12b-1 Shares.

9. In addition to expenses incurred under a Non-12b-1 or Rule 12b-1 Plan, certain transfer agency expenses, identified as attributable to a specific class of shares, may be allocated on a class rather than Fund basis.

10. Shares of a Fund may be exchanged only for shares of another Fund with the same class designation. In addition, to the extent permitted by a Fund's current prospectus, shares of a Fund may be sold with a sales load which, due to distribution methods that will differ among the classes, may be different for each class of shares.

11. Since the Non-12b-1 and 12b-1 Shares of the Non-Daily Dividend Funds will bear the expense of the applicable Non-12b-1 and 12b-1 Plan Payments (together "Plan Payments") and the cost of certain transfer agency services attributable to the respective classes, the net income of Non-12b-1 and 12b-1 Shares and the dividends payable to such Shares will be lower than the net income of and the dividends payable to the Trust Shares of the same Fund. Similarly, because of such Plan Payments, to the extent that a Non-Daily Dividend Fund has undistributed net income, the net asset value of its Non-12b-1 or 12b-1 Shares may be lower than the net asset value of its Trust Shares. Dividends paid to each class of Shares of a Non-Daily Dividend Fund will, however, be declared and paid (and the net asset value of each class will be determined) on the same days and at the same times, and, except as noted with respect to the Plan Payments and transfer agency expenses, will be determined in the same manner and paid in the same amounts.

12. With regard to the Daily Dividend Funds, the net asset value of all outstanding shares representing interests in the same Daily Dividend Fund will be computed on the same days and at the same times by adding the value of all portfolio securities and other assets belonging to such Daily Dividend Fund, subtracting the liabilities charged to such Daily Dividend Fund, and dividing the result by the number of outstanding shares. Since it is expected that each class of shares of a Daily Dividend Fund will have the same net asset value per share, the gross income will be allocated on a *pro rata* basis to each outstanding share

in the Daily Dividend Fund regardless of class, and all non-class expenses (such as advisory, administrative, and custodial fees) incurred by the Daily Dividend Fund will be borne on a *pro rata* basis by such outstanding shares, except for the Plan Payments and certain transfer agency expenses that are borne solely by the applicable Non-12b-1 or 12b-1 Shares. Therefore, the net income of (and dividends payable to) the Non-12b-1 and 12b-1 Shares will be different than the net income of (and dividends payable to) the Trust Shares in the same Daily Dividend Fund. Dividends paid to each class of shares in a Daily Dividend Fund will, however, be declared and paid on the same days and at the same time, and, except as noted with respect to the Plan Payments and certain transfer agency expenses, will be determined in the same manner and paid in the same amounts.

13. The representations in the application and the conditions imposed by any order will apply to each Company (as that term is defined herein) relying on the order.

Applicants' Legal Analysis

1. Applicants request an exemptive order pursuant to section 6(c) of the Act to the extent that the proposed implementation of the Non–12b–1 and 12b–1 Plans with respect to the Non–12b–1 and 12b–1 Shares might be deemed: (1) to result in a "senior security" within the meaning of section 18(g) and to be prohibited by section 18(f)(1) of the Act; and (2) to violate the equal voting provisions of section 18(i) of the Act. The implementation of the plans and assessment of differing transfer agency expenses may result in stock of a class with "priority over (another) class as to distribution of assets or payments of dividends" and with unequal voting rights because Non–12b–1 and 12b–1 Shares will bear the expenses noted and will enjoy exclusive voting rights, if any, with respect to matters concerning the applicable plan as described herein.

2. Applicants assert that the proposed allocation of expenses and voting rights is equitable and will not discriminate against any group of shareholders. Investors purchasing Non–12b–1 or 12b–1 Shares will bear the costs associated with the services provided pursuant to the applicable plan and certain transfer agency services, but will enjoy exclusive shareholder voting rights with respect to matters affecting that plan. Conversely, investors purchasing Trust Shares will not bear those expenses or exercise those voting rights. Moreover, all holders of Shares are expected to benefit from the proposed arrangement since certain of the Fund's fixed costs will be spread over a greater number of shareholders.

3. Applicants believe that by implementing Non–12b–1 and 12b–1 Plans with respect to the Non–12b–1 and 12b–1 Shares, the Funds may achieve added flexibility in meeting the service and investment needs of shareholders and future investors. If these plans are implemented, the expense of Plan Payments will be borne by those shareholders who benefit from such services and not by the holders of Trust Shares. While this objective might be achieved by creating additional investment portfolios each of which would duplicate a Fund and be designed for those investors who require the additional services provided with respect to Non–12b–1 or 12b–1 Shares, applicants believe that this alternative would be inefficient and unnecessary because it would incur unnecessary accounting and bookkeeping costs and impair effective investment management of the additional portfolios. Applicants submit that unless the additional portfolios grew at a sufficient rate and to a sufficient size, they could be faced with liquidity and diversification problems.

4. Applicants also assert that the proposed arrangement will not involve borrowings and will not affect the Funds' existing assets or reserves. Nor will the proposed arrangement increase the speculative character of the shares in a Fund, since all shares will participate *pro rata* in the Fund's income and expenses, with the exception of the proposed Plan Payments and certain transfer agency expenses. Accordingly, applicants submit that the requested exemption is appropriate in the public interest and is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants' Conditions

Applicants agree that any order granting the requested relief shall be subject to the following conditions:

1. Each class of shares will represent interests in the same portfolio of investments of a Fund and will be identical in all respects, except for differences related solely to:

(a) Priorities with respect to the payment of dividends and distributions and such priorities will reflect only the impact of Plan Payments, certain transfer agency expenses attributable to a particular class, and any other incremental expenses subsequently identified that should be properly allocated to one class and which are approved by the Commission pursuant to an amended order;

(b) The net asset values of the various classes of shares in a Non-Daily Dividend Fund that may differ as a result of the Plan Payments and certain transfer agency expenses and the allocation of Fund expenses and income in proportion to the different net asset value of each class;

(c) Voting rights on matters that pertain to the applicable plan and related agreements;

(d) Exchange privileges, as described in the prospectuses (and statements of additional information) of the Funds;

(e) Class designation; and

(f) Sales loads assessed due to differing distribution methods.

2. The Directors/Trustees of a Company, including a majority of the independent Directors/Trustees, will approve the creation of additional classes of shares of a Fund from time to time by an affirmative vote prior to the creation of any such class. The minutes of the meetings of the Directors/Trustees regarding the deliberations of the Directors/Trustees with respect to the approvals necessary to create any additional class of shares will reflect in detail the reasons for the Directors/Trustees' determination that the creation is in the best interests of both the Company involved and its shareholders.

3. On an ongoing basis, the Directors/Trustees of a Company, pursuant to their fiduciary responsibilities under the Act and otherwise, will monitor the Funds for the existence of any material conflicts between the interests of the classes of shares. The Directors/Trustees, including a majority of the independent Directors/Trustees, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. A Company's adviser and distributor will be responsible for reporting any potential or existing conflicts to the Directors/Trustees. If a conflict arises, the adviser and distributor, at their own cost, will remedy such conflict up to and including establishing a new registered management investment company.

4. The 12b–1 Plans and Plan Payments relating to the sale of 12b–1 Shares will be approved and reviewed by the Directors/Trustees in accordance with the requirements and procedures set forth in rule 12b–1, both currently and as that rule may be amended in the future. Each of the Companies' 12b–1 Plans (and, to the extent required, any agreements related to the applicable 12b–1 Plans) will be submitted to the public shareholders of such 12b–1 class

of shares for approval at the next meeting of shareholders after the initial issuance of such shares of such class. Such meeting is to be held within 16 months of the date that the registration statement relating to such class first becomes effective, or, if applicable, the date that the amendment of the registration statement necessary to offer such class first becomes effective.

5. Each Non–12b–1 Plan will be adopted and operated in accordance with the procedures set forth in rule 12b–1(b) through (f) as if the expenditures made thereunder were subject to rule 12b–1, except that holders of Non–12b–1 Shares will not have the voting rights specified in rule 12b–1. In evaluating any Non-12b–1 Plan, the Directors/Trustees of a Company will specifically consider whether (a) the Non–12b–1 Plan is in the best interest of the applicable class of shares and their respective shareholders, (b) the services to be performed pursuant to the Non–12b–1 Plan are required for the operation of the applicable class of shares, (c) the Shareholder Service Organizations can provide services at least equal in nature and quality to similar services provided by others, including the Company, and (d) the fees for such services are fair and reasonable in light of the usual and customary charges made by other entities, especially non-affiliated entities, for services of the same nature and quality.

6. Each agreement entered into pursuant to a Non–12b–1 Plan will contain a representation by the Shareholder Service Organization that any compensation payable to the Shareholder Service Organization in connection with the investment of its customers' assets in a Fund (a) will be disclosed by it to its customers, (b) will be authorized by its customers, and (c) will not result in an excessive fee to the Shareholder Service Organization.

7. Each agreement entered into pursuant to a Non–12b–1 Plan will provide that, in the event an issue pertaining to the plan is submitted for shareholder approval, the Shareholder Service Organization providing services will vote any shares held for its own account in the same proportion as the vote of those shares held for its customers' accounts.

8. The Directors/Trustees of a Company will receive quarterly and annual statements concerning Plan Payments (including, in the case of 12b–1 Plans, expenditures relating to distribution) complying with paragraph (b)(3)(ii) of Rule 12b–1, as it may be amended from time to time. In the statements, only expenditures properly attributable to the sale (in the case of 12b–1 Shares) or servicing of a particular class of shares will be used to justify any distribution (in the case of 12b–1 Shares) or servicing fee charged to that class. Expenditures not related to a particular class will not be presented to the Directors/Trustees to justify any fee attributable to that class. The statements, including the allocations upon which they are based, will be subject to the review and approval of the independent Directors/Trustees in the exercise of their fiduciary duties.

9. Dividends paid by a Company with respect to each class of its shares, to the extent any dividends are paid, will be calculated in the same manner, at the same times, on the same day, and will be in proportion to each class of shares' respective net asset value, except that any Plan Payments and certain transfer agency expenses relating to a 12b–1 or Non-12b–1 class of shares will be borne exclusively by the applicable 12b–1 or Non-12b–1 class of shares.

10. The methodology and procedures for calculating the net asset values, dividends and distributions of the classes of shares and the proper allocation of expenses between those classes has been reviewed by an expert (the "Expert") who has rendered a report to Applicants, which has been provided to the staff of the Commission, that such methodology and procedures are adequate to ensure that such calculations and allocations will be made in an appropriate manner. On an ongoing basis, the Expert, or an appropriate substitute Expert, will monitor the manner in which the calculations and allocations are being made and, based upon such review, will render at least annually a report to Applicants that the calculations and allocations are being made properly. The reports of the Expert shall be filed as part of the periodic reports filed with the Commission pursuant to sections 30(a) and 30(b)(1) of the Act. The work papers of the Expert with respect to such reports, following request by a Company (which the Company agrees to provide), will be available for inspection by the Commission staff, upon the written request to the Company for such work papers, by a senior member of the Division of Investment Management, limited to the Director, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director and any Regional Administrators or Associate and Assistance Administrators. The initial report of the Expert is a "Special Purpose" report on the "Design of a System" and the ongoing reports will be "Special Purpose" reports on the "Design of a System and Certain Compliance Tests" as defined and described in SAS No. 44 of the AICPA, as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.

11. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset values, dividends and distributions of the classes of shares and the proper allocation of expenses between such classes of shares, and this representation has been concurred with by the Expert in the initial report referred to in condition (10) above and will be concurred with by the Expert, or an appropriate substitute Expert, on an ongoing basis at least annually in the ongoing reports referred to in condition (10) above. Applicants will take immediate corrective measures if this representation is not concurred in by the Expert of appropriate substitute Expert.

12. The prospectus for each Fund with more than one class will contain a statement to the effect that a salesperson and any other person entitled to receive compensation for selling or servicing shares may receive different compensation for selling or servicing one particular class of shares over another class in the same Fund.

13. SMA with respect to the Trust and TBC will respect to any other Company will adopt compliance standards as to when each class of shares may appropriately be sold to particular investors. Applicants will require all persons selling shares of the Funds to agree to conform to such standards.

14. The conditions pursuant to which the Order is granted and the duties and responsibilities of the Directors/Trustees of a Company with respect to the Non-12b–1 and 12b–1 Plans and related agreements will be set forth in guidelines which will be furnished to the Directors/Trustees of the Company.

15. Each Fund will disclose the respective expenses, performance data, distribution arrangements, services, fees, transfer agency expenses, sales loads, deferred sales loads, and exchange privileges applicable to each class of shares of such Fund in every prospectus, regardless of whether all classes of shares in the Fund are offered through the prospectus. Each Fund will disclose the respective expenses and performance data applicable to all classes of shares in every shareholder report. To the extend any advertisement or sales literature describes the expenses or performance data applicable to any class of shares in a Fund, it will also disclose the respective

expenses and/or performance data applicable to all classes of shares in such Fund. The information provided by a Company for publication in any newspaper or similar listing of each Fund's net asset value and public offering price will present each class of shares separately.

16. Each Daily Dividend Fund will have more than one class of shares outstanding only when and for so long as such Fund declares its dividends on a daily basis, accrues its Plan Payments and certain transfer agency expenses daily, and has received undertakings from the persons that are entitled to receive payments under the Non-12b-1 and 12b-1 Plans and for transfer agency services waiving such portion of any such payments to the extent necessary to assure that payments (if any) required to be accrued by any such class of such shares on any day do not exceed the income to be accrued to such class on that day. In this manner, the net asset value per share for all shares in a Daily Dividend Fund will remain the same.

17. Applicants acknowledge that the grant of the requested Order will not imply Commission approval, authorization, or acquiescence in any particular level of payments that a Company may make pursuant to a Non-12b-1 or 12b-1 Plan in reliance on the Order.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-2645 Filed 1-31-92; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2546]

New Jersey; Declaration of Disaster Loan Area

Atlantic County and the contiguous counties of Burlington, Camden, Cape May, Cumberland, Gloucester, and Ocean in the State of New Jersey constitute a disaster area as a result of damages caused by a major coastal storm which occurred October 30-31, 1991. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on March 5, 1992 and for economic injury until the close of business on Oct. 5, 1992 at the address listed below:

Disaster Area 1 Office, Small Business Administration, 360 Rainbow Boulevard South, 3rd Floor, Occidental Chemical Center, Niagara Falls, NY 14302,

or other locally announced locations.

The interest rates are:

	Percent
For Physican Damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Business and non-profit organizations without credit available elsewhere	4.000
Others (Including non-profit organizations) with credit available elsewhere	8.500
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 254611 and for economic injury the number is 750700.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: January 3, 1992.

Paul H. Cooksey,

Deputy Administrator.

[FR Doc. 92-2377 Filed 1-31-92; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Exemption or Waiver of Compliance

In accordance with 49 CFR 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received requests for exemptions from or waivers of compliance with a requirement of its safety standards. The individual petitions are described below, including the party seeking relief, the regulatory provisions involved, and the nature of the relief being requested.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identity the appropriate docket number (e.g., Waiver Petition Docket Number RSGM 87-2) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. Communications received before March 10, 1992, will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.-5 p.m.) in room 8201, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

The individual petitions seeking an exemption or waiver of compliance are as follows:

Atlantic and Gulf Railroad

[Waiver Petition Docket Number RSGM 91-25]

The Atlantic and Gulf Railroad (AGLF) seeks a permanent waiver of compliance with certain provisions of the Safety Glazing Standards (49 CFR part 223) for one locomotive. The railroad operates between Sylvester and Albany, Georgia, a distance of 18 miles and between Albany and Thomasville, Georgia, a distance of 54 miles. The area is primarily rural.

Mississippi Delta Railroad

[Waiver Petition Docket Number RSGM 91-26]

The Mississippi Delta Railroad (MSDR) seeks a permanent waiver of compliance with certain provisions of the Safety Glazing Standards (49 CFR part 223) for two locomotives. The railroad operates over approximately 58 miles of track between Lula and Swan Lake, Mississippi.

Wiregrass Central Railroad Co., Inc.

[Waiver Petition Docket Number RSGM 91-27]

The Wiregrass Central Railroad Company, Inc. (WGCR) seeks a permanent waiver of compliance with certain provisions of the Safety Glazing Standards (49 CFR part 223) for three locomotives. The WGCR operates over approximately 18 miles of track between Enterprise and Waterford, Alabama. The area is primarily rural with several miles being within Fort Rucker army base.

Great Smoky Mountains Railway

[Waiver Petition Docket Number RSGM 91-28]

The Great Smoky Mountains Railway (GSMR) seeks a permanent waiver of compliance with certain provisions of the Safety Glazing Standards (49 CFR part 223) for 14 cabooses and 12 passenger cars. The GSMR is a 67 mile tourist railroad operating between Sylva and Andrews, North Carolina. The railroad states there have been no problems with vandalism in this rural area.

The Hartford and Slocomb Railroad Co.

[Waiver Petition Docket Number RSGM 91-32]

The Hartford and Slocomb Railroad Company (HS) seeks a permanent waiver of compliance with certain provisions of the Safety Glazing Standards (49 CFR part 223) for one locomotive. The HS operates 22 miles of track between Dothan and Hartford, Alabama, but fewer than two cars per week are handled outside of Dothan. The locomotive is only used as an emergency backup for their regular locomotive which is fully equipped with FRA glazing. The HS operates weekdays only during daylight hours.

Maine Coast Railroad Corp.

[Waiver Petition Docket Number RSGM 91-30]

The Maine Coast Railroad Corporation (MC) seeks a permanent waiver of compliance with certain provisions of the Safety Glazing Standards (49 CFR part 223) for two locomotives and one caboose. The railroad operates through a predominantly rural area between Brunswick and Rockland, Maine. The railroad states that there has been no vandalism relating to glazing and the cost of installing FRA glazing would be a financial hardship.

The Valley Railroad Co.

[Waiver Petition Docket Numbers RSGM 90-10 and LI 90-4]

The Valley Railroad Company (VALE) seeks a permanent waiver of compliance with certain provisions of the Safety Glazing Standards (49 CFR part 223) and §§ 229.115, Slip/Slide Alarms and 229.125(a), Headlights of the Locomotive Safety Standards (49 CFR part 229) for one locomotive. The VALE operates a scenic railroad on approximately 13 miles of track leased from the State of Connecticut. The railroad seeks relief from part 229.115, Slip/Slide Alarms and Part 229.125(a), Headlights.

Issued in Washington, DC on January 22, 1992.

Phil Olekszyk,

Deputy Associate Administrator for Safety.

[FR Doc. 92-2425 Filed 1-31-92; 8:45 am]

BILLING CODE 4910-06-M

[BS-AP-No. 3118]

Soo Line Railroad Co.; Public Hearing

The Soo Line Railroad Company has petitioned the Federal Railroad Administration (FRA) seeking approval of the following: the proposed discontinuance and removal of the automatic block signal system on the two main tracks between West Davenport, milepost 194.0, and High Bridge, Iowa, milepost 219.2, a distance of approximately 25.2 miles, on the Southern Division, Davenport Subdivision.

This proceeding is identified as FRA Block Signal Application Number 3118.

The FRA has issued a public notice seeking comments of interested parties and conducted a field investigation in this matter. After examining the carrier's proposal and the available facts, the FRA has determined that a public hearing is necessary before a final decision is made on this proposal.

Accordingly, a public hearing is hereby set for 10 a.m. on Wednesday, March 11, 1992, in Room B-17 of the Federal Office Building located at 131 East Fourth Street in Davenport, Iowa. Interested parties are invited to present oral statements at the hearing.

The hearing will be an informal one an will be conducted in accordance with Rule 25 of the FRA Rules of Practice (49 CFR part 211.25), by a representative designated by the FRA.

The hearing will be a nonadversary proceeding and, therefore, there will be no cross-examination of persons presenting statements. The FRA representative will make an opening statement outlining the scope of the hearing. After all initial statements have been completed, those persons wishing to make brief rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures, if necessary for the conduct of the hearing, will be announced at the hearing.

Issued in Washington, DC on January 27, 1992.

Grady C. Cothen, Jr.,

Associate Administrator for Safety.

[FR Doc. 92-2426 Filed 1-31-92; 8:45 am]

BILLING CODE 4910-06-M

National Highway Traffic Safety Administration

Denial of Motor Vehicle Defect Petition

This notice sets forth the reason for the denial of a petition submitted to the National Highway Traffic Safety Administration (NHTSA) under section 124 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1381 et seq.).

Mr. Yun Chang petitioned the agency on September 17, 1991, to conduct a defect investigation regarding alleged service brake failure due to an alleged anti-lock brake system (ABS) malfunction on all ABS-equipped 1991 Ford Taurus and Mercury Sable vehicles. ABS are designed to prevent wheel lock-up during braking by modulating the hydraulic line pressure within the service brake system. The petitioner alleged that he was involved in a serious two-car accident due to a service brake failure resulting from an ABS malfunction.

The petitioner does not detail the exact failure mode but describes his accident as occurring despite "repeated application of the brake pedal." All 1991 Taurus and Sable vehicles are equipped with a Teves Mark IV ABS that is designed to allow full service brake function should an ABS failure occur. According to the petitioner, the service brakes did not operate normally when the alleged ABS malfunction occurred.

In response to a NHTSA inquiry concerning this matter, Ford provided a total of two reports alleging problems that were possibly related to the one on which the petition is based. Further investigation by the agency, however, revealed that neither of these reports involved ABS-induced service brake failures, and that no reports of such failure, other than the petitioner's, exist.

Moreover, the Office of Defects Investigation is unable to conclude from its examination of information pertaining to Mr. Chang's accident that it occurred as a result of a malfunction in his vehicle's ABS or service brake system.

In consideration of the available information, NHTSA has concluded that there is not a reasonable possibility that an order concerning the notification and remedy of a safety-related defect would be issued at the conclusion of the investigation that the petitioner has asked NHTSA to conduct. Since no evidence of a safety-related defect trend relating to the petitioner's allegations was discovered, further commitment of resources to determine whether such a trend may exist does not appear warranted. Therefore, the petition is denied.

Authority: Sec. 124, Public Law 88 Stat. 1470 (15 U.S.C. 1410a); delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: January 28, 1992.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 92-2404 Filed 1-31-92; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1991 Rev., Supp. No. 13]

Surety Companies Acceptable on Federal Bonds; Bankers Insurance Co.

A Certificate of Authority as an acceptable surety on Federal bonds is hereby issued to the following Company under § 9304 to 9308, title 31, of the United States Code. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1991 Revision, on page 30135 to reflect this addition:

Bankers Insurance Company. Business Address:
10051 Fifth Street North, St. Petersburg, FL 33733.
Underwriting Limitation b/: $683,000. Surety Licenses c/: AL, AZ, AR, CA, FL, GA, IA, KY, LA, MS, MO, NM, PA, SC, TN, TX. Incorporation In: Florida.

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR, part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

Copies of the Circular may be obtained from the Surety Bond Branch, Funds Management Division, Department of the Treasury, Washington, DC 20227, telephone (202) 874–6696.

Dated: January 27, 1992.

Charles F. Schwan III,

Director, Funds Management Division, Financial Management Service.

[FR Doc. 92–2504 Filed 1–31–92; 8:45 am]

BILLING CODE 4810-35-M

VOL 57
ISS 22
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Sunshine Act Meetings

Federal Register
Vol. 57, No. 22
Monday, February 3, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

January 29, 1992.

TIME AND DATE: 10:00 a.m., Thursday, February 6, 1992.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Closed [Pursuant to 5 U.S.C. § 552b(c)(10)].

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Shamrock Coal Company,* Docket No. KENT 90-137. (Issues include whether the judge erred in finding that Shamrock's violation of 30 C.F.R. § 75.403 was not of a significant and substantial nature).

It was determined by a unanimous vote of Commissioners that this meeting be held in closed session.

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 653-6539/(202) 709-9300 for TDD Relay.

Jean H. Ellen,
Agenda Clerk.

[FR Doc. 92-2694 Filed 1-30-92; 8:45 am]

BILLING CODE 6735-01-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Thursday, February 6, 1992.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: January 30, 1992.

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 92-2608 Filed 1-30-92; 10:36 am]

BILLING CODE 6210-01-M

NATIONAL SCIENCE BOARD

DATE AND TIME:

February 14, 1992 8:30 a.m. Closed Session

February 14, 1992 9:15 a.m. Open Session

PLACE: Arnold and Mabel Beckman Center, 100 Academy Drive, Irvine, California 92715.

STATUS:

Part of this meeting will be open to the public.

Part of this meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Friday, February 14, 1992

Closed Session (8:30 a.m.—9:15 a.m.)

1. Minutes—November 1991 Meeting.
2. NSB and NSF Staff Nominees.
3. Vannevar Bush Award.
4. Future NSF Budgets.
5. Grants and Contracts.

Friday, February 14, 1992

Open Session (9:15 a.m.—12:00 Noon)

Swearing-in of Dr. Ian M. Ross

6. Chairman's Report.
7. Minutes—November 1991 Meeting.
8. NSB Executive Committee Report.
9. Director's Report.
10. Earthquake Science & Technology Center.

Thomas Ubois,
Executive Officer.

[FR Doc. 92-2642 Filed 1-30-92; 11:28 am]

BILLING CODE 7555-01-M

Corrections

Federal Register
Vol. 57, No. 22
Monday, February 3, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 672 and 675

[Docket No. 911183-1322]

RIN 0648-AE46

Groundfish of the Gulf of Alaska; Groundfish of the Bering Sea and Aleutian Islands Area

Correction

In rule document 91-31331 beginning on page 381 in the issue of Monday, January 6, 1992, make the following corrections:

§ 672.23 [Corrected]

1. On page 382, in the second column, in § 672.23(d), in the fourth line, "for" should read "from".

§ 675.23 [Corrected]

2. On the same page, in the third column, in § 675.23(d), in the third line, "Groundfish" should read "groundfish".

BILLING CODE 1505-01-D

DEPARTMENT OF EDUCATION

Office of Special Education Programs

[CFDA No. 84.029]

Notice Inviting Applications for New Awards Under Training Personnel for the Education of Individuals With Disabilities for Fiscal Year 1992

Correction

In notice document 91-26943 beginning on page 57205 in the issue of Thursday, November 7, 1991, make the following correction:

On page 57227, at the end of the document the file line was omitted and should read as follows:

[FR Doc 91-26943 Filed 11-6-91; 8:45am]

Billing Code 4000-01-M

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 440 and 441

[MB-41-P]

RIN 0938-AF12

Medicaid Program; Required Coverage of Nurse Practitioner Services

Correction

In proposed rule document 91-30353, beginning on page 66392, in the issue of Monday, December 23, 1991, make the following corrections:

1. On page 66392, in the second column, under **SUMMARY:**, in the sixth paragraph, in the second line, "confirm" should read "conform".

2. On page 66393, in the second column, in the third paragraph, in the seventh line, "throughout" should read "through".

3. On page 66394, in the first column, under **IV. Response to Comments**, in the third line, "notable" should read "not able".

4. On the same page, in the second column, under **V. Regulatory Impact Statement**, in the sixth paragraph, in the ninth line, "11029(b)" should read "1102(b)".

5. On the same page, in the third column, in the second full paragraph, in the second line, "of" should read "or".

§ 441.10 [Corrected]

6. On page 66395, in the 2d column, in § 441.10, in the 11th and 13th lines, "Section" should read "Sections".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Notice of Realty Action-Exchange; CA

Correction

In notice document 91-29581, beginning on page 64639, in the issue of Wednesday, December 11, 1991, make the following corrections:

1. On page 64639, in the 3rd column, in the 23rd line, "CaCA" should read "CACA".

2. On the same page, in the same column, in the 25th line, "T. 38S.," should read "T. 31S.,".

3. On the same page, in the same column, in the seventh line from the bottom of the page, "T. 315.," should read "T. 31S.,".

4. On page 64640, in the first column, in the file line at the end of the document, "FR Doc. 91-28581" should read "FR Doc. 91-29581".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 816 and 817

RIN 1029-AB33

Surface Coal Mining and Reclamation Operations; Underground Mining Activities; Temporary Cessation of Operations

Correction

In proposed rule document 92-1417 appearing on page 2235 in the issue of Tuesday, January 21, 1992, in the third column, in the third line from the bottom, "not" should read "now".

BILLING CODE 1505-01-D

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1980, as Amended by Public Law 99-591; Information Collection Under Review by the Office of Management and Budget (OMB)

Correction

In notice document 91-26905 beginning on page 57031 in the issue of Thursday, November 7, 1991, make the following correction:

On page 57032, at the end of the first column, the file line was omitted and should read as follows:

[FR Doc 91-26905 Filed 11-6-91; 8:45 am]

BILLING CODE 8120-02-M

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 1-21; Notice 11]
RIN 2127-AE13

Federal Motor Vehicle Safety Standards; Theft Protection

Correction

In rule document 92-1344 beginning on page 2039 in the issue of Friday, January 17, 1992, make the following corrections:

1. On page 2040, in the third column, in the first full paragraph, in the first and second lines, the phrase "Petitions for Reconsideration of March 1991 Final Rule" should have been set as a heading and the paragraph should begin with "NHTSA".

2. On page 2042, in the second column, in the first full paragraph, in the sixth line, after "systems" insert ". Many manufacturers have recently redesigned their transmission lock systems".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 572

[Docket No. 89-03; Notice 02]

RIN 2127-AC09

Anthropomorphic Test Dummies—6-Year-Old Child

Correction

In rule document 91-27099 beginning on page 57830 in the issue of Thursday, November 14, 1991, make the following correction:

§ 572.73 [Corrected]

On page 57837, in the second column, the section heading should read as set forth below:

§ 572.73 Neck assembly and test procedure.

BILLING CODE 1505-01-D

federal register

Monday
February 3, 1992

Part II

Department of Veterans Affairs

38 CFR Parts 14, 19, and 20

Appeals Regulations; Rules of Practice; Final Regulations and Proposed Regulations

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 14, 19, and 20

RIN 2900-AE02

Appeals Regulations; Rules of Practice

AGENCY: Department of Veterans Affairs.

ACTION: Final regulations.

SUMMARY: The Department of Veterans Affairs (VA) is issuing final regulatory amendments revising the Board of Veterans' Appeals' (BVA) Appeals Regulations and Rules of Practice governing appeals practices and procedures within VA. Conforming amendments have also been made to other related VA regulations. The effect of these amendments will be to revise and update these regulations to reflect current law and practices and to provide information needed by individuals who wish to appeal decisions made by VA adjudicatory bodies to the BVA. The revisions are necessary in order to provide appellate procedures which conform to current law and to inform the public about those procedures.

EFFECTIVE DATE: These rules are effective March 4, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Steven L. Keller, Counsel to the Chairman (01C), Board of Veterans' Appeals, 810 Vermont Avenue NW., Washington, DC 20420 (202) 233-2978.

SUPPLEMENTARY INFORMATION: On August 18, 1989, VA published in the **Federal Register** (54 FR 34334) a notice proposing amendment of part 19 and the addition of part 20 of title 38, Code of Federal Regulations, to update the Appeals Regulations and Rules of Practice of the Board of Veterans' Appeals. Conforming revisions to part 14 were also proposed.

VA received ten comments on the proposed regulations—four from service organizations, two from legal services organizations allied with a service organization, two from Members of the Board of Veterans' Appeals, one from a VA employee, and one from a private attorney-at-law.

Some commenters have referred to various sections of the Veterans' Judicial Review Act (Pub. L. 100-687). In the remarks which follow, provisions of the Act which have been codified will be referred to by their section numbers in title 38, United States Code (as amended by Pub. L. 100-687), rather than by section numbers of the Act. All references to section numbers in title 38, United States Code, throughout this document have been revised to reflect the renumbering accomplished by recent legislation.

There were several general comments, in addition to specific comments concerning individual amendments.

One commenter objected to moving the cross-references from individual sections, where they are currently located, to appendices to parts 19 and 20—asserting that this format was less helpful to the user of the regulations. VA agrees that this method of setting out cross-references is somewhat less desirable, but the change was made at the direction of the Office of the Federal Register. The BVA plans to issue an updated version of a pamphlet which includes these regulations (VA Pamphlet 1-1) within the next few months. This pamphlet version will use the old cross-reference format.

The same commenter suggested that the Rule of Practice references in part 20 be abandoned and that only the CFR citation be used. This suggestion has not been adopted. The Rule of Practice terminology is widely used by judicial and quasijudicial bodies, such as the BVA. The use of Rule numbers, as opposed to CFR citations for individual Rules of Practice, is common in appellate practice before the BVA. VA sees no benefit to be gained by abandoning this useful terminology, particularly at a time when attorneys-at-law who are very familiar with the terminology are becoming increasingly involved in appellate practice before VA field personnel and the BVA.

Finally, this commenter felt that the period of time allowed for public comment was too short—noting difficulty in preparing comments within the time allowed. With respect to this comment, the BVA notes that it is generally willing to grant reasonable requests for an extension of time within which to comment if such an extension proves necessary. This commenter did not request an extension.

One commenter suggested that regulations be promulgated "indicating specifically how BVA will handle 'errors' in previous AOJ or BVA decisions 'discovered' in the course of a current appellate review." Methods of addressing error in a prior BVA decision are set out in § 20.904; in § 20.1000, et seq.; and in a notice of proposed rulemaking published elsewhere in this issue of the **Federal Register**. VA does not believe that additional regulation on the subject of the correction of error in prior rating decisions by the agency of original jurisdiction is necessary at this time. The Board may always correct error in prior rating decisions which are properly before it on appeal and may call errors in determinations which are not properly before it to the attention of the agency of original jurisdiction.

One commenter offered several paragraphs of criticism under the heading "General Comments." These were essentially conclusionary paragraphs summarizing the nature of complaints about specific amendments. Except to the extent that they are addressed in the next two paragraphs, these comments will be discussed in the context of specific amendments.

As might be expected with a proposal of this size, some of the comments were in opposition to each other and some of the comments were internally inconsistent. One commenter essentially suggested that many of these amendments are contrary to the letter and spirit of Public Law 100-687, while another observed that many of the proposed amendments were straightforward implementations of that Act. The former's criticisms included a complaint that the amendments were too adversarial, technical and legal, while at the same time requesting such additions as formal discovery proceedings.

Some commenters were generally complimentary, expressing the view that the amendments were well structured and would facilitate an orderly appellate process. One commenter noted that many of the amendments codified existing practices.

Comments concerning specific amendments are set out in the material which follows.

No comments, suggestions, or objections were received regarding the amendments to part 14 and to §§ 19.1 and 19.2. There was a typographical error in the heading of redesignated § 14.635 (formerly § 14.637). The word "office" was placed in the wrong location. This has been corrected. With this correction, these amendments are adopted as proposed.

Three comments were received concerning the amendment of § 19.3. One commenter suggested that paragraph (b) be revised to require that BVA Sections have three Members unless "overwhelming circumstances prevent this." This suggestion has not been adopted. The language proposed conforms to the provisions of 38 U.S.C. 7102. While the Chairman of the BVA has divided the BVA into three-Member Sections, circumstances might arise in the future which would require an en banc approach in some instances. In addition, as contemplated by 38 U.S.C. 7102(a)(2) and by paragraph (d) of this section, there will inevitably be times when less than three Members are available in an individual Section due to the absence of a Member of the Section, a vacancy on the Board, or the inability of a Member assigned to a Section to serve.

One commenter charged that the language in paragraph (b), noting that a Chief Member may be redesignated as a Member, was added under the guise of being an editorial change and was an inappropriate provision allowing the "demotion" of "independent decision makers." This revision was not described as an editorial change. It was clearly identified in the notice of proposed rule making. (See 54 FR 34334.) The position of Chief Member of a BVA Section is one which adds administrative tasks, which are entirely separate and apart from decision making in individual cases before the BVA, to the normal duties of a Member of the BVA. It does not carry with it any increase in pay or entitlements. Chief Members, as such, are judged on their administrative skills and not on their decision making record. 38 U.S.C. 7102(a)(1) provides that the Chairman may designate the Chief Member of a BVA Section. This regulation merely makes clear what was implicit in that authority, that one individual may be designated in place of another when appropriate. Such a reassignment does not involve any loss of pay or entitlements and does not constitute a "demotion."

One commenter voiced the opinion that 38 U.S.C. 7102 and 7103 require that a minimum of two Members participate in an appeal and that the use of the word "Members" at the end of paragraph (d) is therefore contrary to law. VA does not agree with this statutory interpretation. While it would be unusual to have two vacancies, absences, or Members who were unable to serve in an individual section at any given time, VA is of the opinion that proceeding with one Member is permissible under 38 U.S.C. 7102(a)(2)(A)(iii) under such circumstances. The use of the plural does not represent a change from the prior regulation on which this paragraph was based.

The same commenter also objected to the use of the phrases "other good cause" and "participate effectively" in paragraph (d), asserting that these provisions are contrary to the provisions of 38 U.S.C. 7102(a)(2)(A) and violate a "claimant's" rights to an unbiased BVA panel. VA does not agree with this statutory interpretation, nor does this amendment bring about any impairment of an appellant's rights. VA does agree, however, that the terms objected to are somewhat vague and they have been removed. In their place, a cross-reference to the more specific standards set out in § 19.12 has been added. Editorial changes have also been made in paragraph 19.3(a) to make it clearer that the Deputy Vice Chairmen are chosen from Members of the Board. With these changes, the amendment to § 19.3 is adopted.

No comments, suggestions, or objections were received regarding the amendment of § 19.4. This amendment is adopted as proposed.

Three comments were received concerning § 19.5. Each commenter noted that this section, which lists the criteria governing the disposition of appeals by the BVA, omitted a reference to decisions of the United States Court of Veterans Appeals (COVA). VA is of the opinion that no such reference is necessary. VA, of course, recognizes that the BVA will be bound by court decisions in some cases.

Proposed § 19.6 has been withdrawn and this section number is reserved. This paragraph concerned the composition of Board of Veterans' Appeals hearing panels, and it is being withdrawn because it was more restrictive than necessary regarding the composition of hearing panels. Two comments were received, neither of which relates to the reason for the withdrawal of this paragraph.

One comment was received on § 19.7. This commenter suggested that the phrase "and upon consideration of all evidence and material of record and applicable provisions of law and regulations," found in 38 U.S.C. 7104(a), be added to the closing sentence of paragraph (a). This suggestion has not been adopted. This paragraph already provides that decisions of the BVA are based upon the entire record. The "entire record" necessarily includes "all evidence and material of record." Governing criteria, such as the law and regulations, are the subject of § 19.5. Adding the suggested phrase would be redundant.

VA is withdrawing proposed paragraph 19.7(b). That paragraph suggested (in part) that issues on appeal could be disposed of by remand or by vacating a prior decision of the Board with respect to the issues. That was not accurate. A remand serves to direct further development prior to the appellate disposition of the issues. It does not "dispose" of an issue on appeal. Neither does vacating a prior Board decision dispose of an issue. When a prior decision is vacated, it is normally followed by a new decision which disposes of the issue.

Due to the withdrawal of proposed paragraph 19.7(b), proposed paragraph 19.7(c) has been redesignated as 19.7(b).

With these changes, the amendment is adopted.

No comments, suggestions, or objections were received regarding the amendments to §§ 19.8 and 19.9. Information has been added to § 19.8 to make it clearer that BVA decisions in contested claims which are provided to the contesting claimants will include only information pertinent to the contested issues. With this addition, these amendments are adopted as proposed.

Proposed § 19.10 has been withdrawn and this section number is reserved. The General Counsel of the Department of Veterans Affairs issued a Precedent Opinion on August 27, 1990, which concluded, in essence, that statutory changes brought about by the Veterans' Judicial Review Act (Pub. L. 100–687) had the effect of eliminating "obvious error" as the standard for review by a reconsideration Section after a motion for reconsideration has been granted. (See O.G.C. Precedent Opinion 89–90, 56 FR 1225.) This change also eliminated the principal basis for proposed § 19.10 which, in most cases, limited the evidence which could be considered by a reconsideration Section to that which was of record at the time that the decision being reconsidered was rendered.

One comment was received regarding § 19.11. Proposed paragraph (c) provided that when a traveling BVA Section is expanded to address the reconsideration of a prior BVA decision involving radiation, Agent Orange, or asbestos exposure, the additional Members of the expanded Section will include Members specializing in those issues. The commenter suggested that this requirement for Members specializing in particular issues be expanded to include post-traumatic stress disorder and "complex medical causation issues such as the dates of inception of a veteran's cancer or other disease."

This suggestion has been adopted in part. Post-traumatic stress disorder has been added, as suggested. Familiarity with this area is helpful in ensuring complete development of the appellate record. Material regarding medical causation issues has not been added. Medical causation issues must be decided on the basis of the evidence of record (see *Colvin* v. *Derwinski*, U.S. Vet. App. No. 90–196 (Mar. 8, 1991)). In cases of extraordinary complexity, Members have the option of seeking the opinion of an independent medical specialist. (See § 20.901, infra.)

Section 19.11, as proposed, continued the long-existing practice of allowing a three-Member BVA Section to hear cases before the BVA on reconsideration when none of the Members who participated in the original decision is available. 38 U.S.C. 7103(b) now requires that all reconsideration actions be heard "by an expanded section of the Board." The references to three-Member Sections have therefore been withdrawn.

An editorial revision has been made to change the word "panel" to "Section" in the section heading and in the text of this section when the reference is to a reconsideration Section. This change has been made so that the amendment will parallel the language which appears in 38 U.S.C. 7103(b).

With these revisions, the proposed amendment is adopted.

Two comments were received concerning proposed section § 19.12. Essentially, the commenters feel that paragraph (c) gives the Chairman too much authority over other Members of the BVA, is beyond statutory authority, and should be removed. VA does not agree. This paragraph allows the Chairman to disqualify a Member of the Board from participating in a particular appeal if the Member gives the appearance of bias, has participated in a prior administrative appeal in the same case on the same issue (and who might naturally tend to be biased in favor of his or her prior decision), or is unable or unwilling to act in the case. VA believes that a procedure for Member disqualification under these circumstances is lawful and is essential. Impartiality is basic to an equitable appellate process. (See, for example, Canons 2 "A Judge should avoid impropriety and the appearance of impropriety in all his activities" and 3 "A Judge should perform the duties of his office impartially and diligently" of the ABA Code of Judicial Conduct.) BVA decisions are to be made on the basis of "the entire record in the proceeding and upon consideration of all evidence and material of record and applicable provisions of law and regulation." (38 U.S.C. 7104(a)). They are not to be made on the basis of personal prejudice. 38 U.S.C. 7102 provides options to the Chairman, including substitution of another Member, when a Member of a BVA Section is unable to serve. VA is of the opinion that a Member who is biased or who is unwilling to serve in a particular case has demonstrated an inability to serve within the meaning of this statutory provision. VA does feel that 38 U.S.C. 7104 should be included in the statutory authority cited, however, and this authority has been added in the interest of clarity. With this addition, the amendment is adopted.

No comments, suggestions, or objections were received regarding the amendment of § 19.13. The General Counsel of the Department of Veterans Affairs issued a Precedent Opinion on May 17, 1990, which had the effect of invalidating the "administrative allowance" procedures of the BVA both in its current Rules of Practice and in these proposed regulations. (See O.G.C. Precedent Opinion 11–90, 55 FR 27756.) Such opinions are binding upon the BVA. (See 38 U.S.C. 7104(c).) Accordingly, all references to those procedures have been withdrawn from these proposed amendments. The material withdrawn includes proposed paragraph 19.13(b). Proposed paragraph 19.13(c) has been redesignated as 19.13(b). With these changes, this proposed amendment is adopted.

Proposed § 19.14 has been withdrawn. This proposed regulation dealt with the manner in which written decisions of the BVA should be prepared when the case involves a prior rating determination by the agency of original jurisdiction which has become final due to the failure to file a timely appeal to the BVA. Decisions by COVA, issued after this regulation was published in proposed form, have altered the BVA's traditional approach to prior "final" adjudicative actions. (E.g., see *Manio* v. *Derwinski,* U.S. Vet. App. No. 90–86 (Feb. 15, 1991); *Colvin* v. *Derwinski,* U.S. Vet. App. No. 90–196 (March 8, 1991); and *Smith* v. *Derwinski,* U.S. Vet. App. No. 89–13 (March 15, 1991).) The proposed regulation was not in complete accord with these decisions and COVA's opinions provide sufficient guidance concerning BVA decision preparation in this area.

No comments, suggestions, or objections were received regarding the amendments to §§ 19.15 and 19.25. Proposed § 19.15 has been redesignated as § 19.14 in view of the withdrawal of proposed § 19.14. The reference to proposed § 19.6, which has been withdrawn, has been deleted. With these revisions, these amendments are adopted as proposed.

No comments, suggestions, or objections were received regarding the amendment to § 19.26. However, this section has been revised in response to comments offered in connection with § 20.201. See the discussion concerning § 20.201, infra, for information concerning this change. The amendment, as revised, is adopted.

No comments, suggestions, or objections were received regarding the amendments to §§ 19.27 and 19.28. These amendments are adopted as proposed.

Two comments were received concerning § 19.29.

One commenter suggested that this section be modified to require a discussion of applicable COVA case law and of any applicable precedent opinions of the General Counsel of the Department of Veterans Affairs in the Statement of the Case as an aid to unrepresented appellants. While VA appreciates the concern which motivated this suggestion, it has not been adopted. This regulation, and the statute upon which it is based, already requires that the Statement of the Case include the reasons for each determination of the agency of original jurisdiction with respect to which disagreement has been expressed. This would include decisions by courts of competent jurisdiction and opinions by the General Counsel when they are applicable.

The second commenter suggested that the phrase "and a discussion of how such laws and regulations affect the determination" be deleted from paragraph (b), contending that the phrase "would constitute a repetition of information already required by subparagraph (c)." This suggestion has not been adopted. The language in question is a direct quotation of language added to 38 U.S.C. 7105(d)(1) by Public Law 100–687. The language does not duplicate the language in paragraph (c). The new statutory language appears to require a discussion of why various statutes and regulations are applicable to a particular case while paragraph (c) requires a discussion of why a particular decision was made. This decision could be (and often is) on a purely factual basis as opposed to a technical legal basis. While there can be some overlap, the requirements of the two paragraphs are not interchangeable.

This amendment is adopted as proposed.

One comment was offered concerning § 19.30. The commenter suggested, in essence, that VA require that documents provided to representatives be sent by mail and that using a "drop-box," as is done at some VA Regional Offices, be forbidden. It was alleged that the "drop-box" service was not effective, but no explanation of why this is the case was given. This suggestion has not been adopted and the amendment is adopted as proposed. This delivery control is not proper subject matter for these regulations. Further, VA is not aware of any special problems with "drop-box" service, which is more expeditious than mail delivery and which is a relatively convenient means of document delivery for both VA and representatives. It is suggested that any problem with document delivery at any particular field office be brought to the attention of the director of that office so that corrective action may be taken.

Three comments were received on § 19.31. The current equivalent regulation (38 CFR 19.122) provides, in part, that a Supplemental Statement of the Case is required when additional pertinent evidence is received and that a Supplemental Statement of the Case is not required following a hearing before field personnel when no additional pertinent evidence is received. The amended regulation makes it clear that the evidence referred to includes testimony concerning relevant facts or expert opinion, as well as documentary evidence, but that argument is not evidence.

Two commenters suggested that a Supplemental Statement of the Case be required to answer arguments advanced at a hearing held by the agency of original jurisdiction. VA does not believe that this further requirement is necessary or desirable. The purpose of Statements and Supplemental Statements of the Case is to provide appellants with the data which they need, but may not have, to prepare their appeal to the BVA—a summary of the pertinent evidence, information concerning pertinent laws and regulations, and the decision of each issue and a summary of the reasons for each decision. (38 U.S.C. 7105(d)(1)). They are not appellate decisions. Addressing arguments raised by appellants is the function of the appellate decision. The BVA is not bound by an agency of original jurisdiction's position with respect to arguments advanced by appellants and their representatives.

The third commenter asserted that language should be added to more clearly define the difference between testimony and argument, using as an example a situation in which a veteran might regard his or her own statement of facts concerning the symptomatology associated with his or her disability as testimony while a hearing officer "or other responsible person" might regard the same statement as argument. This suggestion has not been adopted. While there may be certain gray areas, these terms are relatively well understood. It is impossible to anticipate every variation which may arise. Disputes concerning what is testimonial evidence and what is argument are best resolved on a case by case basis. In the example given, the veteran would certainly be correct and the hearing officer would be in error. A veteran's oral description of his or her symptoms in a case in which the nature or severity of a disability is at issue would very clearly be "testimony concerning the relevant facts" in the terms used by the amended regulation. Statements of fact made by appellants and witnesses are evidence which must be weighed by the decision maker.

While these comments have been considered, § 19.31 is adopted as proposed.

One comment was submitted concerning § 19.32. This commenter suggested that the word "response" in the second sentence be changed to "Substantive Appeal." VA agrees that this would be preferable. This section is adopted, with that change.

No comments, suggestions, or objections were received regarding the amendments to §§ 19.33 and 19.34. These amendments are adopted as proposed.

One comment was received on § 19.35. The commenter asked that language be included to require that the issues listed in the appeal certification (VA Form 1–8) be the same as the issues covered in the Statement of the Case and any Supplemental Statements of the Case. That is normally the correct practice. Nevertheless, this suggestion has not been adopted. Completion of VA Form 1–8 is accomplished for administrative purposes. Primarily, it serves as a last-minute appeal processing check list for use by VA field facilities prior to transfer of the appeal to the BVA. The appeal certification does not have any effect on the BVA's jurisdiction. Details of how the VA Form 1–8 is completed are best left to VA administrative manuals. For the same reason, other details concerning completion of the form have been withdrawn and the language of the section has been simplified. As simplified, the amendment is adopted.

Two comments were received concerning § 19.36.

One commenter suggested that the notice of certification of an appeal to the BVA include notification as to the issues being certified. VA does not believe that that is necessary. Appellants and their representatives are informed of the issues considered to be in an appellate status through the Statement and Supplemental Statements of the Case. The appeal certification primarily functions as a check list for the agency of original jurisdiction to insure that all appeal processing procedures have been completed prior to the transfer of the case to the BVA. The certification does not serve to confer jurisdiction on the BVA with respect to a particular issue. The second commenter offered the same comment on this section as was offered on § 19.30 concerning the use of "drop-boxes" to deliver documents to representatives. The same response applies.

Proposed § 19.36 was essentially a duplicate of a proposed amendment of 38 CFR 19.174(a) which had been published for public comment on July 6, 1989. (54 FR 28445) The final version of 38 CFR 19.174 was published on May 15, 1990. (55 FR 20144) Several changes arising out of comments received were incorporated into the final rule. These included a requirement that appellants and their representatives be notified of various restrictions concerning changes in representation, requests for personal hearings, and the submission of additional evidence after an appeal has been certified to the BVA. A conforming revision has been made to § 19.36 and, with this revision, the amendment is adopted.

One comment was received on § 19.37. This commenter felt that paragraph (a) should be revised to delete the language providing that a Supplemental Statement of the Case need not be issued when duplicate evidence is received which has already been discussed in a Statement of the Case or Supplemental Statement of the Case. VA finds no merit in this suggestion. Appellants and representatives often submit duplicate copies of documents which they have submitted before or copies of records which they obtained from VA in the first place. No useful purpose is served by again discussing evidence which has already been discussed.

Two comments were received concerning § 19.38. The proposed section provides that development completed by the agency of original jurisdiction pursuant to a remand from the BVA should be reviewed by that agency to determine if that development shows that the benefit sought on appeal should be allowed. One commenter suggested that a review of the entire record be required and felt that the proposed section seemed to indicate that the review would be limited to only the information developed as a result of the remand. It is certainly not VA's intent that the post-remand development be reviewed in a vacuum. Changes have been made to make it clear that the review is to take into consideration the evidence which was previously of record. The other commenter noted that the 30-day period referenced in this section is in conflict with the provisions

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of § 20.302(c). The commenter is correct and this error has been corrected. With these changes, the amendment is adopted.

No comments, suggestions, or objections were received regarding the amendments to §§ 19.50 through 19.53, 19.75 through 19.77, and 19.100 through 19.102. Material has been added to §§ 19.101 and 19.102 to make it clearer that information which is provided to the contesting claimants in contested claims is limited to information pertinent to the contested issues. With this addition, these amendments are adopted as proposed.

.One commenter did suggest that VA's substantive appeal form (VA Form 1–9) be annotated to show that requests for hearings before traveling sections of the BVA should be submitted to the applicable VA field office, rather than to the BVA, as required by § 19.75. This form was extensively revised in October 1989 and now includes this information.

A commenter suggested that a cross-reference from § 19.76 to § 20.704 be added to appendix A to part 19. VA agrees that this would be helpful and this cross-reference has been added. References to proposed §§ 19.13(b) and 19.14, which have been withdrawn, have been removed. The appendix is adopted, with these revisions.

One comment was received on § 20.1. It was suggested that the introductory clause "In accordance with the agency's policy of providing assistance to the appellant," be restored to what is now paragraph (b). The operative language of the prior section "These rules are to be construed to secure a just and speedy decision in every appeal" has been retained. The omitted introductory clause adds nothing of substance. This amendment is adopted as proposed.

One comment was received regarding § 20.2. This commenter alleged that this section (which provides that the Chairman may prescribe procedures consistent with the provisions of title 38, United States Code, and the BVA's Rules of Practice when a situation arises which is not covered by any existing rule or procedure) removes authority from Chief Members which they previously had, that it is contrary to the intent of Public Law 100–687, and that it is inefficient inasmuch as Board Sections will be forced to delay processing of a case while it is routed through the Chairman's office. VA does not agree with these remarks and the amendment is adopted as proposed. This authority has not been removed from Chief Members. Section 20.102, paragraph (c), extends this authority to the Vice Chairman; the Deputy Vice Chairmen; and, in connection with proceedings assigned to them, to other Members of the Board who have been designated as the Chief (or Acting Chief) Member of a Section or who are acting as the presiding Member of a hearing panel. It should also be borne in mind that the Chairman is, in fact, a Member of the Board (see 38 U.S.C. 7101) and has the same decision making authority as any other Member of the Board—in addition to special authority conferred by law in certain instances (e.g., see 38 U.S.C. 7103). In addition, he or she is the chief administrative officer of the Board in a position not unlike that of the chief judge of an appellate court. It is, of course, impossible to anticipate every procedural contingency when writing Rules of Practice and, from time to time, procedures must be devised to deal with unique situations. Occasions arise when special procedures must be devised in cases which are not yet before a BVA Section or in which Section action has been completed. The requirement that any necessary ad hoc procedure be consistent with existing statutory and regulatory authorities provides protection from abuse.

One comment was received concerning § 20.3. The commenter stated that "legal intern" should be defined as a law student, rather than as a graduate of a law school who has not yet been admitted to the bar, and that the definition of "legal intern" proposed was actually the appropriate definition of "law clerk." The proposed definition of "legal intern" is consistent with BVA practice and with the definition in "Black's Law Dictionary," which defines an intern as "an advanced student or recent graduate in a professional field." (Black's Law Dictionary 732 (5th ed. 1979). A separate definition of "law student" is provided. Inasmuch as these terms are clearly defined in this section, no confusion should result.

"Cemetery" has been added to the list of VA facilities which are included in the definition of "agency of original jurisdiction" as an editorial change. Cemeteries were previously included via the phrase "or other Department of Veterans Affairs facility."

Paragraph 20.3(k), as published, contained typographical errors. In the second sentence, "60 days" should read "90 days" and the reference to § 20.609(g) should have been to § 20.609(i). These errors have been corrected.

With these revisions, § 20.3 is adopted.

No comments, suggestions, or objections were received regarding the amendment of § 20.100. This amendment is adopted as proposed.

Two comments were received on § 20.101. With one exception, both concern the third sentence of paragraph (a), which is similar to language in proposed § 19.5, and both comments are essentially the same as the comments offered concerning § 19.5, supra. The same response applies. One of the commenters also felt that the statement in paragraph (c) that only the Board of Veterans' Appeals will make final decisions with respect to its jurisdiction might mislead readers to believe that the United States Court of Veterans Appeals could not review such a determination. The statement, of course, applies only to determination of BVA jurisdiction within VA. The statement has been modified to reflect that such a determination may be subject to judicial review. With this change, the amendment is adopted.

One comment was offered concerning § 20.102. The commenter indicated that the intent of paragraph (d) was unclear, inasmuch as it appeared to authorize any Member of the BVA to rule on a motion for a subpoena or to quash a subpoena under proposed § 20.711(e) and (f), respectively. VA agrees that clarification is in order. This comment and comments in response to § 20.609(i), infra, bring to light the fact that this proposed regulation did not make it clear that the various authority exercised by BVA Members assigned to BVA Sections is to be exercised in the context of proceedings which have been assigned to them for disposition in accordance with the provisions of 38 U.S.C. 7102(c). Appropriate material has been added to paragraphs (c) and (d) to clarify this aspect of the regulation. While not noted by a commenter, there is one typographical error in paragraph (d). The reference to § 20.609(g) should be to § 20.609(i). This error has been corrected. A reference to proposed § 20.1101, which has been withdrawn, has been removed. The amendment, with the revisions noted, is adopted.

No comments, suggestions, or objections were received regarding the amendment of § 20.200. This amendment is adopted as proposed.

Three comments were received concerning § 20.201.

One commenter noted that this section refers to filing a Notice of Disagreement with an adjudicative determination by an agency of original jurisdiction and suggested that a provision be included specifically addressing appeal of determinations by VA's Veterans Health Administration (VHA)—apparently under the mistaken belief that the term "agency of original jurisdiction" applies only to field facilities of the Veterans Benefits Administration. When a VHA facility has made the determination being appealed, it is the "agency of original jurisdiction." (See § 20.3(a).)

The commenters raised objection to what are alleged to be unwarranted procedural requirements for Notices of Disagreement, including the use of the word "must" in the second sentence and the requirement that the issues with which disagreement is being expressed be identified. VA does not agree that these provisions are unwarranted. The word "must" to which the objection is raised occurs in the following sentence: "While special wording is not required, the Notice of Disagreement must be in terms which can be reasonably construed as disagreement with that determination and a desire for appellate review." VA has always been, and will continue to be, liberal in determining what constitutes a Notice of Disagreement. The continuation of this policy is demonstrated by the lack of a requirement for special wording and the use of the phrase "can be reasonably construed." Nevertheless, some indication which reasonable persons can construe as disagreement with a determination by an agency of original jurisdiction and a desire to appeal that determination is at the very heart of what constitutes a Notice of Disagreement. Without such an expression, the communication may be something, but it is not a Notice of Disagreement. Not much is required, but the communication must be recognizable as a Notice of Disagreement.

Important consequences flow from filing a Notice of Disagreement. As provided in 38 U.S.C. 7105(a), appellate review is initiated by a Notice of Disagreement. The Notice of Disagreement is jurisdictional—that is, without a Notice of Disagreement, the BVA does not have jurisdiction over an issue (except as provided in § 19.13). Further, it would not be fair for the BVA to assume jurisdiction over an issue before a claimant, who may still have months remaining before the time to appeal lapses, has completed his or her preparation and is ready to initiate an appeal as to that issue. Thus, it is vital that the BVA be able to tell which issues have been appealed when several determinations have been made which are appealable.

It is not VA's intent to deprive anyone of his or her right to appeal. As one commenter pointed out, a Department of Veterans Benefits operational manual (M21-1, paragraph 18.03b) requires that clarification sufficient to identify the issue being appealed be requested when a Notice of Disagreement is received following a multiple-issue determination and it is not clear which issue, or issues, the claimant desires to appeal. VA strongly supports this policy and, in view of the concerns raised here, has made it applicable throughout VA by adding this requirement to § 19.28 "Action by agency of original jurisdiction on Notice of Disagreement." The BVA may also remand cases for issue clarification when necessary. With this addition, § 20.201 is adopted as proposed.

Three comments were also received concerning § 20.202.

One commenter objected to the requirement that the issues being appealed be identified. VA believes that this requirement is appropriate for the same reasons noted in conjunction with a similar objection to § 20.201. It is also noted that one of the purposes of the current statutory appellate process is to narrow appeals to those issues which an appellant really wants to appeal after the reasons for a determination have been explained to him or her in the Statement of the Case and that 38 U.S.C. 7105(d)(3) provides that the benefits sought on appeal must be clearly identified in the formal appeal.

Two commenters objected to the use of the word "must," rather than "should" in conjunction with the requirement that the Substantive Appeal set out specific argument relating to errors of fact or law made by the agency of original jurisdiction. This objection is well taken in view of the word "should" in the statute on which this provision is based (38 U.S.C. 7105(d)(3)) and this has been corrected.

One commenter stated that "we are very much concerned by the new authority created by this section which would allow the BVA to unilaterally dismiss an appeal which does not allege an error of fact or law." This authority is not new. 38 U.S.C. 7105(d)(5) specifically states that "The Board of Veterans' Appeals may dismiss any appeal which fails to allege specific error of fact or law in the determination being appealed." VA believes that it is appropriate that this fact be brought to the attention of appellants and their representatives in this Rule of Practice. VA also notes that the BVA has been, and will continue to be, very liberal in this area. This Rule of Practice also provides that "The Board will construe such arguments in a liberal manner for purposes of determining whether they raise issues on appeal * * *" and § 20.203 provides that appellants and representatives will be given notice and an opportunity to contest the matter when the BVA questions the adequacy of the Substantive Appeal.

One commenter objected to a perceived requirement for "the claimant to lay out all specific arguments in the Substantive Appeal," observing that it had previously been sufficient to address issues in general terms and to be more specific in "the presentation to the BVA" (apparently a reference to formal and informal hearing presentations and/or appellate briefs). There is nothing in the proposed amendment which changes the practice described. That is, this amendment neither precludes nor discourages raising additional arguments, or further explaining prior arguments, concerning appealed issues in presentations subsequent to the Substantive Appeal.

This proposed amendment is adopted, with the correction described above.

No comments, suggestions, or objections were received regarding the amendments to §§ 20.203, 20.204, 20.300 and 20.301. These amendments are adopted as proposed.

One comment was received on § 20.302. This commenter feels that the language in paragraph (c) which extends the time to respond to a Supplemental Statement of the Case to 60 days should not be adopted and that the response time should remain at 30 days. As the commenter notes and as was set forth in the notice of proposed rulemaking, the reason for this change is that when new issues are included in a Supplemental Statement of the Case it becomes the Statement of the Case as to the new issues. The law provides that an appellant has 60 days after receiving a Statement of the Case within which to file a Substantive Appeal. (See 38 U.S.C. 7105(d)(3).) The commenter argues that new issues should not be included in Supplemental Statements of the Case. While VA understands that the "purest" procedure might arguably be to require a separate Statement of the Case concerning new issues raised, that is not the procedure used by VA regional offices in some cases. There is nothing legally wrong with consolidating the appeals, provided that the agency of original jurisdiction bears in mind that when a new issue is raised and denied, there must be a Notice of Disagreement with respect to the new issue before it is included in a Statement or Supplemental Statement of the Case. This amendment is adopted as proposed.

The same commenter raised an objection to § 20.303 with the following comment: "Please refer to comments pertaining to the "60-day period" under the preceding paragraph." The paragraph referred to was the one containing the above objection to § 20.302. Apparently, the objection relates to the reference to a 60-day period for responding to a Supplemental Statement of the Case. The language in this amendment has not been modified for the same reasons noted in the discussion concerning § 20.302. The amendment is adopted as proposed.

No comments, suggestions, or objections were received regarding the amendment of § 20.304. This amendment is adopted as proposed.

One commenter feels that the presumption in § 20.305 that a document had been postmarked 5 days prior to it's receipt when the actual postmark is not available is too liberal and that a three day period is more appropriate. While VA agrees that this is perhaps liberal, this suggestion has not been adopted. This commenter also noted that mail service is provided on Saturday—in essence suggesting that the exclusion of Saturday in calculating the 5-day period is inappropriate. VA notes that mail service is not provided in all areas on Saturdays. The amendment is adopted as proposed.

No comments, suggestions, or objections were received regarding the amendment of § 20.306. "Martin Luther King, Jr.'s Birthday" has been changed to "Birthday of Martin Luther King, Jr." and the apostrophe has been removed from "Veterans Day" to conform with 5 U.S.C. 6103. This amendment is adopted with these revisions.

One comment was received concerning § 20.400. The commenter suggested that the fourth sentence be modified by adding the words "by the claimant or the claimant's representative," or similar words, after the word "argument" to make it clear that only the claimant or his or her representative may authorize a merged appeal. While that is already relatively clear from the proposed regulation, the suggested addition is accepted and the proposed amendment is adopted with this addition.

No comments, suggestions, or objections were received regarding the amendments to §§ 20.401 and 20.500. These amendments are adopted as proposed.

One comment was received regarding § 20.501. This commenter, who was also the only commenter on § 20.302, suggested revision of the last two sentences of paragraph (c) "for the same reasons previously eluded (sic) to in comments pertaining to 20.302, as proposed." Presumably, the objection is to the concept of inclusion of new issues in a Supplemental Statement of the Case. For the same reasons outlined in response to the comments concerning § 20.302, this suggestion has not been adopted and the amendment is adopted as proposed.

No comments, suggestions, or objections were received regarding the amendments to §§ 20.502 through 20.504 and 20.600 through 20.605. Section 20.603(a), as proposed, was slightly more restrictive than 38 CFR 14.629(c) with respect to the documentation required to appoint an attorney-at-law as a representative in VA proceedings. Section 20.603(a) has been revised to make it consistent with 38 CFR 14.629(c). With this revision, these amendments are adopted as proposed.

Two comments were received concerning § 20.606, both addressed to paragraph (e) which notes that permission for a legal intern, law student, or paralegal to prepare and present cases before the Board may be withdrawn by the Chairman at any time if a lack of competence, unprofessional conduct, or interference with the appellate process is demonstrated by that individual. (This authority has also been delegated to the Vice Chairman, the Deputy Vice Chairmen, and Members of the Board. See § 20.102(d).)

One commenter felt that this paragraph "unlawfully" singles out legal interns, law students and paralegals for "an entirely new and separate discipline system for such representatives" and suggested that procedures such as those set out in 38 CFR 14.633(c) (pertaining to termination of recognition of representatives) be adopted. The second commenter felt that this paragraph was based upon an assumption that law students are more prone to engage in unprofessional conduct than are other representatives and cited the care used by law students utilized by the commenting organization in preparation for BVA hearings and the training which the commenting organization gives to law students participating in such hearings. Fear was expressed that an appellant's case would be prejudiced should a law student be disqualified during the course of a hearing and a supervising attorney, who had not established an equally close working relationship with the appellant, be required to complete the hearing. Fear was also expressed that various pre-hearing and hearing requests by students which might be inconvenient to the BVA's administrative staff and Board Members could be deemed "unprofessional" and that irritation with a "representative's" persistence might therefore cut off the representative's ability to properly develop the record.

The BVA has permitted law students, paralegals, and legal interns to participate in hearings (with professional supervision by attorneys-at-law) for a number of years. VA makes no assumption that law students are especially prone to unprofessional conduct and recognizes that most of these individuals are sincere and dedicated. It also recognizes the valuable experience which such participation provides in the training of law students. Unless independently qualified, however, these individuals are not representatives. They may be future representatives in training, but they do not have the same status as representatives and they are not subject to the disciplinary procedures described in 38 CFR 14.633. Rather, they are permitted to assist an attorney-at-law who is the accredited representative as a courtesy to that representative. It is the supervising attorney-at-law who is responsible for the prosecution of the appeal.

While VA recognizes the valuable contribution which BVA experience may provide in the training of paralegals, law students, and interns and the valuable service which these individuals provide to appellants in most instances, the Board's primary responsibility is to insure that justice is done in each individual case and that appellants are not ill-served by inexperienced individuals in training.

The BVA encourages zeal in the prosecution of appeals. Thorough representation is very helpful to the BVA, as well as to appellants, in ensuring that all facts and applicable legal theories are brought to light so that justice may be served in each individual appeal. Nevertheless, BVA Board Members have a right to expect that they will be treated with professionalism in the course of appellate presentations. Further, training in professional responsibility is no less a proper part of a law students' education than is training in substantive and procedural law. The American Bar Association's "Model Rules of Professional Conduct" provide, in part, that a lawyer shall not engage in conduct intended to disrupt a tribunal. (Rule 3.5) The following comment, which follows that provision, is germane:

> The advocate's function is to present evidence and argument so that the cause may be decided according to law. Refraining from abusive or obstreperous conduct is a corollary of the advocate's right to speak on behalf of litigants. A lawyer may stand firm against abuse by a judge but should avoid reciprocation; the judge's default is no justification for similar dereliction by an advocate. An advocate can present the cause, protect the record for subsequent review and preserve professional integrity by patient

firmness no less effectively than by belligerence or theatrics.

A mechanism such as that in paragraph (e) is necessary for the protection of the appellate process in those few cases where the privilege extended to these individuals is abused. Considering the status of these individuals, the elaborate procedures provided for the suspension or debarment of a representative set out in 38 CFR 14.633 are not appropriate. VA has no reason to believe that the authority described in this paragraph will be abused by any Member of the BVA. Should such a situation arise, the issue may be appropriately raised on appeal. If the supervising attorney performs his or her function appropriately and monitors the professionalism of the law student, legal intern, or paralegal who is assisting him or her at an appellate hearing; there will be no cause for excluding such an assistant during the course of a hearing. The supervising attorney is the representative of record. He or she is responsible for being thoroughly prepared for hearings in order, at the very least, to properly supervise his or her assistants. He or she should, and must, be prepared to take charge of any aspect of a hearing when required. This amendment is adopted as proposed.

Only one comment was received concerning § 20.607. The commenter voiced support for the provisions of this section, but noted that it conflicts with limitations imposed by § 20.1304 concerning a request for a change in representation following certification of an appeal and transfer of the appellate record to the BVA. A reference to this limitation has been added and, with this addition, the proposed amendment is adopted.

Two comments were received regarding § 20.608. Both deal with the restriction in paragraph (b) on a representative's right to withdraw from a case after an appeal has been certified to the BVA for review.

One commenter felt that there should be no restriction and expressed particular concern about a situation in which there might be an antagonistic relationship between a representative and appellant or disagreement between the representative and appellant on how to proceed in a particular case. VA feels that a limited restriction on the right of a representative to withdraw at the appellate level is justified. Unfortunately, there have been abuses in this area. For example, there have been cases in which representatives have left appellants unrepresented minutes before a hearing was to begin because they had not taken the trouble to evaluate the case prior to the hearing or did not choose to continue with a case which they felt might not enhance their record of success. VA considers an undertaking to represent an appellant to be a very serious matter. The proposed section already provides that withdrawal will be permitted when good cause is shown and that good cause includes "factors which make the continuation of representation impractical or impossible." Clearly, the two situations mentioned by the commenter would fall into this category.

The second commenter noted that there could be situations in which a representative could be compelled to represent an appellant whom he or she had never agreed to represent, inasmuch as designations of representation can be filed by appellants without the prior agreement of the representative. This commenter suggested that, if the proposal were adopted, it should contain an exception for such cases. Concern was also expressed about placing representatives in a situation in which they might be forced to continue representation in situations where continued representation might be in violation of the "Code of Professional Responsibility." In this regard, it was suggested that "unethical" be added to "impractical" and "impossible" at the close of the second sentence of paragraph (b) and that representatives not be required to explain how or why continued representation would be unethical. VA agrees that these concerns are valid. The paragraph has been modified to provide that permission to withdraw is not required unless a representative has agreed to act in the case and the word "unethical" has been added as suggested. Language has also been added to make it clear that motions to withdraw should not include information which it would be unethical for the representative to reveal.

A list of examples of possible VA claimants and appellants other than veterans is given in several locations throughout these revisions, including this section. This list has been expanded to include fiduciaries appointed to receive an individual's VA benefits on his or her behalf. This revision has been made to provide additional information. It does not represent any change in existing practices.

The citation of authority has been expanded to include 38 U.S.C. 7105(a).

With these modifications, the proposed amendment is adopted.

Three comments were received concerning § 20.609.

Paragraph (f) of this section states that fees charged by attorneys-at-law and agents in proceedings before VA will be presumed to be reasonable if they total no more than 20 percent of any past-due benefits awarded. One commenter asserted that this provision was contrary to law, inasmuch as 38 U.S.C. 5904(d)(1) limited the 20-percent test to contingent-fee cases, while a reasonableness test applies to other types of fee arrangements. In addition, the commenter argued that this provision would induce representatives to tailor their fees to approximate 20 percent even though they might be "grossly disproportionate" to the work required, that Congress meant the 20-percent figure to be a ceiling and not the norm, and that the presumption transferred the burden of proof from the representative to the claimant/appellant. With regard to the latter, concern was expressed about an unrepresented individual meeting this burden.

VA does not agree that this provision is unlawful and finds no evidence that it is contrary to the intent of Congress. 38 U.S.C. 5904(c)(2) provides, in essence, that the BVA is charged with determining what fees are reasonable. This presumption serves to announce that the BVA considers fees meeting the 20-percent test to be reasonable unless the contrary is shown. VA believes that it may be construed from the provisions of 38 U.S.C. 5904(d)(1) that it is the sense of the Congress that fees of 20 percent are not unreasonable. It is true that this presumption serves to shift the burden of proof, but VA does not feel that this transfer is unwarranted. Fees of 20 percent would be relatively modest in most cases. Attorneys' fees in many types of civil actions, for example, typically run to a greater amount. At least as to contingent fees, fees of 25 percent of past-due benefits have apparently become the norm in Social Security cases. (Department of Health & Human Services, Social Security Administration, Office of Hearings and Appeals; "Report to Congress, Attorney Fees Under Title II of the Social Security Act" 2 (1988).) Further, most cases allowed by the BVA do not result in large awards of past-due benefits.

VA has no reason to believe that abuse by representatives who would charge "grossly disproportionate" fees will arise except in unusual cases. Should there be any such abuse, this section and 38 U.S.C. 5904(c)(2) provide for review by the BVA to protect the claimant/appellant. As to unrepresented individuals, the BVA has not and will not penalize legally unsophisticated appellants—nor will it tolerate "grossly disproportionate" fees, even though they may meet the 20-percent test. Obviously, if fees of 20-percent were grossly disproportionate to the amount of work done, the presumption of reasonableness would be overcome.

The same commenter urged that this regulation include a provision for notifying appellants of their right to file a motion for review of fee agreements under paragraph (i), possibly by inclusion of notice in the form used to designate attorneys and agents as representatives (VA Form 2–22a) and by a requirement that it be included in privately drawn designations of a representative which does not use the form. VA does not currently believe that the need for such notice is so strong as to justify the burden of imposing a regulatory duty of proving that such notice has been given to appellants by agents and attorneys who do not use the form mentioned.

The second commenter voiced disagreement with the indication in paragraph (c)(1) that a condition precedent to the charging of fees by attorneys-at-law and agents is a final BVA decision "with respect to the issue, or issues, involved." The commenter argues that the only criteria should be that there was a prior decision, not that the exact issue or issues were decided in that decision, and that this provision is contrary to the intent of Congress. VA does not find that this objection is well-founded. It was clearly not the intent of Congress that a BVA decision on any subject in the case of a particular veteran would open the door to fees by attorneys-at-law and agents with respect to every matter which might ever arise in the future. The statutory requirement that there be a final decision in the case makes little sense unless the intent is that the decision has been on point. The remarks of the Honorable Alan Cranston, United States Senate, in discussing Public Law 100–687 are instructive. These remarks include the following:

> Let me be clear—I do not believe that most veterans with claims before the VA would be well advised to seek the assistance of an attorney. Certainly, were I asked, my first advice to a veteran with such a claim would be to contact a veterans' service officer. But the existence of the valuable, free resource of representation before the VA by veterans' service officers in claims adjudication is not a reason for precluding a veteran from seeking to obtain the services of an attorney at the end of the internal VA process if the veteran wishes to do so.
>
> The compromise agreement before us today prohibits attorneys fees until after the BVA makes its first final decision, thus contemplating that the current practice of veterans being assisted by skilled veterans' service officers throughout the VA and initial BVA administrative processes would continue to operate exactly as it does now.

(134 Cong. Rec. S 16646 (daily ed. Oct. 18, 1988).)

Essentially, the idea is that attorneys and agents will not become involved in claims for particular benefits from VA on a fee basis until after the claim has been denied at the VA field facility level and, after an appeal, the BVA has had an opportunity to rule on the merits of the particular claim—in short, until after the normal administrative procedures have run their course. For example, the fact that there had been a recent BVA decision on the issue of entitlement to service connection for one disability would permit a fee agreement with respect to that issue (assuming that the other criteria were met), but it would not furnish a basis for a fee agreement on another entirely separate issue (e.g., entitlement to an increased evaluation for another disability) on which the BVA had not yet ruled. It should be noted that the term "issue" in the context of this regulation means the principal issue (e.g., entitlement to service connection for a particular disability). It is not the intent of this regulation to restrict fees for services performed in conjunction with the disposition of the collateral issues which must be addressed in order to reach a decision on the principal issue.

The same commenter felt that the words "applicable Board of Veterans' Appeals decision" in paragraph (c)(2) are confusing and objected that the right to obtain an attorney on a fee basis was unfairly restricted if the intent was to refer back to paragraph (c)(1). (While the comment is not clear in this regard, this objection is apparently on the same basis as the objection to paragraph (c)(1).)

The intent was, indeed, to refer back to paragraph (c)(1). Paragraphs (c)(1) through (c)(3) constitute an interconnected list of criteria which must be met. To remove any doubt, however, the language in paragraphs (c)(2) and (c)(3) has been amended to conform to the language in paragraph (c)(1). With respect to the appropriateness of the language, the comments concerning paragraph (c)(1) apply.

Also with respect to paragraph (c)(2), this commenter argues that there should be no requirement that the Notice of Disagreement received on or after November 18, 1988, must precede the BVA decision with respect to the issue, or issues, involved. Essentially, the commenter feels that the statute (38 U.S.C. 5904(c)(1)), read together with section 403 of Public Law 100–687, is satisfied if there is a final BVA decision and if there is a Notice of Disagreement filed on or after November 18, 1988, even though the decision predated the Notice of Disagreement. For example, the commenter argues that if there is a final BVA decision following a pre-November 18, 1988, Notice of Disagreement denying a benefit, the claim is reopened and again denied at the agency of original jurisdiction level, and a Notice of Disagreement is filed after November 18, 1988, on the reopened claim, there should be an immediate right to enter into a fee agreement rather than a necessity to await the BVA decision on the reopened claim.

VA has not found material in the legislative history which shows that this particular point was specifically considered in the drafting of Public Law 100–687. However, VA is of the opinion that the construction in this proposed amendment is the one which is the most logical. It appears that the intent with respect to the effective date for the allowance of fee agreements was that there would be a clear line of demarcation centered on the date of enactment of Public Law 100–687 (November 18, 1988) with an orderly progression of subsequent events, culminating in a BVA decision, before fee agreements are permitted. Independent analysts have also apparently arrived at the same conclusion. (e.g., see Stichman, "The Veterans' Judicial Review Act of 1988: Congress Introduces Courts and Attorneys to Veterans' Benefits proceedings," 41 Ad. L. Rev. 365 at 387, 388 (1989)).

Once the BVA denies an appeal, its decision is final and conclusive aside from the right to appeal to the United States Court of Veterans Appeals, or another Federal court, under some circumstances and a possible motion for reconsideration. (38 U.S.C. 7103(a)) When an appeal is denied by the Board, it may not thereafter be reopened and allowed on the same factual basis, but only on the basis of new and material evidence. (38 U.S.C. 5108 and 7104(b)) Thus, a reopened claim, even with a Notice of Disagreement filed on or after November 18, 1988, has little legal relationship to a prior denied appeal. The earlier appeal is, in essence, a separate case. Inasmuch as 38 U.S.C. 5904(c) bars payment of a fee for "services provided before the date on which the Board of Veterans' Appeals first makes a final decision in the case," VA believes that fees are payable only for service provided subsequent to a final BVA decision following upon a

Notice of Disagreement filed on or after November 18, 1988.

Moreover, Congress contemplated that the operative BVA decision, for the purposes of Public Law 100–687, would follow rather than precede the Notice of Disagreement. Regarding the effective date provisions, for example, Senator Cranston noted the following:

> Given the fact that it currently takes on the average over 355 days from the issuance of the statement of the case—the step after the filing of the notice of disagreement—to the entry of a final BVA decision, the new court should have sufficient time before its effective date on September 1, 1989, in which to become fully operational before it receives its first significant number of cases.
>
> (134 Cong. Rec. S 16650 (daily ed. Oct. 18, 1988))

Further, the judicial-review provisions and the attorney-fee provisions were enacted together, as an organic whole. The attorney-fee provisions were added primarily to assist veterans in retaining counsel for assistance in appealing BVA decisions to the United States Court of Veterans Appeals. Senator Cranston emphasized that veterans should be assisted by veterans service officers throughout VA field facility and initial BVA processes, concluding that the attorney-fee provisions would enable a veteran, "once he or she has received an initial BVA decision and has sought an attorney's assistance to appeal that decision, * * * to seek further BVA review with the assistance of counsel before going to court." (134 Cong. Rec. S 16646 (daily ed. Oct. 18, 1988)) To the extent a veteran has filed a Notice of Disagreement in a reopened claim, but has not received a BVA decision thereon, an appeal to the court would be premature. Thus, the need for counsel envisioned by Congress (i.e., to assist in an appeal to the COVA) has not arisen.

In an analogous situation, Congress expressed its desire to bar payment of fees where counsel is not retained within one year of the final BVA decision. Senator Cranston explained the effect of this provision in the context of stale appeals as follows:

> This provision is not intended to limit a claimant from changing attorneys once an appeals process has begun, but rather to address the possibility of a claimant receiving a final BVA decision waiting a number of years without any action, and then retaining an attorney to request a reopening and pursuit of the claim at the regional office level. In such a case, no fee could be paid to the attorney until after a new final decision.
>
> (134 Cong. Rec. S 16647 (daily ed. Oct. 18, 1988))

VA believes that the same analysis may be applied where there is a disjunction between a pre-Public Law 100–687 decision and a post-Public Law 100–687 Notice of Disagreement. There is no compelling reason to allow the payment of fees before a veteran has exhausted administrative procedures in a reopened claim and, as Senator Cranston's remarks suggest, there is every reason to bar the payment of fees in stale appeals.

Paragraph (b) of § 20.609 points out that agents and attorneys-at-law may receive fees, but that other representatives may not. This commenter also suggested that paragraph (b) be amended to specify when agents and attorneys-at-law who are also accredited representatives of recognized organizations may receive fees. Explanatory language has been added, as suggested. Only one representative may be recognized at any given time in the prosecution of a particular claim. (See § 20.601 and 38 U.S.C. 7105(b)(2).) An attorney-at-law or agent could also be an accredited representative of a recognized service organization. (See 38 CFR 14.628, "Recognition of organizations," and 14.629 "Requirements for accreditation of representatives, agents, and attorneys.") Whether he or she may charge fees for services performed in a particular case will depend upon the capacity in which he or she is acting at the time. If the organization has been designated as representative and he or she is acting in his or her capacity as an accredited representative of a recognized organization, it is the organization which is the representative in the case, not the accredited representative of the organization. Recognized organizations may not receive fees and the fact that the particular accredited representative who is working on the case for the organization may also happen to be an attorney-at-law or agent does not alter that fact. If he or she has been appropriately designated and is acting in his or her own capacity as an attorney-at-law or agent as the designated representative, then fees may be charged if the other criteria are also met. (Also see proposed § 20.603(b) concerning attorneys employed by recognized organizations.)

The third commenter suggested that the list of factors to be considered in determining whether fees charged by attorneys-at-law and agents are reasonable contained in paragraph (e) should include "the delay in payment" and "the contingent nature of the representation." VA assumes that the reference to "the contingent nature of the representation" is actually a reference to the contingent nature of payment in contingent fee cases. On that assumption, this part of the suggestion has been adopted. The suggestion concerning including delay in payment as an element for consideration has not been adopted. Potential difficulty in collecting fees from clients exists in every case. If the concern here is about the fact that payment must await the result in contingent fee cases, that would be part of the justification for higher fees in contingent fee cases and is contemplated by the inclusion of consideration of whether the payment of fees is contingent upon achieving a favorable result.

This commenter felt that paragraph (f), which provides that fees which total no more than 20 percent of any past-due benefits awarded will be presumed to be reasonable, should be "clarified" to show that fees over 20 percent would not be presumed to be unreasonable. VA believes that it is obvious that that would not be a reasonable construction of paragraph (f) and that no further clarification is necessary. (See the discussion concerning the first commenter's remarks regarding this paragraph.)

This commenter argues that paragraph (i) should provide that motions for the review of fee agreements should be ruled on by "the Board," rather than by the Chairman, citing the language in the section of Public Law 100–687 which has been codified as 38 U.S.C. 5904 and arguing that Board Members are in the best position to judge the quality and quantity of an attorney's work on a case. This suggestion has not been adopted.

Such motions are in fact reviewable by any of the Members of the Board when the motion is properly before them. (See § 20.102(d).) VA regrets any confusion which may have been caused in this regard by the typographical error which resulted in an erroneous reference to § 20.609(g), rather than § 20.609(i), in § 20.102(d).

Secondly, this comment seems to be based on the erroneous assumption that the Chairman is not a Member of the Board with decision-making authority at least equal to that of any other Member. Clearly, that is not the case. (See, for example, 38 U.S.C. 7101(b).)

Next, from an administrative standpoint, choosing which Members of the Board will dispose of motions is one of the Chairman's duties. Sections of the Board dispose of motions which are before them in connection with proceeding which have been specifically assigned to them by the Chairman. (See 38 U.S.C. 7102(c).)

Finally, VA agrees that Members of Board Sections will be in a good position to rule on motions concerning fee agreements in matters in which they have been personally involved. It is contemplated that such Members will rule on motions concerning fee agreements which arise during the course of appeals or other proceedings which have been assigned to them in accordance with 38 U.S.C. 7102(c). (As a result of these comments, material has been added to § 20.102 to make this clearer.) However, motions concerning the reasonableness of fee agreements (as well as other motions) do not always arise in the context of appeals before Sections of the Board for disposition. Essentially, 38 U.S.C. 5904 charges the BVA with monitoring the reasonableness of fee agreements concerning cases brought throughout the Department regardless of whether they are in the context of an appeal. For example, an attorney-at-law may be hired to represent a claimant at the field level in a reopened claim which follows a recent BVA decision. The representative may be successful in the prosecution of the reopened claim and the case will never come before the BVA on appeal. Nevertheless the claimant could file a motion with the BVA for review of the reasonableness of the attorney's fees. Along the same lines, 38 U.S.C. 5904(c)(2) and these rules provide for filing a copy of any fee agreement with the BVA and that the Board may review agreements for reasonableness on its own motion. It seems clear that the BVA has the responsibility under this statute to conduct at least a preliminary screening of agreements filed with it to guard against the abuse of veterans and their survivors and dependents. Some centralized filing and initial review process at the Board is desirable both from the standpoint of reasonable administrative efficiency and from the standpoint of uniformity of approach.

A list of examples of possible VA claimants and appellants other than veterans is given in several locations throughout these revisions, including this section. This list has been expanded to include fiduciaries appointed to receive an individual's VA benefits on his or her behalf. This revision has been made to provide additional information. It does not represent any change in existing practices.

References to "agents" have been removed from paragraph (h), inasmuch as the provisions of 38 U.S.C. 5904(d) apply only to attorneys-at-law.

VA assumed when drafting these amendments that parties would submit such evidence as they might wish to the BVA in conjunction with a motion for review of a fee agreement. Material has been added to paragraph (i) to make it clear that this is permitted and also to note that the ruling on the motion will be in the form of an order, as noted in 38 U.S.C. 5904(c)(2). Other editorial changes have been made to the paragraph to make it clear that the BVA need not file its own motions with itself.

The phrase "Department of Veterans Affairs personnel" has been changed to read "Department of Veterans Affairs field personnel" in the section heading and in paragraph (a) as an editorial change in the interest of clarity.

With the modifications described in the preceding paragraphs, § 20.609 is adopted.

One comment was received concerning § 20.610. This comment, like the commenter's remarks pertaining to § 20.609(i), suggests that notice of the availability of review of the reasonableness of representatives' expenses be included in VA Form 2–22a and any other designation of representation by an attorney-at-law or agent. The same response given in the discussion concerning § 20.609(i) applies.

This commenter also suggested that the BVA take into consideration, when reviewing motions pertaining to the reasonableness of representatives' expenses, whether expenses have been incurred for the services of experts which should have been provided by the representative rather than the expert. Normally, experts are used to provide opinions on technical matters, rather than to provide normal representational skills. Based upon past experience, VA does not currently perceive a significant potential for abuse in this area warranting regulation. VA notes that the list of criteria at the end of paragraph (d) is not intended to be all inclusive and that such a problem could be addressed under the regulation—as proposed—should abuse occur. If future experience should show that it is warranted, appropriate specific language can be added at a later time.

Finally, this commenter suggested that whether there was prior authorization of an expense by the claimant or appellant should be added to the list of criteria set out in paragraph (d) used to judge the reasonableness of expenses. In this regard, the commenter expressed concern about claimants not being aware of the cost of litigation. This regulation already contemplates that there will be an agreement between the parties as to whether a representative will be reimbursed for expenses. (See paragraph (b).) While VA recognizes and appreciates the concerns voiced by this commenter, it is reluctant to impose what would in effect be a requirement for the approval of each individual litigation expense in advance in addition to a general agreement for expense reimbursement. Such a requirement would be very burdensome to both claimants/appellants and representatives. Consideration will be given to a requirement for advance approval with respect to large expenses, perhaps those exceeding a particular amount, in the future if experience indicates a need for further regulatory control. At this time, however, this suggestion has not been adopted.

A list of examples of possible VA claimants and appellants other than veterans is given in several locations throughout these revisions, including this section. This list has been expanded to include fiduciaries appointed to receive an individual's VA benefits on his or her behalf. This revision has been made to provide additional information. It does not represent any change in existing practices.

VA assumed when drafting these amendments that parties would submit such evidence as they might wish to the BVA in conjunction with a motion for review of a representative's bill for expenses. Material has been added to paragraph (d) to make it clear that this is permitted and also to note that the ruling on the motion will be in the form of an order.

The phrase "Department of Veterans Affairs personnel" has been changed to read "Department of Veterans Affairs field personnel" in the section heading and in paragraph (a) as an editorial change in the interest of clarity.

With the modifications described in the preceding paragraphs, § 20.610 is adopted.

One commenter objected to the provision in § 20.611 allowing a representative to continue representation in a case on behalf of survivors for the first year following the death of a claimant or appellant—alleging that the "lengthy period of recognition would constitute an unwarranted invasion of the privacy rights of any survivor(s)." It was suggested that the period be reduced to 30 or 60 days or that there should be a requirement incorporated in the regulation that any survivor who files a claim must be placed on notice of the "power-of-attorney" in effect and offered the opportunity to rescind, limit, or change it.

The suggested changes have not been adopted. A similar provision has been in effect for many years, except that the current regulation provides for continuation of representation for a "reasonable" period. (See 38 CFR 19.155(c).) This amendment substitutes a one year period (or a period sufficient to complete any appeal pending at the time of the death of the claimant/appellant) for the rather vague standard of "a reasonable period." As is very clear from the proposed amendment, this provision does not preclude the survivor from changing representatives or terminating representation during the applicable period if he or she wishes. Rather, it serves the function of relieving distraught survivors from the burden of being forced to deal with such matters during the initial year following the death of an appellant or claimant and allows representatives to protect the interests of such survivors during this critical period. The amendment is adopted as proposed.

Four comments were received concerning § 20.700.

One commenter recommended that sworn testimony at a personal hearing be recognized as "primary" evidence and that the term "evidence" be defined to include testimony. The commenter argues that this regulation should provide that the BVA must state affirmative reasons for rejecting any testimony and that it should provide that the BVA may not "find a fact to be contrary to the veteran's testimony solely by reason that no reference to such fact exists or is contained in the service records."

That testimony by a veteran or any other witness is evidence is really not a matter which is open to debate. VA, of course, recognizes that it is. (See, for example, proposed § 19.31.) This point is so well settled that VA sees no need to include it in a definition in these rules of practice. The other suggestions from this commenter, described previously, pertain to the deliberative and decision-preparation process of Members of the Board. The weight to be accorded to any particular item of evidence, whether testimony or documentary evidence, is a matter for the triers of fact—in this case, Members of the Board—to determine. Many elements go into determining whether a witness is credible, including his or her demeanor while giving testimony. Little would be gained by a regulatory requirement that the Board specifically state that it did not find a particular witness to be trustworthy.

This commenter asked that paragraph (c) be revised to require that reasons for excluding evidence at hearings on the grounds of lack of relevancy or materiality or because of its repetitious nature be included in the final written decision by the BVA. The place for argument and discussion of why evidence should or should not be excluded at a hearing is at the hearing. The reasons for a ruling on the admissibility of evidence will be articulated at that time. In the event that appeal is taken to a higher tribunal on the question of whether evidence was wrongfully excluded, the hearing transcript will be available.

This commenter objected to the provisions in paragraph (d) limiting informal hearing presentations to 30 minutes, asserting that this was not in the interest of the appellant. These presentations on audio cassette tapes are limited to 30 minutes because the tapes are transcribed by VA at no cost to the appellant or representative as a service to the appellant and representative. Government funds for this service are limited. The use of this procedure is optional. Appellants and their representatives may present recorded or written presentations of any length they wish at their own expense. VA also notes that the 30 minutes allowed is 30 minutes of actual dictation. Off-line time to compose comments is not included. Thus 30 minutes of actual dictation on tape may represent several hours of work. Thirty minutes of dictation tape translates, on the average, into approximately eleven pages of typed material, single spaced. In a 1987 sample survey, the average informal hearing presentation was just under two and one-half pages in length and the longest in the sample survey was five and one-half pages in length.

The other three commenters expressed concern about the provisions of this amendment which limit hearings solely for oral argument unless good cause for such a hearing is shown. Some pointed out that give-and-take discussions with Members of the Board are often very valuable in defining the issues. One commenter expressed concern about obtaining hearings in cases in which an appellant was unable to attend personally due to age or infirmities.

VA does not believe that, in most cases, the benefit to be gained justifies the time and expense necessary to conduct such hearings. In most cases, there is little which can be presented at oral argument which can not be presented equally well in briefs. The proposed regulation provides for exceptions in unusual cases. The amendment is adopted as proposed.

No comments, suggestions, or objections were received regarding the amendment of § 20.701. This amendment is adopted as proposed.

Two comments were received concerning § 20.702.

One commenter pointed out the error in the spelling of the word "appear" in the paragraph heading of paragraph (d). This was a typesetting error which has been corrected. This commenter also suggested that the sentence "Ordinarily, however, hearings will not be postponed more than 30 days" be added following the sixth sentence of paragraph (d). The suggested language duplicates language found in paragraph (c)(2) and VA agrees that the suggested addition is appropriate. This suggestion has been adopted.

The second commenter pointed out, in essence, that paragraph (d) has not been constructed to recognize hearings in which only representatives appear to present oral argument. This was an oversight which has been corrected.

With these revisions, the amendment is adopted.

One commenter alleged that the discussion of an individual's right to a Travel Board hearing in § 20.703 was confusing and should be further clarified. Unfortunately, the commenter did not indicate why or how the discussion was considered to be confusing. Inasmuch as no explanation was given and inasmuch as the material in the amendment is relatively simple and straightforward, no change has been made.

A second commenter suggested that § 20.703 should be altered to provide that Travel Board hearings will not be granted concerning reconsideration of a prior BVA decision unless a motion for reconsideration has been granted. VA agrees that this is appropriate and this suggestion has been adopted.

This proposed section failed to mention that Travel Board hearings are available in an appeal of a claim reopened after a prior BVA decision. This oversight has been corrected.

With the changes described, the amendment is adopted.

Two comments were received concerning § 20.704.

Paragraph (c) of § 20.704 provides, in part, that requests for a change in a Travel Board hearing date may be made at any time prior to the scheduled date of the hearing if good cause is shown and that if good cause is not shown, the appellant and representative will be notified and given an opportunity to appear at the hearing previously scheduled. One commenter suggested, in essence, that this paragraph be modified to account for the situation in which the request for a change in the hearing date is received so late that notice of the denial of the request cannot be given until after the originally scheduled hearing date has passed. Suggested language was proposed. The suggested language (which provided that if the original hearing date had already passed by the time that notice of the denial of the request for a new hearing date could be given, the request for the hearing would be deemed to have been withdrawn) has not been adopted. VA agrees, however, that a potential problem with the proposed amendment has been identified by this commenter. Obviously, a request for a new hearing date must be given far enough in advance of the originally scheduled hearing date for the agency of original jurisdiction to act on the request. This problem is solved in the section dealing with hearings other than Travel Board hearings by requiring that a request for a new hearing date must be submitted not later than two weeks prior to the scheduled hearing date. (See § 20.702(c).) The § 20.704 amendment has been revised to include a similar requirement.

The second commenter pointed out, in essence, that paragraph (d) has not been constructed to recognize hearings in which only representatives appear to present oral argument. This was an oversight which has been corrected.

For reasons noted in the following paragraph, the substance of the second sentence of proposed § 20.705(b) has been moved to paragraph (a) of § 20.704. With this correction, and the revisions described in the previous two paragraphs, the § 20.704 amendment is adopted.

One comment was received concerning § 20.705. The commenter suggested that the word "or" be moved from proposed paragraph (a) (paragraph (a)(1) as adopted) to the end of proposed paragraph (b) (paragraph (a)(2) as adopted) and that the second sentence of proposed paragraph (b) be placed in parentheses. VA agrees that the structure of this amendment could be improved, but is taking an alternative approach. The word "or" has been moved as suggested, but the substance of the second sentence of proposed paragraph (b) has been moved to § 20.704(a). The substance of the remainder of § 20.705 has not been changed, but it has been reorganized for greater clarity. With these changes, § 20.705 is adopted.

One comment was received concerning § 20.706. This commenter expressed concern about the reference to the presiding Member of a hearing panel in this section, and in several others, feeling that this was not sufficient to encompass the Hearing Officer program of the Veterans Benefits Administration. No specific changes have been made to mention this program in these amendments. The proposed amendment is not incompatible with the program. The Hearing Officer would be a panel of one and would, of course, be the presiding Member of that panel. This amendment is adopted as proposed.

No comments, suggestions, or objections were received regarding the amendment of § 20.707. In response to a comment, post-traumatic stress disorder was added to the list of BVA Board Member specialties in § 19.11(c) to be taken into consideration when Section expansion is required because an issue presented to a traveling Section of the BVA involves reconsideration of a prior BVA decision. Post-traumatic stress disorder has been added to a similar list in this section for consistency.

An editorial revision has been made to change the word "panel" to "section" in the text of paragraph (b) when the reference is to a reconsideration section or to a traveling section. This change has been made so that the amendment will parallel the language which appears in 38 U.S.C. 7103(b) and 7110.

The proposed amendment is adopted, with these revisions.

The individual who commented on § 20.706 offered the same remarks concerning § 20.708. For the reasons noted in the discussion concerning § 20.706, the commenter's suggestion has not been adopted and the amendment is adopted as proposed.

Two comments were received pertaining to § 20.709.

This regulation provides for the procedures to be followed when the record is to be left open for a reasonable period of time following a personal hearing in order to allow an appellant and his or her representative to submit additional evidence. One commenter suggested that the amendment be revised to provide clarification of the nature of such evidence, to provide information concerning whether the development of the evidence is the sole responsibility of the appellant or representative, and to distinguish between evidence requested by the BVA as opposed to evidence volunteered by the appellant. This suggestion has not been adopted.

It is neither necessary nor desirable to define all of the types of potential evidence which might come to light during the course of a hearing. Any attempt at such a definition would likely be incomplete, inasmuch as it is virtually impossible to guess at the nature of all such evidence in advance, and little (if anything) would be gained by such an attempt. This is a matter best addressed on a case-by-case basis.

This regulation was not meant to be all inclusive with respect to post-hearing evidence development. It merely provides an opportunity for the record to be left open as a service to appellants and representatives so that they may submit additional evidence after the hearing if they indicate a desire to do so during the hearing. The BVA does not force appellants or representatives to submit evidence against their will, even when it is obvious that the evidence would help their cause. If the Board Members participating in the hearing feel that additional evidence is required, they may undertake the development administratively or through remand. That, however, is beyond the scope of this section governing practice by appellants and representatives before the Board.

The individual who commented on § 20.706 offered the same remarks concerning § 20.709. For the reasons noted in the discussion concerning § 20.706, the commenter's suggestion has not been adopted. The amendment is adopted as proposed.

No comments, suggestions, or objections were received regarding the amendment of § 20.710. This amendment is adopted as proposed.

Two comments were received regarding § 20.711.

The first commenter recommended that additional information be included as to who may be subpoenaed, noting that the regulation specifies that VA adjudication personnel are exempt but that the exemption did not appear to extend to personnel of the Department of Veterans Affairs' Veterans Health Administration, and that the amendment does not discuss "hostile" witnesses. No change has been made as a result of these comments. Essentially, any witness may be subpoenaed—provided that the requirements of the regulation concerning the need for a subpoena are met. In addition, no particular information concerning "hostile" witnesses is necessary. Obviously, some lack of voluntary cooperation is implicit in the need for a subpoena.

The second commenter complained because this amendment does not allow appeal of rulings on a motion to quash a subpoena, citing the provisions of 38 U.S.C. 7104 which (together with the provisions of 38 U.S.C. 511(a)) provide that all questions of law and fact necessary to a decision by the Secretary under a law that affects the provision of benefits by the Secretary to veterans or the dependents or survivors of veterans are subject to one review on appeal. VA agrees that this is a valid criticism. The restriction complained of, which appeared in proposed paragraph (f), arose out of concern that appeals would be endlessly delayed due to appeals of interlocutory matters. This concern can also be addressed by providing that the various subpoena related motions are appealable, but that they are not subject to interlocutory appeals. Paragraphs (e) and (h) have been revised to take this less restrictive approach.

The second commenter also argued that the failure of this section to provide for deposing witnesses and its restriction of the issuance of subpoenas to those cases where the necessary evidence cannot be obtained in any other reasonable way are in violation of the provisions of 38 U.S.C. 5711. For the reasons set out below, VA does not agree and no modifications have been made as a result of this criticism.

VA agrees that 38 U.S.C. 5711 is broad enough to support a regulation permitting formal discovery proceedings and broader subpoena power, but the authority of the Secretary (and those to whom he or she chooses to delegate that authority) under this statute is discretionary. The statute confers subpoena power, but it does not compel the exercise of that power. The power to issue subpoenas has existed for a number of years, but its exercise has been limited. The provisions of this section are in conformance with existing procedures and are compatible with the authority which the Secretary has delegated to the Chairman of the BVA and the heads of regional offices and centers. (See 38 CFR 2.1.)

Some erosion of past simplicity of VA adjudication and appeal procedures is inevitable with the growing complexity of veterans' law, the involvement of attorneys-at-law in the adjudication and appeal processes, and the advent of judicial review of decisions of the BVA. VA recognizes the growing complexity of veterans' law and is willing to exercise more subpoena power than has been exercised in the past, but believes that this inherently adversarial process is best limited to those cases where no other reasonable approach will work. VA is also of the opinion that the complexity and adversarial nature of formal discovery proceedings are incompatible with the relatively informal VA adjudication and appeal process. Accordingly, such procedures will not be implemented at this time.

A comment concerning § 20.712 (infra) brought to light the absence of any instructions concerning the payment of witness fees in conjunction with the service of a subpoena. Material concerning this subject has been added.

With the revisions described, proposed § 20.711 is adopted.

One commenter urged that § 20.712 include clarification with regard to "how the appellant would 'incur' expenses other than for reproduction costs" and information on what, if any, reimbursement witnesses may claim and from whom.

In view of this comment, the section heading has been modified to more accurately reflect its intended scope. The purpose of this section is to alert appellants, representatives, and witnesses that VA cannot reimburse them for their expenses. The potential expenses of an appellant in conjunction with a hearing are many and varied. (Various travel and lodging expenses come immediately to mind as examples.) The nature and extent of expenses which an appellant may be willing to incur in conjunction with a hearing are really decisions which he or she must make in consultation with his or her representative. Apart from the availability of review for reasonableness of expenses charged to an appellant by a representative (see § 20.610), no need for regulation in this area is currently perceived. The reimbursement of witnesses is also a matter to be privately determined between the witness and the appellant or representative who requests his or her appearance, except that by law (38 U.S.C. 5711, 38 CFR 2.1(c)) witnesses who are subpoenaed are entitled to the same fees and mileage expenses as are paid witnesses in the district courts of the United States. This comment has brought to light the need for an additional paragraph in § 20.711 pertaining to fees. This paragraph has been added. Except for the modification to the section heading, however, § 20.712 is adopted as proposed.

One comment was received pertaining to § 20.713. This commenter pointed out that there were typographical errors in paragraph (b), in that references to § 20.702(c)(i) and (c)(ii) should be to § 20.702(c)(1) and (c)(2). These typographical errors have been corrected. Editorial changes have also been made to clarify paragraph (a). As originally proposed, it suggested that notices of hearings in simultaneously contested claims would always be given by the BVA itself. That was, of course, not accurate. With these corrections, the proposed amendment is adopted.

Two comments were received regarding § 20.714.

The first commenter suggested, in essence, that what is "good cause" for the preparation of a written transcript should be clarified. No suggested grounds were furnished by the commenter. This suggestion has not been adopted. The BVA has already provided for the automatic transcription of hearings in those situations where a transcript is normally required. (See paragraphs (a)(2) through (a)(5) of the section.) The provision that a transcript will also be prepared when good cause is shown is provided to allow for unanticipated circumstances. This is a matter best determined on a case-by-case basis.

This commenter also suggested that provision be made for the automatic preparation of hearing transcripts when the hearing panel consists of fewer than three Members of the BVA. Such a requirement is not necessary. The audio tape recordings of hearings conducted by traveling Sections of the Board or by the BVA in Washington, DC, are available for review by any additional Board Members who may be assigned to the review of the case after a hearing has been conducted. Proposed § 20.714(a)(4)(iii), regarding the preparation of hearing transcripts in hearings by traveling Sections of the Board consisting of fewer than three Members of the Board, has been withdrawn.

The second commenter asked that "good cause" in paragraph (a)(1) be defined to specifically include situations in which the appellant or a representative wishes to examine a transcript in order to assess whether to appeal to the United States Court of Veterans Appeals. This request has not been granted. There may well be cases in which this would furnish good cause for the preparation of a written transcript, but defining good cause in such a manner as to result in the automatic preparation of a written transcript on this basis is not warranted. Appellants and their representatives will normally have been present at BVA hearings and are well aware of what transpired at the hearing. Further, hearing tape recordings are available to them for review upon request. Convenience alone is not an adequate basis for the considerable expenditure of government funds necessary to produce a written transcript.

Editorial changes have been made in paragraph (c).

This proposed amendment is adopted with the revisions noted.

No comments, suggestions, or objections were received regarding the amendment of § 20.715. This amendment is adopted as proposed, with the addition of minor editorial changes.

The individual who commented on § 20.706 offered the same remarks concerning § 20.716. For the reasons noted in the discussion concerning § 20.706, the commenter's suggestion has not been adopted and the amendment is adopted as proposed, with minor editorial changes.

Two comments were received concerning § 20.717.

The first commenter asked that loss of hearing tapes and transcripts be defined to include instances where the tape is generally unintelligible and instances where a written transcript contains substantial errors in transcription. These suggestions have not been adopted. The proposed amendment already contemplates unintelligible recordings. For example, factors to be considered in determining whether a new hearing will be granted include "the extent of the loss of the record in those cases where only a portion of a hearing tape is unintelligible * * *." (See paragraph (d).) The remedy for correcting errors in transcription is a motion for the correction of the transcript. (See § 20.716.)

This commenter also suggested that provision be made for reimbursing appellants and representatives for expenses which they might incur in attending a new hearing which is required because of loss of the record of a prior hearing due to mishandling or loss of a tape recording or transcript of a hearing by VA. VA is unaware of any legal authority for such reimbursement and the commenter offered none. This comment has not been adopted.

The second commenter is the individual who commented on § 20.706. This individual offered the same remarks concerning § 20.717. For the reasons noted in the discussion concerning § 20.706, the commenter's suggestion has not been adopted and the amendment is adopted as proposed.

One comment was received concerning § 20.800. The comment pertains to the limitations set out in § 20.1304 which are merely cross-referenced in § 20.800. This objection will be addressed in the discussion of the comments concerning § 20.1304. Section 20.800 is adopted as proposed.

No comments, suggestions, or objections were received regarding the amendment of § 20.900. This amendment is adopted as proposed.

One comment was received regarding §§ 20.901 through 20.903. The commenter objected because these regulations do not refer to authority included in Public Law 100–687 for VA field facilities to obtain independent medical expert opinions. Regulations concerning obtaining opinions in the field are beyond the scope of these amendments, which pertain to practice before the Board of Veterans' Appeals. VA's Veterans Benefits Administration has already issued a final regulation concerning obtaining independent medical opinions at the field level (55 FR 18601 dated May 3, 1990). Sections 20.901 through 20.903 are adopted as proposed.

The General Counsel of the Department of Veterans Affairs issued a Precedent Opinion on May 17, 1990, which had the effect of invalidating the "administrative allowance" procedures of the BVA both in its current Rules of Practice and in these proposed regulations. (See O.G.C. Precedent Opinion 11–90, 55 FR 27756 dated July 5, 1990.) Such opinions are binding upon the BVA. (See 38 U.S.C. 7104(c).) Accordingly, all references to those procedures have been withdrawn from these proposed amendments. The material withdrawn includes proposed § 20.904.

No comments, suggestions, or objections were received regarding proposed § 20.905. Due to the withdrawal of § 20.904, proposed § 20.905 has been redesignated as § 20.904. The proposed amendment, as redesignated, is adopted.

No comments, suggestions, or objections were received regarding the amendments in proposed §§ 20.1000 through 20.1002. The provisions concerning reconsideration of BVA decisions that were designated in the proposal as §§ 20.1000(d) and 20.1002 are withdrawn. This is necessary as it has been determined, after further consideration, that such provisions of the proposal are, in some respects, inconsistent with the statutory provisions contained in 38 U.S.C. 7103. Instead, VA is publishing additional provisions concerning reconsideration of BVA decisions as part of a proposal in a companion document in this issue of the **Federal Register**. The remainder of § 20.1000 is adopted as proposed.

A list of examples of possible VA claimants and appellants other than veterans is given in several locations throughout these revisions, including § 20.1001(a). This list has been expanded to include fiduciaries appointed to receive an individual's VA benefits on his or her behalf. This revision has been made to provide additional information. It does not represent any change in existing practices.

Section 20.1001 is adopted as proposed with this revision and with the addition of the words "or evidence" at the end of the second sentence of paragraph (c)(2) to make it clear that additional evidence may now be submitted once a motion for reconsideration has been granted.

Section 20.1002 is reserved.

Two comments were submitted regarding § 20.1003. These comments are similar to the comments offered with respect to proposed provisions in § 20.700 which restrict hearings solely for oral argument by a representative. The response to those comments applies. VA does agree, however, that the latitude permitted in this area in nonreconsideration hearings should also be permitted in the case of reconsideration hearings. Accordingly, modifications have been made to make this section compatible with the provisions of § 20.700(b). With these revisions, the amendment is adopted.

The provisions concerning finality of BVA decisions that were designated in the proposal as §§ 20.1100 and 20.1101 are withdrawn. This is necessary as it has been determined, after further consideration, that such provisions of the proposal are, in some respects, inconsistent with the statutory provisions contained in 38 U.S.C. 7103. Instead, VA is publishing revised provisions dealing with this topic in two separate formats. First, language merely interpreting existing statutory provisions is set forth in § 20.1100 as part of this final rule. (Its provisions constitute interpretative rules and, as such, are exempt from the notice and comment provisions of 5 U.S.C. 553.) Second, additional provisions concerning this topic are set forth as part of a proposal in a companion notice of proposed rulemaking in this issue of the **Federal Register**.

Section 20.1101 is reserved.

No comments, suggestions, or objections were received regarding the amendments to §§ 20.1102 through 20.1106, 20.1200, 20.1201, and 20.1300 through 1302. These amendments are adopted as proposed, with minor editorial changes to § 20.1300 and the editorial revisions to §§ 20.1105 and 20.1301 described in the following paragraphs.

As proposed, the first sentence of § 20.1105 read as follows: "When a claimant requests that a claim be reopened after an appellate decision has been promulgated and submits evidence in support thereof, a determination as to whether such evidence is new and material must be made and, if it is, as to whether it provides a new factual basis for allowing the claim." The requirement that a "new factual basis" be established was carried forward from current 38 CFR 19.194 which was, in turn, based on language contained in what is now 38 U.S.C. 7104(b) which provides that a claim may not again be considered "on the same factual basis" after it has been disallowed by the BVA.

While that statutory language still remains, revisions to 38 U.S.C. 7104(b) made by the Veterans' Judicial Review Act (Pub. L. 100-687) provide an exception in the case of claims reopened under what is now 38 U.S.C. 5108, a new section added by the same act as 38 U.S.C. 3008. Inasmuch as § 20.1105 applies to reopened claims, the words "new factual" have been withdrawn to make the first sentence of the section consistent with the new statutory provisions.

Paragraph (b) of § 20.1301 includes an example of a BVA decision locator number. The form of the locator numbers has recently changed due to the archiving of BVA decisions in computer records rather than on microfilm. Material indicating that the format of locator numbers has changed and an example of the new type of locator number have been added to the proposed amendment, inasmuch as the most recent BVA decisions have the new type of locator number. Material has also been added to note that the copies of BVA Index I-01-1 which are available for public review at the BVA in Washington, DC, are located in the BVA's Research Center. (Of course, BVA decisions are not made available to the public in a form permitting the identification of individuals.)

Two comments were received regarding § 20.1303.

One comment was that "it is suggested that the term 'nonprecedential' be more clearly defined and the relationship to decisions of the Court of Veterans Appeals." (sic) The meaning of the word "nonprecedential" (which appears in the section heading) is fully explained in the text of the section and there is little which would be useful which could be added. Nonprecedential has its usual meaning. That is, as has been VA's position for many years, a BVA decision in one case is not binding in another. This amendment, of course, applies only to BVA decisions and has no bearing on decisions by the United States Court of Veterans Appeals.

The second commenter objected to the removal of the first sentence of the Rule of Practice upon which this amendment was based (current § 19.197). That sentence read as follows: "The Board will strive for consistency in issuing its decisions." The commenter argued that removing the consistency provision was contrary to "due process" and Public Law 100-687.

VA perceives no violation of either "due process" or of Public Law 100-687 through the removal of the sentence in question and the commenter offered no explanation of why it was thought that this was the case. The removal of the sentence was actually a matter of editorial judgment and did not represent any change in policy. In view of the concern expressed, however, similar language has been added.

The second commenter also argued that the Board should be attempting to achieve more consistent opinions, especially in light of the creation of the United States Court of Veterans Appeals, by using BVA decisions as precedential guides. This suggestion has not been adopted.

Several factors are behind the long-standing rule that BVA decisions are not precedential in nature. The majority of decisions by the BVA turn on unique fact situations. For example, the many facts which establish a particular degree of disability in one individual are almost never the same as in the case of another individual. Another, and perhaps the most important, factor is that proceedings before the BVA are ex parte in nature. Questions of fairness would arise by, in effect, making a BVA decision precedential when the Department has no opportunity to present and defend its position in the proceeding. Further, VA may not appeal a BVA decision to the United States Court of Veterans Appeals. (38 U.S.C. 7152(a)). In addition to these historical, and still valid, considerations, uniformity will be achieved on important questions through precedent decisions of the United States Court of Veterans Appeals.

With the addition previously described, the amendment is adopted.

Four comments were received regarding § 20.1304.

This proposed section was essentially a duplicate of a proposed amendment of 38 CFR 19.174 (b) through (e) which was published for public comment on July 6, 1989 (54 FR 28445). The final version of that regulation was published on May 15, 1990. (55 FR 20144). Several changes arising out of comments received were incorporated into the final version of 38 CFR 19.174.

One of the four commenters on proposed § 20.1304 incorporated its prior comments concerning the amendment of 38 CFR 19.174 by reference and submitted an affidavit in support of those comments. Two of the other three commenters offered objections similar to those raised concerning the amendment of 38 CFR 19.174. The comments concerning the amendment of 38 CFR 19.174 were exhaustively discussed in the **Federal Register** at the time that the final version of that regulation was adopted. These three commenters are referred to that discussion. As noted in that discussion, several changes were made. These included extending the time limit for submitting a request for a change in representation, submitting a request for a personal hearing, and for submitting additional evidence following certification of an appeal to the BVA from 60 to 90 days, or until the date the appellate decision in the case is promulgated by the BVA, whichever comes first. Section 20.1304 has been modified to conform to the final version of 38 CFR 19.174.

The fourth commenter pointed out, correctly, that the reference to § 19.112(b) should be to § 19.37(b). This error has been corrected.

A list of examples of possible VA claimants and appellants other than veterans is given in several locations throughout these revisions, including this section. This list has been expanded to include fiduciaries appointed to receive an individual's VA benefits on his or her behalf. This revision has been made to provide additional information. It does not represent any change in existing practices.

Clarifying material has been added to the first sentence of paragraph (d) to point out that the only evidence provided to all contesting claimants in a contested claim is evidence which is pertinent to the matter contested.

With the revisions noted, this amendment is adopted.

Proposed § 20.1305 has been withdrawn. The purpose of that section was to provide transitional effective date rules in the event that these amendments were adopted prior to September 1, 1989—the effective date of many of the provisions of Public Law 100-687.

There was a typesetting error in Appendix A to part 20. The numbers "20.700-20.717" at the bottom of the left-hand column, beneath the number "20.1304," should have been printed in the second column after the comma which appears after the citation "38 CFR 3.103(c)" which is in the second column directly to the right of the number "20.1304" in the left-hand column. This error has been corrected. The appendix has also been corrected to reflect the changes discussed in previous pages. With these corrections, the appendix is adopted.

The Secretary has determined that these regulations do not contain a major rule as that term is defined by Executive Order 12291, Federal Regulation. The regulations will not have a $100 million annual effect on the economy and will not cause a major increase in costs or prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Secretary hereby certifies that these regulatory amendments will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The reason for this certification is that the regulations have only a limited effect on claimants/appellants and their representatives. Pursuant to 5 U.S.C. 605(b), these regulations are therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

The information collection requirements contained in §§ 20.202, 20.608, 20.609, 20.610, 20.702, and 20.704 of these regulations have been approved by the Office of Management and Budget (OMB) under OMB control number 2900–0085.

There are no Catalog of Federal Domestic Assistance numbers associated with these regulatory amendments.

List of Subjects

38 CFR Part 14

Claims, Foreign relations, Government employees, Lawyers, Legal services, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Surety bonds, Trusts and trustees, Veterans.

38 CFR Part 19

Administrative practice and procedure, Claims, Veterans.

38 CFR Part 20

Administrative practice and procedure, Claims, Lawyers, Legal services, Veterans.

Approved: November 6, 1991.

Edward J. Derwinski,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR parts 14 and 19 are amended, and 38 CFR part 20 is added, as set forth below:

PART 14—LEGAL SERVICES, GENERAL COUNSEL

1. The authority citation for part 14 is revised to read as follows:

Authority: 38 U.S.C. 501, 5901–5905.

§§ 14.634 and 14.635 [Removed]

§§ 14.636 and 14.637 [Redesignated as §§ 14.634 and 14.635]

2. Sections 14.634 and 14.635 are removed and §§ 14.636 and 14.637 are redesignated as new §§ 14.634 and 14.635 respectively.

3. In newly designated § 14.634, the last sentence is removed and an authority citation and cross-references are added at the end of the section to read as follows:

§ 14.634 Banks or trust companies acting as guardians.

* * * * *

(Authority: 38 U.S.C. 5903, 5904)

Cross-References: Payment of Representative's Fees in Proceedings Before Department of Veterans Affairs Personnel and Before the Board of Veterans' Appeals. See § 20.609 of this chapter. Payment of Representative's Expenses in Proceedings Before Department of Veterans Affairs Personnel and Before the Board of Veterans' Appeals. See § 20.610 of this chapter.

4. In newly designated § 14.635, cross-references are added at the end of the section to read as follows:

§ 14.635 Office space and facilities.

* * * * *

Cross-References: Payment of Representative's Fees in Proceedings Before Department of Veterans Affairs Personnel and Before the Board of Veterans' Appeals. See § 20.609 of this chapter. Payment of Representative's Expenses in Proceedings Before Department of Veterans Affairs Personnel and Before the Board of Veterans' Appeals. See § 20.610 of this chapter.

5. 38 CFR Part 19, Board of Veterans' Appeals, is revised to read as follows:

PART 19—BOARD OF VETERANS' APPEALS: APPEALS REGULATIONS

Subpart A—Operation of the Board of Veterans' Appeals

Sec.
19.1 Establishment of the Board.
19.2 Composition of the Board.
19.3 Appointment, assignment, and rotation of Members.
19.4 Principal functions of the Board.
19.5 Criteria governing disposition of appeals.
19.6 [Reserved]
19.7 The decision.
19.8 Decision notification.
19.9 Remand for further development.
19.10 [Reserved]
19.11 Reconsideration Section.
19.12 Disqualification of Members.
19.13 Delegation of authority to Chairman and Vice Chairman, Board of Veterans' Appeals.
19.14 Delegation of authority—Appeals Regulations.
19.15–19.24 [Reserved]

Subpart B—Appeals Processing by Agency of Original Jurisdiction

19.25 Notification by agency of original jurisdiction of right to appeal.
19.26 Action by agency of original jurisdiction on Notice of Disagreement.
19.27 Adequacy of Notice of Disagreement questioned within the agency of original jurisdiction.
19.28 Determination that a Notice of Disagreement is inadequate protested by claimant or representative.
19.29 Statement of the Case.
19.30 Furnishing the Statement of the Case and instructions for filing a Substantive Appeal.
19.31 Supplemental Statement of the Case.
19.32 Closing of appeal for failure to respond to Statement of the Case.
19.33 Timely filing of Notice of Disagreement or Substantive Appeal questioned within the agency of original jurisdiction.
19.34 Determination that Notice of Disagreement or Substantive Appeal was not timely filed protested by claimant or representative.
19.35 Certification of appeals.
19.36 Notification of certification of appeal and transfer of appellate record.
19.37 Consideration of additional evidence received by the agency of original jurisdiction after an appeal has been initiated.
19.38 Action by agency of original jurisdiction when remand received.
19.39–19.49 [Reserved]

Subpart C—Administrative Appeals

19.50 Nature and form of administrative appeal.
19.51 Officials authorized to file administrative appeals and time limits for filing.
19.52 Notification to claimant of filing of administrative appeal.
19.53 Restriction as to change in payments pending determination of administrative appeals.
19.54–19.74 [Reserved]

Subpart D—Hearings Before Traveling Sections of the Board of Veterans' Appeals

19.75 Travel Board hearing docket.
19.76 Notice of time and place of Travel Board hearing.
19.77 Providing Statement of the Case when Travel Board hearing has been requested.
19.78–19.99 [Reserved]

Subpart E—Simultaneously Contested Claims

19.100 Notification of right to appeal in simultaneously contested claims.
19.101 Notice to contesting parties on receipt of Notice of Disagreement in simultaneously contested claims.
19.102 Notice of appeal to other contesting parties in simultaneously contested claims.

Appendix A to Part 19—Cross-References

(Authority: 38 U.S.C. 501(a).

Subpart A—Operation of the Board of Veterans' Appeals

§ 19.1 Establishment of the Board.

The Board of Veterans' Appeals is established by authority of, and functions pursuant to, title 38, United States Code, chapter 71.

§ 19.2 Composition of the Board.

The Board consists of a Chairman, Vice Chairman, Deputy Vice Chairmen, Members, and professional, administrative, clerical and stenographic personnel.

(Authority: 38 U.S.C. 501(a), 512, 7101(a))

§ 19.3 Appointment, assignment, and rotation of Members.

(a) *Appointment of Members.* The Chairman is appointed by the President of the United States, by and with the advice and consent of the United States Senate. Members of the Board, including the Vice Chairman, are appointed by the Secretary upon the recommendation of the Chairman with the approval of the President of the United States. Deputy Vice Chairmen are Members of the Board who are appointed to that office by the Secretary upon the recommendation of the Chairman.

(Authority: 38 U.S.C. 501(a), 512, 7101(b))

(b) *Assignment.* The Chairman may divide the Board into Sections of three Members, assign Members of the Board to each such Section, and designate the Chief Member of each such Section. From time to time, a Member may be designated as a Chief Member or a Chief Member may be redesignated as a Member.

(Authority: 38 U.S.C. 7102)

(c) *Rotation.* The Chairman may from time to time rotate the Members of the Sections.

(Authority: 38 U.S.C. 7102)

(d) *Inability to serve.* If, as a result of a vacancy, absence, or for reasons set forth in § 19.12 of this part, a Member of a Section of the Board is unable to participate in the disposition of an appeal before the Section, the Chairman may assign or substitute another Member or direct the Section to proceed without any additional assignment or substitution of Members.

(Authority: 38 U.S.C. 7102)

§ 19.4 Principal functions of the Board.

The principal functions of the Board are to make determinations of appellate jurisdiction, consider all applications on appeal properly before it, conduct hearings on appeal, evaluate the evidence of record, and enter decisions in writing on the questions presented on appeal.

(Authority: 38 U.S.C. 7102, 7104)

§ 19.5 Criteria governing disposition of appeals.

In the consideration of appeals, the Board is bound by applicable statutes, regulations of the Department of Veterans Affairs, and precedent opinions of the General Counsel of the Department of Veterans Affairs. The Board is not bound by Department manuals, circulars, or similar administrative issues.

(Authority: 38 U.S.C. 501(a), 7104(c))

§ 19.6 [Reserved]

§ 19.7 The decision.

(a) *Decisions based on entire record.* The appellant will not be presumed to be in agreement with any statement of fact contained in a Statement of the Case to which no exception is taken. Decisions of the Board are based on a review of the entire record.

(Authority: 38 U.S.C. 7104(a), 7105(d)(4))

(b) *Content.* The decision of the Board will be in writing and will set forth specifically the issue or issues under appellate consideration. Except with respect to issues remanded to the agency of original jurisdiction for further development of the case and appeals which are dismissed because the issue has been resolved by administrative action or because an appellant seeking nonmonetary benefits has died while the appeal was pending, the decision will also include separately stated findings of fact and conclusions of law on all material issues of fact and law presented on the record, the reasons or bases for those findings and conclusions, and an order granting or denying the benefit or benefits sought on appeal or dismissing the appeal.

(Authority: 38 U.S.C. 7104(d))

§ 19.8 Decision notification.

After a decision has been rendered by the Board, all parties to the appeal and the representatives, if any, will be notified of the results by the mailing of a copy of the written decision to the parties and their representatives at their last known addresses. In the case of appeals involving contesting claimants, the content of the Board's decision will be limited to that information which directly affects the payment or potential payment of the benefit(s) which is (are) the subject of the contested claim. Any Board decision in the same case, but involving separate appeal issues which are not a part of the contested claim, will be made the subject of a separate written decision which will be mailed only to that appellant and his or her representative.

(Authority: 38 U.S.C. 7104(e))

§ 19.9 Remand for further development.

When, during the course of review, it is determined that further evidence or clarification of the evidence or correction of a procedural defect is essential for a proper appellate decision, a Section of the Board shall remand the case to the agency of original jurisdiction, specifying the action to be undertaken.

(Authority: 38 U.S.C. 7102, 7104(a))

§ 19.10 [Reserved]

§ 19.11 Reconsideration Section.

(a) *Assignment of members.* When a motion for reconsideration is allowed, the Chairman will assign a Section to conduct the reconsideration.

(b) *Number of Members constituting a reconsideration Section.* The number of Board Members assigned to the reviewing Section will be determined by increasing the number of Members who participated in the original decision by not less than three additional Members, in increments of three Members. Except when necessary to obtain a majority opinion, a reconsideration Section will not exceed nine Members.

(c) *Members included in the reconsideration Section.* The reconsideration Section will include those Members who participated in the original decision who are available, additional Members assigned by the Chairman to substitute for Members who participated in the decision being reconsidered who are no longer available, and additional Members assigned in accordance with paragraph (b) of this section. In the case of Travel Board hearings involving reconsideration of a prior Board decision, the Members of the traveling Section of the Board will be included in the expanded Section established pursuant to paragraph (b) of this section. If the prior Board decision being reconsidered involves questions concerning post-traumatic stress disorder or radiation, Agent Orange, or asbestos exposure, the traveling Section will be included in an expanded Section which also includes Board Members specializing in those issues.

(Authority: 38 U.S.C. 7102, 7103, 7110)

§ 19.12 Disqualification of Members.

(a) *General.* A Member of the Board will disqualify himself or herself in a hearing or decision on an appeal if that appeal involves a determination in which he or she participated or had supervisory responsibility in the agency of original jurisdiction prior to his or her appointment as a Member of the Board, or where there are other circumstances which might give the impression of bias either for or against the appellant.

(Authority: 38 U.S.C. 7102, 7104)

(b) *Appeal on same issue subsequent to decision on administrative appeal.* Members of the Board who made the decision on an administrative appeal will disqualify themselves from acting on a subsequent appeal by the claimant on the same issue.

(Authority: 38 U.S.C. 7102, 7104, 7106)

(c) *Disqualification of Members by the Chairman.* The Chairman of the Board, on his or her own motion, may disqualify a Member from acting in an appeal on the grounds set forth in paragraphs (a) and (b) of this section and in those cases where a Member is unable or unwilling to act.

(Authority: 38 U.S.C. 7102, 7104, 7106)

§ 19.13 Delegation of authority to Chairman and Vice Chairman, Board of Veterans' Appeals.

The Chairman and/or Vice Chairman have authority delegated by the Secretary of Veterans Affairs to:

(a) Approve the assumption of appellate jurisdiction of an adjudicative determination which has not become final in order to grant a benefit, and

(b) Order VA Central Office investigations of matters before the Board.

(Authority: 38 U.S.C. 303, 512(a))

§ 19.14 Delegation of authority—Appeals Regulations.

(a) The authority exercised by the Chairman of the Board of Veterans' Appeals described in §§ 19.3(b), 19.3(c), and 19.12(c) of this part may also be exercised by the Vice Chairman of the Board.

(b) The authority exercised by the Chairman of the Board of Veterans' Appeals described in §§ 19.3(d) and 19.11 of this part may also be exercised by the Vice Chairman of the Board and by Deputy Vice Chairmen of the Board.

(Authority: 38 U.S.C. 512(a), 7102, 7104)

§§ 19.15–19.24 [Reserved]

Subpart B—Appeals Processing by Agency of Original Jurisdiction

§ 19.25 Notification by agency of original jurisdiction of right to appeal.

The claimant and his or her representative, if any, will be informed of appellate rights provided by 38 U.S.C. chapters 71 and 72, including the right to a personal hearing and the right to representation. The agency of original jurisdiction will provide this information in each notification of a determination of entitlement or nonentitlement to Department of Veterans Affairs benefits.

(Authority: 38 U.S.C. 7105(a))

§ 19.26 Action by agency of original jurisdiction on Notice of Disagreement.

When a Notice of Disagreement is timely filed, the agency of original jurisdiction must reexamine the claim and determine if additional review or development is warranted. When a Notice of Disagreement is received following a multiple-issue determination and it is not clear which issue, or issues, the claimant desires to appeal, clarification sufficient to identify the issue, or issues, being appealed should be requested from the claimant or his or her representative. If no preliminary action is required, or when it is completed, the agency of original jurisdiction must prepare a Statement of the Case pursuant to § 19.29 of this part, unless the matter is resolved by granting the benefits sought on appeal or the Notice of Disagreement is withdrawn by the appellant or his or her representative.

(Authority: 38 U.S.C. 7105(d)(1))

§ 19.27 Adequacy of Notice of Disagreement questioned within the agency of original jurisdiction.

If, within the agency of original jurisdiction, there is a question as to the adequacy of a Notice of Disagreement, the procedures for an administrative appeal must be followed.

(Authority: 38 U.S.C. 7105, 7106)

§ 19.28 Determination that a Notice of Disagreement is inadequate protested by claimant or representative.

Whether a Notice of Disagreement is adequate is an appealable issue. If the claimant or his or her representative protests an adverse determination made by the agency of original jurisdiction with respect to the adequacy of a Notice of Disagreement, the claimant will be furnished a Statement of the Case.

(Authority: 38 U.S.C. 7105)

§ 19.29 Statement of the Case.

The Statement of the Case must be complete enough to allow the appellant to present written and/or oral arguments before the Board of Veterans' Appeals. It must contain:

(a) A summary of the evidence in the case relating to the issue or issues with which the appellant or representative has expressed disagreement;

(b) A summary of the applicable laws and regulations, with appropriate citations, and a discussion of how such laws and regulations affect the determination; and

(c) The determination of the agency of original jurisdiction on each issue and the reasons for each such determination with respect to which disagreement has been expressed.

(Authority: 38 U.S.C. 7105(d)(1))

§ 19.30 Furnishing the Statement of the Case and instructions for filing a Substantive Appeal.

(a) *To whom the Statement of the Case is furnished.* The Statement of the Case will be forwarded to the appellant at the latest address of record and a separate copy provided to his or her representative (if any).

(b) *Information furnished with the Statement of the Case.* With the Statement of the Case, the appellant and the representative will be furnished information on the right to file, and time limit for filing, a Substantive Appeal; information on hearing and representation rights; and a VA Form 1–9, "Appeal to Board of Veterans' Appeals."

(Authority: 38 U.S.C. 7105)

§ 19.31 Supplemental Statement of the Case.

A Supplemental Statement of the Case, so identified, will be furnished to the appellant and his or her representative, if any, when additional pertinent evidence is received after a Statement of the Case or the most recent Supplemental Statement of the Case has been issued, when a material defect in the Statement of the Case or a prior Supplemental Statement of the Case is discovered, or when, for any other reason, the Statement of the Case or a prior Supplemental Statement of the Case is inadequate. A Supplemental Statement of the Case will also be issued following development pursuant to a remand by the Board unless the only purpose of the remand is to assemble records previously considered by the agency of original jurisdiction and properly discussed in a prior Statement of the Case or Supplemental Statement of the Case or unless the Board specifies in the remand that a Supplemental Statement of the Case is not required. If the case is remanded to cure a procedural defect, a Supplemental Statement of the Case will be issued to assure full notification to the appellant of the status of the case, unless the Board directs otherwise. A Supplemental Statement of the Case is required following a hearing on appeal before field personnel when new documentary evidence or evidence in the form of testimony concerning the relevant facts or expert opinion is presented, but is not required if only argument is presented.

(Authority: 38 U.S.C. 7105(d))

§ 19.32 Closing of appeal for failure to respond to Statement of the Case.

The agency of original jurisdiction may close the appeal without notice to an appellant or his or her representative for failure to respond to a Statement of the Case within the period allowed. However, if a Substantive Appeal is subsequently received within the 1-year appeal period (60-day appeal period for simultaneously contested claims), the appeal will be considered to be reactivated.

(Authority: 38 U.S.C. 7105(d)(3))

§ 19.33 Timely filing of Notice of Disagreement or Substantive Appeal questioned within the agency of original jurisdiction.

If, within the agency of original jurisdiction, there is a question as to the timely filing of a Notice of Disagreement or Substantive Appeal, the procedures for an administrative appeal must be followed.

(Authority: 38 U.S.C. 7105, 7106)

§ 19.34 Determination that Notice of Disagreement or Substantive Appeal was not timely filed protested by claimant or representative.

Whether a Notice of Disagreement or Substantive Appeal has been filed on time is an appealable issue. If the claimant or his or her representative protests an adverse determination made by the agency of original jurisdiction with respect to timely filing of the Notice of Disagreement or Substantive Appeal, the claimant will be furnished a Statement of the Case.

(Authority: 38 U.S.C. 7105)

§ 19.35 Certification of appeals.

Following receipt of the Substantive Appeal, the agency of original jurisdiction will certify the case to the Board of Veterans' Appeals. Certification is accomplished by the completion of VA Form 1–8, "Certification of Appeal." The certification is used for administrative purposes and does not serve to either confer or deprive the Board of Veterans' Appeals of jurisdiction over an issue.

(Authority: 38 U.S.C. 7105)

§ 19.36 Notification of certification of appeal and transfer of appellate record.

When an appeal is certified to the Board of Veterans' Appeals for appellate review and the appellate record is transferred to the Board, the appellant and his or her representative, if any, will be notified in writing of the certification and transfer and of the time limit for requesting a change in representation, for requesting a personal hearing, and for submitting additional evidence described in Rule of Practice 1304 (§ 20.1304 of this chapter).

(Authority: 38 U.S.C. 7105)

§ 19.37 Consideration of additional evidence received by the agency of original jurisdiction after an appeal has been initiated.

(a) *Evidence received prior to transfer of records to Board of Veterans' Appeals.* Evidence received by the agency of original jurisdiction prior to transfer of the records to the Board of Veterans' Appeals after an appeal has been initiated (including evidence received after certification has been completed) will be referred to the appropriate rating or authorization activity for review and disposition. If the Statement of the Case and any prior Supplemental Statements of the Case were prepared before the receipt of the additional evidence, a Supplemental Statement of the Case will be furnished to the appellant and his or her representative as provided in § 19.31 of this part, unless the additional evidence received duplicates evidence previously of record which was discussed in the Statement of the Case or a prior Supplemental Statement of the Case or the additional evidence is not relevant to the issue, or issues, on appeal.

(b) *Evidence received after transfer of records to the Board of Veterans' Appeals.* Additional evidence received by the agency of original jurisdiction after the records have been transferred to the Board of Veterans' Appeals for appellate consideration will be forwarded to the Board if it has a bearing on the appellate issue or issues. The Board will then determine what action is required with respect to the additional evidence.

(Authority: 38 U.S.C. 7105(d)(1))

§ 19.38 Action by agency of original jurisdiction when remand received.

When a case is remanded by the Board of Veterans' Appeals, the agency of original jurisdiction will complete the additional development of the evidence or procedural development required. Following completion of the development, the case will be reviewed to determine whether the additional development, together with the evidence which was previously of record, supports the allowance of all benefits sought on appeal. If so, the Board and the appellant and his or her representative, if any, will be promptly informed. If any benefits sought on appeal remain denied following this review, the agency of original jurisdiction will issue a Supplemental Statement of the Case concerning the additional development pertaining to those issues in accordance with the provisions of § 19.31 of this part. Following the 60-day period allowed for a response to the Supplemental Statement of the Case pursuant to Rule of Practice 302, paragraph (c) (§ 20.302(c) of this chapter), the case will be returned to the Board for further appellate processing unless the appeal is withdrawn or review of the response to the Supplemental Statement of the Case results in the allowance of all benefits sought on appeal. Remanded cases will not be closed for failure to respond to the Supplemental Statement of the Case.

(Authority: 38 U.S.C. 7105(d)(1))

§§ 19.39–19.49 [Reserved]

Subpart C—Administrative Appeals

§ 19.50 Nature and form of administrative appeal.

(a) *General.* An administrative appeal from an agency of original jurisdiction determination is an appeal taken by an official of the Department of Veterans Affairs authorized to do so to resolve a conflict of opinion or a question pertaining to a claim involving benefits under laws administered by the Department of Veterans Affairs. Such appeals may be taken not only from determinations involving dissenting opinions, but also from unanimous determinations denying or allowing the benefit claimed in whole or in part.

(b) *Form of Appeal.* An administrative appeal is entered by a memorandum entitled "Administrative Appeal" in which the issues and the basis for the appeal are set forth.

(Authority: 38 U.S.C. 7106)

§ 19.51 Officials authorized to file administrative appeals and time limits for filing.

The Secretary of Veterans Affairs authorizes certain officials of the Department of Veterans Affairs to file administrative appeals within specified time limits, as follows:

(a) *Central Office*—(1) *Officials.* The Chief Benefits Director or a Service Director of the Veterans Benefits Administration, the Chief Medical Director or a service director of the Veterans Health Administration, and the General Counsel.

(2) *Time limit.* Such officials must file an administrative appeal within 1 year

from the date of mailing notice of such determination to the claimant.

(b) *Agencies of original jurisdiction*—(1) *Officials.* Directors, adjudication officers, and officials at comparable levels in field offices deciding any claims for benefits, from any determination originating within their established jurisdiction.

(2) *Time limit.* The Director or comparable official must file an administrative appeal within 6 months from the date of mailing notice of the determination to the claimant. Officials below the level of Director must do so within 60 days from such date.

(c) *The date of mailing.* With respect to paragraphs (a) and (b) of this section, the date of mailing notice of the determination to the claimant will be presumed to be the same as the date of the letter of notification to the claimant.

(Authority: 38 U.S.C. 7106)

§ 19.52 Notification to claimant of filing of administrative appeal.

When an administrative appeal is entered, the claimant and his or her representative, if any, will be promptly furnished a copy of the memorandum entitled "Administrative Appeal," or an adequate summary thereof, outlining the question at issue. They will be allowed a period of 60 days to join in the appeal if they so desire. The claimant will also be advised of the effect of such action and of the preservation of normal appeal rights if he or she does not elect to join in the administrative appeal.

(Authority: 38 U.S.C. 7106)

§ 19.53 Restriction as to change in payments pending determination of administrative appeals.

If an administrative appeal is taken from a review or determination by the agency of original jurisdiction pursuant to §§ 19.50 and 19.51 of this part, that review or determination may not be used to effect any change in payments until after a decision is made by the Board of Veterans' Appeals.

(Authority: 38 U.S.C. 7106)

§§ 19.54–19.74 [Reserved]

Subpart D—Hearings Before Traveling Sections of the Board of Veterans' Appeals

§ 19.75 Travel Board hearing docket.

Travel Board hearings will be scheduled in the order in which requests for such hearings are received by Department of Veterans Affairs field facilities. Any requests submitted directly to the Board will be transferred to the appropriate field facility and will not be considered to have been filed for docketing purposes until received by the applicable field facility. Each Departmental facility generating appeals activity will:

(a) Mark each written request for a Travel Board hearing to show the date of receipt, and

(b) Maintain a formal log showing, in the order that each request for a Travel Board hearing is received:

(1) The date that each request for a Travel Board hearing was received,

(2) The name of the appellant,

(3) The name of the representative,

(4) The applicable Departmental file number,

(5) Whether the request for a Travel Board hearing has been withdrawn,

(6) And the date that the hearing was conducted or a notation that the appellant failed to appear for the hearing.

(Authority: 38 U.S.C. 7110)

§ 19.76 Notice of time and place of Travel Board hearing.

The agency of original jurisdiction will notify the appellant and his or her representative of the place and time of a Travel Board hearing not less than 60 days prior to the hearing date. This time limitation does not apply to hearings which have been rescheduled due to a postponement requested by an appellant, or on his or her behalf, or due to the prior failure of an appellant to appear at a scheduled Travel Board hearing with good cause. The requirement will also be deemed to have been waived if an appellant accepts an earlier hearing date due to the cancellation of another previously scheduled Travel Board hearing.

(Authority: 38 U.S.C. 7110)

§ 19.77 Providing Statement of the Case when Travel Board hearing has been requested.

If not previously furnished, the appellant and his or her representative will be provided with a Statement of the Case not later than the date on which the agency of original jurisdiction furnishes them with notification of the place and time of the Travel Board hearing. A Statement of the Case is not required when the only issue to be considered by the traveling Section of the Board is the reconsideration of a prior Board of Veterans' Appeals decision.

(Authority: 38 U.S.C. 7105(d)(1), 7110)

§§ 19.78–19.99 [Reserved]

Subpart E—Simultaneously Contested Claims

§ 19.100 Notification of right to appeal in simultaneously contested claims.

All interested parties will be specifically notified of the action taken by the agency of original jurisdiction in a simultaneously contested claim and of the right and time limit for initiation of an appeal, as well as hearing and representation rights.

(Authority: 38 U.S.C. 7105A(a))

§ 19.101 Notice to contesting parties on receipt of Notice of Disagreement in simultaneously contested claims.

Upon the filing of a Notice of Disagreement in a simultaneously contested claim, all interested parties and their representatives will be furnished a copy of the Statement of the Case. The Statement of the Case so furnished will contain only information which directly affects the payment or potential payment of the benefit(s) which is (are) the subject of that contested claim. The interested parties who filed Notices of Disagreement will be duly notified of the right to file, and the time limit within which to file, a Substantive Appeal and will be furnished with VA Form 1–9, "Appeal to Board of Veterans' Appeals."

(Authority: 38 U.S.C. 7105A(b))

§ 19.102 Notice of appeal to other contesting parties in simultaneously contested claims.

When a Substantive Appeal is filed in a simultaneously contested claim, the content of the Substantive Appeal will be furnished to the other contesting parties to the extent that it contains information which could directly affect the payment or potential payment of the benefit which is the subject of the contested claim.

(Authority: 38 U.S.C. 7105A(b))

APPENDIX A TO PART 19—CROSS-REFERENCES

Sec.	Cross-reference	Title of cross-referenced material or comment
19.5	38 CFR 14.507(b)	See re "precedent opinions" of the General Counsel of the Department of Veterans Affairs.
	38 CFR 20.1303	*Rule 1303. Nonprecedential nature of Board decisions.*
19.7	38 CFR 20.905	*Rule 905. Vacating a decision.*
19.13	38 CFR 2.66	Contains similar provisions.
19.25	38 CFR 19.52	*Notification to claimant of filing of administrative appeal.*
	38 CFR 19.100	*Notification of right to appeal in simultaneously contested claims.*
19.26	38 CFR 20.302	*Rule 302. Time limit for filing Notice of Disagreement, Substantive Appeal, and response to Supplemental Statement of the Case.*
19.27	38 CFR 19.50–19.53	See re administrative appeals.
19.30	38 CFR 20.202	*Rule 202. Substantive Appeal.*
19.32	38 CFR 20.302	*Rule 302. Time limit for filing Notice of Disagreement, Substantive Appeal, and response to Supplemental Statement of the Case.*
	38 CFR 20.501	*Rule 501. Time limits for filing Notice of Disagreement, Substantive Appeal, and response to Supplemental Statement of the Case in simultaneously contested claims.*
19.33	38 CFR 19.50–19.53	See re administrative appeals.
19.50	38 CFR 19.53	*Restriction as to change in payments pending determination of administrative appeals.*
19.76	38 CFR 20.704	*Rule 704. Scheduling and notice of hearings conducted by traveling Sections of the Board of Veterans' Appeals at Department of Veterans Affairs field facilities.*
19.100	38 CFR 20.713	*Rule 713. Hearings in simultaneously contested claims.*
19.101	38 CFR 19.30	*Furnishing the Statement of the Case and instructions for filing a Substantive Appeal.*

6. New Part 20, Board of Veterans' Appeals: Rules of Practice, is added to 38 CFR to read as follows:

PART 20—BOARD OF VETERANS' APPEALS: RULES OF PRACTICE

Subpart A—General

Sec.
20.1 Rule 1. Purpose and construction of Rules of Practice.
20.2 Rule 2. Procedure in absence of specific Rule of Practice.
20.3 Rule 3. Definitions.
20.4–20.99 [Reserved]

Subpart B—The Board

20.100 Rule 100. Name, business hours, and mailing address of the Board.
20.101 Rule 101. Jurisdiction of the Board.
20.102 Rule 102. Delegation of authority—Rules of Practice.
20.103–20.199 [Reserved]

Subpart C—Commencement and Perfection of Appeal

20.200 Rule 200. What constitutes an appeal.
20.201 Rule 201. Notice of Disagreement.
20.202 Rule 202. Substantive Appeal.
20.203 Rule 203. Decision as to adequacy of the Substantive Appeal.
20.204 Rule 204. Withdrawal of Notice of Disagreement or Substantive Appeal.
20.205–20.299 [Reserved]

Subpart D—Filing

20.300 Rule 300. Place of filing Notice of Disagreement and Substantive Appeal.
20.301 Rule 301. Who can file an appeal.
20.302 Rule 302. Time limit for filing Notice of Disagreement, Substantive Appeal, and response to Supplemental Statement of the Case.
20.303 Rule 303. Extension of time for filing Substantive Appeal and response to Supplemental Statement of the Case.
20.304 Rule 304. Filing additional evidence does not extend time limit for appeal.
20.305 Rule 305. Computation of time limit for filing.
20.306 Rule 306. Legal holidays.
20.307–20.399 [Reserved]

Subpart E—Administrative Appeals

20.400 Rule 400. Action by claimant or representative on notification of administrative appeal.
20.401 Rule 401. Effect of decision on administrative or merged appeal on claimant's appellate rights.
20.402–20.499 [Reserved]

Subpart F—Simultaneously Contested Claims

20.500 Rule 500. Who can file an appeal in simultaneously contested claims.
20.501 Rule 501. Time limits for filing Notice of Disagreement, Substantive Appeal, and response to Supplemental Statement of the Case in simultaneously contested claims.
20.502 Rule 502. Time limit for response to notice of appeal by another contesting party in a simultaneously contested claim.
20.503 Rule 503. Extension of time for filing a Substantive Appeal in simultaneously contested claims.
20.504 Rule 504. Notices sent to last addresses of record in simultaneously contested claims.
20.505–20.599 [Reserved]

Subpart G—Representation

20.600 Rule 600. Right to representation.
20.601 Rule 601. Only one representative recognized.
20.602 Rule 602. Representation by recognized organizations.
20.603 Rule 603. Representation by attorneys-at-law.
20.604 Rule 604. Representation by agents.
20.605 Rule 605. Other persons as representative.
20.606 Rule 606. Legal interns, law students and paralegals.
20.607 Rule 607. Revocation of a representative's authority to act.
20.608 Rule 608. Withdrawal of services by a representative.
20.609 Rule 609. Payment of representative's fees in proceedings before Department of Veterans Affairs field personnel and before the Board of Veterans' Appeals.
20.610 Rule 610. Payment of representative's expenses in proceedings before Department of Veterans Affairs field personnel and before the Board of Veterans' Appeals.
20.611 Rule 611. Continuation of representation following death of a claimant or appellant.
20.612–20.699 [Reserved]

Subpart H—Hearings on Appeal

20.700 Rule 700. General.
20.701 Rule 701. Who may present oral argument.
20.702 Rule 702. Scheduling and notice of hearings conducted by the Board of Veterans' Appeals in Washington, DC, and by agency of original jurisdiction personnel acting on behalf of the Board of Veterans' Appeals at field facilities.
20.703 Rule 703. When right to Travel Board hearing arises.
20.704 Rule 704. Scheduling and notice of hearings conducted by traveling Sections of the Board of Veterans' Appeals at Department of Veterans Affairs field facilities.
20.705 Rule 705. Where hearings on appeal are conducted.
20.706 Rule 706. Functions of the presiding Member.
20.707 Rule 707. When a hearing panel makes the final appellate decision.
20.708 Rule 708. Prehearing conference.
20.709 Rule 709. Procurement of additional evidence following a hearing.
20.710 Rule 710. Witnesses at hearings.
20.711 Rule 711. Subpoenas.
20.712 Rule 712. Expenses of appellants, representatives, and witnesses incident to hearings not reimbursable by the Government.
20.713 Rule 713. Hearings in simultaneously contested claims.
20.714 Rule 714. Record of hearing.

20.715 Rule 715. Recording of hearing by appellant or representative.
20.716 Rule 716. Correction of hearing transcripts.
20.717 Rule 717. Loss of hearing tapes or transcripts—motion for new hearing.
20.718–20.799 [Reserved]

Subpart I—Evidence

20.800 Rule 800. Submission of additional evidence after initiation of appeal.
20.801–20.899 [Reserved]

Subpart J—Action by the Board

20.900 Rule 900. Order of consideration of appeals.
20.901 Rule 901. Medical opinions and opinions of the General Counsel.
20.902 Rule 902. Filing of requests for the procurement of opinions.
20.903 Rule 903. Notification of opinions secured by the Board and opportunity for response.
20.904 Rule 904. Vacating a decision.
20.905–20.999 [Reserved]

Subpart K—Reconsideration

20.1000 Rule 1000. When reconsideration is accorded.
20.1001 Rule 1001. Filing and disposition of motion for reconsideration.
20.1002 Rule 1002. [Reserved]
20.1003 Rule 1003. Hearings on reconsideration.
20.1004–20.1099 [Reserved]

Subpart L—Finality

20.1100 Rule 1100. Finality of decisions of the Board.
20.1101 Rule 1101. [Reserved]
20.1102 Rule 1102. Harmless error.
20.1103 Rule 1103. Finality of determinations of the agency of original jurisdiction where appeal is not perfected.
20.1104 Rule 1104. Finality of determinations of the agency of original jurisdiction affirmed on appeal.
20.1105 Rule 1105. New claim after promulgation of appellate decision.
20.1106 Rule 1106. Claim for death benefits by survivor—prior unfavorable decisions during veteran's lifetime.
20.1107–20.1199 [Reserved]

Subpart M—Privacy Act

20.1200 Rule 1200. Privacy Act request—appeal pending.
20.1201 Rule 1201. Amendment of appellate decisions.
20.1202–20.1299 [Reserved]

Subpart N—Miscellaneous

20.1300 Rule 1300. Access to Board records.
20.1301 Rule 1301. Disclosure of information.
20.1302 Rule 1302. Death of appellant during pendency of appeal.
20.1303 Rule 1303. Nonprecedential nature of Board decisions.
20.1304 Rule 1304. Request for change in representation, request for personal hearing, or submission of additional evidence following certification of an appeal to the Board of Veterans' Appeals.

Appendix A to Part 20—Cross-References

Authority: 38 U.S.C. 501(a).

Subpart A—General

§ 20.1 Rule 1. Purpose and construction of Rules of Practice.

(a) *Purpose.* These rules establish the practices and procedures governing appeals to the Board of Veterans' Appeals.

(Authority: 38 U.S.C. 501(a), 7102, 7104)

(b) *Construction.* These rules are to be construed to secure a just and speedy decision in every appeal.

(Authority: 38 U.S.C. 501(a), 5107, 7104)

§ 20.2 Rule 2. Procedure in absence of specific Rule of Practice.

Where in any instance there is no applicable rule or procedure, the Chairman may prescribe a procedure which is consistent with the provisions of title 38, United States Code, and these rules.

(Authority: 38 U.S.C. 501(a), 512(a), 7102, 7104)

§ 20.3 Rule 3. Definitions.

As used in these Rules:

(a) *Agency of original jurisdiction* means the Department of Veterans Affairs regional office, medical center, clinic, cemetery, or other Department of Veterans Affairs facility which made the initial determination on a claim or, if the applicable records are later permanently transferred to another Department of Veterans Affairs facility, its successor.

(b) *Agent* means a person who has met the standards and qualifications for accreditation outlined in § 14.629(b) of this chapter and who has been properly designated under the provisions of Rule 604 (§ 20.604 of this part). It does not include representatives recognized under Rules 602, 603, or 605 (§ 20.602, 20.603, or § 20.605 of this part).

(c) *Appellant* means a claimant who has initiated an appeal to the Board of Veterans' Appeals by filing a Notice of Disagreement pursuant to the provisions of 38 U.S.C. 7105.

(d) *Attorney-at-law* means a member in good standing of a State bar.

(e) *Benefit* means any payment, service, commodity, function, or status, entitlement to which is determined under laws administered by the Department of Veterans Affairs pertaining to veterans and their dependents and survivors.

(f) *Claim* means application made under title 38, United States Code, and implementing directives for entitlement to Department of Veterans Affairs benefits or for the continuation or increase of such benefits, or the defense of a proposed agency adverse action concerning benefits.

(g) *Claimant* means a person who has filed a claim, as defined by paragraph (f) of this section.

(h) *Hearing on appeal* means a hearing conducted after a Notice of Disagreement has been filed in which argument and/or testimony is presented concerning the determination, or determinations, by the agency of original jurisdiction being appealed.

(i) *Law student* means an individual pursuing a Juris Doctor or equivalent degree at a school approved by a recognized accrediting association.

(j) *Legal intern* means a graduate of a law school, which has been approved by a recognized accrediting association, who has not yet been admitted to a State bar.

(k) *Motion* means a request that the Board rule on some question which is subsidiary to the ultimate decision on the outcome of an appeal. For example, the questions of whether a representative's fees are reasonable or whether additional evidence may be submitted more than 90 days after certification of an appeal to the Board are raised by motion (see Rule 609, paragraph (i), and Rule 1304, paragraph (b) §§ 20.609(i) and 20.1304(b) of this part). Unless raised orally at a personal hearing before Members of the Board, motions for consideration by the Board must be made in writing. No formal type of document is required. The motion may be in the form of a letter which contains the necessary information.

(l) *Paralegal* means a graduate of a course of paralegal instruction given by a school which has been approved by a recognized accrediting association, or an individual who has equivalent legal experience.

(m) *Simultaneously contested claim* refers to the situation in which the allowance of one claim results in the disallowance of another claim involving the same benefit or the allowance of one claim results in the payment of a lesser benefit to another claimant.

(n) *State* includes any State, possession, territory, or Commonwealth of the United States, as well as the District of Columbia.

(Authority: 38 U.S.C. 501(a))

§§ 20.4–20.99 [Reserved]

Subpart B—The Board

§ 20.100 Rule 100. Name, business hours, and mailing address of the Board.

(a) *Name.* The name of the Board is the Board of Veterans' Appeals.

(b) *Business hours.* The Board is open during business hours on all days except Saturday, Sunday and legal holidays.

Business hours are from 8 a.m. to 4:30 p.m.

(c) *Mailing address.* Except as otherwise noted in these Rules, mail to the Board must be addressed to: Chairman (01), Board of Veterans' Appeals, 810 Vermont Avenue NW., Washington, DC 20420.

(Authority: 38 U.S.C. 7101(a))

§ 20.101 Rule 101. Jurisdiction of the Board.

(a) *General.* All questions of law and fact necessary to a decision by the Secretary of Veterans Affairs under a law that affects the provision of benefits by the Secretary to veterans or their dependents or survivors are subject to review on appeal to the Secretary. Decisions in such appeals are made by the Board of Veterans' Appeals. In its decisions, the Board is bound by applicable statutes, the regulations of the Department of Veterans Affairs and precedent opinions of the General Counsel of the Department of Veterans Affairs. Examples of the issues over which the Board has jurisdiction include, but are not limited to, the following:

(1) Entitlement to, and benefits resulting from, service-connected disability or death (38 U.S.C. chapter 11).

(2) Dependency and indemnity compensation for service-connected death, including benefits in certain cases of inservice or service-connected deaths (38 U.S.C. 1312) and certification and entitlement to death gratuity (38 U.S.C. 1323).

(3) Benefits for survivors of certain veterans rated totally disabled at time of death (38 U.S.C. 1318).

(4) Entitlement to nonservice-connected disability pension, service pension and death pension (38 U.S.C. chapter 15).

(5) All-Volunteer Force Educational Assistance Program (38 U.S.C. chapter 30).

(6) Training and Rehabilitation for Veterans with Service-Connected Disabilities (38 U.S.C. chapter 31).

(7) Post-Vietnam Era Veterans' Educational Assistance (38 U.S.C. chapter 32).

(8) Veterans' Educational Assistance (38 U.S.C. chapter 34).

(9) Survivors' and Dependents' Educational Assistance (38 U.S.C. chapter 35).

(10) Veterans' Job Training (Pub. L. 98–77, as amended; 38 CFR 21.4600 *et seq.*).

(11) Educational Assistance for Members of the Selected Reserve (10 U.S.C. chapter 106).

(12) Educational Assistance Test Program (10 U.S.C. chapter 107; 38 CFR 21.5701 *et seq.*).

(13) Educational Assistance Pilot Program (10 U.S.C. chapter 107; 38 CFR 21.5290 *et seq.*).

(14) Matters arising under National Service Life Insurance and United States Government Life Insurance (38 U.S.C. chapter 19).

(15) Payment or reimbursement for unauthorized medical expenses (38 U.S.C. 1728).

(16) Burial benefits and burial in National Cemeteries (38 U.S.C. chapters 23 and 24).

(17) Benefits for persons disabled by medical treatment or vocational rehabilitation (38 U.S.C. 1151).

(18) Basic eligibility for home, condominium and mobile home loans as well as waiver of payment of loan guaranty indebtedness (38 U.S.C. chapter 37, 38 U.S.C. 5302).

(19) Waiver of recovery of overpayments (38 U.S.C. 5302).

(20) Forfeiture of rights, claims or benefits for fraud, treason, or subversive activities (38 U.S.C. 6102–6105).

(21) Character of discharge (38 U.S.C. 5303).

(22) Determinations as to duty status (38 U.S.C. 101(21)–(24)).

(23) Determinations as to marital status (38 U.S.C. 101(3), 103).

(24) Determination of dependency status as parent or child (38 U.S.C. 101(4), (5)).

(25) Validity of claims and effective dates of benefits (38 U.S.C. chapter 51).

(26) Apportionment of benefits (38 U.S.C. 5307).

(27) Payment of benefits while a veteran is hospitalized and questions regarding an estate of an incompetent institutionalized veteran (38 U.S.C. 5503).

(28) Benefits for surviving spouses and children of deceased veterans under Public Law 97–377, section 156 (38 CFR 3.812(d)).

(29) Eligibility for automobile and automobile adaptive equipment assistance (38 U.S.C. chapter 39).

(b) *Appellate jurisdiction of determinations of the Veterans Health Administration.* The Board's appellate jurisdiction extends to questions of eligibility for hospitalization, outpatient treatment, and nursing home and domiciliary care; for devices such as prostheses, canes, wheelchairs, back braces, orthopedic shoes, and similar appliances; and for other benefits administered by the Veterans Health Administration. Medical determinations, such as determinations of the need for and appropriateness of specific types of medical care and treatment for an individual, are not adjudicative matters and are beyond the Board's jurisdiction. Typical examples of these issues are whether a particular drug should be prescribed, whether a specific type of physiotherapy should be ordered, and similar judgmental treatment decisions with which an attending physician may be faced.

(c) *Appeals as to jurisdiction.* All claimants have the right to appeal a determination made by the agency of original jurisdiction that the Board does not have jurisdictional authority to review a particular issue. This includes questions relating to the timely filing and adequacy of the Notice of Disagreement and the Substantive Appeal. Subject to review by courts of competent jurisdiction, only the Board of Veterans' Appeals will make final decisions with respect to its jurisdiction.

(Authority: 38 U.S.C. 511(a), 7104)

§ 20.102 Rule 102. Delegation of authority—Rules of Practice.

(a) The authority exercised by the Chairman of the Board of Veterans' Appeals described in Rule 900(c) (§ 20.900(c) of this part) MAY ALSO be exercised by the Vice Chairman of the Board.

(b) The authority exercised by the Chairman of the Board of Veterans' Appeals described in Rules 608(b), 717(d), and 1001(c) (§§ 20.608(b), 20.717(d), and 20.1001(c) of this part) may also be exercised by the Vice Chairman of the Board and by Deputy Vice Chairmen of the Board.

(c) The authority exercised by the Chairman of the Board of Veterans' Appeals described in Rule 2 (§ 20.2 of this part) may also be exercised by the Vice Chairman of the Board; by Deputy Vice Chairmen of the Board; and, in conjunction with a proceeding or motion in connection therewith assigned to them by the Chairman, by Members of the Board who have been designated as the Chief Member of a Section of the Board or as the Acting Chief Member of a Section of the Board and by a Member of the Board who is acting as the presiding Member of a hearing panel.

(d) The authority exercised by the Chairman of the Board of Veterans' Appeals described in Rules 606(e), 609(i), 610(d), 711(e), 711(f), and 1304(b) (§§ 20.606(e), 20.609(i), 20.610(d), 20.711(e), 20.711(f), and 20.1304(b) of this part) may also be exercised by the Vice Chairman of the Board and by Deputy Vice Chairmen of the Board. When, however, the matter arises in conjunction with an appeal or any proceeding instituted before the Board, or any motion in connection therewith, assigned to a Section, or Sections, by the Chairman for a hearing and/or disposition, this authority shall be exercised by the Members of the Board Section, or Sections, involved.

(Authority: 38 U.S.C. 512(a), 7102, 7104)

§§ 20.103–20.199 [Reserved]

Subpart C—Commencement and Perfection of Appeal

§ 20.200 Rule 200. What constitutes an appeal.

An appeal consists of a timely filed Notice of Disagreement in writing and, after a Statement of the Case has been furnished, a timely filed Substantive Appeal.

(Authority: 38 U.S.C. 7105)

§ 20.201 Rule 201. Notice of Disagreement.

A written communication from a claimant or his or her representative expressing dissatisfaction or disagreement with an adjudicative determination by the agency of original jurisdiction and a desire to contest the result will constitute a Notice of Disagreement. While special wording is not required, the Notice of Disagreement must be in terms which can be reasonably construed as disagreement with that determination and a desire for appellate review. If the agency of original jurisdiction gave notice that adjudicative determinations were made on several issues at the same time, the specific determinations with which the claimant disagrees must be identified. For example, if service connection was denied for two disabilities and the claimant wishes to appeal the denial of service connection with respect to only one of the disabilities, the Notice of Disagreement must make that clear.

(Authority: 38 U.S.C. 7105)

§ 20.202 Rule 202. Substantive Appeal.

A Substantive Appeal consists of a properly completed VA Form 1–9, "Appeal to Board of Veterans' Appeals," or correspondence containing the necessary information. If the Statement of the Case and any prior Supplemental Statements of the Case addressed several issues, the Substantive Appeal must either indicate that the appeal is being perfected as to all of those issues or must specifically identify the issues appealed. The Substantive Appeal should set out specific arguments relating to errors of fact or law made by the agency of original jurisdiction in reaching the determination, or determinations, being appealed. To the extent feasible, the argument should be related to specific items in the Statement of the Case and any prior Supplemental Statements of the Case. The Board will construe such arguments in a liberal manner for purposes of determining whether they raise issues on appeal, but the Board may dismiss any appeal which fails to allege specific error of fact or law in the determination, or determinations, being appealed. The Board will not presume that an appellant agrees with any statement of fact contained in a Statement of the Case or a Supplemental Statement of the Case which is not specifically contested. Proper completion and filing of a Substantive Appeal are the last actions the appellant needs to take to perfect an appeal.

(Authority: 38 U.S.C. 7105(d)(3)–(5))

(Approved by the Office of Management and Budget under control number 2900–0085)

§ 20.203 Rule 203. Decision as to adequacy of the Substantive Appeal.

A decision as to the adequacy of allegations of error of fact or law in a Substantive Appeal will be made by the Board of Veterans' Appeals. When the Board raises the issue of adequacy of the Substantive Appeal, the appellant and representative, if any, will be given notice of the issue and a period of 60 days following the date on which such notice is mailed to present written argument or to request a hearing to present oral argument on this question. The date of mailing of the notice will be presumed to be the same as the date of the letter of notification.

(Authority: 38 U.S.C. 7105(d)(3), 7108)

§ 20.204 Rule 204. Withdrawal of Notice of Disagreement or Substantive Appeal.

(a) *Notice of Disagreement.* A Notice of Disagreement may be withdrawn in writing before a timely Substantive Appeal is filed.

(Authority: 38 U.S.C. 7105(d)(1))

(b) *Substantive Appeal.* A Substantive Appeal may be withdrawn in writing at any time before the Board of Veterans' Appeals promulgates a decision.

(Authority: 38 U.S.C. 7105(d)(3))

(c) *Who May Withdraw.* Withdrawal may be by the appellant or by his or her authorized representative, except that a representative may not withdraw either a Notice of Disagreement or Substantive Appeal filed by the appellant personally without the express written consent of the appellant. The agency of original jurisdiction may not withdraw a Notice of Disagreement or a Substantive Appeal after filing of either or both.

(Authority: 38 U.S.C. 7105(b)(2))

§§ 20.205–20.299 [Reserved]

Subpart D—Filing

§ 20.300 Rule 300. Place of filing Notice of Disagreement and Substantive Appeal.

The Notice of Disagreement and Substantive Appeal must be filed with the Department of Veterans Affairs office from which the claimant received notice of the determination being appealed unless notice has been received that the applicable Department of Veterans Affairs records have been transferred to another Department of Veterans Affairs office. In that case, the Notice of Disagreement or Substantive Appeal must be filed with the Department of Veterans Affairs office which has assumed jurisdiction over the applicable records.

(Authority: 38 U.S.C. 7105 (b)(1), (d)(3))

§ 20.301 Rule 301. Who can file an appeal.

(a) *Persons authorized.* A Notice of Disagreement and/or a Substantive Appeal may be filed by a claimant personally, or by his or her representative if a proper Power of Attorney or declaration of representation, as applicable, is on record or accompanies such Notice of Disagreement or Substantive Appeal.

(b) *Claimant rated incompetent by Department of Veterans Affairs or under disability and unable to file.* If an appeal is not filed by a person listed in paragraph (a) of this section, and the claimant is rated incompetent by the Department of Veterans Affairs or has a physical, mental, or legal disability which prevents the filing of an appeal on his or her own behalf, a Notice of Disagreement and a Substantive Appeal may be filed by a fiduciary appointed to manage the claimant's affairs by the Department of Veterans Affairs or a court, or by a person acting as next friend if the appointed fiduciary fails to take needed action or no fiduciary has been appointed.

(c) *Claimant under disability and able to file.* Notwithstanding the fact that a fiduciary may have been appointed for a claimant, an appeal filed by a claimant will be accepted.

(Authority: 38 U.S.C. 7105(b)(2))

§ 20.302 Rule 302. Time limit for filing Notice of Disagreement, Substantive Appeal, and response to Supplemental Statement of the Case.

(a) *Notice of Disagreement.* Except in the case of simultaneously contested claims, a claimant, or his or her representative, must file a Notice of Disagreement with a determination by the agency of original jurisdiction within one year from the date that that agency mails notice of the determination to him or her. Otherwise, that determination will become final. The date of mailing the letter of notification of the determination will be presumed to be the same as the date of that letter for purposes of determining whether an appeal has been timely filed.

(Authority: 38 U.S.C. 7105(b)(1))

(b) *Substantive Appeal.* Except in the case of simultaneously contested claims, a Substantive Appeal must be filed within 60 days from the date that the agency of original jurisdiction mails the Statement of the Case to the appellant, or within the remainder of the 1-year period from the date of mailing of the notification of the determination being appealed, whichever period ends later. The date of mailing of the Statement of the Case will be presumed to be the same as the date of the Statement of the Case and the date of mailing the letter of notification of the determination will be presumed to be the same as the date of that letter for purposes of determining whether an appeal has been timely filed.

(Authority: 38 U.S.C. 7105 (b)(1), (d)(3))

(c) *Response to Supplemental Statement of the Case.* Where a Supplemental Statement of the Case is furnished, a period of 60 days from the date of mailing of the Supplemental Statement of the Case will be allowed for response. The date of mailing of the Supplemental Statement of the Case will be presumed to be the same as the date of the Supplemental Statement of the Case for purposes of determining whether a response has been timely filed. Provided a Substantive Appeal has been timely filed in accordance with paragraph (b) of this section, the response to a Supplemental Statement of the Case is optional and is not required for the perfection of an appeal, unless the Supplemental Statement of the Case covers issues that were not included in the original Statement of the Case. If a Supplemental Statement of the Case covers issues that were not included in the original Statement of the Case, a Substantive Appeal must be filed with respect to those issues within 60 days in order to perfect an appeal with respect to the additional issues.

(Authority: 38 U.S.C. 7105(d)(3))

§ 20.303 Rule 303. Extension of time for filing Substantive Appeal and response to Supplemental Statement of the Case.

An extension of the 60-day period for filing a Substantive Appeal, or the 60-day period for responding to a Supplemental Statement of the Case when such a response is required, may be granted for good cause. A request for such an extension must be in writing and must be made prior to expiration of the time limit for filing the Substantive Appeal or the response to the Supplemental Statement of the Case. The request for extension must be filed with the Department of Veterans Affairs office from which the claimant received notice of the determination being appealed, unless notice has been received that the applicable records have been transferred to another Department of Veterans Affairs office. A denial of a request for extension may be appealed to the Board.

(Authority: 38 U.S.C. 7105(d)(3))

§ 20.304 Rule 304. Filing additional evidence does not extend time limit for appeal.

The filing of additional evidence after receipt of notice of an adverse determination does not extend the time limit for initiating or completing an appeal from that determination.

(Authority: 38 U.S.C. 7105)

§ 20.305 Rule 305. Computation of time limit for filing.

(a) *Acceptance of postmark date.* When these Rules require that any written document be filed within a specified period of time, a response postmarked prior to expiration of the applicable time limit will be accepted as having been timely filed. In the event that the postmark is not of record, the postmark date will be presumed to be five days prior to the date of receipt of the document by the Department of Veterans Affairs. In calculating this 5-day period, Saturdays, Sundays and legal holidays will be excluded.

(b) *Computation of time limit.* In computing the time limit for filing a written document, the first day of the specified period will be excluded and the last day included. Where the time limit would expire on a Saturday, Sunday, or legal holiday, the next succeeding workday will be included in the computation.

(Authority: 38 U.S.C. 7105)

§ 20.306 Rule 306. Legal holidays.

For the purpose of Rule 305 (§ 20.305 of this part), the legal holidays, in addition to any other day appointed as a holiday by the President or the Congress of the United States, are as follows: New Year's Day—January 1; Inauguration Day—January 20 of every fourth year or, if the 20th falls on a Sunday, the next succeeding day selected for public observance of the inauguration; Birthday of Martin Luther King, Jr.—Third Monday in January; Washington's Birthday—Third Monday in February; Memorial Day—Last Monday in May; Independence Day—July 4; Labor Day—First Monday in September; Columbus Day—Second Monday in October; Veterans Day—November 11; Thanksgiving Day—Fourth Thursday in November; and Christmas Day—December 25. When a holiday occurs on a Saturday, the Friday immediately before is the legal public holiday. When a holiday occurs on a Sunday, the Monday immediately after is the legal public holiday.

(Authority: 5 U.S.C. 6103)

§§ 20.307–20.399 [Reserved]

Subpart E—Administrative Appeals

§ 20.400 Rule 400. Action by claimant or representative on notification of administrative appeal.

When an official of the Department of Veterans Affairs enters an administrative appeal, the claimant and his or her representative, if any, are notified and given a period of 60 days from the date of mailing of the letter of notification to join in the administrative appeal. The date of mailing of the letter of notification will be presumed to be the same as the date of the letter of notification. If the claimant, or the representative acting on his or her behalf, elects to join in the administrative appeal, it becomes a "merged appeal" and the rules governing an appeal initiated by a claimant are for application. The presentation of evidence or argument by the claimant or his or her representative in response to notification of the right to join in the administrative appeal will be construed as an election to join in the administrative appeal. If the claimant does not authorize the merger, he or she must hold such evidence or argument in abeyance until resolution of the administrative appeal.

(Authority: 38 U.S.C. 7106)

§ 20.401 Rule 401. Effect of decision on administrative or merged appeal on claimant's appellate rights.

(a) *Merged appeal.* If the administrative appeal is merged, the appellate decision on the merged appeal will constitute final disposition of the claimant's appellate rights.

(b) *Appeal not merged.* If the claimant does not authorize merger, normal appellate rights on the same issue are preserved, and a decision in a separate appeal perfected by the claimant will be entered by a Section of the Board which does not include Members who made the decision on the administrative appeal. The period of time from the date of notification to the claimant of the administrative appeal to the date of the Board's decision on the administrative appeal is not chargeable to the claimant for purposes of determining the time limit for perfecting his or her separate appeal.

(Authority: 38 U.S.C. 7106)

§§ 20.402–20.499 [Reserved]

Subpart F—Simultaneously Contested Claims

§ 20.500 Rule 500. Who can file an appeal in simultaneously contested claims.

In a simultaneously contested claim, any claimant or representative of a claimant may file a Notice of Disagreement or Substantive Appeal within the time limits set out in Rule 501 (§ 20.501 of this part).

(Authority: 38 U.S.C. 7105(b)(2), 7105A)

§ 20.501 Rule 501. Time limits for filing Notice of Disagreement, Substantive Appeal, and response to Supplemental Statement of the Case in simultaneously contested claims.

(a) *Notice of Disagreement.* In simultaneously contested claims, the Notice of Disagreement from the person adversely affected must be filed within 60 days from the date of mailing of the notification of the determination to him or her; otherwise, that determination will become final. The date of mailing of the letter of notification will be presumed to be the same as the date of that letter for purposes of determining whether a Notice of Disagreement has been timely filed.

(Authority: 38 U.S.C. 7105A(a))

(b) *Substantive Appeal.* In the case of simultaneously contested claims, a Substantive Appeal must be filed within 30 days from the date of mailing of the Statement of the Case. The date of mailing of the Statement of the Case will be presumed to be the same as the date of the Statement of the Case for purposes of determining whether an appeal has been timely filed.

(Authority: 38 U.S.C. 7105A(b))

(c) *Supplemental Statement of the Case.* Where a Supplemental Statement of the Case is furnished by the agency of original jurisdiction in a simultaneously contested claim, a period of 30 days from the date of mailing of the Supplemental Statement of the Case will be allowed for response, but the receipt of a Supplemental Statement of the Case will not extend the time allowed for filing a Substantive Appeal as set forth in paragraph (b) of this section. The date of mailing of the Supplemental Statement of the Case will be presumed to be the same as the date of the Supplemental Statement of the Case for purposes of determining whether a response has been timely filed. Provided a Substantive Appeal has been timely filed in accordance with paragraph (b) of this section, the response to a Supplemental Statement of the Case is optional and is not required for the perfection of an appeal, unless the Supplemental Statement of the Case covers issues that were not included in the original Statement of the Case. If a Supplemental Statement of the Case covers issues that were not included in the original Statement of the Case, a Substantive Appeal must be filed with respect to those issues within 30 days of the date of mailing of the Supplemental Statement of the Case in order to perfect an appeal with respect to the additional issues.

(Authority: 38 U.S.C. 7105(d)(3), 7105A(b))

§ 20.502 Rule 502. Time limit for response to notice of appeal by another contesting party in a simultaneously contested claim.

Notice of an appeal by another contesting party in a simultaneously contested claim is given by sending a copy of that party's Substantive Appeal to all other contesting parties. A period of 30 days from the date of mailing of the copy of the Substantive Appeal is allowed for filing a brief or argument in answer. The date of mailing of the copy will be presumed to be the same as the date of the letter which accompanies the copy.

(Authority: 38 U.S.C. 7105A(b))

§ 20.503 Rule 503. Extension of time for filing a Substantive Appeal in simultaneously contested claims.

An extension of the 30-day period to file a Substantive Appeal in simultaneously contested claims may be granted if good cause is shown. In granting an extension, consideration will be given to the interests of the other parties involved. A request for such an extension must be in writing and must be made prior to expiration of the time limit for filing the Substantive Appeal.

(Authority: 38 U.S.C. 7105A(b))

§ 20.504 Rule 504. Notices sent to last addresses of record in simultaneously contested claims.

Notices in simultaneously contested claims will be forwarded to the last address of record of the parties concerned and such action will constitute sufficient evidence of notice.

(Authority: 38 U.S.C. 7105A(b))

§§ 20.505–20.599 [Reserved]

Subpart G—Representation

Cross-Reference: In cases involving access to medical records relating to drug abuse, alcoholism, alcohol abuse, sickle cell anemia, or infection with the human immunodeficiency virus, also see 38 U.S.C. 7332.

§ 20.600 Rule 600. Right to representation.

An appellant will be accorded full right to representation in all stages of an appeal by a recognized organization, attorney, agent, or other authorized person.

(Authority: 38 U.S.C. 5901–5905, 7105(a))

§ 20.601 Rule 601. Only one representative recognized.

A specific claim may be prosecuted at any one time by only one recognized organization, attorney, agent or other person properly designated to represent the appellant.

(Authority: 38 U.S.C. 7105(b)(2))

§ 20.602 Rule 602. Representation by recognized organizations.

In order to designate a recognized organization as his or her representative, an appellant must execute a VA Form 21–22, "Appointment of Veterans Service Organization as Claimant's Representative." This form gives the organization power of attorney to represent the appellant. The designation will be effective when it is received by the agency of original jurisdiction or, if the appellate record has been certified to the Board for review, by the Board of Veterans' Appeals. A properly filed designation made prior to appeal will continue to be honored, unless it has been revoked by the appellant or unless the representative has properly withdrawn.

(Authority: 38 U.S.C. 7105(b)(2))

§ 20.603 Rule 603. Representation by attorneys-at-law.

(a) *Designation.* An attorney-at-law may be designated as an appellant's representative through a properly executed VA Form 2–22a, "Appointment of Attorney or Agent as Claimant's Representative." This form gives the attorney power of attorney to represent the appellant. In lieu thereof, an attorney may state in writing on his or her letterhead that he or she is authorized to represent the appellant in order to have access to information in the appellant's file pertinent to the particular claim presented. For an attorney to have complete access to all information in an individual's records, the attorney must provide a signed consent from the appellant or the appellant's guardian. Such consent shall be equivalent to an executed power of attorney. The designation must be of an individual attorney, rather than a firm or partnership. An appellant may limit an attorney's right to act as his or her representative in an appeal to representation with respect to a specific claim for one or more specific benefits by noting the restriction in the written designation. Unless specifically noted to the contrary, however, designations of an attorney as a representative will extend to all matters with respect to claims for benefits under laws administered by the Department of Veterans Affairs. Designations are effective when they are received by the agency of original jurisdiction or, if the appellate record has been certified to the Board for review, by the Board of Veterans' Appeals. A properly filed designation made prior to appeal will continue to be honored, unless it has been revoked or unless the representative has properly withdrawn. Legal interns, law students, and paralegals may not be independently accredited to represent appellants under this Rule.

(b) *Attorneys employed by recognized organization.* A recognized organization may employ an attorney-at-law to represent an appellant. If the attorney so employed is not an accredited representative of the recognized organization, the signed consent of the appellant for the substitution of representatives must be obtained and submitted to the agency of original jurisdiction or, if the appellate record has been certified to the Board for review, to the Board of Veterans' Appeals. When the signed consent is received by the agency of original jurisdiction or the Board, as applicable, the attorney will be recognized as the appellant's representative in lieu of the organization.

(c) *Participation of associated or affiliated attorneys.* With the specific written consent of the appellant, an attorney associated or affiliated with the appellant's attorney of record, including an attorney employed by the same legal services office as the attorney of record, may assist in representation of the appellant and may have access to the appellant's Department of Veterans Affairs records to the same extent as the attorney of record. Unless revoked by the appellant, such consent will remain effective in the event the original attorney of record is replaced by another attorney who is a member of the same law firm or an attorney employed by the same legal services office. The consent must include the name of the veteran; the name of the appellant if other than the veteran (e.g., a veteran's survivor, a guardian, or a fiduciary appointed to receive VA benefits on an individual's behalf); the applicable Department of Veterans Affairs file number; the name of the attorney of record; the consent of the appellant for the use of the services of the associated or affiliated attorney and for that individual to have access to applicable Department of Veterans Affairs records; and the name of the associated or affiliated attorney who will be assisting in the case. The consent must be filed with the agency of original jurisdiction or, if the appellate record has been certified to the Board for review, with the Board of Veterans' Appeals. The presiding Member at a hearing on appeal may require that not more than one attorney participate in the examination of any one witness or impose other reasonable limitations to ensure orderly conduct of the hearing.

(Authority: 38 U.S.C. 5901, 5904)

§ 20.604 Rule 604. Representation by agents.

(a) *Designation.* The designation of an agent will be by a duly executed power of attorney, VA Form 2–22a, "Appointment of Attorney or Agent as Claimant's Representative," or its equivalent. The designation must be of an individual, rather than a firm or partnership. The designation will be effective when it is received by the agency of original jurisdiction or, if the appellate record has been certified to the Board for review, by the Board of Veterans' Appeals. A properly filed designation made prior to appeal will continue to be honored, unless it has been revoked or unless the representative has properly withdrawn.

(b) *Admission to practice.* The provisions of 38 U.S.C. 5904 and of § 14.629(b) of this chapter are applicable to the admission of agents to practice before the Department of Veterans Affairs. Authority for making determinations concerning admission to practice rests with the General Counsel of the Department of Veterans Affairs, and any questions concerning admissions to practice should be addressed to: Office of the General Counsel (022A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420.

(Authority: 38 U.S.C. 5904)

§ 20.605 Rule 605. Other persons as representative.

(a) *Scope of rule.* This section applies to representation other than by a recognized organization, an agent admitted to practice before the Department of Veterans Affairs, or an attorney-at-law.

(b) *Who may act as representative.* Any competent person may be recognized as a representative for a particular claim, unless that person has been barred from practice before the Department of Veterans Affairs.

(c) *Designation.* The designation of an individual to act as an appellant's representative may be made by executing a VA Form 2–22a, "Appointment of Attorney or Agent as Claimant's Representative." This form gives the individual power of attorney to represent the appellant in all matters pertaining to the presentation and prosecution of claims for any and all benefits under laws administered by the Department of Veterans Affairs. In lieu of using the form, the designation may be by a written document signed by both the appellant and the individual representative, which may be in the form of a letter, which authorizes a named individual to act as the appellant's representative only with respect to a specific claim involving one or more specific benefits. The document must include the name of the veteran; the name of the appellant if other than the veteran (e.g., a veteran's survivor, a guardian, or a fiduciary appointed to receive VA benefits on an individual's behalf); the applicable Department of Veterans Affairs file number; the appellant's consent for the individual representative to have access to his or her Department of Veterans Affairs records; the name of the individual representative; a description of the specific claim for benefits to which the designation of representation applies; and a certification that no compensation will be charged or paid for the individual representative's services. The designation, in either form, must be filed with the agency of original jurisdiction or, if the appellate record has been certified to the Board for review, with the Board of Veterans' Appeals. The designation will be effective when it is received by the agency of original jurisdiction or, if the appellate record has been certified to the Board for review, by the Board of Veterans' Appeals. A properly filed designation made prior to appeal will continue to be honored, unless it has been revoked or unless the representative has properly withdrawn.

(d) *Representation of more than one appellant.* An individual recognized as an appellant's representative under this Rule may represent only one appellant. If an individual has been recognized as a representative for one appellant and wishes to represent another appellant, he or she must obtain permission to do so from the Office of the General Counsel as provided in § 14.630 of this chapter.

(Authority: 38 U.S.C. 5903)

§ 20.606 Rule 606. Legal interns, law students and paralegals.

(a) *When services of legal interns, law students and paralegals may be used.* Not more than two legal interns, law students or paralegals may assist an attorney-at-law in the presentation of evidence and argument in appeals before the Board of Veterans' Appeals in Washington, DC, or before traveling Sections of the Board at Department of Veterans Affairs field facilities.

(b) *Consent of appellant.* If it is contemplated that a legal intern, law student, or paralegal will assist in the appeal, written consent must be obtained from the appellant. The written consent must include the name of the veteran; the name of the appellant if other than the veteran (e.g., a veteran's survivor, a guardian, or a fiduciary appointed to receive VA benefits on an individual's behalf); the applicable Department of Veterans Affairs file number; the name of the attorney-at-law; the consent of the appellant for the use of the services of legal interns, law students, or paralegals and for such individuals to have access to applicable Department of Veterans Affairs records; and the names of the legal interns, law students, or paralegals who will be assisting in the case. In the case of appeals before the Board in Washington, DC, the signed consent must be submitted to: Chief, Hearing Section (014B), Board of Veterans' Appeals, 810 Vermont Avenue, NW., Washington, DC 20420. In the case of appeals before traveling Sections of the Board, the consent must be presented to the presiding Member of the traveling Section as noted in paragraph (d). Unless revoked by the appellant, such consent will remain effective in the event the original attorney of record is replaced by another attorney who is a member of the same law firm or another attorney employed by the same legal services office.

(c) *Supervision.* Legal interns, law students and paralegals must be under the direct supervision of a recognized attorney-at-law in order to prepare and present cases before the Board of Veterans' Appeals.

(d) *Hearings.* Legal interns, law students and paralegals who desire to participate at a hearing before the Board in Washington, DC, must make advance arrangements with the Chief of the Hearing Section and submit written authorization from the attorney naming the individual who will be participating in the hearing. In the case of proceedings before traveling Sections of the Board in the field, the attorney-at-law must inform the office of the Department of Veterans Affairs official who gave notice of the Travel Board hearing date and time not more than 10 days prior to the scheduled hearing date that the services of a legal intern, law student, or paralegal will be used at the hearing. At the same time, a prehearing conference with the presiding Member of the traveling Section must be requested. At the conference, the written consent of the appellant for the use of the services of such an individual required by paragraph (b) must be presented and agreement reached as to the individual's role in the hearing. Legal interns, law students or paralegals may not present oral arguments at hearings either in the field or in Washington, DC, unless the recognized attorney-at-law is present. Not more than two such individuals may make presentations at a hearing. The presiding Member at a hearing on appeal may require that not more than one such individual participate in the examination of any one witness or impose other reasonable limitations to ensure orderly conduct of the hearing.

(e) *Withdrawal of permission for legal interns, law students, and paralegals to assist in the presentation of an appeal.* When properly designated, the attorney-at-law is the recognized representative of the appellant and is responsible for ensuring that an appeal is properly presented. Legal interns, law students, and paralegals are permitted to assist in the presentation of an appeal as a courtesy to the attorney-at-law. Permission for a legal intern, law student, or paralegal to prepare and present cases before the Board may be withdrawn by the Chairman at any time if a lack of competence, unprofessional conduct, or interference with the appellate process is demonstrated by that individual.

(Authority: 38 U.S.C. 5904, 7105(b)(2))

§ 20.607 Rule 607. Revocation of a representative's authority to act.

Subject to the provisions of § 20.1304 of this part, an appellant may revoke a representative's authority to act on his or her behalf at any time, irrespective of whether another representative is concurrently designated. Written notice of the revocation must be given to the agency of original jurisdiction or, if the appellate record has been certified to the Board for review, to the Board of Veterans' Appeals. The revocation is effective when notice of the revocation is received by the agency of original jurisdiction or the Board, as applicable. An appropriate designation of a new representative will automatically revoke any prior designation of representation. If an appellant has limited a designation of representation by an attorney-at-law to a specific claim under the provisions of Rule 603, paragraph (a) (§ 20.603(a) of this part), or has limited a designation of representation by an individual to a specific claim under the provisions of Rule 605, paragraph (c) (§ 20.605(c) of this part), such specific authority constitutes a revocation of an existing representative's authority to act only with respect to, and during the pendency of, that specific claim. Following the final determination of that claim, the existing representative's authority to act will be automatically restored in full, unless otherwise revoked.

(Authority: 38 U.S.C. 5901–5904)

§ 20.608 Rule 608. Withdrawal of services by a representative.

(a) *Withdrawal of services prior to certification of an appeal.* A representative may withdraw services as representative in an appeal at any time prior to certification of the appeal to the Board of Veterans' Appeals by the agency of original jurisdiction. The representative must give written notice of such withdrawal to the appellant and to the agency of original jurisdiction. The withdrawal is effective when notice of the withdrawal is received by the agency of original jurisdiction.

(b) *Withdrawal of services after certification of an appeal*—(1) *Applicability.* The restrictions on a representative's right to withdraw contained in this paragraph apply only to those cases in which the representative has previously agreed to act as representative in an appeal. In addition to express agreement, orally or in writing, such agreement shall be presumed if the representative makes an appearance in the case by acting on an appellant's behalf before the Board in any way after the appellant has designated the representative as such as provided in §§ 20.602 through 20.605 of this part. The preceding sentence notwithstanding, an appearance in an appeal solely to notify the Board that a designation of representation has not been accepted will not be presumed to constitute such consent.

(2) *Procedures.* After the agency of original jurisdiction has certified an appeal to the Board of Veterans' Appeals, a representative may not withdraw services as representative in the appeal unless good cause is shown

on motion. Good cause for such purposes is the extended illness or incapacitation of an agent admitted to practice before the Department of Veterans Affairs, an attorney-at-law, or other individual representative; failure of the appellant to cooperate with proper preparation and presentation of the appeal; or other factors which make the continuation of representation impossible, impractical, or unethical. Such motions must be in writing and must include the name of the veteran, the name of the claimant or appellant if other than the veteran (e.g., a veteran's survivor, a guardian, or a fiduciary appointed to receive VA benefits on an individual's behalf), the applicable Department of Veterans Affairs file number, and the reason why withdrawal should be permitted. Such motions should not contain information which would violate privileged communications or which would otherwise be unethical to reveal. Such motions must be filed at the following address: Office of Counsel to the Chairman (01C), Board of Veterans' Appeals, 810 Vermont Avenue, NW., Washington, DC 20420. The representative must mail a copy of the motion to the appellant, with a return receipt requested. The receipt, which must bear the signature of the appellant, must then be filed with the Board at the same address as proof of service of the motion. The appellant may file a response to the motion with the Board at the same address not later than 30 days following receipt of the copy of the motion. The appellant must mail a copy of any such response to the representative, with a return receipt requested. The receipt, which must bear the signature of the representative or an employee of the representative, must then be filed with the Board at the same address as proof of service of the response. The ruling on the motion will be made by the Chairman.

(Authority: 38 U.S.C. 5901–5904, 7105(a))

(Approved by the Office of Management and Budget under control number 2900–0085)

§ 20.609 Rule 609. Payment of representative's fees in proceedings before Department of Veterans Affairs field personnel and before the Board of Veterans' Appeals.

(a) *Applicability of rule.* The provisions of this section apply to the services of representatives with respect to benefits under laws administered by the Department of Veterans Affairs in all proceedings before Department of Veterans Affairs field personnel or before the Board of Veterans' Appeals regardless of whether an appeal has been initiated.

(b) *Who may charge fees for representation.* Only agents and attorneys-at-law may receive fees from claimants or appellants for their services. Recognized organizations (including their accredited representatives when acting as such) and individuals recognized pursuant to Rule 605 (§ 20.605 of this part) are not permitted to receive fees. An attorney-at-law or agent who may also be an accredited representative of a recognized organization may not receive such fees unless he or she has been properly designated as representative in accordance with Rule 603(a) or Rule 604(a) (§ 20.603(a) or § 20.604(a) of this part) in his or her individual capacity.

(c) *Circumstances under which fees may be charged.* Except as noted in paragraph (d) of this section, attorneys-at-law and agents may charge claimants or appellants for their services only if all of the following conditions have been met:

(1) A final decision has been promulgated by the Board of Veterans' Appeals with respect to the issue, or issues, involved;

(2) The Notice of Disagreement which preceded the Board of Veterans' Appeals decision with respect to the issue, or issues, involved was received by the agency of original jurisdiction on or after November 18, 1988; and

(3) The attorney-at-law or agent was retained not later than one year following the date that the decision by the Board of Veterans' Appeals with respect to the issue, or issues, involved was promulgated. (This condition will be considered to have been met with respect to all successor attorneys-at-law or agents acting in the continuous prosecution of the same matter if a predecessor was retained within the required time period.)

(d) *Payment of fee by disinterested third party.* An attorney-at-law or agent may receive a fee or salary from an organization, governmental entity, or other disinterested third party for representation of a claimant or appellant even though the conditions set forth in paragraph (c) of this section have not been met.

(e) *Fees permitted.* Fees permitted under paragraph (c) for services of an attorney-at-law or agent admitted to practice before the Department of Veterans Affairs must be reasonable. They may be based on a fixed fee, hourly rate, a percentage of benefits recovered, or a combination of such bases. Factors considered in determining whether fees are reasonable include:

(1) The extent and type of services the representative performed;

(2) The complexity of the case;

(3) The level of skill and competence required of the representative in giving the services;

(4) The amount of time the representative spent on the case;

(5) The results the representative achieved, including the amount of any benefits recovered;

(6) The level of review to which the claim was taken and the level of the review at which the representative was retained;

(7) Rates charged by other representatives for similar services; and

(8) Whether, and to what extent, the payment of fees is contingent upon the results achieved.

(f) *Presumption of reasonableness.* Fees which total no more than 20 percent of any past-due benefits awarded, as defined in paragraph (h)(3) of this section, will be presumed to be reasonable.

(g) *Fee agreements.* All agreements for the payment of fees for services of attorneys-at-law and agents must be in writing and signed by both the claimant or appellant and the attorney-at-law or agent. The agreement must include the name of the veteran, the name of the claimant or appellant if other than the veteran (e.g., a veteran's survivor, a guardian, or a fiduciary appointed to receive VA benefits on an individual's behalf), the applicable Department of Veterans Affairs file number, and the specific terms under which the amount to be paid for the services of the attorney-at-law or agent will be determined. A copy of the agreement must be filed with the Board of Veterans' Appeals within 30 days of its execution by mailing the copy to the following address: Office of Counsel to the Chairman (01C), Board of Veterans' Appeals, 810 Vermont Avenue NW., Washington, DC 20420. (Also see paragraph (h)(4) for information concerning additional filing requirements when fees are to be paid by the Department of Veterans Affairs from past-due benefits.)

(h) *Payment of fees by Department of Veterans Affairs directly to an attorney-at-law from past-due benefits.* (1) Subject to the requirements of the other paragraphs of this section, including paragraphs (c) and (e), the claimant or appellant and an attorney-at-law may enter into a fee agreement providing that payment for the services of the attorney-at-law will be made directly to the attorney-at-law by the Department of Veterans Affairs out of any past-due benefits awarded as a result of a successful appeal to the Board of Veterans' Appeals or an appellate court or as a result of a reopened claim before the Department following a prior denial of such benefits by the Board of Veterans' Appeals or an appellate court. Such an agreement will be honored by the Department only if the following conditions are met:

(i) The total fee payable (excluding expenses) does not exceed 20 percent of the total amount of the past-due benefits awarded,

(ii) The amount of the fee is contingent on whether or not the claim is resolved in a manner favorable to the claimant or appellant, and

(iii) The award of past-due benefits results in a cash payment to a claimant or an appellant from which the fee may be deducted. (An award of past-due benefits will not always result in a cash payment to a claimant or an appellant. For example, no cash payment will be made to military retirees unless there is a corresponding waiver of retirement pay. (See 38 U.S.C. 5304(a) and § 3.750 et seq. of this chapter.))

(2) For purposes of this paragraph, a claim will be considered to have been resolved in a manner favorable to the claimant or appellant if all or any part of the relief sought is granted.

(3) For purposes of this paragraph, "past-due benefits" means a nonrecurring payment resulting from a benefit, or benefits, granted on appeal or awarded on the basis of a claim reopened after a denial by the Board of Veterans' Appeals or the lump sum payment which represents the total amount of recurring cash payments which accrued between the effective date of the award, as determined by applicable laws and regulations, and the date of the grant of the benefit by the agency of original jurisdiction, the Board of Veterans' Appeals, or an appellate court.

(i) When the benefit granted on appeal, or as the result of the reopened claim, is service connection for a disability, the "past-due benefits" will be based on the initial disability rating assigned by the agency of original jurisdiction following the award of service connection. The sum will equal the payments accruing from the effective date of the award to the date of the initial disability rating decision. If an increased evaluation is subsequently granted as the result of an appeal of the disability evaluation initially assigned by the agency of original jurisdiction, and if the attorney-at-law represents the claimant or appellant in that phase of the claim, the attorney-at-law will be paid a supplemental payment at the time that the appellant is paid retroactive benefits based upon the increase granted on appeal, to the extent that the increased amount of disability is found to have existed between the initial effective date of the award following the grant of service connection and the date of the rating action implementing the appellate decision granting the increase.

(ii) Unless otherwise provided in the fee agreement between the claimant or appellant and the attorney-at-law, the attorney-at-law's fees will be determined on the basis of the total amount of the past-due benefits even though a portion of those benefits may have been apportioned to the claimant's or appellant's dependents.

(iii) If an award is made as the result of favorable action with respect to several issues, the past-due benefits will be calculated only on the basis of that portion of the award which results from action taken on issues concerning which the criteria in paragraph (c) of this section have been met.

(4) In addition to filing a copy of the fee agreement with the Board of Veterans' Appeals as required by paragraph (g) of this section, the attorney-at-law must notify the agency of original jurisdiction within 30 days of the date of execution of the agreement of the existence of an agreement providing for the direct payment of fees out of any benefits subsequently determined to be past due and provide that agency with a copy of the fee agreement. Payment of the attorney's share of any past due benefits will be made at the same time that any such benefits are paid to the claimant or appellant.

(i) *Motion for review of fee agreement.* The Board of Veterans' Appeals may review a fee agreement between a claimant or appellant and an attorney-at-law or agent upon its own motion or upon the motion of any party to the agreement and may order a reduction in the fee called for in the agreement if it finds that the fee is excessive or unreasonable in light of the standards set forth in paragraph (e) of this section. Such motions must be in writing and must include the name of the veteran, the name of the claimant or appellant if other than the veteran (e.g., a veteran's survivor, a guardian, or a fiduciary appointed to receive VA benefits on an individual's behalf), and the applicable Department of Veterans Affairs file number. Such motions must set forth the reason, or reasons, why the fee called for in the agreement is excessive or unreasonable. Such motions (other than motions by the Board) must be filed at the following address: Office of Counsel to the Chairman (01C), Board of Veterans' Appeals, 810 Vermont Avenue, NW., Washington, DC 20420. They should be accompanied by all such evidence as the moving party desires to submit. The moving party must mail a copy of the motion and accompanying evidence to all other parties to the agreement, with return receipts requested. The receipts, which must bear the signatures of the other parties, must then be filed with the Board at the same address as proof of service of the motion. The other parties may file a response to the motion, with any accompanying evidence, with the Board at the same address not later than 30 days following the date of receipt of the copy of the motion. A copy of any such response and any accompanying evidence must be mailed to the moving party, with a return receipt requested. The receipt, which must bear the signature of the moving party, must then be filed with the Board at the same address as proof of service of the response. The ruling on the motion will be by the Chairman. Once there has been a ruling on the motion, an order shall issue which will constitute the final decision of the Board with respect to the motion. If a reduction in the fee is ordered, the attorney or agent must credit the account of the claimant or appellant with the amount of the reduction and refund any excess payment on account to the claimant or appellant not later than the expiration of the time within which the ruling may be appealed to the Court of Veterans Appeals. Failure to do so may result in proceedings under § 14.633 of this chapter to terminate the attorney's or agent's right to practice before the Department of Veterans Affairs and the Board of Veterans' Appeals and/or prosecution under the provisions of 38 U.S.C. 5905.

(Authority: 38 U.S.C. 5902, 5904, 5905)

(Approved by the Office of Management and Budget under control number 2900–0085)

§ 20.610 Rule 610. Payment of representative's expenses in proceedings before Department of Veterans Affairs field personnel and before the Board of Veterans' Appeals.

(a) *Applicability of rule.* The provisions of this section apply to the services of representatives with respect to benefits under laws administered by the Department of Veterans Affairs in all proceedings before Department of Veterans Affairs field personnel or before the Board of Veterans' Appeals regardless of whether an appeal has been initiated.

(b) *General.* Any representative may be reimbursed for expenses incurred on behalf of a veteran or a veteran's dependents or survivors in the prosecution of a claim for benefits pending before the Department of Veterans Affairs. Whether such a representative will be reimbursed for expenses and the method of such reimbursement is a matter to be determined by the representative and the claimant or appellant. Expenses are not payable directly to the representative by the Department of Veterans Affairs out of benefits determined to be due to a claimant or appellant. Unless required in conjunction with a motion for the review of expenses filed in accordance with paragraph (d) of this section, agreements for the reimbursement of expenses need not be filed with the Department of Veterans Affairs or the Board of Veterans' Appeals.

(c) *Nature of expenses subject to reimbursement.* "Expenses" include nonrecurring expenses incurred directly in the prosecution of a claim for benefits upon behalf of a claimant or appellant. Examples of such expenses include expenses for travel specifically to attend a hearing with respect to a particular claim, the cost of copies of medical records or other documents obtained from an outside source, the cost of obtaining the services of an expert witness or an expert opinion, etc. "Expenses" do not include normal overhead costs of the representative such as office rent, utilities, the cost of obtaining or operating office equipment or a legal library, salaries of the representative and his or her support staff, the cost of office supplies, etc.

(d) *Expense charges permitted—motion for review of expenses.* Reimbursement for the expenses of a representative may be obtained only if the expenses are reasonable. The Board of Veterans' Appeals may review expenses charged by a representative upon the motion of the claimant or appellant and may order a reduction in the expenses charged if it finds that they are excessive or unreasonable. Such motions must be in writing. They must include the name of the veteran, the name of the claimant or appellant if other than the veteran (e.g., a veteran's survivor, a guardian, or a fiduciary appointed to receive VA benefits on an individual's behalf), and the applicable Department of Veterans Affairs file number. They must specifically identify which expenses charged are felt to be unreasonable and the reason, or reasons, why the amount of the expenses is felt to be excessive or unreasonable. Such motions must be filed at the following address: Office of Counsel to the Chairman (01C), Board of Veterans' Appeals, 810 Vermont Avenue NW., Washington, DC 20420. They should be accompanied by all such evidence as the moving party desires to submit. The appellant or claimant, as applicable, must mail a copy of the motion and any accompanying evidence to the representative, with a return receipt requested. The receipt, which must bear the signature of the representative or an employee of the representative, must then be filed with the Board at the same address as proof of service of the motion. The representative may file a response to the motion, with any accompanying evidence, with the Board at the same address not later than 30 days following the date of receipt of the copy of the motion. The representative must mail a copy of any such response and any accompanying evidence to the appellant, with a return receipt requested. The receipt, which must bear the signature of the appellant, must then be filed with the Board at the same address as proof of service of the response. The ruling on the motion will be by the Chairman. Factors considered in determining whether expenses are excessive or unreasonable include the complexity of the case, the potential extent of benefits recoverable, whether travel expenses are in keeping with expenses normally incurred by other representatives, etc. Once there has been a ruling on the motion, an order shall issue which will constitute the final decision of the Board with respect to the motion.

(Authority: 38 U.S.C. 5904)

(Approved by the Office of Management and Budget under control number 2900–0085)

§ 20.611 Rule 611. Continuation of representation following death of a claimant or appellant.

A recognized organization, attorney, agent, or person properly designated to represent a claimant or appellant will be recognized as the representative of his or her survivors for a period of one year following the death of the claimant or appellant. A representative may also continue to act with respect to any appeal pending upon the death of the claimant or appellant until such time as a final decision has been promulgated by the Board of Veterans' Appeals. The provisions of this section do not apply to any survivor who has appointed another representative in accordance with these rules or who has indicated in writing that he or she does not wish to be represented by the claimant's or appellant's representative. Written notice that a survivor does not wish to be represented by the claimant's or appellant's representative will be effective when received by the agency of original jurisdiction or, if the case has been certified to the Board for appellate review, by the Board of Veterans' Appeals.

(Authority: 38 U.S.C. 5902–5904)

§§ 20.612-20.699 [Reserved]

Subpart H—Hearings on Appeal

§ 20.700 Rule 700. General.

(a) *Right to a hearing.* A hearing on appeal will be granted if an appellant, or an appellant's representative acting on his or her behalf, expresses a desire to appear in person.

(b) *Purpose of hearing.* The purpose of a hearing is to receive argument and testimony relevant and material to the appellate issue. It is contemplated that the appellant and witnesses, if any, will be present. A personal hearing will not normally be scheduled solely for the purpose of receiving argument by a representative. Such argument should be submitted in the form of a written brief. Oral argument may also be submitted on audio cassette for transcription for the record in accordance with paragraph (d) of this section. Requests for appearances by representatives alone to personally present argument to Members of the Board may be granted if good cause is shown. Whether good cause has been shown will be determined by the presiding Member of the hearing panel involved.

(c) *Nonadversarial proceedings.* Hearings conducted by and for the Board are ex parte in nature and nonadversarial. Parties to the hearing will be permitted to ask questions, including follow-up questions, of all witnesses but cross-examination will not be permitted. Proceedings will not be limited by legal rules of evidence, but reasonable bounds of relevancy and materiality will be maintained. The presiding Member may set reasonable time limits for the presentation of argument and may exclude documentary evidence, testimony, and/or argument which is not relevant or material to the issue, or issues, being considered or which is unduly repetitious.

(d) *Informal hearings.* This term is used to describe situations in which the appellant cannot, or does not wish to, appear. In the absence of the appellant, the authorized representative may present oral arguments, not exceeding 30 minutes in length, to the Board on an audio cassette without personally appearing before a Board of Veterans' Appeals hearing panel. These arguments will be transcribed by Board personnel for subsequent review by the panel members. This procedure will not be construed to satisfy an appellant's request to appear in person.

(Authority: 38 U.S.C. 7102, 7104(a), 7105(a))

§ 20.701 Rule 701. Who may present oral argument.

Only the appellant and/or his or her authorized representative may appear and present argument in support of an appeal. At the request of an appellant, a Veterans Benefits Counselor of the Department of Veterans Affairs may present the appeal at a hearing before the Board of Veterans' Appeals or before Department of Veterans Affairs field personnel acting for the Board.

(Authority: 38 U.S.C. 7102, 7104(a), 7105)

§ 20.702 Rule 702. Scheduling and notice of hearings conducted by the Board of Veterans' Appeals in Washington, DC, and by agency of original jurisdiction personnel acting on behalf of the Board of Veterans' Appeals at field facilities.

(a) *General.* To the extent that officials scheduling hearings for or on behalf of the Board of Veterans' Appeals determine that necessary physical resources and qualified personnel are available, hearings will be scheduled at the convenience of appellants and their representatives, with consideration of the travel distance involved. While a Statement of the Case should be prepared prior to the hearing, it is not a prerequisite for a hearing and an appellant may request that the hearing be scheduled prior to issuance of the Statement of the Case.

(Authority: 38 U.S.C. 7102, 7104(a), 7105(a))

(b) *Notification of hearing.* When a hearing is scheduled, the person requesting it will be notified of its time and place, and of the fact that the Government may not assume any expense incurred by the appellant, the representative or witnesses attending the hearing.

(Authority: 38 U.S.C. 7102, 7104(a), 7105(a))

(c) *Requests for changes in hearing dates.* (1) The appellant or the representative may request a different date for the hearing within 60 days from the date of the letter of notification of the time and place of the hearing, or not later than two weeks prior to the scheduled hearing date, whichever is earlier. The request must be in writing, but the grounds for the request need not be stated. Only one such request for a change of the date of the hearing will be granted, subject to the interests of other parties if a simultaneously contested claim is involved. In the case of hearings to be conducted by the Board of Veterans' Appeals in Washington, DC, such requests for a new hearing date must be filed with: Chief, Hearing Section (014B), Board of Veterans' Appeals, 810 Vermont Avenue, NW., Washington, DC 20420. In the case of hearings conducted for the Board by agency of original jurisdiction personnel, the requests must be filed with the office of the official of the Department of Veterans Affairs who signed the notice of the original hearing date.

(2) After the period described in paragraph (c)(1) of this section has passed, or after one change in the hearing date is granted based on a request received during such period, the date of the hearing will become fixed. After a hearing date has become fixed, an extension of time for appearance at a hearing will be granted only for good cause, with due consideration of the interests of other parties if a simultaneously contested claim is involved. Examples of good cause include, but are not limited to, illness of the appellant and/or representative, difficulty in obtaining necessary records, and unavailability of a necessary witness. The motion for a new hearing date must be in writing and must explain why a new hearing date is necessary. If good cause is shown, the hearing will be rescheduled for the next available hearing date after the appellant or his or her representative gives notice that the contingency which gave rise to the request for postponement has been removed. Ordinarily, however, hearings will not be postponed more than 30 days. An adverse determination by the agency of original jurisdiction as to whether good cause for postponement has been shown is an appealable issue. In the case of a hearing conducted by the Board of Veterans' Appeals in Washington, DC, whether good cause for establishing a new hearing date has been shown will be determined by the presiding Member of the hearing panel assigned to conduct the hearing. In the case of hearings to be conducted by the Board of Veterans' Appeals in Washington, DC, the motion for a new hearing date must be filed with: Chief, Hearing Section (014B), Board of Veterans' Appeals, 810 Vermont Avenue, NW., Washington, DC 20420. In the case of hearings conducted for the Board by agency of original jurisdiction personnel, the motion must be filed with the office of the official of the Department of Veterans Affairs who signed the notice of the original hearing date.

(Authority: 38 U.S.C. 7102, 7104(a), 7105(a), 7105A)

(d) *Failure to appear for a scheduled hearing.* If an appellant (or when a hearing only for oral argument by a representative has been authorized, the representative) fails to appear for a scheduled hearing and a request for postponement has not been received and granted, the case will be processed as though the request for a hearing had been withdrawn. No further request for a hearing will be granted in the same appeal unless such failure to appear was with good cause and the cause for the failure to appear arose under such circumstances that a timely request for postponement could not have been submitted prior to the scheduled hearing date. A motion for a new hearing date following a failure to appear must be in writing; must be submitted not more than 15 days following the original hearing date; and must set forth the reason, or reasons, for the failure to appear at the originally scheduled hearing and the reason, or reasons, why a timely request for postponement could not have been submitted. In the case of hearings to be conducted by the Board of Veterans' Appeals in Washington, DC, the motion must be filed with: Chief, Hearing Section (014B), Board of Veterans' Appeals, 810 Vermont Avenue, NW., Washington, DC 20420. In the case of hearings conducted for the Board by agency of original jurisdiction personnel, the motion must be filed with the office of the official of the Department of Veterans Affairs who signed the notice of the original hearing date. If good cause is shown, the hearing will be rescheduled for the next available hearing date after the appellant or his or her representative gives notice that the contingency which gave rise to the failure to appear has been removed. Ordinarily, however, hearings will not be postponed more than 30 days. An adverse determination by the agency of original jurisdiction as to whether good cause for failure to appear has been shown is an appealable issue. In the case of hearings before the Board of Veterans' Appeals in Washington, DC, whether good cause for such failure to appear has been established will be determined by the presiding Member of the hearing panel to which the case was assigned.

(Authority: 38 U.S.C. 7102, 7104(a), 7105(a), 7105A)

(e) *Withdrawal of hearing requests.* A request for a hearing may be withdrawn by an appellant at any time before the date of the hearing. A request for a hearing may not be withdrawn by an appellant's representative without the consent of the appellant. In the case of hearings to be conducted by the Board of Veterans' Appeals in Washington, DC, the notice of withdrawal must be sent to: Chief, Hearing Section (014B), Board of Veterans' Appeals, 810 Vermont Avenue, NW., Washington, DC 20420. In the case of hearings conducted for the Board by agency of original jurisdiction personnel, the notice must be sent to the office of the official of the Department of Veterans Affairs who signed the notice of the original hearing date.

(Authority: 38 U.S.C. 7102, 7104(a), 7105(a))

(Approved by the Office of Management and Budget under control number 2900–0065)

§ 20.703 Rule 703. When right to Travel Board hearing arises.

A Travel Board hearing is a "hearing on appeal". Accordingly, there is no right to a hearing before a traveling Section of the Board until such time as a Notice of Disagreement has been filed. Any request for such a hearing filed with a Notice of Disagreement, or filed subsequent to the filing of a Notice of Disagreement, will be accepted by the agency of original jurisdiction. Requests for such hearings before a Notice of Disagreement has been filed, or after the Board has entered a final decision in the case on the issue (or issues) appealed will be rejected, except for requests for such hearings after a Notice of Disagreement has been filed appealing a denial of benefits in a reopened claim which followed a prior Board decision or after a motion for reconsideration of a prior Board decision has been granted.

(Authority: 38 U.S.C. 7105(a), 7110)

§ 20.704 Rule 704. Scheduling and notice of hearings conducted by traveling Sections of the Board of Veterans' Appeals at Department of Veterans Affairs field facilities.

(a) *General.* Travel Board hearings are conducted by traveling Sections of the Board of Veterans' Appeals during prescheduled visits to Department of Veterans Affairs facilities having adequate physical resources and personnel for the support of such hearings. The hearings will be scheduled during such visits in the order in which requests for such hearings were received by the agency of original jurisdiction. Requests for Travel Board hearings must be submitted to the agency of original jurisdiction, in writing, and should not be submitted directly to the Board of Veterans' Appeals.

(b) *Notification of hearing.* When a hearing is scheduled, the person requesting it will be notified of its time and place, and of the fact that the Government may not assume any expense incurred by the appellant, the representative or witnesses attending the hearing.

(c) *Requests for changes in hearing dates.* Requests for a change in a Travel Board hearing date may be made at any time up to two weeks prior to the scheduled date of the hearing if good cause is shown. Such requests must be in writing, must explain why a new hearing date is necessary, and must be filed with the office of the official of the Department of Veterans Affairs who signed the notice of the original hearing date. Examples of good cause include, but are not limited to, illness of the appellant and/or representative, difficulty in obtaining necessary records, and unavailability of a necessary witness. If good cause is shown, the Travel Board hearing will be rescheduled for the next available Travel Board hearing date after the appellant or his or her representative gives notice that the contingency which gave rise to the request for postponement has been removed. If good cause is not shown, the appellant and his or her representative will be promptly notified and given an opportunity to appear at the hearing as previously scheduled. If the appellant elects not to appear at the prescheduled date, the request for a Travel Board hearing will be considered to have been withdrawn. In such cases, however, the record will be submitted to the presiding Member of the traveling Section for review when the traveling Section of the Board arrives at the agency of original jurisdiction to conduct Travel Board hearings. If the presiding Member does not concur with the determination that good cause has not been shown, the Travel Board hearing will be rescheduled for the next available Travel Board hearing date after the contingency which gave rise to the request for postponement has been removed.

(d) *Failure to appear for a scheduled hearing.* If an appellant (or when a hearing only for oral argument by a representative has been authorized, the representative) fails to appear for a scheduled Travel Board hearing and a request for postponement has not been received and granted, the case will be processed as though the request for a hearing had been withdrawn. No further request for a hearing will be granted in the same appeal unless such failure to appear was with good cause and the cause for the failure to appear arose under such circumstances that a timely request for postponement could not have been submitted prior to the scheduled hearing date. A motion for a new hearing date following a failure to appear for a scheduled Travel Board hearing must be in writing, must be filed within 15 days of the originally scheduled hearing date, and must explain why the appellant failed to appear for the hearing and why a timely request for a new hearing date could not have been submitted. Such motions must be filed with: Travel Board Secretary (0141F1), Board of Veterans' Appeals, 810 Vermont Avenue, NW., Washington, DC 20420. If good cause is shown, the hearing will be rescheduled for the next available hearing date after the contingency which gave rise to the failure to appear has been removed. Whether good cause for such failure to appear has been established will be determined by the presiding Member of the traveling Section of the Board. If good cause is shown, the Travel Board hearing will be rescheduled for the next available Travel Board hearing date after the appellant or his or her representative gives notice that the contingency which gave rise to the failure to appear has been removed.

(e) *Withdrawal of Travel Board hearing requests.* A request for a Travel Board hearing may be withdrawn by an appellant at any time before the date of the hearing. A request for a Travel Board hearing may not be withdrawn by an appellant's representative without the consent of the appellant. Notices of withdrawal must be forwarded to the office of the Department of Veterans Affairs official who signed the notice of the hearing date.

(Authority: 38 U.S.C. 7104(a), 7110)

(Approved by the Office of Management and Budget under control number 2900–0065)

§ 20.705 Rule 705. Where hearings on appeal are conducted.

(a) *General.* A hearing on appeal may be held in one of the following places at the option of the appellant:

(1) Before a Section of the Board of Veterans' Appeals in Washington, DC,

(2) Before a traveling Section of the Board of Veterans' Appeals, or

(3) Before appropriate personnel in the Department of Veterans Affairs facility having original jurisdiction over the claim at issue, acting as a hearing agency for the Board of Veterans' Appeals. Personnel conducting such hearings as agents for the Board of Veterans' Appeals will allow the appellant and/or representative to present any argument and testimony, as well as any witnesses before the panel, subject to the exclusion of testimony, documentary evidence, and/or argument which is not relevant or material to the issues being considered or which is unduly repetitious. Rule 706 (§ 20.706 of this part) and Rules 709 through 713 (§§ 20.709–20.713 of this part) are applicable to such hearings.

(b) *Request for hearing at an alternate Department of Veterans Affairs field facility.* If the appellant desires a hearing before Department of Veterans Affairs personnel acting as a hearing agency for the Board of Veterans' Appeals as specified in paragraph (a)(3) of this section, but resides within the jurisdiction of, or in closer proximity to, a Department of Veterans Affairs facility other than the one that rendered the determination at issue, the appellant may request that the hearing be conducted at the more convenient facility. That request will be granted upon the certification of the director of the second facility that that facility has appropriate physical and personnel resources, including personnel with expertise in the issues involved, available to conduct such a hearing within a reasonable period of time.

(Authority: 38 U.S.C. 7102, 7104(a), 7105(a), 7110)

§ 20.706 Rule 706. Functions of the presiding Member.

The presiding Member of a hearing panel is responsible for the conduct of the hearing, administration of the oath or affirmation, and for ruling on questions of procedure. The presiding Member will assure that the course of the hearing remains relevant to the issue, or issues, on appeal and that there is no cross-examination of the parties or witnesses. The presiding Member will take such steps as may be necessary to maintain good order at hearings and may terminate a hearing or direct that the offending party leave the hearing if an appellant, representative, or witness persists in disruptive behavior.

(Authority: 38 U.S.C. 7102, 7104(a), 7105(a))

§ 20.707 Rule 707. When a hearing panel makes the final appellate decision.

(a) *Hearings in Washington, DC.* Hearings held before a Section of the Board of Veterans' Appeals in Washington, DC, are normally held before Members who will make the final decision on the appeal.

(b) *Hearings held before traveling Sections of the Board.* Hearings held before traveling Board Sections are normally held before Members who will make the final decision on the appeal unless an issue on appeal involves radiation, Agent Orange, or asbestos exposure; the case involves the reconsideration of a prior Board of Veterans' Appeals decision; or the hearing panel consists of fewer than three Members of the Board. Appeals involving radiation, Agent Orange, or asbestos exposure issues will be decided by Board Members specializing in those issues. Decisions in appeals involving reconsideration of a prior Board of Veterans' Appeals decision on the same issue, or issues, may involve Board Members in addition to those Members making up the traveling Section. An expanded reconsideration Section considering issues involving post-traumatic stress disorder or radiation, Agent Orange, or asbestos exposure will include both the traveling Section and Board Members specializing in those issues. If a Travel Board Section is comprised of fewer than three Board Members, the Chairman may assign an additional Member, or Members, to constitute a three-Member Section which will make the final decision in Washington, DC.

(Authority: 38 U.S.C. 7102, 7104(a), 7110)

§ 20.708 Rule 708. Prehearing conference.

An appellant's authorized representative may request a prehearing conference with the presiding Member of a hearing panel in order to clarify the issues to be considered at a hearing on appeal, obtain rulings on the admissibility of evidence, develop stipulations of fact, establish the length of argument which will be permitted, or take other steps which will make the hearing itself more efficient and productive. With respect to hearings to be held before Members of the Board at Washington, DC, arrangements for a prehearing conference must be made through: Chief, Hearing Section (014B), Board of Veterans' Appeals, 810 Vermont Avenue, NW., Washington, DC 20420. Requests for prehearing conferences in cases involving hearings to be held before traveling Sections of the Board and hearings to be held before Department of Veterans Affairs personnel acting as agents for the Board must be addressed to the office of the Department of Veterans Affairs official who signed the letter giving notice of the time and place of the hearing.

(Authority: 38 U.S.C. 7102, 7104(a), 7105(a))

§ 20.709 Rule 709. Procurement of additional evidence following a hearing.

If it appears during the course of a hearing that additional evidence would assist in the review of the questions at issue, the presiding Member may direct that the record be left open so that the appellant and his or her representative may obtain the desired evidence. The presiding Member will determine the period of time during which the record will stay open, considering the amount of time estimated by the appellant or representative as needed to obtain the evidence and other factors adduced during the hearing. Ordinarily, the period will not exceed 60 days, and will be as short as possible in order that appellate consideration of the case not be unnecessarily delayed.

(Authority: 38 U.S.C. 7102, 7104(a), 7105(a))

§ 20.710 Rule 710. Witnesses at hearings.

(a) *General.* The testimony of witnesses, including appellants, will be heard. Testimony may include presentations by Members of the Congress or Congressional staff members appearing on an appellant's behalf.

(b) *Testimony under oath.* All testimony must be given under oath unless excused because of religious principles or other good cause. If the witness declines to take an oath, he or she must be informed that testimony will be permitted on affirmation. The witness must then be requested to make a solemn declaration as to the truth of the testimony about to be given. The witness may use such words as he or she considers binding on his or her conscience. Administration of the oath for the sole purpose of presenting contentions and argument is not required.

(Authority: 38 U.S.C. 7102, 7104(a), 7105(a))

§ 20.711 Rule 711. Subpoenas.

(a) *General.* An appellant, or his or her representative, may arrange for the production of any tangible evidence or the voluntary appearance of any witnesses desired. When necessary evidence cannot be obtained in any other reasonable way, the appellant, or his or her representative, may move that a subpoena be issued to compel the attendance of witnesses residing within 100 miles of the place where a hearing on appeal is to be held and/or to compel the production of tangible evidence. A subpoena will not be issued to compel the attendance of Department of Veterans Affairs adjudicatory personnel.

(b) *Contents of motion for subpoena.* The motion for a subpoena must be in writing, must clearly show the name and address of each witness to be subpoenaed, must clearly identify all documentary or other tangible evidence to be produced, and must explain why the attendance of the witness and/or the production of the tangible evidence cannot be obtained without a subpoena.

(c) *Where motion for subpoena is to be filed.* In cases in which the appellate record has been transferred to the Board of Veterans' Appeals in Washington, DC, motions for a subpoena must be filed with the Office of Counsel to the Chairman (01C), Board of Veterans' Appeals, 810 Vermont Avenue, NW., Washington, DC 20420. In those cases where the appellate record has not been transferred to the Board, such motions must be filed with the Director of the Department of Veterans Affairs facility where the appellate record is located.

(d) *When motion for subpoena is to be filed in cases involving a hearing on appeal.* Motions for the issuance of a subpoena for the attendance of a witness, or the production of documents or other tangible evidence, at a hearing on appeal must be filed not later than 30 days prior to the hearing date.

(e) *Ruling on motion for subpoena.* In cases in which the appellate record has been transferred to the Board of Veterans' Appeals in Washington, DC, the ruling on the motion will be made by the Chairman. In those cases where the appellate record has not been transferred to the Board, the ruling on the motion will be made by the Director of the Department of Veterans Affairs facility where the appellate record is located. In cases where the production of documents or other tangible evidence is sought, the granting of the motion may be conditioned upon the advancement by the appellant of the reasonable cost of producing the books, papers, documents, or other tangible evidence requested. The question of whether denial of a motion for a subpoena by a Director of a Department of Veterans Affairs facility was proper may be appealed as a part of the overall appeal, but is not subject to a separate interlocutory appeal.

(f) *Fees.* Any person who is required to attend a hearing as a witness shall be allowed and paid the same fees and mileage as are paid witnesses in the district courts of the United States. A subpoena will not be served unless that party on whose behalf the subpoena is issued delivers a check in an amount equal to the fee for one day's attendance and the mileage allowed by law, made payable to the witness, to the official issuing the subpoena. Except for checks on the business accounts of attorneys-at-law, agents, and recognized service organizations, such checks must be in the form of certified checks or cashiers checks.

(g) *Service of subpoenas.* The official issuing the subpoena will serve the subpoena by certified mail, return receipt requested. The check for fees and mileage described in paragraph (f) of this section shall be mailed with the subpoena. The receipt, which must bear the signature of the witness or of the custodian of the tangible evidence, and a copy of the subpoena will be filed in the claims folder, loan guaranty folder, or other applicable Department of Veterans Affairs records folder.

(h) *Motion to quash or modify subpoena.* If an individual served with a subpoena considers the subpoena to be unreasonable or oppressive, he or she may move that the subpoena be quashed or modified. Such motions must be in writing and must explain why the subpoena is unreasonable or oppressive and what relief is sought. Such motions must be filed with the office of the official who issued the subpoena not more than 10 days following receipt of the subpoena. Rulings on such motions will be made by the official who issued the subpoena, who will inform all interested parties of the ruling in writing. The quashing of any subpoena shall be conditional upon the return of the check for fees and mileage to the party on whose behalf the subpoena was issued. The question of whether the ruling by a Director of a Department of Veterans Affairs facility on a motion to quash or modify a subpoena was proper may be appealed as a part of the overall appeal, but is not subject to a separate interlocutory appeal.

(Authority: 38 U.S.C. 5711, 7102(c), 7104(a))

§ 20.712 Rule 712. Expenses of appellants, representatives, and witnesses incident to hearings not reimbursable by the Government.

No expenses incurred by an appellant, representative, or witness incident to attendance at a hearing may be paid by the Government.

(Authority: 38 U.S.C. 111)

§ 20.713 Rule 713. Hearings in simultaneously contested claims.

(a) *General.* If a hearing is scheduled for any party to a simultaneously contested claim, the other contesting claimants and their representatives, if any, will be notified and afforded an opportunity to be present. The appellant will be allowed to present opening testimony and argument. Thereafter, any other contesting party who wishes to do so may present testimony and argument. The appellant will then be allowed an opportunity to present testimony and argument in rebuttal. Cross-examination will not be allowed.

(b) *Requests for changes in hearing dates.* Any party to a simultaneously contested claim may request a change in a hearing date in accordance with the provisions of Rule 702, paragraph (c) (§ 20.702(c) of this part), or Rule 704, paragraph (c) (§ 20.704(c) of this part), as applicable. In order to obtain a new hearing date under the provisions of Rule 702, paragraph (c)(1), the consent of all other interested parties must be obtained and submitted with the request for a new hearing date. If such consent is not obtained, paragraph (c)(2) of that rule will apply even though the request is submitted within 60 days from the date of the letter of notification of the time and place of the hearing. A copy of any motion for a new hearing date required by these rules must be mailed to all other interested parties by certified mail, return receipt requested. The receipts, which must bear the signatures of the other interested parties, and a letter explaining that they relate to the motion for a new hearing date and containing the applicable Department of Veterans Affairs file number must be filed at the same address where the motion was filed as proof of service of the motion. Each interested party will be allowed a period of 10 days from the date that the copy of the motion was received by that party to file written argument in response to the motion.

(Authority: 38 U.S.C. 7105A)

§ 20.714 Rule 714. Record of hearing.

(a) *Board of Veterans' Appeals.* A hearing before Members of the Board, whether held in Washington, DC, or before a traveling Section, will be recorded on audio tape. In those instances where a complete written transcript is prepared, that transcript will be the official record of the hearing and the tape recording will be retained at the Board for a period of 12 months following the date of the hearing as a duplicate record of the hearing. Tape recordings of hearings that have not been transcribed will be maintained by the Board as the official record of hearings and retained in accordance with retention standards approved by the National Archives and Records Administration. A transcript will be prepared and incorporated as a part of the claims folder, loan guaranty folder, or other applicable Department of Veterans Affairs records folder if one or more of the following conditions have been met:

(1) The appellant or representative has shown good cause why such a written transcript should be prepared. (The presiding Member of the hearing panel will determine whether good cause has been shown. Requests that recordings of hearing proceedings be transcribed may be made orally at the time of the hearing. Requests made subsequent to the hearing must be in writing and must explain why transcription is necessary. They must be filed with: Chief, Hearing Section (014B), Board of Veterans' Appeals, 810 Vermont Avenue, NW., Washington, DC 20420.)

(2) Testimony and/or argument has been presented at the hearing pertaining

to an issue which is to be remanded to the agency of original jurisdiction for further development or an issue which is not in appellate status which is to be referred to the agency of original jurisdiction for consideration.

(3) The hearing involves an issue relating to National Service Life Insurance or United States Government Life Insurance.

(4) With respect to hearings conducted by a traveling Section of the Board:

(i) An issue on appeal involves radiation, Agent Orange, or asbestos exposure;

(ii) The appeal involves reconsideration of a prior Board of Veterans' Appeals decision on the same issue; or

(5) The Board's decision on an issue addressed at the hearing has been appealed to the United States Court of Veterans Appeals.

(b) *Field offices.* The hearing proceedings before field office personnel after the filing of a Notice of Disagreement will be recorded and a copy of the complete written transcript incorporated as a part of the claims folder, loan guaranty folder, or other applicable Department of Veterans Affairs records folder as the official record of the hearing.

(c) *Copy of hearing tape recording or written transcript.* One copy of the tape recording of hearing proceedings before the Board of Veterans' Appeals, or the written transcript of such proceeding when such a transcript has been prepared in accordance with the provisions of paragraph (a) of this section, and/or a copy of the written transcript of field office appellate hearing proceedings shall be furnished without cost to the appellant or representative if a request is made in accordance with § 1.577 of this chapter.

(Authority: 38 U.S.C. 7102, 7104(a), 7105(a))

§ 20.715 Rule 715. Recording of hearing by appellant or representative.

An appellant or representative may record the hearing with his or her own equipment. Filming, videotaping or televising the hearing may only be authorized when prior written consent is obtained from all appellants and contesting claimants, if any, and made a matter of record. In no event will such additional equipment be used if it interferes with the conduct of the hearing or the official recording apparatus. In all such situations, advance arrangements must be made. In the case of hearings held before Members of the Board of Veterans' Appeals in Washington, DC, arrangements must be made with the Chief of the Hearing Section (014B), Board of Veterans' Appeals, 810 Vermont Avenue, NW., Washington, DC 20420. In the case of hearings held before traveling Sections of the Board or before Department of Veterans Affairs personnel acting as agents for the Board, arrangements must be made through the office of the Department of Veterans Affairs official who signed the letter giving notification of the time and place of the hearing.

(Authority: 38 U.S.C. 7102, 7104(a), 7105(a))

§ 20.716 Rule 716. Correction of hearing transcripts.

The tape recording on file at the Board of Veterans' Appeals or a transcript prepared by the Board of Veterans' Appeals or by Department of Veterans Affairs personnel acting as agents for the Board is the only official record of a hearing on appeal. Alternate transcript versions prepared by the appellant and representative will not be accepted. If an appellant wishes to seek correction of perceived errors in a hearing transcript, the appellant or his or her representative should move for the correction of the hearing transcript within 30 days after the date that the transcript is mailed to the appellant. The motion must be in writing and must specify the error, or errors, in the transcript and the correct wording to be substituted. In the case of hearings held before Members of the Board of Veterans' Appeals, whether in Washington, DC, or in the field, the motion must be filed with the Chief, Hearing Section (014B), Board of Veterans' Appeals, 810 Vermont Avenue, NW., Washington, DC 20420. In the case of hearings held before Department of Veterans Affairs personnel acting as agents for the Board, the motion must be filed with the office of the Department of Veterans Affairs official who signed the letter giving notification of the time and place of the hearing. The ruling on the motion will be made by the presiding Member of the hearing panel concerned.

(Authority: 38 U.S.C. 7102, 7104(a), 7105(a), 7110)

§ 20.717 Rule 717. Loss of hearing tapes or transcripts—motion for new hearing.

(a) *Motion for new hearing.* In the event that a hearing has not been recorded in whole or in part due to equipment failure or other cause, or the official transcript of the hearing is lost or destroyed and the recording upon which it was based is no longer available, an appellant or his or her representative may move for a new hearing. The motion must be in writing and must specify why prejudice would result from the failure to provide a new hearing.

(b) *Time limit for filing motion for a new hearing.* The motion will not be granted if there has been no request for a new hearing within a period of 120 days from the date of a final Board of Veterans' Appeals decision or, in cases appealed to the United States Court of Veterans Appeals, if there has been no request for a new hearing within a reasonable period of time after the appeal to that Court has been filed.

(c) *Where motion for a new hearing is filed.* In the case of hearings held before Members of the Board of Veterans' Appeals, whether in Washington, DC, or in the field, the motion must be filed with: Chief, Hearing Section (014B), Board of Veterans' Appeals, 810 Vermont Avenue, NW., Washington, DC 20420. In the case of hearings held before Department of Veterans Affairs personnel acting as agents for the Board, the motion must be filed with the office of the Department of Veterans Affairs official who signed the letter giving notification of the time and place of the hearing unless the appellant has received notice that the case has been transferred to the Board of Veterans' Appeals for appellate review or unless a final Board of Veterans' Appeals decision has already been promulgated with respect to the appeal in question. In such cases, the motion must be filed with the Board at the address specified herein.

(d) *Ruling on motion for a new hearing.* Except as noted hereinafter, the ruling on the motion for a new hearing will be made by the presiding Member of the hearing panel concerned. If the presiding Member of the hearing panel is no longer available, the ruling on the motion may be made by any other member of the hearing panel who is available. In cases in which a hearing was held before Department of Veterans Affairs personnel acting as agents for the Board and the appellate record has been transferred to the Board of Veterans' Appeals for appellate review, or in which a final Board of Veterans' Appeals decision has already been promulgated with respect to the appeal in question, the ruling on the motion will be by the Chairman of the Board. Factors to be considered in ruling on the motion include, but will not be limited to, the extent of the loss of the record in those cases where only a portion of a hearing tape is unintelligible or only a portion of a transcript has been lost or destroyed, and the extent and reasonableness of any delay in moving for a new hearing. If a new hearing is granted in a case in which a final Board of Veterans' Appeals decision has already been promulgated, a supplemental decision will be issued.

(Authority: 38 U.S.C. 7102, 7104(a), 7105(a), 7110)

§§ 20.718–20.799 [Reserved]

Subpart I—Evidence

§ 20.800 Rule 800. Submission of additional evidence after initiation of appeal.

Subject to the limitations set forth in Rule 1304 (§ 20.1304 of this part), an appellant may submit additional evidence, or information as to the availability of additional evidence, after initiating an appeal.

(Authority: 38 U.S.C. 7105(d)(1))

§§ 20.801–20.899 [Reserved]

Subpart J—Action by the Board

§ 20.900 Rule 900. Order of consideration of appeals.

(a) *Docketing of appeals.* Applications for review on appeal are docketed in the order in which they are received. Cases returned to the Board following action pursuant to a remand assume their original places on the docket.

(b) *Appeals considered in docket order.* Appeals are considered in the order in which they are entered on the docket.

(c) *Advancement on the docket.* A case may be advanced on the docket if it involves an interpretation of law of general application affecting other claims or for other good cause. Examples of such good cause include terminal illness, extreme hardship which might be relieved in whole or in part if the benefits sought on appeal were granted, etc. Advancement on the docket is requested by motion. Such motions must be in writing and must identify the law of general application affecting other claims or other good cause involved. They must also include the name of the veteran, the name of the appellant if other than the veteran (e.g., a veteran's survivor, a guardian, or a fiduciary appointed to receive VA benefits on an individual's behalf), and the applicable Department of Veterans Affairs file number. The motion must be filed with: Director, Administrative Service (014), Board of Veterans' Appeals, 810 Vermont Avenue, NW., Washington, DC 20420. The ruling on the motion will be by the Chairman. If a motion to advance a case on the docket is denied, the appellant and his or her representative will be immediately notified. If the motion to advance a case on the docket is granted, that fact will be noted in the Board's decision when rendered.

(Authority: 38 U.S.C. 7107)

§ 20.901 Rule 901. Medical opinions and opinions of the General Counsel.

(a) *Opinion of the Chief Medical Director.* The Board may obtain a medical opinion from the Chief Medical Director of the Veterans Health Administration of the Department of Veterans Affairs on medical questions involved in the consideration of an appeal when, in its judgment, such medical expertise is needed for equitable disposition of an appeal.

(Authority: 38 U.S.C. 5107(a))

(b) *Armed Forces Institute of Pathology opinions.* The Board may refer pathologic material to the Armed Forces Institute of Pathology and request an opinion based on that material.

(Authority: 38 U.S.C. 7109(a))

(c) *Opinion of the General Counsel.* The Board may obtain an opinion from the General Counsel of the Department of Veterans Affairs on legal questions involved in the consideration of an appeal.

(Authority: 38 U.S.C. 7104(c))

(d) *Independent medical expert opinions.* When, in the judgment of the Board, additional medical opinion is warranted by the medical complexity or controversy involved in an appeal, the Board may obtain an advisory medical opinion from one or more medical experts who are not employees of the Department of Veterans Affairs. Opinions will be secured, as requested by the Chairman of the Board, from recognized medical schools, universities, clinics, or medical institutions with which arrangements for such opinions have been made by the Secretary of Veterans Affairs. An appropriate official of the institution will select the individual expert, or experts, to give an opinion.

(Authority: 38 U.S.C. 7109)

(e) For purposes of this section, the term "the Board" includes the Chairman, the Vice Chairman, any Deputy Vice Chairman, and any Member of a Section of the Board before whom a case is pending.

(Authority: 38 U.S.C. 5107(a), 7104(c), 7109)

§ 20.902 Rule 902. Filing of requests for the procurement of opinions.

The appellant or representative may request that the Board obtain an opinion under Rule 901 (§ 20.901 of this part). The request must be in writing. It will be granted upon a showing of good cause, such as the identification of a complex or controversial medical or legal issue involved in the appeal which warrants such an opinion.

(Authority: 38 U.S.C. 5107(a), 7102(c), 7104(c), 7109)

§ 20.903 Rule 903. Notification of opinions secured by the Board and opportunity for response.

When an opinion is requested by the Board pursuant to Rule 901 (§ 20.901 of this part), the Board will notify the appellant and his or her representative, if any. When the opinion is received by the Board, a copy of the opinion will be furnished to the appellant's representative or, subject to the limitations provided in 38 U.S.C. 5701(b)(1), to the appellant if there is no representative. A period of 60 days from the date of mailing of a copy of the opinion will be allowed for response. The date of mailing will be presumed to be the same as the date of the letter or memorandum which accompanies the copy of the opinion for purposes of determining whether a response was timely filed.

(Authority: 38 U.S.C. 7109(c))

§ 20.904 Rule 904. Vacating a decision.

An appellate decision may be vacated by the Board of Veterans' Appeals at any time upon request of the appellant or his or her representative, or on the Board's own motion, on the following grounds:

(a) *Denial of due process.* Examples of circumstances in which denial of due process of law will be conceded are:

(1) When the appellant was denied his or her right to representation through action or inaction by Department of Veterans Affairs or Board of Veterans' Appeals personnel,

(2) When a Statement of the Case or required Supplemental Statement of the Case was not provided, and

(3) When there was a prejudicial failure to afford the appellant a personal hearing. (Where there was a failure to honor a request for a hearing and a hearing is subsequently scheduled, but the appellant fails to appear, the decision will not be vacated.)

(b) *Allowance of benefits based on false or fraudulent evidence.* Where it is determined on reconsideration that an allowance of benefits by the Board has been materially influenced by false or fraudulent evidence submitted by or on behalf of the appellant, the prior decision will be vacated only with respect to the issue or issues to which, within the judgment of the Board, the false or fraudulent evidence was material.

(Authority: 38 U.S.C. 7104(a))

§§ 20.905–20.999 [Reserved]

Subpart K—Reconsideration

§ 20.1000 Rule 1000. When reconsideration is accorded.

Reconsideration of an appellate decision may be accorded at any time by the Board of Veterans' Appeals on motion by the appellant or his or her representative or on the Board's own motion:

(a) Upon allegation of obvious error of fact or law;

(b) Upon discovery of new and material evidence in the form of relevant records or reports of the service department concerned; or

(c) Upon allegation that an allowance of benefits by the Board has been materially influenced by false or fraudulent evidence submitted by or on behalf of the appellant.

(Authority: 38 U.S.C. 7103, 7104)

§ 20.1001 Rule 1001. Filing and disposition of motion for reconsideration.

(a) *Application requirements.* A motion for Reconsideration must be in writing and must include the name of the veteran; the name of the claimant or appellant if other than the veteran (e.g., a veteran's survivor, a guardian, or a fiduciary appointed to receive VA benefits on an individual's behalf); the applicable Department of Veterans Affairs file number; and the date of the Board of Veterans' Appeals decision, or decisions, to be reconsidered. It must also set forth clearly and specifically the alleged obvious error, or errors, of fact or law in the applicable decision, or decisions, of the Board or other appropriate basis for requesting Reconsideration. If the applicable Board of Veterans' Appeals decision, or decisions, involved more than one issue on appeal, the motion for reconsideration must identify the specific issue, or issues, to which the motion pertains. Issues not so identified will not be considered in the disposition of the motion.

(b) *Filing of motion for reconsideration.* A motion for reconsideration of a prior Board of Veterans' Appeals decision may be filed at any time. Such motions must be filed at the following address: Director, Administrative Service (014), Board of Veterans' Appeals, 810 Vermont Avenue, NW., Washington, DC 20420.

(c) *Disposition.* The Chairman will review the sufficiency of the allegations set forth in the motion and, depending upon the decision reached, proceed as follows:

(1) *Motion denied.* The appellant and representative or other appropriate party will be notified if the motion is denied. The notification will include reasons why the allegations are found insufficient. This constitutes final disposition of the motion.

(2) *Motion allowed.* If the motion is allowed, the appellant and his or her representative, if any, will be notified. The appellant and the representative will be given a period of 60 days from the date of mailing of the letter of notification to present additional arguments or evidence. The date of mailing of the letter of notification will be presumed to be the same as the date of the letter of notification. The Chairman will assign a Reconsideration panel in accordance with § 19.11 of this chapter.

(Authority: 38 U.S.C. 7103, 7108)

§ 20.1002 Rule 1002. [Reserved]

§ 20.1003 Rule 1003. Hearings on reconsideration.

After a motion for reconsideration has been allowed, a hearing will be granted if an appellant desires to appear in person. A personal hearing will not normally be scheduled solely for the purpose of receiving argument by a representative. Such argument should be submitted in the form of a written brief. Oral argument may also be submitted on audio cassette for transcription for the record in accordance with Rule 700(d) (§ 20.700(d) of this part.). Requests for appearances by representatives alone to personally present argument to Members of the Board may be granted if good cause is shown. Whether good cause has been shown will be determined by the presiding Member of the hearing panel involved.

(Authority: 38 U.S.C. 7102, 7103, 7104(a), 7105(a))

§§ 20.1004–20.1099 [Reserved]

Subpart L—Finality

§ 20.1100 Rule 1100. Finality of decisions of the Board.

(a) *General.* All decisions of the Board are by majority decision and will be stamped with the date of mailing on the face of the decision. Unless the Chairman of the Board orders reconsideration, and with the exception of matters listed in paragraph (b) of this section, all Board decisions are final on the date stamped on the face of the decision. With the exception of matters listed in paragraph (b) of this section, the decision rendered by the reconsideration Section in an appeal in which the Chairman has ordered reconsideration is final.

(b) *Exceptions.* Final Board decisions are not subject to review except as provided in 38 U.S.C. 1975 and 1984 and 38 U.S.C. chapters 37 and 72. A remand is in the nature of a preliminary order and does not constitute a final decision of the Board.

(Authority: 38 U.S.C. 511(a), 7103, 7104(a))

§ 20.1101 Rule 1101. [Reserved]

§ 20.1102 Rule 1102. Harmless error.

An error or defect in any decision by the Board of Veterans' Appeals which does not affect the merits of the issue or substantive rights of the appellant will be considered harmless and not a basis for vacating or reversing such decision.

(Authority: 38 U.S.C. 7103)

§ 20.1103 Rule 1103. Finality of determinations of the agency of original jurisdiction where appeal is not perfected.

A determination on a claim by the agency of original jurisdiction of which the claimant is properly notified is final if an appeal is not perfected as prescribed in Rule 302 (§ 20.302 of this part).

(Authority: 38 U.S.C. 7105)

§ 20.1104 Rule 1104. Finality of determinations of the agency of original jurisdiction affirmed on appeal.

When a determination of the agency of original jurisdiction is affirmed by the Board of Veterans' Appeals, such determination is subsumed by the final appellate decision.

(Authority: 38 U.S.C. 7104(a))

§ 20.1105 Rule 1105. New claim after promulgation of appellate decision.

When a claimant requests that a claim be reopened after an appellate decision has been promulgated and submits evidence in support thereof, a determination as to whether such evidence is new and material must be made and, if it is, as to whether it provides a basis for allowing the claim. An adverse determination as to either question is appealable.

(Authority: 38 U.S.C. 5108, 7104)

§ 20.1106 Rule 1106. Claim for death benefits by survivor—prior unfavorable decisions during veteran's lifetime.

Except with respect to benefits under the provisions of 38 U.S.C. 1318 and certain cases involving individuals whose Department of Veterans Affairs benefits have been forfeited for treason or for subversive activities under the provisions of 38 U.S.C. 6104 and 6105, issues involved in a survivor's claim for death benefits will be decided without regard to any prior disposition of those issues during the veteran's lifetime.

(Authority: 38 U.S.C. 7104(b))

§§ 20.1107–20.1199 [Reserved]

Subpart M—Privacy Act

§ 20.1200 Rule 1200. Privacy Act request—appeal pending.

When a Privacy Act request is filed under § 1.577 of this chapter by an individual seeking records pertaining to him or her and the relevant records are in the custody of the Board, such request will be reviewed and processed prior to appellate action on that individual's appeal.

(Authority: 5 U.S.C. 552a; 38 U.S.C. 7107)

§ 20.1201 Rule 1201. Amendment of appellate decisions.

A request for amendment of an appellate decision under the Privacy Act (5 U.S.C. 552a) may be entertained. However, such a request may not be used in lieu of, or to circumvent, the procedures established under Rules 1000 through 1003 (§§ 20.1000–20.1003 of this part). The Board will review a request for correction of factual information set forth in a decision. Where the request to amend under the Privacy Act is an attempt to alter a judgment made by the Board and thereby replace the adjudicatory authority and functions of the Board, the request will be denied on the basis that the Act does not authorize a collateral attack upon that which has already been the subject of a decision of the Board. The denial will satisfy the procedural requirements of § 1.579 of this chapter. If otherwise appropriate, the request will be considered one for reconsideration under Rules 1000 through 1003 (§§ 20.1000–20.1003 of this part).

(Authority: 5 U.S.C. 552a(d); 38 U.S.C. 7103, 7108)

§§ 20.1202–20.1299 [Reserved]

Subpart N—Miscellaneous

Cross-Reference: In cases involving access to patient information relating to a Department of Veterans Affairs program for, or the treatment of, drug abuse, alcoholism, alcohol abuse, sickle cell anemia, or infection with the human immunodeficiency virus, also see 38 U.S.C. 7332.

§ 20.1300 Rule 1300. Access to Board records.

(a) *Removal of records.* No original record, paper, document or exhibit certified to the Board may be taken from the Board except as authorized by the Chairman or except as may be necessary to furnish copies or to transmit copies for other official purposes.

(Authority: 38 U.S.C. 5701)

(b) *Release of information.* Information requested from records, including copies of such records in the custody of the Board of Veterans' Appeals, may be furnished to a requester only when permitted by law and in accordance with Department of Veterans Affairs regulations.

(Authority: 5 U.S.C. 552, 552a; 38 U.S.C. 5701)

(c) *Fees.* The fees to be charged and collected for the release of information and for any copies will be in accordance with §§ 1.526, 1.555, and 1.577 of this chapter.

(Authority: 38 U.S.C. 5702(b))

(d) *Waiver of fees.* When information is requested from records certified to and in the custody of the Board, the required fee may be waived if such information is requested in connection with the requestor's pending appeal.

(Authority: 38 U.S.C. 5702(b))

(e) *Review of records.* Information in the records may be reviewed by Board of Veterans' Appeals employees who have a need to do so in the performance of their duties.

(Authority: 5 U.S.C. 552a(b)(1))

§ 20.1301 Rule 1301. Disclosure of information.

(a) *Policy.* It is the policy of the Board of Veterans' Appeals for the full text of appellate decisions, Statements of the Case, and Supplemental Statements of the Case to be disclosed to appellants. In those situations where disclosing certain information directly to the appellant would not be in conformance with 38 U.S.C. 5701, that information will be removed from the decision, Statement of the Case, or Supplemental Statement of the Case and the remaining text will be furnished to the appellant. A full-text appellate decision, Statement of the Case, or Supplemental Statement of the Case will be disclosed to the designated representative, however, unless the relationship between the appellant and representative is such (for example, a parent or spouse) that disclosure to the representative would be as harmful as if made to the appellant.

(Authority: 38 U.S.C. 7105(d)(2))

(b) *Index to decisions.* The appellate decisions of the Board of Veterans' Appeals have been indexed to facilitate access to the contents of the decisions (BVA Index I–01–1). The index, which is published quarterly in microfiche form with an annual cumulation, is available for review at Department of Veterans Affairs regional offices and at the Research Center at the Board of Veterans' Appeals in Washington, DC. The index can be used to locate citations to decisions with issues similar to those of concern to an appellant. Each indexed decision has a locator number assigned to it. The manner in which the locator number is written will depend upon the age of the decision. Decisions archived prior to late 1989 will have a number such as *82–07–0001.* Decisions archived at a later date will have a number such as *BVA–90–12345.* This number must be used when requesting a paper copy of that decision. These requests must be directed to the Appellate Index and Retrieval Staff (01C1), Board of Veterans' Appeals, 810 Vermont Avenue, NW., Washington, DC 20420. Microfiche copies of BVA Index I–01–1 can be obtained from Promisel and Korn, Inc., 7201 Wisconsin Avenue, suite 480, Bethesda, MD 20814.

(Authority: 5 U.S.C. 552(a)(2))

§ 20.1302 Rule 1302. Death of appellant during pendency of appeal.

When an appeal is pending before the Board of Veterans' Appeals at the time of the appellant's death, the Board may complete its action on the issues properly before it without application from the survivors.

(Authority: 38 U.S.C. 7104(a))

§ 20.1303 Rule 1303. Nonprecedential nature of Board decisions.

Although the Board strives for consistency in issuing its decisions, previously issued Board decisions will be considered binding only with regard to the specific case decided. Prior decisions in other appeals may be considered in a case to the extent that they reasonably relate to the case, but each case presented to the Board will be decided on the basis of the individual facts of the case in light of applicable procedure and substantive law.

(Authority: 38 U.S.C. 7104(a))

§ 20.1304 Rule 1304. Request for change in representation, request for personal hearing, or submission of additional evidence following certification of an appeal to the Board of Veterans' Appeals.

(a) *Request for a change in representation, request for a personal hearing, or submission of additional evidence within 90 days following notification of certification and transfer of records.* An appellant and his or her representative, if any, will be granted a period of 90 days following the mailing of notice to them that an appeal has been certified to the Board for appellate review and that the appellate record has been transferred to the Board, or until the date the appellate decision is promulgated by the Board of Veterans' Appeals, whichever comes first, during which they may submit a request for a personal hearing, additional evidence, or a request for a change in representation. Any such request or additional evidence must be submitted directly to the Board and not to the agency of original jurisdiction. The date of mailing of the letter of notification will be presumed to be the same as the date of that letter for purposes of determining whether the request was timely made or the evidence was timely submitted. Any evidence which is submitted at a hearing on appeal which was requested during such period will be considered to have been received during such period, even though the hearing may be held following the expiration of the period. Any pertinent evidence submitted by the appellant or representative is subject to the requirements of paragraph (c) of this section and, if a simultaneously contested claim is involved, the requirements of paragraph (d) of this section.

(b) *Subsequent request for a change in representation, request for a personal hearing, or submission of additional evidence.* Following the expiration of the period described in paragraph (a) of this section, the Board of Veterans' Appeals will not accept a request for a change in representation, a request for a personal hearing, or additional evidence except when the appellant demonstrates on motion that there was good cause for the delay. Examples of good cause include, but are not limited to, illness of the appellant or the representative which precluded action during the period; death of an individual representative; illness or incapacity of an individual representative which renders it impractical for an appellant to continue with him or her as representative; withdrawal of an individual representative; the discovery of evidence that was not available prior to the expiration of the period; and delay in transfer of the appellate record to the Board which precluded timely action with respect to these matters. Such motions must be in writing and must include the name of the veteran; the name of the claimant or appellant if other than the veteran (e.g., a veteran's survivor, a guardian, or a fiduciary appointed to receive VA benefits on an individual's behalf); the applicable Department of Veterans Affairs file number; and an explanation of why the request for a change in representation, the request for a personal hearing, or the submission of additional evidence could not be accomplished in a timely manner. Such motions must be filed at the following address: Director, Administrative Service (014), Board of Veterans' Appeals, 810 Vermont Avenue, NW., Washington, DC 20420. The ruling on the motion will be by the Chairman. Depending upon the ruling on the motion, action will be taken as follows:

(1) *Good cause not shown.* If good cause is not shown, the request for a change in representation, the request for a personal hearing, or the additional evidence submitted will be referred to the agency of original jurisdiction upon completion of the Board's action on the pending appeal without action by the Board concerning the request or additional evidence. Any personal hearing granted as a result of a request so referred or any additional evidence so referred may be treated by that agency as the basis for a reopened claim, if appropriate. If the Board denied a benefit sought in the pending appeal and any evidence so referred which was received prior to the date of the Board's decision, or testimony presented at a hearing resulting from a request for a hearing so referred, together with the evidence already of record, is subsequently found to be the basis of an allowance of that benefit, the effective date of the award will be the same as if the benefit had been granted by the Board as a result of the appeal which was pending at the time that the hearing request or additional evidence was received.

(2) *Good cause shown.* If good cause is shown, the request for a change in representation or for a personal hearing will be honored. Any pertinent evidence submitted by the appellant or representative will be accepted, subject to the requirements of paragraph (c) of this section and, if a simultaneously contested claim is involved, the requirements of paragraph (d) of this section.

(c) *Consideration of additional evidence by agency of original jurisdiction.* Any pertinent evidence submitted by the appellant or representative which is accepted by the Board under the provisions of this section, as well as any such evidence referred to the Board by the originating agency under § 19.37(b) of this chapter, must be referred to the agency of original jurisdiction for review and preparation of a Supplemental Statement of the Case unless this procedural right is waived by the appellant or unless the Board determines that the benefit, or benefits, to which the evidence relates may be allowed on appeal without such referral. Such waiver must be in writing or, if a hearing on appeal is conducted, formally entered on the record orally at the time of the hearing.

(d) *Simultaneously contested claims.* In simultaneously contested claims, if pertinent evidence which directly affects payment, or potential payment, of the benefit sought is submitted by any claimant and is accepted by the Board under the provisions of this section, the substance of such evidence will be mailed to each of the other claimants who will then have 60 days from the date of mailing of notice of the new evidence within which to comment upon it and/or submit additional evidence in rebuttal. The date of mailing of the letter of notification of the new evidence will be presumed to be the same as the date of that letter for purposes of determining whether such comment or evidence in rebuttal was timely submitted. No further period will be provided for response to such comment or rebuttal evidence.

(Authority: 38 U.S.C. 7104, 7105, 7105A)

APPENDIX A TO PART 20—Cross-References

Sec.	Cross-reference	Title of cross-referenced material or comment
20.1	38 CFR 3.103(a)	*Statement of policy.*
20.100	38 CFR 20.306	*Rule 306. Legal holidays.*
20.200	38 CFR 20.201	*Rule 201. Notice of Disagreement.*
	38 CFR 20.202	*Rule 202. Substantive Appeal.*
	38 CFR 20.300–20.306	See re filing Notices of Disagreement and Substantive Appeals.
20.202	38 CFR 19.29	*Statement of the Case.*
	38 CFR 19.31	*Supplemental Statement of the Case.*
20.301	38 CFR 20.500	*Rule 500. Who can file an appeal in simultaneously contested claims.*
	38 CFR 20.602	*Rule 602. Representation by recognized organizations.*

APPENDIX A TO PART 20—Cross-References—Continued

Sec.	Cross-reference	Title of cross-referenced material or comment
	38 CFR 20.603	*Rule 603. Representation by attorneys-at-law.*
	38 CFR 20.604	*Rule 604. Representation by agents.*
	38 CFR 20.605	*Rule 605. Other persons as representative.*
20.302	38 CFR 20.501	*Rule 501. Time limits for filing Notice of Disagreement, Substantive Appeal, and response to Supplemental Statement of the Case in simultaneously contested claims.*
20.303	38 CFR 20.304	*Rule 304. Filing additional evidence does not extend time limit for appeal.*
	38 CFR 20.503	*Rule 503. Extension of time for filing a Substantive Appeal in simultaneously contested claims.*
20.305	38 CFR 20.306	*Rule 306. Legal holidays.*
20.400	38 CFR 19.50–19.53	See also re administrative appeals.
20.401	38 CFR 19.50–19.53	See also re administrative appeals.
	38 CFR 20.302–20.306	See re time limits for perfecting an appeal.
	38 CFR 20.501, 20.503	See re time limits for perfecting an appeal in simultaneously contested claims.
20.500	38 CFR 20.713	*Rule 713. Hearings in simultaneously contested claims.*
20.501	38 CFR 20.305	*Rule 305. Computation of time limit for filing.*
	38 CFR 20.306	*Rule 306. Legal holidays.*
	38 CFR 20.713	*Rule 713. Hearings in simultaneously contested claims.*
20.502	38 CFR 20.305	*Rule 305. Computation of time limit for filing.*
	38 CFR 20.306	*Rule 306. Legal holidays.*
	38 CFR 20.713	*Rule 713. Hearings in simultaneously contested claims.*
20.503	38 CFR 20.713	*Rule 713. Hearings in simultaneously contested claims.*
20.504	38 CFR 20.713	*Rule 713. Hearings in simultaneously contested claims.*
20.600	38 CFR 14.626 et seq	See also re representation.
	38 CFR 20.602	*Rule 602. Representation by recognized organizations.*
	38 CFR 20.603	*Rule 603. Representation by attorneys-at-law.*
	38 CFR 20.604	*Rule 604. Representation by agents.*
	38 CFR 20.605	*Rule 605. Other persons as representative.*
20.602	38 CFR 14.628	*Recognition of organizations.*
	38 CFR 14.631	*Powers of attorney.*
	38 CFR 20.100	*Rule 100. Name, business hours, and mailing address of the Board.*
	38 CFR 20.607	*Rule 607. Revocation of a representative's authority to act.*
	38 CFR 20.608	*Rule 608. Withdrawal of services by a representative.*
	38 CFR 20.609	*Rule 609. Payment of representative's fees in proceedings before Department of Veterans Affairs field personnel and before the Board of Veterans' Appeals.*
	38 CFR 20.610	*Rule 610. Payment of representative's expenses in proceedings before Department of Veterans Affairs field personnel and before the Board of Veterans' Appeals.*
20.603	38 CFR 14.629	*Requirements for accreditation of representatives, agents, and attorneys.*
	38 CFR 14.631	*Powers of attorney.*
	38 CFR 20.100	*Rule 100. Name, business hours, and mailing address of the Board.*
	38 CFR 20.606	*Rule 606. Legal interns, law students and paralegals.*
	38 CFR 20.607	*Rule 607. Revocation of a representative's authority to act.*
	38 CFR 20.608	*Rule 608. Withdrawal of services by a representative.*
	38 CFR 20.609	*Rule 609. Payment of representative's fees in proceedings before Department of Veterans Affairs field personnel and before the Board of Veterans' Appeals.*
	38 CFR 20.610	*Rule 610. Payment of representative's expenses in proceedings before Department of Veterans Affairs field personnel and before the Board of Veterans' Appeals.*
20.604	38 CFR 14.631	*Powers of attorney.*
	38 CFR 20.100	*Rule 100. Name, business hours, and mailing address of the Board.*
	38 CFR 20.607	*Rule 607. Revocation of a representative's authority to act.*
	38 CFR 20.608	*Rule 608. Withdrawal of services by a representative.*
	38 CFR 20.609	*Rule 609. Payment of representative's fees in proceedings before Department of Veterans Affairs field personnel and before the Board of Veterans' Appeals.*
	38 CFR 20.610	*Rule 610. Payment of representative's expenses in proceedings before Department of Veterans Affairs field personnel and before the Board of Veterans' Appeals.*
20.605	38 CFR 14.630	*Authorization for a particular claim.*
	38 CFR 14.631	*Powers of attorney.*
	38 CFR 20.100	*Rule 100. Name, business hours, and mailing address of the Board.*
	38 CFR 20.607	*Rule 607. Revocation of a representative's authority to act.*
	38 CFR 20.608	*Rule 608. Withdrawal of services by a representative.*
	38 CFR 20.609	*Rule 609. Payment of representative's fees in proceedings before Department of Veterans Affairs field personnel and before the Board of Veterans' Appeals.*
	38 CFR 20.610	*Rule 610. Payment of representative's expenses in proceedings before Department of Veterans Affairs field personnel and before the Board of Veterans' Appeals.*
20.606	38 CFR 20.603	*Rule 603. Representation by attorneys-at-law.*
20.607	38 CFR 14.631(d)	See also re revocation of powers of attorney.
20.609	38 CFR 14.629	*Requirements for accreditation of representatives, agents, and attorneys.*
	38 CFR 20.603	*Rule 603. Representation by attorneys-at-law.*
	38 CFR 20.604	*Rule 604. Representation by agents.*
	38 CFR 20.606	*Rule 606. Legal interns, law students and paralegals.*
	38 CFR 20.610	*Rule 610. Payment of representative's expenses in proceedings before Department of Veterans Affairs field personnel and before the Board of Veterans' Appeals.*
20.610	38 CFR 20.609	*Rule 609. Payment of representative's fees in proceedings before Department of Veterans Affairs field personnel and before the Board of Veterans' Appeals.*
20.611	38 CFR 1.525(d), 14.631(e)	See also re continuation of authority conferred by powers of attorney upon the death of a claimant.
20.701	38 CFR 20.710	*Rule 710. Witnesses at hearings.*
20.702	38 CFR 20.704	*Rule 704. Scheduling and notice of hearings conducted by traveling Sections of the Board of Veterans' Appeals at Department of Veterans Affairs facilities.*
	38 CFR 20.713	*Rule 713. Hearings in simultaneously contested claims.*
20.703	38 CFR 20.201	*Rule 201. Notice of Disagreement.*

APPENDIX A TO PART 20—Cross-References—Continued

Sec.	Cross-reference	Title of cross-referenced material or comment
20.704	38 CFR 20.702	*Rule 702. Scheduling and notice of hearings conducted by the Board of Veterans' Appeals in Washington, DC, and by agency of original jurisdiction personnel acting on behalf of the Board of Veterans' Appeals at field facilities.*
20.706	38 CFR 20.700(c)	See also re the presiding Member's role in the conduct of hearings.
	38 CFR 20.708	*Rule 708. Prehearing conference.*
	38 CFR 20.709	*Rule 709. Procurement of additional evidence following a hearing.*
20.707	38 CFR 19.11	*Reconsideration Section.*
20.708	38 CFR 20.606(d)	See re the prehearing conference required when a legal intern, law student, or paralegal is to participate in a hearing held before a traveling Section of the Board.
20.709	38 CFR 19.37	*Consideration of additional evidence received by the agency of original jurisdiction after an appeal has been initiated.*
	38 CFR 20.1304	*Rule 1304. Request for change in representation, request for personal hearing, or submission of additional evidence following certification of an appeal to the Board of Veterans' Appeals.*
20.710	38 CFR 20.711	*Rule 711. Subpoenas.*
20.711	38 CFR 2.1	See for further information on subpoenas, including action to be taken in the event of noncompliance.
20.713	38 CFR 20.702	*Rule 702. Scheduling and notice of hearings conducted by the Board of Veterans' Appeals in Washington, DC, and by agency of original jurisdiction personnel acting on behalf of the Board of Veterans' Appeals at field facilities.*
	38 CFR 20.704	*Rule 704. Scheduling and notice of hearings conducted by traveling Sections of the Board of Veterans' Appeals at Department of Veterans Affairs facilities.*
20.715	38 CFR 20.706	*Rule 706. Functions of the presiding Member.*
20.800	38 CFR 20.304	*Rule 304. Filing additional evidence does not extend time limit for appeal.*
	38 CFR 20.709	*Rule 709. Procurement of additional evidence following a hearing.*
	38 CFR 20.1304	*Rule 1304. Request for change in representation, request for personal hearing, or submission of additional evidence following certification of an appeal to the Board of Veterans' Appeals.*
20.901	38 CFR 14.507	See re opinions of the General Counsel of the Department of Veterans Affairs.
20.903	38 CFR 20.305	*Rule 305. Computation of time limit for filing.*
	38 CFR 20.306	*Rule 306. Legal holidays.*
20.1003	38 CFR 20.700(b)	See re submission of written brief and of oral argument on audio cassette.
20.1105	38 CFR 3.156	*New and material evidence.*
	38 CFR 3.160(e)	*Reopened claim.*
	38 CFR 20.1304(b)(1)	See re request for a personal hearing or submission of additional evidence more than 60 days after a case has been certified to the Board of Veterans' Appeals as possible basis for a reopened claim.
20.1106	38 CFR 3.22(a)(2)	See re correction of a rating, after a veteran's death, based on clear and unmistakable error, in cases involving claims for benefits under the provisions of 38 U.S.C. 1318.
20.1300	38 CFR 1.500–1.527	See re the release of information from Department of Veterans Affairs claimant records.
	38 CFR 1.550–1.559	See re the release of information from Department of Veterans Affairs records other than claimant records.
	38 CFR 1.575–1.584	See re safeguarding personal information in Department of Veterans Affairs records.
	38 CFR 20.1301	*Rule 1301. Disclosure of information.*
20.1301	38 CFR 1.577	*Access to records.*
20.1302	38 CFR 20.611	*Rule 611. Continuation of representation following death of a claimant or appellant.*
20.1304	38 CFR 3.103(c), 20.700–20.717	See also re hearings.
	38 CFR 3.156	*New and material evidence.*
	38 CFR 3.160(e)	*Reopened claim.*
	38 CFR 20.305	*Rule 305. Computation of time limit for filing.*
	38 CFR 20.306	*Rule 306. Legal holidays.*

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 19 and 20

RIN 2900-AE78

Appeals Regulations; Rules of Practice

AGENCY: Department of Veterans Affairs.

ACTION: Proposed regulations.

SUMMARY: The Department of Veterans Affairs (VA) is publishing final Appeals Regulations and Board of Veterans' Appeals Rules of Practice in a companion document in this issue of the **Federal Register.** The notice of proposed rulemaking which preceded the publication of those final regulations was published in the **Federal Register** in August 1989. (54 FR 34334) Further review of some of the originally proposed regulations, and experience which has been gained in some areas, have shown the need for further additions and revisions to some of the Appeals Regulations and Rules of Practice. This document accomplishes that purpose. This action is necessary in order to further clarify these regulations and, in some instances, to provide revised regulations which more accurately reflect current statutory authority. The intended effect of this action is to complete the thorough revision of the Appeals Regulations and Rules of Practice which began with the August 1989 publication in order to provide an efficient and equitable administrative appeal process.

DATES: Comments must be submitted on or before March 4, 1992. Comments will be available for public inspection until March 16, 1992. It is proposed to make these changes effective 30 days after the date of their final publication in the **Federal Register.**

ADDRESSES: Send written comments to the Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments will be available for public inspection only in the Veterans Services Unit, room 170 at the address above, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays) until March 16, 1992.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address contained in the Paperwork Reduction section of this preamble.

FOR FURTHER INFORMATION CONTACT: Steven L. Keller, Counsel to the Chairman (01C), Board of Veterans' Appeals, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202-233-2978).

SUPPLEMENTARY INFORMATION: *Paperwork Reduction Act:* Section 20.1001 of this regulation contains an information collection requirement. The public reporting burden for this collection is 1 hour per response. This includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

As required by section 3504(h) of the Paperwork Reduction Act, the Department of Veterans Affairs is submitting to the Office of Management and Budget (OMB) a request that it approve this information collection requirement. Organizations and individuals desiring to submit comments for consideration by OMB on this proposed information collection requirement should address them to the Office of Information and Regulatory Affairs, OMB, room 3002, New Executive Office Building, Washington, DC 20503, Attention: Joseph F. Lackey.

The following changes have been made in part 19:

Section 19.3(a) has been restructured to include information on how temporary and acting Members of the Board of Veterans' Appeals are appointed.

Section 19.10 has been added. The General Counsel of the Department of Veterans Affairs issued a Precedent Opinion on August 27, 1990, which concluded, in essence, that statutory changes brought about by the Veterans' Judicial Review Act (Pub. L. 100-687) had the effect of eliminating "obvious error" as the standard for review after a motion for reconsideration has been granted. (See O.G.C. Precedent Opinion 89-90, 56 FR 1225) This change also eliminated the principal basis for the prior regulatory provision which, in most cases, limited the evidence which could be considered on reconsideration to that which was of record at the time that the decision being reconsidered was rendered. This amendment serves to announce that remands to obtain additional development may now be made in reconsideration cases to the same extent as in other cases.

Section 19.14(a) has been updated to include the delegation of authority to the Vice Chairman to appoint acting and temporary Board Members.

Section 19.36 has been revised to show that the notice described in that section is sent to the last known address of record of the appellant and his or her representative, if any.

Section 19.39 has been added to provide a uniform rule for the various subdivisions of the Department of Veterans Affairs generating appeals activity to follow with respect to adjudicative determinations on the same issue which intervene between a determination which has been appealed and the decision by the Board of Veterans' Appeals on that issue.

Appendix A has been updated.

The following changes have been made in part 20:

Section 20.3 has been amended to include several additional definitions. Editorial changes have been made in paragraphs (h) and (q).

Section 20.101 has been amended to include a new paragraph which describes the original jurisdiction of the Board of Veterans' Appeals with respect to the review of representatives' fee agreements.

Section 20.102(b) has been updated to reflect delegations of authority pertaining to new procedures relating to the correction of harmless error in the record under § 20.905 and to show the change in location of the rule relating to the review and disposition of motions for reconsideration from § 20.1001(c) to § 20.1002.

Section 20.201, pertaining to Notices of Disagreement, has been restructured. Paragraph (a) contains essentially the same information contained in the version of § 20.201 which has been adopted as final in a companion document published in this edition of the **Federal Register.** Additional information has been added concerning the form and content of Notices of Disagreement. Paragraph (b), which specifies that only one Notice of Disagreement is required with respect to any one issue, has been added.

Section 20.605 has also been restructured. All of the material which appears in the version of paragraph (d) of this regulation which has been adopted as final in a companion document published in this edition of the **Federal Register** has been moved to paragraph (b). Paragraph (c) has been revised to change the method of designation as representatives of individuals who are neither accredited agents, attorneys-at-law, nor employees of recognized organizations. The use of VA Form 2-22a was previously permitted for this purpose, but that form was designed for another purpose and its use is not suitable. Information about the filing of the designation which previously appeared in paragraph (c) has been moved to paragraph (d).

For many years, the Board of Veterans' Appeals implemented its statutory authority to correct "an obvious error in the record" through its reconsideration procedures. With the passage of Public Law 100–687, the reconsideration procedure concept was codified. (38 U.S.C. 7103) However, the concept as codified conflicted with existing procedures. The General Counsel of the Department of Veterans Affairs issued a Precedent Opinion on August 27, 1990, which concluded, in essence, that statutory changes brought about by Public Law 100–687 had the effect of eliminating "obvious error" as the standard for review when a motion for reconsideration has been granted. (See O.G.C. Precedent Opinion 89–90, 56 FR 1225.) These events have prompted several changes in the Board's Rules of Practice which are described in the paragraphs which follow.

The Board will correct obvious error in the record through vacating a prior Board decision in certain circumstances and through less drastic procedures when the error was harmless. Section 20.904 has been revised to provide additional information on vacating decisions of the Board of Veterans' Appeals in whole or in part.

New § 20.905 describes how the Board will correct harmless errors in the record.

Revised § 20.1000 and new §§ 20.1001 and 20.1002 provide for new reconsideration procedures. These new procedures are analogous to a petition for rehearing in a Federal appellate court.

A motion for reconsideration, like a petition for rehearing, must now be filed within a specified period after the decision of the Board is entered. A 45-day time period has been chosen.

There has been no time limit for filing a motion for reconsideration in the past. This historical liberality was primarily due to the lack of any other means for obtaining review of decisions by the Board of Veterans' Appeals. That changed with the passage of the Veterans' Judicial Review Act (Pub. L. 100–687) in 1988. The Board is no longer the final arbiter in claims for veterans' benefits and the primary reason behind the old policy is no longer valid. The Board's decisions may now be appealed to the United States Court of Veterans Appeals (the Court).

In addition, the Court has held that when an appellant files a motion for reconsideration with the Board during the 120-day period during which an appeal of a Board decision may be filed with the Court, a new 120-day period to appeal to the Court begins to run on the date on which the Board mails notice of the denial of the motion or on the date that the Board receives notice of the withdrawal of the motion. (*Rosler* v. *Derwinski*, U.S. Vet. App. No. 90–370 (May 13, 1991)) The *Rosler* opinion notes the following:

> We are mindful that the rule we announce today might, in the words of Judge Becker in *Newark* [*Cities of Newark, New Castle and Seaford, Delaware v. FERC*, 763 F.2d 533], permit a claimant to "frustrate" the judicial review period by filing "dilatory, repetitive" motions for reconsideration. *Newark*, 763 F.2d at 542–43. This case is not presently before us and can be dealt with by the Court should such a case arise and should the Court find that the application of the tolling rule would frustrate judicial review. Alternatively, as the court noted in *Newark*, if the administrative agency is concerned about such a prospect, it can address it by regulation. *Ibid.* (Slip op. at 15.)

This regulatory change addresses the concern described. The Board's decisions need to be final and ripe for appellate review by the Court at some point in time. Under the existing procedure, since there is no limit for filing motions for reconsideration, the finality of a Board decision and the time within which an appeal must be filed with the Court could be delayed indefinitely by filing one motion for reconsideration after another as each 120-day appeal period following denial of the prior motion for reconsideration expires.

The material in the version of § 20.1100 adopted as final in the companion document in this edition of the **Federal Register** has been restructured for clarity. Material has been added concerning the procedures to be followed when a Section of the Board is unable to reach a majority decision in an appeal.

Section 20.1101, which explains exactly when decisions of the Board become final, has been added.

Material has been added to § 20.1201 to explain that action may be taken by the Board pursuant to §§ 20.904 and 20.905 when factual information has been deleted from a Board decision in accordance with a Privacy Act request for amendment of the decision.

Appendix A has been updated.

VA has determined that these proposed regulations do not contain a major rule as that term is defined by Executive Order 12291, Federal Regulation. The proposed regulations will not have a $100 million annual effect on the economy and will not cause a major increase in costs or prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Secretary hereby certifies that these proposed regulatory amendments will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The reason for this certification is that the proposed regulations will have only a limited effect on individual VA claimants and their representatives before the Board of Veterans' Appeals. Pursuant to 5 U.S.C. 605(b), these proposed regulations are therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

There are no Catalog of Federal Domestic Assistance numbers associated with these proposed regulatory amendments.

List of Subjects

38 CFR Part 19

Administrative practice and procedure, Claims, Veterans.

38 CFR Part 20

Administrative practice and procedure, Claims, Lawyers, Legal services, Veterans.

Approved: November 6, 1991.

Edward J. Derwinski,

Secretary of Veterans Affairs.

38 CFR parts 19 and 20, are proposed to be amended as follows:

PART 19—[AMENDED]

1. In subpart A, § 19.3 is amended by revising paragraph (a) and the authority citation to paragraph (a), § 19.10 is added, and § 19.14 is amended by revising paragraph (a) and revising the authority citation to § 19.14 to read as follows:

§ 19.3 Appointment, assignment, and rotation of Members.

(a) *Appointment*— (1) *Chairman.* The Chairman is appointed by the President of the United States, by and with the advice and consent of the United States Senate.

(2) *Members other than the Chairman or temporary or acting Members.* Other members of the Board (including the Vice Chairman, but excluding acting and temporary Members) are appointed by the Secretary upon the recommendation of the Chairman with the approval of the President of the United States.

(3) *Deputy Vice Chairmen.* Deputy Vice Chairmen are Members of the Board who are appointed to the

additional office of Deputy Vice Chairman by the Secretary upon the recommendation of the Chairman.

(4) *Acting and temporary Members.* Acting and temporary Members of the Board are appointed by the Chairman in written memoranda. Acting and temporary Members are chosen from among the employees of the Board who have been licensed to practice law or medicine in a "state," as that term is defined in § 20.3 of this chapter.

(i) No temporary Member shall be appointed when there are fewer than 65 Members of the Board. Any one appointment of an individual as a temporary Member shall be for a term not exceeding one year and no individual may serve as a temporary Member of the Board for more than 24 months during any 48-month period.

(ii) Acting Members may be appointed to serve in a Section of the Board when the Section is composed of fewer than three Members as a result of the absence of a Member, a vacancy on the Board, or the inability of a Member assigned to the section to serve in that section. Any one appointment of an individual as an acting Member shall be for a term not exceeding 90 days and no individual may serve as an acting Member of the Board for more than 270 days during any 12-month period.

(iii) At any one time, a Section of the Board shall not have among its Members more than one individual who is a temporary or acting Member.

(Authority: 38 U.S.C. 501(a), 512, 7101(b), 7102(a))

* * * * *

§ 19.10 Remands in reconsideration cases.

A Section of the Board assigned to reconsider a decision of the Board pursuant to § 19.11 of this part may remand that case in accordance with § 19.9 of this part.

(Authority: 38 U.S.C. 7102, 7103, 7104(a))

§ 19.14 Delegation of authority—Appeals Regulations.

(a) The authority exercised by the Chairman of the Board of Veterans' Appeals described in §§ 19.3(a)(4), 19.3(b), 19.3(c), and 19.12(c) of this part may also be exercised by the Vice Chairman of the Board.

* * * * *

(Authority: 38 U.S.C. 501(a), 512(a), 7102, 7104)

2. In subpart B, § 19.36 is amended by revising its authority citation and adding a new sentence to the end of that section, and § 19.39 is added to read as follows:

§ 19.36 Notification of certification of appeal and transfer of appellate record.

* * * Service of such notice will be accomplished by mailing a copy of the notice to the appellant and to his or her representative, if any, at their last known addresses.

(Authority: 38 U.S.C. 501(a), 7105)

§ 19.39 Action to be taken by the agency of original jurisdiction when an appealed determination is modified by a subsequent determination while an appeal is pending.

(a) *Applicability.* The procedures set forth in this section will be followed by the agency of original jurisdiction when any adjudicative determination is made which modifies a prior adjudicative determination which a claimant has appealed by filing a Notice of Disagreement unless one or more of the following applies:

(1) The Notice of Disagreement has been withdrawn,

(2) The prior adjudicative determination involved several issues, some of which were appealed and some of which were not appealed, and the modification concerns an issue which was not appealed, or

(3) The Board of Veterans' Appeals has issued a final decision on the appeal.

(b) *Subsequent determination results in a lesser benefit.* When the subsequent determination results in a lesser benefit than that sought on appeal with respect to an appealed issue, normal appellate processing will continue.

(c) *All benefits sought on appeal granted.* If it is clear that all benefits sought on appeal have been granted by the subsequent determination, the appellant and his or her representative (if any) will be informed of that fact and given notice that the appeal has been closed.

(d) *Less than a complete grant of all benefits sought on appeal.* If the subsequent determination grants only a portion of the benefits sought on appeal with respect to any appealed issue, normal appellate processing will continue with respect to that issue. If more than one issue was appealed and the benefits sought on appeal were granted in full with respect to less than all of the appealed issues, the appeal will be closed with respect to the issues involving fully granted benefits and normal appellate processing will continue with respect to any remaining issue, or issues. If there is any question about whether the subsequent determination has granted all benefits sought on appeal with respect to any issue, the appellant and his or her representative, if any, will be notified of the determination and the appellant will be asked whether the action taken satisfies his or her appeal. If he or she responds in the negative, or if he or she fails to respond, normal appellate processing will continue.

(Authority: 38 U.S.C. 501(a))

3. Appendix A to part 19 is revised to read as follows:

APPENDIX A TO PART 19—CROSS-REFERENCES

Sec.	Cross-reference	Title of cross-referenced material or comment
19.5	38 CFR 14.507(b)	See re "precedent opinions" of the General Counsel of the Department of Veterans Affairs.
	38 CFR 20.1303	Rule 1303. Nonprecedential nature of Board decisions.
19.7	38 CFR 20.904	Rule 904. Vacating a decision.
19.10	38 CFR 20.1000–20.1003	See regarding reconsideration of Board of Veterans' Appeals decisions.
19.11	38 CFR 20.1000–20.1003	See regarding reconsideration of Board of Veterans' Appeals decisions.
19.13	38 CFR 2.66	Contains similar provisions.
19.25	38 CFR 19.52	Notification to claimant of filing of administrative appeal.
	38 CFR 19.100	Notification of right to appeal in simultaneously contested claims.
19.26	38 CFR 20.302	Rule 302. Time limit for filing Notice of Disagreement, Substantive Appeal, and response to Supplemental Statement of the Case.
19.27	38 CFR 19.50–19.53	See re administrative appeals.
19.30	38 CFR 20.202	Rule 202. Substantive Appeal.
19.32	38 CFR 20.302	Rule 302. Time limit for filing Notice of Disagreement, Substantive Appeal, and response to Supplemental Statement of the Case.
	38 CFR 20.501	Rule 501. Time limits for filing Notice of Disagreement, Substantive Appeal, and response to Supplemental Statement of the Case in simultaneously contested claims.
19.33	38 CFR 19.50–19.53	See re administrative appeals.

APPENDIX A TO PART 19—CROSS-REFERENCES—Continued

Sec.	Cross-reference	Title of cross-referenced material or comment
19.39	38 CFR 20.1100	Finality of decisions of the Board.
	38 CFR 20.1101	When decisions of the Board become final.
19.50	38 CFR 19.53	Restriction as to change in payments pending determination of administrative appeals.
19.76	38 CFR 20.704	Rule 704. Scheduling and notice of hearings conducted by traveling Sections of the Board of Veterans' Appeals at Department of Veterans Affairs field facilities.
19.100	38 CFR 20.713	Rule 713. Hearings in simultaneously contested claims.
19.101	38 CFR 19.30	Furnishing the Statement of the Case and instructions for filing a Substantive Appeal.

PART 20—[AMENDED]

4. In subpart A, § 20.3 is amended by redesignating existing paragraphs (m) and (n) as paragraphs (q) and (r), redesignating existing paragraphs (i), (j), (k), and (l) as paragraphs (l), (m), (n), and (o), respectively, redesignating paragraph (h) as paragraph (j), and redesignating existing paragraphs (a) through (g) as paragraphs (b) through (h). New paragraphs (a), (i), (k), and (p) are added and newly designated paragraphs (h) and (q) are revised to read as follows:

§ 20.3 Rule 3. Definitions.

As used in these rules:

(a) *Accredited representative* means an employee of a recognized organization who has been accredited in accordance with the provisions of § 14.629(a) of this chapter.

* * * * *

(h) *Claimant* means a person who has filed a claim, as defined by paragraph (g) of this rule.

(i) *Decision* may have the following meanings, depending upon the context in which the term is used:

(1) The end result of the deliberative process through which the Board determines the outcome of some matter before it after consideration of applicable facts and law. Examples include determinations by the Board on controversies such as whether the Board has jurisdiction over a particular question, whether a Substantive Appeal is adequate, whether a particular benefit sought on appeal should or should not be granted, etc. (E.g., see 38 U.S.C. 7104(a) and Rules 101(c), 203 and 707 (§§ 20.101(c), 20.203 and 20.707 of this part).)

(2) The document in which the Board announces the end result of the deliberative process through which it has determined the outcome of some matter before it after consideration of applicable facts and law. (E.g., see 38 U.S.C. 7104(d) and Rules 717(b), 900(c), 1201, and 1301 (§§ 20.717(b), 20.900(c), 20.1201, and 20.1301 of this part).)

(3) Both the end result of the deliberative process through which the Board determines the outcome of some matter before it after consideration of applicable facts and law and the document in which the Board announces that result. (E.g., see 38 U.S.C. 7104(e) and Rules 904 and 1303 (§§ 20.904 and 20.1303 of this part).)

* * * * *

(k) *Issue*, unless the context otherwise requires, means the ultimate question to be decided in determining whether or not a particular benefit sought on appeal will be granted. It includes all subsidiary questions which must be resolved in reaching that determination. Examples of *issues* include whether service connection should be granted for a particular disability, whether an increased evaluation should be granted for a particular disability which is already service-connected, and whether an appellant is entitled to waiver of recovery of an indebtedness to the government.

* * * * *

(p) *Recognized organization* means an organization which has been recognized pursuant to the provisions of § 14.628 of this chapter whose principal function is to provide services to veterans and their dependents and survivors.

(q) *Simultaneously contested claim* refers to the situation in which the allowance of one claim results in the disallowance of another claim from another claimant involving the same benefit or the allowance of one claim results in the payment of a lesser benefit to another claimant.

* * * * *

5. In subpart B, § 20.101 is amended by revising the heading of paragraph (a), redesignating existing paragraph (c) as paragraph (d), adding new paragraph (c), and revising the authority at the end of the section and § 20.102 is amended by revising paragraph (b) to read as follows:

§ 20.101 Rule 101. Jurisdiction of the Board.

(a) *General appellate jurisdiction.*

* * *

* * * * *

(c) *Original jurisdiction.* The Board exercises original jurisdiction with respect to the review for reasonableness of agreements between claimants or appellants and attorneys-at-law or agents for the payment of fees for services to be performed by the attorney-at-law or agent in connection with proceedings before the Department of Veterans Affairs (38 U.S.C. 5904(c)).

* * * * *

(Authority: 38 U.S.C. 511(a), 5904(c), 7104)

§ 20.102 Rule 102. Delegation of authority—Rules of Practice.

* * * * *

(b) The authority exercised by the Chairman of the Board of Veterans' Appeals described in Rules 608(b), 717(d), 905(b), and 1002 (§§ 20.608(b), 20.717(d), 20.905(b), and 20.1002 of this part) may also be exercised by the Vice Chairman of the Board and by Deputy Vice Chairmen of the Board.

* * * * *

6. In subpart C, § 20.201 and its authority citation are revised to read as follows:

§ 20.201 Rule 201. Notice of Disagreement.

(a) *Form and content.* A written communication from a claimant or his or her representative expressing dissatisfaction or disagreement with an adjudicative determination by the agency of original jurisdiction and a desire to contest the result will constitute a Notice of Disagreement. No special format or printed form is required. A letter providing the necessary information will be sufficient. While special wording is not required, the Notice of Disagreement must be in terms which can be reasonably construed as disagreement with an adjudicative determination and a desire for appellate review. The Notice of Disagreement should also include the name of the veteran, the name of the claimant if other than the veteran (e.g., a veteran's survivor, a guardian, or a fiduciary appointed to receive VA benefits on an individual's behalf), and the applicable Department of Veterans Affairs file number. If the agency of original jurisdiction gave notice that adjudicative determinations were made on several issues at the same time, the specific determinations with which the claimant disagrees must be identified. For example, if service connection was denied for two disabilities and the claimant wishes to appeal the denial of service connection with respect to only one of the disabilities, the Notice of Disagreement must make that clear.

(b) *Only one Notice of Disagreement required.* Only one Notice of Disagreement is required, and only one Notice of Disagreement will be accepted, with respect to any one adjudicative determination concerning any one issue. Once a Notice of Disagreement has been filed, that Notice of Disagreement shall remain in force and shall extend to all subsequent adjudicative determinations by the agency of original jurisdiction with respect to the same issue until the first of the following has occurred:

(1) The Notice of Disagreement has been withdrawn,

(2) A Statement of the Case has been issued by the agency of original jurisdiction and the time within which the appeal must be perfected by the filing of a Substantive Appeal has expired without such filing,

(3) The full benefit sought on appeal has been granted by the agency of original jurisdiction prior to the promulgation of a final appellate decision by the Board, or

(4) A final appellate decision has been promulgated by the Board.

(Authority: 38 U.S.C. 501(a), 7105)

7. In subpart G, § 20.605 is amended by adding two sentences to the end of paragraph (b) and revising paragraphs (c) and (d) and the authority citation to § 20.605 to read as follows:

§ 20.605 Rule 605. Other persons as representative.

* * * * *

(b) * * * An individual recognized as an appellant's representative under this rule may represent only one appellant. If such an individual has been recognized as a representative for one appellant and wishes to represent another appellant, he or she must obtain permission to do so from the Office of the General Counsel as provided in § 14.630 of this chapter.

(c) *Designation.* The designation of an individual to act as an appellant's representative in accordance with this rule shall consist of a writing, which may be in the form of a letter, signed by the individual and the appellant. The writing must include the following information:

(1) The name of the veteran;

(2) The name of the appellant if other than the veteran (e.g., a veteran's survivor, a guardian, or a fiduciary appointed to receive VA benefits on an individual's behalf);

(3) The name of the individual representative;

(4) The applicable Department of Veterans Affairs file number;

(5) A statement to the effect that the individual agrees to represent the appellant in all proceedings before the Department of Veterans Affairs or, if representation is to be limited to representation with respect to a particular claim, a description of the specific claim for benefits to which the designation of representation applies and a statement to the effect that the individual agrees to represent the appellant in all proceedings before the Department with respect to that claim;

(6) The appellant's consent for the individual representative to have access to his or her Department of Veterans Affairs records; and

(7) A certification that no compensation will be charged or paid for the individual representative's services.

(d) *Filing and effective date of designation.* The designation must be filed with the agency of original jurisdiction or, if the appellate record has been certified and transferred to the Board of Veterans' Appeals for review, with the Board. The designation will be effective when it is received by the agency of original jurisdiction or, if the appellate record has been certified and transferred to the Board for review, by the Board of Veterans' Appeals. A properly filed designation made prior to appeal will continue to be honored, unless it has been revoked or unless the representative has properly withdrawn.

(Authority: 38 U.S.C. 501(a), 5903)

8. In subpart J, § 20.904 and its authority citation are revised and § 20.905 is added to read as follows:

§ 20.904 Rule 904. Vacating a decision.

(a) *General.* (1) This Rule, together with Rule 905 (§ 20.905 of this part), provide procedures for the correction of an obvious error in the record on the Board's own motion pursuant to 38 U.S.C. 7103(c). Requests for the correction of error from appellants and their representatives will not be entertained under this rule.

(2) An appellate decision of the Board of Veterans' Appeals may be vacated with respect to one or more issues disposed of in that decision upon the grounds specified in this rule by the Members of the Board who entered that decision at any time upon their own motion or, if none of the Members who participated in the decision are still serving as Members of the Board, upon the motion of the Chairman. The ruling on the motion to vacate the decision will be by the majority of such Members. If a majority decision can not be reached, the procedures in paragraph (c) of Rule 1100 (§ 20.1100(c) of this part) shall be followed.

(b) *Grounds.* Any of the following shall be grounds for vacating a decision under the provisions of this rule:

(1) *Denial of due process of law.* Examples of circumstances in which denial of due process of law will be conceded for purposes of a motion to vacate a prior Board decision are:

(i) When the appellant was denied his or her right to representation with respect to the matters decided through action or inaction by Department of Veterans Affairs or Board of Veterans' Appeals personnel,

(ii) When a Statement of the Case or required Supplemental Statement of the Case was not provided, and

(iii) When there was a prejudicial failure to afford the appellant a personal hearing with respect to the matters decided. (Where there was a failure to honor a request for a hearing and a hearing is subsequently scheduled, but the appellant fails to appear for that hearing, the decision will not be vacated.)

(2) *Allowance of benefits based on false or fraudulent evidence.* Where it is determined that an allowance of benefits by the Board has been materially influenced by false or fraudulent evidence submitted by or on behalf of the appellant, the prior decision will be vacated with respect to the issue or issues to which, within the judgment of the Board, the false or fraudulent evidence was material.

(3) *Discovery of additional service department or Department of Veterans Affairs records.* All relevant, existing records and reports prepared by a service department at the time that a veteran served on active or inactive duty relating to such service, and all relevant, existing Department of Veterans Affairs records dated not later than 30 days prior to the date that the agency of original jurisdiction certifies the appeal and transfers the appellate record to the Board, shall be deemed to be constructively of record at the time that the Board considers an appeal. If such records, or adequate copies of extracts thereof, were not physically before the Board at the time that it entered a decision, the Board may, upon the discovery of such records, correct the decision. If the lack of such records resulted in harmless error, as defined in Rule 1102 (§ 20.1102 of this part), the

procedures in Rule 905 (§ 20.905 of this part) shall be followed. A lack of such records resulting in more than harmless error shall be grounds for vacating the decision in accordance with the provisions of this Rule. For purposes of this paragraph, "Department of Veterans Affairs records" shall not include fee basis medical treatment records.

(c) *Action taken when motion is granted.* When a motion to vacate a decision with respect to one or more issues has been granted, that action will be announced by a memorandum decision. The Chairman will then assign a Section of the Board which did not participate in the vacated decision to enter a new decision on the issue, or issues, involved. The new decision shall be made as though the original decision had never been entered. The original decision, which will remain a part of the applicable Department of Veterans Affairs records folder(s), shall be appropriately marked to show the issue(s) with respect to which it has been vacated.

(Authority: 38 U.S.C. 7103(c), 7104(a), 7105)

§ 20.905 Rule 905. Correction of harmless error in the record.

(a) *General.* This Rule, together with Rule 904 (§ 20.904 of this part), provide procedures for the correction of an obvious error in the record on the Board's own motion pursuant to 38 U.S.C. 7103(c). Requests for the correction of error from appellants and their representatives will not be entertained under this Rule.

(b) *Correction of harmless errors.* Harmless errors in a prior decision of the Board, as defined in Rule 1102 (§ 20.1102 of this part), may be corrected by the issuance of one or more corrected pages, by the issuance of a supplemental decision, or by the issuance of a complete corrected decision. The corrected page(s), supplemental decision, or corrected decision shall be signed by all Members of the Board who participated in the decision being corrected who are still serving as Members of the Board. If none of the Members of the Board who participated in the original decision being corrected are still serving as Members of the Board, the Chairman shall assign a Section of the Board to make the necessary correction(s).

(Authority: 38 U.S.C. 7103(c))

9. In subpart K, §§ 20.1000 and 20.1001 and their authority citations are revised and § 20.1002 is added to read as follows:

§ 20.1000 Rule 1000. When reconsideration is accorded.

Reconsideration of an appellate decision of the Board of Veterans' Appeals may be accorded at any time by the Chairman on the grounds set forth in Rule 1002 (§ 20.1002 of this part) upon his or her own motion, or upon the timely motion of an appellant or his or her representative filed in accordance with the provisions of Rule 1001 (§ 20.1001 of this part). Reconsideration of remands; of ancillary matters, such as rulings or orders on motions; and of decisions by Reconsideration Sections will not be granted.

(Authority: 38 U.S.C. 7103)

§ 20.1001 Rule 1001. Motion for reconsideration.

(a) *Form and content of motion.* A motion for reconsideration of a decision of the Board from an appellant or his or her representative shall be in writing, but no special format or printed form is required. A letter containing the necessary information will be sufficient. The motion must include the following:

(1) The name of the veteran and, unless he or she is deceased or his or her address is unknown, the address of the veteran;

(2) The name and address of the appellant if other than the veteran (e.g., a veteran's survivor, a guardian, or a fiduciary appointed to receive VA benefits on an individual's behalf);

(3) The applicable Department of Veterans Affairs file number;

(4) The date of the decision which is the subject of the motion;

(5) If the decision involved more than one issue, the identification of the issue, or issues, with respect to which reconsideration is sought; and,

(6) As to each issue with respect to which reconsideration is sought, the grounds specified in paragraph (a) of Rule 1002 (§ 20.1002(a) of this part) which are the bases for the motion for reconsideration and the specific reasons why reconsideration is warranted on such grounds.

(b) *Filing of motion for reconsideration.* A motion for reconsideration of a decision of the Board from an appellant or his or her representative must be filed with the Board at the address which follows not later than 45 days after the date shown upon the face of the decision: Office of Counsel to the Chairman (01C), Board of Veterans' Appeals, 810 Vermont Avenue, NW., Washington, DC 20420. Whether a motion is timely filed will be determined in accordance with the provisions of Rule 305 (§ 20.305 of this part). A motion for reconsideration which does not meet the requirements of this rule will not be accepted for filing.

(Authority: 38 U.S.C. 501(a), 7103)

§ 20.1002 Rule 1002. Review and disposition of motion for reconsideration.

(a) *Review.* The Chairman will review the decision of the Board which is the subject of a motion for reconsideration. When the motion is from an appellant or his or her representative, the written motion of the appellant or representative will be considered, but oral argument will not be permitted. The Chairman may order reconsideration of the decision if he or she finds any one or more of the following:

(1) That the Members of the Board who entered the decision may have overlooked or misinterpreted controlling statutory or regulatory provisions,

(2) That the Members of the Board who entered the decision may have misconstrued the record,

(3) That the finding(s) of fact or conclusion(s) of law set forth in the decision may not be supported by the evidence, or

(4) That, in the judgment of the Chairman, the decision is manifestly unjust.

(b) *Disposition*—(1) *Motion denied.* If the motion was by an appellant or his or her representative, the appellant and representative will be notified if the motion is denied. The notification will include reasons why the motion was found to be insufficient. This constitutes final disposition of the motion.

(2) *Motion allowed.* If the motion is allowed, the following actions will be accomplished:

(i) The appellant and his or her representative, if any, will be notified. They will be given a period of 60 days from the date of mailing of the letter of notification to present additional argument or evidence, or to request a hearing in accordance with the provisions of Rule 1003 (§ 20.1003 of this part). The date of mailing of the letter of notification will be presumed to be the same as the date of the letter of notification.

(ii) The Chairman will assign a Reconsideration Section in accordance with § 19.11 of this chapter and will identify for the Members of that Section the issue, or issues, addressed in the original decision which are to be reconsidered. The Reconsideration Section shall enter a new decision with respect to those issues, applying the same standard of review which was legally applicable at the time that the original decision was entered.

(3) *Motion denied in part and allowed in part.* If the motion is denied with

respect to some issues addressed in the original decision and allowed with respect to others, the notices described in paragraphs (b)(1) and (b)(2)(i) of this rule shall be combined.

(4) *Effect of allowance of motion on decision to which the motion pertains.* When a motion for reconsideration has been granted, the decision of the Board to which the motion pertains is no longer of any force and effect with respect to the issue(s) addressed in that decision which are to be reconsidered. The original decision, which will remain a part of the applicable Department of Veterans Affairs records folder(s), shall be appropriately marked to show the issue(s) which have been reconsidered.

(Authority: 38 U.S.C. 501(a), 7103)

10. In subpart L, § 20.1100 and its authority citation are revised and § 20.1101 is added to read as follows:

§ 20.1100 Finality of decisions of the Board.

(a) *General.* Subject to reconsideration, ordered in accordance with Rule 1000 (§ 20.1000 of this part), a decision by a majority of the Members of a Section of the Board is final and is not subject to review except as provided in 38 U.S.C. 1975 and 1984 and 38 U.S.C. chapters 37 and 72.

(b) *Decisions by Reconsideration Sections.* The decision of the majority of the Members of a Reconsideration Section is the final decision of the Board with respect to the issue, or issues, reconsidered.

(c) *Failure to reach a majority decision.* If a regular or Reconsideration Section of the Board fails to reach a majority decision with respect to any issue in a case assigned to it for disposition, the Chairman may assign additional Members to that Section for the purpose of disposing of such issues. The additional Members will be assigned in increments of three Members until a majority decision is reached.

(d) *Remands.* A remand is in the nature of a preliminary order and does not constitute a final decision of the Board.

(Authority: 38 U.S.C. 501(a), 511, 7102, 7103, 7104(a))

§ 20.1101 When decisions of the Board become final.

Decisions of the Board of Veterans' Appeals are promulgated and become final when signed copies of the decision are mailed to the appellant and his or her representative, if any, at their last known addresses. The date of such mailing shall be stamped upon the face of each such decision. Prior to such mailing, the decision is a draft decision which may be replaced or modified by the Members of the Board to whom the appeal was assigned, regardless of whether the decision may have been signed.

(Authority: 38 U.S.C. 501(a), 7103, 7104)

11. In subpart M, § 20.1201 is revised to read as follows:

§ 20.1201 Rule 1201. Amendment of appellate decisions.

A request for amendment of an appellate decision under the Privacy Act (5 U.S.C. 552a) may be entertained. However, such a request may not be used in lieu of, or to circumvent, the procedures established under Rules 1000 through 1003 (§§ 20.1000–20.1003 of this part). The Board will review a request for correction of factual information set forth in a decision. In any case where such factual information relied upon in a decision is deleted or amended, the Board may review the decision under Rules 904 and 905 (§§ 20.904 and 20.905 of this part) to determine whether any further action is indicated. However, where the request to amend under the Privacy Act is an attempt to alter a judgment made by the Board and thereby replace the adjudicatory authority and functions of the Board, the request will be denied on the basis that the Act does not authorize a collateral attack upon that which has already been the subject of a decision of the Board. The denial will satisfy the procedural requirements of § 1.579 of this chapter. If otherwise appropriate, the request will be considered one for reconsideration under Rules 1000 through 1003 (§§ 20.1000–20.1003 of this part).

(Authority: 5 U.S.C. 552a(d); 38 U.S.C. 7103, 7108)

12. Appendix A to part 20 is revised to read as follows:

APPENDIX A TO PART 20—CROSS-REFERENCES

Sec.	Cross-reference	Title of cross-referenced material or comment
20.1	38 CFR 3.103(a)	*Statement of policy.*
20.100	38 CFR 20.306	*Rule 306. Legal holidays.*
20.200	38 CFR 20.201	*Rule 201. Notice of Disagreement.*
	38 CFR 20.202	*Rule 202. Substantive Appeal.*
	38 CFR 20.300–20.306	See re filing Notices of Disagreement and Substantive Appeals.
20.201	38 CFR 20.1101	*When decisions of the Board become final.*
20.202	38 CFR 19.29	*Statement of the Case.*
	38 CFR 19.31	*Supplemental Statement of the Case.*
20.301	38 CFR 20.500	*Rule 500. Who can file an appeal in simultaneously contested claims.*
	38 CFR 20.602	*Rule 602. Representation by recognized organizations.*
	38 CFR 20.603	*Rule 603. Representation by attorneys-at-law.*
	38 CFR 20.604	*Rule 604. Representation by agents.*
	38 CFR 20.605	*Rule 605. Other persons as representative.*
20.302	38 CFR 20.501	*Rule 501. Time limits for filing Notice of Disagreement, Substantive Appeal, and response to Supplemental Statement of the Case in simultaneously contested claims.*
20.303	38 CFR 20.304	*Rule 304. Filing additional evidence does not extend time limit for appeal.*
	38 CFR 20.503	*Rule 503. Extension of time for filing a Substantive Appeal in simultaneously contested claims.*
20.305	38 CFR 20.306	*Rule 306. Legal holidays.*
20.400	38 CFR 19.50–19.53	See also re administrative appeals.
20.401	38 CFR 19.50–19.53	See also re administrative appeals.
	38 CFR 20.302–20.306	See re time limits for perfecting an appeal.
	38 CFR 20.501, 20.503	See re time limits for perfecting an appeal in simultaneously contested claims.
20.500	38 CFR 20.713	*Rule 713. Hearings in simultaneously contested claims.*
20.501	38 CFR 20.305	*Rule 305. Computation of time limit for filing.*
	38 CFR 20.306	*Rule 306. Legal holidays.*
	38 CFR 20.713	*Rule 713. Hearings in simultaneously contested claims.*
20.502	38 CFR 20.305	*Rule 305. Computation of time limit for filing.*
	38 CFR 20.306	*Rule 306. Legal holidays.*
	38 CFR 20.713	*Rule 713. Hearings in simultaneously contested claims.*
20.503	38 CFR 20.713	*Rule 713. Hearings in simultaneously contested claims.*

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APPENDIX A TO PART 20—CROSS-REFERENCES—Continued

Sec.	Cross-reference	Title of cross-referenced material or comment
20.504	38 CFR 20.713	*Rule 713. Hearings in simultaneously contested claims.*
20.600	38 CFR 14.626 et seq	See also re representation.
	38 CFR 20.602	*Rule 602. Representation by recognized organizations.*
	38 CFR 20.603	*Rule 603. Representation by attorneys-at-law.*
	38 CFR 20.604	*Rule 604. Representation by agents.*
	38 CFR 20.605	*Rule 605. Other persons as representative.*
20.602	38 CFR 14.628	*Recognition of organizations.*
	38 CFR 14.631	*Powers of attorney.*
	38 CFR 20.100	*Rule 100. Name, business hours, and mailing address of the Board.*
	38 CFR 20.607	*Rule 607. Revocation of a representative's authority to act.*
	38 CFR 20.608	*Rule 608. Withdrawal of services by a representative.*
	38 CFR 20.609	*Rule 609. Payment of representative's fees in proceedings before Department of Veterans Affairs field personnel and before the Board of Veterans' Appeals.*
	38 CFR 20.610	*Rule 610. Payment of representative's expenses in proceedings before Department of Veterans Affairs field personnel and before the Board of Veterans' Appeals.*
20.603	38 CFR 14.629	*Requirements for accreditation of representatives, agents, and attorneys*
	38 CFR 14.631	*Powers of attorney.*
	38 CFR 20.100	*Rule 100. Name, business hours, and mailing address of the Board.*
	38 CFR 20.606	*Rule 606. Legal interns, law students and paralegals.*
	38 CFR 20.607	*Rule 607. Revocation of a representative's authority to act.*
	38 CFR 20.608	*Rule 608. Withdrawal of services by a representative.*
	38 CFR 20.609	*Rule 609. Payment of representative's fees in proceedings before Department of Veterans Affairs field personnel and before the Board of Veterans' Appeals.*
	38 CFR 20.610	*Rule 610. Payment of representative's expenses in proceedings before Department of Veterans Affairs field personnel and before the Board of Veterans' Appeals.*
20.604	38 CFR 14.629	*Requirements for accreditation of representatives, agents, and attorneys.*
	38 CFR 14.631	*Powers of attorney.*
	38 CFR 20.100	*Rule 100. Name, business hours, and mailing address of the Board.*
	38 CFR 20.607	*Rule 607. Revocation of a representative's authority to act.*
	38 CFR 20.608	*Rule 608. Withdrawal of services by a representative.*
	38 CFR 20.609	*Rule 609. Payment of representative's fees in proceedings before Department of Veterans Affairs field personnel and before the Board of Veterans' Appeals.*
	38 CFR 20.610	*Rule 610. Payment of representative's expenses in proceedings before Department of Veterans Affairs field personnel and before the Board of Veterans' Appeals.*
20.605	38 CFR 14.630	*Authorization for a particular claim.*
	38 CFR 14.631	*Powers of attorney.*
	38 CFR 20.100	*Rule 100. Name, business hours, and mailing address of the Board.*
	38 CFR 20.607	*Rule 607. Revocation of a representative's authority to act.*
	38 CFR 20.608	*Rule 608. Withdrawal of services by a representative.*
	38 CFR 20.609	*Rule 609. Payment of representative's fees in proceedings before Department of Veterans Affairs field personnel and before the Board of Veterans' Appeals.*
	38 CFR 20.610	*Rule 610. Payment of representative's expenses in proceedings before Department of Veterans Affairs field personnel and before the Board of Veterans' Appeals.*
20.606	38 CFR 20.603	*Rule 603. Representation by attorneys-at-law.*
20.607	38 CFR 14.631(d)	See also re revocation of powers of attorney.
20.609	38 CFR 14.629	*Requirements for accreditation of representatives, agents, and attorneys.*
	38 CFR 20.603	*Rule 603. Representation by attorneys-at-law.*
	38 CFR 20.604	*Rule 604. Representation by agents.*
	38 CFR 20.606	*Rule 606. Legal interns, law students and paralegals.*
	38 CFR 20.610	*Rule 610. Payment of representative's expenses in proceedings before Department of Veterans Affairs field personnel and before the Board of Veterans' Appeals.*
20.610	38 CFR 20.609	*Rule 609. Payment of representative's fees in proceedings before Department of Veterans Affairs field personnel and before the Board of Veterans' Appeals.*
20.611	38 CFR 1.525(d), 14.631(e)	See also re continuation of authority conferred by powers of attorney upon the death of a claimant.
20.700	38 CFR 20.1003	*Hearings on reconsideration.*
20.702	38 CFR 20.704	*Rule 704. Scheduling and notice of hearings conducted by traveling Sections of the Board of Veterans' Appeals at Department of Veterans Affairs facilities.*
	38 CFR 20.713	*Rule 713. Hearings in simultaneously contested claims.*
20.703	38 CFR 20.201	*Rule 201. Notice of Disagreement.*
20.704	38 CFR 20.702	*Rule 702. Scheduling and notice of hearings conducted by the Board of Veterans' Appeals in Washington, DC, and by agency of original jurisdiction personnel acting on behalf of the Board of Veterans' Appeals at field facilities.*
20.706	38 CFR 20.700(c)	See also re the presiding Member's role in the conduct of hearings.
	38 CFR 20.708	*Rule 708. Prehearing conference.*
	38 CFR 20.709	*Rule 709. Procurement of additional evidence following a hearing.*
20.707	38 CFR 19.11	*Reconsideration Section.*
20.708	38 CFR 20.606(d)	See re the prehearing conference required when a legal intern, law student, or paralegal is to participate in a hearing held before a traveling Section of the Board.
20.709	38 CFR 19.37	*Consideration of additional evidence received by the agency of original jurisdiction after an appeal has been initiated.*
	38 CFR 20.1304	*Rule 1304. Request for change in representation, request for personal hearing, or submission of additional evidence following certification of an appeal to the Board of Veterans' Appeals.*
20.710	38 CFR 20.711	*Rule 711. Subpoenas.*
20.711	38 CFR 2.1	See for further information on subpoenas, including action to be taken in the event of noncompliance.
20.712	38 CFR 20.610	*Rule 610. Payment of representative's expenses in proceedings before Department of Veterans Affairs field personnel and before the Board of Veterans' Appeals.*

APPENDIX A TO PART 20—CROSS-REFERENCES—Continued

Sec.	Cross-reference	Title of cross-referenced material or comment
20.713	38 CFR 20.702	*Rule 702. Scheduling and notice of hearings conducted by the Board of Veterans' Appeals in Washington, DC, and by agency of original jurisdiction personnel acting on behalf of the Board of Veterans' Appeals at field facilities.*
	38 CFR 20.704	*Rule 704. Scheduling and notice of hearings conducted by traveling Sections of the Board of Veterans' Appeals at Department of Veterans Affairs facilities.*
20.715	38 CFR 20.706	*Rule 706. Functions of the presiding Member.*
20.800	38 CFR 20.304	*Rule 304. Filing additional evidence does not extend time limit for appeal.*
	38 CFR 20.709	*Rule 709. Procurement of additional evidence following a hearing.*
	38 CFR 20.1304	*Rule 1304. Request for change in representation, request for personal hearing, or submission of additional evidence following certification of an appeal to the Board of Veterans' Appeals.*
20.901	38 CFR 14.507	See re opinions of the General Counsel of the Department of Veterans Affairs.
20.903	38 CFR 20.305	*Rule 305. Computation of time limit for filing.*
	38 CFR 20.306	*Rule 306. Legal holidays.*
20.1000	38 CFR 20.1001	*Rule 1001. Motion for reconsideration.*
	38 CFR 20.1002	*Rule 1002. Review and disposition of motion for reconsideration.*
	38 CFR 20.1003	*Rule 1003. Hearings on reconsideration.*
20.1001	38 CFR 20.1000	*Rule 1000. When reconsideration is accorded.*
	38 CFR 20.1002	*Rule 1002. Review and disposition of motion for reconsideration.*
	38 CFR 20.1003	*Rule 1003. Hearings on reconsideration.*
20.1002	38 CFR 20.1000	*Rule 1000. When reconsideration is accorded.*
	38 CFR 20.1001	*Rule 1001. Motion for reconsideration.*
	38 CFR 20.1003	*Rule 1003. Hearings on reconsideration.*
20.1003	38 CFR 20.700–20.717	See for further information on hearings.
	38 CFR 20.1000	*Rule 1000. When reconsideration is accorded.*
	38 CFR 20.1001	*Rule 1001 Motion for reconsideration.*
	38 CFR 20.1002	*Rule 1002. Review and disposition of motion for reconsideration.*
20.1100	38 CFR 20.1101	*When decisions of the Board become final.*
20.1101	38 CFR 20.1100	*Finality of decisions of the Board.*
20.1102	38 CFR 20.905	*Rule 905. Correction of harmless error in the record.*
20.1105	38 CFR 3.156	*New and material evidence.*
	38 CFR 20.1304(b)(1)	See re request for a personal hearing or submission of additional evidence more than 90 days after a case has been certified to the Board of Veterans' Appeals as possible basis for a reopened claim.
20.1106	38 CFR 3.22(a)(2)	See re correction of a rating, based on clear and unmistakable error, after a veteran's death in cases involving claims for benefits under the provisions of 38 U.S.C. 1318.
20.1300	38 CFR 1.500–1.527	See re the release of information from Department of Veterans Affairs claimant records.
	38 CFR 1.550–1.559	See re the release of information from Department of Veterans Affairs records other than claimant records.
	38 CFR 1.575–1.584	See re safeguarding personal information in Department of Veterans Affairs records.
	38 CFR 20.1301	*Rule 1301 Disclosure of information.*
20.1301	38 CFR 1.577	*Access to records.*
20.1302	38 CFR 20.611	*Rule 611. Continuation of representation following death of a claimant or appellant.*
20.1304	38 CFR 3.103(c) and 20.700–20.717	See also re hearings.
	38 CFR 3.156	*New and material evidence.*
	38 CFR 3.160(e)	*Reopened claim.*
	38 CFR 20.305	*Rule 305. Computation of time limit for filing.*
	38 CFR 20.306	*Rule 306. Legal holidays.*

[FR Doc. 92–1970 Filed 1–31–92; 8:45 am]

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federal register

Monday
February 3, 1992

Part III

Department of the Interior

Bureau of Indian Affairs

Pine River Indian Irrigation Project, CO; 1992 Operation and Maintenance Rates; Final Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Pine River Indian Irrigation Project, CO

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Final notice of 1992 Operation and Maintenance Rates.

SUMMARY: The purpose of this notice is to establish the assessment rates for operating and maintaining the Pine River Indian Irrigation Project for 1992 and subsequent years until changed. The assessment rates are based on a prepared estimate of the cost of normal operations and maintenance of the irrigation project. Normal operations and maintenance is defined as the average per acre cost of all activities involved in delivering irrigation water including labor, materials, equipment and services.

EFFECTIVE DATE: This public notice will become effective on March 1, 1992, for the 1992 and subsequent irrigation seasons and remains in effect until changed.

FOR FURTHER INFORMATION CONTACT: Albuquerque Area Director, Albuquerque Area Office, Bureau of Indian Affairs, P.O. Box 26567, Albuquerque, New Mexico 87125–6567, telephone FTS 474–3171; commercial (505) 766–3171.

Authority: The authority to issue this document is vested in the Secretary of the Interior by 5 U.S.C. 301 and the Act of August 14, 1914 (38 Stat. 583, 25 U.S.C. 385).

This notice of final operation and maintenance rates and related information is published under the authority delegated to the Assistant Secretary-Indian Affairs by the Secretary of the Interior in 209 DM8 and redelegated by the Assistant Secretary-Indian Affairs to the Area Director in 10 BIAM 3.

This notice is given in accordance with § 171.1(e) of part 171, subchapter H, chapter I, of title 25 of the Code of Federal Regulations, which provide for the Area Director to fix and announce the rates for annual operation and maintenance assessments and related information of the Pine River Indian Irrigation Project for the period from March 1, 1992, until changed.

SUPPLEMENTARY INFORMATION: A notice of increase with an analysis of costs of operation and maintenance of the Pine River Indian Irrigation Project was mailed to individual waterusers on October 21, 1991, and further explained to the project waterusers at a general meeting conducted on November 15, 1991. The notice and analysis was presented to the Southern Ute Tribal Council on November 15 and December 19, 1991, and further publically posted in three conspicuous locations on the Southern Ute Indian Reservation.

Basic Assessment

The basic annual per acre assessment for operation and maintenance against the irrigable lands to which water can be delivered under the Pine River Irrigation Project in Colorado is hereby fixed for the year 1992 and thereafter until further notice as follows:

1. Project Operations and Maintenance	$7.25 per acre
2. Vallecito Reservoir Operation and Maintenance	$1.25 per acre
3. Minimum charges for any tract	$25.00

Payment

The annual operation and maintenance charge shall become due and payable on April 1st of each year and continued in effect until further notice. Water will not be delivered to land until the assessment has been paid or arrangements have been made under 25 CFR, Part 171.17, Delivery of Water.

Interest and Penalty

To all charges assessed against project lands, and those leased Indian lands remaining unpaid on May 1, following the due date, the Project will assess interest, penalty and administrative charges in accordance with 4 CFR, part 102 and 42 BIAM, supplement 3. An administrative processing fee of ten dollars ($10.00) shall be added to the total charge each time an overdue payment notice is prepared and mailed by the Project. The administrative fee shall not be charged on the original billing.

Period Covered

Assessment rates are set for the 1992 and thereafter until changed.

Dated: January 24, 1992.

Sidney L. Mills,

Albuquerque Area Director.

[FR Doc. 92–2450 Filed 1–31–92; 8:45 am]

BILLING CODE 4310-02-M

federal register

Monday
February 3, 1992

Part IV

Department of the Interior

Bureau of Land Management

43 CFR Public Land Order 6921

Opening of Land, Under Section 24 of the Federal Power Act, in the Secretarial Order Dated July 30, 1909, Which Established Powersite Reserve No. 32; Colorado; Final Rule

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6921

[CO-932-4214-10; COC-28576]

Opening of Land, Under Section 24 of the Federal Power Act, in the Secretarial Order Dated July 30, 1909, Which Established Powersite Reserve No. 32; Colorado

AGENCY: Bureau of Land Management, Colorado.

ACTION: Public land order.

SUMMARY: This order opens, subject to the provisions of section 24 of the Federal Power Act, 9.48 acres of National Forest System land withdrawn by a Secretarial Order which established the Bureau of Land Management's Powersite Reserve No. 32. This action will permit consummation of a pending Forest Service land exchange and retain the power rights to the United States. The land has been and continues to be open to mineral leasing and, under the provisions of the Mining Claims Rights Restoration Act of 1955, to mining.

EFFECTIVE DATE: February 3, 1992.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215-7076, 303-239-3706.

By virtue of the authority vested in the Secretary of the Interior by the Act of June 10, 1920, section 24, as amended, 16 U.S.C. 818 (1988), and pursuant to the determination by the Federal Energy Regulatory Commission in DVCO-536, it is ordered as follows:

1. At 9 a.m. on February 3, 1992, the following described National Forest System land withdrawn by an Executive Order dated July 30, 1909, which established Powersite Reserve No. 32, will be open to disposal by land exchange subject the provisions of Section 24 of the Federal Power Act as specified by the Federal Energy Regulatory Commission in determination DVCO-536, and subject to valid existing rights, the provisions of existing withdrawals, the requirements of applicable law, and other segregations of record:

Sixth Principal Meridian

Arapaho National Forest

T. 4 S., R. 78 W.,
  Sec. 9, lots 7, 8, and 9.

The area described contains 9.48 acres in Summit County.

Dated: January 29, 1992.

Dave O'Neal

Assistant Secretary of the Interior.

[FR Doc. 92-2636 Filed 1-31-92; 9:02 am]

BILLING CODE 4310-JB-M

federal register

Monday
February 3, 1992

Part V

International Trade Commission

Tuna: Current Issues Affecting the U.S. Industry; Change in Time of Hearing; Notice

INTERNATIONAL TRADE COMMISSION

[Inv. 332–313]

Tuna: Current Issues Affecting the U.S. Industry

AGENCY: United States International Trade Commission.

ACTION: Change in time of hearing.

FOR FURTHER INFORMATION CONTACT: Gretchen Kipp or Jacqueline Hawkins at 205–1808 or 205–1816. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commisson should contact the Office of the Secretary at 205–2000.

SUPPLEMENTARY INFORMATION: In a notice issued January 9, 1992 the Commission announced a public hearing in this investigation to begin at 9:30 a.m. (Pacific Standard Time) that time has been changed and the hearing will begin at 8:30 a.m. (Pacific Standard Time).

Authority: Section 332 of the Tariff Act of 1930, as amended.

By order of the Commission.

Issued: January 30, 1992.

Kenneth R. Mason,

Secretary.

[FR Doc. 92–2713 Filed 1–31–92; 10:43 am]

BILLING CODE 7020–02–M

Reader Aids

Federal Register
Vol. 57, No. 22
Monday, February 3, 1992

INFORMATION AND ASSISTANCE

Federal Register	
Index, finding aids & general information	**202-523-5227**
Public inspection desk	**523-5215**
Corrections to published documents	**523-5237**
Document drafting information	**523-5237**
Machine readable documents	**523-3447**
Code of Federal Regulations	
Index, finding aids & general information	**523-5227**
Printing schedules	**523-3419**
Laws	
Public Laws Update Service (numbers, dates, etc.)	**523-6641**
Additional information	**523-5230**
Presidential Documents	
Executive orders and proclamations	**523-5230**
Public Papers of the Presidents	**523-5230**
Weekly Compilation of Presidential Documents	**523-5230**
The United States Government Manual	
General information	**523-5230**
Other Services	
Data base and machine readable specifications	**523-3447**
Guide to Record Retention Requirements	**523-3187**
Legal staff	**523-4534**
Privacy Act Compilation	**523-3187**
Public Laws Update Service (PLUS)	**523-6641**
TDD for the hearing impaired	**523-5229**

FEDERAL REGISTER PAGES AND DATES, FEBRUARY

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CFR PARTS AFFECTED DURING FEBRUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

LIST OF PUBLIC LAWS

Note: The List of Public Laws for the first session of the 102d Congress has been completed and will be resumed when bills are enacted into public law during the second session of the 102d Congress, which convenes on January 3, 1992. A cumulative list of Public Laws for the first session was published in Part II of the **Federal Register** on January 2, 1992.

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is $620.00 domestic, $155.00 additional for foreign mailing.

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Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869-013-00001-3)	$12.00	Jan. 1, 1991
3 (1990 Compilation and Parts 100 and 101)	(869-013-00002-1)	14.00	[1] Jan. 1, 1991
4	(869-013-00003-0)	15.00	Jan. 1, 1991
5 Parts:			
1-699	(869-013-00004-8)	17.00	Jan. 1, 1991
700-1199	(869-013-00005-6)	13.00	Jan. 1, 1991
1200-End, 6 (6 Reserved)	(869-013-00006-4)	18.00	Jan. 1, 1991
7 Parts:			
0-26	(869-013-00007-2)	15.00	Jan. 1, 1991
27-45	(869-013-00008-1)	12.00	Jan. 1, 1991
46-51	(869-013-00009-9)	17.00	Jan. 1, 1991
52	(869-013-00010-2)	24.00	Jan. 1, 1991
53-209	(869-013-00011-1)	18.00	Jan. 1, 1991
210-299	(869-013-00012-9)	24.00	Jan. 1, 1991
300-399	(869-013-00013-7)	12.00	Jan. 1, 1991
400-699	(869-013-00014-5)	20.00	Jan. 1, 1991
700-899	(869-013-00015-3)	19.00	Jan. 1, 1991
900-999	(869-013-00016-1)	28.00	Jan. 1, 1991
1000-1059	(869-013-00017-0)	17.00	Jan. 1, 1991
1060-1119	(869-013-00018-8)	12.00	Jan. 1, 1991
1120-1199	(869-013-00019-6)	10.00	Jan. 1, 1991
1200-1499	(869-013-00020-0)	18.00	Jan. 1, 1991
1500-1899	(869-013-00021-8)	12.00	Jan. 1, 1991
1900-1939	(869-013-00022-6)	11.00	Jan. 1, 1991
1940-1949	(869-013-00023-4)	22.00	Jan. 1, 1991
1950-1999	(869-013-00024-2)	25.00	Jan. 1, 1991
2000-End	(869-013-00025-1)	10.00	Jan. 1, 1991
8	(869-013-00026-9)	14.00	Jan. 1, 1991
9 Parts:			
1-199	(869-013-00027-7)	21.00	Jan. 1, 1991
200-End	(869-013-00028-5)	18.00	Jan. 1, 1991
10 Parts:			
0-50	(869-013-00029-3)	21.00	Jan. 1, 1991
51-199	(869-013-00030-7)	17.00	Jan. 1, 1991
200-399	(869-013-00031-5)	13.00	[4] Jan. 1, 1987
400-499	(869-013-00032-3)	20.00	Jan. 1, 1991
500-End	(869-013-00033-1)	27.00	Jan. 1, 1991
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Jan. 1, 1987 to Dec. 31, 1990. The CFR volume issued January 1, 1987, should be retained.

[5] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1991. The CFR volume issued April 1, 1990, should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 1989 to June 30, 1991. The CFR volume issued July 1, 1989, should be retained.

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February 5	February 20	March 6	March 23	April 6	May 5
February 6	February 21	March 9	March 23	April 6	May 6
February 7	February 24	March 9	March 23	April 7	May 7
February 10	February 25	March 11	March 26	April 10	May 11
February 11	February 26	March 12	March 27	April 13	May 11
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February 24	March 10	March 25	April 9	April 24	May 26
February 25	March 11	March 26	April 10	April 27	May 26
February 26	March 12	March 27	April 13	April 27	May 26
February 27	March 13	March 30	April 13	April 27	May 27
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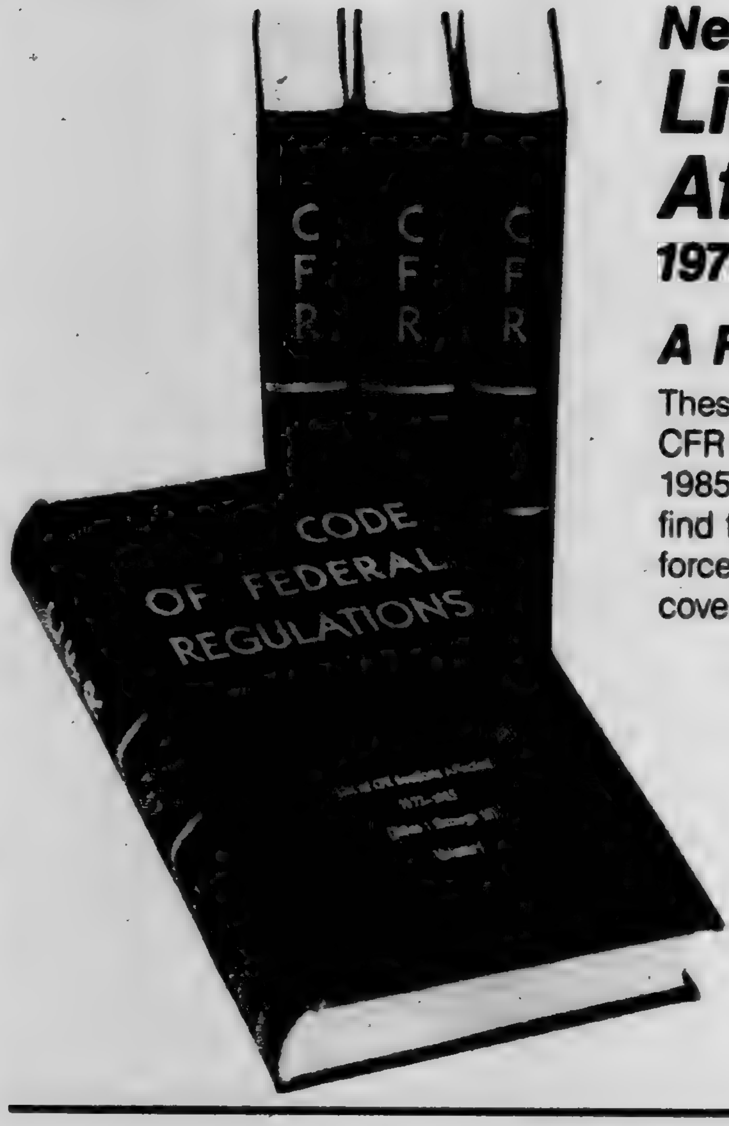

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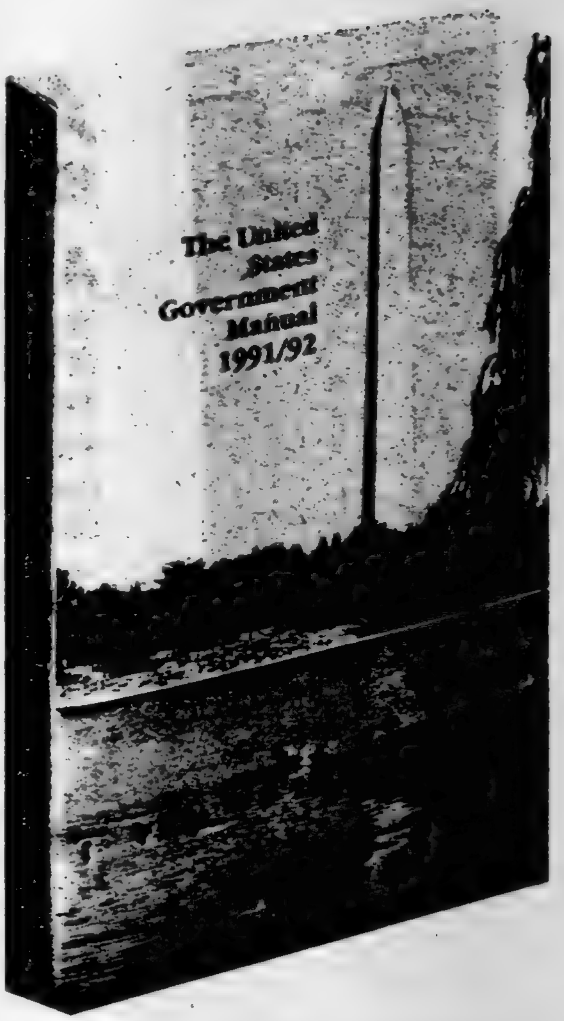

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 918

[Docket No. FV-91-444 FR]

Expenses and Assessment Rate for Marketing Order Covering Fresh Peaches Grown in Georgia

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule authorizes expenditures and establishes an assessment rate under Marketing Order 918 for the 1992–93 fiscal period which begins March 1, 1992. This action is needed for the Georgia Peach Industry Committee (committee) to incur operating expenses during the 1992–93 fiscal period and to collect funds during that period to pay those expenses. This action facilitates program operations. Funds to administer this program are derived from assessments on handlers.

EFFECTIVE DATE: March 1, 1992, through February 28, 1993.

FOR FURTHER INFORMATION CONTACT: Britthany E. Beadle, Marketing Order Administrative Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC, 20090–6456; telephone (202) 720–3923.

SUPPLEMENTARY INFORMATION: This final rule is effective under Marketing Agreement and Marketing Order No. 918 [7 CFR part 918] regulating the handling of fresh peaches grown in Georgia. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601–674], hereinafter referred to as the Act.

This final rule has been reviewed by the U.S. Department of Agriculture (Department) in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291, and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 20 handlers of Georgia peaches regulated under this marketing order each season and approximately 150 peach producers in Georgia. Small agricultural service firms are defined by the Small Business Administration [13 CFR 121.601] as those whose annual receipts are less than $3,500,000 and small agricultural producers have been defined as those having annual receipts of less than $500,000. The majority of the handlers and producers of Georgia peaches may be classified as small entities.

The Georgia peach marketing order, administered by the Department, requires that the assessment rate for a particular fiscal year shall apply to all assessable fresh peaches handled from the beginning of such year within the production area. An annual budget of expenses is prepared by the committee and submitted to the Department for approval. The members of the committee are producers of Georgia peaches. They are familiar with the committee's needs and with the costs for goods, services, and personnel in their local area and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed at a public meeting. Thus, all directly affected persons had an opportunity to participate and provide input.

The assessment rate recommended by the committee is derived by dividing anticipated expenses by the number of bushels of fresh peaches expected to be shipped under the order. Because that rate is applied to actual shipments, it must be established at a level that will produce sufficient income to pay the committee's expected expenses. The recommended budget and rate of assessment are usually acted upon by the committee before a season starts and expenses are incurred on a continuous basis. The budget and assessment rate must be approved prior to the start of the fiscal period so that the committee will have the authority to incur expenses and the funds to pay such expenses.

The committee met November 5, 1991, and unanimously recommended 1992–93 marketing order expenditures of $16,350. The committee also recommended an assessment rate of $0.01 per bushel of assessable peaches shipped under Marketing Order 918. In comparison, 1991–92 fiscal period expenditures were $18,000 and the assessment rate was $0.01 per bushel.

The 1992–93 budget projects an estimated assessment income of $15,000 based on shipments of 1.5 million bushels of fresh peaches. In addition to the projected assessment income, additional funds will be made available by drawing $850 from the reserve account ($750 in 1991–92) and $500 in accrued interest from the reserve account ($750 in 1991–92). The committee's reserve is well within the amount authorized under the marketing order.

The major committee expenditure projected for 1992–93 is the management services fee of $12,000. This fee is paid to the Georgia Farm Bureau Marketing Association to manage the committee's daily operations. This expenditure remains unchanged from fiscal period 1991–92. Other expenditures for 1992–93 are the same as, or slightly lower than, those for the 1991–92 fiscal period.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived for the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

A proposed rule was published in the **Federal Register** on December 11, 1991 [56 FR 288]. That document contained a proposal to authorize expenses and establish an assessment rate for the committee. That rule provided that interested persons could file comments through January 10, 1992. No comments were received.

It is found that the specified expenses are reasonable and likely to be incurred and that such expenses and the specified assessment rate to cover such expenses will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective date of the section until 30 days after publication in the **Federal Register** [5 U.S.C. 553] because the committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis. The 1992 fiscal year begins on March 1, 1992, and the marketing order requires that the rate of assessment for the fiscal period apply to all assessable peaches handled during the fiscal period. In addition, handlers are aware of this action which was recommended by the committee at a public meeting.

List of Subjects in 7 CFR Part 918

Marketing agreements, Peaches, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 918 is amended as follows:

PART 918—FRESH PEACHES GROWN IN GEORGIA

1. The authority citation for 7 CFR part 918 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. A new § 918.228, is added to read as follows:

Note: This section will not appear in the *Code of Federal Regulations.*

§ 918.228 Expenses and assessment rate.

Expenses of $16,350 by the Georgia Peach Industry Committee are authorized, and an assessment rate of $0.01 per bushel of assessable peaches is established for the fiscal period ending February 28, 1993. Any unexpended funds may be carried over as a reserve into 1993–94 fiscal period.

Dated: January 30, 1992.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92–2665 Filed 2–3–92; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 944

[Docket No. FV-91-240FR]

Olives Imported Into the United States; Authorization To Import Smaller Sized Olives for Limited Uses and Establishment of Minimum Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule continues in effect an interim final rule which authorized the importation of certain bulk olives into the United States to be used in the production of limited use styles of olives such as wedges, halves, slices, or segments during the period October 1, 1991, through July 31, 1992. Such olives are not required to meet the applicable minimum size requirements for use in the production of whole and whole pitted canned ripe olives. This rule also continues in effect minimum size requirements for such olives during the same period and updates inspection office address lists contained in the import regulation. This action is required under section 8e of the Agricultural Marketing Agreement Act of 1937 to bring the olive import regulation into conformity with the requirements of the California olive marketing order.

EFFECTIVE DATE: February 4, 1992.

FOR FURTHER INFORMATION CONTACT: George Kelhart, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone (202) 690–3919.

SUPPLEMENTARY INFORMATION: This rule is issued under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601–674], hereinafter referred to as the Act, which provides that whenever certain specified commodities, including olives, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality and maturity requirements as those in effect for the domestically produced commodity.

This rule has been reviewed by the Department of Agriculture in accordance with Departmental regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. There are approximately 25 importers of olives subject to the olive import regulation. Small agricultural service firms, which would include olive importers, have been defined by the Small Business Administration [13 CFR 121.601] as those having annual receipts of less than $3,500,000. The majority of olive importers may be classified as small entities.

Canned ripe olives, and bulk olives for processing into canned ripe olives, imported into the United States must meet certain minimum quality (grade and size) requirements. All canned ripe olives are required to be inspected and certified prior to importation (release from custody of the United States Customs Service), and all bulk olives for processing into canned ripe olives must be inspected and certified prior to canning. "Canned ripe olives" means olives in hermetically sealed containers and heat sterilized under pressure, of two distinct types, "ripe" and "green-ripe", as defined in the current U.S. Standards for Grades of Canned Ripe Olives (7 CFR 52.3751–52.3764). The term does not include Spanish-style green olives. Any lot of olives failing to meet the import requirements may be exported or disposed of under the supervision of the Processed Products Branch of the Fruit and Vegetable Division, with the costs of certifying the disposal of the olives borne by the importer. Any person may import up to 100 pounds (drained weight) of canned ripe olives or bulk olives exempt from these grade and size requirements.

An interim final rule was issued on September 24, 1991, and published in the **Federal Register** on October 1, 1991 [56 FR 49669], with a comment period ending on October 31, 1991. That rule modified paragraph (b)(12) of the olive import regulation. The modification authorized the importation of bulk olives which do not meet the applicable minimum size requirements for whole and whole pitted olives to be used in the production of limited use styles. The authorization is effective during the period October 1, 1991, through July 31, 1992. The interim final rule also established size regulations for such olives in paragraph (b)(12).

Import regulations issued under the Act are based on regulations established under Federal marketing orders to regulate domestically produced products. The grade and size requirements contained in the olive import regulation are based on those in effect for olives grown in California under Marketing Order No. 932. This action reflects a recommendation by the California Olive Committee (committee) to change the requirements for olives for limited use grown in California, and the Department's decision to implement the recommended changes effective October 1, 1991 [56 FR 49667]. The committee works with the Department in administering the marketing order program for California olives.

Paragraph (a)(3) of § 932.52 of the California olive marketing order provides that processed olives smaller than the sizes prescribed for whole and whole pitted styles may be used for limited uses if recommended by the committee and approved by the Secretary. The sizes are specified in terms of minimum weights for individual olives in various size categories by variety groups. This is to recognize the different sizing characteristics of the individual varieties and types of California olives. Olives used in limited use styles are too small to be desirable for use as whole or whole pitted canned olives because their flesh-to-pit ratio is too low. However, they are satisfactory for use in the production of limited use styles.

On December 4, 1990, the committee recommended suspension of the minimum sizes that were established for limited use olives and the establishment of smaller sizes that would be authorized for use in the production of limited use styles during the 1991–92 season. The authorization to use these smaller sized olives in the production of limited use styles began October 1, 1991, and applies through July 31, 1992. The grade requirements for such olives are the same as those implemented last season. The size requirements are based on a study authorized by the committee and conducted by the olive handlers within the California olive industry during the 1990–91 crop year. The sizes are specified in terms of minimum weights for individual olives in various variety groups and are the same for both domestic and imported olives. An extra category is continued in the import regulation to apply comparable requirements on varieties not grown domestically. The minimum sizes are as follows (previous minimum sizes in parentheses):

Variety Group 1, except the Ascolano, Barouni, or St. Agostino varieties.	1/105 pound (1/90)
Variety Group 1 of the Ascolano, Barouni, or St. Agostino varieties.	1/180 pound (1/140)
Variety Group 2, except the Obliza variety.	1/205 pound (1/180)
Variety Group 2 of the Obliza variety.	1/180 pound (1/140)
Olives not identifiable as to variety or variety group.	1/205 pound (1/180)

Each of the categories includes a 35 percent tolerance for olives weighing less than the specified minimum size. These sizes for the variety groups are the minimum sizes which are desirable for use in the production of limited use styles at this time.

This action is necessary because section 8e of the Act provides that when domestically produced olives are regulated under a Federal marketing order, imported olives must meet the same or comparable grade, size, quality, and maturity requirements. Thus, authorizing the use of smaller sized California olives in the production of limited use styles and establishing grade and size regulations for such olives requires that the same authorization and comparable regulations be issued for imported bulk olives.

Permitting importers to continue to use smaller olives in the production of limited use styles will allow importers to take better advantage of the strong market for halved, segmented, sliced, and chopped canned ripe olives. Importers will be able to import and market more olives than would be permitted in the absence of this relaxation in size requirements. This additional opportunity is provided to maximize the use of the available olive supply and facilitate market expansion thereby, increasing returns to importers. In the absence of this action, the smaller fruit could not be imported for limited use, and would have to be disposed of for less profitable, non-canning uses under the supervision of the inspection service or exported.

The Department also removed paragraphs (b)(12)(vi) through paragraphs (b)(12)(x) from the import regulation. These paragraphs pertained to pitted ripe olives offered for importation in bulk for use in the production of limited use styles. There is no evidence that there have ever been any pitted olives imported in bulk for limited uses. The Department does not believe that such olives will be offered for importation in the future. Therefore, these paragraphs are not necessary and have been deleted.

A final change in paragraph (c) updated the list of regional inspection offices to reflect the consolidation of the Southeastern and Central offices into the Eastern Regional Office and the relocation of the Western Regional Office.

Based on available information, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, the information and recommendations submitted by the committee, and other information, it is found that finalizing the interim final rule published in the **Federal Register** on October 1, 1991 [56 FR 49671] will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined, that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) This action continues a relaxation which provides importers the opportunity to import additional supplies of olives to meet market needs for limited use styles; (2) no useful purpose would be served by providing preliminary notice before implementation; and (3) the interim final rule provided a 30-day comment period and no comments were received.

The United States Trade Representative (USTR) has reviewed this action to determine whether it is consistent with U.S. international trade obligations and concurs with its implementation.

List of Subjects in 7 CFR Part 944

Avocados, Food grades and standards, Grapefruit, Grapes, Imports, Kiwi fruit, Limes, Olives and Oranges.

PART 944—FRUITS; IMPORT REGULATIONS

1. The authority citation for 7 CFR part 944 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 944.401 [Amended]

2. Accordingly, the interim final rule amending provisions in section 944.401, which was published in the **Federal Register** [56 FR 49671; October 1, 1991], is adopted as a final rule.

Note: This section will appear in the annual Code of Federal Regulations.

Dated: January 30, 1992.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92–2667 Filed 2–3–92; 8:45 am]

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7 CFR Part 1065

[DA-92-02]

Milk in the Nebraska-Western Iowa Marketing Area; Revision of Supply Plant Shipping Percentage

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Revision of rules.

SUMMARY: This action revises certain provisions of the Nebraska-Western Iowa Federal milk marketing order for the months of January through August 1992. The revision reduces the percentage of supply plant receipts that must be transferred or diverted to pool distributing plants to 20 percentage points for the months of January through August 1992. The action was requested by Mid-America Dairymen, Inc. (Mid-Am), a cooperative association that represents producers who supply milk for the market. The reduction of the shipping standard is necessary to eliminate the need for making costly and inefficient shipments of milk to maintain pool status for producers who have historically been associated with the market.

EFFECTIVE DATE: January 1, 1992 through August 31, 1992.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456 (202) 690-1366.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Notice of Proposed Revision of Supply Plant Shipping Percentages: Issued January 9, 1992; published January 15, 1992 (57 FR 1664).

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. The action lessens the regulatory impact of the order on milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This rule has been reviewed by the Department in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This revision is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the provisions of § 1065.7(b) of the Nebraska-Western Iowa order.

Notice of proposed rulemaking was published in the **Federal Register** (57 FR 1664) concerning a proposed relaxation of the supply plant shipping percentage. The revisions were proposed to be effective for the months of January through August 1992. The public was afforded the opportunity to comment on the notice by submitting written data, views and arguments by January 22, 1992. No opposing comments were received.

Statement of Consideration

This action revises the supply plant shipping percentages set forth in § 1065.7(b) and is applicable to milk marketed on and after January 1, 1992. The revision lowers the shipping percentages for supply plants to 20 percent of receipts during the months of January through August 1992. The specific revision reduces the supply plant shipping percent by 10 percentage points during the months of January through March (from 30 percent to 20 percent of receipts) and by 20 percentage points during the months of April through August (from 40 percent to 20 percent of receipts).

Pursuant to the provisions of § 1065.7(b)(3) of the Nebraska-Western Iowa milk order, the Director of the Dairy Division may increase or decrease the supply plant shipping percentage as set forth in § 1065.7(b) by up to 20 percentage points during any month. The adjustment can be made to help encourage additional milk shipments or to prevent uneconomic shipments of milk merely for the purpose of assuring that dairy farmers will continue to have their milk priced under the order.

Under the Nebraska-Western Iowa order, the supply plant shipping percentage is 40 percent or more of the total receipts of Grade A milk received from dairy farmers and cooperative associations. A revision signed October 3, 1989 (54 FR 41240) reduced the supply plant shipping percentage by 10 percentage points (from 40 percent to 30 percent of receipts) indefinitely for the months of September through March. The 40 percent figure was inadvertently changed to 30 percent in the current issue of the Code of Federal Regulations.

Revision of the supply plant shipping standard was requested by Mid-America Dairymen, Inc. (Mid-Am), a cooperative association that represents producers who supply milk to the market. Mid-Am has projected that there will be ample supplies of direct ship producer milk located in the general area of Nebraska-Western Iowa distributing plants to meet the fluid needs of such plants. Absent a revision, costly and inefficient movements of milk will have to be made in order to maintain pool status of the milk of its members who have historically supplied the fluid needs of the market.

In view of marketing conditions, the supply plant shipping percentage should be relaxed. A reduction of the supply plant shipping percentage will eliminate the need for making unnecessary shipments of milk from supply plants to distributing plants.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This revision is necessary to reflect marketing conditions and to maintain orderly marketing conditions in the marketing area;

(b) This revision does not require of persons affected substantial or extensive preparation prior to the effective dates; and,

(c) Notice of the proposed revision was given interested parties and they were afforded opportunity to file written data, views, or arguments concerning this revision. No opposing views were received.

Therefore, good cause exists for making this revision effective, less than 30 days from date of publication of this notice in the **Federal Register.**

List of Subjects in 7 CFR Part 1065

Milk marketing orders.

Title 7 part 1065 is amended as follows:

PART 1065—MILK IN THE NEBRASKA-WESTERN IOWA MARKETING AREA

1. The authority citation for 7 CFR part 1065 continues to read as follows:

Authority: (Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674).

§ 1065.7 [Amended in Part]

Note: This amendment will not be published in the annual Code of Federal Regulations.

2. In the introductory text of § 1065.7(b), the provision "30 percent" is revised to "20 percent" for the months of January through August 1992.

Signed at Washington, DC, on January 29, 1992.

W.H. Blanchard,

Director, Dairy Division.

[FR Doc. 92-2558 Filed 2-3-92; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1065

[DA-92-03]

Milk in the Nebraska-Western Iowa Marketing Area; Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rules.

SUMMARY: This action suspends certain provisions of the Nebraska-Western Iowa Federal milk marketing order for the months of January through August 1992. The action reduces the amount of milk that must be transferred from supply plants to pool distributing plants and removes the requirement that a producer's milk be physically received at a pool plant each month in order to be eligible for diversion to a nonpool plant. The action was requested by Mid-America Dairymen, Inc. (Mid-Am), a cooperative association that represents producers who supply milk for the market. This action is necessary to prevent uneconomical and inefficient movements of milk.

EFFECTIVE DATE: January 1, 1992 through August 31, 1992.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456 (202) 690-1366.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of proposed suspension: Issued January 9, 1992; published January 15, 1992 (57 FR 1665).

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This final rule has been reviewed by the Department in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and of the order regulating the handling of milk in the Nebraska-Western Iowa marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on January 15, 1992 (57 FR 1665) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon. No comments opposing this action were received.

After consideration of all relevant material, including the proposal in the notice and other available information, it is hereby found and determined that for the months of January through August 1992 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1065.6, the words "during the month";

In § 1065.7(b)(1), the words "not more than one half of"; and,

In § 1065.13, paragraph (d)(1).

Statement of Consideration

This action suspends certain provisions of the order for the months of January through August 1992. The suspension reduces the amount of milk that must be transferred from supply plants to pool distributing plants and allows milk to be diverted to a nonpool plant without being physically received at a pool plant during the month.

Currently the order defines a supply plant as a plant from which Grade A milk is shipped to a pool distributing plant. The order provides that to qualify as a pool supply plant, the supply plant must transfer or divert a specified percentage of its receipts of milk to pool distributing plants. The order further provides that a supply plant must ship milk to a distributing plant each month and that not more than one-half of the qualifying shipments may be met through the direct shipment of milk from farms to pool distributing plants. The order also provides that a dairy farmer's milk is not eligible for diversion during a month unless at least one day's production is physically received at a pool plant. The suspension removes the requirement that milk be transferred from a supply plant to a distributing plant each month, allows all direct-shipped milk to count as a qualifying shipment, and removes the requirement that a dairy farmer's milk be physically received at a pool plant each month. This action was requested by Mid-America Dairymen, Inc. (Mid-Am), a cooperative association that represents producers who supply milk to the market.

Current projections indicate that there will be ample supplies of direct ship producer milk located in the proximity of the distributing plants to meet the fluid milk needs of the market. Thus, it is impractical to require producer milk located some distance from pool plants to be physically received once during the month, when the milk can more economically be diverted directly to manufacturing plants in the production area. In addition, it is inefficient to require that milk be transferred from supply plants to distributing plants when the fluid milk needs of the market can be supplied by the direct shipment of milk from farms to distributing plants. Absent a suspension, costly and inefficient movements of milk would have to be made to maintain pool status of producers who have historically supplied the fluid milk needs of the market.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area in that such action is necessary to permit the continued pooling of supply plants and the milk of dairy farmers who have historically supplied the market without the need for making costly and inefficient movements of milk;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given to interested parties and they were afforded opportunity to file written data, views, or arguments concerning the suspension. No comments in opposition to this action were received.

Therefore, good cause exists for making this order effective less than 30 days from date of publication in the **Federal Register**.

List of Subjects in 7 CFR Part 1065

Milk marketing orders.

It is therefore ordered, that the following provisions in title 7, part 1065, §§ 1065, 1065.6, 1065.7(b)(1), and 1065.13 of the Nebraska-Western Iowa order, are hereby suspended for the months of January through August 1992.

PART 1065—MILK IN THE NEBRASKA-WESTERN IOWA MARKETING AREA

1. The authority citation for 7 CFR part 1065 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

§ 1065.6 [Temporarily suspended in part]

2. In § 1065.6, the words "during the month" are hereby suspended for the months of January through August 1992.

§ 1065.7 [Temporarily suspended in part]

3. In § 1065.7(b)(1), the words "not more than one half of" are hereby suspended for the months of January through August 1992.

§ 1065.13 [Temporarily suspended in part]

4. In § 1065.13, paragraph (d)(1) is hereby suspended for the months of January through August 1992.

Signed at Washington, DC, on January 29, 1992.

John E. Frydenlund,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 92-2559 Filed 2-3-92; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2 and 15

RIN 3150-AE14

Revisions to Procedures to Issue Orders

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to conform several sections in 10 CFR parts 2 and 15 to the changes in part 2 contained in the final rule "Revisions to Procedures to Issue Orders; Deliberate Misconduct by Unlicensed Persons," which was effective September 16, 1991 (56 FR 40678; August 15, 1991).

EFFECTIVE DATE: February 4, 1992.

FOR FURTHER INFORMATION CONTACT: Mary E. Wagner, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492-4976.

SUPPLEMENTARY INFORMATION: The final rule, "Revisions to Procedures to Issue Orders; Deliberate Misconduct by Unlicensed Persons", 56 FR 40664 (August 15, 1991), contained revisions to 10 CFR part 2 that, in part, removed the provisions on orders to show cause from the Commission's general ordering authority contained in § 2.202, and substituted "order" for "order to show cause" in § 2.201. It also revised § 2.202 to establish a mechanism to issue orders both to licensees (as the previous rules had done) and to any person subject to the jurisdiction of the Commission, when necessary to protect public health and safety or to minimize danger to life or property or to protect the common defense and security.

There are a small number of sections in the Commission's regulations where conforming changes consistent with the new rule were not accomplished. Specifically, §§ 2.702, 2.1201 and 15.29 continue to refer to an "order to show cause," although such an order is no longer specifically defined in new Subpart B of 10 CFR Part 2. These sections have been revised so that "order" is substituted for "order to show cause", and "order for modification of license" is replaced by "order" in § 2.1201. A reference to "demand for information" is added to § 15.29 to clarify that either an order or a demand for information may be issued before a suspension or revocation. Accordingly, §§ 2.702, 2.1201, and 15.29 are being revised to conform to the new rule that became effective on September 16, 1991.

Because this is an amendment dealing with agency practice and procedures, the notice and comment provisions of the Administrative Procedure Act do not apply pursuant to 5 U.S.C. 553(b)(A). The amendment is effective upon publication in the **Federal Register**. Good cause exists to dispense with the usual 30-day delay in the effective date because the amendment is of a minor and administrative nature consisting of conforming amendments to an existing procedural rule.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(2). Therefore neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget approval number 3150-0136.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule, and therefore, that a backfit analysis is not required for this rule, because this amendment does not involve any provisions that would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects

10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalty, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

10 CFR Part 15

Administrative practice and procedure, Debt collection.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR parts 2 and 15.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS AND ISSUANCE OF ORDERS

1. The authority citation for part 2 continues to read as follows:

Authority: Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87-615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552.

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 114(f), Pub. L. 97-425, 96 Stat. 2213, as amended (42 U.S.C. 10134(f); sec. 102, Pub. L. 91-190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97-415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200-2.206 also issued under secs. 186, 234, 68 Stat. 955, 83 Stat. 444, as amended (42 U.S.C. 2236, 2282); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Sections 2.600-2.606 also issued under sec. 102, Pub. L. 91-190, 83 Stat. 853, as amended (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770, 2.780 also issued under 5 U.S.C. 557. Section 2.764 and Table 1A of Appendix C also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553 and sec. 29, Pub. L. 85-256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97-425, 96 Stat 2230 (42 U.S.C. 10154). Subpart L also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Appendix A also issued under sec. 6, Pub. L. 91-560, 84 Stat. 1473 (42 U.S.C. 2135).

Appendix B also issued under sec. 10, Pub. L. 99–240, 99 Stat. 1842 (42 U.S.C. 2021b et seq.).

2. Section 2.702 is revised to read as follows:

§ 2.702 Docket.

The Secretary shall maintain a docket for each proceeding subject to this part, commencing with the issuance of the initial notice of hearing, notice of consideration of issuance of facility operating license or other proposed action specified in § 2.105, or order. The Secretary shall maintain all files and records, including the transcripts of testimony and exhibits and all papers, correspondence, decisions and orders filed or issued.

3. Section 2.1201, of subpart L, is revised to read as follows:

§ 2.1201 Scope of subpart.

(a) The general rules of this subpart govern procedure in any adjudication initiated by a request for a hearing in a proceeding for—

(1) The grant, transfer, renewal, or licensee-initiated amendment of a materials license subject to parts 30, 32 through 35, 39, 40, or 70 of this chapter; or

(2) The grant, renewal, or licensee-initiated amendment of an operator or senior operator license subject to part 55 of this chapter.

(b) Any adjudication regarding, (1) a materials license subject to parts 30, 32 through 35, 39, 40, or 70, or an operator or senior operator license subject to part 55 that is initiated by a notice of hearing issued under § 2.104, or (2) a notice of proposed action under § 2.105, or a request for hearing under subpart B of 10 CFR part 2 on an order or a civil penalty, is to be conducted in accordance with the procedures set forth in subpart G of 10 CFR part 2.

PART 15—DEBT COLLECTION PROCEDURES

4. The authority citation for part 15 continues to read as follows:

Authority: Secs. 161, 186, 68 Stat. 948, 955, as amended (42 U.S.C. 2201, 2236); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 3, Pub. L. 89–508, 80 Stat. 308, as amended (31 U.S.C. 3711, 3717, 3718); sec. 1, Pub. L. 97–258, 96 Stat. 972 (31 U.S.C. 3713); sec. 5, Pub. L. 89–508, 80 Stat. 308, as amended (31 U.S.C. 3716); Pub. L. 97–365, 96 Stat. 1749 (31 U.S.C. 3719); Federal Claims Collection Standards, 4 CFR 101–105.

5. Section 15.29 is revised to read as follows:

§ 15.29 Suspension or revocation of license.

The NRC may suspend or revoke any license or approval which the NRC has granted to the debtor for any inexcusable, prolonged, or repeated failure of the debtor to pay a delinquent debt. Before suspending or revoking any license or approval for failure to pay a debt, the NRC shall issue to the debtor (by either registered or certified mail) an order or a demand for information as to why the license or other privilege should not be suspended or revoked. The NRC shall allow the debtor no more than 30 days to pay the debt in full, including applicable interest, penalties, and administrative costs of collection of the delinquent debt. The NRC may suspend or revoke the license or approval at the end of this period. If a license is revoked under authority of this part, a new application, with appropriate fees, must be made to the NRC. The NRC may not consider an application unless all previous delinquent debts of the debtor to the NRC have been paid in full.

Dated at Rockville, Maryland, this 17th day of January 1992.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 92–2648 Filed 2–3–92; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91–NM–130–AD; Amendment 39–8169; AD 92–03–12]

Airworthiness Directives; Boeing Model 707/720 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 707/720 series airplanes, which currently requires inspection and repair, if necessary, of cracks in the wing rear spar upper chord. This action requires replacement of "interim repairs", which used the stop drill procedure, with a "final repair" after a finite number of flight cycles. This amendment is prompted by concerns that the stop drill procedure does not provide adequate assurance that the crack will not continue to propagate. This condition, if not corrected, could lead to failure of the wing rear spar.

DATES: Effective March 10, 1992.

The incorporation by reference of certain publications listed in the regulations was previously approved by the Director of the Federal Register as of June 19, 1991 (56 FR 25356, June 4, 1991).

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Rodriguez, Seattle Aircraft Certification Office, Airframe Branch, ANM–120S; telephone (206) 227–2779. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD 91–11–06, Amendment 39–7002, (56 FR 25356, June 4, 1991), which is applicable to certain Boeing Model 707/720 series airplanes, was published in the **Federal Register** on August 30, 1991, (56 FR 42962). That action proposed to require inspection of the wing rear spar upper chord to detect cracks, and repair, if necessary.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supports the proposal.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 343 Boeing Model 707/720 series airplanes of the affected design in the worldwide fleet. It is estimated that 70 airplanes of U.S. registry will be affected by this AD, that it will take approximately 160 work hours per airplane to accomplish the required actions, and that the average labor cost will be $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $616,000.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–7002 and by adding the following new airworthiness directive:

92–03–12. Boeing: Amendment 39–8169. Docket 91–NM–138–AD. Supersedes AD 91–11–06, Amendment 39–7002.

Applicability: Model 707/720 series airplanes; as listed in Boeing Service Bulletin 3240, Revision 3, dated October 18, 1985; certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To ensure continued structural integrity of the wing rear spar upper chord, accomplish the following:

(a) Perform a close visual inspection for cracks and corrosion of the wing rear spar upper chord from wing station (WS) 109.45 to WS 360 for Model 707–300 series airplanes; or from WS 180.71 to WS 360 for Model 720, 707–100, and 707–200 series airplanes; at rib and stiffener locations. Inspect in accordance with Boeing Service Bulletin 3240, Revision 3, dated October 18, 1985, prior to the later of the times specified in subparagraphs (a)(1) and (a)(2) of this AD, unless previously accomplished within the last 900 flight cycles or 335 days. Repeat the inspection at intervals not to exceed 1,000 flight cycles or one year, whichever occurs first.

(1) Within the next 30 days or 100 flight cycles after June 19, 1991 (the effective date of Amendment 39–7002, AD 91–11–06); or

(2) Prior to the accumulation of 10,000 flight cycles.

(b) If cracks or corrosion areas are found, prior to further flight, accomplish either subparagraph (b)(1) or (b)(2) of this AD:

(1) Repair, other than by stop drill procedure, in accordance with Part III, Figure 2, of Boeing Service Bulletin 3240, Revision 3, dated October 18, 1985 (this is considered the "final repair"), or

(2) Repair in accordance with the stop drill procedures specified in Part III, Figure 2, of Service Bulletin 3240, Revision 3, dated October 18, 1985. This repair method may only be used provided that the limitations specified in Part III, Figure 2, Items 5a and 5b, of the service bulletin are met.

(i) Immediately after stop drilling, conduct an eddy current inspection of the stop drill hole in accordance with the instructions in Section 5–5–1 of D6–7170, Nondestructive Test Document, to ensure that the crack does not extend beyond the stop drill. Thereafter, inspect visually for crack growth beyond the stop drill at intervals not exceeding 300 flight cycles.

(ii) If crack growth beyond the stop drill occurs, prior to further flight, accomplish the final repair in accordance with paragraph (b)(l) of this AD.

(iii) Within 1,000 flight cycles or one year, whichever occurs first, after the stop drill has been accomplished, accomplish the final repair in accordance with paragraph (b)(l) of this AD.

(c) If previously stop drilled cracks are found as a result of the inspection required by paragraph (a) of this AD, conduct an eddy current inspection of the stop drill hole for crack growth beyond the stop drill, in accordance with the instructions in Section 5–5–1 of Boeing Document D6–7170, Nondestructive Test Document.

(1) If growth beyond the stop drill has occurred, prior to further flight, repair in accordance with paragraph (b)(l) of this AD.

(2) If growth beyond the stop drill has not occurred, and the limitations specified in Part III, Figure 2, Items 5a and 5b, of Boeing Service Bulletin 3240, Revision 3, dated October 18, 1985, are met, prior to further flight accomplish either subparagraph (c)(1)(i) or (c)(l)(ii) of this AD:

(i) Repair in accordance with paragraph (b)(1) of this AD; or

(ii) Reinspect visually for crack growth beyond the stop drill at intervals not exceeding 300 flight cycles.

(A) If crack growth beyond the stop drill occurs, prior to further flight, accomplish the final repair in accordance with paragraph (b)(1) of this AD.

(B) Within 1,000 flight cycles or one year, whichever occurs first after the initial inspection revealed the stop drill crack, accomplish the final repair in accordance with paragraph (b)(1) of this AD.

(d) After each of the inspections and repairs required by this AD have been performed, apply BMS 3–23 corrosion inhibitor, or equivalent, to the affected areas.

(e) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

(f) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

(g) The inspections and repairs shall be done in accordance with Boeing Service Bulletin 3240, Revision 3, dated October 18, 1985. This incorporation by reference was previously approved by the Director of the Federal Register as of June 19, 1991 (56 FR 25358, June 4, 1991) in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. Copies may be inspected at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

(h) This amendment (39–8169), AD 92–03–12, becomes effective March 10, 1992.

Issued in Renton, Washington, on January 17, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–2627 Filed 2–3–92; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

United States Travel and Tourism Administration

15 CFR Part 1201

[Docket No. 920102–2002]

RIN 0644–AA01

United States Travel and Tourism Administration Facilitation Fee

AGENCY: United States Travel and Tourism Administration, Commerce.

ACTION: Final rule.

SUMMARY: This notice advises that the Under Secretary for Travel and Tourism has determined that charging or collecting the United States Travel and Tourism Administration Facilitation Fee (the fee), established under section 306 of the International Travel Act of 1961, as added by section 10301 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. No. 101–508) (the Act), from commercial airlines is inconsistent with the Chicago Convention, a treaty entered into by the United States. Based on this determination, and consistent with the requirements of Public Law 101–508, the Under Secretary is suspending action to charge or collect the fee from commercial airlines. In

addition, the Under Secretary will not charge or collect the fee from passenger cruise ship lines. This decision applies to all fees not collected for the first quarter of calendar year 1991, and all subsequent quarters. In addition, the Under Secretary will refund amounts collected for the first quarter of calendar year 1991.

Accordingly, the Under Secretary is withdrawing the Notice of Proposed Rulemaking published March 15, 1991 (56 FR 11116) and is removing 15 CFR part 1201 (56 FR 176, Jan. 3, 1991).

DATES: This rule is effective: February 4, 1992.

FOR FURTHER INFORMATION CONTACT: Lee J. Wells, Director, Office of Strategic Planning and Administration, United States Travel and Tourism Administration ((202) 377–3811).

SUPPLEMENTARY INFORMATION:

Background

Section 306 of the International Travel Act of 1961, as added by section 10301 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. No. 101–508), directs the Secretary of Commerce to charge and collect a United States Travel and Tourism Administration (USTTA) Facilitation Fee from commercial airlines and passenger cruise ship lines transporting foreign passengers to the United States, "to the extent (such action is) not inconsistent with treaties or international agreements entered into by the United States." A final rule imposing the fee was published in the Federal Register on January 3, 1991 (56 FR 176). Responsibility for charging and collecting the fee was delegated within the Department of Commerce to the Under Secretary for Travel and Tourism.

For calendar year 1991, the fee was assessed in the amount of one dollar per foreign passenger transported by a commercial air line or passenger cruise ship line into the United States for purposes of business or pleasure. Carriers were billed for the first quarter of 1991.

On March 15, 1991 (56 FR 11116), USTTA published a notice of proposed rulemaking on the USTTA Facilitation Fee. The proposed rule set out procedures by which the Under Secretary for Travel and Tourism (Under Secretary) would charge and collect the fee. The proposed regulations also provided that the Under Secretary would not charge or collect any fee where such charge or collection would be inconsistent with treaties or international agreements entered into by the United States. In determining whether charging or collecting the fee would be inconsistent with treaties or international agreements entered into by the United States, the Under Secretary would consult with the Departments of State and Transportation, and other Federal agencies, as appropriate. The proposed regulations further set out procedures for affected airlines and passenger cruise ship lines to request exemption from the fee and to withhold payment of the fee based on a claim, and pending the Under Secretary's determination, that charging and collecting the fee from that particular airline or passenger cruise ship line would be inconsistent with treaties or international agreements entered into by the United States.

In response to these proposed procedures, individual commercial airlines and representatives of airlines submitted over one hundred twenty (120) requests to the Under Secretary for exemptions from charge or collection of the fee based on claims that such action would be inconsistent with treaties or international agreements entered into by the United States. In every case, claimants asserted that charging and collecting the fee would violate Article 15 of the Chicago Convention of the International Civil Aviation Organization (ICAO). Article 15 prohibits the imposition of fees or charges based solely on the right of entry into or exit from a signatory State.

The Under Secretary requested advice from the Departments of State and Transportation on the merits of claimants' arguments. Both agencies advised that charging and collecting the fee would be inconsistent with obligations of the United States under Article 15 of the Chicago Convention.

On October 4, 1991 the Under Secretary published a notice in the Federal Register (56 FR 50313) announcing, *inter alia*, that he would delay submitting bills for the second and subsequent quarters of 1991 until he had determined whether assessment and collection of the Facilitation Fee would be consistent with treaties or international agreements entered into by the United States.

Based on his review of the foregoing materials, including the advice from the Departments of State and Transportation, the Under Secretary has determined that charging and collecting the fee from commercial passenger airlines would be inconsistent with a treaty entered into by the United States because collection of the fee would violate Article 15 of the Chicago Convention. In addition, although the Chicago Convention does not apply to passenger cruise ship lines, the Under Secretary extends his determination to not charge or collect the fee to such carriers. The Act requires that, beginning in calendar year 1992, funds in the amount of USTTA's annual appropriation be completely recovered through fees apportioned among carriers on a pro-rata basis. Under the Act, each carrier is to pay its proportionate share of USTTA's annual appropriation based on the number of passengers it transports relative to the number transported by all other carriers from which the fee is charged and collected. Data available to the Under Secretary indicate that passenger cruise ship lines transport only 1 percent of foreign passengers arriving in the United States. To attempt to collect the fee from carriers transporting such a small percentage of the passengers upon which the fee was intended to be calculated would be manifestly unfair to those carriers and would not serve the legislative intent expressed in the statute that the fee be paid on a pro-rata basis by commercial airlines and passenger cruise ship lines transporting passengers into the United States.

Accordingly, the Under Secretary is withdrawing the Notice of Proposed Rulemaking published March 15, 1991 (56 FR 11116) and is removing 15 CFR part 1201 (56 FR 176, January 3, 1991).

Carriers identified as having paid the fee for first quarter 1991 will receive a refund in the amount paid, without interest.

Miscellaneous Rulemaking Requirements

Executive Order 12291

Under Executive Order 12291, the Department of Commerce must judge whether the rule promulgated here is "major" within the meaning of section 1 of the Order, and therefore subject to the requirement that a Regulatory Impact Analysis be prepared. The Under Secretary for Travel and Tourism has determined that the rule promulgated here is not major because it is not likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or,

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Therefore, preparation of a Regulatory Impact Analysis is not required and neither a preliminary nor final

Regulatory Impact Analysis has been or will be prepared.

Administrative Procedure Act

The Under Secretary of Commerce for Travel and Tourism, pursuant to subsections 553 (b)(A) and (d)(2) of the Administrative Procedure Act, finds that because charging and collecting the USTTA Facilitation Fee from commercial airlines and passenger cruise ship lines has been determined to be: (1) In the case of commercial airlines, contrary to a treaty entered into by the United States, and (2) in the case of passenger cruise ship lines, where the fee is not also collected from airlines, manifestly unfair and not serving legislative intent, the requirement to pay the fee should be removed as soon as possible. Thus, further delay in promulgating this rule is not in the public interest, and no notice and comment or delay in the effective date is required.

Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because the rule was not required to be promulgated as a proposed rule by section 553 of the Administrative Procedure Act or by any other law. Accordingly, neither an initial nor a final Regulatory Flexibility Analysis has been or will be prepared.

Paperwork Reduction Act

This rule does not contain any collection of information requirements subject to the requirements of the Paperwork Reduction Act (Pub. L. No. 96–511).

Executive Order 12612

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

List of Subjects in 15 CFR Part 1201

Administrative practice and procedure, Air carriers, Passenger vessels, Travel.

For the reasons set forth in the Preamble, title 15 of the Code of Federal Regulations is amended by removing part 1201.

PART 1201—[REMOVED]

1. Part 1201 consisting of § 1201.1 is hereby removed.

Dated: January 29, 1992.

John G. Keller, Jr.,

Under Secretary for Travel and Tourism.

[FR Doc. 92–2626 Filed 2–3–92; 8:45 am]

BILLING CODE 3510-11-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 888

[Docket No. N-92-3245; FR-3011-N-05]

Section 8 Housing Assistance Payments Program; Fair Market Rent Schedules for Use in the Rental Certificate Program, Loan Management and Property Disposition Programs, Moderate Rehabilitation Program and Rental Voucher Program

AGENCY: Office of the Secretary, HUD.

ACTION: Interim fair market rents for Monroe County, PA.

SUMMARY: This Notice announces interim fair market rents (FMRs) for Monroe County, PA, which was designated a separate fair market rent area by the HUD Appropriations Act for fiscal year 1992. The FMRs contained in the Notice apply to the Section 8 Rental Certificate program (part 882, subparts A and B), including space rentals by owners of manufactured homes under the Section 8 Rental Certificate program (part 882, subpart F); the Section 8 Moderate Rehabilitation program (part 882, subparts D and E); and Section 8 housing assisted under part 886, subparts A and C (Section 8 loan management and property disposition programs). FMRs are also used to determine payment standard schedules in the Rental Voucher program.

DATES: *Effective date:* The FMRs published in this notice are effective on February 4, 1992. *Comments due date:* March 5, 1992.

ADDRESSES: Interested persons are invited to submit comments to the Rules Docket Clerk, room 10276, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410. Comments should refer to the above docket number and title. A copy of each comment submitted will be available for public inspection and copying from 7:30 a.m. to 5:30 p.m. weekdays in the Office of the Rules Docket Clerk at the above address.

FOR FURTHER INFORMATION CONTACT: Cecelia D. Livingston, Rental Assistance Division, Office of Elderly and Assisted Housing, telephone (202) 708–0477. For technical information on the development of schedules for specific areas or the method used for the rent calculations, contact Michael R. Allard, Economic and Market Analysis Division, Office of Economic Affairs, telephone (202) 708–0577. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: Section 8 of the United States Housing Act of 1937 (the Act) (42 U.S.C. 1437f) authorizes a housing assistance program to aid lower income families in renting decent, safe, and sanitary housing. Assistance payments are limited by Fair Market Rents (FMRs) (or payment standards based on FMRs in the Housing Voucher Program) established by HUD for different areas. In general, the FMR for an area is the amount that would be needed to rent privately owned, decent, safe, and sanitary rental housing of a modest (non-luxury) nature with suitable amenities.

Section 8(c) of the Act requires the Secretary of HUD to publish FMRs periodically, but not less frequently than annually. The Department published a Notice of proposed 1992 FMRs on April 11, 1991 (56 FR 14732) and, after a period of public comment, final FMRs on September 26, 1991 (56 FR 49024).

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Pub. L. 102–139, approved October 28, 1991) amended section 8(c)(1) by adding the following new sentences:

> The Secretary shall also establish separate fair market rentals for Monroe County in the Commonwealth of Pennsylvania. In establishing fair market rentals for the remaining portion of the market area in which Monroe County is located, the Secretary shall establish the fair market rentals as if such portion included Monroe County.

Due to this statutory provision, the Department is publishing FMRs for Monroe County, PA for immediate effect. The public is invited to comment on the FMR levels announced in this Notice. Comments must include sufficient information (including local data and a full description of the methodology used) to justify any proposed changes, which may be proposed in all or any of the unit sizes. If the recommendations and supporting data justify any change in the FMR levels, the Department will publish a Notice of those changes.

In order to obtain an accurate, up-to-date FMR for Monroe County, the Department conducted a Random Digit Dialing (RDD) telephone survey of local rental housing. This survey was completed in January, 1992, and the results were then updated to the "as of date" of the fiscal year 1992 FMRs, April 1, 1991. The RDD survey method is a technique that HUD uses to obtain statistically reliable FMR estimates for selected areas. These surveys employ computers to select a random sample, dial and keep track of the telephone numbers, and tabulate responses.

Proposed fiscal year 1993 FMRs for Monroe County, to be effective October 1, 1992, will be included in the Notice of proposed FMRs for all areas in a publication scheduled for spring 1992. Following a period of public comment, the final FMRs for fiscal year 1993 will be published before October 1, 1992.

Other Matters

A Finding of No Significant Impact with respect to the environment as required by the National Environmental Policy Act (42 U.S.C. 4321–4374) is unnecessary, since the Section 8 Rental Certificate program is categorically excluded from the Department's National Environmental Policy Act procedures under 24 CFR 50.20(d).

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this notice does not have a significant economic impact on a substantial number of small entities, because FMRs do not change the rent from that which would be charged if the unit were not in the Section 8 program.

This document does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the document indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Catalog of Federal Domestic Assistance program number is 14.156, Lower-Income Housing Assistance Program (section 8).

Accordingly, the Fair Market Rent Schedules, which will not be codified in 24 CFR Part 888, for Monroe County, PA are as follows: For an efficiency unit, $386; for a one-bedroom unit, $468; for a two-bedroom unit, $551; for a three-bedroom unit, $689; for a four-bedroom unit, $771. The FMRs for manufactured home spaces are $113 for a single-wide space, and $113 for a double-wide space.

Dated: January 27, 1992.

Jack Kemp,

Secretary.

[FR Doc. 92–2690 Filed 2–3–92; 8:45 am]

BILLING CODE 4210-32-M

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 102

Procedural Rules

AGENCY: National Labor Relations Board.

ACTION: Final Rules.

SUMMARY: The National Labor Relations Board is incorporating in 29 CFR part 102 an appendix setting forth the official starting and closing times of its various offices. The intended effect of this addition to the rules is to provide formal notice to the public of these hours.

EFFECTIVE DATE: February 4, 1992.

FOR FURTHER INFORMATION CONTACT: John C. Truesdale, Executive Secretary, 1717 Pennsylvania Avenue, NW., room 701, Washington, DC 20570. Telephone: (202) 254–9430.

SUPPLEMENTARY INFORMATION: The National Labor Relations Board is adding an appendix A to part 102 of its rules setting forth the official starting and closing times of its various headquarters and field offices. This addition to the rules will provide formal notice of these hours to the public in order to facilitate contacts between the public and the Board. In particular, this will facilitate compliance with the Board's new rule 102.111, published at 56 FR 49141 and effective October 28, 1991, linking the time for filing documents to the "official closing time of the receiving office."

Paragraphs (a) and (b) of § 102.111, which presently link the time for filing documents to the "official closing time of the receiving office" are modified to include cross references to the new appendix A that sets forth those closing times. A new appendix A is then added at the end of part 102. This appendix lists the official business hours, in local time, the NLRB Headquarters office, the several offices of the Division of Judges, and the various regional, sub-regional, and resident offices maintained by the Board throughout the country.

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the NLRB certifies that this rule will not have a significant impact on a substantial number of small businesses.

List of Subjects in 29 CFR Part 102

Administrative practice and procedure, Labor management relations.

PART 102—[AMENDED]

Accordingly, 29 CFR part 102 is amended as follows:

1. The authority citation for 29 CFR part 102 continues to read as follows:

Authority: Sec. 6, National Labor Relations Act, as amended (29 U.S.C. 151, 156). Sec. 102.117(c) also issued under sec. 552(a)(4)(A) of the Freedom of Information Act, as amended (5 U.S.C. 552(a)(4)(A)). Sections 102.143 through 102.155 also issued under sec. 504(c)(1) of the Equal Access to Justice Act, as amended (5 U.S.C. 504(c)(1)).

2. Section 102.111 is revised to read as follows:

§ 102.111 Time computation.

(a) In computing any period of time prescribed or allowed by these rules, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the official closing time of the receiving office on the next Agency business day (see appendix A to this part 102 setting forth the official business hours of the Agency's several offices). When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and holidays shall be excluded in the computation.

(b) When the Act or any of these rules require the filing of a motion, brief, exception, or other paper in any proceeding, such document must be received by the Board or the officer or agent designated to receive such matter before the official closing time of the receiving office on the last day of the time limit, if any, for such filing or extension of time that may have been granted (see appendix A to the part 102 setting forth the official business hours of the Agency's several offices). A request for an extension of time to file a document shall be filed no later than the official closing time of the receiving office on the date on which the document is due. Requests for extensions of time filed within three days of the due date must be grounded upon circumstances not reasonably foreseeable in advance. In construing this section of the rules, the Board will accept as timely filed any document which is hand delivered to the Board on or before the official closing time of the receiving office on the due date or postmarked on the day before (or earlier than) the due date; documents which are postmarked on or after the due date are untimely. "Postmarking" shall include timely depositing the document with a delivery service that will provide a record showing that the document was tendered to the delivery service in sufficient time for delivery by the due

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date, but in no event later than the day before the due date. *Provided, however,* The following documents must be received on or before the official closing time of the receiving office on the last day for filing:

(1) Charges filed pursuant to section 10(b) of the Act (see also § 102.14).

(2) Applications for awards and fees and other expenses under the Equal Access to Justice Act.

(3) Petitions to revoke subpoenas.

(4) Requests for extensions of time to file any document for which such an extension may be granted.

3. An appendix A is added at the end of this part 102 to read as follows:

Appendix A.—NLRB Official Office Hours

NLRB Headquarters, Business Hours (Local Time):	
Washington, DC	8:30 a.m.–5 p.m.
Division of Judges, Business Hours (Local Time):	
Washington, DC	8:30 a.m.–5 p.m.
San Francisco	8:30 a.m.–5 p.m.
New York	8:30 a.m.–5 p.m.
Atlanta	8 a.m.–4:30 p.m.
Regional Office Business Hours (Local Time):	
1—Boston	8:30 a.m.–5 p.m.
2—New York	8:45 a.m.–5:15 p.m.
3—Buffalo	8:30 a.m.–5 p.m.
Albany	8:30 a.m.–5 p.m.
4—Philadelphia	8:30 a.m.–5 p.m.
5—Baltimore	8:15 a.m.–4:45 p.m.
Washington, DC	8:15 a.m.–4:45 p.m.
6—Pittsburgh	8:30 a.m.–5 p.m.
7—Detroit	8:15 a.m.–4:45 p.m.
Grand Rapids	8:15 a.m.–4:45 p.m.
8—Cleveland	8:15 a.m.–4:45 p.m.
9—Cincinnati	8:30 a.m.–5 p.m.
10—Atlanta	8 a.m.–4:30 p.m.
Birmingham	8 a.m.–4:30 p.m.
11—Winston-Salem	8 a.m.–4:30 p.m.
12—Tampa	8 a.m.–4:30 p.m.
Jacksonville	8 a.m.–4:30 p.m.
Miami	8 a.m.–4:30 p.m.
13—Chicago	8:30 a.m.–5 p.m.
14—St. Louis	8 a.m.–4:30 p.m.
15—New Orleans	8 a.m.–4:30 p.m.
16—Fort Worth	8:15 a.m.–4:45 p.m.
Houston	8 a.m.–4:30 p.m.
San Antonio	8 a.m.–4:30 p.m.
17—Kansas City	8:15 a.m.–4:45 p.m.
Tulsa	8:15 a.m.–4:45 p.m.
18—Minneapolis	8 a.m.–4:30 p.m.
Des Moines	8 a.m.–4:30 p.m.
19—Seattle	8:15 a.m.–4:45 p.m.
Anchorage	8:15 a.m.–4:45 p.m.
Portland	8 a.m.–4:30 p.m.
20—San Francisco	8:30 a.m.–5 p.m.
Honolulu	8 a.m.–4:30 p.m.
21—Los Angeles	8:30 a.m.–5 p.m.
San Diego	8:30 a.m.–5 p.m.
22—Newark	8:45 a.m.–5:15 p.m.
24—Puerto Rico	8:30 a.m.–5 p.m.
25—Indianapolis	8:30 a.m.–5 p.m.
26—Memphis	8 a.m.–4:30 p.m.
Little Rock	8 a.m.–4:30 p.m.
Nashville	8 a.m.–4:30 p.m.
27—Denver	8:30 a.m.–5 p.m.
28—Phoenix	8:15 a.m.–4:45 p.m.
Albuquerque	8:15 a.m.–4:45 p.m.
El Paso	8:15 a.m.–4:45 p.m.
Las Vegas	8:30 a.m.–5 p.m.
29—Brooklyn	9 a.m.–5:30 p.m.
30—Milwaukee	8 a.m.–4:30 p.m.
31—Los Angeles	8:30 a.m.–5 p.m.
32—Oakland	8:30 a.m.–5 p.m.
33—Peoria	8:30 a.m.–5 p.m.
34—Hartford	8:30 a.m.–5 p.m.

Dated, Washington, DC, January 29, 1992.

By direction of the Board.

John C. Truesdale,

Executive Secretary, National Labor Relations Board.

[FR Doc. 92–2582 Filed 2–3–92; 8:45 am]

BILLING CODE 7545–01–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1627

Effect of the Older Workers Benefit Protection Act on the Commission's Final Rule on Non-EEOC Supervised Waivers Under the Age Discrimination in Employment Act

AGENCY: Equal Employment Opportunity Commission.

ACTION: Removal of final rule on Age Discrimination in Employment Act (ADEA) waivers.

SUMMARY: Because the Older Workers Benefit Protection Act provided that the rule on non-EEOC supervised waivers under the ADEA issued by the Equal Employment Opportunity Commission no longer has any force or effect, the Commission is removing this rule from the Code of Federal Regulations (29 CFR 1627.16(c)).

EFFECTIVE DATE: February 4, 1992.

FOR FURTHER INFORMATION CONTACT: John K. Light, Office of Legal Counsel, Equal Employment Opportunity Commission, 1801 L Street, NW., Washington, DC 20507, (202) 663–4690.

SUPPLEMENTARY INFORMATION: Section 202(b) of the Older Workers Benefit Protection Act (OWBPA) (Public Law 101–433) provides:

> (b) Rule on Waivers.—Effective on the date of enactment of this Act, the rule on waivers issued by the Equal Employment Opportunity Commission and contained in § 1627.16(c) of title 29, Code of Federal Regulations, shall have no force and effect.

The OWBPA was signed into law on October 16, 1990 and section 202(b) of that Act became effective on that date. Therefore, § 1627.16(c) of title 29, Code of Federal Regulations, no longer has force and effect, and the provision will be deleted.

List of Subjects in 29 CFR Part 1627

Aged, Equal employment opportunity, Reporting and recordkeeping requirements.

Accordingly, the Commission amends 29 CFR part 1627 as follows:

PART 1627—[AMENDED]

1. The authority citation for part 1627 continues to read as follows:

Authority: Sec. 7, 81 Stat. 604; 29 U.S.C. 626; sec. 11, 52 Stat. 1066, 29 U S.C. 211; sec. 12, 29 U.S.C. 631, Pub. L. 99–592, 100 Stat. 3342; sec. 2, Reorg. Plan No. 1 of 1978, 43 FR 19087.

§ 1627.16 [Amended]

2. Section 1627.16 is amended by removing paragraph (c).

Signed this 22nd Day of January 1992 at Washington, DC.

For the Commission.

Evan J. Kemp, Jr.,

Chairman, Equal Employment Opportunity Commission.

[FR Doc. 92–2583 Filed 2–3–92; 8:45 am]

BILLING CODE 6570–06–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[SC-024-5151; FRL-4094-2]

Approval and Promulgation of Implementation Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On September 18, 1990, the State of South Carolina through the South Carolina Department of Health and Environmental Control submitted revisions to its State Implementation Plan (SIP). These revisions became state effective on August 24, 1990. The submittal included revisions to Regulation 62.1 (Definitions, Permit Requirements and Emission Inventory), Regulation 62.5; Standard No. 5 (Volatile Organic Compounds), Standard No. 5.1 (Lowest Achievable Emission Rate (LAER) Applicable to Volatile Organic Compounds) and Standard No. 7 (Prevention of Significant Deterioration). EPA is approving all of the revisions identified above except for Regulation

62.5, Standard No. 5.1 (LAER), Standard No. 7 (Prevention of Significant Deterioration) and Standard No. 5, Part F (Recordkeeping, Reporting, and Monitoring). Regulation 62.5, Standard No. 5.1 (LAER) will be acted upon in a separate notice. EPA is taking no action on the revision to Regulation 62.5, Standard No. 5, Part F (Recordkeeping, Reporting and Monitoring) because it contains deficiencies. Volatile organic compounds sources located in ozone nonattainment areas must keep daily records. This section does not include this provision, therefore, EPA cannot approve the revision as currently written.

Also, EPA will not act upon Regulation 62.5, Standard No. 7. According to the August 17, 1990, guidance memorandum from EPA Headquarters (Procedures and Guidance for the Incorporation of NO_2 PSD Increments Into State and Local PSD Programs), revisions should be evaluated for each state or local program incorporating the protection of NO_2 increments, to fulfill federal requirements, including program elements addressing the tracking of the increment consumption. The submitted provisions do not contain the required program elements.

EFFECTIVE DATE: This action will be effective on April 6, 1992, unless notice is received within 30 days that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to Scott Miller of EPA Region IV (address below). Copies of the material submitted by South Carolina may be examined during normal business hours at the following locations.

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365

South Carolina Department of Health and Environmental Control, Bureau of Air Quality Control, 2600 Bull Street, Columbia, South Carolina 29201

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460

FOR FURTHER INFORMATION CONTACT: Scott Miller of the Region IV Air Programs Branch of the address given above, telephone (404) 347–2864 or FTS 257–2864.

SUPPLEMENTARY INFORMATION: On June 5, 1985, the South Carolina Department of Health and Environmental Control submitted to EPA for approval revisions to the volatile organic compound (VOC) provisions of the South Carolina Air Pollution Control Regulations and Standards. These revisions were adopted by the South Carolina Board of Health and Environmental Control on December 20, 1984, and were forwarded to the State Legislature for approval. The revisions became state effective on May 24, 1985.

On May 3, 1988, EPA released data on the ozone attainment status of areas throughout the nation. On May 26, 1988, EPA notified the Honorable Carroll A. Campbell that the South Carolina SIP needed revising to achieve the ozone National Ambient Air Quality Standard (NAAQS), pursuant to Section 110(a)(2)(H) of the Clean Air Act, 42 U.S.C. 7410(a)(2)(H).

This SIP call, in part, required South Carolina to prepare an updated emission inventory and correct regulatory deficiencies and deviations between EPA's federal requirements and the State's SIP or pending SIP submittal. The correction of deviations is necessary for the State to continue progress in achieving attainment for ozone.

By letters of December 1, 1988, December 11, 1989, and March 18, 1990, EPA identified and requested that South Carolina correct the deficiencies in the 1985 revision. Since the revisions submitted on June 5, 1985, had not been approved and they contained the deficiencies identified in the above referenced letters, EPA published a direct final notice disapproving the June 5, 1985, revisions without prior proposal (54 FR 15181, April 17, 1989). In this notice, EPA advised the public that the effective date of the action was deferred for 60 days (until June 16, 1989) so that comments, if any, could be submitted. EPA announced that the final action would be withdrawn, if adverse or critical comments were received, and a new rulemaking would be proposed with a 30-day comment period. On September 4, 1982 (46 FR 44477), EPA published a general notice explaining this special procedure.

Adverse comments were received on the April 17, 1989, notice (54 FR 15181). Accordingly, EPA withdrew the direct final notice (54 FR 25582, June 16, 1989) and simultaneously proposed disapproval of the South Carolina regulation (54 FR 25592, June 16, 1989). Final rulemaking was on October 27, 1989 (54 FR 43817). As a result of the identified deficiencies, the State's rulemaking process was reinitiated, culminating in a public hearing on June 26, 1990. All of EPA's comments are incorporated in the regulations which South Carolina resubmitted on September 18, 1990. The affected revisions are summarized as follows:

Regulation No. 62.1 Section I (Definitions) was amended to eliminate the 1.0 mm Hg pressure cutoff for VOC's. The revised definition is consistent with federal requirements.

Regulation No. 62.1 Section II (Permit Requirements) was amended to clarify that all federal regulations take precedence over the State unless there is a more restrictive requirement.

Regulation No. 62.5, Standard No. 5 Section I, General Provision, Part A (Definitions) amended the definition of "Coil, Magnet Wire and Fabric Coating" to include all types of coating applied to fabric (including protective, decorative, and functional coatings).

The definition of "Functional Coating" was added which now reads "a coating that serves a purpose beyond decorative or protection of the substrate being coated." Also, the definition of "Paper coating" was revised to include functional coating. The definition of "Saturation Process" was added and the definition of "Vinyl Coating" was revised to include organisol and plastisol coatings which cannot be used to bubble emissions from vinyl printing and top coating.

Regulation No. 62.5, Standard No. 5 Section I, Part C—(Alternatives and exceptions to Control Requirements) was revised to require that all alternatives and exceptions be submitted to EPA for approval as a revision to the SIP.

Regulation 62.5, Standard No. 5 Section I, Part E—(Volatile Organic Compound Compliance Testing) was revised to state that "The Department or EPA will verify test results submitted by companies with independent tests. EPA or State conducted tests will take precedence."

Regulation 62.5, Standard No. 5, Section II—Provisions for Specific Sources, Parts A, B, C, D, E, F and G regulate the surface coating of paper, vinyl, fabrics, metal furniture and large appliances, magnet wire, miscellaneous metal parts and products and flat wood paneling, respectively. These parts were also revised to include compliance and averaging times. Compliance will not be demonstrated by a 24-hour weighted average of emissions for two or more coatings having the same emission limit for the same type of operation on the same line. Averaging times longer than 24 hours are not allowed. Part C, also includes saturation processes.

South Carolina's Regulations 62.1 and 62.5, Sections I and II are being approved; however, EPA expects the State to correct the following deficiencies pursuant to the SIP call letters for ozone form Mr. Greer C.

Tidwell, EPA Regional Administrator, to Governor Carroll A. Campbell on May 26, 1988, and clarified in a letter from Mr. Winston A. Smith, Air, Pesticides & Toxics Management Division Director, to Mr. Otto E. Pearson, former Director of the South Carolina Department of Health and Environmental Control:

Regulation 62.5, Standard No. 5, Section I, Part F—(Recordkeeping, Reporting, and Monitoring) lacked a requirement for daily recordkeeping. VOC sources located in ozone nonattainment areas must keep daily records. The recordkeeping requirements do not include the following requirements be met no a daily basis:

a. A requirement to maintain records of VOC content, coating usage, and lbs of VOC emitted;

b. A requirement to list diluents and clean-up solvents separately;

c. A requirement to document the test method used by the coatings;

d. A requirement to document the method used by the manufacturer to calculate the volume percent solids of the coatings.

Capture systems are required by the South Carolina VOC regulation. However, no method for determining capture efficiency is specified.

These two deficiencies must be corrected before EPA can fully approve the State's ozone SIP. The SIP call letters cited above originally required that final rules to correct these deficiencies be submitted to EPA by September 30, 1989. If the State fails to correct these deficiencies by 9 months from this notice date, unless a different date is required consistent with the Clean Air Act Amendments, EPA may disapprove the State's ozone SIP and may propose to promulgate federal rules which would correct these deficiencies.

Final Action

EPA has reviewed the changes to the South Carolina regulations and is today approving the revisions to Regulation 62.5, Standard No. 5 (VOC's), and Regulation 62.1 (Definitions, Permit Requirements and Emission Inventory). EPA is not acting on Regulations 62.5, Standard No. 5.1 (LAER), Regulation 62.5, Part F (Recordkeeping, Reporting and Monitoring), and Regulation 62.5, Standard No. 7. (Prevention of Significant Deterioration). Action will be taken on these regulations in a separate notice.

The Agency has reviewed this request for revision of the federally-approved State Implementation Plan (SIP) for conformance with the provisions of the 1990 Amendments enacted on November 15, 1990. The Agency has determined that this action conforms with those requirements irrespective of the fact that the submittal preceded the date of enactment.

This action is taken without prior proposal because the issues are straightforward and no adverse comment is anticipated. The public should be advised that this action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under section 307 (b)(1) of the Act, petitions for judicial review of this action must be filed in the United States court of Appeals for the appropriate circuit by April 6, 1992. Filing a petition for reconstruction by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See 307 (b)(2))

Under 5 U.S.C. § 605(b), I certify that this SIP action will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 6, 1989, (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for two years.

EPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

In addition, although this submittal preceded the date of enactment of the Clean Air Act Amendments of 1990, it serves to fulfill part of the "RACT fix-up" requirement of section 182(a)(2)(A) of the amended Act for the Cherokee county nonattainment area. Areas designated nonattainment before enactment of the Amendments and which retained that designation and were classified as marginal or above as of enactment are required by May 15, 1991, to correct RACT as it was required under pre-amended section 172(b) as that requirement was interpreted in pre-amendment guidance.[1] The SIP call letters interpreted that guidance and indicated corrections necessary for specific nonattainment areas. The Cherokee nonattainment area is classified as marginal and is, therefore, subject to the RACT fix-up requirement. South Carolina's revised regulations, submitted in response to the SIP call letter, also respond to the RACT fix-up requirement.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical economic and environmental factors and in relation to relevant statutory and regulatory requirements.

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 9, 1991.

Patrick M. Tobin,

Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

Subpart PP—South Carolina

2. Section 52.2120 is amended by adding paragraph (c)(34) to read as follows:

§ 52.2120 Identification of plan.

* * * * *

(c) * * *

(34) Changes in South Carolina's SIP submitted to EPA on September 18, 1990, by the South Carolina Department of Health and Environmental Control.

(i) Incorporation by reference.

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[1] Among other things, the pre-amendment guidance consists of the Post-87 policy, 52 FR 45044 (Nov. 24, 1987); the Bluebook, "Issues Relating to VOC Regulation Cutpoints, Deficiencies and Deviations, Clarification to appendix D of November 24, 1987 **Federal Register** Notice" (of which notice of availability was published in the **Federal Register** on May 25, 1988); and the existing CTG's.

(A) The following revision to South Carolina's State Implementation Plan (SIP) which became effective on August 24, 1990:

(*1*) Regulation 61–62.1:
  (*i*) Section II,A,1. Applicability
  (*ii*) Standard No. 5.1:
  Section I,A.
  Section III,A,1.
  Section III,D.
  Section III,L.
  Section IV,B.
(*2*) Regulation 61–62.5:
  (*i*) Standard No. 7:
  Section I,C,(4)
  Section I,Part M
  Section I,Part N
  Section I,Part O
  Section I, BB
  Section II A.
  Section II D,(1),(e)
  Section II D,(3),(a)
  Section IV,D,(1)
  Section IV H,(4)
(*3*) Regulation 61–62.1
  (*i*) Section I,74.
(*4*) Regulation 61–62.5, Standard No. 5
  (*i*) Section I,A: 9,22,27–78
  (*ii*) Section I,C,1,b,(vi)
  (*iii*) Section I,E,4
  (*iv*) Section I,E,12
  (*v*) Part F. Recordkeeping, Reporting, Monitoring
  (*vi*) Part G. Equivalency Calculations
  (*vii*) Section II—Provisions for Specific Sources
  Part A. Surface Coating of Cans
  Part B,2. Control Technology
  Part C
  Part D
  Part E Surface Coating of Magnet Wire
  Part F,2. and 3.
  Part G,3. Control Technology
  (ii) Other material.
  (A) None.

3. Section 52.2126 is added to read as follows:

§ 52.2126 VOC rule deficiency correction.

Sections I and II of South Carolina's Regulations 62.1 and 62.5 is approved. The State submitted these regulations to EPA for approval on September 18, 1990. Sections I and II of Regulation 62.5 were intended to correct deficiencies cited in a letter calling for the State to revise its SIP for ozone from Mr. Greer C. Tidwell, the EPA Regional Administrator, to Governor Carroll A. Campbell on May 26, 1988, and clarified in a letter from Mr. Winston A. Smith, EPA Region IV, Air, Pesticides and Toxics Management Division, to Mr. Otto E. Pearson, former Director of the South Carolina Department of Health and Environmental Control:

(a) Regulation 62.5, Standard No. 5, Section I, Part F—Recordkeeping, Reporting, and Monitoring lacked a requirement for daily recordkeeping. VOC sources located in ozone nonattainment areas must keep daily records. Capture systems are required by the South Carolina VOC regulation. However, no method for determining capture efficiency is specified.

(b) The above deficiencies must be corrected according to the letters mentioned above, the proposed post-1987 ozone policy (52 FR 45044), and other EPA guidance relating to the deficiencies before the SIP for ozone can be fully approved.

[FR Doc. 92–2662 Filed 2–3–92; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 272

[FRL–4096–7]

Hazardous Waste Management Program Codification of Approved State Hazardous Waste Program for Ohio

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: Under the Resource Conservation and Recovery Act of 1976, as amended (RCRA), the United States Environmental Protection Agency (EPA) may grant Final Authorization to States to operate their hazardous waste management programs in lieu of the Federal program. EPA uses part 272 of title 40 of the Code of Federal Regulations (40 CFR part 272) to codify its authorization of State programs and to incorporate by reference those provisions of State statutes and regulations that EPA will enforce under RCRA section 3008. Thus, EPA intends to codify the Ohio authorized State program in 40 CFR part 272. The purpose of today's **Federal Register** is to codify EPA's approval of recent revisions to Ohio's program.

DATES: Codification of Ohio's revised authorization hazardous waste program shall be effective April 6, 1992, unless EPA publishes a prior **Federal Register** action withdrawing this immediate final rule. All comments on Ohio's codification must be received by the close of business March 5, 1992. The incorporation of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 6, 1992.

ADDRESSES: Written comments should be sent to Ms. Virginia Kroncke, Ohio Regulatory Specialist, Office of RCRA, U.S. EPA Region V, 230 South Dearborn Street, 5HR–JCK–13, Chicago, Illinois 60604, Phone: (312) 353–4716 [FTS: 353–4716]. Copies of the Ohio regulations that are incorporated by reference in this paragraph are available from Banks-Baldwin Law Publishing Company, P.O. Box 1974, University Center, Cleveland, Ohio 44106–8697 Customer Service Department. Additionally, they may be inspected at the following address from 9 a.m. to 4 p.m.; U.S. EPA, Region V, 77 West Jackson Blvd., Chicago, Illinois 60604, contact: Ms. Virginia Kroncke, phone (312) 353–4716.

FOR FURTHER INFORMATION CONTACT: Virginia Kroncke, Ohio Regulatory Specialist, Office of RCRA, U.S. EPA Region V, 77 West Jackson Blvd, HRM–7J, Chicago, Illinois 60604, Phone: (312) 353–4716 [FTS: 353–4716].

SUPPLEMENTARY INFORMATION:

Background

On June 28, 1989, EPA published a notice in the **Federal Register** (FR) of its decisions to codify Ohio's then authorized hazardous waste program (see 54 FR 27173). Since then, EPA has granted authorization to Ohio for additional revisions to the State hazardous waste program (see 56 FR 14203, published on April 8, 1991 and 56 FR 28088, published on June 19, 1991). In this notice, EPA is codifying the currently authorized State hazardous waste program in Ohio.

EPA codifies its approval of State programs in 40 CFR part 272, and incorporates be reference therein the State statutes and regulations that EPA will enforce under section 3008 of RCRA. Although EPA has the authority to enforce authorized standards in Ohio's hazardous waste program without codification of those standards, this effort will provide clearer notice to the public of the scope of the authorized program in Ohio.

Revisions to Ohio's and other State hazardous waste programs are necessary when Federal statutory or regulatory authority is modified. The codification of Ohio's authorized program in subpart KK of part 272 is intended to enhance the public's ability to discern the current status of the authorized State program and clarify the extent of Federal enforcement authority. For a fuller explanation of EPA's codification of Ohio's authorized hazardous waste program, see 54 FR 27173 (June 28, 1989).

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this action will not have a significant economic impact on a substantial number of small entities. It intends to codify the decision already made to authorize Ohio's program and has no separate effect on handlers of hazardous waste in the State or upon small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

List of Subjects in 40 CFR Part 272

Administrative practice and procedure, Confidential business information, Hazardous waste transportation, Hazardous waste, Incorporation by reference, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkpeeing requirements, Water pollution control, Water supply.

Editorial Note: This document was received by the Office of the Federal Register on January 24, 1992.

Dated: March 29, 1991.

Valdas V. Adamkus,

Regional Administrator.

For the reasons set forth in the preamble, subpart KK of 40 CFR part 272 is amended as follows:

PART 272—APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

1. The authority citation for part 272 continues to read as follows.

Authority: Secs. 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

2. Section 272.1800 is amended by revising paragraphs (a) and (b) as follows:

§ 272.1800 State authorization.

(a) The State of Ohio is authorized to administer and enforce a hazardous waste management program in lieu of the Federal program under subtitle C of the Resource Conservation and Recovery Act of 1976 (RCRA), 42 U.S.C. 6291 *et seq.*, subject to the Hazardous and Solid Waste Amendments of 1984 (HSWA) (Pub. L. 98-616, November 8, 1984), 42 U.S.C. 6926 (c) and (g). The Federal program for which a State may receive authorization is defined in 40 CFR part 271. The State's program, as administered by the Ohio Environmental Protection Agency, was approved by EPA pursuant to 42 U.S.C. 6926(b) and part 271 of this chapter. EPA's approval of Ohio's base RCRA program was effective on June 30, 1989 (see 54 FR 27173). EPA's approval of revisions to Ohio's base program was effective on June 7, 1991 (see 56 FR 14203) and August 19, 1991 (see 56 FR 28088).

(b) Ohio is authorized to implement certain HSWA requirements in lieu of EPA. EPA has explicitly indicated its intent to allow much action in a **Federal Register** notice granting Ohio authorization on June 7, 1991 (see 56 FR 14203) and August 19, 1991 (see 56 FR 28088).

* * * * *

2. Section 272.1801 is amended by revising the introductory text, paragraphs (a)(1), (a)(2), (c)(1) and (d) to read as follows:

§ 272.1801 State-administered program: final authorization.

Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b): Ohio has final authorization for the following elements submitted to EPA in Ohio's program application for final authorization and approved by EPA effective on June 30, 1989 (see 54 FR 27173), June 7, 1991 (see 56 FR 14203) and August 19, 1991 (see 56 FR 28088).

(a) *State Statutes and Regulations.* (1) The following Ohio regulations are incorporated by reference and codified as part of the hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 et seq. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a). Ohio Administrative Code, volume 4, chapter 3745, rules: 49–031; 50–01; 50–03; 50–10; 50–11; 50–31 through 50–32; 50–40 through 50–44(C)(3)(j); 50–44(C)(4) through 50–44(C)(4)(k); 50–44(C)(5) through 50–44(C)(5)(i); 50–44(C)(6) through 50–44(C)(7)(j); 50–44(C)(8) through 51–03(C)(2)(b)(ii); 51–03 (D) and (E); 51–04 through 51–05; 51–06(A)(1) through 51–06(A)(3)(g); 51–06(B) through 52–20(F); 52–20 Appendix I through 52–34(F); 52–40 through 52–44; 52–50 through 53–10; 53–11(D) through 53–20(H); 53–21 through 54–99; 55–02 through 55–99; 56–20 through 56–31; 56–33 (A) and (B); 56–50 through 56–60; 56–70 through 56–83; 57–01 through 57–14(B); 57–14(E); 57–15 through 57–18; 57–40 through 58–40; 58–42; 58–43 through 58–44; 58–45(A) through 58–45(E); 58–45(G); 58–46; 58–50 through 58–54; 58–60 through 65–01(C); 65–01(E); 65–10 through 68–14(C); 68–14(F); 68–15 through 68–52; 68–70 through 68–83; 68–011(A) through 68–011(E); 69–01 through 69–30 (OAC June 30, 1990, as supplemented by 1990–1991 Ohio Monthly Record, pages 70–80 (July 1990)). Copies of the Ohio regulations that are incorporated by reference in this paragraph are available from Banks–Baldwin Law Publishing Company, P.O. Box 1974, University Center, Cleveland, Ohio 44106–8697. Customer Service Department.

(2) The following statutory provisions and regulations concerning State enforcement, although not codified herein for enforcement purposes, are part of the authorized State program:

(i) Ohio Revised Code, title 1, chapter 119, sections: 01 through 06.1, and 07 through 13; Ohio Revised Code, title 1, chapter 149, sections 011, 43, and 44 (Banks-Baldwin, 1990); Ohio Revised Code, title 37, chapter 3734, sections: 01 through 05, 07, 09 through 14.1, 16 through 17, 20 through 22, and 31 through 99 (Banks-Baldwin, 1990).

(ii) Ohio Administrative Code, volume 4, chapter 3745, rules: 49–031, 50–21 through 50–30, and 51–03(F) (OAC June 30, 1990, as supplemented by 1990–1991 Ohio Monthly Record, pages 70–80 (July, 1990)).

* * * * *

(c) *Statement of Legal Authority.* (1) "Attorney General's Statement for Final Authorization," signed by the Attorney General of Ohio on July 1, 1985, and supplements to that Statement dated June 13, 1990, and October 15, 1990, are codified as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 et seq.

(2) * * *

(d) *Program Description.* The Program Description and any other materials submitted as part of the original application or as supplements thereto dated November 8, 1990, and December 11, 1990, are codified as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 et seq.

* * * * *

[FR Doc. 92–2161 Filed 2–3–92; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 91-243; RM-7766]

Radio Broadcasting Services; Rusk, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of E. H. Whitehead, licensee of Station KWRW(FM), Channel 249A, Rusk, Texas, substitutes Channel 249C3 for Channel 249A at Rusk, Texas, and modifies KWRW(FM)'s license to specify operation on the higher powered channel. See 56 FR 42017, August 26, 1991. Channel 249C3 can be allotted to Rusk in compliance with the Commission's minimum distance separation requirements with a site restriction of 5.5 kilometers (3.4 miles) south to accommodate Whitehead's desired site. The coordinates for Channel 249C3 are North Latitude 31–44–57 and West Longitude 95–09–26. With this action, this proceeding is terminated.

EFFECTIVE DATE: March 16, 1992.

FOR FURTHER INFORMATION CONTACT: Pamela Blumenthal, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 91–243, adopted January 22, 1992, and released January 29, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452–1422, 1714 21st Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 249A and adding Channel 249C3 at Rusk.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92–2077 Filed 2–3–92; 8:45 am]

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VOL 57
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Proposed Rules

Federal Register
Vol. 57, No. 23
Tuesday, February 4, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 959

[Docket No. FV-91-440]

Onions Grown in South Texas; Proposed Amendment of Continuing Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed regulation would expand special purpose shipments under the handling regulation to include shipments for certain types of processing, establish safeguards and reporting requirements for subcontractors processing cull onions, and require cull onions shipped in bags to be unlabeled. Also, the introductory paragraph of the handling regulation would be changed to clarify the Sunday packing and loading prohibition. These actions would promote orderly marketing and clarify certain requirements in the handling regulation.

DATES: Comments must be received by March 5, 1992.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal to: Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456. Three copies of all written material shall be submitted, and they will be made available for public inspection at the Office of the Docket Clerk during regular business hours. All comments should reference the docket number and the date and page number of this issue of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Robert F. Matthews, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, telephone (202) 690–0464.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Agreement No. 143 and Order No. 959 [7 CFR part 959] (order), regulating the handling of onions grown in South Texas. The marketing agreement and order are authorized by the Agricultural Marketing Agreement Act of 1937, as amended, [7 U.S.C. 601–674], hereinafter referred to as the Act.

This rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a non-major rule.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposal on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 34 handlers of South Texas onions subject to regulation under the marketing order, and approximately 47 producers in the production area. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.601] as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000.

The South Texas Onion Committee (committee) held its organizational meeting on October 15, 1991, and recommended several changes to the continuing handling regulation. Under the current provisions, onions for canning and freezing are special purpose shipments and are exempt from the handling regulation. The committee recommended adding a definition of processing to the handling regulation. The term "processing" would include traditional canning and freezing, but would also include cooking or freezing the onions in such a way, or with other food components, that the consistency of the product is altered. Onions for processing would be considered as special purpose shipments. This would permit the use of cull onions for such processed products as relishes, sauces, and other cold pack products requiring refrigeration which often do not meet the traditional meaning of the term canning, but are processed products nevertheless. By using the broader term for processing, a greater number of alternative outlets could be served. This would enhance economic returns to handlers and producers by providing an alternative market for cull onions that would otherwise be discarded. Under this definition, onions used as components for sauces, relishes, and similar items would be exempt from the handling regulation. Onions served at salad bars and individual salads provided by many fast food outlets still would be deemed fresh use and, therefore, subject to the grade and size requirements of the handling regulation. Other provisions would be changed for consistency.

The committee also recommended that the status of subcontractors working for onion processors be clarified and their area of responsibility be defined. In recent years, many processors have found that certain processing operations, notably the initial peeling of onions, can be accomplished more economically by subcontractors operating away from the physical plant of the processor. The committee recommended that the use of subcontractors be allowed with the stipulation that the processor or prime contractor be responsible for ensuring that the subcontractor comply with all reporting requirements and that the subcontractor report to the committee in the same manner and frequency as the processor is required to do. Refusal by a processor or subcontractor to comply could result in the committee's refusing to allow handlers to ship to such processors.

The committee recommended that cull onions shipped in bags have the bags reversed, in the case of burlap bags, or otherwise be unlabeled. Some shippers have found that when cull onions are transported to exempt outlets, the containers used are normally the cheapest ones available, often used bags of other shippers. Because of this, cull onions may be confused for U.S. No. 1 onions on loading docks. In order to prevent this from happening, the committee recommended that bags used for culls be unlabeled, or that labeled burlap bags be turned inside-out so that the label cannot be seen.

The committee recommended revising the introductory paragraph of the handling regulation to remove any possible misconception regarding the Sunday prohibition of packing and loading. The intent of the committee continues to be that, except as otherwise provided, packing shed operations should be limited to not more than six days per week. This procedure gives receiving markets a chance to dispose of South Texas onion shipments in an orderly manner, especially important during the height of the shipping season when movement is heavy.

References to twenty and twenty-five pound containers in paragraph (f)(3)(i) should be deleted, since the pertinent parts were previously moved to a different paragraph and thus are redundant in this paragraph. Also, paragraph (i) "Applicability to imports" would be deleted, since the information given therein is provided in the Onion Import Regulation, § 980.117, or the summary thereto, and is therefore redundant and unnecessary in this regulation.

In accordance with the Paperwork Reduction Act of 1980 [44 U.S.C. Chapter 35], the additional burden resulting from this proposal will be submitted to the Office of Management and Budget for approval prior to information collection activities. A new form would not be required; the form currently used for canners and freezers also would be used for subcontractors.

Therefore, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 7 CFR Part 959

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that 7 CFR Part 959 be amended as follows:

PART 959—ONIONS GROWN IN SOUTH TEXAS

1. The authority citation for 7 CFR part 959 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 959.322 *Handling regulation* is amended by: revising the introductory text; revising paragraphs (f)(1) and (f)(3)(i); revising the introductory text of paragraph (g); revising paragraph (g)(4); adding new paragraph (g)(5); revising paragraph (h); and removing paragraph (i), as follows:

§ 959.322 Handling regulation.

During the period beginning March 1 and ending May 20, no handler shall handle any onions, except red varieties, unless they comply with paragraphs (a) through (d) or (e) or (f) of this section. In addition, no handler may package or load onions on Sunday.

* * * * *

(f) *Special purpose shipments.* (1) The minimum grade, size, quality, container, and inspection requirements set forth in paragraphs (a) through (d) of this section shall not be applicable for shipments of onions for charity, relief and processing if handled in accordance with paragraph (g) of this section.

* * * * *

(3) *Experimental shipments.* (i) Upon approval of the committee, onions may be shipped in bulk bins with inside dimensions of 47 inches × 37½ inches × 36 inches deep and having a volume of 63,450 cubic inches, or containers deemed similar by the committee. Each container shall have a new perforated polyethylene liner at least 2 mils in thickness. Such experimental shipments shall be exempt from paragraph (c) of this section but shall be handled in accordance with the safeguard provisions of § 959.54 and paragraph (g) of this section. The committee shall be notified of carton size and furnished a container manifest, and shippers must furnish the committee with outturn reports of such shipments.

* * * * *

(g) *Safeguards.* Each handler making shipments of onions for relief, charity, processing, or experimental purposes shall:

* * * * *

(4) In addition to provisions in paragraphs (g)(1) through (g)(3) of this section, each handler making shipments for processing shall:

(i) Weigh or cause to be weighed each shipment prior to, or upon arrival at, the processor.

(ii) Attach a copy of the weigh ticket to a completed copy of the Report of Special Purpose Onion Shipment and return both promptly to the committee office.

(iii) Make each shipment directly to the processor or the processor's subcontractor and attach a copy of the Report of Special Purpose Onion Shipment.

(iv) Each processor or processor's subcontractor who receives cull onions shall weigh the onions upon receipt, complete the Report of Special Purpose Shipment which accompanies each load and mail it immediately to the committee office.

(v) Each processor who receives cull onions shall make available at its business office at any reasonable time during business hours, copies of all applicable purchase orders, sales contracts, or disposition documents for examination by the Department or by the committee, together with any other information which the committee or the Department may deem necessary to enable it to determine the disposition of the onions.

(vi) If a processor employs a subcontractor for any stage of processing, such processor shall be responsible for ensuring that the subcontractor accounts for all quantities of onions received and processed or otherwise disposed of, and that the subcontractor reports to the committee in the same manner and frequency as the processor.

(5) Cull onions transported in bags shall be transported in unlabeled bags, or shall have labelled bags reversed so that the label is not visible.

(h) *Definitions.* "U.S. onion standards" means the United States Standards for Grades of Bermuda-Granex-Grano Type Onions (7 CFR 51.3195–51.3209), or the United States Standards for Grades of Onions (Other Than Bermuda-Granex-Grano and Creole Types) (7 CFR 51.2830–51.2854), whichever is applicable to the particular variety, or variations thereof specified in this section. The term "U.S. No. 1" shall have the same meaning as set forth in these standards. "Processing" means cooking or freezing the onions in such a way, or with such other food components, that the consistency of the product is changed. Canning and freezing shall be considered forms of processing. All other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 143, as amended, and this part.

Dated: January 29, 1992.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92–2670 Filed 2–3–92; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

10 CFR Chapter I

Elimination of Requirements Marginal to Safety

AGENCY: Nuclear Regulatory Commission.

ACTION: Solicitation of public comments.

SUMMARY: The Nuclear Regulatory Commission (NRC) seeks public comment on the results, conclusions, and planned actions of its program to eliminate requirements marginal to safety. Two issues involving license conditions or commitments have been identified for elimination. The NRC has also concluded that decreasing the prescriptiveness of some of its current regulations may improve their effectiveness by providing flexibility to licensees without reducing safety. The NRC is seeking comments on this conclusion and the benefits of modifying some of its present regulations consistent with this conclusion. The NRC will consider a performance-oriented, non-prescriptive, approach in future regulatory initiatives. The NRC encourages the submittal of a petition for rulemaking whenever there is a brief that NRC regulatory requirements impose a significant economic burden without commensurate safety significance.

DATES: Comment period expires on May 4, 1992, for comments on the results, conclusions, and planned actions for this program.

ADDRESSES: Submit written comments to: Chief, Regulatory Publications Branch, Division of Freedom of Information and Publications Service, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of the SECY paper, staff requirements memorandum, and NUREG and contractor reports may be examined at: the NRC Public Document Room, 2120 L Street, NW. (Lower Level) Washington, DC.

FOR FURTHER INFORMATION CONTACT: Moni Dey, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 492–3730.

SUPPLEMENTARY INFORMATION:

NRC Initiatives for the Elimination of Requirements Marginal to Safety

In 1984, the NRC's Annual Planning and Program Guidance (PPG) document stated that "Existing regulatory requirements that have marginal importance to safety should be eliminated. In accordance with the PPG document, the staff initiated a program to make regulatory requirements more efficient by eliminating those with marginal impact on safety.

At the start of the 1984 program, the NRC solicited comments from industry on specific regulatory requirements and associated regulatory positions that needed reevaluation. In response to NRC's request, a survey was conducted by the Atomic Industrial Forum providing most of industry's input. The industry survey results, which were published for the NRC in NUREG/CR–4330 [1] "Review of Light Water Reactor Regulatory Requirements," Vol. 1, April 1986, included a list of 45 candidates for potential regulation modification. A Program Advisory Group, composed of members from the major NRC offices was formed to review these candidates. The group selected 7 areas from the 45 candidates for analysis based on the potential benefit for licensees and the number of plants that would be affected: (1) Containment leak rate testing, (2) BWR main steam isolation valve (MSIV) leakage control systems, (3) fuel design safety review, (4) postaccident sampling systems, (5) turbine missiles, (6) combustible gas control systems, and (7) charcoal filters. The results of the analyses of the selected candidates have been published for the NRC in NUREG/CR–4330, "Review of Light Water Reactor Regulatory Requirements," Vols. 2 and 3, dated June 1986 and May 1987. The effects of selected eliminations or modifications to the regulations were evaluated in terms of such factors as public risk and costs to industry and NRC. The results indicated that potential modifications of the regulatory requirements in all the areas except charcoal filters would have little impact on risk. Impregnated charcoal filters in building ventilation systems did appear to limit risks to the public and plant staff. The cost analyses indicated that substantial savings in operating costs may be realized in the areas of containment leakage rates, MSIV leakage control systems, combustible gas control in inerted BWR containments, inspections for turbine missile protection, and postaccident sampling systems (for future plants only). While streamlining fuel design safety reviews would have marginal impact on safety, there appeared to be no significant cost savings in modifying them based on subsequent discussions with a number of utilities and industry groups, including fuel vendors.

The NRC has or proposes to take action in the areas of containment leakage rates, MSIV leakage control systems, and combustible gas control in inerted BWR containments (see Conclusions). The NRC is not proposing any action for the revision of requirements related to turbine missile protection and postaccident sampling systems at this time, since the effort now is focused on benefits for operating reactors, and the elimination of these requirements would not result in significant savings for operating reactors. Turbine missile protection reviews have already been completed, and the costs of installing postaccident sampling systems have already been expended by licensees of operating reactors.

The survey that was initially conducted provided industry's input to develop a list of potential candidates for modification or elimination. In order to complement this earlier work and ensure a complete search, a survey was conducted to collect suggestions based on the accumulated knowledge of NRC staff members, many of whom have spent years developing and applying plant regulations. A structured interview process utilizing each section of the Standard Review Plan (SRP) was developed. The SRP provided a systematic and comprehensive compilation of regulatory positions that served as the structure on which to organize the interview. Interviewees were selected so as to ensure reasonably comprehensive and insightful coverage of all areas of reactor regulation. They were to draw upon their expertise in their particular area, their experience in regulation, their knowledge of regulatory requirements, and any other information at their disposal. The survey identified 54 candidates [2], a number of which were previously identified in the earlier survey.

A method [3] was developed to evaluate the potential candidates identified in the surveys to select those that have a marginal impact on safety and yet would reduce the regulatory burden on industry. An assessment of the short- and long-term NRC and licensee benefit and burden was conducted together with an evaluation of the safety importance of the potential regulatory candidates. This assessment was based on a qualitative analysis and engineering judgment. Eight candidate items were identified[3] as having the highest potential for saving resources while not significantly affecting safety margins: (1) Replace 10 CFR 50.44 (hydrogen rule) with a performance-based rule accompanied by a regulatory guide, (2) clarify 10 CFR 50.59, "Changes, Tests and Experiments," (3) replace fire protection requirements in appendix R with a performance-based rule accompanied by a regulatory guide, (4) eliminate the requirement for the MSIV Leakage Control System, (5) update Regulatory Guide 1.76, "Design Basis Tornado," with current technology, (6) clarify "Important to Safety" in the regulations, (7) replace containment testing requirements in appendix J with a performance-based rule accompanied by a regulatory guide, and (8) transfer ECCS evaluation models in appendix K to a regulatory guide.

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[1] Copies of NUREG series reports may be purchased through the U.S. Government Printing Office by calling (202) 512–2249 or by writing to the U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013–7082. Copies may also be purchased from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161. A copy is available for inspection or copying for a fee in the NRC Public Document Room, 2120 L Street, NW., (Lower Level), Washington, DC.

[2] "Effectiveness of LWR Regulations in Limiting Risk," Prepared for the NRC by Battelle Columbus Labs., May 1989.

[3] "Elimination of Requirements Marginal to Safety," Prepared for the NRC by Scientech, Inc., Task 1: Methodology Development, Dec. 1990; Task 2: Application of Methodology, March 1991.

The NRC has made specific conclusions on the results related to the hydrogen rule, and fire protection and containment testing requirements (See section C under Conclusions). 10 CFR part 50.46 was amended in 1988 to allow a best-estimate and non-prescriptive (compared to ECCS evaluation models contained in appendix K) calculational approach for demonstrating that the performance criteria in § 50.46 would not be exceeded. The NRC has in the past already initiated actions for clarifying 10 CFR 50.59 and eliminating the requirement for MSIV Leakage Control Systems (see Conclusion B). Since the current effort is focused on modifications of 10 CFR part 50, the NRC does not plan any efforts now for revising Regulatory Guide 1.76, "Design Basis Tornado." The NRC has for the past several years expended resources for clarifying "Important to Safety" in the regulations and a considerable amount of dialogue has occurred between the NRC, and the industry and public. The NRC has concluded that additional efforts at this time are not necessary given the history of past efforts. Independent of the studies noted above for eliminating regulatory requirements that have marginal importance to safety, the NRC had been taking action to eliminate or relax regulations (e.g., 10 CFR part 50, appendix A, "Requirements for Protection Against Dynamic Effects of Postulated Pipe Ruptures") that had marginal importance to safety. In other instances licensees have been exempted from some regulations (e.g., hydrogen recombiners in Mark I and Mark II inerted containments). As noted previously the NRC staff has also been working with industry to clarify some regulations, e.g., 10 CFR 50.59, "Changes, Tests and Experiments." These efforts have resulted in the Guidelines for 10 CFR 50.59 safety evaluations (NSAC-125). At the time the above noted studies were completed in March 1991, it was difficult to identify a regulation that warranted complete elimination because it was so burdensome on operating reactors and so marginal to safety.

Conclusions

The NRC has reviewed each of these items and has reached the following conclusions:

A. No additional 10 CFR part 50 regulations were identified that are so burdensome on operating reactors and so marginal to safety to warrant the expenditure of additional NRC resources to eliminate at this time. Some regulations have been identified that could potentially be rectified (See Conclusion C).

B. The following two candidates involving license conditions or commitments in many licenses may be eliminated or relaxed based on cost-benefit considerations.

(1) Main steam isolation valve leak control system per Reg. Guide 1.96, "Design of Main Steam Isolation Valve Leakage Control Systems for Boiling Water Reactor Plants." The NRC staff has already initiated a review to eliminate the MSIV leak control systems in BWRs. The completion of this review is pending submittal of a topical report from the BWRs Owners Group to confirm the fission product hold-up and trapping capability of the main condenser system. If justified, the NRC anticipates it will eliminate this requirement shortly after the submission of the topical report.

(2) The allowable containment leakage rate utilized in containment testing per appendix J of 10 CFR part 50 may be increased. The NRC has initiated a program to update the source term and to decouple siting from design. As part of this effort, amendments will be made to 10 CFR parts 50 and 100. The basis for the requirements for the allowable containment leakage rate is related to the source term and the radiation dose guidelines contained in 10 CFR Part 100. Therefore, as part of this action, the NRC plans to explore the merits of establishing criteria on containment performance (including a leakage rate) as a replacement for the part 100 dose calculation currently employed. This rulemaking is expected to be completed by the end of Fiscal Year 1993.

C. Decreasing the prescriptiveness of some regulations may improve their effectiveness by providing flexibility to licensees without reducing safety.

The surveys and interviews of the industry and NRC staff conducted as part of this program yielded a general indication that some of NRC's regulations need not be as prescriptive as they presently are. By decreasing the prescriptiveness of some regulations and providing more flexibility to the licensees for proposing cost-effective safety features, the regulatory process may be made more effective. Specifically, the following three regulations could be made less prescriptive: (1) 10 CFR 50.44, "Standards for Combustible Gas Control Systems in Light-Water-Cooled Power Reactors"; (2) appendix J of 10 CFR 50, "Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors"; and (3) appendix R of 10 CFR 50, "Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979."

The detailed and prescriptive technical requirements contained in these regulations could be removed and replaced with performance-based requirements and supporting regulatory guides. The regulatory guides could specifically allow alternative approaches, although the current detailed technical requirements now in the regulations could be reflected to indicate their continued acceptability.

There is considerable uncertainty whether licensees would take advantage of the flexibility offered by non-prescriptive regulations, and develop for NRC approval alternative approaches to meet the performance objectives contained in the revised regulations. Licensees or industry groups are in a better position than the NRC to determine whether the reduction in burdens from such approaches would be sufficient that this effort would be cost beneficial overall. Therefore, prior to initiating a resource-intensive program to modify these regulations, the NRC is soliciting comments and assurances that the results of these efforts will be utilized and beneficial. The NRC will also evaluate the feasibility of defining performance-based requirements in proposing regulatory initiatives and new regulations.

Comments Requested

The NRC solicits comments from the public and regulated industry on the results, conclusions and planned actions for this program. Initially, the NRC had planned a public workshop on this program. However, due to resource limitations, this public announcement is being published in lieu of the public workshop. The NRC welcomes and will appreciate all comments on this subject. The following questions are posed to help guide commenters, however, comments need not be restricted only to answers to these questions:

1. Are there any other 10 CFR part 50 regulations that are marginal to safety and yet impose an economic burden on licensees? How would licensees benefit from the elimination of these regulations?

2. Are there any other license conditions or commitments in many licenses, other than the two identified in Conclusion B, that could be eliminated or relaxed? Are the actions identified to eliminate or relax the two candidates in Conclusion B appropriate?

3. Would decreasing the prescriptiveness of some regulations improve their effectiveness by providing flexibility to licensees without reducing safety? If so:

(i) What are these regulations? Are there any beyond the three identified in Conclusion C?

(ii) How would the regulations identified in (i) be made less prescriptive and performance-based? How would this benefit licensees and the regulatory process?

(iii) Would licensees take advantage of the flexibility offered by nonprescriptive regulations and develop for NRC approval alternative approaches to meet the performance objectives contained in the revised regulations?

(iv) Should the NRC pursue this approach at this time, or limit it to future regulatory initiatives?

The NRC is considering efforts to evaluate its regulations for consistency against the safety goals outlined in the NRC policy statement, "Safety Goals for the Operation of Nuclear Power Plants," 51 FR 28044, August 4, 1986. This evaluation could be conducted for regulations proposed in the future, and also a retroactive evaluation could be made for the present body of regulations. This is likely to be a resource intensive process, particularly for evaluating existing regulations, and therefore the NRC seeks public comment on the merits of embarking on such a process.

4. How should the safety goals be best used in evaluating regulations? Should such evaluations be restricted to future regulations or should the evaluation also include present regulations? What would be the advantage foreseen, if any, of another evaluation of existing NRC regulations given that the NRC is proposing to conclude these assessment efforts already described above?

The NRC requests that proposals for the elimination or revision of requirements be accompanied by an analysis demonstrating that the benefits gained by the licensees outweigh the regulatory burden of implementing the change.

These questions are suggested to guide commenter's responses at this time. The NRC recognizes that its regulatory requirements evolve and some in the past have become marginal to safety. The industry and public are encouraged to submit petitions for rulemaking, with supporting justification, at any time when there is a belief that NRC regulatory requirements impose a significant economic burden without a commensurate safety significance.

Dated at Rockville, Maryland, this 29th day of January 1992.

For the Nuclear Regulatory Commission.

Themis P. Speis,

Deputy Director for Research, Office of Nuclear Regulatory Research.

[FR Doc. 92-2653 Filed 2-3-92; 8:45 am]

BILLING CODE 7590-01-M

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10 CFR Part 100

Seismic and Geologic Siting Criteria for Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The Nuclear Regulatory Commission staff will meet with the staff of the Nuclear Management and Resources Council (NUMARC) and other industry representatives to discuss the revision of Appendix A, "Seismic and Geologic Siting Criteria for Nuclear Power Plants," to 10 CFR part 100.

DATES: February 4, 1992, 3 p.m.

ADDRESSES: 5650 Nicholson Lane, Rockville, Maryland.

FOR FURTHER INFORMATION CONTACT: Dr. Andrew J. Murphy, Chief, Structural and Seismic Engineering Branch, Office of Nuclear Regulatory Research, Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 492-3860.

SUPPLEMENTARY INFORMATION: Appendix A to 10 CFR part 100 describes the seismic and geologic siting and earthquake engineering criteria for nuclear power plants. Because of the advances in the state-of-the-art since the publication of the regulation (effective December 13, 1973), a need for the revision has been established. The Advisory Committee on Reactor Safeguards, Subcommittee on Extreme External Phenomena met with NRC staff on December 10, 1991, to discuss the proposed revision of appendix A. The discussion of the Subcommittee members with representatives of the nuclear industry was impaired by the fact that the related documents being examined were not publicly available. In order to make future meetings more effective with respect to the exchange of views and information, the Subcommittee requested that all of the documents that have been or will be made available for Committee review be made publicly available. Accordingly, a draft copy of the requested material has been placed in the NRC Public Document Room at 2120 L Street NW. (Lower Level), Washington, DC.

The purpose of the meeting is to discuss with NUMARC and other industry representatives the proposed revision of appendix A to 10 CFR part 100, No specific agenda is being proposed.

Dated at Rockville, Maryland, this 29th day of January, 1992, for the Nuclear Regulatory Commission.

Robert J. Bosnak,

Deputy Director, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 92-2849 Filed 2-3-92; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 90-AWA-20]

Proposed Establishment of the Kalamazoo/Battle Creek International Airport, Airport Radar Service Area, MI; Extension of Comment Period/Notice of Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed rule; extension of comment period and notice of meeting.

SUMMARY: This notice announces an extension of the comment period for a Notice of Proposed Rulemaking (NPRM) which proposes to establish an Airport Radar Service Area (ARSA) at the Kalamazoo/Battle Creek International

Airport, MI. This notice also provide public notice of an informal airspace meeting to discuss the proposal to establish the Kalamazoo/Battle Creek International Airport ARSA.

DATES: Comments must be received on or before March 23, 1992.

The informal airspace meeting will be held on Thursday, February 27, 1992, from 6 p.m. to 10 p.m.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of Chief Counsel, Attention: Rules Docket [AGC-10], Airspace Docket No. 90-AWA-20, 800 Independence Avenue, SW., Washington, DC 20591.

The informal airspace meeting location is as follows: Western Michigan University, Knauss Hall, room 3770, Kalamazoo, MI 49002, (Parking in the Miller Auditorium lot is encouraged).

FOR FURTHER INFORMATION CONTACT: Douglas Powers, Systems Management Branch (AGL-500), Air Traffic Division, Federal Aviation Administration, Great Lakes Region Headquarters, O'Hare Lake Office Center, 2300 East Devon Avenue, Des Plaines, IL 60018; telephone (312) 694-7000.

SUPPLEMENTARY INFORMATION:

Meeting Procedures

The FAA will hold an informal airspace meeting to discuss the proposal to establish an Airport Radar Service Area at the Kalamazoo/Battle Creek International Airport. These procedures will be followed:

(a) A designated representative of the Administrator will conduct the informal airspace meeting. Each participant will be given an opportunity to make a presentation.

(b) There will be no admission fee or other charge to attend and participate. The meeting will be open to all persons on a space-available basis. The FAA representative may accelerate the agenda and adjourn the meeting early if the progress of the meeting is more expeditious than planned.

(c) The meeting will not be formally recorded. A summary of the comments made during this meeting will be filed in the docket.

(d) Participates who want to distribute position papers or other handout materials concerning the substance of the meeting should present an original and plus two copies to the FAA representative. Participants should make sufficient copies to distribute to all participants.

(e) Statements made by the FAA representative during the meeting should not be taken as expressing a final FAA position.

(f) Those participants seeking to make a presentation will be asked to sign a list and estimate the amount of time they need to make their presentation. The FAA representative will allocate an appropriate amount of time to accommodate each speaker. The meeting will not adjourn, however, until each participant on the list has had an opportunity to address the panel.

Agenda

Presentation of Meeting Procedures
FAA Presentation of Proposal
Public Presentations and Discussion

Background

Airspace Docket No. 90-AWA-20, published in the **Federal Register** on October 23, 1991 (56 FR 55018) proposes to establish an Airport Radar Service Area at the Kalamazoo/Battle Creek International Airport. This action will extend the period for public comment on the proposal to March 23, 1992.

In addition, an informal airspace meeting will be held during the comment period to allow airspace users the opportunity to further comment on this proposal.

List of Subjects in 14 CFR Part 71

Aviation safety, Airport radar service areas.

Extension of Comment Period

The comment period for Airspace Docket No. 90-AWA-20 is hereby extended to March 23, 1992.

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

Issued in Washington, DC, on January 28, 1992.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 92-2632 Filed 2-3-92; 8:45 am]

BILLING CODE 4910-13-M

ENVIRONMENTAL PROTECTION AGENCY

Office of Air and Radiation

40 CFR Part 75

[FRL-4100-3]

Acid Rain Program: Announcement of Open Meeting on Electronic and Magnetic Data Reporting of Emissions Data for the CEM Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rules; open meeting.

SUMMARY: On December 3, 1991 the Environmental Protection Agency (EPA) proposed standards to implement title IV of the 1990 Clean Air Act, Acid Deposition Control (56 FR 63001-63351). In part, the standards propose requirements that each affected facility continuously measure and record concentrations of sulfur dioxide, nitrogen oxides, and carbon dioxide, as well as exhaust gas flow rate and other parameters necessary to calculate hourly pollutant emission rates.

The proposed CEM regulation would require that affected facilities provide EPA with an "electronic snapshot" of recorded hourly data on a quarterly basis (56 FR 63307). Affected facilities may submit the information magnetically, via an IBM PC-compatible floppy disk, or electronically, via transmission through phone lines. Because of the large amount of information expected to be reported and an affected community of over 2,500 utility units by 1995, the agency needs to develop uniform and consistent data handling procedures to ensure timely, accurate, and effective reporting.

To assist EPA in developing specifications for data reporting, the agency will hold a workshop to solicit ideas from (1) CEMS manufacturers, (2) vendors specializing in data acquisition and handling software, (3) utilities with in-house data processing staff, (4) EPA regional, state and local air pollution control agencies, and (5) any other interested parties.

Public comments on the substantive provisions of the Acid Rain "core" rules (e.g., frequency and content of quarterly reports) are beyond the scope of this meeting. Any such comments should be submitted, no later than February 12, 1992, to the appropriate EPA Air Dockets announced in the **Federal Register** notice of the "core" rules package on December 3, 1991.

DATES: Notice is hereby given that the Environmental Protection Agency will hold an open meeting on February 10, 1992, from 8:30 a.m. to 5 p.m., to discuss technical issues related to transmitting Acid Rain Program data via electronic and magnetic media.

ADDRESSES: The Acid Rain Data Reporting open meeting will be held at the National Endowment for the Arts, Conference Room M-07, Old Post Office Pavilion 1100 Pennsylvania NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Brian McLean, Director, Acid Rain Division(ANR-445), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 (617) 641-5377.

SUPPLEMENTARY INFORMATION: *Registration* Anyone wishing to participate in the meeting on electronic or magnetic data reporting for the Acid Rain Program must register not later than February 7, 1992, by calling Gayle Kline at (703) 671-0400. Limited seating will be available for persons who have not pre-registered, and seats will be provided for such additional participants on a first-come, first-served basis.

Dated: January 30, 1992.

Penelope Hansen,

Deputy Director, Acid Rain Division, Office of Atmospheric and Indoor Air Programs, Office of Air and Radiation.

[FR Doc. 92-2675 Filed 2-3-92; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 268

[FRL-3991-9]

RIN 2050-AD27

Timing of Surface Impoundment Retrofitting Under the Land Disposal Restrictions Rule

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is today proposing a rule under the Resource Conservation and Recovery Act (RCRA). This proposal clarifies the deadline by which surface impoundments receiving wastes that are newly identified or listed as hazardous must be brought into compliance with the minimum technological requirements (MTRs) established in RCRA section 3004(o)(1)(A). This action is being taken in response to conflicting compliance deadlines in the RCRA statute. Section 3005(j)(6) allows a four-year compliance period for meeting the surface impoundment MTRs after the promulgation of additional listings or characteristics of hazardous waste. Section 3004(g)(4), which deals with the land disposal restrictions, requires EPA to promulgate treatment standards for newly identified hazardous wastes within six months of the date of promulgation of the new listing or characteristic. The conflict arises if EPA issues a national capacity variance or case-by-case extension when treatment standards are promulgated, because section 3004(h)(4) states that throughout the duration of such an extension, wastes may be placed in a surface impoundment only if the impoundment is in compliance with the MTRs. Thus, for a surface impoundment managing a waste granted a national capacity variance or case-by-case extension when treatment standards are promulgated, it is unclear whether the unit must meet the MTRs at that time or four years after the waste was identified as hazardous. Today's proposed rule would allow surface impoundments up to four years from the date of promulgation of the new listing or characteristic to comply with the MTRs, as established in section 3005(j)(6). However, to the extent treatment capacity exists, it must be used, so that only in the event of a national capacity variance or case-by-case extension would non-MTR-compliant surface impoundment units be allowed to receive untreated wastes subject to the land disposal restrictions.

DATES: Comments on this proposed rule must be submitted on or before March 20, 1992.

ADDRESSES: Commenters must send an original and two copies of their comments to: RCRA Docket Information Center (OS-305), U.S. Environmental Protection Agency Headquarters, 401 M Street, SW., Washington, DC 20460. Comments should include the docket number F-92-TIRP-FFFFF. The public docket is located at EPA Headquarters (Room M2427) and is available for viewing from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. To review docket materials, the public must make an appointment by calling (202) 260-9327. The public may copy a maximum of 100 pages of material from any one regulatory docket at no cost; additional copies cost $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact the RCRA/Superfund Hotline at (800) 424-9346, or (703) 920-9810 in the Washington, DC, metropolitan area. For information on specific aspects of this notice, contact Linda Malcolm, Office of Solid Waste (OS-321W), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (703) 308-8440.

SUPPLEMENTARY INFORMATION:

Outline

I. Background
  A. Issue
  B. History
II. Proposed Agency Interpretation
III. Technical Analysis
  A. Introduction
  B. Information Sources
  C. Typical Time for Compliance with MTRs
IV. Relationship to Ground-Water Protection Principles
V. State Authority
  A. Applicability of Rules in Authorized States
  B. Effect on State Authorization
VI. Regulatory Requirements
  A. Regulatory Impact Analysis
  B. Regulatory Flexibility Analysis
  C. Paperwork Reduction Act

I. Background

A. Issue

EPA has identified a conflict in the Resource Conservation and Recovery Act (RCRA) concerning the deadline by which surface impoundments receiving wastes that are newly identified or listed as hazardous must come into compliance with the minimum technological requirements (MTRs) of section 3004(o)(1)(A). The MTRs require surface impoundments to have a double liner with a leak detection system, and a ground-water monitoring system. The conflict concerns the deadline by which surface impoundments must be in compliance with the double liner and leak detection system requirement.[1]

Three sections of RCRA contribute to this conflict. Section 3005(j)(6) allows a four-year compliance period for meeting the surface impoundment MTRs after the promulgation of additional listings or characteristics of hazardous waste. Section 3004(g)(4) requires EPA to determine whether newly identified or listed hazardous wastes shall be prohibited from one or more methods of land disposal (i.e., promulgate treatment standards) within six months of the date of the new listing or characteristic. Section 3004(h)(4), which also deals with land disposal restrictions, states that during a national capacity variance (which EPA issues if sufficient treatment capacity is unavailable nationwide) or case-by-case extension period (for individual facilities demonstrating that they have a binding contractual commitment to provide treatment capacity), wastes not meeting the treatment standards may be placed in a surface impoundment only if the impoundment is in compliance with the MTRs.[2] Thus, the conflict occurs for impoundments managing wastes granted a national capacity variance or case-by-case extension when treatment standards are promulgated, because it is unclear whether surface impoundments must be in compliance with the MTRs at that time or four years after the promulgation of the new listing or characteristic.

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[1] EPA has stated that land disposal facilities newly regulated under subtitle C of RCRA as a result of a newly identified or listed hazardous waste must install a ground-water monitoring system within one year of the effective date of the listing or characteristic rule (55 FR 39409, September 27, 1990). This deadline will not change as a result of today's proposed rule.

[2] RCRA sections 3004(h)(2) and 3004(h)(3) restrict the duration of national capacity variances and case-by-case extensions to a maximum of four years. If capacity becomes available sooner, it must be used.

B. History

This conflict was not apparent when Congress enacted the Hazardous and Solid Waste Amendments of 1984 (HSWA) or when EPA first implemented the land disposal restrictions, even though the earliest land disposal restrictions dates (24 months from the enactment of HSWA for solvents and dioxins and 36 months for the California list wastes) would appear to cut short the November 8, 1988 retrofit deadline (four years after HSWA enactment) for interim status surface impoundments if they received wastes for which EPA granted a capacity variance. The issue did not arise because EPA interpreted section 3004(h) differently at that time; rather than requiring an individual unit receiving restricted waste to meet the MTRs, EPA required only those units within the same facility that were otherwise subject to the MTRs to be in compliance. As a practical matter, that meant that only new, replacement, or expansion units had to meet the MTRs.

In the August 17, 1988 rule promulgating the land disposal restrictions for the First Third Scheduled Wastes (53 FR 31138), EPA changed its interpretation to require individual units to comply with the MTRs. That reinterpretation became effective four years after the enactment of HSWA and was upheld in *Mobil Oil Corp.* v. *EPA*, 871 F2d. 149 (D.C. Cir. 1989). There was no conflict at that time because the four-year retrofitting period ended at the same time that the revised interpretation took effect.

The conflict was mentioned in the Third Third proposal (54 FR 48499, November 22, 1989), which stated that if EPA issues a variance for newly identified or listed hazardous wastes, it would have to reconcile the differences in sections 3005(j)(6) and 3004(h)(4). Several commenters responded to this issue. Some stated that section 3005(j)(6) explicitly afforded four years to retrofit surface impoundments newly brought under subtitle C regulation. Another commented that the four years provided to retrofit surface impoundments managing regulated mineral processing wastes may not be adequate, and that the schedule should be determined site-specifically.

Others disagreed, however, that a conflict exists between sections 3004(h)(4) and 3005(j)(6). They argued that: (1) EPA's interpretation of section 3004(h)(4), rather than any inherent flaw in the statute, led to the apparent "conflict," and (2) the general language of section 3004(h)(4) cannot override the specific language of section 3005(j)(6), wherein the issue of newly identified or listed hazardous waste is addressed directly. EPA did not resolve this issue in the final Third Third land disposal restrictions rule, but rather left it for later resolution. EPA is taking this opportunity to resolve the perceived conflict.

II. Proposed Agency Interpretation

Because of the confusion surrounding the date by which certain surface impoundments must be retrofitted, EPA has decided to propose this rule setting forth EPA's view of when compliance is required. In EPA's view, this is a reasonable approach to harmonizing sections 3004(h)(4) and 3005(j)(6) of RCRA. The Agency was guided by the need to interpret the statute to give the maximum effect possible to all statutory provisions and to stay within the parameters established by the statute. The Administrator of EPA has the authority pursuant to section 2002(a)(1) of RCRA to "prescribe . . . such regulations as are necessary to carry out his functions under the Act."

EPA does see a conflict between sections 3005(j)(6) and 3004(h)(4) when a variance is granted. If there is no need to grant a variance (either national or case-by-case), then sufficient treatment capacity exists and there is no conflict. EPA believes that the four years provided in today's proposal is the statutory maximum and that the Agency lacks the discretion to grant additional time for compliance. Further, while EPA agrees that section 3005(j)(6) is more specific in dealing with newly listed waste, EPA does not think that in a context other than the conflict it overrides the requirement to treat to BDAT standards before land disposal. *American Petroleum Institute* v. *U.S. EPA*, 906 F.2d 729 (D.C. Cir. 1990).

EPA proposes to resolve the apparent conflict between sections 3004(h)(4) and 3005(j)(6)(A) by allowing interim status surface impoundments brought into the subtitle C regulatory system up to four years to meet the minimum technological requirements of section 3004(o). However, only in those instances when a national capacity variance of a case-by-case extension is in effect can unretrofitted surface impoundments be used for wastes subject to the LDRs. This reading is generally consistent with the statutory language, as explained below.

According to section 3004(h)(4), during the period for which a variance or extension from the usual effective date for the land disposal prohibition is in effect, "such hazardous waste may be disposed of in a landfill or surface impoundment only if such facility is in compliance with the requirements of subsection (o)." This is a general requirement for both landfills and surface impoundments for currently listed or characteristic wastes. Section 3005(j)(6)(A) says "In any case in which a surface impoundment becomes subject to paragraph (1) [requiring compliance with section 3004(o)(1)(A) as though it were a new impoundment] * * * due to the promulgation of additional listings or characteristics for the identification of hazardous waste under section 3001, the period of compliance in paragraph (1) shall be four years from the date of such promulgation * * *." EPA believes that it is possible to read these two sections together to give effect to most of Congress's intent.

First, both sections have the same goal—at some time after the promulgation of listings or characteristics, surface impoundments brought into the subtitle C system as a result of the new listing or characteristic will have to meet the MTRs. The challenge is to determine when that requirement becomes effective given the seemingly contradictory statutory language. Any attempt to resolve the conflict between these two sections must take into account that one came from the Senate and one from the House, which can lead to inadvertent inconsistencies in statutory language.

Second, section 3005(j)(6)(A) applies "in any case" to new surface impoundments that come into the subtitle C system because of new listings or characteristics. These impoundments newly in the system are given the same four years that existing impoundments required to retrofit by the passage of HSWA were given. Congress acknowledges that retrofitting is not a quick process, but rather one that requires time, thus tempering the need to protect the environment with an acknowledgement that there must be a reasonable period for changing operations.[3]

However, there is the competing command in section 3004(h)(4) that when there is a variance or case-by-case extension of the land disposal prohibitions, the wastes subject to the variance or extension can go only to a surface impoundment or landfill that meets the standards of section 3004(o)(1)(A). Section 3004(h)(4) applies on its face to all landfills and surface impoundments receiving these wastes (whereas section 3005(j)(6) applies to interim status surface impoundments) and to both wastes that were regulated when Congress enacted HSWA in 1984 and to newly listed or identified wastes.

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[3] Section 3005(j) is actually a series of deadlines connected with the retrofitting of surface impoundments. For those units that undoubtedly have to retrofit, the time period is four years, while those that may qualify for variances are subject to interim deadlines for application and action on the variance request, and then a period, if the variance is denied, to retrofit within the time remaining in the four-year period. There are also retrofit deadlines for units initially granted variances, but later found to be leaking. These units are given shorter periods (two or three years depending on the variance), but this is appropriate where there is an actual leak.

In light of the differences between the two sections, the Agency reads section 3005(j)(6)(A) as an exception to the general rule of section 3004(h)(4); that is, surface impoundments newly brought into the subtitle C system by a new listing or characteristic have four years to retrofit if they receive wastes subject to a national capacity variance or case-by-case extension. This reading accords with the traditional rule of statutory construction that the more specific provision is controlling: section 3005(j)(6)(A) is more specific as to new wastes and surface impoundments.

EPA emphasizes that this reading only applies when there is a national capacity variance or case-by-case extension. One reason such a variance or extension may be necessary is the lack of retrofitted surface impoundments in which to treat these wastes. Although Congress' goal is not to put untreated wastes into non-MTR-compliant surface impoundments, it recognizes that MTR compliance cannot be achieved immediately. Although the legislative history does not expressly articulate it, the structure of section 3005(j) shows that Congress thought that the goal of environmental protection (served by retrofitting) needed to be balanced against the goal of avoiding sudden disruptions and capacity losses in waste treatment and disposal that a six-month deadline could cause. Congress felt that four years struck an appropriate balance. EPA also believes that the four-year period set out in the statute is an appropriate compromise between the two competing policies. Therefore, it is reasonable to say that if there is not enough treatment capacity, a capacity variance or extension for newly listed or identified hazardous waste will be granted and an unretrofitted surface impoundment can be used for up to four years from the date of promulgation of the new listing or characteristic. If there is capacity, it must be used. If there is no capacity variance or extension, wastes may go either to an unretrofitted impoundment newly brought into subtitle C by a new listing or characteristic for four years (if the waste has already been treated to the land disposal restrictions level) or to an MTR-compliant unit pursuant to section 3005(j)(11).

III. Technical Analysis

A. Introduction

Owners or operators of surface impoundments managing newly listed or characteristic hazardous wastes have several options for complying with the minimum technological requirements. Facilities may retrofit the surface impoundments with liners and leak detection systems in compliance with the requirements of section 3004(o)(1)(A)(i). Alternatively, facilities may replace their treatment surface impoundments with wastewater treatment tanks regulated under the Clean Water Act or may opt to close the surface impoundments and send the waste off-site.

Finally, EPA encourages owners or operators of surface impoundments receiving newly regulated wastes, when developing a strategy for complying with the MTRs and other subtitle C requirements, to consider waste minimization as a possible means of reducing or eliminating hazardous waste generation. Cost-effective reduction of waste quantity and toxicity is EPA's preferred strategy for managing newly regulated hazardous wastes. EPA believes that source reduction can be a cost-effective option, as can be reuse or recycling. Treatment and disposal of hazardous waste should be relied on only for those wastes that cannot be cost-effectively reduced, reused, or recycled.

EPA believes that very few facilities managing newly regulated wastes in surface impoundments will choose to retrofit their impoundments. For example, the Chemical Manufacturers Association (CMA) conducted an informal survey of 582 chemical manufacturing facilities in the fall of 1989 to obtain information about the management of "non-hazardous wastes" in surface impoundments. Twenty-seven facilities reported that 85 surface impoundments would be newly regulated as a result of the Toxicity Characteristic rule (55 FR 11798, March 29, 1990); of these 85, only 9 would be retrofitted with liners and leak detection systems. Replacing surface impoundments with tank systems was the most frequently planned method of compliance for the respondents to this survey. Past experience also indicates that surface impoundment owners or operators are more likely to replace their surface impoundments with tank systems than to retrofit the impoundments. RCRA section 3005(j)(1) required surface impoundments that were in existence and that qualified for interim status on the date of enactment of HSWA to come into compliance with the MTRs by November 8, 1988. Most facilities with surface impoundments replaced their impoundments with tanks in response to this deadline. Less than five percent of these facilities actually retrofitted their surface impoundments.

To support today's rulemaking EPA undertook an analysis to determine how much time is needed for owners or operators of newly regulated surface impoundments to comply with the MTRs either by replacing the impoundments with wastewater treatment tanks exempt from RCRA subtitle C standards, or by retrofitting the surface impoundments with liners and leak detection systems according to the requirements of section 3004(o)(1)(A)(i). The results are summarized in this section.[4]

B. Information Sources

EPA gathered information from a variety of sources to determine how much time is needed to comply with the MTRs. EPA contacted several facilities that reported having subtitle C surface impoundments in the 1986 National Survey of Hazardous Waste Treatment Storage, Disposal, and Recycling Facilities (TSDR survey), prior to the November 1988 HSWA-mandated deadline for complying with the MTRs. EPA asked these facilities how long it took to retrofit their surface impoundments or replace the impoundments with treatment tanks. EPA also reviewed written case studies of facilities that replaced surface impoundments with tank systems, provided by representatives of the Chemical Manufacturers Association and the American Petroleum Institute. EPA also contacted facilities with surface impoundments receiving wastes newly regulated as hazardous as a result of the TC, and asked how they are planning to comply with the new regulations and how long they anticipate it will take. Through these sources, EPA obtained timing information on over 20 actual or planned projects involving conversion of surface impoundments to tanks, and on eight surface impoundment retrofitting projects. EPA also contacted manufacturers and suppliers of steel and concrete tanks, and spoke with engineers experienced in the construction and installation of tank systems.

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[4] It should be noted that the potential statutory conflict at issue in this rulemaking is most immediately relevant to wastes newly regulated as a result of the Toxicity Characteristic (TC) rule (55 FR 11798, March 29, 1990). According to the regulatory impact analysis for the TC, about 730,000,000 metric tons per year of wastewaters managed in surface impoundments at over 2,000 facilities are estimated to exhibit the TC (U.S. EPA, OSW. U.S. EPA Background Document. Toxicity Characteristic Regulatory Impact Analysis. Final Report. March 1990). This potential conflict will also arise with respect to all future newly identified or listed hazardous wastes; however, the TC rule is used as an example throughout this section.

EPA's data collection efforts were aimed at collecting anectodal information rather than conducting a rigorous statistical survey of facilities. The results are summarized below.

C. Typical Time for Compliance with MTRs

1. Replacing Surface Impoundments with Wastewater Treatment Tanks Regulated under the Clean Water Act

EPA believes that most owners or operators of surface impoundments affected by the TC will choose to replace their impoundments with wastewater treatment tanks which are exempt from RCRA standards. The wastewater treatment tank exemption from the RCRA standards is specified in 40 CFR 264.1(g)(6) and 40 CFR 265.1(c)(10) for permitted and interim status hazardous waste facilities, respectively. Although the treatment tanks are exempt from RCRA standards, they must meet the definition of tank specified in 40 CFR 260.10: "* * * a stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support." The tanks must also be part of a wastewater treatment facility subject to regulation under section 402 or 307(b) of the Clean Water Act (CWA). These sections of the CWA provide the authority for EPA or the States to regulate pollutants discharged from wastewater treatment facilities to publicly owned treatment works or to surface waters.

EPA believes that converting to a tank system can rarely be accomplished within a six-month timeframe and frequently takes two to four years, depending on the complexity of the system and the location of the facility. The steps necessary to accomplish the conversion can be classified into four general areas:

- Analysis and decision-making,
- System design and pilot testing,
- Construction/installation, and
- Permitting.

Some of these steps occur concurrently and others are performed sequentially. Delays in one area may cause delays in another. Each activity is discussed below.

Analysis and decision-making. An owner or operator of a surface impoundment required to comply with the MTRs will first conduct a study of available compliance options. This typically includes an examination of the technical and legal issues involved, a basic engineering analysis, feasibility studies, and a cost assessment; many facilities will also evaluate process changes and waste minimization options as part of this process. A final decision is then made based on the results of these studies. A facility owned by a large corporation may need to consult people outside of the plant. Corporate approval of the decision is required in many cases.

According to the facilities that provided information to EPA, the analysis and decision-making phase typically takes one to two months, but can take longer, depending on the types of options being considered and the corporation's decision-making procedures. Most facilities were able to complete this phase within a six-month period.

System design and pilot testing. Once the decision to build a wastewater treatment tank system is finalized, the system design and pilot testing phase begins. This phase involves several steps. Some facilities report the need for a pre-design phase that involves planning and pilot testing. The next phase—final engineering—includes process and mechanical design and typically involves a soil compaction investigation to determine the stability of site soils.

Before the final design is completed, the bidding process begins. Concurrent with the design and bidding phases, the facility attends to pre-construction requirements such as obtaining construction permits, preparing the site, and acquiring materials. This process would most likely be completed some time after the design is finalized.

Facilities stated that the overall system design and pilot testing phase takes from six months to two years to complete.

Construction/installation. The time needed to construct and/or install a wastewater treatment tank system depends on the size of the system. The process is relatively quick if the tank can be manufactured and shipped to the site in one piece. Tank manufacturers report that a 50,000-gallon tank (e.g., 12 feet in diameter and 60 feet high) is typically the largest size that can be manufactured and shipped in one piece, and that installation would take two to four months (including shop drawings, production/fabrication, painting and coating, and transportation and installation).

Tanks larger than 50,000 gallons are typically manufactured in pieces at the shop and erected on-site. The time needed to install field-erected tanks depends on several factors such as the size of the tank, weather conditions, the amount of site preparation required, the complexity of the tank system (e.g., the number of connections to and from the tank), and materials availability. Tank manufacturers indicated that a one-million gallon field-erected tank typically takes from five to six months to fabricate, ship, and install at the site. One manufacturer indicated that on a recent fast-tracked project, two one-million gallon pre-fabricated bolted tanks were installed in about four months. Larger tanks take more time to install. For example, one tank manufacturer indicated that it takes six to seven months to construct and install a 2.4-million gallon tank (100 feet in diameter, 40 feet in height). Another tank manufacturer estimated that it takes about 15 months to construct a 10-million gallon welded tank. EPA is aware of several TC-impacted facilities constructing tanks as large as 16 million gallons.

Several of the facilities that provided information to EPA indicated that the construction/installation phase can take as long as 18 months.

Once the tank is installed, a hydrostatic test is typically performed to check for leaks or other structural problems. Problems identified during this test could delay the start-up date.

Permitting. The permitting process typically begins in the very early phases of conversion and extends through the construction phase. A decision on a modification of a facility's National Pollutant Discharge Elimination System (NPDES) permit typically takes about two months. Because this step can be done concurrently with others, it is not likely to delay project completion. In certain States, some facilities may need other permits, such as an air discharge permit. In some States, the State permitting authority may issue a construction variance so that the facility can proceed with construction while the air permit is being negotiated. Several facilities reported that satisfying the requirements of local regulations added a few months to the conversion process. Under some circumstances, the dialogue between facilities and agencies is a time-consuming process, particularly when a variance is sought or an appeal is made.

Other Factors That Can Affect Timing. While the size of the tank system significantly affects the length of the construction phase, other factors appear to be very important in terms of overall timing:

- Many facilities are constrained by a lack of available real estate. Land shortages may make it necessary to first close the existing surface impoundment and then construct the new tank system in the same place, introducing delays of up to two years;
- Weather conditions such as wind and snowfall also affect timing. Drought can speed construction while excess rainfall can add several weeks to the schedule. In some parts of the country, there is a limited "window of construction" during which tanks can be built. For example, a Michigan facility reported that tanks cannot be installed between December and March;
- Case-by-case geological conditions can slow the construction process (e.g., unstable ground necessitates the construction of pilings);
- The need to comply with State and local regulations can lead to considerable delays in constructing wastewater treatment tanks; and
- The availability of materials used for constructing tanks can affect the time needed to convert to tank systems. Tank manufacturers indicated that this is not a problem, but several facilities stated that a shortage in steel has led to delays in tank construction. For example, a Louisiana facility reported that it took 18 months to acquire the steel necessary to build a tank.

Summary. EPA believes that replacing surface impoundments with wastewater treatment tanks can rarely be accomplished within a six-month period. None of the facilities that provided information to EPA indicated that they were able to replace their surface impoundments with wastewater treatment tanks within a six-month time frame. According to the tank manufacturers EPA contacted, even the relatively small tanks take five to six months to fabricate, ship, and install; this does not include time for decisionmaking or permitting. The duration of most of the actual or planned projects of which EPA is aware ranges from two to four years. EPA requests additional information on how long it takes to replace existing surface impoundments with wastewater treatment tank systems.

2. Retrofitting Surface Impoundments

EPA believes that retrofitting newly regulated surface impoundments to meet the MTRs will seldom be performed because facility owners or operators typically prefer to avoid the long-term liabilities associated with operating subtitle C surface impoundments. However, the Agency is aware that owners or operators of surface impoundments may choose to retrofit their impoundments for a variety of reasons. One consideration, for example, is whether the treatment process occurring in the impoundment can be achieved cost-effectively in a tank.

The amount of time needed to retrofit a surface impoundment is influenced strongly by the size of the impoundment. EPA's data indicate that it frequently takes two to three years to retrofit a surface impoundment, although some facilities have been able to retrofit small impoundments in one year or less. Owners or operators who choose to retrofit their surface impoundments generally follow the four steps identified in the previous section, as discussed below.

Analysis and decision-making. This phase takes one to two months to complete and involves the same feasibility and cost studies as the tank option. Again, in some cases, corporate approval of the initial decision (and later, of the final design) is needed, and this can delay the process. One facility reported that the corporate approval process took over six months to complete.

System design. Once the decision to retrofit is made and approved, the design phase begins. The duration of the design phase increases with the size and complexity of the system. Facilities with one or two small surface impoundments may need less than one month to plan and design in order to retrofit. Facilities with several relatively large surface impoundments typically retrofit in phases, a process requiring difficult planning and sequencing. For complicated or very large systems, the design cycle can take one year.

Concurrent with the design phase, facilities generally begin the bidding process. It takes an average of two months to complete contract negotiations.

Installation and testing. Before construction begins, the facility owner or operator must prepare the site and obtain the necessary materials. The procurement of liner materials can take up to six months. The length of time needed for site preparation and liner installation depends on the size of the area. Site preparation, which includes removing liquids and dredging solids from the surface impoundment, can take several months. Several more months are typically needed to install the liner systems. One facility indicated that it took four months to complete the installation phase of retrofitting a 100 ft x 200 ft surface impoundment, while another facility reported retrofitting 29 acres of surface impoundments in 14 months.

Permitting. When a waste is newly identified as hazardous, facilities managing that waste gain interim status by submitting a section 3010 notification and a Part A permit application, and facilities that already have interim status must submit a revised Part A permit application. These facilities then submit a retrofit plan that, when approved, will be incorporated into the Part B permit application. The retrofit plan must be approved by the Region or State, a process taking four months to one year. Facilities may begin retrofitting before the plan is approved, although they run a very small risk that the permit will be denied.

For facilities that are already permitted, 40 CFR 270.42(g) provides a special procedure for modifying permits for newly identified hazardous wastes. This provision requires the permittee to submit a Class 1 permit modification request on or before the effective date of the rule identifying the waste as hazardous. Retrofitting a surface impoundment constitutes a Class 2 or 3 modification, requiring the permittee to also submit a complete permit modification request within 180 days of the effective date. The EPA Region or State then makes a decision on the permit modification request, which takes from several months to a year. Some facilities wait until the permit modification is approved before they begin the actual retrofit. However, facilities may begin retrofitting before the permit modification is approved under temporary authority granted under 40 CFR 270.42(e)(3)(ii)(E).

The permitting process may not delay the project significantly, especially if it is begun early and in conjunction with other phases of the retrofit. However, the length of time the permitting process takes varies, depending on specific requirements of Federal, State, and local agencies.

Other Factors That Can Affect Timing

- Weather affects timing; unexpected rainfall can extend the schedule by at least several months;
- The existence of excess surface impoundment capacity can facilities the retrofitting process. One facility was able to operate out of an emergency overflow basin while retrofitting its other surface impoundment;
- Some facilities need more time for site preparation and clean-up than

others. Contaminated soil from surface impoundment leaks, for example, could delay retrofitting;

- Existing liner systems require different levels of upgrading. One facility operator reported that the retrofitting process was relatively fast because their surface impoundment was already equipped with a clay liner and needed only a synthetic liner and drainage layers;
- There is a considerable amount of necessary but time-consuming exchange between facilities and agencies during the entire retrofitting process. This process is lengthened when a variance is sought; one facility reported that it took six months to resolve issues surrounding their variance request.

Finally, it should be noted that a related compliance option available to surface impoundment owners or operators is closing existing surface impoundments and replacing them with new, MTR-compliant impoundments constructed elsewhere on the site. The necessary steps and their time frames are similar to the retrofitting periods given above, with the exception of the permitting phase. In cases where a new surface impoundment has to be permitted, the permitting process can add considerable delays to the schedule.

Summary. EPA believes that few owners or operators will choose to retrofit newly regulated surface impoundments because of the long-term liabilities associated with operating subtitle C surface impoundments. However, those facilities that do choose to retrofit would rarely be able to accomplish this task within a six-month period. While small surface impoundments can sometimes be retrofitted in one year or less, EPA has determined that the overall process of retrofitting an impoundment more frequently takes two to three years. EPA requests additional information on how long it takes to retrofit existing surface impoundments with liners and leak detection systems.

3. Conclusion

EPA surveyed how much time is needed for owners or operators of newly regulated surface impoundments to comply with the MTRs by either replacing the impoundments with wastewater treatment tanks, or retofitting the surface impoundments with liners and leak detection systems according to the requirements to section 3004(o)(1)(A)(i). EPA collected information from a variety of sources, including facilities that have implemented these practices in the past or plan to do so in the future (e.g., in response to the TC), tank manufacturers, and engineers.

EPA estimates that the time needed to comply with the MTRs varies considerably based on case-by-case factors (e.g., current waste management practices, land availability) and regional factors (e.g., climate). According to EPA's information sources, six months appears not to be enough time to either retrofit a surface impoundment or replace the impoundment with a wastewater treatment tank. Replacing a surface impoundment with a tank frequently takes two to four years, and retrofitting a surface impoundment frequently takes two to three years.

EPA believes that most interim status surface impoundments managing wastes newly identified or listed as hazardous will be able to comply with the surface impoundment MTRs within four years of the date promulgating the listing or characteristic. Thus, the four-year period allowed in section 3005(j)(6) is a reasonable period within which to come into compliance.

IV. Relationship to Ground-Water Protection Principles

The EPA Ground-Water Task Force, established in July 1989, has developed Ground-Water Protection Principles to protect the Nation's ground-water resources. Because of the importance of these principles, they were considered in the preparation of today's proposed rule. EPA believes that today's proposal is consistent with the principles and will not adversely affect ground-water resources. Wellhead Protection Areas, a central concern of the Ground-Water Protection Principles, are discussed below.

Section 1428 of the Safe Drinking Water Act, added in 1986, calls for States to develop wellhead protection (WHP) programs in order to prevent contamination of public water supplies. Wellhead Protection Areas (WHPAs) are established by States around public water system supply wells. WHPAs are defined as "the surface and subsurface area surrounding a water well or well field, supplying a public water supply system, through which contaminants are reasonably likely to move toward and reach such water well or well field."

Because of the importance of WHPAs, EPA believes they should be addressed in today's proposal. The regulatory interpretation proposed today is not meant to conflict with State WHP programs. Owners or operators of surface impoundments should identify whether wellhead protection is an issue and, if so, follow the appropriate State procedures. Facilities must be in compliance with EPA-approved State Wellhead Protection Programs where these programs exist.

V. State Authority

A. Applicability of Rules in Authorized States

Under section 3006 of RCRA, EPA may authorize qualified States to administer and enforce the RCRA program within the State. Following authorization, EPA retains enforcement authority under sections 3008, 3013, and 7003 of RCRA, although authorized States have primary enforcement responsibility. The standards and requirements for authorization are found in 40 CFR part 271.

Prior to the Hazardous and Solid Waste Amendments of 1984 (HSWA), a State with final authorization administered its hazardous waste program in lieu of EPA administering the Federal program in that State. The Federal requirements no longer applied in the authorized State, and EPA could not issue permits for any facilities that the State was authorized to permit. When new, more stringent Federal requirements were promulgated or enacted, the State was obliged to enact equivalent authority within specified time frames. New Federal requirements did not take effect in an authorized State until the State adopted the requirements as State law.

In contrast, under RCRA section 3006(g) (42) U.S.C. 6926(g), new requirements and prohibitions imposed by HSWA take effect in authorized States at the same time that they take effect in nonauthorized States. EPA is directed to carry out these requirements and prohibitions in authorized States, including the issuance of permits, until the State is granted authorization to do so. While States must still adopt HSWA-related provisions as State law to retain final authorization, HSWA applies in authorized States in the interim.

Today's rule is being proposed pursuant to sections 3004(g)(4) and 3005(j)(6), of RCRA. It is proposed to be added to Table 1 in 40 CFR 271.1(j), which identifies the Federal program requirements that are promulgated pursuant to HSWA and that take effect in all States, regardless of their authorization status. States may apply for either interim or final authorization for the HSWA provisions in Table 1, as discussed in the following section of this preamble. Table 2 in 40 CFR 271.1(j) is also proposed to be modified to indicate that this rule is a self-implementing provision of HSWA.

B. Effect on State Authorization

As noted above, EPA is today proposing a rule that, when final, will be implemented in authorized States until their programs are modified to adopt these rules and the modification is approved by EPA. Because the rule is proposed pursuant to HSWA, a State submitting a program modification may apply to receive either interim or final authorization under RCRA section 3006(g)(2) or 3006(b), respectively, on the basis of requirements that are substantially equivalent or equivalent to EPA's. The procedures and schedule for State program modifications for either interim or final authorization are described in 40 CFR 271.21. It should be noted that HSWA interim authorization will expire on January 1, 1993 (see 40 CFR 271.24(c)).

Section 271.21(e)(2) requires that States have final authorization must modify their programs to reflect Federal program changes and must subsequently submit the modification to EPA for approval. The deadline by which the State would have to modify its program to adopt these regulations is specified in § 271.2(e). The deadline would be July 1, 1993 if this rulemaking is finalized before June 30, 1992. This deadline can be extended in certain cases (see § 271.21(e)(3)). Once EPA approves the modification, the State requirements become Subtitle C RCRA requirements.

States with authorized RCRA programs may already have requirements similar to those in today's proposed rule. These State regulations have not been assessed against the Federal regulations being proposed today to determine whether they meet the tests for authorization. Thus, a State is not authorized to implement these requirements in lieu of EPA until the State program modifications are approved. Of course, States with existing standards could continue to administer and enforce their standards as a matter of State law. In implementing the Federal program, EPA will work with States under agreements to minimize duplication of efforts. In many cases, EPA will be able to defer to the States in their efforts to implement their programs rather than take separate actions under Federal authority.

States that submit official applications for final authorization less than 12 months after the effective date of these regulations are not required to include standards equivalent to these regulations in their application. However, the State must modify its program by the deadline set forth in § 271.21(e). States that submit official applications for final authorization 12 months after the effective date of these regulations must include standards equivalent to these regulations in their application. The requirements a State must meet when submitting its final authorization application are set forth in 40 CFR 271.3.

VI. Regulatory Requirements

A. Regulatory Impact Analysis

Executive Order No. 12291 requires that regulatory agencies prepare a Regulatory Impact Analysis (RIA) for major rules. Major rules are defined as those likely to result in an annual cost to the economy of $100 million or more; a major increase in costs or prices for consumers or individual industries; or significant adverse effects on competition, employment, investment, innovation, or international trade. Today's proposed rule is not expected to result in any significant compliance costs or economic impacts because it does not impose new requirements. Instead, the proposal clarifies the date by which existing requirements must be met. Therefore, today's proposal does not qualify as a major rule under Executive Order No. 12291, and EPA has not prepared an RIA.

B. Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., whenever an agency is required to publish a notice of rulemaking for a proposed or final rule, it must prepare and make available for public comment a Regulatory Flexibility Analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). This analysis is unnecessary, however, if the Agency's Administrator certifies that the rule will not have a significant economic effect on a substantial number of small entities.

EPA evaluated the economic effect of today's rule, as required by the Regulatory Flexibility Act, and determined that the rule will not have significant economic effects on a substantial number of small entities. As a result of this finding, the Agency has not prepared an RFA.

C. Paperwork Reduction Act

This rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

List of Subjects in 40 CFR Part 268

Hazardous waste, Reporting and recordkeeping requirements.

Dated: January 24, 1992.

William K. Reilly,

Administrator.

For reasons set out in the preamble, title 40 of the Code of Federal Regulations is proposed to be amended as set forth below:

PART 268—LAND DISPOSAL RESTRICTIONS

1. The authority citation for part 268 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, and 6924.

2. In § 268.5, paragraph (h)(2)(v) is redesignated as paragraph (h)(2)(vi), paragraph (h)(2)(iv) is revised to read as follows, and new paragraph (h)(2)(v) is added to read as follows:

§ 268.5 Procedures for case-by-case extensions to an effective date.

* * * * *

(h) * * *

(2) * * *

(iv) The surface impoundment, if permitted, is in compliance with the requirements of subpart F of part 264 and § 264.221 (c), (d) and (e) of this chapter; or

(iv) The surface impoundment, if newly subject to RCRA section 3005(j)(1) due to the promulgation of additional listings or characteristics for the identification of hazardous waste, is in compliance with the requirements of subpart F of part 265 within 12 months after the promulgation of additional listings or characteristics of hazardous waste, and with the requirements of § 265.221 (a), (c) and (d) of this chapter within 48 months after the promulgation of additional listings or characteristics of hazardous waste. If a national capacity variance is granted, during the period the variance is in effect, the surface impoundment, if newly subject to RCRA section 3005(j)(1) due to the promulgation of additional listings or characteristics of hazardous waste, is in compliance with the requirements of subpart F of part 265 within 12 months after the promulgation of additional listings or characteristics of hazardous waste, and with the requirements of § 265.221 (a), (c) and (d) of this chapter within 48 months after the promulgation of additional listings or characteristics of hazardous waste.

* * * * *

[FR Doc. 92–2659 Filed 2–3–92; 8:45 am]

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40 CFR Parts 704 and 799

[OPPTS-42051B; FRL 4047-6]

Glycidol and Its Derivatives Category; Proposed Test Rule; Extension of Public Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of comment period.

SUMMARY: EPA is extending the comment period for the proposed test rule for the "Glycidol and its Derivatives" category published in the **Federal Register** of November 7, 1991. The extension responds to a request by the Society of the Plastic Industry, Incorporated (SPI) and others for an additional 60 days to permit more time to evaluate the administrative record for this complex proposal and prepare written comments.

DATES: Submit written comments on or before April 6, 1992. If persons request an opportunity to submit oral comments by April 6, 1992, EPA will hold a public meeting on this rule in Washington, DC.

ADDRESSES: Submit written comments, identified by the document control number (OPPTS-42051B), in triplicate to: TSCA Public Docket Office (TS-793), rm. NE-G004, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. A public version of the administrative record supporting this action (with any confidential business information deleted) is available for inspection at the above address from 8 a.m. to noon, and 1 p.m. to 4 p.m., Monday through Friday except legal holidays.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics, rm. E-543B, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: EPA issued a proposed test rule published in the **Federal Register** of November 17, 1991 (56 FR 57144) with reporting and recordkeeping requirements on the testing of the "Glycidol and its Derivatives" category for mutagenicity, oncogenicity, developmental toxicity, subchronic toxicity, acute and subchronic neurotoxicity and reproductive toxicity. EPA received requests from SPI and others for a 60-day extension of the comment period on this rule because of the complexity of certain aspects of the rule. EPA believes the request to be reasonable and agrees to this extension for public comment.

EPA also extends the period of time to request a public meeting to April 6, 1992, on this proposed test rule.

Authority: 15 U.S.C. 2603.

Dated: January 28, 1992.

Joseph A. Carra,

Acting Director, Office of Pollution Prevention and Toxics.

[FR Doc. 92-2656 Filed 2-3-92; 8:45 am]

BILLING CODE 6560-50-F

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3180

RIN 1004-AB73

[WO-610-4111-02-2411-24 1A]

Onshore Oil and Gas Unit Agreements: Unproven Areas

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rule.

SUMMARY: In keeping with its legal and fiduciary obligations for prudent management of the public lands and resources, the Bureau of Land Management (BLM) proposes to make permanent its interim policy of conditioning its approval of all new onshore oil and gas unit agreements on the inclusion of a compensation provision for lost production royalty from unleased Federal lands located within the boundaries of unit participating areas. Changes in the regulations under subpart 3181, and the model onshore oil and gas unit agreement for unproven areas at § 3186.1 are proposed in order to provide for such compensation.

Also proposed is a change in the onshore oil and gas unit regulations at § 3183.4, which would define the effective date of approval of an onshore oil and gas unit agreement as the date of signature and approval by the BLM authorized officer.

A further change is proposed at § 3185.1 that would clarify the procedures for administrative appeal that are available to parties adversely affected by actions or decisions taken by the authorized officer under this part of the regulations.

DATES: Comments will be accepted until April 6, 1992. Comments received or postmarked after this date may not be considered in the decisionmaking process on the final rule.

ADDRESSES: Comments should be sent to: Director (140), Bureau of Land Management, U.S. Department of the Interior, room 5555 Main Interior Building, 1849 C Street, NW., Washington, DC 20240. Comments will be available for public review in room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Sie Ling Chiang, (202) 653-2133, or Wayne Stevens, (202) 653-2164.

SUPPLEMENTARY INFORMATION: Under 30 U.S.C. 226(m), any unit agreement proposal embracing Federal lands requires the approval of the BLM. Such approval may be given only upon determination that the agreement is necessary or advisable to further the public interest. The Federal Government sustains a loss of royalty income when unleased Federal lands are drained by producing wells located on nearby non-Federal tracts or Federal tracts producing under a lower royalty rate. To avoid this revenue loss, the BLM attempts to lease these lands and have them committed to the unit agreement, but occasionally it is unable to do so for various reasons beyond its control.

The Office of the Inspector General (OIG) of the Department of the Interior, in an audit report released on December 2, 1986, expressed concerns about oil and gas drainage from Federal lands. In a more recent study, the OIG examined the status of unleased Federal lands located within producing areas of onshore oil and gas units. In the latter study, the OIG recognized that attempts to lease these lands are not always successful and concluded that the Federal Government continues to lose production royalty revenue from unleased Federal lands located within producing units. The OIG recommended that the BLM take steps to ensure that, in the future, the Federal royalty interest in unleased unit lands is adequately protected.

It has been determined that the public interest requires the United States to be assured of compensation for lost production revenues occasioned by unleased Federal lands being located within a unit participating area. The field offices of BLM were instructed on January 29, 1990, to scrutinize carefully all proposed unit agreements that could have resulted in uncompensated drainage from unleased Federal tracts. It is now proposed to incorporate this policy determination into the permanent regulations of the Department of the Interior. A new § 3181.5 is proposed to accomplish this. In order for the authorized officer to approve a unit agreement, the agreement is required to contain a compensatory royalty provision covering such unleased lands. The BLM also proposed to add such a provision to the model unit agreement found at 43 CFR 3186.1.

This new provision in the model form would affect only those units containing unleased Federal land. The inclusion of a compensatory royalty provision in unit agreements for such areas could have been accomplished case-by-case, rather than through rulemaking. However, that approach was judged to be administratively inefficient, and would not address those situations where leased Federal lands in a unit could become unleased subsequent to unit approval. It is estimated that the proposed requirement to pay drainage compensation for unleased Federal lands would generate additional royalty revenue to the United States of $70,000 per year.

Proposed § 3183.4, Approval of executed agreement, would specify that approval of a unit agreement by the authorized officer of the BLM is not effective until the authorized officer has signed and dated the Certification-Determination addendum to the agreement. The provision in the current regulations states that the agreement shall be approved upon a determination that it is necessary or advisable and that such approval shall be incorporated in the Certification-Determination document, with no clear indication of when the agreement takes effect.

Proposed § 3185.1, Appeals, would state the proper channels of administrative review for those wishing to appeal a decision of the authorized officer related to oil and gas unit matters. Currently, that section of the regulations suggests that an appeal may be taken directly to the Interior Board of Land Appeals (IBLA) without prior review by the State Director. In order to be consistent with appeal procedures established under subpart 3165 for oil and gas operations in general, aggrieved parties who wish to appeal a decision of the authorized officer under the unit regulations in part 3180 must request a State Director review before pursuing an appeal to the IBLA.

The principal author of this proposed rule is Wayne Stevens of the Division of Fluid Mineral Lease and Reservoir Management, assisted by Dennis Daugherty of the Office of the Solicitor, Department of the Interior, and by the staff of the Division of Legislation and Regulatory Management, Bureau of Land Management.

The Department of the Interior has determined this rule does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined under Executive Order 12291 that this document is not a major rule, and under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that it will not have a significant economic impact on a substantial number of small entities. Additionally, as required by Executive Order 12630, the Department has determined that the rule would not cause a taking of private property.

This rule does not contain collections of information that require approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq.

List of Subjects in 43 CFR Part 3180

Government contracts, Indians-lands, Land Management Bureau, Mineral royalties, Oil and gas exploration, Penalties, Public lands-mineral resources, Reporting and recordkeeping requirements.

Under the authorities cited below, and for the reasons stated in the preamble, part 3180, Group 3100, subchapter C, chapter II of title 43 of the Code of Federal Regulations is proposed to be amended as set forth below:

PART 3180—ONSHORE OIL AND GAS UNIT AGREEMENTS: UNPROVEN AREAS

1. The authority citation for 43 CFR part 3180 is revised to read as follows:

Authority: 30 U.S.C. 181, 226(e), 226(j), and 226(m).

Subpart 3181—Application for Unit Agreement

2. Section 3181.5 is added to read as follows:

§ 3181.5 Compensatory royalty payment for unleased Federal land.

The unit agreement submitted by the unit proponent for approval by the authorized officer shall provide for payment to the Federal Government of a 12½ percent royalty on production that would be attributable to unleased Federal lands in a participating area of the unit if said lands were leased and committed to the unit agreement. The value of production subject to compensatory royalty payment shall be determined pursuant to 30 CFR part 206; except that no additional royalty shall be due from any lessee benefiting from a share in the production attributable to the unleased Federal lands.

Subpart 3183—Filing and Approval of Documents

3. Section 3183.4 is amended by revising paragraph (a) to read as follows:

§ 3183.4 Approval of executed agreement.

(a) A unit agreement shall be approved by the authorized officer upon a determination that such agreement is necessary or advisable in the public interest and is for the purpose of more properly conserving natural resources. Such approval shall be incorporated in a Certification-Determination document appended to the agreement (see § 3186.1 of this part for an example) and this unit agreement shall not be deemed effective until the authorized officer has executed the Certification-Determination document. No such agreement shall be approved unless the parties signatory to the agreement hold sufficient interests in the unit area to provide reasonably effective control of operations.

* * * * *

Subpart 3185—Appeals

4. Section 3185.1 is revised to read as follows:

§ 3185.1 Appeals.

Any party adversely affected by an instruction, order, or decision issued under the regulations in this part may request an administrative review before the State Director under § 3165.3 of this title. Any party adversely affected by a decision of the State Director after State Director review may appeal that decision as provided in part 4 of this title.

Subpart 3186—Model Forms

5. Section 3186.1 is amended by revising section 12 of the model unit agreement, and by redesignating the existing text of section 17 of the model unit agreement as paragraph (a) and adding a new paragraph (b) to section 17, to read as follows:

§ 3186.1 Model onshore unit agreement for unproven areas.

* * * * *

12. *Allocation of Production.* All unitized substances produced from a participating area established under this agreement, except any part thereof used in conformity with good operating practices within the unitized area for drilling, operating, and other production or development purposes, or for repressuring or recycling in accordance with a plan of development and operations which has been approved by the AO, or unavoidably lost, shall be

deemed to be produced equally on an acreage basis from the several tracts of unitized land and unleased Federal land, if any, included in the participating area established for such production. Each such tract shall have allocated to it such percentage of said production as the number of acres of such tract included in said participating area bears to the total acres of unitized land and unleased Federal land, if any, included in said participating area. Each tract of unitized land in said participating area shall have allocated to it, in addition, such percentage of the production attributable to unleased Federal land within the participating area as the number of acres of such unitized tract included in said participating area bears to the total acres of unitized land in said participating area, upon payment of the compensatory royalty specified in section 17 of this agreement. Allocation of production hereunder for purposes other than for settlement of the royalty, overriding royalty, or payment out of production obligations of the respective working interest owners, including compensation royalty obligations under section 17, shall be prescribed as set forth in the unit operating agreement or as otherwise mutually agreed to by the affected parties. It is acknowledged that, once the compensatory royalty is paid, no other royalty shall be due from any lessee benefiting from a share in the production allocated to the unleased lands. It is hereby agreed that production of unitized substances from a participating area shall be allocated as provided herein, regardless of whether any wells are drilled on any particular part or tract of the participating area. If any gas produced from one participating area is used for repressuring or recycling purposes in another participating area, the first gas withdrawn from the latter participating area for sale during the life of this agreement, shall be considered to be the gas so transferred, until an amount equal to that transferred shall be so produced for sale and such gas shall be allocated to the participating area from which initially produced as such area was defined at the time that such transferred gas was finally produced and sold.

17. Drainage.

(a) * * *

(b) In order to compensate the United States for drainage from any unleased Federal lands sharing a common pool or deposit with other land in the participating area, the value of 12½ percent of the production that would be allocated to such Federal lands under section 12 of this agreement, if such lands were leased, committed, and entitled to participation, shall be payable as compensatory royalties to the Federal Government. Working interest owners party to this agreement shall be responsible for such payment of compensatory royalty on the volume of production allocated to their unitized tracts pursuant to section 12. The value of such production subject to the payment of compensatory royalty shall be determined pursuant to 30 CFR part 206, except that no additional royalty shall be due from any lessee benefiting from a share in the production attributable to the unleased Federal lands. Payment of compensatory royalties on the production reallocated from unleased Federal land to committed Federal tracts within the participating area shall fulfill the Federal royalty obligation for such production, and said production shall be subject to no further Federal royalty assessment under section 14. Specifically, it is acknowledged that, once the compensatory royalty is paid, no other royalty shall be due from any lessee benefiting from a share in the production allocated to the unleased Federal lands. Payment of compensatory royalties as provided herein shall accrue from the date the committed tracts in the participating area that includes unleased Federal lands receive a production allocation, and shall be due and payable monthly by the last day of the calendar month next following the calendar month of actual production. If leased Federal lands receiving a production allocation from the participating area become unleased, compensatory royalties shall accrue from the date the Federal lands become unleased. Payment due under this provision shall end when the unleased Federal tract is leased or when production of unitized substances ceases within the participating area and the participating area is terminated, whichever occurs first.

Dated: November 19, 1991.

Richard Roldan,

Deputy Assistant Secretary of the Interior.

[FR Doc. 92-2572 Filed 2-3-92; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 92-12, RM-7883]

Radio Broadcasting Services; Belle Fourche, SD

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Lovcom, Inc., seeking the substitution of Channel 240C1 for Channel 240A at Belle Fourche, South Dakota, and the modification of Station KBFS-FM's license to specify operation on the higher class channel. Channel 240C1 can be allotted to Belle Fourche in compliance with the Commission's minimum distance separation requirements with a site restriction of 38.4 kilometers (23.8 miles) south to accommodate petitioner's desired transmitter site, at coordinates North Latitude 44-19-35 and West Longitude 103-50-15. In accordance with Section 1.420(g) of the Commission's Rules, we will not accept competing expressions of interest in use of the channel at Belle Fourche or require the petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before March 23, 1992, and reply comments on or before April 7, 1992.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: W.K. Love, P.O. Box 787, Belle Fourche, South Dakota 57717 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 92-12, adopted January 22, 1992, and released January 29, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments.

See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-2661 Filed 2-3-92; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 92-11, RM-7881]

Radio Broadcasting Services; Inglis, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Lucille Ann Lacy seeking the allotment of Channel 282A to Inglis, Florida, as that community's first local FM service. Channel 282A can be allotted to Inglis in compliance with the Commission's minimum distance separation requirements with a site restriction of 1.8 kilometers (1.1 miles) northwest, in order to avoid a short-spacing to Station WZTU(FM), Channel 281C, Cocoa Beach, Florida. The coordinates for the proposal are North Latitude 29-02-45 and West Longitude 82-40-53.

DATES: Comments must be filed on or before March 23, 1992, and reply comments on or before April 7, 1992.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Lucille Ann Lacy, 3507-A Van Tassel, Amarillo, Texas 79121 (petitioner).

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 92-11, adopted January 21, 1992, and released January 29, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-2660 Filed 2-3-92; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 90

[PR Docket No. 89-552; FCC 92-27]

Use of the 220-222 MHz Band by the Private Land Mobile Radio Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has adopted a further Notice of Proposed rulemaking to solicit the public's views regarding the best means for selecting licensees for the 220-222 MHz nationwide authorizations.

DATES: Comments must be filed on or before March 2, 1992 and reply comments must be filed on or before March 23, 1992.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Karen Kincaid, (202) 634-2443, Private Radio Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's further notice of proposed Rulemaking, PR Docket No. 89-552, FCC 92-27, adopted January 21, 1992, and released January 30, 1991. The full text of this further notice of proposed Rulemaking is available for inspection and copying during normal business hours in the FCC Dockets Branch, room 230, 1919 M Street NW., Washington, DC. The complete text may be purchased from the Commission's copy contractor, Downtown Copy Center, 1114 21st Street, Washington, DC 20036, telephone (202) 452-1422.

Summary of Further Notice of Proposed Rulemaking

1. In the notice of proposed rulemaking and report and order in PR Docket No. 89-552, the Commission concluded that the lottery process was the best method for the selection of licensees. Although the Commission took several steps designed to minimize the number of speculative applications filed, and thus to restrict lottery entry to entities with legitimate communications plans, a considerable number of applications were received, many of which are believed to have been filed by entities with no apparent legitimate interest in developing and operating communications systems.

2. As a result, the Commission has begun to reexamine its decision and to consider whether the use of comparative hearings would be advantageous in guaranteeing that only the most qualified entities are selected for the nationwide 220-222 MHz authorizations. Although the number of local applications received leads the Commission to conclude that the principal amount of speculation occurred at the local level, the Commission remains convinced that the substantial similarities between the proposed systems of local applicants and the volume of local applications filed make it impracticable to attempt to compare their relative qualifications. In contrast, the potential value of the nationwide authorizations, the small number of nationwide licenses available, and the amount of spectrum associated with each nationwide license cause the Commission to question whether the public interest would be better served by the use of procedures more exacting than the lottery process. Consequently, the Commission solicits commenters' views regarding the best means, using currently available tools, to ensure that only the most qualified entities are selected for nationwide licensing.

3. The Commission also seeks comment with respect to whether the distinctions between the nationwide commercial and non-commercial authorizations cause a particular selection process to be more or less suitable in either context. In addition, in recognition of the special status of the non-commercial nationwide channels, the Commission seeks comment as to the efficacy of adopting stricter operational and construction standards as a means for narrowing the non-

commercial pool of applicants to only those entities with the greatest interest and demonstrated capability to develop a non-commercial nationwide communications system.

4. Finally, in the event that the Commission decides to use comparative selection procedures in either the commercial or non-commercial nationwide context or both, it proposes to adopt specific comparative criteria that will focus on the following three general areas: (1) The applicant's ability to demonstrate that it can provide service more quickly than required by the basic qualifications; (2) the applicant's ability to construct more than the minimum of one base station in a greater number of geographic areas than the 70 required as a basic qualification; and (3) the applicant's ability to demonstrate that its proposed use or system design is exceptionally innovative or proficient. Commenters are asked to discuss the effectiveness of these general areas of focus in terms of the likelihood that they will produce meaningful distinctions between applicants as well as their administrative workability.

List of Subjects in 47 CFR Part 90

Private land mobile radio services, 220–222 MHz narrowband frequencies, Radio.

Amendatory Text

Part 90 of chapter 1 of title 47 of the Code of Federal Regulations is proposed to be amended as follows:

1. The authority citation for part 90 continues to read as follows:

Authority: Sections 4, 303, 48 Stat., as amended, 1066 1082; 47 U.S.C. 154, 303, unless otherwise noted.

2. Section 90.711 is amended by revising paragraph (a) to read as follows:

§ 90.711 Processing of applications.

(a) Applications will be processed on a first-come, first-served basis. When multiple applications are filed on the same day for frequencies in the same geographic area, and insufficient frequencies are available to grant all applications (i.e., if all applications were granted, violation of the provisions of § 90.723(f) would result), or when multiple applications for nationwide systems are filed on the same day for a number of systems in excess of those available in the relevant category (10-channel non-commercial, 5-channel non-commercial or 5-channel commercial), these applications will be considered mutually exclusive. All mutually exclusive nationwide applications will be resolved through the use of comparative procedures.

* * * * *

3. § 90.713 is amended by adding paragraph (a)(6) to read as follows:

§ 90.713 Entry criteria.

(a) * * *

(6) Applicants for non-commercial nationwide licensing must also submit a written certification demonstrating an actual presence or long-term business plan necessitating internal communications capacity in the 70 or more markets identified in the license application.

4. § 90.725 is amended by revising paragraph (h) to read as follows:

§ 90.725 Construction requirements.

* * * * *

(h) Licensees granted non-commercial nationwide authorizations will be required to construct base stations in a minimum of 70 markets designated in the license application within five years of the initial license grant, except as provided in paragraphs (a)(2), (a)(7) and (a)(8) of this section.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92-2683 Filed 2-3-92; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF DEFENSE

General Services Administration

National Aeronautics and Space Administration

48 CFR Part 31

[FAR Case 91-67]

Federal Acquisition Regulation; Employee Stock Ownership Plans

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are considering changes to the Federal Acquisition Regulation (FAR) to amend FAR 31.205-6(j)(8), Employee stock ownership plans, to make it clear that the cost principal applies to all Employee Stock Ownership Plans (ESOPs) regardless of whether or not an ESOP meets the definition of "pension plan" in FAR 31.205-6(j)(1) (i.e. provides a benefit payable for life).

DATES: Comments should be submitted to the FAR Secretariat at the address shown below on or before April 6, 1992 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), ATTN: Deloris Baker, 18th & F Streets, NW., room 4041, Washington, DC 20405. Please cite FAR case 91-67 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Olson at (202) 501-3221 in reference to this FAR case. For general information, contact the FAR Secretariat, room 4041, GS Building, Washington, DC 20405, (202) 501-4755. Please cite FAR case 91-67.

SUPPLEMENTARY INFORMATION:

A. Background

The proposed revision to FAR 31.205-6(j)(8), Employee stock ownership plans, will clarify the cost principle and ensure that the cost principle is applied consistently to all Employee Stock Ownership Plans (ESOPs). The proposed rule adds language at 31.205-6(j)(8) stating that regardless of whether or not an ESOP provides a benefit payable for life (i.e., meets the definition of "pension plan" in FAR 31.205-6(j)(i)), the costs of such a plan are allowable subject to certain conditions. Specifically, all ESOPs are subject to the contribution ceiling and rate approval requirements contained in the cost principle regardless of whether or not the ESOPs provide a benefit payable for life.

An excerpt from the Board of Contract Appeals findings in the Appeal of Ralph M. Parsons Company (ASBCA Nos. 37931, 37946, and 37947), raised a concern that the cost principle on ESOP costs, which was in Defense Acquisition Regulations 15-205.6(j) and is now in FAR 31.205-6(j)(8), was being interpreted to apply only when the ESOP meets the definition of "pensions plan" in 31.205-6(j)(1). Under this interpretation, an ESOP is subject to the contribution ceiling or rate approval requirements contained in the cost principle only when the ESOP provides a lifetime payment option. We believe that it is not appropriate or justifiable to apply the ceiling or approval requirements to ESOPs which qualify as pension plans, while excluding ESOPs which do not qualify as pension plans. The limitations imposed by the FAR 31.205-6(j)(1) definition of "pension plan" are already recognized in the language contained in 31.302(6)(j)(7). Under subparagraph (j)(7), early retirement incentive plans do not represent lifetime income settlements and as such, would not qualify as pension costs. For contract costing purposes, however, early retirement incentive payments are allowable, subject to specified pension cost criteria. The clarification of 31.205-6(j)(8) would follow this precedent language and ensure that the cost principle is applied consistently to all ESOPs regardless of whether a lifetime payment is present.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because most contracts awarded to small entities are awarded on a competitive, fixed-price basis and the cost principles do not apply. An initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments from shall entities concerning the affected FAR subpart will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAR case 91-67) in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping information collection requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 31

Government procurement

Dated: January 24, 1992.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR part 31 be amended as set forth below:

1. The authority citation for 48 CFR part 31 continues to read as follows:

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

31.205-6 [Amended]

2. Section 31.205-6 is amended by revising paragraph (j)(8)(i) introductory text to read as follows:

* * * * *

(j) * * *

(8) *Employee stock ownership plans.* (i) An employee stock ownership plan (ESOP) is an individual stock bonus plan designed specifically to invest in the stock of the employer corporation. The contractor's contribution to an Employee Stock Ownership Trust (ESOT) may be in the form of cash, stock, or property. These plans do not necessarily provide benefits payable for life, and as such may not qualify as pension plans. However, regardless of whether an ESOP qualifies as a pension plan, its costs are allowable subject to the following conditions:

* * * * *

[FR Doc. 92-2454 Filed 2-3-92; 8:45 am]

BILLING CODE 6820-34-M

Notices

Federal Register
Vol. 57, No. 23
Tuesday, February 4, 1992

This section of the FEDERAl REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Governmental Processes, Committee on Regulation, and Special Committee on International Assistance in Administrative Law; Public Meetings

Pursuant to the Federal Advisory Committee Act (Pub. L. 96–463), notice is hereby given of meetings of the Committee on Governmental Processes, the Committee on Regulation, and the Special Committee on International Assistance in Administrative Law of the Administrative Conference of the United States.

Committee on Governmental Processes

Date: Wednesday, February 12, 1992.

Time: 2 p.m.–4:30 p.m.

Location: Administrative Conference of the United States (Library), 2120 L Street, NW., suite 500, Washington, DC.

Agenda: The committee will meet to discuss a study of procedural constraints on agency investigations, by Professor Ronald F. Wright, Jr., Wake Forest University School of Law.

Contact: David M. Pritzker, 202–254–7020.

Committee on Regulation

Date: Tuesday, February 18, 1992.

Time: 1:30 p.m.–5 p.m.

Location: Administrative Conference of the United States (Library), 2120 L Street, NW., suite 500, Washington, DC.

Agenda: The committee will meet (from 1:30 p.m. to 2:30 p.m.) for further discussion of a draft recommendation on implementation of the Noise Control Act, based on a report by Professor Sidney A. Shapiro, University of Kansas School of Law, and Dr. Alice H. Suter, Alice Suter and Associations, Cincinnati, Ohio.

The committee will discuss (from 2:30 p.m. to 5 p.m.) a new project concerning the coordination of migrant and seasonal farmworker service programs. The Conference's consultants for this study are Professor David A. Martin, University of Virginia School of Law and Professor Phillip L. Martin, University of California at Davis, Department of Agriculture Economics.

Contact: David M. Pritzker, 202–254–7020.

Special Committee on International Assistance in Administrative Law

Date: Wednesday, February 19, 1992.

Time: 9:30 a.m.

Location: Administrative Conference of the United States (Library), 2120 L Street, NW., suite 500, Washington, DC.

Agenda: The special committee will discuss the role of the Administrative Conference in providing information and expertise on administrative law issues to foreign countries that request assistance.

Contact: Michael W. Bowers, 202–254–7020.

Public Participation

Attendance at the committee meetings is open to the public, but limited to the space available. Persons wishing to attend should notify the contact person at least one day in advance of the meeting. The committee chairman may permit members of the public to present oral statements at meetings. Any member of the public may file a written statement with a committee before, during, or after a meeting. Minutes of the meetings will be available on request to the contact person. The contact persons' mailing address is: Administrative Conference of the United States, 2120 L Street, NW., suite 500, Washington, DC 20037.

Dated: January 31, 1992.

Michael W. Bowers,

Deputy Research Director.

[FR Doc. 92–2766 Filed 2–3–92; 8:45 am]

BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[TB-92-11]

Burley Tobacco Advisory Committee; Meeting

In accordance with the Federal Advisory Committee Act (5 U.S.C. App.) announcement is made of the following committee meeting:

Name: Burley Tobacco Advisory Committee.

Date: February 25, 1992.

Time: 10:30 a.m.

Place: Campbell House Inn, 1375 Harrodsburg Road, Lexington, Kentucky 40405.

Purpose: To review the implementation of policies and procedures during the 1991–92 marketing season, discuss possible revisions, review regulations pursuant to the Tobacco Inspection Act, 7 U.S.C. 511 *et seq.*, and other related issues.

The meeting is open to the public. Persons, other than members, who wish to address the committee at the meeting should contact the Director, Tobacco Division, AMS, U.S. Department of Agriculture, room 502 Annex Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 205–0567, prior to the meeting. Written statements may be submitted to the Committee before, at, or after the meeting.

Dated: January 30, 1992.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 92–2668 Filed 2–3–92; 8:45 am]

BILLING CODE 3410-02-M

Federal Grain Inspection Service

Request for Comments on the Applicant for Designation in the Geographic Area Currently Assigned to the Michigan (MI) Agency

AGENCY: Federal Grain Inspection Service (FGIS).

ACTION: Notice.

SUMMARY: FGIS requests interested persons to submit comments on the applicant for designation to provide official services in the geographic area currently assigned to Michigan Grain Inspection Services, Inc. (Michigan).

DATES: Comments must be postmarked on or before March 5, 1992.

ADDRESSES: Comments must be submitted in writing to Homer E. Dunn, Chief, Review Branch, Compliance Division, FGIS, USDA, room 1647 South Building, P.O. Box 96454, Washington, DC 20090-6454. SprintMail users may respond to (A:ATTMAIL,O:USDA,ID:A36HDUNN). ATTMAIL and FTS2000MAIL users may respond to !A36HDUNN. Telecopier users may send responses to the automatic telecopier machine at 202-720-1015, attention: Homer E. Dunn. All comments received will be made available for public inspection at the above address located at 1400 Independence Avenue, SW., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Homer E. Dunn, telephone 202-720-8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and

Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the November 1, 1991, **Federal Register** (56 FR 56184), FGIS asked persons interested in providing official grain inspection in the Michigan geographic area to submit an application for designation. Applications were to be postmarked by December 2, 1991. There was one eligible applicant, Michigan. This applicant applied for the entire area currently assigned to it.

FGIS is publishing this notice to provide interested persons the opportunity to present comments concerning this applicant for designation. Commenters are encouraged to submit reasons and pertinent data for support or objection to the designation of Michigan. All comments must be submitted to the Compliance Division at the above address.

Comments and other available information will be considered in making a final decision. FGIS will publish notice of the final decision in the **Federal Register**, and FGIS will send the applicant written notification of the decision.

Authority: Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: January 28, 1992.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 92-2497 Filed 2-3-92; 8:45 am]

BILLING CODE 3410-EN-F

Request for Comments on the Applicants for Designation to Provide Official Services at Mid-States Terminals, Inc. (now Countrymark, Inc.), and Peavey Elevator, Carrollton, Michigan (MI)

AGENCY: Federal Grain Inspection Service (FGIS).

ACTION: Notice.

SUMMARY: FGIS requests interested persons to submit comments on the applicants for designation to provide official services at Countrymark, Inc., and Peavey Elevator at Carrollton, Michigan. FGIS proposes to recognize these elevators as domestic grain elevators at which official services would be provided by a designated official agency. FGIS has been and will continue to provide official services at these elevators until a decision can be made in this matter. FGIS anticipates that an applicant may be designated to provide official services at these two elevators by April 1, 1992.

DATES: Comments must be postmarked on or before March 5, 1992.

ADDRESSES: Comments must be submitted in writing to Homer E. Dunn, Chief, Review Branch, Compliance Division, FGIS, USDA, room 1647 South Building, P.O. Box 96454, Washington, DC 20090-6454. SprintMail users may respond to (A:ATTMAIL,O:USDA,ID:A36HDUNN). ATTMAIL and FTS2000MAIL users may respond to !A36HDUNN. Telecopier users may send responses to the automatic telecopier machine at 202-720-1015, attention: Homer E. Dunn. All comments received will be made available for public inspection at the above address located at 1400 Independence Avenue, SW., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Homer E. Dunn, telephone 202-720-8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the October 25, 1991, **Federal Register** (56 FR 55268), FGIS asked persons interested in providing official services at Countrymark, Inc., and Peavey Elevator at Carrollton, Michigan, to submit an application for designation. Applications were to be postmarked by November 25, 1991. There were two eligible applicants. These applicants, Michigan Grain Inspection Services, Inc. (Michigan), and Detroit Grain Inspection Service, Inc. (Detroit), are nearby currently designated official agencies. Each applied for the entire available area and one (Detroit) would accept less than the entire area.

FGIS is publishing this notice to provide interested persons the opportunity to present comments concerning the two eligible applicants for designation. Commenters are encouraged to submit reasons and pertinent data for support or objection to the designation of these applicants. All comments must be submitted to the Compliance Division at the above address.

Comments and other available information will be considered in making a final decision. FGIS will publish notice of the final decision in the **Federal Register**, and FGIS will send the applicants written notification of the decision.

Authority: Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: January 28, 1992.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 92-2498 Filed 2-3-92; 8:45 am]

BILLING CODE 3410-EN-F

Evaluation of Deoxynivalenol (DON) and Zearalenone (ZEA) Test Kits

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The Federal Grain Inspection Service (FGIS) is considering providing DON and ZEA testing in grains and commodities under the authority of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*). DON and ZEA are chemical substances resulting from the metabolic process of certain molds in grains. This notice is to announce that FGIS is solicitating input into the availability of commercial test kits for qualitatively and quantitatively determining the presence of DON and ZEA in grains and commodities in order to conduct a study under field conditions.

DATES: Comments and mycotoxin test kits for examination must be submitted on or before March 5, 1992.

ADDRESSES: Comments and/or test kits for testing must be submitted to Dr. Chuan Kao, Chemist, Quality Assurance and Research Division, USDA/FGIS Technical Center, 10383 N. Executive Hills Blvd., Kansas City, Missouri 64153.

FOR FURTHER INFORMATION CONTACT: Dr. Chuan Kao, address as above, telephone (816) 891-7150.

SUPPLEMENTARY INFORMATION: The objective of this study is to provide FGIS with information and experience with commercially available test kits for the qualitative and quantitative determination of DON and ZEA in certain grains and commodities under field conditions. Grains and commodities to be considered are corn, corn gluten feed, corn meal, milled rice, sorghum, wheat, and products produced therefrom with primary emphasis on corn and wheat. The general requirements for a test kit to be acceptable for testing are:

(a) The time for completion, including extraction of a single test, shall not be more than 30 minutes, and

(b) The test shall not require the use of recognized or suspect human carcinogens.

Manufacturers are requested to notify FGIS of the commercial availability of test kits for DON and ZEA and to provide information on the performance of these test kits.

Authority: 7 U.S.C. 1621, *et seq.*

Dated: January 29, 1992.

John C. Foltz,

Administrator.

[FR Doc. 92-2562 Filed 2-3-92; 8:45 am]

BILLING CODE 3410-EN-M

Forest Service

Suitability Studies for Six Rivers Being Considered for National Wild and Scenic River Status; Daniel Boone National Forest; Jackson, Laurel, McCreary, Pulaski, and Whitley Counties; KY

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare a draft and final environmental impact statement for a proposal to study the suitability of six rivers in the Daniel Boone National Forest in Kentucky for inclusion in the National Wild and Scenic Rivers System. The six rivers include the Rockcastle River, Cumberland River, Marsh Creek, South Fork and War Fork of Station Camp Creek, and Rock Creek.

The agency invites written comments and suggestions on the suitability of these six rivers. In addition, the agency gives notice of the environmental analysis and decisionmaking process that will occur on the proposal so that interested and affected people are aware of how they may participate and contribute to the decision.

DATES: Comments should be received in writing by March 30, 1992, to ensure timely consideration.

ADDRESSES: Send written comments to Richard H. Wengert, Forest Supervisor, Daniel Boone National Forest, 100 Vaught Road, Winchester, Kentucky 40391.

FOR FURTHER INFORMATION CONTACT: Jorge Hersel, Dispersed Recreation Specialist, Daniel Boone National Forest, Stanton Ranger District, 705 W. College Avenue, Stanton, Kentucky 40380, (606) 663-2852.

SUPPLEMENTARY INFORMATION: The Daniel Boone National Forest Land and Resource Management Plan was approved in September 1985, shortly after the initial identification of nine rivers on The Daniel Boone National Forest that met the criteria of the 1982 Nationwide River Inventory. Of these nine, six (Rockcastle River, Cumberland River, Marsh Creek, South Fork and War Fork of Station Camp Creek, and Rock Creek) were identified in appendix D of the Forest Plan as needing to be studied for their eligibility and classification, at the rate of one per year, and recommended that suitability studies be conducted later. A separate study on another of the nine rivers, the Red River, was previously completed by the Forest Service and the Secretary will make a recommendation to the President in the near future. Due to the significant amount of private land along the other two rivers (Little South Fork of the Cumberland and South Fork of the Kentucky), the state of Kentucky was asked to take the lead in the eligibility studies of those rivers; therefore, they will not be included as part of this analysis.

The eligibility and potential classification studies for the six rivers have now been completed and the Daniel Boone National Forest is proposing to conduct an environmental analysis to determine the suitability of the six rivers for inclusion in the National Wild and Scenic Rivers System. The decision to be made, based on the environmental impact statement, is whether or not to recommend any or all of the rivers or river segments for designation and inclusion in the National Wild and Scenic Rivers System. The Forest Plan will be amended accordingly.

The suitability study and environmental impact statement will consider the following rivers or river segments:

Rockcastle River

Eligibility and classification determination completed in 1985. Out of the 52.5 miles of the Rockcastle River studied, a 13.3 mile segment, below Kentucky 80 bridge to the lower end of Rockcastle Narrows, was found to be eligible for designation as a National Wild and Scenic River possessing Scenic quality.

Cumberland River

Eligibility and classification determination completed in 1988. Out of the 29 mile segment of the Cumberland River studied a 14.9 mile segment from Cane Creek to approximately 4 miles downstream from Kentucky 90 bridge (RM 558.5) was found to be eligible for inclusion into the system possessing Scenic quality.

Marsh Creek

Eligibility and classification determination completed in 1989. Out of the 18 miles studied, 15 miles from the confluence of the Cumberland River to River Mile 15 were found to be eligible for inclusion in the system. The first seven miles were determined to possess Scenic qualities. The next eight miles were classified as possessing Recreational qualities.

South Fork and War Fork of Station Camp Creek

Eligibility and classification determination completed in 1991. The study of these two streams was combined as they share the same drainages. A 22 mile segment of the South Fork of Station Camp Creek and an 18 mile segment of War Fork and Station Camp Creek was studied. The segments of the two streams were determined not to possess outstandingly remarkable values; therefore, they were found to be ineligible.

Rock Creek

Eligibility and classification determination completed in 1991. A 21 mile segment from the confluence of Rock Creek and the Big South Fork of the Cumberland River to the Kentucky/Tennessee border was studied. The 17.5 mile segment from the White Oak junction to the Kentucky/Tennessee border was found to be eligible for inclusion into the system possessing Recreational qualities.

The area of consideration for each stream was a corridor a minimum of ¼ mile from each stream bank for the entire length of the stream with the Daniel Boone National Forest boundary, but where the visual corridor extended further it was also evaluated. In addition, segments above and below the recommended limits were evaluated as part of the consideration as a possible Wild and Scenic River.

The following preliminary issues, as well as significant issues identified during the scoping process, will be considered in the environmental analysis: (1) Effects on the ability of private landowners to retain their properties and use their lands as they choose; (2) effects on water quality caused by activities on private lands; (3) effects on private lands and Threatened and Endangered species caused by increased recreational use generated by designation of a river; (4) effects on future opportunities for impoundments; and (5) effects of increased use on the limited public access facilities along the rivers.

A range of alternatives will be considered. They will include, as a minimum, one alternative that does not recommend any eligible river or river segment for designation (no-action) and one that recommends designation of all eligible rivers. Additional alternatives may be developed from public comments received during the scoping process.

The environmental impact statement will disclose the direct, indirect, and cumulative effects of implementing each of the alternatives.

Public participation will be especially important at several points during the analysis process. The first point in the analysis is the scoping process (40 CFR 1501.7). The scoping process includes, but is not limited to: (1) Identifying potential issues; (2) identifying issues to be analyzed in depth; (3) eliminating insignificant issues or those which have been covered by a relevant previous environmental analysis; (4) exploring additional alternatives; and (5) identifying potential environmental effects (i.e., direct, indirect, and cumulative) of the alternatives.

The Forest Service is seeking information, comments, and assistance from Federal, State and local agencies, and other individuals or organizations who may be interested in or affected by the proposal. This input will be utilized in the preparation of the draft environmental impact statement. During January, notices will be published in local and regional newspapers, radio notices will be broadcast, and letters will be sent to key contacts and interested and affected publics. Informal public meetings will be held at Winchester, Kentucky, in the early stages of the analysis to inform the public of the analysis process and to provide for public participation and involvement. Additional meetings may be held in other locations.

Jorge Hersel, Dispersed Recreation Specialist, is the interdisciplinary team leader for the environmental analysis.

The responsible official is Edward Madigan, Secretary of Agriculture, Administration Building, 12th Street, SW., Washington, DC 20250.

The draft environmental impact statement is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by June 1992. At that time, EPA will publish a notice of availability of the draft environmental impact statement in the **Federal Register**.

The comment period on the draft environmental impact statement will be 60 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. Upon release of the draft environmental impact statement, projected for June 1992, reviewers must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposal participate by the close of the 60-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. it is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

After the comment period ends on the draft environmental impact statement, the comments will be analyzed, and considered by the Forest Service in preparing the final environmental impact statement. The final environmental impact statement is scheduled to be completed by February 1993. The Secretary will consider the comments, responses, environmental consequences discussed in the final environmental impact statement, and applicable laws, regulations, and policies in making his recommendation to the President regarding the suitability of these rivers for inclusion in the National Wild and Scenic Rivers System. The decision on inclusion of a river in the National Wild and Scenic Rivers System rests with the United States Congress.

Dated: January 24, 1992.

Mark A. Reimers,

Deputy Chief, Programs and Legislation.

[FR Doc. 92-2568 Filed 2-3-92; 8:45 am]

BILLING CODE 3410-11-M

Vegetative Management Practices for Noxious and Exotic Plant Species, Flathead National Forest, Spotted Bear and Hungry Horse Ranger Districts, Flathead County, MT

AGENCY: Forest Service, USDA.

ACTION: Notice; Intent to prepare an environmental impact statement.

SUMMARY: The notice is hereby given that the Forest Service is gathering information to prepare an Environmental Impact Statement (EIS) to analyze and disclose the environmental impacts of vegetation management practices to control the spread of noxious and exotic weed species in the Bob Marshall and Great Bear Wildernesses (BM/GBWA). The program would apply to those lands administered by Spotted Bear and Hungry Horse Ranger Districts within Flathead, Missoula, Powell and Lewis and Clark counties of Montana.

Ten plant species are currently under consideration for control, five species classified by the state as noxious weeds and 5 other exotic weed species that currently infest the BM/GBWA. Noxious weed species include Leafy spurge (Euphorbia esula), Spotted knapweed (Centaurea maculosa), Whitetop (Cardaria draba), Sulphur cinquefoil (Potentilla recta), and Canada thistle (Crisum arvense). In addition, the wilderness supports Goatweed (Hypericum perforatum), Hound's-tongue (Cynglossum officinale), Common tansy (Tanacetum vulgare), Yellow toadflax (Linaria vulgaris), and Musk thistle (Carduus nutans). The extent of the infestation for these species is listed in Table 1.

As part of a multi-year vegetation management program the Forest Service recognizes the potential impacts of additional exotic vegetation. However, at the present time, the emphasis will be directed toward the ten plant species previously mentioned. These species will receive devoted attention due to their competitive nature and the lack of natural immunities. Once these species are in check, other exotic species may be controlled within the landtypes addressed in the NEPA document.

The Forest Service will consider a range of control techniques based on the individual plant species, the extent of the infestation, site characteristics, and many other variables. Methods will include no action as well as manual and cultural control methods, biological control, and herbicide use. These methods, derived from scoping and public comments may be carried out under an Integrated Pest Management (IPM) program. Although some people may consider IPM to be an absolute alternative to pesticide application, in reality IPM provides a full range of management methods, including the use of herbicides. Aerial spraying of herbicides will not be considered as an alternative. The EIS will tier to the Flathead National Forest Plan which provides overall guidance in achieving a desired future condition for the areas under consideration.

DATE: Comments concerning the scope of the analysis should be received on or before March 5, 1992. It is important that interests be expressed within this time frame so they will receive timely consideration in the preparation of the DEIS.

ADDRESSES: Submit written remarks and suggestions on the potential vegetation management practices to Greg Warren, District Ranger, Spotted Bear Ranger District, P.O. Box 310, Hungry Horse, MT 59919.

FOR FURTHER INFORMATION CONTACT: Jay Winfield, Interdisciplinary Team Leader, or Greg Warren District Ranger, at (406) 387–5243.

SUPPLEMENTARY INFORMATION: The term "noxious weed" is a legal definition. The Federal Noxious Weed Act of 1974 defines a "noxious weed" as a plant which is of foreign origin, is new to, or is not widely prevalent in the United States, and can directly or indirectly injure crops, other useful plants, livestock or the fish and wildlife resources of the United States or the Public health (Pub. L. 93–629). The Montana County Noxious Weed Management Act defines a "noxious weed" as any exotic plant species established or that may be introduced in the state which may render land unsuitable for agriculture, forestry, livestock, wildife, or other beneficial uses and is further designated as either a state-wide or county-wide noxious weed (7–22–210 MCA). Therefore, federal, state and county laws require landowners, including the Forest Service, to control noxious and exotic plant species. The Wilderness Act and Flathead National Forest Plan contains similar direction for noxious weed control in wilderness areas.

The Bob Marshall complex contains one of the largest tracts of Congressionally designated wilderness in the lower 48 states. Management activities would transpire under the guidance of the Flathead National Forest Plan in Management Area 21 (996,381 acres) which consists of the Great Bear Wilderness, designated in 1978 by the U.S. Congress, and the Flathead National Forest portion of the Bob Marshall Wilderness, classified in 1964 (p. III–102).

The Wilderness Act defines wilderness as those areas "where the earth and community of life are untrammeled by man." Although wilderness may be viewed as those areas that are "left alone", human impacts have challenged the Forest Service to actively comply with the Wilderness Act mandate. The mandate states that wilderness be "protected and managed so as to preserve its natural condition." The Flathead National Forest Land and Resource Management Plan provides comparable wilderness management direction which commits the agency to "Maintain plants and animals indigenous to the area by protecting the natural dynamic equilibrium associated with natural, complete ecosystems." (Pg. III–102).

Noxious and exotic weed species are aggressively superior competitors when introduced into plant communities. Currently the invasion of exotic plant species into the BM/GBWA threatens the "natural condition" of these areas. Fortunately, only a small percentage of land within the BM/GBWA is infested with exotic plant species. The opportunity currently exists to treat exotic plant infestations while they are small and scattered. This option appears more economical and environmentally sound than waiting until infestations expand and significantly displace native vegetation and reduce native forage availability for all indigenous wildlife species. The depletion of native plant communities could cause aesthetic values and recreational opportunities to depreciate toward an unacceptable level.

The goal of the Forest Service is to maintain or improve the natural integrity of our forest resources. With this goal and the aforementioned acts in mind, the Forest Service proposes multi-year vegetation management practices directed toward the reduction and containment of those weeds currently established. Prevention of additional weed establishment will be addressed in a separate NEPA document.

The extent of the infestation of the ten species being considered for control is listed in Table 1.

TABLE 1.—WILDERNESS WEED INVENTORY

No. of sites	Species	Acres	Landtypes (LTA)
1	Leafy spurge	4.5	Ib
31	Spotted knapweed	59.0	I, Ib, III, VII, VIII
1	Whitetop	0.03	Ib
1	Sulphur cinquefoil	0.5	III
12	Canada thistle	59.0	I, II, III, IV, VII, VIII
3	Goatweed	7.0	III, VII
12	Hound's-tongue	0.55	I, III, VII, VIII
1	Common tansy	0.03	I
5	Yellow toadflax	0.4	I, III, IV, VII, VIII
5	Musk thistle	0.14	Ib, III

The Landtype associations (LTA), listed in the above table are described in "Land System Inventory of the Scapegoat and Danaher portion of the Bob Marshall Wilderness" a US Department of Agriculture, Forest Service, Flathead, Lolo, Lewis & Clark and Helena National Forests, May 1980.

The sites listed in Table 1 will be aggregated into groups with common geographic locations. Soil characteristics, weed species characteristics, sourrounding native vegetation, specific location, and other environmental features will be discussed in the draft environmental impact statement.

As a result of the scoping and analysis that has taken place to date, possible methods to be used in the treatment of weeds would include:

(1) *No action:* Under this method no direct action would be taken. The comparison of this technique with the active methods highlights the potential effects of uncontrolled exotic plants on the wilderness environment. The no-action method would also provide a baseline for analyzing the possible adverse impacts of various control techniques.

(2) *Manual control:* This method was developed in response to the possible impacts of other treatment activities, and those areas that could possibly receive detrimental effects, if other methods were implemented. This method would include actions such as hand pulling, grubbing or topping to possibly destroy or limit reproduction of the exotic species.

(3) *Cultural control:* This method includes a number of important techniques such as forced grazing, utilization of a shaded canopy, irrigation, mowing, burying of soil that is contaminated with undesirable seed, heavy fertilization rates, mulching, etc.

(4) *Biological control:* Biological weed control is a deliberate use of natural enemies such as parasites, predators, or pathogens to lessen weed infestations to a desired level.

(5) *Herbicide (Glyphosate) control:* This method was developed to address the issue of persistence and water quality impacts associated with some herbicides. Glyphosate is a non-selective, broad-spectrum herbicide that has relatively no soil activity and its absorption by roots is minimal to non-existent.

(6) *Herbicide (2,4-D) control:* This method was also developed to address the issue of persistence and water-quality impacts associated with some herbicides.

(7) *Herbicide (Dicamba) control:* This method was developed to assess the tradeoffs between effective exotic weed control and the environmental impacts of a relatively persistent and less selective herbicide on non-target broadleaf species and biological diversity.

(8) *Herbicide (Picloram) control:* This method was also developed to assess the tradeoffs between effective exotic weed control and the environmental impacts of a relatively persistent and less selective herbicide on non-target broadleaf species and biological diversity.

(9) *Herbicide (Clopyralid) control:* This method was developed to address the impacts of a less persistent, more selective herbicide on non-target plant species and biological diversity.

The Forest Service recognizes the importance of a integrated approach, therefore, the emphasis may be placed on one or all methods previously mentioned. The blend of these methods will be based on a number of variables such as, site characteristics, environmental hazards and economic feasibility to name a few.

Public participation is important at several stages of the analysis. Although people may visit with the Forest Service officials at any time during the analysis and prior to the decision, two time periods are specifically identified for the receipts of comments on the analysis. The two public comment periods include the scoping process (now through February) and the review period for the draft EIS (March through April, 1992). The Forest Service is seeking information, comments, and assistance from Federal, State, Local Agencies, and individuals or organizations who may be interested in or affected by the proposal. This input will be used in preparing the draft EIS.

The Scoping Process Includes:

(1) Identifying potential issues.

(2) Identifying issues to be analyzed in depth.

(3) Eliminating insignificant issues or those which have been covered by relevant environmental analysis.

(4) Identifying additional alternatives.

(5) Identifying potential environmental effects of the proposed action and alternatives, such as, direct, indirect, and cumulative effects, and connected actions.

(6) Determining potential cooperating agencies and task assignments.

The Department of Interior, Fish and Wildlife Service will be consulted throughout the analysis, in order to insure that the requirements of the Endangered Species Act are met.

The DEIS is expected to be filed with the Environmental Protection Agency (EPA) and available for public review in March, 1992. The EPA will publish a notice of availability of the DEIS in the **Federal Register**.

The Forest Service recognizes the importance of intra-agency reviewers as well as individuals participating in the reviewing process. First, reviewers must structure their participation in the environmental review of the proposal so that it is consequential and alerts an agency to the reviewer's position, whether contentious or supportive. Secondly, environmental objections that could be raised at the draft environmental impact stage but are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. Those agencies or individuals interested in the proposed actions are encouraged to participate by the close of the 45 day DEIS comment period so that significant comments and objectives are made available to the Forest Service at a time when the agency can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also beneficial if comments refer to chapters and specific pages of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.).

The preliminary issues from initial scoping within the agency and public comments are listed below.

Potential impacts of noxious weeds on the wilderness and other forest resources.

Potential impacts of weed control methods on wilderness and other forest resources.

Human health affects in relation to weed management methods, particularly herbicide application.

How can adjustments such as road and trail construction, travel management, recreation management, range management, and other Forest Service activities help aid in the controlling the spread of noxious weeds.

Close coordination with other districts managing the BMWC should be emphasized in controlling noxious weeds.

Is knapweed control a realistic goal, given the present control methods and levels of infestations.

All actions should be based on a monitoring program. The monitoring program should determine the level of infestations and associated impacts of these infestations.

Application of herbicides on sandy soils or steep sites should be prohibited.

How would certified weed-free hay help prevent the spread of noxious weeds; require/educate commercial and private stock users to use weed-free hay.

Following a 45 day DEIS public comment period, the comments received will then be analyzed and considered by the Forest Service in the Final Environmental Impact Statement (FEIS). The FEIS is scheduled to be completed by June, 1992. The Forest Service will respond in the FEIS to the comments received in the DEIS. The Regional Forester, who is the responsible official for the EIS will make a decision regarding this proposal considering the comments, responses, and environmental consequences discussed in the FEIS, and the applicable laws, regulations, and policies. The decision and reasons regarding the action will be documented in the Record of decision (ROD).

Dated: January 22, 1992.

Greg Warren,

District Ranger, Spotted Bear Ranger District, Flathead National Forest.

[FR Doc. 92-2699 Filed 2-3-92; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

International Trade Administration

Automotive Parts Advisory Committee; Closed Meeting

AGENCY: International Trade Administration, Commerce.

ACTION: Closed meeting of U.S. Automotive Parts Advisory Committee.

SUMMARY: The U.S. Automotive Parts Advisory Committee (the "Committee") advises U.S. Government officials on matters relating to the implementation of the Fair Trade in Auto Parts Act of 1988. The Committee: (1) Reports annually to the Secretary of Commerce on barriers to sales of U.S.-made auto parts and accessories in Japanese markets; (2) assists the Secretary in reporting to the Congress on the progress of sales of U.S.-made auto parts in Japanese markets, including the formation of long-term supplier relationships; (3) reviews and considers data collected on sales of U.S.-made auto parts to Japanese markets; (4) advises the Secretary during consultations with the Government of Japan on these issues; and (5) assists in establishing priorities for the Department's initiatives to increase U.S.-made auto parts sales of Japanese markets, and otherwise provide assistance and direction to the Secretary in carrying out these initiatives. At the meeting, committee members will receive briefings on the status of ongoing consultations with the Government of Japan and will discuss specific trade and sales expansion programs related to U.S.-Japan automotive parts policy.

DATE AND LOCATION: The meeting will be held on Thursday, March 19, 1992 from 10 a.m. to 5 p.m. in room 4830, Department of Commerce, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Mr. Stuart Keitz, Office of Automotive Industry Affairs, Automotive Affairs and Consumer Goods Sector, Trade Development, Main Commerce, room 4036, Washington, DC 20230, telephone: (202) 377-0669.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel formally determined on June 24, 1991, pursuant to Section 10(d) of the Federal Advisory Act, as amended, that the series of meetings or portions of meetings of the Committee and of any subcommittee thereof, dealing with privileged or confidential commercial information may be exempt from the provisions of the Act relating to open meeting and public participation therein because these items are concerned with matters that are within the purview of 5 U.S.C. 552b (c) (4) and (9) (B). A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the International Trade Administration Records Inspection Facility, room 6020, Main Commerce.

Dated: January 29, 1992.

Henry Misisco,

Director, Office of Automotive Industry Affairs.

[FR Doc. 92-2674 Filed 2-3-92; 8:45 am]

BILLING CODE 3510-DR-M

Minority Business Development Agency

Business Development Center Applications: State of Minnesota

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: In accordance with executive Order 11625, the Minority Business Development Agency (MBDA) is soliciting competitive applications under its American Indian Program to operate an Indian Business Development Center (IBDC) for approximately a 3 year period, subject to Agency priorities, recipient performance and the availability of funds. The cost of performance for the first budget period (12 months) is estimated at $173,250 in Federal funds from July 1, 1992 to June 30, 1993. The IBDC will operate in the State of Minnesota geographic service area. The award number of this IBDC will be 05-10-92004-01.

The funding instrument for the IBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

The American Indian program is designed to provide business development services to the American Indian business community for the establishment and operation of viable American Indian businesses. To this end, MBDA funds organizations that can coordinate and broker public and private resources on behalf of American Indian individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding American Indian business.

Applications will be evaluated initially by Regional staff on the following criteria: The experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of American Indian businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodology) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70 percent of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive. The selection of an application for further processing by MBDA will be made by the Director based on a determination of the application most likely to further the purposes of the American Indian program. The application will then be forwarded to the department for final processing and approval, if appropriate. The Director will consider past performance of the applicant on previous Federal awards.

IBDCs performing satisfactorily may continue to operate, after the initial competitive year for up to 2 additional budget periods. IBDCs with year-to-date "commendable" and "excellent" performance ratings may continue to be funded for up to 3 to 4 additional budget periods, respectively. Under no circumstances shall an IBDC be funded for more than 5 consecutive budget periods without competition. Periodic

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reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an IBDC's performance, the availability of funds and Agency priorities.

Awards under this program shall be subject to all Federal Departmental regulations, policies, and procedures applicable to Federal assistance awards.

In accordance with OMB Circular A-129, "Managing Federal Credit Programs," applicants who have an outstanding accounts receivable with the Federal Government may not be considered for funding until these debts have been paid or arrangements satisfactory to the Department of Commerce are made to pay the debt.

The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the IBDC has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are unsatisfactory performance of IBDC work requirements; and reporting inaccurate or inflated claims of client assistance or client certification. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

All applicants must submit a completed form CD-511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying"

(a) Prospective participants (as defined at 15 CFR part 26, section 105) are subject to 15 CFR part 26, "Nonprocurement Debarment and Suspension,"

(b) Grantees (as defined at 15 CFR part 26, section 605) are subject to 15 CFR part 26, subpart F, "Governmentwide Requirements for Drug-Free Workplace (Grants),"

(c) Persons (as defined at 15 CFR part 28, section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions,"

(d) Any applicant that has paid or will pay any funds other than Federal appropriated funds for lobbying must submit an SF-LLL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, appendix B.

Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, award to submit, if applicable, a completed Form CD-512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions and Lobbying" and disclosure form, SF-LLL, "Disclosure of Lobbying Activities." Form CD-512, when submitted by subtier applicants, is intended for the use of recipients and should not be transmitted to the Department. SF-LLL should be submitted to the Department in accordance with the instructions contained in the award document.

CLOSING DATE: The closing date for applications is March 6, 1992. Applications must be postmarked on or before March 6, 1992.

MAILING ADDRESS FOR SUBMISSION: Proposals will be reviewed by the New York Regional Office. The mailing address for submission of applications is: New York Regional Office, Minority Business Development Agency, U.S. Department of Commerce, 26 Federal Plaza, Room 3720, New York, New York 10278.

FOR FURTHER INFORMATION CONTACT: David Vega, Regional Director, Chicago Regional Office.

ADDRESS: Chicago Regional Office, Minority Business Development Agency, 55 East Monroe Street, Suite 1440, Chicago, Illinois 60603, 312/353-0182.

STATUTORY AUTHORITY: 15 U.S.C. 1512.

FUNDING AUTHORITY: Executive Order 11625, October 13, 1971.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive Order 12372 "Intergovernmental Review of Federal Programs" is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

11.801 American Indian Program (Catalog of Federal Domestic Assistance)

Note: A pre-application conference to assist all interested applicants will be held at the U.S. Department of Commerce, Minority Business Development Agency, 55 East Monroe, Suite 1440, Chicago, Illinois, February 14, 1992 at 10 a.m.

Dated: January 30, 1992.

David Vega,

Regional Director, Chicago Regional Office.

[FR Doc. 92-2609 Filed 2-03-92; 8:45 am]

BILLING CODE 3510-21-M

COMMISSION OF FINE ARTS

Meeting

The Commission of Fine Arts' next meeting is scheduled for 20 February 1992 at 10 a.m. in the Commission's offices in the Pension building, suite 312, Judiciary Square, 441 F Street, NW., Washington, DC 20001 to discuss various projects affecting the appearance of Washington, DC, including buildings, memorials, parks, etc.; also matters of design referred by other agencies of the government. Handicapped persons should call the Commission offices (202-504-2200) for details concerning access to meetings.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address or call the above number.

Dated in Washington, DC, January 27, 1992.

Donald B. Myer,

Assistant Secretary.

[FR Doc. 92-2619 Filed 2-3-92; 8:45 am]

BILLING CODE 6330-01-M

COMMODITY FUTURES TRADING COMMISSION

Commodity Exchange, Inc., Proposed Futures and Futures Option Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Availability of the terms and conditions of proposed commodity futures and futures option contracts.

SUMMARY: The Commodity Exchange (COMEX or Exchange) has applied for designation as a contract market in Eurotop 100 stock index futures and futures options. The Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received on or before March 5, 1992.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Reference should be made to the Eurotop 100 stock index futures and futures option contracts.

FOR FURTHER INFORMATION CONTACT: Please contact Stephen Sherrod of the Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, telephone 202–254–7303.

SUPPLEMENTARY INFORMATION: Copies of the terms and conditions of the proposed contracts will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by the COMEX in support of the applications for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the terms and conditions of the proposed contracts, or with respect to other materials submitted by the COMEX in support of the applications, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581 by the specified date.

Issued in Washington, DC, on January 29, 1992.

Gerald Gay,

Director.

[FR Doc. 92–2567 Filed 2–3–92; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Intent (NOI) To Prepare a Draft Programmatic Environmental Impact Statement (EIS) for a Ballistic Missile Defense System

AGENCY: Office of the Secretary of Defense—Strategic Defense Initiative Organization is the lead agency. The US Army, Air Force and Navy will serve as cooperating agencies.

ACTION: Notice.

The proposed action is to conduct development and test activities to provide the United States with the capability to produce, deploy, and maintain a missile defense system that will provide a defense against ballistic missile strikes. The system will use a combination of space- and ground-based sensors, interceptors, and communications systems, and a ground-based command and control system.

Alternatives

Alternatives to be evaluated in the EIS include the following: (1) No Action Alternative; (2) All Ground-Based System Alternative; (3) All Spaced-Based System Alternative; (4) Ground- and Space-Based Sensors with Space-Based Interceptors System Alternative; and (5) Ground- and Space-Based Sensors and Ground-Based Interceptors System Alternative.

Under the no action alternative (Alternative 1), no system development and testing would be conducted to provide a global protection against limited ballistic strikes capability. Under Alternative 2, only ground-based sensors and interceptors would be utilized to meet mission objectives. Under Alternative 3, only space-based sensors and interceptors would be utilized to meet mission objectives. Alternatives 4 and 5 represent a mixture of space- and ground-based sensors and interceptors distinct from those of the proposed action. All alternatives with the exception of the no action alternative would involve ground-based command and control.

Background

During his 1991 State of the Union address, President Bush called for the Strategic Defense Initiative (SDI) to be refocused. The new focus involves protecting the United States, our forces overseas, and our friends and allies from limited ballistic missile strikes, regardless of their origin. SDIO named this refocused program Global Protection Against Limited Strikes (GPALS).

Congress provided guidance and direction to the Department of Defense in regards to missile defense by enacting the Missile Defense Act of 1991. The Act states: "* * * It is the goal of the United States to: (1) Deploy an anti-ballistic missile system, including one, or an adequate additional number of anti-ballistic missile sites and space-based sensors, that is capable of providing a highly effective defense of the United States against limited attacks of ballistic missiles; (2) maintain strategic stability; and (3) provide highly effective theater missile defenses (TMDs) to forward-deployed and expeditionary elements of the Armed Forces of the United States and to friends and allies of the United States."

SDIO is currently evaluating system architecture concepts that consist of a combination of space- and ground-based sensors, ground-based interceptors, and command, control and communication networks. Architecture concepts are also being developed for a follow-on space-based interceptor capability. The system architecture concept integrates theater and strategic missile defenses. *Global* means protecting the United States worldwide interests with theater defenses, as well as defenses for the American homeland. *Protection* means that the objective is to have an extremely low number or no offensive weapons getting past our defensive system. *Limited* means that the system can defend against up to 200 attacking ballistic missile warheads in a variety of scenarios. A fully developed GPALS system will provide continuous detection, tracking, and protection against limited strikes by tactical and strategic missiles.

The system is an integration of three segments that are designed to defend against different types or classes of missile threats. The segments are: Theater Missile Defense (TMD), National Missile Defense (NMD), and Global Missile Defense (GMD). The TMD segment is designed to defend against theater missiles. The TMD segment is rapidly relocatable in order to defend United States deployed forces and United States friends and allies from theater missiles. The NMD segment is designed to defend the Continental United States (CONUS), Alaska, and Hawaii. As proposed, the NMD system consists of ground- and space-based sensors and ground-based interceptors. It will be capable of destroying individual warheads in the late terminal phase of flight. The GMD segment is envisioned to be a subsequent development and will consist of space-based interceptors capable of destroying missiles in all phases of flight. All segments of the system will be integrated with a Battle Management Command, Control and Communications (BM/C3) element. The BM/C3 element currently exists but will need system improvements to be adjusted accordingly if the GPALS system is developed and deployed.

Related Environmental Documentation

The EIS will be the umbrella document for the missile defense system acquisition and will serve as the foundation, for future system and site-specific environmental documents. A separate and related programmatic EIS is being prepared on TMD because of the distinctive nature of the TMD mission. Other related NEPA documents include the United States Army Kwajalein Atoll (USAKA) Supplemental EIS covering activities associated with experimental and integrated development flight testing in the Republic of the Marshall Islands; site-specific experimental launch activities, such as the EIS on the Strategic Target System (STARS) covering launch activities at the Kauai Test Facility on the Pacific Missile Range Facility, Kauai, Hawaii; and EISs for sites selected for deployment of the NMD segment facilities and assets.

Scoping

This EIS will examine the potential environmental consequences associated with the life-cycle activities for the proposed action and alternatives. The document will analyze development, testing, production, basing and siting, operations and maintenance support, and eventual decommissioning activities. The EIS will focus on broad life-cycle impacts. Follow-on site-specific documents will be written to evaluate possible impacts on areas considered for operations (development, testing, production, and deployment).

A preliminary list of significant topics to be addressed in the AEIS includes, but is not limited to, the following: potential effects of non-ionizing radiation on human and biological populations and on communications elements from testing sensor and communications elements; air quality and ozone depletion effects from rocket exhausts; launch safety and water quality effects resulting from test launches; space debris; impacts on various resource elements and the human environment from generation and use of hazardous materials and disposal of hazardous wastes; and, impacts on strategic mineral resources.

Invitation to Participate

Interested individuals and organizations may participate in the scoping process by providing written statements, recorded statements, or by attending one of the scoping meetings listed below. Statements and public input received as a result of this Notice of Intent and the related scoping process will be used to assist SDIO in identifying the significant issues to be analyzed in depth in this EIS. Individuals or organizations may participate in the scoping process through any or all of the following means:

1. Record requests for additional information by calling the following toll-free number: 1–800–742–2662; for the hearing impaired, the toll-free number is 1–800–223–8488. These lines will be available 24 hours a day through 6 March 1992.

2. Record telephone statements by calling the following toll-free number: 1–800–424–2534.

3. Send written statements or questions to the address below no later than 6 March 1992.

4. Offer verbal statements at Scoping Meetings at the following times and locations:

SCOPING MEETINGS

Date	Times	Location
Feb. 25, 1992	1–3 p.m., 6:30–8:30 p.m.	Grand Hyatt Hotel, 1000 H St. NW., Washington, DC 20001.
Feb. 27, 1992	1–3 p.m., 6:30–8:30 p.m.	Los Angeles Hilton, 930 Wilshire Blvd., Los Angeles, CA 90017.

Written statements and questions about the proposed action and scope of the EIS may be submitted to: Captain Tracy A. Bailey, USAF, P.O. Box 41048, Bethesda, MD 20824.

Written and verbal statements will be considered during the preparation of the EIS. Inputs should be received by 6 March 1992.

Dated: January 29, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–2575 Filed 2–3–92; 8:45 am]

BILLING CODE 3810-01-M.

Special Operations Policy Advisory Group, Meeting

The Special Operations Policy Advisory Group (SOPAG) will meet on February 28, 1992 in the Pentagon, Arlington, Virginia to discuss sensitive, classified topics.

The mission of the SOPAG is to advise the Office of the Secretary of Defense on key policy issues related to the development and maintenance of effective Special Operations and Low-Intensity Conflict forces.

In accordance with section 10(d) of Public Law 92–463, the "Federal Advisory Committee Act," and section 552b(c)(1) of title 5, United States Code, this meeting will be closed to the public.

Dated: January 28, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–2576 Filed 2–3–92; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board's Committee on Technology to Support Force Projection: Global Reach-Global Power will meet on 26–28 February 1992, at the ANSER Corporation, 1215 Jefferson Davis Highway, Arlington, VA from 8 a.m. to 5 p.m.

The purpose of this meeting is to receive briefings and gather information for the study.

The meeting will be closed to the public in accordance with section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–4811.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 92–2614 Filed 2–3–92; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board's Committee on Technology Options for Global Reach - Global Power: 1995–2020 (Mobility Panel) will meet on 19–20 February 1992, at Kirtland AFB, NM, 8 a.m. to 5 p.m.

The purpose of this meeting is to receive briefing and gather information for the study.

The meeting will be closed to the public in accordance with section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariate at (703) 697–4811.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 92–2615 Filed 2–3–92; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF ENERGY

Draft Implementation Plan for the Environmental Restoration and Waste Management Programmatic Environmental Impact Statement

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice of availability for public comment and announcement of public workshops.

SUMMARY: DOE announces the availability for public review and comment of the Draft Implementation Plan (IP) for the Environmental Restoration and Waste Management (EM) Programmatic Environmental Impact Statement (PEIS). DOE also plans to conduct a series of workshops to discuss the Draft IP. The purpose of the Draft IP is to record the results of the public scoping process and to serve as a plan for the preparation of the PEIS. The Draft IP also states the alternatives and issues to be evaluated in the PEIS.

BACKGROUND: On October 22, 1990, DOE issued a Notice of Intent (NOI) to prepare the EM PEIS, which identified the proposed scope of the PEIS and initiated the public scoping process. The proposed action is to formulate and implement an integrated EM program in a safe and environmentally sound manner and in compliance with applicable requirements. This proposed action will be achieved by defining a broad, systematic approach to DOE remedial activities and waste management practices. The PEIS will analyze the existing EM program (the no-action alternative) and evaluate alternatives for an integrated program.

In the NOI, DOE requested comments concerning the scope of the PEIS. The public comment period was from October 22, 1990 (the publication date of the NOI) to February 19, 1991. Beginning on December 3, 1990, DOE held 23 scoping meetings at various locations across the country to ensure adequate opportunity for participation by the public and other government agencies. During the public comment period, over 1,200 people provided approximately 7,000 comments, either by participating in the meetings or by submitting materials and letters to DOE. The majority of comments came from individuals. However, about 280 organizations also participated. A statistical analysis of scoping comments shows that most concerns were related to the public perception of the DOE culture and to environmental, health, and safety issues.

In the NOI, DOE stated that the IP would be issued for public comment. DOE has prepared the IP to record the results of the public comments on the scope of the PEIS and to serve as a plan for the preparation of the PEIS. The IP also states the alternatives and issues to be evaluated in the PEIS.

The IP contains seven chapters, seven appendices, and an executive summary. The bulk of the information is presented in chapters one through four and in Appendix C, which are briefly described below. Background, bibliographic, organizational, and administrative information are included in the other sections of the IP.

Chapter one, Introduction, provides historical and background information, discusses the regulatory framework under which DOE operates and explains the relationship of the EM PEIS to other DOE activities. Chapter two, Purpose of and Need for the Proposed Action, relates the proposed action to the fundamental mission of DOE's EM program.

The third chapter, The Scoping Process and Results, describes the DOE scoping process and the results of the scoping meetings. This chapter describes how public comments will be addressed in the preparation of the PEIS.

Chapter four, Proposed Action and Alternatives, gives details on the proposed scope of the PEIS. The overall EM proposed action addresses both environmental restoration and waste management. The PEIS will analyze the current environmental restoration program (no action alternative) and three alternatives. The PEIS also will assess the current waste management program (no action alternative) and alternatives for each of six waste classifications and for DOE spent nuclear fuel. The alternatives will be analyzed in an integrated way since environmental restoration activities generate waste. The last section of chapter four, Alternatives Analysis, describes the approaches to be used in studying risks and impacts related to environmental restoration and waste management alternatives and the impacts of technology development.

Appendix C provides a proposed annotated outline for the PEIS.

INVITATION TO COMMENT: All interested parties are invited to comment on the IP. In an effort to encourage public involvement, copies of the IP, with an invitation to comment and notice of the workshops, will be sent to all those who participated in the scoping process or who asked to be on the mailing list. Written comments should be directed to Mr. Glen L. Sjoblom at the address and by the date indicated below. Also, agencies, organizations, and the general public are invited to take part in any one of five planned regional public workshops. The dates, locations, and contact information for the five workshops are listed below and will be announced in local public notices in advance of the planned workshops. Following completion of the comment period and consideration of the written comments, DOE will revise the Draft IP as appropriate and issue an IP for the PEIS.

ADDRESSES AND FURTHER INFORMATION: Written comments on the IP and questions concerning the program should be directed to: Glen L. Sjoblom, Special Assistant to the Assistant Secretary, Environmental Restoration and Waste Management (EM–1), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

To request copies of the IP, call (800) 862–8660.

For further information on the DOE NEPA process, contact: Carol M. Borgstrom, Director, Office of NEPA Oversight (EH–25), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–4600 or (800) 472–2756.

DATES: The comment period on the IP will continue until April 10, 1992. Written comments should be postmarked by April 10, 1992, to ensure consideration.

PUBLIC WORKSHOPS: Five regional public workshops on the IP are planned. They will be held at the following times and places:

Date: Tuesday, March 17, 1992.

Location: Atlanta Penta Hotel, 590 West Peachtree Street, NW., Atlanta, GA 30308–3586, (404) 881–6000, (800) 633–0000.

Date: Thursday, March 19, 1992.

Location: St. Tropez Hotel, 455 East Harmon Avenue, Las Vegas, NV 89109, (702) 369–5400, (800) 666–5400.

Date: Wednesday, March 25, 1992.

Location: Regency Hotel, 3900 Elati Street, Denver, CO 80216, (303) 458–0808, (800) 525–8748.

Date: Friday, March 27, 1992.

Location: Airport Ramada Inn, Spokane International Airport, Spokane, WA 99219, (509) 838–5211.

Date: Tuesday, March 31, 1992.

Location: Georgetown University Convention Center, 3800 Reservoir Road, NW., Washington, DC 20007, (202) 687–3200, (800) 446–9476.

These workshops will be different in format from the scoping meetings in order to facilitate interactive communication between participants and senior DOE representatives of the EM program and to solicit individual viewpoints. The workshops will be informal in nature and no formal transcript will be recorded. Anyone wishing to ensure that DOE will consider his or her comments in the preparation of the IP should submit them in writing.

Each workshop on the IP will consist of day and evening plenary sessions and four small-group breakout sessions during the day. These workshops will focus on DOE EM program-wide issues relating to the PEIS, not site-specific issues. The plenary sessions will consist of presentations on the PEIS process and the IP. Registration is required for the small-group breakout sessions of the workshops, but not for the plenary sessions. Anyone who wishes to participate in the breakout sessions at one of the five workshops should call (800) 862–8860 to register at least two weeks before the date of the desired workshop.

The breakout sessions will focus on four topics related to the PEIS: the PEIS process, Waste Management, Environmental Restoration, and Technology Development. The breakout sessions will be repeated to allow the participants to cover all four topics. Registration will be on a first-come, first-served basis. The number of breakout attendees will be limited to approximately 60 persons (15 for each of the breakout sessions) to promote an interactive atmosphere.

The tentative agenda for the workshops is as follows:

Day Session

8:00–8:15 Welcome
8:15–8:30 Presentation on the PEIS Process
8:30–9:15 Presentation on the IP
9:15–9:45 General Questions
9:45–10 Break
10–11 Breakout Sessions (Four parallel sessions: PEIS Process, Waste Management, Environmental Restoration, and Technology Development)
11–12 Repeat Breakout Sessions
12–1 Lunch
1–2 Repeat Breakout Sessions
2–3 Repeat Breakout Sessions
3–3:30 Break (facilitators organize for final plenary session)
3:30–5 Breakout Summary Report (from facilitators) & comments

Evening Session

6:30–6:45 Welcome
6:45–7 Repeat of Presentation on the PEIS Process
7–7:45 Repeat of Presentation on the IP
7:45–8:15 Repeat of Breakout Summary Report (from facilitators) and comments
8:15–8:30 Break
8:30–9:30 General Questions and Comments
9:30–10 Summary Remarks

Issued in Washington, DC, this 30th day of Jan., 1992.

Paul L. Ziemer,

Assistant Secretary, Environment, Safety and Health.

[FR Doc. 92–2687 Filed 2–3–92; 8:45 am]

BILLING CODE 6450-01-M

Floodplain Statement of Findings for the Proposed RCRA and CERCLA Characterization and Remediation Studies for the 200, 600, and 100 Aggregate Areas Operable Units, Hanford, Site, Richland, WA

AGENCY: Department of Energy (DOE).

ACTION: Floodplain statement of findings.

SUMMARY: This is a Statement of Findings prepared pursuant to Executive Order 11988 and 10 CFR 1022, Compliance with Floodplain/Wetlands Environmental Review Requirements. DOE has determined that some activities associated with the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) Remedial Investigation/Feasibility Study (RI/FS) and the Resource Conservation and Recovery Act of 1976 (RCRA) Facility Investigation/Corrective Measures Study (RFI/CMS) processes for the 100–N, 100–B/C, 100–D, 100–K, 100–H, 100–F, 200–IU, and adjacent 600 Area operable units are proposed to be within the 100-year floodplain of the Columbia River. On the basis of the Floodplain/Wetlands Assessment for the proposed actions prepared pursuant to 10 CFR 1022.12, DOE has determined that there is no practicable alternative to the proposed actions and that the proposed actions have been designed to avoid or minimize impacts on the floodplain of the Columbia River.

AVAILABILITY OF FLOODPLAIN/WETLANDS ASSESSMENT: Single copies of the Floodplain/Wetlands Assessment are available from Mr. Jim Goodenough, DOE Richland Field Office, Richland, Washington 99352 (509) 376–7087.

STATEMENT: The proposed actions are to perform RI/FS and RFI/CMS characterization activities for 17 operable units on the Hanford Site, Richland, Washington. The characterization is necessary to meet requirements of CERCLA, as amended, and RCRA to determine the nature and extent of the potential risk to human health, welfare or the environment posed by past releases of hazardous substances to the environment and to evaluate proposed remedies for such releases. The proposed RI/FS and RFI/CMS actions are preliminary steps in developing plans and alternatives for clean up of the operable units. The work is described in detail in the work plans for the operable units. The work is also necessary to comply with the Hanford Federal Facility Agreement and Consent Order, and in particular, to support milestones addressed in the Agreement.

The specific activities that may occur within the floodplain include geophysical surveys, hydrostratigraphic studies, surface water and sediment investigations, and biota investigations. The following briefly describes these activities:

- Geologic Investigations—performed to obtain information on the geology of the vadose and groundwater systems. Geologic and physical logs would be maintained and evaluated, soil samples would be collected if well installation is required, and an area walk-over would be performed to develop preliminary maps of the area.
- Groundwater Studies—drilling groundwater monitoring wells to determine the nature, extent, and movement of groundwater contamination in the hydrostratigraphic units of the 100 Areas.
- Surface Water and Sediment Investigations—conducted to evaluate the impact of facility operations on the exposed shoreline and on water quality of the Columbia River. Activities would include mapping, sampling water and sediments from the Columbia River and around springs or seeps areas along the river, and monitoring of the river stages.
- Ecological Investigations—collection of aquatic and riparian zone biota to identify possible biotic contaminant transport pathways, and to evaluate the existing concentrations of contaminants in biota associated with the 100 Areas.

The goal of each task would be to characterize the extent of known areas of contamination and to identify and characterize unknown areas that may exist. None of the tasks would require major construction activities. The geologic and hydrostratigraphic studies may require the drilling of wells in the floodplain; however, if preceding studies performed in the upland areas provide sufficient data, drilling in the floodplain will not be conducted.

Disturbances to the floodplain and wetlands adjacent to the Columbia River would be minimal, as most activities will occur on the upland portion of each operable unit. Disturbances to the wetlands primarily would be limited to pedestrian traffic necessary to collect samples, monitor water levels, and to carry out surveys with nonintrusive instruments. No long-

or short-term impacts would be expected from the nonintrusive sampling. If intrusive characterization, such as drilling were determined to be necessary in the wetland portion of the operable units, siting would be guided in part by the results of the biologic and cultural resource assessments performed on each operable unit. If drilling is necessary, disturbances would be kept to a minimum by limiting the extent of surface disturbance and by utilizing stabilization devices such as berms, riprap, or other devices to minimize erosion.

Following completion of characterization, remedial action strategies and alternatives would be prepared for the removal and remediation of the contamination from the operable units. Alternatives to the near-term proposed characterization actions are limited because of the need to carefully characterize contaminated areas on the Hanford Site prior to commencement of remediation activities.

- Relocation of the activities to another area cannot be considered as a viable alternative because it would not provide adequate or accurate data on the extent, distribution, and concentration of contaminants in the 100, 200 and adjacent 600 Areas. Effective remediation or corrective measures must be based on sound knowledge of the contamination as it exists in the operable units, gained from representative samples collected from known and discovered areas of contamination in the subject areas. This alternative would not satisfy the requirements of RCRA and CERCLA.
- The no-action alternative where no RFI/CMS or RI/FS activities are performed in the floodplain is not viable, as this alternative would not be in accordance with the requirements of RCRA, CERCLA, and the Hanford Federal Facility Agreement and Consent Order, as well as current U.S. Environmental Protection Agency and State of Washington Department of Ecology requirements to characterize operable units prior to remediation.
- The proposed action, consisting of characterization of the operable units of the 100, 200 and adjacent 600 Areas by collecting existing data, and collecting samples of various media from areas known and discovered to be contaminated, would provide information on the nature and extent of contaminants in the areas. This alternative would allow the most appropriate and effective corrective measures to be determined, and satisfies requirements of RCRA, CERCLA, and other applicable regulations.

The proposed actions have been designed to conform to applicable Federal and State regulations. All applicable Federal, State, or local permits will be obtained prior to commencement of activities on the RCRA operable units. Federal, State, or local permits are not required under Section 300.400(e) of the National Contingency Plan for on-site actions pursuant to CERCLA, however, DOE will ensure that the actions conform with all applicable or relevant and appropriate standards, requirements, criteria, or limitations, which would have been included in any such permit.

The proposed actions in the Columbia River floodplain must be taken as soon as possible because of binding agreements between DOE, the U.S. Environmental Protection Agency and the State of Washington Department of Ecology. Therefore, any further public review is waived prior to the implementation of the proposed floodplain actions, as provided by 10 CFR 1022.18(c).

FURTHER INFORMATION: For further information contact Ms. Julie Erickson, DOE Richland Field Office, Richland, Washington 99352 (509) 376–3603.

Paul D. Grimm,

Principal Deputy Assistant Secretary for Environmental Restoration and Waste Management.

[FR Doc. 92–2688 Filed 2–3–92; 8:45 am]

BILLING CODE 6450-01-M

Secretary of Energy Advisory Board Task Force on the Department of Energy National Laboratories; Opportunity To Review and Comment on Task Force Report

Pursuant to the Charter of the Secretary of Energy Advisory Board, notice is hereby given of the opportunity to review and comment on a written report of the Secretary of Energy Advisory Board Task Force on the Department of Energy National Laboratories. The report contains the Task Force's recommendations to the Secretary of Energy on the research, development, energy, and national defense responsibilities, activities, and operations of the Department of Energy's (DOE) National Laboratories and the Department's management of those laboratories.

The report will be available for review and copying for ten working days following issuance of this notice in the Public Reading Room, 1E-190 Forrestal Building, 1000 Independence Avenue, SW, Washington, DC, between 9 a.m. and 4 p.m. Monday through Friday except Federal holidays. Single copies of the report will be available upon request by calling (202) 586–7092.

Persons wishing to submit written comments on the report should submit five copies to the contact listed below by February 28, 1992, in order to receive full consideration.

Contact: Dr. E. Fenton Carey, Designated Federal Officer, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–7092.

Issued in Washington, DC, on: January 30, 1992.

Marcia L. Morris,

Deputy Advisory Committee Management Officer.

[FR Doc. 92–2686 Filed 2–3–92; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. JD92-03250T Utah-1 Addition]

State of Utah; NGPA Determination by Jurisdictional Agency Designating Tight Formation

January 28, 1992

Take notice that on January 22, 1992, the Utah Board of Oil, Gas and Mining (Utah) submitted the above-referenced notice of determinaton pursuant to § 271.703(c)(3) of the Commission's regulations, that the Wasatch and Mesaverde Formations (Wasatch/Mesaverde) in Duchesne and Uintah Counties, Utah, qualify as tight formations under section 107(b) of the Natural Gas Policy Act of 1978 (NGPA). The area of application includes approximately 27,000 acres of federal land and 4,000 acres of State of Utah land more particularly described as follows:

Township 10 South, Range 17 East, S.L.M.

Section 1 thru 5: All
Section 8 thru 17: All
Section 20 thru 29: All
Section 32 thru 36: All

Township 10 South, Range 18 East, S.L.M.

Section 5 thru 8: All
Section 17 thru 21: All
Section 28 thru 36: All

Township 10 South, Range 19 East, S.L.M.

Section 31: All

The notice of determination also contains Utah's findings that the referenced portion of the Wasatch/Mesaverde Formations meet the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426. Persons objecting to the determination, may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2597 Filed 2-3-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP90-69-012]

Colorado Interstate Gas Co.; Report of Refunds

January 28, 1992.

Take notice that on January 15, 1992, Colorado Interstate Gas Company (CIG) filed a refund report showing that on December 16, 1991, it refunded $925,576.00 ($893,702.10 in principal and $31,873.90 in interest) to various jurisdictional customers.

CIG states that the refund report summarizes sales, storage, and transportation refunds for the period April 1, 1991, through October 31, 1991, made pursuant to the Commission's Orders of August 5, 1991, in Docket Nos. RP90-69-007 and RP87-30-036 (Phase II) and September 16, 1991, in Docket Nos. RP90-69-009 and RP87-30-038 (Phase II).

CIG states that copies of the filing have been served on CIG's jurisdictional customers, interested state commissions, and all parties to the proceedings.

Any person desiring to protest said filing should file protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commissions's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before February 4, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2603 Filed 2-3-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-001]

El Paso Natural Gas Co.; Compliance Tariff Filing

January 28, 1992.

Take notice that on January 23, 1992, El Paso Natural Gas Company ("El Paso") filed pursuant to part 154 of the Federal Energy Regulatory Commission ("Commission") Regulations Under the Natural Gas Act and in compliance with the directive of the Commission in its order dated January 8, 1992, Substitute Original Sheet No. 222A to be contained in El Paso's FERC Gas Tariff, First Revised Volume No. 1-A, to be effective January 17, 1992.

El Paso states that on December 17, 1991, it tendered Original Sheet No. 222A which revised Section 13, Service Conditions, of the General Terms and Conditions in its FERC Gas Tariff, First Revised Volume No. 1-A in compliance with Order No. 537. El Paso states that such provision provides that El Paso may require Shipper's certification to verify that its services qualify under said section.

El Paso states that by order dated January 8, 1992, the Commission stated that its regulations do not provide for an option on whether a Shipper should provide certification to meet the "on behalf of" standard and that Shipper shall provide certification. The Commission accepted El Paso's filing, subject to the condition that El Paso file a revised tariff sheet, within fifteen (15) days of the date of the order. Accordingly, tendered Substitute Original Sheet No. 222A revises such provision as directed.

El Paso request that the tendered tariff sheet be accepted for filing and permitted to become effective January 17, 1992, which is the date the Commission accepted the original tariff sheet.

El Paso states that copies of the filing were served upon all of El Paso's interstate pipeline system transportation customers and interested state regulatory commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedures, 18 CFR 385.211. All such protests should be filed on or before February 4, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc 92-2600 Filed 2-3-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-218-001]

Great Lakes Gas Transmission Limited Partnership; Final Report of Cash-Out of Account No. 191 Balances

January 29, 1992.

Take notice that on January 27, 1992, Great Lakes Gas transmission Limited Partnership ("Great Lakes") filed with the Federal Energy Regulatory Commission ("Commission") in the above-captioned proceeding six (6) copies of a Final Report of Cash-Out of Account No. 191 Balances ("Report").

Great Lakes states that the purpose of its filing is to comply with the directives of the Commission's order issued November 1, 1991 in Docket No. RP91-218-000 and the terms of Great Lakes' settlement approved in Docket No. RP89-186, *et al.*, which required Great Lakes to clear its Account No. 191 balances, by cash-out, and to report these cash-outs to the Commission. Great Lakes further states that its filing includes the final cash-out reports required by the Commission's March 28, 1991 letter order in Docket No. RP91-110 and May 29, 1991 letter order in Docket Nos. RP91-144 and RP91-148.

Great Lakes states that copies of its filing were served on each of its affected customers, as well as the Public Service Commissions of the States of Minnesota, Michigan, and Wisconsin. Copies of the transmittal letter accompanying Great Lakes' filing are said to have been served by Great Lakes on its remaining customers, as well as any other parties on the Commission's service list prepared in Docket No. RP91-218-000.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before February 5, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the

Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2594 Filed 2-3-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-4-25-000]

Mississippi River Transmission Corporation; Rate Change Filing

January 28, 1992.

Take notice that on January 24, 1992 Mississippi River Transmission Corporation (MRT) tendered for filing the following tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1:

	Proposed effective date
Twenty-Third Revised Sheet No. 4A.	February 23, 1992.
Eleventh Revised Sheet No. 4A.3.	February 23, 1992.
Twenty-Fourth Revised Sheet No. 4A.	March 1, 1992.
Twelfth Revised Sheet No. 4A.3.	March 1, 1992.

MRT states that the purpose of Twenty-Third Revised Sheet No. 4A and Eleventh Revised Sheet No. 4A.3 is to reflect the remaining installment of take-or-pay charges direct billed to it by United Gas Pipe Line Company pursuant to Docket No. RP85-209 *et al.*, and the flow of take-or-pay costs incurred by United from Sea Robin Pipeline Company in Docket No. RP89-141. MRT states that the filing is in accordance with its June 26, 1991 Stipulation and Agreement on the Allocation and Recovery of Transition Costs from Upstream Pipelines (Settlement) approved by Commission Order dated July 25, 1991 in Docket No. RP91-46-000, *et al.*, and reflects the reconciliation of take-or-pay amounts paid to United by MRT compared to take-or-pay amounts collected by MRT from its jurisdictional customers. MRT also states that because the take-or-pay amounts paid to United by MRT do not reflect a final Order 528-A settlement, it reserves the right to make additional flowthrough filings based on the outcome of future United take-or-pay filings.

MRT states that Twenty-Fourth Revised Sheet No. 4A and Twelfth Revised Sheet No. 4A.3 are reserved for future use and that these two sheets reflect the end of MRT's flowthrough amortization period and the termination of the account balances.

MRT also states that a copy of this filing has been mailed to each of MRT's jurisdictional customers and to the State Commissions of Arkansas, Illinois and Missouri.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214. All such protests should be filed on or before February 4, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection

Lois D. Cashell,

Secretary.

[FR Doc. 92-2599 filed 2-3-92; 8:45am]

BILLING CODE 6717-01-M

[Docket No. RP86-136-022]

National Fuel Gas Supply Corp.; Report of Refunds

January 28, 1992.

Take notice that on December 31, 1991, National Fuel Gas Supply Corporation (National), tendered for filing its Report of Refunds in compliance with the Stipulation and Agreement in Docket No. RP86-136, *et al.*, filed on July 19, 1990, and approved by this Commission on November 1, 1990. Such agreement required National to refund directly to its customers any overcollection of Account No. 858 costs for the 12-month period ending October 31, 1991, and submit a report to the Commission detailing the distribution of the refunds to the various customers and setting forth the data and computations supporting such distribution.

National states that it will distribute the refunds to its customers, together with interest, within 30 days from the date of a final Commission order approving this refund report.

National further states that copies of the refund report have been served upon both its jurisdictional customers and upon all interested state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before February 4, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2604 Filed 2-3-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-53-007]

Panhandle Eastern Pipe Line Co.; Report of Refunds

January 28, 1992.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle) on January 15, 1992, tendered for filing with the Federal Energy Regulatory Commission (Commission) a Refund Report in accordance with Article II of the Settlement Agreement (Settlement) dated July 10, 1991, approved by the Commission's orders issued August 2, 1991 and September 25, 1991, in Docket No. RP91-53, *et al.* Panhandle states that the report summarizes repayment amounts Panhandle made on December 16, 1991, to its jurisdictional sales customers who were subject or sponsoring parties to the Settlement.

Panhandle states that a copy of the filing was sent to each of Panhandle's affected customers and respective state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before February 4, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2602 Filed 2-3-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-99-000]

Pelican Interstate Gas System; Proposed Change in FERC Gas Tariff

January 29, 1992.

Take notice that on January 24, 1992, Pelican Interstate Gas System (Pelican) tendered for filing the following tariff sheets to be part of its FERC Gas Tariff, Original Volume No. 1:

Second Revised Sheet No. 39
First Revised Sheet No. 39A
Second Revised Sheet No. 55
First Revised Sheet No. 55A

The proposed effective date of the revised tariff sheets is February 24, 1992. Pelican states that the purpose of this filing is to revise § 5.6 of Rate Schedule FTS and § 5.6 of Rate Schedule ITS of Pelican's FERC Gas Tariff to require that shippers provide certification and sufficient information to Pelican to verify that, for transportation provided pursuant to section 311 of the Natural Gas Policy Act (NGPA) and § 284.102 of the Commission's Regulations, such services qualify as section 311 transportation.

Pelican states that on September 20, 1991, the Commission issued a final rule in Order No. 537 regarding revisions to the Commission's regulations governing transportation pursuant to section 311 of the NGPA and blanket transportation certificates. Pelican states such order, among other things, requires interstate pipelines to (a) obtain from its shippers certification, including sufficient information, to verify that services provided to them under section 311 of the NGPA and § 284.102 of the Commission's regulations qualify as section 311 transportation and (b) file by January 4, 1991 any tariff revisions or additions necessary to clarify that an interstate pipeline may require such certifications. Pelican states that there are no current customers for which this rule change will impact and has requested a waiver of the filing requirement by January 4, 1992 in order to let these tariff pages become effective.

Pelican states that copies of the filing have been served upon its customers, state commissions, and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 823 North Capitol Street, NE. Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rule of Practice and Procedure, 18 CFR 385.124. all such motions or protests should be filed on or before February 5, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 92-2596 Filed 2-3-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP92-67-000 and CP92-182-000]

Peoples Gas System, Inc. v. Florida Gas Transmission Co.; Technical Conference

January 28, 1992.

Take notice that on February 13, 1992, at 10 a.m., the staff of the Federal Energy Regulatory Commission will convene a technical conference in the above captioned proceedings to examine the following issues as they relate to the pending complaint by Peoples Gas System, Inc. v. Florida Gas Transmission Company. Peoples alleges that the allocation procedures proposed in FGT's Phase III application are unduly discriminatory, contravene the settlement reached in FGT's Phase II proceeding, violate first-come, first-served principles, and are not permitted by FGT's existing tariff.

So far the record suggests the following:

(1) In the Phase III application FGT proposes to construct and operate facilities to deliver up to 875,000 Mcf of natural gas per day to various delivery points in Florida.

(2) FGT has received customer commitments, in the form of executed long term firm service agreements, amounting to approximately 550,000 MMBtu/d.

(3) FGT has proposed a capacity allocation method which does not comply with the scheme currently approved, and embodied in FGT's Tariff. The proposed scheme would not allocate capacity on a first-come, first-served basis. Further, the proposed scheme would use only two seasons, instead of the currently approved four season allocation method.

(4) Peoples' total quantity requested on the Firm Service Log as of April 14, 1989 is 152,687 Mcfd. (See page 9 of the Complaint).

(5) Peoples also has a request for up to 169,275 Mcfd with a request date of December 19, 1990. (Request #1039). Staff is unable to determine whether this request is additive to, or duplicative of, the April 14, 1989 request.

(6) The combination of 550,000 MMBtu/d (current executed commitments) and 152,687 Mcfd (April 14, 1989 requests) does not exceed the proposed capacity of the pipeline of 875,000 Mcfd

Based on the above, the following issues will be discussed:

(a) Accuracy of the above observations.

(b) If Peoples executes a long term firm service agreement for 152,687 Mcfd or 169,275 Mcfd, will FGT be required to allocated capacity based on either the existing allocation procedures in FGT's tariff or on the allocation scheme proposed in Phase III, or would the proposed pipeline be adequate to accommodate all customer commitments?

(c) If FGT would be required to allocate capacity, what portion of the Peoples request would be satisfied based (1) on first-come, first-served allocation, and (2) based on the proposed allocation method in the Phase III application. (In order to do the first-come, first-served allocation, FGT is requested to match the executed customer commitments, with the applicable Firm Service Log Request numbers of December 19, 1990, which is stated to be the end of the original Phase III open season).

(d) If no allocation of capacity would be necessary, is it necessary for the Commission to further process the Complaint?

The Technical Conference will be limited to parties to the proceeding and the Commission Staff. Any person wishing to become a party to these proceedings must file a motion to intervene in accordance with Rule 214 of the Commission's rules of practice and procedure.[1] In addition, a technical conference addressing other issues in the Phase III proposal may be held on a later date. For further information contact William C. Lansinger, Jr., at (202) 208-2082.

Lois D. Cashell,
Secretary.

[FR Doc. 92-2605 Filed 2-3-92; 8:45 am]

BILLING CODE 6717-01-M

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[1] 18 CFR 385.214.

[Docket No. RP92-97-000]

Tarpon Transmission Co.; Tariff Filing

January 29, 1992.

Take notice that on January 27, 1992, Tarpon Transmission Company ("Tarpon") tendered for filing with the Commission as part of its FERC Gas Tariff, Original Volume No. 1, Seventh Revised Sheet No. 2A, to be effective on February 1, 1992. Tarpon states that it has filed this tariff sheet (which reflects a base transportation rate of 8.08 cents per Mcf) and supporting workpapers in compliance with Ordering Paragraph (B) of the Commission's "Order Affirming in Part and Modifying in Part Initial Decision," issued on December 26, 1991, in Docket No. RP84-2-004 (Remand), as revised in the Commission's December 30, 1991 Errata Notice.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Such motions or protests should be filed on or before February 5, 1992. Such motions or protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person desiring to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2595 Filed 2-3-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA92-1-9-001]

Tennessee Gas Pipeline Co.; Compliance Filing

January 29, 1992.

Take notice that on January 27, 1992, Tennessee Gas Pipeline Company (Tennessee) filed in the above referenced docket its compliance filing in response to the Commission's order issued on December 26, 1991.

Tennessee was directed in the December 26 order, among other things, to (1) reflect the removal of the enhanced fixed-variable (EFV) method of rate design and use of the current modified-fixed variable method of rate design in the classification of the fixed transmission costs of Canadian supplies in Tennessee's demand and commodity gas rates; (2) reflect a correction of the demand billing determinants used in calculating the D-1 current and surcharge adjustments; (3) remove nonsales service fuel use and last and unaccounted-for gas costs from its sales rates; and (4) supply supporting information concerning certain cost issues.

Tennessee states it mistakenly double-counted GS volumes in calculating billing determinants, and that a number of conversions have recently occurred on its system. As a result, it believes that the overall impact of any rate design revisions would be to increase both the demand and commodity rates. Tennessee states that because it will shortly file revised rates that reflect the EFV rate design, the proper GS volumes, and the recent conversions, to be effective February 1, 1992, as a part of its motion filing in Docket No. RP91-203, Tennessee has not reflected the increases in this compliance filing, but has attached workpapers setting forth its calculations.

Tennessee further states that it is seeking rehearing and stay on the fuel cost issue, and requests that the matter be discussed at the February 6, 1992 technical conference in this proceeding. Tennessee states that it has provided the other explanations and information required by the Commission's order.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before February 5, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2592 Filed 2-3-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-205-002]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

January 29, 1992.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on January 27, 1992 tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, six copies of the following tariff sheet:

2nd Sub First Revised Sheet No. 410A

Texas Eastern states that on September 16, 1991, Texas Eastern filed tariff sheets to comply with the Commission's August 30, 1991 order in the above-referenced proceeding. On December 26, 1991, the Commission issued its Order on Compliance Filing (the "Order"). In the Order, the Commission accepted the tariff sheets subject to certain conditions.

Texas Eastern submits 2nd Sub First Revised Sheet No. 410A in compliance with the Commission's mandate that Texas Eastern refile tariff sheets to clarify that Texas Eastern's shippers will not be required to indemnify Texas Eastern for damages resulting from Texas Eastern's negligence or willful misconduct in its handling of gas tendered pursuant to section 4.7. In addition, Sheet No. 410A is submitted in compliance with the Commission's requirement that Texas Eastern implement the quality specification waiver of a non-discriminatory basis.

The proposed effective date of the tariff sheet listed above is September 1, 1991.

Texas Eastern states that copies of the filing were served on Texas Eastern's jurisdictional customers, interested state commissions. Texas Eastern also states that copies of the filing have also been mailed to all Rate Schedule FT-1 and IT-1 shippers.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedures, 18 CFR 385.211. All such protests should be filed on or before February 5, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2593 Filed 2-3-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-54-000]

Trunkline Gas Co., Notice of Refund Report

January 28, 1992.

Take notice that on January 15, 1992, Trunkline Gas Company (Trunkline) tendered for filing with the Commission a Refund Report in accordance with Article II of the Offer of Settlement (Settlement) dated July 10, 1991 approved by the Commission's order issued August 2, 1991 in Docket No. RP91–54–000.

Trunkline states that the report summarizes repayment amounts Trunkline made on December 16, 1991 to its jurisdictional sales customers who were subject or sponsoring parties to the Settlement.

Trunkline states that copies of the filing were sent to Trunkline's affected customers and the respective state regulatory commissions.

Any person desiring to protest said filing should file protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before February 4, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92–2601 Filed 2–3–92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-135-001]

Trunkline Gas Co.; Proposed Changes in FERC Gas Tariff

January 28, 1992.

Take notice that Trunkline Gas Company (Trunkline) on January 22, 1992, tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

First Revised Sheet No. 9–KA
First Revised Sheet No. 9–KK
First Revised Sheet No. 9–KM

Trunkline proposes that these sheets become effective January 1, 1992.

Trunkline states that the revised tariff sheets reflect revisions to the High Island Offshore System (HIOS) and the U–T Offshore System (UTOS) experimental capacity brokering programs authorized by the Commission in Docket Nos. RP92–50–000, *et al.* and RP92–47–000, *et al.* Trunkline filed tariff sheets to establish a new Rate Schedule UTAP to provide for the brokering of its firm transportation capacity rights on the HIOS and UTOS systems and to reflect procedures and conditions set forth in the HIOS and UTOS tariffs. Pursuant to the Commission's Letter Order dated May 10, 1991, Trunkline's Rate Schedule UTAP was approved in Docket No. RP91–135–000. Specifically, Trunkline's tariff sheet revisions under its Rate Schedule UTAP are being filed in compliance with the Commission's October 30, 1990 and December 31, 1991 orders in HIOS Docket Nos. RP89–37–000, *et al.* and RP92–50–000, *et al.* and UTOS Docket Nos. RP89–38–000, *et al.* and RP92–47–000, *et al.*, respectively.

Trunkline states that a copy of this letter and enclosures were served on all affected customers subject to the tariff sheets and applicable state regulatory commissions.

Any person desiring to protest said filing should file protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before February 4, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92–2598 Filed 2–3–92; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Proposed Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of proposed implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the proposed procedures for disbursement of $1,064,798, plus accrued interest, in alleged crude oil and refined petroleum product violation amounts obtained by the DOE under the terms of a settlement agreement entered into with Oasis Petroleum Corporation, Case No. LEF-0007. The OHA has tentatively determined that 16% of the funds obtained from Oasis, plus accrued interest, will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, and that the remaining 84%, plus accrued interest, will be distributed to those injured as a result of Oasis' alleged refined petroleum product allocation violations.

DATES AND ADDRESS: Comments must be filed in duplicate on or before March 5, 1992, and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All comments should display a reference to case number LEF–0007.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Roger Klurfeld, Assistant Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585; (202) 586–2094 (Mann); 586–2383 (Klurfeld).

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision and Order sets forth the procedures that the DOE has tentatively formulated to distribute to eligible claimants $1,064,798, plus accrued interest, obtained by the DOE under the terms of a settlement agreement entered into with Oasis Petroleum Corporation on November 20, 1989. The funds were paid by Oasis towards the settlement of alleged violations of the DOE price and allocation regulations involving the sale of crude oil and gasoline during the period January 1, 1978 through January 27, 1981.

The OHA has proposed to divide the Oasis settlement agreement fund into two different refund pools based on alleged crude oil overcharges and alleged refined petroleum product allocation violations.

For the crude oil refund pool (16% of the settlement agreement fund, plus accrued interest), the OHA has tentatively determined to distribute these funds in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 Fed. Reg. 27899 (August 4, 1986) (the MSRP). Under the MSRP, crude oil overcharge monies are divided between the federal government, the states, and injured purchasers of refined petroleum products. Refunds to the states would be distributed in proportion to each state's consumption of petroleum products during the price control period. Refunds to eligible purchasers would be based on the number of gallons of petroleum products which they purchased and the degree to which they can demonstrate injury.

With respect to the refind product refund pool (84% of the settlement agreement fund, plus accrued interest), the OHA has tentatively determined to distribute these funds in two stages. In the first stage, we will accept claims from those injured as a result of Oasis' alleged allocation violations. The specific requirements which an applicant must meet in order to receive a refund are set out in Section V of the Proposed Decision. A claimant who meets these specific requirements will be eligible to receive refunds based on the demonstrated injury resulting from Oasis' failure to furnish gasoline that it was obliged to supply to the claimant.

If any funds remain in the refined product refund pool after valid claims are paid in the first stage, they may be used for indirect restitution in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA), 15 U.S.C. 4501–07.

Applications for Refund should not be filed at this time. Appropriate public notice will be provided prior to the acceptance of claims. Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to provide two copies of their submissions. Comments must be submitted within 30 days of publication of this notice in the **Federal Register** and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1 p.m. and 5 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in room 1E–234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: January 29, 1992.

George B. Breznay,

Director, Office of Hearings and Appeals.

PROPOSED DECISION AND ORDER OF THE DEPARTMENT OF ENERGY

Implementation of Special Refund Procedures

January 29, 1992.

Name of Firm: Oasis Petroleum Corporation
Date of Filing: January 5, 1990
Case Number: LEF–0007

On January 5, 1990, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) filed a Petition for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA), to distribute the funds which Oasis Petroleum Corporation (Oasis) remitted to the DOE pursuant to a November 20, 1989 settlement agreement between the DOE and Oasis. Oasis has remitted $1,064,798 pursuant to the settlement, to which $68,552 in interest has accrued as of December 31, 1991. In accordance with the procedural regulations codified at 10 C.F.R. Part 205, Subpart V (Subpart V), the ERA requests in its Petition that the OHA establish special procedures to make refunds in order to remedy the effects of alleged regulatory violations which were resolved by the Oasis settlement agreement. This Proposed Decision and Order sets forth the OHA's plan to distribute these funds.

I. Background

The ERA issued two Proposed Remedial Orders (PROs) to Oasis—one in 1986 and another in 1988. The PROs alleged that Oasis had violated the Federal petroleum price and allocation regulations. During the time of the alleged violations, Oasis was a corporation engaged, *inter alia,* in the purchasing and selling of motor gasoline and crude oil. In 1986, Oasis filed for bankruptcy protection in the United States Bankruptcy Court for the Central District of California. On November 20, 1989, the bankruptcy court approved a settlement agreement entered into by Oasis' Trustee and the DOE. *In re Oasis Petroleum Corporation,* No. LA 86–01255–AG (Bankr. C.D. Cal. 1989). Pursuant to the settlement, the Oasis bankruptcy estate remitted $200,000 to the DOE, after which the two PROs pending against Oasis were dismissed. See Letter from Thomas O. Mann, Deputy Director, OHA, to Emily Somers and Thomas B. DePriest, ERA, and Mark N. Savit, Doyle & Savit (Dec. 20, 1989). In addition, the DOE was allowed a general unsecured claim of $10,500,000 in the bankruptcy estate. The agreement stipulates that any monies received are to be distributed in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA), 15 U.S.C. 4501–07, and subpart V. Oasis has since remitted additional payments of $491,365 and $373,433. Thus, to date, Oasis has remitted $1,064,798, to which $68,552 in interest has accrued as of December 31, 1991, making available a total of $1,123,169 (the Oasis settlement agreement fund) for distribution through Subpart V. These funds are being held in an interest-bearing escrow account maintained at the Department of the Treasury pending a determination regarding their proper distribution.

II. Jurisdiction and Authority

The subpart V regulations set forth general guidelines which may be used by the OHA in formulating and implementing a plan of distribution of funds received as a result of an enforcement proceeding. The DOE policy is to use the subpart V process to distribute such funds. For a more detailed discussion of subpart V and the authority of OHA to fashion procedures to distribute refunds, see Petroleum Overcharge Distribution and Restitution Act of 1986, 15 U.S.C. 4501–07, *Office of Enforcement,* 9 DOE ¶ 82,508 (1981), *Office of Enforcement,* 8 DOE ¶ 82,597 (1981) (*Vickers*).

We have considered the ERA's petition that we implement a Subpart V proceeding with respect to the Oasis settlement agreement fund and have determined that such a proceeding is appropriate. This Proposed Decision and Order sets forth the OHA's tentative plant to distribute this fund.

III. Division of the Oasis Settlement Agreement Fund

The first PRO issued by the ERA alleged that Oasis has resold crude oil at a price in excess of its permissible average markup. The ERA determined that these violations amounted to $1,915,564. In the second PRO the ERA alleged that Oasis has sold allocated gasoline to parties without allocation rights, and thereby diverted gasoline in violation of federal allocation regulations. Oasis was found in the PRO to have profited from its diversion in the amount of $10,139,702. Thus, the violations alleged in the two PROs total $12,055,266, with alleged crude oil violations approximating 16% of the total, and alleged allocation violations making up the other 84%. Accordingly, we believe that it is most equitable to direct 16% of the Oasis settlement agreement fund, plus accrued interest, into a crude oil refund pool. We will direct the remaining 84% of the fund, plus accrued interest, into a refund product refund pool.

IV. Proposed Crude Oil Refund Procedures

A. Crude Oil Refund Policy

The portion of the Oasis settlement agreement monies in the crude oil pool will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, 51 FR 27899 (August 4, 1986) (the

MSRP). The MSRP was issued as a result of a court-approved Settlement Agreement *In re: The Department of Energy Stripper Well Exemption Litigation,* 653 F. Supp. 108 (D. Kan.), 6 Fed. Energy Guidelines ¶ 90,509 (1986) (the Stripper Well Settlement Agreement). The MSRP establishes that 40 percent of the crude oil overcharge funds will be refunded to the federal government, another 40 percent to the states, and up to 20 percent may be initially reserved for the payment of claims by injured parties. The MSRP also specifies that any monies remaining after all valid claims by injured purchasers are paid be disbursed to the federal government and the states in equal amounts.

The OHA has utilized the MSRP in all Subpart V proceedings involving alleged crude oil violations. See Order Implementing the MSRP, 51 FR 29689 (August 20, 1986). This Order provided a period of 30 days for the filing of comments or objections to our proposed use of the MSRP as the groundwork for evaluating claims in crude oil refund proceedings. Following this period, the OHA issued a Notice evaluating the numerous comments which it received pursuant to the Order Implementing the MSRP. This Notice was published at 52 FR 11737 (April 10, 1987) (the April 10 Notice).

The April 10 Notice contained guidance to assist potential claimants wishing to file refund applications for crude oil monies under the Subpart V regulations. Generally, all claimants would be required to (1) document their purchase volumes of petroleum products during the August 19, 1973 through January 27, 1981 crude oil price control period, and (2) prove that they were injured by the alleged crude oil overcharges. We also specified that end-users of petroleum products whose businesses are unrelated to the petroleum industry will be presumed to have been injured by the alleged crude oil overcharges and need not submit any additional proof of injury beyond documentation of their purchase volumes. See City of Columbus, Georgia, 16 DOE ¶ 85,550 (1987). Additionally, we stated that crude oil refunds would be calculated on the basis of a per gallon (or "volumetric") refund amount, which is obtained by dividing the crude oil refund pool by the total consumption of petroleum products in the United States during the crude oil price control period. The OHA has adopted the refund procedures outlined in the April 10 Notice in numerous cases. See, e.g., Shell Oil Co., 17 DOE ¶ 85,204 (1988) (Shell); Mountain Fuel Supply Co., 14 DOE ¶ 85,475 (1986) (Mountain Fuel).

B. Refund Claims

We propose to adopt the DOE's standard procedures to distribute the crude oil portion of the Oasis settlement agreement fund. As mentioned above, 16% of the fund, plus accrued interest, is covered by the crude oil portion of this Proposed Decision. We have chosen to initially reserve twenty percent of the crude oil refund pool, plus accrued interest, for direct refunds to claimants in order to ensure that sufficient funds will be available for injured parties. This reserve figure may later be reduced if circumstances warrant.

The OHA will evaluate crude oil refund claims in a manner similar to that used in Subpart V proceedings to evaluate claims based on alleged refined product overcharges. See Mountain Fuel, 14 DOE at 88,869. Under these procedures, claimants will be required to document their purchase volumes of petroleum products and prove that they were injured as a result of the alleged violations.

We will adopt a presumption that the crude oil overcharges were absorbed, rather than passed on, by applicants which were (1) end-users of petroleum products, (2) unrelated to the petroleum industry, and (3) not subject to the regulations promulgated under the Emergency Petroleum Price and Allocation Act of 1973 (EPAA), 15 U.S.C. 751–760h. In order to receive a refund, end-user claimants need not submit any evidence of injury beyond documentation of their purchase volumes. See Shell, 17 DOE at 88,406.

Petroleum retailer, reseller, and refiner applicants must submit detailed evidence of injury, and they may not rely upon the injury presumptions utilized in some refined product refund cases. Id. These applicants may, however, use econometric evidence of the type found in the OHA Report on Stripper Well Overcharges, 6 Fed. Energy Guidelines ¶ 90,507 (1985). See also Petroleum Overcharge Distribution and Resitution Act § 3003(b)(2), 15 U.S.C. 4502(b)(2). If a claimant has executed and submitted a valid waiver pursuant to one of the escrows established by the Stripper Well Settlement Agreement, it has waived its rights to file an application for Subpart V crude oil refund monies. See *Mid-America Dairymen v. Herrington,* 878 F. 2d 1448 (Temp. Emer. Ct. App.), 3 Fed. Energy Guidelines ¶ 26,617 (1989); In re: Department of Energy Stripper Well Exemption Litigation, 707 F. Supp. 1267 (D. Kan.), 3 Fed. Energy Guidelines ¶ 26,613 (1987).

As has been stated in prior Decisions, a crude oil refund applicant will only be required to submit one application for its share of all available crude oil overcharge funds. See, e.g., A. Tarricone, Inc., 15 DOE ¶ 85,495 (1987). A party that has already submitted a claim in any other crude oil refund proceeding implemented by the DOE need not file another claim. The prior application will be deemed to be filed in all crude oil refund proceedings finalized to date.

The deadline for claims to the first pool of crude oil overcharge funds was June 30, 1988, and this pool contained funds covered by determinations up to and including Shell. A second pool of crude oil overcharge funds, obtained pursuant to the determinations beginning with World Oil Co., 17 DOE ¶ 85568, modified, 17 DOE ¶ 85669 (1988) and ending with Texaco Inc., 19 DOE ¶ 85,200, modified, 19 DOE ¶ 85,236 (1989), was established with an application deadline of October 31, 1989. the application deadline for the third crude oil overcharge pool was established as march 31, 1991, by Bi–Petro, Inc., 20 DOE ¶ 85,071 (1990). The third pool was funded by those crude oil proceedings ending with Benton Pruet d/b/a P&R Trading Co., 20 DOE ¶ 85,786 (1990). The deadline for filing an application for refund from the fourth pool of crude oil overcharge funds, covering the present determination, is June 30, 1992. see Quintana Energy Corp., 21 DOE ¶ 85,032 (1991). The volumetric refund amount from the fourth pool of crude oil funds will rise as additional crude oil overcharge monies become available. Applicants may be required to submit additional information to support their refund claims for future amounts. Notice of any such additional amounts will be published in the **Federal Register**.

C. Payments to the Federal Government and the States

Under the terms of the MSRP, we propose that the remaining eighty percent of the alleged crude oil overcharge amounts subject to this Proposed Decision, plus accrued interest, should be disbursed in equal shares to the states and federal government for indirect restitution. Refunds to the states will be in proportion to the consumption of petroleum products in each state during the period of price controls. The share or ratio of the funds which each state will receive is contained in Exhibit H of the Stripper Well Settlement Agreement, 6 Fed. Energy Guidelines ¶ 90,509 at 90,687. When disbursed, these funds will be subject to the same limitations and reporting requirements as all other crude oil monies recieved by the states under the Stripper Well Settlement Agreement.

V. Proposed Refined Product Refund Procedures

A. Allocation Claims

We propose to implement a two-stage refund procedure for the refined product portion of the Oasis settlement fund by which those injured as a result of Oasis' alleged allocation violations may submit Applications for Refund in the initial stage. As stated above, the ERA alleged that Oasis diverted gasoline in violation of federal allocation regulations by selling allocated gasoline to parties without allocation rights. In Lucky Stores, Inc. 14 DOE ¶ 82,505 (1986) the OHA found that during the period August 3, 1979 through January 27, 1981, Oasis had an affirmative duty to supply gasoline to wholesale purchasers who had been supplied by Research Fuels, Inc. (RFI) during the period July 1, 1977 to June 30, 1978, pursuant to a court order issued by the United States District Court for the Northern District of Texas.[1] We have identified 22 such firms and intend to give each firm notice of the proposed refund proceedings.[2]

Therefore, we anticipate that we will receive claims based upon Oasis' alleged failure to furnish gasoline to RFI's wholesale customers. Any such applications will be evaluated with reference to the standards set forth in subpart V implementation cases such as Office of Special Counsel, 10 DOE ¶ 85,048 at 88,220 (1982), and refund application cases such as Mobil Oil Corp./Reynolds Industries, Inc., 17 DOE ¶ 85,608 (1988); Marathon Petroleum Co./Research Fuels, Inc., 19 DOE ¶ 85,575 (1989), aff'd, No. CA3–89–2963G (N.D. Tex. Oct. 3, 1991) (Marathon/RFI). These standards will require an allocation claimant to demonstrate the existence of a supplier/purchaser relationship with RFI during the period July 1, 1977 to June 30, 1978 and the likelihood that Oasis failed to furnish gasoline that it was obliged to supply to the claimant from August 3, 1979 through January 27, 1981. In addition, the claimant should provide evidence that it had contemporaneously notified the DOE or otherwise sought redress from the alleged allocation violation. Finally, the claimant must establish that it was injured and document the extent of the injury.

In our evaluation of whether allocation claims meet these standards, we will consider various factors. For example, we will seek to obtain as much information as possible about the agency's treatment of complaints made to it by the claimant. We will also look at any affirmative defenses that Oasis may have had to the alleged allocation violation. See Marathon/RFI. In assessing an allocation claimant's injury, we will evaluate the effect of the alleged allocation violation on its entire business operations with particular reference to the amount of gasoline that it received from suppliers other than Oasis. Finally, since the Oasis settlement agreement reflects a negotiated compromise of the issues involved in the enforcement proceedings against Oasis and the settlement agreement amount is less than Oasis' potential liability in those proceedings, we will prorate those allocation refunds that would otherwise be disproportionately large in relation to the settlement agreement fund. Cf. Amtel/Whitco.

B. Distribution of Funds Remaining After First Stage

We propose that any refined product funds that remain after all first stage claims have been decided be distributed in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA), 15 U.S.C. ¶¶ 4501–07. PODRA requires that the Secretary of Energy determine annually the amount of oil overcharge funds that will not be required to refund monies to injured parties in Subpart V proceedings and make those funds available to state governments for use in four energy conservation programs. The Secretary has delegated these responsibilities to the OHA, and any funds in the Oasis settlement agreement escrow account that the OHA determines will not be needed to effect direct restitution to injured customers will be distributed in accordance with the provisions of PODRA.

It Is Therefore Ordered That:

The refund amount remitted to the Department of Energy by Oasis Petroleum Corporation, pursuant to the settlement agreement executed on November 20, 1989, will be distributed in accordance with the foregoing Decision.

[FR Doc. 92–2609 Filed 2–3–92; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00314; FRL–4006–8]

FIFRA Scientific Advisory Panel; Appointments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Notice is given of the appointment of three members to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel established pursuant to section 25(d) of FIFRA, as amended (86 Stat. 973 and 89 Stat. 751; 7 U.S.C. 136 et seq.). Public notice of nominees along with a request for public comments appeared in the **Federal Register** of August 21, 1991 (56 FR 41550).

FOR FURTHER INFORMATION CONTACT: By mail: Robert B. Jaeger, Designated Federal Official, FIFRA Scientific Advisory Panel (H7509C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 821, Crystal Mall # 2, Arlington, VA, (703–305–5369/5244).

SUPPLEMENTARY INFORMATION: Congress mandated that the Scientific Advisory Panel would consist of seven members, selected from candidates nominated by the National Science Foundation (NSF) and the National Institutes of Health (NIH). Congress also mandated that the terms of appointment would be staggered. List of nominees, including biographical data, appeared in the **Federal Register** of August 21, 1991 (56 FR 41550). Seven comments were received in response to this Notice.

I appoint Dr. Marion W. Anders, Dr. Ernest E. McConnell, and Dr. Harihara

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[1] Oasis entered into an agreement with RFI on October 24, 1978, which attempted to transfer, from RFI to Oasis, allocation entitlements to gasoline supplies from Marathon Petroleum Company and Cities Service Corporation. On March 1, 1979, updated federal petroleum allocation regulations went into effect which obligated RFI to supply certain wholesale purchasers to which RFI had sold gasoline during the period July 1, 1977 through June 30, 1978. RFI claimed that the updated regulations entitled it to be supplied, by Marathon and Cities, the amount of gasoline that it had purchased from the two suppliers and resold to its wholesale customers during the updated base period. Oasis disputed this, contending that the 1978 agreement transferred to it the right to supply RFI's wholesale customers, and sought an injunction from the United States District Court for the Northern District of Texas to prevent RFI or the DOE from interfering with its rights under the agreement. The court issued an injunction on August 3, 1979, ordering Oasis to supply the wholesale customers. See Lucky Stores, Inc., DOE ¶ 82,505 (1986).

[2] See Lucky Stores, Inc. at 85,054. OHA also identified RFI as a firm that was potentially injured by Oasis' alleged violations. However, in 1988 the Bankruptcy Court for the Central District of California approved a settlement agreement entered into by RFI and Oasis which resolved all outstanding disputes between the two companies. In re Oasis Petroleum Corporation, No. LA–1225–AG (Bankr. C.D. Cal. July 21, 1988). As part of the agreement, RFI specifically waived its right to a Subpart V refund from the Oasis settlement agreement fund. See Stipulation Between the Trustee of Oasis Petroleum Corporation and Research Fuels, Inc. Compromising Disputed Issues at 5.

M. Mehendale to serve as members of the FIFRA Scientific Advisory Panel.

Dr. Anders is Professor and Chairman of Pharmacology, and Professor of Toxicology, Department of Biophysics, University of Rochester School of Medicine. He will provide the experience and technical background needed in the area of Toxicology/Pharmacology.

Dr. McConnell is a Consultant in Toxicology and Pathology, 3028 Ethan Lane, Raleigh, NC; formerly Director of the National Institute of Environmental Health Sciences National Toxicology Program, Research Triangle Park, NC. He will provide the experience and technical background needed in the area of Veterinary Pathology.

Dr. Mehendale is Professor and Burroughs Wellcome Toxicology Scholar, University of Mississippi Medical Center. He will provide the experience and technical background needed in the area of Toxicology/Pharmacology.

My decision to appoint Drs. Anders, McConnell, and Mehandale is based upon several factors, including comments received, their expertise in the field of toxicology and veterinary pathology, the need for general overall experience in laboratory animal toxicology, and a need for current understanding of state-of-the-art developments in toxicology and laboratory animal bioassays.

Dated: January 17, 1992.

F. Henry Habicht,

Deputy Administrator.

[FR Doc. 92–2657 Filed 2–3–92; 8:45 am]

BILLING CODE 6560-50-F

[OPP–180860; FRL 4044–8]

Receipt of Application for Emergency Exemption to Use Fenpropathrin; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the Arizona Department of Agriculture (hereafter referred to as the "Applicant") for use of the pesticide fenpropathrin (trade name Danitol) (CAS 39515–41–8) to control citrus thrips *Scirtothrips citri* on up to 30,000 acres of citrus trees in Yuma County, Pinal County, and the portion of Maricopa County south of Baseline Road. The Applicant proposes the first food use of an active ingredient; therefore, in accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Comments must be received on or before February 19, 1992.

ADDRESSES: Three copies of written comments, bearing the identification notation "OPP–180860" should be submitted by mail to: Public Docket and Freedom of Information Section, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1128, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain Confidential Business Information must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 1128, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Andrea Beard, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 716, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703–305–7890).

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at his discretion, exempt a State agency from any registration provision of FIFRA if he determines that emergency conditions exist which require such exemption. The Applicant has requested the Administrator to issue a specific exemption for the use of the insecticide, fenpropathrin, manufactured as Danitol 2 EC, by Valent U.S.A. Corporation, to control citrus thrips, on up to 30,000 acres of citrus. Information in accordance with 40 CFR part 166 was submitted as part of this request.

The Applicant states that, over the last several years, many citrus growers have experienced increasing difficulty in controlling citrus thrips and have suffered significant economic losses. An emergency situation has been created primarily by the development of thrips populations which are resistant to dimethoate and formetenate hydrochloride which previously were effective in controlling citrus thrips. Avermectin has recently become available and is the only registered material to which thrips lack resistance. However, the Applicant fears that if avermectin is used alone, thrips will also develop resistance to it, and avermectin will soon become as ineffective as the old compounds. The other available insecticides have little effectiveness against the thrips, and generally cause more acute side effects on beneficial organisms.

The Applicant is requesting the use of fenpropathrin which has a different mode of action than avermectin, dimethoate, and formetenate hydrochloride, and could be used in rotation with the above-listed registered chemicals. The Applicant feels that rotation of use of several chemicals with different modes of action could possibly help preserve the efficacy of the available chemicals by not allowing thrips populations to develop which are resistant to them.

In addition to the resistance problem, there has been a persistent problem with bee kills associated with the production of citrus. The bee kills arise from the fact that fields of vegetables being grown for seed are intermingled with the citrus orchards. These vegetable seed crops require bees for pollination at the same time that citrus trees are in bloom. Citrus blooms are highly attractive to bees, and because of the insecticides used on citrus, this has created a hazardous situation for bees in the area. Of the registered chemicals for thrips on citrus, both dimethoate and formetenate hydrochloride can cause direct mortality to bees. Avermectin causes some harm to bees mainly in that it can cause disoriented behavior. The Applicant submitted data indicating if applications of fenpropathrin to citrus are limited to the period of time from one hour after sunset to three hours before sunrise bee mortality is reduced to a minimum.

The Applicant plans to treat up to 30,000 acres of citrus using up to 9,000 pounds of active ingredient. One application would be made per growing season, at a maximum rate of 0.3 lbs. active ingredient (16 oz. product, Danitol) per acre, diluted in water to make a minimum spray volume of 30 gallons per acre. A 14-day pre-harvest interval would be observed. This is the third year that the Applicant has requested this use of fenpropathrin. The

Applicant was granted a specific exemption for this use in 1990 and 1991. The last exemption expired on June 15, 1991. The Applicant indicates that the use of fenpropathrin on citrus for managing citrus thrips populations was very successful.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require publication of a notice of receipt in the **Federal Register** and solicit public comment on an application for a specific exemption proposing the first food use of an active ingredient. Accordingly, interested persons may submit written views on this subject to the Field Operations Division at the address above. The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by the Arizona Department of Agriculture.

Dated: January 26, 1992.

Anne E. Lindsay,

Director, Registration, Office of Pesticide Programs.

[FR Doc. 92-2655 Filed 2-3-92; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1873]

Petitions for Reconsideration of Actions in Rule Making Proceedings

January 29, 1992.

Petitions for reconsideration have been filed in the Commission rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR § 1.429(e). The full text of these documents are available for viewing and copying in room 239, 1919 M Street, NW., Washington, DC, or may be purchased from the Commission's copy contractor Downtown Copy Center (202) 452-1422. Oppositions to these petitions must be filed February 19, 1992. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

SUBJECT: Telephone Company Cable Television Cross-Ownership Rules, Section 63.54-63.58. (CC Docket No. 87-266)

Number of Petitions: 1.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92-2664 Filed 2-3-92; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1869]

Petitions for Reconsideration and Clarification and Application for Review of Actions in Rulemaking Proceedings; Correction

AGENCY: Federal Communications Commission.

ACTION: Notice; correction.

SUMMARY: This document corrects a public notice, 56 FR 65479, December 17, 1991, which listed petitions for reconsideration filed in Commission rulemaking proceedings.

FOR FURTHER INFORMATION CONTACT: La 'Shon Lee, (202) 632-7535.

SUPPLEMENTARY INFORMATION: In FR Doc 91-30049, published in the **Federal Register** of December 17, 1991, on page 65479, in the first column, in the heading of the document, Report No. "1868" is corrected to read "1869".

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92-2665 Filed 2-3-92; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Port of Portland et al.; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-200277-001.

Title: Port of Portland/Oregon Terminal Company Terminal Agreement.

Parties:

Port of Portland, Oregon Terminal Company

Synopsis: This Agreement, filed January 24, 1992, provides for a change in the method to calculate escalation of the base management fee. Escalation will occur as of the anniversary date of the Agreement (September) and shall be based on increases, if any, in the National Consumer Price Index.

Agreement No.: 224-002582-004.

Title: City of Kodiak/Sea-Land Services, Inc. Preferential Use Agreement.

Parties:

City of Kodiak, Alaska, Sea-Land Services, Inc.

Synopsis: This Agreement, filed on January 22, 1992, provides for an extension of the existing Preferential Use Agreement between the parties for an eleven month period, until February 1, 1993.

Agreement No.: 224-200608.

Title: South Carolina State Ports Authority/Orient Overseas Container Line, Inc. Terminal Agreement.

Parties:

South Carolina State Ports Authority ("Port"),
Orient Overseas Container Line, Inc. ("OOCL")

Synopsis: This Agreement, filed January 23, 1992, permits OOCL to use 17.7 acres at the Waldo Terminal for container shipping terminal operations. OOCL will be charged a per container license fee. OOCL will guarantee a certain container throughput annually. The term of the agreement is two years.

Agreement No.: 224-200609.

Title: Jacksonville Port Authority/Columbus Line, Inc. Lease Agreement.

Parties:

Jacksonville Port Authority, Columbus Line, Inc.

Synopsis: This Agreement, filed January 24, 1992, provides charges for the lease of a container handling and storage facility for throughput and for reefer jack usage. The term of the Agreement is for three years.

Dated: January 29, 1992.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 92-2584 Filed 2-3-92; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

BRAD, Inc., et al; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding

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company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than February 25, 1992.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *BRAD, Inc.*, Black River Falls, Wisconsin; to become a bank holding company by acquiring 88.87 percent of the voting shares of Bank of Melrose, Melrose, Wisconsin.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Arvest Bank Group, Inc.*, Bentonville, Arkansas; to acquire at least 80 percent of the voting shares of The Farmers and Merchants Bank, Prairie Grove, Arkansas.

2. *Mid-South Bancorp, Inc.*, Franklin, Kentucky; to acquire at least 80 percent of the voting shares of First Citizens Bank, Franklin, Tennessee.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *CFB Acquisition Corp.*, Fargo, North Dakota; to become a bank holding company by acquiring 100 percent of the voting shares of First Interstate of North Dakota, Inc., Fargo, North Dakota, and thereby indirectly acquire First Interstate of Fargo, N.A., Fargo, North Dakota. **Comments on this application must be received by February 11, 1992.**

2. *Dairyland Bank Holding Company*, LaCrosse, Wisconsin; to become a bank holding company by acquiring 91.85 percent of the voting shares of La Farge State Bank, La Farge, Wisconsin, and 100 percent of the voting shares of Bank of Alma, Alma, Wisconsin.

D. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *HNB Corporation*, Arkansas City, Kansas; to merge with American Bancorp of Ponca City, Inc., Ponca City, Oklahoma, and thereby indirectly acquire American National Bank, Ponca City, Oklahoma.

2. *Tulsa Valley Bancshares Corporation*, Tulsa, Oklahoma; to acquire 80.76 percent of the voting shares of Valley National Bank, Tulsa, Oklahoma.

E. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First Tule Bancorp of Delaware, Inc.*, Wilmington, Delaware; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Tulia.

Board of Governors of the Federal Reserve System, January 29, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92–2610 Filed 2–3–92; 8:45 am]

BILLING CODE 6210-01-F

Community Independent Bancorp, Inc.; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 25, 1992.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Community Independent Bancorp, Inc.*, West Salem, Ohio; to engage *de novo* through its subsidiary, CIB Appraisal Services, Inc., West Salem, Ohio, in performing appraisals of real estate and tangible and intangible personal property including securities, pursuant to § 225.25(b)(13) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 29, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92–2611 Filed 2–3–92; 8:45 am]

BILLING CODE 6210-01-F

Charles Dutcher; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than February 25, 1992.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Charles Dutcher*, Wichita, Kansas; to acquire an additional 67.18 percent of the voting shares of Yoder Bancshares, Inc., Yoder, Kansas, for a total of 72.74

percent, and thereby indirectly acquire Farmers State Bank, Yoder, Kansas.

2. *C.B. Graft*, Clinton, Oklahoma, and Don C. McNeill, Edmond, Oklahoma; to each acquire 50 percent of the voting shares of Leedey Bancorporation, Inc., Leedey, Oklahoma, and thereby indirectly acquire The First National Bank of Leedey, Leedey, Oklahoma.

Board of Governors of the Federal Reserve System, January 29, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-2612 Filed 2-3-92; 8:45 am]

BILLING CODE 6210-01-F

Provident Bancorp, Inc., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than February 25, 1992.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Provident Bancorp, Inc.*, Cincinnati, Ohio; to acquire Brooks Capital Management, Inc., Cleveland, Ohio, and thereby engage in serving as investment advisor pursuant to § 225.25(b)(4)(ii); providing portfolio investment advice to any other person pursuant to § 225.25(b)(4)(iii); furnishing general economic information and advice, general economic statistical forecasting services and industry studies pursuant to § 225.25(b)(4)(iv); and providing financial advice to state and local governments, such as with respect to the issuance of their securities pursuant to § 225.25(b)(4)(v) of the Board's Regulation Y.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Norwest Corporation*, Minneapolis, Minnesota; to acquire National Ag Underwriters, Inc., Anoka, Minnesota, and thereby engage in managing crop, hail and multiperil crop insurance pursuant to § 225.25(b)(8)(vii) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 29, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-2613 Filed 2-3-92; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

[Dkt. C-3360; C-3359; C-3362; and C-3361]

Keystone Carbon Company; The Kobacker Company; Macy's Northeast, Inc., et al.; and McDonnell Douglas Corporation; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent orders.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, and of the Fair Credit Reporting Act ("FCRA"), the four consent orders require, among other things, the respondents to comply with the consumer disclosure provisions of the FCRA for future job applicants, and to mail to applicants denied employment, based on a consumer report from a consumer credit reporting agency, letters stating the name and address of the consumer reporting agency that supplied the respondents with the reports.

DATES: Complaint and Order issued January 3, 1992.[1]

FOR FURTHER INFORMATION CONTACT: Cynthia Lamb, FTC/S-4429, Washington, DC 20580. (202) 326-3001.

SUPPLEMENTARY INFORMATION: On Friday, October 25, 1991, there was published in the **Federal Register**, 56 FR 55313, four proposed consent agreements with analysis In the Matter of Keystone Carbon Company; The Kobacker Company; Macy's Northeast, Inc., et al.; and McDonnell Douglas Corporation for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the orders.

No comments having been received, the Commission has ordered the issuance of the complaints in the form contemplated by the agreements, made its jurisdictional findings and entered four orders to cease and desist, as set forth in the proposed consent agreements, in disposition of these proceedings.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 84 Stat. 1128-36; 15 U.S.C. 1681-1681(f))

Donald S. Clark,

Secretary.

[FR Doc. 92-2643 Filed 2-3-92; 8:45 am]

BILLING CODE 6750-01-M

[Dkt. No. 9245]

Viral Response Systems, Inc., et al.; Proposed Consent Agreement with Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a Connecticut based corporation and its president from making false and unsubstantiated claims regarding the efficacy of their "Viralizer System", a hand-held device for treating colds and allergies, and also would prohibit respondents from misrepresenting the existence, content,

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[1] Copies of the Complaints, the Decision and Orders, and the statement of Commissioner Azcuenaga are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

validity, results, conclusions, or interpretations of any test or study.

DATES: Comments must be received on or before April 6, 1992.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Matthew Gold, San Francisco Regional Office, Federal Trade Commission, 901 Market St., suite 570, San Francisco, CA. 94103. (415) 744-7920.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's Rules of Practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order to Cease and Desist

This agreement, by and between Viral Response Systems, Inc., a corporation, and Robert S. Krauser, individually and as an officer of Viral Response Systems, Inc., and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's Rule governing consent order procedures. Accordingly,

It Is Hereby Agreed:

1. Respondent Viral Response Systems, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its principal place of business located at 34 East Putnam Avenue, Greenwich, Connecticut 06830.

Respondent Robert S. Krauser is an officer of said corporation. He formulates, directs, and controls the policies, acts, and practices of said corporation. His office and place of business is the same as that of said corporation.

2. Respondents admit all the jurisdictional facts set forth in the attached draft complaint.

3. Respondents waive:

a. Any further procedural steps;

b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

d. All claims under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the respondents, in which event it will take such action as it may consider appropriate, or issue and serve its decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by the respondents that the law has been violated as alleged in the attached draft complaint, or that the facts alleged in the draft complaint, other than the jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25(f) of the Commission's Rules, the Commission may, without further notice to respondents, (1) issue its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to order to respondents' address as stated in this agreement shall constitute service. Respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Respondents have read the complaint and order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It Is Ordered That respondent Viral Response Systems, Inc., a corporation, its successors and assigns, and its officers, and respondent Robert S. Krauser, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, promotion, offering for sale, sale or distribution of the Viralizer System, or any other product, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that such product, or any component of such product, can or will:

A. Destroy, disable, or help destroy or disable any virus responsible for the onset or continuance of colds;

B. Prevent or help prevent the spread or transmission of colds;

C. Provide or help provide permanent or long term relief from any allergy symptom;

D. Destroy, disable, or help destroy or disable any antibody that plays a part in the manifestation of any allergic reaction; or

E. Cure or help cure colds;

unless at the time of making the representation:

1. Respondents possess and rely upon competent and reliable scientific evidence which substantiates such representation; *Provided, however,* That, for purposes of this Part, for any evidence to be competent and reliable it must include at least two adequate and well-controlled, double-blind clinical studies conforming to acceptable designs and protocols and conducted by different persons, independently of each other, who are qualified by training and experience to conduct such studies; or

2. Respondents possess and rely upon (a) a tentative or final standard promulgated by the Food and Drug Administration which substantiates such representation; or (b) other evidence which demonstrates that the making of such representation is approved by the Food and Drug Administration.

II

It is Further Ordered, That respondent Viral Response Systems, Inc., a corporation, its successors and assigns, and its officers, and respondent Robert

S. Krauser, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, promotion, offering for sale, sale or distribution of the Viralizer System or any other product, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing directly or by implication, that such product, or any component of such product, can or will eliminate, alleviate, relieve, or reduce temporarily cold symptoms and/or allergy symptoms unless at the time of making the representation:

1. Respondents possess and rely upon competent and reliable scientific evidence which substantiates such representation; *Provided, however,* That, for purposes of this Part, for any evidence to be competent and reliable it must include at least one adequate and well-controlled, double-blind clinical study conforming to acceptable designs and protocols and conducted by a person who is qualified by training and experience to conduct such a study; or

2. Respondents possess and rely upon (a) a tentative or final standard promulgated by the Food and Drug Administration which substantiates such representation; or (b) other evidence which demonstrates that the making of such representation is approved by the Food and Drug Administration.

III

It is Further Ordered That respondent Viral Response Systems, Inc., a corporation, its successors and assigns, and its officers, and respondent Robert S. Krauser, individually and as an officer of said corporation, and respondents' representatives, agents and employees, or other device, in connection with the advertising, promotion, offering for sale, sale or distribution of the Viralizer System, or any other health-related product or service, in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting the existence, contents, validity, results, conclusions, or interpretations of any test or study.

IV

It is further ordered That for three (3) years from the date that the practices to which they pertain are last employed, respondents shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. All advertisements, promotional materials, documents, or other materials relating to the offer for sale or sale of any product covered by this Order that make any representation covered by this Order;

B. All materials relied upon by respondents to substantiate any representation covered by this Order;

C. All test reports, studies, experiments, analyses, research, surveys, demonstrations, or other materials in the possession or control of respondents that contradict, qualify, or call into question any representation covered by this Order or the basis on which respondents relied for such representation; and

D. All materials that demonstrate respondents' compliance with this Order.

V

It is Further ordered That respondents shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution or subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of this Order.

VI

It is Further ordered That the individual respondent shall, for a period of five (5) years after the date of service of this Order upon him, promptly notify the Commission, in writing, of his discontinuance of his present business or employment and of his affiliation with a new business or employment that involves the marketing of a product designed to treat colds and/or allergies. For each such new affiliation, the notice shall include the name and address of the new business or employment, a statement of the nature of the new business or employment, and a description of respondent's duties and responsibilities in connection with the new business or employment.

VII

It is Further ordered That respondents shall, within thirty (30) days from the date of service of this Order upon them, delivery by first class mail or in person a copy of this Order to present distributors and retail dealers of the Viralizer System.

VIII

It is Further ordered That respondents shall, within sixty (60) days from the date of service of this Order upon them, and at such other times as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this Order.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from respondents Viral Response Systems, Inc., a Delaware corporation, and Robert S. Krauser, individually and as an officer of the corporation.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the pubic record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

This matter concerns the labeling and advertising of the Viralizer System, a hand-held device, similar to a portable hair dryer, that is designed to blow warm, dry air and spray medicated mists into nasal or oral passages. The Commission's complaint charges that respondents' advertising contained unsubstantiated representations concerning the Viralizer System's alleged efficacy against colds and allergies. Specifically, the complaint alleges that respondents lacked substantiation for claims that the Viralizer System will: (1) Eliminate or help eliminate cold symptoms in one day or less; (2) destroy, disable, or help destroy or disable, the viruses reponsible for colds; (3) prevent or help prevent the spread or transmission of colds; (4) provide or help provide permanent or long-term relief from allergy symptoms; and (5) destroy, disable, or help destroy or disable, the antibodies that play a part in the manifestation of allergic reactions.

The complaint also alleges that respondents falsely represented that certain efficacy claims were established by scientific evidence. Specifically, the respondents are alleged to have falsely claimed that competent and reliable scientific tests have established that the Viralizer System will: (1) Eliminate or help eliminate cold symptoms in one day or less or (2) destroy, disable, or help destroy or disable the viruses responsible for colds.

The proposed consent order contains provisions designed to remedy the violations charged and to prevent the respondents from engaging in similar acts and practices in the future.

Part I of the proposed order provides that if the respondents represent that the Viralizer System, or any other product, can or will: (1) Destroy, disable, or help destroy or disable any virus responsible for the onset or continuance of colds; (2) prevent or help prevent the spread or transmission of colds; (3) provide or help provide permanent or long term relief from any allergy symptom; (4) destroy, disable, or help destroy or disable any antibody that plays a part in the manifestation of any allergic reaction; or (5) cure or help cure colds, they must posses at least two adequate and well-controlled, double-blinded clinical studies that support the claim or, alternatively, FDA approval of the claim.

Part II of the proposed order provides that if the respondents represent that the Viralizer System, or other product, can or will eliminate, alleviate, relieve, or reduce temporarily cold symptoms and/or allergy symptoms, they must possess at least one adequate and well-controlled, double-blinded clinical study that supports the claim, or, alternatively, FDA approval of the claim.

Part III of the proposed order requires the respondents to cease misrepresenting the existence, contents, validity, results, conclusions, or interpretations of any test or study.

The proposed order also requires the respondents to maintain materials relied upon to substantiate claims covered by the order, to distribute copies of the order to present distributors and retail dealers of the Viralizer System, to notify the Commission of any changes in corporate structure that might affect compliance with the order, to notify the Commission of certain changes in the business or employment of the named individual respondent, and to file one or more reports detailing compliance with the order.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,
Secretary.

[FR Doc. 92-2644 Filed 2-3-92; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Office of the General Counsel; Delegation of Authority To Certify True Copies

Under the authority delegated by the Secretary to the Assistant Secretary for Management and Budget (43 FR 58670-71 12/18/1978) and redelegated to me by the Assistant Secretary for Management and Budget (56 FR 58910):

1. I hereby redelegate to the following the authority to certify true copies of any books, records, papers or other documents on file within the Department, or extracts from such, to certify that true copies are true copies of the entire file of the Department, to certify the complete original record, or to certify the nonexistence of records on file within the Department, and to cause the seal of the Department to be affixed to such certifications.

These same officials are authorized to cause the Seal to be affixed to agreement, awards, citations, diplomas, and similar documents.

To whom delegated: Principal Deputy General Counsel, Deputy General Counsels, Executive Officer, Communications Staff Assistant, Regional Chief Counsels, Secretary to the General Counsel, Secretary to the Principal Deputy General Counsel, Associate General Counsel, Business and Administrative Law Division, Secretary to the Associate General Counsel, Business and Administrative Law Division.

The above redelegations supersede the redelegations made under previous authority (47 FR 30653 dated 7/14/82). Any actions taken since July 14, 1982, not inconsistent with these delegations are hereby ratified.

These authorities may not be redelegated.

Dated: January 27, 1992.

Michael J. Astrue,
General Counsel.

[FR Doc. 92-2573 Filed 2-3-92; 8:45 am]

BILLING CODE 4150-04-M

Alcohol, Drug Abuse, and Mental Health Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: National Institute on Drug Abuse, ADAMHA, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services notifies Federal agencies of the laboratories currently certified to meet standards of subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (53 FR 11979, 11986). A similar notice listing all currently certified laboratories will be published during the first week of each month, and updated to include laboratories which subsequently apply for and complete the certification process. If any listed laboratory's certification is totally suspended or revoked, the laboratory will be omitted from updated lists such time as it is restored to full certification under the Guidelines.

FOR FURTHER INFORMATION CONTACT: Denise L. Goss, Program Assistant, Drug Testing Section, Division of Applied Research, National Institute on Drug Abuse, Room 9-A-53, 5600 Fishers Lane, Rockville, Maryland 20857; tel.: (301) 443-6014.

SUPPLEMENTARY INFORMATION: Mandatory Guidelines for Federal Workplace Drug Testing were developed in accordance with Executive Order 12564 and section 503 of Public Law 100-71. Subpart C of the Guidelines, "Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies," sets strict standards which laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification a laboratory must participate in an every-other-month performance testing program plus periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of NIDA certification are not to be considered as meeting the minimum requirements expressed in the NIDA Guidelines. A laboratory must have its letter of certification from HHS/NIDA which attests that it has met minimum standards.

In accordance with Subpart C of the Guidelines, the following laboratories meet the minimum standards set forth in the Guidelines:

AccuTox Analytical Laboratories, 427 Fifth Avenue, NW., Attalla, AL 35954-0770, 205-538-0012.

Aegis Analytical Laboratories, Inc., 624 Grassmere Park Road, suite 21, Nashville, TN 37211, 615-331-5300.

Alabama Reference Laboratories, Inc., 543 South Hull Street, Montgomery, AL 36103, 800-541-4931/205-263-5745.

American Medical Laboratories, Inc., 11091 Main Street, P.O. Box 188, Fairfax, VA 22030, 703-691-9100.

Associated Pathologists Laboratories, Inc., 4230 South Burnham Avenue, suite 250, Las Vegas, NV 89119–5412, 702–733–7866.

Associated Regional and University Pathologists, Inc. (ARUP), 500 Chipeta Way, Salt Lake City, UT 84108, 801–583–2787.

Bayshore Clinical Laboratory, 4555 W. Schroeder Drive, Brown Deer, WI 53223, 414–355–4444/800–877–7016.

Bellin Hospital-Toxicology Laboratory, 2789 Allied Street, Green Bay, WI 54304, 414–496–2487.

Bioran Medical Laboratory, 415 Massachusetts Avenue, Cambridge, MA 02139, 617–547–8900.

Cedars Medical Center, Department of Pathology, 1400 Northwest 12th Avenue, Miami, FL 33136, 305–325–5810.

Center for Human Toxicology, 417 Wakara Way-Room 290, University Research Park, Salt Lake City, UT 84108, 801–581–5117.

Columbia Biomedical Laboratory, Inc., 4700 Forest Drive, Suite 200, Columbia, SC 29206, 800–848–4245/803–782–2700.

Clinical Pathology Facility, Inc., 711 Bingham Street, Pittsburgh, PA 15203, 412–488–7500.

Clinical Reference Lab, 11850 West 85th Street, Lenexa, KS 66214, 800–445–6917.

CompuChem Laboratories, Inc., 3308 Chapel Hill/Nelson Hwy., P.O. Box 12652, Research Triangle Park, NC 27709, 919–549–8263/800–833–3984.

Continental Bio-Clinical Laboratory Service, Inc., A MetPath Laboratory, 2740 28th Street, SW., Grand Rapids, MI 49509, 800–777–0708/616–538–6700.

Cox Medical Centers, Department of Toxicology, 1423 North Jefferson Avenue, Springfield, MO 65802, 800–876–3652/417–836–3093.

Damon Clinical Laboratories, 140 East Ryan Road, Oak Creek, WI 53154, 800–365–3840 (name changed: formerly Chem-Bio Corporation; CBC Clinilab).

Damon Clinical Laboratories, 8300 Esters Blvd., suite 900, Irving, TX 75063, 214–929–0535.

Doctors & Physicians Laboratory, 801 East Dixie Avenue, Leesburg, FL 32748, 904–787–9006.

Drug Labs of Texas, 15201 I 10 East, suite 125, Channelview, TX 77530, 713–457–3784.

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Road, Warminster, PA 18974, 215–674–9310.

Eagle Forensic Laboratory, Inc., 950 North Federal Highway, suite 308, Pompano Beach, FL 33062, 305–946–4324.

Eastern Laboratories, Ltd., 95 Seaview Boulevard, Port Washington, NY 11050, 516–625–9000.

ElSohly Laboratories, Inc., 1215-½ Jackson Ave., Oxford, MS 38655, 601–236–2609.

Employee Health Assurance Group, 405 Alderson Street, Schofield, WI 54476, 800–627–8200 (name changed: formerly Alpha Medical Laboratory, Inc.).

General Medical Laboratories, 36 South Brooks Street, Madison, WI 53715, 608–267–6267.

Harris Medical Laboratory, 7606 Pebble Drive, Fort Worth, TX 76118, 817–595–0294.

Laboratory of Pathology of Seattle, Inc., 1229 Madison St., suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 206–386–2672.

Laboratory Specialists, Inc., 113 Jarrell Drive, Belle Chasse, LA 70037, 504–392–7961.

Mayo Medical Laboratories, 200 S.W. First Street, Rochester, MN 55905, 800–533–1710/507–284–3631.

Med-Chek Laboratories, Inc., 4900 Perry Highway, Pittsburth, PA 15229, 412–931–7200.

MedExpress/National Laboratory Center, 4022 Willow Lake Boulevard, Memphis, TN 38175, 901–795–1515.

MedTox Bio-Analytical, a Division of MedTox Laboratories, Inc., 9176 Independence Avenue, Chatsworth, CA 91311, 818–718–0115/800–331–6670 (outside CA)/800–464–7081 (inside CA) (name changed: formerly Laboratory Specialists, Inc., Abused Drug Laboratories).

MedTox Bio-Analytical, a Division of MedTox Laboratories, Inc., 2356 North Lincoln Avenue, Chicago, IL 60614, 312–880–6900

(name changed: formerly Bio-Analytical Technologies).

Medtox Laboratories, Inc., 402 W. County Road D, St. Paul, MN 55112, 612–636–7466/800–832–3244.

Methodist Hospital of Indiana, Inc., Department of Pathology and Laboratory Medicine, 1701 North Senate Boulevard, Indianapolis, IN 46202, 317–929–3587.

Methodist Medical Center Toxicology Laboratory, 221 NE. Glen Oak Avenue, Peoria, IL 61636, 800–752–1835/309–671–5199.

MetPath, Inc., 1355 Mittel Boulevard, Wood Dale, IL 60191, 708–595–3888.

MetPath, Inc., One Malcolm Avenue, Teterboro, NJ 07608, 201–393–5000.

MetWest-BPL Toxicology Laboratory, 18700 Oxnard Street, Tarzana, CA 91356, 800–492–0800/818–343–8191.

National Center for Forensic Science, 1901 Sulphur String Road, Baltimore, MD 21227, 401–536–1485 (name changed; formerly Maryland Medical Laboratory, Inc.)

National Drug Assessment Corporation, 5419 South Western, Oklahoma City, OK 73109, 800–749–3784 (named changed: formerly Med Arts Lab).

National Health Laboratories Incorporated, 13900 Park Center Road, Herndon, VA 22071, 703–742–3100/572–3734 (inside VA)/800–336–0391 (outside VA).

National Health Laboratories Incorporated, d.b.a. National Reference Laboratory, Substance Abuse Division, 1400 Donelson Pike, suite A–15, Nashville, TN 37217, 615–360–3992/800–800–4522.

National Health Laboratories Incorporated, 2540 Empire Drive, Winston-Salem, NC 27103–6710, 919–760–4620/800–334–8627 (outside NC)/800–642–0894 (inside NC).

National Psychopharmacology Laboratory, Inc., 9320 Park W. Boulevard, Knoxville, TN 37923, 800–251–9492.

National Toxicology Laboratories, Inc., 1100 California Avenue, Bakersfield, CA 93304, 805–322–4250.

Nichols Institute Substance Abuse Testing (NISAT), 8985 Balboa Avenue, San Diego, CA 92123, 800–446–4728/619–694–5050 (name changed: formerly Nichols Institute).

Northwest Toxicology, Inc., 1141 E. 3900 South, Salt Lake City, UT 84124, 800–322–3361.

Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Avenue, Eugene, OR 97440–0972, 503–687–2134.

Parke DeWatt Laboratories, Division of Comprehensive Medical Systems, Inc., 1810 Frontage Rd., Northbrook, IL 60062 708–480–4680.

Pathology Associates Medical Laboratories, East 11604 Indiana, Spokane, WA 99206, 509–926–2400

PDLA, Inc., 100 Corporate Court, So. Plainfield, NJ 07080 908–769–8500/237–7352.

PharmChem Laboratories, Inc., 1505-A O'Brien Drive, Menlo Park, CA 94025 415–328–6200/800–446–5177.

Poisonlab, Inc., 7272 Clairemont Mesa Road, San Diego, CA 92111, 619–279–2600.

Precision Analytical Laboratories, Inc., 13300 Blanco Road, suite 150, San Antonio, TX 78216, 512–493–3211.

Puckett Laboratory, 4200 Mamie Street, Hattiesburgh, MS 39402, 601–264–3856/800–844–8378.

Regional Toxicology Services, 15305 N.E. 40th Street, Redmond, WA 98052, 206–882–3400.

Roche Biomedical Laboratories, 1801 First Avenue South, Birmingham, AL 35233, 205–581–3537.

Roche Biomedical Laboratories, 1957 Lakeside Parkway, suite 542, Tucker, GA 30084, 404–939–4811.

Roche Biomedical Laboratories, Inc., 1912 Alexander Drive, P.O. Box 13973, Research Triangle Park, NC 27709, 919-361-7770.
Roche Biomedical Laboratories, Inc., 69 First Avenue, Raritan, NJ 08869, 800-437-4986.
Roche Biomedical Laboratories, Inc., 1120 Stateline Road, Southaven, MS 38671 601-342-1286.
Scott & White Drug Testing Laboratory, 600 South 25th Street, Temple, TX 76504, 800-749-3788.
S.E.D. Medical Laboratories, 500 Walter NE suite 500, Albuquerque, NM 87102, 505-848-6800.
Sierra Nevada Laboratories, Inc., 888 Willow Street, Reno, NV 89502, 800-648-5472.
SmithKline Beecham Clinical Laboratories, 7600 Tyrone Avenue, Van Nuys, CA 91045, 818-376-2520.
SmithKline Beecham Clinical Laboratories, 3175 Presidential Drive, Atlanta, GA 30340, 404-934-9205. (name changed: formerly SmithKline Bio—Science Laboratories).
SmithKline Beecham Clinical Laboratories, 506 E. State Parkway, Schaumburgh, IL 60173, 708-885-2010. (name changed: formerly International Toxicology Laboratories).
SmithKline Beecham Clinical Laboratories, 11636 Administration Drive, St. Louis, MO 63146, 314-567-3905.
SmithKline Beecham Clinical Laboratories, 400 Egypt Road, Norristown, PA 19403, 800-523-5447 (named changed: formerly SmithKline Bio-Science Laboratories).
SmithKline Beecham Clinical Laboratories, 8000 Sovereign Row, Dallas, TX 75247, 214-638-1301 (name changed: formerly Smith Kline Bio-Science Laboratories).
South Bend Medical Foundation, Inc., 530 North Lafayette Boulevard, South Bend, IN 46601, 219-234-4176.
Southgate Medical Services, Inc., 21100 Southgate Park Boulevard, Cleveland, OH 44137-3054, 800-338-0166 (outside OH) / 800-362-8913 (inside OH) (name changed: formerly Southgate Medical Laboratory).
St. Anthony Hospital (Toxicology Laboratory), P.O. Box 205, 1000 North Lee Street, Oklahoma City, OK 73102, 405-272-7052.
St. Louis University Forensic Toxicology Laboratory, 1205 Carr Lane, St. Louis, MO 63104, 314-577-8628.
Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 301 Business Loop 70 West, suite 208, Columbia, MO 65203, 314-882-1273.
Toxicology Testing Service, Inc., 5426 NW., 79th Avenue, Miami, FL 33166, 305-593-2260.

Richard A. Millstein,

Acting Director, National Institute on Drug Abuse.

[FR Doc. 92-2744 Filed 2-3-92; 8:45 am]

BILLING CODE 4160-20-M

Food and Drug Administration

[Docket No. 91E-0492]

Determination of Regulatory Review Period for Purposes of Patent Extension; Accupril®

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Accupril® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health affairs (HFY-20), Food and Drug Administration, 5600 Fisher Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100-670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g) (1)(B).

FDA recently approved for marketing the human drug product Accupril®. Accupril® (quinapril hydrochloride) is indicated for the treatment of hypertension. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Accupril® (U.S. Patent No. 4,344,949) from Warner-Lambert Co., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. FDA, in a letter dated December 20, 1991, advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Accupril® represented the first commercial marketing of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Accupril® is 3,441 days. Of this time, 2,414 days occurred during the testing phase of the regulatory review period, while 1,027 days occurred during the approval phase. These periods of time were derived from the following dates:

1. The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective: June 18, 1982. FDA has verified the applicant's claim that the date the investigational new drug application became effective was June 18, 1982.

2. The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act: January 26, 1989. FDA has verified the applicant's claim that the new drug application (NDA) for Accupril® (NDA 19-885) was filed on January 26, 1989.

3. The date the application was approved: November 19, 1991. FDA has verified the applicant's claim that NDA 19-885 was approved on November 19, 1991.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 2,204 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before April 6, 1991, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before August 3, 1992, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, Part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 28, 1992.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 92-2633 Filed 2-3-92; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

Meeting

Notice is hereby given that the Office of Research on Women's Health (ORWH) in the Office of the Director, National Institutes of Health, will hold a public hearing on March 2 and 3, 1992, from 8 a.m. to 4:30 p.m., in Wilson Hall, Building 1, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland. The purpose of this hearing is to accept public testimony from individuals and organizations interested in the subject of recruitment, retention, re-entry, and advancement of women in biomedical careers.

This testimony will be used to help the members of the ORWH Planning Task Force on Women in Biomedical Careers (the Task Force) to frame the issues and develop the agenda for an ORWH-sponsored workshop to formulate recommendations to increase the recruitment, retention, re-entry, and advancement of women in biomedical careers to be held on June 11 and 12, 1992, in Bethesda, Maryland. Task Force members will be present at the public hearing to accept testimony.

The number of women admitted to health professional schools and into doctoral and post-doctoral programs is increasing. Yet, the numbers of women in leadership positions in biomedical careers (such as tenured professors, department chairs, deans, senior scientists, and principle investigators) is not commensurate.

Barriers to entry and advancement continue to exist. Training grants and fellowships often do not take into account a woman scientist's family responsibilities and assumption of non-traditional roles, which often occur at crucial times in her scientific career. Minority women, in particular, often are not presented with opportunities to prepare themselves for scientific and/or academic careers during critical stages in their education. The "glass ceiling" effect, a situation where women are promoted to within close proximity of major leadership positions but infrequently attain these positions, continues unabated. New ways to retain and advance women in these careers must be identified and implemented.

All sessions are open to the public. However, seating is limited and will be on a first-come, first-served basis. Testimony for the public hearing should be confined to comments relating to recruitment, retention, re-entry, and advancement of women in biomedical careers. Due to time constraints, only *one* representative from each organization will be allowed to present oral testimony. Each presentation must be limited to 5 to 7 minutes.

A letter of intent to present such testimony should be sent by interested individuals and organizations to the attention of Ms. Margaret Pickerel of Prospect Associates, 1801 Rockville Pike, suite 500, Rockville, Maryland 20852. The letter of intent to present testimony must be received by Prospect Associates no later than 5 p.m. (EST) on February 17, 1992. The date and time at which the letter of intent is received at Prospect Associates will establish the order of presentation at the March meeting.

Presenters should send three (3) written copies of their testimony, including a brief description of their organization, to the above address, no later than 5 p.m. (EST) on February 24, 1992. Written testimony received after that date and time will be accepted, but may not be included in the materials available to the Task Force members at the March 2 and 3, 1992, hearing.

Organizations wishing to provide only written statements may send three (3) copies of their statements to the above address by February 24th, 1992, no later than 5 p.m. (EST). All written testimony received by that date will be made available to Task Force members prior to the March meeting. Testimony received after that date will be sent to the Task Force, but may not be available at the March meeting.

For additional information contact Ms. Margaret Pickerel of Prospect Associates, 1801 Rockville Pike, suite 500, Rockville, Maryland 20852, 301-468-6555, 301-770-5164 (FAX).

Dated: January 28, 1992.

Bernadine Healy,

Director, NIH.

[FR Doc. 92-2564 Filed 2-3-92; 8:45 am]

BILLING CODE 4140-01-M

Social Security Administration

Rescission of Social Security Ruling 69-33c Child's Insurance Benefits—Full Time Attendance at Evening High School—20-Hour Per Week Requirement

AGENCY: Social Security Administration, HHS.

ACTION: Notice of rescission of Social Security Ruling (SSR) 69-33c.

SUMMARY: The Commissioner of Social Security gives notice of the Rescission of SSR 69-33c Child's Insurance Benefits—Full-Time Attendance at Evening High School—20-Hour Per Week Requirement.

EFFECTIVE DATE: February 4, 1992.

FOR FURTHER INFORMATION CONTACT: Joanne K. Castelo, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-1711.

SUPPLEMENTARY INFORMATION: Social Security rulings make available to the public precedential decisions relating to the Federal Old-Age, Survivors, Disability, Supplemental Security Income, and Black Lung Benefits Programs. Social Security rulings may be based on case decisions made at all administrative levels of adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, and other policy interpretations of the law and regulations.

SSR 69-33c was published in the 1966-1970 Cumulative Edition of the Rulings. This Ruling concerns a claimant who was enrolled in an evening high school program at a fully accredited private school that enabled her to take 16½ hours of class per week. The school considered this scheduled attendance to be the equivalent of full-time day instruction under its standards and practices. However, SSR 69-33c held that, since the claimant's scheduled attendance was at the rate of less than 20 hours per week (a strict 20 hours of attendance per week requirement was mandated by the regulation then in effect), the claimant did not meet the full-time attendance requirement under section 202(d) of the Social Security Act and its implementing regulation to qualify as a full-time student.

On July 30, 1991, SSA published a final regulation in the **Federal Register** at 56 FR 35998 amending 20 CFR 404.367(b). The regulation now provides for exceptions to the 20-hour rule where the student is considered to be full-time for day students under the school's standards and practices and either the school does not schedule at least 20 hours per week for the child and attending that school is the student's only reasonable alternative, or the student's medical condition prevents him or her from scheduled attendance of at least 20 hours per week. Because of this change, SSR 69–33c is out of date. Consequently, we are rescinding this Ruling.

Catalog of Federal Domestic Assistance Programs Nos. 93.803 Social Security—Retirement Insurance; 93.805 Social Security Survivor's Insurance

Dated: January 24, 1992.

Gwendolyn S. King,

Commissioner of Social Security.

[FR Doc. 92–2634 Filed 2–3–92; 8:45 am]

BILLING CODE 4190-29-M

DEPARTMENT OF THE INTERIOR

Vancouver Historical Study Commission: Meetings

AGENCY: National Park Service, Interior.

ACTION: Notice of correction of dates.

This notice corrects the dates published in the **Federal Register** November 8, 1991, (Volume 56, No. 217, Page 57353) for public meetings of the Vancouver Historical Study Commission to be held in the Vancouver, Washington City Council Chambers, 210 East 13th Street, Vancouver, Washington. The scheduled meeting for February 11, 1992 has been canceled. The Commission meetings for Tuesday, March 10, 1992 and Tuesday, April 14, 1992 will remain as scheduled. Commission meetings start at 1 p.m., and are planned to adjourn no later than 5 p.m. In addition, the Commission will hold a study session prior to the March 10, 1992 meeting from 10 a.m. to 12 noon.

Dated: January 29, 1992.

Roy D. Westberg,

Acting Regional Director.

[FR Doc. 92–2673 Filed 2–3 92; 8:45 am]

BILLING CODE 4310-70-M

Bureau of Mines

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

A request extending the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (1032–0112), Washington, DC 20503, telephone 202–395–3470.

Title: Gas Well Data—Survey of Helium-Bearing Natural Gas.

OMB Approval Number: 1032–0112.

Abstract: Respondents supply information which will be used by the Bureau of Mines, Division of Helium Field Operations, to evaluate the helium resources of the United States. This evaluation helps assure a continued supply of the valuable natural resource to meet essential Government needs. Results of the gas analyses, along with the data supplied, are published to provide valuable information to industry and to the public when those data are released by the supplier.

Bureau Form Number: 6–1579–A.

Frequency: Annually.

Description of Respondents: Owners and operator of helium-bearing natural gas wells and transmission lines.

Estimated Completion Time: 15 minutes.

Annual Responses: 200.

Annual Burden Hours: 50.

Bureau Clearance Officer: Alice J. Wissman (202) 501–9569.

Dated: January 10, 1992.

T.S. Ary,

Director, Bureau of Mines.

[FR Doc. 92–2618 Filed 2–3–92, 8:45 am]

BILLING CODE 4310-53-M

Fish and Wildlife Service

Availability of a Draft Joint Environmental Assessment/Supplemental Environmental Impact Report to Amend the Habitat Conservation Plan of an Incidental Take Permit for Development in Riverside County, California

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the draft Environmental Assessment (EA)/Supplemental Environmental Impact Report (EIR) concerning the proposed amendment to the section 10(a)(1)(B) permit to allow incidental take of the endangered Stephens kangaroo rat (*Dipodomys stephensi*) in Riverside County, California, is available for public review. Comments and suggestions are requested. This notice is provided pursuant to section 10(c) of the Endangered Species Act, as amended (Act), and National Environmental Policy Act regulations (40 CFR 1506.6).

DATES: Written comments are requested by March 5, 1992.

ADDRESSES: Persons wishing to review the draft EA may obtain a copy by writing the Riverside County Habitat Conservation Agency (RCHCA). Documents will be available for public inspection during normal business hours (8 a.m. to 5 p.m.) at the RCHCA and the Riverside Central Library. Written data or comments concerning the proposed amendment and draft EA/supplemental EIR should be submitted to the Laguna Niguel, California Field Office. Please reference permit number PRT 739678 with your comments.

Riverside County Habitat Conservation Agency, 12th Floor, Administrative Center, 4080 Lemon Street, Riverside, California 92501.

Riverside Central Library, Government Publications Section, 3581 Seventy Street, Riverside, California 92501–3651.

U.S. Fish and Wildlife Service, Laguna Niguel Field Office, 24000 Avila Road, room 3106, Laguna Niguel, California 92656.

FOR FURTHER INFORMATION CONTACT: Mr. Brooks Harper at the above Laguna Niguel, California Field Office.

SUPPLEMENTARY INFORMATION: The County of Riverside, California, has applied to the Fish and Wildlife Service for a proposed amendment to their existing incidental take permit that would authorize changes in the Stephens' kangaroo rat (SKR) reserve study area boundaries, and is known as the "second go-round boundary modification." These changes are being promulgated pursuant to the terms and conditions of the existing short-term (2-year) SKR Habitat Conservation Plan (HCP). This short-term plan requires review of the proposed boundary changes every 6 months until such time as the final SKR reserve study area boundaries and the long-term HCP are completed and approved.

The proposed action authorizes specific modifications of the boundaries of seven SKR study areas. This proposed action is detailed in section II.D—Alternatives Including the Proposed Action. The proposed action includes 23 modifications from seven study areas which would result in the deletion of a total of 4,132.5 acres, including a net decrease of 337.2 acres of SKR occupied habitat.

(Notice of availability: Stephen's kangaroo rat—incidental take permit and Environmental Assessment.)

Dated: January 28, 1992.

Marvin L. Plenert,

Regional Director.

[FR Doc. 92-2620 Filed 2-3-92; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before January 25, 1992. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013-7127. Written comments should be submitted by February 19, 1992.

Carol D. Shull,

Chief of Registration, National Register.

ALABAMA

Elmore County

Tallassee Commercial Historic District, Roughly, 3 blocks on S side Barnett Blvd. between old River Rd. and DuBois St., Tallassee, 92000072

ARKANSAS

Washington County

Devil's Den State Park Historic District (Facilities Constructed by the CCC in Arkansas MPS), AR 74 W of Winslow, Winslow vicinity, 92000071

CALIFORNIA

Los Angeles County

Fern Avenue School, 1314 Fern Ave., Torrance, 92000067

ILLINOIS

Cook County

Humboldt Park (Chicago Park District MPS), Roughly bounded by N. Sacramento and Augusta Blvds., and N. Kedzie, North and N. California Aves. and W. Division St., Chicago, 92000074

Sangamon County

Rippon—Kinsella House, 1317 N. Third St., Springfield, 92000073

MARYLAND

Anne Arundel County

Douglass Summer House, 3200 Wayman Ave., Highland Beach, 92000069

Charles County

Acquinsicke, Billingsley Rd. W. of jct. with MD 228, Pomfret vicinity, 92000070

NEW YORK

Chautauqua County

School No. 7, Jct. of E. Lake Shore Dr. and N. Serval St., Dunkirk, 92000068

OREGON

Benton County

Bexel, John, House, 3009 NW. Van Buren Ave., Corvallis, 92000064

Monroe State Bank Building, 190 S. Fifth St., Monroe, 92000065

Clatsop County

West, Oswald, Coastal Retreat, 1961 Pacific Ave., Cannon Beach, 92000066

Deschutes County

Stover, B. A. and Ruth, House, 1 NW. Rocklyn Rd., Bend, 92000061

Jackson County

Pedigrift, S. and Sarah J., House, 407 Scenic Ave., Ashland, 92000063

Peil, Emil and Alice Applegate, House, 52 Granite St., Ashland, 92000062

[FR Doc. 92-2506 Filed 2-3-92; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-1 (Sub-No. 237X)]

Exemption and of Interim Trail Use or Abandonment; Chicago and North Western Transportation Company—Abandonment Exemption—in Douglas County, NE

Decided: January 29, 1992.

Chicago and North Western Transportation Company (CNW) has filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon its 5.8-mile line of railroad between milepost 0.00, at Summit Street, and milepost 5.8, near Dodge Street, in Omaha, Douglas County, NE.[1]

CNW has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

On January 21, 1992, The City of Omaha (Parks, Recreation & Public Property Department), filed a request for a notice of interim trail use (NITU) as well as a statement of willingness to assume financial responsibility for that segment of line between milepost 1.2, near 42nd Street, and milepost 4.16, near Mercy Road. CNW by telecopier letter filed January 24, 1992, indicates its willingness to negotiate with the City of Omaha for interim trail use for this segment of the line.

While a petition for interim trail use need not be filed until 10 days after the date the notice of exemption is published in the **Federal Register** (49 CFR 1152.29(b)(2)), the provisions of 16 U.S.C. 1247(d) are applicable and all the criteria for imposing interim trail use/rail banking have been met. Accordingly, in light of CNW's willingness to enter into negotiations, a NITU will be issued under 49 CFR 1152.29. The parties may negotiate an agreement during the 180-day period, prescribed below. If no agreement is reached within 180 days, CNW may fully abandon the line. See 49 CFR 1152.29(d)(1).

Any other political subdivision, state, or qualified private entity interested in acquiring or using the involved right-of-way for interim trail use/rail banking may file an appropriate petition before February 14, 1992. If additional statements are filed, CNW is directed to respond to them. Use of the right-of-way for trail purposes is subject to restoration for railroad purposes.

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[1] CNW in its verified notice indicates that the segment of line between mileposts 0.2 and 1.2 will be acquired by the Union Pacific Railroad Company (UP). UP was granted interim overhead trackage rights over the segment in Finance Docket No. 31962, Union Pacific Railroad Company and Chicago and North Western Transportation Company—Joint Relocation Project Exemption. (not printed), served December 23, 1991.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on March 5, 1992 (unless stayed). Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by February 14, 1992.[4] Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by February 24, 1992, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to CNW's representative: Stuart F. Gassner, Chicago and North Western Transportation Company, 165 North Canal Street, Chicago, IL 60606.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

CNW has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by February 7, 1992. Interested persons may obtain a copy of the EA from SEE by writing to it (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 927-6248. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

It is Ordered:

1. Subject to the conditions set forth above, CNW may discontinue service, cancel tariffs for this line on not less than 10 day's notice to the Commission, and salvage track and related material consistent with interim trail use/rail banking after the effective date of this notice of exemption and NITU. Tariff cancellations must refer to this notice of exemption and NITU by date and docket number.

2. If an interim trail use/rail banking agreement is reached, it must require the trail user to assume, for the term of the agreement, full responsibility for management of, any liability arising out of the transfer of use (if the user is immune from liability, it need only indemnify CNW against any potential liability), and the payment of any taxes that may be levied or assessed against the right-of-way.

3. Interim trail use/rail banking is subject to the future restoration of rail service.

4. If the user intends to terminate trail use, it must send the Commission a copy of this notice of exemption and NITU and request that it be vacated on a specified date.

5. If an agreement for interim trail use/rail banking is reached by the 180th day after publication of this notice, interim trail use may be implemented. If no agreement is reached by the 180th day, CNW may fully abandon the line.

6. Provided no formal expression of intent to file an offer of financial assistance has been received, this notice of exemption and NITU will be effective March 5, 1992.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-2640 Filed 2-3-92; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980

In accordance with 42 U.S.C. 9622(1), notice is hereby given that on January 10, 1992, a proposed consent decree in *United States* v. *Ciba-Geigy Corporation, et al.*, Civil Action No. 91-2531, has been lodged with the United States District Court for the District of New Jersey. The United States' amended complaint sought recovery of response costs under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) against Ciba-Geigy and 15 other corporations responsible for hazardous wastes found at the Atlantic Resources site in Sayreville, New Jersey.

The consent decree provides that the settling defendants will reimburse EPA for $625,000 in past response costs incurred by the United States in connection with the Atlantic Resources site. In addition, the consent decree provides that the settling federal agency will pay $175,000 in past response cost.

The Department of Justice will receive comments relating to the proposed consent decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530 and should refer to *United States* v. *Ciba-Geigy Corporation, et al.*, D.J. Ref. 90-11-3-480.

The proposed consent decree may be examined at the office of the United States Attorney, 970 Broad St., room 502, Newark, N.J. 07102 and at the Region II office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278. The proposed consent decree may also be examined at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building, NW., Washington, DC 20004 (202-347-2072). A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004. In requesting a copy, please enclose a check in the amount of $4.00 (25 cents per page reproduction cost) payable to the "Consent Decree Library."

Barry M. Hartman,

Acting Assistant Attorney General, Environment & Natural Resources Division.

[FR Doc. 92-2569 Filed 2-3-92; 8:45 am]

BILLING CODE 4410-01-M

Mass Merchandisers, Inc.; Lodging of Consent Decree Pursuant to CERCLA

In accordance with section 122 of the Comprehensive Environmental Response, Compensation and Liability Act, as amended ("CERCLA"), 42 U.S.C. 9622, and the policy of the Department of Justice, 28 CFR 50.7 notice is hereby given that a complaint styled *United*

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[2] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[3] See Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

[4] The Commission will accept a late-filed trail use statement as long as it retains jurisdiction to do so.

States. v. *Mass Merchandisers, Inc.* was filed in the United States District Court for the Western District of Arkansas on December 17, 1991, and, simultaneously, a consent decree was lodged with the Court in settlement of the allegations in the complaint. This consent decree settles the government's claims in the complaint pursuant to sections 106 and 107 of CERCLA, 42 U.S.C. 9606, 9607, for injunctive relief, and for the recovery of response costs incurred by the United States with respect to a Site located approximately one-half mile southwest of Omaha, Arkansas. The complaint alleged, among other things, that the defendant is a person who owned the Site and that the United States has incurred and will continue to incur response costs in response to the release or threat of release of hazardous substances from the Site.

Under the terms of the proposed consent decree, the defendant agrees to fund and implement a remedy at the Site which includes excavation of affected soils, sieve and washing of the soils, followed by onsite incineration of washed soils not meeting certain objectives. Additionally, groundwater will be monitored and, if necessary, treated to meet certain objectives.

The consent decree also calls for the defendant to pay the United States the sum of $282,608.10 for past response costs incurred by the United States, and to pay for all future response and oversight cost incurred by the United States related to the remedial action to be undertaken at the Site.

The Department of Justice will receive comments relating to the proposed consent decree for a period of 30 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, 10th and Pennsylvania Avenue, NW., Washington, DC 20530. All comments should refer to *United States* v. *Mass Merchandiser, Inc.*, D.J. Ref. 90-11-2-190A.

The proposed consent decree may be examined at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building, NW., Washington, DC 20004, (202) 347-2072; at the U.S. Attorney, Western District of Arkansas, 6th & Rogers Avenue, room 216, Post Office Box 1524, Fort Smith, Arkansas, 72902; and at the Office of Regional Counsel, U.S. Environmental Protection Agency, Region VI, 1445 Ross Avenue, Dallas, Texas 75202. A copy of the proposed consent decree may be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of $51.50 (25 cents per page reproduction cost) payable to Consent Decree Library.

John C. Cruden,

Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 92-2671 Filed 2-3-92; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-26, 481]

Bentley Industries, Inc., Evans City, PA; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on October 28, 1991 in response to a worker petition which was filed on behalf of workers at Bentley Industries, Incorporated, Evans City, Pennsylvania.

A certification of eligibility applicable to the petitioning group of workers was issued on December 30, 1991 (TA-W-26, 321). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 25th day of January 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92-2577 Filed 2-3-92; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period of January 1992.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-26,431; Globe Steel Abrasive Co., Mansfield, OH
TA-W-26,562; Calgon Carbon Corp., Big Sandy Plant, Catlettsburg, KY
TA-W-26,536; Galva Foundry Co., Galva, IL
TA-W-26,239; Allegheny Ludlum Steel Corp., West Leechburg, PA
TA-W-26,381; Fruehauf Trailer Operations, Uniontown, PA
TA-W-26,330; Joy Technologies, Mining Machinery Div., Franklin, PA
TA-W-26,506; Detroit Steel Product, Inc., Morristown, IN
TA-W-26,520; Maine Mountain Footwear, Wilton, ME
TA-W-26,543; Mohawk Tools, Inc., Montpelier, OH
TA-W-26,316; Worthington Precision Metals, Mentor, OH

In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA-W-26,551; Plymouth, Inc., Bellmawr, NJ

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-26,600; GP/Sorensen, Glasgow, KY

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-26,459; Down East Manufacturing, Livermore Falls, ME

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-26,604; Kaiser Aluminum and Chemical Corp., Toledo, OH

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-26,577; Omar L. Fulfer Well Servicing Co., Kamay, TX

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-26,539, TA-W-26,540, TA-W-26,541; Maxus Exploration Co., Mills, WY, Douglas, WY, and Gillette, WY

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U.S. imports of crude oil declined absolutely and relative to domestic shipments in the first eight months of 1991 compared to the same period in 1990.

TA-W-26,565; Dyco Petroleum Co., Tulsa, OK

Increased imports did not contribute importantly to worker separations at the firm.

Affirmative Determinations

TA-W-26,554; Susan Bates, Inc., Chester, CT

A certification was issued covering all workers separated on or after October 28, 1990.

TA-W-26,480; Bayline Co., Inc., Parsonsburg, MD

A certification was issued covering all workers separated on or after October 18, 1990.

TA-W-26,606; Logtech Wireline Services, Inc., Edmond, OK

A certification was issued covering all workers separated on or after January 1, 1991 and before January 1, 1992.

TA-W-26,585; Western Atlas International/Atlas Wireline Services, Bossier City, LA

A certification was issued covering all workers separated on or after January 1, 1991.

TA-W-26,579; Sharlyn Fashions, Inc., East Newark, NJ

A certification was issued covering all workers separated on or after November 4, 1990.

TA-W-26,560; Baxter Healthcare Corp., Eaton, OH

A certification was issued covering all workers separated on or after November 17, 1991.

TA-W-26,552; Samsung International, Inc., Ledgewood, NJ

A certification was issued covering all workers separated on or after October 28, 1990.

TA-W-26,578; Schlumberger Well Service, Midland, TX

A certification was issued covering all workers separated on or after August 23, 1991.

TA-W-26,534; Elro Dress Co., Jersey City, NJ

A certification was issued covering all workers separated on or after October 30, 1990.

TA-W-26,570; Key Tronic Corp., Spokane, WA

A certification was issued covering all workers separated on or after November 4, 1990.

TA-W-26,584; Down East Footwear Mfg., East Corinth, ME

A certification was issued covering all workers separated on or after October 31, 1990.

TA-W-26,566; Gandalf Systems, Corp., Cherry Hill, NJ

A certification was issued covering all workers separated on or after October 31, 1990.

TA-W-26,458; Down East Casuals Footwear, Lewiston, ME

A certification was issued covering all workers separated on or after October 4, 1990.

TA-W-26,430; Euro Knit, Inc., Brooklyn, NY

A certification was issued covering all workers separated on or after September 30, 1990.

TA-W-26,512; Frigidaire Co., Athens, TN

A certification was issued covering all workers separated on or after October 23, 1990.

TA-W-26,610; Obion Denton Co., Oxford, MS

A certification was issued covering all workers seperated on or after November 12, 1990.

I hereby certify that the aforementioned determinations were issued during the month of January, 1992. Copies of these determinations are available for inspection in room C-4318, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons to write to the above address.

Dated: January 27, 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92-2578 Filed 2-3-92; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Open Forum: To Follow Up on White House Conference on Library and Information Services

AGENCY: U.S. National Commission on Libraries and Information Science (NCLIS).

ACTION: Notice of public meeting.

SUMMARY: In July 1991, The White House Conference on Library and Information Services (WHCLIS) was held. Delegates adopted 95 recommendations.

AGENDA: The U.S. NCLIS is holding an Open Forum to give national library and information organizations and allied groups—including those of elected and appointed officials from government and education—an opportunity to review the WHCLIS recommendations of special concern and interest to them and to provide their plans in support of the recommendations. All data gathered as a result of the forum will be considered in formulating NCLIS initiatives to address the implementation of the WHCLIS recommendations.

DATE/LOCATION: Tuesday, March 19, 1992, 9 a.m. to 5 p.m. Henry Barnard Auditorium, room 1134, U.S. Department of Education, FOB 6, 400 Maryland Avenue, SW., Washington, DC.

PARTICIPATION: Invitations to participate in the Open Forum are being sent to national organizations. Regional and local groups are welcome to attend as well, but opportunity to address the forum will be designated first for national representatives. Because of limited space, participation is limited to 100.

WRITTEN COMMENTS: Written comments on the WHCLIS Recommendations should be received in the NCLIS office by March 31, 1992.

NCLIS ADDRESS: NCLIS, 1111—18th Street, NW., suite 310, Washington, DC 20036, (202) 254-3100.

FOR FURTHER INFORMATION CONTACT: Jane Williams, Research Associate, at above address.

Access to the meeting for handicapped individuals is available. Please call Jane Williams (202) 254-3100, no later than one week in advance of the meeting.

Dated: January 28, 1992.

Jane Williams,

Acting Executive Director.

[FR Doc. 92-2581 Filed 2-3-92; 8:45 am]

BILLING CODE 7527-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Revised Meeting Agenda

In accordance with the purposes of sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Adivory Committee on Reactor Safeguards will hold a meeting on February 6-8, 1992, in room P-110, 7920 Norfolk Avenue, Bethesda, Maryland. Notice of this meeting was published in the **Federal Register** on January 23, 1992 (57 FR 2793). This revised notice reflects changes in the schedule for topics to be considered on Thursday, February 6, 1992.

Thursday, February 6, 1992

8:30 a.m.–8:45 a.m.: Opening Remarks by ACRS Chairman (Open)—The ACRS Chairman will make opening remarks and comment briefly regarding items of current interest.

8:45 a.m.–10 a.m.: Key Technical Issues (Open)—The Committee will discuss proposed plans for resolution of key technical issues in need of early resolution with respect to future nuclear power plant designs.

10:15 a.m.–12:15 p.m.: Integral Systems Testing for the Westinghouse AP–600 Nuclear Plant (Open/Closed)—The Committee will review and report on integral systems testing requirements for the Westinghouse AP–600 standardized nuclear power plant.

Representatives of the NRC staff and the Westinghouse Electric Corporation will participate, as appropriate.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this matter.

1:15 p.m.–3:15 p.m.: Meeting with Senior NRC Staff Managers (Open)—The Committee will hold a discussion regarding proposed reconciliation of ACRS comments and recommendations regarding several safety related and regulatory matters such as consistent use of PRA in the regulatory process, the NRC Regulatory Impact Survey, and criteria to accommodate severe accidents in containment design.

3:30 p.m.–5 p.m.: Reactor Operating Experience (Open)—The Committee will hear a briefing by and hold a discussion with representatives of the NRC staff regarding recent events and incidents at operating nuclear power plants, including the causes and consequences of a turbine overspeed failure at the Salem Nuclear Generating Station and a main coolant system leak at the Oconee Nuclear Station.

Representatives of the licensees and other elements of the nuclear industry will participate, as appropriate.

5 p.m.–6 p.m. Policies and Practices of Public Utility Commissions (Open)—The Committee will hear a briefing by and hold a discussion with an invited expert regarding the impact that policies and practices of Public Utility Commissions have on the safety of nuclear power plants.

6 p.m.–6:30 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss issues to be addressed in reports related to matters considered during this meeting session.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 1, 1991 (56 FR 49800). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those open portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley, prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with subsection 10(d) Public Law 92–463 that it is necessary to close portions of this meeting noted above to discuss Proprietary Information applicable to the matters being considered in accordance with 5 U.S.C. 552b(c)(4).

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Farley (telephone 301/492–8049), between 8 a.m. and 4:30 p.m.

Dated: January 29, 1992.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 92–2580 Filed 2–3–92; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–213]

Connecticut Yankee Atomic Power Company (Haddam Neck Plant); Exemption

I

The Connecticut Yankee Atomic Power Company (CYAPCO, the licensee) is the holder of Facility Operating License No. DPR–61 which authorizes operation of the Haddam Neck Plant. The license provides, among other things, that the Haddam Neck Plant is subject to all rules, regulations, and Orders of the Commission now or hereafter in effect. The plant is a single-unit pressurized water reactor at the licensee's site located in Middlesex County, Connecticut.

II

Because the Haddam Neck Plant has used only stainless steel clad fuel, CYAPCO has previously only been required to demonstrate emergency core cooling system (ECCS) performance capability in accordance with the "AEC Interim Policy Statement for Emergency Core Cooling" (36 FR 12247). With the conversion to Zircaloy-clad fuel the plant must now be in compliance with 10 CFR 50.46 and appendix K. The appendix K model has been reviewed and approved by the staff for its utilization as part of the licensing basis for the Haddam Nick plant. In the process of reviewing this new model against the 10 CFR part 50, appendix K requirements, three requirements were identified as not applicable for the Haddam Neck Plant. These three requirements in sections I.D.3, I.D.4, and I.D.5 were written for bottom flooding plants. More specifically, the sections I.D.3, I.D.4, and I.D.5 of appendix K require the following:

Section I.D.3 of appendix K requires that the ratio of the total fluid at the core exit plane to the total liquid flow at the core inlet plane (carryover fraction) shall be used to determine the core exit flow and shall be determined in accordance with applicable experimental data.

Section I.D.4 of appendix K requires that the thermal-hydraulic interaction between steam and all emergency core cooling water shall be taken into account in calculating the core reflooding rate. During refill and reflood, the calculated steam flow in the unbroken reactor coolant pipes shall be taken to be zero during the time that acculators are discharging water into those pipes unless experimental evidence is available regarding the realistic thermal-hydraulic interaction between the steam and liquid. In that case, experimental data may be used to support an alternate assumption.

Section I.D.5 of appendix K requires that for reflood rates of 1-inch per second or higher, reflood heat transfer coefficients shall be based on applicable experimental data for unblocked cores, including FLECHT results ("PWR FLECHT (Full Length Emergency Cooling Heat Transfer) Final Report", Westinghouse Report WCAP–7665, April 1971). The use of a correlation derived from FLECHT data shall be demonstrated to be conservative for the transient to which it is applied; presently available FLECHT heat transfer correlations ("PWR FLECHT Group I Test Report", Westinghouse Report WCAP-7544, September 1970; "PWR FLECHT Final Report Supplement", Westinghouse Report WCAP-7931, October 1972) are not acceptable. New correlations are acceptable only after they are demonstrated to be conservative, by comparison with FLECHT data, for a range of parameters consistent with the transient to which they are applied.

By letter dated September 26, 1990, CYAPCO requested exemptions from the above requirements for the Haddam Neck Plant.

III

In the past, loss-of-coolant accident (LOCA) analyses for reactors with upper plenum injection (UPI) assumed that during reflood the low pressure safety injection (LPSI) flow was injected into the lower plenum (core flooding from below) in the same manner as for the three-loop and four-loop plants rather than in the upper plenum. Also, since Haddam Neck had no cold leg accumulators, none were required to be modeled. With these assumptions, the Interim Acceptance Criteria (IAC) in the Interim Policy Statement for Emergency Core Cooling could be applied to the analyses without exception. With the conversion of the Haddam Neck Plant to Zircaloy-clad fuel, the Haddam Neck Plant needs to be in compliance with 10 CFR 50.46 and appendix K rather than the IAC.

The U.S. Nuclear Regulatory Commission (NRC) was concerned that the simplifying assumption of low pressure water injecting into the lower plenum was unrealistic, and potentially nonconservative for pressurized water reactors with an upper plenum ECCS. As a result of this concern, Westinghouse developed a new LOCA model for plants with UPI which the NRC has reviewed and approved. The new Best Estimate Methodology models the injection of low pressure ECCS water directly into the upper plenum. In the process of reviewing this new model against the 10 CFR part 50, appendix K requirements, to which the Haddam Neck Plant will have to conform because of unique plant design, exemptions from certain portions of the appendix K requirements are necessary, since portions of the appendix K do not apply to the plant design. By letter dated September 26, 1990, the licensee requested exemptions from sections I.D.3, I.D.4, and I.D.5 of appendix K.

The ECCS for the Westinghouse Haddam Neck pressurized water reactor injects the low pressure ECCS cooling water directly into the upper plenum through core deluge pipes in the reactor vessel upper head in the event of a LOCA. The newer Westinghouse Plants inject the low pressure cooling water into the cold legs where it flows into the downcomer and then into the lower plenum (bottom flooding plants). In addition, the newer plants have cold leg accumulators which the Haddam Neck Plant does not have. Sections I.D.3, I.D.4, and I.D.5 of appendix K were written for the bottom flooding plants and not for plants with UPI and without accumulators.

The staff has reviewed the three exemption requests and has concluded that an acceptable basis for granting these exemptions exists. The exemptions are discussed below.

1.0 Section I.D.3

An exemption was requested from the specific requirements of section I.D.3 of appendix K to 10 CFR part 50.

1.1 Discussion

When appendix K was written, the NRC felt that available computer codes could not accurately calculate core exist flow rate. As a result, appendix K required core exit flow rate to be calculated using experimental data. Specifically, the core exist flow had to be determined from the code-calculated core inlet flow times a carryover fraction developed from FLECHT data. The intent of this requirement was to ensure that the flow existing the core to the loops was calculated by the most appropriate means.

1.2 Staff's Evaluation

Section I.D.3 deals with the calculation of reflood rate for pressurized water reactors (PWRs). The specific provision of this section from which the licensee requested to be exempted is the calculation of core exist flow based on carryover fraction. The licensee identified that the prescriptions for this calculation given in section I.D.3 are based on data for a bottom flooding configuration design. Since the Haddam Neck design does not feature cold leg accumulators, the preponderence of ECCS injection is provided by UPI. Since UPI is not a lower flooding design, the licensee concludes that the Section I.D.3 prescriptions do not apply to Haddam Neck. The approved evaluation model for Haddam Neck contains an empirically verified model more directly applicable to top flooding situations to calculate water carryover to the hot legs, which satisfies the intent of appendix K, section I.D.3

1.3 Conclusion

Based on the above evaluation, the staff concludes that the requirements of section I.D.3 are not applicable to the Haddam Neck Plant and that the licensee has verified an empirical model in the evaluation model that is more applicable to top flooding plants to satisfy the intent of section I.D.3. The staff has reviewed and approved this model in the staff's Safety Evaluation related to this exemption. Therefore, the licensee's exemption request from the requirement of section I.D.3 of 10 CFR part 50, appendix K should be granted.

2.0 Section I.D.4

An exemption was requested from the specific requirements of section I.D.4 of appendix K to 10 CFR part 50.

2.1 Discussion

The intent of the requirement was to provide a basis for modeling the accumulator injection into the cold legs. It was postulated that the cold leg accumulator injection was so large that the cold legs would become plugged with the accumulator water thereby preventing the venting of the steam through the loops. The flow regime that was observed in the intact cold legs during experiments was an oscillating plug flow in which the accumulator water condensed all the steam. The oscillating plug flow in the intact loops during accumulator injection resulted in an increased pressure drop in the intact cold legs which slowed the core reflooding rate for a bottom flooding plant.

2.2 Staff's Evaluation

Section I.D.4, dealing with the interaction of steam with ECCS water in a PWR, requires that during refill and reflood, the calculated steam flow in the unbroken reactor coolant pipes be taken to be zero during the time that accumulators are discharging into those pipes unless experimental evidence is available regarding the realistic thermal-hydraulic interaction between the steam and the liquid. The licensee stated that the intent of this item is to account for the plugging of the cold leg by the large accumulator flow, ultimately resulting in a slowing of the core reflooding rate for a bottom flooding plant. The licensee requested an exemption from this because the Haddam Neck Plant does not have cold leg accumulators and its high pressure cold leg injection does not have sufficient capacity to produce the plugging phenomenon addressed in section I.D.4. The licensee stated that the approved evaluation model contains an empirically verified model to calculate steam/water mixing effects, which satisfies the intent of the appendix K, section I.D.4 requirement.

2.3 Conclusion

Based on the above evaluation, the staff concludes that the requirements of Section I.D.4 are not applicable to the Haddam Neck Plant and that the licensee has verified an empirical model in the evaluation model which calculates the steam/water mixing effects to satisfy the intent of section I.D.4. The staff has reviewed and approved this model in the staff's Safety Evaluation related to this exemption. Therefore, the licensee's exemption request from the requirement of section I.D.4 of 10 CFR part 50, appendix K should be granted.

3.0 Section I.D.5

An exemption was requested from the requirements of section I.D.5 of appendix K to 10 CFR part 50.

3.1 Discussion

The rule prescribes heat transfer calculation methods for three cases; refill, reflood with flooding rate less than 1-inch per second, and reflood with flooding rate greater than 1-inch per second. For refill, the assumption of steam cooling is required in the rule and on the view that there would be no water in the core during this period. For reflood, the prescribed heat transfer calculation methods and the 1-inch per second threshold were chosen to ensure the effects of flow blockage were conservatively accounted for.

3.2 Staff's Evaluation

Section I.D.5, dealing with refill and reflood heat transfer for PWRs, provides heat transfer prescriptions for refill, reflood with a flooding rate of greater than 1-inch per second, and reflood with a flooding rate of greater than 1-inch per second. The licensee correctly identified that the prescriptions of this Section are based only on empirical data from bottom flooding plant experiments. Therefore, the licensee requested an exemption from the prescriptions of this Section because the Haddam Neck design is not a bottom flooding plant. The licensee identified that the approved evaluation model contains an empirically verified model which accounts for refill and reflood heat transfer, which satisfies the intent of Section I.D.5 requirement.

3.3 Conclusion

Based on the above evaluation, the staff concludes that the requirements of Section I.D.5 are not applicable to the Haddam Neck Plant and that the licensee has verified an empirical model in the evaluation model which accounts for refill and reflood heat transfer to satisfy the intent of Section I.D.5. The staff has reviewed and approved this model in the staff's Safety Evaluation related to this exemption. Therefore, the licensee's exemption request from the requirement of section I.D.5 of 10 CFR part 50, appendix K should be granted.

IV

Pursuant to 10 CFR 50.12(a)(2), the Commission will not consider granting an exemption unless special circumstances are present. Item (ii) of the subject regulation includes special circumstances where application of the subject regulation would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule.

The underlying purpose of sections I.D.3, I.D.4, and I.D.5 is to provide an acceptable method for developing ECCS evaluation models which conform with the Appendix K requirements. CYAPCO has demonstrated the inapplicability of these Sections of appendix K to the Haddam Neck Plant as they are requirements applicable to bottom flooding plants with accumulators. As noted before Haddam Neck has UPI with no accumulators. In addition, CYAPCO has provided models more directly applicable to the Haddam Neck Plant in their ECCS evaluation model to satisfy the intent of these sections of appendix K. The staff has reviewed and approved these models in the Safety Evaluation related to this exemption, dated January 23, 1992.

In summary, the staff has concluded that sections I.D.3, I.D.4, and I.D.5 are not applicable to the Haddam Neck Plant and literal compliance with the rule is not required. Therefore, the staff concludes that "special circumstances" exist for the licensee's requested exemptions in that imposition of the literal requirements of the regulation in these particular circumstances is not necessary to achieve the underlying purposes of appendix K to 10 CFR part 50.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a)(2)(ii), special circumstances exist in that sections I.D.3, I.D.4, and I.D.5 are not applicable to the plant and provisions have been made to provide models to the ECCS evaluation models which satisfy the underlying intent of sections I.D.3, I.D.4, and I.D.5 of appendix K to 10 CFR part 50. Further, the staff has concluded that the requested exemptions are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest. Therefore, the Commission hereby grants the exemption requests from the requirements of sections I.D.3, I.D.4, and I.D.5 of appendix K to 10 CFR part 50 described in section III above.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the human environment (57 FR 2290).

This Exemption is effective upon issuance.

Dated at Rockville, Maryland this 23rd day of January 1992.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects—I/II Office of Nuclear Reactor Regulation.

[FR Doc. 92-2652 Filed 2-3-92; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-213]

Connecticut Yankee Atomic Power Co. (Haddam Neck Plant); Exemption

I

The Connecticut Yankee Atomic Power Company (CYAPCO or the licensee) is the holder of Facility Operating License No. DPR-61 which authorizes operation of the Haddam Neck Plant (the facility) at steady state reactor core power levels not in excess of 1825 megawatts thermal. The license provides, among other things, that the facility is subject to all rules, regulations, and Orders of the U.S. Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facility is a single-unit pressurized water reactor located at the licensee's site in Middlesex County, Connecticut.

II

One of the conditions of all operating licenses for water-cooled power reactors, as specified in 10 CFR 50.54(o), is the primary reactor containments shall meet the containment leakage test requirements set forth in 10 CFR part 50, appendix J. By letter dated July 31, 1985, the staff concluded that it was acceptable to defer implementation of specific appendix J modifications until an integrated assessment, i.e., Integrated Safety Assessment Program (ISAP), could be performed.

In a July 31, 1985, letter, the NRC staff formally established the scope of the Haddam Neck Plant ISAP and designated the appendix J issues as ISAP Topic 1.03, "Containment Penetration Evaluations." In that letter, the staff recognized that some issues would require exemptions to defer action until such time as the Haddam Neck Plant ISAP could be completed.

III

By letters dated March 12 and July 15, 1986, the licensee requested exemptions from sections II.H. III.A and III.C of appendix J. By Exemption dated September 29, 1987, the NRC granted schedular exemptions for two refueling outages in response to CYAPCO's exemption requests. By letters dated April 28 and September 8, 1989, as amended by letter dated October 19, 1990, the licensee requested exemptions for eight penetrations. By Exemption dated December 11, 1991, the NRC issued exemptions for three penetrations, determined one exemption was not required, and denied exemptions for four other penetrations (P–8, P–33, P–62 and P–78). By letter dated December 20, 1991, the licensee requested schedular exemptions from the requirements of appendix J for penetrations P–8, P–33, P–62 and P–78. Each request for temporary relief has been evaluated individually in the Safety Evaluation dated January 24, 1992, and is summarized below:

A. Exemptions for Temporary Relief

By letter dated December 20, 1991, CYAPCO requested schedular exemptions from 10 CFR part 50, appendix J, for four separate penetrations. The four requests can be categorized into two groups as described below. These categories include valves that require Type C testing or Type C testing in the reverse direction.

1. Exemption for Modifications of Valves Requiring Type C Testing

By letter dated December 20, 1991, CYAPCO identified the reactor coolant charging system penetration P–8 for which a schedular exemption from the Type C testing requirements of section III.C of appendix J was requested. A discussion of penetration P–8 follows.

Penetration P–8. CYAPCO had previously requested an exemption from the Type C testing requirements for the reactor coolant system charging (P–8) penetration. This previous request was based on the seismic design of system piping inside containment and the proposed seismic qualification (upgrading) of system piping from the isolation valves of penetration P–8 to its water source. Subsequent evaluations by the licensee determined such qualification to be a more lengthy and costly effort than is justified for this circumstance alone. Consequently, the licensee requested a schedular exemption so that alternative corrective actions could be evaluated in relation to other issues concerning the charging system.

This valve is tested at maximum containment design accident pressure during the integrated leak rate test (ILRT). While the ILRT is not an individual test, it does assure that leakage through this valve is limited. System leakage to the environment is inspected and limited to three liters/hour by technical specifications (TS). Additionally, the physical configuration and operation of the charging system during a loss-of-coolant accident (LOCA) provides a natural deterrent to containment leakage through this system. Based on the foregoing discussion, the NRC staff concludes that a schedular exemption is technically justified for the period of one refueling outage given the compensatory measures provided by the ILRT, the TS-required system leakage test and the system configuration. This time period would provide a reasonable time to implement necessary modifications to this system to achieve compliance with appendix J.

2. Exemption to Continue Reverse Direction Type C Testing

By letter dated December 20, 1991, CYAPCO requested schedular exemptions from Section III.C.1 of 10 CFR part 50, appendix J, to continue reverse direction testing of the refueling cavity purification system (P–33), pressurizer relief tank drain (P–78), and the service air to containment (P–62) penetrations.

The refueling cavity purification penetration (P–33) is isolated by two containment isolation valves; valve PU–V–242A is Type C tested in the direction of accident pressure and valve PU–V–242 is tested in the reverse direction. The pressurizer relief tank drain penetration (P–78) is isolated by valves DT–TV–1844 and DR–TV–554; valve DT–TV–1844 is tested in the direction of accident pressure and value DH–TV–554 is tested in the reverse direction. In both of the foregoing cases, testing is accomplished by pressurizing between the isolation valves.

As a general outline, the staff considers reverse testing conservative if the seating force is 10 times the calculated peak pressure force. While this ensures that the leak geometry is dominated by the seating force instead of the test direction, there is no rigorous calculation for determining what other seating force may be acceptable. The licensee's reverse direction testing is currently performed with a seating force less than four times the calculated containment peak pressure and therefore does not satisfy the established criteria for approval of reverse direction testing of valves. However, in the interim period of one refueling outage, the staff believes that with the current seating forces, the current leak rate tests will provide a reasonable indication of the leak tightness of the subject valves. In addition, DT–TV–554 and PU–V–242 valves are exposed to containment atmosphere in the accident direction during the ILRT. As stated earlier, although the ILRT is not performed as frequently as Type C leak rate tests, the ILRT does provide reasonable assurance that leakage through any penetration is limited. Based on the results of the current reverse direction test in conjunction with the ILRT, the NRC staff concludes that a schedular exemption is technically justified for the period of one refueling outage. This time period would permit a reasonable time to implement necessary modifications to these valves to achieve compliance with appendix J.

The service air to containment penetration P–62 is isolated by CIV SA–V–413, a solid wedge gate valve with female thread connections. This valve is Type C tested in the reverse direction. The licensee states that the seating force is greater than the calculated peak pressure force but cannot quantify it. While this does not meet the established criteria, the reverse-direction test does provide a reasonable indication of the leak tightness of the valve. The licensee will also soap bubble test the body-to-bonnet and stem packing every outage. In addition, the system configuration is such that two check valves, that are not leak tested, will provide additional assurance of leak tightness of the penetration. Based on the foregoing discussion, the NRC staff concludes that a schedular exemption is technically justified for the period of one refueling outage given the compensatory measures provided by the seating force, soap bubble test, and system configuration. This time period would provide a reasonable time to implement necessary modifications to this system to achieve compliance with appendix J.

B. 10 CFR 50.12 Determinations for Special Circumstances

In an April 5, 1984 letter, the NRC staff noted that not all containment penetrations are tested in accordance with appendix J. The staff concluded that it was acceptable to defer implementation of specific Appendix J and Appendix A modifications until an integrated assessment, i.e., ISAP, could be performed. The basis for the staff's conclusion was that, although the integrated containment (Type A) leak test is not performed as frequently as local leak rate tests (LLRTs) would be, the ILRT does provide an indication of overall containment leak-tightness, including penetrations.

In a July 31, 1985 letter, the NRC staff formally established the scope of the Haddam Neck Plant ISAP and designated appendix J issues as ISAP Topic 1.03, "Containment Penetration Evaluations." In this letter, the staff notified CYAPCO that some issues would require exemptions to defer action until such time as the necessary modifications could be completed.

By letters dated March 12 and July 15, 1986, CYAPCO requested 29 exemptions from the requirements of various sections of 10 CFR part 50, appendix J. In almost all cases, CYAPCO described plant modifications required to bring the subject penetrations into compliance with the requirements of 10 CFR part 50, Appendix J. The licensee had requested exemptions for the 29 penetrations until these modifications could be evaluated and ranked using an integrated safety assessment. As part of this effort, CYAPCO scheduled plant modifications based on the safety significance of each item and then incorporated the planned modification schedule into an integrated implementation schedule.

As part of this effort to bring the Haddam Neck Plant into compliance with 10 CFR part 50, appendix J, CYAPCO has made several modifications to the Haddam Neck Plant. In the 1983 outage, two penetrations were modified to permit testing as required by Appendix J. Following the 1984 test, CYAPCO identified those containment penetrations with excessively high leakage rates and formulated a corrective action plan that would reduce leakage and improve the plant's overall containment integrity. This program was implemented during the 1986 refueling outage and included the following actions:

(1) Improving test procedures and methods,

(2) Making modifications to penetrations of poor performers,

(3) Making modifications to the Service Water System to limit silt to the Component Cooling Water System,

(4) Conducting a supplemental Type C test, and

(5) Pursuing an enhanced testing and maintenance program to identify, test, repair and reduce containment leakage.

In 1987, CYAPCO introduced the use of local leak rate monitors (LRMs) in LLRT tests. LRMs employ state-of-the-art mass thermal flow meters and have very small measurement errors. In addition the licensee performed the containment integrated leak rate test (CILRT) at the design accident pressure for the first time since the preoperational test. CYAPCO continued its corrective action plan and modified additional penetrations prior to the 1989 outage. The results of these additional modifications and continuing improvements in testing methods and procedures have resulted in reducing the "as found" LLRT combined leakage from approximately 23,608 lbs per day to 1,110 lbs per day. In addition, during the outage, CYAPCO modified Penetrations P–20, P–23A, P–63, P–68, P–74, P–75, P–76, and P–77 to further enhance containment integrity. As a result of these improvements the Haddam Neck Plant passed their "as found" CILRT for the first time since 1984.

The LLRT enhancement program will continue in the 1991 refueling outage. Modifications are scheduled which will allow for testing of 14 penetrations with air rather than water. The penetrations will be fitted with air test connections or testable blanks.

The staff concludes that with the installed and planned modifications, CYAPCO has taken prudent steps in improving the Haddam Neck Plant containment integrity from both a risk and operating experience perspective. The modifications made during the previous outages demonstrate CYAPCO's good faith efforts in seeking ultimate resolution of appendix J issues.

Pursuant to 10 CFR 50.12(a)(2)(v), the Commission will not consider granting an exemption unless the licensee has made good faith efforts to comply with the regulation. The NRC concludes that special circumstances, as described in 10 CFR 50.12(a)(2)(v), exist and the schedular exemptions from 10 CFR part 50, appendix J, should be granted.

Accordingly, the Commission has determined pursuant to 10 CFR 50.12(a) that (1) these schedular exemptions as described in section III are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security. Special circumstances, as described in section III.B of this exemption, are present to justify exemptions granting temporary relief as described in section III.A above. In summary CYAPCO has demonstrated a good faith effort to comply with the regulations by modifying existing penetrations over the last five outages in an effort to reduce containment leakage problems and to assure compliance with appendix J. Therefore, the Commission hereby grants the exemption requests identified in Section III above.

Further, the Commission grants the schedular exemptions from the requirements of 10 CFR part 50, appendix J, for all penetrations identified in this Exemption for a period of one refueling outage following the 1991 outage.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this Exemption will have no significant impact of the human environment (57 FR 1771).

This Exemption is effective upon issuance.

Dated at Rockville, Maryland this 24th day of January 1992.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 92–2651 Filed 2–3–92; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–322]

Long Island Lighting Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 6 to Facility Operating License No. NPF-82, issued to the Long Island Lighting Company (LILCO, the license), with revised paragraph 2.E. of the license for operation of the Shoreham Nuclear Power Station (SNPS, the facility) located in Suffolk County, New York. The amendment was effective as of the date of its issuance.

The amendment revised paragraph 2.E. to the SNPS license allowing reduction of the SNPS Physical Security requirements, such as, vital areas and equipment, systems and procedures, and the required number of armed responders. These physical security program reductions were determined to be acceptable for a nuclear facility such as SNPS, which is in a shutdown and permanently defueled condition.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with this action was published in the **Federal Register** on October 2, 1991 (56 FR 49923). No comments for requests for a hearing were received.

For further details with respect to the action, see (1) the application for amendment dated October 9, 1990, and supplemented by letters dated November 4 and 8, 1991 (the supplemental letters did not change the original intent of the application request and did not affect the staff's original no significant hazards determination), (2) Amendment No. 8 to Facility Operating License No. NPF-82, (3) the Commission's related Safety Evaluation, (4) Environmental Assessment, and (5) the Exemption dated January 28, 1992. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the Local Public Document Room located at the Shoreham-Wading River Public Library, Route 25A, Shoreham, New York 11786–9697. A copy of items (2), (3), (4), and (5) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, attention: Director, Division of Advanced Reactors and Special Projects.

Dated at Rockville, Maryland this 28th day of January 1992.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

Director, Non-Power Reactors, Decommissioning and Environmental Project Directorate, Division of Advanced Reactors and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 92-2650 Filed 2-3-92; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-322]

Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1); Exemption

I

Long Island Lighting Company (LILCO, the licensee) is the holder of Facility Operating License No. NPF-82, which authorizes possession, but not operation of Shoreham Nuclear Power Station (SNPS, the facility). The license provides, among other things, that it is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (the Commission or NRC) now or hereafter in effect. The facility consists of a boiling water reactor located at the licensee's site in Suffolk County, New York, and is currently defueled.

II

By letter dated October 9, 1990, and as supplemented by letters dated November 4 and 8, 1991, the license requested an exemption concerning certain safeguards requirements of 10 CFR 73.55. The requirements of 10 CFR 73.55 were designed to provide for onsite physical protection systems to guard against a design basis threat of radiological sabotage of activities involving special nuclear material.

III

The licensee's proposed action would relieve SNPS of certain requirements of 10 CFR 73.55. The exemption request is based on the following conditions: (1) the licensee's authority to operate SNPS was revoked on June 14, 1991, and (2) the reactor vessel is void of any nuclear fuel. Under these conditions, a radiological release would not result in a whole body dose in excess of 10 CFR part 100 limits, thus, an act of sabotage that would result in a dose in excess of these limits is not a credible event. The licensee performed dose calculations using conservative assumptions from the Updated Safety Analysis Report, Chapter 15 and determined that all doses are well within the guidelines of 10 CFR part 100 for all credible threats.

The requirements of 10 CFR 73.55 were promulgated to provide protection of a facility against a design basis sabotage threat in consideration of the conditions associated with an operational power reactor. When compared with an operational power reactor facility, the status of SNPS provides a significantly reduced risk from a radiological release as a consequence of sabotage. The Long Term Defueled Condition Security Plan, which remains relevant to the defueled status, provides an adequate basis for an acceptable safeguards program. A special circumstance as defined in 10 CFR 50.12(a)(2)(ii) exists, in that application of all the measures required by 10 CFR 73.55 would not serve the underlying purpose of the rule.

Based on a review of the licensee's analysis of defueled condition threats and calculated dose rates, the Commission concurs with the analysis and concludes that there are no credible acts while SNPS is in the long-term defueled condition that could result in a radiological sabotage. Consequently, based on the aforementioned reasons, the Commission finds the licensee has provided an acceptable basis to authorize the granting of an exemption in accordance with the provisions of 10 CFR 55.11.

IV

Accordingly, the Commission has determined that pursuant to 10 CFR 55.11, this exemption is authorized by law and will not endanger life or property and is otherwise in the public interest. The Commission further determines that special circumstances, as provided in 10 CFR 50.12(a)(2)(ii), are present to justify the exemption.

Based on the foregoing, the Commission hereby grants the following exemption:

> The Shoreham Nuclear Power Station, Unit 1 is exempt from certain requirements of 10 CFR Part 73.55 provided that (1) the reactor is void of all fuel, (2) the fuel is stored in the spent fuel pool or removed from the site, and (3) the Shoreham Long Term Defueled Condition Security Plan is implemented.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the quality of the human environment (57 FR 3224, dated January 28, 1992).

This exemption is effective upon issuance.

Dated at Rockville, Maryland this 28th day of January 1992.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Acting Associate Director for Advanced Reactors, Office of Nuclear Reactor Regulation.

[FR Doc. 92-2654 Filed 2-3-92; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-30294; File No. SR-BSE-91-07]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval to Proposed Rule Change by Boston Stock Exchange, Inc. Relating to New Listing Guidelines—Chapter XXVII, ¶ 2261

January 27, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 30, 1991, the Boston Stock Exchange, Inc. ("BSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization.[1] The

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[1] The BSE has requested that the Commission approve this proposed rule change on an

Continued

Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to add ¶ 2261 to the BSE's Listing Criteria, as set forth in Chapter XXVII of its rules, to provide listing guidelines to accommodate securities not otherwise covered under its existing guidelines.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

(a) *Listing guidelines.* In today's financial markets, issuers and underwriters increasingly are proposing to list new types of securities. These securities may contain features borrowed from more than one category of currently listed securities, and their specific form will depend upon the particular objectives being sought as well as general market conditions. In this regard, the Exchange seeks to provide separate listing criteria to accommodate securities that cannot be readily categorized under the Exchange's traditional listing guidelines for common and preferred stocks, bonds, debentures, and warrants.

Accordingly, the Exchange desires to provide flexibility in its guidelines in order to accommodate such multi-faceted and/or multi-purpose issues without having to continually add new provisions to its listing requirements. The guidelines set forth in proposed ¶ 2261 are intended to provide the desired flexibility to enable the Exchange to consider the listing of new securities, on a case-by-case basis, in light of the suitability of the issue for auction market trading. The guidelines set forth in proposed ¶ 2261, however, are not intended to accommodate the listing of securities that raise significant new regulatory issues, and therefore, would require a separate filing with the Commission pursuant to Rule 19b-4 of the Act.[2]

The numerical listing criteria in proposed ¶ 2261 are intended to accommodate listed companies in good standing, their subsidiaries and affiliates, and non-listed entities which meet the Exchange's original listing standards. Such issuers will generally be required to have assets of $100 million, stockholders' equity of $10 million, and current earnings of at least $750,000 in pre-tax income in the last fiscal year or in two of the three last fiscal years. Issuers not meeting the earnings criteria will generally be required to have assets in excess of $200 million and stockholders' equity of $10 million, or, alternatively, assets in excess of $100 million and stockholders' equity of $20 million.

The distribution criteria for equity securities, as set forth in proposed ¶ 2261, require that domestic companies have a public distribution of 1,000,000 trading units with a minimum aggregate market value of $18 million. An issue must have a minimum of 400 holders. When trading is expected to occur in larger than average trading units (for example a $1,000 principal amount), a minimum of 100 holders will be required. The distribution criterion for debt securities requires a minimum public market value of $5 million.

Where such an issue contains cash settlement provisions, settlement will be required to be made in U.S. dollars. And, where the instrument contains mandatory redemption provisions, the redemption price must be at least $3 per unit.[3]

In addition, the Exchange will apply the guidelines for continued listing as set forth by the Exchange to ¶ 2261 securities when appropriate (*e.g.* debt/equity characteristics).

(b) *Membership circular.* Securities listed for trading under proposed ¶ 2261 are likely to possess characteristics common to both debt, equity, and derivative instruments. For this reason, prior to trading securities admitted to listing under ¶ 2261, the Exchange will evaluate the nature and complexity of the issue and, if appropriate, distribute a circular to the membership providing guidance with regard to member firm compliance responsibilities particular to handling transactions in such securities. In determining whether such a membership circular is necessary, the Exchange will consider such characteristics of the issue as: Unit size and term; cash-settlement; exercise or call provisions; characteristics that may affect payment of dividends and/or appreciation potential; whether the securities are primarily of retail or institutional interest; and such other features of the issue that might entail special risks not normally associated with securities currently listed on the Exchange.

(2) Statutory Basis

The proposed rule change is consistent with section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange

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accelerated basis (*see* letter from George W. Mann, Senior Vice President and General Counsel, BSE, to Mary Revell, Branch Chief, SEC, dated January 3, 1992).

[2] The Commission notes that securities that have raised significant new regulatory issues in the past include Americus Trusts [*See* Securities Exchange Act Release No. 21863 (March 18, 1985), 50 FR 11972 (March 28, 1985) (File No. SR-Amex-84-35)]; currency warrants [*See* Securities Exchange Act Release No. 24555 (June 5, 1987), 52 FR 22570 (June 12, 1987) (File No. SR-Amex-87-15) (proposal to list warrants on foreign currencies)]; index warrants [*See* Securities Exchange Act Release No. 26152 (October 3, 1988), 53 FR 39832 (October 12, 1988) (order approving File No. SR-Amex-87-27) (listing guidelines for foreign currency and index warrants) and Securities Exchange Act Release No. 27565 (December 22, 1989), 55 FR 376 (January 4, 1990) (File No. SR-Amex-89-22) (proposal to list index warrants based on the Nikkei Stock Average)]; and unbundled stock units ("USUs") [*See* File Nos. SR-NYSE-88-39 and 88-40 (proposals to list USUs and constituent securities, subsequently withdrawn by the NYSE)].

[3] The BSE amended proposed ¶ 2216 to add provisions regarding cash settlement and redemption. *See* letter from George W. Mann, Senior Vice President and General Counsel, BSE, to Laurie Petrell, Division of Market Regulation, SEC, dated January 14, 1992.

Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the BSE. All submissions should refer to File No. SR-BSE-91-07 and should be submitted by February 25, 1992.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the BSE's proposal to amend Chapter XXVII, ¶ 2281 of its rules, in order to provide listing guidelines to accommodate certain new types of securities which cannot be readily categorized under the BSE's existing listing guidelines, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5) of the Act.[4] Specifically, the Commission believes the proposal is consistent with the section 6(b)(5) requirement that the rules of an exchange be designed to promote just and equitable principles of trade and not to permit unfair discrimination between customers, issuers, brokers, or dealers. In this regard, the Commission believes that the proposed guidelines applicable to the listing of new, innovative securities will provide the flexibility desired by the BSE, while helping to ensure that only the more financially substantial companies are eligible to have their new products listed on the Exchange. Proposed ¶ 2281, therefore, should provide a more efficient and expedient process for listing new securities, and will protect investors and the public interest by ensuring that the financial products listed on the Exchange have met predetermined financial criteria set forth by the Exchange,[5] an important consideration due to the additional or contingent financial obligations created by these instruments.

In addition, the Commission believes that the portion of proposed ¶ 2281 relating to the membership circular addresses the additional regulatory concerns raised by these products. These novel products, by combining features of debt, equity, and securities derivative products, may be more risky and complex than straight stock, bond, or equity warrants. The Commission believes, therefore, that the portion of the proposed rule change requiring the Exchange to evaluate the nature and complexity of each issue in order to determine whether to distribute a membership circular indicating member firm compliance responsibilities will provide the BSE with the ability to address, in a flexible manner, any potential sales practice problems and questions that may arise in connection with these new issues. Moreover, the Commission believes that the distribution of this circular should help to ensure that only customers with an understanding of the specific risks attendant to the trading of particular securities products trade these products on their brokers' recommendations. In this regard, the membership circular requirement will help to ensure that investors and the public interest are protected when the new products are traded on the Exchange.

Finally, the Commission believes that the proposed rule change is consistent with the requirements of section 6(b)(5) of the Act because it relates only to those securities which are similar to products currently listed for trading on the Exchange. If a new product raises novel or significant regulatory issues, the BSE must file a proposed rule change so that the Commission would have an opportunity to review the regulatory structure for the product.[6]

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. The Commission has approved substantially similar proposed rule changes submitted by the American Stock Exchange, Inc. ("Amex"), the New York Stock Exchange, Inc. ("NYSE"), the Cincinnati Stock Exchange, Inc. ("CSE"), the Chicago Board Options Exchange, Inc. ("CBOE"), and the Pacific Stock Exchange, Inc. ("PSE") all of which adopted listing criteria for hybrid securities.[7] In addition, the Commission recently approved proposals submitted by the PSE, the NYSE, and the Midwest Stock Exchange ("MSE") to adopt listing criteria to trade CVRs, which are akin to the type of hybrid products the BSE proposal would include.[8] The Commission did not receive any comments on those proposals, or on the Amex, NYSE, CSE, PSE or CBOE hybrid products filings. In light of the lack of new regulatory issues raised by the BSE proposal, the Commission believes it is in the public interest to approve it on an accelerated basis so that the BSE will be able to compete with the other exchanges for hybrid securities.

It Is Therefore Ordered, Pursuant to section 19(b)(2) of the Act[9] that the proposed rule change is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-2585 Filed 2-3-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30288; File No. SR-CBOE-91-49]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to Reduced Transaction Charges for Certain Index Option Spread Transactions

January 27, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 20, 1991, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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[4] 15 U.S.C. 78f (1988).

[5] This standard, however, would not preclude the BSE from submitting specific standards for other companies to have similar securities traded on the Exchange.

[6] *See* note 2, *supra*.

[7] *See* Securities Exchange Act Release Nos. 27753 (March 1, 1990), 55 FR 8624 (March 8, 1990) (order approving File No. SR-Amex-89-29); 28217 (July 18, 1990), 55 FR 30056 (order granting accelerated approval to File No. SR-NYSE-90-30); 28528 (October 11, 1990), 55 FR 42112 (order approving File No. SR-CSE-90-11); 28662 (November 30, 1990), 55 FR 50428 (order approving File No. SR-CBOE-90-29); and 30087 (December 17, 1991), 56 FR 66465 (order granting accelerated approval to File No. SR-PSE-91-48).

[8] *See* Securities Exchange Act Release Nos. 28558 (October 22, 1990), 55 FR 43238 (order approving File No. SR-PSE-90-34); 28072 (May 30, 1990), 55 FR 23166 (order approving the NYSE proposal to list CVRs on the Exchange); and 28143, (June 25, 1990), 55 FR 27317 (granting accelerated approval to the MSE's proposal to list CVRs).

[9] 15 U.S.C. 78s(b)(2) (1988).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to extend, through March 31, 1992, a pilot program [1] which provides a 50% rebate on transaction and trade match fees for "box" [2] trades by public customers in Standard & Poor's 500 Stock Index options ("SPX"), provided the "box" trade totals 500 or more contracts for the four sides of the trade. The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

(1) Purpose

The CBOE proposes to extend, through March 31, 1992, a pilot program which provides a 50% rebate on transaction and trade match fees for "box" [3] trades by public customers in SPX options, provided the "box" trade totals 500 or more contracts for the four sides of the trade. The rebate is available to member firms that provide the Exchange with documents evidencing transactions that meet the standards of the pilot program. At the end of each month, member firms must submit their rebate requests to the Exchange's Accounting Department.

(2) Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act, in general, and furthers the objectives of section 6(b)(4), in particular, and that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and those persons associated with its members.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee or other charge imposed by the Exchange, it has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of rule 19b–4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to the file number in the caption above and should be submitted by February 25, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–2586 Filed 2–3–92; 8:45 am]

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[1] The program was approved by the Commission on a three-month pilot basis, effective from July 1, 1991, through September 30, 1991. *See* Securities Exchange Act Release No. 29482 (July 24, 1991), 56 FR 36180 (order approving File No. SR–CBOE–91–27) ("Pilot Approval Order"). The pilot was extended through December 31, 1991. *See* Securities Exchange Act Release No. 30025 (December 3, 1991), 56 FR 64537.

[2] The CBOE defines a "box trade" as a four-sided SPX option spread composed of (i) a long call and short put at one strike price and (ii) a short call and long put at a different strike price, where all four positions expire in the same month.

[3] *See supra* note 2 for the CBOE's definition of "box" trade.

[Release No. 34-30295; File No. SR–NASD–91–66]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Filing of Proposed Rule Change Relating to Contracts for Securities When, As and If Issued or When, As and If Distributed

January 27, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on December 10, 1991, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD, a self-regulatory organization ("SRO"). The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. SRO's Statement of the terms of Substance of the Proposed Rule Change

The NASD is proposing to amend section 4 [2] of its Uniform Practice Code ("UPC" or "Code") to codify the "Memorandum of the Committee" ("Memorandum") relating to "When, As and If Issued" and "When, As and If Distributed" contracts (hereinafter collectively referred to as "when issued" contracts or securities). Currently, the Memorandum is published in the NASD Manual in the provisions following section 4.[3] The NASD also is proposing to delete the Memorandum in its entirety from the Manual.

II. SRO's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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[1] 15 U.S.C. 78s(b)(1) (1988).

[2] NASD Manual (CCH) ¶3504, at 3513–3515 (November 6, 1991).

[3] *Id.* at 3516–3519.

A. SRO's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The NASD is proposing to amend section 4 of the UPC to codify the Memorandum of the Committee relating to "when issued" contracts published in the NASD Manual following section 4.[4] As part of the proposed amendments, the NASD will delete the Memorandum from the UPC.[5]

The proposed amendments to Section 4 cover confirmations, accrued interest, marks to the market, margin requirements, deposit requests, segregation of funds, contract settlement, and contract cancellation. Except for confirmations, all of the subjects were covered in the Memorandum and are now proposed to be incorporated into Section 4. Further, with the exception of the cancellation provision in proposed subsection 4(h), there are no substantive changes from the current provisions of Section 4 or the provisions of the Memorandum. The language incorporated in the codification proposed in this rule filing, however, is mandatory in certain cases, rather than precatory, and the explanatory language of the Memorandum is not included.

Current subsections 4(a) and 4(b) were previously located in Section 11 of the Code and were moved to section 4 in an NASD rule filing approved by the Commission in September 1991.[6] Proposed new subsection 4(a) requires that confirmations of "when issued" contracts containing certain minimum information shall be sent. The information required to be sent is drawn from current subsections 4(a) and 4 (b) and from section .10 of the Memorandum.[7] The minimum required information is a description of the security and the plan under which it will be distributed, designation of the NASD as the authority for ruling on contract performance, and a provision for marking the contract to the market. Proposed new subsection 4(a)(3) states that the Committee will provide a description of the security and any plan of issuance or distribution for inclusion in "when issued" contracts or confirmations. This language is based on Section 11 of the Memorandum.[8]

Proposed new subsection 4(b) specifies the treatment of accrued interest in "when issued" contracts and is based on section .12 of the Memorandum.[9] Proposed new subsection 4(c) provides that because issuance or distribution of "when issued" securities may be significantly delayed, such contracts should be marked to the market pursuant to the provisions of section 58 in order to protect a party whose interest becomes partially unsecured as a result of market value changes to the subject of the contract. This provision is different from section .13 of the Memorandum.[10] The NASD has determined that separate marks to the market standards for "when issued" contracts are not necessary and, instead, members can rely on section 58 requirements.

Proposed subsection 4(d) requires "when issued" contracts to comply with §§ 220.4 and 220.5 of Regulation T of the Board of Governors of the Federal Reserve System. This provision differs from section 20 of the Memorandum,[11] which is only precatory in nature.

Proposed subsection 4(e) allows members to require deposits or collateral for "when issued" contracts even if not required by Regulation T. This provision is based on the last paragraph of section .13 of the Memorandum.[12]

Proposed subsection 4(f) recommends the segregation of "when issued" contracts and deposits made in connection with them on the books of a member firm and is drawn from section 30 of the Memorandum.[13]

Proposed subsection 4(g) specifies the rules for settlement of "when issued" contracts and incorporates current subsections 4(c) and 4(d).[14]

Finally, proposed subsection 4(h) provides for (*i.e.*, codifies) the authority for cancellation of "when issued" contracts by the NASD's Operations Committee, formerly the Uniform Practice Committee, ("Committee"). In the past, the Committee has exercised its discretion to cancel "when issued" contracts under its authority to rule on issues related to "when issued" contracts as specified in section 2 of the UPC.[15] In addition, the Memorandum states that the date for settlement of "when issued" contracts must be determined after the date of issuance becomes known and that if the securities which eventually are issued or distributed differ substantially from those contemplated in the contract, the contract cannot be settled and must be cancelled.[16]

Proposed subsection 4(h) is intended to codify the general authority of the Committee to cancel "when issued" contracts and to provide more specific guidance about the Committee's intentions in exercising its cancellation authority consistent with the Committee's prior rulings. The structure of new subsection 4(h) is intended to differentiate between situations where the contract will (1) always be cancelled; (2) generally be cancelled; and (3) generally not be cancelled.

Subsection 4(h)(1) retains the original language from section 10 of the Memorandum [17] and section 2 of the UPC [18] granting the Committee broad discretionary power to cancel "when issued" contracts if there is a change in circumstances. This general authority to cancel contracts is retained in the new proposed subsection 4(h) to provide for situations which are not anticipated by the more specific provisions of proposed new subsections 4(h) (3) and (4). Thus, notwithstanding the fact that the circumstances surrounding the performance of a contract may fit within subsections 4(h) (3) and (4), the Committee retains the discretion to act inconsistently with those subparagraphs if, in its judgement, such action is necessary to effectuate the purposes of section 2 of the Code.

Subsection 4(h)(2) states that the Committee will cancel contracts if the securities will not be issued or distributed. This provides for the situation where securities commence trading on a "when issued" basis in anticipation of an announced merger, reorganization, or distribution, but the plan fails or is terminated. In such a case, the securities called for under the "when issued" contract cannot be delivered because they will not be issued or distributed. Therefore, the NASD has determined to cancel such contracts in every instance.

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[4] *Supra* note 2.

[5] The NASD notes that the Standard Forms of "When Issued" Contracts to be used in confirming transactions in "when issued" securities following section 4 in the NASD Manual, with minor modifications to reflect the amendments proposed in this rule filing, are attached as Exhibit 3 to the proposed rule change on file with the SEC.

[6] Securities Exchange Act Release No. 29687 (September 13 1991), 56 FR 47819 [File No. SR–NASD–91–13].

[7] NASF Manual (CCH) ¶3540.10, at 3516 (November 6, 1991).

[8] *Id.*, ¶ 3504.11, at 3516.

[9] *Id.*, ¶ 3504.12, at 3517.

[10] *Id.*, ¶ 3504.13, at 3517.

[11] *Id.*, ¶ 3504.20, at 3518.

[12] *Id.*, ¶ 3504.13, at 3518.

[13] *Id.*, ¶ 3504.30, at 3518.

[14] Current Subsections 4(c) and 4(d), previously numbered 4(e) and 4(f), were renumbered in File No. SR–NASD–91–13, which was approved by the Commission in Securities Exchange Act Release No. 29687. *Supra* note 6.

[15] NASD Manual (CCH) ¶ 3502, at 3512 (November 6, 1991).

[16] *See* section 10 of the Memorandum, NASD Manual (CCH) ¶ 3504.10, at 3516 (November 6, 1991).

[17] *Id.*

[18] NASD Manual (CCH) ¶ 3502, at 3512 (November 6, 1991).

Subsection 4(h)(3) provides that "when issued" contracts will generally be cancelled if the "securities which are to be issued or distributed are not substantially the same as those contemplated in the contract." A nonexclusive list of the types of material changes which will generally result in cancellation is included in the subsection. These are changes to the redemption provision schedule, dividend payments, interest rate, maturity, yield, and exercise price. The NASD regards these as changes to the terms of the security and, therefore, material to the contract to purchase the security.

Subsection 4(h)(4) provides that certain changes prior to effectiveness of the plan of distribution "shall not require cancellation of contracts * * *." The enumerated events are those which change the terms underlying the plan of distribution, not the terms of the security, and are, therefore, not material to the contract to purchase the security: (1) A change in the amount of equity or debt to be issued; (2) restructuring of the financing arrangements; and (3) settlement of a legal action directly related to the distribution plan which also affects the financial statement of the issuer.

The NASD believes that the proposed new subsections 4(h) (3) and (4) will clarify the NASD's standards for the cancellation of "when issued" contracts under the enumerated situations. Such standards will assist risk/benefit analysis by participants in "when issued" transactions thereby advancing the purposes of section 2 of the Code.

The NASD's preference, as expressed in the two proposed subsections, is to cancel "when issued" contracts only if the security to be issued is substantially different, not if the plan under which the securities will be issued or distributed is different. The NASD also believes, however, that the effect of changes to particular securities and plans of distribution are not predictable and, therefore, may not be appropriately resolved by rigidly adhering to the formula in the proposed new subsection 4(h) (3) and (4). It is for this reason that the NASD has retained its general authority to cancel "when issued" contacts as necessary.

The NASD believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act [19] which requires that the rules of the NASD be designed to foster cooperation with persons engaged in regulating, clearing, settling, and processing information with respect to and facilitating transactions in securities.

B. SRO's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. SRO's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the SRO consents, the Commission will:

A. By order approve such proposed rule change or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–91–66 and should be submitted by February 25, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[20]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–2587 Filed 2–3–92; 8:45 am]

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[Release No. 34–30293; File No. SR–NYSE–91–36]

Self-Regulatory Organizations; New York Stock Exchange, Inc., Order Approving a Proposed Rule Change Relating to Electronic "T+1" Overnight Comparison of Exchange Options Transactions

January 27, 1992.

On October 10, 1991, the New York Stock Exchange, Inc. ("Exchange") filed with the Securities and Exchange Commission ("Commission") under section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] a proposed rule change (File No. SR–NYSE–91–36) relating to the overnight comparison of Exchange options transactions. The Commission published notice of this proposed rule change in the **Federal Register** on November 6, 1991.[2] No public comments were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

The proposed rule change consists of amendments to Exchange rules 760 and 765, the rescission of present rules 761 and 764, and the adoption of new rules 761 and 764. The purpose of the proposal is to provide for electronic overnight "T+1" comparison of Exchange option transactions on and after March 31, 1992.[3]

In September of 1988, the Exchange began to implement its "T+1".[4]

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[19] 15 U.S.C. 78o–3(b)(6) (1988).

[20] 17 CFR 200.30–3(a)(12) (1991).

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 29887 (Oct. 30, 1991), 56 FR 56679.

[3] The proposal is to be implemented on a gradual basis beginning on January 27, 1992, with options with ticker symbols from A to E. Full implementation of "T+1" overnight comparison of all Exchange option transactions is expected to be accomplished by March 31, 1992. Telephone conversation between Harry F. Day, Counsel, Regulation, Exchange; Stanley Jacoby, Manager, Post Trade Services, Exchange; And Richard C. Strasser, Attorney, Division of Market Regulation ("Division"), Commission (January 23, 1992).

[4] The term "T+1" as used herein refers to the number of elapsed business days after the day of the trade.

Overnight Comparison System ("T+1"OCS) by adopting, in principal, rule 130. This rule requires that "regular way" transactions in listed stocks, rights, and warrants (but not listed bonds) be compared or closed out within one business day of the trade date.[5]

Because implementation of the "T+1"OCS requires a complete overhaul of the Exchange's uncompared trade resolution process, including replacement of a labor-intensive, manual process with a largely electronic process, it was implemented over a seventeen-month period. The conversion process was completed on August 6, 1990. The Exchange received several informal requests after that time to expand the use of the "T+1" OCS to the comparison of options transactions. As a result of these request, the Exchange proposed the following rule changes to facilitate the expansion of the "T+1" OCS to the comparison of options transactions.

(a) *Amended rule 760—"Overnight Comparison of Exchange Options Transactions"*

Amended rule 760 is a general comparison and clearance rule requiring that members submit all options transactions[6] to the Exchange for comparison of trade information and that all compared options transactions be submitted to The Options Clearing Corporation ("OCC") for clearance. The amendments require that, on and after March 31, 1992, each options transaction effected on the Exchange must be compared or closed out by "T+1." If an options contract cannot be closed out because trading in the options series that is the subject of the contract has been suspended or terminated, amended rule 760 states that the options contract must be resolved pursuant to the provisions of rule 770(b). Amended rule 760 also requires that all clearing member be responsible for the clearance of their own options transactions and the transactions of other members and member organizations that have been authorized by and give up the name of the clearing member. Certain provisions of present rule 760 were repositioned to amended rule 761, and some provisions of present rule 761 were repositioned to amended rule 760 for consistency and clarity.

(b) *Amended rule 761—"Omnibus Comparison and Clearance Rule"*

Rule 761, as amended, contains requirements for the comparison and clearance of exchange omnibus transactions.[7] Certain provisions of present rule 761 were repositioned to amended rule 760, and some provisions of present rule 760 were repositioned to amended rule 761 for consistence and clarity.

(c) *Amended Rule 764—"Verification of Contract Lists and Reconciliation of Uncompared Trades"*

The proposal revises rule 764 in its entirety to require clearing members to verify data and reconcile all uncompared and advisory transactions as displayed on Exchange-provided terminals. The amended rule allows members to make additions, deletions, or other changes to their own data displayed on the terminal.

In addition, under amended rule 764, when an index group option or option of any class will trade ex-divided or ex-distribution, each member and member organization must submit all of its trades in such index group option or class of option to overnight comparison under rule 760. Under these circumstances, each clearing member must provide a representative to resolve unmatched trades resulting from the first data processing pass. These representatives also must be available during the entire time that OCS is available for use and must make every effort to detect errors or omissions in its comparison data prior to the second pass of comparison data processing. Any member failing to comply with comparison representative provisions will be liable for any of its uncompared trades which should have been compared prior to the second processing pass.[8]

On the morning of the first business day after the trade date, all members and representatives of member organizations must be present at an area designated by the Exchange to resolve uncompared options transactions.[9] Each member must review its file of uncompared transactions as displayed on the Exchange-provided terminal and must make any necessary additions, deletions, or other changes.[10] Amended rule 764 also required all Exchange members and member organizations or their representatives to make readily available and to produce on request all trade records for the resolution of uncompared trades.

(d) *Amended Rule 765—"Unreconciled Trade Reports"*

Amended rule 765 provides that, after the process of reconciling uncompared trades has been completed on "T+1," the Exchange will issue to each clearing member a report delineating any new or remaining uncompared trades and advisory trades of that clearing member. Such unresolved transactions must be closed in accordance with the provisions of rule 770.[11]

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[5] For a description of the "T+1" OCS, *see* Securities Exchange Act Release No. 26627 (March 14, 1989), 54 FR 11470 [File No. SR–NYSE–88–36] (order approving next-day comparison of securities transactions).

[6] Rule 760, as amended, permits the Exchange to establish and change the time of times, which may include a time or times during the trading session, that data is submitted to it for comparison. Any significant change, however, must be filed with the commission for review under section 19(b) of the Act.

[7] An Exchange omnibus transaction is one where a clearing member's trade is not immediately matched to a contra-party. In the holding period between the time the trade is made and the time it is compared and netted, the effective contra-party is the Exchange omnibus account. Prior to the end of each trading day, the omnibus account is closed out by locating contra-parties for the uncompared trades or by assigning specialists as the contra-parties to the trades. Therefore, the Exchange never holds positions in the omnibus account past the end of the trading day. Telephone conversation between Stanley Jacoby, Manager, Post Trade Services, Exchange, and Richard C. Strasser, Attorney, Division, Commission (January 24, 1992).

[8] Members who repeatedly violate these provisions risk the imposition of fines and referral to the Options and Index Products Division.

[9] No member or member organization or person associated with them, while engaged in the reconciliation and resolution of uncompared and compared trades, may agree to accept any transaction in which the accepting party or its principal was not involved or decline to accept any transaction in which the declining party or its principal was involved. Amended rule 764(3).

[10] Once a clearing member enters into OCS that a transaction is OK, it may not subsequently change that response to a DK. Likewise, a DK'd response cannot subsequently be changed to an OK. Amended rule 764(d). Transactions which have been DK'd or which remain unresolved fifteen minutes prior to the opening of business on the first day of business following the trade date shall be closed out under the provisions of rule 770. Amended rule 764(f).

[11] In the event an uncompared Exchange options transaction cannot be resolved fifteen minutes prior to the opening of trading on T+1, the parties shall close out promptly, but not later than 3:30 p.m., the transaction in the following manner. The purchaser must enter into a new Exchange option transaction on the floor of the Exchange to purchase the option contract that was the subject of the uncompared transaction. The writer in the uncompared transaction shall enter into a new Exchange option transaction on the floor of the Exchange to sell the option contract that was the subject of the uncompared transaction. Where the member is acting for a firm account rather than for a customer account in an uncompared Exchange option transaction, however, the member need not enter into a new transaction. In such a case, money differences will be based solely on the closing transaction of the other party to the uncompared transaction. Exchange rule 770(a).

Where an uncompared transaction involves an option contract of a series in which trading has been terminated or suspended before a new Exchange option transaction can be affected to establish the amount of any loss, the member not at fault may claim damages against the other member

Continued

II. Discussion

The Commission believes that the Exchange's proposal is consistent with the Act and in particular with sections 6 and 17A of the Act. Accordingly, for the reasons discussed below, the Commission is approving the proposal.

Section 6(b)(5) of the Act requires a registered national securities exchange to remove impediments to and perfect the mechanism of a national market system. Section 6(b)(5) also requires the fostering of cooperation and coordination with persons engaged in regulating, clearing, settling, and processing information with respect to, and facilitating transactions in securities. In adopting section 17A(a)(1), Congress, in its mandate for the establishment of a national system for the clearance and settlement of transactions in securities, set forth the prompt and accurate clearance and settlement of securities transactions as a critical goal. Also in that section, Congress stated that new data processing techniques create the opportunity for more efficient, effective, and safe procedures for clearance and settlement. With the expansion of the "T+1" OCS to include Exchange options transactions, the Exchange will automate the process for comparing Exchange members' options trades executed on the Exchange.

The Exchange has represented that adding members' trades in options to OCS will not diminish the system's capability to accommodate ordinary and peak message traffic. Additionally, the Exchange has represented that the changes to the "T+1" OCS security measures are satisfactory to prevent internal and external violations. The Exchange concedes that since options transactions presently are compared on "T+1," there will be no reduction in exposure to risk due to market fluctuations as was the case with the implementation of "T+1" OCS for stock transactions. However, changing what is now largely a manual process to an automated process will greatly improve operations, reduce errors, and enhance efficiency.

Furthermore, the introduction of options into the "T+1" OCS will provide the Exchange with a test environment for the development of an intraday or "floor-derived" comparison process for options.[12] The Exchange will implement "T+1" OCS for options on a gradual basis as it did with stocks.[13]

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the Act and in particular with sections 6 and 17A of the Act and the rules and regulations thereunder.

It Is Therefore Ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR-NYSE-91-36) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-2588 Filed 2-3-92; 8:45 am]

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or member organization involved in the transaction based on the terms of that transaction. Exchange rule 770(b).

[12] This approval order should not be construed as giving the Exchange authority to mandate or to establish a pilot program for an intraday or floor-derived comparison process for options transactions. If the Exchange decides to establish such a system, whether on a permanent or a pilot basis, it will be required to submit for approval a rule change at that time.

[13] *See* supra note 3.

[14] 17 CFR 200.30-3(a)(12).

[Release No. 34-30297; International Series Release No. 362; File No. SR-OCC-92-01]

Self-Regulatory Organizations; The Options Clearing Corporation; Filing of a Proposed Rule Change Relating to Amendments to Canadian Depository Receipts

January 27, 1992.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 6, 1992, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would revise the Canadian Clearing Fund Depository Receipt and Securities Agreement and the Canadian Margin Depository Receipt and Security Agreement ("Agreements") to provide for transmission of the Agreements by electronic means. The amendment would provide, in essence, that the Canadian depository will accept as an original of the document transmitted a written order or Endorsement for Release transmitted by electronic means provided the document is signed by an authorized signature of OCC.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in section (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On October 6, 1987, OCC filed a proposed rule change (File No. SR-OCC-87-17) with the Commission to permit the deposit of Canadian government securities by clearing members for purposes of satisfying their clearing fund and margin requirements. The Commission approved that rule change on April 22, 1988, and further approved two depository receipts to be used in connection with the deposit of such securities.[1] In 1989, OCC filed a rule change (File No. OCC-89-08) to amend the depository receipts in order to enhance OCC's lien on securities deposited in accordance with the receipts. That rule change was effective on filing with the Commission.[2]

At this time, OCC proposes to additionally amend the depository receipts to provide for the transmission of such receipts by electronic means which produces a facsimile copy of the document being transmitted. This means of transmitting the depository receipts is the same as the means used by OCC and its Canadian settlement bank to transmit and receive instructions to effectuate premium and margin settlement with Canadian clearing members.

The proposed rule change is consistent with purposes and requirement of section 17A of the Act because it will further assure the safeguarding of securities and funds in the custody of control of OCC.

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[1] Securities Exchange Act Release No. 25610 (April 22, 1988), 53 FR 15323.

[2] Securities Exchange Act Release No. 27128 (August 11, 1989), 54 FR 34279.

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B. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change and none were received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to such period that the self-regulatory consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principle office of OCC. All submissions should refer to file number SR-OCC-91-02 and should be submitted by February 25, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-2589 Filed 2-3-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30269; File No. SR-PTC-90-02]

Self-Regulatory Organizations; Participants Trust Company; Order Approving a Proposed Rule Change Relating to the Formation of a Subsidiary

January 27, 1992.

On October 10, 1990, the Participants Trust Company ("PTC") filed a proposed rule change (File No. SR-PTC-90-02) with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act").[1] On November 15, 1990, PTC amended the proposed rule change to include an intercompany agreement between PTC and its wholly owned subsidiary, PTC Services Inc. ("PTS").[2] The purpose of the proposed rule change is to enable PTC to operate PTS as a backup processing facility in case of an environmental disaster that would prevent PTC from operating out of its primary New York facility. Notice of the proposed rule change appeared in the **Federal Register** on December 26, 1990 to solicit comments from interested persons.[3] No comments were received regarding the proposed rule change. This order approves the proposed rule change as amended.

I. Description

PTC formed PTS to serve as alternative site data processing facility in New Jersey and to provide additional capacity for timely and efficient computer processing. Under the proposed rule change, PTS will operate as a backup processing facility in case of an environmental disaster that would prevent PTC from operating out of its primary New York facility. PTS will perform data processing pursuant to the terms specified in the intercompany agreement.

Pursuant to the agreement, PTC will be responsible for both the supervision and the management of the operations of PTS and the prompt and accurate clearance and settlement of all depository transactions. As provided in the agreement, PTS will provide only data processing, communications, backup and related services for PTC upon the instruction and direction of PTC. PTS will perform no services on its own or directly for any participant in PTC.

II. Discussion

The Commission believes that PTC's proposed rule change is consistent with section 17A of the Act and, specifically, with sections 17A(b)(3) (A) and (F).[4] Sections 17A(b)(3) (A) and (F) of the Act require a clearing agency be organized and its rules be designed to facilitate the prompt and accurate clearance and settlement of securities transactions and the safeguarding of funds and securities in its custody or under its control or for which it is responsible. As discussed below, the Commission is approving the proposal.

PTC performs its own processing at its New York data center. The proposed rule change will enable PTC to maintain a secondary "hot" processing facility in case of power failure at PTC's primary New York facility and, in the ordinary course of business, to provide additional capacity for timely and efficient computer processing for PTC. PTC's current contingency safeguards also include computer backup capability which provides 100% computer hardware redundancy, copies of both operating systems software and applications software, dial backup support for modems to protect against leased line outages, and an internal audit program which reviews the adequacy of PTC's systems and controls.

In order to assure the safeguarding of securities and funds and the prompt and accurate clearance and settlement, a clearing agency should have detailed plans to assure the physical safeguarding of securities and funds, the integrity of the automated data processing system and the recovery under a variety of contingencies from loss or destruction of securities, funds or data.[5] The Commission believes that PTC's proposed rule change is a substantial step in improving PTC's contingency and recovery planning. PTC's contingency backup site should enable PTC to recover processing in the event of a power failure or other similar disaster at PTC's New York data processing center. Thus the Commission believes that the proposed rule change facilitates the prompt and accurate clearance and settlement of securities transactions and promotes the safeguarding of securities and funds which are in PTC's custody or control or for which it is responsible.

PTC formed its contingency backup site as a subsidiary corporation organized under the state of New Jersey. PTC, as a limited purpose trust company organized under the banking law of the state of New York, could be considered a bank under New Jersey law if PTC is considered as doing business in New Jersey. It so considered, PTC would be prohibited under New Jersey banking law from operating a backup facility in New Jersey. PTC established PTC to hold the lease in New Jersey and to perform data processing for PTC. PTS will not perform any banking functions but will perform data processing pursuant to the terms specified in the PTC–PTS intercompany agreement.

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[1] 15 U.S.C. 78s(b).

[2] See Amendment 1, to File No. SR-PTC-90-02, filed November 15, 1990.

[3] Securities Exchange Act Release No. 28704 (December 17, 1990), 55 FR 53091.

[4] 15 U.S.C. 78q-1(b)(3)(F).

[5] See Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 41920.

In order to assure the safeguarding of securities and funds within PTC's custody or control, PTC entered into an intercompany agreement with PTS whereby PTC shall be entirely responsible for the performance of services PTS provides to PTC and its participants.[6] Additionally, PTC will supervise and manage the operations of PTS to assure compliance with Section 17A of the Act, and specifically, the prompt and accurate clearance and settlement of all depository transactions processed through PTS.

III. Conclusion

For the reasons discussed above, the Commission finds that the proposal is consistent with the requirements of the Act, particularly with section 17A of the Act, and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change (File no. SR–PTC–90–02) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–2590 Filed 2–3–92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30258; File No. SR–PHLX–91–45]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to the Responsibility to Make Ten-Up Markets

January 28, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 9, 1991, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") filed with the Securities and Exchange Commission ("SEC " or "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PHLX proposes to amend Options Floor Procedure Advice ("OFPA") A–11, entitled "Responsibility to Make Ten-Up Markets." First, the Exchange proposes to define eligible orders as "market or marketable limit orders for accounts other than broker-dealer accounts," rather than "non-contingent public customer market or marketable limit orders." Second, the proposal provides that a broker seeking to fill a customer order with respect to a displayed quotation must avail upon the displayed market immediately or it may be revised. Third, the proposal prohibits members from unbundling customer orders, or soliciting customers to unbundle orders, for the primary purpose of availing upon the ten-up market requirement. Finally, the proposal requires floor brokers to make a reasonable effort to determine whether an order is for the account of a customer or a broker-dealer. If the order is for the account of broker-dealer, the floor broker must advise the crowd of the fact before bidding/offering on behalf of the order or executing the order. The text of the proposal is available at the Office of the Secretary, PHLX and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in section (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

OFPA A–11 requires specialists and Registered Options Traders to fill certain eligible customer orders at the best market to a minimum of ten contracts. The PHLX has proposed several amendments to OFPA A–11. First, the PHLX's proposal defines eligible orders as "market or marketable limit orders for accounts other than broker-dealer accounts," rather than "non-contingent public customer market or marketable limit orders." Second, the proposal provides that a broker seeking to fill a customer order with respect to a displayed quotation must avail upon the displayed market immediately or it may be revised. Specifically, the amendment states that once the crowd market has been sought the screen market (if superior) is available and may be revised if it is not availed upon immediately. Third, the proposal prohibits members from unbundling customer orders, or soliciting customers to unbundle orders, for the primary purpose of availing upon the ten-up market requirements. The PHLX notes that this provision underscores the fact that the ten-up guarantee is offered only to certain smaller orders.

The proposal also requires floor brokers to make a reasonable effort to determine whether an order is for the account of a customer or a broker-dealer. If the order is for the account of a broker-dealer, the floor broker must advise the crowd of the fact before bidding/offering on behalf of the order or executing the order. The PHLX explains that this amendment focuses on requiring disclosure of broker-dealer orders while such orders are in the crowd. Since disclosure need not be made prior to the time the broker-dealer requests the market from the crowd, it is only necessary that disclosure be made prior to working the order (by bidding or offering on behalf of the order) or, in the alternative, prior to executing the order. The PHLX believes that requiring disclosure at that time will result in a greater inclination by specialists to guarantee more than the minimum ten-up amount. Since the PHLX's policy on the options floor requires that volume guarantees made for automated systems also applies to hand held orders, the PHLX believes that knowing whether a hand-held order is for the account of a broker-dealer is a matter directly related to the level of volume quotes through the PHLX's Automated Options Market ("AUTOM") system.[1]

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[6] Similarly, the Nationally Securities Clearing Corporation ("NSCC") entered into an agreement with the Securities Industry Automation Corporation ("SIAC"), whereby SIAC performs direct clearing services for NSCC. Under the agreement, NSCC has the right to monitor all phases of SIAC's operation in order to ensure that the operation is adequate and in compliance with NSCC's responsibility to conduct its affairs in a manner consistent with section 17A of the Act. Securities Exchange Act Release No. 13163 (January 13, 1977), 42 FR 3916.

The PHLX believes that the proposed rule change is consistent with section 6(b)(5) of the Act in that it provides for the protection of investors and the public interest and fosters cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were either solicited or requested.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by February 25, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-2846 Filed 2-3-92; 8:45 am]

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[1] AUTOM is an electronic system that allows delivery of small options orders from member firms directly to the PHLX trading floor and also provides automatic execution for certain options orders. Auto-X is the automatic execution feature of AUTOM.

[Rel. No. IC-18504; 812-7736]

Prudential-Bache Short-Term Global Income Fund, Inc. (Doing Business as Prudential Short-Term Global Income Fund), et al.; Second Notice of Application

January 28, 1992.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Second Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act" or "Investment Company Act").

APPLICANTS: Prudential-Bache Short-Term Global Income Fund, Inc. (doing business as Prudential Short-Term Global Income Fund) and existing or future series thereof (the "Short-Term Global Income Fund"), and any open-end management investment companies, currently in existence or to be established in the future, that are part of the same group of investment companies and (i) whose investment adviser is Prudential Mutual Fund Management, Inc. ("PMF") or Prudential Securities Incorporated ("Prudential Securities") or an investment adviser that is an affiliated person, as defined in the 1940 Act, of PMF or Prudential Securities, (ii) whose principal underwriter is Prudential Mutual Fund Distributors, Inc. ("PMFD") or Prudential Securities or a principal underwriter that is an affiliated person of PMFD or Prudential Securities, and (iii) which hold themselves out to investors as being related for purposes of investment and investor services (the "Fund" or the "Funds"), Prudential Securities, PMF and PMFD.

RELEVANT 1940 ACT SECTIONS: Exemption requested under section 6(c) of the 1940 Act from the provisions of sections 18(f), 18(g) and 18(i) of the Act.

SUMMARY OF APPLICATION: The applicants are requesting an order of the SEC to permit the Funds to sell two classes of securities and implement a conversion feature for the purpose of establishing an alternative purchase and conversion plan (the "Alternative Purchase and Conversion Plan"). On January 17, 1992, a notice [1] was issued giving interested persons until February 10, 1992 to request a hearing on the application. During the notice period, counsel for the applicants contacted the SEC staff and indicated that the description of the conversion feature in the application was inaccurate. Applicants filed an amended application on January 24, 1992 with a corrected description of the conversion feature, which is reflected in this notice.

FILING DATE: The application was filed on June 11, 1991 and amended on November 18, 1991, January 9, 1992, and January 24, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 24, 1992, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, One Seaport Plaza, New York, New York 10292.

FOR FURTHER INFORMATION CONTACT: Marilyn Mann, Staff Attorney, at (202) 504-2259, or Max Berueffy, Branch Chief, at (202) 272-3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

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[1] Investment Company Act Release No. 18490 (Jan. 16, 1992).

Applicants' Representations

1. The Short-Term Global Income Fund is an open-end management investment company registered under the 1940 Act, comprised of two separate portfolios, the Short-Term Global Income Portfolio (the "Global Income Portfolio") and the Global Assets Portfolio. The Short-Term Global Income Fund has entered into a management agreement with PMF and distribution agreements with PMFD and Prudential Securities (collectively, the "Distributor") pursuant to which the Distributor acts as principal underwriter for the Short-Term Global Income Fund.

2. The Short-Term Global Income Fund currently offers two classes of shares in each of its two portfolios in reliance on an order of the SEC (the "Prior Order").[2] Pursuant to the Prior Order, it offers investors the option of either purchasing shares with a front-end sales load together with a rule 12b–1 distribution plan ("Class A" shares) or subject to a CDSC and a rule 12b–1 distribution plan ("Class B" shares). The Prior Order prohibits exchanges between classes and does not provide for the conversion feature described herein.

3. Class A shares of the Global Assets Portfolio are subject to an initial sales charge of .99% and an annual Rule 12b–1 distribution fee of .50% of the average daily net asset value of the portfolio's Class A shares. Class B shares are subject to a contingent deferred sales charge of 1% which will be imposed on certain redemptions made within one year of purchase and an annual rule 12b–1 distribution fee of up to 1% of the average daily net asset value of the portfolio's Class B shares.

4. If the relief sought in this application is granted, Class B shares of the Global Assets Portfolio will automatically convert into Class A shares after approximately one year, as more fully described below, in order to relieve the holders of Class B shares of the higher distribution fee to which that class is subject after the Distributor has been compensated for the distribution expenses related to sales of those shares. Currently, the Global Assets Portfolio is the only portfolio that is expected to participate in the Alternative Purchase and Conversion Plan.

5. All Class B shares of the Global Assets Portfolio, including those purchased prior to the implementation of the Alternative Purchase and Conversion Plan, will automatically convert to Class A shares without the imposition of any additional sales charge on a date (the "Conversion Date") to be determined as follows. For purposes of determining the Conversion Date, Class B shares will be deemed to have been purchased on the last day of the month (the "Deemed Purchase Date") in which the purchase order for those shares was accepted. The Conversion Date will be the first Friday following the expiration of one year from the Deemed Purchase Date, or the previous business day if that Friday is a holiday. However, Class B shares in a shareholder's fund account that were purchased through the reinvestment of dividends and other distributions paid in respect of Class B shares will be considered to be held in a separate sub-account. Each time any Class B shares in the shareholder's fund account convert to Class A, all of the Class B shares then in the sub-account will also convert to Class A. Thus, Class A shares will consist of Class A shares purchased by investors prior to and after the implementation of the Alternative Purchase and Conversion Plan, Class B shares (including Class B shares purchased through the reinvestment of dividends and other distributions in respect of Class B shares) that have converted to Class A status, and shares purchased by holders of outstanding Class A shares through the reinvestment of dividends and distributions paid in respect of those outstanding Class A shares.

6. Net asset value will be computed separately for each class of shares by first allocating gross income and expenses (other than rule 12b–1 fees and any other incremental expenses properly attributable to one class which the Commission shall approve by an amended order) to each class of shares based on the net assets attributable to each class at the beginning of the day and then by separately recording the differing 12b–1 fees and other incremental expenses to the appropriate class. The net asset value attributable to each share of each class will then be calculated by dividing the net assets calculated for each class by the number of shares outstanding in that class. Because of the higher ongoing distribution fees paid by the holders of Class B shares, the net income attributable to and the dividends payable on Class B shares will be lower than the net income attributable to and the dividends payable on Class A shares. To the extent that the Fund has undistributed net income, the net asset value of the Class A shares will be higher than the net asset value of the Class B shares.

7. Distribution expenses attributable to the sale of both classes of shares will be allocated annually to each class of shares on the basis hereinafter described. It is recognized by the applicants that expenditures attributable to the sale of one class of shares cannot be presented to the Board of Directors to justify rule 12b–1 distribution fees of the other class of shares.

8. On a quarterly basis, the Board of Directors of the Short-Term Global Income Fund receive statements of distribution revenues and expenditures for each class of shares ("Statements") containing sufficient information so that they may generally monitor distribution revenues and expenditures. On an annual basis, the Board of Directors receive annual Statements which will be reviewed by an independent expert which set forth the distribution revenues received from the distribution fee and the CDSC and the distribution expenses to be considered by the Board of Directors in determining that there is a reasonable likelihood that the rule 12b–1 plan will benefit the Short-Term Global Income Fund and its shareholders.

9. The annual Statements include two categories of distribution expenses. The first category is comprised of distribution expenses that are exclusively attributable to selling shares of the Short-Term Global Income Fund ("direct expenses"). Direct expenses are comprised of financial adviser compensation, interest (where applicable) on accumulated and unreimbursed distribution expenses, financial printing and specific fund advertising, if any, solely directed to selling the shares of the Short-Term Global Income Fund.[3] Because direct expenses are exclusively attributable to the Short-Term Global Income Fund, the entire amount thereof is reported as a distribution expense in the Short-Term Global Income Fund's Statements.

10. The principal direct expense will be payments made to sales personnel for selling shares of a particular class and will require no allocation between classes. However, certain other direct expenses properly attributable to the Short-Term Global Income Fund as a whole if only a single class existed will apply to both classes ("other direct expenses") and will be allocated as expenses to both classes of shares. Such other direct expenses are comprised of

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[2] *Prudential-Bache California Municipal Fund*, Investment Company Act Release Nos. 17277 (Dec. 20, 1989) (notice) and 17308 (Jan. 18, 1990) (order).

[3] As used herein, "financial adviser" refers to all salespersons who are compensated for selling shares of the Fund.

certain financial printing expenses for prospectuses, statements of additional information, shareholder reports and brochures used for distribution purposes as well as advertising, if any, solely directed to selling shares of the Short-Term Global Income Fund. The allocation of these direct expenses will be made according to the ratios which the sales of the shares of each class bear to the total sales of the Short-Term Global Income Fund's shares each year. As a result of this allocation, the expenses reported in the Statement with respect to Class B shares will exclude those expenses which resulted in the distribution of the Class A shares.

11. The second category consists of indirect expenses attributable to the distribution of all investment products sold by the Distributor, including shares of the Short-Term Global Income Fund ("indirect expenses"). Indirect expenses are comprised of management sales compensation (as distinguished from financial adviser compensation), other employee compensation and benefits, communications, postage, stationery and printing, occupancy and equipment, general sales promotion which is not directed specifically to selling shares of the Short-Term Global Income Fund, and general overhead expenses. Unlike direct expenses, indirect expenses are not exclusively attributable to the Short-Term Global Income Fund, or even a single product line. Therefore, the Short-Term Global Income Fund bears only an allocated portion of indirect expenses.

12. Once allocable distribution-related indirect expenses have been identified and accumulated, such costs will be allocated to the Short-Term Global Income Fund, and each class within the Short-Term Global Income Fund, based upon the ratio which the Short-Term Global Income Fund's (and class) financial adviser compensation bears to the total financial adviser compensation paid on all products distributed by the Distributor. The denominator of total financial adviser compensation is used because indirect distribution expenses being allocated may relate to all investment products and not exclusively to the Short-Term Global Income Fund and because the Distributor believes that financial adviser compensation is the most meaningful common element relating to all the products which it sells.

13. The Distributor's allocations of indirect expenses will be attributed to the Class A shares and the Class B shares based upon the same cost accounting methodologies described above as though each class of shares was a separate fund.

14. Financial advisers selling shares of the Short-Term Global Income Fund will be compensated differently as a result of whether an investor chooses Class A or Class B. Because the size of a financial adviser's compensation will vary from case to case depending on breakpoints, performance of the financial adviser, size of the client accounts in the Short-Term Global Income Fund, length of time client accounts are maintained in the Short-Term Global Income Fund and other factors, it is not possible to generalize as to which class will provide the financial adviser with the highest levels of compensation. The applicants will include a statement in the Short-Term Global Income Fund's prospectus to the effect that a financial adviser may receive different levels of compensation for selling Class A shares or Class B shares. Also, the Distributor has adopted compliance standards as to when Class A shares and Class B shares may appropriately be sold to particular investors, and will amend these standards to reflect the addition of the conversion feature for the Class B shares.

15. Applicants believe that the Alternative Purchase and Conversion Plan will provide a meaningful choice for investors. An investor's decision to invest in Class A or Class B shares at any given time will depend on a number of factors, including, among others, the amount of money to be invested initially and, over a period of time, the current level of the front-end sales load or CDSC imposed by the Short-Term Global Income Fund and the period of time over which the investor proposes to retain his or her investment in the Short-Term Global Income Fund and the anticipated level of yield from the Class A and Class B shares.

16. Without the conversion feature, an investor wishing to convert his or her Class B shares to Class A shares to take advantage of the lower Class A distribution fee would have to first redeem his or her Class B shares and then buy Class A shares subject to the front-end sales charge.

Applicants' Legal Conclusions

17. The applicants do not believe that the implementation of the Alternative Purchase and Conversion Plan will give rise to any conflicts between the interests of the two classes.

18. The proposed Alternative Purchase and Conversion Plan does not create the potential for the abuses relating to complex capital structures and mutuality of risk which section 18 of the 1940 Act was intended to redress. The proposed arrangement will not increase the speculative character of the shares of the Short-Term Global Income Fund, since each class of shares will participate in all of the Short-Term Global Income Fund's income and all of the Short-Term Global Income Fund's expenses, with the exception of the differing distribution fees payable by each class of shares which will disproportionately reduce the net income of each such class, in the same proportion that the net assets attributable to that class bears to the Short-Term Global Income Fund's total net assets. Further, both classes of shares would be redeemable at all times, and no class of shares will have any preference or priority over any other class in the Short-Term Global Income Fund in the usual sense (that is, no class will have a distribution or liquidation preference with respect to particular assets and no class would be protected by any reserve or other account).

19. The applicants believe that the interests of the two classes of shares as to the management and advisory fees of the Short-Term Global Income Fund participating in the Alternative Purchase and Conversion Plan are the same and not in conflict. These fees are used to compensate the Manager for providing management and advisory services that are common to all investors, regardless of the class of shares.

20. The Alternative Purchase and Conversion Plan permits investors to choose the method of purchasing shares that is most beneficial given the length of time the investor expects to hold his or her shares and other relevant circumstances and affords investors the opportunity to defer any sales charge by purchasing Class B shares initially and relieves them of the higher distribution fee associated with the Class B shares by allowing for the automatic conversion of those shares to Class A shares without the imposition of any additional sales charge after the Distributor has been compensated for distribution expenses related to the Class B shares.

Applicants' Conditions

The Applicants agree that the order of the SEC granting the requested relief shall be subject to the following conditions:

1. Each class of shares will represent interests in the same portfolio of investments of the Fund, and be identical in all respects, except as set forth below. The only differences between the classes of shares of the Fund will relate solely to: (a) The impact of the disproportionate payments made under the rule 12b–1 distribution plans and any other incremental expenses subsequently identified that should be properly allocated to one class which

shall be approved by the Commission pursuant to an amended order, (b) the fact that the classes will vote separately with respect to the Fund's rule 12b–1 distribution plans, (c) the different exchange privileges of the classes of shares, (d) the designation of each class of shares of the Fund, and (e) the fact that only Class B shares will have a conversion feature.

2. The directors of the Fund, including a majority of the independent directors, have approved the Alternative Purchase and Conversion Plan. The minutes of the meeting of the directors of the Fund regarding the deliberations of the directors with respect to the approvals necessary to implement the Alternative Purchase and Conversion Plan reflect in detail the reasons for the directors' determination that the proposed Alternative Purchase and Conversion Plan is in the best interests of both the Fund and its shareholders.

3. On an ongoing basis, the directors of the Fund, pursuant to their fiduciary responsibilities under the Investment Company Act and otherwise, will monitor the Fund for the existence of any material conflicts between the interests of the two classes of shares. The directors, including a majority of the independent directors, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. The Manager and the Distributor will be responsible for reporting any potential or existing conflicts to the directors. If a conflict arises, the Manager and the Distributor at their own cost will remedy such conflict up to and including establishing a new registered management investment company.

4. Any rule 12b–1 plan adopted or amended to permit the assessment of a rule 12b–1 fee on any class of shares which has not had its rule 12b 1 plan approved by the public shareholders of that class will be submitted to the public shareholders of such class for approval at the next meeting of shareholders after the initial issuance of the class of shares. Such meeting is to be held within 16 months of the date that the registration statement relating to such class first becomes effective or, if applicable, the date that the amendment to the registration statement necessary to offer such class first becomes effective.

5. The directors of the Fund will receive quarterly and annual statements concerning distribution expenditures complying with paragraph (b)(3)(ii) of rule 12b–1, as it may be amended from time to time. In the statements, only expenditures properly attributable to the sale of a particular class of shares will be used to justify any distribution fee charged to that class. Expenditures not related to the sale of a particular class will not be presented to the directors to justify any fee attributable to that class. The statements, including the allocations upon which they are based, will be subject to the review and approval of the independent directors in the exercise of their fiduciary duties.

6. Dividends paid by the Fund with respect to each class of its shares, to the extent any dividends are paid, will be calculated in the same manner, at the same time, on the same day, and will be in the same amount, except that distribution payments relating to each respective class of shares will be borne exclusively by that class.

7. The methodology and procedures for calculating the net asset value and dividends and distributions of the two classes and the proper allocation of expenses between the two classes has been reviewed by an expert (the "Independent Examiner"), which has rendered a report to the Applicants, which has been provided to the staff of the Commission, that such methodology and procedures are adequate to ensure that such calculations and allocations will be made in an appropriate manner. On an ongoing basis, the Independent Examiner, or an appropriate substitute Independent Examiner, will monitor the manner in which the calculations and allocations are being made and, based upon such review, will render at least annually a report to the Fund that the calculations and allocations are being made properly. The reports of the Independent Examiner shall be filed as part of the periodic reports filed with the Commission pursuant to sections 30(a) and 30(b)(1) of the Investment Company Act. The work papers of the Independent Examiner with respect to such reports, following request by the Fund (which the Fund agrees to provide), will be available for inspection by the Commission staff upon the written request to the Fund for such work papers by a senior member of the Division of Investment Management, limited to the Director, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director, and any Regional Administrators or Associate and Assistant Administrators. The initial report of the Independent Examiner is a "Special Purpose" report on the "Design of a System" and the ongoing reports will be "Special Purpose" reports on the "Design of a System and Certain Compliance Tests" as defined and described in SAS No. 44 of the AICPA, as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.

8. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value and dividends and distributions of the two classes of shares and the proper allocation of expenses between the two classes of shares and this representation has been concurred with by the Independent Examiner in the initial report referred to in condition (7) above and will be concurred with by the Independent Examiner, or an appropriate substitute Independent Examiner, on an ongoing basis at least annually in the ongoing reports referred to in condition (7) above. Applicants will take immediate corrective measures if this representation is not concurred in by the Independent Examiner or appropriate substitute Independent Examiner.

9. The prospectus of the Fund will contain a statement to the effect that a salesperson and any other person entitled to receive compensation for selling Fund shares may receive different compensation with respect to one particular class of shares over another in the Fund.

10. The Distributor has adopted compliance standards as to when each class of shares may appropriately be sold to particular investors, and will amend these standards to reflect the addition of the conversion feature for Class B shares. Applicants will require all persons selling shares of the Fund to agree to conform to such standards.

11. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the directors of the Fund with respect to the Alternative Purchase and Conversion Plan will be set forth in guidelines which will be furnished to the directors.

12. The Fund will disclose the respective expenses, performance data, distribution arrangements, services, fees, sales loads, deferred sales loads, and exchange privileges applicable to each class of shares in every prospectus, regardless of whether all classes of shares are offered through each prospectus. The Fund will disclose the respective expenses and performance data applicable to all classes of shares in every shareholder report. To the extent any advertisement or sales literature describes the expenses or performance data applicable to any class of shares, it will also disclose the respective expenses and/or performance data applicable to all classes of shares. The information provided by Applicants for publication

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in any newspaper or similar listing of the Fund's net asset value and public offering price will present each class of shares separately.

13. The Applicants acknowledge that the grant of the exemptive order requested by the application will not imply Commission approval, authorization, or acquiescence in any particular level of payments that the Fund may make pursuant to its rule 12b-1 distribution plans in reliance on the exemptive order.

14. Class B shares will convert into Class A shares on the basis of the relative net asset values of the two classes, without the imposition of any sales load, fee, or other charge.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret M. McFarland,

Deputy Secretary.

[FR Doc. 92-2591 Filed 2-3-92; 8:45 am]

BILLING CODE 8010-01

DEPARTMENT OF TRANSPORTATION

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended January 24, 1992

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 47963.

Dated filed: January 24, 1992.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: February 21, 1992.

Description: Application of Viking International Airlines, Inc., pursuant to section 401(d)(1) of the Act and subpart Q of the Regulations requests authority to engage in interstate and overseas scheduled air transportation of persons, property and mail: Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, and any other point in any State of the United States or the District of Columbia, or any territory or possession of the United States.

Docket Number: 45723.

Dated filed: January 24, 1992.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: February 21, 1992.

Description: Application of Transportes Aereos Ejecutivos, S.A. de C.V., pursuant to section 402 of the Act and subpart Q of the Regulations, applies for Amendment of its Foreign Air Carrier Permit to permit TAESA to engage in the scheduled air transportation of persons, property and mail on the following routes: (1) Mexico City (MEX-Benito Juarez), Mexico on the one hand, and Vail/Eagle, CO(EGE), on the other hand; and (2) Guadalajara, Mexico (GDL), on the one hand, and Laredo, Texas (LRD), on the other hand.

Docket Number: 42061.

Dated filed: January 24, 1992.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: February 21, 1992.

Description: Amendment No. 3 to the Application of Malaysia Airlines, pursuant to section 402 of the Act and subpart Q of Regulations, for authority to operate scheduled foreign air transportation of persons, property and mail between Malaysia and the U.S. coterminal points Los Angeles, California, and Honolulu, Hawaii, via the intermediate points Taipei, Taiwan, and Tokyo, Japan.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 92-2625 Filed 2-3-92; 8:45 am]

BILLING CODE 4910-62-M

Aviation Proceedings; Agreements Filed During Week Ending January 24, 1992

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 47958.

Date filed: January 21, 1992.

Parties: Members of the International Air Transport Association.

Subject: TC23 Reso/P 0479 dated November 21, 1991, Africa-TC3 Resos, R-1 To R-21.

Proposed Effective Date: April 1, 1992.

Docket Number: 47959.

Date filed: January 23, 1992.

Parties: Members of the International Air Transport Association.

Subject: TC123 Reso/P 0094 dated November 22, 1991, North/Mid/South Atlantic Resos, R-1 To R-26, intended effective date: March 1, 1992. TC123 Reso/P 0095 dated November 22, 1991, North/Mid/South Atlantic Resos, R-27 To R-28.

Proposed Effective Date: March 1/April 1, 1992.

Docket Number: 47960.

Date filed: January 23, 1992.

Parties: Members of the International Air Transport Association.

Subject: TC12 Reso/P 1374 dated November 20, 1991, North Atlantic-Middle East (Except Israel) R-1 To R-14.

Proposed Effective Date: April 1, 1992.

Docket Number: 47961.

Date filed: January 23, 1992.

Parties: Members of the International Air Transport Association.

Subject: Telex dated January 15, 1992, TC23 Mail Vote 530 (Fares involving Africa-TC3).

Proposed Effective Date: February 1, 1992.

Docket Number: 47965.

Date filed: January 24, 1992.

Parties: Members of the International Air Transport Association.

Subject: Telex dated January 17, 1992, TC12 Mail Vote 533 (South Atlantic-Europe/Mideast revalidation).

Proposed Effective Date: April 1, 1992.

Docket Number: 47966.

Date filed: January 24, 1992.

Parties: Members of the International Air Transport Association.

Subject: Telex dated January 17, 1992, Comp Mail Vote 534 (Argentina Currency-Reso 024d).

Proposed Effective Date: February 1, 1992.

Docket Number: 47967.

Date filed: January 24, 1992.

Parties: Members of the International Air Transport Association.

Subject: Telex dated January 17, 1992, TC1 Mail Vote 532 (TC1 Standard Revalidation).

Proposed Effective Date: April 1, 1992.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 92-2624 Filed 2-3-92; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

Proposed Change #2 to FAA P-8110-2, Airship Design Criteria (ADC)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of Proposed Change #2 to FAA P-8110-2, Airship Design Criteria (ADC); request for comments.

SUMMARY: Federal Aviation Administration report FAA P-8110-2 Airship Design Criteria (ADC), issued November 2, 1987, contains the first acceptable design criteria for type certification of airships. While applying the ADC to actual type certification projects, the FAA has discovered portions of the report that require clarification or revision. This notice announces the FAA's intent to change portions of the ADC and requests comments on the intended changes.

DATES: Comments must be received on or before April 1, 1992.

ADDRESSES: Comments on the Proposed Change #2 to FAA P-8110-2, Airship Design Criteria (ADC), may be mailed or delivered to: Federal Aviation Administration, Small Airplane Directorate, Aircraft Certification Service, Standards Office (ACE-110), 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Lowell Foster, Aerospace Engineer, Standards Office (ACE-110), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; commercial telephone (816) 426-4688, or FTS 867-5688.

SUPPLEMENTARY INFORMATION: Any person may obtain a copy of this proposed AC by writing to: Federal Aviation Administration, Small Airplane Directorate, Aircraft Certification Service, Standards Office (ACE-110), 601 East 12th Street, Kansas City, Missouri 64106.

Comments Invited

Interested parties are invited to submit such written data, views, or arguments as they may desire. Commenters must identify the report number (FAA P-8110-2) and submit comments to the address specified above. All written comments received on or before the closing date for comments will be considered by the FAA before the ADC is revised. The proposed changes to the ADC and comments received may be inspected at the Standards Office (ACE-110), room 1544, Federal Office Building, 601 East 12th street, Kansas City, Missouri, between the hours of 7:30 a.m. and 4 p.m. weekdays, except Federal holidays.

Background

Prior to revision of section 21.17(b) of the Federal Aviation Regulations (FAR), in Amendment 21-60, effective April 13, 1987, airworthiness criteria for the type certification of airships were not covered in the FAR. Federal Aviation Administration report P-8110-2, Airship Design Criteria (ADC), issued November 2, 1987, contains the first acceptable design criteria for type certification of airships. The airship design criteria contained in the report are suitable for the U.S. type certification of nonrigid, near-equilibrium, conventional airships. The criteria are based primarily on part 23—Airworthiness Standards: Normal, Utility, Acrobatic, and Commuter Category Airplanes, U.S. Navy detail design specifications for airships, and additional criteria developed by the FAA and the National Aeronautics and Space Administration.

The Airship Design Criteria are only one means of showing compliance with section 21.17(b). The associated advisory circular, AC21.17-1, Type Certification—Airships, describes the procedures that an applicant may follow for development and approval of its own airship design criteria in the event that the airworthiness criteria prescribed in the ADC are inadequate or otherwise inappropriate as a certification basis of an airship due to its unique design or design features.

Related FAR:

Applicants for approval of airship design criteria should also be aware of the provisions contained in the following related FAR:

Section 21.5—Airplane or Rotorcraft Flight Manual.

Section 21.17—Designation of applicable regulations.

Part 23—Airworthiness standards: normal, utility, acrobatic, and commuter category airplanes. 31

Part 33—Airworthiness standards: aircraft engines.

Part 35—Airworthiness standards: propellers.

Part 45, Subpart C—Nationality and Registration Marks.

Section 91.9—Civil aircraft flight manual, marking, and placard requirements.

Section 91.205—Powered civil aircraft with standard category U.S. airworthiness certificates; Instrument and equipment requirements.

Issued in Kansas City, Missouri, January 17, 1992.

Barry D. Clements,
Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-2362 Filed 2-3-92; 8:45 am]

BILLING CODE 4910-13-M

Advisory Circular: Installation of Electronic Display Instrument Systems in Part 23 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of proposed advisory circular (AC) and request for comments.

SUMMARY: This notice announces the availability of and request for comments on a proposed AC which provides information and guidance concerning installation of electronic display instrument systems in part 23 airplanes.

DATES: Comments must be received on or before April 6, 1992.

ADDRESSES: Send all comments on the proposed AC to: Federal Aviation Administration, Small Airplane Directorate, Aircraft Certification Service, Standards Office (ACE-110), 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Ervin Dvorak, Aerospace Engineer, Standards Office (ACE-110), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; commercial telephone (816) 426-6941 or FTS 867-6941.

SUPPLEMENTARY INFORMATION: Any person may obtain a copy of this proposed AC by writing to: Federal Aviation Administration, Small Airplane Directorate, Aircraft Certification Service, Standards Office (ACE-110), 601 East 12th Street, Kansas City, Missouri 64106.

Comments Invited

Interested parties are invited to submit comments on the proposed AC. Commenters must identify AC 23.1311-X, and submit comments to the address specified above. All communications received on or before the closing date for comments will be considered by the FAA before issuing the final AC. The proposed AC and comments received may be inspected at the Standards Office (ACE-110), room 1544, Federal Office Building, 601 East 12th Street, Kansas City, Missouri, between the hours of 7:30 a.m. and 4 p.m. weekdays, except Federal holidays.

Background

Part 23 of the Federal Aviation Regulations (FAR) was amended by amendment 23-41 which became effective November 26, 1990. This amendment 23-41 established airworthiness standards in § 23.1311 for the installation of electronic display instrument system in normal, utility, acrobatic, and commuter category airplanes. Prior to amendment 23-41, most electronic display instrument systems were approved for installation in part 23 airplanes by means of special conditions. Accordingly, the FAA is proposing and requesting comments on AC 23.1311–X which will provide an acceptable means of compliance with the FAR, applicable to installation of electronic display instrument systems in part 23 airplanes.

Issued in Kansas City, Missouri, January 27, 1992.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–2828 Filed 2–3–92; 8:45 am]

BILLING CODE 4910–13–M

Noise Exposure Map Notice and Receipt of Noise Compatibility Program and Request for Review

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by Cheyenne Airport (CYS), Cheyenne, Wyoming, under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR part 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing proposed noise compatibility program that was submitted for Cheyenne Airport under part 150 in conjunction with the noise exposure maps, and that this program will be approved or disapproved on or before July 23, 1992.

EFFECTIVE DATE: The effective date of the FAA's determination on the Cheyenne Airport noise exposure maps and the start of its review of the associated noise compatibility program is January 24, 1992. The public comment period ends February 28, 1992.

FOR FURTHER INFORMATION CONTACT: Dennis Ossenkop, FAA, Airports Division, ANM–611, 1601 Lind Avenue, SW., Renton, Washington, 98055–4056.

Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps for Cheyenne Airport are in compliance with applicable requirements of part 150, effective January 24, 1992. Further, FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before July 23, 1992. This notice also announces the availability of this program for public review and comment.

Under section 103 of Title I of the Aviation Safety and Noise Abatement Act of 1979 (herein after referred to as "the Act"), and airport operator may submit to the FAA a noise exposure map which meets applicable regulations and which depicts noncompatible land uses as of the date of submission of such map, a description of projected aircraft operations, and the ways in which such operations will affect such map. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies and persons using the airport.

An airport operator who has submitted a noise exposure map that has been found by FAA to be in compliance with the requirements of Federal Aviation Regulation (FAR) part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The Airport Manager for Cheyenne Airport submitted to the FAA noise exposure maps, descriptions and other documentation which were produced during an airport Noise Compatibility Study. It was requested that the FAA review this material as the noise exposure maps, as described in section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act.

The FAA has completed its review of the noise exposure maps and related description submitted by CYS. The specific maps under consideration are Figures C11 and G1 in the submission. The FAA has determined that these maps for Cheyenne Airport are in compliance with applicable requirements. This determination is effective on January 24, 1992. FAA's determination on an airport operator's noise exposure maps is limited to the determination that the maps were developed in accordance with the procedures contained in appendix A of FAR part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on noise exposure maps submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of Section 107 of the Act. These functions are inseparable for the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the maps depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under Section 103 of the Act. The FAA has relied on the certification by the airport operator, under § 150.21 of the FAR part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for CYS, also effective on January 24, 1992. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before July 23, 1992.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR part 150, paragraph 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the purposed program with specific reference to these factors. All comments, other than those properly addressed to the local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, Independence Avenue, SW., room 615, Washington, DC.
Federal Aviation Administration, Airports Division, ANM-600, 1601 Lind Avenue, SW., Renton, Washington, 98055-4056.
Cheyenne Airport, Cheyenne, Wyoming.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Renton, Washington, January 24, 1992.

Edward G. Tatum,

Manager, Airports Division, ANM-600, Northwest Mountain Region.

[FR Doc. 92-2630 Filed 2-3-92; 8:45 am]

BILLING CODE 4910-13-M

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Minneapolis-St. Paul International Airport, Minneapolis, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Minneapolis-St. Paul International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before March 5, 1992.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airports District Office, 6020 28th Avenue South, room 102, Minneapolis, Minnesota 55450.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Steve Busch, Finance Manager, Metropolitan Airports Commission, at the following address: Metropolitan Airports Commission, 6040 28th Avenue South, Minneapolis, Minnesota 55450-2799.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Minneapolis-St. Paul Metropolitan Airports Commission under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Franklin D. Benson, Manager, Airports District Office, 6020 28th Avenue South, room 102, Minneapolis, Minnesota 55450, (612) 725-4221. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at the Minneapolis-St. Paul International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On December 31, 1991, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Minneapolis-St. Paul Metropolitan Airports Commission was not substantially complete within the requirements of § 158.25 of part 158. The following items are required to complete the application: § 158.23(b) requires that certain information be provided to the air carriers at or before the consultation meeting, including a description of the projects, justification for the projects, and financial plan for the projects. As a result of the consultation meeting, the Minneapolis-St. Paul Metropolitan Airports Commission added the "Lindbergh Terminal Vertical Circulation" project to the application. However, the application contains no evidence that the required information for the "Lindbergh Terminal Vertical Circulation" project was provided to the air carriers at or before the meeting. If such information was provided, the application must so indicate; if such information was not provided, the air carriers must be provided the information and given an opportunity to provide written comments on the altered work scope.

The Minneapolis-St. Paul Metropolitan Airports Commission has not submitted supplemental information to complete this application. The FAA will approve or disapprove the application, in whole or in part, not later than March 31, 1992.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: June 1, 1992.

Proposed charge expiration date: September 30, 1994.

Total estimated PFC revenue: $69,275,000.

Brief description of proposed projects:

1. Upper Level Roadway Construction—Charles A. Lindbergh Terminal.
2. Lower Level Roadway Construction—Charles A. Lindbergh Terminal.
3. Ground Transportation Center Program—Charles A. Lindbergh Terminal.
4. Lindbergh Terminal Vertical Circulation.
5. Taxiway C Reconstruction.

Any person may inspect the application in person at the FAA office listed above under **"FOR FURTHER INFORMATION CONTACT".**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Minneapolis-St. Paul Metropolitan Airports Commission.

Issued in Des Plaines, Illinois, on January 21, 1992.

W. Robert Billingsley,

Manager, Airports Division, Great Lakes Region.

[FR Doc. 92-2629 Filed 2-3-92; 8:45 am]

BILLING CODE 4910-13-M

Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In January 1992, there was one application approved in part.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of Passenger Facility Charge (PFC) approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101-508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158). This notice is published pursuant to paragraph (d) of § 158.29.

PFC Application Approved in Part

Public Agency: Savannah Airport Commission.

Application Type: Impose and Use PFC Revenue.

PFC Level: $3.00.

Total Approved PCF Revenue $39,501,502.

Earliest Permissible Charge Effective date: July 1, 1992.

Duration of Authority to Impose: March 1, 2004.

Class of Air Carriers to be Exempted from Collecting PFCs: part 135 air carriers.

Brief Description of Projects Approved:

Terminal building (items which are Airport Improvement Program eligible).

Terminal apron and associated taxiways.

Entrance road less landscaping).

Service road.

Site work in development area for approved projects.

Utilities in development area for approved projects.

Brief Description of Projects Disapproved:

I-95 interchange. (Note: The I-95 interchange is disapproved at this time since it is not AIP eligible. To be eligible, the airport must demonstrate an adequate property interest.)

Support facilities.

Decision date: January 23, 1992.

FOR FURTHER INFORMATION CONTACT: Catherine M. Nelmes, FAA Atlanta Airports District Office, 404-994-5306.

Issued in Washington, DC, on January 30, 1992.

Barry Lambert Harris,

Acting Administrator.

[FR Doc. 92-2692 Filed 1-31-92; 12:01 pm]

BILLING CODE 4910-13-M

Notice of Intent To Rule on Application To Impose a Passenger Facility Charge (PFC) at Robert Mueller Municipal Airport, Austin, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comments on the application to impose a PFC at Robert Mueller Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before March 5, 1992.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate copies to the FAA at the following address: Mr. William Perkins, Planning and Programming Branch, ASW-610D, Airports Division, Southwest Region, Fort Worth, Texas 76193-0611.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Charles Gates of the city of Austin, Department of Aviation at the following address: Robert Mueller Municipal Airport, 3600 Manor Road, Austin, Texas 78723.

Comments from air carriers and foreign air carriers may be in the same form as provided to the city of Austin, Department of Aviation under Section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. William Perkins, Federal Aviation Administration, Planning and Programming Branch, ASW-610D, Airports Division, Southwest Region, Fort Worth, Texas 76193-0611, (817) 624-5979.

The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comments on the application to impose a PFC at Robert Mueller municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On January 22, 1992, the FAA determined that the application to impose a PFC submitted by the city of Austin was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than April 22, 1992.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00

Proposed charge effective date: June 1, 1992

Proposed charge expiration date: May 31, 1995

Total estimated PFC revenue: $16,347,200

Brief description of proposed project(s): Supplement funding for costs associated with the conversion of Bergstrom Air Force Base to a commercial service airport.

Proposed class or classes of air carriers to be exempted form collecting PFC's: Part 135 Carriers whose enplanements individually are less than or equal to 1 percent of total enplanements at Robert Mueller Municipal Airport.

Any person may inspect the application in person at the FAA office listed above under "**FOR FURTHER INFORMATION CONTACT**" and at the FAA Regional Airports office located at: Federal Aviation Administration, Airports Division, Planning and Programming Branch, ASW-610D, 4400 Blue Mound Road, Fort Worth, Texas 76193-0611.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the city of Austin, Department of Aviation.

Issued in Fort Worth, Texas, on January 22, 1992.

Hugh W. Lyon,

Assistant Manager, Airports Division, Southwest Region.

[FR Doc. 92-2631 Filed 2-3-92; 8:45 am]

BILLING CODE 4910-13-M

Federal Transit Administration

Transit Technology Program: Advisory Committee Meeting

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of meeting.

SUMMARY: This notice announces the second meeting of the Federal Transit Administration's (FTA) Transit Industry Technology Development Advisory Committee. The Advisory Committee is assisting the FTA in establishing guidelines and developing a transit technology program.

DATE: The second meeting of the Transit Industry Technology Development Advisory Committee will take place March 2, 1992, at 9 a.m.

ADDRESS: The meeting will be held at the Department of Transportation Building, 400 Seventh Street, SW., Washington, DC 20590, rooms 6332-6336.

FOR FURTHER INFORMATION CONTACT: Jeffrey G. Mora, Federal Transit Administration, Office of Technical Assistance and Safety, 400 7th Street, SW., room 6423, Washington, DC 20590, (202) 366-0215.

SUPPLEMENTARY INFORMATION:

Major Issues

In response to concerns raised by the Committee about problems in both direct Federal and third party procurement, FTA officials will provide information at the meeting on FTA's current procurement practices for both direct Federal procurements and third party procurements. The Committee will then consider proposals to improve FTA's procurement practices. The Committee will also consider the priority projects recommended by the FTA's Planning and Research Workshop.

Procedures

The FTA will provide interpreters for the hearing impaired if requested no later than close of business February 28, 1992. All meetings of the Transit Industry Technology Development Advisory Committee will be open to the public.

Issued on: January 28, 1992.

Roland J. Mross,

Deputy Administrator.

[FR Doc. 92-2563 Filed 2-3-92; 8:45 am]

BILLING CODE 4910-57-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular—Public Debt Series—No. 4-92]

Treasury Notes, Series H-1997

January 24, 1992.

The Secretary announced on January 23, 1992, that the interest rate on the notes designated Series H-1997, described in Department Circular—Public Dept Series—No. 4-92 dated January 16, 1992, will be 6¼ percent. Interest on the notes will be payable at the rate of 6¼ percent per annum.

Marcus W. Page,

Acting Fiscal Assistant Secretary.

[FR Doc. 92-2636 Filed 2-3-92; 8:45 am]

BILLING CODE 4810-40-M

[Supplement to Department Circular—Public Debt Series—No. 3-92]

Treasury Notes, Series V-1994

January 23, 1992.

The Secretary announced on January 22, 1992, that the interest rate on the notes designated Series V-1994, described in Department Circular—Public Debt Series—No. 3-92 dated January 16, 1992, will be 4⅞ percent. Interest on the notes will be payable at the rate of 4⅞ percent per annum.

Marcus W. Page,

Acting Fiscal Assistant Secretary.

[FR Doc. 92-2637 Filed 2-3-92; 8:45 am]

BILLING CODE 4810-40-M

UNITED STATES INFORMATION AGENCY

Donated Book Assistance Awards

AGENCY: United States Information Agency.

ACTION: Notice—Request for proposals.

SUMMARY: Subject to the availability of funds, the Book Promotion Branch of the U.S. Information Agency will provide limited assistance awards to non-profit U.S. institutions and organizations in the private sector to administer donated books projects during FY'92. All interested organizations wishing to compete for awards to administer one or several of the following projects are invited to request detailed proposal guidelines. The proposals will be evaluated by a review panel and recommendations for awards will be based on professional staff assessment of relevant qualifications and compliance with established criteria.

DATES: Deadline for proposals: All copies must be received at the U.S. Information Agency by 5 p.m. EST on March 13, 1992. Faxed documents will not be accepted, nor will documents postmarked on March 13, 1992 but received at a later date. It is the responsibility of each grant applicant to ensure that proposals are received by the above deadline.

Duration: The duration of the award will be twelve months. No funds may be expended until award agreement is signed. Awards should begin September 1, 1992.

ADDRESSES: One signed original and twelve copies of the completed application, including required forms, should be submitted by the deadline to: U.S. Information Agency, Ref.: Donated Book Assistance Awards, Grants Management Division, E/XE, Room 357, 301 4th Street, SW., Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: Interested U.S. organizations/institutions should contact Ms. Carol Nelson at the U.S. Information Agency, room 320, 301 4th Street, SW., Book Program Division, E/CBP, Washington, DC 20547, tele: (202) 619-5899 to request detailed application packets, which include award criteria additional to this announcement, all necessary forms, and guidelines for preparing proposals, including specific budget preparation information.

SUPPLEMENTARY INFORMATION:

To be eligible for consideration an organization must be incorporated in the U.S. as a 501(c)(3), not-for-profit organization as determined by the IRS, and be able to demonstrate expertise in administering the project(s) on which it is bidding. An organization may apply for awards to administer more than one regional project. Grants awarded to eligible organizations with less than four years experience in conducting international exchange programs will be limited to $60,000.

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social and cultural life.

Regional Projects

Africa: One or more assistance awards, not to exceed a total of $60,000 for this region, will be made to a non profit organizations(s) to help defray costs for distributing appropriate donated books to Cameroon, Ethiopia, Ghana, Kenya, Malawi, Namibia, Nigeria, Rwanda, South Africa, Tanzania, Uganda, Zambia and any other countries in sub-Sahara Africa designated by the Agency. Donated book shipments for this region must consist of at least 75% new materials and no more than 25% used materials in subject areas requested by each country and that are consistent with Agency guidelines. The books shipped to recipient countries should be in subject areas that stress democratic values, market oriented economics, American civilization with particular emphasis on American history legal system, government, literature, arts, education, science and technology, foreign policy, TEFL and English teaching. The books will be distributed to needy students and teachers in secondary schools, universities, research centers and institutes. The award recipient, prior to the shipment of any books, must identify a local consignee/distributor in each recipient country who will be responsible for handling in country-logistics, processing and distribution. To ensure that books selected for shipment comply with requests of each recipient country, the award recipient must send annotated book lists in advance, including number of titles available in different instructional levels, to the overseas recipient institution(s) for selection and approval. The award recipient must also notify USIA (E/CBP) when shipment is made to the recipient country, providing all pertinent shipping information i.e. ETD, shipping line, vessel, size of shipment, consignee, ETA, etc.

American Republics: One or more assistance awards, not to exceed a total of $40,000 for this region, will be made to a non-profit organization(s) to help defray costs for distributing appropriate donated books to Paraguay, Panama, Venezuela, Peru, Jamaica, Barbados, Nassau and any other countries designated by the Agency in the American Republics. Donated book shipments for this region, in Spanish and English (both new and used), and in subject areas requested by each country and that are consistent with Agency guidelines, must be distributed with funds from this award. The books shipped to recipient countries should be in subject areas that stress democratic values, market oriented economics, American civilization with particular emphasis on American history, legal system, government, literature, arts, education, science and technology, foreign policy, TEFL and English teaching. The books will Be distributed to needy students and teachers in secondary schools, universities, research centers and institutes. Prior to the shipment of any books,the award recipient must identify a local consignee/distributor in each recipient country who will be responsible for handling in-country logistics, processing and distribution. To unsure books selected for shipment comply with requests of each recipient country, the award recipient must send annotated book lists in advance, including number of titles available in different instructional levels, to the overseas recipient institution(s) for selection and approval. The award recipient must also notify USIA (E/CBP) when shipment is made to the recipient country providing all pertinent shipping information, i.e. ETD, shipping line, vessel, size of shipment, consignee, ETA, etc.

East Asia: One or more assistance awards, not to exceed a total of $50,000 for this region, will be made to help defray costs for distributing appropriate donated books to the island nations of the pacific, the Philippines and other countries designated by the Agency. Donated books (new and used), and in subject areas requested by each country, must be distributed with funds from this award. The books shipped to recipient countries should be in subject areas that stress democratic values, market oriented economics, American civilization with particular emphasis on American history, legal system, government, literature, arts, education, science and technology, foreign policy, TEFL and English Teaching. The books will be distributed to needy students and teachers in secondary schools, universities, research centers and institutes. Prior to the shipment of any books, the award recipient must identify a consignee who will be responsible for handling in-country processing and distribution. To ensure that books selected for shipment comply with requests of each recipient country, the award recipient must send annotated book lists in advance, including number of titles available in different instructional levels, to the overseas recipient institution(s) for selection and approval. The award recipient must also notify USIA (E/CBP) when shipment is made to the recipient country, providing all pertinent shipping information, i.e. ETD, Shipping line, vessel, size of shipment, consignee, ETA, etc.

Eastern Europe: One or more assistance awards, not to exceed a total of $150,000 for this region, will be made to help defray costs for distributing appropriate donated books to Poland, Hungary, Czechoslovakia, Bulgaria, Albania, Estonia, Latvia, Lithuania and/or other countries in Eastern Europe that are designated by the Agency. Donated books in subject areas requested by each country must be distributed with funds from this award. Book shipments for this region must consist of a least 75% new material and no more than 25% used materials. The books shipped to recipient countries should be in subject areas that stress democratic values, market oriented economics, American civilization with particular emphasis on American history, legal system, government, literature, arts, education, foreign policy, TEFL and English teaching. The books will be distributed to needy students and teachers in secondary schools, universities, research centers and institutes. Prior to the shipment of any books, the award recipient must identify a local consigness/distributor who will be responsible for handling in-country logistics, processing and distribution. To ensure that books selected for shipment comply with requests of each recipient country, the award recipient must send annotated book lists in advance, including number of titles available in different instructional levels, to the overseas recipient institution(s) for selection and approval. The award recipient must also notify USIA (E/CBP) when shipment is made to the recipient country, providing all pertinent shipping information, i.e. ETD, shipping line, vessel, size of shipment, consignee, ETA, etc.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines established herein and in the application packet. Eligible proposals will be forwarded to panels of USIA officers for advisory review. All eligible proposals will also be reviewed by the appropriate geographic area office and the budget and contracts offices. Proposals may also be reviewed by the Agency's Office of the General Counsel. Funding decisions are at the discretion of the Associate Director for Educational and Cultural Affairs. Final technical authority for grant awards resides with USIA's contracting officer.

Review Criteria

In addition to general E Bureau review criteria, technically eligible applications will be competitively reviewed according to the following criteria:

1. *Procurement*:

—Applicant's ability to procure and ship the types of books in the instructional levels that are compatible with Agency guidelines and the needs of recipient countries.

2. *Distribution*:

—Applicant's previous experience or demonstrated potential in conducting a quality controlled and high impact program in the selected region.

—The reliability/feasibility of the distribution network planned through individual contacts, public and private institutions, or through joint planning and coordination with USIS posts in the potential recipient countries/region.

—Applicant's ability to demonstrate that arrangements have been made in advance to handle all transportation, warehousing, processing and book distribution costs in the recipient country(s).

—The percentage of cost-sharing (in-kind contribution or currency equivalent) applicant will contribute to the program. Administrative vs program costs ratio.

—Applicant's ability to implement a workable reporting system to ensure that book transaction data is routinely transmitted to recipient country and Agency (e.g. aggregate number of books, annotated list of titles and/or packing lists, name of author, volume or edition, place of publication, publisher, date, shipping information, etc.) prior to the shipment of books.

3. *Program Evaluation*:

—Applicant's plans for evaluating the effective administration of the program both in the U.S. and overseas. Applicant's ability to measure quality control and program impact in the recipient countries.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. Final award cannot be made until funds have been fully appropriated by Congress, allocated and committed through internal USIA procedures.

Notification

All applicants will be notified of the results of the review process on or about June 30, 1992. Awarded grants will be subject to periodic reporting and evaluation requirements.

Dated: January 29, 1992.

Barry Fulton,

Deputy Associate Director, Bureau of Educational and Cultural Affairs.

[FR Doc. 92-2639 Filed 2-3-92; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 23
Tuesday, February 4, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, February 7, 1992.

PLACE: 2033 K St., N.W., Washington, D.C., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 92-2783 Filed 1-31-92; 3:01 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, February 11, 1992. .

PLACE: 2033 K St., N.W., Washington, D.C., Lower Lobby Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Application for designation as a contract market in Gulf Coast Unleaded Gasoline futures/New York Mercantile Exchange

Application for designation as a contract market in S&P MidCap 400 Stock Price Index futures and options/Chicago Mercantile Exchange

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 92-2784 Filed 1-31-92; 3:01 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, February 14, 1992.

PLACE: 2033 K St., N.W., Washington, D.C. 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 92-2785 Filed 1-31-92; 3:01 am]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, February 21, 1992.

PLACE: 2033 K St., N.W., Washington, D.C., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 92-2786 Filed 1-31-92; 3:01 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:30, a.m., Friday, February 21, 1992.

PLACE: 2033 K St., N.W., Washington, D.C., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 92-2787 Filed 1-31-92; 3:01 p.m.]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, February 28, 1992.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb.
Secretary of the Commission.

[FR Doc. 92-2788 Filed 1-31-92; 3:01 pm]

BILLING CODE 6351-01-M

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: January 27, 1992, 57 FR 3085.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: January 29, 1992, 10:00 a.m.

CHANGE IN THE MEETING: The following Docket Number has been added to Item CAG-8 on the Agenda Schedule for January 29, 1992:

Item No, Docket No., and Company

CAG-8—RP90-104-000, Texas Gas Transmission Corporation

Lois D. Cashell,
Secretary.

[FR Doc. 92-2704 Filed 1-30-92; 4:32 pm]

BILLING CODE 6717-02-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM:

TIME AND DATE: 11:00 a.m., Monday, February 10, 1992.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (2020 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: January 31, 1992.

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 92-2767 Filed 1-31-92; 2:22 pm]

BILLING CODE 6210-01-M

INTERSTATE COMMERCE COMMISSION

Commission Conference

TIME AND DATE: 10:00 a.m., Tuesday, February 11, 1992.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th and Constitution Avenue, NW., Washington, DC 20423.

STATUS: The Commission will meet to discuss among themselves the following agenda items. Although the conference is open for the public observation, no public participation is permitted.

MATTERS TO BE DISCUSSED:

Finance Docket No. 30582 (Sub-No. 2), *Norfolk and Western Railway Company, Southern Railway Company and Interstate Railroad Company—Exemption—Contract to Operate and Trackage Rights.*

Finance Docket No. 21510 (Sub-No. 4), *Norfolk and Western Railroad Company and New York, Chicago and St. Louis Railroad Company—Merger, Etc. (Arbitration Review).*

Docket No. AB–12 (Sub-No. 139X), *Southern Pacific Transportation Company—Abandonment Exemption, Los Angeles County, CA;* Docket No. AB–12 (Sub-No. 140X), *Southern Pacific Transportation Company—Abandonment Exemption—Los Angeles County, CA;* Docket No. AB–12 (Sub-No. 141X), *Southern Pacific Transportation Company—Abandonment Exemption, Los Angeles and San Bernardino Counties, CA.*

CONTACT PERSONS FOR MORE INFORMATION: Alvin H. Brown or A. Dennis Watson, Office of External Affairs, Telephone: (202) 927–5350, TDD: (202) 927–5721.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92–2641 Filed 1–30–92; 1:28 pm]

BILLING CODE 7035-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of February 3, 10, 17, and 24, 1992.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of February 3

Wednesday, February 5

9:30 a.m.

Briefing on Pending Investigations (Closed—Ex. 5 and 7)

1:30 p.m.

Periodic Briefing on Operating Reactors and Fuel Facilities (Public Meeting)

Thursday, February 6

10:00 a.m.

Affirmation/Discussion and Vote (Public Meeting)

a. Appeal of LBP–91–17 and LBP–91–30, Sacramento Municipal Utility District (Possession Only License Amendment (Tentative)

Week of February 10—Tentative

Wednesday, February 12

1:30 p.m.

Briefing on Requirements for Integral System Testing of Westinghouse AP/600 (Public Meeting)

4:30 p.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of February 17—Tentative

Friday, February 21

10:00 a.m.

IG Briefing on Review of NRC Programs (Closed—Ex. 2)

11:30 a.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of February 24—Tentative

Tuesday, February 25

10:00 a.m.

Briefing on Design Basis Reconstitution Programs (Public Meeting)

Wednesday, February 26

4:00 p.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To Verify the Status of Meeting Call (Recording)—(301) 504–1292

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 504–1661.

Dated: January 30, 1992.

Andrew L. Bates,

Office of the Secretary.

[FR Doc. 92–2751 Filed 1–31–92; 1:44 pm]

BILLING CODE 7590-01-M

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, February 13, 1992.

PLACE: Room 410, 1825 K Street, N.W., Washington, D.C. 20006.

STATUS: Open Meeting.

MATTERS TO BE CONSIDERED: Oral Argument before the Commission in—

Johnson Controls, Inc.
OSHRC Docket No. 89–2614

CONTACT PERSON FOR MORE INFORMATION: Mrs. Mary Ann Miller, (202) 634–4015.

Dated: January 30, 1992.

Earl R. Ohman, Jr.,

General Counsel.

[FR Doc. 92–2770 Filed 1–31–92; 2:23 pm]

BILLING CODE 7600-01-M

OL 57 SS 23 FE 4 992 UMI

Corrections

Federal Register
Vol. 57, No. 23
Tuesday, February 4, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 557]

Resolution and Order Approving With Restriction the Application of the City of Battle Creek, MI, for a Subzone at the Infant Formula/Nutritional Products Manufacturing Facilities of Mead Johnson & Company in Zeeland, MI

Correction

In notice document 92-684 beginning on page 1143 in the issue of Friday, January 10, 1992, make the following correction:

On page 1144, in the first column, after the second line, insert the heading **"Grant of Authority For Subzone Status at the Mead Johnson & Company Facilities in Zeeland, Michigan".**

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 550]

Resolution and Order Approving the Application of Foreign Trade Zone of Central Texas, Inc. for a Foreign-Trade Zone in the Austin, TX, Area

Correction

In notice document 91-31312 beginning on page 42 in the issue of Thursday, January 2, 1992, make the following correction:

On page 42, in the third column, under **Resolution and Order**, after the fourth paragraph, insert the heading **"Grant of Authority; Establishment of a Foreign-Trade Zone; Austin, Texas, Area".**

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 625

[Docket No. 911194-1294]

Summer Flounder Fishery

Correction

In rule document 91-31323, beginning on page 213, in the issue of Friday, January 3, 1992, make the following corrections:

1. On page 213, in the first column, under ACTION:, in the first line, "two-time" should read "tow-time".
2. On the same page, in the 2d column, under **Background**, in the 18th line, insert "New" in front of "England".
3. On the same page, in the third column, in the second line, insert a comma after "turtles".
4. In the same column, in the seventh line, "distribution" was misspelled.
5. On page 214, in the first column, in the first line, "24" should read "25".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY-930-4214-10; WYW 123105]

Proposed Withdrawal and Public Meeting; Wyoming

Correction

In notice document 92-1158, appearing on page 1924, in the issue of Thursday, January 16, 1992, make the following corrections:

1. In the second column, in the land description, under Sec. 21, "W½SE¼" should read "W½SW¼".
2. In the third column, in the seventh paragraph, in the last line, insert "the" before "area".

BILLING CODE 1505-01-D

federal register

Tuesday
February 4, 1992

Part II

Department of the Treasury

Internal Revenue Service

26 CFR Parts 20, 25 and 301

Special Valuation Rules; Final Regulations and Proposed Rule

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 20, 25 and 301

[T.D. 8395]

RIN 1545–AP44

Special Valuation Rules

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to chapter 14 of the Internal Revenue Code as enacted in the Omnibus Budget Reconciliation Act of 1990, Public Law 101–508, 104 Stat. 1388. These regulations provide special valuation rules for purposes of the Federal estate and gift taxes imposed under chapters 1 and 12 of the Code. In addition these regulations provide rules involving lapsing rights and other transactions that are treated as completed transfers under chapter 14.

EFFECTIVE DATES: These regulations are effective as of January 28, 1992.

FOR FURTHER INFORMATION CONTACT: Fred E. Grundeman, (202) 535–9512 (not a toll free number).

SUPPLEMENTARY INFORMATION:

A. Paperwork Reduction Act

The collection of information contained in these final regulations have been reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)) under control numbers 1545–1241 and 1545–1273. The estimated average annual burden per recordkeeper is two minutes. The estimated average annual burden per respondent is ten minutes.

These estimates approximate the average time expected to be necessary for the collection of information. They are based upon the information available to the Internal Revenue Service and do not include the estimate of burden that is included in the burden applicable to Forms 706 and 709. Individual respondents and record keepers may require more or less time, depending on their particular circumstances.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, T:FP, Washington, DC 20224, and to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503.

B. Background

April 9, 1991 Proposed Regulations

On April 9, 1991, a Notice of Proposed Rulemaking (PS–92–90 (1991–1 C.B. 998)) relating to the special valuation rules of sections 2701 through 2703 of the Internal Revenue Code was published in the **Federal Register** (56 FR 14321). These sections, along with section 2704, were enacted as chapter 14 of the Code in the Omnibus Budget Reconciliation Act of 1990, Public Law 101–508 (1991–48 I.R.B. 7). The Internal Revenue Service received written comments on the proposed regulations and, on September 20, 1991, held a public hearing on those regulations. After consideration of the comments received and the statements made at the public hearing, the proposed regulations are revised and adopted as final regulations by this Treasury decision.

September 11, 1991 Proposed Regulations

On September 11, 1991, a Notice of Proposed Rulemaking (PS–30–91 (1991–42 I.R.B. 36)) relating to additional special valuation rules under chapter 14 was published in the **Federal Register** (56 FR 46244). This notice proposed rules, under sections 2701 and 2702 regarding adjustments to mitigate double taxation. Rules under section 2704 of the Internal Revenue Code were also proposed. The Internal Revenue Service received written comments from the public on the proposed regulations and, on November 1, 1991, held a public hearing concerning the regulations. After consideration of the comments received and the statements made at the public hearing, the proposed regulations, other than proposed § 25.2701–5 (relating to adjustments to mitigate double taxation), are revised and adopted as final regulations by this Treasury decision. An amendment to proposed § 25.2701–5 is proposed by a Notice of Proposed Rulemaking published elsewhere in this issue of the **Federal Register**.

The following discusses the more significant comments received on the proposed regulations and the reasons for accepting or rejecting those comments in the final regulations.

C. Section 2701

Scope of Section 2701

Several commentators urged that the definition of "transfer" should be restricted. In response to this comment, the final regulations clarify the situations in which a "capital structure transaction" will be treated as a transfer subject to section 2701. Generally, if an individual receives an applicable retained interest in connection with a redemption, recapitalization, or other change in the capital structure of an entity, the transaction is subject to section 2701 if the other conditions of that section are met. In addition, if an individual holding an applicable retained interest surrenders a senior equity interest in a corporation or partnership and the fair market value of an applicable retained interest already held by that individual increases, the transaction is potentially subject to section 2701. Similarly, if an individual surrenders a junior equity interest while a member of the individual's family holds a junior equity interest, and the individual or an applicable family member simultaneously holds an applicable retained interest, the transaction is potentially subject to section 2701.

The final regulations also clarify the application of section 2701 to the termination of an interest held indirectly through a trust. As proposed, the rule could unfairly subject an individual to section 2701. The final regulations narrow the application of the rule to circumstances where (1) the indirectly-held property would have been includible in the gross estate of the individual if the individual had died at the time of the termination, or (2) the indirectly-held property is in a trust as to which the individual is considered the owner under the grantor trust rules. See sections 671 through 678.

The final regulations provide that in determining whether a class of interest is proportional to another class, differences between classes attributable to non-lapsing provisions necessary to comply with partnership allocation requirements of the Internal Revenue Code (*e.g.*, section 704(b)) are treated as nonlapsing differences with respect to limitations on liability.

In response to comments regarding the exception for proportionate transfers in § 25.2701–1(c)(4), the final regulations provide that the exception is available to the extent the transfer results in the required proportionate reduction in the holdings of the transferor and applicable family members. The final regulations clarify that this exception applies only with respect to a transfer by a single individual.

Valuation of Applicable Retained Interests

The final regulations clarify that, for purposes of section 2701, a payment that is contingent as to time or amount is not a guaranteed payment of a fixed amount.

The final regulations adopt the recommendation of one commentator that a right to receive a specific amount payable at death should qualify as a mandatory payment right.

Responding to several comments, the final regulations clarify that voting rights that confer an ability to compel liquidation are not valued at zero but instead are valued without regard to the ability to compel liquidation or, if the holder's rights are valued under the "lower of" valuation rule, in a manner consistent with the assumptions of that rule.

Several commentators suggested that partial elections be allowed under § 25.2701–2(c)(2). The final regulations adopt this suggestion.

The Subtraction Method of Valuation

Comments variously suggested that the proposed subtraction method of valuation is too restrictive, acceptable as written, or lacking in necessary specificity.

The valuation of a closely-held business interest is one of the most difficult administrative problems presented by the transfer tax system and courts have varied widely on the applicability of the subtraction method in that process.

Some commentators argue that section 2701 does not require use of a subtraction method. They argue, contrary to the conference report reference to "present law principles," that there are no such present law principles. Other commentators suggest that section 2701 should apply only if (and to the extent) a subtraction method would be appropriate under present law.

These and similar comments are based on the premise that section 2701 operates within the general framework of section 2512 of the Internal Revenue Code, *i.e.*, that the special valuation rules are to be used to determine the value of the transferred property which, in turn, measures the amount of the gift. They ignore the operative language of section 2701 that the amount of the gift is to be determined by valuing certain retained rights under the special rules in section 2701. If use of the subtraction method is not required by section 2701, valuation of retained rights would have no bearing on the amount of the gift. That interpretation would cause section 2701 to be a nullity in that the valuation of retained rights cannot affect the amount of the gift other than by subtraction from a pretransfer aggregate value.

The Treasury Department and the Service do not believe that section 2701 was intended to be a nullity or merely an appendix to section 2512, but rather that chapter 14 provides an independent set of rules intended to ensure more accurate gift tax valuation.

Present gift tax regulations provide a subtraction method for determining the amount of the gift if a donor retains an interest in the transferred property. In such a case, the amount of the gift is the value of the entire property less the value of the donor's retained interest. See § 25.2512–9(a)(1)(i). The proposed regulations paralleled that rule.

Although the Treasury Department and the Service believe that the subtraction method set forth in the April 9, 1991 proposed regulations is the appropriate method for determining the amount of the gift under section 2701, changes have been made, in response to comments, to the specific methodology set forth in the proposed regulations.

The 3-step method of valuation outlined in § 25.2701–3 of the proposed regulations is modified as follows. In Step 1, only the interests held by the individuals whose holdings are taken into account in determining "control" under § 25.2701–2(b)(5) ("family-held interests") are valued. The family-held interests are valued as if held by a single individual. Thus, the final regulations substantially simplify the valuation procedure by eliminating unnecessary valuations with respect to the entire entity and unrelated parties. By providing for a single-shareholder assumption in valuing the family-held interests in Step 1, the final regulations adopt the position of several commentators that the minority discount with respect to the transferred interest is appropriately applied at the end of the section 2701 valuation process rather than at the beginning. Steps 2 and 3 (including the special adjustment in Step 2) remain basically unchanged. However, Step 2 provides a rule that has the effect of allocating any "control premium" reflected in the value determined in Step 1 among the corresponding family-held interests on a pro rata basis. The final regulations add Step 4 to the valuation methodology. In Step 4, adjustments are made to the total amount of the gift to reflect consideration received for the transfer, appropriate discounts, and the value of certain retained interests if the property is transferred in trust. Consistent with the position of the regulations that section 2701 does not affect the value of the transferred property and the legislative history indicating that chapter 4 does not affect minority discounts otherwise available under the law in effect before enactment of chapter 14, any minority discount taken in Step 4 generally is limited to the amount that would have been available under chapter 12 with respect to the transfer if section 2701 had not been applicable.

Minimum Value Rule

The final regulations clarify that, in applying the minimum value rule, the value of any junior equity interest is not less than a pro rata portion of 10 percent of the sum of the value of all equity interests including indebtedness to the transferor and applicable family members determined without regard to guarantees and qualified deferred compensation.

Accumulated Qualified Payments

The final regulations permit a qualified payment to be made in the form of a debt instrument, the term of which does not exceed four years, that bears compound interest at a rate no less than the appropriate discount rate payable from the due date of the qualified payment.

Adjustment to Mitigate Double Taxation

In response to numerous comments, proposed § 25.2701–5 is being substantially modified by a Notice of Proposed Rulemaking published elsewhere in this issue of the **Federal Register**. Rather than provide a credit against the Federal estate tax as contained in the September 11 proposed regulations, the revised proposed regulations provide for a reduction to a decedent's adjusted taxable gifts. In general, the amount of the reduction is the lesser of: (1) The amount by which the transferor's taxable gifts were increased as a result of the application of section 2701, and (2) the increase in the decedent's gross estate (or adjusted taxable gifts) attributable to the portion of the value of the applicable retained interest that was subject to gift tax at the time of the initial transfer. The limitation in the regulation assures that aggregate value includible in the decedent's transfer tax base is the sum of: (1) The value (on the date of the section 2701 transfer) of the family-held applicable retained interests allocable to the transferred subordinate equity interests, and (2) the value (as of the date the interest is subsequently transferred by the transferor) of the transferor's portion of family-held applicable retained interests not previously subject to tax.

Under certain circumstances, the transferor's spouse is treated as the transferor. The reduction is otherwise not assignable or transferable.

Indirect Ownership

Several comments were received regarding the indirect ownership rules in § 25.2701–6. Most of these comments arose from concern over the definition of transfer that included the termination of any indirectly-held interest. The revision to the definition of transfer discussed above generally makes changes to the indirect ownership rules unnecessary. Other suggested changes were rejected because of the additional complexity that would be introduced into these rules.

Effect on Other Internal Revenue Code Sections

Some commentators argued that determining the amount of a gift under section 2701 necessarily affects the results under other provisions of the Internal Revenue Code (such as the determination of basis under section 1015) that are based on the value of the transferred property. As discussed above, the final regulations reject the argument that section 2701 determines the value of the transferred property.

D. Section 2702

Exceptions

The final regulations provide that section 2702 does not apply to the transfer of an interest in trust if the only interest in the trust, other than the remainder interest or a qualified annuity or unitrust interest, is an interest qualifying for the charitable deduction under section 2522 (a charitable lead trust).

Other commentators recommended exceptions for lapses of "Crummey" powers and for certain transfers of annuity or unitrust interests. Those changes are made.

Retained Rights

Several commentators requested that the application of section 2702 to retained powers be clarified. In response, the final regulations provide that an "interest" includes a power if retention of the power prevents the transfer of an interest in property from being a completed gift under chapter 12. Without this rule, section 2702 could be avoided merely by retaining a power over a term income interest rather than the income interest itself.

In response to one comment, the final regulations provide that section 2702 does not apply if the only retained interest is as a permissible recipient of income.

Tangible Property Exception

Several commentators suggested eliminating the evidentiary requirement necessary to qualify for valuation under the special rule for certain tangible property. This change is not made. Without a standard such as that set forth in the proposed regulations (e.g., actual evidence of rentals) against which proffered appraisals can be tested, the likelihood of significant over-valuations is very high. On the other hand, the recommendation that the burden of proof be placed on the transferor rather than the term holder is adopted in the final regulations.

One commentator suggested that depreciable property should qualify for the tangible property exception. This recommendation was not adopted. Generally, the use or non-use of such property during the term would affect the value of the property passing to the remainder beneficiary, and thus, the property would not come within the statutory exception. Congress intended, in enacting this exception, to provide limited relief to a class of property the value of which would not be affected by use or non-use.

As suggested by commentators, the rule regarding valuation of the unexpired portion of a term interest at the time of a conversion is expanded and clarified.

One commentator requested that the regulations permit a term interest in property that ceases to qualify for the tangible property exception to be converted to a qualified unitrust interest rather than a qualified annuity interest. This is not done, primarily because of the complexity involved in determining the appropriate amount of the unitrust payment.

In response to one comment, the final regulations clarify that the date on which tangible property is deemed to be converted as the result of an addition or improvement is the date on which the addition or improvement is commenced.

Qualified Interests

The final regulations clarify that a cumulative power of withdrawal does not meet the requirements of a qualified interest. Congress clearly intended that retained interests that are given value at the time of the transfer must reflect amounts that will actually be paid to the term holder. Section 2702 could be avoided if powers of withdrawal are considered qualified interests.

In response to comments requesting that increases in the annuity and unitrust amounts be permitted throughout the term, the final regulations provide flexibility to taxpayers by permitting the annuity or unitrust amount to be 120 percent of the annuity or unitrust amount paid for the preceding year. The proposed regulations prohibited increases to prevent transferors from "zeroing out" a gift while still effectively transferring the appreciation on all the property during the term to the remainder beneficiary, (*e.g.*, by providing for a balloon payment in the final year of the term). The Treasury Department and the Service believe that such a result would be inconsistent with the principles of section 2702. The final regulations, with minimal complexity, strike a balance between the government's policy concerns and taxpayers' desire for planning flexibility.

In response to a comment, the final regulations permit the payment of the greater (but not the lesser) of an annuity or unitrust amount. In that case, the retained interest is valued at the higher of the values of the two interests.

Commentators suggested allowing additional contributions to a trust from which a qualified annuity interest is payable. This is not done. Without this prohibition, additional contributions would arguably pass to the remainder beneficiary under certain circumstances without appropriate transfer taxes being paid.

Commentators suggested that commutation of qualified interests be permitted. This change is not made. Commutation (*i.e.*, the prepayment of the term holder's interest) shifts the risk of a decline in interest rates from the remainder beneficiaries to the term holder. Therefore, a commuted term interest may not ultimately yield the same value to the term holder as the annuity or unitrust interest originally retained by the transferor. Congress intended in enacting section 2702, that a term interest would be valued at an amount greater than zero, only if the form of the term interest insures that the holder actually receives the value attributed to the interest. Allowing commutation would be inconsistent with this intent.

Joint Purchases

In response to another comment, the limit on the amount the term holder is considered to transfer in a joint purchase is clarified.

Personal Residence Trusts

The final regulations adopt the suggestion of commentators that an individual be permitted in certain circumstances to hold term interests in more than two personal residence trusts (or qualified personal residence trusts).

The final regulations make no changes in the definition of personal residence. Since the transfer in trust of a personal residence arguably presents the same opportunity for valuation abuse that Congress sought to prevent by enactment of section 2702, the Treasury Department and the Service believe that Congress intended the personal residence exception to be a narrow exception to enable transferors to pass the family home, whether the principal residence or a vacation home, to younger members of the family. Therefore, the most recent Congressional statutory expression of what constitutes a personal residence, as found in section 163(h), is most pertinent in this situation. That provision defines personal residence as the principal residence and one other residence.

The final regulations address the concern of one commentator by permitting a single trust to be used to hold the interests of both spouses in a personal residence under certain circumstances.

The final regulations permit personal residence trusts to hold (for two years) proceeds payable as a result of damage, destruction or involuntary conversion of the personal residence. However, consistent with the explicit statutory language requiring that the only property in the trust be a residence, the final regulations continue to prohibit the holding of any other assets by the trust, including proceeds from the sale of the personal residence.

Qualified Personal Residence Trusts

Because of the restrictive statutory limitations on a personal residence trust, the safe harbor for a qualified personal residence trust is retained with slight modifications.

The final regulations clarify that a qualified personal residence trust must distribute any income to the term holder not less frequently than annually.

Commentators generally proposed that the regulations explicitly permit certain actions during the term of the trust. These comments were not adopted because the regulations are intended only to set out governing instrument requirements. The suggestion of one commentator that, upon termination of the term interest, any cash in the trust be permitted to be used to pay unpaid expenses and termination expenses, was adopted.

The final regulations revise the provisions concerning cessation of use of the residence as a personal residence in several respects. First, the governing instrument must require either that the trust be terminated (and all trust assets distributed to the term holder) or that the term interest be converted to a qualified annuity interest. The trustee may be given the sole discretion to select between those two options. Under the final regulations, the distribution or conversion must occur within 30 days of the date on which the trust ceases to be a qualified personal residence trust. The final regulations also permit excess sale proceeds not reinvested in a new personal residence to be converted to a qualified annuity interest.

Finally, one commentator requested that, upon cessation of use as a personal residence, the interest of the term holder be permitted to convert to a qualified unitrust interest. This is not done because of the complexity in determining the appropriate unitrust amount.

Adjustment to Mitigate Double Taxation

Comments were received suggesting that adjustments be permitted in situations not covered by the proposed regulations. None of these proposed changes are included in the final regulations. Section 2702 does not require an adjustment to mitigate double taxation. The final regulations intend relief only if the retained interest itself is taxed in a transfer subsequent to the original transfer to which section 2702 applied.

The final regulations provide that a reduction in adjusted taxable gifts is available if a term interest is included in the transferor's gross estate solely by reason of section 2033.

In response to one comment, the final regulations clarify the interaction of § 25.2702-6 and section 2001.

E. Section 2703

Exceptions

The final regulations provide that perpetual restrictions on the use of real property that qualified for either the gift or estate tax charitable deduction are not subject to section 2703. The specific reference to section 170(h) is deleted.

As suggested by several commentators, the final regulations expand the exception in the proposed regulations for rights and restrictions among unrelated parties. The final regulations provide that a right or restriction is not disregarded if more than 50 percent by value of the property subject to the right or restriction is owned by persons who are not family members of the transferor. "Member of the family" is defined by cross-reference to § 25.2701-2(b)(5) and also includes any other individual who is the natural object of the transferor's bounty.

One comment asked that the final regulations specifically state that a right of first refusal among family member co-owners of a business is never disregarded if the right can be exercised only by matching the price offered by an outside purchaser. The Treasury Department and the Service do not believe that every such restriction necessarily meets the tests of section 2703.

Substantial Modification

The final regulations clarify when a transfer to a family member of an interest in property that is subject to a right or restriction is a substantial modification of the right or restriction. The final regulations provide that the addition of a family member in a generation no lower than the lowest generation occupied by persons already party to the right or restriction is not a substantial modification.

Other Issues

One commentator requested that the final regulations define the term "natural objects of the bounty." The final regulations do not provide a definition of this term. This concept has long been part of the transfer tax system and cannot be reduced to a simple formula or specific classes of relationship. The class of persons who may be the objects of an individual's bounty is not necessarily limited to persons related by blood or marriage.

In response to a comment, the final regulations clarify that if property is subject to multiple rights or restrictions, each separate right or restriction is tested independently. Whether separate provisions constitute separate rights or restrictions or are integral elements of a single right or restriction depends on the facts and circumstances in the particular case.

An example is added to the final regulations to clarify that a lease is a right or restriction with respect to the use of property that is disregarded in certain circumstances.

F. Section 2704

Lapsing Rights

One set of comments was received regarding section 2704. The commentator argued that applying section 2704(a) to a transfer of a voting interest that results in the termination of a liquidation right with respect to an interest other than the transferred interest was inappropriate in some cases. In response to that comment, the final regulations limit the scope of the rule to situations where the transferred interest is senior to the interest as to which the liquidation right terminates.

The final regulations clarify the exception for the lapse of liquidation rights valued under section 2701 is provided to mitigate double taxation.

As suggested by the commentator, the final regulations provide that a lapse of a liquidation right that occurs solely by reason of a change in State law is not treated as a lapse subject to section 2704(a). A recommendation that the final regulations create an exception for any lapse occurring by reason of State law is not adopted because shareholders or partners are free to alter the rules otherwise applicable under State law.

Applicable Restrictions

The final regulations expand the exception for certain commercially reasonable restrictions on liquidation imposed with respect to debt to include certain commercially reasonable restrictions on liquidation imposed in connection with the issuance of equity.

The commentator suggested that the ability to liquidate be determined under State law without regard to any provisions in the governing instrument regarding liquidation (whether or not the provisions would be more restrictive than the State law that would otherwise apply). Adopting that rule would be inconsistent with the purpose of section 2704(b) which is intended to determine the value of property by reference to actual ability to liquidate without regard to restrictions that will lapse or can be removed.

Special Analyses

These rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. Although this Treasury decision was preceded by a notice of proposed rulemaking that solicited public comments, the notice was not required by 5 U.S.C. 553 since the regulations proposed in that notice and adopted by this Treasury decision are interpretative. Therefore, a final Regulatory Flexibility Analysis is not required by the Regulatory Flexibility Act (5 U.S.C. chapter 6). Pursuant to section 7805(f) of the Internal Revenue Code, the proposed regulations were sent to the Chief Counsel for Advocacy for Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Fred E. Grundeman, Office of Chief Counsel, Internal Revenue Service. Other personnel from the Internal Revenue Service and Treasury Department participated in their development.

List of Subjects

26 CFR Part 20

Estate taxes, Reporting and recordkeeping requirements.

26 CFR Part 25

Gift taxes, Reporting and recordkeeping requirements.

26 CFR Part 301

Administrative practice and procedure, Alimony, Bankruptcy, Child support, Continental shelf, Courts, Crime, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Investigations, Law enforcement, Oil pollution, Penalties, Pensions, Reporting and recordkeeping requirements, Statistics, Taxes.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 20, 25 and 301 are amended as follows:

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

Paragraph 1. The authority citation for part 20 continues to read, in part:

Authority: Sec. 7805, 68A Stat. 917; 26 U.S.C. 7805 * * *

Par. 2. Section 20.0–2 is amended by removing the last sentence in paragraph (b)(5) and adding the following in its place:

§ 20.0–2 General description of tax.

* * * * *

(b) * * *

(5) * * * Sections 25.2701–5 and 25.2702–6 of this chapter contain rules that provide additional adjustments to mitigate double taxation in cases where the amount of the decedent's gift was previously determined under the special valuation provisions of sections 2701 and 2702. For a detailed explanation of the credits against tax, see sections 2011 through 2016 and the regulations thereunder.

* * * * *

Par. 3. Section 20.2031–2 is amended by adding a sentence to the end of paragraph (h) and adding a new paragraph (j) to read as follows:

§ 20.2031–2 Valuation of stocks and bonds.

* * * * *

(h) * * * See section 2703 and the regulations at § 25.2703 of this chapter for special rules involving options and agreements (including contracts to purchase) entered into (or substantially modified after) October 8, 1990.

* * * * *

(j) *Application of chapter 14.* See section 2701 and the regulations at § 25.2701 of this chapter for special rules for valuing the transfer of an interest in a corporation and for the treatment of unpaid qualified payments at the death of the transferor or an applicable family member. See section 2704(b) and the regulations at § 25.2704–2 of this chapter for special valuation rules involving certain restrictions on liquidation rights created after October 8, 1990.

Par. 4. Section 20.2031–3 is amended by adding three new sentences to the end to read as follows:

§ 20.2031–3 Valuation of interests in businesses.

* * * * *

* * * See section 2701 and the regulations at § 25.2701 of this chapter for special rules for valuing the transfer of an interest in a partnership and for the treatment of unpaid qualified payments at the death of the transferor or an applicable family member. See section 2703 and the regulations at § 25.2703 of this chapter for special rules involving options and agreements (including contracts to purchase) entered into (or substantially modified after) October 8, 1990. See section 2704(b) and the regulations at § 25.2704–2 of this chapter for special valuation rules involving certain restrictions on liquidation rights created after October 8, 1990.

PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

Par. 5. The authority for part 25 continues to read, in part:

Authority: Sec. 7805, 68A Stat. 917; 26 U.S.C. 7805 * * *

Par. 6. Section 25.0–1 is amended by adding a new sentence to the end of paragraph (c)(1) and by revising paragraph (c)(2) to read as follows:

§ 25.0–1 Introduction.

* * * * *

(c) * * *

(1) * * * Sections 25.2701–5 and 25.2702–6 contain rules that provide additional adjustments to mitigate double taxation where the amount of the transferor's property was previously determined under the special valuation provisions of sections 2701 and 2702.

(2) *Transfer.* Subchapter B of chapter 12 and chapter 14 of the Internal Revenue Code pertain to the transfers which constitute the making of gifts and the valuation of those transfers. The regulations pursuant to subchapter B are set forth in §§ 25.2511–1 through 25.2518–3. The regulations pursuant to

chapter 14 are set forth in §§ 25.2701-1 through 25.2704-3.

* * * * *

Par. 7. Section 25.2502-1 is amended by adding a new sentence to the end of paragraph (a)(3) to read as follows:

§ 25.2502-1 Rate of Tax.

(a) * * *

(3) * * * See § 25.2702-6 for an adjustment to the total amount of an individual's taxable gifts where the individual's current taxable gifts include the transfer of certain interests in trust that were previously valued under the provisions of section 2702.

* * * * *

Par. 8. Section 25.2512-1 is amended by adding two new sentences to the end to read as follows:

§ 25.2512-1 Valuation of property; in general.

* * * See section 2701 and the regulations at § 25.2701 for special rules for valuing transfers of an interest in a corporation or a partnership and for the treatment of unpaid qualified payments at the subsequent transfer of an applicable retained interest by the transferor or by an applicable family member. See section 2704(b) and the regulations at § 25.2704-2 for special valuation rules where an interest in property is subject to an applicable restriction.

Par. 9. Section 25.2512-5 is amended by adding a new sentence to paragraph (a)(1)(i) immediately after the sixth sentence to read as follows:

§ 25.2512-5 Valuation of annuities, life estates, terms for years, remainders, and reversions transferred after November 30, 1983.

(a) *In general.* (1)(i) * * * See section 2702 and the regulations at § 25.2702 for special rules for valuing transfers of interests in trust after October 8, 1990. * * *

Par. 10. Section 25.2512-8 is amended by adding a sentence to the end to read as follows:

§ 25.2512-8 Transfers for insufficient consideration.

* * * See also sections 2701, 2702, 2703 and 2704 and the regulations at §§ 25.2701-0 through 25.2704-3 for special rules for valuing transfers of business interests, transfers in trust, and transfers pursuant to options and purchase agreements.

Par. 11. A new undesignated centerheading and new §§ 25.2701-0 through 25.2701-8, 25.2702-0 through 25.2702-7, 25.2703-1 and 25.2703-2, and 25.2704-1 through 25.2704-3 are added to read as follows:

Special Valuation Rules

§ 25.2701-0 Table of contents.

This section lists the major paragraphs contained in §§ 25.2701-1 through 25.2701-8.

§ 25.2701-1 Special valuation rules in the case of transfers of certain interests in corporations and partnerships.

(a) In general.
(1) Scope of section 2701.
(2) Effect of section 2701.
(3) Example.
(b) Transfers and other triggering events.
(1) Completed transfers.
(2) Transactions treated as transfers.
(3) Excluded transactions.
(c) Circumstances in which section 2701 does not apply.
(1) Marketable transferred interests.
(2) Marketable retained interests.
(3) Interests of the same class.
(4) Proportionate transfers.
(d) Family definitions.
(1) Member of the family.
(2) Applicable family member.
(3) Relationship by adoption.
(e) Examples.

§ 25.2701-2 Special valuation rules for applicable retained interests.

(a) In general.
(1) Valuing an extraordinary payment right.
(2) Valuing a distribution right.
(3) Special rule for valuing a qualified payment right held in conjunction with an extraordinary payment right.
(4) Valuing other rights.
(5) Example.
(b) Definitions.
(1) Applicable retained interest.
(2) Extraordinary payment right.
(3) Distribution right.
(4) Rights that are not extraordinary payment rights or distribution rights.
(5) Controlled entity.
(6) Qualified payment right.
(c) Qualified payment elections.
(1) Election to treat a qualified payment right as other than a qualified payment right.
(2) Election to treat other distribution rights as qualified payment rights.
(3) Elections irrevocable.
(4) Treatment of certain payments to applicable family members.
(5) Time and manner of elections.
(d) Examples.

§ 25.2701-3 Determination of amount of gift.

(a) Overview.
(1) In general.
(2) Definitions.
(b) Valuation methodology.
(1) Step 1—Valuation of family-held interests.
(2) Step 2—Subtract the value of senior equity interests.
(3) Step 3—Allocate the remaining value among the transferred interests and other family-held subordinate equity interests.
(4) Step 4—Determine the amount of the gift.
(5) Adjustment in Step 2.
(c) Minimum value rule.
(1) In general.
(2) Junior equity interest.
(3) Indebtedness.
(d) Examples.

§ 25.2701-4 Accumulated qualified payments.

(a) In general.
(b) Taxable event.
(1) In general.
(2) Exception.
(3) Individual treated as interest holder.
(c) Amount of increase.
(1) In general.
(2) Due date of qualified payments.
(3) Appropriate discount rate.
(4) Application of payments.
(5) Payment.
(6) Limitation.
(d) Taxpayer election.
(1) In general.
(2) Limitation not applicable.
(3) Time and manner of election.
(4) Example.

§ 25.2701-5 Adjustments to mitigate double taxation.

[Reserved].

§ 25.2701-6 Indirect holding of interests.

(a) In general.
(1) Attribution to individuals.
(2) Corporations.
(3) Partnerships.
(4) Estates, trusts, and other entities.
(5) Multiple attribution.
(b) Examples.

§ 25.2701-7 Separate interests.

§ 25.2701-8 Effective dates.

§ 25.2701-1 Special valuation rules in the case of transfers of certain interests in corporations and partnerships.

(a) *In general*—(1) *Scope of section 2701.* Section 2701 provides special valuation rules to determine the amount of the gift when an individual transfers an equity interest in a corporation or partnership to a member of the individual's family. For section 2701 to apply, the transferor or an applicable family member (as defined in paragraph (d)(2) of this section) must, immediately after the transfer, hold an applicable retained interest (a type of equity interest defined in § 25.2701-2(b)(1)). If certain subsequent payments with respect to the applicable retained interest do not conform to the assumptions used in valuing the interest at the time of the initial transfer, § 25.2701-4 provides a special rule to increase the individual's later taxable gifts or taxable estate.

(2) *Effect of section 2701.* If section 2701 applies to a transfer, the amount of the transferor's gift, if any, is determined using a subtraction method of valuation (described in § 25.2701-3). Under this

method, the amount of the gift is determined by subtracting the value of any family-held applicable retained interests and other non-transferred equity interests from the aggregate value of family-held interests in the corporation or partnership (the "entity"). Generally, in determining the value of any applicable retained interest held by the transferor or an applicable family member—

(i) Any put, call, or conversion right, any right to compel liquidation, or any similar right is valued at zero if the right is an "extraordinary payment right" (as defined in § 25.2701–2(b)(2));

(ii) Any distribution right in a controlled entity (*e.g.*, a right to receive dividends) is valued at zero unless the right is a "qualified payment right" (as defined in § 25.2701–2(b)(6)); and

(iii) Any other right (including a qualified payment right) is valued as if any right valued at zero did not exist but otherwise without regard to section 2701.

(3) *Example.* The following example illustrates rules of this paragraph (a).

Example. A, an individual, holds all the outstanding stock of S Corporation. A exchanges A's shares in S for 100 shares of 10-percent cumulative preferred stock and 100 shares of voting common stock. A transfers the common stock to A's child. Section 2701 applies to the transfer because A has transferred an equity interest (the common stock) to a member of A's family, and immediately thereafter holds an applicable retained interest (the preferred stock). A's preferred stock is valued under the rules of section 2701. A's gift is determined under the subtraction method by subtracting the value of A's preferred stock from the value of A's interest in S immediately prior to the transfer.

(b) *Transfers and other triggering events*—(1) *Completed transfers.* Section 2701 applies to determine the existence and amount of any gift, whether or not the transfer would otherwise be a taxable gift under chapter 12 of the Internal Revenue Code. For example, section 2701 applies to a transfer that would not otherwise be a gift under chapter 12 because it was a transfer for full and adequate consideration.

(2) *Transactions treated as transfers*—(i) *In general.* Except as provided in paragraph (b)(3) of this section, for purposes of section 2701, transfer includes the following transactions:

(A) A contribution to the capital of a new or existing entity;

(B) A redemption, recapitalization, or other change in the capital structure of an entity (a "capital structure transaction"), if—

(*1*) The transferor or an applicable family member receives an applicable retained interest in the capital structure transaction;

(*2*) The transferor or an applicable family member holding an applicable retained interest before the capital structure transaction surrenders an equity interest that is junior to the applicable retained interest (a "subordinate interest") and receives property other than an applicable retained interest; or

(*3*) The transferor or an applicable family member holding an applicable retained interest before the capital structure transaction surrenders an equity interest in the entity (other than a subordinate interest) and the fair market value of the applicable retained interest is increased; or

(C) The termination of an indirect holding in an entity (as defined in § 25.2701–6), if—

(*1*) The property is held in a trust as to which the indirect holder is treated as the owner under subchapter J of chapter 1 of the Internal Revenue Code; or

(*2*) If the termination is not treated as a transfer under paragraph (b)(2)(i)(C)(*1*) of this section, to the extent the value of the indirectly-held interest would have been included in the value of the indirect holder's gross estate for Federal estate tax purposes if the indirect holder died immediately prior to the termination.

(ii) *Multiple attribution.* For purposes of paragraph (b)(2)(i)(C) of this section, if the termination of an indirect holding in property is treated as a transfer with respect to more than one indirect holder, the transfer is attributed in the following order:

(A) First, to the indirect holder(s) who transferred the interest to the entity (without regard to section 2513);

(B) Second, to the indirect holder(s) possessing a presently exercisable power to designate the person who shall possess or enjoy the property;

(C) Third, to the indirect holder(s) presently entitled to receive the income from the interest;

(D) Fourth, to the indirect holder(s) specifically entitled to receive the interest at a future date; and

(E) Last to any other indirect holder(s) proportionally.

(3) *Excluded transactions.* For purposes of section 2701, a transfer does not include the following transactions:

(i) A capital structure transaction, if the transferor, each applicable family member, and each member of the transferor's family holds substantially the same interest after the transaction as that individual held before the transaction. For this purpose, common stock with non-lapsing voting rights and nonvoting common stock are interests that are substantially the same;

(ii) A shift of rights occurring upon the execution of a qualified disclaimer described in section 2518; and

(iii) A shift of rights occurring upon the release, exercise, or lapse of a power of appointment other than a general power of appointment described in section 2514, except to the extent the release, exercise, or lapse would otherwise be a transfer under chapter 12,

(c) *Circumstances in which section 2701 does not apply.* To the extent provided, section 2701 does not apply in the following cases:

(1) *Marketable transferred interests.* Section 2701 does not apply if there are readily available market quotations on an established securities market for the value of the transferred interests.

(2) *Marketable retained interests.* Section 25.2701–2 does not apply to any applicable retained interest if there are readily available market quotations on an established securities market for the value of the applicable retained interests.

(3) *Interests of the same class.* Section 2701 does not apply if the retained interest is of the same class of equity as the transferred interest or if the retained interest is of a class that is proportional to the class of the transferred interest. A class is proportional to the class of the transferred interest if the rights are identical or proportional to the rights of the transferred interest, except for non-lapsing differences in voting rights (or, for a partnership, non-lapsing differences with respect to management and limitations on liability). For purposes of this section, non-lapsing provisions necessary to comply with partnership allocation requirements of the Internal Revenue Code (*e.g.*, section 704(b)) are non-lapsing differences with respect to limitations on liability. A right that lapses by reason of Federal or State law is treated as a non-lapsing right unless the Secretary determines, by regulation or by published revenue ruling, that it is necessary to treat such a right as a lapsing right to accomplish the purposes of section 2701. An interest in a partnership is not an interest in the same class as the transferred interest if the transferor or applicable family members have the right to alter the liability of the transferee.

(4) *Proportionate transfers.* Section 2701 does not apply to a transfer by an individual of equity interests to the extent the transfer by that individual results in a proportionate reduction of each class of equity interest held by the individual and all applicable family

members in the aggregate immediately before the transfer. Thus, for example, section 2701 does not apply if P owns 50 percent of each class of equity interest in a corporation and transfers a portion of each class to P's child in a manner that reduces each interest held by P and any applicable family members, in the aggregate, by 10 percent even if the transfer does not proportionately reduce P's interest in each class. See § 25.2701-6 regarding indirect holding of interests.

(d) *Family definitions*—(1) *Member of the family.* A member of the family is, with respect to any transferor—

(i) The transferor's spouse;

(ii) Any lineal descendant of the transferor or the transferor's spouse; and

(iii) The spouse of any such lineal descendant.

(2) *Applicable family member.* An applicable family member is, with respect to any transferor—

(i) The transferor's spouse;

(ii) Any ancestor of the transferor or the transferor's spouse; and

(iii) The spouse of any such ancestor.

(3) *Relationship by adoption.* For purposes of section 2701, any relationship by legal adoption is the same as a relationship by blood.

(e) *Examples.* The following examples illustrate provisions of this section:

Example 1. P, an individual, holds all the outstanding stock of X Corporation. Assume the fair market value of P's interest in X immediately prior to the transfer is $1.5 million. X is recapitalized so that P holds 1,000 shares of $1,000 par value preferred stock bearing an annual cumulative dividend of $100 per share (the aggregate fair market value of which is assumed to be $1 million) and 1,000 shares of voting common stock. P transfers the common stock to P's child. Section 2701 applies to the transfer because P has transferred an equity interest (the common stock) to a member of P's family and immediately thereafter holds an applicable retained interest (the preferred stock). P's right to receive annual cumulative dividends is a qualified payment right and is valued for purposes of section 2701 at its fair market value of $1,000,000. The amount of P's gift, determined using the subtraction method of § 25.2701-3, is $500,000 ($1,500,000 minus $1,000,000).

Example 2. The facts are the same as in *Example 1,* except that the preferred dividend right is noncumulative. Under § 25.2701-2, P's preferred dividend right is valued at zero because it is a distribution right in a controlled entity, but is not a qualified payment right. All of P's other rights in the preferred stock are valued as if P's dividend right does not exist but otherwise without regard to section 2701. The amount of P's gift, determined using the subtraction method, is $1,500,000 ($1,500,000 minus $0). P may elect, however, to treat the dividend right as a qualified payment right as provided in § 25.2701-2(c)(2).

§ 25.2701-2 Special valuation rules for applicable retained interests.

(a) *In general.* In determining the amount of a gift under § 25.2701-3, the value of any applicable retained interest (as defined in paragraph (b)(1) of this section) held by the transferor or by an applicable family member is determined using the rules of chapter 12, with the modifications prescribed by this section. See § 25.2701-6 regarding the indirect holding of interests.

(1) *Valuing an extraordinary payment right.* Any extraordinary payment right (as defined in paragraph (b)(2) of this section) is valued at zero.

(2) *Valuing a distribution right.* Any distribution right (as defined in paragraph (b)(3) of this section) in a controlled entity is valued at zero, unless it is a qualified payment right (as defined in paragraph (b)(6) of this section). Controlled entity is defined in paragraph (b)(5) of this section.

(3) *Special rule for valuing a qualified payment right held in conjunction with an extraordinary payment right.* If an applicable retained interest confers a qualified payment right and one or more extraordinary payment rights, the value of all these rights is determined by assuming that each extraordinary payment right is exercised in a manner that results in the lowest total value being determined for all the rights, using a consistent set of assumptions and giving due regard to the entity's net worth, prospective earning power, and other relevant factors (the "lower of" valuation rule). See §§ 20.2031-2(f) and 20.2031-3 for rules relating to the valuation of business interests generally.

(4) *Valuing other rights.* Any other right (including a qualified payment right not subject to the prior paragraph) is valued as if any right valued at zero does not exist and as if any right valued under the lower of rule is exercised in a manner consistent with the assumptions of that rule but otherwise without regard to section 2701. Thus, if an applicable retained interest carries no rights that are valued at zero or under the lower of rule, the value of the interest for purposes of section 2701 is its fair market value.

(5) *Example.* The following example illustrates rules of this paragraph (a).

Example. P, an individual, holds all 1,000 shares of X Corporation's $1,000 par value preferred stock bearing an annual cumulative dividend of $100 per share and holds all 1,000 shares of X's voting common stock. P has the right to put all the preferred stock to X at any time for $900,000. P transfers the common stock to P's child and immediately thereafter holds the preferred stock. Assume that at the time of the transfer, the fair market value of X is $1,500,000, and the fair market value of P's annual cumulative dividend right is $1,000,000. Because the preferred stock confers both an extraordinary payment right (the put right) and a qualified payment right (*i.e.,* the right to receive cumulative dividends), the lower of rule applies and the value of these rights is determined as if the put right will be exercised in a manner that results in the lowest total value being determined for the rights (in this case, by assuming that the put will be exercised immediately). The value of P's preferred stock is $900,000 (the lower of $1,000,000 or $900,000). The amount of the gift is $600,000 ($1,500,000 minus $900,000).

(b) *Definitions*—(1) *Applicable retained interest.* An applicable retained interest is any equity interest in a corporation or partnership with respect to which there is either—

(i) An extraordinary payment right (as defined in paragraph (b)(2) of this section), or

(ii) In the case of a controlled entity (as defined in paragraph (b)(5) of this section), a distribution right (as defined in paragraph (b)(3) of this section).

(2) *Extraordinary payment right.* Except as provided in paragraph (b)(4) of this section, an extraordinary payment right is any put, call, or conversion right, any right to compel liquidation, or any similar right, the exercise or nonexercise of which affects the value of the transferred interest. A call right includes any warrant, option, or other right to acquire one or more equity interests.

(3) *Distribution right.* A distribution right is the right to receive distributions with respect to an equity interest. A distribution right does not include—

(i) Any right to receive distributions with respect to an interest that is of the same class as, or a class that is subordinate to, the transferred interest;

(ii) Any extraordinary payment right; or

(iii) Any right described in paragraph (b)(4) of this section.

(4) *Rights that are not extraordinary payment rights or distribution rights.* Mandatory payment rights, liquidation participation rights, rights to guaranteed payments of a fixed amount under section 707(c), and non-lapsing conversion rights are neither extraordinary payment rights nor distribution rights.

(i) *Mandatory payment right.* A mandatory payment right is a right to receive a payment required to be made at a specific time for a specific amount. For example, a mandatory redemption right in preferred stock requiring that the stock be redeemed at its fixed par value on a date certain is a mandatory payment right and therefore not an extraordinary payment right or a distribution right. A right to receive a specific amount on the death of the holder is a mandatory payment right.

(ii) *Liquidation participation rights.* A liquidation participation right is a right to participate in a liquidating distribution. If the transferor, members of the transferor's family, or applicable family members have the ability to compel liquidation, the liquidation participation right is valued as if the ability to compel liquidation—

(A) Did not exist, or

(B) If the lower of rule applies, is exercised in a manner that is consistent with that rule.

(iii) *Right to a guaranteed payment of a fixed amount under section 707(c).* The right to a guaranteed payment of a fixed amount under section 707(c) is the right to a guaranteed payment (within the meaning of section 707(c)) the amount of which is determined at a fixed rate (including a rate that bears a fixed relationship to a specified market interest rate). A payment that is contingent as to time or amount is not a guaranteed payment of a fixed amount.

(iv) *Non-lapsing conversion right*—(A) *Corporations.* A non-lapsing conversion right, in the case of a corporation, is a non-lapsing right to convert an equity interest in a corporation into a fixed number or a fixed percentage of shares of the same class as the transferred interest (or into an interest that would be of the same class but for non-lapsing differences in voting rights), that is subject to proportionate adjustments for changes in the equity ownership of the corporation and to adjustments similar to those provided in section 2701(d) for unpaid payments.

(B) *Partnerships.* A non-lapsing conversion right, in the case of a partnership, is a non-lapsing right to convert an equity interest in a partnership into a specified interest (other than an interest represented by a fixed dollar amount) of the same class as the transferred interest (or into an interest that would be of the same class but for non-lapsing differences in management rights or limitations on liability) that is subject to proportionate adjustments for changes in the equity ownership of the partnership and to adjustments similar to those provided in section 2701(d) for unpaid payments.

(C) *Proportionate adjustments in equity ownership.* For purposes of this paragraph (b)(4), an equity interest is subject to proportionate adjustments for changes in equity ownership if, in the case of a corporation, proportionate adjustments are required to be made for splits, combinations, reclassifications, and similar changes in capital stock, or, in the case of a partnership, the equity interest is protected from dilution resulting from changes in the partnership structure.

(D) *Adjustments for unpaid payments.* For purposes of this paragraph (b)(4), an equity interest is subject to adjustments similar to those provided in section 2701(d) if it provides for—

(*1*) Cumulative payments;

(*2*) Compounding of any unpaid payments at the rate specified in § 25.2701–4(c)(2); and

(*3*) Adjustment of the number or percentage of shares or the size of the interest into which it is convertible to take account of accumulated but unpaid payments.

(5) *Controlled entity*—(i) *In general.* For purposes of section 2701, a controlled entity is a corporation or partnership controlled, immediately before a transfer, by the transferor, applicable family members, and any lineal descendants of the parents of the transferor or the transferor's spouse. See § 25.2701–6 regarding indirect holding of interests.

(ii) *Corporations*—(A) *In general.* In the case of a corporation, control means the holding of at least 50 percent of the total voting power or total fair market value of the equity interests in the corporation.

(B) *Voting rights.* Equity interests that carry no right to vote other than on liquidation, merger, or a similar event are not considered to have voting rights for purposes of this paragraph (b)(5)(ii). Generally, a voting right is considered held by an individual to the extent that the individual, either alone or in conjunction with any other person, is entitled to exercise (or direct the exercise of) the right. However, if an equity interest carrying voting rights is held in a fiduciary capacity, the voting rights are not considered held by the fiduciary, but instead are considered held by each beneficial owner of the interest and by each individual who is a permissible recipient of the income from the interest. A voting right does not include a right to vote that is subject to a contingency that has not occurred, other than a contingency that is within the control of the individual holding the right.

(iii) *Partnerships.* In the case of any partnership, control means the holding of at least 50 percent of either the capital interest or the profits interest in the partnership. Any right to a guaranteed payment under section 707(c) of a fixed amount is disregarded in making this determination. In addition, in the case of a limited partnership, control means the holding of any equity interest as a general partner. See § 25.2701–2(b)(4)(iii) for the definition of a right to a guaranteed payment of a fixed amount under section 707(c).

(6) *Qualified payment right*—(i) *In general.* A qualified payment right is a right to receive qualified payments. A qualified payment is a distribution that is—

(A) A dividend payable on a periodic basis (at least annually) under any cumulative preferred stock, to the extent such dividend is determined at a fixed rate;

(B) Any other cumulative distribution payable on a periodic basis (at least annually) with respect to an equity interest, to the extent determined at a fixed rate or as a fixed amount; or

(C) Any distribution right for which an election has been made pursuant to paragraph (c)(2) of this section.

(ii) *Fixed rate.* For purposes of this section, a payment rate that bears a fixed relationship to a specified market interest rate is a payment determined at a fixed rate.

(c) *Qualified payment elections*—(1) *Election to treat a qualified payment right as other than a qualified payment right.* Any transferor holding a qualified payment right may elect to treat all rights held by the transferor of the same class as rights that are not qualified payment rights. An election may be a partial election, in which case the election must be exercised with respect to a consistent portion of each payment right in the class as to which the election has been made.

(2) *Election to treat other distribution rights as qualified payment rights.* Any individual may elect to treat a distribution right held by that individual in a controlled entity as a qualified payment right. An election may be a partial election, in which case the election must be exercised with respect to a consistent portion of each payment right in the class as to which the election has been made. An election under this paragraph (c)(2) will not cause the value of the applicable retained interest conferring the distribution right to exceed the fair market value of the applicable retained interest (determined without regard to section 2701). The election is effective only to the extent—

(i) Specified in the election, and

(ii) That the payments elected are permissible under the legal instrument giving rise to the right and are consistent with the legal right of the entity to make the payment.

(3) *Elections irrevocable.* Any election under paragraph (c)(1) or (c)(2) of this section is revocable only with the consent of the Commissioner.

(4) *Treatment of certain payments to applicable family members.* Any payment right described in paragraph (b)(6) of this section held by an applicable family member is treated as a payment right that is not a qualified payment right unless the applicable family member elects (pursuant to paragraph (c)(2) of this section) to treat the payment right as a qualified payment right. An election may be a partial election, in which case the election must be exercised with respect to a consistent portion of each payment right in the class as to which the election has been made.

(5) *Time and manner of elections.* Any election under paragraph (c)(1) or (c)(2) of this section is made by attaching a statement to the Form 709, Federal Gift Tax Return, filed by the transferor on which the transfer is reported. An election filed after the time of the filing of the Form 709 reporting the transfer is not a valid election. An election filed as of April 6, 1992, for transfers made prior to its publication is effective. The statement must—

(i) Set forth the name, address, and taxpayer identification number of the electing individual and of the transferor, if different;

(ii) If the electing individual is not the transferor filing the return, state the relationship between the individual and the transferor;

(iii) Specifically identify the transfer disclosed on the return to which the election applies;

(iv) Describe in detail the distribution right to which the election applies;

(v) State the provision of the regulation under which the election is being made; and

(vi) If the election is being made under paragraph (c)(2) of this section—

(A) State the amounts that the election assumes will be paid, and the times that the election assumes the payments will be made;

(B) Contain a statement, signed by the electing individual, in which the electing individual agrees that—

(*1*) If payments are not made as provided in the election, the individual's subsequent taxable gifts or taxable estate will, upon the occurrence of a taxable event (as defined in § 25.2701-4(b)), be increased by an amount determined under § 25.2701-4(c), and

(*2*) The individual will be personally liable for any increase in tax attributable thereto.

(d) *Examples.* The following examples illustrate provisions of this section:

Example 1. On March 30, 1991, P transfers non-voting common stock of X Corporation to P's child, while retaining $100 par value voting preferred stock bearing a cumulative annual dividend of $10. Immediately before the transfer, P held 100 percent of the stock. Because X is a controlled entity (within the meaning of paragraph (b)(5) of this section), P's dividend right is a distribution right that is subject to section 2701. See § 25.2701-2(b)(3). Because the distribution right is an annual cumulative dividend, it is a qualified payment right. See § 25.2701-2(b)(6).

Example 2. The facts are the same as in *Example 1*, except that the dividend right is non-cumulative. P's dividend right is a distribution right in a controlled entity, but is not a qualified payment right because the dividend is non-cumulative. Therefore, the non-cumulative dividend right is valued at zero under § 25.2701-2(a)(2). If the corporation were not a controlled entity, P's dividend right would be valued without regard to section 2701.

Example 3. The facts are the same as in *Example 1.* Because P holds sufficient voting power to compel liquidation of X, P's right to participate in liquidation is an extraordinary payment right under paragraph (b)(2) of this section. Because P holds an extraordinary payment right in conjunction with a qualified payment right (the right to receive cumulative dividends), the lower of rule applies.

Example 4. The facts are the same as in *Example 1*, except that immediately before the transfer, P, applicable family members of P, and members of P's family, hold 60 percent of the voting rights in X. Assume that 80 percent of the vote is required to compel liquidation of any interest in X. P's right to participate in liquidation is not an extraordinary payment right under paragraph (b)(2) of this section, because P and P's family cannot compel liquidation of X. P's preferred stock is an applicable retained interest that carries no rights that are valued under the special valuation rules of section 2701. Thus, in applying the valuation method of § 25.2701-3, the value of P's preferred stock is its fair market value determined without regard to section 2701.

Example 5. L holds 10-percent non-cumulative preferred stock and common stock in a corporation that is a controlled entity. L transfers the common stock to L's child. L holds no extraordinary payment rights with respect to the preferred stock. L elects under paragraph (c)(2) of this section to treat the noncumulative dividend right as a qualified payment right consisting of the right to receive a cumulative annual dividend of 5 percent. Under § 25.2701-2(c)(2), the value of the distribution right pursuant to the election is the lesser of—

(A) The fair market value of the right to receive a cumulative 5-percent dividend from the corporation, giving due regard to the corporation's net worth, prospective earning power, and dividend-paying capacity; or

(B) The value of the distribution right determined without regard to section 2701 and without regard to the terms of the qualified payment election.

§ 25.2701-3 Determination of amount of gift.

(a) *Overview*—(1) *In general.* The amount of the gift resulting from any transfer to which section 2701 applies is determined by a subtraction method of valuation. Under this method, the amount of the transfer is determined by subtracting the values of all family-held senior equity interests from the fair market value of all family-held interests in the entity determined immediately before the transfer. The values of the senior equity interests held by the transferor and applicable family members generally are determined under section 2701. Other family-held senior equity interests are valued at their fair market value. The balance is then appropriately allocated among the transferred interests and other family-held subordinate equity interests. Finally, certain discounts and other appropriate reductions are provided, but only to the extent permitted by this section.

(2) *Definitions.* The following definitions apply for purposes of this section.

(i) *Family-held.* Family-held means held (directly or indirectly) by an individual described in § 25.2701-2(b)(5)(i).

(ii) *Senior equity interest.* Senior equity interest means an equity interest in the entity that carries a right to distributions of income or capital that is preferred as to the rights of the transferred interest.

(iii) *Subordinate equity interest.* Subordinate equity interest means an equity interest in the entity as to which an applicable retained interest is a senior equity interest.

(b) *Valuation methodology.* The following methodology is used to determine the amount of the gift when section 2701 applies.

(1) *Step 1—Valuation of family-held interests.* Determine the fair market value of all family-held equity interests in the entity. The fair market value is determined by assuming that the interests are held by one individual, using a consistent set of assumptions.

(2) *Step 2—Subtract the value of senior equity interests.* From the value determined in Step 1, subtract the following amounts:

(i) An amount equal to the fair market value of all family-held senior equity interests, other than applicable retained interests held by the transferor or applicable family members. The fair market value of an interest is its pro rata share of the fair market value of all family-held senior equity interests of the same class (determined as if all family-held senior equity interests were held by one individual); and

(ii) The value of all applicable retained interests held by the transferor or applicable family members determined under § 25.2701-2, taking into account the adjustment described in paragraph (b)(5) of this section.

(3) *Step 3—Allocate the remaining value among the transferred interests and other family-held subordinate equity interests.* The value remaining after Step 2 is allocated among the transferred interests and other family-held subordinate equity interests. If more than one class of family-held subordinate equity interest exists, the value remaining after Step 2 is allocated, beginning with the most senior class of subordinate equity interest, in the manner that would most fairly approximate their value if all rights valued under section 2701 at zero did not exist (or would be exercised in a manner consistent with the assumptions of the rule of § 25.2702–2(a)(4), if applicable). If there is no clearly appropriate method of allocating the remaining value pursuant to the preceding sentence, the remaining value (or the portion remaining after any partial allocation pursuant to the preceding sentence) is allocated to the interests in proportion to their fair market values determined without regard to section 2701.

(4) *Step 4—Determine the amount of the gift*—(i) *In general.* The amount allocated to the transferred interests in Step 3 is reduced by the amounts determined under this paragraph (b)(4).

(ii) *Reduction for minority or similar discounts.* Except as provided in § 25.2701–3(c), if the value of the transferred interest (determined without regard to section 2701) would be determined after application of a minority or similar discount with respect to the transferred interest, the amount of the gift determined under section 2701 is reduced by the excess, if any, of—

(A) A pro rata portion of the fair market value of the family-held interests of the same class (determined as if all voting rights conferred by family-held equity interests were held by one person who had no other interest in the entity, but otherwise without regard to section 2701), over

(B) The value of the transferred interest (without regard to section 2701).

(iii) *Adjustment for transfers with a retained interest.* If the value of the transferor's gift (determined without regard to section 2701) would be reduced under section 2702 to reflect the value of a retained interest, the value determined under section 2701 is reduced by the same amount.

(iv) *Reduction for consideration.* The amount of the transfer (determined under section 2701) is reduced by the amount of consideration in money or money's worth received by the transferor, but not in excess of the amount of the gift (determined without regard to section 2701). The value of consideration received by the transferor in the form of an applicable retained interest in the entity is determined under section 2701.

(5) *Adjustment in Step 2*—(i) *In general.* For purposes of paragraph (b)(2) of this section, if the percentage of any class of applicable retained interest held by the transferor and by applicable family members exceeds the family interest percentage, the excess is treated as a family-held interest that is not held by the transferor or an applicable family member.

(ii) *Family interest percentage.* The family interest percentage is the highest ownership percentage (determined on the basis of relative fair market values) of family-held interests in—

(A) Any class of subordinate equity interest; or

(B) All subordinate equity interests, valued in the aggregate.

(c) *Minimum value rule*—(1) *In general.* If section 2701 applies to the transfer of an interest in an entity, the value of a junior equity interest is not less than its pro-rata portion of 10 percent of the sum of—

(i) The total value of all equity interests in the entity, and

(ii) The total amount of any indebtedness of the entity owed to the transferor and applicable family members.

(2) *Junior equity interest.* For purposes of paragraph (c)(1) of this section, junior equity interest means common stock or, in the case of a partnership, any partnership interest under which the rights to income and capital are junior to the rights of all other classes of partnership interests. Common stock means the class or classes of stock that, under the facts and circumstances, are entitled to share in the reasonably anticipated residual growth in the entity.

(3) *Indebtedness*—(i) *In general.* For purposes of paragraph (c)(1) of this section, indebtedness owed to the transferor (or an applicable family member) does not include—

(A) Short-term indebtedness incurred with respect to the current conduct of the entity's trade or business (such as amounts payable for current services);

(B) Indebtedness owed to a third party solely because it is guaranteed by the transferor or an applicable family member; or

(C) Amounts permanently set aside in a qualified deferred compensation arrangement, to the extent the amounts are unavailable for use by the entity.

(ii) *Leases.* A lease of property is not indebtedness, without regard to the length of the lease term, if the lease payments represent full and adequate consideration for use of the property. Lease payments are considered full and adequate consideration if a good faith effort is made to determine the fair rental value under the lease and the terms of the lease conform to the value so determined. Arrearages with respect to a lease are indebtedness.

(d) *Examples.* The application of the subtraction method described in this section is illustrated by the following Examples:

Example 1. Corporation X has outstanding 1,000 shares of $1,000 par value voting preferred stock, each share of which carries a cumulative annual dividend of 8 percent and a right to put the stock to X for its par value at any time. In addition, there are outstanding 1,000 shares of non-voting common stock. A holds 600 shares of the preferred stock and 750 shares of the common stock. The balance of the preferred and common stock is held by B, a person unrelated to A. Because the preferred stock confers both a qualified payment right and an extraordinary payment right, A's rights are valued under the "lower of" rule of § 25.2701–2(a)(3). Assume that A's rights in the preferred stock are valued at $800 per share under the "lower of" rule (taking account of A's voting rights). A transfers all of A's common stock to A's child. The method for determining the amount of A's gift is as follows—

Step 1: Assume the fair market value of all the family-held interests in X, taking account of A's control of the corporation, is determined to be $1 million.

Step 2: From the amount determined under Step 1, subtract $480,000 (600 shares × $800 (the section 2701 value of A's preferred stock, computed under the "lower of" rule of § 25.2701–2(a)(3))).

Step 3: The result of Step 2 is a balance of $520,000. This amount is fully allocated to the 750 shares of family-held common stock.

Step 4: No adjustment is made under Step 4 because no consideration was furnished for the transfer and because no minority or similar discount is appropriate. Thus, the amount of A's gift is $520,000.

Example 2. The facts are the same as in *Example 1*, except that prior to the transfer A holds only 50 percent of the common stock and B holds the remaining 50 percent. Assume that the fair market value of A's 600 shares of preferred stock is $600,000.

Step 1: Assume that the result of this step (determining the value of the family-held interest) is $960,000.

Step 2: From the amount determined under Step 1, subtract $500,000 ($400,000, the fair market value of 500 shares of A's preferred stock determined under section 2701 plus $100,000, the fair market value of A's other 100 shares of preferred stock determined without regard to section 2701 pursuant to the valuation adjustment determined under paragraph (b)(5) of this section). The adjustment in step 2 applies in this example because A's percentage ownership of the preferred stock (60 percent) exceeds the family interest percentage of the common stock (50 percent). Therefore, 100 shares of A's preferred stock are valued at fair market value, or $100,000 (100 × $1,000). The balance of A's preferred stock is valued under section 2701 at $400,000 (500 shares × $800). The value of A's preferred stock for purposes of section 2701 equals $500,000 ($100,000 plus $400,000).

Step 3: The result of Step 2 is $480,000 ($980,000 minus $500,000) which is allocated to the family-held common stock. Because A transferred all of the family-held subordinate equity interests, all of the value determined under Step 2 is allocated to the transferred shares.

Step 4: No adjustment is made under Step 4 for the same reasons set forth in *Example 1*. Thus, the amount of the gift is $480,000.

Example 3. Corporation X has outstanding 1,000 shares of $1,000 par value non-voting preferred stock, each share of which carries a cumulative annual dividend of 8 percent and a right to put the stock to X for its par value at any time. In addition, there are outstanding 1,000 shares of voting common stock. A holds 600 shares of the preferred stock and 750 shares of the common stock. The balance of the preferred and common stock is held by B, a person unrelated to A. Assume further that steps one through three, as in *Example 1*, result in $520,000 being allocated to the family-held common stock and that A transfers only 75 shares of A's common stock. The transfer fragments A's voting interest. Under Step 4, an adjustment is appropriate to reflect the fragmentation of A's voting rights. The amount of the adjustment is the difference between 10 percent (75/750) of the fair market value of A's common shares and the fair market value of the transferred shares, each determined as if the holder thereof had no other interest in the corporation.

Example 4. On December 31, 1990, the capital structure of Y corporation consists of 1,000 shares of voting common stock held three-fourths by A and one-fourth by A's child, B. On January 15, 1991, A transfers 250 shares of common stock to Y in exchange for 300 shares of nonvoting, noncumulative 8% preferred stock with a section 2701 value of zero. Assume that the fair market value of Y is $1,000,000 at the time of the exchange and that the exchange by A is for full and adequate consideration in moneys' worth. However, for purposes of section 2701, if a subordinate equity interest is transferred in exchange for an applicable retained interest, consideration in the exchange is determined with reference to the section 2701 value of the senior interest. Thus, A is treated as transferring the common stock to the corporation for no consideration. Immediately after the transfer, B is treated as holding one-third (250/750) of the common stock and A is treated as holding two-thirds (500/750). The amount of the gift is determined as follows:

Step 1. Because Y is held exclusively by A and B, the Step 1 value is $1,000,000.

Step 2. The result of Step 2 is $1,000,000 ($1,000,000 − 0).

Step 3. The amount allocated to the common stock is $250,000 (250/1,000 × $1,000,000). That amount is further allocated in proportion to the respective holdings of A and B in the common stock ($166,667 and $83,333, respectively).

Step 4. There is no Step 4 adjustment because the section 2701 value of the consideration received by A was zero and no minority discount would have been involved in the exchange. Thus, the amount of the gift is the difference between $83,333 and the fair market value of B's shares immediately prior to the transfer to which section 2701 applied.

Example 5. The facts are the same as in *Example 4*, except that on January 6, 1992, when the fair market value of Y is still $1,000,000, A transfers A's remaining 500 shares of common stock to Y in exchange for 2500 shares of preferred stock. The second transfer is also for full and adequate consideration in money or money's worth. The result of Step 2 is the same—$1,000,000.

Step 3. The amount allocated to the common stock is $666,667 (500/750 × $1,000,000). Since A holds no common stock immediately after the transfer, A is treated as transferring the entire interest to the other shareholder (B). Thus, $666,667 is fully allocated to the shares held by B.

Step 4. There is no Step 4 adjustment because the section 2701 value of the consideration received by A was zero and no minority discount would have been involved in the exchange. Thus, the amount of the gift is the difference between $666,667 and the fair market value of B's shares immediately prior to the transfer to which section 2701 applied.

§ 25.2701–4 Accumulated qualified payments.

(a) *In general.* If a taxable event occurs with respect to any applicable retained interest conferring a distribution right that was previously valued as a qualified payment right (a "qualified payment interest"), the taxable estate or taxable gifts of the individual holding the interest are increased by the amount determined under paragraph (c) of this section.

(b) *Taxable event*—(1) *In general.* Except as otherwise provided in this section, taxable event means the transfer of a qualified payment interest, either during life or at death, by the individual in whose hands the interest was originally valued under section 2701 (the "interest holder") or by any individual treated pursuant to paragraph (b)(3) of this section in the same manner as the interest holder. Except as provided in paragraph (a)(2) of this section, any termination of an individual's rights with respect to a qualified payment interest is a taxable event. Thus, for example, if an individual is treated as indirectly holding a qualified payment interest held by a trust, a taxable event occurs on the earlier of—

(i) The termination of the individual's interest in the trust (whether by death or otherwise), or

(ii) The termination of the trust's interest in the qualified payment interest (whether by disposition or otherwise).

(2) *Exception.* If, at the time of a termination of an individual's rights with respect to a qualified payment interest, the value of the property would be includible in the individual's gross estate for Federal estate tax purposes if the individual died immediately after the termination, a taxable transfer does not occur until the earlier of—

(i) The time the property would no longer be includible in the individual's gross estate (other than by reason of section 2035), or

(ii) The death of the individual.

(3) *Individual treated as interest holder*—(i) *In general.* If a taxable event involves the transfer of a qualified payment interest by the interest holder (or an individual treated as the interest holder) to an applicable family member of the individual who made the transfer to which section 2701 applied (other than the spouse of the individual transferring the qualified payment interest), the transferee applicable family member is treated in the same manner as the interest holder with respect to late or unpaid qualified payments first due after the taxable event. Thus, for example, if an interest holder transfers during life a qualified payment interest to an applicable family member, that transfer is a taxable event with respect to the interest holder whose taxable gifts are increased for the year of the transfer as provided in paragraph (c) of this section. The transferee is treated thereafter in the same manner as the interest holder with respect to late or unpaid qualified payments first due after the taxable event.

(ii) *Transfers to spouse*—(A) *In general.* If an interest holder (or an individual treated as the interest holder) transfers a qualified payment interest, the transfer is not a taxable event to the extent a marital deduction is allowed with respect to the transfer under sections 2056, 2106(a)(3), or 2523 or, in the case of a transfer during the individual's lifetime, to the extent the spouse furnishes consideration for the transfer. If this exception applies, the transferee spouse is treated as if he or she were the holder of the interest from the date the transferor spouse acquired the interest. If the deduction for a transfer to a spouse is allowable under section 2056(b)(8) or 2523(g) (relating to charitable remainder trusts), the transferee spouse is treated as the holder of the entire interest passing to the trust.

(B) *Marital bequests.* If the selection of property with which a marital bequest is funded is discretionary, a transfer of a qualified payment interest will not be considered a transfer to the surviving spouse unless—

(*1*) The marital bequest is funded with the qualified payment interest before the due date for filing the decedent's Federal estate tax return (including extensions actually granted) (the "due date"), or

(*2*) The executor—

(*i*) Files a statement with the return indicating the extent to which the marital bequest will be funded with the qualified payment interest, and

(*ii*) Before the date that is one year prior to the expiration of the period of limitations on assessment of the Federal estate tax, notifies the District Director having jurisdiction over the return of the extent to which the bequest was funded with the qualified payment interest (or the extent to which the qualified payment interest has been permanently set aside for that purpose).

(C) *Purchase by the surviving spouse.* For purposes of this section, the purchase (before the date prescribed for filing the decedent's estate tax return, including extensions actually granted) by the surviving spouse (or a trust described in section 2056(b)(7)) of a qualified payment interest held (directly or indirectly) by the decedent immediately before death is considered a transfer with respect to which a deduction is allowable under section 2056 or section 2106(a)(3), but only to the extent that the deduction is allowed to the estate. For example, assume that A bequeaths $50,000 to A's surviving spouse, B, in a manner that qualifies for deduction under section 2056, and that subsequent to A's death B purchases a qualified payment interest from A's estate for $200,000, its fair market value. The economic effect of the transaction is the equivalent of a bequest by A to B of the qualified payment interest, one-fourth of which qualifies for the marital deduction. Therefore, for purposes of this section, one-fourth of the qualified payment interest purchased by B ($50,000 ÷ $200,000) is considered a transfer of an interest with respect to which a deduction is allowed under 2056. If the purchase by the surviving spouse is not made before the due date of the decedent's return, the purchase of the qualified payment interest will not be considered a bequest for which a marital deduction is allowed unless the executor—

(*1*) Files a statement with the return indicating the qualified payment interests to be purchased by the surviving spouse (or a trust described in section 2056(b)(7)), and

(*2*) Before the date that is one year prior to the expiration of the period of limitations on assessment of the Federal estate tax, notifies the District Director having jurisdiction over the return that the purchase of the qualified payment interest has been made (or that the funds necessary to purchase the qualified payment interest have been permanently set aside for that purpose).

(c) *Amount of increase*—(1) *In general.* Except as limited by paragraph (c)(6) of this section, the amount of the increase to an individual's taxable estate or taxable gifts is the excess, if any, of—

(i) The sum of—

(A) The amount of qualified payments payable during the period beginning on the date of the transfer to which section 2701 applied (or, in the case of an individual treated as the interest holder, on the date the interest of the prior interest holder terminated) and ending on the date of the taxable event; and

(B) The earnings on those payments, determined hypothetically as if each payment were paid on its due date and reinvested as of that date at a yield equal to the appropriate discount rate (as defined below); over

(ii) The sum of—

(A) The amount of the qualified payments actually paid during the same period;

(B) The earnings on those payments, determined hypothetically as if each payment were reinvested as of the date actually paid at a yield equal to the appropriate discount rate; and

(C) To the extent required to prevent double inclusion, by an amount equal to the sum of—

(*1*) The portion of the fair market value of the qualified payment interest solely attributable to any right to receive unpaid qualified payments determined as of the date of the taxable event;

(*2*) The fair market value of any equity interest in the entity received by the individual in lieu of qualified payments and held by the individual at the taxable event, and

(*3*) The amount by which the individual's aggregate taxable gifts were increased by reason of the failure of the individual to enforce the right to receive qualified payments.

(2) *Due date of qualified payments.* With respect to any qualified payment, the "due date" is that date specified in the governing instrument as the date on which payment is to be made. If no date is specified in the governing instrument, the due date is the last day of each calendar year.

(3) *Appropriate discount rate.* The appropriate discount rate is the discount rate that was applied in determining the value of the qualified payment right at the time of the transfer to which section 2701 applied.

(4) *Application of payments.* For purposes of this section, any payment of an unpaid qualified payment is applied in satisfaction of unpaid qualified payments beginning with the earliest unpaid qualified payment. Any payment in excess of the total of all unpaid qualified payments is treated as a prepayment of future qualified payments.

(5) *Payment.* For purposes of this paragraph (c), the transfer of a debt obligation bearing compound interest from the due date of the payment at a rate not less than the appropriate discount rate is a qualified payment if the term of the obligation (including extensions) does not exceed four years from the date issued. A payment in the form of an equity interest in the entity is not a qualified payment. Any payment of a qualified payment made (or treated as made) either before or during the four-year period beginning on the due date of the payment but before the date of the taxable event is treated as having been made on the due date.

(6) *Limitation*—(i) *In general.* The amount of the increase to an individual's taxable estate or taxable gifts is limited to the applicable percentage of the excess, if any, of—

(A) The sum of—

(*1*) The fair market value of all outstanding equity interests in the entity that are subordinate to the applicable retained interest, determined as of the date of the taxable event without regard to any accrued liability attributable to unpaid qualified payments; and

(*2*) Any amounts expended by the entity to redeem or otherwise acquire any such subordinate interest during the period beginning on the date of the transfer to which section 2701 applied (or, in the case of an individual treated as an interest holder, on the date the interest of the prior interest holder terminated) and ending on the date of the taxable event (reduced by any amounts received on the resale or issuance of any such subordinate interest during the same period); over

(B) The fair market value of all outstanding equity interests in the entity that are subordinate to the applicable retained interest, determined as of the date of the transfer to which section 2701 applied (or, in the case of an individual treated as an interest holder, on the date the interest of the prior interest holder terminated).

(ii) *Computation of limitation.* For purposes of computing the limitation applicable under this paragraph (c)(6), the aggregate fair market value of the subordinate interests in the entity are determined without regard to § 25.2701-3(c).

(iii) *Applicable percentage.* The applicable percentage is determined by dividing the number of shares or units of the applicable retained interest held by the interest holder (or an individual treated as the interest holder) on the date of the taxable event by the total number of such shares or units outstanding on the same date. If an individual holds applicable retained interests in two or more classes of interests, the applicable percentage is equal to the largest applicable percentage determined with respect to any class. For example, if T retains 40 percent of the class A preferred and 60 percent of the class B preferred in a corporation, the applicable percentage with respect to T's holdings is 60 percent.

(d) *Taxpayer election*—(1) *In general.* An interest holder (or individual treated as an interest holder) may elect to treat as a taxable event the payment of an unpaid qualified payment occurring more than four years after its due date. Under this election, the increase under paragraph (c) of this section is determined only with respect to that payment and all previous payments for which an election was available but not made. Payments for which an election applies are treated as having been paid on their due dates for purposes of subsequent taxable events. The election is revocable only with the consent of the Commissioner.

(2) *Limitation not applicable.* If a taxable event occurs by reason of an election described in paragraph (d)(1) of this section, the limitation described in paragraph (c)(6) of this section does not apply.

(3) *Time and manner of election*—(i) *Timely-filed returns.* The election may be made by attaching a statement to a Form 709, Federal Gift Tax Return, filed by the recipient of the qualified payment on a timely basis for the year in which the qualified payment is received. In that case, the taxable event is deemed to occur on the date the qualified payment is received.

(ii) *Election on late returns.* The election may be made by attaching a statement to a Form 709, Federal Gift Tax Return, filed by the recipient of the qualified payment other than on a timely basis for the year in which the qualified payment is received. In that case, the taxable event is deemed to occur on the first day of the month immediately preceding the month in which the return is filed. If an election, other than an election on a timely return, is made after the death of the interest holder, the taxable event with respect to the decedent is deemed to occur on the later of—

(A) The date of the recipient's death, or

(B) The first day of the month immediately preceding the month in which the return is filed.

(iii) *Requirements of statement.* The statement must—

(A) Provide the name, address, and taxpayer identification number of the electing individual and the interest holder, if different;

(B) Indicate that a taxable event election is being made under paragraph (d) of this section;

(C) Disclose the nature of the qualified payment right to which the election applies, including the due dates of the payments, the dates the payments were made, and the amounts of the payments;

(D) State the name of the transferor, the date of the transfer to which section 2701 applied, and the discount rate used in valuing the qualified payment right; and

(E) State the resulting amount of increase in taxable gifts.

(4) *Example.* The following example illustrates the rules of this paragraph (d).

Example. A holds cumulative preferred stock that A retained in a transfer to which section 2701 applied. No dividends were paid in years 1 through 5 following the transfer. In year 6, A received a qualified payment that, pursuant to paragraph (c)(3) of this section, is considered to be in satisfaction of the unpaid qualified payment for year 1. No election was made to treat that payment as a taxable event. In year 7, A receives a qualified payment that, pursuant to paragraph (c)(4) of this section, is considered to be in satisfaction of the unpaid qualified payment for year 2. A elects to treat the payment in year 7 as a taxable event. The election increases A's taxable gifts in year 7 by the amount computed under paragraph (c) of this section with respect to the payments due in both year 1 and year 2. For purposes of any future taxable events, the payments with respect to years 1 and 2 are treated as having been made on their due dates.

§ 25.2701-5 Adjustments to mitigate double taxation. [Reserved]

§ 25.2701-6 Indirect holding of interests.

(a) *In general*—(1) *Attribution to individuals.* For purposes of section 2701, an individual is treated as holding an equity interest to the extent the interest is held indirectly through a corporation, partnership, estate, trust, or other entity. If an equity interest is treated as held by a particular individual in more than one capacity, the interest is treated as held by the individual in the manner that attributes the largest total ownership of the equity interest. An equity interest held by a lower-tier entity is attributed to higher-tier entities in accordance with the rules of this section. For example, if an individual is a 50-percent beneficiary of a trust that holds 50 percent of the preferred stock of a corporation, 25 percent of the preferred stock is considered held by the individual under these rules.

(2) *Corporations.* A person is considered to hold an equity interest held by or for a corporation in the proportion that the fair market value of the stock the person holds bears to the fair market value of all the stock in the corporation (determined as if each class of stock were held separately by one individual). This paragraph applies to any entity classified as a corporation or as an association taxable as a corporation for federal income tax purposes.

(3) *Partnerships.* A person is considered to hold an equity interest held by or for a partnership in the proportion that the fair market value of the larger of the person's profits interest or capital interest in the partnership bears to the total fair market value of the corresponding profits interests or capital interests in the partnership, as the case may be (determined as if each class were held by one individual). This paragraph applies to any entity classified as a partnership for federal income tax purposes.

(4) *Estates, trusts and other entities*—(i) *In general.* A person is considered to hold an equity interest held by or for an estate or trust to the extent the person's beneficial interest therein may be satisfied by the equity interest held by the estate or trust, or the income or proceeds thereof, assuming the maximum exercise of discretion in favor of the person. A beneficiary of an estate or trust who cannot receive any distribution with respect to an equity interest held by the estate or trust, including the income therefrom or the proceeds from the disposition thereof, is not considered the holder of the equity interest. Thus, if stock held by a decedent's estate has been specifically bequeathed to one beneficiary and the residue of the estate has been bequeathed to other beneficiaries, the stock is considered held only by the beneficiary to whom it was specifically bequeathed. However, any person who may receive distributions from a trust is considered to hold an equity interest held by the trust if the distributions may be made from current or accumulated

income from or the proceeds from the disposition of the equity interest, even though under the terms of the trust the interest can never be distributed to that person. This paragraph applies to any entity that is not classified as a corporation, an association taxable as a corporation, or a partnership for federal income tax purposes.

(ii) *Special rules*—(A) Property is held by a decedent's estate if the property is subject to claims against the estate and expenses of administration.

(B) A person holds a beneficial interest in a trust or an estate so long as the person may receive distributions from the trust or the estate other than payments for full and adequate consideration.

(C) An individual holds an equity interest held by or for a trust if the individual is considered an owner of the trust (a "grantor trust") under subpart E, part 1, subchapter J of the Internal Revenue Code (relating to grantors and others treated as substantial owners). However, if an individual is treated as the owner of only a fractional share of a grantor trust because there are multiple grantors, the individual holds each equity interest held by the trust, except to the extent that the fair market value of the interest exceeds the fair market value of the fractional share.

(5) *Multiple attribution*—(i) *Applicable retained interests.* If this section attributes an applicable retained interest to more than one individual in a class consisting of the transferor and one or more applicable family members, the interest is attributed within that class in the following order—

(A) If the interest is held in a grantor trust, to the individual treated as the holder thereof;

(B) To the transferor;

(C) To the transferor's spouse; or

(D) To each applicable family member on a pro rata basis.

(ii) *Subordinate equity interests.* If this section attributes a subordinate equity interest to more than one individual in a class consisting of the transferor, applicable family members, and members of the transferor's family, the interest is attributed within that class in the following order—

(A) To the transferee;

(B) To each member of the transferor's family on a pro rata basis;

(C) If the interest is held in a grantor trust, to the individual treated as the holder thereof;

(D) To the transferor;

(E) To the transferor's spouse; or

(F) To each applicable family member on a pro rata basis.

(b) *Examples.* The following examples illustrate the provisions of this section:

Example 1. A, an individual, holds 25 percent by value of each class of stock of Y Corporation. Persons unrelated to A hold the remaining stock. Y holds 50 percent of the stock of Corporation X. Under paragraph (a)(2) of this section, Y's interests in X are attributed proportionately to the shareholders of Y. Accordingly, A is considered to hold a 12.5 percent (25 percent × 50 percent) interest in X.

Example 2. Z Bank's authorized capital consists of 100 shares of common stock and 100 shares of preferred stock. A holds 60 shares of each (common and preferred) and A's child, B, holds 40 shares of common stock. Z holds the balance of its own preferred stock, 30 shares as part of a common trust fund it maintains and 10 shares permanently set aside to satisfy a deferred obligation. For purposes of section 2701, A holds 60 shares of common stock and 66 shares of preferred stock in Z, 60 shares of each class directly and 6 shares of preferred stock indirectly (60 percent of the 10 shares set aside to fund the deferred obligation).

Example 3. An irrevocable trust holds a 10-percent general partnership interest in Partnership Q. One-half of the trust income is required to be distributed to O Charity. The other one-half of the income is to be distributed to D during D's life and thereafter to E for such time as E survives D. D holds one-half of the trust's interest in Q by reason of D's present right to receive one-half of the trust's income, and E holds one-half of the trust's interest in Q by reason of E's future right to receive one-half of the trust's income. Nevertheless, no family member is treated as holding more than one-half of the trust's interest in Q because at no time will either D or E actually hold, in the aggregate, any right with respect to income or corpus greater than one-half.

Example 4. An irrevocable trust holds a 10-percent general partnership interest in partnership M. One-half of the trust income is to be paid to D for D's life. The remaining income may, in the trustee's discretion, be accumulated or paid to or for the benefit of a class that includes D's child F, in such amounts as the trustee determines. On the death of the survivor of D and F, the trust corpus is required to be distributed to O Charity. The trust's interest in M is held by the trust's beneficiaries to the extent that present and future income or corpus may be distributed to them. Accordingly, D holds one-half of the trust's interest in M because D is entitled to receive one-half of the trust income currently. F holds the entire value of the interest because F is a member of the class eligible to receive the entire trust income for such time as F survives D. See paragraph (a)(5) of this section for rules applicable in the case of multiple attribution.

Example 5. The facts are the same as in *Example 4*, except that all the income is required to be paid to O Charity for the trust's initial year. The result is the same as in *Example 4*.

§ 25.2701-7 Separate interests.

The Secretary may, by regulation, revenue ruling, notice, or other document of general application, prescribe rules under which an applicable retained interest is treated as two or more separate interests for purposes of section 2701. In addition, the Commissioner may, by ruling issued to a taxpayer upon request, treat any applicable retained interest as two or more separate interests as may be necessary and appropriate to carry out the purposes of section 2701.

§ 25.2701-8 Effective dates.

Sections 25.2701-1 through 25.2701-4 and §§ 25.2701-6 and 25.2701-7 are effective as of January 28, 1992. For transfers made prior to January 28, 1992, taxpayers may rely on any reasonable interpretation of the statutory provisions. For these purposes, the provisions of the proposed regulations and the final regulations are considered a reasonable interpretation of the statutory provisions.

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§ 25.2702-1 Special valuation rules in the case of transfers of interests in trust.

(a) *Scope of section 2702.* Section 2702 provides special rules to determine the amount of the gift when an individual makes a transfer in trust to (or for the benefit of) a member of the individual's family and the individual or an applicable family member retains an interest in the trust. Section 25.2702-4 treats certain transfers of property as transfers in trust. Certain transfers, including transfers to a personal residence trust, are not subject to section 2702. See paragraph (c) of this section. Member of the family is defined in § 25.2702-2(a)(1). Applicable family member is defined in § 25.2701-1(d)(2).

(b) *Effect of section 2702.* If section 2702 applies to a transfer, the value of any interest in the trust retained by the transferor or any applicable family member is determined under § 25.2702-2(b). The amount of the gift, if any, is then determined by subtracting the value of the interests retained by the transferor or any applicable family member from the value of the transferred property. If the retained interest is not a qualified interest (as defined in § 25.2702-3), the retained interest is generally valued at zero, and the amount of the gift is the entire value of the property.

(c) *Exceptions to section 2702.* Section 2702 does not apply to the following transfers.

(1) *Incomplete gift.* A transfer no portion of which would be treated as a completed gift without regard to any consideration received by the transferor. If a transfer is wholly incomplete as to an undivided fractional share of the property transferred (without regard to any consideration received by the transferor), for purposes of this paragraph the transfer is treated as incomplete as to that share.

(2) *Personal residence trust.* A transfer in trust that meets the requirements of § 25.2702-5.

(3) *Charitable remainder trust.* A transfer in trust if the remainder interest in the trust qualifies for deduction under section 2522.

(4) *Pooled income fund.* A transfer of property to a pooled income fund (as defined in section 642(c)(5)).

(5) *Charitable lead trust.* A transfer in trust if the only interest in the trust, other than the remainder interest or a qualified annuity or unitrust interest, is an interest that qualifies for deduction under section 2522.

(6) *Certain assignments of remainder interests.* The assignment of a remainder interest if the only retained interest of the transferor or an applicable family member is as the permissible recipient of distributions of income in the sole discretion of an independent trustee (as defined in section 674(c)).

(7) *Certain property settlements.* A transfer in trust if the transfer of an interest to a spouse is deemed to be for full and adequate consideration by reason of section 2516 (relating to certain property settlements) and the remaining interests in the trust are retained by the other spouse.

§ 25.2702-2 Definitions and valuation rules.

(a) *Definitions.* The following definitions apply for purposes of section 2702 and the regulations thereunder.

(1) *Member of the family.* With respect to any individual, member of the family means the individual's spouse, any ancestor or lineal descendant of the individual or the individual's spouse, any brother or sister of the individual, and any spouse of the foregoing.

(2) *Transfer in trust.* A transfer in trust includes a transfer to a new or existing trust and an assignment of an interest in an existing trust. Transfer in trust does not include—

(i) The exercise, release or lapse of a power of appointment over trust property that is not a transfer under chapter 12; or

(ii) The execution of a qualified disclaimer (as defined in section 2518).

(3) *Retained.* Retained means held by the same individual both before and after the transfer in trust. In the case of the creation of a term interest, any interest in the property held by the transferor immediately after the transfer is treated as held both before and after the transfer.

(4) *Interest.* An interest in trust includes a power with respect to a trust if the existence of the power would cause any portion of a transfer to be treated as an incomplete gift under chapter 12.

(5) *Qualified interest.* Qualified interest means a qualified annuity interest, a qualified unitrust interest, or a qualified remainder interest. Retention of a power to revoke a qualified annuity interest (or unitrust interest) of the transferor's spouse is treated as the retention of a qualified annuity interest (or unitrust interest).

(6) *Qualified annuity interest.* Qualified annuity interest means an interest that meets all the requirements of § 25.2702-3(b) and (d).

(7) *Qualified unitrust interest.* Qualified unitrust interest means an interest that meets all the requirements of § 25.2702-3(c) and (d).

(8) *Qualified remainder interest.* Qualified remainder interest means an interest that meets all the requirements of § 25.2702-3(f).

(9) *Governing instrument.* Governing instrument means the instrument or instruments creating and governing the operation of the trust arrangement.

(b) *Valuation of retained interests*—(1) *In general.* Except as provided in paragraphs (b)(2) and (c) of this section, the value of any interest retained by the transferor or an applicable family member is zero.

(2) *Qualified interest.* The value of a qualified annuity interest and a qualified remainder interest following a qualified annuity interest are determined under section 7520. The value of a qualified unitrust interest and a qualified remainder interest following a qualified unitrust interest are determined as if they were interests described in section 664.

(c) *Valuation of a term interest in certain tangible property*—(1) *In general.* If section 2702 applies to a transfer in trust of tangible property described in paragraph (c)(2) of this section ("tangible property"), the value of a retained term interest (other than a qualified interest) is not determined under section 7520 but is the amount the transferor establishes as the amount a willing buyer would pay a willing seller for the interest, each having reasonable knowledge of the relevant facts and neither being under any compulsion to buy or sell. If the transferor cannot reasonably establish the value of the term interest pursuant to this paragraph (c)(1), the interest is valued at zero.

(2) *Tangible property subject to rule*—(i) *In general.* Except as provided in paragraph (c)(2)(ii) of this section, paragraph (c)(1) of this section applies only to tangible property—

(A) For which no deduction for depreciation or depletion would be allowable if the property were used in a trade or business or held for the production of income; and

(B) As to which the failure to exercise any rights under the term interest would not increase the value of the property passing at the end of the term interest.

(ii) *Exception for de minimis amounts of depreciable property.* In determining whether property meets the requirements of this paragraph (c)(2) at the time of the transfer in trust, improvements that would otherwise cause the property not to qualify are ignored if the fair market value of the improvements, in the aggregate, do not exceed 5 percent of the fair market value of the entire property.

(3) *Evidence of value of property.* The best evidence of the value of any term interest to which this paragraph (c) applies is actual sales or rentals that are comparable both as to the nature and character of the property and the duration of the term interest. Little weight is accorded appraisals in the absence of such evidence. Amounts determined under section 7520 are not evidence of what a willing buyer would pay a willing seller for the interest.

(4) *Conversion of property*—(i) *In general.* Except as provided in paragraph (c)(4)(iii) of this section, if a term interest in property is valued under paragraph (c)(1) of this section, and during the term the property is converted into property a term interest in which would not qualify for valuation under paragraph (c)(1) of this section, the conversion is treated as a transfer for no consideration for purposes of chapter 12 of the value of the unexpired portion of the term interest.

(ii) *Value of unexpired portion of term interest.* For purposes of paragraph (c)(4)(i) of this section, the value of the unexpired portion of a term interest is the amount that bears the same relation to the value of the term interest as of the date of conversion (determined under section 7520 using the rate in effect under section 7520 on the date of the original transfer and the fair market value of the property as of the date of the original transfer) as the value of the term interest as of the date of the original transfer (determined under paragraph (c)(1) of this section) bears to the value of the term interest as of the date of the original transfer (determined under section 7520).

(iii) *Conversion to qualified annuity interest.* The conversion of tangible property previously valued under paragraph (c)(1) of this section into property a term interest in which would not qualify for valuation under paragraph (c)(1) of this section is not a transfer of the value of the unexpired portion of the term interest if the interest thereafter meets the requirements of a qualified annuity interest. The rules of § 25.2702–5(d)(8) (including governing instrument requirements) apply for purposes of determining the amount of the annuity payment required to be made and the determination of whether the interest meets the requirements of a qualified annuity interest.

(5) *Additions or improvements to property*—(i) *Additions or improvements substantially affecting nature of property.* If an addition or improvement is made to property a term interest in which was valued under paragraph (c)(1) of this section, and the addition or improvement affects the nature of the property to such an extent that the property would not be treated as property meeting the requirements of paragraph (c)(2) of this section if the property had included the addition or improvement at the time it was transferred, the entire property is deemed, for purposes of paragraph (c)(4) of this section, to convert (effective as of the date the addition or improvement is commenced) into property a term interest in which would not qualify for valuation under paragraph (c)(1) of this section.

(ii) *Other additions or improvements.* If an addition or improvement is made to property, a term interest in which was valued under paragraph (c)(1) of this section, and the addition or improvement does not affect the nature of the property to such an extent that the property would not be treated as property meeting the requirements of paragraph (c)(2) of this section if the property had included the addition or improvement at the time it was transferred, the addition or improvement is treated as an additional transfer (effective as of the date the addition or improvement is commenced) subject to § 25.2702–2(b)(1).

(d) *Examples.* (1) The following examples illustrate the rules of § 25.2702–1 and § 25.2702–2. Each example assumes that all applicable requirements of those sections not specifically described in the example are met.

Example 1. A transfers property to an irrevocable trust, retaining the right to receive the income of the trust for 10 years. On the expiration of the 10-year term, the trust is to terminate and the trust corpus is to be paid to A's child. However, if A dies during the 10-year term, the entire trust corpus is to be paid to A's estate. Each retained interest is valued at zero because it is not a qualified interest. Thus, the amount of A's gift is the fair market value of the property transferred to the trust.

Example 2. A transfers property to an irrevocable trust, retaining a 10-year annuity interest that meets the requirements set forth in § 25.2702–3 for a qualified annuity interest. Upon expiration of the 10-year term, the trust is to terminate and the trust corpus is to be paid to A's child. The amount of A's gift is the fair market value of the property transferred to the trust less the value of the retained qualified annuity interest determined under section 7520.

Example 3. D transfers property to an irrevocable trust under which the income is payable to D's spouse for life. Upon the death of D's spouse, the trust is to terminate and the trust corpus is to be paid to D's child. D retains no interest in the trust. Although the spouse is an applicable family member of D under section 2702, the spouse has not retained an interest in the trust because the spouse did not hold the interest both before and after the transfer. Section 2702 does not apply because neither the transferor nor an applicable family member has retained an interest in the trust. The result is the same whether or not D elects to treat the transfer as a transfer of qualified terminable interest property under section 2056(b)(7).

Example 4. A transfers property to an irrevocable trust, under which the income is to be paid to A for life. Upon termination of the trust, the trust corpus is to be distributed to A's child. A also retains certain powers over principal that cause the transfer to be wholly incomplete for federal gift tax purposes. Section 2702 does not apply because no portion of the transfer would be treated as a completed gift.

Example 5. The facts are the same as in *Example 4,* except that the trust is divided into separate fractional shares and A's retained powers apply to only one of the shares. Section 2702 applies except with respect to the share of the trust as to which A's retained powers cause the transfer to be an incomplete gift.

Example 6. A transfers property to an irrevocable trust, retaining the right to receive the income for 10 years. Upon expiration of 10 years, the income of the trust is payable to A's spouse for 10 years if living. Upon expiration of the spouse's interest, the trust terminates and the trust corpus is payable to A's child. A retains the right to revoke the spouse's interest. Because the transfer of property to the trust is not incomplete as to all interests in the property (*i.e.,* A has made a completed gift of the remainder interest), section 2702 applies. A's power to revoke the spouse's term interest is treated as a retained interest for purposes of section 2702. Because no interest retained by A is a qualified interest, the amount of the gift is the fair market value of the property transferred to the trust.

Example 7. The facts are the same as in Example 6, except that both the term interest retained by A and the interest transferred to A's spouse (subject to A's right of revocation) are qualified annuity or unitrust interests. The amount of the gift is the fair market value of the property transferred to the trust reduced by the value of both A's qualified interest and the value of the qualified interest transferred to A's spouse (subject to A's power to revoke).

(2) The following facts apply for Examples 8–10 (examples illustrating § 25.2702-2(c)—tangible property exception):

Facts. A transfers a painting having a fair market value of $2,000,000 to A's child, B, retaining the use of the painting for 10 years. The painting does not possess an ascertainable useful life. Assume that the painting would not be depreciable if it were used in a trade or business or held for the production of income. Assume that the value of A's term interest, determined under section 7520, is $1,220,000, and that A establishes that a willing buyer of A's interest would pay $500,000 for the interest.

Example 8. A's term interest is not a qualified interest under § 25.2702–3. However, because of the nature of the property, A's failure to exercise A's rights with regard to the painting would not be expected to cause the value of the painting to be higher than it would otherwise be at the time it passes to B. Accordingly, A's interest is valued under § 25.2702–2(c)(1) at $500,000. The amount of A's gift is $1,500,000, the difference between the fair market value of the painting and the amount determined under § 25.2702–2(c)(1).

Example 9. Assume that the only evidence produced by A to establish the value of A's 10-year term interest is the amount paid by a museum for the right to use a comparable painting for 1 year. A asserts that the value of the 10-year term is 10 times the value of the 1-year term. A has not established the value of the 10-year term interest because a series of short-term rentals the aggregate duration of which equals the duration of the actual term interest does not establish what a willing buyer would pay a willing seller for the 10-year term interest. However, the value of the 10-year term interest is not less than the value of the 1-year term because it can be assumed that a willing buyer would pay no less for a 10-year term interest than a 1-year term interest.

Example 10. Assume that after 24 months A and B sell the painting for $2,000,000 and invest the proceeds in a portfolio of securities. A continues to hold an income interest in the securities for the duration of the 10-year term. Under § 25.2702–2(c)(4) the conversion of the painting into a type of property a term interest in which would not qualify for valuation under § 25.2702–2(c)(1) is treated as a transfer by A of the value of the unexpired portion of A's original term interest, unless the property is thereafter held in a trust meeting the requirements of a qualified annuity interest. Assume that the value of A's remaining term interest in $2,000,000 (determined under section 7520 using the section 7520 rate in effect on the date of the original transfer) is $1,060,000. The value of the unexpired portion of A's interest is $434,426, the amount that bears the same relation to $1,060,000 as $500,000 (the value of A's interest as of the date of the original transfer determined under paragraph (c)(1) of this section) bears to $1,220,000 (the value of A's interest as of the date of the original transfer determined under section 7520).

§ 25.2702–3 Qualified interests.

(a) *In general.* This section provides rules for determining if an interest is a qualified annuity interest, a qualified unitrust interest, or a qualified remainder interest.

(b) *Special rules for qualified annuity interests.* An interest is a qualified annuity interest only if it meets the requirements of this paragraph and paragraph (d) of this section.

(1) *Payment of annuity amount*—(i) *In general.* A qualified annuity interest is an irrevocable right to receive a fixed amount. The annuity amount must be payable to (or for the benefit of) the holder of the annuity interest for each taxable year of the term. A right of withdrawal, whether or not cumulative, is not a qualified annuity interest. The annuity payment may be made after the close of the taxable year, provided the payment is made no later than the date by which the trustee is required to file the Federal income tax return of the trust for the taxable year (without regard to extensions).

(ii) *Fixed amount.* A fixed amount means—

(A) A stated dollar amount payable periodically, but not less frequently than annually, but only to the extent the amount does not exceed 120 percent of the stated dollar amount payable in the preceding year; or

(B) A fixed fraction or percentage of the initial fair market value of the property transferred to the trust, as finally determined for federal tax purposes, payable periodically but not less frequently than annually, but only to the extent the fraction or percentage does not exceed 120 percent of the fixed fraction or percentage payable in the preceding year.

(iii) *Income in excess of the annuity amount.* An annuity interest does not fail to be a qualified annuity interest merely because the trust permits income in excess of the amount required to pay the annuity amount to be paid to or for the benefit of the holder of the qualified annuity interest. Nevertheless, the right to receive the excess income is not a qualified interest and is not taken into account in valuing the qualified annuity interest.

(2) *Incorrect valuations of trust property.* If the annuity is stated in terms of a fraction or percentage of the initial fair market value of the trust property, the governing instrument must contain provisions meeting the requirements of § 1.664–2(a)(1)(iii) of this chapter (relating to adjustments for any incorrect determination of the fair market value of the property in the trust).

(3) *Computation of annuity amount in certain circumstances.* The governing instrument must contain provisions meeting the requirements of § 1.664–2(a)(1)(iv) of this chapter (relating to the computation of the annuity amount in the case of short taxable years and the last taxable year of the term).

(4) *Additional contributions prohibited.* The governing instrument must prohibit additional contributions to the trust.

(c) *Special rules for qualified unitrust interests.* An interest is a qualified unitrust interest only if it meets the requirements of this paragraph and paragraph (d) of this section.

(1) *Payment of unitrust amount*—(i) *In general.* A qualified unitrust interest is an irrevocable right to receive payment periodically, but not less frequently than annually, of a fixed percentage of the net fair market value of the trust assets, determined annually. For rules relating to computation of the net fair market value of the trust assets see § 25.2522(c)–3(c)(2)(vii). The unitrust amount must be payable to (or for the benefit of) the holder of the unitrust interest for each taxable year of the term. A right of withdrawal, whether or not cumulative, is not a qualified unitrust interest. The unitrust payment may be made after the close of the taxable year, provided that the payment

is made no later than the date by which the trustee is required to file the Federal income tax return of the trust for the year (without regard to extensions).

(ii) *Fixed percentage.* A fixed percentage is a fraction or percentage of the net fair market value of the trust assets, determined annually, payable periodically but not less frequently than annually, but only to the extent the fraction or percentage does not exceed 120 percent of the fixed fraction or percentage payable in the preceding year.

(iii) *Income in excess of unitrust amount.* A unitrust interest does not fail to be a qualified unitrust interest merely because the trust permits income in excess of the amount required to pay the unitrust amount to be paid to or for the benefit of the holder of the qualified unitrust interest. Nevertheless, the right to receive the excess income is not a qualified interest and is not taken into account in valuing the qualified unitrust interest.

(2) *Incorrect valuations of trust property.* The governing instrument must contain provisions meeting the requirements of § 1.664–3(a)(1)(iii) of this chapter (relating to the incorrect determination of the fair market value of the property in the trust).

(3) *Computation of unitrust amount in certain circumstances.* The governing instrument must contain provisions meeting the requirements of § 1.664–3(a)(1)(v) of this chapter (relating to the computation of the unitrust amount in the case of short taxable years and the last taxable year of the term).

(d) *Requirements applicable to qualified annuity interests and qualified unitrust interests*—(1) *In general.* To be a qualified annuity or unitrust interest, an interest must be a qualified annuity interest in every respect or a qualified unitrust interest in every respect. For example, if the interest consists of the right to receive each year a payment equal to the lesser of a fixed amount of the initial trust assets or a fixed percentage of the annual value of the trust assets, the interest is not a qualified interest. If, however, the interest consists of the right to receive each year a payment equal to the greater of a stated dollar amount or a fixed percentage of the initial trust assets or a fixed percentage of the annual value of the trust assets, the interest is a qualified interest that is valued at the greater of the two values. To be a qualified interest, the interest must meet the definition of and function exclusively as a qualified interest from the creation of the trust.

(2) *Amounts payable to other persons.* The governing instrument must prohibit distributions from the trust to or for the benefit of any person other than the holder of the qualified annuity or unitrust interest during the term of the qualified interest.

(3) *Term of the annuity or unitrust interest.* The governing instrument must fix the term of the annuity or unitrust interest. The term must be for the life of the term holder, for a specified term of years, or for the shorter (but not the longer) of those periods. Successive term interests for the benefit of the same individual are treated as the same term interest.

(4) *Commutation.* The governing instrument must prohibit commutation (prepayment) of the interest of the term holder.

(e) *Examples.* The following examples illustrate the rules of paragraphs (b), (c), and (d) of this section. Each example assumes that all applicable requirements for a qualified interest are met unless otherwise specifically stated.

Example 1. A transfers property to an irrevocable trust, retaining the right to receive the greater of $10,000 or the trust income in each year for a term of 10-years. Upon expiration of the 10-year term, the trust is to terminate and the entire trust corpus is to be paid to A's child, provided that if A dies within the 10-year term the trust corpus is to be paid to A's estate. A's annual payment right is a qualified annuity interest to the extent of the right to receive $10,000 per year for 10 years or until A's prior death, and is valued under section 7520 without regard to the right to receive any income in excess of $10,000 per year. The contingent reversion is valued at zero. The amount of A's gift is the fair market value of the property transferred to the trust less the value of the qualified annuity interest.

Example 2. U transfers property to an irrevocable trust, retaining the right to receive $10,000 in each of years 1 through 3, $12,000 in each of years 4 through 6, and $15,000 in each of years 7 through 10. The interest is a qualified annuity interest to the extent of U's right to receive $10,000 per year in years 1 through 3, $12,000 in years 4 through 6, $14,400 in year 7, and $15,000 in years 8 through 10, because those amounts represent the lower of the amount actually payable each year or an amount that does not exceed 120 percent of the stated dollar amount for the preceding year.

Example 3. S transfers property to an irrevocable trust, retaining the right to receive $50,000 in each of years 1 through 3 and $10,000 in each of years 4 through 10. S's entire retained interest is a qualified annuity interest.

Example 4. R transfers property to an irrevocable trust retaining the right to receive annually an amount equal to the lesser of 8 percent of the initial fair market value of the trust property or the trust income for the year. R's annual payment right is not a qualified annuity interest to any extent because R does not have the irrevocable right to receive a fixed amount for each year of the term.

Example 5. A transfers property to an irrevocable trust, retaining the right to receive 5 percent of the net fair market value of the trust property, valued annually, for 10 years. If A dies within the 10-year term, the unitrust amount is to be paid to A's estate for the balance of the term. A's interest is a qualified unitrust interest to the extent of the right to receive the unitrust payment for 10 years or until A's prior death.

Example 6. The facts are the same as in *Example 5,* except that if A dies within the 10-year term the unitrust amount will be paid to A's estate for an additional 35 years. The result is the same as in *Example 5,* because the 10-year term is the only term that is fixed and ascertainable at the creation of the interest.

Example 7. B transfers property to an irrevocable trust retaining the right to receive annually an amount equal to 8 percent of the initial fair market value of the trust property for 10 years. Upon expiration of the 10-year term, the trust is to terminate and the entire trust corpus is to be paid to B's child. The governing instrument provides that income in excess of the annuity amount may be paid to B's child in the trustee's discretion. B's interest is not a qualified annuity interest to any extent because a person other than the individual holding the term interest may receive distributions from the trust during the term.

(f) *Qualified remainder interest*—(1) *Requirements.* An interest is a qualified remainder interest only if it meets all of the following requirements:

(i) It is a qualified remainder interest in every respect.

(ii) It meets the definition of and functions exclusively as a qualified interest from the creation of the interest.

(iii) It is non-contingent. For this purpose, an interest is non-contingent only if it is payable to the beneficiary or the beneficiary's estate in all events.

(iv) All interests in the trust, other than non-contingent remainder interests, are qualified annuity interests or qualified unitrust interests. Thus, an interest is a qualified remainder interest only if the governing instrument does not permit payment of income in excess of the annuity or unitrust amount to the holder of the qualified annuity or unitrust interest.

(2) *Remainder interest.* Remainder interest is the right to receive all or a fractional share of the trust property on termination of all or a fractional share of the trust. Remainder interest includes a reversion. A transferor's right to receive an amount that is a stated or pecuniary amount is not a remainder interest. Thus, the right to receive the original value of the trust corpus (or a fractional share) is not a remainder interest.

(3) *Examples.* The following examples illustrate rules of this paragraph (f). Each example assumes that all applicable requirements of a qualified

interest are met unless otherwise specifically stated.

Example 1. A transfers property to an irrevocable trust. The income of the trust is payable to A's child for life. On the death of A's child, the trust is to terminate and the trust corpus is to be paid to A. A's remainder interest is not a qualified remainder interest because the interest of A's child is neither a qualified annuity interest nor a qualified unitrust interest.

Example 2. The facts are the same as in *Example 1,* except that A's child has the right to receive the greater of the income of the trust or $10,000 per year. A's remainder interest is not a qualified remainder interest because the right of A's child to receive income in excess of the annuity amount is not a qualified interest.

Example 3. A transfers property to an irrevocable trust. The trust provides a qualified annuity interest to A's child for 12 years. An amount equal to the initial value of the trust corpus is to be paid to A at the end of that period and the balance is to be paid to A's grandchild. A's interest is not a qualified remainder interest because the amount A is to receive is not a fractional share of the trust property.

Example 4. U transfers property to an irrevocable trust. The trust provides a qualified unitrust interest to U's child for 15 years, at which time the trust terminates and the trust corpus is paid to U or, if U is not then living, to U's child. Because U's remainder interest is contingent, it is not a qualified remainder interest.

§ 25.2702–4 Certain property treated as held in trust.

(a) *In general.* For purposes of section 2702, a transfer of an interest in property with respect to which there are one or more term interests is treated as a transfer in trust. A term interest is one of a series of successive (as contrasted with concurrent) interests. Thus, a life interest in property or an interest in property for a term of years is a term interest. However, a term interest does not include a fee interest in property merely because it is held as a tenant in common, a tenant by the entireties, or a joint tenant with right of survivorship.

(b) *Leases.* A leasehold interest in property is not a term interest to the extent the lease is for full and adequate consideration (without regard to section 2702). A lease will be considered for full and adequate consideration if, under all the facts and circumstances as of the time the lease is entered into or extended, a good faith effort is made to determine the fair rental value of the property and the terms of the lease conform to the value so determined.

(c) *Joint purchases.* Solely for purposes of section 2702, if an individual acquires a term interest in property and, in the same transaction or series of transactions, one or more members of the individual's family acquire an interest in the same property, the individual acquiring the term interest is treated as acquiring the entire property so acquired, and transferring to each of those family members the interests acquired by that family member in exchange for any consideration paid by that family member. For purposes of this paragraph (c), the amount of the individual's gift will not exceed the amount of consideration furnished by that individual for all interests in the property.

(d) *Examples.* The following examples illustrate rules of this section:

Example 1. A purchases a 20-year term interest in an apartment building and A's child purchases the remainder interest in the property. A and A's child each provide the portion of the purchase price equal to the value of their respective interests in the property determined under section 7520. Solely for purposes of section 2702, A is treated as acquiring the entire property and transferring the remainder interest to A's child in exchange for the portion of the purchase price provided by A's child. In determining the amount of A's gift, A's retained interest is valued at zero because it is not a qualified interest.

Example 2. K holds rental real estate valued at $100,000. K sells a remainder interest in the property to K's child, retaining the right to receive the income from the property for 20 years. Assume the purchase price paid by K's child for the remainder interest is equal to the value of the interest determined under section 7520. K's retained interest is not a qualified interest and is therefore valued at zero. K has made a gift in the amount of $100,000 less the consideration received from K's child.

Example 3. G and G's child each acquire a 50 percent undivided interest as tenants in common in an office building. The interests of G and G's child are not term interests to which section 2702 applies.

Example 4. B purchases a life estate in property from R, B's grandparent, for $100 and B's child purchases the remainder interest for $50. Assume that the value of the property is $300, the value of the life estate determined under section 7520 is $250 and the value of the remainder interest is $50. B is treated as acquiring the entire property and transferring the remainder interest to B's child. However, the amount of B's gift is $100, the amount of consideration ($100) furnished by B for B's interest.

Example 5. H and W enter into a written agreement relative to their marital and property rights that requires W to transfer property to an irrevocable trust, the terms of which provide that the income of the trust will be paid to H for 10 years. On the expiration of the 10-year term, the trust is to terminate and the trust corpus is to be paid to W. H and W divorce within two years after the agreement is entered into. Pursuant to section 2516, the transfer to H would otherwise be deemed to be for full and adequate consideration. Section 2702 does not apply to the acquisition of the term interest by H because no member of H's family acquired an interest in the property in the same transaction or series of transactions. The result would not be the same if, on the termination of H's interest in the trust, the trust corpus were distributable to the children of H and W rather than W.

§ 25.2702–5 Personal residence trusts.

(a) *In general.* Section 2702 does not apply to a transfer in trust meeting the requirements of this section. A transfer in trust meets the requirements of this section only if the trust is a personal residence trust (as defined in paragraph (b) of this section). A trust meeting the requirements of a qualified personal residence trust (as defined in paragraph (c) of this section) is treated as a personal residence trust. A trust of which the term holder is the grantor that otherwise meets the requirements of a personal residence trust (or a qualified personal residence trust) is not a personal residence trust (or a qualified personal residence trust) if, at the time of transfer, the term holder of the trust already holds term interests in two trusts that are personal residence trusts (or qualified personal residence trusts) of which the term holder was the grantor. For this purpose, trusts holding fractional interests in the same residence are treated as one trust.

(b) *Personal residence trust*—(1) *In general.* A personal residence trust is a trust the governing instrument of which prohibits the trust from holding, for the original duration of the term interest, any asset other than one residence to be used or held for use as a personal residence of the term holder and qualified proceeds (as defined in paragraph (b)(3) of this section). A residence is held for use as a personal residence of the term holder so long as the residence is not occupied by any other person (other than the spouse or a dependent of the term holder) and is available at all times for use by the term holder as a personal residence. A trust does not meet the requirements of this section if, during the original duration of the term interest, the residence may be sold or otherwise transferred by the trust or may be used for a purpose other than as a personal residence of the term holder. Expenses of the trust whether or not attributable to trust principal may be paid directly by the term holder of the trust.

(2) *Personal residence*—(i) *In general.* For purposes of this paragraph (b), a personal residence of a term holder is either—

(A) The principal residence of the term holder (within the meaning of section 1034);

(B) One other residence of the term holder (within the meaning of section

280A(d)(1) but without regard to section 280A(d)(2)); or

(C) An undivided fractional interest in either.

(ii) *Additional property.* A personal residence may include appurtenant structures used by the term holder for residential purposes and adjacent land not in excess of that which is reasonably appropriate for residential purposes (taking into account the residence's size and location). The fact that a residence is subject to a mortgage does not affect its status as a personal residence. The term personal residence does not include any personal property (*e.g.*, household furnishings).

(iii) *Use of residence.* A residence is a personal residence only if its primary use is as a residence of the term holder when occupied by the term holder. The principal residence of the term holder will not fail to meet the requirements of the preceding sentence merely because a portion of the residence is used in an activity meeting the requirements of section 280A(c) (1) or (4) (relating to deductibility of expenses related to certain uses), provided that such use is secondary to use of the residence as a residence. A residence is not used primarily as a residence if it is used to provide transient lodging and substantial services are provided in connection with the provision of lodging (*e.g.* a hotel or a bed and breakfast). A residence is not a personal residence if, during any period not occupied by the term holder, its primary use is other than as a residence.

(iv) *Interests of spouses in the same residence.* If spouses hold interests in the same residence (including community property interests), the spouses may transfer their interests in the residence (or a fractional portion of their interests in the residence) to the same personal residence trust, provided that the governing instrument prohibits any person other than one of the spouses from holding a term interest in the trust concurrently with the other spouse.

(3) *Qualified proceeds.* Qualified proceeds means the proceeds payable as a result of damage to, or destruction or involuntary conversion (within the meaning of section 1033) of, the residence held by a personal residence trust, provided that the governing instrument requires that the proceeds (including any income thereon) be reinvested in a personal residence within two years from the date on which the proceeds are received.

(c) *Qualified personal residence trust*—(1) *In general.* A qualified personal residence trust is a trust meeting all the requirements of this paragraph (c). These requirements must be met by provisions in the governing instrument, and these governing instrument provisions must by their terms continue in effect during the existence of any term interest in the trust.

(2) *Personal residence*—(i) *In general.* For purposes of this paragraph (c), a personal residence of a term holder is either—

(A) The principal residence of the term holder (within the meaning of section 1034);

(B) One other residence of the term holder (within the meaning of section 280A(d)(1) but without regard to section 280A(d)(2)); or

(C) An undivided fractional interest in either.

(ii) *Additional property.* A personal residence may include appurtenant structures used by the term holder for residential purposes and adjacent land not in excess of that which is reasonably appropriate for residential purposes (taking into account the residence's size and location). The fact that a residence is subject to a mortgage does not affect its status as a personal residence. The term personal residence does not include any personal property (*e.g.*, household furnishings).

(iii) *Use of residence.* A residence is a personal residence only if its primary use is as a residence of the term holder when occupied by the term holder. The principal residence of the term holder will not fail to meet the requirements of the preceding sentence merely because a portion of the residence is used in an activity meeting the requirements of section 280A(c) (1) or (4) (relating to deductibility of expenses related to certain uses), provided that such use is secondary to use of the residence as a residence. A residence is not used primarily as a residence if it is used to provide transient lodging and substantial services are provided in connection with the provision of lodging (*e.g.*, a hotel or a bed and breakfast). A residence is not a personal residence if, during any period not occupied by the term holder, its primary use is other than as a residence. A residence is not a personal residence if, during any period not occupied by the term holder, its primary use is other than as a residence.

(iv) *Interests of spouses in the same residence.* If spouses hold interests in the same residence (including community property interests), the spouses may transfer their interests in the residence (or a fractional portion of their interests in the residence) to the same qualified personal residence trust, provided that the governing instrument prohibits any person other than one of the spouses from holding a term interest in the trust concurrently with the other spouse.

(3) *Income of the trust.* The governing instrument must require that any income of the trust be distributed to the term holder not less frequently than annually.

(4) *Distributions from the trust to other persons.* The governing instrument must prohibit distributions of corpus to any beneficiary other than the transferor prior to the expiration of the retained term interest.

(5) *Assets of the trust*—(i) *In general.* Except as otherwise provided in paragraphs (c)(5)(ii) and (c)(8) of this section, the governing instrument must prohibit the trust from holding, for the entire term of the trust, any asset other than one residence to be used or held for use (within the meaning of paragraph (c)(7)(i) of this section) as a personal residence of the term holder (the "residence").

(ii) *Assets other than personal residence.* Except as otherwise provided, the governing instrument may permit a qualified personal residence trust to hold the following assets (in addition to the residence) in the amounts and in the manner described in this paragraph (c)(5)(ii):

(A) *Additions of cash for payment of expenses, etc.*—(*1*) *Additions.* The governing instrument may permit additions of cash to the trust, and may permit the trust to hold additions of cash in a separate account, in an amount which, when added to the cash already held in the account for such purposes, does not exceed the amount required:

(*i*) For payment of trust expenses (including mortgage payments) already incurred or reasonably expected to be paid by the trust within six months from the date the addition is made;

(*ii*) For improvements to the residence to be paid by the trust within six months from the date the addition is made; and

(*iii*) For purchase by the trust of the initial residence, within three months of the date the trust is created, provided that no addition may be made for this purpose, and the trust may not hold any such addition, unless the trustee has previously entered into a contract to purchase that residence; and

(*iv*) For purchase by the trust of a residence to replace another residence, within three months of the date the addition is made, provided that no addition may be made for this purpose, and the trust may not hold any such addition, unless the trustee has previously entered into a contract to purchase that residence.

(*2*) *Distributions of excess cash.* If the governing instrument permits additions of cash to the trust pursuant to paragraph (c)(5)(ii)(A)(*1*) of this section, the governing instrument must require that the trustee determine, not less frequently than quarterly, the amounts held by the trust for payment of expenses in excess of the amounts permitted by that paragraph and must require that those amounts be distributed immediately thereafter to the term holder. In addition, the governing instrument must require, upon termination of the term holder's interest in the trust, any amounts held by the trust for the purposes permitted by paragraph (c)(5)(ii)(A)(*1*) of this section that are not used to pay trust expenses due and payable on the date of termination (including expenses directly related to termination) be distributed outright to the term holder within 30 days of termination.

(B) *Improvements.* The governing instrument may permit improvements to the residence to be added to the trust and may permit the trust to hold such improvements, provided that the residence, as improved, meets the requirements of a personal residence.

(C) *Sale proceeds.* The governing instrument may permit the sale of the residence and may permit the trust to hold proceeds from the sale of the residence, in a separate account.

(D) *Insurance and insurance proceeds.* The governing instrument may permit the trust to hold one or more policies of insurance on the residence. In addition, the governing instrument may permit the trust to hold, in a separate account, proceeds of insurance payable to the trust as a result of damage to or destruction of the residence. For purposes of this paragraph, amounts (other than insurance proceeds payable to the trust as a result of damage to or destruction of the residence) received as a result of the involuntary conversion (within the meaning of section 1033) of the residence are treated as proceeds of insurance.

(6) *Commutation.* The governing instrument must prohibit commutation (prepayment) of the term holder's interest.

(7) *Cessation of use as a personal residence*—(i) *In general.* The governing instrument must provide that a trust ceases to be a qualified personal residence trust if the residence ceases to be used or held for use as a personal residence of the term holder. A residence is held for use as a personal residence of the term holder so long as the residence is not occupied by any other person (other than the spouse or a dependent of the term holder) and is available at all times for use by the term holder as a personal residence. See § 25.2702–5(c)(8) for rules governing disposition of assets of a trust as to which the trust has ceased to be a qualified personal residence trust.

(ii) *Sale of personal residence.* The governing instrument must provide that the trust ceases to be a qualified personal residence trust upon sale of the residence if the governing instrument does not permit the trust to hold proceeds of sale of the residence pursuant to paragraph (c)(5)(ii)(C) of this section. If the governing instrument permits the trust to hold proceeds of sale pursuant to that paragraph, the governing instrument must provide that the trust ceases to be a qualified personal residence trust with respect to all proceeds of sale held by the trust not later than the earlier of—

(A) The date that is two years after the date of sale;

(B) The termination of the term holder's interest in the trust; or

(C) The date on which a new residence is acquired by the trust.

(iii) *Damage to or destruction of personal residence*—(A) *In general.* The governing instrument must provide that, if damage or destruction renders the residence unusable as a residence, the trust ceases to be a qualified personal residence trust on the date that is two years after the date of damage or destruction (or the date of termination of the term holder's interest in the trust, if earlier) unless, prior to such date—

(*1*) Replacement of or repairs to the residence are completed; or

(*2*) A new residence is acquired by the trust.

(B) *Insurance proceeds.* For purposes of this paragraph (C)(7)(iii), if the governing instrument permits the trust to hold proceeds of insurance received as a result of damage to or destruction of the residence pursuant to paragraph (c)(5)(ii)(D) of this section, the governing instrument must contain provisions similar to those required by paragraph (c)(7)(ii) of this section.

(8) *Disposition of trust assets on cessation as personal residence trust*—(i) *In general.* The governing instrument must provide that, within 30 days after the date on which the trust has ceased to be a qualified personal residence trust with respect to certain assets, either—

(A) The assets be distributed outright to the term holder;

(B) The assets be converted to and held for the balance of the term holder's term in a separate share of the trust meeting the requirements of a qualified annuity interest; or

(C) In the trustee's sole discretion, the trustee may elect to comply with either paragraph (c)(8)(i) (A) or (B) of this section pursuant to their terms.

(ii) *Requirements for conversion to a qualified annuity interest*—(A) *Governing instrument requirements.* For assets subject to this paragraph (c)(8) to be converted to and held as a qualified annuity interest, the governing instrument must contain all provisions required by § 25.2702–3 with respect to a qualified annuity interest.

(B) *Effective date of annuity.* The governing instrument must provide that the right of the term holder to receive the annuity amount begins on the date of sale of the residence, the date of damage to or destruction of the residence, or the date on which the residence ceases to be used or held for use as a personal residence, as the case may be ("the cessation date"). Notwithstanding the preceding sentence, the governing instrument may provide that the trustee may defer payment of any annuity amount otherwise payable after the cessation date until the date that is 30 days after the assets are converted to a qualified annuity interest under paragraph (c)(8)(i)(B) of this section ("the conversion date"); provided that any deferred payment must bear interest from the cessation date at a rate not less than the section 7520 rate in effect on the cessation date. The governing instrument may permit the trustee to reduce aggregate deferred annuity payments by the amount of income actually distributed by the trust to the term holder during the deferral period.

(C) *Determination of annuity amount*—(*1*) *In general.* The governing instrument must require that the annuity amount be no less than the amount determined under this paragraph (C).

(*2*) *Entire trust ceases to be a qualified personal residence trust.* If, on the conversion date, the assets of the trust do not include a residence used or held for use as a personal residence, the annuity may not be less than an amount determined by dividing the lesser of the value of all interests retained by the term holder (as of the date of the original transfer or transfers) or the value of all the trust assets (as of the conversion date) by an annuity factor determined—

(*i*) For the original term of the term holder's interest;

(*ii*) Using the rate determined under section 7520 (as of the date of the original transfer); and

(*iii*) Assuming the annuity percentage equals the rate determined in (*ii*).

(*3*) *Portion of trust continues as qualified personal residence trust.* If, on the conversion date, the assets of the trust include a residence used or held for use as a personal residence, the annuity must not be less than the amount determined under paragraph (c)(8)(ii)(C)(*2*) of this section multiplied by a fraction. The numerator of the fraction is the excess of the fair market value of the trust assets on the conversion date over the amount (including acquisition costs) reinvested in the new residence or expended for repairs of the existing residence, and the denominator of the fraction is the fair market value of the trust assets on the conversion date.

(d) *Examples.* The following examples illustrate rules of this section. Each example assumes that all applicable requirements of a personal residence trust (or qualified personal residence trust) are met unless otherwise stated.

Example 1. C maintains C's principal place of business in one room of C's principal residence. The room meets the requirements of section 280A(c)(1) for deductibility of expenses related to such use. The residence is a personal residence.

Example 2. L owns a vacation condominium that L rents out for six months of the year, but which is treated as L's residence under section 280A(d)(1) because L occupies it for at least 18 days per year. L provides no substantial services in connection with the rental of the condominium. L transfers the condominium to an irrevocable trust, the terms of which meet the requirements of a qualified personal residence trust. L retains the right to use the condominium during L's lifetime. The trust is a qualified personal residence trust.

Example 3. W owns a 200-acre farm. The farm includes a house, barns, equipment buildings, a silo, and enclosures for confinement of farm animals. W transfers the farm to an irrevocable trust, retaining the use of the farm for 20 years, with the remainder to W's child. The trust is not a personal residence trust because the farm includes assets not meeting the requirements of a personal residence.

Example 4. A transfers A's principal residence to an irrevocable trust, retaining the right to use the residence for a 20-year term. The governing instrument of the trust does not prohibit the trust from holding personal property. The trust is not a qualified personal residence trust.

Example 5. T transfers a personal residence to a trust that meets the requirements of a qualified personal residence trust, retaining a term interest in the trust for 10 years. During the period of T's retained term interest, T is forced for health reasons to move to a nursing home. T's spouse continues to occupy the residence. If the residence is available at all times for T's use as a residence during the term (without regard to T's ability to actually use the residence), the residence continues to be held for T's use and the trust does not cease to be a qualified personal residence trust. The residence would cease to be held for use as a personal residence of T if the trustee rented the residence to an unrelated party, because the residence would no longer be available for T's use at all times.

Example 6. T transfers T's personal residence to a trust that meets the requirements of a qualified personal residence trust, retaining the right to use the residence for 12 years. On the date the residence is transferred to the trust, the fair market value of the residence is $100,000. After 6 years, the trustee sells the residence, receiving net proceeds of $250,000, and invests the proceeds of sale in common stock. After an additional eighteen months, the common stock has paid $15,000 in dividends and has a fair market value of $260,000. On that date, the trustee purchases a new residence for $200,000. On the purchase of the new residence, the trust ceases to be a qualified personal residence trust with respect to any amount not reinvested in the new residence. The governing instrument of the trust provides that the trustee, in the trustee's sole discretion, may elect either to distribute the excess proceeds or to convert the proceeds into a qualified annuity interest. The trustee elects the latter option. The amount of the annuity is the amount of the annuity that would be payable if no portion of the sale proceeds had been reinvested in a personal residence multiplied by a fraction. The numerator of the fraction is $60,000 (the amount remaining after reinvestment) and the denominator of the fraction is $260,000 (the fair market value of the trust assets on the conversion date). The obligation to pay the annuity commences on the date of sale, but payment of the annuity that otherwise would have been payable during the period between the date of sale and the date on which the trust ceased to be a qualified personal residence trust with respect to the excess proceeds may be deferred until 30 days after the date on which the new residence is purchased. Any amount deferred must bear compound interest from the date the annuity is payable at the section 7520 rate in effect on the date of sale. The $15,000 of income distributed to the term holder during that period may be used to reduce the annuity amount payable with respect to that period if the governing instrument so provides and thus reduce the amount on which compound interest is computed.

§ 25.2702-6 Reduction in taxable gifts.

(a) *Transfers of retained interests in trust*—(1) *Inter vivos transfers.* If an individual subsequently transfers by gift an interest in trust previously valued (when held by that individual) under § 25.2702-2 (b)(1) or (c), the individual is entitled to a reduction in aggregate taxable gifts. The amount of the reduction is determined under paragraph (b) of this section. Thus, for example, if an individual transferred property to an irrevocable trust, retaining an interest in the trust that was valued at zero under § 25.2702-2(b)(1), and the individual later transfers the retained interest by gift, the individual is entitled to a reduction in aggregate taxable gifts on the subsequent transfer. For purposes of this section, aggregate taxable gifts means the aggregate sum of the individual's taxable gifts for the calendar year determined under section 2502(a)(1).

(2) *Testamentary transfers.* If either—

(i) A term interest in trust is included in an individual's gross estate solely by reason of section 2033, or

(ii) A remainder interest in trust is included in an individual's gross estate,

and the interest was previously valued (when held by that individual) under § 25.2702-2(b)(1) or (c), the individual's estate is entitled to a reduction in the individual's adjusted taxable gifts in computing the Federal estate tax payable under section 2001. The amount of the reduction is determined under paragraph (b) of this section.

(3) *Gift splitting on subsequent transfer.* If an individual who is entitled to a reduction in aggregate taxable gifts (or adjusted taxable gifts) subsequently transfers the interest in a transfer treated as made one-half by the individual's spouse under section 2513, the individual may assign one-half of the amount of the reduction to the consenting spouse. The assignment must be attached to the Form 709 on which the consenting spouse reports the split gift.

(b) *Amount of reduction*—(1) *In general.* The amount of the reduction in aggregate taxable gifts (or adjusted taxable gifts) is the lesser of—

(i) The increase in the individual's taxable gifts resulting from the interest being valued at the time of the initial transfer under § 25.2702-2(b)(1) or (c); or

(ii) The increase in the individual's taxable gifts (or gross estate) resulting from the subsequent transfer of the interest.

(2) *Treatment of annual exclusion.* For purposes of determining the amount under paragraph (b)(1)(ii) of this section, the exclusion under section 2503(b) applies first to transfers in that year other than the transfer of the interest previously valued under § 25.2702-2(b)(1) or (c).

(3) *Overlap with section 2001.* Notwithstanding paragraph (b)(1) of this section, the amount of the reduction is reduced to the extent section 2001 would apply to reduce the amount of an individual's adjusted taxable gifts with respect to the same interest to which paragraph (b)(1) of this section would otherwise apply.

(c) *Examples.* The rules of this section are illustrated by the following examples. The following facts apply for *Examples 1–4:*

Facts. In 1992, X transferred property to an irrevocable trust retaining the right to receive the trust income for life. On the death of X, the trust is to terminate and the trust corpus is to be paid to X's child, C. X's income interest had a value under section 7520 of $40,000 at the time of the transfer; however, because X's retained interest was not a qualified interest, it was valued at zero under § 25.2702–2(b)(1) for purposes of determining the amount of X's gift. X's taxable gifts in 1992 were therefore increased by $40,000. In 1993, X transfers the income interest to C for no consideration.

Example 1. Assume that the value under section 7520 of the income interest on the subsequent transfer to C is $30,000. If X makes no other gifts to C in 1993, X is entitled to a reduction in aggregate taxable gifts of $20,000, the lesser of the amount by which X's taxable gifts were increased as a result of the income interest being valued at zero on the initial transfer ($40,000) or the amount by which X's taxable gifts are increased as a result of the subsequent transfer of the income interest ($30,000 minus $10,000 annual exclusion).

Example 2. Assume that in 1993, 4 months after X transferred the income interest to C, X transferred $5,000 cash to C. In determining the increase in taxable gifts occurring on the subsequent transfer, the annual exclusion under section 2503(b) is first applied to the cash gift. X is entitled to a reduction in aggregate taxable gifts of $25,000, the lesser of the amount by which X's taxable gifts were increased as a result of the income interest being valued at zero on the initial transfer ($40,000) or the amount by which X's taxable gifts are increased as a result of the subsequent transfer of the income interest ($25,000 (($30,000 + $5,000) − $10,000 annual exclusion).

Example 3. Assume that the value under section 7520 of the income interest on the subsequent transfer to C is $55,000. X is entitled to reduce aggregate taxable gifts by $40,000, the lesser of the amount by which X's taxable gifts were increased as a result of the income interest being valued at zero on the initial transfer ($40,000) or the amount by which X's taxable gifts are increased as a result of the subsequent transfer of the income interest ($55,000 minus $10,000 annual exclusion = $45,000).

Example 4. Assume that X and X's spouse, S, split the subsequent gift to C. X is entitled to assign one-half the reduction to S. If the assignment is made, each is entitled to reduce aggregate taxable gifts by $17,500, the lesser of their portion of the increase in taxable gifts on the initial transfer by reason of the application of section 2702 ($20,000) and their portion of the increase in taxable gifts on the subsequent transfer of the retained interest ($27,500 − $10,000 annual exclusion).

Example 5. In 1992, A transfers property to an irrevocable trust, retaining the right to receive the trust income for 10 years. On the expiration of the 10-year term, the trust is to terminate and the trust corpus is to be paid to A's child, B. Assume that A's term interest has a value under section 7520 of $20,000 at the time of the transfer; however, because A's retained interest was not a qualified interest, it was valued at zero under § 25.2702–2(b)(1) for purposes of determining the amount of A's gift. Assume also that A and A's spouse, S, split the gift of the remainder interest under section 2513. In 1993, A transfers A's term interest to D, A's other child, for no consideration. A is entitled to reduce A's aggregate taxable gifts on the transfer. Assume that A and S also split the subsequent gift to D, and that A dies one month after making the subsequent transfer of the term interest and S dies six months later. The gift of the term interest is included in A's gross estate under section 2035(d)(2). To the extent S's taxable gifts are reduced pursuant to section 2001(e), S is entitled to no reduction in aggregate or adjusted taxable gifts under this section.

Example 6. T transfers property to an irrevocable trust retaining the power to direct the distribution of trust income for 10 years among T's descendants in whatever shares T deems appropriate. On the expiration of the 10-year period, the trust corpus is to be paid in equal shares to T's children. T's transfer of the remainder interest is a completed gift. Because T's retained interest is not a qualified interest, it is valued at zero under § 25.2702–2(b)(1) and the amount of T's gift is the fair market value of the property transferred to the trust. The distribution of income each year is not a transfer of a retained interest in trust. Therefore, T is not entitled to reduce aggregate taxable gifts as a result of the distributions of income from the trust.

Example 7. The facts are the same as in *Example 6*, except that after 3 years T exercises the right to direct the distribution of trust income by assigning the right to the income for the balance of the term to T's child, C. The exercise is a transfer of a retained interest in trust for purposes of this section. T is entitled to reduce aggregate taxable gifts by the lesser of the increase in taxable gifts resulting from the application of section 2702 to the initial transfer or the increase in taxable gifts resulting from the transfer of the retained interest in trust.

Example 8. In 1992, V purchases an income interest for 10 years in property in the same transaction or series of transactions in which G, V's child, purchases the remainder interest in the same property. V dies in 1997 still holding the term interest, the value of which is includible in V's gross estate under section 2033. V's estate would be entitled to a reduction in adjusted taxable gifts in the amount determined under paragraph (b) of this section.

§ 25.2702–7 Effective dates.

Sections 25.2702–1 through 25.2702–6 are effective as of January 28, 1992. With respect to transfers to which section 2702 applied made prior to January 28, 1992, taxpayers may rely on any reasonable interpretation of the statutory provisions. For these purposes, the provisions of the proposed regulations and the final regulations are considered a reasonable interpretation of the statutory provisions.

§ 25.2703–1 Property subject to restrictive arrangements.

(a) *Disregard of rights or restrictions*—(1) *In general.* For purposes of subtitle B (relating to estate, gift, and generation-skipping transfer taxes), the value of any property is determined without regard to any right or restriction relating to the property.

(2) *Right or restriction.* For purposes of this section, right or restriction means—

(i) Any option, agreement, or other right to acquire or use the property at a price less than fair market value (determined without regard to the option, agreement, or right); or

(ii) Any restriction on the right to sell or use the property.

(3) *Agreements, etc. containing rights or restrictions.* A right or restriction may be contained in a partnership agreement, articles of incorporation, corporate bylaws, a shareholders' agreement, or any other agreement. A right or restriction may be implicit in the capital structure of an entity.

(4) *Qualified easements.* A perpetual restriction on the use of real property that qualified for a charitable deduction under either section 2522(d) or section 2055(f) of the Internal Revenue Code is not treated as a right or restriction.

(b) *Exceptions*—(1) *In general.* This section does not apply to any right or restriction satisfying the following three requirements—

(i) The right or restriction is a bona fide business arrangement;

(ii) The right or restriction is not a device to transfer property to the natural objects of the transferor's bounty for less than full and adequate consideration in money or money's worth; and

(iii) At the time the right or restriction is created, the terms of the right or restriction are comparable to similar arrangements entered into by persons in an arm's length transaction.

(2) *Separate requirements.* Each of the three requirements described in paragraph (b)(1) of this section must be independently satisfied for a right or restriction to meet this exception. Thus, for example, the mere showing that a right or restriction is a bona fide business arrangement is not sufficient to establish that the right or restriction is not a device to transfer property for less than full and adequate consideration.

(3) *Exception for certain rights or restrictions.* A right or restriction is considered to meet each of the three requirements described in paragraph (b)(1) of this section if more than 50 percent by value of the property subject to the right or restriction is owned

directly or indirectly (within the meaning of § 25.2701-6) by individuals who are not members of the transferor's family. In order to meet this exception, the property owned by those individuals must be subject to the right or restriction to the same extent as the property owned by the transferor. For purposes of this section, members of the transferor's family include the persons described in § 25.2701-2(b)(5) and any other individual who is a natural object of the transferor's bounty. Any property held by a member of the transferor's family under the rules of § 25.2701-6 (without regard to § 25.2701-6(a)(5)) is treated as held only by a member of the transferor's family.

(4) *Similar arrangement*—(i) *In general.* A right or restriction is treated as comparable to similar arrangements entered into by persons in an arm's length transaction if the right or restriction is one that could have been obtained in a fair bargain among unrelated parties in the same business dealing with each other at arm's length. A right or restriction is considered a fair bargain among unrelated parties in the same business if it conforms with the general practice of unrelated parties under negotiated agreements in the same business. This determination generally will entail consideration of such factors as the expected term of the agreement, the current fair market value of the property, anticipated changes in value during the term of the arrangement, and the adequacy of any consideration given in exchange for the rights granted.

(ii) *Evidence of general business practice.* Evidence of general business practice is not met by showing isolated comparables. If more than one valuation method is commonly used in a business, a right or restriction does not fail to evidence general business practice merely because it uses only one of the recognized methods. It is not necessary that the terms of a right or restriction parallel the terms of any particular agreement. If comparables are difficult to find because the business is unique, comparables from similar businesses may be used.

(5) *Multiple rights or restrictions.* If property is subject to more than one right or restriction described in paragraph (a)(2) of this section, the failure of a right or restriction to satisfy the requirements of paragraph (b)(1) of this section does not cause any other right or restriction to fail to satisfy those requirements if the right or restriction otherwise meets those requirements. Whether separate provisions are separate rights or restrictions, or are integral parts of a single right or restriction, depends on all the facts and circumstances.

(c) *Substantial modification of a right or restriction*—(1) *In general.* A right or restriction that is substantially modified is treated as a right or restriction created on the date of the modification. Any discretionary modification of a right or restriction, whether or not authorized by the terms of the agreement, that results in other than a *de minimis* change to the quality, value, or timing of the rights of any party with respect to property that is subject to the right or restriction is a substantial modification. If the terms of the right or restriction require periodic updating, the failure to update is presumed to substantially modify the right or restriction unless it can be shown that updating would not have resulted in a substantial modification. The addition of any family member as a party to a right or restriction (including by reason of a transfer of property that subjects the transferee family member to a right or restriction with respect to the transferred property) is considered a substantial modification unless the addition is mandatory under the terms of the right or restriction or the added family member is assigned to a generation (determined under the rules of section 2651 of the Internal Revenue Code) no lower than the lowest generation occupied by individuals already party to the right or restriction).

(2) *Exceptions.* A substantial modification does not include—

(i) A modification required by the terms of a right or restriction;

(ii) A discretionary modification of an agreement conferring a right or restriction if the modification does not change the right or restriction;

(iii) A modification of a capitalization rate used with respect to a right or restriction if the rate is modified in a manner that bears a fixed relationship to a specified market interest rate; and

(iv) A modification that results in an option price that more closely approximates fair market value.

(d) *Examples.* The following examples illustrate the provisions of this section:

Example 1. T dies in 1992 owning title to Blackacre. In 1991, T and T's child entered into a lease with respect to Blackacre. At the time the lease was entered into, the terms of the lease were not comparable to leases of similar property entered into among unrelated parties. The lease is a restriction on the use of the property that is disregarded in valuing the property for Federal estate tax purposes.

Example 2. T and T's child, C, each own 50 percent of the outstanding stock of X corporation. T and C enter into an agreement in 1987 providing for the disposition of stock held by the first to die at the time of death. The agreement also provides certain restrictions with respect to lifetime transfers. In 1992, as permitted (but not required) under the agreement, T transfers one-half of T's stock to T's spouse, S. S becomes a party to the agreement between T and C by reason of the transfer. The transfer is the addition of a family member to the right or restriction. However, it is not a substantial modification of the right or restriction because the added family member would be assigned to a generation under section 2651 of the Internal Revenue Code no lower than the generation occupied by C.

Example 3. The facts are the same as in *Example 2.* In 1993, the agreement is amended to reflect a change in the company's name and a change of address for the company's registered agent. These changes are not a substantial modification of the agreement conferring the right or restriction because the right or restriction has not changed.

§ 25.2703-2 Effective date.

Section 25.2703-1 applies to any right or restriction created or substantially modified after October 8, 1990, and is effective as of January 28, 1992. With respect to transfers occurring prior to January 28, 1992, and for purposes of determining whether an event occurring prior to January 28, 1992 constitutes a substantial modification, taxpayers may rely on any reasonable interpretation of the statutory provisions. For these purposes, the provisions of the proposed regulations and the final regulations are considered a reasonable interpretation of the statutory provisions.

§ 25.2704-1 Lapse of certain rights.

(a) *Lapse treated as transfer*—(1) *In general.* The lapse of a voting right or a liquidation right in a corporation or partnership (an "entity") is a transfer by the individual directly or indirectly holding the right immediately prior to its lapse (the "holder") to the extent provided in paragraphs (b) and (c) of this section. This section applies only if the entity is controlled by the holder and members of the holder's family immediately before and after the lapse. The amount of the transfer is determined under paragraph (d) of this section. If the lapse of a voting right or a liquidation right occurs during the holder's lifetime, the lapse is a transfer by gift. If the lapse occurs at the holder's death, the lapse is a transfer includible in the holder's gross estate.

(2) *Definitions.* The following definitions apply for purposes of this section.

(i) *Control.* Control has the meaning given it in § 25.2701-2(b)(5).

(ii) *Member of the family.* Member of the family has the meaning given it in § 25.2702–2(a)(1).

(iii) *Directly or indirectly held.* An interest is directly or indirectly held only to the extent the value of the interest would have been includible in the gross estate of the individual if the individual had died immediately prior to the lapse.

(iv) *Voting right.* Voting right means a right to vote with respect to any matter of the entity. In the case of a partnership, the right of a general partner to participate in partnership management is a voting right. The right to compel the entity to acquire all or a portion of the holder's equity interest in the entity by reason of aggregate voting power is treated as a liquidation right and is not treated as a voting right.

(v) *Liquidation right.* Liquidation right means a right or ability to compel the entity to acquire all or a portion of the holder's equity interest in the entity, including by reason of aggregate voting power, whether or not its exercise would result in the complete liquidation of the entity.

(vi) *Subordinate.* Subordinate has the meaning given it in § 25.2701–3(a)(2)(iii).

(3) *Certain temporary lapses.* If a lapsed right may be restored only upon the occurrence of a future event not within the control of the holder or members of the holder's family, the lapse is deemed to occur at the time the lapse becomes permanent with respect to the holder, *i.e.* either by a transfer of the interest or otherwise.

(4) *Source of right or lapse.* A voting right or a liquidation right may be conferred by and may lapse by reason of a State law, the corporate charter or bylaws, an agreement, or other means.

(b) *Lapse of voting right.* A lapse of a voting right occurs at the time a presently exercisable voting right is restricted or eliminated.

(c) *Lapse of liquidation right*—(1) *In general.* A lapse of a liquidation right occurs at the time a presently exercisable liquidation right is restricted or eliminated. Except as otherwise provided, a transfer of an interest that results in the lapse of a liquidation right is not subject to this section if the rights with respect to the transferred interest are not restricted or eliminated. However, a transfer that results in the elimination of the transferor's right or ability to compel the entity to acquire an interest retained by the transferor that is subordinate to the transferred interest is a lapse of a liquidation right with respect to the subordinate interest.

(2) *Exceptions.* Section 2704(a) does not apply to the lapse of a liquidation right under the following circumstances.

(i) *Family cannot obtain liquidation value*—(A) *In general.* Section 2704(a) does not apply to the lapse of a liquidation right to the extent the holder (or the holder's estate) and members of the holder's family cannot immediately after the lapse liquidate an interest that the holder held directly or indirectly and could have liquidated prior to the lapse.

(B) *Ability to liquidate.* Whether an interest can be liquidated immediately after the lapse is determined under the State law generally applicable to the entity, as modified by the governing instruments of the entity, but without regard to any restriction described in section 2704(b). Thus, if, after any restriction described in section 2704(b) is disregarded, the remaining requirements for liquidation under the governing instruments are less restrictive than the State law that would apply in the absence of the governing instruments, the ability to liquidate is determined by reference to the governing instruments.

(ii) *Rights valued under section 2701.* Section 2704(a) does not apply to the lapse of a liquidation right previously valued under section 2701 to the extent necessary to prevent double taxation (taking into account any adjustment available under § 25.2701–5).

(iii) *Certain changes in State law.* Section 2704(a) does not apply to the lapse of a liquidation right that occurs solely by reason of a change in State law. For purposes of this paragraph, a change in the governing instrument of an entity is not a change in State law.

(d) *Amount of transfer.* The amount of the transfer is the excess, if any, of—

(1) The value of all interests in the entity owned by the holder immediately before the lapse (determined immediately after the lapse as if the lapsed right was nonlapsing); over

(2) The value of the interests described in the preceding paragraph immediately after the lapse (determined as if all such interests were held by one individual).

(e) *Application to similar rights.* [Reserved]

(f) *Examples.* The following examples illustrate the provisions of this section:

Example 1. Prior to D's death, D owned all the preferred stock of Corporation Y and D's children owned all the common stock. At that time, the preferred stock had 60 percent of the total voting power and the common stock had 40 percent. Under the corporate by-laws, the voting rights of the preferred stock terminated on D's death. The value of D's interest immediately prior to D's death (determined as if the voting rights were nonlapsing) was $100X. The value of that interest immediately after death would have been $90X if the voting rights had been nonlapsing. The decrease in value reflects the loss in value resulting from the death of D (whose involvement in Y was a key factor in Y's profitability). Section 2704(a) applies to the lapse of voting rights on D's death. D's gross estate includes an amount equal to the excess, if any, of $90X over the fair market value of the preferred stock determined after the lapse of the voting rights.

Example 2. Prior to D's death, D owned all the preferred stock of Corporation Y. The preferred stock and the common stock each carried 50 percent of the total voting power of Y. D's children owned 40 percent of the common stock and unrelated parties own the remaining 60 percent. Under the corporate by-laws, the voting rights of the preferred stock terminate on D's death. Section 2704(a) does not apply to the lapse of D's voting rights because members of D's family do not control Y after the lapse.

Example 3. The by-laws of Corporation Y provide that the voting rights of any transferred shares of the single outstanding class of stock are reduced to ½ vote per share after the transfer but are fully restored to the transferred shares after 5 years. D owned 60 percent of the shares prior to death and members of D's family owned the balance. On D's death, D's shares pass to D's children and the voting rights are reduced pursuant to the by-laws. Section 2704(a) applies to the lapse of D's voting rights. D's gross estate includes an amount equal to the excess, if any, of the fair market value of D's stock (determined immediately after D's death as though the voting rights had not been reduced and would not be reduced) over the stock's fair market value immediately after D's death.

Example 4. D owns 84 percent of the single outstanding class of stock of Corporation Y. The by-laws require at least 70 percent of the vote to liquidate Y. D gives one-half of D's stock in equal shares to D's three children (14 percent to each). Section 2704(a) does not apply to the loss of D's ability to liquidate Y, because the voting rights with respect to the corporation are not restricted or eliminated by reason of the transfer.

Example 5. D and D's two children, A and B, are partners in Partnership X. Each has a 3⅓ percent general partnership interest and a 30 percent limited partnership interest. Under State law, a general partner has the right to participate in partnership management. The partnership agreement provides that when a general partner withdraws or dies, X must redeem the general partnership interest for its liquidation value. Also, under the agreement any general partner can liquidate the partnership. A limited partner cannot liquidate the partnership and a limited partner's capital interest will be returned only when the partnership is liquidated. A deceased limited partner's interest continues as a limited partnership interest. D dies, leaving his limited partnership interest to D's spouse. Because of a general partner's right to dissolve the partnership, a limited partnership interest has a greater fair market value when held in conjunction with a general partnership interest than when held alone. Section 2704(a) applies to the lapse of D's liquidation right because after the lapse, members of D's family could liquidate D's

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limited partnership interest. D's gross estate includes an amount equal to the excess of the value of all D's interests in X immediately before D's death (determined immediately after D's death but as though the liquidation right had not lapsed and would not lapse) over the fair market value of all D's interests in X immediately after D's death.

Example 6. The facts are the same as in *Example 5*, except that under the partnership agreement D is the only general partner who holds a unilateral liquidation right. Assume further that the partnership agreement contains a restriction described in section 2704(b) that prevents D's family members from liquidating D's limited partnership interest immediately after D's death. Under State law, in the absence of the restriction in the partnership agreement, D's family members could liquidate the partnership. The restriction on the family's ability to liquidate is disregarded and the amount of D's gross estate is increased by reason of the lapse of D's liquidation right.

Example 7. D owns all the stock of Corporation X, consisting of 100 shares of non-voting preferred stock and 100 shares of voting common stock. Under the by-laws, X can only be liquidated with the consent of at least 80 percent of the voting shares. D transfers 30 shares of common stock to D's child. The transfer is not a lapse of a liquidation right with respect to the common stock because the voting rights that enabled D to liquidate prior to the transfer are not restricted or eliminated. The transfer is not a lapse of a liquidation right with respect to the retained preferred stock because the preferred stock is not subordinate to the transferred common stock.

Example 8. D owns all of the single class of stock of Corporation Y. D recapitalizes Y, exchanging D's common stock for voting common stock and non-voting, non-cumulative preferred stock. The preferred stock carries a right to put the stock for its par value at any time during the next 10 years. D transfers the common stock to D's grandchild in a transfer subject to section 2701. In determining the amount of D's gift under section 2701, D's retained put right is valued at zero. D's child, C, owns the preferred stock when the put right lapses. Section 2704(a) applies to the lapse, without regard to the application of section 2701, because the put right was not valued under section 2701 in the hands of C.

Example 9. A and A's two children are equal general and limited partners in Partnership Y. Under the partnership agreement, each general partner has a right to liquidate the partnership at any time. Under State law that would apply in the absence of contrary provisions in the partnership agreement, the death or incompetency of a general partner terminates the partnership. However, the partnership agreement provides that the partnership does not terminate on the incompetence or death of a general partner, but that an incompetent partner cannot exercise rights as a general partner during any period of incompetency. A partner's full rights as general partner are restored if the partner regains competency. A becomes incompetent. The lapse of A's voting right on becoming incompetent is not subject to section 2704(a) because it may be restored to A in the future. However, if A dies while incompetent, a lapse subject to section 2704(a) is deemed to occur at that time because the lapsed right cannot thereafter be restored to A.

§ 25.2704–2 Transfers subject to applicable restrictions.

(a) *In general.* If an interest in a corporation or partnership (an "entity") is transferred to or for the benefit of a member of the transferor's family, any applicable restriction is disregarded in valuing the transferred interest. This section applies only if the transferor and members of the transferor's family control the entity immediately before the transfer. For the definition of control, see § 25.2701–2(b)(5). For the definition of member of the family, see § 25.2702–2(a)(1).

(b) *Applicable restriction defined.* An applicable restriction is a limitation on the ability to liquidate the entity (in whole or in part) that is more restrictive than the limitations that would apply under the State law generally applicable to the entity in the absence of the restriction. A restriction is an applicable restriction only to the extent that either the restriction by its terms will lapse at any time after the transfer, or the transferor (or the transferor's estate) and any members of the transferor's family can remove the restriction immediately after the transfer. Ability to remove the restriction is determined by reference to the State law that would apply but for a more restrictive rule in the governing instruments of the entity. See § 25.2704–1(e)(1)(B) for a discussion of the term "State law." An applicable restriction does not include a commercially reasonable restriction on liquidation imposed by an unrelated person providing capital to the entity for the entity's trade or business operations whether in the form of debt or equity. An unrelated person is any person whose relationship to the transferor, the transferee, or any member of the family of either is not described in section 267(b) of the Internal Revenue Code, provided that for purposes of this section the term "fiduciary of a trust" as used in section 267(b) does not include a bank as defined in section 581 of the Internal Revenue Code. A restriction imposed or required to be imposed by Federal or State law is not an applicable restriction. An option, right to use property, or agreement that is subject to section 2703 is not an applicable restriction.

(c) *Effect of disregarding an applicable restriction.* If an applicable restriction is disregarded under this section, the transferred interest is valued as if the restriction does not exist and as if the rights of the transferor are determined under the State law that would apply but for the restriction. For example, an applicable restriction with respect to preferred stock will be disregarded in determining the amount of a transfer of common stock under section 2701.

(d) *Examples.* The following examples illustrate the provisions of this section:

Example 1. D owns a 76 percent interest and each of D's children, A and B, owns a 12 percent interest in General Partnership X. The partnership agreement requires the consent of all the partners to liquidate the partnership. Under the State law that would apply in the absence of the restriction in the partnership agreement, the consent of partners owning 70 percent of the total partnership interests would be required to liquidate X. On D's death, D's partnership interest passes to D's child, C. The requirement that all the partners consent to liquidation is an applicable restriction. Because A, B and C (all members of D's family), acting together after the transfer, can remove the restriction on liquidation, D's interest is valued without regard to the restriction; *i.e.*, as though D's interest is sufficient to liquidate the partnership.

Example 2. D owns all the preferred stock in Corporation X. The preferred stock carries a right to liquidate X that cannot be exercised until 1999. D's children, A and B, own all the common stock of X. The common stock is the only voting stock. In 1994, D transfers the preferred stock to D's child, A. The restriction on D's right to liquidate is an applicable restriction that is disregarded. Therefore, the preferred stock is valued as though the right to liquidate were presently exercisable.

Example 3. D owns 60 percent of the stock of Corporation X. The corporate by-laws provide that the corporation cannot be liquidated for 10 years after which time liquidation requires approval by 60 percent of the voting interests. In the absence of the provision in the by-laws, State law would require approval by 80 percent of the voting interests to liquidate X. D transfers the stock to a trust for the benefit of D's child, A, during the 10-year period. The 10-year restriction is an applicable restriction and is disregarded. Therefore, the value of the stock is determined as if the transferred block could currently liquidate X.

Example 4. D and D's children, A and B, are partners in Limited Partnership Y. Each has a 3.33 percent general partnership interest and a 30 percent limited partnership interest. Any general partner has the right to liquidate the partnership at any time. As part of a loan agreement with a lender who is related to D, each of the partners agree that the partnership may not be liquidated without the lender's consent while any portion of the loan remains outstanding. During the term of the loan agreement, D transfers one-half of both D's partnership interests to each of A and B. Because the lender is a related party, the requirement that the lender consent to liquidation is an applicable restriction and the transfers of D's interests are valued as if such consent were not required.

Example 5. D owns 60 percent of the preferred and 70 percent of the common stock in Corporation X. The remaining stock is owned by individuals unrelated to D. The preferred stock carries a put right that cannot be exercised until 1999. In 1995, D transfers the common stock to D's child in a transfer that is subject to section 2701. The restriction on D's right to liquidate is an applicable restriction that is disregarded in determining the amount of the gift under section 2701.

§ 25.2704-3 Effective date.

Section 25.2704-1 applies to lapses occurring after January 28, 1992 of rights created after October 8, 1990. Section 25.2704-2 applies to transfers occurring after January 28, 1992 of property subject to applicable restrictions created after October 8, 1990. In determining whether a voting right or a liquidation right has lapsed prior to that date, and for purposes of determining whether the lapse is subject to section 2704(a), taxpayers may rely on any reasonable interpretation of the statutory provisions. For transfers of interests occurring before January 28, 1992, taxpayers may rely on any reasonable interpretation of the statutory provisions in detemining whether a restriction is an applicable restriction that must be disregarded in determining the value of the transferred interest. For these purposes, the provisions of the proposed regulations and the final regulations are considered a reasonable interpretation of the statutory provisions.

PART 301—PROCEDURE AND ADMINISTRATION

Par. 12. The authority for part 301 continues to read, in part:

Authority: Sec 7805, I.R.C. 1954; 68A Stat. 917; 26 U.S.C. 7805 * * *

Par. 13. In § 301.6501(c)-1, new paragraph (e) is added in the appropriate place to read as follows:

§ 301.6501(c)-1 Exceptions to general period of limitations on assessment and collection.

* * * * *

(e) *Certain gifts not shown on return*—(1) *In general.* If any transfer of property subject to the special valuation rules of section 2701 or section 2702, or if the occurrence of any taxable event described in section § 25.2701-4 of this chapter, is not adequately shown on a return of tax imposed by chapter 12 of subtitle B of the Internal Revenue Code (without regard to section 2503(b)), any tax imposed by chapter 12 of subtitle B of the Code on the transfer or resulting from the taxable event may be assessed, or a proceeding in court for the collection of the appropriate tax may be begun without assessment, at any time.

(2) *Adequately shown.* A transfer of property valued under the rules of section 2701 or section 2702 or any taxable event described in § 25.2701-4 of this chapter will be considered adequately shown on a return of tax imposed by chapter 12 of subtitle B of the Internal Revenue Code only if, with respect to the entire transaction or series of transactions (including any transaction that affected the transferred interest) of which the transfer (or taxable event) was a part, the return provides:

(i) A description of the transactions, including a description of transferred and retained interests and the method (or methods) used to value each;

(ii) The identity of, and relationship between, the transferor, transferee, all other persons participating in the transactions, and all parties related to the transferor holding an equity interest in any entity involved in the transaction; and

(iii) A detailed description (including all actuarial factors and discount rates used) of the method used to determine the amount of the gift arising from the transfer (or taxable event), including, in the case of an equity interest that is not actively traded, the financial and other data used in determining value. Financial data should generally include balance sheets and statements of net earnings, operating results, and dividends paid for each of the 5 years immediately before the valuation date.

(3) *Effective date.* The provisions of this paragraph (e) are effective as of January 28, 1992. In determining whether a transfer or taxable event is adequately shown on a gift tax return filed prior to that date, taxpayers may rely on any reasonable interpretation of the statutory provisions. For these purposes, the provisions of the proposed regulations and the final regulations are considered a reasonable interpretation of the statutory provisions.

Fred T. Goldberg, Jr.,

Commissioner of Internal Revenue.

Approved: January 2, 1992.

Kenneth W. Gideon,

Assistant Secretary of the Treasury.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 25

[PS-30-91]

RIN 1545-AM66

Adjustments Under Special Valuation Rules

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document amends proposed regulations providing for an adjustment in computing the Federal estate tax imposed on the transfer of interests to which the special valuation rules of section 2701 previously applied. Changes to the applicable law were made by the Omnibus Budget Reconciliation Act of 1990, Public Law 101–508, 104 Stat. 1388. The proposed regulations will provide guidance taxpayers need to comply with that Act.

DATES: Written comments and requests for a public hearing must be received by May 4, 1992.

ADDRESSES: Send comments and requests for a public hearing to: Internal Revenue Service, Attention: CC:CORP:T:R (PS–30–91), room 5228, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Fred E. Grundeman, (202) 535–9512 (not a toll-free telephone number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on these requirements should be sent to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attention: IRS Reports Clearance Officer T:FP, Washington, DC 20224.

Background

This document amends proposed additions to the Gift Tax Regulations (26 CFR part 25) under section 2701 of the Internal Revenue Code. The proposed regulations, originally published September 11, 1991, reflect changes made to the Code by section 11602 of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101–508, 104 Stat. 1383.

Explanation of Provisions

Overview

The proposed regulations amended in this notice were published on September 11, 1991 (56 FR 46245), in the second installment of regulatory guidance under chapter 14 of the Internal Revenue Code.

Section 2701 provides gift tax valuation rules that apply to transfers to certain family members of interests in corporations or partnerships.

Generally, section 2701 applies when an interest in a corporation or partnership is transferred to a member of the transferor's family and the transferor or an applicable family member retains a certain type of interest senior to the transferred interest (an "applicable retained interest").

If section 2701 applies, the amount of an individual's gift is determined using the subtraction method of valuation. Under this method, the value of any family-held interests senior to the transferred interest is subtracted from the value of all family-held interests in the entity to determine the aggregate value of the transferred interest and any other interests of the same class or classes junior to the transferred interest.

Section 2701 provides special rules for valuing any applicable retained interest held by the transferor or an applicable family member. In valuing an applicable retained interest, extraordinary payment rights and distribution rights in a controlled entity (other than qualified payment rights) are valued at zero. However, if an extraordinary payment right is held in conjunction with a qualified payment right, those rights are valued on the assumption that each right will be exercised in a manner that results in the lowest total value for the retained interest. Other rights are valued as if the rights valued at zero do not exist but otherwise without regard to section 2701.

Section 2701(e)(6) provides that the Secretary shall, by regulation, provide an appropriate adjustment where there is a subsequent transfer or inclusion in the gross estate of an applicable retained interest that was valued under the special valuation rules of section 2701.

September 11 Proposed Regulations

The September 11 proposed regulations implemented section 2701(e)(6) by providing that the estate of the individual who made the transfer to which section 2701 previously applied (and thus incurred the additional tax) would be entitled to a non-refundable credit against the estate tax. Under those proposed regulations, the amount of the credit would have equaled the amount of increase in gift tax payable (before application of the unified credit) that resulted from the application of section 2701 to the transfer (the "initial transfer"). Comments were requested on whether the adjustment should be a reduction in adjusted taxable gifts or a credit against estate tax as proposed.

Amended Proposed Adustment to Mitigate Double Taxation

In response to the comments received, proposed § 25.2701–5 is revised by this notice of proposed rulemaking. Rather than providing a credit against the Federal estate tax as initially proposed, the amended proposed regulations provide for a reduction to a decedent's adjusted taxable gifts. In general, the amount of the reduction is the lesser of: (1) The amount by which the transferor's taxable gifts were increased as a result of the application of section 2701, and (2) the increase in the decedent's gross estate (or adjusted taxable gifts) attributable to the portion of the value of the applicable retained interest that was subject to gift tax at the time of the initial transfer.

The second amount generally will apply if the fair market value of the decedent's applicable retained interest has declined between the date of the section 2701 transfer and the date of the subsequent transfer of the interest.

Under certain circumstances, the transferor's spouse is treated as the transferor. The reduction is otherwise not assignable or transferable.

Because the transferor will often acquire an applicable retained interest initially held by an applicable family member and because of the administrative complexity inherent in allowing assignability, a reduction in taxable gifts with respect to applicable family members is not proposed.

The amended proposed regulations do not adopt the suggestion of one commentator that the adjustment be made by "purging" the entire increase in the amount of the gift resulting from the application of section 2701 from the transferor's adjusted taxable gifts. The commentator recommended that the amount of the adjustment be the amount by which the transferor's taxable gifts were increased as a result of the application of section 2701. If adopted, this comment would transform section 2701 from a provision that measures the transferor's tax liability to one that merely accelerates payment of the transfer tax that would have been paid had section 2701 not been enacted.

Congress clearly intended, by enacting section 2701, to eliminate certain valuation abuses. Adoption of the "purge method" would perpetuate those abuses Congress sought to eliminate. After fully considering the merits of the "purge method," Treasury and the Service concluded that the method is inconsistent with the purpose of section 2701. Therefore, the amended proposed regulations do not incorporate that method.

Special Analyses

It has been determined that these proposed rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedures Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations; and, therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, a copy of this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comments on its impact on small business.

Comments and Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably nine copies) to the Internal Revenue Service. All comments will be available for public inspection and copying. A public hearing will be scheduled upon written request by any person who submits written comments on the proposed rules. Notice of the time and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Fred E. Grundeman, Office of Chief Counsel, Internal Revenue Service. Other personnel from the Internal Revenue Service and Treasury Department participated in developing these regulations.

List of Subjects in 26 CFR Part 25

Gift taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR part 25 are as follows:

PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

Paragraph 1. The authority citation for part 25 is amended by adding the following citation:

Authority: Sec. 7805, 68A Stat. 917; 26 U.S.C. 7805 * * *

§ 25.2701-5 also issued under 26 U.S.C. 2701(e)(6).

Par. 2. A new § 25.2701-5 is added to read as follows:

§ 25.2701-5 Adjustments to mitigate double taxation.

(a) *Reduction in adjusted taxable gifts*—(1) *In general.* Except as provided in paragraph (a)(2) of this section, in determining the Federal estate tax with respect to the estate of an individual (the "transferor") who previously made a transfer subject to section 2701 (the "initial transfer"), the transferor's executor may reduce the decedent's adjustable taxable gifts (under section 2001(b)) by the amount determined under paragraph (b) of this section ("the reduction"). The identity of the transferor is determined without regard to section 2513.

(2) *Special rule applicable to transferor's spouse.* If any portion of the transferor's section 2701 interest is transferred to the spouse by the transferor in a manner that would not be a taxable event (as defined in § 25.2701-4(b)(2)(ii)) if the interest were a qualified payment interest, a proportionate amount of the reduction in adjusted taxable gifts otherwise available in the estate of the transferor ceases to be available in the estate of the transferor, but instead is available in the estate of the transferor's spouse. For purposes of this section, a section 2701 interest held by the transferor's spouse at the time of the initial transfer or acquired by the transferor's spouse from an applicable family member subsequent to the initial transfer is treated as an interest transferred to the spouse by the transferor in a manner that would not be a taxable event.

(3) *Section 2701 interest.* Section 2701 interest means an applicable retained interest that was valued using the special valuation rules of section 2701 at the time of the initial transfer. If a modification under § 25.2701-3(b)(5) was made in computing the amount of the gift with respect to the initial transfer, the modification is treated as applying—

(i) First, to the interests held by applicable family members (other than the transferor's spouse) on a pro rata basis;

(ii) Second, to the interest held by the transferor's spouse; and

(iii) Finally, to the interest held by the transferor.

(b) *Amount of reduction*—(1) *In general.* The amount of the reduction is the lesser of—

(i) The amount by which the transferor's taxable gifts were increased as a result of the application of section 2701 to the initial transfer; or

(ii) The amount (determined under paragraph (b)(2) of this section) of the transfer tax inclusion of the section 2701 interest.

(2) *Transfer tax inclusion*—(i) *In general.* The amount of the transfer tax inclusion is the excess estate tax value of the section 2701 interest multiplied by a fraction. The numerator of the fraction is the amount determined in § 25.2701-3(b)(3) and the denominator of the fraction is the amount determined after application of § 25.2701-3(b)(2).

(ii) *Excess estate tax value.* The excess estate tax value is the excess, if any, of—

(A) The estate tax value of the section 2701 interest as finally determined for Federal estate tax purposes; over

(B) The value of that interest determined under section 2701 at the time of the initial transfer.

(iii) *Estate tax value.* For purposes of this paragraph (b)(2), the estate tax value of a section 2701 interest included in the gross estate of the transferor is the value, as finally determined for Federal estate tax purposes, of the section 2701 interest (including the right to receive any distributions thereon (other than qualified payments)) reduced by the amount of any deduction allowed with respect to the interest to the extent that the deduction would not have been allowed if the interest were not included in the transferor's gross estate. In the case of a section 2701 interest transferred during life, the estate tax value of the section 2701 interest means the sum of—

(A) The increase in taxable gifts resulting from the transfer of the section 2701 interest; and

(B) The amount of any consideration in money or money's worth received in exchange for the transfer.

(iv) *Non-recognition transactions.* To the extent the transferor exchanged a section 2701 interest in a transaction in which gain or loss was not recognized, the exchange is not treated as a transfer during life and the estate tax value of the section 2701 interest is determined as if the new interest were the section 2701 interest.

(c) *Double taxation otherwise avoided.* Notwithstanding any other rule of this section, no reduction is available under this section to the extent—

(1) Double taxation is otherwise avoided in the computation of the estate tax under section 2001; or

(2) A reduction was previously taken under the provisions of this section with respect to the same section 2701 interest and the same initial transfer.

(d) *Examples.* The following examples illustrate the provisions of this section. All of the examples assume the following facts:

Facts. X corporation has both preferred and common stock outstanding. On January 1, 1992, A, owner of all of the outstanding stock, transfers all of the common stock to A's child (the initial transfer). A makes no other transfers during 1992. As a result of the application of section 2701 to A's transfer, A's taxable gifts for 1992 are increased by $1,500,000, from $1,000,000 (the amount of A's gifts for 1992 determined without regard to section 2701) to $2,500,000. For purposes of these examples it may be assumed that:

(1) The value of the preferred stock determined under section 2701 was $200,000; and

(2) The amount determined in § 25.2701-3(b)(2) was $2,500,000, all of which was allocated to the transferred property in § 25.2701-3(b)(3).

Example 1. A dies in 1996, having retained all of the preferred stock of X. Assuming that the limitation of paragraph (b)(2) of this section does not apply, the executor of A's estate is entitled to reduce adjusted taxable gifts in A's estate under section 2001(b) by $1,500,000 (the amount of the increase in taxable gifts resulting from application of section 2701).

Example 2. A dies in 1996, having retained all of the preferred stock of X. Assume that the fair market value of the preferred stock includible in A's gross estate is $1,200,000. The reduction in adjusted taxable gifts available in computing A's estate tax is the lesser of $1,500,000 (the amount determined in *Example 1* and $1,000,000, the excess of $1,200,000 (the increase in A's gross estate tax attributable to the inclusion of the preferred stock in A's gross estate) over $200,000 (the section 2701 value of the preferred stock at the time of the initial transfer) multiplied a fraction, the numerator of which is $2,500,000 (the amount determined in § 25.2701-3(b)(3)) and the denominator of which is $2,500,000 (the amount determined under § 25.2701-3(b)(2)).

Example 3. In 1994, two years prior to A's death in 1996, A sold the preferred stock to A's child for $600,000, its fair market value at the date of sale. A's executor may reduce A's adjusted taxable gifts by $400,000, the excess of $600,000 (the estate tax value of the preferred stock transferred during life) over $200,000 (the value of the preferred stock determined under section 2701 at the time of the initial transfer) multiplied by a fraction the numerator of which is $2,500,000 (the amount determined in § 25.2701-3(b)(3)) and the denominator of which is $2,500,000 (the amount determined in § 25.2701-3(b)(2)). The result would be the same if A had transferred the stock to A's child for less than adequate consideration.

Example 4. In 1996, A dies, bequeathing the preferred stock to A's spouse, S. Because S received the preferred stock in a transfer that would not be a taxable event under § 25.2701-4, no reduction is available in A's estate. The reduction is instead available in S's estate. The amount of the reduction in S's estate is the lesser of the reduction that would have been available in A's estate (determined without regard to paragraph (b)(1)(ii) of this section) and the reduction determined after application of paragraph (b)(1)(ii) with respect to S's estate.

(e) *Effective date.* Section 25.2701-5 is effective February 4, 1992. If the subsequent transfer or inclusion occurred prior to January 28, 1992, the taxpayer may rely on § 25.2701-5 as initially proposed or the provisions of this amended § 25.2701-5.

Fred T. Goldberg, Jr.,

Commissioner of Internal Revenue.

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Part III

Department of Housing and Urban Development

Office of the Assistant Secretary

24 CFR Parts 905 and 990

Performance Funding System; Formal Review Process; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Parts 905 and 990

[Docket No. R-92-1453; FR-3024-F-01]

RIN 2577-AB01

Performance Funding System: Formal Review Process

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Final rule.

SUMMARY: This rule implements provisions of section 118 of the Housing and Community Development Act of 1987 that require modification of the Performance Funding System (PFS) of calculating operating subsidy eligibility of Public Housing Agencies and Indian Housing Authorities (hereafter, called PHAs/IHAs) operating public housing and Indian housing rental projects. This final rule adopts a revised formula for calculation of the Formula Expense Level. PHAs/IHAs that choose to do so may request an adjustment to their allowable expense level based on the use of the revised formula. The revised formula will also be substituted for the current formula when calculating the impact on the allowable expense level of a significant change in the characteristics of a PHA/IHA's units.

A proposed rule was published on this subject on December 19, 1989 (54 FR 52000), which also covered other changes to the PFS required by the statute: sharing of energy rate reductions; non-HUD financing of energy conservation measures; combining of units; and funding of audit costs. Those changes were the subject of a separate final rule, published on September 11, 1991 (56 FR 46356).

DATES: *Effective Date:* April 1, 1992.

FOR FURTHER INFORMATION CONTACT: John T. Comerford, Director, Financial Management Division, Office of Public Housing, room 4216, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-5000, telephone (202) 708-1872, or (202) 245-0850 (voice/TDD). (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act Statement

The information collection requirements contained in §§ 905.730(e) and 990.110(e) of this rule have been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1980. When they have been approved, a notice to that effect will be published in the Federal Register.

II. Background

The 1987 Act (section 118 (a)(2)) required HUD to correct inequities in the base year expense level, to reflect changes in operating circumstances, and to reflect the relative costs of operating in economically distressed and prosperous units of local government. The proposed formula works to correct inequities and to reflect changes by choosing plausible, standardized, and PHA/IHA-specific (or area-specific) indicators of operating costs and applying the cost relations of these indicators uniformly to all PHAs/IHAs based on their most current data. HUD's analysis shows that the indicators in this equation are statistically more reliable than those of the earlier AEL formula. (A copy of this analysis is available from the contact person listed above.) The new formula also addresses the relative condition of the local government by including an excellent proxy of city economic condition—the proportion of the population who are renter households with below poverty income and reside in old units. Two PHA/IHA-specific indicators in the formula—the size of the PHA/IHA and the extent of family high rises in the PHA/IHA—also are associated, on average, with economic distress in the larger community.

III. Revised Formula

The Formula is used to determine the Formula Expense Level (FEL), which, in turn, is used to determine the Allowable Expense Level (AEL). The FEL is calculated by adding various factors, which have been multiplied by their weights, and subtracting a calibration constant. The indicators chosen for the formula met certain tests. They had to follow the intent of the statute and the framework of the proposed rule, to be available and easily computable in a standardized format, to have a common sense rationale for explaining variations in PHA/IHA operating expenses, to be significantly correlated with PHA/IHA expenses, to add significantly to the statistical fit of a system of indicators, and to have a formula coefficient in the expected direction.

A. Indicators and Weights

The indicators in the revised formula, and the weights to be given them (stated in parentheses) are as follows:

1. Pre-1940 rental units occupied by poor households in 1980 as a percentage of the 1980 population of the community (7.954). This Census-based statistic will apply to the county of the PHA/IHA, except if the PHA/IHA has 80 percent or more of its units in an incorporated city of more than 10,000 persons (in which case city-specific data are used). County data will exclude data for any incorporated cities of more than 10,000 persons within its boundaries.

2. Local Government Wage Rate (116.496)—The average of 1987 and 1988 local government wages, as determined by the Bureau of Labor Statistics. It is a county-based statistic, calibrated to a unit-weighted PHA/IHA standard of 1.0. For multi-county PHAs, the local government wage is unit-weighted. For this formula, the local government wage index for a specific county cannot be less than 85 percent or more than 115 percent of the average local government wage for counties of comparable population and metro/non-metro status, on a state-by-state basis. In addition, for counties of more than 150,000 population in 1980, the local government wage cannot be less than 85 percent or more than 115 percent of the wage index of private employment determined by the Bureau of Labor Statistics and the rehabilitation cost index of labor and materials determined by the R.S. Means Company.

3. The lesser of the current number of the PHA/IHA's two or more bedroom units available for occupancy, or 15,000 units (.002896).

4. The current ratio of the number of the PHA/IHA's two or more bedroom units available for occupancy in high-rise family projects to the number of all the PHA/IHA's units available for occupancy (37.294). For this indicator, a high-rise family project is defined as averaging 1.5 or more bedrooms per unit available for occupancy and averaging 35 or more units available for occupancy per building and containing at least one building with units available for occupancy that is 5 or more stories high.

5. The current ratio of the number of the PHA/IHA's three or more bedroom units available for occupancy to the number of all the PHA/IHA's units available for occupancy (22.303).

6. An equation calibration constant of −.2344.

B. Use of Revised Formula in AEL Appeals Process

A PHA/IHA will calculate a revised Formula Expense Level (FEL) under the new equation by using the county (or city) based measures provided by HUD in a Notice to PHAs/IHAs and using the characteristics of its dwelling units available for occupancy in the fiscal year immediately preceding the effective date of this rule (hereafter called "current year"). Because the formula was developed based on PHA/IHA actual FY 1988 expenditure levels, it will be necessary to inflate the resulting FEL to reflect current year expenditures. HUD will provide a form and tables to be used to apply the PFS inflation factors, standard delta, and insurance increase for the PHA/IHA's locality for that period of time. The result will be a revised FEL for the PHA/IHA.

For the formal review process, a PHA/IHA will compare its AEL for the year before this rule's effective date (PHA/IHA fiscal years ending in calendar year 1992) with the revised FEL. If .85 times the revised FEL for the current year is greater than the existing AEL for the current year, the PHA/IHA is eligible to request an upward revision to its AEL. The PHA/IHA would request the revision by using .85 times the FEL instead of the existing AEL as the basis for calculating its AEL for the PHA's/IHA's next fiscal year. (For purposes of this rule, the next fiscal year is the PHA/IHA fiscal year starting on or after the April 1, 1992 effective date of this rule, which would thus end in calendar year 1993). On the other hand, if 1.15 times the revised FEL is less than the existing AEL, the PHA/IHA is eligible to request a downward revision to its AEL (but it would not benefit from such a request). If the PHA/IHA were to request such a revision, it would use 1.15 times the FEL instead of the existing AEL as the basis for calculating its AEL for the next fiscal year. (Normally the previous AEL is increased by the delta and inflation factor to develop the subsequent AEL. In these cases, .85 times the FEL (or 1.15 times the FEL) will be increased by the delta and inflation factor to develop the subsequent AEL.) This system treats all PHAs/IHAs in accordance with an objective standard, and it is administratively feasible for both the Department and the PHAs/IHAs.

If a PHA/IHA is requesting a change in its AEL based on the revised formula, it will use the revised AEL in developing its operating budget for the next fiscal year, or any revision to that operating budget. It will submit its operating budget for the next fiscal year, including the PFS forms containing the calculation, to its HUD Field Office, and the Field Office will review the calculations and approve an operating subsidy based on the revised AEL for the PHA/IHA's next fiscal year operating budget. If a PHA/IHA has submitted its original operating budget before the publication of a change to the Performance Funding System Handbook, 7475.13, which will provide instructions and revised forms to be used in implementing this regulatory change, the PHA/IHA must submit a revision to its operating budget with calculations based on the new AEL within 60 days of the publication of the PFS handbook change, which will follow publication of this rule.

The Department estimates that about 843 PHAs and 25 IHAs might be entitled to increases in their Allowable Expense Levels as a result of this appeals process, at an estimated annual cost to the government of $30 million. PHAs/IHAs with fewer than 1250 units would be the group most affected. About 20 to 25 percent of PHAs/IHAs in the 1–99, 100–249, 250–499, and 500–1249 unit size groups will be potential gainers under the range test and the revised formula. Since this rule does not require PHAs/IHAs to have their AELs adjusted in accordance with the revised formula for the next fiscal year (but they have the option to request the adjustment), the many PHAs/IHAs that had AELs at least 15 percent above the revised formula are very unlikely to request an adjustment. However, if they do so, a downward adjustment would result. (See the paragraphs in the Findings and Certifications section below, VI C, that discuss the Regulatory Flexibility Act.)

Example

As an illustration of the calculation of the formula expense level using the new formula, suppose that a PHA had the following characteristics:

—2.00 for the number of households in poverty living in pre-1940 rental units in 1980 as a percentage of the population in 1980 for the area served by the PHA;
—1.05 for the local government wage index for 1987–88 for the areas served by the PHA;
—5,000 for the number of the PHA's two or more bedroom units available for occupancy;
—.1 for the ratio of the number of the PHA's two or more bedroom units available for occupancy in high-rise family projects to the number of all the PHA's units available for occupancy;
—and .25 for the ratio of the number of the PHA's three or more bedroom units available for occupancy to the number of its total number of units available for occupancy.

Furthermore, suppose that the local inflation factor for the PHA area was 1.0495 for FY 1989, 1.0628 for FY 1990, and 1.051 for FY 1991. (These hypothetical figures are, in fact, the unit-weighted national averages for those periods.)

Finally, suppose the AEL of the PHA was $165 in FY 1991. Its range test and FEL computation for FY 1992 would proceed as follows:

1. Compute its base-year estimated FEL for FY 1988 as the sum of:

7.954 times 2.00, plus
116.496 times 1.05, plus
.002896 times 5,000, plus
37.294 times .10, plus
22.303 times .25, plus
−.2344 (the formula calibration constant).

This sum is $161.79 for the revised estimate of predicted FEL for FY 1988.

2. The sum in step 1 is raised to a revised estimate of predicted FEL for FY 1991 in the same manner that the FY 1988 AEL was raised to a FY 1991 AEL, as follows:

FY 1989: Multiply by the inflation factor (1.0495) and the standard delta aging coefficient (1.005), and add the one-time insurance adjustment of $8.45 per unit month. These steps raise the $161.79 to $179.10 for FY 1989.

FY 1990: Multiply by the inflation factor (1.0625) and the standard delta aging coefficient (1.005). These steps raise $179.10 to $191.24 for FY 1990.

FY 1991: Multiply by the inflation factor (1.051) and the standard delta aging coefficient (1.005). These steps raise $191.24 to $201.99 as the revised FEL for FY 1991.

3. Eighty-five percent of the revised FEL for FY 1991 is computed as .85 times $201.99, which is $171.69. Under the fifteen percent range test, the revised allowable expense level of the PHA can be appealed to be based on the higher of its current AEL or 85 percent of its current revised FEL. In the illustrative case, the PHA can thereby request that it base its calculation of its FY 1992 AEL on $171.69 (which is $6.69 higher than its FY 1991 AEL).

C. Use of Revised Formula in Delta Calculation

As explained in the proposed rule, after the effective date of the final rule, the usual methods of adjusting the AEL to reflect changes in housing stock would be followed, substituting the revised formula for the current formula. Currently, when there has been no significant change in housing stock, a PHA/IHA uses an increase of .5 percent to reflect the aging of the PHA's/IHA's projects in lieu of the formula calculation. Because project age no longer would be a factor in the new formula, all PHAs/IHAs would perform the simplified calculation of increasing the AEL by .5 percent (Simplified Delta). Only PHAs/IHAs that meet the threshold of 5 percent or 1,000 net change in number of units would perform the additional calculation to reflect changes in average number of bedrooms per unit and building height (Long Calculation of the Delta).

If a PHA/IHA is required to perform the Long Calculation of the Delta for the next fiscal year and submits its budget based on the old formula before a date which is 60 days after the publication of the PFS handbook change implementing this rule, the PHA/IHA would be given the option of recomputing its adjusted AEL based on the revised formula if it submits a revision to HUD within 60 days after the publication of the PFS handbook change containing the revised formula. Any PHA/IHA submitting a budget to HUD more than 60 days after the publication of the PFS handbook change containing the revised formula would be required to use the new formula in the Long Calculation of the Delta—if it exceeded the threshold of unit change and was required to perform the Long Calculation of the Delta described above.

Example. FY 1992. Assume that: (1) The PHA has experienced no change in the number of its units, (2) the AEL for the PHA's FY 1991 was $176.00, and (3) the applicable Local Inflation Factor is 6 percent (expressed as 1.06). The AEL for FY 1992 is $187.49, computed as follows:

1. Allowable Expense Level for FY 1991	$176.00
2. Delta: (Simplified Calculation) ($176.00×.5 percent)	.88
3. Sum (line 1 plus line 2)	176.88
4. Local Inflation Factor	1.06
5. Allowable Expense Level for FY 1992 (line 3 multiplied by line 4)	187.49

FY 1993. Assume that the PHA has deprogrammed (e.g., demolished or sold) a project that represents seven percent of its units and that the last time an adjustment to the AEL was made based on the Long Calculation of the Delta was in its FY 1986. At that time, the PHA had the following characteristics for its Requested Budget Year: 1500 two or more bedroom units were available for occupancy; five percent of all the PHA's units available for occupancy were two or more bedroom units in high-rise family buildings; and half of all the PHA's units were three bedrooms or more. Each of these FY 1986 characteristics is multiplied by the corresponding equation weights and totaled: (1500×.002896)+(.05×37.294)+(.50×22.303). The weighted total for the FY 1986 characteristics is 17.36.

Also assume that the PHA average characteristics for the Requested Budget Year are now 1200 two or more bedroom units available for occupancy, none of the PHA's units available for occupancy were two or more bedroom units in high-rise family buildings, and 47 percent of all the PHA's units were three bedrooms or more. Each of these FY 1993 characteristics are multiplied by the corresponding equation weights and totaled: (1200×.002896)+(.00×37.294)+(.47×22.303). The weighted total for the FY 1993 characteristics is 13.96.

The change in the prediction due to the change in characteristics is a decrease of $3.40 (17.36 minus 13.96). This result is then multiplied by the Local Inflation Factors for FY 1989 through 1992. The inflated delta is ($4.15). (This step is taken because the formula for FY 1992 was developed using FY 1988 expenses and the prediction must be increased for inflation since 1988.) The AEL for FY 1992 is $192.57 computed as follows:

1. Allowable Expense Level for FY 1992	$187.49
2. Delta: Increase (or Decrease) in Formula Expense Level:	
a. (Simplified Calculation) ($187.49×.5 percent)	.94
b. (Long Calculation of the Delta)	(4.15)
3. Sum (line 1 plus line 2a & b)	184.28
4. Local Inflation Factor	1.045
5. Allowable Expense Level for FY 1993 (line 3 multiplied by line 4)	192.57

D. Use of Revised Formula for Troubled PHAs and IHAs

The Department intends to publish a proposed rule by April 1, 1992, that when implemented, would apply the revised formula administratively in FY 1993 to PHAs operating 250 units or more that are identified as troubled by the end of FY 1992.

IV. Response to Public Comments

A. General Comments

We received comments on the formal review process from the National Association of Housing and Redevelopment Officials, the Council of Large Public Housing Authorities, and 58 PHAs/IHAs, 38 of which are located in North Carolina.

The proposed rule elicited several comments with respect to the impact of the PFS formula on the Indian Housing programs. One comment rejected the proposed revised formula because no IHAs had been included in the sample on which it was based, and no PHA with fewer than 100 units had been included. The revised formula is based on a sample that did include a large number of IHAs and PHAs with fewer than 100 units. Another commenter advocated having an entirely separate formula for IHAs. The primary distinction between IHAs and PHAs is the extent to which scattered site housing is used. That subject is dealt with at more length later in this discussion. We have concluded that about 25 IHAs are likely to do better under the revised formula than under the current formula, so this rule will provide them with a benefit. Consequently, the provisions of part 905, applicable to Indian Housing Authorities, are revised in this rulemaking to correspond with the changes being made to Part 990, applicable to non-Indian public housing agencies.

There were no public comments on the technical amendment to § 990.101 of the rule that removes an outdated provision that a PHA/IHA's eligibility for operating subsidy be conditioned on charging aggregate rentals in any year of at least 20 percent of the sum of the monthly incomes of all the families. That amendment remains in this final rule without change.

1. Overall Approach

Four PHAs advocated an AEL review system developed outside the constraints of the current system. As discussed in detail in the preamble to the proposed rule, in order to depart from the historical expense level approach of the current system one would have to determine the adequacy of the level of historical PHA/IHA expenditures. This would entail the use of a "standards" approach, which would require consensus on the type and level of maintenance, administrative, and tenant services that should be eligible for reimbursement. Information on how much it costs to achieve these standards would then need to be obtained, preferably based on the experience of well-managed projects that are not part of the public housing system. (Otherwise the cost structure is self-perpetuating, whether too high or too low.) This approach was not adopted, because it would be a significant departure from the approach specifically endorsed by Congress in the 1987 Act and because of difficulties in reaching a consensus as to what standards to use and what types of non-PHA/IHA projects to select for comparison.

Some commenters wanted to step away from a formula approach and allow PHAs/IHAs to provide historic and other information on their projects and community and have their AELs revised under a more informal structure. A formula approach has been adopted because it has the advantages of treating all PHAs/IHAs in accordance with an objective standard, and is administratively feasible for both the Department and the PHAs/IHAs.

As directed by sections 524 and 525 of the Cranston-Gonzalez National Affordable Housing Act of 1990 (hereafter NAHA), HUD is conducting a study assessing revised methods of providing sufficient Federal funds to public housing agencies for the operation, maintenance, and modernization of public housing.

2. Rulemaking Process

One commenter observed that the proposed rule was hard to understand and asked us to build some reviews into the process to ensure that the regulations are understandable to readers. The rulemaking process provides this opportunity for review by all interested parties, and, in response to public comments, we have attempted to clear up any ambiguity in this final preamble and regulation.

Some comments complained that we have not developed the rule in consultation with PHAs/IHAs. By giving everyone a chance to comment on the proposed rule we have given all PHAs/IHAs a chance to be consulted.

3. Implementation

One comment received was that PHAs/IHAs should be able to appeal in the future, that appeals should not be a one-time opportunity. A one-time systematic adjustment to the current Allowable Expense Level makes sense. The factors which have proved to have the most predictive value for PHA/IHA expenses in the new formula are PHA/IHA inventory and community characteristics. PHA/IHA expenditure patterns are closely tied to past Allowable Expense Levels, and the other factors used to derive an equation change little in the short term. HUD intends to study the impacts of changes that would result from introduction of 1990 Census data, but these data will not be available for some time and are not likely to alter the predicted values for most PHAs/IHAs. Once the new formula has been used by PHAs/IHAs that want to appeal their current AELs, the Department believes that no additional significant improvement in accuracy of PHA/IHA expense levels is feasible using a comparative approach that relies on cost data driven by allowed historic costs.

Some commenters observed that the Department should make every effort to fund the PFS at 100 percent, otherwise the same pot will just be redistributed after the AEL adjustments are made, with some getting less than they did in the past. The Department has made every effort to request funding sufficient to cover 100 percent of PFS eligibility. Our requests are based on the Administration's latest economic and program change assumptions at the time the budget request is forwarded to the Congress so that funds are not merely redistributed when a new rule takes effect. The Department included the cost of these AEL adjustments in the FY 1992 Budget Request.

Two comments suggested that a deadline of 60 days after publication of the final rule would not provide enough time to allow for implementation including forms changes, instructions, and budget revisions. The regulation has been revised to allow PHAs/IHAs 60 days after the publication of a change to the Performance Funding System Handbook, 7475.13, which will provide instructions and revised forms to be used in implementing this regulatory change.

Three comments asked that the adjustment to AELs be made retroactive. Budgetary constraints and requirements that changes in the rule governing the PFS be made by notice and comment rulemaking preclude us from making this adjustment retroactive.

Although a specific effective date is stated in this rule, the PFS revisions of the rule will affect a particular PHA/IHA at the beginning of its new budget year following that effective date.

B. Formula Indicators

The proposed rule put forward the following indicators to estimate the comparative expenses of PHAs/IHAs:

—Measures of community distress (and need), such as the community's per capita value of the Community Development Block Grant program's Formula B (multiplied by the proportion of the PHA/IHA's units containing two or more bedrooms);

—Measures of area costs, such as the community's index of local government wage rates and the median rent in the community; and

—Measures of the PHA/IHA's operating characteristics, such as, the weighted average height of the PHA/IHA's buildings (multiplied by the proportion of its units containing two or more bedrooms), and the total number of the PHA/IHA's units containing two or more bedrooms.

This final rule preserves these general categories of indicators but modifies the specific indicators in response to the public comments.

One commenter supported use of the Community Development Block Grant (CDBG) formula as the measure of distress required by statute, but several commenters objected to its use. They questioned its availability for non-entitlement CDBG areas, or thought the population lag and age of housing components of the CDBG formula to be biased against areas with population growth and housing built after 1940, or considered the formula components to be out of date. In choosing an indicator of community distress for the revised formula, HUD addressed some of the commenter concerns about the CDBG formula.

The chosen indicator is the proportion of pre-1940 rental housing occupied by poor households. This indicator does not explicitly include population lag, but it improves age of housing as a proxy of community fiscal and social need by pairing older housing units with poor rental households. It might be noted that the same rent-poverty-age of housing indicator is used in the Rental Rehabilitation and Fair Share formulas as a proxy of substandard and abandoned housing, the type of housing in a community which can increase social and physical demands on the upkeep of public housing. This indicator uses 1980 Census information, because 1990 Census information for this indicator will not be available until FY 1993. Even so, it is unlikely that the 1990 Census information will greatly alter patterns of relative city distress. The underlying economic condition of most cities does not alter much even over a ten-year period.

The choice of an indicator of area costs received a good deal of comment. Several commenters questioned the use of median rents and of Fair Market Rents (FMRs) as a proxy for area public housing costs, because these distributional indicators of area rent did not seem timely or place-specific or meaningfully related to public housing costs. As part of an extensive analysis of costs for this formula and for other HUD formulas, HUD also judged that measures of rent distribution such as the FMR require further study before they could proxy inter-area costs for the maintenance or modernization of lower income housing. An FMR measure, in fact, is mandated for study in NAHA.

Some commenters supported the formula use of local government wage rates, which currently play an important role in updating Allowable Expense Levels, but one commenter questioned the validity of local government wages rates in areas that service many low income persons. Several commenters questioned these rates as a valid indicator for rural areas where many governmental workers are part-time or voluntary. The response to the first concern is that local governments that serve many low income persons average quite high wage levels—in part, perhaps, because of their more stressful working environment. As for rural areas, their index of local government wage rates averaged almost the same as their index of private sector wages. For both rural and urban areas, the indicator of local government wages was not allowed to be more than 15 percent lower or higher than the averages of comparable areas in the State to smooth out statistical oddities.

With respect to the operating characteristics indicators, one broad comment of approval was made on linking the average height of a PHA/IHA's building to its bedroom characteristics. The high-rise family indicator used in this final rule simplifies the computation and targets the indicator even more closely to need, by counting only two or more bedroom units in projects that are both family and high-rise.

An indicator of scattered-site housing was recommended by several commenters, but measures of scattered-site or low density housing were not significantly related to actual PHA/IHA expenses. One reason might be that scattered-site housing is usually only present in some of the projects of a PHA/IHA, and its costs are not great enough to significantly raise the total cost level of the PHA/IHA. Another reason is that scattered-site housing does not necessarily lead to higher operating costs. Although scattered-site housing imposes transportation costs and diseconomies of scale, scattered site housing typically is newer or is located in a better neighborhood or is kept up better by its tenants.

One indicator chosen in the revised formula, the proportion of 3 or more bedroom units, indirectly reflects scattered-site housing, because scattered-site housing in many PHAs/IHAs disproportionately houses large families. The indicator of the proportion of 3 or more bedroom units is simply a more intensive version of the 2 or more bedroom ratio in the proposed rule, and the 3 bedroom version stands by itself in the revised formula instead of being multiplied against other indicators as in the proposed rule.

Some commenters questioned the overall ability of the formula to recognize the needs of large (urban) PHAs. In fact, the formula estimate follows the pattern of actual expenses and averages a much higher level of estimated expenses for large PHAs. Most of the formula indicators respond to large PHA concerns. The indicator of the number of two bedroom units directly reflects large PHA characteristics, and the indicator of high-rise family units directly benefits some large PHAs. The community indicators of the local area wage rate and poor rental households in pre-1940 units also tend to be much higher for large PHAs.

From a different perspective, some commenters questioned the ability of the formula to reflect the special circumstances of smaller or rural PHAs with dispersed or remote sites. Indian Housing Authorities were cited as having these circumstances. Unlike the current formula, the revised formula in this rule has been tested against an extremely large "sample" of PHAs for which HUD had data available—more than 2500 PHAs with full coverage of PHAs and IHAs of all sizes. As a result, the formula estimates could be tested against their actual expenses and AELs. The revised formula enables a considerable proportion of small, rural PHAs and Indian Housing Authorities to benefit from an increase to their AEL.

While small, rural PHAs and Indian Housing Authorities are more likely to be adjusted, the revised formula provides an adjustment for PHAs/IHAs in any category which have AELs lower than other PHAs/IHAs with the same characteristics. Whether the formula goes far enough in meeting the relative needs of all categories of PHAs/IHAs cannot be answered at this time, because any formula fitted to actual PHA/IHA expenses has the limitations noted earlier. This question is being considered for further study.

Several commenters expressed a broader unease that they could not judge the validity of the formula without more detailed statistical information. Anticipating such concern, HUD in the proposed rule gave a detailed account of what a formula could and could not do, of the advantages of the indicators in the proposed formula, and of the impact of the formula and range test on different PHA/IHA size categories. It seems more valid to judge a formula by its methodology, intended use, and average impacts, than by a case-by-case listing of winners and losers.

However, in analyzing the revised formula as well as the proposed formula, HUD studied written and informal comments by PHA/IHA representatives on alleged inequities of the current formula toward individual PHAs/IHAs. These comments provided a useful reality check on the results of the revised formula and helped to confirm its ability to improve the current formula by specifying more valid indicators of need and by representing different types of PHAs/IHAs with greater statistical precision.

In addition, as stated earlier, the indicators chosen for the formula met certain tests. They had to follow the intent of the statute and the framework of the proposed rule, to be available and easily computable in a standardized format, to have a common sense rationale for explaining variations in PHA/IHA operating expenses, to be significantly correlated with PHA/IHA expenses, to add significantly to the statistical fit of a system of indicators, and to have a formula coefficient in the expected direction.

C. Formula Range

Some comments reflected confusion caused by the regulatory references to downward adjustments when PHAs/IHAs are free to decide whether or not to appeal. Other comments wanted the regulation to call for a reduction of the AELs found to be above the range. The regulation has been designed to reflect two provisions of the 1987 Act. First, the 1987 Act provided for "A formal review process for the purpose of providing revisions (either increases or reductions) * * *". Second, the legislative history makes clear that the formal review would be made at the request of a PHA/IHA. Since HUD is making available all the necessary information for a PHA/IHA to calculate the new FEL and the AEL that would be based on it, each PHA/IHA will be able to calculate the outcome under an appeal before deciding whether to seek approval of an AEL based on the new FEL. Therefore, even though the Act provides for a downward adjustment, it is not expected that, having calculated the outcome, a PHA/IHA that stands to have its AEL reduced will request a formal review of its AEL.

Some PHAs/IHAs requested a range test of 5–8 percent or no range test at all. As noted previously, the equation developed is limited by its heavy reliance on historical expenditure patterns, which in turn were largely determined by the subsidy funding system used rather than by an objective standard of funding needs. The Formula Expense Level cost estimate produced by the equation is not an exact indicator of how much a PHA/IHA should be permitted to spend. In addition, the formula itself has a range of error. Consequently, for this formula revision, HUD has determined that a 15 percent range test is appropriate.

D. Delta

One comment was that the use of the new formula in the calculation of the annual adjustment to the AEL when a PHA/IHA has had a significant change in the number of its units goes beyond Congressional intent. The new formula is a major improvement over the one currently in use in terms of the statistical reliability of its predictions. It would be inconsistent for the Department to adopt an improved formula to adjust AELs and then revert to the use of the old formula to calculate the amount of change to the AEL when a PHA/IHA changes its characteristics.

E. Funding for Nonroutine Expenses

Two large PHAs wanted adjustments made to AELs to reflect nonroutine expenditures so that there would be predictability in the amounts available to meet these needs. Starting in 1992, all medium and large PHAs/IHAs will have their modernization funded and managed under a new Comprehensive Grant Program (CGP). These funds will be available through a non-competitive formula distribution and will be subject to HUD approval of the Modernization Comprehensive Plan for each PHA/IHA. The CGP will provide modernization assistance on a more predictable basis and permit PHAs/IHAs to have considerable discretion and control in planning and expending the funds available.

F. Rental Income

Several comments addressed the problems faced by PHAs/IHAs that are unable to achieve the level of rental income estimated under the PFS. Under 24 CFR 990.110(d) for PHAs and 905.730(d) for IHAs, a PHA/IHA is eligible for additional subsidy if actual rental income falls short of the amount used in the subsidy calculation for a reason which is beyond the control of the PHA/IHA. A decline in rental income should not have an impact on a PHA/IHA's financial condition unless, of course, the drop reflects their failure to achieve the PFS occupancy percentage, effectively implement tenant selection criteria and broad range of income policy, conduct timely recertifications, or charge correct rents.

One comment suggested that the PFS occupancy rate be changed from 97 percent to 95 percent to reflect higher turnover. The treatment of vacancies under the PFS is outside the scope of this regulation.

One comment stated that the PFS should be revised to incorporate only a fraction of actual revenue increases above a certain minimum in the prior year into the projection of rental income in the operating subsidy calculation. Under the current system, these increases accrue to the PHA/IHA only in the first year. This suggestion is outside the scope of this formula revision.

One housing authority suggested that the costs it incurs operating a Congregate Housing program should be included in its AEL. Congress has addressed this issue in Section 507 of NAHA by authorizing appropriations to cover some of the costs of providing services to the frail elderly. The implementation of this and other provisions of NAHA will be dealt with separately and are not addressed in this regulation.

V. Miscellaneous

The proposed rule included changes to provisions concerning energy conservation and insurance, which are not included in this final rule. The energy conservation provisions have already been the subject of a final rule, and a separate rulemaking is now underway on insurance. However, this rule does include amendments to part 905 (Indian Housing), which were not found in the proposed rule, since part 905 now replicates for IHAs the PFS provisions that were formerly found only in one part (990).

VI. Findings and Certifications

A. Environment

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, DC 20410.

B. Executive Order 12291

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 issued by the President on February 17, 1981, and therefore no regulatory impact analysis is necessary. At its estimated cost of $30 million, it will not have an annual effect on the economy of $100 million or more. Furthermore, it will not cause a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, nor have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

C. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601), the Undersigned hereby certifies that this rule, as distinguished from the statute, would not have a significant economic impact on a substantial number of small entities. The formal appeals process might affect favorably nearly 400 of the PHAs/IHAs that operate fewer than 100 dwelling units, as a result of the revision of the formula. That result is attributable to the statutorily required modifications to correct inequities and abnormalities that existed in the base year, to accurately reflect changes in operating circumstances since the determination of the base year expense level, and to reflect the relative cost of operating in an economically distressed area or an economically prosperous area. Small PHAs/IHAs have been more likely than large PHAs/IHAs to deviate more from the allowable expense level predicted under the current formula. Since the formal review process will affect only PHAs/IHAs that request a review and they will be able to calculate in advance the impact of the revised formula, the effect on small PHAs/IHAs of the formal review process is likely to be entirely favorable.

The computational burden of the revised formula will also be considerably less than that of the current formula, because the PHA/IHA indicators of the revised formula are PHA/IHA-wide or affect only a small number of projects (the family high-rise indicator), and the community-wide indicators are established by independent sources and will be arrayed by HUD in convenient form for PHAs/IHAs to use.

D. Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this rule would not have federalism implications and, thus, are not subject to review under the Order. The rule will provide for additional financial assistance or retained savings to HUD-assisted housing owned and operated by PHAs/IHAs but will not interfere with State or local government functions.

E. Executive Order 12606, the Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this rule does not have potential significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order. The rule involves the amount of funding that a PHA/IHA should receive under a formula revised to satisfy statutory requirements.

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F. Regulatory Agenda

This rule is listed as sequence number 1517 under the Office of Public and Indian Housing in the Department's semiannual agenda of regulations published on October 21, 1991 (56 FR 53380, 53431), under Executive Order 12291 and the Regulatory Flexibility Act.

G. Catalog

The Catalog of Federal Domestic Assistance Program numbers for this rule are 14.145, 14.146, and 14.147.

List of Subjects

24 CFR Part 905

Grant programs: Indians, Low and moderate income housing; Homeownership; Public housing.

24 CFR Part 990

Grant programs: housing and community development; Low and moderate income housing; Public housing.

Accordingly, 24 CFR chapter IX is amended as follows:

PART 905—INDIAN HOUSING PROGRAMS

1. The authority citation for part 905 continues to read as follows:

Authority: Secs. 201, 202, 203, 205, United States Housing Act of 1937, as added by the Indian Housing Act of 1988 (Pub. L. 100–358) (42 U.S.C. 1437aa, 1437bb, 1437cc, 1437ee); sec. 7(b), Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. In § 905.710, the following paragraphs are revised: (c), (d)(1), (d)(2) introductory text, (d)(2)(ii), and (d)(5). A new paragraph (d)(6) is added. Paragraph (d) introductory text is republished. They now read as follows:

§ 905.710 Computation of allowable expense level.

* * * * *

(c) *Computation of Formula Expense Level.* The IHA shall compute its Formula Expense Level in accordance with a HUD-prescribed formula that estimates the cost of operating an average unit in a particular IHA's inventory. The formula takes into account such data as number of two or more bedroom units, ratio of two or more bedroom units in high-rise family projects, ratio of units with three or more bedrooms, local government wage rates, and number of pre-1940 rental units occupied by poor households. It uses weights, and a Local Inflation Factor assigned each year, to derive a Formula Expense Level for the current year and the requested budget year. The weights of the formula and the formula are subject to updating by HUD.

(d) *Computation of Allowable Expense Level.* The IHA shall compute its Allowable Expense Level as follows:

(1) *Allowable Expense Level for first budget year under PFS where Base Year Expense Level does not exceed the top of the range.* The top of the range is defined as: FEL plus $10.31 for fiscal years starting before April 1, 1992, and FEL multiplied by 1.15 for fiscal years starting on or after April 1, 1992. Every IHA whose Base Year Expense Level is less than the top of the range shall compute its Allowable Expense Level for the first budget year under PFS by adding the following to its Base Year Expense Level (before adjustment under § 905.730):

(i) Any increase approved by HUD in accordance with § 905.730;

(ii) The increase (decrease) between the Formula Expense Level for the Base Year and the Formula Expense Level for the first budget year under PFS; and

(iii) The sum of the Base Year Expense Level, and any amounts described in paragraphs (d)(1) (i) and (ii) of this section multiplied by the Local Inflation Factor.

(2) *Allowable Expense Level for first budget year under PFS where Base Year Expense Level exceeds the top of the range.* The top of the range is defined as: FEL plus $10.31 for fiscal years starting before April 1, 1992, and FEL multiplied by 1.15 for fiscal years starting on or after April 1, 1992. Every IHA whose Base Year Expense Level exceeds the top of the range shall compute its Allowable Expense Level for the first budget year under PFS by adding the following to the top of the range (not to its Base Year Expense Level, as in paragraph (d)(1) of this section):

* * * * *

(ii) The sum of the figure equal to the top of the range and the increase (decrease) described in paragraph (d)(2)(i) of this section, multiplied by the Local Inflation Factor. (If the Base Year Expense Level is above the allowable expense level, computed as provided above, the IHA may be eligible for transition funding under § 905.735.)

* * * * *

(5) *Allowable Expense Level for budget years after the first budget year under PFS that begins on or after April 1, 1992.* For each budget year after the first budget year under PFS that begins on or after April 1, 1992, the AEL shall be computed as follows:

(i) The Allowable Expense Level shall be increased by any increase to the AEL approved by HUD under § 905.720(c);

(ii) The AEL for the Current Budget Year also shall be adjusted as follows:

(A) Increased by one-half of one percent (.5 percent); and

(B) If the IHA has experienced a change in the number of units in excess of 5 percent or 1,000 units, whichever is less, since the last adjustment to the AEL based on this paragraph (d)(5)(ii)(B), it shall use the increase (decrease) between the Formula Expense Level for the Current Budget Year and the Formula Expense Level for the Requested Budget Year. The IHA's characteristics that shall be used to compute the Formula Expense Level for the Current Budget Year shall be the same as those that applied to the Requested Budget Year when the last adjustment to the AEL was made based on paragraph (d)(5)(ii)(B), except that the number of interim years in which the .5 percent adjustment was made under paragraph (d)(5)(ii)(A) shall be added to the average age that was used for the last adjustment.

(iii) The amount computed in accordance with paragraphs (d)(5)(i) and (ii) of this section shall be multiplied by the Local Inflation Factor.

(6) *Adjustment of Allowable Expense Level for budget years after the first budget year under PFS.* HUD may adjust the AEL of budget years after the first year under PFS under the provisions of § 905.710(b) or § 905.720(c).

3. In § 905.730, paragraph (f) is redesignated as paragraph (g), and a new paragraph (f) is added, to read as follows:

§ 905.730 Adjustments.

* * * * *

(f) *Formal review process (1992)*—(1) *Eligibility for consideration.* Any IHA with an established Allowable Expense Level may request to use a revised Allowable Expense Level for its requested budget year that starts on or after April 1, 1992 (and ends during calendar year 1993).

(2) *Eligibility for adjustment.* (i) If an IHA's AEL for the budget year that ends during calendar year 1992 is either less than 85 percent of the Formula Expense Level or more than 115 percent of the Formula Expense Level, as calculated using the revised formula and the characteristics for the IHA and its community, then the IHA's AEL for the budget year that ends during calendar year 1993 is subject to adjustment at the IHA's request. The revised formula expense level for the fiscal year ending during calendar year 1992 is the IHA's value of the following formula, after updating by the local inflation factors

from FY 1989 to the requested budget year.

(ii) The revised formula is the sum of the following six numbers:

(A) *The number of pre-1940 rental units occupied by poor households in 1980 as a percentage of the 1980 population of the community multiplied by a weight of 7.954.* This Census-based statistic applies to the county of the IHA, except that, if the IHA has 80 percent or more of its units in an incorporated city of more than 10,000 persons, it uses city-specific data. County data will exclude data for any incorporated cities of more than 10,000 persons within its boundaries.

(B) *The Local Government Wage Rate multiplied by a weight of 116.496.* The wage rate used is a figure determined by the Bureau of Labor Statistics. It is a county-based statistic, calibrated to a unit-weighted IHA standard of 1.0. For multicounty IHAs, the local government wage is unit-weighted. For this formula, the local government wage index for a specific county cannot be less than 85 percent or more than 115 percent of the average local government wage for counties of comparable population and metro/non-metro status, on a state-by-state basis. In addition, for counties of more than 150,000 population in 1980, the local government wage cannot be less than 85 percent or more than 115 percent of the wage index of private employment determined by the Bureau of Labor Statistics and the rehabilitation cost index of labor and materials determined by the R.S. Means Company.

(C) *The lesser of the current number of the IHA's two or more bedroom units available for occupancy, or 15,000 units, multiplied by a weight of .002896.*

(D) *The current ratio of the number of the IHA's two or more bedroom units available for occupancy in high-rise family projects to the number of all the IHA's units available for occupancy multiplied by a weight of 37.294.* For this indicator, a high-rise family project is defined as averaging 1.5 or more bedrooms per unit available for occupancy and averaging 35 or more units available for occupancy per building and containing at least one building with units available for occupancy that is 5 or more stories high.

(E) *The current ratio of the number of the IHA's three or more bedroom units available for occupancy to the number of all the IHA's units available for occupancy multiplied by a weight of 22.303.*

(F) *An equation calibration constant of −.2344.*

(3) *Procedure.* If an IHA wants to request a revision to its AEL, it should determine whether its AEL for the fiscal year ending in calendar year 1992 (for purposes of this section, the "unrevised AEL") is either less than 85 percent of the Formula Expense Level or more than 115 percent of the Formula Expense Level. Then, in lieu of using the unrevised AEL as the basis for developing the IHA's AEL and operating budget for the fiscal year ending in calendar year 1993, the IHA will use 85 percent of the FEL (if this is higher than the unrevised AEL) or 115 percent of the FEL (if this is lower than the unrevised AEL). If an IHA has submitted its original operating budget before the publication of a change to the PFS handbook containing forms and instructions necessary to implementation of this regulatory change, the IHA must submit a revision to its operating budget with calculations based on the new AEL within 60 days of the publication of the handbook change. If an IHA requests such revision of its AEL in connection with submission of an operating budget and its current AEL is within 85 to 115 percent of the FEL, HUD will not adjust the AEL. If an IHA requests revision and its AEL is not within 85 to 115 percent of the FEL, HUD will increase it to 85 percent or decrease it to 115 percent. The revised Allowable Expense Levels approved by HUD will be put into effect for the IHA's budget year that begins on or after April 1, 1992 (and thus ends in calendar year 1993).

* * * * *

PART 990—ANNUAL CONTRIBUTIONS FOR OPERATING SUBSIDY

4. The authority citation for part 990 continues to read as follows:

Authority: Sec. 9, United States Housing Act of 1937 (42 U.S.C. 1437g); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

§ 990.102 [Amended]

5. Section 990.102 is amended by removing the definition of "Range".

6. In § 990.105, paragraph (d) is removed; paragraphs (e), (f), and (g) are redesignated as paragraphs (d), (e), and (f), respectively; newly redesignated paragraph (f) is amended by removing the words "paragraphs (a) through (f)" and substituting the words "paragraphs (a) through (e)"; and the newly redesignated paragraph (d)(6) is redesignated as paragraph (d)(7). In addition, paragraph (c) and the following newly redesignated paragraphs are revised: (d)(1); the introductory paragraph of (d)(2); (d)(2)(ii); (d)(4)(iii); the heading of (d)(5) introductory text; (d)(5)(ii)(A) and (B); and (d)(5)(iii). A new paragraph (d)(6) is added. Newly redesignated paragraph (d) introductory text is republished. They now read as follows:

§ 990.105 Computation of allowable expense level.

* * * * *

(c) *Computation of Formula Expense Level.* The PHA shall compute its Formula Expense Level in accordance with a HUD-prescribed formula that estimates the cost of operating an average unit in a particular PHA's inventory. The formula takes into account such data as number of two or more bedroom units, ratio of two or more bedroom units in high-rise family projects, ratio of units with three or more bedrooms, local government wage rates, and number of pre-1940 rental units occupied by poor households. It uses weights and a Local Inflation Factor assigned each year, to derive a Formula Expense Level for the current year and the requested budget year. The weights of the formula and the formula are subject to updating by HUD.

(d) *Computation of Allowable Expense Level.* The PHA shall compute its Allowable Expense Level as follows:

(1) *Allowable Expense Level for first budget year under PFS where Base Year Expense Level does not exceed the top of the range.* The top of the range is defined as: FEL plus $10.31 for fiscal years starting before April 1, 1992, and FEL multiplied by 1.15 for fiscal years starting on or after April 1, 1992. Every PHA whose Base Year Expense Level is less than the top of the range shall compute its Allowable Expense Level for the first budget year under PFS by adding the following to its Base Year Expense Level (before adjustment under § 990.110):

(i) Any increase approved by HUD in accordance with § 990.110;

(ii) The increase (decrease) between the Formula Expense Level for the Base Year and the Formula Expense Level for the first budget year under PFS; and

(iii) The sum of the Base Year Expense Level, and any amounts described in paragraphs (d)(1) (i) and (ii) of this section multiplied by the Local Inflation Factor.

(2) *Allowable Expense Level for first budget year under PFS where Base Year Expense Level exceeds the top of the range.* The top of the range is defined as: FEL plus $10.31 for fiscal years starting before April 1, 1992, and FEL multiplied by 1.15 for fiscal years starting on or after April 1, 1992. Every PHA whose Base Year Expense Level exceeds the top of the range shall compute its Allowable Expense Level for the first budget year under PFS by adding the following to the top of the range (not to

its Base Year Expense Level, as in paragraph (d)(1) of this section):

* * * * *

(ii) The sum of the figure equal to the top of the range and the increase (decrease) described in paragraph (d)(2)(i) of this section, multiplied by the Local Inflation Factor. (If the Base Year Expense Level is above the Allowable Expense Level, computed as provided above, the PHA may be eligible for Transition Funding under § 990.106.)

* * * * *

(4) * * *

(iii) The sum of the AEL for the Current Budget Year and the increase (decrease) described in paragraphs (d)(4)(i) and (ii) of this section, multiplied by the Local Inflation Factor.

(5) *Allowable Expense Level for budget years after the first budget year under PFS that begin on or after April 1, 1988 and before April 1, 1992.* * * *

* * * * *

(ii) * * *

(A) If the PHA has not experienced a change in the number of its units in excess of 5 percent or 1,000 units, whichever is less, since the last adjustment to the AEL based on paragraph (d)(4) or paragraph (d)(5)(ii)(B) of this section, the AEL shall be increased by one-half of one percent (.5 percent); or

(B) If the PHA has experienced a change in the number of units in excess of 5 percent or 1,000 units, whichever is less, since the last adjustment to the AEL based on paragraph (d)(4) of this section or this paragraph (d)(5)(ii)(B), it shall use the increase (decrease) between the Formula Expense Level for the Current Budget Year and the Formula Expense Level for the Requested Budget Year. The PHA characteristics that shall be used to compute the Formula Expense Level for the Current Budget Year shall be the same as those that were used for the Requested Budget Year when the last adjustment to the AEL was made based on paragraph (d)(5)(ii)(B), except that the number of interim years in which the .5 percent adjustment was made under paragraph (d)(5)(ii)(A) shall be added to the average age that was used for the last adjustment; and

(iii) The amount computed in accordance with paragraphs (d)(5) (i) and (ii) of this section shall be multiplied by the Local Inflation Factor.

(6) *Allowable Expense Level for budget years after the first budget year under PFS that begin on or after April 1, 1992.* For each budget year after the first budget year under PFS that begins on or after April 1, 1992, the AEL shall be computed as follows:

(i) The Allowable Expense Level shall be increased by any increase to the AEL approved by HUD under § 990.108(c);

(ii) The AEL for the Current Budget Year also shall be adjusted as follows:

(A) Increased by one-half of one percent (.5 percent); and

(B) If the PHA has experienced a change in the number of units in excess of 5 percent or 1,000 units, whichever is less, since the last adjustment to the AEL based on paragraph (d)(4) or (d)(5)(ii)(B) of this section or this paragraph, it shall use the increase (decrease) between the Formula Expense Level calculated using the PHA's characteristics that applied to the Requested Year when the last adjustment to the AEL was made based on paragraph (d)(5)(ii)(B) or this paragraph (d)(6)(ii)(B) and the Formula Expense Level calculated using the PHA's characteristics for the Requested Budget Year.

(iii) The amount computed in accordance with paragraphs (d)(6) (i) and (ii) of this section shall be multiplied by the Local Inflation Factor.

* * * * *

7. In § 990.110, paragraph (f) is redesignated as paragraph (g), and a new paragraph (f) is added, to read as follows:

§ 990.110 Adjustments.

* * * * *

(f) *Formal review process (1992)*—(1) *Eligibility for consideration.* Any PHA with an established Allowable Expense Level may request to use a revised Allowable Expense Level for its requested budget year that starts on or after April 1, 1992 (and ends during calendar year 1993).

(2) *Eligibility for adjustment.* (i) If a PHA's AEL for the budget year that ends during calendar year 1992 is either less than 85 percent of the Formula Expense Level or more than 115 percent of the Formula Expense Level, as calculated using the revised formula and the characteristics for the PHA and its community, then the PHA's AEL for the budget year that ends during calendar year 1993 is subject to adjustment at the PHA's request. The revised formula expense level for the fiscal year ending in calendar year 1992 is the PHA's value of the following formula, after updating by the local inflation factors from FY 1989 to the Requested Budget Year.

(ii) The revised formula is the sum of the following six numbers:

(A) *The number of pre-1940 rental units occupied by poor households in 1980 as a percentage of the 1980 population of the community multiplied by a weight of 7.954.* This Census-based statistic applies to the county of the PHA, except that, if the PHA has 80 percent or more of its units in an incorporated city of more than 10,000 persons, it uses city-specific data. County data will exclude data for any incorporated cities of more than 10,000 persons within its boundaries.

(B) *The Local Government Wage Rate multiplied by a weight of 116.496.* The wage rate used is a figure determined by the Bureau of Labor Statistics. It is a county-based statistic, calibrated to a unit-weighted PHA standard of 1.0. For multicounty PHAs, the local government wage is unit-weighted. For this formula, the local government wage index for a specific county cannot be less than 85 percent or more than 115 percent of the average local government wage for counties of comparable population and metro/non-metro status, on a state-by-state basis. In addition, for counties of more than 150,000 population in 1980, the local government wage cannot be less than 85 percent or more than 115 percent of the wage index of private employment determined by the Bureau of Labor Statistics and the rehabilitation cost index of labor and materials determined by the R.S. Means Company.

(C) *The lesser of the current number of the PHA's two or more bedroom units available for occupancy, or 15,000 units, multiplied by a weight of .002896.*

(D) *The current ratio of the number of the PHA's two or more bedroom units available for occupancy in high-rise family projects to the number of all the PHA's units available for occupancy multiplied by a weight of 37.294.* For this indicator, a high-rise family project is defined as averaging 1.5 or more bedrooms per unit available for occupancy and averaging 35 or more units available for occupancy per building and containing at least one building with units available for occupancy that is 5 or more stories high.

(E) *The current ratio of the number of the PHA's three or more bedroom units available for occupancy to the number of all the PHA's units available for occupancy multiplied by a weight of 22.303.*

(F) *An equation calibration constant of −.2344.*

(3) *Procedure.* If a PHA wants to request a revision to its AEL, it should determine that its AEL for the fiscal year ending in calendar year 1992 (for purposes of this section, the "unrevised AEL") is either less than 85 percent of the Formula Expense Level or more than 115 percent of the Formula Expense Level. Then, in lieu of using the unrevised AEL as the basis for developing the PHA's AEL and operating budget for the fiscal year

ending in calendar year 1993, the PHA will use 85 percent of the FEL (if this is higher than the unrevised AEL) or 115 percent of the FEL (if this is lower than the unrevised AEL). If a PHA has submitted its original operating budget before the publication of a change to the PFS handbook containing forms and instructions necessary to implementation of this regulatory change, the PHA must submit a revision to its operating budget with calculations based on the new AEL within 60 days of the publication of the handbook change. If a PHA requests such revision of its AEL in connection with submission of an operating budget and its current AEL is within 85 to 115 percent of the FEL, HUD will not adjust the AEL. If a PHA requests revision and its AEL is not within 85 to 115 percent of the FEL, HUD will increase it to 85 percent or decrease it to 115 percent. The revised Allowable Expense Levels approved by HUD will be put into effect for the PHA's budget year that begins on or after April 1, 1992 (and thus ends in calendar year 1993).

* * * * *

Dated: January 22, 1992.

Joseph G. Schiff,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 92-2188 Filed 2-3-92; 8:45 am]

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Part IV

Department of Commerce

Economic Development Administration

Economic Development Administration Programs for Fiscal Year 1992; Availability of Funds; Notice

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DEPARTMENT OF COMMERCE

Economic Development Administration

[Docket No. 911216-1316]

Economic Development Assistance Programs as Described in Public Law 102-140, Departments of Commerce, Justice, State, the Judiciary, and Related Agencies Appropriations, 1992; Availability of Funds

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: Notice.

SUMMARY: The Economic Development Administration (EDA) announces its policies and application procedures for funds available in fiscal year 1992 to support projects designed to alleviate conditions of substantial and persistent unemployment and underemployment in economically distressed areas and regions of the Nation and to address economic dislocations resulting from sudden, major job losses. The purpose of this announcement is to communicate to potential applicants for EDA funds the policies and procedures that will be used to administer the Agency's programs during fiscal year 1992.

I. General Policies

Because of the existing statutory criteria, areas containing approximately 90 percent of the U.S. population are eligible for EDA assistance, which in fiscal year 1992 is approximately $227 million. Priority consideration for funding will be given only to those projects having the best potential to benefit areas experiencing or threatened with substantial economic distress. EDA is particularly interested in projects located in authorized and designated enterprise zones. Distress may exist in a variety of forms, including exceptionally high levels of unemployment, extremely low income levels, large concentrations of low income families, low labor force participation rates, significant decline in per capita employment, substantial loss of population due to the lack of employment opportunities, unusually large numbers (or high rates) of business failures or farm loan foreclosures, high farm credit delinquencies, sudden major layoffs or plant closures, and drastically reduced tax bases. Potential applicants are responsible for demonstrating to EDA, through the provision of statistics and other appropriate information, the nature and level of the distress their efforts are intended to alleviate. In the absence of evidence of exceptionally high levels of distress, EDA funding is unlikely. In considering proposals to benefit severely distressed areas, EDA will give special consideration to those that address the needs of rural communities, particularly aid directed toward the economic diversification of such areas.

EDA recognizes that small communities experience impediments to economic development other than the traditional inadequacies of existing water, sewer and roadway systems; therefore, in FY 1992, EDA will give consideration to atypical EDA projects that would assist an area to overcome a special development or infrastructure problem that is preventing real employment growth and economic development from taking place. Such projects include, but are not limited to, activities designed to enhance the expansion of the service sector of the economy when that sector is deemed more growth oriented than the traditional industrial sector, or innovative projects designed for the development of solid waste disposal or recycling facilities. Such proposals must be appropriately scaled and provide substantial and direct benefit to the local economy or otherwise enhance the economic prosperity of the area. EDA will consider providing assistance to demonstration type projects that are especially creative from an economic development standpoint and that leverage a substantial amount of nonfederal resources. EDA expects substantial state and local support for proposed projects. Proposals that do not provide evidence of strong state and local leadership and financing are less likely to receive EDA aid.

In the case of projects involving construction, EDA expects construction to be initiated and completed in a timely manner. Applicants are expected to anticipate predictable delays such as those caused by normal weather conditions, permits and approvals, legal complications, community disputes, land acquisition, etc., and account for them in developing project schedules. Projects which are likely to encounter significant delays will normally not be given favorable consideration. Projects that experience unreasonable delays following EDA approval may be terminated and the funds deobligated. These policies are consistent with EDA's objective of supporting activities that can begin to benefit local economies as soon as possible, thereby meeting the pressing development needs identified by project applicants. EDA expects those responsible for developing and managing projects to maximize the impact of the public funds by preparing and implementing projects as thoroughly and expeditiously as possible.

EDA funding will not be used directly or indirectly to assist employers who transfer one or more jobs from one commuting area to another. EDA nonrelocation requirements (13 CFR 309.3) apply to all loan guarantees and grants involving construction, rehabilitation or repair under titles I, II, IV, IX, and section 301(f) of the Public Works and Economic Development Act of 1965 (Pub. L. 89-136, 42 U.S.C. 3121-3246h), as amended, PWEDA, (including grants for Revolving Loan Funds, under title IX).

Applicants who have delinquent accounts receivable with the Federal Government may not be considered for future awards until these debts have been paid or arrangements to pay them have been approved by the agency to whom the debt is owed. Applicants may be subject to a pre-award accounting system survey by the Department of Commerce's Office of Inspector General, and fund recipients may be subject to audits or other inspections by the same office.

Applicants eligible for assistance because of membership in an economic development district must be active participants in the district economic development planning process. EDA will evaluate applications for conformance with published statutory, regulatory, and policy requirements. Applications proposed for funding under these programs are subject to the requirements of Executive Order 12372, "Intergovernmental Review of Federal Programs."

An invitation to submit a formal application does not assure EDA funding. Factors that will be taken into account in considering projects include whether and to what extent the project meets the selection criteria. Unsuccessful applicants will be notified of the status of their applications when all of EDA's funds for the program to which they have applied have been awarded.

Processing time for proposals will depend on the completeness of the information provided in the application and supporting documents at the time of submission. Proposals that require additional information from applicants or other sources will be returned to correct deficiencies and the official application receipt dates will be adjusted accordingly.

EDA will avoid projects that involve actual or potential conflict-of-interest situations. If EDA identifies or suspects a possible conflict-of-interest situation, or an appearance of such, application processing and/or grant award may be suspended and the burden will be on the applicant/grantee to take appropriate steps to eliminate the perception of a conflict of interest before application processing or the grant is resumed.

Section 319 of Public Law 101–121 generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. A "Certification for Contracts, Grants, Loans and Cooperative Agreements" and the SF–LLL, "Disclosure of Lobbying Activities" (if applicable), is required to be submitted with the application.

Recipients must agree that no funds made available by EDA shall be used, directly or indirectly, for paying attorneys' or consultants' fees in connection with securing awards made by the Government, such as, for example, preparing the application for this assistance. However, attorneys' and consultants' fees incurred for meeting Award requirements such as, conducting a title search or preparing plans and specifications, may be eligible project costs and may be paid out of funds made available, provided such costs are otherwise eligible.

Public Law 101–510, enacted November 5, 1990, section 1405, amending subchapter IV of chapter 15, title 31, United States Code, prescribes the rules for determining the availability of appropriations. Accordingly, grant funds obligated for a project will expire in five years from the fiscal year of the grant award.

Applicants are subject to Governmentwide Debarment and Suspension (Nonprocurement) requirements as stated in 15 CFR part 26. In accordance with the Drug-Free Workplace Act of 1988, each applicant must make the appropriate certification as a "prior condition" to receiving a grant or cooperative agreement.

Applicants should be mindful that a false statement on the application may be grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment.

Awards under these programs shall be subject to all Federal and Departmental regulations, policies, and procedures applicable to Federal assistance awards.

The following material describes other policies and procedures associated with each of EDA's programs.

II. Program: Public Works and Development Facilities Assistance

(Catalog of Federal Domestic Assistance: 11.300 Economic Development Grants and Loans for Public Works and Development Facilities. 11.304 Economic Development Public Works Impact Program (PWIP))

Summary

Funds available under the Public Works and Development Facilities Program are used to finance projects that contribute to the economic development of distressed areas. Grants are authorized by titles I and IV of the Public Works and Economic Development Act of 1965, as amended (PWEDA), 42 U.S.C. 3131 and 42 U.S.C. 3171(a)(3).

Eligibility

Eligible applicants under this program include any state, or political subdivision thereof, Indian tribe, the Federated States of Micronesia, the Republic of the Marshall Islands, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands, or private or public nonprofit organization or association representing any redevelopment area or part thereof, if the project is located within an EDA-designated redevelopment area. Redevelopment areas, other than those designated under the Public Works Impact Program, must have a current EDA-approved Overall Economic Development Program (OEDP).

Political entities claiming eligibility under OEDPs developed by multicounty economic development organizations are expected to continue to participate actively in the organization. Further information on areas eligible for this program is available from EDA's regional offices. Nonprofit applicants are urged to seek the cooperation and support of units of local government and, when deemed appropriate by EDA, to have the local government serve as co-applicant for EDA assistance. This serves the purpose of ensuring the financial stability and continuity of the project, in the event the nonprofit entity finds itself in a position of not having the financial resources to properly and efficiently administer, operate and maintain the EDA-assisted facility consistent with the provisions of 13 CFR 314-Property Management Standards.

Program Objective

The purpose of the Public Works Program is to assist communities with the funding of public works and development facilities that contribute to the creation or retention of private sector jobs and to the alleviation of unemployment and underemployment. Such assistance is designed to help communities achieve lasting improvement by stabilizing and diversifying local economies, and improving local living conditions and the economic development of the area. EDA emphasizes the alleviation of unemployment and underemployment among residents of the project area as a primary focus of this program. In view of the current rural distress, applications from rural communities will be reviewed with particular interest.

Funding Availability

Funds in the amount of $154.160 million are available for this program.

Funding Instrument

EDA may provide direct grants not to exceed 50 percent of the estimated cost of the project. Under certain circumstances, EDA participation may amount to 80 percent of the project costs. On an average, EDA grants cover approximately 50 percent of eligible project costs. Applicants will be required to provide the local share from acceptable sources including, but not limited to, cash, local government general obligation or revenue bonds; Community Development Block Grant (CDBG) entitlement funds or balance of state awards; Farmers Home Administration loans; and other public and private financing, including donations. The local share need not be in hand at the time of application; however, the applicant must have a firm commitment from identified sources, and the funds must be readily available.

The local share must not be encumbered in any way that would preclude its use consistent with the requirements of the grant agreement. Priority will be given to applications which maximize the local share's percentage of the project cost. Supplementary grant assistance to finance more than 50 percent of the project costs will only be approved by EDA for projects in areas of high distress. Decisions on such supplementary grant assistance will be based on the nature of the project, the amount of fair user charges or other revenues the project may reasonably be expected to generate, and the relative needs of the area (see 13 CFR 305.5).

Selection Criteria

For both regular public works projects and Public Works Impact Program (PWIP) projects, priority consideration will be given to those which are the most competitive based upon the project selection criteria set forth below, that best meet the needs of eligible areas, and that are located in areas of severe economic distress.

A. Public Works Projects

Factors that will be taken into account in considering projects eligible under section 101(a)(1)(A)—(C) of PWEDA, 42 U.S.C. 3131(a)(1)(A)—(C), include whether and to what extent the project:

1. Improves opportunities for the successful establishment or expansion of industrial or commercial facilities in the area where such project will be located;

2. Assists in creating or retaining private sector jobs in the near term and assists in the creation of additional long-term employment opportunities, provided the jobs are not transferred from any other area of the United States, and will result in a low cost-per-job in relation to total EDA cost;

3. Benefits the long-term unemployed and members of low-income families who are residents of the area to be served by the project;

4. Fulfills a pressing need of the area, or part thereof, in which it will be located;

5. Is consistent with the EDA approved Overall Economic Development Program (OEDP) for the area in which it is, or will be, located, and has broad community support;

6. Is supported by significant private sector investment;

7. Has adequate local share of funds with evidence of firm commitment and availability;

8. Supports developments taking place in designated enterprise zones, particularly in rural areas;

9. Demonstrates that necessary permits, land acquisitions, or options on land and rights-of-way have been obtained and that all other legal requirements of the application process have been satisfied;

10. Maximizes the amount of local or State funding that is available; and

11. Gives evidence of the ability to begin and complete construction in a timely manner in accordance with a schedule to be agreed upon by EDA and the applicant and included in the grant award. EDA discourages the start of construction prior to grant award and cautions that financial hardship may be experienced by applicants whose projects are not ultimately approved because of compliance deficiencies or lack of competitiveness with other proposals. EDA will require all applicants that request approval to proceed with construction prior to grant award to acknowledge that they are proceeding at their own risk without recourse to EDA should the grant not be awarded or EDA requirements not be met. Furthermore, EDA may view the start of construction prior to grant award as an indication that the grant funds are not essential for the successful implementation of the project.

B. Public Works Impact Program

Factors that will be taken into account in considering projects under the Public Works Impact Program (PWIP) authorized by section 101(a)(1)(D) of PWEDA, 42 U.S.C. 3131(a)(1)(D), include whether and to what extent the project:

1. Directly assists in creating immediate useful work (i.e., construction jobs) for the unemployed and underemployed residents in the project area;

2. Improves the economic or community environment in areas of severe economic distress;

3. Includes a specific plan (i.e., PWIP Employment Strategy) for hiring the unemployed and underemployed persons from the project area to work on the construction of the project; EDA will evaluate all plans to ensure that they contain a logical explanation of how the employment objectives will be met;

4. Assists in providing long-term employment opportunities or other economic benefits for the unemployed and underemployed in the project area;

5. Primarily benefits low-income families by providing essential community services, or satisfying a pressing public need;

6. In addition to requirement for regular public works projects, as contained in paragraph A.11, can begin construction quickly (normally within 120 days after acceptance of the grant by the applicant); and

7. Has substantial labor intensity, where labor intensity is the proportion of labor costs to the total project costs.

C. Industrial Park Projects

Projects which will primarily serve an industrial park or site will be evaluated on such additional factors as:

1. A detailed analysis of existing industrial park capacity and utilization; occupancy rates for existing developed industrial parks currently available within a 25-mile radius of the project site. For cities with populations over 50,000, the prescribed area may be determined by an analysis of industrial sites within an established industrial area, which may be less than a 25-mile radius. Contact the economic development representative (EDR) for the area or the appropriate EDA regional office for guidance.

2. Commitments in writing from identified tenants to expand existing operations or to locate in the industrial park or site. Commitments must include a description of the industry, the number of jobs created or saved, and an implementation schedule, and the relationship of the commitment to the requested grant assistance.

3. The existence of a concrete marketing strategy and demonstrated financial ability to market space in the industrial park or site. Strong emphasis will be placed upon this requirement.

Construction Project Implementation

As indicated in the first section of this Notice, EDA expects construction projects to be initiated and completed in a timely manner and in accordance with the schedule agreed upon in the grant documentation. The recipient will be responsible for promptly notifying EDA of any events that prevent adherence to the approved schedule. The recipient must also provide an explanation of why the events were beyond its ability to predict or control and obtain EDA's approval of changes in the schedule prior to proceeding with project implementation. EDA expects recipients to anticipate predictable delays (such as those caused by land acquisition problems, local financing requirements, normal weather conditions in the area, acquisition of state permits and approvals, and known public objections to the project), and to take them into account in preparing the project schedule. Recipients who fail to comply with project schedules shall be subject to grant suspension or termination.

Under most circumstances, EDA will not provide additional funds to finance overruns that occur during project implementation.

Proposal Submission Procedures

To establish the merits of project proposals, interested parties should first contact the economic development representative for the area. The EDA regional office can provide the name, address and telephone number of the economic development representative for the area who will provide a preapplication form (ED-101P, OMB Control No. 0610-0011) and arrange for conferences to discuss the proposal. EDA will screen proposals before inviting the submission of a formal application. Proposals will be evaluated based upon:

1. Conformance with statutory and other legal requirements and with the selection criteria mentioned above;

2. The merits of the proposal in addressing the economic development needs of the eligible area; and

3. The availability of funds as allocated to the regional offices.

Processing time for project proposals will depend on the completeness of information provided in the preapplication form and supporting documents at the time of submission. Project proposals that require additional information from applicants or other sources will be returned to correct deficiencies and the official application receipt dates will be adjusted accordingly.

Formal Application Procedures

Following a review of project proposals, EDA will invite entities whose projects are selected for consideration to submit formal applications. The formal application will include a form ED–101A, as approved by the Office of Management and Budget Control No. 0610–0011.

Previous Applications

Project applications invited, but not funded in fiscal year 1991, remain eligible for funding consideration. Those applications which were received prior to the date of this Notice, will be processed and evaluated in accordance with the project selection criteria published for fiscal year 1991 and current legal requirements. Those applications received on or after the date of this Notice, must be consistent with the project selection criteria and requirements published in this Notice. Applicants whose projects were invited but not submitted to EDA in fiscal year 1991 should contact the appropriate EDA regional office regarding forms to be used for fiscal year 1992.

Further Information

For further information contact the appropriate EDA regional office (see section XI of this notice).

III. Program: Guaranteed Loans

(Catalog of Federal Domestic Assistance: 11.301 Economic Development—Business Development Assistance)

Summary

Authority is available to guarantee up to eighty percent (80%) of the principal and interest of loans made by eligible commercial lending institutions to private borrowers for the purchase of fixed assets or for working capital purposes for projects located in areas eligible for EDA assistance. EDA loan guarantees are made available to help businesses expand, establish, or maintain operations in both rural and urban eligible areas throughout the Nation. Guarantees offered under this program are made at the discretion of the Assistant Secretary for Economic Development based upon data from the borrower and lender current at the time the guarantee is offered, under the authority of Public Law 89–136, (42 U.S.C. 3142–3246(h)).

Preapplication Procedures

Applicants should contact the Credit and Debt Management Division to discuss their proposals. EDA staff will screen proposals before inviting a formal application. Proposals will be evaluated based upon conformance with the following:

1. Statutory requirements contained in the Act;
2. Regulatory requirements contained in 13 CFR parts 306 and 309; and restated in this Notice; and
3. Provisions of Office of Management and Budget (OMB) Revised Circulars A–70 and A–129.

Revised OMB Circulars A–70 and A–129 Requirements

All loan guarantees must conform to the requirements of A–70 and A–129, without exception. The most significant requirements are as follows:

1. Loans must be secured by first priority, unsubordinated liens on collateral having value in excess of the full amount of the loan.
2. A guarantee fee will be charged.
3. Not more than eighty percent (80%) of the principal and the interest on a loan may be guaranteed.
4. The lender must bear a significant portion of the risk of loss on the loan. No other security, guarantees, or any other arrangement that would not inure ratably to EDA for that portion of the loan not guaranteed by EDA will be permitted.
5. No loan directly involved with tax-exempt obligations, such as industrial revenue bonds, will be guaranteed.

Supplementary Information

A. Amount of Funding Available

EDA is authorized to commit up to $5.0 million to guarantee contingent liability for loan principal in fiscal year 1992.

B. Type of Financial Assistance

EDA staff will consider proposals for the guarantee of loans made by private lending institutions to private borrowers to finance fixed assets or for working capital purposes. EDA staff will not accept applications for projects which involve real estate development for either investment or speculation, or for the refinancing of current debt.

C. Who May Apply

Formal applications will be invited by EDA staff only after review and acceptance of satisfactory project proposals. Applications will be accepted only from private lending institutions (the applicant) for the guarantee of loans to private business enterprises. EDA's relationship is essentially with the lender applicant, not the borrower.

D. Long-Term Employment

EDA staff will seek to assist in the creation or retention of permanent private-sector jobs in EDA eligible areas. Accordingly, the project for which the applicant seeks financial assistance must be reasonably calculated to provide more than a temporary alleviation of unemployment or underemployment within the eligible area where the project is or will be located.

E. Repayment Ability

The private lender and EDA must find that there is reasonable assurance of repayment of the guaranteed loan.

F. EDA Guarantee Required

No loan will be guaranteed by EDA unless the application is supported by evidence that the financial assistance applied for is not otherwise available to the prospective borrower from either private lenders without a guarantee or from other Federal agencies on terms which, in the opinion of EDA, will permit accomplishing the project. In the event the borrower is a large corporation, which would normally have funds available to finance the project, such corporation must certify that it would not locate the proposed project within the EDA-designated area without the benefits of EDA's financial assistance.

G. Relocation

Nonrelocation requirements apply to guaranteed loans under section 202, title II of PWEDA. EDA's regulations at 13 CFR 309.3 prohibit transferring jobs from one commuting area to another. Certificates of nonrelocation will be required.

General Conditions of Assistance

A. Term of Loan

The term of a guaranteed fixed asset loan cannot exceed the weighted average estimated useful economic life of the project fixed assets, but in no event can the term of such a loan exceed twenty-five (25) years. The term of a guaranteed working capital loan ordinarily may not exceed five (5) to seven (7) years, and the loan should be fully amortized during its term. EDA will not ordinarily guarantee revolving-type or open-end working capital loans.

B. Guarantee Percentage and Interest Rate

Pursuant to OMB Circular A-70, EDA may guarantee up to eighty percent (80%) of the face value of a loan. However, applicants requesting an eighty percent (80%) guarantee will be required to justify why a lesser guarantee percentage would not be acceptable. As a general rule, EDA will not offer to guarantee a loan in excess of the following percentages and interest rates:

1. 80% guarantee—Lender prime rate plus 1.25%.
2. 75% guarantee—Lender prime rate plus 1.50%.
3. 70% guarantee—Lender prime rate plus 2.0%.
4. 65% guarantee—Lender prime rate plus 2.5%.

C. Guarantee Fee

Pursuant to OMB Circulars A-70 and A-129, EDA will charge the lender a guarantee fee.

D. Lender's Risk

That portion of the loan not guaranteed by EDA must be at risk to the recipient throughout the term of the loan. This precludes the recipient from obtaining any additional security, guarantee, or compensating balances to separately secure the unguaranteed portion of the loan. This does not preclude normal loan participation arrangements by the lender, provided that any such participation is acceptable to EDA. EDA staff will be obligated to deal only with the recipient, and all participants must be eligible as recipients.

E. Other Lender-Borrower Relationships

When a recipient has other creditor/debtor relationships with the prospective borrower, EDA staff will seek assurances that these relationships will not create conflicts with EDA's interest in the recipient's servicing of the loan for which a guarantee is sought. Ordinarily, EDA staff will not accept an application from an applicant who has existing short-term revolving working capital financing extended to the borrower.

F. EDA Investment Per Job

EDA staff normally will consider only those projects that have an EDA investment exposure of $20,000 or less per permanent job to be created or saved.

G. Repayment Ability

Only projects that demonstrate reasonable assurance of repayment are eligible to receive EDA financial assistance. The applicant must demonstrate why it is reasonably certain the borrower will be able to repay the loan. As a minimum, the application must include:

1. Applicant's normal detailed credit analysis, including a narrative discussion of company history, management, product, production capability, market conditions, finances, collateral, and repayment ability (with ratio analyses compared to industry standards);
2. Three (3) years' financial statements, audited and certified by a public accountant, if available, or certified by a responsible officer of the prospective borrower; if in operation less than three years, financial statements since inception;
3. Financial statements of the prospective borrower, current within ninety (90) days of the date of the application;
4. Pro forma balance sheets, income and cash flow statements of the prospective borrower on a month-by-month basis for the first year after the loan is made and on a quarterly basis for the next two (2) years;
5. One copy of the proposed note and loan agreement between the applicant and the prospective borrower with attachments; and
6. For loans involving real estate collateral, a certification from the lender/borrower that it is satisfied that there are no hazardous substances problems (Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA)).

H. Adequate Collateral

The lender must maintain perfected liens against and security interests in collateral adequate to permit full recovery of the loan in the case of default by the borrower. Collateral must be of such nature that repayment of the loan is reasonably assured when considered along with the integrity and ability of project management, soundness of the project and borrower's prospective earnings. The applicant must document why it is reasonably certain that adequate collateral coverage exists. Only projects that demonstrate that the full amount of the loan is covered exclusively by an unsubordinated first priority security interest on collateral offered by the borrower will be considered. There will be no exceptions to this requirement. Proof and documentation of collateral coverage shall include but not be limited to current appraisals as to the fair market and liquidation value of the collateral that will support the loan. If the purchase of new machinery and equipment constitutes all or part of the prospective project cost, current cost data for such assets may be submitted in lieu of an appraisal. Where real property is to be pledged as collateral, a description and evidence of ownership must be included with appraisals acceptable to EDA. All real property appraisals shall include appropriate recognition of environmental risks.

I. Guarantees

Unconditional personal/corporate guarantees (of full and timely payment and performance by the borrower) will be required from all persons or entities which hold or control ten percent or more of the ownership interests in a borrower unless:

1. The borrower has a profitable historical performance of no less than three out of the most recent five years, abundant collateral, adequate cash flow, and meets key industry standards (i.e., Robert Morris Associates);
2. Borrower's stock is so widely held that no one individual/family/entity can exercise control;
3. Borrower's parent, subsidiary, or affiliate that is required to guarantee is legally restricted from guaranteeing, or such guarantee would conflict with other existing contractual obligations of the prospective guarantor.

Cross guarantees may also be required from related corporate entities.

EDA will require current (not over ninety days old at the time the application is filed) personal or corporate financial statements signed by the prospective guarantor, and, where appropriate and necessary to support the guarantee, by the guarantor's spouse, and disclosing community and individual assets and indebtedness when applicable.

J. Equity Requirements

All applications for EDA financial assistance shall be supported by adequate existing or proposed equity so as to enhance the success of the proposed project and lessen EDA's potential exposure. The following minimum equity will be required:

1. For guaranteed working capital loans, the prospective borrower must have existing, or must provide, net working capital equal to not less than fifteen percent (15%) of its total working capital needs.
2. For guaranteed fixed asset loans, the prospective borrower must provide an equity investment in the loan project of at least fifteen percent (15%) of the aggregate loan project cost.

3. The prospective borrower must provide twenty-five percent (25%) of the aggregate loan project cost for:

a. New businesses with no operating history;

b. Loans without full personal or corporate guarantee of stockholders owning ten percent (10%) or more of the borrower;

c. Energy-related businesses;

d. Ventures which EDA determines to have above-average risk.

K. Feasibility Report

An independent technical, financial, and economic feasibility report by a firm acceptable to EDA will be required for all applications for new ventures involving a total project cost of $1 million or more and for projects involving tourism or recreational facilities. Such a report must be related to the pro forma operating statements associated with the application. Independent feasibility studies may also be required for other applications, as deemed necessary by EDA.

L. Tax-Exempt Obligations

The EDA project cannot share collateral with or include elements financed with tax-exempt obligations, such as industrial revenue bonds.

M. Other Requirements

1. Hazard insurance with a standard mortgage clause naming the lender as beneficiary will be required in an amount at least equal to the lesser of the depreciated replacement value of the property being insured or the amount of the loan.

2. Keyman life insurance, which may be decreasing term insurance, normally will be required for principals and key employees of the borrower, pledged or assigned to the lender.

Applicant Servicing Responsibilities

A. Upon approval of a guaranteed loan, the applicant's responsibilities shall include, but are not limited to, executing such care and diligence in the disbursement, servicing, collection, and liquidation of the guaranteed loan as would be exercised by a reasonable and prudent commercial lender in dealing with a loan of its funds without the EDA guarantee.

B. In the event of subsequent default on the loan, unless EDA elects otherwise, the applicant will have full responsibility for servicing and liquidating the loan prior to making demand on EDA for payment under the EDA guarantee. EDA shall be obligated to pay that portion of the loan guaranteed after the deduction of all proceeds of the liquidation less reasonable expenses directly attributable to the liquidation. Failure to perform these responsibilities satisfactorily may preclude EDA from honoring its guarantee. EDA staff will examine the applicant's records before honoring any guarantee.

Application Requirements

A. The application shall include the following:

1. A signed statement by the borrower assuring that it will not use the EDA financial assistance to relocate jobs from one area to another or to close facilities involved in the EDA-guaranteed project;

2. Approval of the application by the appropriate agency or instrumentality of the state or political subdivision in which the project is located, together with a signed statement by that local authority that the project is consistent with an Overall Economic Development Program approved by EDA;

3. Full disclosure of the amount and nature of all fees charged to the borrower by the lender, attorneys, agents or other persons to expedite the application. Appropriate fees and charges may include services such as accounting, legal, engineering and appraisals. Packaging and lobbying expenses are not allowable project costs and no proceeds of the loan may be used directly or indirectly for attorney's or consultants' fees in connection with securing EDA's guarantee. EDA may permit reasonable fees and charges as allowable project costs. EDA will not permit any fees or charges that are contingent upon project approval;

4. An agreement that neither the borrower nor the applicant will employ or retain for professional services any person who on behalf of EDA occupied a position or engaged in activities which EDA determines involves discretion with respect to the granting of the assistance under the Act. This agreement shall remain in effect for two years after EDA grants assistance to the applicant;

5. An application for character/integrity investigation (Name Check Form CD-346, OMB No. 0605-0001) for each officer, the chief financial manager, and for each individual owning or controlling at least twenty percent (20%) of the borrower;

6. Documentation satisfactory to EDA to substantiate that the guaranteed loan will not create unfair competition within the meaning of section 702 of the Act. Section 702 unfair competition results if the project would increase the production of goods, materials, or commodities, or the availability of services or facilities, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises. Applicants are encouraged to submit borrower's data for this requirement prior to or within thirty (30) days of receiving authorization to apply for EDA financial assistance to expedite processing of the loan guarantee. Applicants and borrowers should understand that expenses incurred prior to formal offering of a loan guarantee are made solely at the applicant's or borrower's expense;

7. A description of state or local government assistance to the project; and

8. A signed statement by the borrower assuring that (a) real estate provided as collateral is not under notice of environmental violations for local, state or Federal agencies, (b) the real property is not the subject of an environmental impact study, and (c) there are no known violations of Federal, state or local environmental laws or requirements, including, but not limited to, 42 U.S.C. 9601–9657.

B. Loan guarantees are also subject but not limited to the following statutes:

1. Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251–1376;

2. Davis-Bacon Act, as amended, 40 U.S.C. 276a–276a–5; 13 CFR 309.6;

3. The Architectural Barriers Act of 1954, as amended, 42 U.S.C. 4151–4157; 13 CFR 309.14;

4. The National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321–4370; CFR 309.18;

5. The National Historic Preservation Act of 1966, 16 U.S.C. 470–470W–6;

6. The Wild Scenic River Act, as amended, 16 U.S.C. 1271–1287;

7. The Clean Air Act, as amended, 42 U.S.C. 7401–7626;

8. The Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4001–4128;

9. The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601–9675; and

10. Resource Conservation and Recovery Act, 42 U.S.C. 6901–6991.

Application Submission

Proposals should be submitted to the Credit and Debt Management Division at the earliest possible date. Proposals received after June 26, 1992, may not be considered during fiscal year 1992. The formal application will include an ED-201, as approved by the Office of Management and Budget Control No. 0610-0024. Completed applications for

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authorized projects should be submitted no later than July 31, 1992.

Incomplete applications or applications that do not conform to program requirements will be rejected by EDA. All guarantees require approval by the Assistant Secretary of Commerce for Economic Development.

Further Information

For further information contact the Director, Credit and Debt Management Division, Economic Development Administration, room 7830B, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-4731.

IV. Program: Technical Assistance

(Catalog of Federal Domestic Assistance: 11.303 Economic Development—Technical Assistance)

Summary

Funds under the Technical Assistance Program are awarded to eligible applicants to provide assistance intended to assure the successful initiation and implementation of area, state, regional, and national development efforts designed to alleviate economic distress. This program is authorized under section 301(a) of the Public Works and Economic Development Act of 1965, as amended, 42 U.S.C. 3151(a).

Eligibility

Eligible applicants for technical assistance grants or cooperative agreements include public or private nonprofit national, state, area, district, or local organizations; public and private colleges and universities; Indian tribes, local governments, and state agencies. In certain circumstances applications may be considered from other eligible applicants such as private individuals, partnerships, firms, and corporations.

Program Objective

The Technical Assistance Program is designed to provide technical assistance useful in alleviating or preventing conditions of excessive unemployment or underemployment and problems of economically distressed populations in rural and urban areas.

Funding Availability

Funds in the amount of $2.176 million are available for the Technical Assistance Program. It is expected that these funds will be made available for projects serving specific local or substate areas and also for projects whose impacts will cross EDA regional office boundaries.

Funding Instrument

EDA will provide grants and cooperative agreements not to exceed 75 percent of proposed project costs. Applicants are expected to provide the remaining share, preferably in cash. In cases when EDA issues a Solicitation of Applications, an applicant's share may not be required.

Project Duration

Assistance will be for the period of time required to complete the scope of the work. Generally, this will not exceed twelve months.

Selection Criteria

Preference will be given to those technical assistance proposals which:

1. Produce strong evidence that the proposed project will lead to the near-term (between one and five years) generation or retention of private sector jobs.

2. Do not depend upon further EDA or other Federal funding assistance to achieve results.

3. Strengthen the capability of state and local organizations and institutions, including nonprofit development groups, to undertake and promote effective economic development programs targeted to people and areas in distress.

4. Stimulate significant private and nonfederal public investment for economic development purposes, including funds from commercial lenders, public and private pension funds and other nontraditional sources.

5. Benefit severely distressed areas, particularly rural counties and communities.

6. Diversify distressed rural economies by means of enterprise zones and other strategies.

7. Demonstrate innovative approaches to stimulating economic development in depressed areas. EDA is particularly interested in receiving innovative proposals in the following areas:

a. Export development used as an economic development strategy; b. Assistance to business in uses of technology; c. Minority business developed in distressed areas; and d. Tourism.

8. Are consistent with the EDA approved Overall Economic Development Program (OEDP) for the area in which the projects are located and have been recommended by the OEDP Committee (if appropriate to the nature of the project).

9. Present an appropriate and clear project design.

10. Are proposed by organizations or individuals with the capacity, qualifications and staff necessary to undertake the intended activities.

11. Present a reasonable, itemized budget for the proposed activities.

12. Involve a significant (preferably cash) contribution in excess of minimum required from applicant or other nonfederal sources.

Pre-Application Procedures

Parties seeking support for local technical assistance projects—those that will primarily benefit a substate or intra-regional area—must contact the economic development representative (EDR) for the area to obtain a proposal package. This package may contain additional information on procedures and selection criteria. The EDA regional office will provide the name, address and telephone number of the EDR for the applicant's area (see section XI of this Notice). EDA will evaluate all proposals as they are received and invite applications for those which best satisfy the selection criteria.

Potential applicants should submit one original and two (2) copies of a brief and concise proposal which should not exceed 20 pages. Vita and capability information may be appended.

Proposal Submission Procedures

Potential applicants should submit proposals that include:

1. A cover page giving a short descriptive project title, the name and address of the performing organization, the name and telephone number of the project director, the project duration, the amount of EDA funds requested, and the program (Technical Assistance) that would provide the funds;

2. A brief scope-and-objectives section indicating why the project is needed, giving its objectives, and providing a capsule description of the project;

3. A more detailed description of the project and its methodology;

4. A work plan showing different phases of the project and their timing;

5. A detailed budget showing cost breakdowns, with EDA-funded and non-EDA-funded costs presented in separate columns and with the EDA-funded costs adding to the total shown on the cover page;

6. Resumes for the project director and principal staff; and

7. A corporate or institutional capability statement, where appropriate

Parties seeking support for local technical assistance should submit proposals to the EDR who supplied the proposal package.

Parties seeking support for projects whose impacts will cross EDA regional boundaries should submit proposals to the Director, Technical Assistance and Research Division, Economic Development Administration, room 7315, U.S. Department of Commerce, Washington, DC 20230. Individuals or organizations located outside the Washington, DC, metropolitan area should submit a copy of the letter transmitting their proposal to Washington to the EDR for the area in which they are located.

Formal Application Procedures

The appropriate EDA regional office will invite entities whose proposals for technical assistance projects are selected for further consideration to complete formal application packages. The formal application for applicants will include a Standard Form-424 (OMB Control No. 038–0043).

Eligibility for Specific Solicitations

EDA may, during the course of the year, identify specific economic development technical assistance activities it wishes to have conducted. Organizations and individuals interested in being invited to respond to Solicitations of Applications (SOAs) to conduct such work should submit information on their capabilities and experience to the Director, Technical Assistance and Research Division, Economic Development Administration, room 7315, U.S. Department of Commerce, Washington, DC 20230.

Further Information

For further information about local technical assistance projects—those that will benefit substate or intra-regional areas—contact the appropriate EDR (whose name, address, and telephone number may be obtained from the EDA regional office) or the appropriate EDA regional office (see section XI of this Notice). For further information about submitting projects whose impact will cross EDA regional office boundaries, contact the National Technical Assistance Coordinator, telephone (202) 377–2127.

V. Program: University Center Projects

(Catalog of Federal Domestic Assistance: 11.303 Economic Development—Technical Assistance)

Summary

Funds for basic university center projects are used as seed money to help selected colleges and universities mobilize their own and other resources to assist in the economic development of distressed areas. The efforts of university centers should focus on helping public bodies, nonprofit organizations and businesses plan and implement activities designed to generate jobs and income. In addition, funds may be used for projects which promote the goals of the University Center Program in other ways that demonstrate innovative economic development. Support for these types of projects is authorized under section 301(a) of the Public Works and Economic Development Act of 1965, as amended, 42 U.S.C. 3151(a).

Eligibility

Eligible applicants for university center grants and cooperative agreements are public and private colleges and universities, associations representing such institutions, and other organizations with expertise in University Center Program issues.

Program Objective

The objective of these projects is to enable colleges and universities to contribute to overall economic development by using their resources to provide technical assistance that will alleviate or prevent conditions of excessive unemployment or underemployment and problems of distressed populations in individual states or substate areas.

Funding Availability

Funds in the amount of $7.724 million are available for university center projects. It is expected that continuation grants for existing centers will use all of this amount.

Funding Instrument

University center project funds will be awarded through grants and cooperative agreements to cover a portion of project costs. The amount covered will not exceed 75 percent of proposed project costs.

Project Duration

Grants and cooperative agreements will be for the period of time required to complete the scope of work. Generally, this will not exceed twelve months.

Selection Criteria

In judging proposals from existing and potential university centers for basic grants, EDA will consider whether the proposed center programs:

1. Serve areas of significant economic distress;

2. Address the development needs of the service area;

3. Complement the activities of other organizations in the proposed service area that are engaged in economic and business development. Where applicable, the proposal must identify how it differs from the services provided by a local Small Business Development Center (SBDC), Trade Adjustment Assistance Center (TAAC) or a Minority Business Development Center (MBDC);

4. Possess the commitment, as evidenced by financial support and other resources, of the university leadership at the highest levels to the mission and purpose of the university center;

5. Possess the capacity to provide the proposed technical and other types of assistance to jurisdictions and organizations within the service area; and

6. Complement and support the local, regional or state economic development strategies in the service area. EDA will also consider the following factors in evaluating proposals for basic grants from potential centers:

a. The extent to which the center proposes to serve the economic development needs of economically-distressed jurisdictions and community-based organizations.

b. The presence of other EDA-funded center(s) in the state.

c. The presence of an SBDC, MBDC or a TAAC in the service area.

Proposals will also be judged on the quality of the proposed work program and the qualifications of the applicant to carry out that work program.

Proposals for other projects that meet the goals of the University Center Program will be judged on similar factors. These include the potential impact of the project on distressed areas, the quality of the proposed work program, and the qualifications of the applicant to carry it out. Depending on the availability of funds, EDA may hold a competition for short-term (one to three year) incentive grants. This competition will be open to all currently and previously funded centers, except those whose funding was discontinued because of poor performance.

Funding Policy

Public Law 102–140, the Department of Commerce fiscal year 1992 Appropriations Act, requires that each individual university center receive funding at no less than its fiscal year 1991 level.

The Conference Report for the Appropriations Act includes $3,000,000 above the amount provided university centers for fiscal year 1991. This increase will be made available to restore funding of those centers whose funding had been reduced due to EDA's graduation policy. In addition, the increase will then be provided to all university centers on a pro-rata basis.

Funds will be available for new university centers only if existing university centers cannot provide the required nonfederal match for a grant or are dropped from the program for failure to meet the requirements of their fiscal year 1991 grant. The appropriate regional office will inform each existing university center of their status, the grant amount available for fiscal year 1992, and the nonfederal share required to meet the requirements of their fiscal year 1991 grant.

The appropriate regional office will inform each existing university center of the nonfederal share required for its fiscal year 1992 grant.

Proposal Submission Procedures

Basic Grants for Existing University Centers

Existing centers that have been selected to receive consideration for continued basic funding will be notified of all application procedures by the EDA regional offices. Any existing centers not selected to receive consideration for continued support will be so notified.

Basic Grants for New University Centers

Institutions seeking first time funding for a university center should submit a proposal describing the activities to be carried out with the grant funds to the appropriate EDA regional office and to the EDR. The proposal should also address each item under the Selection Criteria.

Further Information

For further information, contact the appropriate EDA regional office (see section XI of this Notice), the appropriate EDR (whose name, address, and telephone number may be obtained from the EDA regional office), or the University Center Coordinator, Technical Assistance and Research Division, Economic Development Administration, room 7315, U.S. Department of Commerce, Washington, DC 20230; telephone, (202) 377-2127.

VI. Program: Planning Assistance for Economic Development Districts, Indian Tribes, and Redevelopment Areas

(Catalog of Federal Domestic Assistance: 11.302 Economic Development—Support for Planning Organizations)

Summary

Funds under the District, Indian and Area Planning Program are awarded to defray administrative expenses in support of the economic development planning efforts of economic development districts (Districts), redevelopment areas (Areas) and Indian tribes. This program is authorized under section 301(b) of the Public Works and Economic Development Act of 1965, as amended, 42 U.S.C. 3151(b).

Eligibility

Eligible applicants are economic development districts, redevelopment areas, organizations representing redevelopment areas (or parts of such Areas), Indian tribes, organizations representing multiple Indian tribes, the Federated States of Micronesia, the Republic of the Marshall Islands, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Program Objective

The primary objective of planning assistance for administrative expenses under section 301(b) is to support the formulation and implementation of economic development programs designed to create or retain full-time permanent jobs and income, particularly for the unemployed and underemployed in the most distressed areas served by the applicant. Planning activities supported with this aid must be part of a process involving significant leadership by public officials and private citizens.

Funding Availability

Funds in the amount of $20.668 million are available in two categories: Districts/Areas (Category A)—$17.708 million; and Indian tribes (Category B)—$2.960 million.

Funding Instrument

Grant assistance can be provided for up to 75 percent of project costs for Category A grants with the applicant required to provide the remaining share. Category B grant assistance may be provided for up to 100 percent of project costs.

Project Duration

Assistance will normally be for a period of twelve months.

Selection Criteria

EDA will consider the following factors, among other things, in evaluating proposals:

1. The responsiveness of the proposed work program to the program regulations contained in 13 CFR 307.22;

2. The economic distress of the area served by the applicant;

3. Provision of an institutional capability statement, defining management and staff capacity and qualifications in economic program/policy development and operations;

4. Past performance for any currently funded grantee (including information in scheduled progress reports);

5. The local leaders' involvement in applicants' economic development activities; and

6. The amount of local participation provided as matching dollars to the Federal funds.

Proposal Submission Procedures

Application procedures may be obtained from EDA's regional offices for the following:

a. Currently funded planning grantees;

b. Proposals from applicants not currently funded under Categories A or B, that would fit into either of those categories; and

c. Special economic development activities that benefit one or more 301(b) grantees and cannot be financed with other resources.

Eligible applicants under both Categories A and B should submit proposals which include:

1. A letter signed by the chief elected official (Chairman of the Board, Tribal Chairman) or another authorized official of the applicant stating the organization's desire to receive funds to carry out the types of planning and administrative activities eligible under the 301(b) program.

2. Significant, verifiable information on the level of economic distress in the area, including unemployment and income data. Any major changes in distress levels during the past year should be described.

3. A work program outlining the specific development activities that will be carried out under the grant and explaining how they relate to the problems identified in the area OEDP, annual report, or other documents.

New applicants should submit one copy of the proposal to the appropriate economic development representative, and an original and one copy to the appropriate EDA regional office. The EDA regional office will provide the name, address, and telephone number of the economic development representative for the applicant's area (see Section XI of this Notice).

Formal Application Procedures

EDA regional offices will contact currently funded grantees to inform them of the procedures for submitting applications for continuation funding.

Following review of the proposals submitted, EDA will invite those selected for funding consideration to submit formal applications. Funding levels will be determined by the economic distress of the area served by the applicants, and availability of program funds. The formal application will include a SF–424, as approved by the Office of Management and Budget Control No. 0348–0043.

Further Information

For further information contact the appropriate EDA regional office (see section XI of this Notice) or the Director, Planning Division, Economic Development Administration, room 7321, U.S. Department of Commerce, Washington, DC 20230; telephone, (202) 377–3027.

VII. Program: Planning Assistance for States and Urban Areas

(Catalog of Federal Domestic Assistance: 11.305 Economic Development—State and Urban Area Economic Development Planning)

Summary

Funds under the State and Urban Planning Program are awarded to defray administrative expenses in support of economic development planning efforts of eligible applicants to include states, substate planning units (including economic development districts and redevelopment areas), cities and counties. This program is authorized under section 302(a) of the Public Works and Economic Development Act of 1965, as amended, 42 U.S.C. 3151a.

Eligibility

Eligible applicants under this program are the governors of states, substate planning and development organizations (including redevelopment areas and economic development districts), and the chief executive officer of cities and counties.

Program Objective

The primary objective of planning assistance under section 302(a) is to support significant economic development planning and implementation initiatives of states, substate planning units (including economic development districts and redevelopment areas), cities and counties, particularly those experiencing severe economic distress.

Assistance must be part of a continuous process involving significant local leadership from public officials and private citizens and should include efforts to reduce unemployment and increase incomes. These efforts should be systematic and coordinated, when applicable, with planning bodies, and should strengthen the planning capabilities of applicants.

Program funds will not be used to provide technical assistance associated with individual projects.

Activities eligible for support include economic analysis, definition of development goals, determination of project opportunities, and formulation and implementation of a development program.

EDA is interested in proposals for planning activities designed to address problems of economically distressed segments of the population. In the case of proposals from states, EDA is particularly interested in innovative approaches to planning and implementing economic development initiatives, as well as efforts that lend themselves to replication in other areas.

Funding Availability

Funds in the amount of $4.931 million are available for providing grant assistance under this program.

Funding Instrument

Grant assistance may be provided for up to 75 percent of project costs. Applicants will be required to provide the remaining share, preferably in cash. Individual grant amounts under this program have not exceeded $200,000 in the past three years. EDA will consider proposals for smaller grants to support appropriate activities.

Project Duration

Assistance will be for the period of time required to complete the work. This period is normally 12 to 18 months. If Congress makes funds available for this program in subsequent years, renewals may be considered for appropriate projects for up to two additional awards.

Selection Criteria

The content of the proposal and the economic distress of the area will be the principal factors considered in evaluating proposals from eligible entities. In assessing the distress factor, priority consideration will be given to proposals from states and urban areas experiencing substantial economic distress. In the case of urban areas, high priority will be given to those with unemployment rates two or more percentage points higher than the U.S. average and per capita income levels 80 percent or less of the U.S. average. For states, high priority will be given to those that meet both of the above criteria, as well as those that meet one of the above criteria and have distress equal to or greater than the national level for the other criterion. The most recent per capita income and 24-month average unemployment data available will be used to measure economic distress.

Proposals from states or urban areas which do not exhibit significant distress on the basis of unemployment or income data will not be considered unless other acceptable evidence of substantial distress is provided by the applicant (e.g., large numbers of agricultural and business failures, large numbers of low income families, drastically reduced tax bases, etc.).

Proposals from states and urban areas which are both below the U.S. national unemployment rate and above the national per capita income are unlikely to be funded.

Proposals will be judged on the basis of:

1. Appropriateness of the work program to the section 302(a) program objectives;
2. The economic distress of the area served by the applicant;
3. Extent to which the proposed planning activities are expected to impact upon the service area's economic development needs, and the extent to which the proposal addresses the problems of the unemployed and underemployed of the area, including the farm families, minorities, workers displaced by plant closings, etc.;
4. Past performance of currently or formerly funded grantees, if applicable;
5. The amount of local participation provided as matching dollars to the Federal funds;
6. The proximity of the performing office to the chief executive (i.e., likelihood that the activities will have a significant influence on the policy and decisionmaking process); and
7. Other characteristics, such as involvement of the private sector in the proposed activities, and particularly for states, the innovativeness of the proposed approach and replicability of the process or results.

Proposal Submission Procedures

Potential applicants should submit proposals that include:

1. A letter, signed by the chief executive of the applicant organization, indicating a desire to receive funds to carry out the planning activities outlined in the proposal; where the funded planning program will be placed in the organization, including the name and title of the person to be responsible for program implementation; the amount and for what period funding is being requested; and the anticipated funding arrangement if the planning activity is to continue beyond the period of EDA support.

2. Significant, verifiable information on the level of economic distress in the area, including unemployment and income data. Any major changes in distress levels during the past year should be described.

3. Information indicating the applicant's commitment to the proposed work program as demonstrated by amount of local funding and the degree of interest displayed by the chief executive.

4. A time chart showing all major work program elements, projected element start and completion dates, and the related financial expenditures programmed for each work element.

5. A work program of no more than 10 pages which outlines the specific planning activities that will be carried out under the grant and specifies which activities will be handled by in-house staff, consultants, etc. The work program should also explain the need for the proposed activities, expected impacts and their timing, target population(s), and involvement of the private sector in the proposed activities.

Current grantees seeking additional funding under this announcement should comply with the instructions of this notice and include a 3–5 page progress report for the current grant.

One copy of the proposal should be sent to the appropriate economic development representative, and an original and one copy to the appropriate EDA regional office. The EDA regional office will provide the name, address and telephone number of the economic development representative for the applicant's area (see section XI of this Notice).

Formal Application Procedures

EDA will evaluate proposals using the selection criteria cited above. Once the merits of the proposal are established, EDA will initiate discussions with the prospective applicant to clarify and improve elements of the proposal, if necessary, and will invite those whose proposals are selected for funding consideration to submit formal applications, which will include an SF–424 (OMB Control No. 0348–0043) and other application materials. Proposals and applications will be processed as they are received. Applications received after fiscal year 1992 funds are exhausted will be retained by EDA for consideration for funding the following fiscal year, if funds are made available by Congress.

Further Information

For further information contact the appropriate economic development representative, EDA regional office (see section XI of this Notice), or the Director, Planning Division, Economic Development Administration, room 7321, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377–3027.

VIII. Program: Research and Evaluation Projects

(Catalog of Federal Domestic Assistance: 11.312 Economic Development—Research and Evaluation Program)

Summary

Funds under the Research and Evaluation Program are used to support studies that will increase knowledge about the causes of economic distress and approaches to alleviating such problems. This program is authorized under section 301(c) of the Public Works and Economic Development Act of 1965, as amended, 42 U.S.C. 3151(c).

Eligible Applicants

Eligible applicants for research and evaluation grants or cooperative grants include private individuals, partnerships, corporations, associations, colleges and universities, and other suitable organizations with proper expertise relevant to economic development research.

Program Objective

The objectives of section 301(c) grants and cooperative agreements are the following:

1. To determine the causes of unemployment, underemployment, underdevelopment, and chronic depression in various areas and regions of the Nation.

2. To assist in the formulation and implementation of national, state, and local programs that will raise employment and income levels and otherwise produce solutions to problems resulting from the above conditions.

3. To evaluate the effectiveness of programs, projects, and techniques used to (a) alleviate economic distress; and (b) promote economic development.

Funding Availability

Funds in the amount of $500,000 are available for this program. Funds will be used for projects selected through the application procedures described below and for EDA-initiated solicitations.

Funding Instrument

EDA will provide grants and cooperative agreement awards covering up to 100 percent of project costs.

Project Duration

Assistance under this program will normally be for a period not exceeding 15 months.

Selection Criteria

EDA will use the following criteria to evaluate research and evaluation proposals:

1. Suitability of the subject.
2. Potential usefulness of the research to state and local economic development specialists.
3. General quality and clarity of the proposal.
4. Soundness and completeness of the research methodology.
5. Qualifications of principal investigator(s) and, where appropriate, performing organization(s).
6. Previous performance of principal investigator or performing organization on EDA-funded projects.
7. Cost and value of product in relation to cost.

EDA is interested in receiving proposals dealing with:

1. Employment and unemployment;
2. Income and poverty;
3. Rural and other nonmetropolitan economic development;
4. Regional and local growth;
5. Industrial location;
6. Job creation methods;
7. State and local economic development efforts;
8. Private sector economic development efforts;
9. Developmental effects of public works and other infrastructure;
10. Capital markets and development finance, particularly nonfederal sources of economic development financing;
11. Industrial competitiveness;
12. Minority business and minority jobs; and
13. Productivity and technology.

Requested grants and awards should be for specific, well-defined, one-time research projects. EDA research grants are not intended for support of continuing programs (permanent research programs, publication and information programs, periodic forecasts, etc.) or for non-research activities. Some research proposals deal with or involve samples drawn from only one part of the United States. EDA normally prefers research of broad geographic scope, that at least covers a large multistate region, as opposed to research covering (in declining order of preference) a small region, a state, a multicounty area, or a single city or county. EDA strongly prefers cause-and-effect research and descriptive analyses, and funding for such will receive much higher priority and likelihood of approval as compared to theoretical studies, modeling (other than for hypothesis testing), and the like. Economic development planning and technical assistance for specific places will not be funded under the Research and Evaluation Program; the Planning and Technical Assistance Programs are for those purposes.

Proposal Submission Procedures

Potential applicants should submit one original and two (2) copies of a brief and concise proposal which should not exceed 20 pages, not counting vita and capability information. Proposals should avoid long background discussions and literature surveys, but should be reasonably detailed, particularly in explaining methodology. Each proposal should include:

1. A cover page giving a short descriptive project title, the name and address of the performing organization, the names and telephone numbers of the project director and principal investigators, the project duration, the amount of EDA funds requested, and the program (Research and Evaluation) that would provide the funds;
2. A brief scope-and-objectives section indicating why the project is needed, giving its objectives, and providing a capsule description of the project;
3. A more detailed description of the project and its methodology;
4. A work plan showing different phases of the project and their timing;
5. A detailed budget showing cost breakdowns, with EDA-funded and non-EDA-funded costs presented in separate columns and with the EDA-funded costs adding to the total shown on the cover page;
6. Resumes for the project director and principal investigators; and
7. A corporate or institutional capability statement, where appropriate.

The cover letter accompanying the proposal should inform EDA of whether any other organization(s) or Federal agency(ies) is or will be considering the proposal. Any non-EDA contributions to the project, whether by the performing organization or third parties, should be identified. Proposals should be submitted to the Director, Technical Assistance and Research Division, Economic Development Administration, room 7315, U.S. Department of Commerce, Washington, DC 20230.

Formal Application Procedures

EDA will evaluate the proposals as they are received using the selection criteria described above. Organizations and individuals whose proposals are selected for further consideration will be invited to submit additional materials required for formal application. The formal application will include an SF-424 (OMB) Control No. 038-0043).

Eligibility for Specific Solicitations

In addition to using research and evaluation funds to support proposals submitted under the procedures described above, EDA may during the fiscal year identify other studies, including program evaluations, for funding consideration.

Organizations and individuals interested in being invited to respond to Solicitations of Applications (SOAs) to conduct such studies should submit information on their capabilities and experience to the address listed above. This information will be used to determine eligibility to compete for projects under specific SOAs.

Further Information

For further information, contact the Director, Technical Assistance and Research Division, at the above address; telephone, (202) 377-4085.

IX. Program: Economic Adjustment Assistance (Title IX)

(Catalog of Federal Domestic Assistance No: 11.307 Special Economic Development and Adjustment Assistance Program—Long-Term Economic Deterioration (LTED) and Sudden and Severe Economic Dislocation (SSED))

Summary

Funds under the Economic Adjustment Program are used to assist areas experiencing long-term economic deterioration (LTED) and areas threatened or impacted by sudden and severe economic dislocation (SSED). This program is authorized under title IX of the Public Works and Economic Development Act of 1965, as amended, 42 U.S.C. 3241-3245.

Program Objective

The LTED Program assists eligible applicants to develop or implement strategies designed to halt and reverse the long-term decline of their economies. The most common type of activity funded under the LTED Program is Revolving Loan Funds (RLFs), although other types of eligible title IX activities may be funded.

The SSED Program assists eligible applicants to respond to actual or threatened major job losses (dislocations) and other severe economic adjustment problems. It is designed to help communities prevent a sudden, major job loss; to reestablish employment opportunities and facilitate community adjustment as quickly as possible after one occurs; or to meet special needs resulting from severe changes in economic conditions. SSED assistance is intended to respond to permanent rather than temporary job losses. Assistance may be in the form of a grant to develop a strategy to respond to the dislocation (Strategy Grant) or a grant to implement an EDA approved strategy (Implementation Grant).

In light of the current high level of economic distress in rural areas, EDA is particularly interested in title IX projects designed to mitigate serious rural economic adjustment problems. EDA is also interested in proposals to help severely distressed areas with large minority populations.

Funding Availability

Funds in the amount of $23.0 million are available for the Economic Adjustment Program in fiscal year 1992. Of the amount, $11.5 million will be available for the SSED Program and $11.5 million will be available for the LTED Program.

Funding Instrument

Title IX funds are awarded through grants not to exceed 75 percent of the project cost. Acceptable sources of the local share include, but are not limited to, local government general revenue funds; Community Development Block Grant (CDBG) entitlement funds or balance of state awards; and other public and private donations. The full amount of the local share need not be in hand at the time of application; however, the applicant must have a firm commitment from identified source(s), and the funds must be readily available. The local share must not be encumbered in any way that would preclude its use as required by the grant agreement. The local share for the RLF Program must be in cash, and while the local share for the SSED Program may be cash or in-kind, priority consideration will be given to proposals with a cash local share.

Eligible Applicants

Eligible applicants within areas meeting the EDA eligibility criteria described below include a redevelopment area or economic development district established under title IV of this Act, 42 U.S.C. 3161; an Indian tribe, a state; a city or other political subdivision of a state; or a consortium of such political subdivisions; a Community Development Corporation defined in the Community Economic Development Act, 42 U.S.C. 9801; a nonprofit organization determined by EDA to be the representative of a redevelopment area; the Federated States of Micronesia, the

Republic of the Marshall Islands, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands.

Eligible Areas

A. LTED

In order to receive priority consideration for funding under the LTED/RLF Program, an area must be experiencing at least one of three economic problems: very high unemployment; low per capita income; or chronic distress (i.e., failure to keep pace with national economic growth trends over the last five years). Priority will be given to those areas with two or more of these indicators. Eligibility is determined statistically. Further information is available from EPA's regional offices (see section XI of this Notice).

B. SSED

In order to receive priority consideration for funding under the SSED Program, an area must show actual or threatened permanent job losses that exceed the following threshold criteria, unless otherwise determined by the Assistant Secretary:

1. For areas not in Metropolitan Statistical Areas:

a. If the unemployment rate of the Labor Market Area exceeds the national average, the dislocation must amount to the lesser of two (2.0) percent of the employed population, or 500 direct jobs.

b. If the unemployment rate of the Labor Market Area is equal to or less than the national average, the dislocation must amount to the lesser of four (4.0) percent of the employed population, or 1,000 direct jobs.

2. For areas within Metropolitan Statistical Areas:

a. If the unemployment rate of the Metropolitan Statistical Area exceeds the national average, the dislocation must amount to the lesser of one-half (0.5) percent of the employed population, or 4,000 direct jobs.

b. If the unemployment rate of the Metropolitan Statistical Area is equal to or less than the national average, the dislocation must amount to the lesser of one (1.0) percent of the employed population or 8,000 direct jobs.

In addition, fifty (50) percent of the job loss threshold must result from the action of a single employer, or eighty (80) percent of the job loss threshold must occur in a single standard industry classification (i.e., two digit SIC code).

In the case of a Presidentially declared natural disaster, the area eligibility criteria are waived. In other similarly exceptional circumstances, the criteria may be partially waived at the discretion of the Assistant Secretary.

Actual dislocations must have occurred within one year and threatened dislocations must be anticipated to occur within two years of the date EDA is contacted.

Selection Criteria

Proposals will be evaluated based on conformance with statutory and regulatory requirements, the economic adjustment needs of the area, the merits of the proposed project in addressing those needs and the potential applicant's ability to manage the grant effectively.

A. LTED/RLF Selection Criteria

Key factors in EDA's selection of proposed LTED/RLF projects include:

1. Economic and Financial Needs of the Project Area

a. Areas with the highest levels of economic distress (high unemployment, low per capita income, vacant plants, deteriorating infrastructure, and declining farm economy, etc.) will receive priority consideration.

b. Need for RLF financing will be evaluated based on the local capital market and the applicant's analysis of it, and how clearly this analysis defines the financial problems to be addressed by the RLF project.

c. Applicant's need for grant funds to carry out the project will be based on an assessment of its financial resources.

2. Objectives and Benefits of Proposed Projects

Priority will be given to projects which:

a. Stimulate private sector employment. The number and types of jobs to be created/retained will be key factors in project selection along with the job/cost ratio established for the RLF portfolio as a whole.

b. Target assistance to meet program objectives and to support specific economic adjustment activities planned or underway in the area, particularly those identified in the OEDP, Title IX strategy, or other plans developed to deal with specific economic adjustment problems affecting the area. This may include target areas, industries, types of employers or other criteria that maximize the impact of assistance on specific needs within the area.

c. Leverage higher ratios of private investment than the required minimum ratio of two private sector investment dollars to one RLF dollar. (Note: the local share or other funds provided by the RLF to finance loans cannot be counted as leveraged dollars.)

d. Direct new job opportunities to the long-term unemployed and underemployed.

e. Provide technical and management assistance for RLF borrowers, in addition to loan funds.

f. Use creative financing techniques to overcome specific gaps in the local capital market.

g. Make loans on a timely basis. The implementation schedule for RLF projects will normally require that RLF loans in the initial round be closed (and all EDA funds disbursed) within three years of grant approval with no less than 50 percent disbursed within eighteen months and 80 percent within two years.

h. Include a larger local share than the required 25 percent or secure commitments for future funding from other private or nonfederal public sources.

i. Coordinate activities with other economic development organizations, loan programs, employment training programs and private lenders in the area.

j. Are established to fill capital gaps as opposed to providing subsidized credit (i.e., below market interest rates).

3. Effective Management of the RLF

EDA will also evaluate proposed projects to determine that the RLF will be properly managed. Key factors include:

a. A strong and effective Loan Administration Board with broad community representation, including appropriate public and private sector representation.

b. Staff capacity in program and policy development, finance, law, marketing, credit analysis, loan packaging, processing and servicing.

c. Efficient procedures for loan selection, approval, and servicing which emphasize the economic development potential of loans as well as sound management and financing practices.

d. A strategy for relending loan repayments which will ensure that the RLF revolves continuously and thus fulfills its purpose of creating jobs and stimulating economic activity on an ongoing basis.

e. Adequate resources to cover administrative costs of the RLF.

f. The potential applicant's experience and capacity for administering economic and business loan programs. If the potential applicant has designated another organization to administer the project, EDA will evaluate the experience and capacity of that organization, rather than the potential applicant.

Nongovernmental (excluding economic development districts) organizations seeking funds must be sponsored by the local or state government having jurisdiction over the project area, and the sponsor must be willing to assume responsibility for operating the RLF should the nongovernmental entity no longer be able to administer the project.

B. SSED Evaluation Criteria

Key factors in EDA's selection of proposed SSED projects include:

1. The severity of the dislocation as measured by, but not limited to, the following factors;

a. The degree to which the number of dislocated workers exceeds the eligibility threshold.

b. The proportion of the total job less represented by a single employer.

c. The proportion of employment in a single standard industry classification represented by the firm(s) closing.

d. The applicant's need for grant funds to carry out the project based on an assessment of its financial resources.

2. The objectives and benefits of proposed activities as measured by the extent to which:

a. For Implementation Grants

(1) Job creation or retention and restoration of the community's economic base in the near term are emphasized versus more long-term, general economic development. Projects likely to encounter delays, particularly in initiating or completing construction, will normally not be given favorable consideration.

(2) The jobs to be created or retained are permanent, will directly benefit the dislocated workers or will directly facilitate community adjustment, and are new employment opportunities and not transferred from one area of the United States to another.

(3) The response to the problem is timely.

(4) EDA assistance will be complemented by, or will complement, appropriate state and local efforts; for example, training and job placement services, other Federal investments, and private sector support.

(5) The adjustment strategy and implementation activities proposed demonstrate an appropriately creative approach to addressing the dislocation.

(6) The cost per job created or retained is minimized.

(7) In the case of a Revolving Loan Fund, the recycled loan proceeds generate economic development benefits.

(8) The local share exceeds the required 25 percent.

b. For Strategy Grants

(1) The applicant has demonstrated the capacity to manage the planning process and subsequent implementation activities.

(2) The proposed scope of work is responsive to the problem.

(3) The focus of the planning effort is on the generation of practical and implementable solutions.

(4) The local share exceeds the required 25 percent.

Project Implementation

As indicated in the first section of this Notice, EDA expects all grant-funded projects to be initiated and completed in a timely manner in accordance with the schedule agreed upon in the grant documentation. The recipient will be responsible for promptly notifying EDA of any events that prevent adherence to the approved schedule. The grantee must also provide an explanation of why the events were beyond its ability to predict or control and obtain EDA approval of changes in the schedule prior to proceeding with project implementation.

EDA expects grantees to anticipate predictable delays (such as those caused by land acquisition problems, local financing requirements, acquisition of state permits and approvals, normal weather conditions in area, and public objections to the project), and take them into account in preparing the project schedule. Grantees who fail to comply with project schedules may be subject to grant suspension or termination.

Proposal Submission Procedures

Interested parties should contact the Economic Development Representative for the area or the appropriate EDA regional office (see section XI of this Notice) for a proposal package. Project proposals, submitted by eligible entities, will be evaluated by EDA staff on the basis of:

1. Conformance with the evaluation criteria mentioned above and statutory, regulatory and policy requirements.

2. The availability of funds.

Formal Application Procedures

Following a review of project proposals, EDA will invite those projects selected for funding consideration to submit formal applications. The formal application will include an ED-540, as approved by the Office of Management and Budget Control No. 0610-0058.

Further Information

For further information about this program, contact the appropriate EDA regional office or the Director, Economic Adjustment Division, Economic Development Administration, room 7327, U.S. Department of Commerce, Washington, DC 20230; telephone, (202) 377-2659.

X. Program: Trade Adjustment Assistance

(Catalog of Federal Domestic Assistance: 11.313 Economic Development—Trade Adjustment Assistance)

Summary

Funds under the Trade Adjustment Assistance Program are awarded to a network of Trade Adjustment Assistance Centers, located around the Nation, which provide technical assistance to certified firms adversely affected by increased imports. Funds are also awarded under this program to organizations representing trade-injured industries. This program is authorized under the Trade Act of 1974, title II, Public Law 93-618, as amended, 88 Stat. 1978, 19 U.S.C. 2101-2487.

Funding Availability

Funds in the amount of $13.450 million are available for trade adjustment assistance to firms. These funds will be provided to the nationwide network of twelve (12) Trade Adjustment Assistance Centers (TAACs) through cooperative agreements which will utilize all of the available funds for trade adjustment assistance.

Therefore, no new centers will be funded in fiscal year 1992. The report accompanying the Senate version of the fiscal year 1992 Department of Commerce Appropriations Act advises that "TAAC's should not reserve any portion of these grants for closeout." Accordingly, full utilization of fiscal year 1992 funds will be a factor in determining eligibility. Funds in the amount of $550,000 are available for industry technical assistance.

Program Objective

The Trade Adjustment Assistance Program is designed to provide technical assistance to certified firms and industries hurt by the impact of increased imports. The TAACs help firms submit certification petitions to the Trade Adjustment Assistance Division (TAAD) of EDA, and if the firm is certified, provides technical assistance. A firm should work closely with the appropriate TAAC in petitioning for certification. Certified firms should also work closely with the appropriate

TAAC in diagnosing their problems and developing an adjustment proposal, and in applying for technical assistance.

An industry association or other organization interested in receiving an industry assistance cooperative agreement must meet with a TAAD representative to discuss the industry's problems, opportunities, and assistance needs.

Criteria for Selecting Industry Assistance Proposals

Industry associations and other organizations seeking trade adjustment industry assistance must demonstrate that the industry is injured by foreign trade and that the activities to be funded will yield some short-term actions that the industry itself (and individual firms) can and will take toward the restoration of the industry's international competitiveness.

The emphasis is on practical results that can be implemented in the near term, and long-term research and development activities are given low priority. It is also expected that the industry will continue activities on its own without the need for continued Federal assistance.

Application Procedures

Industry associations or other organizations seeking industry assistance must submit an application identified as Standard Form 424 (OMB Control No. 0348–0043), if encouraged to do so as a result of the meeting with a TAAD representative.

Acceptable industry applications will be processed as funds are available; normally one to three months is required for agency approval.

Formula and Matching Requirements

Generally, a minimum of 50 percent share is required for industry assistance cooperative agreements.

Length and Time Phasing of Assistance

Industry assistance cooperative agreements are generally 12 months, but may be longer for tasks requiring more time to complete.

Further Information

For further information, contact the Director, Trade Adjustment Assistance Division, Economic Development Administration, room 4015A, U.S. Department of Commerce, Washington, DC 20230; telephone, (202) 377–3373.

XI. EDA Regional Offices

The EDA regional offices and the states they cover are:

Philadelphia Regional Office, Liberty Square Building, 105 South 7th Street, First Floor, Philadelphia, Pennsylvania 19106, telephone: (215) 597–4603; serving Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, Virgin Islands, Virginia, and West Virginia.

Atlanta Regional Office, suite 1820, 401 West Peachtree Street, NW., Atlanta, Georgia 30308–3510, telephone: (404) 730–3002; serving Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.

Denver Regional Office, 1244 Speer Boulevard, room 670, Denver, Colorado 80204, telephone: (303) 844–4714; serving Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming.

Chicago Regional Office, suite 855, 111 North Canal Street, Chicago, Illinois 60606–7204, telephone: (312) 353–7706; serving Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.

Seattle Regional Office, suite 1856, Jackson Federal Building, 915 Second Avenue, Seattle Washington 98174, telephone: (206) 553–0596; serving Alaska, American Samoa, Arizona, California, the Commonwealth of the Northern Mariana Islands, Guam, Hawaii, Idaho, Nevada, Oregon, Washington, the Federated States of Micronesia, and the Republic of the Marshall Islands.

Austin Regional Office, suite 201, Grant Building, 611 East Sixth Street, Austin, Texas 78701, telephone: (512) 482–5461; serving Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.

Dated: January 29, 1992.

L. Joyce Hampers,

Assistant Secretary for Economic Development.

[FR Doc. 92–2606 Filed 2–3–92; 8:45 am]

BILLING CODE 3510-24-M

federal register

Tuesday
February 4, 1992

Part V

Department of the Interior

Bureau of Indian Affairs

Blackfeet Irrigation Project; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Blackfeet Irrigation Project

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Public notice.

SUMMARY: The Bureau of Indian Affairs is proposing a $1 increase to the Blackfeet Irrigation Project's current operation and maintenance assessment rate of $8 per assessable acre. The $1 increase would help offset the cost increases the project has had in personnel, supplies, materials and service.

The projects annual operation and maintenance charges are based on the estimated normal operating cost of the project for one Fiscal Year.

The due date for all operation and maintenance charges will be May 1 of each calendar year.

This notice will be published and posted at the following locations.

	Newspaper
U.S. Post Office: Browning, Mt. 59417.	Glacier Reporters, Browning, Mt. 59417.
Cut Bank, Mt. 59427.	
Valier, Mt. 59486	Pioneer Press, Cut Bank, Mt. 59427.
Bureau of Indian Affairs: Blackfeet Agency, Browning, Mt. 59417.	

DATES: Effective on February 4, 1992.

FOR FURTHER INFORMATION CONTACT: Billings Area Director, Billings Area Office, Bureau of Indian Affairs, 316 North 26th Street, Billings, MT 58101, telephone FTS 585–6315; commercial (406) 657–6315.

Authority: The authority to issue this document is vested in the Secretary of the Interior by 5 U.S.C. 301 and the Act of August 14, 1914 (38 Stat. 583, 25 U.S.C. 385).

This notice of operation and maintenance rates and related information is published under the authority delegated to the Assistant Secretary—Indian Affairs by the Secretary of the Interior in 209 DM8 and redelegated by the Assistant Secretary—Indian Affairs to the Area Director IM 230 DM.

All comments concerning the proposed 1992 operation and maintenance assessment rate for the Blackfeet Irrigation Project must be in writing and addressed to the Superintendent of the Blackfeet Agency, Browning, Montana 59417 before the close of business on March 2, 1992.

SUPPLEMENTARY INFORMATION: This notice is issued pursuant to the Code of Federal Regulations, chapter 25, part 171 under the authority delegated to the Area Director, by the Assistant Secretary of Indian Affairs and the Deputy Assistant Secretary of the Interior [Department Manual, chapter 3, part 230, (3.1 & 3.2)].

Richard Whitesell,

Billings Area Director.

[FR Doc. 92–2519 Filed 2–3–92; 8:45 am]

BILLING CODE 4310-02-M

federal register

Tuesday
February 4, 1992

Part VI

Department of the Interior

Bureau of Indian Affairs

Fort Peck Irrigation Project, MT; Notice

DEPARTMENT OF THE INTERIOR

Fort Peck Irrigation Project, MT

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Public notice.

SUMMARY: The Bureau of Indian Affairs is proposing to increase the operation and maintenance rate of the Fort Peck Irrigation Project from $13.30 to $14.30 per assessable acre. The cost to operate and maintain the irrigation project have increased since the last operation and maintenance rate increase and these cost are anticipated to increase again in Fiscal Year 1992.

The projects annual operation and maintenance charges are based on the estimated normal operating cost of the project for one Fiscal Year.

The due date for all operation and maintenance charges will be May 1 of each calendar year.

This notice will be published and posted at the following locations:

U.S. Post Offices
  Popular, Mt. 59255
  Wolf Point, Mt. 59201
Newspaper
  Herald News, Wolf Point, Mt. 59201
Bureau of Indian Affairs
  Fort Peck Agency, Popular, Mt. 59225

DATES: February 4, 1992.

FOR FURTHER INFORMATION CONTACT: Billings Area Director, Billings Area Office, Bureau of Indian Affairs, 316 North 26th Street, Billings, MT 58101, telephone FTS 585–6315; commercial (406) 657–6315.

Authority: The authority to issue this document is vested in the Secretary of the Interior by 5 U.S.C. 301 and the Act of August 14, 1914 (38 Stat. 583, 25 U.S.C. 385).

This notice of operation and maintenance rates and related information is published under the authority delegated to the Assistant Secretary—Indian Affairs by the Secretary of the Interior in 209 DM8 and redelegated by the Assistant Secretary—Indian Affairs to the Area Director IM 230 DM.

All comments concerning the proposed 1992 operation and maintenance assessment rate for the Fort Peck irrigation project must be in writing and addressed to the Superintendent of the Fort Peck Agency, Popular, Montana 59225 before the close of business on March 2, 1992.

SUPPLEMENTARY INFORMATION: This notice is issued pursuant to the Code of Federal Regulations, chapter 25, part 171 under the authority delegated to the Area Director, by the Assistant Secretary of Indian Affairs and the Deputy Assistant Secretary of the Interior (Departmental Manual, chapter 3, part 230, (3.1 & 3.2)).

Richard Whitesell,
Billings Area Director.

[FR Doc. 92–2520 Filed 2–3–92; 8:45 am]

BILLING CODE 4310–02–M

federal register

Tuesday
February 4, 1992

Part VII

Department of the Interior

Bureau of Indian Affairs

The Rumsey Indian Rancheria Community Liquor Code; Notice

DEPARTMENT OF THE INTERIOR

The Rumsey Indian Rancheria Community Liquor Code

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C. 1161. Ordinance No. 6–12–91, was duly adopted by the Rumsey Indian Rancheria Community Council on June 12, 1991, and provides that the tribe, as owner and operator of a convenience store on the rancheria, will sell wine and beer for off-premises consumption only. The Ordinance and the enacting resolution provide that said sale shall conform to all applicable laws of the State of California.

DATES: This Ordinance is effective as of February 4, 1992.

FOR FURTHER INFORMATION CONTACT: Branch of Judicial Services, Division of Tribal Government Services, 1849 C Street, NW., MS 2612–MIB, Washington, DC 20240–4001; telephone (202) 208–4400, (FTS) 268–4400.

SUPPLEMENTARY INFORMATION: The Ordinance reads as follows: The Community Council of the Rumsey Indian Rancheria (hereinafter "Council"), governing body of the Rumsey Indian Rancheria (hereinafter "Tribe"), hereby enacts this Ordinance to govern the sale and consumption of alcoholic beverages on Rancheria lands.

Preamble

1. Title 18, United States Code, section 1161, provides Indian tribes with authority to enact ordinances governing the consumption and sale of alcoholic beverages on their Reservations, provided such ordinance is certified by the Secretary of the Interior, published in the Federal Register and such activities are in conformity with State law.

2. Rumsey Indian Rancheria is the owner and operator of a convenience store on the Rancheria known as the Brooks Mountain View Mini-Mart, which sells, among other products, certain snack and food items to members of the Tribe and the general public.

3. Said convenience store is an integral and indispensable part of the Tribe's economy, providing income to the Tribe and training and employment to its members.

4. The Community Council has determined that it is now in its best interest to offer for sale at said convenience store, for off-premises consumption only, certain alcoholic beverages, namely wine and beer.

5. It is the purpose of this Ordinance to set out the terms and conditions under which the sale of said alcoholic beverages may take place.

General Terms

1. The sale of beer and wine by the Rumsey Rancheria convenience store, known as Brooks Mountain View Mini-Mart, for off-premises consumption only, is hereby authorized.

2. No alcoholic beverages, other than beer or wine, may be sold by the convenience store, and no alcoholic beverage of any kind may be consumed on the premises of the convenience store. For the purpose of this section, the term "premises" shall include the convenience store and an area of 50 yards around its perimeter.

3. The sale of said alcoholic beverages authorized by this Ordinance shall be in conformity with all applicable laws of the State of California, and the sale of said beverages shall be subject to State sales tax, Federal excise tax and any fees required by the Federal Bureau of Alcohol, Tobacco & Firearms.

Posting

This Ordinance shall be conspicuously posted at the convenience store at all times it is open to the public.

Enforcement

This Ordinance may be enforced by the Chairman of the Rumsey Rancheria or the Yolo County Sheriff's Office at the request of the General Manager.

Dated: January 23, 1992.

Eddie F. Brown,

Assistant Secretary—Indian Affairs.

[FR Doc. 92–2622 Filed 2–3–92; 8:45 am]

BILLING CODE 4310-02-M

federal register

Tuesday
February 4, 1992

Part VIII

Environmental Protection Agency

40 CFR Part 22
Rules of Practice Governing the Administrative Assessment of Civil Penalties; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 22

[FRL-4099-6]

RIN 2060-AD20

Rules of Practice Governing the Administrative Assessment of Civil Penalties Under the Clean Air Act

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA today is publishing a final rule to establish procedures for the administrative assessment of civil penalties under sections 113(d)(1) and 205(c) of the Clean Air Act (CAA), 42 U.S.C. 7413(d)(1) and 7524(c), as amended by the Clean Air Act Amendments of 1990, Public Law 101-549. The rule provides that EPA's administrative assessment of civil penalties pursuant to section 113(d)(1) and section 205(c) will be governed by EPA's Consolidated Rules of Practice for assessing administrative penalties, 40 CFR part 22, and by supplemental rules relating specifically to the section 113(d)(1) and section 205(c) administrative procedures. This final rule is identical to the proposed rule that EPA published in the **Federal Register** on July 22, 1991.

EPA is taking this action in response to the enactment of the Clean Air Act Amendments of 1990, which authorize the Administrator to assess administrative penalties for specified violations of the CAA. The section 113(d)(1) penalty assessments apply to non-Title II violations, whereas section 205(c) penalty assessments apply to Title II violations. The authority granted to the Administrator to assess the administrative penalties was immediately effective upon the enactment of the Clean Air Act Amendments of 1990, on November 15, 1990.

The few public comments received regarding the proposed rule were generally favorable, and contained only minor suggested amendments. After consideration, EPA has decided not to adopt any of these amendments, but to publish the final rule as it was proposed. A detailed discussion of the comments appears in the Supplemental Information section below.

DATES: *Effective Date:* March 5, 1992.

Judicial Review. Under CAA section 307(b)(1), judicial review of the actions taken by this notice is available only by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under CAA section 307(b)(2), the procedures that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA using the procedures.

ADDRESSES: *Docket.* Public Docket No. A-91-37, containing materials relevant to this rulemaking, is available for public inspection and copying on weekdays between 8:30 a.m. and 12 noon, and between 1:30 p.m. and 3:30 p.m., at EPA's Air Docket, room M-1500, Waterside Mall, 401 M Street, SW., Washington, DC 20460. As provided by 40 CFR part 2, a reasonable fee may be charged for photocopying docket materials.

FOR FURTHER INFORMATION CONTACT: Scott A. Throwe, Office of Air and Radiation, Stationary Source Compliance Division (EN-341W), United States Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; telephone (703) 308-8699.

SUPPLEMENTARY INFORMATION: On November 15, 1990, the Clean Air Amendments of 1990 (CAA Amendments), Public Law 101-549, was enacted. Section 113 of the CAA, 42 U.S.C. 7413, was amended to provide, among other things, authority for the Administrator to assess administrative penalties for a wide variety of violations of the CAA, excluding violations of title II of the Act. The Administrator may assess a penalty of up to $25,000 per day of violation, and may seek up to a maximum total penalty of $200,000, for violations where the first alleged date of violation occurred no more than 12 months prior to the initiation of the administration action. Both the amount of the maximum penalty sought and the length of the period of alleged violation may be increased by a joint determination of the Administrator and the Attorney General.

Section 205 of the CAA, 42 U.S.C. 7524, was amended to provide, among other things, authority for the Administrator to assess administrative penalties for certain violations of Title II of the CAA. The Administrator may assess an administrative penalty of up to $25,000 per day for violations of sections 203(a)(2) and 211(d) of the CAA, up to $25,000 per offense for violations of paragraphs (1), (3)(A), (4) and (5) of section 203(a) and for violations of section 213(d), and up to $2,500 per offense for violations of section 203(a)(3)(B) and for violations of section 203(a)(3)(A) by any person other than a manufacturer or dealer. As with section 113(d), the maximum amount that can be sought against each violator in an administrative assessment is $200,000. There is no corresponding limit relating to the first alleged date of the violation. The amount of maximum penalty sought may be increased by a joint determination of the Administrator and the Attorney General.

The CAA Amendments explicitly make section 113(d)(1) and section 205(c) penalty assessments subject to an opportunity for a hearing in accordance with sections 554 and 556 of the Administrative Procedure Act (APA), 5 U.S.C. 554, 556. EPA's Consolidated Rules of Practice ("Consolidated Rules" or "CROP"), 40 CFR part 22, govern the administrative assessment of civil penalties under other statutes administered by EPA that are subject to these requirements of the APA. By providing a common set of procedural rules for certain of EPA's administrative penalty programs, the Consolidated Rules reduce paperwork, inconsistency, and the burden on regulated entities. See 45 FR 24360 (Apr. 9, 1980).

As was proposed in July, EPA today adopts the Consolidated Rules as the procedural framework for administrative penalty assessments under section 113(d)(1) and section 205(c) of the CAA. Using the Consolidated Rules will allow EPA to implement the administrative penalty authority with uniform hearing procedures that satisfy the procedural and substantive requirements established by the CAA. The use of the Consolidated Rules, together with the Supplemental rules described below, satisfy the hearing procedures and discovery requirements of sections 113(d)(2)(a) and 205(c)(1), and meet the requirements of sections 554 and 556 of the APA.

In conjunction with the adoption of the general Consolidated Rules (CROP sections 22.01 through 22.32), EPA today is publishing final Supplemental rules that apply specifically to section 113(d)(1) and section 205(c) penalty assessments. In particular, EPA is publishing a new Supplemental rule, CROP section 22.43, which contains supplemental rules of practice for administrative penalty hearings under CAA section 113(d)(1). EPA also is amending CROP section 22.34, which contains the supplemental practice rules for administrative penalty hearings under CAA section 205(c). Thus, CROP section 22.42 provides supplemental practice rules for CAA administrative penalty hearings other than those under Title II, whereas CROP section 22.34 provides supplemental rules for Title II hearings.

The two Supplemental rules include a provision for a 30-day written notice of the proposed order, and provisions for administrative subpoenas based on the new administrative subpoena authority provided in CAA section 307(a), 42 U.S.C. 7607(a), as amended. In addition, several provisions of Supplemental rule 22.34 have been deleted in order to conform it more closely to new Supplemental rule 22.43.

Discussion of Public Comments

As stated above, the proposed rule was published in the **Federal Register** on July 22, 1991 with a 30-day public comment period. Three comment letters were received in response. The comments were generally favorable, and contained few specific suggested revisions.

Two of the suggested revisions constituted general amendments to the Consolidated Rules. Specifically, one commentator suggested an amendment to CROP section 22.18 to provide for the referral of disputes to a settlement referee. Another commentator suggested that CROP section 22.21(a) be amended to provide for the naming of the presiding officer no later than the time EPA files the administrative complaint. The goal of this rulemaking is to adapt the Consolidated Rules to provide procedures for CAA administrative penalty hearings, without otherwise altering the Consolidated Rules. This is particularly appropriate given that the Consolidated Rules provide the administrative hearing procedures for numerous environmental statutes other than the CAA. The commentators made no showing that proceedings under the CAA uniquely called for these revisions; instead, the comments were in the nature of general revisions to the Consolidated Rules. Therefore, the two suggested general amendments go beyond the scope of this rulemaking.

The remaining two suggested revisions were to proposed section 22.43, the Supplemental rule governing administrative penalty hearings pursuant to CAA section 113(d)(2) (that is, hearings for violations of the CAA other than violations of Title II). One commentator suggested that proposed section 22.43(b)(2) be amended to provide that "any answer to the complaint must be filed * * * within thirty (30) days after service of the complaint is complete." (Proposed section 22.43(b)(2) did not include the phrase "is complete".) It was unclear to the commentator whether EPA intended to follow the general CROP rule for determining when service of the complaint is complete, and the commentator suggested the amendment as a clarification.

The reference to the "service of the complaint" in proposed section 22.43(b)(2) is identical to the "service of the complaint" language used in CROP section 22.15(a), the general CROP provision dealing with answers to the complaint. Under both provisions, CROP section 22.07(c) governs when service of the complaint is complete. Section 22.07(c) provides, among other things, that "[s]ervice of the complaint is complete when the return receipt is signed." The proposed language in section 22.43(b)(2) does not, and is not intended, to carve out an exception to CROP section 22.07(c). EPA believes that the proposed language is clear, and that no additional amendment is necessary.

Finally, one commentator suggested that proposed section 22.43 be amended to require that EPA consult with the State in which the alleged violation occurred prior to the issuance of a final penalty order. The commentator offered the amendment as a method of providing for federal/State coordination on CAA enforcement actions, and referenced a similar "consultation with states" provision in Supplemental rule 22.38, which governs Class II administrative penalties under the Clean Water Act (CWA).

EPA is committed to close cooperation and coordination with the States on enforcing the Clean Air Act. Following long-standing EPA policy, EPA's Regional Offices have for years met with their respective States once every month to coordinate CAA enforcement. This level of voluntary coordination far exceeds the coordination which results from the mandatory requirement of the CWA Supplemental Rule. (The coordination requirement found in the CWA Supplemental rule results from a specific CWA statutory requirement set out in CWA section 309(g)(1), 33 U.S.C. 1319(g)(1); the CAA contains no such statutory requirement.)

Voluntary CAA enforcement coordination is particularly appropriate because in many contexts mandatory consultation with the States would be unnecessary, and would create additional work for EPA and State enforcement personnel. In many instances, a State will refer CAA violations to EPA for enforcement action—in these circumstances, further consultations between the State and EPA over whether to bring the action would be unnecessary and redundant. For certain CAA programs, such as cholorofluorocarbon imports and the servicing of motor vehicle air conditioners, the States have no enforcement authority. Also, EPA is the sole CAA enforcement authority whenever a State has not been delegated enforcement authority. Mandatory consultation with the States in these circumstances would only create unnecessary burdens on both EPA and the States.

In sum, the extensive level of voluntary coordination between EPA and the States makes it unnecessary to establish an additional mandatory coordination requirement for the CAA. In addition, a mandatory requirement would oftentimes force EPA and the States into needless consultations that would create unnecessary burdens on both EPA and State personnel.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 through 612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment, a regulatory flexibility analysis which describes the impact of the rule on small entities (i.e., small businesses, small organizations and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant impact on a substantial number of small entities. In such circumstances, a regulatory flexibility analysis is not required.

The expected impact of this final rule on small entities is negligible. The rule codifies already existing statutory provisions and is procedural. Thus, it does not impose additional regulatory requirements on small entities.

Accordingly, I hereby certify that these regulations will not have a significant impact on a substantial number of small entities. These regulations, therefore, do not require a regulatory flexibility analysis.

Executive Order No. 12291

Under Executive Order 12291, the Agency must judge whether a regulation is "major" and thus subject to the requirement to prepare a Regulatory Impact Analysis. The rule published today is not major because the rule does not result in an effect on the economy of $100 million or more, does not result in increased costs or prices, does not have significant adverse effects on competition, employment, investment, productivity, and innovation, and does not significantly disrupt domestic or export markets. Therefore the Agency did not prepare a Regulatory Impact Analysis under the Executive Order.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order No. 12291.

Paperwork Reduction Act

The rule published today does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, et seq.).

List of Subjects in 40 CFR Part 22

Administrative practice and procedures, Air pollution control, Environmental protection, Penalties.

Dated: January 28, 1992.

William K. Reilly,

Administrator.

For the reasons set out in the preamble, 40 CFR part 22 is amended as follows:

PART 22—[AMENDED]

1. The authority citation for part 22 is revised to read as follows:

Authority: 15 U.S.C. 2615; 42 U.S.C. 7413(d), 7524(c), 7545(d), 7547(d), 7601 and 7607(a); 7 U.S.C. 136(l) and (m); 33 U.S.C. 1319, 1415 and 1418; 42 U.S.C. 6912, 6928 and 6991(e); 42 U.S.C. 9609; 42 U.S.C. 11045.

2. Section 22.01 is amended by revising paragraph (a)(2) to read as follows:

§ 22.01 Scope of these rules.

(a) * * *

(2) The assessment of any administrative penalty under sections 113(d)(1), 205(c), 211(d) and 213(d) of the Clean Air Act, as amended (CAA) (42 U.S.C. 7413(d)(1), 7524(c), 7545(d) and 7547(d)).

* * * * *

3. Section 22.34 is revised to read as follows:

§ 22.34 Supplemental rules of practice governing the administrative assessment of civil penalties under Title II of the Clean Air Act.

(a) *Scope of these Supplemental rules.* These Supplemental rules shall govern, in conjunction with the preceding Consolidated Rules of Practice (40 CFR part 22), all proceedings to assess a civil penalty conducted under sections 205(c), 211(d), and 213(d) of the Clean Air Act, as amended (42 U.S.C. 7524(c), 7545(d), and 7547(d)). Where inconsistencies exist between these Supplemental rules and the Consolidated Rules (§§ 22.01 through 22.32), these Supplemental rules shall apply.

(b) *Issuance of Notice.* (1) Prior to the issuance of an administrative penalty order assessing a civil penalty, the person to whom the order is to be issued shall be given written notice of the proposed issuance of the order. Such notice shall be provided by the issuance of a complaint pursuant to § 22.13 of the Consolidated Rules of Practice.

(2) Notwithstanding § 22.15(a), any answer to the complaint must be filed with the Hearing Clerk within thirty (30) days after service of the complaint.

(c) *Subpoenas.* (1) The attendance of witnesses or the production of documentary evidence may be required by subpoena. The Presiding Officer may grant a request for a subpoena upon a showing of;

(i) The grounds and necessity therefor, and

(ii) The materiality and relevancy of the evidence to be adduced.

Requests for the production of documents shall describe with specificity the documents sought.

(2) Subpoenas shall be served in accordance with § 22.05(b)(1) of the Consolidated Rules of Practice.

(3) Witnesses summoned before the Presiding Officer shall be paid the same fees and mileage that are paid in the courts of the United States. Fees shall be paid by the party at whose instance the witness appears. Where a witness appears pursuant to a request initiated by the Presiding Officer, fees shall be paid by EPA.

4. A new § 22.43 is added to read as follows:

§ 22.43 Supplemental rules of practice governing the administrative assessment of civil penalties under Section 113(d)(1) of the Clean Air Act.

(a) *Scope of these Supplemental rules.* These Supplemental rules shall govern, in conjunction with the preceding Consolidated Rules of Practice (40 CFR part 22), all proceedings to assess a civil penalty conducted under section 113(d)(1) of the Clean Air Act (42 U.S.C. 7413(d)(1)). Where inconsistencies exist between these Supplemental rules and the Consolidated Rules (§§ 22.01 through 22.32), these Supplemental rules shall apply.

(b) *Issuance of Notice.* (1) Prior to the issuance of an administrative penalty order assessing a civil penalty, the person to whom the order is to be issued shall be given written notice of the proposed issuance of the order. Such notice shall be provided by the issuance of a complaint pursuant to § 22.13 of the Consolidated Rules of Practice.

(2) Notwithstanding § 22.15(a), any answer to the complaint must be filed with the Regional Hearing Clerk within thirty (30) days after service of the complaint.

(c) *Subpoenas.* (1) The attendance of witnesses or the production of documentary evidence may be required by subpoena. The Presiding Officer may grant a request for a subpoena upon a showing of;

(i) The grounds and necessity therefor, and

(ii) The materiality and relevancy of the evidence to be adduced.

Requests for the production of documents shall describe with specificity the documents sought.

(2) Subpoenas shall be served in accordance with § 22.05(b)(1) of the Consolidated Rules of Practice.

(3) Witnesses summoned before the Presiding Officer shall be paid the same fees and mileage that are paid in the courts of the United States. Fees shall be paid by the party at whose instance the witness appears. Where a witness appears pursuant to a request initiated by the Presiding Officer, fees shall be paid by EPA.

[FR Doc. 92–2660 Filed 2–3–92; 8:45 am]

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Tuesday
February 4, 1992

Part IX

Department of Education

Reauthorization of Elementary and Secondary Education Programs; Request for Public Comment

DEPARTMENT OF EDUCATION

Office of Management and Budget/ Chief Financial Officer

Reauthorization of Elementary and Secondary Education Programs

AGENCY: Department of Education.

ACTION: Request for public comment on the reauthorization of elementary and secondary education programs.

SUMMARY: The Secretary of Education invites written comments from the public regarding the reauthorization of programs under the Elementary and Secondary Education Act of 1965; Public Law 81–874 (Impact Aid Maintenance and Operations); Public Law 81–815 (Impact Aid Construction); Section 372 of the Adult Education Act; the Hawkins-Stafford Elementary and Secondary School Improvement Amendments of 1988 (including the Indian Education Act of 1988); the Education and Training for a Competitive America Act (Title VI of the Omnibus Trade and Competitiveness Act of 1988); the Education for Economic Security Act; Title VII of the Stewart B. McKinney Homeless Assistance Act; and the Education Council Act of 1991 (Pub. L. 102–62).

DATES: Written comments must be submitted on or before March 20, 1992.

ADDRESS: Written comments should be addressed to: Dr. John T. MacDonald, Assistant Secretary for Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., room 2189, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: William Wooten at 202–401–0988, Office of the Assistant Secretary for Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., room 2189, Washington, DC 20202. Deaf and hearing-impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: The Secretary is requesting public comments on the reauthorization of more than 50 programs funded at over $10 billion in fiscal year 1992. These programs include Chapters 1 and 2 of Title I of the Elementary and Secondary Education Act, Eisenhower Mathematics and Science Education, Magnet Schools Assistance, the Fund for Innovation in Education, Drug-Free Schools and Communities, Dropout Prevention Demonstrations, Bilingual Education, Impact Aid, the Fund for the Improvement and Reform of Schools and Teaching (FIRST), Indian Education, and Education for Homeless Children and Youth. A complete listing of these programs is provided at the end of this notice. The Secretary is also planning a series of public hearings on the reauthorization of these programs. Dates and locations for these hearings will be announced in a future **Federal Register** notice.

Need For Reauthorization

The authorization for these programs expires September 30, 1993. In order to contribute in a timely manner to congressional reauthorization discussions, the Secretary is beginning a review of the programs. The Secretary intends to submit the Department's proposal to reauthorize these programs in January 1993, in conjunction with the President's fiscal year 1994 budget. To ensure an opportunity for public participation, the Secretary invites public comments on this reauthorization effort.

Task Force

The Secretary has formed an Elementary and Secondary Education Reauthorization Task Force, the goals of which are to review current programs and authorities, evaluates suggested modifications and alternatives to these programs, and recommend options to the Secretary. The Task Force includes the following individuals: the Assistant Secretary for Elementary and Secondary Education; the Assistant Secretary for Education Research and Improvement; the Director of Bilingual Education and Minority Languages Affairs; the General Counsel; the Assistant Secretary for Civil Rights; the Inspector General; the Assistant Secretary for Policy and Planning; the Assistant Secretary for Legislation and Congressional Affairs; the Assistant Secretary for Intergovernmental and Interagency Affairs; and the Assistant Secretary for Management and Budget/Chief Financial Officer. Other senior officers of the Department who administer programs due for reauthorization will also be included in the Task Force's deliberations.

How the Information Will Be Used

The Department will seek to develop program initiatives that will be most efective in supporting progress toward attainment of the six National Education Goals, as enunciated through the AMERICA 2000 strategy. (The Goals are listed at the end of this notice.) In doing so, the Department will attempt to identify new, creative, and innovative program strategies whether or not they reflect the structure of current Federal elementary and secondary education programs. Throughout the process, the Department will be guided by five general principles, listed below, and particularly seeks comment on the issues listed under those principles.

The reauthorization process also provides an opportunity for resolution of issues affecting current programs that have arisen through evaluations, audits, program operations, budget deliberations, and previous legislative actions. Thus, the Department, while it will examine new program strategies, also seeks comment on the program-specific issues listed below.

Issues for Public Comment

The Secretary seeks comments and suggestions regarding reauthorization of these programs. Comments are especially invited on the following issues.

General Principles and Issues

1. Promoting World Class Standards for All Students

Federal programs should contribute to the development and use of world class standards for curriculum and instruction. The Federal Government also has an interest in ensuring that all children have the opportunity to benefit from high-quality curriculum and instruction, and it has a special role in supporting the education of children who are most at risk of school failure.

How can we ensure that all students are exposed to the type of enriching curriculm and high-caliber instruction needed to help them achieve world class standards?

How can Federal programs be revamped to support systemic reform in which world class standards are reflected in curriculum frameworks that then form the basis for improving instruction, classroom materials, teacher education, teacher certification, staff development, and student assessments?

How can assessments be developed that measure the progress, toward world class standards, of students in schools that participate in Federal programs?

2. Giving More Authority to States and Communities

Governors and communities must exercise the kinds of farsighted leadership needed to achieve the National Education Goals. Governors, as the States' chief executive officers, are powerful resources in the improvement of education, yet typically are bypassed by Federal programs. They should be given a greater opportunity to influence how their States move forward in education and to determine the incentives needed to link State initiatives to the national effort. Reauthorization should also build upon the strategies of AMERICA 2000, including community-wide commitment to the goals, comprehensive planning, and report cards to the public to support local efforts in transforming schools.

How can Governors and communities be given greater authority and flexibility in implementing Federal education programs and tying Federal efforts to State initiatives?

How can Federal programs be used to support and leverage State and local actions so that spending at all levels is focused on the National Education Goals?

How can Federal programs encourage greater coordination of community services to address the multiple needs of at-risk children and their families, make services more client-centered, and increase efficiency?

How can Federal support be directed toward communities serving large concentrations of students who currently are least able to meet world class standards?

3. *Promoting Family Responsibility and Choice*

Federal programs should recognize parents as children's first teachers and provide the support parents need to become involved in their children's schooling.

How can Federal programs better support State and local efforts to enable all families to select an appropriate school for their children?

How can Federal progams help to engage parents in the education of their children?

4. More Accountable Schools and More Accountability in Federal Programs

Federal support should be conditioned on a demonstration that extra funds are indeed contributing to better outcomes in education. Recipients of Federal funds should be required to document the extent to which the investment of Federal funds yields measurable results.

How can Federal funding be structured to result in and reward educational improvement? Should States and localities be allowed more flexibility in the use of resources on the condition that they demonstrate progress toward achieving national priorities? How can flexibility be used as an incentive to encourage higher performance?

What common requirements for accountability should be included in Federal program authorities? How can enhanced accountability in Federal programs be a part of the broader movement for greater accountability in education? Should accountability provisions in discretionary grant programs differ from those in formula grant programs? If so, how?

5. Breaking the Mold

Federal programs should encourage the kind of innovations that can produce significant breakthroughs in learning and cost-effectiveness.

How can Federal programs encourage, and incorporate the benefits of, cutting-edge innovation?

What kinds of technical assistance and staff development activities are needed to encourage and assist the adoption of strategies that research has identified as promising or effective?

How can Federal programs build upon and incorporate the principles behind the movement toward the development of New American Schools and foster strategies to encourage greater competition of new ideas?

Issues That Cut Across Programs

Discretionary Grants

Current law authorizes a large number of discretionary grant programs. Most of these programs are small and fund a limited number of recipients. Although the purpose of the programs is generally the demonstration of effective strategies for addressing particular issues or problems, funds often support local projects that, while beneficial to the recipients, are not designed in a way to yield lessons for broader use. What role should discretionary programs play in helping the Nation achieve its education goals? Would these resources be more effectively utilized under broader authorities, such as the Department's formula grant programs? Do the current programs encourage a piecemeal, rather than comprehensive, approach to education reform, or do they focus attention where it is needed? If there is a need for Federal demonstration programs, what changes are needed to ensure that they are designed as true demonstrations and serve that purpose effectively? What types of evaluation and reporting ought to be required?

Funding Formulas

A recent, congressionally mandated report, The Distribution of Federal Elementary-Secondary Education Grants Among the States (Barro, 1991), calls into question some of the measures underlying the formulas used to allocate funds under the Department's elementary and secondary education programs. For example, the report found that the population counts used in certain formulas are inadequate indicators of relative State needs for program services; that State per-pupil expenditures for education are an unreliable indicator of differences in the cost of education; and that none of the current fomulas reward States that make a higher than average fiscal "effort" in support of education. In addition, the report contended that some of the constraints embedded in current formulas (particularly the minimum State allocations and certain "hold-harmless" provisions) are inconsistent with program purposes.

The Department intends to review the current allocation formulas for elementary and secondary programs and seeks comment on how those allocation formulas might be improved. For example, what bases, other than population and per-pupil expenditures, might be used to distribute Federal funds? What factors might be better proxies for the cost of education in the States? What other specific changes are desirable?

State Per-Pupil Expenditures

State per-pupil expenditure (SPPE) data are used in determining formula allocations under Chapter 1 LEA Grant and State agency programs, Impact Aid, and Indian Education and have an impact on the allocation of funds for other programs as well. This information is collected annually by the Department's National Center for Education Statistics (NCES) through its Common Core of Data (CCD) fiscal survey. In a report on the collection of SPPE data, the Department's Office of Inspector General recommended enactment of legislation to require States to report fall enrollment counts rather than average daily attendance (ADA) for purposes of caculating individual State per pupil expenditures for elementary and secondary education.

Under current law, States report ADA, as defined by State law, to determine elementary and secondary enrollment. That figure is then divided into a State's total expenditure for elementary and secondary education to determine its SPPE. For States that have no statutory definition of ADA, NCES requests that States use the definition contained in the CCD. The lack of uniformity among the States in how ADA is defined and reported produces variations in how SPPE data are calculated. Changing to fall enrollment counts (defined as all students enrolled on October 1 or the school day closest to that date) could provide a comparable basis for calculating SPPE across all States and eliminate the wide variation in how SPPE data are calculated. In addition,

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fall enrollment is a common statistic that States already report to NCES through the CCD survey and should not add to the reporting burden of the States.

If Federal programs continue to use allocation formulas that rely on SPPE data, should States be required to report these data using fall enrollment counts rather than average daily attendance?

Transfers to the Bureau of Indian Affairs

Even though the Department of the Interior receives a direct appropriation for allocation to schools operated by, or under contract with, the Bureau of Indian Affairs, a number of Department of Education programs (including the Chapter 1, Drug-Free Schools, and Mathematics and Science Education programs, which are due for reauthorization) receive funds that are transferred to the BIA for specific purposes. Is it efficient and beneficial to the children in the BIA-funded schools to have these funds appropriated to the Department of Education and then transferred to the Department of the Interior, or would administration be simplified and program allocations speeded up if all these funds were simply added to the regular Department of the Interior appropriation?

Issues Related to Individual Programs

Compensatory Education

Chapter 1 Formula Issues

Unlike other programs administered by the Department, Chapter 1 funds are allocated at the Federal level to individual counties. Annual county allocations are based on the number of low-income children aged 5 to 17, as documented in the most recent decennial Census, as well as three other counts of children. The Census data, which currently account for more than 95 percent of the children, are frequently so out of date as to fail to reflect the distribution of poor children across counties. Should alternatives to the use of decennial Census data be considered? Should State agencies be given the authority to distribute Chapter 1 funds within the States on the basis of the best data on low-income children available at the State level?

While Chapter 1 Basic Grants are allocated to almost every county and over 90 percent of school districts in the U.S., Concentration Grants go only to counties and districts that have high numbers or concentrations of children living in poverty. However, the recent study of the allocation of Federal funding for elementary and secondary education programs (noted earlier) found that Chapter 1 Concentration Grants are now only moderately more concentrated than Chapter 1 Basic Grants. Are there better methods of targeting funds on communities with the highest concentrations of poor children? For example, should Concentration Grants be targeted on high-poverty schools within high-poverty districts?

Pupil Targeting and Testing

Historically, the Chapter 1 statute has left decisions about grade levels or age ranges to be served to the discretion of local officials, who base those decisions on assessments of local needs and priorities. Should local administrators continue to have complete authority to target funds in this manner, or should specific amounts be earmarked at the national level for preschool programs (in support of the national readiness goal) or secondary school programs (in support of the high school completion goal)?

At the local level, LEAs select schools to conduct Chapter 1 projects based on the number of students from low-income families who live in each school attendance area. At the school level, however, students are served based on educational need. Should current provisions for selection of schools and children be retained? Alternatively, should a common measure (of educational or economic deprivation) be used to select both schools and children? Have current provisions for assessing student needs worked effectively, or should the statute include uniform criteria for selection of children?

How should Chapter 1 assessment practices be aligned with the current movement to develop national standards for all children? Should States be required to specify standards of academic performance in core subjects that Chapter 1 students, along with others, are to achieve? Should assessment of Chapter 1 students be required annually and in each grade, or should the testing be aligned with national assessments that measure performance less frequently and at specific grade levels?

Program Services

Researchers and practitioners working with educationally disadvantaged children often contend that some Chapter 1 practices—such as standardized testing and "pullout" classes—can hamper both the academic progress of individual students and overall program improvement. Should the law incorporate incentives designed to stimulate experimentation with alternatives to these practices? Should the use of any particular service delivery or pupil testing practices be either mandated or prohibited?

How can provisions for coordination between Chapter 1 and the regular school program, and between Chapter 1 and other Federal programs, be strengthened?

Program Improvement

In the years since the 1988 amendments added Chapter 1 program improvement requirements, the process of implementing these requirements has moved slowly and has been accompanied by debates about whether SEAs or LEAs should be responsible for identifying schools in need of improvement, how improvement should be gauged, and which measures of program effectiveness should be used. Is the current school improvement process now working effectively? Should the statute mandate higher minimum standards or desired outcomes for student achievement? Should it require that the standards or desired outcomes be increased over time, in order to bring about sustained program improvement? Should the use of a particular measure (or measures) of program effectiveness be required? Should schools in need of program improvement be identified annually or on the basis of data collected over a longer period?

Should the statute incorporate more incentives for success—i.e., rewards to effective projects? Would program improvement be more likely to occur if funds were provided to schools that demonstrate improvement rather than to those that need to improve?

Should the program improvement planning year be eliminated? Should schools be required to show improvement for several years rather than being allowed to leave program improvement status after a single year?

Innovation Projects

The 1988 amendments included a new provision that allows a local educational agency to use up to 5 percent of its Chapter 1 Basic Grant for Innovation Projects that are approved by the State educational agency. However, few such projects have been funded. Do the provisions of current law provide sufficient incentives for true innovation in school districts? Should a different list of innovative practices be authorized? Would a national demonstration authority, under which the Department would test, evaluate, and report on a variety of educational opportunities, be more likely to further innovations in the teaching of children at risk of academic failure?

Schoolwide Projects

A school may use Chapter 1 LEA Grant money for schoolwide projects that affect the entire student enrollment if at least 75 percent of the school's students come from low-income families. At this level, an estimated 7,200 schools—about 9 percent of all public schools in the country—are eligible to carry out these projects. Should the 75 percent requirement be lowered in order to allow more schools to take advantage of this option?

As a result of 1988 amendments that removed a requirement for local matching of funds, the number of schoolwide projects in operation has increased. However, schools that implement schoolwide projects must abide by planning and accountability requirements that are separate from and in addition to the requirements that apply to all Chapter 1 projects. Have schools found that the additional requirements applicable to schoolwide projects are manageable? Can the required plan for schoolwide projects become a vehicle for ensuring that participating schools establish a "report card," tied to world class standards, for measuring the educational progress of their children?

Fiscal Requirements

Have current Chapter 1 requirements related to maintenance of effort, supplanting, and comparability of services operated effectively? Have they created serious administrative burdens for LEAs? Are current fiscal accountability requirements properly balanced with the need for local flexibility in designing programs responsive to the needs of educationally deprived children? Should the statute include a requirement that States or LEAs match all or a portion of Federal funds?

Chapter 1 and Choice

Does the current structure of Chapter 1 act as a disincentive to local adoption of educational choice programs or to the participation of educationally deprived children in those programs? If so, how can Chapter 1 statutory requirements support, rather than discourage, greater adoption of and participation in programs that enhance parental and student choices in education?

Capital Expenses

A number of States annually turn back to the Department all or a portion of their yearly Capital Expenses allocations, and this number has increased each year. A few States request additional funds. This phenomenon raises the question of whether there is truly a national need for a program to reimburse States for the extra expenses incurred in implementing alternative delivery systems to serve private school children in accordance with *Aguilar* v. *Felton* or, if there is, whether the current program is properly targeted. Should the formula be revised in order to factor in more recent data on private school enrollments or children served? (The current allocation level is based on 1984–85 State counts of private school children served under Chapter 1.) Should a different allocation mechanism be used? Would a Federal discretionary program be more effective than a formula program?

Even Start

Should the Even Start program continue to operate as a separate categorical authority, or should the activities provided under Even Start (provision of early childhood and adult education as an integrated program) be authorized under Chapter 1 LEA Grants and the two authorities merged? If Even Start continues as a separate authority, should the program emphasize demonstration and dissemination or on-going provision of services?

Even Start funds are now allocated to States on the basis of State shares of Chapter 1 Basic Grant funds. Is this the most appropriate formula for this program? As an alternative, should funds be distributed on the basis of children in poverty aged 0 through 7 (the age range of children eligible for program services)?

State Agency Programs

The Chapter 1 programs for migratory students and for the neglected and delinquent serve at-risk students in very different situations than those served by the LEA Grant program. By statute, however, many of the same program requirements apply, even when the circumstances may warrant a different approach. Although the Department, through its regulations, has attempted to adapt the LEA requirements adaptable to the particular conditions of the State agency programs, a number of these requirements (such as maintenance of effort, State rule-making, and parental participation) have been difficult to implement. Should changes made, through the reauthorization, for LEA Grants (including changes related to pupil targeting, evaluation, and fiscal accountability) apply to the State agency programs, or do at least some aspects of these programs require different statutory approaches?

Migrant Education

Under current law, States receive formula allocations on behalf of, and are authorized to serve, both currently and formerly migratory children. Children who are currently migratory are given a higher priority for services than the formerly migratory (those who did not move in the previous year but have changed residence within the last five years). However, because of the difficulties in recruiting currently migratory children, States may tend to focus on recruiting and serving those who are formerly migratory. Should the law provide greater incentives for States to recruit, identify, and serve currently migratory children? What form might these incentives take?

The Migrant Education Program is the only Chapter 1 program—and the only State formula program of six major Federal programs serving migratory farmworker populations—that obtains, by contract, population counts for use in making State allocations. Although the Migrant Student Record Transfer System (MSRTS) was designed for other purposes, issues related to the formula function continue to dominate Federal-State relations with regard to the program. Problems exist in the use of MSRTS as a vehicle for both tracking and identification of students. Findings from more than a dozen Federal audits between 1979 and 1987 have revealed inaccuracies and inadequacies in State date reporting, and, most recently, a year-long study of the system by the congressionally mandated National Commission on Migrant Education concluded that the system "had failed to adequately perform its intended mission of transferring student records." The Commission recommended that the system be revamped to serve more effectively the needs of local educators, migrant students, and their parents.

These problems raise questions about whether the MSRTS can, or should, continue to perform the function of generating population counts for allocating Migrant Education Program funds to States as well as transferring student data. What other sources of information might be used to estimate counts of migratory children in the formula? In the absence of actual counts of migratory children and youth, what proxy might be used?

In recent years, States that receive very small allocations of Migrant Education program funds have maintained that their allocations are barely enough to operate any program at all, and that without an increase in funding they may have to withdraw from the program. Should the allocation formula be revised to establish a minimum State allocation?

Under current law, the Department is unable to alter basic definitions affecting eligibility that have been in Migrant Education Program regulations for nearly 15 years. While Congress froze these regulations in order to ensure that these definitions would not be made more restrictive, the effect has been to inhibit efforts to define more clearly and reasonably who is eligible to be counted and served as a migratory child. For example, under existing regulations, even if teenage children migrate to perform temporary or seasonal agriculture work, they do not qualify for the program unless their parents or guardians themselves are migratory workers. Moreover, the fact that Migrant Education Program regulations are frozen prevents the Department from working with other agencies to try to develop common definitions of who may be considered migratory. Given these problems, should the Department be able to revise existing definitions of terms such as "currently migratory child" and "migratory agricultural worker" that are in current program regulations?

Under current law, the Department must award Migrant Education coordination grants and contracts "in consultation with and with the approval of" the State educational agencies (SEAs), even though the SEAs are themselves the only eligible recipients of these awards. Should the law continue to require that the Department obtain the approval of the potential recipients of coordination grants and contracts?

State Agency Handicapped Program

There is a general consensus that the Chapter 1 Handicapped program, which provides Federal assistance for children with disabilities in State-operated and -supported programs, is obsolete and that all children with disabilities should be served under the Individuals with Disabilities Education Act (IDEA). The major issue is whether any changes need to be made in the IDEA Part B formula for allocating funds to States and within States if all children currently counted under the Chapter 1 Handicapped program are to be counted under the Part B program. For example, is a "hold harmless" provision (guaranteeing each State a certain minimum level of funding tied to previous allocations under the Chapter 1 Handicapped program) needed to facilitate the transition to a single program?

Under current Part B law, States must distribute at least 75 percent of their allocations to LEAs, each of which receives its proportionate share. Should programs formerly supported under the Chapter 1 Handicapped Program be considered LEAs for the purpose of distributing funds?

Should State-operated programs be treated differently from State-supported programs under IDEA Part B?

Current Part B law limits the number of children who may be counted for allocations under the Grants to States program to 12 percent of the 3 through 17 year olds or 5 through 17 year olds in the general population (depending upon whether States serve all 3 through 5 year olds with disabilities). Some States may exceed this cap when they include children who were previously counted under the Chapter 1 Handicapped program. Should the cap be increased to ensure that States continue to receive funds for children previously counted under the Chapter 1 Handicapped program?

Neglected and Delinquent

Historically, the Chapter 1 Neglected and Delinquent (N and D) program has operated on the assumption that children in institutions for the neglected and delinquent have the same types of needs for supplementary academic services as do other children. However, as an increasing number of children and youth are institutionalized for short periods of time, then returned to often unstable living arrangements where economic survival can take precedence over schooling, the program continues to face special challenges. Should the notion of what constitutes "supplementary" services for institutionalized neglected and delinquent children be reconsidered? Should the law be changed to provide more flexibility for addressing the special needs of Chapter 1 N and D children? Should traditional Chapter 1 academic remediation goals be downplayed in favor of employability aims? How might the two be combined?

States are allowed to use up to 10 percent of their State N and D allocation for projects that facilitate the transition of children from State-operated N and D institutions to locally operated programs. So far, only six States have elected to use funds for this purpose. Should this provision be modified in any way?

Technical Assistance and Staff Development

To fill a perceived gap in services to rural districts and schools, the 1988 amendments established 10 Chapter 1 Rural Technical Assistance Centers (RTACs) to supplement the work of the six Technical Assistance Centers (TACs). A recent Office of Inspector General audit of technical assistance centers and clearinghouses identified the RTAC and TAC mechanisms as unnecessarily duplicative and costly. Should the RTACs be eliminated as a free-standing technical assistance effort for rural schools, with their functions assumed by the regular TACs?

Current Federal technical assistance activities have not been particularly effective at bringing about major educational change. What changes to the Chapter 1 statute would help make technical assistance more effective at improving program performance? Should the TACs become more client-centered, and, if so, how? Should the statute require assessment as an integral part of Federal assistance to determine if improvements are being adopted and are effective?

How should the statute be changed to minimize or eliminate duplication among various Chapter 1 technical assistance activities, including those provided under Even Start and Migrant Education?

Should the statute add a staff development component to Chapter 1? If so, what should be the focus of that component? Should funds be used to improve the skills only of Chapter 1 teachers or also those of other teachers in Chapter schools?

Chapter 2

State Grants; Purpose of Program

The Chapter 2 State Grant program is intended to provide funding to enable State and local educational agencies to implement promising educational approaches. Is the program an effective vehicle for enabling school systems to undertake systemic and meaningful reforms? Are the reporting and other accountability-related provisions of the statute adequate for this purpose?

Targeted Assistance Areas

The Chapter 2 State Block Grant program was originally designed to provide States and districts with the flexibility needed to address local and State educational needs as they see fit. In 1988, Congress, in response to concerns that the program was too unfocused, restricted allowable activities to six targeted assistance areas. A recent amendment has expanded the list to seven. Are these targeted assistance areas appropriate, or should the program have a different focus?

Currently, 20 percent of a State's allocation can be retained at the State level for activities in the seven targeted assistance areas. Is this an appropriate division of funds between State and local activities? Should the State Chapter 2 set-aside be targeted for particular State leadership activities, such as the establishment of State curriculum frameworks, that are part of systemic reform?

The most recent analysis of State annual reports shows that approximately 42 percent of local and 6 percent of State expenditures go for the purchase of instructional materials, including computers. Should purchase of instructional equipment and materials continue to be an allowable activity under the program?

Current law requires that States, in most cases, use at least 20 percent of their State set-aside funds for "effective schools" programs. An "effective school" is defined as an institution that has strong leadership, high expectations, and other attributes that may not lend themselves to institutionalization through a Federal categorical program. Has the "effective schools" set-aside been a beneficial component of the Chapter 2 program? Should the statutory emphasis on "effective schools" be increased? Should it be eliminated?

Allocations to Local Districts

The law requires that States provide a higher per-pupil allocation of block grant funds to districts with the greatest numbers or concentration of children who may be more expensive to educate. The precise method of making this adjustment in the formula is left to State discretion. Does the current statutory provision ensure an adequate focus on the needs of districts with concentrations of "high-cost" children?

Supplementation

Should the "supplement, not supplant" requirement be dropped or applied differently in Chapter 2? Should it be modified to allow the use of Federal funds to support State-mandated school reform efforts?

National Diffusion Network

The National Diffusion Network (NDN) consists of programs, projects, and practices that have been approved for inclusion on the basis of evidence that they are effective in achieving defined outcomes. Through competition, funds are provided to selected developers of these programs and projects for disseminating their projects and helping others adopt them. Funds are also provided to "State facilitators" to inform school districts throughout their respective States about what is available in the NDN. Is there a better way to disseminate effective practice than NDN? What might it be? Should the Federal Government concentrate its efforts at the State level, rather than attempt to facilitate dissemination from one local site to another? Should NDN, or a replacement, have an expanded role as a disseminator of educational research findings and statistical data?

Law-Related Education

Some projects have received assistance from the law-related education program for a number of years. Should the law set a limit on the length of time a project can be supported in order to make the program more of a vehicle for increasing the number of law-related education projects operating across the Nation? More basically, what should the basic criteria for judging the success of this program and the projects funded?

Recent amendments to the law-related education program require the Department to give priority to funding statewide projects. These projects are meant to make more systemic changes and improve the chances of institutionalization of a given project. Should this provision be retained?

Eisenhower Mathematics and Science Education

State Grants: Distribution of Funds

The recently completed national study of the Eisenhower State Grant program (The Eisenhower Mathematics and Science Education Program: An Enabling Resource for Reform, SRI International and Policy Studies Associates, 1991) recommended a redistribution of funds to allow a larger percentage of the elementary and secondary education component to remain at the State level, particularly for State leadership activities. Should the distribution of funds be revised and, if so, how should the percentages be set? In particular, would a larger State-level set-aside provide a vehicle for comprehensive Statewide reform of curriculum and teacher training in mathematics and science?

Intensity and Focus of Training

The national study found that teachers participating in training activities under the LEA portion of the Eisenhower program received, on average, six hours of training. The study noted that this is not sufficient, by itself, to ensure improvement and long-lasting change in a teacher's performance. How could the program be structured to provide more intensive teacher training?

Should the focus of inservice training under the Eisenhower program be on training of individual teachers or on training all appropriate teachers in a school or LEA? Which approach is most likely to result in real changes in mathematics and science education in the schools?

Preservice Training

The vast majority of Eisenhower funds are spent on inservice training, although the program was designed to increase the skills of all teachers, including those who are not yet teaching. Should the program contain a stronger emphasis on preservice training?

Under the higher education portion of the program, preservice training may support only programs that train new mathematics and science teachers for secondary schools. Should the law be changed to permit higher education funds to be used to train new mathematics and science teachers at the elementary school level as well?

Under current law, only elementary and secondary school teachers and other relevant school personnel are permitted to receive services. Some college faculty may need to be retrained in order to provide an effective preservice education for elementary and secondary teachers. Should the program be amended to permit the retraining of college faculty involved in the training of new elementary and secondary teachers?

Emphasis on Elementary and Middle Levels

In response to the perceived need for improvement in math and science instruction in the earlier grades, Congress amended the program, in 1990, to require that districts use all funds in excess of the amount received for fiscal year 1990 for training for elementary and middle school teachers. Should this emphasis be maintained? If not, should the law include any restrictions on the amount of funding used to train elementary, middle, or secondary school teachers?

Local Consortia

Because the small amounts of funds that many school districts receive may not be enough to accomplish significant improvements in math and science instruction, the 1990 amendments require that all districts receiving less than $6,000 participate in a consortium with at least one other district. Should this requirement be maintained?

Cooperative Projects

Under current law, all awards made by the State agency for higher education

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for cooperative projects carried out by school districts, State agencies, private businesses, colleges and universities, museums, broadcasting services, and other entities must be made on a competitive basis. Some State officials have suggested that these projects were more successful, and State initiatives were more creative, when, under the previous statute, cooperative projects did not have to be awarded competitively. Should the program be amended to permit the State agency to set aside an amount of funds to be awarded for cooperative projects on a non-competitive basis?

Foreign Languages Assistance

Type of Program

The original appropriation level for this program, $4.9 million, will result in an average State award of $93,000, while the 1992 appropriation will result in an average State award of $190,000. The Department has argued that these appropriations are too small to provide for an effective formula grant program that distributes funds to every State. Is the current authority the most effective mechanism for encouraging development of model instructional programs in critical foreign languages? Would a national discretionary (i.e., competitive) grant program be more effective?

Pupil Targeting

Current law requires that all public and private school children aged 5 through 17 who reside in a recipient school district be eligible to participate in the school district's project. The Department has argued that the small grants provided under this program are unlikely to be adequate to serve all students in such a broad age range and has interpreted the provision, through regulation, to mean that a school district's project has to be open to all children of the same grade range as that served by the project. Should the statutory provision be modified?

Recent Congressional committee reports have recommended an emphasis on elementary schools, noting that the earlier a student starts studying a foreign language, particularly a difficult one, the easier it is to master it. Should the program emphasize projects at the elementary level?

Magnet Schools Assistance

Desegregation Requirements

In order to qualify for assistance under the current Magnet Schools Assistance program, a school district must be implementing a desegregation plan ordered by a court or appropriate agency, or approved by the Secretary. In recent years, some districts implementing voluntary desegregation plans have had difficulty qualifying for assistance because demographic changes in their communities have caused increased minority enrollments. Other districts, which have a mix of minority and nonminority students, have wanted to implement magnet school programs in order to prevent "white flight," but have had difficulty demonstrating the likelihood of their schools becoming minority group isolated without intervention. Should the current desegregation-related requirements of the program be revised?

Funding Priorities

Under current law, applicants that did not receive assistance in the previous funding cycle receive a funding priority for appropriations in excess of $75 million. Thus the law permits long-term support of the same districts but, to an extent, encourages a turn-over of districts from one funding cycle to the next. Should the purpose of the law be to provide long-term support to school districts or to provide "seed money" for the establishment of magnet schools in new districts? Similarly, if districts that have received past support are permitted to apply for new funding, should new funds be available only for new magnet school programs, or should indefinite support for the same schools and programs continue to be permitted?

The current statute requires the Secretary to give priority or special consideration to certain types of applicants. Some of these requirements might be reconsidered. For instance, applications receive priority based on the proportion of minority group children involved in an approved desegregation plan; this procedure gives a priority to a district that has not successfully desegregated any of its schools (and all of whose minority group children are involved in its plan) as opposed to, for instance, a district that has successfully desegregated its elementary schools (and has only its secondary-level minority group involved in the plan). Districts also receive a priority based on "the recentness of the implementation of the approved plan or modification thereof." This provision may provide an incentive for districts to modify their plans periodically in order to remain eligible for the maximum number of priority points. Should any of the current priorities be revised?

Maximum Award

Since the program's inception, Magnet Schools Assistance grants have been limited to $4 million. This constraint permits grants of significant size to be made but prevents program funds from being concentrated in a few districts. Is a cap of $4 million still appropriate?

Supplanting Provision

Under Magnet Schools Assistance, unlike many other Federal elementary and secondary education programs, schools districts may use funds to supplant State and local support for their activities. Should supplanting continue to be permitted, or should a "supplement, not supplant" provision be added to the statute?

Planning Funds

Currently, there is a limitation on the amount that a local educational agency may spend for planning under the program. Should the 10 percent cap on planning funds be raised to allow for the design of new and innovative curricula and schools under this program?

Javits Gifted and Talented Students Education

This program supports projects designed to help meet the educational needs of gifted and talented students in elementary and secondary schools. Some persons argue that providing high-level learning opportunities in early childhood would most benefit economically disadvantaged children, who are a priority of the Javits program. Depending on how State law defines "elementary school students," some States have been able to use these funds for preschool activities. Should the law be amended to allow all States the option of using funds for preschool activities?

Javits funds may be used for training teachers, to support exemplary programs for students, for dissemination and technical assistance programs, and to strengthen State leadership in the education of gifted and talented students. The nature of programs for the education of gifted and talented students varies significantly among the States. Should the program focus exclusively on State-level capacity-building? Is this Federal program needed?

The Office of Education Research and Improvement has broad authority to support research and development centers. Is there a need for the separate research authority in the Javits program?

Territorial Teacher Training

This program provides funds for teacher training in American Samoa, Guam, the Northern Mariana Islands, the Republic of Palau, the Virgin Islands, the Republic of the Marshall Islands, and the Federated States of Micronesia. Despite years of support for the program, many of the teachers in the territories are still without certification or a college degree. Should the program be continued? What other strategies might be more effective?

Drug-Free Schools and Communities

Purpose of Program

In 1986, a strong argument could be made that local school districts were not making enough of an effort in the area of drug education, that few comprehensive drug programs were in place, and that Federal assistance was needed to get appropriate programs established. Five years later, drug programs are operating in virtually all communities across the country. During the next five years, should the Federal Government continue to provide significant resources dedicated exclusively to drug prevention, or should States and localities be given flexibility to use these funds for other related needs or for broader health or educational improvement purposes? More specifically, should the Drug-Free Schools and Communities Act (DFSCA) program be broadened to authorize activities to prevent school violence, consistent with and in support of National Education Goal number 6? How would LEAs, SEAs, and Governors change their activities if the State program were so amended?

Allocation Formulas and Eligibility Criteria

Under current law, DFSCA State grant funds are allocated to States on the basis of school-aged population and shares of Chapter 1 funds. Within States, these funds are allocated to LEAs based on school enrollment and Chapter 1 shares. DFSCA Emergency Grants are awarded completely, but to qualify, LEAs must met the eligibility criteria for Chapter 1 concentration grants. Do these provisions result in the distribution of DFSCA to communities where they are most needed? In light of the fact that poor urban communities often seem to have the most intractable drug problems, should more funds be targeted on those communities?

A second allocation issue is that school districts with small enrollments and Chapter 1 shares receive State grant allocations so small that they may have difficulty mounting an effective drug prevention program. How should this issue be addressed in the reauthorization? For example, as under the Eisenhower program, should small LEAs be required to apply in consortia in order to receive grants?

Governors' Funds

Current law assigns administrative responsibilities to both the State educational agency and the Governor of each State. This is the only program in the Department that provides for direct administration by the Governor. Governors were given this responsibility because Congress believed they were in a better position to support community-based projects, coordinate educational programs with other drug prevention and treatment programs in the State, serve dropouts and other out-of-school youth, and undertake public education efforts through the media. Originally, Governors received 30 percent of State grants. Subsequent legislation, however, has capped funding for Governors' programs at $100 million and earmarked portions of that amount for various purposes. What should be the future role of Governors versus SEAs and LEAs in terms of funding, implementation, and coordination of comprehensive school-based and community-wide drug prevention education efforts under the DFSCA?

Drug Abuse Resistance Education

Under current law, Governors are required to spend at least 10 percent of their Drug-Free Schools State grant funds on grants to local educational agencies for "drug abuse resistance education" (DARE) that includes classroom instruction by uniformed law officers. Some States have complained to the Department that this requirement is too narrow and restricts their ability to use these funds in accordance with State and local needs. While DARE programs are very popular in many States and communities, there is no evaluation evidence to confirm that these programs are more effective than other approaches to drug prevention. Given these considerations, should the DARE set-aside be revised or eliminated?

Regional Centers

The DFSCA authorizes five regional centers for drug-free schools that provide training and technical assistance primarily to State and local educational agencies. Have these centers been useful to their clientele? Should any modifications be made in the regional centers program?

Institutions of Higher Education

The current statute authorizes a program of grants to institutions of higher education (IHEs) for programs of drug abuse education and prevention for students enrolled in IHEs. Is a grant program the best way to provide Federal support for IHE efforts? Would a program focused on training and technical assistance to IHEs be a better use of Federal funds?

School Personnel Training

The DFSCA currently authorizes and supports activities to train school personnel under Part B of the statute (State and local programs), Part C (Training of Teachers, Counselors, and School Personnel), and Part D, Section 5135 (Regional Centers). Is there still a significant, unmet need for inservice training in drug prevention? If so, how can the statute be rewritten to improve and coordinate the delivery of training to those who most need it?

Accountability

Although it is inherently difficult to measure the impact of DFSCA programs and services on actual drug use by students, it is important to ask whether these funds are being well spent. What are the most rigorous, yet realistic, accountability requirements that the statute could impose on schools and communities related to the effectiveness and proper implementation of these programs?

Are the current local application and reporting requirements of the Act overly burdensome? If so, which could be deleted without diminishing program accountability?

Dropout Prevention

The purpose of the ESEA dropout prevention program is to support demonstration projects to reduce the number of students who do not complete elementary and secondary education. Existing projects are undergoing rigorous testing and evaluation to assess the effect of promising strategies in dropout prevention and reentry. Once the program achieves its objective of validating effective dropout strategies that can be adopted by States and LEAs, should the Federal Government continue to provide funds specifically focused on dropout prevention, or should these funds be used for activities such as vocational education, compensatory education, and bilingual education that have been associated with enabling students to complete school?

Bilingual Education

Instructional Methods

In 1988, the Bilingual Education Act was amended to increase to 25 percent the amount of Bilingual Programs (Part A) funds that may be granted to school districts electing to use "special alternative instructional" (SAI) programs. These are programs such as

"English-as-a-second language" (ESL) and "immersion," or other approaches that differ from "transitional bilingual education" (TBE) or "developmental bilingual education" in that they generally do not use the students' native language in instruction. Alternative programs may be particularly appropriate when a school district enrolls students from many language groups and cannot hire teachers who speak all the languages represented.

Since 1989, the Department has funded applications for new transitional bilingual education and special alternative instruction projects based on the quality of the application, without regard to the instructional method proposed. To date, the 25 percent cap on special alternative instructional programs has had no practical effect. However, it is likely that by 1993 the 25 percent cap will restrict local choice of instructional method. Should the 25 percent cap for special alternative instructional programs be raised? Alternatively, should all Part A funding limitations be removed so that Part A awards can be made solely on the basis of the quality of the proposed project, regardless of whether a transitional, developmental, or special alternative instructional method is to be used?

Time Limit on Student Participation

The Bilingual Education Act prohibits the participation of any student in a Part A transitional bilingual education or special alternative instructional program for more than three years, unless the school district can provide evaluation data that support extending a student's participation for a fourth or fifth year. Under no circumstances may a student participate in a TBE or SAI program for more than five years. The Congress added this provision to the law in 1988 to underscore its concern that the primary purpose of the bilingual education program is to help limited English proficient students become proficient in English and move into regular classrooms as quickly as possible. Should this provision of the law be retained, or is the provision too rigid, in light of research findings suggesting that monolingual speakers of a language other than English often require more than three years to become adequately proficient in English to function successfully in regular classrooms?

Parental Involvement

The Bilingual Education Act requires that a school district establish and make use of an advisory council to involve parents in the development of an application and the operation of its project. Other parental involvement provisions include requirements that school districts inform parents—in a language and form they understand—of the reasons their child has been identified as in need of bilingual services, the bilingual education and alternative programs available, the parents' right to decline enrollment of their child in the bilingual program, and their child's progress in the program. Although these requirements would appear to provide for the active participation of parents in local bilingual education programs, the Department has observed cases in which their actual participation is very minimal. Should any of the current provisions be modified? For example, should applicants for Part A programs be required to submit detailed parent participation plans? Should a portion of Part A grants be reserved for parent participation activities? Should greater emphasis be placed on parent training so that parents can participate more effectively in the education of their children?

Participation of Non-Limited English Proficient Students

In order to prevent the segregation of children on the basis of national origin, the Bilingual Education Act allows the participation of English proficient students in transitional bilingual education programs so long as they represent no more than 40 percent of the students in that program. Is this provision too restrictive? Should it be modified?

Participation of Private School Students

The Bilingual Education Act requires that an LEA operating a Part A project take into account the needs of private elementary and secondary schools in the district, provided that the educational needs, languages, and grade levels of LEP students in the private schools are similar to those of the children the project serves. The Department is aware of cases where private schools are eager to participate in a project, but the native languages spoken by their students, or those students' grade levels, are different than those of children served by the project. Is the law too rigid? Should the language of the law be modified?

Training and Technical Assistance

The law currently requires that 25 percent of the appropriation be set aside for training and technical assistance under Part C. Should there continue to be a specific earmark of funds for training programs, or should the amount used for training be either left to the discretion of the Secretary or established through the annual appropriations process?

Within Part C, should greater priority be placed on preservice training or inservice training? Should there be a priority for retraining currently employed teachers (certified in other areas) to enable them to provide services to limited English proficient students in ESL, bilingual, or regular classes? Should funding be provided to train staff other than classroom teachers? Should there be an emphasis on improving the subject area knowledge and skills of bilingual education teachers?

In order to ensure that teacher training activities supported under Part C reflect the actual staffing needs of LEAs, should institutions of higher education applying for educational personnel training grants be required to collaborate closely with nearby LEAs in project development and implementation?

Commitment and Capacity Building

Part A grants are intended to build the capacity of LEAs to operate bilingual education programs. Similarly, Part C grants are provided to strengthen the capacity of institutions of higher education to prepare teachers of bilingual education. What can be done to ensure a good faith commitment from applicants for bilingual education grants under Part A and Part C that services will be maintained after Federal funding is no longer available?

Impact Aid

General

Public Law 81–874 currently authorizes two basic categories of payments—payments for Federal property under section 2 and payments for federally connected students under section 3. Should these two basic categories of payments be combined into one authority that equitably compensates all school districts affected by Federal activities?

Impact Aid, more than any other Federal education program, has come to be perceived as a "pork-barrel" program because many special amendments have been enacted to provide special payments or relief for particular school districts. Continuing attempts to provide special "fixes" for particular districts may compromise the integrity and equity of the program. How could the program be restructured to eliminate the incentives for special amendments of this kind?

Section 2

The current authorization for Federal property payments requires a calculation of maximum entitlement, based on an estimated current assessed value of the Federal property and the district's tax rate, as well as a cumbersome calculation of a "needbased" entitlement. The lesser of these two amounts then becomes the entitlement used to calculate payments. This process of determining the entitlement generally cannot be completed until well after the year for which the section 2 payments are made, thus delaying final payments. Further, because appropriations have been insufficient in recent years to pay full section 2 entitlement for all eligible school districts, payments have had to be ratably reduced from full entitlement. Is there a more efficient approach to compensating school districts for the loss of tax base due to the acquisition of Federal property?

Section 2 includes a cut-off date for the acquisition of Federal property that allows compensation for school districts in which the Federal property was acquired after 1938, but generally disallows compensation for property acquired in or before that year. In some cases, school districts that qualify for section 2 payments may have developed substantial additional tax base over the years to overcome any loss suffered due to the original Federal property acquisition, yet these districts continue to qualify for payments. In other cases, school districts continue to be negatively affected by the local Federal activity and are still heavily dependent on Section 2 payments; however, other similarly situated school districts cannot receive compensation because the Federal property in their districts was acquired prior to 1939. Is there a way to compensate equitably all school districts with Federal property, no matter when the property was acquired?

Section 3

Past efforts to change or improve the Impact Aid payment formula for section 3, which provides payments for federally connected children, have been constrained by limited funding. In reauthorizing the program in 1988, Congress substantially revised the section 3 payment formula. However, a "hold-harmless" provision ties each school district's basic payment to its payment in 1987, and annual appropriations have not increased enough in the years since to allow the new payment provisions to take effect. Therefore, the distribution of available funds envisioned by Congress in the last reauthorization has never occurred. If the recent pattern of appropriations continues, formula changes that increase payments for some eligible school districts would result in decreased payments for others. If one assumes no major increases in funding during the next several years, can the existing distribution of payments across eligible districts be changed to promote equity? What changes should be made?

The current section 3 entitlement calculation and payment formula, including the hold-harmless provisions, are so complex that few people, including managers in school districts that receive section 3 payments, fully understand how those payments are calculated. How can the current formula be simplified?

Embedded within the current section 3 payment formula is an assumption that school districts with higher proportions of federally connected students should be paid more per student than other districts. Thus, if funds were sufficient to make payments according to the current formula, "super a" school districts (those whose federally connected students are 20 percent or more of total enrollment) would be paid a higher percentage of entitlement for each student than "sub-super a" and "regular a" school districts would be paid. Should this special treatment of more heavily affected districts be continued, or should all districts be paid at the same rate (which would have the virtue of simplifying the payment formula)?

The current authority under section 3 provides funds for elementary and secondary education only. However, many school districts are expanding services to preschool-age children. Should the authority be expanded to allow Impact Aid funds to be used for preschool education?

Section 3(d)(2)(B)

Section 3(d)(2)(B) currently ensures that school districts that have more than 50 percent federally connected students and that meet certain other requirements receive supplemental payments to allow them to provide the same level of education as comparable school districts in their States. The statute requires that these supplemental payments be made in full, even if funds are insufficient to pay full entitlement for sections 3(a) and 3(b). The amounts needed to make section 3(d)(2)(B) payments vary substantially from year to year, because of the changing circumstances and eligibility of school districts; however, in some years as much as $30 million has been diverted from regular section 3 payments to fund section 3(d)(2)(B). Should limitations be placed on section 3(d)(2)(B) payments? Should other changes be made?

Section 5(d)(2)

Section 5(d)(2) of P.L. 81–874 allows States to reduce assistance to local educational agencies by portions of the Federal Impact Aid payments to those LEAs if the State education funding formula is "designed to equalize expenditures for free public education" among LEAs. The Department of Education has implemented this provision through regulations, but has been challenged by some States that failed to meet the regulatory standards for a State funding program that is "designed to equalize." Should the statute more clearly define an acceptable standard for State funding equalization, or should that standard continue to be defined through regulations? What should the standard be? Should approval by the Department be conditioned on a showing that the presence of Impact Aid resources in the State is not in fact disequalizing? Should the program be redesigned to provide incentives to States to equalize expenditures among LEAs? If so, how?

Construction

The Impact Aid Construction program, as currently authorized in Public Law 81–815, is characterized by overlapping program authorities, confusing eligibility requirements, a cumbersome administrative process, and an authorized funding level that is far outstripped by applications for assistance. Current program priority lists include hundreds of unfunded construction applications totalling $200 million in originally estimated need. It is clearly time to review the basic principles and priorities for construction assistance. When should the Federal government become involved in providing funding for local school construction projects? What factors should be considered in determining eligibility for assistance? What limitations should be placed on Federal assistance? What local contributions should be required? What funding priorities should be applied?

Adult Education

English Literacy Grants

The English Literacy Grants program was enacted to provide literacy services to adults of limited English proficiency, who are also major beneficiaries under the Adult Education Basic State Grants program. Congress, in recent years, has apparently recognized this duplication of authorities and decreased the appropriation for English Literacy Grants to $1 million. Is there any current need for a separate adult education program serving the limited English proficient? Should the national discretionary activities currently carried out under this authority be consolidated with the discretionary programs authorized elsewhere in the Adult Education Act?

Fund for the Improvement and Reform of Schools and Teaching (FIRST)

FIRST supports reforms to improve the performance of elementary and secondary students and teachers. Of the total amount appropriated in any year, at least 25 percent must be used for projects that operate at the school level. These projects must be administered by a full-time teacher or administrator, and individual grants must be at least $5,000, but no more than $125,000, per year. Are these restrictions still appropriate? What changes are needed? What other changes would improve the contribution of this program to the kind of reform necessary for achievement of the National Education Goals?

FIRST also supports projects to increase the involvement of parents in improving the educational achievement of their children. Only school districts eligible to receive Chapter 1 funds may apply for grants. Should eligibility be expanded to allow other entities, such as community nonprofit organizations, to apply for funds?

Indian Education

Accountability

The Indian Education Act Subpart 1 formula grant program contains few provisions to ensure accountability for results, and little is known about the educational effects of the program on the children it serves. What kinds of accountability measures would be appropriate for this program? For example, should there be a requirement that LEAs measure the results of their programs against world class standards, or that funds be spent only for programs that will foster improved achievement in the five core curriculum areas or for activities that support other National Education Goals (or the expanded list of goals developed by the Indian Nations at Risk Task Force)? Would a school improvement process, similar to the one contained in the Chapter 1 legislation, be appropriate for the Indian Education Subpart 1 program? Should continued funding be made contingent on performance? What role, if any, should parents or tribes have in ensuring accountability in Subpart 1 programs?

Subpart 1 Formula

Under the Subpart 1 formula grant program, a local educational agency may receive funds if, in most cases, the number of Indian children it enrolls equals at least 10 or constitutes at least 50 percent of total enrollment. Many LEAs receive very small grants. (In 1991, the average award was about $46,000, but some LEAs received grants as low as $1,000.) Of all the grant recipients, 78 (or 7 percent) received grants that were lower than $5,000. It could be argued that grants this low are too small to permit recipient LEAs to mount effective Indian education programs. How should this issue be addressed in the reauthorization? Should any changes be made in the factors used to determine LEA eligibility or allocations?

Funds for BIA Schools

Although schools operated by the Bureau of Indian Affairs are supported by Congressional appropriations to the Department of the Interior that are calculated according to the needs of each school, these schools are also eligible for Subpart 1 formula grants. Is it efficient for BIA schools to receive funds from ED, or should all funds for these schools be included in the direct appropriation to the Department of the Interior?

BIA Contract Schools

BIA contract schools are eligible to receive Subpart 1 formula grants and to compete under every other Indian Education Act program, some of which have overlapping purposes. One of these competitive programs (funded from a set-aside of Subpart 1 funds) supports only Indian-controlled schools (the great majority of which are also BIA-supported) and funds the same kinds of activities as are supported under Subpart 2 programs. Is there a need to continue the special Subpart 1 discretionary program for Indian-controlled schools?

State Involvement in LEA Formula Program

Most Department of Education programs that allocate funds by formula to LEAs are administered by States. For these programs (e.g., Chapter 1, Chapter 2, Vocational Education, Mathematics and Science Education), State involvement helps to ensure accountability and coordination of programs. Should States be given a role—and the funds to carry out that role—in administering Subpart 1 of the Indian Education Act? If so, should States be required to collect and maintain data on the educational status and needs of Indian children? If Subpart 1 were to be a State-administered program, what difficulties might arise from the fact that nonpublic, tribal, and BIA schools are among the grant recipients?

Definition of Indian

The definition of "Indian" contained in the Indian Education Act has not been altered, except for minor, technical changes, since the program was first enacted. The definition, which defines eligibility for services under the Act, is more inclusive than the definition of Indian used by the BIA. Under the Indian Education Act, eligible Indians include members of both State and federally recognized tribes, as well as first- and second-degree descendants of those members.

The definition affects more than just who receives services. For the Subpart 1 formula program, it determines the size of an LEA's grant, since grants are computed according to the number of Indian children in the school district (weighted by State per pupil expenditures for education). Subpart 1 requires LEAs to maintain documentation of the eligibility of students they count. The question of what should constitute sufficient documentation has long been an issue, and program audits have sometimes found that LEAs maintain incomplete or inconclusive records. Further, the eligibility of some Indian children, who may have community recognition but no tribal records, is difficult to document.

Should the definition of Indian in the Indian Education Act be changed? If so, how? Should the rules regarding documentation of eligibility be changed to ensure that only eligible children are counted? Does the need to ensure that eligible Indian children receive the services they need outweigh the need for tightened eligibility standards?

Eligibility of Children for Services

Under the Subpart 1 formula program, any Indian child who meets the Act's definition of Indian and is enrolled in the schools of the applicant is eligible to be counted for fund allocation purposes and to receive services, regardless of the child's socioeconomic or educational achievement status. Should the eligibility requirements be modified to include some measure of educational need? If so, how?

Parental Involvement

The Subpart 1 formula program contains parental involvement requirements that are among the strongest of any program administered by the Department of Education. To receive a grant, an LEA must have an elected parent committee that, among other things, participates fully in designing the local Subpart 1 project, including providing written approval of the application. There have been cases in which an LEA did not receive an award because it was unable to reach agreement with its parent committee. However, some tribes and parents have contended that the current provisions do not ensure an adequate level of parental involvement. Should any of the parent committee provisions be modified? If so, how?

Subpart 2: Elementary and Secondary Programs

Subpart 2 authorizes two small discretionary programs—"Planning, Pilot, and Demonstrations" and "Educational Services"—whose purpose is to improve educational opportunities for Indian children. Although there are some differences, the programs have similar goals, and funds can be used for similar activities. Is there a need to maintain two separate programs in this area? How could the impact of these programs be enhanced to benefit the greatest number of Indian children? How could the programs be amended to encourage the development of "break the mold" educational programs? How can the impact of these programs be enhanced?

Subpart 2: Educational Personnel Development

Subpart 2 authorizes two programs for Educational Personnel Development. The aims of these programs are similar (to increase the number of Indian teachers and other school personnel serving Indian children), and combining them might facilitate the development of a more coherent educational personnel development strategy for Indian education. Issues in this area include: How should tribal organizations and institutions of higher education interact? What organizations—e.g., tribes, colleges and universities, tribal community colleges, other Indian organziations—should be eligible for grants? What is the relative need for preservice training of Indian classroom teachers versus graduate-level training of Indian school administrators and other Indian education professionals? Do Indians who are already in the profession need training to help them move into other education-related fields or become more proficient in specific subject areas? Should individuals who participate in training programs be required to teach (or provide other educational services) in a school serving Indian children for a specified period of time or, failing that, to repay the cost of their training?

Fellowship Program

The Indian Fellowship Program authorizes for undergraduate students (in the fields of engineering, natural resources, and business administration) and graduate students (in those three fields, plus medicine, education, law, and psychology). Is there a reason to change these fields? As an alternative, should all fields of study be eligible? Because Pell Grants, BIA scholarships, and other sources of support are available for needy undergraduate students, should this program be limited to fellowships for graduate students?

Students under this program apply directly to the Department of Education and may attend any accredited college or university. Other Department graduate fellowship programs seem to work very well as grant programs for which colleges and universities develop a program, apply to the Department for a grant, and are then allotted a certain number of slots for students. In these programs, potential fellows apply directly to the institutions of higher education that run the programs. Would a fellowship program like this work well for Indian students?

Fellowship awards in most programs carry with them a requirement that the recipient of a fellowship perform some sort of service in return for the fellowship (e.g., teaching in certain schools for a specified length of time, working in health clinics, providing legal services, etc.) In awarding Indian Education Fellowships, the Secretary takes into account applicants' apparent commitment to providing leadership in the Indian community. However, the law does not require fellows, once they have completed their degrees, to provide any particular services in their field of study or to the Indian community. What kinds of "service" or "payback" provisions, if any, would be appropriate for the Indian Fellowship Program?

Educational Partnerships

This program supports partnerships between public schools or institutions of higher education and organizations and businesses in the private sector. Given the extent of business-school partnership activity across the Nation, is there a need for this Federal program? If so, what changes should be made to ensure that schools derive some measurable benefit from the partnership?

Star Schools

When first authorized, the Star Schools program was described in statute as a demonstration program, and individual awards were limited to support for a two-year period. In the recent reauthorization, the word "demonstration" was dropped from the statement of the program purpose, changes were made to permit grantees to apply for an additional two years of funding on the condition that the services provided would expand beyond those supported during the first two years, and a provision was added requiring that at least 25 percent of the amount available be used for facilities and equipment. A major purpose of the Star Schools program has been the installation of telecommunications equipment and facilities to serve elementary and secondary schools. Is there a continuing need for the Federal Government to provide funding to assist with the construction of a telecommunications infrastructure that permits the delivery by satellite of instruction for elementary and secondary schools? Should the Federal role concentrate on demonstrating other types and uses of telecommunications technologies in elementary and secondary education? What other changes in the Star Schools authority would most effectively promote better and greater use of technology in elementary and secondary education?

Stewart B. McKinney Homeless Assistance

Education for Homeless Children and Youth

Under the McKinney Act, each State is required, every two years, to gather extensive data on homeless children and youth in the State. A recent Department study illustrated the prohibitive cost of locating and counting homeless children and youth and the questionable reliability of the data obtained. Should States continue to provide these data? What other mechanisms could be used to estimate the magnitude of the homelessness problem and provide a basis for funding decisions?

Recent amendments to the McKinney Act have increased State planning requirements. Do these requirements provide an effective tool for development of State strategies in educating homeless children?

The amended Act also requires that specific percentages of funds be spent by LEAs on "primary activities" and "related activities." Are these requirements too rigid? Should they be changed?

Since the problems of the homeless are varied and interrelated, would States and localities benefit from having a number of McKinney Act programs combined into a consolidated grant program for the homeless? Should States have the flexibility to combine education funds with other McKinney Act funds to provide comprehensive and coordinated services to the homeless?

Literacy Training for Homeless Adults

When evaluating grant applications for this program, the Secretary reviews each application to determine the extent to which the program design is tailored to the literacy and basic skills needs of specific homeless populations (for example, homeless mothers with children, substance abusers, and the chronically mentally ill). Should the statute provide a priority for services to any particular sub-population of the adult homeless?

Format for Comments

This request for comments is designed to elicit the views of interested parties on how the Department's elementary and secondary education programs can be structured to meet the objectives of the reauthorization effort as stated in this notice.

The Secretary requests that each respondent identify his or her role in education and the perspective from which he or she views the educational system—either as a representative of an association, agency, or school (public or private), or as an individual teacher, student, parent, or private citizen.

The Secretary urges each commenter to be specific regarding his or her proposals and to include, if possible, the data requirements, timing, procedures, and actual legislative language that the commenter proposes for the improved or redesigned program.

Programs Under Consideration

The following is a complete list of programs under the scope of the reauthorization:

Elementary and Secondary Education Act of 1965

Title I

Chapter 1—Basic Grants, Concentration Grants, Capital Expenses for Private School Children, Even Start, Secondary School Basic Skills and Dropout Prevention, State Agency Programs: Migrant, Handicapped, Neglected and Delinquent Children, State Administration, State Program Improvement Grants, Evaluation and Technical Assistance, Rural Technical Assistance Centers

Chapter 2—State and Local Programs, National Diffusion Network, Inexpensive Book Distribution, Arts in Education, Law-Related Education, Blue Ribbon Schools

Title II

Eisenhower Mathematics and Science State Grants

Eisenhower Mathematics and Science National Programs

Regional Mathematics and Science Consortiums

Foreign Languages Assistance

Title III

Magnet Schools Assistance

Title IV

Women's Educational Equity

Javits Gifted and Talented Students Education

Ellender Fellowships

Immigrant Education

General Assistance to the Virgin Islands

Territorial Teacher Training

Fund for Innovation in Education—Innovation in Education, Optional Tests for Academic Excellence, Educational Technology, Computer-Based Instruction, Comprehensive School Health Education, Alternative Curriculum Schools, Innovative Alcohol Abuse Education, National Geography Studies Centers, Civic Education Program

Title V—Drug-Free Schools and Communities

State and Local Programs

Training of Teachers, Counselors, and School Personnel

National Programs

Title VI

Dropout Prevention Demonstrations

Title VII—Bilingual Education

Bilingual Programs

Support Services

Training Grants

P.L. 81–874—Impact Aid Maintenance and Operations

P.L. 81–815—Impact Aid Construction

Adult Education Act

English Literacy Grants

Hawkins-Stafford Elementary and Secondary School Improvement Amendments of 1988

Fund for the Improvement and Reform of Schools and Teaching (FIRST)

Education for Native Hawaiians—Model Curriculum Implementation Project, Family-Based Education Centers, Higher Education Demonstration Program, Gifted and Talented Demonstration Program, Special Education Program

Indian Education—Grants to LEAs and Indian-Controlled Schools; Special Programs for Indian Students—Planning, Pilot, and Demonstration Projects, Educational Services, Educational Personnel Development, Fellowships, Evaluation and Technical Assistance Centers, Gifted and Talented Education; Special Programs for Indian Adults, Program Administration

Education and Training for a Competitive America Act (Title VI of the Omnibus Trade and Competitiveness Act of 1988)

Educational Partnerships

Technology Education

Education for Economic Security Act

Partnerships in Education for Mathematics, Science, and Engineering: Higher Education Partnerships

Star Schools

McKinney Homeless Assistance Act

Adult Education for the Homeless

Education for Homeless Children and Youth

Education Council Act of 1991 (P.L. 102–62)

National Writing Project

National Education Commission on Time and Learning

National Education Goals

The following are the National Education Goals:

1. *Readiness for School*—By the year 2000, all children in America will start school ready to learn.
2. *High School Completion*—By the year 2000, the high school graduation rate will increase to 90 percent.
3. *Student Achievement and Citizenship*—By the year 2000, American students will leave grades four, eight, and twelve having demonstrated competency in challenging subject matter including English, mathematics, science, history, and geography; and every school in America will ensure that all students learn to use their minds well, so they may be prepared for responsible citizenship, further learning, and productive employment in our modern economy.
4. *Science and Mathematics*—By the year 2000, U.S. students will be first in the world in science and mathematics achievement.

5. *Adult Literacy and Lifelong Learning*—By the year 2000, every adult American will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

6. *Safe, Disciplined, and Drug-Free Schools*—By the year 2000, every American school will be free of drugs and violence and will offer a disciplined environment conducive to learning.

Dated: January 29, 1992.

Lamar Alexander,

Secretary of Education.

[FR Doc. 92-2672 Filed 2-3-92; 8:45 am]

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Tuesday
February 4, 1992

Part X

Department of Agriculture

Farmers Home Administration

7 CFR Part 1980

Agricultural Resource Conservation Demonstration Program (Farms for the Future Act of 1990); Interim Rule

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1980

Agricultural Resource Conservation Demonstration Program (Farms for the Future Act of 1990)

AGENCY: Farmers Home Administration, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: Farmers Home Administration (FmHA) is issuing a regulation to implement section 1465 of the Food, Agriculture, Conservation, and Trade Act of 1990, 7 U.S.C. 4201 note, as amended by the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (FACT Act). A national farmland preservation effort is needed to preserve farmland for future generations. The intended effect of this action is to assist states in financing farmland preservation.

DATES: Effective February 4, 1992. Written comments must be submitted on or before May 4, 1992.

ADDRESSES: Submit written comments in duplicate to the Office of the Chief, Regulations Analysis and Control Branch, Farmers Home Administration, U.S. Department of Agriculture, room 6348, South Agriculture Building, 14th Street and Independence Avenue SW., Washington, DC 20250–0700. All written comments made pursuant to this notice will be available for public inspection during regular working hours at the above address. The reporting and recordkeeping requirements contained in this regulation have been approved by the Office of Management and Budget under section 3504(h) of the Paperwork Reduction Act of 1980 and have been assigned OMB control number 0575–0152. Public reporting burden for this collection of information is estimated to average 1 hour per response including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Department of Agriculture, Clearance Officer, OIRM, room 404–W, Washington, DC 20250; and the Office of Management and Budget, Attention: Desk Officer for Farmers Home Administration, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Rick Bonnet, Senior Loan Specialist, Community Facilities Division, Farmers Home Administration, U.S. Department of Agriculture, room 6310, South Agriculture Building, 14th Street and Independence Avenue SW., Washington, DC 20250–0700, telephone (202) 720–1495.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1, which implements Executive Order 12291, and has been determined to be significant but nonmajor. The annual effect on the economy is likely to be less than $100 million and will not likely increase costs or prices for consumers, individual industries, organizations, governmental agencies, or geographic regions. In addition, there will likely be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. This action is not expected to substantially affect budget outlay, to affect more than one Agency, or to be controversial. The expected net result is to provide a new service within a State operating under this program. Currently, Vermont appears to be the only State for which funds may be available. Prior to any other State becoming eligible for assistance, there must be provisions therefore made in an appropriations act. In order to determine the potential impact if such an appropriation act is passed, FmHA will complete a Regulatory Impact Analysis in accordance with the requirements of Executive Order 12291 and consistent with the guidelines in appendix V of the 1990 Regulatory Program of the United States prior to publication of a final rule for all eligible States other then Vermont. A final rule, effective for Vermont only, may be adopted prior to completion of the Regulatory Impact Analysis.

Intergovernmental Review

This program is not listed in the Catalog of Federal Domestic Assistance.

Environmental Impact

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." FmHA has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement is not required.

Background

A national farmland protection effort is needed to preserve our national farmland resources for future generations. The FACT Act, as amended, authorized a demonstration program to guarantee loans to assist States in financing such an effort. The program provides for Federal guarantees of timely payments of principal and interest due for 10 years and substantial interest assistance on loans made to States and instrumentalities of States. A number of States currently have programs in which the State purchases development rights from farmers so the farmland is not developed. The proposed program was fashioned, to some extent, after several of these programs. States are required to share in this effort by contributing an amount equal to at least half the amount of the loan guaranteed by FmHA. Each eligible State may receive up to $10 million in loan guarantees per fiscal year. Loan funds may be invested by the borrower to increase the capital available for farmland preservation.

This interim rule defines this new loan guarantee program and establishes procedures for the public and lending institutions to use in applying for loan guarantees and for FmHA to follow in administering the program. The FACT Act also authorized a somewhat modified demonstration program for the State of Vermont. Procedures for this demonstration program have been incorporated into this rule.

FmHA is implementing this interim rule immediately upon publication. The Agency, however, is requesting comments to give the public the opportunity to suggest alternative rule provisions or courses of action in implementing this program. Specific comments are also requested on existing programs and alternate methods for protecting farmland through means other than implementation of this program. In addition, comments are specifically requested concerning criteria in the proposed regulation pertaining to eligible loan purposes. Any comments submitted pursuant to the proposed rule published in the Federal Register on September 24, 1991 (56 FR 48116) and extension of comment period published on October 29, 1991 (56 FR 55636), must be resubmitted in connection with the interim final rule if the respondent wishes them to be considered in drafting the final rule.

List of Subjects in 7 CFR Part 1980

Agriculture, Loan programs—Agriculture, Rural areas.

Therefore, chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

PART 1980—GENERAL

1. The authority citation for part 1980 is revised to read as follows:

Authority: 7 U.S.C. 1989; 7 U.S.C. 4201 note; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart J—Agricultural Resource Conservation Demonstration Program

2. Subpart J of part 1980, consisting of §§ 1980.901 through 1980.1000 and Appendices A through D, is added as follows:

PART 1980—GENERAL

Subpart J—Agricultural Resource Conservation Demonstration Program

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Appendices to Subpart J

Appendix A—Form FmHA 1980–75, "Conditional Commitment for Guarantee (Agricultural Resource Conservation Demonstration Program)"
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Appendix C—Form FmHA 1980–77, "Loan Note Guarantee (Agricultural Resource Conservation Demonstration Program)"
Appendix D—Form FmHA 1980–78, "Interest Assistance Agreement (Agricultural Resource Conservation Demonstration Program)"

Subpart J—Agricultural Resource Conservation Demonstration Program

§ 1980.901 Introduction.

(a) This subpart contains the regulations for Agricultural Resource Conservation Demonstration Program (ARCDP) loans guaranteed by the Farmers Home Administration (FmHA) and applies to lenders, borrowers, and other parties involved in making, guaranteeing, servicing, or liquidating such loans. This program is commonly referred to as Farms for the Future.

(b) The regulations apply to all States, including Vermont, unless otherwise specified.

(c) The purpose of the ARCDP is to assist States in financing a farmland protection effort to preserve our vital farmland resources for future generations. This purpose is achieved through the guaranteeing of prompt payments and interest assistance on loans used to purchase development rights easements and other types of easements on farmland, the purchase of farmland in fee simple, and related activities.

(d) The ARCDP is administered by the Administrator through a State Director serving each State. The State Director or his/her designee is the focal point for the program and the local contact person for processing and servicing activities.

§ 1980.902 Definitions.

The following general definitions are applicable to the terms used in this subpart.

Appraisal or Appraisal Report. A written statement impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property, as of a specific date, supported by the presentation and analysis of relevant market information.

Conditional Commitment for Guarantee. Form FmHA 1980–75, "Conditional Commitment for Guarantee (Agricultural Resource Conservation Demonstration Program)." FmHA's notification to the lender that the material submitted is approved subject to the completion of all conditions and requirements set forth in the Conditional Commitment for Guarantee.

Development rights. The rights of the fee simple owner of farmland to develop, construct on, or otherwise improve agricultural land for uses that result in rendering such land no longer farmland. For purposes of this subpart, mineral rights are considered development rights if their development would render the agriculture land no longer farmland.

Easement. The vehicle by which development rights or other rights are passed from the owner of farmland to the borrower.

Easement property. The real estate described in the easement.

Farmland. Land which is used, or is suitable for use, in the production of livestock or crops to include prime and unique farmland and additional farmland of statewide and local importance as defined in appendix A to subpart G of part 1940 of this chapter.

Guaranteed loan. A loan made and serviced by a lender for which FmHA has entered into a Lender's Agreement and issued a Loan Note Guarantee.

Lender. The organization making and servicing the loan which is guaranteed under the provisions of this subpart.

Lender's Agreement. Form FmHA 1980–78, "Lender's Agreement (Agricultural Resource Conservation Demonstration Program)." The signed agreement between FmHA and the lender setting forth the lender's responsibilities when the Loan Note Guarantee is issued.

Loan classification system. The process by which loans are examined and categorized by degree of potential for loss in the event of default.

Loan Note Guarantee. Form FmHA 1980–77, "Loan Note Guarantee (Agricultural Resource Conservation Demonstration Program)." The signed commitment to the lender, issued by FmHA, setting forth the terms and conditions of the guarantee.

Market Value. The most probable price which a property, or interests in a property, should bring in a competitive and open market under all conditions requisite to a fair sale. (If a nonprofit organization has acquired an easement and wishes to sell it to the borrower, the borrower may elect to reimburse the nonprofit organization for the purchase price and actual, reasonable, and customary expenses incidental to the easement's purchase by the nonprofit organization.)

Note. The term "note" also includes "bond."

Problem loan. A loan which is not performing according to its original terms and conditions or which is not expected to perform according to those terms and conditions in the future.

Proposed borrower. The entity requesting the loan to be guaranteed under provisions of this subpart.

Protective advance. An advance made by the lender for the purpose of preserving and protecting the collateral where the debtor has failed to, and will not or cannot, meet obligations to protect or preserve collateral. Ordinarily, protective advances are made when liquidation is contemplated or in progress. A protective advance will become an indebtedness of the borrower.

Seller. The owner of farmland who sells development rights and other rights to the borrower for compensation under provisions of this subpart.

State. Any of the 50 States, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States.

State trust fund. A trust fund or account established by an eligible State, or other public instrumentality of an eligible State, into which guaranteed loan funds and other funds are deposited and disbursed for farmland preservation purposes and debt service payments.

§§ 1980.903–1980.909 [Reserved]

§ 1980.910 Eligible loan purposes.

Guaranteed loan funds may be used:

(a) When in accordance with the State Farmland Preservation Plan (see § 1980.918 of this subpart);

(1) To purchase development rights easements, conservation easements, other types of easements, and farmland in fee simple or some lesser estate in land. The borrower will pay no more than the market value, as defined in § 1980.902 of this subpart, of the property or easement acquired;

(2) To pay reasonable and customary fees associated with purchasing easements and real estate including real estate appraisals, surveys, engineering, hazardous waste site assessments, legal matters, and recording costs;

(3) To pay costs of enforcing easements and land use restrictions; and

(4) For other purposes described in the State Farmland Preservation Plan that directly promote a farmland protection effort.

(b) To pay the loan guarantee fee; and

(c) To generate earnings to be used for future farmland preservation efforts. This includes investments, not exceeding 10 years in duration, in direct obligations of the United States and obligations guaranteed by, or an agency of, the United States and deposits covered by insurance in any member bank of the Federal Reserve System or any federally insured State nonmember bank.

§ 1980.911 Ineligible loan purposes.

Loan funds will not be used to pay overhead expenses of the borrower including salaries, wages, office equipment and supplies, utilities, insurance premiums, office lease payments, or similar uses.

§ 1980.912 [Reserved]

§ 1980.913 Transactions which will not be guaranteed.

A note which provides for payment of interest on interest shall not be guaranteed. Any Loan Note Guarantee attached to, or relating to, a note which provides for payment of interest on interest is void.

§§ 1980.914—1980.916 [Reserved]

§ 1980.917 Guarantee fee.

Guarantee fee rates are specified in Exhibit K of FmHA Instruction 440.1 (available in any FmHA Office). The fee will be the applicable rate multiplied by the principal loan amount, paid one time only, at the time the Loan Note Guarantee is issued. The fee will be paid to FmHA by the lender and is nonrefundable. The fee may be passed on to the borrower.

§ 1980.918 State Farmland Preservation Plan.

(a) Each proposed borrower must prepare a State Farmland Preservation Plan (Plan) that describes, in detail, the intended uses of the guaranteed loan funds and State matching funds, as well as the policies and procedures the proposed borrower intends to use in implementing the program. It is expected that Plans in different States will vary considerably to reflect the needs and desires of individual States and will emphasize different aspects of farmland preservation. After reviewing the plan for compliance with the regulations, the State Director will ensure that needed changes are made and concur in the Plan.

(1) The Plan must show how the properties selected will contribute most to the preservation of the agriculture potential of the area. The plan must specify the criteria to be used by borrowers when selecting properties. The following are suggested criteria:

(i) Properties that contain the largest tracts of farmland available or, are contiguous to other easement properties or fee simple properties owned by the borrower and

(ii) Contain the highest percentage of available prime farmland as determined by the USDA Soil Conservation Service.

(2) The Plan must describe, in detail, the restrictions to be imposed by easements, if any are to be purchased.

(3) It is suggested that a preliminary hazardous waste site survey be performed for each property being considered.

(4) It is intended that all easements will be perpetual. However, the Plan must describe the conditions when the trade or sale and release of an easement will be considered. All sale proceeds must be returned to the State trust fund to be subsequently used for purposes consistent with this subpart.

(5) The deed of easement must thoroughly describe the restrictions and other requirements being imposed. A copy of the proposed deed of easement must be included as part of the Plan.

(6) The restrictions and other requirements imposed by the easements must be monitored and enforced. The Plan must describe how this will be accomplished including the penalties that will be imposed on violators of provisions of the easements.

(7) The easement must give the borrower and other appropriate parties the right to enter the easement property for inspections and enforcement of the easement provisions.

(8) All appropriate document must include nondiscrimination language. (See § 1980.943 of this subpart.)

(b) The Plan for Vermont may be limited to the general goals and policies of the Vermont Housing and Conservation Board.

§ 1980.919 Eligible State.

(a) A State or public instrumentality of a State that on or before August 1, 1991:

(1) Had established, by legislative or executive action, sufficient and appropriate under State law, a fund that is separate and identifiable for accounting and audit purposes. The fund need not be funded.

(2) Operates or administers a land preservation fund, or has an officially adopted plan to operate or administer the fund, that invests funds in the protection or preservation of farmland for agriculture purposes. The fund need not be used exclusively for farmland protection, but only the amount actually invested for these purposes will be considered eligible for State matching funds. (See § 1980.921 of this subpart.)

(3) Possesses the legal authority to work cooperatively with the State, municipalities, counties, districts, or other political subdivisions of a State, private nonprofit corporations, and public organizations involved in farmland preservation.

(b) The State of Vermont is considered eligible for assistance under this program.

§ 1980.920 Eligible borrower.

A State trust fund within an eligible State or a State acting in conjunction with the State trust fund.

§ 1980.921 Legal authority.

The borrower must have the legal authority necessary to:

(a) Obtain, pledge security for, and repay the proposed loan;

(b) Perform all activities described in the State Farmland Preservation Plan; and

(c) Purchase investments to generate income, if applicable.

§ 1980.922 State matching funds requirements.

Each State and/or borrower must contribute, for farmland protection, an amount equal to at least half the amount of the loan guaranteed by FmHA.

(a) Such funds and donations must be available for use at the time the loan is closed or were previously expended in the same fiscal year by the borrower and/or State for purposes consistent with this subpart.

(b) State matching funds may include:

(1) Cash contributions of the State, political subdivisions of a State, charitable organization, private persons, or any other entity;

(2) The fair market value of any donation in land to the borrower or charitable organization working with the borrower when;

(i) The donation is consistent with the State Farmland Preservation Plan, and

(ii) The fair market value is based on an appraisal determined adequate by the borrower.

(3) Investment earnings of the State trust fund.

(c) State matching funds may not include:

(1) The value of land donated to charitable organizations by the borrower; or

(2) The value of in-kind services provided by the State or others.

(d) When calculating the required State matching funds contribution for the State of Vermont for fiscal year 1992, both the eligible amount calculated for fiscal year 1992 and the eligible amount made available in fiscal year 1991 to the Vermont Conservation and Housing Board for farmland preservation, will be considered contributions for fiscal year 1992.

§§ 1980.923–1980.925 [Reserved]

§ 1980.926 Eligible lenders.

Eligible lenders must be authorized to do business pursuant to the applicable laws of the State. Eligible lenders include:

(a) Any Federal or State chartered bank or savings and loan association;

(b) Other legally organized lending agency;

(c) A Bank of Cooperatives or other Farm Credit System institution with direct lending authority authorized to make loans of the type guaranteed by this subpart;

(d) State governments and agencies;

(e) Political subdivisions of a State; and

(f) Any nonprofit conservation organization.

§ 1980.927 Participation of others.

The lender may use agents, correspondents, branches, financial experts, nonprofit organizations with the primary objective of land preservation, or other institutions or persons to provide expertise to assist in carrying out its responsibilities. Others may participate with a lender, but FmHA's relationship will be solely with the lender.

§§ 1980.928–1980.932 [Reserved]

§ 1980.933 Full faith and credit.

The Loan Note Guarantee will be effective for a period not exceeding 10 years from the date of Loan Note Guarantee. It constitutes an obligation supported by the full faith and credit of the United States and is incontestable except for fraud or misrepresentation of which the lender has actual knowledge at the time it becomes such lender or which the lender participates in or condones, and the following:

(a) The Loan Note Guarantee will not be honored by FmHA to the extent that any delinquency or loss is occasioned by violation of usury laws, negligent servicing, or failure to obtain the required security, regardless of the time FmHA acquires knowledge of the foregoing. Negligent servicing is defined as the failure to perform those services which a reasonably prudent lender would perform in servicing its own portfolio of loans that are not guaranteed. The term includes not only the concept of a failure to act but also not acting in a timely manner contrary to the manner in which a reasonably prudent lender would act; and

(b) The Loan Note Guarantee will not be honored by FmHA to the extent that loan funds were used for purposes inconsistent with this subpart.

§ 1980.934 Loan limits.

Each eligible State may receive no more than $10 million in loans guaranteed under this subpart per Federal fiscal year.

§ 1980.935 Interest rate.

The interest rate may be a fixed or variable rate as negotiated between the proposed borrower and lender. At no time will the interest rate exceed 10 percent per year.

§§ 1980.936–1980.939 [Reserved]

§ 1980.940 Terms of loan repayment.

The terms of the loan will be negotiated between the proposed borrower and lender with the exception of the interest payments which will be due annually. Principal and interest will be due and payable as provided in the debt instrument.

§ 1980.941 Interest assistance.

Form FmHA 1980–78, "Interest Assistance Agreement (Agricultural Resource Conservation Demonstration Program)," will fully document the interest assistance to be provided by FmHA. The lender will annually advise FmHA of the accrued interest due by completing Form FmHA 1980–24, "Request Interest Rate Buydown/Subsidy Payment to Guaranteed Lender," and FmHA will request the funds from the Finance Office. These funds shall be deposited into the State trust fund and shall be used solely to pay interest on the loan as it becomes due.

(a) In each of the first 5 years, FmHA will pay to the borrower an amount equal to the annual interest payment due.

(b) In each of the sixth through tenth years, FmHA will pay to the borrower a portion of the annual interest payment due. This portion will be the greater of:

(1) An amount equal to 3 percentage points of the interest due as prescribed in the debt instrument; or

(2) An amount equal to the difference between the interest due as prescribed in the debt instrument and that charged by FmHA to its Limited Resource Operating Loan borrowers (as prescribed in Exhibit B of FmHA Instruction 440.1, available in any FmHA Office).

§ 1980.942 Equal opportunity and nondiscrimination requirements.

In accordance with the Equal Credit Opportunity Act, title V of Public Law 93–495, with respect to any aspect of a credit transaction, neither the lender nor FmHA will discriminate against any borrower or proposed borrower, and the borrower will not discriminate against a proposed seller of rights or property on the basis of race, color, religion, national origin, age, sex, marital status, or physical/mental handicap, providing the person can execute a legal document. The lender will comply with the requirements of this act as set forth in the Federal Reserve Board's regulation implementing this act. (See 12 CFR part 202).

§ 1980.943 Other Federal, State, and local requirements.

(a) In addition to the specific requirements of this subpart, loan proposals will be coordinated with all appropriate Federal, State, and local agencies.

(b) Effective with the issuance of the Loan Note Guarantee, borrowers and lenders are required to comply with all applicable Federal, State, or local laws; regulatory commission rules; ordinances; and regulations which are presently in existence, or may be later adopted, including, but not limited to, those governing the following:

(1) Borrowing money, pledging security, and raising revenues for loan repayment;

(2) Land use zoning; and

(3) Protection of the environment.

§§ 1980.944–1980.947 [Reserved]

§ 1980.948 Economic feasibility requirements.

All loans made under the provisions of this subpart must be based on taxes, assessments, or other satisfactory sources of revenue in an amount sufficient to provide for operating expenses and debt repayment.

§ 1980.949 [Reserved]

§ 1980.950 Security requirements.

(a) The lender is responsible for seeing that proper and adequate security is obtained and maintained in existence, and of record, to protect the interests of the lender and FmHA.

(b) Security must be of such a nature that repayment of the loan is reasonably assured. The security may include, but is not limited to:

(1) General obligation bonds, pledges of taxes or assessments; and

(2) To the extent consistent with relevant banking laws and practices, the investments and deposits described in § 1980.910(c) of this subpart.

(c) Easements and land purchased with loan funds may not be pledged as security.

§ 1980.951 [Reserved]

§ 1980.952 Fees and charges by the lenders.

(a) *Routine charges and fees.* The lender may establish the charges and fees for the loan provided they are the same as those charged other applicants for similar types of transactions. "Similar types of transactions" include similar non-guaranteed loans.

(b) *Late payment and default charges.* Late payment and default charges will not be covered by the guarantee and will not be added to the principal and interest due. Such charges may be assessed only if:

(1) They are routinely made by the lender in all types of loan transactions;

(2) The payment in cash, check, money order, wire transfer, or similar medium has not been received by the lender at its main office, branch office, or other designated place of payment; and

(3) The lender agrees with the borrower in writing that late payment charges will not be increased while the Loan Note Guarantee is in effect.

§ 1980.953 Environmental requirements.

The FmHA is responsible for assuring that the requirements of subpart G of part 1940 of this chapter are met. The FmHA will review the complete application and initiate a Class II environmental assessment. This assessment will focus on the potential cumulative impacts of the easements, and other practices authorized by this subpart that can be identified at the time the assessment is completed. The borrower will provide a written statement from the State Historic Preservation Officer (SHPO) to the lender of any effect that can be identified at the time the loan application is submitted, that the practices authorized by this subpart will have on any district, site, structure, or object that has been or is eligible to be included in the National Register of Historic Places. (See subpart F of part 1901 of this chapter.)

§ 1980.954–1980.956 [Reserved]

§ 1980.957 Application processing.

(a) *Application conference.* The State Director will arrange for a conference with the lender and proposed borrower to provide copies of appropriate appendices and forms and furnish guidance necessary for orderly application processing. The FmHA will confirm decisions made at this conference, by letter, to the lender and proposed borrower. The State Director will arrange for additional conferences as needed.

(b) *Contents of application package.* (1) Completed SF–424.1, "Application for Federal Assistance."

(2) Form FmHA 1980–74, "Application for Loan and Guarantee (Agricultural Resource Conservation Demonstration Program)."

(3) Proposed loan agreement containing at least the following:

(i) Proposed security; and

(ii) Proposed borrower's financial projections including the plan for loan repayment.

(4) State Farmland Preservation Plan (see § 1980.918 of this subpart).

(5) Evidence that the required State matching funds will be available at loan closing.

(6) Copies of the proposed borrower's organizational documents when the proposed borrower is not a State.

(7) Evidence that a farmland preservation program was being

operated or administered on August 1, 1991.

(8) Form FmHA 1910–11, "Applicant Certification Federal Collection Policies for Consumer or Commercial Debts."

(9) Any additional information as may be required by the State Director.

(c) *Review of decision.* FmHA will complete Form FmHA 1942–43, "Project Summary Community Facilities (Other Than Utility-type Projects)." A determination will be made as to whether the proposed borrower is eligible, the proposed loan is for eligible purposes, there is reasonable assurance of repayment ability, security is sufficient, the proposed loan complies with all applicable statutes and regulations, and adequate funds are available.

(d) *Issuing Conditional Commitment for Guarantee.* (1) If FmHA decides to conditionally commit to guaranteeing the loan, it will provide the lender and proposed borrower with the Conditional Commitment for Guarantee, listing all conditions for the guarantee and a full description of the approved uses of guaranteed loan funds.

(2) If at any time prior to issuance of the Conditional Commitment for Guarantee, FmHA decides that favorable action will not be taken, the State Director will notify the lender in writing of the reasons why the request was not favorably considered. The notification will state that a review of this decision by FmHA may be requested by the lender under § 1980.990 of this subpart and subpart B of part 1900 of this chapter. The Federal Agency that administers compliance with this law is the Federal Trade Commission, Equal Credit Opportunity, Washington, DC 20580.

(3) The State Director will send copies of the following documents to the National Office Community Facilities Division within 30 days after the Conditional Commitment for Guarantee has been accepted:

(i) Project Summary, Form FmHA 1942–43;

(ii) Executed Lender's Agreement, Form FmHA 1980–76;

(iii) Executed Conditional Commitment for Guarantee (with attachments) accepted by the lender and proposed borrower, Form FmHA 1980–75;

(iv) Proposed loan agreement between the lender and proposed borrower;

(v) Application for Loan and Guarantee, Form FmHA 1980–74; and

(vi) Lender Certification required by § 1980.966(a) of this subpart, if the Loan Note Guarantee has been issued. If it has not been issued, provide a proposed date for its issuance in the cover memorandum.

§ 1980.958 [Reserved]

§ 1980.959 Reserving/obligating funds and loan approval.

(a) The State Director is authorized to approve loans made under this subpart in accordance with Exhibit B of FmHA Instruction 1901–A, (available in any FmHA Office.)

(b) The State Director will prepare an original and two copies of Form FmHA 1940–3 for each loan to be obligated. The State Director will sign the original and one copy and conform the second copy. The form will not be mailed to the Finance Office. FmHA will prepare and execute Form FmHA 1980–75, and notify the lender of the approval by forwarding signed copies of Form FmHA 1940–3 and the Conditional Commitment for Guarantee to the lender on the obligation date (unless the Administrator has given the Finance Office prior authorization to obligate before the 6-day reservation period, and directs the State Director to forward Form FmHA 1940–3 to the lender prior to issuing of the Conditional Commitment for Guarantee.) The State Director will record the actual date of lender notification on the original Form FmHA 1940–3 and retain the original and remaining conformed copy. The State Office terminal will be used to request the reservation /obligation of funds. When the State Office terminal is inoperative and will be for a significant period of time or during emergency situations, the State Office will request the Finance Office to reserve/obligate the funds. Any specific security, processing, or reporting requirements will be addressed at the time of the telephone call.

(c) All loan guarantee applications must be approved, or disapproved, and the lender notified in writing, within 30 days of receipt of a completed application.

(1) If an application is not complete, FmHA will provide the lender with a written listing of the items missing within 20 days of receipt of the application.

(2) When a decision to disapprove an application is reversed or revised by an appeal, FmHA will notify the lender of the action within 15 days after the reversal/revision decision is made.

(d) Loans in Vermont must be approved or disapproved, and the lender notified in writing, within 30 days of receipt of a complete application. The Loan Note Guarantee and Interest Assistance Agreement shall be issued upon request of the lender once the loan is approved. All conditions of the Conditional Commitment for Guarantee must be met prior to the loan being closed and the Loan Note Guarantee being issued. The other conditions for loan approval and issuing the Loan Note Guarantee in Vermont are consistent with other States, unless otherwise specified.

§ 1980.960 Case and identification numbers.

(a) *Case Number.* The case number will be the proposed borrower's Internal Revenue Service Taxpayer Identification (Tax ID) Number, preceded by the State and county code numbers. FmHA will provide the lender with these numbers. Only one case number will be assigned to each borrower regardless of the number of loans it has, unless an exception is granted by the National Office.

(b) *Temporary ID numbers.* When a proposed borrower has not received a Tax ID Number, FmHA will assign a temporary ID number. See the Forms Manual Insert (FMI) for Form FmHA 1940–3, "Request for Obligation of Funds (Guaranteed Loans)," for specific instructions. Any temporary ID number assigned by FmHA must be replaced with the Tax ID Number prior to issuing the Loan Note Guarantee, unless prior approval of the National Office is received.

(c) *ID number of lender.* The lender's Tax ID Number will be used as its ID number in correspondence and FmHA forms relating to the guarantee.

§§ 1980.961–1980.962 [Reserved]

§ 1980.963 Funding applications.

In order to ensure the equitable distribution of funds available for loan guarantees under this subpart, the National Office will retain all the authorized funds in the National Office. All complete approved applications received from eligible borrowers, except Vermont, by July 1 of each fiscal year will be funded subject to the availability of funds. They will be funded on a proportional basis, based on the size of the loan requested.

§ 1980.964 National Office review.

(a) The following will be submitted to the National Office when the loan guarantee exceeds the State Director's approval authority:

(1) Transmittal memorandum including:

(i) State Director's recommendation;

(ii) Date of expected obligation; and

(iii) Any unusual circumstances;

(2) Entire application package; and

(3) Complete Class II environmental assessment.

(b) In all cases, the State Farmland Preservation Plan will be submitted to the National Office for concurrence prior to issuing the Conditional Commitment for Guarantee.

§ 1980.965 Review of requirements of the Conditional Commitment for Guarantee.

Immediately after reviewing the conditions and requirements in the Conditional Commitment for Guarantee, the lender and proposed borrower should complete and sign the "Acceptance of Conditions" section of the form and return a copy to FmHA. If certain conditions cannot be met, the lender and proposed borrower may propose alternate conditions to FmHA.

§ 1980.966 Conditions precedent to issuing the Loan Note Guarantee.

(a) *Lender certification.* The lender must certify that:

(1) No major changes have been made in the lender's loan conditions and requirements since the issuance of the Conditional Commitment for Guarantee, except those approved in the interim by FmHA in writing;

(2) Truth in lending requirements, if applicable, have been met;

(3) All equal employment opportunity and nondiscrimination requirements have been, or will be, met at the appropriate time;

(4) The loan has been properly closed, and the required security instruments have been obtained;

(5) The borrower has marketable title to the collateral, subject only to the instrument securing the guaranteed loan and other exceptions approved in writing by FmHA;

(6) Lien priorities are consistent with requirements of the Conditional Commitment for Guarantee;

(7) All other requirements of the Conditional Commitment for Guarantee have been met;

(8) If any advances have occurred, they were made for purposes consistent with the Conditional Commitment for Guarantee and as specified in the Form FmHA 1980–74, "Application for Loan and Guarantee." A copy of a detailed loan settlement statement of the lender will be attached to support this certification; and

(9) There has been no adverse change(s) in the proposed borrower's financial condition nor any other adverse change in the proposed borrower during the period of time from FmHA's issuance of the Conditional Commitment for Guarantee to issuance of the Loan Note Guarantee. The lender's certification must address all adverse changes of the proposed borrower and its guarantors not more than 60 days old at time of certification.

(b) *Execution of Lender's Agreement.* The lender has executed and delivered the Lender's Agreement, Form FmHA 1980–76, to FmHA.

(c) *Changes in Conditional Commitment for Guarantee.* Once the Conditional Commitment for Guarantee is issued and accepted by the lender and proposed borrower, only minor changes will be considered unless otherwise provided for in this subpart.

(d) *Preguarantee review.* Coincident with, or immediately after loan closing, the lender will contact FmHA and provide those documents and certifications required in § 1980.966(a) of this subpart. For any loans involving bonds, the opinion of a recognized bond counsel will be reviewed to determine the adequacy of the bonds issued or to be issued. Only when the State Director is satisfied that all conditions for the guarantee have been met will the Loan Note Guarantee be executed.

(e) *Review by OGC.* The State Director will forward the loan docket to the Office of the General Counsel (OGC) for review prior to issuing the Loan Note Guarantee, but after the Conditional Commitment for Guarantee has been issued and after the lender's proposed closing documents with lender's legal counsel's opinion have been received by FmHA. The State Director will include with the docket a letter identifying any items, documents, or problems that may have a significant impact on the loan or guarantee or may be contrary to the regulations and need to be specifically addressed. Copies of the following documents should be submitted to OGC for review:

(1) National Office concurrence letter, if applicable;

(2) Form FmHA 1980–75, "Conditional Commitment for Guarantee," including any amendments;

(3) Loan agreement;

(4) Proposed promissory notes and/or bond transcripts;

(5) Proposed security instruments;

(6) Proposed Form FmHA 1980–76, "Lender's Agreement";

(7) Proposed lender certifications as required by § 1980.966(a) of this subpart; and

(8) Opinion of lender's counsel in form prescribed by OGC.

(f) *OGC advice.* OGC will review the docket and furnish advice to FmHA on whether it should issue the Loan Note Guarantee once the loan is closed. Such advice is for the benefit of FmHA only and does not relieve the lender of any of its responsibilities under FmHA regulations. Any deficiencies noted by OGC will be corrected prior to issuing the Loan Note Guarantee.

(g) *Loan closing.* The lender will notify FmHA when the date for loan closing has been established.

(h) *Substitution of borrower.* FmHA will not issue a Loan Note Guarantee to a lender who is in receipt of a Conditional Commitment for Guarantee with an obligation in a previous fiscal year, if the originally approved proposed borrower (including changes in legal entity) is changed. All requests for exceptions must be approved by the FmHA National Office.

(i) *Inspections.* The lender will notify FmHA of any scheduled field inspections. FmHA may attend such field inspections. Any inspections or reviews conducted by FmHA, including those with the lender, are for the sole benefit of FmHA. FmHA inspections do not relieve any parties of interest of their responsibilities to conduct necessary inspections, nor can these parties rely on FmHA's inspections in any manner whatsoever.

§ 1980.967 Substitution of lender.

With prior written concurrence of the FmHA Administrator, the State Director may approve the substitution of a new eligible lender in place of a lender who holds an outstanding Conditional Commitment for Guarantee (where Loan Note Guarantee has not yet been issued), provided there are no changes in the proposed borrower, State Farmland Preservation Plan, loan conditions, or loan agreement. To effect such a substitution, the former lender will provide FmHA with a letter stating the reasons it no longer desires to be a lender. The substituted lender will execute a new Part "B" of the Application for Loan and Guarantee. If approved by FmHA, the Administrator will issue a letter of amendment to the original Conditional Commitment for Guarantee, reflecting the new lender who will acknowledge acceptance of the letter or amendment in writing. The State Director will complete Form FmHA 1980–42, "Notice of Substitution of Lender."

§ 1980.968 Issuance of Lender's Agreement, Loan Note Guarantee, and Interest Assistance Agreement.

(a) *Lender's Agreement.* If FmHA finds that all requirements have been met, the lender and FmHA will execute Form FmHA 1980–76. The original will be delivered to FmHA and a signed duplicate original retained by the lender. There will be a Lender's Agreement executed for all loans guaranteed by FmHA.

(b) *Loan Note Guarantee.* (1) Upon receipt of the executed Lender's Agreement and after all requirements have been met, FmHA will execute the Loan Note Guarantee, Form FmHA 1980–77. The original will be retained by the lender and attached to the original note. A conformed copy with a conformed copy of the note attached will be retained by FmHA.

(2) If the lender has selected the multinote system as provided in the Lender's Agreement, a Loan Note Guarantee will be prepared and attached to each note the borrower issues. All the notes will be listed on each Loan Note Guarantee.

(3) If the lender requests a series of new notes to replace previously issued guaranteed notes as provided in the Lender's Agreement, the State Director may reissue new Loan Note Guarantees in exchange for the original Loan Note Guarantees.

(c) *Interest Assistance Agreement.* Form FmHA 1980–78, will be executed concurrently with the Loan Note Guarantee.

(d) *FmHA's refusal to execute the Loan Note Guarantee.* If FmHA determines that it cannot execute the Loan Note Guarantee because all requirements have not been met, it will promptly inform the lender of the reasons, giving a reasonable period within which to satisfy FmHA objections. If the lender writes FmHA within the period allowed requesting additional time to satisfy the objections, FmHA may, in writing, grant any additional time it considers necessary and reasonable. If the lender is unable to satisfy FmHA objections, the lender will be informed of its appeal rights as set out in § 1980.990 of this subpart and subpart B of part 1900 of this chapter.

(e) *Cancellation of obligation.* If the conditions for the loan are rejected or cannot be met after completion of any appeal, FmHA will cancel the obligation using Form FmHA 1940–10, "Cancellation of U.S. Treasury Check and/or Obligation."

(f) *Payment of guarantee fee.* The lender will prepare a Form FmHA 1980–19, "Guaranteed Loan Closing Report," for each loan to be guaranteed, and deliver with the guarantee fee to the FmHA representative who concurrently delivers the Loan Note Guarantee. The State Office will enter guarantee fees received on Form FmHA 451–2, "Schedule of Remittances," and process in accordance with subpart B of part 1951 of this chapter.

(g) *FmHA representatives authorized to execute forms.* State Directors and, if delegated by the State Director, Community Programs and Community and Business Programs Chiefs are authorized to execute the Lender's Agreement, Loan Note Guarantee, and Interest Assistance Agreement.

§§ 1980.969–1980.972 [Reserved]

§ 1980.973 Disbursement of funds.

The lender is responsible for assuring that guaranteed loan funds are disbursed in accordance with the provisions of this subpart.

§ 1980.974 [Reserved]

§ 1980.975 Loan servicing.

In accordance with the lender's loan agreement, the lender will be responsible for servicing the entire loan, including any advances made to the lender by FmHA under its guarantee of timely payments in accordance with the Loan Note Guarantee. The lender will notify FmHA of any violations of the lender's loan agreement.

(a) The lender will require, at a minimum, annual audited financial statements which will be reviewed by the lender and a copy forwarded to the FmHA State Office with a summary evaluation by the lender. After receipt of the evaluation, the State Director will determine if a joint FmHA, lender, and borrower visit will be necessary. Lender visits to the borrower will be conducted at least once every 3 years but may be scheduled more frequently if conditions warrant. Borrowers with problem loans will be visited by the lender at least annually.

(b) The lender will make an initial visit to the borrower within the first 6 months following the initial loan closing to review the borrower's accounts and procedures.

(c) The State Director will meet annually with each lender or his/her agent with whom a loan guarantee is outstanding to review the lender's performance and determine if any future actions are needed. FmHA will document the meeting in the running record of each borrower serviced by the lender and followed with a letter to the lender.

§ 1980.976 Borrower reports.

The borrower will furnish the State Director with an annual listing of the easements and properties acquired with guaranteed loan funds. The listing should include at a minimum:

(a) Location of each easement or property;

(b) Numbers of acres under each easement or property; and

(c) Purchase price of each easement or property.

§ 1980.977 Access to lender's records.

The lender will permit representatives of FmHA and other agencies of the USDA authorized by that Department to inspect and make copies of any records of the lender pertaining to loans guaranteed by FmHA. Such inspection and copying may be made during the regular office hours of the lender, or any other time the lender and FmHA find convenient.

§ 1980.978 [Reserved]

§ 1980.979 Loan classification.

All guaranteed loans made under this subpart will be classified by FmHA at loan closing and again whenever there is a change in the loan which would impact on the original classification. The loans will be classified as set out in FmHA Instruction 1904–C (available in any FmHA Office).

§ 1980.980 Sale or assignment of guaranteed loan.

Loans guaranteed under provisions of this subpart may not be sold or assigned by the lender to any other lender or investor.

§ 1980.981 Defaults by borrower.

The FmHA will 100 percent guarantee, for a period not to exceed 10 years from the date of the Loan Note Guarantee, the timely payment of principal and interest due on loans guaranteed under provisions of this subpart.

(a) In case of monetary default or significant non-monetary default, the lender will negotiate with the borrower in good faith in an attempt to resolve the problem and cure the default. If unsuccessful, the lender will arrange a meeting with FmHA and the borrower. A memorandum of the meeting, listing the individuals in attendance and summarizing the problem and proposed solution will be prepared by FmHA and retained in the FmHA loan file. When a solution to a delinquency cannot be reached within 60 days of the payment due date and when requested by the lender, in writing, using Form FmHA 449–30, "Loan Note Guarantee Report of Loss," FmHA will request funds from the Finance Office to pay the delinquency. The check will be made payable to the lender.

(1) Such advance must be considered an indebtedness of the borrower and will accrue interest at the note rate.

(2) Any such advance is immediately due and payable. It is the lender's responsibility to collect advances from the borrower and promptly remit to FmHA.

(3) The loan will be considered a problem loan until the advance and

accrued interest on such advance are fully repaid by the borrower.

(4) Any late payment or default charges will not be paid by FmHA.

(b) The State Director will report all delinquent and problem loans quarterly to the National Office Community Facilities Division by the 10th day of January, April, July, and October.

§ 1980.982 Liquidation.

Liquidation will be conducted in accordance with the Lender's Agreement.

(a) When either the lender or FmHA determines that liquidation is necessary, the lender will prepare a liquidation plan. The State Director will forward the lender's liquidation plan, along with appropriate recommendations and exceptions to the plan, to the National Office Community Facilities Division. Guidance will be provided by the National Office.

(b) Within delegated authorities, the State Director may approve a written partial liquidation plan submitted by the lender covering collateral that must be immediately protected or cared for to preserve or maintain its value. Approval of the partial liquidation plan must be in the best interest of the Government. The approved partial liquidation plan is only food for those actions necessary to immediately preserve and protect the collateral and must be followed by a complete liquidation plan prepared by the lender.

(c) FmHA will exercise its option to liquidate only when there is reason to believe the lender is not likely to initiate liquidation efforts that will result in maximum recovery. The State Director has no authority to exercise this option.

§ 1980.983 Protective advances.

Protective advances may be made in accordance with the Lender's Agreement. Protective advances are normally involved only when the loan is being liquidated.

(a) Within delegated authorities, the State Director may approve protective advances in writing. Advances must be reasonable when associated with the value of collateral being preserved.

(b) When considering protective advances, sound judgement must be exercised in determining that the additional funds advanced will actually preserve or protect the collateral and recovery is actually enhanced by making the advance.

§§ 1980.984–1980.986 [Reserved]

§ 1980.987 Transfers and assumptions.

(a) *General.* It is the policy of FmHA to approve transfers and assumptions of loans to transferees who will continue the original purpose of the guaranteed loan. All transfers and assumptions must be approved, in writing, by FmHA. Transfers and assumptions may be approved subject to the following:

(1) The present borrower is unable or unwilling to accomplish the objectives of the guaranteed loan;

(2) The entire unpaid balance on the guaranteed loan is assumed by the new borrower; and

(3) All funds in the State Trust Fund are transferred to the new borrower.

(4) The loan will continue to be secured in a manner equal to or in better greater degree.

(b) *Eligible borrowers.* (1) The total indebtedness must be transferred to an eligible borrower on the same terms.

(2) A guaranteed loan for which the transferee is eligible may be made in connection with a transfer.

(c) *Transfer fees.* Transfer fees are a one-time nonrefundable cost to be collected by the lender at the time of application or proposal.

(1) *Amount.* The transfer fees will be a standard fee plus the cost of the appraisal, as applicable. This fee will be established by the FmHA National Office and issued annually to all FmHA State Offices for further distribution.

(2) *Remittance.* The lender will collect and submit the fee to the FmHA State Office. The FmHA State Office will submit the fee to the Finance Office identified as a transfer fee using Form FmHA 451–2, "Schedule of Remittance.".

(3) *Waiver.* When the State Director determines waiving the transfer fee is in the best interest of the Government, the file will be submitted to the National Office with appropriate recommendations for the request.

(d) *Processing transfers and assumptions.* (1) In any transfer and assumption case, the transferor, may be released from liability by the lender with FmHA written concurrence, only when the value of the collateral being transferred is at least equal to the amount of the loan or part of the loan being assumed.

(2) The lender will issue a statement to FmHA that the transaction can be properly transferred and the conveyance instruments will be filed, registered, or recorded as appropriate and legally permissible.

(3) The State Director may approve all transfer and assumption provisions, including the transferor's release from liability, if the guaranteed loan debt balance is within his/her loan approval authority.

Note: The assumption will be reviewed as if it were a new loan. The Loan Note Guarantee(s) will be endorsed in the space provided on the form(s).

(4) A copy of the Assumption Agreement will be retained in the FmHA file. The State Director will notify the Finance Office of all approved transfer and assumption cases on Form FmHA 1980–7, "Notification of Transfer and Assumption of a Guaranteed Loan," and submit Form FmHA 1980–50, "Add, Delete, or Change Guaranteed Loan Borrower Information," for all new borrowers and Form FmHA 1980–51, "Add, Change, or Delete Guaranteed Loan Record," in order that Finance Office records may be adjusted accordingly.

(5) If the guaranteed loan debt balance is in excess of the State Director's loan approval authority, the State Director will forward the file, together with his/her recommendations, to the National Office Community Facilities Division for approval.

(6) The assumption will be made on the lender's form of assumption agreement and will contain the FmHA case number of the transferor and transferee.

(7) Loan terms cannot be changed.

(8) In the case of a transfer and assumption, it is the lender's responsibility to see that all such transfers and assumptions will be noted on all originals of the Loan Note Guarantee(s). The lender will provide FmHA a copy of the transfer and assumption agreement. Notice must be given by the lender to FmHA before any borrower or guarantor is released from liability.

(e) *Submission to National Office.* (1) All proposed transfers or assumptions will be forwarded to the National Office for prior review and approval before making any commitments.

(2) All submissions to the National Office will contain:

(i) Transfer case file;

(ii) OGC comments on the proposed transfer or assumption;

(iii) Appropriate forms to complete the transfer prepared by the transferee;

(iv) Completed environmental review; and

(v) Any other necessary supporting information.

§ 1980.988 Bankruptcy.

(a) It is the lender's responsibility to protect the guaranteed loan and all the collateral securing it in bankruptcy proceedings. These responsibilities include, but are not limited to, the following:

(1) The lender will file a proof of claim, when necessary, and all the necessary papers and pleadings concerning the case;

(2) The lender will attend and, when necessary, participate in meetings of the creditors and all court proceedings;

(3) The lender, whose collateral is subject to being used by the trustee in bankruptcy, will immediately seek adequate protection of the collateral;

(4) When appropriate, the lender should seek dismissal of the proceedings; and

(5) FmHA will be kept adequately and regularly informed, in writing, of all aspects of the proceedings.

(b) Activities related to bankruptcy proceedings are considered loan servicing. The related expenses are the responsibility of the lender.

(c) In bankruptcy, if an independent appraisal is necessary in FmHA's opinion, FmHA and the lender will share such appraisal fee equally.

(d) The State Director should report all bankruptcy cases immediately to the National Office by forwarding a copy of Form FmHA 1980–44, "Guaranteed Loan Borrower Default Status." The State Director must keep OGC informed of the proceedings.

§ 1980.989 State Director's additional authorizations and guidance.

Any proposed servicing actions which the State Director or lender is not authorized by this subpart to approve, will be referred to the Administrator, Attention: Community Facilities Division.

§ 1980.990 Appeals.

Only the borrower or proposed borrower and lender can appeal FmHA decisions. The borrower and lender must jointly execute the written request for review of the decision made by FmHA, and both parties must participate in the appeal. A decision by the lender which may be adverse to the interest of the borrower or proposed borrower is not a decision by FmHA, even when concurred in by FmHA. Appeals will be handled in accordance with subpart B of part 1900 of this chapter.

§§ 1980.991–1980.994 [Reserved]

§ 1980.995 Replacement of loss, theft, destruction, mutilation, or defacement of Form FmHA 1980–77, "Loan Note Guarantee."

Except where the evidence of debt was or is a bearer instrument, the FmHA State Director is authorized, on behalf of FmHA, to issue a replacement Loan Note Guarantee(s) to the lender upon receipt of an acceptable certificate of loss and an indemnity bond. After the required documentation has been received, the State Director will review all documents presented by the lender to assure all requirements are met and consult with OGC to assure that all documents are of legal sufficiency before the reissuance of the Loan Note Guarantee(s).

(a) A certificate of loss properly notarized should include:

(1) Legal name and present address of the owner who is requesting the replacement forms;

(2) Legal name and address of lender of record;

(3) Capacity of person certifying;

(4) Full identification of the Loan Note Guarantee including the name of the borrower, FmHA case number, date of the Loan Note Guarantee, face amount of the evidence of debt purchased, date of evidence of debt, present balance of the loan, and percentage of guarantee. Any existing part of the document to be replaced should be attached to the certificate; and

(5) A full statement of circumstances of the loss, theft, or destruction of the Loan Note Guarantee.

(b) An indemnity bond acceptable to FmHA shall accompany the request for replacement except when the holder is the United States, a Federal Reserve Bank, a Federal Government Corporation, a State or Territory, or the District of Columbia. The bond shall be with surety except when the outstanding principal balance and accrued interest due the present holder is less than $1,000,000 verified by the lender in writing in a Letter of Certification of balance due. The surety shall be a qualified surety company holding a certificate of authority from the Security of the Treasury and listed in Treasury Department Circular 580.

(c) All indemnity bonds must be issued and/or made payable to the United States of America acting through the FmHA. The bond shall be in an amount not less than the unpaid principal and interest. The bond shall save FmHA harmless against and claim or demand which might arise or against any damage, loss, costs, or expenses which might be sustained or incurred by reasons of the loss or replacement of the instruments.

(d) In those cases where the guaranteed loan was closed under the "Multi-Note System" provisions of Lender's Agreement, FmHA will not attempt to or participate in the obtaining of replacement notes from the borrower. Should such note be replaced, the terms of the note cannot be changed. The Lender's Agreement describes general conditions for reissuing notes. If the evidence of debt has been lost, stolen, destroyed, mutilated or defaced, such evidence of debt must be replaced before FmHA will replace any instruments.

(e) If the decision is to reissue Loan Note Guarantee(s), the following procedure will be followed:

(1) Multi-not system. A new Form FmHA 1980–77 will be prepared using the original face amounts and amounts guaranteed (not outstanding loan balance). At the top of the form type "This Loan Note Guarantee is issued to replace the original dated ______ which was (insert "lost, stolen, destroyed, defaced or mutilated"). Only execute an original for the holder. Copies may be conformed for the lender and FmHA file. If borrower notes are needed, they must be obtained by the holder from the borrower. The indemnity bond must be kept in safekeeping;

(2) The lender must execute the replacement forms prior to FmHA execution of the same; and

(3) Certificate of Incumbency may be provided.

§ 1980.996 Lender's request to terminate Loan Note Guarantee.

If the Loan Note Guarantee has not automatically terminated, the lender may request FmHA to terminate the Loan Note Guarantee for any reason. The lender will provide the State Director with a written notice that the Loan Note Guarantee is paid in full and/or terminated. Within 30 days, the State Director will forward a memorandum to the Finance Office indicating that the loan is paid in full and/or the Loan Note Guarantee is cancelled at the lender's request.

§§ 1980.997–1980.998 [Reserved]

§ 1980.999 FmHA Forms.

(a) Forms FmHA 1980–75, "Conditional Commitment for Guarantee (Agricultural Resource Conservation Demonstration Program)"; FmHA 1980–76, "Lender's Agreement (Agricultural Resource Conservation Demonstration Program)"; FmHA 1980–77, "Loan Note Guarantee (Agricultural Resource Conservation Demonstration Program)"; and FmHA 1980–78, "Interest Assistance Agreement (Agricultural Resource Conservation Demonstration Program)"; and incorporated into and made a part of this subpart, and appear as appendices A, B, C, and D to this subpart J.

(b) The following FmHA forms will be used in the processing and servicing of loans made under this subpart. Refer to the Forms Manual Inserts and directions printed on the form for specific details concerning completion of the forms, number of copies, and distributions.

Copies of forms may be obtained from any FmHA State office.

FmHA

Form No.	Title of form	Purpose and code*
1980–77	Loan Note Guarantee (Agricultural Resource Conservation Demonstration Program).	Used to document FmHA's guarantee and related responsibilities. (1)
1980–76	Lender's Agreement (Agricultural Resource Conservation Demonstration Program).	Used to document lender's responsibilities. (2)
1980–78	Interest Assistance Agreement (Agricultural Resource Conservation Demonstration Program).	Used to document FmHA's agreement to subsidize borrower's interest. (1)
1980–74	Application for Loan and Guarantee (Agricultural Resource Conservation Demonstration Program).	Used to document lender's guarantee request. (3)
1980–75	Conditional Commitment for Guarantee (Agricultural Resource Conservation Demonstration Program).	Used to document FmHA's conditions to issue Loan Note Guarantee. (2)
1940–3	Request for Obligation of Funds (Guaranteed Loans)	Used to approve loan and establish account. (1)
1980–19	Guaranteed Loan Closing Report	Used to pay guarantee fee and establish guarantee loan account. (2)
1980–24	Request Interest Rate Buydown/Subsidy Payment to Guaranteed Lender.	Used by lender to request interest assistance.
449–30	Loan Note Guarantee Report of Loss	Used to request delinquent payments. (3)
1980–41	Guaranteed Loan Status Report	Used to update FmHA's records of outstanding balance of loan. (3)
1980–42	Notice of Substitution of Lender	Used to change FmHA record of lender. (1)
1980–43	Lender's Guaranteed Loan Payment	Used by lender to transmit payments due FmHA as a holder. (3)
1980–44	Guaranteed Loan Borrower Default Status	Used by lender to inform FmHA of borrower default. (3)
1980–45	Notice of Liquidation Responsibility	Used by FmHA to indicate to Finance Office liquidation responsibility. (1)
1980–46	Report of Liquidation Expense	Used by FmHA to pay liquidation costs or appraisal fees. (1)
1980–47	Guaranteed Loan Borrower Adjustments	Used by FmHA to adjust borrower loan account. (1)
1980–49	Guaranteed Loan Status Update Adjustment	Used by FmHA to update status elements on loans. (1)
1980–51	Add, Change, or Delete Guaranteed Loan Record	Used by FmHA to update borrower information. (1)
1980–52	Report Request	Used by FmHA to request reports on guaranteed loans. (1)
449–30	Loan Note Guarantee Report of Loss	Used to claim reimbursement for losses. (2)
1980–40	Reverse a Report of Liquidation Expense	Used by FmHA to collect appraisal fees recovered from the liquidation of loan assets. (2)
Exhibit H, Subpart G of Part 1940	Environmental Assessment for Class II Actions	Format for Class II Environmental Assessment. (1)

* *Code:* (1) FmHA use only.
(2) FmHA and lender use.
(3) Lender use only.

§ 1980.1000 OMB control number.

The reporting and recordkeeping requirements contained in this regulation have been approved by the Office of Management and Budget under section 3504(h) of the Paperwork Reduction Act of 1980 and have been assigned OMB control number 0575–0152. Public reporting burden for this collection of information is estimated to average 1 hour per response including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Department of Agriculture, Clearance Officer, OIRM, room 404–W, Washington, DC 20250; and the Office of Management and Budget, Attention: Desk Officer for Farmers Home Administration, Washington, DC 20503.

Appendices to Subpart J

Form Approved

OMB No. 0575–0152

Appendix A—Form FmHA 1980–75, Conditional Commitment for Guarantee Agricultural Resource Conservation Demonstration Program

7 CFR Part 1980

Subpart J

Case No. ________________
TO: Lender ________________
State ________________
Lender's Address ________________
Borrower ________________
Principal Amount of Loan $ ________________

From an examination of information supplied by the lender on the above proposed loan, and other relevant information deemed necessary, it appears that the transaction can properly be completed.

Therefore, the United States of America acting through the Farmers Home Administration (FmHA) hereby agrees that, in accordance with applicable provisions of the FmHA regulations published in the Federal Register and related forms, it will execute Form(s) FmHA 1980–77, "Loan Note Guarantee (Agricultural Resource Conservation Demonstration Program)" subject to the conditions and requirements specified in said regulations and below.

The Loan Note Guarantee fee payable by the lender to FmHA will be the amount as specified in the regulations on the date of this Conditional Commitment for Guarantee. The annual interest rate for the loan will be ____%. The annual interest assistance rate will be ____% for years 1 through 5 and for years 6 through 10 a rate equal to the difference between the note interest rate and that charged by FmHA to its Limited Resource Operating Loan borrowers but not less than 3 percent per annum.[1]

A Loan Note Guarantee will not be issued until the lender certifies as required in 7 CFR 1980.966 there have been no adverse changes in the borrower's financial condition, or any other adverse change in the borrower's condition during the period of time from FmHA's issuance of the Conditional Commitment for Guarantee to issuance of the Loan Note Guarantee. The lender's certification must address all adverse changes and be supported by financial statements of the borrower and its guarantors not more than 60 days old at the time of certification.

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[1] Insert the fixed interest rate and the appropriate interest assistance rate.

This agreement becomes null and void unless the conditions are accepted by the lender and borrower within 60 days from the date of issuance by FmHA. Any negotiations concerning these conditions must be completed by that time.

Except as set out below, the purposes for which the loan funds will be used and the amounts to be used for such purposes, will be specified in Form FmHA 1980–74, "Application for Loan and Guarantee" and State Farmland Preservation Plan. Once this instrument is executed and returned to FmHA, no major change in conditions or approved loan purpose as listed on these forms will be considered. Additional conditions and requirements including the source and use of funds: [3]

This conditional commitment will expire on ____ [4] unless the time is extended in writing by FmHA, or upon the lender's earlier notification to FmHA that it does not desire to obtain an FmHA guarantee.

United States of America

By: ____________

Date: ____________

FmHA: ____________

(Title)

Acceptance of Conditions

To: Farmers Home Administration (FmHA) [5]

The conditions of this Conditional Commitment for Guarantee, including attachments, are acceptable and the undersigned intend to proceed with the loan transaction and request issuance of a Loan Note Guarantee within ____ days.

____

(Name of Lender)

____

(Date)

By: ____________

(Signature of Lender)

____

(Date)

____

(Signature of Borrower)

Form Approved

OMB No. 0575–0152

Appendix B—Form FmHA 1980–76, Lender's Agreement Agricultural Resource Conservation Demonstration Program

FmHA Loan ID No. ____________

7 CFR Part 1980

Subpart J

____

(Lender) of

____

has made a loan(s) to

____

(Borrower)

____

in the principal amount of $____ as evidenced by ____ note(s) (include Bond as appropriate) described as follows:

____

____

____

____

____

The United States of America, acting through Farmers Home Administration (FmHA), has entered into a "Loan Note Guarantee (Agricultural Resource Conservation Demonstration Program)" (Form FmHA 1980–77) or has issued a "Conditional Commitment for Guarantee (Agricultural Resource Conservation Demonstration Program)" (Form FmHA 1980–75) to enter into a Loan Note Guarantee with the lender applicable to such. The terms of the Loan Note Guarantee are controlling.

The Parties Agree:

I. FmHA will 100 percent guarantee the timely payment of principal and interest payments due for a period not to exceed 10 years from the date of the Loan Note Guarantee.

II. Full Faith and Credit. The Loan Note Guarantee constitutes an obligation supported by the full faith and credit of the United States and is incontestable except for fraud or misrepresentation of which the lender has actual knowledge at the time it became such lender or which the lender participates in or condones and the following:

The Loan Note Guarantee will not be honored by FmHA to the extent that any delinquency or loss is occasioned by violation of usury laws, negligent servicing, or failure to obtain the required security regardless of the time at which FmHA acquires knowledge of the foregoing. Negligent servicing is defined as the failure to perform those services which a reasonably prudent lender would perform in servicing its own portfolio of loans that are not guaranteed. The term includes not only the concept of a failure to act but also not acting in a timely manner contrary to the manner in which a reasonably prudent lender would act. The Loan Note Guarantee will not be honored by FmHA to the extent that loan funds are used for purposes other than those specifically approved by FmHA in the Conditional Commitment for Guarantee.

III. The lender agrees loan funds will be used for the purposes authorized in Subpart J of Title 7 CFR Part 1980 and in accordance with the terms of Form FmHA 1980–75.

IV. The lender certifies that none of its officers or directors, stockholders or other owners (except stockholders in a Bank of Cooperatives or other Farm Credit System (FCS) institution with direct lending authority that have normal stock share requirements for participation) have a substantial financial interest in the borrower. The lender certifies that neither the borrower nor its officers or directors, stockholders or other owners have a substantial financial interest in the lender. If the borrower is a member of the board of directors or an officer of a Bank of Cooperatives or other FCS institution with direct lending authority, the lender certifies that an FCS institution on the next highest level will independently process the loan request and will act as the lender's agent in servicing the account.

V. The lender certifies that it has no knowledge of any material adverse change, financial or otherwise, in the borrower, borrower's business, or any parent subsidiaries, or affiliates since it requested a Loan Note Guarantee.

VI. The lender certifies that a loan agreement and/or loan instruments concurred in by FmHA has been or will be signed with the borrower.

VII. The lender certifies that it has paid the required guarantee fee.

VIII. Servicing.

A. The lender will service the entire loan and will remain mortgagee and/or secured party of record, notwithstanding the fact that another may hold a portion of the loan. The entire loan will be secured by the same security with equal lien priority.

B. The lender's servicing responsibilities include, but are not limited to:

1. Obtaining compliance with the covenants and provisions in the note, loan agreement, security instruments, and any supplemental agreements and notifying in writing FmHA and the borrower of any violations. None of these instruments will be altered without FmHA's prior written concurrence. The lender must service the loan in a reasonable and prudent manner.

2. Receiving all payments on principal and interest (including interest assistance) on the loan as they fall due.

3. Inspecting the collateral (when appropriate) as often as necessary to properly service the loan.

4. Monitoring the State Farmland Preservation Plan.

5. Assuring that adequate insurance is maintained. This includes hazard insurance obtained and maintained on security property with a loss payable clause in favor of the lender as secured party.

6. Assuring that taxes, assessment or ground rents against or affecting collateral are paid; the loan and collateral are protected in foreclosure, bankruptcy, receivership, insolvency, condemnation, or other litigation, insurance loss payments, condemnation awards, or similar proceeds are applied on debts in accordance with lien priorities on which the guarantee was based, or to rebuilding or otherwise acquiring needed replacement collateral with the written approval of FmHA; proceeds from the sale or other disposition of collateral are applied in accordance with the lien priorities on which the guarantee is based; the borrower complies with all laws and ordinances applicable to the loan, the collateral and/or operating of the program.

7. In the case of guarantees secured by collateral, assuring the security is properly maintained.

8. Obtaining the lien coverage and lien priorities specified by the lender and agreed to by FmHA, properly recording or filing lien or notice instruments to obtain or maintain such lien priorities during the existence of the guarantee by FmHA.

9. Assuring that the borrower obtains marketable title to the collateral and easements or properties in fee simple acquired with loan funds.

10. Assuring that the borrower obtains marketable title to the easements or

---

[3] Insert any additional conditions or requirements in this space or on an attachment referred to in this space.

[4] FmHA will determine the expiration date of this contract. Consideration will be given to the date indicated by the lender in the Acceptance of Conditions.

[5] Return completed and signed copy of this form to issuing FmHA State Office.

properties in fee simple acquired with loan funds.

11. Assuring that the borrower (any party liable) is not released from liability for all or any part of the loan, except in accordance with FmHA regulations.

12. Providing FmHA Finance Office with loan status reports semiannually as of June 30 and December 31 on Form FmHA 1980-41, "Guaranteed Loan Status Report."

13. Obtaining from the borrower periodic financial statements under the following schedule:

The lender is responsible for analyzing the financial statements, taking any servicing actions and providing copies of statements and records of actions to the FmHA State Office responsible for the loan.

14. Monitoring the use of loan funds to ensure they will not be used for any purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as further explained in 7 CFR part 1940, subpart G, Exhibit M.

IX. Default. In case of any monetary default, the lender will negotiate with the borrower in good faith in an attempt to resolve any problem to permit the borrower to cure the default. When a loan becomes 60 days or more past due, the lender will arrange a meeting with FmHA and the borrower to resolve the problem. When an immediate solution to the delinquency cannot be reached, and upon demand by the lender, FmHA will make funds available to pay the delinquent payment. FmHA will not pay any late payment charges to the lender. All such advances are immediately due and payable and it is the responsibility of the lender to collect them from the borrower. The loan will be considered a problem loan until the advance and accrued interest on such advance is fully repaid to FmHA through the lender.

X. Liquidation. If the lender concludes that liquidation of a guaranteed loan account is necessary because of one or more defaults or third party actions that the borrower cannot, or will not, cure or eliminate within a reasonable period of time, a meeting will be arranged by the lender with FmHA. When FmHA concurs with the lender's conclusion or at any time concludes independently that liquidation is necessary, it will notify the lender. The lender will liquidate the loan unless FmHA, at its option, decides to carry out liquidation.

A. The lender's proposed method of liquidation. Within 30 days after the decision to liquidate, the lender will advise FmHA in writing of its proposed detailed method of liquidation called a liquidation plan and will provide FmHA with:

1. Such proof as FmHA requires to establish the Lender's ownership of the guaranteed loan debt instrument(s) and related security instruments.

2. Information lists concerning the borrower's assets including real and personal property, fixtures, claims, contracts, inventory (including perishables), accounts receivable, and other existing and contingent assets, advice as to whether or not each item is serving as collateral for the guaranteed loan.

3. A proposed method of making the maximum collection possible on the indebtedness.

4. If the outstanding principal loan balance, including accrued interest, is less than $200,000, the lender will obtain an estimate of the market and potential liquidation value of the collateral. On loan balances in excess of $200,000, the lender will obtain an independent appraisal report on all collateral securing the loan, which will reflect the current market value and potential liquidation value. The appraisal report is for the purpose of permitting the lender and FmHA to determine the appropriate liquidation actions.

B. FmHA's response to the lender's liquidation plan. FmHA will inform the lender in writing whether it concurs in the lender's liquidation plan. Should FmHA and the Lender not agree on the lender's liquidation plan, negotiations will take place between FmHA and the lender to resolve the disagreement. The lender will ordinarily conduct the liquidation; however, should FmHA opt to conduct the liquidation, FmHA will proceed as follows:

1. The lender will transfer to FmHA all rights and interest necessary to allow FmHA to liquidate the loan.

2. FmHA will attempt to obtain the maximum amount of proceeds from liquidation.

3. Options available to FmHA include any one or combination of the usual commercial methods of liquidation.

C. Acceleration. The lender or FmHA, if it liquidates, will proceed as expeditiously as possible when acceleration of the indebtedness is necessary, including giving any notices and taking any other legal actions required by the security instruments. A copy of the acceleration notice or other acceleration document will be sent to FmHA or the lender, as the case may be.

D. Liquidation: Accounting and Reports. When the lender conducts the liquidation, it will account for funds during the period of liquidation and will provide FmHA with periodic reports on the progress of liquidation, disposition of collateral, resulting costs, and additional procedures necessary for successful completion of liquidation. The lender will transmit to FmHA any payment received from the borrower from liquidation or other proceeds, etc., using Form FmHA 449-30, "Loan Note Guarantee Report of Loss." When FmHA liquidates, the lender will be provided with similar reports on request.

E. Income from collateral. Any net rental or other income that has been received by the lender from the collateral will be applied on the guaranteed loan debt.

XI. Protective Advances.

Protective advances must constitute an indebtedness of the borrower to the lender and be secured by the security instrument(s). FmHA written authorization is required on all protective advances in excess of $500. Protective advances include, but are not limited to, advances made for taxes, annual assessments, ground rent, hazard or flood insurance premiums affecting the collateral, and other expenses necessary to preserve or protect the security. Attorney fees are not a protective advance.

XII. Future Recovery.

After a loan has been liquidated, any future funds which may be recovered by the lender will be forwarded to FmHA.

XIII. Bankruptcy.

The lender is responsible for protecting the guaranteed loan debt and all collateral securing the loan in bankruptcy proceedings.

XIV. Other Requirements.

This agreement is subject to all the requirements of subpart J of title 7 CFR part 1980, and any future amendments of these regulations not inconsistent with this agreement. Interested parties may agree to abide by future FmHA regulations not inconsistent with this agreement.

XV. Execution of Agreements.

If this agreement is executed prior to the execution of the Loan Note Guarantee, this agreement does not impose any obligation upon FmHA with respect to the execution of such contract. FmHA in no way warrants that such a contract has been, or will be, executed.

XVI. Notices.

All notices and actions will be initiated through FmHA.

XVII. Environmental Requirements.

The lender will ensure that the borrower complies with the measure identified in the Government's environmental impact analysis for the program for the purpose of avoiding or reducing the adverse environmental impacts of the program's operation.

Dated this ___ day of ______, 19__.

LENDER:

ATTEST: ____________________

(Seal)

By: ____________________

Title: ____________________

United States of America

Farmers Home Administration

By: ____________________

Title: ____________________

Form Approved

OMB No. 0575-0152

Appendix C—Form FmHA 1980-77, Loan Note Guarantee Agricultural Resource Conservation Demonstration Program

7 CFR Part 1980

Subpart J

State ____________________

Date of Note ____________________

Borrower ____________________

FmHA Loan ID Number ____________________

Lender ____________________

Lender's IRS Tax ID Number ____________________

Lender's Address ____________________

Principal Amount of Loan $ ____________________

The principal amount of loan evidenced by __ note(s) (includes bonds as appropriate) is described below. This instrument is attached to note __ in the face amount of $____ and is number __ of __.

Lender's note number	Face amount	Percent of total face amount
Total	$____	100

In consideration of the making of the subject loan by the above-named lender, the United States of America, acting through the Farmers Home Administration, of the United States Department of Agriculture (called "FmHA"), pursuant to the Farms for the Future Act of 1990 (7 U.S.C. 4201 note, as amended by the Food, Agriculture, Conservation, and Trade Act Amendments of 1991, ____), does hereby agree that in accordance with, and subject to, the conditions and requirements in this instrument, for a period not to exceed 10 years from the date of this instrument, will:

(a) at the lender's request, advance to the lender the unpaid portion of any principal and/or interest payment, 60 days or more past due as evidenced by said note(s). Such advance will accrue interest at the note rate and must be an indebtedness of the borrower.

(b) pay to the lender, any principal and interest indebtedness on secured protective advances for protection and preservation of collateral made with FmHA's authorization, including, but not limited to, advances for taxes, annual assessments, any ground rents, and insurance premiums affecting the collateral.

Definition of Lender

The lender is the person or organization making and servicing the loan which is guaranteed under the provisions of subpart J, 7 CFR part 1980. The lender is also the party requesting a loan guarantee.

Conditions of Guarantee

1. *Loan Servicing.* The lender will remain mortgagee and/or secured party of record not withstanding the fact that another party may hold a portion of the loan. When multiple notes are used to evidence a loan, the lender will structure repayments as provided in the loan agreement. The lender will be responsible for servicing the entire loan, including any advances made by FmHA to the lender under its guarantee of timely payments.

2. *Full Faith and Credit.* The Loan Note Guarantee constitutes an obligation supported by the full faith and credit of the United States and is incontestable except for fraud or misrepresentation of which the lender has actual knowledge at the time it became such a lender or which the lender participates in or condones and the following:

(a) The Loan Note Guarantee will not be honored by FmHA to the extent that any delinquency or loss is occasioned by violation of usury laws, negligent servicing, or failure to obtain the required security regardless of the time at which FmHA acquires knowledge of the foregoing. Negligent servicing is defined as the failure to perform those services which a reasonably prudent lender would perform in servicing its own portfolio of loans that are not guaranteed. The term includes not only the concept of a failure to act but also not acting in a timely manner contrary to the manner in which a reasonably prudent lender would act.

(b) The Loan Note Guarantee will not be honored by FmHA to the extent that loan funds are used for purposes other than those specifically approved by FmHA in its Form FmHA 1980-75, "Conditional Commitment for Guarantee (Agricultural Resource Conservation Demonstration Program)."

(c) The Loan Note Guarantee is void if the note to which this is attached or relates provides for payment of interest on interest.

3. *Protective Advances.* Protective advances made by the lender pursuant to the regulations will be guaranteed to the same extent as provided in the Loan Note Guarantee.

4. *Lender's Obligations.* The lender will promptly remit to FmHA any payment or portion of a payment, including accrued interest thereon, previously advanced by FmHA to the lender under its guarantee of timely payments and subsequently received from the borrower.

5. *When Guarantee Terminates.* This Loan Note Guarantee will terminate automatically upon full payment of the guaranteed loan; or upon full payment of any loss obligations hereunder. The guarantee of timely payment of principal and interest payments due shall terminate 10 years from the date of this instrument. Losses occurring after such 10-year period are not covered by this guarantee.

6. *Settlement.* The amount due under this instrument will be determined and paid as provided in the subpart J of part 1980 of title 7 CFR in effect on the date of this instrument.

7. *Interest Assistance.* In addition to FmHA's guarantee of timely payments of principal and interest, FmHA will pay a portion of the interest to the borrower as provided in the executed Form FmHA 1980-78, "Interest Assistance Agreement (Agricultural Resource Conservation Demonstration Program)."

8. *Notices.*

All notice and actions will be initiated through the FmHA ____ for ____ (State) with mailing address at the date of this instrument

____

____

United States of America
Farmers Home Administration
By: ____________________

____

(Date)
Title: ____________________

Form Approved

OMB No. 0575-0152

Appendix D—Form FmHA 1980-78, Interest Assistance Agreement Agricultural Resource Conservation Demonstration Program

7 CFR Part 1980

Subpart J

State ____________________
Date of Note ____________________
Borrower ____________________
FmHA Loan ID No. ____________________
Lender ____________________
Lender's IRS Tax ID No. ____________________
Lender's Address ____________________
Principal Amount of Loan ____________________

The principal amount of loan is evidenced by ________ note(s) described below.

Lender's note no.	Amount of note	Note interest rate

This agreement is effective beginning ____ and expires on ____. The United States of America, acting through the Farmers Home Administration of the United States Department of Agriculture (called FmHA), pursuant to the Farms for the Future Act of 1990 (7 U.S.C. 4201 note, as amended by the Food, Agriculture, Conservation, and Trade Act Amendments of 1991, ____), agrees that in accordance with and subject to the conditions and requirements in this agreement, to assist the borrower in making its interest payments, will pay the borrower as follows:

In each of the initial 5 years of the loan beginning ____ and ending ____, FmHA agrees to pay the borrower an amount equal to the interest accruing on the loan each of the first 5 years.

In each of the sixth through tenth years of the loan beginning ____ and ending ____, FmHA agrees to pay the borrower an amount equal to the difference between the note interest rate and the rate of interest then being charged FmHA Limited Resource Operating Loan borrowers but not less than 3 percent per annum.

Payments will be made to the borrower 10 days prior to an interest payment due date. The payment shall be by wire transfer into the Trust Fund Account identified as follows:

Bank ____________________
Account # ____________________
Wire Transfer Information ____________________

Conditions of Interest Assistance

1. *Interest Assistance Payments.* FmHA payments made in connection with interest assistance will be calculated using a 360 or 365 day year method on a declining balance. The lender will indicate on Form FmHA 1980-19, "Guaranteed Loan Closing Report," the preferred method which may not change once established. The lender will notify FmHA of the interest due using Form FmHA 1980-24, "Request Interest Rate Buydown/Subsidy Payment to Guaranteed Lender," 30 days prior to the payment due date.

2. *When Interest Assistance Payments Cease.* Interest assistance payments will cease upon termination of the Loan Note Guarantee reaching the expiration date set forth in this agreement or upon cancellation by the Government.

3. *Cancellation of Interest.* The lender certifies that the amount of interest reduction on the subject borrower's account will be permanently cancelled as it becomes due and no attempt will be made to collect that portion of the debt which will be paid by FmHA.

4. *Regulatory Changes.* This Agreement is subject to the present regulations of the FmHA and its future regulations not inconsistent with any provision of this Agreement.

5. *Cancellation.* The Interest Assistance Agreement is incontestable except for fraud or misrepresentation of which the lender has actual knowledge at the time this Agreement is executed or for which the lender participates in or condones.

6. *Access to Lender's Files.* Upon request by FmHA, the lender will permit representatives of FmHA (or other agencies of the U.S. Department of Agriculture

authorized by that Department) to inspect and make copies of any of the records of the lender pertaining to FmHA guaranteed loans. Such inspection and copying may be made during regular office hours of the lender or any other time the lender and FmHA find convenient.

7. *Use of Interest Assistance.* Borrower shall use the interest assistance solely to promptly pay interest as it becomes due on the loan. To the extent permitted by law and the supervisory agency, the lender agrees to allow FmHA access to audit findings by the lender's supervising agency when examining interest assistance claims.

Address: ______
United States of America
Farmers Home Administration
______
By: ______
Title: ______

Acknowledged
Borrower:
Attest: ______
(SEAL)
By: ______
Title: ______

Lender:
Attest: ______
(SEAL)
By: ______
Title: ______
______

Dated: December 16, 1991.

La Verne Ausman,

Administrator, Farmers Home Administration.

[FR Doc. 92-2669 Filed 1-31-92; 11:31 am]

BILLING CODE 3410-07-M

federal register

Tuesday
February 4, 1992

Part XI

Department of Transportation

Federal Aviation Administration

14 CFR Parts 91 and 135

Special Flight Rules in the Vicinity of the Grand Canyon National Park, Proposed Rule

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91 and 135

[Docket No. 25149; Special Federal Aviation Regulation (SFAR) No. 50–2]

Special Flight Rules in the Vicinity of the Grand Canyon National Park

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking; extension of expiration date.

SUMMARY: This proposal would continue for an additional 3 years the effectiveness of the temporary procedures for the operation of all aircraft in the airspace above Grand Canyon National Park up to an altitude of 14,500 feet above mean sea level. The provisions of SFAR 50–2 originally established the flight restriction areas for a period of 4 years to allow the National Park Service (NPS) time to complete studies of the impact of aircraft overflights on the Grand Canyon and to forward its recommendations to the FAA. This proposal would continue the effectiveness of these procedures while NPS studies and analyses are being conducted.

DATES: Comments must be received on or before April 6, 1992.

ADDRESSES: Comments on the proposed rule should be mailed, in triplicate, to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC–10), Docket No. 25149, 800 Independence Avenue SW., Washington, DC., 20591. Comments may be examined in Room 915G weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Melodie De Marr, Air Traffic Rules Branch, ATP–230, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC, 20591; telephone (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on this proposed rule by submitting such written data, views, or arguments as they may desire on any portion of the proposal. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions. Comments should identify the regulatory docket number and be submitted in triplicate to the Rules Docket address specified above. All comments received, as well as a report summarizing any substantive public contacts with the Federal Aviation Administration (FAA) personnel on this rulemaking, will be filed in the docket.

Commenters wishing the FAA to acknowledge receipt of their comments must submit with their comments a preaddressed, stamped postcard on which the following statement is made: "Comments to Docket No. 25149." The postcard will be date/time stamped and returned to the commenter. All comments submitted will be available for examination in the Rules Docket both before and after the comment closing date.

Availability of Document

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Public Affairs, APA–200, 800 Independence Avenue SW., Washington, DC, 20591; or by calling (202) 267–3484. Requests should be identified by the docket number or the special rule number of this SFAR. Persons interested in being placed on a mailing list for future rules should also request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

On June 5, 1987, the FAA issued SFAR 50–1 (52 FR 22734, June 15, 1987) which established flight regulations in the vicinity of the Grand Canyon National Park.

On August 18, 1987, legislation was enacted to require a study of aircraft noise impacts at a number of national parks and to impose flight restrictions at three parks: Grand Canyon National Park, Yosemite National Park in California, and Haleakala National Park in Hawaii. (Pub. L. 100–91).

Section 3 of Public Law 100–91 required the Secretary of the Interior to submit to the FAA Administrator recommendations for action necessary for the protection of resources in the Grand Canyon from adverse impacts associated with aircraft overflights. The recommendations were to provide for substantial restoration of the natural quiet and experience of the Grand Canyon. With limited exceptions, the recommendations were to prohibit the flight of aircraft below the rim of the Canyon and to designate zones that were flight free except for purposes of administration of underlying lands and emergency operations.

Public Law 100–91 further required the Administrator of the FAA to prepare and issue a final plan for the management of air traffic above the Grand Canyon. The plan was to implement the recommendations of the Secretary without change unless the Administrator determined, after consultation with the Secretary and opportunity for notice and public hearing, that implementing the recommendations would adversely affect aviation safety. In that event, the FAA was required to revise the Department of the Interior (DOI) recommendations to resolve the safety concerns and issue regulations implementing the revised recommendations in the plan.

In December 1987, the Office of the Secretary of the Interior transmitted recommendations to the FAA for an aircraft management plan at the Grand Canyon. The recommendations submitted included both rulemaking and nonrulemaking actions.

On May 27, 1988, the FAA issued SFAR 50–2 (53 FR 20264, June 2, 1988) which revised the procedures for operation of aircraft in the airspace above the Grand Canyon. The rule implemented the preliminary recommendations of the Office of the Secretary of the Interior for an aircraft management plan at the Grand Canyon with some modifications that the FAA initiated in the interest of aviation safety.

Public Law 100–91 also required the DOI to conduct a study, with the technical assistance of the Secretary of Transportation, to determine the proper minimum altitude to be maintained by aircraft when flying over units of the National Park System. The research was to include an evaluation of the noise levels associated with overflights. Before submission to Congress, the DOI is to provide a draft report (containing the results of its studies) and recommendations for legislative and regulatory action to the FAA for review. The FAA is to notify the DOI of any adverse effects these recommendations would have on the safety of aircraft operations. The FAA is to consult with the DOI to resolve these issues. The final report must include a finding by the FAA that implementation of the DOI recommendations will not have adverse effects on the safety of aircraft operations, or, in the alternative, a statement of the reasons why the recommendations will have an adverse effect.

On a continuing basis, the FAA reviews the existing rules and regulations pertaining to flight in the National Airspace System which includes the airspace over national park units. The rules currently provide for the safety of aircraft by specifying a minimum safe altitude for the operation of aircraft. The FAA will consider specific rule changes relating to aircraft overflights of national park system units, consistent with aviation safety, after completion of the NPS studies on the impact of aircraft overflights and the FAA's receipt of NPS recommendations.

This proposed action would continue the provisions of SFAR 50–2 for another 3 years to allow the NPS to complete studies to assess the adverse impact of aircraft overflights at Grand Canyon National Park and forward its recommendations to the FAA and to Congress. At that time, the FAA will determine the necessity for adjustment of flight restrictions over the Grand Canyon National Park.

Environmental Review

An environmental assessment of SFAR 50–2 and a Finding of No Significant Impact were placed in the rules docket. The environmental assessment concluded that, as a result of the SFAR, certain areas of the Grand Canyon would be subject to less aircraft noise than under existing regulations; and other areas, in particular the Hermits Rest area of the south canyon rim, would be subject to a slight increase in perceived aircraft noise. However, in consideration of the volume of traffic, the altitude of flight routes, and the noise characteristics of the aircraft typically used in canyon flights, the FAA has determined that no significant environmental impact would result from this proposed rule.

Regulatory Evaluation Summary

This action proposes to extend the provisions of SFAR 50–2 for 3 years. SFAR 50–2 was justified based on DOI's December 1987 benefit-cost analysis. Since that SFAR was published as a final rule in June 1988, the FAA has not obtained any information that is contrary to that analysis. In its original benefit-cost analysis, the DOI concluded the cost to air tour operators would be negligible and there would be significant benefits to park resources and visitors. Therefore, the DOI determined that the requirements of SFAR 50–2 would be cost-beneficial. For lack of information to the contrary, the FAA contends that the DOI's negligible cost impact conclusion is still valid. However, a recent review of Docket No. 25149 revealed that one operator stated that his company would incur an additional operating cost of $150,000 as a result of the original SFAR 50–2 published in 1988. The FAA solicits further comments on this proposed SFAR concerning additional operating costs imposed on affected operators.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), there are no requirements for information collection associated with this proposed rule.

International Trade Impact Statement

This proposed SFAR is expected to have neither an adverse impact on the trade opportunities for U.S. firms doing business abroad nor on foreign firms doing business in the United States. This assessment is based on the fact that part 135 air tour aircraft operators potentially impacted by this proposed SFAR do not compete with similar operators abroad. That is, their competitive environment is confined to the Grand Canyon National Park.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that all small entities are not unnecessarily and disproportionately burdened by Government regulations. The RFA requires Government agencies to review rules which may have "a significant economic impact on a substantial number of small entities." The small entities potentially impacted by this proposed SFAR represent part 135 air tour operators with nine or less aircraft owned, but not necessarily operated. Based on FAA Order 2100.14A, the FAA's annualized threshold of significant economic impact for each of these small entities is estimated to be $60,000 (in 1990 dollars.) As a result of adopting the DOI assessment of negligible cost of compliance to the small entities operating over the Grand Canyon, which was published in the cost-benefit analysis for SFAR 50–2 on June 2, 1988, the FAA concludes that this same proposal would not have a substantial economic impact on a substantial number of small entities.

Federalism Determination

The amendment proposed herein will not have substantial direct effects on the states, on the relationship between the Federal Government and the states, or on the distribution of power and responsibilities among the various levels of government. The regulations set forth in this notice will be promulgated pursuant to the authority in the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301, et seq.), which has been construed to preempt state law regulating the same subject. Therefore, in accordance with Executive Order 12612, it is determined that this regulation does not have federalism implications warranting the preparation of a Federalism Assessment.

Conclusion

For the reasons set forth above, the FAA has determined that this proposed amendment is not major under Executive Order 12291. In addition, the FAA certified that this proposed amendment, if adopted, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This proposed amendment is not considered significant under DOT Regulatory Policies and Procedures (44 FR 11024; February 26, 1979).

List of Subjects in 14 CFR Parts 91 and 135

Aircraft, Aviation safety, Air taxi and commercial operators, Grand Canyon.

The Proposed Special Federal Aviation Regulation

For the reasons set out above, the Federal Aviation Administration proposes to amend 14 CFR parts 91 and 135 as follows:

PARTS 91 AND 135—[AMENDED]

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; Articles 12, 29, 31, and 32(a) of the Convention on International Civil Aviation (61 Stat. 1180); 42 U.S.C. 4321 et seq.; E.O. 11514; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

2. The authority citation for Part 135 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1355(a), 1421 through 1431, and 1502; 49 U.S.C. 106(g) (revised Pub. L. 97–449, January 12, 1983).

3. Section 9 of Special Federal Aviation Regulation No. 50–2 is revised to read as follows:

Special Federal Aviation Regulation No. 50–2 Special Flight Rules in the Vicinity of the Grand Canyon National Park, AZ

* * * * *

Section 9. Termination date. This Special Federal Aviation Regulation expires on June 15, 1995.

* * * * *

Issued in Washington, DC on January 29, 1992.

L. Lane Speck,
Director, Air Traffic Rules and Procedures Service.

[FR Doc. 92-2623 Filed 2-3-92; 8:45 am]

BILLING CODE 4910-13-M

federal register

Tuesday
February 4, 1992

Part XII

National Archives and Records Administration

Self-Service Videotape Copying; Notice

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Self-Service Videotape Copying

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: On November 19, 1991 at 56 FR 58311, NARA issued a final rule that prohibited researchers from bringing their personal video copying equipment into the Motion Picture, Sound, and Video Research Room. To accommodate researchers who formerly used personal equipment to make reference copies of our film and video holdings, NARA is planning to offer self-service videotape copying of nonrestricted film and video holdings in a special research room.

A description of the proposed service is available to interested persons by calling the NARA contact shown in this notice. NARA welcomes comments on the proposal and will take such comments into consideration in the development of operating procedures for the service.

DATES: Comments on the proposal should be received by March 20, 1992 to be considered.

ADDRESSES: Written comments should be sent to Director, Policy and Program Analysis Division, National Archives and Records Administration (NAA), Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the description of the proposed service or for further information, please call John Constance or Mary Ann Palmos on (202) 501-5110.

Dated: February 3, 1992.

Don W. Wilson,

Archivist of the United States.

[FR Doc. 92-2889 Filed 2-3-92; 10:43 am]

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Note: The List of Public Laws for the first session of the 102d Congress has been completed and will be resumed when bills are enacted into public law during the second session of the 102d Congress, which convenes on January 3, 1992. A cumulative list of Public Laws for the first session was published in Part II of the **Federal Register** on January 2, 1992.

The Federal Register

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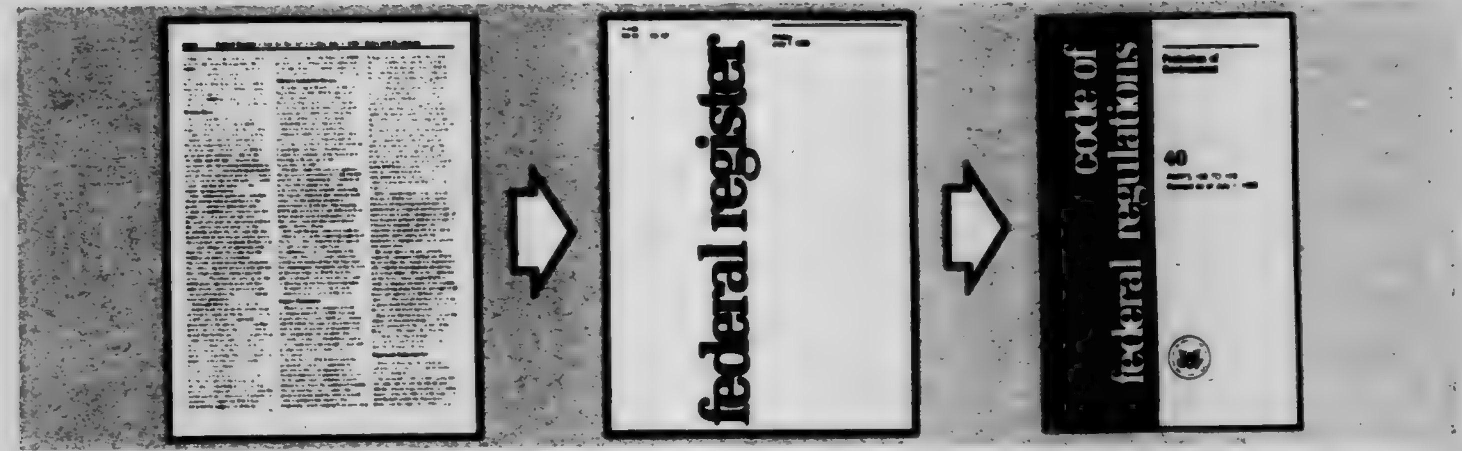

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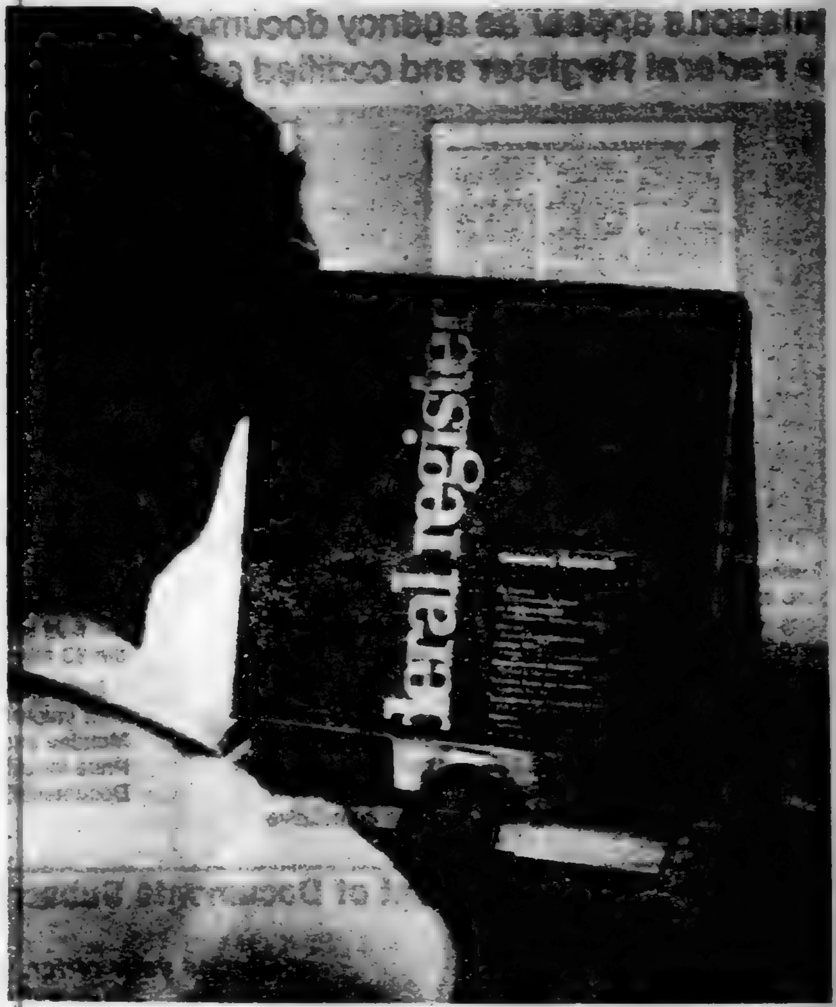

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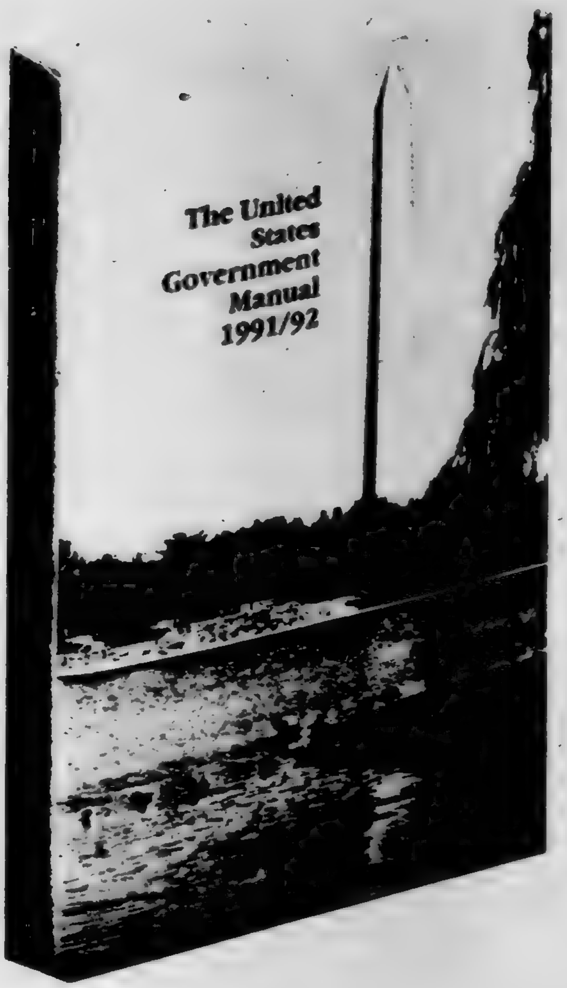

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
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DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1942

Technical Assistance and Training Grants

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations on Technical Assistance and Training Grants. This action is being taken by FmHA to establish a new grant program for technical assistance for solid waste disposal facilities. The intended effect of this action is to expand existing regulations to include the new technical assistance grant program.

EFFECTIVE DATE: February 5, 1992.

FOR FURTHER INFORMATION CONTACT: Donna H. Roderick, Loan Specialist, Water and Waste Disposal Division, Farmers Home Administration, USDA, South Agriculture Building, room 6328, Washington, DC 20250, telephone: (202) 720–9589.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1, which implements Executive Order 12291, and has been determined to be non-major. The annual effect on the economy will be less than $100 million. There will be no significant increase in costs or prices for consumers, individual industries, organizations, governmental agencies, or geographic regions. There will be no significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete in domestic or export markets.

Intergovernmental Review

This program is listed in the Catalog of Federal Domestic Assistance under number 10.436, Technical Assistance and Training Grants. The program is excluded from coverage under the provisions of Executive Order 12372, therefore, intergovernmental consultation with State and local officials is not required.

Environmental Impact Statement

This action has been reviewed in accordance with FmHA Instruction 1940–G, "Environmental Program." FmHA has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement is not required.

Regulatory Flexibility Act

The Administrator of Farmers Home Administration has determined that this action will not have a significant economic impact on a substantial number of small entities because, in terms of the total number of entities, less than 25 will be affected annually.

Background

This action extends FmHA's regulations for making technical assistance and training grants, by providing for solid waste management grants. These grants will assist nonprofit organizations in providing technical assistance to rural communities for solid waste management. According to the provisions of the Food, Agriculture, Conservation and Trade Act of 1990, Public Law 101–624, the grants will be used to assist communities in the elimination of pollution of water resources and the improvement of solid waste disposal facilities.

FmHA amends subpart J of part 1942 to bring FmHA Technical Assistance and Training grant regulations into compliance with Public Law 101–624.

On July 11, 1991, an interim rule was published in the **Federal Register** (56 FR 31535) for a 60-day review and comment period. Forty-six comments were received from the public review process. The comments focused on two aspects of the interim rule.

First, forty-six commenters requested that the word "regional" be defined. The interim rule stated that preapplications proposing to provide for regional technical assistance would receive funding priority. Although the interim rule did not define "regional," the existing technical assistance and training regulations suggested that "regional" encompassed multi-State areas. The comments uniformly suggested that "regional," in the context of the solid waste management grants, should include multi-jurisdictional areas within a State, rather than being limited to multi-State areas. The Agency agrees with these comments. Therefore, FmHA has defined "regional" at Section 1942.454 of the final rule as any multi-jurisdictional area including multi-State or any multi-jurisdictional area within a State.

Second, thirty-one comments were received concerning whether eligibility for solid waste management grants was limited to private, nonprofit organizations. Pursuant to its enabling statute, applicants for technical assistance and training grants are limited to private non-profit entities. By amending the technical assistance regulations in the interim rule, the private non-profit eligibility criteria was incorporated into the solid waste management grant program. The enabling statute for the solid waste management grants does not limit eligible applicants only to private non-profit entities, and the comments suggested uniformly that applicants eligible for the solid waste management grants should include public entities as well. The Agency agrees with these comments. Therefore, FmHA has expanded the eligibility criteria at § 1942.457 of the final rule to recognize that public bodies, including local governmental-based multi-jurisdictional organizations are eligible for these grants. Priority for solid waste management grants will be given to these organizations within available funds. In expanding the eligibility provisions to include public non-profits, § 1942.463 of the regulation was also revised to include guidance on establishing that the public entity is legally authorized, in a manner similar to the interim regulation's review of the private non-profit's legal existance and authority.

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Finally, two administrative revisions were made to the interim rule. First, the procedural reference for audit requirements has been revised in § 1942.475, to refer to another section of part 1942–A. Second, language pertaining to the paperwork reduction project was added, to § 1942.500.

Lists of Subjects in 7 CFR Part 1942

Community development, Community facilities, Rural areas.

Therefore, chapter XVIII, title 7, Code of Federal Regulations is amended by adopting the interim rule published on July 11, 1991 (56 FR 31535) as a final rule with the following amendments:

PART 1942—ASSOCIATIONS

1. The authority citation for part 1942 continues to read as follows:

Authority: 7 U.S.C. 1989; 16 U.S.C. 1005; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart J—Technical Assistance and Training Grants

2. Section 1942.454 is amended by adding a definition in alphabetical order for "Regional" to read as follows:

§ 1942.454 Definitions.

* * * * *

Regional—For purposes of the Solid Waste Management grant program, as implemented through this subpart, regional is defined as any multi-jurisdictional area including multi-State or any multi-jurisdictional area within a State.

* * * * *

3. Section 1942.457 is revised to read as follows:

§ 1942.457 Eligibility.

(a) Entities eligible for Technical Assistance and Training (TAT) grants are private nonprofit organizations that have been granted tax exempt status by the Internal Revenue Service (IRS) of the United States.

(b) Entities eligible for Solid Waste Management (SWM) grants are nonprofit organizations, including:

(1) Private nonprofit organizations that have been granted tax exempt status by the IRS; and,

(2) Public bodies including local governmental-based multi-jurisdictional organizations.

(c) Applicants for either TAT or SWM grants must also have the proven ability, background, experience, legal authority and actual capacity to provide technical assistance and/or training on a regional basis to associations as provided in § 1942.453 of this subpart.

4. Section 1942.463 is amended by revising paragraph (b)(1) to read as follows:

§ 1942.463 Preapplications.

* * * * *

(b) * * *

(1) Evidence of applicant's legal existence and authority in the form of certified copies of organizational documents and a certified list of directors and officers with their respective terms.

* * * * *

5. Section 1942.464 is amended by revising paragraph (b) to read as follows:

§ 1942.464 Priority.

* * * * *

(b) Preapplications received from local governmental-based, multi-jurisdictional organizations for the SWM grant program will be given priority within the available funds.

6. Section 1942.475 is revised to read as follows:

§ 1942.475 Audit.

The grantee will provide an audit report prepared in accordance with § 1942.17(q)(4) of subpart A of part 1942 of this chapter within 90 days after project completion.

7. Section 1942.500 is revised to read as follows:

§ 1942.500 OMB control number.

The collection of information requirements contained in this regulation have been approved by the Office of Management and Budget and have been assigned OMB control number 0575–0123. Public reporting burden for this collection of information is estimated to vary from 15 minutes to 4 hours per response, with an average of 1 hour per response including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, room 404–W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB #0575–0123), Washington, DC 20503.

Dated: January 2, 1992.

La Verne Ausman,

Administrator, Farmers Home Administration.

[FR Doc. 92–2696 Filed 2–4–92; 8:45 am]

BILLING CODE 3410-07-M

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7 CFR Part 1980

Business and Industrial Loan Program

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) revises its regulation to clarify the processing of changes in terms and conditions for guarantee required for loan closing. FmHA revises its regulation to grant authority to State Directors with loan approval authority, the authority to approve changes in terms and conditions for guarantee and substitution of new eligible lenders. The intended effect of this action will enhance delivery to rural business entities and lenders.

EFFECTIVE DATE: February 5, 1992.

FOR FURTHER INFORMATION CONTACT: Beverly I. Craver, Business and Industry Loan Specialist, FmHA, USDA, room 6327, 14th and Independence Avenue, SW., Washington, DC 20250. Telephone (202) 690–3805.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures established in Departmental Regulation 1512–1, which implements Executive Order 12291, and has been determined to be exempt from those requirements because it involves only internal agency management. It is the policy of this Department to publish for comment rules relating to public property, loans, grants, benefits, or contracts, notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rulemaking since it involves only internal management, making publication for comment unnecessary.

Intergovernmental Review

The program impacted by this action is listed in the Catalog of Federal Domestic Assistance under number 10.422, Business and Industrial Loans and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V, 48 FR 29112, June 24, 1983). FmHA conducts intergovernmental consultation in the manner delineated in FmHA Instruction 1940–J.

Environmental Impact Statement

The action has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." FmHA has determined that this proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Public Law 91-190, an Environmental Impact Statement is not required.

Background

The current regulation for the FmHA guaranteed loan program requires that all changes in terms and conditions initially agreed upon by the lender, business and FmHA must be submitted to the National Office for review and concurrence. In addition the current regulation requires that any transfer of lenders must also be approved by the National Office.

The regulation is being revised to allow State Directors to approve changes in terms and conditions and transfer of lenders if the loan is within their loan approval authority.

List of Subjects in 7 CFR Part 1980

Loan programs—Agriculture, Business and Industry.

Accordingly, chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

PART 1980—GENERAL

1. The authority citation for Part 1980 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; U.S.C. 301; 7 CFR 2.23 and 2.70.

Subpart E—Business and Industrial Loan Program

2. Section 1980.453 ADMINISTRATIVE is amended by revising paragraph A. to read as follows:

§ 1980.453 Review of requirements.

* * * * *

Administrative:

A. The State Director will negotiate with the lender and proposed borrower any changes made to the initially issued or proposed Form FmHA 449-14. For loans requiring National Office concurrence, a copy of Form FmHA 449-14 and any amendments thereto will be included when the loan file is submitted to the National Office for review. When the National Office recommends modifications or additions to Form FmHA 449-14, the State Director will further negotiate these recommendations with the lender and proposed borrower. If, as a result of these further negotiations, the lender, proposed borrower or State Director presents alternate conditions which would result in a change in the scope of the proposed project and if the loan exceeds the State Director's loan approval authority, the State Director will submit these conditions by memorandum to the National Office for consideration with a copy of the revised Form FmHA 449-14 and any amendments thereto. If the loan is within the State Director's loan approval authority, the State Director may approve such changes.

* * * * *

3. Section 1980.454 is amended by changing the words "B&I Chief" to "B&I or C&BP Chief" in the second sentence of paragraph (e) and by revising paragraphs (a), and (c), and the introductory text of Administrative paragraph F to read as follows:

§ 1980.454 Conditions precedent to issuance of the Loan Note Guarantee.

* * * * *

(a) *Transfer of lenders.* The FmHA State Director may approve a substitution of a new eligible lender in place of a former lender who holds an outstanding Conditional Commitment for Guarantee (where the Loan Note Guarantee has not yet been issued and the loan is within the State Director's loan approval authority) provided there are no changes in the borrower's ownership or control, loan purposes, scope of project and loan conditions in the Form FmHA 449-14 and the loan agreement remains the same. To effect such a substitution, the former lender will provide FmHA with a letter stating the reasons it no longer desires to be a lender for the project. For loans in excess of the State Director's loan approval authority, National Office concurrence is required. The State Director will submit a recommendation concerning the transfer of lenders along with the lender's letter stating the reasons it no longer desires to be a lender for the project. The substituted lender will execute a new Part "B" of Form FmHA 449-1. If approved by FmHA, the State Director will issue a letter or amendment to the original Form FmHA 449-14 reflecting the new lender and the new lender will acknowledge acceptance of the letter or amendment in writing.

* * * * *

(c) *Changes in terms and conditions in Form FmHA 449-14.* It is the intent of FmHA that once the Form FmHA 449-14 is issued and accepted by the lender, the commitment is not to be modified as to the scope of the project, overall facility concept, project purpose, use of proceeds or terms and conditions. Should changes be requested by the lender, the State Director will negotiate with the lender and proposed borrower any proposed changes to the originally accepted Form FmHA 449-14. If, as a result of these negotiations, the lender, proposed borrower or State Director presents alternate conditions which would result in a change in the scope of the project, and if the loan exceeds the State Director's loan approval authority, the State Director will submit these changes in the conditions by memorandum to the National Office for consideration with a copy of the revised Form FmHA 449-14 and any amendments thereto. Changes to the conditional commitment may be approved by the State Director for loans within their loan approval authority.

* * * * *

Administrative:

* * * * *

F. *Par (c) Changes in terms and conditions in Form FmHA 449-14.* The State Director will review any request for changes to Form FmHA 449-14. Only those changes which do not materially affect the project, its capacity, employment, original projections or credit factors may be approved. Changes in legal entities or where tax considerations are the reason for change will not be approved when modifying any loan guarantee or conditions of guarantee. State Directors may approve these changes in terms and conditions if the loan is within the State Director's loan approval authority and the change will not result in a major change in the scope of the project. Changes in terms and conditions for loans in excess of the State Director's loan approval authority, must be submitted to the National Office with a memorandum of facts and recommendations for review and concurrence.

In order to identify the number and types of action taken, the following procedures are to be followed when requests of this type are approved by FmHA.

* * * * *

Dated: January 3, 1992.

La Verne Ausman,

Administrator, Farmers Home Administration.

[FR Doc. 92-2697 Filed 2-4-92; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 26747; Amdt. No. 1476]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS-420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (Air), Standard instrument approaches, Weather.

Issued in Washington, DC on January 17, 1992.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for Part 97 continues to read as follows:

Authority: 49 U.S.C. App. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS,

ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

* * * *Effective March 5, 1992*

Nome, AK—Nome, VOR-A, Orig.
Nome, AK—Nome, NDB B, Orig.
Fort Collins (Loveland), CO—Fort Collins-Loveland Muni, VOR/DME-A, Amdt. 5
Fort Collins (Loveland), CO—Fort Collins-Loveland Muni, NDB RWY 33, Amdt. 3
Fort Collins (Loveland), CO—Fort Collins-Loveland Muni, ILS RWY 33, Amdt. 4
Fort Collins (Loveland), CO—Fort Collins-Loveland Muni, VOR/DME RNAV RWY 15, Amdt. 3
Fort Collins (Loveland), CO—Fort Collins-Loveland Muni, VOR/DME RNAV RWY 33, Amdt. 4
Washington, IA—Washington Muni, VOR/DME-A, Amdt. 3
Washington, IA—Washington Muni, VOR/DME, RNAV RWY 31, Amdt. 3
Cleveland, OH—Cleveland-Hopkins Intl, NDB RWY 23L, Amdt. 3, CANCELLED
Cleveland, OH—Cleveland-Hopkins Intl, NDB RWY 23R, Amdt. 3, CANCELLED
Cleveland, OH—Cleveland-Hopkins Intl, NDB RWY 5L, Amdt. 3
Cleveland, OH—Cleveland-Hopkins Intl, NDB RWY 5R, Amdt. 4
Cleveland, OH—Cleveland-Hopkins Intl, NDB RWY 23L, Orig.
Cleveland, OH—Cleveland-Hopkins Intl, NDB RWY 23R, Orig.
Cleveland, OH—Cleveland-Hopkins Intl, ILS RWY 5R, Amdt. 14
Cleveland, OH—Cleveland-Hopkins Intl, ILS RWY 23L, Amdt. 14
Cleveland, OH—Cleveland-Hopkins Intl, ILS RWY 28, Amdt. 20
Cleveland, OH—Cleveland-Hopkins Intl, RADAR-1, Amdt. 31, CANCELLED
Cleveland, OH—Cleveland-Hopkins Intl, VOR/DME RNAV RWY 10, Amdt. 11
Cleveland, OH—Cleveland-Hopkins Intl, VOR/DME RNAV RWY 18, Amdt. 10
Cleveland, OH—Cleveland-Hopkins Intl, VOR/DME RNAV RWY 36, Amdt. 10
Philadelphia, PA—Philadelphia Intl, VOR/DME-A, Amdt. 1
Mitchell, SD—Mitchell Muni, VOR RWY 30, Amdt. 2
Winchester, VA—Winchester Regional, LOC RWY 32, Amdt. 3
Lake Geneva, WI—Americana, VOR RWY 23, Amdt. 6, CANCELLED

* * * *Effective February 6, 1992*

Rangeley, ME—Rangeley Muni, NDB-A, Amdt. 2

* * * *Effective January 9, 1992*

Wilmington, NC—New Hanover Intl, RADAR-1, Amdt. 6

* * * *Effective January 8, 1992*

Longview, TX—Gregg County, NDB RWY 13, Amdt. 14
Longview, TX—Gregg County, ILS RWY 13, Amdt. 10

* * * *Effective January 7, 1992*

Fort Worth, TX—Meacham Field, LOC BC RWY 34R, Amdt. 7

* * * *Effective January 6, 1992*

Pellston, MI—Pellston Regional Airport of Emmet County, VOR/DME RWY 5, Amdt. 10

[FR Doc. 92-2724 Filed 2-4-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 97

[Docket No. 26745; Amdt. No. 1475]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPS) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPS, mailed once every 2 weeks, are for sale by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS-420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC) /Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviations Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The Provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure indentification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to

FDC/P NOTAMs, the respective FDC/T NOTAMs have been cancelled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPs criteria were applied to only these specific conditions existing at the affected airports.

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the US Standard for Terminal Instrument Approach Procedures (TERPs). Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (Air), Standard instrument approaches, Weather.

Issued in Washington, DC on January 17, 1992.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. App. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

NFDC TRANSMITTAL LETTER

Effective	State	City	Airport	FDC No.	SIAP
01/06/92	AR	West Memphis	West Memphis Muni	FDC 2/0061	NDB Rwy 17 Amdt 8.
01/06/92	AR	West Memphis	West Memphis Muni	FDC 2/0062	NDB-B Amdt 1.
01/06/92	AR	West Memphis	West Memphis Muni	FDC 2/0063	VOR/DME-A Amdt 4.
01/06/92	MI	Escanaba	Delta County	FDC 2/0047	ILS/DME Rwy 9 Amdt 3. This Corrects TL 92-02.
01/07/92	IL	Canton	Ingersoll	FDC 2/0070	VOR-A Amdt 7.
01/07/92	IL	Canton	Ingersoll	FDC 2/0071	NDB Rwy 36 Amdt 2.
01/10/92	MD	Salisbury	Salisbury-Wicomico Co Regional	FDC 2/0128	RNAV Rwy 23 Amdt 3.
01/10/92	MD	Salisbury	Salisbury-Wicomico Co Regional	FDC 2/0129	RNAV Rwy 5 Amdt 3.
01/13/92	OH	Akron	Akron-Canton Regional	FDC 2/0187	ILS Rwy 23 Amdt 9.
01/14/92	KS	Dodge City	Dodge City Regional	FDC 2/0190	ILS Rwy 14 Orig.
01/14/92	MO	Cassville	Cassville Muni	FDC 2/0203	VOR Rwy 8 Amdt 1.
01/14/92	MO	Sikeston	Sikeston Muni	FDC 2/0201	VOR Rwy 20 Amdt 2.
01/14/92	MO	West Plains	West Plains Muni	FDC 2/0202	NDB Rwy 36 Orig.
01/14/92	PA	Harrisburg	Capital City	FDC 2/0214	ILS Rwy 8 Amdt 10.
01/14/92	TN	Columbia/Mount Pleasant	Maury County	FDC 2/0229	NDB Rwy 23 Amdt 3.
01/14/92	TN	Jackson	McKellar-Sipes Regional	FDC 2/0236	LOC BC Rwy 20 Amdt 5.
12/30/91	NE	Norfolk	Norfolk/Karl Stefan Memorial	FDC 1/6466	ILS Rwy 1 Amdt 3.

NFDC Transmittal Letter Attachment

West Memphis

West Memphis Muni
Arkansas
NDB RWY 17 AMDT 8 . . .
Effective: 01/06/92

FDC 2/0061/AWM/ FI/P West Memphis Muni, West Memphis, AR. NDB RWY 17 AMDT 8 . . . Delete Note. "activate VASI RWY 35–CTAF." This becomes NDB RWY 17 AMDT 8A.

West Memphis

West Memphis Muni
Arkansas
NDB–B AMDT 1 . . .
Effective: 01/06/92

FDC 2/0062/AWM/ FI/P West Memphis Muni, West Memphis, AR. NDB–B AMDT 1 . . . Change missed approach to read . . . climb to 1800 then left turn direct AWM NDB and hold. Circling MDA 720/HAA 508 CAT C. Delete note, "activate VASI RWY 35–CTAF." This becomes NDB–B AMDT 1A.

West Memphis

West Memphis Muni
Arkansas
VOR/DME–A AMDT 4 . . .
Effective: 01/06/92

FDC 2/0063/AWM/ FI/P West Memphis Muni, West Memphis, AR. VOR/DME–A AMDT 4 . . . Circling MDA 700/HAA 488 CAT A. Circling MDA 720/HAA 508 CAT C. MSA from Gilmore VOR/DME . . . 360–090 2500; 090–360 1900. Delete note, "activate VASI RWY 35–CTAF." This becomes VOR/DME–A AMDT 4A.

Canton

Ingersoll
Illinois
VOR–A AMDT 7 . . .

Effective: 01/07/92

FDC 2/0070/CTK/ FI/P Ingersoll, Canton, IL. VOR–A AMDT 7 . . . Delete note, "activate MIRL RWYS 9–27, 18–36, REIL RWY 36 and VASI RWYS 9, 27, 18, 36–CTAF. This is VOR–A AMDT 7A.

Canton

Ingersoll
Illinois
NDB RWY 36 AMDT 2 . . .
Effective: 01/07/92

FDC 2/0071/CTK/ FI/P Ingersoll, Canton, IL. NDB RWY 36 AMDT 2 . . . Delete note, "activate MIRL RWYS 9–27, 18–36, REIL RWY 36 and VASI RWYS 9, 27, 18, 36–CTAF." This is NDB RWY 36 AMDT 2A.

Dodge City

Dodge City Regional
Kansas
ILS RWY 14 ORIG . . .
Effective: 01/14/92

FDC 2/0190/DDC/ FI/P Dodge City Regional, Dodge City, KS. ILS RWY 14 ORIG . . . Add fix name EARPP AT IAF DDC R–073/15DME. This becomes ILS RWY 14 ORIG A.

Salisbury

Salisbury-Wicomico Co Regional
Maryland
RNAV RWY 23 AMDT 3 . . .
Effective: 01/10/92

FDC 2/0128/SBY/ FI/P Salisbury-Wicomico Co Regional, Salisbury, MD. RNAV RWY 23 AMDT 3 . . . Delete RWY lights note. This becomes RNAV RWY 23 AMDT 3A.

Salisbury

Salisbury-Wicomico Co Regional
Maryland
RNAV RWY 5 AMDT 3 . . .
Effective: 01/10/92

FDC 2/0129/SBY/ FI/P Salisbury-Wicomico Co Regional, Salisbury, MD. RNAV RWY 5 AMDT 3 . . . Delete RWY lights note. This becomes RNAV RWY 5 AMDT 3A.

Escanaba

Delta County
Michigan
ILS/DME RWY 9 AMDT 3 . . .
Effective: 01/06/92
This corrects TL 92–02

FDC 2/0047/ESC/ FI/P Delta County, Escanaba, MI. ILS/DME RWY 9 AMDT 3 . . . Delete notes, "when control zone . . . thru . . . increase MDA's 240 feet.", "activate MALSR . . . thru . . . VASI RWYS 18–36 CTAF.", "alternate minimums NA . . . thru . . . weather reporting service." Add note, "if local altimeter not received, use Marquette altimeter setting and increase all MDA's 240 feet." Alternate minimums standard, CAT D 700–2. This is ILS/DME RWY 9 AMDT 3A.

Sikeston

Sikeston Muni
Missouri
VOR RWY 20 AMDT 2 . . .
Effective: 01/14/92

FDC 2/0201/SIK/ FI/P Sikeston Muni, Sikeston, MO. VOR RWY 20 AMDT 2 . . . NDB RWY 20 AMDT 7 . . . Delete note . . . activate MIRL RWYS 2/20, and REIL RWY 20–CTAF. This becomes VOR RWY 20 AMDT 2A, NDB RWY 20 AMDT 7A.

West Plains

West Plains Muni
Missouri
NDB RWY 36 ORIG . . .
Effective: 01/14/92

FDC 2/0202/UNO/ FI/P West Plains Muni, West Plains, MO. NDB RWY 36 ORIG . . . Delete note . . . Activate HIRL RWY 36–CTAF. This becomes NDB RWY 36 ORIG A.

Cassville

Cassville Muni
Missouri
VOR RWY 8 AMDT 1 . . .
Effective: 01/14/92

FDC 2/0203/94K/ FI/P Cassville Muni, Cassville, MO. VOR RWY 8 AMDT 1 . . . Delete note . . . Activate MIRL RWYS 8/26 123.0. This becomes VOR RWY 8 AMDT 1A.

Norfolk

Norfolk/Karl Stefan Memorial
Nebraska
ILS RWY 1 AMDT 3 . . .
Effective: 12/30/91

FDC 1/6466/OFK/ FI/P Norfolk/Karl Stefan Memorial, Norfolk, NE. ILS RWY 1 AMDT 3 . . . MA INST . . . Climb to 4000 then RT direct OFK VOR/DME and hold. TRML RTES OFK and OLU to SLAYS INT . . . MIM ALT 4000. This becomes ILS RWY 1 AMDT 3A

Akron

Akron-Canton Regional
Ohio
ILS RWY 23 AMDT 9 . . .
Effective: 01/13/92

FDC 2/0187/CAK/ FI/P Akron-Canton Regional, Akron, OH. ILS RWY 23 AMDT 9 . . . Add note, "autopiolot coupled approach NA." This is ILS RWY 23 AMDT 9A.

Harrisburg

Capital City
Pennsylvania
ILS RWY 8 AMDT 10 . . .
Effective: 01/14/92

FDC 2/0214/CXY/ FI/P Capital City, Harrisburg, PA. ILS RWY 8 AMDT 10 . . . Circling MDA/HAA 1160/813 ALL CATS, VIS CAT A/B 2, C 2 1/2, CAT D 2 3/4. ALTN MINS CAT A/B 900–2, C/D 900–2 3/4. This becomes ILS RWY 8 AMDT 10A

Columbia/Mount Pleasant

Maury County
Tennessee
NDB RWY 23, AMDT 3 . . .
Effective: 01/14/92

FDC 2/0229/MRC/ FI/P Maury County, Columbia/Mount Pleasant, TN. NDB RWY 23, AMDT 3 . . . S–23 MDA 1320/HAT 643 ALL CATS. VIS 3/4 CAT A,B; 1 3/4 CAT C; 2 CAT D. Circling MDA 1320/HAA 643. VIS 1 CAT A.B. MDA 1360/HAA 683 CAT C, D. VIS 2 CAT C; 2 1/4 CAT D. Change note to read, if LCL ALTM not received use Nashville ALSTG and increase all MDA's 200 ft. INOP table does not apply. This becomes NDB RWY 23, AMDT 3A.

Jackson

McKellar-Sipes Regional
Tennessee
LOC BC RWY 20 AMDT 5 . . .
Effective: 01/14/92

FDC 2/0236/MKL/ FI/P McKellar-Sipes Regional, Jackson, TN. LOC BC RWY 20 AMDT 5 . . . Add note . . . disregard GS indications. This becomes LOC BC RWY 20 AMDT 5A.

[FR Doc. 92–2725 Filed 2–4–92; 8:45 am]

BILLING CODE 4910–13–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 146

Privacy Act of 1974; Implementation

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: This final rule adds 17 CFR 146.13 entitled "Inspector General Exemptions" to exempt a system of records entitled "Office of the Inspector General Investigative Files" from certain sections of the Privacy Act of 1974, 5 U.S.C. 552a, pursuant to subsections (j)(2) and (k)(2). By relieving the Office of the Inspector General (OIG) of certain restrictions under the Privacy Act, the exemptions will help ensure that the OIG may efficiently and effectively perform investigations and other authorized duties and activities.

EFFECTIVE DATE: February 5, 1992.

FOR FURTHER INFORMATION CONTACT: Judith A. Ringle, Esq., Office of the General Counsel, Commodity Futures

Trading Commission, 2033 K Street NW., Washington, DC 20581. Telephone (202) 254–7110.

SUPPLEMENTARY INFORMATION: Elsewhere in today's **Federal Register**, the Commodity Futures Trading Commission (Commission) is publishing the system notice for a new system of records, Office of the Inspector General Investigative Files, under the Privacy Act, 5 U.S.C. 552a, as amended. The Commission published notice of the proposed system of records in the **Federal Register** on July 16, 1991 (56 FR 32407). Accompanying the proposed system notice was a proposed rule to exempt the system of records from certain sections of the Privacy Act of 1974 (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(j) and (k). The proposed rule was also published in the **Federal Register** on July 16, 1991 (56 FR 32358).

One comment was received in response to the proposed rule. According to the commentator, it is not appropriate to grant an exemption pursuant to 5 U.S.C. 552a(j)(2). Subsection (j)(2) of the Privacy Act, 5 U.S.C. 552a(j)(2), provides that the head of an agency may promulgate rules to exempt any system of records within the agency from certain requirements of the Privacy Act, provided that the system is maintained by "the agency or component thereof which performs as its principal function any activity pertaining to enforcement of criminal laws" and includes specific documents pertaining to the investigation and enforcement of criminal laws. The commentator asserts that enforcement of criminal laws is not the principal function of an Inspector General. The commentator suggested, however, that the (j)(2) exemption could be applied to a record system maintained by an identifiable criminal investigation subunit of the Inspector General.

We do not agree with the commentator that the OIG does not perform as one of its principal functions any activity pertaining to the enforcement of criminal laws. The Inspector General Act of 1978, 5 U.S.C. App. 3, authorizes the Inspector General to conduct investigations to detect fraud and abuse in the programs and operations of the Commission and to assist in the prosecution of participants in such fraud or abuse, and the Commission's OIG does so.

Given the present small size of the Commission's OIG, creation of a separate criminal investigative subunit as suggested by the commentator would not seem to be very efficient. As stated in the Commission's notice of proposed rulemaking (56 FR 32358 (July 16, 1991)), the (j)(2) and (k)(2) exemptions will be narrowly applied so that only records pertaining to criminal and civil law enforcement investigative matters will be covered as appropriate under those two exemptions. Accordingly, we decline to undertake the organizational and staffing requirements which would be necessitated by the creation of a criminal investigative subunit.

Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires agencies to consider the impact of rules on small entities. It is not anticipated that the rule would impose any new burden on small entities. Accordingly, the Chairman, on behalf of the Commission, hereby certifies pursuant to 5 U.S.C. 605(b) that the rule herein, as promulgated, would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 17 CFR Part 126

Privacy Act.

For the reasons set out in the preamble, part 146 of chapter I of title 17 of the Code of Federal Regulations is amended as follows:

PART 146—RECORDS MAINTAINED ON INDIVIDUALS

1. The authority citation for part 146 continues to read as follows:

Authority: Pub. L. 93–579, 88 Stat. 1896 (5 U.S.C. 552a); sec. 101(a), Pub. L. 93–463, 88 Stat. 1389 (7 U.S.C. 4a(j)).

2. Section 146.13 is added as follows:

§ 146.13 Inspector General exemptions.

(a) Pursuant to section (j) of the Privacy Act of 1974, the Commission has deemed it necessary to adopt the following exemptions to specified provisions of the Privacy Act:

(1) Pursuant to, and limited by 5 U.S.C. 552a(j)(2), the system of records maintained by the Office of the Inspector General of the Commission entitled "Office of the Inspector General Investigative Files," shall be exempted from the provisions of 5 U.S.C. 552a (except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i)) and from 17 CFR 146.3, 146.4, 146.5, 146.6 (b), (d) and (e), 146.7 (a), (c) and (d), 146.8, 146.9, 146.10, 146.11(a) (7), (8) and (9), insofar as the system contains information pertaining to criminal law enforcement investigations.

(b) Pursuant to section (k) of the Privacy Act of 1974, the Commission has deemed it necessary to adopt the following exemptions to specified provisions of the Privacy Act:

(1) Pursuant to, and limited by 5 U.S.C. 552(k)(2), the system of records maintained by the Office of the Inspector General of the Commission entitled "Office of the Inspector General Investigative Files," shall be exempted from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f) and from 17 CFR 146.3, 146.4, 146.5, 146.6(d), 146.7(a), 146.8, 146.9, 146.11(a) (7), (8) and (9), insofar as it contains investigatory materials compiled for law enforcement purposes.

Issued in Washington, DC, on January 29, 1992, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 92–2565 Filed 2–4–92; 8:45 am]

BILLING CODE 6351-01-M

RAILROAD RETIREMENT BOARD

20 CFR Part 209

RIN 3220–AA95

Railroad Employer's Reports and Responsibilities

AGENCY: Railroad Retirement Board.

ACTION: Interim final rule.

SUMMARY: The Railroad Retirement Board (Board) hereby amends its regulations to increase the amount of earnings required to be reported under § 209.12(b). This amendment is necessary to reflect increases in the tax and benefit bases.

DATES: Effective date February 5, 1992. The Board will consider comments received by the public up to March 6, 1992.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Thomas W. Sadler, Assistant General Counsel, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, (312) 751–4513, (FTS 386–4513), TDD (312) 751–4701, TDD (FTS 386–4701).

SUPPLEMENTARY INFORMATION: Benefits under the Railroad Retirement Act (RRA) are financed by an employment tax imposed under the Railroad Retirement Tax Act (RRTA) upon wages paid by railroad employers. The tax has two components, a tier I level and a tier II level. The tier I level is the same as the tax imposed by the Federal Insurance Contributions Act (FICA) and is used to finance what are the equivalent of social security benefits payable under the RRA. The amount of compensation subject to tax is based upon the contribution and benefit base as defined in section 230 of the Social Security Act (see 26 U.S.C. 3231(e)(2)(B). The contribution base generally rises each year to reflect increases in the national wage rate. In order to estimate future revenues the Board has required employers to report gross earnings, up to $100,000, of a one-percent sample of their employees (20 CFR 209.12). The $100,000 ceiling is now inadequate for this purpose. Moreover, since the contribution base for the Hospital Insurance Program (Medicare) portion of the tier I tax is $125,000 for 1991 and will be $130,200 for 1992, the increased maximum is necessary for making computations with respect to the financial interchange between the railroad retirement and social security/medicare trust funds. Railroad retirement beneficiaries are covered under Medicare by virtue of section 7(d) of the RRA.

Consequently, the Board is amending its regulations to require reports of gross earnings of up to $300,000. This amount is sufficiently high to permit future revenue projections based upon an increasing contribution base. A reference to the Health Care Financing Administration is being added to § 209.12 to reflect the fact that information gathered under § 209.12 is used in financial interchange calculations between the railroad retirement trust funds and Medicare trust funds.

In order for the amendment increasing the amount of reportable earnings to be effective with the respect to the 1991 reports, due by March 1, 1992, the Board is publishing this rule as an interim final rule. However, the Board does invite comments on the change.

The Board has determined that this is not a major rule under Executive Order 12291. Therefore, no regulatory impact analysis is required. The information collections associated with these amendments have been approved by the Office of Management and Budget under Control Number 3220–0132.

List of Subjects in 20 CFR Part 209

Railroad employees, Railroad retirement, Railroads.

For the reasons set out in the preamble, title 20, chapter II is amended as follows:

PART 209—RAILROAD EMPLOYERS' REPORTS AND RESPONSIBILITIES

1. The authority citation for part 209 continues to read as follows.

Authority: 45 U.S.C. 231f.

§ 209.12 [Amended]

2. Section 209.12(a)(1) is amended by inserting after the word "Administration" the following; "and the Health Care Financing Administration"

3. Section 209.12(b) is amended by inserting "$300,000" in place of "$100,000".

Dated: January 27, 1992.

By authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 92–2570 Filed 2–4–92 8:45 am]

BILLING CODE 7905-01-M

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20 CFR Part 259

RIN 3220–AA88

Initial Determinations and Appeals From Initial Determinations With Respect to Employer Status and Employee Status

AGENCY: Railroad Retirement Board.

ACTION: Final rule.

SUMMARY: The Railroad Retirement Board (Board) amends part 259 of its regulations to provide that determinations with respect to employer and employee status under the Railroad Retirement Act (RRA) and Railroad Unemployment Insurance Act (RUIA) shall be made directly by the three-member Board. Under present regulations determinations with respect to employer and employee status are delegated to the Deputy General Counsel subject to administrative review by the three-member Board. The Board hereby removes this delegation and places original jurisdiction over such questions at the Board level. The Board believes that this change will make the decision making process with respect to employer and employee status questions more efficient.

EFFECTIVE DATE: February 5, 1992.

FOR FURTHER INFORMATION CONTACT: Thomas W. Sadler, Assistant General Counsel, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, (312) 751–4513, (FTS 386–4513), TDD (312) 751–4701, TDD (FTS 386–4701).

SUPPLEMENTARY INFORMATION: Part 259 presently delegates authority for initial and reconsideration determinations with respect to employer and employee status under the RRA and RUIA to the Board's Deputy General Counsel. His or her determinations on such questions are final unless a party to a determination appeals such determination to the three-member Board.

The Board hereby removes this delegation. Under amended part 259 a person seeking a determination with respect to employer or employee status will file a request with the office of the Secretary to the Board. The General Counsel will be responsible for making initial investigations with respect to the employer and employee status of any person and will submit to the Board a recommended decision with respect to the coverage of that person under the RRA or RUIA. Following receipt of the General Counsel's recommendation the Board will issue a coverage determination (§ 259.1). Any party aggrieved by this determination, as defined in § 259.2, may file a request for reconsideration of the Board's determination with the Office of the Secretary to the Board. The Board shall then issue a decision on reconsideration (§ 259.3). Such a decision is final and is subject to judicial review as provided for in § 259.5 or to reopening under § 259.6.

The Board published these amendments to part 259 in proposed form on June 24, 1991 (56 FR 28732), and invited comments by August 23, 1991. No comments were received. However, based upon its own internal review the Board added new paragraph (b) to § 259.3. This new paragraph makes it clear that, as under present part 259, an individual must seek reconsideration of an adverse initial decision in order to preserve the right to judicial review. Furthermore, § 259.7 was amended to clarify that an initial decision or decision on reconsideration under this part is not automatically stayed pending review of that decision either on reconsideration or judicial review.

In addition, references to the Deputy General Counsel have been changed to General Counsel to reflect an internal reorganization. References to the Secretary to the Board have also been added to designate the official with whom submissions under this part must be filed.

The Board has determined that this is not a major rule under Executive Order 12291. Therefore, no regulatory impact analysis is required. There are no information collections imposed by these amendments.

List of Subjects in 20 CFR Part 259

Railroad employees, Railroad retirement, Railroad unemployment insurance, Railroads.

For the reasons set out in the preamble, title 20, chapter II, part 259 of the Code of Federal Regulations is amended as follows:

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PART 259—INITIAL DETERMINATIONS AND APPEALS FROM INITIAL DETERMINATIONS WITH RESPECT TO EMPLOYER AND EMPLOYEE STATUS

1. The authority citation for part 259 is revised to read as follows:

Authority: 45 U.S.C. 231f; 45 U.S.C. 362(l).

2. Section 259.1 is revised to read as follows:

§ 259.1 Initial determinations with respect to employer and employee status.

(a) All requests for a determination with respect to employer or employee status shall be filed with the Secretary to the Board.

(b) The General Counsel of the Railroad Retirement Board or his or her designee shall make the initial investigations with respect to:

(1) The status of any person as an employer under the Railroad Retirement Act and the Railroad Unemployment Insurance Act and the rules and regulations issued thereunder; and

(2) The status of any individual or group of individuals as an employee or employees of an employer covered under the Railroad Retirement Act and the Railroad Unemployment Insurance Act.

(c) Upon completion of this investigation the General Counsel, or his or her designee, shall submit to the Board the results of the investigation together with a recommendation concerning the coverage determination. The Board shall make the initial determination with respect to the status of any person as an employer or as an employee under the Railroad Retirement Act and Railroad Unemployment Insurance Act. The Secretary to the Board shall promptly notify the party or parties, as defined in § 259.2 of this part, and other interested persons or entities of the Board's determination.

3. Section 259.3 is revised to read as follows:

§259.3 Reconsideration of initial determinations with respect to employer or employee status.

(a) A party to an initial decision issued under § 259.1 shall have the right to request reconsideration of that decision. A request for reconsideration shall be in writing and must be filed with the Secretary to the Board within one year following the date on which the initial determination was issued. Where a request for reconsideration has been timely filed, the Secretary to the Board shall notify all other parties to the initial determination of such request. The party who requested reconsideration and any other party shall have the right to submit briefs or written argument, as well as any documentary evidence pertinent to the issue under consideration. The General Counsel or his or her designee shall review the material furnished all parties and shall submit it to the Board with a recommendation as to the determination upon reconsideration. The Board shall then issue a determination with respect to the request for reconsideration. The Secretary to the Board shall promptly notify all parties and other interested persons or entities of the determination upon reconsideration.

(b) A party who claims to be aggrieved by an initial decision of the Board but who fails to timely request reconsideration under this section shall forfeit any further right to appeal under this part.

§ 259.4 [Amended]

4. Section 259.4 is amended by removing the work "rendering a determination" in the first sentence and substituting therefor "performing his or her responsibilites", and by replacing "Deputy General Counsel" with "General Counsel" each time it appears.

§ 259.5 [Removed]

5. Section 259.5 is removed.

§259.6 [Redesignated at 259.5]

6. Section 259.6 is redesignated at 259.5

§ 259.7 [Redesignated as § 259.6]

7. Section 259.7 is redesignated at 259.6 and is revised to read as follows:

§259.6 Finality of determinations issued under this part.

Any determination rendered by the Board at the initial or reconsideration stages shall be considered a final determination and shall be binding with respect to all parties unless reversed on reconsideration or upon judicial review. A final determination may be reopened at the request of a party who was, or could have been, a party to the final determination when the party alleges that the law or the facts upon which the final determination was based have changed sufficiently to warrant a contrary determination. Such a request shall be submitted to the Secretary to the Board, who shall consider such request as a request for an initial determination under § 259.1.

By Authority of the Board.

Dated: January 27, 1992.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 92–2571 Filed 2–4–92; 8:45 am]

BILLING CODE 7905-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD1 91–170]

Safety Zone Regulations: Kill Van Kull, New York and New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule: correction.

SUMMARY: On January 10, 1992, the Coast Guard published a temporary final rule (57 FR 1108). The signature date was inadvertently changed.

FOR FURTHER INFORMATION CONTACT: MST1 S. Whinham of Captain of the Port, New York (212) 668–7934.

SUPPLEMENTARY INFORMATION: All other provisions of the temporary final rule remain unchanged.

Correction: On page 1108, change signature date to November 14, 1991 in lieu of January 6, 1992.

Dated: January 31, 1992.

A.F. Bridgman, Jr.,

Chief, Regulation and Administrative Law Division, Coast Guard Liaison.

[FR Doc. 92–2745 Filed 2–4–92; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 165

[CGD1 91–168]

Safety Zone Regulations: Kill Van Kull, New York and New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule: correction.

SUMMARY: On January 10, 1992, the Coast Guard published a temporary final rule (57 FR 1108). The signature date was inadvertently changed.

FOR FURTHER INFORMATION CONTACT: MST1 S. Whinham of Captain of the Port, New York (212) 668–7934.

SUPPLEMENTARY INFORMATION: All other provisions of the temporary final rule remain unchanged.

Correction: On page 1109, change signature date to November 5, 1991 in lieu of January 6, 1992.

Dated: January 31, 1992.

A.F. Bridgman, Jr.,

Chief, Regulation and Administrative Law Division, Coast Guard Liaison.

[FR Doc. 92–2746 Filed 2–4–92; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AF58

Reducing the Minimal Active Duty Service Eligibility Requirement for Outpatient Dental Services for Veterans Who Served on Active Duty During the Persian Gulf War

AGENCY: Department of Veterans Affairs.

ACTION: Final regulations.

SUMMARY: The Department of Veterans Affairs (VA) is amending its regulations that govern the eligibility of veterans for outpatient dental services. The Veteran's Programs and Benefits Act reduced from 180 days to 90 days the minimum active duty service eligibility requirement for outpatient dental services for a condition or disability which is service-connected but noncompensable for veterans who served on active duty during the Persian Gulf War.

EFFECTIVE DATE: This amendment is effective April 6, 1991, the effective date of the Act upon which it is based.

FOR FURTHER INFORMATION CONTACT: Monica J. Wilkins, Policies and Procedures Division (161B2), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420; Phone: (202) 535–7439.

SUPPLEMENTARY INFORMATION: The Veteran's Programs and Benefits Act, Public Law 102–25 enacted April 6, 1991, amended 38 U.S.C. 612(b) to change the criteria governing eligibility of veterans for outpatient dental services for a condition or disability which is service-connected but noncompensable. Specifically, that law reduced from 180 days to 90 days the minimum active duty service eligibility requirement for outpatient dental services for a condition or disability which is service-connected but noncompensable for veterans who served on active duty during the Persian Gulf War.

This final regulatory amendment does not meet the criteria for a major rule as that term is defined by Executive Order 12291, Federal Regulation. This regulatory amendment will not have a $100 million annual effect on the economy, will not cause a major increase in costs or prices, and will not have any other significant adverse effects on the economy.

Since this amendment conforms VA regulations to the law, prior publication for public notice and comment is unnecessary and will not be done; consequently, this change is not a rule subject to the Regulatory Flexibility Act. In any case the Secretary hereby certifies that this regulation will not have a significant economic impact on the substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 United States Code 601–612. This regulatory amendment incorporates into VA regulations the new statutory criteria for eligibility for Class II dental benefits for veterans of the Persian Gulf War. Any economic impact on small entities will be the result of the law, not this regulatory amendment.

The Catalog of Federal Domestic Assistance Number is 64.011.

List of subjects in 38 CFR Part 17

Alcoholism, Claims, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs—health, Health care, Health facilities, Health professions, Medical devices, Medical research, Mental health programs, Nursing home care, Philippines, Veterans.

Approved: December 30, 1991.

Edward J. Derwinski,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 17 is amended as set forth below:

PART 17—MEDICAL

1. The authority citation for part 17 continues to read as follows:

Authority: 105 Stat. 88, 38 U.S.C. 612, unless otherwise noted.

2. In § 17.123, paragraph (b)(1)(i)(A), is revised to read as follows:

§ 17.123 Authorization of outpatient dental treatment.

* * * * *

(b) *Class II.* (1)(i) * * *

(A) They served on active duty during the Persian Gulf War and were discharged or released, under conditions other than dishonorable, from a period of active military, naval, or air service of not less than 90 days, or they were discharged or released under conditions other than dishonorable, from any other period of active military, naval, or air service of not less than 180 days;

* * * * *

[FR Doc. 92–2758 Filed 2–4–92; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[RI–4–1–5255; A–1–FRL–4099–9]

Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; Revised Regulations for Controlling Volatile Organic Compound Emissions and Adoption of a Continuous Emissions Monitoring Regulation; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: This correction clarifies EPA's rationale for approving a State Implementation Plan (SIP) revision for the State of Rhode Island. This revision was approved in a Final Rulemaking Notice (FRN) which was published in the **Federal Register** on September 30, 1991 (56 FR 49414). The intended effect of that rulemaking was to approve Rhode Island's revised volatile organic compound (VOC) regulations and to approve Rhode Island's continuous emission monitoring (CEM) regulation. A paragraph was inadvertently excluded from the **SUPPLEMENTARY INFORMATION** section of that rule; therefore, the purpose of this correction is to state and explain the excluded portion of the FRN. This additional paragraph further explains EPA's rationale for approving the emission trading ("bubble") provisions of the SIP revision.

EFFECTIVE DATE: February 5, 1992.

FOR FURTHER INFORMATION CONTACT: Robert Judge at (617) 565–3248; FTS 835–3248.

SUPPLEMENTARY INFORMATION: On September 30, 1991, a FRN was published in the **Federal Register** (56 FR 49414) approving a SIP revision for the State of Rhode Island. The FRN approved Rhode Island's revised VOC regulations and Rhode Island's CEM regulation. A paragraph which elaborated on EPA's rationale for approving that SIP revision was inadvertently excluded from the **SUPPLEMENTARY INFORMATION** section of the FRN. The following paragraph was omitted from the FRN and further explains EPA's rationale for approving the emission trading ("bubble") provisions of the SIP revision:

EPA notes that it has considered the following factors in its decision to approve the emissions trading ("bubble") provisions of regulation numbers 15, 19, and 21: 1. These regulations cover a limited set of source categories (or a limited number of sources in the case of the non-CTG RACT rule); 2. Rhode Island has a demonstrated record of issuing enforceable bubble orders under its generic bubble rule prior to EPA's 1988 SIP call; and 3. The regulations clearly require a facility to monitor and keep records adequate to determine actual emissions. This provides the basis for each bubble order issued under the regulations to specify the method for determining actual emissions under the bubble. In light of these factors, EPA is prepared to approve the emission trading provisions in these regulations, and this approval does not serve as a precedent for emissions trading rules with broader application.

EPA is publishing this notice without prior proposal because the Agency views this correction as noncontroversial and anticipates no adverse comments.

Final Action

EPA is clarifying a FRN which was published in the **Federal Register** on September 30, 1991 (56 FR 49414). This notice is intended to further explain EPA's rationale for approving the emission trading ("bubble") provisions of a SIP revision for Rhode Island.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225).

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State Implementation Plan. Each request for revision to the State Implementation Plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Dated: January 23, 1992.

Julie Belaga,

Regional Administrator, Region I.

[FR Doc. 92–2661 Filed 2–4–92; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[PP 9F3811/R1139; FRL-4006-5]

RIN 2070-AB78

Pesticide Tolerances for Myclobutanil

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the fungicide myclobutanil and certain of its metabolites in or on certain raw agricultural commodities. This regulation to establish maximum permissible levels of combined residues of myclobutanil and certain of its metabolites in or on the commodities was requested in petitions submitted by the Rohm & Haas Co.

EFFECTIVE DATE: This regulation becomes effective January 16, 1992.

ADDRESSES: Written objections, identified by the document control number [PP 9F3811/R1139] may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, rm. M–3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Susan T. Lewis, Product Manager (PM) 21, Registration Division (H7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: rm. 227, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703) 305-6900.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of January 9, 1990 (55 FR 779), which announced that the Rohm & Haas Co. of Independence Mall West, Philadelphia, PA 19105, had submitted pesticide petition (PP) 9F3811 to EPA proposing the establishment of tolerances under section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a) for the fungicide myclobutanil [alpha-butyl-alpha-(4-chlorophenyl)-1*H*-1,2,4-triazole-1-propanenitrile] and both the free and bound forms of its metabolite alpha-(3-hydroxybutyl)-alpha-(4-chlorophenyl)-1*H*-1,2,4-triazole-1-propanenitrile in or on stone fruits group (except cherry) at 2.0 parts per million (ppm) and cherry at 5.0 ppm.

Subsequently, Rohm & Haas amended the petition by deleting the request for stone fruit groups and requesting tolerances for peaches and nectarines at 2 ppm and cherries (sweet and sour) at 5.0 ppm.

Additionally, the Agency requested that Rohm & Haas amend the petition by proposing a tolerance of 4 ppm in/on cherries. Rohm & Haas did amend the petition by requesting that the tolerance for cherries be reduced to 4.0 ppm.

There were no comments received in response to the notice of filing.

The data submitted in support of the petitions and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerances are sought. The toxicological data considered in support of the tolerances include the following:

1. A 1-year dog feeding study using doses of 0, 10, 100, 400, and 1,600 ppm (equivalent to doses of 0, 0.34, 3.09, 14.28, and 54.22 milligrams/kilogram (mg/kg) body weight (bwt)/day in males, and 0, 0.40, 3.83, 15.68, and 58.20 mg/kg bwt/day in females). The no-observed-effect level (NOEL) is 100 ppm (3.09 mg/kg/day for males and 3.83 mg/kg/day for females) based upon hepatocellular hypertrophy, and the lowest observed effect level (LOEL) is 400 ppm (14.28 mg/kg/day for males and 15.68 mg/kg/day for females).

2. A 2-year chronic feeding/carcinogenicity study in rats using dietary concentrations of 0, 50, 200, and 800 ppm (equivalent to doses of 0, 2.49, 9.84, and 39.21 mg/kg bwt/day in males and 0, 3.23, 12.86, and 52.34 mg/kg bwt/day in females). The NOEL for chronic effects other than carcinogenicity is 2.49 mg/kg/day, and the LOEL is 9.84 mg/kg/day based on testicular atrophy in males. No other significant effects were observed in either sex at dose levels ranging from 50 to 800 ppm (2.49 to 39.21 mg/kg bwt/day in males and 3.23 to 52.34 mg/kg bwt/day in females) over a 2-year period. In addition, no carcinogenic effects were observed in either sex at any of the dose levels tested. Based on the toxicological findings, the Maximum Tolerated Dose (MTD) selected for testing (based on the 90-day feeding study) was not high enough to fully characterize the compound's carcinogenic potential, and for this reason the rat study (both sexes) was required to be repeated and must be submitted to the Agency by April 1993.

3. A 2-year carcinogenicity study in mice using dietary concentrations of 0, 20, 100, and 500 ppm (equivalent to doses of 0, 2.7, 13.7, and 70.2 mg/kg bwt/day in males and 0, 3.2, 16.5, and 85.2 mg/kg bwt/day in females). The NOEL for chronic effects other than carcinogenicity was 20 ppm (or 3.2 mg/kg/day in females and 2.7 mg/kg/day in males). The LOEL was 100 ppm (13.7 mg/kg bwt/day in males and 16.5 mg/kg bwt/day in females) (slight increase in liver mixed function oxidase). Microscopic changes in the liver were evident in both sexes at 500 ppm (70.2 mg/kg bwt/day in males and 85.2 mg/kg bwt/day in females). There were no carcinogenic effects in either sex at any dose level tested.

The selected dose (500 ppm) (70.2 mg/kg bwt/day in males and 85.2 mg/kg bwt/day in females) is satisfactory for evaluating the carcinogenic potential in male mice. However, this dose was less than an MTD level in the female mice and, therefore, not sufficiently high to fully evaluate the compound's carcinogenic potential. Therefore, the female portion of the mouse carcinogenicity study was required to be repeated and must be submitted to the Agency by April 1993.

4. A rabbit teratology study was negative for developmental effects at all dose levels up to 200 mg/kg/day, the highest dose level tested. The NOEL for maternal toxicity was 20.0 mg/kg/day, and the NOEL for developmental toxicity was 60.0 mg/kg/day.

5. A rat teratology study was negative for developmental effects up to and including 469 mg/kg/day (highest dose level tested). The NOEL for maternal toxicity was 313 mg/kg/day, and the NOEL for developmental toxicity was 31 mg/kg/day.

6. A two-generation rat reproduction study with a NOEL of 16 mg/kg/day for reproductive effects and a NOEL of 4 mg/kg/day for systemic effects.

7. A reverse mutation assay (Ames), point mutation in CHO/HGPRT cells, *in vitro* and *in vivo* (mouse) cytogenetic assays, unscheduled DNA synthesis, and a dominant-lethal study in rats, all of which were negative for mutagenic effects.

Myclobutanil was not carcinogenic in either the rat or mouse chronic/oncogenic feeding studies. In the mouse study, increases in liver mixed-function oxidase activity, hepatic microsomal protein content, and absolute and relative liver weights were observed in both sexes at 500 ppm in the diet (highest level tested). In addition, increased incidence of hepatocellular basophilic, clear-cell, eosinophilic, and vacuolated cell foci were also observed in both sexes at this dose level as well as increased incidence of multifocal hepatocellular vacuolation at terminal sacrifice. At the interim sacrifices and in animals that died prior to terminal sacrifice, but not at the terminal sacrifice, increased incidence of hepatocellular centrilobular hypertrophy, Kupffer cell pigmentation and periportal punctate vacuolation, and individual cell hepatocellular necrosis were also observed at 500 ppm, but primarily in males. These effects were not considered to be of sufficient toxicological significance to indicate that the animals were tested at the MTD. However, in the 90-day feeding study in mice, body weight gains in males at 1,000 ppm (150 mg/kg bwt/day) (the lowest dose tested) were 37-percent less than those of the controls. Body weight gains of females were unaffected at this dose level. Therefore, although 500 ppm (75 mg/kg bwt/day) in the mouse chronic study was considered to be sufficiently high for an adequate negative study in males, it was not considered to be high enough for females.

The main toxicological effect seen in the rat chronic feeding study was testicular atrophy, seen at both the mid- and high-dose levels (9.84 and 39.21 mg/kg bwt/day in males). Increases in liver mixed-function oxidase activity and in liver weights were also observed in the study. Again, these effects were not considered to be adequate evidence that the animals were tested at the MTD.

Both studies need to be repeated because an MTD was not achieved. However, no preneoplastic lesions were observed in either study to suggest possible carcinogenic activity, and myclobutanil did not induce either genotoxic effects or chromosomal aberrations in a series of mutagenicity tests. In addition, no strong structural activity correlation to other carcinogens has been found. Under these circumstances, EPA concludes that no significant carcinogenic risk is posed by these tolerances for the timeframe involved in receiving and reviewing the repeated cancer studies.

The acceptable daily intake (ADI) based on the 2-year rat chronic feeding study (NOEL of 2.49 mg/kg bwt/day), and using a hundredfold uncertainty factor, is calculated to be 0.025 mg/kg bwt/day. The theoretical maximum residue contribution from previously established tolerances and tolerances established here is 0.002217 mg/kg bwt/day and utilizes 8.865 percent of the ADI.

The nature of the residue is adequately understood, and adequate analytical methods, gas liquid chromatography using nitrogen/phosphorus and electron capture detectors, are available for enforcement. Prior to their publication in the Pesticide Analytical Manual, Vol. II, the enforcement methodology is being made available in the interim to anyone who is interested in pesticide enforcement when requested from: Calvin Furlow, Public Information Branch, Field Operations Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 1128C, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-5232.

The pesticide is considered useful for the purposes for which the tolerances are sought. Based on the information and data considered, the Agency concludes that the establishment of the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

The tolerances will expire on October 1, 1994. Based on the reviews of the rat and mouse oncogenicity studies, the Agency will determine whether establishing permanent tolerances is appropriate.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections and/or a request for a hearing with the Hearing Clerk at the address given above. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested and the requestor's contentions on each such issue. A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: there is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by therequestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims of facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested.

Pursuant to the requirement of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

The Office of Management and Budget has exempted this rule from the requirement of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Agriculture commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 16, 1992.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, chapter I of title 40 of the Code of Federal Regulations is amended in part 180 as follows:

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.443 is amended in paragraph (a) in the table therein by adding and alphabetically inserting the raw agricultural commodities "cherries (sweet and sour)," "nectarines," and "peaches" so that the table reads as follows:

§ 180.443 Myclobutanil; tolerances for residues.

(a) * * *

Commodity	Parts per million	Expiration date
Apples	0.5	None.
Cherries (sweet and sour).	4.0	Oct. 1, 1994.
Grapes	1.0	None.
Nectarines	2.0	Oct. 1, 1994.
Peaches	2.0	Oct. 1, 1994.

* * * * *

[FR Doc. 92-2540 Filed 2-4-92; 8:45 am]

BILLING CODE 6560-50-F

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40 CFR Part 271

[FRL-4097-6]

State of Florida; Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: Florida has applied for final authorization of revisions to its hazardous waste program for rules promulgated between July 1, 1988 and June 30, 1989, otherwise known as Non-HSWA Cluster V, under the Resource Conservation and Recovery Act (RCRA). The requirements contained in this revision application are in Supplementary Information, section B of this document. The Environmental Protection Agency (EPA) has reviewed Florida's application and has made a decision, subject to public review and comment, that Florida's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve Florida's hazardous waste program revisions. Florida's application for program revision is available for public review and comment.

DATES: Final Authorization for Florida shall be effective April 6, 1992 unless EPA publishes a prior **Federal Register** action withdrawing this immediate final rule. All comments on Florida's program revision application must be received by the close of business March 6, 1992.

ADDRESSES: Copies of Florida's program revision application are available during the hours 8 a.m. to 5 p.m. at the following addresses for inspection and copying: Florida Department of Environmental Regulation, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, Phone 904-488-0300; U.S. EPA Region IV, Library, 345 Courtland Street NE., Atlanta, Georgia 30365, Phone 404-347-4216, Pricilla Pride, Librarian. Written comments should be sent to Narindar Kumar at the address listed below.

FOR FURTHER INFORMATION CONTACT: Narindar Kumar, Chief, State Programs Section, Waste Programs Branch, Waste Management Division, U.S. EPA, 345 Courtland Street NE., Atlanta, Georgia 30365, Phone 404-347-2234.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under Section 3006(b) of the Resource Conservation and Recovery Act ("RCRA or "the Act"), 42 U.S.C. 6929(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Public Law 98-616, November 8, 1984, hereinafter "HSWA") allows States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. States exercising the latter option receive "interim authorization" for the HSWA requirements under section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later apply for final authorization for the HSWA requirements.

Revisions to State hazardous waste programs are necessary when Federal or State statutory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR parts 260-266, 268, 124 and 270.

B. State of Florida

Florida initially received final authorization for its base RCRA program on February 12, 1985 (50 FR 3908, January 29, 1985). Florida has received authorization for revisions to its program through Non-HSWA Cluster II. Florida received authorization for Radioactive Mixed Waste on February 12, 1991. Today, Florida is seeking approval of its program revision for Non-HSWA Cluster V in accordance with 40 CFR 271.21(b)(3).

EPA has reviewed Florida's application, and has made an immediate final decision that Florida's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the additional program modifications to the State of Florida. The public may submit written comments on EPA's immediate final decision up until March 6, 1992. Copies of Florida's application for program revision are available for inspection and copying at the locations indicated in the **ADDRESSES** section of this notice.

Florida has adopted by reference the following **Federal Register** (FR) in Non-HSWA Cluster V with the exception of 9/28/88 53 FR 37912, Permit Modification for Hazardous Waste Management Facilities and 3/7/89 54 FR 9596, Changes to Interim Status Facilities for Hazardous Waste Management Permits; Modifications of Hazardous Waste Management Permits; Procedures for Post-Closure Permitting.

Checklist	FR date and page No.	Description
49	7/19/88 53 FR 27290	Identification and listing of hazardous waste; treatability studies sample exemption.
52	9/2/88 53 FR 34079	Hazardous waste management system; standards for hazardous waste storage and treatment tank systems.
53	9/13/88 53 FR 35412	Identification and listing of hazardous waste; and designation of reportable quantities and notification.
55	10/11/88 53 FR 39720	Statistical methods for evaluating ground water monitoring data from hazardous waste facilities.
56	10/31/88 53 FR 43878	Identification and listing of hazardous waste; removal of iron dextran from the list of hazardous wastes.
57	10/31/88 53 FR 43881	Identification and listing of hazardous waste; removal of strontium sulfide from list of hazardous waste.
58	11/8/88 53 FR 45089	Standards for generators of hazardous wastes; manifest renewal.
59	1/9/89 54 FR 615	Miscellaneous units; standards applicable to owners and operators. Technical correction.

Checklist	FR date and page No.	Description
60	1/30/89 54 FR 4286	Amendment to requirements for hazardous waste incinerator permits.

The State of Florida has demonstrated and certified that its authority to regulate the revised program set forth in Non-HSWA Cluster V as specified at § 403.72(1) Florida Statutes (FS), Rule 17–730(1) Florida Administrative Code (FAC), 403.704 FS, 17–730.020 FAC, 403.721 FS, 17–730.180 FAC, 403.72 FS, 17–730.210 FAC, 120.53 FS, 403.061 FS, and 17–730.900 FAC as amended through August 13, 1991, is equivalent to federal requirements of the RCRA at 40 CFR 260, 261, 264, 265 and 270 and sections 1006, 3001 through 3007, 3010, 3014 through 3019, and 7004 of RCRA.

On the effective date of final authorization, Florida will be authorized to carry out, in lieu of the Federal program, those provisions of the State's program which are analogous to the Federal program. EPA shall administer any RCRA hazardous waste permits, or portions of permits, that contain conditions based upon the Federal program provisions for which the State is applying for authorization and which were issued by EPA prior to the effective date of this authorization. EPA will suspend issuance of any further permits under the provisions for which the State is being authorized on the effective date of this authorization.

Florida is not authorized to operate the Federal program on Indian lands. This authority remains with EPA unless provided otherwise in a future statute or regulation.

C. Decision

I conclude that Florida's application for program revision meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Florida is granted final authorization to operate its hazardous waste program as revised.

Florida now has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the HSWA. Florida also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA and to take enforcement actions under section 3008, 3013 and 7003 of RCRA.

Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 4 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Florida's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 92–2157 Filed 2–4–92; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 271

[FRL–4097–5]

State of Florida Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: Florida has applied for final authorization of revisions to its hazardous waste program for rules promulgated between July 1, 1986 and June 30, 1987, otherwise known as Non-HSWA Cluster III, under the Resource Conservation and Recovery Act (RCRA). The requirements contained in this revision application are in Supplementary Information, section B of this document. The Environmental Protection Agency (EPA) has reviewed Florida's application and has made a decision, subject to public review and comment, that Florida's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve Florida's hazardous waste program revisions. Florida's application for program revision is available for public review and comment.

DATES: Final Authorization for Florida shall be effective April 6, 1992 unless EPA publishes a prior **Federal Register** action withdrawing this immediate final rule. All comments on Florida's program revision application must be received by the close of business March 6, 1992.

ADDRESSES: Copies of Florida's program revision application are available during the hours 8 a.m. to 5 p.m. at the following addresses for inspection and copying: Florida Department of Environmental Regulation, 2600 Blair Stone Road, Tallahassee, Florida 32399–2400, Phone: 904–488–0300; U.S. EPA Region IV, Library, 345 Courtland St., NE., Atlanta, Georgia 30365, Phone: 404–347–4216, Pricilla Pride, Librarian. Written comments should be sent to Narindar Kumar at the address listed below.

FOR FURTHER INFORMATION CONTACT: Narindar Kumar, Chief, State Programs Section, Waste Programs Branch, Waste Management Division, U.S. EPA, 345 Courtland Street NE., Atlanta, Georgia 30365, Phone: 404–347–2234.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of the Resource Conservation and Recovery Act ("RCRA" or "the Act"), 42 U.S.C. 6929(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Public Law 98–616, November 8, 1984, hereinafter "HSWA") allows States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. States exercising the latter option receive "interim authorization" for the HSWA requirements under section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later apply for final authorization for the HSWA requirements.

Revisions to State hazardous waste programs are necessary when Federal or State statutory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR parts 124, 260–266, 268, and 270.

B. State of Florida

Florida initially received final authorization for its base RCRA program on February 12, 1985 (50 FR 3908, January 29, 1985). Florida has received authorization for revisions to its program through Non-HSWA Cluster II. Florida received authorization for Radioactive Mixed Waste on February 12, 1991. Today, Florida is seeking approval of its program revision for Non-HSWA Cluster III in accordance with 40 CFR 271.21(b)(3).

EPA has reviewed Florida's application, and has made an immediate final decision that Florida's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the additional program modifications to the State of Florida. The public may submit written comments on EPA's immediate final decision up until March 6, 1992. Copies of Florida's application for program revision are available for inspection and copying at the locations indicated in the "Addresses" section of this notice.

Florida has adopted the following Federal Registers in Non-HSWA Cluster III by reference:

Check-lists	FR date and page No.	Description
27	7/11/86 51 FR 25350	Liability coverage corporate guarantee.
28	7/14/86 51 FR 25422	Standards for HW storage and treatment tank systems.
28	8/15/86 51 FR 29430	Standards for HW storage and treatment tank systems; correction.
35	3/16/87 52 FR 8072	Revised manual SW 846; amended incorporation by reference.
36	3/19/87 52 FR 8704	Closure/post-closure care for interim status surface impoundments.
37	6/5/87 52 FR 21306	Definition of solid waste technical correction.
38	6/22/87 52 FR 23447	Amends part B information requirements for land disposal facilities.
39	9/9/87 52 FR 33936	Development of corrective action programs after permitting hazardous waste land disposal facilities; corrections.
46	4/22/88 53 FR 13382	Technical correction; identification and listing of hazardous waste.

The State of Florida has demonstrated and certified that its authority to regulate the revised program set forth in Non-HSWA Cluster III, as specified at §§ 120.53, 403.061, 403.72, .721, .722, .724, Florida Statutes (FS) and Rules 17–730.020, .021(1), .030(1), .160, .180(3), .181, .250, .280, .900(2), Florida Administrative Code (FAC) as amended through August 13, 1990, is equivalent to federal requirements of the RCRA at 40 CFR 260.11, 261, 261.33 and appendix VIII, 262, 264, 265, 265.228, 268.20, 270.6(a) and 270.14(c), and sections 1006, 2002, 3001, 3004, 3005, 3007, 3010, 3014, 3017–19, and 7004 of RCRA.

On the effective date of final authorization, Florida will be authorized to carry out, in lieu of the Federal program, those provisions of the State's program which are analogous to the Federal program. EPA shall administer any RCRA hazardous waste permits, or portions of permits, that contain conditions based upon the Federal program provisions for which the State is applying for authorization and which were issued by EPA prior to the effective date of this authorization. EPA will suspend issuance of any further permits under the provisions for which the State is being authorized on the effective date of this authorization.

Florida is not authorized to operate the Federal program on Indian lands. This authority remains with EPA unless provided otherwise in a future statute or regulation.

C. Decision

I conclude that Florida's application for program revision meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Florida is granted final authorization to operate its hazardous waste program as revised.

Florida now has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the HSWA. Florida also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA and to take enforcement actions under sections 3008, 3013, and 7003 of RCRA.

Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 4 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Florida's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 92–2158 Filed 2–4–92; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-38

[FPMR Temp. Reg. G-55]

Passenger Sedans/Station Wagons Replacement Standard

AGENCY: Federal Supply Service, GSA.

ACTION: Temporary regulation.

SUMMARY: This regulation establishes a minimum replacement standard of 3 years or 60,000 miles for passenger sedans and station wagons instead of the current replacement standard for such vehicles which is 6 years or 60,000 miles. The General Services Administration's Interagency Fleet Management System has operated on the shorter standard for some years and has experienced a decrease in operating costs while providing a higher level of vehicle performance. It is appropriate that other agencies now have the same opportunity. The result of this action will be that executive agencies will have the option to replace their passenger sedans and station wagons on a more timely basis (potentially as frequently as 3 years or 60,000 miles) if they deem it to be in their best interests and cost beneficial. By issuance of this temporary regulation, GSA is extending the potential benefits of a shorter replacement cycle to all Federal agencies.

DATES: *Effective date:* February 5, 1992.

Expiration date: June 30, 1993.

Comments due on or before: March 31, 1992.

ADDRESSES: Comments should be addressed to: General Services Administration (FBF), Washington, DC 20406.

FOR FURTHER INFORMATION CONTACT: Mr. Sean Allan, Fleet Management Division (703-305-6278).

SUPPLEMENTARY INFORMATION: The General Services Administration (GSA) has determined that this is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for and consequences of this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR 101-38

Government property management, Motor vehicles.

(Sec. 205(c) 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR chapter 101, the following temporary regulation is added to the appendix at the end of subchapter G to read as follows:
January 28, 1992.

Federal Property Management Regulations Temporary Regulation G-55

To: Heads of Federal agencies.
Subject: Passenger sedans/station wagons replacement standard.

1. *Purpose.* This regulation allows agencies to use a minimum replacement standard of 3 years or 60,000 miles for passenger sedans and station wagons.

2. *Effective date.* This regulation is effective February 5, 1992.

3. *Expiration date.* This regulation expires June 30, 1993, unless sooner superseded or incorporated into the permanent regulations of the General Services Administration (GSA).

4. *Applicability.* This regulation applies to all executive agencies.

5. *Background.* Prior to this regulation, GSA's Interagency Fleet Management System (IFMS) was granted a waiver from the current 6 years or 60,000 mile replacement cycle for passenger sedans and station wagons contained in 41 CFR 101-38.402(a). The use of a 3 year or 60,000 mile replacement cycle has proven to be a success. Operating costs were reduced while vehicle performance levels were enhanced. This regulation allows all executive agencies to use a 3 year or 60,000 mile replacement cycle if they consider it to be more beneficial than the current replacement cycle standard. By issuance of this temporary regulation, GSA is extending the potential benefits of a shorter replacement cycle to all Federal agencies. The rule is being issued as a temporary regulation pending the completion of the motor vehicle study now being conducted by the President's Council on Management Improvement. That study is expected to provide additional information about appropriate vehicle replacement standards for eventual incorporation into the permanent regulations.

6. *Explanation of changes.* Section 101-38.402 is amended by revising paragraph (a) to read as follows:

§ 101-38.402 Replacement standards.

(a) Table of minimum replacement standards.

TABLE OF MINIMUM REPLACEMENT STANDARDS

Vehicle description	Life expectancy	
	Years	Miles
Passenger vehicles:		
Sedans/Station Wagons	3	60,000
Ambulances	7	60,000
Buses:		
Intercity-Type	N/A	280,000
City-Type	N/A	150,000
School-Type	N/A	80,000
Truck:		
Less than 12,500 pounds GVWR	6	50,000
12,500—23,999 GVWR	7	60,000
24,000 pounds and over	9	80,000
4- or 6-wheel drive vehicle	6	40,000

* * * * *

7. *Agency comments and assistance.* Comments or inquiries concerning the effect or impact of this regulation should be submitted to the General Services Administration (FBF), Washington, DC 20406, not later than March 31, 1992, for consideration and possible incorporation into a permanent regulation.

8. *Effect on other directives.* This regulation supersedes the provisions of § 101-38.402(a).

Richard G. Austin,
Administrator of General Services.

[FR Doc. 92-2736 Filed 2-4-92; 8:45 am]

BILLING CODE 6820-24-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 90-623; FCC 91-381]

Computer III Remand Proceedings: Bell Operating Company Safeguards and Tier 1 Local Exchange Company Safeguards

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission adopted a Report and Order that replaced structural separation requirements with a comprehensive system of strengthened nonstructural safeguards, including cost accounting safeguards applicable to the Bell Operating Companies (BOCs) and other Tier 1 local exchange carriers (LECs), to govern provision of enhanced services by the BOCs. The Commission also preempted certain forms of state regulation that would thwart or impede federal actions affecting provision of enhanced services by AT&T, the BOCs, and independent local telephone companies. The Commission initiated this proceeding in response to the United States Court of Appeals for the Ninth Circuit's decision in *California* v.

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FCC, which vacated Computer III (51 FR 24350 (July 3, 1986)). The Commission's action in this proceeding is intended to permit the BOCs to provide enhanced services pursuant to safeguards that will both effectively protect against cross-subsidization and discrimination, and encourage efficient use of BOC resources to provide enhanced services that will best serve the public interest.

EFFECTIVE DATE: February 1, 1992. Decisions in this Report and Order concerning removal of structural separation requirements and adoption of nonstructural safeguards, including the amendments to part 64, are effective February 1, 1992. The elimination of the capitalization plan requirement, the prohibition against the regulated BOC company and its affiliates from performing software development for one another, and the prohibition against integrated planning and development are effective January 1, 1992. Preemption decisions adopted in the Report and Order are effective March 6, 1992.

FOR FURTHER INFORMATION CONTACT: Patrick Donovan, (202) 632–4047, Suzanne Tetreault, (202) 632–6363, Melissa Newman, (202) 632–9342, or Deborah Dupont, (202) 632–7500.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, FCC 91–381, adopted November 21, 1991, and released December 20, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 239), 1919 M Street, NW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20036, (202) 452–1422.

Public reporting burdens for the collection of information are estimated as follows: 1600 hours average burden per response for cost allocation manual; 500 hours average burden per response for audit report; 300 hours average burden per response for occasional and quarterly updates and revisions. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Send comments regarding these burden estimates or any other aspect of the collections of information, including suggestions for reducing the burden, to the Federal Communications Commission, Information Resources Branch, room 416, Paperwork Reduction Project (3060–0470), Washington, DC, 20554, and to the Office of Management and Budget, Paperwork Reduction Project (3060–0470), Washington, DC, 20503.

Summary of the Report and Order

1. On June 6, 1990, the United States Court of Appeals for the Ninth Circuit in *California* v. *FCC* vacated and remanded three Commission decisions in Computer III. The Court found that the Commission had not sufficiently justified its decision to replace structural separation with nonstructural safeguards for BOC provision of enhanced services. The Court also held that the Commission had not adequately justified its preemption of certain kinds of state regulation. In response to the Court's decision, the Commission on December 13, 1990, adopted a Notice of Proposed Rulemaking (56 FR 04782 (February 6, 1991)) proposing to institute a set of strengthened nonstructural safeguards to govern BOC provision of enhanced services. The Commission also proposed to preempt some areas of state regulation affecting provision of enhanced services by AT&T, the BOCs, and independent local telephone companies.

2. The Commission strengthened existing cost accounting safeguards applicable to all Tier 1 LECs, including the BOCs, by: (1) Establishing on a permanent basis nonregulated treatment of enhanced services for accounting and cost allocation purposes, (2) requiring independent auditors to provide the same level of assurance as that undertaken in a financial statement audit engagement in their reports on carriers' cost allocation manual and results, (3) directing the Common Carrier Bureau to analyze the cost allocation practices of carriers to determine ways to obtain greater uniformity in carriers' cost procedures and practices and promulgate uniformity requirements, (4) requiring carriers to quantify the effects of changes in their cost allocation manuals, and (5) directing the Common Carrier Bureau to monitor the materiality thresholds used by independent auditors to ensure that they are suitable.

3. The Commission concluded that, based on its experience of nearly four years and on the record on remand, its comprehensive system of cost accounting safeguards effectively protects ratepayers against cross-subsidization by the BOCs, and is a realistic and reliable alternative to structural separation. This system consists of five principal parts: (1) The establishment of effective accounting rules and cost allocation standards; (2) the requirement for telecommunications carriers to file cost allocation manuals reflecting the established rules and standards; (3) the requirement for audits by independent auditors of carrier cost allocations, requiring a positive opinion on whether carriers' allocations comply with their cost allocation manuals; (4) the establishment of detailed reporting requirements and the development of an automated system to store and analyze the data; and (5) the performance of on-site audits by FCC staff.

4. The Commission also concluded that the implementation of local exchange carrier price cap regulation as of January 1, 1991, is a significant regulatory development since the BOC Separation Order (49 FR (January 10, 1984)) that serves as an effective complement to these cost-accounting safeguards by reducing BOC incentives to cross-subsidize since carriers are not able automatically to recoup misallocated nonregulated costs by raising basic service rates.

5. The Commission also established nonstructural safeguards against BOC discrimination in provision of basic services to competing enhanced services providers. The Commission readopted the Computer III nondiscrimination reporting requirements as effective protections against discrimination in the installation, maintenance, and quality of basic services, and the Computer III network disclosure rules to ensure that competing enhanced service providers obtain critical network information in a timely fashion. The Commission determined that these safeguards, along with Open Network Architecture (ONA), would effectively protect against discrimination. The Commission determined that fundamental changes in the ONA requirements are not necessary in order to rely on them for protection against discrimination.

6. The Commission eliminated the capitalization plan requirement as no longer justified in light of the implementation of affiliate transaction rules and the burdens associated with the requirement. Similarly, the Commission eliminated the prohibition against a BOC regulated company and any nonregulated affiliates performing software development for one another because the affiliate transaction rules adequately protect ratepayers from any disproportionate spreading of the costs of software development onto regulated activities.

7. The Commission modified the Computer III rules relating to customer proprietary network information (CPNI) to require that, for customers with more than twenty lines, Bell Operating Company personnel involved in marketing enhanced services must

obtain authorization from the customer before gaining access to its CPNI. This requirement must be implemented within six months from the date of release of the Commission's order. The Commission concluded that this change was needed to better balance considerations of efficiency, competitive equity, and privacy. The new rule will preserve the benefits of the old rules for the further development of enhanced services for the mass market, while providing additional safeguards with respect to those customers whose CPNI might provide the greatest competitive advantage to the BOCs and raise competitive issues for the customers themselves. The CPNI rules for enhanced services as they apply to customers other than those with more than twenty lines remain unchanged.

8. Given the effectiveness of its comprehensive system of nonstructural safeguards against cross-subsidization and discrimination, the Commission concluded that there are no significant public interest detriments from reliance on them, rather than a Computer II (45 FR 31319 (May 13, 1980)) regime of structural separation. The Commission found that its system of nonstructural safeguards would provide substantial benefits by permitting the BOCs to realize fully their significant potential to provide an efficient, broad-based delivery of enhanced services to the public, especially to the mass market. The Commission permitted the BOCs to provide enhanced services pursuant to its nonstructural safeguards instead of the Computer II structural separation requirements.

9. The Commission determined that it would review its nonstructural safeguards after the seven BOCs have operated under a full ONA environment for three years. The Commission stated that the review will enable it to evaluate whether nonstructural safeguards have been effective in promoting a competitive enhanced services marketplace while permitting the BOCs to provide enhanced services more efficiently on an integrated basis, and whether any changes are necessary given our obligation to reevaluate regulations in light of changing conditions.

10. The Commission preempted some state regulation applicable to the provision of enhanced services by AT&T, the BOCs, and independent telephone companies. The Commission preempted: (1) State requirements for structural separation of the facilities and personnel used to provide the intrastate portion of jurisdictionally mixed enhanced services because it is not economically or technically feasible for carriers to provide the interstate enhanced and basic services using the same facilities and personnel, while at the same time complying with state requirements that the carriers provide the same enhanced services on an intrastate basis using facilities and personnel structurally separate from those used to provide intrastate basic services; (2) state CPNI rules that require prior authorization where such authorization is not required under federal rules because such state rules would negate the federal opportunity for access to CPNI without prior authorization, and (3) state network disclosure rules that require initial disclosure at a time different from the federal rule because state rules requiring a different timing of intitial disclosure would negate the timing of the federal rule. The Commission did not preempt state structural separation requirements for purely intrastate enhanced services, and state requirements that intrastate enhanced services be provided by a separate legal entity with separate books of account.

Ordering Clauses

1. Accordingly, *It Is Ordered,* That pursuant to authority contained in sections 1, 4, 201–205, 218, and 220 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 151, 154, 201–205, 218, and 220, part 64 *Is Amended* As set forth below.

2. *It Is Further Ordered,* That the policies, rules, and requirements set forth herein *Are Adopted.*

3. *It Is Further Ordered,* That the Chief, Common Carrier Bureau is delegated authority to act upon matters pertaining to implementation of the policies, rules, and requirements as set forth herein.

4. *It Is Further Ordered,* That the decisions of this Report and Order concerning removal of structural separation and adoption of nonstructural safeguards, including the amendments to part 64, *Shall Be Effective* February 1, 1992.[1]

5. *It Is Further Ordered,* That the elimination of the capitalization plan requirement, the prohibition against the regulated BOC company and its affiliates from performing software development for one another, and the prohibition against integrated planning and development *Is Effective* January 1, 1992.[2]

6. *It Is Further Ordered,* That the preemption decisions adopted herein *Shall Be Effective* thirty days after publication of this Report and Order in the **Federal Register.**

List of Subjects in 47 CFR Part 64

Communications common carriers; Computer technology.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Amendments to the Code of Federal Regulations

Title 47 of the CFR, part 64, is amended as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

1. The authority citation for part 64 continues to read as follows:

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply secs. 201, 218, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 201, 218.

2. New § 64.903 is added to read as follows:

§ 64.903 Cost Allocation Manuals.

(a) Each local exchange carrier with annual operating revenues of $100 million or more shall file with the Commission a manual containing the following information regarding its allocation of costs between regulated and nonregulated activities:

(1) A description of each of the carrier's nonregulated activities;

(2) A list of all the activities to which the carrier now accords incidental accounting treatment and the justification therefor;

(3) A chart showing all of the carrier's corporate affiliates;

(4) A statement identifying each affiliate that engages in or will engage in transactions with the carrier and

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[1] The Commission ordered an effective date of February 1, 1992, in order to permit the timely filing of petitions for structural relief by the BOCs on or about February 1, 1992, when federal ONA tariffs are scheduled to become effective. Petitions for structural relief could not be filed on that date unless our establishment herein of the procedures and preconditions for filing such petitions were effective by that date. Accordingly, we find good cause that the effective date should be less than thirty days from publication in the **Federal Register.** *See* Section 553(d)(3) of the Administrative Procedure Act, 5 U.S.C. § 553(d)(3).

[2] The publication of a substantive rule which relieves a restriction may be made less than thirty days before its effective date. *See* section 553(d)(1) of the Administrative Procedure Act, 5 U.S.C. 553(d)(1). The Commission's decisions to remove the capitalization plan requirement, the prohibition against the regulated BOC company and its affiliates performing software development for one another, and the prohibition against integrated planning and development fall within that provision.

describing the nature, terms and frequency of each transaction;

(5) A cost apportionment table showing, for each account containing costs incurred in providing regulated services, the cost pools with that account, the procedures used to place costs into each cost pool, and the method used to apportion the costs within each cost pool between regulated and nonregulated activities; and

(6) A description of the time reporting procedures that the carrier uses, including the methods or studies designed to measure and allocate non-productive time.

(b) Each carrier shall ensure that the information contained in its cost allocation manual is accurate. Carriers must update their manuals at least quarterly, except that changes to the cost apportionment table and to the description of time reporting procedures must be filed at least 60 days before the carrier plans to implement the changes. Proposed changes in the description of time reporting procedures, the statement concerning affiliate transactions, and the cost apportionment table must be accompanied by a statement quantifying the impact of each change on regulated operations. Changes in the description of time reporting procedures and the statement concerning affiliate transactions must be quantified in $100,000 increments at the account level. Changes in cost apportionment tables must be quantified in $100,000 increments at the cost pool level. The Chief, Common Carrier Bureau may suspend and such changes for a period not to exceed 180 days, and may thereafter allow the change to become effective or to prescribe a different procedure.

(c) The Commission may be order require any other communications common carrier to file and maintain a cost allocation manual as provided in this section.

(3) New § 64.904 is added to read as follows:

§ 64.904 Independent Audits.

(a) Each local exchange carrier required by this part or by Commission order to file a cost allocation manual shall have performed annually, by an independent auditor, an audit that provides a positive option on whether the applicable data shown in the carrier's annual report required by § 43.21(f)(2) of this chapter presents fairly, in all material respects, the information of the carrier required to be set forth therein in accordance with the carrier's cost allocation manual, the Commission's Joint Cost Orders issued in conjuction with CC Docket No. 86–111 and the Commission's rules and regulations including sections 32.23, 32.27, 64.901 and 64.903 in force as of the date of the auditor's report. The audit shall be conducted in accordance with generally accepted auditing standards, except as otherwise directed by the Chief, Common Carrier Bureau.

(b) The report of the independent auditor shall be filed at the time that the local exchange carrier files the annual report required by § 43.21(f)(2) of this chapter.

[FR Doc. 92-2678 Filed 2-4-92; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 642

[Docket No. 910650-1218]

Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: NMFS closes the commercial fishery in the exclusive economic zone (EEZ) for king mackerel from the eastern zone of the Gulf migratory group. NMFS has determined that the commercial quota for Gulf group king mackerel from the eastern zone was reached on January 30, 1992. This closure is necessary to protect the overfished Gulf king mackerel resource.

EFFECTIVE DATES: Closure is effective on January 31, 1992, through June 30, 1992.

FOR FURTHER INFORMATION CONTACT: Mark F. Godcharles, 813–893–3161.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and the South Atlantic, as amended, was developed by the South Atlantic and Gulf of Mexico Fishery Management Councils (Councils) under authority of the Magnuson Fishery Conservation and Management Act and is implemented by regulations at 50 CFR part 642. Catch limits recommended by the Councils and implemented by NMFS for the Gulf of Mexico migratory group of king mackerel for the current fishing year (July 1, 1991, through June 30, 1992) set the commercial allocation at 1.84 million pounds divided into quotas of 1.27 million pounds for the eastern zone and 0.57 million pounds for the western zone.

Under § 642.22(a), NMFS is required to close any segment of the king mackerel commercial fishery when its allocation or quota has been reached, or is projected to be reached, by publishing a notice in the **Federal Register**. NMFS has determined that the commercial quota of 1.27 million pounds for the eastern zone of the Gulf migratory group of king mackerel was reached on January 30, 1992. Hence, the commercial fishery for Gulf group king mackerel from the eastern zone is closed effective January 31, 1992, through June 30, 1992, the end of the fishing year.

NMFS previously determined that the commercial quota of 0.57 million pounds of king mackerel from the western zone was reached on September 28, 1991, and closed this segment of the fishery on September 29, 1991 (56 FR 49853, October 2, 1991). NMFS also previously determined that the recreational allocation of 3.91 million pounds for Gulf migratory group king mackerel was reached on January 12, 1992. The recreational bag limit for this group was reduced to zero on January 13, 1992 (57 FR 1662, January 15, 1992).

With closure of the commercial fishery in the eastern zone, all commercial fisheries are closed and the recreational bag limit is zero for Gulf migratory group king mackerel in the EEZ through June 30, 1992. During the closure, Gulf migratory group king mackerel may not be harvested from or possessed in the EEZ and such king mackerel taken in the EEZ may not be purchased, bartered traded, or sold. The latter prohibition does not apply to trade in king mackerel from the Gulf migratory group that were harvested, landed, and bartered, traded, or sold prior to the closure and held in cold storage by a dealer or processor.

Other Matters

This action is required by 50 CFR 642.22(a) and complies with Executive Order 12291.

Authority: 16 U.S.C. 1801 *et seq.*

List of Subjects in 50 CFR Part 642

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: January 30, 1992.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92–2701 Filed 1–30–92; 4:43 pm]

BILLING CODE 3510–22–M

50 CFR Part 650

[Docket No. 51222-6240]

Atlantic Sea Scallop Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Temporary adjustment of the meat count/shell height standards.

SUMMARY: NMFS issues this notice to implement a temporary adjustment of the meat count and shell height standards for the Atlantic sea scallop fishery. This action increases the average meat count standard to 33 meats per pound (MPP) (33 meats per 0.45 kilogram (kg)) and the shell height standard to 3 7/16 inches (87 millimeters (mm)).

EFFECTIVE DATES: February 1, 1992, through June 30, 1992.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Resource Policy Analyst, Fishery Management Operations, NMFS Northeast Regional Office, 508/281-9273.

SUPPLEMENTARY INFORMATION: Regulations at 50 CFR part 650 implementing the Fishery Management Plan for Atlantic Sea Scallops (FMP) authorize the Director, Northeast Region, NMFS (Regional Director), to adjust temporarily the meat count/shell height standards (standards) upon finding that specific criteria are met. These criteria, which appear at § 650.22(c), include the finding that: (1) The objective of the FMP would be achieved more readily, or would be better served, through an adjustment of the standards; (2) the recommended alteration in the standards would not reduce expected catch over the following year by more than 5 percent from that which would have been expected under the prevailing standard; (3) the recommended standards for meat count and shell height are consistent with each other; and (4) 50 percent of the harvestable biomass is at scallop sizes smaller than those consistent with the prevailing standards, and a temporary relaxation of the standards would not jeopardize future recruitment to the fishery. Adjustments of the standards may remain in effect for up to twelve months.

After consideration of the criteria, the Regional Director made a recommendation to adjust the standards. In accordance with the regulations, comments on this recommendation were solicited from the New England Fishery Management Council (Council), which voted to support the Regional Director's recommendation, and public hearings were held on January 15, 1992, and January 21, 1992. Attendance at the public hearings was low, and only four members of the industry commented. The comments were not for or against the recommendation, but were generally critical of the use of the standards as management measures. The Council is currently working on a draft of Amendment 4 to the Atlantic Sea Scallops FMP. The amendment proposes to change the primary scallop-management strategy from a meat count management system to an effort-control program.

Two written comments were also received on the recommendation, one from an industry association and one from the city government of New Bedford, MA. The comments were in support of the recommended adjustment.

After consideration of the full record, including: (1) Comments from the public, (2) comments from the Council, (3) available resource and assessment information, and (4) available information on the fishery and the industry, the Regional Director is adjusting the standards to 33 MPP (33 meats per 0.45 kg) with a corresponding shell height standard of 3 7/16 inches (87 mm) for the period February 1, 1992, through June 30, 1992.

This adjustment to the standards coincides with the end of the 10 percent spawning season adjustment approved under Amendment 2 to the FMP (53 FR 23634, June 23, 1988). This action was also taken in 1990 and 1991 at the end of the spawning season adjustment period. Survey information shows that although abundance and recruitment values for the sea scallop resource are among record highs, the resource is dominated by small scallops. This makes attaining an average MPP standard difficult because of the scarcity of large scallops available for mixing. Vessel costs increase because additional time and fuel must be spent in search of large scallops, discard mortality of small scallops increases, and landings decrease despite high resource abundance. These factors conflict with the objectives of the FMP and criterion 1.

This action meets criterion 2 because it is not expected to reduce catch over the following year by more than 5 percent. In addition, the meat count and shell height will remain consistent, thereby, conforming with criterion 3.

Criterion 4 states that 50 percent of the harvestable biomass must be at sizes smaller than the prevailing standard (30 MPP). Recent survey results show that 81 percent of the harvestable biomass consists of scallops smaller than 30 MPP. Thus this portion of criterion 4 is met. Criterion 4 also states that a temporary relaxation of the standards must not jeopardize future recruitment to the fishery. Sea scallops have their first significant spawning at age four. Age four sea scallops range from approximately 30 count to 50 count. The Regional Director recognizes that caution must be exercised when recommending a temporary adjustment to the meat count standard within this range. It is unlikely, however, that an adjustment of this magnitude, for a five month period, will jeopardize future recruitment to the fishery.

This temporary adjustment will be effective February 1, 1992, through June 30, 1992. During this period, the meat count standard will be 33 MPP (33 meats per 0.45 kg) and the shell height standard 3 7/16 inches (87 mm). On July 1, 1992, the standards will revert to 30 MPP (30 meats per 0.45 kg) and 3½ inches (89 mm) shell height. This adjustment will allow the sea scallop fishery to remain economically viable while the predominately small sea scallops, which grow rapidly, reach harvestable sizes under the 30 MPP standard.

List of Subjects in 50 CFR Part 650

Fisheries, Reporting and recordkeeping requirements.

Dated: January 30, 1992.

David S. Crestin

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92-2700 Filed 1-30-92; 4:42 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 57, No. 24
Wednesday, February 5, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 703

Wetlands Reserve Program

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule proposes regulations to implement the Wetlands Reserve Program (WRP) provided for in Title XIV of the Food, Agriculture, Conservation, and Trade Act of 1990 (the 1990 Act), enacted on November 28, 1990. Under the WRP, the Agricultural Stabilization and Conservation Service (ASCS) is authorized to purchase easements from eligible owners who agree to restore eligible farmed and converted wetlands.

DATES: Comments must be received on or before March 6, 1992, in order to be assured of consideration.

ADDRESSES: Comments should be mailed to Director, Conservation and Environmental Protection Division, ASCS, P.O. Box 2415, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: James R. McMullen, Director, Conservation and Environmental Protection Division, ASCS, P.O. Box 2415, Washington, DC 20013, phone (202) 720-6221.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and provisions of Departmental Regulation 1512-1 and has been classified as "major." It has been determined that these provisions may result in: An annual effect on the national economy of $100 million or more; major increases in costs or prices for consumers, individual industries, State or local agencies, or geographic regions; significant adverse effects on competition, employment, investment, productivity, innovation; a substantial effect on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. However, a preliminary regulatory impact analysis has been prepared and is available upon request.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since ASCS is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rule making with respect to the subject matter of this rule.

It has been determined by an environmental assessment that this action will not have any significant adverse impacts on the quality of the human environment. Therefore, an environmental impact statement is not needed.

Copies of a draft of the findings of no significant impact are available upon written request.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

At this time, a title and number for the Wetlands Reserve Program has not yet been assigned for purposes of inclusion in the Catalog of Federal Domestic Assistance.

The information collection requirements of the proposed rule at 7 CFR part 703 will be submitted to the Office of Management and Budget for review and approval in accordance with the Paperwork Reduction Act of 1980.

The public reporting burden for the information collections that would be required for compliance with these regulations are estimated to vary from 6 minutes to 9 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Comments are requested with respect to this proposed rule and such comments shall be considered in developing the final rule.

Discussion of Program

The WRP is authorized by Title XII of The Food Security Act of 1985 (the 1985 Act) as amended by the 1990 Act. Under the WRP, ASCS may purchase easements from persons agreeing to restore farmed or converted wetlands. The 1990 Act creates an umbrella program called the Agricultural Resource Conservation Program (ARCP) which includes the Environmental Conservation Acreage Reserve Program (ECARP). ECARP includes the Conservation Reserve Program and the Wetlands Reserve Program. On April 19, 1991, Commodity Credit Corporation published a notice in the **Federal Register** (56 FR 15980) containing final regulations which would add to the Code of Federal Regulations a new part (7 CFR part 1410) for the CRP program. General provisions for the ARCP were included as subpart A of part 1410 and specific regulations for the CRP were set out as subpart B. This rule proposes that a new part (7 CFR part 703) be established for WRP.

Maximum Acreage Enrollment, Land Eligibility, and Easement Priorities

Section 1237 of the 1985 Act sets a 1991–95 enrollment goal of a maximum 1 million acres for the WRP, but provides further that enrollment through 1991 may not exceed 200,000 acres, enrollment through 1992 may not exceed 400,000 acres, enrollment through 1993 may not exceed 600,000 acres, enrollment through 1994 may not exceed 800,000 acres and enrollment through 1995 may not exceed 1,000,000 acres.

Section 1237 specifies that eligible land will include farmed or converted wetlands, but not wetlands converted after December 23, 1985, together with adjacent lands on which the wetlands are functionally dependent so long as the likelihood of successful restoration of such land and the wetland values merit inclusion in the program taking into account the cost of restoring the wetlands. ASCS is also permitted to include in the program: (1) Farmed wetlands and adjoining lands that are enrolled in the Conservation Reserve Program with the highest wetland functions and values and that are likely to return to production at the end of the CRP contract; (2) other wetlands that would not otherwise be eligible if it is determined that inclusion in the program would add to the value of the easement; and (3) riparian areas that link wetlands that are protected by easements or by some other device or circumstance that achieves the same purpose as an easement. In addition prior converted wetlands enrolled in the CRP may be eligible to be included in the WRP if there is a high probability the wetlands can be restored.

Nationwide, eight pools will be established that correspond with the county boundaries of Soil Conservation Service's (SCS) Major Land Resource Regions (MLRR's). Bids accepted generally will be based on a ratio of acres of hydric cropland soils in a particular pool area compared to the acres of hydric cropland soils in the other pool areas. If bids are not accepted which equal the total allocated acreage within a pool area, ASCS may, at ASCS's discretion, redistribute any remaining acreage in such pool to other pools. Section 1237 prohibits acquiring WRP easements for land that contains timber stands established under the CRP.

With respect to owner eligibility, section 1237E of the 1985 Act, provides that no easement shall be created in the WRP on land that has changed ownership in the preceding 12 months unless: (1) The new ownership was acquired by will or succession as a result of the death of the previous owner; or, (2) the Secretary determines that the land was acquired under circumstances that give adequate assurances that such land was not acquired for the purpose of placing it in the WRP.

Section 1237A provides that the easements purchased under the WRP shall be in a recordable form and shall be for 30 years, permanent, or the maximum duration allowed under applicable State laws. Section 1237C(c) provides that in determining the acceptability of offers, consideration may be given to the extent to which the purposes of the program can be accomplished on the land, the productivity of the land and the on-farm and off-farm environmental threats if the land is used for the production of agricultural commodities. In addition, section 1237C(d) provides that to the extent practicable, taking into consideration costs and future agricultural and food needs, the Secretary shall give priority to obtaining permanent easements before shorter term easements and, in consultation with the Secretary of the Interior, shall place priority on acquiring easements based on the value of the easement for protecting and enhancing habitat for migratory birds and other wildlife. In order to accomplish this goal the proposed regulation provides at § 703.12 that permanent easements will be preferred whenever possible. The proposed rule at § 703.10 provides that the duration of the easement is one of the factors which will be evaluated in rating bids to be accepted into the program. ASCS's intention is that a bid which offers less than a permanent easement shall be substantially lower in priority than a bid offering a permanent easement.

A formula will be used to determine a ranking for bid acceptance when an excess of eligible bids are received during any given signup period. ASCS's intention in ranking the bids is to enroll the wetlands that provide the greatest environmental benefits for the government money expended on restoration and easement purchase. Initially, the prioritization formula will emphasize management factors that ensure the effectiveness of the restored wetland when compared to a site's particular wetland functions and values. The weight of particular factors may change if credible new information is developed that characterizes the environmental benefits of wetlands by their specific functions and values.

Further, if it is determined that special circumstances exist which increase the value of the area to be accepted and the wetland to be restored, the SCS Stated Conservationist, upon the recommendations of the Fish and Wildlife Service (FWS) and the local SCS office, may request acceptance of no more than five percent of the total acreage enrolled in the State during each signup period irrespective of the ranking. Each request for such acceptance will be considered on a case-by-case basis taking into consideration the information submitted by SCS for each such request.

The proposed regulations implement the owner and land eligibility provisions in proposed §§ 703.6–703.9. In order to assure maximum benefits from the expenditure of WRP funds, the rules set out crop-history requirements and other provisions which include limiting the eligibility of "adjacent lands" to buffer areas that in each case may neither, for the particular easement, average more than 100 feet wide nor be more than twice the area of the restored wetland. Specifications are also set out in the proposed regulation for the wetland functional values which may be considered relevant by ASCS in determining whether particular parcels should be accepted for enrollment in the program. In proposed §§ 703.10–703.11, the regulation provides for a bid system to be used to determine enrollment and those sections provide for the use of priorities in assessing bids, as is provided in the statute. Proposed § 703.12 provides specifically that to the extent practicable all easements shall be permanent easements unless it is determined by ASCS upon evaluation of offers that accepting an offer for a shorter period, which still meets the minimum length requirements of the statute, is necessary for accomplishment of the national program goals in individual cases.

With respect to fiscal year 1992 only, WRP shall be available to producers only in the following states: California, Iowa, Louisiana, Minnesota, Mississippi, Missouri, New York, and North Carolina. These states have been determined to be those which will provide the eligible acres necessary to enroll approximately 50,000 acres.

Producer Requirements

Section 1237A of the 1985 Act provides that an owner of land placed in the program must: (1) Grant an easement on the land; (2) implement a Wetlands Reserve Plan of Operation (WRPO); (3) provide for the creation and recordation of a deed restriction covering the easement; and (4) ensure consent to the easement from persons holding a security interest in the property. The 1985 Act requires, in addition, that the easement will permit: (1) Repairs, improvements, and inspection on such lands that are necessary to maintain existing public drainage systems and; (2) landowners to control public access on the easement area while identifying access routes to be used for wetland restoration activities, management and monitoring. Section 1237A requires that the easement: (1) Prohibits the alteration of wildlife habitat and other natural features of the land unless specifically permitted by the WRPO; (2) permits spraying with chemicals or mowing of the land as permitted by the WRPO to comply with Federal or State noxious weed laws or Federal or State emergency pest treatment programs. The 1985 Act provides further that the Secretary may impose other conditions as needed and authorizes the Secretary to permit compatible uses of the property which are deemed consistent with the primary purposes of the easement. Section 1237B requires generally that participants must comply with all program requirements and specifies that as a condition for participation, the participant must agree to the permanent retirement of any existing cropland base and allotment history for such land under production adjustment programs administered by the Secretary.

Section 1237A provides that in the case of any violation of the terms and conditions of the easement or related

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agreement, the easement shall remain in force and the owner may be required to refund all or part of any payment made for such easement, together with interest. With respect to WRPO's, section 1237A provides that such WRPO's will be developed and agreed to at the local level by representatives of the SCS and the FWS, United States Department of Interior, in conjunction with the landowner. However, if agreement between SCS and FWS cannot be reached at the local level, the WRPO shall be developed by the State Conservationist in consultation with FWS.

In the proposed rule, §§ 703.12 and 703.15 set out the obligations of WRP participants. The proposed regulations require participants to control weeds or pests to the extent specified in the WRPO taking into consideration the needs of wildlife and water quality. As proposed, each participant would, prior to submitting a bid for participation in the program, be required to have an approved WRPO which would set out the manner in which the land would be restored to a wetland status and other measures which would be required for the property.

Under § 703.12 participants are required to be responsible for the long-term management of the easement in accordance with the terms of the easement and related agreements including the WRPO. However, participants will continue to have the option, at their sole discretion, to enter into an agreement with a Federal, State, or private conservation entity to secure management assistance or other commitment of action from such entities that the landowner determines to be in their interest. Arranging for a conservation entity to become the owner of record of the land, including the management responsibilities associated with the easement area, is one potential option available to the present owner as a means of transferring long-term management responsibility. Whenever a landowner expresses a desire to enter into such third party management or other commitment to action, that request will be considered simultaneously with the WRPO and other easement establishment efforts.

Section 703.15 of the proposed rule sets out provisions which authorize ASCS to permit certain uses to be considered compatible uses of the property in appropriate cases. Those uses can include hunting and fishing, and, in addition, timber production under an approved management and harvesting plan. Compatible uses may also include haying or grazing if allowed by the WRPO in a manner consistent with the easement. Provisions for remedies for ASCS in the event of a program or easement violation are set out in § 703.29 of the proposed regulations.

Payments

WRP payments are subject to advance appropriations under the WRP and ASCS may make easement payments and cost-share payments. With respect to easement payments, section 1237A of the 1985 Act provides that the easement payment may not exceed the amount which is equal to the difference between the fair market value of the land less the fair market value of the land encumbered by the easement. Easements will be accepted based on the market value of the agricultural land. A formula to determine the value of the land will be used based on the average market value of agricultural land in a county adjusted for: (1) Soil productivity, (2) landowner cost of wetland restoration; (3) long term easement area operation; maintenance, and replacement costs; (4) long term costs of providing for an easement access route; (5) cost of limitations on uses of surrounding lands, if any; and (6) any other factors authorized by ASCS. This section provides further that the payments may be made on an annual basis, in equal or unequal amounts, for a period which may not be less than 5 years or more than 20 years. This section also provides: (1) In the case of permanent easements, a lump sum payment to be made; and (2) that the total amount of easement payments made to a person for any year under the WRP may not exceed $50,000, except that such limitation will not apply with respect to payments for permanent easements. With respect to cost-share payments, section 1237C of the 1985 Act provides that, for non-permanent easements, the Secretary shall authorize cost-shares equal to not less than 50 percent nor more than 75 percent of the cost of carrying out the establishment of restoration measures and practices and the protection of the wetland functions and values, as set forth in the WRPO, to the extent that the Secretary determines that cost-sharing is appropriate and in the public interest. As § 703.13 the proposed rule provides that cost sharing for easements which are less than permanent may receive cost shares at a rate as low as 50 percent while easements which are permanent may receive cost shares at a rate which is no less than 75 percent of eligible costs. It is ASCS's intention to use a 50 percent cost share rate on less than permanent easements and a 75 percent rate on permanent easements.

Unlike Conservation Reserve Program (CRP) payments, WRP payments are not subject to the "swampbuster" and "sodbuster" provisions of Title XII of the 1985 Act under which participants may lose eligibility for USDA benefits as the result of prohibited activities related to wetlands and highly erodible lands. Section 1237D of the 1985 Act provides that WRP payments are not subject to a budget sequester order issued under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985. In the proposed regulations, provisions for payments are made in § 703.13. Those provisions specifically authorize withholding a portion of the easement payments otherwise due pending installation of the practices agreed to in the WRPO. In addition, the rules provide that cost-share payments may be made under the WRP only for the establishment or installation of the eligible restoration practices. With respect to the limitation on payments for non-permanent easements, § 703.14 proposes payment limitation determinations be made in accordance with 7 CFR part 1497.

Miscellaneous Provisions

The proposed regulations contain other miscellaneous provisions to implement the program provided for in the 1985 Act. These provisions cover, among other matters, assignments of payments and the transfer of the enrolled property. In the case of a land transfer, the easement will "run with the land" and, therefore, all parties having or acquiring an interest of any kind in the property are subject to the easement.

List of Subjects in 7 CFR Part 703

Administrative practices and procedures, Compliance procedures, Easements, Natural resources, Technical assistance and Wetlands Reserve Plan of Operations (WRPO).

Proposed Rule

Accordingly, it is proposed that Title VII of the Code of Federal Regulations be amended as follows:

A new part 703 is added to subchapter A to read as follows:

PART 703—WETLANDS RESERVE PROGRAM

Sec.
703.1 Applicability.
703.2 Administration.
703.3 Definitions.
703.4 Maximum county acreage.
703.5 Maximum acreage limitation.
703.6 Eligible person.

Sec.
703.7 Eligible land.
703.8 Additional land eligibility provisions.
703.9 Transfer of lands from the CRP to the WRP.
703.10 Easement priority.
703.11 Statement of intention to participate: submission of bids.
703.12 Obligations of the landowner.
703.13 Payments to landowners by ASCS.
703.14 Payment limitation.
703.15 Wetlands Reserve Plan of Operations.
703.16 Easement modifications.
703.17 Transfer of land.
703.18 Monitoring and enforcement of easement terms and conditions.
703.19 Violations.
703.20 Performance based upon advice or action of the Department.
703.21 Access to land under agreement.
703.22 Program payments and provisions relating to tenants and sharecroppers.
703.23 Payments not subject to claims.
703.24 Assignments.
703.25 Appeals.
703.26 Scheme and device.
703.27 Filing of false claims.
703.28 Miscellaneous.
703.29 Other provisions.

Authority: 15 U.S.C. 714b and 714c; 16 U.S.C. 3801 *et seq.*

§ 703.1 Applicability.

(a) The regulations in this part govern the Wetlands Reserve Program (WRP). With respect to fiscal year 1992 only, WRP shall be available to producers only in the following States: California, Iowa, Louisiana, Minnesota, Mississippi, Missouri, New York, and North Carolina. These states have been determined to have the highest incidence of:

(1) Significant acreage of hydric cropland;

(2) Potential capacity for restoration;

(3) Diversity in kinds of wetlands; or

(4) Substantial benefits for migratory birds.

(b) Under the Wetlands Reserve Program, ASCS will purchase easements from eligible persons who have eligible land with respect to which they agree to restore and protect farmed wetlands or converted wetlands and eligible adjacent lands. Such voluntary easements will be for the purpose of restoring the hydrology and vegetation, and protecting the functions and values of wetlands for wildlife habitat, water quality improvement, flood water retention, ground water recharge, open space, aesthetic values, and environmental education.

§ 703.2 Administration.

(a) The regulations in this part will be administered under the general supervision and direction of the Administrator, ASCS. In the field, the regulations in this part will be administered by the Agricultural Stabilization and Conservation State and county committees ("State committees" and "county committees", respectively).

(b) State executive directors, county executive directors and State and county committees do not have authority to modify or waive any of the provisions of this part.

(c) The State committee may take any action authorized or required by this part to be taken by the county committee which has not been taken by such committee. The State committee may also:

(1) Correct or require a county committee to correct any action taken by such county committee which is not in accordance with this part; or

(2) Require a county committee to withhold taking any action which is not in accordance with this part.

(d) No delegation herein to a State or county committee shall preclude the Administrator of ASCS, or a designee, from determining any question arising under this part or from reversing or modifying any determination made by a State or county committee.

(e) Data furnished by the applicants will be used to determine eligibility for program benefits. Furnishing the data is voluntary; however, without it program benefits will not be provided.

(f) (1) The eligibility of the land for inclusion in the WRP will be based on the likelihood of successful wetland restoration and the merit of including the land in the program, taking into account the cost of the restoration. The development of the WRPO and detailed designs to implement the planned practices to achieve the desired objectives shall be made by the Soil Conservation Service (SCS) in consultation with the Fish and Wildlife Service (FWS), except that no determination by the SCS shall compel ASCS to execute an easement contract which ASCS does not determine will serve the purposes of the program established by this part.

(2) ASCS shall consult with the SCS and FWS for such other technical assistance in the implementation of the WRP as is determined by ASCS to be necessary.

(g) ASCS shall consult with the Forest Service (FS) or the State Forestry Agency for such assistance as is determined by ASCS to be necessary for developing and implementing WRPO which include tree planting practices.

(h) ASCS may consult with the Extension Service (ES) to coordinate the related information and education program as deemed appropriate to implement the WRP.

§ 703.3 Definitions.

(a) The terms defined in part 719 of this chapter shall be applicable to this part and all documents issued in accordance with this part, except as otherwise provided in this section.

(b) The following definitions shall be applicable to this part:

Agricultural commodity means any crop planted and produced by annual tilling of the soil or on an annual basis by one trip planters or sugar cane planted or produced in a State or alfalfa and other multiyear grasses and legumes in rotation as approved by the Secretary. For purposes of determining crop history, as relevant to eligibility to enroll land in the program, land shall be considered planted to an agricultural commodity during a crop year if, as determined by ASCS, an action of the Secretary prevented land from being planted to the commodity during the crop year.

Annual payment means, unless the context indicates otherwise, the payment specified in the WRP agreement which is made annually to a participant to compensate such participant for placing eligible land in the WRP.

Applicant means a person who submits to ASCS an intention to participate in a WRP easement.

ASCS means the Agricultural Stabilization and Conservation Service.

Bid means, unless the context indicates otherwise, the total payment requested by the owner for granting an easement.

Conservation District (CD) means a subdivision of a State organized pursuant to an applicable State Conservation District Law or in instances where a conservation district does not exist, the State Conservationist of the Soil Conservation Service.

Cost-share payment means the payment made by ASCS to assist program participants in establishing the practices required in a WRPO.

CRP means the Conservation Reserve Program provided for in 7 CFR parts 704 and 1410 and in this part.

Deputy Administrator means the ASCS Deputy Administrator for State and County Operations (DASCO).

Easement area means the land on which the approved restoration practices are required.

Easement contract means the instrument for participation which will be required of all persons participating in the program.

Easement farm means the area of land, including the easement area which has been conveyed by the most current deed recorded in the land records of the

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county where the easement area is located.

FWS means the Fish and Wildlife Service of the United States Department of the Interior.

Local ASCS office means the county office of the Agricultural Stabilization and Conservation Service serving the county or combination of counties in the area in which the landowner's farm or ranch is located.

Non-permanent easement means an easement for the maximum duration permitted by State law or for 30 years.

Participant means a landowner who has an approved easement contract.

Permanent easement means an easement in perpetuity.

Practice means the wetland and easement area development restoration measures agreed to in the WRPO to accomplish the desired program objectives.

Riparian areas means areas of land, which are directly influenced by free water in the soil, that occur along streams, rivers, and other water bodies. They are distinctly different from the surrounding lands because of unique soil and vegetation characteristics. They may be identified by distinctive vegetative communities which are reflective of soil conditions normally wetter than adjacent soils.

SCS means the Soil Conservation Service of the United States Department of Agriculture.

Technical assistance means the assistance provided under the WRP to owners by a representative of the Department of Agriculture or the FWS in determining cropland eligibility, suitability for restoration, developing WRPO's, and implementing and certifying practices.

WRP means the Wetlands Reserve Program provided for in this part.

WRPO means the Wetlands Reserve Plan of Operations provided for in this part.

§ 703.4 Maximum county acreage.

(a) Except for areas devoted to windbreaks or shelterbelts after November 28, 1990, the maximum acreage which may be placed in the ECARP may not exceed 25 percent of the total cropland in the county of which no more than 10 percent of the total cropland in the county may be subject to an easement.

(b) The limitation in paragraph (a) of this section shall not apply if ASCS determines that such action will not adversely affect the local economy of the county.

§ 703.5 Maximum acreage limitation.

ASCS will attempt to enroll no more than 1,000,000 acres in the WRP during the 1991–1995 calendar years and the cumulative total acreage enrolled will not exceed:

(a) 200,000 acres through 1991;
(b) 400,000 acres through 1992;
(c) 600,000 acres through 1993;
(d) 800,000 acres through 1994; and
(e) 1,000,000 acres through 1995.

§ 703.6 Eligible person.

To be eligible to offer land for the WRP a person must be the owner of the eligible property for which enrollment is sought and must have been the owner of such land for at least the preceding 12 months prior to the end of the period in which the intent to participate is declared, as provided in this subpart, unless:

(a) It is determined by ASCS that the land was acquired by will or succession as a result of the death of the previous owner; or

(b) It is determined by ASCS that adequate assurances have been presented that the new owner of such land did not acquire such land for the purpose of placing it in the WRP.

§ 703.7 Eligible land.

(a)(1) Except as otherwise provided in this section, land may only be considered eligible for enrollment in the WRP if it is determined by ASCS that the land:

(i) Is wetland farmed under natural conditions, a farmed wetland, or prior converted wetland which is cropland together with adjacent lands determined under this section except that converted wetlands shall not be eligible for enrollment if the conversion was not commended prior to December 23, 1985; and

(ii) Merits inclusion in the program based on the likelihood of successful restoration of the enrolled land and the resultant wetland values when considering restoration cost.

(2) Except in the case of land which qualifies as non-croplands under paragraph (b) of this section, land enrolled in the WRP must also:

(i) Have been annually planted or considered planted to an agricultural commodity in at least 1 of the 5 crop years 1986 through 1990;

(ii) Be suitable for planting to an agricultural commodity at the time of enrollment unless the land is wetlands that have been restored on the land under a CRP contract, or under a Federal or State wetland restoration program without an easement of at least 30 years in which case the land need only to have been planted to an agricultural commodity 2 of the 5 crop years, 1981 through 1985; and

(iii) Not be a wetland mitigated under part 12 of this title.

(b) Non-cropland may qualify as eligible adjacent land is ASCS determines that including such land in the program would contribute significantly to the restoration of adjacent wetlands under paragraph (a) of this section;

(c) Determinations under this section will be made in accordance with the provisions of part 12 of this title, in such manner as may be prescribed by the Deputy Administrator.

(d) Eligible land also includes land which ASCS determines to be:

(1) A riparian area along a stream or other waterway that links wetlands which are protected by an easement or other agreement that achieves the same objective as an easement;

(2) Land adjacent to the restored wetland, which would contribute significantly to the restoration of adjacent wetlands, but not more than an average of 100 feet wide, and not more than twice the area of the restored wetland as needed to protect the functions and values of wetlands restored under this subpart unless DASCO determines a larger area is necessary to meet the objectives of the WRP;

(3) Lands that otherwise meet the requirements of paragraph (a) of this section subject to an existing CRP contract, with the highest wetland functions and values, that are likely to return to production after the expiration of the CRP contract and adjacent lands that otherwise meet the requirements of paragraph (b) of this section;

(4) Prior converted wetlands subject to an existing CRP contract if there is a high probability that the prior converted area can be successfully restored to wetland status and restoration of such areas will meet the requirement of this part; or

(5) Other wetlands of an owner that would not otherwise be eligible if the inclusion of such wetlands in the WRP easement would significantly add to the functions and values of the wetlands to be restored under this subpart.

(e) Notwithstanding any other provision of this section, land which meets the requirements of paragraphs (a) through (d) of this section, shall not be considered eligible land unless it is determined that:

(1) The wetland hydrology and vegetation can be restored to a condition approximating conditions that existed before the production of an agricultural commodity occurred on

such land or to a wetland condition providing significant functions and values for wildlife and improved water quality.

(2) Significant restoration and protection is probable for wetland functions and values of such land. Wetland functions and values shall include but are not limited to:

(i) The improvement of habitat for migratory birds and other wildlife;

(ii) The protection and improvement of water quality;

(iii) The attenuation of water flows due to flood;

(iv) The recharge of ground water;

(v) The protection and enhancement of open space and aesthetic quality; or

(vi) The educational and scientific values of the area.

(f) Eligible land must be configured in a manner which allows the owner to meet the objective of the WRP.

§ 703.8 Additional land eligibility provisions.

Notwithstanding other provisions of this part, land that is eligible for enrollment in the WRP must not be:

(a) Converted wetlands if the conversion was commenced after December 23, 1985;

(b) Land, including pasture land, that contains timber stands or trees established in connection with a CRP contract;

(c) Lands owned or acquired by an agency of the Federal Government; or

(d) Land subject to a deed restriction prohibiting the production of agricultural commodities or the alteration of existing wetland hydrology.

§ 703.9 Transfer of lands from the CRP to the WRP.

Land subject to an existing CRP contract may be offered for acceptance and transfer into the WRP only if:

(a) The land is eligible land for purposes of the WRP as provided in sections 703.7 and 703.8 of this part; and

(b) the application for such transfer is made during the first available WRP signup period and such transfer into the WRP is agreed to by ASCS. If such transfer is requested by the owner and agreed to by ASCS, the CRP contract for the property shall be terminated or otherwise modified subject to such terms and conditions as are mutually agreed. Transfers from CRP to WRP during subsequent WRP signup periods will not be permitted unless the owner agrees to refund all payments received under CRP, as determined appropriate by ASCS.

§ 703.10 Easement priority.

(a) In implementing the WRP, ASCS shall, to the extent practicable, in determining which WRP bids to accept, take into account the costs of obtaining an easement, future agricultural and food needs, and the benefits for protecting and enhancing habitat for migratory birds and other wildlife that would be acquired through purchase of the easement.

(b) A formula will be used to ensure that offers will not be accepted in excess of the value of agricultural land, adjusted for soil productivity; nonland assets idled; landowner cost of wetland restoration; long term easement area operation and maintenance; long term costs for providing easement access route; and any other factors as may be allowed. In evaluating easement offers, different priorities for selection may be established by ASCS form time to time as determined by ASCS in order to accomplish the goals of the WRP.

(c) ASCS will rank the bids based on the environmental benefits per dollar of government expenditures on restoration and easement purchase. The factors for determining the priority for selection may include the following:

(1) Wetland Hydrology Restoration Potential;

(2) Wetlands Location Significance;

(3) Wetlands Functions and Values

(4) Management Risks;

(5) Duration of Easements;

(6) Cost of Restoration and Easement Purchase; and

(7) Any other factors as determined appropriate by ASCS.

§ 703.11 Statement of intention to participate; submission of bids.

(a) A person seeking to enroll land in the WRP must apply for enrollment by stating on an approved ASCS form their intention to participate in the WRP. The statement of intention must be filed with the local county ASC committee during an announced period for such submissions. Such periods may be announced periodically by ASCS.

(b) Following the statement of intention, the application will be considered complete only if such applicant:

(1) Obtains an approved WRPO; and

(2) Submits to ASCS a WRP bid setting out the total amount of easement payments that the person is willing to accept in return for participation in the program and for agreeing to other conditions for participation that may be required by ASCS, including the creation of an easement on the property. Such bids may be made no later than 90 days after the close of the period announced by ASCS for submitting a statement of intention to participate, unless a later date is agreed to by ASCS. No bid may be accepted unless submitted on the approved ASCS form and unless it is determined that the land is eligible and that the submitter of the bid is an eligible person. The determination of which bids to accept shall lie in the exclusive discretion of ASCS.

(c) A person submitting a statement of intention to participate shall not be obligated to submit a bid.

(d) A bid may be submitted only if signed by all owners of the property or their duly authorized representative.

§ 703.12 Obligations of the landowner.

(a) All owners of land for which a WRP bid is accepted by ASCS shall:

(1) Grant to ASCS an approved easement for the land which shall run with the land and shall be in favor of ASCS and its assigns or delegatees which provides that the property shall be maintained in the manner specified by ASCS to ensure that the land is maintained in accordance with the goals and purposes of this part, including the maintenance of the restored wetland and eligible lands as specified in the WRPO for the full life of the easement. Such easement shall:

(i) Be a reserve interest easement that the Deputy Administrator determines is for a sufficient term of time necessary to achieve the purposes of the program. Permanent easements will be accepted and preferred whenever possible. However, the term of the easement shall be at least 30 years or the maximum extent allowed under State law;

(ii) Required that the maintenance of the land in accordance with the easement and with the terms of the WRPO shall be the responsibility of the owners of the property and their successors of any kind, including, but not limited to, the owner's heirs and assigns;

(iii) Grant to ASCS a right of access in favor of ASCS and its delegatees, assigns and successors of any kind, from a public road to the portion of the property which is subject to the provisions of the WRPO. Maintenance of such access shall be the responsibility of the owner and their successors of any kind;

(iv) Reserve to ASCS the right to permit such compatible uses of the easement area as may be identified in the WRPO; and

(v) Reserve to the landowner those compatible uses identified in the WRPO that are permitted to be pursued by the landowner.

(2) Comply with all terms and conditions of the WRPO;

(3) Provide for creating and recording an appropriate deed restriction, as

determined by ASCS, for such land as necessary to meet the requirements of this subpart;

(4) Ensure that the easement granted to ASCS is superior to the rights of all others, which duty shall include, but not be limited to, providing a written statement of consent to such easement and disclaimer by those holding a security interest or any other encumbrance with respect to such land;

(5) Agree to the permanent retirement of the aggregate total of crop acreage bases and allotment history on the farm or ranch to the extent that such crop acreage bases are not supported by the cropping pattern on the farm not including cropland enrolled in WRP;

(6) Not allow the grazing of the land or any other commercial use on the land, except as provided for in the WRPO, or harvesting of any agricultural commodity produced on the land subject to the WRP easement;

(7) Comply with noxious weed laws of the applicable State or local jurisdiction on such land in a manner consistent with the WRPO;

(8) Control on land subject to easement all weeds, insects, pests and other undesirable species to the extent necessary, taking into consideration the needs of water quality and wildlife, in a manner consistent with the objectives of the program and the WRPO;

(9) Establish, maintain, and replace, as specified in the easement contract, the practices required in the WRPO as needed to meet the requirements of the WRPO, the easement contract, and the terms of the easement;

(10) Be responsible for repairs, improvements, and inspections of the WRPO practices as necessary to maintain existing public drainage systems when the land is restored to the condition required by the terms of the WRPO, the easement contract and the easement;

(11) Be permitted to control public access, in accordance with the WRPO, on the land enrolled in the program;

(12) Implement any additional provisions that are desirable, as are required by ASCS in consultation with SCS and FWS in the easement contract, WRPO, or easement, in order to, as determined by ASCS, facilitate the administration of the WRP;

(13) Not plant for harvest an agricultural commodity on the enrolled land for crop years subsequent to the acceptance of a WRP bid by ASCS;

(14) Not alter the vegetation, except to harvest already planted crops or forage, or hydrology on such offered acres subsequent to acceptance of a bid by ASCS except as provided for in the easement or WRPO;

(15) Be responsible for the long-term management of the easement in accordance with the terms of the easement and related agreements including the WRPO provided that owners will have the option to enter into an agreement with governmental or private agencies to assist in the management of the easement area as determined appropriate by ASCS. No ASCS funds will be provided to the designated agencies for management expenses and the responsibility to ASCS for the management of the easement shall in all cases remain with the owner and the owner's successors of any kind regardless of whether such arrangements for third-party management are made with governmental or private agencies, including federal agencies;

(16) Agree that each person on the easement contract with ASCS, or who is subject to the easement, shall be jointly and severally responsible for compliance with the WRPO, the easement contract and the provisions of this subpart and for any refunds or payment adjustment which may be required for violation of any terms or conditions of the WRPO, the easement contract, or provisions of this subpart;

(17) Refrain from taking any action on the easement area unless specifically authorized in the reserve interest easement or the WRPO; and

(18) Secure any necessary local, State and Federal permits prior to commencing restoration of the designated area.

(b) In addition, program participants and their successors of any kind may:

(1) Not alter wildlife habitat and other natural land features of the enrolled land unless authorized by the WRPO;

(2) Apply pesticides or fertilizers on the enrolled land or mow such land, only as provided for in the WRPO; or

(3) Not engage in any activities on lands adjacent to the easement area that will alter, degrade or diminish the values of the land under easement, or engage in any practice including compatible uses that would tend to defeat the purposes of the program.

(c) The activities of any person on the property shall be considered for purposes of this section to be the actions of the program participant, except to the extent that ASCS determines that the activities of such other person were beyond the control of the owner, in which case ASCS may adjust the remedies that are otherwise provided for in this part to the extent determined consistent with program goals. Obligations created by the easement shall run with the land and shall bind all persons having an interest in the property at any time whether such interest is created by death of the owner, sale, assignment, or otherwise.

§ 703.13 Payments to landowners by ASCS.

(a) ASCS will share the cost with landowners of rehabilitating the enrolled acres by establishing the practice identified in the WRPO, or the easement. The amount of the cost-share assistance shall be specified in the easement contract. Eligible costs for such cost-share assistance by ASCS shall only include those costs which the ASCS determines are appropriate, and shall be subject to the following restrictions:

(1) ASCS shall pay:

(i) Not less than 75 percent as determined by ASCS of the actual cost of establishing or installing the practices required by the WRPO or average cost of establishing the practices specified in the WRPO for a permanent easement;

(ii) Not less than 50 percent nor more than 75 percent as determined by ASCS of the actual cost of establishing or installing the practices required by the WRPO or average cost of establishing the practices specified in the WRPO for other than a permanent easement;

(iii) Notwithstanding paragraphs (a)(1)(i) and (ii) of this section, no more than the amount estimated in the easement contract without the approval of the Deputy Administrator.

(2) For purposes of determining average establishment or installation costs ASCS may take into account recommendations of the State and County Conservation Review Groups provided for in § 701.2(a) of this chapter and the determination of average costs shall be the average for the part of the county in which the land is located, except that if such an estimate is not possible, then an estimate for the whole county may be used, or if an estimate for part of the county or the whole county is not readily determinable, an estimate may be used for the State or part of the State in which the land is located;

(3) Cost-share payments may be made only upon a determination by ASCS that an eligible practice or an identifiable unit of the practice has been established in compliance with appropriate standards and specifications;

(4) Cost-share payments may be made only for the establishment or installation of an eligible practice and not for the maintenance of the practice except as specifically permitted in writing by the Deputy Administrator; and

(5) Cost-share payment determinations shall be made by the county ASC committee but no easement

contract may be approved which would allow for total WRP cost-shares in excess of 50 percent of the preeasement fair market value of the property subject to the WRPO without written approval by the State ASC committee or for more than 100 percent of such fair market value without the written approval of the Deputy Administrator.

(b) (1) ASCS shall pay, at the times determined by ASCS, the agreed upon amount for the easement as determined through the acceptance of bids for eligible land through annual payments made in equal or unequal amount over a period not less than 5 years nor more than 20 years; except that in the case of permanent easements the easement payment may be made in a lump sum amount.

(2) ASCS payments shall be made in cash;

(3) In the case of any non-permanent easement, the amount of payments that may be received per person, as determined under part 1497 of this title, shall be limited as provided for in this part;

(4) For all easements, ASCS shall provide in the agreement for withholding a portion of the payments that might otherwise be made pending completion of the restoration plan for the property and ASCS may condition any payment on satisfactory progress toward completion of the plan. Such condition shall provide that, at a minimum, ASCS shall pay no more than 10 percent per year of the total purchase price for the easement pending completion of the restoration of the wetlands;

(5) No payment may be made which would exceed the total amount bid and accepted for the property and payments may only be made if the person on whose account the payment is to be made:

(i) Has agreed to all terms and conditions of the program set out in this part;

(ii) submitted an accepted bid on the standard ASCS-approved form for the WRP; and;

(iii) is in full compliance with the terms and conditions of the WRP easement except to the extent that relief is authorized by this part and is approved under guidelines issued by the Deputy Administrator.

(c) ASCS may make financial assistance available to assist landowners in complying with the terms and conditions of the easement and the WRPO.

§ 703.14 Payment limitation.

With respect to non-permanent easements, the annual amount of payments paid to a person, as determined under part 1497 of this title, shall not exceed $50,000.

§ 703.15 Wetlands Reserve Plan of Operations.

(a) At the time of submitting a bid to enroll land in the WRP, the landowner must have obtained a WRPO for the land which has been approved by ASCS.

(b) The WRPO shall:

(1) Include an aerial photo displaying the land offered for enrollment;

(2) Specify the manner in which the farmed or converted wetlands included in the enrolled land shall be restored, operated and maintained to accomplish the goal of the program together with other practices which may be necessary or appropriate to accomplish the goals of the program, including, where appropriate:

(i) A tree-planting plan for the property; and

(ii) Measures necessary to control weeds, insects or pests.

(3) Specify compatible land uses, if any, reserved to the landowner in the easement and the manner in which these uses are to be carried out, such uses may include among others:

(i) Hunting and fishing;

(ii) Managed timber production including harvesting; and

(iii) Periodic haying or grazing consistent with the goals of the program.

(4) Set out cost estimates of the practices required by the WRPO;

(5) Identify access routes to be maintained for wetland restoration activities and future management and easement monitoring in connection with the land to be enrolled;

(6) Make provisions deemed necessary for maintaining public drainage systems if present or lands subject to the WRPO;

(7) Contain scheduled implementation dates for restoration practices, including dates for the implementation of wetland restorations; and

(8) Contain other provisions or limitations as ASCS, in consultation with the SCS and FWS, determines to be necessary.

(c) SCS and FWS will cooperate and may consult with any other agency or person as deemed necessary on the development of the WRPO with the landowner.

(d) The WRPO must be signed by SCS, FWS, and the landowner before submission of a bid by an applicant. However, if agreement between SCS and FWS at the local level is not reached within 20 working days, the WRPO shall be developed by the State Conservationist of SCS in consultation with FWS.

(e) The WRPO may require that a temporary vegetative or water cover be established on the property if immediate establishment of a permanent cover is not practicable or otherwise desirable.

(f) The terms of an ASCS-approved WRPO shall not relieve the program participant of any obligation or term imposed or provided for in the easement contract, the easement, or this part. The WRPO, where appropriate, may provide for the development of a final engineering plan for the property to be developed by the SCS.

(g) Revisions of the WRPO to enhance or protect the value for which the easement was established may be made at any time at the request of and with the concurrence of the owner, SCS, FWS, and ASCS.

§ 703.16 Easement modifications.

After the easement has been recorded, no change may be made in the easement without the written agreement of the Deputy Administrator who may grant such approval only where such approval is determined necessary or appropriate to achieve the goals of WRP or facilitate the practical administration and management of the easement area or the program.

§ 703.17 Transfer of land.

(a) If a new owner purchases or obtains the right and interest in, or right to occupancy of, the land subject to a WRP easement, such new owner shall be subject to the terms and conditions of the easement. The seller or original owner, who is signatory to the easement contract, shall be entitled to receive all remaining WRP payments, if any. Eligible cost-share assistance shall be paid to the seller or original owner with respect to costs incurred by such seller or original owner.

(b) Upon the transfer of the property, all cost-share payments may be withheld and shall be paid only if the new owner or purchaser becomes a party to the easement contract within 60 days of the recordation of the deed transferring title to the new owner.

(c) Any transfer of the property prior to the filing of the easement shall void any intention to participate, bid, or WRP easement contract unless the new owner agrees to be a party to the intention to participate.

§ 703.18 Monitoring and enforcement of easement terms and conditions.

(a) ASCS or its representative shall be permitted to inspect each easement area at any and all times determined necessary or appropriate by ASCS to ensure that:

(1) Structural and vegetative restoration work are properly maintained;

(2) The wetlands and adjacent upland habitat is being managed as required in the WRPO, and the terms of the easement; and

(3) Uses of the area are consistent with the terms and conditions of the easement contract, the WRPO and any related agreement.

(b) If an owner or other interested party is unwilling to voluntarily correct, in a timely manner, deficiencies in compliance with the terms of the WRPO, the WRP easement, or any related agreements, ASCS may at the expense of any person who is subject to the WRP easement correct such deficiency. Such ASCS action shall be in addition to other remedies available to ASCS.

(c) Management, monitoring and enforcement responsibilities may be delegated to other Federal or State agencies that have the appropriate authority, expertise, and resources necessary to carry out such delegated responsibilities, as determined by ASCS.

§ 703.19 Violations.

(a) If a violation of the terms and conditions of the easement contract, the WRPO or the recorded WRP easement occurs, the easement shall remain in force and ASCS may:

(1) Require the owner to fully restore the easement area, to fulfill the terms and conditions of the easement and WRPO; and

(2) Require the owner, irrespective of whether such owner was the owner to receive such payment, to refund all or part of any payments received together with interest as determined appropriate by ASCS.

(b) If an owner fails to carry out the terms and conditions of an easement, appropriate legal action may be initiated under civil law, or other authorities available to the entity assigned management responsibilities to compel such compliance. The owner of the property shall reimburse ASCS for all costs incurred including but not limited to, legal fees. In addition, such owner shall reimburse ASCS for the loss of wetland value for the time in which the land was out of compliance, which such amount shall at a minimum be equal to the rate which for a full year of non-compliance would equal one-tenth of the total easement payments made with respect to the property.

§ 703.20 Performance based upon advice or action of the Department.

The provisions of part 790 of this chapter, as amended, relating to performance based upon the action or advice of a representative of the Department shall be applicable to this part.

§ 703.21 Access to land under agreement.

In order to determine eligibility and compliance with respect to this part, representatives of the Department, or designee thereof, shall have the right of access to:

(a) Land which is the subject of an application made in accordance with this part,

(b) Land which is subject to an easement made in accordance with this part, and

(c) Records of the producer which release such land.

§ 703.22 Program payments and provisions relating to tenants and sharecroppers.

(a) Payments received under this part shall be divided in the manner specified in the applicable easement contract.

(b) ASCS shall ensure that producers who would have shared in the risk of producing crops on land subject to such easement receive treatment deemed to be equitable in accordance with § 1413.150 of this title.

§ 703.23 Payments not subject to claims.

Subject to part 1403 of this title, any cost-share or easement payment or portion thereof due any person under this part shall be allowed without regard to any claim or lien in favor of any creditor, except agencies of the U.S. Government.

§ 703.24 Assignments.

Any participant who may be entitled to any cash payment under this program may assign the right to receive such cash payments, in whole or in part, as provided in part 1404 of this title.

§ 703.25 Appeals.

(a) Except as provided in paragraph (b) of this section, a participant in the WRP may obtain a review of any administrative determination rendered under the program in accordance with the administrative appeal regulations provided in part 780 of this chapter.

(b) Determinations concerning land eligibility, development of WRPO's or determining the potential for restoration of an offered area may be reviewed in accordance with procedures established under part 614 of this title or as otherwise established by SCS.

§ 703.26 Scheme and device.

(a) If it is determined by ASCS that a landowner has employed a scheme or device to defeat the purposes of this part, any part of any program payments otherwise due or paid such landowner during the applicable period may be withheld or required to be refunded with interest thereon as determined appropriate by ASCS.

(b) A scheme or device includes, but is not limited to, coercion, fraud, misrepresentation, depriving any other person of cost-share assistance or land payments for easements, and obtaining a payment that otherwise would not be payable.

(c) An owner of land subject to this part who succeeds to the responsibilities under this part shall report in writing to ASCS any interest of any kind in the land subject to this part that is retained by a previous participant. Such interest shall include a present, future or conditional interest, reversionary interest or any option, future or present, with respect to such land and any interest of any lender in such land where the lender has, will, or can obtain, a right of occupancy to such land or an interest in the equity in such land other than an interest in the appreciation in the value of such land occurring after the loan was made. A failure of full disclosure will be considered a scheme or device under this section.

§ 703.27 Filing of false claims.

If it is determined by ASCS that any participant has knowingly supplied false information or has knowingly filed a false claim, such participant shall be ineligible for payments under this part. False information or false claims include claims for payment for practices which do not meet the specifications of the applicable WRPO. Any amounts paid under these circumstances shall be refunded, together with interest as determined by ASCS, and any amounts otherwise due such participant shall be withheld.

§ 703.28 Miscellaneous.

(a) Except as otherwise provided in this part in the case of death, incompetency, or disappearance of any landowner, any payment due under this part shall be paid to the landowner's successor in accordance with the provisions of part 707 of this chapter.

(b) Any remedies permitted ASCS under this part shall be in addition to any other remedy, including, but not limited to criminal remedies, or actions for damages in favor of ASCS as may be permitted by law.

§ 703.29 Other Provisions.

The provisions of 7 CFR part 791 are applicable to this part.

Signed this 28 day of January, 1992 in Washington, DC.

John A. Stevenson,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 92-2664 Filed 2-4-92; 8:45 am]

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DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 505

[Department of the Army Pamphlet 25-51]

Army Privacy Program

AGENCY: Department of the Army, DOD.

ACTION: Proposed rule.

SUMMARY: The Department of the Army is amending sections of 32 CFR part 505 to reflect administrative changes made within the Department. On November 21, 1990, (55 FR 48671) the Department of the Army amended its system identification numbers in accordance with the Modern Army Recordkkeeping System (MARKS). These amendments will reflect those changes to the record system identification numbers published in the **Federal Register** on November 21, 1990 (55 FR 48671).

DATES: Comments must be received by March 6, 1992, to be considered by the agency.

ADDRESSES: Send comments to Department of the Army, Directorate for Policy (SAIS-PDD), The Pentagon, Room 1C710, Washington, DC 20310-0107.

FOR FURTHER INFORMATION CONTACT: Mr. William Walker at (703) 697-1276.

SUPPLEMENTARY INFORMATION: The Department of the Army is amending sections of 32 CFR part 505 in accordance with the Privacy Act of 1974, as amended, (5 U.S.C. 552a). The Department of the Army procedural and exemption rules are found at 32 CFR part 505.

List of Subjects in 32 CFR Part 505

Privacy.

Accordingly, the Department of the Army amends 32 CFR part 505 as follows:

1. The authority citation for 32 CFR part 505 is revised to read as follows:

Authority: Pub. L. 93-579, 88 Stat 1896 (5 U.S.C. 552a).

2. Section 505.1 is amended by revising paragraph (d)(1); paragraph (g)(14); and paragraph (h) as follows:

§ 505.1 General information.

* * * * *

(d)(1) *Responsibilities.* The Director of Information Systems for Command, Control, Communications and Computers, ATTN: SAIS-PDD, Washington, DC 20310-0107, is responsible for issuing policy and guidance for the Army Privacy Program in consultation with the Army General Counsel.

* * * * *

(g) * * *

(14) Commander, United States Total Army Personnel Command: For personnel and personnel-related records of Army members on active duty and current Federal appropriated fund civilian employees. (Requests from former civilian employees to amend a record in an Office of Personnel Management system of records such as the Official Personnel Folder should be sent to the Office of Personnel Management, Assistant Director for Workforce Information, Compliance and Investigations Group, 1900 E Street, NW, Washington, DC 20415-0001.)

* * * * *

(h) *DA Privacy Review Board.* The DA Privacy Review Board acts on behalf of the Secretary of the Army in deciding appeals resulting from the appropriate Access and Amendment Refusal Authority's refusal to amend records. Board membership is comprised of the Administrative Assistant to the Secretary of the Army, the Director of Information Systems for Command, Control, Communications and Computers, and the Judge Advocate General or their representatives. The Access and Amendment Refusal Authority may serve as a non-voting member when the Board considers matters in the Access and Amendment Refusal Authority's area of function specialization. The Director of Information Systems for Command, Control, Communications and Computers chairs the Board and provides the Recording Secretary.

* * * * *

3. Section 505.2 is amended by revising the last sentence in paragraph (h); the parenthetical sentence in paragraph (i)(3)(iv); paragraph (j)(3); and the first sentence in paragraph (l) to read as follows:

§ 505.2 Individual rights of access and amendment.

* * * * *

(h) * * * Thereafter, fees will be computed as set forth in Army Regulation 25-55, The Department of the Army Freedom of Information Act Program.

(i) * * *

(3) * * *

(iv) * * * (for denials made by the Army when the record is maintained in one of OPM's government-wide systems of records notices—described in Department of the Army Pamphlet 25-51, The Army Privacy Program—System Notices and Exemption Rules—an individual's request for further review must be addressed to the Assistant Director for Agency Compliance and Evaluation, Office of Personnel Management, 1900 E Street, NW, Washington, DC 20415-0001.)

* * * * *

(j) * * *

(3) U.S. Army Criminal Investigations Command reports of investigation (records in system notices A0195-2aUSACIDC, Source Register; A0195-2bUSACIDC, Criminal Investigation and Crime Laboratory Files) may be exempted from the amendment provisions of the Privacy Act. The Commander, U.S. Army Criminal Investigations Command considers requests to amend reports of investigation under AR 195-2, Criminal Investigation Activities, if the individual submits new, relevant, and material facts that are determined to warrant revision of the report. The Commander's action will constitute final action on behalf of the Secretary of the Army under that regulation.

* * * * *

(l) *Privacy case files.* Whenever an individual submits a Privacy Act request, a case file will be established; see system notice A0340-21SAIS, Privacy Case Files. * * *

* * * * *

4. Section 505.4 is amended by revising the last sentence of paragraph (d)(2); parenthetical phrase in the first sentence of paragraph (d)(3); paragraph (d)(4); paragraphs (f)(1) (i) through (xii); adding paragraphs (f)(1) (xiii) through (xvii); revising paragraph (f)(3), introductory text, and paragraphs (f)(3)(i) (D) through (I); adding paragraph (f)(3)(i)(J); revising paragraph (g)(2); and removing paragraph (f)(4) as follows:

§ 505.4 Recordkeeping requirements under the Privacy Act.

* * * * *

(d) * * *

(2) * * * See AR 380-19, Information Systems Security.

(3) * * * (see Chapter IV, AR 25-55). * * *

(4) No comparisons of Army records systems with systems of other Federal or commercial agencies (known as "matching" or "computer matching"

programs) will be performed without prior approval of the Director of Information Systems for Command, Control, Communications and Computers (SAIS–PDD), Washington, DC 20310–0107.

* * * * *

(f) *System notice.* (1)(i) System name: (indicates the general nature of the system of records and, if possible, the general category of individuals to whom it pertains);

(ii) System location: (the office name, organizational identity, routing symbol, and complete mailing address of the location of the system of records);

(iii) Categories of individuals covered by the system: (Individuals on whom records in the system are being maintained);

(iv) Categories of records in the system: (The records maintained in the system);

(v) Authority for maintenance of the system: (Cite the Federal law or Executive Order of the President including the specific provision);

(vi) Purpose(s) (The specific purpose(s) for establishing the system including the use(s) made of the information within the component and the Department of Defense);

(vii) Routine uses of the records maintained in the system, including the categories of users and the purposes of such uses: (List all disclosures of the records made outside the Department of Defense, the recipient of the disclosed information, and the uses the recipient will make of it);

(viii) Policies and practices for storing, retrieving, accessing, retaining and disposing of the records:

(ix) Storage: (State the medium used to store the information in the system);

(x) Retrievability: (Indicate how records may be retrieved from the system);

(xi) Safeguards: (State the categories of component personnel who use the records and those responsible for protecting the records from unauthorized access);

(xii) Retention and disposal: (state the length of time records are maintained by the component in active status; when retired to a Federal Records Center, how long they are kept at the Federal Records Center, and when they are accessioned to the National Archives or destroyed);

(xiii) Notification procedure: (Procedures an individual must follow to determine if a record pertaining to him or her is maintained in the system);

(xiv) Record access procedures: (Course of action an individual must follow to review his/her record and/or obtain a copy of it);

(xv) Contesting record procedures: (Course of action an individual must follow to contest contents and request amendment to his/her records and to appeal initial determinations);

(xvi) Record source categories: (Where the component obtained the information maintained in the system);

(xvii) Exemptions claimed for the system: (Lists the portion of the Privacy Act that authorizes an agency to exempt the system from portions of the Act). See example notice at appendix A to this part.

* * * * *

(3) Report of a new or altered system must include a narrative statement and supporting documentation. Send the report to the Commander, U.S. Army Information Systems Command, ATTN: ASOP–MP, Fort Huachuca, AZ 85613–5000 at least 120 days before the system is operational to allow for internal evaluation and processing through the Office of Management and Budget, the Congress and publication in the Federal Register for public comment.

(i) * * *

(D) Authority for maintenance of the system (the federal law or Executive Order of the President including the specific provision);

(E) Probable or potential effect(s) on individual privacy (the component's evaluation of the probable or potential effects of the proposal on the privacy of individuals);

(F) Relationship, if any, to other branches of the Federal Government and to state and local governments (describes the relationship, if any, of the proposal to the other branches of the Federal Government and to state and local governments);

(G) Steps taken to minimize the risk of unauthorized access; (All new manual or automated systems require a risk assessment to consider sensitivity and use of the records, present and projected threats and vulnerabilities, and present and projected cost-effectiveness of safeguards.)

(H) Compatibility of each proposed Routine Use (explain how each proposed routine use satisfies the compatibility requirement);

(I) Office of Management and Budget information collection Requirement; (Provide Office of Management and Budget control numbers, expiration dates, and titles of any Office of Management Budget approved information collection requirements.)

(J) Supporting documentation (consists of system notice for the proposed new or altered system and proposed exemption rule, if applicable).

* * * * *

(4) [Removed]

* * * * *

(g) * * *

(2) Specific reporting requirements will be disseminated each year by the Director of Information Systems for Command, Control, Communications and Computers (SAIS–PDD) in a memorandum to reporting elements.

* * * * *

5. Section 505.5 is amended by revising paragraph (d); and paragraphs (e)a.(l); b.(1); c.(1); d.(1); e.(1); f.(1); g.(l); h.(1); i.(l); removing and reserving j.; revising k.(1); l.(l); m.(l); n.(l); o.(l); p.(l); q.(l); r.(1); removing and reserving s.; revising t.(1); u.(l); removing and reserving v.; revising w.(l); x.(l); y.(l); z.(l); aa.(l); redesignating "ab.3.(1)" as "ab.(1)" and revising redesignated ab.(1); redesignating "ac.4.(l)" as "ac.(1)" and revising redesignated ac.(l); revising ad.(l); ae.(l); af.(l); ag.(l); ah.(l); ai.(l); aj.(l) and ak.(l) to read as follows:

§ 505.5 Exemptions

* * * * *

(d) *Procedures.* When a system manager seeks an exemption for a system of records, the following information will be furnished to the Director of Information Systems for Command, Control, Communications and Computers (SAIS–PDD), Washington, DC 20310–0107: applicable system notice, exemptions sought, and justification. After appropriate staffing and approval by the Secretary of the Army, a proposed rule will be published in the Federal Register, followed, by a final rule 30 days later. No exemption may be invoked until these steps have been completed.

* * * * *

(e) *Exempt Army records.* The following records are exempt from certain parts of the Privacy Act:

a. *System identification:* A0020–1aSAIG.

(1) *System name:* Inspector General Investigative Files.

* * * * *

b. *System identification:* A0020–1bSAIG.

(1) *System name:* Inspector General Action Request/Complaint Files.

* * * * *

c. *System identification:* A0025–55SAIS.

(1) *System name:* Request for Information Files.

* * * * *

d. *System identification:* A0027–1DAJA.

(1) *System name:* General Legal Files.

* * * * *

e. *System identification:* A0027–10aDAJA.

(1) *System name:* Prosecutorial Files.

* * * * *

f. *System identification:* A0027–10bDAJA.

(1) *System name:* Courts-Martial Files.

* * * * *

g. *System identification:* A0190–5DAMO.
(1) *System name:* Vehicle Registration System (VRS).

* * * * *

h. *System identification:* A0190–9DAMO.
(1) *System name:* Absentee Case Files

* * * * *

i. *System identification:* A0190–14DAMO.
(1) *System name:* Registration and Permit Files.

* * * * *

j. [Reserved].

* * * * *

k. *System identification:* A0190–30DAMO.
(1) *System name:* Military Police Investigator Certification Files.

* * * * *

l. *System identification:* A0190–40DAMO.
(1) *System name:* Serious Incident Reporting Files.

* * * * *

m. *System identification:* A0190–45DAMO.
(1) *System name:* Offense Reporting System (ORS).

* * * * *

n. *System identification:* A0190–47DAMO.
(1) *System name:* Correctional Reporting System (CRS).

* * * * *

o. *System identification:* A0195–2USACIDC.
(1) *System name:* Criminal Investigation and Crime Laboratory Files.

* * * * *

p. *System identification:* A0195–2aUSACIDC.
(1) *System name:* Source Register.

* * * * *

q. *System identification:* A0195–6USACIDC.
(1) *System name:* Criminal Investigation Accreditation and Polygraph Examiner Evaluation Files.

* * * * *

r. *System identification:* A0210–7DAMO.
(1) *System name:* Expelled or Barred Person Files.

* * * * *

s. [Reserved]
t. *System identification:* A0340JDMSS.
(1) *System name:* HQDA Correspondence and Control/Central File System.

* * * * *

u. *System identification:* A0340–21SAIS.
(1) *System name:* Privacy Case Files.

* * * * *

v. [Reserved]

* * * * *

w. *System identification:* A0350–37TRADOC.
(1) *System name:* Skill Qualification Test (SQT).

* * * * *

x. *System identification:* A0351–12DAPE.
(1) *System name:* Applicants/Students, USMA Prep School.

* * * * *

y. *System identification:* A0351–17aTAPC–USMA.
(1) *System name:* U.S. Military Academy Candidate Files.

* * * * *

z. *System identification:* A0351–17bTAPC–USMA.
(1) *System name:* U.S. Military Academy Personnel Cadet Records.

* * * * *

aa. *System identification:* A0380–13DAMO.
(1) *System name:* Local Criminal Intelligence Files.

* * * * *

ab. *System identification:* A0380–67DAMI.
(1) *System name:* Personnel Security Clearance Information Files.

* * * * *

ac. *System identification:* A0381–45aDAMI.
(1) *System name:* USAINSCOM Investigative Files System.

* * * * *

ad. *System identification:* A0381–45bDAMI.
(1) *System name:* Department of the Army Operational Support Activities File.

* * * * *

ae. *System identification:* A0381–45cDAMI.
(1) *System name:* Counterintelligence Operations Files.

* * * * *

af. *System identification:* A0381–100aDAMI.
(1) *System name:* Intelligence Collection Files.

* * * * *

ag. *System identification:* A0381–100bDAMI.
(1) *System name:* Technical Surveillance Index.

* * * * *

ah. *System identification:* A0601–141DASG.
(1) *System name:* Army Medical Procurement Applicant Files.

* * * * *

ai. *System identification:* A0601–210aUSAREC.
(1) *System name:* Enlisted Eligibility Files.

* * * * *

aj. *System identification:* A0601–222USMEPCOM.
(1) *System name:* ASVAB Student Test Scoring and Reporting System.

* * * * *

ak. *System identification:* A0608–18DASG.
(1) *System name:* Family Advocacy Case Management.

* * * * *

6. Appendices A, B and Appendix D, Section I, Abbreviations, are revised to read as follows:

Appendix A to Part 505—Example of System of Records Notice

A0190–9DAMO

System name:

Absentee Case Files.

System location:

Primary system location is at the U.S. Army Deserter Information Point, U.S. Army Enlisted Records Center, Fort Benjamin Harrison, IN 46249–5000. A copy of all or portions of this system is maintained at the installation initiating the report of absence and at respective law enforcement agencies.

Categories of individuals covered by the system:

Any active Army member absent without proper authority and administratively designated as a deserter pursuant to Army Regulation 630–10, Absence Without Leave and Desertion.

Categories of records in the system:

Reports and records which document the individual's absence; notice of unauthorized absence from U.S. Army which constitutes the warrant for arrest; notice of return to military control or continued absence in hands of civil authorities.

Authority for maintenance of the system:

10 U.S.C. 3013(g) and Executive Order 9397.

Purpose(s):

To enter data in the FBI National Crime Information Center "wanted person" file; to ensure apprehension actions are initiated/terminated promptly and accurately; and to serve management purposes through examining causes of absenteeism and developing programs to deter unauthorized absences.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Information is furnished to local, state, federal, international, or foreign law enforcement authorities in efforts to apprehend, detain, and return offenders to military custody.

In overseas areas, information may be disclosed to foreign governmental and civil authorities as required by local customs, law, treaties, and agreements with allied forces and foreign governments. Information may be disclosed to the Department of Veteran Affairs for assistance in determining whereabouts of Army deserters through the Veterans and Beneficiaries Identification and Records, Locator Subsystem.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper documents and the record copy of the Arrest Warrant are maintained in the Official Military Personnel Files; verified desertion data are stored on the Deserter Verification Information System at the U.S. Army Deserter Information Point.

Retrievability:

Manually, by name; automated records are retrieved by name, plus any numeric identifier such as date of birth, Social Security Number, or Army serial number.

Safeguards:

Access is limited to authorized individuals having a need-to-know. Records are stored in facilities manned 24 hours, 7 days a week. Additional controls which meet the administrative, physical, and technical safeguard requirements of Army Regulation

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380-19, Information Systems Security, are in effect.

Retention and disposal:

Automated records are erased when individual returns to military custody, is discharged, or dies. Paper or microform records remain a permanent part of the individual's Official Military Personnel File.

System manager(s) and address:

Deputy Chief of Staff for Operations and Plans, ATTN: DAMO-ODL, Headquarters, Department of the Army, Washington, DC 20310-0440.

Notification procedure:

Individuals seeking to determine if information about themselves is contained in this record system should address written inquires to the U.S. Army Deserter Information Point, U.S. Army Enlisted Records Center, Fort Benjamin Harrison, IN 46249-5000.

For verification purposes, individual should provide the full name, Social Security Number and/or Army serial number, address, telephone number and signature.

Record access procedures:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the U.S. Army Deserter Information Point, U.S. Army Enlisted Records Center, Fort Benjamin Harrison, IN 46249-5000.

For verification purposes, individual should provide the full name, Social Security Number and/or Army serial number, address, telephone number and signature.

Contesting record procedures:

The Army's rules for accessing records, contesting contents, and appealing initial determinations are contained in Army Regulation 340-21; 32 CFR part 505; or may be obtained from the system manager.

Record source categories:

Unit commander, first sergeants, subjects, witnesses, military police, U.S. Army Criminal Investigation Command personnel and special agents, informants, Department of Defense, Federal, State, and local investigative and law enforcement agencies, departments or agencies of foreign governments, and any other individuals or organizations which may furnish pertinent information.

Exemptions claimed for the system:

Parts of this system may be exempt under 5 U.S.C. 552a(j)(2) as applicable.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b) (1), (2), and (3), (c) and (e) and published in 32 CFR part 505. For additional information contact the system manager.

Appendix B to Part 505—Example of a Narrative Statement for

New or Altered System of Records

1. *System identification and name:* A0215CFSC, General Morale, Welfare, Recreation and Entertainment Records.

2. *Responsible official:* Ms. Jan Richardson, U.S. Army Community and Family Support Center, 2461 Eisenhower Avenue, Alexandria, VA 22331-0521. Telephone (202) 325-9422.

3. *Purpose(s) of system:* To provide a readily accessible and organized repository of pertinent information to insure better service to users and patrons.

4. *Authority for the maintenance of the system:* 5 U.S.C. 301.

5. *Probable or potential effect(s) on individual privacy:* Type of information requested is provided by voluntary participants. Documents kept for information only are destroyed when no longer needed for current operations; all other documents are destroyed after 2 years.

6. *Relationship, if any, to other branches of the Federal Government and to state and local governments:* None

7. *Steps taken to minimize the risk of unauthorized access:* Records are maintained in lock-type cabinets within storage accessible only to authorized personnel.

8. *Compatibility of each proposed routine use:* Relevant information on an individual may be disclosed for bona fide purposes such as marketing and promoting morale, welfare, recreation (MWR) and entertainment programs, and to sports, educational, athletic, and other organizations conducting MWR-type activities.

9. *Office of Management and Budget information collection Requirement:* None.

10. *Supporting documentation:* No changes to current procedural or exemption rules are required.

Appendix D to Part 505—Glossary of Abbreviations and Terms

Section I

Abbreviations

AAFES—Army and Air Force Exchange Service
AARA—Access and Amendment Refusal Authority
DA—Department of the Army
DOD—Department of Defense
FOIA—Freedom of Information Act
GAO—General Accounting Office
GSA—General Services Administration
MACOM—Major Army Command
NARA—National Archives and Records Administration
OMB—Office of Management and Budget
OPM—Office of Personnel Management
SSN—Social Security Number
TIG—The Inspector General
TJAG—The Judge Advocate General
USACIDC—U.S. Army Criminal Investigation Command

* * * * *

Dated: January 24, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92-2109 Filed 2-4-92; 8:45 am]

BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 156

[OPP-250087; FRL 4067-8]

Notification to the Secretary of Agriculture of a Proposed Regulation on Labeling Claims for Water Purifiers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification to the Secretary of Agriculture.

SUMMARY: Notice is given that the Administrator of EPA has forwarded to the Secretary of Agriculture a proposed regulation establishing standards for the labeling of devices designed to purify water. This action is required by section 25(a)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT By mail: Ruth Douglas, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Antimicrobial Program Branch, rm. 287, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305-7964.

SUPPLEMENTARY INFORMATION: Section 25(a)(2)(A) of FIFRA provides that the Administrator provide the Secretary of Agriculture with a copy of any proposed regulation at least 60 days prior to signing it for publication in the Federal Register. If the Secretary comments in writing regarding the proposed regulation within 30 days after receiving it, and if requested by the Secretary, the Administrator shall issue for publication in the Federal Register with the proposed regulation, the comments of the Secretary, and the response of the Administrator concerning the Secretary's comments. If the Secretary does not comment in writing within 30 days after receiving the proposed regulation, the Administrator may sign the proposed regulation for publication in the Federal Register anytime after the 30-day period.

As required by FIFRA section 25(a)(3), a copy of this proposed regulation has been forwarded to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

As required by FIFRA section 25(d), a copy of this proposed regulation has also been forwarded to the Scientific Advisory Panel.

Authority: 7 U.S.C. 136 et seq.

Dated: January 28, 1992.

Douglas D. Campt,
Director, Office of Pesticide Programs.

[FR Doc. 92-2756 Filed 2-4-92; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 63

[CC Docket No. 87-266; DA 92-57]

Communications Common Carriers

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Common Carrier Bureau of the Federal Communications Commission released an order extending the time in which to file comments and replies in response to its Further Notice of Proposed Rulemaking (In the Matter of Telephone Company-Cable Television Cross-Ownership Rules, sections 63.54-63.58, CC Docket No. 87-266 (56 FR 65464 (12/17/91)). On January 3, 1992, the Motion Picture Association of America, Inc., the Association of Independent Television Stations, Inc., and the Ameritech Operating Companies filed a motion for extension of time requesting that the date for filing comments in this proceeding be extended twenty-eight days and that the date for reply comments likewise be extended twenty-eight days. The Commission granted in part the request for an extension of time for filing comments and replies.

DATES: Comment must be filed on or before February 3, 1992, and replies must be filed on or before March 5, 1992.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Donna Lampert, Policy and Program Planning Division, Common Carrier Bureau, (202) 632-6363.

SUPPLEMENTARY INFORMATION:

Telephone Company—Cable Television Cross-Ownership Rules, §§ 63.54-63.58; Order

[CC Docket No. 87-266]

Adopted: January 15, 1992.
Released: January 16, 1992.
Comment Date: February 3, 1992.
Reply Comment Date: March 5, 1992.

By the Chief, Common Carrier Bureau:

1. On January 3, 1992, the Motion Picture Association of America, Inc., the Association of Independent Television Stations, Inc., and the Ameritech Operating Companies (hereafter "MPAA") filed a Motion for Extension of Time requesting that the date for filing comments in this proceeding be extended twenty-eight (28) days, from January 23, 1992 to February 20, 1992, and that the date for reply comments likewise be extended twenty-eight (28) days, from February 24, 1992 to March 23, 1992. In this Order, we grant MPAA's motion in part.

2. In the most recent order in this proceeding, the Commission proposed to modify its rules to permit local telephone companies to provide video dialtone.[1] In this regard, the Commission asked parties to comment upon, among other things, the nature of services and markets which may develop as a technologically advanced network develops under the video dialtone model and the benefits and costs of proceeding with video dialtone at this time. The Commission also sought comment on proposed rule changes which may be necessary and/or desirable in order to implement video dialtone consistent with the objectives of non-discrimination, ease of use, and flexibility.[2]

3. In its motion, MPAA argues that an extension of twenty-eight days for filing comments and reply comments is needed so that it can fully consider the "technological and regulatory requirements of such service."[3] MPAA asserts that the resolution of the issues in this proceeding could radically affect "how video programming is distributed to consumers in the United States and * * * the competitive balance in the video distribution business."[4] MPAA further contends that it represents broad interests and is therefore in an "especially unique position" to provide expert analysis on the issues in this proeeding.[5]

4. Under § 1.46 of our rules, it is the policy of the Commission that extensions of time are not routinely granted.[6] We believe, however, that a brief extension of the deadlines for filing comments and reply comments in this proceeding is reasonable in light of the scope of the technological and regulatory issues involved. Accordingly, we will grant the motion and extend the deadline for filing initial comments to February 3, 1992 and the deadline for filing replies to March 5, 1992.

5. Accordingly, *It Is Ordered* That the Motion for Extension of Time filed by the Motion Picture Association of America, Inc., the Association of Independent Television Stations, Inc. and the Ameritech Operating Companies is *Granted* to the extent set forth herein.

6. Accordingly, *It Is Therefore Ordered*, Pursuant to the authority found in sections 4(i) and 5(c) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 155(c) and sections 0.91, 0.291 and 1.46 of the Commission's rules, 47 CFR 0.91, 0.291 and 1.46, that the times for filing comments and reply comments in this proceeding *Are Extended* to February 3, 1992 and March 5, 1992, respectively.

Federal Communications Commission.

Richard M. Firestone,
Chief, Common Carrier Bureau.

[FR Doc. 92-2679 Filed 2-4-92; 8:45 am]

BILLING CODE 6712-01-M

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[1] Further Notice of Proposed Rulemaking, First Report and Order and Second Further Notice of Inquiry, CC Docket No. 87-266, FCC No. 91-334, released Nov. 22, 1991, at paras. 13-19.

[2] *Id.* at paras. 23-40.

[3] Motion for Extension of Time, filed January 3, 1992, at 2.

[4] *Id.*

[5] *Id.* at 3.

[6] 47 CFR 1.46 (1991).

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Notices

Federal Register
Vol. 57, No. 24
Wednesday, February 5, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

Housing Demonstration Program

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice of Housing Demonstration Program.

SUMMARY: The Farmers Home Administration (FmHA) of the U.S. Department of Agriculture (USDA) will accept, in fiscal year 1992, proposals for a Housing Demonstration program under section 506(b) title V of the Housing Act. Under section 506(b), FmHA may provide loans for innovative housing units and systems which do not meet existing published standards, rules, regulations, or policies. The intended effect is to increase the availability of affordable housing for low-income families, through innovative designs and systems.

FOR FURTHER INFORMATION CONTACT: Mathias J. Felber, Branch Chief, Special Programs Branch, Single Family Housing Processing Division, Farmers Home Administration, 14th and Independence Avenue, SW., room 5334, South Building, Washington, DC 20250, telephone 202–720–1474 or Ray McCracken, Senior Loan Officer, Special Programs Branch, Single Family Housing Processing Division, Farmers Home Administration, 14th and Independence Avenues, SW., room 5334, South Building, Washington, DC 20250, Telephone 202–720–1486.

SUPPLEMENTARY INFORMATION: Under current standards, regulations, and policies, some low-income rural families lack sufficient incomes to qualify for loans to obtain adequate housing. Section 506(b) of title V of the Housing Act of 1949 authorizes a housing demonstration program that could result in housing that these families can afford. The Congress of the United States made two conditions: (1) That the health and safety of the population of the areas in which the demonstrations are carried out will not be adversely affected, and (2) that the aggregate expenditures for the demonstration may not exceed $10 million in any fiscal year.

FmHA State Directors are authorized in fiscal year 1992 to continue to accept proposed demonstration concept proposals from nonprofit organizations, profit organizations and individuals as announced in 51 FR 19240 on May 28, 1986.

The State Directors will evaluate the proposals on a first-come, first-served basis. An acceptable proposal is to be sent to the National Office for concurrence of the Assistant Administrator, Housing before the State Director may approve it. If the proposal is not selected, the State Director will so notify the applicant, in writing, giving specific reasons why the proposal was not selected.

The funds for the demonstration program are section 502 funds, and are available to housing applicants that may wish to purchase an approved demonstration dwelling. However, there is no guarantee that a market exists for demonstration dwellings and applicants for such a section 502 RH loan must be eligible for the program in all other respects.

This program activity is listed in the Catalog of Federal Domestic Assistance under No. 10.410. For the reasons set forth in Final Rule related to Notice 7 CFR 3015, subpart V (48 FR 29115, June 24, 1983) and FmHA Instruction 1940–J, "Intergovernmental Review of Farmers Home Administration Programs and Activities," (December 23, 1983) this program/activity is excluded from the scope of Executive Order 12372 which requires the intergovernmental consultation with state and local officials.

All interested parties must make a written request for a proposal package. The request must be made to the State Director in the state in which the proposal will be submitted for evaluation. The Government will not reimburse or be liable for any expenses incurred by respondents in the development and submission of applications.

Following is a list of State Directors and the addresses:

States	Directors and addresses
Alabama	State Director, Farmers Home Administration, room 717, Aronov Building, 474 South Court Street, Montgomery, Alabama 36104.
Alaska	State Director, Farmers Home Administration, suite 103, 634 South Bailey, Palmer, Alaska 99645.
Arizona	State Director, Farmers Home Administration, 201 East Indianola, suite 275, Phoenix, Arizona 85012.
Arkansas	State Director, Farmers Home Administration, 700 W. Capitol, Post Office Box 2778, Little Rock, Arkansas 72203.
California/Nevada.	State Director, Farmers Home Administration, suite F, 194 West Main Street, Woodland, California 95695–2915.
Colorado	State Director, Farmers Home Administration, room E 100, 655 Parfet Street, Lakewood, Colorado 80215.
Delaware/Maryland.	State Director, Farmers Home Administration, 1611 South DuPont Highway, Camden, Delaware 19901.
Florida	State Director, Farmers Home Administration, 4440 N.W. 25th Place, P.O. Box 147010, Gainsville, Florida 32614–7010.
Georgia	State Director, Farmers Home Administration, Stephens Federal Building, 355 E. Hancock Avenue, Athens, Georgia 30610.
Hawaii	State Director, Farmers Home Administration, room 311, Federal Building, 154 Waianuenue Avenue, Hilo, Hawaii 96720.
Idaho	State Director, Farmers Home Administration, 3232 Elder Street, Boise, Idaho 83705.
Illinois	State Director, Farmers Home Administration, Illini Plaza, suite 103, 1817 South Neil Street, Champaign, Illinois 61820.
Indiana	State Director, Farmers Home Administration, 5975 Lakeside Boulevard, Indianapolis, Indiana 46278.
Iowa	State Director, Farmers Home Administration, room 873, Federal Building, 210 Walnut Street, Des Moines, Iowa 50309.
Kansas	State Director, Farmers Home Administration, 1201 S.W. Summit, Executive Court, P.O. Box 4653, Topeka, Kansas 66604.
Kentucky	State Director, Farmers Home Administration, 771 Corporate Drive, suite 200, Lexington, Kentucky 40503.
Louisiana	State Director, Farmers Home Administration, 3727 Government Street, Alexandria, Louisiana 71302.
Maine	State Director, Farmers Home Administration, 444 Stillwater Avenue, suite 2, P.O. Box 405, Bangor, Maine 04402-0405.
Mass/Conn./RI.	State Director, Farmers Home Administration, 451 West Street, Amherst, Massachusetts 01002.

States	Directors and addresses
Michigan	State Director, Farmers Home Administration, room 209, 1405 South Harrison Rd, East Lansing, Michigan 48823.
Minnesota	State Director, Farmers Home Administration, 410 Farm Credit Service Bldg., 375 Jackson St., St. Paul, Minnesota 55101.
Mississippi	State Director, Farmers Home Administration, suite 831, Federal Building, 100 West Capital St., Jackson, Mississippi 39269.
Missouri	State Director, Farmers Home Administration, 601 Business Loop 70 West, Parkdale Center, suite 235, Columbia, Missouri 65203.
Montana	State Director, Farmers Home Administration, 900 Technology Blvd., unit 1, suite B, Bozeman, Montana 59715.
Nebraska	State Director, Farmers Home Administration, room 308, Federal Building, 100 Centennial Mall North, Lincoln, Nebraska 68508.
New Jersey	State Director, Farmers Home Administration, Tarnsfield Plaza, suite 22, 1016 Woodland Road, Mount Holly, New Jersey 08060.
New Mexico	State Director, Farmers Home Administration, room 3414, Federal Building, 517 Gold Avenue, SW., Albuquerque, New Mexico 87102.
New York	State Director, Farmers Home Administration, James M. Hanley Federal Building, 100 S. Clinton Street, Syracuse, New York 13260.
North Carolina	State Director, Farmers Home Administration, suite 260, 4405 Bland Road, Raleigh, North Carolina 27609.
North Dakota	State Director, Farmers Home Administration, room 208, Federal Building, Third and Rosser, Post Office Box 1737, Bismarck, North Dakota 58502.
Ohio	State Director, Farmers Home Administration, room 507, Federal Building, 200 North High Street, Columbus, Ohio 43215.
Oklahoma	State Director, Farmers Home Administration, USDA Agricultural Center Bldg., Stillwater, Oklahoma 74074.
Oregon	State Director, Farmers Home Administration, room 1590, Federal Building, 1220 S.W. 3rd Avenue, Portland, Oregon 97204.
Pennsylvania	State Director, Farmers Home Administration, suite 330, Federal Building, One Credit Union Place, Harrisburg, Pennsylvania 17110.
Puerto Rico	State Director, Farmers Home Administration, New San Juan Office Bldg., room 501, 159 Carlos E. Chardon St., Hato Rey, Puerto Rico 00918.
South Carolina	State Director, Farmers Home Administration, Strom Thurmond Federal Building, room 1007, 1835 Assembly St., Columbia, South Carolina 29201.
South Dakota	State Director, Farmers Home Administration, room 308, Federal Building, 200 Fourth St., SW., Huron, South Dakota 57350.
Tennessee	State Director, Farmers Home Administration, suite 300, 3322 West End Avenue, Nashville, Tennessee 37203–1071.
Texas	State Director, Farmers Home Administration, suite 102, Federal Building, 101 South Main, Temple, Texas 76501.
Utah	State Director, Farmers Home Administration, room 5438, Wallace F. Bennett Federal Building, 125 South State St., Salt Lake City, Utah 84138.
Vermont/N.H.	State Director, Farmers Home Administration, City Center, 3rd floor, 89 Main St., Montpelier, Vermont 05602.
Virginia	State Director, Farmers Home Administration, room 8213, Federal Building, 400 North Eighth St., Richmond, Virginia 23240.
Washington	State Director, Farmers Home Administration, room 319, Federal Office Bldg., 301 Yakima St., P.O. Box2427, Wenatchee, Washington 98807.
West Virginia	State Director, Farmers Home Administration, 75 High St., Post Office Box 678, Morgantown, West Virginia 26505.
Wisconsin	State Director, Farmers Home Administration, 4949 Kirsching Court, Stevens Point, Wisconsin 54481.
Wyoming	State Director, Farmers Home Administration, room 1005, 100 East B, Federal Building, Post Office Box 820, Casper, Wyoming 82602.

Authorities: 42 U.S.C. 1480, 7 CFR 2.23, 7 CFR 2.70.

Dated: December 18, 1991.

La Verne Ausman,

Administrator, Farmers Home Administration.

[FR Doc. 92–2698 Filed 2–4–92; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Current Population Survey—June 1992 Fertility and Birth Expectations Supplement.

Form Number(s): CPS–1, CPS–260.

Agency Approval Number: None.

Type of Request: New collection.

Burden: 438 hours.

Number of Respondents: 57,000.

Avg Hours Per Response: 27.7 seconds (for supplement)

Needs and Uses: The Current Population Survey is a monthly survey conducted in approximately 57,000 households throughout the United States. Data on demographic and labor force characteristics are collected from a sample of households which represent the U.S. population. The Bureau of the Census uses the data to compile monthly averages of household size and composition, age, education, ethnicity, marital status and various other characteristics at the U.S. level. The Bureau of Labor Statistics also uses the data in their monthly calculations of employment and unemployment. The basic monthly questionnaire is periodically supplemented with additional questions which address specific needs. This supplement provides data on childbearing characteristics of female household members by various demographic characteristics. The data collected from this supplement are used primarily by government and private analysts to project future population growth, to analyze child spacing patterns, and to assist policymakers in making decisions which are affected by changes in family size and composition.

Affected Public: Individuals or households.

Frequency: This supplement is conducted biennially.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Agency: Bureau of the Census.

Title: Construction Project Report (Multi-family Residential).

Form Number(s): C–700(R).

Agency Approval Number: 0607–0153.

Type of Request: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

Burden: 6,300 hours.

Number of Respondents: 2,100.

Avg Hours Per Response: 15 minutes.

Needs and Uses: The Form C–700(R) is one of the three questionnaires used in the Construction Progress Reporting Surveys (CPRS). Statistics from the CPRS become part of the monthly value of new construction put in place series used by government agencies and private companies to monitor the amount of construction work done each month. These statistics are used by all levels of government to evaluate economic policy, to measure progress toward national goals, to make policy decisions, and to formulate legislation. The Census Bureau uses the information collected on the Form C–700(R) to publish estimates of the dollar value of new construction put in place at multi-family residential building projects owned by private companies or individuals. These projects include residential buildings and apartment projects with two or more housing units.

Affected Public: Businesses or other for-profit organizations, individuals or households.

Frequency: Monthly.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Agency: Bureau of the Census.

Title: Construction Project Report (State and Local Governments).

Form Number(s): C–700(SL).

Agency Approval Number: 0607–0171.

Type of Request: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

Burden: 17,400 hours.

Number of Respondents: 5,800.

Avg Hours Per Response: 15 minutes.

Needs and Uses: The Form C–700(SL) is one of the three questionnaires used in the Construction Progress Reporting Surveys (CPRS). Statistics from the CPRS become part of the monthly value of new construction put in place series used by government agencies and private companies to monitor the amount of construction work done each month. These statistics are used by all levels of government to evaluate economic policy, to measure progress toward national goals, to make policy decisions, and to formulate legislation. The Census Bureau uses the information collected on the Form C–700(SL) to publish estimates of the dollar value of new construction put in place at construction projects owned by state or local government agencies. These projects include public schools, court houses, prisons, hospitals, civic centers, highways, bridges, sewer and water systems, etc.

Affected Public: State or local governments.

Frequency: Monthly.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposals can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 377–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collections should be sent to Maria Gonzalez, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: January 31, 1992.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 92–2761 Filed 2–4–92; 8:45 am]

BILLING CODE 3510-07-F

National Oceanic and Atmospheric Administration

Pacific Halibut and Pacific Coast Groundfish Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of control date.

SUMMARY: This notice announces a control date of November 13, 1991, after which a vessel or individual entering the fisheries may be assigned a lesser priority for issuance and shares of individual quotes (IQs) in a potential IQ-based limited access system for Pacific coast commercial groundfish fisheries and the commercial Pacific halibut fishery off the State of Washington, Oregon, and California. The intended effect of announcing this control date is to discourage speculative entry into these fisheries while discussions on access control continue.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten (Director, Northwest Region, NMFS), 206–526–6150; E. Charles Fullerton (Director, Southwest Region, NMFS), 310–514–6196; or Lawrence D. Six (Executive Director, Pacific Fishery, Management Council), 503–326–6352.

SUPPLEMENTARY INFORMATION: The FMP for groundfish was approved on January 4, 1982 (47 FR 43964; October 5, 1992), and implementing regulations appear at 50 CFR parts 611 and 663. During its July 13–14, 1988, meeting, the Council adopted and provided public notice of an eligibility window of July 11, 1984, to August 1, 1988 (53 FR 29338; August 4, 1988), to establish priority for future participation in the Pacific coast commercial groundfish fishery. During its September 18–20, 1991, meeting, the Council used fishery activity during that window period to identify eligible participants in a Pacific coast groundfish license limitation program recommended for adoption by the Secretary of Commerce as Amendment 6 to the FMP. This program would require permits for groundfish trawl, longline, and fishpot vessels to participate in the limited segment of the commercial groundfish fishery.

The Northern Pacific Halibut Act (Halibut Act), Public Law 97–176, 16 U.S.C. 773c(c), authorizes the Regional Fishery Management Council having authority for the geographic area concerned to develop regulations governing the allocation of Pacific halibut catch in U.S. Convention waters that are in addition to, but not in conflict with, the regulations of the International Pacific Halibut Commission (IPHC). The Pacific Council has authority for the IPHC statistical Area 2A which is all U.S. marine waters lying south of the U.S.-Canada border, including the Straits of Juan de Fuca and Puget Sound.

During the November 12–15, 1991, Council meeting in Milbrae, California, the Council adopted November 13, 1991, as a control date to be used in determining priorities for issuance and shares in a potential IQ-based limited access system or other access controls for Pacific coast groundfish fisheries and the Area 2A Pacific halibut fishery. If IQ programs are adopted, the Council has expressed its intent to exclude from consideration fishing activity occurring after November 13, 1991, in establishing priorities for issuance and shares of individual quotas for these fisheries. In making this announcement, NMFS and the Council intend to prevent speculative fishing, by both new entrants and those already participating in the fishery, during further development and analysis of limited access alternatives.

For the commercial groundfish fishery, this notice is a control date augments but does not necessarily superseded the earlier notice of an eligibility window. The window period was announced in 1988 as follows: "A vessel may be given priority for future participation in the fishery if the vessel made commercial landings of groundfish caught off the coast of Washington, Oregon, or California during a window period between July 11, 1984, and August 1, 1988." The Council has expressed its intent to use fishing activity during the window period that was announced in 1988 and may also consider fishing activity after the window period announced in 1988 until November 13, 1991, in allocating IQs if such a system is adopted.

For the Pacific halibut fishery, there is no previously announced window period. Access to the Pacific halibut fishery currently is not limited although commercial fishermen and charter boat operators must obtain a fishing license from the IPHC. Therefore, as the Council further develops a halibut limited access program, fishing activity in the halibut fishery in Area 2A prior to November 13, 1991, may be considered in determining eligibility and allocating harvest shares under a future access limitation program. The Council may recommend additional criteria for qualifying fishermen or vessels as participants in the halibut fishery. Some additional criteria that were applied to the groundfish fishery in the Council's recently-adopted limited entry amendment, for example, were minimum amounts landed and minimum numbers of landings.

This announcement does not commit the Council or the Secretary of Commerce to any particular mamangement regime or priority criteria for access to the groundfish or halibut fisheries. Fishermen are not necessarily guaranteed issuance of permits or shares of IQs regardless of their activity prior to November 13, 1991. The Council may choose to give variably weighted consideration to fishermen in the fishery after this date, as may be the case with any permissible exceptions. The Counncil also may choose to take no further action to control entry or access to the fisheries. Fishing activity after November 13, 1991, is not expected to be considered in determining priority and harvest shares in either the groundfish or halibut fisheries if an IQ system is adopted.

This accouncement does not prevent the development or implementation of other eligiblity criteria or restrict the type of management regime selected for limited access.

Authority: 16 U.S.C. 1801 *et seq.*, and 5 UST 5; TIAS 2900; 16 U.S.C. 773–773(k).

Dated: January 28, 1992.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 92–2440 Filed 1–30–92; 3:50 pm]

BILLING CODE 3510-22-M

Florida Keys National Marine Sanctuary Advisory Council; Open Meeting

AGENCY: The Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: The Council was established in December 1991 to advise and assist the Secretary of Commerce in the development and implementation of the comprehensive management plan for the Florida Keys National Marine Sanctuary.

TIME AND PLACE: February 19 and 20, 1992 from 9:30 a.m. until 4 p.m. The meeting will take place at Buccaneer Resort, 2600 Overseas Highway, in Marathon, Florida.

AGENDA: 1. Development of rules of order for the Council or acceptance of Roberts Rules of Order for conduct of the Committee.

2. Status of efforts to develop a management plan for the Florida Keys National Marine Sanctuary.

3. Water quality protection in the Florida Keys.

Public Participation

The meeting will be open to public participation and the last thirty minutes will be set aside for oral comments and questions. Seats will be set aside for the public and the media. Seats will be available on a first-come first-served basis.

FOR FURTHER INFORMATION CONTACT: Pamala James at (305) 743–2437 or Ben Haskell at (202) 606–4122.

Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program

Dated: January 30, 1992.

John J. Carey,

Acting Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 92–2718 Filed 2–4–92; 8:45 am]

BILLING CODE 3510-08-M

Mid-Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Mid-Atlantic Fishery Management Council's Large Pelagic Committee will meet on February 18, 1992, beginning at 3 p.m. at the Ramada Inn, 173 Jennifer Road, Annapolis, MD., (telephone: 804–351–9209). This meeting will be followed by a meeting of the Demersal Committee at 7 p.m.

The Council will begin its regular meeting on February 19 at 9 a.m. and adjourn at approximately 4 p.m. In addition to reviewing committee reports, the Council is scheduled to hold a Special Election for Chairman at 2 p.m. Then, there will be a presentation from the Chairman of the South Atlantic Council on the Georgia permitting system, and other fishery management matters as deemed necessary. The meeting may be lengthened or shortened depending on the progress of the agenda. The Council may go into closed session (not open to the public), the discuss personnel and/or national security matters.

On February 20 at 8 a.m., there will be a Coastal Migratory Species Committee meeting with advisors and the Atlantic States Marine Fisheries Commission Weakfish Board.

For more information, contract John Bryson, Executive Director, Mid-Atlantic Fishery Management Council, room 2115, Federal Building, 300 South New Street, Dover, DE 19901; telephone: (302) 674–2331.

Dated: January 30, 1992.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92–2715 Filed 2–4–92; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries, NOAA, Commerce.

The Pacific Fishery Management Council's (Council) Salmon Technical Team (STT), will hold a public meeting on February 18–21, 1992, at the Council's office (address below).

The STT meeting will begin on February 18 at 1 p.m. to draft the 1992 stock status report. The report will be distributed to the public by March 2, 1992, and reviewed at the Council meeting in Seattle, Washington, on March 10.

Oral or written statements from the public pertaining the salmon abundance projections will be accepted at appropriate times during the STT meeting.

For more information contact John Coon, Staff Officer (salmon), Pacific Fishery Management Council, Suite 420, 2000 SW. First Avenue, Portland, OR 97201; telephone: (503) 326–6352.

Dated: January 30, 1992.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92–2716 Filed 2–4–92; 8:45 am]

BILLING CODE 3510-22-M

South Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The South Atlantic Fishery Management Council (Council) and its Committees will hold public meetings on February 24–27, 1992, at the Hyatt Regency Savannah; Two W. Bay St.; Savannah, GA; telephone: (912) 238–1234. Times for discussion of the agenda items below will be set at a later date.

Council

The Council intends to set the total allowable catch (TAC) for the 1992–93 wreckfish season during this meeting. The Council will hold a closed session (not open to the public) of the Advisory Panel Selection Committee on February

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25 between 10:30 a.m. and 12 p.m. The public is invited and encouraged to attend a scoping meeting on February 26 from 6:30 p.m., until 8:30 p.m., to comment on the use of marine fishery reserves as an option for managing snapper and grouper.

Committees

The Spiny Lobster Committee will review the Florida Marine Fishery Commission's changes to its spiny lobster regulations. These changes would include implementing a trap certificate program and 10 percent trap reduction program; requiring divers to measure lobsters while still in the ocean; establishing a uniform trap buoy identification number size; prohibiting the taking of spiny lobster in excess of the bag limit during night diving; prohibiting trawls as allowable gear; and reducing the allowable quantity of lobsters as attractants from 100 to 50 per vessel.

The Snapper-Grouper Committee will recommend the (TAC) for the 1992–93 wreckfish season to the full Council, will review the South Carolina Special Management Zone request, and will be briefed on implementation of Amendment #4 to the Snapper-Grouper Fishery Management Plan (FMP).

The Shrimp Committee will review public comments on the draft Shrimp FMP, and the Council will consider it for approval for submission to the Secretary of Commerce for review.

The Mackerel Committee will review public comments and the Gulf of Mexico Fishery Management Council's recommendations on Amendment #6 to the Mackerel FMP. The Council will also consider approval of the Amendment for submission to the Secretary of Commerce for review.

The detailed agenda with the specific meeting times will be made available to the public in early February. For more information contact Carrie Knight, Public Information Officer: South Atlantic Fishery Management Council; One Southpark Circle, suite 306; Charleston, SC 29407–4699; telephone: (803) 571–4366.

Dated: January 30, 1992.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92–2714 Filed 2–4–92; 8:45 am]

BILLING CODE 3510-22-M

Western Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council's Crustaceans Plan Team (CPT) will hold a public meeting on February 24–25, 1992, at the Honolulu Laboratory Conference Room, 2570 Dole Street, Honolulu, HI.

The CPT meeting will begin at 9 a.m., on each day. The agenda is as follows:

(1) Review team membership (include the replacement of retiring members);
(2) discuss status of Amendment #7;
(3) develop Council-mandated briefing paper on management costs and values of: a. a fishery authorizing males only,
b. increasing legal minimum tail size,
c. opening Laysan Island to lobster fishing, d. rotating area closure system;
(4) fleet vs. individual quotas;
(5) separate quotas for slipper and spiny lobsters;
(6) changing fishing and processing logs;
(7) marking lobster traps;
(8) redefining overfishing for lobsters in light of their value as monk seal prey;
(9) determining initial fleet quota for 1992;
(10) developing mechanism and schedule for reporting catch for 1992 fleet quota; and
(11) discuss other matters.

For further information contact Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, suite 1405, Honolulu, HI 96813; telephone: (808) 523–1368.

Dated: January 30, 1992.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92–2717 Filed 2–4–92; 8:45 am]

BILLING CODE 3510-22-M

COMMODITY FUTURES TRADING COMMISSION

Privacy Act of 1974; Establishment of Systems of Records

AGENCY: Commodity Futures Trading Commission.

ACTION: Final notice of the establishment of a system of records for the investigative files of the office of the inspector general.

SUMMARY: This notice is published in accordance with the requirements of subsection (e)(4) of the Privacy Act. 5 U.S.C. 552a(e)(4). The notice describes the establishment of a system of records for the investigative files of the Office of Inspector General (OIG) of the Commodity Futures Trading Commission (Commission), and sets forth routine uses for the system. The system will be entitled "Office of the Inspector General Investigative Files".

Notice of the proposed system of records was published in the Federal Register on July 16, 1991 (56 FR 32407), and interested persons were given until August 15, 1991, to submit comments. The Commission received comments from one person, discussed below. As a result of the comments, the Commission has decided to alter proposed routine use one to delete as a routine use disclosure pursuant to subpoena in court proceedings to which the Commission is not a party.

EFFECTIVE DATE: February 5, 1992.

FOR FURTHER INFORMATION CONTACT: Judith A. Ringle, Esq., Office of the General Counsel, Commodity Futures Trading Commission, 2033 K Street NW, Washington, DC 20581. Telephone (202) 254–7110.

SUPPLEMENTARY INFORMATION: This notice establishes a new system of records entitled "Office of the Inspector General Investigative Files." Elsewhere in today's **Federal Register**, the Commission is publishing a final rule which exempts the new system of records from certain sections of the Privacy Act of 1974 (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a (j) and (k). The Commission published notice of the proposed system of records, as well as the proposed rule, in the **Federal Register** on July 16, 1991 (56 FR 32407 and 56 FR 32356). The Commission received comments from one commentator regarding the proposed system of records as well as the proposed exemptions under the Privacy Act.

According to the commentator, it is not appropriate to grant an exemption pursuant to 5 U.S.C. 552a(j)(2). The (j)(2) exemption exempts files "maintained by an agency or component thereof which performs as its principal function any activity pertaining to the enforcement of criminal laws." The commentator asserts that enforcement of criminal laws is not the principal function of an Inspector General. The commentator suggested, however, that the (j)(2) exemption could be applied to a record system maintained by an identifiable criminal investigation subunit of the Inspector General.

We do not agree that the OIG does not perform as one of its principal functions activities pertaining to the enforcement of criminal laws. The Inspector General Act of 1978, as amended, 5 U.S.C. App. 3, authorizes the Inspector General to conduct investigations to detect fraud and abuse in the programs and operations of the Commission and to assist in the prosecution of participants in such fraud or abuse, and the Commission's OIG does so.

Given the present staff levels of the Commission's OIG, creation of a criminal investigative subunit would not seem to be very efficient. As stated in the Commission's notice of proposed rulemaking (56 FR 32358 (July 16, 1991)), the (j)(2) and (k)(2) exemptions will be narrowly applied so that only records pertaining to criminal and civil law enforcement investigative matters will be covered as appropriate under those two exemptions. Accordingly, we decline to adopt this suggestion.

The commentator also objected to proposed routine use 1 for the system to the extent that the routine use would permit disclosure of information in response to a subpoena. As proposed, routine use 1 permitted disclosure of Inspector General files "to the extent required by law in response to the subpoena issued in the course of a proceeding to which the Commission is not a party." The commentator suggests that this provision of routine use 1 is inconsistent with subsection (b)(11) of the Privacy Act and should be eliminated.

Generally, we think the objection is well taken. The Court of Appeals for the District of Columbia Circuit has held that a subpoena is not a court order for purposes of subsection (b)(11) of the Privacy Act, *Doe* v. *DiGenova*, 779 F.2d 74, 85 (D.C.Cir. 1985), and that an agency may not circumvent subsection (b)(11) by adopting a routine use which permitted disclosures pursuant to a subpoena without also obtaining a court order. *Doe* v. *Stephens*, 851 F.2d 1457, 1467 (D.C.Cir. 1988).

Accordingly, the attached final systems notice modifies routine use 1 to eliminate compliance with subpoenas as a routine use. The modification, however, excludes compliance only with third party subpoenas, *i.e.*, those issued to the Commission in a proceeding where the Commission is not a party. Routine use 1 as modified would still permit disclosure in response to a subpoena or a discovery request in judicial and administrative proceedings where the Commission is a party.

We believe this exclusion conforms to the Privacy Act. The Privacy Act defines "routine use" as "the use of such record for a purpose which is compatible with the purpose for which it was collected." 5 U.S.C. 552a(a)(7). Courts have stressed that routine uses should be defined narrowly, so as not to circumvent the mandates of the Privacy Act. *Stephens*, 851 F.2d at 1466. To the extent that participation in judicial proceedings requires disclosure of information relevant to the litigation—whether as part of the Commission's case or as part of its discovery or similar obligations—such disclosure would appear easily to be "compatible" with a purpose for which OIG investigative material is collected.

In addition, the attached systems notice amends routine use 8, which deals with certain interagency disclosures, to permit disclosures to the Department of Justice for legal advice or to pursue non-law enforcement claims arising out of OIG investigations, or in the defense of the federal government whenever it or a component is a defendant in litigation. We feel both uses are appropriate.

In the context of interagency disclosures of Privacy Act material, the compatibility requirement for routine uses has been defined as requiring "some meaningful degree of convergence between the disclosing agency's purpose in gathering the information and in its disclosure." *Britt* v. *Naval Investigative Service*, 886 F.2d 544, 549–550 (3rd Cir. 1989). Disclosure is compatible where the Commission needs to disclose Inspector General investigative files in seeking advice from DOJ or to obtain DOJ's assistance to pursue non-law enforcement claims. In addition, disclosure should be compatible where necessary in the defense of the federal government, whenever the federal government, a federal agency or a federal employee is a defendant in litigation. Any other rule could effectively prohibit the federal government from defending itself in the event of a lawsuit.

Accordingly, the Commission announces the establishment of the following system of records for its Office of the Inspector General:

CFTC-32

SYSTEM NAME:

Office of the Inspector General Investigative Files.

SYSTEM LOCATION:

Office of the Inspector General, Commodity Futures Trading Commission, 2033 K St. NW., Washington, DC 20581.

CATEGORIES OF RECORDS IN THE SYSTEM:

All correspondence relevant to the investigation; all internal staff memoranda, copies of all subpoenas issued during the investigation, affidavits, statement from witnesses, transcripts of testimony taken in the investigation and accompanying exhibits; documents and records or copies obtained during the investigation; and opening reports, progress reports and closing reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 95–452, as amended, 5 U.S.C. App. 3.

ROUTINE USE OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) The information in the system may be used or disclosed by the Commission in any administrative proceeding before the Commission, in any injunctive action authorized under the Commodity Exchange Act, in any other action or proceeding in which the Commission or any member of the Commission or its staff participates as a party, in an official capacity, or the Commission participates as amicus curiae.

(2) In any case in which records in the system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred to the appropriate agency, whether Federal, foreign, state or local, charged with enforcing or implementing the statute, regulation, rule or order.

(3) In any case in which records in the system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, the relevant records may be referred to the appropriate board of trade designated as a contract market by the Commission or to the appropriate futures association registered with the Commission, if the OIG has reason to believe this will assist the contract market or registered futures association in carrying out its self-regulatory responsibilities under the Commodity Exchange Act, 7 U.S.C. 1, et. seq., and regulations, rules or orders issued pursuant thereto, and such records may also be referred to any national securities exchange or national securities association registered with the Securities and Exchange Commission, to assist those organizations in carrying out their self-regulatory responsibilities under the Securities Exchange Act of 1934, 15 U.S.C. 78a *et seq.*, and regulations, rules or orders issued pursuant thereto.

(4) The information may be given or shown to anyone during the course of an OIG investigation if the staff has reason to believe that disclosure to the person will further the investigation. Information may also be disclosed to Federal, foreign, state or local authorities in order to obtain information or records relevant to an OIG investigation.

(5) The information may be given to independent auditors or other private firms with which the OIG has contracted to carry out an independent audit, or to collate, aggregate or otherwise refine data collected in the system of records. These contractors will be required to maintain Privacy Act safeguards with respect to such records.

(6) The information may be disclosed to a Federal, foreign, state or local government agency where records in the system of records pertain to an applicant for employment, or to a current employer of that agency where the records are relevant and necessary to an agency decision concerning the hiring or retention of an employee or disciplinary or other administrative action concerning an employee.

(7) The information may be disclosed to a Federal, foreign, state, or local government agency in response to its request in connection with the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision in the matter.

(8) The information may be disclosed to the Department of Justice or other counsel to the Commission for legal advice or to pursue claims and to government counsel when the defendant in litigation is: (a) Any component of the Commission or any member or employee of the Commission in his or her official capacity; or (b) the United States or any agency thereof. The information may also be disclosed to counsel for any Commission member or employee in litigation or in anticipation of litigation in his or her individual capacity where the Commission or the Department of Justice agrees to represent such employee or authorizes representation by another.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEMS:

STORAGE:

Paper records in file folders, computer diskettes and computer memory.

RETRIEVABILITY:

By the name of the subject of the investigation or by assigned identification number.

SAFEGUARDS:

The records are kept in limited access areas during duty hours and in file cabinets in locked offices at all other times. These records are available only to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

The Office of the Inspector General Investigative Files are destroyed ten years after the case is closed.

SYSTEM MANAGER(S) AND ADDRESS:

Inspector General, Office of the Inspector General, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether the system of records contains information about themselves, seeking access to records about themselves in the systems of records, or contesting the content of records about themselves, should address written inquiries to the FOI, Privacy and Sunshine Acts Compliance Staff, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581.

RECORD ACCESS PROCEDURES:

See Notification Procedure above.

CONTESTING RECORD PROCEDURES:

See Notification Procedure above.

RECORD SOURCE CATEGORIES:

Information in these records is supplied by: Individuals including, where practicable, those to whom the information relates; witnesses, corporations and other entities; records of individuals and of the Commission; records of other entities; federal, foreign, state or local bodies and law enforcement agencies; documents, correspondence relating to litigation, and transcripts of testimony; and other misscellaneous sources.

SYSTEM EXEMPTIONS FROM CERTAIN PROVISOINS OF THE PRIVACY ACT:

Under 5 U.S.C. 55a(j)(2), the Office of the Inspector General Investigative Files are exempted from 5 U.S.C. 552a except subsections (b), (c) (1), and (2), (3)(4)(A) through (f), (e) (6), (7), (9), (10), and (11), and (i) to the extent the system of records pertains to the enforcement of criminal laws. Under 5 U.S.C. 552(k)(2), the Office of the Inspector General Investigative Files are exempted from 5 U.S.C. 552a except subsection (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f) to the extent the system of records consists of investigatory material compiled for law enforcement purposes. These exemptions are contained at 17 C.F.R. 146–13.

Issued in Washington, DC, on January 29, 1992 by the Commission.

Joan A. Webb,

Secretary of the Commission.

[FR Doc. 92–2566 Filed 2–4–92; 8:45 am]

BILLING CODE 6351-01

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on In-House Microelectronics Research Facilities

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on In-House Microelectronics Research Facilities will meet in closed session on March 5–6, 1992 at Science Applications International Corporation, McLean, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will assess the advantages and disadvantages of a single microelectronics facility for the Department of Defense.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92–463, as amended (5 U.S.C. app. II, (1988)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly this meeting will be closed to the public.

Dated: January 31, 1992.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–2737 Filed 2–4–92; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on National Aerospace Plane (NASP)

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on National Aerospace Plane (NASP) will meet in closed session on March 5–6, at Wright Patterson AFB, Ohio; March 26–27, at Palmdale, California; April 23–24, at West Palm Beach, Florida; and May 27–29, 1992 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will review the concept, technical basis, program content, and missions of the National Aerospace Plane (NASP) program.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. app. II, (1988)), it has been determined that these DSB Task Force meetings, concern matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly these meetings will be closed to the public.

Dated: January 31, 1992.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–2729 Filed 2–4–92; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Fund for Improvement and Reform of Schools and Teaching Board; Meeting

AGENCY: Fund for the Improvement and Reform of Schools and Teaching Board.

ACTION: Notice of an open meeting.

SUMMARY: This notice sets forth the schedule and agenda of an open meeting of the Fund for the Improvement and Reform of Schools and Teaching Board. This notice also describes the functions of the Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE AND TIMES: February 27, 1992, 9 a.m.–5 p.m., February 28, 1992, 9 a.m.–12:30 p.m.

ADDRESSES: Quality Hotel, Capitol Hill, Lobby Conference Room, 415 New Jersey Avenue, NW., Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Diane Hill, Fund for the Improvement and Reform of Schools and Teaching, U.S. Department of Education, 555 New Jersey Avenue, NW., room 522, Washington, DC 20208–5524, (202) 219–1496.

SUPPLEMENTARY INFORMATION: The Fund for the Improvement and Reform of Schools and Teaching (FIRST) Board was established under section 3231 of the Hawkins-Stafford Elementary and Secondary School Improvement Amendments of 1988 (Pub. L. 100–297). The Board was established to advise the Secretary concerning developments in education that merit his attention; identify promising initiatives to be supported under the authorizing legislation; and advise the Secretary and the Director of the Fund on the selection of projects under consideration for support, and on planning documents, guidelines and procedures for grant competitions carried out by the Fund.

The meeting of the FIRST Board is open to the public. On February 27, 1992, the Board will introduce its Board members, approve the minutes from the September meeting, and review the fiscal year 1992 grant competition process. The Board will hold a discussion on their 1993 priorities.

On February 28, 1992, the agenda includes a briefing by the National Board for Professional Teaching Standards with time allotted for Q&A's. The Board will select a new Vice Chairman at this time. The meeting will conclude with a discussion of the upcoming agenda and a date for the next Board meeting.

Records are kept of all Board proceedings, and are available for public inspection at the office of the Fund for the Improvement and Reform of Schools and Teaching, U.S. Department of Education, 555 New Jersey Avenue, NW., room 522, Washington, DC 20208–5524, (202) 219–1496 from the hours of 8:30 a.m. to 5 p.m..

Dated: January 31, 1992.

Diane Ravitch,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 92–2759 Filed 2–4–92; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER91–680–000, et al.

Electric Rate, Small Power Production, and Interlocking Directorate Filings; The United Illuminating Co. et al.

Take notice that the following filings have been made with the Commission:

1. The United Illuminating Co.

[Docket No. ER91–680–000]

January 27, 1992.

Take notice that on January 6, 1992, The United Illuminating Company (UI) tendered for filing an amendment to the rate schedules for short-term, coordination transactions involving the exchange of capacity entitlements with Connecticut Municipal Electric Energy Cooperative (CMEEC). This amendment is a response to the Commission Staff's Deficiency Letter of October 28, 1991.

Copies of this amendment were served upon CMEEC and on the Connecticut Department of Public Utility Control.

Comment date: February 7, 1992, in accordance with Standard Paragraph E at the end of this notice.

2. The United Illuminating Co.

[Docket No. ER92–2–000]

January 27, 1992.

Take notice that on January 6, 1992, The United Illuminating Company (UI) tendered for filing an amendment to the rate schedules for short-term, coordination transactions involving the sale of capacity entitlements to Connecticut Municipal Electric Energy Cooperative (CMEEC). This amendment is a response to the Commisson Staff's Deficiency Letter of October 28, 1991.

Copies of this amendment were served upon CMEEC and on the Connecticut Department of Public Utility Control.

Comment date: February 7, 1992, in accordance with Standard Paragraph E at the end of this notice.

3. The United Illuminating Co.

[Docket No. ER91–641–000]

January 27, 1992.

Take notice that on January 6, 1992, The United Illuminating Company (UI) tendered for filing an amendment to the rate schedules for short-term, coordination transactions involving the resale of capacity entitlements to Central Vermont Public Service Corporation (CVPSC). This amendment is a response to the Commission Staff's Deficiency Letter of October 28, 1991.

Copies of this amendment were served upon CVPSC and on the Vermont Public Service Board.

Comment date: February 7, 1992, in accordance with Standard Paragraph E at the end of this notice.

4. The United Illuminating Co.

[Docket No. ER92–3–000]

January 27, 1992.

Take notice that on January 6, 1992, The United Illuminating Company (UI) tendered for filing an amendment to the rate schedules for short-term, coordination transactions involving the exchange with or sale of capacity entitlements to Boston Edison Company (Boston Edison). This amendment is a response to the Commission Staff's Deficiency Letter of October 28, 1991.

Copies of this amendment were served upon Boston Edison and on the Massachusetts Department of the Public Utilities.

Comment date: February 7, 1992, in accordance with Standard Paragraph E at the end of this notice.

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5. The United Illuminating Co.

[Docket No. ER92-4-000]

January 27, 1992.

Take notice that on January 6, 1992, The United Illuminating Company (UI) tendered for filing an amendment to the rate schedules for short-term, coordination transactions involving the exchange with or sale of capacity entitlements to UNITIL Power Corporation (UNITIL). This amendment is a response to the Commission Staff's Deficiency Letter of October 28, 1991.

Copies of this amendment were served upon UNITIL and on the New Hampshire Public Utilities Commission.

Comment date: February 7, 1992, in accordance with Standard Paragraph E at the end of this notice.

6. The United Illuminating Co.

[Docket No. ER92-14-000]

January 27, 1992.

Take notice that on January 6, 1992, The United Illuminating Company (UI) tendered for filing an amendment to the rate schedules for short-term, cooperation transactions involving the exchange with or sale of capacity entitlements to Long Island Lighting Company (LILCO). This amendment is a response to the Commission Staff's Deficiency Letter of October 28, 1991.

Copies of this amendment were served upon LILCO and on the New York Public Service Commission.

Comment date: February 7, 1992, in accordance with Standard Paragraph E at the end of this notice.

7. The United Illuminating Co.

[Docket No. ER92-7-000]

January 27, 1992.

Take notice that on January 6, 1992, The United Illuminating Company (UI) tendered for filing an amendment to the rate schedules for short-term, coordination transactions involving the exchange with or sale of capacity entitlements to Montaup Electric Company (Montaup). This amendment is a response to the Commission's Staff's Deficiency Letter of October 28, 1991.

Copies of this amendment were served upon Montaup and on the Massachusetts Department of Public Utilities.

Comment date: February 7, 1992, in accordance with Standard Paragraph E at the end of this notice.

8. The United Illuminating Co.

[Docket No. ER92-27-000]

January 27, 1992.

Take notice that on January 6, 1992, The United Illuminating Company (UI) tendered for filing an amendment to the rate schedules for short-term, coordination transactions involving the exchange with or sale of capacity entitlements to Massachusetts Municipal Wholesale Electric Company (MMWEC). This amendment is a response to the Commission Staff's Deficiency Letter of October 28, 1991.

Copies of this amendment were served upon MMWEC and on the Massachusetts Department of Public Utilities.

Comment date: February 7, 1992, in accordance with Standard Paragraph E at the end of this notice.

9. The United Illuminating Co.

[Docket No. ER92-139-000]

January 27, 1992.

Take notice that on January 6, 1992, The United Illuminating Company (UI) tendered for filing an amendment to the rate schedules for short-term, coordination transactions involving the sale of capacity entitlements to Green Mountain Power Corporation (GMP). This amendment is a response to the Commission Staff's Deficiency Letter of October 28, 1991.

Copies of this amendment were served upon GMP and on the Vermont Public Service Board.

Comment date: February 7, 1992, in accordance with Standard Paragraph E at the end of this notice.

10. Tucson Electric Power Co.

[Docket No. ER92-189-000]

January 27, 1992.

Take notice that Tucson Electric Power Company ("TEP") on January 17, 1992, tendered for filing a Notice of Amendment. Pursuant to a request for additional information by the Commission Staff, a letter dated January 3, 1992 was forwarded in response. Inadvertently, the Notice of Amendment was omitted.

Copies of the filing were served upon all parties affected by this proceeding.

Comment date: February 7, 1992, in accordance with Standard Paragraph E at the end of this notice.

11. The United Illuminating Co.

[Docket No. ER91-639-000]

January 27, 1992.

Take notice that on January 6, 1992, The United Illuminating Company (UI) tendered filing an amendment to the rate schedules for short-term, coordination transactions involving the exchange with or sale of capacity entitlements to Chicopee Municipal Lighting Plant (Chicopee). This amendment is a response to the Commission Staff's Deficiency Letter of October 28, 1991.

Copies of this amendment were served upon Chicopee and on the Massachusetts Department of Public Utilities.

Comment date: February 7, 1992, in accordance with Standard Paragraph E at the end of this notice.

12. Indiana Michigan Power Co.

[Docket No. ER92-278-000]

January 27, 1992.

Take notice that Indiana Michigan Power Company (I&M), on January 17, 1992, tendered for filing Modification No. 16, dated September 4, 1991, to the Interconnection Agreement, dated December 30, 1960 (1960 Agreement), between I&M and Indianapolis Power & Light Company (IPL). The 1960 Agreement has previously been designated as I&M's Rate Schedule FERC No. 21 and IPL's Rate Schedule FERC No. 1.

Modification No. 16 adds a new service schedule to the 1960 Agreement for peaking and seasonal exchange transactions. The Parties request an effective date of April 1, 1992.

A copy of the filing was served upon the Indiana Utility Regulatory Commission and the Michigan Public Service Commission.

Comment date: February 7, 1992, in accordance with Standard Paragraph E at the end of this notice.

13. The United Illuminating Co.

[Docket No. ER91-638-000]

January 27, 1992

Take notice that on January 6, 1992, The United Illuminating Company (UI) tendered for filing an amendment to the rate schedules for short-term, coordination transactions involving the exchange with or sale of capacity entitlements to Green Mountain Power Corporation (GMP). This amendment is a response to the Commission Staff's Deficiency Letter of October 28, 1992.

Copies of this amendment were served upon GMP and on the Vermont Public Service Board.

Comment date: February 7, 1992, in accordance with Standard Paragraph E at the end of this notice.

14. The United Illuminating Co.

[Docket No. ER91-626-000]

January 27, 1992.

Take notice that on December 6, 1992, The United Illuminating Company (UI) tendered for filing an amendment to the rate schedules for short-term, coordination transactions involving the exchange with or sale of capacity entitlements to Boston Edison Company (Boston Edison). This amendment is a response to the Commission Staff's Deficiency Letter of October 28, 1991.

Copies of this amendment were served upon Boston Edison and on the Massachusetts Department of Public Utilities.

Comment date: February 7, 1992, in accordance with Standard Paragraph E at the end of this notice.

15. The United Illuminating Co.

[Docket No. ER91-625-000]

January 27, 1992.

Take notice that on January 6, 1992, The United Illuminating Company (UI) tendered for filing an amendment to the rate schedules for short-term, coordination transactions involving the exchange with or sale of capacity entitlements to Citizens Utilities Company (Citizens). This amendment is a response to the Commission Staff's Deficiency Letter of October 28, 1991.

Copies of this amendment were served upon Citizens and on the Vermont Public Service Board.

Comment date: February 7, 1992, in accordance with Standard Paragraph E at the end of this notice.

16. Central Vermont Public Service Corp.

[Docket No. ER91-473-000]

January 27, 1992.

Take notice that Central Vermont Public Service Corporation ("CVPS") on January 17, 1992, tendered for filing an amendment to its June 3, 1991 filing in this docket.

CVPS requests the Commission to waive its notice of filing requirements to permit the rate schedule to become effective as of May 1, 1991.

Comment date: February 7, 1992, in accordance with Standard Paragraph E at the end of this notice.

17. Public Service Electric and Gas Co.

[Docket No. ER92-279-000]

January 27, 1992.

Take notice that on January 21, 1991, Public Service Electric and Gas Company (PSE&G) tendered for filing an initial Rate Schedule to provide transmission service to EEA Development, Inc. (EEA) for the delivery of the net electrical energy output of EEA's qualifying facility located in the Borough of Ridgefield, New Jersey to the Consolidated Edison Company of New York, Inc.

PSE&G, with the customer's consent, requests a waiver of the Notice Requirements of § 35.3(a) of the Commission's Regulations so that the Rate Schedule can be made effective within sixty (60) days of the date of this filing.

Comment date: February 7, 1992, in accordance with Standard Paragraph E end of this notice.

18. The United Illuminating Co.

[Docket No. ER91-632-000]

January 27, 1992.

Take notice that on January 6, 1992, The United Illuminating Company tendered for filing amendments to rate schedules for UNITIL Power Corporation and Fitchburg Gas & Electric Light Department in response to a deficiency letter for Commission Staff in this docket.

Comment date: February 10, 1992, in accordance with Standard Paragraph E at the end of this notice.

19. The United Illuminating Co.

[Docket No. ER91-612-000]

January 27, 1992.

Take notice that on January 6, 1992, The United Illuminating Company tendered for filing amendments to rate schedules for Bangor Hydro-Electric Company and the Town of Braintree Electric Light Department in response to a deficiency letter from Commission Staff in this docket.

Comment date: February 10, 1992, in accordance with Standard Paragraph E at the end of this notice.

20. Florida Power & Light Co.

[Docket No. ER91-693-000]

January 28, 1992.

Take notice that on January 15, 1991, Florida Power & Light Company, (FP&L) tendered for filing an amendment in the above-referenced docket.

Comment date: February 11, 1992, in accordance with Standard Paragraph E at the end of this notice.

21. MWR Power Inc.

[Docket No. ES92-27-000]

January 28, 1992.

Take notice that on January 23, 1992, MWR Power Inc. (MWR) filed an application with the Federal Energy Regulation Commission under section 204 of the Federal Power Act requesting authority to issue securities and assume liabilities in connection with the proposed merger of Iowa Power Inc. and Iowa Public Service Company with and into MWR.

MWR proposes that:

- All outstanding and issued securities of Iowa Power Inc. and Iowa Public Service Company be converted into securities of MWR to be issued at the completion of the merger.
- All obligations and liabilities in respect to the existing securities of Iowa Power Inc. and Iowa Public Service Company be assumed by MWR.
- MWR be treated as the successor to any existing Commission authority to issue securities in the amounts and for the maturities authorized for Iowa Public Service Company and Iowa Power Inc.

MWR requests exemption from the Commission's competitive bidding regulations.

Comment date: February 24, 1992, in accordance with Standard Paragraph E at the end of this notice.

22. Pacific Gas and Electric Co.

[Docket No. ER92-132-000]

January 28, 1992.

Take notice that on January 10, 1992, Pacific Gas and Electric Company (PG&E) tendered for filing an amendment to its earlier filing under FERC Docket No. ER92-132-000. Docket No. ER92-132-000 submitted amendment #4 to the Comprehensive Agreement between State of California Department of Water Resources and Pacific Gas and Electric Company to the Commission for filing. At the request of FERC Staff, PG&E has submitted additional information regarding the technical functioning and application of the Remedial Action System, which is the basis of this Docket.

Comment date: February 11, 1992, in accordance with Standard Paragraph E at the end of this notice.

23. Acme Power Co.

[Docket No. QF92-28-000]

January 28, 1992.

On January 27, 1992, Acme Power Company, tendered for filing an amendment to its filing in this docket. No determination has been made that the submittal constitutes a complete filing.

The amendment supplements information concerning the facility equipment configuration, and ownership structure. In addition, the amendment requests the type of certification be revised to that of a qualifying small power production facility rather than a qualifying cogeneration facility, as originally requested in the application filed on December 3, 1991.

Comment date: February 18, 1992, in accordance with Standard Paragraph E at the end of this notice.

24. Orlando CoGen Limited, L.P.

[Docket No. QF91-233-001]

January 28, 1992.

On January 23, 1992, Orlando CoGen Limited, L.P. tendered for filing an amendment to its filing in this docket.

No determination has been made that the submittal constitutes a complete filing.

The amdnemdnt provides additional information pertaining to the ownership structure of its cogeneration facility.

Comment date: February 18, 1992, in accordance with Standard Paragraph E at the end of this notice.

25. Iowa Public Service Co.

[Docket No. ER89-506-000]

January 28, 1992.

Take notice that Iowa Public Service Company (IPS) on its own behalf and on behalf of Interstate Power Company, Kansas City Power & Light Company, Northern States Power Company, Omaha Public Power District and St. Joseph Light & Power Company on January 8, 1992, tendered for filing an amended filing for Supplement No. 6 to the Twin Cities-Iowa-Kansas City 345 kV Interconnection Coordinating Agreement, effective May 1, 1989. Supplement No. 6 revises the rates for power and energy in the Service Schedules under the Original Agreement and adds two new classes of power and energy called "General Purpose Energy" and "Term Energy."

Copies of this filing were served on the following commissions: Iowa Utilities Board; State Corporation Commission (Kansas); Minnesota Public Utilities Commission; Missouri Public Service Commission; The Public Service Commission (Nebraska); South Dakota Public Utilities Commission; The Public Service Commission (North Dakota); Wisconsin Public Service Commission' as well as all owners of the West 345 kV aforementioned transmission line.

This filing has previously been held in abeyance at the request of IPS. IPS is now amending its filing for further review. IPS renew its request for waiver of notice requirements to permit an effective date of May 1, 1990.

Comment date: February 11, 1992, in accordance with Standard Paragraph E at the end of this notice.

26. Montenay-Dade, Ltd.

[Docket No. QF81-19-000]

January 29, 1992.

On January 21, 1992, Montenay-Dade, Ltd., tendered for filing an amendment to its filing in this docket. No determination has been made that the submittal constitutes a complete filing.

The amendment provides additional information pertaining to the owner and operator of the facility.

Comment date: February 20, 1992, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulation Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2707 Filed 2-4-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP88-105-000 and GP87-16-000]

Yukon Pacific Corporation; Intent to Prepare a Draft Environmental Impact Statement for the Proposed Yukon Pacific LNG Project and Request for Comments on Environmental Issues

January 31, 1992.

Summary

Notice is hereby given that the staff of the Federal Energy Regulatory Commission (FERC) or the (Commission) will prepare a Draft Environmental Impact Statement (DEIS) on the facilities proposed in the above referenced dockets for the Yukon Pacific Liquefied Natural Gas (LNG) Project.

Yukon Pacific Corporation (Yukon Pacific) is seeking approval of a specific site at Anderson Bay, Valdez, Alaska in order to export LNG to Japan, South Korea, and Taiwan, and for the construction of facilities on this site to liquefy pipeline natural gas for storage and subsequent ocean transport to the above Asian Pacific Rim market. These facilities would include a 2.3 billion cubic feet of natural gas per day (Bcfd) liquefaction plant, four 800,000-barrel LNG storage tanks, a marine loading facility, and the operation of a fleet of 15 125,000 cubic meter LNG tankers for transportation beyond U.S. territorial waters. These facilities and the upstream facilities to deliver natural gas from Prudhoe Bay on Alaska's North Shore to Anderson Bay comprise the TransAlaska Gas System (TAGS) Project. Upstream facilities to transport natural gas from Prudhoe Bay to Anderson Bay consist of a 796.5-mile-long, 36-inch-diameter, buried pipeline system with a design capacity of 2.3 Bcfd, and 10 compressor stations. A new or existing Gas Conditioning Facility (GCF) would also be necessary at Prudhoe Bay to "condition" the gas, i.e. remove portions of carbon dioxide and heavier hydrocarbons, prior to transport to the TAGS pipeline. A Final Environmental Impact Statement (FEIS) for the TAGS project was completed and circulated to the public by the Bureau of Land Management (BLM) and the U.S. Army Corps of Engineers (COE) in June 1988. Although the GCF is not part of any specific application, it is a connected action and was identified in the TAGS FEIS.

By this notice, the FERC staff is requesting comments on the scope of the analysis that should be conducted for the DEIS, which will be limited to the export site, the construction and operation of LNG related facilities on the site, and the transit of LNG by ship through Alaskan waters. All comments will be reviewed prior to the preparation of the DEIS and significant issues will be addressed. Comments should focus on potential environmental effects and measures to mitigate adverse impact. Written comments must be submitted by March 16, 1992 in accordance with the "Scoping and Comment Procedures" provided at the end of this notice.

Project Background

On December 5, 1986, Yukon Pacific filed applications with the BLM and the COE to construct a large diameter, buried, chilled gas pipeline between Prudhoe Bay, Alaska and Anderson Bay, Valdez, Alaska for export purposes. On December 18, 1986, Yukon Pacific filed a petition with the Commission for a Declaratory Order in Docket No. GP87-16-000 on whether the Commission has jurisdiction over the project under sections 3 and/or 7 of the Natural Gas Act (NGA). On May 27, 1987, the Commission issued its Declaratory Order determining in part that the Commission has authority under section 3 of the NGA to approve or disapprove the place of export for the Yukon Pacific Project. The Commission declined in the Declaratory Order to exercise any discretionary authority it may have under section 3 to regulate the siting, construction, and operation of the TAGS pipeline from Prudhoe Bay to Anderson Bay.

Since the BLM and the COE were already preparing an EIS on the entire TAGS Project, the BLM requested the FERC on June 5, 1987 to participate in the BLM/COE EIS as a cooperating agency. Although applications were not yet filed with the FERC or the U.S. Department of Energy (DOE), the FERC agreed to participate as a cooperating agency on July 1, 1987. The DOE also participated as a cooperating agency. A "tiered" process was agreed upon using an initial overview EIS of the entire project from its North Slope gas conditioning facility to tanker transport of the LNG. The EIS examined alternative terminal locations and accompanying pipeline route variations. It was understood that additional detailed site-specific environmental work may be required on specific elements of the project when permits and approvals are requested and acquired. In September 1987, the TAGS DEIS was issued for public comment.

On December 3, 1987, Yukon Pacific filed an application with the Commission in Docket No. CP88–105–000 for an order authorizing a place of export at Anderson Bay, Alaska for the exportation from the United States of LNG. On December 3, 1987, Yukon Pacific also filed an application with the Economic Regulatory Administration (ERA) of the DOE in ERA Docket No. 87–68–LNG for authority to export up to 14 million metric tons of LNG annually (equivalent to 660 Bcf of gas) to Japan, South Korea, and Taiwan.

On January 12, 1988, President Ronald Reagan issued a Presidential Finding determining that the effects of exports of Alaska natural gas on American consumers would comply with section 12 of the Alaska Natural Gas Transportation Act in the context of current and projected future energy markets, and that this finding should not hinder the completion of the Alaska Natural Gas Transportation System (ANGTS) which was previously authorized to transport North Slope Alaska natural gas to the lower-48 states.

In June 1988, the BLM and the COE issued the TAGS FEIS. Subsequently, on October 17, 1988, the BLM issued a Federal Right-of-Way Grant for the TAGS pipeline project and the State of Alaska issued its State Grant on December 16, 1988. The Department of Energy, Office of Fossil Energy (DOE/FE), successor to the ERA, granted authorization of the export under section 3 of the NGA in Opinion and Order Number 350, issued November 16, 1989. The DOE Order relied on the TAGS FEIS in assessing the environmental consequences of granting the proposed export. Condition F of the order requires that all aspects of the export be implemented in accordance with all applicable environmental procedures, requirements, and mitigative measures imposed by Federal and state agencies. Further, the order directs "* * * the FERC to consider the safety and environmental aspects of the export site and facilities, including the liquefaction plant, the marine terminal, the LNG tankers and their routes in Prince William Sound and U.S. territorial waters, prior to approving any export site or facilities." (pg 37).

The DOE Order also concluded:

(a) "With respect to the place of exportation for the LNG * * *, all locations other than Port Valdez, Alaska, are rejected."[1]

(b) "Except for the authority under DOE Delegation Order 0204–112 over the export site, including the liquefaction plant, marine terminal, and related transportation of LNG, the Federal Energy Regulatory Commission (FERC) shall exercise no authority over the export project * * *"

In accordance with the tiered process, the FERC Declaratory Order, BLM's Federal Right-of-Way Grant, and the DOE Order 350, FERC will prepare a more detailed DEIS for the "Place of Export" and associated facilities.[2] The issues to be addressed will be limited to those mandated by the DOE Order and confined to the FERC's jurisdiction described in the Declaratory Order. Issues associated with conditioning plant(s) on the North Slope, the TAGS pipeline, and alternative locations for the export site will not be addressed in this EIS.

Proposed Action

The general location of the proposed facilities for the Yukon Pacific LNG Project is shown in Figure 1. The site is 5.5 miles southwest of the city of Valdez and 3.5 miles west of the Trans-Alaska Oil Pipeline System marine terminal. The entire plant site occupies approximately 300 acres of a 2,500 acre parcel directly adjacent to the proposed marine terminal. The major facilities in the plant include four LNG process trains consisting of gas pretreatment and liquefaction, four 800,000-barrel cryogenic storage tanks, and two LNG loading lines. The plant would be designed for the future addition of one process train and storage tank. Figure 2 shows a site plan.

Conditioned natural gas would enter the LNG plant for initial treatment to remove moisture and impurities by passing it through a series of dryers and scrubbers. Once treated, the gas would proceed through the liquefaction process. The LNG plant would consist of four air-cooled liquefaction trains operating in parallel. Each train would produce LNG for transfer to aboveground cryogenic storage tanks with sufficient capacity to store 5 days for LNG production. Each storage tank would be constructed with an integral concrete outer wall. This wall would serve as a Class 1 impoundment system to contain accidentally spilled LNG.

The LNG loading system would transfer LNG product from onshore storage tanks to LNG tankers, berthed at the marine terminal. Transfer piping would be sized to load two tankers simultaneously in a 12-hour period (approximately 70,000 barrels per hour per tanker). Loading lines, supported by trestles, would connect the LNG storage tanks to the loading platform. The loading lines would use materials designed to withstand cryogenic (−259° F) LNG temperature, and would be insulated to minimize boil-off. The loading operation at each berth would use four articulated loading arms and one vapor-return arm. The latter would take LNG vapors back into the plant fuel gas system or to the feed gas stream for reliquefaction.

The marine facility would consist of two LNG tanker berths, a cargo dock, a ferry landing for site access, and sheltered mooring for small craft. The LNG tanker berths, designed to handle tankers in the 125,000 to 165,000 cubic meter size range, would consist of loading platforms and berthing and mooring dolphins. The platform would be connected to the shore by a causeway, built on piles, carrying roadway and piping. The tanker berths would be approximately parallel to the shore in 50 feet of water.

The tankers that would be used to transport the LNG would be of approximately 125,000 cubic meter capacity and would use any of the three basic containment systems currently in use throughout the world—spherical, prismatic free-standing, and membrane tank designs. The LNG carriers for the TAGS project would be built and operated in strict accordance with all current regulatory and classification society requirements.

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[1] This action was not to be interpreted as approval of the Valdez site. The DOE required that "the FERC conduct its own examination of the health, safety, and environmental impacts associated with Yukon Pacific's use of the Valdez site."

[2] It should be noted that the DOE/FE authorization to export is under appeal by Alaskan Northwest Natural Gas Transportation Company in the U.S. Court of Appeals for the District of Columbia Circuit, and that on May 10, 1991, Circuit Judges Silberman and Williams ordered that the appeals be held in abeyance pending disposition by the FERC of Docket Nos. CP88–105–000 and GP87–16–000.

The anticipated LNG volume to be exported would require approximately 275 tanker loads per year. Vessel traffic into Anderson Bay would start from the Gulf of Alaska, enter Prince William Sound through Hinchinbrook Entrance, proceed north into Valdez arm, then pass through Valdez Narrows to the marine terminal site. Prince William Sound supports a major marine industry dominated by oil tanker traffic. The Prince William Sound Vessel Traffic Service Area (VTS Area) has been created by the U.S. Coast Guard (USCG) as described beginning in 33 CFR 161.301. All vessels traversing Prince William Sound to or from Valdez must follow USCG rules of the VTS.

Construction

The LNG plant and marine terminal at Anderson Bay would be constructed by Yukon Pacific using conventional construction procedures and techniques. Detailed design and construction activities would be completed over a 5-year period.

The proposed project facilities would be designed, constructed, and maintained in accordance with DOT Federal Safety Standards for Liquefied Natural Gas Facilities, (49 CFR part 193). The facilities constructed at the site would also meet the National Fire Protection Association 59A LNG standards. The marine cargo transfer system and any other appurtenances located between the vessel and the last valve located immediately before a storage tank, must comply with 33 CFR part 127 and Executive Order 10173 (USCG).

Site excavation would include removal of overburden soils down to bedrock with placement of these soils in planned fill and disposal areas following cut and fill of the rock to establish the design elevations. Rock excavation would be done using conventional drilling and blasting techniques. Rock would be moved and placed by dozers, loaders, haul trucks, and compactors. Of the approximately 8.5 million cubic yards of rock and overburden to be excavated from the site, about half would require offsite disposal.

A construction off-loading dock would be built using precast concrete caissons filled with granular materials. As soon as possible in the second construction season, construction would begin for the ring foundations for the first two LNG tanks. LNG tank erection would follow until all four tanks are erected.

The remaining shoreside facility mobilizing to the site would commence during the third quarter of the third year. The LNG process trains would be manufactured in modules offsite and shipped and installed in sequence.

Construction of the two LNG mooring and loading berths at the marine terminal would commence late in the third year. Each berth would be parallel to the shore in about 50 feet of water, and consist of three breasting dolphins, a transfer platform for the four marine loading arms and vapor return arm, and four mooring dolphins located outboard to the vessel. A cargo dock to unload vessels with a 20 foot draft would be constructed about 4,500 feet west of the two LNG berths for general cargo shipments to the site. The cargo dock would include a ferry landing to allow employee and visitor access to the site from Valdez.

Environmental Issues

Based on a preliminary analysis of the application for a Place of Export and the environmental information provided by Yukon Pacific, the FERC staff has identified a number of issues that will be specifically addressed in the DEIS.

Soils and Geology
- —Erosion control and revegetation;
- —seismology and soil liquefaction;
- —public and worker safety during seismic events;

Water Resources
- —Site-specific impacts on surface and groundwater;
- —effects of LNG spillage or leakage during transfer and handling, on surface and groundwater and marine water qualify;
- —Potential introduction of non-indigenous species and diseases from tanker ballast water.
- —effects of underwater excavation, dredging, and filling on marine water quality and biota; and
- —wetland impacts at plant site.

Wildlife
- —Impacts of plant construction and operation on resident wildlife including threatened and endangered species;
- —effects of increased tanker traffic on threatened whale species along the route; and
- —effects of construction of terminal on marine life in Anderson Bay.

Land Use/Aesthetics
- —Impact of access limitations for local recreational and commercial fishermen and exclusions from Chugah National forest lands; and
- —compatibility of proposed facility with Valdez City Planning Committee's waterfront plan.

Vegetation
- —Short- and long-term effects on terrestrial vegetation.

Air and Noise
- —Air quality and noise impacts of LNG plant and associated facilities during operations; and
- —air and noise impacts during construction.

Socioeconomics
- —Impact of 1,500 peak workforce on the town of Valdez;
- —impact of construction activity and restrictions on tourism and recreation and local economy; and
- —long term effects of 30–50 permanent jobs in Valdez.

Marine Transportation
- —Effects of increased marine traffic on existing marine traffic both commercial and recreational; and
- —probability of increased accident risk and potential for release of LNG or other hazardous materials.

Public Safety
- —Compliance with 49 CFR 193 for exclusion zones (thermal and vapor gas dispersion), siting criteria, seismic criteria, etc. and
- —consequences of a major spill.

Comments are solicited on any additional topics of environmental concern to residents and others in the project area. However, as previously stated, issues associated with conditioning plant(s) on the North Slope, the TAGS pipeline, and alternative locations for the export site are outside the scope of this EIS. The above three issues were addressed in the TAGS FEIS or DOE Order 350. The Staff Does not Intend to Allow This EIS to Resurrect Old Issues nor Entertain Comments on Old Issues. The Comment Period for Old Issues is Closed.

After comments in response to this notice are received and analyzed, and the various issues investigated, the staff will prepare a DEIS for the Yukon Pacific LNG Project. The DEIS will be based on the FERC staff's independent analysis of the proposal. Together, the DEIS and comments received will comprise part of the record to be considered by the Commission in this proceeding.

Cooperating Agencies

As an outgrowth of the applications filed with the FERC and the DOE and the November 1989 DOE Order No. 350, it became obvious that the FERC would require the assistance of other Federal and Alaska state agencies to address the four issues mandated by the DOE Order and other necessary issues. The DOT's Office of Pipeline Safety and the USCG agreed to assist the FERC, and all three agencies agreed to coordinate each other's reviews in order to ensure compliance with their own respective LNG regulations (49 CFR part 193 and 33

CFR part 127), and to avoid duplication of effort. The State of Alaska's Pipeline Coordinator's Office will also assist as a cooperating agency and has agreed to act as the state contact for all state and local correspondence. The appropriate contacts at these offices are:

Lloyd Ulrich, Chief, Technical Division, U.S. Dept. of Transportation, Office of Pipeline Safety, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–4556.

Commanding Office, USCG, Marine Safety Office, P.O. Box 486, Valdez, Alaska 99686, Att: Commander Ed Thompson, (907) 835–4791.

Jerry Brossia, State Pipeline Coordinator, State Pipeline Coordinator's Office, Alaska Dept. of Natural Resources, 411 W. 4th Avenue, suite #2, Anchorage, Alaska 99501, (907) 278–8594.

Robert Arvedlund, Chief Environmental Compliance & Project Analysis Br., Federal Energy Regulatory Commission, 825 North Capitol St., Washington, DC 20426, (202) 208–0091.

The FERC staff would like to maximize the use of the state's Pipeline Coordinator's Office to coordinate and centralize State and local issues/comments. Therefore, state and local agencies should first avail themselves of the use of this state office. Federal agencies should continue to coordinate through the FERC. The FERC staff has also maintained coordination with the Office of the Federal Inspector for ANGTS. It is assumed that the above mentioned agencies will continue as "cooperating agencies" and need not reapply for such status.

The following additional Federal and Alaska state agencies are requested to indicate whether they wish to be cooperating agencies in the production of the DEIS.

Advisory Council on Historic Preservation

- U.S. Department of Agriculture
  - Forest Service
  - Soil Conservation Service
- U.S. Department of Commerce
  - National Marine Fisheries Service
  - National Oceanic and Atmospheric Administration
- U.S. Department of Energy
- U.S. Department of Defense
  - Army Corps of Engineers
- U.S. Department of the Interior
  - Fish and Wildlife Service
  - Bureau of Indian Affairs
  - Bureau of Mines
  - Geological Survey
  - Mineral Management Service
  - National Park Service
  - Bureau of Land Management
  - Bureau of Reclamation
- U.S. Department of Transportation
  - Federal Highway Administration
- U.S. Environmental Protection Agency
- U.S. Department of State

State of Alaska

- Division of Governmental Coordination
- Department of Fish and Game
- Department of Natural Resources
- Department of Transportation and Public Facilities
- Department of Environmental Conservation

Federal, state, or local agencies desiring cooperating agency status should send a request describing how they would like to be involved to Ms. Lois Cashell, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426. This request should reference Docket No. CP88–105–000 and should be received by March 16, 1992. An additional copy of the request should be sent to the FERC project manager identified at the end of this notice. Cooperating agencies are encouraged to participate in the scoping process and to provide information to the lead agencies. Cooperating agencies are also welcome to suggest format and content modifications to facilitate ultimate adoption of the DEIS; however, the lead agency will decide what modifications will be adopted in light of production constraints.

Scoping and Comment Procedures

After the written scoping comments are received, local public scoping meetings will be conducted by the FERC in Alaska and are presently planned to be held sometime during May 19–29 at Anchorage, Valdez, and Fairbanks, Alaska. Other or alternative locations will be considered based on comments to this notice. The precise date, location, and agenda of the meetings will be identified in a subsequent **Federal Register** notice which will be sent to all parties receiving this notice.

The scoping meetings are primarily intended to obtain input from state and local governments and the public. Federal agencies have formal channels for input into the Federal process (including separate meetings where appropriate) on an interagency basis. Federal agencies are expected to coordinate their comments through the lead Federal agency and not use the scoping meetings for this purpose.

Interested groups and individuals are encouraged to attend the meetings and present oral comments on the environmental impacts which they believe should be addressed in the EIS. Anyone who would like to make an oral presentation should contact the project manager identified below to have their name placed on the speakers list. A second speakers list will be available at the public meeting. A transcript will be made of the meeting and comments will be used to help determine the scope of the EIS.

Copies of this notice have been distributed to Federal, state, and local agencies; public interest groups; libraries; newspapers; parties in the proceeding; and other interested individuals. Written comments are also welcome to help identify significant issues or concerns related to the proposed action, to determine the scope of the issues, and to identify and eliminate from detailed study the issues that are not significant. All comments on specific environmental issues should contain supporting documentation and rationale. Written comments must be filed on or before March 16, 1992, reference Docket No. CP88–105–000, should be addressed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. A copy of these comments should also be sent to the project manager identified below.

The DEIS will be mailed to Federal, state, and local agencies. Public interest groups; interested individuals; newspapers; libraries; and the parties in the FERC proceedings who wish to receive a copy of the DEIS and other subsequent published environmental information must return the attached appendix to remain on the mailing list. A 45-day comment period will be allotted for the review of the DEIS.

Any person may file a motion to intervene on the basis of the staff's DEIS (18 CFR 380.10(a) and 385.214). After these comments are reviewed, any new issues are investigated, and modifications are made to the DEIS, a FEIS will then be published by the staff and distributed. The FEIS will contain the staff's responses to comments received on the DEIS.

Organizations and individuals receiving this Federal notice have been selected to ensure public awareness of this project and public involvement in the review process under the National Environmental Policy Act. Any subsequent information published regarding the Yukon Pacific LNG Project will be sent automatically to the appropriate Federal and state agencies. However, to reduce printing and mailing costs and related logistical problems, the DEIS AND FEIS will only be distributed to those organizations, local agencies, and individuals who return the attached appendix to this notice by March 16, 1992.

Additional information about this proposed project is available from Mr. Chris Zerby, Project Manager, Federal Energy Regulatory Commission, room 7312, 825 North Capitol Street, NE.

Washington, DC 20426, or call (202) 208-0111.

Lois D. Cashell,
Secretary.
[FR Doc. 92-2709 Filed 2-4-92; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. CP91-65-001, et al.]

Natural Gas Certificate Filings; Florida Gas Transmission Company, et al.

Take notice that the following filings have been made with the Commission:

1. Florida Gas Transmission Co.

[Docket No. CP91-65-001]

January 27, 1992.

Take notice that on January 10, 1992, Florida Gas Transmission Company (FGT), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP91-65-001, a request with the Federal Energy Regulatory Commission (Commission) pursuant to section 7(c) of the Natural Gas Act and part 157 of the Commission's Regulations hereunder, for an amendment to a previously authorized Certificate in Docket No. CP91-65-000. FGT states that it is filing this amendment in order to construct the previously authorized facilities with a higher grade in 18-inch pipe to avoid potential future environmental impact. The previously approved Connecting Facilities will extend from a point near FGT's Compressor Station No. 30 on FGT's St. Petersburg, Florida Lateral to a point approximately 2.3 miles north of State road 62 where FGT's Sarasota, Florida Lateral intersects State road 39, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

FGT's proposed amendment would permit it to place in service 36 miles on 18-inch pipeline, with a yield strength of 70,000 pounds per square inch, instead of the 60,000 pounds per square inch authorized by the July 24, 1991 order in Docket No. CP91-65-000. FGT estimates the proposed change in grade of pipe to cost approximately $200,000, which represents approximately a one percent increase in the cost of the authorized facilities. FGT states that it proposes to finance the increased facility cost with internally generated funds.

Comment date: March 12, 1992, in accordance with Standard Paragraph G at the end of this notice.

2. U-T Offshore System

[Docket No. CP92-298-000]

January 27, 1992.

Take notice that on January 13, 1992, U-T Offshore System (U-TOS), P.O. Box 1396, Houston, Texas 77251, filed in the above-referenced docket an application pursuant to section 7(c) of the Natural Gas Act (NGA), as amended, and the Rules and Regulations of the Federal Energy Regulatory Commission (Commission) for a certificate of public convenience and necessity authorizing construction and operation of certain facilities by U-TOS to provide an interconnection for TEMCO Liquids Company (TLC) at U-TOS's Johnson's Bayou Plant in Cameron Parish, Louisiana (Johnson's Bayou Plant), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

U-TOS seeks authority to construct and operate an interconnect consisting of a 20-inch tap, fittings and approximately 700 feet of 24-inch diameter pipe. U-TOS states that as a result of the addition of such 700 feet of 24-inch pipe, approximately 100 feet of the existing U-TOS low pressure line is no longer required and will be removed. The proposed facilities are said to be completely located within the existing fenced portion of the Johnson's Bayou Plant yard. U-TOS estimates the cost of the proposed facilities to be $393,764 which is to be reimbursed by TLC.

U-TOS asserts that the proposed arrangement will provide TLC with a high pressure gas source interconnection. It is stated that such arrangement would enable TLC to receive the dekatherm equivalent of 400 MMcf per day through U-TOS at the Johnson's Bayou Plant.

Comment date: February 18, 1992, in accordance with Standard Paragraph F at the end of the notice.

3. The Berkshire Gas Co.

[Docket No. CI92-22-000]

January 29, 1992.

Take notice that on January 14, 1992, The Berkshire Gas Company (Berkshire) of 115 Cheshire Street, Pittsfield, Massachusetts 01201, a local distribution company, filed an application pursuant to sections 4 and 7 of the Natural Gas Act (NGA) and the Federal Energy Regulatory Commission's (Commission) regulations thereunder for an unlimited-term blanket certificate with pregranted abandonment authorizing sales for resale in interstate commerce of natural gas subject to the Commission's NGA jurisdiction, imported natural gas and liquefied natural gas, and gas purchased from interstate and intrastate pipelines and from local distribution companies, without rate restrictions, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Comment date: February 18, 1992, in accordance with Standard Paragraph J at the end of this notice.

4. Enron Gas Marketing, Inc.

[Docket No. CI87-547-012]

January 29, 1992.

Take notice that on January 15, 1992, Enron Gas Marketing, Inc. (Enron) of P.O. Box 1188, Houston, Texas 77251-1188, filed an application pursuant to sections 4 and 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder to amend the blanket limited-term certificate with pregranted abandonment previously issued by the Commission in Docket No. CI87-547-010 for a term expiring March 31, 1992, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Enron requests extension for an unlimited term, or, in the alternative, for an additional one year term. Enron also requests that its blanket certificate be amended to remove the pricing restrictions on sales for resale of interruptible system supply (ISS) gas it purchases from affiliated pipelines and to remove the condition that the certificate is subject to the outcome of Docket No. RM87-5.

Comment date: February 18, 1992, in accordance with Standard Paragraph J at the end of this notice.

5. Green Canyon Pipe Line Co.

[Docket No. CP92-306-000]

January 29, 1992.

Take notice that on January 16, 1992, Green Canyon Pipe Line Company (Green Canyon), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP92-306-000 a petition under rule 207 of the Commission's Rules of Practice and Procedure (18 CFR 385.207) for a declaratory order (1) finding that its facilities are in fact gathering facilities that are not subject to Commission jurisdiction consistent with section 1(b) of the Natural Gas Act and (2) rescinding the certificate of public convenience and necessity issued in Docket No. CP89-515-000, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Green Canyon, a wholly-owned subsidiary of Transco Energy Company, states that it operates pipeline facilities in the Outer Continental Shelf (OCS) of offshore Louisiana. Green Canyon explains that it was issued an optional certificate of public convenience and necessity on June 1, 1989, in Docket No. CP89–515–000 (47 FERC ¶ 61,310). Green Canyon further explains that it sought certificate authority only because at the time of its application in 1989, Commission precedent and policy indicated that certificate authority was necessary for such facilities.

Green Canyon notes that the Commission and courts have since reexamined and modified the traditional test for determining whether a facility is gathering. The result is, Green Canyon believes, that the criteria for gathering facilities are much broader than in the past. It is asserted that in light of the decision of the Fifth Circuit in *EP Operating Company* v. *FERC*, 876 F.2d 46 (*EP*) and the Commission's order issued in Amerada Hess Corporation, et al., (52 FERC ¶ 61,268 (Amerada Hess), Green Canyon now clearly performs a gathering function. Green Canyon avers that Amerada Hess establishes standards for a modified "primary function" test, standards which Green Canyon meets.

Green Canyon states that the considerations under the modified primary function test include: (1) The diameter and/or length of the pipeline, (2) the location of processing plants or compression, (3) the central point in the field criterion, (4) the location of wells along all or part of the pipeline, and (5) the geographic configuration of the facilities.

Green Canyon states that its pipeline consists of four pipeline segments which range from 4.02 miles to 26.57 miles in length. Green Canyon further states that OCS lines of comparable length have been characterized as gathering by the courts and the Commission.[1] Green Canyon insists that the length of its pipeline is solely a function of the location of production platforms and the distance to connect with Transcontinental Gas Pipe Line Corporation's (Transco) facilities. Green Canyon does not believe diameter is a barrier to a gathering determination either. It is asserted that the 20-inch diameter is solely a function of the substantial volumes which flow through the line and the fact that there is no compression along the pipeline. Green Canyon cites precedents such as *El Paso Natural Gas Company*, 57 FERC ¶ 61,186, Amerada Hess, Exxon Corporation, et al., 45 FERC ¶ 61,436 (Exxon), *EP*, and Shell I. In any case, Green Canyon insists that it falls within the Commission's "sliding scale" policy under which the Commission has expressed intention of allowing the use of gathering pipelines of increasing lengths and diameters in correlation to the distance from shore and the water depth of the offshore production area. Since Green Canyon's system is located over 80 miles from shore and attached wellhead depths exceed 750 feet, a pipeline such as Green Canyon, albeit relatively long in length, is consistent with a primary function of gathering.

Also supportive of a finding of gathering, in Green Canyon's view, is the fact that there are no processing plants or compressors located along the Green Canyon pipeline. Further, Green Canyon emphasizes that the maximum allowable pressure (MOP) of its system (1440 psig) is comparable to the MOP on other gathering systems. Green Canyon cites *EP*, Amerada Hess, and Shell II.

While an examination of the configuration of the Green Canyon system (an inverted "Y") might suggest a central point in the field and, thus, a transmission function for the 25-mile unitary pipeline segment, Green Canyon points out that in applying the modified primary function test, the Commission and the courts have not relied on this factor and have found certain OCS facilities to be gathering even though the systems extended beyond the purported central point in the field.

By traditional standards, the fact that Green Canyon has no wells along its pipeline might have been taken as evidence of a transmission function. However, Green Canyon stresses that there were no wells along the pipeline in *EP*, Amerada Hess, Shell I, and Shell II and the primary function of these facilities was nonetheless found to be gathering. Green Canyon submits that the ultimate test is whether the function of a system is gathering or transmission and that the facts and circumstances clearly support a finding of gathering for its system.

It is asserted that Green Canyon's configuration also supports a finding of gathering. It is noted that Green Canyon is a fully integrated system consisting of four lines which connect several production platforms and form a network feeding into Transco's gathering system at South Marsh Island Block 106. Green Canyon states that it generally possesses the network-like configuration or configuration resembling the spokes of a wheel that is associated with gathering. In any event, Green Canyon notes that its configuration is more comparable to traditional gathering systems than the single, straight lines found to be gathering in *EP*, Amerada Hess, Shell I, and Shell II.

Green Canyon concludes that it meets the modified primary function test and therefore requests that the Commission find that the Green Canyon pipleine system is a gathering system and therefore exempt from the Commission's Regulations pursuant to section 1(b) of the Natural Gas Act. Green Canyon further requests that its certificate in Docket No. CP89–515–000 be rescinded. Green Canyon argues that rescinding its certificate is justified because it would be inappropriate to require Green Canyon to retain a section 7 certificate which it obtained only in cautious adherence to a now outdated Commission policy.

Comment date: February 19, 1992, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

6. Truckline Gas Co.

[Docket No. CP92–310–000]

January 29, 1992.

Take notice that on January 21, 1992, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251–1642, filed a prior notice request with the Commission in Docket No. CP92–310–000 pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to construct and operate a delivery meter in Marshall County, Mississippi, in order to deliver natural gas transported for Mid-America Pipeline Company (MAPCO), under its blanket certificates issued in Docket Nos. CP83–84–000 and CP86–586–000, pursuant to section 7 of the NGA, all as more fully set forth in the request which is open to public inspection.

Trunkline proposes to construct and operate a delivery point and appurtenant metering facilities in Collierville, Marshall County, Mississippi, in order to effect transportation of up to 830 Mcf of natural gas per day and 302,950 Mcf annually on a firm basis for MAPCO pursuant to transportation agreement which would become effective March 1, 1992. Trunkline would receive gas at various existing receipt points on its system in Illinois, Louisiana, offshore Louisiana, Tennessee, Texas, offshore Texas, and deliver to the proposed delivery point in Collierville. MAPCO would reimburse Trunkline for the estimated construction cost of $165,000.

Comment date: March 16, 1992, in accordance with Standard Paragraph G at the end of this notice.

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[1] See *EP* (31-mile line), Amerada Hess (34- and 40-mile lines), Shell Gas Pipeline Company, 41 FERC ¶ 61,032 (Shell I) (27-mile line), and Shell Gas Pipeline Company, 55 FERC ¶ 61,265 (Shell II) (36-mile line).

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will beheld without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or to be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

J. Any person desiring to be heard or make any protest with reference to said filings should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2708 Filed 2-4-92; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4097-2]

Supplemental Notice of Proposed Guidance on Establishment of Control Periods Under Section 211(m) of the Clean Air Act as Amended

AGENCY: Environmental Protection Agency.

ACTION: Supplemental notice of proposed guidance.

SUMMARY: Section 211(m) of the Clean Air Act as amended by the Clean Air Act Amendments of 1990 ("the Act") requires that various states submit revisions to their State Implementation Plans (SIPs) and implement an oxygenated gasoline program. This requirement applies to all states with carbon monoxide (CO) nonattainment areas with design values of 9.5 parts per million or more, generally based on data for 1988 and 1989. The oxygenated gasoline program must require gasoline in the specified control areas to contain no less than 2.7% oxygen by weight during that portion of the year in which the areas are prone to high ambient concentrations of carbon monoxide, except that a state is encouraged to adopt an averaging program employing marketable oxygen credits.

Section 211(m)(2) requires that the Administrator specify the portion of the year in which the area is prone to high ambient concentrations of carbon monoxide. This portion of the year ("control period") is to be not less than four months in length, unless the state can demonstrate that based on meteorological conditions, a reduced period will not result in exceedances outside of such reduced period.

Today's notice proposes EPA guidance on the control periods as a supplement to the Notice of Proposed Guidelines which was published on July 9, 1991.[1] This notice also discusses the geographic scope of the control areas.

In general, this supplemental proposal mirrors the guidelines proposed on July 9, 1991. An important change, however, is that only one of the two options discussed in that Notice is proposed herein. The primary determinants of the control periods proposed are the statutory minimum of four months and data on exceedances of the carbon monoxide standard at the design value monitor in the design value year. Additional modifications are discussed herein. Today's Supplemental Notice of Proposed Guidelines reflects a consensus Agreement in Principle signed by the parties to the Clean Fuels Advisory Committee.

DATES: Comments reveived by March 6, 1992, will be considered by EPA in promulgating final guidelines.

ADDRESSES: Materials relevant to this action have been placed in Docket A-91-04 by EPA. Additionally, EPA has participated in the Regulatory Negotiation process to develop this proposed guidance. A docket has also been set up for the Regulatory Negotiation process. Regulatory Negotiation materials have been placed in Docket A-91-17. The dockets are located in the Air Docket Section (LE-131), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, in room M-1500 Waterside Mall and may be inspected from 8:30 a.m. to 12:00 noon and from 1:30 p.m. to 3:30 p.m. Monday through Friday. A reasonable fee may be charged for copying docket material.

The draft Regulatory Support Documents have been placed in Docket A-91-04, and are referenced by numbers II-F-3 through II-F-6, II-A-2 and II-A-3. These documents are available at the above address.

Comments should be submitted (in duplicate if possible) to the Air Docket Section, Docket A-91-04 at the above address. A copy should also be sent to Mr. Alfonse Mannato at the EPA address listed below: Environmental Protection Agency, Office of Air and

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[1] 56 FR 31151 (July 9, 1991).

Radiation, 401 M Street, SW. (EN-397F), Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Alfonse Mannato (202) 260-9040.

SUPPLEMENTARY INFORMATION:

I. Introduction

This supplemental notice describes EPA's proposed guidance on establishment of control periods for oxygenated gasoline programs under section 211(m) of the Act. Section II provides the background for this proposed action, with respect to chronology and the broad issues involved. Section III presents EPA's proposed action and rationale.

II. Background

Section 211(m) of the Act requires states with carbon monoxide nonattainment areas with design values of 9.5 parts per million or more, based on data for the two-year period of 1988 and 1989,[2] to submit revisions to their State Implementation Plans (SIPs). Such states must individually implement an oxygenated gasoline program in the specified control areas requiring gasoline to meet a minimum oxygen content of 2.7 percent by weight, subject to a testing tolerance established by the Administrator. This oxygen content requirement applies during the portion of the year, referred to as the "control period," in which the areas are prone to high ambient concentrations of CO. The length of the control period, as required by section 211(m) of the Act, is to be determined by the Administrator and shall not be less than four months in length. EPA may reduce the control period if a State can demonstrate that because of meteorological conditions, a reduced period will assure that there well be no carbon monoxide exceedances outside of such reduced period. The oxygen content requirement is to cover all gasoline sold or dispensed in the larger of the Consolidated Metropolitan Statistical Area (CMSA) or the Metropolitan Statistical Area (MSA) in which the nonattainment area is located. A Supplemental Notice of Proposal Guidance for credit programs appears in an additional **Federal Register** notice published today.

This supplemental notice provides EPA's proposed guidance to states regarding the establishment of control periods for oxygenated gasoline programs, under section 211(m) of the Act. This guidance is a general statement of policy. It does not establish a binding norm and is not finally determinative of the issues addressed. Agency decisions in any particular case will be made applying the law, applicable regulations and guidelines on the basis of specific facts and actual action.

Today's supplemental notice proposes control periods for each of the CO nonattainment areas required to have an oxygenated gasoline program. After consideration of public comments on the notice, EPA intends to issue final guidance to the states on this matter. The proper control period will also be an issue during the notice and comment rulemaking undertaken by EPA to review individual state submissions of oxygenated gasoline programs as SIP revisions as required by section 211(m).

To expedite Agency decisions in particular cases, a state submitting a SIP revision which includes an oxygenated gasoline program with a different proposed control period than the applicable control period as specified in these guidelines should provide as detailed an explanation as possible for the differences.

Regulatory Negotiation

EPA used a Regulatory Negotiation Advisory Committee (Advisory Committee) to aid in the development of these proposed guidelines. The regulatory negotiation process was initiated on February 8, 1991, when EPA announced its intent to form an Advisory Committee to negotiate certain guidelines and proposed regulations implementing the clean fuels provisions of sections 211 (k) and (m) of the Act.[3] A public meeting was held of February 21-22, 1991 in Washington, DC, and after considering the comments submitted in response to the notice and the results of that public meeting, an Advisory Committee was established on March 13, 1991.[4] Those notices contain a more detailed discussion of the issues referred to the Advisory Committee, as well as information on the requirements of the Regulatory Negotiation process.

Several meetings were held by the Advisory Committee. On March 14-15, 1991, May 1, 1991, May 13-14, 1991, June 13-14, 1991, and June 26-27, 1991, the Advisory Committee met to discuss the issues associated with the winter oxygenated gasoline program. Between these meetings there were several meetings of the four workgroups of the Advisory Committee.

Notices of Proposed Rulemaking (NPRM) and Proposed Guidelines were published on July 9, 1991,[5] presenting options discussed by the Advisory Committee and its workgroups. A public hearing on the clean fuels NPRMs and Guidelines was held on July 15, 1991. The Advisory Committee continued its activities throughout the months of July and August, and on August 16, 1991, an "Agreement in Principle" was signed by members of the Advisory Committee. A copy of that agreement has been placed in the docket for this guidance.

Today's Supplemental Notice of Proposed Guidelines reflects the "Agreement in Principle" that was signed by the Advisory Committee. The Agreement represents a consensus by the members of the Advisory Committee on the underlying principles of certain proposed rules and guidance concerning the Act's provisions for reformulated gasoline, anti-dumping, and oxygenated gasoline, sections 211 (k) and (m), and contains an outline of these supplemental proposed rules and guidance. For guidance on control periods for the oxygenated gasoline programs the outline references one of two approaches proposed in the July 9, 1991 Notice. In addition, it briefly discusses the control periods for certain specific areas in Oregon and New York states. Questions concerning the Agreement in Principle should be addressed to Alfonse Mannato at (202)260-9040.

EPA invities comments on the guidelines proposed in this supplemental notice, as well as any other relevant options and issues.

III. Proposed Action

Control Periods

In establishing an oxygenated gasoline program, the Act specifies that oxygenated gasoline will be required during the portion of the year in which the areas are prone to high ambient concentrations of carbon monoxide. The control period shall not be less than four months. These control periods are to be determined by the Administrator. EPA may reduce the control period if a state can demonstrate, based on meteorological conditions, that a reduced period will assure that there will be no carbon monoxide exceedances outside of such reduced period. EPA will address the control period issues, as necessary, for areas with carbon monoxide design values of 9.5 parts per million (ppm) or greater for any two-year period after 1989. These areas will be required to submit SIP revisions within 18 months of such two-year exceedance period.

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[2] The Agency has determined that the 1988 and 1989 data from several areas is inadequate to properly characterize the ambient concentrations of CO. Therefore, for these areas—Boston, Cleveland, Seattle and Washington DC—older, more representative data has been used.

[3] 56 FR 5167 (February 8, 1991).

[4] 56 FR 10522 (March 13, 1991).

[5] 56 FR 31148; 56 FR 31151; 56 FR 31154 (July 9, 1991).

In analyzing the control period issue, the Agency has focused on the ambient monitoring data from 1988 and 1989. The Agency has chose this time period for two reasons. First, it is the time period specified in section 211(m) of the Act for determining inclusion in the program. Second, it is the most recent period for which a full set of data exists for the nation as a whole. For areas where the Agency believes that 1988–89 ambient monitoring data is inadequate, the Agency has focused on the ambient monitoring data for the most recent period for which an adequate set of data exists. EPA does not, however, intend to foreclose consideration of more recent data as it becomes available regarding appropriate control periods, either in issuing final guidance to the states or in reviewing individual state submissions of SIP revisions.

EPA considered various approaches to calculating the period "prone to high ambient concentrations of carbon monoxide," a phrase which the Act does not define. The first approach taken by EPA analyzed the ambient monitoring data by looking at the average carbon monoxide concentrations which occurred in 8-hour overlapping periods (Approach I).

For each of the covered CO nonattainment areas, the five highest days in each month were calculated and plotted for 1988 and 1989. Bar graphs reflecting this information for the 39 [6] potential oxygenated gasoline areas have been placed in the docket.[7] Preliminary control periods under Approach I were identified by noting those months where any of the five highest days exceeded the National Ambient Air Quality Standard (NAAQS) for CO.

Examination of the data resulting from the Approach I analysis revealed considerable heterogeneity in the length and temporal placement of a number of areas that share fuel distribution facilities. As a result, it was suggested that there is a need to constrain this heterogeneity to facilitate transportation logistics. That is, where possible, areas that share pipeline distribution systems should be given the same control period. In evaluating this suggestion, EPA considered a second way of analyzing this monitoring data.

This second approach used the exceedances of the carbon monoxide standard at the design value monitor in the design value year (the year in which the design value was established), to identify the months the individual areas were prone to high ambient concentrations of carbon monoxide. The outer boundaries of the season in which these exceedances at the design value monitor occurred was considered along with the larger body of monitoring data mentioned before. Determination of the control periods in this manner results in a significant degree of consistency among the control periods of areas which share oxygenate sources and transportation facilities.

In many cases, using both approaches, the 4-month statutory minimum length for the control period was the controlling factor, along with the requirement that, in general, these programs begin no later than November 1, 1992.

The result of the second analysis, called Approach II, is being proposed by the Agency today, with three modifications in the State of Oregon. These proposed control periods are set forth in Table 1.

By using only data from the design value monitor in the design value year and by looking only at non-overlapping 8-hour averages, Approach II ties the control period determination more closely to the methodology used to define attainment. Violation of the 8-hour standard occurs when the second highest non-overlapping 8-hour average in a year is in excess of the National Ambient Air Quality Standard (NAAQS) for CO. This is in contract to the overlapping 8-hour averages (many more in a 24-hour period) used in Approach I. In addition, Approach II also provides more logical consistency in the gasoline distribution network.

Using this second approach, the eastern seaboard, with the exception of the New York City area, converges on a common core 4 month period from November through February. This same core period prevails in Petroleum Administration for Defense Districts (PADDs) 3 and 4 and in a substantial portion of PADD 5. Six areas were assigned control periods in excess of four months using this approach.

One area which merits a separate analysis is the New York City CMSA. Data from 1988–89 suggests that a control period extending into the summer might be warranted in New York. Based on this data, EPA is tentatively proposing a 12-month control period. On August 28, 1991, the Agency received a letter from the New York State Department of Environmental Conservation requesting a five-month winter season oxygenated fuels program. Consideration of 1990 data might support a shorter control period. The Deputy Commissioner proposed that the New York City CMSA program require 2.7% oxygen by weight in gasoline from November 1 to March 31, and 2.0% oxygen by weight from April 1 to October 31. This proposal also addressed the State's concern that a summertime 2.7% oxygen by weight program could potentially negatively affect the area's NOx and ozone attainment goals, and discussed possible trends shown in the recent air data. In effect, this amounts to a request for a control period of November 1 to March 31, with the State separately enacting by legislation a 2.0% program for the non-wintertime program. EPA has had extensive discussions with New York, New Jersey and Connecticut state officials, to attempt to coordinate their input regarding this issue for their common CMSA. These discussions are ongoing, and comments are specifically requested on this issue.

Based on discussions during the regulatory negotiation process, and in accordance with the "Agreement in Principle," EPA has decided to modify the control periods for Grant's Pass, Medford and Klamath, in the state of Oregon, and to propose guidance for the control periods of four months from October 1 until January 31.[8] This modification is fully consistent with air quality data for these Southern Oregon locations. The ambient air data considered indicates high ambient concentrations for these counties in the months of December and January. The Agency considered additional months given the four-month statutory minimum. For one county, February had somewhat lower concentrations than October, and for the other two counties the February and October concentrations were approximately the same.

Based on current data alone, these counties are not prone to high ambient concentrations of CO in either October or February. Nevertheless, the Act requires a minimum control period of four months. The Agency believes that, in determining which months to include in the control period to reach the four-month minimum, other factors may be considered together with the environmental data. Here the environmental data shows similar CO concentrations in certain areas for October and February, and therefore supply logistics may be a legitimate basis for selection.

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[6] In the July 9, 1991 **Federal Register** notice, this number was 41, not 39. As of the current date, neither Steubenville, OH nor Winnebago, WI has been designated as a CO nonattainment area. Therefore the number of CO nonattainment areas covered by these guidelines is currently 39. Both of these areas have been deleted from Table 1.

[7] These bar graphs appear in a document titled,"Bar graphs of carbon monoxide in Non-Attainment Areas—Revised," June 7, 1991.

[8] The control period proposed in the July 9, 1991 Notice was November 1 through February 29, hence the only change is to add the month of October and delete the month of February.

Modification of the control periods for areas in southern Oregon is advisable from the standpoint of gasoline supply logistics. A reasonable supply point for the southern Oregon cities is Chico, California, which requires oxygenated gasoline from October through January, as do all Northern California CO nonattainment areas. Chico is supplied by San Francisco area refineries via pipeline. Other potential supply points, Eugene and Coos Bay, OR, do not require oxygenates. However, one commenter has stated a preference for a control period from November through February, based upon a different supply scenario which anticipates that southern Oregon will receive shipments of gasoline from northern Oregon and Washington as opposed to California. Portland, OR and Seattle, WA, both have a control periods of November through February. The Agency requests comments on the appropriate approach for southern Oregon.

Both approaches proposed in the July 9, 1991 Notice could provide reasonable guidance for States on the minimum control periods required under section 211(m). EPA has decided to propose Approach II primarily because it is more consistent with the methodology used to determine attainment. This is in line with the statute's emphasis on attainment status and design value, both of which focus on design monitor values. This approach will also aid in the implementation of these state programs by helping to integrate control periods for areas which share oxygenate sources and transportation facilities. EPA is fully confident that Approach II reasonably reflects the period "prone to high ambient concentrations of carbon monoxide" for the applicable areas.

Several commenters have raised a concern regarding Litchfield County, Connecticut. Section 211(m) of the Act provides that the oxygenated gasoline program should apply in the entire MSA or CMSA during that area's control period. Separate parts of Litchfield County are included in both the Hartford and New York City CMSAs. This problem is compounded by the fact that these two control areas are proposed to have different control periods. The State of Connecticut has noted the need for flexibility in dealing with this situation. EPA nonetheless currently proposes that the Connecticut SIP revisions provide that each part of Litchfield County be subject to the control period applicable to the MSA or CMSA or which it is a part. Comments are requested on how this situation should be handled.

EPA requests comments on the relative merits of this proposal, as well as any other approaches which may be considered relevant.

Effective Date

In the Notice of Proposed Guidance on Establishment of Control Periods, EPA proposed that gasoline programs with control periods beginning in September, October, and November would have effective dates of September 1, 1992, October 1, 1992, and November 1, 1992, respectively. In addition, EPA proposed that for areas with a control period of twelve months, the effective date will be September 1, 1992.[9] Based on comments, however, EPA is now proposing that the effective date for all areas with control periods beginning on or before November 1, 1992 will be no later than November 1, 1992.

EPA is concerned that an effective date prior to November 1, 1992 would afford industry and the states insufficient time to implement the oxygenated gasoline programs. EPA recognizes that a November 1 start date could deprive areas of air quality benefits from the oxygenated gasoline program during that portion of control periods prior to November 1, 1992. In addition, EPA recognizes that certain areas may have an effective control period in the winter of 1992–93 of less than four months. Nevertheless, EPA believes that the time necessary to successfully implement this program justifies the November 1 start date. In any case, states with control periods commencing prior to November 1 are not precluded from starting their programs prior to the November 1 deadline.

EPA also believes that the November 1, 1992 start date is consistent with the Act, which provides that the oxygenated gasoline requirement "shall take effect no later than November 1, 1992 (or at such other date during 1992 as the Administrator establishes under the preceding provisions of this paragraph)." If the date determined by the Administrator for the control period governs, in all cases, as the deadline for commencement of the program, then the reference to November 1 appears unnecessary. Under well-settled principles of statutory construction, an interpretation which renders any part of the statute meaningless is to be avoided.

EPA believes that a more reasonable view is that Congress intended that the programs presumptively are to begin no later than November 1, 1992, and that the parenthetical provision was intended as a limited exception to account for the unusual circumstance in which EPA determines a control period which begins after November 1 in the calendar year. Mandating that the oxygenated gasoline requirements take effect on November 1, 1992 in areas where EPA has determined that there is no carbon monoxide problem until after November 1 would make little sense. Grammatically, EPA believes that the "or" should be read disjunctively to join two deadline dates. If the EPA-determined control period begins before November 1, then the November 1, 1992 reference would have meaning as the operative deadline. Alternatively, if the control period is determined to begin after November 1, then the program must take effect no later than the beginning of that control period.

Alternatively, EPA is considering whether it is reasonable to interpret the Act's disjunctive "or" as intended to give EPA the discretion to require that the program begin no later than November 1, 1992, or at the beginning of the EPA-determined control period in 1992. Under this view, the statute could be read to provide EPA with limited flexibility to require the program to begin as it sees fit. Thus, EPA could require that the states' programs begin at the beginning of the control period available for that early implementation. Otherwise, EPA could approve a November 1 start date if it believes such time is necessary. The only way EPA could approve a start date after November 1, however, would be if the EPA-determined control period began after November 1 in the calendar year. The Agency invites comment on this interpretation.

Additionally, it has recently been suggested to the Agency that the programs be allowed to start even later than November 1, 1992. The Agency would like to take comment on the legality and practicality of a start date later than November 1, 1992.

Geographic Scope

According to section 211(m) of the Act, SIP revisions must be submitted by each State in which there is located all or part of an area which is designated under title I as a nonattainment area for carbon monoxide and which has a carbon monoxide design value of 9.5

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[9] Notice of Proposed Guidance, 56 FR 31148, 31153 (July 9, 1991).

parts per million (ppm) or above based on the date for the two-year period of 1988 and 1989 and calculated according to the most recent interpretation methodology issued by the Administrator prior to enactment of the 1991 amendments to the Act. These contol areas are as follows:

1. Boston-Lawrence-Salem, MA-NH CMSA
2. Cleveland-Akron-Lorain, OH CMSA
3. Denver-Boulder, CO CMSA
4. Hartford-New Britain-Middletown, CT CMSA
5. Los Angeles-Anaheim-Riverside, CA CMSA
6. New York-Northern New Jersey-Long Island, NY-NJ-CT CMSA
7. Philadelphia-Wilmington-Trenton, PA-NJ-DE-MD CMSA
8. Portland-Vancouver, OR-WA CMSA
9. San Francisco-Oakland-San Jose, CA CMSA
10. Seattle-Tacoma, WA CMSA
11. Albuquerque, NM MSA
12. Anchorage, AK MSA
13. Baltimore, MD MSA
14. Chico, CA MSA
15. Colorado Springs, CO MSA
16. Duluth, MN-WI MSA
17. El Paso, TX MSA
18. Fort Collins-Loveland, CO MSA
19. Fresno, CA MSA
20. Greensboro-Winston-Salem-High Point, NC MSA
21. Las Vegas, NV MSA
22. Medford, OR MSA
23. Memphis, TN-AR-MS MSA
24. Minneapolis-St. Paul, MN-WI MSA
25. Modesto, CA MSA
26. Phoenix, AZ MSA
27. Provo-Orem, UT MSA
28. Raleigh-Durham, NC MSA
29. Reno, NV MSA
30. Sacramento, CA MSA
31. San Diego, CA MSA
32. Spokane, WA MSA
33. Stockton, CA MSA
34. Syracuse, NY MSA
35. Washington, DC-MD-VA MSA
36. Missoula, MT
37. Fairbanks, AK
38. Grant's Pass, OR
39. Klamath County, OR

Section 211(m)(2) of the Act requires that the oxygenated gasoline program apply to all gasoline sold or dispensed in the larger of the CMSA or MSA in which the nonattainment area is located. For nonattainment areas not in a CMSA or MSA, the control area is the nonattainment area. The requirements of the program shall apply to every county, or partial county which is located in the CMSA, MSA, or nonattainment areas.

This requirement has caused some concern. State officials in Minnesota have expressed concern over the designation of the entire Duluth MSA as requiring an oxygenated gasoline program. Most of northeastern Minnesota is included in the Duluth MSA. According to state officals, much of this area is national wilderness area, and therefore very rural sparsely populated. The state believes that compliance with the oxygenated gasoline provisions as proposed may prove an onerous burden for the few gasoline marketers and retailers in the area.

Congress has specifically mandated in the Act that these programs be implemented in "the larger of the Consolidated Metropolitan Statistical Area (CMSA) in which the [CO nonattainment] area is located, or if the area is not located in a CMSA, the Metropolitan Statistical Area in which the area is located." Comments are requested on the issue of the appropriate control area for Duluth.

For certain multi-state MSAs and CMSAs, the portions of one or more of the states in the MSA or CMSA are not actually designated as being in CO nonattainment. For example, the Boston CMSA extends to areas in New Hampshire which are designated as attainment for CO. New Hampshire contains no CO nonattainment areas. Likewise, the portion of Maryland contained in the Philadelphia CMSA is designated as CO attainment, although Maryland separately contains the Baltimore MSA with a CO nonattainment area therein. This problem arises in a number of additional states.

The Agency notes that section 211(m)(1) obligates "[e]ach State in which there is located all or part of an area which is designated under title I as a nonattainment area for carbon monoxide * * * [to] submit to the administrator a State implementation plan * * * for such area * * *". Section 211(m)(2) provides further that SIP revisions require that the oxygenated gasoline program apply to fuel refiners or marketers in the larger of the CMSA or MSA in which the CO nonattainment area is located. The Agency does not believe that states containing only an attainment portion of the MSA or CMSA are obligated to submit SIP revisions. In the case of such states, the attainment portions of the MSA or CMSA located within their boundaries are not themselves designated under title I as a nonattainment area for CO. These states therefore are not required to submit SIPs for such areas. Indeed, a state, such as New Hampshire, without any nonattainment areas would have no SIP to which "revisions" could be made.

Moreover, the Agency questions whether Congress intended States containing nonattainment portions of the MSA or CMSA to establish oxygenated gasoline programs requiring that gasoline sold or dispensed for use outside its borders be oxygenated. An interpretation that section 211(m) requires such states to establish oxygenated gasoline programs applicable in this manner to the portions of the MSA or CMSA outside their borders raises serious constitutional issues regarding the principle of a State's sovereignty vis a vis other States and about the consitutionality of Congress's delegation of power to regulate interstate commerce.

For areas that have carbon monoxide design values of 9.5 parts per million (ppm) for any two year period after 1988, the Act requires that a revision to the SIP shall be submitted within 18 months after such two year period. EPA will address the geographic scope issues for these areas as such action becomes necessary.

IV. Environmental Impact

The sale of oxygenated gasoline reduces carbon monoxide emissions from motor vehicles and thereby helps carbon monoxide nonattainment areas to achieve compliance with national ambient air quality standard for carbon monoxide. Oxygenated gasoline is becoming a widely recognized control strategy for reducing carbon monoxide emissions from motor vehicles in a timely manner. The establishment of control periods as required by the Act and proposed in this supplemental notice will be valuable implentation guidance for the states and should help to ensure that the full benefits of the oxygenated gasoline program are realized.

V. Public Participation

EPA desires full public participation in arriving at final decisions in this guidance development. A public hearing was held on July 15 on the Proposed Guidance which was published in the Federal Register on July 9, 1991.[10]

All comments received by March 6, 1992, will be considered in EPA's final guidance. Comments should be directed to Docket A-91-04. All comments will be available for inspection during the noted hours at the EPA office listed in the addresses section of this notice.

Commenters desiring to submit proprietary information for consideration should clearly distinguish such information from other comments to the greatest possible extent, and clearly label it "Confidential Business Information." Submissions containing such proprietary information should be sent directly to the contact listed above, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket.

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[10] 56 FR 31151 (July 9 1991)

Information covered by a claim of confidentially will be released by EPA only to the extent allowed by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies the submission when it is received by EPA, it may be made available to the public without further notice to the commenter.

VI. Administrative Requirements

Administrative Designation and Regulatory Impact Analysis

Under Executive Order 12291, the Agency must judge whether this guidance subject to the requirement to prepare an impact analysis. The guidance proposed today is not a regulation, but, together with the other oxygenated fuels guidance proposals, is nonetheless significant. Therefore, the Agency has prepared several draft Support Documents that discuss the economic impacts of implementing the guidance packages. These documents have been placed in Docket A–91–04, and are referenced by numbers II–F–3 through II–F–6, II–A–2 and II–A–3.

This proposed guidance was submitted to the Office of Management and Budget (OMB) for review. Any written comments received from OMB and any EPA response to those comments have been placed in the public rulemaking docket.

Impact on Small Entities

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 through 612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public contact, a regulatory flexibility analysis which describes the impact of the rule on small entities (i.e. small businesses, small organizations, and small governmental jurisdictions). Today's action is not a rulemaking; therefore no regulatory flexibility analysis has been prepared.

VII. Paperwork Reduction Act

This proposed guidance on establishment of control periods does not conduct or sponsor the collection of information, and is therefore not subject to the requirements of the Paperwork Reduction Act 44 U.S.C. 3501 *et seq.*

VIII. Statutory Authority

Authority for the action proposed in this notice is granted to EPA by Section 211 of the Clean Air Act as amended (42 U.S.C. 7545).

Dated: January 22, 1992.

William K. Reilly,

Administrator.

TABLE I.—PROPOSED GUIDANCE ON CONTROL PERIOD BY NONATTAINMENT AREA

Approach II
November 1—February 29
Baltimore
Boston
Greensboro
Hartford
Philadelphia
Raleigh
Syracuse
Washington, DC
Cleveland
Memphis
Albuquerque
El Paso
Colorado Springs
Denver/Boulder
Fort Collins
Missoula
Provo/Orem
Anchorage
Fairbanks
Portland, OR
Seattle
San Diego
All year
New York/No. NJ [1]
October 1—January 31
Duluth
Fresno
Minneapolis
Chico
Modesto
Reno
Sacramento
San Francisco
Stockton
Grant's Pass, OR
Klamath Co., OR
Medford
October 1—February 29
Las Vegas
Phoenix
September 1—February 29
Los Angeles
Spokane

[1] The implementation of the New York/New Jersey control period is to be coordinated with the states of New York, New Jersey, and Connecticut.

[FR Doc. 92–2155 Filed 2–4–92; 8:45 am]

BILLING CODE 6560-50-M

[FRL–4097–4]

Proposed Guidelines for Oxygenated Gasoline Credit Programs under Section 211(m) of the Clean Air Act as Amended

AGENCY: Environmental Protection Agency.

ACTION: Supplemental notice of proposed guidelines.

SUMMARY: Section 211(m) of the Clean Air Act as Amended by the Clean Air Act Amendments of 1990 ("the Act") requires that various states submit revisions to their State Implementation Plans (SIPs), and implement oxygenated gasoline programs. This requirement applies to all states with carbon monoxide (CO) nonattainment areas with design values of 9.5 parts per million or more based generally on 1988 and 1989 data. The oxygenated gasoline program must require gasoline in the specified control areas to contain at least 2.7% oxygen by weight, during that portion of the year in which the areas are prone to high ambient concentrations of carbon monoxide.

Section 211(m)(5) of the Act requires that EPA promulgate guidelines for state credit programs, allowing the use of marketable oxygen credits for gasolines with a higher oxygen content than required to offset the sale or use of gasolines with a lower oxygen content than required.

Today's supplemental notice contains Proposed Guidelines for such oxygenated gasoline credit programs.

This supplemental proposal mirrors the guidelines proposed on July 9, 1991,[1] with certain important changes reflecting choices between various options under consideration. The changes include: a minimum oxygen content of 2.0% by weight during the control period; an averaging period equal to the control period, with a three-month averaging period in cases where the control period is six months or longer; and the requirement of an attest engagement in place of an audit. The choices made in today's Supplemental Notice of Proposed Guidelines reflect a consensus Agreement in Principle signed by the parties on the Clean Fuels Advisory Committee.

DATES: Comments received by March 6, 1992, will be considered by EPA in promulgating final guidelines.

ADDRESSES: Materials relevant to these proposed Guidelines have been placed in Docket A–91–04 by EPA. EPA has engaged in the Regulatory Negotiation process to assist in developing these guidelines. A separate docket has been set up for the Regulatory Negotiation, Docket A–91–17. Dockets are located in the Air Docket Section (LE–131), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, in room M–1500 of Waterside Mall, and may be inspected from 8:30 a.m. to 12:00 noon and from 1:30 p.m. to 3:30 p.m., Monday through Friday. A reasonable fee may be charged for copying docket material.

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[1] 56 FR 31154 (July 9, 1991).

The draft Regulatory Support Documents have been placed in Docket A–91–04, and are referenced by numbers II–F–3 through I–F–6, II–A–2 and II–A–3. These documents are available at the above address.

Comments should be submitted (in duplicate if possible) to the Air Docket Section, Docket A–91–04 at the above address. A copy should also be sent to Mr. Alfonse Mannato at the EPA address listed below:

U.S. Environmental Protection Agency,
Office of Air and Radiation, 401 M
Street SW (EN–397F), Washington, DC
20460.

FOR FURTHER INFORMATION CONTACT: Alfonse Mannato, (202)260–9040.

SUPPLEMENTARY INFORMATION:

I. Introduction

This supplemental notice describes Proposed Guidelines for oxygenated gasoline credit programs, as required under section 211 (m)(5) of the Act. The remainder of this preamble is divided into two parts. Section II provides the background for this proposed action, with respect to chronology and the broad issues involved. Section III presents EPA's proposed action and rationale.

II. Background

Motor vehicles are significant contributors of carbon monoxide emissions. An important measure to reduce these emissions is the use of oxygenates in motor vehicles' gasoline. By adding oxygenates to gasoline, exhaust emissions of carbon monoxide are reduced.

Section 211(m) of the Act requires that states with carbon monoxide nonattainment areas with design values of 9.5 parts per million or more, based on data for the two year period of 1988 and 1989, submit revisions to their State Implementation Plans (SIPs). Although the Act does not specify a due date for these SIP revisions, the Agency is interested in setting such a date in order to encourage consistency across the nation in implementing the oxygenated gasoline programs. There are three possible dates which could be chosen by the Agency. SIP revisions could be due on November 1, 1992, the day which marks the beginning of the mandated oxygenated gasoline programs, or on November 15, 1992 in order to allow the states some flexibility in processing the SIPs, assuming that the programs begin on November 1, 1992 regardless. The third option is to require the SIP revisions on some date in advance of November 1, 1992, for example, on June 1, 1992. While this option would give the most assurance that states have given their full attention to the implementation of the oxygenated gasoline programs, it could be an unreasonable burden on the states. The Agency invites comment on this issue.

The SIP revisions for those areas must establish oxygenated gasoline programs requiring at least 2.7% oxygen by weight, except that states may adopt credit programs such that gasoline with a higher oxygen content than required can offset the sale or use of gasoline with a lower oxygen content than required. The oxygen content requirement is subject to a testing tolerance to be established by the Administrator. The minimum oxygen content requirement applies during the portion of the year in which the areas are prone to high ambient concentrations of carbon monoxide.

Under the Act, the length of these control periods is to be established by the Administrator and shall not be less than four months in length unless a State can demonstrate, based on meteorological conditions, that a reduced period for any individual control area will assure that there will be no carbon monoxide exceedances outside of such period. These requirements are to cover all gasoline sold or dispensed in the larger of the Consolidated Metropolitan Statistical Area (CMSA) or the Metropolitan Statistical Area (MSA) in which the nonattainment area is located. Supplemental proposed guidance on the establishment of control periods appears in an additional **Federal Register** notice published separately today.[23]

The Act requires that the Administrator promulgate guidelines allowing for the use of marketable oxygen credits from gasolines with a higher oxygen content than required to offset the sale or use of gasolines with a lower oxygen content than required. Oxygen credits may not be transferred between control areas, but instead may be used only in the area in which they were created.

This supplemental notice proposes guidelines for state oxygenated gasoline credit programs. The proposed guidelines include an enforcement scheme with responsibilities and liabilities of various parties involved in the oxygenated gasoline industry.

This supplemental notice provides EPA's proposed guidance to states regarding credit programs to be employed in oxygenated gasoline programs, under section 211(m) of the Act. This guidance is a general statement of policy. It does not establish a binding norm and is not finally determinative of the issues addressed. Agency decisions in any particular case will be made applying the law, applicable regulations and guidelines on the basis of specific facts and actual action.

To expedite Agency decisions in particular cases, a state submitting a SIP revision which includes an oxygenated gasoline credit program should identify all areas where the state program differs from these guidelines, and provide as detailed an explanation as possible for these differences. For example, this explanation could include, but need not be limited to, an explanation of any circumstances unique to the state or localities involved, and a demonstration of whether the state's proposed program would be at least as effective as the program proposed in this guidance.

EPA is aware that the gasoline production and distribution industry extends to all areas of the country, crossing state borders in an intricate, nationwide web of commerce. At the same time, the oxygenated gasoline programs required by the Act are centered around a limited number of carbon monoxide nonattainment areas and their surrounding CMSA or MSA. State-based oxygenated gasoline credit programs should be structured in a way that assures their successful implementation, to the greatest extent possible, within the limits of state authority over a nationwide production and marketing structure. Coordination among states is specifically addressed in sections 102 and 187(e)(1) of the Act. EPA believes that these provisions reflect Congress's concern that state programs applicable to multistate nonattainment areas be coordinated, with the Agency's help.

EPA will attempt to minimize problems associated with multistate MSAs and CMSAs. The Agency is committed to providing technical support to the states in implementing these oxygenated gasoline guidelines. This supplemental guidance should help insure program consistency in multi-state program areas. The Agency plans to provide technical support such as standardized training materials, audit forms, industry report forms, and database software to state officials.

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[23] Supplemental notices are being published today for two of the three oxygenated fuels-related notices which were published on July 9, 1991. The third, the notice of proposed rulemaking which was published on the oxygenated gasoline labeling regulations, is not being re-proposed today, as the wording in that original notice remains unaffected by the Regulatory Negotiation and its "Agreement in Principle."

Also, the Agency will encourage cooperative activities by the states in an attempt to coordinate the implementation of these multi-state programs.

Regulatory Negotiation

EPA has used the Regulatory Negotiation process in the development of these proposed guidelines. On February 8, 1991, EPA published a **Federal Register** Notice announcing its intent to form an advisory committee to negotiate guidelines and proposed regulations implementing the clean fuels provisions of section 211(k) and (m) of the Act.[4] A public meeting was held on February 21–22, 1991 in Washington, DC, and after considering comments submitted in response to the Notice and the results of that public meeting, a Negotiated Rulemaking Advisory Committee was established on March 13, 1991.[5] Please refer to those notices for a detailed discussion of the issues considered appropriate for negotiation by the Advisory Committee, as well as information on the requirements of the Regulatory Negotiation process.

Several meetings were held by the Advisory Committee. On March 14–15, 1991, May 1, 1991, May 13–14, 1991, June 13–14, 1991, and June 26–27, 1991, the Advisory Committee met to discuss the issues associated with the winter oxygenated gasoline program. Between these meetings there were several meetings of the four workgroups of the Advisory Committee.

Notices of Proposed Rulemaking (NPRM) and Proposed Guidelines were published on July 9, 1991 [6] presenting options discussed by the Advisory Committee and its workgroups. A Public Hearing on the clean fuels NPRMs and Guidelines was held on July 15, 1991. The Advisory Committee continued its activities throughout the months of July and August, and on August 16, 1991, members of the Advisory Committee signed an "Agreement in Principle." A copy of that agreement has been placed in the docket for these guidelines. Today's Supplemental Notice of Proposed Guidelines reflects the "Agreement in Principle" that the Advisory Committee signed.

The Agreement represents a consensus reached by the members of the Advisory Committee on the underlying principles of certain proposed rules and guidance concerning the Act's provisions for reformulated gasoline, anti-dumping, and oxygenated gasoline, sections 211(k) and (m), and contains an outline of these supplemental proposed rules and guidance. For oxygenated gasoline credit programs, the Agreement outline briefly addresses issues such as the minimum oxygen content, the averaging period, the determination of compliance at the terminal, the applicable control area, and the availability of various oxygenates.

EPA invites comments on the guidelines proposed in this supplemental notice, as well as any other relevant options and issues.

Summary of the Guidelines

The EPA is proposing guidelines for programs to be employed in state oxygenated gasoline programs, in which gasoline containing more oxygen than the minimum 2.7% by weight that is required would generate marketable credits.

The credit program guidelines here proposed by EPA are designed to ensure that all gasoline sold or dispensed in the control area, on the average, meets or exceeds the minimum oxygen content required under section 211(m). In developing these guidelines many issues have to be confronted, for example, over what time period should oxygen content be averaged? Should there be a minimum oxygen content, and if so, what should it be? What requirements should be placed on parties other than those required to meet the average? Analysis of these and many related issues, in the context of the Regulatory Negotiation discussed above, has led EPA to propose the following guidelines for such credit programs.

An averaging program that would require all parties in the gasoline distribution network, from refiners to retailers, to be responsible for averaging the oxygen content of the gasoline they make or distribute is both unworkable and unnecessary. Instead, discussions during the Regulatory Negotiation focused on averaging at the gasoline terminal level. Gasoline is typically sold or dispensed from these terminals into trucks, for shipment to retail stations, or transferred in bulk to other terminals. Requiring averaging at the terminal level, plus averaging for any oxygenate blending conducted in trucks at the terminal or at remote locations, should encompass all retail gasoline in a control area, and should thus result in all such gasoline meeting the required oxygen content on the average. EPA's guidelines adopt this approach. Taking advantage of the terminals' central position in the gasoline distribution system should maximize the credit program's success while minimizing its burdens, both on the regulated community and the governmental bodies involved.

The party responsible for complying with the minimum 2.7% oxygen by weight standard on the average, over the designated averaging period, must be specifically identified. This party will be designated the Control Area Responsible Party (CAR). The responsibilities of the CAR are discussed more fully below.

At the terminals, the CAR would be the person who owns the gasoline sold or dispensed from a control area terminal into a truck.[7] Parties who own or operate terminals but who do not own or sell gasoline are not CARs. Selling or dispensing gasoline from a terminal into trucks is commonly referred to as "breaking bulk." In addition, persons who blend oxygenates into gasoline intended for use in any control area subsequent to its transfer into a truck are also CARs, called Blender CARs. (Blender CARs and CARs are hereinafter collectively referred to as CARs.) Terminal owners, whether or not they are CARs, must provide CARs using the terminal with the volume and oxygen content of the gasoline delivered to or received from each CAR.

The volume and oxygen content of all gasoline entering into a terminal must be provided to the CAR. Based on this and other information, the CAR must keep a running weighted average of the gasoline it transfers into each control area.[8] Gasoline that is transferred in bulk becomes the responsibility of the CAR to whom it is transferred. If transferred by a CAR to another CAR, it is therefore removed from the averaging calculations of the CAR who transferred the gasoline. At the end of the averaging period, the average oxygen content of all gasoline the CAR distributed to trucks destined for each separate control area is calculated separately. In each control area, if the average oxygen content is greater than or equal to the required minimum, then compliance has been demonstrated. Credits are created if the average is greater than the required minimum. If the average oxygen content is less than the required 2.7% by weight minimum, then credits are needed to meet the compliance average.

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[4] 56 FR 5167 (February 8, 1991).

[5] 56 FR 10522 (March 13, 1991).

[6] 56 FR 31148; 56 FR 31151; 56 FR 31154 (July 9, 1991).

[7] Control area terminals would be those terminals at which gasoline intended for use in any control area is sold or dispensed into trucks. The terminal itself need not be physically located in the control area.

[8] Section 211 (m)(5) of the Act requires that an averaging program be conducted separately for each control area.

The averaging program proposed in this notice is similar to the type of program used by EPA in the lead phasedown gasoline program. To comply with the oxygenated gasoline program, CARs must, at a minimum, achieve the sales-weighted average oxygen content over a specified time period, or averaging period. This can be done either by always selling each gallon of fuel with an oxygen content at or above the requisite oxygen content, or by adjusting the quantities and types of fuel sold over the averaging period either directly or by obtaining credits from another regulated party within the control period to attain at least the requisite oxygen content on an averaged basis.

There is no intended prohibition or limitation on the ability of third party brokers to facilitate the purchase and sale of credits. However, while persons other than CARs may act as brokers, only CARs may own credits. Since brokers may not be as established in the industry as CARs, they may have a reduced sense of responsibility for the program requirements. Also, credits may be transferred to the extent such a transfer would not result in any transferor having a negative credit balance at the conclusion of any averaging period. Any credits transferred in violation of this are improperly created credits, which may not be used, regardless of the transferee's good faith. Where any credit transferor has in its balance both credits which were properly created and those which are improperly created, the properly created credits should be applied first to the transfers before the transferor may apply any credits to achieve its own compliance.

Although not strictly necessary to achieve the desired air quality results or to comply with the requirement of section 211(m), an averaging program has a number of benefits. The principal advantage of this program design is that it entails less regulatory intrusion into the marketplace than traditional command and control approaches. It thus retains a high degree of marketing flexibility and competition among blending agents. The advantageous aspects of this approach can be further enhanced by allowing suppliers to trade oxygen credits among themselves, with suppliers of relatively low-oxygen fuels able to purchase such credits from suppliers of relatively high-oxygen fuel within a control area.

Furthermore, when compared to an oxygenated gasoline program requiring oxygen content compliance on a per gallon basis, a program incorporating an oxygen averaging provision should prove to be less costly to implement in 1992. This is due to the fact that averaging programs will allow the supply of oxygenates, which some parties have suggested to be limited for the first control season beginning in 1992, to be used in a flexible, and hence more efficient, manner. Therefore, EPA recommends that states adopt averaging programs in line with these guidelines.

EPA and various parties have raised concerns about the possibility that in the context of an averaging program, gasoline which does not conform to the requirements for oxygenated gasoline may be sold or dispensed within a control area without being detected since there would be no per-gallon standard against which to test the gasoline. Two options were considered to address this potential problem. The first option would have required the use of a marker. Under that option, gasoline which was not destined for use in a control area would contain a marker, and it would be a prohibited act for parties downstream of the terminal in the distribution system to sell or dispense such marked gasoline in a control area. The second option was to establish a minimum oxygen content requirement for all gasoline sold or dispensed within the control area.

Today, EPA is proposing to require a minimum of 2.0% oxygen by weight in all gasoline offered for sale, sold, stored or dispensed by a CAR for use in the control areas during the control period. This requirement would also apply to all parties downstream of the CAR. The same minimum requirement would apply for all gasoline sold or dispensed to the ultimate consumer in the control area during the control period. The only exception to this requirement would be for gasoline sold or dispensed from one CAR directly to another CAR. Adoption of this requirement would obviate the need for a gasoline marker, since all gasoline within the control area could be tested for the presence of 2.0% oxygen by weight.

In today's proposal, CARs are required to register with the state, and to provide reports on each averaging period. Each CAR must perform attestation engagements as a check on compliance. The proposed guidelines describe the responsibilities of the various parties regarding records, reports and transfer documents, as well as requirements to sample and test the oxygen content of the gasoline. Liability for prohibited activities is also included in the proposed guidelines, affecting refiners to retailers, along with defenses to liability.

The proposed credit program guidelines provide that credits must be created on the basis of the oxygen content of the oxygenated gasoline sold or dispensed in a particular control area, that credits may be used to demonstrate compliance only within the same control area in which they were earned, and that credits may only be used during the averaging period in which they were created.

And finally, EPA would like to propose that the states should monitor the availability of and demand for a variety of oxygenates, and should take appropriate steps necessary to reasonably assure the availability of these various oxygenates in the marketplace.

III. Proposed Action

Sale of Only Oxygenated Gasoline in a Control Area

Concern has been raised that a cost incentive will exist to cheat by selling less-expensive sub-2.0% oxygen by weight gasoline in a control area. Two options were considered for prohibiting the sale of non-oxygenated gasoline in designated control areas during their control periods. The first option involved the use of a marker in non-oxygenated gasoline. This option would have required that all non-oxygenated gasoline produced nation-wide be marked with a tracer at the terminal at the time that it was designated for transportation into a non-control area. This option is not proposed. The primary reason for rejecting this option is the difficulty that individual states would have enforcing this requirement.

The second option, which is the option being proposed, is to require a minimum 2.0% oxygen by weight in all gasoline sold or dispensed by a CAR for use in the control areas during the control period. This requirement would also apply to all parties downstream of the CAR. The same minimum requirement would apply for all gasoline sold or dispensed to the ultimate consumer in the control area during the control period. The only exception to this requirement would be for gasoline sold or dispensed from one CAR directly to another CAR. This requirement would apply in addition to the other requirements for averaging programs. There are several reasons for using a minimum content requirement as an adjunct to an averaging program. First, in each control area there would be less potential variation in the effect of the program on the ambient air quality level on any given day, because of the 2.0% oxygen by weight minimum. Second, enforcement of the program would be somewhat simplified in that state enforcement personnel could readily take samples for comparison to the required minimum.[9] Finally, there would be less potential for consumer confusion concerning the amount of oxygen being marketed.

Since the minimum oxygen content option has been chosen for proposal, an issue arises as to the need to implement the minimum requirement for some period of time before the beginning of the control period. A regulatory leadtime for the minimum requirement, applied to any party which sells gasoline to a retailer or wholesale purchaser-consumer within a control area, would help to insure that the retailer would be able to meet the minimum oxygen requirements on the first day of the control period. EPA received various estimates of the average time between deliveries at gasoline stations nationwide. These estimates varied between 2 and 7 days, with the national average estimated to be 3.9 days.

EPA recommends that the states implement a 5-working day leadtime requirement. The data suggests that a leadtime of five days will ensure that most, if not all, retail stations will be able to dispense gasoline on the first day of every control period that contains the 2.0% oxygen by weight minimum content requirement. A longer period is not necessarily supported by the data and may cause a significant reduction in the supply of oxygenates available for the oxygenated gasoline programs during the control periods throughout the country, especially in the first year of the program. EPA is requesting comments on this proposed leadtime.

Length of Averaging Period

EPA is proposing the following averaging periods: For any area with a control period of five months or less, the averaging period shall be equal to the control period, and for areas with control periods of six months or longer, the averaging period shall be three months in length. In addition to these averaging periods, EPA is proposing a 15-working-day reconciliation period following each averaging period, during which time CARs may purchase or sell credits for use in connection with the immediately-preceding averaging period.

In proposing the averaging periods in conjunction with a 15-working-day reconciliation period, EPA has considered a number of factors. First, the proposed averaging periods and 15-working-day reconciliation period would give the petroleum industry more flexibility in planning for compliance with the required oxygen standard. Second, during the Regulatory Negotiation discussions, the issue of designating the length of the averaging period was often discussed in conjunction with the possibility of requiring a minimum oxygen content. That is, the establishment of a minimum content of 2.0% oxygen by weight lessens the need for short averaging periods. The averaging periods that are proposed are a result of the negotiations, and are taken directly from the "Agreement in Principle," which is discussed above. Finally, EPA believes that the averaging periods and 15-working-day reconciliation period which are being proposed, when coupled with the minimum oxygen content requirement of 2.0% oxygen by weight, will give the petroleum industry needed flexibility and will also minimize the risk that averaging will cause poor air quality episodes potentially due to averaging.

Banking Credits

Some parties have suggested that the banking of credits from one averaging period to another should be allowed as a means of permitting further flexibility to the industry. If, at the close of one averaging period, a CAR were to have excess credits in its oxygenated gasoline credit account, a banking system would allow that party to apply those credits to the next averaging period.

Because credits earned in one averaging period would be applied to the oxygenated gasoline standards of a different averaging period, and maybe even of a different control season, concern has been expressed that such a banking system may cause variations in oxygen content resulting in ambient air quality exceedances. As a result, in today's notice, EPA is not proposing a banking program.

As stated above, the majority of the averaging periods as proposed match the control periods for each nonattainment area. This would mean that in order to institute a banking system which all areas could use, credits would have to be allowed to carry over from one control period to the next, meaning that in practice, credits would carry from one year to the next in the majority of the nonattainment areas. This scenario could potentially present air quality attainment problems, with excess credits from one season being allowed to be used in a later season. In particular, if the later season is characterized by numerous measured CO exceedances, marginal air quality costs, due to the carryover of credits associated with banking, could constitute a particularly significant contribution to the area's ambient air quality problems.

Therefore, in light of the averaging periods that have been proposed, the minimum requirement of 2.0% oxygen by weight, and the 15-day reconciliation period at the end of each averaging period, the Agency is not proposing a banking program at this time.

Blendstock/Export/Storage Issues

The sale or distribution of non-oxygenated gasoline by any person for use in any control area is prohibited by these proposed guidelines unless (a) such gasoline is segregated from oxygenated gasoline, (b) the documents which accompany such gasoline are clearly marked as "non-oxygenated gasoline, not for sale to ultimate consumer in a control area," and (c) the non-oxygenated gasoline is in fact not sold or dispensed to ultimate consumers, during the control period, in the control area. Gasoline intended for sale to the ultimate consumer in a control area must contain the required 2.0% minimum oxygen content to avoid enforcement action at any point from the CAR to the retailer or the wholesale purchaser-consumer.

In classifying product, however, some concern has been expressed about blendstock, gasoline which is destined for export, and gasoline in storage. These are petroleum products that are not standard oxygenated gasoline and would not contain the required 2.0% oxygen content, but might have a legitimate presence within a control area.

As a matter of enforcement policy, EPA expects that a state would not hold a party liable for the possession or transfer of non-oxygenated product which may arguably meet the regulatory definition of gasoline if the following requirements are met:

1. The product is clearly labeled as "blendstock/ export/storage" and the evidence supports this classification;
2. The accompanying documents clearly state that the product does not comply with the oxygenated gasoline requirements;
3. Some aspect of the product's quality supports the party's claim that the product was intended to be further blended before being sold, supplied, etc. as finished product;
4. The seller, supplier, or transporter of the product has obtained a written

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[9] Sampling for the minimum will not obviate the need for states to audit CARs to insure the averaged standard of 2.7% is being met. Requirements for state audits will be covered in a separate implementation document to be issued later this year.

certification or notice on shipping documents from the buyer/recipient of the product that the buyer/recipient understands that the product is not intended for sale or distribution as finished gasoline in a control area unless or until (a) it is blended to meet the oxygenated gasoline regulatory requirements; (b) the buyer/recipient receives equivalent certification from a subsequent buyer or obtains a written certification that the gasoline will not be sold or dispensed for use within a control area; and

5. The party has no knowledge or reason to believe that the product will not be further blended to comply with the regulatory standards before being sold, supplied or transported as finished product, or that it would be sold or dispensed without further blending within a control area.

Registration

At least 30 days before the beginning of any control period, any person who would be defined as a Control Area Responsible Party (CAR) would be required to register with the state. Any party which would decide to participate in a control area as a CAR after the start of the control period could do so after submitting a registration application to the state, and receiving the state's approval. When registered by a state, every CAR should receive a CAR identification number, which authorizes a CAR to conduct oxygen credit trades. This registration would be on a form provided by the state, and would contain basic information provided by the owner/operator on the day-to-day operation of the terminal or blending facility from which the CAR operates. The state would have the flexibility to request additional information that it deemed appropriate. A valid registration would be a precondition for operating as a CAR. From the time any such information became inaccurate, the CAR would have 30 days in which to provide an update. The Agency has proposed a 30-day time period in order to allow the states sufficient time for the review of applications, while still allowing the CARs the flexibility to join state averaging programs at any time during a control season.

Specific Responsibilities/Liabilities of Regulated Parties

The oxygenated gasoline credit program guidelines which EPA is proposing imposes responsibilities on parties in the gasoline industry which fall generally into four categories:

Persons who produce or import gasoline (refiners and importers) are responsible for assuring that gasoline is tested and that the documentation that accompanies the gasoline accurately reflects the oxygen content. Liability for violations of these requirements is for the refiner or importer only.

Persons who transport, store or sell gasoline (refiners, importers, blenders, distributors, resellers, retailers, wholesale purchaser-consumers and carriers) have various responsibilities associated with assuring that only oxygenated gasoline is sold or dispensed for use in control areas. Persons who transport, store, or sell gasoline downstream from the CAR are responsible for assuring that gasoline intended for sale to retailers or wholesale-purchaser consumers within a control area meets the 2.0% required minimum oxygen specification. Persons who transport, store, or sell gasoline at the terminal or upstream from the terminal are responsible for assuring that the oxygenate content of all gasoline intended for use in a control area, as stated on the accompanying paperwork, is accurate. These persons are also responsible for assuring that all non-oxygenated gasoline sold into a control area for use as a blendstock is sold only to CARs duly registered with the state. Liability for violations of these requirements is for the facility where the violation is found, and for all persons upstream from that facility, except in the case of violations associated with the minimum requirement, which stop at the terminal.

Terminal owners and operators are responsible for assuring that the oxygen content of the gasoline they receive, handle or dispense is accurate. CARs are responsible for assuring that gasoline intended for use within a control area, during the control period, meets the 2.0% required minimum oxygen specification; for assuring that oxygenated gasoline, once accounted for, is in fact sold or dispensed in the proper control area; for properly accounting for credits generated, transferred or received; and for assuring that the oxygenated gasoline standard is met on the average for each averaging period in each relevant control area.

Retailers and wholesale purchaser-consumers are responsible for assuring that gasoline intended for sale during the control period contain at least 2.0% oxygen, by weight.

The term "responsible for assuring" as used above is not meant to imply any requirement that a party guarantee compliance at a point downstream from it in the gasoline distribution network. In fact, elements of various defenses that would be available to regulated parties are discussed below.

With respect to those regulatory responsibilities where potential liability exists for parties upstream from the facility found in violation, EPA's proposal includes liability for the operator of the facility in violation and presumptive liability for upstream parties. Under this approach, defenses would be available for each party with presumptive liability. This is the scheme which is followed under the federal gasoline lead contamination, volatility, and diesel fuel sulfur content regulations.[10]

EPA believes that the principal advantage of the presumptive liability approach is that it would allow identification of the person who caused the violation. EPA is concerned that non-oxygenated gasoline could be mixed with oxygenated gasoline by any person in the gasoline distribution network, and that it would be difficult or impossible for the state to identify the person responsible for causing this violation. In order to address this difficulty, those persons who actually handled the gasoline, who are in the best position to identify the cause of any violation, must have an incentive to be forthcoming in providing accurate compliance information. EPA believes that a presumptive liability scheme is the most appropriate method of addressing this concern. This is a scheme which is familiar both to EPA and to industry, and makes the most efficient use of state resources.

For the forgoing reasons, EPA is proposing a liability scheme for the oxygenated gasoline credit program guidance based upon presumptive liability. EPA believes such an approach would be the most effective and equitable method of placing liability upon the party or parties responsible for causing a violation.

In certain instances the Proposed Guidelines impose responsibilities and liabilities on parties that may be physically located outside of states covered by section 211(m), or on activities that may be conducted outside of these states. EPA specifically invites comment on the legal ability of states to regulate these parties or activities, as well as the feasibility of such state regulation. EPA also requests suggested modifications or alternatives to the Proposed Guidelines if the states subject to section 211(m) cannot lawfully or feasibly implement the guidelines to regulate these parties or activities.[11]

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[10] See 40 CFR 80.23,80.27 and 80.29.

[11] Please see the Supplemental Notice of Proposed Guidelines on Establishment of Control Periods, also published today, for a more detailed discussion of this issue.

The Control Area Responsible Party

The Control Area Responsible Parties (CARs) are those parties subject to the average oxygen content standard. To account for oxygenated gasoline credits, the CAR must know the specific oxygen content of each gallon of oxygenated gasoline delivered to a control area to be offered for sale or dispensed by a retailer or a wholesale purchaser-consumer.

EPA is proposing that there be two potential responsible parties. The first would be the person who owns gasoline which is sold or dispensed from a control area terminal, or the CAR. A control area terminal is a facility which is capable of receiving gasoline in bulk, i.e. by pipeline or barge, and/or at which gasoline is altered either in quantity or quality. Gasoline which is intended for use in any control area is sold or dispensed into trucks at these control area terminals. The second would be the person who owns oxygenated gasoline which is sold or dispensed from a control area oxygenate blending facility, or the Blender CAR. A control area oxygenate blending facility is any facility or truck at which oxygenate is added to gasoline which is intended for use in any control area, and at which the quality or quantity of gasoline is not altered in any other manner, except through the addition of deposit-control additives. All CARs and Blender CARs will be required to register with the state before being allowed to buy or sell oxygenated gasoline or oxygen credits.

At gasoline terminals which sell or dispense gasoline for use in a control area, the owner of the gasoline which is sold or dispensed is the CAR. The CAR must know the oxygen content of the gasoline it is dispensing or selling in order to account for the credits or debits generated by that gasoline and to ensure that every gallon complies with the minimum oxygenate requirement of 2.0% oxygen content by weight. The CAR shall know this information through receipt of transfer documents from upstream parties, through its own testing, or by receipt of information on the mathematically calculated oxygen content from the terminal operator in charge of the terminal from which a CAR's gasoline was sold. It is the CAR's responsibility, at the close of every averaging period, to demonstrate compliance with the average 2.7% oxygen content by weight for the total volume of all gasoline sold or dispensed into any one control area over the course of the entire averaging period.

When any blending occurs at the terminal or at another location downstream from the terminal, the responsible party is the Blender CAR. Owners of gasoline who are not registered CARs are permitted to sell gasoline only outside of control areas, or to sell to registered CARs and Blender CARs. Once a Blender CAR has obtained the gasoline, it may blend it in order to comply with the average oxygen content standard and the minimum per gallon oxygenate requirement of 2.0% oxygen by weight. It is the Blender CAR's responsibility, at the close of every averaging period, to demonstrate compliance with the average 2.7% oxygen content by weight for the total volume of all gasoline sold or dispensed over the course of the entire averaging period.

The responsibilities of a CAR consist generally of accounting for all oxygen content associated with the oxygenated gasoline which is dispensed into trucks for delivery into any control area, to ensure that every gallon sold or dispensed for use in the control area meets the 2.0% minimum oxygen requirement, and for submitting reports to the state at the conclusion of each averaging period showing average oxygen gasoline standards were achieved.

EPA also is proposing that CARs commission an attestation engagement to verify the information supplied in the report to the state. This requirement is discussed more fully below. EPA is proposing that the averaging responsibility be located at the gasoline terminal and at the blender facilities, because as previously described, they represent the last centralized point in the gasoline distribution network before gasoline is transported by truck to a wide variety of retail locations in the control area. Based on its place in the distribution network, EPA expects that compliance with the averaging requirement at terminals and blending facilities would lead to compliance, on average, by all gasoline dispensed to ultimate consumers in the control area. The centralized nature of these facilities also allows the averaging requirement to apply to a manageable number of identifiable parties, facilitating implementation and enforcement. Because the 2.7% oxygen by weight requirement is an average to be applied over an entire control area, if a CAR or Blender CAR supplies a single control area from more than one terminal, the CAR may combine volumes sold from the respective terminals to satisfy the average oxygen requirement.

At the Regulatory Negotiation, there was extensive consideration of which party at the terminal it would be feasible to hold responsible for the averaging program. The terminal owner or operator was one option, and another was the owner of the gasoline. EPA is proposing the latter as the CAR—the owner of the gasoline at a control area terminal when the gasoline is sold or dispensed over the rack. This reflects EPA's opinion that the owner of the gasoline is in the best position to exercise control over the oxygen content of the gasoline. At the same time, EPA is proposing that terminal owners and operators may act on behalf of a CAR by accepting gasoline into the terminal, but may not allow its introduction into commerce unless the proper documentation accompanies it containing information such as oxygen content and volume, or until testing using approved methods has been done to establish the oxygen content. This proposal is designed to assure that the information needed to conduct averaging is available to the CAR. The terminal owner or operator would also be responsible for conducting a quality assurance program to verify the accuracy of such information.

Compliance in the oxygenated gasoline program for CARs is based upon the oxygenated gasoline dispensed into trucks or barges for transport into control areas, plus or minus any credit transfers, and excluding the oxygenated gasoline transferred outside the control area in bulk or to another registered CAR in any control area. Separate compliance determinations must be calculated for every control area served by a CAR, regardless of the number of terminal facilities owned by that CAR which serve the same area.

The following is an example of a compliance calculation for a CAR.

On day one of the compliance period the CAR received 100,000 gallons of oxygenated gasoline, containing 3.0 percent by weight oxygen. The credit status of this batch of gasoline is calculated as follows:

Actual Oxygen Content = weight percent × gallons

3.0 × 100,000 = 300,000 oxygen content units

The CAR received a total of three other shipments of oxygenated gasoline during the compliance period, which had the following oxygen contents:

Batch	Gallons	% Oxygen	Oxygen content
2	100,000	2.0%	200,000
3	100,000	2.3%	230,000
4	100,000	2.9%	290,000

In this example, the CAR had no bulk transfers of gasoline to another control area, or to any non-control areas. Also, it is assumed that all the gasoline associated with these four batches was sold or dispensed in this same control area during the relevant control period. Therefore, the four batches of gasoline received constituted the total gasoline which was relevant to the oxygenated fuel compliance determination. To determine compliance, the CAR compares the required total content of oxygen to the actual total content of oxygen, which resulted from the gasoline sold or dispensed into the control area.

The required total content of oxygen is calculated by multiplying the averaging standard times the total volume in gallons. The averaging standard is 2.7 weight percent oxygen, meaning that in this example, the resulting required total content of oxygen is:

2.7 × 400,000 gallons = 1,080,000 oxygen content units

The actual total content of oxygen is compared to this required total. In this example, the actual total content of oxygen is 1,020,000 units, which is 60,000 units less than the required total. As a result, the CAR must obtain 60,000 oxygen content credits generated by another CAR in the same control area and averaging period in order to achieve compliance.

For each control area served by a CAR, calculations such as those found above must be computed.

The next sample calculation demonstrates how a CAR or terminal operator will compute the running weighted average oxygen content of a single bulk tank out of which oxygenated fuel is sold or dispensed into any control area. These calculations would be used by a CAR or terminal operator who receives oxygenated gasolines of varying oxygen content during the compliance period, and stores them all in the same tank. This example is unlike the one above which would require that each shipment of oxygenated fuel be handled separately.

On day one of the control period, the CAR has 400,000 gallons of oxygenated gasoline in a tank, which contains 2.0% oxygen by weight. No gasoline is sold or dispensed out of this tank on day one, and on day two, the CAR receives another 100,000 gallon shipment of oxygenated gasoline, this time containing 2.4% oxygen by weight. The running weighted average oxygen content of this tank, now containing 500,000 gallons of oxygenated gasoline, would be calculated as follows:

2.0 × 400,000 = 800,000 oxygen content units
2.4 × 100,000 = 240,000 oxygen content units

The average running weighted average oxygen content is found by dividing the total oxygen content units in the tank by the number of gallons of oxygenated gasoline in the tank:

1040,000 divided by 500,000 = 2.08

Therefore, the running weighted average oxygen content of this tank is 2.08% oxygen by weight.

To continue the example, on day three the CAR dispenses 5 separate batches of 10,000 gallons of oxygenated gasoline each from this tank into 5 separate trucks, for a total of 50,000 gallons dispensed into the control area. The gasoline in these trucks has an oxygen content of 2.08% by weight, based on the calculation above. These withdrawals leave 450,000 gallons of oxygenated fuel in the tank.

After dispensing this gasoline, the tank receives a shipment of 200,000 gallons of oxygenated gasoline containing 2.7% oxygen by weight, bringing the total gallonage in the tank up to 650,000 gallons. The running weighted average oxygen content of the tank after this addition would be calculated as follows:

2.08 × 450,000 = 936,000 oxygen content units
2.70 × 200,000 = 540,000 oxygen content units
1,476,000 divided by 650,000 = 2.27

Therefore, the running weighted average oxygen content of the tank after both the dispensing of the 50,000 gallons and the addition of the 200,000 gallons of 2.7% gasoline is 2.27% oxygen by weight. Any gasoline subsequently dispensed into trucks would have an oxygen content of 2.27% by weight.

The next example is a compliance calculation which would be used by a blender CAR. On day one of the compliance period the blender CAR received 900 gallons of gasoline containing 0.0% oxygenate by volume. The blender CAR then added 100 gallons of ethanol, bringing the total volume of gasoline to 1,000 gallons, the oxygenate volume percentage up to 10.0%, and the oxygen content by weight up to 3.5%. The credit status of this batch of gasoline is calculated as follows:

Actual Oxygen Content = weight percent X gallons
3.5 × 1,000 = 3,500 oxygen content units

The blender CAR had a total of three other shipments of oxygenated gasoline during the compliance period, which had the following volumes and oxygen contents after the blender added oxygenate to the products:

Batch	Gallons	% Oxygen when dispensed	Oxygen content
2	1,000	3.5%	3,500
3	1,000	2.2%	2,200
4	1,000	2.7%	2,700

In this example, the blender CAR had no transfers of gasoline to another control area, or to any non-control areas. Also, it is assumed that all the gasoline associated with these four batches was sold or dispensed in the same control area during the relevant control period. Therefore, the four batches of gasoline received constituted the total gasoline which was relevant to the oxygenated fuel compliance determination. To determine compliance, the blender CAR compares the required total content of oxygen to the actual total content of oxygen which resulted from the addition of ethanol to the gasoline which was sold or dispensed into the control area.

The required total content of oxygen is calculated by multiplying the averaging standard times the total volume in gallons. The averaging standard is 2.7 weight percent oxygen, meaning that in this example, the resulting required total content of oxygen is:

2.7 × 4,000 gallons = 10,800 oxygen content units

The actual total content of oxygen is compared to this required total. In this example, the actual total content of oxygen is 11,900 units, which is 1,100 units more than the required total. As a result, the blender CAR may transfer 1,100 oxygen content credits to another CAR or blender CAR in the same control area and averaging period.

Attest Engagements

EPA is proposing that, as a part of its periodic report to the state showing compliance with the oxygenated gasoline credit program, each CAR will be required to commission an attest engagement of the information which forms the basis of the periodic report.

In the July 9, 1991 Notice of Proposed Guidelines for oxygen credit programs, EPA proposed that each CAR commission an audit. The audit was proposed to be conducted in accordance with Generally Accepted Auditing Standards (GAAS) established by the American Institute of Certified Public Accountants (AICPA). GAAS are those standards used in the auditing of financial statements.

Today's notice proposes that each CAR commission an attest engagement, in accordance with the Standards for

Attestation established by the AICPA. These attestation standards are an extension of GAAS to cover a wider range of services than the review of historical financial statements. Based on comments received in reaction to the July 9, 1991 Notice, the term "audit" has been changed to "attest engagement" in order to more accurately reflect the standards that are to be applied. In effect, an attest engagement is the same as an audit of non-financial statements.

These attest engagements are not intended as substitutes for enforcement audits conducted by the state, but are intended to serve as a means of improving compliance with the oxygenated gasoline program by identifying problem areas to the regulated parties. Such attest engagements also assure the regulated parties that the records on which they base periodic reports will be reviewed and cross checked for accuracy by a third party (as well as possibly by the state); will lead to the correction of simple arithmetic errors; will aid in correcting misconceptions about regulatory requirements; and generally will deter the making of false reports.

EPA is proposing that attest engagements be conducted by an independent practitioner who is a Certified Public Accountant (CPA) at the end of the annual control period, or every 6 months, whichever is shorter, with the report to be submitted by the CAR to the state within 60 days following the end of the period of the engagement. Submission of the practitioner's report is required, and failure to do so will constitute a reporting violation by the CAR. EPA intends to develop standardized forms for the attest engagement and agreed-upon procedures for conducting the engagement and preparing the report. These agreed-upon procedures will be developed by EPA in consultation with state officials, accounting professionals, and the regulated industry. EPA believes that the costs to a regulated party of the attest engagement will be reduced through the use of standardized forms and procedures.

A number of commenters have suggested that the requirement that independent Certified Public Accountants evaluate each CAR and blender CAR's compliance with the oxygenated gasoline program creates an onerous financial burden, but failed to submit cost information so that the issue could be properly evaluated. The Agency would like to request further comment on this issue. In particular, EPA would like interested parties to submit cost estimates for attest engagements to the Agency for use in its evaluation of the issue.

EPA has experience in auditing the records of refiners, importers, and terminal operators. EPA recognizes that each CAR has a unique system of accounting and operating controls, and believes that practitioners in an attest engagement generally should be free to design programs to test the reports and required records to the extent required in each individual case. In order to maintain consistency within the process, however, EPA suggests the following credentials for the practitioners to be chosen by the regulated parties, and provides the following minimum guidelines to be followed in each attest engagement.

(1) *Credentials of practitioners.* The proposed guidelines require that the attestation engagements will be conducted by independent Certified Public Accountants who are not employees of the CAR and that attestation engagements are to be conducted in accordance with the Standards for Attestation Engagements. Under the American Institute of Certified Public Accountant's Standards for Attestation Engagements, the first General Standard requires that, "The engagement shall be performed by a practitioner or practitioners having adequate technical training and proficiency in the attest function." In general, the attestation standards deal with the need for technical compliance, independence in mental attitude, due professional care, adequate planning and supervision, sufficient evidence, and appropriate reporting.

EPA's proposed guidelines, in stating that the attestation engagements will be performed in conformity with the Attestation Standards, anticipate that the practitioner will perform all of the required engagement procedures; including planning, review of internal control structures over the required reports, and other required procedures. EPA also expects that the practitioner will document the procedures and findings within working papers, as required by the Standards for Attestation Engagements.

(2) *Attestation guidelines in general.* The proposed guidelines contain a listing of the general types of standard industry records which are required to be included in the practitioner's review and analysis procedures. While the practitioner, using his professional judgement, should devise procedures to correspond with the facts of each individual attestation engagement, review internal accounting, operating and administrative controls, and determine the extent of testing required, EPA believes that certain procedures should be conducted during each attestation engagement.

Attestation engagements of all regulated parties should include a comprehensive review of the systems and procedures employed to assure compliance with the guidelines. Such review should include a review of the applicable administrative, operating, and accounting controls established by the company. The documentation to be reviewed and procedures would include reviewing the CAR's quality assurance program as required by the guidelines. This review should be performed, prior to initiating any other detailed auditing procedures, by staff with significant experience in evaluating operating and technical procedures.

(3) *Attestation engagement guidelines for control area responsible parties.* It is EPA's belief that many CARs will also be terminal operators. However, not all CARs will be terminal operators, and therefore all CARs may not have access to some of the records referenced below. For example, a non-terminal operator CAR will likely not possess records showing the oxygen content of gasoline entering the terminal. The requirements applicable to non-terminal operator CARs and blender CARs will therefore be less exhaustive than those listed below. These parties must demonstrate the basis of their compliance calculation.

An attestation engagement of a CAR shall include the review and analysis of the following:

1. Records which show the quantity and oxygen content of oxygenated gasoline entering the terminal and leaving the terminal in bulk;
2. Records which show the destination, quantity and oxygen content of truckloads of oxygenated gasoline going to specific control areas;
3. Records which show the oxygen content of gasoline in storage tanks from which trucks are loaded, and the calculations which formed the basis for claimed oxygen content;
4. Testing results for storage tanks when additional gasoline is added;
5. Records showing the oxygenate type and amount which was blended.
6. Records which show the beginning and ending inventories and oxygen contents of all gasoline and oxygenate storage tanks involved in the oxygenated gasoline program.

Relevant Records

Terminal operators normally prepare daily operations summaries for the volumes of each tank's inventory balances (beginning and ending), transfers in and transfers out. Daily reports are supported by pipeline meter tickets, truck tickets, and tank gauging reports. These daily reports are then summarized by month or quarter.

The chemical characteristics of the product stored or moved into or out of each tank are based on periodic laboratory analysis or certificates of analysis from the supplier. In order to comply with the proposed guidelines, laboratory reports (or summaries thereof) currently in use must be revised to document more fully the oxygen content of the oxygenated gasoline, and to provide a method of averaging these characteristics. Compliance with the minimum 2.0% oxygen by weight requirement must be strictly monitored. The exact form of the detailed or summary reports has not yet been determined, but the prudent terminal operator will likely perform computer analysis and summarization of the data. These reports will also be the basis for calculating compliance with the oxygen standard, and determining the amount of credits generated or required.

Special circumstances for terminals will likely require special data to be collected in order for the CAR to demonstrate compliance, credit generation, or debit generation. Each CAR is responsible for assuring that such data is available.

The practitioner should prove and reconcile total reported receipts, bulk transfers, and deliveries to trucks with internal monthly and daily reports. Accumulation of the daily amounts to monthly totals should be tested. All volumes should be temperature adjusted to 60 degrees fahrenheit. The primary test should be a test for overstatement of volumes. The practitioner should test the classification of products by reference to other available operational or accounting reports of product storage. The practitioner should determine the procedures used for "cut-off" at the end of each month and perform any other tests considered necessary to test the proper volumes reported.

The practitioner should obtain special laboratory analyses, detailed reports and averaging summaries, and test the arithmetic accuracy thereof. The practitioner should select a representative sample from laboratory analysis reports of oxygenated gasoline receipts and deliveries for detailed examination. The practitioner should examine the laboratory reports for accuracy and reasonableness. Comparisons of company laboratory reports should be made with reports of independent petroleum laboratories. Independent calculations of credit accounting should be made, and the amount of credits earned or required should be tested. The practitioner should select a representative sample from bulk and truck delivery records. Detailed verification of the sample items should be performed by reviewing pipeline tickets, truck tickets, rack tickets, etc. The practitioner should test that the required transfer and distributors' certification procedures have been adhered to. Tank segregation and data regarding the specific control area served by the terminal should be compared to delivery documentation.

The practitioner should also test that the requirements concerning the transfer of credits have been adhered to. This will entail the review of all records which show the credit transfers to or from the CAR. These records may include, but not be limited to, contracts, letter agreements, invoices, or other documentation evidencing the transfer of credits. The practitioner should examine contracts or other evidence of the transfer of credits to or from the facility and confirm that they were transferred in accordance with the existing program requirements.

(4) *Type and form of report and opinion.* The proposed guidelines require that the practitioner's report must be on forms provided by the state, and shall consist of information on records reviewed during the engagement; relevant regulated personnel; the location of the regulated party's physical plant; examples of calculations performed; and any discrepancies found.

Refiners and Importers

Refiners and importers are responsible for determining the oxygen content of all gasoline produced or imported. This determination must be made separately for each batch of gasoline. The importance of correctly determining the oxygenate content of each batch of gasoline is that this parameter must be known when the gasoline arrives at the control area of its use. The shipping documents which accompany each batch of gasoline down the distribution chain must specify the oxygen and oxygenate content associated with the gasoline. In this manner, the person who brings the gasoline into the control area of its use knows the oxygen and oxygenate contents for which an accounting must be made.

The program EPA is proposing would include state inspections and audits of gasoline refiners and importers. The purpose of these inspections and audits would be to collect and analyze samples of gasoline stored at the refinery or import facility, to determine if the gasoline has been properly tested and classified. In addition, the states would audit testing records for oxygenated gasoline previously produced or imported for proper classification and oxygen content.

In order that these audits may be conducted, EPA is proposing that refiners and importers be required to retain copies of documents which demonstrate that appropriate sampling and testing was conducted to support claimed oxygen contents. EPA also is proposing that refiners and importers retain copies of documents which describe the purchase or production of oxygenated gasoline as additional support for oxygen content.

These records are to be retained at the refinery or import facility if practicable, or at the business office of the refiner or importer. An issue has been raised as to how long from the date the gasoline was produced or imported records should be kept. EPA recommends that states establish a record retention requirement which coincides with their relevant statutes of limitations for enforcement of their oxygenated gasoline programs.

Where a violation is found at a refinery or an import facility, the refiner or importer would be solely liable. The refiner or importer would have no specified defense where the violation is discovered at that facility, other than to contest the existence of the violation.

EPA is proposing that in cases where gasoline produced or imported by a refiner or importer is found downstream from that party for which the oxygen content of the gasoline is improperly stated, the refiner or importer would be presumptively liable for these violations. The rationale for this presumption is discussed above. Under EPA's proposal, the refiner or importer would be able to avoid liability if it could demonstrate that it did not cause the violation, and test results conducted by the refiner, importer or blender on the gasoline show that the proper classification and oxygen content of the gasoline was recorded when it left the control of the refiner or importer.

In cases where gasoline which is identified by the corporate, trade or brand name of a gasoline refiner is improperly classified or for which the oxygen content is improperly stated, EPA is proposing that the named refiner be presumptively liable. EPA is proposing that this liability would attach regardless of who actually produced or imported the gasoline (e.g., the named refiner would be presumptively liable even though the gasoline was obtained by the named refiner from another refiner through an exchange agreement). In order to avoid liability in this situation, EPA is proposing that the named refiner must show the following:

(1) Records of test results for the gasoline when it was produced or imported showing the oxygen content; and

(2) The violation was caused by action(s) of someone other than the refiner or its employees or agents; and

(3) The violation was caused by an act in violation of law, or an act of sabotage or vandalism; or

(4) The violation was caused by an act which was in violation of a contractual obligation designed to prevent such violations which was imposed by the refiner on the party operating under the refiner's brand name, and despite periodic sampling and testing by the refiner to assure compliance with the contractual obligations; or

(5) The violation was caused by the act of a carrier or other distributor engaged by the refiner for transportation of gasoline but with whom the refiner did not have a contractual relationship, despite efforts by the refiner (such as a periodic sampling and testing) designed to assure that violations do not occur.

This proposed refiner's defense for violations found at branded facilities is closely modeled upon the enforcement schemes followed in the federal gasoline lead contamination, volatility, and diesel fuel sulfur content regulations.

Distributors

EPA is proposing that gasoline distributors should be responsible for ensuring that gasoline sold or dispensed, transported or stored by a distributor downstream of the terminal is properly characterized as either oxygenated gasoline, or non-oxygenated gasoline. Distributors also would be prohibited from selling, storing or transporting gasoline intended for use in a control area during the control period which does not meet the 2.0% minimum oxygen content requirement. Distributors are not prohibited from storing non-oxygenated gasoline within the control area as long as it is intended for sale and is sold in a non-control area, or is intended for sale outside of the control period, and is properly segregated and marked. If the fuel is intended for sale for use in the control area and is sold or dispensed after the end of the control period in the control area then the storage tank should remain sealed until that time.

EPA is proposing that a distributor downstream of the terminal should be liable for violations of the above requirements found at the distributor's facility. In addition, EPA is proposing that distributors should be liable for such violations found at facilities downstream from the distributor, which could include facilities operated by other distributors, downstream carriers, retailers and/or wholesale purchaser-consumers.

In the case of oxygenated gasoline which is sold, transported, or stored between the refinery or import facility and a control area terminal, EPA is proposing that distributors have the additional responsibility of ensuring that this gasoline conforms to the oxygen content which is stated in the paperwork which accompanies the gasoline. In EPA's scheme, distributors would be liable for violations of this requirement found at the distributor's facility, and for violations found between the distributor and the control area terminal or oxygenate blending facility.

Under EPA's proposal, the distributor upstream of a control area terminal or oxygenate blending facility could avoid liability for the above requirements if it could show: (1) That it or its employees or agents did not cause the violation (e.g., by showing causation elsewhere); (2) possession of documents required to accompany the gasoline, such as invoices or bills of lading, which contain the information required by paragraph (h) of the Proposed Guidelines; and (3) evidence of a quality assurance sampling and testing program carried out by the distributor to monitor, when appropriate, the oxygen content.

EPA is proposing that when gasoline found at a distributor's facility is improperly classified or the oxygen content is not properly stated in the accompanying paperwork, persons upstream from the distributor would be presumptively liable for these violations. The upstream persons could include refiners, importers, blenders, carriers or distributors, except that liability associated with the minimum oxygen content requirement would not apply upstream of the control area terminal.

Carriers

Carriers are distinguished from other distributors in that carriers do not take title to the product they store or transport. As a result of this distinction, carriers traditionally have had liability presumptions and defenses which are different from other distributors under federal fuels enforcement schemes (e.g., volatility, unleaded contamination, and diesel sulfur).

There are at least two options for ensuring that oxygenated gasoline transported or stored by upstream carriers and downstream carriers conforms to the oxygenated gasoline requirements. One option is to make carriers liable only for violations detected at the carrier's facility, unless the carrier is able to show that it did not cause the violation. Under this option, carriers would not be presumptively liable for violations found downstream from the carrier's facility, unless it can be shown that the carrier in fact caused the violation. This is the traditional approach used for carriers.

The second option is to make carriers presumptively liable for violations detected downstream from the carrier. Carriers would be able to avoid liability if they could show that they did not cause the violation, and, in addition, show evidence of an affirmative quality assurance program, such as periodic sampling and testing, to ensure that the gasoline they transport or store conforms to the accompanying shipping documents. Under this option, carriers would not be required to sample and test every load or shipment of gasoline, but rather to conduct a periodic quality assurance program. In this manner, carriers would have an opportunity to detect gasoline tendered which does not conform to the shipping documents, to take appropriate steps to correct the documents (or inform the gasoline's recipient of the correct specifications), and to take actions to prevent future errors in documentation. Such future actions could consist of requiring a particular shipper to produce independent test results to support the specifications documented for future gasoline tendered, or in extreme cases, the refusal to accept gasoline from a particular person.

The rationale for the first option is that carriers normally do not alter the quality of the gasoline they transport or store—in fact, the EPA's definition of carrier in 40 CFR Part 80 requires that they not alter the quality of the gasoline. Under this argument, carriers only transport or store what they are given, and have no control over the product. This approach was found to be most appropriate in the gasoline volatility program, in part because EPA is able to sample and test gasoline at any point downstream from the carrier to determine if the gasoline conforms to the standard. When violations of the applicable volatility standard are found, EPA normally is able to gather facts sufficient to establish who caused the violation, with the result that future violations are deterred.

EPA believes that quality assurance programs by carriers are appropriate. EPA proposes that downstream carriers would be responsible for confirming the minimum 2.0% oxygen content in the gasoline through review of the accompanying documentation. In addition, EPA is proposing that at points upstream from a control area terminal, upstream carriers be required to conduct quality assurance programs regarding the claimed oxygenate content of the gasoline.

EPA is requesting comment on this proposal. In particular, EPA seeks comments on whether carriers should be required to conduct quality assurance programs, and if so, the manner in which this requirement should be structured; whether such programs only should be a portion of the required showing for a carrier to establish a defense where a violation is found at the carrier's facility or downstream from the carrier's facility; or whether quality assurance by carriers should be excluded from the oxygenated gasoline program altogether.

Retailers and Wholesale Purchaser-Consumers

EPA is proposing that during the relevant control period retailers and wholesale purchaser-consumers in CO nonattainment areas be prohibited from selling or dispensing gasoline that has less than the required 2.0% minimum oxygen for use in a control area. EPA is proposing that such retailers or wholesale purchaser-consumers should be liable for violations of the above requirements found at their facilities.

Under various federal fuels enforcement schemes, retailers and wholesale purchaser-consumers have been able to avoid liability by showing they did not cause the violation. EPA is proposing that a retailer or wholesale purchaser-consumer in a control area could avoid liability for non-oxygenated gasoline found at its facility by showing it did not cause the violation, and that it has possession of documentation required to accompany the gasoline.

In the July 9, 1991 guidelines, there was an extensive description of a quality assurance program for retailers and wholesale purchaser/consumers to screen for the presence of a gasoline marker. In today's notice, the section which describes quality assurance programs has shortened considerably, reflecting the decision to require a minimum of 2.0% oxygen by weight instead of a marker.

Product Transfer Documentation

EPA is proposing that on each occasion physical custody or title of gasoline transfers from one party to another, other than when gasoline is sold or dispensed for use by the ultimate consumer at a retail outlet or wholesale purchaser-consumer facility, that the documents which accompany the transfer include information necessary for the implementation of the oxygenated gasoline program. This shall be achieved either through the use of a separate transfer document or through the addition of the required information to paperwork which already accompanies the shipment of gasoline. This information should include the following:

a. The date of the transfer;

b. The name and address of the transferor;

c. The name and address of the transferee;

d. The volume of gasoline which is being transferred;

e. The proper identification of the gasoline as non-oxygenated or oxygenated;

f. The location of the gasoline at the time of the transfer;

g. The type of oxygenate; and

h. For gasoline which is in the gasoline distribution network between the refinery or import facility and the control area terminal, the oxygen content of the gasoline, and the oxygenate volume of the gasoline.

Recordkeeping and Reporting

All persons subject to the average oxygen content standard, i.e. all CARs, would be required to maintain reports containing compliance information. Parties who have selected the option of meeting the standard on a "per gallon" basis would be required to maintain a basic set of information, including volume of shipments bought and sold, volume of oxygenate bought and sold, oxygen content of all gasoline handled, etc. The records kept by parties who offer to sell, sell, store or dispense gasoline which contains not less than 2.7% will be much simpler than those required by these guidelines. Information to be recorded would include data on product received by the party (for example, the date the product was received, the source of the shipment, the type of product received, the total volume of the shipment), and data on the product sold or supplied by the party (for example, the date the product was sold or supplied, the type of product sold or supplied, the total volume of the shipment, the name of the person to whom the product was sold or supplied, the oxygenate content, and the oxygen content of the product).

On the other hand, parties who have selected the option of meeting the standard on an average basis (with or without trading) would need to maintain more detailed information because of the greater complexities of demonstrating compliance when averaging and credit trading are involved. Information to be recorded would include data on product received by the party (for example, the date the product was received, the source of the shipment, the type of product received, the total volume of the shipment, and the results of any tests performed), data on the product sold or supplied by the party (for example, the date the product sold or supplied, the type of product sold or supplied, the total volume of the shipment, the name of the person to whom the product was sold or supplied, the oxygenate content, and the oxygen content of the product). In addition, the party would also be required to calculate the average oxygen content of its product based on such information and according to the procedure outlined above.

As well as the information detailed above, CARs engaging in trading oxygen credits during a compliance period would be required to supply additional information in their reports. Such information would include the name, CAR identification number and address of the other party in each trade and the quantity of oxygen credits (volume and oxygen content of gasoline) traded. The party selling or otherwise transferring oxygen credits would have to demonstrate how such credits were calculated. The party buying or otherwise receiving oxygen credits would be required to calculate its compliance with the regulatory standard through the use of these credits. Both parties to an oxygen credit trade would have to submit to the state supporting documentation adequate to demonstrate the agreement of the other party to the trade and to transfer the credits no later than 15 days after the relevant averaging period for which the trade is reported. A contract signed by both parties no later than 15 days after the close of the relevant averaging period would be sufficient for this purpose. A purported trade would not be recognized as valid unless both parties report and adequately document it.

Persons who own control area terminals but who do not own the gasoline which is dispensed from those terminals are not subject to the averaging standard. These terminal operators are required to maintain records. These would have to include information on the ownership, volume, and oxygen concentration of gasoline sold, dispensed or transported during each averaging period, and the location to which transported, that is, whether it was within a control area or not. Such reports would provide a partial cross-check on reports submitted by persons subject to the regulatory standard.

All parties subject to these recordkeeping requirements would be required to retain the records for the period of time established by the state. They would have to be available for appropriate state review, although they are not required to submit information to the state. For all records, the state would have the authority to determine whether any record should be recognized as meeting regulatory requirements.

The only parties who would be required to send in compliance reports to the state are the CARs. Not later than 30 days after the close of the averaging period, each such party would be required to submit a report to the state, detailing its purchases, shipments, sales, and credit accounting for the averaging period in question.

Sampling and Testing Methodologies

The sampling methodologies recommended for oxygenated fuels programs are the same as those set forth at 40 CFR part 80, appendix D, relating to sampling procedures for fuel volatility.

In today's notice, the Agency is proposing two separate testing methods. The American Society for Testing and Materials (ASTM) standard test method, Designation D 4815–89, which is included with this notice as appendix B, is the most widely-used method for the determination of alcohols and MTBE in gasoline by gas chromatography. This test method covers a procedure for determination of methanol, ethanol, isopropanol, n-propanol, isobutanol, sec-butanol, tert-butanol, n-butanol, and methyl tertiary butyl ether (MTBE) in gasoline by gas chromatography. It does not currently have the capability to detect the presence of some of the heavier oxygenates in gasoline, one example being TAME, although ASTM is planning to extend the scope to include up to 15% MTBE by volume and 17% TAME by volume. Adaptation of the method for ETBE analysis is straightforward, it merely requires a change of internal standards.

In addition, many states which currently implement oxygenated gasoline programs have found the ASTM precision standards to be inadequate, allowing large variations in accepted oxygen level measurements.

For these reasons, the Agency is also proposing an alternative testing methodology which is currently being refined by the Agency's laboratory in Ann Arbor, Michigan. This method is a single column, direct injection gas chromatographic procedure for quantifying the oxygenate content of gasoline. Unlike the current ASTM method, this method can be used to detect all types of oxygenates in gasoline. This method is included in today's notice as appendix C.

The Agency prefers the EPA test over the ASTM. The Agency anticipates it to be more accurate, easier to conduct, and less expensive than the ASTM method. However, at this point in time, the work on the EPA test is not yet complete, and industry is understandably apprehensive about adopting a relatively new test.

Therefore, the Agency is proposing the use of the ASTM test method until the end of the 1993–94 oxygenated gasoline control period. During the first years of the program, this will allow the regulated parties to use equipment they may already possess, and a test method with which they are already familiar. However, for testing during the control periods which begin in the fall of 1994, in order to coincide with the beginning of the reformulated gasoline program which is January 1, 1995, the states should allow either the use of the EPA method or the ASTM method, if it is determined that the ASTM method has expanded its capabilities and improved its precision standards. By this time, the EPA test should be well-established, the technology perfected and the precision fully documented. EPA will publish precision information on its method based on multi-lab analyses (similar to ASTM round robins) at least one year prior to its allowance.

In addition to the approval of these two testing methods, EPA is proposing to establish a procedure whereby additional testing methods may be approved by the Agency. EPA recognizes that there are many potential tests for use in the detection of oxygenates to gasoline, and would like to encourage the development of even newer and more efficient methods. Therefore, as the Agency continues to develop its own method during the next two years, it shall also work on creating a certification procedure for the evaluation and approval of other oxygenate tests.

Comments are requested on the appropriateness of this approach, including the usefulness of ASTM's own guidance pertaining to data analysis and interpretation. If this methodology is chosen, the Agency will subsequently publish guidance on testing tolerance based on multi-lab round robin testing.

The ASTM method contains precision information for the volume percent of various oxygenates that varies as a function of the volume of oxygenate being measured. The Agency proposes to use a single testing tolerance for ethers and alcohols that represent the predominant volume of these oxygenates that is expected to be used to comply with the oxygen content requirements. The use of a single testing tolerance for each oxygenate will simplify enforcement.

This tolerance, as mandated by the Act, section 211(m)(2)(B), will be established by the Administrator at a later date.

Oxygen Content Conversions

An issue has been raised concerning the ability to accurately determine the oxygen content of gasoline when oxygenates are added by volume (usually downstream from the refinery). This is a concern because, as the specific gravity (or density) of the base gasoline varies, the weight fraction of oxygenate (and oxygen) varies for any specific produced oxygenate blend. Hence, two blends of oxygenate could result in differing oxygen weight fractions if the specific gravity of the base gasolines for the two blends differs.

Typically, oxygenates are blended with gasoline volumetrically. For example, a "ten percent ethanol blend" typically refers to a volume percent. The standards of an oxygenate program as delineated in the Clean Air Act Amendments are in terms of weight percent oxygen. Technically, in order to calculate the weight percent oxygen in the oxygenate blend, several factors must be taken into consideration. These are: temperature and specific gravity of the oxygenate and the gasoline, and, for ethanol, the amount of denaturant, which is some fraction of the volume ethanol added to the gasoline. Elsewhere in this notice, it is stated that standard temperature will be 60 degrees Fahrenheit. In order to calculate the weight percent oxygen in the blend, the weight percent oxygenate must be calculated. Accordingly, to calculate the weight percent oxygenate from volume percent oxygenate, specific gravities of the oxygenate and the blend must be taken into consideration. (Specific gravities (or densities) as well as weight percent oxygen in the oxygenate may be found in table 1 for common fuel oxygenates.)

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Table 1. Specific Gravity and Weight Percent Oxygen of Common Oxygenates

Oxygenate	Weight % oxygen	Specific Gravity at 60 deg F
Methanol	0.4993	0.796
Ethanol	0.3473	0.794
Propanols	0.2662	0.789
Butanols	0.2158	0.810
Pentanols	0.1815	0.817
Methyl Tertiary Butyl Ether (MTBE)	0.1815	0.744
Hexanols	0.1566	0.823
Tertiary Amyl Methyl Ether (TAME)	0.1566	0.770
Ethyl Tertiary Butyl Ether (ETBE)	0.1569	0.755

The following equation describes the conversion from volume percent oxygenate to weight percent oxygenate:

$$W_{oxygenate} = V_{oxygenate} \times \frac{d_{oxygenate}}{d_{bl}} \qquad (1)$$

Where

W = weight fraction (for percent, multiply by 100)
oxygenate = oxygenate in the blend
bl = blend
V = volume fraction
d = specific gravity.

The specific gravity of the oxygenate is known (see Table 1) and, if the specific gravity of the blend has been measured and is, therefore, known, the calculation is straightforward. If, however, the specific gravity of the blend is unknown, it can be estimated as the volume weighted contribution of the specific gravities of the gasoline to which the oxygenate is added and the oxygenate itself:

$$d_{bl} = (V_{gas} \times d_{gas}) + (V_{oxygenate} \times d_{oxygenate}) \qquad (2)$$

Where

gas = gasoline to which oxygenate is added.

The weight fraction of oxygen in the blend is simply the product of the weight fraction of oxygen in the oxygenate (from Table 1) and the weight fraction of oxygenate in the blend. Therefore, the weight fraction of oxygen in the blend is:

$$W_{oxygen} = W_{oxygenate} \times W_{oxygen/oxygenate} \qquad (3)$$

Where

oxygen/oxygenate = oxygen in the oxygenate.

Substituting equations (1) and (2) in equation (3), results in:

$$W_{oxygen}=\frac{V_{oxygenate}\times d_{oxygenate}\times W_{oxygen/oxygenate}}{(V_{gas}\times d_{gas})+(V_{oxygenate}\times d_{oxygenate})} \qquad (4)$$

For blends with more than one oxygenate, the equation becomes:

$$W_{oxygen}=\frac{\Sigma(V_{oxygenate}\times d_{oxygenate}\times W_{oxygen/oxygenate})}{(V_{gas}\times d_{gas})+\Sigma(V_{oxygenate}\times d_{oxygenate})} \qquad (5)$$

The following examples demonstrate use of the equation:

Question 1: Suppose nine gallons of neat ethanol are blended with 91 gallons of gasoline to make 100 gallons of ethanol blend gasoline. The specific gravity of the gasoline is 0.74. What is be the weight percent oxygen in this blend?

Answer 1: In this case, the volume fraction of ethanol is 0.09 and the volume fraction of gasoline is 0.91. The specific gravity of neat ethanol (from Table 1) is 0.794 and the specific gravity of the gasoline is stated to be 0.74. Hence, the weight fraction of oxygen can be calculated using equation (4) as follows:

$$W_{oxy}=\frac{0.09\times0.794\times0.3473}{(0.91\times0.74)+(0.09\times0.794)} \qquad (6)$$

$$W_{oxy}=0.0333 \qquad (7)$$

Therefore the weight fraction of oxygen in such a blend is 0.0333 or 3.33 percent.

Question 2: Suppose 1000 gallons of MTBE are blended with 6000 gallons of gasoline to make 7000 gallons of MTBE blend gasoline. The specific gravity of the gasoline is 0.75. What is the weight percent oxygen in this blend?

Answer 2: In this case, the volume fraction of MTBE is 1000/7000 or 0.1429 and the volume fraction of gasoline is 6000/7000 or 0.8571. The specific gravity of neat MTBE (from Table 1) is 0.744 and the specific gravity of the gasoline is stated to be 0.75. Hence, the weight fraction of oxygen can be calculated using equation (4) as follows:

$$W_{oxy}=\frac{0.1429\times0.744\times0.1815}{(0.8571\times0.75)+(0.1429\times0.744)} \qquad (8)$$

$$W_{oxy}=0.0258 \qquad (9)$$

Therefore the weight fraction of oxygen in such a blend is 0.0258 or 2.58 percent.

In the following example, multiple oxygenates are used.

Question 3: Suppose 800 gallons of MTBE and 200 gallons of TAME are blended with 6000 gallons of gasoline to make 7000 gallons of blend gasoline. The specific gravity of the gasoline is 0.73. What is the weight percent oxygen in this blend?

Answer 3: In this case, the volume fraction of MTBE is 800/7000 or 0.1143, the volume fraction of TAME is 200/7000 or 0.0286 and the volume fraction of gasoline is 6000/7000 or 0.8571. The specific gravity of neat MTBE (from Table 1) is 0.744, of neat TAME is 0.770 and the specific gravity of the gasoline is stated to be 0.73. Hence, the weight fraction of oxygen can be calculated using equation (5) as follows:

$$W_{oxy}=\frac{(0.1143\times0.744\times0.1815)+(0.0286\times0.770\times0.1566)}{(0.8571\times0.75)+(0.1143\times0.744)+(0.0286\times0.770)} \qquad (10)$$

$$W_{oxy}=0.0252 \qquad (11)$$

Thererore the weight fraction of oxygen in such a blend is 0.0252 or 2.52 percent.

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While refinery blending of oxygenates presents little problem in calculating the oxygen weight percent since the specific gravity of the gasoline blendstock is typically measured on a routine basis, with terminal blending the specific gravity parameter may not be readily available to an oxygenate blender. Hence, the Agency believes it may be appropriate to provide a second option by which the oxygen content of oxygenated gasoline blended at the terminal may be determined. The following two variables must be considered: (1) What should be used for the specific gravity of the gasoline blended with oxygenate at the terminal (which is variable), and (2) For ethanol blends, what considerations should be made for the presence of a denaturant in the ethanol? Gasoline samples from the 1990 Motor Vehicle Manufacturers Association (MVMA) fuels database indicate an average specific gravity of 0.742029 with a standard deviation of 0.013285. Using two times the standard deviation to create a lower and upper bound (assuming the vast majority of samples lie within this range), a range of oxygen weight percents can be calculated for an upper end, lower end, and average gasoline specific gravity using equation (4). Table 2 shows the results of such an analysis and includes an analysis if one assumes the volume fraction of ethanol and the weight fraction of ethanol to be equal.

TABLE 2.—OXYGEN WEIGHT PERCENTS BASED UPON GASOLINE SPECIFIC GRAVITY

[Ethanol: 10 volume %/No denaturant]

Description	Gasoline specific gravity	Weight % oxygen
W % eth = V % eth	0.794	3.47
High End Specific gravity	0.7686	3.58
Average Specific gravity	0.7420	3.69
Low End Specific gravity	0.7155	3.81

If the assumption is made that 5 percent by volume of the ethanol is denaturant (i.e., 0.5 percent by volume of the final blend is denaturant) and therefore the ethanol volume contribution to the final blend is 9.5 percent, the following results apply:

TABLE 3.—Oxygen Weight Percents Based Upon Gasoline Specific Gravity

[Ethanol: 9.5 volume %/Denaturant: 0.5 volume]

Description	Gasoline specific gravity	Weight % Oxygen
W%eth = V%eth	0.794	3.35
High End Specific gravity	0.7686	3.40
Average Specific gravity	0.7420	3.51
Low End Specific gravity	0.7155	3.62

Although the Agency believes that little blending of oxygenates other than ethanol is performed at the terminal, a similar analysis could apply for MTBE and/or other oxygenates. However, for oxygenates other than ethanol, the denaturant consideration is not applicable. Table 4 shows such an approach for a 15% MTBE blend.

TABLE 4.—OXYGEN WEIGHT PERCENTS BASED UPON GASOLINE SPECIFIC GRAVITY

[MTBE: 15 volume percent]

Description	Gasoline specific gravity	Weight Oxygen
W% MTBE = V% MTBE	0.744	2.72
High End Specific gravity	0.7686	2.65
Average Specific gravity	0.7420	2.73
Low End Specific gravity	0.7155	2.81

Since the Agency believes that oxygenates blended at the terminal are blended volumetrically and that most gasolines should be near the average specific gravity listed above and most ethanol blends do contain 0.5 percent by volume denaturant, Table 3 is most appropriate for 10 percent ethanol blends. Therefore, utilizing the "average gasoline" row from Table 3, the appropriate level of oxygen associated with a 10 percent (by volume) ethanol blend is best estimated to be 3.51 weight percent. Thus, the Agency proposes that one alternative for determining the oxygen content for terminal-blended ethanol-gasoline blends is to simply assume a 3.51 weight percent oxygen based on the above analysis. Likewise, for a terminally blended 15 percent (by volume) MTBE blend, the appropriate oxygen content would be 2.73 weight percent. For other volumes of these or other oxygenates, a terminal blender may simply substitute the appropriate values above for average gasoline specific gravity and the values in Table 1 in equation 4 to calculate the appropriate oxygenate level. As mentioned previously, for refinery blended oxygenates, the actual measured specific gravities should be utilized. Additionally, the terminal blender would have the option of actually measuring the appropriate specific gravities.

The Agency requests comments on the need for the alternative mentioned here of using average specific gravities in terminal blending situations and whether such averages should take into account seasonal and geographic differences.

Purity Issue

There is some question as to the determination of oxygen content for gasoline blends containing ethanol. Some commenters have observed that according to certain tax laws, blenders can blend between 9.8% and 10.0% oxygen by volume (due to variations in ethanol purity) while receiving a full 10.0% credit for tax purposes. Other commenters have responded that purity is unimportant in the determination of true oxygen levels.

Because many parties in the gasoline distribution network will be relying on the written records they receive from other parties in the network in order to determine the amount of oxygenate contained in the fuel they offer for sale, sell, store, or dispense, this issue is an important one. Fuels must not be represented as containing more oxygenate than they actually do. Therefore, the Agency specifically requests comments regarding the correct handling of ethanol purity.

Blending Allowance

In order to allow for the dilution of oxygenates during transport and storage, the Agency is recommending the use of a blending allowance for the measurement of all oxygenates which fall under the "substantially similar" definition. The allowance will permit the blending of gasoline at levels 0.2% percent oxygen by weight higher than allowable under the "substantially similar" interpretive rule. This allowance is desirable from a practical standpoint since the legal minimum for program areas and the legal maximum under "sub-sim" are the same (2.7% oxygen by weight). It will allow for the dilution of some oxygenates during transport and storage, providing some flexibility to gasoline producers who are likely to blend gasoline at points upstream from terminals and transport it to the terminal.

It is important to note that this allowance applies only to oxygenates blended under the "substantially similar" definition, and are blended at the refinery to meet a minimum 2.7% oxygen by weight requirement. The allowance would not apply to oxygenates waived to oxygen levels above 2.7 weight percent oxygen. (Hence, an ethanol blend could not be blended to levels higher than that allowed under the "gasohol waiver.")

In order to compensate for the problems associated with dilution and density, the Agency is proposing to exercise discretion in enforcing the maximum "sub-sim" limit by permitting a blending allowance of +0.2 percent oxygen by weight for "sub-sim" gasolines. For example, MTBE or TAME blends containing up to 2.9% oxygen by weight will be considered acceptable when detected at any point in the gasoline distribution network. This will allow many blenders to blend slightly higher volumes of oxygenate into their gasoline, thereby anticipating and avoiding the potential loss of oxygen in the gasoline intended for sale in an oxygenated gasoline program. A similar blending allowance was announced by EPA in its Federal Implementation Plan for the Maricopa and Pima carbon monoxide nonattainment areas.[12]

This blending tolerance will be considered separately from the testing tolerance which is to be established at a later date by the Administrator in conjunction with testing methods.

Approved Oxygenates

An oxygenate is any substance which, when added to gasoline, increases the amount of oxygen in that gasoline blend. It is unlawful to introduce oxygenated gasoline into commerce unless it is either "substantially similar" to certification fuel in accordance with § 211(f)(1) of the Act, or permitted under a waiver granted by the Administrator under the authority of § 211(f)(4) of the Act. The following oxygenates are currently approved. Others may be approved by the Agency in the future, at which time they may be automatically recognized as approved under these guidelines.

Through a series of waivers and interpretive rules, the Agency has determined the allowable limits for oxygenates in unleaded gasoline. The "Substantially Similar" Interpretive Rule[13] allows blends of aliphatic alcohols other than methanol and aliphatic ethers, provided the oxygen content does not exceed 2.7% by weight. It also provides for blends of methanol up to 0.3 percent by volume exclusive of other oxygenates, and up to 2.75% by volume methanol with an equal volume of butanol or alcohols of a higher molecular weight.

The following individual waivers pertaining to the use of oxygenates in unleaded gasoline have been issued by the Agency under the authority of § 211(f)(4), and are available for use by all parties.

1. Blends of up to 10% by volume anhydrous ethanol (200 proof) (commonly referred to as the "gasohol" waiver).[14]

2. Blends of methanol and gasoline-grade tertiary butyl alcohol (GTBA) such that the total oxygen content does not exceed 3.5% by weight and the ratio of methanol to GTBA is less than or equal to one. It is also specified that this blended fuel must meet ASTM volatility specifications (commonly referred to as the "ARCO" waiver).[15]

3. Blends of up to 5.0% by volume methanol with a minimum of 2.5% by volume cosolvent alcohols having a carbon number of 4 or less (i.e. ethanol, propanol, butanol, and/or GTBA). The total oxygen must not exceed 3.7% by weight, and the blend must meet ASTM volatility specifications as well as phase separation and alcohol purity and inhibitor specifications (commonly referred to as the "DuPont" waiver).[16]

4. Blends up to 5.0% by volume methanol with a minimum of 2.5% by volume cosolvent alcohols having a carbon number of 8 or less. The total oxygen must not exceed 3.7% by weight, and the blend must meet ASTM volatility specifications as well as phase separation and alcohol purity and inhibitor specifications (commonly referred to as the "Octamix" waiver).[17]

5. Blends up to 15.0% by volume methyl tertiary butyl ether (MTBE), which must meet the ASTM D4814 specifications. Blenders must take precautions that the blends are not used as base gasolines for other oxygenated blends (commonly referred to as the "Sun" waiver).[18]

It is the intent of these guidelines that oxygen content be calculated based upon the actual content of oxygen of a blend. That is, the actual content of oxygen in a gasoline blend is determined based upon the volume of the oxygenate, excluding denaturants or other non-oxygen-containing compounds.

Inability to Produce Conforming Gasoline Due to Extraordinary Circumstances

Some parties suggested during the Regulatory Negotiation process that EPA address the situation where extraordinary circumstances do not permit a regulated party to comply with the requirements of a state oxygenated gasoline program under Section 211(m). In appropriate extreme and unusual circumstances (e.g., natural disaster or "Act of God") which are clearly outside the control of the refiner and which could not have been avoided by the exercise of prudence, diligence and due care, states should consider allowing a refiner, for a brief period, to distribute fuel which does not meet the requirement for oxygenated gasoline if: (1) It is in the public interest to do so (e.g., distribution of the nonconforming fuel is necessary to meet projected shortfalls which cannot otherwise be compensated for); (2) The refiner exercised prudent planning and was not able to avoid the violation and has taken all reasonable steps to minimize the extent of the nonconformity; (3) The refiner can show how the requirements for oxygenated gasoline will be expeditiously achieved; (4) The refiner agrees to make up the air quality detriment associated with the nonconforming gasoline, where practicable; and (5) The refiner agrees to pay the state an amount equal to the economic benefit of the nonconformity minus the amount expended, pursuant to number 4 above, in making up the air quality detriment.

IV. Environmental Impact

The sale of oxygenated gasoline reduces carbon monoxide emissions from motor vehicles and thereby helps carbon monoxide nonattainment areas to achieve compliance with the applicable carbon monoxide ambient air quality standard. Oxygenated gasoline is becoming widely recognized as a control strategy for reducing carbon monoxide emissions from motor vehicles in a timely and cost-effective manner.

V. Impact on Small Entities

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 through 612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (i.e. small businesses, small organizations, and small governmental jurisdictions). Today's action is not a rulemaking; therefore no regulatory flexibility analysis has been prepared.

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[12] 56 FR 5458 (February 11, 1991).

[13] 56 FR 5352 (February 11, 1991).

[14] 44 FR 20777 (April 6, 1979).

[15] 44 FR 10530 (February 21, 1979).

[16] See 50 FR 2015 (January 17, 1985), 51 FR 15084 (April 22, 1986), 51 FR 39800 (October 31, 1986), 52 FR 18736 (May 19, 1987).

[17] 53 FR 3636 (February 8, 1988).

[18] 53 FR 33846 (September 1, 1988).

VI. Public Participation

EPA desires full public participation in arriving at final decisions in this guidance development. A public hearing was held on July 15 on the Proposed Guidance which was published on July 9, 1991.[19]

All comments received by [insert date 30 days from published date] will be considered in EPA's final guidelines. Comments should be directed to Docket A–91–04. All comments will be available for inspection during normal business hours at the EPA office listed in the addresses section of this notice.

Commenters desiring to submit proprietary information for consideration should clearly distinguish such information from other comments to the greatest possible extent, and clearly label it "Confidential Business Information." Submissions containing such proprietary information should be sent directly to the contact person listed above, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket. If a commenter wants EPA to base its decision on a submission labelled as confidential business information, then a non-confidential version of the document which summarizes the key data or information should be placed in the docket.

Information covered by a claim of confidentiality will be released by EPA only to the extent allowed by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies the submission when it is received by EPA, it may be made available to the public without further notice to the commenter who submitted the information.

VII. Administrative Designation and Analysis

Under Executive Order 12291, the Agency must judge whether this guidance is subject to the requirement to prepare an impact analysis. Because of the significant economic and environmental impact of this guidance, the Agency has prepared several draft support documents. These documents have been placed in Docket A–91–04 and are referenced by numbers II-F–3 through IIF–6, II–A–2 and II–A–3. These proposed guidelines were submitted to the Office of Management and Budget (OMB) for review. Any written comments received from OMB and any EPA responses to those comments have been placed in the public docket.

VIII. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 , and implementing regulations, 5 CFR part 1320, EPA must obtain clearance from OMB for any activity that will involve collecting substantially the same information from 10 or more non-Federal respondents. Since the action in this supplemental notice is proposed guidance, and does not involve the collection of information by EPA, the Paperwork Reduction Act does not apply to this action.

IX. Statutory Authority

Authority for the action proposed in this notice is granted to EPA by section 211(m) of the Clean Air Act as amended by the Clean Air Act Amendments of 1990.

Dated: January 22, 1992.

William K. Reilly,

Administrator.

Appendix—Oxygenated Gasoline Credit Programs

(a) Scope. This Appendix applies to credit programs employed in state oxygenated gasoline programs under section 211(m) of the Clean Air Act, as amended (the Act).

(b) Definitions.

(1) *Averaging period*—The period of time over which all gasoline sold or dispensed for use in a control area by any control area responsible party must comply with the average oxygen content standard.

(2) *Blender control area responsible party (Blender CAR)*—A person who owns oxygenated gasoline which is sold or dispensed from a control area oxygenate blending facility.

(3) *Carrier*—Any person who transports, stores or causes the transportation or storage of gasoline at any point in the gasoline distribution network, without taking title to or otherwise having ownership of the gasoline and without altering the quality or quantity of the gasoline.

(4) *Control area*—A geographic area in which only gasoline under the oxygenated gasoline program may be sold or dispensed, with boundaries determined in accordance with § 211(m) of the Act.[1]

(5) *Control area oxygenate blending facility*—Any facility or truck at which oxygenate is added to gasoline which is intended for use in any control area, and at which the quality or quantity of gasoline is not otherwise altered, except through the addition of deposit-control additives.

(6) *Control area responsible party (CAR)*—A person who owns oxygenated gasoline which is sold or dispensed from a control area terminal.

(7) *Control area terminal*—A terminal which is capable of receiving gasoline in bulk, i.e., by pipeline, marine vessel or barge, and/or at which gasoline is altered either in quantity or quality, excluding the addition of deposit control additives. Gasoline which is intended for use in any control area is sold or dispensed into trucks at these control area terminals.

(8) *Control period*—The period during which oxygenated gasoline must be sold and dispensed in any control area, pursuant to section 211(m)(2) of the Act.[2]

(9) *Distributor*—Any person who transports or stores or causes the transportation or storage of gasoline at any point between any gasoline refinery or importer's facility and any retail outlet or wholesale purchaser-consumer's facility.

(10) *Gasoline*—Any fuel sold for use in motor vehicles and motor vehicle engines, and commonly or commercially known or sold as gasoline.

(11) *Non-oxygenated gasoline*—Any gasoline which does not meet the definition of oxygenated gasoline.

(12) *Oxygen content of gasoline blends*—Percentage of oxygen by weight contained in a gasoline blend, based upon its percentage oxygenate by volume, excluding denaturants and other non-oxygen-containing components. All measurements shall be adjusted to 60 degrees Fahrenheit.

(13) *Oxygenate*—Any substance which, when added to gasoline, increases the amount of oxygen in that gasoline blend. Lawful use of any combination of these substances requires that they be "Substantially Similar" under section 211(f)(1) of the Clean Air Act,[3] or be permitted under a waiver granted by the Administrator under the authority of section 211(f)(4) of the Clean Air Act.

(14) *Oxygenate blender*—A person who owns, leases, operates, controls or supervises a control area oxygenate blending facility.

(15) *Oxygenated gasoline*—Any gasoline which contains at least 2.0% oxygen by weight and has been included in the oxygenated gasoline program accounting by a control area responsible party and which is intended to be sold or dispensed for use in any control area.

(16) *Refiner*—Any person who owns, leases, operates, controls, or supervises a refinery which produces gasoline for use in a control area.

(17) *Refinery*—A plant at which gasoline is produced.

(18) *Reseller*—Any person who purchases gasoline and resells or transfers it to a retailer or a wholesale purchaser-consumer.

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[19] 56 FR31151 (July 9,1991)

[1] The boundaries of the control areas are noted in a separate **Federal Register** notice, published on July 9, 1991, 56 FR 31151.

[2] EPA is required to determine the control periods, set by § 211(m) (2) of the Act, as that portion of the year in which the area is "prone to high ambient concentrations of carbon monoxide." In another **Federal Register** notice published today, EPA is establishing lengths of the control periods for the different areas covered by section 211(m).

[3] 56 FR 5352 (February 11, 1991).

(19) *Retail outlet*—Any establishment at which gasoline is sold or offered for sale to the ultimate consumer for use in motor vehicles.

(20) *Retailer*—Any person who owns, leases, operates, controls or supervises a retail outlet.

(21) *Terminal*—A facility at which gasoline is sold, or dispensed into trucks for transportation to retail outlets or wholesale purchaser-consumer facilities.

(22) *Wholesale purchaser-consumer*—Any organization that is an ultimate consumer of gasoline and which purchases or obtains gasoline from a supplier for use in motor vehicles and receives delivery of that product into a storage tank of at least 550-gallon capacity substantially under the control of that organization.

(c) Average oxygen content standard.

(1) All gasoline sold or dispensed during the control period, for use in each control area, by each CAR or blender CAR as defined in paragraph (b) of this appendix, shall be blended for each averaging period to contain an average oxygen content of not less than 2.7% by weight. Oxygen content calculations shall be performed in accordance with paragraph (d).

(2) The averaging period over which all gasoline sold or dispensed in the control area is to be averaged shall be equal to the length of the control period as established by the Administrator, except that programs with control periods of six months or longer shall have averaging periods of three months.[4]

(d) Sampling, testing and oxygen content calculations.

(1) For the purpose of determining compliance with the requirements of this Appendix, the oxygen content of gasoline shall be determined by:

(i) Sampling. Use of the sampling methodologies specified in Appendix A of this Appendix to obtain a representative sample of the gasoline to be tested;

(ii) Testing.

(A) Use of the test method specified in Appendix B of this Appendix. This method is used to determine the mass concentration of each oxygenate in the gasoline sampled; or

(B) Use of the test method specified in Appendix C of this Appendix beginning with September 1, 1994, or sooner if an oxygenate is not identifiable using the method specified in Appendix B. This method is used to determine the mass concentration of each oxygenate in the gasoline sampled.

(iii) Oxygen Content Calculations.

(A) Calculation of the oxygen content of the gasoline sampled by multiplying the mass concentration of each oxygenate in the gasoline sampled by the oxygen molecular weight contribution of the oxygenate set forth in paragraph (d)(2) of this Appendix; and

(B) All volume measurements shall be adjusted to 60 degrees Fahrenheit.

(2) For purposes of this Appendix, the oxygen molecular weight contributions of oxygenates currently approved for use in the United States are the following:

TABLE 1

	Oxygen molecular weight contribution	Specific gravity at 60 degrees F
Methanol	0.4993	0.796
Ethanol	0.3473	0.794
Propanols	0.2662	0.789
Butanols	0.2158	0.810
Pentanols	0.1815	0.817
Methyl Tertiary-Butyl Ether (MTBE)	0.1815	0.744
Hexanols	0.1566	0.823
Tertiary Amyl Methyl Ether (TAME)	0.1566	0.770
Ethyl TertiaryButyl Ether	0.1569	0.755

(e) Alternative compliance options. Each CAR or blender CAR shall comply with the standard specified in paragraph (c) of this Appendix by means of the method set forth in either paragraph (e) (1) or (e) (2) of this Appendix.

(1) Compliance calculation on average basis.

(i) To determine compliance with the standard in paragraph (c), the CAR or blender CAR shall, for each averaging period and for each control area:

(A) Calculate the total volume of gasoline sold or dispensed in the control area which is the sum of:

(1) The volume of each separate batch or truck load of oxygenated gasoline that is sold or dispensed;

(2) Plus the total volume of oxygenated gasoline associated with purchased credits;

(3) Minus the total volume of oxygenated gasoline associated with sold credits.

(B) Calculate the required total content of oxygen by multiplying the total volume in gallons of oxygenated gasoline sold or dispensed by 2.7 percent.

(C) Calculate the actual total content of oxygen which is the sum of:

(1) The oxygen content of each batch or truck load of oxygenated gasoline that was sold or dispensed in the control area multiplied by the associated volume of the batch or truckload;

(2) Plus the oxygen content multiplied by the associated volume of each individual purchase of credits;

(3) Minus the oxygen content multiplied by the associated volume of each individual credit which was sold.

(D) Compare the actual total content of oxygen with the required total content of oxygen. If the actual total content of oxygen is greater than or equal to the required total content of oxygen, then the standard in paragraph (c) is met. If the actual total content of oxygen is less than the allowed total content of oxygen then oxygen credits are required in order to achieve compliance.

(E) In transferring credits, the transferor shall provide the transferee with the volume and oxygen content of the gasoline associated with the credits.

(ii) To determine the oxygen content associated with each batch or truck load of oxygenated gasoline sold or dispensed into the control area, use the running weighted oxygen content (RWOC) (see (iii) below) of the tank from which the batch or truckload was received at the time the batch or truckload was received. In the case of batches or truckloads of gasoline to which oxygenate is added outside of the terminal storage tank from which it was received, use the weighted average of the RWOC and the oxygen content added as a result of the volume of the additional oxygenate added.

(iii) Running weighted oxygen content. The RWOC accounts for the volume and oxygen content of all gasoline which enters or leaves the terminal storage tank, and all oxygenates which are added to the tank. The RWOC must be calculated each time gasoline enters or leaves the tank or whenever oxygenates are added to the tank. The RWOC is calculated weighing the following:

(A) The volume and oxygen content of the gasoline in the storage tank at the beginning of the averaging period;

(B) The volume and oxygen content by weight of gasoline entering the storage tank;

(C) The volume and oxygen content by weight of gasoline leaving the storage tank;

(D) The volume, type and oxygen content by weight of the oxygenates added to the storage tank.

(iv) Credit transfers. Credits may be used in the compliance calculation in (e)(1)(A), provided that:

(A) The credits are generated in the same control area as they are used, i.e., no credits may be transferred between nonattainment areas;

(B) The credits are generated in the same averaging period as they are used;

(C) The ownership of credits is transferred only between CARs or blender CARs;

(D) The credit transfer agreement is made no later than 15 days after the final day of the averaging period in which the credits are generated; and

(E) The credits are properly created.

(v) Improperly created credits.

(A) No party may transfer any credits to the extent such a transfer would result in the transferor having a negative credit balance at the conclusion of the averaging period for which the credits were transferred. Any credits transferred in violation of this paragraph are improperly created credits.

(B) In the case of credits which were improperly created, the following provisions apply:

(1) Improperly created credits may not be used, regardless of a credit transferee's good faith belief that it was receiving valid credits;

(2) The transfer of credits in violation of (A) above constitutes a violation of these requirements, for which the transferor will be deemed to be in violation; and

(3) Where any credits are transferred in violation of (A) above, the transferor's properly-created credits will be applied first to any credit transfers before the transferor may apply any credits to achieve its own compliance.

(2) Compliance calculation on per gallon basis. Each gallon of gasoline sold or dispensed by a CAR or blender CAR for use within each control area during the averaging period as defined in paragraph (c) shall have an oxygen content of at least 2.7% by weight. In addition, the CAR or Blender CAR is

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[4] EPA shall determine the length of the control period during the State Implementation Plan review and approval process.

prohibited from selling oxygen credits based on gasoline for which compliance is calculated under this alternative per-gallon method.

(f) Minimum oxygen content.

(1) Any gasoline which is sold or dispensed by a CAR or a Blender CAR for use within a control area, as defined in paragraph (b), during the control period, shall contain not less than 2.0% oxygen by weight, unless it is sold or dispensed to another registered CAR or Blender CAR. This requirement shall begin five working days before the applicable control period and shall apply until the end of that period.

(2) This requirement shall apply to all parties downstream of the CAR. Any gasoline which is offered for sale, sold or dispensed to an ultimate consumer within a control area, as defined in paragraph (b), shall contain not less than 2.0% oxygen by weight. This requirement shall apply during the entire applicable control period.

(3) Every refiner or importer must determine the oxygen content of each gallon of gasoline produced by use of one of the methodologies in the Appendices as described in section (d). This determination shall include the percent oxygenate by weight and the type of oxygenate, and percent by volume.

(g) Registration.

(1) One month in advance of any control period in which a party will meet the definition of CAR or blender CAR, such party shall petition for registration as a CAR or blender CAR in each state that the person intends to serve. A party may petition for registration as a CAR or blender CAR after the beginning of a control period but should do so at least 30 days before they intend to conduct activities as a CAR or blender CAR. This petition for registration shall be on forms prescribed by the state, and shall include the following information:

(i) The name and business address of the control area responsible party;

(ii) The address and physical location of each of the control area terminals from which the control area responsible party operates;

(iii) The address and physical location of each control area oxygenate blender facility which is owned, leased, operated, controlled or supervised by a Blender CAR; and

(iv) The address and physical location where documents which are required to be retained by this Appendix will be kept by the CAR.

(2) Within thirty days of any occasion when the registration information previously supplied by a CAR becomes incomplete or inaccurate, the CAR or Blender CAR shall submit updated registration information to the state.

(3) No party shall participate in the averaging program under paragraph (e) of this Appendix as a CAR or blender CAR until it has been notified by the state that it has been registered as a CAR or Blender CAR, and has been issued a unique CAR identification number. This should occur within 30 days of the submission of the registration application to the state. Registration by a state shall be valid for the time period specified by the state. The state shall issue each CAR and Blender CAR a unique identification number.

(h) Recordkeeping and reporting.

(1) Records. All parties in the gasoline distribution network, as described below, shall maintain records containing compliance information enumerated or described below. These records shall be retained by the regulated parties for a period of time established by the state which is consistent with its relevant statute of limitations.

(i) Refiners and Importers. Refiners and importers shall, for each separate quantity of gasoline produced or imported for use in a control area during a control period, maintain records containing the following information:

(A) Results of the tests utilized to determine the types of oxygenates and percentage by volume;

(B) Oxygenate content by volume:

(C) Oxygen content by weight;

(D) Total volume; and

(E) Name and address of the party to whom each separate quantity of gasoline was sold or transferred.

(ii) Control area terminal operators. Persons who own, lease, operate or control gasoline terminals which serve control areas shall maintain records containing the following information:

(A) The owner of each batch of gasoline;

(B) Volume of each batch or truckload of gasoline going into or out of the terminal;

(C) For all batches or truckloads of gasoline leaving the terminal, the RWOC of the batch or truckload;

(D) Type of oxygenate, purity, and percentage by volume if available;

(E) Oxygen content by weight of all batches or truckloads received at the terminal;

(F) Destination of each tank truck sale or batch of gasoline, that is, whether it was within a control area or not;

(G) The name and address of the party to whom the gasoline was sold or transferred and the date of the sale or transfer; and

(H) Results of the tests for oxygenates, if performed, of each sale or transfer, and who performed the tests.

(iii) CARs and Blender CARs. CARS and Blender CARs must maintain records containing the information listed in paragraph (iii) above, plus the following information:

(A) CAR or Blender CAR identification number.

(B) Records supporting and demonstrating compliance with the averaging standard listed in paragraph (c) of this Appendix.

(C) For any credits bought, sold, traded or transferred, the dates of the transactions, the names, addresses and CAR or Blender CAR numbers of the CARs or Blender CARs involved in the individual transactions, and the amount of credits (oxygen content and volume of gasoline) transferred. Any credits transferred must be accompanied by a demonstration of how those credits were calculated. Also included must be adequate documentation that both parties have agreed to all credit transactions.

(D) The name and address of the auditor, and the results of the attest engagement conducted pursuant to paragraph (k) of this Appendix.

(E) The name and address of the person from whom each shipment of gasoline was received, and the date when it was received.

(F) Data on each shipment of gasoline received, including:

(1) The volume of each shipment;

(2) Type of oxygenate, purity, and percentage by volume; and

(3) Oxygen content by weight.

(G) The volume of each receipt of bulk oxygenates.

(H) The name and address of the parties from whom bulk oxygenate was received.

(I) Date and destination of each sale of gasoline, that is, whether it was intended for use within a control area or not.

(J) Data on each shipment of gasoline sold or dispensed including:

(1) The volume of each shipment.

(2) Type of oxygenate, purity, and percentage by volume; and

(3) Oxygen content by weight.

(K) Documentation of the results of all tests done regarding the oxygen content of gasoline.

(L) The names, addresses and CAR or Blender CAR identification numbers of the parties to whom any gasoline was sold or dispensed, and the dates of these transactions.

(iv) Retailers and wholesale purchaser-consumers within a control area must maintain the following records:

(A) The names, addresses and CAR or blender CAR identification numbers of the parties from whom all shipments of gasoline were purchased or received, and the dates when they were received; and

(B) Data on every shipment of gasoline bought, sold or transported, including:

(1) Volume of each shipment;

(2) Type of oxygenate, purity, and percentage by volume;

(3) Oxygen content by weight; and

(4) Destination of each sale or shipment of gasoline, that is, whether it is intended for use within a control area.

(2) Reports.

(i) Each CAR and blender CAR shall submit a report for each averaging period as defined in paragraph (c) reflecting the compliance information detailed in paragraph (e) of this Appendix. Reports are due on the 30th day of each month following the averaging period for which the information is required. These reports shall be filed using forms provided by the state.

(ii) CARs or blender CARs shall also submit attest engagement reports as required by paragraph (k) of this Appendix. Attest engagements are to be conducted at the end of the control period, or every 6 months, whichever is shorter. The report is to be submitted to the state by the independent practitioner within 60 days following the end of the averaging period.

(3) Transfer Documents. Each time that physical custody or title of gasoline destined for a control area changes hands other than when gasoline is sold or dispensed for use in motor vehicles at a retail outlet or wholesale purchaser-consumer facility, the transferor shall provide to the transferee, in addition to, or as part of, normal bills of lading, invoices, etc., a document containing information on that shipment. This document shall accompany every shipment of gasoline to a control area after it has been dispensed by a

terminal, or the information shall be included in the normal paperwork which accompanies every shipment of gasoline. The information shall legibly and conspicuously contain the following information:

(i) The date of the transfer;

(ii) The name, address, and CAR or blender CAR identification number, if applicable, of the transferor;

(iii) The name, address and CAR or blender CAR identification number, if applicable, of the transferee;

(iv) The volume of gasoline which is being transferred;

(v) The proper identification of the gasoline as non-oxygenated or oxygenated;

(vi) The location of the gasoline at the time of the transfer;

(vii) Type of oxygenate; and

(viii) For gasoline which is in the gasoline distribution network between the refinery or import facility and the covered area terminal, the oxygen content by weight and the oxygenate volume of the gasoline.

(i) Prohibited activities.

(1) During the control period, no refiner, importer, oxygenate blender, carrier, distributor or reseller may manufacture, sell, offer for sale, dispense, supply, offer for supply, store, transport, or cause the transportation of:

(i) Gasoline which contains less than 2.0% oxygen by weight, for use during the control period, in a CO nonattainment area subject to the requirements of § 211(m) of the Act; or

(ii) Gasoline represented as oxygenated which has an oxygen content which is improperly stated in the documents which accompany such gasoline.

(2) No retailer or wholesale purchaser-consumer may dispense, offer for sale, sell or store, for use during the control period, gasoline which contains less than 2.0% oxygen by 100 weight in a CO nonattainment area subject to the requirements of § 211(m) of the Act.

(3) No person may operate as a CAR or Blender CAR or hold themselves out as such unless they have been properly registered by the state(s) involved. No CAR or Blender CAR may offer for sale, store, sell or dispense gasoline to any person not registered as a CAR for use in a control area, unless:

(i) The average oxygen content of the gasoline during the averaging period meets the standard established in paragraph (c) of this Appendix; and

(ii) The gasoline contains at least 2.0% oxygen by weight on a per-gallon basis.

(4) For terminals which sell or dispense gasoline intended for use in a control area during the control period, the terminal owner or operator may not accept gasoline into the terminal unless:

(i) Transfer documentation accompanies it containing the information specified in paragraph (h)(3); and

(ii) The terminal owner or operator conducts a quality assurance program to verify the accuracy of this information.

(5) No person may sell or dispense non-oxygenated gasoline for use in any control area during the control period, unless:

(i) The non-oxygenated gasoline is segregated from oxygenated gasoline;

(ii) Clearly marked documents accompany the non-oxygenated gasoline marking it as "non-oxygenated gasoline, not for sale to ultimate consumer in a control area", and

(iii) The non-oxygenated gasoline is in fact not sold or dispensed to ultimate consumers, during the control period, in the control area.

(6) No named person may fail to comply with the recordkeeping and reporting requirements contained in section (h).

(7) No person may sell, dispense or transfer oxygenated gasoline, except for use by the ultimate consumer at a retail outlet or wholesale purchaser-consumer facility, without transfer documents which accurately contain the information required by section (h)(3).

(8) Liability for violations of the prohibited activities.

(i) Where the gasoline contained in any storage tank at any facility owned, leased, operated, controlled or supervised by any retailer, wholesale purchaser-consumer, distributor, reseller, carrier, refiner, importer, or oxygenate blender is found in violation of the prohibitions described in sections (1)(i) or (2) of this paragraph, the following persons shall be deemed in violation:

(A) The retailer, wholesale purchaser-consumer, distributor, reseller, carrier, refiner, importer, or oxygenate blender who owns, leases, operates, controls or supervises the facility where the violation is found; and

(B) Each oxygenate blender, distributor, reseller, and carrier who, downstream of the control area terminal, sold, offered for sale, dispensed, supplied, offered for supply, stored, transported, or caused the transportation of any gasoline which is in the storage tank containing gasoline found to be in violation.

(ii) Where the gasoline contained in any storage tank at any facility owned, leased, operated, controlled or supervised by any retailer, wholesale purchaser-consumer, distributor, reseller, carrier, refiner, importer, or oxygenate blender is found in violation of the prohibitions described in section (1)(ii) or (2) of this paragraph, the following persons shall be deemed in violation:

(A) The retailer, wholesale purchaser-consumer, distributor, reseller, carrier, refiner, importer, or oxygenate blender who owns, leases, operates, controls or supervises the facility where the violation is found; and

(B) Each refiner, importer, oxygenate blender, distributor, reseller, and carrier who manufactured, imported, sold, offered for sale, dispensed, supplied, offered for supply, stored, transported, or caused the transportation of any gasoline which is in the storage tank containing gasoline found to be in violation.

(9) Defenses for prohibited activities.

(i) In any case in which a refiner, importer, oxygenate blender, distributor, reseller or carrier would be in violation under paragraph (i)(1), it shall be deemed not in violation if it can demonstrate:

(A) That the violation was not caused by the regulated party or its employee or agent;

(B) That it possesses documents which should accompany the gasoline, which contain the information required by paragraph (h); and

(C) That it conducts a quality assurance sampling and testing program as described in (i)(10).

(ii) In any case in which a retailer or wholesale purchaser-consumer would be in violation under paragraph (i)(2), it shall be deemed not in violation if it can demonstrate:

(A) That the violation was not caused by the regulated party or its employee or agent; and

(B) That it possesses documents which should accompany the gasoline, which contain the information required by paragraph (h).

(iii) Where a violation is found at a facility which is operating under the corporate, trade or brand name of a refiner, that refiner must show, in addition to the defense elements required by paragraph (i)(9)(i), that the violation was caused by:

(A) An act in violation of law (other than the Act or this part), or an act of sabotage or vandalism; or

(B) The action of any reseller, distributor, oxygenate blender, carrier, or a retailer or wholesale purchaser-consumer which is supplied by any of the persons listed above in paragraph (i)(9)(i), in violation of a contractual undertaking imposed by the refiner designed to prevent such action, and despite periodic sampling and testing by the refiner to ensure compliance with such contractual obligation; or

(C) The action of any carrier or other distributor not subject to a contract with the refiner but engaged by the refiner for transportation of gasoline, despite specification or inspection of procedures and equipment by the refiner or periodic sampling and testing which are reasonably calculated to prevent such action.

(iv) In this paragraph (i)(9), the term "was caused" means that the party must demonstrate by reasonably specific showings, by direct or circumstantial evidence, that the violation was caused or must have been caused by another.

(10) Quality Assurance Program. In order to demonstrate an acceptable quality assurance program, a party must conduct periodic sampling and testing to determine if the oxygenated gasoline has oxygen content which is consistent with the product transfer documentation.

(j) Attest engagements.

(1) The attest engagement shall consist of a review of the information used by a party to prepare required reports to the state, for accuracy, completeness, and conformance with regulatory requirements.

(2) The attest engagement shall be conducted by an independent Certified Public Accountant (CPA) who is not an employee of the regulated party.

(3) CPAs are required to exercise due diligence in conducting the attest engagement in accordance with the Standards for Attestation established by the American Institute of Certified Public Accountants (AICPA). The CPA is also required to comply with the general code of conduct and ethics as prescribed by the state in which he is licensed and the AICPA.

(4) The attest engagement shall include the review and analysis of the following applicable records of a CAR or Blender CAR:

(i) Records which show the quantity and oxygen content of gasoline entering the terminal and leaving the terminal in bulk;

(ii) Records which show the destination, quantity and oxygen content of truckloads of oxygenated gasoline going to specific covered areas;

(iii) Records which show the oxygen content of gasoline in storage tanks from which trucks are loaded, and the calculations which formed the basis for claimed characteristics;

(iv) Testing results for storage tanks when additional gasoline is added; and

(v) Records showing the oxygenate type and amount which was blended;

(5) The attestation report shall consist of the following items:

(i) A description and the location of all records reviewed during the attest engagement;

(ii) The names and positions of all persons responsible for preparing the regulated party's report to the state, including persons who gathered information, operational personnel, and officers;

(iii) The location and a description of the refinery, import facility, or terminal audited, including its operating procedures and structures of internal controls;

(iv) Specific reports which were examined, accompanied by examples of calculations performed in the conduct of the attest engagement;

(v) Summaries or duplicates of records which support the CPA's findings, analyses, and conclusions; and

(vi) A complete list of all discrepancies that the CPA found during the conduct of the attest engagement.

Appendix A—Sampling Procedures

EPA's sampling procedures are detailed in appendix D of 40 CFR part 80.

Appendix B—Testing Procedure

Designation 4815–89

Method—ASTM Standard Test Method for Determination of C_1 to C_4 Alcohols and MTBE in Gasoline by Gas Chromatography

1. Scope

1.1 This test method covers a procedure for determination of methanol, ethanol, isopropanol, n-propanol, isobutanol, sec-butanol, tert-butanol, n-butanol, and methyl tertiary butyl ether (MTBE) in gasoline by gas chromatography.

1.2 Individual alcohols and MTBE are determined from 0.1 to 10 volume %.

1.3 SI (metric) units of measurement are preferred and used throughout this standard. Alternative units, in common usage, are also provided to improve the clarity and aid the user of this test method.

1.4 *This standard may involve hazardous materials, operations, and equipment. This standard does not purport to address all of the safety problems associated with its use. It is the responsibility of the user of this standard to establish appropriate safety and health practices and determine the applicability or regulatory limitations prior to use.*

2. Referenced Documents

2.1 ASTM Standards:

D4057 Practice for Manual Sampling of Petroleum and Petroleum Product
D4307 Practice for Preparation of Liquid Blends for Use as Analytical Standards
D4626 Practice for Calculation of Gas Chromatographic Response Factors
E260 Practice for Packed Column Gas Chromatographic Procedures
E355 Practice for Gas Chromatography Terms and Relationships

3. Terminology

3.1 Descriptions of Terms Specific to This Standard:

3.1.1 Low volume connector—a special union for connecting two lengths of tubing 1.6 mm inside diameter and smaller. Sometimes this is referred to as a zero dead volume union.

3.1.2 MTBE—methyl tertiary butyl ether.

3.1.3 Oxygenates—used to designate fuel blending components containing oxygen, either in the form of alcohol or ether.

3.1.4 Split ratio—a term used in gas chromatography using capillary columns. The split ratio is the ratio of the total flow of the carrier gas to the sample inlet versus the flow of carrier gas to the capillary column. Typical values range from 10:1 to 500:1 depending upon the amount of sample injected and the type of capillary column used.

3.1.5 TCEP—1,2,3-tris-2cyanoethoxypropane—a gas chromatographic liquid phase.

3.1.6 WCOT—abbreviation for a type of capillary column used in gas chromatography that is wall-coated open tubular. This type of column is prepared by coating the inside of the capillary with a thin film of stationary phase.

4. Summary of Test Method

4.1 An internal standard, tertiary amyl alcohol, is added to the sample which is then introduced into a gas chromatograph equipped with two columns and a column switching valve. The sample first passes onto a polar TCEP column which elutes lighter hydrocarbons to vent and retains the oxygenated and heavier hydrocarbons. After methylcyclopentane, but before MTBE elutes from the polar column, the valve is switched to backflush the oxygenates onto a WCOT non-polar column. The alcohols and MTBE elute from the non-polar column in boiling point order, before elution of any major hydrocarbon constituents. After benzene elutes from the non-polar column, the column switching valve is switched back to its original position to backflush the heavy hydrocarbons. The eluted components are detected by a flame ionization or thermal conductivity detector. The detector response, proportional to the component concentration, is recorded; the peak areas are measured; and the concentration of each component is calculated with reference to the internal standard.

5. Significance and Use

5.1 Alcohols and other oxygenates may be added to gasoline to increase the octane number. Type and concentration of various oxygenates are specified and regulated to ensure acceptable commercial gasoline quality. Drivability, vapor pressure, phase separation, and evaporative emissions are some of the concerns associated with oxygenated fuels.

5.2 This test method is applicable to both quality control in the production of gasoline and for the determination of deliberate or extraneous oxygenate additions or contamination.

6. Apparatus

6.1 Chromatograph:

6.1.1 A gas chromatographic instrument which can be operated at the conditions given in Table 1, and having a column switching and backflushing system. Carrier gas flow controllers shall be capable of precise control where the required flow rates are low (table 1). Pressure control devices and gages shall be capable of precise control for the typical pressures required.

6.1.2 Detector—A thermal conductivity detector or flame ionization detector, may be used. The system shall have sufficient sensitivity and stability to obtain a recorder deflection of at least 2 mm at a signal-to-noise ratio of at least 5 to 1 for 0.005 volume % concentration of an oxygenate.

6.1.3 Switching and backflushing Valve—A valve, to be located within the gas chromatographic column oven, capable of performing the functions described in section 11.0 and illustrated in Fig.1. The valve shall

TABLE 1.—CHROMATOGRAPHIC OPERATING CONDITIONS

	Temperatures (°C)	Flows	mL/min	Other parameters, carrier gas helium
Column Over	60	to injector	75	Sample size, µL—3.
Injector	200	Column	5	Split ratio—15:1.
Detector				
TCD	200	Auxiliary	3	Backflush, min—0.2-0.3.
FID	250	Makeup	16	Valve reset time, min—8-10.
Valve	60			Total analysis, time, min—18-20.

be of low volume design and not contribute significantly to chromatographic deterioration.

6.1.3.1 Valco Model No. CM–VSV–10–HT, 1.6-mm ($\frac{1}{16}$-in.) fittings. This particular valve was used in the majority of the analyses used for the development of section 15.

6.1.3.2 Valco Model No. C10W, 0.8-mm ($\frac{1}{32}$-in.) fittings. This valve is recommended for use with columns of 0.32-mm inside diameter and smaller.

6.1.4 Although not mandatory, an automatic valve switching device is strongly recommended to ensure repeatable switching times. Such a device should be synchronized with injection and data collection times. If no such device is available, a stopwatch, stated at the time of injection, should be used to indicate the proper valve switching time.

6.1.5 Injection System—The chromatograph should be equipped with a splitting—type inlet device. Split injection is necessary to maintain the actual chromatographed sample size within the limits of column and detector optimum efficiency and linearity.

6.1.6 Sample Introduction—Any system capable of introducing a representative sample into the split inlet device. Microliter syringes, automatic syringe injectors, and liquid sampling valves have been used successfully.

6.2 Data Presentation or Calculation, or Both;

6.2.1 Recorder—A recording potentiometer or equivalent with a full-scale deflection of 5 mV or less. Full-scale response time should be 1 s or less with sufficient sensitivity and stability to meet the requirements of 6.1.2.

6.2.2 Integrator or Computer—Devices capable of meeting the requirements of 6.1.2, and providing graphic and digital presentation of the chromatographic data are recommended for use. Means shall be provided for determining the detector response. Peak heights or areas can be measured by computer, electronic integration of manual techniques.

6.3 Columns, two as follows:

6.3.1 Polar column—This column performs a pre-separation of the oxygenates from volatile hydrocarbons in the same boiling point range. The oxygenates and remaining hydrocarbons are backflushed onto the non-polar column in section 6.3.2. Any column with equivalent or better chromatographic efficiency and selectivity to that described in 6.3.1.1 can be used. The column shall perform at the same temperatures as required for the column in 6.3.2.

6.3.1.1 TCEP Micro-Packed Column, 560 mm (22 in.) by 1.6-mm ($\frac{1}{16}$-in.) outside diameter by 0.38-mm (0.015-in.) inside diameter stainless steel tube packed with 0.14 to 0.15 g of 20% (mass/mass) TCEP on 80/100 mesh Chromosorb P(AW). This column was used in the cooperative study to provide the Precision and Bias data referred to in section 15.

6.3.2 Non-polar (Analytical) Column—Any column with equivalent or better chromatographic efficiency and selectivity to that described in 6.3.2.1 can be used.

6.3.2.1 WCOT Methyl Silicone Column, 30m (1181 in.) long by 0.53 mm (0.021-in.) inside diameter fused silica WCOT column with a 2.6 µm film thickness of cross-linked methyl siloxane. This column was used, in the cooperative study to provide the Precision and Bias data referred to in section 15.

7. Reagents and Materials

7.1 Carrier Gas—Carrier gas appropriate to the type of detector used. Helium has been used successfully. The minimum purity of the carrier gas used must be 99.95 mol %.

7.2 Standards for Calibration and Identification—Standards of all components to be analyzed and the internal standard are required for establishing identification by retention time as well as calibration for quantitative measurements. These materials shall be of known purity and free of the other components to be analyzed.

Note 1: Warning—These materials are flammable and may be harmful or fatal if ingested or inhaled

7.3 Preparation of Calibration Blends—For best results, these components must be added to a stock gasoline or petroleum naphtha, free of oxygenates (Warning—See Note 2). Refer to Test Method D 4307 for preparation of liquid blends. The preparation of several different blends, at different concentration levels covering the scope of the method, is recommended. These will be used to establish the linearity of the component response.

Note 2: Warning—Extremely flammable. Vapors harmful if inhaled.

7.4 Methylene Chloride—Used for column preparation. Reagent grade, free of non-volatile residue.

Note 3: Warning—Harmful if inhaled. High concentrations may cause unconsciousness or death.

8. Preparation of Column Packings

8.1 TCEP Column Packing:

8.1.1 Any satisfactory method, used in the practice of the art that will produce a column capable of retaining the C_1 to C_4 alcohols and MTBE from components of the same boiling point range in a gasoline sample. The following procedure has been used successfully.

8.1.2 Completely dissolve 10 g of TCEP in 100 mL of methylene chloride. Next add 40 g of 80/100 mesh Chromosorb P(AW) to the TCEP solution. Quickly transfer this mixture to a drying dish, in a fume hood, without scraping any of the residual packing from the sides of the container. Constantly, but gently, stir the packing until all of the solvent has evaporated. This column packing can be used immediately to prepare the TCEP column.

9. Preparation of Micro-Packed TCEP Column

9.1 Wash a straight 560 mm length of 1.6-mm outside diameter (0.38-mm inside diameter) stainless steel tubing with methanol and dry with compressed nitrogen.

9.2 Insert 6 to 12 strands of silvered wire a small mesh screen or stainless steel frit inside one end of the tube. Slowly add 0.14 to 0.15 g of packing material to the column and gently vibrate to settle the packing inside the column. When strands of wire are used to retain packing material inside the column, leave 6.0 mm (0.25 in.) of space at the top of the column.

9.3 Column Conditioning—Both the TCEP and WCOT columns are to be briefly conditioned before use. Connect the columns to the valve (see 11.1) in the chromatographic oven. Adjust the carrier gas flows as in 11.3 and place the valve in the RESET position. After several minutes, increase the column over temperature to 120 °C and maintain these conditions for 5 to 10 min. Cool the columns below 60 °C before shutting off the carrier flow.

10. Sampling

10.1 Gasoline samples to be analyzed by this test method shall be sampled using procedures outlined in Practice D 4057.

11. Preparation of Apparatus and Establishment of Conditions

11.1 Assembly—Connect the WCOT column to the valve system using low volume connectors and narrow bore tubing. It is important to minimize the volume of the chromatographic system that comes in contact with the sample, otherwise peak broadening will occur.

11.2 Adjust the operating conditions to those listed in table 1, but do not turn on the detector circuits. Check the system for leaks before proceeding further.

11.3 Flow Rate Adjustment:

11.3.1 Attach a flow measuring device to the column vent with the valve in the RESET position and the pressure to the injection port to give 5.0 mL/min flow (14 psig). Soap bubble flow meters are suitable.

11.3.2 Attach a flow measuring device to the split injector vent and adjust the flow from the split vent using the A flow controller to give a flow of 70 mL/min. Recheck the column vent flow set in 11.3.1 and adjust if necessary.

11.3.3 Switch the valve to the BACKFLUSH position and adjust the variable restrictor to give the same column vent flow set in 11.3.1. This is necessary to minimize flow changes when the valve is switched.

11.3.4 Switch the valve to the inject position RESET and adjust the B flow controller to give a flow of 3.0 to 3.2 mL/min at the detector exit. When required for the particular instrumentation used, add makeup flow or TCD switching flow to give a total of 21 mL/min at the detector exit.

11.4 When a thermal conductivity detector is used, turn on the filament current and allow the detector to equilibrate. When a flame ionization detector is used, set the hydrogen and air flows and ignite the flame.

11.5 Determine the Time to Blackflush—The time to backflush will vary slightly for each column system and must be determined experimentally as follows. The start time of the integrator and valve timer must be synchronized with the injection to accurately reproduce the backflush time.

11.5.1 Initially assume a valve BACKFLUSH time of 0.23 min. With the valve RESET, inject 3 µL of a blend containing at least 0.5% or greater oxygenates (7.3), and simultaneously begin timing the analysis. At 0.23 min, rotate the valve to the BACKFLUSH position and leave it there until the complete elution of benzene is realized. Note this time as the RESET time, which is the time at which the valve is returned to the RESET position. When all of the remaining hydrocarbons are backflushed the signal will return to a stable baseline and the system is ready for another analysis.

11.5.2 It is necessary to optimize the valve BACKFLUSH time by analyzing a standard blend containing oxygenates. The correct BACKFLUSH time is determined experimentally by using valve switching times between 0.2 and 0.3 min. When the valve is switched too soon, C_6 and lighter hydrocarbons are backflushed and are coeluted in the C_4 alcohol section of the chromatogram. When the valve BACKFLUSH is switched too late, part or all of the MTBE component is vented resulting in an incorrect MTBE measurement.

12. Calibration and Standardization

12.1 Idenfication—Determine the retention time of each component by injecting small amounts either separately or in known mixtures or by comparing the relative retention times with those in table 2.

12.2 Standardization—The area under each peak in the chromatogram is considered a quantitative measure of the corresponding compound. Measure the peak area of each oxygenate and of the internal standard by either manual method or electronic integrator. Calculate the relative volume response factor of each oxygenate, relative to the internal standard, according to Test Method D 4626.

13. Procedure

13.1 Preparation of Sample—Precisely add a quantity of the internal standard to an accurately measured quantity of sample. Concentrations of 1 to 5 volume % have been used successfully.

13.2 Chromatographic Analysis—Introduce a representative aliquot of the sample, containing internal standard, into the chromatograph using the same technique as used for the calibration analyses. An injection volume of 3 μL with a 15:1 split ratio has been used successfully.

13.3 Interpretation of Chromatogram—Compare the results of sample analyses to those of calibration analyses to determine identification of oxygenates present.

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TABLE 2 Retention Characteristics for TCEP/WCOT Column Set Conditions as in Table 1

Component	Retention Time, min	Relative Retention Time (t-Amyl Alcohol = 1.00)
Methanol	3.21	0.44
Ethanol	3.58	0.50
Isopropanol	3.95	0.56
tert-Butanol	4.31	0.61
n-Propanol	4.75	0.68
MTBE	5.29	0.76
sec-Butanol	5.63	0.82
Isobutanol	6.33	0.93
n-Butanol	7.55	1.10
Benzene	7.88	1.17

14. Calculation

14.1 After identifying the various oxygenates, measure the area of each oxygenate peak and that of the internal standard. Calculate the volume percent of oxygenate as follows:

$$V_1 = \frac{V_s \times PA_i \times 100}{PA_s \times S_i \times V_G}$$

where:

V_1 = volume percent of oxygenate to be determined,

V_s = volume of internal standard (tert-amyl alcohol) added,

V_G = volume of gasoline sample taken,

PA_i = peak area of the oxygenate to be determined,

PA_s = peak area of the internal standard (tert-amyl alcohol), and

S_i = relative volume response factor of each component

(relative to the internal standard).

14.2 Report the volume percent of each oxygenate.

15. Precision and Bias[1]

15.1 Precision-The precision of this test method as determined by the statistical examination of the interlaboratory test results is as follows:

15.1.1 Repeatability-The difference between successive results obtained by the same operator with the same apparatus under constant operating conditions on identical test material would, in the long run, in the normal and correct operation of the test method exceed the following values only in one case in twenty (see Table 3):

Methanol 0.086 X (V+0.070)

Isobutanol 0.064 X (V+0.086)

Ethanol 0.083 X (V+0.000)

sec-Butanol 0.014 X $\sqrt{V}$

Isopropanol 0.052 X (V+0.150)

tert-Butanol 0.052 X (V+0.388)

n-Propanol 0.040 X (V+0.026)

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[1] Supporting data are available from ASTM Headquarters. Request RR: D02-1221.

n-Butanol 0.043 X (V+0.020)

MTBE 0.104 X (V+0.028)

where V is the mean volume percent.

TABLE 3 Precision Intervals-Determined from Cooperative Study Data Summarized in Section 15

Components	Volume %							
	0.20	0.50	1.00	2.00	3.00	4.00	5.00	6.00
				Repeatability				
Methanol	0.02	0.05	0.09	0.18	0.26	0.35	0.44	0.52
Ethanol	0.02	0.04	0.08	0.17	0.25	0.33	0.42	0.50
Isopropanol	0.02	0.03	0.06	0.11	0.16	0.22	0.27	0.32
n-Propanol	0.01	0.02	0.04	0.08	0.12	0.16	0.20	0.24
tert-Butanol	0.03	0.05	0.07	0.12	0.18	0.23	0.28	0.33
sec-Butanol	0.01	0.01	0.01	0.02	0.02	0.03	0.03	0.03
Isobutanol	0.02	0.04	0.07	0.13	0.20	0.26	0.33	0.39
n-Butanol	0.01	0.02	0.04	0.09	0.13	0.17	0.22	0.26
MTBE	0.02	0.05	0.11	0.21	0.31	0.42	0.52	0.63
				Reproducibility				
Methanol	0.10	0.21	0.39	0.75	1.11	1.47	1.83	2.19
Ethanol	0.07	0.19	0.37	0.75	1.12	1.49	1.87	2.24
Isopropanol	0.07	0.14	0.25	0.46	0.67	0.89	1.10	1.32
n-Propanol	0.04	0.09	0.17	0.33	0.49	0.68	0.82	0.98
tert-Butanol	0.10	0.16	0.25	0.43	0.60	0.78	0.96	1.14
sec-Butanol	0.12	0.20	0.28	0.39	0.48	0.55	0.62	0.68
Isobutanol	0.05	0.10	0.19	0.37	0.55	0.73	0.91	1.09
n-Butanol	0.09	0.22	0.42	0.84	1.25	1.67	2.08	2.50
MTBE	0.05	0.12	0.23	0.45	0.68	0.90	1.13	1.35

15.1.2 Reproducibility - The difference between two single and independent results obtained by different operators working in different laboratories on identical material would in the long run, exceed the following values only in one case in twenty (see Table 3):

Methanol 0.361 X (V+0.070)

Isobutanol 0.179 X (V+0.086)

Ethanol 0.373 X (V+0.000)

sec-Butanol 0.277 X $\sqrt{V}$

Isopropanol 0.214 X (V+0.150)

tert-Butanol 0.178 X (V+0.388)

n-Propanol 0.163 X (V+0.026)

n-Butanol 0.415 X (V+0.020)

MTBE 0.224 X (V+0.028)

where V is the mean volume percent.

15.2 Bias - Since there is no accepted reference material suitable for determining bias for the procedure in this test method, bias cannot be determined.

For additional information please see ASTM Designation
D 4815 - 88.

Appendix C—Test Procedure

Method—EPA Test for the Determination of Oxygenates in Gasoline

1. *Scope and Application*

1.1 The following single column direct injection gas chromatographic procedure is described in detail to completely define a single technique for qualifying and quantifying the oxygenate content of gasoline. Other procedures with similar capabilities are allowed provided they comply with the quality control requirements of section 8 below.

1.2 This method covers the qualitative and quantitative determination of the oxygenate content of gasoline through the use of an oxygenate flame ionization detector (OFID). The procedure's calibration range is 0.25 to 12.0 volume percent. Samples above this level should be diluted to fall within the specified range.

1.3 Where trade names or specific products are noted in the method, equivalent apparatus and chemical reagents may be used. Mention of trade names or specific products is for the assistance of the user and does not constitute endorsement by the U.S. Environmental Protection Agency.

2. *Summary of Method*

2.1 A measured volume of a gasoline sample is spiked to introduce an internal standard, mixed, placed into a sealed ampule, and injected into a gas chromatograph (GC) equipped with an oxygenate flame ionization detector (OFID). After chromatographic resolution the sample components enter a cracker reactor in which they are stoichiometrically converted to carbon monoxide (in the case of oxygenates), elemental carbon, and hydrogen. The carbon monoxide then enters a methanizer reactor for conversion to water and methane. Finally, the methane is detected by a flame ionization detector (FID).

2.2 All oxygenated gasoline components (water, alcohols, ethers, etc.) may be assessed by this method.

2.3 The total concentration of oxygen in the gasoline, due to oxygenated components, may also be determined with this method by summation of all peak areas except for dissolved oxygen, water, and the internal standard. Sensitivities to each component oxygenate must be incorporated in the calculation.

3. *Sample Handling and Preservation*

3.1 Samples should be collected and stored in containers which will protect them from changes in the oxygenated component contents of the gasoline, such as loss of volatile fractions of the gasoline by evaporation.

3.2 If samples have been refrigerated they should be brought to room temperature prior to analysis.

3.3 Gasoline is extremely flammable and should be handled cautiously and with adequate ventilation. The vapors are harmful if inhaled and prolonged breathing of vapors should be avoided. Skin contact should be minimized.

4. *Apparatus*

4.1 A GC equipped with an oxygenate flame ionization detector.

4.2 An autosampler for the GC is highly recommended.

4.3 A 60 m length x 0.32 mm ID 5.0μm film thickness nonpolar capillary GC column (J&W DB–1 or equivalent).

4.4 An integrator or other acceptable system to collect and process the GC signal.

4.5 A positive displacement pipet (200 μL) for adding the internal standard.

5. *Reagents*

Note: Gasoline and many of the oxygenate additives are extremely flammable and may be toxic over prolonged exposure. Methanol is particularly hazardous. Persons performing this procedure must be familiar with the chemicals involved and all precautions applicable to each.

5.1 Reagent grade oxygenates for internal standards and for preparation of standard solutions.

5.2 Supply of oxygenate-free gasoline for blank assessments and for preparation of standard solutions.

5.3 Calibration standard solutions containing known quantities of suspected oxygenates in gasoline.

5.4 Calibration check standard solutions prepared in the same manner as the calibration standards.

5.5 Reference standard solutions containing known quantities of suspected oxygenates in gasoline.

6. *Calibration.*

6.1 Calibration standard solutions (made in gasoline).

6.1.1 Reagent grade or better oxygenates (primarily methanol, absolute ethanol, t-butanol, and MTBE) are to be diluted with gasoline that has been previously determined by GC/OFID to be free of oxygenates. Newly-acquired stocks of reagent-grade oxygenates shall be analyzed for contamination by GC/FID and GC/OFID before use.

6.1.2 Required calibration standards (% by volume in gasoline):

Oxygenate	Range (%)	No. of standards (minimum)
Methanol	0.25–12.00	5
Ethanol	0.25–12.00	5
t-Butanol	0.25–12.00	5
MTBE	0.25–15.00	5

The standards should be as equally spaced as possible within the range and may contain more thanone oxygenate. A blank for zero concentration assessments is also to be included. Additional standards should be prepared for other oxygenates of concern.

6.2 Precisely add an aliquot of an internal oxygenate standard (such as 0.20 mL of i-propanol) as an internal standard to 5.00 mL of each of the prepared standards. The addition of an internal standard reduces errors caused by variations in injection volumes. To ensure adequate method detection limits, the volume of the internal standard added should be minimized (such as 5% or less than the volume of the sample). Transfer approximately 2 mL of each of these solutions to vials compatible with the autosampler.

6.3 Based on chromatographic operating conditions (section 7.1 below), determine the retention time of each component oxygenate by analyzing dilute aliquots either separately or in known mixtures. Approximate retention times for selected oxygenates under these conditions are as follows:

Oxygenate	Retention time (minutes)
Dissolved oxygen	5.50
Water	7.20
Methanol	9.10
Ethanol	12.60
Propanol	15.00
2-Propanol	15.70
t-Butanol	18.00
n-Propanol	21.10
MTBE	23.50
2-Butanol	26.30
i-Butanol	30.30
ETBE	31.10
n-Butanol	33.50
TAME	35.30
i-Pentanol	38.10

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6.4 Determine the peak area of each oxygenate and of the internal standard. After dilution corrections, calculate the stoichiometric relative volume response factor of each oxygenate, relative to the internal standard as follows:

$$V_j = \frac{V_s \times PA_j \times 100}{PA_s \times S_j \times V_g}$$

where:

V_j = volume percent of oxygenate to be determined,

V_s = volume of internal standard added,

V_g = volume of gasoline sample taken,

PA_j = peak area of the oxygenate to be determined,

PA_s = peak area of the internal standard, and

S_j = relative volume response factor of each component (relative to the internal standard).

6.5 Obtain a linear calibration curve by performing a least squares fit of the corrected component peak areas to the standard concentrations.

7. *Procedure.*

7.1 GC operating conditions:

7.1.1 Oxygenate free helium carrier gas: 15 mL/min (1 bar):

7.1.2 Carrier gas split ratio: 1:10.

7.1.3 Zero air FID fuel: 370 mL/min (2 bar).

7.1.4 Oxygenate free hydrogen FID fuel: 15 mL/min (2 bar).

7.1.5 Injector temperature: 250 °C.

7.1.6 Cracker reactor temperature: sufficiently high temperature to ensure reduction of all hydrocarbons to the elemental states (ie., $C_xH_{2x}->C+H_2$, etc.).

7.1.7 FID temperature 400 °C.

7.1.8 Oven temperature program: 50 °C for 12 min, followed by 5 °C/min to 70 °C for 14 min, followed by 25 °C/min to 195 °C for 5 min.

7.2 Prior to analysis of any samples, inject a sample of nonoxygenated gasoline into the GC to test for hydrocarbon breakthrough overloading the cracker reactor. If breakthrough occurs, the OFID is not operating effectively and must be corrected before samples can be analyzed.

7.3 Add precisely the same quantity of the internal standard (as in section 6.4 above) to 500 mL of the gasoline sample. Transfer approximately 2 mL of this solution to a vial compatible with the autosampler.

7.4 Report the volume percent of each oxygenate. If the volume percent exceeds the calibrated range, dilute the original sample to a concentration within the calibration range and repeat the procedures in section 7.3 above.

7.5 Sufficient sample should be retained to permit reanalysis.

8. Quality Control of Precision and Accuracy

8.1 The laboratory shall routinely monitor the precision of its analyses. At a minimum this shall include:

8.1.1 The preparation and analysis of laboratory duplicates at a rate of one per analysis batch and at least one per ten samples.

8.1.2 Laboratory duplicates shall be carried through all sample preparation steps independently.

8.1.3 The average range (absolute difference) for duplicate samples shall not exceed 0.4 volume% and/or the average relative range shall not exceed 8.0% where the relative range is defined as:

100% × (range/[(initial concentration + duplicate concentration)/2]. The maintenance of control charts is one acceptable method for ensuring compliance with this specification.

8.2 The laboratory shall routinely monitor the accuracy of its analyses. At a minimum this shall include:

8.2.1 Calibration check standards shall be developed independent of the calibration standards.

8.2.2 Calibration check standards shall be analyzed at a rate of one per analysis batch and at least one per ten samples.

8.2.3 If the measured concentration of a calibration check standard is outside the range 100±10% from the theoretical concentration, the sources of error in the analysis must be determined, corrected, and all analyses subsequent to and including the last standard analysis confirmed to be within the compliance specifications must be repeated. The maintenance of control charts is one acceptable method for ensuring compliance with this specification.

BILLING CODE 6560-50-M

8.2.4 Independent reference standards shall be purchased or prepared from materials that are independent of the calibration standards.

8.2.5 Independent reference standards shall be analyzed at a rate of per analysis batch or at least one per 100 samples.

8.2.6 If the measured concentration of an independent reference standard is outside the range of 100 ± 10% from the theoretical concentration, the results of the analysis batch shall be considered suspect. The sources of error in the analysis must be determined, corrected, and all analyses subsequent to and including the last independent reference standard analysis confirmed to be within the compliance specifications in that batch must be repeated. The maintenance of control charts is one acceptable method for ensuring compliance with this specification.

8.2.7 Spiked samples shall be prepared and analyzed at a rate of one per analysis batch and at least one per ten samples.

8.2.8 Spiked samples shall be prepared by adding a volume of a standard to a known volume of sample. To ensure adequate method detection limits, the volume of the standard added to the sample should be minimized to 5% or less than the volume of the sample. The spiked sample should be carried through the same sample preparation steps as the background sample.

8.2.9 The percent recovery of spiked samples should be calculated as follows:

$$\text{Recovery} = \frac{100\% \text{ X } (C_m(V_o + V_1) - C_oV_o}{C_sV_1}$$

where:

V_s=Volume of sample
V_1=Volume of spiking standard added (mL)
C_m=Measured concentration of spiked sample
C_s=Measured background concentration of sample
C_s=Known concentration of spiking standard

8.2.10 If the percent recovery of a spiked sample is outside the range 100±10% from the theoretical concentration, the sources of error in the analysis must be determined, corrected, and all analyses subsequent to and including the last analysis confirmed to be within the compliance specifications must be repeated. The maintenance of control charts is one acceptable method for ensuring compliance with this specification.

[FR Doc. 92-2156 Filed 2-4-92; 8:45 am]

BILLING CODE 6560-50-M

[CFRL-4100-1]

Small Business Stationary Source; Technical and Environmental Compliance Assistance Program (SBAP)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Final Guidelines Available.

SUMMARY: The States, in implementing the provisions of the Clean Air Act (CAA), are or will be regulating small businesses that frequently lack the technical expertise or financial resources to evaluate State regulations and determine the appropriate mechanisms for compliance. The Congress, in anticipation of the impact of these requirements on small businesses, added provisions designed to be implemented by EPA and the States to provide technical assistance and compliance information to small businesses. The provisions designed to provide small business assistance are described in title V, section 507, of the 1990 CAA Amendments. As required by section 507, EPA has issued the Guidelines for Implementation of section 507 of the 1990 Clean Air Amendments. The guidelines provide guidance to the States and other interested parties on what will be an acceptable State SBAP to be incorporated into a federally-approved State implementation plan.

The purpose of this notice is to announce the availability of the final guidelines.

Availability of the Final Guidelines: The guidelines are available from EPA, OAQPS, AQMD, ROB (MD-15), Research Triangle Park, North Carolina 27711. Please refer to the Guidelines for Implementation of section 507 of the 1990 Clean Air Act Amendments.

FOR FURTHER INFORMATION CONTACT: Ms. Racqueline Shelton at (919) 541-0898, U.S. Environmental Protection Agency, AQMD (MD-15), Research Triangle Park, North Carolina 27711.

J. B. Weigold,

Director, Office of Air Quality Planning and Standards.

[FR Doc. 92-2858 Filed 2-4-92; 8:45 am]

BILLING CODE 6560-50-M

[OPP-100101; FRL-4044-1]

Computer Sciences Corporation; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This is a notice to certain persons who have submitted information to EPA in connection with pesticide information requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). Computer Sciences Corporation (CSC) has been awarded a contract to perform work for the EPA Office of Pesticide Programs, and will be provided access to certain information submitted to EPA under FIFRA and the FFDCA. Some of this information may have been claimed to be confidential business information (CBI) by submitters. This information will be transferred to CSC consistent with the requirements of 40 CFR 2.307(h)(3) and 2.308(h)(2). This transfer will enable CSC to fulfill the obligations of the contract and serves to notify affected persons.

DATES: CSC will be given access to this information no sooner than February 10, 1992.

FOR FURTHER INFORMATION CONTACT: By mail: Clare Grubbs, Program Management and Support Division (H7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 212, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305-7460.

SUPPLEMENTARY INFORMATION: Under Contract No. 68-W0-0043, work order No. 182, CSC will provide technical and operational support services to the Office of Pesticide Programs in support of a wide variety of system information management efforts. CSC employees will have access to all data and software within the system environment. This access is incidental to their work, which involves loading and maintenance of all system and applications software, system performance tuning, data file backup services, diagnosis and remedy of system hardware and software failures, routing and distribution of printed system output, production of system utilization statistics, and implementation of EPA-directed security protocols within the system environment. While CSC employees may have complete access to all data within the systems environment, they do not use the data within its subject-matter contexts. This contract involves no subcontractor.

The Office of Pesticide Programs has determined that access by CSC to information on all pesticide chemicals is necessary for the performance of this contract. Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of the FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(2), the contract with CSC prohibits use of the information for any purpose other than purposes specified in the contract; prohibits disclosure of the information in any form to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the FIFRA Information Security Manual. In addition, CSC is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to this contractor until the above requirements have been fully satisfied. Records of information provided to this contractor will be maintained by the Project Officers for this contract in the EPA Office of Pesticide Programs. All information supplied to CSC by EPA for use in connection with this contract will be returned to EPA when CSC has completed its work.

Dated: January 17, 1992.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 92-2280 Filed 2-4-92; 8:45 am]

BILLING CODE 6560-50-F

[OPP-100098; FRL-4043-7]

Science Applications International Corporation; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This is a notice to certain persons who have submitted information to EPA in connection with pesticide information requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). Science Applications International Corporation (SAIC) has been awarded a contract to perform work for the EPA Office of Solid Waste, and will be provided access to certain information submitted to EPA under FIFRA and the FFDCA. Some of this information may have been claimed to be confidential business information (CBI) by submitters. This information will be transferred to SAIC consistent with the requirements of 40 CFR 2.307(h)(3) and 2.308(i)(2). This transfer will enable SAIC to fulfill the obligations of the contract and serves to notify affected persons.

DATES: SAIC will be given access to this information no sooner than February 10, 1992.

FOR FURTHER INFORMATION CONTACT: By mail: Clare Grubbs, Program Management and Support Division (H7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 212, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305-7460.

SUPPLEMENTARY INFORMATION: Under Contract No. 68-W0-0025, work order 053, SAIC will assist in the development of technical guidance for the development of hazardous waste disposal regulations and inspection documents, to provide general logistics and technical support for training and outreach activities, and to support the implementation of guidance for States and EPA Regional Offices. This work order involves no subcontractor.

The Office of Solid Waste and the Office of Pesticide Programs have jointly determined that the contract herein described involves work that is being conducted in connection with FIFRA, in that pesticide chemicals will be the subject of certain evaluations to be made under this contract. These evaluations may be used in subsequent regulatory decisions under FIFRA.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of the FFDCA.

In accordance with the requirements of 40 CFR 2.307(i)(2), the contract with SAIC prohibits use of the information for any purpose other than purposes specified in the contract; prohibits disclosure of the information in any form to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the FIFRA Information Security Manual. In addition, SAIC is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to this contractor until the above requirements have been fully satisfied. Records of information provided to this contractor will be maintained by the Work Order Manager for this contract in the EPA Office of Pesticide Programs. All information supplied to SAIC by EPA for use in connection with this contract will be returned to EPA when SAIC has completed its work.

Dated: January 17, 1992.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 92-2282 Filed 2-4-92; 8:45 am]

BILLING CODE 6560-50-F

[OPP-100099; FRL-4043-8]

Mitchell Systems Corporation; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This is a notice to certain persons who have submitted information to EPA in connection with pesticide information requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). Mitchell Systems Corporation has been awarded a contract to perform work for the EPA Office of Pesticide Programs, and will be provided access to certain information submitted to EPA under FIFRA and the FFDCA. Some of this information may have been claimed to be confidential business information (CBI) by submitters. This information will be transferred to Mitchell Systems Corporation consistent with the requirements of 40 CFR 2.307(h)(3) and 2.308(h)(2). This transfer will enable Mitchell Systems Corporation to fulfill the obligations of the contract and serves to notify affected persons.

DATES: Mitchell Systems Corporation will be given access to this information no sooner than February 10, 1992.

FOR FURTHER INFORMATION CONTACT: By mail: Clare Grubbs, Program Management and Support Division (H7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 212, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305-7460.

SUPPLEMENTARY INFORMATION: Under Contract No. 68-D9-0040, Mitchell Systems Corporation will provide a data base to support a program for the management of suspended, canceled and recalled pesticides. The data base will be developed as a prototype to provide for the immediate requirements of the parathion program. This system will combine data and information from various data bases within EPA. The data base will be expanded to satisfy the total requirements of EPA's program for the management of suspended, canceled and recalled pesticides. This contract involves no subcontractor.

The Office of Pesticide Programs has determined that access by Mitchell Systems Corporation to information on all pesticide chemicals is necessary for the performance of this contract.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of the FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(2), the contract with Mitchell Systems Corporation prohibits use of the information for any purpose other than purposes specified in the contract; prohibits disclosure of the information in any form to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the FIFRA Information Security Manual. In addition, Mitchell Systems Corporation is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to this contractor until the above requirements have been fully satisfied. Records of information provided to this contractor will be maintained by the Project Officers for this contract in the EPA Office of Pesticide Programs. All information supplied to Mitchell Systems Corporation by EPA for use in connection with this contract will be returned to EPA when Mitchell Systems Corporation has completed its work.

Dated: January 17, 1992.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 92-2283 Filed 2-4-92; 8:45 am]

BILLING CODE 6560-50-F

[OPP-100100; FRL-4043-9]

Computer Sciences Corporation; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This is a notice to certain persons who have submitted information to EPA in connection with pesticide information requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). Computer Sciences Corporation (CSC) has been awarded a contract to perform work for the EPA Office of Pesticide Programs, and will be provided access to certain information submitted to EPA under FIFRA and the FFDCA. Some of this information may have been claimed to be confidential business information (CBI) by submitters. This information will be transferred to CSC consistent with the requirements of 40 CFR 2.307(h)(3) and 2.308(h)(2). This transfer will enable CSC to fulfill the obligations of the contract and serves to notify affected persons.

DATES: CSC will be given access to this information no sooner than February 10, 1992.

FOR FURTHER INFORMATION CONTACT: By mail: Clare Grubbs, Program Management and Support Division (H7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 212, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305-7460.

SUPPLEMENTARY INFORMATION: Under Contract No. 68-W0-0043, work order No. 444, CSC will provide technical support in the enhancement of an automated reference data base of pesticide use information derived from labeling of registered pesticide products. CSC will also assist in enhancing the operating software and expanding the repertoire of the reports and integration with other existing OPP data base systems. This contract involves no subcontractor.

The Office of Pesticide Programs has determined that access by CSC to information on all pesticide chemicals is necessary for the performance of this contract.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of the FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(2), the contract with CSC prohibits use of the information for any purpose other than purposes specified in the contract; prohibits disclosure of the information in any form to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the FIFRA Information Security Manual. In addition, CSC is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to this contractor until the above requirements have been fully satisfied. Records of information provided to this contractor will be maintained by the Project Officers for this contract in the EPA Office of Pesticide Programs. All information supplied to CSC by EPA for use in connection with this contract will be returned to EPA when CSC has completed its work.

Dated: January 17, 1992.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 92-2281 Filed 2-4-92; 8:45 am]

BILLING CODE 6560-50-F

[OPP-30329; FRL-4009-3]

Certain Companies; Applications to Register Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by March 6, 1992.

ADDRESSES: By mail submit comments identified by the document control number (OPP-30329) and the registration/file number, attention Product Manager (PM) named in each application at the following address: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Environmental Protection Agency, rm. 1128, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in rm. 1128 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (H7505C), Attn: (Product Manager (PM) named in each registration), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460.

In person: Contact the PM named in each registration at the following office location/telephone number:

Product Manager	Office location/telephone number	Address
PM10 Richard Mountfort	Rm. 208, CM #2 (703-305-6502).	Environmental Protection Agency 1921 Jefferson Davis Hwy Arlington, VA 22202
PM 18 Phil Hutton	Rm. 213, CM #2 (703-305-7690).	-Do-
PM 22 Cynthia Giles-Parker	Rm. 229, CM #2 (703-305-5540).	-Do-

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

I. Products Containing Active Ingredients Not Included In Any Previously Registered Products

1. File Symbol: 58228-R. Applicant: Horse Sense Inc., 3200 Jasmine Drive, Delray Beach, FL 33483. Product name:

Flea Flee Pet Collar. Repellent. Active ingredients: Brewer's yeast 97.9 percent and Garlic powder 1.25 percent. Proposed classification/Use: None. For use on dogs and cats to kill fleas. Type registration: Conditional. (PM 10)

2. File Symbol: 65262-R. Applicant: L and F Enterprises, Ltd. Oak Brook Plaza, 2211 York Rd, Suite 207, Oak Brook, IL 60521. Product name: MF-201. Insecticide. Active ingredient: Sodium carboxymethyl cellulose 100 percent. Proposed classification/Use: None. For control of aphids, whiteflies, mites, and other insects on indoor and outdoor ornamentals and vegetable plants. (PM 10)

3. File Symbol: 707-EGN. Applicant: Rohm and Haas Company, Independence Mall West, Philadelphia, PA 19105. Product name: RH-7592 Technical Agricultural Fungicide. Fungicide. Active ingredient: Fenbuconazole alpha-[2-(4-chlorophenyl) ethyl]-alpha-phenyl-1*H*-1,2,4-triazole-1-propanenitrile 98.3 percent. Proposed classification/Use: None. For formulation and manufacture of fungicides only. (PM 22)

4. File Symbol: 707-EGR. Applicant: Rohm and Haas Co. Product name: Indar 2F Agricultural Fungicide. Fungicide. Active ingredient: Fenbuconazole alpha-[2-(4-chlorophenyl) ethyl]-alpha-phenyl-1*H*-1,2,4-triazole-1-propanenitrile 22.8 percent. Proposed classification/Use: General. For control of certain diseases on pecans and stonefruits. (PM 22)

5. File Symbol: 63947-A. Applicant: Bactec Corporation, 9601 Katy Freeway, Suite 350, Houston, TX 77024. Product name: Bactec Technical Powder II. Insecticide. Active ingredient: *Bacillus thuringiensis*, var *morrisoni*, at 97.9 percent. Proposed classification/Use: General. For formulating use only into registered end-use insecticides. (PM 18)

6. File Symbol: 63947-L. Applicant: Bactec Corporation. Product name: Bactec Bernan II Biological Larvicide Dry Flowable. Insecticide. Active ingredient: *Bacillus thuringiensis*, var *morrisoni*, at 3.2 percent. Proposed classification/Use: General. For the control of larval pests in fields and greenhouses. (PM 18)

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the Public Response and Program Resources Branch, Field Operations Division (PRPRB) office at the address provided from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the PRPRB office (703-305-5805), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

Dated: January 24, 1992.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 92-2538 Filed 2-4-92; 8:45 am]

BILLING CODE 6560-50-F

[OPPTS-51785; FRL 4047-8]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of 31 such PMNs and provides a summary of each.

DATES: Close of review periods:

P 92-416, 92-417, 92-418, 92-419, 92-420, 92-421, 92-422, 92-423, April 19, 1992.

P 92-424, 92-425, 92-426, 92-427, 92-428, 92-429, 92-430, 92-431, 92-432, 92-433, 92-434, 92-435, 92-436, 92-437, 92-438, 92-439, 92-440, 92-441, 92-442, 92-443, April 20, 1992.

P 92-444, 92-445, 92-446, April 21, 1992.

Written comments by:

P 92-416, 92-417, 92-418, 92-419, 92-420, 92-421, 92-422, 92-423, March 20, 1992.

P 92-424, 92-425, 92-426, 92-427, 92-428, 92-429, 92-430, 92-431, 92-432, 92-433, 92-434, 92-435, 92-436, 92-437, 92-438, 92-439, 92-440, 92-441, 92-442, 92-443, March 21, 1992.

P 92-444, 92-445, 92-446, March 22, 1992.

ADDRESSES: Written comments, identified by the document control number "(OPPTS-51785)" and the specific PMN number should be sent to: Document Processing Center (TS-790), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., rm. L-100, Washington, DC, 20460, (202) 260-3532.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, rm. E-545, 401 M St., SW., Washington, DC 20460 (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The completenonconfidential document is available in the TSCA Public Docket Office NE -G004 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

P 92-416

Importer. Confidential.

Chemical. (G) N-Butyl methacrylate, polymer with methacrylic acid, methyl methacrylate, glycidyl methacrylate derivative and 2-hydroxyethyl methacrylate derivative.

Use/Import. (G) Ingredient of photoresist. Import range: Confidential.

Toxicity Data. Mutagenicity: negative.

P 92-417

Importer. Confidential.

Chemical. (G) Ester of diazo naphthoquinone.

Use/Import. (G) Ingredient of photoresist. Import range: Confidential.

Toxicity Data. Mutagenicity: negative.

P 92-418

Manufacturer. Ciba-Geigy Corporation.

Chemical. (G) 3,3'-Diaminodiphenyl sulfone, epoxide adduct.

Use/Production. (S) Aerospace adhesive. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 4,490 mg/kg species (rat). Acute dermal toxicity: > 4,000 mg/kg species (rabbit).

P 92-419

Importer. Huls America, Inc.

Chemical. (G) Reaction product of aryl and alkyl dicarboxylic acids and alkane diols with isocyanato cycloalkyl urethane.

Use/Import. (G) Curable polymer. Import range: Confidential.

P 92–420

Manufacturer. Confidential.

Chemical. (G) Modified chlorinated hydrocarbon.

Use/Production. (G) Component of dispersively applied coating. Prod. range: 8,000–25,000 kg/yr.

P 92–421

Manufacturer. Confidential.

Chemical. (G) Modified chlorinated hydrocarbon.

Use/Production. (G) Component of dispersively applied coating. Prod. range: 8,000–25,000 kg/yr.

P 92–422

Manufacturer. Confidential.

Chemical. (G) Modified chlorinated hydrocarbon.

Use/Production. (G) Component of dispersively applied coating. Prod. range: 8,000–25,000 kg/yr.

P 92–423

Manufacturer. Confidential.

Chemical. (G) 2,5-Dimercapto-1,3,4-thiadiazole reaction product.

Use/Production. (S) Additive for lubricants. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 6.48 g/kg species (rat). Acute dermal toxicity: > 2.0 m/kg species (rabbit). Eye irritation: none species (rabbit). Skin irritation: none species (rabbit).

P 92–424

Manufacturer. Confidential.

Chemical. (G) 2,5-Dimercapto-1,3,4-thiadiazole reaction product.

Use/Production. (S) Additive for lubricants. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 6.48 g/kg species (rat). Acute dermal toxicity: > 2.0 m/kg species (rabbit). Eye irritation: none species (rabbit). Skin irritation: none species (rabbit).

P 92–425

Manufacturer. R.T. Vanderbilt Company, Inc.

Chemical. (G) 2,5-Dimercapto-1,3,4-thiadiazole reaction product.

Use/Production. (S) Additive for lubricants. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 6.48 g/kg species (rat). Acute dermal toxicity: > 2.0 m/kg species (rabbit). Eye irritation: none species (rabbit). Skin irritation: none species (rabbit).

P 92–426

Manufacturer. R.T. Vanderbilt Company, Inc.

Chemical. (G) 2,5-Dimercapto-1,3,4-thioadiazole reaction product.

Use/Production. (S) Additive for lubricants. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 6.48 g/kg species (rat). Acute dermal toxicity: > 2.0 m/kg species (rabbit). Eye irritation: none species (rabbit). Skin irritation: none species (rabbit).

P 92–427

Manufacturer. R.T. Vanderbilt Company, Inc.

Chemical. (G) 2,5-Dimercapto-1,3,4-thiadiazole reaction product.

Use/Production. (S) Additive for lubricants. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 6.48 g/kg species (rat). Acute dermal toxicity: > 2.0 m/kg species (rabbit). Eye irritation: none species (rabbit). Skin irritation: none species (rabbit).

P 92–428

Manufacturer. R.T. Vanderbilt Company, Inc.

Chemical. (G) 2,5-Dimercapto-1,3,4-thiadiazole reaction product.

Use/Production. (S) Additive for lubricants. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 6.48 g/kg species (rat). Acute dermal toxicity: > 2.0 m/kg species (rabbit). Eye irritation: none species (rabbit). Skin irritation: none species (rabbit).

P 92–429

Manufacturer. R.T. Vanderbilt Company, Inc.

Chemical. (G) 2,5-Dimercapto-1,3,4-thiadiazole reaction product.

Use/Production. (S) Additive for lubricants. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 6.48 g/kg species (rat). Acute dermal toxicity: > 2.0 m/kg species (rabbit). Eye irritation: none species (rabbit). Skin irritation: none species (rabbit).

P 92–430

Importer. Confidential.

Chemical. (G) (Diamino sulfophenyl)azo-(chlorophenyl)azo-(dimethoxyphenyl)azo-4-hydroxy-2-naphthalenesulfonic acid sodium salt.

Use/Import. (G) Open, nondispersive use. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species (rat). Acute dermal toxicity: > 2,000 mg/kg species (rabbit). Eye irritation: none species (rabbit). Skin irritation: none species (rabbit).

P 92–431

Manufacturer. Hoechst Celanese Corporation.

Chemical. (G) Substituted metanilic acid salt.

Use/Production. (S) Intermediate for dyestuff synthesis. Prod. range: 12,500–37,500 kg/yr.

P 92–432

Manufacturer. Hoechst Celanese Corporation.

Chemical. (G) Substituted metanilic acid salt.

Use/Production. (S) Intermediate for dyestuff synthesis. Prod. range: 12,500–37,500 kg/yr.

P 92–433

Manufacturer. Hoechst Celanese Corporation.

Chemical. (G) Substituted metanilic acid salt.

Use/Production. (S) Intermediate for dyestuff synthesis. Prod. range: 12,500–37,500 kg/yr.

P 92–434

Importer. Hoechst Celanese Corproation.

Chemical. (G) Oil modified alkyd resin, amine salt.

Use/Import. (S) Water dilutable alkyd resin for water based fillers. Import range: 22,500–32,600 kg/yr.

P 92–435

Manufacturer. Hoechst Celanese Corporation.

Chemical. (G) Substituted naphthalene disulfonic acid.

Use/Production. (S) Intermediate for dyestuff synthesis. Prod. range: 12,500–37,500 kg/yr.

P 92–436

Manufacturer. Hoechst Celanese Corporation.

Chemical. (G) Substituted naphthalene disulfonic acid.

Use/Production. (S) Intermediate for dyestuff synthesis. Prod. range: 12,500–37,500 kg/yr.

P 92–437

Manufacturer. Hoechst Celanese Corporation.

Chemical. (G) Substituted naphthalene disulfonic acid.

Use/Production. (S) Intermediate for dyestuff synthesis. Prod. range: 12,500–37,500 kg/yr.

P 92–438

Importer. Hoechst Celanes Corporation.

Chemical. (G) Modified acrylic copolymer, amine salt.

Use/Import. (G) Auto paint. Import range: 200–1,500 kg/yr.

P 92–439

Importer. Hoechst Celanese Corporation.

Chemical. (G) Saturated carboxylated polyester resin.

Use/Import. (S) Resin for formulation of powder coating. Import range: 22,500–32,000 kg/yr.

P 92–440

Manufacturer. Confidential.

Chemical. (G) Polyurethane resin.

Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 92–441

Manufacturer. Interplastic Corporation.

Chemical. (G) Vinyl ester resin.

Use/Production. (S) Coating resin. Prod. range: 225,000–1,000,000 kg/yr.

P 92–442

Manufacturer. Uniroyal Chemical Company.

Chemical. (G) Aryl-alkyl substituted nitrogen heterocycle.

Use/Production. (S) Chemical blowing agent for plastics. Prod. range: Confidential.

Toxicity Data. Eye irritation: practically none species (rabbit). Skin irritation: minimal species (rabbit). Skin sensitization: negative species (guinea pig).

P 92–443

Importer. Air-Products and Chemicals, Inc.

Chemical. (G) Vinylchloride-ethylene-vinyllaurate terpolymer.

Use/Import. (S) Resin binder. Import range: Confidential.

P 92–444

Manufacturer. E.I.Du Pont De Nemours & Co., Inc.

Chemical. (G) Silane grafted ethylene based polymer.

Use/Production. (G) Sealant. Prod. range: Confidential.

P 92–445

Manufacturer. Confidential.

Chemical. (G) Fatty acid amine condensate, polycarboxylic acid salts.

Use/Production. (G) Corrosion inhibitor. Prod. range: Confidential.

P 92–446

Manufacturer. Confidential.

Chemical. (G) Coco acid triamine condensate, polycarboxylic acid salts.

Use/Production. (G) Corrosion inhibitor. Prod. range: Confidential.

Dated: January 30, 1992.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 92–2757 Filed 2–4–92; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL ELECTION COMMISSION

[Notice 1992-2]

Computerized Magnetic Media Requirements for Presidential Committees

AGENCY: Federal Election Commission.

ACTION: Announcement of Changes to the Computerized Magnetic Media Requirements for Presidential Primary and General Election Committees.

SUMMARY: The Commission has revised its document entitled "Computerized Magnetic Media Requirements for title 26 Candidates/Committees Receiving Federal Funding" (CMMR). The CMMR sets forth technical standards designed to ensure the compatibility of magnetic media provided for Commission use during the matching fund submission process and mandatory audits of these publicly-funded campaign committees. These changes provide campaigns with more options than the former version. The Revised CMMR is available on request from the Commission's Public Records Office or the Audit Division. Further information is provided in the supplementary information which follows:

EFFECTIVE DATE: January 30, 1992.

FOR FURTHER INFORMATION CONTACT: Joseph F. Stoltz, Deputy Assistant Staff Director; or Richard L. Hooper, Director, Data Systems Development Division; 999 E Street, NW., Washington, DC 20463, (202) 219–3720 (Mr. Stoltz), (202) 219–3730 (Mr. Hooper), or (800) 424–9530.

SUPPLEMENTARY INFORMATION: On June 21, 1990, the Federal Election Commission adopted a document entitled "Computerized Magnetic Media Requirements for title 26 Candidates/Committees Receiving Federal Funding" (CMMR). The CMMR sets forth technical standards designed to ensure the compatibility of magnetic media provided for Commission use during the matching fund submission process and the mandatory audits of publicly-funded Presidential campaign committees. Each Presidential candidates must agree to maintain and provide computerized magnetic media in the format prescribed by the CMMR, if the committee maintains or uses computerized information containing any specified categories of data. See 11 CFR 9003.1(b)(4) and 9033.1(b)(5).

The technical standards in the CMMR include general requirements for magnetic tape and magnetic diskettes, as well as file format specifications for records of receipts and disbursements, including contributors, vendors, invoices, bank accounts and check files. The revisions to these standards provide campaigns more options than the previous version. All are contained in page 2 under section 3 of the CMMR.

First, the maximum amount of data that may be submitted on diskette has been increased from 10 megabytes to 20.

Second, the versions of MS–DOS that the Commission will accept have been expanded from 2.1–4.01 to 2.1–5.0. This change reflects the existence of more recent versions of the software.

Finally, a section has been added to permit the use of a process that some campaigns are now utilizing, data compression and decompression utilities, under certain circumstances. Before a campaign can utilize such a program, it must provide the Commission's Data Systems Development Division with a sample file, to insure compatibility with the Commission's processing equipment.

A data compression program allows substantially more data to be packed onto a single diskette than would otherwise be possible. The data decompression program restores the data to a standard format. Since campaigns are limited to one diskette per file, this program makes the use of diskettes for larger files possible. This section requires that if a data compression utility is used to create a file, the campaign must supply the corresponding data decompression utility. This will eliminate the potential for problems between various versions of the software.

The CMMR is available upon request from the Commission's Public Records Office or the Audit Division. The technical standards found in the CMMR are also included in a supplement to the Commission's Guideline for Presentation in Good Order, to ensure distribution to the committees affected by the technical specifications. The Commission continues to encourage committees to provide samples of their magnetic tape or magnetic diskettes, so that the Commission may determine whether the samples comply with the specifications established.

Please note that the technical requirements found in the CMMR are not intended to promote or discourage the use of any particular computer system or software. The Commission believes that committees should have as much discretion as possible in selecting the computer equipment they wish to use, determining what types of financial records and information should be computerized, and deciding how the computerized information is maintained. However, committees are expected to present this financial information to the Commission in the format specified in the CMMR.

Dated: January 31, 1992.

Joan D. Aikens,

Chairman, Federal Election Commission.

[FR Doc. 92-2754 Filed 2-4-92; 8:45 am]

BILLING CODE 6715-01-M

FEDERAL RESERVE SYSTEM

DunC Corp; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than February 28, 1992.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. DunC Corp., Belvidere, Illinois; to become a bank holding company by acquiring 50.8 percent of the voting shares of Capron Bancorp, Inc., Capron, Illinois, and thereby indirectly acquire Capron State Bank, Capron, Illinois.

Board of Governors of the Federal Reserve System, January 30, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-2730 Filed 2-4-92; 8:45 am]

BILLING CODE 6210-01-F

The Fuji Bank, Limited, et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than February 28, 1992.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. The Fuji Bank, Limited, Tokyo, Japan; to acquire certain assets of the First Capital divisiion of The Financial Center Bank, N.A., San Francisco, California, and thereby to engage indirectly in commercial financing activities pursuant to § 225.25(b)(1)(iv) of the Board's Regulation Y.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. First Bank System, Inc., Minneapolis, Minnesota; to acquire Dakota Data Processing, Inc., Fargo, North Dakota, and thereby indirectly acquire data processing activities pursuant to § 225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 30, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-2731 Filed 2-4-92; 8:45 am]

BILLING CODE 6210-01-F

Society Corp.; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 26, 1992.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Society Corporation*, Cleveland, Ohio; to expand the nonbanking activities of its subsidiary, Green Machine Network Corporation, North Olmstead, Ohio, to include providing data processing services to non-financial institutions pursuant to § 225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 30, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-2732 Filed 2-4-92; 8:45 am]

BILLING CODE 6210-01-F

The Tokai Bank, Limited, Nagoya, Japan; Application to Engage De Novo in Providing Investment Advice, and Execution and Clearance of Futures Contracts and Options on Futures Contracts on Stock Indexes

The Tokai Bank, Limited, Nagoya, Japan ("Applicant"), has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) ("BHC Act") and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), to acquire 25.04 percent of the outstanding voting shares of Indosuez Carr Futures Inc., Chicago, Illinois ("Company"), and thereby engage in those activities which Company is authorized to engage in by the Board. Company is currently the wholly-owned indirect subsidiary of Banque Indosuez, Paris, France, which in turn is the wholly-owned subsidiary of Compagnie de Suez, Paris, France. Company engages as a futures commission merchant in the execution and clearance on major commodity exchanges of various futures contracts and options thereon and in providing certain investment advice regarding these instruments. These activities are conducted on a nationwide basis.

Section 4(c)(8) of the BHC Act provides that a bank holding company may with Board approval, engage in any activity "which the Board, after due notice and opportunity for hearing, has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto." This statutory test requires that two separate tests be met for an activity to be permissible for a bank holding company. First, the Board must determine that the activity is, as a general matter, "closely related to banking." Second, the Board must find in a particular case that the performance of the activity by the applicant bank holding company may reasonably be expected to produce public benefits that outweigh possible adverse effects.

Based on the guidelines established in *National Courier Association v. Board of Governors of the Federal Reserve System*, 516 F.2d 1229, 1237 (D.C. Cir. 1975), a particular activity may be found to meet the "closely related to banking test" if it is demonstrated that: (1) Banks generally have in fact provided the proposed activity; (2) banks generally provide services that are operationally or functionally similar to the proposed activity so as to equip them particularly well to provide the proposed activity; or (3) banks generally provide services that are so integrally related to the proposed activity as to require their provision in a specialized form. The *National Courier* guidelines are not, however, the exclusive basis for finding a proposed activity closely related to banking, and the Board may consider any other basis that may demonstrate that the activity has a reasonable or close relationship to banking.

Company has received approval from the Board to engage in the following activities: Acting as a futures commission merchant and providing investment advice pursuant to §§ 225.25(b)(18) and (19) of the Board's Regulation Y (12 CFR 225.25(b)(18), (19)). Company has also received the Board's approval to act as a futures commission merchant with respect to, and provide investment advice on the following: The foreign currency options traded on the Philadelphia Stock Exchange ("PHLX"); the stock index options traded on the Chicago Board Options Exchange; the S&P 500 stock index futures contract and the options traded thereon traded on the Chicago Mercantile Exchange ("CME"); the Major Market Index stock index futures contract traded on the Chicago Board of Trade ("CBOT"); the Nikkei Stock Average futures contract ("Nikkei futures contract") traded on the Singapore International Monetary Exchange ("SIMEX"); the FT-SE 100 Equity Index futures contract traded on the London International Financial Futures Exchange; the Tokyo Stock Price Index futures contract ("TOPIX futures contract") traded on the Tokyo Stock Exchange ("TSE"); the Hang Seng Stock Index futures contract and options thereon traded on the Hong Kong Futures Exchange; the All Ordinaries Share Index futures contract traded on the Sydney Futures Exchange; the New York Stock Exchange Composite Index futures contract traded on the New York Futures Exchange; and the Value Line Average stock index futures contract traded on the Kansas City Board of Trade.

Company also provides brokerage and advisory services with respect to futures contracts (and options on futures contracts) on bullion, foreign exchange, government securities, Eurodollars, and other money market instruments that a bank may buy or sell in the cash market for its own account, and also executes and clears orders for PHLX foreign currency options. Company provides discount brokerage services with respect to United States Government and agency securities pursuant to § 225.25(b)(15) of the Board's Regulation Y (12 CFR 225.25(b)(15)).

In addition, by separate application Company has applied to engage *de novo* in providing investment advice and engaging in the execution and clearance on the CME of the Nikkei futures contract and options thereon, and on the CBOT of the TOPIX futures contract and options thereon. Applicant takes the position that the proposed activities with respect to the Nikkei futures contract and the TOPIX futures contract are "closely related to banking" under the *National Courier* standard.

Applicant believes that these proposed activities are "so closely related to banking or managing or controlling banks as to be a proper incident thereto." The Board has previously approved the execution and clearance of, and provision of investment advice with respect to, all of the futures contracts and options thereon noted above with four exceptions. *See, e.g., Chemical Banking Corporation*, 76 Federal Reserve Bulletin 660 (1990)(Standard & Poor's 500 Stock Price Index futures contract ("S&P 500") and options thereon traded on the CME); *The Long-Term Credit Bank of Japan, Limited*, 74 Federal Reserve Bulletin 573 (1988)(S&P 500; options on the S&P 500). The Board has not previously approved the execution and clearance of the Nikkei futures contract and options thereon traded on the CME or the TOPIX futures contract and options thereon traded on the CBOT. Applicant asserts that these proposed activities are functionally similar to activities previously approved by the Board. *See, e.g., The HongKong and Shanghai Banking Corporation*, 76 Federal Reserve Bulletin 770 (1990)(Nikkei futures contract traded on the SIMEX; TOPIX futures contract traded on the TSE); *Chemical Banking Corporation, supra*. In conducting these activities, Applicant states that Company would comply with the commitments set forth in §§ 225.25(b)(18) and (19) of the Board's Regulation Y (12 CFR 225.25(b)(18), (19)), as well as the prudential limitations established by the Board in previous Orders. Accordingly, Applicant contends that the proposed activities are functionally similar to those currently being conducted by banks and bank holding companies and are therefore closely related to banking.

Applicant takes the position that the proposed activities will benefit the public. Applicant believes that the proposed activities will promote competition and provide added convenience to customers of Company and gains in efficiency. Moreover, Applicant believes that these benefits will outweigh any possible adverse effects of the proposed activities and that, indeed, no adverse effects are currently foreseen.

Any views or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC, 20551, not later than February 19, 1992. Any request for a hearing must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how that party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of San Francisco.

Board of Governors of the Federal Reserve System, January 30, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-2733 Filed 2-4-92; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 88N-0003]

RIN 0905-AA06

Antacid and Acetaminophen Combination Drug Products in a Solid Dosage Form; Marketing Status for Over-the-Counter Human Use; Notice of Enforcement Policy

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an enforcement policy allowing over-the-counter (OTC) marketing of antacid and acetaminophen combination drug products in solid oral dosage forms. The OTC marketing of such drug products is being permitted pending establishment under the OTC drug review of an amendment to the final monograph for OTC antacid drug products. FDA anticipates that antacid and acetaminophen combination products in a solid oral dosage form will be determined to be generally recognized as safe and effective and not misbranded.

EFFECTIVE DATE: The enforcement policy is effective February 5, 1992.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drug Evaluation and Research (HFD-210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8000.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 4, 1974 (39 FR 19862), FDA issued a final monograph for OTC antacid drug products (21 CFR part 331). Section 331.15(b) (21 CFR 331.15(b)) of the monograph provides for the combination of an antacid and any generally recognized as safe and effective analgesic ingredient(s), if the combination is indicated for use solely for concurrent symptoms, e.g., headache and acid indigestion, and is marketed in a form intended for ingestion as a solution. These combinations were limited to administration in solution because all the evidence of safety submitted for review under the rulemaking for OTC antacid drug products was derived from studies and experience with products administered as solutions (39 FR 19862 at 19869).

Subsequent to the publication of the final rule for OTC antacid drug products, the Advisory Review Panel for OTC Internal Analgesic and Antirheumatic Drug Products (the Internal Analgesic Panel) reviewed data on OTC antacid/analgesic combinations and recommended conditions for their safe and effective use in its report on OTC internal analgesic, antipyretic, and antirheumatic drug products (42 FR 35346, July 8, 1977). This Panel recommended that acetaminophen could be combined with a Category I antacid ingredient provided the product was labeled for the concurrent symptoms involved, e.g., "For the temporary relief of occasional minor aches, pains, and headache, * * *, and for acid indigestion." The Panel did not specify any specific dosage form.

In the tentative final monograph for OTC internal analgesic, antipyretic, and antirheumatic drug products, published in the **Federal Register** of November 16, 1988 (53 FR 46204), FDA proposed that acetaminophen may be combined with any antacid ingredient(s) and may be labeled only for concurrent symptoms (see § 343.20(b)(1), 53 FR 46204 at 46255). In the same issue of the **Federal Register** (53 FR 46190), FDA also published a notice of proposed rulemaking to amend the final monograph for OTC antacid drug products to revise the conditions for marketing combination antacid/analgesic drug products. The agency proposed to update the antacid final monograph to be consistent with the proposals being made in part 343 (the internal analgesic, antipyretic, and antirheumatic tentative final monograph) to allow: (1) Antacid and acetaminophen ingredients to be combined and labeled only for concurrent symptoms, and (2) aspirin and antacid ingredients when marketed in a form intended for ingestion as a solution to be combined and labeled for concurrent symptoms as well as analgesic indications alone. The agency also stated that because of the interrelationship of the amendment to the antacid final monograph and the tentative final monograph for OTC internal analgesic, antipyretic, and antirheumatic drug products, the agency did not intend to finalize the amendment to the antacid monograph until the comments to the internal analgesic, antipyretic, and antirheumatic tentative final monograph have been fully evaluated. Interested persons were given until March 16, 1989 to submit comments or objections to the proposal to amend the antacid monograph. No comments or objections were received.

After carefully reviewing all of the available information regarding antacid-acetaminophen combination drug products, the agency is issuing a notice of enforcement policy permitting OTC marketing of these drug products in a solid oral dosage form, a new dosage form that has not previously been marketed. The agency has determined that there are no unresolved safety or effectiveness issues relating to the OTC use of antacid-acetaminophen combination drug products in a solid oral dosage form. Accordingly, the agency finds no reason to continue to bar the interim marketing of such products.

As noted above, the November 16, 1988 proposed amendment of the antacid monograph also addressed aspirin and antacid combinations in a form intended for ingestion as a solution. Such combination drug products are presently being marketed. Therefore, it is not necessary to address their marketing status in this notice.

The agency advises that any antacid ingredient in § 331.11 (21 CFR 331.11) may be combined with acetaminophen in a solid oral dosage form (in accord with proposed § 343.20(b)(1) (53 FR 46204 at 46255)) provided the product is intended and labeled for OTC use only for the concurrent symptoms involved, i.e., "For the temporary relief of minor aches and pains with * * * heartburn, sour stomach, or acid indigestion * * *." See proposed § 343.60(b)(2) (53 FR 46258). Such products may be marketed pending issuance of a final monograph for OTC internal analgesic, antipyretic, and antirheumatic drug products and an amendment to the final monograph for OTC antacid drug products to provide for this new antacid-acetaminophen combination and dosage form. Marketers of such products are subject to the risk that the agency may, in the final monograph for OTC internal analgesic, antipyretic, and antirheumatic drug products, or in the amendment to the final monograph for OTC antacid drug products, adopt a other regulatory action.

Because the antacid component of this combination drug product is regulated by a final monograph, marketing of antiacid-acetaminophen combination drug products with labeling that is not in accord with the labeling proposed in the tentative final monograph for OTC internal analgesic, antipyretic, and antirheumatic drug products (proposed 21 CFR part 343) and contained in the current final monograph for OTC antacid drug products (21 CFR part 331) may result in regulatory action against the product, the marketer, or both. The labeling for antacid-acetaminophen combination drug products in a solid oral dosage form is stated below. This labeling is required for marketing any antacid-acetaminophen combination drug product for ingestion in a solid oral dosage form.

Statement of Identity

For a combination drug product that has an established name, the labeling of the product states the established name of the combination drug product, followed by the statement of identity for each ingredient in the combination, as established in the statement of identity sections of the applicable OTC drug monographs. For a combination drug product that does not have an established name, the labeling of the product states the statement of identity for each ingredient in the combination, as established in the statement of identity sections of the applicable OTC drug monographs. For antacid-acetaminophen combination drug products, the statement of identity for the antacid component in § 331.30(a) and the statement of identity for the internal analgesic component in proposed § 343.50(a) must be used.

Indications

The labeling of the product states, under the heading "Indications," the indication(s) for each ingredient in the combination, as identified in proposed § 343.60(b)(2).

Warnings

The labeling of the product states, under the heading "Warnings," the applicable warning(s) for each ingredient in the combination, as established in the warnings sections in § 331.30(c) and in proposed § 343.50(c) and in the drug interaction precautions section in § 331.30(d).

Directions

The labeling of the product states, under the heading "Directions," directions that conform to the directions established for each ingredient in section § 331.30(e) and in proposed § 343.50(d). When the time intervals or age limitations for administration of the individual ingredients differ, the directions for the combination product may not exceed any maximum dosage limits established for the individual ingredients in § 331.11 and in proposed § 343.50(d).

Warnings and directions for use, respectively, applicable to each ingredient in the product may be combined to eliminate duplicate words or phrases so that the resulting information is clear and understandable.

The final monograph for OTC internal analgesic, antipyretic, and antirheumatic drug products and the amendment to the final monograph for OTC antacid drug products, when published, will establish the final labeling requirements for OTC antacid-acetaminophen combination drug products in a solid oral dosage form.

Interested persons may submit written comments to the Dockets Management Branch (address above). Such comments will be considered in determining whether further amendments to or revisions of this policy are warranted. Three copies of all comments shall be submitted, except that individuals may submit single copies. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 30, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-2727 Filed 2-4-92; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Low Income Levels for Health Professions and Nursing Programs

The Health Resources and Services Administration (HRSA) is updating income levels used to identify a "low income family" for the purpose of providing training for individuals from disadvantaged backgrounds under various health professions and nursing programs included in titles VII and VIII of the Public Health Service Act (the Act).

The Department periodically publishes in the **Federal Register** low income levels used by the Public Health Service for grants and cooperative agreements to institutions providing training for individuals from disadvantaged backgrounds. A "low income level" is one of the factors taken into consideration to determine if an individual qualifies as a disadvantaged student for purposes of health professions and nursing programs.

The programs under the Act that use "low income levels" as one of the factors in determining disadvantaged backgrounds include the Health Careers Opportunity Program (section 787), the Program of Financial Aid for Disadvantaged Health Professions Students (section 787(b)), the Scholarships for Undergraduate

Education of Professional Nurses Grant Program (section 843), and Nursing Education Opportunities for Individuals From Disadvantaged Backgrounds (section 827). Loans to Disadvantaged Students (section 740(c)), Scholarships for Health Professions Students From Disadvantaged Backgrounds (section 760), Disadvantaged Health Professions Faculty Loan Repayment Program (section 761) were added to title VII by the Disadvantaged Minority Health Improvement Act of 1990 (Pub. L. 101–527) and are also using the low income levels. Other factors used in determining "disadvantaged backgrounds" are included in individual program regulations and guidelines.

Health Careers Opportunity Program (HCOP), Section 787

Awards grants to accredited schools of medicine, osteopathic medicine, public health, dentistry, veterinary medicine, optometry, pharmacy, podiatric medicine, allied health, chiropractic and public or nonprofit private schools which offer graduate programs in clinical psychology, and other public or private nonprofit health or educational entities that assist individuals from disadvantaged backgrounds to enter and graduate from health professions schools.

Financial Aid for Disadvantaged Health Professions Students (FADHPS), Section 787(b)

Awards grants to accredited schools of medicine, osteopathic medicine, and dentistry to provide financial assistance, without a service or financial obligation, to individuals from disadvantaged backgrounds who are of exceptional financial need, to help pay for their health professions education.

Scholarships for Undergraduate Education of Professional Nurses (SUEPN), Section 843

Awards grants to accredited schools of nursing to provide financial assistance, with a service obligation, for tuition and fees to individuals who are enrolled as undergraduate nursing students in diploma, associate, or baccalaureate degree programs, or in programs of nursing education leading to a first degree in professional nursing and who are in financial need with respect to attending these schools. Schools must give preference in awarding scholarships to individuals from disadvantaged backgrounds.

Nursing Education Opportunities for Individuals From Disadvantaged Backgrounds, Section 827

Awards grants to accredited schools of nursing and other public or nonprofit private entities to meet costs of special projects to increase nursing education opportunities for individuals from disadvantaged backgrounds.

Loans to Disadvantaged Students, Section 740(c)

Awards are made to certain accredited schools of medicine, osteopathic medicine, dentistry, optometry, pharmacy, podiatric medicine, and veterinary medicine for financially needy students from disadvantaged backgrounds.

Scholarships for Health Professions Students From Disadvantaged Backgrounds, Section 760

Awards grants to schools of medicine, nursing, osteopathic medicine, dentistry, pharmacy, podiatric medicine, optometry, veterinary medicine, allied health, or public health, or schools that offer graduate programs in clinical psychology for the purpose of assisting such schools in providing scholarships to individuals from disadvantaged backgrounds who enrolled (or are accepted for enrollment) as full-time students.

Disadvantaged Health Professions Faculty Loan Repayment Program, Section 761

Awards grants to repay the health professions education loans of disadvantaged health professionals who have agreed to serve for at least 2 years as a faculty member of a school of medicine, nursing, osteopathic medicine, dentistry, pharmacy, podiatric medicine, optometry, veterinary medicine, public health, or a school that offers a graduate program in clinical psychology.

The following income figures were taken from low income levels published by the U.S. Bureau of the Census, using an index adopted by a Federal Interagency Committee for use in a variety of Federal programs. That index includes multiplication by a factor of 1.3 for adaptation to health professions and nursing programs which support training for individuals from disadvantaged backgrounds. The income figures have been updated to reflect increases in the Consumer Price Index through December 31, 1991.

Size of parents family [1]	Income level [2]
1	$9,100
2	11,800
3	14,100
4	18,000
5	21,300
6 or more	23,900

[1] Includes only dependents listed on Federal income tax forms.

[2] Rounded to the nearest $100. Adjusted gross income for calendar year 1991.

Dated: January 30, 1992.

Robert G. Harmon,

Administrator.

[FR Doc. 92–2764 Filed 2–4–92; 8:45 am]

BILLING CODE 4160–15–M

Indian Health Service

List of Recipients of Indian Health Scholarships Under the Indian Health Scholarship Program

The regulations governing Indian Health Care Improvement Act Programs (Pub. L. 94–437) provide at 42 CFR 36.334 that the Indian Health Service shall publish annually in the **Federal Register** a list of recipients of Indian Health Scholarships, including the name of each recipient, school and tribal affiliation, if applicable. These scholarships were awarded under authority of section 102 and 104 of Public Law 100–713, The Indian Health Care Amendments of 1988 (25 U.S.C. 1613–1613a). The following is a list of Indian Health Scholarship recipients for Fiscal Year 1991:

Aaberg, Aaden-Elleph, University of Alaska, Aleut
Abeita, Camila Ann, University of New Mexico, Isleta Pueblo
Adair, Nonita B., University of Arizona, Navajo
Adkins, Torland Eugene, Weber State College, Chickahominy
Adkison, Dean Wendell, Loma Linda University, Aleut
Akins, Thea Lorena, Weber State College, Penobscot
Albert, Corrina Dynalle, New Mexico State University, Laguna Pueblo
Albert, Melissa Francine, New Mexico State University, Navajo
Allard, Stephanie Marie, North Dakota State University, Turtle Mt. Chippewa
Allen, Phylomine W., University of South Dakota, Turtle Mt. Chippewa
Allen, Sylvia Lynn, College of St. Mary, Omaha Tribe of Nebraska
Allick, Albert Philip, University of North Dakota, Turtle Mt. Chippewa
Alstrom, Gail, Stanford University, Alaska Native
Anderson, Channa Lee, Oklahoma State University, Creek
Anderson, Matthew Curtis, Eastern Oklahoma State, Choctaw

Anquoe, Terri, University of Oklahoma Health Science Center, Kiowa
Antone, Lucy T., Pima Community College, Navajo
Arkansas, Carmen, Appalachan State University, Eastern Cherokee
Armstrong, Samantha Dee, University of Oklahoma, Cherokee
Arviso, Alberta, Washington State University, Navajo
Arviso, Angela Mary, Arizona State University, Navajo
Arviso, Anthony Lionel, Eastern New Mexico University, Navajo
Ashley, Josephine, Arizona State University, Navajo
Attla, Marilyn Elaine, University of Washington, Alaskan Doyon
Auten, Krista Renae, East Central Oklahoma State University, Choctaw
Azure, Joette Danielle, University of North Dakota, Turtle Mt. Chippewa
Azure Esquiro, Heather, Presentation College, Alaska
Bain, Edlin David, University of Arizona, Navajo
Baker, Biron Dale, University of North Dakota, Three Affiliated
Baker, Susan Frankye, Cheyenne River Lakota, Standing Rock Sioux
Bancroft, Trina Ann, University of Colorado, Ute Mountain
Barlow, Allen, San Juan College, Navajo
Barnes, Mannix Deroin, University of Oklahoma Dental School, Kiowa
Barnett, Frank, University of Washington, Alaska
Barnett Jr., James F., University of Oklahoma, Osage
Barnett Sr., Ronald Ray, Boston University, Creek
Barrong, Michael Todd, University of Washington, Choctaw
Bartlett, Onna Mae, University of North Dakota, Rosebud Sioux
Bartmess, Valene Nancy, University of Oklahoma, Creek
Beauvais, Robert James, University of Hawaii, Rosebud Sioux
Becenti, Roland, Northern Arizona University, Navajo
Beck, William Eugene, Utah State University, Shoshone
Beets Jr., Billy Conn, University of North Dakota, Cherokee
Begay, Adriann Westine, University of Arizona, Navajo
Begay, Angela Ann, St. Mary of the Plains, Navajo
Begay, Carol Jean, Fort Lewis College, Navajo
Begay, Lelia, Mohave Community College, Navajo
Belgarde, Patrick Edward, North Dakota State University, Chippewa
Bell, Stephanie Lynn, Northern Montana College, Assiniboine & Sioux
Bell, Whitney Merle, University of North Dakota, Three Affiliated
Benally, Belinda Jane, Grand Canyon College, Navajo
Benally, Cheryl Lynn, University of Arizona, Navajo
Benn, Denise Michelle, Hinds Community College, Mississippi Band of Choctaw
Bergen, Michelle Renee, Arizona State University, White Mountain Apache
Berryhill, Brett Wayne, University of Oklahoma, Creek
Berryhill, Wayne Edward, University of Oklahoma, Creek
Bia, Claira, Western New Mexico University, Navajo
Biermann, Mary Lou, University of Texas, Creek
Billedeaux, Mary-Jane, Salish Kootenai, Confederated Salish & Kootenai
Billie, Deborah M., University of New Mexico, Navajo
Binford, Josephine J., Central Texas College, San Juan Pueblo
Birdinground Hogan, Valerie S., University of Health Science College, Crow
Bitselley, Wendolyn, Northern Arizona University, Navajo
Blackwater, Marlene, Mesa Community College, Navajo
Blackwater, Norma, University of North Dakota, Navajo
Blue, Donald Ray, East Central Oklahoma State, Lumbee
Blue, Joanne Cecile, University of North Dakota, Turtle Mt. Chippewa
Blue, Joleen Renee, Bemidji State University, Bad River Band of Wisconsin
Blue, Virginia Pamela, University of North Dakota, Turtle Mt. Chippewa
Bluehouse, Orpha Eleanor, Northern Arizona University, Navajo
Bogdanski, Matilda Catherine, University of Washington, Eskimo
Bowker, Debra Dawn, University of Minnesota, Cheyenne River Sioux
Bradley, Elizabeth Ann, University of South Florida, Cherokee
Brady-Davis, Elizabeth Ann, Boise State University, Potawatomi
Brayboy, Necia Lynn, Pembroke State University, Lumbee
Braziel, Holly Jean, Oklahoma Baptist University, Chickasaw
Brings, Terra Beth, Wright State University, Brule Sioux
Brislin, Theresa Marie, Pacific Lutheran University, Zuni
Brown, Emmeline Gail, Salish-Kootenai Community College, Crow
Brown Sr., Freddie Herman, University of Utah, Navajo
Brown, Valerie Lee, University of North Dakota, Cherokee
Bruce, Craig Steven, University of Nebraska, Turtle Mt. Chippewa
Bruce, Ella Mae, University of North Dakota, Turtle Mt. Chippewa
Bruce, Wendell J., North Dakota State College of Science, Turtle Mt. Chippewa
Buchanan, Sharyn Rose, Oklahoma University Health Science Center, Winnebago
Buckman, Elva, Salish-Kootenai College, Arapahoe
Burchette, Betty Christina, University of Oklahoma, Citizen Band Poiawai
Burdette-Stevens, Brenda, Phoenix College, San Carlos Apache
Burr, Larry, University of North Dakota, Three Affiliated
Burrell II, Sherie Kay, North Eastern Oklahoma A&M College, Peoria
Butler, Georgia-Ann, Minot State College, Cherokee
Butler, Sherry L., Oklahoma Baptist University, Creek
Byrum, Sr., Daneece Michelle, California State University, Choctaw
Caley, Jean Karen, University of Alaska, Alaska Native
Callison, Shari Dawn, Southwest Baptist University, Cherokee
Cameron, Charles G., University of Hawaii/Manoa, Alaska
Canyon, Sam, California State University, Navajo
Carlile, Thomas Michael, University of Oklahoma, Cherokee
Carlson, Sheree, University of North Dakota, Three Affiliated
Carpenter, Julie Camille, Oklahoma City University, Chickasaw
Carroll Jr., Wilceta, Northern Arizona University, Navajo
Carter, Marcie Donell, Lewis-Clark State College, Nez Perce
Cartier, Michelle Renae, North Montana College, Sisseton
Castillo, Christine M., New Mexico State University, Pueblo
Cavanaugh, Mary Elizabeth, University of North Dakota, Devils Lake Sioux
Cayatineto, Barbara Ann, University of New Mexico, Navajo
Chacon, Gayle, University of New Mexico, Navajo
Champlin, Brenda Sue, Westark Community College, Cherokee
Chapela, Roselyn Ann, University of New Mexico, Navajo
Charley, Pauline, Gateway Community College, Navajo
Chavis, Karen Benetta, University of North Carolina, Lumbee
Chavis, Robert Michal, Trevecca Nazarene College, Lumbee
Cheatwood, Darla Jo, East Central Oklahoma State University, Creek Chiloquin, Melvin Lee, Concordia College, Klamath
Chinena, Evelyn Cecelia, University of New Mexico, Pueblo
Chouteau, Lavon, Grossmount Community College, Cherokee
Christensen, Eric James, University of Nevada, Navajo
Clark, Lee Annette, Montana State University, Chippewa
Claw, Carol Jean, Western New Mexico University, Navajo
Claymore, Bonita Kathryn, Cheyenne River Lakota, Cheyenne
Claymore-Lahammer, Vickie Michelle, University of SD, Cheyenne River Sioux
Clifford, Anna Marie, Northern Montana College, Oglala Sioux
Cobb, Stephen W., University of Minnesota, Cherokee
Coby Roa, Celestine Rosetts, Boise State University, Shoshone
Cody, Jodi Jean, Glendale Community College, Navajo
Collins, Gloria Ann, University of Utah, Assiniboine & Sioux
Conrad, Rozilyn Hyde-Karty, Oklahoma University, Commanche
Cooeyate, Norman James, University of New Mexico, Zuni
Cooper, Casey Mitchell, Gardner-Webber College, Cherokee
Coplin, Michael Paul, East Central Oklahoma State University, Chickasaw

Corbine, David Paul, University of North Dakota, Turtle Mt. Chippewa
Cottier-Schrader, Lisa Ann, University of Utah, Oglala Sioux
Cox, Ann Marie, University of Oklahoma, Commanche
Crank, Ernestine, Northern Arizona University, Navajo
Crawford, Jamisu Lynn, Northern Montana, Blackfeet
Crawford, Lois A., University of North Dakota, Sisseton-Wahpeton Sioux
Crookedarm, Regina S., Salish-Kootenai College, Confederated Salish & Kootani
Cruz, Brenda Paniagua, Western Carolina University, Eastern Band of Cherokee
Cummings-Wero, Maeuneka, Eastern New Mexico University, Navajo
Curley, Sherwin, University of Arizona, Navajo
Cutnose, Erin Jill, University of Oklahoma, Kiowa
Daggett, Darla Jean, Oklahoma University Health Science Center, Creek
Dahozy, Roger Norman, Arizona State University, Navajo
Daniel Jr., Sidney Browning, South Western State College, Creek
Darrough, Ramona May, American Medical Records Assoc.—ISPP, Crow Creek
Darwin Jr., Wilbert, Oral Roberts University, Navajo
Daugherty, Christine Marie, Bunker Hill Community College, Potawatomi
Davis, Bernadine Laverne, California State University, Navajo
Davis, Brenda, California State College, Navajo
Davis, Darryl Adam, Arizona State University, Navajo
Davis, Debra Ann, University of Oklahoma, Delaware Tribe
Davis, Jerry, Colorado State University, Navajo
Davis, Mitchell Ryan, Boston University, Cherokee
Davis, Rita Ann, University of North Dakota, Turtle Mt. Chippewa
Davis, Zona Lee, Oklahoma State University, Cherokee
Day, Danielle Danae, North Dakota State University, Minnesota Chippewa
Deal, Kellie R., Cheyenne River Lakota, Cheyenne River Sioux
Dehaas-McLaughlin, Dolores, Carroll College, Standing Rock Sioux
Deloache, Christopher Sarrett, Oklahoma State University, Choctaw DeLong, Amy Jo, University of Michigan, Wisconsin Winnebago
DeLorme, Angelynn, University of Portland, Turtle Mt. Chippewa
DeLorme, Kris Ann, University of North Dakota, Turtle Mr. Chippewa
DeMontigny, Myra Ann, University of North Dakota, Turtle Mt. Chippewa
Dempsey, Teresa Marie, Phoenix College, Navajo
Denning, Gail Ann, San Jose State University, Venetie
Denny, Roberta Ann, Montana State University, Cheyenne & Arapahoe
Detsoi, Pamela Jean, University of New Mexico, Navajo
Dewey, Mary Joan, Maricopa County Community College, San Carlos Apache
Dial, Cornelious, University of North Carolina, Lumbee
Dickson, Janise, Northern Arizona University, Navajo
Dixon, Eric, University of Arizona, Navajo
Dodd, Gregory Joneil, Rose State College, Seminole
Dolezal, Colette, University of South Dakota, Cheyenne
Dominguez, Michelle Kaye, University of New Mexico, Yankton Sioux
Douville, Robert Carl, Mount Marty College, Oglala
Drapeau, Donna Marie, University of New Mexico, Pueblo
Dugaqua, Elizabeth-Ann, Pennsylvania State University, Alaska
Dumontier, Timothy Albert, University of Southern California, Kootenai
Duncan, Lena, Weber State University, Ute
Duran, Thomas Charles, University of Colorado, Southern Ute
Duverger, Diane Monts, Angston University, Creek
Eagle, Gloria Jean, University of Colorado, Three Affiliated
Earl, Leah Rene, Arizona State University, Navajo
Ebert, Mendy Ann, Fort Lewis College, Osage
Eddings, Lisa Ann, East Central Oklahoma State University, Creek
Eddins, Paul Eugene, University of New Mexico, Navajo
Ellick, Virginia M., Rogers State College, Cherokee
Elson, Susan E., Arizona State University, Chippewa
Emerson, Nathan Daniel, University of New Mexico, Navajo
Emmons, Marlene Rose, Grand Canyon, Navajo
Erdrich, Angela M., Dartmouth Medical School, Turtle Mt. Chippewa
Erdrich, Liselotte Ann, Mankato State University, Turtle Mt. Chippewa
Etsitty, Norma Jean, University of South Colorado, Navajo
Etsitty, Edison Virgil, Weber State College, Navajo
Factor, Patrick Ryan, University of Oklahoma, Creek
Finley, Jennifer Lynn, Eastern Washington, Confederated Tribes
Finley, Tina Dionne, University of Science & Arts of Oklahoma, Choctaw
Fiorello, Albert Bruno, SUNY at Buffalo, Cherokee
Fitzpatrick, Robin Dawn, University of Oklahoma, Chippewa
Flansburg, Julie Rose, Northern Montana College, Chippewa-Cree
Fogarty, Jonathan William, North Dakota State University, Cheyenne River Sioux
Four Bear, Dale James, University of North Dakota, Assiniboine & Sioux
Fox, Frederick, Mary College, Three Affiliated
Fox, Valerie Louise, Mayo Medical School, Minnesota Chippewa
Fragua, Leanore, University of Wisconsin, Jemez Pueblo
Francis, Michael, Northern Arizona University, Navajo
Frank, Colleen Lou, Phoenix College, Navajo
Fry, Michael Allen, Dartmouth Medical School, Cherokee
Fryrear, Janette Elaine, University of Arizona, Chickasaw
Fullerton, Mary Ruth, Louisiana State University, Assiniboine & Sioux
Gallagher, Ronnalea, northern Montana College, Blackfeet
Gallagher, Vincent Francis Jr., Presentation College, Lower Brule Sioux
Garcia, Doris C., Arizona State University, Navajo
Garnenez, Ragene Ann, Northern Arizona University, Navajo
Garnett, Zona Lillian, Pacific Lutheran University, Minnesota Chippewa
Gatzman, Sidney Joseph, Langston University, Choctaw
Gene, Miriam Jean, Northland Pioneer College, Hopi
George, Shgen-Doo-Tan Robyn, University of Puget Sound, Alngit
Ghahate, Alvera Jean, University of New Mexico, Zuni
Gibson, Cynthia Renee, University of Southern Mississippi, Choctaw
Gilbert, Barbara Louise, University of Hawaii, Spokane
Gipp, Albert Louis Jr., University of Kansas, Standing Rock Sioux
Giron, Eleanor Nicole, University of North Dakota, Turtle Mt. Chippewa
Giroux, Jamie Lynn, Cheyenne River Lakota, Standing Rock Sioux
Givan, Janis Marie, University of Washington, Port Gamble
Glaze, Branda Blanche, Rogers State College, Oglala Sioux
Gourneau, Jessica Lynn, University of North Dakota, Turtle Mt. Chippewa
Gourneau, Lori Ann, University of North Dakota, Turtle Mt. Chippewa
Gourneau, Marlene Marie, University of North Dakota, Oglala
Gourneau, Jr., Ronald Paul, University of South Dakota, Turtle Mt. Chippewa
Grant, Lorna B., Northern Montana College, Fort Belknap
Grant, Suzanne Fay, University of North Dakota, Turtle Mt. Chippewa
Gray, Shelley Marie, Eastern Montana College, Ft. Belknap
Grayson, Wilhelimena Louise, University of New Mexico, Navajo
Greenhagen, Henrietta V., Penn Valley Community College, Eastern Cherokee
Gregory, James Anthony, University of Oklahoma, Choctaw
Griggs, Roger Lee, University of Arizona, White Mountain Apache
Grooms, Kimberly Sue, St. Edward Mercy Medical Center, Cherokee
Gustafson, Janice Kay, Northland College, Lake Superior Chippewa
Guy, Kim Rayna, Portland State University, Cherokee
Hagans, Melanie Chanea, University of North Carolina, Lumbee
Haggar, Helen Marie, University of St. Mary, Turtle Mt. Chippewa
Halfred III, Franklin Darcy, Presentation College, Cheyenne River Sioux
Hall, Lucille Yvonne, Rapid City Regional Hospital, Oglala Sioux
Hall, Rebecca Lynn, University of Montana, Blackfeet

Hamilton, Rose Marie, California School of Psychology, Chitina Alaskan
Hammonds, Tina Marie, Boston University, Lumbee
Hanks, Dawn Marie, University of Mary, Standing Rock Sioux
Hanley Jr., Bennie B., Northern Arizona University, Navajo
Hansen, Anamarie-June, Oregon Institute of Technology, Aleut
Hardin, Christina, Peace College, Lumbee
Hardy, Katherine Ann, Northern Arizona University, Navajo
Harhut, Michael Anthony, University of Portland, Nome Eskimo
Harjo, Gene, East Central Oklahoma State University, Creek
Harper, Darci Jo, Montana State University, Cheyenne River Sioux
Harris, Lucinda Therese, University of New Mexico, Ft. Belknap
Harris, Melvin Lloyd, University of Oklahoma, Navajo
Harris, Richard, University of Health Sciences, Kiowa
Harrison, Wendy Lynn, University of Science & Arts, Chickasaw
Harroun, Patricia Isobelle, Lewis & Clark State College, Salish & Kootenai
Hartin, Kara Reanee, University of Oklahoma Health Science Center, Chickasaw
Harwood, Terry Dale, University of New Mexico, Standing Rock Sioux
Hastings, Verna Susan, Northland Pioneer College, Apache
Haycock, Cynthia Maureen, Grand Canyon College, Navajo
Heffington, Jina Suzette, Lynchburg General Hospital, Choctaw
Hendren, Florence Velma, University of New Mexico, Navajo
Henry, Daniel, University of North Dakota, Turtle Mt. Chippewa
Henry, Emolinda Jean, Mohave Community College, Navajo
Henshaw III, Aubrey Judson, University of Oklahoma, Cherokee
Heredia, Joyce Christine, University of New Mexico, Zuni
Herrod, Jon David, University of Kansas, Cheyenne
Hicks, Kimberlee Rujuan, Northeastern State University, Creek
Highfield, Cynthia Suzanne, East Central Oklahoma State University, Chickasaw
Hill, Virginia Ann, School of Social Work, San Diego, Tonawanda Band of Senecas
Hillaire, Carla Rae, University of North Dakota, Lummi
Hocson, Danial Lloyd, University of Washington, Alaska Native
Hoffman, Luanna Lynn, University of South Dakota, Minnesota Chippewa
Hogner, David Adam, Western Carolina University, Creek
Honawa, Eliza Louise, Rogers State College, Cherokee
Hoverson, Brenda Lee, University of North Dakota, Turtle Mt. Chippewa
Howell, Daniel Dexter Jr., University of Oklahoma, Caddo
Hubbard, Joseph H., University of Arizona, Navajo
Huddleston-Giroux, Jennifer A., University of North Dakota, Rosebud Sioux
Hunter Jr., Terry Lynn, University of Oklahoma, Kiowa
Ignance, Lyle Anthony, University of Wisconsin, Coeur D'Alene
Iron Moccasin, Brian Aquilar, Northern Arizona University, Navajo
Isburg, Anthony L., South Dakota School of Mines & Technology, Crow Creek Sioux
Isham, Debra Kay, University of California/Berkeley, Seminole
Ivey, Jimmy Don, East Central University, Chickasaw
Jackson, Sheila Rae, Clackamas Community College, Yakima
Jacobs, Rhoda Mae, Oglala Lakota College, Oglala Sioux
Jake, Kirsten Leigh, University of Oklahoma, Pawnee
Jarvis, David Lloyd, University of Washington, Osage
Jenkins, Jeffery Lee, Oklahoma Christian College, Cherokee
Jensen, Carmen Sue, Colorado State University, Oglala
Jewett, Lorraine, Vanderbilt University, Cheyenne River Sioux
Jim, Cephia K., University of New Mexico, Navajo
John, Marcella Ann, Weber State College, Navajo
John, Wendy Theo, University of Hawaii, Seneca Nation of New York
John, Yvonne Tracy, Grand Canyon College, Navajo
Johns, Elizabeth Ann, University of New Mexico, Navajo
Johns, Elizabeth Jean, Northern Michigan University, Minnesota Chippewa
Johnson, Bryan Lee, Northeastern State University, Choctaw
Johnson, Darlene Ann, Bemidji State University, Red Lake Chippewa
Johnson, Shari Kaye, North Dakota State University, Minnesota Chippewa
Jones, Catherine Jeanne, Rogers State Collete, Onondaga
Jones, Robert Stephen, University of Oklahoma, Cherokee
Jones, Susie Chi, University of New Mexico, Navajo
Jordan, John Taylor, Northern State College, Wahpeton Sioux
Judson, Susan Beulah, Forsyth School for Dental Hygienists, Penobscot
Jumping-Eagle, Sara Juanita, University of North Dakota, Oglala Sioux
Juvinel, Lorna Tuanda, Everett Community College, Yakima
Kalectaca, David, Arizona State University, Navajo
Kasapidis, Kimberley Dawn, College of Scholestica, Red Cliff Chippewa
Kauley, Dorothy Deanne, University of Oklahoma, Kiowa
Keeto, Alberta Marie, Glendale Community College, Navajo
Kelderman, Amy Marie, Indian Hills Community College, Osage
Kelley, Ryan Jason, University of the Pacific, Covelo
Kelly, Dawn Aileen, Northeastern, Tahlequah, Cherokee
Ketterling, Nathan, A., University of North Dakota, Cheyenne
Kezar, Kristina Signe, Montana State University, Ft. Belknap
Kiddie, Lisa Louise, Bacone College, Cherokee
Kie, Luanda F., Alberquerque Technical Vocational Institute, Pueblo of Laguna
King, Katherine R., New Mexico Highland University, Navajo
King, Larry Joe, University of New Mexico, Navajo
Kirk, Clint Forrest, College of Osteo, Medicine of Oklahoma, Choctaw
Kitto, Curtis Michael, Oklahoma Health Science Center, Santee Sioux
Kizer, Serenna Laureen, University of North Dakota, Yankton Sioux
Knowles, Donna Lee, University of New Mexico, Navajo
La Plant, Henrietta, Northern Montana College, Blackfeet
La Roche, Darrell William, University of New Mexico, Sioux
Lamar, Regina Ann, University of Oklahoma, Blackfeet
LaRocque, Brian Anthony, University of North Dakota, Turtle Mt. Chippewa
LaRoque, Jr., Michael John, University of North Dakota, Turtle Mt. Chippewa
Latray, James Eldon, Montana State University, Blackfeet
Latray, Joan Marie, Salish-Kootenai College, Ft. Belknap
Laverdure-Bernard, Adrienne, University of North Dakota, Chippewa
Lawrence, Lynnae Susan, Arizona State University, Hopi
LeBlanc, Dawn Maria, Point Loma College, Sault Ste. Marie Chippewa
Leo, Simone Ann, Salish-Kootenai College, Assiniboine & Sioux
Leslie, Katrina Jeanette, Creighton University Dental School, Hopi
Lewis, Lucinda Ann, University of Colorado, Navajo
Lincoln, Carol Sue, University of New Mexico, Navajo
Lindauer, Maxine Kathryn, Arizona State University, Cherokee
Little, Elaine Benally, University of New Mexico, Navajo
Livermont, Amy Marie, Cheyenne River Lakota, Cheyenne
Locklear, Athena, University of North Carolina, Lumbee
Locklear, Grover Kevin, Boston University, Lumbee
Locklear, Robby, North Carolina State University, Lumbee
Lofgren, Paul Arthur, Catholic University, Cherokee
Logg, Michael J., University of Texas, Cheyenne
Lone Fight, Erin Lynne, South Dakota State University, Sisseton
Lone Fight, Karen Kay, University of Kansas, Three Affiliated
Longhorn, Pamela Ann, Rogers State College, Sac & Fox
Loock, Celeste Ann, North Dakota State University, Three Affiliated
Loom, Elizabeth Ann, Pima Community College, Tohono O'Odham
Lopez, Austin Wayne, Pima Community College, Tohomo O'Odham
Lord, Darlene Marie, University of Alaska, Alaska Native
Lorentz, Vickex Lynn, University of Oklahoma, Kiowa

Love, Charles Russell, Bacone College, Cherokee
Lovell, Michelle P., Oklahoma University Health Science Center, Potawatoni
Lovin, Crysta Mae, Walla Walla College, Choctaw
Lucio, Anthony Raymond, University of California, Zuni
Luger, Patrick A., University of North Dakota, Standing Rock Sioux
Lunday, Donna Marie, North Dakota State University, Turtle Mt. Chippewa
Lusty, Georgiana Davine, El Reno Junior College, Seminole
Lynch, Roger Harvey, University of Arizona, Navajo
Mackey, Jeffrey Alan, Western Michigan University, Chippewa
Magee, Cheryl, University of Way School of Medicine, Blackfeet
Marcus, Mary Lou, V.A. School of Radiologic Technology, Bad River Band Chippawa
Mares, Sheila Wayne, Northern Oklahoma State University, Cherokee
Marin, Nadine Marie, University of Arizona, San Carlos Apache
Marion, Robert Joseph, Bemidji State University, Turtle Mt. Chippewa
Marsh, Bryan Vannuel, University of Oklahoma, Cherokee
Marshall, Elaine Marie, Huron College, Oglala Sioux
Marshall, Katherine Lynn, Cheyenne River Lakota, Rosebud Sioux
Martin, Tiffany Rene, Yakima Valley Community College, Yakima
Martineau, Mark James, Pacific Lutheran University, Umatilla
Martinez, Alyssa Ann, University of North Dakota, Standing Rock Sioux
Martinez, Darlene Mary, University of New Mexico, Navajo
Martinez, Linda Joy, University of Mary, Turtle Mt. Chippewa
Masayesva, Georgia Ann, Northern Arizona University, Hopi
Masters, Paul Bryon, Bacone College, Cherokee
Mayer, Monica, University of North Dakota, Three Affiliated
Maynor II, Thomas Eddison, University of North Carolina, Lumbee
Mayo, Kathleen Sue, Northern Michigan University, Lake Superior Chippewa
McCormick, Deborah Diane, University of North Dakota, Iowa Tribe
McDonald, Jo Ann Rosemary, University of Montana, Kootenai of Idaho
McGath, Ron Christopher, Montgomery College, Oglala Sioux
McGeisey, Michele Elaine, Oklahoma Baptist University, Seminole
McGirt, Christopher Lee, East Central Oklahoma State University, Creek
McKenzie, Edward Neil, University of New Mexico, Navajo
McKinley, Treva J., Weber State College, Navajo
McLemore, Jerri Lynn, University of Kansas, Creek
Meade, Melody, Casper College, Shoshone
Means, Dianna Laude, Montana State University, Crow Creek Sioux
Mermejo, Deloria Lynne, California State University, Picuris Pueblo
Mescal, Beatrice, Cheyenne River Lakota, Navajo
Meyer-Furrey, Vincent Edward, University of South Dakota, Rosebud Sioux
Milane, Shelley Marie, Northern Arizona University, Zuni
Miles, Eugene E., Navajo Community College, Navajo
Milford, Ronald Raymond, University of New Mexico, Navajo
Miller, Shannon Nichole, East Central Oklahoma State University, Chickasaw
Miner, Therese Diane, Seminole Junior College, Seminole
Mist, Heidi Christine, Texas Christian University, Cherokee
Mitchell, Sherry Donnell, University of Oklahoma, Creek
Mix, Sherry, Gateway Community College, Navajo
Monroe, Tracey, University of New Mexico, Laguna Pueblo
Monteiro, Ramona Rene, Georgetown University School of Medicine, Narragansett
Monteverdi, Theresa Lynn, Oregon Health Sciences University, Siletz
Montoya, Juanita Rose, University of Phoenix, Navajo
Mora, Paula Renee, University of New Mexico, Navajo
Moran, Michelle Medith, Mary College, Cheyenne
Morgan, Bill, University of New Mexico, Navajo
Morgan, Jay C., University of New Mexico, Navajo
Morgan, Shawn Olin, University of New Mexico, Navajo
Morin, Craig Eli, North Dakota State University, Turtle Mt. Chippewa
Morton, Ronald Dean, California School of Professional Psychology, Cherokee
Moses Jr., Theresa A., University of Alaska, Alaska Native
Moulton (Jordan), Janice Lynn, Lewis & Clark State College, Coeur D'Alene
Murphy, Evalina M., Vanderbuilt University, Rosebud Sioux
Myers, Lenora, Northern Montana College, Chippewa
Nakai, Sherrie Ann, San Juan College, Navajo
Naldrett, Tammie Faye, Montana State University, Blackfeet
Narcomey, James Charles, University of Tulsa, Seminole
Naseyowma, Elizabeth Joyce, University of Hawaii, Hopi
Navarro, Freida Anne, St. Martin's College, Alaska Native
Neconie Jr., Donald Wayne, George Washington University, Kiowa
Needham, Patrick Daniel, North Dakota State University, Red Lake Chippewa
Neil, Kendra Leann, University of Tulsa, Cherokee
Nelson, Carrie Ann, Carroll College, Bad River Band of Chippewa
Nelson, Sharon (NMI), University of Alaska, Metlakatla
Nevitt, Walter James, Bemidji State University, Minnesota Chippewa
Nez, Lucinda Lou, Northland Pioneer College, Navajo
Nez, Melba Denise, Northern Arizona University, Navajo
Nez, Victoria, Glendale Community College, Navajo
Nichols, Laura Lynn, Eastern Oklahoma State College, Choctaw
Nidiffer, John Cody, Oklahoma University Health Science Center, Cherokee
Nieschulz, Julie Christine, Seattle Central Community College, Oglala Sioux
Notah, Merilyn Ann, University of Texas, Navajo
Novak, Charles Michael, Grand Canyon College, Navajo
Ogara, Winona, University of California, Shoshone
Okemah, John Lee, University of Maryland, Kickapoo
Omary, Cindy Lou, Rogers State College, Cherokee
Oosahwe, Elizabeth Ann, Northeastern State University, Cherokee
Orosco, May A., Luna Vocational Technical School, Mescalero Apache
Osborne Sr., Iralene V., Montana State University, Shoshone
Otero, Linda Diane, University of Nevada, Ft. Mojave
Overland, Darlena L., Bacone College, Ponca
Oxendine, Audrey Dell, North Carolina State University, Lumbee
Oxendine, Kevin, University of North Carolina, Lumbee
Oxendine, Richard Garland, University of North Carolina, Lumbee
Pablo, Daniel Lawrence, University of North Dakota, Kootenai of Idaho
Painter, Michael Wayne, University of Washington, Cherokee
Painter, Robert Andrew, Northern Montana College, Assiniboine and Sioux
Paris, Patti Anne, University of Vermont College of Medicine, Penobscot
Parker, Sharon Frances, Northern Arizona University, Navajo
Parkerson, Lola Dee, University of Southern Mississippi, Choctaw
Parra-Rowell, Michelle Josephine, University of New Mexico, Navajo
Parsons, Dolores Elaine, South Dakota State University, Sioux
Patterson, Evelyn M., Miles Community College, Ft. Belknap
Peaches, Shirley Ann, Northern Arizona University, Navajo
Peacock, Connie J., Northeastern Oklahoma A & M College, Eastern Shawnee
Pepion-Healy, Lita Jean, University of Portland, Blackfeet
Perkins, Lea Jeanne, University of Minnesota, Red Lake Chippewa
Peterson, Jolene Ann, University of Nebraska, Cheyenne
Petrie, Sarah Ann, University of Oregon, Confederated Tribes
Peyketewa, Al Lotario, University of New Mexico, Redwood Valley
Pfliger, Rose B., University of Mary, Three Affiliated
Pino, Michelle Lynette, University of New Mexico, Navajo
Poe, Sean Wayne, University of Oklahoma, Cherokee
Poitra, Sandra Marie, North Dakota State University, Turtle Mt. Chippewa
Polequaptewa, Honani, Northern Arizona University, Hopi
Pollock, Steven Eugene, Brigham Young University, Blackfeet

Pond Jr., Leland James, University of Montana, Assiniboine
Pool, Kathey Elaine, Spalding University, Choctaw
Porter, Billy James, University of Houston, Seminole
Porter, Starle Renee, Oglala Lakota College, Oglala
Primeaux, Elizabeth Marie, St. Mary of the Plains, Ponca
Privett, Jonathan Dale, University of Kansas, Cherokee
Puhuyaoma, Pearl, Mesa Community College, Hopi
Quam, Elana Marie, University of New Mexico, Navajo
Quam, Lori Ann, University of New Mexico, Zuni
Quam, Paula, University of New Mexico, Zuni
Quam, Yolana Margaret, University of New Mexico, Navajo
Quisno, Jacqueline Elaine, Montana State University, Oglala
Red Cloud, Linda Ann, Oglala Lakota College, Oglala Sioux
Redman, Teresa Leah, University of Miami, Delaware Tribe
Reece, Donna Jean, Northeastern Oklahoma State University, Cherokee
Reed, Robin Anne, Western Carolina College, Eastern Band Cherokee
Reidhead, Charles Tyler, University of Colorado, Three Affiliated
Reynolds, Victoria A., University of Nevada, Te-Moak Western Shoshone
Rhoads, Michael Shawn, Northeastern State University, Cherokee
Rhodes, Sherry-Lynne, East Central University, Creek
Richards-Senior, Ella Day, University of North Dakota, Oglala Sioux
Riggs, Jr., Jack, Southern Illinois University, Cheyenne
Roanhorse, Elaine Yazzie, New Mexico State University, Navajo
Roberts, Matthew Johnson, Northeastern Oklahoma A & M College, Creek
Rock, Dianna Joy, University of Montana, Blackfeet
Rock, Patrick Michael, University of North Dakota, Minnesota Chippewa
Rohr, Katherine Marie, Grays Harbor College, Quileute
Roubidoux, Katy Jen, Tulsa Junior College, Creek
Rutter IV, James Dull, University of Oklahoma, Cherokee
Sam, Orena Ann, University of New Mexico, Navajo
Samson, Debra Ellen, University of Alaska, Alaska Native
Sandoval, Lucinda, University of New Mexico, San Felipe Pueblo
Sandoval, Philip, University of New Mexico, San Felipe Pueblo
Santiago, Jacqueline Kaye, Marymount University, Blackfeet
Sargent, Christopher John, Western Washington University, Eskimo
Saunsoci, Deborah Mae, Dakota Westleyan University, Yankton Sioux
Sawyer, Marie Louise, University of Oklahoma, Kiowa
Schlidt, Brenda, Northern Arizona University, San Carlos Apache
Schroeder, Debbie Joyce, University of North Dakota, Turtle Mt. Chippewa
Scott, Larry Brent, Oklahoma Christian College, Cherokee
Scott, Mary, Northern Arizona University, Navajo
Self, Andrea Joy, Connors State College, Cherokee
Shackelford, Michael, University of Oklahoma, Osage
Shadaram, Cynthia Donna, Southwestern Oklahoma State University, Cheyenne
Shangreau, Geraldine, University of Bridgeport, Oglala Sioux
Shepro, Constance Ann, Bellin College of Nursing, Potawatomie
Shields, Marion Louise, Salish-Kootenai, Upper Sioux
Shipp, Darren, Southeastern Oklahoma State University, Ponca
Shuman, Tweed W., Wisconsin Indianhead Tech. College, Lake Superior Chippewa
Simeona, Carmelita Davis, University of New Mexico, Navajo
Simon, Ramona Patricia, Cheyenne River Lakota, Cheyenne
Simpson, Colleen Mae, University of North Dakota, Crow
Simpson, Loren Patrick, University of North Dakota, Washoe
Singer, Christine, University of New Mexico, Navajo
Sky, Francine, University of New Mexico, Navajo
Small, Arlene, Salish-Kootenai College, Assiniboine
Smallcanyon, Elroy, Pima Medical Institute, Navajo
Smalley, Jack Owen, University of Missouri, Standing Rock Sioux
Smith, Judith Marlene Billi, Nicholls State University, United Houma Nation
Smith, Lisa Lynn, Northeastern State University, Chickasaw
Smith, Margie Ida, University of Washington, Kiana Village
Smith, Marian D., University of Hawaii, Confederated Tribes of Yakima
Smith, Martin Douglas, Washington State University, Assiniboine
Smith, Rhoda Ellena, Dartmouth Medical School, Te-Moak Shoshone
Smith, Theresa Marie, Lutheran College, Winnebago
Snyder, Orrenzo Benally, University of Iowa, Navajo
Soap, Chris Lee, Northeastern State University, Cherokee
Spencer, April Lee, Northeastern State University, Choctaw
Spencer, Irene B., Albuquerque Technical Vocational Institute, Navajo
St. John, Arlene Ernestine, South Dakota State University, Crow Creek
Standingwater, Louella Ann, Flaming Rainbow, Cheyenne
Starritt, Glenna Ann, California State University/Chico, Hoopa Valley
Stevens, Andrew Levi, University of North Dakota, Cheyenne
Stewart, Millie Faith, Montana State University, Crow
Street, Ivenette Dolores, Montana State University, Tonkawa
Street Jr., Willie Jesse, Wichita State University, Tonkawa
Strickland, Steve Allen, Pembroke State University, Lumbee
Sully, Debra Jo, Oglala Lakota College, Rosebud Sioux
Summers, Heather Dawn, East Central Oklahoma State University, Chickasaw
Sunday, Robyn Rachelle, University of South Carolina, Cherokee
Susan, Myrtis, Central Arizona University, White Mountain Apache
Taber, Sherra, Eastern Oklahoma State College, Choctaw
Talbert, Yoland J., University of Colorado, Navajo
Tapaha, Tobias Titus, Northeastern State University, Navajo
Taylor, Alice-Faye, Oklahoma University Heath Science Center, Choctaw
Taylor, Lori Lynn, Western Carolina University, Eastern Band of Cherokee
Teague, Gloria Ann, University of Oklahoma, Cherokee
Teehee, Michael Don, Conner State College, Cherokee
Teller, Donnell Rae, Northern Arizona University, Navajo
Thomas, Jennifer Lee, Turtle Mountain Community College, Turtle Mt. Chippewa
Thomas, Pauletta, University of New Mexico, Navajo
Thomas, Quinton Keith, University of North Dakota, Navajo
Thompson, Karen-Lee, South Dakota State University, Cheyenne
Thompson, Tracy Lee, College of Osteopathic Medicine, Oklahoma State, Cherokee
Thomsen, Randall Vernon, Stanford University, Pit River Indian Tribe
Thornton, Luella Vann, Loma Linda University of Public Health, Cherokee
Thurber, Wanda Faye, Bacone College, Cherokee
Tims, Janice Kathleen, University of Oklahoma, Choctaw
Tincher, Michelle, University of North Dakota, Ft. Belknap
Tobias, Scott Warren, Pacific University College of Optometry, Creek
Todicheeney, Debbie B., Gateway Community College, Navajo
Tollefsen, Cheryl Collins, University of North Dakota, Arapahoe
Toppah-Bearbow, Kathleen Louise, Southwestern Oklahoma State University, Kiowa
Torivio, Cheryl Ann, New Mexico Highland University, Hopi
Towne, Jana Marie, Pacific Lutheran University, Hydaburg
Trottier, Timothy Carl, Washington University, Turtle Mt. Chippewa
Truesdell, Michael Paul, University of Arizona, White Mountain Apache
Tsadiasi, Glenda, University of New Mexico, Zuni
Tsatoke, Gordon Dale, University of Oklahoma, Kiowa
Two Bears, Shantell Marie, University of North Dakota, Standing Rock Sioux
Underwood, Michael Randolph, University of Oklahoma, Navajo
Valderas, Anna M., University of Oklahoma Health Science Center, Choctaw
Van Curen, Preston Lee, University of Wyoming, Seneca

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Van Tuyl-Ziegler, Amy Sandell, University of Oklahoma, Cherokee
Vanatta, Elizabeth Ann, Neosho County College, Cherokee
Vanbuskirk, Paula Elaine, University of Oklahoma, Chickasaw
Vandall, Kristen Dawn, Northern Montana College, Turtle Mt. Chippewa
Varner, Denise Ann, Humboldt State University, Creek
Veit, Lisa Marie, Cheyenne River Lakota, Cheyenne
Vent, Liza Sarah, University of Alaska, Huslia
Vicenti, Nelson, University of New Mexico, Redwood Valley Rancherio of Pomo
Vickers, Francine Judith, University of New Mexico, Isleta Pueblo
Vilas, Arleigh Wayne, Bemidji State University, Minnesota Chippewa
Vizenor, Kristi Jeanne, North Dakota State University, Minnesota Chippewa
Waconda, Alan Keith, Weber State College, Laguna Pueblo
Wagner, Sharon Silvas, University of California, Blackfeet
Wahkinney, Michael Allen, University of Oklahoma, Comanche
Waldroup, Anthony Wayne, Southeastern Oklahoma State, Tonkawa
Walker, Carrie Ann, University of North Dakota, Creek
Walker, Thomas Stuart, University of North Dakota, Three Affiliated
Wanna, Katherine Nora, University of North Dakota, Sisseton
Wanoskia, Floydina Shelley, University of New Mexico, Jicarilla Apache
Warhol, Peter Joseph, University of Minnesota, Sisseton
Warren, William Earl, University of Minnesota, Minnesota Chippewa
Watts, Kenneth L., Southwestern State College School of Pharm., Choctaw
Weasel Bear, Lucille Pansy, Oglala Lakota College, Oglala Sioux
Webber Jr., George Stewart, University of Montana, Blackfeet
Webster, Nina Theodora, Mount St. Mary's College, Isleta Pueblo
Wedding, Pamella Sue, Oklahoma State University, Cherokee
Welch, Trudy Ella, Western Carolina University, Eastern Band Cherokee
Wells, Craig James, South Dakota School of Mines & Technology, Cheyenne
Wero, Anthony, Northern Arizona University, Navajo
Wesley, Carol Joy, University of Tulsa, Red Lake Chippewa
West, Jess, Cheyenne River Lakota, Cheyenne
West Jr., Michael Curtis, University of Maryland, Choctaw
Westbrook, Sonja Marie, California School of Professional Psychology, Comanche
Wetselline, Michael Lynn, University of Science & Arts of Oklahoma, Apache
White Eyes, Robbi, Cheyenne River Lakota, Cheyenne
White Horse, Marilyn Ruth, University of North Dakota, Three Affiliated
White Horse, Wyatt Arthur, Augustana College, Rosebud Sioux
Whiterock, Sue Ann, University of New Mexico, Navajo
Whiteskunk, Anna Marie, Southwestern Oklahoma State University, Cheyenne
Widow, Norma Mary, Cheyenne River Lakota, Cheyenne
Wiegand, Shannon Lea, University of Washington, Chippewa
Wight, Teresa Lynn, Carroll College, Crow
Wilcox, Christopher Michael, Northeastern State University, Cherokee
Wilkie, Penny Marie, University of North Dakota, Turtle Mt. Chippewa
Wilkie, Tracy A., University of North Dakota, Turtle Mt. Chippewa
Willhoite, Lois Darlene, Rogers State College, Cherokee
Williams, Bonnie-Loretta, University of Tulsa, Cherokee
Williams, Carmelita Jean, University of New Mexico, Navajo
Williams, Jeana Lynn, George Washington University, Cherokee
Williams, Karen Elizabeth, University of Alaska, Alaska
Williams, Pauletta Lynn, Arizona State University, Navajo
Williams, Randall Alan, East Central University, Chickasaw
Williams, Regina, University of New Mexico, Navajo
Williams, Verdi Elizabeth, Pacific Lutheran University, Sitka
Williams, Vern Raymond, Boise State University, Creek
Williams, Veronica J., Georgetown Univ. School of Medicine, Jicarilla Apache
Williams, Winona Delores, Salish-Kootenai College, Ft. Belknap
Williamson, Tracy Lynn, University of Montana, Blackfeet
Wills, Susan Elaine, University of Missouri, Creek
Wilson, Lavina Mae, Eastern Oklahoma State College, Choctaw
Wind, William Alva, Eureka College, Creek
Wood, Scott Edward, East Central Oklahoma State University, Chickasaw
Wood, Susan Kay, University of Tulsa, Cherokee
Wright, Wenda Leann, University of New Mexico, Rosebud Sioux
Wynecoop, Teresa Ann, Eastern Washington State College, Spokane
Yazzie, Elvira Eva, Northern Arizona University, Navajo
Yazzie, Laura, University of New Mexico, Navajo
Yazzie, Lucille, University of Utah, Navajo
Yellow Cloud, Kendra Estelle, South Dakota State University, Oglala
Yellowman, Marilyn Frances, Mesa Community College, Navajo
Yellowmule, Luzenia Angela, Rocky Mountain College, Crow
Yonnie, Albert, Northern Arizona University, Navajo
Young, Roseann, Mesa Community College, Navajo
Yuselew, Melissa, New Mexico State University, Zuni
Zaste, Sherri Lynne, University of North Dakota, Turtle Mt. Chippewa
Zavala, Geneva Dawn, University of Oregon, Colville
Zegiel, Catherine Marie, Weber State College, Standing Rock Sioux
Zonnie, Bertha C., Northern Arizona University, Navajo

FOR FURTHER INFORMATION CONTACT: Mr. Wesley J. Picciotti, Chief, Scholarship Branch, Indian Health Service, Twinbrook Metro Plaza, Suite 100, 12300 Twinbrook Parkway, Rockville, Maryland 20852; Telephone 301/443-6197.

Dated: January 30, 1992.

Everett R. Rhoades,

Assistant Surgeon General, Director.

[FR Doc. 92-2728 Filed 2-4-92; 8:45 am]

BILLING CODE 4160-16-M

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Meeting: Transplantation Biology and Immunology Subcommittee of the Allergy, Immunology, and Transplantation Research Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Transplantation Biology and Immunology Subcommittee of the Allergy, Immunology, and Transplantation Research Committee, National Institute of Allergy and Infectious Diseases, March 2, 1992, at the Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815.

The meeting will be open to the public from 8:30 a.m. to 9:45 a.m. on March 2 to discuss administrative details relating to committee business and for program review. Attendance by the public will be limited to space available. In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92-463, the meeting will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 9:45 a.m. until adjournment on March 2. These applications, proposals, and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, room 7A32, National Institutes of

Health, Bethesda, Maryland 20892, telephone 301-496-5717, will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Mark L. Rohrbaugh, Scientific Review Administrator, Allergy, Immunology and Transplantation Research Committee, NIAID, NIH, Solar Building, room 4C39, Rockville, Maryland 20892, telephone 301-496-8208, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 93.855, Immunology, Allergy, and Immunologic Diseases Research, National Institutes of Health)

Dated: January 27, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-2769 Filed 2-4-92; 8:45 am]

BILLING CODE 4140-01-M

Additional Regional Meetings

Notification was provided previously that the National Institutes of Health (NIH) had scheduled two regional hearings to receive public comment on the draft NIH Strategic Plan. Because of the overwhelming response to the first announcement, notice is hereby given that the NIH will convene two additional regional meetings. The first meeting of this round will take place on March 3, 1992, at Emory University School of Medicine, Atlanta, Georgia. The second meeting will be held on March 5, at Washington University School of Medicine, St. Louis, Missouri.

To ensure that the momentum of biomedical research will go forward and that the past Federal investment in biomedical research will continue to be capitalized, NIH has been engaged in a synergistic process involving all its organizational components, as well as the Alcohol, Drug Abuse and Mental Health Administration, to develop a framework for discussion of strategies to guide the NIH as it advances into the 21st century. This "framework" identifies research that promises extraordinary dividends for the Nation's future health. It has a scope that transcends immediate interests and is responsive to changing public and national health needs. Importantly, it builds on past accomplishments, organizational strengths, and mechanisms and approaches of proven value. Finally, it creates a framework for ordering NIH's corporate thinking and charts an initial course for our efforts. This framework will guide the subsequent development of the NIH Strategic Plan.

These regional meetings will be of one day duration, beginning at 9 a.m. and ending at 5 p.m. The meetings will begin with a plenary session where an overview of the NIH planning process will be presented and questions by the participants concerning the Framework for Discussion of Strategies for the NIH will be considered. The meeting will then break out into five panel sessions to discuss five broad trans-NIH objectives and the specific functional components which are key to realizing the objectives. These panels will meet concurrently from 10 a.m. until 3 p.m., will be chaired by senior NIH officials, and will be organized as follows: (1) Critical technologies, (2) research capacity, (3) intellectual capacity, (4) stewardship of public resources, and (5) public trust. The meeting will end with a plenary session to report on the panels' deliberations. The oral testimony originally planned is being deferred in favor of the sharing of your views during the panel sessions; however, written comments will be accepted at the meeting.

If you will be attending one of the regional meetings, please notify Jay Moskowitz, Ph.D., National Institutes of Health, Shannon Building, room 103, 9000 Rockville Pike, Bethesda, Maryland 20892, by mail or facsimile (301-402-1759) by February 19, 1992.

If you have already notified the NIH of plans to attend one of the previously scheduled hearings but you will attend the Atlanta or St. Louis meeting instead, please indicate which of the formerly scheduled sites you had selected. Please indicate your first and second preference for panel participation. In order to achieve balance in the panel discussions and to accommodate to space limitations, the NIH reserves the option to reassign participants to panels. A copy of the Framework for Discussion of Strategies for the NIH, as well as additional information about the meetings, will be sent in advance of the regional meetings to the participants.

If you or others from your organization who plan to attend one of these regional meetings have any special needs that require assistance, please inform the office listed above. If you have questions concerning either of the two regional meetings, please contact Ms. Mary Demory (301) 496-1454.

Dated: January 30, 1992.

Bernadine Healy,

Director, NIH.

[FR Doc. 92-2708 Filed 2-4-92; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Preliminary Notice of Adverse Impact on Great Smoky Mountains National Park Under Section 165(d)(2)(C)(ii) of the Clean Air Act

AGENCY: Office of the Secretary, Department of the Interior.

ACTION: Notice of preliminary determination under section 165(d)(2)(C)(ii) of the Clean Air Act.

SUMMARY: This notice announces the preliminary determination by the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, as the Federal Land Manager of Great Smoky Mountains National Park (NP) that, in accordance with the Prevention of Significant Deterioration (PSD) air quality requirements of the Clean Air Act, (1) air pollution is causing adverse impacts on the air quality related values of this PSD class I area, and (2) emissions of pollutants of concern from proposed major emitting facilities in the vicinity of the park will contribute to and exacerbate these impacts. At this time, the Federal Land Manager is recommending that the Tennessee Air Pollution Control Division, as well as the permitting authorities of other States in the region (i.e., North Carolina, South Carolina, Georgia), not issue permits for new major sources in the vicinity of the park unless measures are taken to ensure that these proposed sources would not contribute to adverse impacts on park resources. By this notice, the Department of the Interior invites public discussion of this decision during a 30-day comment period, after which time the Federal Land Manager will make a final determination on the basis of the best available information. The intent of this notice is to solicit comments on the preliminary determination and to alert interested parties to the availability of supporting documentation.

Today's action is "generic" in the sense that it sets a general policy for all major sources within approximately 120 miles of Great Smoky Mountains NP that seek to increase pollutants of concern. A separate action is currently underway concerning a proposed new boiler at the Tennessee Eastman facility in Kingsport, TN. Public comment on the Federal Land Manager's November 5, 1991, preliminary adverse impact determination concerning this source will be taken by the State of Tennessee in the context of the public hearing on Tennessee Eastman's proposed permit.

DATES: Comments must be received on or before March 6, 1992.

ADDRESSES:

Comments. Comments should be submitted (in duplicate, if possible) to: Chief, Policy, Planning, and Permit Review Branch, National Park Service-Air, P.O. Box 25287, Denver, Colorado 80225.

Supporting documentation. Copies of the technical support document entitled, "Technical Support Document Regarding Adverse Impact Determination for Great Smoky Mountains National Park," including references, are available for public inspection and copying between the hours of 8 a.m. and 4 p.m., Monday through Friday, at the following locations: National Park Service, Main Interior Building, room 3229, 18th and C Streets NW., Washington, DC; Air Quality Division, 12795 West Alameda Parkway, Lakewood, Colorado, room 215; and Great Smoky Mountains National Park Headquarters, Gatlinburg, Tennessee. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Christine L. Shaver, Chief, Policy, Planning, and Permit Review Branch, National Park Service-Air, P.O. Box 25287, Denver, Colorado 80225, telephone number (303) 969–2071.

SUPPLEMENTARY INFORMATION:

Background

Purposes and Values of Great Smoky Mountains National Park

Great Smoky Mountains NP was established in 1926 "for the benefit and enjoyment of the people." The park encompasses 800 square miles of massive mountain ridges and deep-cliff valleys in the States of Tennessee and North Carolina. It is world-renowned for the diversity of its plant and animal resources, the beauty of its ancient mountains, the quality of its remnants of American pioneer culture, and the depth and integrity of the wilderness sanctuary within its boundaries. Its status is emphasized by the fact that it is both an International Biosphere Reserve and a World Heritage Site.

As a unit of the National Park System, Great Smoky Mountains NP is managed consistent with the general mandate of the Organic Act of 1916 which states that the National Park Service (NPS) shall:

> Promote and regulate the use of * * * national parks * * * by such means and measures as conform to the fundamental purpose of the said parks, * * * which purpose is to conserve the scenery and the natural and historic objects and wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations. 16 U.S.C. 1.

The 1978 amendments to the Organic Act further clarify the importance Congress placed on protection of park resources, as follows:

> The authorization of activities shall be construed and the protection, management, and administration of these areas shall be conducted in light of the high public value and integrity of the National Park System and shall not be exercised in derogation of the values and purposes for which these various areas have been established, except as may have been or shall be directly and specifically provided by Congress. 16 U.S.C. 1a–1.

Clean Air Act Requirements

In 1970, Congress passed the Clean Air Act (the Act), establishing national policy toward preserving, protecting, and enhancing air quality. In 1977, Congress amended the Clean Air Act, *inter alia,* designating all national parks, established as of August 7, 1977, that exceeded 6,000 acres in size, as mandatory class I areas. Class I areas are afforded the greatest degree of air quality protection under the Act. There are 48 units of the National Park System, including Great Smoky Mountains NP, designated as class I. The 1977 Clean Air Act Amendments also contain a section that specifically requires visibility protection for mandatory Federal class I areas. Section 169A sets, as a national goal, the prevention of any future, and remedying of any existing, manmade visibility impairment in mandatory class I areas. The Act requires that reasonable progress be made toward this national goal. The 1990 Amendments to the Clean Air Act left intact the requirements for class I area protection, while providing additional tools to accomplish the protection (e.g., visibility transport commissions). Under the Prevention of Significant Deterioration (PSD) program of the Act, major sources of air pollution that propose to build new, or significantly modify existing facilities in relatively unpolluted areas of the country ("clean air regions"), are subject to certain requirements generally designed to minimize air quality deterioration. Where emissions from new or modified facilities might affect class I areas, like Great Smoky Mountains NP, set aside by Congress for their pristine air quality or other natural, scenic, recreational, or historic values potentially vulnerable to air pollution, the Act imposes special requirements to ensure that the pollution will not adversely affect such values. In addition, the Act gives the Federal Land Manager and the Federal official charged with direct responsibility for management of class I areas an affirmative responsibility to protect air quality related values, and to consider in consultation with the permitting authority whether a proposed major emitting facility will have an adverse impact on such values.

The Clean Air Act establishes several tests for judging a proposed facility's impact on the clean air regions in general, and on the class I areas in particular. One such test is the "class I increment" test. The class I increments represent the extremely small amount of additional pollution that Congress thought, as a general rule, should be allowed in class I areas.

Congress realized, however, that in certain instances sensitive air quality related resources could be adversely affected at air pollution levels below the class I increments. Therefore, the Act establishes the "adverse impact" test, which requires a determination of whether proposed emissions will have an "adverse impact" on the air quality related values, including visibility, of the class I area. If the Federal Land Manager demonstrates to the satisfaction of the permitting authority that proposed emissions will adversely affect the air quality related values of the class I area, even though they will not cause or contribute to concentrations which exceeds the class I increments, then the permitting authority may not authorize the proposed project. Thus, the adverse impact test is critical for proposed facilities with the potential to affect a class I area.

Adverse Impact Considerations

The legislative history of the Clean Air Act provides direction to the Federal Land Manager on how to comply with the affirmative responsibility to protect air quality related values in class I areas:

> The Federal land manager holds a powerful tool. He is required to protect Federal lands from deterioration of an established value, even when class I numbers are not exceeded * * * While the general scope of the Federal Government's activities in preventing significant deterioration has been carefully limited, the Federal land manager should assume an aggressive role in protecting the air quality values of land areas under this jurisdiction. * * * In cases of doubt the land manager should err on the side of protecting the air quality-related values for future generations. Sen. Report No. 95–127, 95th Cong., 1st Sess. (1977).

The Assistant Secretary for Fish and Wildlife and Parks, as Federal Land Manager for class I areas managed by the National Park Service and U.S. Fish and Wildlife Service, has stated that air pollution effects on resources in class I areas constitute an unacceptable adverse impact if such effects:

1. Diminish the national significance of the area; and/or
2. Impair the quality of the visitor experience; and/or
3. Impair the structure and functioning of ecosystems.

(*See, e.g.*, 47 FR 30223 (1982)).

Factors that are considered in the determination of whether an effect is unacceptable, and therefore adverse, include the projected frequency, magnitude, duration, location, and reversibility of the impact. In addition, the Federal visibility protection regulations, 40 CFR 51.300, *et seq.*, 52.27, define "adverse impact on visibility" as:

> * * * visibility impairment which interferes with the management, protection, preservation or enjoyment of the visitor's visual experience of the Federal class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairment, and how these factors correlate with: (1) Times of visitor use of the Federal class I area, and (2) the frequency and timing of natural conditions that reduce visibility. Id. 51.301(a).

Summary of Proposed Action

The action which is the subject of this notice concerns the Federal Land Manager's preliminary determination that air pollution is causing unacceptable, adverse impacts on visibility and other air quality related values in Great Smoky Mountains NP, and that emissions of the pollutants of concern from proposed major emitting facilities in the vicinity of the park would contribute to and exacerbate these impacts. Therefore, the Federal Land Manager would recommend that the Tennessee Air Pollution Control Division and the permitting authorities of other States in the region not issue permits for proposed new major sources in the vicinity of the park (within approximately 200 kilometers) unless measures are taken—e.g., offsets—to ensure that these proposed sources would not contribute to adverse impacts on park resources.

This action is "generic" in the sense that it sets a general policy for all major new sources (and major modifications of existing sources) within approximately 120 miles of Great Smoky Mountains NP that seek to increase pollutants of concern. A separate action is currently underway concerning a proposed major source permit for a new boiler at the Tennessee Eastman facility in Kingsport, TN. The proposed boiler would increase nitrogen oxide emissions in the area by 1,542 tons per year. Given the time constraints of the Tennessee Eastman permit proceeding, the Federal Land Manager has asked the State of Tennessee to solicit comments on the Federal Land Manager's November 5, 1991, preliminary determination of adverse impact in the context of the State's public hearing on the proposed permit. Thus, a final determination on the Tennessee Eastman permit need not await a final determination on the "generic" policy set forth today.

Potential Impacts of New Air Pollution Sources

To be able to assess the potential impacts of emissions from new sources, the Federal Land Manager first performed a comprehensive assessment of the current air quality conditions at Great Smoky Mountains NP. As summarized below and discussed in detail in the Technical Support Document, this assessment shows that air quality related values at Great Smoky Mountains NP (i.e., terrestrial and aquatic resources, visibility) are currently being adversely affected by air pollution.

Potential Impacts on Biological and Aquatic Resources

Ozone monitoring results to date indicate that frequent ozone levels sufficient to cause injury to plants exist in the park. Both Cove Mountain and Lock Rock ambient ozone monitoring stations exhibit typical mountaintop patterns of little diurnal fluctuations, chronic sustained ozone exposure and peak concentrations delayed into the evening. This pattern increases with elevation.

Observations in Great Smoky Mountains NP of foliar injury typically associated with ozone prompted researchers to initiate extensive ozone studies in the park. Since 1987, field surveys have identified 95 native plant species that exhibit ozone-like foliar injury in the park. Thirty-nine of these have been exposed to ozone under controlled conditions in fumigation chambers at the Uplands Research Laboratory in the park. Ten of the fumigated species have been shown to be extremely sensitive to ozone with foliar injury occurring on greater than 50 percent of the plants in the ambient chambers. Ten species are moderately sensitive, with foliar injury on less than 50 percent of the plants in the ambient treatment, but greater than 50 percent of the plants in the 2.0 times ambient treatment. Another 7 species are slightly sensitive, with foliar injury occurring in the 2.0 times ambient chambers only. In addition to the visible foliar injury, reduced plant growth and early leaf loss have been recorded for a number of species. The results of monitoring data show that ozone levels at higher elevation sites in the park (Look Rock, for example) can be up to 2 times greater than the levels recorded at the Uplands Research Lab. From the monitoring data, we can conclude that 27 of the 39 species tested, to date, can be injured at ozone levels that occur in the park.

In summer 1991, to quantify the extent of foliar injury in Great Smoky Mountains NP, and to better understand the amount of injury associated with various ozone levels, researchers installed a total of 8 permanent field monitoring plots near the ambient ozone monitors at Look Rock, Cove Mountain, and the Uplands Research Lab in the park. Ozone injury was observed on black cherry (*Prunus serotina*) and sassafras (*Sassafras albidumn*) leaves at all three locations. Although the injury observed on the black cherry trees near the Uplands Research Lab was slight, at the higher elevation Cove Mountain and Look Rock sites, over 90 percent of the individuals exhibited ozone injury with up to 75 percent of the black cherry leaf area injured. Ambient monitoring data reveal that summer 1991 ozone levels in Great Smoky Mountain NP are comparable to those of previous years.

Great Smoky Mountains NP embraces the largest remaining area of red spruce (*Picea rubens*)-Fraser fir (*Abies fraseri*) forests in the world, and the park also receives the highest deposition of nitrate of all monitored national parks. In fact, the 1989 National Acid Precipitation Assessment Program (NAPAP) Annual Report (1990) cited the high elevation red spruce forests of the eastern United States as the only instance of apparent evidence of forest damage in North America related to the direct effects of acidic deposition. From 1984 to 1989, surveys funded by NPS, NAPAP, and the Forest Service in high elevation forests within the park revealed a series of decline symptoms. These symptoms included an abrupt reduction, beginning in the early 1970's, in the amount of new wood reduced each year (produced annual radial increment) in red spruce growing above 6,000 ft; a general thinning of spruce resulting from the gradual loss of foliage; and the occurrence of necrotic spots (flecking) on the upper surface of spruce needles, which functionally reduces photosynthetic area. On average, the percentage of live spruce subactively classified as "healthy," based on needle retention and crown fullness, steadily decreased during each annual evaluation. In 1985, 85 percent of the red spruce in Great Smoky Mountains NP were considered "healthy." By 1989, that number had decreased to a mere 51 percent. Crown conditions appear to worsen with increasing elevation. These forest decline symptoms could be caused by air pollution. It has further been suggested that atmospheric deposition is predisposing sensitive Fraser fir (a species recently designated by Tennessee as threatened) to balsam woolly adelgid (*Adelges piceae*) infestation and mortality. In Great Smoky Mountains NP, Fraser fir mortality due to woolly adelgid infestations exceeds 90 percent of the trees.

Nutrient cycling in two red spruce-Fraser fir sites in the park has been studied as part of the Integrated Forest Study, a large research project that looked at the potential for acidification in twelve locations around the U.S. and additional sites in Canada and Norway. It has been concluded that aboveground cycling of nutrients at the park sites was dominated by atmospheric deposition rather than by litterfall. The study found that the soils in the two sites are acidic and are essentially nitrogen-saturated. The belief is that the soils acidified naturally, although atmospheric deposition may have accelerated the process. Although the soil itself will probably not acidity further with continued atmospheric input, there are other considerations that cause concern. First, certain soil solutions are dominated by nitrates, sulfates, and hydrogen and aluminum (Al) cations. Pulses of nitrate and, to a lesser extent sulfate, in the soil solution caused Al to occasionally reach levels shown to inhibit root growth and calcium and magnesium uptake in red spruce seedlings in solution culture studies performed in the laboratory. There is concern that increased nitrate input will increase soil solution Al concentrations to levels toxic to plants.

Second, although the soil itself may not acidify further, the soil solution that enters the surrounding streams may contain increasing amounts of nitrates and acidity. Precipitation chemistry monitoring performed under the direction of the National Atmospheric Deposition Program has shown an average monthly, volume-weighted precipitation pH of between 4.0 and 5.0. Surveys of lakes and streams in the region show that most are poorly buffered and potentially sensitive to acidification. Watershed studies in the park in the 1980's found that although base flow pH of the high elevation streams draining Newfound Gap averaged 6.0 to 6.5, storms sometimes caused the pH to drop below 6.0. The researchers found that some of these high-elevations streams were extremely sensitive to acidification, with an acid neutralizing capacity (ANC) of only zero to 20 microequivalents per liter (ueq/L). In general, waters with an ANC of 200 ueq/L or less are considered sensitive. They also found moderately high levels of nitrates in the streams they studied. They concluded that although the nitrate concentrations are not presently high enough to acidify the streams, increased nitrate input could cause stream acidification. Other researchers confirmed that alkalinity and pH decrease, and nitrate concentrations increase, with increasing elevation in the park, indicating that the highest elevation streams are the most sensitive. Also of concern are the high levels of A1 recorded in the soil solution. It has been shown that this A1 washes into the streams during storm events, and may reach concentrations that are toxic to fish.

Concern about the potential for stream acidification and impacts on aquatic biota has prompted the National Park Service to undertake two stream studies in Great Smoky Mountains NP. One involves a high elevation stream water chemistry and fish survey that will be conducted over the next three to four years. The other is an intensive study of the Noland Divide watershed adjacent to the site of the Integrated Forest Study mentioned above. Preliminary data indicate that Noland Creek exhibits near-zero alkalinity and high nitrate and sulfate levels. The researchers will be doing continuous monitoring of pH, conductance, temperature, and discharge at Noland Creek in the spruce-fir zone, and will be attempting to quantify the frequency and extent of episodic acidification in the creek.

In summary, ozone-related injury already exists in the park. Given the Clean Air Act's affirmative responsibility to protect park resources, the Federal Land manager reasonably believes that increases in ozone precursor emissions, namely, volatile organic compounds (VOC) or nitrogen oxides (NO_x), are likely to exacerbate current ozone levels and related injury, and are therefore unacceptable without offsetting decreases in emissions. Also, studies reveal that soils in the park are already nitrogen-saturated; and streams in the park have been identified that have low alkalinity and are, therefore, sensitive to acidification. The Federal Land Manager concludes that the effects of additional sulfur dioxide (SO_2) and NO_x emissions in terms of increased acidic deposition are unacceptable and will adversely affect the structure, functioning, and national significance of the ecosystem at Great Smoky Mountains NP.

Potential Impacts on Visibility

Visibility is currently seriously degraded at Great Smoky Mountains NP. Through a 1979 Federal Register process, the Department of the Interior found, and the Environmental Protection Agency (EPA) agreed, that visibility is an important value in Great Smoky Mountains NP. See 44 FR 69122 (November 30, 1979). In a November 14, 1985, letter, the Department of the Interior informed the EPA that, with respect to uniform haze, the NPS visibility monitoring program has shown that scenic views at the Great Smoky Mountains NP (and other class I areas) are impaired by anothropogenic pollution more than 90 percent of the time.

The Department of the Interior's finding of significant existing visibility impairment at Great Smoky Mountains NP is supported by studies of historic and current visibility conditions. Under natural conditions, without the influence of air pollution, the State-of-Science/Technology report entitled Visibility: Existing and Historical Conditions—Causes and Effects (National Acid Precipitation Assessment Program 1990), states that visual range in the eastern United States is estimated to be 150 km (+/− 45 km). Visibility is strongly affected by light scattering and absorption by fine particulate matter (<2.5 microns in diameter). The NAPAP report estimates that under natural conditions, fine particulate matter concentrations in the eastern U.S. would be about 3.3 micrograms per cubic meter ug/m^3). As explained further below, among the constituents of the fine particulate matter, fine sulfate particles (which result from the atmospheric conversion of gaseous sulfur dioxide emissions) are currently responsible for most of the visibility impairment throughout the East. Natural levels of sulfate have been estimated to be about 0.2 ug/m^3.

Studies examining historical visibility trends in the East show that annual average visibility in the southeastern United States declined 60 percent between 1948 and 1983, with an 80 percent decrease in summer months and a 40 percent decrease in winter months. Visual range in rural areas of the East currently averages 20–35 km.

substantially lower than the estimated 150 km natural condition. Many of the constituents of the haze that degrades visibility are not emitted directly but are formed by chemical reactions in the atmosphere. Gaseous "precursor" emissions from a source are converted though very complex reactions into "secondary" aerosols. Sulfur oxides convert to nitric acid and ammonium sulfates, nitrogen oxides convert to nitric acid and ammonium nitrate, and hydrocarbons become organic aerosols. Haziness over the eastern U.S. since the late 1940's has been dominated by sulfur. Declining visibility is well correlated with increasing emissions of sulfur dioxide.

The National Park Service has been monitoring visibility at Great Smoky Mountains NP since 1984 as part of its visibility monitoring network and more recently (since 1988) as part of EPA's national visibility monitoring network for class I areas known as the IMPROVE network. Initially, teleradiometers and cameras were used to monitor views and determine visual range.

In 1985, the NPS began monitoring fine particulate matter at Great Smoky Mountains NP using a Stacked Filter Unit (SFU) which was replaced by the more sophisticated IMPROVE sampler in 1988. In addition to providing a more accurate cut-point for fine particles less than 2.5 microns in diameter, the IMPROVE sampler allows for the collection and analysis of a greater number of atmospheric pollutants, such as chloride, sulfate, and nitrate ions, and elemental and organic carbon.

The analysis of fine particle data collected at Great Smoky Mountains NP from March 1988 through February 1991 using the IMPROVE sampler indicates that monthly average fine particle concentrations have ranged from 8.7 to 25.1 ug/m^3 during the summer (*i.e.*, June-September), or three to eight times higher than the estimated annual average natural background concentration. The summer average of fine particle mass concentrations measured at Great Smoky Mountain NP during the period March 1985 to February 1987 using the SFU was 9.3 ug/m^3, whereas the average for the entire sampling period was 6.4 ug/m^3. Thus, summer and annual average fine particle mass concentrations are three and two times, respectively, the estimated natural background.

Recent analyses of data collected at Great Smoky Mountains NP have shown that sulfates are responsible for 70–85 percent of the visibility impairment. Based on the SFU data, the summer average sulfate concentration between 1985 and 1987 ranged from 1.9–8.3 ug/m^3, a ten to forty-two fold increase from natural background. Similarly, the 3-year average sulfate concentration of 4.9 ug/m^3 during the 1985–1987 time period has experienced an almost twenty-five fold increase from natural background. The most recent data available from the IMPROVE sampler show an average summer (1988–1990) sulfate of 9.4 ug/m^3 and a 38-month average (Mar '88–Feb '91) of 5.7 ug/m^3, slightly higher than, but consistent with, the SFU data. On the average, organics are responsible for most of the remaining visibility impairment. Nitrate aerosols (resulting from atmospheric conversion of nitrogen oxide emissions) are generally responsible for only one percent of the visibility impairment and average less than 3 ug/m^3. However, at times, nitrates comprise up to 10 percent of the fine mass and could significantly affect visibility during some episodes. Thus, one can reasonably conclude that the existing poor visibility conditions at Great Smoky Mountains NP are likely a result of the dramatic increases in sulfate concentrations, primarily the result of an increase in man-made sulfur oxide emissions in the region, but the NO$_x$ may contribute to the problem as well.

Using the fine particle data collected at Great Smoky Mountains NP and reconstructing the extinction (standard visual range) from the particle data, one can describe the effect of the increased fine particulate and sulfate concentration on visibility at Great Smoky Mountains NP. Median visual range at Great Smoky Mountains NP is 39 km, with a median summertime visual range of 19 km. In other words, the "average" visibility day at Great Smoky Mountains NP has experienced a degradation through time to one-fourth of estimated natural conditions. This degradation is likely attributable to increases in man-made sulfur oxide emissions. Visibility conditions at the park show a strong seasonal pattern, with the worst visibility occurring during the summer, when visitation at Great Smoky Mountains NP is highest. During summer months the average visibility ranges from 23-43 km, or less than one-third the estimated natural visual range.

The chronic visibility at Great Smoky Mountains NP typically manifests itself as a uniform haze. Such impairment is a homogeneous haze the reduces visibility in every direction from an observer. It appears as though the observer were peering through a grey or white translucent curtain placed in front of the scene. Colors appear washed out and less vivid, and geologic features become less discernible or may disappear.

In a November 14, 1985, letter, the Department of the Interior informed the EPA that, with respect to this uniform haze, the NPS visibility monitoring program has shown that more than 90 percent of the time scenic views at Great Smoky Mountains NP (and other class I areas) are affected by anthropogenic pollution.

As noted above, the Federal visibility protection regulations, 40 CFR 51.300, 52.27, define "adverse impact on visibility" as visibility impairment which interferes with the management, protection, preservation or enjoyment of the visitor's visual experience of the Federal class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairment, and how these factors correlate with: (1) Times of visitor use of the Federal class I area, and (2) the frequency and timing of natural conditions that reduce visibility. Based on this general definition and the data summarized above, manmade pollution clearly causes adverse impacts on visibility at Great Smoky Mountains NP. Although the extent of the problem varies in magnitude, visibility at Great Smoky Mountains NP is substantially impaired most of the time.

Good visibility in scenic areas has many aesthetic and economic benefits. The vistas offered at Great Smoky Mountains NP represent an important value to the visitors who come to enjoy them. Futhermore, considerable economic benefit accrues to communities near areas of great scenic beauty, like Great Smoky Mountains NP, as millions of visitors come to these areas annually.

One of the reasons people visit parks is to see and enjoy the scenery. Poor visibility is a frequent complaint made by visitors to Great Smoky Mountains NP. Studies conducted by the NPS show that visitors are aware of visibility conditions and that clean, clear air is integral to the enjoyment of visiting the parks. A survey conducted in 1985 by the NPS revealed that park visitors rank air quality attributes higher than any other park attributes, and that viewing scenery was the most common visitor activity.

It is unlikely that any proposed visibility-impairing pollutants (i.e., SO$_2$, NO$_x$, and VOC) would be visible as a distinct, coherent plume in the park. These proposed emissions would likely, however contribute to uniform haze, the more pervasive visibility problem in Great Smoky Mountains NP. In fact, NPS research has shown that both local

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(*e.g.*, within 200 km) and long-distant sources contribute to such visibility impairment at Great Smoky Mountains NP. In addition to Tennessee, source areas in the States of Ohio, Kentucky, West Virginia, Virginia, Indiana, North Carolina, and Illinois have been estimated to contribute to the park's haze.

Given the existing impacts on the visibility at Great Smoky Mountains NP, any significant increase in emissions which contributes to visibility impairment at Great Smoky Mountains NP would adversely affect this class I resource.

In sum, with respect to visibility, the Federal Land Manager believes that any increases in visibility-impairing pollutants would contribute to existing adverse impacts on visibility at Great Smoky Mountains NP. The Federal Land Manager further believes that allowing a significant increase in visibility-impairing pollutants would interfere with—rather than promote—achievement of the national visibility goal and the need to make reasonable progress toward that goal.

Based on the above findings and discussion, the Federal Land Manager concludes that the present visibility conditions at Great Smoky Mountains NP meet the adverse impact criteria discussed above, and therefore, are adverse. Specifically, the present conditions interfere with the management, protection, preservation and enjoyment of the visitor's visual experience, thereby diminishing the national significance of the area.

Summary of Potential Impacts

The Federal Land Manager believes that, because of the significant and widespread existing air pollution effects occurring within the Great Smoky Mountains NP, any significant increase in SO_2, NO_x, or VOC emissions in the vicinity of the park could potentially cause or contribute to adverse impacts. Indeed, additional emissions would adversely impact sensitive resources at Great Smoky Mountains NP by: (1) Contributing to already high ozone levels, at times approaching the national standard, thereby impacting ozone-sensitive vegetation; (2) depositing additional nitrogen on soils which are already nitrogen-saturated, which will mobilize nitrogen and aluminum in the soil and leach these toxic elements into sensitive streams and vegetation within the park, with resulting adverse effects on aquatic and terrestrial life; and (3) exacerbating existing adverse visibility conditions at Great Smoky Mountains NP.

Proposed Finding and Recommendation

Based on the above information, the Federal Land Manager preliminarily finds that existing air pollution effects interfere with the management, protection, and preservation of park resources and values, and diminish visitor enjoyment, and, therefore, are adverse. The Federal Land Manager also preliminarily finds that the effects of additional SO_2, NO_x, and VOC emissions associated with major new sources (or major modifications of existing sources) proposed for the area would likely contribute to and exacerbate the existing adverse effects and are, therefore, unacceptable.

Based on these findings and the Department's legal responsibilities and management objectives for Great Smoky Mountains NP, the Federal Land Manager would recommend that the Tennessee Air Pollution Control Division and the permitting authorities of other States in the region not permit additional major air pollution sources with the potential to affect Great Smoky Mountains NP's resources unless these States can ensure, through offsets or other comparable measures, that such sources would not contribute to adverse impacts. The Federal Land Manager would further suggest that these States develop a Statewide emissions control strategy to protect the air quality related values of Great Smoky Mountains NP. This strategy might include (1) an offset program requiring a greater than one-for-one emission reduction elsewhere in the State to offset proposed emission increases associated with major new or modified sources; (2) a Statewide Reasonable Available Control Technology requirement to control existing sources of emissions; and (3) a provision setting a timeframe for determining maximum allowable levels of air pollutants in the State, which would involve Statewide emission caps as a primary method for achieving these maximum allowable levels. This emissions cap could reflect a level of allowable pollution that will provide long term protection for critical natural resources throughout the region.

The Federal Land Manager will consider the above possible approaches, as well as any additional alternatives received through the public comment process, in making final recommendations to the Tennessee Air Pollution Control Division and other permitting authorities in the region regarding the finding of adverse impact for Great Smoky Mountains NP.

Public Comments

Interested parties are invited to comment on this preliminary determination. Comments should specifically address the following issues: (1) Whether the existing air quality effects at Great Smoky Mountains NP are adverse; and (2) given the Congressional mandates related to Great Smoky Mountains NP and the Federal Land Manager's responsibilities, whether it is reasonable to conclude that proposed major increases in emissions of SO_2, NO_x, or VOC's in the area without offsetting decreases would contribute to adverse impacts on park resources.

Finally, the Federal Land Manager would welcome comments and recommendations as to possible emission control strategies that would address the air quality concerns at Great Smoky Mountains NP.

Dated: January 30, 1992.

Michael Hayden,

Assistant Secretary for Fish and Wildlife and Parks, and Federal Land Manager for Areas under the Jurisdiction of the National Park Service.

[FR Doc. 92-2703 Filed 2-4-92; 8:45 am]

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Central Arizona Project (CAP) Water Allocations and Water Service Contracting; Final Reallocation Decision

AGENCY: Office of the Secretary (Secretary), Interior.

ACTION: Notice of final reallocation decision for uncontracted CAP non-Indian agricultural water allocations.

SUMMARY: The Final Reallocation Decision contained herein will reallocate 29.3 percent of CAP non-Indian agricultural water allocations in line with the Arizona Department of Water Resources (ADWR) recommendations and the Department of the Interior (Department) will offer amendatory or new subcontracts for such water to non-Indian agricultural water user entities. The contracting process which follows this Final Reallocation Decision will include consideration of a full range of contracting terms and conditions and will provide an opportunity for public review and comment on specific contract actions. Any non-Indian agricultural water reallocations that remain uncommitted after completion of the contracting process shall revert to the Secretary for discretionary use in Indian water rights settlements and other purposes.

FOR FURTHER INFORMATION CONTACT: For information on subcontract qualifying conditions or for copies of proposed subcontracts, interested parties should contact Mr. Donald Walker, Contracts and Repayment Specialist, Bureau of Reclamation, Department of the Interior, 1849 C Street, NW., Washington, DC 20240 (telephone: 202-208-5671) or Mr. Steve Hvinden, Regional Economist, Bureau of Reclamation, PO Box 61470, Boulder City, Nevada 89006-1470 (telephone 702-293-8651).

SUPPLEMENTARY INFORMATION:

Background

The CAP is a multi-purpose project which provides water for municipal and industrial (M&I), Indian, and non-Indian agricultural uses. The last allocations of CAP water, the conditions upon which those allocations were made, and the procedures for water service contracting were published in the **Federal Register** (48 FR 12446, March 24, 1983). That notice contained the Secretary's final decision, summarized CAP issues, and provided basic background information applicable to this reallocation.

In the 1983 notice, the Secretary allocated 638,823 acre-feet of water per year to non-Indian M&I water user entities and 309,828 acre-feet of water per year to Indian entities. The non-Indian agricultural water users were to receive any CAP supply that remained after the non-Indian M&I and Indian entities used their entitlements. The water supply allocated to each of the 23 non-Indian agricultural users was stated in terms of a percentage of the total non-Indian agricultural supply. That supply will amount to about 900,000 acre-feet per year, initially, and is predicted to decline to about 400,000 acre-feet per year, 50 years hence. In shortage years it will drop to zero. The actual amount available will be determined on an annual basis and will vary depending upon a number of factors, including but no limited to hydrologic conditions on the Colorado River and demand for water by users with higher priorities. The percentage represents each allottee's portion of the total irrigated acreage, with an adjustment to reflect any other surface water supply available to the allottee.

The Central Arizona Water Conservation District (CAWCD) and the Bureau of Reclamation (Reclamation) have been entering into long-term CAP water service subcontracts with those entities to whom allocations of CAP agricultural water were made in the 1983 notice. CAWCD is the entity which has contracted with Reclamation for repayment of the costs of the project. The combined entitlement for entities which have entered into CAP water service subcontracts subsequent to the 1983 notice represents 70.7 percent of the non-Indian agricultural supply. Eleven entities have declined their CAP water allocation for a total of 23.82 percent of the non-Indian agricultural supply. Two entities which were allocated the remaining 5.48 percent of the agricultural water supply have not yet contracted for such supply.

Water deliveries pursuant to the subcontracts will begin following Reclamation's issuance of a notice of substantial completion of the CAP. It is anticipated that such a notice will be issued sometime in late 1992. In the meantime, CAP water deliveries have been and are being made through completed portions of the CAP aqueduct pursuant to interim water service contracts.

The 1983 notice provided for a reallocation of the CAP water after the initial round of water service contracting had been completed. An interest in the reallocation has existed for several years, but the Department and ADWR have refrained from proceeding until there was more certainty about the amount of allocations involved and until ongoing negotiations for Indian water rights settlements had been completed. However, in November of 1988, the Salt River Pima-Maricopa Indian Community Water Rights Settlement Act of 1988 (SRPMICWRSA) compelled the Secretary to request ADWR to make a recommended reallocation of uncontracted non-Indian CAP agricultural water to the Secretary. The amount of time that ADWR had to respond to the request was not specified. However, ADWR was required to complete its recommendation by January 7, 1991, by the decision of the Arizona Superior Court in *Central Arizona Irrigation and Drainage District et al.* v. *Plummer*, No. CIV-38812 (October 15, 1990).

In response to the request from Reclamation dated December 28, 1988, and in compliance with the Court order cited above, ADWR recommended to the Secretary by its letter dated January 7, 1991, how the remaining 29.3 percent of the non-Indian agricultural supply should be reallocated. In arriving at its recommendations, ADWR conducted an extensive public input and review process which elicited numerous opinions, options, and alternatives. By letter dated January 15, 1991, ADWR supplemented its recommendations to the Secretary with a report explaining the methodologies used to calculate the water recommendations, discussing the factors considered in making the recommendations, and addressing issues and concerns raised by public comments. ADWR's report, transmitted by letter dated January 15, 1991, was fully considered and used in developing options for consideration.

The notice of proposed water reallocation decision for uncontracted CAP non-Indian agricultural water allocations and request for comments was published in the **Federal Register** (56 FR 28404, June 20, 1991). Three options were presented and discussed in that notice. Brief summaries of the two options considered but not selected, options 1 and 2, follow.

Reallocation Options Considered

The essential difference in the options focused on who would receive the initial reallocations and how to dispose of that portion of the reallocation that might remain after the contracting process is completed. Option 1 was the ADWR recommendations without change. Those recommendations provide, among other things, for reallocation to existing and certain new subcontractors, some of which already have allocations from 1983. It also provided for pro rata upward adjustment of all allocations under subcontract to dispose of the portion of the reallocation remaining after the initial round of contracting. Based on the possibility that some portion of the reallocation may remain as a result of allottees refusing, not qualifying for, or accepting a lesser allocation than that offered for contracting, two other options were conceived.

Under Option 2, any remaining CAP non-Indian agricultural water supply would be initially reallocated pro rata among the 10 existing subcontractors with the stipulation that any reallocations not contracted for within 180 days of the reallocation decision would revert to the Secretary for discretionary use. This method would eliminate from the reallocation any new non-Indian agricultural entities and any non-Indian agricultural entities which have previously declined or failed to subcontract.

Option retained the reallocations recommended by ADWR, but, like Option 2, provides for reversion of uncontracted allocations. Option 3 was selected and is the foundation for the Final Reallocation Decision that follows.

Previous Notices and Decisions

Previous Departmental **Federal Register** notices relating to CAP water

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allocations are as follows: 37 FR 28082, December 20, 1972; 40 FR 17297, April 18, 1975; 41 FR 45883, October 18, 1976; 45 FR 52983, August 8, 1980; 45 FR 81265, December 10, 1980; 46 FR 29544, June 2, 1981; 48 FR 12446, March 24, 1983; and 56 FR 28404, June 20, 1991. Previous **Federal Register** notices relating to compliance with the National Environmental Policy Act of 1969 and CAP water allocations are as follows: 46 FR 29544, June 2, 1981; 46 FR 59316, December 4, 1981; 46 FR 60658, December 11, 1981; and 47 FR 12689, March 24, 1982.

Authority

CAP water decisions are made pursuant to the Reclamation Act of 1902, as amended and supplemented (32 Stat. 388, 43 U.S.C. 391), the Boulder Canyon Project Act of December 21, 1928 (45 Stat. 1057, 43 U.S.C. 617), the Colorado River Basin Project Act of September 30, 1968 (82 Stat. 885, 43 U.S.C. 1501), the Salt River Pima-Maricopa Indian Community Water Rights Settlement Act of 1988 (section 11(h) of Pub. L. 100-512, 102 Stat. 2559), the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (40 CFR part 1505), the Implementing Procedures of the U.S. Department of the Interior (516 DM 5.4), and in recognition of the Secretary's trust responsibility to Indian tribes.

Compliance With the Requirements of the National Environmental Policy Act of 1969 (NEPA)

Reclamation has completed a Final Environmental Assessment, "Reallocation of Uncontracted, Central Arizona Project, non-Indian Agricultural Water" (Final EA) date July 1991, on the proposed reallocation decision. A "Finding of No Significant Impact" (FONSI) was signed August 6, 1991, by Reclamation's Regional Director of the Lower Colorado Region, Boulder City, Nevada. Anyone interested in receiving a copy of the Final EA, including the comments of interested and affected parties on the draft EA and the responses thereto, or the FONSI should contact Mr. Bruce Ellis, Chief, Environmental Division, Arizona Projects Office, Bureau of Reclamation, P.O. Box 9980, Phoenix, Arizona 85068 (telephone 602-870-6767). The Final Reallocation Decision commits the Department to carry out the requirements of NEPA, the Endangered Species Act, and the National Historic Preservation Act prior to any specific action to implement the reallocation.

Comments on the Proposed Reallocation and Responses

The **Federal Register** notice (56 FR 28404, June 20, 1991) of the Secretary's proposed water reallocation decision for uncontracted CAP non-Indian agricultural water allocations invited written comments from interested parties on or before July 22, 1991, and stated that all such comments would be considered. During the comment period, written and oral comments were received from officials of other Federal agencies, ADWR, municipalities, non-Indian irrigation districts, water resource associations, Indian tribes, and interest group representatives. In general, comments focused on the following broad areas: (1) The effect of distribution of the reallocated water among State of Arizona Active Management Areas (AMA), (2) the availability and the need for water allocations to settle Indian water rights claims; (3) whether new entities should be considered in the reallocation, and (4) whether the proposed reallocation is in accordance with existing laws and contracts. Response to comments on the draft EA, including comments on such peripheral subjects as the potential impacts associated with conversion of irrigation water to municipal and industrial use, implementation of exchange agreements, and administration of the Reclamation Reform Act are included in the Final EA. A synopsis of the comments and concerns of each commenter on the proposed reallocation and the Department's responses follows.

(1) Roosevelt Water Conservation District, April 22, 1991

Comment 1-1: The Department should set aside all or a significant portion of the unallocated CAP agricultural allocations for use in existing and potential Indian water rights settlements with the San Carlos Apache Tribe, the Gila River Indian Community, and the Tohono O'odham Nation. Under section 13 of the SRPMICWRSA, the Secretary has the discretion to use 1st round allocations for Indians, including the Southern Arizona Water Rights Settlement Act (SAWRSA).

Response 1-1: Section 11(h) of the SRPMICWRSA is clear that the Secretary must reallocate the uncontracted allocations for non-Indian use and thereafter offer amendatory or new subcontracts to non-Indian agricultural water users. The Secretary does not have the discretion to initially reallocate the uncontracted allocations for use by Indians. Furthermore, section 11(h) requires that the reallocation must be completed within 180 days of the date that the Secretary receives a recommendation from the ADWR. The Department believes that if Congress had desired that the uncontracted allocations be made available first for use by Indians, Congress could and would have so stated in the statute. Section 13 of the SRPMICWRSA provides that:

> Nothing in * * * this Act shall be construed in any way to quantify or otherwise affect the water rights, claims or entitlements to water of any Arizona Indian tribe, band, or community, other than the Community.

The Department does not believe that section 13 provides any discretion to the Secretary to make first-round reallocations available for use in SAWRSA. Furthermore, the Department does not believe that the proposed reallocation to non-Indian users would affect the rights, claims, or entitlements of the Tohono O'odham Nation under SAWRSA.

Comment 1-2: Having set aside the allocations as recommended in the previous comment, the Department should treat any of the allocations ultimately used in settlements with the tribes as contributions of water from the entities which would have received the reallocated water, but for its use in the particular Indian water rights settlement.

Response 1-2: See response 1-1. The Secretary does not have the authority to set aside the allocations as suggested. The Congress was aware in 1988 that water supplies were needed for existing and pending Indian water rights settlements, yet the Secretary was directed to reallocate the uncontracted allocations for non-Indian use. Moreover, the Congress directed the Secretary to perform the reallocation in a short time frame of 180 days. The Department does not believe that a suspension of the reallocation process would necessarily aid in the Indian water rights settlement process. The Department believes that the added uncertainty associated with a suspension could have the opposite effect and thereby frustrate attempts to reach water rights settlements.

Comment 1-3: If settlements are not achieved with the tribes within a reasonable period of time, determined at the sole discretion of the Secretary, the reallocation should proceed in accordance with the methodology set forth in the ADWR recommendations.

Response 1-3: See responses 1-1 and 1-2.

(2) Tucson Active Management Area (AMA) Water Augmentation Authority (TWAA), June 17, & July 9, 1991

Comment 2–1: The TWAA believes the non-contracted CAP agricultural water from the Tucson basin should be allocated to the Tohono O'odham Nation to meet part of the Secretary's obligation to the Nation under SAWRSA.

Response 2–1: See responses 1–1, 3–1, and 4–1.

(3) Tohono O'odham Nation (Nation), April 24, & July 11, 1991

Comment 3–1: The Nation objects to the ADWR recommendations because the proposed reallocations would substantially foreclose final settlement of the Nation's water rights under SAWRSA and would further eliminate a source of water essential for a fair and equitable resolution of the Nation's water claims in the Sif Oidak District.

Response 3–1: See response 1–1. The Secretary is required to allocate the uncontracted allocations for non-Indian agricultural water use and to offer amendatory or new subcontracts to the non-Indian water users. However, the Final Reallocation Decision provides that any allocations that are not contracted for would revert to the Secretary for his discretionary use. Allocations which might revert to the Secretary could be used for SAWRSA, or for water claims in the Sif Oidak District.

(4) Southern Arizona Water Resources Association (SAWRA), April 8, and July 9, 1991

Comment 4–1: SAWRA strongly objects to ADWR's recommended reallocations and its rationale for those allocations. During the process of reallocation of the agricultural water, ADWR ignored (1) the distinguishing hydrologic characteristics of the Tucson basin, (2) the historical context within which the original allocations were made, (3) the need and recent precedents for use of agricultural water to settle Indian water rights claims, and (4) the basic issues of fairness and equity.

Response 4–1: Section 11(h) of the SRPMICWRSA requires the Secretary to reallocate uncontracted non-Indian agricultural allocations to non-Indian agricultural water users. The Department does not believe that the water allocation relationships that existed in the 1983 CAP water allocation must be rigidly adhered to in the reallocation. The 1983 allocation of non-Indian agricultural water supplies and the proposed reallocation were both based on CAP eligible acres, adjusted for locally available surface water supplies. So far as the Department is aware, there was never any intent to use the non-Indian agricultural water allocations as a method to achieve a specific distribution of CAP water among the three affected AMAs. Since some of the irrigation districts have rejected their CAP water allocations, there are fewer eligible lands within the Tucson and Phoenix AMAs that can participate in the reallocation. Moreover, the AMAs are not losing a CAP water supply since they never had a CAP supply to begin with. Offers to contract were made to specific users within the AMAs. Since those users declined their CAP allocations, the water supplies are no longer destined for use within the AMA. While there may be frustrated expectations on the part of the AMAs, there would be essentially no impact as a result of the reallocation.

In order to address the concerns of the AMAs, the Secretary would have to develop a new allocation formula specifically designed to maintain the original distribution of water among the AMAs. This alternative has been considered and rejected. The Department recognizes that the decision of non-Indian agricultural water allottees within the Tucson AMA to not contract for CAP water has complicated the task of meeting the AMA goals. Nevertheless, the Department has deferred to the State with respect to how it chooses to initially reallocate CAP non-Indian allocations within the State. There are no other eligible, interested, non-Indian agricultural water users within the AMA to whom the water can be allocated.

The Department believes that the criteria established by ADWR for eligibility for an allocation recommendation are reasonable and consistent with the way that CAP water has been historically allocated to non-Indian agricultural water users. Those criteria included the following: (1) The entity must be located in an area of groundwater decline; (2) The entity must serve water for agricultural purposes; and (3) The entity must have lands which are eligible to be irrigated with CAP water.

Comment 4–2: The commenter strongly objects to reallocating water to McMullen Valley Water Conservation and Drainage District (MVWCDD). SAWRA asserts that MVWCDD is outside of the CAWCD service area and that the city of Phoenix is the real beneficiary. It views the reallocations to MVWCDD and RID as being made at the expense of the Tucson AMA's effort to reduce groundwater use.

Response 4–2: See responses 4–1, 5–1, and 20–3.

(5) Inter Tribal Council of Arizona, Inc., July 22, 1991

Comment 5–1: The Tribal Council requests that the proposed reallocation be modified to (1) exclude new entities and entities which previously declined to contract; (2) set conditions that limit subcontractors to contract to use the water on the subcontractors' land for agricultural use only; (3) require demonstration, to the satisfaction of the Secretary, that it is economically feasible for the subcontractors to use CAP water and pay any associated debt; (4) establish a 90-day timeframe for completion of the contracting process; and (5) reallocate any uncontracted municipal and industrial (M&I) water for Indian water rights settlements unless entities with an M&I water allocation demonstrate to the Secretary within 30 days that it is economically feasible for the entity to immediately contract for and put the water to beneficial use.

Response 5–1: The Department believes that the criteria established by ADWR to be eligible for a reallocation are reasonable. The Department does not believe that there is good rationale for excluding from the reallocation or contracting processes new entities or entities that have previously declined a subcontract if such entities meet the ADWR criteria and the conditions set forth in the Final Reallocation Decision that follows.

Regarding the second comment, the agricultural water service subcontracts provide that the CAP water must be used for agricultural purposes within the subcontractor's service area. Some agricultural subcontractors may choose to take delivery of their CAP water through an exchange. Exchanges can be an effective water management and conservation tool. Exchanges have always been envisioned as a vital part of the CAP. Section 1 of the CAP authorizing legislation contemplates the furnishing of CAP water "* * * through direct diversion or exchange of water." At this time, the Roosevelt Irrigation District (RID) is planning on exchanging its allocation of CAP water for city of Phoenix effluent water. Under this concept, RID would enter into a subcontract for the CAP water with the stipulation that the CAP water be delivered to the city of Phoenix. In return, the city of Phoenix would deliver effluent water to RID. Through the exchange the city of Phoenix would get an additional potable water supply and

RID would get an affordable irrigation water supply not otherwise available to either party. Therefore, the Department believes that physically limiting delivery of CAP non-Indian agricultural water to the subcontractor's agricultural service area would be unnecessarily restrictive when there are substantial benefits to be realized from an exchange arrangement.

Regarding the third comment, other than meeting certain financial and contractual obligation tests, the Department does not believe that it is appropriate to require the existing subcontractors to meet the kind of "economic" feasibility test suggested in the comment. The Final Reallocation Decision that follows provides that the new allottees must meet the same financial feasibility tests as other entities which received federally constructed distribution systems. It also requires that all subcontractors must be current with their financial and contractual obligations to the United States, CAWCD, and bond holders prior to execution of new or amendatory subcontracts.

Regarding the fourth and fifth comments, the Department believes that a 6-month time period to complete the contracting process for the existing subcontractors is reasonable. The reallocation of M&I water is beyond the scope of this allocation. However, the Department does intend to bring closure to the M&I subcontracting process soon so that it can determine how much of the M&I water might be available for reallocation.

(6) Dennis DeConcini and John McCain, U.S. Senators, and Jim Kolbe, Member of Congress, June 28, 1991

Comment 6–1: Individiauls and organizations in the Tucson area have contacted the Congressman expressing great concern that the ADWR recommendations, if adopted, will result in roughly 15 percent of the Tucson basin's original CAP agricultural water allocation being allocated outside the basin. If combined with possible similar reallocations of M&I water supplies in the future, nearly a third of the original CAP water allocated to the basin would be unavailable for use in the Tucson area. Such a result would have serious implications for Tucson's water future.

Response 6–1: See response 4–1.

(7) Gover, Stetson & Williams, P.C. (Tohono O'odham Nation), May 10, & July 22, 1991

Comment 7–1: The proposed course of Secretarial action is a continuation of a reallocation process which ignores the paramount water rights of Indian nations, and risks diversion of water resources to non-Indians to the point that the "wet" water supply for Indian nations will be lost.

Response 7–1: See response 1–1. The Department is well aware of the need for water for existing and pending Indian water rights settlements and is committed to finding water supplies for the settlements. However, in this case, the Secretary has been directed by the Congress to reallocate the uncontracted non-Indian agricultural water allocations to non-Indian uses. The Department believes that the reversion concept encompassed in the Final Reallocation Decision may provide a source of water for Indian water rights settlements.

(8) City of Phoenix (Phoenix), July 18, 1991

Comment 8–1: Phoenix fully supports making an allocation to MVWCDD and to the RID, but does not feel that it is necessary or desirable to establish a fixed deadline of 1 year from the date of the reallocation decision to meet the conditions required for the offer of a subcontract. A more flexible time frame, such as "within a reasonable period of time," would be preferable.

Response 8–1: The Department believes that the 1-year deadline is reasonable. However, the Department also understands that there may be extenuating circumstances beyond the entity's control which prevent the entity from meeting the 1-year deadline. As a result of the public review process for the proposed reallocation decision, ADWR has recommended that the Secretary consider extensions of the deadline under such circumstances, provided that under no circumstance would the deadline be extended for more than an additional 1-year period. The Final Reallocation Decision recognizes that concept.

Comment 8–2: Phoenix feels the ADWR should not be the party that is formally satisfied that the districts have met the conditions the Secretary has established.

Response 8–2: The Department concurs. The Final Reallocation Decision provides that after consulting with ADWR the Secretary will make the final decisions regarding the satisfaction of prerequisite conditions.

Comment 8–3: Phoenix fully supports a provision that all non-Indian agricultural water allocations which are not contracted for "within a reasonable period of time" shall revert to the Department.

Response 8–3: The Department acknowledges the comment.

(9) Maricopa-Stanfield Irrigation and Drainage District (MSIDD) July 19, 1991

Comment 9–1: The MSIDD expresses a concern that the reversion provision is not legal and opines that neither the CAP agricultural water service subcontracts nor the CAP master repayment contract provides a basis for the reversion provision. The MSIDD also states that SRPMICWRSA does not provide for the use of non-Indian agricultural water to satisfy Indian water rights claims. The MSIDD believes that the CAP agricultural water service subcontracts require that all agricultural allocations that are declined must be reallocated to non-Indian uses until the agricultural allocations are all under subcontract with non-Indian agricultural water users.

Response 9–1: Section 11(h) of the SRPMICWRSA does not address what happens if the agricultural entities to whom an allocation is made as a result of the reallocation process do not sign a new or amendatory CAP water service subcontract. Since Congress did not direct the Secretary to reallocate such allocations for a specific use or otherwise specify how they should be treated, the Secretary may reserve such allocations for his discretionary use. The Department does not agree with MSIDD's interpretation of the subcontracts. To the extent that section 11(h) of the SRPMICWRSA and the terms of the agricultural water service subcontracts are inconsistent, the Department believes section 11(h) of the SRPMICWRSA supersedes the subcontract provision and the Secretary can reserve the uncontracted allocations for his discretion. In addition, the legislative history for the SRPMICWRSA indicates that it was the intent of the Congress that the reallocation be performed consistent with the Secretary's obligations under the SAWRSA. It is the Department's view that the reversion concept is an appropriate and reasonable means for the Secretary to both follow the specific direction of the SRPMICWRSA and the intent of the Congress.

(10) Irrigation & Electrical Districts Association of Arizona (I&EDAA) July 19, 1991

Comment 10–1: The I&EDAA expresses concerns about the legal authority for the reversion mechanism.

Response 10–1: See response 9–1.

Comment 10–2: The I&EDAA argues that the stated intent of the non-Indian agricultural water subcontract language was that the agricultural water entitlement percentages would ultimately total 100 percent and that the percentages would be adjusted in the reallocation process to accomplish that end. There is nothing in the law or the subcontracts that authorizes the reversion concept.

Response 10–2: See response 9–1. Under the reversion concept, the percentages would still total 100 percent. Any of the reallocated water made available to the Secretary under the reversion concept for other uses would retain its status as non-Indian agricultural water with a subordinate priority to Indian allocations and municipal and industrial allocations established by the 1983 decision (48 FR 12446–12449).

(11) Arizona Department of Water Resources, July 22, 1991

Comment 11–1: ADWR stated that it incorrectly interchanged the terms "financial feasibility" and "economic feasibility" in its recommendation to the Secretary. ADWR states all references to demonstration of feasibility should be in terms of "financial feasibility".

Response 11–1: The Department notes and accepts the comment. The Final Allocation Decision reflects consideration of the comment.

Comment 11–2: ADWR recommends that the conditions for new allottees must be satisfied within 1 year from the time the Secretary makes his decision on the reallocation. However, the Secretary should consider granting justifiable extensions of the 1-year period in 6-month increments for a maximum extension of 1 year.

Response 11–2: See response 8–1.

Comment 11–3: Concerning the reversion provision, ADWR requests that it be consulted before any discretionary allocations are made.

Response 11–3: The Department accepts the comment and will consult with ADWR before any reverted water is reallocated further or committed.

(12) McMullen Valley Water Conservation and Drainage District (MVWCDD) July 19, 1991

Comment 12–1: The MVWCDD is concerned about the use of the term "economically feasible" in the notice of proposed water reallocation decision (56 FR 29404, June 20, 1991).

Response 12–1: See response 11–1.

Comment 12–2: The MVWCDD suggests that imposition of a fixed 1-year deadline for meeting the conditions for contracting for a CAP reallocation is unreasonable and legally unwise.

Response 12–2: See response 8–1.

Comment 12–3: The MVWCDD states that it is redundant to separately impose any of the conditions in paragraph 4 of the ADWR recommendations as set forth in the notice of proposed water reallocation decision under Option 1 (56 FR 28404, June 20, 1991). Each of the conditions must be independently satisfied pursuant to other laws and/or contracts.

Response 12–3: The MVWCDD is suggesting that the 1-year deadline for the conditions is not required because the conditions will eventually need to be satisfied pursuant to other laws or contract. Given the large demand for uncontracted CAP allocations, the fact that CAP will soon be placed into repayment status, and the repayment problems being faced by some of the irrigation districts, the Department believes that it is reasonable and prudent to require the new allottees to meet the specified conditions prior to the execution of a CAP water service subcontract.

(13) Central Arizona Irrigation and Drainage District (CAIDD) July 19, 1991

Comment 13–1: The CAIDD objects to the reversion provision.

Response 13–1: See response 9–1.

(14) Roosevelt Irrigation District (RID), July 12 & 19, 1991

Comment 14–1: The RID expressed concerns about the fixed deadline for any new contractor to comply with paragraphs 4 and 6 of the ADWR recommendations as set forth in the proposed water reallocation decision under Option 1 (56 FR 28404, June 20, 1991).

Response 14–1: See responses 8–1 and 12–3.

Comment 14–2: The RID requests an express disclaimer that it would not be required to pay for any CAP water until the exchange facilities are complete.

Response 14–2: It is more appropriate to address that issue during negotiations for a CAP subcontract and the exchange agreement rather than as part of this reallocation decision.

Comment 14–3: The RID disagrees with ADWR's methodology for calculation of its allocation percentage.

Response 14–3: The Department acknowledges this comment. The Department has accepted ADWR's reallocation recommendations for the initial reallocations. Inherent in accepting ADWR's recommendations is the acceptance of ADWR's criteria used in developing the recommendations.

(15) Ellis, Baker & Porter on behalf of several Arizona Irrigation Districts, July 22, 1991

Comment 15–1: The commenter deplores the compressed schedule by which the Department seeks to review comments and make its decision on the CAP reallocation. The commenter suggests that the Department has already made a decision.

Response 15–1: Congress directed the Secretary to make the reallocation within 180 days of receiving ADWR's recommendations. Staff from the various Federal agencies involved in the reallocation decision have been working diligently over the 6-month period to meet the deadline. However, the reallocation process has been time consuming. It is possible that the Congress did not anticipate or consider the time required for completion of the NEPA process or that part of the 6-month period would have to be devoted to public review and comment and consideration of those comments.

The Department agrees that 6 calendar days (4 working days) are not sufficient to analyze the comments and make the Final Reallocation Decision. However, the Department has endeavored to complete the reallocation in the shortest period possible that is consistent with a full and proper evaluation of all comments received during the public comment period and adequate consideration of the information and issues involved.

Comment 15–2: The commenter registers disagreement with the reversion provision for uncontracted water, particularly in light of section 11(h) of the SRPMICWRSA.

Response 15–2: See response 9–1.

Comment 15–3: The commenter states that the Secretary has no authority to reserve CAP uncontracted water for Indian water rights settlements, and asserts that to do so would be to use "the State's water" to settle "Federal" obligations.

Response 15–3: See response 9–1. Also, the Department is not sure what is meant by "the State's water." If it means the Secretary lacks the authority to allocate and distribute among users Arizona's apportionment of 2.8 million acre-feet of mainstream water, the Department disagrees. The Supreme Court Opinion in *Arizona* v. *California* (June 3, 1963, 373 U.S. 579–580) states:

> Having undertaken this beneficial project, Congress, in several provisions of the Act, made it clear that no one should use mainstream water save in strict compliance with the scheme set up by the Act. . . . To emphasize that water could be obtained from the Secretary alone, Section 5 further declared, "No person should have or be entitled to have the use for any purpose of water stored as aforesaid except by contract made as herein stated." . . . These several provisions, even without legislative history, are persuasive that Congress intended the Secretary of the Interior, through his Section

> 5 contracts, both to carry out the allocation of the water of the main Colorado River among the Lower Basin States and to decide which users within each state would get water. The general authority to make contracts normally includes the power to choose with whom and upon what terms the contracts will be made.

The Supreme Court rejected the arguments that Congress in sections 14 and 18 of the Project Act took away practically all of the Secretary's power by permitting the States to determine with whom and on what terms the Secretary would make water contracts. It was the Court's view that nothing in those provisions affected the Court's decision that it is the Act and the Secretary's contracts, not the laws of prior appropriation, that control the apportionment of water among the States. Accordingly, the Court held that

> . . . the Secretary in choosing between users within each State and in settling the term of his contracts is not bound by these sections to follow State law (373 U.S. 585).

Comment 15–4: The commenter asserts that critics may argue to the Secretary that the proposed reallocation would violate the Reclamation Reform Act of 1982. The delivery of agricultural water to a city for non-agricultural use is not recognized by either law or regulation and in such cases a city has to be treated as an excess landowner.

Response 15–4: The Department has not proposed to allocate or reallocate agricultural water to a city.

(16) Central Arizona Water Conservation District (CAWCD), July 22, 1991

Comment 16–1: CAWCD objects to the reversion concept.

Response 16–1: See response 9–1.

Comment 16–2: The time frames for the new allottees to meet the conditions required for the offering of a CAP subcontract and to complete the subcontracting process should not extend beyond the initiation of repayment for CAP.

Response 16–2: The Department agrees. See response 8–1.

Comment 16–3: In the interest of equity, the Tonopah Irrigation District's CAP water service subcontract should be amended to reduce the District's entitlement to CAP water to reflect the removal of eligible lands from agricultural use since the date of the original CAP water allocation.

Response 16–3: The Department agrees and intends to pursue such a modified subcontract with the District.

(17) Gila River Indian Community (Community), May 21, 1991

Comment 17–1: The Secretary should allocate 75 percent of the uncontracted allocations to the Community.

Response 17–1: Subsection 11(h) of SRPMICWRSA clearly states that the Secretary must reallocate the uncontracted previously allocated CAP agricultural water for non-Indian agricultural use and offer contracts for such water to non-Indian agricultural users. See response to comment 1–1.

Comment 17–2: The reference in section 11(h) of the SRPMICWRSA to "non-Indian agricultural users" does not refer to a racial grouping but to a water priority grouping. Therefore, the Secretary is authorized to allocate the uncontracted allocations to the Community.

Response 17–2: The Department believes that the phrase "non-Indian agricultural users" is self explanatory, in that it identifies a type of user that does not include Indian tribes, communities, nations, or reservations, and that the Department is therefore precluded from initially reallocating the uncontracted allocations to such Indian entities.

(18) San Carlos Apache Tribe, June 5, 1991

Comment 18–1: The final reallocation decision needs to be clear that the "excess Ak-Chin water" is not part of the pool that is being reallocated.

Response 18–1: The "excess Ak-Chin water" has been and continues to be considered as Indian water. Therefore, by definition, such water is not part of the pool being reallocated.

(19) City of Tucson (Tucson), July 5, & July 19, 1991

Comment 19–1: Tucson strongly advocates that all original uncontracted CAP water allocations from the Tucson AMA should be reallocated within the Tucson AMA.

Response 19–1: The Department disagrees. See responses 1–1 & 4–1.

Comment 19–2: Under the provisions of SAWRSA the United States is obligated to annually deliver 28,200 acre-feet of water suitable for agricultural use to the Tohono O'odham Nation, beginning October 12, 1992. The proposed reallocation serves to remove a well-suited solution to this Indian claim. The Secretary should reserve sufficient water to fulfill the Tohono O'odham entitlement prior to the reallocation process.

Response 19–2: The Department disagrees. See responses 1–1 & 3–1.

Comment 19–3: The proposed reallocation to the MVWCDD creates a potential conflict with the purpose of the CAP to protect Arizona's ground-water resources. The observation is made that the Phoenix owns 94 percent of the irrigated lands within the MVWCDD and intends to retire land from irrigation and export the ground water to meet future municipal needs. Tucson asserts that the allocation of CAP water for this purpose (to make ground water available to Phoenix from MVWCDD) would violate the purpose of the CAP and the Secretary's trust responsibility to Indian tribes, particularly the Tohono O'odham Nation.

Response 19–3: See response 20–3. With respect to the Secretary's trust responsibilities, the possibility of reallocation for Indian uses has been carefully considered, and the Department has concluded that within the constraints of existing law, the proposed action (i.e. reallocation with reversion for discretionary use) is the best way for the Secretary to comply with the statutory obligation and to meet his trust responsibilities.

(20) Groundwater Users Advisory Council, Tucson AMA, July 8, 1991

Comment 20–1: Reclamation may have misinterpreted section 11(h) of the SRPMICWRSA without consideration of section 13 of the Act. Section 13 of the SRPMICWRSA justifies an allocation for the SAWRSA.

Response 20–1: The Department disagrees. See response 1–1.

Comment 20–2: It is questionable whether the recommended reallocation to MVWCDD is truly to a non-Indian agricultural water user.

Response 20–2: MVWCDD meets the criteria established by the ADWR for its allocation recommendations, i.e., MVWCDD has lands eligible for irrigation with CAP water, MVWCDD is located in an area of ground-water decline, and MVWCDD provides water for irrigation purposes. Reclamation is aware that the Phoenix owns most of the land in MVWCDD and that the delivery and use of CAP water in McMullen Valley will allow Phoenix to conserve ground water in McMullen Valley for potential future conveyance to the Phoenix service area. However, without a change in section 304(c)(3) of the CAP authorizing legislation, the transfer of ground water from McMullen Valley to Phoenix would be prohibited.

The Final Reallocation Decision provides that MVWCDD must demonstrate that it can take and pay for CAP water based strictly on farm economics, in order to receive an offer of a subcontract. No financial assistance from Phoenix will be allowed to enter into such a determination. Furthermore, MVWCDD must demonstrate that it will be able to comply with section 304(c)(1) of the CAP authorizing legislation regarding the limitation of irrigated acreage within a CAP contractor's service area.

The Department does not believe MVWCDD should be denied an allocation solely because of speculation about how Phoenix might benefit from its ownership of land in MVWCDD. Reclamation notes that a number of other cities in the Phoenix area own land in CAP agricultural districts and might wish to convey or exchange ground water to obtain CAP water for their service areas.

Comment 20–3: The commenter fails to see how the SRPMICWRSA precludes first-round reallocation to Indians, while allowing the use of the same water for Indian settlements after the contracting is completed.

Response 20–3: See response 1–1.

Comment 20–4: Use of some of this agricultural CAP water would avoid penalties to be paid by the Federal Government under the SAWRSA, and provide for the least expensive mechanism to fulfill the requirement for "exchange water" for 28,200 acre-feet per year of effluent.

Response 20–4: Regardless of financial considerations, the Secretary does not have the discretion to initially reallocate the uncontracted allocations for Indian water rights settlements. See response 1–1.

Comment 20–5: The AMA goal of safe yield is synonymous with the CAP purpose of eliminating ground-water overdraft.

Response 20–5: See response 4–1.

Comment 20–6: The impacts of this reallocation decision warrant preparation of an "Environmental Impact Statement" rather than a "Finding of No Significant Impact."

Response 20–6: The Final Reallocation Decision provides that the implementation of the reallocation of non-Indian agricultural water will be subject to further compliance with the requirements of the NEPA, and compliance with the requirements of the Endangered Species Act and the National Historic Preservation Act prior to execution of any new or amendatory water service subcontract actions and any distribution system repayment contract or construction actions.

Final Reallocation Decision

Introduction

Many diverse interests expressed wide-ranging and conflicting comments and recommendations that can not all be accommodated. The Department is satisfied that ADWR used reasonable criteria and developed its reallocation recommendations through an open public process. Historically, the Department has deferred to the State's recommendations regarding the allocation of CAP water among non-Indian entities. In this instance, the Department has modified the State's recommendations as follows.

(1) It is not in the best interest of the United States to obligate itself for water service to entities that are not current with financial and contractual obligations to the United States, CAWCD, or bond holders. Therefore, being current with financial and contractual obligations will be one prerequisite to execution of a new or amended subcontract for reallocated water.

(2) It is in the best interest of all parties for a reasonable amount of time to be available for potential subcontractors to meet all preconditions associated with being offered a new or amended subcontract. Therefore, the rigid time frames set forth in ADWR's initial recommendations and the proposed reallocation are relaxed to allow the granting of time extensions, within limits, when necessary.

(3) Providing water for Indian water rights settlements and other purposes from the CAP are current pressing problems for the Department.

Therefore, reallocated water not contracted for within the specified time frames will revert to the Department for discretionary use.

Decision

In consideration of the decisions of previous Secretaries on CAP water allocations, the draft and final environmental impact statements prepared on Water Allocations and Water Service Contracting, Central Arizona Project (INT–DES 81–50 and INT–FES 82–7 respectively), the Draft and Final Environmental Assessments on this reallocation of Non-Indian Agricultural Water (dated June 1991 and July 1991, respectively) and the public comments thereon, the recommendations, report and public review process of ADWR, the notice of proposed reallocation and the public comments, thereon, and this Final Reallocation Decision notice, I hereby reallocate the uncontracted CAP non-Indian agricultural water allocations as set forth below and direct the Commissioner of Reclamation, through his Regional Director, Lower Colorado Region, Boulder City, Nevada, to proceed with water service contracting pursuant to subsection 11(h) of SRPMICWRSA and in accordance with the terms and conditions of this decision. The Final Reallocation Decision is as follows:

1. Amendatory subcontracts will be offered to all existing CAP non-Indian agricultural subcontractors. Such amendatory subcontracts would adjust the water entitlements contained in subarticle 4.13(a) of the existing subcontracts as follows:

Irrigation district (subcontractor)	Existing allocation (percent)	New allocation (percent)
Central Arizona IDD	18.01	22.74
Chandler Heights Citrus ID	0.28	0.30
Harquahala Valley ID	7.67	8.73
HoHoKam ID	6.36	6.97
Maricopa-Stanfield IDD	20.48	22.75
New Magma IDD	4.34	7.23
Queen Creek ID	4.83	4.83
Roosevelt Water CD	5.98	6.33
San Tan ID	0.77	0.77
Tonopah ID	1.98	1.98

2. New subcontracts will be offered to agricultural entities to whom previous allocations were made in 1983 (**Federal Register** (48 FR 12446, March 24, 1983)) but were not heretofore subject to contracting deadlines. The new subcontracts would adjust the previous allocations as follows:

Subcontractor	Original allocation (percent)	Adjusted allocation (percent)
Farmers Investment Co. [FICO]	1.39	1.64
San Carlos IDD [SCIDD]	4.09	5.64

3. New subcontracts will be offered with the indicated allocations to the following entities:

Entity/subcontractor	Allocation (percent)
Arizona State Land Department:	
Lease #01–00694 (Picacho Pecans)	0.54
Lease #01–077685 (Aguirre)	0.11
McMullen Valley Water CDD [MVWCDD]	3.17
Roosevelt ID [RID]	5.07

4. No subcontract will be executed with any entity in paragraph 3 above unless the entity meets the following conditions within 1 year from the date of this decision, or within a longer period, not to exceed 1 year, as may be agreed to by the Regional Director, Bureau of Reclamation, Boulder City, Nevada.

a. Demonstrates to the satisfaction of the Secretary that it is financially feasible to distribute CAP water for agricultural production to the eligible lands in the entity's leasehold or service area and that there is no impediment to any necessary exchange agreements. To meet the financial feasibility requirement, the allottee must demonstrate, using Reclamation's farm budgeting process, that there is sufficient revenue from farm operations within its leasehold or service area to cover all expenses associated with farming, to provide a reasonable return to the farmer for the cost of the farmer's labor, management, and capital, to pay all costs of construction, operation, maintenance, and replacement associated with delivering CAP water from the CAP aqueduct to the point of use, to pay all CAP water costs, and to meet debt requirements, including repayment of Federal construction cost obligations over a period of not to exceed 40 years. In effect, the Department will expect the allottee to meet the same financial feasibility requirements as the other entities which received federally funded and constructed distribution systems. Willingness to pay from non-farming sources will not be considered in determining the ability of the allottee to meet the financial feasibility requirement. The determination that this condition has been met will be made in consultation with ADWR.

b. Commits to relinquish any allocation of "Hoover B" electric power, the incremental capacity and energy resulting from the up-rating program of the Hoover Dam Power plant pursuant to Public Law 98-381 (98 Stat. 1333).

c. Demonstrates to the satisfaction of the Secretary that there will be in place provisions to comply with section 304(c)(1) of Public Law 90-537 for any such entity located outside of an existing AMA or Irrigation Non-expansion Area. The determination that this condition has been met will be made in consultation with ADWR.

5. A determination of eligible acres will be made by the Secretary and the allocation will be adjusted, if necessary, in a manner consistent with the methodology used by ADWR in developing its recommended reallocation before a subcontract will be executed with any entity listed in paragraph 3.

6. Amendatory or new subcontracts must be executed with the existing subcontractors or entities to whom previous allocations were made in 1983 within 6 months of the date of this decision, unless the offering of the amendatory or new subcontract is delayed more than 4 months by the United States or CAWCD. In that event, the amendatory or new subcontract must be executed within 2 months from the time it is offered. New subcontracts must be executed with the allottees listed in paragraph 3 within 6 months after the requirements of paragraph 4 have been completed. No new or amendatory subcontract will be executed with any allottee that is not current with existing obligations to the United States, CAWCD, or bond holders when the time frames specified in this paragraph elapse.

7. If any allottee contracts for an amount less than the amount allocated herein, declines to contract, or is not eligible for a subcontract when the time frames specified in paragraph 6 elapse, then all such uncontracted for water will revert to the Secretary for discretionary use. All reverted water shall retain its status as non-Indian agricultural water with a priority subordinate to Indian allocations and M&I allocations established by the 1983 Decision (48 FR 12446-12449). While the reverted water may be used for M&I service, it will not have the right of conversion to M&I use and priority as provided for in the existing non-Indian agricultural subcontracts. The Department will consult with ADWR before committing reserved water to any specific use or user.

8. Implementation of the reallocation decision will be subject to compliance with the requirements of NEPA, the Endangered Species Act, the National Historic Preservation Act, and other applicable laws and regulations. Such compliance will be carried out prior to the execution of any new water service subcontracts, amendments to existing water service subcontracts, and any new water distribution system repayment contracts, and before commencing construction for any new water distribution systems.

Effective Date and Effect on Previous Decision

This Final Reallocation Decision is effective as of the date of this notice and supplements the previous allocation decision published by Secretary Watt on March 24, 1983 (48 FR 12446). Insofar as the March 24, 1983, decision is inconsistent with this Final Reallocation Decision, the affected provisions of the 1983 decision are hereby rescinded.

Dated: January 31, 1992.

Manuel Lujan Jr.,

Secretary of the Interior.

[FR Doc. 92-2762 Filed 2-4-92; 8:45 am]

BILLING CODE 4310-10-M

Bureau of Land Management

[MT-070-01-4212-21; MTM80639]

Realty Action: Leases, Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, proposal to lease public land in Lewis and Clark County, Montana.

SUMMARY: The Bureau of Land Management proposes to issue a lease on the following described public lands to resolve an unintentional occupancy trespass.

Principal Meridian, Montana

T. 10 N., R. 1 W., Sec. 6, an unofficial Metes and Bounds Lot within Lot 2; comprising 0.57 acres.

The land is located at the upper end of Hauser Lake about 13 miles east of Helena, Montana. The lease would be issued under section 302 of the Federal Land Policy and Management Act (FLPMA) of 1976: 43 U.S.C. 1732, and would be issued noncompetitively. The lease would be issued for a term of 20 years and would be nonrenewable. Fair market rental will be collected for the use of the land, as well as full payment of past trespass liability and reasonable administrative and monitoring costs for processing the lease. A final determination on the lease of this public land will be made after completion of an environmental assessment.

DATES: On or before March 5, 1992, interested parties may submit comments to the Headwaters Resource Area Manager, P.O. Box 3388, Butte, Montana 59702.

FOR FURTHER INFORMATION CONTACT: Bob Rodman, 406-494-5059, at the above address.

Dated: January 24, 1992.

Merle Good,

Area Manager.

[FR Doc. 92-2735 Filed 2-4-92; 8:45 am]

BILLING CODE 4310-DN-M

[CO-050-4380-12]

Moratorium on Commercial Outfitting Permits

AGENCY: Bureau of Land Management, Interior.

ACTION: Establish a moratorium on the number of commercial outfitting permits for the Arkansas Headwaters Recreation Area within the BLM Canon City District, Colorado.

SUMMARY: The BLM Canon City District and the Colorado Division of Parks and

Outdoor Recreation (DPOR) jointly manage the Arkansas Headwaters Recreation Area (AHRA) through a Cooperative Management Agreement (CMA). Through this CMA, DPOR was delegated the management of the permitting of commercial outfitters in the AHRA. BLM and DPOR manage the AHRA through the decisions from the Arkansas River Recreation Management Plan. The Plan identified certain thresholds of use that would initiate the development of a rationing plan. The thresholds were met during the 1991 season and the development of a rationing plan has been initiated.

As part of the development of the rationing plan, BLM and DPOR determined that a moratorium on the number of commercial outfitting permits was desirable. In 1991 there were 70 commercial boating permittees on the Arkansas River. The development of an equitable rationing plan for this large number of outfitters will require extensive time and consideration. A moratorium will provide time to develop, through a public process, appropriate and specific procedures for rationing use within the prescribed capacities of outfitted boating use in the AHRA. The establishment of a moratorium was coordinated with the AHRA's Citizen Task Force.

The moratorium will go into effect on March 2, 1992. Only those commercial rafting outfitters that had a valid permit for the AHRA in 1991, and properly met the requirements of that permit, will be eligible to obtain a permit in 1992.

The moratorium will be in effect until the rationing plan is approved. At that time the moratorium will be lifted and constraints on the number of outfitting permits from the rationing plan, if any, will be implemented.

Sales of outfitting businesses and any transfer of permits that may apply during the period of the moratorium will be dealt with through BLM Manual H8372-1.

EFFECTIVE DATE: March 2, 1992.

FOR FURTHER INFORMATION CONTACT: Pete Zwaneveld, Outdoor Recreation Planner, BLM, Canon City District Office, P.O. Box 2200, Canon City, CO 81215-2200, telephone: (719) 275-0631.

SUPPLEMENTARY INFORMATION: Two exceptions to this moratorium have been identified. The first deals with several commercial kayaking and canoeing outfitters/schools. Due to confusion on the applicability of requirements, these outfitters have not been permitted in the past. Those outfitters that can document use in the AHRA in 1991 are exempt from the moratorium and are eligible for a permit.

The other exception deals with existing non-profit organizations. Again, due to some confusion these organizations did not get a permit in 1991. Those that can document use in 1991 are exempt from the moratorium and are eligible for a permit.

Nothing in this moratorium prevents the issuance of Special Event Permits to qualifying events, such as races, unique training opportunities for the Olympic team and special schools, fund raisers, etc., as authorized in the Arkansas River Recreation Management Plan.

Authority for implementing this action is contained in 43 CFR 8372.3.

Donnie R. Sparks,

District Manager.

[FR Doc. 92-2695 Filed 2-4-92; 8:45 am]

BILLING CODE 4310-JB-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 303-TA-22 (Final)]

Extruded Rubber Thread From Malaysia

AGENCY: United States International Trade Commission.

ACTION: Institution of a final countervailing duty investigation.

SUMMARY: The Commission hereby gives notice of the institution of final countervailing duty investigation No. 303-TA-22 (Final) under section 303 of the Tariff Act of 1930 (19 U.S.C. 1303) (the Act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Malaysia of extruded rubber thread,[1] provided for in subheading 4007.00.00 of the Harmonized Tariff Schedule of the United States.

Pursuant to a request from petitioner under section 705(a)(1) of the act (19 U.S.C. 1671d(a)(1)), Commerce has extended the date for its final determination to coincide with that to be made in the ongoing antidumping investigation on extruded rubber thread from Malaysia. Accordingly, the Commission will not establish a schedule for the conduct of the countervailing duty investigation until Commerce makes a preliminary determination in the antidumping investigation (currently scheduled for February 14, 1992).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: December 30, 1991.

FOR FURTHER INFORMATION CONTACT: Woodley Timberlake (202-205-3188), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 303 of the act (19 U.S.C. 1303) are being provided to manufacturers, producers, or exporters in Malaysia of extruded rubber thread. The investigation was requested in a petition filed on August 29, 1991, by North American Rubber Thread Co., Inc., Fall River, MA.

Participation in the investigation and public service list.—Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, not later than twenty-one (21) days after publication of this notice in the **Federal Register**. The Secretary will prepare a public service list containing the names and addresses of all persons, or there representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this final investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than twenty-one (21) days after the publication of this notice in the **Federal Register** A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

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[1] The merchandise covered by this investigation is vulcanized rubber thread obtained by extrusion of stable or concentrated natural rubber latex of any cross-sectional shape, measuring from 0.18 millimeter (0.007 inch or 140 gauge) to 1.42 millimeters (0.056 inch or 18 gauge) in diameter.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.20 of the Commission's rules.

By order of the Commission.

Issued: January 28, 1992.

Kenneth R. Mason,

Secretary.

[FR Doc. 92-2743 Filed 2-4-92; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-331]

Certain Microcomputer Memory Controllers, Components Thereof and Products Containing Same; Hearing

Notice is hereby given that the hearing in this matter will commence at 9 a.m. on January 30, 1992, in Courtroom C (room 217), U.S. International Trade Commission, 500 E St. SW., Washington, DC.

The Secretary shall publish this notice in the **Federal Register**.

Issued: January 24, 1992.

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 92-2741 Filed 2-4-92; 8:45 am]

BILLING CODE 7020-02-M

[Inv. No. 337-TA-55]

Certain Novelty Glasses; Commission Order To Show Cause Why Exclusion Order Should Not Be Rescinded

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the United States International Trade Commission has ordered complainants Howw Manufacturing, Inc. and Plus Four, Inc. to show cause why the exclusion order issued July 11, 1979, in the above-captioned investigation should not be rescinded. The Commission ordered that such showing be made by written submission filed with the Office of the Secretary no later than thirty (30) days after service of the Order by the Commission.

FOR FURTHER INFORMATION CONTACT: Alesia M. Woodworth, Esq. or T. Spence Chubb, Esq., Office of Unfair Import Investigation, U.S. International Trade Commission, telephone 202-205-2571. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission TDD terminal on 202-205-1810.

SUPPLEMENTARY INFORMATION: The above-captioned investigation was instituted on July 5, 1978, pursuant to a complaint and amendment filed by Howw Manufacturing, Inc. and Plus Four, Inc. 43 FR 29840 (July 11, 1978). The investigation was instituted to determined whether Yau Tak Ind., Ltd. and C.Y. Trading Company violated section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, in the importation or sale of certain novelty glasses which were alleged, *inter alia*, to unfairly copy complainants' trade dress.

On July 11, 1979, the Commission issued an order in the above-captioned investigation excluding from entry into the United States novelty glasses manufactured abroad which unlawfully copy the trade dress of certain of complainants' novelty glasses. The Order also requires Howw Manufacturing, Inc. and Plus Four, Inc. to report to the Commission, on a semi-annual basis, whether complainants are continuing to use the subject trade dress.

In 1991, complainants failed to submit to the Commission the semi-annual reports required by the Commission's Order. Consequently, the Commission has ordered complainants to show cause why the Commission's exclusion order in the above-captioned investigation should not be rescinded pursuant to Rule 211.57 of the Commission's Interim Rules of Practice and Procedure, 19 CFR 211.57.

Public Inspection

The documents cited in this notice and all other nonconfidential documents on the record of this investigation will be made available for public inspection upon request during official business hours (8:45 a.m. to 5:15 p.m., Monday through Friday), in the Office of the Secretary U.S. International Trade Commission, 500 E Street, SW., Docket Section—room 112, Washington DC 20436, telephone 202-205-1802.

Issued January 27, 1992.

By Order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 92-2742 Filed 2-4-92; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-320]

Certain Rotary Printing Apparatus Using Heated Ink Composition, Components Thereof and Systems, Containing Said Apparatus and Components; Commission Decision Extending Administrative Deadline for Completion of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to extend the administrative deadline for completion of the above-captioned investigation by 30 days, *i.e.*, from January 29, 1992 to February 28, 1992.

ADDRESSES: Copies of all nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-205-2000.

FOR FURTHER INFORMATION CONTACT: Wayne Herrington, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-205-3092.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

SUPPLEMENTARY INFORMATION: On August 28, 1991, the presiding administrative law judge (ALJ) issued an ID finding a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the subject investigation.

On October 15, 1991, the Commission issued notice of its decision to review the ID in its entirety and to recall certain physical exhibits for which photographs had been substituted pursuant to ALJ Order No. 5.

On November 26, 1991, the Commission designated the investigation as "more complicated" and established an administrative deadline of January 29, 1992, for completion of the investigation.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and section 210.59(a) of the Commission's Interim Rules of Practice and Procedure (19 C.F.R. 210.59(a)(1991)).

Issued: January 24, 1992.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc.92-2740 Filed 2-4-92; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;
(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;
(3) How often the form must be filled out or the information is collected;
(4) Who will be asked or required to respond, as well as a brief abstract;
(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;
(6) An estimate of the total burden (in hours) associated with the collection; and,
(7) An indication as to whether section 3504(h) of Public Law 96-511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Ms. Lin Liu on (202) 395-7340 and to the Department of Justice's Clearance Officer, Mr. Lewis Arnold, on (202) 514-4305. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the DOJ Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Lewis Arnold, DOJ Clearance Officer, SPS/JMD/5031 CAB, Department of Justice, Washington, DC 20530.

Extension of the Expiration Date of a Currently Approved Collection Without any Change in the Substance or in the Method of Collection

(1) Affidavit of Financial Support and Intent to Petition for Legal Custody for Public Law 97-359 Amerasian.
(2) None. Immigration and Naturalization Service.
(3) On occasion.
(4) Individuals or households. The information requested is used in support of Form I-360 to assure financial support for P.L. 97-359 Amerasians. The Affidavit is used only to sponsor individuals eligible for immigration under Public Law 97-359.
(5) 50 annual responses at .5 hours per response.
(6) 25 annual burden hours.
(7) Not applicable under 3504(h).

1. Alien Crewman's Landing Permit.
2. I-95A. Immigration and Naturalization Service.
3. On occasion.
4. Individuals or households. Vessel and Air Crewman must complete this form as part of the admission process to the United States as provided by sections 251 & 252 of the Immigration & Nationality Act.
5. 433,000 annual responses at .083 hours per response.
6. 30,310 annual burden hours.
7. Not applicable under 3504(h).

1. Judicial Recommendations Against Deportation; Controlled Substance Violations Rule.
2. None. Immigration and Naturalization Service.
3. On occasion.
4. Individuals or households. This will aid INS in not placing unnecessary detainers on alien criminals and will help ensure that deportation proceedings will not be commenced in error.
5. 3,000 annual responses at .25 hours per response.
6. 750 annual burden hours.
7. Not applicable under 3504(h).

Public comment on these items is encouraged.

Dated: January 30, 1992.

Lewis Arnold,

Department Clearance Officer, Department of Justice.

[FR Doc. 92-2711 Filed 2-4-92; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-26,316]

Worthington Precision Metals; Mentor, OH; Negative Determination Regarding Application for Reconsideration

By an application dated January 16, 1992, Local #70 of the United Auto Workers (UAW) requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice was signed on December 23, 1991 and will soon be published in the **Federal Register**.

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

Investigation findings show that the workers produce components for automobiles—transmission parts and power steering parts.

The union states that governor sleeve production for one of Worthington's major customers was phased out in 1988 and that this production is currently being performed in Canada. Also, the union claims that the market loss to imported automobiles has adversely affected their business.

Any declines in sales or production and employment in 1988 are outside the scope of this investigation. Section 223(b)(1) of the Trade Act does not permit the certification of workers who were laid off prior to one year of the petition date. The date of the union's petition is August 28, 1991.

Further, the market loss due to automobile imports would not form a basis for certification of workers producing automobile components. The issue of components was addressed early in the administration of the worker adjustment assistance program. In *United Shoe Workers of America, AFL-CIO* v. *Bedell,* 502 F2d (D.C. Cir. 1974) the court held that imported finished women's shoes were not like or directly competitive with shoe components—shoe counters. Accordingly, increased imports of autos cannot be considered in determining injury to workers producing transmission parts and power steering parts. In determining import injury to workers at Mentor, the Department must consider the finished article produced at Mentor—transmission parts and power steering parts.

The Department's denial was based on the fact that the contributed importantly test of the Group Eligibility Requirements of the Trade Act was not met. The respondents to the Department's survey of Worthington's major customers showed that they did not import power steering components. The respondents also indicated that they did not increase their import purchases of automotive transmission parts in 1991 compared to 1990.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 28th day of January 1992.

Barbara Ann Farmer,

Director, Office of Program Management, Unemployment Insurance Service.

[FR Doc. 92-2719 Filed 2-4-92; 8:45 am]

BILLING CODE 4510-30-M

Labor Surplus Area Classifications Under Executive Orders 12073 and 10582; Additions to the Annual List of Labor Surplus Areas

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

DATE: These additions to the annual list of labor surplus areas are effective February 1, 1992.

SUMMARY: The purpose of this notice is to announce additions to the annual list of labor surplus areas.

FOR FURTHER INFORMATION CONTACT: William J. McGarrity, Labor Economist, Employment and Training Administration, 200 Constitution Avenue NW., room N-4470, Attention: TEESS, Washington, DC 20210. Telephone: 202-535-0189.

SUPPLEMENTARY INFORMATION: Executive Order 12073 requires executive agencies to emphasize procurement set-asides in labor surplus areas. The Secretary of Labor is responsible under that Order for classifying and designating areas as labor surplus areas. Executive agencies should refer to Federal Acquisition Regulation Part 20 (48 CFR part 20) in order to assess the impact of the labor surplus area program on particular procurements.

Under Executive Order 10582 executive agencies may reject bids or offers of foreign materials in favor of the lowest offer by a domestic supplier, provided that the domestic supplier undertakes to produce substantially all of the materials in areas of substantial unemployment as defined by the Secretary of Labor. The preference given to domestic suppliers under Executive Order 10582 has been modified by Executive Order 12260. Federal Acquisition Regulation Part 25 (48 CFR part 25) implements Executive Order 12260. Executive agencies should refer to Federal Acquisition Regulation part 25 in procurements involving foreign businesses or products in order to assess its impact on the particular procurements.

The Department of Labor regulations implementing Executive Orders 12073 and 10582 are set forth at 20 CFR part 654, subparts A and B. Subpart A requires the Assistant Secretary of Labor to classify jurisdictions as labor surplus areas pursuant to the criteria specified in the regulations and to publish annually a list of labor surplus areas. Pursuant to those regulations the Assistant Secretary of Labor published the annual list of labor surplus areas on October 25, 1991, (56 FR 55339).

Subpart B of part 654 states that an area of substantial unemployment for purposes of Executive Order 10582 is any area classified as a labor surplus area under subpart A. Thus, labor surplus areas under Executive Order 12073 are also areas of substantial unemployment under Executive Order 10582.

The areas described below have been classified by the Assistant Secretary of Labor as labor surplus areas pursuant to 20 CFR 654.5(b) (48 FR 15615 April 12, 1983) and are effective February 1, 1992.

The list of labor surplus areas is published for the use of all Federal agencies in directing procurement activities and locating new plants or facilities.

Signed at Washington, DC on January 29, 1992.

Roberts T. Jones,

Assistant Secretary of Labor.

Additions to the Annual List of Labor Surplus Areas.

(February 1, 1992)

Labor surplus areas	Civil jurisdictions included
Kentucky:	
Greenup County	Greenup County.
Simpson County	Simpson County.
Maine:	
Piscataquis County	Piscataquis County.

[FR Doc. 92-2720 Filed 2-4-92; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL SCIENCE FOUNDATION

Permit Application Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit application received under the Antarctic Conservation Act of 1978, Public Law 95-541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at title 45 part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by March 6, 1992. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, room 627, Division of Polar Programs, National Science Foundation, Washington, DC 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 357-7817.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Public Law 95-541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected

Areas and Sites of Special Scientific Interest.

The application received is as follows:

1. *Applicant:* Peter Peterson, Antarctic Support Associates, 61 Inverness Drive E., Englewood, CO 80112.

Activity for Which Permit Requested: Taking. The applicant requests permission to take by harassment elephant seals. During the austral summer at Palmer Station, Antarctica, elephant seals will attempt to access the Palmer Station pier. If a seal is on the pier when a ship arrives to dock, the seal may move and be crushed by the incoming ship. As a preventative measure, the applicant requests permission to "herd" the seals from the pier and out of danger.

Location: Palmer Station, Antarctic peninsula.

Dates: 1992–1997.

Charles E. Myers,

Permit Office, Division of Polar Programs.

[FR Doc. 92–2702 Filed 2–4–92; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee on Advanced Boiling Water Reactors; Meeting

The Subcommittees on Advanced Boiling Water Reactors will hold a meeting on February 20–21, 1992, room P–422, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Thursday, February 20, 1992—8:30 a.m. until the conclusion of business.

Friday, February 21, 1992—8:30 a.m. until the conclusion of business.

The Subcommittee will review SECY–91–320 and SECY–91–355, addressing two DSERs related to different chapters of the GE/Standard Safety Analysis Report for the ABWR design, and other related issues.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the General Electric Corporation, NRC staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Dr. Medhat M. El-Zeftawy, (telephone 301/492–9901) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: January 28, 1992.

Gary R. Quittschreiber,

Chief, Nuclear Reactors Branch.

[FR Doc. 92–2752 Filed 2–4–92; 8:45 am]

BILLING CODE 7590-01-M

Second Meeting of the SCDAP/RELAPS Peer Review Committee

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Meeting.

SUMMARY: The SCDAP/RELAPS Peer Review Committee will hold its second meeting to review the technical adequacy of the SCDAP/RELAPS code.

DATES: April 7–10, 1992.

TIME: 8 a.m. each day.

ADDRESSES: University Place, Idaho Falls, Idaho.

FOR FURTHER INFORMATION CONTACT: Dr. Y.S. Chen, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 492–3566.

SUPPLEMENTARY INFORMATION: The SCDAP/RELAP5 Peer Review Committee will hold its second meeting to review the technical adequacy of the SCDAP/RELAP5 code on April 7–10, 1992, in Idaho Falls, ID. The SCDAP/RELAP5 code has been developed for best-estimate transient simulation of light water reactor coolant systems during severe accidents as well as large and small break loss-of-coolant accidents, and operational transients such as anticipated transient without SCRAM, loss of offsite power, loss of feedwater, and loss of flow. The code is based on three separate codes: RELAP5, SCDAP, and TRAP-MELT, which are combined to model the coupled interactions that occur between the Reactor Coolant System (RCS), the core, and the fission products during a severe accident. The newest version of the code is SCDAP/RELAP5/MOD3. A number of organizations inside and outside the NRC are using or planning to use the current version. Although the quality control and validation efforts are seen to be proceeding, there is a need to have a broad technical review by recognized experts to determine the technical adequacy of the SCDAP and TRAP-MELT portions of SCDAP/RELAP5 for the serious and complex analyses it is expected to perform.

The meeting will focus on preliminary Committee findings on technical adequacy of detailed code models. During the meeting held on Tuesday and Wednesday, April 7–8, 1992, the Committee members will present their findings on "Bottom-Up"—detailed model reviews. Thursday through Friday, April 9–10, 1992, detailed "Top-Down" modeling input will be presented by the Idaho National Engineering Laboratory (INEL). On Friday the Committee will also discuss Final Report outline and plans for the third Peer Review Meeting.

SUBJECT: SCDAP/RELAP5 Peer Review Committee meeting.

Dated at Rockville, Maryland, this 29th day of January, 1992.

For the U.S. Nuclear Regulatory Commission

Farouk Eltawila,

Chief, Accident Evaluation Branch, Division of Systems Research, Office of Nuclear Regulatory Research.

[FR Doc. 92–2747 Filed 2–4–92; 8:45 am]

BILLING CODE 7590-01-M

Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular biweekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from January 10, 1992, through January 24, 1992. The last biweekly notice was published on January 22, 1992 (57 FR 2584).

Notice Of Consideration Of Issuance Of Amendment To Facility Operating License And Proposed No Significant Hazards Consideration Determination And Opportunity For Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By March 6, 1992, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to **(Project Director):** petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room for the particular facility involved.

Carolina Power & Light Company, et al., Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of amendments request: January 4, 1991, as supplemented June 24 and December 19, 1991.

Description of amendments request: This amendment request was originally noticed on March 20, 1991 (56 FR 11722). Although the original request remains unchanged, the proposed change adds a new requirement for the Plant Nuclear Safety Committee (PNSC) to review changes to the Fire Protection Program and implementing procedures and submit any changes approved by the PNSC to the Nuclear Assessment Department (NAD) for review.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The Change does not involve a significant hazards consideration for the following reasons:

1. The proposed change requires the additional review by the PNSC and the NAD of future changes to the Fire Protection Program and implementing procedures. The change is a new Technical Specification requirement that is consistent with the requirements of NRC Generic Letters 86-10 and 88-12. The proposed change is an administrative control that does not physically alter the facility in any manner and, as such, does not affect the means by which any safety-related system performs its intended safety function. As such, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated. As stated in Item 1 above, the proposed change requires the additional review by the PNSC and the NAD of future changes to the Fire Protection Program and implementing procedures. As such, the proposed change does not involve physical alterations of the plant configuration or changes in setpoints or operating parameters. The proposed change adds a new requirement to Technical Specification 6.5.3.8 which is administrative in nature.

3. The proposed change does not involve a significant reduction in the margin of safety. The proposed change requires the additional review by the PNSC and the NAD of future changes to the Fire Protection Program and implementing procedures. Future changes to the Fire Protection Program and the associated implementing procedures will be subject to controlled review in accordance with both the requirements of Section 6 of the Technical Specifications and in accordance the existing requirements of 10 CFR 50.59. Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, P. O. Box 1551, Raleigh, North Carolina 27602

NRC Project Director: Elinor G. Adensam

Consolidated Edison Company of New York, Docket No. 50-247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of amendment request: December 30, 1991

Description of amendment request: The licensee has proposed to modify the technical specifications for the Control Room Air Filtration System to delete the requirement to monitor hydrogen cyanide and to increase the existing anhydrous ammonia monitor alarm/trip setpoint from 3.5 ppm to 25 ppm.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

In accordance with the requirements of 10 CFR 50.92, the proposed changes to Technical Specification 3.3.H.3 is deemed not to involve a "Significant Hazards Consideration" because operation of Indian Point Unit No. 2 in accordance with this change would not:

1) Involve a significant increase in the probability of consequences of an accident previously evaluated.

The proposed changes do not involve a significant increase in the probability or consequences of a previously analyzed accident. [The Code of Federal Regulations at] 10 CFR [Part] 50 Appendix A, General Design Criteria (GDC) 19 requires that a control room be provided from which actions can be taken to operate the nuclear power unit safely under normal conditions and to maintain it in a safe condition under accident conditions. The accident postulated is the discharge of a hazardous chemical in sufficient quantity to render the control room uninhabitable. The original habitability study performed in 1981, identified three hazardous chemicals within a 5 mile radius of IP-2 required to be monitored. This study provided the basis for the existing toxic gas monitoring system.

The new habitability study performed in 1991, supersedes the previously performed study. The results of this new study confirm that the need to monitor hydrogen cyanide is no longer necessary. Therefore, the proposed change to delete the requirement to monitor hydrogen cyanide does not increase the probability or consequences of a previously analyzed accident, because the probability of a hydrogen cyanide accident has actually decreased.

The proposed change to the anhydrous ammonia alarm/trip setpoint from 3.5 ppm to 25 ppm does not involve a significant increase in the probability or consequences of a previously analyzed accident. The proposed increase of the setpoint is at a value which is recognized by the American Conference of Government Industrial Hygienists as the Threshold Limit Value time weighed average concentration at which all workers may be repeatly exposed, day after day, without adverse effect. Therefore, the proposed change to increase the anhydrous ammonia alarm/trip setpoint does not significantly increase the probability or consequences of a previously analyzed accident.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not create the possibility of a new or different kind of accident. The deletion of the hydrogen cyanide monitor and the increase of the alarm/trip monitor setpoint for anhydrous ammonia do not affect the storage or the use of any hazardous chemicals.

3. Involve a significant reduction in a margin of safety.

The proposed changes do not involve a significant reduction in a margin of safety. The deletion of the hydrogen cyanide monitor does not reduce any margin of safety since the requirement to detect hydrogen cyanide has been eliminated. The increase of the alarm/trip monitor setpoint for anhydrous ammonia does not significantly reduce the margin of safety since the new setpoint is at the Threshold Limit Value time weighed average concentration at which all workers may be exposed, day after day, without adverse effect.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Attorney for licensee: Brent L. Brandenburg, Esq., 4 Irving Place, New York, New York 10003.

NRC Project Director: Robert A. Capra

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: November 12, 1991

Description of amendment request: Change the Palisades Technical Specifications to remove the schedule for withdrawal of the reactor vessel material specimens. A revised reactor vessel surveillance coupon removal schedule has been submitted for approval which reflects the actual operating cycle that will be included in the next revision of the FSAR.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involve a significant increase in the possibility or consequences of an accident previously evaluated.

The relocation of the surveillance specimen removal schedule is an administrative change removing a duplication of the requirement already contained in Appendix H to 10 CFR 50. Therefore, the change has no effect on the possibility or consequences of an accident.

2. Create the possibility of a new or different kind of accident from any previously evaluated.

The relocation of the surveillance specimen removal schedule is an adminstrative change removing a duplication of the requirement already contained in Appendix H to 10 CFR 50. Therefore, the change does not create the possibility of a new or different kind of accident.

3. Involve a significant reduction in the margin of safety.

The relocation of the surveillance specimen removal schedule is an administrative change removing a duplication of the requirement already contained in Appendix H to 10 CFR 50. Therefore, the margin of safety, as defined by the plant licensing bases, is unchanged.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Attorney for licensee: Judd L. Bacon, Esq., Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Project Director: L. B. Marsh.

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: December 18, 1991

Description of amendment request: The requested Technical Specification (TS) changes which support the McGuire Unit 2 Cycle 8 reload are administrative in nature and make the McGuire Unit 2 TS identical to the previously approved McGuire Unit 1 TS (approved November 27, 1991). The methodology and analyses that supported the previously approved Unit 1 TS amendment are applicable to both McGuire Units.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The [Technical Specification] changes . . . are administrative in nature, to reflect the application of a previously approved methodology to McGuire Unit 2. The changes delete references to specific units on individual Technical Specification (TS) pages, and delete superseded (previously Unit 2 only) pages. The unit-specific references became necessary upon application of a new safety analysis methodology for McGuire Unit 1 Cycle 8, and resulted in parallel, but different, sets of TSs; notably in the Power Distribution chapter. The analysis which made the changes necessary in the Unit 1 reload submittal is a generic one, applicable equally to both McGuire units and Duke's two Catawba units. Therefore, there is no new significant hazards consideration (SHC) which will be raised by this amendment. This determination is in keeping with staff guidance which was published in the Federal Register (48 FR 14864) to assist in determining whether or not proposed amendments are likely to raise an SHC. This guidance cites as an example of an amendment not likely to involve a significant hazards consideration "a purely administrative change to technical specifications: for example, a change to achieve consistency . . ."

Since these changes are considered administrative, no further analysis is required.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South

Church Street, Charlotte, North Carolina 28242

NRC Project Director: David J. Lange, Acting

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of amendment request: August 16, 1991

Description of amendment request: The proposed amendment would delete Sebring Utilites Commission as a participating owner. Florida Power Corporation, which owns 90 percent of Crystal River Unit 3 (CR-3), will purchase the Sebring share (0.4473 percent).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

...[t]he amendment would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated because no operational restrictions are modified by deleting a previous owner from the facility's operati[ng] license. In addition, the proposed change does not involve plant equipment, plant systems, procedural changes[,] the number or technical qualifications of operating personnel or nuclear plant management. Rather, the [change] relates to a minor adjustment in ownership shares.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed change introduces no new mode of plant operation nor does it require physical modification to the plant.

3. Involve a significant reduction in the margin of safety. No reduction in the margin of safety will result since the purpose of the change is solely administrative in nature.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 32629

Attorney for licensee: A. H. Stephens, General Counsel, Florida Power Corporation, MAC - A5D, P. O. Box 14042, St. Petersburg, Florida 33733

NRC Project Director: Herbert N. Berkow

Florida Power and Light Company, et al., Docket No. 50-389, St. Lucie Plant, Unit No. 2, St. Lucie County, Florida

Date of amendment request: December 17, 1991

Description of amendment request: The proposed amendment would revise Technical Specification Section 3.1.1.4.c., "Moderator Temperature Coefficient" (MTC). This proposal would change the MTC value from -27 pcm/degree F to -30 pcm/degree F.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change to the Technical Specification negative MTC limit is an input parameter in various transient and accident analysis. Allowing the operating MTC to be more negative does not influence whether or not the transient is more or less likely to occur. Safety analyses have been performed to demonstrate that any transients or accidents whose results would be adversely affected by a more negative MTC limit do not have consequences that are significantly worse than previously evaluated. In addition, the revised analyses, incorporating the proposed change in MTC limit, continue to demonstrate that all appropriate analyses criteria reported in the Reload Analysis Report are met. In particular, the change does not cause any violations of the appropriate fuel design criteria, increase previously calculated site boundary doses, or result in [reactor coolant system] pressures above the upset pressure limit. Therefore, the proposed change in the Technical Specification MTC limit does not involve any increase in the probability or consequences of an accident previously evaluated.

In addition to the [a]ccident analysis, the effect on the [b]oric [a]cid [m]akeup [t]ank boron concentration limits were evaluated. This evaluation shows that this change will not affect the current limit. The proposed change does not alter any equipment performance requirements, or the probability of consequences of equipment malfunction.

2: Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change in the negative Technical Specification MTC limit does not constitute any change in procedures for plant operation or hardware nor does it require any change in the accident analysis methodology or the [d]esign [b]asis [e]vent analyzed. Therefore, the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Operation of the facility in accordance with this proposed amendment would not involve a significant reduction in a margin of safety.

Safety analysis calculations show that incorporation of the more negative MTC limit yields results which are still within the existing acceptance criteria without the need to change any other Technical Specification [Limiting Conditions for Operation] or [Limiting Safety System Setting] limits. Therefore, the operation of the facility in accordance with the proposed amendment involves no significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34954-9003

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzinger, 1615 L Street, N.W., Washington, D.C. 20036

NRC Project Director: Herbert N. Berkow

GPU Nuclear Corporation, et al., Docket No. 50-219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of amendment request: October 23, 1991, as supplemented December 20, 1991.

Description of amendment request: The proposed amendment would revise Section 3.13 of the Oyster Creek Nuclear Generating Station Technical Specifications. The change incorporates an NRC requirement derived from the BWR Technical Specifications to have available a preplanned alternate method to provide an estimate of radioactive material in containment under accident conditions if both Containment High Radiation Monitors are inoperable for 7 days or more. The "Bases" section of Technical Specification 3.13 was clarified as described in the licensee's letter of December 20, 1991.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below: The proposed amendment would not:

1. Involve an increase in the probability or consequences of an accident previously evaluated.

The proposed change documents that the post accident sampling system provides capability for monitoring post accident

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containment radioactivity, and represents no change to plant configuration or procedures. As such, there is no increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

Because the proposed Tech. Spec. change involves no change to the plant configuration or procedures, the possibility of a new or different kind of accident is not created.

3. Involve a significant reduction in the margin of safety.

Because the proposed Tech. Spec. change involves no change to the plant configuration or procedures, there is no reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Ocean County Library, Reference Department, 101 Washington Street, Toms River, New Jersey 08753

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50-461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of amendment request: July 11, 1990, supplemented May 7, 1991

Description of amendment request: The proposed amendment would revise the Technical Specifications in response to NRC Generic Letter (GL) 88-01. The proposed revisions would add a commitment to perform the Inservice Inspection Program for piping as identified in GL 88-01, would revise the Actions for out of service leakage detection systems, and add a Limiting Condition For Operation and Action for sudden increases in Reactor Coolant System leakage. (55 FR 36345 September 5, 1990)

Subsequent to the application for amendment dated July 11, 1990, the licensee received the NRC staff's Safety Evaluation (SE) of this previously submitted response to GL 88-01. The SE concluded that the licensee's response was acceptable with two exceptions, one of which was related to the proposed TS change, frequency for monitoring the unidentified leakage rate. The licensee has addressed this issue in their response dated May 7, 1991, by including a requirement to monitor the unidentified leakage rate at least once per 8 hours consistent with the NRC staff SE.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed changes incorporate additional and more stringent requirements into the Technical Specifications for monitoring and responding to reactor coolant leakage, particularly with respect to leakage from piping made of austenitic stainless steel. Under the revised Technical specifications as proposed, an IGSCC condition in austenitic stainless steel piping may be recognized and appropriate action taken well before the gross failure of stainless steel piping could occur. The proposed changes are consistent with the "Staff Position on Leak Detection" section of Attachment A to Generic Letter 88-01. The change to specification 4.0.5 enforces implementation of the applicable NRC Staff positions in the ISI program from the standpoint of the Technical Specifications, thus enhancing inspection and sampling practices for piping subject to intergranular stress corrosion cracking.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed change does not involve any changes to plant design or any new mode of operation such that a new or different kind of accident must be considered.

3. The proposed changes do not involve a significant reduction in a margin of safety because the proposed changes should enhance recognition and evaluation of a possible degradation (increased leakage due to cracked piping or welds) before a more severe condition or accident occurs.

The NRC staff has reviewed the licensee's analysis and agrees with the licensee's conclusions. Therefore, the staff proposes to determine that the requested changes doe not involve a significant hazards consideration.

Local Public Document Room location: Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727

Attorney for licensee: Sheldon Zabel, Esq., Schiff, Hardin and Waite, 7200 Sears Tower, 233 Wacker Drive, Chicago, Illinois 60606

NRC Project Director: John N. Hannon

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: December 20, 1991

Description of amendment request: The amendment would revise the Technical Specifications by: (1) incorporating programmatic controls in the Administrative Controls section of the Technical Specifications (TS) that satisfy the requirements of 10 CFR 20.106, 40 CFR Part 190, 10 CFR 50.36a, and Appendix I to 10 CFR Part 50; (2) relocating from the TS to the Offsite Dose Assessment Manual (ODAM) procedural details or specific requirements in the current TS involving radioactive effluent monitoring instrumentation, the control of liquid and gaseous effluent, equipment requirements for liquid and gaseous effluent, radiological environmental monitoring, and radiological reporting details; (3) relocating from the TS to the Process Control Program (PCP) procedural details or specific requirements on solid radioactive wastes; (4) simplifying the associated reporting requirements; (5) simplifying the administrative controls for changes to the ODAM and PCP, (6) adding record retention requirements for changes to the ODAM and PCP; and (7) updating the definitions of the ODAM and PCP consistent with these changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. Operation of the facility in accordance with the proposed amendment would not involve any increase in the probability of occurrence or consequences of an accident previously evaluated. This change is administrative in nature since the existing RETS [Radiological Effluent Technical Specifications] requirements will be relocated to the ODAM and PCP and will be controlled by the requirements stipulated in the administrative section of the TS.

2. Operation of the facility with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated. As stated above, the requirements of RETS will be incorporated into the ODAM and PCP with specific administrative controls remaining in the Technical Specifications. This change is administrative in nature and is consistent with the guidance provided in GL 89-01.

3. Operation of the facility in accordance with the proposed amendment would not involve any reduction in a margin of safety. The margin of safety remains the same; as the existing requirements will be maintained as part of the ODAM and PCP and will provide for adequate control over radioactive effluent releases and for radiological environmental monitoring activities.

The proposed changes will not increase the probability or consequences of any previously analyzed accident, introduce any new or different kind of accident, or reduce any existing margin of safety. Therefore, the proposed license amendment involves no significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, S.E., Cedar Rapids, Iowa 52401.

Attorney for licensee: Jack Newman, Esquire, Kathleen H. Shea, Esquire, Newman and Holtzinger, 1615 L Street, NW., Washington, DC 20036.

NRC Project Director: John N. Hannon.

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: December 30, 1991

Description of amendment request: The amendment would revise the Technical Specifications by combining the Recirculation Pump Limiting Condition for Operation (LCO) and Surveillance Requirements into one section, consolidating Single Loop Operation (SLO) requirements from other sections, and making minor editorial changes and corrections.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. The proposed change does not increase the probability or consequences of an accident occurring because it does not result in any physical or operational changes to the plant. The change serves only to clarify current operational requirements previously approved in Amendment No. 119 by incorporating "human-factors" improvements to the SLO TS.

2. The proposed change does not result in any physical or operational changes to the plant nor does it change current operating practice, and therefore cannot create the possibility of any new or different type of accident.

3. The margin of safety as defined by TS will not be reduced, since the proposed change makes no modifications to plant equipment and only serves to clarify current operational requirements previously approved in Amendment No. 119.

The consolidation of requirements from other TS sections into the SLO section and the addition of TS guidance for operation in certain regions of Figure 3.3-1 are consistent with current operating practice and incorporate human-factors improvements, and do not reduce the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, S.E., Cedar Rapids, Iowa 52401.

Attorney for licensee: Jack Newman, Esquire, Kathleen H. Shea, Esquire, Newman and Holtzinger, 1615 L Street, NW., Washington, DC 20036.

NRC Project Director: John N. Hannon.

Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station Unit No. 1, Oswego County, New York

Date of amendment request: January 7, 1992

Description of amendment request: The proposed amendment would delete the fire protection technical specifications and their associated Bases and definitions from the Nine Mile Point Unit 1 Technical Specifications. The deleted requirements would be relocated to the Nine Mile Point Unit 1 Fire Hazards Analysis, which is incorporated by reference into the Nine Mile Point Unit 1 Final Safety Analysis Report (Updated). The proposed amendment would augment the Administrative Controls section of the Technical Specifications to require (1) that written procedures be established, implemented, and maintained for activities involving implementation of the Fire Protection Program, (2) periodic review of the Fire Protection Program and implementing procedures by a qualified individual/organization, and (3) submittal of recommended changes to the Fire Protection Program and implementing procedures to the Safety Review and Audit Board. Conforming changes would also be made to the Index for the technical specifications. License Condition 2.D.(7) would be revised to permit the licensee to make changes to the approved Fire Protection Program without prior approval of the NRC only if those changes would not adversely affect the ability to achieve and maintain safe shutdown in the event of a fire. The proposed changes are in accordance with the guidance provided in NRC Generic Letter 88-12, "Removal of Fire Protection Requirements from Technical Specifications," dated August 2, 1988, and NRC Generic Letter 86-10, "Implementation of Fire Protection Requirements," dated April 24, 1986.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The operation of Nine Mile Point Unit 1, in accordance with the proposed amendment, will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated, because no changes to safety systems or setpoints are proposed. The proposed changes simply relocate the fire protection requirements from the Technical Specifications to the [Final Safety Analysis Report] FSAR (Updated) in accordance with the guidance in Generic Letters 86-10 and 88-12. The proposed changes are administrative only and do not affect current plant practices; therefore, they will not significantly increase the probability or consequences of an accident previously evaluated.

The operation of Nine Mile Point Unit 1, in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because these changes do not affect the operation or function of any equipment necessary for the safe operation or shutdown of the plant. The proposed changes do not involve any physical alterations of plant configurations, changes to setpoints, or operating parameters. The changes are administrative only and all existing fire protection requirements are maintained. Therefore, these changes do not create the possibility of a new or different kind of accident.

The operation of Nine Mile Point Unit 1, in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety.

The proposed changes do not involve a significant reduction in a margin of safety. These changes are in accordance with Generic Letter[s] 86-10 and 88-12 guidelines for incorporating the Fire Protection Program into the Nine Mile Point Unit 1 FSAR (Updated). The changes are administrative only and ensure that the Fire Protection Program will be on a consistent status with other plant features described in the FSAR (Updated). The Nine Mile Point Unit 1 Fire Protection Program retains all existing fire protection requirements and therefore, an equivalent level of protection has been assured without a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State

University of New York, Oswego, New York 13126.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005-3502.

NRC Project Director: Robert A. Capra

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of amendment request: December 16, 1991

Description of amendment request: The proposed amendment would change references to the spent fuel pool area radiation monitors in the Technical Specifications to remove any inference that they perform a criticality monitoring function, thereby making the Technical Specifications consistent with the NRC exemption issued October 18, 1991.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

> The proposed change does not involve a significant hazards consideration because the change would not:
>
> 1. Involve a significant increase in the probability or consequences of an accident previously analyzed. The proposed change clarifies the safety function of the spent fuel area radiation monitors by deleting the wording that termed these monitors as criticality monitors in Tables 3.3-6 and 4.3-3. There are no design basis accidents adversely affected due to the change.
>
> 2. Create the possibility of a new or different kind of accident from any previously analyzed. Since there are no changes in the way the plant is operated, the potential for an unanalyzed accident is not created.
>
> 3. Involve a significant reduction in a margin of safety. Since the change does not affect the consequences of any accident previously analyzed, there is no reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

Northern States Power Company, Docket Nos. 50-282 and 50-306, Prairie Island Nuclear Generating Plant, Units Nos. 1 and 2, Goodhue County, Minnesota

Date of amendment request: December 13, 1991

Description of amendment request: The proposed amendment would revise the Technical Specifications, Section 3.13, Control Room Air Treatment System, by deleting the requirement for a chlorine detection system. Specifically, Section 3.13.B. and the associated Bases would be deleted.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

> (1) The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.
>
> Toxic chemical releases have been shown to have such a low probability of occurrence [at Prairie Island] that they are not a safety concern. [An] analysis demonstrates compliance with the NRC Standard Review Plan. The lack of chlorine detection might impact a toxic spill accident if it were to occur but the probability has been shown to be below established levels of concern.
>
> (2) The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated. The removal of toxic chemical instruments will not create the possibility of a new kind of accident or different kind of accident.
>
> (3) The proposed amendment will not involve a significant reduction in the margin of safety.
>
> The margin of safety will not be significantly reduced by the removal of these instruments. Established margins of safety have been met or exceeded as demonstrated by analysis.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW, Washington, DC 20037.

NRC Project Director: L. B. Marsh.

Northern States Power Company, Docket Nos. 50-282 and 50-306, Prairie Island Nuclear Generating Plant, Units Nos. 1 and 2, Goodhue County, Minnesota

Date of amendment request: January 10, 1992

Description of amendment request: The proposed amendment consists of two parts. The first part would revise the Technical Specifications (TS) in response to Generic Letter 90-09, "Alternative Requirements for Snubber Visual Inspection Intervals and Corrective Actions," which provides an alternate schedule for visual inspection of snubbers which maintains the same confidence level. Specifically, the current snubber visual inspection schedule in TS Section 4.13.A is being replaced with a reference to a new TS Table TS.4.13-1, and the current snubber visual inspection acceptance criteria in TS Section 4.13.B are being revised per the guidance in Generic Letter 90-09.

In the second part, the proposed amendment would revise TS Section 4.13.C and associated Bases to remove the requirement that functional testing of snubbers be done during cold shutdown.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

> Part 1 - Alternate schedule for visual inspection of snubbers.
>
> (1) The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.
>
> The proposed changes incorporate the requirements of the Standard Technical Specifications and the guidance of Generic Letter 90-09 into the Prairie Island snubber visual inspection program. The NRC staff concluded in Generic Letter 90-09, that the alternative snubber visual inspection schedule, described in Generic Letter 90-09, maintains the same confidence level in the operability of snubbers as the existing visual inspection schedule.
>
> Therefore, since the proposed changes conform with the Standard Technical Specifications and the guidance in Generic Letter 90-09, the confidence level in the operability of the snubbers is unchanged, and the proposed changes will not significantly affect the probability or consequences of an accident previously evaluated.
>
> (2) The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously analyzed.
>
> There are no new failure modes or mechanisms associated with the proposed changes. The proposed changes do not involve any modification in operational

limits. Only the snubber inspection program is being changed.

Replacing the current snubber visual inspection requirements with requirements consistent with the Standard Technical Specifications and the guidance of Generic Letter 90-09, will not affect the capability of the Prairie Island snubbers to perform their intended function during normal or accident conditions. The resulting snubber visual inspection program will continue to assure the ability of snubbers to provide dynamic load support during a seismic event.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated, and the acccident analyses presented in the Updated Safety Analysis Report will remain bounding.

(3) The proposed amendment will not involve a significant reduction in the margin of safety.

The proposed snubber visual inspection requirements are consistent with the Standard Technical Specifications and the guidance in Generic Letter 90-09, and are equivalent to the previous requirements with regard to assuring the capability of the systems which are supported. The snubber functional testing continues to provide incentive for proper maintenance and assurance of the capability of the snubbers.

Therefore, the proposed changes will not result in any reduction in the plant's margin of safety.

Part 2 - Functional testing of snubbers.

(1) The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The use of existing Prairie Island administrative controls in place of the requirement for testing during cold shutdown will provide adequate assurance that the removal of snubbers from service for functional testing will be properly evaluated and controlled, and that systems supported by the subject snubbers would remain within the requirements of Section 3 of the Prairie Island Technical Specifications during the period of functional testing.

Therefore, since administrative controls will maintain the operability of affected systems within the requirements of the current Prairie Island Technical Specifications, the elimination of the requirement for snubber functional testing only during cold shutdown will not significantly affect the probability or consequences of an accident previously evaluated.

(2) The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously analyzed.

There are no new failure modes or mechanisms associated with the proposed changes. The proposed changes do not involve any modification in operational limits. Only the snubber functional test program is being changed.

The use of existing Prairie Island administrative controls in place of the requirement for testing during cold shutdown will provide adequate assurance that the removal of snubbers from service for functional testing will be properly evaluated and controlled, and that systems supported by the subject snubbers would remain within the requirements of Section 3 of the Prairie Island Technical Specifications during the period of functional testing.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated, and the accident analyses presented in the Updated Safety Analysis Report will remain bounding.

(3) The proposed amendment will not involve a significant reduction in the margin of safety.

The Prairie Island administrative control procedures clearly state that the voluntary entrance into a Technical Specification action statement should be based on the premise that it will increase plant safety.

The use of existing Prairie Island adminstrative controls in place of the requirement for testing during cold shutdown will provide adequate assurance that the removal of snubbers from service for functional testing will be properly evaluated and controlled, such that plant safety will not be adversely affected.

Therefore, the proposed changes will not result in any reduction in the plant's margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW, Washington, DC 20037.

NRC Project Director: L. B. Marsh.

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: January 9, 1992

Description of amendment request: The proposed amendment would implement Generic Letter 90-09 concerning snubber visual inspection testing in Technical Specification 3.14. The amendment would also delete Technical Specification 3.14(2) since it is no longer needed and correct a typographical error in the Basis for 3.14. The issues dealing with Generic Letter 90-01 will be addressed separately.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed changes do not involve a significant hazards consideration because operation of Fort Calhoun Station Unit 1 in accordance with these changes would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes to Specification 3.14 concerning the selection criteria for the visual inspection of snubbers do not affect the 95 percent probability that 90 to 100 percent of the snubbers will perform within established acceptance criteria established by the functional testing of the snubbers. Visual inspections are a separate process that complements the functional testing program and provides additional confidence in snubber operability. The proposed changes reflect a selection criteria for conducting the visual testing as stated in NRC Generic Letter 90-09 based on the number of inoperable snubbers found during the previous visual inspection. Therefore this change does not increase the probability or consequences of any accident previously evaluated.

(2) Create the possibility of a new or different kind of accident from any previously analyzed.

It has been determined that no new or different kind of accident will be possible due to these proposed changes. No new or different modes of operation are proposed for the plant as a result of these proposed changes. Therefore, no new or different kind of accident from any previously analyzed is possible.

(3) Involve a significant reduction in a margin of safety.

The proposed changes do not involve any reduction in a margin of safety.... The proposed changes to Specification 3.14 reflect a selection criteria for conducting visual inspections of snubbers as stated in Generic Letter 90-09 based on the number of inoperable snubbers found during the previous visual inspection. The proposed changes do not affect the level of confidence that snubbers will perform within established acceptance criteria established by the functional testing. Therefore the proposed changes will not reduce any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102

Attorney for licensee: LeBoeuf, Lamb, Leiby, and MacRae, 1333 New Hampshire Avenue, N.W., Washington, D.C. 20036

NRC Project Director: John T. Larkins

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: January 9, 1992

Description of amendment request: The proposed amendment would implement Generic Letter 91-01 concerning vessel specimen withdrawal schedules in Technical Specification 3.3(1)c. The issues dealing with Generic Letter 90-09 will be addressed separately.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

> The proposed changes do not involve significant hazards consideration because operation of Fort Calhoun Station Unit 1 in accordance with these changes would not:
>
> (1) Involve a significant increase in the probability or consequences of an accident previously evaluated....
>
> The proposed changes to Specification 3.3 are administrative in nature which follow the guidance as specified in Generic Letter 91-01. Generic Letter 91-01 states that Section II.B.3 of Appendix H to 10 CFR Part 50 requires the submittal to, and approval by, the NRC of a proposed withdrawal schedule for material specimens before implementation. Hence, the placement of this schedule in the Technical Specifications duplicates the controls on changes to this schedule that have been established by Appendix H. Therefore this duplication is unnecessary and the proposed change will not increase the probability or consequences of any accident previously evaluated.
>
> (2) Create the possibility of a new or different kind of accident from any previously analyzed.
>
> It has been determined that no new or different kind of accident will be possible due to these proposed changes. No new or different modes of operation are proposed for the plant as a result of these proposed changes. Therefore, no new or different kind of accident from any previously analyzed is possible.
>
> (3) Involve a significant reduction in a margin of safety.
>
> The proposed changes do not involve any reduction in a margin of safety. The proposed changes to Specification 3.3 delete a duplicate requirement of Appendix H to 10 CFR Part 50, therefore no changes in the actual material specimen withdrawal program is [sic] proposed.... Therefore, the proposed changes will not reduce any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102

Attorney for licensee: LeBoeuf, Lamb, Leiby, and MacRae, 1333 New Hampshire Avenue, N.W., Washington, D.C. 20036

NRC Project Director: John T. Larkins

Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: November 4, 1991

Description of amendment request: These amendments propose changes to Technical Specification Section 6.0, "Administrative Controls," to reflect organizational changes within the Nuclear Department Organization of Pennsylvania Power & Light Company (PP&L) made as a result of an Operational Effectiveness Review.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

> I. This proposal does not involve a significant increase in the probability or consequences of an accident previously addressed.
>
> These organization and Plant Operational Review Committee (PORC) membership changes were undertaken to improve the overall efficiency of the PP&L Nuclear Department. These changes are viewed as enhancements and such will not cause nor effect the results of an accident previously evaluated.
>
> II. This proposal does not create the possibility of a new or different type of accident from any accident previously addressed [evaluated].
>
> Neither the design, installation, function nor operation of any plant system or component is proposed to be modified. Changes to the organization have been preformed to improve the effectiveness of that organization, and will not create the possibility of a new or different event.
>
> III. This change does not involve a significant reduction in a margin of safety.
>
> As stated in the safety analysis, the changes to the PORC composition will continue to assure that the plant is operated in a safe and efficient manner, i.e., that issues affecting plant safety are addressed by an adequate level of oversight and review. These changes do not decrease the responsibilities of PORC nor its ability to perform its function.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, D.C. 20037

NRC Project Director: Charles L. Miller

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Units Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: January 10, 1992

Description of amendment request: The amendment proposes changes to the Technical Specification (TS) Section 3.9.C. Allowable Out of Service Times (AOT) for the Emergency Service Water (ESW) pumps. The proposed changes delete Section 3.9.C.3 of the TS which addresses use of the Emergency Cooling Water (ECW) pump as an equivalent ESW pump. The proposed changes also modify surveillance requirements for the ECW pump, the ESW Booster Pumps and the Emergency Cooling Water Tower Fans. The proposed amendment modifies the TS Bases to reflect the above changes. Finally, the proposed changes modify terminology and numbering in Sections 3.9.C and 4.9.C to make the TS consistent with the Updated Final Safety Analysis Report.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

> The change requests proposed in this Application do not constitute a significant hazards consideration in that:
>
> (i) The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.
>
> The proposed changes will not increase the probability or consequences of an accident previously evaluated.
>
> The changes to Allowable Out of Service Times do not change any of the operating functions or render inoperable any equipment necessary to mitigate the consequences of an accident. By decreasing the allowable out of service times, the equipment will more likely be available to respond to mitigate the consequences of an accident.
>
> The addition of new surveillance requirements and changes to existing surveillance requirements has a similar affect on plant equipment and has no affect on the probability or consequences of an accident. By inspecting the pump pit and the valve line up on a regular basis the probability that the equipment will be available to mitigate the consequences of an accident will be increased. In addition the increased

surveillance of the Emergency Service Water Booster pumps and the Emergency Cooling Tower Fans can only improve the likelihood that this equipment will be operable when required.

(ii) The proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed changes to the TS impact equipment that is important to safety and that mitigates the consequences of an accident. This equipment and the changes being proposed do not change the operation of PBAPS and therefore, the changes cannot introduce any new or different kind of accident.

(iii) The proposed changes do not involve a significant reduction in a margin of safety.

The margin of safety is not reduced by these changes. No credit was taken in accident analysis for the ECW pump to act as an equivalent ESW pump. The other changes being proposed will give a greater assurance that equipment important to safety will be available to mitigate the consequences of an accident.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Attorney for Licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101

NRC Project Director: Charles L. Miller

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego, New York

Date of amendment request: December 30, 1991

Description of amendment request: The proposed amendment to the James A. FitzPatrick Technical Specifications (TS) requests changes to TS Section 6.0, "Administrative Controls," to reflect a management reorganization designed to improve operations at the plant. The management reorganization includes position title changes, the creation of two new senior level management positions on the same level as Superintendent of Power, the reassignment of position responsibilities, and the proposed restructuring of the Plant Operating Review Committee (PORC).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Operation of the James A. FitzPatrick Nuclear Power Plant in accordance with this proposed amendment would not involve a significant hazards consideration, as defined in 10 CFR 50.92, since the proposed changes would not:

1. involve a significant increase in the probability of an accident or consequence previously evaluated.

None of the proposed changes affect assumptions contained in plant safety analyses, or the physical design or operation of the plant.

The reorganization of senior plant management does not compromise the safe operation of the plant since position qualifications have not been decreased. The reorganization will improve communication, responsiveness, and effectiveness of operations at the plant by creating specific functional lines of responsibility. Although the distribution of responsibilities has changed, the responsibilities themselves have not been decreased. The changes do not alter the Authority's commitment to maintain a management structure that contributes to the safe operation and maintenance of the plant.

The proposed changes to the Plant Operating Review Committee (PORC or Committee) reflect the management reorganization, enhance the Committee's expertise and allow greater flexibility in achieving a quorum.

The level and quality of the PORC's review would not be adversely altered by the proposed changes. The PORC is currently composed of six members, a chairman and a vice-chairman from the FitzPatrick onsite operating organization at the Superintendent level or above, except for the Reactor Analyst. The new members would hold positions at or above the Superintendent level, and would meet or exceed the minimum qualifications of ANSI N18.1-1971 for comparable positions. The work experience/knowledge of the new members would enhance the Committee's expertise. Consistency is maintained from meeting to meeting by requiring that, at a minimum, a majority of the members be present.

The position title changes are administrative in nature and, other than assuring the correctness and readability of Technical Specifications, are of no significance to the safe operation of the plant.

2. create the possibility of a new or different kind of accident from those previously evaluated.

The proposed amendment does not create the possibility of a new or different kind of accident from any previously evaluated. None of the proposed changes affect assumptions contained in plant safety analyses, or the physical design or operation of the plant.

The reorganization of senior plant management does not compromise the safe operation of the plant since position qualifications have not been decreased. The reorganization will improve communication, responsiveness, and effectiveness of operations at the plant by creating specific functional lines of responsibility. Although the distribution of position responsibilities has changed, the responsibilities themselves have not been decreased. The changes do not alter the Authority's commitment to maintain a management structure that contributes to the safe operation and maintenance of the plant.

The proposed changes to the Plant Operating Review Committee (PORC or Committee) reflect the management reorganization, enhance the Committee's expertise and allow greater flexibility in achieving a quorum.

The level and quality of the PORC's review would not be adversely altered by the proposed changes. The PORC is currently composed of six members, a chairman and vice-chairman from the FitzPatrick onsite operating organization at the Superintendent level or above, except for the Reactor Analyst title. The new members would hold positions at or above the Superintendent level, and would meet or exceed the minimum qualifications of ANSI N18.1-1971 for comparable positions. The work experience/knowledge of the new members would enhance the Committee's expertise. Consistency is maintained from meeting to meeting by requiring that, at a minimum, a majority of the members be present.

The position title changes are administrative in nature and, other than assuring the correctness and readability of Technical Specifications, are of no significance to the safe operation of the plant.

3. involve a significant reduction in the margin of safety as defined in the basis for Technical Specifications.

The proposed amendment does not involve a significant reduction in a margin of safety. The proposed changes do not relate to or modify the safety margins defined in and maintained by the Technical Specifications.

The reorganization changes do not alter the Authority's commitment to maintain a management structure that contributes to the safe operation and maintenance of the plant.

The reorganization of senior plant management does not compromise the safe operation of the plant since position qualifications have not been decreased. The reorganization will improve communication, responsiveness, and effectiveness of operations at the plant by creating specific functional lines of responsibility. Although the distribution of position responsibilities has changed, the responsibilities themselves have not been decreased.

The level and quality of the PORC's review would not be adversely altered by the proposed changes. The PORC is currently composed of six members, a chairman and a vice-chairman from the FitzPatrick onsite operating organization at the Superintendent level or above, except for the Reactor Analyst title. The new members would hold positions at or above the Superintendent level, and would meet or exceed the minimum qualifications of ANSI N18.1-1971 for comparable positions. The work experience/knowledge of the new members would enhance the Committee's expertise. Consistency is maintained from meeting to meeting by requiring that, at a minimum, a majority of the members be present.

The position title changes are administrative in nature and do not affect plant safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Mr. Charles M. Pratt, 1633 Broadway, New York, New York 10019.

NRC Project Director: Robert A. Capra

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego, New York

Date of amendment request: January 9, 1992

Description of amendment request: This proposed amendment to the James A. FitzPatrick Technical Specifications would allow performance of the inservice hydrostatic pressure and leak testing of the reactor vessel at temperatures exceeding 212 ° F.

Hydrostatic testing and system leakage testing of the Reactor Coolant System (RCS) are required by Section XI of the American Society of Mechanical Engineers (ASME) code. NRC Generic Letter 88-11 is used to calculate the reactor pressure vessel pressure and temperature (P-T) limits required for this test. The P-T curves defining these limits are periodically recalculated to consider the results of analyses of irradiated surveillance specimens to account for accumulated reactor fluence.

The current curves require that these tests be conducted at RCS temperatures approaching 190 ° F. Because decay heat and mechanical heat used to heat the reactor coolant do not allow exact control, the operators require margin to maintain the test temperature between the minimum temperature limit and the maximum temperature limit of 212 ° F. That margin is small at this time. As the accumulated neutron fluence on the reactor vessel increases, the methodology used to calculate hydrostatic testing pressure-temperature limits will ultimately require that these tests be conducted above 212 ° F. The technical specifications define hot shutdown mode as the condition when the reactor mode switch is in shutdown and reactor coolant temperature is above 212 ° F. Applying this definition will require that hydrostatic tests be conducted while the plant is in hot shutdown. However, the current technical specifications require systems to be operable in this shutdown mode that cannot be made operable during the test. The proposed changes will allow hydrostatic testing of the Reactor Coolant System (RCS) above 212 ° F without requiring the High Pressure Coolant Injection (HPCI), Reactor Core Isolation Cooling (RCIC), or Automatic Depressurization System/Safety Relief Valves (ADS/SRV) be operable. All other systems required by the technical specifications will be maintained operable during the test to protect public health and safety.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Operation of the FitzPatrick plant in accordance with the proposed Amendment would not involve a significant hazards consideration as defined in 10 CFR 50.92, since it would not:

1. involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment revisions involve no hardware changes, no changes to the operation of any systems or components, no changes to structures, and alters procedures only to the extent that the 212° F limit can be exceeded with certain systems inoperable. These systems are required for core cooling at high pressure. Any event requiring core cooling will rapidly depressurize the system. The increased temperature adds enthalpy to the reactor coolant during the test but the consequences of previously evaluated accidents envelope any potential events. The probability of an accident during testing is expected to increase by a minimal amount but this probability is still below that for operations. The test temperatures and pressures are still within system design limits. The test is required to demonstrate the pressure retaining capabilities of the RCS pressure boundary.

2. create the possibility of a new or different kind of accident from those previously evaluated.

The proposed amendment revisions involve no hardware changes, no changes to the operation of any systems or components, no changes to structures, and alters procedures only to the extent that the 212° F limit can be exceeded with certain systems inoperable. The testing procedure will not change the test process but will allow increased temperature during testing to meet NRC guidance and allow margin to the minimum temperature limits.

3. involve a significant reduction in the margin of safety.

The proposed amendment revisions involve no hardware changes, no changes to the operation of any systems, no changes to structures, and alter procedures only to the extent that the 212° F limit can be exceeded with certain systems inoperable. Primary containment and most other systems required for plant transients and accidents are available. The core cooling function can be maintained with no change to the margin of safety. The additional enthalpy to the reactor coolant will reduce by a small amount the margin that existed during prior hydrostatic tests but remains within the envelope of previously evaluated plant conditions.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Mr. Charles M. Pratt, 1633 Broadway, New York, New York 10019.

NRC Project Director: Robert A. Capra

Public Service Company of Colorado, Docket No. 50-267, Fort St. Vrain Nuclear Generating Station, Weld County, Colorado

Date of amendment request: December 24, 1991

Description of amendment request: This proposed amendment would revise management titles to be consistent with PSC reorganization; delete staff requirements that are not necessary after all nuclear fuel has been removed to the ISFSI or Idaho; delete requirements for technical advisors and monthly operating reports; and add controls for high radiation areas.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Public Service Company of Colorado (PSC) has submitted a no significant hazards consideration analysis in accordance with the requirements of 10 CFR 50.91 and 50.92. PSC's submittal and analysis is summarized as follows: the proposed amendment to delete requirements for a security program, licensed operators, and the fire brigade after all fuel has been removed from the reactor facility to the ISFSI or Idaho, does not involve a significant hazards consideration because without fuel no reactor accidents or fuel handling accidents can occur and therefore, there can be no increase in the probability or consequences of such accidents; no new or different kind of accidents; and no reduction in a margin of safety. Other proposed changes are administrative in nature that reflect new PSC titles and organization or add new, more restrictive radiation controls and therefore, do not increase accident probability or consequences, do not involve any new or different type of accidents and do not reduce any margin of safety.

The staff has reviewed the licensee's submittal and it's no significant hazards consideration determination and based on it's review proposes to determine that the proposed changes do not involve a significant hazards considerations.

Local Public Document Room location: Greeley Public Library, City Complex Building, Greeley, Colorado 80631

Attorney for licensee: J. K. Tarpey, Public Service Company Building, Room 900, 550 15th Street, Denver, Colorado 80202

NRC Project Director: Seymour H. Weiss

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2, and 3, Limestone County, Alabama

Date of amendment request: January 10, 1992 (TS 297)

Description of amendment request: The proposed amendments would transfer detailed lists of components from Technical Specifications (TS) to controlled plant procedures in accordance with Generic Letter (GL) 91-08.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided the NRC staff with its analysis of the issue of no significant hazards consideration. The licensee's analysis pursuant to the standards of 10 CFR 50.92(c) is presented below.

1. The proposed amendment does not involve a significant increase in the probability or consequence of an accident previously evaluated.

The proposed amendment would revise the TS to conform to current NRC guidance to remove component lists from TS. The proposed TS changes result in an acceptable alternative to identifying every component by its plant identification number as it is currently listed in the tables of TS components. The removal of the component lists tables from the TS included in the incorporation of these lists into plant procedures that are subject to the change control provisions for plant procedures in the administrative controls section (Chapter 6) of the TS. Consequently, the change control provisions of the TS provide an adequate means to control changes to these component lists without processing a license amendment. [Furthermore, existing requirements for operating and maintaining the plant remain uneffected.] Therefore, this change cannot increase the probability or consequences of any previously evaluated accident.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed TS changes deal exclusively with an administrative process to remove the components lists from the TS. The components lists will move from one controlled location (TS) to another controlled location, that of plant procedures. The plant procedures are subject to the requirements specified in the administrative controls section of the TS (Chapter 6).

The removal of component lists does not alter existing TS requirements or those components to which they apply. Therefore, there is no possibility of a new or different kind of accident being created from any accident previously evaluated.

3. The proposed amendment does not involve a significant reduction in the margin of safety.

The proposed TS changes conform to the guidance contained in Generic Letter 91-08. The component lists have been removed to permit administrative control of changes to these lists without processing a license amendment. [These changes do not effect operation of the plant and are purely administrative in nature.] Therefore, the proposed changes will not reduce the margin of safety.

The NRC staff has conducted an initial review of the licensee's amendment application and analysis of no significant hazards. Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the TS amendment request does not involve significant hazards consideration.

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902

NRC Project Director: Mr. Frederick J. Hebdon

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment request: November 7, 1991

Description of amendment request: The proposed changes would revise Section 6 of the Technical Specifications (TS) for the Surry Power Station, Units No. 1 and No. 2 (SPS-1&2). The proposed changes would remove language describing, or committing to, any previous operator training programs since the training programs at SPS-1&2 have been accredited and certified in accordance with Regulatory Guide 1.8, Revision 2, "Qualification and Training of Personnel for Nuclear Power Plants." The proposed changes would also delete reference to the March 28, 1980 NRC letter and substitute Virginia Electric and Power Company accredited training programs (including Shift Supervisor, Assistant Shift Supervisor, Control Room Operator-Nuclear, and Shift Technical Advisor) for the previous training requirements.

In addition, the proposed changes redefine the responsibilities of the Manager-Nuclear Training to encompass the responsibilities for ensuring retraining and replacement programs that have achieved accreditation and the responsibility for maintaining accreditation. The proposed TS changes have been determined to administrative in nature.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes have no adverse impact upon potential accident probability or consequence. The proposed changes allow for substitution of regulatory requirements for training programs which have been accredited and certified. [The SPS-1&2] training programs are accredited and certified as permitted by the regulation. Likewise, the consequences of the accidents will not increase as a result of the proposed [SPS-1&2 TS] changes. Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed changes allow for substitution of regulatory requirements for training programs which have been accredited and certified. [The SPS-1&2] training programs are accredited and certified as permitted by the regulation. . .

Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed changes allow for substitution of regulatory requirements for training programs which have been accredited and certified. [The SPS-1&2] training programs are accredited and certified as permitted by the regulation. Therefore, the proposed changes do not involve a reduction in the margin to safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23213.

NRC Project Director: Herbert N. Berkow

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendments request: August 9, 1991

Description of amendments request: The proposed changes would revise Specification 15.4.6.A.2 to eliminate the requirement that, during testing, the emergency diesel generator start and assume loads in less than the time periods listed in the Point Beach Nuclear Plant Final Safety Analysis Report (FSAR) and replace it with the requirement that the loads be assumed in the timing sequence listed.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

Operation of a facility in accordance with a proposed amendment does not present a significant hazard if it does not result in an increase in the probability or consequences of an accident previously evaluated.

The present requirement that loads sequence on the diesel generator in times less than those listed in the FSAR could result in two or more major loads sequencing onto the diesel at the same time or prior to generator voltage and frequency recovering following the start of an earlier load. This presents the possibility of overloading the generator, resulting in generator trip and unavailability of systems and components necessary for accident mitigation, thereby increasing the probability or consequences of an accident. By establishing appropriate tolerance on the load sequence times, assurance is gained that sufficient time is allotted between equipment starts to allow generator voltage and frequency to return to nominal system voltage and frequency. This decreases the possibility of a transient diesel overload. Maximum start times including the tolerances will remain within the times assumed in the FSAR analyses. Test frequencies or conditions for the diesel generators will not change. Overall, since the probability of a diesel generator overload decreases while maintaining assurance that the diesel generator will start and loads energize within the maximum times prescribed by accident analyses, the probability or consequences of accidents previously analyzed will decrease.

Operation of a facility in accordance with a proposed amendment does not present a significant hazard if it cannot create the possibility of an accident different from any previously evaluated.

This change does not result from any physical change to the facility or its operation. The operability of equipment that is necessary for safe shutdown or accident prevention and mitigation is not affected. Testing intervals for the diesel generator will not change; so adequate assurance of diesel generator and system operability is maintained. Load sequence times will remain within conservative accident analyses assumptions, and added assurance is provided that a generator overload will not occur. Therefore, a new or different kind of accident cannot result.

Operation of a facility in accordance with a proposed amendment will not present a significant hazard if it does not result in a significant reduction in a margin of safety.

The surveillance interval for testing the diesel generator and its capability to assume loads required for accident mitigation are not changed. Continued assurance of generator and system operability under scenarios of an accident coupled with a loss of off-site AC power is maintained. This acceptance criterion for load sequence times provides added assurance that a generator overload condition will not occur while maintaining load sequence times within accident analyses assumptions. This may provide an added margin of safety under conditions where a diesel generator is required to assume accident loads. Therefore, a margin of safety cannot be reduced and may be increased.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John N. Hannon.

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendments request: September 13, 1991

Description of amendments request: The proposed amendments would remove Tables 15.3.1-1 (Unit 1) and 15.3.1-2 (Unit 2) which contain the schedules for removing the reactor pressure vessel materials surveillance capsules from the Point Beach, Unit Nos. 1 and 2, Technical Specifications (TSs). These tables would be placed in and maintained in the Point Beach Final Safety Analysis Report (FSAR). The associated basis section would also be revised to reflect this proposed change.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The staff's review is presented below:

The proposed TS changes will not create a significant increase in the probability or consequences of an accident previously evaluated. These amendments would only remove two tables from the Technical Specifications, place them in the FSAR and remove all references of these tables from the TSs. Appendix H to 10 CFR Part 50 will continue to control any changes to these withdrawal schedules. Additionally, the surveillance requirements on pressure and temperature in the PBNP TSs require that these specimens be removed and examined to determine changes in material properties. The results of these examinations will continue to be considered in the method used to update pressure and temperature limits. Therefore, there is no change in the required actions that will be performed and there is no physical change to the facility, its systems, or its operation. Accordingly, an increased probability or consequences of an accident previously evaluated will not occur.

The proposed TS changes will not create the possibility of a new or different kind of accident from any accident previously evaluated. These amendments would only remove two tables from the PBNS TSs and place them in the FSAR. Appendix H to 10 CFR Part 50 will continue to control any changes to these withdrawal schedules. Since there is no physical change to the facility, its systems, or its operations, a new or different kind of accident will not occur.

The proposed TS changes will not create a significant reduction in a margin of safety. These proposed amendments would only remove two tables from the PBNS TSs and place them in the FSAR.

These proposed amendments would not change the present specimen withdrawal schedules. The actions to be taken subsequent to specimen withdrawal remain unchanged. Since the amendments do not change the facility, its systems, or its operation, a significant reduction in a margin of safety will not occur.

Based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John N. Hannon.

Yankee Atomic Electric Company, Docket No. 50-029, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of amendment request: December 10, 1991

Description of amendment request: The proposed amendment would increase the minimum fuel oil storage volume for the emergency diesel generators (EDGs). In addition, surveillance requirements for the emergency diesel generators would be revised in order to attain consistency with the Standard Technical Specifications, NUREG-0452, Rev. 4.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.92(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

> This change is requested to modify the Technical Specifications for the YNPS EDGs and provides a significant improvement in surveillance testing to demonstrate the operability of the EDGs. The increased fuel oil storage requirement provides an increased margin above the actual load demand requirements. As such, this proposed change would not:
>
> 1. Involve a significant increase in the probability or consequences of any accident previously evaluated. This change provides for significant improvements in the EDG surveillance requirements which have been developed consistent with current industry and regulatory guidelines.
>
> 2. Create the possibility of a new or different kind of accident from any previously evaluated. Verification of EDG operability by performance of enhanced periodic surveillance testing will not create the possibility of a different type of accident.
>
> 3. Involve a significant reduction in a margin of safety. Both the modified EDG surveillance testing and the increased fuel oil storage requirement provide for an increase in the margin of safety. The new EDGs provide an increased margin in generating capacity above the actual loading requirements. The modified surveillance requirements provide for verification of the increased generating capacity.
>
> Based on the discussion above, it is concluded that there is reasonable assurance that operation of the Yankee plant consistent with the proposed Technical Specifications will not endanger the health and safety of the public. This proposed change has been reviewed and approved by the Plant Operation Review Committee and Nuclear Safety Audit and Review Committee.

The NRC staff has reviewed the licensee's analysis, and based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301

Attorney for licensee: Thomas Dignan, Esquire, Ropes and Gray, One International Place, Boston, Massachusetts 02110-2624

NRC Project Director: Walter R. Butler

Previously Published Notices Of Consideration Of Issuance Of Amendments To Operating Licenses And Proposed No Significant Hazards Consideration Determination And Opportunity For Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the Federal Register on the day and page cited. This notice does not extend the notice period of the original notice.

Commonwealth Edison Company, Docket No. 50-295 and 50-304, Zion Nuclear Power Station, Units 1 and 2, Lake County, Illinois

Date of application for amendment: December 26, 1991

Brief description of amendment: The proposed amendment would change Technical Specifications Definitions section to address the planned upgrade of the Process Protection System from the current Westinghouse 7100 series analog system to the Westinghouse EAGLE-21 digital system.

Date of individual notice in **Federal Register:** January 16, 1992 (57 FR 1930)

Expiration date of individual notice: February 18, 1992

Local Public Document Room location: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Notice Of Issuance Of Amendment To Facility Operating License

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and

(3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, D.C., and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Baltimore Gas and Electric Company, Docket Nos. 50-317 and 50-318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: July 2, 1991, as supplemented November 15, 1991.

Brief description of amendments: The amendments eliminate restrictions on the movement of heavy loads greater than 1600 pounds over fuel assemblies by the spent fuel cask handling crane which is to be upgraded to a single-failure-proof design.

Date of issuance: January 17, 1992

Effective date: January 17, 1992

Amendment Nos.: 166 and 146

Facility Operating License Nos. DPR-53 and DPR-69: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 7, 1991 (56 FR 37577) The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated January 17, 1992.

No significant hazards consideration comments received: No

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Entergy Operations, Inc., Docket Nos. 50-313 and 50-368, Arkansas Nuclear One, Unit Nos. 1 and 2, Pope County, Arkansas

Date of amendment request: October 15, 1991

Brief description of amendments: The amendments revised the ANO-1 Technical Specifications (TS) 3.16 and 4.16 and ANO-2 TS 3/4.7.8 by replacing the existing snubber visual inspection schedule in the respective surveillance requirements with the snubber visual inspection schedule recommended in NRC Generic Letter (GL) 90-09. The amendments also revise the surveillance requirements for visual inspection acceptance criteria to conform with the recommendations of GL 90-09. Some changes to the wording recommended in GL 90-09 are included; however, the intent of GL 90-09 is maintained or the changes are editorial in nature. Additionally, a change to the TS ACTIONS is made to reformat the required actions and allow possible continued operation with an inoperable snubber.

Date of issuance: January 15, 1992

Effective date: 30 days from the date of issuance

Amendment Nos.: 156 and 129

Facility Operating License Nos. DPR-51 and NPF-6. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 27, 1991 (56 FR 60116). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 15, 1992

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-321 and 50-366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of application for amendments: July 15, 1991

Brief description of amendments: The amendments revise Hatch Unit 1 Bases Section 3.6.B, "Reactor Vessel Temperature and Pressure," and Hatch Unit 2 Technical Specification 3/4.4.6, "Pressure/Temperature Limits," and its associated Bases.

Date of issuance: January 10, 1992

Effective date: January 10, 1992

Amendment Nos.: 177 and 118

Facility Operating License Nos. DPR-57 and NPF-5. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 27, 1991 (56 FR 60117) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 10, 1992.

No significant hazards consideration comments received: No.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

Maine Yankee Atomic Power Company, Docket No. 50-309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of application for amendment: November 6, 1991

Brief description of amendment: This amendment removes the Maine Yankee Technical Specification that limits the combined time interval for any three consecutive surveillance intervals to less than 3.25 times the specified surveillance interval. The amendment is consistent with the guidance of U. S. Nuclear Regulatory Commission Generic Letter 89-14, Line-item improvements in Technical Specifications—Removal of the 3.25 Limit on Extending Surveillance Intervals, dated August 21, 1989.

Date of issuance: January 13, 1992

Effective date: January 13, 1992

Amendment No.: 127

Facility Operating License No. DPR-36: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 11, 1991 (56 FR 64656) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 2, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Wiscasset Public Library, High Street, P.O. Box 367, Wiscasset, Maine 04578.

Northeast Nuclear Energy Company, Docket No. 50-245, Millstone Nuclear Power Station, Unit 1, New London County, Connecticut

Date of applications for amendment: August 1, 1989 (Licensee's letter B13298), as superseded November 19, 1991, and application dated November 8, 1991.

Brief description of amendment: The amendment changes the Technical Specifications (TS) as recommended in NUREG-0737 and as detailed in Generic Letter 83-36. These changes deal with post-accident sampling, noble gas effluent monitors and sampling and analysis of plant effluents. No changes to the Technical Specifications were required for high point vents. The TS associated with containment high range radiation monitor, containment pressure and water level monitors, containment hydrogen monitors, and control room habitability will be addressed in future correspondence. Section 5 of the TS was also changed to correct references to the Updated Final Safety Analysis Report.

Date of issuance: January 13, 1992

Effective date: January 13, 1992

Amendment No.: 55

Facility Operating License No. DPR-21. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 20, 1989 (54 FR 38765) and December 11, 1991 (56 FR 64657). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 13, 1992.

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of application for amendments: April 18, 1991 and supplemented September 27, 1991 and January 3, 1992. The supplemental letters did not change the no significant hazards determination.

Brief description of amendments: These amendments made changes to the Susquehanna Steam Electric Station (SSES), Unit 1 and Unit 2 Technical Specifications to revise the pressure-temperature curves for compliance with 10 CFR Part 50, Appendix G, as requested in Generic Letter 88-11, and to delete the specimen withdrawal schedule as allowed by Generic Letter 91-01. The proposed changes affect Technical Specification Section 3.4.4.6, "Pressure/Temperature Limits" and Bases Section 3/4.4.6, "Pressure/Temperature Limits" and Bases Section 3/4.4.6, "Pressure/Temperature Limits."

Date of issuance: January 10, 1992

Effective date: As of date of issuance and shall be implemented within 30 days of its date of issuance.

Amendment Nos.: 116 and 85

Facility Operating License Nos. NPF-14 and NPF-22. These amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 15, 1991 (56 FR 22472) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 10, 1992.

No significant hazards consideration comments received: No

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Portland General Electric Company, et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of application for amendment: October 28, 1986 and supplemented by letters dated May 19, 1988, and December 30, 1988

Brief description of amendment: These amendments revise the Trojan Technical Specification Section 2.2, Table 2.2-1, and associated Bases, and Section 3.3, Table 3.3-4. These changes delineate new, more conservative setpoints for the steam generator low-low level reactor trip and auxiliary feedwater pump start signals.

Date of issuance: January 14, 1992

Effective date: January 14, 1992

Amendment No.: 173

Facility Operating License No. NPF-1: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 11, 1991 (56 FR 64659) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 14, 1992.

No significant hazards consideration comments received: No.

Local Public Document Room location: Branford Price Millar Library, Portland State University, 934 S.W. Harrison Street, P.O. Box 1151, Portland, Oregon 97207

NRC Project Director: Theodore R. Quay

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: December 19, 1991.

Brief description of amendment: This amendment revises Technical Specification (TS) Sections 3.12.F and 4.12.F, "Fire Barrier Penetration Seals," and the associated Bases to be more consistent with the NRC's Standard Technical Specifications, NUREG-0123, "Standard Technical Specifications for General Electric Boiling Water Reactors," dated fall 1980. Specifically, TSs 3.12.F.1.a and 4.12.F.1.a were revised to clarify which fire barriers are covered by the associated Limiting Conditions for Operation (LCO) and what actions are required when a fire barrier penetration is found not in the as-designed condition, respectively. Furthermore, TS 3.12.F.1.b was revised to allow the use of hourly fire watch patrols supplementing operable fire detectors in lieu of continuous fire watches when a fire barrier penetration is deemed non-functional. Administrative changes were also made in this amendment.

Date of issuance: January 16, 1992

Effective date: January 16, 1992

Amendment No.: 176

Facility Operating License No. DPR-59: Amendment revised the Technical Specification.

Public comments requested as to proposed no significant hazards consideration: Yes (56 FR 67641 dated December 31, 1991). That notice provided an opportunity to submit comments on the Commission's proposed no significant hazards consideration determination. No comments have been received. The notice published December 31, 1991, also provided for an opportunity to request a hearing by January 30, 1991, but indicated that if the Commission makes a final no significant hazards consideration determination any such hearing would take place after issuance of the amendment.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 16, 1992.

No significant hazards consideration comments received: No

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of Oswego, Oswego, New York 13126.

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50-440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of application for amendment: December 18, 1989

Brief description of amendment: The amendment revised Technical Specification 4.0.2, by removing the 3.25 limit on the interval for three consecutive surveillance tests, in accordance with NRC Generic Letter 89-14.

Date of issuance: January 13, 1992

Effective date: January 13, 1992

Amendment No. 39

Facility Operating License No. NPF-58. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 24, 1990 (55 FR 2433) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 13, 1992

No significant hazards consideration comments received: No

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081

Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of application for amendment: May 31, 1990

Brief description of amendment: The amendment revised TS 3/4.6.4.1, Combustible Gas Control - Hydrogen

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Analyzers by adding an additional action statement which would apply when both hydrogen analyzers are inoperable, and allow 72 hours to return one of the two inoperable analyzers to operable status or be in at least Hot Standby within the next 6 hours.

Date of issuance: January 16, 1992

Effective date: January 16, 1992

Amendment No. 168

Facility Operating License No. NPF-3. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 3, 1991 (56 FR 13670) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January16, 1992

No significant hazards consideration comments received: No

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: November 15, 1991

Brief description of amendment: The amendment revised Callaway Plant Technical Specification Surveillance Requirement 4.8.1.1.2.f. (2) concerning emergency diesel generator load reject testing, by removing an unnecessary reference to a numerical value for the largest single load.

Date of issuance: January 15, 1992

Effective date: January 15, 1992

Amendment No.: 65

Facility Operating License No. NPF-30. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 27, 1991 (56 FR 60125) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 15, 1992. No significant hazards consideration comments received: No.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251 and the John M. Olin Library, Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: March 15, 1991, clarified August 15, 1991 and January 23, 1992.

Brief description of amendment: The amendment revised Technical Specification 3.4.6.2.f and the associated bases to change the maximum allowable leakage rate of the reactor coolant system pressure isolation valves (PIVs). It also revised Table 3.4-1 to provide a more detailed description of the affected PIVs, including the addition of the maximum allowable leakage rate.

Date of issuance: January 24, 1992

Effective date: January 24, 1992

Amendment No.: 66

Facility Operating License No. NPF-30. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 29, 1991 (56 FR 24220) The licensee submitted clarifying information by letters dated August 15, 1991 and January 23, 1992. These submittals provided supplemental clarification only and did not change the staff's original proposed determination of no significant hazard considerations. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 24, 1992. No significant hazards consideration comments received: No.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251 and the John M. Olin Library, Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of application for amendment: June 28, 1991

Brief description of amendment: The amendment revises the Technical Specifications (TS) by relocating the procedural details of the current Radiological Effluent Technical Specifications (RETS) to the licensee's Offsite Dose Calculation Manual (ODCM). The amendment also implements programmatic controls in the Administrative Controls section of the TS to satisfy existing regulatory requirements for RETS.

Date of issuance: December 26, 1991

Effective date: December 26, 1991

Amendment No.: 98

Facility Operating License No. NPF-21: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 30, 1991 (56 FR 55951) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 26, 1991.

No significant hazards consideration comments requested: No.

Local Public Document Room location: Richland Public Library, 955 Northgate Street, Richland, Washington 99352

Notice Of Issuance Of Amendment To Facility Operating License And Final Determination Of No Significant Hazards Consideration And Opportunity For Hearing (Exigent Or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for a Hearing. For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U. S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. By March 6, 1992, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to **(Project Director)**: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of application for amendment: December 16, 1991

Brief description of amendment: The amendment adds a reference to Technical Specification 6.9.1.9, Technical Report Supporting Cycle Operation, to include the analytical methods used to determine the core operating limits relative to Zircaloy fuel.

Date of Issuance: January 17, 1992

Effective date: January 17, 1992

Amendment No.: 148

Facility Operating License No. DPR-61. Amendment revised the Technical Specifications.

Public Comments requested as to proposed no significant hazards consideration: Yes (56 FR 66937 dated December 26, 1991). The notice provided an opportunity to submit comments on the Commission's proposed no significant hazards consideration determination. No comments have been received. The notice also provided for an opportunity to request a hearing by January 27, 1992, but indicated that if the Commission makes a final no significant hazards consideration determination any such hearing would take place after issuance of the amendment. The Commission's related evaluation of the amendment and final no significant hazards consideration determination is contained in a Safety Evaluation dated January 17, 1992.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

Dated at Rockville, Maryland, this 29th day of January 1992.

For the Nuclear Regulatory Commission

Martin J. Virgilio,

Acting Director, Division of Reactor Projects - III/IV/V Office of Nuclear Reactor Regulation

[Doc. 92-2647 Filed 2-4-92; 8:45 am]

BILLING CODE 7590-01-D

Request for Comments on the Compatibility of Agreement States Programs With NRC Regulatory Programs; Extension of Comment Period

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for Comments of Interested Parties. Extension of comment period.

SUMMARY: On December 23, 1991 (56 FR 66457), the NRC published a request for comments on the compatibility of Agreement States Programs with NRC Regulatory Programs. The notice requested public comments from interested parties and established a comment closing date of February 3, 1992. In response to requests from potential commentors, the NRC is extending the comment period for 45 days from the original comment closing date. The comment period now expires on March 19, 1992.

DATES: The comment period has been extended and now expires March 19, 1992. Comments received after this date will be considered if it is practical to do so but the Commission is able to assure consideration only for comments received before this date.

ADDRESSES: Send written comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch. Deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m., Federal workdays. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street NW., (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Kathleen Schneider, State Agreements Program, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 504-2320.

Dated at Rockville, Maryland, this 30th day of January, 1992.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Acting Secretary of the Commission.

[FR Doc. 92-2753 Filed 2-4-92; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 04008989-ML; ASLBP No. 91-638-01-ML]

Envirocare of Utah, Inc.; Byproduct Material Waste Disposal License; Reconstitution of Board

Pursuant to the authority contained in 10 CFR 2.721 (1980), the Atomic Safety and Licensing Board for Envirocare of Utah, Inc. (Byproduct Material Waste Disposal License), Docket No. 04008989-ML, is hereby reconstituted by appointing Administrative Judge Charles Bechhoefer as Chairman in place of Administrative Judge John H Frye, III, who has resigned from the panel.

As reconstituted, the Board is comprised of the following Administrative Judges: Charles Bechhoefer, Chairman, Richard F. Foster, Frederick J. Shon.

All correspondence, documents and other material shall be filed with the Board in accordance with 10 CFR 2.701 (1980). The address of the new Board member is: Administrative Judge Charles Bechhoefer, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Dated at Bethesda, Maryland, this 27th day of January 1992.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 92-2750 Filed 2-4-92; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-320-OLA-2; ASLBP No. 91-643-11-OLA-2]

General Public Utilities Nuclear Corporation Three Mile Island Nuclear Station, Unit 2 (Possession Only License—Long Term Storage) Facility Operating License No. DPR-73; Reconstitution of Board

Pursuant to the authority contained in 10 CFR 2.721 (1980), the Atomic Safety and Licensing Board for General Public Utilities Nuclear Corporation (Three Mile Island Nuclear Station, Unit 2, Possession Only License—Long Term Storage), Docket No. 50-320-OLA-2, is hereby reconstituted by appointing Administrative Judge Peter B. Bloch as Chairman in place of Administrative Judge John H. Frye, III, who has resigned from the panel.

As reconstituted, the Board is comprised of the following Administrative Judges: Peter B. Bloch, Chairman, Frank F. Hooper, Charles N. Kelber.

All correspondence, documents and other material shall be filed with the Board in accordance with 10 CFR 2.701 (1980) The address of the new Board member is: Administrative Judge Peter B. Bloch, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Dated at Bethesda, Maryland, this 27th day of January 1992.

B. Paul Cotter, Jr.,

Chief, Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 92-2749 Filed 2-4-92; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-338]

Virginia Electric & Power Co.; Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for Hearing.

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–4, issued to Virginia Electric and Power Company for operation of the North Anna Power Station, Unit No. 1 (NA–1) located in Louisa County, Virginia.

The proposed amendment would revise the NA–1 Facility Operating License NPF–4 by limiting the maximum reactor power to 95% of rated thermal power for an interim period of operation until steam generator (SG) replacement. The proposed change would also revise the Technical Specifications (TS) by imposing more restrictive equipment operability requirements for the emergency core cooling system (ECCS). These changes are necessary to accommodate the interim effects of increases SG tube plugging on the large break loss-of-coolant accident (LOCA) analysis.

NA–1 is currently involved in a mid-cycle SG inspection outage. An extensive eddy current inspection of the NA–1 SG tubes in being performed using very conservative analysis guidelines and plugging criteria. As such, a substantially increased number of tubes are expected to be plugged. The predictions of potential SG tube plugging during the current mid-cycle outage are such that the effects of increased reactor coolant system (RCS) loop resistance on the large break LOCA analysis would not permit full rated power operation for the remainder of NA–1 Cycle 9. The existing large break LOCA analysis has obtained margin by taking credit for available Cycle 9 core characteristics and will not support 100% power operation with more than 30% SG tube plugging. The large break LOCA analysis supporting the proposed changes would extend the SG tube plugging limit value to 35%, but with a reduced power level of 95% of rated thermal power. At this reduced power level, all analyses would meet the requirements of 10 CFR 50.46 and Appendix K to 10 CFR part 50. Because the large break LOCA presents the limiting considerations for core power and total core power peaking, it was necessary to reduce the maximum core power level from 2893 megawatts (thermal) to 2748 megawatts (thermal) and the maximum allowable hot channel peaking factor (Fq) to 2.11 at the core mid-plane. The change to the power level is proposed as a modification to the NA–1 license condition 2.D.(1), Maximum Power Level, by adding a footnote limiting maximum reactor power to 2748 megawatts (thermal) until SG replacement is accomplished.

In addition, an associated change to the TS is required to accommodate the effects of the revised assumptions for the large break LOCA analysis. The proposed change to the TS would impose more restrictive equipment operability requirements for the ECCS. This is accomplished by modifying action statement "a" of TS 3.5.2 to ensure that both low head safety injection pumps or one low head injection pump and two high head safety injection pumps remain operable during power operation. This change would effectively maintain consistency between the TS action statements and the revised assumptions for the large break LOCA analysis. A revised K(Z) surveillance function and a reduced enthalpy rise hot channel factor were utilized to provide additional analysis margin. With these changes, the analysis supports power operation up to 95% of rated thermal power for NA–1 for the remainder of Cycle 9. Changes to the peaking factor and K(Z) surveillance function would be accomplished by way of the TS Core Operating Limits Report (COLR). The large break LOCA analysis assumed uniform SG tube plugging of 35% which supports operation with peak SG tube plugging levels up to 35%. With the exception of the parameters described above, which will be incorporated by way of the proposed license change and the forthcoming COLR, all analysis parameters were equivalent to, or conservative with respect to, those assumed in the existing analyses. All analysis parameters are expected to be conservative with respect to actual plant conditions for the remainder of the NA–1 Cycle 9.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. [The proposed change] does not involve a significant increase in the probability or consequences of an accident previously evaluated. The impact of the increased level of [SG] tube plugging (up to 35% peak) with a maximum reactor power of 95% on the large break LOCA was analyzed. The analysis demonstrated that operation with increased [SG] tube plugging will not result in more severe consequences than those of the currently applicable analyses. The probability of occurrence of these accidents is not increased, because an increased level of [SG] tube plugging as an initial condition for the accident has no bearing on the probability of occurrence of these accidents.

2. [The proposed change] does not create the possibility of a new or different kind of accident from any accident previously evaluated. The implementation of the increased [SG] tube plugging large break LOCA analysis into the [NA–1] design basis will not create the possibility of an accident of a different type than was previously evaluated in the [Updated Final Safety Analysis Report (UFSAR)]. No changes to plant configuration or modes of operation are implemented by the revised accident analysis. Therefore, no new mechanisms for the initiation of accidents are created by the implementation of the analysis.

3. [The proposed change] does not involve a significant reduction in a margin of safety. The [NA–1] operating characteristics, and accident analyses which support [NA–1] operation, have been fully assessed. The results of the revised large break LOCA analysis [demonstrate] that the consequences of this accident are not increased as a result of the increased [SG] tube plugging up to 35% with a maximum reactor power of 95%. The results of the accident analysis remain below the limits established by the currently applicable [UFSAR] analyses. Therefore, there is no significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within thirty (30) days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By March 6, 1992, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903–2498. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board Panel, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board Panel will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325–6000 (in Missouri 1-(800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Herbert N. Berkow: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Michael W. Maupin, Esq., Hunton and Williams, P.O. Box 1535, Richmond, Virginia 23212, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board Panel that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated January 28, 1992, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903-2498.

Dated at Rockville, Maryland, this 31st day of January, 1992.

For the Nuclear Regulatory Commission.

Leon B. Engle,

Project Manager, Project Directorate II-2, Division of Reactor Projects-I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 92-2748 Filed 2-4-92; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Director's Advisory Committee on Law Enforcement and Protective Occupations

February 5, 1992.

AGENCY: Office of Personnel Management.

ACTION: Notice of Open Meetings.

SUMMARY: According to the provisions of section 10 of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that the fourth meeting of the Director's Advisory Committee on Law Enforcement and Protective Occupations will be held at the time and place shown below:

DATES: February 20, 1992, 2 p.m.

PLACE: Capital Hilton, 1001 16th Street, NW., Washington, DC.

AGENDA: The focus of the February 20th meeting will be to discuss the definition of law enforcement work and various pay and classification issues related to such work.

FOR FURTHER INFORMATION CONTACT: Phyllis G. Foley, Director, Law Enforcement and Protective Occupations Task Force, Office of Compensation Policy, Personnel Systems and Oversight Group, Office of Personnel Management, room 7H30, 1900 E Street, NW., Washington, DC 20415.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. If time permits, an opportunity will be provided for members of the public in attendance at the meeting to provide their views. Persons wishing to address the Advisory Committee orally at the meeting should submit a written request no later than the close of business on February 13, 1992. The request must include the name and address of the person wishing to appear, the capacity in which the appearance will be made, a short summary of the intended presentation, and the amount of time desired.

Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 92-2863 Filed 2-3-92; 8:45 am]

BILLING CODE 6325-01-M

POSTAL RATE COMMISSION

[Docket No. A92-7; Order No. 917]

Notice and Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5)

Issued January 30, 1992.

Before Commissioners: George W. Haley, Chairman; Henry R. Folsom, Vice-Chairman; John W. Crutcher; W.H. "Trey" LeBlanc III; H. Edward Quick, Jr.

In the Matter of: Nooksack, Washington 98276 (Barbara Burke, Petitioner)

Docket Number: A92-7.

Name of Affected Post Office: Nooksack, Washington 98276.

Name(s) of Petitioner(s): Barbara Burke.

Type of Determination: Consolidation.

Date of Filing of Appeal Papers: January 27, 1992.

Categories of Issues Apparently Raised:

1. Effect on the community (39 U.S.C. 404(b)(2)(A));
2. Effect on postal services (39 U.S.C. 404(b)(2)(C));
3. Economic savings (39 U.S.C. 404(b)(2)(D)).

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition, in light of the 120-day decision schedule (39 U.S.C. 404(b)(5)), the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the petitioner. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memoranda previously filed.

The Commission orders:

(A) The record in this appeal shall be filed on or before February 11, 1992.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register**.

By the Commission.

Charles L. Clapp,

Secretary.

January 27, 1992—Filing of Petition.

January 30, 1992—Notice and Order of Filing of Appeal.

February 21, 1992—Last day for filing of petitions to intervene (see 39 CFR 3001.111(b)).

March 2, 1992—Petitioner's Participant Statement or Initial Brief (see 39 CFR 3001.115 (a) and (b)).

March 23, 1992—Postal Service Answering Brief (see 39 CFR 3001.115(c)).

April 7, 1992—Petitioner's Reply Brief should petitioner choose to file one (see 39 CFR 3001.115(d)).

April 14, 1992—Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings (see 39 CFR 3001.116).

May 26, 1992—Expiration of 120-day decisional schedule (see 39 U.S.C. 404(b)(5)).

[FR Doc. 92-2705 Filed 2-4-92; 8:45 am]

BILLING CODE 7710-FW-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-30299; File No. SR-CBOE-91-40]

Self-Regulatory Organizations; Filing of a Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to Exchange Policy With Respect to Joint Account Trading in OEX and SPX Options

January 28, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 25, 1991, the Chicago Board Options Exchange, Inc. ("CBOE") or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to issue a Regulatory Circular that modifies Exchange policies and procedures regarding permissible trading activity by joint account participants in Standard and Poor's ("S&P") 100 Index options ("OEX") and S&P 500 Index options ("SPX") classes.[1] For a discussion of these changes, see Item I.A. (1) below.

The text of the proposed rule change is available at the Office of the Secretary, CBOE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and statutory basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

Currently, Exchange policies and procedures regarding permissible joint account trading activity by Exchange members in OEX and SPX options are contained in four separate Exchange documents, specifically (1) an Exchange Memo to members regarding joint account members simultaneously trading in the same class of options, dated May 31, 1984; (2) an Exchange Bulletin to members regarding joint account participants simultaneously trading in the same class of options, dated April 15, 1987; (3) an Exchange Surveillance Memo, dated 1980; and (4) an Exchange Circular to members regarding joint account identification, dated August 14, 1990.

The Exchange proposes to codify these existing policies and procedures in one circular and to make three modifications to existing Exchange policy regarding permissible joint account trading activity by Exchange members in OEX and SPX options. First, the Exchange proposes that joint accounts participants who are not trading in-person in an index option trading crowd, may enter orders for the joint account with floor brokers, even if other joint account participants are trading the same joint account in-person in the same trading crowd. Second, the Exchange proposes that RAES group managers may enter orders with floor brokers for the RAES joint account even if the manager is trading in-person for his individual account in the same index option crowd. Second, the Exchange proposes that RAES group managers may enter orders with floor brokers for the RAES joint account even if the manager is trading in-person for his individual account in the same index option crowd. If the manager in trading in-person for the joint account, however, the manager may not enter an order for the joint account with a floor broker. Third, joint account members may alternate trading in-person for their individual account and their joint account while in the crowd.

In support of its proposal, the Exchange represents that, with regard to SPX and OEX options, RAES managers have expressed concern over their inability to manager effectively their RAES account while at the same time trading for their individual account. In addition, the Exchange also indicates the ability of members who are part of joint account that has nominees in both the OEX and SPX trading crowd to hedge between the two options classes is restricted because currently such members are not permitted to have an order executed by a floor broker in the other index trading crowd, if another member of their joint account is trading in person in the other index trading crowd. The Exchange believes that the current policy should be expanded to allow for the trading described above in certain instances. In addition, the Exchange believes that to remain fair and consistent the provisions should apply to all joint accounts trading OEX and SPX options.

(2) Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act, in general, and furthers the objectives of section 6(b)(5) in particular in that it promotes just and equitable principles of trade.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by February 26, 1992.

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[1] The Exchange originally submitted its proposal pursuant to section 19(b)(3) of the Act, but on November 25, 1991, the CBOE submitted amendment no. 1 to its proposal which indicated that the Exchange was submitting its proposal pursuant to section 19(b)(2) of the Act. On December 5, 1991, the CBOE sent the Commission additional information on the Exchange's existing joint account trading procedures for OEX and SPX options classes. See letter from Patricia L. Cerney, Director, Department of Market Surveillance, CBOE, to Thomas Gira, Branch Chief, Options Regulation, Division of Market Regulation, dated December 5, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-2706 Filed 2-4-92; 8:45 am]

BILLING CODE 8010-01-M

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Carnival Cruise Lines, Inc., Class A Common Stock, $.01 Par Value) File No. 1-9610

January 30, 1992.

Carnival Cruise Lines, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

In addition to being listed on the Amex, the Company's common stock is listed on the New York Stock Exchange, Inc. ("NYSE"). The Company's stock commenced trading on the NYSE at the opening of business on November 26, 1991 and concurrently therewith such stock was suspended from trading on the Amex.

In making the decision to withdraw its common stock from listing on the Amex, the Company considered the direct and indirect costs and expenses attendant on maintaining the dual listing of its common stock on the NYSE and on the Amex. The Company does not see any particular advantage in the dual trading of its stock and believes that dual listing would fragment the market for its common stock.

Any interested person may, on or before February 21, 1992 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-2738 Filed 2-4-92; 8:45 am]

BILLING CODE 8010-01-M

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Unisys Corporation, Common Stock, $0.01 Par Value; Preferred Shares Purchase Rights) File No. 1-8611

January 30, 1992.

Unisys Corporation ("Company") has filed an application with the Securities and Exchange Commission, pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security from listing and registration on the Pacific Stock Exchange, Inc. ("PSE") and Midwest Stock Exchange, Inc. ("MSE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

According to the Company, the trading volume has been relatively low on both the PSE and the MSE, trading on each exchange amounting to approximately ten percent of the total trading in the Company's Common Stock. Continued listing of the Common Stock on both the PSE and the MSE is costly to the Company. The Company's Common Stock will continue to be listed and traded on the New York Stock Exchange, Inc.

Any interested person may, on or before February 21, 1992 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-2739 Filed 2-4-92; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Air Transportation Personnel Training and Qualifications Advisory Committee

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of termination of Air Transportation Personnel Training and Qualifications Advisory Committee.

SUMMARY: Notice is hereby given of the termination of the Air Transportation Personnel Training and Qualifications Advisory Committee. The committee was established to provide the Administrator with recommendations to improve the training and qualifications of air carrier crewmembers and other air transportation employees, including aircraft dispatchers and certain other operations personnel. This committee has been terminated as its continuation is no longer in the public interest in connection with the performance of duties imposed on FAA by law. Any further advisory committee activity on this subject will be conducted under the Training and Qualifications Subcommittee of the Aviation Rulemaking Advisory Committee.

FOR FURTHER INFORMATION CONTACT: Mr. Chris A. Christie, Director, Office of Rulemaking, ARM-1, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; phone (202) 267-9677; fax (202) 267-5075.

Issued in Washington, DC, on January 30, 1992.

David R. Harrington,

Executive Director, Air Transportation Personnel Training and Qualifications Advisory Committee.

[FR Doc. 92-2723 Filed 2-4-92; 8:45 am]

BILLING CODE 4910-13-M

[Summary Notice No. PE-92-2]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal

Aviation Regulations (14 CFR chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before February 25, 1992.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–10), Petition Docket No. ________, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–10), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. C. Nick Spithas, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on January 29, 1992.

Denise D. Castaldo,

Manager, Program Management Staff, Office of the Chief Counsel.

Petitions for Exemption

Docket No.: 005SW.
Petitioner: McDonnell Douglas Helicopter Company.
Sections of the FAR Affected: 14 CFR 27.1(a).
Description of Relief Sought: To permit the MDHC Model MD900 helicopter to exceed the 6000 pounds maximum weight limit requirement for FAR 27 Normal Category rotocraft.

Docket No.: 20044.
Petitioner: Air Transport Association of America.
Sections of the FAR Affected: 14 CFR 61.63(b) and (c), and 121.43(c).
Descriptions of Relief Sought: To extend Exemption No. 2965 that allows pilots employed by Part 121 certificate holders to be issued additional category and class ratings based on successful completion of an approved Part 121 second-in-command training program.

Docket No.: 23980.
Petitioner: United Hang Gliding Association, Inc.
Sections of the FAR Affected: 14 CFR 91.309 and 103.1(b).
Description of Relief Sought: To extend Exemption No. 4144, as amended, that permits members of the United States Hang Gliding Association to tow unpowered ultralights with a powered ultralight.

Docket No.: 24256.
Petitioner: Dalfort Training.
Sections of the FAR Affected: 14 CFR 61.56(b)(1), 61.57(c) and (d), 61.58(c)(1) and (d), 61.63(d)(2) and (3), 61.67(d)(2), 61.157(d)(1) and (2), and (e)(1) and (2), Appendix A of Part 61, and Appendix H of Part 121.
Description of Relief Sought: To amend and extend Exemption No. 4955, as amended, that allows Dalfort Training to use simulator instructors without the inflight observation training course consisting of two hours in an airplane of the same class and type.

Docket No.: 26029
Petitioner: ABX Air, Inc.
Sections of the FAR Affected: 14 CFR 121.505(a).
Descriptions of Relief Sought: To amend Exemption No. 5167 which permits the petitioner's pilots to complete any flight schedules which satisfy the requirements of § 121.505(a) of the Federal Aviation Regulations before being provided at least 16 hours of rest.

Docket No.: 26103.
Petitioner: Northwest Seaplanes, Inc.
Sections of the FAR Affected: 14 CFR 135.203(a)(1).
Description of Relief Sought: To extend Exemption No. 166 that allows the petitioner to conduct operations at an altitude below 500 feet over water outside of controlled airspace.

Docket No.: 26160.
Petitioner: Massachusetts Institute of Technology.
Sections of the FAR Affected: 14 CFR 91.319(c).
Description of Relief Sought: To extend Exemption No. 5210 that allows Massachusetts Institute of Technology to operate in a congested airway or over densely populated areas using aircraft having experimental airworthiness certificates.

Docket No.: 26392.
Petitioner: Lockheed Aeronautical Systems Company.
Sections of the FAR Affected: 14 CFR 121.310(m).
Description of Relief Sought: Petition was vacated January 28 1992.

Docket No.: 26624. (Reopening of comment period).
Petitioner: Geotech International, Ltd. and The Mil Design Bureau.
Sections of the FAR Affected: 14 CFR 133.19 and 133.21.
Description of Relief Sought: To allow the petitioners to conduct external load rotorcraft operations within the United States with Soviet registered MI–26 rotorcraft operated by Soviet licensed crews.

Docket No.: 26687.
Petitioner: Allied-Signal Aerospace Company, Garrett General Aviation Services Division.
Sections of the FAR Affected: 14 CFR 21.327(e)(4).
Description of Relief Sought: To allow Allied-Signal Aerospace Company to export repaired product using the Federal Aviation Administration Form 8130–3, Airworthiness Approval Tag, without obtaining a written statement from the importing country listing the conditions not met for newly overhauled products.

Docket No.: 26697.
Petitioner: RMH Aerologging, Inc.
Sections of the FAR Affected: 14 CFR 91.609(d).
Description of Relief Sought: to allow the petitioner to operate its Sikorsky SK–61N helicopters, primarily used in helicopter logging operations, without an approved cockpit voice recorder.

Docket No.: 26704.
Petitioner: Commonwealth of Virginia.
Sections of the FAR Affected: 14 CFR 91.111, 91.119, 91.127, 91.159, and 91.209.
Description of Relief Sought: To allow the Virginia State Police Aviation Unit to:

(1) Fly in close proximity to aircraft suspected of drug smuggling and other criminal activities;
(2) Fly lower than 500 feet to conduct surveillance and identify suspect vehicles in heavy vehicular traffic;
(3) Operate within an airport traffic area without intending to land at the airport within the area;
(4) Operate at levels other than the appropriate VFR cruising altitude; and
(5) Operate aircraft at night without lights.

Docket No.: 26712.
Petitioner: Howell Enterprises, Inc.
Sections of the FAR Affected: 14 CFR 135.303, 135.337, and 135.339.
Description of Relief Sought: To allow Howell Enterprises, Inc., to train part 135 pilots in initial, transition,

upgrade, differences, and recurrent training in the MU–2B aircraft.

Docket No.: 26721.

Petitioner: Regional Airline Association.

Sections of the FAR Affected: 14 CFR part 135, subparts B, E, G, and H.

Description of Relief Sought: To permit member airlines of the Regional Airline Association, and other similarly situated commuter air carriers, to conduct flight crewmember training under part 121 requirements for training, checking, qualification, and records in lieu of part 135 requirements.

Docket No.: 26732.

Petitioner: Air Transport Association of America.

Sections of the FAR Affected: 14 CFR 121.652 (a) and (c).

Description of Relief Sought: To allow the substitution of crosswind component and braking action restrictions, along with a requirement to utilize automatic landing and approach coupler equipment, at the destination and alternate airports in place of the existing restrictions to Decision Height (DH) and visibility minimums for pilots-in-command who have not yet accumulated 100 hours (50 if reducible) in their current aircraft type.

Docket No.: 26733.

Petitioner: United Airlines.

Sections of the FAR Affected: 14 CFR 121.437(a)

Description of Relief Sought: To allow a second-in-command in flag operations requiring three or more pilots to serve without being required to hold an airline transport pilot certificate and type rating.

Docket No.: 23736.

Petitioner: American Airlines.

Sections of the FAR Affected: 14 CFR 121.371(a) and 121.378.

Description of Relief Sought: To allow Executive Airlines, Inc., a subsidiary of American Airlines, to utilize certain foreign original equipment manufacturers to inspect, repair, and overhaul components and parts of ATR–42, ATR–72, and CASA–212 aircraft operated by Executive Airlines, Inc.

Docket No.: 26741.

Petitioner: Pacific Wing, Inc.

Sections of the FAR Affected: 14 CFR 43.3(g).

Description of Relief Sought: To allow the pilots employed by Pacific Wing, Inc., to remove and/or replace passenger seats of aircraft used by the company in its FAR part 135 operations.

Docket No.: 26742.

Petitioner: Zephyrhills Parachute Center.

Sections of the FAR Affected: 14 CFR 91.111, 105.29, and 105.43.

Description of Relief Sought: To allow pilots of the Zephyrhills Parachute Center (ZPC) to operate their aircraft in formation flight while carrying passengers for hire; also this exemption, if granted, would relieve ZPC pilots from assuring (1) that each parachutist is properly equipped, and (2) that cloud clearance requirements are met for the parachutists after they exit the aircraft.

Docket No.: 26755.

Petitioner: Continental Airlines.

Sections of the FAR Affected: 14 CFR 121.314.

Description of Relief Sought: To permit a 6 month extension in the compliance time for the retrofit of Class D cargo compartment liners in Continental's Airbus A300 fleet.

Dispositions of Petitions

Docket No.: 22286.

Petitioner: Finnair OY.

Sections of the FAR Affected: 14 CFR 21.197.

Description of Relief Sought/ Disposition: To extend Exemption No. 4598 that allows Finnair to obtain a special flight permit with continuing authorization for its McDonnell Douglas Model DC–10–30 aircraft, with United States registration No. N345HC. Exemption No. 4598 permits Finnair to operate aircraft N345Hc when it does not meet all applicable airworthiness requirements but is capable of safe flight for the purpose of flying the aircraft to a base where repairs, alterations, or maintenance may be performed, providing certain conditions are complied with.

Grant, January 7, 1992, Exemption No. 4598C.

Docket No.: 24041.

Petitioner: Butler Aircraft Company.

Sections of the FAR Affected: 14 CFR 91.529(a)(1).

Description of Relief Sought/ Disposition: To extend Exemption No. 2989, as amended, that allows Butler Aircraft Company to operate its Douglas DC–6 and DC–7 airplanes without a flight engineer during flightcrew training and ferry and test flights conducted in preparation for fire fighting operations under part 137 of the FAR.

Grant, January 16, 1992, Exemption No. 2989F.

Docket No.: 25238.

Petitioner: Chromalloy American Corporation.

Sections of the FAR Affected: 14 CFR 145.49.

Description of Relief Sought/ Disposition: To restore, retroactively, an exemption from § 145.49 of the Federal Aviation Regulations to allow Chromizing Southwest (CSW), a domestic repair station and division of Chromalloy, to perform certain maintenance functions on turbine engine blades and vanes at its facility located in Mexicali, Mexico.

Partial Grant, January 21, 1992, Exemption No. 5394.

Docket No.: 25640.

Petitioner: Aerospatiale Helicopter Corporation.

Sections of the FAR Affected: 14 CFR 21.195(a).

Description of Relief Sought/ Disposition: To permit Aerospatiale Helicopter Corporation's U.S.-registered models SA366G and AS350B aircraft (and any similar aircraft models that may be developed over the next five years) to obtain an experimental certificate for the purpose of conducting market surveys in the United States.

Partial Grant, December 15, 1991, Exemption No. 5389.

Docket No.: 25983.

Petitioner: Federal Express Corporation.

Sections of the FAR Affected: 14 CFR 121.613 and 121.625

Description of Relief Sought/ Disposition: To relieve Federal Express Corporation (FEDEX) to the extent that those sections are interpreted to hold that weather reports or forecasts, or any combination thereof, which contain conditional statements (e.g. "occasionally, " intermittently, "briefly," or "have a chance of,") may be below authorized minimums at the estimated time of arrival at the primary or alternate airport and do not satisfy the appropriate dispatch requirements of those sections.

Grant, January 13, 1992, Exemption No. 5392.

Docket No.: 26042.

Petitioner: Ameriflight, Inc.

Sections of the FAR Affected: 14 CFR 135.265.

Description of Relief Sought/ Disposition: To allow Ameriflight to extend its pilots' flight and duty time limits to transport financial data following a major earthquake or other natural disaster in the San Francisco Bay or Los Angeles metropolitan areas.

Denial, December 18, 1991, Exemption No. 5380.

Docket No.: 26471.

Petitioner: Classic Aviation, Inc.

Sections of the FAR Affected: 14 CFR 135.89(b)(3).

Description of Relief Sought/ Disposition. To permit Classic Aviation, Inc. to operate its Learjet aircraft above flight level 350 without one pilot having to wear and use an oxygen mask.

Denial, January 23, 1992, Exemption No. [illegible].

Docket No.: 26571.

Petitioner: Sun Country Airlines.

Sections of the FAR Affected: 14 CFR 121.358.

Description of Relief Sought/ Disposition: To permit Sun Country Airlines to continue to oprate, after December 30, 1991 without at least one half of Sun Country Airlines' aircraft being equipped with either an approved airborne windshear warning and flight guidance system, an approved airborne detection and avoidance system, or an approved combination of the systems (windshear equipment).

Denial, December 30, 1992, Exemption No. 5385.

Docket No.: 26575.

Petitioner: Designed Ideas, Inc.

Sections of the FAR Affected: 14 CFR 141.65

Description of Relief Sought/ Disposition: To permit purchasers of Designed Ideas AvTEST Written Examination System of computerized testing to exercise their self-examining authority for flight instructor and airline transport pilot written tests.

Denial, January 7, 1992, Exemption No. 5390.

Docket No.: 26576.

Petitioner: American Airlines.

Sections of the FAR Affected: 14 CFR Appendix H to part 121.

Description of Relief Sought/ Disposition: To permit the 1-year instructor employment requirement of the appendix H, Advanced Simulator Training Program to be acquired with either American Airlines or another Part 121 certificate holder.

Grant, January 7, 1992, Exemption No. 5391.

Docket No.: 25702.

Petitioner: Braathens South American and Far East Airtransport A–S.

Sections of the FAR Affected: 14 CFR 21.197(c).

Description of Relief Sought/ Disposition: To extend Exemption No. 5135 which allows Braathens South American and Far East Airtransport A–S to use a special flight permit with continuing authorization to conduct ferry flights for its U.S.-registered Boeing Model 737 aircraft, subject to certain conditions and limitations

Grant, January 8, 1992, Exemption No. 5135A.

Docket No.: 26715.

Petitioner: Continental Airlines, Inc.

Sections of the FAR Affected: 14 CFR 121.314 and 135.169(d).

Description of Relief Sought/ Disposition: To permit a 60-day extension in the compliance time for the retrofit of Class D cargo compartment liners in Boeing Model 737 airplanes.

Partial Grant, December 19, 1991, Exemption No. 5378.

Docket No.: 26716.

Petitioner: USAir.

Sections of the FAR Affected: 14 CFR 121.314 and 135.169(d).

Description of Relief Sought/ Disposition: To permit a 60-day extension in the compliance time for the retrofit of Class D cargo compartment liners in Boeing Model 737 and Fokker Model F-28 airplanes.

Partial Grant, December 179 1991, Exemption No. 5379.

[FR Doc. 92–2721 Filed 2–4–92; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Intelligent Vehicle-Highway Society of America; Public Meetings

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meetings.

SUMMARY: The Intelligent Vehicle-Highway Society of America (IVHS America) will hold meetings of its Executive Committee, Coordinating Council, and the Strategic Planning Subcommittee of the Coordinating Council on February 25 through February 28, 1992. IVHS America provides a forum for national discussion and recommendations on IVHS activities including programs, research needs, strategic planning, standards, international liaison, and priorities. The charter for the utilization of IVHS America as an advisory committee under the Federal Advisory Committee Act (FACA) when they provide advice or recommendations to DOT officials on IVHS policies and programs. (56 FR 9400, March 6, 1991).

DATES: The Strategic Planning Subcommittee of the Coordinating Council will meet on February 25, 1992, from 1 p.m. to 5 p.m., e.t., and on February 26, 1992, from 8 a.m. to noon, e.t. The sessions are expected to focus on: (1) Review and discuss comments on Draft B of the Strategic Plan for Intelligent Vehicle Highway Systems in the United States, and (2) Discuss required changes to the draft.

The Coordinating Council will meet on February 26, 1992, from 1 p.m. to 5 p.m., e.t., and on February 27, 1992, from 8 a.m. to noon, e.t. The sessions are expected to focus on: (1) Strategic Planning Subcommittee presentation on the comments on Draft B of the Strategic Plan; (2) Council guidance as to the final draft of the Strategic Plan; (3) Review of System Architecture program recommendations; and (4) Other technical activities of IVHS America.

The Executive Committee will meet on February 28, 1992, from 9 a.m. to 4 p.m., e.t. The session is expected to focus on (1) Strategic Plan Discussion, and (2) Annual Meeting Status and Program Committee Reports.

ADDRESSES: The Peabody Hotel; 9801 International Drive; Orlando, Florida 32819.

FOR FURTHER INFORMATION CONTACT: Mr. Lyle Saxton, FHWA, HTV–10, room 3100, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–2197, office hours are from 7:30 a.m. to 4 p.m., e.t., Monday through Friday, except for legal holidays: or Dr. James Costantino, IVHS America, 1776 Massachusetts Avenue, NW., fifth floor, Washington, DC 20036, (202) 857–1202.

(23 U.S.C. 315; 49 CFR 1.48)

Issued on: January 30, 1992.

T.D. Larson,

Administrator.

[FR Doc. 92–2726 Filed 2–4–92; 8:45 am]

BILLING CODE 4910-22-M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 24
Wednesday, February 5, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:05 p.m. on Sunday, February 2, 1992, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to a certain financial institution.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Vice Chairman Andrew C. Hove, Jr., Director T. Timothy Ryan, Jr. (Office of Thrift Supervision), and Chairman William Taylor, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: February 3, 1992.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 92-2922 Filed 2-3-92; 1:10 pm]

BILLING CODE 6714-01-M

FEDERAL HOUSING FINANCE BOARD

TIME AND DATE: 9:00 a.m., Thursday, February 13, 1992.

PLACE: Board Room Second Floor, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

PORTIONS OPEN TO THE PUBLIC: The Board will consider the following:

1. Monthly Reports
   A. District Banks Directorate
   B. Housing Finance Directorate
2. Dividend Regulation

PORTIONS CLOSED TO THE PUBLIC: The Board will consider the following:

1. Approved of the January Board Minutes.
2. Completion of Chairmen/Directors Appointments.
3. Office of Finance Update.
4. Legislative/Strategic Discussion.
5. Examination Report.
6. District Bank Affordable Housing Program Performance.
7. Update on Affordable Housing Program Cases.
8. Briefing/Preparation for Chair/Appointive Director Meeting.

The above matters are exempt under one or more of sections 552b(c) (2), (6), (8), (9)(A) and (9)(B) of title 5 of the United States Code. 5 U.S.C. 552b(c) (2), (6), (8), (9)(A) and (9)(B).

CONTACT PERSON FOR MORE INFORMATION: Elaine L. Baker, Executive Secretary to the Board, (202) 408-2837.

Philip L. Conover,

Deputy Executive Director.

[FR Doc. 92-2933 Filed 2-3-92; 2:10 pm]

BILLING CODE 6725-01-M

FEDERAL HOUSING FINANCE BOARD

TIME AND DATE: 9:00 a.m. Friday, February 14, 1992.

PLACE: Park Hyatt Hotel, 1201 24th Street, NW, Washington, DC 20037.

STATUS: The meeting will be closed to the public.

MATTERS TO BE CONSIDERED: The Finance Board will be hosting a meeting of the Chair/Appointive Directors of the Home Loan Bank System. Matters to be considered are the following:

1. The Federal Home Loan Bank System's Role in Public Policy.
2. Role, Duties and Responsibility of a FHLBank Director.
3. FHLBank Financial and Operational Issues.
4. Strategic Planning Initiatives.
5. Housing Finance Mission.

The above matters are exempt under one or more of sections 552b(c)(2), (6), (8), (9)(A) and (9)(B) of title 5 of the United States Code. 5 U.S.C. 552b(c)(2), (6), (8), (9)(A) and (9)(B).

CONTACT PERSON FOR MORE INFORMATION: Elaine L. Baker, Executive Secretary to the Board, (202) 408-2837.

Philip L. Conover,

Deputy Executive Director.

[FR Doc. 92-2934 Filed 2-3-92; 2:10 pm]

BILLING CODE 6725-01-M

OVERSEAS PRIVATE INVESTMENT CORPORATION

Meeting of the Board of Directors

TIME AND DATE: 1:00 p.m. (closed portion), 2:30 p.m. (open portion), Tuesday, February 18, 1992.

PLACE: Offices of the Corporation, Fourth Floor Board Room, 1615 M Street, NW., Washington, D.C.

STATUS: The first part of the meeting from 1:00 p.m. to 2:30 p.m. will be closed to the public. The open portion of the meeting will commence at 2:30 p.m. (approximately).

MATTERS TO BE CONSIDERED: (Closed to the public 1:00 p.m. to 2:20 p.m.):

1. President's Report.
2. Insurance Project in Argentina.
3. Insurance Project in Russia.
4. Claims Report.
5. Information Reports.
6. Approval of 9/24/91 Minutes (Closed Portion).

FURTHER MATTERS TO BE CONSIDERED: (Open to the public 2:30 p.m.).

1. Approval of 9/24/91 Minutes (Open Portion).
2. Presentation regarding move of Corporation.
3. Presentation regarding project development program for Central and Eastern Europe.
4. Notice to Board of Changes to OPIC Country List.
5. Information Reports.
6. Recommendation for meeting through end of September 1992.

CONTACT PERSON FOR INFORMATION: Information with regard to the meeting may be obtained from the Corporation Secretary on (202) 457-7007.

Dated: January 31, 1992.

Dennis K. Dolan,

OPIC Corporate Secretary.

[FR Doc. 92-2849 Filed 1-31-92; 8:45 am]

BILLING CODE 3210-01-M

NATIONAL COUNCIL ON DISABILITY

Quarterly Meeting and Forum

AGENCY: National Council on Disability.

SUMMARY: This notice sets forth the schedule and proposed agenda of the forthcoming quarterly meeting of the National Council on Disability and forum on personal assistance services. This notice also describes the functions of the National Council. Notice of this meeting is required under section 522(b)(10) of the "Government in Sunshine Act" (P.L. 94-409).

DATES:

Quarterly Meeting

February 24, 1992, 8:30 a.m. to 5:00 p.m.
and
February 26, 1992, 8:30 a.m. to 12:00 noon.

Forum on Personal Assistance Services

February 25, 1992, 8:30 a.m. to 4:00 p.m.

LOCATION: Imperial Palace Hotel, 3535 Las Vegas Boulevard South, Las Vegas, Nevada 89109, (702) 731-3311.

FOR FURTHER INFORMATION CONTACT: National Council on Disability, 800 Independence Avenue, SW, Suite 814, Washington, D.C. 20591, (202) 267-3846, TDD: (202) 267-3232.

The National Council on Disability is an independent federal agency comprised of 15 members appointed by the President of the United States and confirmed by the Senate. Established by the 95th Congress in Title IV of the Rehabilitation Act of 1973 (as amended by Public Law No. 95-602 in 1978), the National Council was initially an advisory board within the Department of Education. In 1984, however, the National Council was transformed into an independent agency by the Rehabilitation Act Amendments of 1984 (Public Law 98-221).

The National Council is charged with reviewing all laws, programs, and policies of the Federal Government affecting individuals with disabilities and making such recommendations as it deems necessary to the President, the Congress, the Secretary of the Department of Education, the Commissioner of the Rehabilitation Services Administration, and the Director of the National Institute on Disability and Rehabilitation Research (NIDRR). In addition, the National Council is mandated to provide guidance to the President's Committee on Employment of People With Disabilities.

The quarterly meeting of the National Council and the forum shall be open to the public. The proposed agenda includes:

Forum on Personal Assistance Services.
Report from Chairperson and Executive Director.
Update on NIDRR.
Update on ADA Watch.
Update on Prevention.
Update on public policy studies: education; technology; and health insurance.
Committee Meetings/Committee Reports.
Unfinished Business.
New Business.
Announcements.
Adjournment.

Records shall be kept of all National Council proceedings and shall be available after the meeting for public inspection at the National Council on Disability.

Signed at Washington, D.C. on January 23, 1992.

Ethel D. Briggs,

Executive Director.

[FR Doc. 92-2885 Filed 2-3-92; 11:25 am]

BILLING CODE 6820-BS-M

Corrections

Federal Register
Vol. 57, No.24
Wednesday, February 5, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1710

RIN 0572-AA43

General and Pre-Loan Policies and Procedures Common to Insured and Guaranteed Electric Loans

Corrections

In rule document 92-222, beginning on page 1044, in the issue of Thursday, January 9, 1992, make the following corrections:

1. On page 1048, in the 2d column, in *Section 1710.112*, in the 14th line, "not" should read "now".

2. On page 1049, in the 1st column, in the 15th line, insert "will" in front of "require".

3. On page 1051, in the first column, in the first full paragraph, in the fifth and sixth lines, delete "REA disagrees since this is too burdensome."

4. On the same page, in the third column, in *Section 1710.252*, in the second paragraph, in the second line from the bottom, "and" should read "any".

5. In the same column, in *Section 1710.254*, in the second paragraph, in the third line, "as been" should read "as has been".

6. On page 1053, in the third column, in the table of contents, in § 1710.118, "land" should read "load".

7. On page 1054, in the first column, in the table of contents, in § 1710.202, "Requirements" should read "Requirement".

§ 1710.2 [Corrected]

8. On the same page, in the third column, in § 1710.2(a), in the bottom line of the equation, "C−D" should read "D".

§ 1710.6 [Corrected]

9. On page 1056, in the first column, in § 1710.6(a), in the tenth line, "vote," should read "date,".

10. On the same page, in the same column, in § 1710.6(a)(5), in the first line, "With" should not be capitalized.

§ 1710.101 [Corrected]

11. On the same page, in the third column, in § 1710.101(c), in the third line, "loans" should "loads".

§ 1710.104 [Corrected]

12. On page 1057, in the first column, in § 1710.104(b)(2), in the third line, "purposes" should read "purpose".

§ 1710.105 [Corrected]

13. On the same page, in the same column, in § 1710.105(c), in the first line, "case" should read "cases".

§ 1710.112 [Corrected]

14. On page 1059, in § 1710.112(b)(3), in the ninth line, "loan" should "load".

15. On the same page, in the same column, in § 1710.112(b)(8), in the sixth line, "interest" should read "interests".

§ 1710.114 [Corrected]

16. On the same page, in the second column, § 1710.114(b)(1), in the sixth and seventh lines, delete "and 1.05 and 1.00, respectively, for distribution borrowers,".

§ 1710.204 [Corrected]

17. On page 1063, in the third column, in § 1710.204(a), in the first line, delete "are".

§ 1710.250 [Corrected]

18. On page 1064, in the third column, in § 1710.250(e), in the first line, "RES" should read "REA".

§ 1710.251 [Corrected]

19. On page 1065, in § 1710.251(b), in the sixth line, "of" should read "for".

20. On the same page, in the same column, in § 1710.251(c), in the second line, insert "a" in front of "distribution".

BILLING CODE 1505-01-D

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federal register

Wednesday
February 5, 1992

Part II

Department of Health and Human Services

Health Care Financing Administration

42 CFR Part 418, et al.

Medicare and Medicaid Programs; Omnibus Nursing Home Requirements; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 418, 440, 441, 482, 483, and 488

[BPD-488-P]

RIN 0938-AD61

Medicare and Medicaid Programs; Omnibus Nursing Home Requirements

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: This rule proposes the way we would implement several provisions of the Omnibus Budget Reconciliation Act of 1987 (OBRA '87), Public Law 100–203, that concern services to residents of nursing homes. The provisions include:

- Use of physical and chemical restraints in nursing facilities;
- Federal standards for evaluating State waivers of nursing facility nurse staffing requirements;
- Qualifications of nursing home administrators;
- Notice of Medicaid rights to be given to persons admitted to nursing facilities; and
- Other technical changes needed to include requirements of OBRA '87 in regulations.

DATES: Written comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on April 6, 1992.

ADDRESSES: Mail written comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BPD–488–P, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to one of the following addresses:

Room 309–G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, DC 20201.

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

Due to staffing and resource limitations, we cannot accept audio, video, or facsimile (FAX) copies of comments. In commenting, please refer to file code BPD–488–P. Written comments received timely will be available for public inspection as they are received, generally beginning approximately three weeks after publication of a document, in room 309–G of the Department's offices at 200 Independence Ave., SW., Washington, DC, on Monday though Friday of each week from 8:30 a.m. to 5 p.m. (phone: 202–245–7890).

FOR FURTHER INFORMATION, CONTACT: Bill Ullman, 301–966–5667.

SUPPLEMENTARY INFORMATION:

Background

General

On February 2, 1989, we published in the **Federal Register** (54 FR 5316) final regulations with a comment period which specified new and revised requirements that long-term facilities (skilled nursing facilities (SNFs) under Medicare, and SNFs, intermediate care facilities (ICFs), and, effective October 1, 1990, nursing facilities (NFs) under Medicaid) must meet in order to receive Federal funds for the care of residents who are Medicare beneficiaries or Medicaid recipients. We issued the regulations following a notice of proposed rulemaking (52 FR 38582, October 16, 1987) to refocus the requirements for participation in both programs to actual facility performance in meeting residents' needs in a safe and healthful environment. The previous set of requirements had focused on the capacity of the facility to provide appropriate care. In addition, we proposed to simplify Federal enforcement procedures by using a single set of requirements that apply to all activities common to SNFs, ICFs, and NFs.

Many of the requirements in the February 2 regulations reflected detailed, self-implementing provisions of the Omnibus Budget Reconciliation Act of 1987 (OBRA '87) (Pub. L. 100–203), which was enacted after we issued the proposed rule. Commenters were aware of the pending legislation and many commenters supported the OBRA '87 changes. An effective date of August 1, 1989 was specified for the February 2 regulations, except for those OBRA '87 provisions that relied on a statutory effective date of October 1, 1990. On July 14, 1989, the August 1 effective date was changed to January 1, 1990 (54 FR 29717) because we determined that the August 1, 1989 effective date did not give States and others adequate implementation time. On December 19, 1989, OBRA '89 was enacted. Section 6901(a) of OBRA '89 changed the January 1, 1990 effective date of the nursing home regulations to October 1, 1990. As a result, on December 29, 1989 we published in the **Federal Register** (54 FR 53611) a final rule to revise the effective date of the regulations issued in the **Federal Register** on February 2, 1989 (54 FR 5316) to October 1, 1990.

On September 26, 1991 (56 FR 48826), we published in the **Federal Register** final regulations on Requirements for Long Term Care Facilities that responded to comments on the February 2, 1989 final rule with a comment period. The provisions of this rule are effective, in general, April 1, 1992. Also on September 26, 1991, we published a related rule on Nurse Aide Competency Evaluation Programs (at 56 FR 48880) that also made changes to sections discussed in this proposed rule.

Scope of Proposed Rule

This rule describes the way we propose to implement certain OBRA '87 provisions that affect health and safety requirements for residents of long term care facilities and that require a notice and comment procedure prior to implementation. This proposal contains the following components:

- Requirements imposed on SNFs that participate in Medicare and NFs that participate in Medicaid, with respect to use of physical and chemical restraints. This portion of the proposed rule would expand upon the discussion of restraints contained in the final rule published on February 2, 1989;
- Requirements imposed on States in accordance with certain provisions of sections 1819 and 1919 of the Social Security Act (the Act) (sections 4201(a) and 4211(a) of OBRA '87), which include—

—Criteria that the Secretary would use to monitor States in granting waivers of the nurse staffing requirements of the Act, and the procedures that the Secretary would use to assume and exercise the State's authority to grant such waivers if monitoring reveals that the State has established a clear pattern and practice of granting inappropriate waivers;

—Qualifications of nursing home administrators;

—Notice of Medicaid rights to be given to persons admitted to nursing facilities;

—Conforming changes to the regulations reflecting the elimination of Medicaid coverage of SNF and ICF services (except for ICFs/MR) and replacement with coverage of nursing facility services;

—Additional requirements that a hospital must meet in order to be certified as a swing-bed facility; and

—Additional requirements that a freestanding inpatient hospice must meet.

The provisions contained in these proposed regulations pertain to long term care facility requirements, which affect several parts of the Code of Federal Regulations (CFR). We will discuss the subject matter without regard to where it appears in the CFR.

Proposed Changes to the Long Term Care Facility (SNF and NF) Requirements

Use of Restraints

Section 4201 of OBRA '87 added sections 1819(c)(1)(A)(ii) (for Medicare) and 1919(c)(1)(A)(ii) (for Medicaid) to the Act, which provide that residents of nursing facilities have the right to be free from any physical or chemical restraints imposed for purposes of discipline or convenience, and not required to treat the resident's medical symptoms. Existing § 483.13(a) implements this requirement in part by restating the statutory provision. These provisions apply to skilled nursing facilities that participate in Medicare and nursing facilities that participate in Medicaid.

In these proposed regulations, we would define physical and chemical restraints, and psychopharmacologic drugs, specify when a facility may use physical and chemical restraints, how restraints are to be applied, and what documentation is required.

We would revise paragraph (a) by deleting the term "psychoactive drug" and instead use the term "chemical restraint." This term is the one used in the statute and replaces the term psychoactive drug used previously. Sections 1819(c)(1)(A)(ii) and 1919(c)(1)(A)(ii) of the Act specify that residents have the right to be free from "* * * any physical or chemical restraints imposed for purposes of discipline or convenience and not required to treat the resident's medical symptoms". Restraints may only be imposed—

- To ensure the physical safety of the resident or other residents, and
- Upon the written order of a physician that specifies the duration and circumstances under which the restraints are to be used (except in emergency circumstances specified by the Secretary) until such an order could reasonably be obtained.

Under § 483.13(a), we would define a physical restraint as any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident's body that the resident cannot remove easily, which restricts freedom of movement of access to his or her body.

We would also propose in paragraph (a), in accordance with sections 1819(c)(l)(A)(ii) (I) and (II) and 1919(c)(1)(A)(ii) (I) and (II) of the Act, to limit physical restraints to treatment of medical symptoms or when it is necessary to ensure the safety of the resident or other residents and only if imposed in accordance with a physician's order specifying the circumstances and duration under which the restraint may be used.

We are proposing under the same section that the decision to apply physical restraints would come only after assessing each resident's capabilities, evaluating less restrictive alternatives, ruling out their use for each resident, and identifying within the plan of care rehabilitative training to enable the progressive removal of restraints or the progressive use of less restrictive means. By requiring such a systematic review before applying restraints, we hope to assure that restraints would not be applied for purposes of discipline or convenience.

We are proposing to prohibit the application of physical restraints on a standing, blanket, or "as needed" basis (the phrase "as needed" is a medical term of art, and indicates use when staff, in accordance with a physician's orders, determines it is needed to treat the resident's symptoms). We believe that restraints which are ordered on a standing, blanket or as needed basis are, in essence, being applied for purposes of discipline or convenience and are therefore prohibited by law. If there is a recognition that restraints must be applied for a specific condition on a standing, blanket or as needed basis, then that condition should be dealt with in a plan of care which endeavors to reduce or eliminate the need for the restraint.

In cases of non-emergency use, we would require that the facility obtain the written consent of the resident, or if the resident has been declared incompetent or cannot understand his or her rights, the legal representative in accordance with State law. The consent given for restraints in non-emergency situations would not relieve the facility from the requirements of § 483.13(a)(1) (ii) and (iii), which require the facility to ensure that the restraint is: necessary; imposed in accordance with a physician's order; not ordered on a standing, blanket, or "as needed" basis; enabling for the resident; imposed only as a last resort; and used in accordance with the plan of care.

In cases of emergency use, we would require that the facility obtain the order to restrain the resident as soon as an order can reasonably be obtained and to limit the time the order is in effect to 12 hours. An authorization for the emergency use of restraints for up to 12 hours would apply to situations in which a resident is so unstable that the facility has determined that the continued or intermittent use of a restraint for a 12-hour period might be needed.

Also in § 483.13(a), we would specify that staff is required to be trained in the application of physical restraints. We would also require the facility to monitor the resident's condition and assist the resident as often as necessary for the resident's safety, comfort, exercise, and elimination needs. In addition, staff would be required to keep a record of the resident's condition and any assistance provided to the resident.

As proposed, the requirements governing the use of physical restraints would be applied without exceptions. However, it has been suggested that there may be a small set of residents who have demonstrated relentless self-injurious behavior for whom the application of these requirements might prove unduly burdensome on facilities. We are especially interested in receiving comments on the appropriateness of relaxing or waiving the proposed procedural limitations on the use of physical restraints with respect to these residents, as well as the types of evidence that should be solicited to support the expedited use of restraints in such instances.

We propose to define the term "psychopharmacologic drug," which appears in sections 1819 and 1919(c)(1)(D) of the Act, as any drug that is prescribed with the intent of controlling mood, mental status or behavior. By defining psychopharmacologic drugs in this way, we include not only the obvious drug classes, such as antipsychotics, antidepressants, and the anti-anxiety/hypnotic class, but any drug that is prescribed with the intent of controlling mood, mental status, or behavior, regardless of the manner in which it is marketed by the manufacturers and regardless of labeling or other approvals by FDA. By using this definition HCFA can, for example, regulate the use of antihistamines which can have a sedative side effect, in addition to merely an antihistaminic effect. This would permit HCFA to guard against the use of drugs which are not approved or marketed as "psychopharmacologic" but which can be used for that effect. This definition also allows for the regulation of drugs not currently on the market, which could be used to affect mood, mental status or behavior.

For several reasons, we believe that State agency surveyors can determine the intent of the physician in prescribing a particular drug. First, the current regulations at § 483.25(l)(i) require the facility to have adequate indications for the use of a drug. Second, the facility must conduct an adequate assessment of the resident as required by § 483.20 and, except for acute episodic problems, drug use must conform to this assessment. Third, when drugs are used for effects not included in the official labeling, they are usually used in dosages, dosage schedules, and durations that reveal the intent of the prescriber. Finally, guidelines can be developed which assist surveyors in making these judgments by informing them of drugs that are commonly used in this manner and enumerating some situations in which they may be used. We invite comments on this definition and how we intend to apply it.

We would require that such drugs be ordered by a physician who specifies the dose, duration and reason for the use of the drug. This proposed requirement implements sections 1819(c)(1)(D) and 1919(c)(1)(D) of the Act, which require that psychopharmacologic drugs (drugs used to alter behavior, mood or mental status) may be imposed "* * * only upon the written order of a physician." We believe that it comports with the intent of Congress as provided by sections 1819(c)(1)(D) and 1919(c)(1)(D) of the Act.

We propose to require that such drugs must be used only as an integral part of the resident's comprehensive care plan that is directed specifically towards the elimination or modification of the symptoms for which the drugs are prescribed. We believe that this use of drugs which alter behavior, mood or mental status is consistent with the intent of Congress regarding use of these drugs as provided by sections 1819(c)(1)(D) and 1919(c)(1)(D) of the Act.

We propose that such drugs must not be used until the facility can justify that the beneficial effects of the drug clearly outweigh its potential harmful effects. We are proposing this requirement because we believe that it is necessary to the health and safety of residents that there be a thoughtful analysis of the relative benefits versus the potential harm of drug use in each case. Drugs that are used to alter behavior, mood or mental status may have longlasting or permanent adverse effects on the functional level of residents and should be prescribed only where the potential adverse effects are outweighed by the benefits of drug use.

Also, in § 483.13(a), we propose that the resident who is administered such a drug must be monitored closely, in conjunction with the drug regimen review requirements at § 483.60(e) for desired responses and adverse consequences by facility staff. We believe that this requirement is also essential to resident health and safety to prevent potentially serious longlasting or permanent loss of function.

We believe that there is a tendency to continue drug therapy that has been under way for a long period of time under the assumption that it continues to be necessary. This proposed rule, in § 483.13(a), would require that, unless there is a sound clinical basis for not attempting to withdraw the resident from use of a drug used to control behavior, mood or mental status, a gradual withdrawal must be undertaken at least semi-annually (e.g., every 6 months) in a carefully monitored program so that the interdisciplinary team can reevaluate whether the use of the drug continues to be necessary. We are proposing this requirement because we believe that it is necessary to protect resident health and safety by forcing the facility to determine whether long term drug therapy continues to be essential to the health and safety of the resident.

Sections 1819(c)(1)(D) and 1919(c)(1)(D) of the Act require that skilled nursing facilities and nursing facilities undergo an annual independent, external consultant review of the appropriateness of the drug plan of each resident receiving such drugs. To implement this requirement, in § 483.13(a) we propose to require that the use of drugs intended to alter behavior, mood or mental status must be reviewed annually by a physician who has training or experience in geriatrics and psychopharmacology, for the appropriateness of the drug plan for each resident receiving such drugs. We are proposing that this review be performed by these professionals because we believe their credentials will put them in the most favorable position to influence other physician prescribing behavior. Since the law specifically requires this review to be conducted by an independent, external consultant, we are proposing to require that the reviewer of psychopharmacologic drugs not have a contractual, financial, employment or familial relationship with the facility, its owner, its attending physicians, medical director, or administrator within any of the 36 consecutive months prior to the date of the review. We particularly invite comments on the appropriateness of this proposed timeframe.

We also do not want to rule out the possibility that the annual resident review by the State mental health authority under the preadmission screening and annual resident review (PASARR) requirement could be used to satisfy the annual review of psychopharmacologic drugs required by sections 1819(c)(1)(D) and 1919(c)(1)(D) of the Act. This is why we have included a provision that would allow the States the option of using the State mental health authority to satisfy this requirement. We believe that avoidance of duplication of review function would save the taxpayer money while carrying out the fundamental requirement of the statute. We realize that this may expand the review function of the State mental health authority since more residents use psychopharmacologic drugs than are determined to be mentally ill. However, we expect the expansion of the review function to be offset substantially by avoiding duplication of review functions.

To enable health professionals in the facility to determine if drugs used to alter behavior, mood or mental status are in fact achieving the desired results, we would include recordkeeping requirements in § 483.13(a). We propose to require that such drugs must be used only when a record is maintained of the administration of the drug, the dose, the route of administration, a description of the behavior, mood or mental status which the drug is intended to alter, the effect of the drug on the behavior, mood and mental status of the resident, and any other change in behavior, mood, mental status or physical condition which occurs with the administration of the drug.

We also propose to require that the drug review conducted by an independent external consultant (a physician with experience or training in geriatrics and psychopharmacology) include a review of the appropriateness of the indications for use, the dose, the duration of therapy, and the adequacy of monitoring. We would also propose that the reviewer ascertain whether valid justification exists for using a chemical restraint as permitted under paragraph (a)(8) of this section. This provision will enlist the expertise of the independent external consultant in deciding whether the use of a chemical restraint carries with it a valid justification for its use.

In § 483.13(a)(1)(v), we propose that before a psychopharmacologic drug can be used in a non-emergency situation, the facility must explain the use of the drug as required by § 483.10(d), explain the resident's right to refuse the drug, as required by § 483.10(b)(4), and obtain written consent for the use of the drug. The requirement to obtain written consent before a psychopharmacologic drug can be used in no way relieves the facility from its responsibilities under § 483.10(a)(3) (i) through (iv), and (vi) and (vii).

We would define "chemical restraint" as a psychopharmacologic drug (i.e., any drug that affects mood, mental status or behavior) which is used in excessive dose, for excessive periods of time, without adequate monitoring, without adequate indications for its use, in the presence of "adverse consequences," which indicate the dose should be reduced or discontinued, in a manner that results in a decline in the resident's functional status, or any of the reasons above. We propose that a psychopharmacologic drug becomes a "chemical restraint" when it is used under the circumstances of "excessive dose," "inadequate indicators," etc. and invite public comment on how to define these terms. We believe this is the only way to avoid the use of all psychopharmacologic drugs with the pejorative term "chemical restraint." This proposed regulation would implement sections 1819(c)(1)(ii) and 1919(c)(1)(ii) of the Act, which give the resident the right to be free of "chemical restraints imposed for the purposes of discipline or convenience and not required to treat the resident's medical symptoms." This proposal would establish a stricter standard than the statute. The statute allows the use of a chemical restraint when not used for convenience or discipline and when used to treat medical symptoms (e.g., hallucinations, delusions, paranoia). The statute exempts the facility from the above standard when it says, "Restraints may only be imposed to ensure the physical safety of the resident or other residents." In other words, the resident need not have medical symptoms for the imposition of a chemical restraint if they represent a threat to themselves or others. However, we are concerned about the indiscriminate application of this principle in situations such as those involving a resident who strikes at another resident out of self-defense or who strikes at an abusive aide. This would be normal behavior and would not be the result of a hallucination or delusion, yet a chemical restraint would be permitted. That is why this regulatory proposal would tie the use of a chemical restraint to proper indications for use (as well as other criteria, e.g., dose, duration of therapy, monitoring and excessive side effects), instead of allowing physical safety to be the sole criterion for use of a chemical restraint.

We also note that there are frequent occasions when residents' medical symptoms (hallucinations, delusions, paranoia) may result in potential harm to themselves or others. To treat these medical symptoms should not be considered use of chemical restraints. It should be considered the reasonable and necessary practice of medicine. However, when this treatment is without proper indications, the dose is excessive, treatment is for an excessive duration, monitoring is inadequate, or side effects are too great, then this constitutes a chemical restraint.

Under § 483.13(a)(8), use of a chemical restraint would be permissible (as the Act requires at 1819(c)(1)(A)(ii)(I) and 1919(c)(1)(A)(ii)(I)) only when it is imposed to ensure the safety of the resident or other residents and properly ordered.

However, to be consistent with the concept that a chemical restraint situation should only rarely occur, we are proposing that an emergency situation should exist before a chemical restraint may be used in accordance with the statutory circumstances "to ensure the physical safety of the resident or other residents." This would serve to limit the application of this provision to rare circumstances in which the resident is acting out so violently that he or she must indeed be "chemically restrained." We would require that such drugs, when used as an emergency restraint be accompanied by physician's orders (not necessarily a written order) in effect for no longer than 12 hours, and be administered to residents only if the resident is monitored continually for the first 30 minutes after administration and every 15 minutes thereafter. This particular monitoring schedule assumes that the drug will be administered parenterally since it is in an emergency situation. We believe that these proposed requirements are necessary to protect resident health and safety by ensuring that the residents are not continuously under the influence of these drugs without careful professional monitoring being given to the continued use of them, or without careful observation of the effects of the drugs on the resident. We believe that continued use of such drugs in an emergency situation should be reevaluated by a physician no later than 12 hours after the initial order to ensure that the drug continues to be appropriate. Moreover, due to the impaired physical status of most residents, we believe that continuous monitoring for the first 30 minutes after administration of the drug, and monitoring every 15 minutes thereafter for as long as the resident is under the influence of the drug are necessary to ensure that any adverse side effects that may occur would be noticed and appropriate actions would be taken as soon as possible.

We believe the proposed regulations on psychopharmacologic drugs and chemical restraints are necessary to cope with a significant public health problem in many, but not all of this nation's long-term care facilities. For many years, there have been allegations of misuse of psychoactive drugs in these facilities. In 1975, the Special Committee on Aging of the U.S. Senate held hearings on this public health problem and made reference to "chemical straight jackets" in nursing homes. In 1980, the House Select Committee on Aging held hearings on the same subject. They entitled their report, "Drug Abuse in Nursing Homes." Most recently, articles that deal with this subject have appeared in a number of medical journals. These papers generally question the extent of the use of psychopharmacologic drugs in nursing homes and question whether adequate monitoring of the use of these drugs exists.

Congress took action on this issue by enacting the chemical restraint provisions of OBRA '87. In enacting these provisions, Congress has determined that the facility, and not only the prescribing physician, can be held responsible for the inappropriate use of chemical restraints. They did this by giving the resident the right to be free of chemical restraints except under certain circumstances and held the skilled nursing facility or the nursing facility responsible for "protecting and promoting" this right for each resident (see sections 1819(c)(1)(A) and 1919(c)(1)(A)).

Although section 1801 of the Act (no such provision exists in title XIX of the Act) prohibits Federal interference in the practice of medicine, the provisions on chemical restraints in OBRA '87 do not contradict that provision. The physician is free (within the confines of facility policy) to prescribe chemical restraints if such drug use is necessary in an emergency to "ensure the physical safety of the resident or other residents," and if such drug use is not for discipline or convenience and is required to treat medical symptoms (see sections 1819(c)(1)(A)(ii)(I) and 1919(C)(1)(A)(ii)(I)). The "chemical restraint" prohibition would apply only when such drugs are prescribed for discipline or convenience and not to treat medical symptoms. Since the prescribing of "chemical restraints" for these circumstances are not to treat a medical symptom, the Federal government's regulation of nursing home practices, by prohibiting the facility's use of chemical restraints under these circumstances, are not intended, or

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expected to amount to Federal interference with the practice of medicine. We believe that this interpretation reasonably balances the general limitation contained in section 1801 of the Act with the specific and explicit requirements imposed by sections 1819(c)(1)(A)(ii) and 1919(c)(1)(A)(ii) of the Act.

As proposed, the requirements governing the use of chemical restraints would be applied without exceptions. However, it has been suggested that there may be a small set of residents who have demonstrated relentless self-injurious behavior for whom the application of these requirements might prove unduly burdensome on facilities. We are especially interested in receiving comments on the appropriateness of relaxing or waiving the proposed procedural limitations on the use of chemical restraints with respect to these residents, as well as the types of evidence that should be solicited to support the expedited use of restraints in such instances.

State and Federal Waivers of Nurse Staffing Requirements

Section 4201 of OBRA '87 added section 1819(b)(4)(C)(i) to the Act, which requires that a Medicare SNF provide 24-hour licensed nursing service, and use the services of a registered professional nurse at least 8 consecutive hours a day, 7 days a week. Section 4211 of OBRA '87 added section 1919(b)(4)(C)(i) to the Act, imposing the same requirement on Medicaid NFs. Section 1819(b)(4)(C)(ii) authorizes the Secretary to waive the requirement that a SNF use a registered professional nurse for more than 40 hours a week if certain criteria specified in section 1819(b)(4)(C)(ii)(I)–(III) of the Act are met by the facility. Section 1919(b)(4)(C)(ii) authorizes a State to waive the 24-hour licensed nursing requirement or the registered professional nurse requirement in a Medicaid NF if certain criteria specified in section 1919(b)(4)(C)(ii)(I)–(III) are met.

The proposed regulations concerning nurse staffing waivers would be located in two places in the CFR. In part 483, subpart D, new § 483.165 would add requirements that must be met by States and State agencies concerning designation of nurse staffing waiver authority, nature of waivers, effective dates, renewal of waivers, and notices. In part 488, subpart B, current rules specify survey and certification procedures that are used by the State survey agency and HCFA to determine if long term care facilities meet the requirements in part 483, subpart B.

State Requirements—Nurse Staffing Waivers

In § 483.148, we describe the scope and statutory basis of the regulatory requirements that apply to States with respect to Medicaid participating long term care facilities. In § 483.165, we propose to specify the requirements that must be met by the State in deciding whether to grant nurse staffing waivers to Medicaid participating nursing facilities and distinct parts. Specifically, in § 483.165(a), we propose to require that the Medicaid agency must designate an entity within the State, including itself, that is responsible for deciding whether to grant a waiver of the nurse staffing requirements at 42 CFR 483.30 (a) and (b). Moreover, we propose that the State cannot delegate or subcontract this function to an entity outside of the State government. We believe that it is important that nurse staffing waivers not be granted unless the State has determined that resident health and safety will not be adversely affected, and therefore, we do not intend that any entity outside of the government of the State make the decision of whether to grant a waiver of the nurse staffing requirements.

In § 483.165(b), we propose that the State may grant a waiver of these requirements for a Medicaid-only participating nursing facility or a Medicaid-only distinct part nursing facility when, at the request of the nursing facility, the State finds that the conditions in § 483.30 (c) and (e) are met by the nursing facility. A facility would be deemed to have made a diligent effort to meet the nurse staffing requirements if it can demonstrate that it (1) continuously attempts to recruit registered or licensed practical nurses, or both, to fill its vacancies by advertising, solicitation at education programs, and job fairs within a radius of 100 miles of the facility, and (2) offers salaries and benefits that are competitive with the salary and benefits offered by other nursing facilities that are located within a 100 mile radius of the facility. In addition, we propose that a State could only grant a nurse staffing waiver to a facility that had been in compliance with all of the requirements of § 483.25 regarding quality of care both at the last standard or extended survey and at the time the waiver is to be effective. We propose this requirement because we believe that it is an essential measure of minimal health and safety protection for the residents in a facility. A nursing facility or distinct part that has been found out of compliance with any of the quality of care requirements of § 483.25 should not be granted a nurse staffing waiver, since nurse staffing is crucial to the patient outcomes addressed in the quality of care standard. Although this requirement is not explicit in the statute, it is consistent with the statutory requirement that the State not find any health and safety problems (see section 1919(b)(4)(C)(ii)(II) prior to granting a waiver).

The State may not grant a waiver of the nurse staffing requirements of § 483.30 (a) and (b) to Medicare-only skilled nursing facilities or Medicare-only distinct part skilled nursing facilities. Since these facilities participate in Medicare, they will only be eligible for Medicare waivers of nurse staffing requirements. This is because a waiver of nurse staffing requirements under section 1919(b)(4)(C)(ii) of the Act, and regulations at § 483.30 (c) and (e), would cause Medicare participating facilities to be out of compliance with the Medicare requirements for participation that require 24 hour nursing. These facilities and distinct parts that participate in Medicare may be granted waivers of the nurse staffing requirements of § 483.30 only by HCFA, as provided under § 488.56. Dually-participating facilities (i.e., those which participate both as a Medicare SNF and a Medicaid NF) that seek to have nurse staffing requirements waived would need to obtain two separate waivers: A Medicare waiver from HCFA, and a Medicaid waiver from the State. The Medicare waiver authority is far more limited than is the States' authority under Medicaid since a State may waive any element of the nurse staffing requirement, whereas the Secretary may waive only the registered nurse (RN) requirement to the extent that it would entail an RN being on duty more than 40 hours a week, and only then in rural facilities. Since the scope of Medicaid's nurse staffing waiver authority under the law is far broader than Medicare's, a dually-participating facility that obtains a nurse staffing waiver under Medicaid, which is broader in scope than would be allowable under Medicare, is disqualified from further participation in Medicare. We anticipate that in situations where HCFA grants a Medicare waiver to a dually-certified facility, the State might choose to grant automatically a comparable Medicaid waiver.

In § 483.165(c), we propose that the effective date of nurse staffing waivers granted by the State may not precede the date of the facility's request and expire on the earlier of:

- The anniversary of the effective date;
- The date by which the State becomes aware that the facility acquires sufficient nurse staffing to comply with the requirements without a waiver; or
- The date that the State determines that the facility has ceased to be in compliance with any of the requirements of § 483.25 or determines that the health and safety of residents has become jeopardized.

We are limiting waivers in this way because of our concern that the waivers be granted only when continued resident health and safety are ensured.

We are also proposing at § 483.165(c) that waivers may not be granted with retroactive effective dates in order to preclude skilled nursing facilities and nursing facilities from avoiding penalties for noncompliance with the nurse staffing requirements discovered during a survey by requesting and receiving a retroactive waiver. We believe that compliance with the statutory requirement for adequate nurse staffing is essential to ensuring the health and safety of residents and that the waivers of the nurse staffing requirements are not to be granted without careful consideration and a sound belief that resident health and safety will not be adversely affected. At § 483.165(d), we would provide that the State may renew a nurse staffing waiver after it has expired (or before it expires) if the State has reevaluated the facility to ensure that the criteria continue to be met and resident health and safety has not been adversely affected by the waiver.

We believe that it is appropriate to limit the duration of a nurse staffing waiver. Requiring reassessment of the waiver at least once a year forces the facility to be able to demonstrate what it has done to acquire sufficient nurse staffing so as not to need the waiver. The automatic termination of the waiver when the facility acquires sufficient staffing to meet the statutory requirements is appropriate because the acquisition of such staffing both obviates the need for the waiver and demonstrates that the facility can find sufficient staffing to meet the requirements. The automatic termination of the waiver if the State finds that the facility is out of compliance with a quality of care requirement under § 483.25 or that the health and safety of residents has been adversely affected by the waiver is only appropriate, since the statute prohibits a waiver if resident health and safety is adversely affected by it, and for consistency with § 488.56. The focus of the requirements, and in particular of the nurse staffing requirement, is to protect resident health and safety.

In § 483.165(d), we propose that waivers of nurse staffing requirements may be renewed for a subsequent period of 12 months if the State, after full development and review of a facility's request for renewal, finds that the criteria of § 483.30(c) and (e) or (d), as applicable, continue to be met and resident health and safety are not endangered by the waiver.

In § 483.165(e), we propose that copies of each notice to a facility that allows a nurse staffing waiver and the information on which the State based its waiver must be provided to the Secretary within 30 days of the date of notice to the nursing facility. This requirement is proposed to implement section 1919(f)(9) of the Act, which requires the Secretary to monitor State grants of nurse staffing waivers under section 1919(b)(4)(C)(ii) of the Act. It is essential that we be advised of the waivers granted by the State and provided the information on which the waiver is based so that we can adequately perform our monitoring function. We believe that the 30 day timeframe will impose no hardship on States as they grant nurse staffing waivers.

In § 483.165(f), we also propose to require that when the State grants a nurse staffing waiver, it must notify the Long Term Care Ombudsman and the protection and advocacy system in the State for the mentally ill and the mentally retarded as well as the resident's immediate family within 30 days of the notice of approval of the waiver. We propose this requirement in accordance with the provisions of section 4801(e)(5)(D)(iv) of OBRA '90 and because we recognize the important role these individuals play in advocacy for residents of these facilities. We also recognize that if they are aware of waivers of nurse staffing, they can serve as onsite watchdogs of facilities that have been granted nurse staffing waivers to ensure that the quality of care does not deteriorate as a result of the waiver.

We propose this requirement, in part, as a result of the concerns expressed by consumer groups with these waivers. In particular, they are concerned that individuals who are concerned with the quality of care provided by nursing facilities be aware of such waivers when they are granted. In addition to this requirement for notification of the ombudsman, we also propose to require at § 483.30(c) that the facility post a notice of its waiver in a public place and that all current residents and new admissions be advised when a waiver is granted. We believe that these requirements sufficiently attend to the concerns of consumer representatives.

In § 483.30(c), we propose that the facility must, within 30 days of the notice of approval of a nurse staffing waiver, post in a prominent public location a notice of the services for which a nurse staffing waiver has been granted; the date of expiration of the waiver; and the name, address and phone number of the entity in the State to which complaints about the facility should be directed. We believe that it is important that individuals who have an interest in a facility be advised that the facility has been granted a waiver of the Federal nurse staffing requirements, so that if there are concerns with the absence of adequate nurse staffing they can make the appropriate entity in the State immediately aware of those concerns.

We believe that each resident of a facility that has been granted a waiver of the Federal requirements for nurse staffing has the right to know that the facility has been granted such a waiver, and as such does not meet the specific Federal requirements for nurse staffing in certified facilities. Therefore, in § 483.30(c) we propose that the facility must notify each new admission and each current resident in accordance with notification requirements under "Residents Rights" section (§ 483.10(b)) of the services for which a nurse staffing waiver has been granted within 30 days of the notice of approval of the waiver.

Some groups also want us to require that the State not be permitted to grant a nurse staffing waiver until after the State has published a proposed notice and considered public comments on the proposed nurse staffing waiver as a means of preventing waivers that might adversely affect resident health and safety. We have chosen not to impose such requirements because we believe that the result would be an unnecessary delay of the decision-making process. Moreover, we believe that the safeguards we propose to install in the Federal monitoring process, and revocation of improperly granted waivers will ensure that resident health and safety is protected when waivers of nurse staffing are granted.

In § 483.30(b) we propose to require that when a waiver under paragraph (c) of that section results in a facility not having a registered nurse on staff, the facility must—

- Designate a licensed practical nurse to supervise nursing staff;
- Contract with a registered nurse to conduct or coordinate resident assessments and sign and certify the

completion of the assessment as required by section 1919(b)(3)(B)(i) of the Act; and

- Designate a licensed practical nurse with responsibility for the resident to participate in the development of a comprehensive care plan as required by section 1919(b)(2)(B) of the Act.

When a waiver under paragraph (d) results in the facility having a registered nurse on staff less than 7 days a week, the facility must designate a licensed practical nurse to serve as the health services supervisor in the absence of the registered nurse.

We propose to include these requirements to address who may supervise health services when a nurse staffing waiver is granted by the State. We believe that they offer a reasonable solution to the questions that have arisen regarding who can supervise health services, conduct or coordinate resident assessments, and participate in the development of plans of care when there is a nurse staffing waiver in the facility.

Section 1919(b)(4)(C) of the Act requires that a facility demonstrate to the satisfaction of the State that the facility has been unable, despite diligent efforts (including offering wages at the community prevailing rate for nursing facilities), to recruit appropriate personnel. In § 483.30(c)(6), we propose to adopt the "diligent effort" criteria used in § 488.57(b)(2), as discussed below, for consistency and conformity.

We propose in § 488.56(a) the conditions under Medicare for waiving of nurse staffing requirements, the duration of such waivers and the nature of the effective date(s) of such waivers. Specifically, § 488.56(a) would provide that upon the request of a State, we will decide whether to waive the requirement to provide services of a registered nurse for more than 40 hours a week as specified in § 483.30(d). It would also provide that any waiver we grant must meet the requirements specified in this section.

We would only grant such a waiver if the skilled nursing facility has made and continues to make a diligent effort to comply with the requirement to have a registered nurse on duty more than 40 hours a week, but such compliance is impeded by the unavailability of registered nurses in the area (§ 483.30(d)). We would provide that a facility has made a diligent effort to meet the requirements when it continuously attempts to recruit registered nurses to fill its vacancies by advertising, soliciting at educational programs and participating in job fairs within a radius of 100 miles of the facility, and when it offers salaries and benefits that are competitive with other skilled nursing facilities within a 100 mile radius of the facility. We propose this requirement to ensure that the facility continues to try to meet the nurse staffing requirements notwithstanding the granting of the waiver. In § 488.56(a)(2), we describe what demonstrable actions we expect the SNF to take in attempting to recruit registered nurses. This reflects a longstanding policy for nurse staffing waivers in skilled nursing facilities and we continue to believe that it is appropriate. We are especially interested in receiving comments on possible ways to improve the effectiveness of these requirements.

We believe it is appropriate to grant such a waiver only if the facility has been in compliance with all of the requirements of § 483.25 both at the last standard or extended survey and at the time the waiver is to be effective. We propose this requirement because we believe that a facility that has or has recently had a deficiency in the quality of care requirements demonstrates a problem in quality of care and that these problems would likely be exacerbated by the absence of registered nurse staffing. We invite public comments on our use of this standard of compliance with quality of care requirements in this context.

Section 1819(b)(4)(C) of the Act requires that such waivers shall be subject to annual review. We believe that nurse staffing is sufficiently important to the quality of care of residents that the waiver should only be continued after one year where there has been another request by the State, review by HCFA and specific approval for another one year period. Consequently, we propose in § 488.56(a)(4) that we would permit waivers of nurse staffing to extend for a period of no more than 12 months from the date the waiver goes into effect.

We propose to specify that a waiver can only be effective on or after the date of the facility's request for the waiver (but not earlier than that date), to ensure that facilities that are cited for being out of compliance with the nurse staffing requirements are not sheltered from sanctions by seeking and receiving retroactive waivers.

Also in § 488.56(a), we propose that HCFA would revoke the waiver effective on the date the facility is found to be out of compliance with any requirement of § 483.25. We believe that lack of compliance with a requirement under § 483.25 demonstrates the presence of a problem in the quality of nursing care in particular, and that it would not be appropriate to continue a waiver in such a facility.

We propose in § 488.57 to address how HCFA will monitor nurse staffing waivers granted by States and the circumstances under which HCFA would revoke the State's authority to grant nurse staffing waivers. Section 1919(b)(4)(C)(ii) of the Act states that a waiver granted by the State "* * * shall be accepted by the Secretary for purposes of this title to the same extent as is the State's certification of the facility." Moreover, section 1919(b)(4)(C)(iii) requires that "if the Secretary determines that a State has shown a clear pattern and practice of allowing waivers in the absence of diligent efforts by facilities to meet the staffing requirements, the Secretary shall assume and exercise the authority of the State to grant waivers." Therefore, we propose to establish requirements for HCFA's monitoring of State nurse staffing waivers and procedures that will govern HCFA's assumption and exercise of the State's authority to grant waivers.

We propose in § 488.57(a) that HCFA will monitor each nurse staffing waiver granted by each State under § 483.30(c) to determine if the waiver meets the criteria specified in paragraph (b) of this section. In proposing to monitor every waiver that is granted, we assumed that there would be relatively few waivers granted and that the potential for quality of care problems when such a waiver is granted is sufficient to justify individualized Federal oversight. However, we would be interested in receiving comments on whether the number of waivers granted may be too great to support our assumption and whether monitoring of a sample of the waivers would be sufficient to ensure adequate Federal oversight. In determining if a waiver meets the criteria of paragraph (b) of this paragraph, HCFA will evaluate the information used by the State to grant the waiver and the information available from any survey of the facility.

We believe that not only should the State not grant a waiver if the statutory requirements are not met, but that no waiver should be granted to a facility that has a recent history of noncompliance with the quality of care requirements, and that waivers should be revoked from facilities that are found out of compliance with quality of care requirements. These requirements are almost totally based on the quality of nursing and nursing related services, and where deficiencies exist in any of them, we believe that a State reasonably could conclude that health and safety of residents would be adversely affected by a nurse staffing waiver. Therefore, we propose that HCFA will find that a waiver was inappropriate if HCFA determines that the statutory requirements for a waiver as found in § 483.30(d) were not met when the waiver was granted or if the State granted a waiver to a facility that had one or more deficiencies under § 483.25 (the quality of care requirements for facilities) at the last standard or extended survey prior to the waiver or at the time the waiver became effective.

When we find that the State has granted a waiver that is inappropriate as defined in paragraph (b) of § 488.57, we propose to notify the State of these findings, and HCFA may perform a survey to determine if resident health and safety is in jeopardy. In providing for the performance of a survey in this context, we considered specifying in the regulations that such a survey must be a standard rather than an abbreviated one. However, we anticipate that our survey requirements will be adaptable in such a manner as to allow a survey to be upgraded in thoroughness as evidence is uncovered to warrant such an action. Therefore, rather than prescribing at the outset the type of survey that must be conducted, we believe it is preferable to let the surveyor determine this as the survey progresses.

If we determine that resident health and safety is in jeopardy, we may subject the facility to adverse action notwithstanding the State's granting of a waiver of the nurse staffing requirements. We also propose that when we determine that the State has granted an inappropriate waiver, we will consider whether to revoke the State's authority to grant nurse staffing waivers. We want to place the emphasis in our process upon HCFA's monitoring of State waivers to minimize the likelihood that we will need to revoke a State's authority to grant waivers.

However, we propose procedures for revocation of a State's waiver authority in § 488.57(b) because the law, at section 1919(b)(4)(C)(iii) of the Act, requires us to revoke a State's authority to grant waivers if the Secretary determines that a State has shown a clear pattern and practice of allowing waivers in the absence of diligent efforts by the facility to meet nurse staffing requirements.

In § 488.57(b) we propose that our review of each nurse staffing waiver granted by the State will include an evaluation of whether the nursing facility has made a diligent effort to meet the nurse staffing requirements. We would provide that a facility has made a diligent effort to meet these requirements if it continuously attempts to recruit registered and/or licensed practical nurses to fill its vacancies by advertising, solicitation at educational programs and participating in job fairs within a radius of 100 miles of the facility, and when it offers salaries and benefits that are competitive with other nursing facilities within a 100 mile radius of the facility. We believe that these actions indicate a diligent effort.

We would assume and exercise the authority of the State to grant waivers if the State has demonstrated a clear pattern and practice of allowing waivers in the absence of diligent efforts to meet the nurse staffing requirements as specified in § 483.30 of this part. Our authority to do so is based on the requirements of section 1919(b)(4)(C)(iii) of the Act.

In § 488.57(b)(4), we propose to find that the State has demonstrated a "clear practice" of granting inappropriate waivers when HCFA's review, based upon the subsequent year's survey information or any other available information, shows that the State has a continuing practice over time of allowing waivers in the absence of diligent efforts by facilities to meet the nurse staffing requirements.

We propose to find that the State has demonstrated a "clear pattern" of allowing waivers in the absence of diligent efforts by facilities to meet the nurse staffing requirements when we determine that the State has granted waivers to more than five facilities or 5 percent of all facilities (whichever is greater) in the absence of diligent efforts by the facilities to comply with the nurse staffing requirements. We chose five or 5 percent of all facilities (whichever is greater) for this definition of a clear pattern because we thought that it was a number that was large enough so that it could reasonably be used to define a pattern, yet small enough to limit the scope of the review to reasonable levels. We request public comment on this definition for this purpose, and are particularly interested in data that would reflect the prevalence of facilities meeting the quality of care requirements in the absence of mandated nurse staffing.

When we find that the State has demonstrated a clear pattern and practice of allowing waivers in the absence of diligent efforts by facilities to meet the nurse staffing requirements, we would advise the State that HCFA intends to revoke the State's waiver authority. HCFA would allow the State to retain its authority to grant waivers only if, within 30 days of receiving this notification, the State submits evidence satisfactory to HCFA's Administrator which demonstrates diligent efforts by the facilities in question to meet the staffing requirements. We are interested in receiving comments on whether 30 days is a reasonable period of time to demonstrate that the State's waiver process is acceptable. We would publish a notice of the revocation of the State's authority in a Statewide periodical or the major newspapers of the State. The notice would include the effective date of the revocation, a statement that waivers granted by the State remain in effect until their expiration date or until the date that HCFA specifically revokes them (whichever comes first) and the procedures by which a facility may apply to HCFA for a waiver of the nurse staffing requirements. We believe that this public notice process is necessary to enable facilities and the public to know the status of facilities' waivers after revocation of the State's authority.

We considered whether to include a mechanism for States to regain lost waiver authority. Although the statute does not address returning lost waiver authority, we assume Congress did not intend to cause a permanent loss. Because we do not anticipate that many States will lose their authority, we decided to reserve rulemaking until the need arises. In the event that we do revoke waiver authority from a State, we plan to revoke it for at least one full cycle of waivers, which will allow sufficient time for rulemaking.

Qualifications of Nursing Home Administrators

Sections 1819(f)(4) and 1919(f)(4) of the Act, added by section 4201 of OBRA '87, require that the Secretary establish standards to assure the quality of nursing home administrators. Section 1819(f)(4) of the Act applies to skilled nursing facilities (Medicare), and section 1919(f)(4) applies to nursing facilities (Medicaid).

In developing these requirements, we consulted a variety of groups with programs that impose or evaluate nursing home administrator standards. We have tried to develop standards that are stringent enough to assure quality administration yet flexible enough to accommodate the current system. We invite public comment on all aspects of this proposal, and particularly on whether the use of a competency evaluation (see discussion of § 483.85(d) below) would, in itself, be sufficient to ensure high quality administration.

We propose that a skilled nursing facility or nursing facility may not employ any person as a nursing home administrator unless that person meets the following requirements. In

§ 483.85(a), we propose that the individual meet the license requirements imposed by the State in which the facility is located.

We would require, in § 483.85(b), that a nursing home administrator have at least a baccalaureate degree. In developing this requirement, we considered several options. We considered requiring only a high school education. We decided, however, that the administrator of a nursing home must be able to understand the basics of nursing practice, Federal and State laws and regulations governing the operation of nursing facilities, licensing and payment programs, and general business practices. We do not believe that a high school education provides sufficient background to enable an individual to function adequately in this respect. We also considered requiring that administrators have a graduate degree in health care administration or the health sciences. We decided, however, that such a high level of training is not characteristic of nursing home administrators and is not necessary for the effective administration of a nursing facility. (While we have not required administrators to have advanced degrees, we note that States could make such a requirement if desired.) We, therefore, came to the conclusion that a bachelor's degree is a necessary, basic requirement for administrators of nursing homes. However, we invite public comment on whether the combination of a high school education and experience would be sufficient to enable an individual to be a competent administrator.

In § 483.85(c), we propose that individuals must complete to the State's satisfaction an internship program of at least 12 weeks duration. The internship will include practical training in daily facility operation and instruction in those areas determined by the State, but at least applicable standards of environmental health and safety; applicable Federal, State and local health and safety laws and regulations; State personnel licensing and/or registration requirements; general administration of an institution, including departmental organization and management; psychology of patient care; personal care and social services; therapeutic and supportive long term care and services; and community resources and interrelationships. We believe that these areas comprise the basic level of knowledge a nursing home administrator must have. We recognize that for those individuals who have managed a nursing home for at least 1 year such an internship program may be redundant, and we will not require that they complete the internship. We emphasize that the internship program may be taken while the individual is working towards his or her degree.

We believe that a standardized examination is necessary to determine the competency of potential administrators.

Therefore, in § 483.85(d), we propose to require that individuals pass with a score of at least 75 percent a State-selected standardized examination tailored to the State, a State-developed examination, or a national standardized examination.

Because we believe that continuing education is necessary to ensure that administrators remain effective, we would require, in § 483.85(e), that administrators satisfactorily complete 20 clock hours of continuing education for any calendar year in which an individual serves as an administrator.

We believe that most long-term care facility administrators are competent and capable; therefore, in § 483.85(f), we would provide that any individual who has been continuously employed as a long-term care facility administrator by the same facility for at least one year on the date of publication of the final rule is deemed to meet the requirements of § 483.85 with the following exceptions. (This 12-month timeframe is consistent with that proposed in § 483.85(c)(2), which would waive the internship requirement for an administrator with at least one year's management experience in a long-term care facility.) We would not deem long-term care facility administrators to meet State licensure requirements and continuing education requirements. The continuing education and licensure requirements indicate ongoing activities in which all administrators should participate, while the other requirements specify initial qualifications. We request public comment both on the overall acceptability of deeming current administrators to meet the requirements and on whether provisions in addition to licensure and continuing education should be excluded from such deeming.

Finally, in § 483.85(g) we propose that hospital administrators administering hospital-based nursing facilities may meet the current State requirements for hospital administrators in lieu of these requirements to the extent permitted under State law. Some States allow hospital administrators to run hospital-based nursing facilities. To require such individuals to meet these requirements could force hospital-based nursing facilities to hire separate administrators for the nursing facilities, which would impose an undue expense on these entities.

Notice of Medicaid Rights

Section 4211 of OBRA '87 added section 1919(e)(6) to the Act, which requires, as a condition of approval of its Medicaid State plan, that each State develop and periodically update a written notice of the rights and obligations of residents of nursing facilities (and spouses of such residents) under Medicaid. We would implement this statutory requirement in § 483.167. We would propose that the State must develop a written notice that contains the resident rights that are provided for under §§ 483.10, 483.12, 483.13, and 483.15 and must include any other right or obligation that is granted or imposed by the State under title XIX. These sections of the requirements governing nursing facilities that participate in Medicaid address the rights and obligations of residents with which facilities must comply to participate in Medicaid. We believe that these rights and obligations are those intended by the Congress to be included in the notice to be provided by the State under the law.

In § 483.167(b), we propose to require that the notice be updated as necessary to keep the applicants and residents and their spouses notified of Medicaid rights and obligations, and published in a Statewide periodical or the major newspapers of the State at least once every 12 months.

We would also propose that printed copies must be made available to the public upon request. We propose these requirements because we believe that Congress included this provision in the law to ensure that the public would be made aware of the rights and obligations of nursing facility residents. A requirement that the State publish the notice in a Statewide periodical and make copies available to the public is essential to fulfill this intent.

Notice of Transfer or Discharge

Existing § 483.12(a)(3) requires that before a facility transfers or discharges a resident, the facility must notify the resident and, if known, a family member or legal representative of the transfer or discharge and the reasons. Section 483.12(a)(5) specifies the contents of the written notice, including the resident's right to appeal the action to the State agency designated to handle these appeals. We believe that current regulations do not go far enough to spell out sufficiently to whom and how a resident can appeal such an action. For this reason, we would require that the facility also include the following information in the notice.

In § 483.12(a)(6)(iv) we propose to add a new paragraph (D) to require that the facility include in its notice of discharge or transfer, the name, address and phone number of the State entity to which the resident or his or her legal representative can appeal the decision to discharge or transfer the resident from the facility, the hours of operation of that entity and the date and means by which the appeal must be filed.

Requirements Applicable to Coverage of Nursing Facility Services Under the Medicaid Program

Part 431 of our regulations, in subpart C, contain administrative and provider relations requirements that States must meet under the Medicaid program. Parts 440 and 441 of the regulations identify covered services and limits in those services. We propose to revise §§ 440.40, 440.140, 440.150, 440.250, 440.170, 440.220, and 441.100 to implement section 4211(f) of OBRA 87. That section makes changes, effective for services provided on or after October 1, 1990, to specific sections of title XIX which eliminate Medicaid coverage of "skilled nursing facility services" and "intermediate care facility services" (except for "intermediate care facilities for the mentally retarded or persons with related conditions"), and replace them with coverage of "nursing facility services." The changes in these sections of the regulations are proposed to conform the Federal regulations to the law.

The effect of these changes is to make "nursing facility services" a mandatory service for any population for which "skilled nursing facility services" have heretofore been mandatory. Therefore, the full range of nursing facility services, as we propose to define them in this proposed rule, would now have to be provided to categorically needy individuals age 21 and over. Further, in § 440.220(c), the State would now be required to provide coverage of home health services under Medicaid for any population for which it is required, or chooses, to provide coverage of "nursing facility" services.

In order to conform our regulations to the statute as revised by section 4211(b) of OBRA 87, we propose to revise § 440.40(a) to address "Nursing facility services for individuals age 21 or older (other than services in an institution for mental diseases)." We propose to eliminate the word "skilled" wherever it appears, to reflect that, after October 1, 1990, coverage of "skilled nursing facility care" is replaced by coverage of "nursing facility care." We propose the following changes to § 440.40(a) in addition to the change of the title.

We propose that "nursing facility services" include "skilled nursing care," "rehabilitation services," and "health related services above the level of room and board." The requirement that nursing facility services be "above the level of room and board" is a fundamental element of "intermediate care facility services" at current § 440.150(a)(1)(i). We indicate that the services must be "health related" to clarify that they must be related to a health problem caused by the resident's physical or mental condition.

We propose to revise § 440.40(a) to indicate that the level of care requirements of §§ 409.31 through 409.35 do not need to be met for nursing facility services to be covered. Those sections of the regulations defined "skilled nursing facility care" under Medicare and were used in this regulation to define "skilled nursing facility care" for Medicaid also. The inclusion of "health related services above the level of room and board" as "nursing facility services" would encompass services formerly defined as "skilled nursing facility services" since services that meet the requirements of §§ 409.31 through 409.35 clearly are "health related services above the level of room and board."

In § 440.40(a), we would provide that a distinct part of a facility that meets the requirements of our proposed § 440.40(a)(2) or § 440.40(a)(1)(C) could also provide nursing facility services.

We propose to permit, at § 440.40(a), that nursing facility services may be provided in a distinct part of a facility other than a nursing facility, only if the distinct part—

- Meets all requirements for a nursing facility under subpart B of part 483;
- Is an identifiable unit, such as an entire ward, wing, floor, or building;
- Consists of all beds and related facilities in the unit;
- Houses all recipients for whom payment is being made for nursing facility services; and
- Is approved in writing by the State survey agency.

These requirements are comparable to those currently applicable to intermediate care facility services in distinct parts at § 440.150(d) and we believe that they are as applicable to "nursing facility services" as they were to "intermediate care facility services."

In § 440.40(a) (3), we would permit services provided in Christian Science sanatoria to be considered "nursing facility services." This adopts the current provision at § 440.150(b) (1) under which such services are considered "intermediate care facility services." We would also permit services provided on Indian reservations by facilities that furnish on a regular basis, health related services and are certified to meet the standards in subpart B of part 483 to be considered "nursing facility services." This adopts the current provision at § 440.150(b) under which such services are considered "intermediate care facility services."

In § 440.70(c), which defines a recipient's place of residence for Medicaid home health services, we propose to delete the existing references to home health services in intermediate care facilities, and to add nursing facilities to the list of facilities that cannot be considered a recipient's place of residence for home health coverage purposes.

We propose at § 440.140 to eliminate the discussion of "intermediate care facility services" in institutions for mental diseases, and to delete the word "skilled" from "skilled nursing facility services", to comply with the changes to the statute. Specifically, we propose to delete § 440.140(c), which discusses coverage of "intermediate care facilities for individuals age 65 or over in institutions for mental diseases", and to delete the word "skilled" from § 440.140.(b) to comply with the statute.

In § 440.140(a), we propose to revise the definition of an "institution for mental diseases" to comply with the changes made by section 411(k) of the Medicare Catastrophic Coverage Act of 1988 (Pub. L. 100–360). Specifically, we propose that an institution for mental diseases would mean a hospital, nursing facility or other institution of more than 16 beds that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care and related services. This definition mirrors the statute.

We propose to revise the title and content of § 440.150 to discuss only "intermediate care facility services for the mentally retarded or persons with related conditions" (ICF/MR services). The current section discusses "intermediate care facility services", which, except for ICF/MR services, cease to exist as a benefit on October 1, 1990. Specifically, we propose to change the title of § 440.150 to "Intermediate care facilities services for the mentally retarded or persons with related conditions." Moreover, we propose to delete § 440.150(a), (b), and (f). The content of these sections has been moved to our new definition of "nursing facility services" at § 440.40 as we previously indicated.

We propose to define ICF/MR services as they are currently defined. The only changes we have made are organizational, and to indicate that the requirements apply only to ICFs/MR.

We propose to delete the word "skilled" from the discussion of "skilled nursing facility services" in §§ 440.170, 440.220, 440.250, and 441.100 to conform the current regulations with the statute.

The changes we propose in this NPRM do not encompass all of the changes to the Federal regulations that must be made to conform the regulations to the statute. There will be other changes made to other sections as appropriate.

"Swing-Bed" Hospital Requirements

Current regulations at § 482.66 contain special requirements that hospital providers must meet in order to be approved to provide extended care services (i.e., to be approved as "swing-bed" facilities). These regulations provide that to participate in the swing-bed program, facilities must have fewer than 100 beds, excluding beds for newborns and beds in intensive care type inpatient units or distinct parts. Facilities of from 50 to 99 beds must meet additional requirements. They must have availability agreements with SNFs in the same geographic area. Once notified of the date a SNF bed becomes available, the extended care patient must be transferred within 5 days of the date unless the patient's physician certifies that the transfer is not medically appropriate.

OBRA '87 enacted additional requirements that long term care facilities must meet in order to participate in Medicare or Medicaid, or both, as a skilled nursing facility. On February 2, 1989, we published regulations that implemented many of these additional statutory requirements at 42 CFR part 483. We have now considered which of the additional requirements or the new requirements for skilled nursing facilities at 42 CFR part 483 should be added to the requirements to be met for a hospital to be approved as a swing-bed facility.

In § 482.66(b), we propose to require that in order to receive HCFA approval to provide skilled nursing facility services, hospitals providing long term care services ("swing-bed hospitals") must meet the following requirements for skilled nursing facilities that participate in Medicare:

- Resident rights (§ 483.10(b) (3)–(6), (d), (e), (h), (i), (j), (l), and (m));
- Admissions, transfer and discharge rights (§ 483.12(a) (1)–(4) and (6)–(7));
- Resident behavior and facility practices (§ 483.13);
- Resident activities (§ 483.15(f));
- Social services (§ 483.15(g));
- Discharge planning (§ 483.20(e));
- Specialized rehabilitative services (§ 483.45);
- Dental Services (§ 483.55).

Essentially, these are the same requirements that are specified in the current § 482.66(b), with the citations updated to reflect the recodification of the long-term care facility requirements.

We propose to require that a swing-bed hospital meet these SNF requirements because we believe that they are necessary to ensure that the care provided by these hospitals to patients who are receiving skilled nursing facility services meets the statutory requirements that apply to care that would otherwise be provided in a skilled nursing facility. We did not require that other SNF requirements be met because we did not consider them necessary in light of the fact that the swing-beds are located in hospitals that meet Medicare requirements; however, we are interested in receiving comments on whether the requirements we propose to use or another set of requirements would be the most appropriate for ensuring quality of care.

We are specifically requesting comment on whether to require that swing-bed hospitals meet the nurse aide training and competency evaluation requirements and preadmission screening and annual resident review (PASARR) requirements that were imposed by OBRA '87 on nursing facilities or any other SNF requirement. Section 1883(f) of the Act permits us to exclude swing-bed hospitals from nursing facility requirements that "* * * the Secretary determines are inappropriate in the case of these services being furnished by a hospital under this section."

We believe that the nurse aide training and competency evaluation requirements and the PASARR requirements may be inappropriate for patients of swing-bed hospitals. These providers are certified to participate as hospitals, and as such provide a higher level of care than do nursing facilities and are less reliant upon nurse aides to provide care to patients. Moreover, we are not aware of any problems that have been cited by Congress or other sources with regard to the quality of nurse aide care or the improper placement of mentally ill or mentally retarded individuals in swing-bed facilities. However, if we are convinced by commenters that these requirements are appropriate for swing-bed hospitals, we will impose them in the final rule.

We are also soliciting comments on whether or not explicitly to include the quality of care requirements found at § 483.25 in the swing-bed requirements. The requirements at § 483.25 are the result of the Institute of Medicine recommendations which called for both positive and negative outcome measure of quality long-term care services. Specifically, they give the Secretary and the States authority to sanction the facility when negative outcomes result in poor resident care (e.g., pressure sores, inappropriate use of psychoactive drugs, urinary catheters, naso-gastric tubes, etc.) or when positive outcomes do not occur. We are not including these requirements in the proposed rule because we believe there is no evidence that the health care problems these outcome measures are directed toward are significant problems in small rural hospitals. We have reached this conclusion because the outcome standards found at § 483.25 are primarily directed toward long-term health care issues and swing bed residents tend to receive more medically oriented care for a shorter time than residents of SNFs and NFs.

Response to Comments

Because of the large number of items of correspondence we normally receive on a proposed rule, we are not able to acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments that we receive by the date and time specified in the "DATES" section of this preamble, and we will respond to the comments in the preamble of that rule.

Revisions to the Regulations

We propose to make the following revisions to the regulations in title 42:

1. In part 418, § 418.98, we would change "ICF" to "NF" to reflect OBRA '87 terminology.

2. In part 440, we would revise §§ 440.40, 440.70, 440.140, 440.150, 440.170, and 440.250 to reflect the OBRA '87 elimination of Medicaid coverage of skilled nursing facility and intermediate care facility services and the replacement with coverage of "nursing facility services."

3. In part 441, we would revise § 441.100 to reflect use of the same OBRA '87 term, "nursing facility services" described above.

4. In part 482, we would revise § 482.66(b) by adding requirements that hospitals providing long term care services ("swing-bed hospitals") must meet to be approved by HCFA to provide skilled nursing facility services.

5. In part 483, we would revise § 483.12 by adding additional items to be included in the discharge notice.

6. In § 483.13, we would specify requirements for the use of physical and chemical restraints in nursing facilities.

7. In § 483.30, we would include the nurse waiver requirements of OBRA '87.

8. We would add new § 483.85 to subpart B to include qualifications of nursing home administrators as required by OBRA '87.

9. In subpart D of part 483, we would add §§ 483.148, 483.165 and 483.167 to include State and State agency requirements concerning waivers of nurse staffing requirements and notice of Medicaid rights.

10. In § 488.56, we would revise the text to include OBRA '87 requirements concerning nurse staffing waivers.

11. In part 488, we would add new § 488.57 to specify when we will revoke a State's authority to grant nurse staffing waivers.

Regulatory Impact Statement

Executive Order 12291 (E.O. 12291) requires us to prepare and publish a regulatory impact analysis for any proposed regulation that meets one of the E.O. 12291 criteria for a "major rule"; that is, that will be likely to result in—

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or,
- Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In addition, we generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), unless the Secretary certifies that a regulation will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we consider all SNFs and NFs to be small entities. Individuals and States are not included in the definition of a small entity.

In addition, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis for any proposed rule that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital which is located outside a Metropolitan Statistical Area and has fewer than 50 beds.

This rule would conform the regulations to certain provisions of sections 4201(a) (for Medicare) and 4211(a) (for Medicaid) of the Omnibus Budget Reconciliation Act of 1987 (OBRA '87), Public Law 100-203. Although we believe that no significant costs would be associated with these provisions, we have identified the following provisions as being the more controversial sections of the law/regulations which may also possibly result in incremental costs:

- Use of physical and chemical restraints and psychopharmacologic drugs for nursing facility.

Sections 1819(c)(1)(A)(ii) (Medicare) and 1919(c)(1)(A)(ii) (Medicaid) of the Act specify that residents of nursing facilities have the right to be free from any physical or chemical restraints imposed for purposes of discipline or convenience, and not required to treat the resident's medical symptoms. Among other things we have proposed the following requirements:

+ To permit use of restraints if they are absolutely necessary to protect the resident or others from injury in an emergency.
+ Require that restraints be used no longer than 12 consecutive hours in an emergency situation.
+ Require the use of physical restraints that are designed and used so as not to cause physical injury to the resident and so as to cause the least possible discomfort.
+ Require that the drug review be conducted by an independent, external consultant (who is a physician with training or experience in geriatrics or psychopharmacology). We estimate these reviews will cost approximately $35 million per year. We base this estimate on 1.5 million Medicare and Medicaid residents in long term care facilities. We estimate that 50 percent of these residents are receiving psychoactive drugs. We estimate that the reviews will take an average of one-half hour and that they will cost approximately $100 per hour.
+ Require that continued use of drugs in an emergency situation be reevaluated by a physician no later than 12 hours after the initial order to ensure that the drug continues to be appropriate.

- State and Federal waivers of nurse staffing requirements.

Section 1819(b)(4)(C)(ii) authorizes the Secretary to waive the requirement that a Medicare SNF use a registered professional nurse for more than 40 hours a week if certain conditions in section 1819(b)(4)(C)(ii) of the Act (implemented by regulations at § 483.30(d)) are met by the facility. Section 1919(b)(4)(C)(ii) gives the State the authority (with oversight by the Secretary) to waive the 24-hour licensed nursing requirement or the registered professional nurse requirement in a Medicaid NF if certain criteria specified in section 1919(b)(4)(C)(ii)(I)-(III) (implemented by regulations at § 483.30(c)) are met. We are proposing the following requirements that we believe may result in incremental costs in this provision:

+ Require a waiver to be granted only when a facility has been in compliance with all of the requirements of § 483.25 both at the last standard or extended survey and at the time the waiver is to be effective.
+ Require a facility to attempt continuously to recruit registered and/or licensed practical nurses to fill its vacancies by advertising, soliciting at educational programs and participating in job fairs within a radius of 100 miles of the facility, and where it offers salaries and benefits that are competitive with other facilities of the same type within a 100 mile radius of the facility.
+ Require the above-mentioned procedures to be followed by States when HCFA reviews each nurse staffing waiver granted by the State. If these criteria are not followed and there is a clear pattern (the greater of five or 5 percent of all facilities) and practice of allowing waivers in the absence of diligent efforts, HCFA may revoke the State's authority.
+ Require a Medicaid agency to designate an entity within the State to grant waivers of the 24 hour nurse staffing requirements.
+ Require a facility receiving a waiver for not having a registered nurse on staff to designate a licensed practical nurse to serve as the health services supervisor.
+ Require a facility receiving a waiver for not having a registered nurse on staff to contract with a registered nurse to conduct or coordinate resident assessments.

While we are unable to make a precise estimate at this time of the costs of the combined provisions, we note that these provisions do not serve to introduce the waiver process itself, but merely define in greater detail a few specific operational aspects of that process. The waiver process itself has already been established in regulations by the February 2 interim final rule, which included a general discussion of the regulatory impact of the nurse staffing requirements (54 FR 5355-56).

- Qualifications of nursing home administrators.

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Sections 1819(f)(4) and 1919(f)(4) of the Act specify that the Secretary establish standards to ensure the quality of nursing home administrators. We have proposed the following requirements to fulfill the requirements of the above-mentioned statute:

+ Require administrators to complete an internship program of at least 12 weeks duration.

+ Require administrators to be licensed in accordance with State law.

+ Require administrators to have at least a baccalaureate degree.

We believe that many States require qualifications equal to or higher than these proposed requirements for licensing administrators. Therefore we do not expect any incremental costs as a result of these provisions. However, we are interested in receiving public comments on whether additional costs would occur due to these nursing home administrator standards.

- Notice of Medicaid rights.

Section 1919(e)(6) of the Act requires each State to develop and periodically update a written notice of the rights and obligations of residents of nursing facilities (and spouses of such residents) under Medicaid. We do not believe facilities will incur significant costs as a result of providing residents with a copy of their rights. However, there may be minor incremental costs annually as a result of the requirement that facilities provide and publish annually a copy of these rights in a Statewide periodical or the major newspapers of the State.

Although we believe that these provisions would result in some costs, we believe that the costs would be insignificant in light of the expected increase in the quality of health care to Medicare and Medicaid beneficiaries. In that this discussion of costs and benefits is not conclusive, we encourage comments and any applicable data concerning any provisions if there is a perception that they may result in significant increased costs.

For these reasons, we have determined that the threshold criteria of E.O. 12291 would not be met, and a regulatory impact analysis is not required. Further, we have determined, and the Secretary certifies, that these proposed regulations would not have a significant economic impact on a substantial number of small entities and would not have a significant impact on the operations of a substantial number of small rural hospitals. Therefore, we have not prepared an analysis under the RFA or for small rural hospitals.

Information Collection Requirements

Ordinarily, we would be required to estimate the public reporting burden for information collection requirements for these regulations in accordance with chapter 35 of title 44, United States Code. However, sections 4204(b) and 4214(d) of OBRA '87 provide for a waiver of Paperwork Reduction Act requirements for these regulations.

List of Subjects

42 CFR Part 418

Health facilities, Hospice care, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 440

Grant programs-health, Medicaid.

42 CFR Part 441

Family planning, Grant programs-health, Infants and children, Medicaid, Penalties, Prescription drugs, Reporting and recordkeeping requirements.

42 CFR Part 482

Hospitals, Medicaid, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 483

Grant programs-health, Health facilities, Health professions, Health records, Medicaid, Nursing homes, Nutrition, Reporting and recordkeeping requirements Safety.

42 CFR Part 488

Health facilities, Survey and certification, Forms and guidelines.

42 CFR chapter IV would be amended as follows:

PART 418—HOSPICE CARE

Part 418 is amended as follows:

1. The authority citation for part 418 continues to read as follows:

Authority: Secs. 1102, 1811–1814, 1861–1866, and 1871 of the Social Security Act (42 U.S.C. 1302, 1395c–1–953, 1395xf1395cc and 1395hh).

2. Section 418.98 is amended by revising paragraph (b) as follows:

§ 418.98 Condition of participation—Short term inpatient care.

* * * * *

(b) *Standard: Inpatient care for respite purposes.* Inpatient care for respite purposes must be provided by one of the following:

(1) A provider specified in paragraph (a) of this section.

(2) A NF that also meets the standards specified in § 418.100 (a) and (f) regarding 24-hour nursing service and patient areas.

* * * * *

PART 440—SERVICES: GENERAL PROVISIONS

Part 440 is amended as follows:

1. The authority citation for part 440 continues to read as follows.

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. The table of contents for part 440 is amended by revising §§ 440.40, 440.140, and 440.150 to read as follows:

Subpart A—Definitions

Sec.

* * * * *

440.40 Nursing facility services for individuals age 21 or older (other than services in an institution for mental diseases) and EPSDT.

* * * * *

440.140 Inpatient hospital services and nursing facility services for individuals age 65 or older in institutions for mental diseases.

* * * * *

440.15 Intermediate care facility services, for the mentally retarded or persons with related conditions.

3. Section 440.40 is amended by revising the title and paragraph (a) as follows:

§ 440.40 Nursing facility services for individuals age 21 or older (other than services in an institution for mental diseases) and EPSDT.

(a) *Nursing facility services.* (1) *Nursing facility services for individuals age 21 or older, other than services in an institution for mental diseases,* means services that are—

(i)

(A) Skilled nursing care and related services;

(B) Rehabilitation services; or

(C) Health related services above the level of room and board;

(ii) Needed on a daily basis and required to be provided on an inpatient basis;

(iii) Provided by (A) a facility or distinct part of a facility that is certified to meet the requirements for participation under subpart B of part 483 of this chapter, as evidenced by a valid agreement between the Medicaid agency and the facility for providing skilled nursing facility services and making payments for services under the plan;

(B) A distinct part of a facility that meets the requirements of § 440.40(a)(2); or

(C) If specified in the State plan, a swing-bed hospital that has an approval from HCFA to furnish skilled nursing facility services in the Medicare program; and

(iv) Ordered by and provided under the direction of a physician.

(2) Nursing facility services may only be provided in a distinct part of a facility other than a nursing facility if the distinct part—

(i) Meets all requirements for a nursing facility under subpart B of part 483 of this subchapter;

(ii) Is an identifiable unit, such as an entire ward, wing, floor or building;

(iii) Consists of all beds and related facilities in the unit;

(iv) Houses all receipts for whom payment is being made for nursing facility services; and

(v) Is approved in writing by the survey agency.

(3) Nursing facility services include services—

(i) Considered appropriate by the State and provided by a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Mass.; or

(ii) Provided by a facility located on an Indian reservation that—

(A) Furnishes, on a regular basis, health-related services; and

(B) Is certified by the Secretary to meet the standards in subpart B of part 483.

* * * * *

4. Section 440.70 is amended by revising paragraph (c) to read as follows:

§ 440.70 Home health services.

* * * * *

(c) A recipient's place of residence, for home health services, does not include a hospital, skilled nursing facility, or nursing facility.

5. Section 440.140 is revised as follows:

§ 440.140 Inpatient hospital services and nursing facility services for individuals age 65 or older in institutions for mental diseases.

(a) *Inpatient hospital services.* (1) *Inpatient hospital services for individuals age 65 or older in institutions for mental diseases* means services provided under the direction of a physician for the care and treatment of recipients in an institution for mental diseases that meets the requirements specified in § 482.60 (b), (c), and (e) of this chapter and—

(i) Meets the requirements for utilization review in § 482.30 (a), (b), (d), and (e) of this chapter; or

(ii) Has been granted a waiver of those utilization review requirements under section 1903(i)(4) and subpart H of part 456 of this subchapter.

(2) *Institution for mental diseases* means a hospital, nursing facility or other institution of more than 16 beds that is primarily engaged in providing diagnosis, treatment, or care of individuals with mental diseases, including medical attention, nursing care, and related services.

(b) *Nursing facility services. Nursing facility services for individuals age 65 or older in institutions for mental diseases* means nursing facility services as defined in § 440.40 that are provided in institutions for mental diseases, as defined in paragraph (a) of this section.

6. Section 440.150 is revised as follows:

§ 440.150 Intermediate care facility services for the mentally retarded or persons with related conditions.

(a) "Intermediate care facility services" include services in an institution for the mentally retarded or persons with related conditions if—

(1) The primary purpose of the institution is to provide health or rehabilitative services for mentally retarded individuals or persons with related conditions;

(2) The institution meets the standards in subpart D of part 483 of this chapter; and

(3) The mentally retarded recipient for whom payment is requested is receiving active treatment as specified in § 483.440.

(b) "Intermediate care facility services for the mentally retarded or persons with related conditions" may include services provided in a distinct part of a facility other than an intermediate care facility if the distinct part—

(1) Meets all requirements for an intermediate care facility for the mentally retarded or persons with related conditions;

(2) Is an identifiable unit, such as an entire ward, wing, floor, or building;

(3) Consists of all beds and related facilities in the unit;

(4) Houses all recipients for whom payment is being made for intermediate care facility services, except as provided in paragraph (c) of this section;

(5) Is clearly identified; and

(6) Is approved in writing by the survey agency.

(c) If a State includes as intermediate care facility services for the mentally retarded or persons with related conditions those services provided by a distinct part of a facility other than an intermediate care facility for the mentally retarded or persons with related conditions, it may not require transfer of a recipient within or between facilities if, in the opinion of the attending physician, it might be harmful to the physical or mental health of the recipient.

§ 440.170 [Amended]

7. In § 440.170(d), the term "skilled" is removed each place it appears.

§ 440.250 [Amended]

8–9. In § 440.250 (a), the term "skilled" is removed.

PART 441—SERVICES: REQUIREMENTS AND LIMITS APPLICABLE TO SPECIFIC SERVICES

Part 441 is amended as follows:

1. The authority citation for part 441 continues to read as follows

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

Supart C—Medicaid for Individuals Age 65 or Over in Institutions for Mental Diseases

2. In subpart C, § 441.100 is revised to read as follows:

§ 441.100 Basis and purpose.

This subpart implements section 1905(a)(14) of the Act, which authorizes State plans to provide for inpatient hospital services and nursing facility services for individuals age 65 or older in an institution for mental diseases, and sections 1902(a)(20) (B) and (C) and 1902(a)(21), which prescribe the conditions a State must meet to offer these services. (See § 431.620 of this subchapter for regulations implementing section 1902(a)(20)(A), which prescribe interagency requirements related to these services.)

PART 482—CONDITIONS OF PARTICIPATION FOR HOSPITALS

Part 482 is amended as follows:

1. The authority citation for part 482 continues to read as follows:

Authority: Secs. 1102, 1138, 1814(a)(6), 1861 (e), (f), (k), (r), (v)(1)(G), (z), and (ee), 1864, 1871, 1883, 1886, 1902(a)(30), and 1905(a) of the Social Security Act (42 U.S.C. 1302, 1330, 1395f(a)(6), 1395x (e), (f), (k), (r), (v)(1)(g), (z) and (ee), 1395aa, 1395hh, 1395tt, 1395ww, 1396a(a)(30), and 1396(a)).

2. Section 482.66 is amended by revising paragraph (b) to read as follows:

§ 482.66 Condition of participation—Special requirements for hospital providers of long-term care services ("swingbeds").

* * * * *

(b) Standard: Skilled nursing facility services. The facility is substantially in compliance with the following skilled nursing facility requirements, contained

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in subpart B of part 483 of this subchapter:

(1) Resident rights (§ 483.10(b)(3)–(6), (d), (e), (h), (i), (j), (l), and (m));

(2) Admissions, transfer and discharge rights (§ 483.12(a) (1)–(4) and (6)–(7));

(3) Resident behavior and facility practices (§ 483.13);

(4) Resident activities (§ 483.15(f));

(5) Social services (§ 483.15(g));

(6) Discharge planning (§ 483.20(e));

(7) Specialized rehabilitative services (§ 483.45); and

(8) Dental Services (§ 483.55).

PART 483—CONDITIONS OF PARTICIPATION AND REQUIREMENTS FOR LONG TERM CARE FACILITIES

Part 483 in effect as of April 1, 1992 (See 56 FR 48826, Sept. 26, 1991)

1. The authority citation for part 483 continues to read as follows:

Authority: Sec. 1102,1819(a)–(d), 1861 (j) and (1), 1863, 1871, 1902(a)(28), 1905 (a) and (c), and 1919(a)–(d), of the Social Security Act (42 U.S.C. 1302, 1395(i)(3)(a)–(d), 1395x (j) and (1), 1395hh, 1396a(a)(28), and 1396d(c) and 1396r (a)–(d)), unless otherwise noted.

2. The table of contents for part 483 is amended by adding a new § 483.85 to subpart B, and adding new §§ 483.148, 483.165 and 483.167 to subpart D to read as follows:

* * * * *

Subpart B—Requirements for Long Term Care Facilities

Sec.

483.85 Qualifications of nursing home administrators.

* * * * *

Subpart D—Requirements That Must Be Met by States and State Agencies

483.148 Scope and basis.

* * * * *

483.165 State waivers of nurse staffing requirements for Medicaid-only nursing facilities and distinct parts.

483.167 Notice of Medicaid rights.

3. In subpart B, the introductory text of § 483.12(a)(6) and paragraph (a)(6)(iv) are revised to read as follows:

§ 483.12 Admission, transfer and discharge rights.

(a) Transfer and discharge—

* * * * *

(6) *Contents of the notice.* For nursing facilities, the written notice specified in paragraph (a)(3) of this section must include the following:

* * * * *

(iv) The name, address and phone number of the State entity to which the resident can appeal the decision to discharge or transfer the resident from the facility, the hours of operation of that entity and the date and means by which the appeal must be filed.

* * * * *

4. In subpart B, § 483.13 is amended by revising paragraph (a) to read as follows:

§ 483.13 Resident behavior and facility practices.

(a) *Restraints*—(1) *Physical restraints*—(i) Definition: A physical restraint is any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident's body that the resident cannot remove easily, which restricts freedom of movement or access to his or her body.

(ii) Limitations on use. The facility may only impose physical restraints to treat the resident's medical symptoms, which include but are not limited to physical, emotional, and behavioral problems, if the restraint is—

(A) Necessary to ensure the safety of the resident or of other residents;

(B) Imposed in accordance with a physician's written order specifying the circumstances and duration under which the restraint is to be used; and

(C) Not ordered on a standing, blanket, or "as needed" basis.

(iii) Nonemergency use. Restraints may not be ordered in nonemergency circumstances unless the restraints are applied so as to cause no physical injury and the least possible discomfort. Except when necessary to allow the conduct of a medical or surgical procedure, restraints may not be ordered in nonemergency circumstances unless the restraints—

(A) Enable the resident to reach his or her highest practicable physical, mental, and psychosocial well-being;

(B) Are used only as a last resort if the facility, after completing, implementing, and evaluating the resident's comprehensive assessment and plan of care determines that less restrictive means have failed; and

(C) Are used in accordance with the plan of care on the comprehensive assessment, which allows for their progressive removal or the progressive use of less restrictive means.

(iv) Emergency use.

(A) Restraints may not be ordered in emergency circumstances unless they are necessary to alleviate an unanticipated immediate and serious danger to the resident or other individuals in the facility.

(B) Emergency orders for restraints may not be in effect for longer than 12 hours and must be confirmed in writing as soon as possible.

(v) Notice for non-emergency use. If a restraint is used in a non-emergency, the facility must—

(A) Explain the use of the restraint to the resident, or, if the resident has been declared to be legally incompetent or cannot understand his or her rights, to the resident's legal representative, in accordance with § 483.10(d) and State law;

(B) Explain the resident's right to refuse the restraint in accordance with § 483.10(b)(4); and

(C) Obtain the written consent of the resident or the resident's legal representative.

(vi) Restraints may be applied only—

(A) By staff who are trained in their use; and

(B) If the facility assures that the resident's condition will be closely monitored.

(vii) At a minimum, for a resident placed in a restraint, the factility must—

(A) Check the resident at least every 30 minutes;

(B) Assist the resident as often as is necessary for the resident's safety, comfort, exercises and elimination needs;

(C) Provide an opportunity for motion, exercise and elimination for not less than 10 minutes during each two hour period in which a restraint is employed;

(D) Release the resident from the restraint as quickly as possible; and

(E) Keep a record of restraint usage and checks.

(2) Definition of psychopharmacologic drug. In these regulations *psychopharmacologic Drug* means any drug prescribed with the intent of controlling mood, mental status or behavior.

(3) Any psychopharmacologic drug administered to a resident must—

(i) Be ordered by a physician who specifies the dose, duration and reason for the use of the drug;

(ii) Be used only as an integral part of the resident's comprehensive care plan that is directed specifically towards the elimination or modification of the symptoms for which the drugs are prescribed;

(iii) Not be used unless it can be justified in the clinical record that the potential beneficial effects of the drug clearly outweigh its potential harmful effects.

(iv) Be monitored closely, in conjunction with the drug regimen review requirements at § 483.60(e) for desired responses and adverse consequences by facility staff;

(v) Be gradually withdrawn at least semi-annually in a carefully monitored program conducted in conjunction with the interdisciplinary team, unless clinical evidence demonstrates that this is contraindicated;

(vi) Be reviewed at least annually by a physician who has training or experience in geriatrics and psychopharmacology and who must not serve a facility with which he or she has had a contractual, financial, employment or familial relationship with the facility, its owner, its attending physicians, medical director, or administrator within any of the 36 consecutive months prior to the date of the review (This review may be conducted as part of the annual review and determination of residents for mental illness conducted in accordance with § 4833.114 of this part provided it is conducted by a physician with the above qualifications.);

(vii) Be used only when a record is maintained of the administration of the drug, the dose, the route of administration, side effect monitoring, a description of the behavior, mood or mental status which the drug is intended to alter, the effect of the drug on the behavior, mood and mental status of the resident, and any other change in behavior, mood, mental status or adverse drug reaction which occurs with the administration of the drug.

(4) Before a psychopharmacologic drug is used in a non-emergency situation, the facility must—

(i) Explain the use of the drug to the resident, or, if the resident has been declared to be legally incompetent or cannot understand his or her rights, to the resident's legal representative, in accordance with § 483.10(d) and State law;

(ii) Explain the resident's right to refuse the drug in accordance with § 483.10(b)(4); and

(iii) Obtain the written consent of the resident or the resident's legal representative.

(5) The drug review specified in paragraph (a) (3) (vi) of this section must—

(i) Determine whether—

(A) The drug has an appropriate indication for use;

(B) The dose is appropriate;

(C) The duration of therapy is appropriate;

(D) Valid justification exists for the use of chemical restraints as permitted under paragraph (a) (7) of this section;

(F) The benefits of using the drug outweigh the risk to the resident; and

(G) Non-drug therapy approaches have failed.

(ii) Be sent to the attending physician; and

(iii) Become a permanent part of the resident's clinical record;

(6) Chemical restraints. Except as provided in paragraph (a)(8) of this section, a facility may not use a chemical restraint.

(7) In these regulations *chemical restraint* means a psychopharmacologic drug, as defined under paragraph (a)(2) of this section, that is used for the purpose of discipline or convenience and not required to treat the resident's medical symptoms, including when the drug is used in one or more of the following ways:

(i) In excessive dose (including duplicate drug therapy);

(ii) For excessive duration;

(iii) Without adequate monitoring;

(iv) Without adequate indications for its use;

(v) In the presence of adverse consequences which indicate the dose should be reduced or discontinued; and

(vi) In a manner that results in a decline in the resident's functional status.

(8) A chemical restraint may only be ordered in an emergency situation when necessary to ensure the physical safety of the resident or other residents.

(i) The orders must be in writing, signed by a physician who specifies the duration and circumstances under which the chemical restraint is to be used.

(ii) The orders may be oral when an emergency necessitates parenteral administration of the chemical restraint but only until a written order can reasonably be obtained.

(iii) Emergency orders for chemical restraints may—

(a) Not be in effect for more than 12 hours; and

(B) Be administered only if the resident is monitored continually for the first 30 minutes after administration and every 15 minutes thereafter and for as long as the resident is under the influence of the drug to ensure that any adverse side effects would be noticed and appropriate action taken as soon as possible.

* * * * *

5. In § 483.30, new paragraphs (b) (4) and (5) are added, paragraphs (c)(1) and (c)(7) are revised, and new paragraphs (c)(8), (c)(9), and (e) are added to read as follows:

§ 483.30 Nursing services.

* * * * *

(b) *Registered nurse.*

* * * * *

(4) When a waiver under paragraph (c) of this section results in a facility not having a registered nurse on staff, the facility must—

(i) Designate a licensed practical nurse to supervise nursing personnel;

(ii) Contract with a registered nurse to conduct or coordinate resident assessments and sign and certify the completion of the assessment as required by § 483.20(c)(1)(ii); and

(iii) Designate a licensed practical nurse with responsibility for the resident to participate in the development of a comprehensive care plan as required by § 483.20(d)(2))(ii).

(5) When a waiver under paragraph (d) results in the facility having a registered nurse on staff less than 7 days a week the facility must designate a licensed practical nurse to supervise nursing personnel in the absence of the registered nurse.

(c) *Nursing facilities: Waiver of requirement to provide licensed nurses on a 24-hour basis.* To the extent that a facility is unable to meet the requirements of paragraphs (a)(2) and (b)(1) of this section, a State may waive such requirements with respect to the facility if—

(1) The facility demonstrates to the satisfaction of the State that the facility has been unable to recruit appropriate personnel to meet the nurse staffing requirements for nursing facilities despite diligent efforts, as defined in paragraph (e) of this section.

* * * * *

(7) The facility, within 30 days of the notice of approval, posts in a prominent public location in the facility a notice of the services for which a nurse staffing waiver has been granted, the date of the expiration of the waiver and the name, address and phone number of the entity in the State to which complaints about the facility should be directed;

(8) Within 30 days of the notice of approval of the waiver, the facility notifies in writing each—

(i) New admission on legal representative that the facility has been granted a nurse staffing waiver; and

(ii) Current resident or legal representative of the services for which a nurse staffing waiver has been granted; and

(9) The facility maintains documentation of its continuing diligent effects to meet the nurse staffing requirements, and makes this documentation available to the State upon request.

* * * * *

(e) *Definition of diligent effort.* Diligent effort means that the facility can demonstrate that—

(1) It continuously attempts to recruit registered or licensed practical nurses, or both, to fill its vacancies by local and out-of-area advertising, solicitation at educational programs, and participation

in job fairs within a 100 mile radius of the facility; and

(2) It offers salaries and benefits that are competitive with the salaries and benefits offered by other nursing facilities that are located within a 100 mile radius of the facility.

6. A new § 483.85 is added to subpart B to read as follows:

§ 483.85 Qualifications of nursing home administrators.

A facility may not employ an individual as a nursing home administrator unless that individual and facility meet the requirements of this section.

(a) *State licensure.* The individual must be licensed to serve in a nursing home as an administrator in accordance with State law.

(b) *Education.* The individual must possess at least a baccalaureate degree.

(c) *Internship.* (1) The individual must complete to the State's satisfaction an internship of at least 12 weeks.

(2) The internship requirement is waived if the individual has at least one year of management experience in a nursing facility.

(3) The internship may be completed while the individual is working towards his or her degree.

(4) The internship will consist of practical training in daily facility operation and instruction in the following areas:

(i) Applicable standards of environmental health and safety;

(ii) Applicable Federal, State and local health and safety laws and regulations;

(iii) State personnel licensing and/or registration requirements;

(iv) General administration of an institution, including departmental organization and management;

(v) Psychology of patient care;

(vi) Personal care and social services;

(vii) Therapeutic and supportive long-term care and services;

(viii) Community resources and interrelationships; and

(ix) Any other areas determined by the State.

(d) *Examinations.* The individual must pass with a score of at least 75 percent one of the following:

(1) A State-selected standardized examination tailored to the State;

(2) A State-developed examination; or

(3) A national standardized examination.

(e) *Continuing education.* The individual must complete at least 20 clock hours of continuing education for any calendar year in which the individual serves as an administrator.

(f) *Individuals deemed to meet requirements.* Except for those requirements in paragraphs (a), (e), and (f) of this section, any individual continuously employed as a nursing home administrator by the same facility for at least one year on [date of publication of the final rule] is deemed to meet the requirements of this section.

(g) *Administrators of hospital-based nursing facilities.* To the extent permitted by State law, a licensed hospital administrator may serve as administrator of a hospital-based nursing facility without meeting the requirements of this section.

Subpart D—Requirements That Must Be Met by States and State Agencies

7. In part 483 the title of subpart D is revised to read as set forth above and a new § 483.148 is added to read as follows:

§ 483.148 Scope and basis.

(a) *Scope.* This subpart applies to the obligations and responsibilities of State survey agencies and Medicaid State agencies with respect to long term care facilities that participate in Medicare as skilled nursing facilities or in Medicaid as nursing facilities, or both. These obligations and responsibilities include licensure activities, survey activities, nurse aide training and competency evaluation programs, and any other activities relating to ensuring the quality of nursing facility care in Medicare or Medicaid participating facilities. Agencies that are responsible within a State for a particular function may delegate specified functions for which they are responsible to other entities as long as they fulfill their responsibility as defined in the law and maintain overall responsibility for the activity.

(b) *Basis.* (1) The requirements governing State waivers of the nurse staffing requirements of section 483.165 with respect to nursing facilities that participate in Medicaid are based upon section 1919(b)(4)(C)(ii) of the Act.

(2) The requirements of section 483.167 regarding the State's obligation to develop (and periodically update) a written notice of the Medicaid rights and obligations of residents of nursing facilities (and spouses of such residents) are based upon section 1919(e)(6) of the Act.

(3) The requirements concerning nurse aide training and competency evaluation in §§ 483.150 through 483.158 are based on sections 1819(e) (1) and (2) and 1919(e) (1) and (2) of the Act.

8. In subpart D, new §§ 483.165 and 483.167 are added to read as follows:

§ 483.165 State waivers of the nurse staffing requirements for Medicaid-only nursing facilities and distinct parts.

(a) *Designation of waiver authority.* The Medicaid agency must designate an entity within the State, including itself, responsible for granting waivers of the requirements of § 483.30 (a) and (b). The State may not delegate or subcontract the authority to grant nurse staffing waivers to an entity outside of the State government.

(b) *Nature of waivers that may be granted by States.* The State may grant a waiver of the requirement in § 483.30 (a) and (b) for nursing facility (or distinct part) that participates in Medicaid but does not participate in Medicare when, at the request of the nursing facility—

(1) The State finds that the nursing facility meets the criteria of § 483.30(c); and

(2) The facility has been in compliance with all requirements of § 483.25 during the 24 consecutive months prior to the effective date of the waiver.

(c) *Effective date.* The effective date of a waiver granted under this authority may not precede the date of the facility's request and expires on the earlier of:

(1) The 1 year anniversary of the effective date;

(2) The date by which the State becomes aware that the facility acquires sufficient nurse staffing to comply with the requirements without a waiver; or

(3) The date that the State determines, based on a routine or other survey, or other information, that the facility is out of compliance with any requirement of § 483.25 or determines by any other means that the health and safety of residents has become jeopardized by the continuance of the waiver.

(d) *Renewal of waivers.* A waiver granted under this authority may be renewed for a subsequent period of 12 months if the State, after full development and review of a facility's request for renewal, finds that—

(1) The facility continues to meet the criteria of § 483.30(c);

(2) The facility has not been out of compliance with an requirements of § 483.25 within the past waiver period; and

(3) Resident health and safety has not been adversely affected by the waiver.

(e) *Notice to HCFA.* The agency must provide HCFA within 30 days of the date of notice to the nursing facility with a copy of—

(1) Any notice to a facility granting a waiver of the requirements of § 483.30; and

(2) The information on which the State based its waiver of nurse staffing requirements.

(f) *Notice of nurse staffing waiver.* The State must notify the Long Term Care Ombudsman and the protection and advocacy system in the State for the mentally ill and the mentally retarded as well as the resident's immediate family of the granting of any nurse staffing waiver within 30 days of the date of notice of the waiver.

(g) For each nursing facility with an approved waiver in effect, the State must inspect the documenation maintained under § 483.30(c)(9) at least once during the year, at a time of the State's choosing.

§ 483.167 Notice of Medicaid rights.

The State must develop and update a written notice of the rights and obligations of residents of nursing facilities and spouses of such residents which meets the requirements of this section.

(a) *Content.* (1) The State must develop a written notice of the rights and obligations of residents of nursing facilities that receive payment under Medicaid.

(2) The notice must include the resident rights that are provided under §§ 483.10, 483.12, 483.13, and 483.15.

(3) The notice must include any other right granted or obligation imposed by the State.

(b) *Update and publication.* The State must—

(1) Update the notice as necessary to keep the residents and spouses notified of their Medicaid rights and obligations;

(2) Publish the notice in a Statewide periodical or the major newspapers of the State at least once every 12 months;

(3) Provide the notice to residents and their spouses and to applicants to nursing facilities and their spouses; and

(4) Make available to the public upon request printed copies of the notice.

PART 488—SURVEY AND CERTIFICATION PROCEDURES

Part 488 in effect as of April 1, 1992 (see 56 FR 48826, Sept. 26, 1992) is amended as follows:

1. The authority citation for part 488 continues to read as follows:

Authority: Sec. 1102, 1814, 1819, 1961, 1865, 1866, 1871, 1880, 1881, 1883, 1902(a) (28) and 1919 of the Social Security Act (42 U.S.C. 1302, 1395f, 1395i-3, 1396r, 1395x, 1395bb, 1395cc, 1395hh, 1395qq, 1395rr, 1395tt, and 1396a(a)).

2. The table of contents for part 488, subpart B, is amended by revising the title of § 488.56 and adding a new § 488.57 to read as follows:

Sec.

* * * * *

488.56 Special waivers of nursing requirements in skilled nursing facilities.
488.57 Medicaid nursing facilities: HCFA monitoring of State waivers of nurse staffing requirements and revocation of State waiver authority.

* * * * *

3. In subpart B, § 488.56 is revised as follows:

§ 488.56 Special waivers of nursing requirements in skilled nursing facilities.

(a) *Medicare skilled nursing facility waivers: requirements, duration and effective date.* Upon the request of a State, HCFA will decide whether to waive the requirement to have a registered nurse on duty more than 40 hours per week, as specified in § 483.30(d) of this chapter, in skilled nursing facilities. Any waiver granted by HCFA will—

(1) Be granted only if HCFA determines that the skilled nursing facility meets the requirements of § 483.30(d);

(2) Be granted only if the skilled nursing facility has made and continues to make a diligent effort to comply with the requirement to have a registered nurse on duty more than 40 hours per week, but such compliance is impeded by the unavailability of registered nurses in the area. A facility has made a diligent effort when it demonstrates that it—

(i) Continuously attempts to recruit registered or licensed practical nurses, or both, to fill its vacancies by advertising, solicitation at educational programs, and participation in job fairs within a radius of 100 miles of the facility; and

(ii) Offers salaries and benefits that are competitive with the salaries and benefits offered by other skilled nursing facilities that are located within a 100 mile radius of the facility;

(3) Be granted only if the facility has been in compliance with all requirements of § 483.25 at the—

(i) Last standard or extended survey of the facility; and

(ii) Time the waiver is to be effective.

(4) Extend for a period not exceeding 12 months from the effective date;

(5) Be effective on or after the date of the facility's request for the waiver (but not earlier than that date); and

(6) Be revoked by HCFA effective on the date that the facility is found to be out of compliance with any requirement of § 483.25

4. A new § 488.57 is added to read as follows:

§ 488.57 Medicaid nursing facilities: HCFA monitoring of State waivers of nurse staffing requirements and revocation of State waiver authority.

(a) HCFA will monitor each nurse staffing waiver granted by a State under § 483.30(c) to determine if the waiver meets the criteria specified in paragraph (b) of this section.

(1) HCFA will make a determination on whether a waiver meets the criteria in paragraph (b)(2) of this section by evaluating the information—

(i) On which the State based its decision to grant the waiver; and

(ii) From any survey of the facility.

(2) HCFA will conclude that a waiver is not appropriate if:

(i) The Secretary determines that any of the statutory requirements for the granting of the waiver specified in § 483.30(c), were not met at the time the waiver was granted; or

(ii) The State granted a waiver to a facility that had one or more deficiencies under § 483.25 at the last standard or extended survey prior to the waiver or at the time the waiver became effective, or failed to revoke a waiver from a facility that is found to be out of compliance with any requirement of § 483.25 during the term of the waiver.

(3) If HCFA finds that the State has granted a waiver that was not appropriate, under paragraph (b)(2) of this section, HCFA—

(i) Will notify the State of its findings; and

(ii) May perform a survey to determine if patient health or safety is in jeopardy.

(4) If HCFA determines that patient health or safety is jeopardized, in accordance with paragraph (a)(3)(ii) of this section, HCFA may subject the facility to adverse actions notwithstanding the State's granting of a waiver of the nurse staffing requirements.

(b) Revocation of the State's authority to grant nurse staffing waivers. (1) HCFA's review of each nurse staffing waiver granted by the State includes an evaluation of whether the facility has made, and is making, a diligent effort to meet the nurse staffing requirements for nursing facilities.

(2) A facility is deemed to have made, or be making a diligent effort to meet the nurse staffing requirements for nursing facilities when it meets the requirements in § 483.30(c)(6) of this subchapter.

(3) Under the procedures specified in paragraphs (b) (6) through (8) of this section, HCFA will assume and exercise the authority of the State to grant waivers if HCFA finds that the State has demonstrated a clear pattern and

practice of allowing waivers in the absence of diligent efforts by facilities to meet the nurse staffing requirements, as specified in paragraph (b) (4) and (5) of this section.

(4) HCFA will find that the State has demonstrated a "clear practice" of granting inappropriate waivers when HCFA's review, based upon the subsequent year's survey information and any other available information on the granting of waivers, shows that the State continues to have a practice of allowing waivers in the absence of diligent efforts by facilities to meet the nurse staffing requirements.

(5) If HCFA finds that the State has granted waivers to more than 5 facilities or 5 percent of all certified facilities (whichever is greater) in the absence of diligent efforts of the facilities to meet the nurse staffing requirements, HCFA will determine that the State has demonstrated a "clear pattern" of allowing waivers in the absence of diligent efforts by facilities to meet the staffing requirements.

(6) When the HCFA finds under paragraphs (b) (4) and (5) of this section that the State has demonstratead a clear pattern and practice of allowing inappropriate waivers, HCFA will notify the State that HCFA intends to assume and exercise the State's authority to grant waivers.

(7) HCFA may allow the State to retain its authority to grant waivers only if, within 30 days of receiving HCFA notification specified in paragraph (b)(6) of this section, the State submits evidence satisfactory to the Administrator of HCFA which demonstrates diligent efforts by the facilities in question to met the staffing requirements.

(8) HCFA will publish a notice of the revocation of the State's authority to allow waivers of the nurse staffing requirements in a Statewide periodical or the major newspapers of the State, which includes—

(i) The effective date of the revocation;

(ii) A statement that waivers granted by the State remain in effect until their expiration the date the HCFA specifically revokes them (whichever comes first); and

(iii) The procedures by which a facility may apply to HCFA for a waiver of the nurse staffing requirements.

(Catalog of Federal Domestic Assistance Program No. 93.714, Medical Assistance Program; No 93.773, Medicare Hospital Insurance)

Dated: January 22,1991.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

Approved: August 14, 1991.

Louis W. Sullivan,

Secretary.

[FR Doc. 92-1510 Filed 2-4-92; 8:45 am]

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Part III

Department of Health and Human Services

Office of Refugee Resettlement

Refugee Resettlement Program: Program Allocations to States of FY 1992 Funds for Refugee Social Services; Notices

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Refugee Resettlement

Refugee Resettlement Program: Proposed Allocations to States of FY 1992 Funds for Refugee[1] Social Services

AGENCY: Office of Refugee Resettlement (ORR), ACF, HHS.

ACTION: Notice of proposed allocations to States of FY 1992 funds for refugee social services.

SUMMARY: This notice announces the proposed allocations to States of FY 1992 funds for social services under the Refugee Resettlement Program (RRP). In the final notice, allocation amounts could be adjusted after considering comments and evidence from States on population estimates.

DATES: Comments on the allocations provided for in this notice will be considered if received by March 6, 1992.

ADDRESSES: Address written comments, in duplicate, to: Toyo Biddle, Office of Refugee Resettlement, Administration for Children and Families, 370 L'Enfant Promenade, SW., Washington, DC 20447.

FOR FURTHER INFORMATION CONTACT: Toyo Biddle (202) 401-9250.

SUPPLEMENTARY INFORMATION:

I. Amounts Proposed for Allocation

The Office of Refugee Resettlement (ORR) has available $82,952,000 in FY 1992 refugee social service funds as part of the FY 1992 appropriations for the Department of Health and Human Services (Pub. L. 102-170).

Of the total of $82,952,000, the Director of ORR proposes to make available to States $70,509,200 (85%) under the allocation formulas set out in this notice. These funds would be made available for the purpose of providing social services to refugees. The allocation amounts proposed in this notice could be adjusted slightly in the final notice after taking into consideration any population adjustments (see section VI, below).

The population figures include refugees, Cuban/Haitian entrants, and Amerasians from Vietnam since these populations may be served through funds addressed in this notice. (A State must, however, have an approved State plan for the Cuban/Haitian Entrant Program in order to use funds on behalf of entrants as well as refugees.)

The Director proposes to allocate $70,509,200 to States in the following manner:

- $67,009,200 would be allocated on the basis of each State's proportion of the national population of refugees who had been in the U.S. 3 years or less as of October 1, 1991 (including a floor amount for States which have small refugee populations).
- $3,500,000 would be allocated on the basis of each State's proportion of the 3-year refugee population (including a floor amount of $5,000 for States with small refugee populations) in order to provide an incentive for States to fund refugee mutual assistance associations (MAAs). A written assurance that these optional funds will be used for MAAs is required in order for a State to receive the funds. Guidance to States regarding this assurance is provided below.

The use of the 3-year population base in the allocation formula is required by section 6(a)(3) of the Refugee Assistance Extension Act of 1986 (Pub. L. 99-605) which amended section 412(c) of the Immigration and Nationality Act (INA) to require that the "funds available for a fiscal year for grants and contracts (for social services) * * * shall be allocated among the States based on the total number of refugees (including children and adults) who arrived in the United States not more than 36 months before the beginning of such fiscal year and who are actually residing in each State (taking into account secondary migration) as of the beginning of the fiscal year."

As established in the FY 1991 social services notice published in the **Federal Register** of August 29, 1991, section I. "Allocation Amounts" (56 FR 42745), a variable floor amount for States which have small refugee populations would be calculated as follows: If the application of the regular allocation formula yields less than $100,000, then—

(1) a base amount of $75,000 is provided for a State with a population of 50 or fewer refugees who have been in the U.S. 3 years or less; and

(2) for a State with more than 50 refugees who have been in the U.S. 3 years or less: (a) A floor has been calculated consisting of $50,000 plus the regular per capita allocation for refugees above 50 up to a total of $100,000 (in other words, the maximum under the floor formula is $100,000); (b) if this calculation has yielded less than $75,000, a base amount of $75,000 is provided for the State.

ORR has consistently supported floors for small States in order to provide sufficient funds to carry out a minimum service program. Given the range in numbers of refugees in the small States, we have concluded that a variable floor, as established in the FY 1991 notice, will be more reflective of needs than previous across-the-board floors.

The $12,442,800 in remaining social service funds (15% of the total funds available) is expected to be used by ORR on a discretionary basis to provide funds for individual projects intended to contribute to the effectiveness and efficiency of the refugee resettlement program. The discretionary funds would primarily support specific program activities designed to: (1) Reduce welfare dependency in States with large numbers of refugees on welfare; and (2) address the needs of special populations who experience particular difficulty adjusting to life in the U.S. One announcement of the availability of funding and grant application procedures has been issued: Availability of Funding for Planned Secondary Resettlement of Refugees, 50 FR 20038, May 13, 1985. ORR expects to continue emphasis on discretionary grants to address problems of persistent welfare dependency and to promote favorable resettlement opportunities. Announcements will be made when discretionary initiatives are decided on. The amount proposed for discretionary use would enable valuable current efforts—such as the Key States Initiative, Job Links, Planned Secondary Resettlement, and services for Amerasians from Vietnam and former re-education camp detainees from Vietnam—to be continued as appropriate. At the same time, it would provide funds to enable ORR to address such additional needs as serious problems of dependency in areas not currently served by special projects.

The 15% proposed for discretionary use is in accordance with the

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[1] In addition to persons admitted to the United States as refugees under section 207 of the Immigration and Nationality Act (INA) or granted asylum under section 208 of the INA, eligibility for refugee social services also includes: (1) Cuban and Haitian entrants, under section 501 of the Refugee Education Assistance Act of 1980 (Pub. L. 96-422); (2) certain Amerasians from Vietnam who are admitted to the U.S. as immigrants under section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as included in the FY 1988 Continuing Resolution (Pub. L. 100-202); and (3) certain Amerasians from Vietnam, including U.S. citizens, under title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 1989 (Pub. L. 100-461), 1990 (Pub. L. 101-167), and 1991 (Pub. L. 101-513). For convenience, the term "refugee" is used in this notice to encompass all such eligible persons unless the specific context indicates otherwise.

Refugees admitted to the U.S. under admissions numbers set aside for private-sector-initiative admissions are not eligible to be served under he social service program (or under other programs supported by Federal refugee funds) during their period of coverage under their sponsoring agency's agreement with the Department of State—usually two years from their date of arrival or until they obtain permanent resident alien status, whichever comes first.

Conference Report on the FY 1992 appropriation, which, states, "The conferees are agreed that not more than 15 percent of funding appropriated for social services may be used for discretionary grants." (H. Conf. Rept. 102–282, p. 36.)

Although the allocation formula is based on the 3-year refugee population, social service programs are not limited to refugees who have been in the U.S. only 3 years. States may provide services without regard to an individual refugee's length of residence, in accordance with the requirements of 45 CFR part 400 Subpart I—Refugee Social Services, published in the **Federal Register** of February 3, 1989 (54 FR 5481).

While 45 CFR 400.147(b) requires that in providing employability services, a State must give priority to a refugee who is receiving cash assistance, social service programs generally are not limited to refugees who are cash assistance recipients. Social services may be provided to any refugee who is unemployed, regardless of whether the refugee is receiving cash assistance.

ORR funds may not be used to provide services to United States citizens, since they are not covered under the authorizing legislation, with the following exceptions: (1) Under current regulations, services may be provided to a U.S.-born minor child in a family in which both parents are refugees or, if only one parent is present, in which that parent is a refugee; and (2) under the FY 1989 Foreign Operations Appropriations Act (Pub. L. 100–461), services may be provided to an Amerasian from Vietnam who is a U.S. citizen and who enters the U.S. after October 1, 1988.

Reflecting section 412(a)(1)(A)(iv) of the INA, the Director expects States to "insure that women have the same opportunities as men to participate in training and instruction." In addition, States are expected to make sure that services are provided in a manner that encourages the use of bilingual women on service agency staffs to ensure adequate service access by refugee women. In order to facilitate refugee self-support, the Director also strongly encourages States to implement strategies which address simultaneously the employment potential of both male and female wage earners in a family unit, particularly in the case of large families. States are encouraged to make every effort to assure the availability of day care services in order to allow women with children the opportunity to participate in employment services or to accept or retain employment. To accomplish this, day care may be treated as a priority employment-related service under the refugee social services program. States, however, are encouraged to use day care funding from other publicly funded mainstream programs as a prior resource and are encouraged to work with service providers to assure maximum access to other publicly funded resources for day care.

In accordance with 45 CFR 400.146 (54 FR 5481), if a State's cash assistance dependency rate for refugees (as defined in § 400.146(b)) is 55% or more, funds awarded under this notice for the basic and MAA incentive allocations are subject to a requirement that at least 85% of the State's award be used for employability services as set forth in § 400.154. ORR expects these funds to be used for services which directly enhance refugee employment potential, have specific employment objectives, and are designed to enable refugees to obtain jobs in less than one year as part of a plan to achieve self-sufficiency. This reflects the Congressional objective that "employable refugees should be placed in jobs as soon as possible after their arrival in the United States" and that social service funds be focused on "employment-related services, English-as-a-second-language training (in non-work hours where possible), and case-management services". (INA, section 412(a)(1)(B).)

Since current welfare dependency data are not available, those States that historically have had dependency rates at 55% and above are invited to submit a request for a waiver to the 85% requirement if they can provide reliable documentation that demonstrates a lower dependency rate.

ORR would consider granting a waiver of the 85% provision if a State meets one of the following conditions:

1. The State demonstrates to the satisfaction of the Director of ORR that the dependency rate of refugees who have been in the U.S. 24 months or less is below 55% in the State.

2. The State demonstrates to the satisfaction of the Director that (a) less than 85% of the State's social service allocation is sufficient to meet all employment-related needs of the State's refugees and (b) there are non-employment-related service needs which are so extreme as to justify an allowance above the basic 15%. *Or*

3. In accordance with section 412(c)(1)(C) of the INA, as amended by the Refugee Assistance Extension Act of 1986 (Pub. L. 99–605), the State submits to the Director a plan (established by or in consultation with local governments) which the Director determines provides for the maximum appropriate provision of employment-related services for, and the maximum placement of, employable refugees consistent with performance standards established under section 106 of the Job Training Partnership Act.

States should also expect to use funds available under this notice to pay for social services which are provided to refugees who participate in alternative projects. The Continuing Resolution for FY 1985 (Pub. L. 98–473) amended section 412(e)(7)(A) of the INA to provide that:

> The Secretary [of HHS] shall develop and implement alternative projects for refugees who have been in the United States less than thirty-six months, under which refugees are provided interim support, medical services, support [social] services, and case management, as needed, in a manner that encourages self-sufficiency, reduces welfare dependency, and fosters greater coordination among the resettlement agencies and service providers.

This provision is generally known as the Wilson/Fish Amendment. The Department has already issued a separate notice in the **Federal Register** with respect to applications for such projects (50 FR 24583, June 11, 1985). The notice on alternative projects does not contain provisions for the allocation of additional social service funds beyond the amounts proposed for availability in this notice. Therefore a State which may wish to consider carrying out such a project should take note of this in planning its use of social service funds being allocated under the present notice.

Finally, ORR believes that the continued and/or increased utilization of refugee mutual assistance associations (MAAs) in the provision of social services promotes appropriate use of services as well as the effectiveness of the overall service system. This belief is reinforced by the interest in MAAs which has developed under similar incentive funds awarded to States in previous years. Therefore additional funds which would be targeted specifically to these organizations have been included as an optional award to States which would use them for this purpose.

In order to receive the MAA incentive funds, the appropriate State agency official would have to provide written assurance to the Office of Refugee Resettlement that the following conditions would be observed by the State agency in using funds made available to the State under this special allocation:

1. That such funds will be used to fund refugee mutual assistance associations for the direct provision of services to refugee clients.

2. That the MAA incentive allocation is subject to and included under ORR's expectation that the majority of the total amount of social service funds allocated by this notice to a State be used for priority services, as defined elsewhere in this notice.

3. That the State agency will observe the following definition of a mutual assistance association:

a. The organization must be legally incorporated as a nonprofit organization; *and*

b. Not less than 51% of the composition of the Board of Directors or governing board of the mutual assistance association will be comprised of refugees or former refugees and must include both refugee men and women by August 29, 1992, as specified in the FY 1991 final social service notice.

4. That the State agency will assist MAAs in seeking other public and/or private funds for the provision of services for refugee clients in subsequent years.

Written assurances should be sent to the Director, Office of Refugee Resettlement, 370 L'Enfant Promenade, SW., Washington, DC 20447. States must respond by 30 days from the date of the final notice in order to avail themselves of this special allocation.

II. [Reserved for discussion of comments in final notice.]

III. Proposed Allocation Formula

Of the funds available for FY 1992 for social services, $67,009,200 is proposed to be allocated to States in accordance with the formula specified below. A State's allowable allocation will be calculated as follows:

1. The total amount of funds determined by the Director to be available for this purpose; divided by—

2. The total number of refugees and Cuban/Haitian entrants who arrived in the United States not more than 3 years prior to the beginning of the fiscal year for which the funds are appropriated and the number of Amerasians from Vietnam eligible for refugee social services, as shown by the ORR Refugee Data System. The resulting per capita amount will be multiplied by—

3. The number of persons in item 2, above, in the State as of October 1, 1991, adjusted for estimated secondary migration.

The calculation above will yield the formula allocation for each State. Minimum allocations for small States are taken into account.

MAA incentive award supplements are allocated on the same 3-year population basis as that used in the social service formula. These funds will be made available contingent upon letters of assurance from States, as described previously.

IV. Basis of Population Estimates

The population estimates for the allocation of funds in FY 1992 are based on data on refugee arrivals from the ORR Refugee Data System, adjusted as of October 1, 1991, for estimated secondary migration. The data base includes refugees of all nationalities and Amerasians from Vietnam. Figures on the number of Cuban and Haitian entrants resettled are obtained from several sources, including the ORR Florida office and the Immigration and Naturalization Service.

For fiscal year 1992, ORR's formula allocations for the States for social services for refugees are based on the numbers of refugees who arrived, and on the numbers of entrants who arrived or were resettled, during the preceding three fiscal years: 1989, 1990, and 1991. Therefore, estimates have been developed of the numbers of refugees and entrants with arrival or resettlement dates between October 1, 1988, and September 30, 1991, who are thought to be living in each State as of October 1, 1991. Refugees admitted under the Federal Government's private-sector initiative are not included, since their assistance and services are to be provided by the private sponsoring organizations under an agreement with the Department of State.

The figures on arrivals of refugees and Amerasians used in developing these population estimates were based on final arrival data by State for FY 1989 and FY 1990 and preliminary arrival data for FY 1991. Deductions were made based on preliminary data for refugees resettled under the private sector initiative. The figures on Cuban and Haitian entrants were based on final arrival data by State for FY 1989 and FY 1990 and preliminary arrival data for FY 1991.

The estimates of secondary migration were based on data submitted by all participating States on Form ORR–11. The total migration reported by each State was summed, yielding in- and out-migration figures and a net migration figure for each State. The net migration figure was applied to the State's total arrival figure, resulting in a revised population estimate. Because the reporting period covered on Form ORR–11 was a maximum of only 12 months as of June 1991 for the majority of States whose reporting base was their cash/medical assistance caseload, extra weight was given to the secondary migration reported by those States to arrive at estimates of secondary migration over a 36-month period. In 1991, no count of recently-arrived refugee children was available from the Department of Education for use as a comparison.

Estimates were developed separately for refugees and entrants and then combined into a total estimated 3-year refugee/entrant population for each State. Eligible Amerasians are included in the refugee figures.

Table 1, below, shows the estimated 3-year populations, as of October 1, 1991, of refugees (col. 1), entrants (col. 2), and total refugees and entrants (col. 3); the formula amounts which the population estimates yield (col. 4); the total allocation amounts after allowing for the minimum amounts (col. 5); and the proposed amounts available as an incentive to States to use MAAs as service providers (col. 6).

These population estimates and proposed allocation amounts are intended to be as close to the final figures as possible at the time they were developed. However, revisions will be made, and all population estimates and allocation amounts will change somewhat as a result. The following revisions will be made before the final figures are developed: (1) Preliminary refugee and Amerasian arrival figures by State for FY 1991 will be replaced by final figures; (2) preliminary entrant arrival and resettlement figures for FY 1991 will be replaced by final figures; and (3) final data on refugees resettled through the private-sector initiative will be deducted from the final arrival figures for FY 1991.

A detailed explanation of the development of data used in this formula allocation can be obtained by writing to the address indicated in Section VI of this notice.

V. Proposed Allocation Amounts

Funding will be contingent upon the submittal and approval of a State annual services plan. The following amounts are proposed for allocation for refugee social services in FY 1992:

TABLE 1.—ESTIMATED 3-YEAR REFUGEE/ENTRANT POPULATIONS OF STATES PARTICIPATING IN THE REFUGEE PROGRAM AND SOCIAL SERVICE FORMULA AMOUNTS AND PROPOSED ALLOCATIONS FOR FY 1992 [a]

State	Refugees (1)	Entrants (2)	Total population (3)	Formula amount (4)	Proposed allocation (5)	MAA incentive allocation (6)
Alabama	775	0	775	$152,635	$152,635	$7,963
Alaska	117	1	118	23,240	75,000	5,000
Arizona	3,856	6	3,862	760,615	760,615	39,681
Arkansas	433	0	433	85,279	100,000	5,000
California	95,711	237	95,948	18,896,805	18,896,805	985,833
Colorado	3,433	4	3,437	676,912	676,912	35,314
Connecticut	3,817	11	3,828	753,918	753,918	39,331
Delaware	132	0	132	25,997	75,000	5,000
District of Columbia	2,221	22	2,243	441,755	441,755	23,046
Florida	11,687	7,077	18,764	3,695,540	3,695,540	192,794
Georgia	6,184	18	6,202	1,221,474	1,221,474	63,723
Hawaii	890	0	890	175,284	175,284	9,144
Idaho	824	0	824	162,285	162,285	8,466
Illinois	13,525	17	13,542	2,667,075	2,667,075	139,139
Indiana	810	2	812	159,922	159,922	8,343
Iowa	2,777	0	2,777	546,926	546,926	28,533
Kansas	1,885	0	1,885	371,248	371,248	19,368
Kentucky	1,448	0	1,448	285,181	285,181	14,878
Louisiana	1,983	8	1,991	392,124	392,124	20,457
Maine	765	1	766	150,862	150,862	7,870
Maryland	6,586	172	6,758	1,330,977	1,330,977	69,436
Massachusetts	12,112	18	12,130	2,388,984	2,388,984	124,632
Michigan	5,936	13	5,949	1,171,646	1,171,646	61,124
Minnesota	6,948	1	6,949	1,368,594	1,368,594	71,399
Mississippi	288	0	288	56,721	95,874	5,000
Missouri	3,990	18	4,008	789,369	789,369	41,181
Montana	257	0	257	50,616	90,766	5,000
Nebraska	1,872	2	1,874	369,081	369,081	19,255
Nevada	871	81	952	187,495	187,495	9,781
New Hampshire	712	0	712	140,227	140,227	7,316
New Jersey	6,717	1,109	7,826	1,541,318	1,541,318	80,409
New Mexico	891	0	891	175,481	175,481	9,155
New York	55,383	168	55,551	10,940,681	10,940,681	570,768
North Carolina	3,051	5	3,056	601,874	601,874	31,399
North Dakota	434	0	434	85,476	100,000	5,000
Ohio	4,813	7	4,820	949,291	949,291	49,524
Oklahoma	1,278	2	1,280	252,094	252,094	13,152
Oregon	6,184	0	6,184	1,217,929	1,217,929	63,539
Pennsylvania	10,764	9	10,773	2,121,725	2,121,725	110,689
Rhode Island	1,538	1	1,539	303,104	303,104	15,813
South Carolina	278	0	278	54,752	94,904	5,000
South Dakota	678	0	678	133,531	133,531	6,966
Tennessee	2,533	0	2,533	498,870	498,870	26,026
Texas	15,246	111	15,357	3,024,537	3,024,537	157,788
Utah	1,937	0	1,937	381,489	381,489	19,902
Vermont	624	2	626	123,290	123,290	6,432
Virginia	5,349	4	5,353	1,054,265	1,054,265	55,000
Washington	14,489	0	14,489	2,853,585	2,853,585	148,870
West Virginia	82	0	82	16,150	75,000	5,000
Wisconsin	4,043	2	4,045	796,656	796,656	41,561
Wyoming	51	0	51	10,044	75,000	5,000
Total	329,208	9,129	338,337	$66,634,929	$67,009,200	$3,500,000

[a] Based on preliminary FY 1991 refugee arrival data through September 30, 1991.

VI. State Evidence on Refugee Population

If a State wishes ORR to reconsider its population estimate, it should submit written evidence. Requests will be evaluated according to a strict standard. The following is the type of evidence which would be considered appropriate:

- Documentation and discussion should be confined to the population entering the United States during fiscal years 1989, 1990, and 1991, and should clearly identify what refugee or entrant groups are being discussed.
- Evidence should include a description of the information collection system(s) used by the State, including data sources, time period covered, timeliness, and validation procedures.
- Special studies and reports can be considered only if they are submitted for review.
- An example of acceptable evidence would be a list of refugees identified by name, alien number, date of birth, date of arrival, and case size, if appropriate. Listings of refugees who are not identified by their alien numbers will not be considered.

Any State evidence on population estimates should be submitted separately from comments on the proposed allocation formula no later than 30 days from date of publication of this notice and should be addressed to: Loren Bussert, Office of Refugee Resettlement, 370 L'Enfant Promenade, SW., Washington, DC 20447, Telephone: (202) 401-4732.

VII. Paperwork Reduction Act

This notice does not create any reporting or recordkeeping requirements requiring OMB clearance.

[Catalog of Federal Domestic Assistance No. 93.026 Refugee Assistance State Administered Programs]

Dated: January 29, 1992.

Chris Gersten,

Director, Office of Refugee Resettlement.

[FR Doc. 92-2712 Filed 2-4-92; 8:45 am]

BILLING CODE 4120-01-M

federal register

Wednesday
February 5, 1992

Part IV

Department of Education

Privacy Act: Computer Matching Program; Notice

DEPARTMENT OF EDUCATION

Computer Matching Program; Notice

AGENCY: Department of Education.

ACTION: Notice—Computer matching between the Department of Education and the Department of Justice.

Section 5301(a)(1) of the Anti-Drug Abuse Act of 1988, (now designated as section 421(a)(1) of the Controlled Substances Act, 20 U.S.C. 862(a)(1)) includes provisions regarding the judicial denial of federal benefits. Section 5301 authorizes federal and state judges to deny certain federal benefits (including student financial assistance under title IV of the Higher Education Act of 1965, as amended) to individuals convicted of drug trafficking or possession.

In order to ensure that title IV student financial assistance is not awarded to individuals subject to denial of benefits under court orders issued pursuant to section 5301, the Department of Education and the Department of Justice are implementing a computer-matching program. The Department of Education needs to obtain from the Department of Justice identifying information regarding individuals who are the subject of section 5301 denial of benefits court orders. The purpose of this notice is to announce the establishment of the computer-matching program and to provide certain required information concerning the computer-matching program.

In accordance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503), the Office of Management and Budget (OMB) Guidelines on the Conduct of Matching Programs (see 54 FR at 25818, June 19, 1989), and OMB Bulletin 89–22, the following information is provided:

1. Name of Participating Agencies

The Department of Education (ED) and the Department of Justice (DOJ).

2. Purpose of the Match

This matching program is designed to assist ED in enforcing the sanctions imposed under section 5301 of the Anti-Drug Abuse Act of 1988 (Pub. L. 100–690).

3. Authority for Conducting the Matching Program

Under section 5301 of the Anti-Drug Abuse Act of 1988, as amended (21 U.S.C. 862), ED must deny federal benefits to any individual against whom a federal or state court order has imposed a penalty denying eligibility for those benefits. Student financial assistance under title IV of the Higher Education Act of 1965 is a federal benefit under section 5301 and ED must, in order to meet its obligations under the HEA, have access to information about individuals who have been declared ineligible under section 5301.

The President's Denial of Federal Benefits

Implementation Procedures of August 30, 1989 direct DOJ to act as the information clearinghouse for federal agencies. While DOJ provides information about Section 5301 ineligible individuals to the General Services Administration (GSA) for inclusion in GSA's List of Parties Excluded from Federal Procurement and Nonprocurement Programs, DOJ and ED have determined that direct access to the DOJ data base would be more efficient and effective than access to the GSA List. The DOJ data base has specific information about the title IV, HEA programs for which individuals are ineligible and has more complete identifying information about those individuals. Both of these elements are essential to a successful match.

4. Categories of Records and Individuals Covered

A. Department of Education Records

Federal Student Aid Application File (18–40–0014): Composed of records of students applying for federal student financial assistance under title IV of the Higher Education Act of 1965, as amended (HEA). The social security number and the first two letters of an applicant's last name will be used by ED for the match.

B. Department of Justice Records

Denial of Federal Benefits Clearinghouse System (DEBAR) (OJP–0013);

Contains the names, social security numbers, dates of birth, and other identifying information regarding individuals convicted of federal or state offenses involving drug trafficking or possession of a controlled substance who have been denied federal benefits by federal or state courts. This system of records also contains information concerning the specific program(s) for which benefits have been denied. The Department of Justice will make available for the matching program the records of only those individuals who have been denied federal benefits under one or more of the title IV, HEA programs.

5. Effective Dates of the Matching Program

The matching program will begin 30 days after publication of this notice in the **Federal Register** and will continue for a period of 18 months from the date it becomes effective unless extended.

6. Address for Receipt of Public Comments or Inquiries

Ms. Joyce R. Coates, Program Specialist, Division of Policy and Program Development, U.S. Department of Education, 400 Maryland Avenue SW., (room 4318, ROB–3), Telephone: (202) 708–7888.

Dated: January 29, 1992.

Carolynn Reid-Wallace,

Assistant Secretary for Postsecondary Education.

[FR Doc. 92–2911 Filed 1–4–92; 8:45 am]

BILLING CODE 4000-01-M

Reader Aids

Federal Register
Vol. 57, No. 24
Wednesday, February 5, 1992

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LIST OF PUBLIC LAWS

Note: The List of Public Laws for the first session of the 102d Congress has been completed and will be resumed when bills are enacted into public law during the second session of the 102d Congress, which convenes on January 3, 1992. A cumulative list of Public Laws for the first session was published in Part II of the **Federal Register** on January 2, 1992.

Public Laws

102d Congress, 2nd Session, 1992

Pamphlet prints of public laws, often referred to as slip laws, are the initial publication of Federal laws upon enactment and are printed as soon as possible after approval by the President. Legislative history references appear on each law. Subscription service includes all public laws, issued irregularly upon enactment, for the 102d Congress, 2nd Session, 1992.

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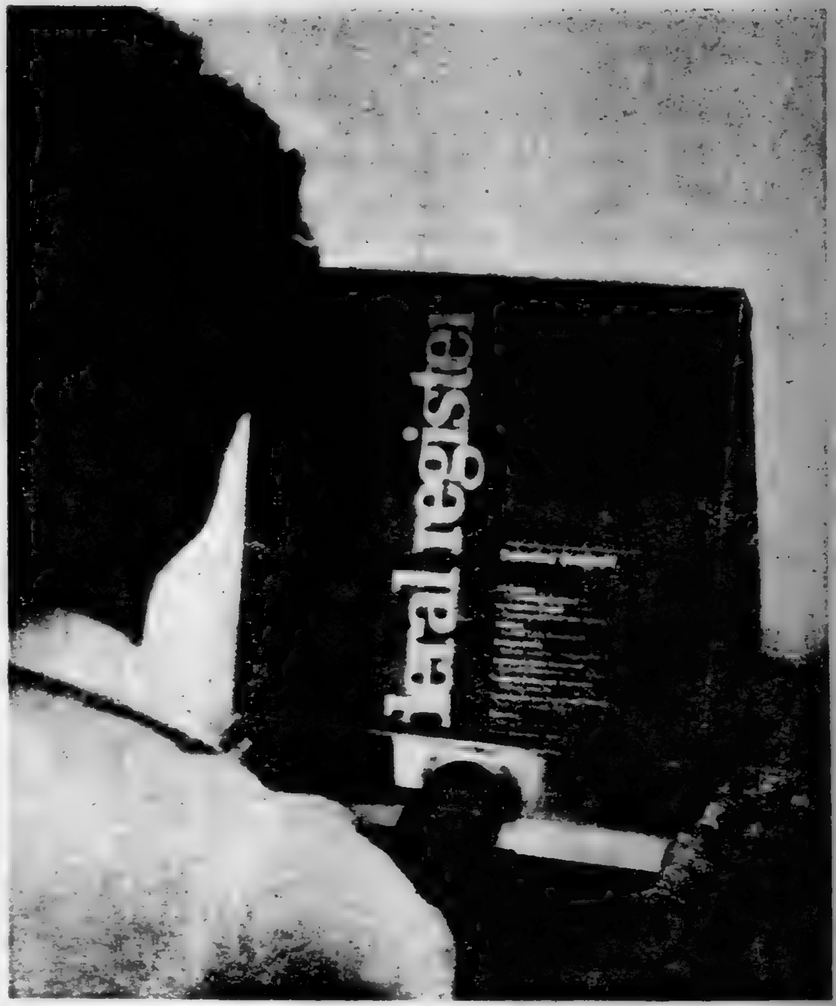

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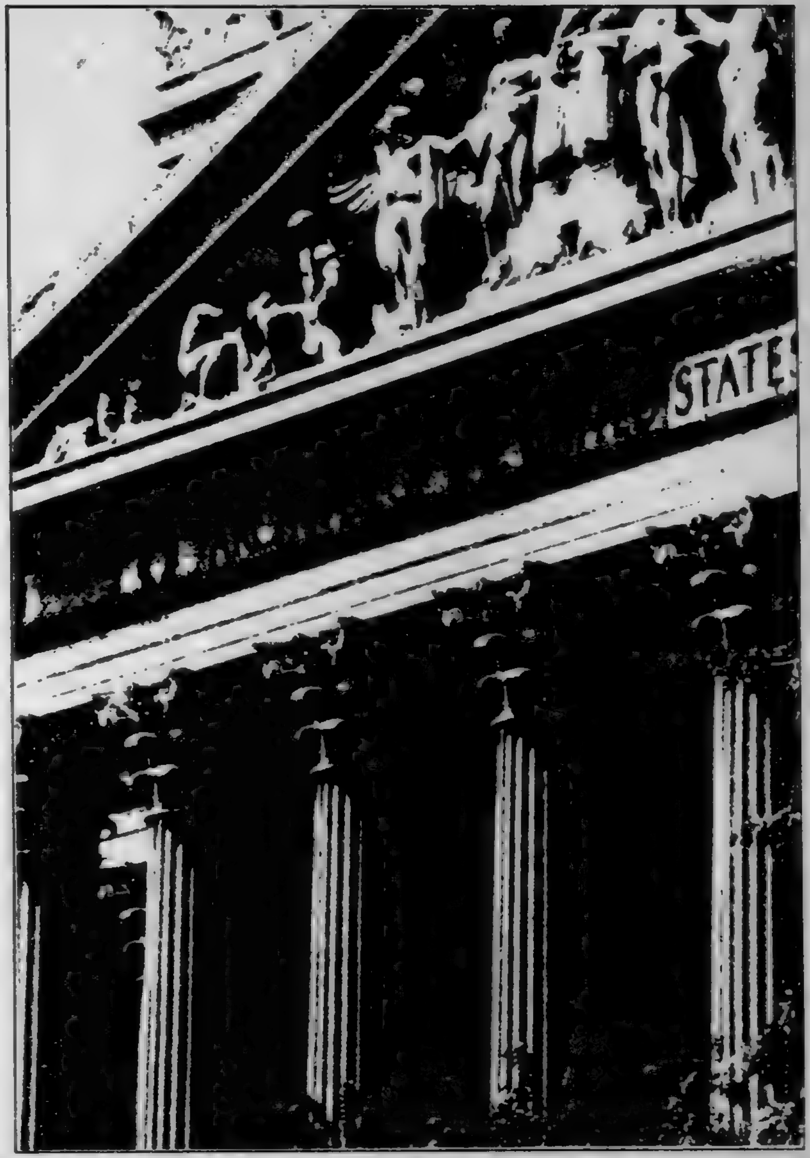

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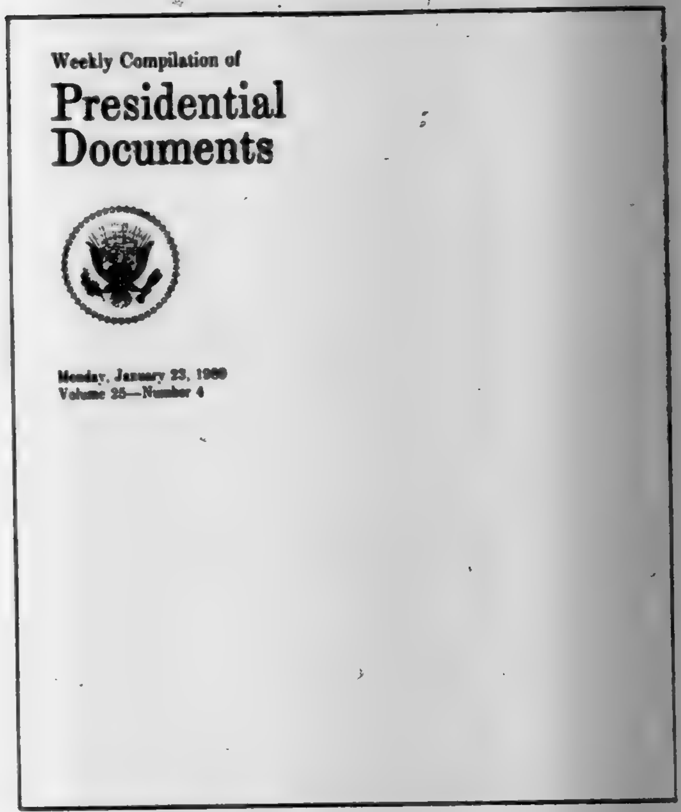

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in the Code of Federal Regulations (CFR)

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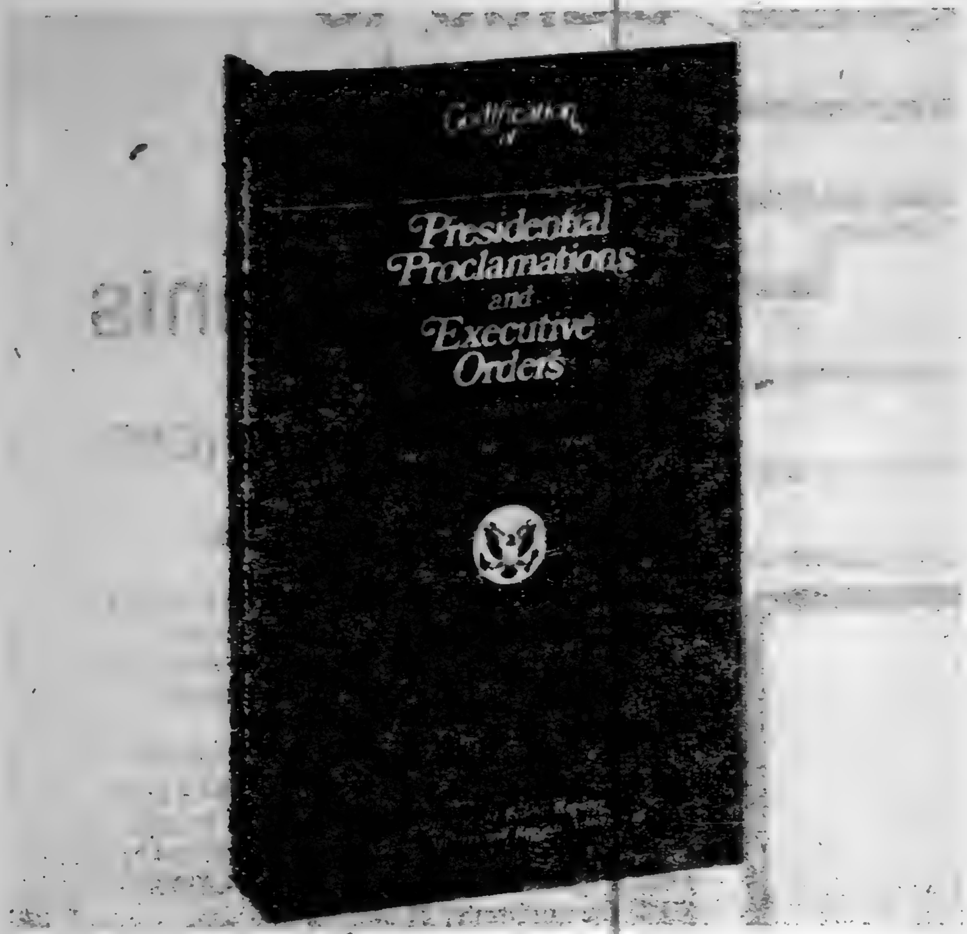

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2-6-92
Vol. 57 No. 25

federal register

Thursday
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Thursday
February 6, 1992

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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1421

Rice World Price Formula and Announcement Time

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations at 7 CFR 1421.25 to change the announcement time of the adjusted world price for rice and to allow for the use of world market prices, expressed by class of rice per 100 pounds, as the basis for calculating marketing loan gains and loan deficiency payment rates. These changes were included in a proposed rule published in the Federal Register October 28, 1991. The intent of this rule is to establish an announcement time for the rice adjusted world price so that only one price level would be effective during any workday.

EFFECTIVE DATE: February 21, 1992.

FOR FURTHER INFORMATION CONTACT: Gene S. Rosera, Agricultural Economist, Commodity Analysis Division, USDA/ASCS, room 3740-S, P.O. Box 2415, Washington, DC 20013 or call (202) 720-7923.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures established in accordance with provisions of Departmental Regulation 1512-1 and Executive Order 12291 and has been classified as "non-major."

It has been determined that the Regulatory Flexibility Act is not applicable because the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of the law to publish a notice of proposed rulemaking.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

The title and number of the Federal assistance program, as found in the catalog of Federal Domestic Assistance, to which this proposed rule applies, are as follows: Rice Production Stabilization—10.065.

This program/activity is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

This amendment to 7 CFR part 1421 does not impose any new or revised information collection or recordkeeping requirements on the public.

7 CFR Part 1421

A proposed rule was published in the Federal Register on October 28, 1991, at 56 FR 55473 to amend the regulations found at 7 CFR part 1421 with respect to the announcement time of the adjusted world price for rice and to allow for the use of world market prices, expressed by class of rice for National average milling outturns, as the basis for calculating marketing loan gains and loan deficiency payments. The proposed rule also requested comments on the 1992 Acreage Reduction Program (ARP). Comments received and CFR revisions regarding the 1992 ARP will be addressed in a separate final rule.

Discussion of Comments

Fifty comments were received expressing a view on the proposal to change the announcement time of the adjusted world price of rice from Tuesday at 3 p.m. Eastern time to Tuesday at 7 a.m. Eastern time. The intent of this proposal was to establish an announcement time for the rice adjusted world price so that only one price level would be effective during any workday. Twenty comments supported the current announcement weekday and time of day. Generally, support for the current announcement time was based on the view that it is working well and there are no compelling reasons to change it.

Thirty comments favored changing the announcement time, with twenty of these comments favoring an announcement at the proposed time of 7 a.m. Tuesday. Four comments favored a Wednesday morning announcement and 6 comments favored a change with no weekday or time of day specified. After reviewing the comments received, it has been decided to change the announcement time of the adjusted world price of rice to Tuesday at 7 a.m. Eastern time. If either the Monday or Tuesday of a week are not workdays, the adjusted world price of rice will be announced on the Wednesday of such week at 7 a.m. Eastern time. The price announced at such time will be effective at 12:00:01 a.m. of the day it is announced. The announcement time is being changed because under the current announcement procedure, administrative problems occur when two world prices are effective on the same workday.

A total of 136 comments were received regarding the proposal to calculate marketing loan gains and loan deficiency payments on the basis of National average milling yields rather than on the milling yields of individual quantities of rice. The current method of calculating payment rates is supported by 131 comments. A frequently expressed view was that marketing loan program benefits should vary according to the quality of rice eligible for such benefits. Several commented that uniform payment rates by class of rice would be a disincentive to the production of high milling quality rice. After reviewing the comments, it has been decided that marketing loan gains and loan deficiency payment rates will be calculated based on National average milling yields since this revision will speed disbursement of program benefits and simplify program administration without significant adverse impacts on individual producers.

List of Subjects in 7 CFR Part 1421

Grains, Loan programs—agriculture, Oilseeds, Peanuts, Price support programs, Reporting and recordkeeping requirements, Warehouses.

Accordingly, 7 CFR part 1421 is amended to read as follows:

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PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

1. The authority citation for 7 CFR part 1421 continues to read as follows:

Authority: 7 U.S.C. 1421, 1423, 1425, and 1445e; 15 U.S.C. 714b and 714c.

2. In § 1421.25, paragraphs (a)(5)(vi) and (a)(6) are revised to read as follows:

§ 1421.25 Market price repayments.

(a) * * *

(5) * * *

(vi) The price determined in accordance with paragraph (a)(5)(v) of this section may be adjusted to a whole kernel loan rate basis by deducting the estimated domestic market value of the total quantity of broken kernels contained in such rice and dividing the resulting value by the estimated National average quantity of milled whole kernels produced in milling 100 pounds of rice.

(6) The average world price for each class for rice, loan rate basis, shall be determined by CCC and shall be announced, to the extent practicable, on or after 7 a.m. Eastern time each Tuesday continuing through the last Tuesday of July 1996, but may be announced more or less frequently, as determined by CCC. In the event that Monday or Tuesday is a non-workday, the world prices for each class of rice will be announced on the Wednesday of the same week, on or after 7 a.m. Eastern time. The announced prices will be effective at 12:00:01 a.m. of the day of the next world price announcement.

* * * * *

Signed on January 23, 1992 at Washington, DC.

John A. Stevenson,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 92–2874 Filed 2–5–92; 8:45 am]

BILLING CODE 3410–05–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1214

RIN 2700–AA45

Space Shuttle

AGENCY: National Aeronautics and Space Administration.

ACTION: Interim final rule.

SUMMARY: NASA is amending 14 CFR part 1214 by consolidating Subparts 1214.1, "Reimbursement for Shuttle Services Provided to Non-U.S. Government Users," and 1214.8, "Reimbursement for Spacelab Services." In an effort to avoid duplication and integrate related material into a single subpart, this consolidation combines these two subparts into one to become Subpart 1214.1, "General Provisions Regarding Space Shuttle Flights of Cargo-bay Payloads for Non-U.S. Government Reimbursable Customers." Subpart 1214.2, "Reimbursements for Shuttle Services Provided to Civil U.S. Government Users and Foreign Users Who Have Made Substantial Investment in the STS Program," has been deleted.

The intended effect of this interim final rule is to: (a) Add eligibility criteria for use of the Shuttle for launch of a payload; (b) establish revised pricing algorithms based on current Shuttle capability; (c) delete the offer of a standard shared flight to an inclination of 57°; (d) delete the Standby Payload, Short-term Call-up, and Exceptional Payload provisions of the existing policies; (e) revise postponement and termination fees; (f) revise the scheduling policy; (g) revise the reflight provisions; and (h) revise launch and operational criteria for standard Shuttle flights.

DATES: *Effective Date:* February 6, 1992. Comments must be submitted on or before March 9, 1992.

ADDRESSES: Office of Space Flight, Mail Code MC, National Aeronautics and Space Administration, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Robert L. Tucker, Jr., (202) 453–2347.

SUPPLEMENTARY INFORMATION: On January 21, 1977, NASA published its final rule Subpart 1214.1, "Reimbursement for Shuttle Services Provided to Non-U.S. Government Users," in the **Federal Register** (42 FR 3929), and on February 11, 1977, published Subpart 1214.2, "Reimbursement for Shuttle Services Provided to Civil U.S. Government Users and Foreign Users Who Have Made Substantial Investment in the STS Program," in the **Federal Register** (42 FR 8631). On December 20, 1979, proposed changes to these two subparts were published in the **Federal Register** (44 FR 75395). These proposed changes are withdrawn and subpart 1214.2 is deleted. Subpart 1214.1 and the provisions of Subpart 1214.8, "Reimbursement for Spacelab Services," (50 FR 30809, July 30, 1985) are consolidated to eliminate unnecessary duplication of material by combining these two subparts into a single Subpart 1214.1, "General Provisions Regarding Space Shuttle Flights of Cargo-bay Payloads for Non-U.S. Government Reimbursable Customers."

The following is a brief explanation of the changes in the order in which they are presented in this interim final rule.

Specific requirements regarding the eligibility of a non-U.S. government payload to fly on the Space Shuttle are defined in § 1214.101.

A number of new definitions are incorporated in § 1214.102 for clarity. Section 1214.103 is defined to apply only to standard services to clarify previous misunderstandings. In § 1214.103(b), NASA agrees to establish a fixed price (subject to escalation) for standard services up to 3 years in advance of launch. Section 1214.103(e) documents the fundamental principle that shared-flight pricing is not tied to individual flight manifests.

Section 1214.103(g) contains the algorithms formerly found in appendix D of subpart 1214.1. The reference Shuttle launch weight capability used in load factor computations of § 1214.103(g)(4) has been changed from 29,478 kg (65,000 lbs) to 21,542 kg (47,500 lbs). The revised value is more in keeping with current Shuttle capability. The new capability does not apply to customers who have already submitted earnest money prior to publication of this rule. The payment schedule of § 1214.103(h)(2) has been modified to reflect current NASA practices.

A new § 1214.104 is incorporated to formalize the procedures used for charging for optional services. Practices described are those now in use by NASA.

Section 1214.106 has been revised to reflect minor-delay provisions consistent with those used in launch agreements.

Major revisions in postponement procedures are established in § 1214.107. Occupancy fee charges are eliminated and all postponement fees are allocated according to a fixed schedule. Section 1214.107(c) provides some flexibility for customers to postpone, within reasonable limits, without exposure to a new price.

Section 1214.108 has been revised to be conceptually similar to § 1214.107. The term "cancellation" has been replaced with "termination" for consistency with the Launch Services Agreement.

A revision of the scheduling policy is contained in § 1214.109. This revision reflects the realities of operation in the current environment and NASA's need to conduct operations in an orderly, efficient manner. NASA's intention to be responsive to the needs of customers whose payloads require a reflight is stated in paragraph (d) of that section.

Section 1214.110 has been revised. Section 1214.110(a) limits reflight to dedicated flights and those shared-flight payloads that can be accommodated on a standard Shuttle launch, because of the cost risk associated with manifesting flights to nonstandard destinations. It also establishes that reflights for qualifying payloads will be provided at NASA's marginal cost. Section 1214.110(b) further requires that the reflight involve flight of an essentially identical payload with essentially identical integration and flight operations requirements. Because the customer's price no longer includes a reflight premium, free reflights are no longer offered.

Section 1214.111 defines the types of missions that may require rendezvous of the Shuttle with an on-orbit spacecraft.

Section 1214.112 has been revised to remove the patent and data rights provisions for U.S. Government customers.

Section 1214.113 establishes general provisions regarding allocation of certain risks.

Section 1214.117 is an amplification and revision of material contained in current policies. Because of low shared-flight traffic demand for the 57° orbit, NASA withdraws the offer of standard shared flights to this inclination on the grounds that there is little likelihood of attaining equitable cost recovery on such flights. NASA may continue to provide service to this and other nonstandard orbits under optional service arrangements.

To the extent that deployable payloads are allowed to use the Space Shuttle under the use policy specified in § 1214.101, § 1214.118 requires that special criteria, to be specified in the launch agreement, be met by deployable payloads in order for them to qualify for the standard flight price.

The Standby, Short-term Call-up, and Options offers of the previous policy have been deleted because they are impractical to implement in today's operating environment.

The Exceptional Payload provisions of the previous policy have been deleted because the NASA Administrator has the right under the Space Act to establish prices as appropriate in special cases.

The entire contents of the former Subpart 1214.8, "Reimbursement for Spacelab Services," have been combined into this subpart 1214.1 and reformatted as a single section, § 1214.119. The contents of this section are essentially identical to the former § 1214.8 with the following exceptions:

(1) References to provisions deleted from the basic policy (e.g., short-term call-up) have been deleted;

(2) In § 1214.119(l)(5)(ii)(A), a change is made in the load factor algorithm for a dedicated FMDM/MPESS as a result of the modification in the load factor algorithm of § 1214.103(g). Load factor computations for other Spacelab payloads are unaffected by this change;

(3) Provisions regarding customer-furnished payload specialists have been removed. This subject is now covered in a separate Subpart 1214.3, "Payload Specialists for Space Transportation System Missions."

The National Aeronautics and Space Administration has determined that:

1. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, since it will not exert a significant economic impact on a substantial number of small entities.

2. This rule is not a major rule as defined in Executive Order 12291.

List of Subjects in 14 CFR Part 1214

Government employees, Government procurement, Security measures, Space shuttle, Space transportation and exploration, Payload specialist, Astronauts.

For reasons set out in the preamble, 14 CFR part 1214, subpart 1214.1 is revised to read as follows:

PART 1214—SPACE SHUTTLE

Subpart 1214.1—General Provisions Regarding Space Shuttle Flights of Payloads for Non-U.S. Government, Reimbursable Customers

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Authority: Sec. 203, Pub. L. 85–568, 72 Stat. 429, as amended (42 U.S.C. 2473); Sec. 201(b) Pub. L. 87–624, 76 Stat. 421 (47 U.S.C. 721(b)).

Subpart 1214.1—General Provisions Regarding Space Shuttle Flights of Payloads for Non-U.S. Government, Reimbursable Customers

§ 1214.100 Scope.

This Subpart 1214.1 sets forth general provisions regarding flight of Space Shuttle cargo bay payloads for non-U.S. government, reimbursable customers. It does not apply to Small Self-Contained Payloads flown under the provision of Subpart 1214.9 or payloads flown on a space-available basis on NASA-provided Hitchiker carriers.

§ 1214.101 Eligibility for flight of a non-U.S. government reimbursable payload on the Space Shuttle.

To be eligible for flight on the Space Shuttle, non-U.S. government, reimbursable payloads must meet criteria for use of the Shuttle established by U.S. law and public policy. The NASA Administrator will determine and/or certify the compliance of the payload with these criteria. To qualify for flight on the Space Shuttle, non-U.S. government, reimbursable payloads must require the unique capabilities of the Shuttle, or be important for either national security or foreign policy purposes.

§ 1214.102 Definitions.

(a) *Customer.* Any non-U.S. government person or entity who, by virtue of a contract or other arrangement with NASA, arranges for or otherwise provides payloads to be flown on the Shuttle on a reimbursable basis.

(b) *Dedicated flight.* A shuttle flight flown for a single customer.

(c) *Dedicated flight price.* The price established by NASA for a dedicated flight that provides the standard services listed in § 1214.115 for 1 day of single-shift, on-orbit mission operations.

(d) *Jettison.* To physically separate all or a portion of a payload from the Shuttle after liftoff of the Shuttle without the intent of fulfilling the payload operations requirements agreed to by NASA and the customer.

(e) *Launch agreement.* The primary document between NASA and the non-U.S. government, reimbursable customer, containing the detailed terms, conditions, requirements and constraints under which NASA commits to provide launch services.

(f) *Marginal cost.* Solely for the purposes of determining the cost of a reflight launch, marginal cost is defined as the cost to the U.S. Government, as

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determined by NASA's normal accounting procedures, associated with the addition or reduction of one flight in a given U.S. government fiscal year.

(g) *Non-U.S. government reimbursable customers* are:

(1) All non-U.S. Government persons or entities paying NASA for Shuttle services under this Subpart 1214.1; or

(2) U.S. Government agencies obtaining reimbursable Shuttle services for those persons or entities cited in paragraph (g)(1) of this section; e.g., the Department of Defense under a Foreign Military sales case.

(h) *Optional services.* Those nonstandard services provided at the customer's request and with the concurrence of NASA. The price for optional services is not included in the standard flight price.

(i) *Payload integration documentation.* Documentation developed to reflect NASA/customer agreements on payload requirements, payload/Shuttle interfaces, and ground and flight implementation of the mission. Includes the Payload Integration Plan, its Annexes and all related documentation.

(j) *Payload length.* The maximum length of the payload in the Space Shuttle cargo bay at any time during launch, landing, operations, deployment, servicing or retrieval. It includes any clearance length necessary for items such as dynamic envelope considerations, deployment, retrieval, servicing and use of the remote manipulator system.

(k) *Payload weight.* The maximum weight of the payload in the Space Shuttle cargo bay, including the weight of the payload itself and a pro rata share of the weight of any special equipment or materials needed for the mission.

(l) *Scheduled launch date.* NASA's official then-best-estimate of the data of launch. This will be the date of record for all scheduling and reimbursement procedures.

(m) *Shared flight.* A flight that may be shared by more than one customer.

(n) *Shuttle standard flight price.* The price for Shuttle standard services provided to the customer.

(o) *Standard launch.* A launch meeting all the launch and orbit criteria defined in § 1214.117.

(p) *Standard services.* Those services which are generally made available for all customers, which for Space Shuttle are generically defined in NASA document NSTS 07700, Volume XIV, and which are included in the standard flight price. If the payload uses only a portion of the standard services, the standard flight price will not be affected.

§ 1214.103 Reimbursement for standard services.

(a) *Establishment of price.* NASA will establish, and update as appropriate, the standard flight price under this § 1214.1.

(b) *Advance pricing.* NASA normally will agree to a standard flight price no later than 3 years in advance of launch.

(c) *Price stability.* The standard flight price will be fixed, subject to the terms of the launch agreement, and subject to escalation pursuant to § 1214.103(d), and will be the price set by NASA as of the time of signing a launch agreement.

(d) *Escalation of payments.* With the exception of payments for earnest money, all payments will be escalated according to the U.S. Bureau of Labor Statistics Index, "Private Business Sector, All Persons: Productivity, Hourly Compensation, Unit Labor Cost and Prices Seasonally Adjusted" table, "Compensation, Per Hour," column published in the U.S. Department of Labor, Bureau of Labor Statistics, news release entitled "Productivity and Costs."

(e) *Independence of pricing and manifesting.* The standard flight price for a shared flight payload as computed from 1214.103(g) will be independent from the actual payload manifest for a specific shared flight.

(f) *Allocation of services.* (1) Customers contracting for a dedicated flight are eligible for the full standard services, as defined in § 1214.115, available on the flight.

(2) Customers contracting for a standard shared flight meeting the criteria of § 1214.117 are eligible for a portion of the standard services, as defined in § 1214.115, available on the flight. The basis of apportionment will be determined by NASA and will be a function of the payload load factor.

(g) *Computation of prices.* (1) The Shuttle standard flight price for a dedicated flight is the dedicated flight price as defined in § 1214.102(c).

(2) The Shuttle standard flight price for a standard shared flight is the product of the payload's charge factor and the dedicated flight price as defined in § 1214.102(c).

(3) The computed charge factor for a payload is defined as:

$$\frac{\text{Load Factor}}{0.75}$$

If the computed charge factor exceeds 1.0, the charge factor will be 1.0. If the computed charge factor is less than 0.067, the charge factor will be 0.067.

(4) The load factor is defined as the maximum of:

$$\frac{\text{Payload length, m,}}{18.29\text{ m}} \quad \text{or} \quad \frac{\text{Payload weight, kg}}{\text{Shuttle lift capability, kg}}$$

where: (i) Payload length is as defined in § 1214.102(j);

(ii) Payload weight is as defined in § 1214.102(k);

(iii) For those payloads for which NASA has reviewed and accepted a NASA Form 1628 (Request for Flight Assignment) and received earnest money (if required) prior to (insert date of publication in **Federal Register**), the Shuttle lift capability for a shared flight, standard launch will be 29,478 kg. For all other payloads, the lift capability for a shared flight, standard launch will be 21,542 kg.

(h) *Payment schedule*—(1) *Earnest money.* Earnest money in the amount of $100,000 per payload will be paid to NASA by the customer. The earnest money will be paid at the time of submission of a NASA Form 1628, and will be applied to the first payment made by the customer toward the standard flight price, or will be retained by NASA unless NASA determines that the payload does not meet the eligibility criteria referenced in § 1214.101.

(2) *Payment schedule for standard services.* (i) Payment for standard services will be made in accordance with the following schedule:

Number of months before launch flight is scheduled	Percent of price due							
	At time of scheduling	Months prior to scheduled launch date						
		33	24	18	12	6	3	Total
33 or more		10	10	15	25	25	15	100
24–32	11		10	15	25	25	15	101
18–23	23			15	25	25	15	103
12–17	42				25	25	15	107

Number of months before launch flight is scheduled	Percent of price due							
	At time of scheduling	Months prior to scheduled launch date						
		33	24	18	12	6	3	Total
6–11*	73					25	15	113
3–5*	107						15	122
Less than 3*	122							122

*Additional charges pursuant to § 1214.103(h)(2)(ii) also may apply.

(ii) Unless otherwise agreed to by NASA, for purposes of the payment schedule of § 1214.103(h)(2)(i), the percent of price due at the time of scheduling will be the cumulative amount due at the time of:

(A) NASA's initial commitment to the schedule of a newly scheduled payload;

(B) A customer's requested rescheduling of a payload such that it will be launched at an earlier date; or

(C) Rescheduling of a payload postponed at the request of the customer or caused by the customer.

(iii) If the time from a customer's request for initial scheduling or rescheduling of a payload is less than 1 year from the launch date being requested, and NASA can accommodate the request, NASA may also charge the customer any estimated additional cost of providing standard services on such a shortened schedule.

(iv) Normally no charges for standard services will be made after the flight, except for a final adjustment for escalation.

(i) *Late payment fees.* Customers who do not meet the payment schedule defined in § 1214.103(h) will be subject to a late payment fee established by NASA in the launch agreement.

§ 1214.104 Reimbursement for optional services.

(a) *Pricing basis.* To the extent practical, optional services will be provided on a fixed-price or fixed-rate basis. If this is not practical, the price will be on a governmental cost basis; i.e., the actual cost or in certain cases the estimated actual costs.

(b) *Escalation of payments.* All payments for optional services subject to escalation will be escalated in accordance with the provisions of § 1214.103(d).

(c) *Schedules of payments.* NASA will establish payment schedules for optional services and will incorporate those schedules in the launch agreement at the time a particular optional service is agreed to between the customer and NASA.

(D) *Late payment fees.* Customers who do not make payments by the due dates defined by NASA will be subject to a late payment fee established by NASA in the launch agreement.

§ 1214.105 Apportionment and/or assignment of services.

(a) Subject to NASA approval, a customer may apportion and/or assign Shuttle services to third parties within the payload. No apportionment and/or assignment of Shuttle services may take place outside the payload.

(b) Integration of apportioned/assigned payload elements within the payload is the responsibility of the customer. Any NASA assistance in such integration will be provided as an optional service.

(c) Customers intending to apportion and/or assign services will so designate at the time the launch agreement is signed.

§ 1214.106 Minor delays.

NASA will attempt to accommodate customer requested minor launch delays. Such delays will normally be requested just prior to launch. Except for potential optional service charges, delays up to 72 hours can normally be accommodated at no charge. This 72-hour period is shared by all customers on a particular flight. The basis of proration will be established in the launch agreement. Delays beyond 72 hours will require NASA's approval and will result in an additional charge as established in the launch agreement.

§ 1214.107 Postponement.

(a) Provisions of this paragraph apply to postponements requested or caused by the customer.

(b) A customer postponing the flight of a payload will pay a postponement fee to NASA. The fee will be computed as a percentage of the customer's Shuttle standard flight price and will be based on the table below.

Months before scheduled launch date when postponement occurs	Postponement fee, percent of standard flight price	
	Dedicated flights	Shared flights
More than 33	0	0
18 or more but less than or equal to 33		
—1st postponement	0	0
—2nd and subsequent	5	5
17 or more but less than 18	6	9
16 or more but less than 17	7	13
15 or more but less than 16	8	17
14 or more but less than 15	10	20
13 or more but less than 14	11	24
12 or more but less than 13	12	28
11 or more but less than 12	13	32
10 or more but less than 11	14	36
9 or more but less than 10	15	40
8 or more but less than 9	17	43
7 or more but less than 8	18	47
6 or more but less than 7	19	51
Less than 6	20	55

(c) If at any point, a customer postponement results in a launch date more than 12 months later than the original scheduled launch date, the standard flight price for the customer's payload may be adjusted by NASA to reflect any new standard flight price applicable at the time of the postponed launch, if such new price is higher than the originally contracted price.

(d) The payment schedule for postponed flights will be as defined in § 1214.103(h)(2).

(e) Customers postponing the flight of a payload may also be subject to new or additional charges for optional services.

§ 1214.108 Termination.

(a) Customers terminating the launch of a payload will pay a termination fee for standard services to NASA.

(1) The termination fee for dedicated flights will be computed as a percentage of the Shuttle standard flight price and will be based on the table below.

Months before scheduled launch date when termination occurs	Termination fee, percent of Shuttle standard flight price
18 or more	10
17 or more but less than 18	11
16 or more but less than 17	12
15 or more but less than 16	13
14 or more but less than 15	15
13 or more but less than 14	16
12 or more but less than 13	17
11 or more but less than 12	18
10 or more but less than 11	19
9 or more but less than 10	20
8 or more but less than 9	22
7 or more but less than 8	23
6 or more but less than 7	24
Less than 6	25

(2) The termination fee for shared flights will be the sum of all payments previously paid or due for the standard flight price, as defined in § 1214.103(h)(2), at the time of termination.

(b) NASA may establish, in the launch agreement, certain conditions under which the customer may terminate a payload launch with reduced termination fees if NASA delays the launch of the customer's payload for an extended period.

(c) Customers terminating the flight of a payload may also be subject to new or additional charges for optional services.

§ 1214.109 Scheduling.

(a) *Establishment of a launch date.* (1) NASA will assign a tentative launch date for a payload only after NASA's receipt, review and acceptance of a customer-submitted NASA Form 1628 requesting flight assignment and NASA's receipt of the customer's earnest money.

(2) NASA's confirmation of a particular launch date will be at the time a launch services agreement is signed, normally not later than 36 months prior to the desired launch date.

(b) *NASA changes to launch date.* NASA will attempt to maintain the customer's launch date as long as the customer's obligations, as established by NASA, are met. However, NASA may revise the launch date under those circumstances contained in the launch agreement. If practical, NASA launch date changes will be in consultation with the customer; however, NASA reserves the unilateral right to make decisions with regard to launch schedules.

(c) *Payload delivery.* NASA, in consultation with the customer, will establish a date for payload delivery to the launch site.

(d) *Reflight scheduling.* NASA will attempt to schedule a payload reflight at the earliest opportunity, but normally no earlier than 14 months after a determination is made that a customer is entitled to, and in fact requests a reflight.

§ 1214.110 Reflight.

(a) NASA will provide a reflight of a customer's payload under conditions defined in the launch agreement. The standard flight price for reflights will be based on NASA's marginal cost as defined in § 1214.102(f). Reflights only apply to dedicated flights and those shared-flight payloads that can be accommodated on a standard launch as defined in § 1214.117.

(b) Reflights as defined in this § 1214.110 apply only to the same payload involved in the launch that necessitated the reflight, or to an essentially identical payload with essentially identical integration and flight operations requirements.

§ 1214.111 Rendezvous services.

(a) A rendezvous mission involves the rendezvous of the Space Shuttle orbiter with an orbiting spacecraft for one or more of the following purposes:

(1) Retrieval and return to Earth of the orbiting spacecraft (or part thereof), including a spacecraft deployed earlier on the same Space Shuttle flight.

(2) Exchange of a spacecraft (or part thereof) delivered to orbit on a particular Space Shuttle mission for an already orbiting spacecraft (or part thereof) and return of already orbiting spacecraft to Earth.

(3) Revisit of an orbiting spacecraft for purposes such as resupply, repair, reboost or inspection.

(b) Mission operational requirements and associated optional service charges and conditions for both dedicated and shared flight rendezvous services will be negotiated on a case-by-case basis.

§ 1214.112 Patent, data and information matters.

(a) *Patent and data rights.* NASA will not acquire rights to inventions, patents or proprietary data which may be used in, or arise from, activities for which a customer has reimbursed NASA under the policies set forth herein. However, in certain instances in which the NASA Administrator has determined that activities may have a significant impact on the public health, safety or welfare, NASA may obtain assurances from the customer that the results will be made available to the public on terms and conditions reasonable under the circumstances.

(b) *Information.* All customers will be required to furnish NASA with sufficient information to ensure Shuttle safety and NASA's and the U.S. Government's continued compliance with law, published policy and the U.S. Government's obligations.

§ 1214.113 Allocation of risk.

The U.S. Government will assume no risk for damages to the customer resulting from certain activities conducted under the launch agreement or to third parties resulting from launch related activities or on-orbit operations. The customer will be required to agree to be bound by a cross-waiver of liability among the customer, other customers, related entities and NASA for all activities under the launch agreement. The customer will also be required to purchase third-party liability insurance covering launch and on-orbit operations in an amount deemed appropriate by NASA.

§ 1214.114 Provision of services.

NASA will provide, solely at its discretion, services to the extent consistent with U.S. obligations, law, policy and capability.

§ 1214.115 Standard services.

Standard services for the Space Shuttle are generically defined in NASA document NSTS 07700, Volume XIV. The standard services to be provided for a specific payload will be agreed to between NASA and the customer in the launch agreement and associated payload integration documentation. Typical standard services include the following for each customer.

(a) A standard launch that meets the criteria established in § 1214.117.

(b) Transportation of the customer's payload in the orbiter cargo bay in a location selected by NASA.

(c) One day of single-shift, on-orbit mission operations.

(d) A five-person flight crew: commander, pilot and three mission specialists.

(e) Orbiter flight planning services.

(f) One day of transmission of payload data to compatible receiving stations via an Independent Payload Data Stream. (Subject to availability, NASA may make excess orbiter instrumentation downlink capability available to payloads at no additional charge.)

(g) Deployment of a free flyer, provided the payload meets all the conditions stated in § 1214.118.

(h) NASA support of selected payload design reviews.

(i) Prelaunch payload installation, verification and orbiter compatibility testing.

(j) NASA payload safety reviews.

§ 1214.116 Typical optional services.

Typical optional services that may be provided by NASA include the following, and will be further defined and limited in payload integration documentation agreed upon by NASA and the customer.

(a) Use of Extended Duration Orbiter (EDO) capability or other mission kits to extend basic orbiter capability.

(b) Extravehicular activity (EVA) services.

(c) Transportation to orbit of all or a part of the customer's payload in other than the orbiter cargo bay.

(d) Unique payload/orbiter integration and test.

(e) Payload mission planning services, other than for launch, deployment and entry phases.

(f) Additional time on orbit.

(g) Payload data processing.

(h) Flight of payload specialists.

(i) Transmission of payload data via an Independent Payload Data Stream during additional time on orbit.

(j) Transmission of payload data via a Direct Data Stream.

§ 1214.117 Launch and orbit parameters for a standard launch.

To qualify for the standard flight price, all payloads must meet the following launch criteria:

(a) For dedicated flights:

(1) Launch from Kennedy Space Center (KSC) into the customer's choice of two standard mission orbits: 160 NM circular orbit, 28.5° inclination (nominal), or 160 NM circular orbit, 57° inclination (nominal).

(2) Launch on a date selected by NASA within the scheduling constraints specified in the launch agreement.

(3) Launch at a time, selected by NASA, from a launch window of not less than 1 hour (a more restrictive launch window may be provided as an optional service).

(b) For shared flights from KSC to the standard mission orbit of 160 NM circular orbit, 28.5° inclination (nominal):

(1) Launch on a date selected by NASA within the scheduling constraints specified in the launch agreement.

(2) Launch at any time of day, selected by NASA.

§ 1214.118 Special criteria for deployable payloads.

To qualify for the standard flight price, deployable payloads must meet certain criteria in terms of time of day of launch, and other factors. These criteria will be specified in the launch agreement and associated payload integration documentation.

§ 1214.119 Spacelab payloads.

(a) *Special provisions.* This § 1214.119 establishes the special provisions for Spacelab services provided to Space Shuttle customers. Where designated, provisions of this § 1214.119 supersede those of other portions of this document. The following five types of Spacelab flights are available to accommodate payload requirements:

(1) Dedicated-Shuttle Spacelab flight (Ref. § 1214.119(d)(3)).

(2) Dedicated-pallet flight (Ref. § 1214.119(d)(4)).

(3) Dedicated-FMDM/MPESS (flexible multiplexer-demultiplexer/multipurpose experiment support structure) flight (Ref. § 1214.119(d)(4)).

(4) Complete-pallet flight (Ref. § 1214.119(d)(5)).

(5) Shared-element flight (Ref. § 1214.119(d)(6)).

(b) *Definitions.*—(1) *Spacelab elements.* Pallets (3-meter segments), pressurized modules (long or short), and the FMDM/MPESS (1-meter cross-bay structure), all as maintained in the NASA-approved Spacelab configuration.

(2) *Spacelab standard flight price.* The price for standard services provided to Spacelab customers. If a customer elects not to use a portion of the standard services, the Spacelab standard flight price will not be affected. The Spacelab standard flight price is a pro rata share of:

(i) The dedicated flight price as defined in § 1214.102(c);

(ii) The standard price for use of the selected Spacelab elements; and

(iii) For complete-pallet and shared-element flights:

(A) The price for 6 extra days on orbit; and

(B) The price for 7 days of second-shift operation.

(c) *Mandatory use of dedicated-Shuttle Spacelab flight.* (1) The customer will be required to fly under the provisions of § 1214.119(d)(3), if the customer requires exclusive use of any of the following:

(i) Pressurized module (long or short).

(ii) Three pallets in the "1+1+1" configuration.

(iii) Four pallets in the "2+2" configuration.

(2) In the cases cited in paragraph (1)(i) of this section, if the customer requests, NASA will attempt to find compatible sharees to fly with the customer's payload. If NASA is successful, the customer's Shuttle standard flight price will be the greater of:

(i) The dedicated flight price less reimbursements from sharees actually flown; or

(ii) The computed Shuttle shared-flight price for the customer's Spacelab payload.

(d) *Reimbursement for standard services.* (1) Customers will reimburse NASA an amount equal to the Spacelab standard flight price computed according to the following provisions:

(2) *Earnest money.* For those customers required to pay earnest money in accordance with § 1214.103(h)(1), the total earnest money payment per payload for Spacelab payloads (including Shuttle services) will be either $150,000 or 10 percent of the customer's estimated Spacelab standard flight price, whichever is less.

(3) *Dedicated-Shuttle Spacelab flight.* (i) A dedicated-Shuttle Spacelab flight is a Shuttle flight flown for a single customer who is entitled to select the Spacelab elements used on the flight.

(ii) In addition to the standard services listed in § 1214.119(j), the following standard services are provided to customers of dedicated-Shuttle Spacelab flights and form the basis for the Spacelab standard flight price:

(A) Use of the full standard services of the Shuttle and the Spacelab elements selected.

(B) One day of one-shift on-orbit operations.

(C) Standard mission destinations consistent with launch criteria as defined in § 1214.117.

(D) The available payload operations time of two NASA-furnished mission specialists.

(iii) Customers contracting for a dedicated-Shuttle Spacelab flight will reimburse NASA for standard services an amount that is the sum of:

(A) The dedicated flight price as defined in § 1214.102(c); and

(B) The price for the use of all Spacelab elements used (including all necessary mission-independent Spacelab equipment).

(4) *Dedicated 3-meter pallets and dedicated FMDM/MPESS.* (i) A dedicated pallet (or a dedicated FMDM/MPESS) is one that is flown for a single customer and includes all Spacelab hardware necessary to permit it to be flown on any shared flight as an autonomous payload (e.g., a dedicated 3-meter pallet may either be supplied with its own exclusive igloo or be flown without an igloo, if it requires only standard Shuttle services).

(ii) In addition to a pro rata share of the standard services listed in § 1214.119(j), the following standard services are provided to customers of dedicated pallets (or dedicated FMDM/MPESS) and form the basis for establishing the Spacelab standard flight price:

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(A) A pro rata share of the standard services listed in § 1214.115, where the basis for proration is the customer's Shuttle load factor as defined in § 1214.119(l)(4)(i) for dedicated pallets and in § 1214.119(l)(5)(ii) for a dedicated FMDM/MPESS.

(B) The exclusive services of the pallet (or FMDM/MPESS) and all Spacelab hardware provided to support the pallet (or FMDM/MPESS).

(C) One day of one-shift on-orbit operations.

(D) Launch on a shared standard Shuttle flight as defined in § 1214.117.

(E) A pro rata share of the on-orbit payload operations time of two NASA-furnished mission specialists, where the basis of proration will be the customer's Shuttle load factor.

(iii) Customers contracting for a dedicated-pallet (or FMDM/MPESS) flight will reimburse NASA for standard services an amount that is the sum of:

(A) The product of the customer's Shuttle charge factor and the dedicated flight price as defined in § 1214.102(c); and

(B) The price for the use of the pallet (or FMDM/MPESS) selected (including all necessary mission-independent Spacelab equipment).

(5) *Complete pallet.* (i) A complete Spacelab pallet is one that is flown for a single customer, but flies with other Spacelab elements on a NASA or NASA-designated Spacelab flight and shares the common standard Spacelab services (e.g., shares an igloo with other pallets).

(ii) In addition to a pro rata share of the standard services listed in § 1214.119(j), the following standard services are provided to customers of complete pallets and form the basis for the Spacelab standard flight price:

(A) The pallet's pro rata share of standard services listed in § 1214.115, where the basis of proration will be the customer's Shuttle load factor as defined in § 1214.119(l)(6)(i).

(B) A pro rata share of 7 days of two-shift on-orbit operations, where the basis of proration will be the customer's Shuttle load factor.

(C) Mission destination selected by NASA in consultation with the customer.

(D) Assignment, with the customer's concurrence, to a Spacelab flight designated by NASA.

(E) Launch date established by NASA.

(F) A pro rata share of the on-orbit payload operations time of two NASA-furnished mission specialists and two payload specialists, where the basis of proration will be the customer's Shuttle load factor.

(G) Use of the entire volume above a pallet.

(iii) Customers contracting for complete-pallet flights will reimburse NASA for standard services an amount which is the sum of:

(A) The product of the customer's Shuttle charge factor and the sum of:

(*1*) The dedicated flight price as defined in § 1214.102(c).

(*2*) The charge for 6 extra days of one-shift on-orbit operations.

(*3*) The standard price for additional services required to support a second shift of on-orbit operations for 7 days.

(B) The price for the use of a complete pallet, including all necessary mission-independent Spacelab equipment.

(6) *Shared element.* (i) A shared element is a Spacelab pallet, FMDM/MPESS, or module that:

(A) May be shared by two or more customers on a NASA-designated Spacelab flight; and

(B) Shares common standard services with other Spacelab elements on the same flight.

(ii) In addition to a pro rata share of the standard services listed in § 1214.119(j), the following standard services are provided to customers of shared elements and form the basis for the Spacelab standard flight price:

(A) For shared pallets, a pro rata share of the standard services provided by a pallet. The basis of proration will be the customer's Spacelab load fraction as defined in § 1214.119(l)(7)(i)(A).

(B) For shared modules, a pro rata share of the standard services provided by a long module flown on a dedicated-Shuttle Spacelab flight. The basis of proration will be the customer's Spacelab load fraction as defined in § 1214.119(l)(7)(i)(B). The type of pressurized module actually used to meet a customer's requirement for a shared module will be determined by NASA subsequent to launch agreement negotiations.

(C) A pro rata share of the element's share of standard services listed in § 1214.115, where the basis for proration will be the customer's Spacelab load fraction.

(D) A pro rata share of 7 days of two-shift on-orbit operations, where the basis of proration will be the customer's Shuttle load factor as defined in § 1214.119(l)(7)(i).

(E) Mission destination selected by NASA in consultation with the customer.

(F) Assignment, with the customer's concurrence, to a Spacelab flight designated by NASA.

(G) Launch date established by NASA.

(H) A pro rata share of the on-orbit operations time of two NASA-furnished mission specialists, where the basis of proration will be the customer's Shuttle load factor.

(iii) Customers contracting for shared-element flights will reimburse NASA for Standard services an amount that is the sum of:

(A) The product of the customer's Shuttle charge factor and the sum of:

(*1*) The dedicated flight price as defined in § 1214.102(c);

(*2*) The charge for 6 extra days of one-shift on-orbit operations; and

(*3*) The standard price for additional services required to support a second shift of on-orbit operations for 7 days.

(B) The product of the customer's element charge factor and the price for the use of the Spacelab element being used, including all necessary mission-independent Spacelab equipment.

(e) *Minor delays.* The minor delay provisions of § 1214.106 will apply only to those Spacelab payloads whose Shuttle load factor is equal to or greater than 0.05.

(f) *Postponement and termination.* (1) A customer may postpone the flight of a Spacelab payload one time with no additional charge if postponement occurs more than 18 months before the scheduled launch date.

(2) Postponement or termination fees for Spacelab payloads will consist of the sum of:

(i) A fee for postponement or termination of the Shuttle launch.

(ii) A fee for use of the Spacelab elements.

(3) For Shuttle launch postponement and termination fee customers will be governed by the provisions of § 1214.107 or § 1214.108, as appropriate.

(4) The postponement and termination fees for use of the Spacelab elements are computed as a percentage of the customer's price for use of the Spacelab elements and will be based on the table below. When postponement or termination occurs less than 18 months before launch, the fees will be computed by linear interpolation using the points provided.

Months before scheduled launch date when postponement or termination occurs	Fee for use of Spacelab element(s); percent of price for use of element(s)	
	Postponement	Termination
Dedicated Flights, Dedicated Elements, and Dedicated FMDM/MPESS		
18 or more	5	10
12	14	20
3	60	85
0	75	100
Complete Pallets and Shared Elements		
18 or more	5	10
12	10	80
9	32	95
6 or less	95	100

(5) At the time of signing of the launch agreement, NASA will define a payload removal cutoff date (relative to the launch date) for each Spacelab payload to be flown on a shared flight. A customer may still postpone or terminate a flight after the payload's cutoff date; however, NASA will not be required to remove the payload before flight.

(6) Customers postponing or terminating the flight of a payload may also be subject to new or additional charges for optional services associated with Shuttle or Spacelab support provided by NASA.

(g) *Spacelab reflight.* (1) For Spacelab payloads, the provisions of § 1214.110 apply.

(h) *Premature termination of Spacelab flights.* If a dedicated Shuttle Spacelab flight, a dedicated-pallet flight or dedicated FMDM/MPESS flight is prematurely terminated, NASA will refund the optional services charges for planned, but unused, extra days on orbit. If a complete-pallet or shared-element flight is prematurely terminated, NASA will refund a pro rata share of the charges for planned, but unused, extra days on orbit to customers whose payload operations are, in NASA's judgment, adversely affected by such premature termination. The basis for proration will be the customer's Shuttle load factor.

(i) *Integration of payloads.* (1) The customer will bear the cost of the following typical Spacelab-payload mission management functions:

(i) Performing analytical design of the mission.

(ii) Generating mission requirements and their documentation in the Payload Integration Plan (PIP).

(iii) Providing mission-unique training and payload specialists (if appropriate).

(iv) Physically integrating experiments into racks and/or onto pallets.

(v) Providing payload-unique software for use during ground processing, on orbit or in POCC operations.

(vi) Providing operation support.

(vii) Ensuring the mission is safe.

(2) All physical integration (and de-integration) of payloads into racks and/or onto pallets will normally be performed at KSC by NASA. When the customer provides Spacelab elements, these physical integration activities may be done by the customer at a location chosen by the customer.

(3) Except for the restrictions noted in paragraph (i)(2) of this section, and the implementation of paragraph (i)(1)(vii), customers contracting for dedicated-Shuttle and dedicated-pallet flights may perform the Spacelab-payload mission management functions defined in paragraph (i)(1) of this section. NASA will assist customers in the performance of these functions, if requested. Charges for this service will be based on estimated actual costs, or actual costs where appropriate, and will be in addition to the price for standard services.

(4) For complete pallets or shared elements, NASA will normally perform the Spacelab-payload mission management functions listed in paragraph (i)(1) of this section. Charges for this service will be based on estimated actual costs, or actual costs where appropriate, and will be in addition to the price for standard services.

(5) Integration of payload entities mentioned in paragraphs (i)(2) through (i)(4) of this section with NASA-furnished Spacelab support systems and with the Shuttle will be performed by NASA as a standard service for all payloads flown on customer-furnished Spacelab elements. Customers will be available to participate as required by NASA in these levels of integration. Customer equipment will be operated only to the extent necessary for interface verification. Customers requiring additional payload operation after delivery of the payload to NASA will negotiate such operation as an optional service.

(j) *Common standard services for Spacelab payloads.* The following standard services are common to all Spacelab flights:

(1) Use of Shuttle [1] and Spacelab hardware.

(2) Spacelab interface analysis.

(3) A five-person NASA flight crew consisting of commander, pilot and three mission specialists.

(4) Accommodations for a five-person flight crew.

(5) Prelaunch integration and interface verification of preassembled racks and pallets (Levels III, II and I for NASA-furnished Spacelab hardware; Level I only for customer-furnished Spacelab hardware).

(6) Shuttle [1] and Spacelab flight planning.

(7) Payload electrical power.

(8) Payload environmental control.

(9) On-board data acquisition and processing services.

(10) One day of transmission of payload data to compatible receiving stations via an Independent Payload Data Stream. (Subject to availability NASA may make excess orbiter instrumentation downlink capability available to payloads at no additional charge.) [1]

(11) Use of NASA-furnished standard payload monitoring and control facilities.

(12) Voice communications between on-orbit flight personnel operating the customer's payload and a NASA-designated payload monitoring and control facility.

(13) NASA payload safety review. [1]

(14) NASA support of payload design reviews. [1]

(k) *Typical optional services for Spacelab payloads.* The following are typical optional Spacelab services.

(1) Use of special payload support equipment, e.g., instrument pointing system.

(2) Nonstandard mission destination.

(3) Additional time on orbit.

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[1] Typical standard Shuttle services repeated for clarity.

(4) Mission-independent training, use of, and accommodations for all flight personnel in excess of five.

(5) Mission-dependent training of all NASA-furnished personnel and backups.

(6) Analytical and/or hands-on integration (and de-integration) of the customer's payload into racks and/or onto pallets.

(7) Unique integration or testing requirements.

(8) Additional resources beyond the customer's pro rata share.

(9) Additional experiment time or crew time beyond the customer's pro rata share.

(10) Special access to and/or operation of payloads.

(11) Customer-unique requirements for: software development for the Command and Data Management Subsystem (CDMS) onboard computer, configuration of the Payload Operations Control Center (POCC) and/or CDMS used during KSC ground processing.

(12) Extravehicular Activity (EVA) services.

(13) Payload flight planning services.

(14) Transmission of Spacelab data contained in the Shuttle OI telemetry link to a location other than a NASA-designated monitoring and control facility.

(15) Transmission of payload data via an Independent Payload Data Stream during additional time on orbit.

(16) Transmission of payload data via a Direct Data Stream.

(17) Level III/II integration of customer-furnished Spacelab hardware.

(l) *Computation of sharing and pricing parameters*—(1) *General.*

(i) Computational procedures as contained in the following subparagraphs will be applied as indicated. The procedure for computing Shuttle load factor, charge factor and flight price for Spacelab payloads replaces the procedure contained in § 1214.103.

(ii) Shuttle charge factors as derived herein apply to payloads meeting the launch and orbit criteria established in § 1214.117. Customers will reimburse NASA an optional services fee for flights to nonstandard destinations.

(iii) The customer's total Shuttle charge factor will be the sum of the Shuttle charge factors for the customer's individual (dedicated, complete or shared) elements, with the limitation that the customer's Shuttle charge factor will not exceed 1.0.

(iv) Customers contracting for pallet-only payloads are entitled to locate minimal controls as agreed to by NASA in a pressurized area to be designated by NASA. There is no additional charge for this service.

(v) NASA will, at its discretion, adjust, up or down, the load factors and load fractions calculated according to the procedures defined in this section. Adjustments will be made for special space or weight requirements, which include, but not limited to:

(A) Sight clearances, orientation or placement limits.

(B) Clearances for movable payloads.

(C) Unusual access clearance requirements.

(D) Clearances extending beyond the bounds of the normal element envelope.

(E) Extraordinary shapes.

The adjusted values will be used as the basis for computing charge factors and prorating services.

(2) *Definitions used in computations.* (i) L_c = Chargeable payload length, m. The total length in the cargo bay occupied by the customer's experiment and the Spacelab element(s) used to carry it.

(ii) W_c = The weight, kg, of the customer's payload and the customer's pro rata share of the weight of NASA mission-peculiar equipment carried to meet the customer's needs.

(3) *Dedicated-Shuttle Spacelab flight (1-day mission).* The total reimbursement is as defined in § 1214.119(d)(3)(iii).

(4) *Dedicated-pallet flight (1-day mission).* (i) The Shuttle load factors, charge factors and nominal payload capacities for dedicated-pallet flights are shown in the table below. Subject to other Shuttle Spacelab structural limits, customers are entitled to use the payload weight capability of the pallets as indicated in the table. Payload weights in excess of those shown are subject to NASA approval and may entail optional services charges.

No. of Pallets	Load Factor		Charge Factor		Nominal Payload Capacity, kg	
	With Igloo	FMDM Configuration	With Igloo	FMDM Configuration	With Igloo	FMDM Configuration
1	0.228	0.189	0.305	0.252	2,325	2,950
2	0.392	NA	0.523	NA	4,470	NA
3-pallet train*	0.556	NA	0.742	NA	4,435	NA
2+1 config.	0.594	NA	0.792	NA	7,750	NA

*Three pallets requiring the "1+1+1" configuration will be flown on a dedicated-flight basis [See § 1214.119(c)(1)].

(ii) *Total reimbursement.* The customer's total reimbursement is as defined in § 1214.119(d)(4)(iii).

(5) *Dedicated FMDM/MPESS flight (1-day mission)*—(i) *Shuttle charge factor.* The Shuttle charge factor for dedicated FMDM/MPESS flights is defined as:

$$\frac{\text{Shuttle Load Factor}}{0.75}$$

(ii) *Shuttle load factor.* (A) The Shuttle load factor is defined as the maximum of:

$$\frac{L_c}{18.29\ \text{m}}$$

or

$$\frac{W_c + 767}{21{,}542\ \text{kg}}$$

(B) The minimum value of L_c is based on the element length, plus clearances, and is 1.18 m.

(iii) *Total reimbursement.* The customer's total reimbursement is as defined in § 1214.119(d)(4)(iii).

(6) *Complete pallets (7-day mission).* (i) The Shuttle load factor and charge factor for a complete pallet are 0.198 and 0.228, respectively, and its payload weight capability is 2,583 kg. Subject to other Shuttle or Spacelab structural limits,

customers are entitled to use this payload weight capability. Payload weight in excess of 2,583 kg is subject to NASA approval and may entail optional service charges.

(ii) *Total reimbursement.* The customer's total reimbursement is as defined in § 1214.119(d)(5)(iii);

(7) *Shared elements (7-day mission).*

(i) *Spacelab load fractions and Shuttle load factors.*

(A) *Pallet.* Spacelab load fraction is the greater of:

$$\frac{W_c}{2{,}583\ \text{kg}}$$

or

$$\frac{\text{Payload volume, m}^3}{15\ \text{m}^3}$$

Shuttle load factor is the greater of:

$$\frac{W_c}{13{,}045\ \text{kg}}$$

or

$$\frac{\text{Payload volume, m}^3}{76\ \text{m}^3}$$

(B) *Pressurized module:* Spacelab load fraction and Shuttle load factor are identical and are the greater of:

$$\frac{W_c}{4{,}319\ \text{kg}}$$

or

$$\frac{2 \times (\text{Experiment volume}) + \text{Storage volume, m}^3}{40\ \text{m}^3}$$

(ii) *Shuttle charge factors and element charge factors for pressurized modules.* Shuttle charge factors and element charge factors are identical and are defined as follows:

If the Spacelab load fraction (and Shuttle load factor) is:	The element charge factor and Shuttle charge factor will be:
Less than 0.00435	0.005
0.00435 to 0.87	Spacelab load fraction divided by 0.87
Greater than 0.87	1.0

(iii) *Element charge factors for shared pallets.*

If the Spacelab load fraction is:	The element charge factor will be:
Less than 0.0189	0.0218
0.0189 to 0.87	Spacelab load fraction divided by 0.87
Greater than 0.87	1.0

(iv) *Shuttle charge factors for shared pallets.*

If the Shuttle load factor is:	The Shuttle charge factor will be:
Less than 0.00375	0.005
0.00375 to 0.75	Shuttle load factor divided by 0.75
Greater than 0.75	1.0

(v) *Total reimbursement.*

(A) The customer's total reimbursement is as defined in § 1214.119(d)(6)(iii).

(B) If a customer contracts for portions of more than one element, the charges for the use of the elements will apply individually to each element used.

(vi) *Pressurized module experiment volume.* Experiment volume in the pressurized module is defined to be the sum of the customer's payload volume in racks and in the center aisle.

(A) Rack volume is defined relative to basic Air Transportation Rack (ATR) configurations. The customer's rack volume will be defined as the volume of one or more rectangular parallelepipeds (rectangular-sided boxes) which totally enclose the cuss payload. Width dimensions will be either 45.1 or 94.0 centimeters. Height dimensions will be integral multiples of 4.45 centimeters. Depth dimensions will be 61.2 or 40.2 centimeters.

(B) Center aisle space volume is defined as the volume of a rectangular parallelepiped which totally encloses the customer's payload. No edge of the parallelepiped will be less than 30 centimeters in length.

(vii) *Pressurized module storage volume.* Storage volume in the pressurized module is defined as the volume of one or more rectangular parallelepipeds enclosing the customer's stowed payload. No edge of the parallelepiped(s) will be less than 30 centimeters in length.

(viii) *Pallet payload volume.* Volume of the customer's pallet-mounted payload is defined as the volume of a rectangular parallelepiped enclosing the pallet payload and customer-dictated mounting hardware. No edge of the parallelepiped will be less than 30 centimeters in length.

Dated: December 31, 1991.

Richard H. Truly,

Administrator.

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BILLING CODE 7510-01-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 768, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 785, 786, 790, 791, and 799

[Docket No. 911210-1310]

Revisions to the Export Administration Regulations

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Export Administration is amending the Export Administration Regulations (EAR) (15 CFR parts 730-799) to conform with the numbering system and nomenclature used in the new Commerce Control List (Supplement No. 1 to § 799.1 of the EAR) that was published on August 29, 1991 (56 FR 42824). This rule also eliminates General License G-COCOM, which was of marginal utility.

This rule also revises the EAR, particularly special country and commodity based controls, to reflect changes made in the new Commerce Control List (CCL). Certain foreign policy provisions of the EAR have been rewritten to reflect the reformulation of controls on Iran and Syria detailed in the new CCL and reported to the Congress on August 28, 1991. Countries currently designated by the Secretary of State as supporting international terrorism are identified, with Iraq added and Yemen deleted. Controls on South Africa are revised to reflect decisions based on the President's directives in Executive Order 12769 of July 10, 1991.

Additional changes specific to controlled items include a definition of "supercomputers" and a change in agency jurisdiction over exports of certain civil aircraft inertial navigation equipment. Finally, the rule contains corrections to the new CCL.

DATES: This rule is effective January 1, 1992.

FOR FURTHER INFORMATION CONTACT: For questions of a general nature, contact: Charles Guernieri, Exporter Counselling Division, Bureau of Export Administration, telephone: (202) 377-4811.

For questions of a policy nature, contact: David Schlechty, Office of Technology and Policy Analysis, Bureau of Export Administration, telephone: (202) 377-4252.

For questions regarding the continued use of the Special License procedures, contact: Marc Kron, Special Licensing Division, telephone: (202) 377-3287.

SUPPLEMENTARY INFORMATION:

Background

On August 29, 1991, the Bureau of Export Administration (BXA) published the Commerce Control List (CCL), an entirely new list of dual use items subject to export control that is based on a totally new Industrial List developed by the Coordinating Committee on Multilateral Export Controls (COCOM). Because the CCL uses a completely new numbering system and often employs new nomenclature, many CCL references in other parts of the Export Administration Regulations (EAR) needed to be revised to conform with the new CCL. This rule revises references to various CCL entries throughout the EAR to conform with the numbering of entries in the new CCL. References to "Commodity Control List" and "Export Control Commodity Number" are changed to read "Commerce Control List" and "Export Control Classification Number", respectively. The new CCL has also required some changes in the descriptions of the Special Licensing requirements, as well as certain revisions to Supplements No. 1 and 4 to Part 773. In particular, Supplement No. 1, listing commodities excluded from special licenses, has been reformatted from an entry-specific listing to a listing of categories of goods that are not eligible for Special Licenses. Supplement No. 1 contains new computer eligibility levels for various countries based on the Composite Theoretical Performance (CTP) of the computers. CTP represents a new method of measuring computer performance, and has replaced the Processing Data Rate (PDR) method.

The new CCL includes technology and software. This has required conforming changes in part 779 that are more extensive than those made elsewhere in the EAR. Changes in part 779 include the elimination of special lists of technical data subject to control, and a revision of the Operation and Sales Data provisions to conform to the new COCOM General Technology and General Software notes (Supplement No. 2 to § 799.1).

In addition, BXA is removing General License G-COCOM, which had allowed exports to certain countries of goods identified in the CCL Advisory Notes for the People's Republic of China (China Notes). With expansion of the range of goods that can be shipped under G-DEST, GFW, and GCT, along with a reduction in the applicable China Notes, the utility of General License G-COCOM has been diminished considerably. Removing this general license will simplify the regulations without substantially restricting the options of exporters. Also, in the general license area, General License GLV has been amended to clarify that the People's Republic of China is not an eligible country. Previously, the exclusion of China was noted in each CCL entry.

The new CCL includes revised entries for controls on exports to Iran and Syria. Controls directed toward these countries had relied extensively on reference to COCOM controlled items. With the recent changes in COCOM controls, a number of items that had been controlled by reference no longer appear as COCOM controlled items. Absent specific regulatory action, implementation of the new COCOM Industrial List would have reduced substantially the list of items controlled to Iran and Syria for foreign policy reasons. New control entries for these two countries were included in the new CCL. This rule revises § 785.4(d) to reflect this reformulation of the controls applicable to each country. While there is substantial overlap between items previously controlled and items currently controlled to Iran and Syria, in a few instances controls have been expanded or imposed. Preexisting contracts involving items added to controls by this rule will be considered on a case-by-case basis in the licensing process.

On September 13, 1990, the Secretary of State published a list of countries designated as supporting international terrorism (55 FR 37793). That list included North Korea, Cuba, Libya, Iran, Iraq, and Syria. This rule adds a definition of "countries supporting international terrorism" to § 770.2, deletes references to the People's Democratic Republic of Yemen in § 785.4(d) and elsewhere, and adds a new § 785.4(e) on Iraq.

On July 10, 1991, President Bush issued Executive Order 12769 (56 FR 31855, July 12, 1991) concerning sanctions imposed under the Comprehensive Anti-Apartheid Act (CAAA). The President concluded that the Government of South Africa had taken all of the steps specified in section 311(a) of the CAAA, thereby permitting termination of the sanctions specified in title III of the CAAA (Pub. L. 99-440 of October 2, 1986, 22 U.S.C. 5001 *et seq.*). Consistent with the President's conclusions, BXA is amending the EAR as follows:

1. Controls on export of computers and software, and on goods and data for manufacturing or servicing computers, to entities identified as enforcing apartheid are removed. Therefore, validated license requirements for exports to government consignees, other than military and police, are now the same as for shipments to non-government parties. The general embargo on all exports to the military and police remains in effect.
2. The special written assurances for technical data and certifications for commodities are no longer required for computer exports to government entities. Assurances and certifications required for national security and other reasons, and assurances and certifications involving the police and military, remain in effect.
3. Controls on export of crude oil and petroleum products by any person subject to the jurisdiction of the United States are removed. In addition, General Licenses GLV and G-NNR are once more available for export of petroleum products to South Africa. Exports of crude oil remain restricted under short supply provisions of the EAR.
4. There is no longer a policy of mandatory denial for exports to South African nuclear production and utilization facilities.
5. Validated license requirements for certain exports of aircraft to South Africa are removed, except as they apply to the military and police.

Applicable entries in the CCL were revised to reflect these changes on September 1, 1991. Controls remain in effect for items controlled under the United Nations arms embargo (U.N. Security Council Resolution No. 1418 of December 13, 1977), as described in Supplement No. 2 to Part 779. This rule reinstates a CCL entry (2B85) for certain ammunition production equipment, reflected until 1989 under 5399G.

This rule provides a definition of "supercomputers". This definition was the subject of two previous proposed rules (53 FR 48932, 55 FR 3017). This definition takes into account the public comments received on those proposed rules, subsequent developments in supercomputer technology, and the results of negotiations with Japan. For export control purposes, a supercomputer is any computer with a Composite Theoretical Performance (CTP) equal to or greater than 195 MTOPS (million theoretical operations per second). A separate rule will describe special safeguards that will apply to supercomputer exports depending upon the CTP of the computer and the country of destination.

The new CCL reflected the transfer of licensing jurisdiction over certain standard civil aircraft inertial navigation equipment and components to BXA from the Office of Defense Trade Controls (DTC), U.S. Department of State. BXA now has licensing jurisdiction over inertial navigation systems and specially designed components that are standard equipment in civil aircraft and are certified by the Federal Aviation Administration (FAA) as being an integral part of such aircraft, regardless of the country of destination. BXA also controls technical data for repair of equipment under its jurisdiction. To conform the EAR to this transfer, this rule amends Supplement No. 2 to part 770 to reflect changes made in the U.S. Munitions List and Interpretation 21 in Supplement No. 1 to § 799.2 (Interpretations).

This rule also makes a number of corrections to the new CCL, as follows:

(1) The Requirements section of entry 1C60 is revised to restore a note on availability of sample quantities that was inadvertently omitted from the new CCL;

(2) The heading of entry 3A93 and entry 9A91 are revised to more accurately reflect controls on Iran and Syria; and

(3) Entry 1C60 is corrected and new technology and software entries 1D60, 1E60, 1E61, and 1E70 are added to conform with the rule published on August 15, 1991 (56 FR 40494).

Following publication of the new CCL on August 29, 1991 (56 FR 42824), exporters questioned how the grace period applied to Shipper's Export Declarations (SEDs) and to previously issued licenses. Export licenses issued with old ECCNs continue to be valid until fully utilized or expired. The SED should show the ECCN used on the export license, unless the exporter uses an automated system that is tied to the new CCL so that use of old numbers would be impractical. For GLV shipments, the SED must show the new number.

The President has directed that all items contained on the COCOM dual use list be removed from the U.S. Munitions List (USML) unless significant national security interests would be jeopardized. This rule change does not incorporate the amendments that would carry out this directive.

Rulemaking Requirements

1. This rule is consistent with Executive Orders 12291 and 12661.

2. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control numbers 0694-0002, 0694-0005, 0694-0006, 0694-0007, 0694-0013, 0694-0015, 0694-0023, 0694-0047, and 0694-0048. This rule also eliminates collections of information previously approved by OMB under control numbers 0694-0024, 0694-0028, and 0694-0049. Overall, this rule will decrease burden hours for the public.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553), or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)), no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. The provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a foreign and military affairs function of the United States. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

List of Subjects

15 CFR Part 768

Imports, Penalties, Reporting and recordkeeping requirements.

15 CFR Part 770

Administrative practice and procedure, Exports.

15 CFR Parts 771, 772, 773, 774, 775, 776, 786, and 799

Exports, Reporting and recordkeeping requirements.

15 CFR Part 777

Administrative practice and procedure, Exports, Forests and forest products, Petroleum, Reporting and recordkeeping requirements.

15 CFR Part 778

Exports, Nuclear energy, Reporting and recordkeeping requirements.

15 CFR Part 779

Computer technology, Exports, Reporting and recordkeeping requirements, Science and technology.

15 CFR Part 785

Communist countries, Exports.

15 CFR Part 790

Administrative practice and procedure, Advisory committees, Exports.

15 CFR Part 791

Exports, Foreign Availability, Science and technology, Technical advisory committees.

Accordingly, parts 768, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 785, 786, 790, 791, and 799 of the Export Administration Regulations (15 CFR parts 730-799) are amended as follows:

1. The authority citations for parts 768, 773, 775, 778, 779, 785, and 791 are revised to read as follows:

Authority: Pub. L. 90-351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; Pub. L. 95-223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95-242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended; E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978; E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990), as continued by Notice of September 26, 1991 (56 FR 49385, September 27, 1991); and E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990), as continued by Notice of November 14, 1991 (56 FR 58171, November 15, 1991).

2. The authority citations for parts 770, 771, 772, 774, 786, 790, and 799 are revised to read as follows:

Authority: Pub. L. 90-351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; sec. 101, Pub. L. 93-153, 87 Stat. 576 (30 U.S.C. 185), as amended; sec. 103, Pub. L. 94-163, 89 Stat. 877 (42 U.S.C. 6212), as amended; secs. 201 and 201(11)(e), Pub. L. 94-258, 90 Stat. 309 (10 U.S.C. 7420 and 7430(e)), as amended; Pub. L. 95-223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95-242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); sec. 208, Pub. L. 95-372, 92 Stat. 668 (43 U.S.C. 1354); Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended; sec. 125, Pub. L. 99-64, 99 Stat. 156 (46 U.S.C. 466c); E.O. 11912 of April 13, 1976 (41 FR 15825, April 15, 1976); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 6, 1978; E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990), as continued by Notice of September

26, 1991 (56 FR 49385, September 27, 1991); and E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990), as continued by Notice of November 14, 1991 (56 FR 58171, November 15, 1991).

3. The authority citation for part 776 is revised to read as follows:

Authority: Pub. L. 90–351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; Pub. L. 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95–242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended; sec. 125, Pub. L. 99–64, 99 Stat. 156 (46 U.S.C. 466c); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978; E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990), as continued by Notice of September 26, 1991 (56 FR 49385, September 27, 1991); and E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990), as continued by Notice of November 14, 1991 (56 FR 58171, November 15, 1991).

4. The authority citation for part 777 is revised to read as follows:

Authority: Pub. L. 90–351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; sec. 101, Pub. L. 93–153, 87 Stat. 576 (30 U.S.C. 185), as amended; sec. 103, Pub. L. 94–163, 89 Stat. 877 (42 U.S.C. 6212), as amended; secs. 201 and 201(11)(e), Pub. L. 94–258, 90 Stat. 309 (10 U.S.C. 7420 and 7430(e)), as amended; Pub. L. 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95–242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); sec. 208, Pub. L. 95–372, 92 Stat. 668 (43 U.S.C. 1354); Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended; E.O 11912 of April 13, 1976 (41 FR 15825, April 15, 1976); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978; E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990), as continued by Notice of September 26, 1991 (56 FR 49385, September 27, 1991); and E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990), as continued by Notice of November 14, 1991 (56 FR 58171, November 15, 1991).

5. The phrase "Commodity Control List" is revised to read "Commerce Control List" in the following places:

Sec.
768.1(a)(2)(i)
768.2(a)(1)
768.2(a)(9)(i), footnote no. 1
770.1(b)(1)
770.2 in the definition of "Commodity Control List" heading
770.6(a)(2)(i)
770.7(c)(2)
770.9
770.10(f)(2)
771.2(b)(2)(ii)
771.3(a)
771.3(b) heading and text (three references)
771.4(a)(3)
771.5(a) (four references)
771.5(b)(2)
771.5(c)(1)(i)
771.5(c)(3) (four references; three in text and one in the example)
771.6(a)
771.15(c)(3)
771.16(a)
771.18(b)(1)(i)
771.22(c)(1)(ii)
771.23(c)
772.4(e) (two references)
772.11(f)(9)
773.2(b)(6)
773.2(c)(2)(iv)(B)
773.2(f)(1)
773.3(i)(2)(i)
773.5(c)
773.7(d)(1)(iv)(B)(*4*)
773.7(g)(4) in the Note following the paragraph
773.7(i)(4)
773.7(k) introductory text
773.7(k)(1)
Supplement No. 5 to Part 773, paragraph (g) introductory text
774.2(j)
775.2(b)(2)
775.2(b)(2) in the Note following the paragraph
775.2(e)(2) (two references)
775.3(a)(1)
775.3(d)(1)
775.3(h)(2)
775.3(i)(1)(i)
775.6(a)
775.6(c)(1)
775.7(a)(1) introductory text
775.7(b)(1)
775.8(a)
775.8(b)(1)
775.10(b)(1)(i)
775.10(b)(3) (two references)
776.8(a)(2)
776.8(a) concluding text
776.11(a)(2)
776.16(a)
777.6(e)(4)
778.2(a) (two references)
778.8(a)(2)
785.6(b)
786.3(i)(2)(i)
786.7 introductory text
786.7(e)(1) introductory text
786.7(e)(2) introductory text
791.1(d) in the definition of "Comparable Quality"
Supplement No. 1 to 799.2, Interpretation 10
Supplement No. 1 to 799.2, Interpretation 20, paragraph (b) introductory text

6. The phrase "Export Control Commodity Number" is revised to read "Export Control Classification Number" in the following places:

Sec.
768.1(a)(2)(i)
768.2(a)(9)(i) in footnote no. 1
770.1(b)(4)
770.2 in the definition of "Export Control Commodity Numbers" text
770.6(a)(2)(i)
770.7(c)(2)
770.9
771.4(a)(3)
771.5(e)
771.6(a)
771.15(c)(3)
771.16(a)
771.18(b)(1)(i)
771.22(c)(1)(ii) introductory text
772.11(f)(9)
Supplement No. 1 to Part 772, Item 9(a)
Supplement No. 1 to Part 772, Item 9(c)
773.3(i)(2)(i)
773.7(d)(1)(iv)(B)(*4*)
773.7(d)(1)(iv)(B)(*6*)
773.7(d)(1)(iv)(B)(*8*)
773.7(i)(4)
773.7(k) introductory text (two references)
773.7(k) concluding text
Supplement No. 5 to Part 773, paragraph (g)(1)
Supplement No. 5 to Part 773, paragraph (g)(5)
Supplement No. 1 to Part 774, item (9)(a)
Supplement No. 1 to Part 774, item (9)(c)
775.1(b), in the Table under the column titled "If the Commodity is"
775.3(a)(1)
775.3(f)(3)
775.3(i)(1)(i)
775.10(b)(1)(ii)
775.10(b)(2)(i)
776.12(e)(2)(vi)
777.6(e)(4)
786.3(j)(1)
786.3(j)(2)
Supplement No. 1 to 799.2, Interpretation 10 (two references)

7. The phrase "Export Control Commodity Numbers" is revised to read "Export Control Classification Numbers" in the following places:

Sec.
770.2 in the definition of "Export Control Commodity Numbers" heading
773.2(b)(6)
773.3(b)(1)(iv)
773.7(b)(5)
Supplement No. 5 to Part 773, paragraph (g)
775.9(c)
776.9(b)(4)(ii)
790.1(b)(1)(i)
790.6

7a. In § 776.12(e)(2)(v), the phrase "Export Control Commodity Number(s)" is revised to read "Export Control Classification Number(s)".

8. In the list below, for each section indicated in the left column, remove the phrase or reference in the middle column from wherever it appears in the section, and add the phrase or reference indicated in the right column.

Sec.	Remove	Add
770.10		
(f) (2) and (3)	Entry No. 1416	ECCN 8A01.
(f)(3)	Entry No. 6499	ECCN 8A94.
771.2(c) introductory text	ECCN 7599I and 7999I	ECCN 0A98.
772.8(d)(2), Block 9(c)	Export control commodity number 6999G and processing code, MG.	Export Control Classification Number 0A96.
772.9		
(c)(1)	1648A must be reported in "lbs."	1A01 must be reported in "kilograms."
(c)(2)	Entry 1527A	ECCN 5A11.
773.5(c)	(ECCN 4517B)	(ECCN 5A80).
Supp. No. 1 to Part 773, item 11	ECCN is 1564	ECCN is 3A01.a.
Supp. No. 5 to Part 773, paragraph (g) introductory text	(E.g., 1565A computers; 1355A manufacturing machinery)	(E.g., 4A03 digital computers; 3B01 manufacturing equipment).
774.2(k)(1)(ii)	ECCN 4517B	ECCN 5A80.
776.16(a)	Under CCL listings 2018A, 1118A, 2406A, and 2603A	Under ECCNs 0A18.c, 1B18.a, 2B18, and 9A18.b.
778.7		
(c)(1) introductory text	Identified in ECCN 7599I or 7999I	Identified in ECCN 0A98.
(d)(3)(i)	ECCN 4118B	ECCN 1B28.a.
778.8		
(a)(1) introductory text	ECCN 4798B	ECCN 1C60.
(a)(1)(i)	4798B	1C60.
(a)(1)(ii) (2 references)	4798B	1C60.
(a)(2)	Identified in ECCNs 5129F, 5132F, 5133F, 5134F, 5135F, 5140F, 5141F, and 5797F.	Identified in ECCNs 1B70 and 1C64.
(a)(4)	ECCNs 5165F, 5167F, 5170F, and 5997F	ECCNs 1B71 and 1C65.
(a)(5)(iv)(A) introductory text	ECCN 4798B	ECCN 1C60.
(a)(5)(v)	ECCN 4798B	ECCN 1C60.
(c)(1)	ECCN 7599I or 7999I	ECCN 0A98.
(d)(3)(iii)	ECCNs 4997B and 4998B	ECCN 1C61.
(d)(3)(viii)	ECCN 4798B	ECCN 1C60.
(d)(3)(xi)	ECCN 4798B	ECCN 1C60.
(d)(4) [2 references]	ECCN 4798B	ECCN 1C60.
778.9(c)	ECCN 4798B	ECCN 1C60.
785.1(a)	ECCNs 7599 and 7999	ECCN 0A98.
785.7(c)	CCL entry 6490F	ECCN 9A91.
786.7		
(a)	See ECCN 1510A	See ECCN 6A01.
(b)	ECCN 1505A	ECCNs 6A03 and 6A43.
(c)(1) introductory text	ECCNs 1702A or 1754A	ECCN 1C09.
(e)(1) introductory text	Entry 1746A	ECCN 1C08.
(e)(2) introductory text	Entry 1485A	ECCN 7A01.
	1485A	ECCN 7A01.
(e)(3) introductory text	Entry 1110A	ECCN 2B01.

9. The phrase "code letter 'A', 'B', or 'M' " is revised to read "code letter 'A' or 'B' " in the following places:

Sec.
770.7(c)(2)
770.9
771.22(c)(1)(ii)

9a. In § 771.18(b)(1)(i) the phrase "code letter 'A', 'B', 'C', or 'M' " is revised to read "code letter 'A' or 'B' ".

10. The phrase "P.O. Box 7138, Washington, DC 20044" is revised to read "Room 2631, Washington, DC 20230" in the following places:

Sec.
771.2(i)
771.22(b)(8)(ii)
772.1(f)
772.7(b)
773.1(e)
786.3(o)
786.9(d)
787.14(a)(1)
787.14(a)(2)

PART 769—[AMENDED]

§ 769.6 [Amended]

11. Section 769.6, paragraph (b)(4) is amended by revising the phrase "Room 3899" to read "Room 6099C".

PART 770—[AMENDED]

12. Section 770.2 is amended by adding a definition for the term *"Countries supporting international terrorism"* immediately following the definition for *"Controlled country"*, and by adding a definition for the term *"Supercomputers"* immediately following the definition for *"Southwest Asia"* to read as follows:

§ 770.2 Definition of terms.

* * * * *

Controlled country. * * *

Countries supporting international terrorism. In accordance with section 6(j) of the Export Administration Act of 1979, as amended (EAA), the Secretary of State has determined that the following countries have repeatedly provided support for acts of international terrorism: Cuba, Iran, Iraq, Libya, North Korea, and Syria.

* * * * *

Southwest Asia. * * *

Supercomputers. The definition of "supercomputers" for export control purposes is any computer with a Composite Theoretical Performance (CTP) equal to or exceeding 195 MTOPS (million theoretical operations per second). For calculation of CTP see the TECHNICAL NOTE in Category 4 of Supplement No. 1 to § 799.1 of this subchapter.

* * * * *

13. Section 770.3 is amended by revising paragraph (a)(1) to read as follows:

§ 770.3 Prohibited exports.

(a) * * *

(1) Any export to Canada, for consumption in Canada,[4] unless the Export Control Classification Number indicates that an Individual Validated License is required.

* * * * *

14. Section 770.14, paragraph (a)(4) is revised to read as follows:

§ 770.14 Processing license applications for COCOM participating countries and other selected countries.

(a) * * *

(4) "COCOM controlled item" means any item on the Commerce Control List having the last two digits 01 to 19 and identified by the code letter "A" following the four-digit Export Control Classification Number.

* * * * *

15. Supplement No. 2 to Part 770 (U.S. Munitions List) is amended:

a. By revising the phrase "Office of Munitions Control" to read "Office of Defense Trade Controls" in the following places:

1. In the introductory text;
2. In footnote no. 3 to Category I (Firearms), paragraph (a); and
3. In Category XXI (Miscellaneous Articles); and

b. By revising paragraphs (g) and (j) of Category VIII (Aircraft, Spacecraft, and Associated Equipment) to read as follows:

Supplement No. 2—U.S. Munitions List

* * * * *

Category VIII—Aircraft, Spacecraft, and Associated Equipment

* * * * *

(g) Inertial navigation systems and all specially designed components, parts and accessories, except those systems or components that are standard equipment in civil aircraft, including spare parts and spare units to be used exclusively for the maintenance of inertial navigation equipment incorporated in civil aircraft, and that are certified by the Federal Aviation Administration (FAA) as being an integral part of such aircraft. All exports of technical data related to the design, development, production, or manufacture of inertial navigation equipment (regardless of accuracies) or its related parts, components, or subsystems are subject to the requirements of the regulations contained in this subchapter. The export of technical data related to the repair of parts, components, or subsystems of inertial navigation systems (including accelerometers and gyroscopes) that are not certified by the FAA as being an integral part of civil aircraft are subject to the requirements of this subchapter. The provisions of XI(e) and XII(c) of this supplement are not applicable to such exports of technical data.

* * * * *

(j) Components, parts, accessories, attachments, and associated equipment (including ground support equipment) specially designed or modified for the articles in paragraph (a) through (i) of this category, excluding aircraft tires and propellers used with reciprocating engines.

* * * * *

PART 771—[AMENDED]

16. Section 771.2 is amended by revising paragraph (c)(11) and by removing and reserving paragraph (c)(12), to read as follows:

§ 771.2 General provisions.

* * * * *

(c) * * *

(11) The exporter or reexporter knows or has reason to know that the commodity is for delivery, directly or indirectly, to or for use by or for military or police entities in the Republic of South Africa. This includes commodities for servicing equipment owned, controlled, or used by or for such entities;

(12) [Reserved]

* * * * *

17. Section 771.5 is amended:

a. By revising paragraph (a)(1);

b. By removing paragraph (a)(2);

c. By redesignating paragraph (a)(3) as (a)(2);

d. By revising the phrase "GLV $ Value Limit" to read "GLV" in the newly designated paragraph (a)(2)(i) and in paragraph (c)(1)(i);

e. By revising the example that follows paragraph (c)(3); and

f. By revising paragraph (d), as follows:

§ 771.5 General License GLV; shipments of limited value.

(a) * * *

(1) To a destination in Country Group T or V (except the People's Republic of China), provided that the net value of the commodities included in the same order and controlled under the same ECCN entry on the Commerce Control List does not exceed the amount specified in the "GLV" paragraph for that entry.

* * * * *

(c) * * *

(3) * * *

Example: An order includes commodities valued at $8,000. The order consists of commodities controlled under CCL entries 6A05 and 4A02. Commodities in the order controlled under 6A05 are valued at $3,000 while those controlled under 4A02 are valued at $5,000. Since the net value of the commodities controlled under each entry falls within the GLV dollar value limits applicable to that entry, the order may be shipped under General License GLV.

* * * * *

(d) *Exception*. The provisions of § 771.5 do not apply to the commodities listed in Supplement No. 2 to part 777 of this subchapter unless, in addition to meeting the other requirements of § 771.5, the exporter, prior to exporting such commodity, has assembled the documentary evidence in § 771.16 establishing that the commodity was not produced from a Naval Petroleum Reserve.

* * * * *

§ 771.6 [Amended]

18. In section 771.6, paragraph (a) is amended by revising the phrase "Code Letter "A", "B", "C", or "M" " to read "code letter "A", "B", or "C" "; by revising the phrase "code letters "A", "B", "C", or "M" " to read "code letter "A", "B", or "C" "; and by revising the phrase "code letters "A" or "M" " to read "code letter "A" ".

§ 771.16 [Amended]

19. Section 771.16 introductory text is amended by removing the parenthetical phrase "(*except* that only commodities listed in ECCN 4778B may be exported under this general license to South Africa)".

§ 771.22 [Amended]

20. In § 771.22, paragraph (c)(2) is amended by revising the phrase "§ 778.3." to read "§ 778.3 of this subchapter; and" in paragraph (ii); by revising the phrase "oral communications; and" to read "oral communications." in paragraph (iii); and by removing paragraph (iv).

21. Section 771.23 is amended by revising paragraphs (b) and (c) to read as follows:

§ 771.23 General license GFW; low level exports to certain countries.

* * * * *

(b) *Eligible countries*. Shipments of eligible commodities may be made to any destination in Country Groups T or

---

[4] See § 786.1(d) of this subchapter for shipments to Canada, not identified for consumption in Canada, and regarding the requirement of a Shipper's Export Declaration for certain exports to Canada.

V, except the People's Republic of China, Afghanistan, Iran, and Syria.

(c) *Eligible commodities.* The commodities eligible for export under this general license are those described in the Advisory Notes in the Commerce Control List that indicate likelihood of approval for Country Groups QWY. (The Advisory Notes for the People's Republic of China and the notes indicating "favorable consideration" are not applicable to GFW eligibility.) End-use and quantity restrictions in such QWY Advisory Notes may be disregarded in determining whether GFW may be used. *GFW* paragraphs under the Requirements heading in each ECCN will refer exporters to the appropriate Advisory Notes. However, the *GFW* paragraphs and Advisory Notes may contain specific restrictions on the applicability of GFW. Shipments of eligible commodities are subject to the prohibitions contained in § 771.2(c).

§ 771.24 [Removed and reserved].

22. Section 771.24 is removed and reserved.

23. Section 771.25 is amended:

a. By revising the heading;

b. By revising paragraph (a);

c. By revising paragraph (c);

d. By revising the phrase "GFW or G-COCOM limits" to read "GFW or PRC Advisory Note limits" in the introductory text of paragraph (d); and

e. By revising paragraph (f)(1); as follows:

§ 771.25 General license GCT.

(a) *Scope.* A general license designated GCT is established authorizing exports to eligible countries of all "A" level commodities, except those excluded in the GCT paragraphs under the Requirements heading for each entry in the CCL. Exports may be made under General License GCT only when intended for use or consumption within the importing country, reexport among and consumption within eligible countries, or reexport in accordance with other provisions of the Export Administration Regulations (15 CFR parts 730–799).

* * * * *

(c) *Eligible exports.* The commodities eligible for export under this General License GCT are all "A" level commodities, except those specifically excluded in the GCT paragraphs under the Requirements heading for each entry in the CCL. All shipments under General License GCT are subject to the prohibitions contained in § 771.2(c).

* * * * *

(f) * * * (1) *Shipper's Export Declaration.* A shipment that contains commodities eligible under General Licenses GFW and GCT may be included under GCT on the same Shipper's Export Declaration (SED). When making such shipment, the exporter must place the general license symbol "GCT" in the appropriate space on the SED. Even though the general license symbol "GCT" is noted on the SED, an importer statement is required only for those items on the SED that exceed the GFW limits (see § 771.25(d)).

* * * * *

PART 772—[AMENDED]

24. Section 772.4 is amended by adding a new paragraph (a)(2)(iv) and by revising paragraph (e) to read as follows:

§ 772.4 How to apply for a validated license.

(a) * * *

(2) * * *

(iv) *General guidance on commodity exports.* Applicants are required to provide values of the technical parameters used in describing the Export Control Classification Number (ECCN) that controls their applicable commodity(ies) and the specific end-use(s) for any commodity entry identified on the Commerce Control List (Supplement No. 1 to § 799.1 of this subchapter). All technical parameter values must be provided in the same units as specified within the ECCN.

* * * * *

(e) *Inclusion of related items on a single application.* Items may be combined on a single application for export license if the items listed are licensed by a single branch of the Office of Export Licensing, as follows:

Computer Systems Branch: Category 4
Electronic Branch: Categories 3 and 5
Capital Goods Branch: Categories 1, 2, 6, 7, 8, 9, and 0

* * * * *

25. Section 772.11 is amended by revising paragraph (d)(2) and by revising paragraph (e)(6) to read as follows:

§ 772.11 Amending export licenses.

* * * * *

(d) * * *

(2) Addition of an item licensed by a different branch of the Office of Export Licensing.

* * * * *

(e) * * *

(6) *Change in item*—provided the licensing branch is the same for any added item(s).

* * * * *

26. Supplement No. 1 to part 772 is amended by revising Item 9(b) to read as follows:

Supplement No. 1 to Part 772—Instructions for Preparing Application for a Validated License

* * * * *

Item 9(a) * * *

Item 9(b). Computer performance is calculated in Composite Theoretical Performance (CTP), not Processing Data Rate (PDR). Insert numerical value for CTP in PDR column. If not applicable, insert N/A. Place model # before description, followed by a colon (:). End description with ECCN paragraph reference. Do NOT put model number in 9(b) on form if model number exceeds 30 characters. Instead, type the word "various" followed by a colon (:). Put the model number(s) on a plain sheet of paper with the Application Control Number, and attach to the application. Describe commodities, software, or technology: Furnish additional details as prescribed by the Export Administration Regulations when necessary to identify the specific items to be so classified. Include all characteristics shown in the specific ECCN, using ECCN measurements to include, for example, basic ingredients, composition, electrical parameters, size, gauge, grade, horsepower, etc. These characteristics must be identified for the commodities, software, or technology proposed for export, which may be different than the characteristics described in the promotional brochure(s). Where the specific ECCN entry states "specify by name", list by name on the application all the commodities to be included in the shipment. Include the ECCN paragraph reference at the end of the description. Processing Code: Leave blank.

* * * * *

PART 773—[AMENDED]

27. In § 773.1, paragraph (a)(1) is revised to read as follows:

§ 773.1 Introduction.

* * * * *

(a) * * * (1) *Limitations on exports and reexports to the Republic of South Africa.* Consistent with U.S. policy toward the Republic of South Africa, as set forth in § 785.4(a) of this subchapter, the special licensing procedures in this part 773 may not be used by any U.S. exporter or approved consignee to:

(i) Export or reexport arms, munitions, or military equipment or material (including materials, machinery, or technical data for their manufacture and maintenance) to the Republic of South Africa (see supplement No. 2 to part 779 of this subchapter); or

(ii) Export or reexport any commodity, software, or technology for delivery directly or indirectly to or for use by or for military or police entities in the Republic of South Africa. This includes commodities, software, and technology for purposes of servicing equipment owned, controlled, or used by or for such entities.

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28. Section 773.2 is amended:

a. By revising paragraph (a)(1);

b. By revising paragraph (b);

c. By revising paragraph (c)(2)(iv)(B);

d. By removing the example that follows paragraph (c)(2)(iv)(B); and

e. By revising paragraph (c)(2)(iv)(D), as follows:

§ 773.2 Project license.

* * * * *

(a) * * *

(1) The items to be exported are covered by entries in the Commerce Control List under at least two different categories and licensed by two of the branches (for example, Categories 4 and 6, licensed by the Computer Systems Branch and the Capital Goods Branch);

* * * * *

(b) *Commodities, technical data, and activities not eligible for the Project License.* All items listed in the Commerce Control List (Supplement No. 1 to § 799.1 of this subchapter) will be considered for eligibility under the Project License procedure, except:

(1) Items subject to the South African limitations described in § 773.1;

(2) Commodities listed in Supplement No. 1 to Part 773;

(3) Commodities intended for resale in the form in which they were exported from the U.S.;

(4) Any software or technology (except General License GTDA) that relates to nuclear weapons, nuclear explosive devices, nuclear testing, the chemical processing of irradiated special nuclear or source material, the production of heavy water, the separation of isotopes of source and special nuclear material, or the fabrication of nuclear fuel containing plutonium, or controlled by the Department of Energy (see § 770.10(e) of this subchapter and 10 CFR part 810); and

(5) Any shipment of items to Libya, Iran, or Syria.

(c) * * *

(2) * * *

(iv) * * *

(B) *Export Control Classification Numbers.* From the Commerce Control List (Supplement No. 1 to § 799.1 of this subchapter), list each Export Control Classification Number (ECCN) (and subparagraph designation, if applicable) proposed for export under the Project License.

* * * * *

(D) *Value Limitation.* Enter the total dollar value of the license to all destination(s). Include this amount in item 9(d) on Form BXA–622P.

* * * * *

29. Section 773.3 is amended:

a. By revising paragraph (b);

b. By removing the parenthetical phrase "(other than computers and computer-related equipment)" in paragraph (d)(3)(ii)(E)(*3*)(*i*);

c. By removing paragraph (d)(3)(ii)(E)(*3*)(*iii*) and the Note that follows paragraph (d)(3)(ii)(E)(*3*)(*iii*);

d. By revising paragraph (e)(1)(iii);

e. By removing the period at the end of paragraphs (e)(1)(ix) concluding text and (e)(1)(x) through (e)(1)(xiii) and replacing the periods with a semicolon;

f. By adding new paragraphs (e)(1)(xiv) and (e)(1)(xv); and

g. By revising paragraph (e)(2)(v), as follows:

§ 773.3 Distribution license.

* * * * *

(b) *Ineligible or restricted commodities*—(1) *Ineligible commodities.* All commodities listed in the Commerce Control List (Supplement No. 1 to § 779.1 of this subchapter) will be considered for eligibility under the Distribution License procedure, except those listed in paragraphs (b)(1)(i) and (b)(1)(ii) of this section. Software and technology are *not* eligible for this procedure. The following ineligible commodities require an individual validated license or written reexport authorization, except when the commodities are otherwise eligible for a general license or permissive reexport authorization.

(i) Commodities listed in Supplement No. 1 to part 773 (except as authorized by a footnote); and

(ii) Commodities subject to the South African limitations described in § 773.1.

(2) *Restricted commodities.* Commodities listed in Supplement No. 4 to part 773 may be exported under a Distribution License only when the specific consignee or customer of a consignee has been approved in advance as an end-user. End-users within countries listed in Supplement No. 2 or 8 to part 773 need not be approved in advance. To obtain approval, the Distribution License holder must submit to the Office of Export Licensing (OEL) a listing of end-users in triplicate, indicating the commodities on Supplement No. 4 to part 773 that each end-user is to receive. If OEL approves, the applicant and approved foreign consignees will be authorized to supply under a Distribution License only those Supplement No. 4 items listed and approved, and only to approved end-users.

* * * * *

(e) * * *

(1) * * *

(iii) A system for timely distribution to consignees and verification of receipt by consignees of the Table of Denial Orders (TDO) (Supplement No. 1 to part 788 of this subchapter) and other regulatory materials necessary to ensure compliance;

* * * * *

(xiv) A system for assuring compliance with controls under the Missile Technology Control Regime (see § 778.7 of this subchapter); and

(xv) A system for assuring compliance with controls under the Chemical and Biological Weapons regime (see § 778.8 of this subchapter).

(2) * * *

(v) A system for complying with the nuclear, missile, and chemical and biological restrictions under the procedure.

* * * * *

30. Section 773.7 is amended by revising paragraph (b) and paragraph (d)(1)(iv)(B)(*5*) to read as follows:

§ 773.7 Service supply procedure.

* * * * *

(b) *Ineligible or restricted commodities.* All commodities listed in the Commerce Control List (Supplement No. 1 to § 799.1 of this subchapter) will be considered for eligibility under the Service Supply procedure, except:

(1) Parts to service arms, ammunition, or implements of war referred to in Supplement No. 2 to part 770 of this subchapter;

(2) Commodities listed in Supplement No. 1 to part 773 and any parts to service such commodities; and

(3) Parts to service any equipment owned, controlled, or used by or for a military or police entity in the Republic of South Africa.

* * * * *

(d) * * *

(1) * * *

(iv) * * *

(B) * * *

(*5*) All commodities not identified by the code letter "A" having Export Control Classification Numbers processed by the same licensing branch may be combined into a single entry. The description for each such entry shall be in terms of broad descriptive categories corresponding with the Categories that appear on the Commerce Control List (see § 799.1 of this subchapter).

* * * * *

31. Supplement No. 1 to Part 773 is revised to read as follows:

Supplement No. 1 to Part 773—Commodities Excluded From the Special License Procedures

All commodities listed in the Commerce Control List (CCL) (Supplement No. 1 to § 799.1 of this subchapter) will be considered under the special license procedures, except those listed in this supplement. Ineligible commodities require an individual validated license or written reexport authorization, except when the commodities are otherwise eligible for a general license or permissive reexport authorization.

(a) Supercomputers as defined in § 770.2 of this subchapter to all destinations, except Canada and Japan;

(b) Commodities that will be used outside of the countries listed in Supplement No. 2 to Part 773 either directly or indirectly in any sensitive nuclear activity as described in § 778.3 of this subchapter;

(c) Commodities subject to short supply controls (see Part 777 of this subchapter);

(d) Aircraft parts and accessories destined for Libyan, Iranian, or Syrian aircraft, wherever located;

(e) Communication intercepting devices (see § 776.13 of this subchapter);

(f) Crime control and detection equipment (see § 776.14 of this subchapter);

(g) Commodities subject to regional stability controls (see § 776.16 of this subchapter);

(h) Commodities related to the design, development, production, or use of missiles (see § 778.7 of this subchapter);

(i) Chemical precursors and biological agents (see § 778.8 of this subchapter), except as allowed under the Special Chemical License (see § 773.9 of this subchapter);

(j) Chemical processing equipment and intermediates (see § 778.8 of this subchapter), except as allowed under the Special Chemical License (see § 773.9 of this subchapter);

(k) Commodities that the exporter or reexporter knows will be used in the design, development, production, or use of missiles or in the design, development, production, stockpiling, or use of chemical or biological weapons (see §§ 778.7 and 778.8 of this subchapter);

(l) Commodities subject to nuclear non-proliferation controls (see § 778.2 of this subchapter [1,2,3]);

(m) Other commodities specifically excluded or restricted by the Office of Export Licensing in issuing the license.

32. Supplement No. 4 to Part 773 is revised to read as follows:

Supplement No. 4 to Part 773—Special Distribution License Restrictions For Certain Commodities Included in the Commerce Control List

The following commodities are subject to certain special restrictions, as specified in § 773.3(b)(2).

3B01 "Stored program controlled" chemical vapor deposition equipment as defined in 3B01.d.1 or 3B01.d.2. Equipment specially designed for ion implantation as defined by 3B01.b.1, 3B01.b.2, 3B01.b.3, or 3B01.b.4. "Stored program controlled" lithography equipment as defined in 3B01.g.1.

3B01[4] "Stored program controlled" lithography equipment as defined in 3B01.g.2. "Stored program controlled" test equipment specially designed for testing individual microcircuits, capable of performing basic functional (truth table) testing at a pattern rate greater than 60 MHz.

2B01 Turning machines controlled under 2B01.c.1 that are not eligible for favorable consideration under 2B01, Advisory Note 4.

2B02 Non-"numerically controlled" machine tools for generating optical quality surfaces controlled under 2B02.b.

2B06 Computer controlled, "numerically controlled" or "stored program controlled" dimensional inspection machines as defined in 2B06.a; Angular measuring instruments as defined in 2B06.b.2.

3A52 Cathode ray oscilloscopes having amplifier bandwidths greater than 500 MHz; Oscilloscopes having cathode ray tubes incorporating microchannel plate electron multipliers capable of operating at frequencies greater than 100 MHz; Digital oscilloscopes with sequential sampling of the input signal at an interval of less than 2 nanoseconds.

1C07 Entire entry.

3C01 Resist materials sensitive to X-Ray, electron or ion beams, or specified for dry development as defined by 3C02.a, 3C02.b, 3C02.c, or 3C02.d.

PART 774—[AMENDED]

§ 774.2 [Amended]

33. In section 774.2, paragraph (a)(1) is amended by revising the phrase "G-COCOM, GFW, GCG," to read "GFW, GCG,".

34. In section 774.3, paragraph (d)(1)(i) is revised to read as follows:

§ 774.3 How to request reexport authorization.

* * * * *

(d) * * *

(1) * * *

(i) The items being exported:

(A) Are identified by a code letter "A" suffix on the Commerce Control List; and

(B) Are not included in any applicable Advisory Notes on the Commerce Control List (Supplement No. 1 to § 799.1 of this subchapter) (the Advisory Notes for the People's Republic of China do not apply in meeting this requirement).

* * * * *

35. Supplement No. 1 to Part 774 is amended by revising the supplement heading and Item 9(b) to read as follows:

Supplement No. 1 to Part 774—Instructions for Preparing Form BXA-699P, "Request for Reexport Authorization"

* * * * *

Item 9(a) * * *

Item 9(b). Computer performance is currently calculated in Composite Theoretical Performance (CTP), instead of Processing Data Rate (PDR). Insert numerical value for CTP in PDR column. If not applicable, insert N/A. Place model # before description, followed by a colon (:). Put the model number(s) on a plain sheet of paper with the Application Control Number, and attach to the application.

Describe commodities, software, or technology. Furnish additional details as prescribed by the Export Administration Regulations when necessary to identify the specific items to be so classified. Include all characteristics shown in the specific ECCN, using ECCN measurements to include, for example, basic ingredients, composition, electrical parameters, size, gauge, grade, horsepower, etc. These characteristics must be identified for the commodities, software, or technology proposed for reexport, which may be different than the characteristics described in the promotional brochure(s).

Where the specific ECCN entry states "specify by name", list by name on the application all the commodities, software, or technology data to be included in the shipment. Include the ECCN paragraph reference at the end of the description. Processing Code: Leave blank.

* * * * *

PART 775—[AMENDED]

§ 775.1 [Amended]

36. In section 775.1, in paragraph (b), the table, under the heading "if the commodity is" is amended by revising the phrase "code letter B, C, or M" to read "code letter B" in item nos. 2 and 3; and by revising the phrase "code letter A, B, C, D, E, F, G, or M" to read "code letter A, B, C, D, E, F, G, or H" in item no. 7.

---

[1] Exports under the Distribution License of electronic computers (Category 4) may not exceed the following limits for the following destinations:

(a) Destinations listed in Supplement Nos. 2 or 6 to part 773. A Composite Theoretical Performance (CTP) capacity equal to or greater than 195 MTOPS (million theoretical operations per second), except for Japan where there is no CTP ceiling limit;

(b) Destinations listed in Supplement No. 3 to part 773. A Composite Theoretical Performance (CTP) capacity equal to or greater than 41 MTOPS (million theoretical operations per second); and

(c) Destinations *not* listed in Supplement Nos. 2, 3, or 6 to part 773. A Composite Theoretical Performance (CTP) capacity equal to or greater than 23 MTOPS (million theoretical operations per second), except for Argentina, Brazil, India, Israel, Pakistan, and the Republic of South Africa where the CTP capacity may *not* exceed 12.5 MTOPS.

[2] Computers may be approved under the Project License procedure and Service Supply License on a case-by-case basis. Project License applicants should specify the types and sizes of computers and how they will be used in the project.

[3] Certain oscilloscopes may be eligible under Supplement No. 4 to part 773.

[4] The exclusion does not apply to spare and replacement parts for this equipment.

§ 775.2 [Amended]

37. In section 775.2, the last sentence of paragraph (e)(2) is amended by revising the phrase "Group title" to read "Category title" and by revising the phrase " 'Metal-Working Machinery' " to read "Materials Processing".

38. In section 775.2, paragraph (j)(3) is amended by revising the phrase "*Export Control Commodity Numbers and Processing Number*" to read "*Export Control Classification Numbers*" in the last sentence of the certification.

§ 775.3 [Amended]

39. In section 775.3, paragraphs (g)(3)(i) and (g)(3)(ii) are amended by revising the phrase "*Export Control Commodity Numbers and Processing Code*" to read "*Export Control Classification Numbers*" in the last sentence of each certification.

§ 775.5 [Amended]

40. In section 775.5, paragraph (a)(3) is amended by revising the phrase "*Export Control Commodity Numbers and Processing Code*" to read "*Export Control Classification Numbers*" in the last sentence of the certification.

40a. Section 775.6 is amended by adding a sentence at the end of paragraph (a) to read as follows:

§ 775.6 People's Republic of China end-user certificate.

(a) * * * When the commodity is described in an Advisory Note for Country Groups QWY on the CCL, a Form BXA-629P may be substituted for the PRC End-User Certificate.

* * * * *

§ 775.7 [Amended]

41. In section 775.7, paragraph (a)(3) is amended by revising the phrase "*Export Control Commodity Numbers and Processing Code*" to read "*Export Control Classification Numbers*" in the last sentence of the certification.

§ 775.8 [Amended]

42. Section 775.8 is amended:

a. By revising the phrase "commodities identified" to read "items identified" in the first sentence of paragraph (a);

b. By revising the phrase "commodities classified" to read "commodities or software classified" in the first sentence of paragraph (b)(1);

c. By revising the phrase "technical data regardless" to read "technology regardless" in the last sentence of paragraph (b)(1); and

d. By revising the phrase "commodities for" to read "commodities or software for" in paragraph (b)(2).

§ 775.9 [Amended]

43. In section 775.9, paragraph (c) is amended by revising the phrase "*Export Control Commodity Numbers and Processing Number*" to read "*Export Control Classification Numbers*" in the certification.

PART 776—[AMENDED]

44. Section 776.6 is revised to read as follows:

§ 776.6 Chemicals.

Export license applications covering chemicals, medicinals, and pharmaceuticals shall state such facts relating to grade, form, concentration, mixtures, or ingredients as may be necessary to identify the commodity accurately. In those cases where Chemical Abstract Service Registry (C.A.S.) numbers exist they must be specified on the license application.

§ 776.7 [Removed and Reserved]

45. Section 776.7 is removed and reserved.

46. Section 776.8 is amended by redesignating footnote No. 2 as footnote No. 1 and by revising paragraph (a)(1) to read as follows:

§ 776.8 Aircraft and equipment, parts, accessories, and components therefor.

(a) * * *

(1) Include both the aircraft and parts on a single license application even though they may be in different categories and are licensed by different branches; and

* * * * *

47. Section 776.10 is revised to read as follows:

§ 776.10 Electronic computers and related equipment.

Special provisions relating to the licensing for export or reexport of electronic computers and/or related items (Category 4) are set forth as follows:

(a) *Digital computers*—(1) *General requirements.* The BXA-6031P, Computer Parameters Form is no longer required. Applications to export or reexport "digital computers" or equipment containing digital computers to destinations in Country Groups Q, W, and Y, Afghanistan, and the People's Republic of China, or to upgrade existing "digital computer" installations in those countries, must include the parameters that correspond to the computer or related equipment as listed in Category 3 (Converters), Category 4, or Category 5 (Communication Equipment) of the Commerce Control List (CCL), Supplement No. 1 to § 799.1 of this subchapter. These parameters must be included with the description of your item in section 9(b) of the license application form. The Composite Theoretical Performance (CTP) should be listed in section 9(b) of the license application form. If the equipment exceeds the limits of the Advisory Notes that indicate a likelihood of approval for Country Groups Q, W, and Y, a block diagram of the entire system should be submitted along with the application. Also, specification sheets and product brochures should be furnished to corroborate the data supplied on the application. Observe the precise definitions and units of measure as listed in Advisory Notes 1, 2, and 3 to Category 4, before making calculations or listing parameters.

(2) *Special documentation requirements.* Applications to export or reexport computers or related equipment that are described in Advisory Note 3 to Category 4, or that exceed any of the limits specified in Advisory Notes 2 or 3 to Category 4, must be accompanied by a signed statement from a responsible representative of the end-user or importing agency that:

(i) Describes the equipment, related equipment, and software;

(ii) Gives the intended application and workload;

(iii) Provides a complete identification of all end-users and their activities; and

(iv) Includes the certification contained in paragraph h.1.a of Note 3 to Category 4.

(b) *Commodities that need to be evaluated against Category 5.* In those cases where applications contain both Category 4 and Category 5 equipment, the application shall be submitted according to the principal function of the equipment. If the principal function is telecommunications, no CTP calculations are required. Computers, related equipment, or software performing telecommunication or local area network functions shall be evaluated against the telecommunications performance characteristics of Category 5, while cytographic, cryptoanalytic, certifiable multi-level security or certifiable user isolation functions, or systems that limit electromagnetic compatibility (EMC) shall be evaluated against the information security performance characteristics of Category 5.

(c) *Requests for additional information.* The Office of Export Licensing (OEL) may request additional information necessary to process the application. Failure to submit the information required by this § 776.10 or any additional information requested by

OEL will result in the application being returned without action.

§ 776.11 [Removed and reserved]

48. Section 776.11 is removed and reserved.

49. Section 776.12 is amended:

a. By revising the phrase "General License G–DEST, G–COCOM, or GFW." to read "General License G–DEST or GFW." in paragraph (a)(1)(ii);

b. By revising the phrase "General License G–DEST or G–COCOM;" to read "General License G–DEST;" in paragraph (b)(2);

c. By revising paragraph (b)(4);

d. By revising paragraph (b)(5); and

e. By republishing the note following paragraph (b)(5), as follows:

§ 776.12 Parts, components, and materials incorporated abroad into foreign-made products.

* * * * *

(b) * * *

(4) The U.S. content value is 25% or less and the ultimate destination of the foreign-made product is not located in Country Groups S or Z, or in Iran or Syria; or

(5) None of the technical performance characteristics of the U.S. content exceed those of any Advisory Note in the CCL that indicates licenses are likely to be approved for Country Groups Q, W, and Y, and the ultimate destination of the foreign-made product is not located in Country Groups S or Z, or in Iran or Syria.

Note: See § 776.12(g) for other controls that may apply even if the export would be excepted from prior written approval by paragraph (b) of this section.

* * * * *

50. Section 776.14(a) is amended by revising the second sentence to read as follows:

§ 776.14 Crime control and detection commodities.

(a) * * * Commodities affected by this requirement are identified on the Commerce Control List under ECCNs 0A18.f, 0A82, 0A84, 1A84, 3A90, 3A91, 4A03 (fingerprint computers only), 5A02, 6A02 (police-model infrared viewers only), and 9A80. * * *

* * * * *

51. Section 776.17 is revised and a new section 776.18 is added to read as follows:

§ 776.17 Robots, and specially designed controllers, end-effectors, and software.

An application for authorization to export or reexport robots, robot controllers, end-effectors, or related software (ECCN 2B07 or 2D01), and requests for export control classification shall contain the following information, as applicable.

(a) *General requirements.* (1) Specify if the robot is equipped with a vision system and its make, type, and model number.

(2) Describe fully any robot's capability of using sensors, image processing or scene analysis to generate or to modify robot program instructions or data.

(3) Specify if the robot is specially designed to comply with national safety standards for explosive munitions environments.

(4) If the robot is specially designed for underwater use, review against Category 8.

(5) Specify if the robot is specially designed for outdoor applications and if it meets military specifications for those applications.

(6) Specify if the robot is specially designed for operating in an electromagnetic pulse (EMP) environment.

(7) Specify if the robot is specially designed or rated as radiation-hardened beyond that necessary to withstand normal industrial (i.e., non-nuclear industry) ionizing radiation.

(8) Describe the manner in which the robot may be used in nuclear industry/manufacturing.

(b) *Robot controllers, end-effectors, and software.* Specify if the robot controllers, end-effectors, or software are specially designed for robots controlled under ECCN 2B07, and why.

§ 776.18 Numerical control devices, motion control boards, numerically controlled machine tools, dimensional inspection machines, direct numerical control systems, specially designed assemblies, and specially designed software.

This section sets forth special provisions relating to the licensing for export or reexport or to the requesting for control classification of numerical control devices, motion control boards, numerically controlled machine tools, dimensional inspection machines, and specially designed software.

(a) *Numerical control devices and motion control boards.* The following information shall be included with a validated license application (Form BXA–622P), a reexport request (Form BXA–699P), and an export control classification request:

(1) Make and model number of the control unit;

(2) Description and internal configuration of numerical control device. If the device is a computer with motion control board(s), then include the make and model number of the computer;

(3) Description of the manner in which a computer may be connected to the CNC unit for on-line processing of CAD data. Specify the make and model of the computer;

(4) Number of axes the control unit is capable of simultaneously controlling in a coordinated contouring mode, and type of interpolation (linear, circular, and other);

(5) Minimum programmable increment;

(6) Number and type of data communication interfaces;

(7) A description and an itemized list of all software/firmware to be supplied with the control device or motion control board, including software/firmware for axis interpolation function and for any programmable control unit or device to be supplied with the control unit;

(8) Description of capabilities related to "real time processing" and receiving computer aided-design as described in ECCN 2B0.a.2.a and a.2.b and ECCN 2B01.b.2 and b.3;

(9) A description of capability to accept additional boards or software that would permit an upgrade of the electronic device or motion control board above the control levels specified in ECCN 2B01; and

(10) Specify if the electronic device has been downgraded and how can it be upgraded again and how.

(b) *Numerically controlled machine tools and dimensional inspection machines.* The following information shall be included with a validated license application (Form BXA–622P), a reexport request (Form BXA–699P), and an export control classification request:

(1) Name and model number of machine tool or dimensional inspection machines;

(2) Type of equipment, e.g., horizontal boring machine, machining center, dimensional inspection machine, turning center, water jet, etc.;

(3) Description of the linear and rotary axes capable of being simultaneously controlled in a coordinated contouring made, regardless of the fact that the coordinated movement of the machine axis may be limited by the numerical control unit supplied by the machine tool;

(4) Maximum workpiece diameter for cylindrical grinding machines;

(5) Motion of the spindle axis measured in the axial direction in one revolution of the spindle, and a description of the method of measurement for turning machine tools only;

(6) Motion of the spindle axis measured in the radial direction in one

revolution of the spindle, and a description of the method of measurement;

(7) Overall positioning accuracy, and a description of the method for measurement; and

(8) Slide motion test results if required as described in ECCN 2B01.c.1.b.6.b.

§ 776.20 [Removed]

52. Section 776.20 is removed.

PART 778—[AMENDED]

53. Section 778.7 is amended:

a. By revising paragraph (a)(1);

b. By removing paragraph (a)(2); and

c. By redesignating paragraph (a)(3) as paragraph (a)(2), as follows:

§ 778.7 Equipment and related technical data used in the design, development, production, or use of missiles.

(a) * * *

(1) *Items subject to weapons delivery systems controls.* The items that require a validated license because they are subject to foreign policy controls on weapons delivery systems appear within ECCNs 1A02, 1A22, 1A27, 1A47, 1B01, 1B18, 1B21, 1B28, 1B30, 1C01, 1C07, 1C21, 1C22, 1C27, 1C31, 1D01, 1D02, 1D23, 1E01, 1E23, 1E24, 1E25, 2B04, 2B18, 2B24, 2D01, 2D18, 2D24, 2E01, 2E02, 2E18, 2E20, 2E24, 3A01, 3D21, 3E01, 4A01, 4A02, 4A03, 4A21, 4D01, 4D02, 4E01, 5A01, 5A20, 5D01, 5D02, 5D03, 5D20, 5E01, 5E20, 6A02, 6A07, 6A08, 6A22, 6A28, 6A29, 6A30, 6D01, 6D02, 6D21, 6D22, 6E01, 6E02, 6E21, 6E22, 6E23, 7A01, 7A02, 7A03, 7A04, 7A05, 7A06, 7A21, 7A22, 7A23, 7A24, 7A25, 7A26, 7A27, 7B01, 7B02, 7B03, 7B22, 7D01, 7D02, 7D03, 7D24, 7E01, 7E02, 7E03, 7E04, 7E21, 7E22, 9A01, 9A21, 9A22, 9B01, 9B02, 9B03, 9B04, 9B05, 9B06, 9B07, 9B21, 9B23, 9B24, 9B25, 9B26, 9B27, 9D01, 9D02, 9D03, 9D04, 9D24, 9E01, 9E02, and 9E21. Exporters should consult the *Reason for Control* paragraph in each ECCN to determine the specific item subject to these foreign policy controls.

* * * * *

54. In section 778.8, the section heading and paragraphs (a)(3) and (d)(3)(xii) are revised to read as follows:

§ 778.8 Chemical precursors and biological agents, and associated equipment, software, and technology.

(a) * * *

(3) Viruses, viroids, bacteria, fungi, and protozoa controlled by ECCN 1C61 require a validated license to all destinations except Canada.

* * * * *

(d) * * *

(3) * * *

(xii) The contract sanctity date for reexports of viruses, viroids, bacteria, fungi, and protozoa controlled by ECCN 1C61 is March 7, 1991.

* * * * *

Supplement No. 2 to Part 778 [Amended]

55. Supplement No. 2 to Part 778 is amended by revising the phrase "Yemen, People's Democratic Republic of" to read "Yemen, Republic of".

PART 779—[AMENDED]

56. Section 779.1 is amended:

a. By revising footnote no. 1 in the section heading;

b. By revising paragraph (a); and

c. By adding a new paragraph (d) to read as follows:

§ 779.1 Definitions.[1]

(a) *Technology, technical data, technical assistance, and software* [2, 3]. These terms are defined in Supplement No. 3 to § 799.1 of this subchapter. The terminology used in this part 779 will be changed in the future to conform to the terms and definitions used in Supplement No. 3 to part § 799.1 of this subchapter and in other parts of this subchapter. In the interim, the term "technical data" as used in this part 779, is understood to include both "technology" (i.e., technical data and technical assistance) and "software". If the term "software" is cited separately, the term refers only to software as defined in Supplement No. 3 to § 799.1 of this subchapter.

* * * * *

(d) *Direct product.* The term "direct product" means the immediate product (including processes and services) produced directly by the use of technical data.

57. Section 779.2, introductory text is amended by republishing the last sentence and by revising footnotes 7 and 8 to read as follows:

§ 779.2 Licenses to export.

* * * A validated license is required for any export of technical data where these general licenses do not apply, except in the case of certain exports to Canada.[7, 8]

58. Section 779.3 is amended by revising the note that immediately follows the section heading and by removing the OMB control number parenthetical phrase at the end of the section, as follows:

§ 779.3 General License GTDA: Technical data available to all destinations.

Note: In this § 779.3 the word "information" means "technical data" as used in this part (i.e., "technology" and "software" as defined in Supplement No. 3 to § 799.1 of this subchapter).

* * * * *

59. Section 779.4 is amended, as follows:

a. By revising paragraph (b);

b. By removing and reserving paragraphs (c) and (d);

c. By revising paragraph (e);

d. By revising paragraph (f);

e. By removing the "Note" that follows paragraph (f);

f. By removing paragraphs (g), (h), and (i);

g. By redesignating paragraph (j) as paragraph (g); and

h. By reserving footnotes 11 through 24.

§ 779.4 General license GTDR: Technical data under restriction.

* * * * *

(b) *General License GTDR without written assurance authorizes the following exports*—(1) *Operation technical data.* (i) For definitions and conditions for use of General License GTDR without written assurance for operation technical data, refer to the third paragraph of the General Technology Note as listed in Supplement No. 2 to § 799.1 of this subchapter. As defined in that Note, "operation technical data" is the minimum necessary for the installation, operations,[9] maintenance (checking), and repair of those products that are eligible for general licenses, or that are exported under a validated export license. The "minimum necessary" excludes from operation technical data development or production technical data and includes use technology only to the extent required to ensure safe and efficient use of the product. Individual entries in the software and technology subcategories of the CCL may further restrict export of "minimum necessary" technical data. (See Supplement Nos. 2 and 3 to § 799.1 of this subchapter for further information and definitions of the terms "development", "production", "use", and "required".)

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[1] See § 770.2 of this subchapter for definitions of other terms used in this part.

[2] The provisions of part 779 do not apply to "classified" technical data, i.e., technical data that have been officially assigned a security classification (e.g., "top secret", "secret", or "confidential") by an officer or agency of the U.S. Government. The export of classified technical data is controlled by the Center for Defense Trade of the U.S. Department of State or the U.S. Nuclear Regulatory Commission, Washington, DC.

[3] Reserved.

[7] An export of technical data to Canada may be made without either a validated or general license, unless a validated license is required to Canada by a specific subcategory D or E ECCN on the CCL.

[8] Although the Bureau of Export Administration may provide general information on licensing policies regarding the prospects of approval of various types of export control actions, including actions with respect to technical data, normally it will give a formal judgement respecting a specific request for an action only upon the actual submission of a formal application or request setting forth all of the facts relevant to the export transaction and supported by all required documentation. Advice is always available, however, regarding any questions as to the applicability of a general license. Such questions should be submitted by letter to the U.S. Department of Commerce, Bureau of Export Administration, P.O. Box 273, Washington, D.C. 20044.

[9] Exporters of digital computer equipment must describe on their license applications any software, including that shipped under General License GTDR, to be used with the equipment.

(ii) Operation software may be exported under GTDR, without assurance, provided that:

(A) The operation software is the minimum necessary to operate the equipment authorized for export; and

(B) The operation software is in object code.

(2) *Sales technical data.* (i) "Sales technical data" is defined as data supporting a prospective or actual quotation, bid, or offer to sell, lease, or otherwise supply any item controlled by the EAR.

(ii) Sales technical data may be exported under GTDR, without written assurances, provided that:

(A) The technical data is a type customarily transmitted with a prospective or actual quotation, bid, or offer in accordance with established business practice; and

(B) The export will not disclose the detailed design, production, or manufacture, or the means of reconstruction, of either the quoted item or its product. The purpose of this limitation is to prevent disclosure of technical data so detailed that the consignee could use the technical data in production.

Note: Neither this authorization nor its use means that the U.S. Government intends, or is committed, to approve an export license application for any commodity, plant, or technical data that may be the subject of the transaction to which such quotation, bid, or offer relates. Exporters are advised to include in any quotations, bids, or offers, and in any contracts entered into pursuant to such quotations, bids, or offers, a provision relieving themselves of liability in the event that an export license (when required) is not approved by the Bureau of Export Administration.

(3) *Software updates.* Software updates that are intended for and are limited to correction of errors ("fixes" to "bugs" that have been identified) qualify for export under General License GTDR, without written assurance, provided the updates are being exported to the same consignee and do not enhance the functional capacities of the initial software package.

(4) *Technical data described in the Commerce Control List.* Certain other technical data may be exported under GTDR without written assurance. Such technical data is identified in the "Requirements" section of the ECCN under the heading *"GTDU"*. The designations *"GTDU: Yes"* or *"GTDU: Yes except...."* indicate that General License GTDR without written assurance is available subject to any applicable exceptions. The designation *"GTDU: No"* indicates that General License GTDR without written assurance is not available. However, the designation *"GTDU: No"* does not restrict exports under paragraphs (b)(1), (b)(2), or (b)(3) of this section. Exporters have the option of using the term *"GTDU"* to describe General License GTDR without written assurance for all purposes, including information requirements on the Shipper's Export Declaration.

(c) [Reserved].

(d) [Reserved].

(e) *Restrictions applicable to the Republic of South Africa.*—(1) *General prohibition.* Except as provided in § 779.4 (b)(1), (b)(2), and (b)(3), no technical data may be exported or reexported to the Republic of South Africa under this General License GTDR where the exporter or reexporter knows or has reason to know that the data or the direct product of the data are for delivery, directly or indirectly, to or for use by or for military or police entities in South Africa or for use in servicing equipment owned, controlled, or used by or for such entities. In addition, no technical data relating to the commodities listed in Supplement No. 2 to this Part 779 may be exported or reexported under General License GTDR to any consignee in the Republic of South Africa.

(2) *Written assurances.* In addition to any written assurances that may or may not be required by paragraph (f) of this section, no export or reexport of technical data may be made to the Republic of South Africa under General License GTDR until the exporter has received written assurance from the importer that neither the technical data nor the direct product of the data will be made available to or for use by or for military or police entities of the Republic of South Africa.

(f) *General License GTDR with written assurances.* Except as provided in § 779.4(b) and (f)(5), no export of technical data described in this § 779.4(f) may be made under General License GTDR:

(1) Until the U.S. exporter has received a written assurance from the foreign importer that, unless prior authorization is obtained from the Office of Export Licensing, the importer will not knowingly:

(i) Reexport, directly or indirectly, to Country Group Q, S, W,[10] Y, or Z, or Afghanistan or the People's Republic of China any technical data relating to commodities controlled to Country Group "W" in the paragraph of any entry on the Commerce Control List titled "Validated License Required";

(ii) Export, directly or indirectly, to Country Group Z any direct product of the technical data if such direct product is controlled to Country Group "W" in the paragraph of any entry on the Commerce Control List titled "Validated License Required"; or

(iii) Export, directly or indirectly, to any destination in Country Group Q, S, W, Y, or Afghanistan or the People's Republic of China, any direct product of the technical data if such direct product is identified by the code letter "A" following the Export Control Classification Number on the Commerce Control List.

(2) If the direct product of any technical data is a complete plant or any major component of a plant that is capable of producing a commodity controlled to Country Group "W" in the paragraph of any entry on the Commerce Control List titled "Validated License Required" or appears on the U.S. Munitions List, a written assurance by the person who is or will be in control of the distribution of the products of the plant (whether or not such person is the importer) shall be obtained by the U.S. exporter (via the foreign importer), stating that, unless prior authorization is obtained from the Office of Export Licensing, such person will not knowingly:

(i) Reexport, directly or indirectly, to Country Group Q, S, W, Y, or Z, or Afghanistan or the People's Republic of

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[10] Effective April 28, 1971, Country Group W no longer included Romania. Assurances executed prior to April 28, 1971, and referring to Country Group W continue to apply to Romania as well as Poland. Effective June 2, 1960, Hungary was added to Country Group W, which at that time included only Poland. Assurances executed prior to June 2, 1960, and referring to Country Group Y continue to apply to Hungary. Assurances executed on or after June 2, 1960 and referring to Country Group W apply to Hungary as well as Poland. Effective April 25, 1991, Czechoslovakia was added to Country Group W. Assurances executed before April 25, 1991, and referring to Country Group Y continue to apply to Czechoslovakia. Assurances executed on or after April 25, 1991, and referring to Country Group W apply to Czechoslovakia as well as Poland and Hungary.

China, the technical data relating to the plant or the major component of a plant;

(ii) Export, directly or indirectly, to Country Group Z, the plant or the major component of a plant (depending upon which is the direct product of the technical data) or any product of such plant or of such major component, if such product is identified by the symbol "W" in the paragraph of any entry on the Commerce Control List titled "Validated License Required" or appears on the U.S. Munitions List; or

(iii) Export, directly or indirectly, to any destination in Country Group Q, S, W, Y, or Afghanistan or the People's Republic of China, the plant or the major component of a plant (depending upon which is the direct product of the technical data) or any product of such plant or of such major component, if such product is identified by the code letter "A" following the Export Control Classification Number on the Commerce Control List or appears on the U.S. Munitions List.

Note: Effective April 1, 1984, § 779.4(f)(2)(ii) and (f)(2)(iii) required certain written assurances relating to the disposition of the products of a complete plant or major component of a plant that is the direct product of unpublished technical data of U.S. origin exported under General License GTDR. Except as to commodities identified by the code letter "A" following the Export Control Classification Number on the Commerce Control List, and items on the U.S. Munitions List, the effective date of the written assurance requirements for plant products as a condition of using General License GTDR for export of this type of technical data is hereby deferred until further notice, subject to the following limitations:

1. The exporter shall, at least two weeks before the initial export of the technical data, notify the Office of Export Licensing, by letter, of the facts required to be disclosed in an application for a validated export license covering such technical data; and

2. The exporter shall obtain from the person who is or will be in control of the distribution of the products of the plant (whether or not such person is the importer) a written commitment that he will notify the U.S. Government, directly or through the exporter, whenever he enters into negotiations to export any product of the plant to any destination covered by § 779.4(f)(2)(ii), when such product is not identified by the code letter "A" following the Export Control Classification Number on the Commerce Control List and requires a validated license for export to Country Group W by the information set forth in the applicable CCL entry in the paragraph titled "Validated License Required". The notification should state the product, quantity, country of destination, and the estimated data of the shipment.

Moreover, during the period of deferment, the remaining written assurance requirements of § 779.4 (f)(2)(ii) and (f)(2)(iii) as to plant products that are identified by the code letter "A" following the Export Control Classification Number on the Commerce Control List, or are on the U.S. Munitions List, will be waived if the plant is located in one of the following COCOM countries: Australia, Belgium, Canada, Denmark, the Federal Republic of Germany, France, Greece, Italy, Japan, Luxembourg, the Netherlands, Norway, Portugal, Spain, Turkey, and the United Kingdom. This deferment applies to exports of technical data pursuant to any type of contract or arrangement, including licensing agreements, regardless of whether entered into before or after April 1, 1964.

(3) The required assurance may be made in the form of a letter or other written communication from the importer or, if applicable, the person in control of the distribution of the products of a plant; or the assurance may be incorporated into a licensing agreement that restricts disclosure of the technical data to be used only in authorized destinations, and prohibits shipment of the direct product thereof by the licensee to any unauthorized destination. An assurance included in a licensing agreement will be acceptable for all exports made during the life of the agreement, provided that the obligations of the importer set forth in the assurances survive any termination of the licensing agreement. If such assurance is not received, this general license is not applicable and a validated export license is required. An application for validated license shall include an explanatory statement setting forth the reasons why such assurance cannot be obtained.

(4) In addition, this general license is not applicable to any export of technical data of the kind described in this § 779.4(f), if at the time of export of the technical data from the United States, the exporter knows or has reason to believe that the direct product to be manufactured abroad by use of the technical data is intended to be exported directly or indirectly to any unauthorized destination.

(5) The limitations in this § 779.4(f) do not apply to the export of technical data included in an application for the foreign filing of a patent, provided such filing is in accordance with the regulations of the U.S. Patent Office.

* * * * *

60. Section 779.5 is amended:

a. By revising paragraph (a)(2);

b. By revising the phrase "9(a), 9(c) and 11" to read "9(a) and 11" in paragraph (b);

c. By revising the first sentence of paragraph (e)(1)(vii);

d. By revising paragraph (e)(2);

e. By removing paragraph (e)(3); and

f. By reserving footnotes 26 through 28.

§ 779.5 Validated license applications.

(a) * * *

(1) * * *

(2) A letter of explanation described in § 779.5(d) for technology or description of the capabilities of the software; and

* * * * *

(e) * * *

(1) * * *

(vii) A written statement of assurance from the foreign importer that unless prior authorization is obtained from the Office of Export Licensing, the importer will not knowingly export directly or indirectly to Country Group Q, S, W, Y, or Z, or Afghanistan or the People's Republic of China, the direct product of the technical data. * * *

(2) *Other license applications.* For all other license applications to export technical data identified in an entry with an ECCN ending in the code letter "A" to any destination, other than Country Group Q, S, W, Y, or Z, the People's Republic of China, or Afghanistan, an applicant shall attach to the license application a written statement from his foreign importer assuring that, unless prior authorization is obtained from the Office of Export Licensing, the importer will not knowingly reexport the technical data to any destination, or export any national security controlled direct product of the technical data, directly or indirectly, to Country Group Q, S, W, Y, or Z, or the People's Republic of China, or Afghanistan. However, if the U.S. exporter is not able to obtain the required statement from his importer, the exporter shall attach an explanatory statement to his license setting forth the reasons why such an assurance cannot be obtained.

* * * * *

61. Section 779.8 is amended:

a. By revising the phrase "§ 779.5(e)(1) or (2)" to read "§ 779.5(e)(1)" in paragraph (a)(3);

b. By removing paragraph (b)(2);

c. By redesignating paragraphs (b)(3) and (b)(4) as paragraphs (b)(2) and (b)(3);

d. By revising newly designated paragraphs (b)(2) heading, introductory text, and (i); and

e. By revising newly designated paragraph (b)(3), as follows:

§ 779.8 Reexports of technical data and exports of the product manufactured abroad by use of United States technical data.

* * * * *

(b) * * *

(2) *COCOM countries.* Separate specific authorization by the Office of

Export Licensing to export or reexport any foreign-produced direct product of U.S. technical data from a COCOM participating country is not required if all of the following conditions are met:

(i) The items being exported:

(A) Are identified by a code letter "A" on the Commerce Control List; and

(B) Are not included in the Advisory Notes in any entry on the Commerce Control List (Supplement No. 1 to § 799.1 of this subchapter) (the Advisory Notes for the People's Republic of China do not apply in meeting this requirement).

* * * * *

(3) *People's Republic of China.* Separate specific authorization by the Office of Export Licensing is not required to reexport software from a COCOM participating country, Austria, Finland, Sweden, Ireland, or Switzerland to the People's Republic of China that meets the requirements set forth in Advisory Notes for the People's Republic of China or for Country Groups Q, W, Y in the Commerce Control List (Supplement No. 1 to § 799.1 of this subchapter) and are licensed for shipment by the country from which reexported.

* * * * *

§ 779.9 [Amended]

62. In section 779.9, the introductory text is amended by revising the phrase "provisions of § 779.4(b) (1) and (2) of this part" to read "provisions of § 779.4(b)".

Supplement No. 2 to Part 779 [Amended]

63. Supplement No. 2 to part 779 (Technical Data) is amended:

a. By revising in paragraph (1) the parenthetical reference "(ECCN 1093)" to read "(ECCNs 2B01 and 2B41)";

b. By revising in paragraph (2)(b) the parenthetical reference "(ECCN 2116)" to read "(ECCN 1B18)";

c. By revising in paragraph (3) the parenthetical reference "(ECCN 2018)" to read "(ECCN 2B18)" and the parenthetical reference "(ECCN 5399)" to read "(ECCN 2B65)";

d. By revising in paragraph (4) the parenthetical reference "(ECCN 2317)" to read "(ECCN 8A18)";

e. By revising in paragraph (5)(e) the parenthetical reference "(ECCN 2406)" to read "(ECCN 9A18)";

f. By revising in paragraph (6) the parenthetical reference "(ECCN 2410)" to read "(ECCN 9A18)";

g. By revising in paragraph (7) the parenthetical reference "(ECCN 2603)" to read "(ECCN 0A18)";

h. By revising in paragraph (8) the parenthetical reference "(ECCN 5998)" to read "(ECCN 0A84)";

i. By revising in paragraph (9) the parenthetical reference "(ECCN 6998)" to read "(ECCN 0A86)";

j. By revising in paragraph (10) the parenthetical reference "(ECCN 2410A)" to read "(ECCN 9A18)";

k. By revising in paragraph (11) the parenthetical reference "(ECCN 2409A)" to read "(ECCN 8A18)"; and

l. By revising in paragraph (12) the parenthetical reference "(ECCN 2901A)" to read "(ECCN 0A18)".

Supplement No. 3 to Part 779 [Removed and Reserved]

64. Supplement No. 3 to part 779 is removed and reserved.

Supplement No. 4 to Part 779 [Removed and Reserved]

65. Supplement No. 4 to part 779 is removed and reserved.

PART 785—[AMENDED]

66. Section 785.2 is amended by revising the section heading and paragraph (c) to read as follows:

§ 785.2 Country Groups Q, W, and Y;[1] U.S.S.R., Other Eastern European Countries, Albania, Mongolian People's Republic, and Laos.

* * * * *

(c) *Country Group W: Favorable consideration policy.* The countries of Poland, Hungary, and Czechoslovakia (Country Group W) have been determined to present a lesser strategic threat, and have adopted safeguard measures to protect against the diversion of COCOM controlled commodities and technical data. In recognition of these facts, and consistent with COCOM agreement, the Department will review, under favorable consideration procedures, applications to export or reexport to Poland, Hungary, or Czechoslovakia any U.S. origin commodity that is controlled under an Export Control Classification Number (ECCN) on the Commerce Control List (Supplement No. 1 to § 799.1 of this subchapter) ending in the code letter "A", unless a *Group W Favorable Consideration* paragraph contained in the applicable entry lists the items as not being eligible for favorable consideration. Commodities not eligible for favorable consideration will be reviewed in accordance with the general exceptions policy described in paragraph (a) of this section. Commodities identified by Advisory Notes indicating a likelihood of approval to satisfactory end-uses in Country Group W will continue to be reviewed under national discretion procedures. The Department will also review, under favorable consideration procedures, all technical data and software destined to Poland, Hungary, and Czechoslovakia, except technical data described in ECCN 2E03, and software and technical data required for the design, development, production, or use of commodities excluded from these favorable consideration procedures.

67. Section 785.4 is amended:

a. By revising the section heading and paragraph (a);

b. By revising paragraph (d);

c. By revising paragraph (e); and

d. By removing the parenthetical phrase at the end of paragraph (g)(1)(ii), as follows:

§ 785.4 Country Groups T and V.

(a) *Republic of South Africa.* In conformity with the United Nations Security Council Resolutions of 1963 and 1977 relating to the export of arms and munitions to the Republic of South Africa, and consistent with U.S. foreign policy toward the Republic of South Africa, the Department of Commerce has established the following special policies for commodities and technical data under its licensing jurisdiction.

(1) An embargo is in effect on the export or reexport to the Republic of South Africa of arms, munitions, military equipment and materials, and materials and machinery for use in the manufacture and maintenance of such equipment. Commodities to which this embargo applies are listed in Supplement No. 2 to part 779 of this subchapter.

(2) An embargo is in effect on the export or reexport to the Republic of South Africa of any commodity, including commodities that may be exported to any destination in Country Group V under a general license, where the exporter or reexporter knows or has reason to know that the commodity will be sold to or used by or for military or police entities in the Republic of South Africa or used to service equipment owned, controlled, or used by or for such military or police entities (See paragraphs (a)(5) and (a)(6) of this section for case-by-case exceptions).

(3) An embargo is in effect on the export or reexport to the Republic of South Africa of technology or software—except technology or software that meets the conditions of General License GTDA—where:

(i) The technology or software relate to the commodities listed in Supplement No. 2 to part 779 of this subchapter; or

(ii) The exporter or reexporter knows or has reason to know that the technology or software, or their direct product, are for delivery to or for use by or for military or police entities of the Republic of South Africa or for use in servicing equipment owned, controlled or used by or for these entities (See paragraphs (a)(5) and (a)(6) of this section for case-by-case exceptions).

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[1] See Supplement No. 1 to part 770 of this subchapter for listing of Country Groups.

(4) Parts, components, materials, and other commodities exported from the United States under either a general or validated export license may not be incorporated abroad into foreign-made end-products where it is known or there is reason to know that the end-product will be sold to or used by or for military or police entities in the Republic of South Africa (See paragraphs § 776.12(b)(4) of this subchapter for general exceptions and (a)(5) and (a)(6) of this section for case-by-case exceptions).

(5) Applications for validated licenses will generally be considered favorably on a case-by-case basis for the export of items to be used in efforts to prevent acts of unlawful interference with international civil aviation.

(6) Applications for validated licenses will generally be considered favorably on a case-by-case basis for the export of medicines, medical supplies, medical equipment, parts and components therefor, and related technology, to any end-user in the Republic of South Africa.

(7) The South African administration of the port of Walvis Bay requires special attention because of the possibility that commodities, software, or technology entering Walvis Bay will be available to South Africa. Accordingly, shipments to and for consumption in Walvis Bay will be considered exports to South Africa. Shipments passing through Walvis Bay to Namibia are not subject to the controls on exports to South Africa. The purpose of this action is not to deny commodities to Namibia nor to imply recognition of South Africa's claim of sovereignty over Walvis Bay. Instead, the goal is to implement more effectively the foreign policy controls already in place for South Africa.

* * * * *

(d) *Syria and Iran.* (1) A validated license is required for foreign policy purposes for the export to Syria and/or Iran (countries that have repeatedly provided support for acts of international terrorism), of the following:

(i) All items subject to national security controls. Applications for export to Iran and Syria of these items will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis. (Contract sanctity dates for Iran for items valued at $7 million or more, January 23, 1984, and for other items, September 28, 1984; for Syria December 16, 1986, except there is no contract sanctity for items valued at $7 million or more destined for military end-uses or end-users.)

(ii) All items subject to chemical and biological weapons proliferation controls. Applications for export to Iran and Syria of these items will generally be denied. (See § 778.8 of this subchapter.)

(iii) All dual-use items subject to missile proliferation controls (MTCR). Applications for export to Iran and Syria of these items will generally be denied. (See § 778.7 of this subchapter.)

(iv) All items subject to nuclear weapons proliferation controls (NRL). Applications for export to Iran or Syria of these items will be considered on a case-by-case basis. (See §§ 778.2 and 778.3 of this subchapter.)

(v) All military-related items. Applications for export to Iran or Syria of items controlled by CCL entries ending with the number "18" will generally be denied. (Contract sanctity dates for Iran, January 23, 1984, for Syria, December 16, 1986, except there is no contract sanctity for items valued at $7 million or more. See paragraph (d)(1)(i) of this section for contract sanctity dates for any military-related items that were subject to national security controls on January 23, 1984, for Iran, or December 16, 1986, for Syria.)

(vi) All aircraft (powered and unpowered), helicopters, engines, and related spare parts and components. Applications for export to Iran or Syria of these items will generally be denied. (Contract sanctity dates for aircraft parts and components in ECCN 9A94 for Iran, October 22, 1987, for Syria, August 28, 1991. Contract sanctity dates for other aircraft and engines for Iran, January 23, 1984; for Syria, December 16, 1986, except April 28, 1986, for helicopters 10,000 lbs. empty weight or less, and there is no contract sanctity for helicopters over 10,000 lbs. empty weight or fixed wing aircraft valued at $3 million or more.)

Note: The controlled U.S. content for purposes of the parts and components controls of § 776.12 includes aircraft engines and specially designed components (ECCNs 9A01, 9A21, and 9A91), inertial navigation systems (ECCN 7A03), and civil avionics (ECCNs 7A05, 7A25, 7A06, and 7A26).

(vii) Heavy duty, on-highway tractors. Applications for export to Iran or Syria of these items will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis. (Contract sanctity date for Iran and Syria, August 28, 1991.)

(viii) Off-highway wheel tractors exceeding 10 tons. Applications for export to Iran of these items will generally be denied to all end-users. Applications for export to Syria of these items will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis. (Contract sanctity dates for Iran, October 22, 1987, for Syria, August 28, 1991.)

(ix) Large diesel engines (greater than 400 horsepower) and parts to power tank transporters. Applications for export to Iran of such equipment will generally be denied. (Contract sanctity date for Iran, October 22, 1987.)

(x) Cryptographic, cryptoanalytic, and cryptologic equipment. Applications for export to Iran of any such equipment will generally be denied. For Syria, a license is required for all national security controlled cryptographic, cryptoanalytic, and cryptologic equipment. Applications for export to Syria will generally be denied. (Contract sanctity dates for Iran, October 22, 1987, for Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any cryptographic, cryptoanalytic, or cryptologic equipment that was subject to national security controls on October 22, 1987, for Iran, or August 28, 1991, for Syria.)

(xi) Navigation, direction finding and radar equipment. Applications for export to Iran of such equipment will generally be denied. Applications for export to Syria of such equipment will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis. (Contract sanctity dates for Iran, January 23, 1984, for items subject to national security control on August 28, 1991, October 22, 1987, for other items; for Syria, December 16, 1986, for items subject to national security control on August 28, 1991, and August 28, 1991, for other items.)

(xii) Electronic test equipment. Applications for export to Iran of such equipment will generally be denied. Applications for export to Syria of such equipment will generally be denied to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis. (Contract sanctity dates for Iran, October 22, 1987, for Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any electronic test equipment that was subject to national security controls on October 22, 1987, for Iran, or August 28, 1991, for Syria.)

(xiii) Mobile communications equipment. Applications for export to Iran of such equipment will generally be denied. Applications for export to Syria of such equipment will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis. (Contract sanctity dates for Iran, October 22, 1987, for Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any mobile communications equipment that was subject to national security controls on October 22, 1987, for Iran, or August 28, 1991, for Syria.)

(xiv) Acoustic underwater detection equipment. Applications for export to Iran of any such equipment will generally be denied. For Syria, a validated license is required only for national security-controlled acoustic underwater detection equipment. Applications for export to Syria will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis. (Contract sanctity dates for Iran, October 22, 1987, for Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any acoustic underwater detection equipment that was subject to national security controls on October 22, 1987, for Iran, or August 28, 1991, for Syria.)

(xv) Portable electric power generators. Applications for export to Iran of such equipment will generally be denied. (Contract sanctity date for Iran, October 22, 1987.)

(xvi) Vessels and boats, including inflatable boats. Applications for export to Iran of these items will generally be denied. For Syria, a license is required for national security controlled vessels and boats. Applications for export to Syria will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis. (Contract sanctity dates for Iran, October 22, 1987, for Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any vessels and boats, including inflatable boats, that were subject to national security controls on October 22, 1987, for Iran, or August 28, 1991, for Syria.)

(xvii) Marine and submarine engines (outboard/inboard, regardless of horsepower). Applications for export to Iran of these items will generally be denied. For Syria, a license is required for all national security controlled marine and submarine engines. Applications for export to Syria will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis. (Contact sanctity dates for Iran, September 28, 1984 for outboard engines 45 HP or more, October 22, 1987 for other engines, for Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any marine and submarine engines (outboard/inboard, regardless of horsepower) that were subject to national security controls on October 22, 1987, for Iran, or August 28, 1991, for Syria.)

(xviii) Underwater photographic equipment. Applications for export to Iran of such equipment will generally be denied. Applications for export to Syria of such equipment will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis. (Contract sanctity dates for Iran, October 22, 1987, for Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any underwater photographic equipment that was subject to national security controls on October 22, 1987, for Iran, or August 28, 1991, for Syria.)

(xix) Submersible systems. Applications for export to Iran of such systems will generally be denied. Applications for export to Syria of such systems will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis. (Contract sanctity dates for Iran, October 22, 1987, for Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any submersible systems that were subject to national security controls on October 22, 1987, for Iran, or August 28, 1991, for Syria.)

(xx) Scuba gear and related equipment. Applications for export to Iran of such equipment will generally be denied. (No contract sanctity.)

(xxi) Pressurized aircraft breathing equipment. Applications for export to Iran of such equipment will generally be denied. (Contract sanctity date, October 22, 1987.)

(xxii) Computer numerical control machine tools. Applications for export to Iran or Syria of these items will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis. (Contract sanctity date for Iran and Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any computer numerical control machine tools that were subject to national security controls on August 28, 1991.)

(xxiii) Vibration test equipment. Applications for export to Iran or Syria of such equipment will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis. (Contract sanctity date for Iran and Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any vibration test equipment that was subject to national security controls on August 28, 1991.)

(xxiv) Digital computers. Applications for export to Iran or Syria of such equipment will generally be denied for computers with a CTP of 6 or above if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis. (Contract sanctity date for Iran and Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any digital computers that were subject to national security controls on August 28, 1991.)

(xxv) Telecommunications equipment as follows:

(A) Radio relay systems or equipment operating at a frequency equal to or greater than 19.7 GHz or "spectral efficiency" greater than 3 bit/s/Hz; and

(B) Fiber optic systems or equipment operating at a wavelength greater than 1000 nm; or

(C) "Telecommunications transmission systems" or equipment with a "digital transfer rate" at the highest multiplex level exceeding 45 Mb/s.

Applications for export to Iran or Syria of such equipment will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis. (Contract sanctity date for Iran and Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any telecommunication equipment that was subject to national security controls on August 28, 1991.)

(xxvi) Microprocessors operating at a clock speed over 25 MHz. Applications for export to Iran or Syria of such equipment will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis. (Contract sanctity date for Iran and Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any microprocessors operating at a clock speed over 25 MHz that were subject to national security controls on August 28, 1991.)

(xxvii) Semiconductor manufacturing equipment. For Iran or Syria, a validated license is required for all such equipment described in ECCNs 3B01 and 3B91. Applications for export to Iran or Syria of such equipment will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis. (Contract sanctity date for Iran and Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any semiconductor manufacturing equipment that was subject to national security controls on August 28, 1991.)

(xxviii) Software specially designed for the computer-aided design and manufacture of integrated circuits. Applications for export to Iran or Syria of such software will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis. (Contract sanctity date for Iran and Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any software specially designed for the computer-aided design and manufacture of integrated circuits that were subject to national security controls on August 28, 1991.)

(xxix) Packet switches. For Iran or Syria, a validated license is required for all equipment described in ECCNs 5A03 and 5A94. Applications for export to Iran and Syria of such equipment will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis. (Contract sanctity date for Iran and Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any packet switches that were subject to national security controls on August 28, 1991.)

(xxx) Specially designed software for air traffic control applications that use any digital signal processing techniques for automatic target tracking or that have a facility for electronic tracking. Applications for export to Iran or Syria of such software will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis. (Contract sanctity date for Iran and Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any specially designed software for air traffic control applications that use any digital signal processing techniques for automatic target tracking or that have a facility for electronic tracking that was subject to national security controls on August 28, 1991.)

(xxxi) Gravity meters having static accuracy of less (better) than 100 microgal, or gravity meters of the quartz element (worden) type. Applications for export to Iran or Syria of such equipment will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis. (Contract sanctity date for Iran and Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any gravity meters having static accuracy of less (better) than 100 microgal, or gravity meters of the quartz element (worden) type that were subject to national security controls on August 28, 1991.)

(xxxii) Magnetometers with a sensitivity lower (better) than 1.0 nt rms per square root Hertz. Applications for export to Iran or Syria of such equipment will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis. (Contract sanctity date for Iran and Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any magnetometers with a sensitivity lower (better) than 1.0 nt rms per square root Hertz that were subject to national security controls on August 28, 1991.)

(xxxiii) Fluorocarbon compounds for cooling fluids for radar and supercomputers described in ECCN 1C94. Applications for export to Iran or Syria of such compounds will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis. (Contract sanctity date for Iran and Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any fluorocarbon compounds for cooling fluids for radar and supercomputers described in ECCN 1C94 that were subject to national security controls on August 28, 1991.)

(xxxiv) High strength organic and inorganic fibers (kevlar) described in ECCN 1C50. Applications for export to Iran and Syria of such fibers will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis. (Contract sanctity date for Iran and Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any high strength organic and inorganic fibers (kevlar) described in ECCN 1C50 that were subject to national security controls on August 28, 1991.)

(xxxv) Machines for cutting gears up to 1.25 meters in diameter described in ECCNs 2B03 and 2B93. Applications for export to Iran or Syria of such equipment will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis. (Contract sanctity date for Iran and Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any machines for cutting gears up to 1.25 meters in diameter described in ECCNs 2B03 and 2B93 that were subject to national security controls on August 28, 1991.)

(xxxvi) Aircraft skin and spar milling machines. Applications for export to Iran or Syria of such equipment will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis. (Contract sanctity date for Iran and Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any aircraft skin and spar milling machines that were subject to national security controls on August 28, 1991.)

(xxxvii) Manual dimensional inspection machines described in ECCN 2B92. Applications for export to Iran of such equipment will generally be denied. Applications for export to Syria of such equipment will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis. (Contract sanctity date for Iran and Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any manual dimensional inspection machines described in ECCN 2B92 that were subject to national security controls on August 28, 1991.)

(xxxviii) Robots capable of employing feedback information in real time processing to generate or modify programs. Applications for export to Iran of such equipment will generally be denied. Applications for export to Syria of such equipment will generally be denied if the export is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses in Syria will be considered on a case-by-case basis. (Contract sanctity date for Iran and Syria, August 28, 1991. See paragraph (d)(1)(i) of this section for contract sanctity dates for any robots capable of employing feedback information in real time processing to generate or modify programs that were subject to national security controls on August 28, 1991.)

(2) Applications for Iran will be considered on a case-by-case basis if:

(i) The transaction involves the reexport to Iran of items where Iran was not the intended ultimate destination at the time of original export from the United States provided that the export from the U.S. occurred prior to the applicable contract sanctity date (or, where the contract sanctity date is October 22, 1987, prior to November 27, 1987).

(ii) The U.S. content value of foreign-produced commodities is 20% or less by value; or

(iii) The commodities will be used for humanitarian purposes.

(3) Applications for Syria will be considered on a case-by-case basis if:

(i) The transaction involves the reexport to Syria of items where Syria was not the intended ultimate destination at the time of original export from the United States, provided that the exports from the U.S. occurred prior to the applicable contract sanctity date (or where the contract sanctity date is December 16, 1986, prior to June 18, 1987).

(ii) The U.S. content of foreign-produced commodities is 20% or less by value; or

(iii) The commodities are medical equipment.

(4) Applicants who wish contract sanctity or any of the factors described in paragraphs (d)(2) or (d)(3) of this section to be considered in reviewing their license applications must submit adequate documentation demonstrating the value of the U.S. content, the existence of the pre-existing contract, the specifications and intended humanitarian or medical use of the equipment, or the date of export from the United States.

Note: Exports of items in performance of contracts entered into before the applicable contract sanctity date(s) will be eligible for review on a case-by-case basis. The contract sanctity dates set forth above are for exporter's guidance. Contract sanctity dates are established in the course of the imposition of foreign policy controls on specific items and are the relevant dates for the purpose of licensing determinations involving such items. If exporters believe that a specific contract sanctity date is applicable to their export transaction, they should include all relevant information with their export license application.

(5) The reexport provisions of part 774 of this subchapter and the parts and components provisions of § 776.12 of this subchapter do not apply to the foreign policy controls on Iran, in paragraph (d)(1) of this section, for ECCNs 2A94, 3A93, 5A92, 5A95, 6A91, 7A94, 8A92, 8A94, 9A92, and 9A94. However, the export of these commodities from the United States to any destination with knowledge that they will be reexported, directly or indirectly, in whole or in part, to Iran is prohibited without an individual validated license.

(e) *Iraq.* (1) Iraq has been designated by the Secretary of State as a nation that has repeatedly supported acts of international terrorism.

Note: Pursuant to Executive Orders 12722 and 12724 of August 2 and August 9, 1990 (3 CFR, 1990 Comp., pp. 294 and 297), respectively, the Department of Treasury's Office of Foreign Assets Control (OFAC) has published regulations prohibiting transactions with the government of, and persons in, Iraq. The Iraqi Sanctions Regulations (31 CFR 575.205) provide that "no goods, technology (including technical data or other information), or services may be exported from the United States or, if subject to U.S. jurisdiction, exported or reexported from a third country to Iraq, to any entity owned or controlled by the Government of Iraq," except as otherwise authorized. Absent any required OFAC license, no BXA general license or other authorization may be used for export to Iraq. An authorization from OFAC shall also constitute authorization under the Export Administration Regulations (15 CFR parts 730–799).

(2) OFAC's Iraqi Sanctions Regulations are amended from time to time. Exporters are advised to consult with OFAC for authorization to export or reexport to Iraq. (Office of Foreign Assets Control, 1500 Pennsylvania Avenue N.W. Annex, Washington, D.C. 20220, Telephone (202) 566–2701.)

* * * * *

68. Section 785.6 is amended by revising paragraph (a) to read as follows:

§ 785.6 Canada.

* * * * *

(a) The technical data described in § 779.5(e) of this subchapter unless the technical data may be exported under the provisions of General License GTDA; or

* * * * *

69. In section 785.7, the first sentence of paragraph (d) is revised to read as follows:

§ 785.7 Country Group S; Libya.

* * * * *

(d) A validated license is required for foreign policy purposes for the export or reexport to Libya of any aircraft (including) helicopters) and any parts and accessories for aircraft controlled by ECCNs 6A08, 6A28, 6A29, 6A30, 6A90, 7A01, 7A21, 7A02, 7A22, 7A03, 7A23, 7A04, 7A24, 7A05, 7A25, 7A06, 7A26, 7A27, 7A94, 9A01, 9A21, 9A03, 9A18.a, 9A18.d, 9A91, and 9A94. * * *

* * * * *

Supplement No. 1 to Part 785 [Removed and Reserved]

70. Supplement No. 1 to Part 785 is removed and reserved.

PART 786—[AMENDED]

71. Section 786.6 is amended by revising paragraph (a)(1)(ii) and paragraph (c)(2) as follows:

§ 786.6 Destination control statements.

(a) * * *

(i) * * *

(ii) General License GLV, GLR, GFW, GCT, or G–TEMP.

* * * * *

(c) * * *

(2) *General license shipments.* For a shipment under any general license, except General License GCT, any of the three destination control statements in paragraph (d) of this section may be

used. For shipments under General License GCT, exporters must use Statement No. 1 or 2.

PART 790—[AMENDED]

72. Section 790.6 is amended by revising the first sentence to read as follows:

§ 790.6 General order preventing the use of special licensing procedures for aircraft controlled by Iran.

Effective September 28, 1984, the special license procedures (including outstanding or future authorizations) described in part 773 of this subchapter may not be used to provide aircraft parts and accessories (ECCNs 6A08, 6A28, 6A29, 6A30, 6A90, 7A01, 7A21, 7A02, 7A22, 7A03, 7A23, 7A04, 7A24, 7A05, 7A25; 7A06, 7A26, 7A27, 7A94, 9A01, 9A21, 9A03, 9A18.a, 9A18.d, 9A91, and 9A94) intended for aircraft (wherever located) owned, operated, or controlled by, or under charter or lease to Iran, or any of its nationals; except that for regularly scheduled civilian airlines, such procedures may be used up to October 18, 1984. * * *

PART 799—[AMENDED]

73. In section 799.1, paragraph (d)(1)(i) is revised to read as follows:

§ 799.1 The commerce control list and how to use it.

* * * * *

(d) * * *

(1) * * *

(i) Validated license requirements by country group and, at times, special country lists or individual destinations. By identifying the countries subject to validated license, this also tells the exporter when General License G–DEST is available for commodities. Note that G–DEST is never available for software or technology.

* * * * *

74. In Supplement No. 1 to § 799.1 (the Commerce Control List), Category 1 (Materials), ECCN 1C60C is amended by revising the Requirements section to read as follows:

1C60C Precursor and Intermediate Chemicals Used in the Production of Chemical Warfare Agents.

Requirements

Validated License Required: QSTVWYZ, except Australia, Austria, Belgium, Denmark, Germany, France, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Spain, Switzerland, Turkey, and the United Kingdom.

Units: Liters or kilograms as appropriate

Reason for Control: CB

GLV: $0

GCT: No

GFW: No

Notes: 1. *Sample Shipments:* General License G–DEST is available for one sample shipment of a 55-gallon container (209 liters) or less of each chemical to any one consignee per calendar year (not applicable to Iran, Iraq, or Syria).

2. *Compounds:* General License G–DEST is available, except to Country Groups S and Z, and the South African military and police, for compounds that are created from chemicals controlled under this ECCN 1C60C provided that the compound itself is not controlled under this ECCN or another ECCN on the CCL. (Mixtures that contain chemicals controlled under this ECCN are controlled as precursors, except when the precursor chemical is merely an impurity that was not intentionally added or is a normal ingredient in consumer goods intended for retail sales.)

* * * * *

75. In supplement No. 1 to § 799.1 (the Commerce Control List), Category 1 (Materials), a new ECCN 1D60C is added between 1D23B and 1D96G, and new ECCNs 1E60C, 1E61B, and 1E70E are added between 1E25B and 1E96G, as follows:

1D60C Software for Process Control That is Specifically Configured to Control or Initiate Production of the Chemical Precursors Controlled by ECCN 1C60

Requirements

Validated License Required: QSTVWYZ, *except* Australia, Austria, Belgium, Denmark, Germany, France, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Spain, Switzerland, Turkey, and the United Kingdom.

Unit: $ value

Reason for Control: CB

GTDR: No

GTDU: Only to countries listed above as not subject to validated license.

1E60C Technology for Production of Chemical Precursors Described in ECCN 1C60, and Technology as Described in the List Below for Facilities Designed or Intended to Produce Chemicals Described in ECCN 1C60

Requirements

Validated License Required: QSTVWYZ, *except* Australia, Austria, Belgium, Denmark, Germany, France, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Spain, Switzerland, Turkey, and the United Kingdom.

Reason for Control: CB

GTDR: No

GTDU: Only to countries listed above as not subject to validated license.

List of Items Controlled

a. Overall plant design;

b. Design, specification, or procurement of equipment;

c. Supervision of construction, installation, or operation of complete plant or components thereof;

d. Training of personnel; and

e. Consultation on specific problems involving such facilities.

1E61B Technology for Production of Microbiological Commodities Described in ECCN 1C61

Requirements

Validated License Required: QSTVWYZ

Reason for Control: CB

GTDR: No

GTDU: No

1E70E Technology for Production of Commodities Described in ECCNs 1B70, 1B71, 1C64, and 1C65 (Equipment That can be Used in Production of Chemical Warfare Agents or Their Precursors, or of Biological Agents)

Requirements

Validated License Required: SZ, Supp. 5 to part 778 of this subchapter

Reason for Control: CB

GTDR: No

GTDU: Yes, except Supp. 5 to part 778 of this subchapter

76. In Supplement No. 1 to § 799.1 (the Commerce Control List), Category 2 (Materials Processing), is amended by adding a new entry for ECCN 2B85F immediately following ECCN 2B54B to read as follows:

2B85F Equipment Specially Designed for Manufacturing Shotgun Shells; and Ammunition Hand-Loading Equipment for Both Cartridges and Shotgun Shells

Requirements

Validated License Required: SZ, and the Republic of South Africa

Unit: $ Value

Reason for Control: FP

GLV: $0

GCT: No

GFW: No

Notes: These commodities are subject to the arms embargo and require a validated license for all exports to South Africa.

77. In Supplement No. 1 to § 799.1 (the Commerce Control List), Category 3 (Electronics Design, Development and Production), ECCN 3A93F is amended

by revising the heading of the entry to read as follows:

3A93F Electronic Test Equipment in Category 3A, n.e.s.

* * * * *

78. In Supplement No. 1 to § 799.1 (the Commerce Control List), Category 9 (Propulsion Systems and Transportation Equipment), ECCN 9A91F is revised to read as follows:

9A91F Other Aircraft and Certain Gas Turbine Engines

Requirements

Validated License Required: SZ, Iran, Syria, and South Africa military and police

Unit: Number

Reason for Control: FP

GLV: $0

GCT: No

GFW: No

List of Items Controlled

a. Military aircraft, demilitarized (not specifically equipped or modified for military operation), as follows:

a.1. Cargo, "C–45 through C–118" inclusive, and "C–121";

a.2. Trainers, bearing a "T" designation and using piston engines;

a.3. Utility, bearing a "U" designation and using piston engines;

a.4. Liaison, bearing an "L" designation; and

a.5. Observation, bearing an "O" designation and using piston engines; and

b. Other nonmilitary aircraft, except those defined in other Category Nine ECCNs.

Note: Specify make and model of aircraft and type of avionic equipment on aircraft.

c. Aero gas turbine engines not controlled by 9A01 or 9A21, and specially designed parts therefor.

Note: 9A91.c does not control aero gas turbine engines that are destined for use in civil "aircraft" and that have been in use in bona fide civil "aircraft" for more than eight years. (See 9A94F.)

79. Supplement No. 1 to § 799.2 (Interpretations) is amended:

a. By removing paragraph 1.(b) in Interpretation 1;

b. By removing paragraph 2. in Interpretation 1;

c. By revising Interpretation 2;

d. By removing and reserving Interpretation 3;

e. By revising paragraph (a) in Interpretation 6;

f. By revising Interpretation 7;

g. By removing the phrase "(a)" from the heading of the paragraph and removing paragraph (b) in Interpretation 20; and

h. By revising Interpretation 21, as follows:

Supplement No. 1 to § 799.2—Interpretations

* * * * *

Interpretation 2: Anti-friction Bearing or Bearing Systems and Specially Designed Parts

(a) An anti-friction bearing or bearing system physically incorporated in a segment of a machine or in a complete machine prior to shipment loses its identity as a bearing and the machine or segment of machinery containing the bearing is the item subject to export control requirements.

(b) An anti-friction bearing or bearing system not incorporated in a segment of a machine prior to shipment, but shipped as a component of a complete unassembled (knocked-down) machine, is considered a component of a machine, and the complete machine is the item subject to export license requirements.

(c) Anti-friction bearings or bearing systems shipped as spares or replacements are classified under ECCNs 2A01 through 2A06 and 2A96 (ball, roller, or needle-roller bearings and parts). This applies to separate shipments of anti-friction bearings or bearing systems and anti-friction bearings or bearing systems shipped with machinery or equipment for which they are intended to be used as spares or replacement parts.

* * * * *

Interpretation 6: Telecommunications Equipment and Systems

* * * * *

(a) Control equipment for paging systems (broadcast radio or selectively signalled receiving systems) is defined as circuit switching equipment in CCL Category 5.

* * * * *

Interpretation 7: Numerical Control Systems

(a) *Classification of "Numerical Control" Units.* "Numerical control" units for machine tools, regardless of their configurations or architectures, are controlled by their functional characteristics as described in ECCN 2B01.a. "Numerical control" units include computers with add-on "motion control boards". A computer with add-on "motion control boards" for machine tools may be controlled under ECCN 2B01.a even when the computer alone without "motion control boards" is not subject to validated licensing requirements under Category 4 and the "motion control boards" are not controlled under ECCN 2B01.b.

(b) *Export documentation.* (1) When preparing an export license application for a numerical control system, the machine tool and the control unit are classified separately. If either the machine tool or the control unit requires a validated license, then the entire unit requires a validated license. If either a machine tool or a control unit is exported separately from the system, the exported component is classified on the export license application without regard to the other parts of a possible system.

(2) When preparing the Shipper's Export Declaration (SED), however, a system being shipped complete (i.e., machine and control unit), should be reported under the Schedule B number for each machine. When either a control unit or a machine is shipped separately, it should be reported under the Schedule B number appropriate for the individual item being exported.

* * * * *

Interpretation 21: Civil Aircraft Inertial Navigation Equipment

(a) The Department of Commerce, Office of Export Licensing (OEL), has licensing jurisdiction over exports to all destinations of standard civil aircraft inertial navigation equipment that is certified by the Federal Aviation Administration (FAA) as standard equipment in civil aircraft as follows:

(1) Complete units mounted in civil aircraft;

(2) Separate units and spare parts to be incorporated into civil aircraft;

(3) Separate units and spare parts to be used for maintenance and repair of inertial navigation equipment; and

(4) Technology relating to the installation, assembly, maintenance, repair or operation of inertial navigation systems described above, or their parts, components, or subsystems (including accelerometers and gyroscopes).

(b) The Department of State, Office of Defense Trade Controls (DTC), retains licensing jurisdiction over all of the following:

(1) Exports to any destination of inertial navigation systems, and specially designed components therefor (including spare parts), that are not standard equipment in civil aircraft and are not certified by the Federal Aviation Administration (FAA) as being an integral part of civil aircraft;

(2) All exports to any destination of technology relating to the design, development, production, or manufacture of inertial navigation equipment, its related parts, components, or subsystems; and

(3) Exports of technology relating to the repair of parts, components, or subsystems of inertial navigation systems (including accelerometers and gyroscopes) not certified by the FAA as being an integral part of civil aircraft.

Dated: December 20, 1991.

James M. LeMunyon,

Deputy Assistant Secretary for Export Administration.

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DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

RIN 1024-AB93

National Capital Region Parks: Prohibition of Storage of Property in Lafayette Park

AGENCY: National Park Service, Department of the Interior.

ACTION: Final rule.

SUMMARY: This final rule amends the National Capital Region Parks regulations in § 7.96 of title 36 Code of Federal Regulations and limits the storage of property in Lafayette Park. The National Park Service has determined that Lafayette Park has become increasingly littered by the storage of assorted property such as construction materials, tarps, bedding, pillows, sleeping bags, tools, food, luggage, clothing and other similar property. The Park Service believes that the storage of such property has a negative impact on the enjoyment of the Park by the visiting public. An earlier restriction prohibiting the storage of property in Lafayette Park was imposed as a condition for a demonstration permit. This prohibition was declared invalid because it had not been published for notice and comment pursuant to the Administrative Procedure Act, 5 U.S.C. 553. This rule limits the storage of property in Lafayette Park for demonstrator and nondemonstrator alike.

EFFECTIVE DATE: April 6, 1992.

FOR FURTHER INFORMATION CONTACT: Sandra Alley, Associate Regional Director, Public Affairs, National Capital Region, National Park Service, 1100 Ohio Drive, SW., Washington, DC 20242, telephone: (202) 619-7223; Richard G. Robbins, Assistant Solicitor, National Capital Parks, Office of the Solicitor, Department of the Interior, Washington, DC 20240, telephone: (202) 208-4338.

SUPPLEMENTARY INFORMATION: The following persons participated in the writing of this rule: Richard G. Robbins and Randolph J. Myers, Office of the Solicitor, Department of the Interior

Background

The National Park Service proposed a rule that would prohibit the storage of certain property in Lafayette Park. 55 FR 40679 (October 4, 1990). Copies of the proposed rule were distributed to demonstrators in Lafayette Park on several occasions, and were mailed to the American Civil Liberties Union.

Under National Park Service regulations, groups numbering over twenty-five participants must apply for a permit to demonstrate. For several years, the National Park Service imposed as a condition for a demonstration permit a restriction on the storage of property in Lafayette Park. However, that restriction was invalidated by the United States Court of Appeals for the District of Columbia Circuit because it had not been published for notice and comment pursuant to the Administrative Procedure Act. *United States* v. *Picciotto,* 875 F.2d 345 (DC Cir. 1989). The Court recognized, however, that the Park Service can promulgate, and has promulgated, regulations governing activities in all National Capital Region parks, including restrictions on demonstrations and special events, some applying to all parks in this area and some applying only to specific parks.

Analysis of Comments

The National Park Service received fifty-two written comments concerning the proposed rule (in addition to assorted photographs of Lafayette Park and five requests for the rulemaking). Comments were received from five organizations, four representatives of the legal community, and one office within the National Park Service. Two commenters supported the proposed rule as written. One commenter opposed the proposed rule as excessively lenient. Forty-nine commenters, including one petition with approximately three thousand signatures, opposed the proposed rule.

Among those who opposed the proposed rule, several commenters stated that they believed that the rule was an attempt to enable police to oust demonstrators from Lafayette Park. One commenter stated that, while there are outstanding park resources and visitor values that need to be protected, the real problem in the park that the Park Service is trying to address is homelessness within the view of the White House. Many commenters and the petition expressed the view that the rule was a burdensome and unnecessary restriction on freedom of thought and expression and that it was a regulatory attempt to negate constitutionally protected rights under the guise of protecting aesthetics.

The National Park Service respectfully disagrees. The rule does not restrict, and is not intended to restrict, freedom of thought or expression. Nor does it prohibit demonstrations in Lafayette Park. Demonstrators remain free to utilize Lafayette Park and to distribute literature, march, speak, hold vigils, and otherwise communicate their views.

The National Park Service's concerns for aesthetics and park resources in Lafayette Park are proper and legitimate governmental interests. The rule is a reasonable, content-neutral limitation on property storage in order to protect park resources and the unique aesthetic quality of Lafayette Park so that visitors may continue to enjoy the history and beauty of the park. At the same time, the rule allows demonstrators to continue to enjoy ample avenues of communication in and around Lafayette Park.

Some commenters stated that stored material in Lafayette Park constitutes neither a "visual blight" nor an "unsightliness." Instead, these commenters stated that the presence of demonstrators in Lafayette Park, in conjunction with their assorted property and signs, is beautiful, and that a contrary characterization reflects a political bias against the demonstrators. Another commenter stated that the proposed rule was based on the content of demonstrators' "distasteful expression of political dissent." One commenter stated that "perhaps the annoyance of seeing sleeping bags all over the place will motivate tourists to pressure their representatives to push for affordable housing."

The National Park Service has no bias against demonstrations or against the homeless, and the rule neither limits nor is intended to limit expression on any subject matter. The purpose of the rule is solely to address aesthetic and park protection concerns raised by the storage of property in Lafayette Park by any person, demonstrator and nondemonstrator alike. Further, the rule is not intended to address signs that are being displayed.

One commenter stated that the regulation would disallow signs large enough to be read by the public in Lafayette Park. The National Park Service disagrees. The regulation has no impact on, and is not intended to address signs that are being displayed. A separate existing regulation governs signs. See 36 CFR 7.96(g)(5)(x)(B) (1990).

The National Park Service has a legitimate public interest in limiting the storage of property in Lafayette Park, by demonstrators or others. Where demonstrators may be storing property in Lafayette Park, the rule limiting the storage of property is without regard to the nature of the message they may be communicating.

While there may be conflicting opinions regarding the aesthetic qualities of storing property in Lafayette Park, the National Park Service, based in part on complaints from the visiting public over the years, believes that it detracts from the aesthetic values of the Park to have excessive amounts of clothing, shoes, bedding, blankets, sleeping bags, construction materials and household items stored within Lafayette Park, and that visitor enjoyment of Lafayette Park is diminished by such storage.

Further, the storage of property has caused damage to park resources in Lafayette Park. Water sprinkler system heads have been destroyed when property was stored on top of them. Grass has been likewise destroyed and bare spots caused on the lawn when property was stored at a fixed location over several days. Paint that was stored within the park has been spilled on walkways.

The National Park Service believes that the rule does not burden expression, and that even if it were to, any burden would be indirect and insubstantial. The rule does not address expressive activity and has no direct impact on expression. Under the rule, demonstrations continue to enjoy numerous modes of expression and may engage in a wide variety of expressive conduct in Lafayette Park. The rule merely limits, to a minor degree, the ability of persons to store excessive quantities of property within Lafayette Park. Finally, the regulation is not an isolated attempt to regulate the aesthetics of the appearances of Lafayette Park. As detailed in the proposed rule, this is but one element of a continuing effort by the National Park Service to preserve and enhance Lafayette Park for the enjoyment and use of the public.

The American Civil Liberties Union (ACLU) submitted three photographs of property they stated was left unattended in Lafayette Park. The ACLU suggested that before the National Park Service considers any rule regarding the storage of property in Lafayette Park it should enforce the existing abandoned property regulation. Further, the ACLU quoted several Lafayette Park demonstrators, who indicated that Park Police officers paid virtually no attention to large mounds of property left in the park by "street people" while quickly confiscating the signs of demonstrators who leave the park for a "few quick minutes."

The United States Park Police have attempted fairly and uniformly to enforce existing regulations regarding abandoned property and unattended property in Lafayette Park, regardless of whether the property belongs to demonstrators, "street people," tourists, casual visitors or others.

Increased enforcement activity under existing regulations, as suggested by the ACLU, was attempted in Lafayette Park recently without measurable improvement in the problem of stored property. With the advent of Operation Desert Storm, and corresponding enhanced public safety concerns, the Park Police increased its presence in the White House area including Lafayette Park. Between January 16, 1991, and April 1, 1991, there was an added effort to enforce all existing regulations including the abandoned property regulation. Notwithstanding that increased enforcement effort, the problem of property storage in Lafayette Park remained, primarily because there is no current limitation which specifically relates to the storage of property in Lafayette Park. Existing regulations were not designed to address, have not cured, and cannot resolve the problem of property storage in Lafayette Park.

The ACLU, and other commenters, also criticized the three cubic feet limit on personal property, stating that as applied to a demonstrator who is conducting a 24-hour vigil, it is insufficient and would severely restrict the rights of individuals conducting such vigils. The ACLU suggested that the limit be abandoned, greatly increased, or modified to exclude literature and paper and that the 24-hour period standard be omitted. Otherwise, the ACLU stated, demonstrators conducting 24-hour vigils would be severely hampered in their ability to communicate their ideas to the public. In addition, another commenter, who identified himself as a demonstrator currently conducting a 24-hour vigil in Lafayette Park, stated that, with more than three million people visiting the park each year, the three cubic feet limit was insufficient to allow adequate quantities of literature for distribution. Along with his written comments, he enclosed approximately one cubic foot of literature, which, he stated, represented only a sample of printed material discussed and distributed during the course of his vigil; he stated that he needed to have at least nine cubic feet of literature in Lafayette Park to assure sufficient quantities for distribution.

The final rule does not contain a 24-hour standard, although the 3 cubic feet limit is retained. The regulation neither interferes, nor is intended to interfere, with demonstrators' exercise of their first amendment rights. The regulation seeks only to prohibit the storage of excessive property, not necessary to facilitate expressive activity, within Lafayette Park. Indeed, it is less stringent than the old rule, which did not stifle free expression. It permits quantities of literature, food, clothing, blankets and a reasonable cover, so long as that property is contained within three cubic feet and is attended. Although tarps are generally prohibited because they constitute a visual blight, interfere with reasonable enforcement, and may blow away, small plastic or other reasonable covers cause fewer aesthetic problems and are therefore permitted. In addition, while blankets may be used as a camping accoutrement, the National Park Service recognizes that some people use them as clothing.

Three cubic feet is the approximate size of a large duffle bag; over 13,000 sheets of letter-size paper (8½" × 11") may be contained within three cubic feet. While a demonstrator conducting a sustained vigil may own property in excess of three cubic feet, and over the course of a period of time may wish to distribute more than three cubic feet of literature, the National Park Service believes that there is no first amendment requirement that such a demonstrator be allowed to keep all of his or her property in Lafayette Park. The National Park Service believes that a large duffle bag of gear, some or all of which may be literature, is more than sufficient to facilitate a demonstration for a reasonable period and would not hamper demonstrators in their ability to communicate ideas to the public. Further, if some or all of their literature is handed out (or their food is consumed) over time, demonstrators are always free to replace such materials within the three cubic foot limitation.

Compliance with Other Laws

The National Park Service has determined that this rule is not a major rule under E.O. 12291 and certifies that this rule will not have significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

This rule does not constitute a major Federal action which significantly affects the quality of the human environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).

This rule is not a policy that has takings implications under E.O. 12630.

List of Subjects in 36 CFR Part 7

National Capital Region parks, National parks.

PART 7—NATIONAL CAPITAL PARKS REGULATIONS

In consideration of the foregoing, part 7 of title 36 of the Code of Federal Regulations is accordingly amended.

1. The Authority citation for part 7 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 460(q), 462(k); Sec. 7.96 also issued under D.C. Code 8–137 (1981) and D.C. Code 40–721 (1981).

2. Section 7.96 is amended by redesignating paragraphs (j) and (k) as (k) and (l) and adding a new paragraph (j) to read as follows:

§ 7.96 National Capital Region parks.

* * * * *

(j) (1) In Lafayette Park the storage of construction material, tools, lumber, paint, tarps, bedding, luggage, pillows, sleeping bags, food, clothing, literature, papers and all other similar property is prohibited.

(2) Notwithstanding (j)(1) of this section, a person in Lafayette Park may have literature, papers, food, clothing, blankets and a reasonable cover to protect such property, occupying up to three (3) cubic feet of space, so long as such property is attended at all times while in the Park (the term "attended" is defined as a person being within three (3) feet of his or her property).

* * * * *

Dated: November 7, 1991.

Mike Hayden,

Assistant Secretary, Fish and Wildlife and Parks.

[FR Doc. 92–2763 Filed 2–5–92; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPPTS–50585C; FRL–3934–4]

RIN 2070–AB27

Sulfurized Alkylphenol; Significant New Use Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is promulgating a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for the chemical substance described generically as sulfurized alkylphenol, which is the subject of premanufacture notice (PMN) P–89–708, and which is subject to a TSCA section 5(e) consent order issued by EPA. This rule would require certain persons who intend to manufacture, import, or process this substance for a significant new use to notify EPA at least 90 days before commencing any manufacturing or processing activities for a use designated by this SNUR as a significant new use. The required notice would provide EPA with the opportunity to evaluate the intended use and, if necessary, to prohibit or limit that activity before it can occur.

DATES: The effective date of this rule is April 6, 1992. This rule shall be promulgated for purposes of judicial review at 1 p.m. Eastern Standard Time on February 20, 1992.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS–799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, rm. EB–543–B, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554–1404, TDD: (202) 554–0551.

SUPPLEMENTARY INFORMATION: This SNUR would require persons to notify EPA at least 90 days before commencing manufacture, import, or processing of P–89–708 for the significant new uses designated herein. The required notice would provide EPA with information with which to evaluate an intended use and associated activities.

I. Authority

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a "significant new use." EPA must make this determination by rule after considering all relevant factors, including those listed in section 5(a)(2). Once EPA determines that a use of a chemical substance is a significant new use, section 5(a)(1)(B) of TSCA requires persons to submit a notice to EPA at least 90 days before they manufacture, import, or process the chemical substance for that use. Section 26(c) of TSCA authorizes EPA to take action under section 5(a)(2) with respect to a category of chemical substances.

Persons subject to this SNUR would comply with the same notice requirements and EPA regulatory procedures as submitters of premanufacture notices under section 5(a)(1) of TSCA. In particular, these requirements include the information submission requirements of section 5(b) and (d)(1), the exemptions authorized by section 5(h)(1), (h)(2), (h)(3), and (h)(5), and the regulations at 40 CFR part 720. Once EPA receives a SNUR notice, EPA may take regulatory action under section 5(e), 5(f), 6, or 7 to control the activities for which it has received a SNUR notice. If EPA does not take action, section 5(g) of TSCA requires EPA to explain in the **Federal Register** its reasons for not taking action.

Persons who intend to export a substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b). The regulations that interpret section 12(b) appear at 40 CFR part 707.

II. Applicability of General Provisions

General regulatory provisions applicable to SNURs are codified at 40 CFR part 721, subpart A. On July 27, 1988 (53 FR 28354), and July 27, 1989 (54 FR 31298), and October 31, 1990 (55 FR 45994), EPA promulgated amendments to the general provisions which apply to this SNUR. In the **Federal Register** of August 17, 1988 (53 FR 31252), EPA promulgated a "User Fee Rule" (40 CFR part 700) under the authority of TSCA section 26(b). Provisions requiring persons submitting significant new use notices to submit certain fees to EPA are discussed in detail in that **Federal Register** document. Interested persons should refer to these documents for further information.

III. Background

EPA published a direct final SNUR for the chemical substance which was the subject of PMN P–89–708 in the **Federal Register** of September 28, 1990, at 55 FR 39892. EPA received notice of intent to submit adverse comments during the 30 days following publication. Therefore, as required by § 721.160, the direct final SNUR for P–89–708 was withdrawn in the **Federal Register** of May 21, 1991 (56 FR 23227), and a proposed SNUR published in the **Federal Register** of May 21, 1991 (56 FR 23257). EPA received comments from one person, the original PMN submitter of the substance subject to this SNUR.

The comment provided was that the recordkeeping requirements of § 721.125(b) and (c) were too broad and burdensome on manufacturers and processors. Specifically, § 721.125(b) requires: Records documenting volumes of the substance purchased in the United States by processors of the substance, names and addresses of suppliers, and the corresponding dates. Similarly, § 721.125(c) requires: Records documenting the names and addresses (including shipment destination address, if different) of all persons outside the site of manufacture, importation, or processing to whom the manufacturer, importer, or processor directly sells or transfers the substance, the date of each sale or transfer, and the quantity of the substance sold or transferred on such date. Given that for P–89–708 processors may include distributors and repackagers at thousands of individual retail and consumer sites, the commenter questioned whether EPA intended such recordkeeping requirements. The commenter also maintained that because this SNUR requires notification only if the production volume manufactured or imported exceeds the volume specified in the SNUR, the function of EPA recordkeeping requirements should be to assure that manufacturers observe this limit, and that records under § 721.125(a) would achieve this goal. In addition the commenter noted a similar problem concerning the large number of processors and users who would have to be notified of the SNUR requirements under § 721.5.

The language of § 721.125(b) and (c) is sufficiently broad that it could be interpreted as requiring recordkeeping by a large number of processors at thousands of retail and consumer sites. In the case of P–89–708 EPA agrees with the commenter that § 721.125(b) and (c) are not appropriate. Accordingly, the final rule does not require the recordkeeping at § 721.125(b) and (c). EPA does not intend such broad recordkeeping especially in light of the limited SNUR provisions, which require notice when a manufacturer or importer exceeds a certain production volume or when a person fails to provide risk notification.

In general EPA limits only the production volume manufactured or imported when it makes the finding under TSCA section 5(e)(1)(A)(ii)(II) (exposure based finding) that was the basis of action for the section 5(e) consent order for P–89–708. EPA agrees with the comment that in cases where EPA uses only the exposure based authority of TSCA the recordkeeping of § 721.125(b) and (c) may be unduly burdensome. In cases where there are other restrictions such as worker exposure, hazard communication, and limited distribution based on an unreasonable risk finding under TSCA, EPA may still cite 721.125(b) and (c) when appropriate.

The commenter also questioned the notification requirements in § 721.5 on the grounds that they could apply to a large number of processors and users. EPA believes, however, that this will not occur. Section 721.5 requires manufacturers, importers, and processors to notify each recipient of a substance subject to a SNUR of the requirements of that SNUR. Section 721.5(a)(2)(iii) also exempts manufacturers, importers, and processors, from such notification requirements when they can document that the recipient cannot undertake any significant new use described in the SNUR. Because the SNUR for P–89–708 contains only a production limit and risk notification provision for manufacturers or importers, further notification of the SNUR requirements is not required.

EPA will review future SNURs, especially those similar to P–89–708 that contain only a production volume limit and risk notification provision, to ensure that appropriate recordkeeping requirements are imposed. The recordkeeping requirements of § 721.125(b) and (c) are still appropriate for some SNURs. In addition the suggestion that recordkeeping requirements apply to a limited number or tiers of processors may also be appropriate in some cases.

IV. Substance Subject to This Rule

EPA is issuing significant new use and recordkeeping requirements for the following chemical substance under part 721 subpart E.

PMN number: P–89–708

Chemical name: (generic) Sulfurized alkylphenol.
CAS number: Not available.
Effective date of section 5(e) consent order: January 23, 1990.
Basis for action: The order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance is expected to be produced in substantial quantities and that there may be significant or substantial human exposure.
Recommended testing: A 28–day oral assay (OECD Guideline No. 407) including neurotox battery (NTIS PB91–154617), and, for the highest dose group, extending histopathological examination to include testes, ovaries, and lungs, plus neuropathology (NTIS PB91–154617); an acute oral test according to 40 CFR 798.1175; an Ames assay (40 CFR 798.5265); and a mouse micronucleus test with substance administered intraperitoneally (40 CFR 798.5395). The PMN submitter has agreed not to exceed the production limit without completing these studies.
CFR citation: 40 CFR 721.1541.

V. Applicability of SNUR to Uses Occurring Before Effective Date of the Final SNUR

EPA has decided that the intent of section 5(a)(1)(B) is best served by designating a use as a significant new use as of the date of proposal rather than as of the effective date of the rule. Because this SNUR was first published on September 28, 1990, as a direct final rule, that date will serve as the date after which uses will be considered to be new uses. If uses which had commenced between that date and the effective date of this rulemaking were considered ongoing, rather than new, any person could defeat the SNUR by initiating a significant new use before the effective date. This would make it difficult for EPA to establish SNUR notice requirements. Thus, persons who begin commercial manufacture, import, or processing of the substance for uses regulated through this SNUR after September 28, 1990, will have to cease any such activity before the effective date of this rule. To resume their activities, such persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires. EPA, not wishing to unnecessarily disrupt the activities of persons who begin commercial manufacture, import, or processing for a proposed significant new use before the effective date of the SNUR, has promulgated provisions to allow such persons to comply with this proposed SNUR before it is promulgated. If a person were to meet the conditions of advance compliance as codified at § 721.45(h) (53 FR 28354, July 17, 1988), the person will be considered to have met the requirements of the final SNUR for those activities. If persons who begin commercial manufacture, import, or processing of the substances between proposal and the effective date of the SNUR do not meet the conditions of advance compliance, they must cease that activity before the effective date of the rule. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires.

VI. Economic Analysis

EPA evaluated the potential costs of establishing significant new use notice requirements for potential manufacturers, importers, and processors of the chemical substance at the time of the direct final rule. However, EPA expects that the costs associated with this rule would be lower because the recordkeeping requirements at § 721.125(b) and (c) found in the direct final rule are not included in this rule. The Agency's complete economic analysis is available in the public record for this rule (OPPTS–50585C).

VII. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPPTS–50585C). The record includes basic information considered by the Agency in developing this rule and the

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comment received. A public version of the record, without any CBI, is available in the TSCA Public Docket Office from 8 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday, except legal holidays. The TSCA Public Docket Office is located in Rm. NE-G004, 401 M St., SW., Washington, DC.

VIII. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this proposed rule would not be a "major" rule because it would not have an effect on the economy of $100 million or more, and it would not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the total annual cost of compliance with this rule, EPA estimates that the cost for submitting a significant new use notice would be approximately $4,500 to $11,000, including a $2,500 user fee payable to EPA to offset EPA costs in processing the notice.

EPA believes that, because of the nature of the rule and the substance involved, there would be few significant new use notices submitted. Furthermore, while the expense of a notice and the uncertainty of possible EPA regulation may discourage certain innovation, that impact would be limited because such factors are unlikely to discourage an innovation that has high potential value.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), EPA has determined that this rule would not have a significant impact on a substantial number of small businesses. EPA has not determined whether parties affected by this rule would likely be small businesses. However, EPA expects to receive few SNUR notices for the substance. Therefore, EPA believes that the number of small businesses affected by this rule would not be substantial, even if all of the SNUR notice submitters were small firms.

C. Paperwork Reduction Act

OMB has approved the information collection requirements contained in this rule under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), and has assigned OMB control number 2070-0012.

Public reporting burden for this collection of information is estimated to vary from 30 to 170 hours per response, with an average of 100 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. However, EPA expects that the burden will be less for this rule than the direct final or proposed rules because the recordkeeping requirements of § 721.125(b) and (c) found in the direct final rule and proposed rules are not included in this rule.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA."

List of Subjects in 40 CFR Part 721

Chemicals, Environmental protection, Hazardous materials, Recordkeeping and reporting requirements, Significant new uses.

Dated: January 27, 1992.

Victor J. Kimm,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR part 721 is amended as follows:

PART 721—[AMENDED]

1. The authority citation for part 721 would continue to read as follows:

Authority: 15 U.S.C. 2604 and 2607

2. By adding new § 721.1541 to subpart E to read as follows:

§ 721.1541 Sulfurized alkylphenol.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance described generically as sulfurized alkylphenol (PMN P-89-708) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* A significant new use of this substance is any manner or method of manufacture, import, or processing associated with any use of this substance without providing risk notification as follows:

(A) If as a result of the test data required under the section 5(e) consent order for this substance, the employer becomes aware that this substance may present a risk of injury to human health, the employer must incorporate this new information, and any information on methods for protecting against such risk, into an MSDS as described in § 721.72(c) within 90 days from the time the employer becomes aware of the new information. If this substance is not being manufactured, imported, processed, or used in the employer's workplace, the employer must add the new information to an MSDS before the substance is reintroduced into the workplace.

(B) The employer must ensure that persons who will receive this substance from the employer are provided an MSDS as described in § 721.72(c) containing the information required under paragraph (a)(1)(i)(A) of this section within 90 days from the time the employer becomes aware of the new information.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Recordkeeping requirements as specified in § 721.125 (a), (h), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

[FR Doc. 92-2923 Filed 2-5-92; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL MARITIME COMMISSION

46 CFR Parts 515, 560 and 572

[Docket No. 91-20]

RIN 3072-AB17

Exemption of Certain Marine Terminal Arrangements

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission amends 46 CFR parts 515, 560 and 572 to exempt certain marine terminal services agreements between common carriers by water and marine

terminal operators from the agreement filing requirements of the Shipping Act, 1916, the Shipping Act of 1984 and the Commission's implementing regulations thereunder, and to discontinue the Commission's tariff filing requirements for such matters. This action codifies Commission policy that has been in effect for the last 5½ years.

EFFECTIVE DATE: The amendments to 46 CFR parts 515, 560 and 572 shall become effective March 9, 1992.

FOR FURTHER INFORMATION CONTACT: Bryant L. VanBrakle, Director, Bureau of Tariffs, Certification & Licensing, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, (202) 523-5796.

SUPPLEMENTARY INFORMATION: The Federal Maritime Commission ("Commission") initiated this proceeding by publishing a Notice of Proposed Rulemaking in the **Federal Register** on May 15, 1991 (56 FR 22384) ("NPR"). The NPR solicited comment on a Proposed Rule ("Proposed Rule") to discontinue existing filing requirements for certain terminal services arrangements between marine terminal operators ("MTOs") and ocean common carriers.

The Proposed Rule would (1) establish an exemption from the agreement filing requirements of section 15 of the Shipping Act, 1916, 46 U.S.C. app. 814 ("1916 Act") and section 5 of the Shipping Act of 1984, 46 U.S.C. app. 1704 ("1984 Act") (collectively, "Shipping Acts") for terminal services agreements; (2) discontinue the Commission's terminal tariff filing requirements under 46 CFR part 515 for the marine terminal services provided under such arrangements; (3) withhold 1984 Act antitrust immunity for exempted arrangements as a condition of the exemption; and (4) exclude from the exemption all rates, charges, rules and regulations affecting terminal services or related facilities determined through marine terminal conference agreements.[1] Comments were also invited on an Alternative Proposal which would add a further condition to the exemption requiring that the actual minimum/maximum range of rates and charges for the services/facilities provided by the involved MTO be listed in the MTO's tariff.

Comments

Comments were received from public port interests, private-sector MTO/stevedore interests, common carriers which also operate marine terminals, foreign shipowners' interests, an association of ship owners, agents and stevedores, and the U.S. Department of Justice ("DOJ").[2] Replies to the Comments were received from public port interests, private-sector MTOs/stevedore interests, a common carrier which also operates marine terminals, and DOJ.[3] The Comments and Replies are summarized in the Appendix, which will not appear in the Code of Federal Regulations.

In general, ports favor either a variation of the Proposed Rule (with an additional requirement that copies of exempted arrangements be provided to the public upon request), or retaining current filing requirements. However, many urge clarification of the definitions that will be used under the Proposed Rule's exemption. Private-sector MTO/stevedores tend to favor the Proposed Rule. Carriers either urge the Commission to retain current requirements, or generally support the Proposed Rule. DOJ supports the Proposed Rule, but urges that it be expanded to encompass all MTO agreements, and that antitrust immunity be withdrawn from all MTO arrangements.

The principal concerns expressed by the Comments and Replies involve:

(A) The proposed exemption's application to rates determined through MTO conference agreements;

(B) The viability of the Alternative Proposal;

(C) The Commission's authority to remove antitrust immunity for the exempted activity;

(D) The disclosure/availability of exempted arrangements; and

(E) The need for contemporary definitions of marine terminal services and facilities before adoption of a final rule.

Discussion

The Commission has considered all of the Comments and Replies received in this proceeding and has determined to adopt the Proposed Rule, with certain changes which are discussed below (and certain other technical and editorial changes to enhance its clarity), as the Final Rule in this matter. Any Comments not expressly discussed have either been incorporated without discussion, have been found to be mooted by the changes incorporated into the Final Rule, or have been found to be irrelevant, without merit or beyond the scope of the proceeding.

A. The Exemption's Application to Rates Determined Through MTO Conference Agreements

The Proposed Rule's filing exemption did not cover rates, charges, rules and regulations affecting terminal services or related facilities determined through marine terminal conference agreements as defined in 46 CFR 560.307(b) and 572.307(b). The NPR solicited comment on whether the exemption should be narrowed to exclude rates, charges, rules and regulations determined through marine terminal discussion and interconference agreements, or alternatively, whether all collectively-determined matters should be exempted.

Commenters' views vary on this issue and their suggestions range from: (1) exempting all collectively-determined matters; to (2) exempting all collectively-determined matters conditioned on the public availability of the exempted arrangements; to (3) exempting all collectively-determined matters if the involved conference agreements provide for the right of independent action.

The Commission believes that excluding matters determined through discussion or interconference agreements from the exemption could diminish industry access to the exemption without serving any offsetting regulatory purpose. Also, as noted by NAS and others, there are practical problems with such limitations. In practice, it may be difficult in some cases to distinguish which rates and rules have actually been "determined through" an MTO discussion or interconference agreement, much less determine if the discussion of such matters—as opposed to fixing rates in a context where adherence is enforced—may disqualify certain MTO rates or rules from the filing exemption.

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[1] The Proposed Rule was modeled after the Waiver of Penalties . ("Waiver") that has been in effect since June 25, 1986. See Notice of Waiver of Penalties (51 FR 23154, June 25, 1986); Supplemental Notice of Waiver of Penalties (51 FR 36755, October 15, 1986); Second Supplemental Notice of Waiver of Penalties (52 FR 18744, May 19, 1987]. The Waiver provides that the Commission will not assess penalties against those that fail to file agreements or tariffs setting forth rates and charges for terminal services performed for common carriers by water.

The Waiver was in response to widespread industry uncertainty over the Commission's filing requirements for industry practices of combining terminal services and stevedoring services under a single transaction. For a background of the Waiver and subsequent Commission-related initiatives, please refer to pages 2 through 8 of the NPR.

[2] Comments were filed by the American Association of Port Authorities ("AAPA"); the California Association of Port Authorities; the Foreign Shipowners Association of the Pacific Coast; the Master Contracting Stevedore Association of the Pacific Coast, Inc. ("MCSAPC"); the National Association of Stevedores ("NAS"); the Gulf Seaports Marine Terminal Conference ("GSMTC"); the Northwest Marine Terminal Association; Stevedoring Services of America; the West Gulf Maritime Association; the Massachusetts Port Authority; the Port Authority of New York and New Jersey ("PANYNJ"); the Port of Seattle; the Port of Tacoma; the Tampa Port Authority ("Tampa"); American President Lines, Ltd. and Eagle Marine Services, Ltd. ("APL/Eagle"); Sea-Land Service, Inc.; Guam Port Authority ("Guam"); Jacksonville Port Authority; and DOJ.

[3] Replies to Comments were filed by NAS, AAPA, MCSAPC, GSMTC, PANYNJ, Tampa, APL/Eagle, Guam, and DOJ.

On the other hand, structuring an exemption with no limitations on MTO conference agreements would immunize from the antitrust laws unsupervised activity violative of those laws.[4] Because marine terminal conferences involve the fixing of and adherence to concertedly-determined courses of action, the Commission believes that their rates, charges, rules and regulations should not be encompassed by any filing exemption. The concerted, binding rate-fixing activity of the nature occurring in a marine terminal conference should be reflected in publicly available tariffs as a possible deterrent to the abuse of the immunized authority. Therefore, the Commission has determined to adopt the approach set forth in the Proposed Rule, thereby excluding from the exemption any rates, charges, rules and regulations determined through marine terminal conference agreements. However, the Commission does not see a need to structure an exemption in a manner excluding matters discussed by marine terminal discussion and interconference agreements, given the non-binding nature of their authority.[5]

B. The Alternative Proposal

The NPR also invited comments on an Alternative Proposal. The Alternative Proposal would have added a further condition to the exemption, which would have required MTO tariffs to list the actual minimum/maximum range of rates and charges for the services/facilities provided by the involved MTO. While several commenters believe such an approach warrants further consideration, the majority of Comments and Replies oppose it. The Commission has determined not to condition the exemption of marine terminal services arrangements in the manner contemplated in the Alternative Proposal but rather has decided to adopt the Proposed Rule as a Final Rule.

C. Antitrust Immunity

The Proposed Rule was limited by several conditions prompted by the criteria governing the Commission's exemption authority under section 35 of the 1916 Act, 46 U.S.C. app. 833a, and section 16 of the 1984 Act, 46 U.S.C. app. 1715.[6] One of these conditions was to withhold 1984 Act antitrust immunity from exempted arrangements.[7] The NPR stated that, absent any compelling arguments to the contrary, the removal of antitrust immunity appeared to be appropriate because the exempted activity occurs exclusively within the United States and the legislative history of the 1984 Act indicates that a removal of antitrust immunity is among the conditions the Commission may impose on a section 16 exemption.[8] Some commenters support this approach; indeed, DOJ urges the Commission to go beyond the scope of this proceeding and to discontinue antitrust immunity for all transactions involving this sector of the industry.

However, several commenters challenge the Commission's authority to remove the antitrust immunity for exempted agreements. They generally assert that the "plain language" of section 7(a)(1) of the 1984 Act confers antitrust immunity on agreements that are filed with the Commission or are exempt under section 16 of the 1984 Act, and, accordingly, that any removal of antitrust immunity for the exempted agreements should occur only through direct Congressional action. Moreover, Tampa states that it would not appear that Congress intended to confer authority on the Commission to remove antitrust immunity provided for under the Act, when such immunity is being reviewed by the Advisory Commission created under section 18 of the Act.[9]

The Commission is not persuaded that its exercise of its exemption authority under section 16 of the 1984 Act is necessarily limited by the language of section 7(a). Section 7(a) itself does not by its express terms limit the Commission's authority to condition exemptions.[10] And, the 1984 Act's legislative history specifically provides that the "conditions" available to the Commission under section 16 of the 1984 Act could include withdrawal of antitrust immunity.[11]

After consideration of the views expressed on this issue, the Commission has determined to proceed with the approach under the Proposed Rule, whereby 1984 Act antitrust immunity will be removed with respect to agreements which are not filed with the Commission pursuant to the Final Rule's exemption. The Comments filed on this issue have not convinced the Commission that it can effectively ensure that such exempted agreements, when not filed for Commission review, comply with Shipping Act standards and warrant immunity from the antitrust laws. Thus, while Shipping Act antitrust immunity will not be available to agreements that are not filed with the Commission pursuant to the Final Rule herein, for the reasons discussed below, such immunity will remain available to exempt agreements which are filed with the Commission voluntarily.

The NPR solicited comments on whether those desiring 1984 Act antitrust immunity for activity otherwise eligible for the proposed filing exemption should be afforded the option to file their agreements voluntarily under the waiting period exemption currently set forth at 46 CFR 572.307, and, thus, obtain such immunity. The majority of commenters support the "voluntary" filing proposal. However, DOJ urges the Commission to reject this approach on the basis that it is within the Commission's discretion to do so and such rejection would be consistent with the public interest in preserving competition in the MTO industry.

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[4] The Proposed Rule's exemption would remove Shipping Act antitrust immunity for certain unfiled MTO/carrier terminal services agreements, as defined in the Proposed Rule. The Proposed Rule does not affect the antitrust immunity of the agreements that provide for the establishment of a marine terminal conference.

[5] The comments of such associations opposing the Proposed Rule's limitation on the exemption with regard to conferences may have confused their status with that of a conference agreement. In this regard, it is noted that groups such as the California Association of Port Authorities, the Northwest Marine Terminal Association and the Gulf Seaports Marine Terminal Conference do not literally meet the definition of "marine terminal conference agreement" under 46 CFR 572.307(b) because they do not enforce adherence to uniform marine terminal tariff matter, nor do they publish any common tariffs in which all members participate.

[6] The Shipping Acts' exemption standards require the Commission to find that an exemption will not substantially impair effective regulation by the Commission, be unjustly discriminatory, result in a substantial reduction in competition (1984 Act only), or be detrimental to commerce. Both Shipping Acts authorize the Commission to attach conditions to any exemption.

[7] Unlike the 1984 Act, the 1916 Act does not explicitly confer antitrust immunity to exempted activity. Section 7 (a)(1) of the 1984 Act, 46 U.S.C. app. 1706, in pertinent part provides:

> The antitrust laws do not apply to—
>
> (1) Any agreement that * * * is exempt under section 16 of this Act from any requirement of this Act.

[8] We refer to an explanatory statement published in the Congressional Record at the request of the leadership of the House Judiciary and Merchant Marine and Fisheries committees to record "important changes" made as a result of certain compromises made by the two committees (Cong. Rec. H 8124 and 8125, October 6, 1983). The explanatory statement recites that the compromise resulted in new wording which "closely tracks that of section 35 of the Shipping Act of 1916", adding, "[t]he change permits the Commission to impose conditions upon such an exemption, including the partial or total removal of antitrust immunity for agreements or conduct that might be exempted from filing requirements."

The House version of section 16 representing the House committees' compromise was accepted by the Senate without change (H. Rept. 98-600, p. 42).

[9] Section 18 of the 1984 Act, 46 U.S.C. app. 1717, provides for a study of the effects of the 1984 Act and establishes the Advisory Commission on Conferences in Ocean Shipping to make recommendations to the President and to the Congress concerning conferences in ocean shipping. The topics listed for study under section 18 include the need for antitrust immunity for ports and marine terminals.

[10] It is noted that section 7(c) anticipates the Commission's removal of antitrust immunity under section 7(a). Section 7(c) provides, in part, that any determination by the Commission that results in the removal of the immunity to the antitrust laws set forth in section 7(a) shall not remove or alter the antitrust immunity for the period before the determination.

[11] See footnote 8, supra.

"Voluntary", or "optional" filing of exempted agreements is presently permitted under 46 CFR 572.301(b). This approach has been codified since the Commission's promulgation of its agreement rules under the 1984 Act, and was carried forward from the 1916 Act rules.[12] The Commission is not persuaded that it should now alter this policy. While DOJ urges the Commission to follow the Interstate Commerce Commission's ("ICC") lead with regard to TOFC/COFC deregulation, we believe that there are relevant differences. In particular, the ICC was addressing collective rate setting, not the provision of transportation-related services. Moreover, as recently as 1984, Congress enacted legislation explicitly reaffirming antitrust immunity for MTO agreements. The Commission does not believe it should impair access to the process created by Congress by those willing to disclose their activity.

D. Disclosure/Availability of Exempted Agreements

The Proposed Rule at 46 CFR 515.3(b)(2) required a certified true accounting of tariff matters exempted from the Commission's tariff filing requirements to be furnished to the Commission within 30 days of a Commission staff request. Private-sector MTOs/stevedores are concerned that the proposed requirement does not adequately provide for: Confidential treatment of information submitted upon Commission request; a reasonable recordkeeping time limit; or an explanation of what is meant by a "true accounting."

The Commission has reexamined the need for a separate record retention requirement with respect to the information no longer subject to tariff filing and has decided to delete it from the Final Rule. The record retention/disclosure provisions applicable to matter exempted from the Commission's agreement filing requirements at 46 CFR 560.301(f) and 572.301(f) will, however, apply.[13] These provisions require the parties to any agreement that has been exempted from filing to retain the agreement during its term and for a period of three years after its termination. The parties are also required to make the agreement available to the Commission during this period.

The Commission's agreement rules apply because the definition of a marine terminal services agreement,[14] as revised, includes matter exempted from tariff filing under the Final Rule. Arrangements between MTOs and carriers that might contain rates, charges, etc., subject to tariff filing fall within the definition of an agreement under the provisions of the Shipping Acts and, as such, are subject to the record retention and inspection requirements of parts 560 and 572.[15]

We believe that the withdrawal of proposed § 515.3(b) should satisfy the commenters' concerns. The agreement provisions that now otherwise apply, as described above, have a specified record-retention period of 3 years and do not provide for a "true accounting", as was the case for proposed § 515.3(b). As to the confidentiality issue, the Commission intends to protect from public disclosure any materials inspected pursuant to 46 CFR 560.301(f) and 572.301(f) to the fullest extent permitted by law.

Public port interests urge the Commission to require copies of exempted arrangements to be made available at reasonable cost to the general public upon request. They generally contend that, without such a condition, the exemption would place public operators at a competitive disadvantage. They note that some public agencies may still have their tariff and agreements available to the public through state "Freedom of Information Act" and other public disclosure statutes. Private-sector MTOs, on the other hand, point to the many competitive advantages enjoyed by the ports, and contend that it is not the Commission's proper role to level the playing field in this regard.

The Commission has considered the Comments urging that the exempted arrangements be available to the public and concludes such a condition for the exempted agreements would exceed the scope of this rulemaking. Moreover, it may negate the purpose of the exemption, and place a considerable additional administrative burden on the MTOs tasked with the processing of requests for exempted arrangements. Finally, it is noted that the scope of exempted arrangements may include activities of a confidential and/or unregulated (*e.g.,* stevedoring) nature which have not normally been available to the public, either before or during the 5-year Waiver.[16] The Commission believes it has sufficient oversight [17] over the exempted agreements and that it is not necessary to further condition the exemption with the requirement that exempted arrangements be made available to the public. However, the Commission will monitor activity exempted pursuant to the Final Rule herein to examine the exemption's overall impact.

The Commission retains its authority to adjudicate formal complaints of Shipping Act violations with regard to activity occurring under an unfiled arrangement which has been exempted.

E. Definitions of Marine Terminal Services/Facilities and Recodification of MTO Tariff and Agreement Rules

Several commenters recommend retention of the Commission's current

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[12] Under the Commission's 1916 Act rules, agreements exempted from filing requirements have no explicit grant of antitrust immunity unless they are filed for 1916 Act approval.

[13] These requirements were not at issue in this proceeding.

[14] 46 CFR 500.104(a) defines the term "agreement", for 1916 Act purposes, as:

"* * * an agreement, or modification thereof, which is a written document and which reflects an understanding, arrangement, or undertaking, between two or more common carriers by water in interstate commerce or other persons subject to the Act which is required by section 15 of the Act to be filed with the Commission."

46 CFR 572.104(a) defines the term "agreement", for 1984 Act purposes, as:

"* * * an understanding, arrangement or association, written or oral (including any modification, cancellation or appendix) entered into by or among ocean common carriers and/or marine terminal operators, but does not include a maritime labor agreement."

[15] The Commission's existing agreement filing requirements, 46 CFR 560.301(f) and 572.301(f), require exempted agreements to be retained by the parties and made available to the Commission's staff for inspection during the term of the agreement and for a period of three years after its termination.

[16] The Commission does not assert or claim jurisdiction over stevedoring activities. The dissent proposes that the preferable way to address the regulatory confusion, which our 5½-year old waiver of penalties has covered, is for the Commission to assert new jurisdiction over stevedoring activities. Not only is there some doubt about our legal ability to do so, there is no suggestion in the record that the Commission should do so, and no factual record supporting a need for such an extension of regulatory jurisdiction and interference.

[17] The Final Rule does not grant an exemption from the substantive Prohibited Acts standards set forth under section 10 of the 1984 Act, 46 U.S.C. app 1709; or from the so-called "general standard" of section 6(g) of the 1984 Act, 46 U.S.C. app. 1705; or from the counterparts to these standards under sections 15, 16 First and 17 of the 1916 Act, 46 U.S.C app. 814–816. The Commission's agreement filing requirements provide that exempted agreements be retained by the parties and made available to the Commission's staff for a period of three years after the agreement's termination (46 CFR 560.301(f) and 572.301(f)).

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definitions of terminal services and facilities, while others urge the Commission to first revise and update these definitions before proceeding further to a final rule in this matter.

Under the Final Rule, the definition of the term "marine terminal services agreement" in §§ 560.308(a)(1) and 572.310(a)(1) has been revised to make clear that the exemption does not cover agreements authorizing carriers to operate a marine terminal facility (as opposed to using a facility operated by an MTO). These definitional revisions in the Final Rule should obviate the need for any further definitional rulemaking proceedings.

Conclusion

The Commission finds that the exemption from agreement filing and discontinuance of certain terminal tariff filing requirements as provided for in the Final Rule will not substantially impair effective regulation, be unjustly discriminatory, be detrimental to commerce, or result in a substantial reduction in competition.

Few comments have specifically addressed the statutory exemption criteria and none have provided any convincing evidence that the exemption in the Final Rule would not meet those criteria. Moreover, the Final Rule adopted in this proceeding is modeled after the Waiver. During the five years the Waiver has been in effect, the Commission has not received any formal or informal complaints, requests or inquiries concerning adverse effects caused by the Waiver. For that matter, none of the commenters in this proceeding have demonstrated that the Waiver has caused any harm either to them individually or the industry as a whole, or shown that it has impaired the Commission's ability to carry out its statutory responsibilities. We believe, therefore, that the Waiver as carried forward in the Final Rule will not operate in a manner contrary to the exemption standards set forth in the Shipping Acts. This finding is buttressed by the fact that the full range of Shipping Act standards, e.g., the prohibitions of section 10 of the 1984 Act, will continue to apply to the activities exempted from the Commission's filing requirements.

The Commission believes that these statutory safeguards will ensure that the Final Rule will operate in a manner conforming with the requirements of the Commission's exemption authority. Under the Final Rule, the Commission retains its authority to adjudicate formal complaints and to investigate and take appropriate action to address any Shipping Act violations occurring under arrangements which have been exempted from filing requirements. Exempted agreements must be retained by the parties and be made available to the Commission's staff. Additionally, section 12 of the 1984 Act, 46 U.S.C. app. 1711, and section 27 of the 1916 Act, 46 U.S.C. app. 826, confer the Commission with subpoena powers to obtain the information it may need for investigations and adjudicatory proceedings involving exempted activity. Finally, the Commission will monitor activity exempted under the Final Rule to examine the exemptions' overall impact.

Although the Commission, as an independent regulatory agency, is not subject to Executive Order 12291, dated February 17, 1981, it has nonetheless reviewed the rule in terms of this Order and has determined that this rule is not a "major rule" because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effect on competition, employment, investment, productivity, innovations, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Federal Maritime Commission certifies, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), that the Final Rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units or small governmental organizations.

Approval for the Proposed Rule in this proceeding was granted by the Office of Management and Budget ("OMB") on June 21, 1991. Since this Final Rule does not contain the information collection requirement that was subject to OMB review under the Paperwork Reduction Act of 1980, as amended, OMB approval does not apply.

It is ordered, That the Waiver of Penalties (as noticed at 51 FR 23154, 51 FR 36755, and 52 FR 18744), is hereby discontinued on the effective date of the Final Rule herein.

List of Subjects in 46 CFR Parts 515, 560 and 572

Administrative practice and procedure, Antitrust, Contracts, Maritime carriers, Rates and fares, Reporting and recordkeeping requirements.

Therefore, pursuant to 5 U.S.C. 553; sections 5, 16 and 17 of the Shipping Act of 1984, 46 U.S.C. app. 1704, 1715 and 1716; and sections 15, 16, 17, 35 and 43 of the Shipping Act, 1916, 46 U.S.C. app. 814–816, 833a and 841a, the Commission amends parts 515, 560 and 572 of title 46 of the Code of Federal Regulations as follows:

PART 515—[AMENDED]

1. The authority citation to part 515 is revised to read:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 816, 820, 833a, 841a, 1709, 1714, 1715 and 1716.

2. Section 515.3 is amended to redesignate the language of the existing section as paragraph (a), to remove the phrase in the last sentence thereof which reads "* * * for terminal services performed for water carriers pursuant to negotiated contracts, and" and to add new paragraphs (b) and (c) to read as follows:

§ 515.3 Persons who must file.

* * * * *

(b) Rates, charges, rules and regulations governing terminal services provided to and paid for by common carriers by water pursuant to a marine terminal services agreement as defined in 46 CFR 560.308(a) or 46 CFR 572.310(a), need not be separately filed in tariffs for the purposes of this part, on condition that such rates, charges, rules and regulations are not determined through a marine terminal conference agreement, as defined in 46 CFR 560.307(b) and 572.307(b).

(c) Rates, charges, rules and/or regulations which but for § 515.3(b) would be subject to the tariff-filing requirements of this part may not unilaterally impose exculpatory provisions of a nature prohibited by § 515.7.

PART 560—[AMENDED]

The authority citation to part 560 continues to read:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 814, 817(a), 820, 821, 833a and 841a.

2. A new § 560.308 is added to read as follows:

§ 560.308 Marine terminal services agreements—exemption.

(a) *Marine terminal services agreement* means an agreement, contract, understanding, arrangement or association, written or oral (including any modification, cancellation or appendix) between a marine terminal operator and a common carrier by water in interstate commerce that applies to marine terminal services as defined in 46 CFR 515.6(d) (including any marine terminal facilities, as defined in 46 CFR 515.6(b), which may be provided incidentally to such marine terminal services) that are provided to and paid for by a common carrier by water in interstate commerce. The term "marine terminal services agreement" does not include:

(1) Any agreement which conveys to the involved carrier any rights to operate any marine terminal facility by means of a lease, license, permit, assignment, land rental, or similar other arrangement for the use of marine terminal facilities or property; or

(2) Any agreement (or any modification to any agreement) previously filed with the Commission pursuant to the Shipping Act, 1916, unless said agreement, together with all previously-filed modifications, have been formally withdrawn.

(b) All marine terminal services agreements as defined in § 560.308(a) are exempt from the filing and approval requirements of section 15 of the Shipping Act, 1916, and part 560 of this chapter, on the condition that they do not include rates, charges, rules and regulations which are determined through a marine terminal conference agreement, as defined in 46 CFR 560.307(b).

PART 572—[AMENDED]

1. The authority citation to part 572 continues to read:

Authority: 5 U.S.C. 553, 46 U.S.C. app. 1701–1707, 1709–1710, 1712 and 1714–1717.

2. A new § 572.310 is added to subpart C to read as follows:

§ 572.310 Marine terminal services agreements—exemption.

(a) *Marine terminal services agreement* means an agreement, contract, understanding, arrangement or association, written or oral (including any modification, cancellation or appendix) between a marine terminal operator and an ocean common carrier that applies to marine terminal services as defined in 46 CFR 515.6(d) (including any marine terminal facilities, as defined in 46 CFR 515.6(b), which may be provided incidentally to such marine terminal services) that are provided to and paid for by an ocean common carrier. The term "marine terminal services agreement" does not include:

(1) any agreement which conveys to the involved carrier any rights to operate any marine terminal facility by means of a lease, license, permit, assignment, land rental, or similar other arrangement for the use of marine terminal facilities or property; or

(2) Any agreement (or any modification to any agreement) previously filed with the Commission pursuant to the Shipping Act of 1984, unless said agreement, together with all previously-filed modifications, have been formally withdrawn.

(b) All marine terminal services agreements as defined in § 572.310(a) are exempt from the filing and waiting period requirements of sections 5 and 6 of the Shipping Act of 1984 and Part 572 of this chapter on condition that:

(1) They do not include rates, charges, rules and regulations which are determined through a marine terminal conference agreement, as defined in 46 CFR 572.307(b); and

(2) No antitrust immunity is conferred pursuant to section 7 of the Shipping Act of 1984, 46 U.S.C. app. 1706, with regard to terminal services provided to a common carrier by water under a marine terminal services agreement which is not filed with the Commission pursuant to the exemption provided by § 572.310(b).

It is further ordered, That this proceeding is discontinued.

By the Commission.[10]

Joseph C. Polking,
Secretary.

Commissioner William D. Hathaway Dissenting

Section 16 of the Shipping Act of 1984 (46 U.S.C. app. 1715) gives the Commission the authority, after affording opportunity for hearing and making certain findings, to exempt any activity of persons subject to the Act from any requirement of the Act. However, the Commission is under no obligation to entertain a petition for exemption nor once entertained to grant an exemption even if the findings necessary for such an exemption could be made. Section 16 is designed to assist the Commission in the exercise of its regulatory function and does not confer any rights upon the regulated to become unregulated. Commission action under section 16 is discretionary. The operating words in the section are "The Commission * * * *may*." (emphasis added).

The accepted rule of statutory construction is that if a statute is clear on its face reference to extrinsic matter is precluded.[1] However, assuming arguendo section 16 is clear, extrinsic data relevant to the section nevertheless can and should be employed to assist us in determining how to apply the section.

The legislative history very clearly and pointedly demonstrates that section 16 should be used only in minor cases where there is no substantial opposition.[2] This is not a minor case, it covers all of the marine terminal operators in the country. Nor is the petition without substantial opposition. Sea-Land entered a well reasoned comment in opposition,[3] and Sea-Land is a party for whose protection the agreement filing requirement was designed.

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[10] Commissioner Hathaway's dissent is attached.

[1] *See Caminetti v. U.S.*, 242 U.S. 470, 485 (1917) and *Griffin v. Oceanic Contractors, Inc.*, 458 U.S. 564, 571 (1982).

[2] H.R. Rep. No. 2248, 89th Cong., 2d Sess. 1 (1966).

"This bill would simply allow the Commission under appropriate safeguards against abuse, *to exercise limited authority to exempt from the requirements of the Act certain operations now subject to the act, which are not of significance in the overall design of regulation contemplated by the Act.*" (emphasis added).

S. Rep. No. 1489, 89th Cong., 2d Sess. 3 (1966) (Statement of Harlee, Chairman of the FMC):

"The Commission views exemption legislation as a matter of the convenience to the Commission and the parties it regulates, rather than a matter of substance and, therefore, *would be unlikely to grant exemptions from the Shipping Act in the face of substantial opposition.*" (emphasis added).

Omnibus Maritime Bill—Part I: Hearings on H.R. 4769 Before the Subcomm. on Merchant Marine of the House Comm. on Merchant Marine and Fisheries, 96th Cong., 1st Sess. 93–94 (1979) (Statement of Daschbach, Chairman of the FMC):

"The Commission views exemption legislation as a matter of disposing of needless, unnecessary and unproductive procedural requirements rather than a matter of substance and, therefore would be unlikely to grant exemption from the acts in the face of substantial opposition."

"In the face of this history, section 35 (now section 16) has had less impact than its language would indicate. The Commission has utilized this exemption authority in areas that have been *generally noncontroversial and inconsequential in the overall context of ocean commerce regulation.* For example, exemptions have been granted to nonexclusive transshipment agreements, transportation of mail in foreign commerce, round-trip passenger excursion voyages in the domestic offshore trades, transportation in the domestic offshore trades by small boats, and transportation of certain bulk liquid cargo in the domestic offshore trades." (emphasis added).

[3] Sea-Land's comment states in part.

"With respect to the proposed filing exemption, however, Sea-Land supports the Commission's current tariff and agreement filing regulations. It is essential that marine terminal operators continue to file their tariffs and agreements with the Commission to enable the Commission to enforce the substantive standards of the Shipping Acts. The requirement to file publicly the marine terminal service arrangements which are the subject of this proposal enables those who are affected, including carriers, shippers, marine terminal operators, and the Commission to be aware of the specific nature and scope of terminal service arrangements within limited waterfront space. By granting terminal operators the option not to file tariffs and agreements for such arrangements, the Commission is unjustifiably abandoning its most effective mechanism to enforce the provisions of the Shipping Acts."

I believe the legislative history of section 16 clearly indicates that in exercising our discretion we should defer to the Congress in matters of any consequence.[4] The Congress certainly did not intend that three Commissioners could change the law in any significant way. I believe what the majority is doing by its decision is changing the law in a significant way.

Furthermore, section 16 requires the Commission to find that the exemption "will not substantially impair effective regulation by the Commission, be unjustly discriminatory, result in substantial reduction in competition, or be detrimental to commerce." It is not up to those who oppose the exemption to disprove these findings.[5] The burden is on the Commission to substantiate the findings in such a way that a reviewing tribunal could determine whether or not there is sufficient evidence to support them.[6]

I find no such evidence in the record or in the majority opinion with respect to the last three findings, viz. unjustly discriminatory, substantial reduction in competition or detrimental to commerce, and find the analysis purporting to support the first standard to "not substantially impair effective regulation by the Commission" not persuasive.[7]

The fact that no one has complained during the time the waiver was in effect nor said that the waiver caused no harm means little. The interested parties have not had any tariffs or agreements to go by and may well have not been motivated to find out thru other means about possible adverse practices because they were awaiting the final outcome of this proceeding.

Granting the exemption will certainly substantially impair effective regulation because it will be much easier to find any infraction of the Act if the agreements are on file than if the Commission must spot check agreements from time to time or rely upon complaints from carriers who will have to be quite resourceful to discover actions that would be a violation of the Act. Also, the filing of agreements and tariffs will certainly inhibit MTO's from violating the Act.

Obviously, I also disagree with the majority action in revoking the rule requiring filing of tariffs because this rule was designed to complement the statutory agreement filing requirement.

Finally, the Section 18 Advisory Commission has this matter under consideration. The Commission was established by Congress to review the entire Act. It is scheduled to report to Congress in April of this year. Certainly we could wait until then to see what recommendation is made.

The action I would prefer the Commission to take is as stated in my motion that was voted down at the meeting i.e. withdraw the proposed rule, continue the waiver of penalty in effect and issue a new proposed rule to assert jurisdiction over stevedores. I believe the Commission is warranted in asserting such jurisdiction based upon *Gillen's Sons Lighterage* v. *American Stevedores,* 12 FMC 325 (1969), *A.P. St. Philip, Inc.* v. *Atlantic Land & Improvement Co. etc.,* 13 FMC 166 (1969) and the definition of "marine terminal operator" in section 2 of the Shipping Act of 1984 (46 U.S.C. app. 1701).

Appendix to Supplementary Information

[Docket 91-20]

Exemption of Certain Marine Terminal Arrangements; Summary of Comments [1] *and Replies* [2]

I. Comments

A. *Ports.* AAPA supports the Commission's rejection of the approach suggested in the August 31, 1988 Report of Fact Finding Officer in Fact Finding Investigation No. 17, Rates, Charges and Services Provided at Marine Terminal Facilities. That approach would have based filing requirements on ownership/control/location characteristics. However, AAPA—along with other public ports—states that the Commission's espousal of a Waiver-based approach on the basis of an absence of complaints under the Waiver may be misplaced, because parties that may have been adversely affected under the Waiver may not have had sufficient information upon which to base a complaint. AAPA requests that the Proposed Rule be amended to require exempted arrangements to be provided to the public, in addition to the Commission's staff. It also urges that the definition of "marine terminal facilities" be updated as part of this proceeding, rather than through a separate proceeding. Finally, AAPA disputes the Commission's authority to remove the 1984 Act's antitrust exemption, stating that it is the Commission's regulatory jurisdiction that results in antitrust immunity.[3]

Although CAPA supports the major elements of the Proposed Rule, it opposes proceeding to a final rule without first defining the dividing line for filing/non-filing requirements. It also urges that exempted arrangements be made available to the public upon request.

GSMTC supports the Proposed Rule, but urges that the exemption be expanded to include terminal conference agreements. It opposes the removal of antitrust immunity from exempt agreements, and suggests that exempt transactions be made available to the general public upon specific written request.

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[4] The 1984 Act prescribes a specific statutory scheme which the Commission has been charged with enforcing. [footnote deleted] Section 16 of that Act does not provide authority to repeal or substantially amend that regulatory scheme." *Motor Vehicle Manufacturers Ass'n.—Application,* 25 S.R.R. 849, 852 (1990).

[5] "The burden is on anyone seeking an exemption to show that such exemption will not have any of these effects." *Motor Vehicle Manufacturers Ass'n.,* 25 S.R.R. at 850.

[6] 5 U.S.C. section 706 (1988).

[7] See S. Rep. No. 1459, 89th Cong., 2d Sess. 2 (1966) which states that, "This legislation includes safeguards against possible abuse of the powers and privileges to be conferred upon the Federal Maritime Commission * * *" See also Cong. Rec. S., 11148 (1966) which provides,

"This proposed bill includes safeguards against possible abuse of the powers and privileges to be conferred upon the Federal Maritime Commission by imposing limitations and conditions upon the exercise of the authority to exempt. An order of exemption may be issued or reviewed only after interested persons have been accorded a reasonable opportunity to be heard and only upon *a definite Commission finding which would be based upon a thorough analysis of the nature, character and quantity of the involved transportation as to the effect it may have upon uniform Commission regulation of water carrier transportation under the Shipping Act.* This would of course be subject to appropriate judicial review."(emphasis added).

[1] Comments were filed by the American Association of Port Authorities ("AAPA"); the California Association of Port Authorities ("CAPA"); the Foreign Shipowners Association of the Pacific Coast ("FSAPC"); the Master Contracting Stevedore Association of the Pacific Coast, Inc. ("MCSAPC"); the National Association of Stevedores ("NAS"); the Gulf Seaports Marine Terminal Conference ("GSMTC"); the Northwest Marine Terminal Association ("NWMTA"); Stevedoring Services of America ("SSA"); the West Gulf Maritime Association ("WGMA"); the Massachusetts Port Authority ("MPA"); the Port Authority of New York and New Jersey ("PANYNJ"); the Port of Seattle ("Seattle"); the Port of Tacoma ("Tacoma"); the Tampa Port Authority ("Tampa"); American President Lines, Ltd. and Eagle Marine Services, Ltd. ("APL/Eagle"); Sea-Land Service, Inc. ("Sea-Land"); Guam Port Authority ("Guam"); Jacksonville Port Authority ("Jacksonville"); and the U.S. Department of Justice ("DOJ").

[2] Replies to Comments were filed by NAS, AAPA, MCSAPC, GSMTC, PANYNJ, Tampa, APL/Eagle, Guam, and DOJ.

[3] MPA and PANYNJ support the comments of AAPA, of which they are members.

NWMTA disagrees that a Waiver-based exemption would impact all classes of MTOs uniformly. It asserts that private MTOs will possess a significant advantage over public MTOs because they tend always to operate at facilities that they do not own, and therefore would be in a much better position to assert they are only providing "services". It also urges the Commission not to defer revising its definitions, stating that it would not be prudent to create a regulatory scheme until key definitions are in place.

Although Seattle is concerned that the Proposed Rule will not affect all MTOs equally, it appreciates the Commission's willingness to try different approaches in order to respond to this concern. Otherwise, it generally supports NWMTA's and AAPA's comments, both of which it is a member.

Tacoma agrees with NWMTA's position, asserting that the Proposed Rule will continue the inequities of the present regulatory regime, absent a clarification of the Commission's definitions of services and facilities. It believes that the Alternate Proposal may merit some further study, but urges the Commission not to defer revising its definitions.

Tampa believes that the Proposed Rule would cause more confusion, uncertainty and opportunity to discriminate than presently exists due to differing methods of breakbulk/containerized operations, the treatment of facilities, and the treatment of wharfage charges. Tampa urges that terminal conference, discussion and interconference agreements be excluded from the exemption. It also opposes the exemption's removal of antitrust immunity but supports a requirement that exempted transactions be made available upon request. Tampa also advises that it is opposed to the Alternative Proposal. (Tampa Comments, pp. 7–13)

Tampa requests the Commission to instead consider exempting throughput rates and charges on container cargo movements, and that the regulated portions of the throughput rates be made available to MTOs, carriers or shippers/consignees upon reasonable request. Under this approach, all breakbulk cargo movements would continue to be subject to existing FMC agreement and tariff filing requirements. Tampa believes that this approach would solve the problem which led to the Waiver and retain regulation to the extent necessary for the Commission to carry out its enforcement and regulatory functions. (Tampa Comments, p. 14)

Tampa also states that it is necessary to clarify such current uncertainties as: (a) What is specifically included in "marine terminal facilities" and "marine terminal services"; (b) whether these definitions need to be expanded to include up-to-date terms; (c) when does a MTO cease to be a MTO and become a stevedore (and vice versa) when handling containerized cargo, when handling breakbulk cargo, and whether there is a difference; and (d) where actually is the "point of rest"? (Tampa Comments, pp. 14 and 15).[4]

Guam stresses its unique geographical and economic position and states that for this reason, continued Commission regulation is essential.

B. *Private-Sector MTOs and Stevedores.* MCSAPC supports the Proposed Rule, but believes the definition of "marine terminal services" agreement should be clarified to specifically include stevedoring services provided in connection with marine terminal services. In so doing, MCSAPC requests that the phrase "and any stevedore services in connection therewith" be included under the definition of the exempted classes of agreements under proposed 46 CFR 560.308(a) and 572.310 (MCSAPC Comments, pp. 7–9). This commenter is also concerned about the Proposed Rule's record retention requirement and the safeguarding of information covered by the exemption (*Ibid.*, p. 11). MCSAPC does not, however, support the Alternative Proposal.

NAS generally supports the Proposed Rule, but is also concerned about the definitional treatment of stevedoring services (its comments here parallel MCSAPC's) and the record retention/safeguarding aspects of the proposal. NAS believes that the exemption's limitation with regard to rates, charges, rules or regulations determined through a marine terminal conference agreement should be deleted entirely. NAS also urges rejection of the minimum/maximum rate filing approach under the Alternative Proposal.

SSA supports MCSAPC's and NAS' comments, both of which it is a member. It is concerned, however, about appropriate treatment of the allegedly proprietary and sensitive data that would be submitted to the Commission under 46 CFR 515.3(b)(2),[5] or guidelines upon which such requests should be based.

WGMA's position is similar to MCSAPC's and NAS' with regard to inserting "including stevedoring" in 46 CFR 560.308 and 572.310, and recommends deletion of the exemption's limitation with regard to rates, charges, rules and regulations determined through marine terminal discussion and interconference agreements. Although it supports the Alternative Proposal to the extent it would afford greater flexibility with regard to shippers, it believes that a listing of minimum/maximum rates would be meaningless.

C. *Carriers.* FSAPC urges adoption of the Proposed Rule.

APL/Eagle support the Proposed Rule, and urge that it be expanded to apply to through-put marine terminal services agreements between carriers.

Sea-Land supports the Commission's current tariff and agreement filing regulations, stating that such filing is essential to the Commission's ability to enforce substantive Shipping Act standards. By granting MTOs the option not to file these matters, Sea-Land asserts that the Commission is unjustifiably abandoning its most effective mechanism to enforce Shipping Act requirements, thus seriously impairing effective Commission regulation pursuant to these Acts. Therefore, Sea-Land urges the Commission not to adopt the Proposed Rule, but to continue with its existing tariff and agreement filing regulations. Sea-Land does suggest, however, that the Commission should exempt off-pier MTOs from tariff and agreement filing requirements, since they are not constrained by limited waterfront space.

D. *U.S. Department of Justice.* DOJ, in supporting the Proposed Rule, urges the Commission to expand it and eliminate filing requirements and antitrust immunity for all agreements by or between MTOs, including marine terminal conference agreements. In this regard, DOJ states:

> MTO services are similar to those provided by many businesses, such as warehouses, that ordinarily operate efficiently and profitably in unregulated, competitive markets. Neither destructive competition nor conflicts with the laws of other nations, sought by some to justify extensive regulation and antitrust immunity for ocean carriers, are present in the MTO business. Consequently, there is no need for prior government review

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[4] The comments of the Jacksonville Port Authority essentially track those of the Tampa Port Authority.

[5] The Proposed Rule at 46 CFR 515.3(b)(2) provided that a certified true accounting of tariff rates, charges, rules and regulations exempted by the proposal be furnished to the Commission within 30 days of a Commission written request.

of any MTO agreement. The antitrust laws and the substantive prohibitions of the Shipping Acts can adequately protect shippers and carriers from anticompetitive behavior by MTOs. (DOJ Comments, p. 4)

II. Replies

A. *Ports.* AAPA states that "substantial evidence" supporting its position can be found in the comments submitted by various private-sector MTOs. First, AAPA contends that the private-sector MTO comments indicate that their primary interest is operating in secret, not in the expense and burden of filing. AAPA asserts that the strongly-expressed concerns about the confidential commercial and financial information said to be reflected in private-sector MTO rates belies the private-sector MTOs' assertions that their goal is to eliminate administrative burden and reveals their true goal—to acquire the ability to operate in secret.

In this connection AAPA states that this proceeding and its predecessors were instituted not to protect the confidentiality of MTO agreements and tariffs, but to resolve a regulatory dilemma posed by the blurring of the distinction between regulated terminal services and non-regulated stevedoring services. Moreover, AAPA states that the inspection condition under the Proposed Rule, and the public availability of information condition requested by AAPA, are both appropriate and necessary in order to ensure that the exemption meets the criteria of section 16 of the 1984 Act. AAPA reasserts its earlier comment that public access to the exempted information must be provided if the Commission is to effectively exercise its jurisdiction because the Commission is most likely to discover potential Shipping Act violations from parties hurt by preferential or discriminatory treatment.

Second, AAPA notes NAS' suggestion that third parties can invoke Commission complaint procedures "if they want to find out what is in agreements exempted from filing." AAPA criticizes the suggestion that a party must assert a Shipping Act violation by a formal complaint merely to discover whether agreements have been entered into and the contents thereof. It contends that the Commission's complaint process should only be used when and if a party has a reason to believe it has a potential cause of action, not for "fishing" for information. AAPA asserts that such an approach would be an egregious and improper use of the administrative process since it could lead to unnecessary, time-consuming and expensive litigation creating an administrative burden on all concerned.

Third, AAPA notes that other comments support its point that the exemption proposal does not clarify the distinction between terminal and stevedoring services and that the exemption proposal does not clarify what information an MTO is required to keep for inspection. AAPA reiterates its suggestion that the Commission must address the issue of updating the definition of "marine terminal facilities" in this proceeding.

GSMTC's reply notes other commenters' opposition to the removal of antitrust immunity for exempted agreements. It states that the 1984 Act's grant of antitrust immunity is unconditional and only Congress can withdraw the immunity it has granted. (GSMTC Reply, p. 2)

GSMTC disputes NAS' suggestion that third parties seeking information about exempt material should have recourse to section 11 of the Act. It asserts that the cost and effort involved in filing a formal complaint, then pursuing the discovery process in a formal adjudicative proceeding, would discourage virtually all routine requests for information. GSMTC states that if every information request led to a Commission proceeding, the agency would be paralyzed with the volume of litigation. On these bases, GSMTC asserts that the NAS suggestion is without merit and should be summarily rejected. (GSMTC Reply, p. 3)

GSMTC also agrees with the concern expressed by many public ports that public- and private-sector MTOs are subject to different degrees of regulation by the Commission. GSMTC asserts that there have been instances where private-sector MTOs have not made necessary FMC filings, and if this is the nationwide problem it thinks it might be, it urges the Commission to immediately initiate a formal investigation of the problem. It states that the regulatory scheme does not tolerate one set of rules for public port authorities and another for private-sector MTOs.

Second, citing CAPA and Tampa comments concerning the difficulties in distinguishing "facilities" from exempted "services", GSMTC suggests that the Commission give further attention to drafting a less ambiguous rule. It is GSMTC's position that the Commission's rules do not provide clear definitional differences between the two terms.

GSMTC also opposes APL/Eagle's request to exempt marine terminal services agreements between two common carriers. It observes that such an exemption would remove the entire landside aspect of ocean carrier conferences from FMC filing requirements. While there may be reasons to support such a proposal, GSMTC states that they have not been aired in this proceeding and the issue should be addressed in a separate proceeding.

PANYNJ supports AAPA's reply comments, reiterating AAPA's concerns relative to the distinct advantage private-sector MTOs would obtain if the secrecy of agreements and tariffs could be maintained. Moreover, if the Proposed Rule is adopted, PANYNJ asserts that "fishing trips" for information will become a necessary method to determine if anticompetitive or unfair practices exist. It states that this hardly seems like a worthwhile expenditure of time and money for either the FMC or the involved parties, nor would it be in keeping with the intent of the Shipping Acts.

Tampa concurs with many of the initial comments submitted by other public-sector MTOs. With regard to the deregulatory approaches advocated by many of the other commenters, Tampa observes that (1) regulatory and enforcement authority would be very difficult to accomplish under confidentiality or secret agreement conditions; (2) there would be significant burden and expense involved in utilizing the Shipping Acts' formal complaint discovery procedures; and (3) DOJ's comparison of MTO services with warehouse services is not appropriate, because commercial warehousing does not involve the expenditures of the millions of dollars of public monies required in the infrastructure of a public port authority. Additionally, Tampa strongly disagrees with DOJ's suggestion that expanding the rule to apply to all MTO arrangements would promote competition while continued antitrust immunity could "harm competition" or be "detrimental to commerce".

Tampa therefore urges the Commission to:

(1) Immediately initiate a proposed rulemaking proceeding to clarify and redefine the definitions set forth in 46 CFR 515.6, in addition to specifically defining the services and procedures within a marine terminal operation which properly fall under the terms "services" and "facilities";

(2) Postpone further action on Docket No. 91-20 until the above rulemaking is concluded; and

(3) Expand 91-20 to include:

(a) Public availability of tariffs or agreements exempted from filing; and

(b) Availability of Shipping Act antitrust immunity, or the option to file such tariffs and agreements and receive antitrust immunity.

(Tampa Reply, pp. 9 and 10)

Guam states that by delaying the definitional issue until the policy framework is set, the Commission opens the rulemaking process up to a "second bite out of the apple" in which parties with differing views will attempt to redraft the rule. Guam observes that definitions are a cornerstone of policy and should be recognized as such. Therefore, Guam urges institution of a rulemaking proceeding to clarify and update the 46 CFR 515.6 definitions as a prerequisite to proceeding with Docket No. 91–20. Guam also submits that wholesale deregulation would have an unpredictable impact on Guam, and therefore urges limited rather than broad changes to the MTO regulatory regime. (Guam Reply, p. 5) Moreover, Guam states that the Proposed Rule does not resolve the problem of the original issue which started the proceedings leading up to Docket No. 91–20, *i.e.*, the modern emergence of throughput MTO practices and how to deal with the non-regulated stevedoring costs included therein, and believes that Tampa's approach of separate filing requirements for containerized and breakbulk movements merits further consideration.

B. *Private-Sector MTOs and Stevedores.* NAS observes that the main issue is the difference in opinion between public ports and private-sector MTOs about the disclosure of sensitive competitive data, namely rates, to the public sector by the private sector. NAS states that the public sector complains that it operates under a competitive disadvantage because states and political subdivisions thereof control and regulate the public sector and in some cases compel the disclosure of its data. NAS asserts that it is for that reason the public sector is urging the Commission to compel the private sector to disclose proprietary data.

NAS contends that public-sector MTOs have significant competitive preferences and advantages over the private sector, and that unlike private-sector MTOs, public-sector MTOs:

—May finance their facilities and equipment with federally tax-exempt financing and at lower interest rates;

—May cover their losses with tax revenue;

—Are not required to furnish workers' compensation to injured employees in accordance with the extremely costly federal Longshore and Harbor Workers' Compensation Act;

—Are not subject to the federal Occupational Safety and Health Act;

—Are not subject to the federal National Labor Relations Act;

—Are not subject to the Employee Retirement Income Security Act; and

—Are not required to pay state and federal income taxes on their profits.

(NAS Reply, pp. 2 and 3)

NAS therefore argues that there is nothing the Commission can do under the Shipping Acts to balance the scales with regard to the competitive advantages afforded to public-sector MTOs by Congress and state legislatures; however, the Commission can continue to balance the scales with respect to regulations over which it does have legal authority. NAS states that there is nothing in existing Commission regulations nor the Proposed Rule that contributes to the unequal competition between the two sectors; however, the Commission should deny the public sector's request for a Commission-directed free look into the cards in the hands of its private-sector competitors, who are laboring under cost burdens the public sector is not.

Addressing Sea-Land's recommendation to retain the *status quo.* NAS notes that Sea-Land believes that this approach is necessary because the Proposed Rule would seriously impair the Commission's effective regulation pursuant to the Shipping Acts, and faults Sea-Land for not saying how. In this connection, NAS offers its opinion that the real reason Sea-Land urges the *status quo* and full disclosure is because Sea-Land wants to be able to eliminate significant competition by being able to see what its competitors in the MTO/stevedoring business are charging their common carrier customers, so that it can incrementally undercut those rates.

NAS also opposes withdrawal of antitrust immunity for exempt agreements. With regard to the several comments urging revision of the 46 CFR part 515 definitions in this proceeding rather than in a subsequent proceeding, NAS supports the Commission's decision to recodify all MTO regulations in a separate proceeding, which it suggests could be a consensus rulemaking proceeding.

MCSAPC states that all but two of the nineteen comments filed in this matter seemed to overlook the fact that the issues in this rulemaking proceeding are *not* whether certain agreements and tariffs should be exempt from filing—which it asserts has already been decided—but rather what conditions, if any, need to be attached to the exemption under section 16 of the 1984 Act. (MCSAPC Reply, p. 1)

MCSAPC also contrasts the intense shipper participation in hearings being held around the country by the Advisory Commission on Ocean Conferences with the fact that no representatives of this constituency have filed any comments in this proceeding. It also notes that eight other commenters joined it in fully supporting the Proposed Rule.[6]

With regard to the issue of disclosing exempt agreements and tariffs, MCSAPC makes a number of points. (MCSAPC Reply, pp. 4–7) First, it notes the public ports' argument that they will be placed at a competitive disadvantage unless this is appropriately addressed. Here, MCSAPC states that the public ports enjoy many competitive advantages in terms of tax treatment, public financing, etc., and submits, moreover, that the Commission's statutory role under the Shipping Acts is not to seek to equalize through its regulations the economic advantages/disadvantages between private- and public-sector MTOs.

Second, it asserts that the public ports' comments, while lamenting the competitive disadvantages purportedly flowing from their denial of access to private MTO agreements and tariffs, have conveniently failed to discuss the important fact that private-sector MTOs operate where they do by virtue of leases, licenses, etc., from the public ports, which set the economic terms and conditions of their tenancy and often dictate the terminal charges which can be charged. On this basis, MCSAPC concludes that it would seem that what the public ports really want to see are the stevedoring rates which neither they nor the Commission can regulate, and thus be in a position to gain business of the private MTO.

Third, MCSAPC states that it is puzzled by the fact that most public ports are not in competition with private-sector MTOs and that many public port/private-sector MTO lease agreements operate in a manner whereby the better the private-sector MTO does, the more money the public port MTO landlord receives.

Fourth, MCSAPC urges that the requirement that certain information be made available to the Commission be further qualified with a "reasonable cause" proviso.

With regard to the issue of removing antitrust immunity for exempted agreements, MCSAPC reiterates its position that it can live with whatever administrative interpretation of the 1984 Act the Commission ultimately makes on this issue. (MCSAPC Reply, pp. 7 and 8)

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[6] DOJ, APL/Eagle, SSA, FSAPC, NAS, WGMA, GSMTC and CAPA.

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With regard to the issue of updating the definitions of marine terminal facilities, MCSAPC states that no greater definitional clarity is needed to implement the terms used in the Proposed Rule; however, it again urges that the phrase "any stevedoring services in connection therewith" be added to clarify the scope of the exemption as including such matters. (MCSAPC Reply, pp. 9 and 10)

C. *Carriers.* APL/Eagle continues to believe that through-put marine terminal service agreements between two common carriers should be exempt from filing on the grounds that: (1) An exhaustive record failed to reveal any regulatory difficulty arising out of marine terminal services agreements between carriers; and (2) the possible lack of immunity of exempt agreements from the antitrust laws would militate against any novel or significantly anti-competitive features appearing in such agreements in the future. APL/Eagle oppose the Alternative Proposal as a wasteful regulatory burden in the form of unnecessary tariff-filing.

D. *U.S. Department of Justice.* DOJ supports the Commission's conclusion that it has the legal authority under the 1984 Act to remove antitrust immunity as a part of a filing exemption. However, DOJ opposes the option in the Proposed Rule for MTOs to voluntarily file agreements in order to obtain antitrust immunity. In this connection, DOJ contends that it would be anomalous to conclude that parties may selectively override a lawful agency decision to deregulate a class or group of activities. Here, DOJ notes the ICC's approach to TOFC/COFC deregulation, whereby the ICC prohibited parties from opting for regulation (for the purpose of obtaining antitrust immunity) because it would "negate the intended benefits of the exemption." *Improvement of TOFC/COFC Regulation,* 364 I.C.C. 391, 395 (1980). (DOJ Reply, pp. 6 and 7.) Given the FMC's finding that substantial competition exists in the marine terminal industry, if the industry is made subject to the antitrust laws, DOJ believes that it would be unlikely that MTOs would have the opportunity and means to exercise market power to the detriment of customers. DOJ therefore submits that voluntary filing would be unnecessary to protect customers and the immunity that results may lead to anticompetitive activity.

[FR Doc. 92-2693 Filed 2-5-92; 8:45 am]

BILLING CODE 6730-01-M

Proposed Rules

Federal Register
Vol. 57, No. 25
Thursday, February 6, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 91-AWA-09]

Proposed Airport Radar Service Area in the Vicinity of Newburgh, NY; Public Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Meeting on proposed Airport Radar Service Area.

SUMMARY: The FAA is proposing to establish an Airport Radar Service Area (ARSA) at the Stewart International Airport, Newburgh, NY. An informal airspace meeting has been scheduled to provide the opportunity to gather additional facts relevant to the aeronautical effects of the proposal, and to provide interested persons an opportunity to discuss objections to the proposal. All comments received from such meetings will be considered prior to the issuance of a Notice of Proposed Rulemaking (NPRM).

DATES: The meeting will be held at 7 p.m., February 26, 1992.

Comments must be received on or before April 10, 1992.

ADDRESSES: The meeting will be held at Stewart Army Sub-Post Officers Club, Building #2602, Stewart International Airport, Newburgh, New York.

Send or deliver comments in duplicate to: George Dodelin, Manager, System Management Branch, AEA-530, Docket No. 91-AWA-09, F.A.A. Eastern Region, Fitzgerald Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis L. Brewington, Airspace Specialist, System Management Branch, AEA-530, F.A.A. Eastern Region, Fitzgerald Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone (718) 553-0857.

SUPPLEMENTARY INFORMATION:

Meeting Procedures

(a) The meeting will be informal in nature and will be conducted by a representative of the FAA Eastern Region. Representatives from the FAA will present a formal briefing on problems and proposals for change that have been received from the public. All other participants will be given an opportunity to make a presentation.

(b) Any person wishing to make a presentation to the FAA Team will be asked to sign in and estimate the amount of time needed for such a presentation. This will permit the team to allocate an appropriate amount of time for each presenter. The Team may allocate the time available for each presentation in order to accommodate all speakers. The meeting will not be adjourned until everyone on the list has had an opportunity to address the panel. The meeting may be adjourned at any time if all persons present have had the opportunity to speak.

(c) Any person who wishes to present a position paper to the Team, pertinent to the topic of the proposed establishment of the Stewart ARSA, may do so. Persons wishing to hand out pertinent position papers to the attendees should present two copies to the presiding officer. There should be additional copies of each handout available for other attendees.

(d) The meeting will not be formally recorded, however, informal tape recordings of presentations will be made to ensure that each respondent's comments are noted accurately. A summary of the comments at the meeting will be made available to all interested parties.

Materials relating to the proposed Stewart ARSA will be accepted at the meeting. Every reasonable effort will be made to hear every request for presentation consistent with a reasonable closing time for the meeting. Written materials may also be submitted to the Team until March 26, 1992.

Agenda

Opening Remarks and Discussion of Meeting Procedures
Briefing on Identified Problems and Change Proposals
Public Presentations
Closing Comments

Issued in Jamaica, New York, on January 22, 1992.

Gary W. Tucker,

Manager, Air Traffic Division.

[FR Doc. 92-2722 Filed 2-5-92; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

United States Customs Service

19 CFR Parts 24, 113 and 142

Proposed Customs Regulations Amendments Relating to Assessment of Liquidated Damages for Failure to Deposit Estimated Duties, Taxes and Charges, or to Remit Passenger Processing Fees to Customs

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations to provide principally for the assessment of liquidated damages for failure to deposit estimated duties, taxes and charges timely on imported merchandise entered for consumption. Such charges would include certain ad valorem fees, fees relating to dutiable mail and harbor maintenance fees provided by regulations. In this connection, it is also proposed to amend the Customs Regulations to allow the appropriate district director the discretion to require presentation of entry summary documentation and payment of applicable duties, taxes and charges on imported merchandise at the time of entry (and thus before the release of the merchandise from Customs custody), if the importer has not taken prompt action to settle a prior claim for liquidated damages for failure to deposit estimated duties, taxes and charges in a timely manner. The document further proposes to amend the Customs Regulations to provide for liquidated damages against international carriers who collect passenger processing fees as required by law, but who fail to remit those fees to Customs in a timely manner.

DATES: Comments must be received on or before April 6, 1992.

FOR FURTHER INFORMATION CONTACT: Jeremy Baskin, Penalties Branch, (202-566-8317).

ADDRESSES: Comments (preferably in triplicate) must be submitted to and may be inspected at the Regulations and Disclosure Law Branch, U.S. Customs Service, 1301 Constitution Avenue NW., room 2119, Washington, DC 20229.

SUPPLEMENTARY INFORMATION:

Background

The entry for Customs purposes of merchandise imported and entered for consumption must be supported by entry and entry summary documentation. Briefly stated, entry documentation, as detailed in § 142.3, Customs Regulations (19 CFR 142.3), is that which must be filed with Customs to secure the release of imported merchandise from Customs custody (19 CFR 141.0a(a)); entry summary documentation is that which must be filed in order to enable Customs to assess duties, and collect statistics with respect to the merchandise, and to determine whether other requirements of law or regulation are met (19 CFR 141.0a(b)).

The filing of entry and entry summary documents, and the deposit of estimated duties, taxes and charges, constitute separate obligations under the importer's bond. Specifically, under § 113.62(b), Customs Regulations (19 CFR 113.62(b)), the principal on the bond (importer) agrees to timely file such documentation (*i.e.*, entry and entry summary documentation) as is necessary to enable Customs to release the imported merchandise from Customs custody, properly assess duties, collect accurate statistics and ascertain whether applicable requirements of law and regulation are met. As provided in § 113.62(a)(1)(i), Customs Regulations (19 CFR 113.62(a)(1)(i)), the principal and the surety on the bond are responsible, jointly and severally, for the timely deposit of any duties, taxes and charges imposed or estimated to be due at the time the merchandise is released or withdrawn from Customs custody.

Under the provisions of § 113.62(k), Customs Regulations (19 CFR 113.62(k)), if the bond principal defaults with regard to the timely presentation of entry and entry summary documentation as set forth in § 113.62(b), the obligors on the bond, both principal and surety, jointly and severally, agree to pay liquidated damages in the amount of the value of the merchandise involved in the default.

In contrast with the foregoing, however, any default regarding the timely payment of estimated duties, taxes and charges required by § 113.62(a)(1)(i) does not result in the assessment of liquidated damages, there being no provision to cover this in the regulations. Accordingly, when a default arises from either a failure to deposit estimated duties, taxes and charges at the time of presentation of the entry summary, or from a return of a duty check by a financial institution because of insufficient funds or any other negotiability problem, or from an untimely electronic transfer of funds under the Automated Clearinghouse (ACH), Customs remedy involves assertion of a claim for duties, taxes and charges against the principal and surety for breach of the bond condition stated in § 113.62(a)(1)(i), Customs Regulations (19 CFR 113.62(a)(1)(i)).

To deal with this problem, it is proposed to amend § 113.62 to provide specifically for the assessment of liquidated damages when a bond principal defaults in respect to the timely payment of estimated duties, taxes and charges. In this connection, "duties, taxes and charges" would include any applicable ad valorem fees described in § 24.23, Customs Regulations (19 CFR 24.23), fees for dutiable mail described in § 24.22(f), Customs Regulations (19 CFR 24.22(f)), or harbor maintenance fees described in § 24.24(e)(3) (i) and (ii), Customs Regulations (19 CFR 24.24(e)(3) (i) and (ii)).

The proposed amendment of § 113.62 would also make clear in those situations where neither entry summary documentation is provided, nor estimated duties, taxes and charges deposited in a timely manner (a non-file), that liquidated damages would be assessed in an amount equal to the value of the merchandise consistent with the bond provision applicable for failure to timely present the entry summary documentation. In other words, multiple claims would not be assessed when both the documentation and the estimated duties are not submitted.

Furthermore, under § 142.13, Customs Regulations (19 CFR 142.13), the district director is empowered to require that entry summary documentation be filed and that estimated duties, taxes and charges be deposited at the time of entry, if the importer has repeatedly failed to file entry summary documentation timely, has not taken prompt action to settle claims for liquidated damages for failure to file timely, or has repeatedly delivered entry summary documentation which is incomplete or which contains erroneous information. Additionally, § 142.25, Customs Regulations (19 CFR 142.25), permits the district director to discontinue immediate delivery privileges for these same reasons.

Consequently, concomitant with the proposed amendment of § 113.62, it is further proposed to amend §§ 142.13 and 142.25 to permit the district director to require presentation of entry summary documentation as well as payment of estimated duties, taxes and charges at the time of entry (and thus before the release of the merchandise), or to suspend immediate delivery privileges, if the importer has not taken prompt action to settle a prior claim for liquidated damages issued for failing to deposit estimated duties, taxes and charges in a timely manner in violation of § 113.62(a)(1)(i).

Inasmuch as the proposed amendment of § 113.62 would provide for specific liquidated damages against importers who fail to pay the harbor maintenance fee, it is also proposed to amend § 24.24(h)(1), Customs Regulations (19 CFR 24.24(h)(1)), to state specifically that importers who fail to pay the harbor maintenance fee thereunder shall incur liquidated damages consistent with the provisions of § 113.62. In concert with this, § 24.24(h) (2) and (3), Customs Regulations (19 CFR 24.24(h) (2) and (3)), are also proposed to be amended to indicate, respectively, that importers against whom liquidated damage claims have been assessed may petition for relief in accordance with the procedures set forth in Part 172, Customs Regulations (19 CFR Part 172), and that mitigation shall be afforded from such claims consistent with guidelines published for cancellation of claims for the untimely payment of estimated duties, taxes and charges.

Failure to Pay Passenger Processing Fees to Customs

It is further proposed to amend § 113.64, Customs Regulations (19 CFR 113.64), concerning International Carrier Bonds, in order to allow assessment of liquidated damages against carriers who fail to pay passenger processing fees over to Customs no later than 31 days after the close of the calendar quarter in which they were collected pursuant to § 24.22(g), Customs Regulations (19 CFR 24.22(g)). The proposed amendment would provide for liquidated damages under such circumstances equal to two times the collected passenger processing fees which are not remitted to Customs as prescribed by regulation.

This proposed amendment will not impose any new requirements on international carriers, nor will it make the carriers responsible for the payment of uncollected fees to Customs. It is merely an amendment to provide for the payment of fees to Customs which have been paid to the carriers by passengers but which have not been timely remitted to Customs.

Comments

Before adopting this proposal, consideration will be given to any written comments (preferably in triplicate) that are timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), during regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations and Disclosure Law Branch, room 2119, Customs Headquarters, 1301 Constitution Avenue, NW., Washington, DC.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is hereby certified that the proposed amendments set forth in this document, if adopted, will not have a significant economic impact on a substantial number of small entities. Accordingly, they are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in § 1(b) of E.O. 12291. Accordingly, a regulatory impact analysis is not required.

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking is in §§ 24.24, 113.62 and 113.64. In the event liquidated damages were to be assessed by Customs for failure to timely deposit estimated duties, taxes or charges due on imported merchandise entered for consumption, it would be necessary for the party to file a petition for relief with Customs in order to mitigate or cancel the claim for damages. The likely respondents would be businesses.

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget (OMB) for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collection of information should be sent to the Office of Management and Budget, Attention: Desk officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the U.S. Customs Service at the address previously specified.

Estimated total annual reporting and/or recordkeeping burden:

Estimated average annual burden per respondent and/or recordkeeper:

Estimated number of respondents and/or recordkeepers:

Estimated annual frequency of responses:

Part 178, Customs Regulations (19 CFR part 178), which lists the information collections contained in the regulations and control number assigned by OMB would be amended accordingly if the proposal is adopted.

Drafting Information

The principal author of this document was Russell Berger, Regulations and Disclosure Law Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects

Part 24

Accounting, Claims, Customs duties and inspection, Imports, Taxes, Wages.

Part 113

Customs bonds.

Part 142

Customs duties and inspection, Imports.

Proposed Amendment

It is proposed to amend parts 24, 113 and 142, Customs Regulations (19 CFR parts 24, 113 and 142), as set forth below.

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

1. The authority citation for part 24 would be amended to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 58a–58c, 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States (HTSUS)), 1624, 31 U.S.C. 9701; 26 U.S.C. 4461–4462.

§ 24.1 also issued under 19 U.S.C. 197, 198, 1648;

§ 24.4 also issued under 19 U.S.C. 1623, 26 U.S.C. 5007, 5054, 5061, 7805;

§ 24.11 also issued under 19 U.S.C. 1485(d);

§ 24.12 also issued under 19 U.S.C. 1524, 46 U.S.C. 31302;

§ 24.14 also issued under 19 U.S.C. 1;

§ 24.16 also issued under 19 U.S.C. 261, 267, 1450, 1451, 1452, 1623, 46 U.S.C. 2111, 2112;

§ 24.17 also issued under 19 U.S.C. 261, 267, 1450, 1451, 1452, 1456, 1524, 1557, 1562, 46 U.S.C. 2110, 2111, 2112;

§ 24.32 also issued under 5 U.S.C. 5582, 5583;

§ 24.36 also issued under 26 U.S.C. 6423.

2. It is proposed to amend § 24.24 by revising the headings of paragraphs (h) and (h)(1), and by adding a sentence to the ends of paragraph (h)(1), paragraph (h)(2), and paragraph (h)(3), to read as follows:

§ 24.24 Harbor maintenance fee.

* * * * *

(h) *Penalties/liquidated damages for failure to pay harbor maintenance fee and file summary sheet.* (1) *Amount of penalty or damages.* * * * An importer who fails to pay the harbor maintenance fee shall incur liquidated damages consistent with the provisions of § 113.62 of this chapter.

(2) *Application for relief.* * * * Any application to cancel liquidated damages incurred shall be made in accordance with part 172 of this chapter.

(3) *Mitigation.* * * * Any liquidated damages assessed under this provision shall be mitigated in a manner consistent with guidelines published by the authority of the Commissioner of Customs for cancellation of claims for untimely payment of estimated duties, taxes and charges.

* * * * *

PART 113—CUSTOMS BONDS

1. The authority citation for part 113 would continue to read as follows:

Authority: 19 U.S.C. 66, 1623, 1624. Subpart E also issued under 19 U.S.C. 1484, 1551, 1565.

2. It is proposed to amend § 113.62 by adding a new paragraph (k)(4) thereto, to read as follows:

§ 113.62 Basic custodial bond conditions.

* * * * *

(k) *Consequence of default.* * * *

(4) If the principal defaults on agreements in condition (a)(1)(i) only, the obligors (principal and surety, jointly and severally) agree to pay liquidated damages equal to two times the unpaid duties, taxes and charges estimated to be due or $1000, whichever is greater. A default on condition (a)(1)(i) shall be presumed if any monetary instrument authorized for the payment of estimated duties, taxes and charges by § 24.1(a) of this chapter is returned unpaid by a financial institution, or if a payment authorized under Automated Clearinghouse (see § 24.25 of this chapter) is not transmitted electronically to Customs in a timely manner. If the principal defaults on agreements in both conditions (a)(1) (i) and (b), the measure of liquidated damages assessed shall be as provided in paragraph (k)(1) for a default of the agreements in condition (b). For purposes of this paragraph, the phrase "unpaid duties, taxes and charges" shall include any appropriate ad valorem fees described in § 24.23 of

this chapter, fees relating to dutiable mail described in § 24.22(f) of this chapter, and harbor maintenance fees described in § 24.24(e)(3) (i) and (ii) of this chapter.

3. It is proposed to amend § 113.64 by adding a new sentence to the end of paragraph (a) to read as follows:

§ 113.64 International carrier bond conditions.

(a) *Agreement to pay penalties, duties, taxes, and other charges.* * * * If the principal (carrier) fails to pay passenger processing fees to Customs no later than 31 days after the close of the calendar quarter in which they were collected pursuant to § 24.22(g) of this chapter, the obligors (principal and surety, jointly and severally) agree to pay liquidated damages equal to two times the passenger processing fees which have been collected but not timely paid to Customs as prescribed by regulation.

* * * * *

PART 142—ENTRY PROCESS

1. The authority citation for part 142 continues to read as follows:

Authority: 19 U.S.C. 66, 1448, 1484, 1624.

2. It is proposed to amend § 142.13 by revising the first sentence of paragraph (a)(2) to read as follows:

§ 142.13 When entry summary must be filed at time of entry.

(a) *Authority of district director.* * * *

(2) Has not taken prompt action to settle a claim for liquidated damages issued under § 142.15 for failure to file entry summary documentation timely, or a claim for liquidated damages issued under § 113.62(k)(4) of this chapter for failure to deposit estimated duties, taxes and charges timely in violation of § 113.62(a)(1)(i). * * *

* * * * *

3. It is proposed to amend § 142.25 by revising the first sentence of paragraph (a)(2) to read as follows:

§ 142.25 Discontinuance of immediate delivery privileges.

(a) *Authority of district director.* * * *

(2) Has not taken prompt action to settle a claim for liquidated damages issued under § 142.27 for failure to file the applicable Customs documentation set forth in § 142.22(b) timely, or a claim for liquidated damages issued under § 113.62(k)(4) of this chapter for failure to deposit estimated duties, taxes and charges timely in violation of § 113.62(a)(1)(i). * * *

* * * * *

Carol Hallet,
Commissioner of Customs.

Approved: November 22, 1991.

John P. Simpson,
Acting Assistant Secretary of the Treasury (Enforcement).

[FR Doc. 92-2607 Filed 2-5-92; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Golden Gate National Recreation Area Designated Bicycle Routes

AGENCY: National Park Service, Interior.

ACTION: Proposed rule; notice of correction of comment dates.

SUMMARY: On January 29, 1992, proposed rules regarding designated bicycle routes within Golden Gate National Recreation Area were published in the **Federal Register** (57 FR 3392). This notice corrects the date through which public comments on the proposed rule will be accepted. In the "DATES" paragraph (57 FR 3392) of the preamble, the date should read "MARCH 30, 1992" instead of "March 30, 1991". In the "PUBLIC PARTICIPATION" paragraph (57 FR 3393) of the preamble, comments may be submitted "within 60 days" of the publication of the proposed rule in the **Federal Register** rather than "within 30 days". There are no other changes either to the preamble or to the text of the proposed regulations.

FOR FURTHER INFORMATION CONTACT: Gil Soper, Chief Ranger, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, CA 94123, Telephone: 415-556-4283.

Dated: January 3, 1992.

Terry Tesar,
Federal Register Liaison Officer.

[FR Doc. 92-2859 Filed 2-5-92; 8:45 am]

BILLING CODE 4310-70-M

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36 CFR Part 62

RIN 1024-AB96

National Natural Landmarks Program

AGENCY: National Park Service, Interior.

ACTION: Extension of comment period on proposed rule.

SUMMARY: In the **Federal Register** of November 21, 1991 (56 FR 58790), the National Park Service proposed to revise regulations for the National Natural Landmarks Program. The proposed rulemaking will revise the current regulations (36 CFR part 62) for the National Natural Landmarks Program. Proposed changes include strengthening and clarifying procedures for owner notification, adding a requirement for voluntary owner consent for natural landmark designation, and providing for review of natural landmark nominations by the National Park System Advisory Board.

As originally announced, public comments on the proposed rule were to be accepted until February 19, 1992. The National Park Service has received a request from the National Park System Advisory Board to extend the comment period until after the next scheduled Advisory Board meeting on February 26-27, 1992. This notice therefore extends the comment period until March 2, 1992.

DATES: Written comments or suggestions will be accepted until March 2, 1992.

ADDRESSES: Comments should be directed to: Director, National Park Service, P.O. Box 37127, Washington, DC 20013-7127.

FOR FURTHER INFORMATION CONTACT: Anne Frondorf, Wildlife and Vegetation Division, National Park Service, Washington, DC 20013-7127. Telephone: (202) 343-8129.

Dated: February 3, 1992.

F. Eugene Hester,
Associate Director, Natural Resources.

[FR Doc. 92-2935 Filed 2-5-92; 8:45 am]

BILLING CODE 4310-70-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 74

[MM Docket No. 85-36; FCC 91-433]

Review of Technical and Operational Requirements in the Broadcast Auxiliary Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Committee withdraws its proposal to allow portable broadcast auxiliary TV pickup stations to use certain vacant channels in the UHF-TV spectrum on a secondary, non-interference basis for transmission of program material over limited distances.

As set forth in the Further Notice of Proposed Rule Making in the above-captioned proceeding (Further Notice, 52 FR 21710, June 9, 1987), the proposal was intended to provide relief from interference encountered by receivers operating in close proximity to transmitters in the same microwave bands. The comments filed in response to the Further Notice indicate minimal support for the Commission's proposal, and fail to establish that adoption of the proposal would be in the public interest.

DATES: This proposed rulemaking proceeding is terminated February 6, 1992.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Hank VanDeursen, Mass Media Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

Order (Proceeding Terminated)

In the matter of Review of Technical and Operational Requirements: Part 74-E Aural Broadcast STL and ICR Stations; and Part 74-F TV Low Power Auxiliary Stations.

Adopted: December 31, 1991.

Released: January 15, 1992.

By the Commission.

1. The Further Notice of Proposed Rule Making [1] in this proceeding proposed to allow portable broadcast auxiliary TV pickup stations to use certain vacant channels in the UHF-TV spectrum on a secondary, non-interference basis for transmission of program material over limited distances. In particular, the Further Notice proposal would have permitted field crews to use vacant UHF-TV channels for Electronic News Gathering transmissions from a camera to a microwave vehicle for relay to the studio. Currently, such wireless camera operations are limited to microwave bands above 2 GHz. The proposal to permit wireless camera use on vacant UHF-TV channels in lieu of operation in the referenced microwave bands was expected to provide relief from interference encountered by receivers operating in close proximity to transmitters in the same microwave bands. Eligibility for the proposed uses was to be limited to TV broadcast licenses, TV networks and cable television entities [2] in order to limit such use to broadcast or broadcast related entities consistent with the purpose of this Broadcast Auxiliary Service.

2. Several months prior to the Further Notice, we greatly expanded the number of channels available to Low Power Auxiliary Stations (LPAS).[3] See First Report and Order in MM Docket No. 86-12, 2 FCC Rcd 345 (1987). However, during that time we did not authorize any equipment suitable for use on the newly available channels. In the Further Notice, we noted that there was no apparent method of coordinating LPAS operations and wireless camera operations, and expressed concern about potential interference if these fundamentally different devices were to be operated on the same channels. The Further Notice accordingly imposed a freeze on continued licensing of LPAS operation between 530 MHz and 806 MHz in the UHF-TV band pending the resolution of the issues involving wireless camera use of the same band that were raised in this proceeding.[4]

3. The comments filed in response to the Further Notice expressed either no support or only limited support for the use of wireless cameras operating in the UHF-TV spectrum. In particular, broadcast interests expressed satisfaction with current wireless cameras that operate in the microwave bands above 2 GHz and questioned the demand for more limited bandwidth equipment that would operate in UHF-TV channels. Although police departments and motion picture companies filed comments in favor of the proposal stated in the Further Notice, their support was conditioned on their being permitted to operate wireless cameras in the UHF-TV band. Because of the transient and intermittent nature of wireless camera operations, close cooperation among users is essential. However, the lack of a natural coordination facility and scarce enforcement resources leads us to conclude that granting access to the UHF television channels to police departments and motion picture companies should not be permitted. Further, the record does not establish that adoption of the proposed wireless camera use would be in the public interest. Accordingly, this proceeding will be terminated without prejudice.

4. In view of the preceding decision, we will also terminate the freeze on the authorization of wireless microphones on UHF-TV spectrum above Channel 23 (*i.e.*, above 530 MHz). Pursuant to § 74.803(b) of our Rules, wireless microphones are authorized and operated strictly on a secondary basis to other primary (principally broadcast) services. In larger metropolitan areas, VHF-TV channels (which also may be used by wireless microphones) are used intensively for broadcasting and lower UHF channels often are shared with private land mobile services.[5] Available channels for wireless microphone use are further restricted by the co-channel spacing requirements of § 74.802(b) of the Rules, particularly in larger urbanized areas.[6] This has resulted in reports of congestion which would be alleviated by making the upper UHF-TV channels available again for wireless microphone operation.[7] Thus, the public will benefit by our terminating the freeze.

5. Accordingly, pursuant to authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended, *it is ordered*, That this proceeding *is terminated* without prejudice, THAT the freeze on wireless microphone and other Low Power Auxiliary Service operation above 530 MHz *is terminated*, and THAT the Vega January 14, 1991 Petition for Further Review, Analysis and Consideration *is dismissed*.

6. For further information contact Hank VanDeursen at (202) 632-9660.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92-2682 Filed 2-5-92; 8:45 am]

BILLING CODE 6712-01-M

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[1] See Further Notice of Proposed Rule Making, 2 FCC Rcd 3129 (1987).

[2] *Ibid.*, paragraph 12.

[3] The expression "Low Power Auxiliary Stations" (LPAS) usually denotes low power "wireless microphones" which are used to convey audio signals over short distances without using wires or cables. However, other permissible (but much less frequently used) devices include low power stations that are used for cue and control communications or to synchronize TV camera signals.

[4] See Further Notice, paragraph 15.

[5] See First Report and Order in Docket 18261, 23 FCC 2d 325 (1970).

[6] For example, LPAS licensees authorized in the frequency band 174 to 216 MHz in Zone 1, which includes most of the northeast United States, may not operate within 97 kilometers (60 miles) of a co-channel TV broadcast station.

[7] On January 14, 1991, a Petition for Further Review, Analysis and Consideration was filed by Vega—a Mark IV Company that manufactures wireless mircrophones. Vega claims that it is nearly impossible for wireless microphones to operate in major markets on most of the UHF channels that are not covered by the freeze. In view of our decision to terminate the freeze, the Vega petition will be dismissed as moot.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 80–9; Notice 5]

RIN 2127–AA12

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking; extension of comment period

SUMMARY: This notice grants a request to extend the comment period on an agency proposal to amend Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment*, to require conspicuity systems for large trailers. An extension of the comment period is desirable in view of a delay in the completion of a research report referenced in the notice of proposed rulemaking. The extension will permit the public to review and comment upon the report. The comment closing date is changed from February 3, 1992 to March 31, 1992.

DATES: Comments on docket 80–9, Notice 4 must be received on or before March 31, 1992.

ADDRESSES: Comments should refer to Docket No. 80–9, Notice 4 and be submitted to: Docket Section, NHTSA, 400 Seventh Street SW., Washington, DC 20590. Docket hours are 9:30 to 4 pm. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Patrick Boyd, Office of Rulemaking, NHTSA, 400 Seventh Street, SW., Washington, DC 20590 (202–336–6364).

SUPPLEMENTARY INFORMATION: On December 4, 1991, NHTSA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to amend Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment*, to require conspicuity systems for large trailers. (56 FR 63474) Under the proposal, trailer manufacturers would be given a choice of installing either retroreflective sheeting or reflex reflectors. The notice referred to a research program conducted by the University of Michigan Transportation Research Institute (UMTRI) for NHTSA. Specifically, the agency referenced the UMTRI study in discussing the performance and application of conspicuity materials. NHTSA stated that the research "might yield additional insight into the effectiveness of various conspicuity treatment patterns."

The agency anticipated that the UMTRI report would be completed and available for public review while the comment period was open; however, the research has been delayed. NHTSA now anticipates that the report will be completed and available for public review in February.

Reflexite, a manufacturer of retroflective materials, petitioned the agency, requesting a 30 day extension of the comment period. Reflexite stated that it needed to examine the UMTRI report before it submitted its comments.

After reviewing the situation, NHTSA agrees with the petitioner that additional time is desirable to permit the public to review the UMTRI report, which represents some of the technical basis for the proposal. The extension will enable the public to obtain and study the report. Accordingly, the agency believes that there is good cause for the extension and that the extension is consistent with the public interest. Based on the above considerations, the agency has decided to extend the comment period until March 31, 1992.

Issued on: January 31, 1992.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 92–2850 Filed 2–3–92; 1:12 pm]

BILLING CODE 4910–59–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1141

[EX PARTE NO. 507]

Revision of Procedures to Calculate Interest Rates

AGENCY: Interstate Commerce Commission.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: The Commission is considering revising its regulations at 49 CFR 1141.1, pertaining to the computation of interest when reparations are awarded. Specifically, consideration is being given to: (1) Requiring the use of compound, as opposed to simple, interest in all cases; (2) allowing the use of interest rates other than the 90 day Treasury Bill rate in cases other than investigations of new railroad rates (where the 90 day Treasury Bill rate is required by statute); and (3) requiring the use of floating interest rates when an award of reparations spans an extended period of time. Comments are solicited from interested parties.

DATES: Comments must be submitted by March 9, 1992.

ADDRESSES: Send an original and 10 copies of comments referring to Ex Parte No. 507 to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Ward L. Ginn, Jr., (202) 927–6187 (TDD for hearing impaired: (202) 927–5721).

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to, call, or pick up in person from: Office of the Secretary, Interstate Commerce Commission, room 2215, Washington, DC 20423. Telephone: (202) 927–7428. (Assistance for the hearing impaired is available through TDD services (202) 927–5721.)

This action will not significantly affect either the quality of the human environment or energy conservation; nor will it have a significant economic impact on a substantial number of small entities.

List of Subjects in 49 CFR Part 1141

Administrative practice and procedure.

Authority: 5 U.S.C. 553, 49 U.S.C. 10321.

Decided: January 30, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillips, and Emmett.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92–2912 Filed 2–5–92; 8:45 am]

BILLING CODE 7035–01–M

Notices

Federal Register
Vol. 57, No. 25
Thursday, February 6, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

January 31, 1992.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, room 404–W Admin. Bldg., Washington, DC 20250, (202) 690–2118.

New Collection

- Food Safety and Inspection Service

Nutrition Labeling Survey of Meat and Poultry Firms.
One time survey.
Businesses or other for-profit; Small businesses or organization; 700 responses; 1820 hours.
Roy Purdie, Jr. (202) 720–5372.

- Forest Service

Baseline and Trend Information on National Forest Communication.
Use and Users.
One time survey.
Individuals or households; 2600 responses; 650 hours.
Stephan R. Sherick (406) 329–3096.

- Food and Nutrition Service

Evaluation of the Expanded EBT Demonstration in Maryland—Phase II.
One time survey.
Individuals or households; Businesses or other for-profit; Federal agencies or employees; Small businesses or organizations; 1,903 responses; 1,469 hours.
Margaret Andrews (703) 305–2115.

Larry K. Roberson,
Deputy Departmental Clearance Officer.

[FR Doc. 92–2848 Filed 2–5–92; 8:45 am]

BILLING CODE 3410-01-M

COMMISSION ON CIVIL RIGHTS

Agenda and Public Meeting of the North Dakota Advisory Committee

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the North Dakota Advisory Committee to the Commission will be held from 10 a.m. until 1 p.m. on Thursday, February 27, 1992, at the Sheraton Inn, 6th and Broadway, Bismarck, North Dakota. The purpose of this meeting is to discuss current issues, review the draft report of the Committee's project on Native American Children in North Dakota Special Education Programs and plan future activities.

Persons desiring additional information should contact Committee Chairperson, Bryce Streibel, or William F. Muldrow, Director of the Rocky Mountain Regional Division, (303) 844–6716 (TDD 303–844–6720). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, January 28, 1992.

Carol-Lee Hurley,
Chief, Regional Programs Coordination Unit.

[FR Doc. 92–2886 Filed 2–5–92; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Producing Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: To give firms an opportunity to comment.

Firm name	Address	Date petition accepted	Product
Boekeloo, Inc., DBA G&R Machine Company	1501 Pa Avenue W., Box 932, Warren, PA 16365.	12/16/91	Precision metal parts manufactured from bar stock.
Myers & Company Architectural Metals, Inc	0176 Emma Road, Box 1025, Basalt, CO 81621.	12/17/91	Metal furniture, chandeliers, electric lamps, railings, gates and metal frame seats.
Elliott Bay Industries, Inc.	470 South Kenyon Street, Seattle, WA 98108	12/18/91	Veneer clippers and parts.
Carlson Dolls Company	210 West First Street, Maple Lake, MN 55358	12/19/91	Historical, native American and ethnic dolls.
Jule, Inc	25 Science Park, New Haven, CT 06511	12/20/91	Precast gels.
Cherokee Nation Industries, Inc.	Highway 51 West, Stilwell, OK 74960	12/23/91	Electronic harnesses/cable and electronic black box (control devices).
Helmel Engineering Products, Inc	6520 Lockport Road, Niagara Falls, NY 14305	12/23/91	Coordinate measuring machines and its software.
Trimen Industries, Inc.	Rd #3, P.O. Box 309, New Oxford, PA 17350	12/27/91	Gray iron furnace.
U.S. Axle, Inc.	275 Shoemaker Road, Box 297 Pottstown, PA 19464.	12/27/91	Shafts and axles, produced by machining steels and alloys.

Firm name	Address	Date petition accepted	Product
Colt's Manufacturing Company, Inc.	P.O. Box 1848, Hartford, CT 06144	12/30/91	Miscellaneous—guns, rifles, handguns, and accessories.
Univeral Machine Company, Inc	1512 Osprey, Street 107 DeSoto, TX 75115-2411.	1/3/92	High speed coin counter/verifiers and automatic wrappers.
Manhasset Machine Company, Inc	409 Bayview Avenue, Amityville, NY 11701	1/3/92	Flexographic label printing presses and ancillary machines.
Northwood Industries	3323 Central Avenue, Union City, CA 94587	1/6/92	Upholstered chairs and wooden tables.
Sterling China Company	12th and Commerce Street, East Liverpool, OH 43920.	1/6/92	Tableware and kitchenware made of China for institutions.
IPF International, Inc.	11-13 Maryland Avenue, Paterson, NJ 07533	1/6/92	Decorative mirrors, chairs and upholstered furniture.
Guardian Electric Manufacturing Company	1425 Lake Avenue, Woodstock IL 60098	1/6/92	Solenoids, relays, switches, steppers, and control grips.
The Hollaender Manufacturing Company, Inc	10285 Wayne Avenue, Box 156399, Cincinnati, OH 45215-6399.	1/7/92	Aluminum tube or pipe fittings.
Bakery Equipment & Service Co., Inc	1623-27 N. San Marcos, San Antonio, TX 78201.	1/7/92	Bakery equipment.
Victoria Vogue, Inc	90 Southland Drive, Bethlehem, PA 18017	1/7/92	Powder puffs.
Magnum Boats	18204 Bothell Highway, Bothell, WA 98012	1/10/92	Metal products—aluminum boats.
N.W.T. Corporation	4345 North Sullinger Avenue, Tucson, AZ 85705.	1/13/92	Metal products—precision cutting tools.
College House, Inc. (The)	601 Cantiague Road, Westbury, NY 11590	1/14/92	Apparel—tee shirts, pants, shorts, jackets, and novelty items.
Zendex Corporation	6780 Sierra Court, Suite A, Dublin, CA 94568	1/14/92	Electronics—microcomputer processors, control boards and system enclosures.
Automatic Doorman, Inc.	110 Pennsylvania Avenue, Paterson, NY 07503.	1/15/92	Electronics—electric garage door openers.
Judco Manufacturing, Inc.	P.O. Box 487, Harbor City, CA 90710	1/15/92	Electronics—electrical wiring switches and harnesses.

The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the trade Adjustment Assistance Division, room 4015A, Economic development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: January 27, 1992.

Steven R. Brennan,

Acting Deputy Assistant Secretary for Program Operations.

[FR Doc. 92-2927 Field 2-5-92; 8:45 am]

BILLING CODE 3510-24-M

International Trade Administration

[A-401-004]

Carton Closing Staples and Stapling Machines From Sweden; Determination Not To Revoke Antidumping Duty Order

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Determination not to revoke antidumping duty order.

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the antidumping duty order on carton closing staples and stapling machines from Sweden.

EFFECTIVE DATE: February 6, 1992.

FOR FURTHER INFORMATION CONTACT: Barbara Victor or Thomas F. Futtner, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377-0090/3814.

SUPPLEMENTARY INFORMATION:

Background

On December 13, 1991, the Department of Commerce (the Department) published in the **Federal Register** (56 FR 65042) its intent to revoke the antidumping duty order on carton closing staples and stapling machines from Sweden (48 FR 38250, December 20, 1983). The Department may revoke an order if the Secretary concludes that the order is no longer of interest to interested parties. We did not receive a request for administrative review of the order for the last four consecutive annual anniversary months and, therefore, published a notice of intent to revoke the order pursuant to 19 CFR 353.25(d)(4).

On January 3, 1992, International Staple and Machine Company, the petitioner, objected to our intent to revoke the order. Normally, the Department would consider this objection to be untimely since it was received after the anniversary month. However, since the Department did not publish its intent to revoke until December 13, 1991, we are accepting this objection as timely. Therefore, we no longer intend to revoke the order.

Dated: January 30, 1992.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 92-2928 Filed 2-5-92; 8:45 am]

BILLING CODE 3510-DS-M

[C-333-001]

Cotton Sheeting and Sateen From Peru; Intent To Revoke Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of intent to revoke countervailing duty order.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the countervailing duty order on cotton sheeting and sateen from Peru. Interested parties who object to this revocation must submit their comments in writing not later than February 29, 1992.

EFFECTIVE DATE: February 6, 1992.

FOR FURTHER INFORMATION CONTACT: Allan Christian or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On February 1, 1983, the Department of Commerce ("the Department") published a countervailing duty order on cotton sheeting and sateen from Peru (48 FR 4501). The Department has not received a request to conduct an administrative review of the countervailing duty order on cotton sheeting and sateen from Peru for more than four consecutive annual anniversary months. This is the fifth anniversary.

In accordance with 19 CFR 355.25(d)(4)(iii), the Secretary of Commerce will conclude that an order is no longer of interest to interested parties and will revoke the order if no interested party objects to revocation or requests an administrative review by the last day of the fifth anniversary month. Accordingly, as required by § 355.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this order.

Opportunity to Object

Not later than February 29, 1992, interested parties, as defined in § 355.2(i) of the Department's regulations, may object to the Department's intent to revoke this countervailing duty order.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B-099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties do not request an administrative review or object to the Department's intent to revoke by February 29, 1992, we shall conclude that the order is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 355.25(d).

Dated: January 30, 1992.

Joseph A. Spetrini,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 92-2929 Filed 2-5-92; 8:45 am]

BILLING CODE 3510-DS-M

[C-333-002]

Cotton Yarn From Peru; Intent To Revoke Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of intent to revoke countervailing duty order.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the countervailing duty order on cotton yarn from Peru. Interested parties who object to this revocation must submit their comments in writing not later than February 29, 1992.

EFFECTIVE DATE: February 6, 1992.

FOR FURTHER INFORMATION CONTACT: Allan Christian or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On February 1, 1983, the Department of Commerce ("the Department") published a countervailing duty order on cotton yarn from Peru (48 FR 4508). The Department has not received a request to conduct an administrative review of the countervailing duty order on cotton yarn from Peru for more than four consecutive annual anniversary months. This is the fifth anniversary.

In accordance with 19 CFR 355.25(d)(4)(iii), the Secretary of Commerce will conclude that an order is no longer of interest to interested parties and will revoke the order if no interested party objects to revocation or requests an administrative review by the last day of the fifth anniversary month. Accordingly, as required by § 355.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this order.

Opportunity to Object

Not later than February 29, 1992, interested parties, as defined in § 355.2(i) of the Department's regulations, may object to the Department's intent to revoke this countervailing duty order.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B-099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties do not request an administrative review or object to the Department's intent to revoke by February 29, 1992, we shall conclude that the order is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 355.25(d).

Dated: January 30, 1992.

Joseph A. Spetrini,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 92-2930 Filed 2-5-92; 8:45 am]

BILLING CODE 3510-DS-M

Notice of Scope Rulings

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of scope rulings.

SUMMARY: The International Trade Administration (ITA) hereby publishes a list of scope rulings completed between October 1, 1991, and December 31, 1991. In conjunction with this list, the ITA is also publishing a list of pending requests for scope clarifications. The ITA intends to publish future lists within thirty days of the end of each quarter.

EFFECTIVE DATE: February 6, 1992.

FOR FURTHER INFORMATION CONTACT: Melissa G. Skinner, Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377-4851.

Background

Sections 353.29(d)(8) and 355.29(d)(8) of the Department's regulations (19 CFR 353.29(d)(8) and 355.29(d)(8)) provide that on a quarterly basis the Secretary will publish in the **Federal Register** a list of scope rulings completed within the last three months. The lists are to include the case name, reference number, and brief description of the ruling.

This notice lists scope rulings completed between October 1, 1991, and December 31, 1991, and pending scope clarification requests. The ITA intends to publish in April 1992 a notice of scope rulings completed between January 1, 1992, and March 31, 1992.

The following lists provide the country, case reference number, requester(s), and a brief description of either the ruling or product subject to the request.

Scope Rulings Completed Between October 1, 1991, and December 31, 1991

Country: Federal Republic of Germany

A–428–602: Brass Sheet and Strip:

The International Association of Machinists and Aerospace Workers, the International Brotherhood of Electrical Workers, the International Union of Electronic, Electrical, Salaried Machine and Furniture Workers, Industrial Union Department, AFL–CIO, and the United Steelworkers of America—imports of 667-series brass, manufactured by Wieland-Werke AG, are not circumventing the order—12/11/91.

A–428–801: Antifriction Bearings:

FAG Kugelfischer Georg Schaefer KGaA—certain "needle roller" bearings, specifically, engine main shaft pilot bearing model 26–1950A and engine crank shaft bearings models 26–2440, 26–2440(A), 26–2441, 26–2441(A), 26–2176, 26–2176(A), 26–2177, and 26–2177(A) are cylindrical roller bearings that are within the scope of the order—12/23/91.

Country: USSR

A–461–008: Titanium Sponge:

Hi-Temp Specialty Metals, Inc.—compacted (or compressed) titanium scrap fines are outside the scope of the order—11/1/91.

Country: Italy

A–475–801: Antifriction Bearings:

Meter S.p.A.—"chain sheaves" (forklift truck mast components) are antifriction bearings within the scope of the order—10/25/91.

Country: Singapore

A–559–801: Antifriction Bearings:

SKF—loose ball rollers used in textile drafting machinery (top rollers) are antifriction bearings within the scope of the order—10–25–91.

C–559–802: Antifriction Bearings:

SKF—losoe ball rollers used in textile drafting machinery (top rollers) are antifriction bearings within the scope of the order—10–25–91.

Country: People's Republic of China

A–570–504: Petroleum Wax Candles:

San Francisco Candle Company—Moonlite and Candylite candles are within the scope of the order—11/4/91.

Country: Japan

A–588–015: Television Receiving Sets, Monochrome and Color:

Casio Computer Co., Ltd., Casio, Inc., Citizen Watch Co., Ltd., Hitachi, Ltd., Hitachi Sales Corporation of America, Hitachi Sales Corporation of Hawaii, Inc., Matsushita Electric Industrial Co., Ltd., Matsushita Electric Corporation of America, NEC Corporation, NEC Home Electronics (U.S.A.), Inc., Seiko Epson Corporation, Toshiba Corporation, and Toshiba America, Inc.—certain hand-held liquid crystal display televisions (Casio Computer Co., Ltd. models TV–400T, TV–500, TV–1400, TV–3100, TV–8500; Citizen Watch Co., Ltd. models 06TA, 08TA, TB20, TA80, TC50, TC53, DD–T126, DD–P226, TC52; Matsushita Electric Industrial Co., Inc. models CT–301E/302B, CT–311E/312B; and Seiko Epson Corporation models LVD–602, LVD–702, LVD–802) and all other LCD TVs under 6" in screen size imported into the United States are later-developed products within the scope of the order—12/16/91.

A–588–087: Portable Electric Typewriters:

Smith Corona Corporation—Brother Industries, Ltd. and Brother Industries (USA), Inc., are not circumventing the order by importing parts and components from Japan, and assembling them into finished portable electric typewriters for sale in the U.S., is circumventing the order—preliminary 9/6/91; final 11/8/91.

A–588–806: Electrolytic Manganese Dioxide:

Sumitomo—High-grade chemical manganese dioxide (CMD–U) is a later-developed product within the scope of the order—12/20/91.

Requests Withdrawn

Country: Federal Republic of Germany

A–428–801: Antifriction Bearings:

GMN—bearings for use in machine tool spindles—10/31/91.

Pending Scope Clarification Requests as of December 31, 1991

Country: Canada

A–122–601: Brass Sheet and Strip:

Hussey Copper Ltd., The Miller Company, Olin Corp. (Brass Group), Outokumpu American Brass, Revere Copper Products, the International Association of Machinists & Aerospace Workers, the International Union, Allied Industrial Workers of America (AFL–CIO), the Mechanics Educational Society of America (Local 56), and the United Steelworkers of America (AFL–CIO/CLC)—anti-circumvention inquiry to determine whether a producer of brass in Canada and a U.S. importer of brass are circumventing the antidumping order by importing Canadian brass plate, a product not included within the antidumping duty order, into the United States where it is rolled down slightly into brass sheet and strip.

Country: Federal Republic of Germany

A–428–801: Antifriction Bearings:

Sachs Automotive Products—clutch releasers.

SKF—certain "textile machinery components".

Allergan Medical Optics—stainless steel balls for non-bearing use.

Country: Italy

A–475–059 Pressure Sensitive Tape:

INCAS Corp.—highlighting note tape.

A–475–703: Granular Polytetrafluroethylene (PTFE) Resin:

E.I. DuPont de Nemours & Company, Inc.—anti-circumvention inquiry to determine whether imports of granular PTFE raw polymer are circumventing the order.

A–475–801: Antifriction Bearings:

Wolf D. Barth Co., Inc., and SKF Component System Co.—7/32" chrome steel balls.

Federal Mogul—roller turn rollers.

IBC Bearing Co.—finished, semiground balls.

Country: People's Republic of China

A–570–003: Cotton Shop Towels:

Win-Tex Products, Inc.—towels assembled in Honduras.

A–570–504: Petroleum Wax Candles:

Candles by Finesse—the "Van Gogh" and "Monet".

Country: Korea

A–580–008: Color Television Receivers:

Granada Hospital Group—Spectrum C–10 Interactive Receiver.

Goldstar Co., Ltd., Goldstar Electronics International, Inc. and Goldstar of America, Inc.—printed circuit boards combined after importation with U.S.-made color picture tubes.

A–580–803: Certain Small Business Telephone Systems and Subassemblies Thereof:

Cord Electronics, Inc.—Digital Display Set telephone set (DDS).

Country: Hong Kong

A–582–802 Sweaters Wholly or in Chief Weith of Man-Made Fiber:

Joyce Sportswear—models S/3603, S/3633, and S/3402.

Country: Taiwan

A–583–508: Porcelain-on-Steel Cookware:

Mr. Stove L.d.—stove top grills.

A–583–605: Butt-weld Pipe fittings:

Spring, Inc.—the "Sprink-let",

Country: Japan

A–588–007: Certain High Capacity Pagers:

Motorola—components and subassemblies.

A–588–014: Tuners:

Nichimen America Inc.—Sanshin compact direct broadcast satellite (DBS) tuners

A–588–015: Television Receiving Sets, Monochrome and Color:

Sharp—LCB TV/VCR model VC–V542U.

IDC Marketing Corp.—National model TC2160MR.

IDC Marketing Corp.—National model TC–290TR.

Inter-Ocean Industries—Panasonic model TC–1471NPSR.

A–588–016: Ferrite Cores:

U.S. Customs—ferrite bead inductors.

A–588–087: Portable Electric Typewriters:

Nakajima, Canon, and Smith Corona—portable electric typewriters with computer interface.

Silver Seiko—"office typewriters" models EZ–40 and EZ–43.

A–588–405: Cellular Mobile Telephones and Subassemblies:

NEC—base band IC.

A–588–504: Erasable Programmable Read Only Memories:

Intel Corporation, Advanced Micro Devices, Inc., and National Semiconductor Corporation—flash memory EPROM.

A–588–807: Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured:

Japan Freight Consolidators (Calif.), Inc.—V-belt model 5L118.

QMS, Inc.—belts for use in laser printers.

A–588–809: Certain Small Business Telephone Systems and Subassemblies Thereof:

Kyushu Matsushita Electric Co., Ltd.—KME 336, certain subassemblies, and accessories.

A–588–810: Mechanical Transfer Presses:

Aida Engineering—spare and replacement parts.

Customs—destack sheet feeder.

A–588–814: Polyethylene Terephthalate Film, Sheet, and Strip:

Diafoil America Inc.—Diafoil AC–250.

A–588–815: Gray Portland Cement and Cement Clinker:

Onoda Cement Co., Ltd.—Classes G and H of oil well cement.

A–588–817: High Information Content Flat Panel Displays:

Sharp—Sharp model QA–1000 computer projection panel.

Rockwell—FPDs for avionics products.

A–588–818: Personnel Word Processors:

Fujitsu—Fujitsu model OASYS–30AX–W Japanese language word processor.

A–100–001: Antifriction Bearings—General Issues:

Customs—ceramic bearings.

Interested parties are invited to comment on the accuracy of the list of pending scope clarification requests. Any comments should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B–099, U.S. Department of Commerce, Washington, DC 20230.

Dated: January 31, 1992.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 92–2931 Filed 2–5–92; 8:45 am]

BILLING CODE 3510–DS–M

[Project I.D. No. 06–10–92008–01]

Minority Business Development Agency

Business Development Center Applications: New Mexico

AGENCY: Minority Business Development Agency.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625, the Minority Business Development Agency (MBDA) is soliciting competitive application under its Indian Business Development Center (IBDC) program to operate an IBDC for approximately a 3-year period, subject to Agency priorities, recipient performance and the availability of funds. The cost of performance for the first budget period (12 months) is estimated as $197.400 in Federal funds. An amount of $9,400 has been allocated for the audit fee and should be listed in the contractual line item under the Federal amount. The period of performance will be from August 1, 1992 to July 31, 1993. The IBDC will operate in the New Mexico geographic service area.

The funding instrument for the IBDC will be a cooperative agreement. competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

The IBDC program is designed to provide business development services to the American Indian business community for the establishment and operation of viable American Indian businesses. To this end, MBDA funds organizations that can identify and coordinate public and private sector resources on behalf of American Indian individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding American Indian business.

Applications will be evaluated initially by regional staff on the following criteria: the experience and capabilities for the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of American Indian businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive. The selection of an application for further processing by MBDA will be made by the Director based on a determination of the application most likely to further the purpose of the IBDC Program. The application will then be forwarded to the Department for final processing and approval, if appropriate. The Director will consider past performance of the applicant on previous Federal awards.

IBDCs performing satisfactorily may continue to operate after the initial competitive year for up to 2 additional budget period. IBDCs with year-to-date "commendable" and "excellent" performance ratings may continue to be funded for up to 3 or 4 additional budget periods, respectively. Under no circumstances shall an IBDC be funded for more than 5 consecutive budget periods without competition. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an IBDC's performance, the availability of funds and Agency priorities.

Awards under this program shall be subject to all Federal and Departmental regulations, policies, and procedures applicable to Federal assistance awards.

In accordance, with OMB Circular A-129, "Managing Federal Credit programs," applicants who have an outstanding account receivable with the Federal Government may not be considered for funding until these debts have been paid or arrangements satisfactory to the Department of Commerce are made to pay the debt.

Applicants are subject to Governmentwide Debarment and Suspension (Nonprocurement) requirements as stated in 15 CFR part 26. The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the IBDC has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are unsatisfactory performance of IBDC work requirements; and reporting inaccurate or inflated claims of client assistance or client certification. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

On November 18, 1988, Congress enacted the Drug-Free Workplace Act of 1988 (Public Law 100-690, title V, subtitle D). The statute requires contractors and grantees of Federal agencies to certify that they will provide a drug-free workplace. pursuant to these requirements, the applicable certification form must be completed by each applicant as a precondition for receiving Federal grant or cooperative agreement awards.

"Certification for Contracts, Grants, Loans, and Cooperative Agreement" and SF-LLL, the "Disclosure of Lobbying Activities" (if applicable) is required in accordance with section 319 of Public Law 101-121, which generally prohibits recipients of Federal contracts, grants, and loans from using Legislative Branches of the Federal Government in Connection with a Specific contract, grant of loan.

CLOSING DATE: The closing date for applications is March 9, 1992. Applications must be postmarked on or before March 9, 1992.

NOTE: Please mail completed application to the following address: Chicago Regional Office, 55 E. Monroe Street, suite 1440, Chicago, Illinois 60603.

FOR APPLICATION KIT OR OTHER INFORMATION CONTRACT: Dallas Regional Office, 1100 Commerce Street, room 7B23, Dallas, Texas 75242, Attn: Yvonne Guevara (214) 767-8001.

A pre-bid conference will be held on February 18, 1992 in the U.S. Federal Building, room 1049, on 517 Gold Avenue, Albuquerque, New Mexico at 10 p.m.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive order 12372, "Intergovernmental Review of Federal Programs," is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

11.801 Minority Business Development (Catalog of Federal Domestic Assistance)

Dated: January 28, 1992.

Melda Cabrera,

Regional Director.

[FR Doc. 92-2857 Filed 2-5-92; 8:45 am]

BILLING CODE 3510-21-M

[Project I.D. No. 08-10-92010-01]

Business Development Center Applications: North Dakota

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625, the Minority Business Development Agency (MBDA) is soliciting competitive applications under its Indian Business Development Center (IBDC) program to operate an IBDC for approximately a 3-year period, subject to Agency priorities, recipient performance and the availability of funds. The cost of performance for the first budget period (12 months) is estimated as $197,400 in Federal funds. An amount of $9,400 has been allocated for the audit fee and should be listed in the contractual line item under the Federal amount. The period of performance will be from August 1, 1992 to July 31, 1993. The IBDC will operate in the North Dakota geographic service area.

The funding instrument for the IBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

The IBDC program is designed to provide business development services to the American Indian business community for the establishment and operation of viable American Indian businesses. To this end, MBDA funds organizations that can identify and coordinate public and private sector resources on behalf of American Indian individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding American Indian business.

Applications will be evaluated initially by regional staff on the following criteria: The experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of American Indian businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive. The selection of an application for further processing by MBDA will be made by the Director based on a determination of the application most likely to further the purpose of the IBDC Program. The application will then be forwarded to the Department for final processing and approval, if appropriate. The Director will consider past performance of the applicant on previous Federal awards.

IBDCs performing satisfactorily may continue to operate after the initial competitive year for up to 2 additional budget periods. IBDCs with year-to-date "commendable" and "excellent" performance ratings may continue to be funded for up to 3 or 4 additional budget periods, respectively. Under no circumstances shall an IBDC be funded for more than 5 consecutive budget periods without competition. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an IBDC's performance, the availability of funds and Agency priorities.

Awards under this program shall be subject to all Federal and Departmental regulations, policies, and procedures applicable to Federal assistance awards.

In accordance, with OMB Circular A-129, "Managing Federal Credit Programs," applicants who have an outstanding account receivable with the Federal Government may not be considered for funding until these debts have been paid or arrangements satisfactory to the Department of Commerce are made to pay the debt.

Applicants are subject to Governmentwide Debarment and Suspension (Nonprocurement) requirements as stated in 15 CFR part 26. The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the IBDC has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are unsatisfactory performance of IBDC work requirements; and reporting inaccurate or inflated claims of client assistance or client certification. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

On November 18, 1988, Congress enacted the Drug-Free Workplace Act of 1988 (Public Law 100-690, title V, subtitle D). The statute requires contractors and grantees of Federal agencies to certify that they will provide a drug-free workplace. Pursuant to these requirements, the applicable certification form must be completed by each applicant as a precondition for receiving Federal grant or cooperative agreement awards.

"Certification for Contracts, Grants, Loans, and Cooperative Agreement" and SF-LLL, the "Disclosure of Lobbying Activities" (if applicable) is required in accordance with section 319 of Public Law 101-121, which generally prohibits recipients of Federal contracts, grants, and loans from using Legislative Branches of the Federal Government in connection with a specific contract, grant or loan.

CLOSING DATE: The closing date for applications is March 9, 1992. Applications must be postmarked on or before March 9, 1992.

NOTE: Please mail completed application to the following address: Chicago Regional Office, 55 E. Monroe Street, suite 1440, Chicago, Illinois 60603.

FOR APPLICATION KIT OR OTHER INFORMATION CONTACT: Dallas Regional Office, 1100 Commerce Street, room 7B23, Dallas, Texas 75242, Attn: Yvonne Guevara, (214) 767-8001.

A pre-bid conference will be held on February 12, 1992 in the U.S. Federal Building, Post Office, room B14, on 220 Rosser Street, Bismarck, North Dakota at 1:30 p.m.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive order 12372, "Intergovernmental Review of Federal Programs," is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

11.801 Minority Business Development (Catalog of Federal Domestic Assistance)

Dated: January 28, 1992.

Melda Cabrera,

Regional Director, Dallas, Regional Office.

[FR Doc. 92-2855 Filed 2-5-92; 8:45 am]

BILLING CODE 3510-21-M

[Project I.D. No. 06-10-92009-01]

Business Development Center Applications; Oklahoma

AGENCY: Minority Business Development Agency.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625, the Minority Business Development Agency (MBDA) is soliciting competitive applications under its Indian Business Development Center (IBDC) program to operate an IBDC for approximately a 3-year period, subject to Agency priorities, recipient performance and the availability of funds. The cost of performance for the first budget period (12 months) is estimated as $197,400 in Federal funds. An amount of $9,400 has been allocated for the audit fee and should be listed in the contractual line item under the Federal amount. The period of performance will be from August 1, 1992 to July 31, 1993. The IBDC will operate in the Oklahoma geographic service area.

The funding instrument for the IBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

The IBDC program is designed to provide business development services to the American Indian business community for the establishment and operation of viable American Indian businesses. To this end, MBDA funds organizations that can identify and coordinate public and private sector resources on behalf of American Indian individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding American Indian business.

Applications will be evaluated initially by regional staff on the following criteria: the experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of American Indian businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive. The selection of an application for further processing by MBDA will be made by the Director based on a determination of the application most likely to further the purpose of the IBDC Program. The application will then be forwarded to the Department for final processing and approval, if appropriate. The Director will consider past performance of the applicant on previous Federal awards.

IBDCs performing satisfactorily may continue to operate after the initial competitive year for up to 2 additional budget periods. IBDCs with year-to-date "commendable" and "excellent" performance ratings may continue to be funded for up to 3 or 4 additional budget periods, respectively. Under no circumstances shall an IBDC be funded for more than 5 consecutive budget periods without competition. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an IBDC's performance, the availability of funds and Agency priorities.

Awards under this program shall be subject to all Federal and Departmental regulations, policies, and procedures applicable to Federal assistance awards.

In accordance, with OMB Circular A-129, "Managing Federal Credit

Programs," applicants who have an outstanding account receivable with the Federal Government may not be considered for funding until these debts have been paid or arrangements satisfactory to the Department of Commerce are made to pay the debt.

Applicants are subject to Governmentwide Debarment and Suspension (Nonprocurement) requirements as stated in 15 CFR Part 26. The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the IBDC has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are unsatisfactory performance of IBDC work requirements; and reporting inaccurate or inflated claims of client assistance or client certification. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

On November 18, 1988, Congress enacted the Drug-Free Workplace Act of 1988 (Public Law 100–690, title V, subtitle D). The statute requires contractors and grantees of Federal agencies to certify that they will provide a drug-free workplace. Pursuant to these requirements, the applicable certification form must be completed by each applicant as a precondition for receiving Federal grant or cooperative agreement awards.

"Certification for Contracts, Grants, Loans, and Cooperative Agreement" and SF–LLL, the "Disclosure of Lobbying Activities" (if applicable) is required in accordance with section 319 of Public Law 101–121, which generally prohibits recipients of Federal contracts, grants, and loans from using Legislative Branches of the Federal Government in connection with a specific contract, grant or loan.

CLOSING DATE: The closing date for application is March 9, 1992. Applications must be postmarked on or before March 9, 1992.

Note: Please mail completed application to the following address: Chicago Regional Office, 55 E. Monroe Street, suite 1440, Chicago, Illinois 60603.

FOR APPLICATION KIT OR OTHER INFORMATION CONTACT: Dallas Regional Office, 1100 Commerce Street, room 7B23, Dallas, Texas 75242, Attn: Yvonne Guevara, (214) 767–8001.

A pre-bid conference will be held on February 18, 1992 in the James Stewart Building, room 100, on NE. 4th Street, Oklahoma City, Oklahoma at 10 p.m.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive order 12372, "Intergovernmental Review of Federal Programs," is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

Dated: January 28, 1992.

11.801 Minority Business Development
(Catalog of Federal Domestic Assistance)

Melda Cabrera,

Regional Director, Dallas.

[FR Doc. 92–2858 Filed 2–5–92; 8:45 am]

BILLING CODE 3510-21-M

[Project I.D. No. 06-10-92006-01]

Business Development Center Applications: Austin, Texas

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625, the Minority Business Development Agency (MBDA) is soliciting competitive applications under its Minority Business Development Center (MBDC) program to operate an MBDC for approximately a 3-year period, subject to Agency priorities, recipient performance and the availability of funds. The cost of performance for the first budget period (12 months) is estimated as $165,000 in Federal funds, and a minimum of $29,118 in non-Federal (cost sharing) contributions from August 1, 1992 to July 31, 1993. Cost-sharing contributions may be in the form of cash contributions, client fees, in-kind contributions or combinations thereof. The MBDC will operate in the Austin, Texas MSA geographic service area.

The funding instrument for the MBDC will be cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can identify and coordinate public and private sector resources on behalf of minority individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated initially by regional staff on the following criteria: The experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive. The selection of an application for further processing by MBDA will be made by the Director based on a determination of the application most likely to further the purpose of the MBDC Program. The application will then be forwarded to the Department for final processing and approval, if appropriate. The Director will consider past performance of the applicant on previous Federal awards.

MBDCs shall be required to contribute at least 15% of the total project cost through non-Federal contributions. To assist them in this effort, MBDCs may charge client fees for management and technical assistance (M&TA) rendered. Based on a standard rate of $50 per hour, MBDCs will charge client fees at 20% of the total cost for firms with gross sales of $500,000 or less, and 35% of the total cost for firms with gross sales of over $500,000.

MBDCs performing satisfactorily may continue to operate after the initial competitive year for up to 2 additional budget period. MBDCs with year-to-date "commendable" and "excellent" performance ratings may continue to be funded for up to 3 or 4 additional budget periods, respectively. Under no circumstances shall an MBDC be funded for more than 5 consecutive budget periods without competition. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's performance, the availability of funds and Agency priorities.

Awards under this program shall be subject to all Federal and Departmental regulations, policies, and procedures applicable to Federal assistance awards.

In accordance, with OMB Circular A–129, "Managing Federal Credit Programs," applicants who have an outstanding account receivable with the Federal Government may not be

considered for funding until these debts have been paid or arrangements satisfactory to the Department of Commerce are made to pay the debt.

Applicants are subject to Governmentwide Debarment and Suspension (Nonprocurement) requirements as stated in 15 CFR part 26. The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the MBDC has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are failure to meet cost-sharing requirements; unsatisfactory performance of MBDC work requirements; and reporting inaccurate or inflated claims of client assistance or client certification. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

On November 18, 1988, Congress enacted the Drug-Free Workplace Act of 1988 (Public Law 100-690, title V, subtitle D). The statute requires contractors and grantees of Federal agencies to certify that they will provide a drug-free workplace. Pursuant to these requirements, the applicable certification form must be completed by each applicant as a precondition for receiving Federal grant or cooperative agreement awards.

"Certification for Contracts, Grants, Loans, and Cooperative Agreement" and SF-LLL, the "Disclosure of Lobbying Activities" (if applicable) is required in accordance with Section 319 of Public Law 101-121, with generally prohibits recipients of Federal contracts, grants, and loans from using Legislative Branches of the Federal Government in connection with a specific contract, grant or loan.

CLOSING DATE: The closing date for applications is March 5, 1992. Applications must be postmarked on or before March 5, 1992.

Note: Please mail completed application to the following address: Chicago Regional Office, 55 E. Monroe Street, suite 1440, Chicago, Illinois 60603.

FOR APPLICATION KIT OR OTHER INFORMATION CONTACT: Dallas Regional Office, 1100 Commerce Street, room 7B23, Dallas, Texas 75242, Attn: Yvonne Guevara, (214) 767-8001.

A pre-bid conference will be held on February 12, 1992 in the U.S. Federal Building, room 752, on 300 East 8th Street, Austin, Texas at 9 a.m.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive order 12372, "Intergovernmental Review of Federal Programs," is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

Dated: January 28, 1992.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Melda Cabrera,

Regional Director, Dallas, Regional Office.

[FR Doc. 92-2856 Filed 2-5-92; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

[Docket No. 920137-2037]

Recommendations of the Marine Mammal Commission

AGENCY: National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice and request for public comment.

SUMMARY: The Under Secretary of Commerce for Oceans and Atmosphere in his capacity as the United States Commissioner to the International Whaling Commission, and head of the U.S. Delegation to the Commission meeting in June 1992, publishes a series of recommendations received from the Marine Mammal Commission regarding issues of importance that are likely to be addressed by the International Whaling Commission. Public comment on these recommendations is requested.

DATES: Comments are requested until April 6, 1992.

ADDRESSES: Written comments should be sent to the Office of International Affairs, National Marine Fishery Service, 1335 East West Highway, Silver Spring, Maryland 20910.

FOR FURTHER INFORMATION CONTACT: Becky Rootes, (301) 713-2276.

SUPPLEMENTARY INFORMATION:

The International Whaling Commission

International regulation of whaling began with the Convention signed at Geneva on September 24, 1931, and subsequent agreements in 1937 and 1938. After World War II, it became evident that those earlier agreements were badly out-of-date. The International Convention for the Regulation of Whales (Convention) was signed by fifteen nations, including the United States, on December 2, 1946. The Convention established the International Whaling Commission (IWC) which continues as the international body for the conservation of whales. Membership in the Commission has expanded from the original fifteen whaling nations to thirty-eight nations including whaling nations and interested non-whaling nations. Since the 1970's, U.S. policy has been to pursue negotiations within the Commission for a strengthened international conservation regime for whales and other cetaceans.

The Marine Mammal Commission

The Marine Mammal Commission was established by title II of the Marine Mammal Protection Act of 1972 (Pub. L. 92-522, title II; 16 U.S.C. 1401 et seq.). In addition to duties regarding scientific and policy review of domestic actions affecting marine mammals, the commission is charged with the review of activities of the United States pursuant to the Convention and with recommending policies regarding international arrangements for the protection and conservation of marine mammals (16 U.S.C. 1402 (a)(1), (5)). By law, recommendations of the Commission are public documents. While federal officials to whom Commission recommendations are addressed need not necessarily adopt its recommendations, they must respond to the Commission within 120 days.

The U.S. Commissioner to the IWC has received a letter and issue paper from the Marine Mammal Commission which is reproduced as Addendum A to this Notice. The Marine Mammal Commission points out that the IWC is at a critical stage in its history, discusses several issues and makes several recommendations.

Initial Response of the United States Commissioner

The United States Commissioner to the IWC has responded to the Marine Mammal Commission indicating the actions he intends in response to the Commission's recommendations (Addendum B).

Issues Likely to Arise at 1992 Meeting

In preparing for the annual meeting the IWC in Scotland in June 1992, the U.S. Delegation will work closely with the Marine Mammal Commission and other concerned agencies and will consider carefully comments submitted in response to this notice. Views on the following issues addressed by the Marine Mammal Commission which are likely to arise at the IWC meeting are particularly desired.

The Ecosystem Approach to Whale Conservation

The Marine Mammal Commission states that the current conservation program of the IWC is based upon an outdated single species concept which does not reflect a modern ecosystem oriented approach to the conservation of whales. The Marine Mammal Commission recommends revision of the Convention and the IWC's Conservation Program to incorporate modern principles of living resource management that will assure that stocks of all whales are maintained within optimum levels, and will minimize the risk of irreversible or long-term adverse effects on whale species or the ecosystems of which they are a part, will ensure the maximum possible range of management options for present and future generations. The Marine Mammal Commission also recommends that the new conservation program recognize both the consumptive and the nonconsumptive values of whales.

Domestically and internationally, the United States has supported development of an ecosystem based approach to the conservation of other living marine resources. The ecosystem approach has the potential to provide a more fundamental understanding of living marine populations, and how they function and interact in their environment. Development of an ecosystem approach to whale conservation would require extensive research to characterize the biological, chemical and physical features and interrelationships of the ecosystem and would involve comprehensive, multifaceted cooperation among the members of the IWC.

Greater Protection for Small Cetaceans

The Marine Mammal Commission points out that small cetaceans (dolphins, porpoises, and other small toothed whales) include some of the world's most endangered populations. Despite the depleted status of many of these small whales, they currently receive less international protection than the great whales. Some member governments of the IWC have expressed similar concern about the status of certain stocks of small whales.

The Marine Mammal Commission urges that the United States propose revisions to the Convention and to the IWC's Schedule of Regulations that would formally establish the IWC's competence to regulate catches of all cetaceans. Whaling for species not listed in the Schedule is not now regulated by Schedule provisions. (However, the United States position continues to be that the Convention applies to whaling for all species of whales, including those small whales not currently listed in the Schedule so that an amendment to the Schedule, but not to the Convention itself, is all that would be required to regulate catches of small whales.)

Resumption of Commercial Whaling

The United States strongly advocated adoption of the worldwide moratorium on the commercial harvesting of whales which came into force on February 3, 1983. All commercial whaling ceased in 1988. Section 10(e) of the Schedule which established the moratorium, contemplates that the moratorium provision would be kept under review and that it would be reconsidered by the Commission when its effects on whale stocks were scientifically assessed.

The Marine Mammal Commission notes that many Americans disapprove of whaling on moral and ethical grounds regardless of the status of whale stocks. The Marine Mammal Commission states that these views must be recognized in developing national policies; it also states that unyielding opposition to commercial whaling even under a carefully controlled program consistent with sound principles of living resource conservation may weaken the leadership position of the United States within the IWC and on other international environmental matters.

Addendum A contains a more complete discussion of all the issues addressed by the Commission.

Accordingly, comments are solicited on the issues contained in the letter of the Marine Mammal Commission and the accompanying issue paper.

John A. Knauss,

Under Secretary for Oceans and Atmosphere, U.S. Department of Commerce, and U.S. Commissioner to International Whaling Commission.

Addendum A

December 5, 1991.

The Honorable John A. Knauss, Ph.D.,
U.S. Commissioner to the International Whaling Commission, National Oceanic and Atmospheric Administration, Washington, DC 20230.

Dear Dr. Knauss: The International Whaling Commission is at a critical stage in its history. It soon must consider certain nations' intentions to resume commercial whaling for Southern Hemisphere and possibly North Atlantic minke shales under the International Whaling Commission's Revised Management Procedure. It must also consider the monitoring, verification, research, and enforcement programs that will be required to implement that procedure to ensure that whale stocks will be maintained within optimum ranges. As a member country of the International Whaling Commission, the United States now faces, or soon will face, the question of whether it should either continue to oppose all commercial whaling or agree to its resumption under certain conditions. Among the points to consider is the stated intention of some whaling nations to leave the International Whaling Commission and create an organization more sympathetic to whaling interests should commercial whaling not be allowed to resume at some level. Such an action, signaling the end of the International Whaling Commission as an international regulatory body, would probably not be in the best interests of whale conservation.

The Marine Mammal Commission believes that conserving whales, not only the species themselves but also individual stocks, would best be accomplished, at least in the foreseeable future, by maintaining the Commission as a viable regulatory organization. It seems, therefore, appropriate to prevent its dissolution if possible. The Marine Mammal Commission also believes, however, that the International Convention for the Regulation of Whaling is outdated and in need of revision; it does not reflect the principles of marine living resource conservation developed since the Convention's drafting in 1946. If the Convention is revised and its management procedures brought into fundamental conformance with modern conservation practices and if member nations commit to full compliance with those practices, there is reason to believe that the International Whaling Commission's conservation program will become more effective than it was in the past when one stock after another became severely depleted.

The Revised Management Procedure adopted at the Commission's 1991 meeting was a sincere and significant step toward improving the regulation of commercial whaling. However, the procedure lacks a specific implementation program and does not consider, or make provision for, the possible effects of other activities (*e.g.*, offshore oil and gas development, commercial fishing, coastal development, *etc.*) and such events as mass die-offs or cetaceans on either the whales or their habitat. Furthermore, it does not consider the possible effects of removing whales on other components of the ecosystems of which the whales are a part. In this regard the Revised Management Procedure, like the Convention, reflects outdated, single-species, maximum sustainable yield concepts. Given this, it seem incumbent upon the United States and other like-minded nations to initiate and sustain efforts to update the International Whaling Commission's conservation program to reflect modern principles of wildlife conservation.

Recent Comprehensive Assessments of whale stocks have been undertaken by the International Whaling Commission's Scientific Committee. It is the Scientific Committee's view that these assessments have shown that some stocks of whales (*e.g.*, Southern Hemisphere and possibly some North Atlantic minke whale stocks) are presently above their maximum net productivity levels and could safely sustain some level of regulated takes. Member nations have divided views on this. Some feel that if a population would not be reduced below optimal levels by taking or exploitation, catches should be allowed to levels that would keep the population within the range of optimal levels. Others feel that if a population would not be endangered by taking or exploitation, catches should be allowed up to the maximum level that can be sustained. Others believe that non-consumptive values of whales are as great as or greater than their consumptive values and that whales are more valuable as living functioning components of the marine ecosystem than as food or trade commodities. Still others believe that a properly managed whaling program would optimize both consumptive and non-consumptive values.

In this regard, the Commission notes that, while the "science" may indicate that commercial whaling could be resumed, science does not weigh, one way or the other, on the question of whether it should be resumed. Notwithstanding the fact that the United States has based its opposition to commercial whaling on scientific grounds, other considerations should and must be taken into account when reviewing this position. The legislative history of the Marine Mammal Protection Act, for example, indicates that its prohibition on the taking of marine mammals was also based on moral and ethical grounds independent of economic, biological, or other scientific concerns. It is clear that many Americans are opposed to whaling on moral and ethical grounds, and this, in addition to science, must be recognized in developing national policies.

The Marine Mammal Commission believes that, before the next meeting of the International Whaling Commission, the United States must re-examine its policies with respect to commercial whaling. A careful re-examination should logically lead to policies which incorporate modern principles of living resource conservation, recognize non-consumptive as well as consumptive values of whales, and take into account the moral and ethical arguments being put forward. Non-consumptive values of cetaceans, including their role in maintaining habitat and ecosystem integrity, and consideration of moral and ethical arguments against whaling are appropriate bases for the United States to continue to oppose commercial whaling.

Continued United States opposition to commercial whaling, even under a carefully controlled program consistent with sound principles of living resource conservation, may hold unanticipated consequences for the United States. Unyielding opposition may weaken the leadership position of the United States within the International Whaling Commission, and it may weaken this country's effectiveness on other international environmental matters such as management of direct and indirect take of small cetaceans, control of high seas driftnets, and the negotiation of ecologically sound agreements to govern international fisheries. The United States must consider how its domestic policies with respect to the International Whaling Commission would benefit or impede the development of new fisheries for other resources and the restructuring of existing fisheries to generate the information needed to effectively conserve the resources and the ecosystems of which they are a part. In this context, the International Whaling Commission believes that the United States must address the commercial whaling question in terms of potential conservation gains for whales, including small cetaceans, and for the conservation and sustained utilization of marine living resources in general.

In recognition of the complexity of the issues facing the International Whaling Commission and their implications for U.S. policy, the Marine Mammal Commission, in consultation with its Committee of Scientific Advisors on Marine Mammals, has developed the attached paper providing an overview of the major issues and offering recommendations on ways in which the collective objectives of the United States might be achieved. In particular the paper presents background information and recommendations on:

1. U.S. Policy on Commercial Whaling
   - 1.1 Relevant Provisions of the Marine Mammal Protection Act
   - 1.2 Current U.S. Policy
   - 1.3 Considerations Regarding the Resumption of Commercial Whaling
2. Revision of the Moratorium on Commercial Whaling
   - 2.1 The 1982 Moratorium Decision
   - 2.2 The Comprehensive Assessment of Whale Stocks
   - 2.3 Revising the Management Procedures
3. Issues of Concern:
   - 3.1 Aboriginal/Subsistence Whaling for Bowhead Whales
   - 3.2 Authority for Small Cetacean Issues
   - 3.3 Special Permits for Scientific Research
4. Revising the 1946 Whaling Convention
5. The future of the International Whaling Commission.

The issue paper concludes that, while the Marine Mammal Commission believes that the International Whaling Commission should be maintained as the international authority for the conservation of whales, the Marine Mammal Commission also finds the 1946 Convention to be outdated and in need of revision. In this regard, the Marine Mammal Commission recommends that the National Oceanic and Atmospheric Administration, in consultation with appropriate Federal agencies and the environmental and scientific communities, seek to renegotiate the International Whaling Convention so that it: (a) Incorporates sound principles of living resource conservation that take into account the possible effects of all human activities on whales and on the ecosystems of which whales are a part; (b) includes recognition of the non-consumptive values of whales; (c) recognizes the authority of the International Whaling Commission to include all cetacean species; and (d) requires adherence to all aspects of the International Whaling Commission's conservation program, including resolutions regarding lethal takes of whales for research purposes.

In view of the possible resumption of commercial whaling, the Marine Mammal Commission recommends that the National Oceanic and Atmospheric Administration, in consultation with the Department of State, the Marine Mammal Commission, and other appropriate agencies: (a) Adopt the position that non-consumptive values of whales may be of equal, if not greater importance than their consumptive values, and that science alone should not dictate the resumption of commercial whaling; (b) except as specified in (d) below, oppose the resumption of commercial whaling on the basis of previous failures in the conservation of stocks and the need to consider non-consumptive values; (c) recognize that resumption of commercial whaling under a conservative management program (*e.g.*, conservative quotas, effective enforcement and inspection, comprehensive data collection on every whale harvested, and effective population monitoring) would not jeopardize the affected whale stocks or the ecosystems of which they are a part; and (d) take the position that, if a three-quarter majority of the International Whaling Commission members agree to resume commercial whaling under a carefully controlled regime, the United States would not view such a resumption as "diminishing the effectiveness" of the International Whaling Commission's conservation program and would not apply or seek to have other nations apply sanctions against the countries that resume whaling.

In addition, in preparation for the 1992 meeting of the International Whaling Commission, the Marine Mammal Commission recommends that the National Oceanic and Atmospheric Administration, in consultation with the Marine Mammal Commission and other appropriate agencies, develop terms of reference for the monitoring, verification, reporting, enforcement, and other operational programs that will be necessary to implement the Revised Management Procedure adopted by the International Whaling Commission, taking into account the goal of integrating sound conservation practices into the International Whaling Commission's conservation program. These terms of reference should serve as the basis for U.S. policy regarding the implementation of the Revised Management Procedure.

The United States needs to develop a consensus with other member nations to initiate and sustain efforts to update the Whaling Convention to reflect modern principles of wildlife conservation. The Commission therefore believes that it would be appropriate for the U.S. Commissioner to the International Whaling Commission to undertake discussions along these lines with the Commissioners of other member nations to foster broad support for these concepts well before the 1992 International Whaling Commission meeting.

Finally, and perhaps most importantly, involved Federal agencies under your leadership should work with Congress to determine under what conditions the United States will or will not oppose a decision by the International Whaling Commission to allow a resumption of commercial whaling. The Marine Mammal Commission believes that a productive step in this regard would be for the National Oceanic and Atmospheric Administration to chair a review of the issues raised in this letter and the attached issue paper by an interagency working group. The reviewers, who should complete their review by the end of February 1992, should receive technical guidance from members of the U.S. scientific delegation to the International Whaling Commission.

For many years, representatives of the Marine Mammal Commission and its Committee of Scientific Advisors on Marine Mammals have participated on U.S. delegations to the International Whaling Commission and in the meetings of its Scientific Committee. All are committed to using this collective experience to help you in preparing for the 1992 International Whaling Commission meeting and in addressing issues beyond that time.

Sincerely,

John R. Twiss, Jr.,

Executive Director.

cc: The Honorable E.U. Curtis Bohlen

Issues Facing the International Whaling Commission and the United States Regarding the Resumption of Commercial Whaling and the Future Conservation of Cetaceans

1. United States Policy on Commercial Whaling

1.1 Relevant Provisions of the Marine Mammal Protection Act

The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 *et seq.*) provided the first U.S. legislative mandate for an ecosystem-oriented, pro-active approach to conservation of marine living resources. The general intent of the Marine Mammal Protection Act is to prevent the depletion of marine mammal species and populations as a result of human activities, and to restore and maintain marine mammal populations at their optimum sustainable levels [1], keeping in mind the carrying capacity of the habitat and the health and stability of the ecosystem of which they form a constituent element. In addition, it recognizes nonconsumptive (*e.g.*, aesthetic and ecological) as well as consumptive values of marine mammals.

A central feature of the Marine Mammal Protection Act is its indefinite moratorium, with certain exceptions, on the taking [2] of marine mammals by any person subject to the jurisdiction of the United States. Alaskan Indians, Aleuts, and Eskimos are generally exempt from the moratorium and may take marine mammals including whales if such taking is for subsistence purposes or is done for purposes of creating or selling authentic native handicrafts, and is not done in a wasteful manner. For example, Alaskan Natives take endangered bowhead whales each year in accordance with quotas sanctioned by the International Whaling Commission.

Although the Marine Mammal Protection Act provides for issuing waivers of the moratorium to allow taking of marine mammals, no waivers have been issued for the commercial catches of whales by U.S. citizens or persons in waters under U.S. jurisdiction. In 1977, the Marine Mammal Protection Act was amended to explicitly prevent issuing a waiver for this purpose by adding subsection (f) to section 102 (16 U.S.C. 1372 (f)) such that:

> "It is unlawful for any person or vessel or other conveyance to take any species of whale incident to commercial whaling in waters subject to the jurisdiction of the United States."

While this provision is based in part on scientific considerations, the legislative history indicates that its inclusion in the Act was also based on moral and ethical grounds independent of economic, international, biological, or scientific concerns.

In addition, section 108(a)(4) of the Marine Mammal Protection Act directs that the purposes and policies of the Act shall be the official policies of the United States in negotiating and renegotiating international agreements concerning marine mammals and that efforts shall be undertaken to bring existing international agreements into conformance with those policies (16 U.S.C. 1378(a)(4)). It states that:

> "The Secretary [of Commerce or Interior, as appropriate], through the Secretary of State, shall . . . initiate the amendment of any existing international treaty for the protection and conservation of any species of

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[1] Optimum sustainable population has been defined as a range of population sizes from the size determined by the habitat carrying capacity (K) to the size where the net annual increment in numbers or biomass is maximized (the maximum net productivity level, MNPL).

[2] The term "take" means "to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal."

marine mammal to which the United States is a party in order to make such treaty consistent with the purposes and policies of this Act."

With regard to the conservation of whales, the purposes and policies of the Marine Mammal Protection Act include the prohibition of commercial whaling by anyone within United States waters and imply that the United States should oppose commercial whaling in other areas as well. Further, section 108(a)(4) of the Act clearly indicates that the United States should seek to amend existing agreements, including the International Convention for the Regulation of Whaling, to bring them into conformance with ecologically sound principles of wildlife management which acknowledge, among other things, non-consumptive as well as consumptive resource values and the maintenance of the health and stability of the marine ecosystem of which whales are a part.

1.2 Current U.S. Policy

In 1990, an Interagency Task Force reviewed U.S. policy options concerning whales and whaling activities and made recommendations to the U.S. Commissioner on key issues concerning the International Whaling Commission (55 FR 17799–17800). The Task Force concluded that the United States should: (1) Continue its support for the current International Whaling Commission moratorium on commercial whaling; (2) oppose the establishment of a new category for "small-type coastal whaling"; and (3) participate in discussions during annual International Whaling Commission meetings on critical issues, including those pertaining to management procedures, on an *ad hoc* basis, and reserve the right for further domestic consultations prior to committing the U.S. Government to any course of action.

With regard to resumption of commercial whaling, the Task Force recommended that any resumption of commercial whaling be predicated upon:

1. Adoption of acceptable management procedures;
2. Presence of adequate assessments of whale stocks;
3. Development of acceptable data reporting systems, monitoring regimes, and enforcement regimes; and
4. Assurances that member countries would participate in such data reporting systems, monitoring regimes, and enforcement regimes.

1.3 Considerations Regarding the Resumption of Commercial Whaling

The Marine Mammal Commission concurs that any consideration of resumption of commercial whaling must be predicated, at a minimum, on the above four criteria. As noted below, it is our understanding: That the Revised Management Procedure adopted by the International Whaling Commission addresses some, but not all, of the Task Force's criteria; that it does not address ecosystem effects; that it does not address certain other factors like the direct and indirect effects that activities such as oil and gas exploration and exploitation, mineral exploration and exploitation, commercial fishing, and mass die-offs may have upon whale stocks and their habitat; and that it does not specify the research necessary to ensure that stocks of whales are maintained at optimal levels. At a minimum, the International Whaling Commission's conservation program should address all four of the criteria developed by the Task Force. It should also address the other factors just noted and the fact that whaling itself has the potential to cause either long-term or irreversible effects on the marine ecosystem. In addition, the conservation program should provide a mechanism (*i.e.*, research and monitoring) to verify, with reasonable certainty, that exploited populations do, in fact, remain within their optimum sustainable range, and there is no directed taking whatsoever of any depleted stocks.

While it might be argued that commercial whaling under a comprehensive management regime would not threaten the stability of exploited stocks and that such a program would allow optimization of both consumptive and non-consumptive uses, it does not mean that the United States could not or should not oppose the resumption of commercial whaling on other than "scientific" grounds. Sound principles of resource management dictate that taking be suspended, or strictly limited, if available information and existing enforcement and population monitoring programs are insufficient to reasonably conclude that whaling will not deplete the species or stock in question or adversely alter the ecosystem of which the whales are a part. In other words, even if the science indicates that whales could be taken without threatening the status of a stock, there is no obligation to allow whaling.

With regard to highly migratory species such as whales, customary international law respects the rights of all nations to utilize a resource provided that their actions do not threaten the resource or otherwise infringe upon other nations' utilization. Since many United States citizens remain opposed to commercial whaling on moral and ethical grounds and place equal or greater value on the non-consumptive uses of whales rather than on their consumptive uses, non-consumptive values, as well as population status determinations, should be accorded consideration. There are doubtless instances where the value of the living standing stock, in terms of ecosystem stability, diversity and productivity, exceeds the consumptive value of catching whales. It is also a fact that there are situations in which the commercial returns from non-consumptive activities such as whale-watching could exceed, particularly over the long-term, the finite, one-time economic gain to be realized from taking a whale.

Therefore, the Marine Mammal Commission recommends that the United States Government: (a) Adopt the position that non-consumptive values of whales may be of equal or greater value than their consumptive values, and that science alone is not sufficient to dictate that commercial whaling should be resumed; (b) oppose the resumption of commercial whaling on that basis except as specified in (d) below; (c) recognize that resumption of commercial whaling under a conservative management program (*e.g.*, conservative quotas, effective enforcement and inspection, comprehensive data collection on every whale harvested, *and* effective research and population monitoring) would not jeopardize the affected whale stocks or the ecosystems of which they are a part; and (d) take the position that, if a three-quarter majority of the International Whaling Commission members agree to resume commercial whaling under a carefully controlled regime, it would not view such a resumption as "diminishing the effectiveness" of the International Whaling Commission's conservation program and would not apply or seek to have other nations apply sanctions against the countries that resume whaling.

2. Revision of the Moratorium on Commercial Whaling

2.1 The 1982 Moratorium Decision

Despite the International Whaling Commission's goal of managing the whaling industry, the systematic exploitation of whale stocks to commercial extinction continued unabated following 1946. The International Whaling Commission's unsatisfactory record in resource management was put before the United Nations' Conference on the Human Environment in Stockholm, Sweden in

1972. There, a resolution was adopted that the International Whaling Commission establish a ten-year moratorium on all commercial whaling. During the decade following the Stockholm meeting, seeking such a moratorium was official U.S. policy. This policy was based on the understanding that: Available data on whale populations were inadequate for making accurate determinations concerning their status and trends; existing management practices posed unacceptable risks to whale populations; and actions by some member countries were undermining the International Whaling Commission's conservation efforts. There was no mention of non-consumptive values of whales (*e.g.*, aesthetic or ecological values) or of ethical or moral considerations contributing to the formulation of this policy.

The International Whaling Commission finally adopted a moratorium at its 1982 meeting. The moratorium, which took effect in the 1985/1986 pelagic and 1986 coastal whaling seasons, provided that catch limits for commercial whaling would be set at zero. The moratorium provision also called upon the International Whaling Commission, by 1990 at the latest, to undertake a "comprehensive assessment" of the effects of this decision on whale stocks and, based on that assessment, to consider establishing other catch limits. The moratorium retained the option that commercial whaling could resume once a comprehensive assessment of the effects of the International Whaling Commission moratorium on whale stocks had been undertaken and a "revised" management program had been developed and adopted.

As described below, the Marine Mammal Commission believes that consideration can only be given to modifying the moratorium if the International Whaling Commission's conservation program is revised to, among other things, incorporate modern principles of living resource conservation.

2.2 The Comprehensive Assessment of Whale Stocks

In April 1986, the International Whaling Commission's Scientific Committee agreed that the Comprehensive Assessment would include an in-depth evaluation of the status of all whale stocks in light of management objectives and procedures. The Committee agreed that it would include an examination of current stock size, recent population trends, carrying capacity, and productivity. The following three major areas of work were identified as components of the Comprehensive Assessment:

1. review current knowledge concerning methodology, stock identity, and data availability;
2. as needed, plan and conduct the collection of new data required for the Comprehensive Assessment; and,
3. examine possible alternative management regimes (Revised Management Procedures).

As part of the Comprehensive Assessment, the Scientific Committee sponsored workshops on management related issues (*i.e.*, genetics, behavior, mortality in fishing nets and gear, and the development of Revised Management Procedures). In addition, to date it has undertaken comprehensive assessments of: Eastern North Pacific gray whales (April 1990); Southern Hemisphere minke and North Atlantic minke whales (June 1990); North Atlantic fin whales (February 1991); North Pacific minke whales (May 1991); and Western Arctic bowhead whales (May 1991). The Scientific Committee plans to assess Southern Hemisphere whale stocks other than minke whales at its 1992 meeting.

The Committee's assessment process encountered difficulties because there were uncertainties concerning key issues such as stock discreteness and mixing rates, interpretation of abundance trends, and appropriate maximum sustainable yield rates and levels. In some instances, for example, the North Atlantic fin and minke whale assessments, data were simply not available and this required that the Committee use "best guess" estimates based on information from other species or mathematical simulations in order to undertake the assessments. Some Committee members questioned the accuracy of assessments based on such premises; they also questioned whether the assessments could or should be done before revised management procedures were agreed upon. They noted, for example, that the difficulties plaguing the assessments were the same ones that had resulted in the failure of the "New Management Procedure," and that these limitations continued to prevent the Committee from reaching agreement on stock status.

At the 1991 Scientific Committee meeting, it was clear that agreement on comprehensive assessments would continue to be problematic without agreement on a revised management procedure and a procedure for identifying and obtaining missing information prior to undertaking an assessment. The Committee agreed that before further assessments were attempted, it would first need to determine whether adequate data were available to attempt the assessment of a stock. If not, data needs would have to be identified and satisfied before the assessments were to proceed.

The Marine Mammal Commission believes that the comprehensive assessment of whale stocks should follow a logical process whereby: Available information is first assessed for completeness; additional data and information needs are identified; the needed data and information are obtained; and then the assessment is undertaken with the benefit of adequate data and information. In this regard, the United States should be prepared to offer advice on and assist in the compilation and analysis of the information needed to undertake Comprehensive Assessments. To this end, the Marine Mammal Commission recommends that the National Oceanic and Atmospheric Administration convene a group of knowledgeable scientists with expertise in population assessment to identify the data needs for comprehensive assessments of priority stocks, including small cetaceans, and, before the 1992 meeting of the Scientific Committee, prepare a scientific background paper or papers recommending minimum data requirements and minimum levels of precision necessary for comprehensive assessments.

2.3 Revising the International Whaling Commission's Conservation Program

With the continuing decline of exploited whale stocks, the International Whaling Commission eventually shifted its basis for management in the early 1970's from Blue Whale Units to catch limits by species and then to catch limits by stock. Catches continued to decline and, in 1975, the International Whaling Commission adopted the New Management Procedure, which established a system of classifying stocks within one of three categories (i.e., Protected, Sustained Management, and Initial Management Stocks). Stock classifications were based on estimated stock size relative to estimated maximum sustainable yield levels. No catches were allowed from Protected Stocks and different levels of catch were established for the remaining two categories depending upon stock size, estimated maximum sustainable yield levels, and various other factors.

As noted above, the Scientific Committee encountered problems applying the New Management

Procedure because data were insufficient to allow the Committee to accurately estimate maximum sustainable yield levels and rates, pre-exploitation stock levels, biological parameters, population trends, *etc.* The Committee demonstrated that even the best available information lacked sufficient precision to allow detection of population declines before stocks were seriously depleted. After the early 1980s, the Scientific Committee was unable to reach consensus on recommendations for stock classifications and catch limits. In the absence of agreement on stock status, catches from some stocks continued at levels equal to the previously unregulated catches.

The United States and others therefore pressed for revisions to the New Management Procedure to take into account, among other things, uncertainties concerning the status of stocks. Upon adoption of the 1982 moratorium on commercial catches, the International Whaling Commission asked the Scientific Committee to undertake development of a recommended management procedure. To guide the Committee, the International Whaling Commission set forth the following three general management objectives in 1987:

> "(i) stability of catch limits, which would be desirable for the orderly development of the whaling industry;
>
> "(ii) acceptable risk level that a stock not be depleted (at a certain level of probability) below some chosen level (*e.g.*, some fraction of its carrying capacity) so that the risk of extinction of the stock is not seriously increased by exploitation;
>
> "(iii) making possible the highest continuing yield from the stock."

The Scientific Committee examined five potential Revised Management Procedures by simulating their performance on imaginary stocks of whales; the Committee also examined the sensitivity of the procedures to data of different levels of quality (*e.g.*, levels of precision, levels of uncertainty, *etc.*) during a series of workshops and special meetings beginning in 1989. At its 1991 meetings, the Scientific Committee recommended and the International Whaling Commission adopted a single stock procedure developed by J. Cooke (termed the "C" procedure). The "C" procedure: (1) Assumes that the maximum sustainable yield level is 72% of the stock's carrying capacity or pre-exploitation size; (2) prohibits catches from stocks below 54% of their carrying capacity size);[3] and (3) includes a catch limit control that reduces the allowable catch from its maximum when the stock is at its carrying capacity size to zero as a stock approaches 54% of its carrying capacity size.

The Revised Management Procedure adopted by the International Whaling Commission is basically a procedure for calculating allowable catch levels. Like previous procedures, it is based upon outdated single-species, maximum sustainable yield concepts and as yet unverified assumptions concerning density dependent responses to exploitation. By itself, it does not constitute a significant revision of the Whaling Commission's conservation program. For example, the Revised Management Procedure does not consider either the effects on whales of a variety of human activities such as oil and gas exploration and development, commercial fishing, vessel traffic, pollution, or the adverse effects of whale catches on the marine ecosystems of which whales are a part. The Procedure does not specify necessary management measures for monitoring, verifying, or enforcing compliance with catch quotas and other regulations, and these must be defined for its implementation. With regard to stock status, the Scientific Committee needs to address another deficiency in the Procedure's implementation by establishing minimum allowable periods between assessments such that monitoring and research programs could or would be adequate to detect and assess population declines before the affected stocks are reduced below their maximum net productivity level.

The International Whaling Commission's conservation program will need more than the Revised Management Procedure if it is to conform to ecologically sound principles of living resource conservation. At a minimum, the United States and other nations must be assured that: (a) Research and monitoring measures are adequate to verify, with reasonable certainty, that exploited populations remain within their optimum sustainable range (*i.e.*, population size between maximum net productivity level and the maximum size which is supportable within the ecosystem); (b) no catches would be allowed from any depleted stocks (*i.e.*, stocks below 60% of initial size); (c) catches, in conjunction with other human activities affecting the whale stock, would not result in unsustainable mortality levels or reduce population levels more rapidly than can be detected by the monitoring program under the Revised Management Procedure; and (d) effective catch verification, enforcement, inspection, and population monitoring programs must receive the full support of and participation by all countries engaged in commercial whaling; and (e) catches, in conjunction with other human activities affecting whale stocks, do not lead to changes in the ecosystems of which the whales are a part.

A problem with regard to takes of depleted species, for example, is the difference between the protection level of 54% of initial population size specified in the "C" procedure and the lower range of optimal sustainable population size (maximum net productivity level) of 60% of initial population size recognized in the United States. In fact, a number of wildlife managers and scientists believe that the range of maximum net productivity levels for large whales could be as high as or higher than 70% of the initial population level.[4] Because the International Whaling Commission's protection level is below this level, and thus below the lower limit of the optimal sustainable population range, commercial takes of whales from populations below 60% of their initial size would be in conflict with U.S. law and, as directed by Congress in section 108(a)(4) of the Marine Mammal Protection Act, the United States should seek to have the International Whaling Commission's protection level changed.

The International Whaling Commission's conservation program will need to be brought into conformance with ecologically sound principles of living resource conservation before it can serve as the basis for any decision by a three-quarter majority of its member nations that commercial whaling can resume. Therefore, the Marine Mammal Commission recommends that the National Oceanic and Atmospheric Administration convene a working group of knowledgeable U.S. experts to review the successes and failures of other international conservation programs (*e.g.*, high seas driftnet monitoring programs, the Convention on the Conservation of Antarctic Marine Living Resources, *etc.*) and develop terms of reference for the monitoring, reporting, verification, enforcement, and research programs that would be necessary to effectively implement the Revised Management Procedure.

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[3] This protection level is below the lower level of the Optimal Sustainable Population range (at least 60% of maximum size allowed by the environment) used by the National Marine Fisheries Service in making OSP determinations to date.

[4] Fowler, C.W. 1984. Density dependence in cetacean populations. In: Perrin, W.F., R.L. Brownell and D.P. DeMaster (eds) *Reproduction in Whales, Dolphins, and Porpoises*, p. 373–379. Report of the International Whaling Commission, Cambridge, U.K.

In addition, the Marine Mammal Commission recommends that the National Oceanic and Atmospheric Administration, in consultation with the Department of State, the Marine Mammal Commission, and other involved agencies, develop and present at the 1992 International Whaling Commission meeting a proposal for implementing revisions to the International Whaling Commission's conservation program to bring it into conformance with the modern principles of living marine resource conservation that have developed in recent years.

3. Issues of Concern

3.1 Aboriginal/Subsistence Whaling for Bowhead Whales

At its June 1977 meeting, the Scientific Committee reviewed information indicating that the subsistence take of Western Arctic bowhead whales by Alaska Eskimo whalers had increased throughout the early 1970's from approximately 50 to more than 100 whales struck per year, of which many were struck and lost. Concerned that the increasing subsistence take and a high struck-and-lost rate may jeopardize the population, the International Whaling Commission, acting on the advice of its Scientific Committee, eliminated the exemption that had allowed bowhead and other protected species of whales to be taken by Natives for subsistence purposes. Acting in part on a pledge by the U.S. Commissioner that the United States would undertake a comprehensive research program to more reliably assess and closely monitor the bowhead whale's population status and trends, the International Whaling Commission agreed to restore the Native subsistence exemption in December 1977.

Although the International Whaling Commission paid little attention to aboriginal/subsistence whaling before the 1970's, in 1981 it adopted, following discussions at several of its annual meetings, three broad objectives for the management of aboriginal/subsistence whaling. These were:

> "To ensure that risks of extinction to individual stocks are not seriously increased by subsistence whaling;
>
> "To enable aboriginal people to harvest whales in perpetuity at levels appropriate to their cultural and nutritional requirements subject to the other objectives; and,
>
> "To maintain the status of whale stocks at or above the level giving the highest net recruitment and to ensure that stocks below that level are moved toward it, so far as the environment permits."

In 1982, the International Whaling Commission adopted a new paragraph, 13(a), to its Schedule of Regulations setting forth recommended principles and guidelines for establishing catch limits for aboriginal/subsistence whaling. The new scheme formally recognized the distinction between commercial and aboriginal/subsistence whaling and codified the International Whaling Commission's practice of attempting to strike a balance between the subsistence, cultural, and nutritional needs of aboriginal people and the need to protect depleted whale stocks. Specifically, with regard to depleted stocks, the new paragraph stated that:

> "For stocks below the maximum sustainable yield level but above a certain minimum level, aboriginal/subsistence catches shall be permitted so long as they are set at a level which allows the whale stock to move to the maximum sustainable yield level."

Quotas established by the International Whaling Commission are to be based on advice from the Scientific Committee and are implemented by the member nations. In the United States, the Secretary of Commerce and the Alaska Eskimo Whaling Commission share responsibility for regulating, monitoring, and enforcing agreed levels on the Alaska Eskimo bowhead whale hunt pursuant to a Memorandum of Understanding signed in 1981 and renewed annually.

To comply with the new Schedule paragraph 13(a), the United States Department of the Interior began, in 1987, to develop a quantitative basis for determining the nutritional, subsistence, and cultural needs of the Alaska Eskimos. It calculated need by multiplying the mean annual number of bowhead whales landed per capita during the period (1910–1969) by the present Eskimo population in the nine whaling villages. This indicated that current cultural and subsistence need would be satisfied by a take of 41 landed whales per year. The United States subsequently requested and received a quota of 41 landed or a maximum of 44 struck for the years 1989, 1990, and 1991. During that period, the struck-and-lost rate was 25%, and based on this rate, at the 1991 meeting of the International Whaling Commission, the United States asked for a combined three year limit of 141 strikes plus a carry over from the current quota of up to 13 unused strikes, with no more than 54 whales struck or 41 landed in any one year for the years 1992, 1993, and 1994. The International Whaling Commission subsequently adopted these proposed catch limits.

The Scientific Committee undertook a comprehensive assessment of the Western Arctic bowhead whale stock at its 1991 meeting. The assessment produced, among other things: a new estimated initial (1848) population size of 12,400–18,200 whales; a current population estimate of 7,500 whales (95% confidence interval 6,400 to 9,200); a provisional rate of increase of 3.1% (95% confidence interval 0.1% to 6.2%) during the period from 1978 to 1988; and a minimum (lower 95% confidence interval bound) estimated annual replacement yield of 92 whales. This new information suggests that the Western Arctic stock has increased under relatively consistent subsistence catches of approximately 0.3% per year and may be closer to its maximum net productivity level than previously thought.

In August of 1991, the Minister of Fisheries and Oceans of Canada approved, without consultation with the International Whaling Commission, a license for the take of one bowhead whale by the Western Arctic Native community of Aklavik in Canada. These Canadian Natives subsequently took one bowhead whale. Canada is no longer a member of the International Whaling Commission and this action, absent consultations with the International Whaling Commission, should be viewed as "diminishing the effectiveness" of the International Whaling Commission's conservation program and grounds for certification under U.S. law. Therefore, the Marine Mammal Commission recommends that the Secretary, notwithstanding a complete investigation of the circumstances surrounding the issuing of a license by the Canadian Government for the take of a bowhead whale from the Western Arctic stock, certify the Government of Canada under the Pelly Amendment for "diminishing the effectiveness" of the International Whaling Commission's conservation program.

Despite indications of slow but continuing recovery, the Western Arctic bowhead whale population remains threatened by Arctic offshore oil and gas exploration and development. In the past, the National Marine Fisheries Service, the Minerals Management Service, Eskimo Native organizations, and the oil and gas industry supported and/or conducted research on the population status and the possible effects of offshore oil and gas resource exploration and development on the whales, their habitat, and availability for Native subsistence use. The National Marine Fisheries Service has the lead responsibility to maintain domestic oversight and coordination of Federal, State, and private bowhead whale research programs to ensure that bowhead whale studies are well-designed, properly coordinated, and not unnecessarily duplicative.

In 1981, Congress added section 101(a)(5), the "small take exemption," to the Marine Mammal Protection Act to allow the Secretary of the Interior and the Secretary of Commerce to authorize the incidental but unintentional taking of small numbers of non-depleted marine mammals by U.S. citizens engaged in specified activities (*e.g.*, offshore oil and gas development) within specified geographic regions for periods of up to 5 years. Specifically, take of small numbers of marine mammals may be authorized if the Secretary—

> "(i) finds that the total of such taking during each five-year (or less) period concerned will have a negligible impact on such species or stocks and will not have an unmitigable adverse impact on the availability of such species or stock for taking for subsistence uses pursuant to subsection (b) or section 109(f) or, in the case of a cooperative agreement under both this Act and the Whaling Convention Act of 1949, pursuant to section 112(c); and,
>
> (ii) prescribes regulations setting forth—(I) permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for subsistence uses; and (II) requirements pertaining to the monitoring and reporting such taking."

Pursuant to section 101(a)(5) of the Act, the National Marine Fisheries Service published, in 1990, regulations authorizing the incidental, non-lethal take of bowhead whales and other marine mammals in the Beaufort and Chukchi Seas from 1990 through 1995. The regulations require, among other things, reporting and monitoring programs to: (1) Verify that the level, manner, and effects of the take are inconsequential, and (2) to detect any unforeseen effects of the take.

Similarly, the Outer Continental Shelf Lands Act Amendments of 1978 also require the Secretary of the Interior to conduct environmental monitoring studies, including post-leasing studies, to:

> "establish information needed for assessment and management of environmental impacts on the human, marine, and coastal environments of the Outer Continental Shelf and the coastal areas which may be affected * * * [and] in a manner designed to provide time-series and data trend information which can be used for comparison with any previously collected data for the purpose of identifying any significant changes in the quality and productivity of such environments, for establishing trends in the areas studied and monitored, and for designing experiments to identify the causes of such changes."

In this regard, the National Marine Fisheries Service is responsible for providing advice as to what research and monitoring need to be done and for coordinating various related activities, but not necessarily for funding or conducting all the needed research and monitoring.

The U.S. commitment to a comprehensive bowhead whale assessment and monitoring program has been and will continue to be of critical importance to its participation in International Whaling Commission meetings. Also, because the National Marine Fisheries Service is responsible for advising the Minerals Management Service as to what should be done to ensure that oil and gas development does not jeopardize the continued existence of the Western Arctic bowhead population or result in damage to or destruction of habitat critical to its survival, the Marine Mammal Commission believes that a recovery plan could facilitate the development, coordination, implementation, and funding of programs to protect and encourage the recovery of the Western Arctic bowhead whale stock.

With these points in mind, the Marine Mammal Commission has recommended that the National Marine Fisheries Service develop and implement a recovery plan that takes into account long-term monitoring and management needs relative to subsistence takes and the effects of oil and gas resource development on the Arctic marine habitat. Further, the Marine Mammal Commission recommends that the National Marine Fisheries Service continue to undertake or cause to be undertaken the resource called for by the International Whaling Commission to monitor the status of the Western Arctic bowhead stock and the effect of the subsistence take thereon, including: A 1992 visual and acoustic census; simulation studies to determine optimum frequency for future censuses; and determination of bowhead whale habitat needs and threats.

3.2 Authority for Small Cetacean Issues

Small cetaceans (dolphins, porpoises, and other small toothed whales) include some of the world's most endangered species and populations. A number of these species or populations are subject to direct subsistence and commercial catches as well as to incidental takes in unregulated and regulated fisheries. Often the effects of these activities on small cetacean populations are recognized only after extensive declines have reduced stocks to perilous levels. For many coastal populations, additional pressures result from loss of or displacement from important feeding and/or breeding habitats as the result of oil, gas, or mineral exploration and/or development, hydroelectric development, and fisheries development. In some areas, fishermen view small cetaceans as competitors for fish resources and conduct culling programs. In other areas, incidental takes of small cetaceans have evolved into directed fisheries. Further insults are visited on certain small cetacean populations through disease and die-offs. Compounding these problems are attempts to balance the short-term welfare and interests of local human populations with the longer-term benefits of conserving species and ecosystems.

In 1988, the World Conservation Union's (formerly the International Union for the Conservation of Nature and Natural Resources—IUCN) Species Survival Commission produced an "Action Plan for Conservation of Dolphins, Porpoises, and Whales: 1988–1992" [8] that calls attention to the plight of small cetaceans. The Plan describes actions that may be sufficient to prevent the extinction of species and populations currently in danger; the Plan also seeks to promote sustainable relationships between cetaceans and people. It points out that, while there are many organizations and agencies working to solve problems concerning the regulation of commercial takes of large whales, small cetaceans have received and are receiving far less attention and protection than the great whales despite the severe problems facing many populations and species.

The Whaling Convention itself does not define the species it was created to cover. This has generated extensive debate over the International Whaling Commission's competence to regulate catches of small cetaceans, particularly as it relates to the rights of coastal states to regulate small cetacean catches within their respective Exclusive Economic Zones. Despite a lack of consensus on this issue, the International Whaling Commission adopted in 1980 a resource which: (1) Noted that the question of the International Whaling Commission's competence over small cetaceans was not resolved; (2) recommended that the Scientific Committee's sub-committee on small cetaceans continue to review the status of small cetaceans and develop advice on their conservation; and (3) invited all contracting governments to consider that advice. Following the 1980 meeting, the National Oceanic and Atmospheric Administration's General Counsel prepared a legal memorandum which concluded, among other things, that nothing in the Convention explicitly limited its authority to large cetaceans and that its broad, preambulatory language suggested an intent to provide comprehensive management of all cetacean exploitation.

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[8] Perrin, W.F. 1989. Dolphins, Porpoises, and Whales—An Action Plan for the Conservation of Biological Diversity: 1988–1992. International Union for the Conservation of Nature, Species Survival Commission, Cetacean Specialist Group and the United States National Marine Fisheries Service, NOAA. Second Edition.

At its 1990 meeting, the International Whaling Commission adopted a resolution instructing the Scientific Committee to draw together available information on the status of small cetacean stocks subject to significant directed and incidental takes and the impact of those takes on the stocks; it also directed the Committee to provide such scientific advice as may be warranted. The Scientific Committee presented its report on small cetaceans at the Commission's 1991 meeting. In a second resolution adopted at the meeting, the International Whaling Commission decided to forward the Scientific Committee's report to the 1992 United Nations Conference on Environment and Development, as well as to non-contracting governments, intergovernmental organizations, and other appropriate groups.

Since 1980, the United States' position on small cetacean issues has been that: (1) The Convention provides jurisdiction over all cetaceans; (2) catch limits for the direct take of small cetaceans should be listed in the International Whaling Commission's Schedule and based on advice from the Scientific Committee; (3) an overview of indirect take should be maintained by the International Whaling Commission, but regulation of such take should be under appropriate regional fisheries organizations; and (4) the question of coastal states' rights should not be discussed with the respect to small cetaceans since its implications also apply to the International Whaling Commission's competence over large cetaceans. The Marine Mammal Commission has supported this position. However, with the growing understanding of the worldwide plight of small cetaceans and their habitats, the Marine Mammal Commission believes that the United States needs to increase its efforts within the International Whaling Commission in support of cooperative conservation action directed at small cetaceans.

To this end, the Marine Mammal Commission Recommends that the National Oceanic and Atmospheric Administration, in consultation with the Department of State, the Marine Mammal Commission, and other involved agencies, develop and propose revisions to the International Whaling Convention and to the International Whaling Commission's Schedule of Regulations that will formally establish the International Whaling Commission's competence to regulate catches of all cetaceans.

3.3 Special Permits for Scientific Research

Article VIII of the Whaling Convention provides that any member government may grant special permits to its nationals to take whales for scientific research and that the whales taken may be processed and sold in accordance with that government's directions. The International Whaling Commission's Schedule of Regulations requires that the Commission and its Scientific Committee be given the opportunity to review and comment on proposed special and certain related information before a special permit is issued.

Since 1985, the International Whaling Commission has adapted several resolutions setting forth criteria and guidelines governing its review of proposals for special permits involving the lethal take of whales for research purposes. These guidelines, among other things, require that nations provide descriptions of their planned research programs and report the results of their research programs in a timely manner. The purpose is to allow the Scientific Committee opportunity to determine if the research is scientifically sound, meets critical needs, or otherwise contributes to the Commission's conservation program. Considering the advice of its Scientific Committee, the International Whaling Commission has adopted resolutions calling upon members to refrain from issuing permits, and to reconsider ongoing or planned programs that do not fully satisfy the International Whaling Commission's whale research criteria and guidelines. Although resolutions adopted by the International Whaling Commission reflect a majority view of voting members, such resolutions are not binding upon contracting governments.

The United States considers failure to follow resolutions adopted by the International Whaling Commission to be grounds for certifying offending nations under two provisions of domestic law—the Packwood/Magnuson Amendment to the Magnuson Fishery Conservation and Management Act and the Pelly Amendment to the Fishermen's Protective Act. Pursuant to these two provisions, the Secretary of Commerce is required to notify the President if he determines that foreign nationals are conducting fishing operations, including whaling, in a manner that "diminishes the effectiveness" of an international fishery conservation program. Certification under the Packwood-Magnuson Amendment mandates an immediate 50 percent reduction in the offending nation's fishery allocation from U.S. waters. Under the Pelly Amendment, the President has discretion to impose economic sanctions by restricting imports of fishery products into the United States from the certified nation.

In recent years, both Norway and Japan have been certified under U.S. law for proceeding with "scientific" whaling programs despite International Whaling Commission resolutions asking these nations to "refrain" from issuing permits for lethal takes and/or to "reconsider" their research programs. For several reasons, these certifications have not achieved their desired effect. Sanctions under the Packwood-Magnuson Amendment are meaningful only for those nations which receive substantial fishing allocations under the Magnuson Fishery Conservation and Management Act. As foreign fishing within the U.S. Exclusive Economic Zone has declined, the significance of such sanctions has declined. Most recently, an August 1991 ruling by a panel of the General Agreement on Tariffs and Trade suggests that the United States, or any other signatory to the General Agreement on Tariffs and Trade, cannot impose import/export trade sanctions to enforce domestic conservation or environmental laws outside their territorial jurisdiction. If upheld, the General Agreement on Tariffs and Trade panel ruling would prevent the United States from utilizing certifications and trade sanctions to encourage compliance with International Whaling Commission rulings.

Given the questionable significance of future certifications and sanctions, the United States should seek alternative means to enlist support for and compliance with the International Whaling Commission's conservation program. For example, multi-lateral discussions within the International Whaling Commission's Scientific Committee and within the Commission itself persuaded the Government of Japan to take action to reduce their unsustainable catches of Dall's porpoise and to undertake research to assess the status of the affected populations in the North Pacific despite Japan's insistence that the management of small cetaceans was outside the purview of the organization. This action by Japan in response to pressure from other member nations suggests that multi-lateral discussions and negotiation within the International Whaling Commission and other fora may be useful for building consensus to resolve international conservation issues outside of trade issues.

Therefore, if the Secretary of Commerce finds that the actions of a member nation "diminish the effectiveness" of the International Whaling Commission's conservation program, the Marine Mammal Commission recommends that the National Oceanic and Atmospheric Administration, in addition to considering certifications and trade sanctions under U.S. law, in consultation with the Department of State and the Marine Mammal Commission, undertake or cause to be undertaken multi-lateral discussions and negotiations aimed at persuading offending nations of the value of complying with the International Whaling Commission's program.

4. Revision of the 1946 Whaling Convention

The 1946 International Convention for the Regulation of Whaling created the International Whaling Commission to "make possible the orderly development of the whaling industry." Despite its intentions, the International Whaling Commission's management program has allowed the depletion of the stocks upon which the whaling industry depended.

It may be argued that the failure of the International Whaling Commission to adequately manage the whaling industry and conserve whale stocks was largely due to failure of the International Whaling Commission to follow the advice of its Scientific Committee. In retrospect, even if the Committee's advice had been followed, the ultimate decline of whale stocks would likely have been assured because the International Whaling Commission's Scientific Committee: (1) did not have sufficient knowledge of the biology, ecology, and demography of the affected species; (2) failed to accurately assess the possible direct and indirect effects of new fisheries and substantial increases in existing fisheries, before commitment of significant resources to new or further fishery development; (3) failed to design and carry out effective monitoring programs to verify the predicted first- and second-order effects and detect any unforseen effects of fisheries development; and (4) failed to effectively factor uncertainties (safety factors) into fishery development and management strategies.

The Whaling Convention does not incorporate modern principles of living resource conservation. It does not recognize non-consumptive values of whales; it does not specifically mandate Commission authority over small cetaceans; and it does not recognize either that whales may be affected by activities other than direct exploitation or that the exploitation of whales may affect other components of the ecosystem of which they are a part. As noted above, it also includes a provision which allows governments to issue special permits to their nationals for lethal takes of whales for research with or without the approval of the International Whaling Commission. Also, it has no stated objectives in any of the substantive articles (*i.e.*, the only statement of objectives is in the non-binding preamble).

As noted earlier, section 113 and section 108(a)(4) of the Marine Mammal Protection Act direct that the purposes and policies of the Act be the official policies of the United States in negotiating and renegotiating international agreements concerning marine mammals. The Act also directs responsible U.S. agencies to seek to amend international agreements, such as the International Convention for the Regulation of Whaling, to bring them into conference with the Marine Mammal Protection Act.

Therefore, the Marine Mammal Commission recommends that the National Oceanic and Atmospheric Administration, in concert with the Department of State and in consultation with the Marine Mammal Commission, seek to renegotiate the International Convention for the Regulation of Whaling to: (a) Bring it into conformance with modern principles of living resource management; (b) more explicitly provide for the conservation of small as well as large cetaceans; and (c) require members to follow the advice of the International Whaling Commission concerning lethal research programs. To this end, the Marine Mammal Commission recommends that the National Oceanic and Atmospheric Administration convene an interagency group of experts to review the 1946 Whaling Convention and develop recommendations for revision of the Convention and the International Whaling Commission's conservation program to insure that the philosophical and functional aspects are carried forward in a manner consistent with the purposes and policies of the Marine Mammal Protection Act. The recommendations of this working group should form the basis for U.S. policy regarding the International Whaling Commission's conservation program.

As a starting point, the Marine Mammal Commission suggests seeking the following revisions to the Whaling Convention:

1. Article I of the Convention be renumbered Article II, that subsequent articles be renumbered accordingly, and that the following statement of purposes be added—

"Article I

"1. The objective of this Convention is the conservation of all species and populations of cetaceans throughout the world.

"2. For the purposes of this Convention, the term "conservation" includes consumptive and non-consumptive uses.

"3. Any consumptive and non-consumptive uses of cetaceans shall be designed and carried out in accordance with the provisions of this Convention so as to:

a. prevent any population from being reduced below its maximum net productivity level;

b. promptly restore populations that are reduced below their maximum net productivity level;

c. maintain the ecological relationships between cetacean populations and other components of the ecosystems of which they are a part; and

d. maintain the fullest possible range of management options for present and future generations."

2. Revise paragraph 2 of present Article I to read something like—

"2. This Convention applies to directed and incidental taking of all cetaceans and to all persons, vessels, and facilities under the jurisdiction of the Contracting Parties engaged in or supporting the taking of cetaceans."

3. If present Article I is modified as suggested, Article II would have to be expanded to include definitions for cetacean, population, stock, take, and maximum net productivity level.

4. Expand Article IV subparagraphs 1 (a) and (b) to reference other activities (in addition to whaling) affecting whales— *e.g.*,

"(a) encourage, recommend, or, if necessary, organize studies and investigations relating to whales, whaling, *and other activities affecting whales or their habitat;*

"(b) collect and analyze statistical information concerning the current conditions and trends of the whale stocks and the effects of whaling *and other activities* thereon;"

5. Alter paragraph 2 of Article V to read something like—

"2. These amendments of the Schedule (a) shall be such as are necessary to carry out the objectives and purposes of this Convention and to provide for the conservation, development, and optimum utilization *of the cetacean resources;* (b) shall be based on scientific findings; (c) *shall provide for the equitable allocation of any authorized take among both consumptive and non-consumptive users;* and (d) shall take into consideration the interest of the *international community as a whole, as well as the* consumers of whale products and the whaling industry."

6. Modify the first sentence in Article VIII to require that contracting governments not issue "scientific" whaling permits without the approval of the Commission—*e.q.*, revise the sentence as follows—

"1. Notwithstanding anything contained in this Convention, any contracting government may grant to any of its nationals, *following review and approval by a three-fourths majority of the Commission,* a special permit * * *"

7. Add an article requiring development of a system of research, monitoring, observation, inspection, and verification— *e.q.*,

"Article VIII

"1. To promote the objectives of and ensure compliance with the provisions of this Convention, the Contracting Parties agree that a system of population monitoring and research, catch verification, observation, and inspection shall be established and that no consumptive or non-consumptive uses of whales which entail takings will be allowed until the system is in place.

"2. The system shall include, *inter alia,* procedures for (a) establishing population monitoring and research programs to assess stock status and to detect and assess effects of catches on stocks; (b) designating observers and inspectors by Members of the Commission; (c) placing of observers and inspectors aboard all or representative subsets of vessels engaged in commercial whaling and whale watching to gather information needed to assess the impacts of the activities and to ensure compliance with applicable regulations; (d) at-sea boarding of vessels engaged in commercial whaling for purposes of inspection by designated inspectors; and (e) flag state investigation and prosecution of reported violations of any provisions of this Convention or measures adopted pursuant thereto."

5. Future of the International Whaling Commission

The adoption in 1982 of "zero" catch quotas pursuant to paragraph 10(e) of the Schedule was criticized by some member nations on the grounds that the moratorium had no scientific basis and that it was in contradiction of the purposes and provisions of the Whaling Convention. As the Comprehensive Assessment and the Revised Management Procedure workshops ensued, some pro-whaling nations became increasingly impatient with the seemingly slow progress of the Scientific Committee. In 1990, Iceland, Norway, Greenland, and the Faroe Islands formed the North Atlantic Marine Mammal Management Organization, a regional organization established to provide scientific and management advice on marine mammals in the North Atlantic. This Organization is seeking a scientific association with the International Council for the Exploration of the Seas. Either organization could conflict with the International Whaling Commission if either should provide management advice differing from that of the Commission.

More recently, at the 1991 International Whaling Commission meeting, representatives of the Government of Iceland declared that the International Whaling Commission was not living up to its purpose and that Iceland was considering withdrawing from the Convention. In September 1991, representatives of the Government of Norway made known the fact political pressure to withdraw from the International Whaling Commission was building within Norway and that the country would have to make a decision soon as to whether it was to its advantage to remain within the International Whaling Commission.

The Marine Mammal Commission believes that an effective international whale conservation program is essential. There is no doubt that the International Convention for the Regulation of Whaling and the International Whaling Commission have not been entirely satisfactory fora in which to seek to achieve strong conservation programs. However, their dissolution now would not serve to further the development of effective conservation programs. Maintaining the International Whaling Commission as the principal international body responsible for cetacean conservation is probably the best way to achieve immediate objectives such as integrating modern principles of living marine resource conservation into whale management. Furthermore, reaching a consensus as to the conditions under which the resumption of whaling could be considered would demonstrate that the members of the Commission are able to accommodate a broad range of conservation views. Keeping the International Whaling Commission intact also might do much to encourage responsible management actions by nations in other international conservation fora.

Therefore, the Marine Mammal Commission recommends that the National Oceanic and Atmospheric Administration, in consultation with the Department of State and the Marine Mammal Commission, take such actions as may be necessary to encourage continued participation of member nations in the International Whaling Commission. In addition, until such time as the International Convention for the Regulation of Whaling is amended to embrace modern principles of living resource conservation and the Revised Management Procedure includes an agreed system for the observation, reporting, verification, and inspection of catches, the Marine Mammal Commission recommends that the U.S. policy should be to continue to oppose any resumption of commercial whaling.

Addendum B

January 13, 1992.

Mr. John R. Twiss, Jr.,
Executive Director, Marine Mammal Commission, 1825 Connecticut Avenue, NW., Washington, D.C. 20009.

Dear John Twiss: Thank you for the letter regarding the future of the International Whaling Commission (IWC) and U.S. participation in the IWC. I intend to undertake a thorough review of the recommendations in your letter and enclosed Issued Paper. To commence that review, I am initiating a Task Force and a number of Working Groups to review and recommend the best course of action for the United States. We will be meeting in early January to outline the responsibilities of these groups and their timelines. I envision that these preparations will require a series of Federal agency meetings and will ensure that the Marine Mammal Commission is an involved and active participant in these discussions.

On one special point, I agree that we should try to bring all cetaceans under an IWC conservation program as quickly as possible. Recognizing that amendment of the convention is likely to be a slow and uncertain process, we have already commenced to consider amendments to the schedule that would be necessary to cover all cetaceans under the current convention.

I found the Commission's letter creative, thoughtful, and very helpful, I look forward to working with you, the other concerned agencies, and our constituencies to develop the U.S. initiatives for the 1992 IWC Meeting.

Sincerely,

John A. Knauss

[FR Doc. 92-2781 Filed 2-5-92; 8:45 am]

BILLING CODE 3510-22-M

[Docket No. 920127-2027]

Information Relating to Bowhead Whales; U.S. Implementation of Bowhead Whale Strike Quota for 1992

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of information and request for public comment.

SUMMARY: Information is published by NOAA for use in the development of the U.S. position before the International Whaling Commission (IWC) on the aboriginal/subsistence take of bowhead whales and in the domestic allocation of the existing IWC quota for bowhead whales to U.S. natives. By this notice, NOAA is soliciting public comment on the proposed allocation of the IWC bowhead whale catch limit in 1992.

DATES: Comments must be submitted on or before April 6, 1992.

ADDRESSES: Written comments may be mailed to the Office of International Affairs, National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, MD 20910. A list of documents reviewed for this action may be obtained on request, and the documents examined during business hours (9 a.m. to 5 p.m.) at this address.

FOR FURTHER INFORMATION CONTACT: Becky Rootes, (301) 713-2276.

SUPPLEMENTARY INFORMATION: NOAA is responsible for implementation and enforcement of the Marine Mammal Protection Act (16 U.S.C. 1361-1407), the Endangered Species Act (16 U.S.C. 1531-1543) and the Whaling Convention Act 16 U.S.C. 916-916*l*). In addition, it provides staff support to the U.S. Commissioner to the IWC and to the IWC Industry Committee. Consistent with these responsibilities, the Agency develops positions for implementation of the aboriginal/subsistence harvest of bowhead whales under Paragraph 13 of the Schedule to the International Convention on the Regulation of Whaling, December 2, 1946, 62 Stat. 1716, T.I.A.S. No. 1849 (entered into force, November 10, 1948). In order to provide for review and comment by the public of the data upon which the U.S. positions are based, the following information is provided: (1) The IWC catch level available for the U.S. aboriginal/subsistence bowhead whale harvest for 1992-1994; (2) a summary of available bowhead scientific information including estimates of current population level and annual recruitment rates; (3) a summary of information on the nature and extent of aboriginal/subsistence need; (4) the level of aboriginal/subsistence harvest limits which could be implemented domestically; and (5) notice of the availability of those documents reviewed by NOAA and relied on by the Administrator of NOAA in making his finding on the range of harvest limits. By this notice, NOAA is soliciting public comment on the proposed domestic implementation of the IWC bowhead whale catch limit for 1992.

1. Catch Level

At the 43rd Annual Meeting of the IWC, Reykjavik, Iceland, May 27-31, 1991, the following catch limit was established for aboriginal/subsistence whaling: "The taking of bowhead whales from the Bering-Chuckchi-Beaufort Seas stock by aborigines is permitted, but only when the meat and products of such whales are to be used exclusively for local consumption by the aborigines and further provided that: For each of the years 1992, 1993, and 1994 combined, the total number of whales struck shall not exceed 141, except that; any unused strikes up to ten percent of the total strikes allowed in the years 1989, 1990, and 1991 combined shall be carried forward from those years and added to the combined total of strikes for the years 1992, 1993, and 1994; and in any one year no more than 54 whales shall be struck and no more than 41 shall be landed. (Schedule to the Convention, Paragraph 13(b)(1)(i) (A) and (B).)

2. Scientific Information

At the 1991 IWC meeting, the Scientific Committee agreed that the Bering-Chuckci-Beaufort Sea population of bowhead whales is between 6,400 and 9,200 animals, with a most likely estimate of 7,500 whales. A minimum estimate of the replacement yield (RY) was calculated to be 92 whales per year, and the most likely replacement yield for the population size of 7,500 is 254 whales per year. The replacement yield defines the number of new whales annually joining the adult population, and it is assumed that, all other things being constant, up to this number could be taken from the population without causing it to decline.

3. Aboriginal/Subsistence Need

The Department of the Interior (DOI) conducted its analysis of the nature and extent of aboriginal/subsistence need for bowhead whales and whaling in 1983 and the IWC adopted this method for quantifying need in 1986. The Department of the Interior contracted a new study on the quantification of subsistence and cultural need for bowhead whales in 1987 which was presented at the 1988 meeting. The new study presented the cultural and subsistence need of the nine Alaska Eskimo whaling villages to take 41 landed bowhead whales. This quantification of need used the same method of calculation accepted by the IWC in 1986. This method derives the mean annual number of bowhead whales landed per capita during a specified historical period and multiplies this mean by the current Eskimo population of nine Alaska Eskimo whaling villages. The result of this calculation is the total number of bowhead whales the nine Eskimo whaling villages need to land each year in order to meet their cultural and subsistence need.

When the IWC adopted this method of quantifying need, members of the IWC Aboriginal Subsistence Subcommittee noted that the quantification was based on a large but incomplete series of data on historical bowhead landings. It was also noted that the quantification used an inconsistent data base period. The Department of the Interior Study was initiated to correct these deficiencies. To complete the series of data on historical bowhead whale landings to the extent possible, the study undertook a comprehensive review of available published and unpublished sources of bowhead landings. Remaining gaps are unlikely to be significantly reduced with further searches for historic data on bowhead landings. The data resulting from this study also permitted the use of a consistent historical base period for the calculation of need. In the prior analysis, the base periods varied from 1940 to 1970 and 1950 to 1970. The base period now begins in 1910, the year following the cessation of commercial whaling in the Arctic, and ends in 1969, prior to the period of unusually high bowhead harvests in the unique economic circumstances of the 1970s. Therefore, applying the additional landed bowhead data and the longer period to the accepted method of quantifying need, results in a current cultural and subsistence need of 41 landed whales.

4. Domestic Harvest Range

The IWC management scheme for aboriginal/subsistence whaling provides (in Schedule paragraph 13(a)(2)): "For stocks below the maximum sustainable yield (MSY) level but above a certain minimum level, aboriginal/subsistence catches shall be permitted so long as they are set at levels which allow whale stocks to move to the MSY level." Given the above stated estimates of replacement yields ranging from 92 as a lower bound to 254 whales for the point estimate recruited into the population annually, the aboriginal/subsistence catch can be permitted so long as it is set at a level that allows the whale stock to move to the MSY level.

The catch limit for bowhead whales for the years 1992–1994, established by the IWC, is 141 strikes plus 13 strikes carried over from the previous block quota with no more than 54 whales struck and no more than 41 landed in any one year. Therefore, the number under consideration for allocation to the Alaska Eskimo Whaling Commission for the 1992 catch limit is 54 strikes or 41 landed whales.

5. Documents Reviewed

A list of the documents reviewed for this action may be obtained on request from the address above. The documents are available for public inspection during the 60-day public comment period at the same address.

Authority: 16 U.S.C. 1361–1407, 1531–43, 918.

Dated: January 22, 1992.

John A. Knauss,

Under Secretary for Oceans and Atmosphere.

[FR Doc. 92–2782 Filed 2–5–92; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Licensing information may be obtained by writing to: National Technical Information Service, Center for Utilization of Federal Technology—Patent Licensing, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151 or by telephoning (703) 487–4732. All patent applications may be purchased, specifying the serial number listed below, by writing NTIS, 5285 Port Royal Road, Springfield, Virginia 22161 or by telephoning the NTIS Sales Desk at (703) 487–4650. Issued patents may be obtained from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, DC 20231.

Please cite the number and title of inventions of interest.

Douglas J. Campion,

Patent Licensing Specialist, Center for the Utilization of Federal Technology.

Department of Health and Human Services

7–531,317 (U.S. 5,071,962) Nucleotide, Deduced Amino Acid Sequence, Isolation and Purification of Heat-Shock Chylamdial Proteins

Department of the Interior

7–327,930 (U.S. 5,078,473) Pyramid Beam Splitter
7–553,467 (U.S. 5,078,219) Concave Drag Bit Cutter Device and Method
7–784,451 Lead Removal From Hazardous Wastes
7–789,206 Slow-Release Nitrogen Fertilizer and Soil Conditioner
7–805,223 Cryogenic Slurry for Extinguishing Underground Fires
7–813,709 Fixture for Forming Evaporative Pattern (EPC) Process Patterns

Department of Agriculture

7–437,320 (U.S. 5,034,513) Avian Interleukin-2
7–593,174 (U.S. 5,077,441) Selective Gossypol Abatement Process from Oil Extraction of Cottonseed
7–792,508 Citrus Proteins for Use in Field Detection of Citrus Blight Using Immunological Techniques
7–800,315 Copper Hydroxide as a Repellent

[FR Doc. 92–2887 Filed 2–5–92; 8:45 am]

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Licensing information may be obtained by writing to: National Technical Information Service, Center for Utilization of Federal Technology—Patent Licensing, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151 or by telephoning (703) 487–4732. All patent applications may be purchased, specifying the serial number listed below, by writing NTIS, 5285 Port Royal Road, Springfield, Virginia 22161 or by telephoning the NTIS Sales Desk at (703) 487–4650. Issued patents may be obtained from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, DC 20231.

Please cite the number and title of inventions of interest.

Douglas J. Campion,

Patent Licensing Specialist, Center for the Utilization of Federal Technology.

Department of Health and Human Services

7–352,313 (U.S. 5,063,206) Compositions Having Use as Treatment of Psoriasis and Neurosychiatric Deficits
7–424,030 Coiled Stent and Use Thereof (Effecting Heart Assist Through Peripheral Cannulation Alone)
7–533,442 (U.S. 5,061,488) Flavone-8-Acetic Acid and Interleukin-2 for Cancer Therapy (especially renal carcinoma)
7–564,677 Method and Apparatus for Assessing Metabolic and Behavior Physiology of Animals
7–620,410 A Novel Vasoactive Intestinal Peptide Antagonist
7–678,918 Automated Method and Apparatus for Determining Characteristics of Nerve Fibers
7–693,291 Lens Major Intrinsic Protein Gene
7–697,275 Transmission-Blocking Vaccine Against Malaria
7–697,395 Treatment of Alcohol Withdrawal Symptoms
7–701,157 Stable End-Point Microculture Tetrazolium Assay (SE–MTA) to Measure Cell Growth/Growth Inhibition for Experimental Drug Evaluation
7–712,152 Perilipin
7–715,762 Radiolabeled N-Substituted-6-iodo-3,14-dihydroxy-4,5 alpha-epoxymorphinans, Intermediates for Producing the Same, and a Process for the Preparation and Methods of Detecting Opioid Receptors
7–723,240 Molecular Encapsulation and Delivery of Alkanes to Living Mammalian Cells for Risk Assessment and Pharmaceutical Applications
7–725,307 Method of Preparing Nuclear Extracts in Large Quantities
7–729,960 Thin Layer Chromatography Direct Sample Application Manifold
7–733,744 Method of Targeting DNA
7–742,763 Method for Quantification of Brain Volumes from Magnetic Resonance Images

7–745,381 B-Raf Protein Kinase
7–747,785 Flavivirus Envelope Proteins with Increased Immunogenicity for Use in Immunization Against Virus Infection
7–748,931 Raf Protein Kinase Therapeutics
7–749,001 A Human Cripto-Related Gene
7–751,009 Switching Valve System for Direct Biological Sample Injection for Liquid Chromatography (LC) Analysis
7–757,366 Portable Device for Producing solid Carbon Dioxide
7–759,738 Detection Method for C-Raf-1 Genes
7–761,157 Improved Two- and Three-Dimensional Autoradiographic Imaging Utilizing Charge Coupled Devices
7–761,222 Chimeric Dengue Viruses
7–780,205 Lipopolysaccharide Carriers for Use in Vaccines

Department of the Interior

7–582,690 (U.S. 5,060,751) Pneumatic Wall-Locking Geophone System

Department of Agriculture

7–246,842 (U.S. 5,053,327) High Affinity Monoclonal Antibodies to Bowman-Birk Inhibitor and Immunoassay Methods
7–514,478 (U.S. 5,058,444) System for Analyzing Entrained Solids Such as Cotton or Seed
7–536,865 (U.S. 5,056,721) Method for Classifying Wheat Kernels as Hard or Soft
7–592,735 (U.S. 5,060,483) Twin Rinse Columns for Freeze Concentration of Rinsable Concentrates

[FR Doc. 92–2888 Filed 2–5–92; 8:45 am]

BILLING CODE 3510–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

DOD Advisory Panel on Streamlining and Codifying Acquisition Laws

AGENCY: Defense Systems Management College.

ACTION: Notice of meeting.

SUMMARY: Open to the public on February 20, 1992, starting at 8:30 a.m. in Building 226, rooms SR 3 and 4, of the Defense Systems Management College, Fort Belvoir, Virginia. The panel will hear presentations/recommendations by the task force on its review of the out-of-scope laws, and by the various panel working groups on the statutes they have reviewed to date.

For further information contact Major Jean Kopala at (703) 355–2665.

Dated: February 2, 1992.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–2925 Filed 2–5–92; 8:45 am]

BILLING CODE 3810–01–M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board of the Space and C^{3}I Panel of 1992 Summer Study on Global Reach/Global Power will meet on 24–25 Feb 1992 from 8 a.m. to 5 p.m. at HQ Air Force Intelligence Command, San Antonio, TX.

The purpose of this meeting is to receive briefings and hold discussions on projects related to Space and C^{3}I in support of Global Reach/Global Power. This meeting will involve discussions of classified defense matters listed in section 552b(c) of title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 92–2780 Filed 2–5–92; 8:45 am]

BILLING CODE 3910–01.

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0094; FAR Case 87–24]

OMB Clearance Request for Debarment and Suspension

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of a request for an extension to an existing OMB clearance (9000–0094).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request for an extension of a currently approved information collection requirement concerning Debarment and Suspension.

DATES: Comments may be submitted on or before April 6, 1992.

ADDRESSES: Send comments to Mr. Peter Weiss, FAR Desk Officer, OMB, room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Beverly Fayson, Office of Federal Acquisition Policy, GSA (202) 501–4755.

SUPPLEMENTARY INFORMATION:

A. Purpose

The FAR requires contracts to be awarded to only those contractors determined to be responsible. Instances where a firm or its principals have been indicted, convicted, suspended, proposed for debarment, debarred, or had a contract terminated for default are critical factors to be considered by the contracting officer in making a responsibility determination. This certification would require the disclosure of this information.

B. Annual Reporting Burden

The annual reporting burden is estimated as follows: Respondents, 1,244,301; responses per respondent, 1; total annual responses, 1,244,301; preparation hours per response, 30 min. sub., 5 min. prime; and total response burden hours, 103,942.

Obtaining Copies of Proposals

Requester may obtain copies of OMB applications or justifications from the General Services Administration, FAR Secretariat (VRS), room 4041, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0094, FAR Case 87–24, Debarment and Suspension, in all correspondence.

Dated: January 31, 1992.

Laurie A. Frazier,

FAR Secretariat.

[FR Doc. 92–2891 Filed 2–5–92; 8:45 am]

BILLING CODE 6820–JC–M

DEPARTMENT OF ENERGY

Energy Information Administration

[Forms EIA–871A–G]

Commercial Buildings Energy Consumption Survey

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Notice of the Proposed Revision of Forms EIA–871A–G, "Commercial Building Energy Consumption Survey," and solicitation of comments.

SUMMARY: The Energy Information Administration (EIA), as part of its continuing effort to reduce paperwork and respondent burden (required by the Paperwork Reduction Act of 1980, Pub.

L. No. 96–511, 44 U.S.C. 3501 *et seq.*), conducts a presurvey consultation program to provide the general public and other Federal agencies with an opportunity to comment on proposed and/or continuing reporting forms. This program helps to ensure that requested data can be provided in the desired format, reporting burden is minimized, reporting forms care clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, EIA is soliciting comments concerning the proposed revision to Forms EIA–871A–G, "Commercial Buildings Energy Consumption Survey".

DATES: Written comments must be submitted within 30 days of the publication of this notice. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contract listed below of your intention to do so as soon as possible.

ADDRESSES: Send comments to Ms. Martha Johnson, Energy End Use and Integrated Statistics Division, EI–631, Forrestal Building, U.S. Department of Energy, Washington, DC 20585, Telephone: 202/586–1135, FAX: 202/586–0018.

FOR FURTHER INFORMATION OR TO OBTAIN COPIES OF THE PROPOSED FORMS AND INSTRUCTIONS: Requests for additional information or copies of the form and instructions should be directed to Ms. Martha Johnson at the address listed above.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Request for Comments

I. Background

In order to fulfill its responsibilities under the Federal Energy Administration Act of 1974 (Pub. L. No. 93–275) and the Department of Energy (DOE) Organization Act (Pub. L. No. 95–91), the Energy Information Administration is obliged to carry out "a central, comprehensive, and unified energy data and information program which will collect, evaluate, assemble, analyze, and disseminate data and information which is relevant to energy resource reserves, energy production, demand, and technology, and related economic and statistical information or which is relevant to the adequacy of energy resources to meet demands in the near and longer term future for the Nation's economic and social needs."

The Commercial Buildings Energy Consumption Survey (CBECS) provides basic statistical information on the consumption of, and expenditures for, energy in U.S. commercial buildings, along with energy-related characteristics of these buildings. EIA conducts this multistage probability sample survey of U.S. commercial buildings and their energy suppliers on a triennial basis. Previous surveys were conducted in 1979, 1983, 1986, and 1989; the first three surveys were conducted as the "Nonresidential Buildings Energy Consumption Survey." The data from these surveys have been used by policymakers at the Federal, regional, State, and local levels, and by the private sector for benchmarking, forecasting, policy evaluation and planning.

The design of the 1992 CBECS is expected to yield estimates at the national and four Census region levels, based on approximately 6,000 completed interviews. The 1992 CBECS will be a longitudinal survey, in that it will use the same sample as was used for the 1986 CBECS with appropriate updates for new construction. Every effort will be made to locate the same buildings from the 1986 survey.

As in previous surveys, the 1992 CBECS will be conducted in two stages. In the first stage, information about buildings are collected in the Building Characteristics Survey through voluntary personal interviews with the owners, managers, or tenants of a sample of buildings located throughout the United States. As the conclusion of the interview, the building respondent is asked to sign an authorization form permitting the survey contractor to obtain energy consumption (billing) records from the suppliers of energy to the building. In the second stage, the Energy Suppliers Survey, data concerning the actual consumption and expenditures for energy are obtained from records maintained by energy suppliers to the building. This information is obtained by means of a mail survey conducted under EIA's mandatory data collection authority.

The interviews with the building owners/managers are planned for the late summer and fall of 1992. The initial mailings for the Energy Suppliers Survey will start in January 1993, and nonresponse followup procedures will continue through October 1993.

II. Current Actions

EIA proposes to make the changes listed below in the survey forms for the 1992 CBECS. These changes were identified through a user needs survey, a survey of the electricity and natural gas suppliers who responded to the 1989 CBECS, EIA observation of CBECS interviews, and debriefings with survey contractor personnel. These changes are being made to better serve the needs of data users, to streamline the administration and processing of the survey and to improve overall data quality.

Form EIA–871A—Building Characteristics Questionnaire and Authorization Form

A study of the needs of users for the 1992 CBECS was conducted by EIA from June through October 1991. As a result of that study, changes have been made to the Building Characteristics Questionnaire. CBECS users requested more information on functional areas within a building, e.g., is there a cafeteria or computer room within the office building? Also added, as a result of the user's study, were more questions on conservation measures, more information on lighting, more detail on the type of Demand-Side Management (DSM) programs that the building is participating in, and a question asking for an estimate of the number of personal computers (PC) and/or computer terminals present in the building. Since the 1992 CBECS is a longitudinal survey (revisiting the 1986 CBECS buildings), questions were added to ascertain whether the interviewer is at the same building, and if so, what changes have been made to the building since the 1986 interview. EIA is also considering asking some screening questions (currently section A in EIA–871A) via mail prior to the personal interview at the building. This would both lower respondent burden and save interviewer time.

Form EIA–871B, Facility Form

This form was used in the 1989 CBECS to better capture information at multibuilding facilities. The 1989 data has provided benchmark data which are still being analyzed. EIA proposes dropping this form from the 1992 CBECS and adding a few questions concerning facilities to the Building Characteristics Questionnaire (Form EIA–871A). A revised Facility Form is planned for reinstatement in future CBECS after detailed analysis of the 1989 facility data has been completed.

Energy Suppliers Survey Forms, Forms EIA–871 C Through F

The energy suppliers forms are essentially the same as those used on previous surveys. The forms will be mailed to suppliers of natural gas (Form EIA–871C), district heating and cooling (Form EIA–871D), electricity (Form EIA–871E), and fuel oil (Form EIA–871F). As a result of our experiences with the 1989

CBECS, instructions have been clarified and some questions have been modified to better obtain the requested data. EIA is aware of two developing areas of special interest in the suppliers' forms; demand-side management (DSM) programs and transportation gas. EIA is currently using DSM data from other EIA surveys to link to CBECS data to provide information on DSM programs in the commercial sector. EIA is reviewing these procedures to ascertain if any additional data need to be collected on the electricity and natural gas suppliers' forms. Form EIA–871C (Building Natural Gas Usage) has been changed to attempt to separate data on transportation gas (that is, gas bought directly from a producer or broker, and then delivered to the building by the local distribution company (LDC)) from gas bought from and delivered by the LDC. EIA is also exploring the possibility of allowing the energy suppliers to report the CBECS data directly on PC diskettes, rather than on the survey forms. About half of the natural gas and electricity suppliers responding to our request for comments after the 1989 CBECS have indicated that they would prefer to respond using PC diskettes. To facilitate suppliers' filings, EIA will also provide the survey contractor's facsimile (FAX) number for respondents' use. The suppliers would then have the option of reporting directly on the survey forms, either by mail or by FAX; providing PC diskettes in a specified format; or providing computer printouts containing the requested information.

Form EIA–871G, Construction Improvements and Maintenance and Repairs Supplement

This is a special supplement designed and collected for the U.S. Bureau of the Census at the end of the Building Characteristics Survey. It is planned that it will be administered again in the 1992 CBECS, with little change to the survey form. As in previous surveys, this form will be cleared through OMB by the Bureau of the Census.

Form EIA–871H, Asbestos in Buildings

This was a special section of the Form EIA–871A that was collected during the 1989 CBECS for the U.S. Environmental Protection Agency. This will not be repeated for the 1992 CBECS.

III. Request for Comments

Prospective respondents and other interested parties should comment on the proposed revisions. The following general guidelines are provided to assist in the preparation of responses. Please indicate to which form(s) your comments apply.

As a potential respondent:

A. Are the instructions and definitions clear and sufficient? If not, which instructions require clarification?

B. Can the data be submitted using the definitions included in the instructions?

C. Can data be submitted in accordance with the response time specified in the instructions?

D. Public reporting burden for this collection is estimated to average 70 minutes per interview (Form EIA–871A) and 30 minutes per energy supplier response (Forms EIA–871C–G). How much time, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information, do you estimate it will require you to complete and submit the required form?

E. What is the estimated cost of completing this form, including the direct and indirect costs associated with the data collection? Direct costs should include all costs, such as administrative costs, directly attributable to providing this information.

F. How can the form be improved?

G. Do you know of any other Federal, State, or local agency that collects similar data? If you do, specify the agency, the data element(s), and the means of collection.

As a potential user:

A. Can you use data at the levels of detail indicated on the form?

B. For what purpose would you use the data? Be specific.

C. How could the form be improved to better meet your specific needs?

D. Are there alternate sources of data and do you use them? What are their deficiencies and/or strengths?

EIA is also interested in receiving comments from persons regarding their views on the need for the information contained in the Commercial Buildings Energy Consumption Survey.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the form; they also will become a matter of public record.

Statutory Authorities: Sections 5(a), 5(b), 13(b), and 52 of Public Law 93–275, Federal Energy Administration Act of 1974, 15 U.S.C. 764(a), 764(b), 772(b) and 790a.

Issued in Washington, DC January 31, 1992.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 92–2926 Filed 2–5–92; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. EL92–10–000]

Consumer Advocate Division of the Public Service Commission of West Virginia, Maryland People's Counsel and Pennsylvania Office of Consumer Advocate versus Allegheny Generation Corporation; Shortening Period for Interventions, Protests and Answers

January 30, 1992.

On January 17, 1992, notice was issued of the filing made on December 31, 1991, in the above-docketed proceeding (57 FR 3194, January 28, 1992). Take notice that the period for filing interventions, protests and answers to the filing is shortened to and including February 10, 1992. The shortened period will enable the Commission to consider this proceeding with Allegheny Generation Corporation's filing in Docket No. ER92–242–000.

Lois D. Cashell,

Secretary.

[FR Doc. 92–2914 Filed 2–5–92; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 7722–000, California]

Enviro Hydro, Inc.; Availability of Environmental Assessment

January 31, 1992.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for major license for the proposed Long Canyon Creek Project, located on Long Canyon Creek within Eldorado National Forest, in Placer County near the towns of Placerville and Auburn, California, and has prepared an Environmental Assessment (EA) for the proposed project. The EA contains staff's analysis of the environmental impacts of the proposal and recommends the no action alternative.

Copies of the EA are available for review in the Public Reference Branch, room 3104, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 92–2809 Filed 2–5–92; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 10813-000, West Virginia]

City of Summersville, WV; Availability of Environmental Assessment

January 30, 1992.

In accordance with the National Environmental Policy Act of 1969 and the Federal Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for license for the Summersville Hydroelectric Project, located on the Gauley River in Nicholas County, West Virginia, and has prepared an Environmental Assessment (EA) for the project. In the EA, the Commission's staff has analyzed the environmental impacts of the project and has concluded that approval of the project, with appropriate mitigative measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, room 3308, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2810 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01-M

Application

January 23, 1992.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

Notice of Application Tendered for Filing With the Commission

a. *Type of Application:* New License.

b. *Project No.:* 2113-022.

c. *Date Filed:* July 30, 1991.

d. *Applicant:* Wisconsin Valley Improvement Company.

e. *Name of Project:* Wisconsin Valley.

f. *Location:* On the Wisconsin River and its tributaries, Vilas, Oneida, Forest, Marathon, and Lincoln Counties, Wisconsin, and Gogebic County, Michigan.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Robert W. Gall, Wisconsin Valley Improvement Company, 2301 North Third Street, Wausau, WI 54401, (715) 848-2976.

i. *FERC Contact:* Michael Dees (202) 219-2807.

j. *Comment Date:* On or before April 6, 1992.

k. *Description of Project:* The project as licensed consists of 21 separate existing dam and storage reservoir developments (none of which contain any hydropower facilities) located in the Wisconsin River Basin. Two of the developments are located on the main stem of the Wisconsin River; the remaining developments are located on tributary rivers and streams. The 21 project developments are described as follows:

Lac Vieux Desert Development

The Lac Vieux Desert Development is an improved natural-lake reservoir, located on the Wisconsin River main stem at river mile 420.1 in Vilas County, Wisconsin and Gogebic County, Michigan. The development consists of: (1) A reinforced concrete gated dam 27 feet long, 10 feet wide, and 8.5 feet high, with upstream and downstream wingwalls, each about 9 feet long; (2) one tainter gate in the dam, 12 feet wide and 4 feet high; (3) one stop log bay in the dam, 4 feet wide and 7 feet high; and (4) a reservoir with a surface area of 4,247 acres and gross storage of 2,140 million cubic feet (mcf) at the maximum water level of 1,681.53 feet NGVD. The reservoir has usable storage of 398 mcf with a drawdown of 2.17 feet.

Twin Lakes Development

The Twin Lakes Development is an improved natural-lake reservoir, located on the Twin River 2.1 miles upstream from Pioneer Lake in Vilas County, Wisconsin. Pioneer Lake feeds Pioneer Creek which flows for 9.9 miles to join the Wisconsin at river mile 401.1. The development consists of: (1) A reinforced concrete gated dam 21.5 feet long, 17 feet wide and 9.5 feet high, with upstream wingwalls about 6 feet long, and downstream wingwalls about 26 feet long; (2) one tainter gate in the dam, 10 feet wide and 4.33 feet high; (3) one stop log bay in the dam, 4 feet wide and 8 feet high; (4) a right abutment dike about 60 feet long and 10 feet high, and a left abutment dike about 75 feet long and 10 feet high; and (5) a reservoir with a surface area of 3,535 acres and gross storage of 4,074 mcf at the maximum water level of 1,682.57 feet NGVD. The reservoir has usable storage of 301 mcf with a drawdown of 2.00 feet.

Buckatahpon Development

The Buckatahpon Development is an improved natural-lake reservoir, located on Buckatahpon Creek 1.4 miles upstream from its confluence with the Wisconsin at river mile 398.9 in Vilas County, Wisconsin. The development consists of: (1) A reinforced concrete gated dam 15 feet long, 27 feet wide, and 7.5 feet high, with upstream and downstream wingwalls, each about 9 feet long; (2) one tainter gate in the dam, 6 feet wide and 3.83 feet high; (3) one stop log bay in the dam, 5 feet wide and 5 feet high; (4) a right abutment dike about 100 feet long and 7.4 feet high, and a left abutment dike about 80 feet long and 7.4 feet high; and (5) a reservoir with a surface area of 922 acres and gross storage of 597 mcf at the maximum water level of 1,641.52 feet NGVD. The reservoir has usable storage of 120 mcf with a drawdown of 3.17 feet.

Long-on-Deerskin Development

The Long-on-Deerskin Development is an improved natural-lake reservoir, located on the Deerskin River 18 miles upstream from its confluence with the Wisconsin at river mile 378.8 in Vilas County, Wisconsin. The development consists of: (1) A reinforced concrete gated dam 18 feet long, 15 feet wide, and 9.5 feet high, with upstream and downstream wingwalls, each about 9 feet long; (2) one tainter gate in the dam, 8 feet wide and 5 feet high; (3) one stop log bay in the dam, 4 feet wide and 7 feet high; (4) a right abutment dike about 35 feet long and 8.4 feet high, and a left abutment dike about 30 feet long and 8.4 feet high; and (5) a reservoir with a surface area of 2,353 acres and gross storage of 2,651 mcf at the maximum water level of 1,698.43 feet NGVD. The reservoir has usable storage of 255 mcf with a drawdown of 2.59 feet.

Little Deerskin Development

The Little Deerskin Development is an improved natural-lake reservoir, located on the Little Deerskin River 3 miles upstream from its confluence with the Deerskin River in Vilas County, Wisconsin. The development consists of: (1) A steel gated spillway structure 4 feet long, 6 wide, and 4 feet high, with upstream and downstream wingwalls, each about 4 feet long; (2) one 4-foot-wide by 2-foot-wide lift gate within the structure; (3) a right abutment dike about 40 feet long and 4 feet high, and a left abutment dike about the same size; (4) a reservoir with a surface area of 313 acres and gross storage of 82 mcf at the maximum water level of 1,642.16 feet NGVD. The reservoir has usable storage of 23 mcf with a drawdown of 1.67 feet.

Seven Mile Development

The Seven Mile Development is an improved natural-lake reservoir, located on Seven Mile Creek 2.6 miles upstream from the head of Nine Mile Reservoir in Oneida and Forest Counties, Wisconsin. The development consists of: (1) A reinforced concrete gated dam 22 feet long, 30 feet wide, and 9.5 feet high, with downstream wingwalls about 16 feet long; (2) one tainter gate in the dam, 8 feet wide and 4.83 feet high; (3) one stop log bay in the dam, 6 feet wide and 8 feet high; (4) a right abutment dike about 150 feet long and 9.7 feet high, and a left abutment dike about 110 feet long and 9.7 feet high; and (5) a reservoir with a surface area of 518 acres and gross storage of 417 mcf at the maximum water level of 1,650.14 feet NGVD. The reservoir has usable storage of 85 mcf with a drawdown of 4.33 feet.

Lower Nine Mile Development

The Lower Nine Mile Development is an improved natural-lake reservoir, located on Nine Mile Creek 1.1 miles upstream from the head of Burnt Rollways Reservoir in Oneida County, Wisconsin. The development consists of: (1) A reinforced concrete gated dam 26 feet long, 30 feet wide, and 12 feet high, with upstream wingwalls about 16 feet long; (2) two tainter gates in the dam, each 6 feet wide and 6 feet high; (3) one stop log bay in the dam, 3.75 feet wide and 6 feet high; (4) a right abutment dike about 60 feet long and 12.9 feet high, and a left abutment dike about 100 feet long and 12.9 feet high; and (5) a reservoir with a surface area of 841 acres and gross storage of 114 mcf at the maximum water level of 1,643.76 feet NGVD. The reservoir has usable storage of 104 mcf with a drawdown of 4.58 feet.

Burnt Rollways Development

The Burnt Rollways Development is an improved multiple natural-lake and channel reservoir, located on the Eagle River near its confluence with the Wisconsin River in Oneida County, Wisconsin. The development consists of: (1) A reinforced concrete gated dam 47 feet long, 55 feet wide, and 16 feet high, with upstream wingwalls about 20 feet long; (2) two dissimilar tainter gates in the dam, one 16 feet wide by 4.25 feet high, and a second 10 feet wide by 12 feet high; (3) a right abutment dike about 100 feet long and 14.4 feet high, and a left abutment dike about 150 feet long and 17.9 feet high; (4) a boat launching structure consisting of a trestle supported rail track about 165 feet long, mounted with an electrically operated rolling gantry hoist, over the right abutment dike; and (5) a reservoir with a surface area of 7,626 acres and gross storage of 4,525 mcf at the maximum normal water level of 1,625.71 feet NGVD. The reservoir has usable storage in summer of 479 mcf with a drawdown of 1.5 feet, and in winter, 852 mcf with a drawdown of 2.75 feet.

Sugar Camp Development

The Sugar Camp Development is an improved multiple natural-lake and channel reservoir, located on Sugar Camp Creek near its confluence with the Wisconsin River in Oneida County, Wisconsin. The development consists of: (1) A reinforced concrete gated dam 12 feet long, 15 feet wide, and 9.5 feet high, with upstream and downstream wingwalls about 13 feet long; (2) one tainter gate in the dam, 8 feet wide by 7 feet high; (3) a right abutment dike about 260 feet long and 9.5 feet high, and a left abutment dike about 20 feet long and 9.5 feet high; and (4) a reservoir with a maximum surface area of 1,857 acres and gross storage of 1,120 mcf at the maximum winter water level of 1,597.82 feet NGVD. The reservoir has usable storage in summer of 155 mcf with a drawdown of 2.0 feet, and in winter, 411 mcf with a drawdown of 5.5 feet.

Little St. Germain Development

The Little St. Germain Development is an improved natural-lake reservoir, located on the Little St. Germain River about 1.1 miles upstream from its confluence with the Wisconsin River in Vilas County, Wisconsin. The development consists of: (1) A reinforced concrete gated dam 14 feet long, 15 feet wide, and 8.5 feet high, with upstream wingwalls about 10 feet long; (2) one vertical lift gate in the dam, 5 feet wide by 5.17 feet high; (3) a right abutment dike about 50 feet long and 7 feet high, and a left abutment dike about 40 feet long and 7 feet high; and (4) a reservoir with a surface area of 1,008 acres and gross storage of 495 mcf at the maximum water level of 1,613.88 NGVD. The reservoir has usable storage of 77 mcf with a drawdown of 1.83 feet.

Big St. Germain Development

The Big St. Germain Development is an improved natural-lake reservoir, located on the St. Germain River in Vilas County near St. Germain, Wisconsin. The development consists of: (1) A reinforced concrete gated dam 27 feet long, 22 feet wide, and 7 feet high; (2) two similar vertical lift gates in the dam, each 7 feet wide by 4.17 feet high, and one smaller vertical lift gate in the dam, 5 feet wide by 4.17 feet high; (3) a right abutment dike about 55 feet long and 7 feet high, and a left abutment dike about 35 feet long and 7 feet high; (4) a reservoir with a surface area of 1,653 acres and gross storage of 1,501 mcf at the maximum water level of 1,591.16 feet NGVD. The reservoir has usable storage in summer of 94 mcf with a drawdown of 1.33 feet, and in winter, 210 mcf with a drawdown of 3.0 feet.

Pickerel Development

The Pickerel Development is an improved natural lake reservoir, located on the St. Germain River near its confluence with the Wisconsin River in Oneida County, Wisconsin. The development consists of: (1) A reinforced concrete gated dam 32 feet long, 30 feet wide, and 20.5 feet high, called Pickerel Control Dam, with upstream and downstream wingwalls about 32 feet long; (2) one tainter gate in the dam, 10 feet wide by 16 feet high; (3) a right abutment dike about 70 feet long and 18.5 feet high, and a left abutment dike about 80 feet long and 18.5 feet high; (4) a second reinforced concrete gated dam 28 feet long, 37 feet wide, and 12 feet high, called Pickerel Canal Dam, with upstream and downstream wingwalls about 20 feet long; (5) one tainter gate in the dam; 22 feet wide by 3 feet high; (6) a reservoir with a surface area of 786 acres and gross storage of 315 mcf at the maximum water level of 1,590.34 feet NGVD. The reservoir has usable storage in summer of 33 mcf with a drawdown of 1.0 foot, and in winter, 227 mcf with a drawdown of 9.0 feet.

Rainbow Development

The Rainbow Development is a man-made reservoir, located on the Wisconsin River main stem at river mile 365.2 in Oneida County near Lake Tomahawk, Wisconsin. The development consists of: (1) A reinforced concrete gated dam 128 feet long, 32 feet wide, and 38.5 feet high, with upstream wingwalls about 68 feet long, and downstream wingwalls about 55 feet long; (2) three tainter gates each 20 feet wide by 21 feet high, and two tainter gates each 10 feet wide by 28 feet high, all within the dam; (3) a right abutment dike about 1,000 feet long and 32 feet high; (4) Sawyer dike located about 3,000 feet east of the gated dam, about 800 feet long and 20 feet high; (5) Highway E dike located about 1,000 feet west of the spillway and joining the right abutment dike, about 1,650 feet long and 24 feet high; (6) Jim Hall dike located about 1.5 miles north of the spillway, about 1,550 feet long and 22 feet high; (7) Highway J dike located about 2.5 miles north of the dam, about 500 feet long and 3 feet high; (8) a reservoir with a surface area of 4,165 acres and gross storage of 2,004 mcf at the maximum water level of 1,597.05 feet NGVD. The reservoir has usable storage of 1,987 mcf with a drawdown of 22 feet.

North Pelican Development

The North Pelican Development is an improved natural-lake reservoir located on the north branch of the Pelican River in Oneida County near Rhinelander, Wisconsin. The development consists of: (1) A reinforced concrete gated gravity dam 32 feet long, 29 feet wide, and 10.5 feet high, with upstream wingwalls about 16 feet long; (2) three vertical lift gates in the dam, each 6.5 feet wide by 4.0 feet high; (3) a right abutment dike about 30 feet long and 10.5 feet high, and a left abutment dike about 170 feet long and 10.5 feet high; (4) a reservoir with a surface area of 1,295 acres and gross storage of 379 mcf at the maximum water level of 1,569.60 feet NGVD. The reservoir has usable storage of 151 mcf with a drawdown of 3.0 feet.

South Pelican Development

The South Pelican Development is an improved natural-lake reservoir located on the main branch of the Pelican River in Oneida County near Pelican Lake, Wisconsin. The development consists of: (1) A reinforced concrete gated gravity dam 29 feet long, 24 feet wide, and 8 feet high, with upstream wingwalls about 10 feet long; (2) two vertical lift gates in the dam, each 5 feet wide by 3 feet high, and two stop log bays, each 5 feet wide by 1 foot high; (3) a right abutment dike about 20 feet long and 6 feet high, and a left abutment dike about 500 feet long and 6 feet high; (4) a reservoir with a surface area of 3,694 acres and gross storage of 2,175 mcf at the maximum water level of 1,591.98 feet NGVD. The reservoir has usable storage of 308 mcf with a drawdown of 2.0 feet.

Minocqua Development

The Minocqua Development is an improved natural-like reservoir, located at the headwaters of the Tomahawk River in Oneida County near Minocqua, Wisconsin. The development consists of: (1) A reinforced concrete gated gravity dam 35 feet long, 30 feet wide, and 8.75 feet high; (2) two tainter gates in the dam, each 8 feet wide by 4.5 feet high; (3) one overflow bay in the dam, 8 feet wide by a 4 feet high; (4) a right abutment dike about 100 feet long and 8 feet high, and a left abutment dike about 150 feet long and 8 feet high; (5) a reservoir with a surface area of 6,069 acres and gross storage of 7,243 mcf at the maximum water level of 1,585.05 feet NGVD. The reservoir has usable storage of 600 mcf with a drawdown of 2.77 feet.

Squirrel Development

The Squirrel Development is an improved natural-lake reservoir, located on the Squirrel River about 13.2 miles upstream from its confluence with the Tomahawk River in Oneida County, Wisconsin. The development consists of: (1) A reinforced concrete gated gravity dam 15 feet long, 21 feet wide, and 6.8 feet high, with upstream wingwalls about 10 feet long; (2) one vertical lift gate in the dam, 5 feet wide by 4.5 feet high; (3) one stop log bay in the dam, 5 feet wide by 4.5 feet high; (4) a left abutment dike about 65 feet long and 7.3 feet high; (5) a reservoir with a surface area of 1,505 acres and gross storage of 1,008 mcf at the maximum water level of 1,564.93 feet NGVD. The reservoir has usable storage of 149 mcf with a drawdown of 2.42 feet.

Willow Development

The Willow Development is a man-made reservoir, located on the Tomahawk River in Oneida County near Hazelhurst, Wisconsin. The development consists of: (1) A reinforced concrete gated gravity dam 72 feet long, 29 feet high, and 34.5 feet high, with upstream wingwalls about 33 feet long and downstream wingwalls about 50 feet long; (2) one central tainter gate in the dam, 20 feet wide by 12.5 feet high, and two flanking tainter gates in the dam, each 10 feet wide by 23.5 feet high; (3) a right abutment dike about 300 feet long and 30.5 feet high, and a left abutment dike about 700 feet long and 30.5 feet high; (4) Doberstein dike, located about 2,000 feet south of the gated dam, measuring about 1,400 feet in length and 18 feet in height; (5) the South dike, located about one mile south of the gated dam, measuring about 3,500 feet in length and 11 feet in height; and (6) a reservoir with a surface area of 6,392 acres and gross storage of 2,924 mcf at the maximum water level of 1,529.35 feet NGVD. The reservoir has usable storage of 2,809 mcf with a drawdown of 18.5 feet.

Rice Development

The Rice Development is a man-made reservoir, located on the Tomahawk River in Lincoln and Oneida Counties near Tomahawk, Wisconsin. The development consists of: (1) A reinforced concrete gated gravity dam 97 feet long, 34 feet wide, and 19 feet high, with upstream wingwalls about 32 feet long and downstream wingwalls about 42 feet long; (2) two tainter gates in the dam, each 20 feet wide by 15 feet high; (3) one timber needle bay in the dam, 20 feet wide by 17.7 feet high; (4) a right abutment dike about 900 feet long and 22 high, and a left abutment dike about 500 feet long and 22 feet high; (5) the West dike, located about 4,000 feet northwest of the gated dam; measuring about 1,550 in length and 10 feet in height; and (6) a reservoir with a surface area of 4,111 acres and gross storage of 1,922 mcf at the maximum water level of 1,463.25 feet NGVD. The reservoir has usable storage of 1,698 mcf with a drawdown of 13.25 feet.

Spirit Development

The Spirit Development is a man-made reservoir, located on the Spirit River near its confluence with the Wisconsin River at river mile 313.5 in Lincoln County near Tomahawk, Wisconsin. The development consists of: (1) A reinforced concrete gated gravity dam 60 feet long, 35 feet wide, and 26 feet high, with upstream wingwalls about 36 feet long and downstream wingwalls about 24 feet long; (2) two tainter gates in the dam, each 20 feet wide by 19 feet high; (3) a right abutment dike about 1,140 feet long and 26 feet high, and a left abutment dike about 1,330 feet long and 26 feet high; and (4) a reservoir with a surface area of 1,698 acres and gross storage of 672 mcf at the maximum water level of 1,437.88 feet NGVD. The reservoir has usable storage of 666 mcf with a drawdown of 17.0 feet.

Eau Pleine Development

The Eau Pleine Development is a man-made reservoir, located on the Big Eau Pleine River near its confluence with the Wisconsin River at river mile 237.6 in Marathon County near Mosinee, Wisconsin. The development consists of: (1) A reinforced concrete gated gravity dam 149 feet long, 30 feet wide, and 45 feet high, with upstream wingwalls about 90 feet long and downstream wingwalls about 54 feet long; (2) three tainter gates in the dam, each 26 feet wide by 15.5 feet high; (3) one sluice gate in the dam, 10 feet wide by 6 feet high; (4) a right abutment dike about 4,450 feet long and 45 feet high, and a left abutment dike about 4,000 feet long and 45 feet high; and (4) a reservoir with a surface area of 6,677 acres and gross storage of 4,275 mcf at the maximum water level of 1,145.43 feet NGVD. The reservoir has usable storage of 4,170 mcf with a drawdown of 27.43 feet.

The Applicant is not proposing any changes to the existing project works as licensed. The Applicant owns all existing project facilities.

1. Pursuant to § 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merits, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days after this notice issuance

date and serve a copy of the request on the applicant.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2811 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01-M

Application

January 23, 1992.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

Notice of Application Tendered for Filing With the Commission

a. *Type of Application:* New Major License.

b. *Project No.:* 2255-003.

c. *Date Filed:* July 29, 1991.

d. *Applicant:* Nekoosa Papers Inc.

e. *Name of Project:* Centralia.

f. *Location:* On the Wisconsin River, Wood County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Richard J. Grund, Nekoosa Papers Inc., 100 Wisconsin River Drive, Port Edwards, WI 54469, (715) 887-5481.

i. *FERC Contact:* Michael Dees (202) 219-2807.

j. *Comment Date:* On or before April 6, 1992.

k. *Description of Project:* The project as licensed consists of the following: (1) A 1,325.5-foot-long dam containing (a) a 340-foot-long cast-in-place gated spillway containing 13 steel tainter gates: 3 gates, 16 feet wide by 11 feet 9 inches high and 10 gates, 18 feet wide by 11 feet 8 inches high; (b) a 530-foot-long emergency overflow spillway with collapsible wooden flashboards approximately 3.5 feet high; (2) a reservoir with a surface area of 250 acres; (3) a 216 feet-3 inches wide and 78 feet-7 inches tall powerhouse; (4) a 3,200 kilowatt Allis Chalmers generator-turbine set; (5) an existing 2.4/14.4-kilovolt (kV) step-up transformer and a 2.5 mile 14.4-kV three phase over-head transmission line connecting to Port Edwards Mill Substation which ties to Wisconsin Power & Light Company's transmission line; and (6) appurtenant facilities.

The Applicant is not proposing any changes to the existing project works as licensed. The Applicant estimates the average annual generation would be 25.2 GWh and owns all existing project facilities.

l. Pursuant to § 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merits, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days after this notice issuance date and serve a copy of the request on the applicant.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2812 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01-M

Application

January 16, 1992.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

Notice of Application Tendered for Filing With the Commission

a. *Type of Application:* Minor License.

b. *Project No.:* 10871-001.

c. *Date Filed:* December 27, 1991.

d. *Applicant:* Robert A. Davis, III and Michael P. O'Brien.

e. *Name of Project:* Watson Mill.

f. *Location:* On South Fork Broad River in Oglethorpe County, Georgia.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Robert A. Davis. III, 390 Timber Laurel Lane, Lawrenceville, GA 30243, (404) 995-0891.

i. *FERC Contact:* Charles T. Raabe (tag) (202) 219-2811.

j. *Comment Date:* On or before February 25, 1992.

k. *Description of Project:* The proposed project would consist of: (1) An existing 8-foot-high, 250-foot-long stone and masonry dam having a 135-foot-long spillway; (2) a reservoir having a 5-acre surface area and a 9-acre-foot storage capacity at spillway crest elevation 514 feet msl; (3) an existing canal intake structure; (4) an existing 20-foot-wide, 8-foot-deep, 1140-foot-long canal; (5) an existing penstock intake structure; (6) a new 5-foot-diameter, 65-foot-long steel penstock; (7) a new steel powerhouse containing one 675-kW generating unit; (8) an existing 250-foot-long tailrace; (9) a new 300-foot-long underground 2.3-kV transmission line; (10) a new switchyard; and (11) appurtenant facilities.

l. Pursuant to § 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merits, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days after the application is filed and serve a copy of the request on the applicant.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2813 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01-M

Application

January 16, 1992.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* New Major License.

b. *Project No.:* 2394-006.

c. *Date Filed:* June 20, 1991.

d. *Applicant:* Wisconsin Electric Power Company.

e. *Name of Project:* Chalk Hill.

f. *Location:* On the Menominee River in Menominee County, Michigan, and Marinette County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Richard G. Fuller, 1401 South Carpenter Avenue, Iron Mountain, MI 49801, (906) 779-2484.

i. *FERC Contact:* Charles T. Raabe (202) 219-2811.

j. *Comment Date:* On or before April 6, 1992.

k. *Description of Project:* The project as licensed consists of the following: (1) A 300-foot-long concrete gravity spillway, which is about 24 feet high, has a crest elevation of 732.4 feet National Geodetic Vertical Datum (NGVD), and has: (a) 11 Taintor gates which are 12 feet high by 24 feet wide; and (b) an inoperable 6-foot-wide fish sluice located near the right end of the spillway; (2) an earthen dike 1,373 feet long and 38 feet high; (3) a reservoir with a surface area of 834 acres and a total volume of 6,757 acre-feet at the normal maximum elevation of 744.2 feet NGVD; (4) a powerhouse near the left bank, which is 133 feet long by 72 feet wide, and which has three turbine-generator units rated at 2,600 kilowatts (kW) each for a total installed capacity of 7,800 kW; (5) one substation located adjacent to the powerhouse; (6) the primary transmission line; and (7) appurtenant facilities.

l. Pursuant to § 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merits, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days after this notice issuance date and serve a copy of the request on the applicant.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2814 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01-M

Application

January 23, 1992.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

Notice of Application Tendered for Filing With the Commission

a. *Type of Application:* New Major License.

b. *Project No.:* 2292-001.

c. *Date Filed:* July 29, 1991.

d. *Applicant:* Nekoosa Papers Inc.

e. *Name of Project:* Nekoosa.

f. *Location:* On the Wisconsin River, Wood County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Richard J. Grund, Nekoosa Papers Inc., 100 Wisconsin River Drive, Port Edwards, WI 54469, (715) 887-5481.

i. *FERC Contact:* Michael Dees (202) 219-2807.

j. *Comment Date:* On or before April 6, 1992.

k. *Description of Project:* The project as licensed consists of the following: (1) An existing dam with a total length of 1,075 feet which is comprised of (a) an uncontrolled overflow timber crib spillway which has a length of 638.2 feet, a height of about 21 feet, crest elevations of 942.01 and 942.41 feet mean sea level (msl), and which is surmounted by 4.1 foot-high flashboards; (b) a 12-foot-long nonoverflow section between the timber crib spillway and the gated spillway; (c) a gated spillway section which has a length of 110 feet and contains three 17.5-foot-high by 30-foot-wide taintor gates with a sill elevation of 930.11 feet msl; (d) a nonoverflow reinforced concrete/sheet pile wall section about 30 feet long located between the gated spillway and the powerhouse; (e) a 146-foot-long powerhouse; (f) a water-retaining wall or bulkhead located upstream of the paper mill which has a length of about 40 feet; and (g) nonoverflow abutment sections; (2) a reservoir with a normal pool elevation of 946.3 feet msl, a surface area of 400 acres, and a length of about 3 miles; (3) a 146-foot-long by 97.7-foot-wide powerhouse which contains seven flumes and five turbine/generating units—three are vertical Francis turbines and two are horizontal "camel-back" units—with a combined nameplate rating of 3,780 kilowatts (kW), an average head of 21.9 feet, and a total hydraulic capacity of 3,225 cubic feet per second (cfs); and (4) appurtenant facilities.

The project would have no switchyard, switchgear, or transmission line included in the project facilities. Additionally, the adjoining paper mill would not be a part of the project licensed facilities.

The Applicant is not proposing any changes to the existing project works as licensed. The Applicant estimates the average annual generation would be 27.3 GWh and owns all existing project facilities.

l. Pursuant to § 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merits, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days after this notice issuance date and serve a copy of the request on the applicant.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2815 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01-M

Application

January 23, 1992.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

Notice of Application Tendered for Filing with the Commission

a. *Type of Application:* New Major License.

b. *Project No.:* 2291-001.

c. *Date Filed:* July 29, 1991.

d. *Applicant:* Nekoosa Papers Inc.

e. *Name of Project:* Port Edwards.

f. *Location:* On the Wisconsin River, Wood County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Richard J. Grund, Nekoosa Papers Inc., 100 Wisconsin River Drive, Port Edwards, WI 54469, (715) 887-5481.

i. *FERC Contact:* Michael Dees (202) 219-2807.

j. *Comment Date:* On or before April 16, 1992.

k. *Description of Project:* The project as licensed consists of the following: (1) An existing dam with a total length of 1,215 feet which is comprised of (a) an uncontrolled overflow timber crib spillway which was a length of 524.6 feet, a height of about 16 feet, crest elevations of 960.06 and 960.49 feet mean seal level (msl), and which is surmounted by 3.3 foot-high flashboards; (b) a gated spillway section which has a length of 190 feet, and which contains three 17.5-foot-high by 30-foot-wide and two 14-foot-high by 20-feet-wide taintor gates which have sill elevations of 947.7 feet and 950.74 feet msl, respectively; (c) an emergency timber crib spillway capped with concrete which has a total length of 238.7 feet and crest elevations of 963.83 feet and 963.97 feet msl; (d) a timber crib guard lock section with a length of 184 feet located at the entrance of the forebay channel; and (e) nonoverflow abutment sections; (2) a reservoir with normal pool elevation of 963.3 feet msl, a surface area of 150 acres, and a length of about one mile; (3) a forebay channel that extends approximately one mile from the guard lock section of the dam to the powerhouse; (4) an exsting 166-foot by 129-foot powerhouse located at the end of the forebay channel and discharges into the Wisconsin River, and which contains eight flumes and five turbine/generator units—four are horizontal "camel-back" turbines and one is a vertical Francis unit—with a combined nameplate rating of 3,592 kilowatts (kW), an average head of 17.5 feet, and a total hydraulic capacity of 3,124 cubic feet per second (cfs); and (5) appurtenant facilities.

The project would have no switchyard, switchgear, or transmission line included in the project facilities. Additionally, the adjoining paper mill would not be a part of the project licensed facilities.

The Applicant is not proposing any changes to the existing project works as licensed. The Applicant estimates the average annual generation would be 19.7 GWh and owns all existing project facilities.

l. Pursuant to § 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merits, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days after this notice issuance date and serve a copy of the request on the applicant.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2816 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01-M

Application

January 23, 1992.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

Notice of Application Tendered for Filing With the Commission

a. *Type of Application:* New Major License (> 5 MW).

b. *Project No.:* 2256-001.

c. *Date Filed:* July 26, 1991.

d. *Applicant:* Consolidated Water Power Company.

e. *Name of Project:* Wisconsin Rapids.

f. *Location:* On the Wisconsin River, Wood County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Kenneth K. Knapp, Consolidated Water Power Company, 231 First Avenue North, P.O. Box 8050, Wisconsin Rapids, WI 54495 (715) 422-3073.

i. *FERC Contact:* Michael Dees (202) 219-2807.

j. Comment Date: On or before April 6, 1992.

k. *Description of Project:* The project as licensed consists of the following: (1) a dam which has a total length of about 6,136 feet and is comprised of (a) an earth dike which has a length of 3,000 feet and a height of about 9 feet; (b) three sections of masonry gravity wall which have lengths of 1,024 feet, 138 feet, and 386 feet and a maximum height of about 20 feet; (c) three sections of concrete gravity wall which have lengths of 105 feet, 220 feet, and 450 feet and heights ranging from 22 to about 40 feet; (d) three gated spillways, one which has a length of 355 feet and contains ten 30-foot-wide by 15-foot-high Taintor gates, one which has a length of 252 feet and contains six 34-foot-wide by 13.75-foot-high Taintor gates, and one which has a length of 130 feet and contains three 30-foot-wide by 12.5-foot-high Taintor gates; and (e) a powerhouse with a length of 76 feet; (2) a reservoir with a surface area of about 455 acres, a storage capacity of about 4,660 acre-feet (AF), and a normal maximum water surface elevation of 1,011.3 feet mean sea level (msl); (3) a main powerhouse constructed of brick and steel with dimensions of 76.0 feet by 59.8 feet, equipped with two vertical shaft Francis turbine-generator units which have a total rated capacity of 4,680 kilowatts (kW), a combined maximum hydraulic capacity of 2,200 cubic feet per second (cfs), and a net head of 30 feet; (4) a second powerhouse located on the lower floor of a grinder building, which is integral with a masonry wall section of the dam and has dimensions of 184 feet by 57 feet, and which is equipped with eight horizontal Francis turbines, which have an aggregate hydraulic capacity of 2,400 cfs and a head of 30 feet, and which are connected to synchronous motors which have a total rated capacity of 4,430 kW; (5) a 220-foot-wide tailrace channel which is located immediately downstream of the powerhouse and grinder building; (6) a substation; and (7) appurtentant facilities.

The applicant is not proposing any changes to the existing project works as licensed. However, the Applicant is proposing to include the eight synchronous motors, which are connected to the eight horizontal turbines, as a part of the project. The Applicant estimates the average annual generation would be 53.6 GWh and owns all existing project facilities.

l. Pursuant to § 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merits, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days after this notice issuance date and serve a copy of the request on the applicant.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2817 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01-M

Application

January 21, 1992.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

Notice of Application Tendered for Filing With the Commission

a. *Type of Application:* Major License.

b. *Project No.:* 10749-001.

c. *Date Filed:* December 30, 1991.

d. *Applicant:* Iowa Hydropower Development Corporation.

e. *Name of Project:* Saylorville Dam.

f. *Location:* On the Des Moines River in Polk County, Iowa.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Justin Rundle, 3900 Crosby Drive, suite 1620, Lexington, KY 40515, (606) 271-4781.

i. *FERC Contact:* Charles T. Raabe (tag) (202) 219-2811.

j. *Comment Date:* On or before February 28, 1992.

k. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' Saylorville Dam and Reservoir and would consist of: (1) Six turbine-generators having a total installed capacity of 9,600-kW; (2) a turbine-generator unit storage and maintenance platform; (3) a crane; (4) a crane maintenance platform; (5) a mechanical platform; (6) a utility raceway; (7) a utility building; (8) a switchyard; (9) a 13.8-kV transmission line; and (10) appurtenant facilities.

m. Pursuant to § 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merits, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days after the application is filed and serve a copy of the request on the applicant.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2818 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01-M

Application

January 23, 1992.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

Notice of Application Tendered for Filing With the Commission

a. *Type of Application:* New Major License.

b. *Project No.:* 2590-001.

c. *Date Filed:* June 26, 1991.

d. *Applicant:* Consolidated Water Power Company.

e. *Name of Project:* Wisconsin River Division.

f. *Location:* On the Wisconsin River, Portage County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Kenneth K. Knapp, Consolidated Water Power

Company, 231 First Avenue North, P.O. Box 8050, Wisconsin Rapids, WI 54495, (715) 422–3073.

i. *FERC Contact:* Michael Dees (202) 219–2807.

j. *Comment Date:* On or before April 6, 1992.

k. *Description of Project:* The project as licensed consists of the following: (1) An existing dam which is comprised of (a) an earthfill dam with a length of 345 feet and a maximum height of about 20 feet, and (b) an earthen dike with a length of 550 feet and a maximum height of about 6 feet; (2) a spillway which is comprised of (a) a gated section 484 feet long containing 20 radial gates, each 17 feet high by 20 feet wide with a sill elevation of 1,053 feet national Geodetic Vertical Datum (NGVD) and (b) an uncontrolled overflow section with a length of 108 feet and a crest elevation of 1,069 feet NGVD; (3) a reservoir with a normal maximum water surface elevation of 1,069 feet NGVD, a surface area of 240 acres, and a total volume of about 1,120 acre-feet; (4) a powerhouse with maximum width of 24 feet and an approximate length of 70 feet which contains one horizontal-shaft hydroelectric turbine/generating unit with nameplate rating of 1,800 kilowatts (kW) and a hydraulic capacity of 1,265 cubic feet per second (cfs); (5) a grinder building with a width of 255 feet and a length of 49 feet, which is adjacent to the powerhouse and which contains nine operating horizontal-shaft hydromechanical turbines that have a combined equivalent capacity of 4,600 kW and a total hydraulic capacity of 3,855 cfs; and (6) appurtenant facilities. The project would have a total installed capacity of 6,400 kW. The project would have no switchyard, switchgear, or transmission line included in the project facilities.

Additionally, the grinders and motors attached to the hydromechanical turbines are not part of the project facilities.

The Applicant is not proposing any changes to the existing project works as licensed. The Applicant estimates the average annual generation would be 32.2 GWh and owns all existing project facilities.

l. Pursuant to § 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merits, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days after this notice issuance date and serve a copy of the request on the applicant.

Lois D. Cashell,

Secretary.

[FR Doc. 92–2819 Filed 2–5–92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD92–03355T Colorado-14 Addition]

State of Colorado; NGPA Determination by Jurisdictional Agency Designating Tight Formations

January 31, 1992.

Take notice that on January 27, 1992, the Oil and Gas Conservation Commission of the State of Colorado (Colorado), submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that two portions of the Dakota Formation underlying Garfield and Mesa Counties, Colorado, qualify as tight formations under section 107(b) of the Natural Gas Policy Act of 1978 (NGPA). The area of application includes federal and State of Colorado lands as described in the attached appendix.

The notice of determination also contains Colorado's findings that the referenced portions of the Dakota Formation meet the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

Appendix

Garfield County

Township 5 South

Range 95 West, 6th P.M.—Sections 1 thru 36 (Approximately 78% fee lands and 22% federal lands)

Range 96 West, 6th P.M.—Sections 1 thru 36 (Approximately 92% fee lands and 8% federal lands)

Township 6 South

Range 96 West, 6th P.M.—Sections 1 thru 36 (Approximately 86% fee lands and 14% federal lands)

Mesa County

Township 9 South

Range 92 West, 6th P.M.—Sections 4 thru 9, 16 thru 21, and 28 thru 33 (Approximately 4% fee lands and 96% federal lands)

Range 93 West, 6th P.M.—Sections 1 thru 36 (Approximately 67% fee lands and 33% federal lands)

Range 94 West, 6th P.M.—Sections 1 thru 36 (Approximately 56% fee lands and 44% federal lands)

Range 95 West, 6th P.M.—Sections 1 thru 36 (Approximately 64% fee lands and 36% federal lands)

Township 10 South

Range 93 West, 6th P.M.—Sections 1 thru 36 (Approximately 6% fee lands and 94% federal lands)

Range 94 West, 6th P.M.—Sections 1 thru 36 (Approximately 50% fee lands and 50% federal lands)

Range 95 West, 6th P.M.—Sections 1 thru 36 (Approximately 94% fee lands and 6% federal lands)

[FR Doc. 92–2820 Filed 2–5–92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD92–03356T Colorado-22 Addition]

State of Colorado; NGPA Determination by Jurisdictional Agency Designating Tight Formation

January 30, 1992.

Take notice that on January 27, 1992, the Oil and Gas Conservation Commission of the State of Colorado (Colorado), submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Mesaverde Formation in Garfield County, Colorado, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978 (NGPA). The area of application includes federal and State of Colorado lands described as follows:

Township 5 South

Range 95 West, 6th P.M.—Sections 1 through 36 (Approximately 78 percent fee lands and 22 percent federal lands)

Range 96 West, 6th P.M.—Sections 1 through 36 (Approximately 92 percent fee lands and 8 percent federal lands).

The notice of determination also contains Colorado's findings that the referenced portion of the Mesaverde Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC

20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2827 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD92-03357T Utah-5 Amendment 2]

United States Department of the Interior, Bureau of Land Management; NGPA Determination by Jurisdictional Agency Denying Designation of Tight Formation

January 30, 1992.

Take notice that on January 24, 1992, the United States Department of the Interior's Bureau of Land Management (BLM) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Dakota Formation in a portion of Grand County, Utah, does not qualify as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978 (NGPA). The notice of determination covers all of section 31 in T16S, R25E (SLM), in Grand County, Utah. On January 17, 1992, the Commission issued an order in Docket No. GP92-3-000, dismissing the Utah Department of Natural Resources' affirmative determination under FERC No. JD91-08284T (Utah-5 Amendment), that the Dakota Formation underlying Section 31, T16S, R25E (SLM) qualifies as a tight formation, since all of the lands involved are Federal Lands for which the BLM is the jurisdictional agency designated by the Commission's regulations implementing the NGPA.

The notice of determination contains the BLM's findings that this portion of the Dakota Formation does not meet the requirements for designation as a tight formation under the Commission's regulations set forth in 18 CFR part 271.

The notice of determination is available for inspection, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2822 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. PR92-8-000]

Arkansas Oklahoma Gas Corp.; Petition for Rate Approval

January 31, 1992.

Take notice that on January 13, 1992, Arkansas Oklahoma Gas Corporation (AOG) filed pursuant to § 284.123(b)(2) of the Commission's regulations, a petition for rate approval requesting that the Commission approve as fair and equitable a maximum rate of $0.2793 per MMBtu plus an allowance of 2.766 percent for fuel for transportation of natural gas under section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA).

AOG states that it is a natural gas distribution company which owns and operates natural gas gathering, transmission and distribution systems in four Oklahoma and five Arkansas counties. AOG's petition states that it received an Order No. 63 blanket transportation certificate in Docket No. CP85-535-000. AOG is requesting approval of its existing maximum rate for transportation under its blanket which rate was established in Docket No. ST88-5876-000 (46 FERC ¶ 61,291).

Pursuant to § 284.123(b)(2)(ii), if the Commission does not act within 150 days of the filing date, the rate will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150 day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data and arguments.

Any person desiring to participate in this rate proceeding must file a motion to intervene in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedures. All motions must be filed with the Secretary of the Commission on or before February 20, 1992. The petition for rate approval is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2823 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ92-3-59-003]

Northern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

January 31, 1992.

Take notice that Northern Natural Gas Company (Northern), on January 29, 1992, tendered for filing changes in its F.E.R.C. Gas Tariff, Third Revised Volume No. 1 (Volume No. 1 Tariff) and Original Volume No. 2 (Volume No. 2 Tariff).

On October 31, 1991, Northern filed an out-of-cycle PGA in Docket No. TQ92-3-59 proposing an effective date of November 1, 1991 (November PGA). On November 27, 1991, the Commission rejected the filing on the basis that Northern's gas cost adjustments were not based upon "known and measureable changes."

On January 21, 1992, the Commission granted Northern's request for rehearing and accepted Northern's supplement, wherein Northern clarified the information provided in its November PGA to demonstrate that the filing was in fact based upon "known and measurable" gas cost changes. The Commission directed Northern to refile the tariff sheets included in its November PGA as substitute tariff sheets within 10 days of the issuance of the January 21, 1992. Order, Therefore, Northern has submitted Tariff Sheets Sub One Hundred First Rev Sheet No. 4B, Sub Sixty-Ninth Revised No. 4B.1, Sub Twentieth Revised Sheet No. 4H, and Sub One Hundred Eighth Rev No. 1C in compliance with the Commission Order and shall be effective November 1, 1991.

Northern states that copies of the filing were served upon Northern's jurisdictional sales customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regultory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commissin's Rules of Practice and Procedures, 18 CFR 385.211. All such protests should be filed on or before February 7, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2824 Filed 2-5-92; 8:45am]

BILLING CODE 6717-01-M

[Docket No. RP91-166-006]

Northwest Pipeline Corporation; Change in FERC Gas Tariff

January 31, 1992.

Take notice that on January 24, 1992, Northwest Pipeline Corporation (Northwest) tendered the following tariff

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sheets for filing and acceptance to be a part of its FERC Gas Tariff, First Revised Volume No. 1-A

Eleventh Revised Sheet No. 201
First Revised Sheet No. 319
First Revised Sheet No. 320

Northwest states that the purpose of the filing was to revise tariff sheets to comply with Ordering Paragraph (B) of the "Order Approving Settlement * * *" issued by the Commission December 6, 1991 in the above-referenced docket.

Northwest has requested an effective date, as provided by the Settlement, of October 3, 1991 for the tendered sheets.

Northwest states that a copy of the filing is being served on all parties of record in this docket.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before February 7, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 92-2825 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. FA90-19-000]

Southern Energy Co; Informal Settlement Conference

January 31, 1992.

Take notice that an informal settlement conference will be convened in this proceeding on Tuesday, February 11, 1992, at 10 a.m., at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC for the purpose of exploring the possible settlement of the above-reference docket.

Any party, as defined in 18 385.102(c), or any participant, as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations, 18 CFR 385.214.

For additional information, contact Betsy Carr at (202) 208-1240.

Lois D. Cashell,
Secretary.

[FR Doc. 92-2826 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP89-224-000, RP89-203-000, RP90-139-000, and RP91-69-000]

Southern Natural Gas Co.; Informal Settlement Conference

January 31, 1992.

Take notice that an informal settlement conference will be convened in this proceeding on Wednesday, February 12, 1992, at 1 p.m., at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC, for the purpose of exploring the possible settlement of the above-referenced dockets.

Any party, as defined in 18 CFR 385.102(c) (1991), or any participant, as defined in 18 CFR 385.102(b) (1991), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations, 18 CFR 385.214 (1991).

For additional information, contact Betsy R. Carr at (202) 208-1240 or James A. Pederson at (20) 208-2158.

Lois D. Cashell,
Secretary.

[FR Doc. 92-2827 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP89-629-014]

Tennessee Gas Pipeline Co.; Compliance Filing

January 31,1992.

Take notice that on January 7, 1992, Tennessee Gas Pipeline Company (Tennessee) filed the following revised tariff sheets to be included in its FERC Gas Tariff, Third Revised Volume No. 1:

To be effective December 1, 1991: Substitute Third Revised Sheet No. 30
To be effective January 1, 1992: Fourth Revised Sheet No. 30

Tennessee states that the purpose of this filing is to respond to the Commission's letter order issued January 2, 1992, in the above-referenced docket. In addition to reflecting the initial rates required by the January 2 letter order, Substitute Third Revised Sheet No. 30 by footnote clarifies that the applicable surcharges will be assessed only once, regardless of the number of segments utilized. Fourth Revised Sheet No. 30, to be effective January 1, 1992, further reflects 1) the new GRI adjustment of $.0147 per dth pursuant to the Commission's Opinion No. 365 approving the GRI funding in Docket No. RP91-170, *et al.* issued on October 1, 1991, and 2) the new transition cost volumetric surcharge of $.0102 per dth pursuant to the Commission's order issued on December 30, 1991, in Docket No. RP92-52-000.

Tennessee states that copies of the filing has been served upon each person designated on the official service list compiled by the Secretary in the above-referenced docket.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's rules of practice and procedure 18 CFR 385.211. All such protests should be filed on or before February 7, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D.Cashell,
Secretary.

[FR Doc. 92-2828 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP89-629-016]

Tennessee Gas Pipeline Co.; Tariff Filing

January 31, 1992.

Take notice that on January 23, 1992, Tennessee Gas Pipeline Company (Tennessee) tendered for filing the following tariff sheets to be effective on January 25, 1992:

Third Revised Volume No. 1

Fifth Revised Sheet No. 30
Fourth Revised Sheet No. 160

Tennessee states that it is filing the enclosed tariff sheets pursuant to the Commission's orders issued on November 14, 1990 (Phase I Order) and October 9, 1991 (Phase II Order) in the above-referenced dockets, in order to implement transportation service to two additional shippers pursuant to Rate Schedule NET-LD, effective January 25, 1992. Tennessee requests that the Commission accept the filing and authorize the rates proposed, as the rates for service to the shippers receiving service under NET-LD Rate Schedule, as provided in the Phase II order.

Tennessee states that copies of the filing has been served upon such person designated on the official service list compiled by the Secretary in the above-referenced docket.

Any person desiring to protect said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before February 7, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2829 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. PR92-9-000]

Three Rivers Pipeline Co.; Petition for Rate Approval

January 31, 1992.

Take notice that on January 28, 1992, Three Rivers Pipeline Company (Three Rivers) filed pursuant to § 284.123(b)(2) of the Commission's regulations, a petition for rate approval requesting that the Commission approve as fair and equitable a maximum rate of $0.31 per MMBtu for transportation of natural gas under section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA).

Three Rivers states that it is a general partnership operating an intrastate pipeline company within the State of Pennsylvania. Three River's partners are GEMCO Pipeline Inc., a wholly-owned subsidiary of GEMCO Gas Marketing, Inc. and Endevco Three Rivers Company, a wholly-owned subsidiary of Pentex Petroleum, Inc.

Pursuant to § 284.123(b)(2)(ii), if the Commission does not act within 150 days of the filing date, the rate will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150 day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data and arguments.

Any person desiring to participate in this rate proceeding must file a motion to intervene in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedures. All motions must be filed with the Secretary of the Commission on or before February 20, 1992. The petition for rate approval is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2830 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP91-126-000, CP91-1669-000, CP91-1670-000, CP91-1671-000, CP91-1672-000, CP91-1673-000]

United Gas Pipe Line Co. Technical Conference

January 31, 1992.

On October 22, 1991, the Commission issued an order approving with modifications United Gas Pipe Line's proposed settlement in this proceeding. The Settlement provides that United shall meet with the Commission staff and any other interested persons at a series of four public conferences to evaluate United's experimental Market Responsive Storage and Delivery Service (MRSDS) in Docket No. CP91-1671-000. The Settlement further provides that United shall file privileged and confidential reports with the Commission at least ten days prior to the conferences. United has filed the first of these reports.

Take notice that a public technical conference will be held on February 13, 1992, at 10 a.m. to discuss United's MRSDS. The conference will be held in a room to be designated at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426.

The scope of this initial technical conference on United's MRSDS will be limited and will not involve discussion or evaluation of any privileged or confidential information submitted in United's initial report. The purpose of the conference is to determine which of United's customers are using the MRSDS, whether those customers are satisfied with the service, and whether the information submitted by United is responsive to the concerns of the Commission The conference will address appropriate procedures for future conferences where privileged and confidential information may be discussed.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2831 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA91-1-43-002]

Williams Natural Gas Co.; Proposed Changes in FERC Gas Tariff

January 31, 1992.

Take notice that Williams Natural Gas Company (WNG) on January 27, 1992 tendered for filing Second Revised Sheet No. 233 to be included in its FERC Gas Tariff, First Revised Volume No. 1.

WNG states that Second Revised Sheet No. 233 is being filed in compliance with Commission Order (order) issued December 26, 1991 in Docket Nos. TA91-1-43-000, *et al.*

WNG states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before February 7, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-2832 Filed 2-5-92; 8:45 am]

BILLING CODE 6717-01

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4100-9]

Proposed Administrative Settlement Under Section 122(h) of the Comprehensive Environmental Response, Compensation, and Liability Act; Linemaster Switch Corp.; Woodstock, CT

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of proposed administrative settlement and request for public comment.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is proposing to enter into an administrative settlement to address claims under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9601. Notice is being published to inform the public of the proposed

settlement and of the opportunity to comment. The settlement is intended to resolve the liability under CERCLA of Linemaster Switch Corporation for costs incurred by EPA in conducting response actions at the Linemaster Switch Corporation Superfund Site in Woodstock, Connecticut as of March 31, 1991.

DATES: Comments must be provided on or before March 9, 1992.

ADDRESSES: Comments should be addressed to the Docket Clerk, U.S. Environmental Protection Agency, Region I, JFK Federal Building—RCG, Boston, Massachusetts 02203, and should refer to: In the Matter of Linemaster Switch Corporation Superfund Site, Woodstock, CT, U.S. EPA Docket No. I–91–1105.

FOR FURTHER INFORMATION CONTACT: Audrey Zucker, U.S. Environmental Protection Agency, Office of Regional Counsel, RCT, J.F.K. Federal Building, Boston, Massachusetts 02203, (617) 565–3444.

SUPPLEMENTARY INFORMATION: In accordance with section 122(i)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9622(i)(1), notice is hereby given of a proposed administrative settlement concerning the Linemaster Switch Corporation Site in Woodstock, CT. The settlement was approved by EPA Region I on January 27, 1992 subject to review by the public pursuant to this Notice. Linemaster Switch Corporation, the Settling Party, has executed a signature page committing them to participate in the settlement. Under the proposed settlement, the Settling Party is required to pay $375,000, plus interest, to the Hazardous Substances Superfund. EPA believes the settlement is fair and in the public interest.

EPA is entering into this agreement under the authority of section 122(h) of CERCLA. Section 122(h) of CERCLA provides EPA with authority to consider, compromise, and settle a claim under section 107 of CERCLA for costs incurred by the United States if the claim has not been referred to the U.S. Department of Justice for further action. The U.S. Department of Justice approved this settlement in writing on November 29, 1991.

EPA will receive written comments relating to this settlement for thirty (30) days from the date of publication of this Notice.

A copy of the proposed administrative settlement may be obtained in person or by mail from Audrey Zucker, U.S. Environmental Protection Agency, Office of Regional Counsel, JFK Federal Building—RCT, Boston, Massachusetts 02203, (617) 565–3444.

The Agency's response to any comments received will be available for public inspection with the Docket Clerk, U.S. Environmental Protection Agency, Region I, JFK Federal Building—RCG, Boston, Massachusetts (U.S. EPA Docket No. I–91–1105).

Dated: January 27, 1992.

Julie Belaga,

Regional Administrator.

[FR Doc. 92–2919 Filed 2–5–92; 8:45 am]

BILLING CODE 6560-50-M

EXPORT-IMPORT BANK OF THE UNITED STATES

[Public Notice 15]

Agency Forms Submitted for OMB Review

AGENCY: Export-Import Bank of the United States.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980, Eximbank has submitted a proposed collection of information in the form of a survey to the Office of Management and Budget. The recipients of the survey will be a random 10% sampling of those entities which have been previously contacted by the contractor by either personal contact or telephone.

PURPOSE: The survey is to provide Eximbank with information provided by small business, financial institutions, exporters and prospective exporters as to the effectiveness of the contractor sales and marketing call programs. The ultimate goal is to make the exporting community aware of and to utilize both private and U.S. Government (Eximbank) export credit insurance programs thereby having a positive effect on the U.S. balance of trade. The information provided will be compiled by Eximbank, analyzed and will be the basis of an annual evaluation of the contractor's effectiveness and performance toward meeting the above goal(s) in accordance with the terms and conditions of the underlying contract.

SUMMARY: The following summarizes the information collection proposal submitted to OMB.

(1) *Type of request:* New.
(2) *Number of forms submitted:* One.
(3) *Form Number:* EIB 92–1 (New).
(4) *Title of information collection:* Evaluation of Contractor Service.
(5) *Frequency of use:* Monthly.
(6) *Respondents:* Small business, financial institutions, exporters and potential exporters in the United States.
(7) *Estimated total number of annual responses:* 700.
(8) *Estimated total number of hours needed to fill out the form:* 59.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed application may be obtained from Helene H. Wall, Agency Clearance Officer, (202) 566–8111. Comments and questions should be directed to Lin Liu, Office of Management and Budget, Information and Regulatory Affairs, room 3235, New Executive Office Building, Washington, DC 20503, (202) 395–7340. All comments should be submitted within two weeks of this notice; if you intend to submit comments but are unable to meet this deadline, please advise by telephone that comments will be submitted late.

Dated: January 9, 1992.

Helene H. Wall,

Agency Clearance Officer.

[FR Doc. 92–2890 Filed 2–5–92; 8:45 am]

BILLING CODE 6690-01-M

FEDERAL COMMUNICATIONS COMMISSION

Agency Information Collection; Notice

January 31, 1992.

The following information collection requirements have been approved by the Office of Management and Budget as required by the Paperwork Reduction Act of 1980, (44 U.S.C. 3507). For further information contact Judy Boley Federal Communications Commission, (202) 632–7513.

OMB No.: 3060–0110.
Title: Application for Renewal of License for Commercial and Noncommercial AM, FM, or TV Broadcast Station.
Form No.: FCC 303–S.

A revised application form FCC 303–S has been approved for use through 8/31/94. The May 1988 edition with the previous OMB expiration date of 5/31/91 will remain in use until revised forms are available.

OMB No.: 3060–0019.
Title: Application for Radio Station License or Modification Thereof Under Part 23.
Form No.: FCC 403.

A revised application for FCC 403 has been approved for use through 10/31/94. The April 1991 edition with the previous OMB expiration date of 10/31/93 will remain in use until revised forms are available.

OMB No.: 3060–0021.

Title: Civil Air Patrol Radio Station License.
Form No.: FCC 480

The approval on FCC 480 has been extended through 12/31/94. The March 1989 edition with the previous OMB expiration date of 12/31/91 will remain in use until updated forms are available.

OMB No.: 3060–0132.
Title: Supplemental Information 71–76 MHz Operational Fixed Station.
Form No.: FCC 1068–A.

The approval on FCC 1068–A has been extended through 12/31/94. The October 1984 edition with the previous OMB expiration date of 1/31/86 will remain in use until updated forms are available.

Federal Communications Commission.
Donna R. Searcy,
Secretary.

[FR Doc. 92–2941 Filed 2–5–92; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Massachusetts Port Authority; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission pursuant to section 15 of the Shipping Act, 1916, and section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC. Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 560.6 and/or 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 224–200611.

Title: North Atlantic Conference of Port Authorities Agreement.

Parties: Massachusetts Port Authority, Port Authority of New York and New Jersey, South Jersey Port Corporation Delaware River Port Authority, Maryland Port Administration.

Filing Party: Hugh H. Welsh, Assistant General Counsel/New Jersey Solicitor, The Port Authority of NY & NJ, One World Trade Center, New York, New York 10048.

Synopsis: This Agreement, filed January 27, 1992 establishes a conference composed of various public port authorities in the North Atlantic Range. The conference's purpose is to allow the port authorities to meet, confer, discuss and exchange information on rates, charges, practices, etc. and to establish port terminal rates and charges and rules and regulations. Membership is open to other North Atlantic ports wishing to join.

Dated: January 31, 1992.

By Order of the Federal Maritime Commission.
Joseph C. Polking,
Secretary.

[FR Doc. 92–2792 Filed 2–5–92; 8:45 am]

BILLING CODE 6730-01-M

Port Authority of New York et al.; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–200610.

Title: Port Authority of New York & New Jersey/Italia Line Container Incentive Agreement.

Parties: Port Authority of New York & New Jersey/New Jersey ("Port") Italia Line.

Synopsis: This Agreement, filed January 24, 1992, provides for the Port to make payments to Italia Line in the amount of $25.00 per import container and $50.00 per export container with cargo loaded or unloaded from a vessel at a marine terminal in the Port. Each container must have been shipped by rail to or from points more than 260 miles from the port. The Agreement will terminate on December 31, 1992 or by notification by either party.

Dated: January 31, 1992.

By Order of the Federal Maritime Commission.
Joseph C. Polking,
Secretary.

[FR Doc. 92–2793 Filed 2–5–92; 8:45 am]

BILLING CODE 6730-01-M

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–200006–002.

Title: Port of Oakland/DSR/Senator Lines/Cho Yang Shipping Co. Terminal Agreement.

Parties: Port of Oakland ("Port"), DSR/Senator Lines, Cho Yang Shipping Company, Ltd.

Synopsis: This Agreement, filed January 27, 1992, provides for relocation of the premises assigned under the original agreement to the Charles P. Howard Terminal. The term of the agreement is extended to December 31, 1995 and certain compensation provisions are modified.

Agreement No.: 224–200612.

Title: Georgia Ports Authority/Gearbulk, Inc., Incentive Agreement.

Parties: Georgia Ports Authority, Gearbulk, Inc.

Synopsis: This Agreement, filed January 28, 1992, provides for a refund of $12,500 to Gearbulk if at least 12 vessels call per year at Brunswick, Georgia.

By Order of the Federal Maritime Commission.

Dated: February 3, 1992.
Joseph C. Polking,
Secretary.

[FR Doc. 92–2937 Filed 2–5–92; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Berkshire Financial Services, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 2, 1992.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Berkshire Financial Services, Inc.*, Lee, Massachusetts; to become a bank holding company by acquiring 100 percent of the voting shares of Lee Bank, Lee, Massachusetts, which engages in Massachusetts Savings Bank Life Insurance activities.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Union Bancorp, Inc.*, Bowling Green, Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of Union Bank and Trust Company, Bowling Green, Virginia.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Lockhart Bankshares, Inc.*, Lockhart, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Lockhart Bankshares-Delaware, Inc., Wilmington, Delaware, and thereby indirectly acquire First-Lockhart National Bank, Lockhart, Texas. In connection with this application, Lockhart Bankshares-Delaware, Inc., Wilmington, Delaware, has applied to become a bank holding company by acquiring First-Lockhart National Bank, Lockhart, Texas.

Board of Governors of the Federal Reserve System, January 31, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-2867 Filed 2-5-92; 8:45 am]

BILLING CODE 6210-01-F

U.S. Trust Corporation, New York, New York, Application to Engage in Securities Brokerage and Investment Advisory Activities Separately and on a Combined Basis, and to Buy and Sell Securities as a Riskless Principal

U.S. Trust Corporation, New York, New York ("Applicant"), has applied pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) ("BHC Act") and § 225.23(a) of the Board's Regulation Y (12 CFR 225.23(a)), to acquire Delafield, Harvey, Tabell Inc., Princeton, New Jersey ("Company"), and thereby to engage in the following activities: (1) Providing portfolio investment advice and management to institutional and retail customers and furnishing general economic information and advice and general economic statistical forecasting services pursuant to § 225.25(b)(4) of the Board's Regulation Y; (2) providing retail brokerage services pursuant to § 225.25(b)(15) of Regulation Y; (3) providing investment advice and brokerage services on a combined basis for institutional and retail customers ("full-service brokerage"), including exercising limited investment discretion on behalf of institutional customers at a customer's specific request and within parameters established by the customer; and (4) purchasing and selling all types of securities on the order of institutional and retail customers as a "riskless principal." Company proposes to engage in these activities throughout the United States.

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with Board approval, engage in any activity "which the Board, after due notice and opportunity for hearing, has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto." Applicant believes that these proposed activities are "so closely related to banking or managing or controlling banks as to be a proper incident thereto."

Applicant will conduct the proposed investment advisory activities subject to the conditions of § 225.25(b)(4) of Regulation Y (12 CFR 225.25(b)(4)), and the proposed retail brokerage services pursuant to the conditions of § 225.25(b)(15) of Regulation Y (12 CFR 225.25(b)(15)). Additionally, the Board has previously determined that, subject to certain conditions, full service brokerage activities are permissible nonbanking activities for bank holding companies and do not violate the Glass-Steagall Act. *See, e.g., PNC Financial Corp*, 75 Federal Reserve Bulletin 396 (1989); *Bank of New England Corporation*, 74 Federal Reserve Bulletin 700 (1988); *Manufacturers Hanover Corporation*, 73 Federal Reserve Bulletin 930 (1987); *National Westminster Bank PLC*, 72 Federal Reserve Bulletin 584 (1986). The Board has also approved, subject to certain conditions, the provision of discretionary investment management services to institutional customers in connection with securities brokerage and investment advisory services. *J.P. Morgan & Company, Inc.*, 73 Federal Reserve Bulletin 810 (1987). Applicant proposes that Company conduct these activities in accordance with all of the prudential limitations relied upon by the Board in these Orders.

In addition, the Board has previously approved the proposed buying and selling of all types of securities on the order of investors as "riskless principal." *See, e.g., J.P. Morgan & Company Incorporated*, 76 Federal Reserve Bulletin 26 (1990); *Bankers Trust New York Corporation*, 75 Federal Reserve Bulletin 829 (1989). Applicant commits that Company will conduct this proposed activity subject to the same limitations and using the same methods and procedures established by the Board in these orders.

Applicant states that the proposed activities will benefit the public. It believes that they will promote competition and provide gains in efficiency and added convenience to customers. Moreover, Applicant believes that the proposed activities will not result in any unsound banking practices.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than March 2, 1992. Any request for a hearing on this application must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Board of Governors of the Federal Reserve System, January 31, 1992.

Jennifer J. Johnson,

Assoiate Secretary of the Board.

[FR Doc. 92-2868 Filed 2-5-92; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18A, as added by title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisition to the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 010692 AND 012492

Name of acquiring person, Name of acquired person, Name of acquired entity	PMN No.	Date terminated
Kimball International, Inc., Harpers, Harpers	92-0430	01/06/92
Delta Air Lines, Inc., Pan Am Corporation, Pan American World Airways, Inc	92-0450	01/06/92
Thorn EMI plc, REMCO America, Inc., REMCO America, Inc	92-0454	01/06/92
Torchmark Corporation, Burlington Resources Inc., Meridian Oil Hydrocarbons, Inc	92-0367	01/07/92
Canadian Pacific Limited, Robertson-Ceco Corporation, Robertson-Ceco Corporation	92-0419	01/07/92
Intermet Corporation, Wind Point Partners II, L.P., PBM Industries, Inc	92-0312	01/08/92
Arkla, Inc., The Washington Water Power Company, Itron, Inc	92-0442	01/08/92
The Washington Water Power Company, Arkla, Inc., EnScan, Inc	92-0443	01/08/92
Aon Corporation, Markel Corporation, Markel Corporation	92-0461	01/08/92
First Financial Management Corporation, Wachovia Corporation, Provident Financial Corporation	92-0465	01/08/92
Redland PLC, Steetley plc, Steetley plc	92-0364	01/09/92
Warburg, Pincus Investors, L.P., Newfield Exploration Company, Newfield Exploration Company	92-0414	01/09/92
Ira Leon Rennert, The LTV Corporation, AM General Corporation and Amland Corporation	92-0470	01/10/92
Kessler Rehabilitation Corporation, Kennedy Health Care Foundation, Inc., Kennedy Memorial Hospitals at Saddle Brook, Inc.	92-0477	01/10/92
Newell Co., Sanford Corporation, Sanford Corporation	92-0417	01/13/92
Henry B. Pearsall, Newell Co., Newell Co	92-0418	01/13/92
CPC International Inc., Kellogg Company, Fearn International Inc	92-0433	01/13/92
The 1818 Fund, L.P., Western Gas Resources, Inc., Western Gas Resources, Inc	92-0436	01/13/92
Thames Water PLC, FBL Holdings Corp., FBL Holdings Corp	92-0476	01/13/92
A. Eugene Brockman Children's Trust, Ford Motor Company, Ford Motor Company	92-0432	01/14/92
Kenneth R. Thomson, The Mead Corporation, Micromedex, Inc	92-0440	01/14/92
MEDIQ Incorporated, ATI Medical, Inc., ATI Medical, Inc	92-0438	01/15/92
Yale University, Newfield Exploration Company, Newfield Exploration Company	92-0464	01/15/92
Fiat S.p.A., Pfizer Inc., Shiley Incorporated	92-0437	01/17/92
Horrigan American, Inc., General Electric Company, Reli Financial Corp	92-0459	01/17/92
SW Centrifugal, Inc., ASEA AB, CE Tube Mill, Inc	92-0466	01/17/92
SW Centrifugal, Inc., BBC Brown Boven, Ltd., CE Tube Mill, Inc	92-0469	01/17/92
United Telecommunications, Inc., United Telecommunications, Inc., US Sprint Communications Company Limited Partnership	92-0479	01/17/92
FP Associates, L. P., Marfis S.A., Krames Communications, Inc	92-0482	01/17/92
The Dow Chemical Company, The Merchant Navy Officers Pension Fund, EOG (New Mexico) Inc	92-0485	01/21/92
George L. Argyos, American Cyanamid Company, Applied Solar Energy Corporation	92-0462	01/23/92
AB Investor, Forvaltnings AB Providentia, Forvaltnings AB Providentia	92-0481	01/23/92
Phoenix Mutual Life Insurance Company, Home Life Insurance Company, Home Life Insurance Company	92-0492	01/23/92
The Dow Chemical Company, Koch Industries, Inc., Koch Protective Treatments, Inc	92-0458	01/24/92
Automatic Data Processing, Inc., The Independent Election Corporation of America, The Independent Election Corporation of America	92-0497	01/24/92
Mercantile Stores Company, Maison Blanche, Inc., Maison Blanche, Inc	92-0524	01/24/92

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay or Renee A. Horton, Contact Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, room 303, Washington, DC 20580, (202) 326-3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 92-2866 Filed 2-5-92; 8:45 am]

BILLING CODE 6750-01-M

[Dkt. C-3363]

Dr. Scott M. Ross, d/b/a Mpls. Center for Cosmetic and Laser Surgery; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a Minneapolis cosmetic surgeon to disclose in certain advertisements the existence of risks from—and the expected recovery period following—his cosmetic surgery services, and to have scientific evidence supporting results claims.

DATES: Complaint and Order issued January 9, 1992.[1]

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[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public

Continued

FOR FURTHER INFORMATION CONTACT: Richard Kelly, FTC/H-200, Washington, DC 20580. (202) 326-3304.

SUPPLEMENTARY INFORMATION: On Friday, November 1, 1991, there was published in the **Federal Register**, 56 FR 56228, a proposed consent agreement with analysis In the Matter of Dr. Scott M. Ross, d/b/a Mpls. Center for Cosmetic and Laser Surgery, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 92-2865 Filed 2-5-92; 8:45 am]

BILLING CODE 6750-01-M

[Dkt. C-3364]

The Pinkerton Tobacco Company; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, the Virginia-based company from advertising any smokeless tobacco product on any broadcast medium, including television, in connection with the broadcast of any Pinkerton-sponsored event, and requires the respondent to distribute a copy of the order to each operating division, manager, officer, agent, or employee engaged in advertising or sponsorship activities, the production of sponsored events, or other sales materials.

DATED: Complaint and Order issued January 9, 1992.[1]

FOR FURTHER INFORMATION CONTACT: Judy Wilkenfeld, FTC/S-4002, Washington, DC 20580, (202) 326-3150.

SUPPLEMENTARY INFORMATION: On Thursday, November 7, 1991, there was published in the **Federal Register**, 56 FR 57009, a proposed consent agreement with analysis In the Matter of The Pinkerton Tobacco Company, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; Pub. L. 99-252, 15 U.S.C. 45, 4401)

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 92-2864 Filed 2-5-92; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

Workshop on Health Assessments: Meeting

The Agency for Toxic Substances and Disease Registry (ATSDR) announces the following meeting.

Name: Workshop on Health Assessments.

Time and Date: 5 p.m.-9 p.m., March 1, 1992, 8 a.m.-4:30 p.m., March 2, 1992, 8 a.m.-2:30 p.m., March 3, 1992.

Place: Austin Marriott at the Capitol, 701 East 11th Street, Austin, Texas 78701.

Status: Open to the public for observation and participation, limited only by the space available. The meeting room accommodates approximately 100 people.

Matters to be Considered: The meeting will convene a group of interested parties to discuss the ATSDR Public Health Assessment process. The ATSDR Public Health Assessment is the evaluation of data and information on the release of hazardous substances into the environment in order to assess any current or future impact on public health, develop health advisories or other recommendations, and identify studies or actions needed to evaluate and mitigate or prevent human health effects. The group will consider such areas as the Public Health Assessment definition and purpose, scope and limitations, initiation, roles of ATSDR staff, ATSDR-public interaction, steps and activities in a public health assessment, and possible follow-up health activities.

Oral comments will be scheduled at the discretion of the meeting facilitator and as time permits.

Contact Person For More Information: Chris Schmidt, Division of Health Assessment and Consultation, ATSDR (MS E32), 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone 404/639-0609 or FTS 236-0609.

Dated: January 31, 1992.

Elvin Hilyer,

Associate Director for Policy Coordination.

[FR Doc. 92-2862 Filed 2-5-92; 8:45 am]

BILLING CODE 4160-70-M

Health Resources and Services Administration; Filing of Annual Report of Federal Advisory Committee

Notice is hereby given that pursuant to section 13 of Public Law 92-463, the Annual Report for the following Health Resources and Service Administration's Federal Advisory Committee has been filed with the Library of Congress:

Council on Graduate Medical Education

Copies are available to the public for inspection at the Library of Congress Newspaper and Current Periodical Reading Room, room 1026, Thomas Jefferson Building, Second Street and Independence Avenue, SE., Washington, DC, or weekdays between 9:00 a.m. and 4:30 p.m. at the Department of Health and Human Services, Department Library, HHS North Building, room G-619, 330 Independence Avenue, SW., Washington, DC, telephone (202) 619-0791. Copies may be obtained from: Marc L. Rico, M.D., Executive Secretary, Council on Graduate Medical Education, Health Resources and Services Administration, room 4C-25, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-6190.

Dated: January 31, 1992.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 2943 Filed 2-5-92; 8:45 am]

BILLING CODE 4160-15-M

Health Resources and Services Administration; filing of Annual Report of Federal Advisory Committee

Notice is hereby given that pursuant to section 13 of Public Law 92-463, the Annual Report for the following Health Resources and Service Administration's Federal Advisory Committee has been filed with the Library of Congress

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Reference Branch, H-130, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue, NW Washington, DC 20580.

Advisory Council on Nurses Education

Copies are available to the public for inspection at the Library of Congress Newspaper and Current Periodical Reading Room, room 1026, Thomas Jefferson Building, Second Street and Independence Avenue, SE., Washington, DC, or weekdays between 9 a.m. and 4:30 p.m. at the Department of Health and Human Services, Department Library, HHS North Building, room, G-619, 330 Independence Avenue, SW., Washington, DC, telephone (202) 619-0791. Copies may be obtained from: Dr. Mary S. Hill, Executive Secretary, Advisory Council on Nurses Education, room 5C-14, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-6193.

Dated: February 3, 1992.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 92-2944 Filed 2-5-92; 8:45 am]

BILLING CODE 4160-15-M

National Institutes of Health

National Library of Medicine; Meeting of the Biomedical Library Review Committee

Pursuant to Public Law 92-463, notice is hereby given to the meeting of the Biomedical Library Review Committee on March 4-5, 1992, convening at 8:30 a.m. in the Board Room of the National Library of Medicine, Building 38, 8600 Rockville Pike, Bethesda, Maryland.

The meeting on March 4 will be open to the public from 8:30 a.m. to approximately 11 a.m. for the discussion of administrative reports and program developments. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C., and section 10(d) of Public Law 92-463, the meeting on March 4 will be closed to the public for the review, discussion, and evaluation of individual grant applications from 11 a.m. to approximately 5 p.m., and on March 5 from 8:30 a.m. to adjournment. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Roger W. Dahlen, Scientific Review Administrator, and Chief, Biomedical Information Support Branch, Extramural Programs, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, telephone number: 301-496-4221, will provide summaries of the meeting, rosters of the committee members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.879—Medical Library Assistance, National Institutes of Health.)

Dated: January 27, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-2772 Filed 2-5-92; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Dental Research; Meeting of National Institute of Dental Research (NIDR) Special Grants Review Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the NIDR Special Grants Review Committee, National Institute of Dental Research, February 25-27, 1992, Montgomery I, Marriott Residence Inn, 7335 Wisconsin Avenue, Bethesda, Maryland. The meeting will be open to the public from 8:30 to 9 a.m. on February 25 for general discussions. Attendance by the public is limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Public Law 92-463, the meeting will be closed to the public on February 25 from 9 a.m. to recess, on February 26 from 8:30 a.m. to recess and on February 27 from 8:30 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. William Gartland, Scientific Review Administrator, NIDR Special Grants Review Committee, NIH, Westwood Building, room 519, Bethesda, MD 20892, (telephone 301/496-7658) will provide a summary of the meeting, roster of committee members and substantive program information upon request.

(Catalog of Federal Domestic Assistance Program No. 93.121, Dental Research Institute; National Institutes of Health.)

Dated: January 27, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-2773 Filed 2-5-92; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute; Meeting of the Cancer Center Support Review Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Cancer Center Support Review Committee, National Cancer Institute, on March 26-27, 1992, Hyatt Regency Bethesda, 1 Bethesda Metro Center, Bethesda, MD 20814.

This meeting will be open to the public on March 26 from 8 a.m. to 8:30 a.m., to review administrative details and other cancer center review issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, the meeting will be closed to the public on March 26 from approximately 8:30 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Carole Frank, the Committee Management Officer, National Cancer Institute, Building 31, room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496-5708) will provide a summary of the meeting and the roster of committee members, upon request.

Dr. David E. Maslow, Scientific Review Administrator, Cancer Center Support Review Committee, National Cancer Institute, Westwood Building, room 804, National Institutes of Health, Bethesda, Maryland 20892 (301/496-2330) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.197, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control.)

Dated: January 27, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-2774 Filed 2-5-92; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Diabetes and Digestive and Kidney Diseases; Meetings of Subcommittees B, C, and D of the Diabetes and Digestive and Kidney Diseases Special Grants Review Committee

Pursuant to Public Law 92–463, notice is hereby given of meetings of Subcommittees B, C, and D of the National Diabetes and Digestive and Kidney Diseases Special Grants Review Committee, National Institute of Diabetes and Digestive and Kidney Diseases (NIDDKD).

These meetings will be open to the public to discuss administrative details at the beginning of the first session of the first day of the meetings. Attendance by the public will be limited to space available. Notice of the meeting room will be posted in the hotel lobby.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, for the review, discussion, and evaluation of individual research grant applications. Discussion of these applications could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winnie Martinez, Committee Management Officer, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, Building 31, room 9A19, Bethesda, Maryland 20892, 301–496–6917, will provide summaries of the meetings and rosters of the committee members upon request. Other information pertaining to the meetings can be obtained from the Scientific Review Administrators indicated.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Special Grants Review Committee, Subcommitte B.

Scientific Review Administrator: Francisco O. Calvo, Westwood Building, room 419, National Institutes of Health, Bethesda, Maryland 20892, Phone: 301–496–7697.

Dates of Meeting: March 5–6, 1992.

Place of Meeting: Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815.

Open: March 5, 8 a.m.–9 a.m.

Closed: March 5, 9 a.m–recess, March 6, 8 a.m.–adjournment.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Special Grants Review Committee, Subcommittee C.

Scientific Review Administrator: Daniel Matsumoto, Westwood Building, room 404B, National Institutes of Health, Bethesda, Maryland 20892, Phone: 301–496–8830.

Dates of Meeting: February 27–28, 1992.

Place of Meeting: Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, Maryland 20852.

Open: February 27, 8:30 a.m.–9 a.m..

Closed: February 27, 9 a.m.–recess, February 28, 8:30 a.m.–adjournment.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Special Grants Review Committee, Subcommittee D.

Scientific Review Administrator: Ann A. Hagan, Westwood Building, room 417A, National Institutes of Health, Bethesda, Maryland 20892, Phone: 301–496–7841.

Date of Meeting: February 20–21, 1992.

Place of Meeting: Columbia Inn, Wincopin Circle, Columbia, Maryland 21044.

Open: February 20, 5 p.m.–5:15 p.m.

Closed: February 20, 5:15 p.m.–recess, February 21, 8 a.m.–adjournment.

(Catalog of Federal Domestic Assistance Program No. 93.847–849, Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health)

Dated: January 27, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–2775 Filed 2–5–92; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Meeting of the Cancer Research Manpower Review Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Cancer Research Manpower Review Committee, National Cancer Institute, National Institutes of Health, February 25–28, 1992, The Saint James Hotel, 950 24th Street NW., Washington, DC 20037.

This meeting will be open to the public on February 25 from 7:30 p.m. to 8 p.m. to review administrative details and other cancer manpower review issues. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public on February 25 from 8 p.m. to recess and on February 26 through 28 from 8:30 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Committee Management Officer, National Cancer Institute, Building 31, room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5708) will provide summaries of the meeting and rosters of committee members upon request.

Dr. Mary Bell, Scientific Review Administrator, Cancer Research Manpower Review Committee, National Cancer Institute, Westwood Building, room 809, National Institutes of Health, Bethesda, Maryland 20892 (301/496–7978) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: January 27, 1992.

Susan Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–2776 Filed 2–5–92; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Deafness and Other Communication Disorders; Meeting of the Communication Disorders Review Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Communication Disorders Review Committee on February 26–27, 1992. The Committee will meet at the Hyatt Regency-Bethesda, One Bethesda Metro Center, Bethesda, Maryland 20814. Notice of the meeting room will be posted in the hotel lobby.

The Committee meeting will be open to the public on February 26 from 8 a.m. until 8:30 a.m. to discuss administrative details relating to Committee business. Attendance by the public will be limited to space available.

The meeting of the Committee will be closed to the public on February 26 from 8:30 a.m. until recess and on February 27 from 8 a.m. until adjournment at approximately 2 p.m. in accordance with provision set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C. and section 10(d) of Public Law 92–463, for the review, discussion, and evaluation of individual grant applications. These deliberations could reveal confidential trade secrets of commercial property, such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Further information concerning the Committee meeting may be obtained from Dr. Marilyn Semmes, Scientific Review Administrator, National Institute on Deafness and Other Communication Disorders, room 400B Executive Plaza South, Bethesda, Maryland, 301-496-8683.

(Catalog of Federal Domestic Assistance Program No. 93.173 Biological Research Related to Deafness and Other Communicative Disorders)

Dated: January 27, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-2777 Filed 2-5-92; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Meeting of the Clinical Applications and Prevention Advisory Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Clinical Applications and prevention Advisory Committee, National Heart, Lung, and Blood Institute, National Institutes of Health, on February 25-26, 1992. The meeting will be held in Conference Room 10, Building 31, 9000 Rockville Pike, Bethesda, Maryland 20892.

The entire meeting will be open to the public from 9 a.m. to recess on February 25 and 8:30 a.m. to adjournment of February 26 to discuss new initiatives, program policies, and issues. Attendance by the public will be limited to space available.

Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, room 4A21, National Institutes of Health, Bethesday, Maryland 20892, (301) 496-4236, will provide a summary of the meeting and a roster of committee members upon request.

Dr. Lawrence Friedman, Acting Director, Division of Epidemiology and Clinical Applications, Federal Building, room 212, Bethesda, Maryland 20892, (301) 496-2533, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 93.837, Heart and Vascular Diseases Research, National Institutes of Health)

Dated: January 29, 1992.

Susan K. Feldman,

Committee Management Officer, NIH

[FR Doc. 92-2778 Filed 2-5-92; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Meeting of the Arteriosclerosis, Hypertension and Lipid Metabolism Advisory Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Arteriosclerosis, hypertension and Lipid Metabolism Advisory Committee, National Heart, Lung, and Blood Institute, February 20-21, 1992, Building 31, Conference Room 4, A-Wing, National Institutes of Health, Bethesda, Maryland 20892.

The entire meeting will be open to the public from approximately 8:30 a.m. to recess on February 20, and 9 a.m. to adjournment on February 21, to evaluate program support in arteriosclerosis, hypertension and lipid metabolism. Attendance by the public will be limited on a space available basis.

Ms. Terry Belicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, room 4A21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-4237, will provide a summary of the meeting and a roster of the committee members.

Dr. Basil M. Rifkind, Deputy Associate Director, Arteriosclerosis, Hypertension and lipid Metabolism Program, NHLBI, room 4A14, Federal Building, National Institutes of Health, Bethesda, MD 20892, (303) 496-1661, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 93.837, Heart and Vascular Diseases Research, National Institutes of Health)

Dated: January 29, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-2779 Filed 2-5-92; 8:45 am]

BILLING CODE 4140-01-M

Division of Research Grants; Meetings

Pursuant to Public Law 92-463, notice is hereby given of the meetings of the following study sections for February through March 1992, and the individuals from whom summaries of meetings and rosters of committee members may be obtained.

These meetings will be open to the public to discuss administrative details relating to study section business for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Office of Committee Management, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20892, telephone 301-496-7534 will furnish summaries of the meetings and rosters of committee members. Substantive program information may be obtained from each scientific review administrator, room number, and telephone number are listed below each study section. Since it is necessary to schedule study section meetings months in advance, it is suggested that anyone planning to attend a meeting contact the scientific review administrator to confirm the exact date, time and location. All times are a.m. unless otherwise specified.

Study section	February-March 1992 meetings	Time	Location
AIDS & Related Research 1, Dr. Sami Mayyasi, Rm. A13, Tel. 301-496-0012	Mar. 25-26	8:00	Keystone Resort, Keystone, Co.
AIDS & Related Research 2, Dr. Gilbert Meier, Rm. A10, Tel. 301-496-5191	Feb. 28	8:00	Holiday Inn, Chevy Chase, MD.
AIDS & Related Research 3, Dr. Marcel Pons, Rm. A13, Tel. 301-496-7286	Feb. 25-27	8:30	Holiday Inn, Taos, NM.

Study section	February–March 1992 meetings	Time	Location
AIDS & Related Research 4, Dr. Mohindar Poonian, Rm. A10, Tel. 301–496–4886	Mar. 14–15	8:30	Casa Sirena Resort, Oxnard, CA.
AIDS & Related Research 5, Dr. Mohindar Poonian, Rm. A10, Tel. 301–496–4886	Mar. 6	8:30	Holiday Inn, Crowne Plaza, Rockville, MD.
AIDS & Related Research 6, Dr. Gilbert Meier, Rm. A10, Tel. 301–496–5191	Mar. 12	8:00	Holiday Inn, Chevy Chase, MD.
AIDS & Related Research 7, Dr. Gilbert Meier, Rm. A10, Tel. 301–496–5191	Mar. 6	8:30	Holiday Inn, Chevy Chase, MD.
Behavioral and Neurosciences-1, Dr. Luigi Giacometti, Rm. 303, Tel. 301–496–5352	Mar. 18–20	8:30	St. James Hotel, Washington, DC.
Behavioral and Neurosciences-2, Dr. Luigi Giacometti, Rm. 303, Tel. 301–496–5352	Mar. 12	8:30	St. James Hotel, Washington, DC.
Biological Sciences-1, Dr. James R. King, Rm. A22, Tel. 301–496–1067	Mar. 25–27	8:30	St. James Hotel, Washington, DC.
Biological Sciences-2, Dr. Syed Amir, Rm. 326, Tel. 301–496–3117	Mar. 16–18	8:30	Holiday Inn, Chevy Chase, MD.
Biological Sciences-3, Dr. Gene Headley, Rm. A27, Tel. 301–496–6728	Mar. 23–24	8:30	St. James Hotel, Washington, DC.
Biomedical Sciences, Dr. Charles Baker, Rm. 219, Tel. 301–496–7150	Mar. 23–25	8:30	Holiday Inn, Chevy Chase, MD.
Clinical Sciences-1, Mrs. Jo Pelham, Rm. 353, Tel. 301–496–7477	Mar. 12–13	8:30	Holiday Inn, Chevy Chase, MD.
Clinical Sciences-2, Mrs. Jo Pelham, Rm. 353, Tel. 301–496–7477	Mar. 26–27	8:00	Holiday Inn, Crowne Plaza, Rockville, MD.
Immunology, Virology & Pathology, Dr. Lynwood Jones, Rm. 20, Tel. 301–496–7510	Mar. 13–15	8:30	Balboa Bay Club, Irvine, CA.
International & Cooperative Projects, Dr. G.B. Warren, Rm. 222, Tel. 301–496–7600	Mar. 16–18	8:30	Embassy Suites Hotel, Chevy Chase Pavilion, Washington, DC.
Physiological Sciences, Dr. Nicholas Mazarella, Rm. 222, Tel. 301–496–1069	Mar. 19–20	8:30	Holiday Inn, Crowne Plaza, Rockville, MD.

(Catalog of Federal Domestic Assistance Program Nos. 13.306, 13.333, 13.337, 13.393–13.396, 13.837–13.844, 13.846–13.878, 13.892, 13.893, National Institutes of Health, HHS)

Dated: January 27, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–2771 Filed 2–5–92; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

Subcommittee of the National Vaccine Advisory Committee (NVAC); Public Meeting

AGENCY: Office of the Assistant Secretary for Health, HHS.

SUMMARY: The Department of Health and Human Services (DHHS) and the Office of the Assistant Secretary for Health (OASH) are announcing the forthcoming meeting of the NVAC Subcommittee on Access to Services.

DATES: Date, Time and Place: March 20, 1992, at 9:30 a.m., Parklawn Building, Conference Room C, Third Floor, 5600 Fishers Lane, Rockville, Maryland 20857. The entire meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Written requests to participate should be sent to Kenneth J. Bart, M.D., M.P.H., Director and Executive Secretary, National Vaccine Advisory Committee, National Vaccine Program Office, 5600 Fishers Lane, Parklawn Building, room 13A–56, Rockville, Maryland 20857, (301) 443–0715.

Agenda: Open Public Hearing

Interested persons may formally present data, information, or views orally or in writing on issues pending before the Subcommittee or on any of the duties and responsibilities of the Subcommittee as described below. Because of limited seating, those desiring to make such presentations should make a request to the contact person before March 13, and submit a brief description of the information they wish to present to the Subcommittee. Those requests should include the names and addresses of proposed participants and an indication of the approximate time required to make their comments. A maximum of 10 minutes will be allowed for a given presentation. Any person attending the meeting who does not request an opportunity to speak in advance of the meeting will be allowed to make an oral presentation at the conclusion of the meeting, if time permits, at the chairperson's discretion.

Open Subcommittee Discussion

The Subcommittee will discuss a draft report to be submitted to the full NVAC on April 21–22. It will focus on barriers to access with emphasis on the unmet needs related to third party payment. It will recommend measures to enhance public and private third party payment, if appropriate, as a mechanism to improve access to immunization. The agenda will be announced at the beginning of the meeting.

Persons interested in specific agenda items may ascertain from the contact person the approximate time of discussion. A list of Subcommittee members and the charter of the Advisory Committee will be available at the meeting. Those unable to attend the meeting may request this information from the contact person.

Dated: January 28, 1992.

Kenneth J. Bart,

Executive Secretary, NVAC.

[FR Doc. 92–2791 Filed 2–5–92; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO-010-01-5101-09-C003: COC-52705]

Availability for a Natural Gas Pipeline Right-of-Way Environmental Assessment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of an environmental assessment for a right-of-way to construct, operate, and maintain a 20-inch buried natural gas pipeline, and request for comments.

SUMMARY: Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Colorado Interstate Gas Company (CIG) has filed an application with the Bureau of Land Management for a right-of-way to construct, operate, and maintain a 20-inch buried, natural gas pipeline. This proposed pipeline, referred to as the Uinta Basin Lateral, would be approximately 223 miles long, crossing public, State, tribal, and private lands in Uinta County, Utah, Rio Blanco County, Colorado, Moffat County, Colorado, and Sweetwater County, Wyoming. It is the purpose of this notice to inform the public and other interested parties that the Bureau of Land Management (BLM) has completed an environmental assessment for this action, and is accepting comments on this environment analysis. This environmental assessment and its supportive documentation is available through the involved Bureau of Land Management offices and the Federal Energy Regulatory Commission.

DATES: Written comments will be accepted until march 9, 1992. No public meetings are presently planned.

ADDRESSES: Comments should be sent to the Project Manager, Bureau of Land Management, Post Office Box 928, Meeker, Colorado 81641.

FOR FURTHER INFORMATION CONTACT: Dan Martin, Project Manager (303) 878-3601, or FTS 581-5505.

SUPPLEMENTARY INFORMATION: The Uinta Basin Lateral Project is being proposed by CIG in order to connect natural gas supplies in the Natural Buttes area in Utah, and the Piceance Basin in Colorado with their existing Rock Springs to Denver Main Line, for delivery to markets in the midwest and east. The proposal is to construct, operate, and maintain a 20-inch, buried natural gas pipeline, from the vicinity of Bonanza, Utah, through western Colorado, and on to the vicinity of Wamsutter, Wyoming.

The proposed pipeline would be approximately 223 miles long, and would have a capacity of approximately 180 MMcf per day. Related facilities would include new and additional compression at two sites, four meter stations, and two communication sites. The proposed pipeline would parallel existing pipeline rights-of-way for approximately 85% of its length.

Construction would take approximately nine (9) months, and would tape place in multiple spreads or segments. All related activities would be performed in compliance with the mitigation measures contained or referenced in the environmental assessment and other applicable authorizing documents.

The right-of-way, which would have a width of 50 feet (with an average additional 10 feet for work space during construction), would be cleared, and the topsoil stripped and stockpiled for use in reclamation. Cut and fill techniques would only be utilized in rugged topography where steep side-slopes are encountered.

Ditching would generally be accomplished by using a mechanical trencher or a backhoe. However, some blasting may be necessary where surface or subsurface rock precludes other ditching methods. In these latter instances, precautions necessary for the protection of existing structures, facilities, and water supplies will be adhered to. After the ditch is prepared, the pipe will be positioned, welded, and placed in the trench following standard pipeline construction methods. The pipeline will be tested in accordance with Department of Transportation regulations.

After pipeline installation is completed, all work areas will be restored to as near their pre-construction condition as possible. The right-of-way will be waterbarred as necessary, and reseeded.

Several potential issues have been identified. These include threatened and endangered species of plants and animals, cultural resources, wildlife, steep unstable slopes, fragile soils, major river crossings (5) riparian areas, and alternatives.

Because most of the proposed pipeline route is on public land administered by the BLM, the BLM has been the lead Federal agency for preparation of the required environmental documentation under the National Environmental Policy Act. However, authorization will also be required from the Federal Energy Regulatory Commission, the Bureau of Indian Affairs, and the U.S. Army Corps of Engineers.

William J. Pulford,

District Manager, Craig District.

[FR Doc. 92-2913 Filed 2-5-92; 8:45 am]

BILLING CODE 4310-JB-M

[AA-620-4110-02-24 1A]

Decision of the Secretary of the Interior Extending Reduction in Rental Rate for Oil and Gas Leases

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision of the Secretary of the Interior extending rental rate reduction for all onshore oil and gas leases except those issued under the provisions of the Federal Onshore Oil and Gas Leasing Reform Act of 1987, the Combined Hydrocarbon Leasing Act of 1981, and those reinstated under the provisions of the Federal Oil and Gas Royalty Management Act of 1982.

SUMMARY: The Secretary of the Interior is extending the rental rate reduction announced in the **Federal Register** on January 19, 1989 (vol. 54, no. 12), for onshore oil and gas leases in force issued prior to January 1, 1988. Exempted from the rental rate reduction are those leases issued under the provisions of the Federal Onshore Oil and Gas Leasing Reform Act of 1987, Combined Hydrocarbon Leasing Act of 1981, and the Federal Oil and Gas Royalty Management Act of 1982.

EFFECTIVE DATE: March 1, 1992.

ADDRESSES: Inquiries or suggestions should be sent to: Director (620), Bureau of Land Management, room 510, LS Building, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Gary W. Horton (202) 653-2182.

SUPPLEMENTARY INFORMATION: Effective March 1, 1989, the Secretary of the Interior reduced, to not greater than $1 per acre or fraction thereof per year, the rate of rental for all onshore oil and gas leases then in force. The reduction in the rental rate extends through February 29, 1992. Exempted from that reduction were those leases issued under the provisions of the Federal Onshore Oil and Gas Leasing Reform Act of 1987, the Combined Hydrocarbon Act of 1981, and those leases reinstated under the provisions of the Federal Oil and Gas Royalty Management Act of 1982.

The Secretary of the Interior has announced a decision to continue this rental reduction through February 28, 1993 because in his judgment the extension is necessary to promote development of Federal oil and gas resources. This action becomes effective March 1, 1992, and will continue through February 28, 1993, unless, after considering factors related to the rental rate such as the level of development of Federal leases, economic conditions in the oil industry including the price of oil, or the level of imports, the Secretary of the Interior decides to terminate the rental reduction at an earlier date. Any decision to terminate the rental reduction policy will be made only after lessees are given 3 months notice of the intended action. The reduction applies to all rental for all leases in effect on March 1, 1992, except those leases issued under the provisions of the Federal Onshore Oil and Gas Leasing Reform Act of 1987, the Combined Hydrocarbon Act of 1981, and those reinstated under the provisions of the Federal Oil and Gas Royalty Management Act of 1982, regardless of the rate then applicable unless that rate already is less than $1 per acre per year.

This rental reduction is granted by the Secretary of the Interior under section 39 of the Mineral Leasing Act of 1920 (30 U.S.C. 209) which states in part: "The Secretary of the Interior, for the purpose of encouraging the greatest ultimate recovery of coal, oil, gas, * * * and in the interest of conservation of natural resources, is authorized to waive, suspend, or reduce the rental * * * whenever in his judgment it is necessary to do so in order to promote development * * *."

The Department of the Interior granted, in 1986 and 1987, a rental reduction for all simultaneous leases whose annual rental rates would otherwise have increased by regulation from $1 to $3 per acre. The rental rates remained at $1 per acre. This policy was in response to an increase in oil and gas lease terminations and relinquishments. The Federal Government wished to encourage domestic exploration and development and allow more economical Federal oil and gas development. In order to enable developers to project more constant Federal oil and gas lease acquisition costs over a longer period of time and provide more stability to the industry, the annual rental rates for certain onshore Federal oil and gas leases was reduced in 1989 to $1 per acre beyond the initial lease year.

The economic conditions that precipitated the Secretary of the Interior to reduce the rental rates at that time are still prevalent today. The price for benchmark West crude recently was $18.50 per barrel and likely to drop as production in Kuwait increases and as Iraqi oil is allowed onto the world markets. In turn, this reduces the economic attractiveness of domestic exploration and recent operating drilling rig counts have declined to under 1,000 from over 10,000 during the boom times in the late 1970's and 1980's. The Secretary finds that raising the rental rates from their present level of $1 per acre will reduce the amount of acreage under lease and thereby diminish the likelihood that development of leases will occur. By extending the rental reduction for 1 more year, the Secretary of the Interior will be ensuring that the Federal leasing program itself is not a deterrent to exploration, but instead provides an incentive for development of oil and gas resources.

Dated: January 31, 1992.

Manuel Lujan, Jr.

Secretary of the Interior.

[FR Doc. 92-2932 Filed 2-5-92; 8:45 am]

BILLING CODE 4310-84-M

[WY-040-02-4212-14; WYW105087]

Realty Action; Direct Sale of Public Lands; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, sale of public lands in Sweetwater County.

SUMMARY: The Bureau of Land Management has determined that the lands described below are suitable for public sale under section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713 and 1719:

Sixth Principal Meridian

T. 19 N., R. 105W.,
  Sec. 2, E½NW¼SE¼SW¼, SW¼NE¼SE¼SW¼.

The above lands aggregate 7.5 acres.

FOR FURTHER INFORMATION CONTACT: Sally Haverly, Realty Specialist, Bureau of Land Management, Green River Resource Area, 1993 Dewar Drive, Rock Springs, Wyoming 82901, 307-362-6422.

SUPPLEMENTARY INFORMATION: The Bureau of Land Management proposes to sell the surface estate to Max Long pursuant to section 203 of the Federal Land Policy and Management Act of 1976.43 U.S.C. 1713 and 1719. The land is now under lease as a trade and manufacturing site. The site has been certified as free of hazardous materials. The Rock Springs Grazing Association has been given a two-year notification of the cancellation of grazing privileges. The proposed direct sale would be made at fair market value.

The proposed sale is consistent with the Big Sandy Management Framework Plan. Due to the difficulty in managing these lands, private ownership is believed to be in the best interests of the public. The planning document and environmental assessment covering the proposed sale will be available for review at the Bureau of Land Management, Green River Resource Area, Rock Springs, Wyoming.

Conveyance of the above public lands will be subject to:

1. Reservation of a right-of-way for ditches or canals pursuant to the Act of August 30, 1890, 43 U.S.C. 945.
2. Highway right-of-way W026038.
3. Reservation of all minerals.

The public lands described above shall be segregated from all forms of appropriation under the public land laws, including the mining laws upon publication of this notice in the **Federal Register**. The segregative effect will end upon issuance of the patent or 270 days from the date of the publication, whichever comes first.

For a period of forty-five (45) days from the date of issuance of this notice, interested parties may submit comments to the Bureau of Land Management, District Manager, Rock Springs, P.O. Box 1869, Rock Springs, Wyoming 82902. Any adverse comments will be evaluated by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections this proposed realty action will become final.

January 29, 1992.

William W. LeBarron,

Area Manager.

[FR Doc. 92-2895 Filed 2-5-92; 8:45 am]

BILLING CODE 4310-22-M

[ID-942-02-4730-12]

Filing of Plats of Survey: Idaho

The plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9 a.m., January 28, 1992.

The plat representing the dependent resurvey of portions of the east and north boundaries, subdivisional lines and the subdivision of sections 1, 11, and 12, T. 9 N., R. 42 E., Bosie Meridian, Idaho, Group No. 815, was accepted, January 23, 1992.

This survey was executed to meet certain administrative needs of the Bureau of Land Management.

All inquiries concerning the survey of the above described land must be sent to the Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Bosie, Idaho, 83706

Dated: January 28, 1992.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 92-2893 Filed 2-5-92; 8:45 am]

BILLING CODE 4310-GG-M

[CA-060-02-4214-08]

Review of Land Use Plan Determinations on Lands Proposed for Termination of Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the Bureau of Land Management is preparing a Category 3 Amendment to the California Desert Conservation Area (CDCA) Plan in accordance with the amendment procedures outlined in chapter 7 of the plan. The proposed amendment will address future land use of 469,890.89 acres of public land in Imperial, Riverside, and San Bernardino Counties for which existing Bureau of Reclamation withdrawals are being recommended for termination. The proposed amendment will review existing Multiple Use Class designations for these lands to ensure that they are adequate for guiding management of the lands and resources and will identify lands which warrant segregation from entry under the Mining Law of 1872.

DATES: Comments should be received by March 9, 1992.

ADDRESSES: Comments should be sent to Area Manager, El Centro Resource Area Office, 333 South Waterman Avenue, El Centro, California 92243-2298.

FOR FURTHER INFORMATION CONTACT: Thomas F. Zale, Multi-Resource Staff Chief, El Centro Resource Area Office, 619-325-5842.

SUPPLEMENTARY INFORMATION: During the first half of this century, several hundred thousand acres of public lands were withdrawn from entry under the general land laws including the Mining Law of 1872 for various Bureau of Reclamation projects. In 1978, the El Centro Resource Area assumed responsibility for the management of the majority of these lands under a supplement to an existing Memorandum of Agreement between the Bureau of Reclamation and the Bureau of Land Management. In 1980 these lands were assigned Multiple Use Class designations and the CDCA Plan multiple use class guidelines have since guided application of the general land laws to these withdrawn lands.

The CDCA was based on the assumption that the segregation of these lands from entry under the Mining Law would continue. Therefore, these lands were not allocated for locatable minerals activities. Furthermore, the Environmental Impact Statement prepared on the CDCA Plan was based on the assumption that there would be no impacts from mining due to the segregation then in effect.

A review of the Bureau of Reclamation withdrawals that segregated these lands was completed in January 1992. As the result, the Bureau is recommending that the withdrawals be terminated on 469,890.89 acres in the CDCA. The proposed amendment will review existing Multiple Use Class designations for these lands to ensure that they are adequate for guiding management of the lands and resources and will identify lands which warrant segregation from entry under the Mining Law of 1872.

The California Desert District Advisory Council's public meeting on February 20-22 will serve as a scoping meeting for the environmental document to be prepared on the proposed amendment. Further information and a list of affected lands may be obtained from the El Centro Resource Area Office.

Dated: January 31, 1992.

G. Ben Koski,

Area Manager.

[FR Doc. 92-2861 Filed 2-5-92; 8:45 am]

BILLING CODE 4310-40-M

Fish and Wildlife Service

Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

PRT-764986

Applicant: Ronald Bartels, Schriever, LA.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) to be culled from the captive herd maintained by Mr. E.V. Pringle, Bedford, Republic of South Africa, for the purpose of enhancement of survival of the species.

PRT-765194

Applicant: Burnet Park Zoo, Syracuse, NY.

The applicant requests a permit to export blood and urine samples taken from captive-held Asian elephants (*Elephus maximus*) to Great Britain for analysis of estrogen and progesterone metabolites for enhancement of survival of the species.

PRT-765052

Applicant: L.A. Waters, Houston, TX.

The applicant requests a permit to purchase, in interstate commerce, three male and five female captive born Grevy's zebras (*Equus grevyi*) from the Rare Animal Survival Center, Inc., for captive breeding purposes.

PRT-765131

Applicant: San Diego Wild Animal Park, San Diego, CA.

The applicant requests a permit to import one male and one female captive hatched Oriental White Stork (*Ciconia ciconia boyciana*), from Tama Zoological Park, Tokyo, Japan, for captive breeding purposes.

PRT-765047

Applicant: William Wyatt, Redmond, OR.

The applicant requests a permit to import three male and two female captive hatched White-eared pheasants (*Crossoptilon crossoptilon*), from the South View Aviaries, Burnaby, B.C., Canada, for captive breeding purposes.

PRT-765141

Applicant: Henry McNatt, Lutz, FL 33549.

The applicant requests a permit to import a sport-hunted trophy of a male bontebok (*Damaliscus dorcas dorcas*) from the captive herd of E.V. Pringle, Bedford, South Africa, for enhancement of survival of the species.

PRT-765048

Applicant: San Diego Zoological Society, San Diego, CA.

The applicant requests a permit to import 1 male and two female Barbary red deer (*Cervus elaphus barbarus*) that were captive born at Municipalite de Tunis, Parc Zoologique du Belvedere, Tunis, Tunisie, for captive breeding purposes.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of

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such documents to, or by appointment during normal business hours (7:45–4:15) in, the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281)

Dated: January 31, 1992.

Maggie Tieger,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 92–2853 Filed 2–5–92; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

Subsistence Resource Commission Meeting

ACTION: Subsistence Resource Commission meeting.

SUMMARY: The Superintendent of Gates of the Arctic National Park and Preserve and the Chairperson of the Subsistence Resource Commission for Gates of the Arctic National Park announce a forthcoming meeting of the Gates of the Arctic National Park Subsistence Resource Commission.

The following agenda items will be discussed:

(1) Introduction of commission members and guests.
(2) Superintendent's welcome.
— Review of SRC function and purpose.
(3) Old business.
a. Review and approval of minutes.
b. Wiseman Resident Zone Boundary.
c. Hunting plan recommendations work session.
— Review recommendations and public comments.
— Prepare and approve recommendations for submission to Secretary and Governor.
(4) New business.
a. Federal subsistence program update.
b. Superintendent's Report.
— Update on ATV Agreement.
— Update on subsistence research program.
c. Public and other agency comments.

DATE: The meeting will begin at 9 a.m. on Tuesday, February 25, 1992, and conclude around 5 p.m. The meeting will reconvene at 9 a.m. on Wednesday, February 26 and conclude around 5 p.m.

LOCATION: The meeting will be held at the Regency Fairbanks Hotel, Fairbanks, Alaska.

FOR FURTHER INFORMATION CONTACT: Roger Siglin, Superintendent, P.O. Box 74680, Fairbanks, Alaska 99707. Phone (907) 456–0281.

SUPPLEMENTARY INFORMATION: The Subsistence Resource Commission is authorized under Title VIII, section 808, of the Alaska National Interest Lands Conservation Act, Public Law 96–487, and operates in accordance with the provisions of the Federal Advisory Committees Act.

John M. Morehead,

Regional Director.

[FR Doc. 92–2936 Filed 2–5–92; 8:45 am]

BILLING CODE 4310-70-M

National Park System Advisory Board; Meeting

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of meeting of National Park System Advisory Board.

Notice is hereby given in accordance with the Federal Advisory Committee Act, 5 U.S.C. appendix, that a meeting of the National Park System Advisory Board will be held on February 26 and 27, 1992 at the Holiday Inn Crowne Plaza, 333 Poydras, New Orleans, Louisiana. The general business session will start at 8 a.m., Wednesday, February 26, continuing until about 5 p.m. The Board will reconvene at about 8 a.m. the next morning and conclude its meeting by about noon on Thursday, February 27.

Potential National Historic Landmarks will be discussed beginning at about 9 a.m. on February 26, along with the Service's recent study of World War II in the Aleutians focusing on Dutch Harbor Naval Operating Base, Alaska; the potential Selma to Montgomery National Historic Trail, Alabama; and several historic sites considered to be high priority candidates for study as potential additions to the National Park System. Board discussion during the afternoon of February 26 and the morning of February 27 will cover the Service's proposed revised regulations for the National Natural Landmarks Program; several areas with natural resources considered to be high priority candidates for study as potential additions to the National Park System; Board activities relating to the Outdoor Recreation and Education Initiatives of the Secretary of the Interior; urban park issues; the transition of the Presidio of San Francisco to administration by the National Park Service; National Heritage Corridors; the Columbus Quincentennial; and other topics. The Board will also be addressed by officials of the Department of the Interior and the National Park Service. The meeting will follow orientation tours and briefings in Jean Lafitte National Historical Park and Preserve.

The business meeting will be open to the public. Space and facilities to accommodate members of the public are limited and persons will be accommodated on a first-come, first-served basis. Anyone may file with the Board a written statement concerning matters to be discussed. The Chairman may also permit attendees to address the Board, but may restrict the length of presentations as necessary to allow the Board to complete its agenda within the allotted time.

Persons wishing further information concerning the meeting, or who wish to submit written statements, may contact Mr. David L. Jervis, Office of Policy, National Park Service, P.O. Box 37127, Washington, DC 20013–7127 (telephone 202–208–4030). More specific information on particular topics may be obtained from the following persons at the same P.O. box address:

National Historic Landmarks—Senior Historian Ben Levy, History Division (202–343–8164);
Selma to Montgomery Trail Study and Columbus Quincentennial—Chief Historian Edwin Bearss, History Division (202–343–8167);
Dutch Harbor and study areas for potential addition to the National Park System—Mr. Warren Brown, Park Planning and Protection Division (202–208–4385);
National Natural Landmark regulations—Dr. Anne Frondorf, Wildlife and Vegetation Division (202–343–8129); and
National Heritage Corridors—Ms. Peggy Lipson, Park Planning and Protection Division (202–208–4279).

Draft summary minutes of the meeting will be available for public inspection about 12 weeks after the meeting, in room 1220, Main Interior Building, 18th and C Streets, NW., Washington, DC.

Herbert S. Cables, Jr.,

Deputy Director.

[FR Doc. 92–2860 Filed 2–5–92; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related form and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Paperwork Reduction Project (1029–0036), Washington, DC 20503, telephone 202–395–7340.

Title: Surface Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan 30 CFR 780.

OMB Number: 1029–0036.

Abstract: Sections 507(b), 508(a) and 515(b) and (d) of Public Law 95–87 require applicants for surface mine permits to provide a description of each existing structure proposed to be used in the mining and reclamation operation and a compliance plan for structures proposed to be modified or constructed for use in the operation. This information is used by the regulatory authority in determining if the applicant can comply with the applicable performance and environmental standards.

Bureau Form Number: None.

Frequency: On occasion.

Description of Respondents: Surface Coal Mining Operators.

Annual Responses: 7,487.

Annual Burden Hours: 203,949.

Average Burden Hours Per Response: 27.

Bureau Clearance Officer: Andrew DeVito (202) 343–5150.

January 13, 1992.

Andrew F. DeVito,

Acting Chief, Division of Technical Services.

[FR Doc. 92–2896 Filed 2–5–92; 8:45 am]

BILLING CODE 4310–05–M

JUDICIAL CONFERENCE OF THE UNITED STATES

Hearings of the Judicial Conference Committee to Review the Criminal Justice Act

AGENCY: Judicial Conference of the United States.

ACTION: Notice of public hearings.

SUMMARY: The Judicial Conference Committee to Review the Criminal Justice Act will hold public hearings to receive the views of all interested persons regarding the current effectiveness of the Criminal Justice Act. The Act provides for the appointment of counsel and other defense services to individuals who are unable to afford them in Federal criminal proceedings. The Committee's review will encompass all issues directly related to the structure and procedure for delivery of services, and the appointment and compensation of federal defenders and private panel attorneys. Based in part on these hearings, the Committee is expected to recommend legislative, procedural and operational changes which would enhance the quality of those services.

The hearings will be held in the following cities on the dates indicated, beginning at 10 a.m.:

Atlanta, Georgia—Friday, February 28, 1992
Chicago, Illinois—Friday, March 13, 1992
Boston, Massachusetts—Friday, March 27, 1992
Denver, Colorado—Friday, April 10, 1992

Any person or organization wishing to participate in these public hearings should call (202) 786–6625 or write the Committee to Review the Criminal Justice Act, Washington, DC 20544 for details as to the hearing schedule.

Dated: January 24, 1992.

William J. Lehman,

Special Assistant to the Deputy Director.

[FR Doc. 92–2734 Filed 2–5–92; 8:45 am]

BILLING CODE 2210–01–M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Under the Clean Water Act

In accordance with the policy of the Department of Justice, 28 CFR 50.7, notice is hereby given that on January 28, 1992, a proposed Consent Decree in *United States* v. *The Town of Buckeye, Arizona,* was lodged with the United States District Court for the District of Arizona. That action was brought pursuant to the Clean Water Act for violations by the Town of Buckeye of a permit issued pursuant to section 402 of the Clean Water Act, 33 U.S.C. 1342, and for violations of an Administrative Order issued by the U.S. Environmental Protection Agency.

Pursuant to the Consent Decree, Buckeye has built a new wastewater treatment facility, and a dechlorination facility, and must meet the terms of its permit issued under the Clean Water Act. Buckeye will also pay a civil penalty of $25,000 for its violations of the Clean Water Act.

As provided in 28 CFR 50.7, the Department of Justice will receive comments from persons who are not named as parties to this action relating to the proposed Consent Decree for a period of thirty days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530. All comments should refer to *United States* v. *Town of Buckeye, Arizona,* D.J. Ref. 90–5–1–1–2394.

The proposed Consent Decree may be examined at the office of the United States Attorney, 230 North First Avenue, room 4000, Phoenix, Arizona 85025, and at the Region IX office of the U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, California 94105. A copy of the proposed Consent Decree may also be examined at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue, NW., Washington, DC 20004, (202) 347–2072. A copy of the proposed Consent Decree may be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of $5.75 for a copy of the consent decree (25 cents per page reproduction costs) payable to "Consent Decree Library."

John C. Cruden,

Chief, Environmental Enforcement Section, Environmental and Natural Resources Division.

[FR Doc. 92–2898 Filed 2–5–92; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree

In accordance with the policy of the Department of Justice, 28 CFR 50.7, and pursuant to section 122(d)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. 9622(d)(2), notice is hereby given that the final proposed Consent Order and Stipulations in In re Bowling Industries, Inc., BK No. 89–9410, and In re David and Regina Bowling, BK No. 90–16091, was lodged with the United States Bankruptcy Court for the Northern District of Alabama on December 18, 1991. This action was brought by the United States Environmental Protection Agency pursuant to section 107 of CERCLA, 42 U.S.C. 9607.

Under the proposed Consent Order and Stipulations, the debtors, trustee, and remaining secured creditor agree to pay 80% of the net proceeds received from the sale of the Bowling Industries facility to the United States to reimburse the United States partially for environmental response actions taken at the Bowling Industries electroplating facility located Arab, Alabama. The Department of Justice will receive comments relating to the proposed Consent Decree for a period of 30 days from the date of this publication.

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Comments should be addressed to the Acting Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, 10th and Pennsylvania Avenue NW., Washington, DC 20530. All comments should refer to *In re Bowling Industries, Inc.*, D.J. Ref. 90–11–2–702. The proposed Consent Decree may be examined at the offices of the United States Attorney, 200 Federal Building, 1800 Fifth Avenue North, Birmingham, Alabama 35203, the office of the U.S. Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Georgia 30365, and the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building NW., Box 1097, Washington, DC 20004 (202–347–7829).

A copy of the proposed Consent Decree may be obtained in person or by mail from the Document Center. Any request for a copy of the proposed Consent Decree should be accompanied by a check in the amount of $1.50 for copying costs ($0.25 per page for reproduction costs) payable to the "Consent Decree Library".

Barry M. Hartman,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 92–2899 Filed 2–5–92; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree United States v. Lindsay Manufacturing Company

In accordance with Departmental Policy, 28 CFR 50.7, and pursuant to section 122(d)(2)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. 9622(d)(2)(B), notice is hereby given that a Consent Decree in *United States* v. *Lindsay Manufacturing Company*, Civil Action No. 8:CV92–00015 (D.Neb.), was lodged with the United States District Court for the District of Nebraska on 01/09/92. This action was brought under Sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607. The Consent Decree provides that defendant Lindsay Manufacturing Company will clean up the Lindsay Manufacturing Company Superfund Site located in the Village of Lindsay, Platte County, Nebraska, approximately 75 miles northwest of Omaha, Nebraska, as required by the Record of Decision issued by the U.S. Environmental Protection Agency on September 28, 1990, and pay all past and future response costs incurred by the U.S. Environmental Protection Agency.

For thirty (30) days from the date of publication of this notice, the Department of Justice will receive written comments relating to the Consent Decree from persons who are not parties to the action. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530 and should refer to *United States* v. *Lindsay Manufacturing Company*, D.O.J. Ref. No. 90–11–2–682.

The Consent Decree may be examined at the Office of the United States Attorney, District of Nebraska, room 8000, United States Courthouse, 215 North 17th Street, Omaha, Nebraska 68101, and at the Region VII office of the U.S. Environmental Protection Agency, 726 Minnesota Ave., Kansas City, Kansas 66101.

A copy of the Consent Decree also may be examined at the Environmental Enforcement Section Document Center, 1521, 601 Pennsylvania Ave., NW., Washington, DC 20004. A copy of the Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center. The proposed Consent Decree package consists of an 83-page Consent Decree and 76 pages of Appendices. You may request a copy of the Consent Decree with or without appendices. Please specify in the request whether or not appendices are requested. A request for a copy of the proposed Consent Decree with appendices should be accompanied by a check in the amount of $39.75 (25 cents per page reproduction charge) payable to "Consent Decree Library." A request for a copy of the proposed Consent Decree without appendices should be accompanied by a check in the amount of $20.75 payable to "Consent Decree Library."

Roger B. Clegg,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 92–2897 Filed 2–5–92; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to Comprehensive Environmental Response Compensation and Liability Act

In accordance with section 122(i)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended by the Superfund Amendments and Reauthorization Act of 1986, Public Law 99–499, 42 U.S.C. 9622(i)(1), as well as Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Alvin R. Lindsey et al.* (M.D. Fla.) Civ. No. 92–115–CIVT22C was lodged with the United States District Court for the Middle District of Florida on January 27, 1992. This agreement resolves a judicial enforcement action brought by the United States against the defendants pursuant to sections 106 and 107 of CERCLA, for the cleanup of the 62d Street Superfund Site ("the Site") located in Tampa, Hillsborough County, Florida, and for the recovery of costs expended by the United States in connection with the Site.

The United States entered into the Consent Decree with Alvin R. Lindsey and Marietta Brown, the current owners of the Site, and the owners at the time hazardous substances were disposed of at the Site. The United States also entered into the Consent Decree with Gulf Coast Recycling, Inc., Lafarge Corporation, Florida Steel Corporation, and David J. Joseph Company, who dumped wastes into the on-site pit.

The Consent Decree requires the defendants to implement the remedial action selected by the Environmental Protection Agency ("EPA") for the Site, be obligated for future costs, including oversight, and reimburse the United States for a portion of its response costs at the Site.

The Department of Justice will receive, for a period of (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Alvin R. Lindsey et al.* DOJ # 90–11–2–624.

The Decree may be examined at the offices of the United States Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365, and at the offices of the Environmental Enforcement Section, Environment and Natural Resources Division of the Department of Justice, room 1535, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. The proposed Consent Decree may also be examined at the Environmental Enforcement Section Document Center, 601 Pennsylvania Ave., NW., Box 1097, Washington, DC 20004, 202–347–7829. A copy of the proposed consent decree may be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of $13.25 (25 cents per page reproduction costs) payable to Consent Decree Library.

Barry M. Hartman,

Acting, Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 92-2900 Filed 2-5-92; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on January 23, 1992 a proposed Consent Decree in *United States* v. *Westinghouse Electric Corporation et al.*, Civil Action No. IP-88-81C, was lodged with the United States District Court for the Southern District of Indiana. The proposed Consent Decree concerns the recovery of response costs incurred by the Environmental Protection Agency in connection with response activities carried out to clean up the Fell Iron and Scrapyard Site in Bloomington, Indiana. The proposed Consent Decree requires defendants Westinghouse Electric Corporation to pay the United States $887,598.90, in settlement of defendant's liability for past costs incurred by the United States in connection with the Fell Site. Westinghouse has also agreed to pay the United States' future costs that will be incurred in connection with that Site, subject to certain rights to challenge such future costs.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Westinghouse Electric Corporation, et al.*, D.J. Ref. 90-11-3-292.

The proposed Consent Decree may be examined at the office of the United States Attorney, Southern District of Indiana, U.S. Courthouse, 5th Floor, 46 East Ohio St., Indianapolis, Indiana 46204, and at the Region V Office of the Environmental Protection Agency, 111 West Jackson Street, Chicago, Illinois 60604. The proposed Consent Decree may be examined at the Environmental Enforcement Section Document Center, 601 Pennsylvania Ave., NW., Box 1097, Washington, DC 20004, 202/347-7829. A copy of the proposed Consent Decree may be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of $7.00 (25 cents per page reproduction cost), payable to Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 92-2901 Filed 2-5-92; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on January 28, 1992, a proposed Consent Decree in *United States* v. *Lionetti Oil Recovery, Inc.*, Civil No. 90-2286, was lodged with the United States District Court for the District of New Jersey. The proposed consent Decree settles the United States' claims that the defendants had violated various provisions of the Resource, Conservation and Recovery Act.

Under the terms of the Consent Decree the settling defendants will pay $75,000 in civil penalties and implement a sampling work plan.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Lionetti Oil Recovery, Inc.*, D.O.J. Ref. 90-7-492.

The proposed Consent Decree may be examined at the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, N.Y., N.Y. Copies of the Consent Decree may be examined at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building, NW., Washington, DC 20044. (202) 347-2072). A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building, NW., Box 1097, Washington, DC 20044. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $6.75 (25 cents per page reproduction cost) made payable to Consent Decree Library.

Barry M. Hartman,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 92-2902 Filed 2-5-92; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree

Notice is hereby given that a proposed Consent Decree in *United States* v. *Midwest Solvent Recovery, Inc.*, Civil Action No. H-79-556, was lodged on January 31, 1992 with the United States District Court for the Northern District of Indiana. This action consists of, *inter alia*, claims for cost recovery and enforcement of Unilateral Administrative Orders issued by the United States Environmental Protection Agency ("EPA") under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601 *et seq.*, in connection with the Midco I and Midco II Facilities in Gary, Indiana. The proposed Consent Decree requires, *inter alia*, (1) implementation of the remedial actions selected by EPA for the Midco I and Midco II Facilities as described in the Consent Decree, a Statement of Work, and proposed Amendments to EPA's Records of Decision for the Midco I and Midco II Facilities; (2) payment to the United States of more than $4.8 million in past response costs plus interest; and (3) payment by certain defendants of a civil fine of $400,000 for failing to comply with EPA's Administrative Orders. The Decree also resolves a counterclaim of certain defendants against the Department of Defense, U.S. Army, and U.S. Air Force. Under the Decree, certain defendants will also have an option to resolve natural resource damage claims of the United States Department of Interior and State of Indiana relating to the Midco I and Midco II Facilities.

The Department of Justice will receive comments relating to the proposed Consent Decree for 30 days following the publication of this Notice. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Midwest Solvent Recovery, Inc.*, D.J. Ref. No. 90-7-1-1. The proposed Consent Decree may be examined at the Office of the United States Attorney for the Northern District of Indiana, 1001 Main Street, suite A, Dyer, Indiana 46311; the Region V Office of the United States Environmental Protection Agency, 77 West Jackson Street, Chicago, Illinois 60604; and at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004 (202-347-2072). A copy of the proposed Consent Decree may be obtained in person or by mail from the Document Center. In requesting a copy, if you would like a copy of the Decree with all signature pages and attachments, please enclose a check in the amount of $156.00 (25 cents per page for reproduction costs). In requesting a copy, if you would like a copy of the Decree without attachments and defendant and third party defendant signature pages, please enclose a check in the amount of $28.00 (25 cents per page for reproduction costs), payable to the Consent Decree Library.

Barry M. Hartman,

Acting Assistant Attorney General, Environmental and Natural Resources Division.

[FR Doc. 92-2903 Filed 2-5-92; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Albanoski, Broughton & Associates International; Denial of Applications

On October 24, 1991, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Albanoski, Broughton & Associates International, 124-H Blossom Hill Road, suite 556, San Jose, California 95123, proposing to deny its applications, executed on September 13, 1990 and November 20, 1990, for registration as a researcher under 21 U.S.C. 823(f). The Order to Show cause alleged that Respondent's registration would be inconsistent with the public interest as that term is defined in 21 U.S.C. 823(f).

The Order to Show Cause was sent to Albanoski, Broughton & Associates International by registered mail. More than thirty days have passed since the Order to Show Cause was received by Respondent, and the Drug Enforcement Administration has received no response thereto. Pursuant to 21 CFR 1301.54(a) and 1301.54(d), Albanoski, Broughton & Associates International is deemed to have waived its opportunity for a hearing. Accordingly, the Administrator now enters his final order in this matter without a hearing and based on the investigative file. 21 CFR 1301.57.

The Administrator finds that Albanoski, Broughton & Associates International sought registration as a researcher in order to open a canine training facility as part of its security consultant firm. According to the applicant, such facility would then be used as a private detection service, allowing companies and private citizens to employ Albanoski, Broughton & Associates International to search out drugs in their homes or businesses, to assist corporations in upgrading security procedures, to educate existing private security forces in the identification of narcotics and to provide "high-tech alternatives" in the detection of controlled substances.

In reviewing the investigative file, the Administrator finds that there is insufficient information to establish that Mr. Albanoski or any of the other individuals identified in his research protocol have the educational background, training, knowledge or facilities to train dogs for narcotic detection. During an interview with DEA personnel, Mr. Albanoski admitted that no one in the firm has any experience using controlled substances to train narcotic detection dogs. The research protocol submitted in support of the application failed to comply with the requirements of 21 CFR 1301.33 and the background summaries presented to DEA did not include a complete and detailed description of relevant experience in handling controlled substances. Furthermore, the firm has made no commitment to obtain dogs from a kennel or trainer and has taken no steps to either lease kennel space or build its own.

The Administrator also finds that the San Mateo County Sheriff's Office, the Santa Clara County Sheriff's Office and the San Jose City Police Department has narcotics detection trained canines in sufficient numbers to service the needs of the law enforcement community, businesses and private citizens.

No evidence has been submitted on behalf of the applicant. Therefore, the Administrator concludes that Albanoski, Broughton & Assocaites International has failed to demonstrate a need for, or the ability to perform, the activity for which it sought registration to handle controlled substances. Based on the above, the Administrator concludes that Albanoski, Broughton & Associates International's registration would be inconsistent with the public interest and, therefore, the application for registration must be denied.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 28 CFR 0.100(b), hereby orders that the applications for registration as a researcher submitted by Albanoski, Broughton & Associates International, be, and they hereby are denied. This order is effective February 6, 1992.

Dated: January 3, 1992.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 92-2805 Filed 2-5-92; 8:45 am]

BILLING CODE 4410-09-M

Importer of Controlled Substances; Registration

By Notice dated July 8, 1991, and published in the Federal Register on July 16, 1991 (56 FR 32446), Research Biochemicals, Inc., One Strathmore Road, Natick, Massachusetts 01760, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Ibogaine (7260)	I
Tetrahydrocannabinols (7370)	I
Bufotenine (7433)	I
Dimethyltryptamine (7435)	I
Etorphine (Except HCL) (9056)	I
Methylphenidate (1724)	II
Etorphine Hydrochloride (9059)	II
Metazocine (9240)	II
Methadone (9250)	II
Fentanyl (9801)	II

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as an importer of the basic classes of controlled substances listed above is granted.

Dated: January 29, 1992.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 92-2804 Filed 2-5-92; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 18, 1992.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 18, 1992.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 27th day of January 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (Union/Workers/Firm)	Location	Date received	Date of petition	Petition No.	Articles produced
A.O. Smith Electrical Products Co (IBEW)	Upper Sandusky, OH	1/27/92	1/12/92	26,762	Fractional Horsepower Motors.
Amercable Wireline Division (Wkrs)	Houston, TX	1/27/92	1/14/92	26,763	Electric Armoured Cable.
Ashland Exploration (Wkrs)	Ashland, KY	1/27/92	1/13/92	26,764	Crude Oil.
Atlas Wireline Services (Co)	Midland, TX	1/27/92	1/13/92	26,765	Oil.
Brown Shoe Co ACTWU	Union, MO	1/27/92	1/13/92	26,766	Heels for Ladies Dress Shoes.
Brown Shoe Co ACTWU	Owensville, MO	1/27/92	1/13/92	26,767	Heels for Ladies Dress Shoes.
Brown Shoe Co ACTWU	Dexter, MO	1/27/92	1/13/92	26,768	Heels for Ladies Dress Shoes.
Celebrity Fashion, Inc. ILGWU	Union City, NJ	1/27/92	1/14/92	26,769	Rain Coats.
Coulson Heel (Co)	Hanover, PA	1/27/92	1/08/92	26,770	Shoe Heels.
Eastern Foundry Co (Co)	Boyertown, PA	1/27/92	1/13/92	26,771	Soil Fittings and Spun Pipe.
Exxon Co., USA (Wkrs)	Midland, TX	1/27/92	2/30/91	26,772	Oil Research.
Fiesta Apparel, Inc. ILGWU	Hoboken, NJ	1/27/92	1/14/92	26,773	Coats and Suits.
Halliburton Services (Alice Dist) (Wkrs)	Alice, TX	1/27/92	1/14/92	26,774	Oil Well Services.
Halliburton Services (Exec. Ofc.) (Wkrs)	Houston, TX	1/27/92	1/14/92	26,775	Oil Well Services.
Halliburton Services (Fresno Dist) (Wkrs)	Fresno, TX	1/27/92	1/14/92	26,776	Oil Well Services.
Halliburton Services ((Laredo Dist) (Wkrs)	Laredo, TX	1/27/92	1/14/92	26,777	Oil Well Services.
Halliburton Services (Luling Dist) (Wkrs)	Luling, TX	1/27/92	1/14/92	26,778	Oil Well Services.
Halliburton Services (Mission Dist) (Wkrs)	Mission, TX	1/27/92	1/14/92	26,779	Oil Well Services.
Halliburton Services (Victoria Dist) (Wkrs)	Victoria, TX	1/27/92	1/14/92	26,780	Oil Well Services.
Halliburton Services (Corpus Christi) (Wkrs)	Corpus Christi, TX	1/27/92	1/14/92	26,781	Oil Well Services.
Halliburton Services (Galveston Dist) (Wkrs)	Galveston, TX	1/27/92	1/14/92	26,782	Oil Well Services.
Halliburton Services (Pleasanton) (Wkrs)	Pleasanton, TX	1/27/92	1/14/92	26,783	Oil Well Services.
Hastings Manufacturing Co (UAW)	Hastings, MI	1/27/92	1/13/92	26,784	Auto Oil and Air Filters.
Masteller Coal Co. (Wkrs)	Keyser, WV	1/27/92	1/10/92	26,785	Metallurgical and Steam Coal.
Nanci Andrew (Wkrs)	Altoona, PA	1/27/92	1/16/92	26,786	Ladies Dresses, Pant Suits.
North Star Steel (Wkrs)	St. Paul, MN	1/27/92	1/02/92	26,787	Channel Iron.
Swift-Eckrich, Inc (UFCW)	Detroit Lakes, MN	1/27/92	1/10/92	26,788	Turkey Processing.
Swiss Industrial Abrasives (SIA) (Wkrs)	Alliance, OH	1/27/92	1/16/92	26,789	Abrasives.
TJ Designs (Wkrs)	Wewoka, OK	1/27/92	1/16/92	26,790	Ladies Warm-up suits.
Union Texas Petroleum Corp (Wkrs)	Houston, TX	1/27/92	11/22/91	26,791	Oil and Gas.
Wright Mfg. ILGWU	Union City, NJ	1/27/92	1/14/92	26,792	Knitwear.

[FR Doc. 92-2872 Filed 2-5-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-26,504]

Carbonaire, Inc., Palmerton, PA; Notice of Revised Determination on Reconsideration

On January 24, 1992, the Department issued an Affirmative Determination Regarding Application for Reconsideration for former workers of Carbonaire, Inc., Palmerton, Pennsylvania. This notice will soon be published in the Federal Register.

The company and the Teamsters Union, claim, among other things, that the Department's survey of Carbonaire's customers was inadequate.

Investigation findings show that all production at Palmerton ceased in September 1991 and most workers were laid off. Other findings show that U.S. imports of organic chemicals increased in 1991 compared to 1990.

On reconsideration, new information was obtained showing that Carbonaire's major customers had declining purchases of ammonia from Carbonaire in 1991 and increased purchases of imported ammonia in 1991 compared to 1990.

Conclusion

After careful consideration of the new facts obtained on reconsideration, it is concluded that the Carbonaire workers at Palmerton, Pennsylvania were adversely affected by increased imports of articles like or directly competitive with the ammonia produced at Carbonaire in Palmerton, Pennsylvania. In accordance with the provisions of the Act, I make the following revised certification for the Carbonaire workers in Palmerton, Pennsylvania.

All workers of Carbonaire, Inc., in Palmerton, Pennsylvania who became totally or partially separated from employment on or after October 20, 1990 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C., this January 29, 1992.

Stephen A Wandner,

Deputy Director, Office of Legislation & Actuarial Services, Unemployment Insurance Service.

[FR Doc. 92-2871 Filed 2-5-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-26,277, TA-W-26,277A]

The Monarch Machine Tool Co., Sidney, OH the Monarch Machine Tool Co., Cincinnati, OH; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 4, 1991, applicable to all workers of the subject firm. The notice was published in the **Federal Register** on December 27, 1991 (56 FR 67103, 67104).

At the request of the subject firm the Department reviewed the subject certification. New information shows that the engineering location in Cincinnati is an extension of the Sidney location. The Cincinnati location experienced reduced activity and worker separations in 1991 as a result of Sidney being adversely affected because of increased imports. Accordingly, the notice is amended by including the new location under TA-W-26,277.

The amended notice applicable to TA-W-26,277 is hereby issued as follows:

> All workers of the Monarch Machine Tool Company, Monarch Sidney Division, Sidney, Ohio and Cincinnati, Ohio who became totally or partially separated from employment on or after September 3, 1990 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 30th day of January 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92-2870 Filed 2-5-92; 8:45 am]

BILLING CODE 4510-30-M

Job Training Partnership Act, Title IV, Section 451, Part D—National Level Multi-State Programming to Train and Employ the Disabled; Correction.

AGENCY: Employment and Training Administration, Labor.

ACTION: Correction.

SUMMARY: In notice document 92-2030 beginning on page 3220 in the issue of Tuesday, January 28, 1992, make the following corrections:

On page 3220 in the first column, the word "available" in the **DATES** section should be deleted and the sentence should read "The closing date for receipt of proposals will be March 13, 1992, 2 p.m. Eastern time.

On page 3220 in the second column, the reference referred to in the **ADDRESSES** section should be changed to read Reference SGA/DAA 92-001.

Dated: January 31, 1992.

Robert D. Parker,

ETA Grant Officer.

[FR Doc. 92-2873 Filed 2-5-92; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 92-13]

NASA Advisory Council (NAC), Space Science and Applications Advisory Committee (SSAAC), Earth Science and Applications Advisory Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science and Applications Advisory Committee, Earth Science and Applications Advisory Subcommittee.

DATES: February 10, 1992, 9 a.m. to 4:30 p.m.; and February 11, 1992, 9 a.m. to 4 p.m.

ADDRESSES: TRI-COR, The Capital Gallery, 600 Maryland Avenue, SW., suite 300, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Dr. Gregory W. Wilson, Code SE, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-1707).

SUPPLEMENTARY INFORMATION: The Space Science and Applications Advisory Committee consults with and advises the NASA Office of Space Science and Applications on long-range plans for, work in progress on, and accomplishments of NASA's Space Science and Applications programs. The Earth Science and Applications Advisory Subcommittee (LESAAS) provides advice to the Earth Science and Applications Division concerning all of its programs in the Earth sciences. The Subcommittee will discuss the objectives of the ESAAS, the restructuring of the Earth Observing System (EOS), and the Earth Probe. The Subcommittee is chaired by Dr. Richard C.J. Somerville and is composed of 18 members. The meeting will be open to the public up to the capacity of the room (approximately 40 persons including Subcommittee members). It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Type of Meeting

Open.

Agenda

Monday, February 10

9 a.m.—Opening Remarks.
9:15 a.m.—Overview of ESAAS and Objectives.
10 a.m.—Discussion on EOS Restructuring.
12:30 p.m.—Earth Probe Discussion and Presentation.
1:30 p.m.—Writing Assignments.
4:30 p.m.—Adjourn.

Tuesday, February 11

9 a.m.—Writing Groups and Discussion.
3 p.m.—Status of Meeting Objectives.
3:30 p.m.—Discussion and Planning for Next ESAAS Meeting.
4 p.m.—Adjourn.

Dated: January 31, 1992.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 92-2875 Filed 2-5-92; 8:45 am]

BILLING CODE 7510-01-M

[Notice 92-14]

NASA Advisory Council (NAC), Space Science and Applications Advisory Committee (SSAAC), Solar System Exploration Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science and Applications Advisory Committee, Solar System Exploration Subcommittee.

DATES: February 20, 1992, 9 a.m. to 5 p.m.; and February 21, 1992, 9 a.m. to 12:30 p.m.

ADDRESSES: The Arnold and Mabel Beckman Center, 100 Academy Drive, Irvine, CA 92715.

FOR FURTHER INFORMATION CONTACT: Dr. Wesley Huntress, Code SL, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-1588).

SUPPLEMENTARY INFORMATION: The Space Science and Applications Advisory Committee consults with and advises the NASA Office of Space Science and Applications (OSSA) on long-range plans for, work in progress on, and accomplishments of NASA's Space Science and Applications programs. The Solar System Exploration Subcommittee (SSES) provides advice to the Solar System Exploration Division concerning long-range planning in solar system exploration. The SSES will meet to discuss the Fiscal Year 1993 budget, the Research and Analysis report, and activities of the SSAAC and working groups. The Subcommittee is chaired by Dr. Jonathan Lunine and is composed of 25 members. The meeting will be open to the public up to the seating capacity of the room (approximately 50 people including members of the Subcommittee). It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Type of Meeting

Open.

Agenda

Thursday, February 20

9 a.m.—Opening Remarks.
9:10 a.m.—Fiscal Year 1993 NASA Budget and Implications.
10:45 a.m.—Discussion of Budget Issues.
2:30 p.m.—Instrument Development.
4 p.m.—Report on SSAAC Meeting.
5 p.m.—Adjourn.

Friday, February 21

9 a.m.—Discussion of the Research and Analysis Report.
11:15 a.m.—Mission Operations.
Noon—Discussion of Other Subcommittee Business.
12:30 p.m.—Adjourn.

Dated: January 31, 1992.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 92-2876 Filed 2-5-92; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL SCIENCE FOUNDATION

Alan T. Waterman Award Committee; Meeting

In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Alan T. Waterman Award Committee

Date: Wednesday, March 4, 1992

Time: 9 a.m. to 5 p.m.

Place: room 543, National Science Foundation, 1800 G Street, NW, Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Mrs. Susan E. Fannoney, Executive Secretary, Alan T. Waterman Award Committee, National Science Foundation, Washington, DC 20550. Telephone: 202/357-7512.

Purpose of Committee: To provide advice and recommendations in the selection of the Alan T. Waterman Award recipient.

Reason for Closing: The nominations being reviewed include information of a personal nature where disclosure would constitute unwarranted invasions of personal privacy. These matters are within exemption 6 of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: The determination made on January 22, 1992 by the Director of the National Science Foundation pursuant to the provisions of section 10 (d) of Public Law 92-463.

Dated: January 31, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-2843 Filed 2-5-92; 8:45 am]

BILLING CODE 7555-01-M

Earth Sciences Proposal Review Panel; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Name: Earth Sciences Proposal Review Panel.

Date and Time: March 2, 1992; 8 a.m. to 6 p.m.

Place: National Science Foundation, 1800 G Street, NW., room 536, Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. John Maccini, Program Director, Division of Earth Sciences, National Science Foundation, room 602, Washington, DC 20550. Telephone: (202) 357-7866.

Purpose of Meeting: To provide advice and recommendations concerning financial support for Geological Record of Global Change research.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions 4 and 6 of 5 U.S. C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: January 31, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-2842 Filed 2-5-92; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Engineering Centers Division; Meeting

SUMMARY: In accordance with the Federal Advisory Committee Act (Public Law 92-463, as amended), the National Science Foundation announces the following meeting.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review and evaluate the project and provide advice and recommendations. Because the project being reviewed includes information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meeting is closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), The Government in the Sunshine Act.

Name: Advisory Panel for Engineering Centers Division.

Date: March 2-4, 1992.

Time: 8:30 a.m. to 5 p.m.

Place: Brigham Young University, Provo, Utah 84602.

Type of Meeting: Closed.

Agenda: Site visit to review and evaluate the Engineering Research Center for Advanced Combustion.

Contact: Dr. Christina Gabriel, Program Director, Engineering Centers Division, National Science Foundation, room 1121, Washington, DC 20550, Telephone: 202-357-9707.

Dated: January 31, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-2837 Filed 2-5-92; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Engineering Centers Division; Meeting

SUMMARY: In accordance with the Federal Advisory Committee Act (Public Law 92-463, as amended), the National Science Foundation announces the following meeting.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review and evaluate the project and provide advice and recommendations. Because the project being reviewed includes information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meeting is closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), The Government in the Sunshine Act.

Name: Advisory Panel for Engineering Centers Division.

Date: March 3-5, 1992.

Time: 8:30 a.m. to 5 p.m.

Place: Ohio State University, Columbus, Ohio 43210-1271.

Type of Meeting: Closed.

Agenda: Site visit to review and evaluate the Engineering Research Center for Net Shape Manufacturing.

Contact: Dr. Frederick Betz, Program Director, Engineering Centers Division, National Science Foundation, room 1121, Washington, DC 20550, Telephone: 202–357–9707.

Dated: January 31, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92–2838 Filed 2–5–92; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Engineering Centers Division; Meeting

SUMMARY: In accordance with the Federal Advisory Committee Act (Public Law 92–463, as amended), the National Science Foundation announces the following meeting.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review and evaluate the project and provide advice and recommendations. Because the project being reviewed includes information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meeting is closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), The government in the Sunshine Act.

Name: Advisory Panel for Engineering Centers Division.

Date: March 11–12, 1992.

Time: 8:30 a.m. to 5 p.m.

Place: Carnegie Mellon University, Schenley Park, Pennsylvania 15213.

Type of Meeting: Closed.

Agenda: Site visit to review and evaluate the Engineering Research Center for Data Storage Systems.

Contact: Dr. Joseph Mathias, Program Director, Engineering Centers Division, National Science Foundation, room 1121, Washington, DC 20550, Telephone: 202–357–9707.

Dated: January 31, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92–2839 Filed 2–5–92; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Engineering Centers Division; Meeting

SUMMARY: In accordance with the Federal Advisory Committee Act (Public Law 92–463, as amended), the National Science Foundation announces the following meeting.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review and evaluate the project and provide advice and recommendations. Because the project being reviewed includes information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meeting is closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), The Government in the Sunshine Act.

Name: Advisory Panel for Engineering Centers Division.

Date: March 9–10, 1992.

Time: 8:30 a.m. to 5 p.m.

Place: University of Colorado, Boulder, Colorado 80309–0525.

Type of Meeting: Closed.

Agenda: Site visit to review and evaluate the Engineering Research Center for Optoelectronic Computing Systems.

Contact: Dr. Christina Gabriel, Program Director, Engineering Centers Division, National Science Foundation, room 1121, Washington, DC 20550. Telephone: 202–357–9707.

Dated: January 31, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92–2840 Filed 2–5–92; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Engineering Centers Division; Meeting

SUMMARY: In accordance with the Federal Advisory Committee Act (Public Law 92–463, as amended), the National Science Foundation announces the following meeting.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review and evaluate the project and provide advice and recommendations. Because the project being reviewed includes information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meeting is closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), The Government in the Sunshine Act.

Name: Advisory Panel for Engineering Centers Division.

Date: February 25–27, 1992.

Time: 8:30 a.m. to 5 p.m.

Place: Lehigh University, Bethlehem, Pennsylvania 18015.

Type of meeting: Closed.

Agenda: Site visit to review and evaluate the Engineering Research Center for Advanced Technology for Large Structural Systems.

Contact: Dr. Frederick Betz, Program Director, Engineering Centers Division, National Science Foundation, room 1121, Washington, DC 20550. Telephone: 202–357–9707.

Dated: January 31, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92–2844 Filed 2–5–92; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Engineering Centers Division; Meeting

SUMMARY: In accordance with the Federal Advisory Committee Act (Public Law 92–463, as amended), the National Science Foundation announces the following meeting.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review and evaluate the project and provide advice and recommendations. Because the project being reviewed includes information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meeting is closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), The Government in the Sunshine Act.

Name: Advisory Panel for Engineering Centers Division.

Date: February 24–25, 1992.

Time: 8:30 a.m. to 5 p.m.

Place: Montana State University, Bozeman, Montana 59717.

Type of Meeting: Closed.

Agenda: Site visit to review and evaluate the Engineering Research Center for Interfacial Microbial Processes.

Contact: Dr. Tapan Mukherjee, Program Director, Engineering Centers Division, National Science Foundation, room 1121, Washington, DC 20550, Telephone: 202–357–9707.

Dated: January 31, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92–2845 Filed 2–5–92; 8:45 am]

BILLING CODE 7555–01–M

International Programs Review Panel; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: International Programs Review Panel.

Date and Time: February 24–25, 1992; 8:30 a.m.–5 p.m.

Place: 1110 Vermont Avenue, NW., room 500–A, Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Janice Cassidy, Program Manager, 1110 Vermont Avenue, NW., room

501, Washington, DC 20550, Telephone: (202) [illegible].

Purpose of Meeting: To provide advice and recommendations concerning applications submitted to NSF for financial support.

Agenda: Review and evaluate applications for the Summer Institute in Japan.

Reason for Closing: The applications being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions 4 and 6 of 5 U.S.C. 552b.(c) (4) and (6) the Government in the Sunshine Act.

Dated: January 31, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-2846 Filed 2-5-92; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Mathematical Sciences; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Mathematical Sciences.

Date and Time: February 27-28, 1992; 8:30 a.m. to 5 p.m.

Place: National Science Foundation, 1800 G Street, NW., room 1243, Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Alvin I. Thaler, Program Director, Division of Mathematical Sciences, 1800 G Street, NW., room 339, Washington, DC 20550, Telephone: (202) 357-3691.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: Review and evaluate research proposals for the NSF Grants for Scientific Computing Research Environments for the Mathematical Sciences program.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions 4 and 6 of 5 U.S.C. 552 b. (c) (4) and (6) of the Government in the Sunshine Act.

Dated: January 31, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-2836 Filed 2-5-92; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Mechanical and Structural Systems; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Mechanical and Structural Systems.

Date and Time: March 10, 1992—8:30 a.m. to 4 p.m.

Place: 1800 G Street, NW., room 1133, Washington, DC.

Type of Meeting: Closed.

Contact Person: Dr. Jorn Larsen-Basse, Program Director, National Science Foundation, room 1108, Washington, DC 20550 (202) 357-9542.

Purpose of Meeting: To provide oversight review of the Surface Engineering and Tribology Program.

Agenda: To carry out Committee of Visitors review including examination of decisions on proposals, reviewer comments, and other privileged materials.

Reason for Closing: The meeting is closed to the public because the Committee is reviewing proposal actions that will include privileged intellectual property and personal information that could harm individuals if they were disclosed. If these discussions were open to the public, these matters that are exempt under 5 U.S.C. 552b.(c) (4) and (6) of the Government in the Sunshine Act would improperly be disclosed.

Dated: January 31, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-2841 Filed 2-5-92; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Teacher Preparation and Enhancement; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meetings:

SUPPLEMENTARY INFORMATION: The purpose of the meetings is to review and evaluate proposals and provide advice and recommendations as part of the selection process for awards. Because the proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meetings are closed to the public. These matters are within exemptions 4 and 6 of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Name: Special Emphasis Panel in Teacher Preparation and Enhancement.

Dates/Times and Locations:

February 11-12, 1992; 8:30 a.m. to 5 p.m., Piedmont, GA.

February 12-13, 1992; 8:30 a.m. to 5 p.m., New York, NY.

February 13-14, 1992; 8:30 a.m. to 5 P.m., Lexington, KY.

February 18-19, 1992; 8:30 a.m. to 5 p.m., Austin, TX.

February 20-21, 1992; 8:30 a.m. to 5 p.m., Salt Lake City, UT.

February 20-21, 1992; 8:30 a.m. to 5 p.m., New Mexico.

Type of Meeting: Closed.

Contact Person: Drs. Janice Earle and Pierce Hammond, Program Directors, National Science Foundation, 1800 G Street, NW., room 635-B, Washington, DC 20550, Telephone: (202) 357-7751.

Purpose of Meeting: To provide advice and recommendations concerning research proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals for the Statewide Systemic Initiatives Program.

Reason for Late Notice: States were responsible for making meeting arrangements; we couldn't announce meetings until we knew locations.

Dated: January 31, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-2847 Filed 2-5-92; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-237, 50-249, 50-254, and 50-265]

Commonwealth Edison Co. Dresden and Quad Cities Nuclear Power Stations; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of exemptions from the requirements of 10 CFR part 50, appendix J to Commonwealth Edison Company (CECo, the licensee) for Dresden Nuclear Power Station (Units 1 and 2) located in Grundy County, Illinois, and Quad Cities Nuclear Power Station (Units 1 and 2) located in Rock Island County, Illinois.

Environmental Assessment

Identification of Proposed Action

The proposed action would grant an Exemption from certain requirements of appendix J to 10 CFR part 50 in response to the licensee's request of November 12, 1991. More specifically, the two-ply containment penetration expansion bellows can not meet certain Type B (local leak rate) testing requirements.

The Need for the Proposed Action

The design of the two-ply containment penetration expansion bellows is such that they can not be properly tested to satisfy Type B testing requirements of 10 CFR part 50, appendix J.

Environmental Impacts of the Proposed Action

The proposed Exemption substitutes an alternative testing and replacement program for the Type B testing requirements of 10 CFR part 50, appendix J. The alternative testing program will detect bellows assemblies with significant flaws and result in replacement of flawed assemblies within one operating cycle, during which period there is reasonable assurance that the bellows assemblies will not suffer excessive degradation. Thus, this Exemption will not change the types, or allow an increase in the amounts, of effluents that may be released offsite. Nor would it result in an increase in individual or cumulative occupational radiation exposure. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed Exemption.

With regard to potential nonradiological impacts, the proposed Exemption involves features located entirely within restricted areas as defined by 10 CFR part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed Exemption.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement (construction permit and operating license) for Dresden Nuclear Power Station, Units 1 and 2, dated November 1973, and for Quad Cities Nuclear Power Station, Units 1 and 2, dated September 1972.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental impacts associated with the proposed Exemption, any alternatives with equal or greater environmental impact need not be evaluated. The principal alternative to the Exemption would be to require rigid compliance with the requirements of appendix J to 10 CFR part 50. Such action would not enhance the protection of the environment and would result in unwarranted licensee expenditures of engineering and construction resources, as well as associated capital costs.

Agencies and Persons Consulted

The Commission's staff reviewed the licensee's design and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed Exemption.

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the licensee's letter of November 12, 1991. This document is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, at the Morris Public Library, 604 Liberty Street, Morris, Illinois 60450, and at the Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Dated at Rockville, Maryland, this 30th day of January 1992.

For the Nuclear Regulatory Commission.

Richard J. Barrett,

Director, Project Directorate III-2, Division of Reactor Projects III/IV/V.

[FR Doc. 92-2915 Filed 2-5-92; 8:45 am]

BILLING CODE 7590-01-M

Organizational Conflicts of Interest; Meeting

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of public meeting.

SUMMARY: The Nuclear Regulatory Commission (NRC) will hold a public meeting to discuss its revised organizational Conflicts of Interest (COI) policy. A question and answer period will follow opening remarks and a discussion of the policy's provisions by NRC's contracting and legal staff.

DATES: The meeting will be held on March 26, 1992, from 9:30 a.m. to 3:30 p.m.

ADDRESSES: The meeting will be held in the Versailles I Room at the Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

FOR FURTHER INFORMATION CONTACT: Timothy F. Hagan, Acting Director, Division of Contracts & Property Management, Office of Administration, (301) 492-4347 or William H. Foster, Chief, Policy Branch, Division of Contracts & Property Management, Office of Administration, (301) 492-7348.

SUPPLEMENTARY INFORMATION: On August 15, 1991, the Commission approved a revision to its COI policy. This revised policy will become a part of the NRC Acquisition Regulation (48 CFR chapter 20), when it is published in final form.

One major change from the provisions NRC policy was the limitation of COI restrictions to the relatively narrow scope and shorter duration of individual task orders rather than the entire scope and term of the basic contract. The purpose of this change in COI policy is to enhance NRC's ability to obtain knowledgeable, experienced scientists and engineers who are working daily in the real-life environment of the nuclear industry. The draft version of this rule was published in the **Federal Register** for public comment on October 2, 1989 (54 FR 40420).

Under the revised policy, NRC's right to disapprove work for others is limited to those instances in which NRC already has the contractor performing under a specific task order, or plans to do so. While the staff believes this revision will increase competition for NRC technical assistance and research work, additional restrictions were recommended to (a) avoid the potential for unfair competitive advantage that could result if NRC contractors were permitted to market their services while working for NRC at a licensee site, and (b) ensure NRC contractors do not have divided financial interests while working at a licensee site. Therefore, the Commission also approved the following provision:

> When the contractor performs work for the NRC under this contract at any NRC licensee or applicant site, the contractor shall neither solicit nor perform work at the site or work in the same technical area for that licensee or applicant organization for a period commencing with the award of the task order or beginning of work on the site (if not a task order contract) and ending one year after completion of all work under the associated task order, or last time at the site (if not a task order contract).

The NRC recognized that the above restriction may temporarily limit a firm's business activity with a licensee, but believes the protection of NRC from potential COI situations of this nature must be paramount. Further, the staff believes that, on balance, the revised policy relaxes the previous COI restrictions sufficiently to foster improved competition in the technical marketplace.

Recently, however, two of NRC's major technical assistance and research contractors have expressed the view that the above COI provision was overly restrictive and would impede rather than enhance NRC's ability to increase competition in the technical assistance marketplace. Therefore, we invite all contractors and other interested parties to attend this meeting to provide their views on the practicality of complying with this COI provision or to provide alternatives that will achieve an equivalent level of COI protection.

Dated at Rockville, Maryland, this 27th day of January, 1992.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 92-2916 Filed 2-5-92; 8:45 am]

BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

Commission Visit

January 31, 1992.

On February 6, 1992, Commissioner John W. Crutcher and William Ferguson, Assistant Director, Technical Analysis and Planning, will visit the A-1 SORT's facility in Miami, Florida. It is also possible, but not confirmed, that a visit will be made to an American Express, Inc. facility in the same area on February 7, 1992.

A report of these visits will be on file with the Commission Docket Room. For further information contact William Ferguson at (202) 789-6850.

Charles L. Clapp,

Secretary.

[FR Doc. 92-2806 Filed 2-5-92; 8:45 am]

BILLING CODE 7710-FW-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Request for Medicare Payment.

(2) *Form(s) submitted:* G-740B, G-740S, and HCFA-1500.

(3) *OMB Number:* 3220-0131.

(4) *Expiration date of current OMB clearance:* Three years from date of OMB approval.

(5) *Type of request:* Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

(6) *Frequency of response:* On occasion.

(7) *Respondents:* Individuals or households, Businesses or other for-profit.

(8) *Estimated annual number of respondents:* See justification (Item 13).

(9) *Total annual responses:* 1.

(10) *Average time per response:* See justification (Item 13).

(11) *Total annual reporting hours:* 1.

(12) *Collection description:* The Railroad Retirement Board (RRB) administers the Medicare program for persons covered by the railroad retirement system. The collection will obtain the information needed by The Travelers Insurance Company, the RRB's carrier, to pay claims for services and supplies covered under Part B of the program.

Additional Information or Comments

Copies of the proposed forms and supporting documents can be obtained from Dennis Eagan, the agency clearance officer (312-751-4693). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Laura Oliven (202-395-7316), Office of Management and Budget, room 3002, New Executive Office Building, Washington, DC 20503.

Dennis Eagan,

Clearance Officer.

[FR Doc. 92-2904 Filed 2-5-92; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-30305; File No. SR-Amex-92-4]

Self-Regulatory Organizations; Filing and Order Granting Temporary Accelerated Approval to Proposed Rule Change by American Stock Exchange, Inc. Relating to a Pilot Program for Execution of Odd-Lot Market Orders

January 30, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 27, 1992, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend for twelve months its existing pilot program under Amex Rule 205 requiring execution of odd-lot market orders at the prevailing Amex quote with no differential charged.[1] The Exchange received approval, on a pilot basis expiring on February 8, 1992, of amendments to Amex Rule 205.[2]

The text of the proposed rule change is available at the Office of the Secretary, Amex, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Commission has approved, on a pilot basis, amendments to Exchange Rule 205 to require the execution of odd-lot market orders at the prevailing Amex quote with no odd-lot differential. These procedures were initially approved by the Commission on a pilot basis,[3] and were subsequently extended four times.[4]

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[1] The Exchange seeks accelerated approval of the proposed rule change in order to allow the pilot program, which will expire on February 8, 1992, to continue without interruption.

[2] See Securities Exchange Act Release No. 29922 (November 8, 1991), 56 FR 58409 (approving File No. SR-Amex-91-30).

[3] See Securities Exchange Act Release No. 26445 (January 10, 1989), 54 FR 2248 (approving File No. SR-Amex-88-23).

[4] See Securities Exchange Act Release Nos. 29922 (November 8, 1991), 56 FR 58409 (approving File No. SR-Amex-91-30); 29186 (May 9, 1991), 56 FR 22488 (approving File No. SR-Amex-91-09); 28758 (January 10, 1991), 56 FR 1656 (approving File No. SR-Amex-90-39); and 27590 (January 5, 1990), 55 FR 1123 (approving File No. SR-Amex-89-31).

Under the pilot procedures, market orders with no qualifying notations are executed at the Amex quotation at the time the order is represented in the market either by being received at the trading post or through the Exchange's Post Execution Reporting ("PER") system. Enhancements to the PER system have been implemented to provide for the automatic execution of odd-lot market orders entered through PER. For purposes of the pilot program, limit orders that are immediately executable based on the Amex quote at the time the order is received at the trading post or through PER are executed in the same manner as market orders.

The Exchange proposes that the pilot program applicable to odd-lot execution procedures be extended for twelve months. This will provide the Commission with an additional period of time to assess procedures under the pilot program and will permit the Exchange to provide additional data and information regarding its experience under the pilot program as well as operation of the PER system enhancements.

2. Statutory Basis

The proposed rule change is consistent with section 6(b) of the Act in general and furthers the objectives of sections 6(b)(5) and 11A(a)(1) in particular in that it facilitates the economically efficient execution of odd-lot transactions, and is intended to result in improved execution of customer orders.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–92–4 and should be submitted by February 27, 1992

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with the requirements of Sections 6 [5] and 11A(a)(1) [6] of the Act and the rules and regulations thereunder. The Commission believes that the revised procedures, which provided for pricing of odd-lot market orders at the prevailing market quote rather than a subsequent transaction, should provide investors with more timely execution of these orders. Moreover, these orders should receive less costly executions than under the former procedures because no differential will be charged. In addition, the Exchange has implemented enhancements to its PER system to provide for the automatic execution of odd-lot market orders, as set forth in the Commission's 1989 approval order.[7]

In its previous orders,[8] the Commission asked the Amex to analyze the difference in executions between using the Intermarket Trading System ("ITS") best bid or offer as compared with the Amex quote without the differential. Specifically, the Commission expressed interest in whether customers are receiving a better execution, both in terms of price and time, using the new Amex system. The Commission was also interested in the feasibility of implementing an odd-lot pricing system using the ITS best bid or offer and no differential.

In response, the Amex submitted the requested information with respect to the difference in executions between the ITS best bid or offer and the Amex quote to the Commission on January 9, 1991, April 22, 1991 and October 25, 1991.[9] The Amex data indicated that the pilot procedures provide a superior execution for a substantial majority of odd-lot executions. Accordingly, the Commission believes that it is reasonable to extend the pilot program for an additional twelve months to enable the Commission to fully review the Amex reports and to enable the pilot to continue without interruption during the Commission's review. The Commission, however, remains concerned that some odd-lot orders could receive executions at less than the best available price since the Exchange's pricing formula does not include quotations from other markets.[10] Nevertheless, due to the low number of odd-lot market orders,[11] the small percentage of Amex quotes that are worse than the ITS best bid or offer, and the benefits to customers under the pilot program procedures, the Commission believes that it is acceptable to continue the pilot's current pricing procedures for an additional twelve months. However, the Commission remains interested in the feasibility of implementing an odd-lot pricing system using the ITS best bid or offer and no differential.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. This will permit the pilot program to continue on an uninterrupted basis. In addition, the procedures the Exchange proposes to continue using are the identical procedures that were published in the **Federal Register** for the full comment period and were approved by the Commission.[12]

It is Therefore Ordered, Pursuant to section 19(b)(2) [13] of the Act, that the proposed rule change (SR–Amex–92–4) is approved for a twelve month period ending on February 8, 1993.

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[5] 15 U.S.C. 78f (1988).

[6] 15 U.S.C. 78k–1(a)(1) (1988).

[7] See supra note 3 for a description of the Exchange's odd-lot procedures and the Commission's rationale for approving those procedures on a pilot basis. The discussion in the aforementioned order is incorporated by reference into this order

[8] See supra note 4.

[9] See letters from Jules L. Winters, Executive Vice President, Operations, Amex, to Howard L. Kramer, Assistant Director, Commission, dated January 8, 1991, April 19, 1991 and October 23, 1991.

[10] The Commission has approved amendments to the New York Stock Exchange's ("NYSE") rules which incorporate the ITS quote into the NYSE odd-lot pricing procedures through the use of the "Best Pricing Quote." See Securities Exchange Act Release No. 17981 (May 2, 1990), 55 FR 19409 (May 9, 1990).

[11] See footnote 9 of Securities Exchange Act Release No. 29922 (November 8, 1991), 56 FR 58409.

[12] No comments were received in connection with the proposed rule change which implemented these procedures. See *supra* note 3.

[13] 15 U.S.C. 78s(b)(2) (1988).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–2799 Filed 2–5–92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30324; File No. SR-CBOE-91-51]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to Listing Options on the CBOE Biotech Index

January 31, 1992.

Pursunt to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange"), on December 30, 1992, filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE requests approval to list and trade index options on the CBOE Biotech Index (the "Index"). The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

General

Pursuant to Exchange Rule 24.2, the CBOE proposes to list and trade cash-settled, European-style stock index options on an industry index, the CBOE Biotech Index.

The Index represents a segment of the U.S. equity market that currently is not represented in the derivative markets. The Exchange believes that the Index will provide a performance measure and evaluation guide for passively or actively managed biotechnology funds. Additionally, the Exchange believes that, considering the recent high volatility of the biotechnology sector, CBOE Biotech options could provide an effective means for hedging the risks associated with the ownership of biotechnology stocks, and a lower cost means of altering the composition of a broad-based equity portfolio.

Index Description

Design

The CBOE BioTech Index is based on 20 stocks in the biotechnology sector that trade on the American Stock Exchange ("AMEX") and the National Association of Securities Dealers Automated Quotation ("NASDAQ") system. Currently, 18 of the stocks trade on NASDAQ/NMS and the remaining 2 are listed on the AMEX. The Index is price-weighted and is designed to represent medium and small-capitalization biotech stocks. The Index will be calculated real time using last sales prices and was set to a value of 100 on January 2, 1991.

The Index is composed of stocks that on October 31, 1991, ranged in capitalization from $166 million to $2.2 billion. The median capitalization on October 31, 1991 was $590 million. The prices of the stocks ranged from $8.75 to $77.50, with the highest priced (and highest weighted) stock accounting for 10.82% of the Index and the lowest priced (and lowest weighted) stock accounting for 1.22% of the Index. The securities underlying the Index are chosen to be representative of the biotechnology sector. Capitalization, liquidity, volatility and name recognition are additional factors used to determine the Index's component securities.

Calculation

The Index will be calculated continuously and disseminated every 15 seconds by the CBOE or a designated agent of the CBOE, based on the last-sale prices of the component stocks. If a component stock is closed, the most recently traded price is used in the index calculation. Similar to the Dow Jones Industrial Average, the Index is price-weighted and reflects changes in the prices of the component stocks relative to the base date. The Index value is calculated by adding the prices of the component stocks and then dividing this summation by a divisor that is equal to the number of stocks in the index (20) to get the average price. To maintain the continuity of the Index, the divisor will be adjusted to reflect non-market changes in the prices of the component securities as well as changes in the composition of the Index. Changes which may result in divisor changes include, but are not limited to, stock splits and dividends, spin-offs, certain rights issuances, and mergers and acquisitions.

Maintenance

The CBOE BioTech Index will be maintained by the CBOE. CBOE may change the composition of the Index at any time or from time to time to reflect the conditions in the biotechnology sector. At any time when it is necessary to replace a stock or stocks in the Index, every effort will be made to add new stocks that are representative of the biotech sector and capitalization, liquidity, volatility and name recognition will be taken into account.

Index Options Trading

The Exchange proposes to base trading in its Index options on the full value of the CBOE BioTech Index (presently about 150–160).

Exercise and settlement

The Exchange proposes that CBOE BioTech Index options will have a European-style exercise[1] and will settle based on the closing value of the Index on the exercise date, the last business day prior to the Saturday expiration. The proposed options will expire on the Saturday following the third Friday of the expiration month. Thus, the last day for trading in an expiring series will be the business day prior to the Saturday expiration.

Exchange Rules Applicable to Stock Index Options

The CBOE BioTech Index option, as proposed, will be very similar to the two broad-based Standard and Poor's Index options presently listed for trading on the CBOE (the OEX and the SPX).

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[14] 17 CFR 200.30–3(a)(12) (1991).

[1] A European-style option only can be exercised during a specified period before the option expires.

including expiration months and multiplier. The Exchange intends to list several near term as well as quarterly series, and may list additional long-term options series with two and three years to expiration. Additionally, CBOE may list CAPS based on the BioTech Index. The multiplier will be $100. The Exchange reserves the right to list series in 2½ point intervals.

Position limits will be set according to the guidelines in CBOE Rule 24.4 for determining position limits on narrow-based indexes.

Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act, in general, and Section 6(b)(5), in particular, in that it is designed to promote just and equitable principles of trade, to protect investors and the public interest and to remove impediments to and perfect the mechanism of a free and open market.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approved such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by February 24, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[3]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–2883 Filed 2–5–92; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Cincinnati Stock Exchange, Incorporated

January 31, 1992.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Aegon, N.V.
  Ordinary Shares 5 Guilders (File No. 7–7885)
Bairnco Corp.
  Common Stock, $0.01 Par Value (File No. 7–7886)
Bet Holdings, Inc.
  Common Stock, $0.01 Par Value (File No. 7–7887)
Biowhittaker, Inc.
  Common Stock, $0.01 Par Value (File No. 7–7888)
British Telecommunications P/P
  American Depository Receipts (File No. 7–7889)
CNA Income Shares
  Common Stock, $1.00 Par Value (File No. 7–7890)
Equitable Real Estate Shopping Center L.P.
  Common Stock, No Par Value (File No. 7–7891)
Gaylord Entertainment Co.
  Class A Common Stock, $0.01 Par Value (File No. 7–7892)
Household International
  $6.25 Cum. Conv. SF Pfd. Stock, No Par Value (File No. 7–7893)
InterCapital Insured Municipal Bond Trust
  Common Stock, $0.01 Par Value (File No. 7-7894)
Itel Corporation
  $3.37 ½ Cum. Conv. Exch. C Pfd. Stock, No Par Value (File No. 7–7895)
JHM Mortgage Securities LP
  Common Stock, No Par Value (File No. 7–7896)
Kentucky Utilities Co.
  Common Stock, No Par Value (File No. 7–7897)
Luby's Cafeterias, Inc.
  Common Stock, $0.32 Par Value (File No. 7–7898)
Morgan Stanley Group
  Pfd. B Dep. Shs (⅛ Share 8.88% Cum. Pfd. B Stock) (File No. 7–7899)
Mutual of Omaha Interest Shares
  Common Stock, $0.01 Par Value (File No. 7–7900)
Sabine Royalty Trust
  Units of Beneficial Interest, No Par Value (File No. 7–7901)
Savin Corp.
  Common Stock, $0.001 Par Value (File No. 7–7902)
St. Paul Companies, Inc.
  Common Stock, $1.50 Par Value (File No. 7–7903)
State Mutual Securities Trust
  Common Stock, $1.00 Par Value (File No. 7–7904)
Taurus Municipal California Holdings, Inc.
  Common Stock, $0.10 Par Value (File No. 7–7905)
Taurus Municipal New York Holdings, Inc.
  Common Stock, $0.10 Par Value (File No. 7–7906)
Tidewater, Inc.
  Common Stock, $0.10 Par Value (File No. 7–7907)
Total S.A.
  American Depository Shares (⅛ Share Ord. B) (File No. 7–7908)
Wabash National Corp.
  Common Stock, $0.01 Par Value (File No. 7–7909)
General Kinetics, Inc.
  Common Stock, $0.25 Par Value (File No. 7–7910)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 24, 1992, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

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[3] 17 CFR 200.30–3(a)(12) (1991).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-2795 Filed 2-5-92; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Incorporated

January 31, 1992.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Global Health Sciences Fund
  Common Stock, $.01 Par Value (File No. 7-7911)
American Adjustable Rate Term Trust, Inc.—1998
  Common Stock, $.01 Par Value (File No. 7-7912)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 24, 1992, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-2794 Filed 2-5-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30306; File No. SR-MSRB-92-1]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Fees for the MSIL System

January 30, 1992.

On January 2, 1992, the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change (File No. SR-MSRB-92), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), and Rule 19b-4 thereunder. The proposed rule change is described in Items I, II, and III below, which Items have been prepared by the Board. The Board has designated this proposal as one establishing or changing a fee under section 19(b)(3)(A) of the Act, which renders the fee effective upon the Commission's receipt of this filing. The Commission is publishing this notice to solicit comments on the proposed rule change from interested people.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Board is filing herewith a proposed rule change to establish fees in connection with its operation of the Official Statement and Advance Refunding Document—Paper Submission ("OS/ARD") subsystem of the Municipal Securities Information Library ("MSIL" system) (hereinafter referred to as the "proposed rule change").[1] The Board will charge $12,000 (plus postage or delivery charges) for annual subscriptions of magnetic tapes of imaged official statements ("OSs") and advance refunding documents ("ARDs") and computer coded information, and $15 (plus postage or delivery charges) for individual paper copies of OSs and ARDs.[2] The proposed fees are structured to defray the Board's costs associated with producing electronic tapes and paper documents and disseminating such information to subscribers and other interested members of the public. The Board does not expect or intend to make a profit from the MSIL system, and will review the MSIL system fees annually to ensure that dissemination costs are paid for from user fees. The Board will file any new or modified fees with the Commission, pursuant to section 19(b)(1) of the Act.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Board included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The texts of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) On June 13, 1991, the Commission approved the OS/ARD system and the MSIL system.[3] The OS/ARD system is a central electronic facility through which information collected and stored pursuant to MSRB rule G-36[4] will be made available electronically and in paper form to market participants and information vendors in order to provide better access to more descriptive information on municipal securities and their issuers. In its prior filings with the Commission, the Board stated that it intends to use its general revenues for collecting, indexing and storing the OS/ARD system documents, and that the costs of paper copies and magnetic tapes would be paid for by user fees.[5]

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[1] The OS/ARD system and the MSIL system were approved by the Commission in Securities Exchange Act Release No. 29298 (June 13, 1991). The MSIL system is a central electronic facility through which information collected and stored pursuant to MSRB rule G-36 will be made available electronically to market participants and information vendors in order to provide better access to more descriptive information on municipal securities and their issuers.

[2] Paper copies will be produced only from documents electronically stored by the Board. The Board's imaging contractor plans first to image documents received since January 1, 1992. Therefore, at least initially, customers may order paper copies of OSs and ARDs submitted to the Board since January 1992. Older documents, *i.e.*, those received by the Board from January, 1990 through December 1991, will be imaged and should become available in paper form over the next two years. Older documents will continue to be available for copying at the Board's Public Access Facility.

[3] Securities Exchange Act Release No. 29298 (June 13, 1991).

[4] Rule G-36 requires underwriters to provide copies of final official statements and advance refunding documents within certain specified timeframes for most new issues issued since January 1, 1990.

[5] See Securities Exchange Act Release No. 28197 (July 12, 1990), 55 FR 29436.

The Board is establishing the proposed fees to defray the costs associated with producing and disseminating the electronic tapes and paper documents. The Board believes that employing a cost-based pricing plan is in the public interest because it will ensure that a complete collection of vital information on municipal securities will be available, at fair and reasonable prices, for the life of the securities.

(b) The Board has adopted the proposed rule change pursuant to section 15B(b)(2)(C) of the Act, which provides that the Board's rules shall:

> * * * be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

The MSIL system is designed to increase the integrity and efficiency of the municipal securities market by, among other things, helping to ensure that the price charged for an issue in the secondary market reflects all available official information about that issue. The Board believes that the fees associated with the MSIL system are fair and reasonable in light of the costs associated with producing and disseminating the information, and that the services provided by the MSIL system are available on reasonable and non-discriminatory terms to any interested person.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board does not believe that the proposed rule change will effect any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, because the fees will apply equally to all persons.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Board neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The rule change is effective upon filing, pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 thereunder, because the proposal is "establishing or changing a due, fee or other charge." At any time within 60 days of filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC. Copies of the filing will also be available for inspection and copying at the Board's principal offices. All submissions should refer to the File No. SR–MSRB–92–1 and should be submitted by February 27, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–2802 Filed 2–5–92; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–30304; File No. SR–NASD–92–02]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to an Extension of the NASD's Policy Statement on Market Closings

January 29, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 22, 1992, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is filing this proposed rule change pursuant to section 19(b)(2) of the Act to extend until December 31, 1993, its Policy Statement on Market Closings ("Statement" or "Policy Statement"), adopted pursuant to Article VII, section 3 of the NASD By-Laws.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Policy Statement was adopted as a rule proposal of the NASD under Article VII, section 3 of the NASD By-Laws, which provides the NASD authority, acting through a designated committee of the Board of Governors ("Board"), to take appropriate action in the event of an emergency or extraordinary market conditions. Article VII, section 3 was adopted by the NASD as a result of the events of October 1987, and the provision was drafted to enable the NASD to respond to future crises with a maximum degree of flexibility, providing properly tailored responses to varying situations.

Specifically, the Policy Statement provides that the Board has determined that, at times when other major securities markets initiate market-wide trading halts in response to extraordinary market conditions, the NASD will, upon request from the Commission, act to halt domestic trading in all securities quoted in the NASDAQ system and domestic trading in equity or equity-related securities in the over-the-counter market. In October 1988, the Commission approved proposals submitted by the American Stock Exchange ("Amex"), Boston Stock

Exchange ("BSE"), Chicago Board Options Exchange ("CBOE"), Cincinnati Stock Exchange ("CSE"), Midwest Stock Exchange ("MSE"), New York Stock Exchange ("NYSE"), Philadelphia Stock Exchange ("PHLX") and Pacific Stock Exchange ("PSE") (collectively, "the Exchanges") that provided for uniform circuit breaker procedures during volatile market conditions.[1] Specifically, the circuit breaker rules provide that trading in all markets will halt for one hour if the Dow Jones Industrial Average ("DJIA") declines 250 points or more from its previous day's closing level and, thereafter, trading will halt for an additional two hours if the DJIA declines 400 points from its previous day's closing value.[2]

These circuit breaker rules, which are designed to substitute planned trading halts for unplanned and destabilizing market closings, are an important part of the measures adopted by the Exchanges to address market volatility concerns in the wake of the October 1987 Market Break. These circuit breaker mechanisms are still in effect today.[3] In addition, both the Report of the Presidential Task Force on Market Mechanisms ("Brady Report") and the Working Group's Interim Report[4] recommended that coordinated trading halts and reopening procedures be developed that would be implemented in all U.S. markets for equity and equity related products during large, rapid market declines.[5]

The Policy Statement expresses the views of the Board as of January 1992 concerning progress made on the numerous proposals emanating from the October 1987 crises. From time to time, the Board will review progress made on the recommendations set forth in the Statement as well as other developments as they may occur. The views of the Board may change and the NASD may modify or amplify the Statement accordingly. It should be noted that the Policy Statement sets forth the NASD's proposed response to a specific set of circumstances. The Statement does not in any way preclude the NASD from taking any other action that may be appropriate under other circumstances.

The NASD believes the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act, as the Policy Statement is designed to foster cooperation and coordination with the Commission and the other self-regulatory organizations engaged in regulating the U.S. securities markets.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Since the Commission approved the circuit breaker proposals in October 1988, the DJIA has not experienced a one day 250-point decline that would trigger a market halt. Nevertheless, the Commission continues to believe that circuit breaker procedures are desirable to deal with potential strains that may develop during periods of extreme market volatility, and, accordingly, the Commission believes that the Policy Statement should be extended. The Commission also believes that circuit breakers represent a reasonable means to retard a rapid, one day market decline that can have a destabilizing effect on the nation's financial markets and participants.

Accordingly, the Commission finds that the proposed rule change filed by the NASD is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association, and, in particular, the requirements of section 15A and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register** because there are no changes being made to the current provisions, which originally were subject to the full notice and comment procedures, and accelerated approval would enable the Policy Statement to continue on an uninterrupted basis. Due to the importance of circuit breakers for market confidence, soundness, and integrity, it is necessary and appropriate that these procedures continue on an uninterrupted basis. The Commission believes, therefore, that granting accelerated approval of the proposed rule change is appropriate and consistent with sections 15A and 19b of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-

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[1] See Securities Exchange Act Release Nos. 26440 (January 10, 1989), 54 FR 1830 (CSE); 26386 (December 22, 1988), 53 FR 52904 (PHLX); 26368 (December 16, 1988), (53 FR 51942 (PSE); 26357 (December 14, 1988), 53 FR 51182 (BSE); 26218 (October 28, 1988), 53 FR 44137 (MSE); and 26198 (October 19, 1988), 53 FR 41637 (Amex, CBOE, NASD and NYSE).

[2] If the 250-point trigger is reached within one hour of the scheduled close of trading for a day, or if the 400-point trigger is reached within two hours of the scheduled close of the trading day, trading will halt for the remainder of the day. If, however, the 250-point trigger is reached between one hour and one-half hours before the scheduled closing, or if the 400-point trigger is reached between two hours and one hour before the scheduled closing, the Exchanges would retain the power to use abbreviated reopening procedures either to permit trading to reopen before the scheduled closing or to establish closing prices.

[3] See Securities Exchange Act Release Nos. 29868 (October 28, 1991), 56 FR 56535 (Amex, BSE, MSE, NYSE, and PHLX); 26440 (January 10, 1989), 54 FR 1830 (CSE); and 26368 (December 16, 1988), 53 FR 51942 (CBOE and PSE). In addition, the stock index futures exchanges have implemented parallel circuit breakers that were approved by the Commodity Futures Trading Commission ("CFTC") on a permanent basis.

[4] The Working Group on Financial Markets was established by the President in March 1988 to provide a coordinating framework for consideration, resolution, recommendation, and action on the complex issues raised by the market break in October 1987. The Working Group consists of the chairmen of the Commission, Board of Governors of the Federal Reserve System and the CFTC, and the Under Secretary for Finance of the Department of the Treasury.

[5] In particular, the Working Group recommended a one-hour trading halt if the DJIA declined 250 points from its previous day's closing level, and a subsequent two-hour trading halt if the DJIA declined 400 points blow its previous day's closing level. The Working Group also recommended that the NYSE use reopening procedures after these halts, similar to those used on Expiration Fridays, that are designed to enhance the information made public about market conditions.

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mentioned self-regulatory organization. All submissions should refer to file No. SR–NASD–92–02 and should be submitted by February 27, 1992.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[6] that the proposed rule change (File No. SR–NASD–92–02) is approved until December 31, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–2803 Filed 2–5–92; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Pacific Stock Exchange, Incorporated

January 31, 1992.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Banco Bilbao Vizcaya International (Gibraltar) Ltd.
  American Depositary Shares (Representing 1 Non-Cumulative Gtd. Preferred Share Series A) (File No. 7–7860)
Employee Benefit Plans
  Common Stock, $.01 Per Value (File No. 7–7861)
Healthtrust, Inc.—The Hospital Co.
  Common Stock, $.001 Par Value (File No. 7–7862)
Luby's Cafeterias
  Common Stock, $.32 Par Value (File No. 7–7863)
Office Depot, Inc.
  Common Stock, $.01 Par Value (File No. 7–7864)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 24, 1992, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92–2797 Filed 2–5–92; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–30303; File No. SR–PSE–91–49]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Stock Exchange, Inc. Relating to Waiver of Transaction, Order Book and Automatic Execution Charges in Three Multiply Listed Options

January 29, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 20, 1991, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

For a three-month period beginning December 18, 1991, through March 18, 1992, the PSE proposes to waive all transaction, Order book and Pacific Options Exchange Trading System ("POETS") automatic execution charges for trades executed in Chiron Corporation ("CIQ"), Cisco Systems ("CYQ"), and Synergen ("YGQ") options. The text of the proposed rule change is available at the Compliance Department of the PSE and at the Commission

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

From December 18, 1991, through March 18, 1992, the PSE proposes to waive all transaction, Order Book and POETS automatic execution charges for trades executed in CIQ, CYQ, and YGQ options. The Exchange believes that although its market makers will provide excellent markets in these multiply listed options classes, the proposed three-month waiver is necessary in order to allow the PSE to remain on a competitive footing with other options exchanges. The PSE believes that the waiver will encourage trading decisions on the basis of the strength of the marketplace.

The Exchange believes that the proposal is consistent with section 6(b)(5) of the Act in that it will increase competition and the quality of the markets.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments on the proposal were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee or other charge imposed by the Exchange, it has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 thereunder. At any time within 60 days of the filing of the proposed change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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[6] 15 U.S.C. 78s(b)(2) (1982).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by February 27, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[1]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-2798 Filed 2-5-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30309; File No. SR-PSE-91-36]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Fees for Appeals of Disciplinary Actions

January 30, 1992.

On November 18, 1991, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] a proposed rule change to amend PSE Rule 10.8 to require submission of a $500 filing fee with a petition for review of a disciplinary decision to the Exchange.

The proposed rule change was noticed in Securities Exchange Act Release No. 30049 (December 9, 1991), 56 FR 65298 (December 16, 1991). No comments were received on the proposal.

Current Rule 10.8(a) provides that either the complainant (the Exchange) or the respondent (the person or organization alleged to have committed the violation) may request review of a disciplinary decision by petitioning the Board of Governors ("Board") within fifteen days after service of notice of the decision. After a request for review is filed, the request is either referred to an Appeals Committee appointed by the Board[3] or the Board may decide to conduct the review proceedings on its own.[4] The PSE currently does not require a respondent to submit a fee for the filing of such appeals.

The PSE proposes to amend Rule 10.8(a) to require that a respondent submit a $500 filing fee with the respondent's request for review of a disciplinary decision.[5] The proposal, however, would allow the Board to waive the filing fee upon a showing of hardship or other compelling reason. Moreover, amended Rule 10.8(a) would require a refund of the filing fee if the decision is overruled in whole as a result of the appeal. This rule also would permit a refund of the filing fee, or any portion thereof, if a decision is overruled in part as a result of the appeal.

The PSE states that the proposed filing fee would be used to help cover the costs associated with the processing of appeals by the Exchange. In particular, the PSE states that it pays a fee of $250 to each Governor for their time and effort in reviewing a disciplinary decision. This $250 fee is paid to each Governor for each meeting necessary to review a particular decision. In addition, the Exchange states that the preparation of hearing transcripts for the use of the Review Board typically costs the Exchange between $200 to $500, depending on the length of the hearing and whether the hearing was tape recorded or transcribed. The PSE states that excluding the time that is devoted to each appeal by the Exchange staff administrator, the attorney handling the case, and other Exchange staff who are at times called upon for specific matters, the Exchange spends approximately $1,200 to $1,500 for each appeal.

The PSE believes that the ease with which an appeal can be filed, and the fact that a member, member organization, or a person associated with a member or member organization ("member") can receive a "second look" at no cost to the member, creates the potential for an abuse of the appeal process. The PSE states that the proposed filing fee will have the effect of deterring frivolous appeals, yet it will not deter a member from filing a request for review when the member believes that there are grounds for reversal of a decision. Accordingly, the PSE believes that the proposed filing fee will not interfere with a member's fundamental right to have a decision reviewed by the Board, but will, if the initial disciplinary decision is upheld, help to cover the costs incurred.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of sections 6(b) (4), (7) and 6(d)(1) of the Act.[6] Section 6(b)(4) requires that the rules of an exchange provide for the equitable allocation of reasonable dues, fees and other charges among its members, issuers, and other persons using its facilities. Section 6(b)(7) of the Act requires, among other things, that exchange rules provide a fair procedure for the disciplining of members and persons associated with members. Section 6(d)(1) of the Act sets forth certain requirements for the conduct of exchange disciplinary proceedings, including the requirements of notice, an opportunity to be heard, and maintenance of a record of the proceedings. The Commission believes, for the reasons set forth below, that the proposed rule change satisfies all of the statutory requirements.

The Commission believes that it is reasonable to shift a portion of the costs associated with appeal proceedings to those members seeking review of disciplinary decisions, and, in particular, those members whose disciplinary decisions are upheld by the Review Board. The imposition of a fee for filing an appeal is used in many judicial and regulatory fora.[7] Such a fee helps to defray the costs of providing a judicial or regulatory apparatus for handling appeals. At the same time, the fee should not be so high as to bar access to the appellate process. The PSE fee is reasonable in this regard. First, while the fee is not *de minimis*, it is small enough so as not to exact a major cost on persons desiring to file an appeal.

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[1] 17 CFR 200.30-3(a)(12) (1991).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b-4 (1991).

[3] The current Appeals Committee consists of all four public Governors on the Board.

[4] See PSE Rule 10.8(b). The body conducting the review is referred to as the "Review Board."

[5] The PSE proposes to require a $500 fee for the appeal of each decision filed with the Exchange. Therefore, if more than one party appeals a decision, the PSE would require only a $500 fee for the appeal under the proposal.

[6] 15 U.S.C. 78f (1988).

[7] For example, pursuant to United States Supreme Court Rule 38, an applicant filing a petition for certiorari must pay a filing fee of $300.

Second, the proposed fee allows the Board to waive the $500 fee for hardship or other compelling reasons, requires the return of this fee if the decision is overruled on appeal, and permits the Board to return the fee or a portion thereof if a decision is overruled in part on appeal. The Commission, therefore, believes that the proposal appropriately balances the Exchange's interest in the efficient administration of its review proceedings with a member's interest in the fair and equitable resolution of a disciplinary matter on appeal.

The Commission also does not believe that the proposed filing fee should interfere with the requirements of section 6(d)(1) of the Act, which governs the initiation and conduct of disciplinary proceedings. The proposed rule will only add a filing fee for a member who seeks review of a decision under the Exchange's review procedures. As noted above, the Commission does not believe that the fee will restrict the ability of a member to seek Exchange review of a disciplinary matter. Moreover, the proposal would not interfere with the Commission's authority pursuant to section 19(d)(2) of the Act [8] to review the Exchange's final disciplinary sanctions on its own motion or upon application by an aggrieved person.

Finally, because the fee will shift to the responsible party a portion of the costs involved in administering the appellate process, the proposal is consistent with the equitable allocation of dues and fees to all PSE members.

It therefore is ordered, pursuant to section 19(b)(2) of the Act,[9] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-2882 Filed 2-5-92; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Incorporated

January 31, 1992.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Permian Basin Royalty Trust
  Units of Beneficial Interest (File No. 7-7865)
Intercapital Quality Municipal Investment Trust
  Common Stock, $.01 Par Value (File No. 7-7866)
Georgia Power Company
  Class A Pfd Stock, No Par Value (File No. 7-7867)
Medco Research
  Common Stock, No Par Value (File No. 7-7868)
Semi Conductor Packaging Materials Co., Inc.
  Common Stock, $.10 Par Value (File No. 7-7869)
Attwoods Plc
  Ordinary Shares, 5p Par Value (File No. 7-7870)
American Precision Industries
  Common Stock, $0.66 2/3 Par Value (File No. 7-7871)
AMSCO International
  Common Stock, $0.01 Par Value (File No. 7-7872)
Global Health Sciences Fund
  Shares of Beneficial Interest, $.01 Par Value (File No. 7-7873)
Revlon, Inc.
  11 3/4 Notes due 95 (File No. 7-7874)
Trump Taj Mahal Funding Inc.
  11.35 Notes due 95 (File No. 7-7875)
Leisure Technologies, Inc.
  Preferred Stock (File No. 7-7876)
Southern National Corporation
  Common Stock, $5 Par Value (File No. 7-7877)
Vigoro Corporation
  Common Stock, $0.01 Par Value (File No. 7-7878)
Hondo Oil & Gas Co.
  Common Stock, $1 Par Value (File No. 7-7879)
Health Care & Retirement
  Common Stock, $0.01 Par Value (File No. 7-7880)
Presley Companies
  Common Stock, $0.01 Par Value (File No. 7-7881)
R.P. Scherer
  Common Stock, $0.01 Par Value (File No. 7-7882)
National Health Investor, Inc.
  Common Stock, $0.01 Par Value (File No. 7-7883)
NationsBank Corporation
  Common Stock, $0.01 Par Value (File No. 7-7884)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 24, 1992, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-2796 Filed 2-5-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18503; 812-7756]

Centerland Fund, et al.; Application

January 30, 1992.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

APPLICANTS: Centerland Fund (the "Fund") and Goldman, Sachs & Co. ("Goldman Sachs").

RELEVANT 1940 ACT SECTIONS: Exemption requested under section 6(c) from sections 18(f)(1), 18(g), and 18(i).

SUMMARY OF APPLICATION: Applicants seek an amendment of an existing order to permit bond and equity portfolios of the Fund to issue and sell separate classes of units representing interests in the same portfolio. These classes would be identical in all respects, except that (a) certain classes would bear expenses attributable to a rule 12b-1 plan or a shareholder services plan, (b) the classes would have different voting rights, exchange privileges, and class designations, (c) units of certain classes could be sold subject to a front-end sales load, (d) the transfer agency fees paid by each class may vary, and (e) the classes would vary as to minimum account size and related matters.

FILING DATES: The application was filed on July 19, 1991 and amended on December 20, 1991 and January 28, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving the applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 24, 1992 and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

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[8] 15 U.S.C. 78s(d)(2) (1988).

[9] 15 U.S.C. 78s(b)(2) (1988).

[10] 17 CFR 200.30-3(a)(12) (1991).

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, 4900 Sears Tower, Chicago, Illinois 60606.

FOR FURTHER INFORMATION CONTACT: C. Christopher Sprague, Senior Staff Attorney, at (202) 272–3035, or Nancy M. Rappa, Branch Chief, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations.

1. The Fund is a Massachusetts business trust registered under the 1940 Act as an open-end management investment company, and has an effective registration statement under the Securities Act of 1933. Currently, the Fund offers units in the following investment portfolios, each of which declares dividends daily: the Short-Term Diversified Assets Portfolio, the Short-Term U.S. Treasury Portfolio, and the Short-Term Tax-Exempt Portfolio (such portfolios, together with all series subsequently established or otherwise acquired that declare dividends daily, are referred to as the "Daily Dividend Portfolios").

2. In Investment Company Act Release No. 18101 (Apr. 16, 1991) (the "Prior Order"), the Commission issued an order permitting the Fund to issue and sell three basic classes of units ("Units") with respect to each Daily Dividend Portfolio (the "Multi-Class System"). One class of Units is not subject to a rule 12b–1 plan or a shareholder services plan (the "No Plan Units"). The second class of Units (the "Administration Units") is offered in accordance with paragraphs (b) through (f) of rule 12b–1 (except for that rule's shareholder approval requirements) (the "Administration Plan"). The third class of Units (the "Service Units") is offered pursuant to a rule 12b–1 plan (the "Service Plan"). The Administration Plan and the Service Plan are referred to as the "Plans."

3. Applicants expect to create several bond and equity portfolios that will not declare dividends daily (such portfolios, together with all series subsequently established or otherwise acquired that do not declare dividends daily, are referred to as the "Non-Daily Dividend Portfolios;" the Daily Dividend Portfolios and the Non-Daily Dividend Portfolios are referred to collectively as the "Portfolios.") In the present application, applicants request that the exemptive relief granted in the Prior Order be extended so that Non-Daily Dividend Portfolios may issue and sell No Plan Units, Administration Units, and Service Units.

4. Goldman Sachs acts as investment adviser and distributor for the three Daily Dividend Portfolios. Boatmen's Trust Company ("Boatmen's") acts as subadviser to the Short-Term Tax-Exempt Portfolio. Non-Daily Dividend Portfolios may be advised by Goldman Sachs, Boatmen's, or an affiliate of Boatmen's, and are expected to be administered and distributed by Goldman Sachs.

5. As is the case for the Daily Dividend Portfolios, under each type of Plan covering the Non-Daily Dividend Portfolios, the Fund would enter into servicing agreements ("Service Agreements") with banks or other institutions ("Service Organizations"), under which the Service Organization would provide certain support services to its customers ("Customers") who from time to time beneficially own Units offered in connection with a Plan.

6. As under the Prior Order, the services to be provided by Service Organizations to their Customers under an Administration Plan governing a class of Units in a Non-Daily Dividend Portfolio may include:

(a) Acting as unitholder of record and nominee for all Customers;

(b) Maintaining account records for each Customer;

(c) Answering questions and handling correspondence from Customers;

(d) Processing Customer orders to purchase, redeem, or exchange Administration Units;

(e) Transferring funds used to purchase or redeem Administration Units;

(f) Issuing transaction confirmations; and

(g) Providing other account administration services (collectively, the "Account Administration Services").

7. As is the case for the Daily Dividend Portfolios, the services to be provided by Service Organizations to their Customers under a Service Plan covering Units in a Non-Daily Dividend Portfolio would include:

(a) Account Administration Services;

(b) Answering questions about the Fund posed by prospective and existing investors;

(c) Providing prospectuses and statements of additional information on request;

(d) Assisting Customers in completing application forms, selecting dividend and other options, and opening custody accounts with the Service Organization; and

(e) Generally acting as liaison between investors and the Fund (collectively, the "Unitholder Liaison Services").

8. As is the case for the Daily Dividend Portfolios, under each type of Plan covering the Non-Daily Dividend Portfolios, the Fund would make certain payments to a Service Organization for Account Administration and Unitholder Liaison Services ("Service Payments"). Service Payments made pursuant to a Service Plan would not exceed .75% per annum of the average daily net asset value of those Service Units beneficially owned by Customers of the Service Organization, and Service Payments made under an Administration Plan would not exceed .50% per annum of the average daily net asset value of those Administration Units beneficially owned by Customers of the Service Organization.

9. As under the Prior Order, each class of units in a Non-Daily Dividend Portfolio would bear the cost of preparing, printing, and mailing proxy materials relating to a particular Plan ("Class Expenses"). The determination of which expenses would be allocated as a Class Expense would be made by the Board of Trustees of the Fund in the manner described in condition 3 below.

10. As is the case for the Daily Dividend Portfolios, each Unit in a Non-Daily Dividend Portfolio, regardless of class, would represent an equal *pro rata* interest in that Portfolio and would have identical voting, dividend, liquidation, and other rights, except that: (a) Each class of Units would have a different class designation; (b) each class of Units offered in connection with a Plan would bear its particular Service Payments; (c) each class of Units would bear certain Class Expenses; (d) unitholders of a particular class would have exclusive voting rights with respect to matters pertaining to their Plan; (e) each class would have different exchange privileges; (f) the transfer agency fees paid by each class may vary; (g) certain classes of Units of such Portfolios might be sold subject to a front-end sales load; and (h) the classes may be subject to different minimum account sizes and similar matters. The requested order also would amend the Prior Order to permit the classes of Units of the Daily

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Dividend Portfolios to be assessed different transfer agency fees.

11. As under the Prior Order, the net asset value of all outstanding Units representing interests in the same Non-Daily Dividend Portfolio would be computed on the same days and at the same times by class by determining the amount of net assets attributable to each class of Units and dividing by the amount of Units for such class as more fully described in the Expert's Report discussed below. The gross income and expenses of a Non-Daily Dividend Portfolio would be allocated to each of the Portfolio's classes based on the relative net asset value of each class.

12. The net asset value per Unit of each class in a Non-Daily Dividend Portfolio may differ between dividend declaration dates. This is due to the fact that, while the net asset value per Unit representing interests in the same Portfolio would be computed on the same days, at the same time, and in the same manner, the Service Payments and Class Expenses would be different for each such class. As a result, the daily net income realized by each class would differ, and the net asset value per Unit attributable to each class could vary prior to the declaration of dividends. Such variance would reflect only accrued net income to which the unitholders of a particular class are entitled, but which has not yet been declared as a dividend.

Applicant's Legal Analysis

1. Applicants request an exemptive order because the different expenses and dividends of the Fund's No Plan Units, Administration Units, and Service Units might be regarded as creating a class of stock with "priority over any other class as to distribution of assets or payment of dividends" within the meaning of section 18(g) of the 1940 Act. Section 18(f)(1) of the 1940 Act generally prohibits a registered open-end company, such as the Fund, from issuing or selling any class of senior security. Moreover, the fact that unitholders would enjoy exclusive voting rights with respect to matters affecting their class is not consistent with the requirement in section 18(i) that shares of a registered management company have equal voting rights. The Fund asserts that the proposed allocation of expenses and voting rights is equitable, and would not unfairly discriminate against any group of unitholders. Unitholders receiving the services provided under a Plan would bear the costs of such services, but would also enjoy exclusive voting rights with respect to matters affecting the Plan. Conversely, investors purchasing No Plan Units would not bear those expenses, receive the service benefits of such Plans, or enjoy those voting rights.

2. Applicants believe that it would be inefficient and economically infeasible to organize a separate investment portfolio for each class of Units created. Not only might the Fund incur duplicative costs in organizing and operating such new portfolios, but the Fund's management of its existing portfolios might be hampered. For those reasons, the Fund seeks to create new classes of Units, rather than new portfolios.

3. Applicants maintain that the proposed arrangement does not involve borrowing, and does not affect the Fund's existing assets or reserves. Nor will the proposed arrangement increase the speculative character of the Units in a Non-Daily Dividend Portfolio, since all Units—No Plan, Administration, and Service—would participate *pro rata* in all of the Portfolio's income and all of the Portfolio's expenses (with the exception of the Service Payments and other expenses attributable to a particular class). Accordingly, the Fund submits that the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

Applicant's Conditions

If the requested order is granted, applicants will comply with the following conditions:

1. Each class of Units of a Non-Daily Dividend Portfolio will represent interests in the same portfolio of investments, and be identical in all respects, except as set forth below. The only differences between the classes of Units of a Non-Daily Dividend Portfolio will relate solely to:

(a) The impact of the disproportionate Service Payments made under the Administration Plan and the Service Plan, the cost of preparing, printing and mailing proxy materials relating to only a particular class, and any other incremental expenses subsequently identified that should be properly allocated to one class which shall be approved by the SEC pursuant to an amended order;

(b) The fact that the classes will vote separately with respect to the Portfolio's Administration Plan and Service Plan;

(c) The different exchange privileges of the classes of Units;

(d) The designation of each class of Units of a Portfolio;

(e) In the case of non-money market Portfolios, the sales load that classes of Units will carry due to differing distribution methods;

(f) The different transfer agency fees charges to different classes of Units;

(g) The different requirements as to when funds may be received to effect purchases;

(h) The different minimum account size requirements; and

(i) The different investment options, including systematic investment and systematic withdrawal options.

2. The Trustees of the Fund, including a majority of the independent Trustees, will approve the offering of different classes of Units (the "Multi-Class System") for Non-Daily Dividend Portfolios. The minutes of the meetings of the Trustees of the Fund regarding the deliberations of the Trustees with respect to the approvals necessary to implement the Multi-Class System with respect to Non-Daily Dividend Portfolios will reflect in detail the reasons for the Trustees' determination that the proposed Multi-Class System is in the best interests of both the Fund and its unitholders of Non-Daily Dividend Portfolios.

3. The Class Expenses to be allocated to a particular class of units of a Non-Daily Dividend Portfolio and any subsequent changes thereto will be reviewed and approved by a vote of the Trustee of the Fund, including a majority of the Trustees who are not interested persons of the Fund. Any person authorized to direct the allocation and disposition of monies paid or payable by a Non-Daily Dividend Portfolio to meet Class Expenses shall provide to the Trustees, and the Trustees shall review, at least quarterly, a written report of the amounts so expended and the purposes for which such expenditures were made.

4. On an ongoing basis, the Trustees of the Fund, pursuant to their fiduciary responsibilities under the 1940 Act and otherwise, will monitor the Fund for the existence of any material conflicts among the interests of the classes of Units of Non-Daily Dividend Portfolios. The Trustees, including a majority of the independent Trustees, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. Goldman Sachs will be responsible for reporting any potential or existing conflicts to the Trustees. If a conflict arises, Goldman Sachs, at its own cost, will remedy such conflict up to and including establishing a new registered management investment company.

5. Any Service Plan adopted or amended to permit the assessment of a Rule 12b-1 fee on any class of Units which has not had its Rule 12b-1 plan approved by the public unitholders of that class will be submitted to the public

unitholders of such class for approval at the next meeting of unitholders after the initial issuance of the class of Units. Such meeting is to be held within sixteen months of the date that the registration statement relating to such class first becomes effective or, if applicable, the date that the amendment to the registration statement necessary to offer such class first becomes effective.

6. The Administration Plans will be adopted and operated in accordance with the procedures set forth in Rule 12b-1 (b) through (f) as if the expenditures made thereunder were subject to Rule 12b-1, except that unitholders need not enjoy the voting rights specified in Rule 12b-1. In evaluating the Administration Plans, the Trustees will specifically consider whether (a) such Plans are in the best interest of the applicable classes and their respective unitholders; (b) the services to be performed pursuant to the Administration Plans are required for the operation of the applicable classes; (c) the Service Organizations can provide services at least equal, in nature and quality, to those provided by others, including the Fund, providing similar services; and (d) the fees for such services are fair and reasonable in light of the usual and customary charges made by other entities, especially non-affiliated entities, for services of the same nature and quality.

7. Each Service Agreement entered into pursuant to an Administration Plan will contain a representation by the Service Organization that any compensation payable to the Service Organization in connection with the investment of its Customers' assets in the Fund (a) will be disclosed by it to its Customers; (b) will be authorized by its Customers; and (c) will not result in an excessive fee to the Service Organization.

8. Each Service Agreement entered into pursuant to an Administration Plan will provide that, in the event an issue pertaining to an Administration Plan is submitted for unitholder approval, the Service Organization will vote any Units held for its own account in the same proportion as the vote of those Units held for its Customers' accounts.

9. The Trustees of the Fund will receive quarterly and annual statements concerning the amounts expended under the Administration Plans and Service Plans and the related Service Agreements complying with paragraph (b)(3)(ii) of Rule 12b–1, as it may be amended from time to time. In the statements, only expenditures properly attributable to the sale or servicing of a particular class of Units will be used to justify any distribution or servicing fee charged to that class. Expenditures not related to the sale or servicing of a particular class will not be presented to the Trustees to justify any fee attributable to that class. The statements, including the allocations upon which they are based, will be subject to the review and approval of the independent Trustees in the exercise of their fiduciary duties.

10. Dividends paid by a Non-Daily Dividend Portfolio with respect to each class of its Units, to the extent any dividends are paid, will be calculated in the same manner, at the same time, on the same day, and will be in the same amount, except that Service Payments made by a class under its Plan and any Class Expenses will be borne exclusively by that class.

11. The methodology and procedures for calculating the net asset value and dividends and distributions of the classes and the proper allocation of expenses among the classes has been reviewed by an expert (the "Expert") who has rendered a report to applicants, which has been provided to the staff of the SEC, that such methodology and procedures are adequate to ensure that such calculations and allocations will be made in an appropriate manner. On an ongoing basis, the Expert, or an appropriate substitute Expert, will monitor the manner in which the calculations and allocations are being made and, based upon such review, will render at least annually a report to the Fund that the calculations and allocations are being made properly. The reports of the Expert shall be filed as part of the periodic reports filed with the SEC pursuant to sections 30(a) and 30(b)(1) of the 1940 Act. The work papers of the Expert with respect to such reports, following request by the Fund (which the Fund agrees to provide), will be available for inspection by the SEC staff upon the written request to the Fund for such work papers by a senior member of the Division of Investment Management, limited to the Director, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director and any Regional Administrators or Associate and Assistant Administrators. The initial report of the Expert is a "Special Purpose" report on the "Design of a System" and the ongoing reports will be "Special Purpose" reports on the "Design of a System and Certain Compliance Tests" as defined and described in SAS No. 44 of the AICPA, as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.

12. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value and dividends and distributions of the classes of Units and the proper allocation of expenses among the classes of Units and this representation will be concurred with by the Expert in the initial report referred to in condition (11) above and will be concurred with by the Expert, or an appropriate substitute Expert, on an ongoing basis at least annually in the ongoing reports referred to in condition (11) above. Applicants will take immediate corrective measures if this representation is not concurred in by the Expert or appropriate substitute Expert.

13. The prospectuses of each class of Units will contain a statement to the effect that a salesperson and any other person entitled to receive compensation for selling or servicing Fund Units may receive different compensation with respect to one particular class of Units over another in the Fund.

14. Goldman Sachs will continue to follow its existing compliance standards as to when each class of Units may appropriately be sold to particular investors. Applicants will require all persons selling Units of the Fund to agree to conform to such standards.

15. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the Trustees of the Fund with respect to the Multi-Class System, as expanded, will be set forth in guidelines which will be furnished to the Trustees.

16. The Fund will disclose the respective expenses, performance data, distribution arrangements, services, fees, sales loads, deferred sales loads, and exchange privileges applicable to each class of Units in every prospectus, regardless of whether all classes of Units are offered through each prospectus. The Fund will disclose the respective expenses and performance data applicable to all classes of Units in every unitholder report. To the extent any advertisement or sales literature describes the expenses or performance data applicable to any class of Units, it will also disclose the respective expenses and/or performance data applicable to all classes of Units. The information provided by applicants for publication in any newspaper or similar listing of the Fund's net asset value and public offering price will present each class of Units separately.

17. Applicants acknowledge that the grant of the exemptive order requested by the application will not imply SEC approval, authorization, or acquiescence

in any particular level of payments that the Fund may make to Service Organizations pursuant to any Plan in reliance on the exemptive order.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-2800 Filed 2-5-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-18506; File No. 812-7589]

Neuberger & Berman Advisers Management Trust, et al.

January 29, 1992.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission")

ACTION: Notice of application for an amended order of exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: Neuberger & Berman Advisers Management Trust ("AMT"), Neuberger & Berman Management Incorporated (the "Adviser"), Sentry Life Insurance Company ("Sentry"), Sentry Variable Life Account I (the "Account"), and Sentry Equity Services, Inc. ("SESI").

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) exempting certain transactions from the provisions of sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act, and Rules 6e-2(b)(15) and 6e-3(T)(b)(15) thereunder.

SUMMARY OF THE APPLICATION: Applicants seek an amended order under Section 6(c) of the 1940 Act exempting them from sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act, and Rules 6e-2(b)(15) and 6e-3(T)(b)(15) thereunder, to the extent necessary to permit the Account and other affiliated and unaffiliated insurance company separate accounts to invest in shares of AMT, which also will sell its shares directly to qualified pension and retirement plans outside of the separate account context.

FILING DATE: The application was filed on September 10, 1990 and amended on November 23, 1990, October 30, 1991, and January 27, 1992.

HEARING OR NOTIFICATION OF HEARING: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the Commission by 5:30 p.m. on February 24, 1992. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof and service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. AMT and Adviser, 342 Madison Avenue, New York, New York 10173. Sentry, the Account, and SESI, 1800 North Point Drive, Stevens Point, WI 54481.

FOR FURTHER INFORMATION CONTACT: Michael V. Wible, Senior Attorney, at (202) 272-2026, or Heidi Stam, Assistant Chief, at (202) 272-2060, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of application. The complete application is available for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. Sentry, a stock life insurance company organized under the laws of the State of Wisconsin, is the depositor and sponsor of the Account. The Account is a segregated asset account of Sentry and is registered under the 1940 Act as a unit investment trust. The Account was established to act as the funding entity for a flexible premium variable life insurance policy. Net premiums under the policy are allocated to the Account, which in turn invests at net asset value in AMT.

2. AMT is an open-end diversified management investment company of the series type. The Adviser manages AMT and distributes its shares. The Adviser is not affiliated with any of the insurance companies whose variable annuity and variable life insurance contracts have AMT as an underlying investment.

3. The Applicants filed this application to amend an amended Order dated January 7, 1988 (the "1988 Amended Order"). Investment Company Act Release No. 16207 (Jan. 7, 1988). The 1988 Amended Order added AMT as a party to a previous order (the "Original Order") granting exemptions from sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act and Rules 6e-2(b)(15) and 6e-3(T)(b)(15) thereunder, to the extent necessary to permit mixed and shared funding. Investment Company Act Release No. 15324 (Sept. 23, 1986). The use of a common management company as the investment medium of both variable annuities and variable life insurance is referred to as "mixed funding". The use of a common management company as the investment medium for separate accounts of unaffiliated insurance companies is referred to as "shared funding". Rule 6e-2(b)(15) precludes mixed and shared funding and Rule 6e-3(T)(b)(15) precludes shared funding.

4. Rules 6e-2 and 6e-3(T) provide certain exemptions from the 1940 Act that permits insurance companies separate accounts to issue variable life insurance. The exemptions in Rule 6e-2(b)(15) are available only to separate accounts, all the assets of which consist of the shares of one or more registered management investment companies which offer their shares exclusively to variable life insurance separate accounts of a life insurer or of any affiliated life insurance company. The exemptions in Rule 6e-3(T)(b)(15) are available only to separate accounts, all the assets of which consist of the shares of one or more registered management investment companies which offer their shares exclusively to separate accounts of a life insurer, or of any affiliated life insurance company, offering either scheduled contracts or flexible contracts, or both; or which also offer their shares to variable annuity separate accounts of the insurer or an affiliated insurance company.

5. The Applicants now propose that AMT also sell its shares directly to qualified pension and retirement plans ("Qualified Plans" of "Plan") outside of the separate account context. The Qualified Plans may choose AMT as the sole investment under the Plan or as one of several investments. Plan participants may or may not be given an investment choice depending on the Plan itself. Shares of AMT sold to Qualified Plans would be held by the trustees of the plans as mandated by section 403(a) of the Employee Retirement Income Security Act ("ERISA"). The Adviser will not act as investment adviser to any of the Qualified Plans which will purchase shares of the Trust. All of the voting stock of the Adviser is owned by individuals who are general partners of Neuberger & Berman ("Subadviser") which acts as sub-adviser to the Trust. It is possible that the Sub-Adviser may act as an investment adviser to the Qualified Plans which may invest in the Trust. However, none of the assets in any Qualified Plan advisory account managed by the Sub-Adviser will be invested in the Trust. The Sub-Adviser is also not permitted to advise such Qualified Plans to invest in the Trust. The Qualified Plans for which the Sub-Adviser acts as investment adviser may, of their own volition, independently

choose to invest in the Trust. The application seeks exemptive relief only as it pertains to the mixed and shared funding portion of the Original Order and the 1988 Amended Order.

6. The Applicants assert that the relief granted by Rules 6e–2(b)(15) and 6e–3(T)(b)(15) is in no way affected by the purchase of AMT shares by Qualified Plans. The Applicants assert that none of the relief provided in Rules 6e–2(b)(15) or 6e–3(T)(b)(15) relates to qualified pension and retirement plans or to a registered investment company's ability to sell its shares to such plans. However, because the relief under Rules 6e–2(b)(15) and 6e–3(T)(b)(15) is available only where shares of registered management investment companies are offered exclusively to separate accounts, the Applicants believe that additional exemptive relief is necessary if shares of AMT are to be sold directly to Qualified Plans. The Applicants assert that the requested relief is necessary to ensure that the participating insurance company separate accounts may continue to enjoy the benefits of the relief available under Rules 6e–2(b)(15) and 6e–3(T)(b)(15).

7. The Applicants assert that changes in the tax law have created the opportunity for AMT to increase its asset base through the sale of shares to Qualified Plans. The Applicants state that section 817(h) of the Internal Revenue Code of 1986, as amended (the "Code"), imposes certain diversification standards on the underlying assets of variable annuity and variable life insurance contracts (collectively, "variable contracts") held in the portfolios of AMT. The Code provides that a variable contract shall not be treated as an annuity contract or life insurance contract for any period in which the investments are not, in accordance with regulations prescribed by the Treasury Department, adequately diversified. On March 2, 1989, the Treasury Department issued regulations which established diversification requirements for the investment portfolios underlying variable contracts. Treas. Reg. 1.817–5 (1989). The regulations provide that, in order to meet the diversification requirements, all of the beneficial interest in the investment company must be held by the segregated asset accounts of one or more insurance companies. However, the regulations also contain certain exceptions to this requirement, one of which allows shares in an investment company to be held by the trustee of a qualified pension or retirement plan without adversely affecting the ability of shares of the same investment company to be held by the separate accounts of insurance companies in connection with their variable contracts. Treas. Reg. § 1.817–5(f)(3)(iii).

8. The Applicants state that the promulgation of Rules 6e–2 and 6e–3(T) preceded the issuance of the Treasury regulations. The Applicants assert that the sale of shares of the same investment company to both separate accounts and Qualified Plans could not have been envisioned at the time of the adoption of Rules 6e–2(b)(15) and 6e–3(T)(b)(15).

9. Section 9(a) of the 1940 Act provides that it is unlawful for any company to serve as investment adviser or principal underwriter of any registered open-end investment company if an affiliated person of that company is subject to a disqualification enumerated in sections 9(a)(1) or 9(a)(2). Rules 6e–2(b)(15) (i) and (ii), and 6e–3(T)(b)(15) (i) and (ii), provide exemptions from section 9(a) under certain circumstances. Applicants previously requested and received relief from section 9(a) and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) to the extent necessary to permit mixed and shared funding. The Applicants argue that the relief previously granted from section 9(a) will in no way be affected by the proposed additional use of the shares of AMT in connection with Qualified Plans. The insulation of AMT from those individuals who are disqualified under the 1940 Act remains in place. The Applicants assert that since the Qualified Plans are not investment companies and will not be deemed to be affiliated solely by virtue of their shareholdings, no additional relief is necessary.

10. The Applicants have previously requested and received relief from sections 13(a), 15(a) and 15(b) of the 1940 Act and Rules 6e–2(b)(15) and 6e–2(T)(b)(15) thereunder to the extent necessary to permit mixed and shared funding. In support of their previous requests for relief, the Applicants have represented that all variable annuity and variable life contractowners would be provided pass-through voting rights with respect to shares of AMT, and that any potential irreconcilable conflicts which could develop among the separate accounts due to the insurance company's right to disregard voting instructions in certain limited circumstances, would be resolved through certain undertakings which the Applicants made as a condition of the exemptive relief. Shares of AMT sold to Qualified Plans would be held by the trustees of the Plans as mandated by section 403(a) of ERISA. Unless one of the two exceptions stated in section 403(a) of ERISA applies, plan trustees have the exclusive authority and responsibility for voting proxies. Where a named fiduciary appoints an investment manager, the investment manager has the responsibility to vote the shares held unless the right to vote such shares is reserved to the trustees or the named fiduciary. In any event, there is no pass-through voting to the participants in the plans. In that there is no pass-through voting with respect to Plan participants, the Applicants submit that, unlike the case with insurance company separate accounts, the issue of the resolution of material irreconcilable conflicts with respect to voting is not present with Qualified Plans.

11. The Applicants assert that when irreconcilable conflicts between separate accounts arise, the Participating Insurance Companies must take many time consuming steps to eliminate AMT as an eligible investment. The Applicants have concluded that the addition of the Qualified Plans as eligible shareholders does not increase the risk of material irreconcilable conflicts among shareholders. However, the Applicants assert that even if a material irreconcilable conflict involving the Qualified Plans arose, the Plans, unlike the separate accounts, can simply redeem their shares and make alternative investments. Because shares of AMT are sold without either a front-end or a rear-end sales load, such redemption is at net asset value. Thus, the Applicants argue that allowing Qualified Plans to invest directly in AMT does not increase the Opportunity for conflicts of interest.

12. The Applicants assert that regardless of the type of shareholder in AMT, the Adviser will continue to manage the Portfolio solely and exclusively in accordance with each Portfolio's investment objectives and restrictions as well as any guidelines established by the Board of Trustees of AMT. Individual Portfolio managers work with a pool of money and do not take into account the identity of the shareholders. The Applicants assert that AMT is managed in the same manner as any other mutual fund. If shareholders are displeased with the fund's investment results or the manner in which the fund is being operated, they redeem their shares. The Applicants state that it is the duty of the management of the fund, including the board of directors, or trustees as the case may be, to keep shareholders informed through updated prospectuses

and annual and semi-annual reports. The Applicants believe that these periodic communications to shareholders function as they are intended to. Thus, Qualified Plans and contractowners will be given up-to-date information necessary for them to make informed investment decisions.

13. The Applicants submit that the proposed exemptions are fully consistent with the policy and purposes of the 1940 Act. The Applicants assert that the sale of shares of AMT to Qualified Plans should result in an increased amount of assets available for investment by AMT which should inure to the benefit of variable contractowners by promoting economies of scale, by permitting greater safety through greater diversification, and by making the addition of new portfolios to AMT more feasible. Further, the Applicants submit that the use of AMT with Qualified Plans is not that dissimilar from AMT's current use in that Qualified Plans, like variable contracts, are generally long-term retirement vehicles. Applicants further submit that the sale of shares of AMT to Qualified Plans does not increase the risk of material irreconcilable conflicts to AMT or to the participating separate accounts.

14. Applicants' Conditions: In the event that a Qualified Plan shareholder should ever become an owner of 10% or more of the assets of AMT, the Qualified Plan shareholder will execute a fund participation agreement with AMT. A Qualified Plan shareholder will execute an application containing an acknowledgement of this condition at the time of its initial purchase of shares of AMT.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-2801 Filed 2-5-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18512; No. 811-2415]

PFL Variable Annuity Fund V

January 31, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: PFL Variable Annuity Fund V.

RELEVANT 1940 ACT SECTION: Order requested under Section 8(f).

SUMMARY OF APPLICATION: Application seeks an order declaring that it has ceased to be an investment company as defined by the 1940 Act.

FILING DATE: The application was filed on June 28, 1991 and amended on November 12, 1991.

HEARING OR NOTIFICATION OF HEARING: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on February 25, 1992. Request a hearing in writing, giving the nature of your interest, the reason for the request and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, c/o PFL Life Insurance Company, 4333 Edgewood Road, NE., Cedar Rapids, Iowa 52499.

FOR FURTHER INFORMATION CONTACT: Wendy Finck Friedlander, Attorney (202) 272-3045, or Heidi Stam, Assistant Chief (202) 272-2060, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from the SEC's Pubic Reference Branch.

Applicant's Representations

1. On September 21, 1973, Applicant filed a notification of registration as an investment company on Form N-8A, a registration statement as a unit investment trust under the 1940 Act on Form N-8B-2, and a registration statement under the Securities Act of 1933 on Form S-6 that was declared effective on May 16, 1974.

2. Applicant was established as a separate account of Pacific Fidelity Life Insurance Company on June 8, 1973 under the provisions of California insurance law. The business of Pacific Fidelity Life Insurance Company was assumed by PFL Life Insurance Company effective March 31, 1991.

3. As of April 30, 1991, Applicant has assets of $43,205, consisting of shares of Lexington GNMA Income Fund, Inc. Applicant retains these assets for purposes of funding its outstanding variable annuity contracts.

4. As of April 30, 1991, Applicant is contractually liable for the surrender value of its outstanding variable annuity contracts in the amount of $43,170.

5. As of April 30, 1991, Applicant had 14 security holders (annuity contract owners); as of October 29, 1991, Applicant had 7 security holders.

6. Applicant is not a party to any litigation or administrative proceeding.

7. PFL Life Insurance Company will continue to administer the Applicant and will fulfill all continuing obligations under the annuity contracts in accordance with the terms of such contracts. No new contracts will be sold and no new contributions or premiums will be accepted.

8. Applicant has not sold any new contracts since June 1982. Also, since November 15, 1985, no additional contributions or payments have been accepted.

9. Section 3(c)(1) of the 1940 Act excludes from the definition of an investment company any issuer whose outstanding securities are beneficially owned by not more than 100 persons and that is not making and does not presently propose to make a public offering of its securities. Applicant meets the conditions of section 3(c)(1) because the annuity contracts of the Applicant are owned by less than 100 persons and because Applicant is not making and does not propose to make a public offering of its securities.

10. PFL Life Insurance Company represents that it sent a letter on December 20, 1991, substantially in the form attached to the Application as exhibit C, to all of Applicant's contract holders informing them of this application.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-2880 Filed 2-5-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18509; No. 811-2413]

PFL Variable Annuity Fund I

January 31, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: PFL Variable Annuity Fund I.

RELEVANT 1940 ACT SECTION: Order requested under Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company as defined by the 1940 Act.

FILING DATE: The application was filed on June 28, 1991 and amended on November 12, 1991.

HEARING OR NOTIFICATION OF HEARING: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on February 25, 1992. Request a hearing in writing, giving the nature of your interest, the reason for the request and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC. 20549. Applicant, c/o PFL Life Insurance Company, 4333 Edgewood Road, NW., Cedar Rapids, Iowa 52499.

FOR FURTHER INFORMATION CONTACT: Wendy Finck Friedlander, Attorney (202) 272–3045, or Heidi Stam, Assistant Chief (202) 272–2060, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. On September 21, 1973, Applicant filed a notification of registration as an investment company on Form N–8A, a registration statement as a unit investment trust under the 1940 Act on Form N–8B–2, and a registration statement under the Securities Act of 1933 on Form S–6 that was declared effective on May 16, 1974.

2. Applicant was established as a separate account of Pacific Fidelity Life Insurance Company on June 8, 1973 under the provisions of California insurance law. The business of Pacific Fidelity Life Insurance Company was assumed by PFL Life Insurance Company effective March 31, 1991.

3. As of April 30, 1991, Applicant had assets of $247,708, consisting of shares of Lexington Research Fund, Inc. Applicant retains these assets for purposes of funding its outstanding variable annuity contracts.

4. As of April 30, 1991, Applicant is contractually liable for the surrender value of its outstanding variable annuity contracts in the amount of $246,751.

5. As of April 30, 1991, Applicant had 26 security holders (annuity contract owners); as of October 29, 1991, Applicant had 17 security holders.

6. Applicant is not a party to any litigation or administrative proceeding.

7. PFL Life Insurance Company will continue to administer the Applicant and will fulfill all continuing obligations under the annuity contracts in accordance with the terms of such contracts. No new contracts will be sold and no new contributions or premiums will be accepted.

8. Applicant has not sold any new contracts since June 1982. Also, since November 15, 1985, no additional contributions or payments have been accepted.

9. Section 3(c)(1) of the 1940 Act excludes from the definition of an investment company any issuer whose outstanding securities are beneficially owned by not more than 100 persons and that is not making and does not presently propose to make a public offering of its securities. Applicant meets the conditions of section 3(c)(1) because the annuity contracts of the Applicant are owned by less than 100 persons and because Applicant is not making and does not propose to make a public offering of its securities.

10. PFL Life Insurance Company represents that it sent a letter on December 20, 1991, substantially in the form attached to the application as exhibit C, to all the Applicant's contract holders informing them of this application.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–2881 Filed 2–5–92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC–18510; No. 811-2412]

PFL Variable Annuity Fund III

January 31, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: PFL Variable Annuity Fund III.

RELEVANT 1940 ACT SECTION: Order requested under section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company as defined by the 1940 Act.

FILING DATE: The application was filed on June 28, 1991 and amended on November 12, 1991.

HEARING OR NOTIFICATION OF HEARING: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on February 25, 1992. Request a hearing in writing, giving the nature of your interest, the reason for the request and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC. 450 Fifth Street NW., Washington, DC 20549. Applicant, c/o PFL Life Insurance Company, 4333 Edgewood Road NE., Cedar Rapids, Iowa 52499.

FOR FURTHER INFORMATION CONTACT: Wendy Finck Friedlander, Attorney (202) 272–3045, or Heidi Stam, Assistant Chief (202) 272–2060, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. On September 21, 1973, Applicant filed a notification of registration as an investment company on Form N–8A, a registration statement as a unit investment trust under the 1940 Act on Form N–8B–2, and a registration statement under the Securities Act of 1933 on Form S–6 that was declared effective on May 16, 1974.

2. Applicant was established as a separate account of Pacific Fidelity Life Insurance Company on June 8, 1973 under the provisions of California insurance law. The business of Pacific Fidelity Life Insurance Company was assumed by PFL Life Insurance Company effective March 31, 1991.

3. As of April 30, 1991, Applicant had assets of $392,336, consisting of shares of Lexington Growth Income Fund, Inc. Applicant retains these assets for purposes of funding its outstanding variable annuity contracts.

4. As of April 30, 1991, Applicant is contractually liable for the surrender value of its outstanding variable annuity contracts in the amount of $391,910.

5. As of April 30, 1991, Applicant had 22 security holders (annuity contract owners); as of October 29, 1991, Applicant had 11 security holders.

6. Applicant is not a party to any litigation or administrative proceeding.

7. PFL Life Insurance Company will continue to administer the Applicant and will fulfill all continuing obligations under the annuity contracts in accordance with the terms of such contracts. No new contracts will be sold and no new contributions or premiums will be accepted.

8. Applicant has not sold any new contracts since June 1982. Also, since November 15, 1985, no additional contributions or payments have been accepted.

9. Section 3(c)(1) of the 1940 Act excludes from the definition of an investment company any issuer whose outstanding securities are beneficially owned by not more than 100 persons and that is not making and does not presently propose to make a public offering of its securities. Applicant meets the conditions of section 3(c)(1) because the annuity contracts of the Applicant are owned by less than 100 persons and because Applicant is not making and does not propose to make a public offering of its securities.

10. PFL Life Insurance Company represents that it sent a letter on December 20, 1991, substantially in the form attached to the Application as Exhibit C, to all of Applicant's contract holders informing them of this application.

For the Commission, by the Division of Investment Management, under delegated authority

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-2884 Filed 2-5-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18513; No. 811-2416]

PFL Variable Annuity Fund VI

January 31, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: PFL Variable Annuity Fund VI.

RELEVANT 1940 ACT SECTION: Order requested under section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company as defined by the 1940 Act.

FILING DATE: The application was filed on June 28, 1991 and amended on November 12, 1991.

HEARING OR NOTIFICATION OF HEARING: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on February 25, 1992. Request a hearing in writing, giving the nature of your interest, the reason for the request and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicant, c/o PFL Life Insurance Company, 4333 Edgewood Road NE., Cedar Rapids, Iowa 52499.

FOR FURTHER INFORMATION CONTACT: Wendy Finck Friedlander, Attorney (202) 272-3045, or Heidi Stam, Assistant Chief (202) 272-2060, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. On September 21, 1973, Applicant filed a notification of registration as an investment company on Form N-8A, a registration statement as a unit investment trust under the 1940 Act on Form N-8B-2, and a registration statement under the Securities Act of 1933 on Form S-6 that was declared effective on May 16, 1974.

2. Applicant was established as a separate account of Pacific Fidelity Life Insurance Company on June 8, 1973 under the provisions of California insurance law. The business of Pacific Fidelity Life Insurance Company was assumed by PFL Life Insurance Company effective March 31, 1991.

3. As of April 30, 1991, Applicant had assets of $166,641, consisting of shares of Lexington GNMA Income Fund, Inc. Applicant retains these assets for purposes of funding its outstanding variable annuity contracts.

4. As of April 30, 1991, Applicant is contractually liable for the surrender value of its outstanding variable annuity contracts in the amount of $166,507.

5. As of April 30, 1991, Applicant had 41 security holders (annuity contract owners); as of October 29, 1991, Applicant had 19 security holders.

6. Applicant is not a party to any litigation or administrative proceeding.

7. PFL Life Insurance Company will continue to administer the Applicant and will fulfill all continuing obligations under the annuity contracts in accordance with the terms of such contracts. No new contracts will be sold and no new contributions or premiums will be accepted.

8. Applicant has not sold any new contracts since June 1982. Also, since November 15, 1985, no additional contributions or payments have been accepted.

9. Section 3(c)(1) of the 1940 Act excludes from the definition of an investment company any issuer whose outstanding securities are beneficially owned by not more than 100 persons and that is not making and does not presently propose to make a public offering of its securities. Applicant meets the conditions of section 3(c)(1) because the annuity contracts of the Applicant are owned by less than 100 persons and because Applicant is not making and does not propose to make a public offering of its securities.

10. PFL Life Insurance Company represents that it sent a letter on December 20, 1991, substantially in the form attached to the Application as Exhibit C, to all of Applicant's contract holders informing them of this application.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-2879 Filed 2-5-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18511; No. 811-2414]

PFL Variable Annuity Fund IV

January 31, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: PFL Variable Annuity Fund IV.

RELEVANT 1940 ACT SECTION: Order requested under section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company as defined by the 1940 Act.

FILING DATE: The application was filed on June 28, 1991 and amended on November 12, 1991.

HEARING OR NOTIFICATION OF HEARING: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on February 25, 1992. Request a hearing in writing, giving the nature of your interest, the reason for the request and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, c/o PFL Life Insurance Company, 4333 Edgewood Road NE., Cedar Rapids, Iowa 52499.

FOR FURTHER INFORMATION CONTACT: Wendy Finck Friedlander, Attorney (202) 272-3045, or Heidi Stam, Assistant Chief (202) 272-2060, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. On September 21, 1973, Applicant filed a notification of registration as an investment company on Form N-8A, a registration statement as a unit investment trust under the 1940 Act on Form N-8B-2, and a registration statement under the Securities Act of 1933 on Form S-6 that was declared effective on May 16, 1974.

2. Applicant was established as a separate account of Pacific Fidelity Life Insurance Company on June 6, 1973 under the provisions of California insurance law. The business of Pacific Fidelity Life Insurance Company was assumed by PFL Life Insurance Company effective March 31, 1991.

3. As of April 30, 1991, Applicant had assets of $100,177, consisting of shares of Lexington Growth Income Fund, Inc. Applicant retains these assets for purposes of funding its outstanding variable annuity contracts.

4. As of April 30, 1991, Applicant is contractually liable for the surrender value of its outstanding variable annuity contracts in the amount of $96,662.

5. As of April 30, 1991, Applicant had 59 security holders (annuity contract owners); as of October 29, 1991, Applicant had 21 security holders.

6. Applicant is not a party to any litigation or administrative proceeding.

7. PFL Life Insurance Company will continue to administer the Applicant and will fulfill all continuing obligations under the annuity contracts in accordance with the terms of such contracts. No new contracts will be sold and no new contributions or premiums will be accepted.

8. Applicant has not sold any new contracts since June 1982. Also, since November 15, 1985, no additional contributions or payments have been accepted.

9. Section 3(c)(1) of the 1940 Act excludes from the definition of an investment company any issuer whose outstanding securities are beneficially owned by not more than 100 persons and that is not making and does not presently propose to make a public offering of its securities. Applicant meets the conditions of section 3(c)(1) because the annuity contracts of the Applicant are owned by less than 100 persons and because Applicant is not making and does not propose to make a public offering of its securities.

10. PFL Life Insurance Company represents that it sent a letter on December 20, 1991, substantially in the form attached to the Application as Exhibit C, to all of Applicant's contract holders informing them of this application.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-2877 Filed 2-5-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-25463]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

January 31, 1992.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by February 24, 1992 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Central and South West Corporation, et al. (70-7852)

Central and South West Corporation ("CSW"), registered holding company, and CSW Energy, Inc., ("Energy"), a wholly owned subsidiary company, 1616 Woodall Rodgers Freeway, P.O. Box 660164, Dallas, Texas 75202, have filed an application-declaration under sections 6(a), 7, 9(a), 10 and 12(b) of the Act and Rules 43, 45, and 51 thereunder.

CSW and Energy propose to form a new wholly owned subsidiary ("Energy Sub"), to invest in a joint venture (the "Joint Venture") to be formed with EnerTran Technology Company ("EnerTran"). Energy Sub will be incorporated under the laws of the state of Delaware with an authorized capital of up to 1,000 shares of common stock without par value. Energy will subscribe to all of Energy Sub's common stock at a subscription price of $1.00 per share. Energy Sub's initial capitalization will not be less than $1,000.

Energy proposes to finance Energy Sub with up to $10 million through capital contributions, open account advances, loans and guarantees. Any such advances or loans will have an interest rate per annum not in excess of Mellon Bank's prime rate as in effect from time to time, plus 3% and a final maturity not to exceed 30 years. Guarantees, if any, would be made from time to time in support of obligations to be incurred by the Joint Venture in respect of contracts to be entered into with nonassociate third parties, including, but not limited to, power purchase contracts and fuel supply contracts.

Energy Sub will invest up to $10 million in the Joint Venture in the form of capital contributions, loans and guarantees. Loans will bear interest at a rate equal to the prime rate of The

Chase Manhattan Bank, N.A., as in effect from time to time, plus approximately 2%. The principal of each loan shall be payable from the anticipated revenues of the Joint Venture no later than 5 years after the date it is made. To the extent that revenues of the Joint Venture are insufficient to make such loan payments, amounts outstanding shall be converted into capital contributions. Aggregate financing by CSW and Energy to the Joint Venture is not to exceed $10 million of the $75 million authorized in an order of the Commission dated September 28, 1990 (HCAR No. 25162).

The Joint Venture will be in the business of developing and consulting with respect to, qualifying facilities within the meaning of the Public Utility Regulatory Policies Act of 1978 and independent power projects (each such qualifying facility or independent power project a "Facility" and, collectively, the "Facilities"). Subject to the prior approval of the Commission as required by the Act, the Joint Venture will also engage in the business of constructing, owning and operating Facilities and the business of, directly or indirectly, owning and holding the securities of special purpose corporations and interests in special purpose partnerships.

The Joint Venture will be organized in the form of a general partnership with an initial 87.5% interest for Energy Sub and 12.5% for EnerTran. Energy Sub's and EnerTran's initial capital contributions to the Joint Venture will be their separate right, title and interest in and to, and documents relating to, certain proposed facilities.

General Public Utilities Corporation (70–7926)

General Public Utilities Corporation ("GPU"), 100 Interpace Parkway, Parsippany, New Jersey 07054, a registered holding company, and its public-utility subsidiary companies, Jersey Central Power & Light Company ("JCP&L"), 300 Madison Avenue, Morristown, New Jersey 07960, Metropolitan Edison Company ("Met-Ed"), 2800 Pottsville Pike, Reading, Pennsylvania 19605 and Pennsylvania Electric Company ("Penelec"), 1001 Broad Street, Johnstown, Pennsylvania 15907, (collectively, the "GPU Companies"), have filed a declaration under sections 6(a) and 7 of the Act and Rule 50(a)(5) thereunder.

The GPU Companies request authority from time to time through March 31, 1995 to: (1) Issue, sell and renew unsecured promissory notes ("Notes") in amounts up to $150 million outstanding at any one time and maturing not more than six months from the date of issue, to certain banks ("Banks") under the terms of a new revolving credit agreement ("Agreement") with Citibank, N.A. and Chemical Bank as co-agents and Chemical Bank as the administrative agent; (2) issue, sell and renew their unsecured promissory notes, maturing not more than nine months from the date of issue, pursuant to loan participation arrangements and informal lines of credit ("Lines of Credit") in amounts up to the limitations on short-term indebtedness contained in their respective charters but, in the case of GPU, $200 million; (3) incur other short-term unsecured debt, from time to time, in amounts up to the limits permitted by their respective charters but, in the case of GPU, $200 million; and (4) in the case of JCP&L, Met-Ed and Penelec, issue and sell their respective unsecured promissory notes as commercial paper ("Commercial Paper") in amounts up to their respective charter limits. In no event, however, would the total amount of such unsecured debt of any GPU Company outstanding at any one time of $196 million, $101 million and $124 million, respectively.

The annual interest rate on each borrowing under the Agreement would be either: (a) The Alternate Base Rate (defined below), as in effect from time to time; (b) the CD Rate (defined below), as in effect from time to time, plus an amount ranging from .375% to .625%; or (c) the Eurodollar Rate (defined below), as in effect from time to time, plus an amount ranging from .25% to .50%. The Alternate Base Rate is the greater of: (i) Chemical Bank's prime rate in effect from time to time; or (ii) the federal funds rate then in effect for such day plus ½ of 1%. The CD Rate is the domestic money market bid rate for certificates of deposit of various maturities issued by the reference banks, as specified in the Agreement, adjusted for certain reserve requirements and assessments. The Eurodollar Rate is the average annual rate at which deposits in U.S. dollars are offered by the principal offices of the reference banks in London to prime banks in the London interbank market from time to time, plus additional costs for reserves, if applicable. The GPU Companies propose to pay to the banks an annual facility fee on the total commitment ranging from .20% to .375% per annum and an agency fee of $25,000 to each of the co-agents. They would also pay an annual administrative agent fee of $15,000.

The GPU Companies may also invite competitive bids from the banks for loans with requested maturities of up to six months in such principal amounts as a GPU company may request, subject to the $150 million limit of the Credit Agreement. The GPU Companies would pay the banks a competitive bid fee of $2,500 for each request for a competitive bid.

The GPU Companies further request authorization through March 31, 1995 to issue, sell and renew their respective unsecured promissory notes, maturing not more than nine months after issue, to: (1) Various commercial banks pursuant to Lines of Credit; and (2) lenders other than commercial banks, insurance companies or similar institutions, in an amount which, when added to such GPU Company's total principal amount of Notes then outstanding, would not exceed the amount of short-term indebtedness permitted by such GPU Company's charter but, in the case of GPU, $200 million. Each such note will: (A) Bear interest at a rate (after giving effect to any fees and compensating balance requirements) either (i) not exceeding 125% of the lending bank's prime rate for commercial borrowing at the date of issue of such note, or (ii) not exceeding 125% of a recognized prime rate in the case of lenders other than commercial banks; (B) be prepayable to the extent provided therein, without premium; and (C) not be issued as part of a public offering.

New England Power Company (70–7930)

New England Power Company ("NEPCO"), 25 Research Drive, Westborough, Massachusetts 01582, an electric public-utility subsidiary company of New England Electric System, a registered holding company, has filed an application-declaration under sections 6(a), 7, 9(a) and 10 of the Act and Rule 50(a)(5) thereunder.

NEPCO states that it has developed a comprehensive refinancing plan ("Refinancing Plan") to refinance a portion of its outstanding securities at significantly reduced interest and dividend costs. The Refinancing Plan calls for the issue and sale of one or more series of NEPCO's general and refunding mortgage bonds, the issue and pledge of one or more series of NEPCO's first mortgage bonds and the execution of one or more loan agreements. NEPCO further states that these transactions are exempt from section 6(a) of the Act or any rule thereunder pursuant to Rule 52 under the Act. In addition, the Refinancing Plan calls for NEPCO to enter into interest rate swap agreements ("Swaps"). NEPCO requests authorization to enter into one or more Swaps from time-to-time through

December 31, 1996, in notional amounts aggregating not in excess of $617 million.

Under a Swap, NEPCO would agree to make payments to a counterparty, payable periodically in arrears, at a fixed rate of interest calculated on the notional amount ("Fixed Payer"). In return, the counterparty would agree to make payments to NEPCO, based upon the same notional amount and an agreed upon variable interest rate index ("Fixed Receiver"). Alternatively, NEPCO and the counterparty may exchange roles as Fixed Payer and Fixed Receiver.

The Swaps will be for a term not to exceed 30 years. Variable-to-fixed Swaps would have a fixed interest rate ceiling of 9% per annum. Generally, the Swaps would provide that NEPCO may terminate the agreement with the counterparty's consent and/or with early termination payments, which could be substantial depending on market conditions. NEPCO may be obligated to pay various fees in connection with the Swaps and, in the event an intermediary between the counterparty and NEPCO is necessary for the purpose of guaranteeing payment obligations, such intermediary would require a fee, which would not exceed ½% per annum on the notional amount.

NEPCO also requests an exception from the competitive bidding requirements of Rule 50 under subsection (a)(5) thereunder for the Swaps.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-2862 Filed 2-5-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18514; 811-3400]

SFT, Inc.; Notice of Deregistration

January 31, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: SFT, Inc. ("SFT").

RELEVANT 1940 ACT SECTIONS: Section 8(f) and rule 8f-1 thereunder.

SUMMARY OF APPLICATION: SFT seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on September 16, 1991.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 27, 1992, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicant, 1016 West 8th Street, suite D, King of Prussia, Pennsylvania 19406.

FOR FURTHER INFORMATION CONTACT: Marc Duffy, Staff Attorney, (202) 272-2511, or Max Berueffy, Branch Chief, (202) 272-3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. SFT is a diversified open-end management company incorporated under the laws of Pennsylvania and consisting of the following ten portfolios: Equity Series, Defense Series, U.S. Government Series, Environmental Awareness Fund, NJ Pride Fund, Odd Lot Fund SBA Prime Fund, Asset Allocation Fund, Anthony Wayne Total Return Fund, and Seidman Growth and Income Fund. On February 17, 1982, SFT filed Notification of Registration on From N-8A pursuant to section 8(a) of the Act. On that same day, SFT filed a registration statement on Form N-1 thereby registering an indefinite number of shares under the Securities Act of 1933. SFT's registration statement became effective on July 14, 1982. A new registration statement was filed on November 23, 1990 and became effective on December 13, 1990.

2. On October 19, 1990, the SEC filed a complaint (the "Complaint") in the United States District Court for the Eastern District of Pennsylvania (the "Court") alleging that M. Wesley Groshans ("Groshans"), the former President, Treasurer, and a director of SFT, Brokers Capital Management Company, Inc. ("BCMC"), and SFT, as a nominal defendant, violated section 17(a) of the Act and other provisions of the federal securities laws. The Complaint alleged that beginning in January 1990, and continuing through May 1990, Groshans engaged in a series of transactions which resulted in the transfer of all of his 96% interest in Genoa Corp. (the "Genoa Securities") to the U.S. Government Series, Odd Lot Fund, Environmental Awareness Fund, and SBA Prime Fund of SFT. In return for the Genoa Securities, SFT allegedly issued shares having a net asset value in excess of $2,000,000 to BCMC, a company of which Groshans was an officer, director, and the majority stockholder at the time the SFT shares were issued to BCMC (the "Genoa Transactions"). Groshans then redeemed his shares in these series for his own benefit. The Complaint also alleged that the Genoa Securities held by SFT were worth less than the value ascribed to them.

3. By resolution on October 18, 1990, a special committee of SFT's Board of Directors determined that the Genoa Securities had no value, which had the effect of reducing the net asset value of each of SFT's portfolios holding Genoa Securities.

4. Groshans, without admitting or denying any of the allegations in the Complaint, consented to an injunction permanently enjoining him from association with any investment adviser or investment company, and from violating certain provisions of the federal securities laws. In issuing the injunction, the Court reserved the question of whether monies obtained as a result of the activities alleged in the Complaint must be disgorged.

5. On October 19, 1990, the Court appointed Richard Lichter as trustee (the "SFT Trustee") to take immediate possession of the assets and manage the operations of SFT. Pursuant to a trust agreement, the SFT Trustee transferred all of the Genoa Securities and certain related assets held by SFT to a trust (the "Genoa Trust") for the benefit of SFT's then and former shareholders who may have been adversely affected by the Genoa Transactions (the "Affected Shareholders"). The assets of the Genoa Trust will be allocated among the following SFT portfolios according to these percentages, which represent the approximate percentage of Genoa Securities held by each portfolio prior to creation of the Genoa Trust: U.S. Government Series—81.77%, Odd Lot Fund—5.21%, Environmental Awareness Fund—2.60%, and SBA Prime Fund—10.42%. The proceeds from the liquidation of the Trust assets will be distributed to the Affected Shareholders *pro rata* within each portfolio in accordance with the number of shares of

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each portfolio held by each shareholder on October 19, 1990.

6. Pursuant to an acquisition agreement dated February 20, 1991 (the "Acquisition Agreement"), the SFT Trustee, on behalf of SFT and with the approval of the Court, transferred substantially all of the balance of SFT's assets to investment companies managed by Penn Square Management Corporation ("Penn Square"). Penn Square agreed to acquire the assets of the U.S. Government Series, Environmental Awareness Fund, Odd Lot Fund, and SBA Prime Fund, aggregating approximately $20,111,527 (the "Acquisition"). On April 2, 1991, the Penn Square funds filed with the SEC registration statements on Form N-14 containing proxy materials soliciting approval of the Acquisition Agreement by SFT's shareholders. The proxy materials were mailed to SFT's shareholders on June 15, 1991. At a special shareholder meeting on July 15, 1991, the shareholders of the U.S. Government Series, Odd Lot Fund, Environmental Awareness Fund, SBA Prime Fund, and Defense Series (the "Exchanging Funds") approved the Acquisition Agreement.

7. At the close of business on July 19, 1991, the shares of all of the Exchanging Funds except the Defensive Series were exchanged for shares in either the William Penn Interest Income Fund ("William Penn") or Penn Square Mutual Fund ("Mutual") having a value equal to the net asset value of the SFT assets acquired. The shares of the Defensive Series were not exchanged because Penn Square could not determine that such acquisition would be tax-free. Simultaneous with such exchange, the William Penn and Mutual shares acquired by SFT were distributed to the shareholders of the respective SFT portfolios in accordance with such shareholders' relative holdings of each portfolio's shares.

8. Pursuant to the Acquisition Agreement, Penn Square also paid SFT approximately $126,000 based on a formula determined by the value of assets transferred. This payment was deposited in the Genoa Trust.[1]

9. Except as described in paragraph 10 below, approximately $823,926 of SFT's assets remained after the transfers to the Genoa Trust and to Penn Square.[2] The SFT Trustee liquidated these assets and distributed the net proceeds to the shareholders of the respective series.

10. Certain other funds were retained by the SFT Trustee in order to satisfy expenses of SFT remaining after consummation of the Acquisition. SFT incurred approximately $200,000 in expenses in connection with the Acquisition. These expenses included the legal fees incurred to negotiate the Acquisition Agreement, the costs related to Court hearings, and the cost of preparing proxy materials necessary to approve the Acquisition Agreement. The SFT Trustee anticipates additional legal and accounting expenses of approximately $100,000 to liquidate SFT and wind up its business affairs. Any funds remaining after the satisfaction of all expenses will be transferred to the Genoa Trust or distributed to SFT's former shareholders.

11. SFT had no shareholders at the time of filing of the application. SFT is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-2878 Filed 2-5-92; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice 1566]

Advisory Committee on International Investment; Meeting

The Department of State will hold a meeting of the Advisory Committee on International Investment on February 28, 1992 from 9 a.m. to 12:30 p.m. The meeting will be held in room 1107 at the Department of State, 2201 "C" Street NW. Washington, DC 20520.

This meeting will deal with Competition Policy and International Investment, the Role of International Investment in National High-Technology Research and Development Programs, and Privatization in Eastern Europe and the Commonwealth of Independent States.

Access to the Department of State is controlled and seating is limited. Therefore, members of the public wishing to attend the meeting must notify the Office of Investment Affairs at (202) 647—1128 to arrange clearance for admittance no later than five days before the meeting. An identification with a photograph, name, date of birth and Social Security number will be required. All attendees should use the "C" Street entrance.

Dated: January 29, 1992.

Stephen R. Gibson,

Director, Office of Investment Affairs.

[FR Doc. 92-2907 Filed 2-5-92; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice 1567]

United States Organization for the International Telegraph & Telephone Consultative Committee (CCITT) Study Group a Meeting; Meeting

The Department of State announces that CCITT Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on Thursday, February 27, 1992 in Conference Room 1105, commencing at 9:30 a.m. and Tuesday, March 10, 1992 at 1 p.m., room 1408; both meetings at the Department of State, 2201 C Street, NW, Washington, DC 20520.

The Agenda for the meeting of February 27 will include a review of the results of the February 4-14, 1992 meeting of Study Group II and preparations for upcoming meetings of Study Group III and I, scheduled for Geneva, March 2-6 and March 24-April 3, 1992, respectively. The March 10 meeting will deal with issues of concern primarily with Study Group I's final meeting. A more detailed draft agenda for the Study Group A meeting will be introduced at this meeting.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chair.

Please Note: Persons planning to attend the above meeting must announce this no later than five days before the meeting to the Department of State, Earl S. Barbely (202) 647-0201 (fax 202-647-7407). The announcement must include name, social security number, and date of birth, if you have not already provided this personal data to this office. The above includes government and non-government attendees. All attendees must use the C Street entrance.

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[1] The staff notes that William Penn, in a N-14 filed on June 14, 1991 to obtain approval of the Acquisition Agreement, makes the following statement regarding this payment: "(i)n typical mutual fund merger transactions, such a payment would normally be made to the investment adviser of the acquired fund. Because SFT's contracts with its investment advisers have been terminated, Penn Square is making this payment directly to the Trust, which will help to compensate Affected Shareholders for a portion of their loss."

[2] On January 28, 1992, the staff received a letter from Richard C. Lichter, the SFT Trustee, stating that the amount of $823,926 represents the approximate aggregate of the asset values of the fund series that were not acquired by the William Penn Funds, including the shares of the Defensive Series.

Please bring 60 copies of documents to be considered at this meeting. If the document has been mailed, bring only 10 copies.

Dated: January 28, 1992.

Earl S. Barbely,

Director, Telecommunications and Information Standards, Chairman, U.S. CCITT National Committee.

[FR Doc. 92–2906 Filed 2–5–92; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice 1568]

Shipping Coordinating Committee, International Maritime Organization (IMO) Legal Committee; Meeting

The U.S. Shipping Coordinating Committee (SHC) will conduct an open public meeting at 1 p.m., on Tuesday, March 3, 1992, in room 2415 of U.S. Coast Guard Headquarter, 2100 Second Street SW., Washington, DC

The purpose of this meeting is to solicit public comments in preparation for the 66th Session of the International Maritime Organization (IMO) Legal Committee, scheduled to be held in London, England, March 16–20, 1992.

The principal focus of the SHC public meeting will be to discuss the ongoing Legal Committee deliberations concerning the question of liability and compensation related to the maritime carriage of hazardous and noxious substances (HNS).

The views of the public, and particularly those of affected maritime commercial and environmental interests, are requested.

Members of the public are invited to attend the SHC meeting, up to the seating capacity of the room.

For further information or to submit views concerning any of the topics to be addressed at the SHC meeting, contact either Captain Jonathan Collom or Lieutenant Commander Mark J. Yost, U.S. Coast Guard (G-LMI), 2100 Second Street SW., Washington, DC 20593 telephone (202) 267–1527, telefax (202) 267–4163.

Dated: January 27, 1992.

Geoffrey Ogden,

Chairman, Shipping Coordinating Committee.

[FR Doc. 92–2905 Filed 2–5–92; 8:45 am]

BILLING CODE 4710-7-M

[Public Notice 1570]

Bureau of International Communications and Information Policy; Organizational Meeting for U.S.-Brazil Bilateral Talks on Telecommunications and Information Policy and Technology; Meeting

The Department of State/CIP announces that the initial organizational meeting for U.S.-Brazilian bilateral talks on telecommunications and information policy and technology will be held on Tuesday, February 20, 1992, at 2 p.m. in room 6320, Department of State, 2201 "C" Street NW, Washington, DC 20520.

At present, the bilateral talks are scheduled for March 25 through March 27, 1992, in Brazil. Present plans call for a joint U.S. Government-U.S. private industry delegation, under the Ambassador Bradley P. Holmes of the Bureau of International Communications and Information Policy, Department of State, to represent U.S. Government and private sector views to the Brazilian government and private industry. This organizational meeting will offer to all interested participants the opportunity to comment on the proposed agenda, and related activities.

Ambassador Bradley P. Holmes will chair the meeting.

Members of the general public may attend the meeting and engage in the above-cited tasks of the meeting, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building in controlled and individual passes are required for each attendee. Entry will be facilitated if arrangements are made in advance of the meeting.

Prior to the meeting, persons who plan to attend should so advise the office of Mr. Daniel E. Goodspeed, room 5310—CIP, Department of State, Washington, DC 20520; telephone (202) 647–7847, fax (202) 647–0158. The must provide Mr. Goodspeed with their name, title, company name, social security number, and date of birth. All attendees must use the "C" street entrance to the building.

Dated: February 3, 1992.

Daniel E. Goodspeed,

Counselor, Bureau of International Communications and Information Policy.

[FR Doc. 92–2955 Filed 2–5–92; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 91–66; Notice 1]

Receipt of Petition for Temporary Exemption From Three Federal Motor Vehicle Safety Standards; Chrysler Corp.

Chrysler Corporation of Highland Park, Michigan, has petitioned for a temporary exemption from three Federal motor vehicle safety standards, for multipurpose passenger vehicles that will be electrically powered. The basis of the petition is that an exemption will facilitate the development and field evaluation of low-emission motor vehicles.

Notice of receipt of the petition is published in accordance with agency regulations on the subject (49 CFR part 555), and does not represent any judgment of the agency on the merits of the petition.

Petition is made on behalf of the Chrysler TEVan, an electrically driven version of the Dodge Caravan/Plymouth Voyager multipurpose passenger vehicle. The TEVan has been developed in cooperation with the Electric Power Research Institute, U.S. Advanced Battery Consortium, and the United States Department of Energy. The basis for the petition is that a temporary exemption would facilitate the development and field evaluation of a low-emission motor vehicle, as provided by 49 CFR 555.6(c). The vehicles will use electric motors powered by nickel-iron or other equivalent batteries that replace the internal combustion engine. According to Chrysler, the TEVan will meet the California Air Resource Board zero emission requirements, and are low-emission vehicles as defined by section 123(g) of the National Traffic and Motor Vehicle Safety Act.

The TEVan differs from regular production vans as follows: the internal combustion engine, transmission, coolant system, power brakes, gasoline fuel system, and power steering system have been replaced by an electric drive motor, a nickel-iron or equivalent battery pack, a micro-processor based battery management system, a controller-converter-charger unit, a two-speed manual/automatic transmission, and electric-motor-driven pumps for the vacuum power brakes and the hydraulically assisted power steering. Finally, the hot water heater/defroster unit is replaced by an electric resistance type heating/defrosting system.

The TEVan is based on production vehicles certified as complying with all applicable Federal motor vehicle safety standards. However, it will not comply with the portions of the standards indicated below.

1. Standard No. 101, *Controls and Displays*.

S5.1. The TEVan will be equipped with a state-of-charge gauge to serve as an indicator of reserve battery power, rather than the fuel gauge required by the standard.

2. Standard No. 102, *Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect*.

S3.1.2. The requirement for transmission braking effect is met by regenerative braking, in which the electric motor becomes a generator, recharging the batteries and dissipating energy in the process. Regenerative braking can be switched off at the option of the driver to restore steering control on slippery surfaces.

S3.1.3. The starter interlock mechanism will be deleted since there will be no electric starting motor.

S3.1.4. The automatic transmission shift mechanism will be replaced with an electric switch control device that operates in a similar manner.

3. Standard No. 105, *Hydraulic Brake Systems*.

S5.1. The performance of the service brake system is predicated on the use of the regenerative characteristic of the drive motor to augment the power-assisted hydraulic wheel brakes. The motor, driven through the transmission by the mass of the coasting vehicle, functions as a generator to dissipate energy through charging the drive batteries. The petitioner has not conducted tests using regenerative braking; however, tests of a conventionally powered weighted simulation of the TEVan indicate that the TEVan will meet the stopping distance requirements of S5.1.1. In the fade and recovery test, S5.1.4, the distance specified between the starting points of successive brake applications at 60 mph is 0.4 mile. The TEVan cannot accelerate to 60 mph in that distance, so the test cannot be conducted as prescribed, but based on the performance of a simulated TEVan, the TEVan could comply if it could accelerate as specified.

On TEVans equipped with anti-lock brake systems, the regenerative braking will be disabled during hard stops that actuate the anti-lock feature of the brakes.

According to the petitioner, an exemption would facilitate the development and field evaluation of a low-emission motor vehicle by enabling the petitioner to develop the electric drive motor, battery controller, battery, and other subsystems to increase the efficiency and durability of future generations of electric vehicles.

The petitioner has requested exemptions that will terminate September 1, 1993. It argues that the exemptions will not unduly degrade the safety of the vehicles because the vehicles from which the TEVan is adapted are certified as conforming to the standards. Further, the vehicles will be used for developmental purposes only, and will be destroyed upon termination of the evaluation program.

Finally, petitioner argues that granting the exemption would be in the public interest and consistent with the National Traffic and Motor Vehicle Safety Act because it would accelerate the development of electrically-driven vehicles and related technology which could help to reduce the dependency on foreign oil.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: March 9, 1992.

(15 U.S.C. 1410; delegations of authority at 49 CFR 1.50, and 501.8)

Issued on January 31, 1992.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 92-2851 Filed 2-5-92; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. 91-58; Notice 2]

Navistar International Transportation Corp.; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by Navistar International Transportation Corp. (Navistar) of Fort Wayne, Indiana, for a determination that its noncompliance with Motor Vehicle Safety Standard No. 106, *Brake Hoses*, is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on December 2, 1991, and an opportunity afforded for comment (56 FR 61275).

Paragraph S7.3.7 of Federal Motor Vehicle Safety Standard No. 106 specifies that, "Except for hose reinforced by wire, an air brake hose shall withstand a tensile force of eight pounds per inch of length before separation of adjacent layers." On September 24, 1991, Navistar's five Parts Distribution Centers were notified by Anchor Swan, Inc. that certain cartons they received of bulk air brake hose, manufactured in 1987, failed to comply with the adhesion requirements of Standard No. 106.

Navistar supported its petition for inconsequential noncompliance with the following:

Navistar believes the 8 pound adhesion test set forth in subparagraph S7.3.7 of Standard 106 is directly derived from SAE standards developed in the 1960's. It further believes that this test provision was a reflection of concern that brake hoses experiencing an adhesion problem under a vacuum condition could present a safety problem. To its knowledge, no air brake hose in vehicle air brake systems are subjected to vacuum.

In the Anchor Swan Defect and Noncompliance report to NHTSA, it was stated that "NHTSA had determined that low adhesion in brake hoses can result in the build up of air between plies. The trapped air can cause inward ballooning of the hose, resulting in slow reaction of the brake served, or complete malfunction due to the hose conduit being blocked altogether."

Navistar does not believe that an inward ballooning will occur. However, if it could occur, Navistar believes that the following would have to happen: Air would either have to escape through the end fitting and follow the reinforcement cord to a weak point, or air would have to permeate the tube and build a pressure differential at the reinforcement.

It seems unlikely that, once by the end fitting, the air would not vent to the atmosphere. For pressure to build at the reinforcement due to permeation, the permeation rates for the tube and cover would have to be significantly different with the tube having a much higher rate than the cover. An evaluation by Anchor Swan has shown that there is no significant difference in the permeation rate between the tube and the cover materials. Because the cover is thinner, any pressure in the reinforcement later would, in any event, result in a ballooning of the cover, not an internal ballooning of the tube.

Once the hose is made into an assembly and used in a typical air brake system, Navistar projects no reduction in life expectancy resulting from low layer adhesion as compared with an assembly containing hose meeting the specification.

No comments were received on the petition.

A previous petition by Navistar International relating to adhesion failures in hose manufactured by Dana Weatherhead was granted on October 11, 1991 (56 FR 51440), on the basis of the following arguments:

1. The end use of the hoses was such that they were subject to pressure, not vacuum applications.

2. If the hoses were used in vacuum applications, their crimped end fittings make it unlikely that air would become trapped between the layers of the hose.

3. If there is any permeation of air from the inner tube, the hoses are designed to release it through the pin-pricked outer layer.

The petitioner uses the Anchor Swan hoses in pressure applications. The outer layer of the hoses is pin-pricked. The hoses are equipped with the same crimped end fittings as the Weatherhead hoses. Thus, the same factors exist in this case as in the previous petition which was granted.

Accordingly, petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is granted.

(15 U.S.C. 1417; delegation of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued: January 30, 1992.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 92–2852 Filed 2–5–92; 8:45 am]

BILLING CODE 4910-59-M

Maritime Administration

[Docket S–887]

Puerto Rico Maritime Shipping Authority; Application for Permission Under Section 506 of the Merchant Marine Act, 1936, as Amended, to Operate in the Domestic Trade

Notice is hereby given that Puerto Rico Maritime Shipping Authority (PRMSA) by application dated January 28, 1992, has applied for written permission under section 506 of the Merchant Marine Act, 1936, as amended (Act), for the temporary transfer of up to five Lancer-class vessels which PRMSA owns to a purely domestic service during calendar year 1992 between Puerto Rico and ports along the U.S. Atlantic and gulf coasts. Section 506 permits the temporary transfer for up to six months of construction-differential subsidy (CDS) built vessels "whenever the Secretary determines that such transfer is necessary or appropriate to carry out the purposes of the Act." Consent by MARAD is to be conditioned upon payment to MARAD, upon such terms as MARAD may prescribe, of "an amount which bears the same proportion to the CDS paid by the Secretary as such temporary period bears to the entire economic life of the vessel."

PRMSA states that it has been operating five or six of its seven American-flag cargo vessels in its combined mainland—Puerto Rico—foreign trade service. The seventh vessel has been on charter to the Military Sealift Command (MSC). The number of vessels operated and their schedules are dictated by and vary due to cargo volumes, cargo type, cargo location and the regulatory inspection or maintenance of the vessels.

PRMSA is requesting this waiver to provide for vessel scheduling that will be flexible enough to meet the needs of the shipping public while allowing PRMSA the opportunity to create a cost-effective service during this business recession period which has had an effect on PRMSA's traditional cargo flows. Coupled with yet to be calculated cargo reallocation if PRMSA's roll-on roll-off service is terminated, PRMSA has to deal with multiple cargo unknowns. With these uncertainties, PRMSA requires operating flexibility to be able to service the needs of the shipping public. With the granting of this waiver, PRMSA claims it will be able to maintain an adequate and well-balanced American-flag service in the furtherance of and to promote the commerce of the United States. In PRMSA's view, the efficiencies available by granting this request will allow the shipping public, including the people of the Commonwealth of Puerto Rico, to derive the benefits from these efficiencies.

An additional reason for this request is to allow the flexibility necessary to adjust the vessel schedules during periods when a vessel or vessels are out of service for drydocking or regulatory repairs. Due to the limited number of repair shipyards with adequate drydock capacity able to handle a Lancer-class vessel, it is very difficult for PRMSA to find an available drydock on short notice. Over the next 18 months all five Lancers will require regulatory drydocking. It is PRMSA's policy to drydock vessels during non-peak cargo periods, so that the shipping public will experience the least amount of disruption and inconvenience. PRMSA requires the flexibility, which it believes this waiver will allow, to maintain the highest continuity of service for the benefit of the shipping public and in promotion of the commerce of the United States of America, while continuing to meet its regulatory obligations.

PRMSA maintains that the granting of this waiver will: (i) Not change the ports PRMSA currently serves; (ii) not increase the frequency of its vessel calls; and (iii) not increase its cargo carrying capacity from any port. PRMSA contends that in some cases, during some periods, cargo carrying capacity will actually decrease. PRMSA feels that this waiver will merely allow it to maintain its service levels, schedules and continuity, for the benefit of its customers, the U.S. shipping public.

Although publication of a Notice with respect to PRMSA's request for permission under section 506 is not required, the Maritime Administration believes that it is appropriate to provide an opportunity for interested parties to comment on PRMSA's application.

Any person, firm, or corporation having any interest in the application for section 506 permission and desiring to submit comments concerning the application must file written comments in triplicate, to the Secretary, Maritime Administration, room 7300, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590, by the close of business on February 20, 1992. The Maritime Administration, as a matter of discretion, will consider any comments submitted and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.800 Construction-Differential Subsidies (CDS)).

By Order of the Maritime Administrator.

Dated: February 3, 1992.

James E. Saari,

Secretary.

[FR Doc. 92–2917 Filed 2–5–92; 8:45 am]

BILLING CODE 4910-81-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

January 31, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0736.

Regulation ID Number: LR–274–81 Final Regulations.

Form Number: None.

Type of Review: Extension.

Title: Accounting for Long-term Contracts.

Description: These recordkeeping requirements are necessary to determine whether the taxpayer properly allocates indirect contract costs to extended period long-term contracts in accordance with the regulations. The recordkeeping requirement is effective for taxable years beginning after 1982. The information will be used to verify the taxpayer's allocations of certain indirect costs.

Respondents: Businesses or other for-profit, and Small businesses or organizations.

Estimated Number of Respondents/Recordkeepers: 1,000.

Estimated Burden Hours Per Recordkeeper: 10 hours, 1 minute.

Estimated Total Recordkeeping Burden: 10,010 hours.

Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 92–2833 Filed 2–5–92; 8:45 am]

BILLING CODE 4830-01-M

Public Information Collection Requirements Submitted to OMB for Review

January 22, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington DC 20220.

Internal Revenue Service

OMB Number: 1545–0723

Regulation ID Number: LR–115–72 Final Regulations.

Type of Review: Extension.

Title: Manufacturers Excise Taxes on Sporting Goods and Firearms and Other Administrative Provisions of Special Application to Manufacturers and Retailers Excise Taxes.

Description: Chapters 31 and 32 of the Internal Revenue Code impose excise taxes on the sale or use of certain articles. Section 6416 allows a refund or credit of the tax to manufacturers in certain cases. Sections 6420, 6421, 6424, and 6427 allow refunds or credits of the tax to certain users of the articles. Section 6412 allows a credit or refund for certain floor stock.

Respondents: Businesses or other for-profit.

Estimated Number of Respondents/Recordkeepers: 1,967,491.

Estimated Burden Hours Per Respondent/Recordkeeper: 15 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 655,823 hours.

OMB Number: 1545–1115

Regulation ID Number: CO–51–89–NPRM and Temporary.

Type of Review: Extension.

Title: Treatment of Gain or Loss on Deemed Sale of Affected Target Stock.

Description: Because of the changes made by the Tax Reform Act of 1986, this information is necessary to inform the affected public of the proper determination of the amount of gain or less recognized by a target corporation upon its deemed sale under section 338(a) of the stock of a target affiliate.

Respondents: Businesses or other for-profit.

Estimated Number of Respondent: 13.

Estimated Burden Hours Per Respondent: 1 hour, 11 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 31 hours.

Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 92–2834 Filed 2–5–92; 8:45 am]

BILLING CODE 4830-01-M

Public Information Collection Requirements Submitted to OMB for Review

January 31, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–1221.

Regulation ID Number: EE–147–87 Final Regulations.

Type of Review: Extension.

Title: Qualified Separate Lines of Business.

Description: The affected public includes employers who maintain qualified retirement plans for their employees. The employer must furnish notice to IRS that the employer is treating itself as operating qualified separate lines of business. Where applicable, an employer may request a determination from IRS that such lines satisfy administrative scrutiny.

Respondents: Businesses or other for-profit.

Estimated Number of Respondents: 743.

Estimated Burden Hours Per Respondent: 3 hours, 55 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 2,907 hours.

Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 92–2909 Filed 2–5–92; 8:45 am]

BILLING CODE 4830-01-M

Public Information Collection Requirements Submitted to OMB for Review

January 31, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Office of Thrift Supervision

OMB Number: 1550–0062.

Form Number: None.

Type of Review: Extension.

Title: Minimum Security Devices and Procedures.

Description: Bank Protection Act and Office of Thrift Supervision (OTS): Implementing regulations require savings associations to establish security devices and procedures. Written security program allows OTS to evaluate whether savings associations have adopted policies and procedures to assure compliance with law and regulations.

Respondents: Businesses or other for-profit.

Estimated Number of Recordkeepers: 2,220.

Estimated Burden Hours Per Recordkeeper: 3 hours.

Frequency of Response: Annually.

Estimated Total Recordkeeping Burden: 6,660 hours.

Clearance Officer: John Turner (202) 906–6840, Office of Thrift Supervision, 2nd Floor, 1700 G Street, NW., Washington, DC 20552.

OMB Reviewer: Gary Waxman (202) 395–7340, Office of Management and Budget, room 3208, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 92–2906 Filed 2–5–92; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

January 29, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 95–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0367.

Form Number: IRS Forms 4804 and 4802.

Type of Review: Extension.

Title: Transmittal of Information Returns Reported Magnetically/Electronically (4804), Transmittal of Information Returns Reported Magnetically/Electronically (Continuation of 4804) (4802).

Description: 26 U.S.C. 6041 and 6042 require that all persons engaged in a trade or business and making payments of taxable income must file reports of this income with IRS. In certain cases, this information must be filed on magnetic media. Forms 4804 and 4802 are used to provide a signature and balancing totals for magnetic media filers of information returns.

Respondents: State or local governments, Farms, Businesses or other for-profit, Federal agencies or employees; Non-profit institutions, Small businesses or organizations.

Estimated Number of Respondents/Recordkeepers: 37,640.

Estimated Burden Hours Per Respondent/Recordkeeper:

Preparing Form 4804—18 minutes

Preparing Form 4802—20 minutes

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 45,406 hours.

OMB Number: 1545–0742.

Regulation ID Number: EE–111–80 (T.D. 8019) Final.

Type of Review: Extension.

Title: Public Inspection of Exempt Organizations' Returns.

Description: Section 6104(b) authorizes the Service to make available to the public the returns required to be filed by exempt organizations. The information requested in Treasury Regulations S301.6104(b)–1(b)(4) is necessary in order for the Service not to disclose confidential business information furnished by businesses which contribute to exempt black lung trusts.

Respondents: Businesses or other for-profit.

Estimated Number of Respondents: 22.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 22 hours.

Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 92–2835 Filed 2–5–92; 8:45 am]

BILLING CODE 4830-01-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "Guercino: Master Painter of the Baroque" (see list [1]), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the National

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[1] A copy of this list may be obtained by contacting Mr. R. Wallace Stuart of the Office of the General Counsel of USIA. The telephone number is 202/619–5078, and the address is room 700, U.S. Information Agency, 301 Fourth Street, SW., Washington, DC 20547.

Gallery of Art, Washington, DC, from March 15, 1992, to on or about May 17, 1992, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register**.

Dated: January 31, 1992.

Alberto J. Mora,

General Counsel.

[FR Doc. 92-2918 Filed 2-5-92; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 25
Thursday, February 6, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Friday, February 7, 1992.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED: Choking Hazards Options.

The staff will brief the Commission on options for Commission action with regard to a rulemaking proceeding to address choking hazards associated with toys and other articles with small parts intended for children aged three years to approximately six years.

For a Recorded Message Containing the Latest Agenda Information, Call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 (301) 504–0800.

Dated: February 3, 1992.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 92–2965 Filed 2–3–92; 4:35 pm]

BILLING CODE 6355-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:28 a.m. on Monday, February 3, 1992, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to a certain financial institution.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Chairman William Taylor, Vice Chairman Andrew C. Hove, Jr., and Director T. Timothy Ryan, Jr. (Office of Thrift Supervision), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, N.W., Washington, DC.

Dated: February 3, 1992.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 92–2964 Filed 2–3–92; 4:13 pm]

BILLING CODE 6714-01-M

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, February 11, 1992, 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, DC

STATUS: This Meeting Will Be Closed to the Public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.
Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, February 13, 1992, 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, DC (Ninth Floor).

STATUS: This Meeting Will Be Open to the Public.

ITEMS TO BE DISCUSSED:

Title 26 Certification Matters
Advisory Opinion 1992–1: Mr. Roger Faulkner
Advisory Opinion 1992–2: Ms. Carol Darr and Mr. Eric London on behalf of the Democratic National Committee
Advisory Opinion 1992–4: Mr. John Michael Cortese.
Advisory Opinion 1992–6: Mr. Garrett Simmons on behalf of David Duke
Proposed Rulemaking to Clarify the Disclaimer and Other Requirements When Nonauthorized Committees Utilize a Candidate's Name in the Name of a Special Fundraising Project
Administrative Matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Press Officer, Telephone: (202) 219–4155.

Delores Harris,

Administrative Assistant, Office of the Secretariat.

[FR Doc. 92–3027 Filed 2–4–92; 3:06 pm]

BILLING CODE 6715-01-M

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

TIME AND DATE: 1:30 p.m., February 18, 1992.

PLACE: 5th Floor, Conference Room, 805 Fifteenth Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of the January 21, 1992, Board meeting.
2. Labor Department briefing.
3. Thrift Savings Plan activity report by the Executive Director.
4. Review of KPMG Peat Marwick audit reports entitled:
   "Pension and Welfare Benefits Administration Review of the Thrift Savings Plan Billing Process at the United States Department of Agriculture, Office of Finance and Management, National Finance Center"
   "Pension and Welfare Benefits Administration Review of the Thrift Savings Plan C and F Fund Investment Management Operations at Wells Fargo Institutional Trust Company and Wells Fargo Nikko Investment Advisors"
   "Pension and Welfare Benefits Administration Review of the Thrift Savings Plan Audit Performed by the U.S. Central Intelligence Agency, Office of the Inspector General"
5. Quarterly review of investment policy.

CONTACT PERSON FOR MORE INFORMATION: Tom Trabucco, Director, Office of External Affairs, (202) 523–5660.

Dated: February 3, 1992.

Francis X. Cavanaugh,

Executive Director, Federal Retirement Thrift Investment Board.

[FR Doc. 92–3029 Filed 2–4–92; 3:00 pm]

BILLING CODE 6760-01-M

FOREIGN CLAIMS SETTLEMENT COMMISSION

F.C.S.C. Meeting Notice No. 5–92

Notice of Meetings

Announcement in Regard to Commission Meetings and Hearings

The Foreign Claims Settlement Commission, pursuant to its regulations

(45 CFR part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date, time, and subject matter

Oral Hearings on objections to Proposed Decisions issued on claims against Iran:

Wed., Feb. 19, 1992* at 10:00 a.m.
  IR-0013—Jon L. Buczek
  IR-0029—John T. Martin
Wed., Feb. 19, 1992* at 11:00 a.m.
  IR-0077—Gerard Torma
  IR-0416—Joseph Sokoloski
Wed., Feb. 19, 1992* at 2:00 p.m.
  IR-0462—Donald A. Buckner
  IR-0691—James C. Medlock
Wed., Feb. 19, 1992* at 3:00 p.m.
  IR-2404—Les-Tex Industries, Inc.
  IR-0722—Kandeth Company
Thurs., Feb. 20, 1992 at 10:30 a.m.
  Consideration of Proposed Decisions on claims against Iran.

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*The hearing site will be: 601 D Street, NW., Classroom A&B, 10th Floor, Patrick Henry Bldg., Washington, DC.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 601 D Street, NW., Washington, DC. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 601 D Street, NW., Room 10000, Washington, DC 20579. Telephone: (202) 208-7727.

Dated at Washington, DC on February 3, 1992.

Judith H. Lock,

Administrative Officer.

[FR Doc. 92-3049 Filed 2-4-92; 4:13 pm]

BILLING CODE 4410-01-M

LEGAL SERVICES CORPORATION BOARD OF DIRECTORS

Audit and Appropriations Committee Meeting; Notice

TIME AND DATE: A meeting of the Board of Directors Audit and Appropriations Committee will be held on February 16, 1992. The meeting will commence at 12:00 p.m.

PLACE: The Westin Canal Place Hotel, 100 Rue Iberville, The Terrace Room, New Orleans, LA 70130, (504) 566-7006.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Agenda.
2. Approval of Minutes of January 12, 1992 Meeting.
3. Consideration of Budget and Expenses Through December 1991.
4. Consideration of Written Rationale Supporting Fiscal Year 1993 Appropriations Request.
5. Consideration of Adequate Funding for the Micronesian Legal Services Corporation.
6. Consideration of the Audit and Appropriation Committee's Operating Guidelines.

CONTACT PERSON FOR INFORMATION: Patricia Batie (202) 863-1839.

Date Issued: February 4, 1992.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 92-3009 Filed 2-4-92; 1:14 pm]

BILLING CODE 7050-01-M

LEGAL SERVICES CORPORATION BOARD OF DIRECTORS

Reauthorization Committee Meeting of February 17, 1992; Notice

TIME AND DATE: A meeting of the Board of Directors Reauthorization Committee will be held on February 17, 1992. The meeting will commence at 8:30 a.m.

PLACE: The Westin Canal Place Hotel, 100 Rue Iberville, The Terrace Room, New Orleans, LA 70130, (504) 566-7006.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Agenda.
2. Approval of Minutes of April 28, 1991 Meeting.
3. Consideration of Comment of the Inspector General Regarding Proposed Reauthorization Legislation for the Corporation.
4. Consideration of Proposed Reauthorization Legislation for the Legal Services Corporation.

CONTACT PERSON FOR INFORMATION: Patricia Batie (202) 863-1839.

Date Issued: February 4, 1992.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 92-3010 Filed 2-4-92; 1:14 pm]

BILLING CODE 7050-01-M

LEGAL SERVICES CORPORATION BOARD OF DIRECTORS MEETING

TIME AND DATE: A meeting of the Board of Directors will be held on February 17, 1992. The meeting will commence at 10:00 a.m.

PLACE: The Westin Canal Place Hotel, 100 Rue Iberville, The Terrace Room, New Orleans, LA. 70130, (504) 566-7006.

STATUS OF MEETING: *Open*, except that a portion of the meeting will be closed pursuant to a majority vote of the Board of Directors, taken during the period of February 3-4, 1992. At the closed session, the Board of Directors will hear and consider the report of the General Counsel on litigation to which the Corporation is a party, and will consider, in consultation with its special counsel, pending personnel actions and personnel-related rules and practices, including matters related to current investigations being undertaken by the Corporation's Office of the Inspector General. The Board of Directors will also receive and consider a report on current investigations from the Inspector General. Finally, the Board of Directors will have the opportunity to confer with the General Counsel regarding the General Counsel's privileged and confidential memorandum to the Board regarding the duties, responsibilities and rights of board members. The closing will be authorized by the relevant sections of the Government in the Sunshine Act [5 U.S.C. Sections 552b(c)(2), (7), and (10)], the corresponding regulation of the Legal Services Corporation [45 C.F.R. Sections 1622.5(a), (f), and (h)], and the protections provided by the attorney/client privilege. The closing will be certified by the Corporation's General Counsel as authorized by the above-cited provisions of law. A copy of the General Counsel's certification will be posted for public inspection at the Corporation's headquarters, located at 400 Virginia Avenue, S.W., Washington, D.C., 20024, in its three reception areas, and will otherwise be available upon request.

MATTERS TO BE CONSIDERED:

OPEN SESSION:

1. Approval of Agenda.
2. Presentation by Mr. Sandy D'Alemberte, President, American Bar Association.
3. Approval of Minutes of January 13, 1992 Meeting.
4. Chairman's and Members' Reports.
5. President's Report.
6. Inspector General's Report.
7. Consultation with Board's Counsel, the General Counsel and the Inspector General Regarding Management's Revised Draft Response to the Inspector General's Semiannual Reports.

CLOSED SESSION: [3]

8. Consideration of Report by Inspector General on Current Investigations and Other Matters.
9. Consideration of Pending Personnel Actions and Personnel-Related Rules and Practices and Consultation with Board's Special Counsel.
10. Consideration of the General Counsel's Report on Pending Litigation to which the Corporation is a Party.

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[3] It is anticipated that the executive session will conclude at approximately 1:05 p.m. The open session will reconvene immediately thereafter.

11. Questions Posed by the Board of Directors to the General Counsel Regarding the General Counsel's Privileged and Confidential Memorandum Regarding Board Member Duties, Responsibilities and Rights.

OPEN SESSION:

(Resumed)

12. Consideration of Operations and Regulations Committee Report.
13. Consideration of Audit and Appropriations Committee Report.
14. Consideration of Office of the Inspector General Oversight Committee Report.
15. Consideration of Provision for the Delivery of Legal Services Committee Report.
16. Consideration of Special Reauthorization Committee Report.
17. Consideration of Other Business.

CONTACT PERSON FOR INFORMATION: Patricia D. Batie, Executive Office, (202) 863–1839.

Date Issued: February 4, 1992.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 92–3011 Filed 2–4–92; 1:14 pm]

BILLING CODE 7050-01-M

LEGAL SERVICES CORPORATION BOARD OF DIRECTORS

Office of the Inspector General Oversight Committee; Notice

TIME AND DATE: A meeting of the Board of Directors Office of the Inspector General Oversight Committee will be held on February 16, 1992. The meeting will commence at 2:00 p.m.

PLACE: The Westin Canal Palace Hotel, 100 Rue Iberville, the Terrace Room, New Orleans, LA 70103, (504) 566–7006.

STATUS OF MEETING: Open, except that a portion of the meeting will be closed in accordance with a majority vote of the Board of Directors taken by telephone during the period of February 3–4, 1992. In the closed session, the Office of the Inspector General Oversight Committee will hear and consider a report by the Inspector General regarding current investigations being conducted by the Office of the Inspector General. The closing is authorized by the relevant section of the Government in the Sunshine Act [5 U.S.C. Section 552(b)(7)], and the corresponding regulation of the Legal Services Corporation [45 CFR Section 1622.5(f)]. The closing will be certified by the Corporation's General Counsel as authorized by the above-cited provisions of law. A copy of the General Counsel's certification will be posted for inspection at the Corporation's headquarters, located at 400 Virginia Avenue, SW., Washington, DC 20024, in its three reception areas, and will otherwise be available upon request.

MATTERS TO BE CONSIDERED:

OPEN SESSION:

1. Approval of Agenda.
2. Approval of Minutes of January 12, 1992 Meeting.
3. Consideration of Inspector General's Report on the General Activities of the Office of the Inspector General.
4. Consideration of Revised Draft Management Report on the Inspector General's 1990 and 1991 Semiannual Reports.

CLOSED SESSION:

5. Consideration of Inspector General's Report on the Status of Investigations Currently Being Conducted by the Office of the Inspector General.

OPEN SESSION:

(Resumed)

6. Consideration of Motion to Adjourn Meeting.

CONTACT PERSON FOR INFORMATION: Patricia D. Batie, Executive Office, (202) 862–1839.

Dated Issued: February 4, 1992.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 92–3012 Filed 2–4–92; 1:14 pm]

BILLING CODE 7050-01-M

LEGAL SERVICES CORPORATION BOARD OF DIRECTORS

Operations and Regulations Committee Meeting; Notice

TIME AND DATE: A meeting of the Board of Directors Operations and Regulations Committee will be held on February 16, 1992. The meeting will commence at 3:30 p.m.

PLACE: The Westin Canal Place Hotel, 100 Rue Iberville, The Terrace Room, New Orleans, LA 70130, (504) 566–7006.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

OPEN SESSION:

1. Approval of Agenda.
2. Approval of Minutes of January 13, 1992 Meeting.
3. Consideration of Report By Staff Competition Committee.

CONTACT PERSON FOR INFORMATION: Patricia Batie, Executive Office, (202) 863–1839.

Date Issued: February 4, 1992.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 92–3013 Filed 2–4–92; 1:14 pm]

BILLING CODE 7050-01-M

NEIGHBORHOOD REINVESTMENT CORPORATION

Regular Meeting of the Board of Directors

TIME AND DATE: 8:30 a.m., Thursday, February 13, 1992.

PLACE: Neighborhood Reinvestment Corporation, 1325 G Street, NW., 8th Floor Board Room, Washington, DC 20005.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION: Jeffrey T. Bryson, General Counsel/Secretary, (202) 376–2441.

AGENDA:

I. Call to Order
II. Approval of Minutes, December 11, 1991, Regular Meeting
III. Resolution of Appreciation
IV. Committee Appointments
V. Audit Committee Report, February 4, 1992, Regular Meeting
VI. Budget Committee Report, January 8, 1992, Regular Meeting
VII. Treasurer's Report
VIII. Executive Director's Quarterly Management Report
VI. Adjourn

Jeffrey T. Bryson,

General Counsel/Secretary.

[FR Doc. 92–2991 Filed 2–4–92; 11:04 am]

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Thursday
February 6, 1992

Part II

Department of Education

College Facilities Loan Program; Applications for New Awards; Notice

DEPARTMENT OF EDUCATION

[CFDA No. 84.142]

College Facilities Loan Program; Inviting Applications for New Awards Under the College Facilities Loan Program for Fiscal Year (FY) 1992

Purpose of Program: The College Facilities Loan Program provides low-interest loans to eligible undergraduate postsecondary educational institutions for the construction, reconstruction, or renovation of housing facilities, undergraduate academic facilities, and other educational facilities for students and faculties. These facilities further the objectives of Goal 5 of the AMERICA 2000 education strategy by enabling institutions to provide programs that will enable Americans to acquire the skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

Eligible Applicants: Public or private non-profit postsecondary educational institutions; public or private non-profit hospitals; non-profit corporations or student housing cooperative corporations established for the purpose of providing housing at undergraduate postsecondary educational institutions; and state agencies, authorities, or instrumentalities providing housing or other educational facilities at undergraduate postsecondary educational institutions.

Deadline for Transmittal of Applications: April 13, 1992.

Deadline for Intergovernmental Review: June 12, 1992.

Applications Available: February 14, 1992.

Available Funds: $30,000,000.

Estimated Range of Awards: $250,000 to $3,000,000.

Estimated Average Size of Awards: $1,500,000.

Estimated Number of Awards: 20.

Project Period: Until completion.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR part 74, subparts D and P; 34 CFR part 75, §§ 75.105, 75.600–75.616; 34 CFR parts 77, 79, 82, 85 and 86; and (b) The regulations for this program in 34 CFR part 614.

Priorities: In accordance with section 763(b) of the Higher Education Act, 20 U.S.C. 1132g–2(b), and 34 CFR 614.3(c), the Secretary gives priority to loans for renovation or reconstruction of older undergraduate academic facilities and undergraduate academic facilities that have gone without major renovation or reconstruction for an extended period of time. To accomplish this objective, $15,500,000 will be reserved for loans for the renovation or reconstruction of older undergraduate academic facilities and undergraduate academic facilities that have gone without major renovation or reconstruction for an extended period of time. In addition, in accordance with 34 CFR 614.3(b), the Secretary gives priority to loans to construct, reconstruct, or renovate housing facilities for students and faculties. A total of $14,500,000 will be reserved for loans for housing facilities. Under 34 CFR 75.105(c)(3), in this competition the Secretary funds only applications that meet either of these two absolute priorities.

Technical Assistance Workshops: The Department of Education will conduct technical assistance workshops to assist prospective applicants in application preparation. The workshops will take place in the Argos Center, University of South Florida, Tampa, FL, on March 3, 1992; the Tula Community Center, San Diego State University, San Diego, CA, on March 5, 1992; The GSA Regional Office Building Auditorium, 7th and D Streets SW., Washington, DC, on March 10, 1992, and the Marquette Center, Water Tower Campus, Loyola University, Chicago, IL, on March 12, 1992, from 9 a.m. until noon each day. Reservations are not necessary. For specific information on the workshops, please contact the Division of Higher Education Incentive Programs at (202) 708–8398, 708–9417, or 708–9421.

For Applications or Information Contact: John D. Adams or Anne S. Young, U.S. Department of Education, 400 Maryland Ave., SW., room 3022, ROB–3, Washington, DC 20202–5339. Telephone: (202) 708–9417 or (202) 708–9421. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

Program Authority: 20 U.S.C. 1132g–1132g–3.

Dated: January 30, 1992.

Carolynn Reid-Wallace,

Assistant Secretary for Postsecondary Education.

[FR Doc. 92–2789 Filed 2–5–92; 8:45 am]

BILLING CODE 4000-01-M

federal register

Thursday
February 6, 1992

Part III

Department of Education

Veterans Education Outreach Program; Applications for New Awards for Fiscal Year 1992; Notice

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DEPARTMENT OF EDUCATION

[CFDA No. 84.064]

Veterans Education Outreach Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1992

Purpose of Program: Provides funds to institutions of higher education to provide outreach and recruitment activities, counseling and tutorial services for veterans, and special programs for disabled, incarcerated, and educationally disadvantaged veterans. This program furthers AMERICA 2000, the President's strategy for moving the Nation toward the National Education Goals, by assisting these veterans to acquire the skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

Eligible Applicants: Institutions of higher education having at least 100 veterans with honorable discharges in attendance as undergraduates as of April 16 of the current year, or having prior participation in the Veterans Cost of Instruction Payments Program (VCIP) for a continuous period of three of the five most recent fiscal years ending on or before September 30, 1985, pursuant to 34 CFR 629.2(a) and (b).

Deadline for Transmittal of Applications: May 11, 1992.

Deadline for Intergovernmental Review: July 10, 1992.

Applications Available: March 2, 1992.

Available Funds: $2,700,000.

Estimated Range of Awards: $1,000–$50,000.

Estimated Average Size of Awards: $5,000.

Estimated Number of Awards: 525.

Project Period: Up to 24 months.

Applicable Regulations: (a) Education Department General Administrative Regulations (EDGAR) 34 CFR parts 74, 75, 77, 79, 82, 85 and 86; and (b) the regulations for this program in 34 CFR part 629.

For Applications or Information Contact: Ronald D. Amon, U.S. Department of Education, 400 Maryland Ave., SW., room 3022, ROB–3, Washington, DC 20202–5339. Telephone: (202) 708–7861. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

Program Authority: 20 U.S.C. 1070e–1.

Dated: January 30, 1992.

Carolynn Reid-Wallace,

Assistant Secretary for Postsecondary Education.

[FR Doc. 92–2790 Filed 2–5–92; 8:45 am]

BILLING CODE 4000-01-M

federal register

Thursday
February 6, 1992

Part IV

Department of the Interior

Bureau of Indian Affairs

Plan for the Use of the Zuni Indian Tribe Judgment Funds in Docket 161-79L Before the United States Claims Court; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Plan for the Use of the Zuni Indian Tribe Judgment Funds in Docket 161-79L Before the United States Claims Court

January 29, 1992.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice. This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

EFFECTIVE DATE: This plan was effective on November 15, 1991.

FOR FURTHER INFORMATION CONTACT: Terry Lamb, Historian, Bureau of Indian Affairs, Branch of Acknowledgment and Research, MS 2612-MIB, 1849 C Street NW., Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The Act of October 19, 1973 (Pub. L. 93-134, 87 Stat. 466), as amended, requires that a plan be prepared and submitted to Congress for the use and distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated on January 31, 1991, in satisfaction of the award granted to the Zuni Indian Tribe before the United States Claims Court in Docket 161-79L. The plan for the use of the funds was submitted to Congress with a letter dated September 11, 1991, and was received by the Senate on September 16, 1991, and by the House of Representatives on September 16, 1991. The plan became effective on November 15, 1991, as provided by the 1973 Act, as amended by Public Law 97-458, since a joint resolution disapproving it was not enacted. The plan reads as follows:

For the Use of Judgment Funds Awarded to the Zuni Indian Tribe in Docket 161-79L before the United States Claims Court

The funds appropriated on January 31, 1991, in satisfaction of the award granted to the Zuni Indian Tribe in settlement of Docket 161-79L, before the United States Claims Court, less attorney fees and litigation expenses, and including all interest and investment income accrued, shall be used as follows:

1. Expenses

A. Outstanding Loans

The sum of $175,000 plus accrued interest shall be paid to satisfy existing loans made to the Zuni Indian Tribe by the Jicarilla Indian Tribe and the United New Mexico Bank in the amounts of $50,000 and $125,000, respectively.

B. Education

The amount of $1,700,000 will be provided to the Zuni Public School District for completion of construction of A:SHIWI Elementary School for the purpose of enhancing educational opportunities for all Zuni community children. Any residual funds from paragraph 1A and 1B of this plan shall be transferred to the investment activity and utilized pursuant to Section 2 of this plan.

C. Land Purchase

The amount of $250,000 will be used to reimburse the Bureau of Indian Affairs for the down payment of the Ellsworth Ranch.

D. No Per Capita Payments

None of the funds shall be paid as per capita or dividend payments.

2. Investments

A. Management

All the remainder of the funds not expended pursuant to the preceding paragraphs shall be invested by the Secretary of the Interior in an investment program. If in the future, the Zuni Indian Tribe should desire to undertake the investment of the funds instead of having the investment made by the Secretary, the Tribal Council may present an investment plan to the Secretary for approval.

The investment plan will contain or be subject to the requirements of sound investments, responsible accounting, and adequate controls to obtain maximum benefit for the Zuni Indian Tribe.

Upon the Secretary's approval of the investment plan, the invested funds will be transferred to the Zuni Indian Tribe at a mutually agreed upon time. All responsibility of the United States for the judgment funds or the investment or use of the funds so transferred shall cease at the time the funds are transferred.

B. Authorized Purchases

All funds, including interest and investment income accrued, shall be invested and managed pursuant to paragraph 2A until such time as the Zuni Tribal Council authorizes their use for any tribal development program, including land purchases, other tribal programs or other tribal loan repayments not included in paragraph 1A above. No authorized program shall provide per capita or dividend payments to tribal members.

Eddie F. Brown,

Assistant Secretary—Indian Affairs.

[FR Doc. 92-2692 Filed 2-5-92; 8:45 am]

BILLING CODE 4310-02-M

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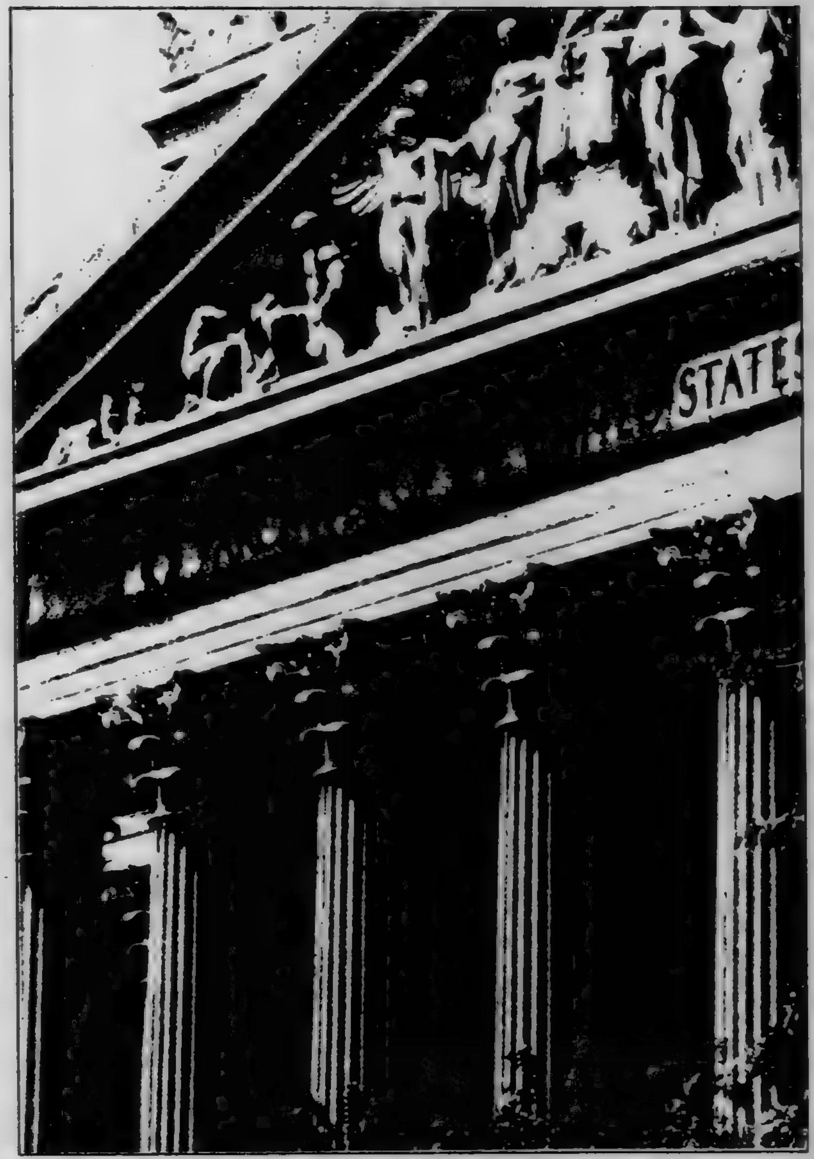

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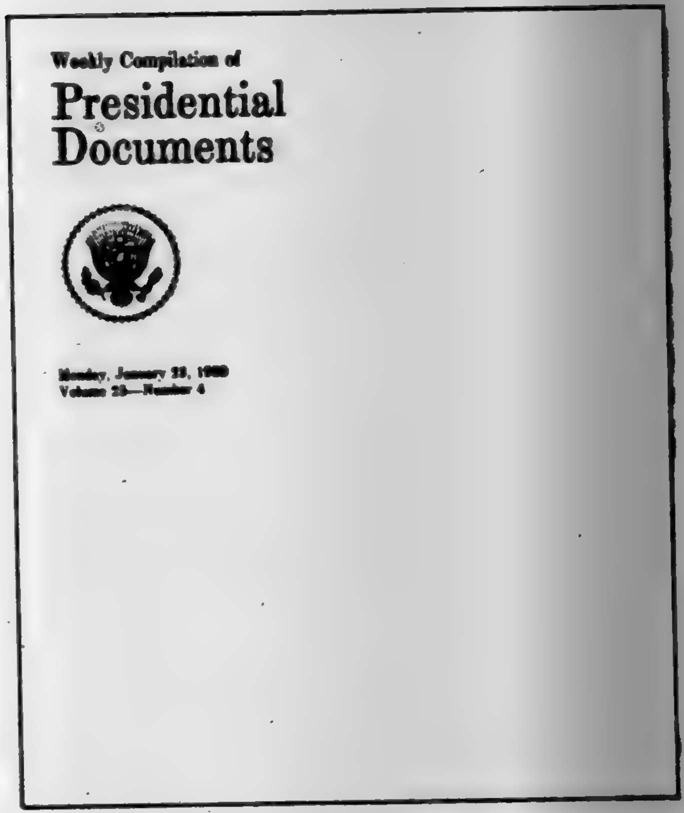

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FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: February 28, at 9:00 a.m.
WHERE: Office of the Federal Register,
First Floor Conference Room,
1100 L Street NW., Washington, DC.
RESERVATIONS: 202–523–5240.
DIRECTIONS: North on 11th Street from
Metro Center to southeast
corner of 11th and L Streets

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Federal Register
Vol. 57, No. 26
Friday, February 7, 1992

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Docket No. FV-91-408FR]

Navel Oranges Grown in Arizona and Designated Part of California; Weekly Levels of Volume Regulation for the 1991-92 Season

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule establishes the weekly shipping schedule and percentage allocation between districts for California-Arizona navel oranges for the 1991-92 navel orange season. Consistent with program objectives, such action is expected to establish and maintain orderly marketing conditions for fresh California-Arizona navel oranges during the 1991-92 season and to enhance producer returns. This action is based on a marketing policy which was adopted by the Navel Orange Administrative Committee (Committee) on June 25, 1991, and subsequently revised at open meetings held within the production area and on comments received from interested persons. The Committee locally administers the marketing order covering navel oranges grown in Arizona and a designated part of California.

EFFECTIVE DATE: February 7, 1992.

FOR FURTHER INFORMATION CONTACT: Maureen T. Pello, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2524-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-5127.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order No. 907 (7 CFR part 907), as amended, regulating the handling of navel oranges grown in Arizona and a designated part of California, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, (7 U.S.C. 601-674), hereinafter referred to as the "Act."

This final rule has been reviewed by the Department of Agriculture (Department) in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 130 handlers of navel oranges who are subject to regulation under the marketing order and approximately 4,000 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of producers and handlers of California-Arizona navel oranges may be classified as small entities.

The Administrator of the AMS has determined that this final rule will not have a significant economic impact on a substantial number of small entities.

The declaration of policy in the Act includes a provision concerning establishing and maintaining such orderly marketing conditions as will provide, in the interests of producers and consumers, an orderly flow of the supply of a commodity throughout the normal marketing season to avoid unreasonable fluctuations in supplies and prices. Limiting the quantity of California-Arizona navel oranges that handlers may handle on a weekly basis is expected to contribute to the Act's objectives of orderly marketing and improving producers' returns.

The navel orange, like many other citrus fruits, is unique in that mature oranges can be stored on the tree, to be marketed at a later time. Usually a high proportion of the crop is mature enough to be marketed early in the season; but markets may be insufficient to absorb that quantity of fruit in a short period of time at satisfactory prices. The on-tree storage characteristic of the navel orange permits the effective use of the flow-to-market (volume regulation) provisions of the order. Thus, volume regulations can be a valuable tool in achieving the goal of market stabilization for navel oranges.

The major reason for the use of volume regulations under the navel orange marketing order is to establish and maintain orderly marketing conditions for navel oranges and thereby benefit producers through higher total returns. Such regulation can at the same time benefit consumers by maintaining adequate supplies of navel oranges in the marketplace at reasonable prices for prolonged periods during the season.

The navel orange marketing order also contains a variety of provisions designed to provide handlers with marketing flexibility within an established volume regulation week. When volume regulation is established by the Secretary for a given week, the Committee calculates the quantity of oranges (allotment) which may be handled by each handler. The provisions of the order allow handlers to ship navel oranges in excess of their allotments, within specified limits, in response to marketing opportunities. The order includes provisions for: (1) marketing incentive allotments; (2) shipment of oranges in excess of a handler's allotment (overshipments); (3) shipment of oranges in quantities less than a handler's allotment (undershipments); and (4) allotment loans. Marketing incentive allotments provide handlers additional allotment (up to 10 percent of each handler's weekly allotment for a specified number of weeks) for market development programs and to allow handlers to take advantage of special marketing opportunities. Handlers who want to ship more than their allotment are permitted to overship that amount by one car (one car equals 1,000 cartons at 37.5 pounds net weight each) or by 20 percent of their allotment level, whichever is greater. A handler may overship in a given week, but the overshipment must be offset against the following week's allotment. Handlers may also ship less than their allotment during a given week which would give them the opportunity to ship more than their allotment during the next two succeeding weeks. Finally, handlers may borrow allotment from other handlers who choose to ship less than their allotment or who cannot fully utilize their allotment.

In addition, the order includes provisions that exempt the handling of certain navel oranges from volume regulation. Oranges which are used for the following purposes are exempt from volume regulation: (1) Charitable institutions or relief organizations for distribution by such agencies; (2) commercial processors for processing into products, including juice; (3) export markets; and (4) parcel post and express shipments. The Committee may also recommend for approval by the Secretary the exemption of minimum quantities of oranges from order provisions.

Pursuant to § 907.50 of the marketing order, the Committee is required to submit a marketing policy to the Secretary prior to recommending volume regulations for the ensuing season. The order authorizes volume and size regulations applicable to fresh shipments of California-Arizona navel oranges to markets in the continental United States and Canada. The marketing order does not authorize regulation of export shipments of navel oranges or navel oranges utilized in the production of processed orange products.

The Committee adopted its marketing policy for the 1991–92 season at its June 25, 1991, meeting in Newhall, California. The Committee presented its policy at district meetings for further discussion and review as follows: (1) Districts 1 and 4 on September 24, 1991; and (2) Districts 2 and 3 on October 1, 1991. Revisions discussed at those meetings were later adopted at a meeting on October 15, 1991. Further revisions in the crop estimate been approved by the Committee at meetings on November 19 and December 3, 1991, and are adopted in this final rule.

The Committee estimates the 1991–92 navel orange crop will total 64,600 cars. This compares to last year's total production of only 32,895 cars due to the severe freeze suffered throughout the production area in December 1990. The 64,600 car estimate is a revision of the Committee's initial estimate of 58,700 cars, and was adopted by the Committee at its November 19 meeting.

The Committee estimates District 1, Central California, 1991–92 production at 55,000 cars compared to 26,026 cars produced in 1990–91. In District 2, Southern California, the crop is expected to be 8,300 cars compared to 5,808 cars produced last year. In District 3, the Arizona-California Desert Valley, the Committee estimates a production of 1,200 cars compared to 893 cars produced last year. In District 4, Northern California, the crop is expected to be 100 cars compared to 168 cars produced last year. The Committee's production estimates are revisions of the Committee's initial estimates of 50,000 cars for District 1, 7,500 cars for District 2, 950 cars for District 3, and 250 cars for District 4. These revised estimates were adopted by the Committee at its meeting on November 19. The Committee's production estimates may again be modified as the season progresses.

At its district meetings, the Committee reviewed current crop conditions. At those meetings, the Committee's field staff reported that random fruit measurements for the 1991–92 navel orange crop had been completed. The projected average fruit size for District 1 was reported as about five percent smaller than last season. Navel oranges in Districts 2 and 3 were reported as about 22 percent smaller than last season while District 4 oranges were reported as 17 percent larger.

There may be times when small sizes as well as excessively large sizes will be shipped in fresh fruit channels at heavily discounted prices which could produce a negative return to producers. Such discounting could be disruptive to the orderly marketing of navel oranges. This condition could be alleviated through the use of size regulations authorized under the marketing order. The Committee has indicated that if size regulation would achieve program objectives, it would make such recommendations to the Secretary. There is currently no size regulation in effect for California-Arizona navel oranges.

The three basic outlets for California-Arizona navel oranges are the domestic fresh, export, and processing markets. The domestic fresh market, which may be subject to regulation, is a preferred market for California-Arizona navel oranges while the export market continues to grow. Japan and Hong Kong continue to be the leading export markets for navel oranges. Navel oranges which are diverted to processing are generally those oranges which do not meet quality requirements or are too small to market economically as fresh fruit.

The Committee revised its estimates of crop utilization based on its crop estimate of 64,600 cars, and the revisions were adopted at a meeting on December 3. The Committee estimates that approximately 43,650 cars of the 1991–92 crop (68 percent) will be utilized in fresh domestic markets compared with 16,675 cars (51 percent) in 1990–91; fresh exports are projected at 9,000 cars (14 percent) of the total 1991–92 crop compared to 2,456 cars (7 percent) in 1990–91; and 11,950 cars (18 percent) of the 1991–92 crop will be utilized in by-product channels and other forms of processing compared with 13,764 cars (42 percent) in 1990–91. The Committee's crop utilization estimates are revisions of its initial estimates of 40,500 cars (69 percent) utilized in fresh domestic markets; fresh exports at 7,000 cars (12 percent), and 11,200 cars (19 percent) utilized in byproduct channels and other forms of processing.

The 1991–92 season average on-tree price for California-Arizona navel oranges is not expected to exceed the projected season average fresh parity equivalent price. Based upon fresh utilization levels indicated by the Committee and an econometric model developed by the Department, the 1991–92 season average on-tree price is estimated at $6.33 per carton, about 85 percent of the estimated fresh on-tree parity equivalent price of $7.44 per carton. In contrast, the 1990–91 season average fresh on-tree price was $7.75 per carton, or 119 percent of the estimated fresh on-tree parity equivalent price of $6.52 per carton.

Based on the information available and for the purposes of this rule making process, the Committee recommended to the Secretary on June 25, 1991, a proposed weekly schedule of the quantities of navel oranges that can be shipped, if volume regulation is recommended, approved and implemented for the 1991–92 season. The proposed shipping schedule, which was based on the Committee's initial utilization estimate of 40,500 cars, was revised at its October 15 meeting based on 40,800 cars, and was then revised again at its December 3 meeting, and is now based on a domestic utilization estimate of 43,650 cars. This figure may be adjusted throughout the season to reflect revised crop estimates.

In developing the proposed shipping schedule, the Committee considered equity of marketing opportunity and established an equity factor pursuant to §§ 907.51(b) and 907.110. The Committee compiles production estimates in cars for each district. These production estimates are based on the entire anticipated tree crop in each district. The Committee combines these production estimates to project the total production for all four districts. The Committee then projects the number of cars that could be marketed in fresh domestic channels. From the relationship between these two totals, an equity factor is derived and then applied to each district's estimated production in order to determine the estimated amount of each district's production that could be moved into fresh domestic markets under regulation. Therefore, all districts, no matter how much handlers ship weekly to fresh domestic markets, should be provided the opportunity to ship, under volume regulation, the same proportionate amount to fresh domestic market during the season. The equity factor for this season is 68 percent and is the same for all districts.

The shipping schedule also establishes the percentage allocation, pursuant to § 907.110 of the regulations, for each district for each week which is used to determine each district's proportionate share of the allotment established issued for a particular week. Each district's volume limitation for a particular week is then equitably apportioned among all handlers in each district. Thus, each handler's individual allotment is based on the entire quantity of navel oranges available for all uses, including export.

A proposed rule concerning this action was published in the September 30, 1991, issue of the Federal Register (56 FR 49432). That rule was based on the Committee's initial shipping schedule as adopted on June 25, 1991, and provided for volume regulation for the period from the week ending on October 24, 1991, through the week ending May 21, 1992.

Comments concerning this action were invited until October 30, 1991. Forty-six comments were received. Comments supporting the proposed action, with some modification, were submitted by the Committee, Sunkist Growers, Inc. (Sunkist), Central California Orange Growers Co-op (CCOG), and five producers and/or handlers. Comments opposing the proposed action were submitted by the Antitrust Division of the U.S. Department of Justice (DOJ); the Small Business Administration's Office of Advocacy (SBA); Farmers Alliance for Improved Regulation (FAIR); Citizens for a Sound Economy (CSE); Consumer Alert; Competitive Enterprise Institute (CEI); Growers for Modern Marketing (GMM); and thirty-one producers and/or handlers.

Comments submitted by the Committee, Sunkist, CCOG, and five producers and/or handlers supported the proposed use of volume regulation for navel oranges during the 1991–92 season, in general, with some modifications. In its comment, the Committee revised its production and utilization estimates based on reviews of its marketing policy at its district meetings. The Committee's production estimates, as mentioned previously, were again revised at its November 19 meeting. In summary, the Committee revised its total production forecast from 58,700 to 64,600 cars; revised its estimate of domestic shipments from 40,500 to 40,600 cars, and has since revised it again to 43,650 cars. The Committee revised its weekly shipping schedule to reflect these changes. These changes, as recommended and adopted by the Committee, are adopted in this final rule.

In its comment, Sunkist provided a general discussion of the navel orange marketing order. Sunkist stated that the main advantage of the order's rate of flow provisions is that it allows producers in an industry to harvest and market their fruit in a manner that tailors supply to market demands, a major criterion for orderly marketing. Sunkist also stated that orderly marketing benefits producers by stabilizing and enhancing shipping point prices and benefits consumers by ensuring an adequate supply of high quality fruit over an extended period of time.

In its comment, Sunkist also cited a study conducted by the Department's Economic Research Service (ERS). The study was designed to measure the effects of suspensions of volume regulations on California-Arizona navel oranges during certain periods during the 1980s. The suspensions resulted in increased utilization and lower prices of processed navel oranges. Producer revenue fell during the suspensions. According to Sunkist, ERS's study indicated that short run revenues to the navel orange industry are raised when it follows a marketing strategy that allocates the total navel orange crop to its various uses on the basis of the differences in demand relationships that exist for those different uses.

Sunkist and two handlers also commented that volume regulation is necessary this season because of the lingering effects of last December's devastating freeze. Sunkist stated that producers will be mindful of the freeze and may wish to market their oranges early in the season so as to minimize the possibility of having their crops subjected to a freeze. If heavy supplies of navel oranges are available for sale when the crop first matures, there will be market gluts and correspondingly low prices to producers. Considering these conditions along with, as two handlers mentioned, the crop size, the flexabilities provided by the navel orange order will be necessary, according to Sunkist, to help ensure the orderly marketing of this year's crop.

Sunkist also commented that while some opponents to volume regulation this season may argue that the 1991–92 crop is too small to warrant such regulation, Sunkist view is that the crop is of sufficient volume to warrant regulation. According to Sunkist, regulating the 1991–92 crop would provide producers the opportunity to market their crop in an orderly fashion. Sunkist also mentioned that the first revised crop estimate of 58,300 cars was about 90 percent of the average of the 1984–85 through 1988–89 seasons. Again, this figure was revised at the Committee's November 19 meeting to 64,600 cars.

In their comments, Sunkist, CCOG, and most of the producers and handlers supporting the proposed rule confirmed their support for the need for volume regulation this season, the weekly shipping schedule, the weekly percentage allocation between districts, the dates for the onset and duration of regulation, and the entire marketing policy as adopted and submitted by the Committee. In addition, CCOG and those supporting producers and handlers commented that the order's volume regulation features provide a practical system to even out the flow of oranges when warranted by market needs, thus reducing gluts and shortages, enhancing producer returns and stabilizing weekly supplies and prices to consumers. The commenters also confirmed their support for mid-week increases, stating that, when used wisely, they help ensure maximum delivery of fruit to market with a minimum impact on price.

The remaining commenters raised several issues opposing the use of volume regulation for the 1991–92 navel orange crop. Many commenters who raised objections to the proposed action posed several questions on various aspects of volume regulation and the marketing order. Each issue raised is addressed herein.

Several commenters who opposed the proposal contended that volume regulation is not necessary this season because of the small size of the freeze-reduce crop. One commenter mentioned that with the size of the crop and the size of the fruit this year, it will be very hard to keep a steady workforce. Another commenter mentioned that because of the freeze last season, Florida shippers made significant entry into traditional California navel orange fresh markets, and that regulating this season's short crop will allow unregulated Florida oranges to remain entrenched in those markets, resulting in a reduction in needed revenue to aid California producers in their recovery from the freeze. Two handlers commented that California producers are still recovering from the December 1990 freeze and want to market as much of their fruit as early in the season as possible. Several commenters stated that since this year's crop is allegedly much smaller than normal, there should not be any difficulty in marketing the crop in an orderly fashion without volume regulation.

In response to these concerns regarding the size of the 1991–92 crop, implementing volume regulation this season is expected to help promote orderly marketing conditions. It is possible that the preponderance of small sizes, coupled with the threat of another freeze, could force too much small fruit into the market and thus have a price depressing effect. Thus, volume regulation is necessary to help ensure the orderly marketing of oranges this season. In addition, as stated in Sunkist's comment and cited earlier in this rule, the first revised crop estimate of 59,300 cars was about 90 percent of the average of the 1984–85 through 1988–89 seasons of about 65,000 cars. That figure has since been increased to 64,600 cars, 99 percent of that 5-year average.

Several commenters opposing the implementation of volume regulation this season contended that the Committee's proposed shipping schedule is too restrictive. FAIR, GMM, and several handlers expressed concern that the initial revision of 40,800 cars allocated to the fresh domestic market is about 27 percent lower than actual 1989–90 fresh domestic utilization of over 55,000 cars. Concerning the dates for the onset and duration of volume regulation for the season, these commenters alleged that the schedule as proposed starts too early and goes much too long.

The Committee's proposed schedule reflects the maximum quantity of 1991–92 navel oranges expected to be suitable for the fresh domestic market. Any increase in fresh shipments above the revised amount of 40,800 cars could result in a diminished quality of fresh market supplies. In addition, it is difficult to compare this season's estimated fresh domestic utilization figure with the 1989–90 actual figure because the 1989–90 crop was the largest on record.

Several commenters who opposed the proposed rule questioned the equity of marketing opportunity provisions of the marketing order, particularly in relation to the proposed schedule. FAIR and several handlers commented that District 1 is severely handicapped by the use of volume regulation, and is often forced to divert merchantable oranges to byproducts, a less profitable outlet than the fresh market. Several handlers also commented that the proposed volume restrictions on Districts 2, 3, and 4 are negligible and unfair as compared with District 1. FAIR also commented that the proposed regulations violate the Equal Protection Clause of the Constitution because similarly situated producers and handlers are treated much differently by government regulations.

In response to these concerns regarding equity between districts, § 907.51 of the order requires the Committee to provide equity of marketing opportunity in the regulated market to handlers in all districts. Section 907.110 provides that the Committee must establish an equity factor which is the same for all districts. The equity factor shall be stated as a percentage of the tree crop in each district and shall reflect a quantity of oranges (grown in each district) for which there will be equitable marketing opportunity under volume regulation during the ensuing season. In the development of its marketing policy, the Committee sets an equity factor which is used in the development of the weekly shipping schedules for all districts. While this schedule may change later in the season, i.e., when revised crop forecasts are available (the schedule has already been revised since the Committee's initial marketing policy meeting on June 25 because of changes in the crop forecast), the equity factor will always be applied equally to all districts. Thus, all districts, no matter how much they ship weekly to any market should eventually be provided the opportunity to ship, under regulation, the same proportionate amount to fresh domestic markets during the season. This is in accordance with the marketing order and the underlying statute, both of which have consistently been upheld after litigation in this regard.

One handler from District 4 contended that the use of volume regulations will cause severe problems for District 4 and requested that no volume regulation be imposed on that district. The marketing order, however, contains no general exemption provisions for any district. The adoption of such a general exemption would require an amendment to the marketing order. The Committee, therefore, must each year study the probable effect and timing of volume regulations in each district. The Committee, which represents the interests of the majority of producers and handlers in the industry, considered many factors in projecting a weekly shipping schedule for the season. The schedule represents the desires of the majority of producers and handlers in each district as to the length and scheduling of their shipping seasons, and provides each district with equitable marketing opportunity. In addition, the weekly shipping schedule as published in this final rule is subject to modification throughout the season. The Committee is expected to meet on a weekly basis throughout the season to consider the appropriateness of specified weekly volume regulations and recommend amendments, when necessary, to the amounts allotted by this rule for each district for the upcoming week.

In a related issue, one producer in District 1 requested relief from volume regulation for the season for its handler due to financial hardship at the farm level. The producer commented that its normal season average production of about 450,000 cartons has been reduced because of last year's freeze to about 37,500 cartons. This producer claims to be the largest volume supplier of navel oranges to that handler. In addition to submitting this request as a comment, this producer also made its request earlier in the season to the Committee. After careful review of the order's provisions, the Committee appropriately informed the producer that the order does not provide for such an exemption and subsequently took action at its November 12 meeting to deny the request. Furthermore, it should be noted that it is the handler, and not the producer, who is directly limited by volume regulations.

Several commenters who opposed the proposal contended that volume regulations would have a significant adverse economic impact on small entities, particularly in light of last year's freeze. Many of the handlers who opposed the proposal commented that the use of volume regulation causes severe operational and economic consequences for small entities. Several handlers commented that a small entity's weekly allotment under volume regulation is usually so low that it cannot operate its packinghouse at full capacity. This in turn results in an inefficient operation creating higher labor and packinghouse costs. Several handlers also commented that small entities are unable to meet the needs of the domestic and export markets under volume regulation.

The Department, in compliance with the RFA, has considered the economic impact of weekly volume regulations on small entities and has certified that such regulations do not have a significant adverse impact on a substantial number of small entities. This determination is not subject to legal review under the RFA.

Furthermore, since the inception of the order, the Department has collected evidence through both formal and informal rulemaking proceedings, analyses of marketing policies, analyses relating to the collection of information under the Paperwork Reduction Act, and the like. The general purpose for, and effect of, volume regulations, as demonstrated in the legislative histories of the Act and the order, is to benefit all producers. Volume regulations would help to assure a share of the domestic fresh market for the smallest and least powerful handlers as well as the largest. Small entities would find access to the fresh domestic market more difficult if the program were discontinued, and their revenues would likely be consistently lower.

The SBA, CSE, and FAIR in their comments urged the Department to perform a regulatory flexibility analysis before adopting any recommendations of the Committee concerning the use of volume controls. The Department has certified that this action will not have a significant economic impact on small entities and, thus, the Department is not required to conduct a regulatory flexibility analysis under the RFA.

Many commenters who opposed the proposed rule questioned why there are no volume restrictions on Florida and Texas navel oranges and other competing fruits. Florida and Texas oranges are also regulated under marketing orders. However, these marketing orders do not contain provisions for volume regulations as does the California-Arizona navel orange marketing order. Producers in Florida and Texas approved marketing orders developed through a formal rulemaking process to fit their own unique fresh marketing conditions, as was done by California-Arizona navel orange producers.

Several commenters opposing the proposal questioned why volume regulations have not been used for California-Arizona Valencia oranges during the past five seasons, but have been used for California-Arizona naval oranges. The Valencia orange industry, as represented by the Valencia Orange Administrative Committee (VOAC), has not recommended regulation for the past five seasons due to the nature of the crops and the market for Valencia oranges. The California-Arizona Valencia orange crop is traditionally more alternate bearing than the California-Arizona navel orange crop and crop maturity across growing areas is more dispersed. Moreover, the processing and export markets for Valencia oranges have been expanding more rapidly than in previous years and the latter provides a particularly attractive outlet for the Valencia crop. Also, most California-Arizona Valencia oranges are sold when no other competing fresh oranges are in the market. Given this combination of factors, there has been little need to regulate the flow of Valencia oranges to the fresh domestic market through the use of volume regulations. The Valencia orange regulatory record demonstrates that the California-Arizona orange industry is not opting to use features of their marketing orders to regulate when regulation is not deemed necessary. Additionally, regulation was not recommended last season because of the damage to the Valencia orange crop caused by the devastating December freeze.

Several commenters, including FAIR, CSE, the DOJ, and Consumer Alert, alleged that consumers do not benefit from volume regulation. Related to this issue, FAIR referenced a study by Dr. Lawrence Shepard, a professor of consumer economics at the University of California at Davis, which discussed the effects of deregulation, and suggested that: "* * * bearing acreage and shipments to processors would fall and processing prices would rise under a market-determined allocation of fruit. Prices and output would be more stable in the processing sector and less stable in the fresh orange market without the marketing order * * * average grower returns per carton would be somewhat higher but less stable and * * * productive capacity would be lower than under regulation * * * adjustment costs attending deregulation would prove transient once acreage and output matched (a new equilibrium described by the author as) market-determined levels of demand * * *"

This is essentially an issue related to the desirability of the marketing order provisions. The order is not reviewable herein, and is only reviewable on the basis of the formal rulemaking record upon which it was adopted. However, the Department agrees that without the marketing order, shipments to processors would likely fall, and prices would be less stable in the fresh orange market. In addition, bearing acreage and productive capacity might be lower, and likely concentrated in fewer hands. Adjustment costs associated with deregulation may prove transient to surviving producers but not to those unable to adjust quickly to the changed economic stitution. Also, consumers would likely question the need for much greater variability in supplies and prices. Thus, volume regulations can provide for the maintenance of ample supplies of navel oranges to consumers at times when they are needed and the ability to obtain a price which will provide suppliers the incentive to stay in business.

Additionally, there is a strong argument that prorates reduce variability in prices on an interseasonal basis, resulting in a rightward shift in the supply curve due to decreased producer uncertainty. That is, with decreased price variability, producers are willing to supply more oranges for a given return, resulting in an increase in social welfare.

Several commenters expressed the opinion that "no regulation" would foster a better long-term market outlook for navel oranges. Again, this basically questions the long-term desirability of prorate provisions in the order. As noted above, the order is not reviewable herein, and is only reviewable on the basis of the formal rulemaking record upon which it was adopted. However, on an interseasonal basis, the program promotes orderly marketing, the purpose of which is to furnish sufficient navel orange supplies to fresh markets throughout the season and to avoid price-depressing gluts, particularly during the first few months of the season when supplies are heaviest. If the program were discontinued, projections based on historical relationships suggest that the short-run effects would be much greater variability in weekly supplies and prices than occurs with the use of prorate regulations. The expected long-run effect of discontinuing prorate is less certain, although there are indications that prices would rise because of more price risk to producers.

Several cementers who opposed the proposed use of volume regulation alleged that Sunkist, the industry's largest marketing cooperative organization, uses prorate to control the market and manipulates the Committee to benefit its producers. FAIR alleged that Sunkist is virtually unrestricted by volume controls because it can control the weekly prorate figure with five Committee votes.

In truth, all handlers are equally subject to volume regulation and therefore, are limited equally.

In addition, recommendations for volume recommendations are developed by the Committee, which is comprised of members nominated by producers and handlers to represent their interests in administering the navel orange marketing order. This is done in accord with provisions of the order and the regulations that are not under review herein. The Committee members have an in-depth understanding of the navel orange industry and the California-Arizona citrus industries in general and are fully qualified to represent their producer and handler constituents. These members meet weekly to consider all views presented by producers, handlers, and other interested persons in making recommendations for volume regulation. Only a minority of members on the eleven member Committee currently represent Sunkist.

FAIR and other commenters questioned how the inherent characteristics of the navel orange permit the effective use of volume regulation to maintain orderly marketing conditions. Whether a volume regulation provision is desirable for the navel orange order is essentially a question related to the desirability of the order provisions, and, hence, is not reviewable herein, and is only reviewable on the basis of the underlying formal rulemaking record. Furthermore, as previously mentioned, mature navel oranges can be stored on the tree and picked as needed to provide the market with a more even distribution of supplies during the season. This on-tree storage feature is particularly valuable early in the season when a large portion of the crop is often mature but the market may not be able to absorb that amount of fruit at the time.

Several commenters opposing the proposed rule contended that the Department has failed to comply with the Administrative Procedure Act (APA). It is the Department's view that it has acted properly and in accordance with the requirements of the Act and other applicable legislation and within the limits of the navel orange marketing order in issuing volume regulations.

Several commenters opposing the use of volume regulation for the 1991–92 navel orange crop alleged that the proposed rule did not satisfy the criteria for establishing volume regulations under the Act. Volume regulations under the Act and the marketing order may be promulgated if the Secretary finds such action would tend to effectuate the policy of the Act. As stated previously, the declaration of policy in the Act includes a provision concerning establishing and maintaining such orderly marketing conditions as will provide, in the interest of producers and consumers, an orderly flow of the supply of a commodity throughout the normal marketing season to avoid unreasonable fluctuations in supplies and prices. It is the Department's view that limiting the quantity of California-Arizona navel oranges that each handler may handle on a weekly basis during the 1991–92 season may contribute to the Act's objectives of orderly marketing and improving producers' returns.

Related to this issue, many commenters asked the Department to define the terms "orderly marketing" and "unreasonable fluctuation in supplies and prices." These are terms used by Congress to describe its policy to be effectuated through marketing order provisions. The intent of Congress in promulgating this statute is not subject to revision by an agency. Thus, there is no need for such definitions in this regulation.

FAIR, in its contention that the proposed rule violates the Act, alleged that the Department is using an improper "local" parity figure, which is only authorized for milk marketing orders, as opposed to the national parity price for oranges. FAIR claimed that if the Department had used the correct national parity figure, projected season average navel prices would be substantially above parity, thus making regulation impossible, according to FAIR, due to the parity limitation in the Act.

The Act provides for regulation in above parity situations in order to avoid a disruption of orderly marketing in the public interest. Furthermore, under the Act, marketing orders are issued for specific commodities, areas and usages. Parity equivalent prices which apply to most of the specific commodities, areas and usages regulated under marketing orders are not published by the National Agricultural Statistics Service (NASS).

The parity price published by the NASS for oranges includes all varieties of oranges grown in Arizona, California, Florida and Texas for all uses. Such an aggregate parity price does not adequately reflect parity for California-Arizona oranges sold in fresh market outlets. Therefore, the Department computes a parity equivalent price for the area and usage specified under Marketing Order No. 907, based on the U.S. parity price for oranges and historical relationships between U.S. average prices for oranges and average prices for California-Arizona oranges utilized for fresh market sale. There is no statutory prohibition to this method of calculating parity.

FAIR also commented that the Department failed to "comply" with the Department's Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders's (Guidelines) "requirement" that prorate programs used as a means of market allocation provide at least 110 percent of recent seasons' sales for the fresh domestic market. FAIR also contended that the Department failed to "comply" with the Guidelines' "requirement" to utilize volume regulations in a guarded manner.

The Guidelines recommend for market allocation and reserve pool programs that the primary markets have available a quantity equal to 110 percent of recent years' sales in those outlets before approving secondary market allocation or pooling. However, the navel orange marketing order utilizes weekly volume regulations which have flow-to-market functions, not market allocation and reserve pool requirements, to provide an orderly flow of available navel oranges in order to avoid unreasonable fluctuations in supplies and prices. Therefore, the 110 percent recommendation is not applicable. Furthermore, the Guidelines provide recommendations only, and are not requirements with which the Secretary must comply.

In addition, the 1991–92 navel orange marketing policy meets the requirements of § 907.50 of the navel orange marketing order and follows the Guidelines' recommendations which permit each industry utilizing prorate recommendations to assess its own unique problems and needs in order to effectively serve the interests of both producers and consumers.

FAIR alleged in its comment that both the Department and the Committee have completely ignored the criteria for evaluating the potential use of supply controls set forth in the 1986 Criteria Commission report. The "Criteria Commission" was an independent team which conducted a study and published a report through the facilities of the ERS. The "Criteria" were considered in this rulemaking process. However, the "Criteria" report was published as an informational tool and imposes no requirements on the Department.

Several commenters who raised objections to the proposed rule questioned various economic issues raised by the implementation of volume regulation. Several commenters who objected to the proposed rule questioned whether producers maximize their returns under volume regulation. Both the DOJ and FAIR contended that producers do not benefit from prorate in the long run. The DOJ and FAIR alleged that the results of numerous economic studies provide evidence that the use of prorate programs has negative effects on producers' returns and the availability of supplies, and contributes to resource misallocation.

Several commenters asserted that some researchers have concluded that their respective analyses support the contentions that, contrary to the objectives of the Act, volume regulations have reduced producer returns as compared with returns under no regulations, and that such regulations have contributed to the inefficient allocation of resources. As noted above, these comments go to the desirability of volume regulation provisions not under review herein, and which, in any event, cannot be judged on the basis of post-record "evidence". Furthermore, the Department does not agree with these commenters' interpretation of the relevant data. Such an interpretation does not take into account many factors that might be present if there were no volume regulations, including declining shipments to processors, increased fluctuations in fresh market prices, and bearing acreage and production capacity reduced and concentrated in fewer hands. Therefore, the Department does not agree that the data presented necessarily leads to the conclusions suggested by the commenters.

During the years since the inception of the navel orange marketing order, there have been significant changes in the marketing system for California-Arizona navel oranges. At one time, navel oranges were sold at public auction in terminal markets. The fruit was shipped to the auctions by rail and handlers paid the freight. The auctions were open to all buyers and sellers. In the 1960s, the auctions were abandoned in favor of the current system of selling the fruit on an f.o.b. basis under which buyers pay the freight. At the same time, there continue to be marketing risks to producers and handlers that are not effectively offset by other mechanisms, such as pricing methods, risk sharing organizations and income diversification. In addition, the major objectives of the marketing order are unchanged—achieving orderly marketing and parity prices to producers. There is no evidence that, in the absence of flow-to-market controls, a price-depressing surplus of shipments would be any less likely now than it was four decades ago. Currently, there are more pricing points than under the "auction" system. There is evidence to support the conclusion that such regulations have mitigated the adverse effects of price-depressing surpluses, particularly early each season.

One handler in his comment predicted that, with no regulation, producers would be able to market 87 percent of the 1991–92 crop to the fresh domestic market, or 51,069 cars. The handler projected F.O.B. revenue, without regulation, at a range between $485,155,000 and $573,457,000, and on-tree revenue to producers between $5.65 and $6.40 per carton, or between 75.3 and 85.3 percent of parity.

Since the specific equation that the commenter used to calculate the above F.O.B. shipping point revenue and on-tree prices was not provided, the Department was unable to calculate the revenue curve from which the results were reported. However, according to the Department's econometric model, fresh domestic and export shipments totaling 52,229 cars would maximize F.O.B. shipping point revenue at $10.48 per carton valued at $547,215,000, and on-tree revenue at $6.38 per carton valued at $333,076,000. This shipment estimate results in an on-tree value estimate that totals less than one percent more than the on-tree value estimate ($6.89 per carton totaling $330,893,000) that results from the Committee's first revised shipment estimate for fresh domestic and export of 48,000 cars.

Furthermore, estimated season average prices and calculated revenue curves, as well as historical market performance indicate that both on-tree and F.O.B. shipping point revenue would be higher than at the level of shipments projected by the Committee in the 1991–92 marketing policy, providing sufficient tree crop production were available to support such utilization levels. As has been demonstrated in the past, the Committee has been quick to increase projected utilization levels when revised tree crop production and crop size and condition reports indicated such changes were appropriate.

The commenter further suggested that the preliminary estimate of the 1990–91 average price for fresh California-Arizona navel oranges, $7.29, as published in the proposed rule, was somehow related to pre-freeze production and fresh shipment estimates and suggested that the price estimate was "preposterous." However, the $7.29 per carton estimate was based on 1990–91 post-freeze seasonal data available prior to publication of the season average on-tree price by the NASS. The official Department estimate of $7.75 per carton was published by the NASS on September 30. The difference between the official published price and our estimate is six percent. Thus, the Department's estimate is valid.

The commenter further suggested that the Committee projected a 1991–92 on-tree price of $4.96 per carton was also "preposterous." That price was developed and utilized in an interim model to produce an early price estimate in the absence of data from which to build the pre-season models normally used. Since that time, however, this figure was subsequently revised to $6.33 per carton, 85 percent of the estimated fresh on-tree parity equivalent price of $7.44 per carton.

The commenter, FAIR, and others suggested that the absence of volume regulations for navel oranges results in higher producer revenue and cited as evidence that the highest prices were recorded during periods of no prorate regulation or reduced regulation (i.e., certain portions of the 1985 and 1989–90 seasons). However, during those seasons, navel orange volume regulations were curtailed because unusual marketing conditions caused prorate to be unwarranted. Higher producer revenue would be expected to be associated with those periods when supplies and prices were at levels not indicating a need for volume regulation. Furthermore, market performance during the 1989–90 season after prorate was suspended does not change basic demand relationships when considering an entire season. Basing marketing decisions on such short-term periods, when competitive conditions are much different, would not be logical economic behavior.

Three commenters alleged that volume regulations for navel oranges inhibit returns per acre. The relationship between price per unit and regulation has been described above. Beyond that, return per acre is dependent on the efficiency of individual operations. However, the marketing order and the related regulations are not designed to deal with problems related to the efficiency of production or net returns per acre. Additionally, the Act and order do not include authority to control acreage or production.

One commenter questioned why Dr. Roger Fox of the University of Arizona, who the Committee commissioned to model prospective revenues at alternative utilization levels, did not consider sales in excess of 43,000 cars going to the fresh domestic market. Dr. Fox did not consider sales in excess of that amount because, as shown in the Committee's marketing policy, the model indicates that revenue would be reduced at higher levels and consequently would not be of interest for consideration.

One handler and the SBA recommended in their comments that the rules and regulations of the navel orange marketing order be modified to provide that organically grown oranges be exempt from volume and size regulations. Such a recommendation was submitted to the Department and the Committee for review last season. The Committee formed a subcommittee to review the proposal. The subcommittee met several times last season before the December freeze and resumed discussion in July 1991. Recently, the Committee and the VOAC adopted a recommendation to provide relief for organic oranges through the use of short-life allotments. At this time, the Department is studying this entire issue and expects to issue a separate proposal on this matter in the near future.

Several commenters, including FAIR, also suggested that the orange industry not be re-regulated. At this time, it is the Committee's view that volume regulation is needed for the 1991–92 season. However, the Committee is not precluded from a no-prorate option. In fact, experience shows that when the Committee deems prorate inappropriate, no regulations are recommended. During the 1989–90 season, for example, prorate regulations did not commence until the week ending on November 9, 1989, and were discontinued following the week ending on March 29, 1990. In addition, last season, prorate was terminated in December because of damage to the navel orange crop caused by the devastating freeze.

FAIR proposed several other alternatives in its comment to the shipping schedule as proposed by the Committee. First, FAIR suggested that the Department and Committee comply with the provision in the Guidelines and establish an allocation to the fresh domestic market of 110 percent of recent seasons' primary market sales. This topic was discussed above.

Second, FAIR suggested that prorate should only be utilized as a flow-to-market tool, i.e., making the entire fresh quality crop (approximately 90 percent) available to the domestic fresh market. It is the Department's view that prorate regulations are utilized as a flow-to-market tool whereby the industry attempts to market the largest possible volume of navel oranges in fresh domestic markets in an orderly manner consistent with protecting producer returns.

Third, FAIR suggested that prorate only be initiated when the weekly computed revenue falls 20 percent below the three-week moving average revenue. Such a formula could be used, although on a delayed basis. In view of this delay, this alternative would be unworkable over the course of the season. Relative price levels are established early in the season based primarily on current and prospective supplies as well as consumer demand. Week-to-week price changes thereafter may or may not result in price levels requiring termination or implementation of prorate. Following this procedure also would increase the difficulty of providing equity of marketing opportunity to the districts. The Committee is responsible for evaluating the market during the season and has the flexibility to adjust its recommendation for regulation to emerging conditions to support the orderly marketing of California-Arizona navel oranges.

Fourth, FAIR suggested setting prorates at a constant level of 2,250 cars per week for the entire season providing, according to FAIR, substantially increased flexibility and initiative and a consistent maximum shipping level. Setting any specific level of volume regulation for the entire season would be inconsistent with the nature of the marketing order. The marketing order is one of flow-to-market rather than allocation and is designed to control the short term rate of flow. Further, a constant prorate level would not permit adjustments to changes in price levels or market conditions. This approach would not provide the Committee with the opportunity to individually analyze the need for and level of regulation on a weekly basis.

Fifth, FAIR suggested establishing an early termination date for prorate at approximately February 15 to coincide with the end of freeze risk, and facilitate, according to FAIR, the objectives of the Guidelines that prorate be used guardedly and during limited portions of the season. While mid-February may usually bring an end to the risk of a serious freeze, the risk of a freeze is not the only reason to regulate during any season. The major objective is to provide an orderly flow to market of available navel oranges in order to avoid unreasonable fluctuations in supplies and prices. The 1991–92 navel orange marketing policy meets the requirements of § 907.50 of the navel orange order and conforms with the Guidelines, which call for each industry utilizing prorate recommendations to assess its own unique problems and needs in order to effectively serve the interests of both producers and consumers.

Sixth, FAIR suggested establishing a shipping schedule that allocates prorate consistent with recent historical shipping patterns, providing four-year average weekly shipments plus 10 percent as an example, with the objective of equalizing the burden of regulation felt by all handlers. The Committee uses historical patterns in developing an initial, tentative shipping schedule. However, in addition to historical patterns, it is also necessary to take into account other factors required by the marketing order. Further, arbitrarily increasing the four-year average by any set amount would not necessarily provide a realistic reflection of available supplies or market needs. It is not clear how this alternative would equalize the burden of regulation. The final rule herein is consistent with the marketing order's provisions concerning equity of marketing opportunity and thus provides all districts the opportunity to ship, under regulation, the same proportionate amount to fresh domestic markets during the season.

Seventh, FAIR suggested establishing a shipping schedule that is equally binding on all districts. As discussed earlier, the shipping schedule as it appears in the Committee's marketing policy provides each district with equitable marketing opportunity whereby each district is provided the opportunity to ship, under volume regulation, the same proportionate amount to fresh domestic markets during the season.

Eighth, FAIR recommended that the Department exempt shrink-wrapped oranges from supply controls. The Department would need additional information as to the purpose of such a recommendation and how this recommendation would benefit both producers and handlers in the industry. The Department would then review and determine if such a recommendation is feasible. FAIR should also submit this recommendation, along with the necessary information, to the Committee which could then review and determine whether to submit such a recommendation to the Department.

Therefore, for the reasons stated, the above comments in opposition to the proposed rule, as well as the alternatives presented, are denied.

The shipping schedule set forth in this final rule has been revised by omitting the volume regulation amounts for the weeks ending on October 24, 1991, through February 13, 1992. In addition, the section and regulation numbers, 907.1021 and 721, respectively, have been revised because those numbers were used earlier this season for an emergency final rule implementing volume regulation for the week ending on November 21. Further, revisions to the allocation of allotment between districts, as recommended by the Committee at a meeting on January 28, 1992, were also incorporated into this rule.

After consideration of all relevant material presented, including the Committee's recommendation, the comments received, and other available information, it is found that this regulation, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) Handlers have already begun harvesting their 1991–92 California-Arizona navel oranges; (2) the shipping schedule is based on a marketing policy which was adopted by the Committee at open meetings; and (3) this action is needed to establish and maintain orderly marketing conditions, consistent with the declared policy of the Act.

List of Subjects in 7 CFR Part 907

Marketing agreements, Oranges, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 907 is to be amended as follows:

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

1. The authority citation for 7 CFR part 907 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. A new section 907.1033 is added to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

§ 907.1033 Navel orange regulation 733.

The shipping schedule below establishes the quantities of navel oranges grown in California and Arizona, by district, which may be handled during the specified weeks as follows:

[Cartons in thousands]

Week ending	District 1		District 2		District 3		District 4		Total cartons
	Cartons	Percent	Cartons	Percent	Cartons	Percent	Cartons	Percent	
(a) 02-20-92	1,465	83.7	285	16.3					1,750
(b) 02-27-92	1,465	83.7	285	16.3					1,750
(c) 03-05-92	1,541	83.3	309	16.7					1,850
(d) 03-12-92	1,541	83.3	309	16.7					1,850
(e) 03-19-92	1,541	83.3	309	16.7					1,850
(f) 03-26-92	1,541	83.3	309	16.7					1,850
(g) 04-02-92	1,541	83.3	309	16.7					1,850
(h) 04-09-92	1,541	83.3	309	16.7					1,850
(i) 04-16-92	1,545	83.5	305	16.5					1,850
(j) 04-23-92	1,545	83.5	305	16.5					1,850
(k) 04-30-92	1,507	83.7	293	16.3					1,800
(l) 05-07-92	1,503	83.5	297	16.5					1,800
(m) 05-14-92	1,007	83.9	193	16.1					1,200
(n) 05-21-92	840	84.0	160	16.0					1,000
(o) 05-28-92	662	83.8	128	16.2					790

Dated: February 5, 1992.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92–3137 Filed 2–6–92; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 335

RIN 3064–AA11

Ownership Reports and Trading by Officers, Directors and Principal Security Holders

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Final rule.

SUMMARY: The FDIC is adopting amendments to its rules and forms, as well as related disclosure requirements for issuers, regarding the filing of ownership reports by officers, directors, and principal security holders, and the exemption of certain transactions by those persons from the short-swing profit recovery provisions of section 16 of the Securities Exchange Act of 1934. The amendments are intended to achieve greater clarity, enhance consistency with the statutory purpose, and improve compliance with the reporting provisions of the rules.

DATES: *Effective date:* These amendments are effective March 9, 1992.

Applicability dates: The substantive provisions of SEC rule 16b–3 need not be phased in until June 30, 1993. Insiders filing reports late or reporting late transactions after March 31, 1992 will be identified in the proxy statement or Form F–2, for fiscal years ending after June 30, 1992.

FOR FURTHER INFORMATION CONTACT: M. Eric Dohm, Staff Accountant, Division of Supervision (202/898–6921) or Gerald J. Gervino, Senior Attorney, Legal Division (202/898–3723).

SUPPLEMENTARY INFORMATION: On February 8, 1991 the Securities and Exchange Commission ("SEC") announced the adoption of revisions to its rules promulgated under section 16 of the Securities Exchange Act of 1934 ("Exchange Act", "Act") (15 U.S.C. 78p), 56 FR 7265 (February 21, 1991). All but one SEC rule under section 16 was amended, deleted, or reorganized, and several new section 16 rules were added. SEC proxy requirements, Form 10–K, and Forms 3 and 4 were amended, while a new Form 5 was added. The FDIC does not find a basis for adopting different rules for banks in this area. Thus, it is amending its comparable rules to conform Part 335 with the new SEC amendments. Sections 335.410, 335.411, and 335.412 are revised to reference the provisions of the comparable SEC rules at 17 CFR 240.16a–1 through 240.16a–10, 240.16b–1 through 16b–8, 240.16c–1 through 16c–4 and 240.16e–1.

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By referencing the SEC rule structure, investors and their attorneys or other advisors who file under both the SEC and the FDIC rules will not need to read through the FDIC rules in an effort to identify minor differences. Any FDIC differences under section 16 of the Act will be identified and, where feasible, contained in the revised § 335.411. In conformance with the SEC revisions, a new Form F–8A has been adopted, and changes have been made to Form F–5 (12 CFR 335.212) and Form F–2 (12 CFR 335.312), F–7 (12 CFR 335.413), and F–8 (12 CFR 335.414). To avoid confusion with SEC filings, the FDIC will continue to prescribe and print its own forms for use under section 16. The FDIC intends to generally follow the interpretations of the SEC with respect to the referenced SEC regulations. Readers may find the SEC preamble at 56 FR 7242 (Feb. 21, 1991) and other SEC published statements useful in complying with new rules.

I. Charts Comparing Former and Nev Rules and Interpretations

A. The following chart lists the for rules and how they will change unde the new regulatory scheme. All references to former rules are to 12 C § 335. ____. All references to new rul (except forms) are to 17 CFR § 240.16 ____.

Former rule	New rule	Substantive changes
410(a)(1)	16a-3(a)	Added a Form F-8A requirement.
410(a)(2)	16a-3(b)	No change.
410(a)(3)	16a-3(c)	No change.
410(a)(4)	16a-2(a)	Only persons who become subject to section 16 by the issuer's registration under section 12 will have pre-i transactions subject to section 16.
410(a)(5)	16a-2(b)	No change.
410(b)(1)	16a-1(a)(1)	For purposes of determining status as a 10 percent holder, the rules use a section 13(d) analysis. Exceptio provided for customer accounts of institutions eligible to file a Form F-11A.
410(b)(2)	None	Deleted since it is not relevant whether a derivative security is presently exercisable.
410(c)	16a-1(a)(4)	No change.
410(d)	16a-2(d)	After the 12 month grace period for fiduciaries an estate or trust additionally is subject to section 16 if the t is an insider with a pecuniary interest in the trust corpus.
410(e)	16a-5	No change.
410(f)	16a-1(c), 16a-4	Deleted and replaced by general rules regarding derivative securities.
410(g)	16a-1(a)(2), 16a-1(a)(5), 16a-8	1. Insider trustee with pecuniary interest and investment control subjects trust to section 16. 2. Beneficiary or settlor directed transactions are not attributed to trust. 3. Deletion of 20 percent trust exemption of former § 335.410(g)(2) (but see new SEC rule 16b-3(d). 4. Trustee no longer may report in place of the beneficiaries. 5. Remainder interests are excluded only where remainder holders do not exercise investment c 6. Deletion of exclusion for pension or retirement plans (but see new SEC rule 16b-3(d)(2)) and busines with over 25 beneficiaries. 7. Definition of "immediate family expanded to include grandchildren, grandparents, siblings, in-laws, and ac relationships. Now covered by SEC rule 16a-1(e).
410(h)	16a-6, 16b-5	Bona fide gifts exempt from section 16(b), as well as transfers pursuant to the law of descent.
410(i)	16b-2	Exemption from section 16(b) only.
410(j)	16a-10	
411(a)	16b-1(a)	Expanded exemption for investment companies transactions exempted by rule under section 17(a) Investment Company Act.
411(b)	16a-7	Distributions and related transactions are not reported and equal participation requirement deleted.
411(c)	16b-3	1. The disinterested administration requirement has been modified by requiring a committee of two o disinterested directors to make grants and awards. The alternative to disinterested administration for au plans has been strengthened to permit no discretion by interested persons. 2. Deletion of § 335.411(c)(3) plan limitations. 3. Addition of transferability restriction exception for qualified domestic relations. 4. Deletion of the definition of "exercise of an option." 5. Six month holding period for many transactions. 6. Specific exemption for participant-directed transactions. 7. Exemption for distributions from a plan.
None	16b-4	
411(d)	None	
411(e)	16b-7	No change.
411(f)	16b-6	No change.
411(g)	16b-6(b)	Conversions exempt from section 16(b) without need to satisfy the conditions of SEC rule 16b-6.
411(h)	16a-9	Exemption for acquisition rather than disposition of subscription rights and other pro rata rights. Exemptio reporting as well. Exemption for stock splits and dividends added.
412(a)	16c-1	No change.
412(b)	16c-2	Deletion of the equal participation requirement.
412(c)	16c-3	No change.
412(d)	16e-1	No change.

B. The following chart lists the new rules, the former rule from which the new rule is derived, and a summary of the new rule's content.

New rule	Former rule	Substantive changes
16a-1(a)	410(b)(c) and (g)	Beneficial ownership, Two tier analysis of ownership. Section 13(d) determines 10 percent holder. Fo purposes, pecuniary interest determines ownership. Indirect pecuniary interests and exclusions from be ownership identified.
16a-1(b)	None	Definition of call equivalent position as one that benefits from an increase in value of underlying s

New rule	Former rule	Substantive changes
16a–1(c)	None	Definition of derivative securities. Excludes pledges, pro rata merger rights, specified cash-only securities (phantom stock), broad-based products, and interests in employee benefit plans.
16a–1(d)	None	Definition of equity security of such issuer. Includes any right related to equity security of the issuer.
16a–1(e)	None	Definition of immediate family.
16a–1(f)	None	Definition of officer to include policy-making executives and principal financial and accounting officers of the issuer.
16a–1(g)	None	Definition of portfolio security.
16a–1(h)	None	Definition of put equivalent position as one that benefits from a decrease in value of underlying security.
16a–2(a)	410(a)(4)	Transactions by officers and directors before issuer registers under section 12 are subject to section 16.
16a–2(b)	410(a)(5)	Transactions by officers and directors are subject to section 16 after termination of insider status.
16a–2(c)	None	Transaction creating status as a 10 percent holder is exempt from section 16.
16a–2(d)	410(d)	Transactions by certain fiduciaries exempt for 12 months.
16a–3(a)	410(a)(1)	General filing requirement.
16a–3(b)	410(a)(2)	Additional Form F–7 is not required under certain circumstances.
16a–3(c)	410(a)(3)	Copies of forms filed with one exchange.
16a–3(d)	None	One filing satisfies Exchange Act, Investment Company Act, and Public Utility Holding Company Act of 1935.
16a–3(e)	None	Copies of all filings must be delivered to issuer.
16a–3(f)	None	Form F–8A must be filed within 45 days after end of issuer's fiscal year unless no transactions conducted and reporting is current.
16a–3(g)	None	Specifies the transactions that may be reported on Form F–8A.
16a–3(h)	None	Date on which a Form F–7, F–8, or F–8A is deemed filed.
16a–4	410(b)(2)	Derivative and underlying securities are the same class of securities. Specifies reporting of exercises and conversions.
16a–5	410(e)	Exemption for odd-lot dealers.
16a–6	410(h)	Deferred reporting for small purchases. Separate exemption for gifts contained in SEC rule 16b–5.
16a–7	411(b)	Distribution related transactions are not reported.
16a–8	410(g)	Trusts.
16a–9	411(h)	Exemption for stock splits, dividends, and grants of pro rata rights.
16a–10	410(i)	An exemption from section 16(a) serves as an exemption from section 16(b).
16b–1(a)	411(a)	Investment companies.
16b–1(b)	None	Public utility holding companies.
16b–1(c)	None	Railroad mergers.
16b–2	411(j)	Dividend reinvestment plans.
16b–3	411(c)	Employee benefit plans.
16b–3(a)	411(c)(4)(i)	General plan requirements for exemption.
16b–3(b)	411(c)(1)	Shareholder approval requirement.
16b–3(c)	411(c)(4)(ii)	Grant and award transactions. Additional conditions for exemption.
16b–3(d)	None	Participant-directed transactions. Additional conditions for exemption.
16b–3(e)	411(c)(5)	Stock Appreciation Rights cash settlement conditions for exemption.
16b–3(f)	411(c)	Exemption for cancellations, expiration, surrenders and qualified domestic relations orders.
16b–3(g)	None	Exemption for plan distributions.
16b–4	411(e)	Exemptions for redemptions of securities of a holding company in return for distribution of securities held.
16b–5	410(h)(2)	Exemption for bona fide gifts and transactions resulting from the laws of descent and distribution.
16b–6	None	Derivative securities.
16b–6(a)	None	Transactions in derivative securities equivalent to transactions in the underlying securities.
16b–6(b)	411(g)	Exemption for exercises and conversions.
16b–6(c)	None	Formula for determining short-swing profit.
16b–6(d)	None	Expirations.
16b–7	411(e)	Non-substantive mergers or consolidations.
16b–8	None	Voting trusts.
16c–1	412(a)	Exemption for broker transactions.
16c–2	412(b)	Exemption for when-issued securities dispositions.
16c–4	None	Exemption for "net long" derivative security position.
16e–1	412(d)	Arbitrage transactions.
Form F–5 or F–2	None	Requirement to disclose delinquent reporting persons.

II. Paperwork Reduction Act

With the exception of forms F–7, F–8, and F–8A, the collections of information contained in this rule have been approved by the Office of Management and Budget under control number 3064–0030 pursuant to section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Unless a public notice is published to the contrary, the public may assume that OMB has approved these information collections during the 60-day period following the publication of this final rule. Comments on the collection of information should be directed to the Office of Management and Budget, Paperwork Reduction Project (3064–0030), Washington, DC 20503, with copies of such comments to be sent to Steven F. Hanft, Office of the Executive Secretary, room F–400, 550 17th Street, NW., Washington, DC 20429. The FDIC has submitted for OMB approval final amendments to Forms F–7, F–8, and a new Form F–8A, which will restructure the manner in which transactions and holdings by persons subject to section 16 of the Securities Exchange Act of 1934 are reported. These Forms are required pursuant to sections 335.420, 335.421, and 335.422. The estimated annual reporting burden for Forms F–7, F–8, and F–8A is:

	Form F–7	Form F–8	Form F–8A
Number of Respondents	400	2,500	1,400
Number of Responses Per Respondent	1	1	1
Total Annual Responses	400	2,500	1,400
Hours Per Response	1.0	0.5	1.0
Total Annual Burden Hours	400	1,250	1,400

The total estimated reporting burden for all collections of information in this regulation is summarized as follows:

Number of Respondents	4,710
Number of Responses Per Respondent	1.35
Total Annual Responses	6,372

Hours Per Response	9.08
Total Annual Burden Hours	57,853

III. Cost-Benefit

It appears to the FDIC that, while some additional cost to issuers and insiders may result from the comprehensive restructuring of the rules under section 16, such costs will be outweighed by the savings to insiders with respect to deferred reporting for exempt transactions and increased compliance with section 16(a) as a result of the new disclosure of nonfiling requirements in Forms F-2 and F-5 which will benefit issuers, shareholders, and investors.

IV. Regulatory Flexibility

As no notice of proposed rulemaking was required in connection with the adoption of this final rule, no regulatory flexibility analysis is required under the Regulatory Flexibility Act (5 U.S.C. 601–612).

V. Public Participation

The FDIC has not published the amendments for prior public comment because they have been the subject of extensive public participation over several years at the SEC and the investing public for bank securities does not appear to represent a different interest from the public investing in nonbanking securities, which has already had ample opportunity for comment throughout the previous rulemaking at the SEC.

VI. Statutory Basis

The amendments to the proxy rules, Form F-2, and the section 16 rules are being adopted by the FDIC pursuant to Exchange Act section 12(i).

List of Subjects in 12 CFR Part 335

Accounting, Banks, banking, Confidential business information, Reporting and recordkeeping requirements, Securities.

Text of New Rules

In accordance with the foregoing, chapter III of title 12 of the Code of Federal Regulations is amended as follows:

PART 335—SECURITIES OF NONMEMBER INSURED BANKS

1. The authority citation for part 335 continues to read as follows:

Authority: Sec. 12(i), Securities Exchange Act of 1934, as amended (15 U.S.C. 78*l*(i)).

2. Section 335.212 is amended by adding a new item 21 under Information Required in Statement of Form F-5 to read as follows:

§ 335.212 Form for proxy statement (Form F-5).

* * * * *

Information Required in Statement

* * * * *

Item 21—Compliance with Section 16(a) of the Exchange Act.

Every bank having a class of equity securities registered pursuant to section 12 of the Exchange Act (15 U.S.C. 78*l*) shall:

(a) Based solely upon a review of Forms F-7 (§ 335.420) and F-8 (§ 335.421) and amendments thereto furnished to the bank during its most recent fiscal year, and Forms F-8A (§ 335.422) and amendments thereto furnished to the bank with respect to its most recent fiscal year, and any written representation referred to in paragraph (b)(2)(i) of this item:

(1) Identify each person who, at any time during the fiscal year, was a director, officer, beneficial owner of more than 10 percent of any class of equity securities of a bank registered pursuant to section 12 of the Exchange Act, ("reporting person") that failed to file on a timely basis, as disclosed in the above Forms, reports required by section 16(a) of the Exchange Act during the most recent fiscal year or prior fiscal years.

(2) For each such person, set forth the number of late reports, the number of transactions that were not reported on a timely basis, and any known failure to file a required Form.

Note: The disclosure requirement is based on a review of the forms submitted to the bank during and with respect to its most recent fiscal year, as specified above. Accordingly, a failure to file timely need only be disclosed once. For example, if in the most recently concluded fiscal year a reporting person filed a Form F-8 disclosing a transaction that took place in the prior fiscal year, and should have been reported in that year, the bank should disclose that late filing and transaction pursuant to this item 21 with respect to the most recently concluded fiscal year, but not in material filed with respect to subsequent years.

(b) With respect to the disclosure required by paragraph (a) of this item:

(1) A form received by the bank within three calendar days of the required filing date may be presumed to have been filed with the FDIC by the required filing date.

(2) If the bank: (i) Receives a written representation from the reporting person that no Form F-8A is required; and (ii) Maintains the representation for two years, making a copy available to the FDIC or its staff upon request, the bank need not identify such reporting person pursuant to paragraph (a) of this section as having failed to file a Form F-8A with respect to that fiscal year.

* * * * *

3. Section 335.312 is amended by adding a new paragraph after the second line entitled "(Title of class)" in the introductory portion of Form F-2, and revising item 10 of part III of Form F-2 to read as follows:

§ 335.312 Form for annual report of bank (Form F-2).

* * * * *

Indicate by check mark if disclosure of delinquent filers pursuant to item 10 is not contained herein, and will not be contained, to the best of bank's knowledge, in definitive proxy or information statements incorporated by reference in part III of this Form F-2 or any amendment of this Form F-2. [ ]

* * * * *

Part III—[See General Instruction F(3)]

* * * * *

Item 10—Management compensation and transactions.

Furnish the information required by items 7 and 21 of Form F-5 at § 335.212.

Instruction

Checking the box provided on the cover page of this form to indicate that disclosure of delinquent Form F-7, F-8, or F-8A filers is not contained herein is intended to facilitate form processing and review. Failure to provide such indication will not create liability for violation of the federal securities laws. The space should be checked only if there is no disclosure in this form of reporting person delinquencies and the bank at the time of filing the Form F-2, has reviewed the information necessary to ascertain, and has determined that, disclosure of delinquencies is not expected to be contained in Part III of the Form F-2 or incorporated by reference.

* * * * *

§ 335.412 [Removed]

4. Sections 335.410 and 335.411 are revised and § 335.412 is removed, to read as follows:

§ 335.410 Requirements of section 16 of the Act.

Persons subject to section 16 of the Act with respect to securities registered under part 335 shall follow the applicable and currently effective SEC regulations issued under section 16 of the Act (17 CFR 240.16a–1 through 240.16e–1), except that:

(a) The forms required by §§ 335.420 (Form F-7), 335.421 (Form F-8), and 335.422 (Form F-8A) of this part 335 shall be used in lieu of SEC Form 3, Form 4, or Form 5; and

(b) Any SEC regulations specified in § 335.411, as superseded by the FDIC, shall not be followed and any other rules adopted and published in § 335.411 in lieu of those superseded regulations shall be followed.

§ 335.411 Superseded SEC regulations and FDIC substituted regulations.

The following is a list of SEC regulations superseded by the FDIC: None.

5. New §§ 335.420 through 335.422 are added to read as follows:

§ 335.420 Initial statement of beneficial ownership of securities (Form F-7).

(a) This form shall be filed in lieu of SEC Form 3 pursuant to SEC rule 16a–3 (17 CFR 240.16a–3) for initial statements of beneficial ownership of securities. The FDIC is authorized to solicit the information required by this form pursuant to sections 16(a) and 23(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78p and 78w) and the rules and requlations thereunder. (SEC rules referenced in this form appear at 17 CFR 240.16a–1 through 240.16e–1.)

(b) Disclosure of information specified on this form is mandatory, except for disclosure of IRS (Tax Identification) or Social Security Numbers of the reporting person, which is voluntary. If such numbers are furnished, they will assist the FDIC in distinguishing reporting persons with similar names and will facilitate the prompt processing of the form. The information will be used for the primary purpose of disclosing the holdings of directors, officers and beneficial owners of registered companies. Information disclosed will be a matter of public record and available for inspection by members of the public. The FDIC can use the information in investigations or litigation involving the Federal securities laws or other civil, criminal, or regulatory statutes or provisions, as well as for referral to other governmental authorities and self-regulatory organizations. Failure to disclose required information may result in civil or criminal action against persons involved for violations of the Federal securities laws and rules.

(c) Copies of this form and the instructions thereto can be obtained from the Registration and Disclosure Section, Division of Supervision, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

§ 335.421 Statement of changes in beneficial ownership of securities (Form F-8).

(a) This form shall be filed pursuant to SEC rule 16a–3 (17 CFR 240.16a–3) for statements of changes in beneficial ownership of securities. The FDIC is authorized to solicit the information required by this form pursuant to sections 16(a) and 23(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78p and 78w) and the rules and regulations thereunder. (SEC rules referenced in this form appear at 17 CFR 240.16a–1 through 16e–1).

(b) Disclosure of information specified on this form is mandatory, except for disclosure of IRS (Tax Identification) or Social Security numbers of the reporting person, which is voluntary. If such numbers are furnished, they will assist the FDIC in distinguishing reporting persons with similar names and will facilitate the prompt processing of the form. The information will be used for the primary purpose of disclosing the transactions and holdings of directors, officers and beneficial owners of registered companies. Information disclosed will be a matter of public record and available for inspection by members of the public. The FDIC can use the information in investigations or litigation involving the federal securities laws or other civil, criminal, or regulatory statutes or provisions, as well as for referral to other governmental authorities and self-regulatory organizations. Failure to disclose required information may result in civil or criminal action against persons involved for violations of the federal securities laws and rules.

(c) Copies of this form and the instructions thereto can be obtained from the Registration and Disclosure Section, Division of Supervision, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington DC 20429.

§ 335.422 Annual statement of beneficial ownership of securities (Form F-8A).

(a) This form shall be filed pursuant to SEC rule 16a–3 (17 CFR 240.16a–3) for annual statements of beneficial ownership of securities. The FDIC is authorized to solicit the information required by this form pursuant to sections 16(a) and 23(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78p and 78w), and the rules and regulations thereunder. (SEC rules referenced in this form appear at 17 CFR 16a–1 through 16e–1.)

(b) Disclosure of information specified on this form is mandatory, except for disclosure of IRS (Tax Identification) or Social Security numbers of the reporting person, which is voluntary. If such numbers are furnished, they will assist the FDIC in distinguishing reporting persons with similar names and will facilitate the prompt processing of the form. The information will be used for the primary purpose of disclosing the transactions and holdings of officers, directors and beneficial owners of registered companies. Information disclosed will be a matter of public record and available for inspection by members of the public. The FDIC can use the information in investigations or litigation involving the federal securities laws or other civil, criminal, or regulatory statutes or provisions, as well as for referral to other governmental authorities and self-regulatory organizations. Failure to disclose required information may result in civil or criminal action against persons involved for violations of the federal securities laws and rules.

(c) Copies of this form and the instructions thereto can be obtained from the Registration and Disclosure Section, Division of Supervision, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

Appendix to this final rule—Text of new forms

Note: The text and instructions of Forms F-7, F-8 and F-8A in this appendix do not, and the amendments will not, appear in the Code of Federal Regulations.

Form F-7 (§ 335.420) and Form F-8 (§ 335.421) are revised, and Form F-8A (§ 335.422) is added as set forth below:

Federal Deposit Insurance Corporation

Washington, DC 20429

Form F-7

Initial statement of beneficial ownership of securities the FDIC is authorized to solicit the information required by this form pursuant to sections 16(a) and 23(a) of the Securities Exchange Act of 1934, and the rules and regulations thereunder.

SEC rules referenced in this form appear at 17 CFR §§ 240.16a–1 through 240.16e–1.

Disclosure of information specified on this form is mandatory, except for disclosure of IRS (tax identification) or Social Security numbers of the reporting person, which is voluntary. If such numbers are furnished, they will assist the FDIC in distinguishing reporting persons with similar names and will facilitate the prompt processing of the form. The information will be used for the primary purpose of disclosing the holdings of directors, officers, and beneficial owners of registered companies. Information disclosed will be a matter of public record and available for inspection by members of the public. The FDIC can use it in investigations or litigation involving the Federal Securities laws or other civil, criminal, or regulatory statutes or provisions, as well as for referral to other governmental authorities and self-regulatory organizations. Failure to disclose required information may result in civil or criminal action against persons involved for violations of the Federal Securities laws and rules.

General Instructions

1. Who Must File

(a) This form must be filed by the following persons (each, a "reporting person"):

(i) any director or officer of a bank with a class of equity securities registered pursuant to section 12 of the Securities Exchange Act of 1934 ("Exchange Act"); (Note: Title is not determinative for purposes of determining "officer" status. See SEC rule 16a–1(f) for the definition of "officer");

(ii) any beneficial owner of greater than 10 percent of a class of equity securities registered under section 12 of the Exchange Act, as determined by voting or investment control over the securities pursuant to SEC rule 16a–1(a)(1) ("10 percent holder"); and

(iii) any trust, trustee, beneficiary or settlor required to report pursuant to SEC rule 16a–8.

(b) If a reporting person is not an officer, director, or 10 percent holder, the person should check "other" in item 5 (Relationship of Reporting Person to Bank) and describe the reason for reporting status in the space provided.

(c) If a person described above does not beneficially own any securities required to be reported (see SEC rule 16a–1 and instruction 5), the person is required to file this form and state that no securities are beneficially owned.

2. When Form Must be Filed

(a) This form must be filed within 10 days after the event by which the person becomes a reporting person (*i.e.*, officer, director, 10 percent holder or other person). This form and any amendment is deemed filed with the FDIC or the Exchange on the date it is received by the FDIC or the Exchange, respectively. *See*, however, SEC rule 16a–3(h) regarding delivery to a third party business that guarantees delivery of the filing no later than the specified due date.

(b) A reporting person of a bank that is registering securities for the first time under section 12 of the Exchange Act must file this form no later than the effective date of the registration statement.

(c) A separate form shall be filed to reflect beneficial ownership of securities of each bank.

3. Where Form Must be Filed

(a) File three copies of this form or any amendment, at least one of which is manually signed, with the Registration and Disclosure Section, Division of Supervision, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington DC 20429. (Note: Acknowledgment of receipt by the FDIC may be obtained by enclosing a self-addressed stamped postcard identifying the form or amendment filed.)

(b) At the time this form or any amendment is filed with the FDIC, file one copy with each Exchange on which any class of securities of the bank is registered. If the bank has designated a single Exchange to receive section 16 filings, the copy shall be filed with that Exchange only.

(c) Any person required to file this form or amendment shall, not later than the time the form is transmitted for filing with the FDIC, send or deliver a copy to the person designated by the bank to receive the copy or, if no person is so designated, the bank's corporate secretary (or person performing similar functions) in accordance with SEC rule 16a–3(e).

4. Class of Securities Reported

(a) Persons reporting pursuant to section 16(a) of the Exchange Act shall include information as to their beneficial ownership of any class of equity securities of the bank, even though one or more of such classes may not be registered pursuant to section 12 of the Exchange Act.

(b) The title of the security should clearly identify the class, even if the bank has only one class of securities outstanding; for example, "Common Stock," "Class A Common Stock," "Class B Convertible Preferred Stock," etc.

(c) The amount of securities beneficially owned should state the face amount of debt securities (U.S. Dollars) or the number of equity securities, whichever is appropriate.

5. Holdings Required to be Reported

(a) *General Requirements*

Report holdings of each class of securities of the bank beneficially owned as of the date of the event requiring the filing of this form. See instruction 4 as to securities required to be reported.

(b) *Beneficial Ownership Reported (Pecuniary Interest)*

(i) Although, for purposes of determining status as a 10 percent holder, a person is deemed to beneficially own securities over which that person has voting or investment control (*see* SEC rule 16a–1(a)(1)), for reporting purposes, a person is deemed to be the beneficial owner of securities if that person has or shares the opportunity, directly or indirectly, to profit or share in any profit derived from a transaction in the securities ("pecuniary interest"). See SEC rule 16a–1(a)(2). See also SEC rule 16a–8 for application of the beneficial ownership definition to trust holdings and transactions.

(ii) Both direct and indirect beneficial ownership of securities shall be reported. Securities beneficially owned directly are those held in the reporting person's name or in the name of a bank, broker or nominee for the account of the reporting person. In addition, securities held as joint tenants, tenants in common, tenants by the entirety, or as community property are to be reported as held directly. If a person has a pecuniary interest, by reason of any contract, understanding or relationship (including a family relationship or arrangement), in securities held in the name of another person, that person is an indirect beneficial owner of those securities. *See* SEC rule 16a–1(a)(2)(ii) for certain indirect beneficial ownerships.

(iii) Report securities beneficially owned directly on a separate line from those beneficially owned indirectly. Report different forms of indirect ownership on separate lines. The nature of indirect ownership shall be stated as specifically as possible; for example, "By Self as Trustee for X," "By Spouse," "By X Trust," "By Y Corporation," etc.

(iv) In stating the amount of securities owned indirectly through a partnership, corporation, trust, or other entity, report the number of securities representing the reporting person's proportionate interest in securities beneficially owned by that entity. Alternatively, at the option of the reporting person, the entire amount of the entity's interest may be reported. *See* SEC rule 16a–1(a)(2)(ii)(B) and SEC rule 16a–1(a)(2)(iii).

(c) *Non-Derivative and Derivative Securities*

(i) Report non-derivative securities beneficially owned in table I and derivative securities (*e.g.*, puts, calls, options, warrants, convertible securities, or other rights or obligations to buy or sell securities) beneficially owned in table II. Derivative securities beneficially owned that are both equity securities and convertible or exchangeable for other equity securities (*e.g.*, convertible preferred securities) should be reported only on table II.

(ii) The title of a derivative security and the title of the equity security underlying the derivative security should be shown separately in the appropriate columns in table II. The "puts" and "calls" reported in table II include, in addition to separate puts and calls, any combination of the two, such as spreads and straddles. In reporting an option in table II, state whether it represents a right to buy, a right to sell, an obligation to buy, or an obligation to sell the equity securities subject to the option.

(iii) Describe in the appropriate columns in table II characteristics of derivative securities, including title, exercise or conversion price, date exercisable, expiration date, and the title and amount of securities underlying the derivative security.

(iv) Securities constituting components of a unit shall be reported separately on the applicable table (*e.g.*, if a unit has a non-derivative security component and a derivative security component, the non-derivative security component shall be reported in table I and the derivative security component shall be reported in table II). The relationship between individual securities comprising the unit shall be indicated in the space provided for explanation of responses.

6. Additional Information

If space provided in the line items of this form or space provided for additional comments is insufficient, attach another form (or copy of the form) completed as appropriate. Each form attached as a continuation must include information required in items 1, 4 and 6 of the form. The number of pages comprising the report (form plus attachment) shall be indicated at the bottom of each report page (*e.g.*, 1 of 3, 2 of 3, 3 of 3). If additional information is not reported in this manner, the FDIC will assume no additional information was provided.

7. Signature

(a) If the form is filed for an individual, it shall be signed by that person or specifically on behalf of the individual by a person authorized to sign for the individual. If signed on behalf of the individual by another person, the authority of such person to sign the form shall be confirmed to the FDIC in writing in an attachment to the form or as soon as practicable in an amendment by the individual for whom the form is filed, unless such a confirmation still in effect is on file with the FDIC. The confirming statement need only indicate that the reporting person authorizes and designates the named person or persons to file the form on the reporting person's behalf, and state the duration of the authorization.

(b) If the form is filed for a corporation, partnership, trust, or other entity, the capacity in which the individual signed shall be set forth, (*e.g.*, John Smith, Secretary, on behalf of X Corporation).

BILLING CODE 6714-01-M

FORM F-7

Federal Deposit Insurance Corporation
Washington, D.C. 20429

OMB APPROVAL

OMB NUMBER: 3064-0030
EXPIRES:
Estimated average burden hours per response ...1.0

INITIAL STATEMENT OF BENEFICIAL OWNERSHIP

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934

(PLEASE PRINT OR TYPE ALL RESPONSES)

1. Name of Reporting Person (Last, First, Middle)

Street Address

City

State

Zip Code

2. Date of Event Requiring Statement (Month/Day/Year)

3. IRS or Social Security Number of Reporting Person (Voluntary)

4. Issuer. Name and Ticker or Trading Symbol.

5. Relationship of Reporting Person to Issuer (Check all applicable)

____ Director

____ 10% Owner

____ Officer (give title below)

____ Other (Specify below)

6. If Amendment, Date of Original (Month/Day/Year)

Table I - Non-Derivative Securities Beneficially Owned

1. Title of Security (Instr. 4)	2. Amount of Securities Beneficially Owned (Instr. 4)	3. Ownership Form: Direct (D) or Indirect (I) (Instr. 5)	4. Nature of Indirect Beneficial Ownership (Instr. 5)

FDIC 6112/01 (1-92) **REMINDER: Report on a Separate Line for each class of securities beneficially owned directly or indirectly. (Continue on reverse)**

FORM F-7

Table II - Derivative Securities Beneficially Owned (e.g., puts, calls, warrants, options, convertible securities)

1. Title of Derivative Security (Instr. 4)	2. Date Exercisable and Expiration Date (Month/Day/Year)		3. Title and Amount of Securities Underlying Derivative Security (Instr. 4)		4. Conversion or Exercise Price of Derivative Security	5. Ownership Form of Derivative Security: Direct (D) or Indirect (I) (Instr. 5)	6. Nature of Indirect Beneficial Ownership (Instr. 5)
	Date Exercisable	Expiration Date	Title	Amount or Number of shares			

Explanation of Responses:

**Signature of Reporting Person

Date

Note: File three copies of this Form, one of which must be manually signed. If space provided is insufficient, *See* Instruction 6 for procedure (12 C.F.R. 335.420)

** **Intentional misstatements or omissions of facts constitute Federal Criminal Violations.** ***See* 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).**

BURDEN STATEMENT

Public reporting burden for this collection of information is estimated to average 1.0 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to, the Assistant Executive Secretary (Administration), Room F-400, FDIC, Washington, D.C. 20429; and to the Office of Management and Budget Paperwork Reduction Project (3064-0030) Washington, D.C. 20503

FDIC 6112/01 (1-92) Reverse

BILLING CODE 6714-01-C

Federal Deposit Insurance Corporation

Washington, DC 20429

Form F–8

Statement of changes of beneficial ownership of securities the FDIC is authorized to solicit the information required by this form pursuant to Sections 16(a) and 23(a) of the Securities Exchange Act of 1934, and the rules and regulations thereunder.

SEC rules referenced in this form appear at 17 CFR §§ 240.16a–1 through 240.16e–1.

Disclosure of information specified on this form is mandatory, except for disclosure of IRS (Tax Identification) or Social Security numbers of the reporting person, which is voluntary. If such numbers are furnished, they will assist the FDIC in distinguishing reporting persons with similar names and will facilitate the prompt processing of the form. The information will be used for the primary purpose of disclosing the transactions and holdings of directors, officers, and beneficial owners of registered companies. Information disclosed will be a matter of public record and available for inspection by members of the public. The FDIC can use it in investigations or litigation involving the Federal Securities laws or other civil, criminal, or regulatory statutes or provisions, as well as for referral to other governmental authorities and self-regulatory organizations. Failure to disclose required information may result in civil or criminal action against persons involved for violations of the Federal Securities laws and rules.

General Instructions

1. When Form Must be Filed

(a) This form must be filed on or before the tenth day after the end of the month in which a change in beneficial ownership has occurred (the term "beneficial owner" is defined in SEC rule 16a–1(a)(2) and discussed in instruction 4). This form and any amendment is deemed filed with the FDIC or the Exchange on the date it is received by the FDIC or the Exchange, respectively. See, however, SEC rule 16a–3(h) regarding delivery to a third party business that guarantees delivery of the filing no later than the specified due date.

(b) A reporting person no longer subject to section 16 of the Securities Exchange Act of 1934 ("Exchange Act") must check the exit box appearing on this form. However, Form F–8 and Form F–8A obligations may continue to be applicable. See SEC rules 16a–3(f) and 16a–2(b). Form F–8A transactions to date may be included on this form and subsequent Form F–8A transactions may be reported on a later Form F–8 or Form F–8A, provided all transactions are reported by the required date.

(c) A separate form shall be filed to reflect beneficial ownership of securities of each bank.

(d) If a reporting person is not an officer, director, or 10 percent holder, the person should check "other" in item 6 (Relationship of Reporting Person to Bank) and describe the reason for reporting status in the space provided.

2. Where Form Must be Filed

(a) File three copies of this form or any amendment, at least one of which is manually signed, with the Registration and Disclosure Section, Division of Supervision, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC, 20429. (*Note:* Acknowledgment of receipt by the FDIC may be obtained by enclosing a self-addressed stamped postcard identifying the form or amendment filed.)

(b) At the time this form or any amendment is filed with the FDIC, file one copy with each Exchange on which any class of securities of the bank is registered. If the bank has designated a single Exchange to receive section 16 filings, the copy shall be filed with that Exchange only.

(c) Any person required to file this form or amendment shall, not later than the time the form or amendment is transmitted for filing with the FDIC, send or deliver a copy to the person designated by the bank to receive the copy or, if no person is so designated, the bank's corporate secretary (or person performing similar functions) in accordance with SEC rule 16a–3(e).

3. Class of Securities Reported

(a) Persons reporting pursuant to section 16(a) of the Exchange Act shall report each transaction resulting in a change in beneficial ownership of any class of equity securities of the bank and the beneficial ownership at the end of the month of that class of equity securities, even though one or more of such classes may not be registered pursuant to section 12 of the Exchange Act.

(b) The title of the security should clearly identify the class, even if the bank has only one class of securities outstanding; for example, "Common Stock," "Class A Common Stock," "Class B Convertible Preferred Stock," etc.

(c) The amount of securities beneficially owned should state the face amount of debt securities (U.S. Dollars) or the number of equity securities, whichever is appropriate.

4. Transactions and Holdings Required to be Reported

(a) *General Requirements*

(i) Report, in accordance with SEC rule 16a–3(g), all transactions resulting in a change of beneficial ownership in the bank's securities, except those transactions reportable on Form F–8A. Every transaction shall be reported even though acquisitions and dispositions during the month with respect to a class of securities are equal, or the change involves only the nature of ownership, such as a change from indirect ownership through a trust or corporation to direct ownership by the reporting person. Report total beneficial ownership as of the end of the month for each class of securities in which a transaction was reported.

(ii) Each transaction should be reported on a separate line. Transaction codes specified in instruction 8 should be used to identify the nature of the transaction resulting in an acquisition or disposition of a security.

Note: Transactions reportable on Form F–8A may, at the option of the reporting person, be reported on a Form F–8 filed before the due date of the Form F–8A. Exercises or conversions of derivative securities and small acquisitions specified in SEC rule 16a–6(a) must be reported on the next required Form F–8 or Form F–8A but may be reported voluntarily on Form F–8 at an earlier date. (*See* instruction 8 for the code for voluntarily reported transactions.)

(b) *Beneficial Ownership Reported (Pecuniary Interest)*

(i) Although for purposes of determining status as a 10 percent holder, a person is deemed to beneficially own securities over which that person has voting or investment control (*see* SEC rule 16a–1(a)(1)), for reporting transactions and holdings, a person is deemed to be the beneficial owner of securities if that person has or shares the opportunity, directly or indirectly, to profit or share in any profit derived from a transaction in the securities ("pecuniary interest"). *See* SEC rule 16a–1(a)(2). *See also* SEC rule 16a–8 for the application of the beneficial ownership definition to trust holdings and transactions.

(ii) Both direct and indirect beneficial ownership of securities shall be reported. Securities beneficially owned directly are those held in the reporting person's name or in the name of a bank, broker or nominee for the account of the reporting person. In addition, securities held as joint tenants, tenants in common, tenants by the entirety, or as community property are to be reported as held directly. If a person has a pecuniary interest, by reason of any contract, understanding, or relationship (including a family relationship or arrangement), in securities held in the name of another person, that person is an indirect beneficial owner of the securities. *See* SEC rule 16a–1(a)(2)(ii) for certain indirect beneficial ownerships.

(iii) Report transactions in securities beneficially owned directly on separate lines from those beneficially owned indirectly. Report different forms of indirect ownership on separate lines. The nature of indirect ownership shall be stated as specifically as possible; for example, "By Self as Trustee for X," "By Spouse," "By X Trust," "By Y Corporation," etc.

(iv) In stating the amount of securities acquired, disposed of, or beneficially owned indirectly through a partnership, corporation, trust, or other entity, report the number of securities representing the reporting person's proportionate interest in transactions conducted by that entity or holdings of that entity. Alternatively, at the option of the reporting person, the entire amount of the entity's interest may be reported. *See* SEC rule 16a–1(a)(2)(ii)(B) and SEC rule 16a–1(a)(2)(iii).

(c) *Non-Derivative and Derivative Securities*

(i) Report acquisitions or dispositions and holdings of non-derivative securities in table I. Report acquisitions or dispositions and holdings of derivative securities (*e.g.*, puts, calls, options, warrants, convertible securities, or other rights or obligations to buy or sell securities) in table II. Report the exercise or conversion of a derivative security in table II (as a disposition of the derivative security) and report in table I the holdings of the underlying security. Report acquisitions or dispositions and holdings of derivative securities that are both equity securities and convertible or exchangeable

FORM F-8

☐ Check box if no longer subject to Section 16. Form F-8 or Form F-8A obligations may continue. *See* Instruction 1(b)

Washington, D.C. 20429

OMB NUMBER: 3064-0030
EXPIRES:
Estimated average burden hours per response ...0.5

STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934

(PLEASE PRINT OR TYPE ALL RESPONSES)

1. Name of Reporting Person (Last, First, Middle)

Street Address

City | State | Zip Code

2. Issuer: (Name and Ticker or Trading Symbol)

3. IRS or Social Security Number of Reporting Person (Voluntary)

4. Statement for (Month/Year)

5. If Amendment, Date of Original (Month/Year)

6. Relationship of Reporting Person to Issuer (Check all applicable)

___ Director ___ 10% Owner
___ Officer (give title below) ___ Other (Specify below)

Table I - Non-Derivative Securities Acquired, Disposed of, or Beneficially Owned

1. Title of Security (Instr. 3)	2. Transaction Date (Month/Day/Year)	3. Transaction Code (Instr. 8)		4. Securities Acquired (A) or Disposed of (D) (Instrs. 3, 4 and 5)			5. Amount of Securities Beneficially Owned at End of Month (Instrs. 3 and 4)	6. Ownership Form: Direct (D) Indirect (I) (Instr. 4)	7. Nature of Indirect Beneficial Ownership (Instr. 4)
		Code	V	Amount	(A) or (D)	Price			

FDIC 6112/02 (1-92)

REMINDER: Report on a Separate Line for each class of securities beneficially owned directly or indirectly. (Continue on reverse)

FORM F-8

Table II - Derivative Securities Acquired, Disposed of, or Beneficially Owned (e.g., puts, calls, warrants, options, convertible securities)

1. Title of Derivative Security (Instr. 3)	2. Conversion or Exercise Price of Derivative Security	3. Transaction Date (Month/Day/Year)	4. Transaction Code (Instr. 8)		5. Number of Derivative Securities Acquired (A) or Disposed of (D) (Instrs. 3, 4 and 5)		6. Date Exercisable and Expiration Date (Month/Day/Year)		7. Title and Amount of Underlying Securities (Instrs. 3 and 4)		8. Price of Derivative Security (Instr. 5)	9. Number of Derivative Securities Beneficially Owned at End of Month (Instr. 4)	10. Ownership Form of Derivative Security: Direct (D) or Indirect (I) (Instr. 4)	11. Nature Of Indirect Beneficial Ownership (Instr. 4)
			Code	V	(A)	(D)	Date Exercisable	Expiration Date	Title	Amount or Number of Shares				

Explanation of Responses:

**Signature of Reporting Person

Date

Note: File three copies of this Form, one of which must be manually signed. If space provided is insufficient, *See* Instruction 6 for procedure (12 C.F.R. 335.421)
** Intentional misstatements or omissions of facts constitute Federal Criminal Violations. *See* 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).

BURDEN STATEMENT

Public reporting burden for this collection of information is estimate to average 0.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Assistant Executive Secretary (Administration), Room F- 400 , FDIC, Washington, D.C. 20429; and to the Office of Management and Budget Paperwork Reduction Project (3064-0030), Washington, D.C. 20503.

FDIC 6112/02 (1-92) Reverse

BILLING CODE 6714-01-C

Federal Deposit Insurance Corporation

Washington, DC 20429

Form F–8A

Annual Statement of Beneficial Ownership of Securities

The FDIC is authorized to solicit the information required by this form pursuant to sections 16(a) and 23(a) of the Securities Exchange Act of 1934, and the rules and regulation thereunder.

SEC rules referenced in this form appear at 17 CFR 240.16a–1 through 16e–1.

Disclosure of information specified on this form is mandatory, except for disclosure of IRS (Tax Identification) or Social Security Numbers of the reporting person, which is voluntary. If such numbers are furnished, they will assist the FDIC in distinguishing reporting persons with similar names and will facilitate the prompt processing of the form. The information will be used for the primary purpose of disclosing the transactions and holdings of directors, officers, and beneficial owners of registered companies. Information disclosed will be a matter of public record and available for inspection by members of the public. The FDIC can use it in investigations or litigation involving the Federal securities laws or other civil, criminal, or regulatory statutes or provisions, as well as for referral to other governmental authorities and self-regulatory organizations. Failure to disclose required information may result in civil or criminal action against persons involved for violations of the Federal securities laws and rules.

General Instructions

1. When Form Must Be Filed

(a) This form must be filed on or before the 45th day after the end of the bank's fiscal year in accordance with SEC rule 16a–3(f). This form and any amendment is deemed filed with the FDIC or the Exchange on the date it is received by the FDIC or the Exchange, respectively. See, however, SEC rule 16a–3(h) regarding delivery to a third party business that guarantees delivery of the filing no later than the specified due date.

(b) A reporting person no longer subject to section 16 of the Securities Exchange Act of 1934 ("Exchange Act") must check the exit box appearing on this form. Transactions and holdings previously reported are not required to be included on this form. Form F–8 or Form F–8A obligations may continue to be applicable. See SEC rules 16a–3(f) and 16a–2(b).

(c) A separate form shall be filed to reflect beneficial ownership of securities of each bank.

(d) If a reporting person is not an officer, director, or 10 percent holder, the person should check "other" in item 6 (Relationship of Reporting Person to Bank) and describe the reason for reporting status in the space provided.

2. Where Form Must Be Filed

(a) File three copies of this form or any amendment, at least one of which is manually signed, with the Registration and Disclosure Section, Division of Supervision, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429. (Note: Acknowledgment of receipt by the FDIC may be obtained by enclosing a self-addressed stamped postcard identifying the form or amendment filed.)

(b) At the time this form or any amendment is filed with the FDIC, file one copy with each Exchange on which any class of securities of the bank is registered. If the bank has designated a single Exchange to receive section 16 filings, the copy shall be filed with that Exchange only.

(c) Any person required to file this form or amendment shall, not later than the time the form or amendment is transmitted for filing with the FDIC, send or deliver a copy to the person designated by the bank to receive the copy or, if no person is so designated, the bank's corporate secretary (or person performing similar functions) in accordance with SEC rule 16a–3(e).

3. Class of Securities Reported

(a) Persons reporting pursuant to section 16(a) of the Exchange Act shall include information as to transactions and holdings required to be reported in any class of equity securities of the bank and the beneficial ownership at the end of the year of that class of equity securities, even though one or more of such classes may not be registered pursuant to section 12 of the Exchange Act.

(b) The title of the security should clearly identify the class, even if the bank has only one class of securities outstanding; for example, "Common Stock," "Class A Common Stock," "Class B Convertible Preferred Stock," etc.

(c) The amount of securities beneficially owned should state the face amount of debt securities (U.S. Dollars) or the number of equity securities, whichever is appropriate.

4. Transactions and Holdings Required To Be Reported

(a) *General Requirements*

(i) Pursuant to SEC rule 16a–3(f), if not previously reported, the following transactions, and total beneficial ownership as of the end of the bank's fiscal year (or the earlier date applicable to a person ceasing to be an insider during the fiscal year) for any class of securities for which a transaction is reported, shall be reported:

(A) any transaction during the bank's fiscal year that was exempt by operation of any rule under section 16(b);

(B) any small acquisition or series of acquisitions in a six month period during the bank's fiscal year not exceeding $10,000 in market value (*see* SEC rule 16a–6); and

(C) any transactions or holdings that should have been reported during the bank's fiscal year on a Form F–7 or Form F–8, but were not reported. The first Form F–8A filing obligation shall include all holdings and transactions that should have been reported in each of the bank's last two fiscal years but were not. *See* instruction 8 for the code to identify delinquent Form F–7 holdings or Form F–8 transactions reported on this Form F–8A.

Note: A required Form F–7 or Form F–8 must be filed within the time specified by the form. Form F–7 holdings or Form F–8 transactions reported on Form F–8A represent delinquent Form F–7 and Form F–8 filings.

(ii) Report transactions and holdings in SEC rule 16b–3(d) ongoing securities acquisition plans as of the most recent date for which the information is reasonably available, specifying the date of the information. Also, report transactions and holdings in ongoing securities acquisition plans for the portion of the prior fiscal year not included on the Form F–8A for the prior year, specifying the date of the information, or, alternatively, this information may be included on a Form F–8 or an amendment to the Form F–8A filed promptly. Plan acquisitions for the period reported, but not dispositions, may be presented on an aggregate basis for each plan. If reported on an aggregate basis, disclose the range of prices paid.

(iii) Each transaction should be reported on a separate line. Transaction codes specified in instruction 8 should be used to identify the nature of the transaction resulting in an acquisition or disposition of a security.

(iv) Except for transactions related to SEC rule 16b–3(d) ongoing acquisition plans noted in (ii) above, every transaction shall be reported even though acquisitions and dispositions with respect to a class of securities are equal, or the change involves only the nature of ownership, such as a change from indirect ownership through a trust or corporation to direct ownership by the reporting person. Report total beneficial ownership as of the end of the bank's fiscal year for all classes of securities in which a transaction was reported.

(b) *Beneficial Ownership Reported (Pecuniary Interest)*

(i) Although, for purposes of determining status as a 10 percent holder, a person is deemed to beneficially own securities over which that person has voting or investment control (*see* SEC rule 16a–1(a)(1)), for reporting transactions and holdings, a person is deemed to be the beneficial owner of securities if that person has or shares the opportunity, directly or indirectly, to profit or share in any profit derived from a transaction in the securities ("pecuniary interest"). *See* SEC rule 16a–1(a)(2). *See also* SEC rule 16a–8 for the application of the beneficial ownership definition to trust holdings and transactions.

(ii) Both direct and indirect beneficial ownership of securities shall be reported. Securities beneficially owned directly are those held in the reporting person's name or in the name of a bank, broker or nominee for the account of the reporting person. In addition, securities held as joint tenants, tenants in common, tenants by the entirety, or as community property are to be reported as held directly. If a person has a pecuniary interest, by reason of any contract, understanding, or relationship (including a family relationship or arrangement), in securities held in the name of another person, that person is an indirect beneficial owner of the securities. *See* SEC rule 16a–1(a)(2)(ii) for certain indirect beneficial ownerships.

(iii) Report transactions in securities beneficially owned directly on separate lines from those beneficially owned indirectly.

Report different forms of indirect ownership on separate lines. The nature of indirect ownership shall be stated as specifically as possible; for example, "By Self as Trustee for X," "By Spouse," "By X Trust," "By Y Corporation," etc.

(iv) In stating the amount of securities acquired, disposed of, or beneficially owned indirectly through a partnership, corporation, trust, or other entity, report the number of securities representing the reporting person's proportionate interest in transactions conducted by that entity or holdings of that entity. Alternatively, at the option of the reporting person, the entire amount of the entity's interest may be reported. *See* SEC rule 16a–1(a)(2)(ii)(B) and SEC rule 16a–1(a)(2)(iii).

(c) *Non-Derivative and Derivative Securities*

(i) Report acquisitions or dispositions and holdings of non-derivative securities in table I. Report acquisitions or dispositions and holdings of derivative securities (*e.g.*, puts, calls, options, warrants, convertible securities, or other rights or obligations to buy or sell securities) in table II. Report the exercise or conversion of a derivative security in table II (as a disposition of the derivative security) and report in table I the holdings of the underlying security. Report acquisitions or dispositions and holdings of derivative securities that are both equity securities and convertible or exchangeable for other equity securities (*e.g.*, convertible preferred securities) only on table II.

(ii) The title of a derivative security and the title of the equity security underlying the derivative security should be shown separately in the appropriate columns in table II. The "puts" and "calls" reported in table II include, in addition to separate puts and calls, any combination of the two, such as spreads and straddles. In reporting an option in table II, state whether it represents a right to buy, a right to sell, an obligation to buy, or an obligation to sell the equity securities subject to the option.

(iii) Describe in the appropriate columns in table II characteristics of derivative securities, including title, exercise or conversion price, date exercisable, expiration date, and the title and amount of securities underlying the derivative security. If the transaction reported is a purchase or sale of a derivative security, the purchase or sale price of the derivative security shall be reported in column 8. If the transaction is the exercise or conversion of a derivative security, leave column 8 blank and report the exercise or conversion price of the derivative security in column 2.

(iv) Securities constituting components of a unit shall be reported separately on the applicable table (*e.g.*, if a unit has a non-derivative security component and a derivative security component, the non-derivative security component shall be reported in table I and the derivative security component shall be reported in table II). The relationship between individual securities comprising the unit shall be indicated in the space provided for explanation of responses. When securities are purchased or sold as a unit, state the purchase or sale price per unit and other required information regarding the unit securities.

5. Price of Securities

(a) Prices of securities shall be reported in U.S. dollars and on a per share basis, not an aggregate basis, except that the aggregate price of debt shall be stated. Amounts reported shall exclude brokerage commissions and other costs of execution.

(b) If consideration other than cash was paid for the security, describe the consideration, including the value of the consideration in the space provided for explanation of responses.

6. Additional Information

If space provided in the line items of this form or space provided for additional comments is insufficient, attach another form (or copy of the form) completed as appropriate. Each form attached as a continuation must include information required in items 1, 4 and 6 of the form. The number of pages comprising the report (form plus attachment) shall be indicated at the bottom of each report page (*e.g.*, 1 of 3, 2 of 3, 3 of 3). If additional information is not reported in this manner, the FDIC will assume no additional information was provided.

7. Signature

(a) If the form is filed for an individual, it shall be signed by that person or specifically on behalf of the individual by a person authorized to sign for the individual. If signed on behalf of the individual by another person, the authority of such person to sign the form shall be confirmed to the FDIC in writing in an attachment to the form or as soon as practicable in an amendment by the individual for whom the form is filed, unless such a confirmation still in effect is on file with the FDIC. The confirming statement need only indicate that the reporting person authorizes and designates the named person or persons to file the form on the reporting person's behalf, and state the duration of the authorization.

(b) If the form is filed for a corporation, partnership, trust, or other entity, the capacity in which the individual signed shall be set forth (*e.g.*, John Smith, Secretary, on behalf of X Corporation).

8. Transaction Codes

Use the codes listed below to indicate in table I, column 3 and table II, column 4 the character of the transaction reported. Use the code that most appropriately describes the transaction.

If the transaction is not specifically listed, use transaction Code "J" and describe the nature of the transaction in the space for explanation of responses.

General Transaction Codes

P—Open market or private purchase of non-derivative or derivative security
S—Open market or private sale of non-derivative or derivative security

Employee Benefit Plan Transaction Codes

A—Grant or award transaction pursuant to SEC rule 16b–3(c)
M—Exercise of in the-money or at-the-money derivative security acquired pursuant to SEC rule 16b–3 plan
B—Participant-directed transaction in ongoing acquisition plan pursuant to SEC rule 16b–3(d)(2) (except for intra-plan transfers specified in Code I)
N—Participant-directed transaction pursuant to SEC rule 16b–3(d)(1)
F—Payment of option exercise price or tax liability by delivering or withholding securities incident to exercise of a derivative security issued in accordance with SEC rule 16b–3
I—Intra-plan transfer in accordance with SEC rule 16b–3(d)(2)(ii) resulting in an acquisition or disposition of bank securities
T—Acquisition or disposition transaction under an employee benefit plan other than pursuant to SEC rule 16b–3

Derivative Securities Codes

E—Expiration of short derivative position
H—Expiration (or cancellation) of long derivative position
C—Conversion of derivative security
O—Exercise of out-of-the-money derivative security
X—Exercise of in-the-money or at-the-money derivative security

Other Section 16(b) Exempt Transactions and Small Acquisition Codes (except for employee benefit plan codes above)

G—Bona fide gift
R—Acquisition pursuant to reinvestment of dividends or interest (DRIPS)
W—Acquisition or disposition by will or laws of descent and distribution
L—Small acquisition under SEC rule 16a–6
Z—Deposit into or withdrawal from voting trust

Other Transaction Codes

J—Other acquisition or disposition (describe transaction)
Q—Transfer pursuant to a qualified domestic relations order
U—Disposition pursuant to a tender of shares in a change of control transaction

Form F–7 or Form F–8 Holdings or Transactions Not Previously Reported

To indicate that a holding should have been reported previously on Form F–7, place a "3" in table I, column 3 or table II, column 4, as appropriate. Indicate in the space provided for explanation of responses the event triggering the Form F–7 filing obligation. To indicate that a transaction should have been reported previously on Form F–8, place a "4" next to the transaction code reported in table I, column 3 or table II, column 4 (*e.g.*, an open market purchase of a non-derivative security that should have been reported previously on Form F–8 should be designated as "P4"). In addition, the appropriate box on the front page of the form should be checked.

BILLING CODE 6714–01–M

FORM F-8A

☐ Check box if no longer subject to Section 16. Form F-8 or Form F-8A obligations my continue. See instruction 1(b).

☐ Form F-7 holdings reported.

☐ Form F-8 transactions reported.

Federal Deposit Insurance Corporation
Washington, D.C. 20429

ANNUAL STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934

OMB APPROVAL

OMB NUMBER: 3064-0030
EXPIRES:
Estimated average burden hours per response ...1.0

(PLEASE PRINT OR TYPE ALL RESPONSES)

1. Name of Reporting Person (Last, First, Middle)

Street Address

City

State

Zip Code

2. Issuer. (Name and Ticker or Trading Symbol)

3. IRS or Social Security Number of Reporting Person (Voluntary)

4. Statement for (Month/Year)

5. If Amendment, Date of Original (Month/Year)

6. Relationship of Reporting Person to Issuer (Check all applicable)

___ Director ___ 10% Owner
___ Officer (give title below) ___ Other (Specify below)

Table I - Non-Derivative Securities Acquired, Disposed of, or Beneficially Owned

1. Title of Security (Instr. 3)	2. Transaction Date (Month/Day/Year)	3. Transaction Code (Instr. 8)	4. Securities Acquired (A) or Disposed of (D) (Instrs. 3, 4 and 5)			5. Amount of Securities Beneficially Owned at End of Issuer's Fiscal Year (Instrs. 3 and 4)	6. Ownership Form: Direct (D) or Indirect (I) (Inst. 4)	7. Nature of Indirect Beneficial Ownership (Instr. 4)
			Amount	(A) or (D)	Price			

REMINDER: Report on a Separate Line for each class of securities beneficially owned directly or indirectly. (Continue on reverse)

FORM F-8A

Table II - Derivative Securities Acquired, Disposed of, or Beneficially Owned (e.g., puts, calls, warrants, options, convertible securities)

1. Title of Derivative Security (Instr. 3)	2. Conversion or Exercise Price of Derivative Security	3. Transaction Date (Month/Day/Year)	4. Transaction Code (Instr. 8)	5. Number of Derivative Securities Acquired (A) or Disposed of (D) (Instrs. 3, 4 and 5)		6. Date Exercisable and Expiration Date (Month/Day/Year)		7. Title and Amount of Underlying Securities (Instrs. 3 and 4)		8. Price of Derivative Security (Instr. 5)	9. Number of Derivative Securities Beneficially Owned at End of Year (Instr. 4)	10. Ownership Form of Derivative Security: Direct (D) or Indirect (I) (Instr. 4)	11. Nature of Indirect Beneficial Ownership (Instr. 4)
				(A)	(D)	Date Exercisable	Expiration Date	Title	Amount or Number of Shares				

Explanation of Responses:

**Signature of Reporting Person

Date

Note: File three copies of this Form, one of which must be manually signed. If space provided is insufficient, *See* Instruction 6 for procedure (12 C.F.R. 335.422)

** Intentional misstatements or omissions of facts constitute Federal Criminal Violations. *See* 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).

BURDEN STATEMENT

Public reporting burden for this collection of information is estimate to average 1.0 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Assistant Executive Secretary (Administration), Room F- 400 , FDIC, Washington, D.C. 20429; and to the Office of Management and Budget Paperwork Reduction Project (3064-0030), Washington, D.C. 20503.

FDIC 6112/04 (1-92) Reverse

BILLING CODE 6714-01-C

By order of the Board of Directors. Dated at Washington, DC this 28th day of January, 1992.

Federal Deposit Insurance Corporation

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 92-2765 Filed 2-6-92; 8:45 am]

BILLING CODE 6714-01-M

THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD

12 CFR Chapter XV

Change of Name

AGENCY: Thrift Depositor Protection Oversight Board.

ACTION: Final rule; technical amendment.

SUMMARY: The Oversight Board, a corporate instrumentality of the United States established by section 21A(a)(1) of the Federal Home Loan Bank Act, 12 U.S.C. 1441a(a)(1), has been redesignated as the Thrift Depositor Protection Oversight Board, effective February 1, 1992, by the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991, Public Law No. 102–233, section 302(a), 105 Stat. 1761, 1767. Accordingly, this action changes the name of the agency in the heading of the chapter in which the Board's regulations are issued, chapter XV of title 12 of the Code of Federal Regulations.

EFFECTIVE DATE: February 7, 1992.

FOR FURTHER INFORMATION CONTACT: Lawrence Hayes, telephone (202) 786–9681.

SUPPLEMENTARY INFORMATION: The Oversight Board, a corporate instrumentality of the United States, was established under section 21A(a)(1) of the Federal Home Loan Bank Act, 12 U.S.C. 1441a(a)(1), as added by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"), to oversee the Resolution Trust Corporation ("RTC"), also established under FIRREA. The principal duty of the RTC is to manage and resolve cases involving failing and failed thrift institutions.

The Oversight Board and the RTC were restructured by the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991, Public Law No. 102–233, 105 Stat. 1761, and the Board redesignated by section 302(a) of that Act as the "Thrift Depositor Protection Oversight Board," effective February 1, 1992. This rule effects an amendment to the heading of chapter XV of the Code of Federal Regulations, in which chapter the regulations of the Board are issued. The Board finds good cause for making this final rule effective upon publication in the **Federal Register** in that it is not a substantive rule, but a technical amendment which follows the statutory change in the name of the Board. The amendment is not a regulation or rule for the purposes of Executive Order No. 12291.

For the reasons set out in the preamble and under the authority of 12 U.S.C. 1441a(a)(13), title 12, chapter XV of the Code of Federal Regulations is amended as set forth below:

CHAPTER XV—THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD

The heading of chapter XV is revised to read as set forth above.

Peter H. Monroe,

President.

[FR Doc. 92-3023 Filed 2-6-92; 8:45 am]

BILLING CODE 2222-01-M

DEPARTMENT OF COMMERCE

15 CFR Part 29b

[Docket No. 911200-1300]

RIN 0605-AA07

Audit Requirements for Institutions of Higher Education and Other Nonprofit Organizations

AGENCY: Department of Commerce.

ACTION: Interim final rule with request for comments.

SUMMARY: The Department of Commerce is amending 15 CFR part 29b to incorporate new guidance from the Office of Management and Budget (OMB). As a result of this interim final rule, the Department of Commerce is requiring educational institutions and other nonprofit organizations that receive Federal assistance to follow the provisions of OMB's "Compliance Supplement for Audits of Institutions of Higher Education and Other Nonprofit Institutions" when performing the organization-wide audits currently required under this part.

DATES: *Effective:* February 7, 1992.

Application Date: The provisions of this interim final rule are applicable to audits initiated subsequent to March 9, 1992.

Comments: Comments must be received by March 9, 1992.

ADDRESSES: Comments may be mailed to Barbara Lambis, Director, Office of Federal Assistance, U.S. Department of Commerce, HCHB Room 6054, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Barbara Lambis, (202) 377-5817.

SUPPLEMENTARY INFORMATION: On April 19, 1991, the Department of Commerce published an interim final rule in the **Federal Register** [56 FR 15962] primarily for purposes of implementing guidance provided in OMB Circular A-133, "Audits of Institutions of Higher Education and Other Nonprofit Organizations." That interim final rule added part 29b, "Audit Requirements for Institutions of Higher Education and Other Nonprofit Organizations," redesignated part 8a as part 29a, and reserved the new part 8a for future use. On July 1, 1991, the Department of Commerce published an affirmation of the interim final rule in the **Federal Register** [56 FR 29896], adopting it in final without change.

In the April 19, 1991, **Federal Register** notice publishing the interim final rule, the Department indicated that it anticipated amending part 29b once OMB issued a supplement to Circular A-133. On October 15, 1991, OMB published a notice in the **Federal Register** [56 FR 51730] announcing the availability of the supplement, entitled "Compliance Supplement for Audits of Institutions of Higher Education and Other Nonprofit Institutions:"

In accordance with its earlier indication, the Department of Commerce is amending part 29b to incorporate appropriate references to OMB's compliance supplement.

This is not a major rule within the meaning of section 1 of Executive Order 12291. It will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, state or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Because this rule relates to public property, loans, grants, benefits and contracts, it is exempt from the requirements of notice and opportunity to comment and the 30-day delayed effective date (5 U.S.C. 553(a)(2)). No other law requires that notice and opportunity for comment on this interim final rule be given.

Since notice and opportunity to comment are not required to be given for this interim final rule under section 553 of the Administrative Procedures Act or any other law, no initial or final Regulatory Flexibility Analysis has to be or will be prepared for purposes of the Regulatory Flexibility Act.

Although this interim final rule is exempt from the 30-day delayed effective date and is being issued in interim form, public comments are invited and should be sent to the address listed in the ADDRESSES section above. Comments must be received by March 9, 1992 to be considered in issuing the final rule.

This interim final rule does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 12612.

The provisions of 15 CFR part 29b, published as an interim final rule on April 19, 1991 [56 FR 15992] and final rule on July 1, 1991 [56 FR 29896], include a collection of information subject to the Paperwork Reduction Act. This was approved by OMB under control number 0991-0003.

List of Subjects in 15 CFR Part 29b

Accounting, colleges and universities, Grant programs, Nonprofit organizations, reporting and recordkeeping requirements.

For reasons set out in the preamble, part 29b of title 15 to the Code of Federal Regulations is amended as set forth below.

PART 29B—AUDIT REQUIREMENTS FOR INSTITUTIONS OF HIGHER EDUCATION AND OTHER NONPROFIT ORGANIZATIONS

1. The authority citation for part 29b continues to read as follows:

Authority: 5 U.S.C. 301.

2. Section 29b.16 is amended by revising paragraphs (b)(2)(i) and (b)(2)(ii), adding a new paragraph (b)(2)(iii), redesignating paragraph (c)(6) as paragraph (c) (7) and republishing it, and adding a new paragraph (c)(6) as follows:

§ 29b.16 Internal controls over Federal awards: compliance reviews.

* * * * *

(b) * * *

(2) * * *

(i) Perform tests of controls to evaluate the effectiveness of the design and operation of the policies and procedures in preventing or detecting material noncompliance. Tests of controls will not be required for those areas where the internal control structure policies and procedures are likely to be ineffective in preventing or detecting noncompliance, in which case a reportable condition or material weakness should be reported in accordance with § 29b.18(c)(2);

(ii) Review the recipient's system for monitoring subrecipients and obtaining and acting on sub-recipient audit reports; and

(iii) Determine whether controls are in effect to ensure direct and indirect costs were computed and billed in accordance with the guidance provided in the general requirements section of the "Compliance Supplement for Single Audits of Educational Institutions and Other Nonprofit Organizations."

(c) * * *

(6) The principal compliance requirements of the largest Federal programs may be ascertained by referring to the "Compliance Supplement for Single Audits of Educational Institutions and Other Nonprofit Organizations," and the "Compliance Supplement for Single Audits of State and Local Governments" issued by OMB and available from the Government Printing Office. For those programs not covered in OMB's compliance supplements, the auditor should ascertain compliance requirements by reviewing the statutes, regulations, and agreements governing individual programs.

(7) Transactions related to other awards that are selected in connection with examinations of financial statements and evaluations of internal controls shall be tested for compliance with Federal laws and regulations that apply to such transactions.

3. Section 29b.21 is amended by revising paragraphs (a) (1) and (2), and adding new paragraphs (a) (3) and (4).

§ 29.21 Availability of publications.

(a) * * *

(1) "Catalog of Federal Domestic Assistance";

(2) "Government Auditing Standards";

(3) "Compliance Supplement for Single Audits of Educational Institutions and Other Nonprofit Organizations"; and

(4) "Compliance Supplement for Single Audits of State and Local Governments."

* * * * *

Sonya G. Stewart,
Director for Federal Assistance and Management Support.

[FR Doc. 92-2700 Filed 2-6-92; 8:45 am]

BILLING CODE 3510-FAM

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 157

[Docket No. RM81-19]

Project Cost and Annual Limits

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Rule.

SUMMARY: Pursuant to the authority delegated by 18 CFR 375.307(e)(1), the Director of the Office of Pipeline and Producer Regulation computes and publishes the project cost and annual limits specified in Table I of § 157.208(d) and Table II of § 157.215(a) for each calendar year.

EFFECTIVE DATE: January 1, 1992.

FOR FURTHER INFORMATION CONTACT: Martin A. Burless, Jr., Chief, Pipeline Certificates and Projects Branch, Division of Pipeline Certificates, OPPR, (202) 208-0581.

SUPPLEMENTARY INFORMATION:

Order of the Director, OPPR

Issued January 31, 1992.

Section 157.208(d) of the Commission's Regulations provides for project cost limits applicable to construction, acquisition, operation and miscellaneous rearrangement of facilities (Table I) authorized under the blanket certificate procedure (Order No. 234, 19 FERC ¶ 61,216). Section 157.215(a) specified the calendar year dollar limit which may be expended on underground storage testing and development (Table II) authorized under the blanket certificate. Section 157.208(d) requires that the "limits specified in Tables I and II shall be adjusted each calendar year to reflect the 'GNP implicit price deflator' published by the Department of Commerce for the previous calendar year."

Pursuant to § 375.307(e)(1) of the Commission's Regulations, the authority for the publication of such cost limits, as adjusted for inflation, is delegated to the Director of the Office of Pipeline and Producer Regulation. The cost limits for calendar years 1982 through 1992, as published in Table I of § 157.208(d) and Table II of § 157.215(a), are hereby issued.

Note that these inflation adjustments are based on the Gross Domestic Product (GDP) Implicit Price Deflator rather than the Gross National Product (GNP) Implicit Price Deflator, which is

not yet available for 1991. The Commerce Department advises that in recent years the annual change has been virtually the same for both indices. Further adjustments will be made, if necessary.

List of Subjects in 18 CFR Part 157

Natural gas.

Robert J. Cupina,
Deputy Director, Office of Pipeline and Producer Regulation.

Accordingly, 18 CFR part 157 is amended as follows:

PART 157—[AMENDED]

1. The authority citation for part 157 continues to read as follows:

Authority: Natural Gas Act, 15 U.S.C. 717-717w (1982); Department of Energy Organization Act, 42 U.S.C. 7101-7352 (1982); E.O. 12009, 3 CFR 142 (1978); Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432 (1982), unless otherwise noted.

2. Table I in § 157.208(d) is revised to read as follows:

§ 157.208 Construction, acquisition, operation, and miscellaneous rearrangement of facilities.

* * * * *

(d) * * *

TABLE I

Year	Limit	
	Auto. Proj. Cost Limit (Col. 1)	Prior Notice Proj. Cost Limit (Col. 2)
1982	$4,200,000	$12,000,000
1983	4,500,000	12,800,000
1984	4,700,000	13,300,000
1985	4,900,000	13,800,000
1986	5,100,000	14,300,000
1987	5,200,000	14,700,000
1988	5,400,000	15,100,000
1989	5,600,000	15,600,000
1990	5,800,000	16,000,000
1991	6,000,000	16,700,000
1992	6,200,000	17,300,000

* * * * *

3. Table II in § 157.215(a) is revised to read as follows:

§ 157.215 Underground storage testing and development.

(a) * * *

TABLE II

Year	Limit
1982	$2,700,000
1983	2,900,000
1984	3,000,000
1985	3,100,000
1986	3,200,000
1987	3,300,000
1988	3,400,000
1989	3,500,000
1990	3,600,000
1991	3,800,000
1992	3,900,000

* * * * *

[FR Doc. 92-2071 Filed 2-6-92; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

[T.D. 92-10]

Customs Service Field Organization—Port Hueneme, CA

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations pertaining to the field organization of the Customs Service by designating Port Hueneme as a port of entry in the Customs District of Los Angeles, California, of the Pacific Region. The change is being made as part of Customs continuing program to obtain more effficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the general public.

EFFECTIVE DATE: February 7, 1992.

FOR FURTHER INFORMATION CONTACT: Joseph O'Gorman, Office of Inspection and Control (202-566-8157).

SUPPLEMENTARY INFORMATION:

Background

As part of a continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the general public, Customs published a notice in the **Federal Register** on November 1, 1991 (56 FR 56179) proposing to amend §§ 101.3 and 101.4, Customs Regulations (19 CFR 101.3 and 101.4) by designating Port Hueneme, California, as a port of entry for Customs purposes in the Customs District of Los Angeles, California, within the Pacific Region. Port Hueneme has been listed in § 101.4(c), Customs Regulations, as a Customs station within the Los Angeles District.

Two comments were received in response to the notice, both of which strongly supported the proposed designation of Port Hueneme as a port of entry. After a further review of this matter, Customs has determined to adopt the proposal as described in the notice. The list of Customs regions, districts and ports of entry in § 101.3(b), Customs Regulations, and the list of Customs stations in § 101.4(c), Customs Regulations, are amended accordingly.

Geographical Description

The geographical limits of the port of entry of Port Hueneme are as follows:

> In Ventura County, California, beginning at the northwest corner of Rancho El Rio De Santa Clara O La Colonia and proceeding east along the Santa Clara River to the City of Fillmore and including the Fillmore city limits, and then from the City of Fillmore south on Highway 23 to the City of Thousand Oaks and including the Thousand Oaks city limits, and then from the City of Thousand Oaks south on Highway 23 to the Ventura County/Los Angeles County line, and then southwest along the Ventura County/ Los Angeles County line to a point directly east of Point Mugu, and then directly west to Point Mugu, and then from Point Mugu west along the coastline to the point of beginning.

Authority

This change is made under the authority of 5 U.S.C. 301 and 19 U.S.C. 2, 66 and 1624.

Inapplicability of Delayed Effective Date Requirements

Because the amendments contained in this document concern agency management and will provide presently needed benefits to the general public, pursuant to 5 U.S.C. 553 (a)(2) and (d)(3), a delayed effective date is neither required not appropriate.

Regulatory Flexibility Act and Executive Order 12291

Although Customs solicited public comments, no notice of proposed rulemaking was required pursuant to 5 U.S.C. 553 because this matter relates to agency management and organization, and for this reason this document is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). In addition, because it relates to agency management and organization, this document is not subject to Executive Order 12291.

Drafting Information

The principal author of this document was Francis W. Foote, Regulations and Disclosure Law Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 101

Customs duties and inspections, Exports, Imports, Organization and functions (Government agencies).

Amendments to the Regulations

Part 101, Customs Regulations (19 CFR part 101) is amended as set forth below.

PART 101—GENERAL PROVISIONS

1.. The authority citation for part 101 continues to read as follows:

Authority: U.S.C. 301, 19 U.S.C. 2, 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1623, 1624.

§ 101.3 Amended

2. The list of Customs regions, districts and ports of entry in § 101.3(b) is amended by inserting in appropriate alphabetical order "Port Hueneme, Calif. (T.D. 92–10)" in the column headed "Port of entry" in the Los Angeles, California, District of the Pacific Region.

§ 101.4 [Amended]

3. The list of Customs stations in § 101.4(c) is amended by removing the entry "Los Angeles, Calif." in the column headed "District", by removing the entry "Port Hueneme, Calif." in the column headed "Customs stations", and by removing the entry " Los Angeles" in the column headed "Port of entry having supervision".

Michael H. Lane,

Acting Commissioner of Customs.

Approved: January 24, 1992.

Peter K. Nunez,

Assistant Secretary of the Treasury.

[FR Doc. 92–2945 Filed 2–6–92; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR PART 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Prednisolone Tablets

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Vet-A-Mix, Inc. The NADA provides for the use of prednisolone tablets as an anti-inflammatory agent in dogs.

EFFECTIVE DATE: February 7, 1992.

FOR FURTHER INFORMATION CONTACT: Marcia K. Larkins, Center for Veterinary Medicine (HFV–112), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-295-8614.

SUPPLEMENTARY INFORMATION: Vet-A-Mix, Inc., P.O. Box A, Shenandoah, IA 51601, has applied for approval of NADA 140–921, which provides for the oral use of 5-milligram prednisolone tablets as an anti-inflammatory agent in dogs.

The NADA is approved as of November 8, 1991, and the regulations are amended by adding new 21 CFR 520.1880 to reflect the approval. The basis for approval is discussed in the freedom of information summary.

The approval of this NADA is based on a demonstration of bioequivalence with a pre-1962 National Academy of Sciences/National Research Council (NAS/NRC) Drug Efficacy Study Implementation (DESI) reviewed product; therefore, the product does not qualify for marketing exclusivity.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, between 9 a.m. to 4 p.m., Monday through Friday.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 520 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 36b).

2. New § 520.1880 is added to read as follows:

§ 520.1880 Prednisolone tablets.

(a) *Specifications.* Each tablet contains 5 milligrams prednisolene.

(b) *Sponsor.* See No. 011789 in § 510.600(c)(2) of this chapter.

(c) *Special considerations.* (1) Clinical and experimental data have demonstrated that corticosteroids administered orally or parenterally to animals may induce the first stage of parturition when administered during the last trimester of pregnancy and may precipitate parturition followed by dystocia, fetal death, retained placenta, and metritis.

(2) Do not use in viral infections. Systemic therapy with prednisolone is contraindicated in animals with peptic ulcer, corneal ulcer, and Cushingoid syndrome. The presence of diabetes, osteoporosis, predisposition to thrombophlebitis, hypertension, congestive heart failure, renal insufficiency, and active tuberculosis necessitates carefully controlled use. Some of the above conditions occur only rarely in dogs but should be kept in mind.

(3) Anti-inflammatory action of corticosteroids may mask signs of infection.

(d) *Conditions of use.* (1) *Amount.* Dogs: 2.5 milligrams per 4.5 kilograms (10 pounds) body weight per day. Administer total daily dose orally in equally divided doses 6 to 10 hours apart until response is noted or 7 days have elapsed. When response is attained, dosage should be gradually reduced until maintenance level is achieved.

(2) *Indications for use.* For use in dogs as an anti-inflammatory agent.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: January 31, 1992.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 92–2985 Filed 2–6–92; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8360]

RIN 1545–AM95

Nondiscrimination Requirements for Qualified Plans; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to final regulations published in the **Federal Register** for Thursday, September 19, 1991, at page 47524 (56 FR 47524). The final regulation interprets the section 401(a)(4) requirement that contributions or benefits provided under a tax-qualified retirement plan not discriminate in favor of highly compensated employees.

EFFECTIVE DATE: September 19, 1991.

FOR FURTHER INFORMATION CONTACT: Marjorie Hoffman, Patricia McDermott, David Munroe and Rebecca Wilson at (202) 377–9372 (not a toll-free number).

Background

These final regulations relate to section 401(a)(4) of the Internal Revenue Code of 1986.

Need for Correction

As published, the final regulation contains errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the final regulations which was the subject of FR Doc 91–21924, is corrected as follows:

1. On page 47524, column 1, in the preamble, under the heading "EFFECTIVE DATES", line 3, the language "December 31, 1991, and applied to those" is corrected to read "December 31, 1991, and are applied to those".

2. On page 47525, column 1, in the preamble, under the heading "Summary of Significant Modifications", line 4 from the top of the column, the language "restructuring methods; and the" is corrected to read "restructuring method, and the".

3. On page 47527, column 1, in the preamble, under the heading "Defined Contribution Safe Harbors", the first complete paragraph, line 9, the language "84–155, 84–2 C.B. 95. Thus, under the" is corrected to read "84–155, 1984–2 C.B. 95. Thus, under the".

4. On page 47533, column 2, in the preamble, under the paragraph heading "6. Cross-Testing Defined Benefit and Defined Contribution Plans", line 21, the language "As discussed above, the cross testing" is corrected to read "As discussed above, the cross-testing".

5. On page 47536, column 2, in the preamble, under the paragraph heading "15. Effective Dates", second paragraph under that heading, line 1, the language "In Rev. Proc. 90–73, 1990–2 C.B. 786," is corrected to read "In Notice 90–73, 1990–2 C.B. 353,".

6. On page 47538, column 2, in the preamble, under the paragraph heading "19. Additional Authority", line 6, the language "that the commissioner may, in revenue" is corrected to read "that the Commissioner may, in revenue".

§ 1.401 [Corrected]

7. On page 47539, column 3, in § 1.401(a)(4)–0, the entries in the table for §§ 1.401(a)(4)–9 (b) and (c) are flush to the left.

8. On page 47540, column 1, in § 1.401(a)(4)–0, the entries in the table for § 1.401(a)(4)–10(b)(3) (iii)(D) and (iv) should read § 1.401(a)(4)–10(b)(3) (iv) and (v), respectively.

9. On page 47543, column 3, line 6 of § 1.401(a)(4)–2(b)(5)(ii), the language "attributable to disparities permitted" is corrected to read "attributable to uniform disparities permitted".

10. On page 47546, column 1, under § 1.401(a)(4)–2(c)(3)(v), last line in the paragraph, the language "§ 1.410(b)–5(f))." is corrected to read "§ 1.410(b)–5(f).".

11. On page 47547, column 3, under § 1.401(a)(4)–3(b)(2)(iv), lines 7 and 8, the language "substantially all employees in the plan, the same criteria apply as in" is corrected to read "an employee, the same criteria apply as in".

12. On page 47547, column 3, under § 1.401(a)(4)–3(b)(2)(iv), lines 10 and 11, the language "benefits is currently available to a group of employees in the plan under" is corrected to read "benefit is currently available to an employee in the plan under".

13. On page 47549, column 1, under § 1.401(a)(4)–3(b)(4)(ii), in *Example 2.*, last line in the paragraph, the language "percentage of average annual compensation." is corrected to read "percent of average annual compensation.".

14. On page 47549, column 2, under § 1.401(a)(4)–3(b)(4)(ii), lines 1 and 2 of *Example 4.*, the language "Plan D is a section 401(l) plan that provides a normal retirement benefit" is corrected to read "Plan D provides a normal retirement benefit".

15. On page 47549, column 2, under § 1.401(a)(4)–3(b)(4)(ii) paragraphs (1) and (2) of *Example 4.*, are correctly designated as (a) and (b), respectively.

16. On page 47550, column 1, under § 1.401(a)(4)–3(b)(5)(ii), in *Example 3.*, line 2, the language "*Example 1*, except that plan determines each" is corrected to read "*Example 1*, except that the plan determines each".

17. On page 47550, column 2, under § 1.401(a)(4)–3(b)(7)(iii), line 20, the language "See paragraph (b)(5)(ii), *Example 3*, of" is corrected to read "See paragraph (b)(5)(ii), *Example 4*, of".

18. On page 47550, column 2, under § 1.401(a)(4)–3(b)(7)(iii), line 23, the language, "on September 19, 1991 may continue to" is corrected to read "on September 19, 1991, may continue to".

19. On page 47750, column 2, under § 1.401(a)(4)–3(b)(7)(v), line 2, the language "employee who continues participation" is corrected to read "employee who continues benefiting".

20. On page 47552, column 1, under § 1.401(a)(4)–3(b)(8)(xii)(C), lines 16 through 18, the language "(adjusted, if applicable, in accordance with § 1.401(a)(4)–13(c)(5) (i), (ii) and (iv), but not § 1.401(a)(4)–13(c)(5)(iii))." is corrected to read "(adjusted as provided in paragraph (b)(8)(xii)(B) of this section).".

21. On page 47552, column 2, under § 1.401(a)(4)–3(b)(8)(xiii)(C), line 10, the language "solely to all nonhighly compensated" is corrected to read "solely to some or all nonhighly compensated".

22. On page 47552, column 2, under § 1.401(a)(4)–3(b)(8)(xiii)(D)(*2*), line 6, the language "solely to all nonhighly compensated" is corrected to read "solely to some or all nonhighly compensated".

23. On page 47552, column 2, under § 1.401(a)(4)–3(b)(8)(xiii)(D)(*2*), line 10, the language "formula that was available solely to all" is corrected to read "formula that was available solely to some or all".

24. On page 47553, column 1, under § 1.401(a)(4)–3(b)(8)(xiii)(F), in *Example 4.*, the third line from the bottom of the paragraph, the language "because the formula is available solely to all" is corrected to read "because the formula is available solely to some or all".

25. On page 47553, column 2, under § 1.401(a)(4)–3(b)(8)(xiii)(F), the last line in *Example 6.*, the language "(b)(8)(xi)(B) of this section." is corrected to read "(b)(8)(xi)(D) of this section.".

26. On page 47553, column 2, under § 1.401(a)(4)–3(b)(8)(xiii)(F), in *Example 7.*, the fifth line from the bottom of the paragraph, the language "solely to all nonhighly compensated" is corrected to read "solely to some or all nonhighly compensated".

27. On page 47556, column 3, § 1.401(a)(4)–3(d)(2)(iii), in the *Example*, line 24, the language "QJSA in Steps A and B, respectively. For this" is corrected to read "QJSA in steps A and B, respectively. For this".

28. On page 47563, column 3, § 1.401(a)(4)–3(d)(6)(vii)(D), in *Example 1.*, line 27, the language "section) of each QJSA in Steps 1 and 2," is corrected to read "section) of each QJSA in steps 1 and 2,".

29. On page 47564, column 1, under § 1.401(a)(4)–3(d)(6)(vii)(D), in *Example 1.*, the first column in the table preceding the column with the heading "Step 1", the word "Age" is added as the heading for the first column.

30. On page 47564, column 1, under § 1.401(a)(4)–3(d)(6)(vii)(D), in *Example 2.*, lines 5 through 8, the language beginning with "QJSA. The new factor * * *" and ending with "Although this change increases" is corrected to read "QJSA as permitted under § 1.401(a)(4)–13(c)(6)(ii). The new factor applies to benefits accrued both before and after the fresh-start date. Although this change increases".

31. On page 47564, column 1, under § 1.401(a)(4)–3(d)(6)(vii)(D), in *Example 2.*, the fifth line from the bottom of the paragraph, the language "(d)(6)(vii)(B)(*2*) of this section does not" is corrected to read "(d)(6)(vii)(C)(*2*) of this section does not".

32. On page 47565, column 1, under § 1.401(a)(4)–3(d)(6)(viii)(F), under the *Example*, the first column in the table preceding the column with the heading "Step 1", the word "Age" is added as the heading for the first column.

33. On page 47567, column 1, under § 1.401(a)(4)–3(e)(4), in the last line of paragraph (b) of *Example 6.*, the language "plus $15,000 plus $15,000) divided by 5))." is corrected to read "plus $15,000 plus $15,000) divided by 5)."

34. On page 47567, column 3, under § 1.401(a)(4)–3(f)(4)(ii)(A), lines 14 and 15, the language "plan year, but who did not elect the window in that plan year." is corrected to read "plan year.".

35. On page 47569, column 2, under § 1.401(a)(4)–4(b)(2)(iv), the last line in the paragraph, the language "dollar amount is disregarded." is corrected to read "dollar amount is disregarded. In addition, the condition that an employee's vested accrued benefit have an actuarial present value less than or equal to the specified dollar amount (not to exceed $3,500) may be disregarded in determining the employees to whom the mandatory cash-out described in the preceding sentence is available.".

36. On page 47571, column 1, under § 1.401(a)(4)–4(d), paragraph (d)(3) is corrected to read:

"(3) *Early retirement window benefits.* A benefit, right, or feature that is only available to employees who terminate employment within a specified time period must separately satisfy the requirements of this section. Nonetheless, if the benefit, right, or feature meets the definition of an early retirement window benefit in § 1.401(a)(4)–3(f)(4)(iii) (or would meet that definition if the definition applied to all benefits, rights, and features) and if the benefit, right, or feature is available for a specified period that begins in one plan year and ends in the immediately succeeding plan year, the benefit, right, or feature is disregarded for purposes of applying this section to the plan for the second plan year. The preceding sentence applies solely in the case of employees to whom the benefit, right, or feature was treated as currently available for purposes of applying this section to the plan for the first plan year.".

37. On page 47573, column 3, under § 1.401(a)(4)–5(a)(6), in *Example 9.*, line 2, the language "*Example 7*, except that the Plan F limits the" is corrected to read "*Example 7*, except that Plan F limits the".

38. On page 47578, column 2, under § 1.401(a)(4)–7(c)(2), line 11, the language "determined under paragraph (c)(4)(iii)" is corrected to read "determined under paragraphs (c)(4)(iii)".

39. On page 47579, column 2, under § 1.401(a)(4)–7(c)(5), paragraph (b) of the *Example*, line 2, the language "compensation does not exceeds covered" is corrected to read "compensation does not exceed covered".

40. On page 47580, column 3, under § 1.401(a)(4)–8(b)(2)(i)(D), line 5, the language "§ 1.401(a)(4)–7(c)(4)(iv)(C). In" is corrected to read "§ 1.401(a)(4)–7(c)(4)(iii)(C). In".

41. On page 47580, column 3, under § 1.401(a)(4)–8(b)(2)(i)(D), the last line in the paragraph, the language "rate." is corrected to read "rate. If permitted disparity is taken into account, it must be taken into account for all employees in the plan."

42. On page 47580, column 3, under § 1.401(a)(4)–8(b)(2)(i)(E), last line in the paragraph, the language "(b)(2)(i)(D) of this section." is corrected to read "(b)(2)(i)(D) of this section).".

43. On page 47580, column 3, under § 1.401(a)(4)–8(b)(2)(ii)(A), the last line in the paragraph, the language "7(c)(4)(iv)(D) must be applied." is corrected to read "7(c)(4)(iii)(D) must be applied.".

44. On page 47581, column 1, under § 1.401(a)(4)–8(b)(3)(i)(B), line 2, the language "employee's stated benefit is determined" is corrected to read "employee's stated benefit is determined as a straight life annuity".

45. On page 47582, column 2, under § 1.401(a)(4)–8(b)(3)(vi), paragraph (a) in *Example 1.*, the sixth line from the bottom of the paragraph, the language "participated in the plan for 5 years, and has" is corrected to read "participated in the plan for 6 years, and has".

46. On page 47583, column 1, under § 1.401(a)(4)–8(b)(3)(vi), paragraph (b)(4) in *Example 2.*, line 2, the language "*Example* is multiplied by 0.0857, the" is corrected to read "*Example 2* is multiplied by 0.0857, the".

47. On page 47583, column 2, under § 1.401(a)(4)–8(c)(2)(i)(F), last line in the paragraph, the language "(c)(2)(i)(E) of this section" is corrected to read "(c)(2)(i)(E) of this section)."

48. On page 47586, column 1, under § 1.401(a)(4)–8(c)(3)(x), the second line from the bottom of the paragraph, the language "(certain conditions on accruals), or (x)" is corrected to read "(certain conditions on accruals), or (xi)".

49. On page 47586, column 3, under § 1.401(a)(4)–9(a), line 19, the language "of the general test in § 1.401(a)(3)–" is corrected to read "of the general test in § 1.401(a)(4)–".

50. On page 47587, column 3, under § 1.401(a)(4)–9(b)(2)(iv), the first two lines in the column, the language "employees' aggregate accrual or equivalent allocation rates under" is corrected to read "employees' aggregate allocation or aggregate accrual rates under".

51. On page 47587, column 3, under § 1.401(a)(4)–9(b)(2)(v)(A), line 8, the language "DB/DC plan, each separately–" is corrected to read "DB/DC plan, each separately".

52. On page 47588, column 1, § 1.401(a)(4)–9(b)(2)(v)(B), line 14, the language "(government plan method) or (b)(6)" is corrected to read "(government plan method), or (b)(6)".

53. On page 47588, column 1, under § 1.401(a)(4)–9(b)(3)(i), line 7, the language "this purpose, non-core benefits, rights" is corrected to read "this purpose, non-core benefits, rights,".

54. On page 47589, column 2, under § 1.401(a)(4)–9(c)(6), in *Example 1.*, the tenth line in the column, the language "satisfies sections 401(a)(4) and section 410(b)" is corrected to read "satisfies sections 401(a)(4) and 410(b)".

55. On page 47589, column 2, under § 1.401(a)(4)–9(c)(6), fourth and fifth lines from the bottom of *Example 2.*, the language "each component plan satisfied section 401(a)(4) and section 410(b) as if it were a" is corrected to read "each component plan satisfied sections 401(a)(4) and 410(b) as if it were a".

56. On page 47589, column 2, under § 1.401(a)(4)–9(c)(6), in *Example 3.*, the twelfth line from the bottom of the column, the language "§ 1.401(a)(4)–3(b)(2)(vii), *Example 7*, Under" is corrected to read "§ 1.401(a)(4)–3(b)(2)(vii), *Example 7*. Under".

57. On page 47590, column 1, under § 1.401(a)(4)–10(b)(3)(i), the fifth line from the bottom of the paragraph, the language "(iv) of this section provide certain" is corrected to read "(v) of this section provide certain".

58. On page 47590, column 3, under § 1.401(a)(4)–10, paragraph (b)(3)(iii)(D) is correctly designated as paragraph (b)(3)(iv) and revised to read as follows:

"(iv) *Special section 410(b) test for former employees.* In determining whether a rate group (within the meaning of § 1.401(a)(4)–3(c) or § 1.401(a)(4)–8(c)(1)) or a component plan (within the meaning of § 1.401(a)(4)–9(c)) consisting of former employees satisfies section 410(b), the special rule in § 1.410(b)–2(c)(2)(ii) may be applied. For purposes of applying the 95-percent test of § 1.410(b)–2(c)(2)(ii)(A), the term "plan" means a plan as defined in § 1.401(a)(4)–12 and does not include a rate group or component plan.".

59. On page 47590, column 3, under § 1.401(a)(4)–10, paragraph (b)(3)(iv) is correctly designated as paragraph (b)(3)(v).

60. On page 47591, column 2, under § 1.401(a)(4)–10(b)(4)(iv), in *Example 2.*, line 4, the language "purposes of determining former employees' " is corrected to read "purposes of determining former employees' ";

61. On page 47592, column 1, under § 1.401(a)(4)–11(c)(1), line 15, the language "any plan provision that directly effects" is corrected to read "any plan provision that directly affects".

62. On page 47592, column 1, under § 1.401(a)(4)–11(c)(2), the third line from the bottom of the paragraph, the language "satisfy section 401(a)(4) when treated as" is corrected to read "satisfy this paragraph (c) when treated as".

63. On page 47594, column 1, under § 1.401(a)(4)–11(g)(6), in *Example 5.*, line 2, the language "defined contribution plan that covers all" is corrected to read "defined benefit plan that covers all".

64. On page 47597, column 3, § 1.401(a)(4)–12, in the definition of "Testing service," paragraph (4) *Time of determination*, line 7, the language "project method in § 1.401(a)(4)–" is corrected to read "projected method in § 1.401(a)(4)–".

65. On page 47599, column 1, under § 1.401(a)(4)–13(c)(7), paragraph (a) in *Example 1.*, line 15, the language "requirements of § 1.401(a)(4)–2(b)(2) and" is corrected to read "requirements of § 1.401(a)(4)–3(b)(2) and".

66. On page 47599, column 2, under § 1.401(a)(4)–13(c)(7), paragraph (c) in *Example 2.*, the last line in the paragraph, the language "$4,762, the greater of—" is corrected to read "$4,552, the greater of—".

67. On page 47599, column 2, under § 1.401(a)–13(c)(7), paragraph (c)(1) in *Example 2.*, line 1, the language "(1) $4,762, the sum of Employee C's accrued" is corrected to read "(1) $4,552, the sum of Employee C's accrued".

68. On page 47599, column 2, under § 1.401(a)(4)–13(c)(7), paragraph (c)(1) in *Example 2.*, the last line in the paragraph, the language "percent × $8,000 × 1 year), or $562)), or" is corrected to read "percent × $8,000 × 1 year), or $352)), or".

69. On page 47601, column 1, § 1.401(a)(4)–13(d)(7), paragraph (b) in *Example 3.*, line 4, the language "normal retirement age of 65. Employee A also" is corrected to read "normal retirement age of 25 years. Employee A also".

70. On page 47601, column 1, § 1.401(a)(4)–13(d)(7), paragraph (b) in *Example 3.*, last line in the paragraph, the language "percent × $10,000)) × 10/25))" is corrected to read "percent × $10,000)) × 10/25).".

71. On page 47601, column 3, § 1.401(a)(4)–13(e)(2)(i), first line in the column, the language "retirement, determine the actuarial" is corrected to read "retirement age, determine the actuarial".

72. On page 47602, column 2, under § 1.401(a)(4)–13(f)(3)(i), line 6, the language "fresh-start date, under § 1.410(a)(4)–" is corrected to read "fresh-start date, under § 1.401(a)(4)–".

73. On page 47602, column 3, under § 1.411(d)–4, paragraph (a)(2) of "A–1", second line from the top of the column, the language "defined in § 1.401(a)(4)–12(q), and" is corrected to read "defined in § 1.401(a)(4)–12, and".

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

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DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 750

General Claims Provisions

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: This rule sets forth amended regulations pertaining to the Department of the Navy's claims program. This rule reflects changes to JAG Instruction 5800.7C, Chapter VIII of the Manual of the Judge Advocate General, and changes to JAG Instruction 5890.1, Administrative Processing and Consideration of Claims on Behalf of and Against the United States.

EFFECTIVE DATE: February 7, 1992.

FOR FURTHER INFORMATION CONTACT: Captain Milton D. Finch, JAGC, USN, Deputy Assistant Judge Advocate General (Claims and Tort Litigation), Office of the Judge Advocate General, 200 Stovall Street, Alexandria, VA 22332–2400, (703) 325–9880.

SUPPLEMENTARY INFORMATION: Pursuant to the authority conferred under 5 U.S.C. 301; 10 U.S.C. 133, 939, 5013, and 5148; E.O. 11476; and 32 CFR 700.206 and 700.1202; the Judge Advocate General revises 32 CFR part 750. This revision reflects changes to JAG Instruction 5800.7C, Chapter VIII of the Manual of the Judge Advocate General, and changes to JAG Instruction 5890.1, Administrative Processing and Consideration of Claims on Behalf of and Against the United States. This part has been revised and shortened. It sets forth the responsibilities and procedures for the supervision and management of the Navy's claims program and the investigation of claims under the various Federal Claims Statutes. It also sets forth the procedures and responsibilities for the administrative processing and consideration of claims against the United States.

This revision was adopted on January 17, 1991. To the limited extent that this revision could be deemed to originate any requirements within the Department of the Navy, it has been determined that such requirements relate entirely to internal Naval management and personnel practices that can be administered more effectively without public participation in the rulemaking process. It has therefore been determined that invitation of public comment on this revision would be impracticable and unnecessary and is therefore not required under the provisions of 32 CFR 296 and 701. It has also been determined that this final rule is not a "major rule" within the criteria specified in Executive Order 12291, and does not have substantial impact on the public.

List of Subjects in 32 CFR Part 750

Claims.

For the reasons set out in the preamble, title 32, part 750 of the Code of Federal Regulations is revised to read as follows:

PART 750—GENERAL CLAIMS REGULATIONS

Subpart A—General Provisions for Claims

Sec.
750.1 Scope of subpart A.
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750.3 Investigations: The report.
750.4 Claims: In general.
750.5 Claims: Proper claimants.
750.6 Claims: Presentment.
750.7 Claims: Action by receiving command.
750.8 Claims: Responsibility of adjudicating authority.
750.9 Claims: Payments.
750.10 Claims: Settlement and release.
750.11 Claims: Denial.
750.12 Claims: Action when suit filed.
75.13 Claims: Single service responsibility.
750.14—750.20 [Reserved]

Subpart B—Federal Tort Claims Act

750.21 Scope of subpart B.
750.22 Exclusiveness of remedy.
750.23 Definitions.
750.24 Statutory/regulatory authority.
750.25 Scope of liability.
750.26 The administrative claim.
750.27 Information and supporting documentation.
750.28 Amendment of the claim.
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750.33 Damages.
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750.35 Attorney's fees.
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Subpart C—Military Claims Act

750.41 Scope of subpart C.
750.42 Statutory authority.
750.43 Claims payable.
750.44 Claims not payable.
750.45 Filing claim.
750.46 Applicable law.
750.47 Measure of damages for property claims.
750.48 Measure of damages in injury or death cases.
750.49 Delegations of adjudicating authority.
750.50 Advance payments.
750.51 Final disposition.
750.52 Appeal.
750.53 Cross-servicing.
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Subpart D—Claims Not Cognizable Under Any Other Provision of Law

750.61 Scope of subpart D.
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750.63 Definitions.
750.64 Claim procedures.
750.65 Statute of limitations.
750.66 Officials with authority to settle.
750.67 Scope of liability.
750.68 Claims not payable.
750.69 Measure of damages.

Authority: 5 U.S.C. 301; 10 U.S.C. 939, 5013, and 5148; E.O. 11476, 3 CFR, 1969 Comp., p. 132; 32 CFR 700.206 and 700.1202.

Subpart A—General Provisions for Claims

§ 750.1 Scope of subpart A.

(a) *General.* (1) The Judge Advocate General is responsible for the administration and supervision of the resolution of claims arising under the Federal Tort Claims Act (subpart B of this part), the Military Claims Act (subpart C of this part), the Nonscope Claims Act (subpart D of this part), the Personnel Claims Act (part 751 of this chapter), the Foreign Claims Act, the International Agreements Claims Act pertaining to cost sharing of claims pursuant to international agreements, the Federal Claims Collection Act of 1966 (subpart A of part 757 of this chapter), the Medical Care Recovery Act (subpart B of part 757 of this chapter), and postal claims.

(2) The Deputy Assistant Judge Advocate General (Claims and Tort Litigation) is the functional manager of the Navy claims system established to evaluate, adjudicate, and provide litigation support for claims arising under the acts listed above and is responsible to the Judge Advocate General for the management of that system. The claims system consists of field activities delegated claims processing and adjudicating authority and the attorneys and support personnel assigned to the Claims and Tort Litigation Division of the Office of the Judge Advocate General. For economy of language, Naval Legal Service Offices and Naval Legal Service Office Detachments are referred to as Naval Legal Service Command Activities.

(3) Commanding officers of commands receiving claims are responsible for complying with the guidance on investigations in §§ 750.2 and 750.3 and the guidance on handling and forwarding claims found in § 750.5.

(b) This subpart A delineates general investigative and claims-processing requirements to be followed in the handling of all incidents and claims within the provisions of this part. Where the general provisions of this subpart A conflict with the specific provisions of any subsequent subpart of this part, the specific provisions govern.

§ 750.2 Investigations: In general.

(a) *Conducting the investigation.* The command where the incident giving rise to the claim is alleged to have happened is responsible for conducting an investigation in accordance with this part.

(b) *Thorough investigation.* Every incident that may result in a claim against or in favor of the United States shall be promptly and thoroughly investigated under this part. Investigations convened for claims purposes are sufficiently complex that they should be performed with the assistance and under the supervision of a judge advocate or other attorney. Where the command has an attorney assigned, he shall be involved in every aspect of the proceedings. When an attorney is not assigned to the investigating command, consultation shall be sought from the appropriate Naval Legal Service Command activity.

(c) *Recovery barred.* Even when recovery may be barred by statute or case law, all deaths, serious injuries, and substantial losses to property that are likely to give rise to claims must be investigated while the evidence is available. Claims against persons in the naval service arising from the performance of their official duties shall be investigated as though they were claims against the United States. When an incident involves an actual or potential claim against the United States for property damage only and the total amount likely to be paid does not exceed $5,000.00, an abbreviated investigative report may be submitted. Where this monetary figure may be exceeded, but the circumstances indicate an abbreviated report may be adequate to preserve the facts and protect the Government's claims interests, approval to submit a limited investigative report may be sought from the nearest Naval Legal Service Command activity.

(d) *Developing the facts.* Any investigation convened for claims purposes must focus on developing the facts of the incident, i.e., the who, what, where, when, why, and how of the matter. Opinions on the possible liability of the United States under any of the claims statutes listed above shall not be expressed. Early and continuous consultation with claims attorneys at Naval Legal Service Command activities is essential to ensure the timely development of all necessary facts, the identification and preservation of relevant evidence, and to void the need for supplemental inquiries.

(e) *Attorney work product.* (1) The convening order and the preliminary statement of an investigative report prepared to inquire into the facts of an incident giving or likely to give rise to a claim against the United States shall include the following:

> This investigation has been convened and conducted, and this report prepared, in contemplation of claims adjudication and litigation and for the express purpose of assisting attorneys representing the interests of the United States.

(2) When an investigation is prepared by or at the direction of an attorney representing the Department of the Navy and is prepared in reasonable anticipation of litigation, it is exempt from mandatory disclosure under the Freedom of Information Act exemption (b)(5) and is normally privileged from discovery in litigation under the attorney work product privilege. 5 U.S.C. 552(b)(5). Unless an attorney prepares the report or personally directs its preparation, the investigation may not be privileged, even if it was prepared in reasonable anticipation of litigation.

(f) *Advance copy.* An advance copy of any investigation conducted because a claim has been, or is likely to be, submitted shall be forwarded to the Naval Legal Service Command activity claims office responsible for the area where the incident giving rise to the claim occurred.

§ 750.3 Investigations: The report.

(a) *Purpose.* The purpose of investigations into claims incidents is to gather all relevant information about the incident so adjudicating officers can either pay or deny the claim. The essential task of the investigating officer is to answer the questions of who, what, where, when, why and how? The Navy's best interests are served when the investigation is thorough and is performed in a timely manner so the claimant can be advised promptly of the action on the claim.

(b) *Duties of the investigating officer.* It is the investigating officer's responsibility:

(1) To interview all witnesses to the incident and prepare summaries of their comments. Obtaining signed statements of Government witnesses is not necessary. Summaries of the witnesses' remarks prepared by the investigating officer are quite sufficient and generally expedite the gathering of information. On the other hand, written signed statements should be obtained from the claimant, wherever possible;

(2) To inspect the property alleged to have been damaged by the action of Government personnel;

(3) To determine the nature, extent, and amount of any damage, and to obtain pertinent repair bills or estimates and medical, hospital, and associated bills necessary to permit an evaluation of the claimant's loss;

(4) To obtain maintenance records of the Navy motor vehicle, plane, or other piece of equipment involved in the claim;

(5) To reduce to writing and incorporate into an appropriate investigative report all pertinent statements, summaries, exhibits, and other evidence considered by the investigator in arriving at his conclusions; and,

(6) To furnish claim forms to any person expressing an interest in filing a claim and to advise such personnel where they should file their claim.

(c) *Content of the report.* The written report of investigation shall contain information answering the questions mentioned in § 750.3(a) and, depending on the nature of the incident, will include the following:

(1) Date, time, and exact place the accident or incident occurred, specifying the highway, street, or road;

(2) A concise but complete statement of the incident with reference to physical facts observed and any statements by the personnel involved;

(3) Names, grades, organizations, and addresses of military personnel and civilian witnesses;

(4) Opinions as to whether military or civilian employees involved in the incident were acting within the scope of their duties at the time;

(5) Description of the Government property involved in the incident and the nature of any damage it sustained; and,

(6) Descriptions of all private property involved.

(d) *Immediate report of certain events.* The Navy or Marine Corps activity most directly involved in the incident shall notify the Judge Advocate General and the appropriate adjudicating authority immediately by message, electronic mail, or telephone in any of the following circumstances:

(1) Claims or possible claims arising out of a major disaster or out of an incident giving rise to five or more possible death or serious injury claims.

(2) Upon filing of a claim that could result in litigation that would involve a new precedent or point of law.

(3) Claims or possible claims that involve or are likely to involve an agency other than the Department of the Navy.

(e) *Request for assistance.* When an incident occurs at a place where the naval service does not have an installation or a unit conveniently located for conducting an investigation, the commanding officer or officer in charge with responsibility for performing the investigation may request assistance from the commanding officer or officer in charge of any other organization of the Department of Defense. Likewise, if a commanding officer or officer in charge of any other organization of the Department of Defense requests such assistance from a naval commanding officer or officer in charge, the latter should normally comply. If a complete investigation is requested it will be performed in compliance with the regulations of the requested service. These investigations are normally conducted without reimbursement for per diem, mileage, or other expenses incurred by the investigating unit or installation.

(f) *Report of Motor Vehicle Accident, Standard Form 91. RCS OPNAV 5100–6.* The operator of any Government motor vehicle involved in an accident of any sort shall be responsible for making an immediate report on the Operator's Report of Motor Vehicle Accident, Standard Form 91. This operator's report shall be made even though the operator of the other vehicle, or any other person involved, states that no claim will be filed, or the only vehicles involved are Government owned. An accident shall be reported by the operator regardless of who was injured, what property was damaged, or who was responsible. The operator's report shall be referred to the investigating officer, who shall be responsible for examining it for completeness and accuracy and who shall file it for future reference or for attachment to any subsequent investigative report of the accident.

(g) *Priority of the investigation.* To ensure prompt investigation of every incident while witnesses are available and before damage has been repaired, the duties of an investigating officer shall ordinarily have priority over any other assignments he may have.

(h) *Contents of the report of investigation.* The report should include the following items in addition to the requirements in § 750.3(c):

(1) If pertinent to the investigation, the investigating officer should obtain a statement from claimant's employer showing claimant's occupation, wage or salary, and time lost from work as a result of the incident. In case of personal injury, the investigating officer should ask claimant to submit a written statement from the attending physician

setting forth the nature and extent of injury and treatment, the duration and extent of any disability, the prognosis, and the period of hospitalization or incapacity.

(2) A Privacy Act statement for each person who was asked to furnish personal information shall be provided. Social Security numbers of military personnel and civilian employees of the U.S. Government should be included in the report but should be obtained from available records, not from the individual.

(3) Names, addresses, and ages of all civilians or military personnel injured or killed; names of insurance companies; information on the nature and extent of injuries, degree of permanent disability, prognosis, period of hospitalization, name and address of attending physician and hospital, and amount of medical, hospital, and burial expenses actually incurred; occupation and wage or salary of civilians injured or killed; and names, addresses, ages, relationship, and extent of dependency of survivors of any such person fatally injured should be included.

(4) If straying animals are involved, a statement as to whether the jurisdiction has an "open range law" and, if so, reference to such statute.

(5) A statement as to whether any person involved violated any State or Federal statute, local ordinance, or installation regulation and, if so, in what respect. The statute, ordinance, or regulation should be set out in full.

(6) A statement on whether a police investigation was made. A copy of the police report of investigation should be included if available.

(7) A statement on whether arrests were made or charges preferred, and the result of any trial or hearing in civil or military courts.

(i) *Expert opinions.* In appropriate cases the opinion of an expert may be required to evaluate the extent of damage to a potential claimant's property. In such cases the investigating officer should consult Navy-employed experts, experts employed by other departments of the U.S. Government, or civilian experts to obtain a competent assessment of claimant's damages or otherwise to protect the Government's interest. Any cost involved with obtaining the opinion of an expert not employed by the Navy shall be borne by the command conducting the investigation. Any cost involved in obtaining the opinion of a Navy-employed expert shall be borne by the command to which the expert is attached. Medical experts shall be employed only after consultation with the Chief, Bureau of Medicine and Surgery.

(j) *Action by command initiating the investigation and subsequent reviewing authorities.* (1) The command initiating the investigation in accordance with § 750.3 or § 750.5 shall review the report of investigation. If additional investigation is required or omissions or other deficiencies are noted, the investigation should be promptly returned with an endorsement indicating that a supplemental investigative report will be submitted. If the original or supplemental report is in order, it shall be forwarded by endorsement, with any pertinent comments and recommendations. An advance copy of the investigation shall be forwarded to the Naval Legal Service Command activity having territorial responsibility for the area where the incident giving rise to the claim occurred as indicated in § 750.34(c)(2)(ii).

(2) A reviewing authority may direct that additional investigation be conducted, if considered necessary. The initial investigation should not be returned for such additional investigation, but should be forwarded by an endorsement indicating that the supplemental material will be submitted. The report shall be endorsed and forwarded to the next-level authority with appropriate recommendations including an assessment of the responsibility for the incident and a recommendation as to the disposition of any claim that may subsequently be filed. If a reviewing authority may be an adjudicating authority for a claim subsequently filed, one copy of the report shall be retained by such authority for at least 2 years after the incident.

(3) It is essential that each investigative report reflect that a good faith effort was made to comply with the Privacy Act of 1974 (5 U.S.C. 552a) as implemented by 32 CFR part 701, subpart F. Any indication of noncompliance shall be explained either in the preliminary statement or the forwarding endorsements and, when required, corrected. The adjudicating Naval Legal Service Command activity listed in § 750.34(c)(2)(ii) has the responsibility to ensure that remedial action is taken to rectify noncompliance indicated in the investigative report prior to forwarding the report to the Judge Advocate General.

§ 750.4 Claims: In general.

(a) *Claims against the United States.* Claims against the United States shall receive prompt and professional disposition. Every effort will be made to ensure an investigation is thoroughly and accurately completed, the claimant's allegations evaluated promptly, and where liability is established, a check issued as quickly as possible to prevent further harm to a meritorious claimant. Similarly, claims not payble will be processed promptly and the claimant advised of the reasons for the denial.

(b) *Claims in favor of the United States.* Potential claims in favor of the United States will be critically evaluated and, where appropriate, promptly asserted and aggressively pursued.

(c) *Assistance to Claimants.* Claimants or potential claimants who inquire about their rights or the procedures to be followed in the resolution of their claims will be referred to a claims officer. The officer will provide claim forms, advise where the forms should be filed, and inform the requester of the type of subtantiating information required. Claims officers may provide advice on the claims process but shall not provide advice or opinions about the merits or the wisdom of filing a particular claim. While claims officers have a responsiblity to provide general information about claims, they must consider 18 U.S.C. 205 which makes it a crime for an officer or employee of the United States to act as an agent or an attorney in the prosecution of any claim against the United States.

§ 750.5 Claims: Proper claimants.

(a) *Damage to property cases.* A claim for damage to, or destruction or loss of, property shall be presented by the owner of the property or a duly authorized agent or legal representative. "Owner" includes a bailee, lessee, or mortgagor, but does not include a mortgagee, conditional vendor, or other person having title for security purposes only.

(b) *Personal injury and death cases.* A claim for personal injury shall be presented by the person injured or a duly authorized agent or legal representative, or, in the case of death, by the properly appointed legal representative of the deceased's estate or survivor where authorized by State law.

(c) *Subrogation.* A subrogor and a subrogee may file claims jointly or separately. When separate claims are filed and each claim individually is within local adjudicating authority limits, they may be processed locally, even if the aggregate of such claims exceeds local monetary jurisdiction, if they do not exceed the sum for which approval of the Department of Justice is required (currently, $100,000.00) under the Federal Tort Claims Act. Where they exceed this amount, they shall be referred to the Claims and Tort Litigation Division.

(d) *Limitation on transfers and assignment.* All transfers and assignments made of any claim upon the United States, and all powers of attorney, orders, or other authorities for receiving payment of any such claim, are absolutely null and void unless they are made after the allowance of such a claim, the ascertainment of the amount due, and the issuing of a warrant for the payment thereof. 31 U.S.C. 203. This statutory provision does not apply to the assignment of a claim by operation of law, as in the case of a receiver or trustee in bankruptcy appointed for an individual, firm, or corporation, or the case of an administrator or executor of the estate of a person deceased, or an insurer subrogated to the rights of the insured.

§ 750.6 Claims: Presentment.

(a) *Written demand and Standard Form 95.* A claim shall be submitted by presenting a written statement with the amount of the claim expressed in a sum certain, and, as far as possible, describing the detailed facts and circumstances surrounding the incident from which the claim arose. The Claim for Damage or Injury, Standard Form 95, shall be used whenever practical for claims under the Federal Tort and Military Claims Acts. Claims under the Personnel Claims Act shall be submitted on DD Form 1842. The claim and all other papers requiring the signature of the claimant shall be signed by the claimant personally or by a duly authorized agent. If signed by an agent or legal representative, the claim shall indicate the title or capacity of the person signing and be accompanied by evidence of appointment. When more than one person has a claim arising from the same incident, each person shall file a claim separately. A subrogor and a subrogee may file a claim jointly or separately.

(b) *To whom submitted.* Claims under the Federal Tort and Military Claims Acts shall be submitted to the commanding officer of the Navy or Marine Corps activity involved, if known. Otherwise, they shall be submitted to the commanding officer of any Navy or Marine Corps activity, preferably the one nearest to where the accident occurred, the local Naval Legal Service Command activity, or to the Judge Advocate General, 200 Stovall Street, Alexandria, VA 22332–2400.

§ 750.7 Claims: Action by receiving command.

(a) *Record date of receipt.* The first command receiving a claim shall stamp or mark the date of recipt on the letter or claim form. The envelope in which the claim was received shall be preserved.

(b) *Determine the military activity involved.* The receiving command shall determine the Navy or Marine Corps activity most directly involved with the claim—usually the command where the incident is alleged to have occurred—and forward a copy of the claim to that activity. The original claim (and the transmittal letter, if a copy is forwarded to a more appropriate activity) should immediately be sent to the servicing Naval Legal Service Command activity claims office.

(c) *Initiate an investigation.* An investigation under this part shall be commenced immediately by the command most directly involved with the claim. Once the investigation has been completed, an edvance copy shall be forwarded by the convening authority to the Naval Legal Service Command activity providing claims support. Waiting until endorsements have been obtained before providing a copy of the investigation to the cognizant claims adjudicating authority is neither required nor desirable. The facts of the incident must be made known to cognizant claims personnel as soon as possible.

§ 750.8 Claims: Responsibility of the adjudicating authority.

(a) *Reviewing prior actions.* The adjudicating authority determines whether an adequate investigation has been conducted, whether the initial receipt date is recorded on the face of the claim, and whether all holders of the investigation, if completed, are advised of the receipt of the claim.

(b) *Determining sufficiency of the claim.* The claim should be reviewed and a determination of its sufficiency made. If the claim is not sufficient as received, it shall be returned to the party who submitted it along with an explanation of the insufficiency. This does not constitute denial of the claim. The claim shall not be considered "presented" until it is received in proper form.

(c) *Adjudicating the claim.* (1) The adjudicating authority shall evaluate and either approve or disapprove all claims within its authority, except where the payment of multiple Federal Torts Claims Act claims arising from the same incident will exceed $100,000.00 in the aggregate and thereby require approval of the Department of Justice. In this latter instance, the claims and the investigative report shall be forwarded to the Judge Advocate General for action.

(2) The adjudicating authority shall evaluate and, where liability is established, attempt to settle claims for amounts within its adjudicating authority. Permission of higher authority to conduct settlement negotiations to effect such settlements is not necessary. Negotiation at settlement figures above the adjudicating authority's payment limits may be attempted if the claimant is informed that the final decision on the claim will be made at a higher level.

(3) If a claim cannot be approved, settled, compromised, or denied within the adjudicating authority limits established in this instruction, the claim shall be referred promptly to the Judge Advocate General. The following materials shall be forwarded with the claim:

(i) An official endorsement or letter of transmittal containing a recommendation on resolution of the claim.

(ii) A memorandum of law containing a review of applicable law, an evaluation of liability, and recommendation on the settlement value of the case. This memorandum should concentrate on the unusual aspects of applicable law, chronicle the attempts to resolve the claim at the local level, provide information about the availability of witnesses, and outline any other information material to a resolution of the claim, i.e. prior dealings with the claimant's attorney, local procedural rules, or peculiarities that may make trial difficult. The memorandum should not repeat information readily obtained from the investigative report and should be tailored to the complexity of the issues presented. An abbreviated memorandum should be submitted if the claim is statutorily barred because of the statute of limitations or Federal Employees' Compensation Act or otherwise barred because of the *Feres* doctrine.

(iii) The original investigative report and all allied papers.

(iv) The original claim filed by the claimant (and the envelope in which it arrived, if preserved). The adjudicating authority shall retain at least one copy of all papers forwarded to the Judge Advocate General under this section.

(d) *Preparing litigation reports.* A litigation report is prepared when a lawsuit is filed and a complaint received. The report is addressed to the Department of Justice official or the U.S. Attorney having cognizance of the matter. The report is a narrative summary of the facts upon which the suit is based and has as enclosures the claims file and a memorandum of law on the issues presented.

(1) When the claim has been forwarded to the Judge Advocate General prior to the initiation of a suit, litigation reports originate in the Claims and Tort Litigation Division of the Office of the Judge Advocate General.

(2) When, however, the claim has not been forwarded and is still under the cognizance of the Naval Legal Service Command claims office, that command will ordinarily be required to prepare and forward the litigation report to the requesting organization. In this instance, the litigation report should be sent directly to the cognizant Department of Justice official or U.S. Attorney with a copy of the report and all enclosures to the Judge Advocate General.

§ 750.9 Claims: Payments.

Claims approved for payment shall be expeditiously forwarded to the disbursing office or the General Accounting Office depending on the claims act involved and the amount of the requested payment. Generally, payment of a Federal tort claim above $2,500.00 requires submission of the payment voucher to the General Accounting Office. All other field authorized payment vouchers are submitted directly to the servicing disbursing office for payment.

§ 750.10 Claims: Settlement and release.

(a) *Fully and partially approved claims.* When a claim is approved for payment in the amount claimed, no settlement agreement is necessary. When a federal tort, military, or non-scope claim is approved for payment in a lesser amount than that claimed, the claimant must indicate in writing a willingness to accept the offered amount in full settlement and final satisfaction of the claim. In the latter instance, no payment will be made until a signed settlement agreement has been received.

(b) *Release.* (1) Acceptance by the claimant of an award or settlement made by the Secretary of the Navy or designees, or the Attorney General or designees, is final upon acceptance by the claimant. Acceptance is a complete release by claimant of any claim against the United States by reason of the same subject manner. Claimant's acceptance of an advance payment does not have the same effect.

(2) The claimant's acceptance of an award or settlement made under the provisions governing the administrative settlement of Federal tort claims or the civil action provisions of 28 U.S.C. 1346(b) also constitutes a complete release of any claim against any employee of the Government whose act or omission gave rise to the claim.

§ 750.11 Claims: Denial.

A final denial of any claim within this chapter shall be in writing and sent to the claimant, his attorney, or legal representative by certified or registered mail with return receipt requested. The denial notification shall include a statement of the reason or reasons for the denial. The notification shall include a statement that the claimant may:

(a) If the claim is cognizable under the Federal Tort Claims Act, file suit in the appropriate United States District Court within 6 months of the date of the denial notification.

(b) If the claim is cognizable under the Military Claims Act, appeal in writing to the Secretary of the Navy within 30 days of the receipt of the denial notification. The notice of denial shall inform the claimant or his representative that suit is not possible under the Act.

§ 750.12 Claims: Action when suit filed..

(a) *Action required of any Navy official receiving notice of suit.* The commencement, under the civil action provisions of the Federal Tort Claims Act (28 U.S.C. 1346(b)), of any action against the United States and involving the Navy, that comes to the attention of any official in connection with his official duties, shall be reported immediately to the commanding officer of the servicing Naval Legal Service Command activity who shall take any necessary action and provide prompt notification to the Judge Advocate General. The commencement of a civil action against an employee of the Navy for actions arising from the performance of official duties shall be reported in the same manner.

(b) *Steps upon commencement of civil action.* Upon receipt by the Judge Advocate General of notice from the Department of Justice or other source that a civil action involving the Navy has been initiated under the civil action provisions of the Federal Tort Claims Act, and there being no investigative report available at the headquarters, a request shall be made to the commanding officer of the appropriate Naval Legal Service Command activity for an investigative report into the incident. If there is not a completed investigation, the request shall be forwarded to the appropriate naval activity to convene and complete such a report. The commanding officer of the Naval Legal Service Command activity shall determine whether an administrative claim had been filed and, if available information indicates none had, advise the Office of the Judge Advocate General (Claims and Tort Litigation Division) immediately.

§ 750.13 Claims: Single service responsibility.

(a) The Department of Defense has assigned single-service responsibility for processing claims in foreign countries under the following acts. The service and country assignments are in DODDIR 5515.8 of 9 June 1990.[1]

(1) Foreign Claims Act (10 U.S.C. 2734);

(2) Military Claims Act (10 U.S.C. 2733);

(3) International Agreements Claims Act (10 U.S.C. 2734a and b), on the pro-rata cost sharing of claims pursuant to international agreement;

(4) NATO Status of Forces Agreement (4 UST 1792, TIAS 2846) and other similar agreements;

(5) Medical Care Recovery Act (42 U.S.C. 2651–2653) claims for reimbursement for medical care furnished by the United States;

(6) Nonscope Claims Act (10 U.S.C. 2737), claims not cognizable under any other provision of law;

(7) Federal Claims Collection Act of 1966 (31 U.S.C. 3701); the Act of June 1921 (31 U.S.C. 3702), claims and demands by the U.S. Government; and

(8) Public Law 87–212 (10 U.S.C. 2736), advance or emergency payments.

(b) Single service assignments for processing claims mentioned above are as follows:

(1) *Department of the Army*: Austria, Belgium, El Salvador, France, the Federal Republic of Germany, Grenada, Honduras, Korea, the Marshall Islands, and Switzerland and as the Receiving State Office in the United States under 10 U.S.C. 2734a and 2734b and the NATO Status of Forces Agreement, and other Status of Forces Agreements with countries not covered by the NATO agreement.

(2) *Department of the Navy*: Bahrain, Iceland, Israel, Italy, Portugal, and Tunisia.

(3) *Department of the Air Force:* Australia, Azores, Canada, Cyprus, Denmark, Greece, India, Japan, Luxembourg, Morocco, Nepal, Netherlands, Norway, Pakistan, Saudi Arabia, Spain, Turkey, the United Kingdom, Egypt, Oman, and claims involving, or generated by, the U.S. Central Command (CENTCOM) and the U.S. Special Operations Command (USSOC), that arise in countries not specifically assigned to the Departments of the Army and the Navy.

(c) *U.S. forces afloat cases under $2,500.00.* Notwithstanding the single service assignments above, the Navy may settle claims under $2,500.00 caused by personnel not acting within the scope of employment and arising in foreign ports visited by U.S. forces afloat and may, subject to the concurrence of the authorities of the receiving state concerned, process such claims.

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[1] Copies may be obtained if needed, from Commanding Officer, U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120.

§§ 750.14–750.20 [Reserved]

Subpart B—Federal Tort Claims Act

§ 750.21 Scope of subpart B.

This subpart provides information regarding the administrative processing and consideration of claims against the United States under the FTCA. The FTCA is a limited waiver of sovereign immunity. Under the FTCA, an individual can seek money damages for personal injury, death, or property damage caused by the negligent or wrongful act or omission of a Federal employee acting within the scope of employment. The FTCA also provides for compensation for injuries caused by certain intentional, wrongful conduct. The liability of the United States is determined in accordance with the law of the State where the act or omission occured.

§ 750.22 Exclusiveness of remedy.

(a) The Federal Employees Liability Reform and Tort Compensation Act of 1988, Public Law 100–694 (amending 28 U.S.C. 2679(b) and 2679(d)), provides that the exclusive remedy for damage or loss of property, or personal injury or death arising from the negligent or wrongful acts or omissions of all Federal employees, acting within the scope of their employment, will be against the United States. This immunity from personal liability does not extend to allegations of constitutional torts, nor to allegations of violations of statutes specifically authorizing suits against individuals.

(b) Other statutory provisions create immunity from personal liability for specific categories of Federal employees whose conduct, within the scope of their employment, gives rise to claims against the Government. Department of Defense health care providers are specifically protected by 10 U.S.C. 1089, the Gonzalez Act. DOD attorneys are specifically protected by 10 U.S.C. 1054.

§ 750.23 Definitions.

(a) *Negligent conduct.* Generally, negligence is the failure to exercise that degree of care, skill, or diligence a reasonable person would exercise under similar circumstances. Negligent conduct can result from either an act or a failure to act. The law of the place where the conduct occurred will determine whether a cause of action lies against the Government. 28 U.S.C. 1346(b) and 2674.

(b) *Intentional torts.* Although any employee who commits an intentional tort is normally considered to be acting outside the scope of employment, the FTCA does allow claimants to seek compensation for injuries arising out of the intentional torts of assault, battery, false imprisonment, false arrest, abuse of process, and malicious prosecution, if committed by a Federal investigative or law enforcement officer. An "investigative or law enforcement officer" is any officer of the United States empowered by law to execute searches, to seize evidence, or to make arrests for violations of Federal law. 28 U.S.C. 2680(h).

(c) *Government employees*—(1) *General* . "Employee of the Government," defined at 28 U.S.C. 2671, includes officers or employees of any Federal agency, members of the U.S. military or naval forces, and persons acting on behalf of a Federal agency in an official capacity.

(2) *Government contractors* Government (also referred to as independent) contractors, are those individuals or businesses who enter into contracts with the United States to provide goods or services. Because the definition of "Federal agency," found at 28 U.S.C. 2671, specifically excludes "any contractor with the United States," the United States is generally not liable for the negligence of Government contractors. There are, however, three limited exceptions to the general rule, under which a cause of action against the United States has been found to exist in some jurisdictions. They are:

(i) Where the thing or service contracted for is deemed to be an "inherently dangerous activity";

(ii) where a nondelegable duty in the employer has been created by law; or,

(iii) where the employer retains control over certain aspects of the contract and fails to discharge that control in a reasonable manner.

(3) *Employees of nonappropriated-fund activities.* Nonappropriated-fund activities are entities established and operated for the benefit of military members and their dependents, and have been judicially determined to be "arms" of the Federal government. These entities operate from self-generated funds, rather than from funds appropriated by Congress. Examples include Navy and Marine Corps Exchanges, officer or enlisted clubs, and recreational services activities. A claim arising out of the act or omission of an employee of a nonappropriated-fund activity not located in a foreign country, acting within the scope of employment, is an act or omission committed by a Federal employee and will be handled in accordance with the FTCA.

(d) *Scope of employment.* "Scope of employment" is defined by the law of respondeat superior (master and servant) of the place where the act or omission occurred. Although 28 U.S.C. 2671 states that acting within the scope of employment means acting in the line of duty, the converse is not always true. For administrative purposes, a Government employee may be found "in the line of duty," yet not meet the criteria for a finding of "within the scope of employment" under the law of the place where the act or omission occurred.

§ 750.24 Statutory/regulatory authority.

The statutory provisions of the Federal Tort Claims Act (FTCA) are at 28 U.S.C. 1346(b), 2671–2672, and 2674–2680. The Attorney General of the United States has issued regulations on administrative claims filed under the FTCA at 28 CFR part 14. If the provisions of this section and the Attorney General's regulations conflict, the Attorney General's regulations prevail.

§ 750.25 Scope of liability.

(a) *Territorial limitations.* The FTCA does not apply to any claim arising in a foreign country. 28 U.S.C. 2680(k) and *Beattie* v. *United States*, 756 F.2d 91 (D.C. Cir. 1984).

(b) *Exclusions from liability.* Statutes and case law have established categories of exclusions from FTCA liability.

(1) *Statutory exclusions.* Section 2680 of Title 28 lists claims not cognizable under the FTCA. They include:

(i) Claims based on the exercise or performance of, or the failure to exercise or perform, a discretionary Government function;

(ii) Admiralty claims under 46 U.S.C. 741–752 or 781–790. Claims under the Death on the High Seas Act (46 U.S.C. 761), however, are cognizable under the FTCA. All admiralty claims will be referred to the Judge Advocate General for adjudication. Admiralty claims against the Navy shall be processed under part 752 of this Chapter;

(iii) Claims arising from intentional torts, except those referred to in § 750.23(b);

(iv) Claims arising from the combat activities of the military or naval forces, or the Coast Guard, during time of war.

(2) *Additional claims not payable.* Although not expressly statutorily excepted, the following types of claims shall not be paid under the FTCA:

(i) A claim for personal injury or death of a member of the armed forces of the United States incurred incident to military service or duty. Compare *United States* v. *Johnson,* 481 U.S. 681 (1987); *Feres* v. *United States,* 340 U.S. 135 (1950) with *Brooks* v. *United States,* 337 U.S. 49 (1949);

(ii) Any claim by military personnel or civilian employees of the Navy, paid from appropriated funds, for personal property damage occurring incident to service or Federal employment, cognizable under 31 U.S.C. 3721 and the applicable Personnel Claims Regulations, 32 CFR part 751;

(iii) Any claim by employees of nonappropriated-fund activities for personal property damage occurring incident to Federal employment. These claims will be processed as indicated in 32 CFR part 756;

(iv) Any claim for personal injury or death covered by the Federal Employees' Compensation Act (5 U.S.C. 8116c);

(v) Any claim for personal injury or death covered by the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 905 and 5 U.S.C. 8171);

(vi) That portion of any claim for personal injury or property damage, caused by the negligence or fault of a Government contractor, to the extent such contractor may have assumed liability under the terms of the contract (see *United States* v. *Seckinger,* 397 U.S. 203 (1969) and § 750.23(c)(2);

(vii) Any claim against the Department of the Navy by another Federal agency. Property belonging to the Government is not owned by any one department of the Government. The Government does not reimburse itself for the loss of its own property except where specifically provided for by law; and

(viii) Any claim for damage to a vehicle rented pursuant to travel orders.

§ 750.26 The administrative claim.

(a) *Proper claimant.* See § 750.5 of this part.

(b) *Claim presented by agent or legal representative.* A claim filed by an agent or legal representative will be filed in the name of the claimant; be signed by the agent or legal representative; show the title or legal capacity of the person signing; and be accompanied by evidence of the individual's authority to file a claim on behalf of the claimant.

(c) *Proper claim.* A claim is a notice in writing to the appropriate Federal agency of an incident giving rise to Government liability under the FTCA. It must include a demand for money damages in a definite sum for property damage, personal injury, or death alleged to have occurred by reason of the incident. The Attorney General's regulations specify that the claim be filed on a Standard Form 95 or other written notification of the incident. If a letter or other written notification is used, it is essential that it set forth the same basic information required by Standard Form 95. Failure to do so may result in a determination that the administrative claim is incomplete. A suit may be dismissed on the ground of lack of subject matter jurisdiction based on claimant's failure to present a proper claim as required by 28 U.S.C. 2675(a).

(d) *Presentment.* A claim is deemed presented when received by the Navy in proper form. A claim against another agency, mistakenly addressed to or filed with the Navy shall be transferred to the appropriate agency, if ascertainable, or returned to the claimant. A claimant presenting identical claims with more than one agency should identify every agency to which the claim is submitted on every claim form presented. Claims officers shall coordinate with all other affected agencies and ensure a lead agency is designated. 28 CFR 14.2.

§ 750.27 Information and supporting documentation.

(a) *Proper documentation.* Depending on the type of claim, claimants may be required to submit information, as follows:

(1) *Death.* (i) An authenticated death certificate or other competent evidence showing cause of death, date of death, and age of the decedent;

(ii) Decedent's employment or occupation at time of death, including monthly or yearly earnings and the duration of last employment;

(iii) Full names, addresses, birth dates, relationship, and marital status of the decedent's survivors, including identification of survivors dependent for support upon decedent at the time of death;

(iv) Degree of support provided by decedent to each survivor at time of death;

(v) Decedent's general physical and mental condition before death;

(vi) Itemized bills for medical and burial expenses;

(vii) If damages for pain and suffering are claimed, a physician's detailed statement specifying the injuries suffered, duration of pain and suffering, any drugs administered for pain, and the decedent's physical condition during the interval between injury and death; and,

(viii) Any other evidence or information which may affect the liability of the United States.

(2) *Personal injury.* (i) A written report by attending physician or dentist on the nature and extent of the injury, nature and extent of treatment, any degree of temporary or permanent disability, the prognosis, period of hospitalization, any any diminished earning capacity. In addition, the claimant may be required to submit to a physical or mental examination by a physician employed by any Federal agency. Upon written request, a copy of the report of the examining physician shall be provided;

(ii) Itemized bills for medical, dental, and hospital expenses incurred, or itemized receipts of payments of such expenses;

(iii) A statement of expected expenses for future treatment;

(iv) If a claim is made for lost wages, a written statement from the employer itemizing actual time and wages lost;

(v) If a claim is made for lost self-employed income, documentary evidence showing the amount of earnings actually lost; and

(vi) Any other evidence or information which may affect the liability of the United States for the personal injury or the damages claimed.

(3) *Property damage.* (i) Proof of ownership;

(ii) A detailed statement of the amount claimed for each item of property;

(iii) An itemized receipt of payment for necessary repairs or itemized written estimates of the cost of repairs;

(iv) A statement listing date of purchase, purchase price, and salvage value where repair is not economical; and

(v) Any other evidence or information which may affect the liability of the United States for the property damage claimed.

(b) *Failure to submit necessary documentation.* If claimant fails to provide sufficient supporting documentation, claimant should be notified of the deficiency. If after notice of the deficiency, including reference to 28 CFR 14.4, the information is still not supplied, two follow-up requests should be sent by certified mail, return receipt requested. If after a reasonable period of time the information is still not provided, the appropriate adjudicating authority should deny the claim.

§ 750.28 Amendment of the claim.

A proper claim may be amended at any time prior to settlement, denial, or the filing of suit. An amendment must be submitted in writing and must be signed by the claimant or duly authorized agent or legal representative. No finally denied claim for which reconsideration has not been requested under § 750.31 may be amended.

§ 750.29 Investigation and examination.

Subpart A of this part requires an investigation for every incident that may result in a claim against or in favor of the United States. Where a previously unanticipated claim is filed against the Government and an investigation has not already been conducted, the appropriate claims officer shall immediately request an investigation. See subpart A of this part for specific action required by an adjudicating authority.

§ 750.30 Denial of the claim.

Final denial of an administrative claim shall be in writing and shall be sent to the claimant, his duly authorized agent or legal representative by certified or registered mail, with return receipt requested. The notification of final denial shall include the reasons for the denial. The notification shall include a statement informing the claimant of his right to file suit in the appropriate Federal district court not later than 6 months after the date of the mailing of the notification. 28 CFR 14.9(a).

§ 750.31 Reconsideration.

(a) *Request.* Prior to the commencement of suit and prior to the expiration of the 6-month period for filing suit, a claimant or his duly authorized agent or legal representative may present a request for reconsideration to the authority who denied the claim. The request shall be in writing and shall state the reasons for the requested reconsideration. A request for reconsideration is presented on the date it is received by the DON. 28 CFR 14.9(b).

(b) *Proper basis.* A request for reconsideration shall set forth claimant's reasons for the request, and shall include any supplemental supporting evidence or information. Any writing communicating a desire for reconsideration that reasonably appears to have been presented solely for the purpose of extending the statutory period for filing suit, shall not be treated as a request for reconsideration. Claimant or claimant's authorized representative shall be notified promptly that the writing is not considered a proper request for reconsideration.

(c) *Effect of presentment of request.* The presentment of a proper request for reconsideration starts a new 6-month period for the DON to act on the request to reconsider. The claimant may not file suit until the expiration of the new 6-month period, or until after the date of mailing of the final denial of the request. Final denial of a request for reconsideration shall be accomplished in the manner prescribed in § 750.30. 28 CFR 14.9(b).

§ 750.32 Suits under the Federal Tort Claims Act (FTCA).

(a) *Venue.* Venue is proper only in the judicial district where the plaintiff resides or where the act or omission complained of occurred. 28 U.S.C. 1402.

(b) *Jury trial.* There is no right to trial by jury in suits brought under the FTCA. 28 U.S.C. 2402.

(c) *Settlement.* The Attorney General of the United States, or designee, may arbitrate, compromise, or settle any action filed under the FTCA. 28 U.S.C. 2677.

(d) *Litigation support*—(1) *Who provides.* The adjudicating authority holding a claim at the time suit is filed shall be responsible for providing necessary assistance to the Department of Justice official or U.S. Attorney responsible for defending the Government's interests.

(2) *Litigation report.* A litigation report, including a legal memorandum emphasizing anticipated issues during litigation, shall be furnished to the appropriate Department of Justice official or U.S. Attorney.

(3) *Pretrial discovery.* Complete and timely responses to discovery requests are vital to the effective defense of tort litigation. Subject to existing personnel and resources available, appropriate assistance shall be provided. The Judge Advocate General should be notified promptly when special problems are encountered in providing the requested assistance.

(4) *Preservation of evidence.* Tort litigation is often accomplished over an extended period of time. Every effort shall be made to preserve files, documents, and other tangible evidence that may bear on litigation. Destruction of such evidence, even in accordance with routine operating procedures, undermines defense of a case.

§ 750.33 Damages.

(a) *Generally.* The measure of damages is determined by the law of the place where the act or omission occurred. When there is a conflict between local and applicable Federal law, the latter governs. 28 U.S.C. 1346(b).

(b) *Limitations on liability.* The United States is not liable for interest prior to judgment or for punitive damages. In a death case, if the place where the act or omission complained of occurred provides for only punitive damages, the United States will be liable in lieu thereof, for actual or compensatory damages. 28 U.S.C. 2674.

(c) *Setoff.* The United States is not obligated to pay twice for the same injury. Claimants under the FTCA may have received Government benefits or services as the result of the alleged tort. The cost of these services or benefits shall be considered in arriving at any award of damages. For example, the cost of medical or hospital services furnished at Government expense, including CHAMPUS payments, shall be considered. Additionally, benefits or services received under the Veterans Act (38 U.S.C. 101–800) must be considered. *Brooks* v. *United States,* 337 U.S. 49 (1949).

(d) *Suit.* Any damage award in a suit brought under the FTCA is limited to the amount claimed administratively unless based on newly discovered evidence. 28 U.S.C. 2675(b). Plaintiff must prove the increased demand is based on facts not reasonably discoverable at the time of the presentment of the claim or on intervening facts relating to the amount of the claim.

§ 750.34 Settlement and Payment.

(a) *Settlement agreement*—(1) *When required.* A settlement agreement, signed by the claimant, must be received prior to payment in every case in which the claim is either:

(i) Settled for less than the full amount claimed, or

(ii) The claim was not presented on a Standard Form 95.

(2) *Contents.* Every settlement agreement must contain language indicating payment is in full and final settlement of the applicable claim. Each settlement agreement shall contain language indicating acceptance of the settlement amount by the claimant, or his agent or legal representative, shall be final and conclusive on the claimant, or his agent or legal representative, and any other person on whose behalf or for whose benefit the claim has been presented, and shall constitute a complete release of any claim against the United States and against any employee of the Government whose conduct gave rise to the claim, by reason of the same subject matter. 28 CFR 14.10(b). In cases where partial payment will benefit both claimant and the Government, such as payment for property damage to an automobile, the

settlement agreement shall be tailored to reflect the terms of the partial settlement. All settlement agreements shall contain a recitation of the applicable statutory limitation of attorneys fees. 28 U.S.C. 2678.

(b) *DON role in settlement negotiations involving the U.S. Attorney or DOJ.* Agency concurrence is generally sought by the Department of Justice or U.S. Attorney's office prior to settlement of suits involving the DON. Requests for concurrence in settlement proposals shall be referred to the appropriate DON adjudicating authority with primary responsibility for monitoring the claim. Adjudicating authorities shall consult with the Judge Advocate General concerning proposed settlements beyond their adjudicating authority.

(c) *Payment of the claim*—(1) *Statutory authority.* Pursuant to 28 U.S.C. 2672 and in accordance with 28 CFR 14.6(a), the Secretary of the Navy or designee, acting on behalf of the United States, may compromise or settle any claim filed against the Navy under the FTCA, provided any award, compromise, or settlement by the Navy in excess of $100,000.00 may be effected only with the prior written approval of the Attorney General or designee. Title 28 CFR 14.6 requires consultation with the Department of Justice prior to compromise or settlement of a claim in any amount when:

(i) A new precedent or a new point of law is involved;

(ii) A question of policy is or may be involved;

(iii) The United States is or may be entitled to indemnity or contribution from a third party and the agency is unable to adjust the third party claim;

(iv) The compromise of a particular claim, as a practical matter, will or may control the disposition of a related claim in which the amount to be paid may exceed $100,000.00; or

(v) The DON is informed or is otherwise aware that the United States or an employee, agent, or cost-plus contractor of the United States is involved in litigation based on a claim arising out of the same incident or transaction.

(2) *Specific delegation and designation.*—(i) *Payment authority.*

Delegated and designated authority	Federal Tort Claims Act
Judge Advocate General	Unlimited.
Deputy Judge Advocate General	Unlimited.
Assistant Judge Advocate General (General Law).	Unlimited
Deputy Assistant Judge Advocate General (Claims and Tort Litigation) and Deputy Division Director.	$100,000.00
Head, Federal Tort Claims Branch, Claims and Tort Division, OJAG.	$50,000.00
Commanding Officers of Naval Legal Service Offices; Officers in Charge of Naval Legal Service Office Detachments when Specifically Designated by Cognizant Commanding Officers of Naval Legal Service Offices.	$25,000.00

Any payment of over $100,000.00 must be approved by the Department of Justice. In addition, the authority to deny Federal Tort Claims is double the Federal Tort Claims Act approval authority shown above. The Judge Advocate General, the Deputy Judge Advocate General, the Assistant Judge Advocate General (General Law), and the Deputy Assistant Judge Advocate General (Claims and Tort Litigation) may deny Federal Tort Claims in any amount.

(ii) *Territorial responsibility.*

Responsible command	Territory
NAVLEGSVCOFF Newport	Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, and Connecticut.
NAVLEGSVCOFF Philadelphia	Pennsylvania, New Jersey, Ohio, and New York.
NAVLEGSVCOFF Washington, DC.	Maryland, the District of Columbia, and Northern Virginia area (zip 220–223).
NAVLEGSVCOFF Norfolk	Virginia (less Northern Virginia area—zip 220–223), and West Virginia, North Carolina (counties of Currituck, Camden, Pasquotonk, Gates, Perquimans, Chowan, Dare, Tyrrell, Washington, Hyde, Beaufort, Pamlico, Craven, Jones, Carteret, and Onslow only), Bermuda, Iceland, Greenland, Azores, The Caribbean, The Republics of Guatemala, El Salvador, Honduras, Nicaragua, Costa Rica, and Panama, Belize, Colombia, Venezuela, Guyana, French Guiana, Surinam, Brazil, Bolivia, Paraguay, Uruguay, Argentina, and all Atlantic and Arctic Ocean areas and islands not otherwise assigned.
NAVLEGSVCOFF Charleston	North Carolina (less counties of Currituck, Camden, Pasquotonk, Gates, Perquimans, Chowan, Dare, Tyrrell, Washington, Hyde, Beaufort, Pamlico, Craven, Jones, Carteret, Onslow), and Georgia (less Counties of Charlton, Camden, and Glynn).
NAVLEGSVCOFF Jacksonville	That portion of Florida east of the western boundaries of Gadsen, Liberty, and Franklin Counties and Georgia (counties of Charlton, Camden, and Glynn).
NAVLEGSVCOFF Pensacola	Florida [Pensacola/Panama City area (zip 324–325)], Alabama, Louisiana and Mississippi (that portion south of Washington, Humphreys, Holmes, Attala, Winston, and Noxubee Counties, and that portion of the Gulf of Mexico East of longitude 90 W).
NAVLEGSVCOFF Memphis	Missouri, Tennessee, Kentucky, Arkansas, and that portion of Mississippi north of the southern boundaries of Washington, Humphreys, Holmes, Attala, Winston, and Noxubee Counties.
NAVLEGSVCOFF Great Lakes	North Dakota, South Dakota, Nebraska, Minnesota, Michigan, Iowa, Wisconsin, Illinois, and Indiana.
NAVLEGSVCOFF Corpus Christi	Texas.
NAVLEGSVCOFF San Diego	California (Imperial County, San Diego County, and that area included in Marine Corps Base, Camp Pendleton extending into Orange County, only), that portion of Mexico including and West of the States of Chihuahua, Durango, Nayarit, Jalisoc, and Colima, Pacific Ocean areas and islands South of Latitude 45N and East of Longitude 135W, Ecuador, Peru, Chile, Arizona, New Mexico, Oklahoma, and Nevada (Clark County only).
NAVLEGSVCOFF Long Beach	That portion of California in Kern, Santa Barbara, Ventura, Los Angeles and Orange Counties (excluding Marine Corps Base, Camp Pendleton), Riverside, San Bernadino, and the China Lake Naval Weapons Station Center.
NAVLEGSVCOFF San Francisco.	Northern California (Counties of San Luis Obispo, Kings, Tulare, Inyo, and all counties North thereof), Colorado, Nevada (less Clark County), Utah, and Kansas.
NAVLEGSVCOFF Puget Sound	Washington, Oregon, Idaho, Montanta, Wyoming, and Alaska.
NAVLEGSVCOFF Pearl Harbor	Hawaii, including Midway and Pacific Island possessions serviced from Hawaii.
NAVLEGSVCOFF Mayport	Claims involving commands located at Naval Station, Mayport, Florida.
NAVLEGSVCOFF Guam	Guam, The Trust Territory of The Pacific Islands, The Republic of The Marshall Island, The Federated States of Micronesia and The Commonwealth of The Northern Marianas.
NAVLEGSVCOFF Yokosuka	Japan, Okinawa, Korea, that portion of the Eurasian Continent North of latitude 30N and East of longitude 60E, and those Pacific and Arctic Ocean areas and islands North of latitude 30N that are East of longitude 60E and West of longitude 170w.
NAVLEGSVCOFF Naples	Europe, the African Continent (excluding that portion thereof assigned to NLSO Subic Bay), the Eurasian Continent (excluding that portion thereof assigned to NLSO Yokosuka and NLSO Subic Bay), and the Mediterranean.
NAVLEGSVCOFF Subic Bay	Philippines, Hong Kong, Singapore, Diego Garcia, and unless otherwise specified, all Pacific and Indian Ocean areas and islands located between longitude 135E and longitude 15E; Ethiopia, Somalia, Kenya, Tanzania, Mozambique, Swaziland, Lesotho, and South Africa; that portion of the Eurasian Continent South of latitude 30N and East of longitude 60E.

(3) *Funding.* Claims approved for $2,500.00 or less are paid from DON appropriations. Claims approved in excess of $2,500.00 are paid from the judgment fund and must be forwarded to the United States General Accounting Office (GAO) for payment. 28 CFR 14.10(a). Claims arising out of the operation of nonappropriated-fund activities and approved for payment shall be forwarded to the appropriate nonappropriated-fund activity for payment.

§ 750.35 Attorney's fees.

Attorney's fees are limited to 20 percent of any compromise or settlement of an administrative claim, and are limited to 25 percent of any judgment rendered in favor of a plaintiff, or of any settlement accomplished after suit is filed. These amounts are to be paid out of the amount awarded and not in addition to the award. 28 U.S.C. 2678.

§ 750.36 Time limitations.

(a) *Administrative claim.* Every claim filed against the United States under the FTCA must be presented in writing within 2 years after the claim accrues. 28 U.S.C. 2401(b). Federal law determines the date of accrual. A claim accrues when the claimant discovers or reasonably should have discovered the existence of the act giving rise to the claim. In computing the statutory time period, the day of the incident is excluded and the day the claim was presented included.

(b) *Amendments.* Upon timely filing of an amendment to a pending claim, the DON shall have 6 months to make a final disposition of the claim as amended, and the claimant's option to file suit under 28 U.S.C. 2675(a) shall not accrue until 6 months after the presentment of an amendment. 28 CFR 14.2(c).

(c) *Suits.* A civil action is barred unless suit is filed against the United States not later than 6 months after the date of mailing of notice of final denial of the claim. 28 U.S.C. 2401(b). The failure of the DON to make final disposition of a claim within 6 months after it is presented shall, at the option of the claimant any time thereafter, be deemed a final denial of the claim. 28 U.S.C. 2675(a).

§§ 750.37–750.40 [Reserved]

Subpart C—Military Claims Act

§ 750.41 Scope of subpart C.

This section prescribes the substantive bases and special procedural requirements for the settlement of claims against the United States for death, personal injury, or damage, loss, or destruction of property:

(a) *Caused by military personnel or civilian employees of the Department of the Navy (DON) (hereinafter DON personnel).* For the purposes of this section, DON personnel include all military personnel of the Navy and Marine Corps, volunteer workers, and others serving as employees of the DON with or without compensation, and members of the National Oceanic and Atmospheric Administration or of the Public Health Service when serving with the DON. DON personnel does not include DON contractors or their employees.

(b) *Incident to noncombat activities of the DON.* Claims for personal injury or death of a member of the Armed Forces or Coast Guard, or civilian officer or employee of the U.S. Government whose injury or death is incident to service, however, are not payable.

(c) *Territorial limitation.* There is no geographical limitation on the application of the MCA, but if a claim arising in a foreign country is cognizable under the Foreign Claims Act (10 U.S.C. 2734), the claim shall be processed under that statute. See 10 U.S.C. 2733(b)(2).

(d) *Suit.* The MCA authorizes the administrative settlement and payment of certain claims. The United States has not consented to be sued.

§ 750.42 Statutory authority.

10 U.S.C. 2733, as amended, commonly referred to as the Military Claims Act (MCA).

§ 750.43 Claims payable.

(a) *General.* Unless otherwise prescribed, a claim for personal injury, death, or damage or loss of real or personal property is payable under this provision when:

(1) Caused by an act or omission determined to be negligent, wrongful, or otherwise involving fault of DON personnel acting within the scope of their employment; or

(2) Incident to noncombat activities of the DON. A claim may be settled under this provision if it arises from authorized activities essentially military in nature, having little parallel in civilian pursuits, and in which the U.S. Government has historically assumed a broad liability, even if not shown to have been caused by any particular act or omission by DON personnel while acting within the scope of their employment. Examples include practice firing of missiles and weapons, sonic booms, training and field exercises, and maneuvers that include operation of aircraft and vehicles, use and occupancy of real estate, and movement of combat or other vehicles designed especially for military use. Activities incident to combat, whether or not in time of war, and use of DON personnel during civil disturbances are excluded.

(b) *Specific claims payable.* Claims payable by the DON under § 750.43(a) (1) and (2) shall include, but not be limited to:

(1) *Registered or insured mail.* Claims for damage to, loss, or destruction, even if by criminal acts, of registered or insured mail while in the possession of DON authorities are payable under the MCA. This provision is an exception to the general requirement that compensable damage, loss, or destruction of personal property be caused by DON personnel while acting within the scope of their employment or otherwise incident to noncombat activities of the DON. The maximum award to a claimant under this section is limited to that to which the claimant would be entitled from the Postal Service under the registry or insurance fee paid. The award shall not exceed the cost of the item to the claimant regardless of the fees paid. Claimant may be reimbursed for the postage and registry or insurance fees.

(2) *Property bailed to the DON.* Claims for damage to or loss of personal property bailed to the DON, under an express or implied agreement are payable under the MCA, even though legally enforceable against the U.S. Government as contract claims, unless by express agreement the bailor has assumed the risk of damage, loss, or destruction. Claims filed under this paragraph may, if in the best interest of the U.S. Government, be referred to and processed by the Office of the General Counsel, DON, as contract claims.

(3) *Real property.* Claims for damage to real property incident to the use and occupancy by the DON, whether under an express or implied lease or otherwise, are payable under the MCA even though legally enforceable against the DON as contract claims. Claims filed under this paragraph may, if in the best interest of the U.S. Government, be referred to and processed by the Office of the General Counsel, DON, as contract claims.

(4) *Property of U.S. military personnel.* Claims of U.S. military personnel for property lost, damaged, or destroyed under conditions in § 750.43(a) (1) and (2) occurring on a military installation, not payable under the Military Personnel and Civilian Employees' Claims Act, are payable under the MCA.

(5) *Health care and Legal Assistance Providers.* Claims arising from the personal liability of DON health care and legal assistance personnel for costs, settlements, or judgments for negligent acts or omissions while acting within the scope of assigned duties or employment are payable under the MCA. See § 750.54.

§ 750.44 Claims not payable.

(a) Any claim for damage, loss, destruction, injury, or death which was proximately caused, in whole or in part, by any negligence or wrongful act on the part of the claimant, or his agent or employee, unless the law of the place where the act or omission complained of occurred would permit recovery from a private individual under like circumstances, and then only to the extent permitted by the law.

(b) Any claim resulting from action by the enemy or resulting directly or indirectly from any act by armed forces engaged in combat.

(c) Any claim for reimbursement of medical, hospital, or burial expenses to the extent already paid by the U.S. Government.

(d) Any claim cognizable under:

(1) Military Personnel and Civilian Employees' Claims Act, as amended. 31 U.S.C. 3721.

(2) Foreign Claims Act. 10 U.S.C. 2734.

(3) 10 U.S.C. 7622, relating to admiralty claims. See part 752 of this Chapter.

(4) Federal Tort Claims Act. 28 U.S.C. 2671, 2672, and 2674–2680.

(5) International Agreements Claims Act. 10 U.S.C. 2734a and 2734b.

(6) Federal Employees' Compensation Act. 5 U.S.C. 8101–8150.

(7) Longshore and Harbor Workers' Compensation Act. 33 U.S.C. 901–950.

(e) Any claim for damage to or loss or destruction of real or personal property founded in written contract [except as provided in § 750.43(b) (2) and (3)].

(f) Any claim for rent of real or personal property [except as provided in § 750.43(b) (2) and (3)].

(g) Any claim involving infringement of patents.

(h) Any claim for damage, loss, or destruction of mail prior to delivery by the Postal Service to authorized DON personnel or occurring due to the fault of, or while in the hands of, bonded personnel.

(i) Any claim by a national, or corporation controlled by a national, of a country in armed conflict with the United States, or an ally of such country, unless the claimant is determined to be friendly to the United States.

(j) Any claim for personal injury or death of a member of the Armed Forces or civilian employee incident to his service. 10 U.S.C. 2733(b)(3).

(k) Any claim for damage to or loss of bailed property when bailor specifically assumes such risk.

(l) Any claim for taking private real property by a continuing trespass or by technical trespass such as overflights of aircraft.

(m) Any claim based solely on compassionate grounds.

§ 750.45 Filing claim.

(a) *Who may file.* Under the MCA, specifically, the following are proper claimants:

(1) U.S. citizens and inhabitants.

(2) U.S. military personnel and civilian employees, except not for personal injury or death incident to service.

(3) Persons in foreign countries who are not inhabitants.

(4) States and their political subdivisions (including agencies).

(5) Prisoners of war for personal property, but not personal injury.

(6) Subrogees, to the extent they paid the claim.

(b) *Who may not file.* (1) Inhabitants of foreign nations for loss or injury occurring in the country they inhabit.

(2) U.S. Government agencies and departments.

(c) *When to file/statute of limitations.* Claims against the DON must be presented in writing within 2 years after they accrue. In computing the 2 year period, the day the claim accrues is excluded and the day the claim is presented is included. If the incident occurs in time of war or armed conflict, however, or if war or armed conflict intervenes within 2 years after its occurrence, an MCA claim, on good cause shown, may be presented within 2 years after the war or armed conflict is terminated. For the purposes of the MCA, the date of termination of the war or armed conflict in the date established by concurrent resolution of Congress or by the President. See 10 U.S.C. 2733(b)(1).

(d) *Where to file.* The claim shall be submitted by the claimant to the commanding officer of the naval activity involved, if it is known. Otherwise, it shall be submitted to the commanding officer of any naval activity, preferably the one within which, or nearest to which, the incident occurred, or to the Judge Advocate General of the Navy, 200 Stovall Street, Alexandria, VA 22332–2400.

(e) *Claim form.* A claim is correct in form if it constitutes written notification of an incident, signed by the claimant or a duly authorized agent or legal representative, with a claim for money damages in a sum certain. A Standard Form 95 is preferred. A claim should be substantiated as discussed in section 750.27 of this part. A claim must be substantiated as required by this Part in order to be paid. See 10 U.S.C. 2733(b)(5).

(f) *Amendment of claim.* A proper claim may be amended by the claimant at any time prior to final denial or payment of the claim. An amendment shall be submitted in writing and signed by the claimant or a duly authorized agent or legal representative.

(g) *Payment.* Claims approved for payment shall be forwarded to such disbursing officer as may be designated by the Comptroller of the Navy for payment from appropriations designated for that purpose. If the Secretary of the Navy considers that a claim in excess of $100,000.00 is meritorious and would otherwise be covered by 10 U.S.C. 2733 and § 750.43, he may make a partial payment of $100,000.00 and refer the excess to the General Accounting Office for payment from appropriations provided therefore.

§ 750.46 Applicable law.

(a) *Claims arising within the United States, Territories, Commonwealth, and Possessions.* The law of the place where the act or omission occurred will be applied in determining liability and the effect of contributory or comparative negligence on claimant's right of recovery.

(b) *Claims within foreign countries.* (1) Where the claim is for personal injury, death, or damage to or loss or destruction of real or personal property caused by an act or omission determined to be negligent, wrongful, or otherwise involving fault of DON personnel acting within the scope of their employment, liability of the United States will be assessed under general principles of tort law common to the majority of American jurisdictions.

(2) Apply the law of the foreign country governing the legal effect of contributory or comparative negligence by the claimant to determine the relative merits of the claim. If there is no foreign law on contributory or comparative negligence, apply traditional rules of contributory negligence. Apply foreign rules and regulations on operation of motor vehicles (rules of the road) to the extent those rules are not specifically superseded or preempted by U.S. Armed Forces traffic regulations.

(c) *Clarification of terms.* The principles of absolute liability and punitive damages do not apply to claims under the MCA. Federal law determines the meaning and construction of the MCA.

§ 750.47 Measure of damages for property claims.

Determine the measure of damages in property claims arising in the United States or its territories, commonwealth, or possessions under the law of the place where the incident occurred. Determine the measure of damages in property claims arising overseas under general principles of American tort law, stated as follows:

(a) If the property has been or can be economically repaired, the measure of damages shall be the actual or estimated net cost of the repairs necessary to substantially restore the property to the condition that existed immediately prior to the incident. Damages shall not exceed the value of the property immediately prior to the incident less the value thereof immediately after the incident. To determine the actual or estimated net cost of repairs, the value of any salvaged parts or materials and the amount of any net appreciation in value effected through the repair shall be deducted from the actual or estimated gross cost of repairs. The amount of any net depreciation in the value of the property shall be added to such gross cost of repairs, if such adjustments are sufficiently substantial in amount to warrant consideration. Estimates of the cost of repairs shall be based upon the lower or lowest of two or more competitive bids, or upon statements or estimates by one or more competent and disinterested persons, preferably reputable dealers or officials familiar with the type of property damaged, lost, or destroyed.

(b) If the property cannot be economically repaired, the measure of damages shall be the value of the property immediately prior to the incident less the value immediately after the incident. Estimates of value shall be made, if possible, by one or more competent and disinterested persons, preferably reputable dealers or officials familiar with the type of property damaged, lost, or destroyed.

(c) Loss of use of damaged property which is economically repairable may, if claimed, be included as an additional element of damage to the extent of the reasonable expense actually incurred for appropriate substitute property, for such period reasonably necessary for repairs, as long as idle property of the claimant was not employed as a substitute. When substitute property is not obtainable, other competent evidence such as rental value, if not speculative or remote, may be considered. When substitute property is reasonably available but not obtained and used by the claimant, loss of use is normally not payable.

§ 750.48 Measure of damages in injury or death cases.

(a) Where an injury or death arises within the United States or its territories, commonwealth, or possessions, determine the measure of damages under the law of the location where the injury arises.

(b) Where an injury or death arises in a foreign country and is otherwise cognizable and meritorious under this provision, damages will be determined in accordance with general principles of American tort law. The following is provided as guidance.

(1) *Measure of Damages for Overseas Personal Injury Claims.* Allowable compensation includes reasonable medical and hospital expenses necessarily incurred, compensation for lost earnings and services, diminution of earning capacity, anticipated medical expenses, physical disfigurement, and pain and suffering.

(2) *Wrongful Death Claims Arising in Foreign Countries.* (i) Allowable compensation includes that in paragraph (b)(1) of this section, burial expenses, loss of support and services, loss of companionship, comfort, society, protection, and consortium, and loss of training, guidance, education, and nurturing, as applicable.

(ii) The claim may be presented by or on behalf of the decedent's spouse, parent, child, or dependent relative. Claims may be consolidated for joint presentation by a representative of some or all of the beneficiaries or may be filed by a proper beneficiary individually.

§ 750.49 Delegations of adjudicating authority.

(a) *Settlement Authority.* (1) The Secretary of the Navy may settle claims in any amount. The Secretary may pay the first $100,000.00 and report the excess to the Comptroller General for payment under 31 U.S.C. 1304. *See* 10 U.S.C. 2733(d).

(2) The Judge Advocate General has delegated authority to settle claims for $100,000.00 or less.

(3) The Deputy Judge Advocate General, the Assistant Judge Advocate General (General Law), and the Deputy Assistant Judge Advocate General (Claims and Tort Litigation) have delegated authority to settle claims for $25,000.00 or less.

(4) Naval Legal Service Office commanding officers and the Officer in Charge, U.S. Sending State Office for Italy have delegated authority to settle claims for $15,000.00 or less.

(5) Officers in charge of Naval Legal Service Office Detachments, when specifically designated by cognizant commanding officers of Naval Legal Service Offices; and the Claims Officer at the U.S. Naval Station, Panama Canal have delegated authority to settle claims for $10,000.00 or less.

(6) Overseas commands with a Judge Advocate General's Corps officer or a judge advocate of the Marine Corps attached, have delegated authority to settle claims for $5,000.00 or less.

(b) *Denial Authority.* (1) The Secretary of the Navy may deny a claim in any amount.

(2) The Judge Advocate General, the Deputy Judge Advocate General, the Assistant Judge Advocate General (General Law), and the Deputy Assistant Judge Advocate General (Claims and Tort Litigation) have delegated authority to deny claims in any amount.

(3) All other adjudicating authorities have delegated authority to deny claims only to the amount of their settlement authority.

(c) *Appellate Authority.* Adjudicating authorities have the same authority as delegated in paragraph b above to act upon appeals. No appellate authority below the Secretary of the Navy may deny an appeal of a claim it had previously denied.

§ 750.50 Advance Payments.

(a) *Scope.* This paragraph applies exclusively to the payment of amounts not to exceed $100,000.00 under 10 U.S.C. 2736 in advance of submission of a claim.

(b) *Statutory authority.* Title 10 U.S.C. 2736 authorizes the Secretary of the Navy or designee to pay an amount not in excess of $100,000.00 in advance of the submission of a claim to or for any person, or the legal representative of any person, who was injured or killed, or whose property was damaged or lost, as the result of an accident for which allowance of a claim is authorized by law. Payment under this law is limited to that which would be payable under the MCA (10 U.S.C. 2733). Payment of an amount under this law is not an admission by the United States of liability for the accident concerned. Any amount so paid shall be deducted from any amount that may be allowed under any other provision of law to the person or his legal representative for injury, death, damage, or loss attributable to the accident concerned.

(c) *Officials with Authority to make Advance Payments.* (1) The Secretary of the Navy has authority to make advance payments up to $100,000.00

(2) The Judge Advocate General has delegated authority to make advance payments up to $100,000.00.

(3) The Deputy Assistant Judge Advocate General (Claims and Tort Litigation) has delegated authority to make advance payments up to $25,000.00.

(4) Naval Legal Service Office commanding officers and the Officer in Charge, U.S. Sending State Office for Italy have delegated authority to make advance payments up to $5,000.00.

(5) Officers in Charge of Naval Legal Service Office Detachments, when specifically designated by cognizant Commanding Officers of Naval Legal Service Offices; and the Staff Judge Advocate at the U.S. Naval Station, Panama Canal have delegated authority to make advance payments up to $3,000.00.

(6) Overseas commands with a Judge Advocate General's Corps officer or a judge advocate of the Marine Corps attached, have delegated authority to make advance payments up to $3,000.00.

(d) *Conditions for Advance Payments.* Prior to making an advance payment under 10 U.S.C. 2736, the adjudicating authority shall ascertain that:

(1) The injury, death, damage, or loss would be payable under the MCA (10 U.S.C. 2733);

(2) The payee, insofar as can be determined, would be a proper claimant, or is the spouse or next of kin of a proper claimant who is incapacitated;

(3) The provable damages are estimated to exceed the amount to be paid;

(4) There exists an immediate need of the person who suffered the injury, damage, or loss, or of his family, or of the family of a person who was killed, for food, clothing, shelter, medical, or burial expenses, or other necessities, and other resources for such expenses are not reasonably available;

(5) The prospective payee has signed a statement that it is understood that payment is not an admission by the Navy or the United States of liability for the accident concerned, and that the amount paid is not a gratuity but shall constitute an advance against and shall be deducted from any amount that may be allowed under any other provision of law to the person or his legal representative for injury, death, damage, or loss attributable to the accident concerned; and

(6) No payment under 10 U.S.C. 2736 may be made if the accident occurred in a foreign country in which the NATO Status of Forces Agreement (4 U.S.T. 1792, TIAS 2846) or other similar agreement is in effect and the injury, death, damage, or loss

(i) Was caused by a member or employee of the DON acting within the scope of employment or

(ii) Occurred "incident to noncombat activities" of the DON as defined in § 750.43.

§ 750.51 Final disposition.

(a) *Claimant to be notified.* The adjudicating authority shall notify the claimant, in writing, of the action taken on the claim.

(b) *Final denial.* A final denial, in whole or in part, of any MCA claim shall be in writing and sent to the claimant, or his attorney or legal representative, by certified or registered mail, return receipt requested. The notification of denial shall include a statement of the reason or reasons for denial and that the claimant may appeal. The notification shall also inform the claimant:

(1) The title of the appellate authority who will act on the appeal and that the appeal will be addressed to the adjudicating authority who last acted on the claim.

(2) No form is prescribed for the appeal, but the grounds for appeal should be set forth fully.

(3) The appeal must be submitted within 30 days of receipt by the claimant of notice of action on the claim.

§ 750.52 Appeal.

(a) A claim which is disapproved in whole or in part may be appealed by the claimant at any time within 30 days after receipt of notification of disapproval. An appeal shall be in writing and state the grounds relied upon. An appeal is not an adversary proceeding and a hearing is not authorized; however, the claimant may obtain and submit any additional evidence or written argument for consideration by the appellate authority.

(b) Upon receipt, the adjudicating authority examines the appeal, determines whether the appeal complies with this regulation, and reviews the claims investigative file to ensure it is complete. The claim, with the complete investigative file and a memorandum of law, will be forwarded to the appellate authority for action. If the evidence in the file, including information submitted by the claimant with the appeal, indicates the appeal should be approved, the adjudicating authority may treat the appeal as a request for reconsideration.

(c) Processing of the appeal may be delayed pending further efforts by the adjudicating authority to settle the claim. Where the adjudicating authority does not reach a final agreement on an appealed claim, it shall send the entire claim file to the next higher settlement authority, who is the appellate authority for that claim.

(d) The appellate authority shall notify the claimant in writing of the determination on appeal; that such determination constitutes the final administrative action on the claim; and there is no right to sue under the MCA.

§ 750.53 Cross-servicing.

(a) See § 750.13 or information about single-service claims responsibility under DODDIR 5515.8 of 9 June 1990.

(b) *Claims Settlement Procedures.* Where a single service has been assigned a country or area claims responsibility, that service will settle claims cognizable under the MCA under the regulations of that service. The forwarding command shall afford any assistance necessary to the appropriate service in the investigation and adjudication of such claims.

§ 750.54 Payment of costs, settlements, and judgments related to certain medical or legal malpractice claims.

(a) *General.* Requests for reimbursement/indemnification of costs, settlements, and judgments cognizable under 10 U.S.C. 1089(f) [for personal injury or death caused by any physician, dentist, nurse, pharmacist, paramedic, or other supporting personnel (including medical and dental technicians, nurse assistants, and therapists)] or 10 U.S.C. 1054(f) (for damages for injury or loss of property caused by any attorney, paralegal, or other member of a legal staff) while acting as DON personnel will be paid if:

(1) The alleged negligent or wrongful actions or omissions arose in connection with either providing health care functions or legal services and within the scope of employment; and

(2) Such personnel furnish prompt notification and delivery of all process served or received, and other documents, information, and assistance as requested; and cooperate in defending the action on the merits.

(b) *Requests for Indemnification.* All requests for indemnification for personal liability of DON personnel for acts or omissions arising out of assigned duties shall be forwarded to the Judge Advocate General for action.

§ 750.55 Attorney's fees.

Attorney's fees not in excess of 20 percent of any settlement may be allowed. Attorney's fees so determined are to be paid out of the amount awarded and not in addition to the award. These fee limitations shall be incorporated in any settlement agreement secured from a claimant.

§§ 750.56—750.60 [Reserved]

Subpart D—Claims Not Cognizable Under Any Other Provision of Law

§ 750.61 Scope of subpart D.

This section provides information on payment of claims against the United States, not payable under any other statute, caused by the act or omission, negligent, wrongful, or otherwise involving fault, of Department of the Navy (DON) military and civilian personnel (hereinafter DON personnel) acting outside the scope of their employment.

§ 750.62 Statutory authority.

Section 2737 of title 10, United States Code, provides authority for the administrative settlement in an amount not to exceed $1,000.00 of any claim against the United States not cognizable under any other provision of law for damage, loss, or destruction of property or for personal injury or death caused by military personnel or a civilian official or employee of a military department incident to the use of a vehicle of the United States at any place, or any other property of the United States on a Government installation. There is no right to sue. There are no territorial limitations and the Act has worldwide application.

§ 750.63 Definitions.

(a) *Civilian official or employee.* Any civilian employee of the DON paid from appropriated funds at the time of the incident.

(b) *Vehicle.* Includes every description of carriage or other artificial contrivance used, or capable of being used, as a means of transportation on land. See 1 U.S.C. 4.

(c) *Government installation.* Any Federal facility having fixed boundaries and owned or controlled by the U.S. Government. It includes both military bases and nonmilitary installations.

§ 750.64 Claim procedures.

(a) The general provisions of subpart A of this part shall apply in determining what is a proper claim, who is a proper claimant, and how a claim is to be investigated and processed under 10 U.S.C. 2737 and this section.

(b) A claim is presented when the DON receives from a claimant or the claimant's duly authorized agent, written notification of a nonscope claim incident accompanied by a demand for money damages in a sum certain.

(c) A claimant may amend a claim at any time prior to final action. Amendments will be submitted in writing and signed by the claimant or the claimant's duly authorized agent.

(d) Claims submitted under the provisions of the Federal Tort Claims Act (FTCA) or Military Claims Act (MCA) shall be considered automatically for an award under this section when payment would otherwise be barred because the DON personnel were not in the scope of their employment at the time of the incident. If a tender of payment under this section is not accepted by the claimant in full satisfaction of the claim, no award will be made, and the claim will be denied pursuant to the rules applicable to the statute under which it was submitted.

(e) Damages caused by latent defects of ordinary, commercial type, Government equipment that were not payable under the MCA, Foreign Claims Act, or FTCA are payable under this section.

(f) Nonscope claims for damages caused by local national DON employees overseas are also payable under this section if the injury was caused by the use of Government equipment.

(g) Payment may not be made on a nonscope claim unless the claimant accepts the amount offered in full satisfaction of the claim and signs a settlement agreement.

(h) Payment for nonscope claims adjudicated by field commands will be affected through their local disbursing office by use of funds obtained from the Judge Advocate General.

(i) Claims submitted solely under 10 U.S.C. 2737 shall be promptly considered. If a nonscope claim is denied, the claimant shall be informed of reasons in writing and advised he may appeal in writing to the Secretary of the Navy (Judge Advocate General) provided the appeal is received within 30 days of the notice of denial. The provisions of § 750.51(b) of subpart C also apply to denials of nonscope claims.

§ 750.65 Statute of limitations.

(a) A claim must be presented in writing within 2 years after it accrues. It accrues at the time the claimant discovers, or in the exercise of reasonable care should have discovered, the existence of the act or omission for which the claim is filed.

(b) In computing time to determine whether the period of limitation has expired, exclude the incident date and include the date the claim was presented.

§ 750.66 Officials with authority to settle.

Judge Advocate General; Deputy Judge Advocate General; Assistant Judge Advocate General (General Law); Deputy Assistant Judge Advocate General (Claims and Tort Litigation Division); Head, Federal Tort Claims Branch (Claims and Tort Litigation Division); Head, Military Claims Branch (Claims and Tort Litigation Division), and commanding officers of Naval Legal Service Offices may settle a nonscope claim.

§ 750.67 Scope of liability.

(a) Subject to the exceptions in § 750.68 of specific claims not payable, the United States shall not pay more than $1,000.00 for a claim against the United States, not cognizable under any other provision of law, except Article 139, UCMJ.

(b) Article 139, UCMJ, 10 U.S.C. 939, is not preemptive. The prohibition in 10 U.S.C. 2737 on paying claims "not cognizable under any other provisions of law" applies only to law authorizing claims against the United States. Article 139 authorizes claims against servicemembers. See part 755 of this chapter.

§ 750.68 Claims not payable.

(a) A claim for damage, loss, or destruction of property or the personal injury or death caused wholly or partly by a negligent or wrongful act of the claimant or his agent or employee.

(b) A claim, or any part thereof, that is legally recoverable by the claimant under an indemnifying law or indemnity contract.

(c) A subrogated claim.

§ 750.69 Measure of damages.

Generally, the measure-of-damage provisions under the MCA are used to determine the extent of recovery for nonscope claims. Compensation is computed in accordance with §§ 750.47 and 750.48 of subpart C, except damages for personal injury or death under this section shall not be for more than the cost of reasonable medical, hospital, and burial expenses actually incurred and not otherwise furnished or paid for by the United States.

Dated: January 30, 1992.

Wayne T. Baucino,

Lieutenant, JAGC, U.S. Naval Reserve. Alternate Federal Register Liaison Officer.

[FR Doc. 92–[illegible] Filed 2–6–92; 8:45 am]

BILLING CODE 3810-AE-M

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32 CFR Part 756

Nonappropriated-Fund Claims Regulations

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: This rule sets forth amended regulations pertaining to the Department of the Navy's nonappropriated-fund claims program. This rule reflects changes to JAG Instruction 5890.1, Administrative Processing and Consideration of Claims on Behalf of and Against the United States. This rule simplifies the Department of the Navy's processing of nonappropriated-fund claims.

EFFECTIVE DATE: February 7, 1992.

FOR FURTHER INFORMATION CONTACT: Captain Milton D. Finch, JAGC, USN, Deputy Assistant Judge Advocate General (Claims and Tort Litigation), Office of the Judge Advocate General, 200 Stovall Street, Alexandria, VA 22332–2400, (703) 325–9880.

SUPPLEMENTARY INFORMATION: Pursuant to the authority conferred under 5 U.S.C. 301; 10 U.S.C. 133, 939, 5013, and 5148; E.O. 11476; and 32 CFR Parts 700.206 and 700.1202; the Judge Advocate General revises 32 CFR part 756. This revision reflects changes to JAG Instruction 5890.1, Administrative Processing and Consideration of Claims on Behalf of and Against the United States. This part has been revised and shortened. It sets forth the responsibilities and procedures for the supervision and management of the Navy's nonappropriated-fund claims program and the investigation of nonappropriated-fund claims under the various Federal Claims Statutes. It also sets forth the procedures and responsibilities for the administrative processing and consideration of nonappropriated-fund claims against the United States.

This revision was adopted on January 17, 1991. To the limited extent that this revision could be deemed to originate any requirements within the Department of the Navy, it has been determined that such requirements relate entirely to internal Naval management and personnel practices that can be administered more effectively without public participation in the rule-making process. It has therefore been determined that invitation of public comment on this revision would be impracticable and unnecessary and is therefore not required under the provisions of 32 CFR parts 296 and 701. It has also been determined that this final rule is not a "major rule" within the criteria specified in Executive Order 12291, and does not have substantial impact on the public.

Lists of Subjects in 32 CFR Part 756

Claims.

For the reasons set out in the preamble, title 32, part 756 of the Code of Federal Regulations is revised to read as follows:

Part 756—NONAPPROPRIATED-FUND CLAIMS REGULATIONS

Sec.
756.1 Scope.
756.2 Definitions.
756.3 Notification.
756.4 Responsibility.
756.5 Investigation.
756.6 Negotiation.
756.7 Payment.
756.8 Denial.
756.9 Claims by employees.

Authority: 5 U.S.C. 301; 10 U.S.C. 939, 5013, and 5148; E.O. 11476 (3 CFR, 1969 Comp., p. 132); 32 CFR 700.206 and 700.1202.

§ 756.1 Scope.

This part explains how to settle claims for and against the United States for property damage, personal injury, or death arising out of the operation of nonappropriated-fund instrumentalities.

§ 756.2 Definitions.

(a) *Nonappropriated-fund instrumentality (NAFI).* An instrumentality of the Federal Government established to generate and administer nonappropriated-funds for programs and services contributing to the mental and physical well-being of Department of Defense personnel and their dependents. A NAFI is not incorporated under the laws of any State and enjoys the privileges and immunities of the Federal Government.

(b) *Nonappropriated-funds.* Funds generated through the use and patronage of NAFI's, not including funds appropriated by Congress.

(c) *Employees of NAFI.* Civilian personnel employed by NAFI's whose salaries are paid from nonappropriated-funds. Also, military personnel working part-time at NAFI's when compensated from nonappropriated-funds.

§ 756.3 Notification.

(a) Some NAFI's, such as flying clubs, carry private commercial insurance to protect them from claims for property damage and personal injury attributable to their operations. The Commandant of the Marine Corps, the Chief of Naval Personnel, and the Commander, Naval Supply Systems Command determine whether NAFI's within their cognizance shall carry liability insurance or become self-insurers, in whole or in part.

(b) The Marine Corps requires mandatory participation in the Morale, Welfare and Recreation (MWR) Composite Insurance Program by the following operations: MWR operations and retail services, food and hospitality, recreation; and special NAFI activities including flying clubs, rod and gun clubs, Interservice Rifle Fund, Marine Corps Marathon and Dependent Cafeteria Fund. The following organizations may also participate in the MWR Composite Insurance Program, if desired: Child welfare centers, billeting funds, chapel funds, and civilian welfare funds.

(c) When the operations of NAFI's result in property damage or personal injury, the insurance carrier, if any, should be given immediate written notification. Notification should not be postponed until a claim is filed. When the activity is self-insured, the self-insurance fund shall be notified of the potential liability by the activity.

§ 756.4 Responsibility.

The primary responsibility for the negotiation and settlement of claims resulting from nonappropriated-fund activities is normally with the NAFI and its insurer. NAFI's, however, are Federal agencies within the meaning of the Federal Tort Claims Act if charged with an essential function of the Department of the Navy and if the degree of control and supervision by the Navy is more than casual or perfunctory. Compare *United States* v. *Holcombe,* 277 F.2d 143 (4th Cir. 1960) and *Scott* v. *United States,* 226 F. Supp. 846, (D. Ga. 1963). Consequently, to the extent sovereign immunity is waived by the Federal Tort Claims Act, 28 U.S.C. 1346(b), 2671–2672, 2674–2680, the United States remains ultimately liable for payment of NAFI claims.

§ 756.5 Investigation.

Claims arising out of the operation of NAFI's, in and outside the United States, shall be investigated in accordance with the procedures for investigating similar claims against appropriated fund activities in order to protect the residual liability of the United States. All claims should be submitted to the command having cognizance over the NAFI involved.

§ 756.6 Negotiation.

(a) *General.* Claims from NAFI's should be processed primarily through NAFI claims procedures, using as guidelines the regulations and statutes applicable to similar appropriated fund activity claims.

(b) *When the NAFI is insured.* When a NAFI is insured, the insurer or the contracted third-party claims administrator (TPA) will normally conduct negotiations with claimants. The appropriate naval adjudicating authority as shown in 32 CFR 750.34(c)(2)(ii) has the responsibility of monitoring the negotiations conducted by the insurer or TPA. Monitoring is normally limited to ascertaining someone has been assigned to negotiate, to obtain periodic status reports, and to close files on settled claims. Any dissatisfaction with the insurer's or TPA's handling of the negotiations should be referred directly to the Judge Advocate General for appropriate action. Under special circumstances, even when there is an insurer or TPA, the appropriate naval adjudicating authority may conduct negotiations, provided the command involved and the insurer agree to it. When an appropriate settlement is negotiated by the Navy, the recommended award will be forwarded to the insurer or TPA for payment.

(c) *When the NAFI is not insured.* When there is no private, commercial insurer and the NAFI has made no independent arrangements for negotiations, the appropriate Navy adjudicating authority is responsible for conducting negotiations. When an appropriate settlement is negotiated by the Navy, the recommended award will be forwarded to the NAFI for payment from nonappropriated-funds.

§ 756.7 Payment.

(a) *Claims that can be settled for less than $1000.00.* A claim not covered by insurance (or not paid by the insurer), that can be settled for $1000.00 or less, may be adjudicated by the commanding officer of the activity concerned or designee. The claim shall be paid out of funds available to the commanding officer.

(b) *Claims that cannot be settled for less than $1000.00.* A claim negotiated by the Navy, not covered by insurance, that cannot be settled for less than $1000.00, shall be forwarded to the appropriate nonappropriated-fund headquarters command for payment from its nonappropriated-funds.

(c) *When payment is possible under another statute.* In some cases neither the NAFI nor its insurer may be legally responsible. In those instances, when there is no negligence, and payment is authorized under some other statute, such as the Foreign Claims Act, 10 U.S.C. 2734–2736, the claim may be considered for payment from appropriated funds or may be referred to the Judge Advocate General for appropriate action.

(d) *Other claims.* A NAFI's private insurance policy is usually not available to cover losses which result from some act or omission of a mere participant in a nonappropriated-fund activity. In the event the NAFI declines to pay the claim, the file shall be forwarded to the Judge Advocate General for determination.

§ 756.8 Denial.

Claims resulting from nonappropriated-fund activities may be denied only by the appropriate naval adjudicating authority. Such a denial is necessary to begin the 6-month limitation on filing suit against the United States for claims filed under the Federal Tort Claims Act. Denial of a claim shall be in writing and in accordance with subparts A or B of part 750 of this chapter, as appropriate. The appropriate naval adjudicating authority should not deny claims which have initially been processed and negotiated by a nonappropriated-fund activity, its insurer or TPA until the activity or its insurer has clearly stated in writing that it does not intend to pay the claim and has elected to defend in court.

§ 756.9 Claims by employees.

(a) *Personal injury or death of citizens or permanent residents of the United States employed anywhere, or foreign nationals employed within the United States.* Compensation is provided by the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901–950) for employees of NAFI's who have suffered injury or death arising out of and in the course of their employment (5 U.S.C. 8171). That Act is the exclusive basis for Government liability for injuries or deaths that are covered (5 U.S.C. 8173). A claim should first be made under that Act if there is a substantial possibility the injury or death is covered.

(b) *Personal injury or death of foreign nationals employed outside of the continental United States.* Employees who are not citizens or permanent residents, and who are employed outside the continental United States, are protected by private insurance of the NAFI or by other arrangements (5 U.S.C. 8172). When a nonappropriated-fund activity has neglected to obtain insurance coverage or to make other arrangements, the matter shall be processed as a Foreign Claims Act or a Military Claims Act claim if appropriate, and any award will be paid from nonappropriated-funds.

Dated: January 30, 1992.

Wayne T. Baucino,

Lieutenant, JAGC, U.S. Naval Reserve,
Alternate Federal Register Liaison.

[FR Doc. 92–2979 Filed 2–6–92; 8:45 am]

BILLING CODE 3810-AE-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[NC 45–2–5404; FRL–4100–8]

Approval and Promulgation of Western North Carolina Local Implementation Plan: Approval of Revisions to the Particulate Matter and Reduced Sulfur Emissions From Pulp and Paper Mills Regulation

AGENCY: Environmental Protection Agency (EPA).
ACTION: Final rule.

SUMMARY: EPA today is approving revisions to the Western North Carolina Local Implementation Plan (LIP), to include Particulate Matter and Reduced Sulfur Emissions from Pulp and Paper Mills (Regulation 1–144). This regulation is at least as stringent as Control of Emissions from Pulp and Paper Mills, regulation 2D.0508, and Total Reduced Sulfur from Kraft Paper Mills, regulation 2D.0528, of the North Carolina State Implementation Plan (SIP), which were EPA approved on December 15, 1987 and December 12, 1988, respectively. Approval of the North Carolina LIPs was published in the **Federal Register** on May 2, 1991, at 56 FR 20140. The aforementioned LIP regulation was not acted upon in that Notice because it addresses requirements in section 111(d) of the Clean Air Act, as amended. Western North Carolina has been authorized by the North Carolina Environmental Management Commission (EMC) to run an independent and comprehensive air pollution program within its jurisdiction.

DATES: This action will be effective April 7, 1992 unless notice is received within 30 days that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the material relevant to this action may be examined during normal business hours at the following locations:

Environmental Protection Agency,
Region IV,
Air Programs Branch,
345 Courtland Street, NE.,
Atlanta, Georgia 30365.
Air Quality Section, Division of
  Environmental Management,
North Carolina Department of Natural
  Resources and Community
  Development,
Archdale Building,
512 North Salisbury Street,
Raleigh, North Carolina 27611.

Western North Carolina Regional Air Pollution Control Agency,
Buncombe County Courthouse,
Asheville, North Carolina 28801-3569.

FOR FURTHER INFORMATION CONTACT: Leslie Cox of the EPA, Region IV, Air Programs Branch at 404-347-2864 (FTS-257-2864) and at the above address.

SUPPLEMENTARY INFORMATION: Western North Carolina is one of the State's four federally-funded air pollution control agencies. Western North Carolina has been authorized by the North Carolina Environmental Management Commission (EMC) to run an independent and comprehensive air pollution program within its jurisdiction. Western North Carolina is responsible for adopting and enforcing its own regulations, as well as for issuing source permits. The regulations adopted by the local program are required (by State Law) to be comparable and consistent with those adopted by the State Agency.

On June 14, 1990, the North Carolina EMC submitted regulations for Western North Carolina as part of the North Carolina SIP to EPA for review and approval. Approval of the Local Implementation Plan (LIP) was published in the **Federal Register** on May 2, 1991, at 56 FR 20140. At that time, no action was taken on Regulation 1-144 (Particulate Matter and Reduced Sulfur Emissions from Pulp and Paper Mills) for Western North Carolina since the regulation was not required under section 110 of the Clean Air Act but under section 111(d).

To be approved, all local regulations must be at least as stringent as the State Regulations. All of the emission limits in Regulation 1-144 are identical to the State with the exception of one, which is more stringent than the State's Rule. Therefore, Western North Carolina's Regulation 1-144 satisfies this requirement.

On May 17, 1991, Western North Carolina requested that EPA approve their Regulation 1-144 because one source subject to this regulation, Champion Paper, falls under their jurisdiction. Today, EPA is approving Regulations 1-144, except 1-144 (f) and (g), for the Western North Carolina portion of the SIP. Sections (f) and (g) are not being acted upon because they contain outdated deadlines for emission control devices and compliance shcedules.

Final Action

EPA is approving Regulation 1-144, except 1-144 (f) and (g), for the Western North Carolina portion of the SIP. This action is being taken without prior proposal because the changes are noncontroversial and EPA anticipates no significant comments on them. The public should be advised that this action will be effective April 7, 1992. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announding a proposal of the action and establishing a comment period.

The Agency has reviewed this request for revision of the federally-approved State Implementation Plan for conformance with the provisions of the 1990 Amendments enacted on November 15, 1990. The Agency has determined that this action conforms with those requirements irrespective of the fact that the submittal preceded the date of enactment.

Under section 301(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 7, 1992. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Tables 2 and 3 SIP revisions (54 FR 222) from the requirements of section 3 of Executive Order 12291 for two years. EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request. Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to the State Implementation Plan. Each request for revision to the State Implementation Plan shall be considered separately in light of specific technical economic and environmental factors and in relation to relevant statutory and regulatory requirements.

Under 5 U.S.C. 605(b), I certify that these revisions will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

List of Subjects in 40 CFR Part 62

Administrative practice and procedure, Air pollution control, Paper and paper products industry, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: January 28, 1992.

Patrick M. Tobin,

Acting, Regional Administrator.

For the reasons set out in the preamble, 40 CFR part 62 is amended as follows:

PART 62—[AMENDED]

1. The authority citation for part 62 is revised to read as follows:

Authority: 42 U.S.C. 7413 and 7601.

Subpart II—North Carolina

2. Section 62.8350 is amended by adding paragraph (b)(7) to read as follows:

§ 62.8350 Identification of plan.

* * * * *

(b) * * *

(7) Regulation 1-144, Particulate Matter and Reduced Sulfur Emissions from Pulp and Paper Mills, except 1-144(f) and (g) for the Western North Carolina portion of the North Carolina SIP submitted on June 14, 1990.

* * * * *

3. Section 62.8353 is amended by revising paragraph (c) to read as follows:

§ 62.8353 Identification of sources.

* * * * *

(c) Champion International in Canton,

* * * * *

[FR Doc. 92-2921 Filed 2-6-92; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 271

[FRL-4100-6]

State of Florida; Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: Florida has applied for final authorization of revisions to its hazardous waste program for rules promulgated between July 1, 1987 and June 30, 1988, otherwise known as Non-HSWA Cluster IV, under the Resource Conservation and Recovery Act (RCRA). The requirements contained in this revision application are in Supplementary Information, section B of this document. The Environmental Protection Agency (EPA) has reviewed Florida's application and has made a decision, subject to public review and comment, that Florida's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve Florida's hazardous waste program revisions. Florida's application for program revision is available for public review and comment.

DATES: Final Authorization for Florida shall be effective April 7, 1992 unless EPA publishes a prior **Federal Register** action withdrawing this immediate final rule.

All comments on Florida's program revision application must be received by the close of business March 9, 1992.

ADDRESSES: Copies of Florida's program revision application are available during the hours 8 a.m. to 5 p.m. at the following addresses for inspection and copying: Florida Department of Environmental Regulation, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, Phone: 904-488-0300; U.S. EPA Region IV, Library, 345 Courtland Street NE., Atlanta, Georgia 30365, Phone: 404-347-4216, Priscilla Pride, Librarian.

Written comments should be sent to Narindar Kumar, Chief, State Programs Section, Waste Programs Branch, Waste Management Division, U.S. EPA, 345 Courtland Street NE, Atlanta, Georgia 30365.

FOR FURTHER INFORMATION CONTACT: Narindar Kumar, Phone: 404-347-2234.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of the Resource Conservation and Recovery Act ("RCRA" or "the Act"), 42 U.S.C. 6929(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98-616, November 8, 1984, hereinafter "HSWA") allows States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. States exercising the latter option receive "interim authorization" for the HSWA requirements under section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later apply for final authorization for the HSWA requirements.

Revisions to State hazardous waste programs are necessary when Federal or State statutory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR parts 260-266, 268, 124, and 270.

B. State of Florida

Florida initially received final authorization for its base RCRA program on February 12, 1985 (50 FR 3908, January 29, 1985). Florida has received authorization for revisions to its program through Non-HSWA Cluster II. Florida received authorization for Radioactive Mixed Waste on February 12, 1991. Today, Florida is seeking approval of its program revision for Non-HSWA Cluster IV in accordance with 40 CFR 271.21(b)(3).

EPA has reviewed Florida's application, and has made an immediate final decision that Florida's hazardous waste program revision satisfies all the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the additional program modifications to the State of Florida. The public may submit written comments on EPA's immediate final decision up until March 9, 1992. Copies of Florida's application for program revision are available for inspection and copying at the locations indicated in the "**ADDRESSES**" section of this notice.

Florida has adopted the following **Federal Registers** in Non-HSWA Cluster IV by reference:

CHKLST	FR Date & Page Number	Description
40	7/9/87 52 FR 25942.	List (Phase I) of Hazardous Constituents for Ground Water Monitoring.
41	7/10/87 52 FR 26012.	Identification & Listing of Hazardous Waste.
43	11/18/87 52 FR 44314.	Liability Requirements for Hazardous Waste Facilities; Corporate Guarantees.
45	12/10/87 52 FR 46946.	Hazardous Waste Misc. Units.

The State of Florida has demonstrated and certified that its authority to regulate the revised program set forth in Non-HSWA Cluster IV as specified at section 403.72 Florida Statutes (FS), Rule 17.730.030 Florida Administrative Code (FAC), 403.704, and .721 FS, 17.730.180 FAC, 120.53, 403.061, 403.722 FS, 17-730.900 FAC, 403.724 FS, 17-730.020, 17-730.220, and 17-730.240 FAC as amended August 13, 1990, is equivalent to federal requirements of the RCRA at 40 CFR part 264 appendix IX, 270, 261, 264, 260, 265, 270, and sections 1006, 2002, 3001, 3004 and 3005 of RCRA. 17-730.180 (5) & (6) (FAC) imposes additional ground water monitoring requirements which make Florida's rules more stringent than found at 40 CFR part 264.98, and 264.99, and 270.14.

On the effective date of final authorization, Florida will be authorized to carry out, in lieu of the Federal program, those provisions of the State's program which are analogous to the Federal program. EPA shall administer any RCRA hazardous waste permits, or portions of permits, that contain conditions based upon the Federal program provisions for which the State is applying for authorization and which were issued by EPA prior to the effective date of this authorization. EPA will suspend issuance of any further permits under the provisions for which the State is being authorized on the effective date of this authorization.

Florida is not authorized to operate the Federal program on Indian lands. This authority remains with EPA unless provided otherwise in a future statute or regulation.

C. Decision

I conclude that Florida's application for program revision meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Florida is granted final authorization to operate its hazardous waste program as revised.

Florida now has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the HSWA. Florida also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA and to take enforcement actions under section 3008, 3013, and 7003 of RCRA.

Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 4 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Florida's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: January 28, 1992.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 92–2920 Filed 2–6–92; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 91–64; FCC 91–398]

Long Distance Carriers

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: On March 25, 1991, this Commission released a Notice of Proposed Rulemaking (NPRM), 6 FCC Rcd 1689 (1991), 56 FR 13101, March 29, 1991, to consider revising the procedures used by interexchange carriers. This action adopts a rule designed to provide additional protection to consumers from unauthorized switching of their long distance service.

EFFECTIVE DATE: April 7, 1992.

FOR FURTHER INFORMATION CONTACT: Jane Gross, tel: 202–632–6917.

SUPPLEMENTARY INFORMATION: On December 12, 1991, the Commission adopted an Order in CC Docket No. 91–64 revising the procedures which interexchange carriers must use to verify customer orders for changes in their long distance service. This document sets forth the Rules governing verification of submission of orders, for long distance service obtained through telemarketing.

Paperwork Reduction Act

The revisions contained herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found not to impose new or modified information collection and/or recordkeeping, labeling, disclosure or record retention requirements and will not increase burden hours imposed on the public.

Accordingly, *It Is Ordered* That pursuant to authority contained in sections 4(i) and 201–204 of the Communications Act, 47 U.S.C. /SS 4(i) and 201–204, all interexchange carriers shall put into effect the modifications described herein.

It Is Further Ordered That the provisions of this Order will be effective sixty (60) days after **Federal Register** publication.

List of Subjects for 47 CFR Part 64

Communications common carriers, Reporting and recordkeeping requirements.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Amendment to the Commission's Rules

47 CFR part 64 is amended as follows:

1. The authority citation for part 64 is revised to read as follows:

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted. Interpret or apply secs. 201–4, 218, 48 Stat. 1070–71, as amended, 1077; 47 U.S.C. 201–4, 218, unless otherwise noted.

2. Part 64 is amended by adding subpart K to read as follows:

Subpart K—Changing Long Distance Service

§ 64.1100 Verification of orders for long distance service generated by telemarketing.

No IXC shall submit to a LEC a primary interexchange carrier (PIC) change order generated by telemarketing unless and until the order has first been confirmed in accordance with the following procedures:

(a) The IXC has obtained the customer's written authorization to submit the order that explains what occurs when a PIC is changed and confirms:

(1) The customer's billing name and address and each telephone number to be covered by the PIC change order;

(2) The decision to change the PIC to the IXC; and

(3) The customer's understanding of the PIC change fee; or

(b) The IXC has obtained the customer's electronic authorization, placed from the telephone number(s) on which the PIC is to be changed, to submit the order that confirms the information described in paragraph (a) of this section to confirm the authorization. IXCs electing to confirm sales electronically shall establish one or more toll-free telephone numbers exclusively for that purpose. Calls to the number(s) will connect a customer to a voice response unit, or similar mechanism, that records the required information regarding the PIC change, including automatically recording the originating ANI; or

(c) An appropriately qualified and independent third party operating in a location physically separate from the telemarketing representative has obtained the customer's oral authorization to submit the PIC change order that confirms and includes appropriate verification data (e.g., the customer's date of birth or social security number); or

(d) Within three business days of the customer's request for a PIC change, the IXC must send each new customer an information package by first class mail containing at least the following information concerning the requested change:

(1) The information is being sent to confirm a telemarketing order placed by the customer within the previous week;

(2) The name of the customer's current IXC;

(3) The name of the newly requested IXC;

(4) A description of any terms, conditions, or charges that will be incurred;

(5) The name of the person ordering the change;

(6) The name, address, and telephone number of both the customer and the soliciting IXC;

(7) A postpaid postcard which the customer can use to deny, cancel or confirm a service order;

(8) A clear statement that if the customer does not return the postcard the customer's long distance service will be switched within 14 days after the date the information package was mailed to [name of soliciting carrier];

(9) The name, address, and telephone number of a contact point at the Commission for consumer complaints; and

(10) IXCs must wait 14 days after the form is mailed to customers before submitting their PIC change orders to LECs. If customers have cancelled their orders during the waiting period, IXCs, of course, cannot submit the customer's orders to LECs.

[FR Doc. 92–2938 Filed 2–6–92; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF DEFENSE

48 CFR Parts 211 and 252

Defense Federal Acquisition Regulation Supplement; Contracting for Commercial Items

AGENCY: Department of Defense (DoD).

ACTION: Interim rule.

SUMMARY: This notice makes technical corrections in the interim rule published as part 211 of the 1991 edition of the Defense Federal Acquisition Regulation Supplement (DFARS). It revises all of the references to the 1988 edition of DFARS to update them to the 1991 edition and it makes other minor technical corrections.

EFFECTIVE DATE: December 31, 1991.

FOR FURTHER INFORMATION CONTACT: Lou Gaudio, Acquisition Reform, OUSD(A)DP, Pentagon, Washington, DC 20301–3000. Telephone (703) 693–5638. Telefax (703) 697–9845.

List of Subjects in 48 CFR Parts 211 and 252

Government procurement.

Claudia L. Naugle,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR parts 211 and 252 are amended as follows:

1. The authority citation for 48 CFR parts 211 and 252 continues to read as follows

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD FAR Supplement 201.301.

PART 211—ACQUISITION AND DISTRIBUTION OF COMMERCIAL PRODUCTS

211.7003–1 [Amended]

2. Section 211.7003–1 is amended in paragraph (b)(4) by revising the reference "217.73" to read "217.72."

3. Section 211.7004–1 is amended by revising the reference in paragraph (1)(3)(ii) to read "217.7404–3" in lieu of "217.7503(b)(3)"; and by revising paragraphs (p)(2) introductory text and (p)(2)(i) through (p)(2)(iii) to read as follows:

211.7004–1 Precedence of Part 211

* * * * *

(p) * * *

(2) Subparagraphs (p)(2)(i) through (p)(2)(iii) identify the FAR and DFARS clauses that implement provisions of law or Executive Order that may apply to subcontractors and suppliers under certain conditions or monetary thresholds:

(i) All contracts with subcontractors and suppliers:

FAR 52.203–12 Limitation on payments to Influence Certain Federal Transactions.

FAR 52.222–22 Previous Contracts and Compliance Reports.

FAR 52.222–26 Equal Opportunity.

FAR 52.222–35 Affirmative Action for Special Disabled and Vietnam Era Veterans.

FAR 52.222–36 Affirmative Action for Handicapped Workers.

FAR 52.222–37 Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era.

FAR 52.225–12 Notice of Restrictions on Contracting with Sanctioned Persons.

FAR 52.225–13 Restrictions on Contracting with Sanctioned Persons.

252.223–7004 Notice of Radioactive Materials.

252.225–7001 Buy American Act and Balance of Payments Program.

252.225–7007 Trade Agreements Act.

(ii) Only contracts with subcontractors:

FAR 52.220–4 Labor Surplus Area Subcontracting Program.

FAR 52.222–25 Affirmative Action Compliance.

FAR 52.223–1 Clean Air and Water Certification.

FAR 52.223–2 Clean Air and Water.

FAR 52.225–10 Duty-Free Entry

FAR 52.225–11 Certain Communist Areas.

FAR 52.222–21 Certification of Nonsegregated Facilities.

252.211–7011 Audit of Contract Modifications-Commercial Items.

252.247–7023 Transportation of Supplies by Sea.

(iii) Only first tier subcontracts:

FAR 52.209–6 Protecting Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment.

FAR 52.215–1 Examination of Records by Comptroller General.

FAR 52.219–8 Utilization of Small Business Concerns and Small Disadvantaged Business Concerns.

FAR 52.219–9 Small Business and Small Disadvantaged Business Subcontracting Plan.

252.203–7001 Special Prohibition on Employment.

252.219–7003 Small Business and Small Disadvantaged Business Subcontracting Plan (DoD Contracts).

* * * * *

211.7004–6 [Amended]

4. Section 211.7004–6 is amended in paragraph (a)(3) by removing the words "and 220."

5. Section 211.7005 is revised to read as follows:

211.7005 Contract clauses.

(a) The contracting officer shall insert the following required clauses in Section I of all solicitations and contracts awarded under this Subpart:

(1) FAR 52.203–1 Officials Not to Benefit.

(2) FAR 52.203–3 Gratuities.

(3) FAR 52.203–6 Restriction on Subcontractor Sales to the Government.

(4) FAR 52.203–7 Anti-Kickback Procedures.

(5) FAR 52.203–10 Price or Fee Adjustment for Illegal or Improper Activity.

(6) FAR 52.209–6 Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment.

(7) FAR 52.219–8 Utilization of Small Business Concerns and Small Disadvantaged Business Concerns.

(8) FAR 52.219–13 Utilization of Women-Owned Small Businesses.

(9) FAR 52.222–26 Equal Opportunity.

(10) FAR 52.222–35 Affirmative Action for Special Disabled and Vietnam Era Veterans.

(11) FAR 52.222–36 Affirmative Action for Handicapped Workers.

(12) FAR 52.222–37 Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era.

(13) FAR 52.223–6 Drug-Free Workplace.

(14) FAR 52.225–13 Restrictions on Contracting with Sanctioned Persons.

(15) FAR 52.229–3 Federal, State, and Local Taxes.

(16) FAR 52.232–23 Assignment of Claims.

(17) FAR 52.233–1 Disputes.

(18) 252.203–7000 Statutory Prohibitions on Compensation to Former Department of Defense Employees.

(19) 252.203–7001 Special Prohibition on Employment.

(20) 252.211–7000 Termination—Commercial Items.

(21) 252.211–7001 Invoice and Payment—Commercial Items.

(22) 252.211-7002 Changes—Commercial Items.
(23) 252.211-7003 Patents and Copyright Indemnification—Commercial Items.
(24) 252.211-7004 Inspection and Acceptance—Commercial Items.
(25) 252.211-7005 Reserved.
(26) 252.211-7006 Title and Risk of Loss—Commercial Items.
(27) 252.211-7010 Price Reduction for Defective Cost or Pricing Data—Contract Modifications—Commercial Items.
(28) 252.211-7011 Audit of Contract Modifications—Commercial Items.
(29) 252.211-7015 Technical Data and Computer Software—Commercial Items.
(30) 252.211-7021 Clauses to be Included in Contracts with Subcontractors and Suppliers—Commercial Items.
(31) 252.225-7012 Preference for Certain Domestic Commodities.
(32) 252.243-7001 Pricing of Contract Modifications.
(33) 252.247-7023 Transportation of Supplies by Sea.

(b) The contracting officer shall insert the following clauses in Section I of solicitations and contracts awarded under this Subpart as applicable. The prescriptions for the FAR and DFARS clauses other than DFARS part 211 clauses are identified in FAR part 52 and DFARS part 252. The prescriptions for DFARS part 211 clauses are contained in 211.7004-1.

(1) FAR 52.203-5 Covenant Against Contingent Fees.
(2) FAR 52.203-9 Requirement for Certificate of Procurement Integrity—Modification.
(3) FAR 52.203-12 Limitations on Payments to Influence Certain Federal Transactions.
(4) FAR 52.215-1 Examination of Records by Comptroller General.
(5) FAR 52.215-33 Order of Precedence.
(6) FAR 52.216-18 Ordering.
(7) FAR 52.216-19 Delivery Order Limitation.
(8) FAR 52.216-20 Definite Quantity.
(9) FAR 52.216-21 Requirements.
(10) FAR 52.216-22 Indefinite Quantity.
(11) FAR 52.219-6 Notice of Total Small Business Set-Aside.
(12) FAR 52.219-9 Small Business and Small Disadvantaged Business Subcontracting Plan.
(13) FAR 52.219-16 Liquidated Damages-Small Business Subcontracting Plan.
(14) FAR 52.220-3 Utilization of Labor Surplus Area Concerns.
(15) FAR 52.220-4 Labor Surplus Area Subcontracting Program.
(16) FAR 52.222-1 Notice of the Government of Labor Disputes.
(17) FAR 52.222-3 Convict Labor.
(18) FAR 52.222-20 Walsh Healy Public Contracts Act.
(19) FAR 52.222-28 Equal Opportunity Preaward Clearance of Subcontract.
(20) FAR 52.223-2 Clean Air and Water.
(21) FAR 52.225-10 Duty-Free Entry.
(22) FAR 52.225-11 Certain Communist Areas.
(23) FAR 52.232-17 Interest.
(24) FAR 52.232-28 Electronic Funds Transfer Payment Methods.
(25) FAR 52.242-10 F.o.b. Origin-Government Bills of Lading or Prepaid Postage.
(26) FAR 52.246-17 Warranty of Supplies of a Non-Complex Nature.
(27) FAR 52.246-18 Warranty of Supplies of a Complex Nature.
(28) FAR 52.246-19 Warranty of Systems and Equipment under Performance Specifications or Design Criteria.
(29) FAR 52.247-1 Commercial Bill of Lading Notations.
(30) FAR 52.247-29 F.o.b. Origin.
(31) FAR 52.247-34 F.o.b. Destination.
(32) 252.205-7000 Provision of Information to Cooperative Agreement Holders.
(33) 252.206-7000 Domestic Source Restriction.
(34) 252.211-7016 Technical Data and Computer Software—Withholding of Payment—Commercial Items.
(35) 252.211-7017 Certification of Technical Data and Computer Software Conformity—Commercial Items.
(36) 252.219-7001 Notice of Partial Small Business Set-Aside with Preferential Consideration for Small Disadvantaged Business Concerns.
(37) 252.219-7002 Notice of Small Disadvantaged Business Set-Aside.
(38) 252.219-7003 Small Business and Small Disadvantaged Business Subcontracting Plan (DoD Contracts).
(39) 252.219-7005 Incentive for Subcontracting with Small Businesses, Small Disadvantaged Businesses, Historically Black Colleges and Universities, and Minority Institutions.
(40) 252.219-7006 Notice of Evaluation Preference for Small Disadvantaged Business Concerns.
(41) 252.223-7000 Hazardous Material Identification and Material Safety Data.
(42) 252.223-7004 Notice of Radioactive Materials.
(43) 252.225-7001 Buy American Act and Balance of Payments Program.
(44) 252.225-7002 Qualifying Country Sources as Subcontractors.
(45) 252.225-7007 Trade Agreements Act.
(46) 252.225-7014 Preference for Domestic Specialty Metals.
(47) 252.225-7015 Preference for Domestic Hand or Measuring Tools.
(48) 252.225-7016 Restriction on Acquisition of Foreign Machine Tools.
(49) 252.225-7017 Restriction on Acquisition of Foreign Valves.
(50) 252.225-7027 Limitation on Sales Commissions and Fees.
(51) 252.225-7028 Exclusionary Policies and Practices of Foreign Governments.
(52) 252.233-7000 Certification of Claims and Requests for Adjustment or Relief.
(53) 252.242-7002 Submission of Commercial Freight Bills for Audit.
(54) 252.247-7024 Notification of Transportation of Supplies by Sea.

(c) The contracting officer shall insert the following representations and certifications in section K of solicitations as applicable. The prescriptions for the following FAR and DFARS representations and certifications other than DFARS part 211 representations and certifications are identified in FAR part 52 and DFARS part 252. The prescriptions for DFARS part 211 representations and certifications are contained in 211.7004-6(a) and 211.7003-2(d).

(1) FAR 52.203-4 Contingent Fee Representation and Agreement.
(2) FAR 52.203-8 Requirement for Certificate of Procurement Integrity.
(3) FAR 52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions.
(4) FAR 52.204-3 Taxpayer Identification.
(5) FAR 52.209-5 Certification Regarding Debarment, Suspension, Proposed Debarment and Other Responsibility Matters.
(6) FAR 52.222-19 Walsh-Healy Public Contracts Act Representation.
(7) FAR 52.222-21 Certification of Nonsegregated Facilities.
(8) FAR 52.222-22 Previous Contracts and Compliance Reports.
(9) FAR 52.222-25 Affirmative Action Compliance.
(10) FAR 52.223-1 Clear Air and Water Certification.
(11) FAR 52.223-5 Certification Regarding A Drug-Free Workplace.
(12) FAR 52.225-12 Notice of Restrictions on Contracting with Sanctioned Persons.

(13) 252.209-7001 Disclosure of Ownership or Control by a Foreign Government that Supports Terrorism.
(14) 252.211-7012 Certifications—Commerical Items—Competitive Acquisitions.
(15) 252.211-7013 New Material—Commercial Items.
(16) 252.211-7020 Business Type Certification—Commercial Items.
(17) 252.225-7000 Buy American Act—Balance of Payments Program Certificate.
(18) 252.225-7006 Buy American Act—Trade Agreements Act—Balance of Payments Program Certificate.
(19) 252.247-7022 Representation of Extent of Transportation by Sea.

(d) The contracting officer shall insert the following instructions, conditions or notices in section L of solicitations as applicable. The prescriptions for the following FAR and DFARS provisions other than FAR 52.215-9, FAR 52.215-12, FAR 52.215-13, FAR 52.215-14, FAR 52.216-1 and DFARS part 211 provisions are identified in FAR part 52 and DFARS part 252. The prescriptions for FAR 52.215-9, FAR 52.215-12, FAR 52.215-13, FAR 52.215-14, FAR 52.216-1 and DFARS part 211 provisions are contained in 211.7004-6(b).

(1) FAR 52.204-4 Contractor Establishment Code.
(2) FAR 52.214-21 Descriptive Literature.
(3) FAR 52.214-23 Late Submissions, Modifications, and Withdrawals of Technical Proposals under Two-Step Sealed Bidding.
(4) FAR 52.214-25 Step Two of Two-Step Sealed Bidding.
(5) FAR 52.214-33 Late Submissions, Modifications and Withdrawals of Technical Proposals Under Two Step-Sealed Bidding (Overseas).
(6) FAR 52.215-8 Acknowledgement of Amendments to Solicitations.
(7) FAR 52.215-9 Submissions of Offers.
(8) FAR 52.215-12 Restriction on Disclosure and Use of Data.
(9) FAR 52.215-13 Preparation of Offers.
(10) FAR 52.215-14 Explanation to Prospective Offerors.
(11) FAR 52.216-1 Type of Contract.
(12) FAR 52.222-24 Preaward On-Site Equal Opportunity Compliance Review.
(13) 252.211-7007 Telegraphic Submission of Offers—Commercial Items.
(14) 252.211-7008 Facsimile Submission of Offers—Commercial Items.
(15) 252.211-7009 General Solicitation Information and Definitions—Commercial Items.
(16) 252.211-7014 Contract Award—Commercial Items.
(17) 252.211-7018 Late Submissions, Modifications and Withdrawals of Offers—Commercial Items.
(18) 252.211-7019 Late Submissions, Modifications and Withdrawals of Offers—Commercial Items-(Overseas).
(19) 252.225-7013 Domestic Wool Preference.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.211-7021 [Amended]

6. Section 252.211-7021 is amended by revising in paragraph (b)(1) the reference "252.223-7005" to read "252.223-7004"; by revising the reference "252.225-7006 Buy American Act—Trade Agreement Act and the Balance of Payments Program" to read "252.225-7007 Trade Agreements Act"; and by removing the references "252.225-7015 United States Products Certification (Military Assistance Program)." and "252.225-7016 United States Products (Military Assistance Program)."

7. Section 252.211-7021 is amended by revising in paragraph (b)(2) the reference "252.247-7203" to read "252.247-7023".

8. Section 252.211-7021 is amended by revising in paragraph (b)(3) the reference "252.219-7000" to read "252.219.7003."

[FR Doc. 92-2963 Filed 2-6-92; 8:45 am]

BILLING CODE 3810-01-M

Proposed Rules

Federal Register
Vol. 57, No. 26
Friday, February 7, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 170 and 171

RIN 3150-AE13

Limited Revision of Fee Schedules; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule: correction.

SUMMARY: This document presents corrections to a proposed rule which was published January 9, 1992 (57 FR 847). This action is necessary to correct inadvertent errors in the percentage figures presented in a table and other minor typographical errors.

DATES: The comment period for the proposed rule expires February 10, 1992. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure only that comments received on or before this date will be considered. Because the Commission needs to incorporate the results of the proposed rule in developing the FY 1992 annual fees, including those reduced fees for small entities, requests for extensions of the comment period will not be granted.

ADDRESSES: Submit written comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, ATTN: Docketing and Service Branch.

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland, 20852, between 7:45 am and 4:15 pm Federal workdays. (Telephone 301–504–1966).

Copies of comments received may be examined at the NRC Public Document Room at 2120 L Street, NW., Washington, DC 20555 in the lower level of the Gelman Building.

The agency workpapers that support the proposed changes to 10 CFR parts 170 and 171 are available in the Public Document Room at 2120 L Street, NW., Washington DC 20555 in the lower level of the Gelman Building.

FOR FURTHER INFORMATION CONTACT:

C. James Holloway, Jr., Office of the Controller, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 492–4301.

SUPPLEMENTARY INFORMATION: On January 9, 1992 (57 FR 847), the NRC published a proposed rule that would make two limited amendments to its regulations governing the assessment of license and annual fees. The Regulatory Flexibility Analysis which was presented as appendix A to this document contains errors which must be corrected to eliminate the potential for misunderstanding. Accordingly the January 9, 1992 proposed rule, which was the subject of FR Doc. 92–506, is corrected as follows:

1. In the third column of page 851, in the tenth line of the first paragraph under the heading "I. Background," the word "request" should read "requires."

2. In the second column of page 853, the seventh line of the first paragraph under the heading "IV. Maximum Fee" should read "that should be charged to a small entity."

3. In the second column of page 853, in the tenth line of the first paragraph under the heading "IV. Maximum Fee," the word "to" should read "10."

4. In table which appears in the second column of page 854, the percent of total entry for the population range "20,000–24,999" which reads "10" should read "9."

5. In table which appears in the second column of page 854, the percent of total entry for the population range "25,000–50,000" which reads "26" should read "33."

Dated at Bethesda, Maryland, this 3d day of February, 1992.

For the Nuclear Regulatory Commission.

Donnie H. Grimsley,

Director, Division of Freedom of Information and Publications Services, Office of Administration.

[FR Doc. 92–3000 Filed 2–6–92; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Chapters I–III

23 CFR Chapters I–III

33 CFR Chapters I and IV

46 CFR Chapters I–III

48 CFR Chapter 12

49 CFR Subtitle A and Chapters I–VI

[Notice 92-1]

Regulatory Review

AGENCY: Department of Transportation.

ACTION: Request for comments.

SUMMARY: In response to the President's announcement of a federal regulatory review, this notice requests public comments on which Departmental regulations substantially impede economic growth, may no longer be necessary, are unnecessarily burdensome, or impose needless costs or red tape.

DATES: Comments should be received no later than March 2, 1992. Because of the short time provided to complete the review, we would appreciate comments being filed earlier, if possible.

ADDRESSES: Comments should be submitted to the docket section of the relevant modal administration, attention "Regulatory Review Docket." Multiple copies would be appreciated, but are not required.

The addresses of the docket sections are as follows:

Federal Aviation Administration, Rules Docket (AGC–10), Docket No. 26768, Office of Chief Counsel, 800 Independence Avenue SW., room 915G, Washington, DC 20591

Federal Highway Administration, Docket Room, Docket 92–12, 400 7th Street SW., room 4232 Washington, DC 20590

Federal Railroad Administration, Docket Clerk, Docket RSS 1–92–1, 400 Seventh Street SW., room 8201, Washington, DC 20950

Federal Transit Administration, Docket Clerk, Docket 92A, 400 Seventh Street SW., room 9316, Washington, DC 20590

Maritime Administration, Docket Clerk, Docket R–141, 400 Seventh Street SW., room 7300, Washington, DC 20590

National Highway Traffic Safety Administration, Docket Clerk, Docket 92–04, Notice 1, 400 Seventh Street SW., room 5109, Washington, DC 20590

Office of the Secretary, U.S. Department of Transportation, Documentary Services Division, Docket Section, Docket 47978, 400 Seventh Street SW., room 4107 Washington, DC 20590

Research and Special Programs Administration, Docket Branch, Docket RR–1, 400 Seventh Street SW., room 8421, Washington, DC 20590

Saint Lawrence Seaway Development Corporation, 400 Seventh Street SW., room 5424, Washington, DC 20590, Attn: Marc Owen, Chief Counsel

United States Coast Guard, Marine Safety Council, Docket 92–005, 2100 Second Street SW., room 3406, Washington, DC 20593

FOR FURTHER INFORMATION CONTACT: Neil R. Eisner, Assistant General Counsel, Regulation and Enforcement, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590; (202) 366–4723.

SUPPLEMENTARY INFORMATION: In the State of the Union address of January 28, 1992, President Bush announced a 90-day moratorium and review of regulations. In a memorandum to certain Department and agency heads that discussed the initiative in more detail, the President noted, "[a] major part of this undertaking must be to weed out unnecessary and burdensome government regulations, which impose needless costs on consumers and substantially impede economic growth." The President ordered the Department to work with the public, other interested agencies, the Office of Information and Regulatory Affairs in the Office of Management and Budget and the Council on Competitiveness to (i) identify each of the "agency's regulations and programs that impose a substantial cost on the economy and (ii) determine whether each such regulation or program adheres to the following standards:

(a) The expected benefits to society of any regulation should clearly outweigh the expected costs it imposes on society.

(b) Regulations should be fashioned to maximize net benefits to society.

(c) To the maximum extent possible, regulatory agencies should set performance standards instead of prescriptive command-and-control requirements, thereby allowing the regulated community to achieve regulatory goals at the lowest possible cost."

(d) Regulations should incorporate market mechanisms to the maximum extent possible.

(e) Regulations should provide clarity and certainty to the regulated community and should be designed to avoid needless litigation."

As required by the memorandum, the Department will propose any necessary administrative changes (including repeal, where appropriate) to bring DOT regulations and programs into conformity with the standards. At the end of the review period, the Department will submit a written report to the President listing recommended regulatory changes and the potential savings to the economy of those changes, including an estimate of the number of jobs that will be created. In addition, the Department will prepare a report summarizing regulatory programs that are left unchanged with an explanation of how the programs are consistent with the regulatory standards set forth above.

This notice solicits public comment on the Department's regulatory programs. In particular, we would appreciate commenters identifying regulations that substantially impede economic growth, may no longer be necessary, are unnecessarily burdensome, or impose needless costs or red tape. In some cases, important innovations, technologies, or new markets may have taken place or have been created since the rules were issued. In addition, we would appreciate help in identifying areas in which there are overlapping, duplicative, inconsistent or conflicting requirements with other Federal agencies, as well as in the Department's own programs.

Issued in Washington on February 4, 1992.

James B. Busey,

Acting Secretary.

[FR Doc. 92–3057 Filed 2–5–92; 11:06 am]

BILLING CODE 4910-62-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB80

Endangered and Threatened Wildlife and Plants; Notice of Intent Concerning Manatee Protection Areas in Lake Woodruff National Wildlife Refuge, Florida

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent.

SUMMARY: The Service gives notice that regulations to establish manatee protection areas in Lake Woodruff National Wildlife Refuge, Volusia County, Florida, will be promulgated under the authority of the Endangered Species Act of 1973, as amended, should existing State protection be reduced or removed. The Service would regulate waterborne activities within these protection areas. Regulations may include excluding motorized vessels from the refuge, imposing slow speed zones, limiting boat size or horsepower, limiting boat densities, or a combination of methods. The effect of these regulatory measures would most likely be comparable to protection afforded by the current State rule.

DATES: Comments from all interested parties must be received by March 23, 1991.

ADDRESSES: Comments and materials should be sent to U.S. Fish and Wildlife Service, Jacksonville Field Office, 3100 University Blvd. South, Suite 120, Jacksonville, Florida 32216.

FOR FURTHER INFORMATION CONTACT: Robert O. Turner, at above address (904/791–2580, FTS 946–2580).

SUPPLEMENTARY INFORMATION:

Background

Many manatees are known to move through the waters of Lake Woodruff NWR. Most of them belong to a sub-population of Florida manatees (*Trichechus manatus*) called the Blue Springs population because it winters in Blue Springs State Park on the St. Johns River. The movements and habits of the Blue Springs manatees have been studied intensively in recent years. In that time, their numbers have grown from 11 animals in 1970 to over 60 in 1991. This increase is partly the result of recruitment from other areas, and partly due to reproduction by the original animals.

Because refuge waters are darkly colored, turbid, and contain abundant vegetation, tending to conceal manatees, manatee use of the refuge can only be reliably determined by aerial surveys and radio-tracking. Studies conducted by John Bengtson in 1979 and 1980 (Bengtson 1981) and the Service's Sirenia Research Project in Gainesville, Florida in 1981 and 1983 (FWS unpublished data) documented the importance of waterways within Lake Woodruff NWR as important manatee habitat, particularly for the Blue Springs population. Specifically, they demonstrate that: (1) The Blue Springs population spends a great deal of time in refuge waterways, particularly during warm weather months, and (2) the tributaries of Lake Woodruff NWR, including the area from the Norris Dead River through the Ziegler Dead River, are particularly high-use areas.

Both Florida Department of Natural Resources (DNR) and Service experts agree that the greatest threat to the survival of manatees statewide is high speed boat traffic. Reducing boat-related mortality is a Priority 1 action in the revised Florida Manatee Recovery Plan. In Volusia County, where Blue Springs and Lake Woodruff NWR are located, the number of registered boats has increased 78 percent in the last 10 years and the number of manatees killed by boats in the county in the last five years is 2½ times the number killed in the previous five-year period. Because the waters of Lake Woodruff NWR are under the jurisdiction of the State of Florida, the Service's position has been that the Florida Department of Natural Resources was the most appropriate agency to develop manatee protection measures.

In 1989, Florida's Governor and Cabinet directed DNR to work with Volusia and 12 other key counties to implement measures to reduce boat-related manatee injuries and deaths. Counties were required to submit their initial recommendations for site-specific speed zones to DNR.

Volusia County began submitting proposed speed zones to DNR for review in December 1989. In March 1991, however, a Blue Springs manatee, a winter resident for a number of years, was killed by a boat on Lake Woodruff NWR. In addition, at least four manatees have been killed by boats within a few miles of the refuge. Because these deaths represent a significant percentage of the Blue Springs population, the Governor and Cabinet responded by imposing emergency speed limits on portions of the St. Johns River and its tributaries near Blue Springs (including the waters of Lake Woodruff NWR) to take effect on March 26, 1991 and to last for 90 days, during which time a permanent protection plan would be prepared by Volusia County. The tributaries within Lake Woodruff NWR became slow speed zones (5–7 mph). The locations of these slow speed zones were chosen by DNR primarily from recommendations made by the Service's Sirenia Research Project, the facility that has conducted most of the research on the Blue Springs manatees. These slow speed zones are also consistent with the Marine Mammal Commission's Preliminary Assessment of Habitat Protection Need for the West Indian Manatees on the East Coast of Florida and Georgia (Marine Mammal Commission 1988).

As the period of emergency speed limits neared its end, Volusia County submitted another draft protection plan to DNR. DNR concluded that the county proposal would provide inadequate protection for manatees in several locations. One area of disagreement was the allowance of relatively high speeds (30 mph) in the tributaries of Lake Woodruff NWR. Both DNR and the Service felt this speed limit would afford inadequate protection in a high-use manatee area. Subsequently, on June 25, 1991, one day after the emergency measures expired and over the objections of Volusia County's task force, the Governor and Cabinet adopted as a rule DNR's more restrictive recommendations. The State protection plan limits speeds in Lake Woodruff tributaries, as in the emergency measures, to 5–7 mph.

A citizen's group in the Lake Woodruff area has challenged the State rule. The group believes that the slow speed zones in backwater areas of the St. Johns River within Lake Woodruff NWR are impacting local businesses and that manatee mortality data do not support the speed zones adopted by the State. An injunction against the State rule could leave Volusia County, and Lake Woodruff NWR in particular, without manatee protection for the first time since emergency measures were implemented in March 1991.

The Service believes strongly that unless high speed boating is eliminated in the narrow backwaters of Lake Woodruff NWR, there will be additional, and avoidable, boat-related manatee injuries and mortalities. While boat-related mortality on the refuge is not high now, the growing number of boats and manatees using the area increases the potential for collisions. The Service chooses not to wait until there are more deaths before protective action is taken.

The current action by the Service is to provide public notice that a contingency plan is being prepared to assure continued and effective protection of manatees within the refuge. Under the authority of 50 CFR part 17 subpart J (Authority), the plan will delineate manatee protection areas within certain portions of the refuge. Protection areas will be put into effect should implementation of the State rule be delayed or weakened, or if manatee protection within the refuge is otherwise inadequate. If the State rule is challenged and this contingency plan is implemented, proposed regulations will be published in the **Federal Register** to establish manatee protection areas and will include the following information:

(1) The locations and descriptions of areas to be protected.

(2) Whether each area is to be a manatee "sanctuary" or a "refuge",

(3) If an area is to be a manatee sanctuary, the regulation shall state that all waterborne activities, including boating, fishing, and swimming, would be prohibited:

(H) If an area is to be a manatee refuge, the regulation shall state which, if any, waterborne activities are prohibited, and it shall state the applicable restrictions, if any, on permitted waterborne activities. Within a refuge the Service might limit the number of watercraft allowed in the area, restrict the area to non-motorized boats or to boats of a certain size or horsepower, create site-specific slow speed zones in areas such as the tributaries of Lake Woodruff, or implement a combination of alternatives.

There are also provisions within the Authority for the emergency establishment of manatee protection areas when the Director determines there is substantial evidence that there is eminent danger of a taking of one or more manatees, and that such establishment is necessary to prevent such taking.

Authority

The authority to establish manatee protection areas is provided by the Endangered Species Act of 1973, as amended (16 U.S.C. 1533 *et seq.*, and the Marine Mammal Protection Act (16 U.S.C. 1361–1407).

Public Comments Solicited

The Service intends that any final action resulting from the proposed rule will be as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this matter are hereby solicited. Comments particularly are sought concerning the need for additional regulations and alternatives that would alleviate risks to manatees from waterborne activities within Lake Woodruff National Wildlife Refuge.

Any proposed rule will take into consideration all comments and any additional information received by the Service.

References Cited

Bengtson, J. L. 1981. Ecology of manatees *(Trichechus manatus)* in the St. Johns River, Florida. Ph.D. Thesis, Univ. Minnesota, Minneapolis. 126 pp.

Fish and Wildlife Service. Unpublished data. National Ecology Center, Gainesville, Fl.

Marine Mammal Commission. 1988. Preliminary assessment of habitat protection needs for West Indian manatees on the east coast of Florida and Georgia. Report of the Marine Mammal Commission in Consultation with its Committee of Scientific Advisors on Marine Mammals. Washington, DC.

Author

The primary author of this proposed rule is Robert O. Turner, Jacksonville Field Office, U.S. Fish and Wildlife Service, 3100 University Boulevard South, Suite 120, Jacksonville, Florida 32216.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Dated: January 30, 1992.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 92–2954 Filed 2–6–92; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 17

RIN 1018–AB56

Endangered and Threatened Wildlife and Plants; Notice of Public Hearings on Proposed Endangered Status for the Coastal California Gnatcatcher

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of public hearings.

SUMMARY: The U.S. Fish and Wildlife Service (Service), under the Endangered Species Act of 1973, as amended (Act), gives notice that two public hearings will be held on the proposed endangered status for the coastal California gnatcatcher (*Polioptila californica californica*). The hearings will allow all interested parties to submit oral or written comments on the proposal.

DATES: Two public hearings will be held, each from 1 to 4 p.m. and from 6 to 8 p.m. Hearings will be held on Tuesday, February 25, 1992, in Anaheim, California, and on Thursday, February 27, 1992, in San Diego, California.

Comments from all interested parties must be reached by March 16, 1992.

ADDRESSES: The hearing on Tuesday, February 25, 1992, will be held at the Hyatt Regency Alicante, 100 Plaza Alicante at Harbor and Chatman, Garden Grove (Anaheim), California. The Thursday, February 27, 1992, hearing will be held at the San Diego Convention Center, 111 West Harbor Drive, San Diego, California.

Written comments and materials may be submitted at the hearing or may be sent directly to Mr. Jeffrey Opdycke, Field Supervisor, U.S. Fish and Wildlife Service, Southern California Field Office, 24000 Avila Road, Laguna Niguel, California 92656. Comments and materials received will be available for public inspection during normal business hours by appointment, at the above address.

FOR FURTHER INFORMATION CONTACT: Jeffrey Opdycke, Field Supervisor, at the address listed above (Telephone: 714/643–4270 or FTS 796–4270).

SUPPLEMENTARY INFORMATION:

Background

The coastal California gnatcatcher (*Polioptila californica californica*) is a small, insectivorous songbird that occurs in several distinctive subassociations of the coastal sage scrub plant community in southern California and northwestern Baja California, Mexico. This subspecies has experienced a significant population decline in the United States that has been attributed largely to widespread destruction of its habitat. The coastal California gnatcatcher is vulnerable throughout its range because of habitat loss and fragmentation occurring in conjunction with urban and agricultural development. This subspecies is also vulnerable to a variety of predators.

On September 17, 1991, the Service published in the **Federal Register** a proposed rule to list the coastal California gnatcatcher as endangered (56 FR 47053). Subsection 4(b)(5)(E) of the Act requires that a public hearing be held if it is requested within 45 days of publication of a proposed rule.

Because of the level of interest in this endangered species listing action, and in anticipation of the hearing requests on this proposal, the Service has scheduled public hearings at the following locations:

Tuesday, February 25, 1992: Hyatt Regency Alicante, 100 Plaza Alicante at Harbor and Chatman, Garden Grove (Anaheim), California (1 to 4 p.m. and 6 to 8 p.m.)
Thursday, February 27, 1992: San Diego Convention Center, 111 West Harbor Drive, San Diego, California (1 to 4 p.m. and 6 to 8 p.m.)

Those parties wishing to make statements for the record should bring a copy of their statements to present to the Service at the start of the hearing. Oral statements may be limited in length, if the number of parties present at the hearing necessitates such a limitaion. There are, however, no limits to the length of written comments or materials presented at the hearing or mailed to the Service. Written comments will be given the same weight as oral comments. Written comments may be submitted at the hearing or mailed to the address given in the **ADDRESSES** section of this notice. The comment period closes on March 16, 1992.

Author

The primary author of this notice is Ms. Leslie Propp, U.S. Fish and Wildlife Service, Fish and Wildlife Enhancement, Eastside Federal Complex, 911 NE. 11th Avenue, Portland, Oregon 97232–4181 (telephone 503/231–6131 or FTS 429–6131).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Dated: January 31, 1992.

William E. Martin,

Acting Regional Director, Region 1, U.S. Fish and Wildlife Service.

[FR Doc. 92–2977 Filed 2–6–92; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 57, No. 26
Friday, February 7, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

World Bank; Grants and Cooperative Agreement Awards

AGENCY: Office of International Cooperation and Development (OICD), USDA.

ACTION: Notice of intent

ACTIVITY: OICD intends to award a Grant to The World Bank to provide partial funding support for the project entitled "Frameworks for Action in Agricultural Research."

AUTHORITY: Section 1458 of the National Agricultural Research, Extension and Teaching Policy Act of 1977, as amended (7 U.S.C. 3291), and the Food Security Act of 1985 (Pub. L. 99–198).

OICD anticipates the availability of funds in fiscal year 1992 (FY92) to support The World Bank Special Program for African Agricultural Research. The purpose of this specific project to be funded is to speed up the slow rate of technology generation and transfer in agriculture through a set of national and regional activities in Africa, related to institution-building, substantive research issues and regional collaborative mechanisms.

Based on the above, this is not a formal request for application. An estimated $30,000 will be available in FY92 as partial project support. Information on proposed Grant #59-319R-2-002 may be obtained from: USDA/OICD/Administrative Services, Washington, DC 20250–4300.

Dated: February 4, 1992.

Nancy J. Croft,

Contracting Officer.

[FR Doc. 92–2994 Filed 2–6–92; 8:45 am]

BILLING CODE 3410-OP-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Final Approval of Amendment No. 3 to the Washington Coastal Zone Management Program

AGENCY: National Oceanic and Atmospheric Administration, National Ocean Service, Office of Ocean and Coastal Resource Management, Commerce.

ACTION: Approval of Amendment to the State of Washington Coastal Zone Management Program.

LOCATION: County of Grays Harbor, cities of Aberdeen, Cosmopolis, Hoquiam, Ocean Shores and Westport.

SUMMARY: The Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service, National Oceanic and Atmospheric Administration (NOAA) received a request from the State of Washington to incorporate the Grays Harbor Estuary Management Plan (GHEMP) into the federally-approved Washington Coastal Zone Management Program. The State's request was made pursuant to section 306(e) of the Coastal Zone Management Act of 1972, as amended (CZMA), 16 U.S.C. 1455(e), and the regulations implementing the CZMA at 15 C.F.R. part 923, subpart I. The GHEMP, a comprehensive land and water use program, amends the County of Grays Harbor, and the cities of Aberdeen, Cosmopolis, Hoquiam, Ocean Shores and Westport Shoreline Master Programs.

Notice is hereby given that the Director of OCRM has reviewed the amendment request and has made a determination that the Washington Coastal Zone Management Program as amended by the GHEMP will still constitute an approvable program and that the procedural requirements of section 306(d) of the CZMA have been met.

OCRM prepared an environmental impact statement for the proposed amendment. In accordance with the provisions of section 102(2)(C) of NEPA, on May 29, 1987, OCRM distributed the program EIS to Federal agencies and other interested parties. The comment period ended July 13, 1987. All comments received have been responded to and the Final Findings of Approvability have been approved by the Director of OCRM. The Federal consistency provisions of section 307 of the CZMA, 16 U.S.C. 1456, shall apply to the GHEMP on the date of approval.

FOR FURTHER INFORMATION CONTACT: James P. Burgess, Acting Regional Manager, Pacific Region, Office of Ocean and Coastal Resource Management, 1825 Connecticut Avenue, NW., Washington, DC 20235. 202/606–4158.

Federal Domestic Assistance Catalog 11.419, Coastal Zone Management Program Administration.

Dated: January 31, 1992.

John J. Carey,

Acting Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 92–2972 Filed 2–6–92; 8:45 am]

BILLING CODE 3510-22-M

North Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The North Pacific Fishery Management Council's Pacific Northwest Crab Industry Advisory Committee (PNCIAC) will reconvene its January 29, 1992, meeting on February 19, 1992. The meeting will be held in room 2039, in Building 4 of the Alaska Fisheries Science Center, Seattle, WA. The meeting will begin at 8:30 a.m.

The PNCIAC will consider the following agenda items:

(1) Review an Alaska Department of Fish and Game (ADF&G) pot limit proposal for Bering Sea/Aleutian Islands crab fisheries. This issue will be considered at the March 1992 Board of Fisheries meeting. Representatives from ADF&G will present preliminary information. (2) Receive and review industry proposals for the March 1993 Board of Fisheries shellfish meeting. Individuals interested in submitting proposals to the Board of Fisheries and requesting review by the PNCIAC are encouraged to prepare their proposals prior to the February 19 PNCIAC meeting. PNCIAC will develop proposal recommendations for the Board of Fisheries meeting. The deadline for submission of proposals is April 20, 1992. (3) Discuss other business.

For more information contact Brent Paine, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: (907) 271–2809; or contact Richard White, PNCIAC Chairman, P.O. Box 97019, Redmond, WA 98073; telephone: (206) 881–8181.

Dated: February 3, 1992.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92–2969 Filed 2–6–92; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council (Council) has established an Ad Hoc Committee (AHC) to consider an allocation plan for Pacific whiting in 1992. On January 17, 1992, the National Marine Fisheries Service rejected the Council's proposed allocation among catcher-processors, mothership-processors, and shore-based processors. The AHC, which is composed of members from each segment of the affected industry, will meet on February 10, 1992, beginning at 10 a.m. The AHC will attempt to develop a recommendation for Council consideration at its meeting March 10–13 in Seattle, Washington. The AHC plans to hold this meeting in the Yakima Room at the Columbia River Red Lion, 1401 North Hayden Island Drive, Portland, OR.

For more information contact John Coon, Staff Officer (salmon), Pacific Fishery Management Council, suite 420, 2000 SW First Avenue, Portland, OR 97201; telephone: (503) 326–6352.

Dated: February 3, 1992.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92–2970 Filed 2–6–92; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Termination of the Export Visa Arrangement for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Socialist Federal Republic of Yugoslavia; Correction

February 3, 1992.

In the second column of the notice published in the **Federal Register** on January 9, 1992 (57 FR 884), third paragraph under **SUPPLEMENTARY INFORMATION**, line 6; and the letter to the Commissioner of Customs, second paragraph, line 4, delete the phrase "and exported from Yugoslavia on and after March 5, 1992."

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92–2961 Filed 2–6–92; 8:45 am]

BILLING CODE 3510-DR-F

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From the Blind and Other Severely Handicapped.

ACTION: Proposed addition to procurement list.

SUMMARY: The Committee has received a proposal to add to the Procurement List a commodity to be furnished by a nonprofit agency employing persons with severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: March 9, 1992.

ADDRESSES: Committee for Purchase From the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman, (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed action. If the Committee approves the proposed addition, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodity listed below from a nonprofit agency employing individuals with severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organization that will furnish the commodity to the Government.
2. The action will not have a severe economic impact on a current contractor for the commodity because it has not been procured previously.
3. The action will result in authorizing a small entity to furnish the commodities to the Government.
4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

It is proposed to add the following commodity to the Procurement List:

Dressing, First Aid, Field Training
6510–01–336–6192

Beverly L. Milkman,

Executive Director.

[FR Doc. 92–3015 Filed 2–6–92; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: Defense FAR Supplement, Part 204, Administrative Matters, and the clauses at 252.204; OMB Control Number 0704–0225.
Type of Request: Revision.
Average Burden Hours/Minutes Per Response: 15 minutes.
Responses per Respondent: 1.
Number of Respondents: 86,000.
Annual Burden Hours: 21,500.
Annual Responses: 86,000.
Needs and Uses: Defense FAR Supplement part 204 and the clause at 252.204–7001 requires contractors to provide their name, address, affiliation and socioeconomic

information to the Government. This information is used to (1) identify items in the Federal Catalog System and MILSCAP and (2) to assist in determining which businesses are eligible for preferential treatment under government programs keyed to small, disadvantaged or women-owned businesses.

Affect Public: Businesses or other for-profit and Small Businesses or organizations.
Frequency: On Occasion.
Respondents Obligation: Required to obtain or retain a benefit.
Desk Officer: Mr. Peter Weiss.

Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DOD, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Davis Highway, suite 1204, Arlington, Virginia 22202–4302.

Dated: February 4, 1992.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–3001 Filed 2–6–92; 8:45 am]

BILLING CODE 3810-01-M

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: Request for Family Member Educational Information; AF Form 1466A.
Type of Request: New collection.
Average Burden Hours/Minutes per Response: 15 Minutes.
Responses per Respondent: 1.
Number of Respondents: 48,300.
Annual Burden Hours: 12,075.
Annual Responses: 48,300.
Needs and Uses: This form is used to obtain family information needed to evaluate and document the need of military family member for special medical and educational services. Information is collected prior to new assignments. Data is needed to ensure proper medical and educational needs are available at new assignment. Failure to respond could preclude processing assignment.
Affected Public: Individuals or households, state or local governments, federal agencies or employees.
Frequency: On occasion.
Respondent's Obligation: Required to obtain or retain a benefit.
OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearch, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, Virginia 22202–4302.

Dated: February 4, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–3002 Filed 2–6–92; 8:45 am]

BILLING CODE 3810-01-M

Department of the Navy

CNO Executive Panel; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Long Range Planning Task Force will meet March 9, 1992 from 11 a.m. to 12 p.m., in the CNO's Conference Room, Pentagon 4E630, Washington, DC. All sessions will be closed to the public.

The purpose of this meeting is to review maritime issues as they impact national security policy and requirements. The entire agenda of the meeting will include deliberations on Navy roles in future scenarios and comprises the final report to the CNO. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and are, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact: Judith A. Holden, Executive Secretary to the CNO Executive Panel, 4401 Ford Avenue, room 601, Alexandria, Virginia 22302-0268 Phone (703 756-1205.

Dated: January 29, 1992.

Wayne T. Baucino,

Lieutenant, JAGC, U.S.Naval Reserve, Alternate Federal Register Liaison Officer.

[FR Doc. 92–2980 Filed 2–6–92; 8:45 am]

BILLING CODE 3810-AE-F

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before March 9, 1992.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Wallace R. McPherson, Jr., Department of Education, 400 Maryland Avenue, SW., room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Wallace R. McPherson (202) 708–5174.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Director, Office of Information Resources Management, publishes this

notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following:

(1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Wallace R. McPherson, Jr. at the address specified above.

Dated: February 3, 1992.

Wallace R. McPherson, Jr.,

Acting Director, Office of Information Resources Management.

Office of Postsecondary Education

Type of Review: Extension.
Title: Loan Transfer.
Frequency: On Occasion.
Affected Public: State or local governments; Businesses or other for-profit; Non-profit institutions.
Reporting Burden:
  Responses: 200.
  Burden Hours: 200.
Recordkeeping Burden:
  Recordkeepers: 0.
  Burden Hours: 0.
Abstract: The Department collects this information to determine which lender may receive benefits payable under the Federal Insured Student Loan Progam. This information is used by lenders to report FILS loans that have been sold or transferred from one lender to the other.

Office of Postsecondary Education

Type of Review: Reinstatement.
Title: Performance Report for the Student Literacy Corps Program.
Frequency: Annually.
Affected Public: Non-profit institutions.
Reporting Burden:
  Responses: 300.
  Burden Hours: 1800.
Recordkeeping Burden:
  Recordkeepers: 0.
  Burden Hours: 0.
Abstract: Grantees who participate in the Student Literacy Corps Program submit this report to the Department. The Department uses the information to assess the accomplishment of project goals and objectives, and to aid in effective program management.

Office of Postsecondary Education

Type of Review: Extension.
Title: Application to participate in the Paul Douglas Teacher Scholarship Program.
Frequency: On Occasion.
Affected Public: State or local governments.
Reporting Burden:
  Responses: 11.
  Burden Hours: 45.
Recordkeeping Burden:
  Recordkeepers: 0.
  Burden Hours: 0.
Abstract: The Paul Douglas Teacher Scholarship Program uses Federal funds to provide college scholarships to outstanding high school students to enable them to pursue teaching careers at the elementary or secondary school levels. The Department uses this information for program management.

Office of Postsecondary Education

Type of Review: Revision.
Title: New and Continuation Application for Grants under the School, College and University Partnerships Program.
Frequency: Annually.
Affected Public: State or local governments, Non-profit institutions.
Reporting Burden:
  Responses: 175.
  Burden Hours: 3,500.
Recordkeeping Burden:
  Recordkeepers: 0.
  Burden Hours: 0.
Abstract: This application form is needed to collect the necessary information for noncompeting continuations in FY 1992 and subsequent years and to conduct a competition for new grants in FY 1994.

Office of Postsecondary Education

Type of Review: Revision.
Title: Fiscal Operations Report and Application to Participate in the Perkins Loan, Supplemental Educational Opportunity Grant, and College Work-Study Programs.
Frequency: Annually.
Affected Public: State or local governments, Businesses or other for profit, Non-profit institutions.
Reporting Burden:
  Responses: 5100.
  Burden Hours: 93,700.80.
Recordkeeping Burden:
  Recordkeepers: 5100.
  Burden Hours: 408.
Abstract: Under the Higher Education Act of 1965, as amended, institutions are required to apply for, and subsequently report on an annual basis, the expenditures for the Perkins Loan, the Supplemental Educational Opportunity Grant, and the College Work Study Programs. The Department will use the information collected on the reports and applications to assess the effectiveness and accountability of the programs and to make awards.

Office of Postsecondary Education

Type of Review: Reinstatement.
Title: Performance Report for Title VI National Resource Centers Program.
Frequency: Annually.
Affected Public: Non-profit institutions.
Reporting Burden:
  Responses: 127.
  Burden Hours: 572.
Recordkeeping Burden:
  Recordkeepers: 0
  Burden Hours: 0.
Abstract: Institutions that have participated in the National Resource Centers Program are to submit the report to the Department. The Department will use the information to assess the accomplishments of project goals and effective program management.

Office of Elementary and Secondary Education

Type of Review: Reinstatement.
Title: Follow Through Program Final Report Form.
Frequency: Final.
Affected Public: State or local government.
Reporting Burden:
  Responses: 40.
  Burden Hours: 800.
Recordkeeping Burden:
  Recordkeepers: 0
  Burden Hours: 0.
Abstract: This form is needed to report project accomplishments and student achievements over a 3-year period. The Department will use the information to assess the impact of the program and for future planning.

Office of Elementary and Secondary Education

Type of Review: Extension..
Title: State Annual Report (Chapter 2 Federal, State and Local Partnership for Educational Improvement).
Frequency: Annually.
Affected Public: State or local government.
Reporting Burden:
  Responses: 16,052.
  Burden Hours: 49,040.
Recordkeeping Burden:
  Recordkeepers: 0
  Burden Hours: 0.
Abstract: The local education agencies (LEAs) are required to report annually to the state education agency (SEA) on the use of funds. The SEAs submit data to the Secretary on the use of Chapter 2 funds. The Department will

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Ypsilanti, Michigan

use this information to report to Congress on the effectiveness of the program.

Office of Management

Type of Review: Extension.
Title: Family Educational Rights and Privacy Information Collection.
Frequency: On occasion.
Affected Public: State or Local Government.
Reporting Burden:
  Responses: 28,075.
  Burden Hours: 7,018.75.
Recordkeeping Burden:
  Recordkeepers: 0
  Burden Hours: 0.
Abstract: Regulations require school districts and postsecondary institutions to provide disclosure or notification to parents and students of their rights and to keep a record of parties who have access to the student's records.

Office of Educational Research and Improvement

Type of Review: Revision.
Title: Application for Educational Research and Development Center Program.
Frequency: Quarterly—Final Report.
Affected Public: Non-profit institutions.
Reporting Burden:
  Responses: 30.
  Burden Hours: 3600.
Recordkeeping Burden:
  Recordkeepers: 0
  Burden Hours: 0.
Abstract: This form will be used by institutions of higher education or by interstate agencies to conduct educational research and development to submit applications for an award.

[FR Doc. 92-2968 Filed 2-6-92; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Invention Available for License

AGENCY: Office of the Director, PETC, Department of Energy.

ACTION: Notice of invention available for license; correction.

SUMMARY: On December 3, 1991, the Department of Energy issued a notice of invention available for license entitled "Fine Coal Cleaning via Micro-Mag Process" at 56 FR 61416. The U.S. PATENT No. was inadvertently printed as U.S. PATENT No. 5,022,891. The correct PATENT No. is U.S. PATENT No. 5,022,892.

FOR FURTHER INFORMATION CONTACT: Curtis W. McBride, Chief Counsel, Pittsburgh Energy Technology Center, U.S. Department of Energy, P.O. Box 10940, Pittsburgh, Pennsylvania 15236-0940; telephone (412) 892-6161.

Sun W. Chun,
Director.

[FR Doc. 91-3003 Filed 2-6-92; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4100-7]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before March 9, 1992.

FOR FURTHER INFORMATION OR FOR COPIES OF THIS ICR CONTACT: Donald Brady, Chief, Watershed Management Section at EPA, (202) 260-5368.

SUPPLEMENTARY INFORMATION:

Office of Water

Title: Surface Water Toxics Control Program and Water Quality Planning and Management Program—303(d) Requirements (ICR # 1560.02.)

Abstract: ICR 1560.02 describes the information requirements to be imposed on States by the Water Quality Planning and Management Program Rule under section 303(d) of the Clean Water Act (CWA). The hours imposed on the States by these requirements were included in ICR 1560.01, which has already been approved by OMB.

Under Section 303(d) of the CWA, States must provide information on Total Maximum Daily Loads (TMDLs) of pollutant discharges for waterbodies not meeting water quality standards. The Water Quality Planning and Management Rule requires that this information be included with the States' biennial submissions of their National Water Quality Inventory reports to EPA.

Specifically, the States must carry out three activities. First, they must identify those impaired waterbodies that require the development of Total Maximum Daily Loads. Second, the States must rank the waters in terms of need for TMDLs and must target particular waterbodies for the establishment of a TMDL within each two-year period. Third, the States must allow for public comment and review during the identification and ranking of the waterbodies. If sufficient interest exists, States must propose public meetings to hear comments.

Burden Statement: The average burden imposed by the Surface Water Toxics Control Program and Water Quality Planning and Management Program Rule under section 303(d) is 395 hours per response. This total includes time for searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: States and Territories.

Estimated No. of Respondents: 58.

Estimated Total Annual Burden on Respondents: 7620 hours.

Frequency of Collection: Biennial.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM-223Y), 401 M Street, SW., Washington, DC 20460
and
Matt Mitchell, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th St., NW., Washington, DC 20503.

Dated: January 31, 1992.

Paul Lapsley,
Director, Regulatory Management Division.

[FR Doc. 92-2973 Filed 2-6-92; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4102-4]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 9, 1992.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 260-2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: Gasoline Volatility Enforcement (EPA ICR #1367.03; OMB #2060-178). This ICR requests renewal of the existing clearance.

Abstract: The Environmental Protection Agency's gasoline volatility regulations provide for a one pound per square inch allowance above the otherwise applicable standard for ethanol blends. This information collection request seeks approval for the requirement that facilities handling ethanol blends label invoices with the ethanol content; the required label identifies gasoline products that contain ethanol and thereby qualify for the allowance. Changes in the regulations since the last clearance eliminated the recordkeeping requirement, which accounted for over 75% of this collection's burden. The labelling requirement now provides purchasers of ethanol blends with the information necessary to manage their own compliance with the volatility regulations and to defend themselves from Agency actions on violations which they did not cause.

Burden Statement: The public reporting burden for this collection of information is estimated to average 4 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and labelling the invoices.

Respondents: entities that produce or handle ethanol blends.

Estimated Number of Respondents: 8920.

Estimated Total Annual Burden on Respondents: 35,680 hours.

Frequency of Collection: as needed.

Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM-223Y), 401 M Street, SW., Washington, DC 20460
and
Troy Hillier, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20530.

Dated: January 31, 1992.

Paul Lapsley,
Director, Regulatory Management Division.

[FR Doc. 92-3016 Filed 2-6-92; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-4102-3]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared January 20, 1992 Through January 24, 1992 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260-5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 5, 1991 (56 FR 14096).

Draft EISs

ERP No. D-COE-K36104-CA Rating EC2, Sacramento River Flood Control System, Flood Protection, Phases II-V from Red Bluff to Collinsville, Implementation, CA.

Summary: EPA expressed environmental concerns regarding potential impacts to wetlands, fish and wildlife habitats, water and air quality. EPA urged the Corps to select flood protection methods that minimize damage to the natural environment and provide mitigation for unavoidable adverse impacts. EPA recommended that the Corps consider preparing tiered EISs rather than environmental assessments for future site-specific flood control work due to the large size of the areas proposed for work.

ERP No. D-FHW-F40318-MN Rating E02, US 14 Construction, Owatonna to Kasson, Funding and Section 404 Permit, Dodge and Steele Counties, MN.

Summary: EPA finds the prairie and wetlands mitigation plans insufficient and the spoil disposal from the rechannelization of Dodge Center Creek in need of addressing.

ERP No. D-FHW-F40319-WI Rating EC2, WI-TH-29 (Ringle-Shawano) Corridor Project, Improvement, Linking I-94 and Minneapolis/St. Paul to Green Bay/Fox River Valley, Land Acquisition and Section 404 Permit, Marathon and Shawano Counties, WI.

Summary: EPA finds insufficient information was provided for the assessment of additional alternatives and for the mitigation of woodlands impacts.

ERP No. D-NPS-K61121-NV Rating LO1, Great Basin National Park General Management and Development Concept Plans, Implementation, White Pine County, NV.

Summary: EPA requested additional discussion in the FEIS on efforts to protect wetlands and riparian areas from grazing and roadbuilding.

Final EISs

ERP No. F-AFS-K61110-CA, Merced and South Fork Merced Wild and Scenic Rivers Management Plan, Implementation, Sierra and Stanislaus National Forests and Yosemite National Park, Mariposa and Madara Counties, CA.

Summary: Review of the Final EIS was not deemed necessary.

ERP No. F-AFS-K67010-CA, Gillibrand Soledad Canyon Mining Operations Management Plan, Implementation, Angeles National Forest, Los Angeles County, CA.

Summary: Review of the Final EIS was not deemed necessary.

ERP No. F-AFS-L61188-WA, Lower White Salmon River Wild and Scenic River Management Plan, Columbia River Gorge National Scenic Area Wild and Scenic River System, Implementation, Klickitat County, WA.

Summary: EPA had no objections to the preferred alternative as described in the final EIS.

ERP No. F-AFS-L61189-WA, Lower Klickitat River Wild and Scenic River Management Plan, National Wild and Scenic Rivers System, Implementation, Columbia River Gorge National Scenic Area, Klickitat County, WA.

Summary: EPA had no objections to the preferred alternative as described in the final EIS.

ERP No. F-COE-E32066-00, Savannah Harbor Comprehensive Study and Harbor Deepening, Updated and New Information, Implementation, Chatham County, GA and Jasper County, SC.

Summary: EPA's concerns about the project have been satisfactorily addressed by closure of the new and removal of the tide gate from operation.

ERP No. FS-COE-E34010-MS, Arkabutla, Enid, Grenda and Sardis Lake, Operation and Maintenance, Update Information, Channel Restoration on the Tallatchie River and Yalobusha River, MS.

Summary: EPA remains concerned regarding the effectiveness of the proposed flood control measures together with their impacts on the adjacent wetlands in the subject stream reaches. Mitigation for unavoidable environmental damages is being considered, but has not been finalized.

Dated: February 4, 1992.

Richard E. Sanderson,
Director, Office of Federal Activities.

[FR Doc. 92-3020 Filed 2-6-92; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-4102-2]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 260–5073 or (202) 260–5075. Availability of Environmental Impact Statements Filed January 27, 1992 Through January 31, 1992 Pursuant to 40 CFR 1506.9.

EIS No. 920031, Final EIS, CDB, NY, City of Rochester School No. 25 and School No. 36 Replacement, CDBG, Rochester, Monroe County, NY, Due: March 9, 1992, Contact: Larry Stid (716) 428–6924.

EIS No. 920032, Draft EIS, COE, CA, San Rafael Canal Flood Control/Marin County Shoreline Study, Implementation, City of San Rafael, Marin County, CA, Due: March 23, 1992, Contact: Scott Miner (415) 744–3039.

EIS No. 920033, Final EIS, COE, PA, Lower Monongahela River Navigation System, Locks and Dam Nos. 2, 3, and 4 Improvements, Funding, Allegheny, Washington, and Westmoreland Counties, PA, Due: March 9, 1992, Contact: Paul Kolesar (412) 644–6844.

EIS No. 920034, Final EIS, AFS, AK, Kensington Venture Underground Gold Mine Project, Development, Construction and Operation, Operating Plan Approval, NPDES, Section 10 and 404 Permits, Tongass National Forest, Sherman Creek, City of Juneau, AK, Due: March 23, 1992, Contact: Roger Birk (907) 747–6671.

EIS No. 920035, Draft EIS, UAF, CT, ME, NH, NJ, MA, VT, NY, PA, Aircraft Conversions at the Bradley Air National Guard (ANG) Base, 103rd Tactical Fighter Group, Bradley International Airport, CT and Barnes Air National Guard (ANG) Base, MA, Change in Utilization of Military Training Airspace in the Northeastern U.S., Due: March 23, 1992, Contact: Harry Knudson (301) 981–8143.

EIS No. 920036, Draft EIS, BOP, TX, Jefferson County Federal Correctional Complex, Construction and Operation, City of Beaumont, Jefferson County, TX, Due: March 23, 1992, Contact: Patricia K. Sledge (202) 514–6470.

Amended Notices

EIS No. 910431, Draft EIS, AFS, OH, Wayne National Forest, Amendment 7 Land and Resource Management Plan, Oil and Gas Leasing, Implementation, Application for Permit Drilling, section 404 Permit, Several Counties, OH, Due: March 4, 1992, Contact: Regis E. Terney (812) 275–5987.

Published FR—2–7–92—Review period extended.

Dated: February 4, 1992.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 92–3019 Filed 2–6–92; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4102-1]

Science Advisory Board Closed Meeting

Under Public Law 92–463, notice is hereby given that a meeting of an ad-hoc Subcommittee of the Science Advisory Board will be held in Washington, DC on March 2–3, 1992 to determine the recipients of the Agency's 1991 Scientific and Technological Achievement Cash Awards. These awards are established to give honor and recognition to EPA employees who have made outstanding contributions in the advancement of science and technology through their research and development activities, and who have published their results in peer reviewed journals.

Pursuant to section 10(d) of the U.S.C. appendix 1 and 5 U.S.C. 522(c), I hereby determine that this meeting is concerned with information exempt from disclosure, and that the public interest requires that this meeting be closed.

In selecting the recipients for the awards, and in determining the actual cash amount of each award, the Agency requires full and frank advice from the Science Advisory Board. This advice will involve professional judgements on those employees whose published research results are deserving of a cash award as well as those that are not. Discussion of such a personal nature, where disclosure would constitute an unwarranted invasion of personal privacy, are exempted under section 10(d) of title 5, U.S. Code, appendix 1. In accordance with the provisions of the Federal Advisory Committee Act, minutes of the meeting will be kept for Agency and Congressional review.

The Science Advisory Board shall be responsible for maintaining records of the meeting, and for providing an annual report setting forth a summary of the meeting consistent with the policy of U.S.C. appendix 1, section 10(d).

Dated: January 30, 1992.

William K. Reilly,

Administrator.

[FR Doc. 92–3021 Filed 2–6–92; 8:45 am]

BILLING CODE 6560-50-M

[OPPTS-51786; FRL 4048-5]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of 20 such PMNs and provides a summary of each.

DATES: Close of review periods:

P 92–399, 92–400, 92–401, 92–402, 92–403, April 8, 1992.

P 92–448, 92–449, April 22, 1992.

P 92–450, 92–451, 92–452, April 25, 1992.

P 92–453, 92–454, 92–455, 92–456, 92–457, 92–458, 92–459, 92–460, 92–462, 92–463, April 26, 1992.

Written comments by:

P 92–399, 92–400, 92–401, 92–402, 92–403, March 9, 1992.

P 92–448, 92–449, March 23, 1992.

P 92–450, 92–451, 92–452, March 26, 1992.

P 92–453, 92–454, 92–455, 92–456, 92–457, 92–458, 92–459, 92–460, 92–462, 92–463, March 27, 1992.

ADDRESSES: Written comments, identified by the document control number "(OPPTS–51786)" and the specific PMN number should be sent to: Document Processing Center (TS–790), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., rm. L–100, Washington, DC, 20460, (202) 260–3532.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS–799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, rm. E–545, 401 M St., SW., Washington, DC 20460 (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office NE–G004 at the above address between 8 a.m. and noon

and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

P 92–399

Manufacturer. Research Seeds, Inc. On February 21, 1991, Research Seeds, Inc. (St. Joseph, Missouri), a commercial inoculant production and seed coating company, signed an Agreement of Purchase and Sale with BioTechnica International, Inc., (Cambridge, Mass) thereby transferring the entire *Rhizobium* and *Bradyyrhizobium* genetic engineering program from BioTechnica to Research Seeds. This technology has been the subject of several field trials described in Pre-Manufacturing Notices submitted by BioTechnica to EPA beginning in February 6, 1987 thru May 18, 1990 (*Rhizobium meliloti* PMNs P87–568, P87–570, P88–1116, P88–1118, P88–1120, P89–280, and P90–339, and *Bradyrizobium japonicum* PMNs P88–1275, P88–1277, P89–340, and P89–341.

Chemical. (G) Two *Rizobium meliloti* RCR2011 (SU47) strains modified to contain antibiotic resistance markers and added permease function and three *R. meliloti* PC strains modified to contain antibiotic resistance markers and genes to enhance nitrogen-fixing ability, one strain additionally modified to contain added permease function. Enhanced cassettes introduced into the receipients were constructed using recombinant, intergeneric genetic material.

Use/Production. (G) Proposal for 5 small-scale field testing trials (during 1992) of genetically modified strains to identify those which produce significantly higher alfalfa yields compared to the unmodified parental strains. The testing sites will be located on University of Wisconsin Agricultural Research Station property in the towns of Marshfield, Hancock, Arlington, and Lancaster.

Test Data. Data from greenhouse studies indicated the dry weight yields of alfalfa plants treated with one of the PMN strains increased 112 percent over yields of plants treated with the unmodified parental strains.

Exposure. Human: A maximum of 6 people will be involved in production and field application. *Environmental*: Modified strains are expected to survive in soil at a level below that of initialapplication.

Environmental Release/Disposal: Release: minimal aerial dissemination at seeding; no horizontal dissemination; limited vertical dispersal. 100 grams of inoculant will be applied as a humus seed coating (alfalfa seeds coated with humus that has been inoculated with the modified or parental strains (1 x 10 10 cells per gram of humus)), thereby minimizing potential for dispersal during application. Each field test will be conducted on 0.14 acres using individual treatment plots of 3 feet by 14 feet within a test area of 33 feet by 14 feet. Equipment will be disinfected prior to removal from field sites.

P 92–400

Manufacturer. Research Seeds, Inc. On February 21, 1991, Research Seeds, Inc. (St. Joseph, Missouri), a commercial inoculant production and seed coating company, signed an Agreement of Purchase and Sale with BioTechnica International, Inc., (Cambridge, Mass) thereby transferring the entire *Rhizobium* and *Bradyyrhizobium* genetic engineering program from BioTechnica to Research Seeds. This technology has been the subject of several field trials described in Pre-Manufacturing Notices submitted by BioTechnica to EPA beginning in February 6, 1987 thru May 18, 1990 (*Rhizobium meliloti* PMNs P87–568, P87–570, P88–1116, P88–1118, P88–1120, P89–280, and P90–339, and *Bradyrizobium japonicum* PMNs P88–1275, P88–1277, P89–340, and P89–341.

Chemical. (G) Two *Rizobium meliloti* RCR2011 (SU47) strains modified to contain antibiotic resistance markers and added permease function and three *R. meliloti* PC strains modified to contain antibiotic resistance markers and genes to enhance nitrogen-fixing ability, one strain additionally modified to contain added permease function. Enhanced cassettes introduced into the receipients were constructed using recombinant, intergeneric genetic material.

Use/Production. (G) Proposal for 5 small-scale field testing trials (during 1992) of genetically modified strains to identify those which produce significantly higher alfalfa yields compared to the unmodified parental strains. The testing sites will be located on University of Wisconsin Agricultural Research Station property in the towns of Marshfield, Hancock, Arlington, and Lancaster.

Test Data. Data from greenhouse studies indicated the dry weight yields of alfalfa plants treated with one of the PMN strains increased 112 percent over yields of plants treated with the unmodified parental strains.

Exposure. Human: A maximum of 6 people will be involved in production and field application. *Environmental*: Modified strains are expected to survive in soil at a level below that of initialapplication.

Environmental Release/Disposal: Release: minimal aerial dissemination at seeding; no horizontal dissemination; limited vertical dispersal. 100 grams of inoculant will be applied as a humus seed coating (alfalfa seeds coated with humus that has been inoculated with the modified or parental strains (1 x 10 10 cells per gram of humus)), thereby minimizing potential for dispersal during application. Each field test will be conducted on 0.14 acres using individual treatment plots of 3 feet by 14 feet within a test area of 33 feet by 14 feet. Equipment will be disinfected prior to removal from field sites.

P 92–401

Manufacturer. Research Seeds, Inc. On February 21, 1991, Research Seeds, Inc. (St. Joseph, Missouri), a commercial inoculant production and seed coating company, signed an Agreement of Purchase and Sale with BioTechnica International, Inc., (Cambridge, Mass) thereby transferring the entire *Rhizobium* and *Bradyyrhizobium* genetic engineering program from BioTechnica to Research Seeds. This technology has been the subject of several field trials described in Pre-Manufacturing Notices submitted by BioTechnica to EPA beginning in February 6, 1987 thru May 18, 1990 (*Rhizobium meliloti* PMNs P87–568, P87–570, P88–1116, P88–1118, P88–1120, P89–280, and P90–339, and *Bradyrizobium japonicum* PMNs P88–1275, P88–1277, P89–340, and P89–341.

Chemical. (G) Two *Rizobium meliloti* RCR2011 (SU47) strains modified to contain antibiotic resistance markers and added permease function and three *R. meliloti* PC strains modified to contain antibiotic resistance markers and genes to enhance nitrogen-fixing ability, one strain additionally modified to contain added permease function. Enhanced cassettes introduced into the receipients were constructed using recombinant, intergeneric genetic material.

Use/Production. (G) Proposal for 5 small-scale field testing trials (during 1992) of genetically modified strains to identify those which produce significantly higher alfalfa yields compared to the unmodified parental strains. The testing sites will be located on University of Wisconsin Agricultural Research Station property in the towns of Marshfield, Hancock, Arlington, and Lancaster.

Test Data. Data from greenhouse studies indicated the dry weight yields of alfalfa plants treated with one of the PMN strains increased 112 percent over yields of plants treated with the unmodified parental strains.

Exposure. Human: A maximum of 6 people will be involved in production and field application. *Environmental*: Modified strains are expected to survive in soil at a level below that of initialapplication.

Environmental Release/Disposal: Release: minimal aerial dissemination at seeding; no horizontal dissemination; limited vertical dispersal. 100 grams of inoculant will be applied as a humus seed coating (alfalfa seeds coated with humus that has been inoculated with the modified or parental strains (1 x 10 10 cells per gram of humus)), thereby minimizing potential for dispersal during application. Each field test will be conducted on 0.14 acres using individual treatment plots of 3 feet by 14 feet within a test area of 33 feet by 14 feet. Equipment will be disinfected prior to removal from field sites.

P 92–402

Manufacturer. Research Seeds, Inc. On February 21, 1991, Research Seeds, Inc. (St. Joseph, Missouri), a commercial inoculant production and seed coating company, signed an Agreement of Purchase and Sale with BioTechnica International, Inc., (Cambridge, Mass) thereby transferring the entire *Rhizobium* and *Bradyyrhizobium* genetic engineering program from BioTechnica to Research Seeds. This technology has been the subject of several field trials described in Pre-Manufacturing Notices submitted by BioTechnica to EPA beginning in February 6, 1987 thru May 18, 1990 (*Rhizobium meliloti* PMNs P87–568, P87–570, P88–1116, P88–1118, P88–1120, P89–280, and P90–339, and *Bradyrizobium japonicum* PMNs P88–1275, P88–1277, P89–340, and P89–341.

Chemical. (G) Two *Rizobium meliloti* RCR2011 (SU47) strains modified to contain antibiotic resistance markers and added permease function and three *R. meliloti* PC strains modified to contain antibiotic resistance markers and genes to enhance nitrogen-fixing ability, one strain additionally modified to contain added permease function. Enhanced cassettes introduced into the receipients were constructed using recombinant, intergeneric genetic material.

Use/Production. (G) Proposal for 5 small-scale field testing trials (during 1992) of genetically modified strains to identify those which produce significantly higher alfalfa yields compared to the unmodified parental strains. The testing sites will be located on University of Wisconsin Agricultural Research Station property in the towns of Marshfield, Hancock, Arlington, and Lancaster.

Test Data. Data from greenhouse studies indicated the dry weight yields of alfalfa plants treated with one of the PMN strains increased 112 percent over yields of plants treated with the unmodified parental strains.

Exposure. Human: A maximum of 6 people will be involved in production and field application. *Environmental*: Modified strains are expected to survive in soil at a level below that of initialapplication.

Environmental Release/Disposal: Release: minimal aerial dissemination at seeding; no horizontal dissemination; limited vertical dispersal. 100 grams of inoculant will be applied as a humus seed coating (alfalfa seeds coated with humus that has been inoculated with the modified or parental strains (1 x 10 10 cells per gram of humus)), thereby minimizing potential for dispersal during application. Each field test will be conducted on 0.14 acres using individual treatment plots of 3 feet by 14 feet within a test area of 33 feet by 14 feet. Equipment will be disinfected prior to removal from field sites.

P 92–403

Manufacturer. Research Seeds, Inc. On February 21, 1991, Research Seeds, Inc. (St. Joseph, Missouri), a commercial inoculant production and seed coating company, signed an Agreement of Purchase and Sale with BioTechnica International, Inc., (Cambridge, Mass) thereby transferring the entire *Rhizobium* and *Bradyyrhizobium* genetic engineering program from BioTechnica to Research Seeds. This technology has been the subject of several field trials described in Pre-Manufacturing Notices submitted by BioTechnica to EPA beginning in February 6, 1987 thru May 18, 1990 (*Rhizobium meliloti* PMNs P87–568, P87–570, P88–1116, P88–1118, P88–1120, P89–280, and P90–339, and *Bradyrizobium japonicum* PMNs P88–1275, P88–1277, P89–340, and P89–341.

Chemical. (G) Two *Rizobium meliloti* RCR2011 (SU47) strains modified to contain antibiotic resistance markers and added permease function and three *R. meliloti* PC strains modified to contain antibiotic resistance markers and genes to enhance nitrogen-fixing ability, one strain additionally modified to contain added permease function. Enhanced cassettes introduced into the receipients were constructed using recombinant, intergeneric genetic material.

Use/Production. (G) Proposal for 5 small-scale field testing trials (during 1992) of genetically modified strains to identify those which produce significantly higher alfalfa yields compared to the unmodified parental strains. The testing sites will be located on University of Wisconsin Agricultural Research Station property in the towns of Marshfield, Hancock, Arlington, and Lancaster.

Test Data. Data from greenhouse studies indicated the dry weight yields of alfalfa plants treated with one of the PMN strains increased 112 percent over yields of plants treated with the unmodified parental strains.

Exposure. Human: A maximum of 6 people will be involved in production and field application. *Environmental*: Modified strains are expected to survive in soil at a level below that of initialapplication.

Environmental Release/Disposal: Release: minimal aerial dissemination at seeding; no horizontal dissemination; limited vertical dispersal. 100 grams of inoculant will be applied as a humus seed coating (alfalfa seeds coated with humus that has been inoculated with the modified or parental strains (1 x 10 10 cells per gram of humus)), thereby minimizing potential for dispersal during application. Each field test will be conducted on 0.14 acres using individual treatment plots of 3 feet by 14 feet within a test area of 33 feet by 14 feet. Equipment will be disinfected prior to removal from field sites.

P 92–448

Manufacturer. Confidential.

Chemical. (G) Reaction products of diisocycante, glycol ether, alcohols and alkanepolyol.

Use/Production. (G) Component of coating with open use. Prod. range: 100,000–300,000 kg/yr.

P 92–449

Importer. Confidential.

Chemical. (G) Aryl azopyridone.

Use/Import. (G) Dye. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (rabbit). Eye irritation: slight species (rabbit). Mutagenicity: positive. Skin irritation: slight species (rabbit). Skin sensitization: positive species (guinea pig).

P 92–450

Manufacturer. Confidential.

Chemical: (S) 2-Propenoic acid, 2-methyl-3-(trimethoxyl) propyl ester, reaction product with silica.

Use/Production. (G) Coating formulation component. Prod. range: Confidential.

P 92–451

Importer. Ausimont USA, Inc.

Chemical. (G) Bisphenol of, substituted phosphonium salt.

Use/Import. (S) Curing agent for thermoset elastomer. Import range: Confidential.

P 92–452

Manufacturer. Confidential.

Chemical. (G) Urea derivative.

Use/Production. (G) Crosslinker. Prod. range: Confidential.

Toxicity Data. Skin irritation: negligible species (rabbit).

P 92–453

Manufacturer. Confidential.

Chemical. (G) Acrylic polymer.

Use/Production. (G) Coating for nondispersive use. Prod. range: Confidential.

P 92–454

Manufacturer. Confidential.

Chemical. (S) Polyamide resin (polymer).

Use/Production. (S) Rosin for flexographic inks. Prod. range: 45,000–90,000 kg/yr.

P 92–455

Importer. Confidential.

Chemical. (G) Sodium salt of norpholine derivitive.

Use/Import. (S) Buffer component for use in water analysis. Import range: 40–80 kg/yr.

P 92–456

Importer. Confidential.

Chemical. (G) Salt of cephalosporia derivitive.

Use/Import. (G) Antimicrobiol agent. Import range: .05–.10 kg/yr.

P 92–457

Importer. Confidential.

Chemical. (G) Thioether.

Use/Import. (G) Component in water analysis. Import range: 1–2 kg/yr.

P 92–458

Importer. Huls America, Inc.

Chemical. (G) Copolymer resin of aryl/acryl dibasic acids with alkenediol.

Use/Import. (S) Stoving varnish for metal coatings. Import range: Confidential.

P 92–459

Importer. Ciba-Geigy Corporation.

Chemical. (G) Substituted napthalenedisulfonic acid.

Use/Import. (G) Dye intermediate. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species (rat). Eye irritation: none species (rabbit). Skin irritation: negligible species (rabbit).

P 92–460

Manufacturer. Rohm Tech, Inc.

Chemical. (G) Formaldehyde free acrylic copolymer.

Use/Production. (S) Textile coating/finishing. Prod. range: Confidential.

P 92–462

Manufacturer. Essex Specialty Product.

Chemical. (G) Hydroxyl functional polycarbomonyl (polyalkylene oxide) oligomer.

Use/Production. (S) Adhesive. Prod. range: Confidential.

P 92–463

Manufacturer. Essex Specialty Product.

Chemical. (G) Hydroxyl functional polycarbomonyl (polyalkylene oxide) oligomer.

Use/Production. (S) Adhesive. Prod. range: Confidential.

Dated: February 3, 1992.

Douglas W. Sellers,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 92–3022 Filed 2–6–92; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

Network Reliability Council Meeting

February 4, 1992.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, this notice advises interested persons of the first meeting of the Network Reliability Council ("Council"), which will be held at the Federal Communications Commission in Washington, DC.

DATES: Thursday, February 27, 1992 at 2 p.m.

ADDRESSES: Federal Communications Commission, room 856, 1919 M Street, NW., Washington, DC 20554.

SUPPLEMENTARY INFORMATION: The Council was established by the Federal Communications Commission to bring together leaders of the telecommunication industry and telecommunications experts from academic and consumer organizations to explore and recommend measures that would enhance network reliability.

The agenda for the first meeting is as follows. The meeting will begin with introductory comments by Alfred C. Sikes, Chairman, Federal Communications Commission, and Paul H. Henson, Chairman, Network Reliability Council. Chairman Henson will briefly outline the Council's operating procedures. Chairman Henson and the Council Members will then begin discussion covering assessment of network vulnerability, identification of causes that have been common to recent outages or contributed to or magnified their impact, an assessment of the likelihood of future outages, an assessment of current industry and government efforts to avoid or minimize outages and to strengthen network reliability, and identification of other possible approaches for avoiding or minimizing outages and enhancing network reliability. Chairman Henson will then determine the time of the next Council meeting and make preliminary arrangements for organizing the intervening activities of informal subcommittees who will focus on specific areas for investigation to be determined by Chairman Henson on the basis of the Council's discussion.

Members of the general public may attend the meeting. The Federal Communications Commission will attempt to accommodate as many persons as possible. However, admittance will be limited to the seating available. There will be no public oral participation, but the public may submit written comments to James Keegan, the Council's Designated Federal Officer, before the meeting.

For additionl information contact James Keegan, Designated Federal Officer of the Network Reliability Council and Chief, Domestic Facilities Division, Federal Communications Commission at (202) 634–1860.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92–2986 File 2–6–92; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 92–05]

Polish Ocean Lines v. Bronel Shipping and Liner Services (Rotterdam) B.V. as Agents for Trust Container Line; Filing of Complaint and Assignment

Notice is given that a complaint filed by Polish Ocean Lines ("Complainant") against Bronel Shipping and Liner Services (Rotterdam) B.V. as agents for Trust Container Line ("Respondent") was served February 3, 1992. Complainant alleges that Respondent engaged in violations of section 10(a)(1) of the Shipping Act of 1984, 46 U.S.C. 1709(a)(1), by failing to pay ocean freight and related charges lawfully assessed pursuant to the applicable tariff, notwithstanding demand for payment.

This proceeding has been assigned to Administrative Law Judge Charles E. Morgan ("Presiding Officer"). Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the Presiding Officer in this proceeding shall be issued by February 3, 1993, and the final decision of the Commission shall be issued by June 3, 1993.

Joseph C. Polking,

Secretary.

[FR Doc. 92-2966 Filed 2-6-92; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Carlos Salman, et al.; Change in Bank Control Notice; Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than March 3, 1992.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. Carlos Salman, Miami, Florida; to acquire an additional 11.30 percent of the voting shares of Terrabank Holding Corporation, Miami, Florida, for a total of 20.57 percent, and thereby indirectly acquire Terrabank, N.A., Miami, Florida.

Board of Governors of the Federal Reserve System, February 3, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-2986 Filed 2-6-92; 8:45 am]

BILLING CODE 6210-01-F

U.S.B. Holding Co., Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 3, 1992.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. U.S.B. Holding Company, Inc., Nanuet, New York; to acquire 26 percent of the voting shares of New Milford Bank and Trust Company, Inc., New Milford, Connecticut.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. F & M National Corporation, Winchester, Virginia; to acquire 100 percent of the voting shares of Farmers & Merchants Bank of Keyser, Keyser, West Virginia.

C. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Villages Bancorporation, Inc., Lady Lake, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of First Bank of the Villages, Lady Lake, Florida.

D. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Fairmount Banking Company, Fairmount, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of The Fairmount State Bank, Fairmount, Indiana.

Board of Governors of the Federal Reserve System, February 3, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-2987 Filed 2-6-92; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR-47]

Procedure for Conducting Voluntary Research

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Public Health Service (PHS), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice announces the procedure for volunteering to conduct research as part of the ATSDR Substance-Specific Applied Research Program authorized by the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended. The voluntary research will be conducted by the private sector to fill priority data needs for hazardous substances that are the subjects of the ATSDR Toxicological Profiles. To date, the priority data needs for 38 hazardous substances have been identified and announced by ATSDR in the **Federal Register** (56 FR 52178) on October 17, 1991. As part of this procedure for conducting voluntary research, the Agency has developed a model agreement, Memorandum of Understanding (MOU), that will be signed by ATSDR and the interested private sector organization(s) (hereinafter referred to as the Company, although multiple companies or a consortium may be signatories to a single MOU) prior to the initiation of the voluntary research. The public is invited to comment on this procedure for conducting voluntary research, and the model MOU.

DATES: The ATSDR considers this voluntary research effort to be of significant importance to the continuing development of the Substance-Specific Applied Research Program. Therefore, public comments concerning this **Federal Register** notice will be accepted throughout the Agency's involvement with voluntary research.

ADDRESSES: Comments on this notice should bear the docket control number ATSDR-47 and should be submitted to the Division of Toxicology, Research Implementation Branch, Agency for Toxic Substances and Disease Registry, Mailstop E-29, 1600 Clifton Road NE., Atlanta, Georgia 30333. Requests for a copy of the model Memorandum of Understanding should be addressed similarly.

Comments on this notice will be available for public inspection at the Agency for Toxic Substances and Disease Registry, Building 33, Executive Park Drive, Atlanta, Georgia (not a mailing address), from 8 a.m. until 4:30 p.m., Monday through Friday, except for legal holidays.

FOR FURTHER INFORMATION CONTACT: The Division of Toxicology, Research Implementation Branch, Agency for Toxic Substances and Disease Registry, Mailstop E-29, 1600 Clifton Road NE., Atlanta, Georgia 30333. Telephone: 404-639-6015 or FTS 236-6015.

SUPPLEMENTARY INFORMATION:

Background

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 U.S.C. 9604(i)), as amended by the Superfund Amendments and Reauthorization Act (SARA) (Pub. L. 99-499), requires that ATSDR: (1) Develop jointly with the Environmental Protection Agency (EPA) a list of hazardous substances found at National Priorities List (NPL) sites, (in order of priority), (2) prepare Toxicological Profiles of these substances, and (3) assure the initiation of a research program to fill identified data needs associated with the substances.

The identification of the priority data needs for 38 priority hazardous substances was described in the **Federal Register** (October 17, 1991, 56 FR 52178), public comments were invited, and Companies were invited to volunteer to conduct research to fill specific priority data needs during the public comment period for that notice. Future **Federal Register** notices will announce (1) the final list of priority data needs for the 38 hazardous substances after public comments on these priority data needs have been addressed, (2) a second call for voluntarism to conduct research to fill priority data needs, and (3) the names of Companies that have volunteered to fill specific priority data needs.

The major purpose of this ATSDR Applied Research Program is to supplement the substance-specific informational needs of the public and scientific community; and to supply necessary information for conducting comprehensive public health assessments for populations living in the vicinity of hazardous waste sites. This program will also provide data that can be generalized to other substances or areas of science, including risk assessments of chemicals, thus creating a scientific base for filling a broader range of data needs.

Procedure for Conducting Voluntary Research

CERGLA, as amended in section 104(i)(5)(D), states that it is the sense of Congress that the costs for conducting this research program be borne by the manufacturers and processors of the hazardous substances under the Toxic Substances Control Act (TSCA) and registrants under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), or by cost recovery from responsible parties under CERCLA. To effectuate this statutory intent, the ATSDR has developed a plan whereby portions of this CERCLA Substance-Specific Applied Research Program will be conducted via regulatory mechanisms (TSCA/FIFRA), private sector voluntarism, and through the direct use of CERCLA funds.

ATSDR intends to enter into voluntary research projects in ways that lead only to high quality scientific work. This necessitates peer review of study protocols and results consistent with CERCLA section 104(i)(13). CERCLA requires the peer review panel to consist of three to seven peer reviewers who (a) are selected by the Administrator of ATSDR, (b) are disinterested scientific experts, (c) have a reputation for scientific objectivity, and (d) who lack institutional ties with any person involved in the conduct of the study or research under review.

The ATSDR is aware of concerns within some segments of the public regarding voluntary research conducted by Companies with vested interests in the research. To this end, the Agency encourages the public to comment on ATSDR's procedure for conducting voluntary research in this notice. Additionally, for each research project conducted voluntarily, the MOU (signed by ATSDR and the interested Company), the ATSDR approved study plan, peer reviewers' comments, and the final research report will be available for public inspection at the location and times indicated in the **ADDRESSES** section of this notice.

The ATSDR encourages Companies to volunteer to conduct research on priority data needs that were announced in the **Federal Register** notice "Identification of Priority Data Needs for 38 Priority Hazardous Substances" (October 17, 1991, 56 FR 52178) and on priority data needs to be subsequently announced by the Agency. Interested Companies are asked to submit concept proposals (1-2 pages, not detailed protocols) during the October 17, 1991-January 15, 1992 public comment period for the above-mentioned notice, and for subsequent **Federal Register** notices. The concept proposal should include (1) the name of the interested Company, (2) the specific priority data need(s) to be filled, (3) a summary of the Company's experience in conducting research similar to that in the concept proposal, and (4) a statement about the laboratory and other resource capabilities for conducting the proposed research. Interested Companies may submit concept proposals that address substance-specific data needs or, where appropriate, concept proposals for research that will provide information relevant to classes of chemical substances or which may be generalized to other areas of science.

A tri-agency review committee comprised of scientists from ATSDR, the National Toxicology Program (NTP), and the EPA will review these concept proposals. The committee, chaired by the Director of the Division of Toxicology, ATSDR, is charged with coordinating and assuring the appropriate evaluation of research conducted to fill priority data needs of ATSDR's priority hazardous substances relevant to the objectives of CERCLA, as amended. The principal responsibilities of the committee are to (1) provide a forum to discuss substance-specific research activities being carried out via TSCA/FIFRA, private sector voluntarism, or CERCLA funds, (2) coordinate knowledge of research activities to avoid duplication of research being conducted in other programs and under other authorities, and (3) maintain a scheduled forum that provides an overall review of the ATSDR Superfund Applied Research Program. Based on the review committee's recommendations, ATSDR will determine which, and how, specific voluntary research projects will be pursued with volunteering Companies. In instances where volunteered research initiatives are considered by the tri-agency committee to be more appropriate for EPA response, EPA may negotiate directly with the interested Company.

If ATSDR decides to pursue a specific voluntary research project submitted in a concept proposal by a Company, the Agency will enter into a MOU with the interested Company, or where appropriate, a single MOU will be entered into with multiple Companies. ATSDR recognizes that two or more companies or a consortium of interested firms may elect to enter into collaborative efforts in pursuing one or more concept proposals. Following the signing of the MOU and prior to the initiation of the research, the interested Company will negotiate with ATSDR to agree upon an approved study plan including testing protocols. The content of the MOU is described below.

(1) Identification of the party or parties comprising the Company which enters into the MOU—this section consists of the name and address of each party responsible for the conduct of the research.

(2) Identification of the substance(s) subject to research requirements under the MOU—this section consists of the name and Chemical Abstract Service (CAS) Number of the chemical substance(s) that is the subject of the MOU. The chemical substance(s) to be tested shall be as pure as reasonably can be attained. Alternate language will be substituted when the subject of the research is a human population, as in epidemiologic studies.

(3) Identification of the effects or characteristics for which research is to be conducted—in this section, the health effects, environmental fate or other characteristics for which research is to be conducted under the MOU shall be listed.

(4) Schedule for submission of study plans, initiation of research and submission of interim and final reports—the Company shall submit to ATSDR a study plan for each test six weeks after signing the MOU. The study plan shall include test protocols and a schedule with reasonable timetable and deadlines for initiation and completion of each test and submission of interim and final reports. The test protocols will be reviewed by an ATSDR-appointed peer review panel. If ATSDR disapproves the study plan, it will inform the Company of the deficiencies of the plan. The Company may request reconsideration of the study plan, resubmit a modified study plan, or elect to terminate the MOU with no further obligation of either party under the MOU. In the event that the Company resubmits a modified study plan and ATSDR disapproves it, the Agency may elect to terminate the MOU.

The starting date of the research project may be negotiated depending on the type of research being conducted. However, as a general guideline, the research effort shall be initiated within eight weeks of the approval of the study plan and attendant test protocols. Written notification of the starting date of the test will be submitted to ATSDR by the Company. The completion date of the study will be established from the approved study plan. Interim progress reports shall be submitted to ATSDR within six months after the initiation of testing and thereafter within six months after submission of each previous interim report. The final report on the results of testing shall be submitted to ATSDR no more than 20 weeks following the end of the study. ATSDR acceptance of the final report will be contingent upon approval by ATSDR following the peer reviewers' recommendations, consistent with CERCLA section 104(i)(13) peer review requirements. All results of research conducted pursuant to the MOU and all supporting data associated with the research report will be provided to ATSDR and made available by the Agency to the public as part of its implementation of sections 104(i) (3) and (5) of CERCLA. Final reports will not be accepted if the data is designated Confidential Business Information (CBI) or otherwise restricted from public disclosure.

(5) Modifications of study plans, guidelines, and schedules—if a Company intends to modify a study plan, protocol, or schedule that was approved by ATSDR, it must notify ATSDR in writing of the proposed modifications and reasons therefor. If ATSDR approves of the modifications, the time schedule established for completion of the tests shall be re-negotiated and appended to the existing MOU. If ATSDR disapproves the Company's request and the Company does not accept ATSDR's decision to disapprove the modified study plan, the Company may terminate the MOU.

(6) Observance of Good Laboratory Practices—all research agreed to in the MOU shall be conducted in accordance with the Good Laboratory Practice (GLP) standards codified in 40 CFR 792, to the extent that such GLP standards apply. Should the Company's Good Epidemiology Practices be relevant to a research project, those Practices should be affixed to the study protocol.

(7) Inspections—the Company shall ensure that an authorized employee of ATSDR is permitted, at reasonable times and in a reasonable manner, to (i) inspect any research or testing facility that is conducting research pursuant to the MOU, and (ii) inspect (and in the case of records, copy) any records and specimens required to be maintained in connection with research performed pursuant to the MOU.

(8) Submission and publication of data—all data and reports submitted to ATSDR pursuant to the MOU shall be sent to ATSDR, in duplicate, at the address indicated in the **ADDRESSES** section. Acceptance of the final report is contingent upon approval by ATSDR following the peer reviewers' recommendations, consistent with CERCLA peer review requirements. The Company maintains all rights to publication of data and results, however all results of research conducted pursuant to the MOU and all supporting data associated with the final research report will be provided to ATSDR and made available by the Agency to the public as part of its implementation of Section 104(i)(5) of CERCLA. The final report will not be accepted by ATSDR if the data is designated Confidential Business Information (CBI) or is otherwise restricted from public disclosure.

(9) Payments of costs and expenses—each company shall agree to pay all costs, direct and indirect, associated with the research programs and which are not considered part of ATSDR's administrative costs.

(10) Events constituting a breach of the MOU—Failure by the Company to:

(a) Submit a study plan that receives ATSDR's approval following the peer reviewers, recommendations;

(b) Initiate any test agreed to in the MOU by the date established pursuant to the MOU;

(c) Adhere to GLP standards, established test procedures or accepted practices of good science to the extent that these standards and practices apply;

(d) Submit any interim report required under the MOU by the date established pursuant to the MOU; or

(e) Submit any final report that receives ATSDR's approval following peer review conducted by the Agency, shall constitute a breach of the MOU. In the event of a breach, ATSDR will not impose any claim to damages, but at the Agency's discretion may terminate the MOU.

(11) Termination—since the MOU is entered into voluntarily by ATSDR and the Company, termination by ATSDR is not considered reviewable agency action pursuant to the Administrative Procedure Act or any other applicable Federal law, and there will be no appeal

process beyond that set out in the MOU. The Company may elect to terminate the MOU at any time.

(12) Statutory compliance—consistent with section 104(i)(12) of CERCLA, as amended (42 U.S.C. 9612), nothing in the MOU shall be construed to delay or otherwise affect or impair the authority of the President, the Administrator of ATSDR or the Administrator of EPA to exercise any of their authority under any other provision of law, including TSCA and FIFRA, or the response and abatement authorities of CERCLA.

The results of the research conducted via this ATSDR Substance-Specific Applied Research Program will be used for public health assessment purposes and to reassess ATSDR's substance-specific priority data needs. It is the intention of the Agency, at this time, to re-evaluate the priority data needs for the listed hazardous substances every three years.

Dated: February 3, 1992.

Walter R. Dowdle,

Acting Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 92-2978 Filed 2-6-92; 8:45 am]

BILLING CODE 4160-70-M

Alcohol, Drug Abuse, and Mental Health Administration

Suspension Lifted; Laboratory Again Meets Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: National Institute on Drug Abuse, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services notifies Federal Agencies of the laboratories currently certified to meet standards of Subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (53 FR 11986) dated April 11, 1988. The following laboratory's certification to engage in urine drug testing for Federal Agencies was suspended on October 15, 1991 (56 FR 54582, October 22, 1991) and was reinstated effective February 4, 1992.

HealthCare/Preferred Laboratories, 24451 Telegraph Road, Southfield, MI 48034, 800-225-9414 (outside MI), 800-328-4142 (inside MI).

FOR FURTHER INFORMATION CONTACT: Mona W. Brown, Press Officer, National Institute on Drug Abuse, room 10-A-39, 5600 Fishers Lane, Rockville, Maryland 20857; Telephone (301)-443-6245.

Richard A. Millstein,

Acting Director, National Institute on Drug Abuse.

[FR Doc. 92-3085 Filed 2-6-92; 8:45 am]

BILLING CODE 4160-20-M

National Institute of Mental Health; Meetings

Pursuant to Public Law 92-463, notice is hereby given of the meetings of the advisory committees of the National Institute of Mental Health for February/March 1992.

The initial review groups will be performing review of applications for Federal assistance; therefore, portions of these meetings will be closed to the public as determined by the Administrator, ADAMHA, in accordance with 5 U.S.C. 552b(c)(6) and 5 U.S.C. app. 2 10(d).

Summaries of the meetings and rosters of committee members may be obtained from: Ms. Joanna L. Kieffer, NIMH Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration, Parklawn Building, room 9-105, 5600 Fishers Lane, Rockville, MD 20857 (Telephone: 301-443-4333).

Substantive program information may be obtained from the contacts whose names, room numbers, and telephone numbers are listed below.

Committee Name: Mental Health Small Business Research Review Committee.
Meeting Date: March 2-3, 1992.
Place: Washington Marriott, 1221 22nd Street, NW, Washington, DC 20037.
Open: March 2, 9-10:30 a.m.
Closed: Otherwise.
Contact: Gloria Levin, room 9C-14, Parklawn Building, Telephone (301) 443-1367.

Committee Name: Treatment Assessment Review Committee.
Meeting Date: March 2-3, 1992.
Place: Embassy Suites, 4300 Military Road, NW, Washington, DC 20015.
Open: March 2, 8:30-9:30 a.m.
Closed: Otherwise.
Contact: Barbara Campbell, room 9C-02, Parklawn Building, Telephone (301) 443-4868.

Committee Name: Child Psychopathology and Treatment Review Committee.
Meeting Date: March 9-11, 1992.
Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Open: March 9, 9-10 a.m.
Closed: Otherwise.
Contact: Doris Lee Robb, room 9C-15, Parklawn Building, Telephone (301) 443-6470.

Committee Name: Behavioral, Clinical, and Psychosocial Subcommittee of the Mental Health AIDS and Immunology Review Committee.
Meeting Date: March 11-12, 1992.
Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Open: March 11, 8:30-9:30 a.m.
Closed: Otherwise.
Contact: Regina M. Thomas, room 9C-15, Parklawn Building, Telephone (301) 443-6470.

Committee Name: Psychobiological, Biological, and Neuroscience Subcommittee of the Mental Health AIDS and Immunology Review Committee.
Meeting Date: March 11-12, 1992.
Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Open: March 11, 8:30-9:30 a.m.
Closed: Otherwise.
Contact: Rehana A. Chowdhury, room 9C-15, Parklawn Building, Telephone (301) 443-6470.

Committee Name: Clinical Subcommittee, Mental Health Special Project Review Committee.
Meeting Date: February 28, 1992.
Place: Holiday Inn Crowne Plaza, 66 Hale Avenue, White Plains, NY 10601.
Open: February 28, 8:30-9 a.m.
Closed: Otherwise.
Contact: Gewn Artis, room 9-C18, Parklawn Building, Telephone (301) 443-3944.

Dated: February 4, 1992.

Peggy W. Cockrill,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 91-3024 Filed 2-6-92; 8:45 am]

BILLING CODE 4160-20-M

Centers for Disease Control

National Committee on Vital and Health Statistics (NCVHS) Subcommittee on State and Community Health Statistics: Cancellation of Meeting

This notice announces the cancellation of a previously announced meeting.

Federal Register *Citation of Previous Announcement: 57 FR 3059, January 27, 1992.*

Previously Announced times and Dates: 1 p.m.-5 p.m., February 20, 1992, 9 a.m.-5 p.m., February 21, 1992.

Change in the Meeting: This meeting has been cancelled.

Contact Person for More Information: Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, National Center for Health Statistics, room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone 301/436–7050 or FTS 436–7050.

Dated: February 3, 1992.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 92–2976 Filed 2–6–92; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

[Docket No. 91M–0512]

Diasonic, Inc.; Premarket Approval of Therasonic Lithotripsy Treatment System; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration is correcting a notice that appeared in the **Federal Register** of January 15, 1992 (57 FR 1748) that announced its approval of the application by Diasonics, Inc., Milpitas, CA, for premarket approval of the Therasonic Lithotripsy Treatment System. The document was published with an incorrect docket number. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Marsha Melvin, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301–427–1194.

In FR Doc. 92–1099, appearing on page 1748, in the **Federal Register** of Wednesday, January 15, 1992, in the first column, the docket number "91N–0512" is corrected to read "91M–0512".

Dated: February 3, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92–3025 Filed 2–6–92; 8:45 am]

BILLING CODE 4160–01–M

Health Care Financing Administration

Statement of Organization, Functions, and Delegations of Authority

Part F. of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Health Care Financing Administration (HCFA), (*FR*, Vol 56, No. 57, pp. 12376, dated Monday, March 25, 1991; Vol. 56, No. 59, pp. 12738, dated Wednesday, March 27, 1991) is amended to create an entirely new substructure within the Office of Prepaid Health Care Operations and Oversight, Office of the Associate Administrator for Operations.

The Specific Changes to Part F are:

- Section FP.20.B.1., Office of Qualifications (FPF1) will be deleted in its entirety and replaced by the following:

1. Division of Payment and Operations Support (FPF4)

- Manages the national Medicare beneficiary enrollment and disenrollment operations.
- Ensures timely and accurate payment to coordinated health care plans.
- Plans, develops, operates, and evaluates the operational and management information systems supporting the Medicare coordinated health care program.
- Conducts special analyses of specific coordinated health care plans and management information systems to identify problems and determine the need for new or enhanced systems design.
- Establishes national operational policy, procedures, and instructions for system specifications and data exchange methods which define and automate the coordinated health care plans' enrollment, disenrollment, and other systems operations.
- Serves as liaison with the Bureau of Data Management and Strategy and other FCFA Central Office and Regional Office components in their implementation and evaluation of the management information systems.
- Section FP.20.B.2., Office of Compliance (FPF2) will be deleted in its entirety and replaced by the following:

2. Office of Operations (FPF5)

- Directs the qualification applications process for Health Maintenance Organizations (HMOs) under the requirements of section 1301 of the Public Health Service Act (PHS Act).
- Coordinates with and provides technical assistance to the regional offices (ROs) on the monitoring of HMOs and Comprehensive Medical Plans.
- Manages and monitors the processing of Medicare coordinated health care contract reconsiderations.
- Investigates and evaluates applicants' conformance with legal and financial requirements for qualification for Medicare contracts under section 1301 of the PHS Act, section 1833 and section 1876 of the Social Security Act, and related regulations.
- Coordinates Program Advisory Council activities, including obtaining RO reports and recommendations, incorporating information from Central Office reviewers, and issuing approval of initial applications and renewals. Coordinates and makes recommendations on nonrenewals; terminations, and revocations based on information and analysis provided by ROs.
- Implements new legislation and regulations regarding coordinated health care operations.
- Assures compliance with section 1310 of the PHS Act by employers with the mandatory offering of a coordinated health care plan alternative in employer health benefit plans.
- In consultation with the ROs, establishes performance standards and evaluates the plans' performance.
- Provides training for and guidance of ROs in activities related to coordinated health care. Also provides training and workshops for HMOs.
- Establishes and maintains liaison with appropriate State and Federal regulatory agencies for coordination of qualification, contract, and monitoring issues.
- Section FP.20.B.3., Office of Financial Management (FPF3) will be deleted in its entirety and replaced by the following:

3. Division of Finance (FPF6)

- Establishes interim payment rates, retroactively adjusts payments, and performs end-of-year settlements for all cost-based contracting plans.
- Reviews initial Adjusted Community Rate (ACR) proposals. Trains and guides the regional offices in the administration of the annual ACR process.
- Trains and guides the audit contractor who performs the desk review of the Health Maintenance Organization (HMO) and Competitive Medical Plan (CMP) cost reports.
- Provides operational input for legislative and regulatory proposals and standard operating procedures related to cost methodology and fiscal responsibility.
- Establishes national financial standards for federally qualified HMOs and CMPs and assures that these entities comply with these requirements.
- Establishes national standards for the protection of enrollees in the event of HMO or CMP insolvency. Assures that HMOs and CMPs comply with these standards.

- Develops procedures to improve or revise the payment methodologies and processes of Medicare contractors and financial reviews of HMOs and CMPs.
- Manages the plan qualification fiscal soundness and insolvency protection reviews process.

Dated: December 24, 1991.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

[FR Doc. 92–2950 Filed 2–6–92; 8:45 am]

BILLING CODE 4120–01–M

Public Health Service

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The following requests have been submitted to OMB since the list was last published on Friday, January 31, 1992.

(Call PHS Reports Clearance Officer on 202–245–2100 for copies of package)

1. PHS Supplements to Application for Federal Assistance (SF–424): Project Approval Checklist and Program Narrative Instructions—0937–0189—The Checklist and Program Narrative Sections are part of application forms used to elicit information primarily from governmental and other non-profit organizations requesting financial assistance from various PHS grant programs. Respondents: State and local governments, Businesses or other for-profit, Non-profit institutions.

	Number of respondents	Number of responses per respondent	Average burden per response
Checklist	6,046	1	10 min.
Program narrative.	6,046	1	4 hrs.

Estimated Total Annual Burden .... 33,525 hours.

2. National Health Service Corps Scholarship Program Application—0915–0146—Health professions students applying for National Health Service Corps Scholarships provide information needed to determine eligibility for the program. Respondents: Individuals or households; Number of Respondents: 5,000; Number of Responses per Respondent: 1; Average Burden per Response: 1 hour; Estimated Annual Burden: 5,000 hours.

3. Feasibility Study of Maternal Preconception Radiation and Late Effects—New—Women irradiated for infertility will be asked to respond to a telephone questionnaire about their offspring. The information will be used to relate preconception radiation to genetic effects. Respondents: Individuals or households; Number of Respondents: 315; Number of Responses per Respondent: 1; Average Burden per Response: .166 hours; Estimated Annual Burden: 52 hours.

4. Assessment of Health Care Provider Training in Smoking Cessation Techniques—New—The National Cancer Institute has developed a health care provider training program in smoking cessation techniques for national dissemination to health care professionals. Clearance is requested to conduct surveys to evaluate this program. Respondents: Individual or households; Small businesses or organizations; Number of Respondents: 6,000; Number of Responses per Respondent: 1.3; Average Burden per Response: 0.14 hours; Estimated Annual Burden: 1,134 hours.

5. Survey of the NIH General Clinical Research Centers Program—New—The evaluation is to develop an improved operational design for the program, based on objective performance data as well as on projections of resources that will be required to accommodate developing clinical research technologies. Data will be collected from investigators, graduates of career development programs and GCRC program directors. Respondents: Non-profit institutions; Number of Respondents: 5,172; Number of Responses per Respondent: 1; Average Burden per Response: .16 hours; Estimated Annual Burden: 826 hours.

OMB Desk Officer: Shannah Koss-McCallum.

Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated above at the following address: Human Resources and Housing Branch, New Executive Office Building, room 3002, Washington, DC 20503.

Dated: January 31, 1992.

Phyllis M. Zucker,

Acting Deputy Assistant Secretary for Public Health Policy.

[FR Doc. 92–2910 Filed 2–6–92; 8:45 am]

BILLING CODE 4160–17–M

Social Security Administration

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Social Security Administration publishes a list of information collection packages that have been submitted to the Office of Management and Budget (OMB) for clearance in compliance with Public Law 96–511, The Paperwork Reduction Act. The following clearance packages have been submitted to OMB since the last list was published in the **Federal Register** on January 24, 1992.

(Call Reports Clearance Officer on (301) 965–4149 for copies of package)

1. Response To Notice Of Revised Determination—0960–0347. The form SSA-765 is used to request a hearing and/or to submit additional information before a revised reconsideration determination is issued. The respondents are claimants/representatives for disability insurance benefits.

Number of Respondents: 1,086.
Frequency of Response: 1.
Average Burden Per Response: 30 minutes.
Estimated Annual Burden: 543 hours.

2. Statement For Determining Continuing Eligibility For Supplemental Security Income Payments—0960–0416. The information collected on the form SSA–8203 is used to conduct a redetermination of a recipient's continuing eligibility for supplemental security income (SSI) payments and the payment amount. The respondents are selected SSI recipients.

Number of Respondents: 514,000.
Frequency of Response: 1.
Average Burden Per Response: 17 minutes.
Estimated Annual Burden: 145,633 hours.

3. Representative Payee Report—0960–0068. The information collected on the form SSA–623 is used to determine whether a representative payee has used a beneficiary's funds properly. The respondents are representative payees.

Number of Respondents: 3,756,000.
Frequency of Response: 1.
Average Burden Per Response: 15 minutes.
Estimated Annual Burden: 939,000 hours.
OMB Desk Officer: Laura Oliven.

Written comments and recommendations regarding these information collections should be sent directly to the appropriate OMB Desk

Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, room 3208, Washington, DC 20503.

Date: January 29, 1992.

Ron Compston,

Social Security Administration, Reports Clearance Officer.

[FR Doc. 92–2635 Filed 2–6–92; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–92–1917; FR–2934–N–64]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

ADDRESSES: For further information, contact James N. Forsberg, room 7262, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–4300; TDD number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless v. Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A–10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 56 FR 23789 (May 24, 1991).

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to James N. Forsberg at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: Corps of Engineers: Gary B. Paterson, Chief, Base Realignment and Closure Office, Directorate of Real Estate, 20 Massachusetts Ave., NW., rm. 4133, Washington, DC 20314–1000; (202) 272–0520; GSA: Ronald Rice, Federal Property Resources Services, GSA, 18th and F Streets NW., Washington, DC 2005; (202) 501–0067; (These are not toll-free numbers).

Dated: January 31, 1992.

Paul Roitman Bardack,

Deputy Assistant Secretary for Economic Development.

Title V, Federal Surplus Property Program Federal Register For 02/07/92

Suitable/Available Properties

Buildings (by State)

Connecticut

Portland CT 36
Family Housing
1 Freedom Street
Portland, Co: Middlesex, CT 06484—
Landholding Agency: COE–BC
Property Number: 319011218
Status: Excess
Base closure—Number of Units: 1
Comment: 1300 sq. ft., 1 story wood frame residence.

Portland CT 36
Family Housing
2 Freedom Street
Portland, Co: Middlesex, CT 06484–
Landholding Agency: COE–BC
Property Number: 319011219
Status: Excess
Base closure—Number of Units: 1
Comment: 1300 sq. ft., 1 story wood frame residence.

Portland CT 36
Family Housing
3 Freedom Street
Portland, Co: Middlesex, CT 06484–
Landholding Agency: COE–BC
Property Number: 319011220
Status: Excess
Base closure—Number of Units: 1
Comment: 1100 sq. ft., 1 story wood frame residence.

Portland CT 36
Family Housing
4 Freedom Street
Portland, Co: Middlesex, CT 06484–
Landholding Agency: COE–BC
Property Number: 319011221
Status: Excess
Base closure—Number of Units: 1
Comment: 1000 sq. ft., 1 story wood frame residence.

Portland CT 36
Family Housing
5 Freedom Street
Portland, Co: Middlesex, CT 06484–

Landholding Agency: COE–BC
Property Number: 319011222
Status: Excess
Base closure—Number of Units: 1
Comment: 1000 sq. ft., 1 story wood frame residence.

Portland CT 36
Family Housing
6 Freedom Street
Portland, Co: Middlesex, CT 06484–
Landholding Agency: COE–BC
Property Number: 319011223
Status: Excess
Base closure—Number of Units: 1
Comment: 1000 sq. ft., 1 story wood frame residence.

Portland CT 36
Family Housing
7 Freedom Street
Portland, Co: Middlesex, CT 06484–
Landholding Agency: COE–BC
Property Number: 319011224
Status: Excess
Base closure—Number of Units: 1
Comment: 1000 sq. ft., 1 story wood frame residence.

Portland CT 36
Family Housing
8 Freedom Street
Portland, Co: Middlesex, CT 06484–
Landholding Agency: COE–BC
Property Number: 319011225
Status: Excess
Base closure—Number of Units: 1
Comment: 1000 sq. ft., 1 story wood frame residence.

Portland CT 36
Family Housing
9 Freedom Street
Portland, Co: Middlesex, CT 06484–
Landholding Agency: COE–BC
Property Number: 319011226
Status: Excess
Base closure—Number of Units: 1
Comment: 1000 sq. ft., 1 story wood frame residence.

Portland CT 36
Family Housing
10 Freedom Street
Portland, Co: Middlesex, CT 06484–
Landholding Agency: COE–BC
Property Number: 319011227
Status: Excess
Base closure—Number of Units: 1
Comment: 1000 sq. ft., 1 story wood frame residence.

Portland CT 36
Family Housing
11 Freedom Street
Portland, Co: Middlesex, CT 06484–
Landholding Agency: COE–BC
Property Number: 319011228
Status: Excess
Base closure—Number of Units: 1
Comment: 1000 sq. ft., 1 story wood frame residence.

Portland CT 36
Family Housing
13 Freedom Street
Portland, Co: Middlesex, CT 06484–
Landholding Agency: COE–BC
Property Number: 319011229
Status: Excess
Base closure—Number of Units: 1
Comment: 1000 sq. ft., 1 story wood frame residence.

Portland CT 36
Family Housing
14 Freedom Street
Portland Co: Middlesex, CT 06484–
Landholding Agency: COE–BC
Property Number: 319011230
Status: Excess
Base closure—Number of Units: 1
Comment: 1000 sq. ft., 1 story wood frame residence.

Portland CT 36
Family Housing
15 Freedom Street
Portland Co: Middlesex, CT 06484–
Landholding Agency: COE–BC
Property Number: 319011231
Status: Excess
Base closure—Number of Units: 1
Comment: 1000 sq. ft., 1 story wood frame residence.

Portland CT 36
Family Housing
16 Freedom Street
Portland Co: Middlesex, CT 06484–
Landholding Agency: COE–BC
Property Number: 319011232
Status: Excess
Base closure—Number of Units: 1
Comment: 1000 sq. ft., 1 story wood frame residence.

Florida

(P)Jacksonville Job Corps
236 W. 4th Street
Jacksonville Co: Duval, FL 32206–
Landholding Agency: GSA
Property Number: 549140007
Status: Excess
Comment: 1250 sq. ft., 2 story residence, needs major rehab, subject to compliance with federal and local historic preservation laws
GSA Number: 4–L–FL–967

Illinois

12 Addison Family Houses
Fort Sheridan
Addison Co: DuPage, IL 60101–
Landholding Agency: COE–BC
Property Number: 329210001
Status: Excess
Base closure—Number of Units: 12
Comment: 1-story residences, possible asbestos, scheduled to be vacated 05/93.

12 Worth Family Houses
Fort Sheridan
Worth Co: Cook, IL 60482–
Landholding Agency: COE–BC
Property Number: 329210002
Status: Excess
Base closure—Number of Units: 12
Comment: 1-story residences, possible asbestos, off-site use only, scheduled to be vacated 05/93.

New Jersey

Bldg. 0201
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010734
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.

Bldg. 0202
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010735
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.

Bldg. 0203
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010736
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.

Bldg. 0204
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010737
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.

Bldg. 0205
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010738
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.

Bldg. 0206
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010739
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.

Bldg. 0207
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010740
Status: Excess
Base Closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.

Bldg. 0208
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010741
Status: Excess
Base Closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.

Bldg. 0209

Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010742
Status: Excess
Base Closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.
Bldg. 0210
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010743
Status: Excess
Base Closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.
Bldg. 0211
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010744
Status: Excess
Base Closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.
Bldg. 0212
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010745
Status: Excess
Base Closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.
Bldg. 0213
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010746
Status: Excess
Base Closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.
Bldg. 0214
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010747
Status: Excess
Base Closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.
Bldg. 0215
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010748
Status: Excess
Base Closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.
Bldg. 0216
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010749
Status: Excess
Base Closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.
Bldg. 0217
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010750
Status: Excess
Base Closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.
Bldg. 0218
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010751
Status: Excess
Base Closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.
Bldg. 0219
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010752
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.
Bldg. 0220
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010753
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.
Bldg. 0221
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010754
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.
Bldg. 0222
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010755
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.
Bldg. 0223
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010756
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.
Bldg. 0224
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah Co: Bergen, NJ 07430–
Landholding Agency: COE–BC
Property Number: 319010757
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence.
Bldg. 0201
Livingston Family Housing
Harmony Court
East Hanover Co: Morris, NJ 07936–
Landholding Agency: COE–BC
Property Number: 319010758
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.
Bldg. 0202
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936–
Landholding Agency: COE–BC
Property Number: 319010759
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.
Bldg. 0203
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936–
Landholding Agency: COE–BC
Property Number: 319010760
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.
Bldg. 0204
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936–
Landholding Agency: COE–BC
Property Number: 319010761
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.
Bldg. 0205
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936–
Landholding Agency: COE–BC
Property Number: 319010762
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.
Bldg. 0206
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936–
Landholding Agency: COE–BC
Property Number: 319010763
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.
Bldg. 0207
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936–
Landholding Agency: COE–BC

roperty Number: 319010764
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.
Bldg. 0208
ivingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936-
andholding Agency: COE–BC
roperty Number: 319010765
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.
Bldg. 0209
ivingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936-
andholding Agency: COE–BC
roperty Number: 319010766
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.
Bldg. 0210
ivingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936-
andholding Agency: COE–BC
roperty Number: 319010767
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.
Bldg. 0211
ivingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936-
andholding Agency: COE–BC
roperty Number: 319010768
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.
Bldg. 0212
ivingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936-
andholding Agency: COE–BC
roperty Number: 319010769
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.
Bldg. 0213
ivingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936-
andholding Agency: COE–BC
roperty Number: 319010770
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.
Bldg. 0214
ivingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936-
andholding Agency: COE–BC
roperty Number: 319010771
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.
Bldg. 0215
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936-
Landholding Agency: COE–BC
Property Number: 319010772
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.
Bldg. 0216
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936-
Landholding Agency: COE–BC
Property Number: 319010773
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.
Bldg. 0217
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936-
Landholding Agency: COE–BC
Property Number: 319010774
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.
Bldg. 0218
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936-
Landholding Agency: COE–BC
Property Number: 319010775
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.
Bldg. 0219
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936–
Landholding Agency: COE–BC
Property Number: 319010776
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.
Bldg. 0220
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936–
Landholding Agency: COE–BC
Property Number: 319010777
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq ft., 1 story wood frame residence, possible asbestos in floor tiles.
Bldg. 0221
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936–
Landholding Agency: COE–BC
Property Number: 319010778
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.
Bldg. 0222
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936–
Landholding Agency: COE–BC
Property Number: 319010779
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.
Bldg. 0223
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936–
Landholding Agency: COE–BC
Property Number: 319010780
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.
Bldg. 0224
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936–
Landholding Agency: COE–BC
Property Number: 319010781
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.
Bldg. 0225
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936–
Landholding Agency: COE–BC
Property Number: 319010782
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.
Bldg. 0226
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936–
Landholding Agency: COE–BC
Property Number: 319010783
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.
Bldg. 0227
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936–
Landholding Agency: COE–BC
Property Number: 319010784
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.
Bldg. 0228
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936–
Landholding Agency: COE–BC
Property Number: 319010785
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.
Bldg. 0230
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936–
Landholding Agency: COE–BC
Property Number: 319010786
Status: Excess
Base closure—Number of Units: 1

Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0231
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936–
Landholding Agency: COE–BC
Property Number: 319010787
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0232
Livingston Family Housing
Hornung Court
East Hanover Co: Morris, NJ 07936–
Landholding Agency: COE–BC
Property Number: 319010788
Status: Excess
Base Closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0229
Livingston Family Housing
Hornug Court
East Hanover Co: Morris, NJ 07936–
Landholding Agency: COE–BC
Property Number: 319010789
Status: Excess
Base closure—Number of Units: 1
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Tennessee

Federal Building
216 North Jackson Street
Athens Co: McMinn, TN 27303–
Landholding Agency: GSA
Property Number: 549210003
Status: Excess
Comment: 2069 sq. ft., 3 story brick and concrete frame, presence of asbestos on pipes and air ducts in mechanical areas, most recent use—offices.
GSA Number: 4–G–TN–632

Land (by State)

Colorado

Portion/Curecanti Substation
Gimarron Co: Montrose, CO 81220–
Location: 2 miles east of Cimarron on Highway 50
Landholding Agency: GSA
Property Number: 419030009
Status: Excess
Comment: 36.39 acres, easement restrictions
GSA Number: 7–B–CO–624

Kansas

Titan II Missile S–17
McConnell Air Force Base Co: Kingman, KS 67068–
Location: 4 miles east on US Hwy 54 and 3 miles north on FAS 361
Landholding Agency: GSA
Property Number: 549210001
Status: Excess
Comment: 10.26 acres fee and 2/43 acres easement (paved), potential utilities, PCB's underground on 1 acre, most recent use—missile site.
GSA Number: 7–D–KS–477–Q

Titan II Missile S–12
McConnell Air Force Base Co: Sumner, KS 67221–
Location: 1.5 miles south of Conway Springs, KS on State Hwy 49
Landholding Agency: GSA
Property Number: 549210002
Status: Excess
Comment: 16.75 acres fee and 3.79 acres easement (paved), potential utilities, PCB's underground on 1 acre, most recent use—missile site.
GSA Number: 7–D–KS–477–R

Texas

Test Tract—Formerly Jet Ind.
Burleson Road
Austin Co: Travis, TX 78741–
Location: Approx. 7 mi NW of U.S. Hwy 183 and approx. 3.5 mi SE of Ben White Blvd.
Landholding Agency: GSA
Property Number: 549140006
Status: Excess
Comment: 75.81 acres, most recent use—one-mile asphalt test track for electric cars, approx. 15 acres in floodplain.
GSA Number: 7–B–TX–970

Wyoming

Wind Site A
Medicine Bow Co: Carbon, WY 82329–
Location: 3 miles south and 2 miles west of Medicine Bow
Landholding Agency: GSA
Property Number: 419030010
Status: Excess
Comment: 40.75 acres, limitation-easement restrictions.

Suitable/Unavailable Properties

Buildings (by State)

New York

Nike
New York 01 Housing
402 Lafayette Street
Tappan Co: Rockland, NY
Landholding Agency: COE–BC
Property Number: 319011049
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence.

Nike
New York 01 Housing
424 Bogart Place
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011070
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
423 Bogart Place
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011071
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
422 Western Highway
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011072
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
NewYork 01 Housing
421 Western Highway
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011073
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
420 Western Highway
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011074
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
419 Western Highway
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011075
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
418 Western Highway
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011076
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
430 Greenbush Road
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011077
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
429 Greenbush Road
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011078
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
428 Greenbush Road
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011079
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
436 Lafayette Street
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011080
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
435 Lafayette Street
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011081
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
434 Lafayette Street
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011082
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
433 Lafayette Street
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011083
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
432 Lafayette Street
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011084
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
431 Lafayette Street
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011085
Status: Excess
Base closure—Number of Units: 1
Comment: 897sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
427 Lafayette Street
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011086
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
426 Lafayette Street
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011087
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
426 Lafayette Street
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011088
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
425 Lafayette Street
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011088
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
417 Lafayette Street
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011089
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
416 Lafayette Street
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011090
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
415 Lafayette Street
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011091
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
414 Lafayette Street
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011092
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
413 Lafayette Street
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011093
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
412 Lafayette Street
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011094
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
411 Lafayette Street
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011095
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
410 Lafayette Street
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011096
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
409 Lafayette Street
Tappan Co: Rockland, NY 10983–
Landholding Agency: COE–BC
Property Number: 319011097
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
408 Lafayette Street
Tappan Co: Rockland NY 10983–
Landholding Agency: COE–BC
Property Number: 319011098
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
407 Lafayette Street
Tappan Co: Rockland NY 10983–
Landholding Agency: COE–BC
Property Number: 319011099
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
404 Lafayette Street
Tappan Co: Rockland NY 10983–
Landholding Agency: COE–BC
Property Number: 319011100
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
406 Lafayette Street
Tappan Co: Rockland NY 10983–

Landholding Agency: COE-BC
Property Number: 319011101
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
405 Lafayette Street
Tappan Co: Rockland NY 10983-
Landholding Agency: COE-BC
Property Number: 319011102
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
402 Lafayette Street
Tappan Co: Rockland NY 10983-
Landholding Agency: COE-BC
Property Number: 319011103
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
403 Lafayette Street
Tappan Co: Rockland NY 10983-
Landholding Agency: COE-BC
Property Number: 319011104
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Nike
New York 01 Housing
401 Lafayette Street
Tappan Co: Rockland NY 10983-
Landholding Agency: COE-BC
Property Number: 319011105
Status: Excess
Base closure—Number of Units: 1
Comment: 897 sq. ft., 1 story wood frame residence on concrete slab.

Bldg. P-232
Dry Hill Family Housing
Route 3, Box 232
Watertown Co: Jefferson NY 13601-
Landholding Agency: COE-BC
Property Number: 319030015
Status: Excess
Base closure—Number of Units: 1
Comment: 1022 sq. ft., 1 story wood frame residence.

Bldg. P-233
Dry Hill Family Housing
Route 3, Box 233
Watertown Co: Jefferson NY 13601-
Landholding Agency: COE-BC
Property Number: 319030016
Status: Excess
Base closure—Number of Units: 1
Comment: 816 sq. ft., 1 story wood frame residence.

Bldg. P-234
Dry Hill Family Housing
Route 3, Box 234
Watertown Co: Jefferson NY 13601-
Landholding Agency: COE-BC
Property Number: 319030017
Status: Excess
Base closure—Number of Units: 1
Comment: 1022 sq. ft., 1 story wood frame residence.

Bldg. P-235
Dry Hill Family Housing
Route 3, Box 235
Watertown Co: Jefferson, NY 13601-
Landholding Agency: COE-BC
Property Number: 319030018
Status: Excess
Base closure—Number of Units: 1
Comment: 1235 sq. ft., 1 story wood frame residence.

Bldg. P-236
Dry Hill Family Housing
Route 3, Box 236
Watertown Co: Jefferson, NY 13601-
Landholding Agency: COE-BC
Property Number: 319030019
Status: Excess
Base closure—Number of Units: 1
Comment: 1235 sq. ft., 1 story wood frame residence.

Bldg. P-237
Dry Hill Family Housing
Route 3, Box 237
Watertown Co: Jefferson, NY 13601-
Landholding Agency: COE-BC
Property Number: 319030020
Status: Excess
Base closure—Number of Units: 1
Comment: 1235 sq. ft., 1 story wood frame residence.

Bldg. P-238
Dry Hill Family Housing
Route 3, Box 238
Watertown Co: Jefferson, NY 13601-
Landholding Agency: COE-BC
Property Number: 319030021
Status: Excess
Base closure—Number of Units: 1
Comment: 1235 sq. ft., 1 story wood frame residence.

Bldg. P-239
Dry Hill Family Housing
Route 3, Box 239
Watertown Co: Jefferson, NY 13601-
Landholding Agency: COE-BC
Property Number: 319030022
Status: Excess
Base closure—Number of Units: 1
Comment: 1300 sq. ft., 1 story wood frame residence.

Bldg. P-240
Dry Hill Family Housing
Route 3, Box 240
Watertown Co: Jefferson, NY 13601-
Landholding Agency: COE-BC
Property Number: 319030023
Status: Excess
Base closure—Number of Units: 1
Comment: 1300 sq. ft., 1 story wood frame residence.

Bldg. P-241
Dry Hill Family Housing
Route 3, Box 241
Watertown Co: Jefferson, NY 13601-
Landholding Agency: COE-BC
Property Number: 319030024
Status: Excess
Base closure—Number of Units: 1
Comment: 1300 sq. ft., 1 story wood frame residence.

Bldg. P-242
Dry Hill Family Housing
Route 3, Box 242
Watertown Co: Jefferson, NY 13601-
Landholding Agency: COE-BC
Property Number: 319030025
Status: Excess
Base closure—Number of Units: 1
Comment: 1235 sq. ft., 1 story wood frame residence.

Bldg. P-243
Dry Hill Family Housing
Route 3, Box 243
Watertown Co: Jefferson, NY 13601-
Landholding Agency: COE-BC
Property Number: 319030026
Status: Excess
Base closure—Number of Units: 1
Comment: 1235 sq. ft., 1 story wood frame residence.

Bldg. P-244
Dry Hill Family Housing
Route 3, Box 244
Watertown Co: Jefferson, NY 13601-
Landholding Agency: COE-BC
Property Number: 319030027
Status: Excess
Base closure—Number of Units: 1
Comment: 1235 sq. ft., 1 story wood frame residence.

Bldg. P-245
Dry Hill Family Housing
Route 3, Box 245
Watertown Co: Jefferson, NY 13601-
Landholding Agency: COE-BC
Property Number: 319030028
Status: Excess
Base closure—Number of Units: 1
Comment: 1300 sq. ft., 1 story wood frame residence.

Bldg. P-246
Dry Hill Family Housing
Route 3, Box 246
Watertown Co: Jefferson, NY 13601-
Landholding Agency: COE-BC
Property Number: 319030029
Status: Excess
Base closure—Number of Units: 1
Comment: 1235 sq. ft., 1 story wood frame residence.

Bldg. P-247
Dry Hill Family Housing
Route 3, Box 247
Watertown Co: Jefferson, NY 13601-
Landholding Agency: COE-BC
Property Number: 319030030
Status: Excess
Base Closure—Number of Units: 1
Comment: 1500 sq. ft., 1 story wood frame residence.

Bldg P-248
Dry Hill Family Housing
Route 3, Box 248
Watertown Co: Jefferson, NY 13601-
Landholding Agency: COE-BC
Property Number: 319030031
Status: Excess
Base Closure—Number of Units: 1
Comment: 1300 sq. ft., 1 story wood frame residence.

Bldg. P-249
Dry Hill Family Housing
Route 3, Box 249
Watertown Co: Jefferson, NY 13601-
Landholding Agency: COE-BC
Property Number: 319030032

Status: Excess
Base Closure—Number of Units: 1
Comment: 1235 sq. ft., 1 story wood frame residence.

Bldg. P-250
Dry Hill Family Housing
Route 3, Box 250
Watertown Co: Jefferson, NY 13601-
Landholding Agency: COE-BC
Property Number: 319030033
Status: Excess
Base Closure—Number of Units: 1
Comment: 1235 sq. ft., 1 story wood frame residence.

Bldg. P-251
Dry Hill Family Housing
Route 3, Box 251
Watertown Co: Jefferson, NY 13601-
Landholding Agency: COE-BC
Property Number: 319030034
Status: Excess
Base Closure—Number of Units: 1
Comment: 1235 sq. ft., 1 story wood frame residence.

Bldg. P-252
Dry Hill Family Housing
Route 3, Box 252
Watertown Co: Jefferson, NY 13601-
Landholding Agency: COE-BC
Property Number: 319030035
Status: Excess
Base Closure—Number of Units: 1
Comment: 1235 sq. ft., 1 story wood frame residence.

Bldg. P-253
Dry Hill Family Housing
Route 3, Box 253
Watertown Co: Jefferson, NY 13601-
Landholding Agency: COE-BC
Property Number: 319030036
Status: Excess
Base Closure—Number of Units: 1
Comment: 1022 sq. ft., 1 story wood frame residence.

Bldg. P-254
Dry Hill Family Housing
Route 3, Box 254
Watertown Co: Jefferson, NY 13601-
Landholding Agency: COE-BC
Property Number: 319030037
Status: Excess
Base Closure—Number of Units: 1
Comment: 816 sq. ft., 1 story wood frame residence.

Bldg. P-255
Dry Hill Family Housing
Route 3, Box 255
Watertown Co: Jefferson, NY 13601-
Landholding Agency: COE-BC
Property Number: 319030038
Status: Excess
Base Closure—Number of Units: 1
Comment: 816 sq. ft., 1 story wood frame residence.

Bldg. P-256
Dry Hill Family Housing
Route 3, Box 256
Watertown Co: Jefferson, NY 13601-
Landholding Agency: COE-BC
Property Number: 319030039
Status: Excess
Base Closure—Number of Units: 1
Comment: 1022 sq. ft., 1 story wood frame residence.

Bldg. P-257
Dry Hill Family Housing
Route 3, Box 257
Watertown Co: Jefferson, NY 13601-
Landholding Agency: COE-BC
Property Number: 319030040
Status: Excess
Base Closure—Number of Units: 1
Comment: 1022 sq. ft., 1 story wood frame residence.

Bldg. P-258
Dry Hill Family Housing
Route 3, Box 258
Watertown Co: Jefferson, NY 13601-
Landholding Agency: COE-BC
Property Number: 319030041
Status: Excess
Base Closure—Number of Units: 1
Comment: 816 sq. ft., 1 story wood frame residence.

Pennsylvania

C.E. Kelly Support Facility
Finleyville Area Site 52, S-101-Q
Private Road
Finleyville Co: Washington, PA 15332-
Location: Route 88 to Mineral Beach and turn left.
Landholding Agency: COE-BC
Property Number: 319011407
Status: Excess
Base closure—Number of Units: 1
Comment: 1307 sq. ft., 1 story frame residence, possible asbestos.

C.E. Kelly Support Facility
Finleyville Area Site 52, S-102-Q
Private Road
Finleyville Co: Washington, PA 15332-
Location: Route 88 to Mineral Beach and turn left.
Landholding Agency: COE-BC
Property Number: 319011409
Status: Excess
Base closure—Number of Units: 1
Comment: 1121 sq. ft., 1 story frame residence, possible asbestos.

C.E. Kelly Support Facility
Finleyville Area Site 52, S-103-Q
Private Road
Finleyville Co: Washington, PA 15332-
Location: Route 88 to Mineral Beach and turn left.
Landholding Agency: COE-BC
Property Number: 319011410
Status: Excess
Base closure—Number of Units: 1
Comment: 1121 sq. ft., 1 story frame residence, possible asbestos.

C.E. Kelly Support Facility
Finleyville Area Site 52, S-104-Q
Private Road
Finleyville Co: Washington, PA 15332-
Location: Route 88 to Mineral Beach and turn left.
Landholding Agency: COE-BC
Property Number: 319011411
Status: Excess
Base closure—Number of Units: 1
Comment: 1117 sq. ft., 1 story frame residence, possible asbestos.

C.E. Kelly Support Facility
Finleyville Area Site 52, S-105-Q
Private Road
Finleyville Co: Washington, PA 15332-
Location: Route 88 to Mineral Beach and turn left.
Landholding Agency: COE-BC
Property Number: 319011412
Status: Excess
Base closure—Number of Units: 1
Comment: 1117 sq. ft., 1 story frame residence, possible asbestos.

C.E. Kelly Support Facility
Finleyville Area Site 52, S-106-Q
Private Road
Finleyville Co: Washington, PA 15332-
Location: Route 88 to Mineral Beach and turn left.
Landholding Agency: COE-BC
Property Number: 319011413
Status: Excess
Base closure—Number of Units: 1
Comment: 1013 sq. ft., 1 story frame residence, possible asbestos.

C.E. Kelly Support Facility
Finleyville Area Site 52, S-107-Q
Private Road
Finleyville Co: Washington, PA 15332-
Location: Route 88 to Mineral Beach and turn left.
Landholding Agency: COE-BC
Property Number: 319011414
Status: Excess
Base closure—Number of Units: 1
Comment: 1013 sq. ft., 1 story frame residence, possible asbestos.

C.E. Kelly Support Facility
Finleyville Area Site 52, S-108-Q
Private Road
Finleyville Co: Washington, PA 15332-
Location: Route 88 to Mineral Beach and turn left.
Landholding Agency: COE-BC
Property Number: 319011415
Status: Excess
Base closure—Number of Units: 1
Comment: 1013 sq. ft., 1 story frame residence, possible asbestos.

C.E. Kelly Support Facility
Finleyville Area Site 52, S-109-Q
Private Road
Finleyville Co: Washington, PA 15332-
Location: Route 88 to Mineral Beach and turn left.
Landholding Agency: COE-BC
Property Number: 319011416
Status: Excess
Base closure—Number of Units: 1
Comment: 1117 sq. ft., 1 story frame residence, possible asbestos.

C.E. Kelly Support Facility
Finleyville Area Site 52, S-110-Q
Private Road
Finleyville Co: Washington, PA 15332-
Location: Route 88 to Mineral Beach and turn left.
Landholding Agency: COE-BC
Property Number: 319011417
Status: Excess
Base closure—Number of Units: 1
Comment: 1117 sq. ft., 1 story frame residence, possible asbestos.

C.E. Kelly Support Facility
Finleyville Area Site 52, S-111-Q
Private Road
Finleyville Co: Washington, PA 15332-
Location: Route 88 to Mineral Beach and turn left.
Landholding Agency: COE-BC
Property Number: 319011418

Status: Excess
Base closure—Number of Units: 1
Comment: 1117 sq. ft., 1 story frame residence, possible asbestos.

C.E. Kelly Support Facility
Finleyville Area Site 52. S–112–Q
Private Road
Finleyville Co: Washington, PA 15332–
Location: Route 88 to Mineral Beach and turn left.
Landholding Agency: COE–BC
Property Number: 319011419
Status: Excess
Base closure—Number of Units: 1
Comment: 1117 sq. ft., 1 story frame residence, possible asbestos.

S–29–Q
Monroeville Area Site 25
C.E. Kelly Support Fac.; Lindsey Lane R.D. #2
Monroeville Co: Allegheny, PA 15239–
Landholding Agency: COE–BC
Property Number: 319030051
Status: Excess
Base closure—Number of Units: 1
Comment: 1307 sq. ft., 1 story frame residence with playground area, possible asbestos.

S–30–Q
Monroeville Area Site 25
C.E. Kelly Support Fac.; Lindsey Lane R.D. #2
Monroeville Co: Allegheny, PA 15239–
Landholding Agency: COE–BC
Property Number: 319030052
Status: Excess
Base closure—Number of Units: 1
Comment: 1121 sq. ft., 1 story frame residence with playground area, possible asbestos.

S–31–Q
Monroeville Area Site 25
C.E. Kelly Support Fac.; Lindsey Lane R.D. #2
Monroeville Co: Allegheny, PA 15239–
Landholding Agency: COE–BC
Property Number: 319030053
Status: Excess
Base closure—Number of Units: 1
Comment: 1121 sq. ft., 1 story frame residence with playground area, possible asbestos.

S–32–Q
Monroeville Area Site 25
C.E. Kelly Support Fac.; Lindsey Lane R.D. #2
Monroeville Co: Allegheny, PA 15239–
Landholding Agency: COE–BC
Property Number: 319030054
Status: Excess
Base closure—Number of Units: 1
Comment: 1013 sq. ft., 1 story frame residence with playground area, possible asbestos.

S–33–Q
Monroeville Area Site 25
C.E. Kelly Support Fac.; Lindsey Lane R.D. #2
Monroeville Co: Allegheny, PA 15239–
Landholding Agency: COE–BC
Property Number: 319030055
Status: Excess
Base closure—Number of Units: 1
Comment: 1013 sq. ft., 1 story frame residence with playground area, possible asbestos.

S–34–Q
Monroeville Area Site 25
C.E. Kelly Support Fac.; Lindsey Lane R.D. #2
Monroeville Co: Allegheny, PA 15239–
Landholding Agency: COE–BC
Property Number: 319030056
Status: Excess
Base closure—Number of Units: 1
Comment: 1013 sq. ft., 1 story frame residence with playground area, possible asbestos.

S–35–Q
Monroeville Area Site 25
C.E. Kelly Support Fac.; Lindsey Lane R.D. #2
Monroeville Co: Allegheny, PA 15239-
Landholding Agency: COE–BC
Property Number: 319030057
Status: Excess
Base closure—Number of Units: 1
Comment: 1117 sq. ft., 1 story frame residence with playground area, possible asbestos.

S–36–Q
Monroeville Area Site 25
C.E. Kelly Support Fac.; Lindsey Lane R.D. #2
Monroeville Co: Allegheny, PA 15239–
Landholding Agency: COE–BC
Property Number: 319030058
Status: Excess
Base closure—Number of Units: 1
Comment: 1117 sq. ft., 1 story frame residence with playground area, possible asbestos.

S–37–Q
Monroeville Area Site 25
C.E. Kelly Support Fac.; Lindsey Lane R.D. #2
Monroeville Co: Allegheny, PA 15239–
Landholding Agency: COE–BC
Property Number: 319030059
Status: Excess
Base closure—Number of Units: 1
Comment: 1117 sq. ft., 1 story frame residence with playground area, possible asbestos.

S–38–Q
Monroeville Area Site 25
C.E. Kelly Support Fac.; Lindsey Lane R.D. #2
Monroeville Co: Allegheny, PA 15239–
Landholding Agency: COE–BC
Property Number: 319030060
Status: Excess
Base closure—Number of Units: 1
Comment: 1117 sq. ft., 1 story frame residence with playground area, possible asbestos.

S–39–Q
Monroeville Area Site 25
C.E. Kelly Support Fac.; Lindsey Lane R.D. #2
Monroeville Co: Allegheny, PA 15239–
Landholding Agency: COE–BC
Property Number: 319030061
Status: Excess
Base closure—Number of Units: 1
Comment: 1117 sq. ft., 1 story frame residence with playground area, possible asbestos.

S–40–Q
Monroeville Area Site 25
C.E. Kelly Support Fac.; Lindsey Lane R.D. #2
Monroeville Co: Allegheny, PA 15239–
Landholding Agency: COE–BC
Property Number: 319030062
Status: Excess
Base closure—Number of Units: 1
Comment: 1117 sq. ft., 1 story frame residence with playground area, possible asbestos.

Land (by State)

Pennsylvania

C.E. Kelly Support Facility
Finley Area Site 52, Land
Private Road
Finleyville Co: Washington, PA 15332–
Location: Route 88 to Mineral Beach and turn left.
Landholding Agency: COE–BC
Property Number: 319011408
Status: Excess
Base Closure—Number of Units: 1
Comment: 11.63 acres, potential utilities, most recent use—playground area.

Unsuitable Properties

Land (by State)

Florida

Cape St. George Reservation
Fort Rucker, AL Installation #12050
Apalachicola Co: Franklin G C, FL 32320-
Landholding Agency: COE–BC
Property Number: 329140001
Status: Unutilized
Base closure—Number of Units: 1
Reason: Floodway, Other
Comment: Inaccessible

[FR Doc. 92–2854 Filed 2–6–92; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK-968-4230-15; AA-6704-B]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C 1601, 1613(a), will be issued to Ahtna, Incorporated for the village of Tazlina, for 13.3 acres. The lands involved are in the vicinity of Glennallen, Alaska in T. 4 N., R. 2 W., Copper River Meridian, Alaska.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the Anchorage Daily News. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 (907) 271–5690.

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until March 9, 1992 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

Jessica Pretz,

Acting Chief, Branch of Cook Inlet and Ahtna Adjudication.

[FR Doc. 92–2974 Filed 2–6–92; 8:45 am]

BILLING CODE 4310-JA-M

[WY-060-92-4333-13]

Emergency Closure of Public Road; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of closure.

SUMMARY: Notice is hereby given that effective immediately the Texaco Road, on Muddy Mountain, Sections 3 and 4, T. 31 N., R. 79 W., located south of the unmaintained dirt road transversing diagonally from the southwest quarter of Section 34; T. 32 N., R. 79 W., and southeast of the maintained gravel road used for seasonal access to Muddy Mountain is closed to wheeled vehicle transit during the months of December through March.

The purpose of this closure is to protect the grooming done by Natrona County parks for the use and enjoyment of the snowmobile recreationists accessing Muddy Mountain.

The authority for this closure is 43 CFR 8341.2. The closure will remain in effect until an amendment for the Muddy Mountain Environmental Education and Recreation Area plan is done in the spring and summer of 1992. The road may be opened by administrative action at any time during said dates of closure.

EFFECTIVE DATE: February 12, 1992.

The closure will remain in effect until the Muddy Mountain Environmental Education and Recreation Plan is amended in the summer of 1992.

FOR FURTHER INFORMATION CONTACT: James Monroe, District Manager, Casper District, Bureau of Land Management, 1701 East 'E' Street, Casper, Wyoming 82601. 307–261–7600.

Dated: January 29, 1992.

James W. Monroe,

District Manager.

[FR Doc. 92–2948 Filed 2–6–92; 8:45 am]

BILLING CODE 4310-22-M

[NV-050-91-4210-02]

Las Vegas District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Department of the Interior.

Notice is hereby given in accordance with Public Law 920463 that a meeting of the Bureau of Land Management, Las Vegas District Advisory Council will be held February 27, 1992, at 9 a.m. to 3 p.m. in the Las Vegas BLM District Office, Las Vegas, Nevada.

The meeting agenda will include:

1. Election.
2. Desert Tortoise/Habitat Conservation Plan/Recovery Plan/Grazing.
3. Resource Management Plan Update.
4. Landfills.
5. Nellis Wild Horse Gather.
6. Water Applications.
7. Public Comments.

Advisory Council meetings are open to the public. Persons wishing to make oral statements to the Council must notify the District Manager, Bureau of Land Management, Las Vegas District. P.O. Box 26569, Las Vegas, Nevada 89125, prior to February 21, 1992.

Minutes of the meeting will be available, upon request, at the Las Vegas District Office on March 12, 1992.

Dated: January 21, 1992.

Ben Collins,

District Manager, Las Vegas, Nevada.

[FR Doc. 92–2946 Filed 2–6–92; 8:45 am]

BILLING CODE 4310-HC-M

[WY-030-02-4320-14]

Rawlins District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Rawlins District Grazing Advisory Board; Meeting.

SUMMARY: Notice is hereby given in accordance with Public Law 92–463 and 94–579 that a meeting of the Rawlins District Grazing Advisory Board will be held. This notice sets forth the schedule and proposed agenda for the meeting.

DATES: March 4, 1992, 10 a.m. to 4 p.m.

ADDRESSES: Bureau of Land Management, Rawlins District Office, 1300 North Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

FOR FURTHER INFORMATION CONTACT: John Spehar, District Range Conservationist, Rawlins District Office, Bureau of Land Management, P.O. Box 670, Rawlins, Wyoming 82301, (307) 324–7171.

SUPPLEMENTARY INFORMATION: The agenda of the meeting will include:

1. Introduction and opening remarks.
2. Opportunity for the public to present information or make statements.
3. Review of the 1991 range improvement program.
4. Presentation of the proposed 1992 range improvements.
5. Wild horse program update.
6. Law enforcement program presentation.
7. District weed control program presentation.

The meeting is open to the public. Individuals interested in attending the meeting or making an oral presentation to the board must notify the District Manager by February 28, 1992. Written statements may also be filed for the board's consideration. Summary minutes of this meeting will be on file in the Rawlins District Office and available for public inspection (during regular business hours) within 30 days of the meeting.

Dated: January 30, 1992.

Al Pierson,

District Manager.

[FR Doc. 92–2975 Filed 2–6–92; 8:45 am]

BILLING CODE 4310-22-M

[ID-943-02-4212-12; IDI-25288]

Exchange and Order Providing for Opening of Public Lands; Idaho

AGENCY: Bureau of Land Management, Interior. .

ACTION: Notice of exchange and opening order.

SUMMARY: The United States has issued an exchange conveyance document to the State of Idaho under section 206 of the Federal Land Policy and Management Act. In addition to providing official public notice of the exchange, this document contains an order which opens lands received by the United States to the public land, mining, and mineral leasing laws.

EFFECTIVE DATE: March 9, 1992.

FOR FURTHER INFORMATION CONTACT: Sally Carpenter, BLM. Idaho State Office, 3380 Americana Terrace, Boise, Idaho (208) 384–3163.

1. In an exchange made under the provisions of section 206 of the Act of October 21, 1976, 90 Stat. 2756, 43 U.S.C. 1716, the following described lands have been conveyed from the United States:

Boise Meridian

T. 7 S., R. 14 E.,
  Sec. 1, S½SE¼;
  Sec. 3, S½SE¼;
  Sec. 10, E½, E½NW¼, SW¼NW¼, and NE¼SW¼;
  Sec. 11, all;
  Sec. 12, all;
  Sec. 13, N½, N½SW¼, and SE¼;
  Sec. 14, NE¼, N½NW¼, SE¼NW¼, and N½SE¼;
  Sec. 15, NE¼NE¼;
  Sec. 24, E½NE¼;
T. 7 S., R. 15 E.,

Sec. 4, lot 4 and W½SW¼;
Sec. 5, all;
Sec. 6, lot 1 and E½SE¼;
Sec. 7, all;
Sec. 8, E½, N½NW¼, and SW¼SW¼;
Sec. 9, W½W½;
Sec. 10, S½;
Sec. 11, S½NW¼ and SW¼;
Sec. 13, all;
Sec. 14, all;
Sec. 15, all;
Sec. 17, all;
Sec. 18, all;
Sec. 19, lots 1 and 2, NE¼; E½NW¼, and N½SE¼;
Sec. 20, N½, W½SW¼, and NW¼SE¼;
Sec. 21, N½N½;
Sec. 22, N½, SE¼, and N½SW¼;
Sec. 23, all;
Sec. 24, N½, SW¼, W½SE¼, and NE¼SE¼;
Sec. 26, N½, SW¼, and W½SE¼;
Sec. 27, NE¼, E½SE¼, and NW¼SE¼.
T. 7 S., R. 16 E.,
Sec. 8, E½;
Sec. 9, W½;
Sec. 17, all;
Sec. 18, all;
Sec. 19, lot 1, N½NE¼, and NE¼NW¼.

Comprising 14,166.21 acres of public land.

2. In exchange for these lands, the United States acquired the following described lands:

Boise Meridian

T. 2 S., R. 12 E.,
Sec. 36, all.
T. 3 S., R. 12 E.,
Sec. 16, all.
T. 4 S., R. 12 E.,
Sec. 16, all.
T. 3 S., R. 13 E.,
Sec. 16, E½;
Sec. 36, all.
T. 4 S., R. 13 E.,
Sec. 36, all.
T. 3 S., R. 14 E.,
Sec. 16, all;
Sec. 36, all.
T. 4 S., R. 14 E.,
Sec. 16, all.
T. 3 S., R. 15 E.,
Sec. 16, all;
Sec. 36, all.
T. 3 S., R. 16 E.,
Sec. 16, all;
Sec. 36, all.
T. 2 S., R. 17 E.,
Sec. 36, all.
T. 3 S., R. 17 E.,
Sec. 16, all.
T. 4 S., R. 17 E.,
Sec. 16, all.
T. 4 S., R. 20 E.,
Sec. 16, all.
T. 5 S., R. 20 E.,
Sec. 36, all.
T. 6 S., R. 20 E.,
Sec. 16, N½, SW¼, and S½SE¼.
T. 2 S., R. 21 E.,
Sec. 36, all.
T. 3 S., R. 21 E.,
Sec. 36, all.
T. 5 S., R. 21 E.,
Sec. 36, W½W½.
T. 1 S., R. 22 E.,
Sec. 36, all.
T. 2 S., R. 22 E.,
Sec. 16, all;
Sec. 36, all.
T. 3 S., R 22 E.,
Sec. 16, all.
T. 4 S., R. 22 E.,
Sec. 16, all.
T. 2 S., R. 23 E.,
Sec. 16, all.
T. 3 S., R 23 E.,
Sec. 16, all.

Comprising 17,666.63 acres of State lands.

The purpose of the exchange was to acquire non-Federal lands which have high public values for wilderness, livestock grazing, recreation, and riparian habitat. The public interest was well served through completion of this exchange The values of the Federal and State lands were appraised at $638,400 and $637,500, respectively.

3. At 9 a.m. on March 9, 1992, the reconveyed State lands described in paragraph 2 will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on March 9, 1992, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. At 9 a.m. on March 9, 1992, the reconveyed State lands described in paragraph 2 will be opened to location and entry under the United States mining laws and to the operation of the mineral leasing laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of any of the lands described above under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1988), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: January 31, 1992.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 92–2949 Filed 2–6–92; 8:45 am]

BILLING CODE 4310-GG-M

[G-010-4111-08/G2-0103]

Availability of the Records of Decision for the Farmington, Rio Puerco, and Taos Resource Management Plan Amendments Oil and Gas Leasing and Development

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Bureau of Land Management, New Mexico announces the availability of the Record of Decision (ROD) for the Farmington, Rio Puerco, and Taos Resource Management Plan Amendments Oil and Gas Leasing and Development as described in the Albuquerque District Proposed Resource Management Plan Amendment/Final Environmental Impact Statement Oil and Gas Leasing and Development (PRMPA/FEIS). The RODs announce BLM's decision to accept a combination of the "Proposed and Current Management Alternatives" for amending the Farmington Resource Management Plan and the decision to approve the "Proposed Alternative" for amending the Rio Puerco and Taos Resource Management Plans. These amendments establish determinations for fluid mineral leasing and development.

SUPPLEMENTARY INFORMATION: The Resource Management Plans of July 1988 for Farmington, November 1986 Rio Puerco, and October 1988 for Taos Resource Areas did not consider oil and gas leasing and development as a planning issue. Therefore specific fluid mineral leasing and development determinations were not made. Since that time program guidance and NEPA compliance concerns have required a plan amendment and impact analysis related to oil and gas leasing and development. Tha amendment of the Farmington, Rio Puerco, and Taos Resource Management Plans brings the plans into compliance with both the program guidance and NEPA requirements and will provide for the continued leasing of oil and gas in the Albuquerque District of New Mexico.

Dated: January 29, 1992.

Robert T. Dale,

District Manager.

[FR Doc. 92–2947 Filed 2–6–92; 8:45 am]

BILLING CODE 4310-FB-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-6 (Sub-No. 335X)]

Burlington Northern Railroad Co.—Abandonment Exemption—Between Klickitat and Goldendale, WA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission, under 49 U.S.C. 10505, exempts from the prior approval requirements of 49 U.S.C. 10903, *et seq.*, the abandonment by Burlington Northern Railroad Company of its 28.30-mile line between milepost 13.80 near Klickitat and milepost 42.11 near Goldendale, WA, subject to standard employee protective conditions and a public use condition.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, the exemption will be effective on March 9, 1992. Formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.17(c)(2) [1] and petitions to stay must be filed by February 24, 1992. Petitions for reopening must be filed by March 3, 1992.

ADDRESSES: Send pleadings referring to Docket No. AB-6 (Sub-No. 335X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423, and
(2) Petitioner's Representative: Sarah J. Whitley, Burlington Northern Railroad Company, 3800 Continental Plaza, 777 Main Street, Fort Worth, TX 76102.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927–5660. (TDD for hearing impaired: (202) 927–5721).

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. (Assistance for the hearing impaired is available through TDD service (202) 927–5721.)

Decided: January 30, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillips, and Emmett.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92–2982 Filed 2–6–92; 8:45 am]

BILLING CODE 7035-01-M

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[1] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

DEPARTMENT OF LABOR

Office of the Secretary

Advisory Committee on Special Minimum Wages; Renewal

Notice is given that after consultation with the General Services Administration (GSA), it has been determined that the Advisory Committee on Special Minimum Wages whose charter expires October 11, 1991 is hereby renewed for the period November 18, 1991 through November 18, 1993. This action is necessary and in the public interest.

The Committee will advise the Secretary on issues concerning the application of the Fair Labor Standards Act, the McNamara-O'Hara Service Contract Act, and the Public Contracts Act to workers with impaired productive capacity.

Committee membership is designed to ensure that all major groups affected by the Acts and the regulations issued thereunder are represented. The members are selected on the basis of their expertise and serve in their individual capacities, not as representatives of their organizations.

The Committee shall consist of 23 members selected to represent the respective viewpoints of the following groups: one each from labor, industry (other than workshops), the public a State rehabilitation agency and a State labor agency; 9 consumer members (workers with disabilities or representatives of organizations representing such workers with disabilities or the parents or guardians of such workers); and 9 officials representing workshops, hospitals, or institutions or organizations of workshops, hospitals, or institutions. Committee members shall not be employees of the Government by virtue of their nomination to the Committee, except those who are compensated by the Department of Labor for their services on the Committee. The Committee may establish subcommittees from among its members as may be necessary.

The Committee will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act. The charter will be filed with GSA and the appropriate Congressional Committees.

Further information may be obtained from: John R. Fraser, Acting Administrator, Wage and Hour Division, Department of Labor, room S3502, 200 Constitution Avenue NW., Washington, DC 20210, phone 202–523–8305.

Signed at Washington, DC, this 18th day of November, 1991.

Lynn Martin,

Secretary of Labor.

[FR Doc. 92–3005 Filed 2–6–92; 8:45 am]

BILLING CODE 4510-27-M

Employment Standards Administration

Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisons of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisons are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon and Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Divison, Division of Wage Determinations, 200 Constitution Avenue NW., room S-3014, Washington, DC 20210.

New General Wage Determination Decisions

The numbers of the decisions added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are listed by Volume, State, and page number(s).

Volume I

Connecticut:	
CT91-6 (Feb. 7, 1992)	p. All.
Maryland:	
MD91-31 (Feb. 7, 1992)	p. All.
MD91-32 (Feb. 7, 1992)	p. All.
MD91-26 (Feb. 7, 1992)	p. All.
Pennsylvania:	
PA91-27 (Feb. 7, 1992)	p. All.

Volume II

Iowa:	
IA91-15 (Feb. 7, 1992)	p. All.

Volume III

Arizona:	
AZ91-4 (Feb. 7, 1992)	p. All.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Massachusetts:	
MA91-1 (Feb. 22, 1991)	p. 421, pp. 422-423, 427.
Maryland:	
MD91-1 (Feb. 22, 1991)	p. 469, p. 470.
MD91-15 (Feb. 22, 1991)	p. 507, pp. 508-510.
New Jersey:	
NJ91-2 (Feb. 22, 1991)	p. 701, pp. 703, 711.
NJ91-3 (Feb. 22, 1991)	p. 721, p. 724.
New York:	
NY91-3 (Feb. 22, 1991)	p. 797, pp. 798-799.

Volume II

Illinois:	
IL91-1 (Feb. 22, 1991)	p. 69, p. 73.
IL91-2 (Feb. 22, 1991)	p. 97, pp. 100, 103.
IL91-8 (Feb. 22, 1991)	p. 145, p. 146.
IL91-9 (Feb. 22, 1991)	p. 153, p. 155-156.
IL91-12 (Feb. 22, 1991)	p. 171, p. 172.
Indiana:	
IN91-2 (Feb. 22, 1991)	p. 259, pp. 260-261.
Kansas:	
KS91-7 (Feb. 22, 1991)	p. 369, p. 370.
New Mexico:	
NM91-1 (Feb. 22, 1991)	p. 779, p. 781.
Ohio:	
OH91-1 (Feb. 22, 1991)	p. 809, p. 811.
OH91-2 (Feb. 22, 1991)	p. 821, p. 823.
OH91-3 (Feb. 22, 1991)	p. 841, p. 842.
OH91-29 (Feb. 22, 1991)	p. 903, p. 907.
OH91-35 (Feb. 22, 1991)	p. 951, p. 952.
OH91-36 (Feb. 22, 1991)	p. 952a, p. 952b.
Texas:	
TX91-3 (Feb. 22, 1991)	p. 1021, p. 1022.

Volume III

Oregon:	
OR91-1 (Feb. 22, 1991)	p. 371, pp. 386, 368.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 31st day of January 1992.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 92-2755 Filed 2-6-92; 8:45 am]

BILLING CODE 4510-27-M

Employment and Training Administration

Job Training Partnership Act: Native American Programs' Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended and section 401(h)(1) of the Job Training Partnership Act, as amended 29 U.S.C. 1671 (h)(1)), notice is hereby given of a meeting of the Job Training Partnership Act Native American Programs' Advisory Committee.

Time and Date: The meeting will begin at 1:30 p.m. on March 5, 1992, and continue until close of business that day; and will reconvene at 9 a.m. on March 6, 1992, and adjourn at close of business that day. The initial hours and a half of the meeting on March 6, 1992 will be reserved for participation and presentations by members of the public.

Place: Navajo Rooms A, B and C (March 5) and Hopi Rooms A & B (March 6), Omni Adams Hotel, 111 North Central Avenue, Phoenix, Arizona.

Status: The meeting will be open to the public.

Matters to be Considered: The agenda will focus on a discussion of enhancing the quality of Indian and Native American programs, the Department's responses to the motions of the January 15-16, 1992 meeting, and any reports to the subcommittees.

Contact Person for More Information: Paul A. Mayrand, Director, Office of Special Targeted Programs, Employment and Training Administration, United States

Department of Labor, Room N-4641, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, 4th day of February, 1992.

Roberts T. Jones,

Assistant Secretary of Labor.

[FR Doc. 92-3004 Filed 2-6-92; 8:45 am]

BILLING CODE 4510-30-M

LEGAL SERVICES CORPORATION

Funding Availability for Law School Civil Clinical Programs

AGENCY: Legal Services Corporation.

ACTION: Announcement of funding.

SUMMARY: The Legal Services Corporation (LSC or Corporation) announces that grant funds are available for advancing the provision of civil legal assistance through the Law School Civil Clinical Programs (LSCCP). The Corporation may distribute up to twenty (20) one-time non-recurring grants to geographically distributed law schools of varying sizes. Each grant will be for up to 12 months and in an amount up to $75,000 per grant. All grants will be awarded pursuant to authority conferred by section 1006(a)(1)(B) (42 U.S.C. 2996e(a)(1)(B) of the Legal Services Corporation Act of 1974, as amended. Each applicant is required to guarantee that a substantial portion (more than 50 percent) of the total funding for its LSCCP project will come from non-federal sources and that federally funded assets and projects will not be counted as part of any in-kind service.

Grant proposals are being solicited from all law schools that are currently accreditied by the American Bar Association, or accreditied for purposes of bar admission by the state bar association of the state in which the law school is located. Proposals may be submitted by either a single law school or a consortium of law schools. Each applicant must submit appropriate documentation of elgibility.

DATE: Grant proposals must be received by the Office of Field Services on or before March 13, 1992. Grant awards may be announced by April 1992.

ADDRESSES: Office of Field Services, Legal Services Corporation, 400 Virginia Avenue, SW., Washington, DC 20024-2751.

FOR FURTHER INFORMATION CONTACT: Charles T. Moses, III, Deputy Director, or Janice P. White, Grants Research Analyst, Office of Field Services, (202) 863-1837.

SUPPLEMENTARY INFORMATION: Congress has recognized LSC support of clinical education by earmarking specific funds for law school clinical grants. This grant program is designed to provide monetary assistance for expansion or development of law school clinical programs that address the civil legal needs of poor persons. This expansion may include increasing the number of supervising attorneys and participating students, developing new areas of clinical coverage, providing legal services to LSC-eligible clients who are not otherwise receiving legal assistance, developing projects that provide services to underserved segments of the population (e.g. Native American, handicapped, homebound, isolated, and rural residents) or filling in the gaps in existing services and resources.

All proposals will be reviewed to ensure that each is responsive to the minimum requirements set forth in this solicitation. Final selection of grantees will be made by the President of LSC, following submission of non-binding recommendations from any advisory committee comprised of outside private experts and LSC staff. The following criteria, which have been grouped into four basic categories, will be used exclusively to assess each proposal:

I. Objectives of Legal Clinic Program Development/Expansion (25%)

The extent of the applicant's objectives (e.g., the number of clients to be served, or the complexity and number of cases to be closed by the LSCCP clinic) and quality of the applicant's objectives (e.g., clinic characteristics that would enhance the quality of basic legal services to be provided by the clinic, such as a high level of student supervision or the availability of complementary classroom courses) will be assessed in the context of the amount of funding requested and the clinic's prior grant history, if any. It is particularly important that the applicant's objectives address the topics of student training and delivery of legal services to the client-eligible population, including estimates of the number of cases to be closed. The applicant should also describe the substantive case types to be handled in the clinic and explain why those case types are appropriate for both clinical legal education and the specific locality.

II. Capability of Applicant To Accomplish Objectives (30%)

The proposed project design, management plan, staff level and experience, and clinic structure will be evaluated to determine whether the applicant can effectively accomplish its stated objectives.

The qualifications and experience of the clinic director and clinic staff will be evaluated to determine whether they can effectively administer the proposed clinic. Time and resource allocations will also be evaluated to assess the levels of supervision that will be provided to students.

III. Reasonableness of Costs in Relation to LSCCP Objectives and University Commitment to the LSCCP Objectives (30%)

To enable the reviewers to fairly assess the extent of the university's commitment and the nature of the budgeted costs, it is recommended that detailed information be provided regarding the following items:

(1) Each applicant will need to show that it has or will be able to obtain substantial (i.e., more than 50%) non-federal support for its clinical education program. In addition, if the proposed LSC-funded project is a portion of the applicant's clinical education program, a significant amount of the proposed LSC-funded project's budget must be funded through nonfederal support. In order to maximize the direct delivery of legal services through one-time grants, proposals with a higher proportion of nonfederal support will be given priority.

(2) Budgeted costs and funding support for both the clinical program and the proposed LSCCP project should be separately identified on duplicate copies of the Part B forms. The narrative portion of the application should describe the university's past financial commitment and/or project its future financial commitment to the clinical education program and, if applicable, the LSCCP project.

(3) Evidence that the university's budgetary support levels will be maintained and/or increased beyond the grant term is also needed. The viability of the LSCCP project beyond the grant term must be specifically addressed.

(4) Each applicant should demonstrate that it plans to make an adequate in-kind contribution to the project. Federally funded assets and projects cannot be counted as part of the in-kind contribution. In order to maximize service delivery, indirect administrative costs may not be paid or deducted from LSC grant funds.

(5) The applicant's budget submission (Part B) will be reviewed in the context of its stated objectives to determine whether projected costs are reasonable. Since the LSCCP grant, if awarded, will be a one-time, non-recurring grant,

proposed purchases of capital acquisitions are not allowed.

IV. Community Support (15%)

We recommend that the applicants explain how the proposed LSCCP clinic activities and services will complement the civil legal services provided to low-income persons by other local entities. The extent to which a cooperative effort exists among the applicant and LSC-funded field programs, local courts, and bar associations should also be described. Increased attorney participation in the LSCCP clinic, either as adjunct faculty, consultants or supervising attorneys for internship with the private bar, is also encouraged by LSC.

It is recommended that letters of support or other evidence of support by LSC-funded field programs, local courts, and bar associations be attached to the proposal.

To encourage nationwide participation and to ensure geographic distribution of the funds available, LSC created seven (7) regions to be used strictly for the purposes of this grant program. The regional boundaries are used to assure a geographic dispersion of program funds, as well as competition among a proportionate number of states and eligible law schools.

The following is a list of the seven (7) LSC Law School Clinical Program regions:

Region #1

Connecticut
Maine
Massachusetts
New Hampshire
New Jersey
New York
Rhode Island
Vermont

Region #2

Delaware
District of Columbia
Pennsylvania
Maryland
Puerto Rico
U.S. Virgin Islands
Virginia
West Virginia

Region #3

Alabama
Arkansas
Florida
Georgia
Louisiana
Mississippi
North Carolina
South Carolina
Tennessee

Region #4

Illinois
Indiana
Michigan
Ohio
Kentucky

Region #5

Kansas
Nebraska
Iowa
Missouri
Oklahoma
Texas

Region #6

Alaska
Washington
Oregon
Idaho
Montana
Wyoming
Minnesota
South Dakota
North Dakota
Wisconsin

Region #7

Arizona
California
Colorado
Hawaii
Nevada
New Mexico
Utah
Micronesia
Guam

Dated: February 4, 1992.

Ellen J. Smead,

Director, Office of Field Services.

[FR Doc. 92-3006 Filed 2-6-92; 8:45 am]

BILLING CODE 7050-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-396]

The University of Virginia (The University of Virginia CAVALIER Research Reactor); Order Authorizing Dismantling of Facility and Disposition of Component Parts

By application dated February 26, 1990, as supplemented on June 17, 1991, the University of Virginia (the licensee or UVA) requested authorization to dismantle the Cooperatively Assembled Virginia Low Intensity Educational Reactor (CAVALIER), License No. R-123, located on the licensee's campus in Charlottesville, Virginia, and to dispose of the component parts, in accordance with the Decommissioning Plan submitted as part of the application. A "Notice of Proposed Issuance of Orders Authorizing Disposition of Component Parts and Terminating Facility License" was published in the **Federal Register** on April 22, 1991 (56 FR 16350). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The U.S. Nuclear Regulatory Commission (the Commission) has reviewed the application with respect to the provisions of the Commission's rules and regulations and has found that the dismantling and disposal of component parts as stated in the licensee's Decommissioning Plan will be consistent with the regulations in 10 CFR chapter I, and will not be inimical to the common defense and security or to the health and safety of the public. The basis of these findings is set forth in the concurrently issued Safety Evaluation by the Office of Nuclear Reactor Regulation.

The Commission has prepared an Environmental Assessment and Finding of No Significant Impact for the proposed action, (57 FR 3801, January 31, 1992). Based on that Assessment, the Commission has determined that the proposed action will not result in any significant environmental impact and that an environmental impact statement need not be prepared.

Accordingly, the licensee is hereby ordered to dismantle the University of Virginia Cavalier research reactor facility covered by License No. R-123, as amended, and dispose of the component parts in accordance with its Decommissioning Plan, as amended, and the Commission's rules and regulations.

After completion of the dismantling and disposal, the licensee will submit a report on the radiation survey it has performed to confirm that radiation and surface contamination levels in the facility area satisfy the values specified in the Decommissioning Plan and in the Commisssion's guidance which is set forth in the staff's Safety Evaluation. Following an inspection by representatives of the Commission to verify the radiation and contamination levels in the facility, consideration will be given to issuance of a further order terminating Facility Operating License No. R-123.

For further details with respect to this action, see (1) the licensee's application for authorization to dismantle the facility, dispose of component parts, and terminate Facility Operating License No. R-123, dated February 26, 1990, as supplemented; (2) the Commission's Safety Evaluation; and (3) the Environmental Assessment and Finding of No Significant Impact. All of these items are available for public inspection at the Commission's Public Document room, 2120 L Street, NW, Washington, DC. Copies of items (2) and (3) may be obtained by request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Advanced Reactors and Special Projects.

Dated at Rockville, Maryland this 3rd day of February 1992.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Acting Associate Director for Advanced Reactors, Office of Nuclear Reactor Regulation.

[FR Doc. 92-2999 Filed 2-6-92; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A and B, and placed under Schedule C in the excepted service, as required by civil service rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Sherry Turpenoff, (202) 606-0950.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR part 213 on December 16, 1991 (56 FR 65293). Individual authorities established or revoked under Schedules A and B and established under Schedule C between November 1 and December 31, 1991, appear in the listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities will be published as of June 30, 1992.

Schedule A

The following exception was established:

U.S. Department of State

One position of Curator (Arts), GM-1015-15, in the Office of the Under Secretary for Management. Effective November 9, 1991.

The following exception was revoked:

Department of Commerce, NOAA

Field positions, GS-9 and below, in the National Marine Fisheries Service conducting fish and processed fish products inspection, funded by the private sector. New appointments under this authority may not be made after July 1, 1991. Effective November 22, 1991.

Schedule B

The following exception was established:

Department of the Navy

One position of Housing Management Specialist, GM-1173-14, involved with the Bachelor Quarters Management Study. Effective December 24, 1991.

Schedule C

Department of Agriculture

One Confidential Assistant to the Administrator, Foreign Agricultural Service. Effective November 1, 1991.

One Confidential Assistant to the Director, Office of Governmental Affairs and Public Information, Food and Nutrition Service. Effective November 1, 1991.

One Deputy Press Secretary to the Director/Press Secretary, Office of Public Affairs. Effective November 5, 1991.

One Confidential Assistant to the Administrator, Foreign Agricultural Service. Effective November 13, 1991.

One Staff Assistant to the Manager, Federal Crop Insurance Corporation. Effective November 15, 1991.

One Confidential Assistant to the Administrator, Food and Nutrition Service. Effective November 22, 1991.

One Director, Intergovernmental Affairs to the Director, Office of Public Affairs/Press Secretary. Effective December 13, 1991.

One Speech Writer to the Director, Office of Public Affairs/Press Secretary. Effective December 13, 1991.

One Member, Board of Directors, Federal Crop Insurance Corporation to the Secretary of Agriculture. Effective December 13, 1991.

One Executive Speechwriter to the Director, Office of Public Affairs/Press Secretary. Effective December 13, 1991.

One Staff Assistant to the Secretary of Agriculture. Effective December 13, 1991.

One Director, Congressional Relations and Public Affairs to the Administrator, Human Nutrition Information Service. Effective December 16, 1991.

One Confidential Assistant to the Administrator, Human Nutrition Information Service. Effective December 16, 1991.

One Speechwriter to the Director/Press Secretary, Office of Public Affairs. Effective December 23, 1991.

One Private Secretary to the Deputy Secretary of Agriculture. Effective December 30, 1991.

One Confidential Assistant to the Chief of Staff, Office of the Secretary. Effective December 31, 1991.

Agency for International Development

One Director, Office of Foreign Disaster Assistance to the Assistant Administrator, Bureau for Food and Humanitarian Assistance. Effective December 16, 1991.

One Confidential Assistant to the Assistant Administrator, Bureau of Legislative Affairs. Effective December 27, 1991.

Department of Commerce

One Confidential Assistant to the Assistant Secretary for Legislative and Intergovernmental Affairs. Effective November 1, 1991.

One Confidential Assistant to the Director, Office of Business Liaison, Office of the Secretary. Effective November 1, 1991.

One Chief of Legislative and Intergovernmental Affairs to the Assistant Director for External Affairs, Minority Business Development Agency. Effective November 6, 1991.

One Confidential Assistant to the Director, Office of Policy Planning and Coordination. Effective November 15, 1991.

One Attorney-Advisor to the General Counsel, National Oceanic and Atmospheric Administration. Effective November 15, 1991.

One Director, Office of Public Affairs to the Under Secretary, International Trade Administration. Effective November 25, 1991.

One Special Assistant to the Assistant Secretary for Export Enforcement, Bureau of Export Administration. Effective November 25, 1991.

One Director of Congressional Affairs to the Assistant Secretary for Economic Development. Effective November 25, 1991.

One Confidential Assistant to the Under Secretary, International Trade Administration. Effective November 27, 1991.

One Confidential Assistant to the Director, Office of Business Liaison, Office of the Secretary. Effective December 5,1991.

One Special Assistant to the Director, Office of Public Affairs, Office of the Secretary. Effective December 7, 1991.

One Confidential Assistant to the Director, Office of Legislation, Education, Outreach and Intergovernmental Affairs, National Oceanic and Atmospheric

Administration. Effective December 10, 1991.

One Congressional Affairs Specialist to the Chief of Legislative and Intergovernmental Affairs, Office of External Affairs, Minority Business Development Agency. Effective December 19, 1991.

One Deputy to the Director, Office of Business Liaison, Office of the Secretary. Effective December 23, 1991.

Consumer Product Safety Commission

One Special Assistant to a Commissioner. Effective December 18, 1991.

Department of Defense

One Staff Assistant to the Director, Humanitarian Assistance, Office of the Deputy Assistant Secretary of Defense (Global Affairs). Effective November 1, 1991.

One Private Secretary to the Executive Secretary. Effective November 1, 1991.

One Private Secretary to the Deputy Under Secretary of Defense for International Programs. Effective November 1, 1991.

One Private Secretary to a Judge, U.S. Court of Military Appeals. Effective November 27, 1991.

One Personal and Confidential Assistant to a Judge, U.S. Court of Military Appeals. Effective November 27, 1991.

One Director for Editorial Services to the Assistant Secretary of Defense for Public Affairs. Effective December 5, 1991.

One Special Assistant to the Assistant Secretary of Defense (International Security Policy). Effective December 7, 1991.

Department of Energy

One Legislative Affairs Liaison Officer to the Deputy Assistant Secretary for House Liaison, Office of Congressional and Intergovernmental Affairs. Effective November 1, 1991.

One Special Assistant to the Assistant Secretary for Conservation and Renewable Energy. Effective November 15, 1991.

One Public Affairs Specialist to the Director of Public Affairs. Effective November 22, 1991.

One Deputy Assistant Secretary for House Liaison to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective December 3, 1991.

One Writer-Editor to the Director, Office of Public Affairs. Effective December 13, 1991.

One Legislative Affairs Specialist to the Director, Office of Congressional Operations, Office of Congressional and Intergovernmental Affairs. Effective December 23, 1991.

One Special Projects Liaison Specialist to the Director, Office of Consumer and Public Liaison, Office of Congressional and Intergovernmental Affairs. Effective December 23, 1991.

One Legislative Affairs Specialist to the Deputy Assistant Secretary for House Liaison, Office of Congressional and Intergovernmental Affairs. Effective December 23, 1991.

Department of Education

One Confidential Assistant to the Director, Corporate Liaison Staff. Effective November 1, 1991.

One Chief of Staff to the Deputy Secretary, Office of the Deputy Secretary. Effective November 1, 1991.

One Deputy to the Chief of Staff, Office of the Secretary. Effective November 4, 1991.

One Confidential Assistant to the Deputy Under Secretary for Management. Effective November 15, 1991.

One Deputy to the Director, Office of Bilingual Education and Minority Language Affairs. Effective November 15, 1991.

One Special Assistant to the Special Advisor to the Secretary for America 2000. Effective December 10, 1991.

One Deputy to the Director, Scheduling and Briefing Staff. Effective December 10, 1991.

Two Special Assistants to the Deputy Under Secretary, Office of Intergovernmental and Interagency Affairs. Effective December 23, 1991.

One Confidential Assistant to the Director, Scheduling and Briefing. Effective December 23, 1991.

One Special Assistant to the Assistant Secretary, Office of Postsecondary Education. Effective December 23, 1991.

Equal Employment Opportunity Commission

One Director, Legislative Affairs Staff to the Director, Office of Communications and Legislative Affairs. Effective December 31, 1991.

Environmental Protection Agency

One Deputy to the Associate Administrator for Regional Operations and State/Local Relations. Effective November 4, 1991.

One Congressional Liaison Specialist to the Director, Congressional Liaison Division, Office of Congressional and Legislative Affairs. Effective December 6, 1991.

One Associate Assistant Administrator to the Assistant Administrator for Water. Effective December 6, 1991.

Department of Transportation

One Deputy to the Assistant Administrator for Government and Industry Affairs, Federal Aviation Administration. Effective November 15, 1991.

One Special Assistant to the Administrator, Research and Special Programs Administration. Effective December 23, 1991.

Federal Mine Safety and Health Review Commission

One Confidential Assistant to the Vice Chairman. Effective December 16, 1991.

Federal Maritime Commission

One Secretary (Typing) to the Chairman. Effective December 16, 1991.

General Services Administration

One Deputy to the Associate Administrator for Policy Analysis. Effective November 18, 1991.

One Special Assistant to the Director of Child Care and Development Programs. Effective December 9, 1991.

One Confidential Assistant to the Regional Administrator, Region 10, Auburn, WA. Effective December 16, 1991.

Department of Health and Human Services

One Confidential Assistant to the Counsel to the Secretary on Drug Abuse Policy. Effective November 1, 1991.

One Special Assistant to the Assistant Secretary for Health, Public Health Service. Effective November 22, 1991.

One Deputy to the Director of Communications, Office of the Assistant Secretary for Public Affairs. Effective November 27, 1991.

One Special Assistant for State Government Relations to the Director, Office of External Affairs, Social Security Administration. Effective December 7, 1991.

One Speechwriter to the Deputy Assistant Secretary for Public Affairs (Media). Effective December 16, 1991.

Department of Housing and Urban Development

One Staff Assistant to the Deputy Assistant Secretary for Grant Programs in Community Planning and Development. Effective November 1, 1991.

One Special Assistant for Congressional Relations to the Regional Administrator, Regional Housing Commissioner, Region V, Chicago, Illinois. Effective November 22, 1991.

One Special Assistant (Speechwriter) to the Assistant Secretary for Public Affairs. Effective November 22, 1991.

One Special Assistant to the Secretary. Effective November 27, 1991.

One Assistant to the Deputy Assistant Secretary for Congressional Relations. Effective December 7, 1991.

One Staff Assistant to the Secretary. Effective December 31, 1991.

Interstate Commerce Commission

One Congressional Liaison Representative to the Director, Congressional and Legislative Affairs. Effective November 25, 1991.

Department of the Interior

One Special Assistant to the Assistant to the Secretary and Director, External Affairs. Effective November 15, 1991.

One Special Assistant to the Assistant Secretary-Land and Minerals Management. Effective December 27, 1991.

Department of Justice

One Program Analyst to the Director, Child Exploitation and Obscenity Section, Criminal Division. Effective November 26, 1991.

One Confidential Assistant to the Attorney General. Effective December 27, 1991.

Department of Labor

One Deputy Legislative Officer to the Deputy Assistant Secretary for Congressional and Intergovernmental Affairs. Effective November 1, 1991.

One Executive Assistant to the Chief of Staff, Office of the Secretary. Effective November 1, 1991.

One Special Assistant to the Administrator, Wage and Hour Division, Employment Standards Administration. Effective December 7, 1991.

One Staff Assistant to the Deputy Assistant Secretary for Congressional and Intergovernmental Affairs. Effective December 10, 1991.

One Special Assistant to the Secretary of Labor. Effective December 19, 1991.

One Executive Assistant to the Deputy Secretary of Labor. Effective December 19, 1991.

One Confidential Assistant to the Solicitor of Labor. Effective December 31, 1991.

Office of Management and Budget

One Confidential Assistant to the Controller, Office of Federal Financial Management. Effective December 27, 1991.

Office of National Drug Control Policy

One Staff Assistant to the Public Affairs Specialist (Press Secretary). Effective December 23, 1991.

One Confidential Assistant to the Special Assistant to the Director and White House Liaison. Effective December 23, 1991.

One Confidential Assistant to the Special Assistant to the Director. Effective December 23, 1991.

Office of Science and Technology Policy

One Administrative Assistant (Typing) to the Director. Effective November 15, 1991.

Small Business Administration

One Special Assistant to the Associate Deputy Administrator for Special Programs. Effective November 25, 1991.

Securities Exchange Commission

One Supervisory Public Affairs Specialist to the Chairman. Effective November 18, 1991.

Department of State

One Secretary (Stenography) to the Assistant Secretary for Near Eastern and South Asian Affairs. Effective November 1, 1991.

One Supervisory Protocol Officer (Visits) to the Assistant Chief of Protocol for Visits. Effective November 1, 1991.

One Staff Assistant to the Special Assistant, White House Liaison, Bureau of Public Affairs. Effective November 27, 1991.

One Secretary (Typing) to the Senior Deputy Assistant Secretary for Public Affairs. Effective December 10, 1991.

One Program Specialist (Visits) to the Assistant Chief of Protocol for Visits. Effective December 16, 1991.

Department of the Treasury

One Special Assistant to the Assistant Secretary (International Affairs). Effective November 15, 1991.

One Supervisory Public Affairs Specialist to the Commissioner of Customs. Effective November 27, 1991.

One Director, Office of Business Liaison to the Deputy Assistant Secretary (Public Liaison). Effective December 2, 1991.

One Public Affairs Specialist to the Commissioner of Customs. Effective December 5, 1991.

One Director, Public Affairs to the Executive Director, U.S. Savings Bonds Division. Effective December 10, 1991.

United States Information Agency

One Special Assistant to the Director, Office of Private Sector Committees. Effective November 1, 1991.

One Chief, Creative Arts Division to the Director, Office of Citizen Exchanges, Bureau of Educational and Cultural Affairs. Effective November 22, 1991.

Office of the United States Trade Representative

One Confidential Assistant to the Deputy United States Trade Representative. Effective December 2, 1991.

Department of Veterans Affairs

One Special Assistant to the Secretary of Veterans Affairs. Effective December 13, 1991.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218

Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 92–3008 Filed 2–6–92; 8:45 am]

BILLING CODE 6325-01-M

Federal Salary Council

AGENCY: United States Office of Personnel Management.

ACTION: Notice of meetings.

SUMMARY: The Federal Salary Council agenda for these meetings continues to be the discussion of issues relating to the new locality-based comparability payments authorized by the Federal Employees Pay Comparability Act of 1990 (FEPCA). The meetings will be open.

DATES: February 26, 1992, beginning at 10 a.m.; March 11, 1992, beginning at 2 p.m.; and March 25, 1992, beginning at 10 a.m.

ADDRESSES: Room 7B09 for the February 26th meeting, room 1350 for the March 11th meeting, and room 5A06A for the March 25th meeting, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415–0001.

FOR FURTHER INFORMATION CONTACT: Ms. Ruth O'Donnell, Chief of Salary Systems Division, room 6H31, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415–0001. Telephone number: (202) 606–2838.

For the President's Pay Agent:

Constance Berry Newman,

Director.

[FR Doc. 92–3007 Filed 2–6–92; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–30329; File No. SR-CBOE-92-02]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to the Listing and Trading of Options on the Russell 2000 Index.

February 3, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 21, 1992, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange hereby requests authorization to list and trade index options, pursuant to chapter XXIV of the Exchange Rules, on the Russell 2000 Index ("Russell 2000" or "Index"), a capitalization-weighted index of domestic equities traded on the New York Stock Exchange ("NYSE"), American Stock Exchange ("Amex") and the National Association of Securities Dealer's ("NASD") Automated Quotation System ("NASDAQ"). The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set for in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

Pursuant to Exchange Rule 24.2, the purpose of this proposed rule change is to permit the CBOE to list and trade cash-settled, American-style index options based on the Russell 2000.

Index Design. The Russell 2000 is composed of the bottom 2000 of the 3000 largest U.S. equity securities in terms of domestic market capitalization. It is considered a benchmark of the performance of the U.S. small-capitalization market. Unlike the Standard & Poor's ("S&P") indexes, the Russell 2000 is adjusted for cross ownership, *i.e.*, a company's weighting is determined after deducting the net capitalization value of securities held by other companies or corporate insiders. The Index is calculated real time using last sale prices for National Market Securities ("NMS") and best-bid prices for non-NMS securities. Primary calculation is done by Bridge Data Services.

Component stocks range in capitalization from $12 million to $460 million. The median capitalization as of June 30, 1991, was $80 million. The highest capitalized stock, UGI Corp., accounts for only 0.2% of the Index. The top 100 stocks comprise only 14.8% of the total Index capitalization of $222.1 billion. The stocks included in the Index account for approximately 10% of the capitalization of the U.S. equity market.

In every year since 1986, the Russell 2000 has had lower volatility than the S&P 500 Stock Index. Over the period 1986 to mid-1991, the daily return correlation between the two indexes was 76.1%.

Calculation. The Index is calculated continuously and disseminated every 15 seconds by Bridge Data Services based on last-sale or best-bid prices. As described above, the Index is calculated real time using last sales prices for NMS securities and best-bid prices for non-NMS securities. If a component stock is closed for trading, the most recently traded price is used in the Index calculation. As a capitalization-weighted index, the Russell 2000 reflects changes in the capitalization (market value) of the component stocks relative to the capitalization on a base date. The current Index value is calculated by adding the market values of the component stocks, which are derived by multiplying the price of the stock by its shares outstanding, to arrive at the total market capitalization of the 2000 stocks. The total market capitalization is then divided by a divisor, which represents the "adjusted" capitalization of the Index on the base date of December 31, 1986. When necessary, the divisor is adjusted in order to maintain continuity in the value of the Index in the event of composition and capitalization changes.

Maintenance. The Russell 2000 Index is maintained by the Frank Russell Company, which provides asset management consulting services to institutional investors. The component securities are adjusted once per year to reflect changes in capitalization rankings and shares available. The composition of the Index is reviewed annually, as of the last trading day of May. The largest 3000 U.S. securities are ranked in descending order and the composition of the Index is updated to reflect the stocks that rank 1,001 to 3000. The recapitalization is effective as of the last day of June. If a stock ceases to trade as a result of a merger or acquisition during the year, the stock is removed from the Index and replaced in the subsequent annual recapitalization. No interim replacements are made. Replacements stocks are selected strictly on the basis of market value.

Index Options Trading. The proposed Russell 2000 options will be based on the full value of the Index (presently approximately 170–180). The Exchange proposes that Russell 2000 options will have an American-style exercise and will settle based on the closing value of the Index on the exercise date. The multiplier will be $100. The proposed options will expire on the Saturday following the third Friday of the expiration month, with the last day for trading in an expiring series being the last business day prior to the Saturday expiration.

Exchange Rules Applicable to Stock Index Options. The Russell 2000 option, as proposed, will be very similar to the broad-based index options presently traded on the Exchange. Therefore, the rules contained in chapter XXIV of Exchange Rules will govern trading in the Russell 2000, with the following modifications. Since the level of the Russell 2000 is approximately one-half of the level of the other broad-based indexes currently traded on the CBOE, an amendment to rule 24.4 proposes position and exercise limits at twice the level of the limits for existing broad-based index options traded on the CBOE. Additionally, an amendment is proposed to Interpretation .01 to Rule 24.9 to allow for 2½ point strike price intervals.

The Exchange intends to list up to three near-term as well as three quarterly series in the March cycle.

Pursuant to Exchange Rule 5.8, long-term options series at two and three year intervals may be listed.

Economic Rational. The Russell 2000 tracks a segment of the U.S. equity market that is not currently represented in the domestic derivative markets. Russell 2000 options will provide retail and institutional investors with a means to benefit from their forecasts of the performance of the small-capitalization equity market. The Index will provide a performance measure and evaluation guide for passively or actively managed small-capitalization or growth funds. Additionally, Russell 2000 options could provide an effective means for hedging the risks of small capitalization stocks and a low cost means of altering the composition of an equity portfolio.

(2) Basis

The proposed rule change is consistent with section 6(b) of the Act, in general, and section 6(b)(5), in particular, in that it is designed to promote just and equitable principles of trade, to protect investors and the public interest, and to remove impediments to and perfect the mechanism of a free and open market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–92–02 and should be submitted on or before February 28, 1992.

For the Commission, by the Division of Market Regulation, pursuant to the delegated authority.[1]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–2993 Filed 2–6–92; 8:45 am]

BILLING CODE 8010-01-M

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[1] 17 CFR 200.30–3(a)(12) (1990).

[Release No. 34–30326; File No. SR–MSTC–92–01]

Self-Regulatory Organizations; Midwest Securities Trust Co.; Filing and Order Granting Accelerated Approval on a Temporary Basis of a Proposed Rule Change Establishing the Institutional Participant Services Program

January 31, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934,[1] notice is hereby given that on January 31, 1992, the Midwest Securities Trust Company ("MSTC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by MSTC. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant accelerated approval of the proposed rule change on a temporary basis through July 31, 1992.

I. Self-Regulatory Organisation's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change establishes (i) the Institutional Participant Services Program ("Program") and (ii) a new category of participants ("Institutions").[2]

II. Self-Regulatory Organizations's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, MSTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. MSTC has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organisation's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Commission has approved the proposed rule change on a temporary basis through January 31, 1992 ("Temporary Approval Period").[3] The rationale for initially approving the rule change on a temporary basis was to provide MSTC with the opportunity to formulate more definitive financial and operational standards for Institutions that desire to participate in the Program. Subsequently, on December 28, 1990, MSTC filed a proposed rule change (SR–MSTC–90–18) which requested permanent approval of the Program and proposed more definitive standards of participation and financial and operational capabilities for Institutions.[4] To provide the Commission with the opportunity to study these standards while providing continuity of service to Institutions that currently participate in the Program, this proposed rule change requests that the Commission extend the Program under the terms of the Temporary Approval Orders through January 31, 1993.

MSTC believes that the proposed rule change is consistent with section 17A of the Act because it will promote the prompt and accurate clearance and settlement of securities transactions and the safeguarding of funds and securities by providing Institutions with the opportunity to participate directly in MSTC.

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[1] 15 U.S.C. 78s(b)(1).

[2] Attached as Exhibit A and Exhibit B, respectively, to Securities Exchange Act Release No. 28866 (February 1, 1991), 56 FR 5855 [File No. SR–MSTC–91–01] are the text of the proposed rule change and MSTC's procedures for the Program.

[3] Securities Exchange Act Release Nos. 27782 (March 1, 1990), 55 FR 8271 [File No. SR–MSTC–89–05]; 28866 (February 1, 1991), 56 FR 5855 [File No. SR–MSTC–91–01]; and 29493 (July 26, 1991), 56 FR 36654 [File No. SR–MSTC–91–03] (collectively "Temporary Approval Orders").

[4] For a complete description of the services offered under the Program and the current standards of financial and operational capabilities for Institutions under the Program, see Temporary Approval Orders.

B. Self-Regulatory Organization's Statement on Burden on Competition

MSTC does not believe that any burdens will be placed on competition as a result of the proposed rule change.

C. Self-Regulatory Organizations's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

MSTC has not received any comments from participants of the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing of Commission Action

MSTC requests the Commission to find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. Such accelerated approval would permit MSTC to offer continuity of service to Institutions that participate in the Program while providing the Commission with sufficient time to analyze the more definitive standards of participation and financial operational capability proposed by MSTC.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and, in particular, with the requirements of sections 17A(b)(3)(A) and (F) of the Act.[5] Those sections require that the rules and organizational structure of a clearing agency promote the prompt and accurate clearance and settlement of securities transactions and the safeguarding of funds and securities which are under the clearing agency's custody or control. The Commission believes that MSTC's proposal will help achieve these requirements by providing Institutions with the opportunity to participate directly in MSTC.

The Commission also finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. The Commission does not anticipate that it will receive any significant negative comment on the proposed rule change in view of the fact that no comments were received on the proposals approved in the Temporary Approval Orders, which were identical in substance to this proposed rule change. Further, the Commission notes that the Program has operated without incident during the Temporary Approval Period. Thus, accelerated approval of the proposed rule change on a temporary basis will permit MSTC to provide continuity of service to those Institutions that currently participate in the Program while the Commission reviews MSTC's proposed permanent standards of financial and operational capabilities for such Institutions.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the principal office of MSTC. All submissions should refer to file number SR–MSTC–92–01 and should be submitted by February 28, 1992.

It Is Therefore Ordered, Pursuant to section 19(b)(2) of the Act,[6] that the proposed rule change (File No. SR–MSTC–92–01) be, and hereby is, approved on a temporary basis through July 31, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–2957 Filed 2–6–92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34–30326; File No. SR–OCC–92–2]

Self-Regulatory Organizations; The Options Clearing Corp.; Filing of Proposed Rule Change Relating to the Addition of a Public Director to Its Board of Directors

January 31, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 10, 1992, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. On January 28, 1992, OCC filed an amendment to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to amend OCC By-Laws to add a Public Director category to the composition of OCC's Board of Directors.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and statutory basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to broaden the viewpoint of OCC's Board of Directors by amending OCC By-Laws to add a Public Director category. Each Public Director would be a representative of the public, unaffiliated with any national securities exchange or national securities association or with any broker or dealer in securities. The addition of a Public Director category would therefore broaden the mix of viewpoints and business expertise represented on the Board. Accordingly, OCC believes that adding a Public Director category to the Board would benefit OCC in the administration of its affairs and would benefit the options markets it serves.

Under the proposed rule change, each Public Director would be nominated by the Chairman of OCC, with the approval of the Board of Directors, and would be elected by the stockholders at their annual meeting. Each public director would serve a two-year term. To ensure diversity in the position of Public Director, the amendments to the By-Laws provide that no person shall be eligible to serve as Public Director for consecutive two-year terms.

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[5] 15 U.S.C 78q–1(b)(3)(A) and (F).

[6] 15 U.S.C. 78s(b)(2).

[7] 17 CFR 200.30–3(a)(12).

The proposed change to article III, sections 1 and 3 would revise the formula for determining the number of Member Directors to ensure that Member Directors will at all times constitute a majority of the Board regardless of the number of Exchange Directors and Public Directors to be elected pursuant to OCC By-Laws.

The proposed change to article III, section 12 would allow a majority of the directors then in office, even though they may be less than a quorum, to fill by appointment any vacancy occurring in the position of Public Director. The person appointed to fill such a vacancy would serve for the remainder of the predecessor's term of office or until a successor is elected and qualified.

Finally, the remaining proposed changes to OCC By-Laws would delete certain obsolete language and would conform other language more closely to Delaware law.

The proposed rule change is consistent with the Act and in particular with section 17A(b)(3)(C) thereunder because it helps to assure a fair representation of OCC's shareholders, members, and participants in the administration of OCC's affairs.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

OCC has neither solicited nor received comments on the proposed change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty five days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to ninety days of such date if it finds that such longer period is appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commissions will:

A. By order approve the proposed rule change or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Those wishing to make a written submission should file six copies of the submission with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, subsequent amendments, written statements with respect to the proposed rule change that are filed with the Commission, and written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to File No. SR–OCC–92–2 and should be submitted by February 27, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[1]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–2959 Filed 2–6–92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34–30327; File No. SR–OCC–92–4]

Self-Regulatory Organizations; the Options Clearing Corp.; Filing and Immediate Effectiveness of Proposed Rule Change To Alphabetize the Definitions Sections of OCC's By-Laws and Rules

January 31, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 23, 1992, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which have been prepared by OCC. The Commission is publishing this notice to solicit comments on the proposel from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to alphabetize the definitions sections of OCC's By-Laws and Rules.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and statutory basis for the proposed change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to alphabetize the definitions sections of OCC's By-Laws and Rules to make it easier to locate terms in those sections. The Definitions sections of OCC's By-Laws and Rules have been amended over time by adding new definitions to the end of each section when a new product is developed. This process has resulted in an unwieldy compilation of terms with no identifiable order. As a result, OCC is proposing to reorganize and alphabetize the Definitions sections. OCC believes that alphabetizing the Definitions sections will facilitate the referencing of terms in those sections. Because the proposed changes are organizational rather than substantive, they require no further discussion.

The proposed rule change is consistent with the Act and in particular with section 17A(b))(3)(F) thereunder because it promotes the perfection of the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change will impose a burden on competition.

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[1] 17 CFR 200.30–3(a)(12).

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

OCC has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) thereunder. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Those wishing to make a written submission should file six copies of the submission with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, subsequent amendments, written statements with respect to the proposed change that are filed with the Commission, and written communications relating to the proposal between the Commission and any persons, other than those that may be withheld from the public in accordance with 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to File No. SR-OCC-92-4 and should be submitted by February 28, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[1]

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 92-2958 Filed 2-6-92; 8:45 am]
BILLING CODE 8010-01-M

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[1] 17 CFR 200.30-3(a)(12).

[Rel. No. IC-18516; 812-7840]

Eaton Vance Cash Management Fund, et al.; Notice of Application

January 31, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Eaton Vance Cash Management Fund, Eaton Vance Government Obligations Trust, Eaton Vance Growth Fund, Eaton Vance Income Fund of Boston, Eaton Vance Investors Fund, Eaton Vance Municipal Bond Fund L.P., Eaton Vance Special Equities Fund, Eaton Vance Stock Fund, Eaton Vance Tax Free Reserves, Eaton Vance Total Return Trust, and Nautilus Fund, Inc. (the "Funds"); Eaton Vance Management ("EVM"); and Eaton Vance Distributors, Inc. (the "Distributor"), on their own behalf and on behalf of any existing or future registered investment companies, or existing or future series thereof, which may become a member of the Eaton Vance group of investment companies and whose shares may be distributed on substantially the same basis as those of the Funds ("Future Funds").

RELEVANT ACT SECTIONS: Exemption requested pursuant to section 6(c) from the provisions of sections 2(a)(32), 2(a)(35), 22(c) and 22(d) of the Act and rule 22c-1 thereunder.

SUMMARY OF APPLICATION: Applicants seek an order that would permit each of the Funds and Future Funds to assess a contingent deferred sales charge ("CDSC") on redemptions of certain shares of such Funds purchased without the imposition of a sales charge in the amount of one million dollars or more and to waive the CDSC in certain cases.

FILING DATE: The application was filed on December 23, 1991. An amendment to the application was filed on January 22, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving the Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 25, 1992, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, 24 Federal Street, Boston, Massachusetts 02110.

FOR FURTHER INFORMATION CONTACT: John O'Hanlon, Staff Attorney, at (202) 272-3922 or Max Berueffy, Branch Chief, at (202) 272-3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. Each Fund is registered under the Act as an open-end management investment company. Eaton Vance Cash Management Fund, Eaton Vance Government Obligations Trust, Eaton Vance Growth Fund, Eaton Vance Income Fund of Boston, Eaton Vance Investors Fund, Eaton Vance Special Equities Fund, Eaton Vance Stock Fund, Eaton Vance Tax Free Reserves, and Eaton Vance Total Return Trust are organized as Massachusetts business trusts. Eaton Vance Municipal Bond Fund, L.P. is a California limited partnership, and Nautilus Funds, Inc. is a Massachusetts business corporation. EVM provides investment advisory services to the Funds, and the Distributor acts as principal underwriter for the Funds.

2. All shares of the Funds, except shares of Eaton Vance Cash Management, Eaton Vance Tax Free Reserves (together, the "Money Market Funds"), and Eaton Vance Short-Term Treasury Fund (the "Treasury Fund"), a series of Eaton Vance Government Obligations Trust, are currently offered daily to the public at their net asset value plus a front-end sales load calculated as a percentage of the offering price at the time of purchase. A 4.75 percent sales load is assessed on purchases of $100,000 or less; this sales load is reduced as the aggregate dollar amount invested increases. The front-end sales load is waived for certain classes of purchasers named in each Fund's Prospectus. Shares of the Money Market Funds and the Treasury Fund are offered daily to the public at net asset value without imposition of a sales charge.

3. The Applicants propose to eliminate the front-end sales load on all future purchases of Fund shares of $1 million or more and to impose a CDSC on such shares if they are redeemed within a period of up to 24 months after the end of the calendar month in which the purchase order is accepted (the "CDSC period"). The CDSC period may be shorter than 24 months at the discretion of the Funds but would not be longer than 24 months. The amount of the CDSC to be imposed at any time during the CDSC period will be calculated as a specified percentage of the lesser of (i) the net asset value of the shares at the time of purchase, or (ii) the net asset value of the shares at the time of redemption (the "CDSC value"). The specified CDSC percentage will be a range of percentages, the maximum percentage of which will vary from 2% to 1% and the minimum of which will vary at the Fund's discretion, but will be no less than 0.25%. The particular percentage used to calculate the CDSC at the time of redemption will be based on the original amount invested and will decrease as the amount of the original investment increases. Although the percentage used to calculate the CDSC would be specified based on the original amount invested, the amount to which the percentage is ultimately applied will be the CDSC value. Any changes to the CDSC period or the amount of the CDSC to be imposed will be disclosed in the affected Fund's prospectus and any such change will not affect the shares of that Fund that were issued prior to the disclosure of such changes in the prospectus.

4. No CDSC would be imposed on an amount which represents an increase in the value of the shareholder's account resulting from capital appreciation above the amount paid for shares purchased during the CDSC period. No CDSC would be imposed on an amount representing shares purchased through the reinvestment of dividends or capital gains distributions. In determining whether a CDSC is applicable, it will be assumed that a redemption is made, first, of shares not subject to the CDSC, second, of shares derived from reinvestment of distributions or amounts which represent an increase in the value of the shareholder's account resulting from capital appreciation, and finally, of shares subject to the CDSC, in a manner which will result in the lowest CDSC being imposed at the time of redemption.

5. The CDSC would not apply to redemptions of shares of a Money Market Fund or the Treasury Fund. No CDSC will be imposed on exchanges of Fund shares to acquire shares of another Fund. However, if the shares (including shares of a Money Market Fund or the Treasury Fund) acquired in an exchange were acquired in exchange for shares subject to the CDSC and such acquired shares are then redeemed (other than in connection with a reexchange) within 24 months following the original investment, the CDSC will be assessed. The Treasury Fund does not currently offer such an exchange privilege. The Applicants reserve the right to change or discontinue the exchange privilege in the future.

6. The Applicants intend to waive or reduce the CDSC in the following instances: (a) On redemptions following the death or disability of a shareholder, as defined in section 72(m)(7) of the Internal Revenue Code of 1986, as amended (the "Internal Revenue Code"); (b) in connection with (i) distributions from retirement plans qualified under section 401(a) of the Internal Revenue Code when such redemptions are necessary to make distributions to plan participants (such payments include, but are not limited to, death, disability, retirement, or separation from service), (ii) distributions from a custodial account under Internal Revenue Code 403(b)(7) or an individual retirement account (an "IRA") due to death, disability, or attainment of age 59½, and (iii) a tax-free return of an excess contribution to an IRA; (c) in whole or in part, in connection with shares sold (i) to current and retired directors, trustees and director general partners of Eaton Vance Funds, (ii) to officers, employees, and clients of EVM and its affiliates, (iii) to registered representatives or employees of authorized dealers, (iv) to such persons' spouses and children under the age of 21 and their beneficial accounts, or (v) any trust, pension, profit sharing, or other benefit plan for persons described above; (d) in whole or in part, in connection with shares sold to any state, county, or city, or any instrumentality, department, authority or agency thereof, which is prohibited by applicable investment laws from paying a sales load or commission in connection with the purchase of shares of any registered investment management company; (e) pursuant to a systematic withdrawal plan; (f) in connection with the redemption of shares of any Fund that is combined with another Fund or investment company by virtue of a merger, acquisition or other similar reorganization transaction; and (g) in connection with the Fund's right to redeem or liquidate an account that holds a certain minimum number or dollar amount of shares. Any revocation of a waiver or reduction of the CDSC in effect at any given time will be applied only to shares purchased after the effective date of such revocation and any such revocation of a waiver or reduction of the CDSC will be disclosed in a Fund's prospectus. For a waiver or reduction of the CDSC undertaken pursuant to items (c) and (d) above, whether such waiver or reduction of the CDSC is in whole or in part will be disclosed in a Fund's prospectus. Applicants may implement a consistent practice under which shareholders will be credited with any CDSC paid in connection with the redemption of any shares followed by a reinvestment within a specified period (currently 30 days) after such redemption. Any such credit for the amount of the CDSC will be paid by the Distributor.

Applicants' Legal Analysis:

The Applicants seek an exemption from sections 2(a)(32), 2(a)(35), 22(c) and 22(d) of the Act and Rule 22c-1 thereunder. They submit that the requested relief is, in keeping with the requirements of section 6(c) of the Act, necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

2. The Applicants submit that the CDSC, unlike a front-end sales charge, will enable affected shareholders to have their entire investment working for them from the time of their initial purchase of shares. In addition, the money that otherwise would have been paid as a front-end sales charge will benefit a Fund by increasing the Fund's asset base and reducing its expense ratio, which will have a corresponding benefit to all shareholders. The Applicants assert that the imposition of the CDSC will not restrict any affected shareholder of any Fund from receiving a proportionate share of the current net assets of such Fund, but will merely defer the deduction of a sales charge and make it contingent upon an event which may never occur.

3. The Applicants submit that the waiver of the CDSC will not harm the Funds or their shareholders, nor will it unfairly discriminate among shareholders or purchasers. The Applicants submit that the waiver on redemptions in connection with certain distributions from retirement plans and employee benefit plans is appropriate for public policy reasons. Such a waiver is fully consistent with the provisions granting favored federal tax treatment to accumulations under such plans and imposing additional taxes on early distributions from them.

4. The Applicants further submit that the proposed credit of the CDSC

applicable to a shareholder who redeems shares subject to the charge and reinvests the proceeds of the redemption within a specified period after the redemption is in the interest of shareholders. This reinvestment privilege allows investors who erroneously redeemed or otherwise had second thoughts about having redeemed their shares to reinvest the proceeds without reincurring the sales charge.

Applicants' Condition

1. If the requested exemptive relief is granted, the Applicants agree to comply with the provisions of proposed Rule 6c-10 under the Act, Investment Company Act Rel. No. 16619 (November 2, 1988), as currently proposed and as it may be re-proposed, adopted or amended.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-2960 Filed 2-6-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18515; Int'l Series Release No. 363; 812-7859]

The Montgomery Funds; Notice of Application

January 31, 1992.

AGENCY: Securities and Exchange Commission (the "SEC" or "Commission").

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (the "Act").

APPLICANT: The Mongomery Funds.

RELEVANT ACT SECTIONS: Order requested under section 6(c) that would grant an exemption from section 12(d)(3) of the Act and rule 12d3-1 thereunder.

SUMMARY OF APPLICATION: Applicant seeks a conditional order permitting one of its series, Montgomery Emerging Markets Fund, to invest in equity and convertible debt securities of foreign issuers that, in each of their most recent fiscal years, derived more than 15% of their gross revenues from securities related activities in accordance with the conditions of the proposed amendments to rule 12d3-1 under the Act.

FILING DATE: The application was filed on January 27, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving the applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 25, 1992, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, DC 20549. Applicant, 600 Montgomery Street, San Francisco, California 94111.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 272-3026, or Nancy M. Rappa, Branch Chief, at (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end management investment company registered under the Act and organized as a series company. Applicant currently consists of one separate investment series. On December 23, 1991, applicant filed with the Commission a post-effective amendment to its registration statement to establish a second series, the Montgomery Emerging Markets Fund (the "Fund"). Relief is sought only with respect to the Fund. Applicant's existing series is managed by Montgomery Asset Management, L.P., which is the proposed manager for the Fund.

2. The Fund wishes to invest in foreign issuers that, in their most recent fiscal year, derived more than 15% of their gross revenues from their securities related activities as a broker, dealer, underwriter, or investment adviser ("Foreign Securities Companies").

3. Applicant seeks relief from section 12(d)(3) of the Act and rule 12d3-1 thereunder to permit the Fund to invest in securities of Foreign Securities Companies to the extent allowed in the proposed amendments to rule 12d3-1. *See* Investment Company Act Release No. 17096 (Aug. 3, 1989), 54 FR 33027 (Aug. 11, 1989). The proposed amendements to rule 12d3-1 would, among other things, facilitate the acquisition by applicant of securities issued by Foreign Securities Companies. The Fund's proposed acquisitions of securities issued by Foreign Securities Companies will satisfy each of the requirements of the proposed amendments to rule 12d3-1.

Applicant's Legal Conclusions

1. Section 12(d)(3) of the Act prohibits an investment company from acquiring any security issued by any person who is a broker, dealer, underwriter, or investment adviser. Rule 12d3-1 under the Act provides an exemption from section 12(d)(3) for investment companies acquiring securities of an issuer that derived more than 15% of its gross revenues in its most recent fiscal year from secuities related activities, provided the acquisitions satisfy certain conditions set forth in the rule. Subparagraph (b)(4) of rule 12d3-1 provides that "at the time of acquisition, any equity security of the issuer * * * [must be] a 'margin security' as defined in Regulation T promulgated by the Board of Governors of the Federal Reserve System." A limited number of foreign stocks are deemed "margin securities" under Regulation T. Accordingly, applicant seeks an exemption from the margin security requirements of rule 12d3-1.[1]

2. The proposed amendments to rule 12d3-1 provide that the margin security requirement would be excused if the acquiring company purchases the equity securities of Foregin Securities Companies that meet criteria comparable to those applicable to equity securities of United States securities related businesses. The criteria, as set forth in the proposed amendements, "are based particularly on the policies that underlie the requirements for inclusion on the list of over-the-counter margin stocks." Investment Company Act Release No. 17096 (Aug. 3, 1989), 54 FR 33027 (Aug. 11, 1989).

Applicant's Condition

Applicant agrees to the following condition in connection with the relief granted:

Applicant will comply with the provisions of the proposed amendments to rule 12d3-1 (Investment Company Act Release No. 17096 (Aug. 3, 1989); 54 FR 33027 (Aug. 11, 1989)), as such amendments are currently proposed, and as they may be reproposed, adopted, or amended.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-2961 Filed 2-6-92; 8:45 am]

Billing Code 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Areas #2547, #2548, and #2549]

Maryland (And Contiguous Counties in Delaware & Virginia); Declaration of Disaster Loan Area

Worcester County and the contiguous counties of Somerset and Wicomico in the State Maryland; Sussex County in the State of Delaware; and Accomack County in the State of Virginia constitute a disaster area as a result of damages caused by severe storms and flooding which occurred on January 4, 1992. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on March 27, 1992 and for economic injury until the close of business on October 27, 1992 at the address listed below: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, suite 300, Atlanta, Georgia 30308, or other locally announced locations.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.500
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	8.500
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The numbers assigned to this disaster for physical damage are 254706 for Maryland; 254806 for Delaware; and 254906 for Virginia. For economic injury the numbers are 752800 for Maryland; 752900 for Delaware; and 753000 for Virginia.

Notice:

Due to SBA's present shortage of operating funds for the current fiscal year (through September 30, 1992), SBA cannot provide assurance of our ability to continue to accept or process disaster loan applications or make disbursements on loans until additional funds are available.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: January 27, 1992.

Patricia Saiki,

Administrator.

[FR Doc. 92-2987 Filed 2-6-92; 8:45 am]

BILLING CODE 8025-01-M

[Disaster Loan Area #2545, Amendment #2]

Declaration of Disaster Loan Area, TX

The above-numbered Declaration is hereby amended in accordance with amendments dated January 11, 14, 17, and 22, 1992, to the President's major disaster declaration of December 28, to include the counties of Anderson, Brazos, Calhoun, Callahan, Comanche, DeWitt, Eastland, Freestone, Gillespie, Hamilton, Hays, Hill, Hood, Houston, Johnson, Jones, Kerr, Lampasas, Leon, Milam, Mills, Palo Pinto, Victoria, Williamson, and Wise in the State of Texas as a disaster area as a result of damages caused by severe thunderstorms and flooding, and to establish the incidence period as beginning December 20, 1991 and continuing through January 14, 1992.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Aransas, Bandera, Cherokee, Comal, Cooke, Edwards, Fisher, Goliad, Gundalupe, Haskell, Henderson, Karnes, Kendall, Kimble, Montague, Nolan, Real, Refugio, Shackelford, Stonewall, Stephens, and Young in the State of Texas may be filed until the specified date at the previously designated location.

All other information remains the same, i.e., the termination date for filing applications for physical damage is February 24, 1992, and for economic injury until the close of business on September 28, 1992.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: January 29, 1992.

Alfred E. Judd,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 92-2988 Filed 2-6-92; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA); GNSS Task Force Strategy and Initiative Task Force 1, Working Group 2; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., appendix I), notice, is hereby given for the meeting of Task Force 1, Working Group 2 to be held February 19-21, 1992, at the Williamsburg Hospitality House, 415 Richmond Road, Williamsburg, VA 23185, commencing at 9 a.m.

The agenda for this meeting is as follows: (1) Chairman's opening remarks; (2) Review and approve summary of January 13th meeting, RTCA paper No. 65-92/TF1-13; (3) Receive reports from subgroup chairmen; (4) Update subgroup tasking; (5) Adjourn to subgroup meetings; (6) Date and place of next TF1/WG3 meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., suite 1020, Washington, DC 20036; (202) 833-9339. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on January 30, 1992.

Joyce J. Gillen,

Designated Officer.

[FR Doc. 92-2984 Filed 2-6-92; 8:45 am]

BILLING CODE 4910-13-M

Aviation Security Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Aviation Security Advisory Subcommittee meeting; correction.

SUMMARY: This action corrects an error in the location of a meeting. On Friday, January 31, 1992, page 3812, and in the third column, please make the following change: The location of the meeting will be the Airport Association Council International (AACI), 1220 19th Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: The Office of the Assistant Administrator for Civil Aviation Security, ACS, 800 Independence

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[1] The staff of the Division of Investment Management notes that the Board of Governors of the Federal Reserve System has amended Regulation T to include "foreign margin stock." However, because the requirements for inclusion on the Board's "List of Foreign Margin Stocks" are generally more restrictive than the requirements for a "margin security" traded in the United States markets, securities issued by many Foreign Securities Companies are not included in the definition of "foreign margin stock" under Regulation T. See 12 CFR § 220.2(i) and (q)(6).

Avenue, SW., Washington, DC 20591; telephone (202) 267–9863.

Ken Lauterstein,

Manager, Strategic Initiatives Division.

[FR Doc. 92–3014 Filed 2–6–92; 8:45 am]

BILLING CODE 4910–13–M

Greater Buffalo International Airport, NY; Intent to Rule on Application

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent to rule on application to impose a Passenger Facility Charge (PFC) at the Greater Buffalo International Airport, Buffalo, New York.

SUMMARY: The Federal Aviation Administration (FAA) proposes to rule and invities public comment on the application to impose a PFC at Greater Buffalo International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and 14 CFR part 158.

On January 30, 1992, the FAA determined that the application to impose a PFC submitted by the Niagara Frontier Transportation Authority was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than May 22, 1992.

DATES: Comments must be received on or before March 9, 1992.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: New York Airports District Office, 180 South Franklin Avenue, room 315, Valley Stream, NY 11581.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Samuel J. Seava, Manager for Revenue Development of the Niagara Frontier Transportation Authority at the following address: 181 Ellicott Street, Buffalo, New York 14230.

Comments from air carriers and foreign air carriers may be in the same form as provided to the Niagara Frontier Transportation Authority under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Philip Brito, Manager, New York Airports District Office, 181 South Franklin Avenue, room 315, Valley Stream, NY 11581 (tel. (718) 553–1882). The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: August 1, 1992.

Proposed charge expiration date: July 31, 2025.

Total estimated PFC revenue: $189,873,000.

Brief description of proposed project(s): Construction of New Passenger Terminal Facility; Demolition of American Airlines Hangar and Air Cargo Building; Aircraft Apron; Runway 14–32 Safety Improvements; Acquisition/Demolition of Buffalo Airport Center; Circulatory Roadway System; Acquisition/Demolition of Airways Motel; Construct Flyover.

Availability of Application

Any person may inspect the application in person at the FAA office listed above and at the FAA Regional Airports office located at: Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Niagara Frontier Transportation Authority.

Issued in New York City, New York on January 30, 1992.

Louis P. DeRose,

Manager, Airports Division, Eastern Region.

[FR Doc. 92–2983 Filed 2–6–92; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

February 3, 1992.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW, Washington, DC 20220.

Office of Thrift Supervision

OMB Number: 1550–0008.

Form Number: OTS Form 1450.

Type of Review: Extension.

Title: Application for Permission to Establish a Branch Office or Change of Location of an Office.

Description: 12 CFR 545.92 requires associations, as defined in § 516.3(b), which desire to establish a branch office or change the location of a branch office to file an application.

Respondents: Businesses or other for-profit.

Estimated Number of Respondents: 310.

Estimated Burden Hours Per Respondent: 2 hours.

Frequency of Response: Other (Submission made by association proposing to establish branch or change location).

Estimated Total Reporting Burden: 620 hours.

Clearance Officer: John Turner (202) 906–6840, Office of Thrift Supervision, 2nd Floor, 1700 G. Street, NW., Washington, DC 20552.

OMB Reviewer: Gary Waxman (202) 395–7340, Office of Management and Budget, room 3208, New Executive Office Building, Washington, DC 20503.

Louis K. Holland,

Departmental Reports Management Officer.

[FR Doc. 92–2989 Filed 2–6–92; 8:45 am]

BILLING CODE 4810–25–M

Public Information Collection Requirements Submitted to OMB for Review

February 3, 1992.

The Department of the Treasury has submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0951.

Form Number: IRS Form 5434 and 5434A.

Type of Review: Extension.

Title: Application for Enrollment (5434), Application for Renewal of Enrollment (5434–A).

Description: The information relates to the granting of enrollment status to

actuaries admitted (licensed) by the Joint Board for the Enrollment of Actuaries to perform actuarial services under the Employee Retirement Income Security Act of 1974.

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeepers: 6,000.

Estimated Burden Hours Per Respondent/Recordkeeper: Completion/Filing time for IRS Form 5434—1 hour. Completion/Filing time for IRS Form 5434–A—27 minutes.

Frequency of Response: Other (once every three years).

Estimated Total Reporting/Recordkeeping Burden: 3,800 hours.

OMB Number: 1545–1226.

Regulation ID Number: FI–59–89 Final Regulations.

Type of Review: Extension.

Title: Proceeds of Bonds Used for Reimbursement.

Description: The rules require record maintenance by a state or local government or section 501(c)(3) organization issuing tax-exempt bonds ("Issuer") to reimburse itself for previously-paid expenses. This recordkeeping will establish that the Issuer had an intent, when it paid an expense, to later issue a reimbursement bond.

Respondents: State or local governments.

Estimated Number of Recordkeepers: 2,500.

Estimated Burden Hours Per Recordkeeper: 2 hours, 24 minutes.

Frequency of Response: On occasion, Weekly, Monthly, Quarterly, Semi-annually, Biennially, Other.

Estimated Total Recordkeeping Burden: 6,000 hours.

Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 92–2990 Filed 2–6–92; 8:45 am]

BILLING CODE [illegible]

Customs Service

[T.D. 92–11]

Extension of Oiltest, Inc.'s Customs Approval and Accreditations To Include a New Facility and Additional Analysis Performed at a Previously Accredited Site

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of the extension of Oiltest, Inc.'s Customs approval and accreditations to include additional testing performed at a previously accredited site and gauging and laboratory testing performed at a new facility.

SUMMARY: Oiltest, Inc., of Roselle, New Jersey, a Customs accredited commercial laboratory and approved gauger under § 151.13 of the Customs Regulations (19 CFR 151.13), has been given an extension of its commercial laboratory accreditations to include the following analyses at its Roselle, New Jersey facility: Reid Vapor Pressure, Saybolt Universal Viscosity, percent by weight sulfur of petroleum products and percent by weight lead in gasoline. Further, the company's Thorofare, New Jersey facility has been given approval to perform the gauging of petroleum and petroleum products, organic chemicals in bulk and in liquid form and vegetable oils. Additionally, Oiltest's Thorofare facility has also been accredited to perform the following analyses: API Gravity, sediment and water, Reid Vapor Pressure and percent by weight sulfur in petroleum products.

SUPPLEMENTARY INFORMATION: Part 151 of the Customs Regulations provides for the acceptance at Customs Districts of laboratory analyses and gauging reports for certain products from Customs accredited commercial laboratories and approved gaugers. Oiltest, Inc., which holds Customs accreditation in certain laboratory analyses and approval to gauge certain products, has applied to Customs to extend its laboratory accreditation and gauging approval in the manner described above. Review of Oiltest, Inc.'s qualifications shows that the extension is warranted and, accordingly, has been granted.

EFFECTIVE DATE: January 29, 1992.

FOR FURTHER INFORMATION CONTACT: Ira S. Reese, Special Assistant for Commercial and Tariff Affairs, Office of Laboratories and Scientific Services, U.S. Customs Service, 1301 Constitution Ave. NW., Washington, DC 20229 (202–566–2446).

Dated: February 4, 1992.

John B. O'Loughlin,

Director, Office of Laboratories and Scientific Services.

[FR Doc. 92–2992 Filed 2–6–92; 8:45 am]

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Sunshine Act Meetings

Federal Register
Vol. 57, No. 26
Friday, February 7, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:30 a.m., Friday, February 14, 1992.

PLACE: 2033 K St., N.W., Washington, D.C., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Meeting.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 92–3140 Filed 2–5–92; 3:37 pm]

BILLING CODE 6351-01-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 10:15 a.m., Wednesday, February 12, 1992, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Benefits proposals regarding the Office of Inspector General.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: February 5, 1992.

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 92–3076 Filed 2–5–92; 10:31 am]

BILLING CODE 6210-01-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, February 12, 1992.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda

Because of its routine nature, no discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda.

1. Publication for comment of proposed revisions to Regulation O (Loans to Executive Officers, Directors, and Principal Shareholders) to implement the Federal Deposit Insurance Corporation Improvement Act of 1991.
2. Any items carried forward from a previously announced meeting.

Discussion Agenda

Please Note That No Discussion Items are Scheduled for This Meeting.

Note: If the item is moved from the Summary Agenda to the Discussion Agenda, discussion of the item will be recorded. Cassettes will then be available for listening in the Board's Freedom of Information Office, and copies can be ordered for $5 per cassette by calling (202) 452–3684 or by writing to:

Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 10551

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: February 5, 1992.

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 92–3077 Filed 2–5–92; 10:31 am]

BILLING CODE 6210-01-M

Corrections

Federal Register
Vol. 57, No. 26
Friday, February 7, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 273

[Amendment No. 346]

Food Stamp Program; Income Exemption for Homeless Households in Transitional Housing From the Mickey Leland Memorial Domestic Hunger Relief Act

Correction

In proposed rule document 92–2415 beginning on page 3961 in the issue of Monday, February 3, 1992, make the following correction:

§ 273.9 [Corrected]

On page 3963, in the first column, in § 273.9(c)(1)(ii)(D), in the fifth line, "80" should read "50".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–4735; OR 030–01–4212–13; GP1–348]

Realty Action; Exchange of Public Lands; Baker County, Oregon

Correction

In the correction to notice document 91-23280 appearing on page 1313 in the issue of Monday, January 13, 1992, make the following correction:

In the third column, in the second correction, in the third line, "seventh" should read "eighth".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 10

[T.D. 92-8]

RIN 1515–AA75

Customs Regulations Amendments Relating to the United States-Canada Free-Trade Agreement

Correction

In rule document 92-1437 beginning on page 2447 in the issue of Wednesday, January 22, 1992, make the following corrections:

§ 10.305 Value content requirement.

1. On page 2453, in the third column, in § 10.305(a)(1)(i), in the eighth line, "of" should read "or".
2. On the same page, in the same column, in § 10.305(a)(1)(ii), in the first line, "inspection" should read "inspecting".
3. On page 2454, in the first column, in § 10.305(a)(3), in the first line, "(1)" should read "(i)".
4. On page 2455, in the 2d column, in § 10.305(b)(3)(ii) *Example 2*, in the 20th line, "materials" should read "material".

BILLING CODE 1505-01-D

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Part II

Department of Education

Office of Educational Research and Improvement Fellows Program; Notice Inviting Applications for New Awards for Fiscal Year 1992

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DEPARTMENT OF EDUCATION

[CFDA No. 84.117J]

Office of Educational Research and Improvement Fellows Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1992

Purpose of Program: To provide Federal financial assistance enabling individuals to make contributions to the improvement of education by engaging in educational research at the Office of Educational Research and Improvement (OERI) in Washington, DC.

Eligible Applicants: Only individuals are eligible to be recipients of fellowships. Any individual who has training and experience that indicates that he or she has the potential to conduct educational research is eligible to apply. An individual must be a citizen of the United States to be eligible for a fellowship.

Deadline for Transmittal of Applications: April 17, 1992.

Available Funds: $75,000.

Estimated Range of Awards: $25,000–$45,000.

Estimated Average Size of Awards: $35,000.

Note: The amount of a fellowship includes a stipend based on the fellow's current annual salary prorated for the length of the fellowship. If a fellow has no current salary, the amount of the fellowship includes a stipend based on the fellow's education and experience. In addition, the fellowship includes a subsistence allowance and necessary travel expenses related to the fellowship.

Estimated Number of Awards: 2–3.

Note: The Department is not bound by any estimates in this notice.

Project Period: Projects will be for a period of no fewer than four nor more than twelve months of full-time activity or the equivalent in less than full-time participation.

Applicable Regulations: The regulations for this program in 34 CFR part 762.

Selection Criteria: In selecting fellows under this program, the Secretary rates applications using the criteria in 34 CFR 762.21 and then determines the order in which the applications will be selected. The Secretary uses the following criteria in evaluating each applicant for a fellowship:

(a) *Quality of the plan for the proposed activity* (40 points). The Secretary reviews the quality of each proposed project to ensure that—

(1) The design of the project is of high quality;

(2) The applicant's project relates to the purposes of the fellowship program; and

(3) The applicant's project is feasible.

(b) *Significance of the proposed project* (20 points). The Secretary assesses the significance of each proposed project to ensure that—

(1) The project addresses important issues in American education;

(2) Project results will benefit American education; and

(3) The project will enhance education practice.

(c) *Qualifications of the applicant* (40 points). The Secretary reviews the qualifications of each applicant to ensure—

(1) The appropriateness and quality of the education and experience of the applicant as they may be related to the proposed project; and

(2) Demonstrated ability to produce a final product which is comprehensive and useful.

Application Forms: Individuals must submit a written request to be considered for a fellowship. The Department has no application forms or prescribed format for applications under the Fellows Program. Applicants are encouraged to submit sufficient information to allow the Secretary to determine the merits of the proposed activities under the criteria in 34 CFR 762.21. Applicants are encouraged to submit their curriculum vitae, a detailed project description containing the design of their research proposal and specific activities they will undertake while in DC, and a proposed budget for the project.

Supplementary Information: Pursuant to 34 CFR 762.21(b)(1), the Secretary assesses the significance of each proposed project to ensure that the project addresses important issues in American education. Listed below are some examples of educational topics that address issues that the Secretary considers to be important in American education. Research on these topics could help implement AMERICA 2000, the President's strategy for reaching the National Education Goals. The topics identified in this notice are examples only; the Secretary also considers many other educational topics to be important issues in American education. Applications that propose research activities on educational topics that are listed in this notice will not receive any competitive preference.

Some examples of educational topics are:

1. Helping parents support the learning of their young children;
2. Improving the education of children and youth whose circumstances put them at a disadvantage;
3. Identifying factors that will lead to greater student learning at any stage from birth through postsecondary and graduate education; and
4. Identifying how school or college organization and environment affects student achievement.

Instructions for Transmittal of Applications: (a) An individual who wants to apply for an award shall—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: CFDA #84.117J, 400 Maryland Avenue, SW., Washington, DC 20202–4725; or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. (Washington, DC time) on the deadline date to: U.S. Department of Education, Application Control Center, Attention: CFDA #84.117J, Room #3633, Regional Office Building #3, Seventh and D Streets, SW., Washington, DC.

(b) An application must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with their local post office.

(2) The Application Control Center will mail an Application Receipt Acknowledgment to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the closing date, the applicant should call the U.S. Department of Education Application Control Center at (202) 708–9494.

(3) The applicant *must* indicate on the envelope the CFDA number and letter of this competition.

For Information Contact: Dr. Jeffrey Gilmore, U.S. Department of Education, Office of Educational Research and Improvement, Office of Research, room 615, 555 New Jersey Avenue, NW., Washington, DC 20208–5647. Telephone: (202) 219–2243. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

Program Authority: 20 U.S.C. 1221e.

Dated: February 3, 1992.

Diane Ravitch,

Assistant Secretary and Counselor to the Secretary.

[FR Doc. 92–2967 Filed 2–6–92; 8:45 am]

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Part III

Department of the Interior

Minerals Management Service

Alaska OCS Region; Call for Information and Nominations and Environmental Impact Statement; Notice

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UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE
Alaska OCS Region

Cook Inlet
Lease Sale 149
Call for Information and Nominations
and
Notice of Intent to Prepare an Environmental Impact Statement

CALL FOR INFORMATION AND NOMINATIONS

(Responses Due in 45 Days)

On December 17, 1991, the Minerals Management Service (MMS) published a Federal Register Notice requesting comments on enlarging the proposed Outer Continental Shelf (OCS) Lease Sale 149 sale area and on changing the name of the Cook Inlet Planning Area. The closing date for comments on that Federal Register Notice was January 31, 1992. The comments will be evaluated and the decision on these two alternatives will be announced with the Department of the Interior's Proposed Final Comprehensive Program in the Spring of 1992.

In order to keep the program options open, this Call will cover the enlarged area. However, all nominated areas outside the area included in the Final Comprehensive Program will be excluded from further consideration in this sale.

Purpose of Call

The purpose of the Call for Information and Nominations (Call) is to gather information for proposed Outer Continental Shelf (OCS) Lease Sale 149. This proposed sale, located in the Cook Inlet Planning Area, is tentatively scheduled for mid-1994.

Information and nominations on oil and gas leasing, exploration, and development and production within the Cook Inlet Planning Area are sought from all interested parties. This early planning and consultation step is part of the Area Evaluation and Decision Process and is important for ensuring that all interests and concerns are communicated to the Department of the Interior (DOI) for future decisions in the leasing process pursuant to the OCS Lands Act, as amended (43 U.S.C. 1331 - 1356 (1988)), and regulations at 30 CFR Part 256. This Call does not indicate a preliminary decision to lease in the area described below.

Description of Area

The area of this Call is located offshore the State of Alaska in Federal waters located in Cook Inlet, and extending approximately 200 nautical miles southwestward into Shelikof Strait (See page-sized map at the end of this Notice). The area available for nominations and comments consists of approximately 761 whole and partial blocks (about 3.7 million acres). Respondents may nominate and are asked to comment on any acreage within the entire Call area. A large scale map of the Cook Inlet Planning Area (hereinafter referred to as the Call map) showing boundaries of the Call area on a block-by-block basis and a complete list of Official Protraction Diagrams (OPD's) are available from the Records Manager, Alaska OCS Region, Minerals Management Service, 949 E. 36th Avenue, Room 502, Anchorage, Alaska 99508-4302, telephone (907) 271-6621. The OPD's may be purchased from the Records Manager for $2.00 each.

Current editions of the listed OPDs are based on the North American Datum of 1927 (NAD27) and have block boundaries defined in terms of X and Y coordinates of the Universal Transverse Mercator (UTM) grid system based on the Clarke Spheroid of 1866. Prior to the issuance of any Proposed Notice of Sale, new editions of all the listed OPDs would be prepared based on the North American Datum of 1983 (NAD83) and would have block boundaries defined in terms of X and Y UTM coordinates based on the Geodetic Reference System of 1980 (GRS80).

Instructions on Call

Respondents are requested to nominate blocks within the Call area that they would like considered for inclusion in proposed OCS Lease Sale 149. Nominations must be depicted on the Call map by outlining the area(s) of interest along block lines. Respondents are asked to submit a list of whole and partial blocks nominated (by OPD designations) to facilitate correct interpretation of their nominations on the Call map. Although the identities of those submitting nominations become a matter of public record, the individual nominations are deemed to be proprietary information.

Respondents are also requested to rank areas nominated according to priority of interest (e.g., priority 1 (high), 2 (medium), or 3 (low). Areas nominated that do not indicate priorities will be considered priority 3. Respondents are encouraged to be specific in indicating areas or blocks by priority. Blanket priorities on large areas are not useful in the analysis of industry interest. The telephone number and name of a person to contact in the respondent's organization for additional information should be included in the response.

Comments are sought from all interested parties about particular geologic, environmental, biological, archaeological, social, and economic conditions, conflicts, or other information that might bear upon potential leasing and development in the Call area. Comments are also sought on potential conflicts with approved

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local coastal management plans (CMP's) that may result from the proposed sale and future OCS oil and gas activities. If possible, these comments should identify specific CMP policies of concern, the nature of the conflicts foreseen, and steps that MMS could take to avoid or mitigate the potential conflicts. Comments may be in terms of broad areas or restricted to particular blocks of concern. Those submitting comments are requested to list block numbers or outline the subject area on the large-scale Call map.

Nominations and comments must be received no later than 45 days following publication of this document in the Federal Register in envelopes labeled **"Nominations for Proposed Cook Inlet Lease Sale 149,"** or **"Comments on the Call for Information and Nominations for Proposed Cook Inlet Lease Sale 149,"** as appropriate. The original Call map with indications of interest and/or comments must be submitted to the Regional Supervisor, Leasing and Environment, Alaska OCS Region, Minerals Management Service, 949 E. 36th Avenue, Room 110, Anchorage, Alaska 99508-4302.

Use of Information from Call

Information submitted in response to this Call will be used for several purposes. First, responses will be used to identify the areas of potential for oil and gas development. Second, comments on possible environmental effects and potential use conflicts will be used in the analysis of environmental conditions in and near the Call area. This information will be used to make a preliminary determination of potential advantages and disadvantages of oil and gas exploration and development to the region and the Nation. A third purpose for this Call is to use the comments to initiate the scoping process for the Environmental Impact Statement (EIS) and analyze alternatives to the proposed action. The Notice of Intent to Prepare an EIS is included later in this document. Fourth, comments may be used in developing lease terms and conditions to ensure safe offshore oil and gas activities. Fifth, comments may be used to point out potential conflicts between offshore oil and gas activities and the State's CMP.

Existing Information

An extensive environmental as well as socioeconomic studies program has been under way in this area since 1975. The emphasis, including continuing studies, has been on geologic mapping, environmental characterization of biologically sensitive habitats, endangered whales and marine mammals, physical oceanography, ocean-circulation modeling, and ecological effects of oil and gas activities. A complete listing of available study reports and information for ordering copies may be obtained from the Records Manager, Alaska OCS Region, at the address stated under Description of Area. The reports may also be ordered directly from the U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161 or by telephone at (703) 487-4650.

In addition, a program status report for continuing studies in this area may be obtained from the Chief, Environmental Studies Section, Alaska OCS Region, at the address stated under Instructions on Call or by telephone at (907) 271-6620.

Summary Reports and Indices and technical and geologic reports are available for review at the MMS Alaska OCS Region (see address under Description of Area). Copies of the Alaska OCS Regional Summary Reports may also be obtained from the OCS Information Program, Office of Offshore Information and Publications, Minerals Management Service, 381 Elden Street, Herndon, Virginia 22070.

Tentative Schedule

Final delineation of the area for possible leasing will be made at a later date in compliance with applicable laws including all requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) as amended, and the OCS Lands Act, as amended, and with established departmental procedures.

Tentative milestones that will precede this sale, proposed for mid 1994, are:

Milestones	Dates
Comments Due on the Call	March '92
Scoping Comments Due	March '92
Area Identification	June '92
Draft EIS/Proposed Notice of Sale Published	July '93
Hearings on Draft EIS Held	August '93
Governor's Comments Due on Proposed Notice Notice of Sale	October '93
FEIS Filed with EPA	April '94
Consistency Determination Signed	April '94
Final Notice of Sale Published	August '94
Sale	September '94

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NOTICE OF INTENT TO PREPARE ENVIRONMENTAL IMPACT STATEMENT
(Comments Due in 45 Days)

Purpose of Notice of Intent

Pursuant to the regulations (40 CFR 1501.7) implementing the procedural provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), as amended, MMS is announcing its intent to prepare an EIS regarding the oil and gas leasing proposal known as Sale 149 in the Cook Inlet off Alaska. The Notice of Intent also serves to announce the scoping process that will be followed for this EIS. Throughout the scoping process, Federal, State, and local governments and other interested parties have the opportunity to aid MMS in determining the significant issues and alternatives to be analyzed in the EIS and the possible need for additional information.

The EIS analysis will focus on the potential environmental effects of leasing, exploration, and development of the blocks included in the area defined in the Area Identification procedure as the proposed area of the Federal action. Alternatives to the proposal that may be considered are to delay the sale, cancel the sale, or modify the sale.

Instructions on Notice of Intent

Federal, State, and local governments and other interested parties are requested to send their written comments on the scope of the EIS, significant issues that should be addressed, and alternatives that should be considered to the Regional Supervisor, Leasing and Environment, Alaska OCS Region, at the address stated under Instructions on Call above. Comments should be enclosed in an envelope labeled **"Comments on the Notice of Intent to Prepare an EIS on the proposed Cook Inlet Lease Sale 149."** Comments are due no later than 45 days from publication of this Notice.

Scott Sewell Scott Sewell
Director, Minerals Management Service

Approved: Richard Roldan
Deputy Assistant Secretary, Land and Minerals Management

Date

Richard Roldan

CALL FOR INFORMATION AND NOMINATIONS
COOK INLET-SALE 149

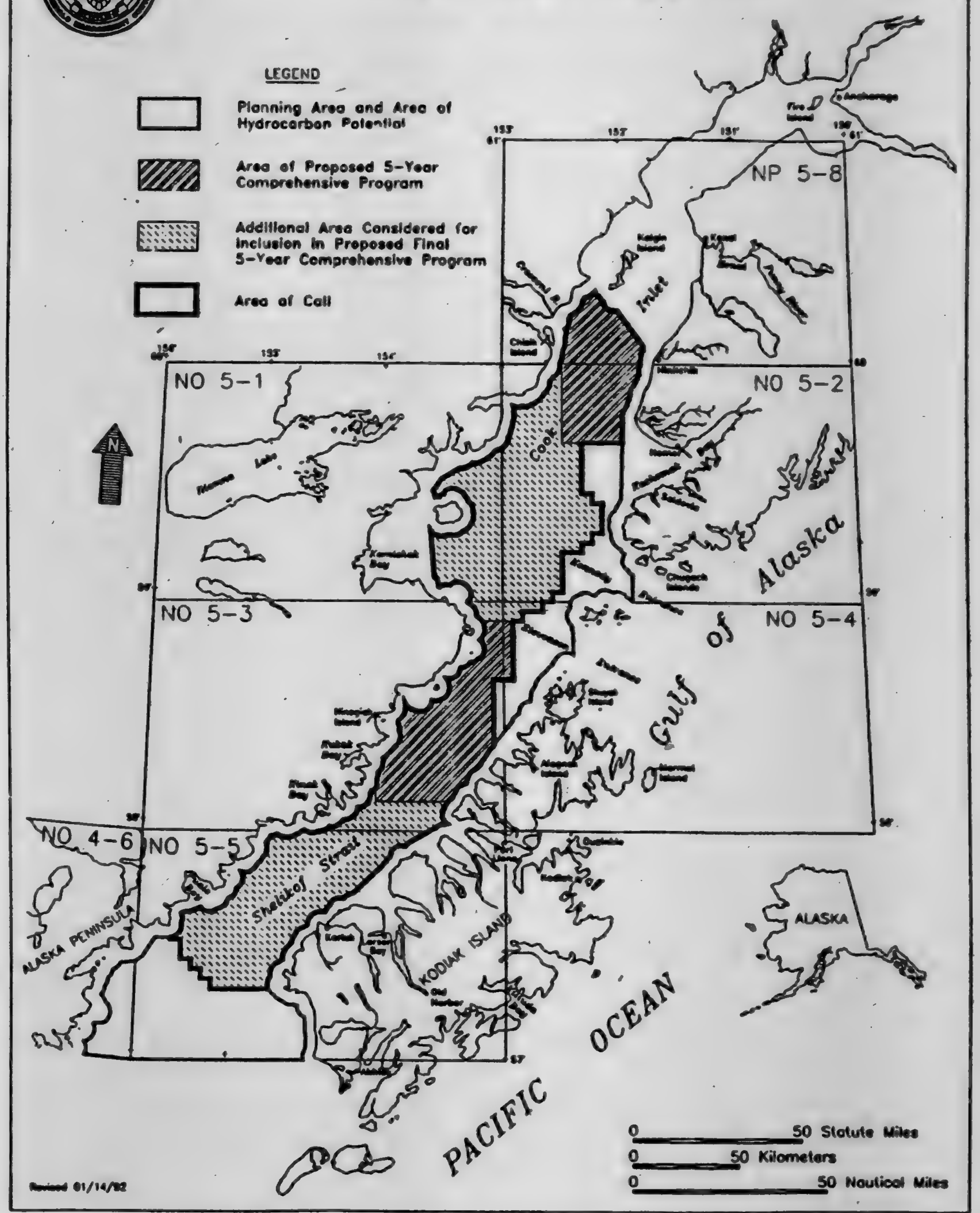
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Planning Area and Area of Hydrocarbon Potential
Area of Proposed 5-Year Comprehensive Program
Additional Area Considered for Inclusion in Proposed Final 5-Year Comprehensive Program
Area of Call
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KODIAK ISLAND
PACIFIC OCEAN
ALASKA
Anchorage
Fire Island
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Revised 01/14/92

[FR Doc. 92-2953 Filed 2-6-92; 8:45 am]

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Part IV

Department of Labor

Employment and Training Administration

Job Training Partnership Act: Title III National Reserve Grants for Clean Air Employment Transition Assistance; Notice of Availability of Funds and Application Procedures

DEPARTMENT OF LABOR

Employment and Training Administration

Job Training Partnership Act: Title III National Reserve Grants for Clean Air Employment Transition Assistance; Availability of Funds and Application Procedures for Program Years 1991 and 1992

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of availability of funds and solicitation for grant applications.

SUMMARY: The Employment and Training Administration of the Department of Labor is announcing that funds are available for a new Clean Air Employment Transition Assistance (CAETA) grant program. All applications prepared and submitted pursuant to these guidelines and received at the address below will be considered. Grant awards will be made only to the extent that funds are now available. Funds are now available for obligation for this new program from October 1, 1991 through June 30, 1993.

DATES: Applications will be accepted on an ongoing basis throughout the balance of Program Year 1991 and Program Year 1992 (July 1, 1991 through June 30, 1993) as the need for funds arises at the State and local level. Grant awards will be made during the Program Years in response to the applications received. There is no closing date for applications under this announcement.

ADDRESSES: It is preferred that applications be mailed. Mail or hand deliver applications to: Office of Grants and Contracts Management, Division of Acquisition and Assistance, Employment and Training Administration, U.S. Department of Labor, room C–4305, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Dislocated Worker Grants, Barbara J. Carroll, Grant Officer.

FOR FURTHER INFORMATION CONTACT: Mr. Robert N. Colombo, Director, Office of Worker Retaining and Adjustment Programs. Telephone: (202) 535–0577. (This is not toll free number).

SUPPLEMENTARY INFORMATION: The Employment and Training Administration (ETA) announces the availability of funds reserved by the Secretary of Labor for the delivery of dislocated worker services to workers whose dislocation occurred as a consequence of an employer's compliance with the Clean Air Act, and the procedures to make application for these funds. Funding is authorized by the Job Training Partnership Act (JTPA or Act). The application procedures, selection criteria, and approval process contained in this notice are issued in accordance with the JTPA regulations 20 CFR 631.61.

This program announcement consists of four parts. Part I provides the background and purpose of the discretionary funds for activities under section 326 of the Act. Part II establishes basic U.S. Department of Labor (Department or DOL) policies and emphases for these discretionary grants. Part III describes the basic grant application process. Part IV provides detailed guidelines for the preparation of applications. The primary selection criteria used in reviewing applications are also included.

The JTPA Title III program is listed in the Catalogue of Federal Domestic Assistance at No. 17–246 "Employment and Training Assistance—Dislocated Workers" (JTPA Title III Programs).

Table of Contents

Part I. Background

A. Fund availability
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Part I. Background

A. Fund Availability

Funds available for Clean Air Employment Transition Assistance (CAETA) programs total $50 million and shall be awarded pursuant to the requirements contained in the JTPA and these guidelines. These funds are in addition to funds appropriated for the basic Title III program.

B. Circumstances Under Which Services May Be Provided With CAETA National Reserve Funds

Services described in JTPA section 314 may be provided with CAETA national reserve funds where there is a dislocation resulting from requirements of the Clean Air Act. (42 U.S.C. 7401 *et seq.*)

Part II. Department of Labor Policy and Program Emphasis

A. Basic Policies

1. Available funds shall be awarded by the Secretary in a manner that efficiently targets resources to areas most in need, and in a manner which promotes effective use of funds.

2. All projects and activities funded shall be subject to the applicable provisions of JTPA, the appropriate regulations, and to the requirements contained in these instructions and the Grant Officer's award document(s) and any subsequent grant amendment authorized. All applications shall also be subject to Clean Air Employment Transition Assistance Program regulations once such regulations are published in final.

3. CAETA funds shall not be considered as an ongoing source of funds for existing centers or other projects or activities. For this reason, it is a general policy of the Department that it will not refund CAETA national reserve projects. Projects involving extraordinary circumstances, such as massive continuing layoffs, may be considered for refunding.

4. CAETA national reserve funds are not to be used to subsidize a grantee's ongoing operations. A grantee may only be reimbursed for costs over and above those costs associated with the grantee's ongoing costs. It is the Department's position that where CAETA national reserve funded projects are operated by existing State or substate grantees, administrative savings will be realized.

Note: "Substate grantee" is defined at JTPA section 301.

5. CAETA national reserve funds shall only be provided to meet needs which cannot be met by JTPA formula funds or other State and local resources. Grants will be primarily awarded, therefore, where substantial numbers of workers, relatively speaking, in a substate area, labor market, region or industry are dislocated as a consequence of a firm's compliance with the Clean Air Act and the State and/or substate area do not have suffucient JTPA funds available to assist such workers.

Note: "Substate area" is defined at JTPA section 301.

6. Eligible dislocated workers to be served with CAETA national reserve funds shall meet the requirements of part IV, section 1(b) of these guidelines.

7. The Department shall make every effort to review and respond to each application within 45 days of the Department's receipt of the application.

8. No grant funds awarded shall be used to reimburse costs incurred prior to the date authorized by the Grant Officer.

B. Secretary's Rights Reserved

The Secretary reserves the right to distribute some CAETA national reserve funds in a manner other than that provided by this notice, consistent with the JTPA, and taking into consideration special circumstances and unique needs which may arise throughout the course of the program year.

The Secretary also reserves the right to fund individual projects on an incremental basis where the Department determines that such an action would result in the most effective use of available resources.

If insufficient applications are received by the Department which are of acceptable quality and which meet the guidelines and selection criteria contained in this notice to exhaust the CAETA national reserve account, the Department shall take whatever action it deems necessary and appropriate, consistent with the Act and the regulations, to exhaust the funds.

C. Basic Planning Rules

1. Operating Definition of "State"

For purposes of these grant application procedures, State shall mean one of the 50 States of the United States and the following nine grant eligible territories and legal jurisdictions: The District of Columbia, The Commonwealth of Puerto Rico, The Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Marianas. The freely associated states of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Trust Territory of the Pacific Islands/ Republic of Palau, while not "States" under the Clean Air Act (See 42 U.S.C. 7602 (d)(1)), are eligible to receive grants under this program, since Clean Air impacted individuals may reside in those areas.

2. Allocation of Costs

a. *State administration.* States may include no more than 1.5 percent or $15,000, whichever is lower, for State administration of "pass-through" grants. State administrative cost requests that are above this established set-aside must be accompanied by a justification showing the projected person-hours and functions to be performed and any other relevant cost information. This cost is to be included in the administrative cost category. It is expected that these funds will be used for subgrant administration, the provision of technical assistance, on-site and desk monitoring, and data collection.

States must provide specific information regarding why State 40 percent funds are not available to support a project.

b. *Administrative requirements for grant projects.* (1) In addition to applicable administrative requirements contained in JTPA and these guidelines, some grantee organizations may be subject to other requirements as listed below:

(a) State and local Governments (except for JTPA grant recipients under the Federal, State, Governor-Secretary Agreement block grant)—OMB Circular A–87 (cost principles) and 29 CFR part 97 (Uniform Administrative Requirements for Grants with State and Local Governments) apply. The audit requirements at 29 CFR part 96 also apply.

(b) Non-Profit Organizations—OMB Circulars A–122 and A–133 (Audits) apply.

(c) Educational Institutions—OMB Circulars A–21 and A–133 (Audits) apply.

(d) Profit Making Commercial Firms—Federal Acquisition Regulation (FAR)—48 CFR part 31 apply.

(2) Any planned equipment purchases with a unit cost of $500 or more must be justified and specifically listed along with its purchase price in the grant application. If equipment purchased is to be prorated, the total cost and the CAETA grant's share of the total cost must be indicated. Equipment planned to be leased and the cost of such equipment must be listed in the grant application.

c. *Establishment of a Labor Management Committee.* Costs associated with the establishment of a Labor Management Committee are appropriately charged as Rapid Response costs against the State's 40 percent Title III formula funds. Therefore, they are not to be charged to the CAETA grant. Ongoing operational costs of the Labor/Management Committee during the period of performance of the grant are chargeable to the Administration Cost category.

d. When a participant is eligible for either partial or full reimbursement of training costs (*e.g.*, Pell grants, employer tuition reimbursement, etc.) the application must describe the procedures established for the reimbursement and/or crediting of such costs if such costs are initially charged to the CAETA national reserve grant.

Note: Where CAETA national reserve funds are expended for training prior to certification of TAA eligibility, CAETA national reserve funds shall not be reimbursed to the JTPA program when TAA funds become available to cover the balance of the training.

e. *Necessary and reasonable costs/ cost effectiveness.* In accordance with 20 CFR 629.37(a), costs are required to be "reasonable" and "necessary" to be charged to the grant. In reviewing a grant application, the Grant Officer shall consider these criteria. Areas of concern include but are not limited to: Staff to participant ratios; the proportion of staff costs to the total grant; the cost of purchased or leased equipment; the cost of proposed training as it relates to the complexity of the skills to be learned, the length of training, and the provider's access to other supplemental funding sources. The extent to which the proposed project budget reflects costs that appear to be "reasonable" and "necessary" will be a significant factor in determining the project's cost effectiveness.

f. All indirect administration costs shall be charged to the Administration Cost category. Any indirect costs that are not administrative shall be itemized separately in the appropriate cost category. If an indirect rate is applied, the basis for the rate and the approving authority must be cited.

g. It is not intended that CAETA national reserve projects automatically be charged 15 percent of the award amount toward the overall administrative costs of the SDA/ substate grantee. The amount planned to be used for administration and the specific purposes for which it will be used must be determined in order for an administrative cost budget line item to be established. Once determined and approved, the amount budgeted for administration may be included in any existing administrative cost pool of the SDA/substate grantee which is administering the CAETA national reserve grant. A portion of costs charged to the administrative cost pool may be allocated to the grant, up to the total amount included in the cost pool from the grant and consistent with overall expenditures for the grant and with the existing rules for the charging of costs against an administrative cost pool.

3. Additional Funding

The amount of a grant award cannot be increased after the grant is awarded. If circumstances change so substantially that additional funds are required to serve dislocated workers from the targeted layoff or closing, another grant application must be submitted. The same review and approval procedures will apply to a second grant application as apply to other dislocated worker project proposals. A second application shall include an up-to-date status report of performance under the first award including: Overall enrollments, enrollments by activity and expenditures (obligations and expenditures by cost category).

4. Activities

a. The application budget shall not include costs for activities or services begun with JTPA formula funds used for program purposes prior to the grant award. If initial training costs for a participant are incurred with such funds, the balance of the training cost commitment for that participant must be funded by State or substate formula funds. This policy does not apply to State funded rapid response activities.

b. Applications shall not provide for using CAETA reserve funds for work experience.

c. A minimum of 50 percent of all participants to be served with CAETA national reserve funds shall receive educational and/or occupational retraining, unless otherwise specifically authorized by the Grant Officer.

The 50 percent minimum may include participants whose training is funded by TAA, employer or union-funded tuition or training assistance, as well as Pell grants and other educational financial assistance.

d. CAETA national reserve funds shall not be used for rapid response activities. Rapid response activities are paid for out of State 40 percent funds.

e. CAETA national reserve funds shall not be awarded to fund an individual training project or an individual activity.

5. Identification of Participants To Be Served

The applicant must explain how affected workers most in need of services to return to the labor force will be identified and assured access to necessary services. The applicant must also explain how the planned number of participants to be served was determined.

6. Project Locations

If an applicant plans to operate more than one project or subproject, each location shall be listed and separate budgets, implementation schedules and, where appropriate, lists of local demand occupations for retraining provided. In all cases, the applicant must also include a summary budget and implementation schedule for the entire project.

7. Placement Rate Expectations

Since funds and resources are specifically focused on the needs of a targeted group of workers and their employment and training needs, the Department expects that:

a. Project placement rate—The planned entered employment rate for any program will be at least 70 percent.

b. Occupational classroom training—A placement rate of 75 percent will be expected from occupational classroom training. This rate may be calculated by including the provisions of job search assistance and other services to participants who receive occupational classroom training.

c. On-the-Job Training (OJT)—A placement rate of at least 80 percent will be expected for OJT. This rate may be calculated by including the provision of job search assistance and other services to participants who receive OJT. If the applicant does not believe such a rate can be achieved in its proposal, it must provide reasons for planning a lower rate.

8. On-the-Job Training (OJT)

No OJT under six weeks duration shall be funded with CAETA reserve grant funds. Any OJT training for between six and 10 weeks in duration shall be consistent with an approved rationale to determine the length of training for a given occupation. The rationale shall be stated in the application. An OJT contract must contain a "hire first" provision.

Part III. The Basic Application Process

A. Funding Considerations

1. Identification of Dislocated Workers

a. Dislocated workers eligible to be provided services with CAETA national reserve funds are defined as individuals who meet the definitions set forth in section 301(a) of the Act and 20 CFR 631.3, 29 U.S.C. 1651(a) and must be dislocated as a consequence of a firm's compliance with the Clean Air Act. The dislocated workers to be served must be specifically identified in the application.

Eligible individuals may be served without regard to the State of residence of the individual (section 311(b)(1)(B), 29 U.S.C. 1661(b)(1)(B).

b. Applications should indicate that the provision of services to eligible participants will take into account those "most in need", those least likely to be recalled, those with the least transferable or most obsolete occupational skills, those with the most barriers to other employment opportunities such as poor reading or math skills. Those "most in need", for purposes of CAETA reserve funding, will be determined on a project-by-project basis. Applications shall provide that those participants requiring labor exchange services and other minimal employment services are directed to other appropriate resources such as the State Employment Service.

2. CAETA dislocated worker project applications selected for funding will generally be those which:

a. Effectively identify and target the project to specific groups of dislocated workers, industries or plants, occupations and geographic areas;

b. Specify occupational and educational training related to local demand occupations;

c. Demonstrate a timely response to the target group's employment and training needs for such services; and

d. Are cost effective in terms of services to be provided and results to be achieved.

3. Priority consideration will be given to applications focusing on services to workers who "are unlikely to return to their previous occupation or industry," with particular emphasis on those requiring and wanting retraining for occupations determined to be in demand in the local economy.

B. Screening and Review of Applications

1. Screening Requirements

All applications will be screened to determine completeness and conformity to the Act, regulations, application guidelines and other requirements contained in this announcement.

In order for an application to be in conformance, it must be paginated and include the following:

a. *Transmittal letter.* A transmittal letter from the Governor or the applicant's authorized signatory containing the required assurances.

b. *Standard form.* SF 424, Application for Federal Domestic Assistance (Catalogue No. 17.246).

c. *Budget.* A detailed line item budget according to the applicable cost categories found at 20 CFR 631.13 of the JTPA Title III regulations and as outlined in these guidelines.

d. *Project narrative.* The narrative portion of the application including attachments shall not exceed twenty-five (25) double-spaced pages,

typewritten on one side of the paper only. The narrative must address all of the elements specified in the application guidelines.

e. *Certifications.* (1) An original signature certification regarding "Drug-Free Workplace" must be submitted with the application except in the case where the applicant is a State. States may opt to submit a copy of the Statewide or agency annual certification renewable every Fiscal Year per Training and Employment Information Notice (TEIN) No. 15–90. This certification requirement applies only to the Federal grant applicant. The "Certification Regarding Drug-Free Workplace Requirements" form is found in appendix A.

(2) A "Certification Regarding Debarment, Suspension and other Responsibility Matters, Primary Covered Transactions" must be submitted with all applications as required by the DOL regulations implementing Executive Order 12549, "Debarment and Suspension," 29 CFR 98.510. This certification form is found in appendix B.

(3) A "Certification Regarding Lobbying" shall be submitted with each application as required by 29 CFR part 93, "New Restrictions on Lobbying," 54 FR 6736, 6751 (February 26, 1990). A suggested form incorporating the required text is found in appendix C.

(4) When the applicant is not the State JTPA entity (i.e., subject to the JTPA Governor/Secretary Agreement), SF 424B, Assurances—Non-Constructions Programs, with an original signature, must be submitted with the application. This assurance form is found in appendix D.

2. Review and Evaluation

Complete conforming applications will be reviewed and evaluated based on the selection criteria specified in part IV and the availability of funds.

C. Information and Reporting Requirements

1. *Records.* By accepting a grant, the grantee agrees that it shall maintain and make available to the U.S. Department of Labor upon request, information on the operation of the project and on project expenditures. Such information may include the implementation status of the project such as completion of subagreements, hiring of staff, date enrollments began, current and cumulative number of participants, and cumulative expenditures.

2. *Reports.* The grantee shall submit to the Employment and Training Administration, an original and two copies of:

a. The Worker Adjustment Program Quarterly Report, ETA Form No. 9020 (OMB No. 1205–0274), and

b. The Worker Adjustment Program Annual Program Report, ETA Form No. 9019 (OMB No. 1205–0274).

D. Grant Funding Procedures

1. *Proposals funded pursuant to the Secretary/Governor agreement shall be subject to the following procedures.* Where proposals are approved for funding pursuant to the Secretary/Governor Agreement, immediate funding shall be provided. The State and/or local program may be required to submit additional information to satisfy requirements that have been determined to be unacceptable in the original proposal. In such circumstances, the Department may or may not allow the incurring of costs prior to the approval of the modification submitting the additional information depending on the nature and the seriousness of the problems identified. The Grant Officer's approval letter shall contain the Department's decision on this issue.

2. Proposals not funded pursuant to the Secretary/Governor Agreement shall be subject to the following grant award procedures:

a. Once a decision is made by the Secretary to approve a proposal, the Secretery shall send a letter to the applicant announcing the award.

b. The applicant shall also be contacted by telephone by the Employment and Training Administration's (ETA) Grant Officer to resolve any problems identified in the proposal and to develop a grant to be executed by the applicant and the Department of Labor. A letter announcing this process shall also be forwarded to the applicant from the ETA Grant Officer.

c. All of the details of the grant shall be resolved by telephone and the grant document shall then be completed in duplicate by the Department's grants office and forwarded to the applicant for signature. The applicant shall sign both copies of the grant document and return the copies to the ETA Grant Officer for final execution.

d. The ETA Grant Officer shall sign both copies of the grant, and forward one signed copy to the applicant. The grant document and the transmittal letter shall instruct the grantee as to the date that the grantee may commence to incur costs against the executed grant.

3. *Emergency awards.* When an emergency award is approved, the Grant Officer shall send an award letter to the applicant.

a. For emergency proposals which are funded pursuant to the Secretary/Governor Agreement, immediate funding, normally 30 percent of any approved request shall be provided. The applicant shall then be required to submit a fully documented proposal in accordance with the appropriate requirements. Normally the grantee will be allowed to immediately begin incurring costs once the award is made. Such costs may be incurred pursuant to the initial proposal, the award letter, the appropriate assurances, the Act, the regulations, and the Clean Air application procedures.

In certain circumstances it may be necessary to require additional information before the grantee may commence to incur costs. The grantee shall be notified in the award letter where this is the case and of the requirements that must be met before costs may be incurred.

The final funding level, and any additional requirements shall be determined once the Department receives, reviews and approves the fully documented proposal.

b. For emergency proposals which are approved but not funded pursuant to the Secretary/Governor Agreement, the ETA Grant Officer shall both fax and mail an original initial grant once the Grant Officer has approved the award. The grantee, shall sign both the faxed grant and the original grant, in duplicate. The signed fax copies should be faxed immediately to the Grant Officer. The two copies of the signed original grant shall be returned by mail as soon as executed. The Grant Officer will sign the returned fax copies and refax one to the grantee with a cover letter which will authorize the grantee to commence to incur costs and which will also instruct the grantee regarding the development and submission of a fully documented proposal to be submitted. The Grant Officer shall, upon receipt of the two signed originally copies, sign and return one original with a cover letter. This original initial grant will contain the same date for incurring costs as the faxed grant, and the same instructions for developing and submitting a fully documented proposal. The final level and any additional requirements shall be determined once the Department receives, reviews and approves the fully documented proposal.

E. Grant Amendment Procedures

The Department recognizes that circumstances will arise where grant amendments will be necessary, and that those circumstances will be, in some cases, beyond the control of the project operator. Nevertheless, the Department is concerned about the need to amend discretionary awards since such amendments can, and in many cases do, represent poor planning and/or management of the projects. Following are guidelines for when an amendment is necessary.

1. All grant amendment requests must be submitted to the Grant Officer by the authorized signatory citing the number of the Notice of Obligation transmitting the grant funds to the State or, in the case of a grantee who is not subject to the JTPA Governor/Secretary Agreement, the grant number.

The States and grantees are responsible for monitoring the implementation and progress of their national reserve projects and identifying circumstances that would require a grant amendment request. *All requests for grant amendments must be accompanied by an explanation of the reasons for proposing such a change to the originally approved project plan.*

a. There are several reasons for grant amendments. Following are types of reasons, and the information or possible changes required related to each reason.

(1) *Grant Amendment Requests required due to changes in circumstances after the grant award,* such as, but not limited to, a delay in layoff or plant closure date, the recall of a number of the project participants, certification of worker eligibility for Trade Adjustment Assistance, or recruitment difficulty resulting in enrollments significantly below the planned level. Such circumstances may require substantial amendment of the project plan and may entail any or all of the following aspects of the plan.

(a) *Extension of the period of performance.* When an extension of the period of performance beyond the approved project period of operation is necessary, such extension requests must be submitted 60 days before the scheduled expiration date of the project as designated in the grant award letter or subsequent correspondence. The reason for the request explaining the change in circumstances that requires the extension must be provided.

(b) *A revised quarterly implementation plan* reflecting the revised period of performance which reflects the activity through the most recent quarter must be provided.

(c) *A revised budget* (if appropriate) must be provided.

(2) *Grant amendment requests required due to budget changes.* The following budget changes will require a grant amendment request. In each case, an explanation of the circumstances requiring the change and a revised overall grant budget must accompany the request. Any other parts of the approved grant impacted by such changes must also be submitted for approval.

(a) Any proposed increase to the approved budget for Administration;

(b) A proposed increase or decrease of 15 percent or more in the approved project budget for Retraining, so long as the decrease does not result in an overall expenditure for Retraining of less than the 50 percent for this cost category.

(c) In the case of any budget change regardless of the percentage that would result in a decrease in the Retraining cost category line item below the required 50 percent expenditure rate for retraining, or requiring a change in an expenditure rate previously waived by the Secretary, a grant amendment request must be submitted. If the budget change would result in a retraining expenditure rate below the required 50 percent level, a request for waiver including justification must accompany the amendment request.

(d) A proposed increase or decrease of 15 percent or more in the approved project budget for Supportive Services. The resulting increase may not exceed the 25 percent cost limitation for this cost category.

(3) *Grant amendment requests required due to changes in project participant activity levels* such as any increase or decrease of more than 15 percent in the total number of participants to be served or in the number of participants to receive Retraining services including classroom training, occupational skill training, on-the-job training, entrepreneurial training, remedial education, or other proposed training serving more than 10 participants. In such circumstances, the following information must accompany the grant amendment request.

(a) The reason for the request explaining the change in circumstances that requires the extension.

(b) A revised quarterly implementation plan which reflects the activity through the most recent quarter, and the appropriate adjustments to reflect the requested new activity level.

(c) A revised budget (if appropriate).

(4) *Grant amendment requests due to a change in the targeted dislocated workers to be served by the grant.*

In such circumstances, the following information must accompany the grant amendment request.

(a) The reason for the request explaining the change in circumstances that requires the extension.

(b) When appropriate, a revised quarterly implementation plan reflecting the activity through the most recent quarter, and making the appropriate adjustments to reflect the requested activity level, or a statement to indicate no such activity level changes are anticipated. If a new subproject is added to the grant, each subproject must have a quarterly implementation schedule, and an overall implementation schedule for the project must also be submitted.

(c) A revised budget (if appropriate), or a statement indicating such a change will not affect budget line items. If a new subproject is added to the grant, each subproject must have a separate budget, and an overall project budget must also accompany the request.

(d) The amendment must specifically state if a substantial number of the new workers to be added to the target group are represented by a labor organization. If appropriate, based on the statement provided, evidence of consultation with labor organizations representing such workers must be provided before expenditures will be authorized to serve these workers.

(e) Where a new geographic area is involved, evidence of review by the substate area's Private Industry Council(s) must also accompany the request.

(5) *Grant amendment requests required when it is projected that CAETA national reserve grant funds will remain unexpended.* As soon as it becomes apparent that funds will be unexpended, the State should notify the ETA Regional Office. If this information becomes available within the Program Year in which the grant funds were awarded, the State may submit a request to the Grant Officer to deobligate those funds it projects to be unexpended. Such funds may be reobligated by the DOL to another grantee requiring funding assistance to address a worker dislocation. When the underexpenditure is not identified until after the end of the Program Year in which the grant funds were awarded, the funds are not available for reobligation. Therefore, States may propose an effective alternative use of such funds. If the State desires to reprogram a portion of the unexpended funds originally awarded to a project, it must provide the following information.

(a) Evidence that the original target group has substantially been served, or may be served at a reduced funding level. The circumstances resulting in this assessment by the State must be explained.

(b) Documentation of the services provided to the original target group. This may follow the format of the implementation schedule in identifying activities and numbers of participants served.

(c) Evidence of expenditures for the original target group by cost category.

Note: The original project may continue to operate at a reduced level of activity and expenditure while a new subproject serving another group of targeted workers is funded and becomes operational using the projected unexpended funds.

(d) A request to extend the period of performance of the grant. Please note the time limitations pursuant to section 161(b) on authorization to expend national reserve funds.

(e) A proposal for expenditure of the projected unexpended funds must include the same information required for submittal of a grant application—identification of the target groups; dates of the dislocation; number of workers affected; an explanation of how the projected number of participants was derived; an analysis of the labor market relative to the targeted participants; identification of demand occupations in which retraining will occur; a description of the services to be provided; a cumulative quarterly implementation schedule by major services to be provided, terminations and entered employment, and projected expenditures; a detailed line item budget (including staffing information); evidence of labor consultation where appropriate, and documentation of PIC/LEO review where appropriate.

All requests must be submitted on a timely basis to allow sufficient time for the reasonable expenditure of the funds in question during the remaining statutory time limitation for the funds.

2. Requests for grant amendments will be considered in light of the general purposes of the CAETA national reserve account, the selection criteria for CAETA national reserve projects published by the Employment and Training Administration in the Federal Register, and the purposes of the original grant award. Amendments which request significant changes in the target group to be served will be reviewed on the same basis as a new proposal.

3. The Grant Officer will advise the State or national reserve grantee in writing of any approval or disapproval of the proposed grant amendments, generally within 30 days of receipt of the grant amendment request.

Part IV. Specific Application Requirements

A. Clean Air Employment Transition Assistance Programs Applications

An application for funds shall comply with the following requirements:

1. Application Rules

a. *Definitions.* In addition to the definitions contained and cited in § 631.2 of the JTPA Title III regulations, the following definitions shall apply to programs funded under this part:

(1) *Contractor* means any entity which enters into a contract, grant or agreement with a grantee.

(2) *Grantee* means an entity which receives a discretionary Clean Air Employment Transition Assistance grant directly from the DOL.

(3) *Industrywide project* means services and activities provided by a single grantee to serve workers dislocated from at least three different plants or facilities as a result of compliance with the Clean Air Act in at least two different areas of a single State or two different States.

(4) *Multistate project* means services and activities provided in more than one State by a single grantee to serve workers dislocated from one or more plants or facilities as a result of compliance with the Clean Air Act.

(5) *Subcontractor* means any entity which enters into a contract, grant or agreement with a contractor.

b. *Participant eligibility.* (1) An eligible dislocated worker, as defined by section 301(a) of the Act and § 631.3 of the regulations, shall be eligible for participation in activities under a Clean Air Employment Transition Assistance program only if such dislocated worker has been terminated or laid off or has received a notice of termination or layoff as a consequence of compliance with the Clean Air Act as amended.

Note: Such an individual is also eligible for the basic Title III dislocated worker program.

(2) An eligible dislocated worker whose termination or layoff, or notice thereof, is not directly the consequence of compliance with the Clean Air Act, as amended, is not eligible for services under a CAETA national reserve program, but may be eligible under the basic Title III dislocated worker program.

c. *Priority areas of service.* (1) Priority areas of service for CAETA national reserve programs shall be those geographic areas that have, or are projected by the DOL to have, the greatest number of dislocated individuals who meet the eligibility criteria for services as definded in b. above.

(2) In determining priority areas of service, applicants shall submit documentation that supports the assertion that the workers to be served by the application will be or were in fact, dislocated as a consequence of compliance with the Clean Air Act, as amended.

(a) Allowable activities.

(i) Allowable activities for CAETA national reserve programs shall be those activities authorized by Sections 314 and 326 (e) and (f) of the JTPA.

(ii)(*a*) Job search shall be an allowable activity only to assist a totally separated dislocated worker who meets the eligibility criteria under IV.1.b above in securing a job within the United States, and where it has been determined that the dislocated worker cannot reasonably be expected to secure suitable employment within the commuting area in which the worker resides. Procedures for determining whether a dislocated worker cannot reasonably be expected to secure suitable employment within the commuting area in which the dislocated worker resides shall be described in the grant application and shall be subject to approval by the Grant Officer.

(*b*) The cost of job search for a dislocated worker who meets the eligibility criteria under IV.1.b. above shall be an allowable readjustment cost, but shall not provide for more than 90 percent of the cost of necessary and reasonable job search expenses, and may not exceed a total of $800, unless the need for a greater amount is justified in the grant application and approved by the Grant Officer.

(*c*) These requirements shall not apply to regular job development activities and services provided to an eligible participant within the commuting area within which the eligible participant resides.

(iii)(*a*) Relocation shall be an allowable activity only where a dislocated worker who meets the eligibility criteria under IV.1.b. above cannot reasonably be expected to secure suitable employment in the commuting area in which the dislocated worker resides and has obtained suitable employment affording a reasonable expectation of long-term employment in the area in which the worker wishes to relocate, or has obtained a bona fide offer of such employment, provided that the worker is totally separated from employment at the time relocation commences.

(*b*) The cost of relocation for a dislocated worker who meets the eligibility criteria under IV.1.b. above shall not exceed an amount which is equal to the sum of 90 percent of the reasonable and necessary expenses incurred in transporting the dislocated worker and the dislocated worker's family, if any, and household effects, and a lump sum equivalent to three times such worker's average weekly wage up to a maximum of $800 per participant, unless a greater amount is justified to the satisfaction of the Grant Officer in the grant application and is approved by the Grant Officer. Necessary expenses shall be travel expenses for the dislocated worker and the dislocated worker's family and for the transfer of household effects. Reasonable costs for such travel and transfer expenses shall be by the least expensive, most reasonable form of transportation.

(iv)(*a*) Needs-related payments shall be an allowable cost for the Clean Air Employment Transition Assistance national reserve program, and shall be provided where an eligible participant meets the requirements of this section. An application for funds to assist workers dislocated as a result of a firm's compliance with requirements of the Clean Air Act shall contain assurances that such funds shall be used to provide needs-related payments to eligible participants to enable such participants to participate in and complete training or education programs provided under the grant. In developing a budget, applicants must be aware that the funds available for payment of needs related payments are limited and that, in projecting the use of budget resources, applicants must take into account those persons who will and will not be eligible for needs-related payments. For those determined or expected to be eligible, sufficient funds must be set aside to cover any anticipated needs-related payments.

(*b*) To qualify for needs-related payments, the dislocated worker who meets the eligibility criteria shall receive, or be the member of a family that receives (at the time of eligibility determination), a total family income that, in relation to family size, does not exceed the lower living standard income level as published annually in the **Federal Register** by DOL. The latest lower living standard income level was published in the **Federal Register** on May 25, 1991.

(*c*) To receive needs-related payments, the eligible participant shall not qualify for or must have ceased to qualify for unemployment compensation. An eligible individual who has ceased to qualify for unemployment compensation shall have been enrolled in a training or education program by the end of the thirteenth week of the worker's inital unemployment compensation benefit period, or, if later, by the end of the eighth week after being informed that a short-term layoff will, in fact, exceed 6 months.

(*d*) For purposes of paragraph (c), the term *enrolled in a training or education program* means that the worker's application for training has been approved and the training institution has furnished written notice that the worker has been accepted in the approved training program beginning within 30 calendar days.

(*e*) An eligible worker who does not qualify for unemployment compensation must be participating in a training or education program (section 314(e)(1)).

(*f*) Needs-related payments shall not be provided to any participant where the program operator determines that the participant is not making satisfactory progress in the training program, not to any participant receiving trade readjustment allowances, on-the-job training, out-of-area job search allowances, or relocation allowances under chapter 2 of Title III of the Trade Act of 1974 (19 U.S.C. 2271 *et seq.*) or 20 CFR part 617.

(*g*) The level of needs-related payments to an eligible dislocated worker in CAETA national reserve programs shall be equal to the higher of:

(A) The applicable level of unemployment compensation (i.e., the average of the weekly compensation payments made to the dislocated worker during the worker's initial unemployment compensation period); or

(B) The poverty level determined in accordance with criteria published by the Department of Health and Human Services.

(*h*)(A) The weekly payment level shall be determined at the time of the eligible participant's enrollment into training, and shall be provided to all eligible participants whose family income meets the requirements of paragraph IV.1.(b).

(B) Every three months from the date of the original determination of eligibility for needs-related payments, the family income for any participant participating in a training or education program shall be redetermined. Such a redetermination shall be based on the family income for the three month period using the same criteria that were used in the intial determination process, except that any income from needs-related payments shall not be included. The total revised family income so determined shall be annualized to determine the participant's current eligibility for needs-related payments.

(C) Where the revised family income exceeds the lower living level, the eligible participant shall not be eligible for needs-related payments. Where the revised family income does not exceed the lower living standard income level, the eligible participant shall continue to receive or become eligible for needs-related payments.

(D) An eligible participant may qualify or requalify for needs-related payments during the period of the training or education program.

(*i*) For purposes of determining an individual's eligibility for needs-related payments and the amount of such payment, if any, the following definitions shall be used by eligible grantees not funded pursuant to the Secretary/Governor agreement. For grantees funded pursuant to the Secretary/Governor's agreement, these definitions may be used, but where a State definition is used, family income shall not include unemployment compensation, child support payments and welfare payments.

(A) *Family* means spouses and dependent children residing in the same domicile. An adult handicapped individual shall be considered a family of one for eligibility purposes.

(B) *Family income* means all income actually received from all sources by all members of the family for the twelve-month (or six-month, annualized, if twelve-month data are not available) period prior to application. When computing family income, income of a spouse and other family members is counted for the portion of the twelve-month (or six-month, annualized, if twelve-month data are not available) period prior to application that the person was actually a member of the family.

(*j*) For the purposes of determining an individual's eligibility for participation, family income includes:

(A) Gross wages, including wages from community service employment (CSE), work experience, and on-the-job training (OJT) paid from Job Training Partnership Act funds, and salaries (before deductions);

(B) Net self-employment income (gross receipts minus operating expenses); and

(C) Other cash income received from sources such as interests, net rents, OASI (Old Age and Survivors Insurance) social security benefits, pensions, alimony, and periodic income from insurance policy annuities, and other sources of income.

(*k*) Family income does not include:

(A) Non-cash income such as food stamps or compensation received in the form of food or housing;

(B) Imputed value of owner-occupied property, *i.e.*, rental value;

(C) Public assistance payments;

(D) Cash payments received pursuant to a State plan approved under title I,

IV, X, or XVI of the Social Security Act, or disability insurance payments received under Title II of the Social Security Act;

(E) Federal, State, or local unemployment insurance benefits;

(F) Capital gains and losses;

(G) One-time unearned income, such as, but not limited to:

(*1*) Payments received for a limited fixed term under income maintenance programs and supplemental (private) unemployment benefits plans;

(*2*) One-time or fixed-term scholarship or fellowship grants;

(*3*) Accident, health, and casualty insurance proceeds;

(4) disability and death payments, including fixed-term (but not lifetime) life insurance annuities and death benefits;

(5) One-time awards and gifts;

(6) Inheritance, including fixed-term annuities;

(7) Fixed-term workers' compensation awards;

(8) Soil bank payments; and

(9) Agricultural crop stabilization payments;

(H) Pay or allowances that were previously received by any veteran while serving on active duty in the Armed Forces;

(I) Educational assistance and compensation payments to veterans and other eligible persons under chapters 11, 13, 31, 34, 35, and 36 of title 38, U.S. Code;

(J) Payments received under the Trade Act of 1974;

(K) Payments received under the Black Lung Benefits Act (30 U.S.C. 901 *et seq.*);

(L) Any income directly or indirectly derived from, or arising out of, any property; and services, compensation or funds provided by the United States in accordance with, or generated by, the exercise of any right guaranteed or protected by treaty; and any property distributed or income derived therefrom, or any amounts paid to or for the legatees or next of kin of any member, derived from or arising out of the settlement of an Indian claim; and

(M) Child support payments.

2. Eligible Grantees.

a. Funds available for a CAETA national reserve program shall be awarded to eligible grantees in accordance with the requirements of the Act and regulations, and the procedures, criteria and process contained in these guidelines.

b. Funds shall be distributed to eligible grantees in accordance with procedures specified in these applications.

c. Eligible grantees for CAETA programs shall be States, Title III substate grantees, employers, employer associations, and representatives of employees. However, a specific eligible grantee may not be an appropriate applicant for a particular project. The nature and extent of the proposed project will be factors in considering an application and the applicants ability to perform the work.

d. Employers, employer associations and representatives of employees may submit applications directly to the Grant Officer. Applications submitted by substate grantees must be submitted to the Grant Officer by the State.

3. Submission of Applications

a. Two types of applications may be submitted: regular full applications and emergency applications. Regular full applications shall follow the procedures and requirements as contained in this section and sections 4 and 5. a., b., c., and d below. Emergency applications shall be subject to the procedures and requirements contained in section 5e, below.

b. In the case of a multistate or industrywide project, the applicant shall submit the application directly to the Department of Labor Grant Officer at the address shown in the summary section above. In the case of an intrastate project, the application is to be submitted by or through the Governor to the Grant Officer. Each application shall contain the required certifications and assurances listed in section 4 below.

4. Assurances and Certifications

a. The following assurances shall be included with each application:

—The grantee assures that such funds shall be administered by the grantee in a manner consistent with the Act as amended, the JTPA regulations, the requirements contained in these application guidelines and in accordance with provisions specified in the proposal and amendments approved by the Grant Officer, if any, pursuant to the grant document signed by the Department of Labor Grant Officer.

—The grantee agrees to compile and maintain information on project implementation, performance and expenditures. The information shall, at a minimum, be consistent with the activities and cost categories contained in the project proposal and shall be available to the grantor as requested.

—The grantee assures that the information provided in the proposal is correct and the activities proposed conform to the Act, the Federal regulations for title III activities, and the requirements in these application guidelines.

—Following receipt of the grant approval, the grantee shall advise the Grant Officer of the projected date project operations will begin. If the date to be provided exceeds 30 days from receipt of the grant award, the grantee shall provide additional information explaining the projected implementation date.

—The grantee agrees to compile and maintain information on project implementation on a monthly, and performance and expenditures data on a quarterly, basis. The information shall, at a minimum, be consistent with the activities and cost categories contained in the project proposal and shall be available to the Department as requested, and

—The grantee agrees to review expenditures and enrollment data against the planned levels for the project and notify the Department expeditiously of any potential under-expenditure of funds.

Project proposals not accompanied by the above assurances shall not be accepted for review.

b. Each application shall also contain the following certifications:

(1) An original signature certification regarding "Drug-Free Workplace" must be submitted with the application except in the case where the applicant is a State. States may opt to submit a copy of the Statewide or agency certification required every fiscal year per Training and Employment Information Notice (TEIN) No. 15–90). This certification requirement applies only to the Federal grant applicant. The "Certification Regarding Drug-Free Workplace Requirements" form is found in appendix A.

(2) A "Certification Regarding Debarment, Suspension and Other Responsibility Matters, Primary Covered Transaction", must be submitted with all CAETA national reserve applications (except those related to national or agency-recognized emergency disasters) as required by the DOL regulations implementing Executive Order 12549, "Debarment and Suspension," 29 CFR 98.510. This certification form is found in appendix b.

(3) A "Certification Regarding Lobbying", as required by 29 CFR part 93, "New Restrictions on Lobbying," 54 FR 6736, 6751 (February 26, 1990). A suggested form incorporating the required text is found in appendix C.

(4) When the applicant is not the State JTPA entity, (i.e., subject to the JTPA

Governor/Secretary Agreement), SF 424B, Assurances—Non-Constructions Programs, with an original signature, must be submitted with the application. This assurance form is found in appendix D.

5. Application content.

Each application shall contain the following information in the format outlined below:

A. *Period of Award*: Awards will be made for an 18-month period to allow for project start-up (not to exceed 90 days), operation, and administrative closeout. If the period of operation is extended, the period of the award will be extended by an equal time period.

b. *Period of operation*: Applications should generally provide for a period of operation of 12 months but applications proposing a longer period of operation may be submitted with information supporting the need for the additional period.

c. *Synopsis of the project.* A short summary of pertinent information regarding the project shall be included and shall contain the following:

(1) The name and address of the project operator, along with the name and telephone number of a contact person for the grantee and project operator;

(2) The project locations (cities, counties, and States);

(3) The planned starting and ending dates of the project;

(4) The total amount of CAETA national reserve funds requested;

(5) The name(s) of the company(ies) from which the affected workers have been dislocated;

(6) The date(s) of employment termination and the number of workers affected;

(7) The names of the States, counties, and cities in which the affected workers reside;

(8) The total number of participants planned;

(9) The total number of placements planned;

(10) The planned cost per participant;

(11) The planned cost per entered employment; and

(12) The name, address, and telephone number of the signatory official for the project operator.

d. *Project Narrative.* The project narrative shall be a detailed explanation containing the following information, and shall not exceed 25 pages:

(1) Basic Information. A description of the need for the project and an explanation of how this need was determined. The description shall include:

(a) Information that demonstrates that the employment losses are the consequence of compliance with the Clean Air Act as amended, and that there are no prospects for reemployment in a similar industry or occupation within the commuting area in which the workers reside. Specific information must be provided to demonstrate what compliance with the Clean Air Act requirements resulted in the dislocation of the workers to be served by the proposal including as appropriate, identification of specific contracts cancelled; mines closed; plants closed; total jobs lost, jobs lost attributable to compliance with the Clean Air Act, and any other relevant information. A statement shall be included indicating how it was determined that this impact was related to compliance with the Clean Air Act. Information should be provided, as appropriate, for workers who were performing work directly at, or for, the facility impact by, and required to lay off workers, as a result of compliance with the requirements of the Clean Air Act. For example: To comply with the requirements of the Clean Air Act a utility company switches from high sulphur coal to low sulphur coal and contracts with different company to provide the low sulphur coal. The high sulphur coal mine closes. The proposal to serve the workers dislocated at the closed high sulphur coal mine must provide documentation to demonstrate that the mine was providing high sulphur coal to the particular utility, that the utility did switch to another provider for low sulphur coal and that the consequence was the closing of the high sulphur coal mine. The information shall also include documentation regarding any other causes, other than compliance with the requirements of the Clean Air Act, that contributed to the dislocations.

Proposals that do not provide adequate documentation and/or are unable to provide adequate documentation to support a decision to fund under these guidelines, shall automatically be considered for funding under the basic Title III national reserve discretionary application procedures.

(b) The schedule for layoffs and closing.

(c)(i) The number of afffected workers likely to participate in the program, taking into consideration the total number of workers affected by specific occupations, the wage levels for each occupation, the number of workers eligible to participate, the number likely to be transferred, and the number likely to be recalled. Applicants shall certify that recall within the next 12 months is highly unlikely for those dislocated workers to be served.

(ii) The number of affected workers who possess locally transferable skills, and who can be expected to find other employment with minimal or no assistance.

(iii) Where the layoff has occurred more than 4 months prior to the submittal of the application, information indicating how the applicant determined the number of affected workers who remain unemployed and in need of services, and

(d)(i) Evidence that the workers to be served are aware of and support the proposed program operator's application.

(ii) Information on the economic conditions for the State(s) and the geographic area(s) to be served as documented by the most recent unemployment rate for each State and area, or the economic and unemployment trends in the specific industry affected, to illustrate the severity of the need for such a project, and

(iii) If the proposed target group includes workers dislocated as a result of the relocation of a company plant, the city and the State to which the plant will be relocated shall be provided.

(2) *Existing Resources.* The project narrative shall explain why these dislocated workers cannot be served with existing resources, in particular State or substate grantee JTPA Title III formula funds.

(3) *Trade adjustment assistance (TAA) for workers under the Trade Act.* The application shall indicate whether an application has been made for TAA assistance, and if so, whether certification has been granted or denied for Trade Adjustment Assistance for workers. If certification has been issued, provide petition number, if available.

When a target group is certified as eligible to receive TAA including Trade Readjustment Allowances (TRA), national reserve funds may still be needed for those services not allowable under TAA such as assessment, job search assistance including job clubs, transportation assistance within the commuting area, counseling, child care and training that does not meet TAA training criteria. The coordination procedures established to track the project participants receiving TAA-funded training shall also be explained.

(4) *Employer/union assistance.* The project narrative shall explain in detail the nature and duration of any contractual obligation of, or any voluntary arrangement by, the employer(s) or union(s) to provide training-related services to terminated

employees. When applicable, severance pay arrangements shall be addressed.

(5) *Labor market information.* The project narrative shall contain a detailed discussion on available labor market data as it relates to the specific area in which dislocation services will be provided. Specific listings of demand occupations in the areas where the dislocated workers will be trained shall be included, as well as an explanation of how such occupations were identified. The narrative also shall contain a certification that the number of unemployed workers available for employment in the identified demand occupations for which retraining is planned is insufficient to meet the need.

(6) *Coordination and linkage.*

(a) Governors and substate grantees.

(i) The application shall include evidence that the Governor of each State and the appropriate Title III grantee of each substate area in which a project site is proposed have been informed of such application and given an opportunity to comment on how the proposed project would affect workers in the State or substate area.

(ii) Letters from the appropriate Governors and substate grantees shall be included to document that the opportunity was provided for review and comment of the application. Each Governor's letter shall indicate why the State has not funded the proposed project/subproject for that State as well as a description of the funding and assistance, if any, it will provide to the project/subproject. The substate area grantee letter shall indicate why the substate grantee is unable to provide sufficient services to the proposed project/subproject in the substate area, as well as a description of the funding and assistance, if any, it will provide to the project/subproject.

(b) *Private industry council (PIC)/local elected official (LEO).* All grant applications shall provide evidence that the appropriate PICs and LEOs have been given the opportunity for review and comment.

(c) *Labor organizations.* All applications for dislocated workers projects where a substantial number (at least 20 percent) of affected workers are represented by a labor organization(s) shall provide documentation of full consultation with the appropriate local labor organization in the development of the project design. Thus, documentation is required for each union representing at least 20 percent of the affected workers. The application must describe the involvement (if any) of organized labor in the development and operation of the proposed project activities.

(d) *Others.*

(i) Each application shall show that the proposed project for dislocated workers will coordinate with other State and local agencies and related programs including, but not limited to:

(*a*) The Unemployment Compensation System;

(*b*) The State Employment Service;

(*c*) The Pell Grant program;

(*d*) Other Federal programs;

(*e*) The Trade Adjustment Assistance (TAA) program, if applicable; and

(*f*) Other appropriate State and local program resources.

(*g*) In those instances where State and other funds, such as vocational education, economic development, TAA, or special appropriations, are available to the project, the application shall include a brief discussion of the activities for which those funds will be used and their relationship to the CAETA national reserve funds requested, taking into consideration section 141(b) of JTPA.

(7) *Description of services.* All applications shall include the description of services to be provided:

(a) *Intake and eligibility determination.* Applications shall describe the procedures to be used to recruit and ensure the eligibility of each participant and shall indicate what entity shall be accountable for eligibility determination.

(b) *Basic readjustment services.* Each application shall describe how assessment, job search assistance, counseling, job development and placement services and any other activities will be coordinated with retraining activities (assessment procedures shall include the capability to determine if a participant's reading skills are below the 8th grade level). See JTPA section 314(c), 29 U.S.C. 1661c(c).

(c) *Retraining services.* Applications shall describe the retraining to be provided, including the types and lengths of retraining for various occupations or occupational areas. For classroom skill training, list the likely providers, course titles (indicate whether customized or off-the-shelf), cost of each course and the specific demand occupation in which a participant who completes training will be placed. For on-the-job training, list job title or occupation, likely provider, length of training and entry level wage. (CAETA national reserve funds shall not be provided to substitute for such activities as the employer's traditional training responsibility associated with product model changes, the introduction of new products, general employee upgrading, and other such changes.) (See JTPA section 314(d), 29 U.S.C. 1661c(d)).

(d) *Participant supportive services.* All applications shall discuss which services will be provided and how they will be coordinated with training activities, including needs-related payments. See JTPA section 314(e), 29 U.S.C. 1661c(e).

(8) *Implementation plan.* The following information regarding implementation plans shall be included.

(a) A schedule for the implementation of program activities upon receipt of funds and a discussion of initial actions taken to support implementation. Enrollment of participants normally should occur no later than 90 days following the Grant Officer's authorization to incur costs against the funds awarded. If such a time schedule cannot be met or is inappropriate, an explanation of the implementation schedule provided shall be included, and

(b) Project quarterly implementation data showing the following projected cumulative data for the overall project and for such subproject site:

(i) Enrollments for each major activity: assessment, job search assistance, classroom training, occupational skills training, on-the-job training and other training;

(ii) Total terminations;

(iii) Number of participants entering employment from each activity; and

(iv) Expenditures.

(9) *Planned outcomes.* The applications shall include project data showing the projected overall:

(a) Cost per participant;

(b) Cost per entered employment;

(c) Entered employment rate; and

(d) Average wage rate at entered employment.

(10) *Financial and management capability.* Except where the actual project operator will be the State or the substate grantee, the application shall include a two-page or less description of the fiscal and management capabilities of the prospective project operator, including how the prospective project operator (or the division which will have responsibility for this project) is or will be organized. The description shall include information demonstrating:

(a) Current or previous relevant experience in providing services to dislocated workers or in administering training and employment programs; and

(b) The capability of the project operator to maintain and report as necessary required fiscal and management information. The Department may use records of past performance to evaluate management capability.

(11) *Detailed line item budget.* (a) Costs for each item shall be allocated under the following cost categories: Administration, Basic Readjustment Services, Retraining, and Supportive Services, including needs-related payments, as classified in 20 CFR 631.13. Cost limitations under section 315 of JTPA and 20 CFR 631.13 apply to applicants who receive funds pursuant to the Secretary/Governor agreement.

(i) The budget shall provide information by both cost categories as discussed below and by line-item. The suggested format in plate I is recommended for utilization and explanation of the budget and budget narrative.

(ii) Any costs that are subcontracted shall be so noted by the name of the contractor, and activity or function to be performed. Staffing costs shall be specifically identified. Training costs for off-the-shelf training packages purchased at catalogue prices or which meet the requirements for acceptable fixed-unit price, performance based contracts as published in the Federal Register at 54 FR 10456 (March 13, 1989) shall be identified. Administrative costs, prorated as required by 20 CFR 629.38(e)(2), shall be identified.

(iii) For a pass-through project, where the State is not the project operator, the State may reserve 1½ percent (.015) of the total grant award or $15,000, whichever is less, for costs associated with the administration of the grant such as contract negotiation, reporting activities and project oversight. This cost is to be charged to the Administration cost category. A State requesting administrative costs that exceed the maximum set aside permitted to be reserved by this paragraph must provide a justification including the projected person-hours and functions to be performed.

(iv) Each equipment purchase or lease with a unit cost of $500 or more must be specifically listed and justified.

	Administration	Basic readjustment	Retraining	Supportive services	Total
(1) Staff Salaries	X	X	X		X
Fringe Benefits	X	X	X		X
Attach supplement/narrative, listing and explaining each position, function, annual salary, no. of months charged to grant, time charge to grant).					
(2) Staff Travel	X	X	X		X
(3) Communications	X	X	X		X
(4) Facilities	X	X	X		X
• Rent	X	X	X		X
• Maintenance	X	X	X		X
• Utilities	X	X	X		X
(5) Consumable Office Supplies	X	X			X
(6) Consumable Instructional Materials		X	X		X
(7) Equipment	X	X	X		X
• Lease	X	X	X		X
• Purchase	X	X	X		X
(Attach supplement/narrative, listing and explaining each item leased and/or purchased $500 or over).					
(8) Relocation (Section 314)		X	X		X
(9) Subcontracts					
• Tuition			X		X
• OJT wages			X		X
• Fixed Unit Price 20 CFR 629.38(e)(2)					X
• Audit	X				X
• Other (Identify)	X	X	X		X
(10) Supportive Services				X	
• Needs Related payments				X	
• Child Care				X	
• Transportation				X	
• Other				X	
(11) Other (Identify)	X	X	X		X
(12) Totals	X	X	X		X

Instructions: All spaces marked with an "X" must be completed, if none, show an "O". Observe parenthetical notes cited above and attach a budget supplement/narrative to explain basis for each line item. Information should make clear how line item costs were calculated, classified and allocated, especially how staff positions are assigned and justified.

(b) Where CAETA national reserve funds will be combined with funds from other sources, e.g., other JTPA funds, employer or union training funds, State formula-allotted funds, State vocational education or economic development funds, the budget shall indicate for each line item the total costs and the amount to be funded from the CAETA national reserve account and the other funding source(s).

(c) No direct costs shall be charged for any activity that is included in the indirect cost line item.

e. *Emergency application.* (1)(a) Applications for emergency funding consideration shall be submitted only to address situations where:

(i) The dislocations occur under circumstances which do not provide a reasonable period of time to develop a full proposal, that is, a sudden and unexpected event;

(ii) The number of dislocated workers who meet the eligibility criteria is such that both the JTPA Title III substate grantee and the State are unable to respond to the dislocation event with existing resources; and

(iii) The workers did not receive a 60-day notice under the Worker Adjustment and Retraining Notification Act in advance of the layoff.

(2)(a) Emergency proposals shall be considered under a two-step process. The first step shall be an initial proposal request which shall contain limited key information. The second step, which will be necessary only where there is a decision made by the Grant Officer to approve the initial request, shall be the fully documented proposal. An applicant may also, if it so wishes, submit a fully documented proposal where the Grant

Officer determines not to approve an initial emergency proposal.

(b) The applicant's initial proposal request shall not exceed two pages (plus the transmittal letter and the assurances and certifications). This initial request may be submitted by FAX. An original signed request must also be submitted, and must be on file in the Department before any funds shall be released. The initial request shall contain:

(i) An explanation of the circumstances justifying the proposal to be submitted as an emergency request;

(ii) The areas to be served by the grant;

(iii) A brief assessment of the need, including the procedures used to determine that there are limited prospects for reemployment in a similar industry or occupation within the commuting area in which the affected workers reside;

(iv) An estimate of the number of individuals impacted by the emergency who meet the eligibility criteria under these guidelines;

(v) An estimate of the number of individuals to be served by the grant;

(vi) The amount of funds being requested;

(vii) A brief summary of the activities to be conducted;

(viii) A statement that demonstrates the employment losses are the consequence of compliance with the Clean Air Act of 1990, as amended, and that there are no prospects for reemployment in a similar industry or occupation within the commuting area in which the worker resides. Specific information demonstrating that the dislocations were a consequence of compliance with the Clean Air Act of 1990, as amended, shall be provided (see section 5.(d)(1)(a) above); and

(ix) The assurances and certifications specified in section 4.

(3) A full proposal shall be submitted where the Secretary approves an initial proposal request. The full proposal shall be submitted in accordance with the requirements contained in the award letter responding to the initial proposal request and the procedures and requirements contained in section 5.(a), (b), (c) and (d) above. The full proposal shall be reviewed following established procedures for the selection, review and approval of discretionary grant applications contained in sections 6, 7 and 8.

(4)(a) If a decision is made to fund a proposal, an amount, not to exceed one-third of the request, shall immediately be made available to commence operations allowable under the Act, regulations, the requirements and instructions contained in this document, and the Grant Officer approval letter, and;

(b) Once the fully documented proposal has been reviewed, the Department shall determine how much, if any, additional funds to provide. The final amount provided, when combined with the initial amount awarded, shall not exceed the total initial request.

6. Selection Criteria

The following selection criteria shall be used to determine the acceptability of the fully documented proposal and the final award amount for any already approved emergency award.

a. *Overall criteria.* Grant applicants for funds under this subpart shall be evaluated and selected for funding where the Grant Officer concurs that the dislocated workers to be served by the program described in the application, as documented by the information required in section 5.d(1)(a), will be or were dislocated as a consequence of compliance with the Clean Air Act of 1990, as amended, based on the extent to which the applicant demonstrates that the proposal:

(1) Meets the requirements contained in these guidelines;

(2) Meets the purposes of the Act and the regulations;

(3) Will encourage an effective response to the dislocations;

(4) Promotes an effective use of funds; and

(5) Provides all information required for a proposal.

b. *Specific criteria.* The following specific criteria shall apply to the evaluation of applications and selection of grantees for CAETA national reserve dislocated worker projects;

(1) *Priority area.* The Grant Officer shall determine whether the application will serve eligible dislocated workers in areas which have the greatest number of eligible workers.

(2) *Severity of need.* The Grant Officer shall consider the severity of the circumstances and need, as described in the grant application (*e.g.*, the immediacy of the schedule for layoff(s) and plant closing(s), the number of individuals affected, and the local and State unemployment rates compared to the national rates).

(3) *Target group.* The Grant Officer shall consider the concentration of the eligible individuals in a specific occupation(s), plant(s), or geographic area(s). The Grant Officer shall consider the extent to which the project is focused on the affected subpopulation actually requiring retraining services in order to remain in the labor force, as shown by an analysis of the characteristics of the affected workers.

The requirements of this paragraph shall be a major factor in determining the responsiveness of a proposal.

(4) *Coordination and linkages; utilization of resources.* The Grant Officer shall consider the extent to which the applicant has demonstrated that the project will be integrated with other existing program and community resources, including State/substate JTPA Title III formula-funded activities and other JTPA programs, welfare programs, and the Trade Adjustment Assistance program, where appropriate.

(5) *Services.* The Grant Officer shall consider the services to be provided and the service mix, including the degree to which the services appear to meet the needs of the target population; and the extent to which specific occupations are identified for retraining and placement. The applicant shall demonstrate that demand exists for workers to be served by the project, as well as the degree to which a proposal provides for retraining in specific occupations, either in an on-the-job or in a classroom setting or both. This demonstration shall be a major factor in determining whether to fund the application.

(6) *Management capability.* The Grant Officer shall consider the project operator's fiscal and program management capabilities to administer the proposed project and the project operator's demonstrated ability to begin program operations expeditiously in making a funding decision.

(7) *Cost effectiveness.* The Grant Officer shall consider the cost effectiveness of the project, *e.g.*, cost per participant, cost per placement, and cost per activity in relation to services provided and the outcomes projected, including expected wage levels; the level of funding designated for client services as opposed to staff support and administration; the proportion of staff costs to those costs directly attributable to client services such as tuition, and tools, and whether sufficient provision has been made for needs related payments. The Grant Officer shall also consider whether costs are necessary and reasonable. The costs effectiveness of the project shall be a major factor in determining whether to fund the application.

(8) *Other considerations.* The Grant Officer shall consider the overall effectiveness and efficiency of the proposal itself as compared to other proposals received.

(9) The Grant Officer shall consider written comments regarding the application submitted by the Governor or other interested parties.

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7. Application Review

a. An application shall be reviewed and approved or rejected based upon overall responsiveness of the application's content and the application of the selection criteria, taking into consideration the extent to which funds are available.

b. An application shall be rejected when:

(1) The application proposes to assist workers who were not dislocated as a consequence of compliance with the Clean Air Act, as amended. Projects not considered for funding for this reason shall be automatically considered for funding with regular Title III discretionary funds);

(2) The application does not meet the standards established by these guidelines;

(3) Other available applications appear to be more effective in achieving the goals of this category;

(4) The information required is not provided in sufficient detail to permit adequate assessment of the proposal;

(5) The information regarding why the State and substate grantee were unable to fund the proposed project is not provided or is unsatisfactory; or

(6) The application is not consistent with statutory and/or regulatory requirements.

8. Approval

a. In the case of an award to a State or to an existing State JTPA substate area grantee, the Grant Officer shall issue an award letter and Notice of Obligation (NOO) pursuant to the Secretary/Governor Agreement. For others, an appropriate grant document shall be executed by the Grant Officer and the grant applicant's official signatory.

b. The Act, JTPA regulations, these requirements, the grant award letter/agreement, assurances, grant application and any approved amendments thereto, and the approval by the Grant Officer in writing shall govern the operation of the project.

c. The effective date for the use of the funds shall be the date of the grant award letter or grant agreement authorizing costs to be incurred against the funds awarded. No costs may be incurred against awarded funds prior to such date. The authority to incur costs immediately is given, in most cases, to permit the most timely response to the needs of the newly dislocated worker. Where authority to immediately incur costs is not provided, specific instructions will be included in the Grant Officer's award letter regarding the actions needed in order to obtain authority to incur costs.

d. Instructions regarding grant amendments required due to changes in circumstances after the grant award will be transmitted in a separate document.

Signed at Washington, DC, this 29th day of January, 1992.

Roberts T. Jones,

Assistant Secretary for Employment and Training.

Appendix A

Certification Regarding Drug-Free Workplace Requirements

A. The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about—

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code):

____

____

____

____

Check [ ] if there are workplaces on file that are not identified here.

____

Name of Applicant Organization

____

Name and Title of Authorized Signatory

____

Signature and Date

Appendix B

Certification Regarding Debarment, Suspension, and Other Responsibility Matters Primary Covered Transactions

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 29 CFR part 98, § 98.510, Participants' responsibilities.

(Before Signing Certification, Read Attached Instructions Which Are an Integral Part of the Certification)

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses

enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

____

Name of Applicant Organization

____

Name and Title of Authorized Signatory

____

Signature and Date

Appendix C

Certification Regarding Lobbying

Certification for Contracts, Grants, Loans and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant local, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

____

Name of Applicant Organization

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Name and Title of Authorized Signatory

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Signature and Date

*Note: In these instances, "All," in the Final Rule is expected to be clarified to show that it applies to covered contract/grant transactions over $100,000 (per OMB).

Appendix D

SF 424–B

Assurances—Non-Construction Programs

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, personal gain.

4. Will initiate and complete the work within the applicable timeframe after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. Sections 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 CFR 900, subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (Pub. L. 88–352) which prohibits discrimination on the basis of race, color, national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex; (c) section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101–6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (Pub. L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (Pub. L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290dd–3 and 290ee–3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) title VIII of the Civil Rights Act of 1968 (42 U.S.C. 36–01 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Title II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91–646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. 276a to 276a–7), the Copeland Act (40 U.S.C. 276c and 18 U.S.C. 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of section 102(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) Institution of environmental quality control measures under the national Environmental Policy Act of 1969 (Pub. L. 91–190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. 7401 et seq.); (g) protection of under ground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (Pub. L. 93–

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523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (Pub. L. 93–205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a–1 et seq.).

14. Will comply with Pub. L. 93–348 regarding the protection of human subjects involved in research, development , and related activities supported by this award of assistance.

15. Will comply with the Laboratory animal Welfare Act of 1966 (Pub. L. 89–544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

[FR Doc. 92–2951 Filed 2–6–92; 8:45 am]

BILLING CODE 4510-30-M

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federal register

Friday
February 7, 1992

Part V

Environmental Protection Agency

40 CFR Part 300

National Priorities List for Uncontrolled Hazardous Waste Sites, Proposed Rule No. 12

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-4102-5]

National Priorities List for Uncontrolled Hazardous Waste Sites, Proposed Rule No. 12

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP") include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The National Priorities List ("NPL") constitutes this list.

The Environmental Protection Agency ("EPA") is proposing to add new sites to the NPL. This 12th major proposed rule includes 30 sites, of which 6 are Federal facility sites. The identification of a site for the NPL is intended primarily to guide EPA in determining which sites warrant further investigation to access the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. This proposed rule brings the number of proposed NPL sites to 52, of which 9 are Federal facility sites; 1,183 sites are on the NPL at this time, of which 116 are Federal facility sites. Proposed and final NPL sites total 1,235.

DATES: Comments on the Austin Avenue Radiation site, being proposed in this rule based on the health advisory criteria, must be submitted on or before March 9, 1992. Comments on all other sites must be submitted on or before April 7, 1992.

ADDRESSES: Mail original and three copies of comments (no facsimiles) to Larry Reed, Director, Hazardous Site Evaluation Division (Attn: NPL Staff), Office of Emergency and Remedial Response (OS–230), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. For Docket addresses and further details on their contents, see section I of the "**SUPPLEMENTARY INFORMATION**" portion of this preamble.

FOR FURTHER INFORMATION CONTACT: Martha Otto, Hazardous Site Evaluation Division, Office of Emergency and Remedial Response (OS–230), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, or the Superfund Hotline, Phone (300) 424–9346 or (703) 920–9810 in the Washington, DC metropolitan area).

SUPPLEMENTARY INFORMATION:

I. Introduction.
II. Purpose and Implementation of the NPL.
III. Contents of This Proposed Rule.
IV. Regulatory Impact Analysis.
V. Regulatory Flexibility Act Analysis.

I. Introduction

Background

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601–9675 ("CERCLA" or "the Act") in response to the dangers of uncontrolled hazardous waste sites. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act ("SARA"), Public Law No. 99–499, stat. 1613 *et seq.* To implement CERCLA, the Environmental Protection Agency ("EPA" or "the Agency") promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 CFR part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets forth the guidelines and procedures needed to respond under CERCLA to releases and threatened releases of hazardous substances, pollutants, or contaminants. EPA has revised the NCP on several occasions, most recently on March 8, 1990 (55 FR 8666).

Section 105(a)(8)(A) of CERCLA requires that the NCP include "criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action." As defined in CERCLA section 101(24), remedial action tends to be long-term in nature and involves response actions that are consistent with a permanent remedy for a release.

Mechanisms for determining priorities for possible remedial actions financed by the Trust Fund established under CERCLA (commonly referred to as the "Superfund") are included in the NCP at 40 CFR 300.425(c) (55 FR 8845, March 8, 1990). Under 40 CFR 300.425(c)(1), a site may be included on the NPL if it scores sufficiently high on the Hazard Ranking System ("HRS"), which EPA promulgated as appendix A of 40 CFR part 300. On December 14, 1990 (55 FR 51532), EPA promulgated revisions to the HRS partly in response to CERCLA section 105(c), added by SARA. The revised HRS evaluates four pathways: Ground water, surface water, soil exposure, and air. The HRS serves as a screening device to evaluate the relative potential of uncontrolled hazardous substances to pose a threat to human health or the environment. Those sites that score 28.50 or greater on the HRS are eligible for the NPL.

Under a second mechanism for adding sites to the NPL, each State may designate a single site as its top priority, regardless of the HRS score. This mechanism, provided by the NCP at 40 CFR 300.425(c)(2), requires that, to the extent practicable, the NPL include within the 100 highest priorities, one facility designated by each State representing the greatest danger to public health, welfare, or the environment among known facilities in the State.

The third mechanism for listing, included in the NCP at 40 CFR 300.425(c)(3), allows certain sites to be listed whether or not they score above 28.50, if all of the following conditions are met:

- The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Public Health Service has issued a health advisory that recommends dissociation of individuals from the release.
- EPA determines that the release poses a significant threat to public health.
- EPA anticipates that it will be more cost-effective to use its remedial authority (available only at NPL sites) than to use its removal authority to respond to the release.

Based on these criteria, and pursuant to section 105(a)(8)(B) of CERCLA, as amended by SARA, EPA prepares a list of national priorities among the known or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. That list, which is appendix B of 40 CFR part 300, is the National Priorities List ("NPL"). The discussion below may refer to the "releases or threatened releases" that are included on the NPL interchangeably as "releases," "facilities," or "sites."[1] CERCLA section 105(a)(8)(B) also requires that the NPL be revised at least annually. A site may undergo CERCLA-financed remedial action only after it is placed on the NPL, as provided in the NCP at 40 CFR 300.425(b)(1).

EPA promulgated an original NPL of 406 sites on September 8, 1983 (48 FR 40658). The NPL has been expanded since then, most recently on September 25, 1991 (56 FR 48438).

The NPL includes two sections, one of sites evaluated and cleaned up by EPA (the "General Superfund section"), and one of sites being addressed by other Federal agencies (the "Federal facilities section"). Under Executive Order 12580 and CERCLA section 120, each Federal agency is responsible for carrying out most response actions at facilities under its own jurisdiction, custody, or control, although EPA is responsible for preparing an HRS score; EPA is not the lead agency at these sites, and its role at such sites is accordingly less extensive than at other sites. The Federal facilities section includes those facilities at which EPA is not the lead agency. The general superfund section includes 1,067 sites and the Federal facilities section includes 116 sites, for a total of 1,183 sites on the NPL.

EPA may delete sites from the NPL where no further response is appropriate, as explained in the NCP at 40 CFR 300.425(e) (55 FR 8845, March 8, 1990). To date, the Agency has deleted 40 sites from the general superfund section of the NPL, most recently 2 sites on January 6, 1992 (57 FR 355):

John's Sludge Pond, Wichita, Kansas
Beachwood/Berkley Wells, Berkley Township, New Jersey

All 40 deleted sites are listed below.

FINAL SITES DELETED FROM NPL BECAUSE NO FURTHER RESPONSE NEEDED

[January 1992]

St	Site name	Location
AR	Cecil Lindsey	Newport.
AS	Taputimu Farm *	Island of Tutila.
AZ	Mountain View Mobile Home Estates (once listed as Globe) *.	Globe.
CA	Jibboom Junkyard	Sacramento.
CM	PCB Warehouse *	Saipan.
DE	New Castle Steel	New Castle County.
FL	Parramore Surplus	Mount Pleasant.
FL	Tri-City Oil Conservationist, Inc.	Tampa.
FL	Varsol Spill (once listed as part of Biscayne Aquifer).	Miami.
GA	Luminous Processes, Inc.	Athens.
IL	Petersen Sand & Gravel	Libertyville.
IN	International Minerals & Chemical Corp. (Terre Haute East Plant).	Terre Haute.
IN	Poer Farm	Hancock County.
IN	Wedzeb Enterprises	Lebanon.
KS	Johns' Sludge Pond	Wichita.
MD	Chemical Metals Industries, Inc.	Baltimore.
MD	Middletown Road Dump	Annapolis.
MI	Gratiot County Golf Course.	St. Louis.
MI	Whitehall Municipal Wells	Whitehall.
MN	Morris Arsenic Dump	Morris.
MN	Union Scrap Iron & Metal Co.	Minneapolis.
MS	Walcotte Chemical Co. Warehouses.	Greenville.
NC	PCB Spills *	243 Miles of Roads.
NJ	Beachwood/Berkeley Wells.	Ocean County.
NJ	Cooper Road	Voorhees Township.
NJ	Friedman Property (once listed as Upper Freehold Site).	Upper Freehold.
NJ	Krysowaty Farm	Hillsborough.
NJ	M&T Delisa Landfill	Asbury Park.
OH	Chemical & Minerals Reclamation.	Cleveland.
PA	Enterprise Avenue	Philadelphia.
PA	Lansdowne Radiation	Lansdowne.
PA	Lehigh Electric & Engineering Co.	Old Forge Borough.
PA	Presque Isle	Erie.
PA	Reeser's Landfill	Upper Macungie.
PA	Voortman Farm	Upper Saucon.
PA	Wade (ABM) (once listed as ABM-Wade).	Chester.
TT	PCB Wastes *	Pacific Trust Terr.
TX	Harris (Farley Street)	Houston.
VA	Matthews Electroplating*	Roanoke County.
WA	Tofidahl Drums	Brush Prairie.

Number of Sites Deleted: 40.
* State top-priority.

In addition, 25 sites in the general superfund section are in the "Construction Completion" category, including 13 sites added to the category on January 16, 1992 (57 FR 1872). When EPA activated the category on February 11, 1991 (56 FR 5634), it stated that the category would consist of sites awaiting deletion, sites awaiting the first 5-year review after the remedial action was completed, and sites undergoing long-term remedial action. EPA has decided to eliminate the 5-year review subcategory. On the basis of subsequent experience and analysis, EPA has determined that tying these two independent processes (5-year review and deletion) is unnecessary and potentially confusing. (December 24, 1991 (56 FR 66601)).

Thus, a total of 65 sites, all in the general superfund section, have been deleted or placed in the construction completion category.

Pursuant to the NCP at 40 CFR 300.425(c), this document proposes to add 30 sites to the NPL. Final and proposed sites now total 1,235.

Public Comment Period

The documents that form the basis for EPA's evaluation and scoring of sites in this rule are contained in dockets located both at EPA Headquarters and in the Regional offices. The dockets are available for viewing, by appointment only, after the appearance of this document. The hours of operation for the Headquarters docket are from 9 a.m. to 4 p.m., Monday through Friday exluding Federal holidays. Please contact individual Regional Dockets for hours.

Docket Coordinator, Headquarters, U.S. EPA CERCLA Docket Office, OS–245, Waterside Mall, 401 M Street, SW., Washington, DC 20460, 202/260–3046.

Evo Cunha, Region 1, U.S. EPA Waste Management Records Center, HES-CAN 6, J.F. Kennedy Federal Building, Boston, MA 02203–2211, 617/573–5729.

Ben Conetta, Region 2, 26 Federal Plaza, 7th Floor, room 740, New York, NY 10278, 212/264–6696.

Diane McCreary, Region 3, U.S. EPA Library, 3rd Floor, 841 Chestnut Building, 9th & Chestnut Streets, Philadelphia, PA 19107, 215/597–7904.

Beverly Fulwood, Region 4, U.S. EPA Library, room G–6, 345 Courtland Street, NE., Atlanta, GA 30365, 404/347–4216.

Cathy Freeman, Region 5, U.S. EPA, Records Center, Waste Management Division 7–J, Metcalfe Federal Building, 77 West Jackson Blvd., Chicago, IL 60604, 312/886–6214.

Bart Canellas, Region 6, U.S. EPA, 1445 Ross Avenue, Mail Code 6H–MA, Dallas, TX 75202–2733, 214/665–6740.

Steven Wyman, Region 7, U.S. EPA Library, 726 Minnesota Avenue, Kansas City, KS 66101, 913/551–7241.

Greg Oberley, Region 8, U.S. EPA, 999 18th Street, suite 500, Denver, CO 80202–2466, 303/294–7598.

Lisa Nelson, Region 9, U.S. EPA, 75 Hawthorne Street, San Francisco, CA 94105, 415/744–2347.

David Bennett, Region 10, U.S. EPA, 11th Floor, 1200 6th Avenue, Mail Stop HW–113, Seattle, WA 98101, 206/442–2103.

The Headquarters docket for this rule contains HRS score sheets for each proposed site; a Documentation Record for each site describing the information used to compute the score; pertinent information for any site affected by statutory requirements or EPA listing policies; and a list of documents referenced in the Documentation Record. Each Regional docket for this rule contains all of the above information for those sites that are in that Region, and, in addition, the technical reference documents relied upon and cited by EPA in calculating or evaluating the HRS scores for sites in that Region. Documents may be viewed, by appointment only, in the Headquarters or appropriate Regional Docket. Requests for copies may be directed to the Headquarters or appropriate Regional Docket. An informal written request, rather than a formal request under the Freedom of Information Act, should be the ordinary procedure for obtaining copies of any of these documents.

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[1] CERCLA section 105(a)(8)(B) defines the NPL as a list of "releases" and as a list of the highest priority "facilities." For ease of reference, EPA uses the term "site" to refer to all "releases" and "facilities" on the NPL.

EPA considers all comments received during the comment period. During the comment period, comments are placed in the Headquarters docket and are available to the public on an "as received" basis. A complete set of comments will be available for viewing in the Regional docket approximately one week after the formal comment period closes. Comments received after the comment period closes will be available in the Headquarters docket and in the Regional docket on an "as received" basis.

Comments that include complex or voluminous reports, or materials prepared for purposes other than HRS scoring, should point out the specific information that EPA should consider and how it affects individual HRS factor values. See *Northside Sanitary Landfill* v. *Thomas*, 849 F. 2d 1516 (D.C. Cir. 1988). After considering the relevant comments received during the comment period, EPA will add sites to the NPL if they meet requirements set out in the NCP and any applicable listing policies.

In past rules, EPA has attempted to respond to late comments, or when that was not practicable, to read all late comments and address those that brought to the Agency's attention a fundamental error in the scoring of a site. (See, most recently, 56 FR 35840, July 29, 1991). Although EPA intends to pursue the same policy with sites in this rule, EPA can guarantee that it will consider only those comments postmarked by the close of the formal comment period. EPA cannot delay a final listing decision solely to accommodate consideration of late comments.

Note that the comment period for the Austin Avenue Radiation site, which is being proposed based on the health advisory criteria and not the HRS score, is 30 days. This is based on the acute threat posed and the fact that documentation using the health advisory criteria is not nearly as complex to review as that using the HRS (all health advisory sites have 30-day comment periods). All other sites in this rule have a 60-day comment period.

II. Purpose and Implementation of the NPL

Purpose

The legislative history of CERCLA (Report of the Committee on Environment and Public Works, Senate Report No. 96–848, 96th Cong., 2d Sess. 60 (1980)) states the primary purpose of the NPL:

> The priority lists serve primarily informational purposes, identifying for the States and the public those facilities and sites or other releases which appear to warrant remedial actions. Inclusion of a facility or site on the list does not in itself reflect a judgment of the activities of its owner or operator, it does not require those persons to undertake any action, nor does it assign liability to any person. Subsequent government action in the form of remedial actions or enforcement actions will be necessary in order to do so, and these actions will be attended by all appropriate procedural safeguards.

The purpose of the NPL, therefore, is primarily to serve as an informational and management tool. The identification of a site for the NPL is intended primarily to guide EPA in determining which sites warrant further investigation to assess the nature and extent of the public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. The NPL also serves to notify the public of sites that EPA believes warrant further investigation. Finally, listing a site may, to the extent potentially responsible parties are identifiable at the time of listing, serve as notice to such parties that the Agency may initiate CERCLA-financed remedial action.

Implementation

The NCP at 40 CFR 300.425(b)(1) (55 FR 8845, March 8, 1990) limits expenditure of the Trust Fund for remedial actions to sites on the final NPL. However, EPA may take enforcement actions under CERCLA or other applicable statutes against responsible parties regardless of whether the site is on the NPL, although, as a practical matter, the focus of EPA's CERCLA enforcement actions has been and will continue to be on NPL sites. Similarly, in the case of CERCLA removal actions, EPA has the authority to act at any site, whether listed or not, that meets the criteria of the NCP at 40 CFR 300.425(b)(1) (55 FR 8845, March 8, 1990). As of the end of December 1991, EPA had conducted 2,133 removal actions, 523 of them at NPL sites. Information on removals is available from the Superfund Hotline.

EPA's policy is to pursue cleanup of NPL sites using all the appropriate response and/or enforcement actions available to the Agency, including authorities other than CERCLA. The Agency will decide on a site-by-site basis whether to take enforcement or other action under CERCLA or other authorities, proceed directly with CERCLA-financed response actions and seek to recover response costs after cleanup, or do both. To the extent feasible, once sites are on the NPL, EPA will determine high-priority candidates for CERCLA-financed response action and/or enforcement action through both State and Federal initiatives. EPA will take into account which approach is more likely to accomplish cleanup of the site most expeditiously while using CERCLA's limited resources as efficiently as possible.

The ranking of sites by HRS scores does not determine the sequence in which EPA funds remedial response actions, since the information collected to develop HRS scores is not sufficient in itself to determine either the extent of contamination or the appropriate response for a particular site. Moreover, the sites with the highest scores do not necessarily come to the Agency's attention first, so that addressing sites strictly on the basis of ranking would in some cases require stopping work at sites where it was already underway. Thus, EPA relies on further, more detailed studies in the remedial investigation/feasibility study (RI/FS) that typically follows listing.

The RI/FS determines the nature and extent of the threat presented by the contamination (40 CFR 300.430(a)(2) (55 FR 8846, March 8, 1990). It also takes into account the amount of contaminants in the environment, the risk to affected populations and environment, the cost to correct problems at the site, and the response actions that have been taken by potentially responsible parties or others. Decisions on the type and extent of action to be taken at these sites are made in accordance with subpart E of the NCP (55 FR 8839, March 8, 1990). After conducting these additional studies, EPA may conclude that it is not desirable to initiate a CERCLA remedial action at some sites on the NPL because of more pressing needs at other sites, or because a private party cleanup is already underway pursuant to an enforcement action. Given the limited resources available in the Trust Fund, the Agency must carefully balance the relative needs for response at the numerous sites it has studied. It is also possible that EPA will conclude after further analysis that the site does not warrant remedial action.

RI/FS at Proposed Sites

An RI/FS may be performed at proposed sites (or even non-NPL sites) pursuant to the Agency's removal authority under CERCLA, as outlined in the NCP at 40 CFR 300.425(b)(1). Although an RI/FS generally is conducted at a site after it has been placed on the NPL, in a number of circumstances the Agency elects to conduct an RI/FS at a proposed NPL site in preparation for a possible CERCLA-financed remedial action, such as when the Agency believes that a delay may create unnecessary risks to public health or the environment. In addition, the Agency may conduct an RI/FS to assist in determining whether to conduct a removal or enforcement action at a site.

Facility (Site) Boundaries

The purpose of the NPL is merely to identify releases or threatened releases of hazardous substances that are priorities for further evaluation. The Agency believes that it would be neither feasible nor consistent with this limited purpose for the NPL to attempt to describe releases in precise geographical terms. The term "facility" is broadly defined in CERCLA to include any area where a hazardous substance has "come to be located" (CERCLA section 101(9)), and the listing process is not intended to define or reflect boundaries of such facilities or releases. Site names are provided for general identification purposes only. Knowledge regarding the extent of sites will be refined as more information is developed during the RI/FS and even during implementation of the remedy.

Because the NPL does not assign liability or define the geographic extent of a release, a listing need not be amended if further research into the extent of the contamination reveals new information as to its extent. This is further explained in preambles to past NPL rules, most recently February 11, 1991 (56 FR 5598).

III. Contents of This Proposed Rule

Table 1 identifies the 24 NPL sites in the general superfund section and table 2 identifies the 6 NPL sites in the Federal facilities section being proposed in this rule. Both tables follow this preamble. All but one site are proposed based on HRS scores of 28.50 or above. One site, Austin Avenue Radiation Site, is being proposed based on the ATSDR health advisory criteria. Each proposed site is placed by score in a group corresponding to groups of 50 sites presented within the NPL. For example, a site in group 4 of this proposal has a score that falls within the range of scores covered by the fourth group of 50 sites on the NPL.

Since promulgation of the original NPL (48 FR 40660, September 8, 1983), EPA has arranged the NPL by rank based on HRS scores and presented sites on the NPL in groups of 50 to emphasize that minor differences in scores do not necessarily represent significantly different levels of risk.

EPA has proposed an alternative, and what it believes to be more useful, format for presenting NPL sites in both proposed and final rules (56 FR 35843, July 29, 1991). Under this approach, proposed and final rules would present sites in alphabetical order by State and by site name within the State, as well as identify sites in each rule by rank. Once a year the entire NPL, appendix B, would be published alphabetically by State. EPA has requested comment on that approach. Until all comments are received and considered, no final decision on the format will be made. The following table presents the 24 general superfund section sites and 6 Federal facility section sites in this rule in the proposed format.

NATIONAL PRIORITIES LIST, GENERAL SUPERFUND SECTION PROPOSED RULE #12

[By state]

State	Site name	City/county
AR	Popile, Inc	El Dorado.
AR	West Memphis Landfill	West Memphis.
CA	Cooper Drum Co	South Gate.
CA	GBF, Inc. Dump	Antioch.
CA	McCormick & Baxter Creosoting Co.	Stockton.
CO	Smeltertown Site	Salida.
FL	Helena Chemical Co. (Tampa Plant).	Tampa.
FL	Stauffer Chemical Co. (Tampa Plant).	Tampa.
FL	Stauffer Chemical Co. (Tarpon Springs Plant).	Tarpon Springs.
IN	U.S. Smelter and Lead Refinery, Inc.	East Chicago.
KS	57th and North Broadway Streets Site.	Wichita Heights.
LA	American Creosote Works, Inc. (Winnfield Plant).	Winnfield.
MA	Blackburn & Union Privileges.	Walpole.
MO	Big River Mine Tailings/St. Joe Minerals Corp.	Desloge.
NC	General Electric Co./Shepherd Farm.	East Flat Rock.
OR	Northwest Pipe & Casing Co.	Clackamas.
PA	Austin Avenue Radiation Site.	Lansdowne.
PA	Crater Resources, Inc./Keystone Coke Co./Alan Wood Steel Co.	Upper Merion Township.
PA	Foote Mineral Co	East Whiteland Township.
PA	Metropolitan Mirror and Glass Co., Inc.	Frackville.
SC	Koppers Co., Inc. (Charleston Plant).	Charleston.
UT	Richardson Flats Tailings	Summit County
VI	Tutu Wellfield	Tutu.
WI	Refuse Hideaway Landfill	Middleton.

Number of Sites Proposed for Listing: 24.

NATIONAL PRIORITIES LIST, FEDERAL FACILITIES SECTION PROPOSED RULE #12

[By state]

State	Site name	City/county
CA	Concord Naval Weapons Station.	Concord.
CA	Jet Propulsion Laboratory (NASA).	Pasadena.
GU	Andersen Air Force Base	Yigo.
TN	Memphis Defense Depot	Memphis.
VA	Naval Surface Warfare Center—Dahlgren.	Dahlgren.
VA	Naval Weapons Station—Yorktown.	Yorktown.

Number of Sites Proposed for Listing: 6.

Statutory Requirements

CERCLA section 105(a)(8)(B) directs EPA to list priority sites "among" the known releases or threatened releases of hazardous substances, pollutants, or contaminants, and section 105(a)(8)(A) directs EPA to consider certain enumerated and "other appropriate" factors in doing so. Thus, as a matter of policy, EPA has the discretion not to use CERCLA to respond to certain types of releases. Where other authorities exist, placing sites on the NPL for possible remedial action under CERCLA may not be appropriate. Therefore, EPA has chosen not to place certain types of sites on the NPL even though CERCLA does not exclude such action. If, however, the Agency later determines that sites not listed as a matter of policy are not being properly responded to, the Agency may place them on the NPL.

The listing policies and statutory requirements of relevance to this proposed rule cover sites subject to the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6901–6991i) and Federal facility sites. These policies and requirements are explained below and have been explained in greater detail in previous rulemakings (56 FR 5598, February 11, 1991).

Releases From Resource Conservation and Recovery Act (RCRA) Sites

EPA's policy is that sites in the general superfund section subject to RCRA Subtitle C corrective action authorities will not, in general, be placed on the NPL. However, EPA will list certain categories of RCRA sites subject to subtitle C corrective action authorities, as well as other sites subject to those authorities, if the Agency concludes that doing so best furthers the aims of the NPL/RCRA policy and the CERCLA program. EPA has explained these policies in detail in past Federal Register discussions (51 FR 21054, June 10, 1986; 53 FR 23978, June 24, 1988; 54 FR 41000, October 4, 1989; 56 FR 5602, February 11, 1991).

Consistent with EPA's NPL/RCRA policy, EPA is proposing to add three sites to the general superfund section of the NPL that are subject to RCRA subtitle C corrective action authorities. These are McCormick and Baxter Creosoting Co. in Stockton, California, U.S. Smelter and Lead Refinery, Inc. in East Chicago, Indiana, and General Electric Co./Shepherd Farm in East Flat Rock, North Carolina. Material has been placed in the public docket for the U.S. Smelter and Lead Refinery, Inc. site and the McCormick and Baxter Creosoting Co. site confirming that the owners are in bankruptcy and unable to pay for cleanup, and for the General Electric Co./Shepherd Farm site confirming its converter status.

Releases From Federal Facility Sites

On March 13, 1989 (54 FR 10520), the Agency announced a policy for placing Federal facility sites on the NPL if they meet the eligibility criteria (e.g., an HRS score of 28.50 or greater), even if the Federal facility also is subject to the corrective action authorities of RCRA subtitle C. In that way, those sites could be cleaned up under CERCLA, if appropriate.

In this rule, the Agency is proposing to add six sites to the Federal facilities section of the NPL.

Austin Avenue Radiation Site

The Austin Avenue Radiation site, Lansdowne, Pennsylvania, consists of a duplex apartment, a warehouse attached to the apartment, other residences where radioactive wastes have been deposited, and an adjacent railroad right-of-way. The warehouse is the former location of the W.L. Cummings Radium Processing Company, which operated a radium refining process from 1915 to 1925. The apartment and nearby areas are believed to have been contaminated with radium tailings and subsequent radioactive decay from the operation.

The ATSDR Public Health Advisory issued on September 6, 1991 recommends the immediate dissociation of residents from the site. Although there are no longer any residents in either the apartment or warehouse, the site has no security and ATSDR is concerned about the potential for fires, intrusion, or unauthorized events at the site. In case of a fire, the contaminants would be indiscriminantly distributed throughout the neighborhood, which would result in widespread contamination. In addition, nearby homes are contaminated with these wastes.

The health advisory and other supporting documentation have been placed in the public docket.

IV. Regulatory Impact Analysis

The costs of cleanup actions that may be taken at sites are not directly attributable to placement on the NPL, as explained below. Therefore, the Agency has determined that this rulemaking is not a "major" regulation under Executive Order 12291. EPA has conducted a preliminary analysis of the economic implications of today's proposal to add new sites to the NPL. EPA believes that the kinds of economic effects associated with this proposed revision are generally similar to those identified in the regulatory impact analysis (RIA) prepared in 1982 for revisions to the NCP pursuant to section 105 of CERCLA (47 FR 31180, July 16, 1982) and the economic analysis prepared when amendments to the NCP were proposed (50 FR 5882, February 12, 1985). The Agency believes that the anticipated economic effects related to proposing to add these sites to the NPL can be characterized in terms of the conclusions of the earlier RIA and the most recent economic analysis. This rule was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Costs

This proposed rulemaking is not a "major" regulation because it does not establish that EPA necessarily will undertake remedial action, nor does it require any action by a private party or determine its liability for site response costs. Costs that arise out of responses at sites in the EPA section of the NPL result from site-by-site decisions about what actions to take, not directly from the act of listing itself. Nonetheless, it is useful to consider the costs associated with responding to all sites in this rule. The proposed listing of a site on the NPL may be followed by a search for potentially responsible parties and a Remedial Investigation/Feasibility Study (RI/FS) to determine if remedial actions will be undertaken at a site. The selection of a remedial alternative, and design and construction of that alternative, follow completion of the RI/FS, and operation and maintenance (O&M) activities may continue after construction has been completed.

EPA initially bears costs associated with responsible party searches. Responsible parties may enter into consent orders or agreements to conduct or pay the costs of the RI/FS, remedial design and construction, and O&M, or EPA and the States may share costs up front and subsequently bring an action for cost recovery.

The State's share of site cleanup costs for Fund-financed actions is governed by CERCLA section 104. For privately-owned sites, as well as at publicly-owned but not publicly-operated sites, EPA will pay for 100% of the costs of the RI/FS and remedial planning, and 90% of the costs of the remedial action, leaving 10% to the State. For publicly-operated sites, the State's share is at least 50% of all response costs at the site, including the RI/FS and remedial design and construction of the remedial action selected. After the remedy is built, costs fall into two categories:

- For restoration of ground water and surface water, EPA will share in start-up costs according to the ownership criteria in the previous paragraph for 10 years or until a sufficient level of protectiveness is achieved before the end of 10 years. 40 CFR 300.435(f)(3).
- For other cleanups, EPA will share the cost of a remedy until it is operational and functional, which generally occurs after one year. 40 CFR 300.435(f)(2), 300.510(c)(2). After that, the State assumes all O&M costs. 40 CFR 300.510(c)(1).

In previous NPL rulemakings, the Agency estimated the costs associated with these activities (RI/FS, remedial design, remedial action, and O&M) on an average-per-site and total cost basis. EPA will continue with this approach, using the most recent (1988) cost estimates available; these estimates are presented below. However, costs for individual sites vary widely, depending on the amount, type, and extent of contamination. Additionally, EPA is unable to predict what portions of the total costs responsible parties will bear, since the distribution of costs depends on the extent of voluntary and negotiated response and the success of any cost-recovery actions.

Cost category	Average total cost per site [1]
RI/FS	$1,300,00
Remedial Design	1,500,000
Remedial Action	[2] 25,000,000
Net present value of O&M [3]	[2] 3,770,000

[1] 1988 U.S. Dollars

[2] Includes State cost-share

[3] Assumes cost of O&M over 30 years, $406,000 for the first year and 10% discount rate.

Source: Office of Program Management, Office of Emergency and Remedial Response, U.S. EPA, Washington, DC.

Costs to States associated with today's proposed rule arise from the required State cost-share of: (1) 10% of remedial actions and 10% of first-year O&M costs at privately-owned sites and sites that are publicly-owned but not publicly-operated; and (2) at least 50% of the remedial planning (RI/FS and remedial design), remedial action, and first-year O&M costs at publicly-operated sites. States will assume the cost for O&M after EPA's participation ends. Using the assumptions developed in the 1982 RIA for the NCP, EPA has assumed that 90% of the non-Federal sites proposed for the NPL in this rule will be privately-owned and 10% will be State- or locally-operated. Therefore, using the budget projections presented above, the cost to States of undertaking Federal remedial planning and actions at all non-Federal sites in today's proposed rule, but excluding O&M costs, would be approximately $97 million. State O&M costs cannot be accurately determined because EPA, as noted above, will share O&M costs for up to 10 years for restoration of ground water and surface water, and it is not known how many sites will require this treatment and for how long. However, based on past experience, EPA believes a reasonable estimate is that it will share start-up costs for up to 10 years at 25% of sites. Using this estimate, State O&M costs would be approximately $80 million. As with the EPA share of costs, portions of the State share will be borne by responsible parties.

Placing a hazardous waste site on the NPL does not itself cause firms responsible for the site to bear costs. Nonetheless, a listing may induce firms to clean up the sites voluntarily, or it may act as a potential trigger for subsequent enforcement or cost-recovery actions. Such actions may impose costs on firms, but the decisions to take such actions are discretionary and made on a case-by-case basis. Consequently, these effects cannot be precisely estimated. EPA does not believe that every site will be cleaned up by a responsible party. EPA cannot project at this time which firms or industry sectors will bear specific portions of the response costs, but the Agency considers: the volume and nature of the waste at the sites; the strength of the evidence linking the wastes at the site to the parties; the parties' ability to pay; and other factors when deciding whether and how to proceed against the parties.

Economy-wide effects of this proposed amendment to the NCP are aggregations of effects on firms and State and local governments. Although effects could be felt by some individual firms and States, the total impact of this proposal on output, prices, and employment is expected to be negligible at the national level, as was the case in the 1982 RIA.

Benefits

The real benefits associated with today's proposal to place additional sites on the NPL are increased health and environmental protection as a result of increased public awareness of potential hazards. In addition to the potential for more Federally-financed remedial actions, expansion of the NPL could accelerate privately-financed, voluntary cleanup efforts. Proposing sites as national priority targets also may give States increased support for funding responses at particular sites.

As a result of the additional CERCLA remedies, there will be lower human exposure to high-risk chemicals, and higher-quality surface water, ground water, soil, and air. These benefits are expected to be significant, although difficult to estimate before the RI/FS is completed at these sites.

VII. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act of 1980 requires EPA to review the impacts of this action on small entities, or certify that the action will not have a significant impact on a substantial number of small entities. By small entities, the Act refers to small businesses, small government jurisdictions, and nonprofit organizations.

While this rule proposes revisions to the NCP, they are not typical regulatory changes since the revisions do not automatically impose costs. As stated above, adding sites to the NPL does not in itself require any action by any private party, nor does it determine the liability of any party for the cost of cleanup at the site. Further, no identifiable groups are affected as a whole. As a consequence, impacts on any group are hard to predict. A site's proposed inclusion on the NPL could increase the likelihood of adverse impacts on responsible parties (in the form of cleanup costs), but at this time EPA cannot identify the potentially affected businesses nor estimate the number of small businesses that might also be affected.

The Agency does expect that CERCLA actions could significantly affect certain industries, and firms within industries, that have caused a proportionately high percentage of waste site problems. However, EPA does not expect the listing of these sites to have a significant economic impact on a substantial number of small businesses.

In any case, economic impacts would occur only through enforcement and cost-recovery actions, which EPA takes at its discretion on a site-by-site basis. EPA considers many factors when determining enforcement actions, including not only the firm's contribution to the problem, but also its ability to pay.

The impacts (from cost recovery) on small governments and nonprofit organizations would be determined on a similar case-by-case basis.

List of Subjects in 40 CFR Part 300

Air pollution control, Chemicals, Hazardous materials, Intergovernmental relations, Natural resources, Oil pollution, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

TABLE 1.—NATIONAL PRIORITIES LIST, GENERAL SUPERFUND SECTION PROPOSED RULE #12

[By group]

NPL Gr [1]	State	Site name	City/county
1	CA	McCormick & Baxter Creosoting Co.	Stockton
1	CO	Smeltertown Site	Salida
1	FL	Stauffer Chemical Co. (Tampa Plant).	Tampa
1	FL	Stauffer Chemical Co. (Tarpon Springs Plant).	Tarpon Springs
1	IN	U.S. Smelter and Lead Refinery, Inc.	East Chicago
1	MO	Big River Mine Tailings/St. Joe Minerals Corp.	Desloge
1	NC	General Electric Co./Shepherd Farm.	East Flat Rock
4	AR	West Memphis Landfill.	West Memphis
4	CA	GBF, Inc. Dump	Antioch.
4	OR	Northwest Pipe & Casing Co.	Clackamas
4	UT	Richardson Flats Tailings.	Summit County
5	AR	Popile, Inc.	El Dorado
5	CA	Cooper Drum Co.	South Gate
5	KS	57th and North Broadway Streets Site.	Wichita Heights

TABLE 1.—NATIONAL PRIORITIES LIST, GENERAL SUPERFUND SECTION PROPOSED RULE #12—Continued

[By group]

NPL Gr [1]	State	Site name	City/county
5	LA	American Creosote Works, Inc. (Winnfield Plant).	Winnfield.
5	MA	Blackburn and Union Privileges.	Walpole.
5	PA	Crater Resources, Inc./Keystone Coke Co./Alan Wood Steel Co.	Upper Merion Twp.
5	PA	Foote Mineral Co.	East Whiteland Twp.
5	SC	Koppers Co., Inc. (Charleston Plant).	Charleston.
5	VI	Tutu Wellfield	Tutu.
15	PA	Metropolitan Mirror and Glass Co., Inc.	Frackville
15	WI	Refuse Hideaway Landfill.	Middleton.
20	FL	Helena Chemical Co. (Tampa Plant).	Tampa.
22	PA	Austin Avenue Radiation Site.	Lansdowne

Number of Sites Proposed for Listing 24.

[1] Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL.

TABLE 2.—NATIONAL PRIORITIES LIST, FEDERAL FACILITIES SECTION PROPOSED RULE #12

[By group]

NPL Gr [1]	State	Site name	City/county
2	TN	Memphis Defense Depot.	Memphis.
5	CA	Concord Naval Weapons Station.	Concord.
5	CA	Jet Propulsion Laboratory (NASA).	Pasadena.
5	GU	Anderson Air Force Base.	Yigo.
5	VA	Naval Surface Warfare Center—Dahlgren.	Dahlgren.
5	VA	Naval Weapons Station—Yorktown.	Yorktown.

Number of Sites Proposed for Listing: 6.

[1] Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL.

Authority: 42 U.S.C. 9601–9657; 33 U.S.C. 1321(c)(2); E.O. 11735, 38 FR 21243, E.O. 12580, 52 FR 2923.

Dated: January 27, 1992.

Don R. Clay,

Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 92-3016 Filed 2-6-92; 8:45 am]

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federal register

Friday
February 7, 1992

Part VI

The President

Proclamation 6402—To Amend the Generalized System of Preferences

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Presidential Documents

Title 3—

The President

Proclamation 6402 of February 5, 1992

To Amend the Generalized System of Preferences

By the President of the United States of America

A Proclamation

1. Pursuant to sections 501 and 502 of the Trade Act of 1974, as amended (the 1974 Act) (19 U.S.C. 2461 and 2462), and having due regard for the eligibility criteria set forth therein, I have determined that it is appropriate to designate Estonia, Latvia, and Lithuania as beneficiary developing countries for purposes of the Generalized System of Preferences (GSP).

2. Section 604 of the 1974 Act (19 U.S.C. 2483) authorizes the President to embody in the Harmonized Tariff Schedule of the United States (HTS) the substance of the provisions of that Act, and of other acts affecting import treatment, and actions thereunder.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, including but not limited to title V and section 604 of the 1974 Act, do proclaim that:

(1) General note 3(c)(ii)(A) to the HTS, listing those countries whose products are eligible for benefits of the GSP, is modified by inserting "Estonia", "Latvia", and "Lithuania" in alphabetical order in the enumeration of independent countries.

(2) Any provisions of previous proclamations and Executive orders inconsistent with the provisions of this proclamation are hereby superseded to the extent of such inconsistency.

(3) The amendment made by this proclamation shall be effective with respect to articles both: (i) imported on or after January 1, 1976, and (ii) entered, or withdrawn from warehouse for consumption, on or after 15 days after the date of publication of this proclamation in the **Federal Register**.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of February, in the year of our Lord nineteen hundred and ninety-two, and of the Independence of the United States of America the two hundred and sixteenth.

Geo Bush

[FR Doc. 92-3164
Filed 2-6-92; 10:37 am]
Billing code 3195-01-M

Editorial note: For the President's letter to Congressional leaders on this amendment, see issue 6 of vol. 28 of the *Weekly Compilation of Presidential Documents*.

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Regulation 732]

Navel Oranges Grown in Arizona and Designated Part of California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona navel oranges that may be shipped to domestic markets during the period from February 7 through February 13, 1992. Consistent with program objectives, such action is needed to establish and maintain orderly marketing conditions for fresh California-Arizona navel oranges for the specified week. Regulation was recommended by the Navel Orange Administrative Committee (Committee), which is responsible for local administration of the navel orange marketing order.

EFFECTIVE DATE: Regulation 732 [7 CFR part 907] is effective for the period from February 7 through February 13, 1992.

FOR FURTHER INFORMATION CONTACT: Christian D. Nissen, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, room 2523-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-1754.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order No. 907 [7 CFR part 907], as amended, regulating the handling of navel oranges grown in Arizona and designated part of California. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, hereinafter referred to as the "Act."

This final rule has been reviewed by the Department of Agriculture (Department) in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of the use of volume regulations on small entities as well as larger ones.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 130 handlers of California-Arizona navel oranges subject to regulation under the navel orange marketing order and approximately 4,000 navel orange producers in California-Arizona. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.601] as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of California-Arizona navel oranges may be classified as small entities.

The California-Arizona navel orange industry is characterized by a large number of growers located over a wide area. The production area is divided into four districts which span Arizona and part of California. The largest proportion of navel orange production is located in District 1, Central California, which represented about 79 percent of the total production in 1990-91. District 2 is located in the southern coastal area of California and represented almost 18 percent of 1990-91 production; District 3 is the desert area of California and Arizona, and it represented slightly less than 3 percent; and District 4, which represented slightly less than 1 percent, is northern California. The Committee's revised estimate of 1991-92 production is 64,000 cars (one car equals 1,000 cartons at 37.5 pounds net weight each), as compared with 32,695 cars during the 1990-91 season.

The three basic outlets for California-Arizona navel oranges are the domestic fresh, export, and processing markets. The domestic fresh (regulated) market is a preferred market for California-Arizona navel oranges while the export market continues to grow. The Committee has estimated that about 68 percent of the 1991-92 crop of 64,600 cars will be utilized in fresh domestic channels (43,650 cars), with the remainder being exported fresh (14 percent), processed (16 percent), or designated for other uses (2 percent). This compares with the 1990-91 total of 16,675 cars shipped to fresh domestic markets, about 51 percent of that year's crop. In comparison to other seasons, 1990-91 production was low because of a devastating freeze that occurred during December 1990.

Volume regulations issued under the authority of the Act and Marketing Order No. 907 are intended to provide benefits to producers. Producers benefit from increased returns and improved market conditions. Reduced fluctuations in supplies and prices result from regulating shipping levels and contribute to a more stable market. The intent of regulation is to achieve a more even distribution of oranges in the market throughout the marketing season.

Based on the Committee's marketing policy, the crop and market information provided by the Committee, and other information available to the Department, the costs of implementing the regulations are expected to be more than offset by the potential benefits of regulation.

Reporting and recordkeeping requirements under the navel orange marketing order are required by the Committee from handlers of navel oranges. However, handlers in turn may require individual producers to utilize certain reporting and recordkeeping practices to enable handlers to carry out their functions. Costs incurred by handlers in connection with recordkeeping and reporting requirements may be passed on to growers.

Major reasons for the use of volume regulations under this marketing order are to foster market stability and

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enhance producer revenue. Prices for navel oranges tend to be relatively inelastic at the producer level. Thus, even a small variation in shipments can have a great impact on prices and producer revenue. Under these circumstances, strong arguments can be advanced as to the benefits of regulation to producers, particularly smaller producers.

The Committee adopted its marketing policy for the 1991–92 season on June 25, 1991. The Committee reviewed its marketing policy at district meetings as follows: Districts 1 and 4 on September 24, 1991, in Visalia, California; and Districts 2 and 3 on October 1, 1991, in Ontario, California. The Committee subsequently revised its marketing policy at a meeting on October 15, 1991. The marketing policy discussed, among other things, the potential use of volume and size regulations for the ensuing season. The Committee considered the use of volume regulation for the season. This marketing policy is available from the Committee or Mr. Nissen. The Department reviewed that policy with respect to administrative requirements and regulatory alternatives in order to determine if the use of volume regulations would be appropriate.

The Committee met publicly on February 4, 1992, in Visalia, California, to consider the current and prospective conditions of supply and demand and recommended, with 6 members voting in favor, 3 opposing, and 2 abstaining, that 1,300,000 cartons is the quantity of navel oranges deemed advisable to be shipped to fresh domestic markets during the specified week. The marketing information and data provided to the Committee and used in its deliberations was compiled by the Committee's staff or presented by Committee members at the meeting. This information included, but was not limited to, price data for the previous week from Department market news reports and other sources, preceding week's shipments and shipments to date, crop conditions and weather and transportation conditions.

The Department reviewed the Committee's recommendation in light of the Committee's projections as set forth in its 1991–92 marketing policy. The recommended amount of 1,300,000 cartons is compared to the 1,700,000 cartons specified in the Committee's shipping schedule. Of the 1,300,000 cartons, 83.8 percent or 1,089,400 cartons are allotted for District 1, and 16.2 percent or 210,600 cartons are allotted for District 2. Districts 3 and 4 are not regulated since approximately 84 percent of District 3's crop and 100 percent of District 4's crop to date have been utilized, and handlers would not be able to utilize their allotments.

During the week ending on January 30, 1992, shipments of navel oranges to fresh domestic markets, including Canada, totaled 1,526,000 cartons compared with 460,000 cartons shipped during the week ending on January 31, 1991. Export shipments totaled 433,000 cartons compared with 83,000 cartons shipped during the week ending on January 31, 1991. Processing and other uses accounted for 510,000 cartons compared with 1,823,000 cartons shipped during the week ending on January 31, 1991.

Fresh domestic shipments to date this season total 15,463,000 cartons compared with 15,009,000 cartons shipped by this time last season. Export shipments total 2,754,000 cartons compared with 2,011,000 cartons shipped by this time last season. Processing and other use shipments total 3,490,000 cartons compared with 9,473,000 cartons shipped by this time last season.

For the week ending January 30, 1992, regulated shipments of navel oranges to the fresh domestic market were 1,449,000 cartons on an adjusted allotment of 1,630,000 cartons which resulted in net undershipments of 181,000 cartons. Regulated general maturity shipments for the current week (January 31 through February 6, 1992) are estimated at 1,525,000 cartons on an adjusted allotment of 1,902,000 cartons. Thus, undershipments of 377,000 cartons could be carried forward into the week ending on February 13, 1992.

The average f.o.b. shipping point price for the week ending on January 30, 1992, was $8.85 per carton based on a reported sales volume of 1,246,000 cartons. The season average f.o.b. shipping point price to date is $9.90 per carton. The average f.o.b. shipping point price for the week ending on January 31, 1991, was $15.67 per carton; the season average f.o.b. shipping point price at this time last year was $10.49.

The Department's Market News Service reported that, as of February 4, demand for California-Arizona navel oranges is fairly light. The market is reported as higher for shippers first grade sizes 36–48, slightly lower for choice, with others about steady.

Committee members discussed implementing volume regulation at this time, as well as different levels of allotment. Several Committee members commented that the market was declining. Two Committee members favored open movement at this time, and one favored 1,700 cars, while the majority of Committee members favored the issuance of general maturity allotment for Districts 1 and 2.

According to the National Agricultural Statistics Service, the 1990–91 season average fresh equivalent on-tree price for California-Arizona navel oranges was $7.75 per carton, 119 percent of the season average parity equivalent price of $6.52 per carton.

Based upon fresh utilization levels indicated by the Committee and an econometric model developed by the Department, the 1991–92 season average fresh on-tree price is estimated at $6.33 per carton, about 85 percent of the estimated fresh on-tree parity equivalent price of $7.44 per carton.

Limiting the quantity of navel oranges that may be shipped during the period from February 7 through February 13, 1992, would be consistent with the provisions of the marketing order by tending to establish and maintain, in the interest of producers and consumers, an orderly flow of navel oranges to market.

Based on consideration of supply and market conditions, and the evaluation of alternatives to the implementation of this volume regulation, the Administrator of the AMS has determined that this final rule will not have a significant economic impact on a substantial number of small entities and that this action will tend to effectuate the declared policy of the Act.

A proposed rule regarding the implementation of volume regulation and a proposed shipping schedule for California-Arizona navel oranges for the 1991–92 season was published in the September 30, 1991, issue of the **Federal Register** [56 FR 49432]. However, issuance of this final rule implementing volume regulation for the regulatory week ending on February 13, 1992, does not constitute a final decision on that proposal.

Pursuant to 5 U.S.C. 553, it is further found and determined that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register**. This is because there is insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the Act.

In addition, market information needed for the formulation of the basis for this action was not available until February 5, 1992, and this action needs to be effective for the regulatory week which begins on February 7, 1992. Further, interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and handlers were apprised of its provisions and effective time. It is necessary, therefore, in order to effectuate the declared purposes of the Act, to make this regulatory provision effective as specified.

List of Subjects in 7 CFR Part 907

Marketing agreements, Oranges, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 907 is amended as follows:

PART 907—[AMENDED]

1. The authority citation for 7 CFR part 907 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 907.1032 is added to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

§ 907.1032 Navel Orange Regulation 732.

The quantity of navel oranges grown in California and Arizona which may be handled during the period from February 7 through February 13, 1992, is established as follows:

(a) District 1: 1,069,400 cartons;
(b) District 2: 210,600 cartons;
(c) District 3: unlimited cartons;
(d) District 4: unlimited cartons.

Dated: February 6, 1992.

Robert C. Keeney,
Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92–3208 Filed 2–7–92; 8:45 am]

BILLING CODE 3410-02-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Motor Vehicle Dealers (New and Used) Industry

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: The Small Business Administration (SBA) is amending its size standard regulation for Standard Industrial Classification (SIC) code 5511—the industry of Motor Vehicle Dealers (New and Used) from the present $11.5 million in annual receipts to $17.0 million. This action reflects findings by the SBA that businesses in this industry are much larger on average than firms in most other retail trade industries. Businesses in this industry are also more heavily capitalized relative to other retail trade industries and this also suggests the need for a relatively high size standard. A size standard of $17.0 million would, therefore, better define small businesses within this industry by better matching its size standard with the structure of the industry.

EFFECTIVE DATE: March 11, 1992.

FOR FURTHER INFORMATION CONTACT: Robert N. Ray, Economist, Size Standards Staff, Tel: (202) 205–6618.

SUPPLEMENTARY INFORMATION: Comments received by the Small Business Administration in recent months have observed that the size standard of $11.5 million for concerns engaged in the retail sale of new automobiles or new and used automobiles (SIC code 5511) no longer accurately reflects the level of annual receipts for small concerns in the industry. To appraise this view, SBA analyzed the structure of the industry and compared it with the structure of other retail trade industries in a proposed rule published in the **Federal Register** dated September 5, 1991 (56 FR 43391).

In reviewing the appropriateness of a size standard, SBA evaluates an industry using five primary factors. The primary factors include: Industry competition, average firm size, start-up costs, distribution of firms by size and the impact on SBA's programs. Each of these factors were reviewed using various indexes relating to each factor. The results are summarized below.

Review of Factors

(1) Industry competition (measured by the percent of sales in an industry by firms with $25.0 million or more in sales).

(2) Start-up costs (measured by average assets per IRS return and average sales per employee).

(3) Average firm size in sales.

(4) Size Distribution of Firms (measured by the sales share and distribution of firms of $5.0 million or more and $10.0 million of more in sales).

(5) Program Impact (measured by SBA guaranteed loan activity to firms in the motor vehicle dealers industry).

Each measurement for these five factors was specifically structured such that if an industry or an industry group had a larger index for any factor, that higher index would point to a higher size standard and vice versa. The relationship of motor vehicle dealers to major groups in retail trade using these measurements is summarized below.

SUMMATION OF FACTORS

Factor	Finding	Implication
Degree of competition in the industry as measured by the percent of sales to firms of $25.0 million or more in annual sales.	The motor vehicle dealers industry's degree of concentration among firms with $25.0 million or more in sales is about average when compared with other major groups in retail trade.	This finding does not point to a higher or lower size standard relative to other size standards in retail trade.
Start-up costs as measured by average capital requirements per firm in an industry. A second index of average sales per employee was also utilized to compare start-up costs between industries.	The motor vehicle dealers industry has significantly higher start-up costs than most retail trade industries.	High start-up costs indicate, in isolation, that a relatively high size standard is warranted for this industry.
Average firm size in an industry as measured in sales	Average firm size of motor vehicle dealers is more than seven times the average firm size in all of retail trade.	High average firm size suggests that a relatively high size standard is warranted in this industry.
Firm size distribution of economic activity as measured by the percent of sales and of firms by firms with $5 million and $10 million or more in sales.	The motor vehicle dealers industry has a significantly higher proportion of sales by firms above the standardized thresholds of $5.0 million and $10 million in sales than most retail trade industries. It also has a higher proportion of firms in excess of these size breaks.	Both the distribution of sales and of firms among larger size dealers point to the need for a higher size standard.

SUMMATION OF FACTORS—Continued

Factor	Finding	Implication
Program impact as measured by the magnitude of guaranteed loan activity in the industry.	The motor vehicle dealer industry has a low level of SBA guaranteed loan activity relative to its importance in the economy.	A low level of guaranteed loan activity relative to its importance in the economy suggests that this industry's size standard is too low.

The finding that four of the five factors cited above point to the need for a higher size standard for motor vehicle dealers is reinforced by the magnitude of some of the indexes used in comparing industries. Motor vehicle dealers, for example, are seven times the size of the average retail firm and their sales per employee are four times as high. Almost 36 percent of motor vehicle dealers have $10 million or more in sales versus 3 percent for all of retail trade. These differences reflect the economic characteristics of the motor vehicle dealer industry as an industry comprised of some of the largest firms in all of the retail industries, and indicate that a size standard of $17.0 million would be appropriate for this industry.

Although motor vehicle dealers expressed interest in reviewing the industry's size standard, SBA received only one written comment to the proposed rule. However, this comment was by an association representing over 20,000 franchised new car and truck dealers. This association suggested that the proposed size standard of $17.0 million should be even higher, arguing that a size standard falling in the $20–$25 million range would better maintain the eligibility/ineligibility ratio (88.5 percent of industry firms under the size standard) established in 1984 under an $11.5 million size standard.

SBA does not believe a size standard of $20 million to $25 million is supportable for this industry. A size standard within this range would include firms which cumulatively are responsible for more than 60 percent of industry revenues. For most retail trade industries, firms under the size standard generate about 30 percent of sales. The proposed size standard of $17.0 million includes firms which account for 41 percent of industry sales.

SBA, therefore, is reluctant to raise the size standard for motor vehicle dealers above the proposed level because it would capture a proportion of sales by firms defined as small that would greatly exceed the average proportion of sales by small firms for other retail trade industries.

Compliance With Regulatory Flexibility Act, Executive Orders 12291 and 12612, and the Paperwork Reduction Act

SBA certifies that this final rule would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* An increase from an $11.5 million to a $17.0 million size standard would raise the number of firms eligible for SBA program assistance from 16,400 to 20,200 (out of a total of 24,200), a 3,800 firm increase. While this increase appears to be significant, it would include only 83 percent of firms within the industry as small, a much lower figure than for most other industries. Further, SBA expects that only a small percentage of these newly eligible concerns will seek assistance from the Agency.

Because virtually all Federal procurement in the automobile industry is either directly from the manufacturer or through a nonmanufacturer wholesaler, there are no procurement programs affected by a higher size standard for retail motor vehicle dealers. Thus almost the entire program impact of a higher size standard for motor vehicle dealers would relate to SBA's business loan program.

Over the 1987–89 period, SBA guaranteed loans in the motor vehicle dealer industry averaged 85 per year and $250,000 per loan. In the average year, about $21 million in SBA loan guarantees are awarded in this industry.

In estimating the impact on its loan program of a size standard increase to $17.0 million, SBA applied two adjustments to the average yearly loan amount to project loan guarantee demand if SBA were to revise its size standard in the motor vehicle dealers industry as contemplated. The first factor applied a 24 percent increase in the number of eligible firms from the present size standard to reflect greater loan demand as a result of the larger pool of eligible firms. The second factor (size of loan factor) assumes that these loans will, on average, be larger by about 30 percent than previous loans because the pool of eligible firms is composed of somewhat larger firms (30 percent larger on average), and it is assumed that there is a positive correlation between size of firm and size of loan.

Applying these two factors to the average yearly loan amount of $20.9 million in this industry produced an estimated yearly guaranteed demand of $33.7 million, about $13 million more in total SBA lending activity in this industry over the course of a year.

Based on these estimates, SBA certifies that this rule will not be a major rule within the meaning of Executive Order 12291, because it is not expected to have an annual economic impact of $100 million or more, as previously discussed. This regulation will not likely result in a major increase in costs or prices or have a significant effect on the United States economy.

SBA certifies that this rule will not impose any requirement subject to the Paperwork Reduction Act of 1980, 44 U.S.C., chapter 35. SBA certifies that this rule will not have federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612.

List of Subjects in 13 CFR Part 121

Government procurement, Government property, Grant programs—business, Loan programs—business, Small business.

Accordingly, part 121 of 13 CFR is amended as follows:

PART 121—[AMENDED]

(1) The authority citation for part 121 continues to read as follows:

Authority: 15 U.S.C. 632(a), and 634(b)(6), 637(a) and 644(c).

§ 121.601 [Amended]

(2) In § 121.601 Major Group 55, is amended by revising SIC code 5511 to read as follows:

SIC(* = new SIC code in 1987, not used in 1972)	Description (N.E.C. = not elsewhere classified)	Size standards in number of employees or millions of dollars
* * *	*	*
5511	Motor Vehicle Dealers (New and Used).	$17.0
* * *	*	*

Dated: December 30, 1991.

Patricia Saiki,

Administrator, U.S. Small Business Administration.

[FR Doc. 92-2996 Filed 2-7-92; 8:45 am]

BILLING CODE 8025-01-M

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13 CFR Part 121

Small Business Size Standards; Motor Vehicle Parts and Accessories Industry

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: The Small Business Administration (SBA) is amending its size standard regulation for the industry of Motor Vehicle Parts and Accessories (SIC code 3714) from the present 500 employees to 750 employees. This action reflects the findings of a study by the SBA which indicate that firms in the industry generally need to be larger than 500 employees to achieve competitive economies of scale. A size standard of 750 employees would better reflect small business within this industry than the present size standard of 500 employees.

EFFECTIVE DATE: March 11, 1992.

FOR FURTHER INFORMATION CONTACT: Robert N. Ray, Economist, Size Standards Staff, Tel: (202) 205-6618.

SUPPLEMENTARY INFORMATION: Comments received by the Small Business Administration have claimed that the size standard of 500 employees in the Motor Vehicle Parts and Accessories Industry (Standard Industrial Classification (SIC) code 3714) is too small to permit firms to reach acceptable efficiencies in size. Under this view, many firms within the size standard of 500 employees would be unable to compete with larger firms in the industry due primarily to their relatively modest size of operations. To appraise this view, SBA prepared a proposed rule which was published in the **Federal Register** on January 29, 1991 (56 FR 3229) which analyzed the structure of this industry and compared it with other industries in SIC Major Group 37—the Manufacture of Transportation Equipment. Based on an analysis of economic factors describing the structure of the motor vehicle parts industry, this rule proposed to raise the size standard in this industry from 500 to 750 employees. The public had 30 days to prepare comments to this proposal. The comments to the proposal and SBA's assessment are discussed below.

Among commentors from the private sector, only one commentor responded in writing to SBA's proposed rule for this industry. This commentor, a major automobile manufacturer with many parts suppliers, desired a much higher size standard than 750 employees. This firm argued that a firm must be larger than 750 employees in the auto parts supply business to achieve desired economies of scale.

SBA's response to this comment focuses on the comparison of the motor vehicle parts industry with industries in its major group with a 1,000 employee size standard. In general, the indicators reviewed in this rule indicate that a 1,000-employee size standard would be too high for this industry. If SBA were to choose a size standard of 1,000 employees for this industry, it would match the size standard for motor vehicle manufacturers, an industry dominated by much larger firms with significantly higher concentration and coverage ratios. These findings lead SBA to prefer and recommend a size standard of 750 employees.

The second commentor, the Canadian government, objected to any raising of the size standard because of an anticipated effect of expanding the number of small business set-asides and thereby reducing the number of unrestricted procurements available to Canadian firms under the Canada-United States Free Trade Agreement. As an alternative to withdrawing SBA's proposed increase in the size standard, Canada proposed an "exemption" for Canadian manufacturers from the new standard.

For several reasons, SBA declines to adopt this comment. First, under SBA's definition of small business concern, many Canadian-owned firms are able to qualify as businesses eligible for set-asides and other SBA programs. An increase in set-asides will benefit such firms. Second, an increase in the size standard will increase the potential for small businesses to benefit from subcontracting opportunities with major auto manufacturers. Third, the present structure of the auto parts industry strongly suggests that an increase in the size standard is needed to improve the competitiveness of small firms competing with the major auto parts manufacturers by permitting further growth without losing eligibility for SBA programs. Fourth, the size standards generally have significance well beyond procurement issues related to trade agreements and it is SBA's obligation to provide size standards for the variety of benefits available such as: Venture capital for small business investment companies, preference in tie bids, progress payments benefits, and SBA loan programs. Finally, SBA can discern no practical way to "exempt" Canadian manufacturers, even if that were determined to be appropriate.

Review of Industry Structure

Based on the analysis of economic factors relating to the motor vehicle parts industry, this rule raises the size standard from 500 to 750 employees. The following section discusses considerations first addressed in the proposed rule influencing this decision.

In evaluating the appropriateness of a size standard, SBA compares industries to each other using various factors. The primary factors include: Industry competition, average firm size, start-up costs, distribution of firms by size and the small business market share of Federal procurement (a factor not analyzed for this industry). Federal procurement was not a factor reviewed for this rule because the firm requesting a size standard change focused entirely on the observation that the size standard was too small for firms to achieve optimal efficiencies of size rather than citing problems with Federal procurement caused by the size standard.

For this industry, as well as other manufacturing industries, the four-firm concentration ratio (defined as the percent of sales generated by the four largest producers in the industry) measures the extent of industry competition. The average number of employees per firm in the industry is an indicator of average firm size. The coverage ratio (defined for manufacturers as the percent of sales by firms of 500 employees or more) is used as an indicator of both the relative difficulty of starting a firm and the distribution of firms by size.

For manufacturing industries, SBA has adopted a 500-employee size standard as the starting point for analyzing the size standard appropriate for an industry given its industry structure. Five hundred employees is, therefore, considered an "anchor standard" for manufacturing industries around which size standard decisions are based. For perspective, about 75 percent of industries in the manufacturing industry division have a size standard of 500 employees. SBA adjusts the size standard applied to an industry based

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on an analysis of the primary factors discussed above. In general, for example, if the four-firm concentration ratio is high relative to other manufacturing industries, SBA would be inclined to set a higher size standard than the anchor standard, thus encouraging firms in a broad range of sizes to compete with the much larger and dominant firms in the industry. Similarly, if the industry's average firm size is high relative to other industries, SBA will view this as a factor suggesting a higher size standard than 500 employees. A high coverage ratio also suggests that the anchor size standard is too low for the industry under review relative to other industries and that a higher size standard than 500 employees might be warranted.

A summary of these indexes published in the proposed rule indicates that the industry structure for SIC code 3714 is significantly different from the structure of other industries in its major group which have a 500-employee size standard. Its concentration ratio of 61 is almost double that of the average for other industries with a 500-employee standard in Major Group 37. Similarly, its average firm size is between three to eight times the average of other industries in its major group which have a 500-employee size standard. Finally, its coverage ratio for firms of 500 employees or more in size, at 91 percent, easily exceeds the coverage ratio of other industries with a 500-employee size standard in Major Group 37, a factor suggesting a higher size standard. Thus all three factors point to a higher size standard than 500 employees for this industry.

Given that three important parameters of industry structure point to a size standard higher than 500 employees, the key question is which size standard in excess of 500 employees would be most appropriate for this industry. In general, when compared to industries with a 1,000-employee size standard, these indicators of industry structure for SIC code 3714 point to a lower size standard than 1,000 employees. SIC code 3714's four-firm concentration ratio and average firm size is generally less than industries in its major group with a 1,000-employee size standard, while its coverage ratio also tends to be lower. Six of ten industries have higher four-firm concentration ratios than SIC code 3714; 6 of 10 have higher average firm sizes; while 7 of 10 have higher coverage ratios.

Analysis of these primary factors points to a size standard for the motor vehicle parts and accessories industry of between 500 and 1,000 employees. Therefore, SBA has made a determination that an increase in the size standard to 750 employees would be appropriate. A 750-employee size standard would be less than the size standard of a majority of industries in Major Group 37, but would reflect findings that an increase in the size standard from 500 employees appears merited based on industry structure.

Compliance with Regulatory Flexibility Act, Executive Orders 12291 and 12612, and the Paperwork Reduction Act

SBA certifies that this proposed rule would not, if promulgated in final form, have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* Over the 1986–89 period, firms in this industry utilized SBA's guaranteed loan program for only $6.0 million in loans per year. Over the 1986–1988 period, small firms were awarded an annual average of $55 million in total Federal contracts in this industry which equates to about 25 percent of total Federal contracts in this industry. These dollar and percentage figures are not likely to increase significantly as a result of this revision. Only 28 firms out of a total of 2,000 firms constituting about 2 percent of sales in this industry are projected to gain eligibility as a result of this revision.

SBA certifies that this proposed rule would not, if promulgated in final form, be a major rule within the meaning of Executive Order 12291 because it is not expected to have an annual economic impact of $100 million or more, as previously discussed. This size standard is proposed to better match the motor vehicle parts and accessories industry's size standard with the structure of the industry.

This regulation would not likely result in a major increase in costs or prices or have a significant effect on the United States economy.

SBA certifies that this proposal, if promulgated in final form, would not impose any requirements subject to the Paperwork Reduction Act, 44 U.S.C. chapter 35.

SBA certifies that this proposed rule, if promulgated in final form, would not have federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612.

List of Subjects in 13 CFR Part 121

Government procurement, Government property, Grant programs—business, Loan programs—business, Small business.

Accordingly, part 121 of 13 CFR is amended as follows:

PART 121—[AMENDED]

(1) The authority citation for part 121 continues to read as follows:

Authority: 15 U.S.C. 632(a), 634(b)(6), 637(a) and 644(c).

§ 121.601 [Amended]

(2) In § 121.601, Major Group 37, is amended by revising SIC code 3714 to read as follows:

SIC (* = new SIC code in 1987, not used in 1972)	Description (N.E.C. = not elsewhere classified)	Size standards in number of employees or millions of dollars
*	*	*
3714	Motor Vehicle Parts & Accessories	750
*	*	*

Dated: December 26, 1991.

Patricia Saiki,

Administrator, U.S. Small Business Administration.

[FR Doc. 92–2965 Filed 2–7–92; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91–NM–160–AD; Amendment 39–8162; AD 92–03–07]

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes two existing airworthiness directives (AD), applicable to certain Boeing Model 737 series airplanes, which currently require repetitive inspections, cleaning of the auxiliary power unit (APU) shroud drains and plenum fuel drain, and an Airplane Flight Manual limitation which prescribes an operational procedure to be followed when an unsuccessful start occurs. This amendment requires modifications to the affected APU drains. This amendment requires modification, developed by the manufacturer, which provides an improved drain. Once installed, this modification terminates the need for the existing repetitive

inspections and operational procedure. The actions specified by this AD are intended to prevent severe fire damage to the empennage causing the loss of primary flight control surfaces.

DATES: Effective March 16, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 16, 1992.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Bray, Seattle Aircraft Certification Office, Propulsion Branch, ANM-140S; telephone (206) 227-2681; fax (206) 227-1181. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD 89-08-11, Amendment 39-6190 (55 FR 14639, April 12, 1989), and AD 90-05-02, Amendment 39-6518 (55 FR 6947), which are applicable to Boeing Model 737 series airplanes, was published in the **Federal Register** on October 8, 1991 (56 FR 50682). The action proposed to require modifications to the affected APU drains.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Two commenters agreed with the proposal.

Another commenter, the manufacturer, stated that in the description of the torching incident that prompted the AD action, the discussion section of the preamble of the AD states, "* * * These torching incidents were attributed to an accumulation of unburned fuel in the APU shroud and plenum, which ignited when the APU start occurred." The commenter suggested that a more accurate description would be: "* * * These torching incidents were attributed to an accumulation of unburned fuel in the tailpipe and plenum, which ignited when the APU start occurred." The FAA concurs that the commenter's description is more accurate; however, no change to the proposed rule is necessitated.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 1,977 Model 737 series airplanes of the affected design in the worldwide fleet. It is estimated that 895 airplanes of U.S. registry will be affected by this AD, that it will take approximately 10 work hours per airplane to accomplish the required actions, and that the average labor cost will be $55 per work hour. Modification parts are estimated to cost $378 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $830,560.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "manor rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption"ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendments 39-6190 and 39-6518, and by adding the following new airworthiness directive:

92-03-07. **Boeing:** Amendment 39-8162. Docket No. 91-NM-160-AD. Supersedes AD 89-08-11, Amendment 39-6190 and AD 90-05-02, Amendment 39-6518.

Applicability: Model 737 series airplanes, line number 0001 through 2060 equipped with Garrett GTCP 85-129 series auxiliary power units (APU), certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent an uncontained APU tailpipe fire due to clogged shroud and fuel drains, accomplish the following:

(a) Prior to the accumulation of 150 flight hours after April 25, 1989 (the effective date of Amendment 39-6190, AD 89-08-11), perform a one-time inspection of the exhaust flange and the exhaust muffler heat shield skin joint and remove any excess or loose sealant, and perform an inspection and cleaning of the APU shroud, plenum and combustor drain lines, in accordance with Boeing Service Letter 737-SL-49-14, Revision A, dated March 29, 1989, or Boeing Service Letter 737-SL-49-14, Revision B, dated April 20, 1989.

Thereafter, at intervals not to exceed 500 hours, or immediately following maintenance involving the drain system (e.g., APU change, etc.), perform an inspection and cleaning of the APU shroud drains and plenum fuel drain in accordance with the service letters.

(b) Within 10 days after March 12, 1990 (the effective date of Amendment 39-6518, AD 90-05-02), revise the Limitations section of the FAA-approved Airplane Flight Manual (AFM) by adding the following instructions. This may be accomplished by inserting a copy of this AD into the AFM.

"Auxiliary Power Unit Limitation: "

After any unsuccessful APU ground start, either placard the APU "NO Ground Starting" or accomplish the following during the subsequent ground start attempt(s):

(1) Following an unsuccessful APU ground start attempt, the subsequent APU ground start attempt(s) must be monitored by a qualified ground observer to assure proper APU starting. The FAA Principal Maintenance Inspector (PMI) must approve the qualified ground observer, the monitoring procedures, and the method of documentation for compliance with these procedures. If APU tail pipe torching is observed, prior to flight, inspect the affected airplane surface(s) for fire damage and/or paint blistering. Repair or replace fire-damaged area(s) in a manner approved by the Manager, Seattle Aircraft Certification Office, prior to further flight.

(2) Following successful APU operation, if subsequent unsuccessful APU ground starts are again experienced, the ground start monitoring requirements required by paragraph (b)(1) of this AD must be repeated.

(3) The placard may be removed and normal APU ground starting procedures resumed following appropriate maintenance

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action to determine and resolve the cause of the unsuccessful ground start, or successful ground start has been accomplished in accordance with paragraph (b)(1) of this AD, or in-flight starting and operation is accomplished.

Note: In-flight starting and operating of the APU is not impacted by this action.

(c) Within 36 months after the effective date of this AD, modify the APU drain assembly in accordance with Boeing Service Bulletin 737–49–1073, dated July 25, 1991. This modification constitutes terminating action for the repetitive inspections and cleaning requirement required by paragraph (a) of this AD. The AFM limitation required by paragraph (b) of this AD may be removed following completion of the modification.

(d) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

(f) The inspection required by this AD shall be done in accordance with Boeing Service Letter 737–SL–49–14, Revision A, dated March 29, 1989; or Boeing Service Letter 737–SL–49–14, Revision B, dated April 20, 1989. The modifications required by this AD shall be done in accordance with Boeing Service Bulletin 737–49–1073, dated July 25, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washinton, DC.

(g) This amendment (39–8162), AD 92–03–07, becomes effective March 16, 1992.

Issued in Renton, Washington, on January 13, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–3033 Filed 2–7–92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 91–NM–176–AD; Amendment 39–8172; AD 92–04–03]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, which requires examination of flow control units for the passenger oxygen system and replacement of certain units. This amendment is prompted by two reports of flow control units not activating at the proper altitude during a maintenance check of the system; certain other units may have the same manufacturing defects. The actions specified by this AD are intended to prevent failure of the flow control unit to automatically deploy oxygen to the passenger oxygen system in the event of loss of cabin pressure.

DATES: Effective March 16, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 16, 1992.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Kenneth W. Frey, Aerospace Engineer, Seattle Aircraft Certification Office, Systems and Equipment Branch, ANM–130S; FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2673, fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain Boeing Model 747 series airplanes, was published in the **Federal Register** on October 11, 1991 (56 FR 51348). That action proposed to require examination of flow control units for the passenger oxygen system and replacement of certain units.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supports the proposed rule.

Since issuance of the proposal, the FAA has reviewed and approved Revision 1 of Boeing Service Bulletin 747–35–2074, dated December 12, 1991. This revised service bulletin corrects the references to the part numbers and serial numbers. Therefore, the final rule has been revised to cite Revision 1 of the service bulletin as the appropriate source for service information.

The FAA has revised the final rule to permit reworked flow control units to be installed. This had been omitted inadvertently from the proposal.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 786 Model 747 series airplanes of the affected design in the worldwide fleet. It is estimated that 173 airplanes of U.S. registry will be affected by this AD, that it will take approximately 5.5 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $52,333.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

92-04-03. **Boeing:** Amendment 39-8172. Docket 91-NM-176-AD.

Applicability: Model 747 series airplanes, as listed in Boeing Service Bulletin 747-35-2074, dated June 27, 1991, certificated in any category.

Compliance: Required within the next 4,000 flight hours after the effective date of this AD, unless accomplished previously.

To ensure that the passenger oxygen system activates at the proper altitude, accomplish the following:

(a) Inspect the flow control units to determine the serial numbers, in accordance with Boeing Service Bulletin 747-35-2074, Revision 1, dated December 12, 1991.

(1) If the flow control unit serial number is listed in Table 1 of the service bulletin and the unit has not been reworked, prior to further flight, replace the unit and perform a low pressure leak check and a simulated automatic actuation test, in accordance with paragraph III.C. of the Accomplishment Instructions of the service bulletin.

(2) If the flow control unit serial number is not listed in Table 1 of the service bulletin, or if the unit has been reworked in accordance with paragraph III.C. of the Accomplishment Instructions of the service bulletin, no further action is necessary.

(b) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

(d) The inspection, replacement, check, and test required by this AD shall be done in accordance with Boeing Service Bulletin 747-35-2074, Revision 1, dated December 12, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, DC.

(e) This amendment (39-8172), AD 92-04-03, becomes effective March 16, 1992.

Issued in Renton, Washington, on January 22, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-3034 Filed 2-7-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 91-NM-273-AD; Amendment 39-8174; AD 92-04-04]

Airworthiness Directives; Boeing Model 757 Series Airplanes Equipped With Pratt and Whitney Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 757 series airplanes, which currently requires periodic inspections for cracking of the midspar fuse pins, and replacement of the pins, if necessary. This amendment requires the inspections to be accomplished at more frequent intervals, and provides a terminating action for the inspection requirements. The applicability of this amendment includes additional airplanes equipped with bulkhead type fuse pins that were installed by the manufacturer and are also subject to cracking. This amendment is prompted by testing of the pins, which demonstrated that the pin crack growth rates are greater than previously anticipated. This condition, if not corrected, could result in a strut and engine separating from the wing.

DATES: Effective February 25, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 25, 1992.

Comments for inclusion in the Rules Docket must be received on or before April 10, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 91-NM-273-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

The service information referenced in this AD may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Rodriguez, Seattle Aircraft Certification Office, Airframe Branch, ANM-120S; telephone (206) 227-2779. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: On January 3, 1989, the FAA issued AD 89-02-09, Amendment 39-6113 (54 FR 1399, January 13, 1989), to require periodic inspections for cracking of the midspar fuse pins, on Boeing Model 757 series airplanes equipped with Pratt and Whitney engines, and replacement of cracked pins. That action was prompted by reports of cracks found in the fuse pins during a strut modification. The actions required by that AD were intended to prevent the separation of a strut and engine from the wing.

Since issuance of that AD, testing has been accomplished by the manufacturer which demonstrated that the pin crack growth rates are greater than previously anticipated. These higher crack growth rates necessitate required inspections every 1,000 flight cycles in order to detect cracking and maintain an acceptable level of safety. Terminating action for such inspections has been developed, which involves an inspection of the bushings of the midspar attachment and the verification that the bushings' inside diameters are within allowable limits. Testing has also shown that the bulkhead-type fuse pins are also subject to cracking and must be replaced after 6,000 flight cycles.

The FAA has reviewed and approved Boeing Alert Service Bulletin 757-54A0019, Revision 2, dated October 11, 1991, which describes procedures for repetitive inspection of the fuse pins to detect cracks, and replacement of cracked pins. Included in this bulletin are procedures for performing the inspection of the bushings of the midspar attachment which, if accomplished, terminates the need for the repetitive inspections of the fuse pins. This service bulletin also specifies the replacement times for the bulkhead fuse pins. The effectivity of this revised service bulletin includes additional airplanes equipped with bulkhead-type fuse pins that were installed by the manufacturer and are also subject to cracking.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD supersedes AD 89-

02-09 to require the inspections to detect cracking of the strut attach fuse pins at more frequent intervals, and replacement of the pins; and replacement of bulkhead type fuse pins at specific intervals. This AD also contains provisions for terminating the repetitive inspections. The actions are required to be accomplished in accordance with the service bulletin previously described.

The applicability of this AD calls out airplanes that are listed in Revision 2 of Boeing Alert Service Bulletin 757–54A0019. By doing so, the applicability has been expanded to include additional airplanes that are subject to the addressed unsafe condition.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption "ADDRESSES." All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 91–NM–273–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [AMENDED]

2. Section 39.13 is amended by removing Amendment 39–6113 and by adding the following new airworthiness directive:

92–04–04. **Boeing:** Amendment 39–8174. Docket No. 91–NM–273. Supersedes AD 89–02–09, Amendment 39–6113.

Applicability: Model 757 series airplanes equipped with Pratt and Whitney engines, listed in Boeing Alert Service Bulletin 757–54A0019, Revision 2, dated October 11, 1991, certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To prevent engine separation, accomplish the following:

(a) For airplanes identified as Group 1 in Boeing Alert Service Bulletin 757–54A0019, Revision 2, dated October 11, 1991: Prior to the accumulation of 3,800 flight cycles on a new fuse pin, or within the next 30 days after the effective date of this AD, whichever occurs later; and thereafter at intervals not to exceed 1,000 flight cycles: Perform an eddy current inspection of the engine strut midspar fuse pins, part number 311N5067–1, for cracks, in accordance with Part II of the Accomplishment Instructions of Boeing Alert Service Bulletin 757–54A0019, Revision 2, dated October 11, 1991.

(b) Replace cracked fuse pins, prior to further flight, with either of the following fuse pins:

(1) A new midspar fuse pin, part number 311N5211–1, and repeat this replacement at intervals not to exceed 6,000 flight cycles.

(2) A new midspar fuse pin, part number 311N5067–1, and repeat the inspection requirements in accordance with paragraph (a) of this AD.

(c) For airplanes indentified as Group 2 in Boeing Alert Service Bulletin 757–54A0019, Revision 2, dated October 11, 1991: Prior to the accumulation of 6,000 total flight cycles, or within the next 30 days after the effective date of this AD, whichever occurs later: Replace the engine strut midspar fuse pins, part number 311N5211–1, in accordance with Part III of the Accomplishment Instructions of Boeing Alert Service Bulletin 757–54A0019, Revision 2, dated October 11, 1991, with either of the following midspar fuse pins:

(1) A new midspar fuse pin, part number 311N5211–1, and repeat this replacement at intervals not to exceed 6,000 flight cycles.

(2) A new midspar fuse pin, part number 311N5067–1, and repeat the inspection requirements in accordance with paragraph (a) of this AD.

(d) Inspection and verification that the 6 bushings per wing in the wing side load fitting and the strut duckbill fitting have inside diameter measurements of not less than 1.5625 inches and not greater than 1.5633 inches, in accordance with Figure 1 of Boeing Alert Service Bulletin 757–54A0019, Revision 2, dated October 11, 1991, constitutes terminating action for the requirements of paragraphs (a), (b), and (c) of this AD when either of the following midspar fuse pins are installed:

(1) The removed midspar fuse pins, part number 311N5067–1, from the fittings they were removed from, after an eddy current inspection of the pins for cracks, in accordance with the inspection requirements of paragraph (a) of this AD, and installed in accordance with Part III of the Accomplishment Instructions of Boeing Alert Service Bulletin 757–54A0019, Revision 2, dated October 11, 1991. Or

(2) New midspar fuse pins, part number 311N5067–1, installed in accordance with Part III of the Accomplishment Instructions of Boeing Alert Service Bulletin 757–54A0019, Revision 2, dated October 11, 1991.

(e) If all of the bushings in the wing side load fitting and strut duckbill fitting are found to have an inside diameter measurement less than or equal to 1.5644 inches, and one or more of the dimensions is between 1.5633 inches and 1.5644 inches, in accordance with Figure 1 of Boeing Alert Service Bulletin 757-54A0019, Revision 2, dated October 11, 1991; prior to further flight, accomplish either paragraph (e)(1) or (e)(2) of this AD:

(1) Install new midspar fuse pins, part number 311N5067-1, in accordance with Part III of the Accomplishment Instructions of Boeing Alert Service Bulletin 757-54A0019, Revision 2, dated October 11, 1991. Thereafter, reinspect the bushings and install new midspar fuse pins, part number 311N5067-1, at intervals not to exceed 12,000 flight cycles. Or

(2) Accomplish an eddy current inspection of the removed midspar fuse pins, part number 311N5067-1, in accordance with paragraph (a) of this AD. If no cracks are found, install the midspar fuse pins into the fittings from which they were removed, in accordance with Part III of the Accomplishment Instructions of Boeing Alert Service Bulletin 757-54A0019, Revision 2, dated October 11, 1991; and therafter repeat the inspections of the midspar fuse pins in accordance with paragraph (a) of this AD at intervals not to exceed 3,000 flight cycles.

(f) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

(g) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

(h) The inspections and replacement of parts shall be done in accordance with Boeing Alert Service Bulletin 757-54A0019, Revision 2, dated October 11, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington, 98124. Copies may be inspected at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, or at the Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, DC.

(i) This amendment (39-8174), AD 92-04-04, becomes effective February 25, 1992.

Issued in Renton, Washington, on January 23, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-3032 Filed 2-7-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 91-NM-31-AD; Amendment 39-8171; AD 92-04-02]

Airworthiness Directives; Dassault Aviation Model Mystere Falcon 900 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Dassault Aviation Model Mystere Falcon 900 series airplanes, which requires repetitive inspections to detect clogged drains in the box structures surrounding the flight controls at frame 25; modifications of the cross-section of the outlet of the drain stub; installation of a protective screen on drains on each side of the center beam; and modification of the collector drains. This amendment is prompted by reports of clogged drainage systems on in-service airplanes. The actions specified by this AD are intended to prevent stiffness of the center engine power control and /or flight controls (elevator and rudder), and reduced controllability of the airplane.

DATES: Effective March 16, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 16, 1992.

ADDRESSES: The service information referenced in this AD may be obtained from Falcon Jet Corporation, Customer Support Department, Teterboro Airport, Teterboro, New Jersey 07608. This information may be examined at the FAA, Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 110 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2140; fax (202) 227-1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain Dassault Aviation Model Mystere Falcon 900 series airplanes, was published as a supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on November 26, 1991 (56 FR 59902). That action proposed to require repetitive inspections to detect clogged drains in the box structures surrounding the flight controls at frame 25; modifications of the cross-section of the outlet of the drain stub; installation of a protective screen on drains on each side of the center beam; and modification of the collector drains.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the supplement NPRM.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 40 airplanes of U.S. registry will be affected by this AD, that it will take approximately 33 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Required parts will cost approximately $1,772 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $143,480.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reason discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

92–04–02. **Dassault Aviation** (formerly Avions Marcel Dassault-Breguet Aviation): Amendment 39–8171. Docket 91–NM–31–AD.

Applicability: Model Mystere Falcon 900 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent stiffness of the center engine power control and/or flight controls (elevator and rudder), and reduced controllability of the airplane, accomplish the following:

(a) Within 30 days after the effective date of this AD, and thereafter at intervals not to exceed 7 days, accomplish paragraphs (a)(1) and (a)(2) of this AD:

(1) Verify proper operation of the drain stub heating, in accordance with the manufacturer's Maintenance Manual (reference Procedure 30–700).

(2) Verify freedom from clogging of the system by pressurizing the fuselage on the ground to a cabin pressure altitude of $Z=-1,500$ feet using the engines or APU, and by checking with the hand that air flows out of the drain stub, in accordance with the manufacturer's Maintenance Manual (reference Procedure 21–311).

(b) Within 90 days after the effective date of this AD, perform the modifications and inspections specified by paragraphs (b)(1), (b)(2), and (b)(3) of this AD, which constitute terminating action for the requirements of paragraph (a) of this AD.

(1) On drain stub Part Number C49RD0033, eliminate the 3 mm. diameter restrictor and enlarge the outlet cross-section, in accordance with Dassault Aviation Service Bulletin F900–38–1 (F900–82), dated October 4, 1990.

(2) On the drainage system, add protective screens to the drainage holes of the water collector under the washbasin, in accordance with Dassault Aviation Service Bulletin F900–38–1 (F900–82), dated October 4, 1990; and install a protective screen to the drainage holes on each side of the center beam, in accordance with Dassault Aviation Service Bulletin F900–53–5 (F900–57), dated October 4, 1990.

(3) Following the installation of the modifications required by paragraphs (b)(1) and (b)(2) of this AD, prior to further flight, check the stub heating for proper operations, in accordance with Procedure 30–701 in the manufacturer's Maintenance Manual, and inspect and clean the modified drain holes.

(c) Within 300 hours time-in-service after the effective date of this AD, or within 6 months after accomplishing the modifications required by paragraph (b) of this AD, whichever occurs first; and thereafter at intervals not to exceed 300 hours time-in-service or 6 months, whichever occurs first; accomplish paragraphs (c)(1), (c)(2), and (c)(3) of this AD, in accordance with Dassault Aviation Service Bulletins F900–38–1 (F900–82) or F900–53–5 (F900–57), both dated October 4, 1990, as applicable:

(1) Check the stub heating for proper operation.

(2) Inspect and clean the drain hole protective screens.

(3) Verify correct water drainage via the frame 25 and washbasin collector drains.

(d) Within 12 months after the effective date of this AD, modify the collector drains, in accordance with Dassault Aviation Falcon 900 Service Bulletin F900–38–2 (F900–83), dated April 25, 1991. Installation of this modification constitutes terminating action for the repetitive inspections required by paragraph (c) of this AD.

(e) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM–113.

(f) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(g) The modifications and inspections shall be done in accordance with the Dassault Aviation Service Bulletin F900–38–1 (F900–82), dated October 4, 1990; Dassault Aviation Falcon 900 Service Bulletin F900–38–2 (F900–83), dated April 25, 1991; and Dassault Aviation Service Bulletin F900–53–5 (F900–57), dated October 4, 1990. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Falcon Jet Corporation, Customer Support Department, Teterboro Airport, Teterboro, New Jersey 07608. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, DC.

(h) This amendment (39–8171), AD 92–04–02, becomes effective March 16, 1992.

Issued in Renton, Washington, on January 22, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–3031 Filed 2–7–92; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 91–NM–139–AD; Amendment 39–8165; AD 92–03–10]

Airworthiness Directives; SAAB-Scania Model SAAB 340B Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain SAAB-Scania Model SAAB 340B series airplanes, which requires a one-time visual inspection of the inner-wing fuel tanks to detect foreign objects, and removal of foreign objects, if found. This action is prompted by a recent report of extensive wing damage due to overpressurization during refueling caused by blockage of the ventline between the inner and outer fuel cells. The actions specified by this AD are intended to prevent reduced structural integrity of the wings.

DATES: Effective March 16, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 16, 1992.

ADDRESSES: The service information referenced in this AD may be obtained from SAAB-Scania AB, Product Support, S–581.88, Linköping, Sweden. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Standardization Branch, ANM–113; telephone (206) 227–2145. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to SAAB-Scania Model SAAB 340B series airplanes, was published in the **Federal Register** on October 4, 1991 (56 FR 50295). That action proposed to require a one-time visual inspection of the inner-wing fuel tanks to detect foreign objects, and removal of foreign objects, if found. That action also proposed repetitive inspections of the inner-wing fuel tanks.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter concurred with the proposed rule.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 32 airplanes of U.S. registry will be affected by this AD, that it will take approximately 5 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $8,800.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air Transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

92–03–10. **Saab-Scania:** Amendment 39–8165. Docket 91–NM–139–AD.

Applicability: Model SAAB 340B series airplanes, Serial Numbers 160 through 226, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of the wings, accomplish the following:

(a) Within 250 hours time-in-service after the effective date of this AD, perform a visual inspection of the inner-wing fuel tanks for foreign objects that could block or restrict the flow of fuel between the outer and inner fuel tanks, in accordance with SAAB Service Bulletin 340–28–013, dated March 14, 1991.

(b) If foreign objects are found as a result of the inspection required by paragraph (a) of this AD, prior to further flight, remove the foreign objects; submit a report of such findings to SAAB Aircraft Product Support, in accordance with SAAB Service Bulletin 340–28–013, dated March 14, 1991; and perform additional inspections in a manner approved by the Manager, Standardization Branch, FAA, Transport Airplane Directorate. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(c) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM–113.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

(e) The inspection required by this AD shall be done in accordance with SAAB Service Bulletin 340–28–013, dated March 14, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from SAAB-Scania AB, Product Support, S–581.88, Linköping, Sweden. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, DC.

(f) This amendment (39–8165), AD 92–03–10, becomes effective March 16, 1992.

Issued in Renton, Washington, on January 13, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–3035 Filed 2–7–92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 91–NM–157–AD; Amendment 39–8166; AD 92–03–11]

Airworthiness Directives; SAAB-Scania Models SF–340A and SAAB 340B Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain SAAB-Scania Models SF–340A and SAAB 340B series airplanes, which requires replacement of the lavatory circuit breaker and accomplishment of an operational test. This action is prompted by a report that the wire to the lavatory can overheat when there is a failure in the lavatory electrical system. This condition, if not corrected, could result in a possible wire overload and resultant smoke and/or fire in the cabin.

DATES: Effective March 16, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 16, 1992.

ADDRESSES: The service information referenced in the AD may be obtained from SAAB-Scania AB, Product Support, S–581.88, Linköping, Sweden. This information may be examined at the FAA, Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Standardization Branch, ANM–113; telephone (206) 227–2145; fax (206) 227–1320. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to SAAB-Scania Models SF–340A and SAAB 340B was published in the **Federal Register** on October 4, 1991 (56 FR 50294). That action proposed to require replacement of the lavatory circuit breaker and accomplishment of an operational test.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supports the proposal.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described.

It is estimated that 121 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $12,705.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

92–03–11. Saab-Scania: Amendment 39–8166. Docket No. 91–NM–157–AD.

Applicability: Model SF–340A series airplanes, serial numbers 004 through 159; and Model SAAB 340B, serial numbers 160 through 169, and 171 through 219; equipped with a forward or aft lavatory; certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To prevent a possible wire overload and resultant smoke and/or fire in the cabin, accomplish the following:

(a) Within 3 months after the effective date of this AD, replace the lavatory circuit breaker, 1MG (10A size), with circuit breaker, 1MG (7.5A size), and perform an operational test, in accordance with SAAB Service Bulletin 340–25–181, dated March 7, 1991.

(b) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM–113.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

(d) The replacement required by this AD shall be done in accordance with SAAB Service Bulletin 340–25–181, dated March 7, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from SAAB-Scania AB, Product Support, S–581.88, Linköping, Sweden. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

(e) This amendment (39–8166), AD 92–03–11, becomes effective March 16, 1992.

Issued in Renton, Washington, on January 13, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–3036 Filed 2–7–92; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 91–NM–246–AD; Amendment 39–8170; AD 92–04–01]

Airworthiness Directives; Boeing Model 707–300, –300B, –300C, and –400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 707 series airplanes, which currently requires repetitive visual and ultrasonic inspections for cracks in the front spar upper terminal fitting lugs of the horizontal stabilizer center section and the outboard fitting upper clevis lug at the horizontal stabilizer front spar, and repair or replacement, if necessary. This amendment requires additional inspections to detect cracks of certain safety straps installed as repairs, and deletes a specific terminating action currently provided by the existing rule. This amendment is prompted by the results of additional fatigue analysis conducted by the manufacturer, which indicates that certain items, when used in repairs, have low fatigue characteristics. The requirements of this amendment are intended to prevent loss of the horizontal stabilizer and subsequent reduced controllability of the airplane.

DATES: Effective February 25, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 25, 1992.

Comments for inclusion in the Rules Docket must be received on or before April 10, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 91–NM–246–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Rodriguez, Seattle Aircraft Certification Office, Airframe Branch, ANM–120S; telephone (206) 227–2779. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION: On March 8, 1991, the FAA issued AD 91–07–07, Amendment 39–6943 (56 FR 11380, March 18, 1991), to require repetitive visual and ultrasonic inspections for cracks in the front spar upper terminal fitting lugs of the horizontal stabilizer center section and the outboard fitting upper clevis lug at the horizontal stabilizer front spar, and repair or replacement, if necessary. That action was prompted by an analysis of Model 707 service bulletins selected as part of the "Aging Fleet Program" which revealed that some of the modifications required by the existing AD, when combined with certain repairs, resulted in a configuration that will not sustain the ultimate design load of the airplane.

Ultimate design load capability is necessary for continued safe operation. This condition, if not corrected, could result in loss of the horizontal stabilizer and subsequent reduced controllability of the airplane.

Since issuance of that AD, an analysis by the manufacturer indicates that safety straps have low fatigue characteristics when installed as a repair for a cracked center section lug. Based on the results of its analysis, the manufacturer has recommended that such safety straps be repetitively inspected.

The analysis also demonstrated that an outboard fitting upper clevis lug made of 7075–T73 aluminum also has reduced fatigue characteristics when a safety strap is installed as a repair for a cracked center section lug. In light of this, the manufacturer has recommended that (1) replacement of the outboard fitting with a fitting made of 7075–T73 aluminum should not constitute terminating action of the currently required inspections for the fitting, when a safety strap has been installed as a repair for a cracked or crack-free center section lug made of 7079–T6 aluminum; and (2) repetitive inspections be conducted on repair configurations having a safety strap installed for a cracked center section lug and an outboard fitting upper clevis made of 7075–T73 aluminum.

The FAA has reviewed the manufacturer's recommendations and concurs that additional inspections are necessary to ensure the continuing airworthiness of these airplanes.

The FAA has reviewed and approved the following Boeing service bulletins:

a. Boeing Alert Service Bulletin A3482, Revision 1, dated August 29, 1991, which describes procedures for inspection and modification of the horizontal stabilizer center section upper lugs, the front spar upper terminal fittings, and the safety strap.

b. Boeing Service Bulletin 3067, Revision 3, dated August 24, 1979, which describes procedures for installation and repair of the safety strap on the center section lug.

c. Boeing Service Bulletin 2959, Revision 4, dated August 17, 1979, which describes procedures for rework of the center section upper lug, and defines the rework limits for cracks in the lugs.

d. Boeing Service Bulletin 3253, Revision 4, dated November 17, 1988, which describes procedures for rework of the outboard fitting upper lug and defines the rework limits for cracks in the lugs.

e. Boeing Service Bulletin 2330, Revision 2, dated November 17, 1967, which describes procedures for repair of the outboard fitting upper clevis lug.

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design, this AD supersedes AD 91–07–07 to add a requirement for repetitive visual and high frequency eddy current inspections of the safety strap to center section attachment locations when such safety straps are installed as a repair for a cracked lug. These requirements are incorporated into the rule by the addition of new paragraphs (d) and (h).

This AD also reflects the determination that replacement of the outboard fitting with a fitting made of 7075–T73 aluminum does not constitute terminating action of the inspection requirements for that fitting, when a safety strap has been installed as a repair for a cracked or crack-free center section lug made of 7079–T6 aluminum; this determination is reflected in paragraphs (a) and (c) of the AD.

The actions specified in this AD are required to be accomplished in accordance with the Boeing service bulletins previously described.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption "ADDRESSES." All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 91–NM–246–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [AMENDED]

2. Section 39.13 is amended by removing Amendment 39–6943 and by adding the following new airworthiness directive:

92–04–01. Boeing: Amendment 39–8170. Docket No. 91–NM–246–AD. Supersedes AD 91–07–07, Amendment 39–6943.

Applicability: Model 707–300, –300B, –300C, and –400 series airplanes; as listed in Boeing Alert Service Bulletin A3482, Revision 1, dated August 29, 1991; certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To ensure continued structural integrity of the horizontal stabilizer, accomplish the following:

(a) Within the next 45 days after April 3, 1991 (the effective date of Amendment 39–6943, AD 91–07–07), determine the composition of the material in the horizontal stabilizer front spar center section assembly and the outboard upper fittings. If the material of the center section is 7075–T73 aluminum, no inspection of the center section is required by this AD.

(b) If the material of the center section is 7079–T6 aluminum, prior to further flight, conduct a close visual and ultrasonic inspection of the center section upper lugs for cracks, in accordance with Figure 2 of Boeing Alert Service Bulletin A3482, dated September 27, 1990, or Revision 1, dated August 29, 1991; and determine if the safety strap has been installed in accordance with Boeing Service Bulletin 3067, Revision 3, dated August 24, 1979, or earlier FAA-approved revisions. Determine which of the following conditions describes each of the center section upper lugs:

(1) No crack in the lug and there is no safety strap installed.

(2) No crack in the lug and the safety strap is installed for a crack-free lug in accordance with Boeing Service Bulletin 3067, Revision 3, dated August 24, 1979.

(3) No crack in the lug and the safety strap is installed for a cracked lug in accordance with Boeing Service Bulletin 3067, Revision 3, dated August 24, 1979, or earlier revisions.

(i) Without an anti-fretting washer installed.

(ii) With an anti-fretting washer installed.

(4) Crack in the lug and the crack length is within repairable hole rework limits defined in Boeing Service Bulletin 2959, Revision 4, dated August 17, 1979, and there is no safety strap.

(5) Crack in the lug and the crack length is within repairable hole rework limits defined in Boeing Service Bulletin 2959, Revision 4, dated August 17, 1979; and the safety strap is installed for a crack-free lug in accordance with Boeing Service Bulletin 3067, Revision 3, dated August 24, 1979.

(6) Crack in the lug and the crack length is within repairable hole rework limits defined in Boeing Service Bulletin 2959, Revision 4, dated August 17, 1979; and the safety strap is installed for a cracked lug in accordance with Boeing Service Bulletin 3067, Revision 3, dated August 24, 1979, or earlier revisions.

(i) Without an anti-fretting washer installed.

(ii) With an anti-fretting washer installed.

(7) Crack in the lug and the crack length is beyond repairable hole rework limits defined in Boeing Service Bulletin 2959, Revision 4, dated August 17, 1979; and there is no safety strap installed.

(8) Crack in the lug and the crack length is beyond the repairable hole rework limits defined in Boeing Service Bulletin 2959, Revision 4, dated August 17, 1979; and the safety strap is installed for a crack-free lug in accordance with Boeing Service Bulletin 3067, Revision 3, dated August 24, 1979.

(9) Crack in the lug and the crack length is beyond the repairable hole rework limits defined in Boeing Service Bulletin 2959, Revision 4, dated August 17, 1979; and the safety strap is installed for a cracked lug in accordance with Boeing Service Bulletin 3067, Revision 3, dated August 24, 1979.

(10) Crack in the lug and the crack length is beyond repairable hole rework limits defined in Boeing Service Bulletin 2959, Revision 4, dated August 17, 1979; and safety strap is installed in accordance with Boeing Service Bulletin 3067, Revision 2, dated February 9, 1979, or earlier revisions (i.e., without anti-fretting washer installed).

(11) Crack in the lug and the crack length is beyond repairable hole rework limits defined in Boeing Service Bulletin 2959, Revision 4, dated August 17, 1979; and the safety strap is approximately ¼ inch in thickness.

(c) If the material of the outboard fitting is 7079–T6 aluminum, prior to further flight, conduct a close visual and ultrasonic inspection of the outboard fitting upper clevis lugs in accordance with Figure 3 of Boeing Alert Service Bulletin A3482, dated September 27, 1990, or Revision 1, dated August 29, 1991. If the material of the outboard fitting is 7075–T73 aluminum and a safety strap is installed for a cracked or crack-free 7079–T6 aluminum center section lug in accordance with Boeing Service Bulletin 3067, Revision 3, dated August 24, 1979, or earlier revisions, conduct these inspections within the next 1,000 flight cycles or one calendar year after the effective date of this amendment, whichever occurs first. Determine which of the following conditions describes each of the outboard fitting upper clevis lugs:

(1) No crack is found in lug.

(2) The lug is cracked and not repaired.

(3) The lug is cracked and repaired in accordance with Boeing Service Bulletin 2330, Revision 2, dated November 17, 1967.

(d) If a safety strap is installed for a cracked center section lug and the crack length is beyond the repairable hole rework limits defined in Boeing Service Bulletin 2959, Revision 4, dated August 17, 1979; and the safety strap is installed for a cracked lug in accordance with Boeing Service Bulletin 3067, Revision 3, dated August 24, 1979, or earlier revisions: Within the next 45 days after the effective date of this amendment, perform a close visual and high frequency eddy current inspection of the safety strap terminal hole and center section attachment locations in accordance with Figure 3 of Boeing Alert Service Bulletin A3482, Revision 1, dated August 29, 1991.

(e) Repair or replace lugs in accordance with Table 1 below:

TABLE 1.—REPLACEMENT OR MODIFICATION REQUIREMENTS

Condition of center section upper lug as determined from paragraph (b) of this AD	Condition of the outboard fitting upper clevis lug as determined from paragraph (c) of this AD.		
	(c)(1)	(c)(2)	(c)(3)
(b)(1)	Para. (e)(1)	Para. (e)(2)	Para. (e)(1)
(b)(2)	Para. (e)(1)	Para. (e)(2)	Para. (e)(1)
(b)(3)	Para. (e)(3)	Para. (e)(4)	Para. (e)(3)
(b)(4)	Para. (e)(5)	Para. (e)(6)	Para. (e)(5)
(b)(5)	Para. (e)(5)	Para. (e)(6)	Para. (e)(5)
(b)(6)	Para. (e)(7)	Para. (e)(8)	Para. (e)(7)
(b)(7)	Para. (e)(9)	Para. (e)(10)	Para. (e)(11)
(b)(8)	Para. (e)(12)	Para. (e)(13)	Para. (e)(14)
(b)(9)	Para. (e)(1)	Para. (e)(15)	Para. (e)(16)
(b)(10)	Para. (e)(17)	Para. (e)(18)	Para. (e)(19)
(b)(11)	Para. (e)(20)	Para. (e)(21)	Para. (e)(22)

(1) No modification or replacement is required by this AD.

(2) Prior to further flight, repair the outboard fitting upper clevis lug in accordance with Boeing Service Bulletin 2330, Revision 2, dated November 17, 1967; or, for a crack within rework limits, modify the outboard fitting lug in accordance with Boeing Service Bulletin 3253, Revision 4, dated November 17, 1968.

(3) Prior to further flight, modify the safety strap to maintain a clearance in the hole of the strap in accordance with Boeing Service Bulletin 3067, Revision 3, dated August 24, 1979.

(4) Prior to further flight, repair the outboard fitting upper clevis lug in accordance with Boeing Service Bulletin 2330, Revision 2, dated November 17, 1987; or, for a crack within rework limits, rework in accordance with Boeing Service Bulletin 3253, Revision 4, dated November 17, 1988. Additionally, prior to further flight, modify the safety strap to maintain a clearance in the hole of the strap, in accordance with Boeing Service Bulletin 3067, Revision 3, dated August 24, 1979.

(5) Prior to further flight, modify the center section upper lug in accordance with Boeing Service Bulletin 2959, Revision 4, dated August 17, 1979.

(6) Prior to further flight, modify the center section upper lug in accordance with Boeing Service Bulletin 2959, Revision 4, dated August 17, 1979. Additionally, prior to further flight, repair the outboard fitting upper clevis lug in accordance with Boeing Service Bulletin 2330, Revision 2, dated November 17, 1987; or, for a crack within rework limits, modify the outboard fitting lug in accordance with Boeing Service Bulletin 3253, Revision 4, dated November 17, 1988.

(7) Prior to further flight, modify the center section upper lug in accordance with Boeing Service Bulletin 2959, Revision 4, dated August 17, 1979; and modify the safety strap to maintain a clearance in the hole of the strap in accordance with Boeing Service Bulletin 3067, Revision 3, dated August 24, 1979.

(8) Prior to further flight, modify the center section upper lug in accordance with Boeing Service Bulletin 2959, Revision 4, dated August 17, 1979; and modify the safety strap to maintain a clearance in the hole of the strap in accordance with Boeing Service Bulletin 3067, Revision 3, dated August 24, 1979. Additionally, prior to further flight, repair the outboard fitting upper clevis lug in accordance with Boeing Service Bulletin 2330, Revision 2, dated November 17, 1987; or, for a crack within rework limits, modify the outboard fitting lug in accordance with Boeing Service Bulletin 3253, Revision 4, dated November 17, 1988.

(9) Prior to further flight, install the safety strap as a repair for a cracked lug in accordance with Boeing Service Bulletin 3067, Revision 3, dated August 24, 1979.

(10) Prior to further flight, remove and replace the outboard fitting in accordance with Boeing Alert Service Bulletin A3482, Revision 1, dated August 29, 1991; or, for a crack within rework limits, modify the outboard fitting lug in accordance with Boeing Service Bulletin 3253, Revision 4, dated November 17, 1988. Additionally, prior to further flight, install the safety strap on the center section upper lug as a repair for a cracked lug in accordance with Boeing Service Bulletin 3067, Revision 3, dated August 24, 1979.

(11) Prior to further flight, remove and replace the outboard fitting in accordance with Boeing Alert Service Bulletin A3482, Revision 1, dated August 29, 1991; and install the safety strap on the center section upper lug as a repair for a cracked lug in accordance with Boeing Service Bulletin 3067, Revision 3, dated August 24, 1979.

(12) Prior to further flight, modify the safety strap as a repair for a cracked lug in accordance with Boeing Alert Service Bulletin A3482, Revision 1, dated August 29, 1991, or Initial Release, dated September 27, 1990.

(13) Prior to further flight, remove and replace the outboard fitting in accordance with Boeing Alert Service Bulletin A3482, Revision 1, dated August 29, 1991; or, for a crack within rework limits, modify the outboard fitting upper lug in accordance with Boeing Service Bulletin 3253, Revision 4, dated November 17, 1988. Additionally, prior to further flight, modify the safety strap on the center section upper lug as a repair for a cracked lug in accordance with Boeing Alert Service Bulletin A3482, Revision 1, dated August 29, 1991, or Initial release, dated September 27, 1990.

(14) Prior to further flight, remove and replace the outboard fitting in accordance with Boeing Alert Service Bulletin A3482, Revision 1, dated August 29, 1991; and modify the safety strap on the center section upper lug as a repair for a cracked lug in accordance with Boeing Alert Service Bulletin A3482, dated September 27, 1990, or Revision 1, dated August 29, 1991.

(15) Prior to further flight, remove and replace the outboard fitting in accordance with Boeing Alert Service Bulletin A3482, Revision 1, dated August 29, 1991; or, for a crack within rework limits, modify the outboard fitting lug in accordance with Boeing Service Bulletin 3253, Revision 4, dated November 17, 1988.

(16) Prior to further flight, remove and replace the outboard fitting in accordance with Boeing Alert Service Bulletin A3482, Revision 1, dated August 29, 1991.

(17) Prior to further flight, modify the safety strap as a repair for a cracked lug in accordance with Boeing Service Bulletin 3067, Revision 3, dated August 24, 1979.

(18) Prior to further flight, remove and replace the outboard fitting in accordance with Boeing Alert Service Bulletin A3482, Revision 1, dated August 29, 1991; or, for a crack within rework limits, modify the outboard fitting lug in accordance with Boeing Service Bulletin 3253, Revision 4, dated November 17, 1988. Additionally, prior to further flight, modify the safety strap on the center section upper lug as a repair for a cracked lug in accordance with Boeing Alert Service Bulletin A3482, dated September 27, 1990, or Revision 1, dated August 29, 1991.

(19) Prior to further flight, remove and replace the outboard fitting in accordance with Boeing Alert Service Bulletin A3482, Revision 1, dated August 29, 1991; and modify the safety strap on the center section upper lug as a repair for a cracked lug in accordance with Boeing Alert Service Bulletin A3482, dated September 27, 1990, or Revision 1, dated August 29, 1991.

(20) Prior to further flight, replace the safety strap with a strap having an interference hole in accordance with Boeing Service Bulletin 3067, Revision 3, dated August 17, 1979.

(21) Prior to further flight, remove and replace the outboard fitting in accordance with Boeing Alert Service Bulletin A3482, Revision 1, dated August 29, 1991; or, for a crack within rework limits, modify the outboard fitting lug in accordance with Boeing Service Bulletin 3253, Revision 4, dated November 17, 1988. Additionally, prior to further flight, replace the safety strap with a strap having an interference hole in accordance with Boeing Service Bulletin 3067, Revision 3, dated August 17, 1979.

(22) Prior to further flight, remove and replace the outboard fitting in accordance with Boeing Alert Service Bulletin A3482, Revision 1, dated August 29, 1991; and replace the safety strap with a strap having an interference hole in accordance with Boeing Service Bulletin 3067, Revision 3, dated August 17, 1979.

(f) Repeat the inspection of the center section lugs required by paragraph (b) of this AD at intervals not to exceed 1,000 flight cycles or 1 calendar year, whichever occurs first. If a crack is found, prior to further flight, repair or replace the center section lugs in accordance with paragraph (e) of this AD.

(g) Repeat the inspection of the outboard fitting upper clevis lugs required by paragraph (c) of this AD at intervals not to exceed 1,000 flight cycles or 1 calendar year, whichever occurs first. If a crack is found, prior to further flight, repair or replace the outboard fitting upper clevis lugs in accordance with paragraph (e) of this AD.

(h) Repeat the inspection of the safety strap terminal hole and center section attachment locations required by paragraph (d) of this AD at intervals not to exceed 500 flight cycles.

(1) If a crack is found in the terminal hole or in the center section attachment hole/holes of the strap, prior to further flight, replace the safety strap with a strap having an interference fit hole in accordance with Service Bulletin 3067, Revision 3, dated August 17, 1979. The inspections required by this paragraph must be continued after such replacement at intervals not to exceed 500 flight cycles.

(2) Replacement of the center section front spar assembly with an assembly made of 7075–T73 aluminum constitutes terminating action for the inspections required by this paragraph.

(i) Replacement of both the horizontal stabilizer center section front spar assembly and the outboard front spar fittings, with an assembly and fittings made of 7075–T73 aluminum, in accordance with Boeing Service Bulletin 2959, Revision 4, dated August 17, 1979, and Boeing Alert Service Bulletin A3482, Revision 1, dated August 29, 1991, constitutes terminating action for the inspection requirements of this AD.

(j) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

(k) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

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(l) The inspections, repair, and modifications shall be done in accordance with the following service bulletins:

(1) Boeing Alert Service Bulletin A3482, dated September 27, 1990, or Revision 1, dated August 29, 1991;

(2) Boeing Service Bulletin 3067, Revision 3, dated August 24, 1979;

(3) Boeing Service Bulletin 2959, Revision 4, dated August 17, 1979;

(4) Boeing Service Bulletin 3253, Revision 4, dated November 17, 1988, which contains the following list of effective pages:

Page No.	Revision level	Date
1-14, 16, 19, 25, 31, 35, 46-49, 54-56.	4	November 17, 1988.
15, 17-18, 20-24, 26-30, 32-34, 36-45, 50-53.	3	February 25, 1988.

and

(5) Boeing Service Bulletin 2330, Revision 2, dated November 17, 1967, which contains the following list of effective pages:

Page No.	Revision level	Date
1-4, 14	2	November 17, 1967.
5-13, 15-23	1	October 9, 1967.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. Copies may be inspected at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

(m) This amendment (39-8170), AD 92-04-01, becomes effective February 25, 1992.

Issued in Renton, Washington, on January 21, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-3058 Filed 2-7-92; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM80-53]

Maximum Lawful Price and Inflation Adjustments Under the Natural Gas Policy Act

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; order of the director, OPPR.

SUMMARY: Pursuant to the authority delegated by 18 CFR 375.307(c)(1), the Director of the Office of Pipeline and Producer Regulation revises and publishes the maximum lawful prices prescribed under title I of the Natural Gas Policy Act (NGPA) for the months of February, March and April, 1992. Section 101(b)(6) of the NGPA requires that the Commission compute and publish the maximum lawful prices before the beginning of each month for which the figures apply.

EFFECTIVE DATE: February 1, 1992.

FOR FURTHER INFORMATION CONTACT: Garry L. Penix, (202) 208-0622.

Order of the Director, OPPR

Issued January 29, 1992.

Section 101(b)(6) of the Natural Gas Policy Act of 1978 (NGPA) requires that the Commission compute and make available maximum lawful prices and inflation adjustments prescribed in title I of the NGPA before the beginning of any month for which such figures apply.

Pursuant to this requirement and § 375.307(c)(1) of the Commission's regulations, which delegates the publication of such prices and inflation adjustments to the Director of the Office of Pipeline and Producer Regulation, the maximum lawful prices for the months of February, March and April, 1992, are issued by the publication of the price tables for the applicable quarter. Pricing tables are found in § 271.101(a) of the Commission's regulations. Table I of § 271.101(a) specifies the maximum lawful prices for gas subject to NGPA sections 102, 103(b)(1), 105(b)(3), 106(b)(1)(B), 107(c)(5), 108 and 109. Table II of § 271.101(a) specifies the maximum lawful prices for sections 104 and 106(a) of the NGPA. Table III of § 271.102(c) contains the inflation adjustment factors. The maximum lawful prices and the inflation adjustment factors for the periods prior to February, 1992, are found in the tables in §§ 271.101 and 271.102.

List of Subjects in 18 CFR Part 271

Natural gas.

Kevin P. Madden,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

1. The authority citation for part 271 continues to read as follows:

Authority: Natural Gas Act, 15 U.S.C. 717-717w; Department of Energy Organization Act, 42 U.S.C. 7101-7352; E.O. 12009, 3 CFR 1978 Comp., p. 142; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432.

§ 271.101 [Amended]

2. Section 271.101(a) is amended by adding the maximum lawful prices for February, March and April, 1992, in Tables I and II.

TABLE I.—NATURAL GAS CEILING PRICES

[Other Than NGPA sections 104 and 106(a)]

Subpart of part 271	NGPA section	Category of gas	Maximum lawful price per MMBtu for deliveries in— Feb. 1992	March 1992	April 1992
B	102	New Natural Gas, Certain OCS Gas [1]	$6.514	$6.545	$6.576
C	103(b)(1)	New Onshore Production Wells [2]	3.814	3.820	3.826
E	105(b)(3)	Intrastate Existing Contracts	6.101	6.125	6.149
F	106(b)1(B)	Alternative Maximum Lawful Price for Certain Intrastate Rollover Gas [3]	2.182	2.185	2.188
G	107(c)(5)	Gas Produced from Tight Formations [4]	7.628	7.640	7.652
H	108	Stripper Gas	6.978	7.011	7.045
I	109	Not Otherwise Covered	3.154	3.159	3.164

[1] Commencing January 1, 1985, the price of natural gas finally determined to be new natural gas under section 102(c) was deregulated. (See part 272 of the Commission's regulations.)

[2] Commencing January 1, 1985, and July 1, 1987, the price of some natural gas finally determined to be natural gas produced from a new, onshore production well under section 103 was deregulated. (See part 272 of the Commission's regulations.) Thus, for all months succeeding June 1987 publication of a maximum lawful price per MMBtu under NGPA section 103(b)(2) is discontinued.

[3] Section 271.602(a) provides that for certain gas sold under an intrastate rollover contract the maximum lawful price is the higher of the price paid under the expired contract, adjusted for inflation or an alternative Maximum Lawful Price specified in this Table. This alternative Maximum Lawful Price for each month appears in this row of Table I. Commencing January 1, 1985, the price of some intrastate rollover gas was deregulated. (See part 272 of the Commission's regulations.)

[4] The maximum lawful price for tight formation gas is the lesser of the negotiated contract price or 200% of the price specified in subpart C of part 271. The incentive ceiling price does not apply to certain gas after May 12, 1990, as a result of Commission Order No. 519–A. (See § 271.703 of the Commission's regulations.)

TABLE II.—NATURAL GAS CEILING PRICES: NGPA SECTIONS 104 AND 106(A) (SUBPART D, PART 271)

Category of natural gas and type of sale or contract	Maximum lawful price per MMBtu for deliveries in—		
	Feb. 1992	March 1992	April 1992
Post-1974 gas: [2] All producers	$3.154	$3.159	$3.164
1973–1974 Biennium gas:			
Small producer	2.660	2.664	2.668
Large producer	2.041	2.044	2.047
Interstate rollover gas: All producers	1.170	1.172	1.174
Replacement contract gas or recompletion gas:			
Small producer	1.499	1.501	1.503
Large producer	1.146	1.148	1.150
Flowing gas:			
Small producer	0.754	0.755	0.756
Large producer	0.638	0.639	0.640
Certain Permian Basin gas:			
Small producer	0.891	0.892	0.893
Large producer	0.791	0.792	0.793
Certain Rocky Mountain gas:			
Small producer	0.891	0.892	0.893
Large producer	0.754	0.755	0.756
Certain Appalachian Basin gas:			
North subarea contracts dated after 10–7–69	0.719	0.720	0.721
Other contracts	0.667	0.668	0.669
Minimum rate gas: [1] All producers	0.392	0.393	0.394

[1] Prices for minimum rate gas are expressed in terms of dollars per Mcf, rather than MMBtu.

[2] This price may also be applicable to other categories of gas (see §§ 271.402 and 271.602).

§ 271.102 [Amended]

3. Section 271.102(c) is amended by adding the inflation adjustment for the months of February, March and April 1992, in Table III.

TABLE III.—INFLATION ADJUSTMENT

Month of delivery	Factor by which price in preceding month is multiplied
February, 1992	1.00157
March, 1992	1.00157
April, 1992	1.00157

[FR Doc. 92–2808 Filed 2–7–92; 8:45 am]

BILLING CODE 6717-01-M

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18 CFR Part 271

[Docket No. RM80–53]

Maximum Lawful Price and Inflation Adjustments Under the Natural Gas Policy Act

AGENCY: Federal Energy Regulatory Commission, DOE

ACTION: Final Rule; supplemental order of the Director, OPPR.

SUMMARY: Pursuant to the authority delegated by 18 CFR § 375.307 (c)(1), the Director of the Office of Pipeline and Producer Regulation revises and publishes the maximum lawful prices prescribed under title I of the Natural Gas Policy Act (NCPA) for the months of February, March and April, 1992. Section 101(b)(6) of the NGPA requires that the Commission compute and publish the maximum lawful prices before the beginning of each month for which the figures apply.

EFFECTIVE DATE: February 1, 1992.

FOR FURTHER INFORMATION CONTACT: Garry L. Penix (202) 208–0622.

Supplemental Order of the Director, OPPR

Issued January 31, 1992

The maximum lawful prices and inflation adjustment factors for the months of February, March and April, 1992, listed in the January 29, 1992 Order Of The Director, OPPR, were computed using the percentage change in the gross domestic product (GDP) published by the Department of Commerce instead of the gross national product (GNP) required by the Natural Gas Policy Act. The GDP was used because the Department of Commerce advised that the GNP won't be published until February 28, 1992, and that the GDP and GNP are virtually the same. When the GNP is published, revised prices and inflation adjustment factors for the months of March and April, 1992 will be published, if necessary.

Kevin P. Madden,

Director, Office of Pipeline and Producer Regulation.

[FR Doc. 92–2807 Filed 2–7–92; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 340

[DoD Directive 3020.4]

Order of Succession of Officers to Act as Secretary of Defense

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This document implements Executive Order 12787 which establishes the order of succession to act as Secretary of Defense.

EFFECTIVE DATE: January 28, 1992.

ADDRESSES: General Counsel of the Department of Defense, room 3E999, the Pentagon, Washington, DC 20301.

FOR FURTHER INFORMATION CONTACT: F. Holmes, telephone (703) 695–1055

SUPPLEMENTARY INFORMATION:

Lists of Subjects in 32 CFR Part 340

Organization and functions (Government agencies).

Accordingly, title 32 of the Code of Federal Regulations, chapter 1, subchapter R, is amended to add part 340 to read as follows:

PART 340—ORDER OF SUCCESSION OF OFFICERS TO ACT AS SECRETARY OF DEFENSE

Sec.
340.1 Purpose.
340.2 Applicability.
340.3 Policy.

Authority: 10 U.S.C. 301; E.O. 12787, 56 FR 517, January 7, 1992.

§ 340.1 Purpose.

This part establishes the order of succession to act as Secretary of Defense pursuant to Executive Order 12787. The order of succession to act as Secretary of the Army, Secretary of the Navy, and Secretary of the Air Force is specified in 10 U.S.C. 3017, 5017, and 8017.

§ 340.2 Applicability.

This part applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Unified and Specified Commands, the Inspector General of the Department of Defense, the Defense Agencies, and the DoD Field Activities.

§ 340.3 Policy.

(a) In the event of the death, permanent disability, or resignation of the Secretary of Defense, DoD officials, in the order specified in Executive Order 12787, shall act for and exercise the powers of the Secretary of Defense.

(b) Officials listed in Executive Order 12787 shall be fully familiar with the order of succession to the position of Secretary of Defense.

Dated: February 4, 1992.

L.M. Bynum,

Office of the Secretary of Defense, Alternate Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–3045 Filed 2–7–92; 8:45 am]

BILLING CODE 3810-01-M

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Judge Advocate General of the Navy has determined that USS ESSEX (LHD 2) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special functions as a naval amphibious assault ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: January 16, 1992.

FOR FURTHER INFORMATION CONTACT: Captain R.R. Rossi, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332–2400, Telephone number: (703) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This amendment provides notice that the Judge Advocate General of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS ESSEX (LHD 2) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21(a), pertaining to the location of the masthead lights over the fore and aft centerline of the ship; Annex 1, section 2(g), pertaining to the distance of the sidelights above the hull; Annex I, section 3(a), pertaining to the location of the forward masthead light in the forward quarter of the ship; the placement of the after masthead light, and the horizontal distance between the forward and after masthead lights; and Annex I, section 3(b), pertaining to the positioning of the sidelights in relationship to the forward masthead light, without interfering with its special functions as a Navy ship. The Judge Advocate General of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR part 706 is amended as follows:

1. The authority citation for 32 CFR part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

2. Table Two of § 706.2 is amended by adding the following vessel:

TABLE TWO

Vessel	No.	Masthead lights, distance to stbd of keel in meters; rule 21(a)	Forward anchor light, distance below flight dk in meters; § 2(k), annex I	Forward anchor light, number of; rule 30(a)(i)	AFT anchor light, distance below flight dk in meters; rule 21(e), rule 30(a)(ii)	AFT anchor light, number of; rule 30(a)(ii)	Side lights, distance below flight dk in meters; § 2(g), annex I	Side lights, distance forward of forward masthead light in meters; § 3(b), annex I	Side lights, distance inboard of ship's sides in meters; § 3(b), annex I
USS ESSEX	LHD 2						3.1	91.1	

§ 706.2 [Amended]

3. Table Five of § 706.2 is amended by adding the following vessel:

TABLE FIVE

Vessel	No.	Masthead lights not over all other lights and obstructions. annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. annex I, sec. (3)(a)	Percentage horizontal separation attained
USS ESSEX	LHD 2		X	X	[illegible]

Dated: January 16, 1992.

Approved:

J.E. Gordon,

Rear Admiral, JAGC, U.S. Navy, Judge Advocate General.

[FR Doc. 92-3039 Filed 2-7-92; 8:45 am]

BILLING CODE 3810-AE-M

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32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Judge Advocate General of the Navy has determined that USS MONTPELIER (SSN 765) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special functions as a naval submarine. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply,

EFFECTIVE DATE: January 16, 1992.

FOR FURTHER INFORMATION CONTACT: Captain R.R. ROSSI, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (703) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This amendment provides notice that the Judge Advocate General of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS MONTPELIER (SSN 765) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21(c), pertaining to the arc of visibility of the sternlight; Annex I, section 2(a)(i), pertaining to the height of the masthead light; Annex 1, section 2(k), pertaining to the height and relative positions of the anchor lights; and Annex 1, section 3(b), pertaining to the location of the sidelights. Full compliance with the above-mentioned 72 COLREGS provisions would interfere with the special functions and purposes of the vessel. The Judge Advocate General of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that USS MONTPELIER (SSN 765) is a member of the SSN-688 class of vessels for which certain exemptions, pursuant to 72 COLREGS, Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of section 706.3, are equally applicable to USS MONTPELIER (SSN 765).

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR part 706 is amended as follows:

1. The authority citation for 32 CFR part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

2. Table One of § 706.2 is amended by adding the following vessel:

Vessel	Number	Distance in meters of forward masthead light below minimum required height. § 2(a)(i), annex I
USS MONTPELIER	SSN 765	3.5

§ 706.2 [Amended]

3. Table Three of § 706.2 is amended by adding the following vessel:

Vessel	Number	Masthead lights, arc of visibility; rule 21(a)	Side lights, arc of visibility; rule 21(b)	Stern light, arc of visibility; rule 21(c)	Side lights, distance inboard of ship's sides in meters; § 3(b), annex I	Stern light distance forward of stern in meters; rule 21(c)	Forward anchor light, height above hull in meters; § 2(k), annex I	Anchor lights, relationship of aft light to forward light in meters; § 2(k), annex I
USS MONTPELIER	SSN 765			209	4.3	6.1	3.4	1.7 below.

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Dated: January 16, 1992.

Approved:

J.E. Gordon,

Rear Admiral, JAGC, U.S. Navy, Judge Advocate General.

[FR Doc. 92-3040 Filed 2-7-92; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6922

[ID-943-4214-10; IDI-15624A]

Partial Revocation of Executive Order Dated August 31, 1917, Which Established Powersite Reserve No. 654; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes an Executive order insofar as it affects 195 acres of land withdrawn for the Bureau of Land Management's Powersite Reserve No. 654. The lands are no longer needed for waterpower development. This action will open 195 acres to surface entry and will permit consummation of a pending land exchange. The 195 acres has been open to mining under the provisions of Mining Claims Rights Restoration Act of 1955 and these provisions are no longer required. The lands have been and will remain open to mineral leasing.

EFFECTIVE DATE: March 11, 1992.

FOR FURTHER INFORMATION CONTACT: Larry Lievsay, BLM Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706, 208-384-3166.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. The Executive Order dated August 31, 1917, which established Powersite Reserve No. 654, is hereby revoked insofar as it affects the following described lands:

Boise Meridian

T. 48 N., R. 1 W.,
  Sec. 1, lots 6 and 7;
  Sec. 8, S½NW¼.
T. 48 N., R. 1 E.,
  Sec. 6, lots 9 and 10.

The areas described aggregate 195 acres in Kootenai County.

2. The State of Idaho has waived its right of selection in accordance with the provisions of section 24 of the Federal Power Act of June 10, 1920, as amended, 41 Stat. 1075; 16 U.S.C. 818 (1988).

3. At 9 a.m. on March 11, 1992, the lands described in paragraph 1 will be open to the operation of the public land laws generally subject to valid existing rights, the provisions of existing withdrawals and reservations, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on March 11, 1992, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

The lands described in paragraph 1 have been open to mining under the provisions of the Mining Claims Rights Restoration Act of 1955, Public Law 359, Act of August 11, 1955, 69 Stat. 682; 30 U.S.C. 621 and these provisions are no longer required.

Dated: January 31, 1992.

Dave O'Neal,

Secretary of the Interior.

[FR Doc. 92-3046 Filed 2-7-92; 8:45 am]

[BILLING CODE 4310-GG-M]

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 69

[CC Docket No. 78-72; FCC 91-327]

Access Charges

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Commission adopted a Memorandum Opinion and Order reaffirming its approval of proposed revisions to the average schedule formulas that were filed by the National Exchange Carrier Association, Inc. (NECA) on September 17, 1985. The Commission first approved the proposed revisions on April 11, 1986, 103 FCC 2d 1017. However, in July 1987, the United States Court of Appeals for the District of Columbia Circuit remanded, for further explanation, the Commission's approval of those revisions. In reaffirming its earlier approval of NECA's proposed revisions to the average schedules, the Commission rejected a proposed alternative methodology for computing the schedules, found reasonable support for the transition plan that was contained in NECA's proposal, and concluded that the methodologies, data, and formulas that NECA utilized were reasonable.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Kent Nilsson, (202) 632-6363. Policy and Program Planning Division, Common Carrier Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order in CC Docket No. 78-72, adopted October 21, 1991, and released November 15, 1991 (FCC 91-327). The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 239), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1114 21st Street NW., Washington, DC 20037, (202) 452-1422.

Memorandum Opinion and Order

1. In 1983, average schedules were first filed with the Commission. Average schedules are used to compensate certain local exchange carriers for the use of their services in originating and terminating interstate calls. In 1985, NECA filed proposed revisions to the average schedules which were approved by the Commission on April 11, 1986. Although ICORE, a consulting firm representing companies that would have experienced large settlement reductions under the 1986 revisions, objected to the proposed schedules, the Commission concluded that the proposed schedules contained more recent data, eliminated traffic volume based compensation under the average revenue per message schedules, and complied more closely with its rules.

2. The ICORE exchange carriers filed a petition for review of the Commission's approval of the 1986 schedules. In 1987, the United States Court of Appeals for the District of Columbia Circuit remanded for further consideration that portion of the Commission's decision that approved NECA's proposed settlement schedules and transition plan.

3. In response to the court's remand, the Commission's Common Carrier Bureau directed 35 questions to NECA concerning the data, statistical tests, methodologies, and safeguards that NECA had employed in preparing its proposed revisions. The Common Carrier Bureau then sought public comment on NECA's responses in light of the court's remand order and the record that had been before the court.

4. On October 21, 1991, the Commission adopted a Memorandum Opinion and Order (FCC 91-327) reaffirming its earlier approval of the average schedules that were in effect between June 1, 1986 and March 31, 1989. The Commission concluded that

there was a reasonable basis to approve the 1986 schedules. The Commission also rejected a proposed alternative methodology for computing the schedules and found reasonable support for the transition plan established in the 1986 schedules. The Commission did, however, permit certain exchange carriers that had received transition payments to elect to have NECA perform cost studies of their operations and receive compensation on that basis.

Ordering Clauses

1. *Accordingly, It Is Ordered* That the Commission's April 11, 1986 approval of NECA's average schedule *Is Reaffirmed As Modified Herein;*

2. *It Is Further Ordered* That NECA shall perform cost studies and make the settlements adjustments that are appropriate in light of those studies *As Specified Herein;*

3. *It Is Further Ordered* That NECA shall promptly transmit to the Secretary, Federal Communications Commission, the name and address of each exchange carrier that may properly elect to be cost studied by NECA pursuant to this order;

4. *It Is Further Ordered* That the motions of all parties to this proceeding are granted to the extent stated herein and otherwise are, in all respects, denied;

5. *It Is Further Ordered* That this proceeding is terminated.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92-2940 Filed 2-7-92; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 91-239; RM-7769]

Radio Broadcasting Services; Antigo, WI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 291C3 to Antigo, Wisconsin, as that community's second FM broadcast service in response to a petition filed by Nicolet Broadcasting, Inc. See 56 FR 41812, August 23, 1991. Canadian concurrence has been obtained for this allotment at coordinates 45-08-54 and 89-09-00. With this action, this proceeding is terminated.

EFFECTIVE DATE: March 20, 1992. The window period for filing applications for Channel 291C3 at Antigo will open on March 23, 1992, and close on April 22, 1992.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 91-239, adopted January 23, 1992, and released February 4, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may be purchased from the Commission's copy contractors, Downtown Copy Center, 1714 21st Street, NW., Washington, DC 20036, (202) 452-1422.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Wisconsin, is amended by adding Channel 291C3 at Antigo.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-3063 Filed 2-7-92; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 91-299; RM-7812]

Television Broadcasting Services; Tamuning, Guam

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots UHF television Channel 20 to Tamuning, Guam, as the community's second local service, at the request of Guahan Airwaves, Inc. See 56 FR 52497, October 21, 1991. Channel 20 can be allotted to Tamuning in compliance with the Commission's minimum distance separation requirements. The coordinates for this allotment are North Latitude 13-29-02 and West Longitude 144-46-36. Although the Commission has imposed a freeze on television allotments in certain areas, Tamuning is not in one of the affected areas. With this action, this proceeding is terminated.

EFFECTIVE DATE: March 20, 1992.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 91-299, adopted January 24, 1992, and released February 4, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Television broadcasting.

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.606 [Amended]

2. Section 73.606(b), the Television Table of Allotments under Guam, is amended by adding Channel 20 at Tamuning.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-3062 Filed 2-7-92; 8:45 am]

BILLING CODE 6712-01-M

VOL 57
ISS 27
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Proposed Rules

Federal Register
Vol. 57, No. 27
Monday, February 10, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S-760-B]

RIN 1218-AB27

Accreditation of Training Programs for Hazardous Waste Operations

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Proposed rule; limited reopening of the record and request for comments.

SUMMARY: The Occupational Safety and Health Administration (OSHA) issued a proposal January 26, 1990 (55 FR 2776) to accredit training programs for hazardous waste operations which asked whether OSHA should also accredit training programs for emergency response to incidents involving hazardous substances. Comments have been received, public hearings have been held and the public rulemaking record has been closed.

OSHA recently received the final report of a survey which collected information on the number, type and characteristics of training programs for hazardous waste and emergency response workers. Eastern Research Group, Inc. (ERG) performed this study. With this notice OSHA announces the availability of the ERG report and reopens the public record for Docket S-760B to receive public comment only on the ERG report and the survey results.

DATES: Comments must be postmarked by March 26, 1992.

ADDRESSES: 1. Copies of the report are available at or upon either telephone or written request to the Docket Office, Occupational Safety and Health Administration, room N-2625, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210; Telephone: (202) 523-7894.

2. Written comments on the report should be submitted in quadruplicate to the Docket Office, Docket No. S-760-B, OSHA room N-2625, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, room N-3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, 202-523-8151.

SUPPLEMENTARY INFORMATION:

I. Background

OSHA has rules regulating hazardous waste and emergency response operations located at 29 CFR 1910.120 which include training requirements. Congress has directed that OSHA accredit such training programs in certain circumstances. OSHA proposed January 26, 1990 (55 FR 2776) to accredit hazardous waste training programs and asked whether it should accredit emergency response training programs.

Comments were received pursuant to the proposal. At public request, hearings were also held (see 55 FR 30720, July 27, 1990 and 55 FR 45616, October 30, 1990). Final post-hearing briefs were received May 1, 1991 and the record was closed August 9, 1991.

Separately OSHA has collected information on characteristics of selected training programs for emergency response personnel for hazardous materials incidents. This data collection was initiated to help OSHA fulfill its part of a 5-Agency Task Force on developing emergency response training programs. That 5-Agency Task Force included the U.S. Department of Transportation (DOT), the U.S. Environmental Protection Agency (EPA), the Federal Emergency Management Agency (FEMA), the U.S. Department of Labor (DOL), and the U.S. Department of Health and Human Services (HHS).

Specifically, OSHA needed the information to:

1. Identify emergency response training courses that could be used by the Agency as models of effective programs. OSHA may prepare its own training courses (or adapt existing courses) to fulfill its responsibilities to contribute to the 5-Agency Task Force; and

2. Analyze the collective effectiveness of emergency response training programs in meeting the requirements of previous OSHA regulations, in particular, 29 CFR 1910.120.

OSHA conducted a survey to collect this information. The survey was submitted to the Office of Management and Budget (OMB) for approval and public comments on the survey instrument were requested on March 22, 1991 (56 FR 12281). OSHA requested that OMB complete its review by May 6, 1991. As a result of the process the survey's emphasis was refocused. The survey was performed by Eastern Research Group (ERG). The survey covered the technical content of training programs, the use of videos, equipment demonstrations and simulations, the methods used to test students, and the means used to provide feedback to instructors about their training effectiveness.

As part of their analysis, ERG also collected information on a selected number of training programs for workers employed at uncontrolled hazardous waste sites and at hazardous waste management facilities.

II. Agency Action

ERG has prepared a final report on the results of the voluntary telephone survey and recently submitted that report to OSHA. Upon review, OSHA believes that the results of the survey may be of some use when it makes final decisions on the proposed standard for the accreditation of training programs for hazardous waste operations and on whether training for emergency response should be accredited. Accordingly, the Agency submitted this report to the public record and is granting the public an opportunity to review and comment on the report and survey results and its relevance to the proposed standard. OSHA is not reopening the record for any other purposes.

III. Public Participation

Interested persons are invited to submit written data, views, and arguments with respect to this report and survey. These comments must be postmarked by March 26, 1992 and submitted in quadruplicate to the Docket Officer, Docket No. S-760-B, room N-2625, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, telephone (202) 523-7894. The report is available for inspection and copying in the Docket Office. In addition, to facilitate public comment, OSHA will mail copies of the report to parties who request a copy by mail, phone, or telefacsimile (FAX) from the Docket Office. Since the report is itself is too long to send via FAX, OSHA will be unable to honor any request to FAX copies of the report. Comments limited to 10 pages or less also may be transmitted by FAX to (202) 523–5046 or (for FTS) 8–523–5046 by the date specified, provided the original and 3 copies are sent to the Docket Office within three days thereafter. There is no need to resubmit comments already submitted.

Written submissions must clearly identify the findings of the report which are addressed and the position taken with respect to each finding. The data, views, and arguments that are submitted will be available for public inspection and copying at the above address. All timely written submissions will be made a part of the record of the proceeding.

List of Subjects in 29 CFR Part 1910

Flammable materials, Hazardous substances, Hazardous wastes, Training programs, Waste treatment and disposal.

Authority: This document was prepared under the direction of Dorothy L. Strunk, Acting Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington DC 20210.

It is issued pursuant to sections 6 and 8 of the Occupational Safety and Health Act of 1970, Public Law 91–596, (29 U.S.C. 655, 657), the Superfund Amendments and Reauthorization Act of 1986 as amended (29 U.S.C. 655, note), section 4 of the Administrative Procedures Act (5 U.S.C. 553), 29 CFR part 1911 and Secretary of Labor's Order No. 1–90 (55 FR 9033) as applicable.

Signed at Washington, DC this 3rd day of February, 1992.

Dorothy L. Strunk,

Acting Assistant Secretary of Labor.

[FR Doc. 92–3061 Filed 2–7–92; 8:45 am]

BILLING CODE 4510–26–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 92–14, RM–7884]

Radio Broadcasting Services; Ashland, WI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by the Phoenix Media Group proposing the allotment of Channel 227C1 to Ashland, Wisconsin, as that community's second FM broadcast service. There is a site restriction 8.5 kilometers (5.3 miles) northwest of the community. Canadian concurrence will be requested for this allotment at coordinates 46–39–30 and 90–56–00.

DATES: Comments must be filed on or before March 27, 1992, and reply comments on or before April 13, 1992.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Steven T. Moravec, Phoenix Media Group, 1407 Sumner Street, suite 200, St. Paul, Minnesota 55116.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 92–14, adopted January 23, 1992, and released February 4, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1714 21st Street, NW., Washington, DC 20036, (202) 452–1422.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92–3064 Filed 2–7–92; 8:45 am]

BILLING CODE 6712–01–M

Notices

Federal Register
Vol. 57, No. 27
Monday, February 10, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 91-188]

Availability of Environmental Assessment and Finding of No Significant Impact for Oriental Fruit Fly Regulatory Program; Record of Decision

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared and is making available an environmental assessment for the Oriental Fruit Fly Regulatory Program, a finding of no significant impact, and the Agency record of decision. The preparation of an environmental assessment was necessary to evaluate the effects of a program to prevent the spread of the oriental fruit fly noninfested areas of the United States, and to determine the program's potential effects upon the environment, including human health, nontarget organisms, endangered and threatened species, cumulative impacts, and unavoidable environmental effects. The analysis of the alternatives in the environmental assessment resulted in a finding of no significant impact.

ADDRESSES: Copies of the environmental assessment, finding of no significant impact, and record of decision are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Copies of the environmental assessment, finding of no significant impact, and record of decision are also available upon request from Michael B. Stefan, Operations Officer, Domestic and Emergency Operations, Plant Protection and Quarantine, APHIS, USDA, room 642, Federal Building, 6505 Belcrest Road, Hyattsville, MD, 20782; (301) 436-8247.

FOR FURTHER INFORMATION CONTACT: Harold Smith, Environmental Protection Officer, Environmental Analysis and Documentation, Biotechnology, Biologics, and Environmental Protection, APHIS, USDA, room 543, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8565.

SUPPLEMENTARY INFORMATION:

Background

The oriental fruit fly, *Bactrocera dorsalis* (Hendel), is a destructive pest of numerous fruits (especially citrus fruits), nuts, vegetables, and berries. The oriental fruit fly can cause serious economic losses. Heavy infestations can cause complete loss of some crops. The short life cycle of this pest permits the rapid development of large populations resulting in serious outbreaks. It belongs to the fruit fly family *Tephritidae*.

The United States Department of Agriculture (USDA) is authorized to establish quarantine areas under the Plant Quarantine Act of 1912, as amended, (7 U.S.C. 151-165, 167), which regulates the importation of nursery stock, plants, and plant products; and establishes quarantine districts to regulate the movement of fruits, vegetables, and plants for purposes such as interstate shipments. The Federal Plant Pest Act of 1957 (7 U.S.C. 150) authorizes USDA to use emergency measures set up by the Secretary; it authorizes inspections and seizures of regulated articles. The Domestic Quarantine Notices, Subpart Oriental Fruit Fly (7 CFR 301.93 *et seq.*) sets forth the Agency regulations to be followed for oriental fruit fly infestations.

In 1990, trapping surveys by inspectors of California State and county agencies and by inspectors of the Animal and Plant Health Inspection Service (APHIS), USDA, revealed that portions of Los Angeles, Riverside, and San Bernardino Counties in California are infested with the oriental fruit fly. Specifically, inspectors collected 37 male oriental fruit flies and 1 female oriental fruit fly in traps in portions of Los Angeles, Riverside, and San Bernardino Counties in California between September 20, and October 4, 1991. Therefore, in a document published November 13, 1991 (56 FR 57579-57587; Docket No. 91-149), these areas were placed under quarantine and Federal regulations were established to prevent the spread of the oriental fruit fly to other states.

Initiated in cooperation with State agriculture departments, the Oriental Fruit Fly Regulatory Program involves the establishment of quarantine areas, and the designation of regulated articles (host materials capable of harboring the oriental fruit fly), and requires various treatments as a means for certifying or permitting movement of the regulated articles. The regulatory program uses some control measures to prevent the spread of the oriental fruit fly, but does not include control measures associated solely with its eradication or suppression. The environmental assessment (EA) has been prepared to evaluate the effects of the regulatory program to prevent the spread of the oriental fruit fly.

Alternatives

The EA identifies and discusses the three following program alternatives for preventing the spread of the oriental fruit fly:

(1) No action;

(2) Quarantine only; and

(3) Quarantine and commodity certification.

The EA identifies the quarantine and commodity certification alternative as the preferred alternative for preventing the spread of the oriental fruit fly. The quarantine and commodity certification alternative includes restricting untreated, regulated commodities harvested within the quarantine area to movement within that area and permitting treated, regulated commodities to movement outside the quarantined area only upon issuance of a certificate or limited permit.

Major Issues

The major issues discussed in the EA are the environmental impacts, consequences, and mitigation measures. Included in the EA is an analysis of the toxicological and environmental fate properties of the treatment methods. Potential environmental effects of the alternatives to human health, nontarget organisms, endangered species, cumulative impacts, and unavoidable environmental effects are analyzed.

Record of Decision

The operational procedures and mitigation measures identified in the EA will ensure that no significant environmental impacts occur to the human environment. Wildlife and species of concern will be protected from significant environmental risks by program design, the directed nature of program treatments, and specific mitigative measures. Cumulative effects also were considered, and the carefully coordinated use of chemical and other control methods in this program will not have a cumulative adverse effect on the environment. It is concluded that there will be no significant primary or secondary effects, negligible long term effects, and no significant unavoidable effects on the environment, expected as a consequence of the program.

The EA and finding of no significant impact have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1508), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381–50384, August 28, 1979, and 44 FR 51272–51274, August 31, 1979).

Done in Washington, DC, this 4th day of January 1992.

Robert Melland,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92–3104 Filed 2–7–92; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of Economic Analysis.

Title: Unemployment Insurance Benefit Payments by County.

Form Number: N/A.

OMB Approval Number: 0608–0038.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 244 hours.

Number of Respondents: 24.

Avg Hours Per Response: 6 hours.

Needs and Uses: The Bureau of Economic Analysis prepares county estimates of personal income. To produce country estimates of unemployment benefit payments, which are a part of personal income, it is necessary to request data directly from the responsible State agencies. The data which are compiled by the States for their own administrative purposes are only available from the State administering the programs.

Affected Public: State Government agencies.

Frequency: Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Paul Buggs, (202) 395–3093.

Agency: International Trade Administration.

Title: Information on Articles for Physically Handicapped Persons Imported Free of Duty.

Form Number: ITA–362P.

OMB Approval Number: 0625–0118.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 185 hours.

Number of Respondents: 370.

Avg Hours Per Response: 5 minutes.

Needs and Uses: Congress, when it enacted legislation to implement the Nairobi Protocol to the Florence Agreement, included a provision for the Departments of Treasury and Commerce to collect information on the import of articles for the handicapped. The legislation provided for the temporary implementation of most treaty provisions in a more liberal fashion than strictly required by the Protocol. To ensure that this liberality did not cost U.S. jobs in affected commerce, Congress established a safeguard mechanism under which the U.S. could modify its tariff treatment in the event domestic injury resulted from importation of such items. The data collected assists the U.S. Government to assess domestic injury.

Affected Public: State or local governments, Federal agencies, and non–profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Gary Waxman, (202) 395–7340.

Agency: International Trade Administration.

Title: Request for Duty-Free Entry of Scientific Instruments or Apparatus.

Form Number: ITA–338P.

OMB Approval Number: 0625–0037.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 600 hours.

Number of Responses: 300.

Avg Hours Per Response: 2hours.

Needs and Uses: The Departments of Commerce and Treasury are required to determine whether institutions importing scientific instruments are entitled to duty–free treatment under the Florence Agreement. To be eligible the Federal government must find that: (1) The applicant is a non–profit institution established for scientific or educational purposes; (2) the instrument is a scientific instrument in one of the tariff categories listed by the law; (3) and that there is not an equivalent instrument being manufactured in the U.S.

Affected Public: State or local governments, Federal agencies, and non–profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Gary Waxman, (202) 395–7340.

Agency: Minority Business Development Agency.

Title: Business Development Report.

Form Number: N/A.

OMB Approval Number: 0640–0005.

Type of Request: Revision of a currently approved collection.

Burden: 9,600 hours.

Number of Responses: 19,200.

Avg Hours Per Response: 30 minutes.

Needs and Uses: The Business Development Report identifies business clients receiving agency-sponsored management and technical assistance and the kind of assistance each receives. MBDA needs this information for program evaluation, program planning and monitoring.

Affected Public: Individuals or households, state or local government, businesses or other institutions, and small businesses or organizations.

Frequency: Quarterly

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer Gary Waxman, (202) 395–7340.

Copies of the above information collection proposals can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 377–3271, Department of Commerce, room 5327, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collections should be sent to the respective OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

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Dated: February 4, 1992.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 92-3120 Filed 2-7-92; 8:45 am]

BILLING CODE 3510-CW

Foreign-Trade Zones Board

[Order No. 560]

Resolution and Order Approving the Request of the Greater Kansas City Foreign-Trade Zone, Inc., for Rescission of Restrictions 1 and 2, Board Order 454, Foreign-Trade Subzone 15E, Kawasaki Small Engine Plant, Nodaway County, Missouri; Proceedings of the Foreign-Trade Zones Board, Washington, DC; Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Greater Kansas City Foreign-Trade Zone, Inc., grantee of Foreign-Trade Zone 15 and Subzone 15E at the small engine/transmission manufacturing plant of Kawasaki Motors Manufacturing Corporation U.S.A. (KMM) in Nodaway County, Missouri, for rescission of Restrictions 1 and 2 in FTZ Board Order 454 approving Subzone 15E (time limit and review), upon review, the Board, finding that KMM's operations under zone procedures have proceeded in accordance with the plan outlined in the application, approves the request subject to special monitoring under the FTZ Board's regulations to ensure continuing adherence to the plan. This action establishes the scope of this subzone activity as including engines and related drive train parts.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Signed at Washington, DC, this 31st day of January, 1992.

Alan M. Dunn,

Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 92-3121 Filed 2-7-92; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-583-803]

Preliminary Results of Antidumping Duty Administrative Review; Light-Walled Rectangular Carbon Steel Tubing From Taiwan

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request by petitioners, the Department of Commerce is conducting an administrative review of the antidumping duty order on light-walled welded rectangular carbon steel tubing ("LWRT") from Taiwan. The review covers shipments of this merchandise to the United States from one exporter during the period March 1, 1990 through February 28, 1991. As a result of this review, the Department has preliminarily determined that the weighted average margin for the company under review IS 7.46 percent. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: February 10, 1992.

FOR FURTHER INFORMATION CONTACT: Will Sjoberg or Alain Letort, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-3793 or telefax (202) 377-1388.

SUPPLEMENTARY INFORMATION:

Background

On February 3, 1989, the Department of Commerce ("the Department") published in the **Federal Register** an antidumping duty order on LWRT from Taiwan (54 FR 5532). On March 8, 1991, we published in the **Federal Register** a notice of opportunity to request an administrative review of this order (56 FR 9936). On March 29, 1991, the Mechanical Tubing Subcommittee of the Committee on Pipe and Tube Imports and its individual members, petitioners, requested an administrative review of this order citing Ornatube Enterprise Co. Ltd. ("Ornatube") as the only producer/exporter to be reviewed. On April 18, 1991, we initiated the review, covering the period beginning on March 1, 1990, and ending on February 28, 1991 (56 FR 15856). The Department is now conducting this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended ("the Act").

This review covers shipments of LWRT from Taiwan to the United States by Ornatube.

Scope of the Review

Imports covered by this review are shipments of light-walled welded carbon steel pipes and tubes of rectangular (including square) cross-section having a wall thickness of less than 0.156 inch. Until January 1, 1989, this merchandise was classifiable under item number 610.4928 of the Tariff Schedules of the United States, Annotated ("TSUSA"). Since that date, these products have been classifiable under item number 7306.60.5000 of the Harmonized Tariff Schedule ("HTS"). As with the TSUSA number, the HTS number is provided for convenience and customs purposes. The written product description remains dispositive.

Fair Value Comparisons

To determine whether sales in the United States of LWRT from Taiwan were made at less than fair value, we compared United States price with foreign market value.

United States Price

In accordance with section 772(b) of the Act, we based United States price on purchase price because the merchandise was sold to unrelated purchasers in the United States prior to its importation. We calculated purchase price based on c. & f. or c.i.f. packed prices to U.S. customers.

We made deductions from purchase price, where appropriate, for foreign inland freight, ocean freight, marine insurance, brokerage and handling charges, bank charges, and export taxes. We made an addition to purchase price for duty drawback where the exported merchandise was manufactured with steel coil imported from outside Taiwan.

Foreign Market Value

On June 18, 1991, the Department received a response to its antidumping questionnaire from Ornatube. On August 26, 1991, petitioners alleged, based upon information in the questionnaire response, that Ornatube's home-market sales were made at prices below the cost of production. After reviewing this allegation, the Department issued a cost of production questionnaire on September 18, 1991. Ornatube submitted a response to that questionnaire on October 22, 1991. After determining that Ornatube's cost of production questionnaire response was inadequate, the Department issued the respondent a deficiency letter on December 12, 1991. In a letter received by the Department on December 30, 1991, Ornatube stated that it considered it had already responded to the cost of production questionnaire and would not be providing the Department with any further information on production costs.

Because Ornatube's cost of production questionnaire response contained no factual data with respect to cost of materials, labor, energy, selling and administrative expenses, and other key components of production costs, the Department, in accordance with section 776(c) of the Act, based FMV on the best information otherwise available. In the instant case, the Department determined that the best information otherwise available was the production cost data provided by petitioners.

Because Ornatube's home-market sales were below the production costs supplied by petitioners, in accordance with section 773(a)(2) of the Act, the Department used constructed value, based on petitioners' production cost data as foreign market value.

In accordance with section 773(e) of the Act and for purposes of these preliminary results, we calculated constructed value as the sum of the cost of materials and fabrication of the exported merchandise, plus general expenses not less than 10 percent of the cost of materials and fabrication, plus profit not less than 8 percent of the sum of the cost of materials, fabrication, and general expenses. In cases where the exported merchandise was produced with steel coil purchased in Taiwan, we reduced constructed value by the amount of the rebate paid to Ornatube by the domestic coil producer upon exportation of the subject merchandise. In order to adjust for differences in packing between the two markets, we added U.S. packing costs to constructed value in accordance with section 773(a)(1)(B) of the Act. In accordance with section 773(a)(4)(B) of the Act and 19 CFR 353.56(a)(2), we made an adjustment to constructed value for differences in commissions between the two markets. In accordance with 19 CFR 353.56(b)(1), we limited the adjustment for differences in commissions to the amount of indirect selling expenses in the home market because Ornatube paid sales commissions in the United States but not in the home market.

Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the weighted-average dumping margin for Ornatube is 7.46 percent.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service upon completion of this review.

Furthermore, the following deposit requirements will be effective upon publication of the final results of this review for all shipments of the subject merchandise from Taiwan that are entered or withdrawn from warehouse for consumption on or after the publication date, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for Ornatube will be that established in the final results of this review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in previous reviews or the final determination in the original less-than-fair-value investigation, the cash deposit rate will continue to be the rate published in the most recent final results or determination for which the manufacturer or exporter received a company-specific rate; (3) if the exporter is not a firm covered in this or a prior review, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in the final results of this review or the most recent review or, if not covered in this review or an earlier review, the rate from the less-than-fair-value investigation; and (4) the cash deposit rate for any future entries from all other manufacturers or exporters who are not covered in this or prior administrative reviews and who are unrelated to the reviewed firm or any previously reviewed firm, will be the rate established in the final results of this administrative review. This is the most current non-BIA rate for any firm in this proceeding.

Interested parties may submit briefs and/or written comments not later than 30 days after the date of publication. The same parties may file rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, not later than 37 days after the date of publication. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: January 31, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-3122 Filed 2-7-92; 8:45 am]

BILLING CODE 3510-DS-M

Short Supply Review: Certain Hexagonal and Trilobe Steel Tubes

AGENCY: Import Administration/ International Trade Administration, Commerce.

ACTION: Notice of short-supply review and request for comments; certain hexagonal steel tubes and trilobe steel tubes.

SUMMARY: The Secretary of Commerce ("Secretary") hereby announces a review and request for comments on a short-supply request for 28 metric tons of certain hexagonal steel tube and trilobe steel tubes through March 31, 1992 under Article 7 of the Arrangement Between the European Economic Community and the Government of the United States of America Concerning Trade in Certain Steel Pipes and Tubes ("the U.S.-EC Arrangement").

SHORT-SUPPLY REVIEW NUMBER: 65.

SUPPLEMENTARY INFORMATION: Pursuant to Section 4(b)(4)(A) of the Steel Trade Liberalization Program Implementation Act, Public Law No. 101-221, 103 Stat. 1886 (1989) ("the Act"), and § 357.102 of the Department of Commerce's Short-Supply Procedures, 19 CFR 357.102 ("Commerce's Short-Supply Procedures"), the Secretary hereby announces that a short-supply determination is under review with respect to certain hexagonal steel tubes and trilobe steel tubes.

On February 4, 1992, the Secretary received an adequate petition from AL-KO Kober Corporation ("AL-KO Kober") requesting a short-supply allowance for 28 metric tons of this product through March 31, 1992 under Article 7 of the U.S.-EC Arrangement. AL-KO Kober is requesting short supply for this material because it alleges this product is not produced in the United States and because its foreign supplier has insufficient quota of this product to meet AL-KO Kober's needs.

The requested material consists of one size of custom-shaped asymmetrical hexagonal tubes and one size of trilobe tubes. The two shapes of tubing are complimentary and used together to form a unified axle.

The exact sizes, grades and quantity requested of each tube is as follows:

HEXAGONAL TUBE

Size	Steel grade	Quantity (metric tons)
80 × 3	SAE 1012 or 1020	21

TRILOBE TUBE

Size	Steel grade (German)	Quantity (metric tons)
56 × 4.7	QStE 460 TM	7

The hexagonal tube is welded but has smoothed outer seams. The cross-section of the 80 × 3 mm hexagonal tube consists of three 96 degree angles between which are three 144 degree angles in alternating order. The 144 degree angles tend to be sharper than the other angles, which are more rounded.

The trilobe tube is welded, but has smoothed outer seams. The cross-section of the trilobe tube is essentially rounded equianglar, equilateral trianges comprised of three equiangular lobes. Each of the three lobes is a bell-shaped, rounded curve, the sides of which form a 60 degree angle. Between the bell-shaped lobes are shallow, U-shaped curves, and the sides of each form a 120 degree angle.

On February 4, 1992, the Secretary established an official record on this short-supply request (Case Number 65) in the Central Records Unit, Room B-099, Import Administration, U.S. Department of Commerce at the above address. Section 4(b)(4)(B)(i) of the Act and § 357.106(b)(1) of Commerce's Short-Supply Procedures require the Secretary to apply a rebuttable presumption that a product is in short supply and to make a determination with respect to a short-supply petition not later than the 15th day after the petition is filed, if the Secretary finds that one of the following conditions exists: (1) The raw steelmaking capacity utilization in the United States equals or exceeds 90 percent; (2) the importation of additional quantities of the requested steel product was authorized by the Secretary during each of the two immediately proceding years; or (3) the requested steel product is not produced in the United States. The Secretary finds that the requested steel product is not produced in the United States. Therefore, the Secretary has applied a rebuttable presumption that this product is presently in short supply in accordance with Section 4(b)(B)(i)(III) of the Act and § 357.106(b)(1)(iii) of Commerce's Short-Supply procedures.

Unless domestic steel procedures provide comments in response to this notice indicating that they can and will supply this product within the requested period of time, provided it represents a normal order-to-delivery period, the Secretary will issue a short-supply allowance not later than February 19, 1992.

COMMENTS: Interested parties wishing to comment upon this review must send written comments not later than February 18, 1992 to the Secretary of Commerce, Attention: Import Administration, room 7866, U.S Department of Commerce, Pennsylvania Avenue and 14th Street NW., Washington, DC 20230. All documents submitted to the Secretary shall be accompanied by four copies. Interested parties shall certify that the factual information contained in any submission they make is accurate and complete to the best of their knowledge.

Any person who submits information in connection with a short-supply review may designate that information, or any part thereof, as proprietary, thereby requesting that the Secretary treat that information as proprietary. Information that the Secretary designates as proprietary will not be disclosed to any person (other than officers or employees of the United States Government who are directly concerned with the short-supply determination) without the consent of the submitter unless disclosure is ordered by a court of competent jurisdiction. Each submission of proprietary information shall be accompanied by a full public summary or approximated persentation of all proprietary information which will be placed in the public record. All comments concerning this review must reference the above-noted short-supply review number.

FOR FURTHER INFORMATION CONTACT: Marissa Rauch or Kathy McNamara, Office of Agreements Compliance, import Administration, U.S. Department of Commerce, room 76866, Pennsylvania Avenue and 14th Street NW., Washington, DC 20230, (202) 377-1382 or 377-3793.

Dated: February 6, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-3201 Filed 2-7-92; 8:45 A.M.

BILLING CODE 3510-DS-M

Alabama A&M University; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 91-146. *Applicant:* Alabama A&M University, Normal, AL 35762. *Instrument:* Experimental Set-ups for Structural Loading Frame. *Manufacturer:* Hi-Tech Scientific Ltd., United Kingdom. *Intended Use:* See notice at 56 FR 56408, November 4, 1991.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* This is a compatible accessory for an instrument previously imported for the use of the applicant. The instrument and accessory were made by the same manufacturer.

The accessory is pertinent to the intended uses and we know of no domestic accessory which can be readily adapted to the instrument.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 92-3123 Filed 2-7-92; 8:45 am]

BILLING CODE 3510-DS-M

University of Illinois at Urbana-Champaign, et al., Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 91-040R. *Applicant:* University of Illinois at Urbana-Champaign, Urbana, IL 61801.

Instrument: Gas/Liquid Phase Behavior Apparatus. *Manufacturer:* DB Robinson Design and Manufacturing Ltd., Canada. *Intended Use:* See notice at 56 FR 51880, October 16, 1991. *Reasons:* The foreign instrument provides: (1) An unobstructed and full view of the entire fluid mixture in the pressure cell, (2) volumetric measurement of both gas and liquid under low pressure (less than 200 psi) and (3) measurements of gas viscosity. *Advice Submitted By:* The National Institute for Petroleum and Energy Research, January 2, 1992.

Docket Number: 91–144. *Applicant:* Texas Agricultural Experimental Station, Uvalde, TX 78801. *Instrument:* Thermogradient Table, Model DB–5002. *Manufacturer:* Van Dok & Deboer B.V., The Netherlands. *Intended Use:* See notice at 56 FR 56408, November 4, 1991. *Reasons:* The foreign instrument provides: (1) A refrigerated water circulator with capacity to 10 liters, (2) a range of −20°C to 100°C, (3) accuracy of ±0.02° and (4) adjustable flow rate to a minimum of 15 liters per minute. *Advice Received From:* The Agricultural Research Service—USDA, January 9, 1992.

Docket Number: 91–150. *Applicant:* Lamont-Doherty Geological Observatory of Columbia University, Palisades, NY 10964. *Instrument:* High Temperature Well-Logging Probe with cable. *Manufacturer:* BRGM, France. *Intended Use:* See notice at 56 FR 56409, November 4, 1991. *Reasons:* The foreign instrument provides a pressure housing and cablehead probe designed to operate to 350°C at up to 1 kilobar of external pressure in corrosive environments for high resolution (±0.001°C) ambient temperature measurements in ocean boreholes. *Advice Received From:* The U.S. Geological Survey, January 9, 1992.

Docket Number: 91–158. *Applicant:* University of California, Los Alamos National Laboratory, Los Alamos, NM 87545. *Instrument:* (2) Mass Spectrometers, Model TS SOLA. *Manufacturer:* Turner Scientific, United Kingdom. *Intended Use:* See notice at 56 FR 60971, November 29, 1991. *Reasons:* The foreign instrument provides an electron multiplier/Faraday detector system with linear response across the entire mass range and can calibrate and quantify Cs and Na at the 10 ppb and 500 ppm level, respectively in a single run. *Advice Received From:* National Institute of Standards and Technology, January 2, 1992.

The National Institute for Petroleum and Energy Research, Agricultural Research Service—USDA, U.S. Geological Survey and National Institute of Standards and Technology advise that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 92–3124 Filed 2–7–92; 8:45 am]

BILLING CODE 3510–DS–M

National Institute of Standards and Technology

Visiting Committee on Advanced Technology

AGENCY: National Institute of Standards and Technology, DOC.

ACTION: Notice of partially closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App., notice is hereby given that the National Institute of Standards and Technology Visiting Committee on Advanced Technology will meet on Tuesday, March 10, 1992, from 8:30 a.m. to 5 p.m. The Visiting Committee on Advanced Technology is composed of nine members appointed by the Director of the National Institute of Standards and Technology who are eminent in such fields as business, research, new product development, engineering, labor, education, management consulting, environment, and international relations. The purpose of this meeting is to review and make recommendations regarding general policy for the Institute, its organization, its budget, and its programs within the framework of applicable national policies as set forth by the President and the Congress. Presentations will be given on information technology at the Institute, strategic plans for Computer Systems Laboratory and Physics Laboratory, other agency funding, review of research and development agreements, update on the Manufacturing Technology Center evaluation, and a discussion on the Institute's budget.

The discussion on NIST Budget, scheduled to begin at 4 p.m. and end at 5 p.m. on March 10, 1992, will be closed.

DATES: The meeting will convene March 10, 1992, at 8:30 a.m. and will adjourn at 5 p.m.

ADDRESSES: The meeting will be held in Lecture Room A, Administration Building, National Institute of Standards and Technology, Gaithersburg, Maryland.

FOR FURTHER INFORMATION CONTACT: Dale E. Hall, Visiting Committee Executive Director, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, telephone number (301) 975–2158.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on August 20, 1990, that portions of the meeting of the Visiting Committee on Advanced Technology which involve examination and discussion of the budget for the Institute may be closed in accordance with section 552(b)(9)(B) of title 5, United States Code, since the meeting is likely to disclose financial information that may be privileged or confidential.

Dated: February 4, 1992.

John W. Lyons,

Director.

[FR Doc. 92–3113 Filed 2–7–92; 8:45 am]

BILLING CODE 3510–13–M

National Oceanic and Atmospheric Administration

Marine Mammals

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Withdrawal of application (P472).

On January 25, 1991, notice was published in the **Federal Register** (56 FR 2906) that the California Marine Mammal Center, Fort Cronkhite, CA 94965, had submitted an application for a permit to release two captive-born California sea lions (*Zalophus californianus*) into the wild to determine if they could survive and successfully integrate into the wild population.

Notice is hereby given that on January 31, 1992, the application was withdrawn and the withdrawal request has been acknowledged and accepted without prejudice by the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices:

Office of Protected Resources, National

Marine Fisheries Service, NOAA, 1335 East-West Hwy., suite 7324, Silver Spring, Maryland 20910 (301/713–2289);

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731–7415 (213/514–6196);

Director, Southeast Region, National Marine Fisheries Service, NOAA, 9450 Koger Blvd., St. Petersburg, Florida (813/893–3141);

Director, Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way, NE., Seattle, Washington, 98115 (206/526–6150);

Director, Northeast Region, National Marine Fisheries Service, NOAA, One Blackburn Drive, Gloucester, Massachusetts 01930 (508/281–9200); and

Director, Alaska Region, National Marine Fisheries Service, NOAA, P.O. Box21668, Juneau, Alaska 99802 (907/586–7221).

Dated: January 31, 1992.

Nancy Foster,

Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 92–3038 Filed 2–7–92; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products and Silk Blend and Other Vegetable Fiber Apparel Produced or Manufactured in the Philippines; Correction

February 4, 1992.

In the letter to the Commissioner of Customs published in the **Federal Register** on January 23, 1992 (57 FR 2712), in the table, under "Category," include Categories 836–846 and 850–859 under Group II.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92–3119 Filed 2–7–92; 8:45 am]

BILLING CODE 3510-DR-F

COMMODITY FUTURES TRADING COMMISSION

Public Information Collection Requirement Submitted for Review to Office of Management and Budget

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of Information Collection.

SUMMARY: The Commodity Futures Trading Commission has submitted information collection 3038–0025, Practice by Former Members and Employees of the Commission to OMB for review and clearance under the Paperwork Reduction Act of 1980, 44 U.S.C. chapter 35. The information collected pursuant to this regulation, which generally governs the practice by former members and employees of the Commission before the Commission, is intended to insure that the Commission is aware of any conflicts of interest that may exist.

ADDRESSES: Persons wishing to comment on this information collection should contact Gary Waxman, Office of Management and Budget, room 3228, NEOB, Washington, DC 20502, (202) 395–7340. Copies of the submission are available from Joe F. Mink, Agency Clearance Officer, (202) 254–9735.

Title: Practice by Former Members and Employees of the Commission, 17 CFR 140.735–10.

Control Number: 3038–0025.

Action: Extension.

Respondents: Former members and employees of the Commission.

Estimated Annual Burden: .60 hours.

Respondents	Regulation 17 CFR	Estimated No. of respondents	Annual responses	Est. avg. hours per response
Former CFTC Members and Employees	§ 140.735–10	6	6	0.10

Issued in Washington, DC on February 4, 1992.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 92–3026 Filed 2–7–92; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Strategic Defense Initiative Advisory Committee

ACTION: Notice of advisory committee meetings.

SUMMARY: The Strategic Defense Initiative (SDI) Advisory Committee will meet in closed session in Washington, DC, on February 20 and 21, 1992.

The mission of the SDI Advisory Committee is to advise the Secretary of Defense and the Director, Strategic Defense Initiative Organization on scientific and technical matters as they affect the perceived needs of the Department of Defense.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92–463, as amended (5 U.S.C., app. II, (1982)), it has been determined that this SDI Advisory Committee meeting concerns matters listed in 5 U.S.C., 552(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Dated February 5, 1992.

Linda M. Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–3083 Filed 2–7–92; 8:45 am]

BILLING CODE 3810-01-M

Per Diem, Travel and Transportation Allowance Committee

AGENCY: Per Diem, Travel and Transportation Allowance Committee, DOD.

ACTION: Publication of changes in per diem rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 160. This bulletin lists changes in per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the United States. Bulletin Number 160 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: February 1, 1992

SUPPLEMENTARY INFORMATION: This document gives notice of changes in per diem rates prescribed by the Per Diem, Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. Distribution of Civilian Personnel Per Diem Bulletins by mail was discontinued effective 1 June 1979. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of change in per diem rates to agencies and establishments outside the Department of Defense.

The text of the Bulletin follows:

BILLING CODE 3810-01-M

VOL
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MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	M&IE RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
ALASKA:						
ADAK 5/	$ 10		$ 34		$ 44	10-01-91
ANAKTUVUK PASS	83		57		140	12-01-90
ANCHORAGE						
05-15--09-15	129		67		196	05-15-92
09-16--05-14	83		62		145	01-01-92
ANIAK	73		36		109	07-01-91
ATQASUK	129		86		215	12-01-90
BARROW	86		73		159	06-01-91
BETHEL						
05-01--09-30	93		83		176	05-01-92
10-01--04-30	80		81		161	02-01-92
BETTLES	65		45		110	12-01-90
CANTWELL	62		46		108	06-01-91
COLD BAY	71		54		125	12-01-90
COLDFOOT	75		47		122	12-01-90
CORDOVA	83		77		160	02-01-92
CRAIG	67		35		102	07-01-91
DILLINGHAM	76		38		114	12-01-90
DUTCH HARBOR-UNALASKA	91		54		145	12-01-90
EIELSON AFB						
05-15--09-15	91		65		156	05-15-92
09-16--05-14	63		63		126	01-01-92
ELMENDORF AFB						
05-15--09-15	129		67		196	05-15-92
09-16--05-14	83		62		145	01-01-92
EMMONAK	60		40		100	06-01-91
FAIRBANKS						
05-15--09-15	91		65		156	05-15-92
09-16--05-14	63		63		126	01-01-92
FALSE PASS	80		37		117	06-01-91
FT. RICHARDSON						
05-15--09-15	129		67		196	05-15-92
09-16--05-14	83		62		145	01-01-92
FT. WAINWRIGHT						
05-15--09-15	91		65		156	05-15-92
09-16--05-14	63		63		126	01-01-92
HOMER						
05-01--09-30	71		60		131	05-01-92
10-01--04-30	57		58		115	01-01-92

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B)	MAXIMUM PER DIEM RATE = (C)	EFFECTIVE DATE
ALASKA: (CONT'D)				
JUNEAU				
05-01--10-01	$ 88	$ 74	$162	05-01-92
10-02--04-30	75	73	148	01-01-92
KATMAI NATIONAL PARK	89	59	148	12-01-90
KENAI-SOLDOTNA				
04-02--09-30	94	68	162	04-02-92
10-01--04-01	69	66	135	01-01-92
KETCHIKAN				
05-14--10-14	77	61	138	05-14-92
10-15--05-13	62	59	121	01-01-92
KING SALMON 3/	75	59	134	12-01-90
KLAWOCK	75	36	111	07-01-91
KODIAK	71	61	132	01-01-92
KOTZEBUE	125	72	197	01-01-92
KUPARUK OILFIELD	75	52	127	12-01-90
METLAKATLA	79	44	123	07-01-91
MURPHY DOME				
05-15--09-15	91	65	156	05-15-92
09-16--05-14	63	63	126	01-01-92
NELSON LAGOON	102	39	141	06-01-91
NOATAK	125	72	197	01-01-92
NOME	68	70	138	01-01-92
NOORVIK	125	72	197	01-01-92
PETERSBURG	62	59	121	01-01-92
POINT HOPE	99	61	160	12-01-90
POINT LAY	106	73	179	12-01-90
PRUDHOE BAY-DEADHORSE	64	57	121	12-01-90
SAND POINT	75	36	111	07-01-91
SEWARD				
05-01--09-30	107	53	160	05-01-92
10-01--04-30	61	48	109	01-01-92
SHUNGNAK	125	72	197	01-01-92
SITKA-MT. EDGECOMBE	72	69	141	01-01-92
SKAGWAY				
05-14--10-14	77	61	138	05-14-92
10-15--05-13	62	59	121	01-01-92
SPRUCE CAPE	71	61	132	01-01-92
ST. GEORGE	100	39	139	06-01-91
ST. MARY'S	60	40	100	12-01-90
ST. PAUL ISLAND	81	34	115	12-01-90

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	M&IE RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
ALASKA: (CONT'D)						
TANANA	$ 68		$ 70		$138	01-01-92
TOK	66		55		121	01-01-92
UMIAT	97		63		160	12-01-90
UNALAKLEET	58		47		105	12-01-90
VALDEZ						
05-01--09-01	98		53		151	05-01-92
09-02--04-30	84		51		135	01-01-92
WAINWRIGHT	90		75		165	12-01-90
WALKER LAKE	82		54		136	12-01-90
WRANGELL						
05-14--10-14	77		61		138	05-14-92
10-15--05-13	62		59		121	01-01-92
YAKUTAT	70		40		110	12-01-90
OTHER 3, 4/	63		47		110	07-01-91
AMERICAN SAMOA	85		47		132	12-01-91
GUAM	99		59		158	12-01-90
HAWAII:						
ISLAND OF HAWAII: HILO	60		38		98	06-01-91
ISLAND OF HAWAII: OTHER	106		43		149	06-01-91
ISLAND OF KAUAI	112		48		160	06-01-91
ISLAND OF KURE 1/			13		13	12-01-90
ISLAND OF MAUI: KIHEI						
04-01--12-19	85		50		135	12-01-90
12-20--03-31	97		50		147	12-20-90
ISLAND OF MAUI: OTHER	62		50		112	06-01-91
ISLAND OF OAHU	95		42		137	06-01-91
OTHER	59		47		106	12-01-90
JOHNSTON ATOLL 2/	18		18		36	10-01-91
MIDWAY ISLANDS 1/			13		13	12-01-90
NORTHERN MARIANA ISLANDS:						
ROTA	45		31		76	12-01-90
SAIPAN	68		47		115	12-01-90
TINIAN	44		24		68	12-01-90
OTHER	20		13		33	12-01-90
PUERTO RICO:						
BAYAMON						
04-16--12-14	93		90		183	07-01-91
12-15--04-15	116		92		208	12-15-91
CAROLINA						
04-16--12-14	93		90		183	07-01-91
12-15--04-15	116		92		208	12-15-91

MAXIMUM PER DIEM RATES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTHS OF PUERTO RICO AND THE NORTHERN MARIANA ISLANDS AND POSSESSIONS OF THE UNITED STATES BY FEDERAL GOVERNMENT CIVILIAN EMPLOYEES

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
PUERTO RICO: (CONT'D)				
FAJARDO (INCLUDING LUQUILLO)				
04-16--12-14	$ 93	$ 90	$183	07-01-91
12-15--04-15	116	92	208	12-15-91
FT. BUCHANAN (INCL GSA SERV CTR, GUAYNABO)				
04-16--12-14	93	90	183	07-01-91
12-15--04-15	116	92	208	12-15-91
MAYAGUEZ	84	58	142	07-01-91
PONCE	113	90	203	07-01-91
ROOSEVELT ROADS				
04-16--12-14	66	61	127	07-01-91
12-15--04-15	102	64	166	12-15-91
SABANA SECA				
04-16--12-14	93	90	183	07-01-91
12-15--04-15	116	92	208	12-15-91
SAN JUAN (INCL SAN JUAN COAST GUARD UNITS)				
04-16--12-14	93	90	183	07-01-91
12-15--04-15	116	92	208	12-15-91
OTHER	63	63	126	07-01-91
VIRGIN ISLANDS OF THE U.S.				
05-01--11-30	95	63	158	05-01-91
12-01--04-30	128	66	194	12-01-90
WAKE ISLAND 2/	4	17	21	12-01-90
ALL OTHER LOCALITIES	20	13	33	12-01-90

BILLING CODE 3810-01-C

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Footnotes

[1] Commercial facilities are not available. The meal and incidental expense rate covers charges for meals in available facilities plus an additional allowance for incidental expenses and will be increased by the amount paid for Government quarters by the traveler.

[2] Commercial facilities are not available. Only Government-owned and contractor operated quarters and mess are available at this locality. This per diem rate is the amount necessary to defray the cost of lodging, meals and incidental expenses.

[3] On any day when US Government or contractor quarters are available and US Government or contractor messing facilities are used, a meal and incidental expense rate of $16.25 is prescribed to cover meals and incidental expenses at Shemya AFB and the following Air Force Stations: Cape Lisburne, Cape Newenham, Cape Romanzof, Clear, Fort Yukon, Galena, Indian Mountain, King Salmon, Sparrevohn, Tatalina and Tin City. This rate will be increased by the amount paid for US Government or contractor quarters and by $4 for each meal procured at a commercial facility. The rates of per diem prescribed herein apply from 0001 on the day after arrival through 2400 on the day prior to the day of departure.

[4] On any day when US Government or contractor quarters are available and US Government or contractor messing facilities are used, a meal and incidental expense rate of $34 is prescribed to cover meals and incidental expenses at Amchitka Island, Alaska. This rate will be increased by the amount paid for US Government or contractor quarters and by $10 for each meal procured at a commercial facility. The rates of per diem prescribed herein apply from 0001 on the day after arrival through 2400 on the day prior to the day of departure.

[5] On any day when US Government or contractor quarters are available and US Government or contractor messing facilities are used, a meal and incidental expense rate of $25 is prescribed instead of the rate prescribed in the table. This rate will be increased by the amount paid for U.S. government or contractor quarters.

Dated: February 4, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92-3046 Filed 2-7-92; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Financial Assistance Award Intent To Award Grant to Maisy Conachen

AGENCY: U.S. Department of Energy.

ACTION: Notice of unsolicited financial assistance award.

SUMMARY: the Department of Energy announces that pursuant to 10 CFR 600.6(a)(2), it is making a discretionary financial assistance award based on acceptance of an unsolicited application meeting the criteria of 10 CFR 600.14(e)(1) to Maisy Conachen under Grant No. DE-FG01-92CE15539. The proposed grant will provide Government funding in the estimated amount of $99,189 for Maisy Conachen to test market a patented router guide that can increase the size of the rabbet joint in a single wooden pane window so that it can accept double pane windows. The ability for the patented router guide to allow a single window pane to be adapted to take a double pane window creates an economical way to use energy saving double pane windows. It has been estimated that the potential annual savings from the use of double pane windows would be approximately 300,000 barrels of oil annually.

The grant is being awarded to Maisy Conachen on an unsolicited basis, because it is a unique energy saving technology. It has been recommended by the National Institute of Standards and Technology (NIST). Maisy Conachen will be the principal investigator who will be supported by James Conachen who has invented and patented the router guide. Mr. Conachen's supporting role in this project is critical and essential for the successful completion of this grant. In accordance with 10 CFR 600.14(e)(1), it has been determined that this project represents a unique idea that is not eligible for financial assistance under a recent, current, or planned solicitation. The Energy-Related Inventions Program (ERIP) has been structured, since its beginning in 1975, to operate without competitive solicitations, because the legislation directs ERIP to provide support for worthy ideas submitted by the public. The proposed technology has a strong possibility of allowing for future reductions in the energy consumption in the United States.

The anticipated term of the proposed grant shall be 24 months from the effective date of award.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Placement and Administration, Attn: John Windish, PR-322.2, 1000 Independence Avenue, SW., Washington, DC 20585.

Scott Sheffield,

Acting Director, Operations Division "B", Office of Placement and Administration.

[FR Doc. 92-3114 Filed 2-7-92; 8:45 am]

BILLING CODE 6450-01-M

Financial Assistance Award Intent To Award Grant to Schwarz Consulting, Inc.

AGENCY: U.S. Department of Energy.

ACTION: Notice of unsolicited financial assistance award.

SUMMARY: The Department of Energy announces that pursuant to 10 CFR 600.6(a)(2), it is making a discretionary financial assistance award based on acceptance of an unsolicited application meeting the criteria of 10 CFR 600.14(e)(1) to Schwarz Consulting, Inc. under Grant No. DE-FG01-92CE15400. The proposed grant will provide Government funding in the estimated amount of $83,902 for Schwarz Consulting, Inc. to design, build, and test a prototype of an invention to continuously cast seamless steel pipe. With additional funding of $46,188 by the State of Ohio and $40,000 in Grantee funding, the estimated total of this grant will be $170,090.

The design of the casting system by Schwarz Consulting, Inc. results in a substantial reduction in the energy needed to produce the seamless steel pipe. It has been estimated that the potential annual savings from the application of this concept would be approximately 200,000 barrels of oil annually.

The grant is being awarded to Schwarz Consulting, Inc. on an unsolicited basis, because it is a unique energy saving technology. It has been recommended by the National Institute of Standards and Technology (NIST). The principal investigator for Schwarz Consulting, Inc. is Gerhard Schwarz who is the founder and president of Schwarz Consulting, Inc. Mr. Schwarz has a BS and MS in Mechanical Engineering and has over thirty eight years of experience in the steel industry. Mr. Schwarz's work is critical and essential for the successful completion of this grant. In accordance with 10 CFR 600.14(e)(1), it has been determined that this project represents a unique idea that is not eligible for financial assistance under a recent, current, or planned solicitation. The Energy-Related Inventions Program (ERIP) has been structured, since its beginning in 1975, to operate without competitive solicitations, because the legislation directs ERIP to provide support for worthy ideas submitted by the public. The proposed technology has a strong possibility of allowing for future reductions in the energy consumption in the United States.

The anticipated term of the proposed grant shall be 24 months from the effective date of award.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Placement and Administration, ATTN: John Windish, PR-322.2, 1000

Independence Avenue, SW.,
Washington, DC 20585.

Scott Sheffield,

Acting Director, Operations Division "B", Office of Placement and Administration.

[FR Doc. 92–3115 Filed 2–7–92; 8:45 am]

BILLING CODE 6450-01-M

Financial Assistance Award Intent To Award Grant to Thermodyne Evaporators

AGENCY: U.S. Department of Energy.

ACTION: Notice of unsolicited financial assistance award.

SUMMARY: The Department of Energy announces that pursuant to 10 CFR 600.6(a)(2), it is making a discretionary financial assistance award based an acceptance of an unsolicited application meeting the criteria of 10 CFR 600.14(e)(l) to Thermodyne Evaporators under Grant No. DE–FG01–92CE15529. The proposed grant will provide funding in the estimated amount of $93,563 for Thermodyne Evaporators to develop and produce a full scale evaporator for drying molded pulp products.

The design of the Thermodyne Evaporator results in a substantial reduction in energy losses from the drying process. It utilizes high temperature water vapor and requires only approximately 50% of the energy input that a conventional air dryer requires. It has been estimated that the potential annual savings from the application of this concept would be approximately thirty-five million barrels of oil annually.

The grant is being awarded to Thermodyne Evaporators on an unsolicited basis, because it is a unique energy saving technology. In accordance with 10 CFR 600.14(e)(l), it has been determined that this project represents a unique idea that is not eligible for financial assistance under a recent, current, or planned solicitation. The Energy-Related Inventions Program (ERIP) has been structured, since its beginning in 1975, to operate without competitive solicitations, because the legislation directs ERIP to provide support for worthy ideas submitted by the public. The proposed technology has a strong possibility of allowing for future reductions in the energy consumption in the United States.

The anticipated term of the proposed grant shall be 24 months from the effective date of award.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Placement and Administration, Attn: John Windish, PR–322.2, 1000 Independence Avenue, SW., Washington, DC 20585.

Scott Sheffield,

Acting Director, Operations Division "B", Office of Placement and Administration.

[FR Doc. 92–3116 Filed 2–7–92; 8:45 am]

BILLING CODE 6450-01-M

Award of a Grant; Noncompetitive Financial Assistance

AGENCY: Nevada Field Office, U.S. Department of Energy (DOE)

ACTION: Notice of Noncompetitive financial assistance.

SUMMARY: DOE Nevada Field Office announces that pursuant to the DOE Financial Assistance Rules, 10 CFR 600.7(b)(2), it intends to award a grant on a noncompetitive basis to the University of Nevada, Las Vegas (UNLV), to provide supercomputing calculational support to DOE fossil energy program offices.

The Congress of the United States appropriated nuclear waste funds in 1989 for the purchase of a supercomputer system to be operated by UNLV. A Cray Y–MP2/16 and ancillary equipment was procured and installed with appropriated funding and became operationally available in July 1990.

The legislative history of Public Law No. 101–512, Department of Interior and Related Agencies Appropriations Act, provided direction to DOE to issue a noncompetitive contract for the identified services to the UNLV National Supercomputing Center. Public Law No. 102-154, FY 1992 Interior and Related Agencies Appropriations, specified that this funding to UNLV be in the form of a grant. In light of this, it was determined that an application for financial assistance will be requested only from UNLV.

PROJECT SCOPE: The proposed grant will provide funding for supercomputer calculation support, program and data storage, and information communication and output as required for a list of approved users. An individual account should be established for each approved user, allowing the accumulation of unit charge associated with the use of the central processing, storage, and other input and output systems, as may be applicable.

The project period for the grant is a one-year period expected to begin February 10, 1992. The total estimated cost of this award is $1,313,138 over the one-year project period.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, DOE Nevada Field Office, ATTN: Frank M. Eckerson, P.O. Box 98518, Las Vegas, Nevada 89193–8518.

Issued in Las Vegas, Nevada, on January 27, 1992.

Nick C. Aquilina,

Manager, DOE Nevada Field Office.

[FR Doc. 92–3117 Filed 2–7–92; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER92-229-000, et al.]

Pacific Gas & Electric Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate filings

Take notice that the following filings have been made with the Commission:

1. Pacific Gas and Electric Co.

[Docket No. ER92–229–000]

January 29, 1992.

Take notice that on January 22, 1992, Pacific Gas and Electric Company (PG&E) tendered an amendment for filing to FERC Docket No. ER92–229–000. That Docket consisted of: (1) And agreement entitled "Special Facilities Agreement for Protective Equipment On Lines Leading To Donner Summit" (Special Facilities Agreement) between Sierra Pacific Power Company (Sierra) and PG&E and (2) Amendment No. 1 to the aforementioned Special Facilities Agreement. In response to a request from FERC Staff, PG&E has included certain changes to Amendment No. 1. The present amended filing tenders a revised Amendment No. 1 for filing and acceptance.

Copies of this filing were served upon Sierra and the California Public Utilities Commission.

Comment date: February 11, 1992, in accordance with Standard Paragraph E at the end of this notice.

2. Central Power and Light Co.

[Docket No. ER92–171–000]

January 29, 1992.

Take notice that on December 23, 1991, Central Power and Light Company (CPL) tendered for filing supplementary information in response to the Commission Staff's informal request for additional information in the above captioned docket.

Copies of the filing were served on the Public Utilities Board of the City of

Brownsville, Texas, and on the Public Utility Commission of Texas.

Comment date: February 12, 1992, in accordance with Standard Paragraph E at the end of this notice.

3. PSI Energy, Inc.

[Docket No. ER92-290-000]

January 30, 1992.

Take notice that PSI Energy, Inc. (PSI) formerly named Public Service Company of Indiana on January 27, 1992, tendered for filing a supplement to Service Schedule D—Supplemental Power and Energy of the Power Coordination Agreement, dated August 27, 1982, as amended, between PSI and the Indiana Municipal Power Agency (IMPA), in order to provide certain Economic Development incentives under section 5 of said Service Schedule.

Such Economic Development incentives are for a expanded manufacturing facility at United Technologies in Peru, Indiana. Utility Service Board, City of Peru is a member of IMPA. The Economic Development incentives are limited to one and one-half megawatt, the expected load of the expansion project.

PSI has requested waiver of the Commission's applicable requirements of part 35 of its Regulation not complied with, including any notice requirements of § 35.3. The requested effective date for such Economic Development incentives applicable to United Technologies is November 1, 1991.

Copies of the filing were served on the Utility Service Board, City of Peru, the Indiana Municipal Power Agency and the Indiana Utility Regulatory Commission.

Comment date: February 14, 1992, in accordance with Standard Paragraph E at the end of this notice.

4. PacifiCorp Electric Operations

[Docket Nos. ER92-178-000 and ER92-185-000]

January 30, 1992.

Take notice that PacifiCorp Electric Operations ("PacifiCorp"), on January 21, 1992, tendered for filing an amendment to its November 6, 1991 and November 14, 1991 filings of the Operation and Maintenance Service Agreement with Wasco Electric Cooperative, Inc. ("WASCO O&M Agreement") and the Central Substation Operations and Maintenance Agreement with Utah Associated Municipal Power Systems ("UAMPS O&M Agreement") respectively in these Dockets.

The amended filing is being submitted upon direction of the Commission's staff to provide justification for charges for service provided prior to the agreements acceptance for filing to be accepted as variable O&M costs and therefore, recoverable pursuant to the Commission's Central Maine Power Company order.

PacifiCorp renews its request for waiver of the Commission's rules and regulations and that an effective date of January 1, 1987 to be assigned to the WASCO O&M Agreement and an effective date of October 1, 1991 to be assigned to the UAMPS O&M Agreement.

Copies of this amended filing were supplied to WASCO, UAMPS, the Public Utility Commission of Oregon and the Utah Public Service Commission.

Comment date: February 13, 1992, in accordance with Standard Paragraph E end of this notice.

5. Florida Power & Light Co.

[Docket No. ER91-385-000]

January 30, 1992.

Take notice that on January 21, 1992, Florida Power & Light Company (FP&L) tendered for filing a Notice of Cancellation to Rate Schedule FERC No. 111 with a requested effective date of October 31, 1991.

FPL states that copies of this filing have been served upon the City of Lake Worth, Florida and the Florida Public Service Commission.

Comment date: February 13, 1992, in accordance with Standard Paragraph E at the end of this notice.

6. Cleveland Electric Illuminating Co.

[Docket No. ER92-292-000]

January 30, 1992.

Take notice that on January 28, 1992, Cleveland Electric Illuminating Company (in concurrence with Cleveland Public Power) tendered for filing copies of Service Schedule C—Short Term Power and Service Schedule D—Limited Term Power of the CEI-Cleveland Agreement for Installation and Operation of 138 kV Synchronous Interconnection as amended February 1, 1992 to replace without interruption the CEI—Cleveland Agreement for Installation and Operation of 138 kV Synchronous Interconnection dated as of April 17, 1975.

Comment date: February 14, 1992, in accordance with Standard Paragraph E at the end of this notice.

7. Southern California Edison Co.

[Docket No. ER92-283-000]

January 30, 1992.

Take notice that on January 23, 1991, Southern California Edison Company (Edison) tendered for filing, as an initial rate schedule, the following agreement, executed on December 31, 1991, by the respective parties: Firm Transmission Service Agreement (Agreement) Between Southern California Edison Company and The Imperial Irrigation District (IID).

The Agreement contains the terms and conditions whereby Edison shall provide IID 100 MW of firm transmission service from Devers to the IID-Edison Interconnection from April 1 through October 31, and 50 MW of firm transmission service from Devers to the IID-Edison Interconnection for the remainder of the year for each year service is provided hereunder. IID will utilize such transmission service in combination with an assignment of transmission service rights, under the terms of the Los Angles-Edison Exchange Agreement, from Los Angeles, to effect power schedules from Palo Verde, or Sylmar, or both, to the Edison-IID Interconnection.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: February 14, 1992, in accordance with Standard Paragraph E at the end of this notice.

8. Southwestern Public Service Co.

[Docket No. ER92-140-000]

January 30, 1992.

Take notice that Southwestern Public Service Company (Southwestern) on January 24, 1991, tendered for filing amendments to its filing for approval of a proposed rate schedule for service to Cap Rock Electric Cooperative, Inc. (Cap Rock).

The rate schedule provides for the sale of full requirements electric power and energy from Southwestern to Cap Rock beginning June 1, 1993. Southwestern is tendering the filing prior to 120 days before service is to commence because the agreement is predicated on regulatory approval and the construction of facilities.

Comment date: February 14, 1992, in accordance with Standard Paragraph E at the end of this notice.

9. Minnesota Power & Light Co.

[Docket No. ER91-692-000]

January 30, 1992.

Take notice that on January 23, 1992, Minnesota Power & Light Company ("Minnesota Power") tendered for filing supplemental cost support information requested by Commission Staff in connection with a Unit Participation Power Sales Agreement with Interstate Power Company, pursuant to Service Schedule A of the Mid-Continent Area Power Pool Agreement. Minnesota

Power also filed an Amendment No. 2 to the Agreement, dated January 10, 1992.

Copies of this supplemental filing have been served on Interstate, the Minnesota Public Utilities Commission, and the Minnesota Department of Public Service.

Comment date: February 13, 1992, in accordance with Standard Paragraph E at the end of this notice.

10. Public Service Electric and Gas Co.

[Docket No. ER92-280-000]

January 30, 1992.

Take notice that on January 21, 1992, Public Service Electric and Gas Company (PSE&G) tendered for filing an initial Rate Schedule to provide transmission service to EEA II, L.P. (EEA) for the delivery of the net electrical energy output of EEA's qualifying facility located in Clark, New Jersey to the Consolidated Edison Company of New York, Inc.

PSE&G requests, with the customer's consent, a waiver of the Notice Requirements of § 35.3(a) of the Commission's Regulations so that the Rate Schedule can be made effective within sixty (60) days of the date of this filing.

Comment date: February 13, 1992, in accordance with Standard Paragraph E at the end of this notice.

11. Consumers Power Co.

[Docket No. ER92-198-000]

January 30, 1992.

Take notice that on January 23, 1992, Consumers Power Company (Consumers) tendered for filing an Amendment to its original filing in this docket of its Open Access Interconnection Service Schedule. The Amendment package included additional information and several modifications of the Service Schedule in response to a December 26, 1991 letter from Commission Staff. The modifications include a clarification to a definition involving parties eligible to receive service and revisions to various prerequisites and terms of service.

Comment date: February 14, 1992, in accordance with Standard Paragraph E at the end of this notice.

12. Central Vermont Public Service

[Docket Nos. ER92-203-000, ER92-204-000 and ER92-205-000]

January 30, 1992.

Take notice that Central Vermont Public Service Corporation (Central Vermont) on January 28, 1992, tendered for filing amendments to its filing of the Forecast 1992 Cost Reports in the referenced dockets to reflect (1) a return on common equity of 11.5% in all three cost reports and (2) an increase in the production and transmission capacity allocation factors used to compute the 1992 capacity charges in the Rate RS-2 Cost Report.

Comment date: February 14, 1992, in accordance with Standard Paragraph E end of this notice.

13. Pennsylvania Electric Co.

[Docket No. ER91-482-000]

January 30, 1992.

Take notice that on January 21, 1992, Pennsylvania Electric Company (Penelec) tendered for filing a further amendment in the above-referenced docket.

Comment date: February 13, 1992, in accordance with Standard Paragraph E at the end of this notice.

14. Niagara Mohawk Power Corporation

[Docket No. ER92-261-000]

January 30, 1992.

Take notice that Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing on January 6, 1991, an amendment sent by Niagara Mohawk to Consolidated Edison Company of New York, Inc. (Con Ed) dated November 27, 1991, providing for certain transmission services to Con Ed. This amendment is designated as Niagara Mohawk Power Corporation Rate Schedule FERC No. 90. This new amendment is being transmitted as a supplement to the existing agreement.

Under Rate Schedule No. 90, Niagara Mohawk delivers Fitzpatrick power and energy between the New York Power Authority and Con Ed. Paragraph 2.3 of Rate Schedule No. 90, as amended on August 28, 1980, states that Niagara Mohawk will recalculate the annual fixed-charge rate effective September 1 of each year for the ensuing 12-month period using previous year-end data and cost of capital data as determined by the New York State Public Service Commission in Niagara Mohawk's most recent retail electric rate proceeding. Niagara Mohawk requests an effective date of September 1, 1991.

Copies of the filing were served upon Consolidated Edison and the Public Service Commission of New York.

Comment date: February 13, 1992, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3050 Filed 2-7-92; 8:45 am]

BILLING CODE 6717-01-M

Application Filed with the Commission

January 22, 1992.

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection.

Notice of Application Tendered for Filing with the Commission

a. *Type of Application:* New Major License.

b. *Project No.:* 2536-009.

c. *Date filed:* June 26, 1991.

d. *Applicant:* Niagara of Wisconsin Paper Corporation.

e. *Name of Project:* Little Quinnesec Falls.

f. *Location:* On the Menominee River in Marinette County, Wisconsin and Dickinson County, Michigan.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)-825(r).

h. *Applicant Contact:* David W. Schmutzer, 1101 Mill Street, Niagara, WI 54151, (715) 251-3151.

1. *FERC Contact:* Charles T. Raabe (dt) (202) 219-2811.

j. *Comment Date:* On or before April 10, 1992.

k. *Description of Project:* The project as licensed consists of: (1) A 3,000 acre-foot reservoir with normal reservoir elevation at 943.0 feet m.s.l.; (2) a concrete dam having (a) a left abutment section about 26 feet long and 24 feet high, (b) a spillway section about 114.6 feet long controlled by two 23.3 feet wide and 12 feet high taintor gates and by two 24.5 feet wide and 12 feet high wooden needles, (c) a sluice gate section about 10.25 feet long controlled by 8 feet high wooden needles, (d) a forebay wall section about 38.5 feet long and 15.96 feet high, and (e) a retaining wall section about 95 feet long, with an opening/inlet for the penstock, tied into the right riverbank; (3) a stop log structure about

128.25 feet long with 10 bays each 8 feet wide which controls inflow to the forebay; (4) a forebay; (5) a trashrack structure about 90.5 feet long with large platform; (6) a steel penstock 16 feet in diameter, about 245.5 feet long; (7) a powerhouse, which is integral part of the paper mill, with 6 generating units and total installed capacity of 9,352 kW; (8) a sheet piling wall about 501 feet long and 16 feet high, which protects the paper mill building; and (9) appurtenant facilities.

1. Pursuant to § 4.32 (b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merits; the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days after this notice issuance date and serve a copy of the request on the applicant.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3051 Filed 2-7-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP92-285-000, et al.]

Richfield Gas Storage Co. et al., Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Richfield Gas Storage Co.

[Docket No. CP92-285-000]

January 30, 1992.

Take notice that on January 7, 1992, Richfield Gas Storage System (Richfield), a Kansas corporation with its principal offices at 4200 East Skelly Drive, Tulsa, Oklahoma 74135, filed in Docket No. CP92-285-000, under section 7(c) of the Natural Gas Act (NGA), for certificates of public convenience and necessity under Subpart A of Part 157 and Subpart G of Part 284 of the Commission's Regulations.[1] Richfield is a partnership of Richfield Natural Gas, Inc., Centennial Storage Corp., and Houston Gas Storage, Inc. Richfield requests authorization to: (i) construct and operate an underground interstate natural gas storage field and related facilities, (ii) construct and operate a related interstate natural gas pipeline, and (iii) provide blanket, self-implementing, firm interstate storage and transportation service, with pre-granted abandonment. Richfield requests that its proposed initial rates, which are market-based rates and not cost-based rates, be approved as just and reasonable under Section 4 of the NGA. Richfield's proposal is more fully set forth in the application which is on file with the Commission and open to public inspection.

The storage field will be located in Morton County, Kansas. Richfield states that it will be able to receive gas through the interstate pipeline facilities of Colorado Interstate Gas Company (CIG), Northern Natural Gas Company (Northern), and Panhandle Eastern Pipe Line Company (Panhandle). Richfield proposes to construct and operate ten (10) injection/withdrawal wells, a related gathering/delivery system and a 2,000 horsepower compression facility at the site of the storage field. Richfield also proposes to construct a 36-mile, 12-inch pipeline, beginning at the storage field and traversing Morton and Stevens Counties, Kansas in an east-northeasterly direction. This pipeline would be used to transport customer-owned natural gas storage volumes between the storage field and the facilities of the interstate pipelines named above.

Richfield states that the storage field will be created by the purchase of property rights and interests of a depleted natural gas production field. Richfield states that the storage field will have a base or cushion gas capacity of 3 million MMBtu consisting of about 1 million MMBtu of remaining native recoverable reserves and 2 million MMBtu of additional reserves that will be purchased and injected by Richfield. Richfield further states that the storage field will have a working storage capacity of about 3.5 million MMBtu, which has been estimated to be injected at a maximum rate of 22,900 MMBtu per day and withdrawn at a maximum rate of 43,600 MMBtu per day.

Richfield states that it has entered into Gas Storage Precedent Agreements with four local distribution companies (LDC's) for the injection, withdrawal and storage of almost all of the proposed working storage capacity.[2] These LDC's would own the stored volumes and be responsible for delivering the gas for injection to Richfield at the inter-connection points between Richfield's connecting pipeline and the interstate pipeline facilities of CIG, Northern or Panhandle. Upon withdrawal from the storage field, Richfield would deliver the gas back to the above described interconnection points, where receipt and further interstate transportation would be the responsibility of the LDC customers. Richfield states that its storage customers will be allowed to transfer capacity rights to other Richfield customers, upon reasonable notice. The following table shows the volumes that Richfield states each of the LDC customers has agreed to store in the storage field:

Customer	Maximum storage volume quantity (MMBtu)	Maximum daily withdrawal quantity (MMBtu)	Maximum daily injection quantity (MMBtu)
Iowa E, L&P	1,500,000	15,000	10,000
Midwest Gas	1,325,000	21,200	8,800
Michigan Gas	312,500	5,000	2,100
New Ulm, MN	300,000	2,400	2,000
Totals	3,437,500	43,600	22,900

Richfield states that, at this time, all of its storage services will be on a firm basis only, with overrun service available to firm customers, on a best efforts basis. Richfield proposes to conduct an open season for any remaining storage capacity and requests that the LDC customers named above be granted priority over and above any customers offered service as a result of the open season. Richfield proposes the following initial rates for the proposed firm storage service(s):

Monthly reservation charge	$2.71
Annual capacity charge	39.0
Delivery charge	2.5
Redelivery charge	2.5
Winter delivery charge	26.0

Richfield states that these rates are market-based rates, agreed to as the result of arm's-length negotiation between Richfield and its proposed LDC customers. Richfield states that since it has no market power, its proposed rates are constrained by competition from existing providers of storage, by ease of entry of competing suppliers of storage, and by the approved cost-based rates of other providers of interstate storage services under the Commission's jurisdiction. Richfield offers a detailed argument in its application in support of its request that its market-based rates be approved. Richfield states that no cost data or revenue projections have been submitted with its application and Richfield seeks a waiver of that part of the Commission's Regulations that would otherwise require such cost and revenue exhibits.

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[1] Although filed on January 7, 1992, the application was not deemed complete until January 29, 1992, when Richfield submitted an additional filing fee which was due the Commission because of the two distinct certificate authorizations sought by Richfield.

[2] Midwest Gas, a Division of Iowa Public Service Company, Iowa Electric, Light and Power Company, City of New Ulm, Minnesota, Michigan Gas Company.

Richfield requests that the Commission issue either a final order or a preliminary determination on non-environmental issues by April 1, 1992, so that injections may begin in order to provide for withdrawals during the 1992–93 winter season.

The Commission advises all interested parties that it may hold a technical conference in this application to discuss any issues that are raised by the application or by any parties which require further review. Notice of such a technical conference will be issued at a later date.

Comment date: February 21, 1992, in accordance with Standard Paragraph F at the end of this notice.

2. CNG Transmission Corp.

[Docket No. CP92–312–000]

January 30, 1992.

Take notice that on January 22, 1992, CNG Transmission Corporation (CNG), 445 West Main Street, Clarksburg, West Virginia 26301, filed an application with the Commission in Docket No. CP92–312–000 pursuant to sections 7(b) and 7(c) of the Natural Gas Act (NGA) for permission and approval to abandon two natural gas sales services, begin two new sales services, and amend one sales service, all as more fully set forth in the application which is open to public inspection.

CNG requests permission and approval to abandon natural gas sales services to Columbia Gas of Pennsylvania, Inc. (Columbia of Pennsylvania) under its FERC Rate Schedule X–49 and interruptible sales to Newzane Gas Company (Newzane).[3] CNG proposes to replace the abandoned sales services to Columbia Gas of Pennsylvania and Newzane with new sales service under its FERC Rate Schedule SCQ to Columbia Gas of Pennsylvania and National Gas and Oil Corporation (National), successor to Newzane.

CNG also proposes to increase its natural gas sales to Columbia Gas of Ohio, Inc. (Columbia Gas of Ohio) under Rate Schedule SCQ from 1,500 dekatherms per day to 10,000 dekatherms per day and from 60,000 dekatherms annually to 1,200,000 dekatherms annually.[4] CNG currently delivers gas to Columbia Gas of Ohio at the Madison connection in Franklin County, Ohio. CNG proposes to add the Commercial Point interconnection in Pickaway County, Ohio, as a delivery point for its proposed increased service to Columbia Gas of Ohio.

No new facilities would be needed to implement CNG's proposed services, nor would any facilities be abandoned in this proposal.

Comment date: February 20, 1992, in accordance with Standard Paragraph F at the end of the notice.

3. Southern Natural Gas Co.

[Docket No. CP92–311–000]

January 30, 1992.

Take notice that on January 21, 1992, Southern Natural Gas Company (Southern), Post Office Box 2563, Birmingham, Alabama 35202–2563, filed in Docket No. CP92–311-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon all of the contract demand—allocated to South Georgia Natural Gas Company (South Georgia); and pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the firm sale of natural gas, and authorization for associated tariff modifications, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern states that, pursuant to a request by South Georgia, Southern is requesting authorization to abandon all of South Georgia's remaining contract demand with Southern. In addition, Southern is requesting a certificate of public convenience and necessity authorizing the firm sale of natural gas in an amount totalling 39,644 Mcf per day to the following customers: Atlanta Gas Light Company—Valdosta; Atlanta Gas Light Company—Montezuma; the Cities of Adel, Albany, Andersonville, Ashburn, Blakely, Camilla, Colquitt, Cordele, Cuthbert, Doerun, Donalsonville, Douglas, Edison, Fort Gaines, Lumpkin, Nashville, Ocilla, Pelham, Richland, Shellman, Sylvester, Tifton, Unadilla and Vienna, Georgia; Decatur County, Georgia; Town of Meigs, Georgia; Town of Havana, Florida; and Cities of Jasper and Tallahassee, Florida.

Southern states that the above-mentioned customers are currently served by South Georgia and have recently requested conversions pursuant to § 284.10 of the Commission's Regulations of their firm natural gas sales service provided under South Georgia's Rate Schedules G–1 and G–2 to firm transportation service on South Georgia's system. Southern further states that the firm sales service proposed will be provided pursuant to Southern's Rate Schedules G–2 and OCD–2. In addition, Southern states that it will prepare revised tariff sheets to its Index of Requirements to reflect revised maximum daily obligations or contract demand, as applicable, and customer requirements resulting from approval of the authorizations requested.

Comment date: February 20, 1992, in accordance with Standard Paragraph F at the end of this notice.

4. National Fuel Gas Supply Corp. v. Tennessee Gas Pipeline Co.

[Docket No. CP92–322–000]

January 31, 1992.

Take notice that on January 29, 1992, National Fuel Gas Supply Corporation (National Fuel), pursuant to Rule 206 of the Commission's Rules of Practice and Procedure, 18 CFR 385.206 and section 1b.8 of the Commission's General Rules, 18 CFR 1b.8, tendered for filing a formal complaint against Tennessee Gas Pipeline Company (Tennessee).

National Fuel requests that the Commission issue a show cause order against Tennessee for allegedly abandoning certificated service to National Fuel without authorization, in violation of section 7(b) of the Natural Gas Act (NGA), 15 U.S.C. section 717f(b). National Fuel asserts that Tennessee is attempting to coerce it to execute unnecessary transportation contracts to transport National Fuel's gas from jointly-owned storage fields, and that such action constitutes an unjust and unreasonable contracting practice in violation of section 5 of the NGA.

National Fuel also requests that the Commission institute a formal investigation of the specific actions taken by Tennessee, in the context of its refusing to continue delivering National Fuel's natural gas withdrawn from the jointly owned and operated Colden and Hebron underground storage fields, which constitute the alleged unauthorized abandonment of service and unjust and unreasonable contract practice.

National Fuel states that on less than 30 days notice, Tennessee has threatened to cut-off such long-standing deliveries as of February 1, 1992, unless National Fuel first signs new additional transportation agreements and pays new additional transportation charges. National Fuel asserts that it has attempted to conciliate the matter with Tennessee, in order to avoid such a cut-off on its temperature-sensitive firm

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[3] The Commission authorized CNG's respective sales services to Columbia of Pennsylvania and Newzane by the orders issued in Docket Nos.CP84–280–000 (28 FERC ¶61.121) and CP81–519–000 (18 FERC ¶61.208).

[4] The Commission authorized CNG's sales service to Columbia Gas of Ohio by the order issued in Docket No. CP89–1127–000 (48 FERC ¶61.340).

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requirements. National Fuel states that Tennessee has rebuffed such efforts, which has led National Fuel to file its complaint.

National Fuel requests that pending the outcome of the investigation which it seeks the Commission to initiate, Tennessee be enjoined from cutting off deliveries of National Fuel's storage withdrawal gas from the Colden and Hebron storage fields.

Comment date: February 10, 1992, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice. Answers to this complaint shall be due on or before February 10, 1992.

5. Tennessee Gas Pipeline Co.

[Docket No. CP92-313-000]

January 31, 1991.

Take notice that on January 23, 1992, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP92-313-000 an application pursuant to section 7(b) of the Natural Gas Act for authorization to abandon a firm transportation service to Transcontinental Gas Pipe Line Corporation (Transco), all as more fully detailed in the application which is on file with the Commission and open to public inspection.

Tennessee proposes to abandon the firm transportation service to Transco under Rate Schedule T-176, effective on January 31, 1992. It is stated that Tennessee, Transco and Columbia Transmission Company (Columbia) entered into a gas transportation agreement dated March 14, 1983, whereby Tennessee transports gas for Transco from several points of receipt on Tennessee's system and Columbia's jointly-owned facilities in the South Pass area to the terminus of such facilities. Tennessee was obligated to transport up to 9,635 Dth of gas equivalent per day on a firm basis, it is asserted. It is stated that Transco no longer needs the service. It is stated that no facilities are proposed to be abandoned.

Comment date: February 21, 1992, in accordance with Standard Paragraph F at the end of this notice.

6. Northwest Pipeline Corp.

[Docket No. CP92-317-000]

January 31, 1992.

Take notice that on January 27, 1992, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah, 84158, filed in Docket No. CP92-317-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon an interruptible natural gas transportation service for Panhandle Eastern Pipe Line Company (Panhandle), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northwest states that the transportation service for Panhandle was provided pursuant to a Gas Gathering and Transportation Agreement dated September 19, 1983, which was certificated in Docket No. CP85-706-000. It is stated that this agreement covers the best efforts gathering and transporting by Northwest of up to 800 MMBtu per day of natural gas for the account of Panhandle. Under the terms of the agreement, Northwest states that it received Panhandle's gas at various wells in Sublette County, Wyoming, and gathered the gas through Northwest's Big Piney Gathering System to Northwest's Opal Processing Plant in Lincoln County, Wyoming. It is further stated that Northwest then transported the gas to a mainline interconnection with Colorado Interstate Gas Company in Sweetwater County, Wyoming. According to Northwest, the agreement provided for a gathering charge and a transportation charge as set forth in Volume No. 2 of Northwest's FERC Gas Tariff.

It is stated that the initial term of the agreement was twenty years, to continue from year to year thereafter until canceled by written notice given by either party not less than six months prior to the date of termination.

Northwest states that under the prior notice procedures in § 157.205 of the Commission's Regulations and the former § 157.209(b)(3) transportation regulations, the transportation services under the agreement authorized in Docket No. CP85-706-000, became effective September 21, 1985. It is stated that the prior notice for this transaction was filed in accordance with Northwest's blanket certificate in Docket No. CP82-433-000, which authorized various activities specified in subpart F of part 157, as amended, including transportation under § 157.209(b)(3). Although the Commission's Order No. 436 subsequently eliminated the transportation provisions in Section 157.209 of the Regulations, Northwest states that it received clarification from the Commission that, under the transitional provisions of Order No. 436, the subject transportation service was deemed to be authorized for the full term originally certificated, 36 FERC ¶ 61,072 (1986).

According to Northwest, no services have been rendered under the agreement since January 19, 1988, and no imbalances presently exist under the agreement. It is stated that Panhandle and Northwest have mutually agreed to terminate the agreement effective May 1, 1991.

Northwest states that it does not intend to retire any of its existing gathering or transmission facilities in conjunction with this proposed abandonment of service. Northwest submits that its existing facilities will continue to be used to provide gathering and transmission services for other customers.

Comment date: February 21, 1992, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 92–3052 Filed 2–7–92; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 11095–001–Iowa]

Greenwood Pumped Storage Corporation; Surrender of Preliminary Permit

February 3, 1992.

Take notice that Greenwood Pumped Storage Corporation, permittee for the Red Rock Project, located on Lake Red Rock in Marion County, Iowa, has requested that its preliminary permit be terminated. The preliminary permit was issued on July 24, 1991, and would have expired on June 30, 1994.

The permittee filed the request on December 27, 1991, and the preliminary permit for Project No. 11095 shall remain in effect through the thirtieth day after issuance of this notice unless that is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New application involving this project site, to the extent provided for under 18 CFR part 4, may be filed on the next business day.

Lois D. Cashell,

Secretary.

[FR Doc. 92–3053 Filed 2–7–92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. FA91–43–001]

Central Illinois Light Co.; Filing

February 3, 1992.

Take notice that on January 23, 1992, Central Illinois Light Company (Central Illinois) tendered for filing its compliance filing in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before February 18, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92–3054 Filed 2–7–92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER92–248–000]

New England Power Service Co.; Filing

February 4, 1992.

Take notice that on December 30, 1991, New England Power Service Company tendered for filing an amendment to the August 14, 1985, contract between NEP and Newport Electric Corporation and a revised Service Agreement reflecting the amendment.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before February 12, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92–3055 Filed 2–7–92; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL COMMUNICATIONS COMMISSION

[DA 92–90]

Comment Filing Dates on NECA'S Proposed Modifications to the Average Schedule Formulas

Released: January 30, 1992.

On December 31, 1991, the National Exchange Carrier Association, Inc. ("NECA") filed modifications to the interstate average schedules that NECA proposes would become effective on July 1, 1992.

NECA states that its proposed modifications would, on average, increase exchange carrier settlements by 11.25%. Carriers with 500 or fewer access lines would receive the largest projected increase (30.1%), while carriers with 50,000 or more access lines would receive the smallest projected increase (3.9%).

Copies of NECA's proposed modifications to the average schedules, supporting documentation, and errata (dated January 15, 1992) may be obtained from the Commission' s public records duplication contractor, The Downtown Copy Center, 1114 21st Street NW., Washington, DC 20037. Telephone: (202) 452–1422. The record in this proceeding is also available for public inspection and duplication at room 544, 1919 M Street NW., Washington, DC.

Comments on NECA's proposed revisions to the average schedules may be filed on or before February 14, 1992. Reply comments may be filed on or before February 24, 1991. Commenting parties should file five (5) copies of their comments and reply comments with the Secretary, Federal Communications Commission, 1919 M St., NW., Washington, DC 20554; one (1) copy of their comments and reply comments with The Downtown Copy Center; and two (2) copies of their comments and reply comments at room 544, 1919 M Street, NW., Washington, DC 20554.

For consideration in this proceeding, all filings should be captioned "In the Matter of National Exchange Carrier Association December 31, 1991 Proposed Revisions to the Average Schedule Formulas."

For further information, contact Kent R. Nilsson at (202) 632–6363.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92–2942 Filed 2–7–92; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1875]

Petitions for Reconsideration and Clarification and Application for Review of Actions in Rule Making Proceedings

February 5, 1992.

Petitions for reconsideration have been filed in the Commission rule making proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in room 239, 1919 M Street, NW., Washington, DC, or may be purchased from the Commission's copy contractor Downtown Copy Center, (202) 452–1422. Oppositions to these petitions must be filed February 25, 1992. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Review of the Technical Assignment Criteria for the AM Broadcast Service. (MM Docket No. 87–267), Number of Petitions Filed 21.

Subject: Amendment of section 73.202(b), Table of Allotments, FM Broadcast Stations. (Kaukauna, Wisconsin, and Cleveland, Wisconsin) (MM Docket No. 89–486; RM No. 6913), Number of Petitions Filed 2.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92–3125 Filed 2–7–92; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-926-DR]

Federated States of Micronesia; Amendment to a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Federated States of Micronesia (FEMA–926–DR), dated December 10, 1991, and related determinations.

DATES: January 27, 1992.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646–3606.

NOTICE: The notice of a major disaster for the Federated States of Micronesia, dated December 10, 1991, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of December 10, 1991:

The Hall Islands for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Grant C. Peterson,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 92–3089 Filed 2–7–92; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-930-DR]

Texas; Amendment to a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Texas (FEMA–930–DR), dated December 26, 1991, and related determinations.

DATES: January 30, 1992.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646–3606.

NOTICE: The notice of a major disaster for the State of Texas, dated, December 26, 1991, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of December 26, 1991:

The counties of Austin and Somervell for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Grant C. Peterson,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 92–3090 Filed 2–7–92; 8:45 am]

BILLING CODE 6718-02-M

Radiological Emergency Preparedness Program Documents and Guidance Memoranda

AGENCY: Federal Emergency Management Agency.

ACTION: Notice of availability of the final editions of Radiological Emergency Preparedness (REP) Program Documents and status of FEMA REP Guidance Memoranda (GM).

SUMMARY: The Federal Emergency Management Agency (FEMA) announces that final editions of the REP Exercise Manual (FEMA–REP–14) and the REP Exercise Evaluation Methodology (FEMA–REP–15) are available for distribution to the public. The Statement of Considerations Document (FEMA–REP–18) will be available in February 1992. These documents affect REP Guidance Memoranda, the status of which is set out in this notice.

FOR FURTHER INFORMATION CONTACT: William F. McNutt, Office of Technological Hazards, State and Local Programs and Support, Federal Emergency Management Agency, 500 C St, SW., Washington, DC 20472, 202–646–2857.

SUPPLEMENTARY INFORMATION: FEMA–REP–14 (REP Exercise Manual) provides the policy and program foundation for the exercise components of FEMA's REP Program. It covers two areas: (1) Policies and procedures related to planning for conducting, evaluating and reporting on REP Program exercises; and (2) policies underlying a set of exercise objectives that interpret and apply the guidance contained in NUREG–0654/FEMA–REP–1, Revision 1, and Supplement 1, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants" for exercise-related functions. The guidance contained in this document is intended for use by involved State and local governments, licenses, Federal agencies and other offsite support organizations.

FEMA–REP–15 Exercise Evaluation Methodology (EEM)

Provides an instrument, using a set of 33 exercise objectives, for documenting the performance of offsite organizations in REP exercises. This document also addresses medical emergency drills. The documentation of exercise performance secured through the use of this document is used by FEMA and other Federal agencies to evaluate the adequacy of offsite planning and preparedness as demonstrated in exercises. As published in final, this document supersedes the interim-use EEM issued in May 1988.

FEMA–REP–18 (Statement of Considerations)

Provides information to REP Program constituents on the nature and disposition of over 2,000 comments received on the draft REP Exercise Manual (January 1991) and the EEM (February 1991) by notice in the **Federal Register**, 56 FR 12734, March 27, 1991. FEMA–REP–18 also provides an overview of the major changes in policies and procedures related to FEMA's exercise program and a summary of the resolution of the issues raised at Federal, Regional and constituent meetings held around the country.

Alternative Approaches

A provision is incorporated in the Manual and EEM for participating offsite response organizations to propose alternative approaches to the guidance incorporated in REP Program documents, including FEMA–REP–1, FEMA–REP–14 and FEMA–REP–15. Proposals for alternative approaches should be submitted by offsite organizations to appropriate FEMA Regional Directors for review and recommendation and FEMA Headquarters disposition. When FEMA approves such alternative approaches, FEMA will evaluate the involved organization's plan and demonstration of its emergency preparedness capabilities in exercises based on the approved alternative approaches.

Status of FEMA REP Guidance Memoranda (GM)

Upon the issuance of FEMA-REP-14 and FEMA-REP-15, the current status of FEMA GMs is set forth below. The following GMs are retained as operative with no changes.

1. GM IT-1: A Guide to Documents Related to the REP Program.
2. GM 4: Radio Transmission Frequencies and Coverage.
3. GM 5: Agreements Among Governmental Agencies and Private Parties.
4. GM 8: Regional Advisory Committee Coordination With Utilities.
5. GM 16: Standard Regional Reviewing and Reporting Procedures for State and Local Radiological Emergency Response Plan.
6. GM 20: Foreign Language Translation of Education Brochures and Safety Messages.
7. GM 21: Acceptance Criteria for Evacuation Plans.
8. GM 22: Recordkeeping Requirements for Public Meetings.
9. GM 24: Radiological Emergency Preparedness for Handicapped Persons.
10. GM PI-1: FEMA Action to Pilot Test Guidance on Public Information Materials and Provide Technical Assistance On Its Use.
11. GM FR-1: Federal Response Center.
12. GM AN-1: FEMA Action to Qualify Alert and Notification Systems Against NUREG-0654/FEMA-REP-1 and FEMA-REP-10.

Some guidance in the following GMs has been clarified or changed with the issuance of guidance contained in FEMA-REP-14 and FEMA-REP-15. FEMA intends to revise the GMs listed below.

1. GM EV-2: Protective Actions for School Children—Guidance in FEMA-REP-14 supersedes Pages 6-13 concerning the following: (1) Clarification of guidance related to the demonstration of protective action capabilities for schools in exercises and (2) modifications to the set of questions as reflected in the Points of Review and Demonstration Criteria in Objective 16 of the EEM.
2. GM IN-1: The Ingestion Exposure Pathway—Guidance in FEMA-REP-14 and FEMA-REP-15 supersedes Pages 14-17.
3. GM PR-1: Policy on NUREG-0654/FEMA-REP-1 and 44 CFR 350 Periodic Requirements—Guidance in FEMA-REP-14 supersedes two parts of the guidance contained in GM PR-1. These two changes are: (1) The provision set forth on page 3 (Section 3.) for partial participation in ingestion exercises for States with multiple sites located within their borders has been terminated. Per guidance provided in the Manual, such States would only need to partially participate in ingestion exercises when full participation exercises are conducted in bordering States.
4. GM MS-1: Medical Services (MS)—Guidance contained in Sections D.21 and D.22 of the Manual supersedes GM MS-1 with respect to the following: (1) Minimum staffing for medical facilities, (2) deferral of radiological monitoring by transportation providers to medical facility staff, and (3) the role of licensee personnel in supporting State and local government medical services functions.

The following GMs are superseded in their entirety upon publication of the Manual.

1. GM EX-1: Remedial Exercises.
2. GM EX-2: Staff Support in Evaluating REP Exercises.
3. GM EX-3: Managing Pre-Exercise Activities and Post-Exercise Meetings.

Status of Technical REP-Series Documents

Three interim-use documents have been published by FEMA: (1) Guidance on Offsite Emergency Radiation Measurement Systems, Phase 1—Airborne Release (FEMA-REP-2, Revision 2, June 1990), (2) Guidance on Offsite Emergency Radiation Measurement Systems, Phase 2—The Milk Pathway (FEMA-REP-12, September 1987), and (3) Guidance on Offsite Emergency Radiation Measurement Systems, Phase 3—Water and Non-Dairy Food Pathway (FEMA-REP-13, May 1990). These documents provide technical guidance on offsite emergency instrumentation. While the guidance contained in FEMA-REP-14 and FEMA-REP-15 will necessitate changes in FEMA-REP-2, Revision 2, no changes have been made in the Manual and EEM that significantly modify the guidance contained in FEMA-REP-12 and FEMA-REP-13. FEMA intends to revise FEMA-REP-2, Revision 2.

Status of Policy Memoranda

There are a number of FEMA policy memoranda that address exercise-related and other issues. FEMA has incorporated all of the exercise-related guidance contained in these memoranda into the Manual. Thus, all such guidance contained in these memoranda is superseded by that in the Manual. However, guidance on planning contained in these memoranda is still operative. FEMA intends to consolidate such planning guidance.

Plans and Preparedness Revisions

Any plan revisions necessitated by the guidance in FEMA-REP-14 and FEMA-REP-15 should be made by December 31, 1992, and reported in each State's Annual Letter of Certification. Guidance will be provided later for implementing plan amendments related to the recently published Environmental Protection Agency protective action guides. As indicated in FEMA-REP-14, further guidance will be forthcoming on the portal and portable monitoring performance standards and protective action strategy for severe core melt accident sequences. When these issues are resolved, appropriate revisions to FEMA-REP-14 and FEMA-REP-15 will be incorporated and made available to REP Program constituents. The format of the Manual and EEM is structured to permit making changes in these documents as necessitated by future events and experience. While comments are not formally requested on the final edition of these documents, comments and suggestions for improving these documents are always welcome.

Effective Date

The referenced final documents (FEMA-REP-14 and FEMA-REP-15) are effective upon publication. FEMA-REP-15 (EEM) should be used for exercises where planning activities (i.e., establishment of exercise objectives) are initiated subsequent to December 31, 1991.

Ordering Documents

Copies of the referenced documents may be obtained from: Federal Emergency Management Agency, P.O. Box 70274, Washington, DC 20024. Please refer to the publication number (FEMA-REP-14, FEMA-REP-15, or FEMA-REP-18) for the REP documents requested.

Dated: February 3, 1992.

For the Federal Emergency Management Agency.

Grant C. Peterson,

Associate Director, State and Local Programs and Support.

[FR Doc. 92-3091 Filed 2-7-92; 8:45 am]

BILLING CODE 6718-20-M

VOL 57
ISS 27
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FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Public Law 89–777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Aurora Cruises, Inc., 132 East 70th Street, New York, NY 10021.
Vessel: AURORA I.

Dated: February 4, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 92–3060 Filed 2–7–92; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Boatmen's Bancshares, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 19, 1992.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Boatmen's Bancshares, Inc.*, St. Louis, Missouri; to acquire Superior Federal Bank, Federal Savings Bank, Fort Smith, Arkansas, and thereby engage in operating a savings association pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 4, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92–3080 Filed 2–7–92; 8:45 am]

BILLING CODE 6210-01-F

Lakeland First Financial Group, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 6, 1992.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Lakeland First Financial Group, Inc.*, Succasunna, New Jersey; to become a bank holding company by acquiring 100 percent of the voting shares of Lakeland Savings Bank, Succasunna, New Jersey, currently Lakeland Savings Bank S.L.A.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Camilla Bancshares, Inc.*, Camilla, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Camilla, Camilla, Georgia.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Thompson Insurance, Inc.*, Bismarck, North Dakota; to acquire 91.77 percent of the voting shares of First Security Bank of Havre, Havre, Montana.

Board of Governors of the Federal Reserve System, February 4, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92–3081 Filed 2–7–92; 8:45 am]

BILLING CODE 6210-01-F

Matewan BancShares, Inc.; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 6, 1992.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Matewan BancShares, Inc., Matewan, West Virginia; to engage *de novo* through its subsidiary, Hampden Venture Limited Partnership, Gilbert, West Virginia, in making and servicing commercial loans and other extensions of credit throughout the State of West Virginia, pursuant to § 225.25(b)(1) of the Board's Regulation Y. Hampden Venture Limited Partnership is a joint venture of Hampden Coal Company, Inc., Gilbert, West Virginia, and Matewan BancShares, Inc.

Board of Governors of the Federal Reserve System, February 4, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-3082 Filed 2-7-92; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Open Season; Thrift Savings Plan Elections

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Notice.

SUMMARY: The Federal Retirement Thrift Investment Board (Board) in its regulation at 5 CFR 1600.2 provides that notice will be given of the beginning and ending dates of all open seasons (as defined at 5 CFR 1600.1) which are subsequent to the open season ending on July 31, 1987. The Board's next open season will commence on May 15, 1992, and will end on July 31, 1992. The election period (as defined at 5 CFR 1600.1) covered by this open season extends from July 1 to July 31, 1992.

FOR FURTHER INFORMATION CONTACT: James B. Petrick, (202) 523-6367.

Dated: February 3, 1992.

Francis X. Cavanaugh,

Executive Director.

[FR Doc. 92-3028 Filed 2-7-92; 8:45 am]

BILLING CODE 6760-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Hospital Infection Control Practices Advisory Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control (CDC) announces the following committee meeting.

Name: Hospital Infection Control Practices Advisory Committee.

Times and Dates: 8:30 a.m.-5 p.m., March 2, 1992, 8:30 a.m.-3:30 p.m., March 3, 1992.

Place: CDC, Auditorium A, 1600 Clifton Road, NE, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: The Committee is charged with providing advice and guidance to the Director, CDC, and the Director, National Center for Infectious Diseases (NCID), regarding the practice of hospital infection control and strategies for surveillance, prevention, and control of nosocomial infections in U.S. hospitals.

Matters To Be Discussed: This is the initial meeting of the Hospital Infection Control Practices Advisory Committee. The agenda will include remarks and charge to the Committee by the Director, Hospital Infections Program; an overview of the Hospital Infections Program activities and recent accomplishments; ongoing nosocomial infection problems of concern to the Hospital Infections Program; historical perspectives of CDC Guidelines for Prevention of Nosocomial Infections; and revision of the CDC Guideline for Prevention of Nosocomial Pneumonia. Agenda items are subject to change as priorities dictate.

Contact Person for Additional Information: Julia S. Garner, R.N., M.N., Nurse Consultant, Hospital Infections Program, NCID, CDC, 1600 Clifton Road, NE., Mailstop A-07, Atlanta, Georgia 30333, telephone 404/639-1552 or FTS 236-1552.

Dated: February 4, 1992.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 92-3067 Filed 2-7-92; 8:45 am]

BILLING CODE 4160-18-M

Lead-Based Paint Removal; NIOSH Evaluation; Meeting

ACTION: The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control (CDC) announces the following meeting.

Name: Evaluation of Engineering Controls Used For Removing Lead-Based Paints From Steel Structures.

Time and Date: 8:30 a.m.-4 p.m., March 26, 1992.

Place: Alice Hamilton Laboratory, Conference Room C, NIOSH, CDC, 5555 Ridge Avenue, Cincinnati, Ohio 45213.

Status: Open to the public, limited only by the space available.

Purpose: To conduct an open meeting for the review of a NIOSH project entitled "Evaluation of Engineering Controls Used For Removing Lead-Based Paints From Steel Structures." This project will evaluate lead exposures relative to the lead-based paint removal technology used. The goal of this project is to identify the technologies which reduce the lead exposures of construction workers.

Contact Person for Additional Information: R. Leroy Mickelsen, NIOSH, CDC, 4676 Columbia Parkway, Mailstop R-5, Cincinnati, Ohio 45226, telephone 513/841-4221 or FTS 684-4221.

Dated: February 4, 1992.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 92-3068 Filed 2-7-92; 8:45 am]

BILLING CODE 4160-19-M

Food and Drug Administration

[Docket No. 84N-0102]

Cumulative List of Orphan Drug and Biological Designations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a cumulative list of designated orphan drugs and biologics as of December 31, 1991. FDA has announced the availability of previous lists, which are brought up-to-date monthly, identifying the drugs and biologicals granted orphan-drug designation pursuant to section 526 of the Federal Food, Drug, and Cosmetic Act.

ADDRESSES: Copies of the list of current orphan-drug designations and of any future lists are or will be available from the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857, and the National Information Center for Orphan Drugs and Rare Diseases (NICODARD), P.O. Box 1133, Washington, DC, 20013-1133.

FOR FURTHER INFORMATION CONTACT:

Peter Vaccari, Office of Orphan Products Development (HF-35), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4718,

or

National Information Center for Orphan Drugs and Rare Diseases (NICODARD), P.O. Box 1133, Washington, DC 20013-1133, 1-800-456-3505.

SUPPLEMENTARY INFORMATION: FDA's Office of Orphan Products Development reviews and takes final action on applications submitted by sponsors seeking orphan-drug designation under section 526 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360bb). In accordance with this section of the act, which requires public notification of designations, FDA maintains a list of designated orphan drugs and biologicals. This list is made current on a monthly basis and is available upon request from NICODARD. At the end of each calendar year, the agency publishes an up-to-date cumulative list of designated orphan drugs and biologicals including the names of designated compounds, the specific disease or condition for which the compounds are designated, and the sponsors' names and addresses. The cumulative list of compounds receiving orphan-drug designation through 1988 was published in the Federal Register of April 21, 1989 (54 FR 16294). This list is available upon request from the Dockets Management Branch (address above). Those requesting a copy should specify the docket number found in brackets in the heading of this document.

The list that is the subject of this notice consists of designated orphan drugs and biologicals through December 31, 1991 and, therefore, brings the February 27, 1991 (56 FR 8205) publication up-to-date.

The orphan-drug designation of a drug or biological applies only to the sponsor who requested the designation. Each sponsor interested in developing an orphan drug or biological must apply for orphan-drug designation in order to obtain exclusive marketing rights. Any request for designation must be received by FDA before the submission of a marketing application for the proposed indication for which designation is requested. (See 53 FR 47577, November 23, 1988.)

The names used in the cumulative list for the drug and biological products that have not been approved or licensed for marketing may not be the established or proper names approved by FDA for these products if they are eventually approved or licensed for marketing. Because these products are investigational, some may not have been reviewed for purposes of assigning the most appropriate established proper name.

Dated: February 4, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-3075 Filed 2-7-92; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration Advisory Council; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory bodies scheduled to meet during the month of March 1992.

Name. Statistical Review Subcommittee of the Advisory Commission on Childhood Vaccines.

Date and Time: March 11, 1992. 9 a.m.-11 a.m.

Place: Conference Room G, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

The meeting is open to the public.

Purpose: This Subcommittee will review statistics from all sources (the Compensation System, Vaccine Adverse Events Reporting System (VAERS), the U.S. Claims Court, etc.) that can give any reason for any alterations (additions, subtractions, or revisions) in the Vaccine Injury Table. The Subcommittee will consider any applications for inclusion of additional vaccines and associated events to the table and make recommendations on these to the Commission. All recommendations by the Subcommittee will be considered by the full Commission and, if accepted, will be forwarded to the Secretary. This Subcommittee will also be the first line of study for all outside studies and literature reports with subjects affecting the Vaccine Injury Table.

Agenda: The Subcommittee will discuss analysis of types of claims receiving payouts and VAERS update.

Name: Accounting Review Subcommittee of the Advisory Commission on Childhood Vaccines.

Date and Time: March 11, 1992, 9 a.m.-11:00 a.m.

Place: Conference Room H, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

The meeting is open to the public.

Purpose: The Subcommittee reviews quarterly with the administrative staff, the financing of the Vaccine Injury Compensation Trust Fund, the output of funds resulting from each vaccine and each adverse event, and the relationship of each vaccine and each adverse event to the rate of depletion of the Trust Fund. If these studies justify any increase or any decrease of surtax for each vaccine, these recommendations can be made to the full commission and if accepted, can be forwarded to the Secretary.

Agenda: The Subcommittee will discuss: (1) Overview of Trust Fund finances, and (2) Status of spending for pre-1988 awards.

Name: Advisory Commission on Childhood Vaccines

Date and Time: March 11, 1992, 1 p.m.-5 p.m.; March 12, 1992, 9 a.m.-12 p.m.

Place: Conference Rooms G & H, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

The meeting is open to the public.

Purpose: The Commission: (1) Advises the Secretary on the implementation of the Program, (2) on its own initiative or as the result of the filing of a petition, recommends changes in the Vaccine Injury Table, (3) advises the Secretary in implementing the Secretary's responsibilities under section 2127 regarding the need for childhood vaccination products that result in fewer or no significant adverse reactions, (4) surveys Federal, State, and local programs and activities relating to the gathering of information on injuries associated with the administration of childhood vaccines, including the adverse reaction reporting requirements of section 2125(b), and advises the Secretary on means to obtain, compile, publish, and use credible data related to the frequency and severity of adverse reactions associated with childhood vaccines, and (5) recommends to the Director of the National Vaccine Program research related to vaccine injuries which should be conducted to carry out the National Vaccine Injury Compensation Program.

Agenda: Agenda items for the full commission will include, but not be limited to: the routine Program reports, reports from the National Vaccine Program and the National Vaccine Advisory Committee (NVAC), reports from the ACCV Subcommittees, a presentation on new vaccines, and updates on the acellular pertussis vaccine clinical trial and on the Section 313 study of Other Vaccine Risks.

Public comment will be permitted at the respective subcommittee meetings on March 11 before noon and at the end of the day, and also before noon of the second day, March 12. Oral presentations will be limited to 5 minutes per public speaker. Persons interested in providing an oral presentation should submit a written request, along with a copy of their presentation, to Mr. Matthew Barry, Division of Vaccine Injury Compensation, Bureau of Health Professions, Health Resources and Services Administration, room 702, 6001 Montrose Road, Rockville, Maryland 20852, Telephone (301) 443-6593.

Requests should contain the name, address, telephone number, and any business or professional affiliation of the person desiring to make an oral presentation. Groups having similar interests are requested to combine their comments and present them through a single representative. The allocation of time may be adjusted to accommodate the level of expressed interest. The Vaccine Injury Compensation Program will notify each presenter by mail or telephone of their assigned presentation time. Persons who do not file an advance request for presentation, but desire to make an oral statement, may sign up in Conference Rooms G & H before 10 a.m., March 11 and 12. These persons will be allocated time as time permits.

Anyone requiring information regarding the subject Commission should contact Mr. Matthew Barry, Principal Staff Liaison, Division of Vaccine Injury Compensation, Bureau of Health Professions, room 7–02, 6001 Montrose Road, Rockville, Maryland 20852, Telephone (301) 443–6593.

Agenda Items are subject to change as priorities dictate.

Dated: February 4, 1992.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 92-3069 Filed 2–7–92; 8:45 am]

BILLING CODE 4160-15-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-92-3361; FR-3193-C-02]

HOPE for Homeownership of Multifamily Units Program; Notice of Fund Availability; Correction

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of fund availability for FY 1992; correction.

SUMMARY: On January 14, 1992 (57 FR 1585), the Department published in the **Federal Register** a Notice of Fund Availability that announced the availability of $95 million in funding for mini planning grants, full planning grants, and implementation grants for the HOPE for Homeownership of Multifamily Units Program (HOPE 2). The purpose of this document is to correct the number of points allowed under the heading F. Selection criteria as it applies to the "Extent of low-income homeownership".

FOR FURTHER INFORMATION CONTACT: Margaret Milner, Office of Resident Initiatives, Department of Housing and Urban Development, room 6130, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–4542. To provide service for persons who are hearing- or speech-impaired, this number may be reached via TDD by dialing the Federal Information Relay Service on 1–800–877–TDDY, 1–800–877–8339, or 202–708–9300. (Telephone numbers, other than "800" TDD numbers, are not toll-free.)

Accordingly, in FR Doc. 92–587, published in the **Federal Register** on Tuesday, January 14, 1992 (57 FR 1585), make the following correction:

On page 1587, third column, under the heading, F. Selection criteria, item 8 is corrected to read, "8. Extent of low-income homeownership—deduction of up to 15 points."

Dated: February 3, 1992.

Grady J. Norris,

Assistant General for Regulations.

[FR Doc. 92-3109 Filed 2–7–92; 8:45 am]

BILLING CODE 4210-32-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID-030-02-4212-13]

Amendment of Little Lost/Birch Creek Management Framework Plan (MFP), Realty Action (NORA), Exchange of Public Lands in Butte County, ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of action—amendment of Little Lost/Birch Creek Management Framework Plan (MFP), notice of realty action (NORA), exchange of public lands in Butte County, ID.

NOTICE: Notice is hereby given that the Bureau of Land Management (BLM) has amended the Little Lost/Birch Creek MFP to allow for the transfer of certain public lands in Butte County in exchange for scattered parcels of private land in Butte and Custer Counties, Idaho. The exchange will include surface and mineral estates.

SUMMARY: The following described lands have been examined and through the public supported land use planning process have been determined to be suitable for transfer by land exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976 (U.S.C. 1716).

Public lands to be transferred are described as:

Boise Meridian, Idaho

T. 5 N., R. 29 E.,
  Sec. 5, SE¼NE¼;
  Sec. 14, S¼SE¼.
T. 7 N., R. 27 E.,
  Sec. 1, Lots 1–4, S½N½.
T. 7 N., R. 28 E.,
  Sec. 5, W½SW¼; Sec. 6, Lots 1–5,
    SE¼NW¼, S½NE¼, NE¼SE¼.
T. 8 N., R. 28 E.,
  Sec. 31, Lots 3 and 4, E½SW¼.

Comprising 1037.17 acres.

Non-federal lands to be acquired are described as:

Boise Meridian, Idaho

T. 9 N., R. 26 E.,
  Sec. 19, SE¼.
  Sec. 20, SW¼.
  Sec. 30, NE¼, NE¼SE¼.
T. 9 N., R. 27 E.,
  Sec. 20, NE¼NE¼.
T. 11 N., R. 26 E.,
  Sec. 32, NE¼;
  Sec. 33, W½NE¼, NE¼NW¼, SE¼.

Comprising 1000.00 acres.

The exchange proposal would allow for transfer out of public ownership lands which include dry grazing, 1.00 stream miles and 1.82 riparian acres. In exchange for those lands, BLM would acquire private land which includes grazing, 1.75 stream miles and 3.33 riparian acres for a net gain of .75 stream miles and 1.51 riparian acres. BLM would acquire important fisheries with parcels on Summit Creek and Wet Creek, as well as wildlife habitat, access for recreational activities and increased fishing opportunities on Wet Creek and Summit Creek.

The lands were appraised and found to be of approximate equal fair market value.

Lands to be transferred from the United States will be subject to the following reservations, terms and conditions: Ditches and canals (Act of August 30, 1890–43 U.S.C. 945) and powerline right-of-ways I–012500 and I–02373 to Utah Power & Light. Continued use of the land by the right-of-way holder is proper, subject to the terms and conditions of the grant. Administrative responsibility previously held by the United States will be assumed by the patentee.

The publication of this notice in the **Federal Register** will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. As provided by the regulations of 43 CFR 2201.1(b), any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed, and shall be returned to the applicant.

SUPPLEMENTARY INFORMATION: Detailed information concerning the conditions of the land exchange can be obtained by contacting Barbara Klingenberg, Realty Specialist, at (208) 524–7555.

Planning Protest

Any party that participated in the plan amendment and is adversely affected by the amendment may protest this action as it affects issues submitted for the record during the planning process. The protest shall be in writing and filed with the Director (760), Bureau of Land Management, 1800 "C" Street NW., Washington, DC 20240, within 30 days of this notice.

Land Exchange Comments

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments regarding the land exchange to the District Manager, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho 83401. Objection will be reviewed by the State Director who may sustain, vacate, or modify the realty action. In the absence of any planning protests or objections regarding the land exchange, this realty action will become the final determination of the Department of the Interior and the planning amendment will be in effect.

Dated: January 29, 1992.

Lloyd H. Ferguson,

District Manager.

[FR Doc. 92-2894 Filed 2-7-92; 8:45 am]

BILLING CODE 4310-GG-M

Minerals Management Service

Geothermal Resources Valuation Regulations

February 4, 1992.

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of training seminars.

SUMMARY: The Minerals Management Service (MMS) hereby gives notice that it will conduct training seminars at the locations and dates given below on the revised geothermal resources valuation regulations that were published in the **Federal Register** on November 8, 1991 (56 FR 57256). The seminars will focus on the methods of determining value of geothermal resources for royalty purposes as identified in the regulations that became effective January 1, 1992.

DATES: See **SUPPLEMENTARY INFORMATION.**

ADDRESSES: See **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Mr. Charles Brook, Oil and Gas Valuation Branch, Royalty Valuation and Standards Division, (303) 231-3534 or (FTS) 326-3534.

SUPPLEMENTARY INFORMATION: The new geothermal resources valuation regulations govern the methods by which value is determined when computing royalties on geothermal resources produced from Federal leases. Valuation standards are grouped according to the resource's usage: electrical generation or direct utilization. Valuation procedures within each usage group are divided on the basis of the resource's disposition: sales under an arm's-length contract, sales under a non-arm's-length contract, or utilized by the lessee (no sales). Each usage-disposition combination involves different valuation procedures. The training seminars will focus on application of the valuation standards, with particular emphasis on valuing "no sales" resources. The calculation of values under the netback procedure for geothermal resources used to generate electricity and under the alternative fuels approach for geothermal resources used in direct utilization processes will be addressed in detail. Valuation standards for geothermal byproducts, none of which are currently commercially recovered, will be reviewed as time permits or at the request of attendees.

Dates and Locations

- The seminars will be held from 8:30 a.m. to 5 p.m. on the dates and at the locations given below:

Dates	Locations
Mar. 10, 1992	Denver Federal Center, 6th and Kipling, Building 25, room 1254, Lakewood, Colorado.
Mar. 19, 1992	Bally's Conference Center, 2500 East 2nd Street, Reno, Nevada, (702) 789-2000.

Registration and Reservations

Persons interested in attending one of these seminars should contact Ms. Sara Leech at (303) 231-3529 or (FTS) 326-3529 at least 1 week prior to the seminar date. Each seminar is planned to accommodate 75 attendees, as registration will be made on a first-come-first-serve basis. Attendees should make their own travel arrangements and hotel reservations.

If insufficient interest is shown in attending either of the training seminars, that seminar may be canceled and alternate arrangements will be made for those who expressed interest.

Dated: February 4, 1992.

Donald T. Sant,

Acting Associate Director for Royalty Management.

[FR Doc. 92-3099 Filed 2-7-92; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-330]

Certain Computer System State Save/Restore Software and Associated Backup Power Supplies for Use in Power Outages; Commission Determination Not To Review an Initial Determination Granting a Joint Motion To Terminate the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (ID) issued by the presiding administrative law judge (ALJ) in the above-captioned investigation granting a joint motion to terminate the investigation with prejudice on the basis of a settlement agreement.

ADDRESSES: Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202-205-2000.

FOR FURTHER INFORMATION CONTACT: Daniel Hopen, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202-205-3108.

Hearing-impaired individuals are advised that information about this matter can be obtained by contacting the Commission's TDD terminal, 202-205-1810.

SUPPLEMENTARY INFORMATION: On December 23, 1991, complainant Universal Vectors Corporation and respondents Astec (BSR) PLC and Emerson Electric Co. filed a joint motion (Motion No. 330-14) to terminate this investigation with prejudice on the basis of a settlement agreement. The motion was supported by the Commission investigative attorney.

On January 3, 1992, the presiding ALJ issued an ID (Order No. 13) granting the motion to terminate the investigation with prejudice on the basis of the settlement agreement. No petitions for review or agency or public comments were filed.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and section 210.53 of the Commission's Interim Rules of Practice and Procedure (19 CFR 210.53).

Issued: January 31, 1992.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 92-3086 Filed 2-7-92; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-545 Preliminary]

Medium Voltage Underground Distribution Cable From Canada

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of a preliminary antidumping investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigation No. 731-TA-545 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Canada of medium voltage underground distribution cable,[1] provided for in subheading 8544.60.60 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. The Commission must complete preliminary antidumping investigations in 45 days, or in this case by March 16, 1992.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: January 31, 1992.

FOR FURTHER INFORMATION CONTACT: Mary Trimble (202-205-3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed on January 31, 1992, by U.S. Cable Trade Action Group, an ad hoc trade association.

Participation in the Investigation and Public Service List

Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission's rules, not later than seven (7) days after publication of this notice in the **Federal Register.** The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this preliminary investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than seven (7) days after the publication of this notice in the **Federal Register.** A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference

The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on February 21, 1992, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Mary Trimble (202-205-3193) not later than February 19, 1992, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written Submissions

As provided in §§ 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before February 25, 1992, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three (3) days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules.

Issued: February 4, 1992.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 92-3047 Filed 2-7-92; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

Availability of Environmental Assessments

Pursuant to 42 U.S.C. 4332, the Commission has prepared and made available environmental assessments for the proceedings listed below. Dates environmental assessments are available are listed below for each individual proceeding.

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[1] For purposes of this investigation, medium voltage underground distribution cable is an insulated electrical conductor used by electric utility companies in the medium voltage stage (i.e., for voltages exceeding 1,000 volts but not exceeding 46,000 volts) of transmitting electricity from power generation plants to utility customers in residential areas. Utility companies distribute electricity at high voltage from the power generation plant to regional substations primarily via uninsulated, overhead "high tension" wires. At the regional substation, the electricity is "stepped down" to medium voltage. Medium voltage underground distribution cable is used to conduct the electricity from the regional substations to neighborhood transformers, where it is again "stepped down" to household voltages. Medium voltage underground distribution cable is composed principally of metal (generally aluminum for the conductor and copper for the "neutral" or ground) and insulating compounds (e.g., polyethylene).

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To obtain copies of these environmental assessments contact Ms. Johnnie Davis or Ms. Victoria Dettmar, Interstate Commerce Commission, Section of Energy and Environment, room 3219, Washington, DC 20423, (202) 927–6212 or (202) 927–6211.

Comments on the following assessment are due 30 days after the date of availability.

Docket AB–293 (Sub-No. 2X), Detroit and Mackinac Railway Company Abandonment in Otesego and Cheboygan Counties, Michigan. EA available 1/21/92.

Comments on the following assessment are due 15 days after the date of availability.

AB–55 (Sub-No. 404X), CSX Transportation, Inc.—Notice of Exemption—Abandonment in Hamilton County, Illinois. EA available 1/31/92.

AB–356X, Cliffside Railroad Company—Notice of Exemption—Abandonment in Rutherford County, North Carolina. EA available 1/31/92.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92–3065 Filed 2–7–92; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;
(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;
(3) How often the form must be filled out or the information is collected;
(4) Who will be asked or required to respond, as well as a brief abstract;
(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;
(6) An estimate of the total public burden (in hours) associated with the collection; and,
(7) An indication as to whether section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Ms. Lin Liu on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Lewis Arnold, on (202) 514–4305. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the DOJ Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Lewis Arnold, DOJ Clearance Officer, SPS/JMD/5031 CAB, Department of Justice, Washington, DC 20530.

New Collections

(1) Hate Crime Incident Report, Quarterly Hate Crime Report.
(2) None. Federal Bureau of Investigation (FBI).
(3) Quarterly.
(4) State or local governments. The Hate Crime Statistics Act of 1990 mandates the five-year collection of data on crimes motivated by religious, ethnic, racial, or sexual orientation prejudice. The Attorney General has delegated his responsibilities under the Act to the FBI, the actual function to be carried out by the FBI's Uniform Crime Reports Section.
(5) 64,000 annual responses at .17 hours per response.
(6) 10,880 annual burden hours.
(7) Not applicable under 3504(h).

(1) Obstacles to the Recovery and Return of Parentally Abducted Children: On-Site Evaluation.
(2) None. Office of Juvenile Justice & Delinquency Prevention.
(3) One-time.
(4) Individuals or households, state or local governments. The information collected will facilitate an examination of the interaction among legal and criminal social service systems as they relate to the legal, procedural, and practical obstacles encountered during the recovery and return of parentally abducted children.
(5) 160 annual responses at .75 hours per response.
(6) 120 annual burden hours.
(7) Not applicable under 3504(h).

(1) Claims Under the Radiation Exposure Compensation Act.
(2) None. Civil Division.
(3) On occasion.
(4) Individuals or households. The information is needed to determine eligibility for statutory compensation. The Radiation Exposure Compensation Act of 1990 provides that persons who resided near the Nevada test site, participated on-site in nuclear tests, or worked in uranium mines may be eligible.
(5) 2000 annual responses at 2.5 hours per response.
(6) 5000 annual burden hours.
(7) Not applicable under 3504(h).

Public comment on these items is encouraged.

Dated: February 6, 1992.

Lewis Arnold,

Department Clearance Officer, Department of Justice.

[FR Doc. 92–3074 Filed 2–7–92; 8:45 am]

BILLING CODE 4410–02–M

Lodging of Settlement Agreement Pursuant to Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on January 23, 1992, a Consent Decree in *United States* v. *Cedar Chemical Corporation*, Civil Action W92–0008 (B)(C), was lodged with the United States District Court for the District of Mississippi. The complaint filed by the United States alleged releases of hazardous wastes at a facility in Vicksburg, Mississippi owned and operated by the defendant which operated under interim status pursuant to section 3005(e) of the Resource Conservation and Recovery Act, 42 U.S.C. 6925(e). The Consent Decree requires the defendant to perform corrective action at the site and close its container storage area.

The Department of Justice will receive for a period of thirty (30) days from the publication date of this notice comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Cedar Chemical Corporation*, D.J. Ref. No. 90–7–1–463. The Consent Decree may be examined at the Office of the United States Attorney, 188 East Capital Street, suite 500, Jackson, Mississippi 39201; at the Region IV Office of the Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30365; and at the U.S. Department of Justice, Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue NW., Box 1097, Washington, DC 20004. Copies of the Consent Decree may be requested in person or by mail from the U.S. Department of Justice, at the above address. A copying charge of $27.25 (25 cents per page reproduction cost) must be paid, by check or money order payable to the Consent Decree Library at the time of the request.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 92-3041 Filed 2-7-92; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree in United States v. Kerr-McGee Chemical Corp., Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980

In accordance with section 122(d)(2) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9622(d)(2), and the policy of the Department of Justice, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States of America* v. *Kerr-McGee Chemical Corp.,* Civil Action No. 91-C-1396, was lodged with the United States District Court for the Eastern District of Wisconsin, on December 30, 1991. This action was brought pursuant to CERCLA sections 106 and 107(a), 42 U.S.C. 9606 and 9607(a), to achieve a cleanup of the Moss-American Site in Milwaukee, Wisconsin, and to recover costs expended by the United States at the site. The site is listed on the National Priorities List set forth at 40 CFR part 300, appendix B.

The Site comprises 88 acres in northwestern Milwaukee at the southeast corner of the intersection of Granville Rd. and Brown Deer Rd. The Little Menomonee River enters the Site through the northern boundary and leaves through the eastern boundary. A wood preserving plant was established on the site in 1921. Kerr-McGee Chemical Corp. owned and operated the plant from approximately 1963 to 1976, and is a present owner of the Site. A number of water quality and soil/sediment contamination studies have been conducted at the site. Based on the results of these studies, the U.S. Environmental Protection Agency ("U.S. EPA") has determined that materials used at the plant site containing creosote and its polynuclear aromatic hydrocarbon (PAH) derivatives are present in the soils, underground soils, sediments, groundwater, and surface water at the site.

Under the proposed Consent Decree, defendant Kerr-McGee Chemical corp. will finance and perform a remedy previously selected by U.S. EPA for the site. The main components of the remedy that will be implemented include the following actions: (1) The Little Menomonee River will be rechanneled to a new channel roughly parallel to the existing channel; (2) approximately 5,200 cubic yards of highly contaminated sediment from the old river channel and 80,000 cubic yards of on-site soil will be excavated and treated by soil-washing and an on-site slurry bio-reactor to health based risk levels established in EPA's Record of Decision (appendix 2 to the proposed Decree); (3) the treatment residue and low level remaining contamination will be covered on-site; (4) the old river channel will be covered with soil from the new channel; and (5) extracted groundwater will be treated using an oil/water separator and activated carbon. The selected remedy provides for continued monitoring of the groundwater for at least 5-10 years after the remedial action is complete.

Under the proposed Decree, Kerr-McGee also would reimburse $1 million of the costs incurred by the United States at the Site.

The Department of Justice will receive comments on the proposed Consent Decree for a period of 30 days from the publication of this notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530. All comments should refer to *United States* v. *Kerr-McGee Chemical Corporation.* D.J. Ref. No. 90-11-2-590.

The proposed Consent Decree may be examined at the Office of the United States Attorney (Civil Division) for the Eastern District of Wisconsin, 330 U.S. Courthouse, 517 East Wisconsin Ave., Milwaukee, WI 53202-4580, (room 16G28); the Region V Office of the U.S. Environmental Protection Agency, 111 West Jackson Street, Third Floor, Chicago, Illinois; and at the U.S. Department of Justice, Environmental Enforcement Section Document Center, 601 Pennsylvania Ave., NW., Box 1097, Washington, DC 20004 (202-347-7829). A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center. In requesting a copy, please specify the documents required, together with a check payable to the "Consent Decree Library" for the appropriate amount, as follows:

Consent Decree only ($.25 per page reproduction costs): $19.50.

Consent Decree with appendices: $70.00.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 92-3042 Filed 2-7-92; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Registration

By Notice Dated November 14, 1991, and published in the **Federal Register** on November 29, 1991, (56 FR 61053), Knight Seed Company, Inc., 151 W. 126th Street, Burnsville, Minnesota 55337, made application to the Drug Enforcement Administration to be registered as an importer of Marihuana (7360), a basic class of controlled substance listed in Schedule I.

No comments or objections have been received. Therefore, pursuant to section 1008(a) of the Controlled Substances Import and Export Act and in accordance with title 21, Code of Federal Regulations 1311.42, the above firm is granted as an importer of the basic class of controlled substance listed above.

Dated: February 3, 1992.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 92-3044 Filed 2-7-92; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL COMMISSION ON ACQUIRED IMMUNE DEFICIENCY SYNDROME

Meeting

AGENCY: National Commission on Acquired Immune Deficiency Syndrome.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463 as amended, the National Commission on Acquired Immune Deficiency Syndrome announces a forthcoming meeting of the Commission.

DATE AND TIME: Monday, March 2, and Tuesday, March 3, 1992—8:30 a.m. to 5:30 p.m.

PLACE: The Copley Plaza Hotel, 138 St. James Avenue, Boston, MA 02116.

TYPE OF MEETING: Open.

FOR FURTHER INFORMATION CONTACT: Roy Widdus, Ph.D., Executive Director, The National Commission on Acquired Immune Deficiency Syndrome, 1730 K Street, NW., suite 815, Washington, DC 20006, (202) 254-5125. Records shall be kept of all Commission proceedings and shall be available for public inspection at this address.

AGENDA: The agenda for the Commission meeting includes a discussion of housing issues and the HIV epidemic, as well as site visits within the Boston area. Inquiries regarding the agenda should be addressed to the Commission. Written comments on this issue are welcome from interested individuals or organizations.

Interpreting services are available for deaf people.

Dated: February 5, 1992.

Roy Widdus,

Executive Director.

[FR Doc. 92-3112 Filed 2-7-92; 8:45 am]

BILLING CODE 6820-CN-M

Meeting

AGENCY: National Commission on Acquired Immune Deficiency Syndrome.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463 as amended, the National Commission on Acquired Immune Deficiency Syndrome announces a forthcoming meeting of the Commission.

DATE AND TIME: Wednesday, February 19th and Thursday, February 20th—8:30 am. to 5:30 p.m.

PLACE: Embassy Suites Hotel, 1250 22nd Street, Washington, DC.

TYPE OF MEETING: Open.

FOR FURTHER INFORMATION CONTACT: Roy Widdus, Ph.D., Executive Director, The National Commission on Acquired Immune Deficiency Syndrome, 1730 K Street, NW., Suite 815, Washington, DC 20006, (202) 254-5125. Records shall be kept of all Commission proceedings and shall be available for public inspection at this address.

AGENDA: The agenda for the Commission meeting will include discussions of the Commission's workplan for the remainder of fiscal year 1992. Inquiries regarding the agenda should be addressed to the Commission. Written comments on this issue are welcome from interested individuals or organizations.

Interpreting services are available for deaf people. Please call our TDD number (202) 254-3816 to request services no later than February 14, 1992.

Dated: February 5, 1992.

Roy Widdus,

Executive Director.

[FR Doc. 92-3111 Filed 2-7-92; 8:45 am]

BILLING CODE 6820-CN-M

NATIONAL COMMUNICATIONS SYSTEM

Telecommunications Service Priority System Oversight Committee; Meeting

A meeting of the Telecommunications Service Priority (TSP) System Oversight Committee will convene Monday, February 24, 1992, from 9 a.m. to 4 p.m., and Tuesday, February 25, 1992, from 9 a.m. to 12:30 p.m. The meeting will be held at the Airport Marriott, 1300 Old Bayshore Highway, Burlingame, CA 94010. The agenda is as follows:

Day 1:

A. Opening/Administrative Remarks
B. Local Exchange Carrier Response to Emergencies
C. Texas State Briefing-Response to Recent Flooding
D. National Association of Regulatory Utility Commissioners (NARUC)
E. State Liability for Non-Participation in TSP System

Day 2:

A. California Utilities Policy Committee
B. User and Telecommunications Industry Perspective of First Year of TSP System Operation
C. Old Business/New Business

Anyone interested in attending or desires to make a presentation, please contact LtCol Paul Currie, (703) 692-9274, or Mr. William Abrams, (703) 692-1652 by February 14, 1992.

Beverly Sampson,

Federal Register Liaison Officer.

Dennis . Parsons,

Captain, USN Assistant Manager, NCS Joint Secretariat.

[FR Doc. 92-3059 Filed 2-7-92; 8:45 am]

BILLING CODE 3810-DG-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Expansion Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Expansion Arts Advisory Panel (Dance and Music Section) to the National Council on the Arts will be held on February 24, 1992 from 9:15 a.m.-6 p.m., February 25-27 from 9 a.m.-6 p.m., and February 28 from 9 a.m.-5:30 p.m. in room 730 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

Portions of this meeting will be open to the public on February 24 from 9:15 a.m.-10:30 a.m. and February 28 from 3 p.m.-5:30 p.m. The topics will be opening remarks, general program overview and policy discussion.

The remaining portions of this meeting on February 24 from 10:30 a.m.-6 p.m., February 25-27 from 9 a.m.-6 p.m. and February 28 from 9 a.m.-3 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: February 4, 1992.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 92-3108 Filed 2-7-92; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee on Auxiliary and Secondary Systems; Revision

The agenda for the ACRS Subcommittee meeting on Auxiliary and Secondary Systems scheduled to be held on Friday, February 14, 1992, 8:30 a.m., room P-110, 7920 Norfolk Avenue, Bethesda, MD has been revised as follows. Notice of this meeting was published previously in the **Federal Register** on Friday, January 31, 1992 (57 FR 3802):

The Subcommittee will discuss the status of the NRC staff efforts related to the resolution of Generic Issue 57, "Effects of Fire Protection System Actuation on Safety Related Equipment," and other fire-related matters. All other items pertaining to this meeting remain the same as previously published.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the ACRS Staff Engineer, Mr. Thomas S. Rotella, P.E., (telephone 301/492-8972) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: February 4, 1992.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 92-3103 Filed 2-7-92; 8:45 am]

BILLING CODE 7590-01-M

Regional State Liaison Officers' Meeting

AGENCY: Nuclear Regulatory Commission.

ACTION: Regional State Liaison Officers' Meeting.

On February 19 and 20, 1992, the Nuclear Regulatory Commission (NRC) will sponsor a regional meeting with the Governor-appointed State Liaison Officers from Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wisconsin. The subjects will include Emergency Preparedness, Low-Level Waste Disposal and Storage, Radioactivity in the Environment, Spent Fuel Storage, Decommissioning, Contaminated Sites, License Renewal and State Agreements.

The meeting will be conducted at the Region III office, 799 Roosevelt Road, Building 4, Glen Ellyn, Illinois 60137. The meeting is open to the public for observation and attendance and will take place between 8:30 a.m. and 5 p.m. on Wednesday, February 19 and between 8 a.m. and 12 noon on Thursday, February 20, 1992.

Questions regarding this meeting should be referred to Roland Lickus at (708) 790-5666.

Dated at Rockville, Maryland this 3rd day of February 1992.

For the Nuclear Regulatory Commission.

Frederick C. Combs,

Acting Director, Office of State Programs.

[FR Doc. 92-3101 Filed 2-7-92; 8:45 am]

BILLING CODE 7590-01-M

Conversion to the Metric System

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed policy statement.

SUMMARY: The Nuclear Regulatory Commission (NRC) is issuing its proposed policy on metrication for public comment. This action is in response to the Omnibus Trade and Competitiveness Act of 1988, Executive Order 12770 of July 25, 1991 as well as the concerns of certain licensees and groups. The proposed policy which would affect the NRC's licensees and applicants, is designed to allow them to respond to market forces in determining the extent and timing for their use of the metric system of measurement. The proposed policy also affects the NRC in that the NRC will adhere to the Federal Acquisition Regulation and the General Service Administration (GSA) metrication program for its own purchases. The proposed policy would affirm that use of the metric system of measurement by Commission licensees is in accordance with protection of the public health and safety.

DATES: The comment period expires on April 27, 1992. Comments received after this time will be considered if it is practical to do so, but assurance of consideration cannot be given except for comments received on or before this date.

ADDRESSES: Mail written comments to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Deliver comments to One White Flint North, 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. on Federal workdays. Comments may also be delivered to the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC, between 7:45 a.m. and 4:15 p.m. Copies of comments received may be examined at the NRC Public Document Room.

FOR FURTHER INFORMATION CONTACT: Dr. Frank A. Costanzi, Chairman, NRC Metrication Oversight Committee, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: (301) 492-3760.

SUPPLEMENTARY INFORMATION:

Background

On August 10, 1988, Congress passed the Omnibus Trade and Competitiveness Act (the Act), (19 U.S.C. 2901 *et seq.*), which amended the Metric Conversion Act of 1975, (15 U.S.C. 205a *et seq.*). Section 5164 of the Act (15 U.S.C. 205a) designates the metric system as the preferred system of weights and measures for U.S. trade and commerce. Congress noted that use of the metric system will improve the competitive position of U.S. products in international markets. World trade is increasingly conducted in metric units. The European Economic Community's intention to end the use of dual units and to operate exclusively in metric units after January 1, 1992, will further solidify the metric system as the measurement of commerce.

In an effort to effect an orderly change to metric units, the Act requires that all Federal agencies convert to the metric system of measurement in their procurements, grants, and other business-related activities by the end of fiscal year (FY) 1992, "except to the extent that such use is impractical or is likely to cause significant inefficiencies or loss of markets to U.S. firms, such as when foreign competitors are producing competing products in non-metric units," section 5614(b)(2).

The mandate by Congress, together with economic pressure on U.S. companies to compete in global markets, has increased the motivation for metric conversion within the United States. Many corporations involved in international business and trade are presently converting to the metric system. Some industry codes and standards developed in the United States use the metric system in the form of dual unit reporting or conversion tables. New codes and standards are increasingly being written in metric units to maintain their international presence and acceptance.

The NRC believes that conversion to the metric system is important to the national interest. The Commission strongly encourages its licensees and license applicants to employ the metric system of measurement wherever and whenever its use is not potentially detrimental to the public health and safety or uneconomic. This policy statement puts forth the NRC's planned activities regarding its use of the metric system in accordance with the Act. The term "metric system" refers to the International System of Units as established by the General Conference of Weights and Measures in 1960 as interpreted or modified for the United States by the Secretary of Commerce.

There may be market-driven voluntary support for use of the metric system among some Commission licensees, given that by January 1, 1992, countries in the European Economic Community will convert from dual units to metric units only. After this conversion, it appears that users of radioactive materials will encourage suppliers to adopt rounded metric units because this will be a more convenient measure. Further, some new nuclear plant designs are being developed in metric units to facilitate worldwide marketing. The Asea Brown Boveri (ABB) PIUS design, the Canadian CANDU-3 reactor, and portions of General Electric's Advanced Boiling Water Reactor are examples.

The NRC currently conducts most licensing activities in English units. However, regulations and other regulatory documents have been published in dual units from time to time to allow use of the metric system by licensees if they so desire. For example, some of the requirements in 10 CFR part 71 concerning the packaging and transportation of radioactive material are in dual units.

In March 1989, the NRC formed a metrication committee to consider how the provisions of the Act could best be implemented. The committee identified the NRC activities that would be appropriately considered as "business-related activities" under the Act. The committee also made a number of findings and recommendations that have served to provide the foundation of this policy statement.

On November 14 and 15, 1989, the NRC hosted a public workshop in Baltimore, Maryland, to collect information from the nuclear industry, suppliers, research institutions, academia, State governments, and other interested parties regarding recommendations concerning, possible strategies for, and effects of NRC conversion to the metric system. The salient points made at the workshop are summarized in a Commission paper, "Report on the Progress of Metrication Activities in the NRC," SECY-90-106, March 21, 1990.

The staff has developed and will publish a NUREG-series report entitled "Review of Metric Conversion Practices and Experience." Its objective is to provide background information to aid metrication planning activities within the NRC. Included in the report are discussions of the status of metric conversion in the U.S. utility industry, the metrication experience in Canada's nuclear power industry, and the metrication experiences of U.S. industries and those of other Federal agencies.

Discussion

The purpose of this policy statement is to inform NRC licensees and the public as to how the Commission intends to meet its obligations under the Act. In developing the policy, NRC is seeking to promote the use of the metric system of measurement by the licensed nuclear industry while ensuring that protection of the health and safety of the public is maintained, diverse viewpoints are considered, and the public is involved. In developing the policy, the Commission considered a range of alternatives by which it might comply with the Act.

The current practice of the NRC is to operate in English units. However, this practice will not continue for several reasons. First, to require the continued use of the English system, exclusively, the NRC would need to demonstrate that conversion of all of its procurements, grants, and other business-related activities to the metric system would be impractical or would be likely to cause significant inefficiencies or loss of markets to U.S. firms. The experience of Canada in general, and its nuclear utilities in particular, in converting to metric strongly argues against such a demonstration. Second, there is evidence that some NRC materials licensees involved in export trade may wish to operate in metric. If the NRC persisted in operating only in English units, these licensees could suffer a loss of market share because of this NRC practice. Third, some of the planned advanced reactors are being designed in metric, and, if constructed, will operate in metric.

One alternative for compliance with the Act would be an abrupt conversion of NRC activities to metric units. However, this action appears to be neither necessary nor prudent for several reasons. First, licensed nuclear power plants are operated by regulated monopolies or public entities that are not involved in the export business. They, like the bulk of NRC materials licensees, do not participate in world markets. Therefore, the prospect of competitive advantage of employing the metric system of measurement is not directly relevant to these licensees. Second, the NRC has not received any petition for rulemaking from any licensee or applicant requesting it to amend its regulations to conduct licensing and regulatory matters in the metric system. Third, an abrupt and universal conversion to metric could possibly deleteriously affect the public health and safety because the introduction of an unfamiliar measurement system could lead to confusion and mistakes. This is particularly true in the case of an emergency where quick decisive action will be needed in a high-stress situation. Existing emergency plans are written in English units, and the individuals who would need to act in an emergency, be they licensee personnel or agents of local government, are generally conversant only in English units. Fourth, requiring licensees whose market uses the English system to deal with the NRC only in metric units would pose an economic burden on those licensees with no safety or other benefit.

A practical approach to using the metric system is one that is both consistent with the intent and direction of the Act and yet does not introduce the safety concerns noted above or result in an economic burden to licensees or applicants. This type of approach would result in the use of the metric system by those licensees and license applicants for whom the use of the metric system presents no economic disadvantage and no safety detriment to the public. One option would be to require, by rulemaking, licensees and applicants to use the metric system by some date except where this use would raise potential public health and safety concerns or would otherwise be impractical. Another option would be to encourage, as a matter of NRC policy, the use of the metric system by applicants and licensees but allow the action of the market forces to determine which applicants and licensees employ the metric system, with due consideration for safety. Under both options, changes to NRC documents and procedures would need to be made to facilitate applicants' and licensees' use of the metric system. The arguments for and against these options are set forth below.

Option 1

Require licensees and license applicants to use the metric system in dealings with the NRC through a rulemaking action.

The rulemaking option would involve the public in the decision, result in a clear and certain date after which new applications would have to be in the metric system of measurement, and provide strong evidence that the NRC is fully committed to the intent of the legislation. However, requiring the use of the metric system by rule would force applicants and licensees for whom use of the metric system would introduce safety concerns or cause economic penalties without commensurate benefit to seek and justify an exemption to the Commission's regulations. If all power plant licensees were required to convert to the metric system by rulemaking, the NRC would expect them to request exemptions on the basis of incurred costs with no safety benefit. Similarly, future power plant applicants whose applications reference certified designs based on the English system would be expected to prefer submitting their applications in English units and to plan, build, operate, and maintain their prospective plants in the English system. If these applicants were required to use the metric system by rule, the NRC would expect them to request an exemption on the basis that there is no safety benefit (i.e., reduction in risk) against which to offset the cost of converting the certified designs to metric. In addition, materials licensees whose market and principal business dealings operate in the English system of units would not be likely to see any incentive to use metric and could be expected to seek exemptions.

While the NRC could attempt to identify categories of these applicants and licensees and specifically exempt them in the rule, some applicants and licensees would still need to seek an exemption. Those applicants and licensees would be forced to incur the cost of seeking an exemption to a requirement that has no associated safety benefit. Finally, NRC resources would have to be diverted from dealing with safety issues to instituting the requisite metric conversion rulemaking and executing conforming changes to convert pertinent regulations, guides, and standards to metric to allow affected applicants and licensees to demonstrate compliance in the metric system.

Option 2

Encourage NRC licensees and license applicants to use the metric system through a policy statement.

Through a policy statement, the Commission would encourage use of the metric system and commit the agency to work with licensees and applicants and with national, international, professional, and industry standards-setting bodies (e.g., ANSI, ASTM, ASME) to ensure metric-compatible regulations and regulatory guidance. Proceeding by policy statement would meet the obligations of the agency under the law to convert its "business-related activities" to the metric system of measurement "to the extent practical" without imposing an unnecessary burden on licensees or applicants who, for safety or economic reasons, cannot use the metric system and who, otherwise, would have to request exceptions from a Commission regulation. However, proceeding through a non-binding statement of policy rather than through a binding regulation might be interpreted to be inconsistent with the leadership role in converting the U.S. economy to metric envisioned by the Congress in passing the Act. Moreover, changing NRC documents and procedures to facilitate a voluntary use of metric by applicants and licensees would require expenditure of NRC resources. However, this "voluntary metrication" can be accommodated as needed to support individual license reviews and rulemaking actions without the major program disruption that would occur if all relevant licensing documents and procedures were to be converted by some fixed date, which would seem necessary if the Commission were to require by rulemaking the use of the metric system.

Decision Rationale

Expenditure of either licensee or Commission resources with no offsetting safety or administrative benefit is contrary to sound regulation. In this regard, the NRC notes the unique responsibilities of the agency in that its business activities are to ensure public health and safety in the commercial use of nuclear materials through its program of licensing and regulation. The Commission can assume that a licensee or applicant would use the metric system voluntarily when it is economically attractive to do so. However, any effort on the NRC's part to use metric units must consider the impact on the regulated industry (existing and future), the NRC, Agreement States, and other affected agencies. For example, under the Atomic Energy Act of 1954, as amended, Agreement States are required to adopt rules for radiation protection comparable to the NRC's within 3 years after the NRC amends a regulation. Some States may not possess the resources to convert their dealings with their licensees to metric. Moreover, in some States, changes in regulations require action by the State legislature.

The NRC does not perceive any economic need for or benefit to existing nuclear power plant licensees to convert to metric. Nor does the NRC see any benefit to fuel cycle facilities that serve the present domestic nuclear power industry from the conversion. Moreover, while there is nothing inherently safe or unsafe in any measurement system, changing power plant operations from a familiar system to an unfamiliar system could be detrimental to safety. Use of unfamiliar units could result in operator error or incorrect or ineffective maintenance that could lead to an emergency. Use of unfamiliar units during an emergency could cause mistakes as well as miscommunication with and confusion of those State and local government individuals who need to respond to emergencies, making their response less effective than it might be otherwise. These individuals and their organizations are not subject to NRC regulations and are beyond the reach of NRC's metrication policy and efforts. The NRC should not and will not allow licensees whose conversion might be detrimental to public health and safety to do so, voluntarily or otherwise. In particular, event reporting and emergency response communications between licensees, the NRC, and State and local authorities for the present must be in the English system so as not to bring potential confusion to an emergency situation.

Other existing licensees (e.g., source and byproduct material licensees) may indeed have some economic incentive for converting if they perceive a market advantage in doing so. Moreover, as stated previously, there may be some advantage to applicants for advanced reactor licenses and new fuel cycle and materials licenses to employ the metric system.

Whether the Commission proceeds by rulemaking or through a policy statement, the endpoint is likely to be the same. Each option will result in a mix of licensees and applicants using both the metric and the English systems.

Therefore, it is the Commission's view that the prudent course is to encourage and facilitate the use of the metric system by the industry that it regulates but not to attempt to force its use where it would be unsafe or impractical. Thus the Commission is complying with the Act by issuing a policy statement that—

(1) Encourages the use of the metric system by its licensees and applicants;

(2) Indicates that the Commission will initiate NRC staff training in the metric system and modify documents and procedures as needed to facilitate and support the use of the metric system by applicants and licensees;

(3) Commits the NRC to begin that process by publishing all new rulemaking actions and other related documents, e.g., regulatory guides, in dual units at the earliest date practical, but no later than September 30, 1992.

(4) Pledges the NRC to work with and encourage the licensed nuclear industry to employ the metric system through NRC staff participation in the activities

of appropriate standards-setting organizations and other industry groups;

(5) Requires use of the English system for event reporting and emergency response communications between licensees, the NRC, and State and local authorities; and

(6) Commits the staff to revisit this policy in 3 years to determine if any changes are necessary.

With respect to the publishing of all regulatory activities and documents in dual units, parameters will be published first in the International System of Units with the English unit equivalents following parenthetically.[1] When possible, all new specifications will be derived using the metric system. If a conflict or inconsistency with existing safety requirements would result, the new specification will be derived in the English system.

This action would comply with the requirement of the Act for the Commission to convert its business practices to the metric system to the extent practical and would conform to the spirit of the Act by encouraging the use of the metric system of measurement.

In addition, this action responds to Executive Order 12770, "Metric Usage in Federal Government Programs," which was signed by the President on July 25, 1991. Its purpose is "to implement the congressional designation of the metric system of measurement as the preferred system of weights and measures for United States trade and commerce." Further, the Executive Order directs all executive branch departments and agencies "to take all appropriate measures within their authority to carry out the provisions of this order." These responsibilities basically include—

(1) Drafting a metric conversion plan by November 30, 1991;

(2) Establishing the metric system of measurement in procurements, grants, and other business-related activities by September 30, 1992;

(3) Increasing understanding of the metric system through educational information and guidance and in Government publications;

(4) Seeking appropriate aid, assistance, and cooperation of other affected parties in implementing this order; and

(5) Designating a senior-level official as the Metric Executive to assist in the implementation of the order.

The Executive Order also calls for metrication progress reports to be made to the President and the Congress. The proposed policy statement serves the purpose of responding to the first two responsibilities by defining the agency's metric conversion plan, and establishing the NRC's use of the metric system, to the extent practical. The third and fourth responsibilities are also addressed in the statement through the commitments to initiate staff training in the metric system, the publication of NRC documents in dual units, and the pledge "to work with and encourage the licensed nuclear industry to employ the metric system * * *." The publication of this policy for public comment is another vehicle for complying with the fourth item.

Paperwork Reduction Act Statement

This policy statement contains no information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

Statement of Policy

The NRC supports and encourages the use of the metric system of measurement by the licensed nuclear industry. In order to facilitate the use of the metric system by licensees and applicants, beginning September 30, 1992, the NRC will publish all regulatory actions and related documents in dual units. These include new regulations, major amendments to existing regulations, regulatory guides, and NUREG-series documents. The NRC will modify existing documents and procedures as needed to facilitate use of the metric system by licensees and applicants. In addition, the NRC will initiate a program of staff training in the metric system. Further, through its participation on national, international, professional, and industry standards organizations and committees and through its work with other industry organizations and groups, the NRC will encourage and further the use of the metric system in formulating and adopting standards and policies for the licensed nuclear industry. However, should the use of any particular system prove to be detrimental to the public health and safety, the Commission will proscribe, by regulation, order, or other appropriate means, the use of that system. In particular, all event reporting and emergency response communications between licensees, the NRC and State and local authorities will be in the English system of measurement. After 3 years, the Commission will assess the state of metric use by the licensed nuclear industry in the United States to determine whether this policy should be modified. Lastly, the NRC will follow the Federal Acquisition Regulations in executing procurements.

Public Comment

NRC is interested in receiving public comment on any aspect of this proposed policy statement. In particular, the NRC is interested in comments on the extent to which guidance is presently available on the selection of "metric equivalent" common mechanical and electrical components, especially those that may have safety-related functions (e.g., selection of the appropriate metric thread size and pitch for a safety-related closure, or selection of the appropriate metric wire size for a safety-related electrical circuit). In addition, the NRC is interested in any possible impacts of metrication on NRC regulations as they relate to national and international standards such as those developed by the ASME, ANSI, and IEEE.

All comments should include a basis and rationale for suggested changes.

Dated at Rockville, Maryland, this 30th day of January 1992.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Acting Secretary of the Commission.

[FR Doc. 92-3102 Filed 2-7-92; 8:45 am]

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[1] Equivalent means precise value in the alternative system of units to the same number of significant figures as the original. For example, the metric equivalent of 0.10 mCi is 3.7 MBq, but the equivalent of 1×10^{-1} mCi is 4 MBq.

[Docket Nos. 50-317 and 50-318]

Baltimore Gas and Electric Company, (Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2); Exemption

I.

The Baltimore Gas and Electric Company (BG&E/licensee) is the holder of Facility Operating License Nos. DPR-53 and DPR-69, which authorizes operation of the Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2 (the facilities), respectively. The licenses provide, among other things, that the facilities are subject to all rules, regulations and Orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facilities are pressurized water reactors located at the licensee's site in Calvert County, Maryland.

II.

The Code of Federal Regulations at 10 CFR part 50, appendix J, Paragraphs III.D.2 and III.D.3, require that licensees perform Type B and C tests during each reactor shutdown for refueling but in no case at intervals greater than 2 years. Type B and C tests are local leak rate tests (LLRT) of containment penetrations and isolation valves.

III.

By letter dated November 27, 1991, the licensee requested an exemption from 10 CFR part 50, appendix J, Paragraphs III.D.2 and III.D.3. Specifically, the licensee requested an exemption to extend the Type B and C LLRT interval for containment penetrations and isolation valves beyond the 2-year limit specified in the regulations to a maximum of 30 months.

The Commission may grant exemptions from the requirements of the regulations which, pursuant to 10 CFR 50.12(a), are: (1) Authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security; and (2) present special circumstances. Section 50.12(a)(2)(iii) of 10 CFR part 50 indicates that special circumstances exist when compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulations were adopted, or significantly in excess of those incurred by others similarly situated.

IV.

The proposed exemption will not change plant equipment, operation or procedures, and does not adversely affect either the probability or the consequences of any accident at this facility. The requirement to perform Type B and C LLRT on containment penetrations and isolation valves during reactor shutdown, but in no case at intervals greater than 2 years, presumed that the time interval was adequate to accommodate the 12-month fuel cycles which were common in operating plants when appendix J was published in 1973. However, Calvert Cliffs, Units 1 and 2, are utilizing core designs which allow the units to operate on a 24-month fuel cycle. The NRC staff has recognized that the current 2-year surveillance interval for Type B and C LLRT would likely require plant shutdowns to perform appendix J leak testing before the completion of a 24-month fuel cycle. Consequently, in Generic Letter (GL) 91-04 the NRC staff provided guidance to licensees on the information needed to support an exemption from the requirements of 10 CFR part 50, appendix J, to accommodate a 24-month fuel cycle. Enclosure 3 to Generic Letter 91-04 indicated that two issues should be addressed to justify such a request: (1) A possible reduction in the combined leakage limit for Type B and C LLRT and (2) the basis for concluding that the containment leakage rate would be maintained within the acceptable limits with an LLRT interval increase up to 30 months. The licensee has addressed these two issues for Calvert Cliffs, Units I and 2, in its exemption request dated November 27, 1991.

The first issue is a reduction in the combined containment penetration leakage rate limit for Type B and C tests which increases the margin to the maximum allowable leakage rate L_a. The Code of Federal Regulations at 10 CFR part 50, appendix J, defines L_a as the maximum allowable leakage rate as specified in a facility's technical specifications (TS). The acceptance criterion for appendix J Type B and C LLRT is a combined leakage rate that shall be less than 0.60 L_a. This constitutes a margin of 0.40 L_a (40 percent of L_a). Enclosure 3 to GL 91-04 indicates that in order to justify an exemption to appendix J requirements and extend the Type B and C LLRT interval up to 30 months, licensees should either (1) use LLRT data to demonstrate that the margin of 0.40 L_a will not be reduced as a result of the test interval increase or (2) propose an acceptance criterion limit of less than 0.6 L_a as a TS change. The licensee is proposing an acceptance criterion limit of 0.5 L_a for Calvert Cliffs, Units 1 and 2, which represents a 25 percent increase in margin (40 percent to 50 percent). The staff has reviewed the proposed reduction in combined leakage rate limit to 0.50 L_a and finds it is consistent with the recommendations in GL 91-04 and is therefore acceptable.

The second issue is the basis for concluding that the containment leakage will be maintained within acceptable limits based on an extrapolation of past Type B and C LLRT data taking into account an LLRT interval limit of 30 months. The licensee has provided data for the 20 LLRTs performed since 1979. Six of these LLRT results are found to be in excess of the combined leakage rate limit at the end of the operating cycle. These results have been considered in light of the causes of the excessive leakage rates and the corrective actions taken by the licensee. A review by the NRC staff of containment isolation test data for pressurized water reactors during the 1965 through 1983 period indicates that the leakage rate data as reported by the licensee at the end of the Calvert Cliffs facility operating cycles falls within a typical range. In all cases but one, corrective action was successfully taken to reduce leakage on affected penetrations to a small fraction of the 0.60 L_a limit. The licensee reviewed the LLRT data to determine if the causes of the leakage were random or recurring. Only the recurring leakage events were used to project the leakage rate at the end of a 30-month LLRT Interval considering the leakage rate increase on a monthly basis for all past surveillance intervals. The projected leakage rate at the end of a 30-month LLRT interval was found to be below the maximum allowable leakage rate limit. Similar results were obtained from a projection of the recurring leakage over time, using the five most recent time-dependent leakage rates. The NRC staff has reviewed the LLRT results provided by the licensee as well as the methodology used in extrapolating previous Type B and C LLRT data to a 30-month test interval and finds that there is reasonable assurance that the containment leakage rate would be maintained within acceptable limits with a LLRT interval increase to 30 months.

Strict compliance with the schedule required by the current regulations would require mid-cycle outages which result in undue hardship or other costs that are significantly in excess of those contemplated when the regulations were adopted. Thus, there are special circumstances present which satisfy the requirements of 10 CFR 50.12(a)(2)(iii).

V.

Accordingly, the Commission has determined, pursuant to 10 CFR 50.12(a), that (1) an exemption as described in section III is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security and (2) in this case, special circumstances are present as described in section IV. Therefore, the Commission hereby grants the following exemption:

Accordingly, the Commission hereby grants an exemption, as described in section III above from 10 CFR part 50, appendix J, Paragraphs III.D.2 and III.D.3. This exemption would extend the Type B and C test interval on containment penetrations and isolation valves beyond the 2-year limit specified in the regulations to a limit of 30 months.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption extension would have no significant effect on the quality of the human environment (57 FR 2791).

This Exemption is effective upon issuance.

Dated at Rockville, Maryland, this 3rd day of February 1992.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 92-3100 Filed 2-7-92; 8:45 am]

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POSTAL RATE COMMISSION

[Order No. 918 and Docket No. A92-8]

Before Commissioners: George W. Haley, Chairman; Henry R. Folsom, Vice-Chairman; John W. Crutcher; W.H. "Trey" LeBlanc III; H. Edward Quick, Jr.; Notice and Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5)

Issued February 4, 1992.

In the Matter of:
Maskell, Nebraska 68751
(Donna R. Maskell, Petitioner)
[Docket Number: A92-8]

Name of Affected Post Office: Maskell, Nebraska 68751.

Name(s) of Petitioner(s): Donna R. Maskell.

Type of Determination: Closing.

Date of Filing of Appeal Papers: January 29, 1992.

Categories of Issues Apparently Raised:

1. Effect on postal services (39 U.S.C. 404(b)(2)(C));
2. Effect on the community (39 U.S.C. 404(b)(2)(A));
3. Economic savings (39 U.S.C. 404(b)(2)(D)).

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition, in light of the 120-day decision schedule (39 U.S.C. 404(b)(5)), the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the petitioner. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memoranda previously filed.

The Commission orders:

(A) The record in this appeal shall be filed on or before February 13, 1992.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register**.

By the Commission.

Charles L. Clapp,

Secretary.

Appendix

January 29, 1992	Filing of Petition.
February 4, 1992	Notice and Order of Filing of Appeal.
February 24, 1992	Last day for filing of petitions to intervene (see 39 CFR 3001.111(b)).
March 4, 1992	Petitioner's Participant Statement or Initial Brief (see 39 CFR 3001.115 (a) and (b)).
March 24, 1992	Postal Service Answering Brief (see 39 CFR 3001.115(c)).
April 8, 1992	Petitioner's Reply Brief should petitioner choose to file one (see 39 CFR 3001.115(d)).
April 15, 1992	Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings (see 39 CFR 3001.116).
May 28, 1992	Expiration of 120-day decisional schedule (see 39 U.S.C. 404(b)(5)).

[FR Doc. 92-3037 Filed 2-7-92; 8:45 am]

BILLING CODE 7710-FW-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-30331; International Series Release No. 364; File No. SR-Amex-91-32]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the American Stock Exchange, Inc. Relating to the Trading of LT-20 Index Options on the Optiebeurs N.V.

February 3, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b) (1), notice is hereby given that on December 3, 1991, the American Stock Exchange ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.[1]

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to expand its trading arrangement with the Optiebeurs N.V. ("European Options Exchange" or "EOE") to provide for the trading of LT-20 Index options on the EOE under the same terms and conditions which currently apply to Major Market Index ("XMI")options trading on the EOE.[2]

In connection with this proposal, the Amex has executed a modification agreement to its Memorandum of Understanding ("MOU") with the EOE to provide for the exchange of surveillance information so that the Amex's surveillance capability with respect to the trading of LT-20 Index options on both exchanges will be adequate.

As with options, LT-20 Index options traded on the EOE will be issued by, and cleared and settled through, the Options Clearing Corporations ("OCC").[3]

The text of the proposed rule change is available at the Office of the Secretary, Amex, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it recieved on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

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[1] The Amex amended the proposal on January 10, 1992, to clarify the basis for the proposed rule change. *See* letter to Thomas Gira, Branch Chief, Options Regulation, SEC, from Ellen Kander, Special Counsel, Options Division, Amex, dated January 10, 1992.

[2] *See* Securities Exchange Act Release Nos. 24831 (August 21, 1987), 52 FR 32368 (August 27, 1987), and 24832 (August 21, 1987), 52 FR 32377 (August 27, 1987) (order approving SR-Amex-87-10) ("XMI/EOE Approval Order").

[3] The OCC has filed a proposed rule change (File No. SR-OCC-92-03) enabling it to issue, clear, and settle LT-20 options traded on the EOE. That proposal is being approved contemporaneously with the Amex proposal. *See* Securities Exchange Act Release No. 30333 (February 3, 1992).

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On August 21, 1987, the Commission granted approval for the Amex to enter into a licensing agreement with the EOE to authorize the EOE to trade XMI options and to use the names "Major Market Index" and "XMI" in connection with options traded on the EOE based on the XMI. The EOE is located in Amsterdam, the Netherlands. It trades options on individual Dutch stocks, Dutch government bonds, foreign currencies, and gold and silver. XMI options began trading on the EOE on August 24, 1987. Those options are issued by, and cleared and settled through, the OCC.[4]

In November, 1990, the Commission approved an Amex proposal to trade options on the LT-20 Index, which is identical to the XMI, except for the Index value. The LT-20 Index is calculated at 1/10th the value of the XMI.[5]

Under the current proposal, the Amex would license the EOE to trade LT-20 Index options in addition to continuing to trade XMI options. As with XMI options, LT-20 Index options traded on the EOE will be issued by, and cleared and settled through, the OCC. All other rules and policies of the EOE applicable to the trading of XMI options will apply to the trading of LT-20 Index options. As with XMI options, the EOE will trade LT-20 Index options beginning at Noon Amsterdam time (corresponding to 6 am New York time) until closing at 4:30 pm Amsterdam time (corresponding to 10:30 am New York time). This will result in a trading overlap of one hour between the EOE and the Amex (*i.e.*, 9:30 to 10:30 am New York time).

As with XMI options, LT-20 Index options on the EOE will have the exact terms and conditions as LT-20 Index options traded on the Amex and, thus, will be identical and fungible with Amex-traded LT-20 Index options. Accordingly, positions in LT-20 Index options established in transactions effected on the EOE may be liquidated by transactions effected on the Amex, and positions in LT-20 Index options established by transactions effected on the Amex may be liquidated in transactions effected on the EOE.

The EOE will introduce for trading all series of LT-20 Index options as the Amex determines to introduce and, to the extent possible, all new series will be introduced on both exchanges on the same day. In addition, as with XMI options, the EOE will adopt rules and requirements which will be similar to corresponding rules and requirements of the Amex for LT-20 Index options with regard to position limits, exercise limits, exercise procedures (time-frames, etc.) and delivery of disclosure documents (limited as in the case of XMI to the EOE's own disclosure documents).

To implement the trading of LT-20 Index options on the EOE, the Amex, the EOE and the OCC have executed the following documents:

1. *Amex-EOE License Agreement:* The Amex has modified its May 14, 1987 license agreement with the EOE to expand such license to include LT-20 Index options.

2. *International Market Agreement ("IMA"):* On April 15, 1991, the EOE, the Amex and the OCC executed a First Amendment to the IMA which expressly amends the IMA to make its terms equally applicable to the trading of LT-20 Index options on the EOE.

3. *Associate Clearinghouse Agreement ("ACA"):* On March 19, 1991, a modification to the ACA between the OCC and the EOE's clearing organization, ACHA Associate Clearing House Amsterdam BV, was signed. This modification amends the basic ACA of August 20, 1987 and ensures that all terms in the ACA shall apply to the EOE's trading of LT-20 Index options.

4. *MOU:* The Amex and the EOE have executed a Modification Agreement dated October 31, 1991, to the MOU of May 14, 1987, which expressly amends the MOU (previously limited to XMI options) to make its terms equally applicable to trading on the EOE of LT-20 Index options.

5. *Assurance Letter:* The EOE has furnished the Amex with an assurance letter dated October 20, 1991 relating to its ability to furnish customer and other information to the Amex concerning LT-20 Index options trading.[6] In part, the assurance letter: (i) acknowledges the EOE's execution of the Modification Agreement to the MOU; (ii) acknowledges that all EOE public order members must, before accepting orders in LT-20 Index options, furnish customers with an explanatory memorandum that includes, in part, advice that the EOE may disclose customer and trading information to foreign exchanges; (iii) sets forth the requirement that clients of EOE firms must execute written agreements which, in effect, authorize such firms to provide appropriate information to the EOE and to other exchanges with which the EOE has "cooperative relationships" (such as the Amex); and (iv) reviews a recent EOE rule change applicable to EOE members that, as a condition to effecting transactions in options (such as LT-20 Index options), authorizes the EOE to furnish information to other exchanges (such as the Amex) pursuant to appropriate trading inquiries.

The Exchange believes that the modification of the AMEX-EOE License Agreement permitting the trading of LT-20 Index options on the EOE is consistent with the purposes and requirements of sections 6(b) (1), (5) and (6) of the Act in that it will provide investors with additional trading opportunities and open its index option market to more participants which, in turn, will increase the depth and liquidity of the market.

The Exchange further believes that the mutual undertaking by the EOE and the Amex to exchange surveillance information is consistent with the purposes and requirements of sections 6(b) (1), (5) and (6) of the Act in that each exchange will be better able to carry out its responsibilities to regulate its marketplace and assure compliance by its members with applicable rules and requirements. Where a security is traded in more than one market, the Exchange believes that appropriate surveillance requires the ability to review the total trading in all markets and, in the event that specific questions arise from such routine surveillance, the ability of each such market to obtain more detailed information not only from its own members but also from the other marketplaces where the security is traded and from the members of such other marketplace.

Accordingly, the Exchange believes that the mutual access by the Amex and the EOE to surveillance information pursuant to the MOU, as amended, and the ability of each exchange to call upon the other to conduct specific inquiries will "foster cooperation and coordination with persons engaged in regulating, clearing, settling * * * and facilitating transactions in securities" and help "to perfect the mechanism of a free and open market * * * and, in general, to protect investors."

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Amex believes that the proposed rule change will not impose an inappropriate burden on competition.

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[4] *See* XMI/EOE Approval Order *supra* note 2.

[5] *See* Securities Exchange Act Release No. 28613 (November 14, 1990), 55 FR 48302 (November 21, 1990) (order approving SR-Amex-90-14).

[6] *See* letter from Ulf L. Doornbos, Managing Director, EOE, and Rudolf F. de Soet, Deputy Managing Director, EOE, to Howard A. Baker, Senior Vice President, Amex, dated October 31, 1991 ("Assurance Letter").

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has requested that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2) of the Act.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6.[7] As stated in its order approving the trading of XMI options on the EOE, the Commission views agreements between American and foreign securities exchanges as positive developments in the increasing internationalization of the world's securities markets. The Commission believes that these agreements serve to facilitate the flow of capital and financial services across national borders.

Before approving these trading links, however, the Commission must be satisfied that adequate safeguards and procedures have been established and implemented to protect investors and detect fraudulent or manipulative acts or practices. In this regard, the Commission believes that an effective surveillance program is critical, especially the coordination of surveillance activities between the U.S. and foreign exchanges. Because the LT-20 Index-Options traded on the EOE will be subject to the same regulatory regime and governed by the same agreements between the EOE, Amex, and OCC that the Commission approved for the trading of options on the EOE, the Commission believes that adequate safeguards are in place to protect investors and prevent abusive trading involving LT-20 Index options on the EOE.

In addition, the Commission finds that the Assurance Letter and the modifications made to the MOU to permit the application of its terms to the trading of LT-20 Index options provide for the adequate exchange of surveillance information. The MOU sets forth the mutual undertakings by the Amex and the EOE to conduct surveillance and to furnish each other with surveillance information. The Assurance letter reiterates the mechanisms in place at the EOE to ensure the exchange of adequate surveillance information in the event of trading abuses involving LT-20 Index options.[8]

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission finds that the Amex's proposal to permit the trading of LT-20 Index options on the EOE is identical to the Amex's proposal to permit the trading of XMI options on the EOE, which the Commission approved on August 21, 1987.[9] Therefore, the Commission believes the Amex proposal raises no new issues. The Commission notes that no comments were received on the XMI/EOE proposal and that the Commission is unaware of any problems concerning the trading of XMI options on the EOE. Accordingly, the Commission believes that granting accelerated approval of the proposed rule change is appropriate and consistent with section 6 of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by March 2, 1992.

It is Therefore Ordered, Pursuant to section 19(b)(2) of the Act,[10] that the proposed rule change (SR-Amex-91-32) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-3097 Filed 2-7-92; 8:45 am]

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[Release No. 34-30336; International Series Release No. 366; File No. SR-Amex-92-03]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange, Inc. Relating to the Listing of Warrants Based on the Japan Index

February 4, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 21, 1992, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to approve for listing and trading under section 106 of the Amex Company Guide warrants based on the Japan Index ("Japan Index" or "Index"), an index of 210 common stocks actively traded on the Tokyo Stock Exchange ("TKE") that are representative of a broad cross section of Japanese industries.

The text of the proposed rule is available at the Office of the Secretary, Amex, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and statutory basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

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[7] 15 U.S.C. 78f(b)(5) (1988).

[8] See Assurance Letter, *supra* note 6. The Commission, however, reiterates its statement made in the XMI/EOE Approval Order that "[i]f either market refuses to divulge such information pursuant to a bona fide request, the Commission should be promptly informed of the nature of the request and the reasons for its refusal. If the refusal called into question the ability of the Amex to maintain the integrity of its options market, the ability of the NYSE to police stock-related options trading or the ability of the Commission to oversee those markets, the Commission would consider taking steps to terminate the arrangement." *See* XMI/EOE Approval Order, *supra* note 2, at note 10.

[9] *See supra* note 2.

[10] 15 U.S.C. 78s(b)(2) (1988).

[11] 17 CFR 200.30-3(a)(12) (1991).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Under section 106 (Currency and Index warrants) of the Amex Company Guide, the Exchange may approve for listing index warrants based on established foreign and domestic indexes.

The Amex is proposing to list index warrants based on the Japan Index, a price-weight index of 210 leading common stocks actively traded on the TKE that are representative of a broad cross section of Japanese industries.

The Index is denominated in U.S. dollars and calculated once a day based on the closing prices of the component stocks on the TKE and disseminated before the opening of trading in the United States. In calculating the Index, 100 yen is assigned to equal one U.S. dollar. Thus, if the aggregate price of the Index's component stocks is 30,500 yen, the Index value will be 305. This assures that the Index value will correspond directly to changes in the aggregate yen prices of the component stocks and will not be affected by fluctuating yen/dollar exchange rates. Previously, the Commission has approved an Amex proposal to the trade options on the Index.[1]

Japan Index warrant issues will conform to the listing guidelines under section 106 of the Amex Company Guide which provide that (1) the issuer shall have assets in excess of $100,000,000 and otherwise substantially exceed the Exchange's size and earnings requirements; (2) the term of the warrants shall be for a period ranging from one to five years from date of issuance; and (3) the minimum public distribution of such issues shall be 1,000,000 warrants together with a minimum of 400 public holders, and have a minimum aggregate market value of $4,000,000.

Japan Index warrants will be direct obligations of their issuer subject to cash-settlement during their term, and either exercisable throughout their life (*i.e.*, American style) or exercisable only on their expiration date (*i.e.*, European style). Upon exercise, or at the warrant expiration date (if not exercisable prior to such date), the holder of a warrant structured as a "put" would receive payment in U.S. dollars to the extent that the Japan Index settlement price has declined below a pre-stated strike price. Conversely, holders of a warrant structured as a "call" would, upon exercise or at expiration, receive payment in U.S. dollars to the extent that the Japan Index settlement price has increased above the pre-stated strike price. If "out-of-the-money" at the time of expiration, the warrants would expire worthless.

The Amex has adopted suitability standards applicable to recommendations to customers of index warrants and transactions in customer accounts. Amex Rule 411, Commentary .02 applies the options suitability standard to recommendations regarding index warrants. Amex Rule 421, Commentary .02 requires a Senior Registered Options Principal or a Registered Options Principal to approve and initial a discretionary order in index warrants on the day the order is entered. In addition, the Exchange, prior to the commencement of trading, will distribute a circular to its membership calling attention to specific risks associated with warrants on the Japan Index.

The Amex notes that the Commission previously has indicated that, in connection with the trading of index warrants based on a foreign index, there should be an adequate surveillance sharing agreement(s) with respect to the component stocks of the underlying index.[2] In this regard, the Amex notes that it has in place a surveillance sharing agreement with the TKE relating to the trading of Japan Index options.

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act, in general, and furthers the objectives of section 6(b)(5), in particular, in that it is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Amex believes that the proposed rule change will not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by March 2, 1992.

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[1] *See* Securities Exchange Act Release No. 28475 (September 27, 1990), 55 FR 40492.

[2] *See* Securities Exchange Act Release Nos. 28152 (October 3, 1988), 53 39332 (Commission order approving Amex's regulatory framework for index warrants and 27565 (December 22, 1989), 55 FR 376 (Commission order approving the Amex's proposal to list Nikkei warrants).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[3]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-3092 Filed 2-7-92; 8:45 am]

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[3] 17 CFR 200.30-3(a)(12) (1986).

[Release No. 34-30334; File No. SR-CBOE-91-48]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Joint Account Trading in Non-DPM Equity Options Classes

February 4, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 20, 1991, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the CBOE. The CBOE amended the proposal on January 14, 1992.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to summarize and consolidate into one Regulatory Circular to its members, several existing Exchange policies and procedures regarding the trading activities of joint account participants in equity options crowds without a Designated Primary Market Maker ("DPM"). The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

(1) Purpose

Currently, Exchange policies and procedures regarding permissible trading activities by joint account participants in non-DPM equity option crowds are contained in four separate Exchange documents. Specifically, these policies and procedures are contained in: (1) An Exchange Memo to members, dated November 3, 1982; (2) an Exchange Memo to members, dated May 31, 1984; (3) an Exchange Bulletin to members, dated June 24, 1987; and (4) an Exchange Surveillance Memo to members, dated August 14, 1990.

The CBOE believes that the proposed Regulatory Circular combines the above-mentioned, previously disseminated information regarding the policies and procedures governing the trading activities of joint account participants in non-DPM equity option crowds into one concise statement. As such, the Exchange believes that the Circular does not establish new policies or procedures, but is instead a consolidation of those policies and procedures already in existence. In addition to codifying the existing policies and procedures in one document, the Circular clarifies one item. Specifically, the Circular clarifies that it is permissible for an Exchange member, while in a non-DPM equity options trading crowd, to alternate between trading for his individual account and for the joint account to which the member belongs.

(2) Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act, in general, and furthers the objectives of section 6(b)(5), in particular, in that it promotes just and equitable principles of trade.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change constitutes a stated policy, procedure or interpretation with regard to the administration of an existing CBOE rule, it has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to the file number in the caption above and should be submitted by March 2, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[2]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-3093 Filed 2-7-92; 8:45 am]

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[1] On January 14, 1992, the CBOE sent, to the Commission additional data on the Exchange's existing procedures governing the trading activities of joint account participants in non-DPM equity options crowds. *See* letter from Barbara J. Casey, Vice President, Department of Market Regulation, CBOE, to Mark McNair, Staff Attorney, Division of Market Regulation, dated January 14, 1992.

[2] 17 CFR 200.30-3(a)(12) (1986).

[Release No. 34-30330; File No. SR-CBOE-92-01]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to New Expiration Months for Standard & Poor's 500 Stock Index Options

February 3, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 9, 1992, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to modify the pattern of expiration months for Standard & Poor's 500 Stock Index options ("SPX") listed by the Exchange. Currently, the Exchange lists two consecutive expiration months for SPX options, plus three quarterly series of the March cycle. Under the proposal, the CBOE plans to list three consecutive near term month series, together with far-out months from the March expiration cycle. The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

(1) Purpose

The CBOE proposes to modify the pattern of expiration months for SPX options. Currently, the Exchange lists two consecutive near-term expiration months for SPX options, plus three quarterly series of the March cycle. Under the proposal, the CBOE plans to list three consecutive near term month series, together with three far-out month series from the March expiration cycle. Thus, under the proposal, the expiration months available for trading in February would be February, March, April, June, September, and December, with the series expiring in April being the series added by the proposal. The CBOE notes that the proposed expiration month schedule is within the discretion allowed the Exchange under Exchange Rule 24.9(b), which authorizes the CBOE to list up to six expiration months in index options expiring at three-month intervals or in consecutive months, with none farther out than twelve months.[1]

(2) Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act, in general, and furthers the objectives of section 6(b)(5), in particular, in that it is designed to facilitate transactions in SPX options and to better serve investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 thereunder because it constitutes a stated policy, practice or interpretation with respect to the administration of an existing CBOE rule.[2] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, DC, 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to the file number in the caption above and should be submitted by March 2, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[3]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-3094 Filed 2-7-92; 8:45 am]

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[1] Securities Exchange Act Release No. 23257 (March 20, 1986), 51 FR 19434 (order approving File No. SR-CBOE-86-04), authorizes the CBOE to determine the precise arrangement of a limited number of expiration months, with the Commission retaining the ability to review the Exchange's decisions under section 19(b)(3)(A) of the Act.

[2] *Id.*

[3] 17 CFR 200.30-3(a)(12) (1991).

[Release No. 34-30333; International Series Release No. 365; File No. SR-OCC-92-03]

Self-Regulatory Organizations; the Options Clearing Corporation; Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to the Trading of LT-20 Index Options on the American Stock Exchange, Inc. and the European Options Exchange

February 3, 1992.

Pursuant to section 19(b) of the Securities Exchange Act of 1934,[1] notice

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[1] 15 U.S.C. 78s(b) (1988).

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is hereby given that on January 13, 1992, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR–OCC–92–03) as described below in Items I, II, and III, which Items have been prepared by OCC, a self-regulatory organization ("SRO"). The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. SRO's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would modify the terms of two existing contracts, the "International Market Agreement: XMI Index options" and the "Associate Clearinghouse Agreement," to provide for the clearance and settlement of the LT–20 Index on the European Options Exchange ("EOE")[2] under the same conditions as now apply to the XMI options.[3]

II. SRO's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the SRO included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The SRO has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. SRO's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On August 20, 1987, OCC entered into: (1) the International Market Agreement with the Amex and the EOE,[4] and (2) Associate Clearinghouse Agreement with ACHA Associate Clearing House Amsterdam B.V. ("ACHA").[5] Both of these agreements provide for OCC to issue, guarantee, and clear transactions on the EOE of index options that are identical to, and fungible with, options on the XMI that are traded on the Amex. The terms of this arrangement were approved by the Commission in August 1987.[6]

In November, 1990, the Amex developed the LT–20 Index which, except for its index value, is identical to the XMI Index. The LT–20 Index is calculated at 1/10th the value of the XMI Index.[7] The AMEX has licensed the EOE to trade LT–20 options in addition to the existing XMI options. Under the proposal, LT–20 options traded on the EOE will be issued by, cleared, and settled through OCC.[8] Like the XMI options, LT–20 options on the EOE will have the same terms and conditions as the LT–20 options that are traded on the Amex. Thus, the LT–20 options will be identical to and fungible with the Amex traded LT–20 options. All rules and policies of the EOE applicable to the trading of XMI options will apply to the trading of LT–20 options. On March 19, 1991, a letter agreement confirming the understanding of the terms of the Associate Clearinghouse Agreement was entered into by OCC and EOE's clearing organization, ACHA. This letter agreement provides that all the terms of the Associate Clearinghouse Agreement of August 20, 1987, Which apply to XMI Index options, apply to LT–20 options traded on the EOE.

The OCC believes that the proposed rule change is consistent with the purposes and requirements of section 17A of the Act[9] because it seeks to permit trading of LT–20 options on the EOE under the identical terms and conditions that currently apply to XMI options, all of which are designed to promote the prompt and accurate clearance and settlement of options transactions.

B. SRO's Statement on Burden on Competition

OCC believes that the proposed rule change would impose no burden on competition.

C. SRO's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

OCC did not solicit comments with respect to the proposed rule change and none were received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

OCC has requested that the Commission find good cause for approving the proposed rule change prior to thirty days after the date of publication of the notice of this filing. Such accelerated approval would permit the OCC to coordinate its operations with the Amex, which has filed a companion rule proposal.[10]

The Commission believes the proposal's modifications to OCC's existing agreements concerning the XMI Index options governing the clearance and settlement of LT–20 Index options are consistent with the Act, and particularly with section 17A of the Act.[11] Section 17A(b)(3)(F) of the Act[12] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of funds in the custody or control of the clearing agency or for which it is responsible.

The terms of the proposal are essentially identical with OCC's existing arrangement for processing XMI Index options, which the Commission approved by order dated August 21, 1987,[13] and operationally the proposal includes the same parties (*i.e.* OCC, Amex, EOE, and ACHA). Moreover, since 1987, the arrangement has been strengthened by specific agreements whereby ACHA has adopted higher financial and reporting standards.[14]

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[2] The EOE, located in Amsterdam, The Netherlands, also is known as the Optiebeurs N.V.

[3] The XMI is a market index that is based on the values of 20 well-known, highly-capitalized corporations traded on the New York Stock Exchange, Inc.

[4] This agreement sets forth the relationships among OCC, Amex, and EOE with regard to XMI options and contains provisions referring to its issuance, disclosure, expiration, exercise, units of trading, margin, comparison, clearance and settlement. See Securities Exchange Act Release No. 24832 (August 21, 1987), 52 FR 32377 [File No. SR–OCC–87–09] (order approving rule change authorizing OCC to clear XMI options traded on EOE).

[5] This agreement provides, in essence, that ACHA will process XMI option trades for EOE members. *Id.*

ACHA is a limited liability company organized under the laws of the Netherlands. ACHA is a wholly-owned subsidiary of the European Options Clearing Corporation, which is a wholly-owned subsidiary of and the principal clearing corporation for EOE.

[6] Securities Exchange Act Release Nos. 24831 (August 21, 1987), 52 FR 32368 [File No. SR–Amex–87–10] and 24832 (August 22, 2967), 52 FR 32377 [File No. SR–OCC–87–09].

[7] "LT" refers to long-term. The reduced-value XMI, *i.e.* the LT–20, have expirations up to 36 months. Securities Exchange Act Release No. 28613 (November 14, 1990), 55 FR 48307 [File No. SR–Amex–90–14] (order approving rule change approving long-term options on a reduced value XMI). Subsequently, Amex changed the value of the LT–20 from 1/20th of the XMI to 1/10th of the XMI. Securities Exchange Act Release No. 29798 (October 8, 1991) 56 FR 51956 [File No. SR–Amex–91–18].

[8] The Amex has filed a separate rule filing (Amex–91–32) concerning the licensing of the LT–20 Option to EOE. This proposal only covers the clearance and settlement aspects of the agreements and does not cover the licensing of the option, the issuance of the option by OCC or the trading of the option.

[9] 15 U.S.C. 78q–1 (1988).

[10] File No. SR–Amex–91–32.

[11] 15 U.S.C. § 78q–1 (1988).

[12] 15 U.S.C. § 78q–1(b)(3)(F) (1988).

[13] *Supra*, note 6.

[14] By amendment to its clearing agreements with OCC, ACHA: (1) increased its permanent capital

Continued

Accordingly, for the reasons set forth in the Commission's order of August 21, 1987 as well as the reasons set forth above, the commission believes that the proposal is consistent with the provision of section 17A of the Act, in regards to the safeguarding of securities and funds in the custody or control of OCC or for which it is responsible.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the publication of notice of filing. As noted above, the Amex has filed a companion filing with respect to this proposal.[15] Accelerated approval will permit trading, clearing, and settlement of the options on the LT–20 Index on a coordinated basis among Amex, OCC, EOE, and ACHA.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to File No. SR–OCC–92–03 and should be submitted by March 2, 1992.

It is Therefore ordered, Pursuant to section 19(b)(2) of the Act,[16] that the proposed rule change (File No. SR–OCC–92–03) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–3098 Filed 2–7–92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC–18493; 811–3951]

Pilgrim Corporation Cash Fund; Deregistration

Correction

In FR Document No. 92–2195, beginning on page 3666 for Thursday, January 30, 1992, the release number for File No. 811–3951 was incorrectly stated as IC–18489. The correct number is IC–18493.

Dated: February 5, 1992.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–3095 Filed 2–7–92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC—18517; 811–4159]

Viking Equity Index Fund, Inc.; Application

February 3, 1992.

AGENCY: Security and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Viking Equity Index Fund, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has creased to be an investment company.

FILING DATE: The application was filed on December 10, 1991.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 28, 1992, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 200 Gibraltar Road, Horsham, PA 19044.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 272–3026, or Nancy M. Rappa, Branch Chief, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end diversified investment company that was organized under the laws of Maryland. Applicant registered under the Act and filed a registration statement pursuant to section 8(b) of the Act on November 16, 1984. A registration statement under the Securities Act of 1933 was filed on November 16, 1984. The registration statement was declared effective and the initial public offering commenced on January 2, 1985.

2. At a meeting held on December 18, 1990, the applicant's board of directors adopted a plan of reorganization (the "Plan"). On or about April 5, 1991, applicant mailed proxy materials to its shareholders, who approved that Plan at a special shareholder's meeting held on May 15, 1991.

3. On June 1, 1991, pursuant to the Plan, applicant transferred all of its assets and liabilities of its General Portfolio to CoreFunds, Inc. ("CoreFunds") and on September 27, 1991, Corefunds acquired substantially all of the assets and liabilities of applicant's Fiduciary Portfolio. Both portfolios were exchanged for shares of class F common stock of CoreFunds [1] on a *pro rata* basis. The transfer of applicant's assets in exchange for shares of CoreFunds was based on the relative net asset value of CoreFunds and applicant. Immediately thereafter, applicant distributed the shares of class F common stock of CoreFund *pro rata* to its shareholders.

4. The expenses incurred in connection with the sale of applicant's assets were approximately $22,000 (legal—$20,000; accounting—$2,000), all of which were assumed by CoreFunds.

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requirements, (2) agreed to notify OCC of certain reductions in its capital, and (3) increased its overdraft facility. Securities Exchange Act Release No. 29396 (July 1, 1991), 56 FR 30956 [File No. SR–OCC–91–02].

[15] *Supra,* note 10.

[16] 15 U.S.C. 78s(b)(2) (1991).

[17] 17 U.S.C. 200.30–3(a)(12) (1991).

[1] According to CoreFund's Equity Index Fund prospectus dated October 21, 1991, class F common stock represents an interest in CoreFund's Equity Index portfolio.

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5. There are no securityholders to whom distributions in complete liquidation of their interests have not been made. Applicant has no debts or other liabilities that remain outstanding. Applicant is not a party to any litigation or administrative proceeding.

6. Applicant has filed Articles of Dissolution with the Maryland Secretary of State.

7. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-3096 Filed 2-7-92; 845 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice 1569]

Shipping Coordinating Committee, Maritime Safety Committee and Associated Bodies; Notice of Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 9 a.m. on Monday, March 30, 1992, in room 2415, at U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593. The purpose of the meeting is to finalize preparations for the Maritime Safety Committee, Sixtieth Session of the International Maritime Organization (IMO) which is scheduled for April 6-10, 1992, at the IMO Headquarters in London. The purpose of the meeting is to discuss the papers received and the draft U.S. positions for the Maritime Safety Committee.

Among other things, the items of particular interest are:

—Amendments to Safety of Life at Sea (SOLAS) '74 concerning fire protection and damage stability

—Reports of the technical subcommittees

—Role of the human element in maritime casualties

Members of the public may attend these meetings up to the seating capacity of the room. Interested persons may seek information by writing: Mr. Daniel F. Sheehan, U.S. Coast Guard (G-MI), 2100 Second Street SW., Washington, DC 20593 or by calling: (202) 267-2970.

Dated: January 28, 1992.

Geoffrey Ogden,

Chairman, Shipping Coordinating Committee.

[FR Doc. 92-3043 Filed 2-7-92; 8:45 am]

BILLING CODE 4710-70-M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ended January 31, 1992

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 47968.
Date filed: January 28, 1992.
Parties: Members of the International Air Transport Association.
Subject: Telex dated January 28, 1992. Reso 024f—Local Currency Fare Changes—Zimbabwe.
Proposed Effective Date: February 7, 1992.

Docket Number: 47970.
Date filed: January 30, 1992.
Parties: Members of the International Air Transport Association.
Subject: Telex dated January 17, 1992: TC3 Mail Vote 531—(Within Southeast Asia fares) r-1—043, r-2—053, r-3—063.
Proposed Effective Date: February 10, 1992.

Docket Number: 47971.
Date filed: January 30, 1992.
Parties: Members of the International Air Transport Association.
Subject: TC23 Reso/P 0491 dated January 24, 1992. Europe-Japan/Korea Expedited Reso 085Z.
Proposed Effective Date: March 1, 1992.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 92-3106 Filed 2-7-92; 8:45 am]

BILLING CODE 4910-62-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended January 31, 1992

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et. seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 47972.
Date filed: January 31, 1992.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: February 28, 1992.
Description: Application of Aeronorte Internacional, S.A., pursuant to section 402 of the Act and subpart Q of the Regulations applies for a foreign air carrier permit authorizing it to engage in foreign charter air transportation of property and mail between Paraguay and the United States and pursuant to part 212 of the Department's Regulations. Aeronorte proposes to operate charter flights between Asuncion, Paraguay and Miami, Florida.

Docket Number: 47607.
Date filed: January 27, 1992.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: February 24, 1992.
Description: Supplement No. 2 to Application of Viscount Air Service, Inc. for a certificate of public convenience and necessity pursuant to section 401(d) of the Act for interstate and overseas air transportation.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 92-3107 Filed 2-7-92; 8:45 am]

BILLING CODE 4910-62-M

Coast Guard

[CGD 92-006]

Towing Safety Advisory Committee, Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meetings.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. app. I), notice is hereby given of a meeting of the Towing Safety Advisory Committee (TSAC) and Subcommittees. A preliminary meeting of the TSAC Subcommittees will be held on Thursday, March 12, 1992, in Room 2415 of U.S. Coast Guard Headquarters. This meeting is scheduled to run from 1:30 p.m. to 4 p.m. Attendance is open to the public. The full Committee meeting will be held on Friday, March 13, 1992, in room 2415 of U.S. Coast Guard Headquarters. The meeting is scheduled to run from 9 a.m. to 1 p.m. This meeting is also open to the public. The agenda follows:

1. Subcommittee Reports

a. Personnel Manning and Licensing
b. Tug-Barge Construction, Certification, and Operations
c. Personnel Safety and Workplace Standards
d. Oil Pollution Act of 1990 Implementation

2. Other Topics of Discussion

With advance notice, and at the discretion of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should notify the TSAC Executive Director no later than the day before the meeting. Written statements or materials may be submitted for presentation to the Committee at any time; however, to ensure distribution to each Committee member, 20 copies of the written material should be submitted to the Executive Director by March 12, 1992.

FOR FURTHER INFORMATION CONTACTS: CDR Robert Letourneau, Executive Director, Towing Safety Advisory Committee, room 1300, U.S. Coast Guard Headquarters (G–MTH–2), 2100 Second Street, SW., Washington, DC 20593–0001, (202) 267–2206.

Dated: February 4, 1992.

A. E. Henn,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 92–3088 Filed 2–7–92; 8:45 am]

BILLING CODE 4910-14-M

National Highway Traffic Safety Administration

Petition for Exemption From the Vehicle Theft Prevention Standard; Mitsubishi

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Grant of petition for exemption.

SUMMARY: This notice grants the petition by Mitsubishi for an exemption in whole from the parts marking requirements of the vehicle theft prevention standard for the Mitsubishi Diamante car line beginning from Model Year (MY) 1993. The agency grants this exemption under Section 605 of the Motor Vehicle Information and Cost Savings Act. The agency is granting the petition because it has determined that the antitheft device that the petitioner intends to install on this line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as would compliance with the parts marking requirements.

DATES: The exemption granted by this notice will become effective beginning with the 1993 model year.

SUPPLEMENTARY INFORMATION: On September 12, 1991, this agency received a submission from Mitsubishi Motors Corporation (Mitsubishi) seeking an exemption from the parts marking requirements of the vehicle theft prevention standard (49 CFR part 541) pursuant to the requirements of 49 CFR part 543, Petition for Exemption from the Vehicle Theft Prevention Standard. Mitsubishi seeks an exemption for the Diamante car line beginning with MY 1993. The agency reviewed the September 12, 1991 submission and concluded that information required under sections 543.5(b)(3) and 543.5(b)(4) was not provided. These sections require that the petitioner disclose the state or country under the laws of which it is organized and the car line's production date in the model year for which an exemption is requested. In addition, 49 CFR 543.6(a)(5) and 543.6(b) were not sufficiently addressed. Section 543.6(a)(5) requires manufacturers to provide reasons for its belief that the agency should determine that the antitheft device is likely to be as effective as compliance with the parts-marking requirements in part 541 in reducing and deterring motor vehicle theft. These reasons must include any statistical data that are available to the petitioner, and form a basis for petitioner's belief that a line of passenger motor vehicles equipped with the antitheft device is likely to have a theft rate equal to or less than that of passenger motor vehicles of the same, or similar, line which have parts marked in compliance with part 541. Section 543.6(b) requires the petitioner to provide an explanation of its belief that the data submitted are sufficiently representative and reliable to warrant the agency's reliance upon them.

The agency further noted 49 CFR 543.7(a) that states that the agency will inform the manufacturer of areas of insufficiency and that the petition will not be processed under part 543 until the required information is submitted.

In a letter dated September 24, 1991, the agency asked Mitsubishi to provide the additional information discussed above. On October 11, 1991, the agency received the required supplementary information. After reviewing the submissions, the agency determined that together, Mitsubishi's submissions of September 12, 1991 and October 11, 1991 constitute a complete petition, as required by 49 CFR 543.7, in that it meets the general requirements contained in § 543.5 and the requirements of § 543.6. Accordingly, October 11, 1991 is the date on which the statutory 120 day period for processing Mitsubishi's petition began.

In its petition, Mitsubishi included a detailed description of the identity, design, and location of the components of the antitheft device, including diagrams of the components and their location in the vehicle. Mitsubishi states that the Diamante car line for MY 1993 will have, as standard equipment, the same antitheft device that is currently standard on the Mitsubishi Galant. Mitsubishi also stated that its antitheft system incorporates an alarm function and engine starter-interrupt function similar to other systems that have received antitheft exemptions.

Mitsubishi's system is automatically activated when the operator removes the key from the ignition, opens and leaves through the door, and then locks the door either with or without the key. The activation of the system arms the horn, lights, and an ignition-starter interrupt. Once the theft system has been activated, the security light illuminates for approximately 20 seconds. After the light goes out, the system is then immediately armed. The theft alarm system is controlled by the electronic control unit (ECU) as one function of the electronic time and alarm control system. This ECU includes an independent microcomputer for the exclusive use of the theft-alarm system. The microcomputer arms, disarms, activates and deactivates the alarm system. The system is composed of the following elements: Multipurpose relay (horn relay and headlight relay); starter inhibitor relay; security light; ignition switch/key reminder switch; key cylinder unlock switch (left-front and right-front door); door lock actuator switch (left-rear and right-rear door); deck lid switch; deck lid cylinder unlock switch; door switch (left-front and right-front door); electronic control unit; theft-alarm horn; starter; hood switch; and headlights.

If an unauthorized person attempts to open a door, the deck lid or the hood without using a key, the horn will sound intermittently for a period of approximately three minutes and simultaneously the headlights will flash on and off for approximately three minutes. Additionally, the vehicle cannot be started, because the starter circuitry is interrupted via an inhibitor relay which cuts off the electric current between the starter switch and starter motor. If a further attempt at forcible entry is made after the first three-minute alarm has finished, the three-minute alarm will be activated again.

Mitsubishi states that the system will be disarmed if the key is used to unlock the left or right-front door, by inserting the key into the front door's key cylinder and turning the key. Also, if the system is armed while the driver is still in the vehicle, the system can be disarmed by inserting the ignition key and turning it to the "ACC" or "ON" position. The alarm is deactivated and the system is disarmed when the trunk is unlocked with the key.

Mitsubishi states that unauthorized persons are prevented from circumventing the system because the antitheft system components are hidden in various places within the vehicle, and thus not readily accessible from outside the vehicle. The power source for the antitheft system is also not readily accessible since it is protected by a hood sensor that activates the alarm upon tampering.

Mitsubishi addresses the reliability and durability of the Diamante's antitheft system by subjecting it to the following tests: (1) Overvoltage test, used to confirm the system's reliability in the event of power surges; (2) Transient voltage endurance test, used to confirm durability after exposure to various types of transient voltage; (3) Power supply inverse polarity connection test, used to confirm reliability against reversed connection of battery; (4) Electrostatic test, used to confirm reliability against static electricity; (5) Electromagnetic test, used to confirm reliability against electromagnetic fields; (6) Thermal shock test, used to confirm durability against quick temperature changes; (7) Radiated electromagnetic test, used to confirm reliability after exposure to electromagnetic interference; (8) Low/high temperature operation, testing under high and low temperatures for a long period of time; (9) Humidity test, used to confirm durability against changes in temperature and humidity; (10) Vibration test, used to confirm durability against vibration when the vehicle is being operated; (11) Drop test, used to confirm performance against drop shock resulting from improper transport handling and (12) Operation durability test, used to confirm reliability and durability for long term operation.

As earlier noted, Mitsubishi states that the Diamante antitheft system is the same system that is presently installed on the Mitsubishi Galant. Mitsubishi asserts that the antitheft system has effectively decreased the Galant's theft rate. To support this, Mitsubishi quoted NHTSA's theft data for MYs 1986–1989. NHTSA's data is based on information from the National Crime Information Center (NCIC) of the Federal Bureau of Investigation. The NHTSA data indicated that the Galant's theft rate decreased from 7.3751 thefts (per thousand produced) in 1986, to 7.085 thefts in 1987 (the first year the antitheft system was included in the Galant), went up to 7.865 thefts in 1988, and fell to 5.488 in 1989. Mitsubishi states that a design change in the 1988 model year Galant may have made the car line more attractive to thieves, thereby increasing the 1988 theft rate.

In addition, Mitsubishi compared its antitheft system to similar systems installed in the Mitsubishi Starion, Chrysler Conquest, Toyota Cressida and Supra, Lexus LS400 and ES250, Mazda 929 and RX7, Honda Acura NSX and Legend, and Nissan Maxima, 300ZX, and Infiniti lines. NHTSA agrees that the antitheft devices installed on these named car lines are comparable to the device on the Diamante car line. Therefore, the agency believes the theft experience of these car lines after installation of the antitheft devices is probative of the possible experience of the Diamante car line, after installation of its antitheft device.

Mitsubishi states that based on the theft data compiled by NHTSA, these car lines' theft experience has decreased with the installation of an antitheft system. As examples, NHTSA's data show that the theft rate of the Toyota Cressida decreased from 4.7 thefts (per thousand produced) to 4.26 after installation of an antitheft device in 1986, the theft rate of the Nissan Maxima show a reduction in theft rate from 4.18 in 1984 to 1.99 in 1985, the year the antitheft system was installed, and the Toyota Supra's theft rates decreased from 10.39 in 1985 to 2.79 in 1986, the year the antitheft system was installed.

For these reasons, Mitsubishi believes that the antitheft system proposed for installation on the Diamante car line for MY 1993 is likely to be as effective in reducing theft as compliance with the parts-marking requirements of Part 541.

The agency determines that the antitheft system proposed for installation in the Diamante car line for MY 1993 is likely to be as effective in reducing and deterring thefts as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541). The agency reached this determination based on the information provided in Mitsubishi's complete petition. That information shows that the device will provide the types of performance listed in 49 CFR 543.6(a)(3): passive activation, attracting attention to unauthorized entries; preventing defeat or circumventing of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device. That information also included a description of reliability and functional test procedures prescribed by Mitsubishi's engineering department for the antitheft system and its components. Finally, that information included a showing that the function and design of its antitheft device are similar to those of other devices that the agency has considered likely to be as effective as complying with Part 541 would be.

49 CFR 543.6(a)(4) requires the petitioner to provide reasons for its belief that the antitheft device, that is the subject of the petition for exemption, will be effective in reducing and deterring motor vehicle theft. After reviewing Mitsubishi's complete petition, the agency concludes that Mitsubishi has provided adequate reasons for its belief that the antitheft device will reduce and deter theft.

For the foregoing reasons, the agency hereby exempts in full the Mitsubishi Diamante car line for MY 1993 from the requirements of 49 CFR part 541.

The agency notes that the limited and apparently conflicting data on the effectiveness of the pre-standard parts marking programs continue to make it difficult to compare the effectiveness of an antitheft device with the effectiveness of compliance with the theft prevention standard. The statute clearly invites such a comparison, which the agency has made on the basis of the limited data available.

NHTSA notes that if Mitsubishi wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Section 543.7(d) states that a part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption was based. Further, § 543.9(c)(2) provides for the submission of petitions "(t)o modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption."

However, the agency wishes to minimize the administrative burden which § 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in issuing part 543 to require the submission of a modification petition for every change in the components or the design of an antitheft device. The significance of many such changes would be *de minimis*. Therefore, NHTSA suggests that if Mitsubishi contemplates making any changes the effects of which might be characterized as *de minimis*, then the company should consult the agency before preparing and submitting a proposal to modify.

(15 U.S.C. 2025, delegation of authority at 49 CFR 1.50)

Issued on: February 5, 1992.

Jerry Ralph Curry,
Administrator.

[FR Doc. 92-3078 Filed 2-7-92; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. 91-67; Notice 1]

Receipt of Petition for Determination That Nonconforming 1989 Mercedes Benz 300SL Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for determination that nonconforming 1989 Mercedes Benz 300SL passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a determination that a 1989 Mercedes Benz 300SL that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily modified to conform to the standards.

DATES: The closing date for comments on the petition is March 11, 1992.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590. (Docket hours are from 9:30 a.m. to 4 p.m.)

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202-366-5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that:

> "(I) the motor vehicle is * * * substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 [of the Act], and of the same model year * * * as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards * * *

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the **Federal Register**.

Champagne Imports Inc. of Lansdale, Pennsylvania (Registered Importer No. R-90-009) has petitioned NHTSA to determine whether 1989 Mercedes Benz 300SL (Model ID 107.041) passenger cars are eligible for importation into the United States. The vehicle which Champagne believes is substantially similar is the 1989 Mercedes Benz 560SL (Model ID 107.048). Champagne has submitted information indicating that Daimler Benz A.G., the company that manufactured the 1989 Mercedes Benz 560SL, certified that vehicle as conforming to all applicable Federal motor vehicle safety standards and offered it for sale in the United States.

The petitioner contends that the 300SL is substantially similar to the 560SL, and "differs mainly in engine size and minor options which go with it." In accounting for the differences between the two vehicles, the petitioner observed that manufacturers such as Daimler Benz A.G. "generally design only a few basic body shell designs which they then equip with a multitude of engine-size and cosmetic or comfort options." The petitioner further surmised that the 300SL's absence from the United States market could be attributed to "saleability considerations, or legislative restrictions such as the strict emission control requirements in the United States."

Champagne submitted information with its petition intended to demonstrate that the 1989 model 300SL, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as the 1989 model 560SL that was offered for sale in the United States, or is capable of being readily modified to conform to those standards.

Specifically, the petitioner claims that the 1989 model 300SL is identical to the certified 1989 model 560SL with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence* * * * *, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 107 *Reflecting Surfaces*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 203 *Impact Protection for the Driver From the Steering Control System*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 211 *Wheel Nuts, Wheel Discs and Hubcaps*, 212 *Windshield Retention*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, and 302 *Flammability of Interior Materials*.

Petitioner also contends that the vehicle is capable of being readily modified to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Substitution of a lens marked "Brake" for a lens with an ECE symbol on the brake failure indicator lamp; (b) installation of a seat belt warning lamp that displays the seat belt symbol; (c) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of U.S.-model headlamp assemblies which incorporate sealed beam headlamps and front sidemarkers; (b) installation of U.S.-model taillamp assemblies which incorporate rear sidemarkers; (c) installation of a high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims:* Installation of a tire information placard.

Standard No. 111 *Rearview Mirrors:* Replacement of the passenger's outside rearview mirror, which is convex but does not bear the required warning statement.

Standard No. 114 *Theft Protection:* Installation of a buzzer microswitch in the steering lock assembly, and a warning buzzer.

Standard No. 115 *Vehicle Identification Number:* Installation of a

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VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 118 *Power Window Systems:* Rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection:* (a) Installation of either a U.S.-model seat belt in the driver's position or a belt webbing-actuated microswitch in the driver's seat belt retractor to activate the seat belt warning system; (b) installation of an ignition switch-actuated seat belt warning lamp and buzzer.

Standard No. 214 *Side Door Strength:* Installation of reinforcing beams.

Standard No. 301 *Fuel System Integrity:* Installation of a rollover valve in the fuel tank vent line between the fuel and the evaporative emissions collection canister.

Additionally, the petitioner states that the bumpers on the 1989 model 300SL must be reinforced to comply with the Bumper Standard found in 49 CFR part 581.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: March 11, 1992.

Authority: 15 U.S.C. 1397(c)(3)(A)(i)(II) and (C)(iii); 49 CFR 593.8; delegation of authority at 49 CFR 1.50.

Issued on February 3, 1992.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 92–3056 Filed 2–7–92; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

February 4, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0271.
Form Number: IRS Form 500–5–56.
Type of Review: Extension.
Title: Letter to Follow Up on Undelivered Orders.
Description: This letter is sent by procurement personnel to vendors to follow up on undelivered items ordered by government purchase orders.
Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 900.
Estimated Burden Hours Per Respondent: 30 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 450 hours.
Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 92–3087 Filed 2–7–92; 8:45 am]

BILLING CODE 4830-01-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 F.R. 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 F.R. 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit "Splendors of the Ottoman Sultans" (see list [1]), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lender. I also determine that the temporary exhibition or display of the listed exhibit objects at the Memphis International Cultural Series Grant Exhibition Hall, Memphis, Tennessee, beginning on or about April 15, 1992, to on or about August 16, 1992, the Armand Hammer Museum of Art and Cultural Center, Los Angeles, California, beginning on or about September 15, 1992, to on or about December 16, 1992, and at a third and, as yet, undetermined location, beginning on or about January 15, 1993, to on or about April 15, 1993, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register**.

Dated: February 4, 1992.

Alberto J. Mora,

General Counsel.

[FR Doc. 92–3071 Filed 2–7–92; 8:45 am]

BILLING CODE 8230-01-M

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit "The Etruscans: Legacy of a Lost Civilization; From the Vatican Museums" (see list [1]), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lender. I also determine that the temporary exhibition or display of the listed exhibit objects at the Memphis Pink Palace Museum, Memphis, Tennessee, beginning on or about May 1, 1992, to on or about August 31, 1992; The Science Place: Southwest Museum of Science and Technology, Dallas, Texas, beginning on or about October 1, 1992, to on or about January 31, 1993; the Morris Museum, Morristown, New Jersey, beginning on or about March 1, 1993, to on or about June 30, 1993; a fourth and, as yet, undetermined location, beginning on or about August 1, 1993, to on or about November 30, 1993, and the Museum of Fine Arts at Brigham Young University, Provo, Utah, beginning on or about January 1, 1994, to on or about April 30, 1994, is in the national interest.

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[1] A copy of this list may be obtained by contacting Ms. Lorie J. Nierenberg of the Office of the General Counsel of USIA. The telephone number is 202/619–6975, and the address is U.S. Information Agency, 301 Fourth Street, SW., room 700, Washington, DC 20547.

[1] A copy of this list may be obtained by contacting Ms. Lorie J. Nierenberg of the Office of the General Counsel of USIA. The telephone number is 202/619–6975, and the address is U.S. Information Agency, 301 Fourth Street, SW, room 700, Washington, DC 20547.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: February 4, 1992.

Alberto, J. Mora,

General Counsel.

[FR Doc. 92-3070 Filed 2-7-92; 8:45 am]

BILLING CODE 8230-01-M

Book and Library Advisory Committee Meeting

AGENCY: United States Information Agency.

ACTION: Notice of meeting.

SUMMARY: The United States Information Agency announces an open meeting of the Book and Library Advisory Committee on Tuesday, February 25, 1992, 2 p.m.-4:30 p.m., in room 800, USIA Headquarters, 301 Fourth Street, SW., Washington, DC. The Agenda will include reports on the 50th anniversary of USIA libraries; planned research on the future of USIA/USIS libraries; and USIA projects with the Commonwealth of Independent States.

DATE: February 25, 1992.

ADDRESS: 301 4th St., SW., Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: Louise G. Wheeler.

SUPPLEMENTARY INFORMATION: Copies of minutes can be obtained by calling 619-6089.

Dated: February 4, 1992.

Douglas Wertman,

Committee Management Officer.

[FR Doc. 92-3073 Filed 2-7-92; 8:45 am]

BILLING CODE 8230-01-M

VOA Broadcast Advisory Committee Meeting

AGENCY: United States Information Agency.

ACTION: Notice of meeting.

SUMMARY: The United States Information Agency announces an open combined meeting of the VOA Broadcast Advisory Committee and the Public Relations Committee on Tuesday, February 25, 1992, 11:30 p.m.-2:30 p.m. in room 840, USIA Headquarters, 301 Fourth Street, SW., Washington, DC. The Agenda will include presentations on public opinion challenges; environment and drugs; and democratization efforts in the Commonwealth of Independent States and Eastern Europe.

DATE: February 25, 1992.

ADDRESS: 301 4th Street, SW., Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: Louise G.Wheeler.

SUPPLEMENTARY INFORMATION: Copies of minutes can be obtained by calling 619-6089.

Dated: February 4, 1992.

Douglas Wertman,

Committee Management Officer.

[FR Doc. 92-3072 Filed 2-7-92; 8:45 am]

BILLING CODE 8230-01-M

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Sunshine Act Meetings

Federal Register
Vol. 57, No. 27
Monday, February 10, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMISSION ON CIVIL RIGHTS

February 5, 1992.

DATE AND TIME: Wednesday, February 12, 1992, 2:30 p.m.–4:30 p.m.

PLACE: U.S. Commission on Civil Rights, 1121 Vermont Avenue, N.W., Room 512, Washington, D.C. 20425.

STATUS: Telephonic Commission Meeting, Open to the Public.

February 12, 1992

I. Approval of Agenda
II. Task Force Briefing

CONTACT PERSON FOR FURTHER INFORMATION: Barbara Brooks, Press and Communications, (202) 375–8312.

Emma Monroig,
Solicitor.

[FR Doc. 92–3165 Filed 2–6–92; 10:53 am]

BILLING CODE 6335-01-M

DEPARTMENT OF JUSTICE

UNITED STATES PAROLE COMMISSION

Public Announcement

Pursuant to the Government in the Sunshine Act
(Public Law 94-409) [5 U.S.C. Section 552b]

TIME AND DATE: 9:00 a.m. to 12:00 p.m., Tuesday, February 11, 1992.

PLACE: 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED:

1. Appeals to the Commission of approximately 5 cases decided by the National Commissioners pursuant to a reference under 28 C.F.R. Section 2.17. These are all cases originally heard by examiner panels wherein inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR FURTHER INFORMATION: Jeffrey Kostbar, Chief Analyst, National Appeals Board, United States Parole Commission, (301) 492–5968.

Dated: February 5, 1992.

Michael A. Stover,
General Counsel, U.S. Parole Commission.

[FR Doc. 92–3224 Filed 2–6–92; 2:22 pm]

BILLING CODE 4410-01-M

DEPARTMENT OF JUSTICE

UNITED STATES PAROLE COMMISSION

Public Announcement

Pursuant to the Government in the Sunshine Act
(Public Law 94–409) [5 U.S.C. Section 552b]

TIME AND DATE: 1:00 p.m., Tuesday, February 11, 1992.

PLACE: 5550 Friendship Boulevard, Chevy Chase, Maryland, 20815.

STATUS: Open.

MATTERS TO BE CONSIDERED:

The following matters have been placed on the agenda for the open Parole Commission meeting:

1. Approval of minutes of previous Commission meeting.
2. Reports from the Chairman, Commissioners, Legal, Case Operations, Program Coordinator, and Administrative Sections.
3. Modification of the definition of "Value of the Property for Theft and Property Offenses."
4. Discussion on the District of Columbia Procedures and recommendation that it be included as an Appendix to the Procedures Manual.
5. Proposed Resolution concerning Regional Offices.
6. Development of Guidance for the Issuance of Warrants, Summonses or Other Alternatives at the Pre-Revocation Stage.
7. Discussion on Televising Parole Hearings for Public Education.
8. Proposal on the Reconfiguration of the Northern and Southern Division into the Eastern Region.
9. Search and Seizure Guidelines Update.
10. Modification of the General Note defining a prisoner's accountability for the activities of his codefendants to ensure accountability is not less than that established by a conspiracy conviction.

AGENCY CONTACT: Tom Kowalski, Case Operations, United States Parole Commission, (301) 492–5962.

Dated: February 5, 1992.

Michael A. Stover,
General Counsel, U.S. Parole Commission.

[FR Doc. 92–3225 Filed 2–6–92; 2:22 pm]

BILLING CODE 4410-1-M

SECURITIES AND EXCHANGE COMMISSION

Agency Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of February 10, 1992.

A closed meeting will be held on Thursday, February 13, 1992, at 10:00 a.m. An open meeting will be held on Thursday, February 13, 1992, at 2:00 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Schapiro, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Thursday, February 13, 1992, at 10:00 a.m., will be:

Settlement of injunctive actions.
Settlement of administrative proceedings of an enforcement nature.
Institution of administrative proceedings of an enforcement nature.
Institution of injunctive actions.

The subject matter of the open meeting scheduled for Thursday, February 13, 1992, at 2:00 p.m., will be:

This Commission will meet with representatives from the American Society of Corporate Secretaries to discuss the Commission's pending proxy proposals and other issues relating to shareholder proposals, automation of securities transfers, and distribution of interim reports to beneficial holders. For further information, please call Catherine Dixon at (202) 272–2589.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Stephen Luparello at (202) 272–2100.

Dated: February 5, 1992.

Jonathan G. Katz,
Secretary.

[FR Doc. 92–3183 Filed 2–6–92; 11:49 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [57 FR 3827 January 31, 1992].

STATUS: Closed meeting.

PLACE: 450 Fifth Street, N.W., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, January 28, 1991.

CHANGE IN THE MEETING: Rescheduling.

A closed meeting scheduled for Tuesday, February 4, 1992, at 10:00 a.m., has been rescheduled for Thursday, February 6, 1992, at 1:45 p.m. to include the following items:

Settlement of injunctive actions.
Formal orders of investigation.
Institution of injunctive actions.
Settlement of administrative proceedings of an enforcement nature.
Institution of administrative proceedings of an enforcement nature.
Litigation matter.

Commissioner Schapiro, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Paul Atkins at (202) 272-2000.

Dated: February 5, 1992.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-3184 Filed 2-6-92; 11:49 am]

BILLING CODE 8010-01-M

Corrections

Federal Register

Vol. 57, No. 27

Monday, February 10, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Clinical Studies of Safety and Effectiveness of Orphan Products; Availability of Grants; Request for Applications

Correction

In notice document 91-30043 beginning on page 65486 in the issue of Tuesday, December 17, 1991, make the following correction:

On page 65489, in the first column, in the second paragraph, under **Note**, in the third line, "replying" should read "relying".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Clinical Studies of Safety and Effectiveness of Orphan Products; Availability of Grants; Request for Applications

Correction

In notice document 91-30044, beginning on page 65482, in the issue of Tuesday, December 17, 1991, make the following corrections:

1.On page 65485, in the second column, under *B. Responsiveness Review Criteria*, in the paragraph designated 1., in the eighth line, "FRA" should read "RFA".

2.On the same page, in the third column, under **VII. Submission Requirements**, in the second paragraph, in the third line, "FRA" should read "RFA".

3.On page 65486, in the first column, in the fourth line, "RFA-FDA-OP-2" should read "RFA-FDA-OP-92-2".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB56

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Scimitar-Horned Oryx, Addax, and Dama Gazelle

Correction

In proposed rule document 91-26911 beginning on page 56491 in the issue of Tuesday, November 5, 1991, make the following correction:

§ 17.11 Endangered and threatened wildlife.

On page 56495, in § 17.11, in the table, in the fourth column, add "entire" to each entry and in the eighth column, remove "entire" from each entry.

BILLING CODE 1505-01-D

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Correction

In notice document 91-25385, appearing on page 54587, in the issue of Tuesday, October 22, 1991, in the first column, in the file line at the end of the document, "FR Doc. 91-25835" should read "FR Doc. 91-25385".

BILLING CODE 1505-01-D

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1816

[NASA FAR Supplement Directive 89-10]

RIN 2700-AB16

Acquisition Regulation; Miscellaneous Amendments to NASA FAR Supplement

Correction

In rule document 92-273 beginning on page 831 in the issue of Thursday, Janurary 9, 1992, make the following correction:

1816.603-2 [Corrected]

On page 835, in the third column, in the section heading "1816.03-2", should read "1816.603-2".

BILLING CODE 1505-01-D

NUCLEAR REGULATORY COMMISSION

10 CFR Part 54

RIN 3150-AD04

Nuclear Power Plant License Renewal

Correction

In rule document 91-29628 beginning on page 64943 in the issue of Friday, December 13, 1991, make the following corrections:

§ 54.29 [Corrected]

1. On page 64979, in the first column, in § 54.29(c), in the last line, "action" should read "section".

§ 54.33 [Corrected]

2. On the same page, in the second column, in § 54.33(d), the second paragraph after (c) should carry the designation "(d)"; in paragraph (d), in the 16th line, "Chances" should read "Changes"; and in paragraph (e), in the second line from the bottom, "statute" should read "status".

BILLING CODE 1505-01-D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-29736; File No. SR-MSRB-91-6]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Municipal Securities Rulemaking Board; Relating to the Activities of Financial Advisors

Correction

In notice document 91-23770 beginning on page 50145 in the issue of Thursday, October 3, 1991, make the following correction:

On page 50146, in the second column, in the file line at end of the document, "FR Doc. 91-93770" should read "FR Doc. 91-23770".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8348]

RIN 1545-AB73

Limitations on Percentage Depletion in the Case of Oil and Gas Wells

Correction

In rule document 91-10856 beginning on page 21935 in the issue of Monday, May 13, 1991, make the following corrections:

1. On page 21936, in the first column, under **SUPPLEMENTARY INFORMATION**, in the first full paragraph, in the last line, remove the comma after "1041".

2. On page 21938, in the first column, under **List of Subjects**, in the fifth line, "*Through*" should read "*through*".

3. On page 21939, in the first column, after the seventh line insert five stars.

§ 1.613A-3 [Corrected]

4. On the same page, in the third column, in § 1.613A-3(a)(4), in *Example 3*, in the last line, "355" should read "365".

5. On page 21943, in the third column, in § 1.613A-3(i)(1)(ii):

a. In *Example 4*, in the second line, "613(c)" should read "613A(c)".

b. In *Example 5*, in the seventh line, "Therefore" should read "Thereafter".

c. In the same *Example*, in the eighth line from the bottom, insert "the" after "to"; and in the third line from the bottom, insert a comma after "However".

6. On page 21944, in the first column, in § 1.613A-3(i)(1)(ii), in *Example 7*, in the seventh line, "form" should read "from".

§ 1.613A-4 [Corrected]

7. On page 21947, in the second column, in § 1.613A-4(a)(2), in *Example 5*, in the second line from the bottom, "Accordingly" was misspelled.

§ 1.613A-7 [Corrected]

8. On page 21950, in the third column, in § 1.613A-7(n)(3) and (n)(7), in the last line of each paragraph, the period should be changed to a comma.

§ 1.702-1 [Corrected]

9. On page 21952, in the third column, in § 1.702-1(f), in the fourth line, "613A(C)(7)(D)" should read "613A(c)(7)(D)".

§ 1.703-1 [Corrected]

10. On the same page, in the same column, in the section heading for § 1.703-1, "1.0703-1" should read "1.703-1".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8380]

RIN 1545-AP76

Treatment of Partnership Liabilities

Correction

In rule document 91-30596 beginning on page 66348 in the issue of Monday, December 23, 1991, make the following correction:

§ 1.752-2 [Corrected]

On page 66352, in § 1.752-2(b)(6), in the second column, in the first line, the paragraph designation "(5)" should read "(6)".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[PS-005-91]

Limitations on Percentage Depletion in the Case of Oil and Gas Wells

Correction

In proposed rule document 91-10855 beginning on page 21965 in the issue of Monday, May 13, 1991, make the following corrections:

§ 1.613A-2 [Corrected]

1. On page 21967, in the first column, in the heading for § 1.613A-2, "§ 1.613-2" should read "§ 1.613A-2".

§ 1.613A-7 [Corrected]

2. On page 21971, in the first column, in § 1.613A-7(r), "(l) * * *" should read "(1) * * *".

BILLING CODE 1505-01-D

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federal register

Monday
February 10, 1992

Part II

Department of Housing and Urban Development

Office of the Assistant Secretary for Public and Indian Housing

Comprehensive Improvement Assistant Program (CIAP); Funding Availability; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N-92-3355; FR-3148-N-01]

Funding Availability (NOFA) for Comprehensive Improvement Assistance Program (CIAP)

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of funding availability for FY 1992.

SUMMARY: This Notice informs Public Housing Agencies (PHAs) and Indian Housing Authorities (IHAs) that own or operate fewer than 500 units and, therefore, are eligible to apply and compete for CIAP funds, of the availability of FY 1992 CIAP funding. PHAs/IHAs with 500 or more units are entitled to receive a formula grant under the Comprehensive Grant Program (CGP) and are not eligible to apply for CIAP funds. Separate instructions for PHAs/IHAs with 500 or more units will be issued at a later date. PHAs/IHAs which are near 500 unit threshold and are not completely certain of the exact unit count are encouraged to submit a CIAP Application in the event that the final unit count makes them ineligible for the Comprehensive Grant Program (CGP). This Notice contains information on the following:

(a) The purpose of the NOFA and information regarding available amounts, eligibility, processing groups, and selection criteria/ranking factors;

(b) Application processing, including how to apply and how selections will be made; and

(c) A schedule of steps involved in the application process.

DATES: Applications are due on or before close of business on March 26, 1992, at the HUD Field Office with jurisdiction over the PHA or IHA, Attention: Director, Public Housing Division or Office of Indian Programs.

FOR FURTHER INFORMATION CONTACT: Janice D. Rattley, Office of Construction, Rehabilitation and Maintenance, Department of Housing and Urban Development, 451 Seventh Street, SW., room 4138, Washington, DC 20410. Telephone (202) 708–1800. (This is not a toll free number).

IHAs may contact Dom Nessi, Director, Office of Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., room 4140, Washington, DC 20410. Telephone (202) 708–1015. (This is not a toll free number).

Hearing or speech impaired individuals may call HUD's TDD number (202) 708–0850. This telephone number is not toll-free.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The collection of information requirements contained in this NOFA have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1989 and have been assigned OMB control numbers 2577–0044 and 2577–0047.

I. Purpose and Substantive Description

(a) Authority: Sec. 14, United States Housing Act of 1937 (42 U.S.C. 14371); Sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)). The CIAP regulation, 24 CFR part 968, subparts A and B, for PHAs and 24 CFR part 905, subpart I, for IHAs. The CIAP Handbook 7485.1 REV–4 (PHAs/IHAs) and Handbook 7740.3 (IHAs).

(b) Allocation Amounts

(1) *Total available*: The FY 1992 HUD Appropriations Act PL 102–139 made available $2,800,975,000 of budget authority for both the Comprehensive Improvement Assistance Program (CIAP) and the Comprehensive Grant Program (CGP). However, there is a reduction in the appropriated amount due to the fact that conversions from section 8 funded 202 direct loan projects to rental assistance funded 202 grant projects have not occurred at the rate anticipated by Congress in the Appropriations Act, and reductions were made in the FY 1991 carryover balances to fund FY 1992 programs, as provided in the Appropriations Act. Subject to final Congressional action, the amount of funds available for the modernization program in FY 1992 is $2,673,960,546.

The FY 1991 Appropriation Act extended the availability of LBP indemnification funds appropriated in FY 1990 from October 1 1991 to October 1, 1998. Therefore, $971,983 shall be set aside for the indemnification of three PHAs (Albany, New York; Cambridge, Massachusetts; and Omaha, Nebraska) that are participating in the LBP Abatement Demonstration. In addition, the balance of the FY 1991 carry-over funds, $471,350, shall be set aside to fund resident homeownership technical assistance, pursuant to section 21(a)(2)(B) of the Act. These funds will be made available under a separate Notice of Funding Availability and Processing Notice. In addition, Congress has set aside $4,770,691 for Resident Management technical assistance and training. A separate Notice of Funding Availability will be issued by the Office of Resident Initiatives; $23,853,455 for LBP Risk Assessment will be made available to all PHAs/IHAs based on a competitive process as identified by a future Notice of Funding Availability and Processing Notice; and $7,096,498 is available for a demolition/disposition demonstration program in St. Louis, Missouri, pursuant to section 513 of the Cranston-Gonzalez National Affordable Housing Act. In addition, $173.559 is being made available for additional costs associated with the LBP Abatement Demonstration Program currently being conducted by the Office of Policy Development and Research. The $2,636,623,010 balance is allocated as follows:

(i) $75,000,000 is allocated under the CGP for the statutorily required reserve for modernization needs resulting from natural and other disasters and from emergencies. This reserve is available only to CGP agencies.

(ii) The $2,561,623,010 balance is allocated between CIAP and CGP agencies based on the relative shares of backlog needs (weighted at 50%) and accrual needs (weighted at 50%). This allocation results in CIAP agencies receiving 21.26% or $544,601,052 and CGP agencies receiving 78.74% or $2,017,021,958 of the funds available.

(iii) The $544,601,052 available to CIAP agencies is allocated between Public Housing at 94% or $511,924,989, and Indian Housing at 6% or $32,676,063.

(iv) The following chart shows the total available amount minus all of the set-asides:

Original Appropriation	$2,800,975,000
Carry-over from FY 1991	2,471,983
Total	2,803,446,983
Adjustment to the Appropriation (see paragraph I.b.1)	129,486.437
Adjusted Total Appropriation for FY 1992	$2,673,960.546
Set-Asides:	
Lead Based Paint indemnification	971.983
Homeownership Technical Assistance	471.350
Lead Based Paint Risk Assessment	23,853,455
Resident Technical Assistance Grants	4,770,691
St. Louis Demonstration	7,096,498
Lead Based Paint Abatement Demonstration	173,559
Emergency and Natural Disaster	75,000.000
Total Set-asides	112,367.536
Adjusted Total Appropriation for FY 1992 Minus the Set-Asides	2,561,623.010
Comprehensive Grant Program (CGP)	2,017,021.958

Comprehensive Improvement Assistance Program (CIAP)	544,601,052

(2) *Assignment of funds to regional offices:* FY 1992 CIAP funds will be assigned to the HUD Regional Offices on the basis of a formula estimate of each Region's relative share of backlog and accrual needs for CIAP agencies. These needs were determined as part of the HUD-funded research on Public and Indian Housing modernization need, as follows:

(i) *Backlog needs* are needed repairs and replacements of existing physical systems, items that must be added to meet the modernization and energy conservation standards and State or local codes, and items that are necessary for the long-term viability of a specific housing development.

(ii) *Accrual needs* are needs that arise over time and include needed repairs and replacements of existing physical systems and items that must be added to meet the modernization and energy conservation standards and State or local codes.

The following table shows the distribution of CIAP funds for PHAs, excluding IHAs, assigned by Headquarters to the Regional Offices as percentages of the total $544,601,052 available:

Region	Percent of CIAP funds for public housing
Boston	6.71
New York	6.90
Philadelphia	6.18
Atlanta	29.41
Chicago	15.79
Ft. Worth	15.82
Kansas City	6.01
Denver	2.59
San Francisco	2.73
Seattle	1.86
Total	94.00

(3) *Subassignment of funds to non-indian field offices:* In assigning funds to each Regional Office, Headquarters designates an amount to be subassigned to each non-Indian Field Office based on the relative needs of the CIAP agencies under each Field Office's jurisdiction. Before actual assignment of funds by Headquarters, Regional Administrators were given the opportunity to review the amounts proposed to be assigned to the Field Offices and to recommend to Headquarters revisions of those amounts, based upon their knowledge of circumstances which they believe should alter the proposed formula estimate of need. As a result of that process, no revisions were recommended.

(i) The Field Office Manager shall have authority to make CIAP funding decisions.

(ii) If the Field Office does not receive sufficient fundable applications to use its allocation, the Regional Administrator shall reallocate the remaining funds to other Field Offices within the Region based on their relative shares of modernization need. These relative shares may be modified by the Regional Office where there is evidence within a particular Field Office of a lack of approvable applications or a lack of PHA modernization capability, as defined by 24 CFR 968.203, to carry out additional modernization.

The following table shows the distribution of CIAP funds for PHAs, excluding IHAs, subassigned to Field Offices as percentages of the total $544,601,052 available.

Region	Field	Percent share
1	Boston	2.74
1	Hartford	1.47
1	Manchester	1.70
1	Providence	.80
2	Buffalo	2.31
2	New York	1.30
2	Newark	3.29
3	Baltimore	.65
3	Philadelphia	1.99
3	Pittsburgh	1.21
3	Richmond	1.06
3	Washington	.11
3	Charleston	1.16
4	Atlanta	6.92
4	Birmingham	4.80
4	Columbia	1.58
4	Greensboro	3.34
4	Jackson	2.10
4	Jacksonville	2.36
4	Knoxville	1.49
4	Louisville	4.16
4	Nashville	2.66
5	Chicago	4.80
5	Columbus	.67
5	Detroit	1.92
5	Indianapolis	1.43
5	Milwaukee	1.98
5	Minneapolis	2.11
5	Cincinnati	.28
5	Cleveland	.60
5	Grand Rapids	2.00
6	Fort Worth	3.27
6	Little Rock	3.23
6	New Orleans	2.93
6	Oklahoma City	1.85
6	San Antonio	2.24
6	Houston	1.26
6	Albuquerque	1.04
7	Kansas City	2.29
7	Omaha	1.07
7	St. Louis	1.79
7	Des Moines	.86
8	Denver	2.59
9	Los Angeles	.80
9	San Francisco	1.19
9	Phoenix	.39
9	Sacramento	.35
10	Portland	.90
10	Seattle	.96
Total		94.00

(4) *Subassignment of funds to Indian field offices.* In assigning funds to the appropriate Regional Office, Headquarters designates an amount to be subassigned to the Field Offices of Indian Programs (OIP).

(i) The OIP Director shall have authority to make CIAP funding decisions.

(ii) If the Field Office OIP does not receive sufficient fundable applications to use its allocation, Headquarters shall reallocate the remaining funds to other Field Office OIPs based on their relative shares of modernization need. These relative shares may be modified by Headquarters where there is evidence within a particular Field Office OIP of a lack of approvable applications or a lack of IHA capability to carry out additional modernization.

The following table shows the distribution of CIAP funds for IHAs, assigned by Headquarters to the Regional Offices for subassignment to the OIPs as percentages of the total $544,601,052 available:

Indian offices	Percent of CIAP funds for Indian housing
Chicago (Region V)	1.09
Oklahoma (Region VI)	.57
Denver (Region VIII)	.71
Phoenix (Region IX)	1.60
Seattle (Region X)	.82
Anchorage (Region X)	1.21
Total	6.00

(5) *Rescission of recaptured budget authority.* The Appropriations Act of 1992 provides for the rescission of any budget authority for modernization of Public and Indian Housing which is recaptured during FY 1992, thereby prohibiting the Department from reusing recaptures.

(c) Eligibility

PHAs and IHAs with fewer than 500 units are eligible to participate in the CIAP. After the PHA's/IHA's application is accepted for review, the Field Office eligibility review shall determine if the application meets the basic eligibility requirements set forth in chapter 3 of CIAP Handbook 7485.1 REV-4 and PIH Notice 92-5 (PHA), dated January 27, 1992 and, therefore, is eligible for processing. The following factors shall be taken into account:

(1) *PHA/IHA modernization capability:* The PHA/IHA must have at least minimal modernization capability to carry out its proposed modernization.

(2) *Work item eligibility and need:* The work items must be eligible and, based on the Field Office's knowledge of the development's conditions, must be needed.

(3) *End of initial operating period (EIOP):* The development must be at least three years old from EIOP.

(4) *Status of fiscal audit:* If the previous audit had identified audit findings and the PHA/IHA has not taken appropriate corrective actions, the Field Office Manager shall reserve the right to either suspend further processing until corrective actions are identified or score the PHA/IHA low in the Technical Review Factors relating to management capability depending on the severity of the finding(s). If the submission of the contract for the current audit is overdue (more than 90 days) after the PHA's/IHA's fiscal year end and initiation of the audit is within the PHA's/IHA's control, processing shall be suspended until the audit has been initiated.

(5) *Lack of available funding:* Where the PHA/IHA has requested funding for more developments than realistically can be funded in the current FY, the Field Office may process only the portion of the application which has a reasonable chance of being funded and is consistent with the PHA's/IHA's priorities. Where the Technical Review Score results in developments scoring equally in a modernization group, and the cut-off line for funding will not allow funding for all of such developments above the line, the Field Office Manager shall, to the greatest extent feasible give preference to funding developments for PHAs/IHAs that have not received funding under other modernization categories.

(6) *Project implementation schedule:* Where the PHA/IHA missed an obligation deadline date during FY 1991, as set forth in any prior HUD-approved Project Implementation Schedule, the PHA/IHA will be considered to lack management capability and, therefore, will be eligible only for emergency modernization, unless the reason for the missed deadline was beyond the control of the PHA/IHA and was approved by HUD as a valid delay with a time extension. Among the valid reasons for a time extension is delay due to LBP testing and abatement activities.

(d) Selection Criteria and Ranking Factors

After the application is reviewed for eligibility, the Field Office shall categorize eligible developments by modernization type into the following processing groups. A PHA/IHA proposing all types of modernization may have developments included in each group; the same development may be in more than one group or in the same group, but for different types of modernization. For batching purposes, the Field Office may extract emergency or special purpose work items from comprehensive modernization proposals.

(1) *Grouping modernization types:* Group 1: Developments, both rental and homeownership, having conditions that pose an immediate threat (i.e., must be corrected within one year of funding approval) to resident life, health or safety or related to fire safety. Funding is limited to correction of emergency conditions for physical work items and may not be used for substantial rehabilitation. Emergency conditions include all LBP testing and abatement of units housing children under seven years old with elevated blood lead levels. Group 1 developments are not subject to the viability review in chapter 3 of the CIAP Handbook 7485.1 REV-4.

Group 2: Developments (1) having conditions which threaten resident health or safety or having a significant number (10 percent or more) of vacant or substandard units, and (2) located in PHAs/IHAs which have demonstrated a capability of carrying out the proposed modernization activities. Within Group 2, funding preference shall be given to:

Group 2A developments are discussed in the following paragraphs numbered (1) through (4).

(1) *Nondiscrimination modernization:* Physical work items to correct identified physical disparities between buildings occupied predominantly by minorities and those by non-minorities. This funding preference does not apply to IHAs and is described extensively in appendix 8 to Notice PIH 92-5 (PHA).

(2) *Conversion to homeownership modernization:* For rental developments, the preparation of an application for the sale of dwelling units under sections 5(h) or 21 of the Act, as amended, or preparation of such application and comprehensive modernization of the units. This funding preference does not apply to IHAs and is described extensively in appendix 6 to Notice PIH 92-5 (PHA). If the development does not meet the criteria of Group 2, the development is processed under Group 3A.

(3) *Homeownership modernization:* For homeownership developments, limited physical work items which are not the responsibility of the homebuyer families and which are related to expediting title transfers of existing homeownership units. This funding preference does not apply to IHAs and is described extensively in appendix 7 to Notice PIH 92-5 (PHA). If the development does not meet the criteria of Group 2, the development is processed under Group 3A.

(4) *LBP Modernization:* For family rentl and Turnkey III and Mutual Help developments, PHA-wide or development specific LBP testing or abatement costs where (1) the rental development has not yet been funded under comprehensive modernization; or (2) the homebuyer occupied Turnkey III unit is not being funded under homeownership modernization; or (3) the Mutual Help development is not being funded under homeownership or comprehensive/Mutual Help modernization. Also, all reimbursements for professional risk assessments which were incurred or disbursed during FY 1991 are eligible items under this modernization type and shall be funded from group 2A.

Note: The PHA/IHA requesting funding for LBP modernization, other than reimbursement for a professional risk assessment, shall condust a risk assessment of each pre-1980 family development in its inventory which has not been tested or abated in accordance with the June 6, 1988 Regulations (53 FR 20790) using either the Lead Toxicity Risk Assessment: Buildings and Projects (Independent of Occupants) format found in appendix 9 of Notice PIH 92-5 (PHA) or any other format which provides substantially the same information as well as the same scoring values. The PHA/IHA shall submit the risk assessment with the CIAP Application to HUD for only those developments for which the PHA/IHA is requesting LBP Modernization in the FY 1992 application. The Field Office shall use the information from the risk assessment to determine the appropriate processing group for LBP modernization requests. The Field Office will place a development with a total score of 13 or more under Group 2A and a development with a total score of 12 or less under Group 2C.

Group 2B developments are discussed in the following paragraphs numbered (1) through (3).

(1) *Comprehensive/single stage/ amendment:* Additional funding for a previously approved single stage comprehensive modernization with funds still being expended to address regulatory or statutory requirements (such as LBP and Section 504), new work items which were inadvertently

omitted or unknown due to hidden conditions, or inadequate funding.

(2) *Comprehensive/multi-stage/stage 2 of 2 through 5:* Additional stage of funding for a previously approved multi-stage comprehensive modernization with funds still being expended. Where a PHA/IHA has requested more than 5 stages of funding, including a single stage with 4 amendments, and the PHA/IHA is still expending funds from previous Comprehensive Modernization programs, the Field Office may permit a one time funding of a new Comprehensive Modernization in group 2C or 3B.

(3) *Comprehensive completed:* Where comprehensive modernization has been completed (all funds expended), physical work items to meet replacement needs, replace or update items based on new technology, or implement statutory and regulatory requirements, such as changes to the LBP or 504 Regulations. See (e)(2) below.

Group 2C developments are discussed in the following paragraphs numbered (1) through (6).

(1) *Comprehensive Modernization/single stage/new:* Single funding of the comprehensive modernization to meet all physical and management needs at a development.

(2) *Comprehensive modernization/multi-stage/first stage:* First funding of a staged comprehensive modernization to meet all physical and management needs at a development.

(3) *Special purpose modernization:* (a) For rental developments and vacant or non-homebuyer occupied Turnkey III units, physical work items related to five categories of work: equipment systems or structural elements; upgrade security; increased security; handicapped accessibility; vacant unit reduction; energy conservation measures; and management improvement needs which are not otherwise eligible for assistance under other modernization types are eligible.

(b) For vacant or non-homebuyer occupied Turnkey III units, physical work equivalent or comprehensive modernization, including the repair and replacement of kitchens and bathrooms, may be performed under special purpose modernization.

(c) Mutual Help and homebuyer occupied Turnkey III units are not eligible for the five categories of physical work, however, these types of work items are eligible under homeownership modernization or comprehensive/Mutual Help modernization, as applicable.

(d) In addition, Mutual Help and homebuyer occupied Turnkey III units are eligible for the management improvement category of special purpose modernization. PHAs/IHAs with only management improvement needs may apply for them under the management improvement category of special purpose modernization subject to the publication of the CGP final rule which establishes this new avenue for funding management improvements.

(4) *Homeownership modernization:* For Mutual Help and Turnkey III units, limited physical work items which are not the responsibility of the homebuyer families and which are related to health and safety, accessibility for physically handicapped, correction of development deficiencies, energy audits and/or cost effective energy conservation and/or lead-based paint testing and abatement.

(5) *LBP modernization:* For family rental and Turnkey III and Mutual Help developments, PHA-wide or development specific LBP testing or abatement where (1) the rental development has not yet been funded under comprehensive modernization; or (2) the homebuyer occupied Turnkey III unit is not being funded under homeownership modernization; or (3) Mutual Help development is not being funded under homeownership or comprehensive/Mutual Help modernization; and (4) which score 12 or less on the Lead Toxicity Risk Assessment: Buildings and Projects format.

(6) *Comprehensive/mutual help modernization*: Single-stage comprehensive modernization of Mutual Help units which are at least 10 years old, subject to publication of final rule on the CGP. Applies to IHAs only.

Group 3: All other developments not in Groups 1 and 2, located in PHAs/IHAs which have demonstrated a capability of carrying out the proposed modernization activities under comprehensive, special purpose or homeownership modernization. Group 3 developments are subject to the viability review in Chapter 3 of the CIAP Handbook 7485.1 REV-4. Within Group 3, funding preference shall be given to:

Group 3A developments which includes conversion to homeownership modernization and expedited sale of existing homeownership units; and

Group 3B developments which includes new single stage or multi-stage comprehensive, special purpose, homeownership and comprehensive/Mutual Help modernization.

Note: All developments which meet the basic criteria of Group 2 are considered for funding under Group 2. Group 2B developments are not subject to the viabilify review. Group 2A and 2C developments are subject to the viability review in Chapter 3 of the CIAP Handbook 7485.1 REV-4.

(2) *Assessment of PHA's/IHA's management capability*: As part of its technical review of the CIAP Application, the Field Office shall evaluate the PHA's/IHA's management capability, including whether the PHA/IHA has managed its developments in a manner that appears to meet equal opportunity objectives. This assessment may be based on occupancy audits, engineering surveys, management reviews, CIAP monitoring reviews, etc., which are currently available within the Field Office, as well as the Annual Performance Profile.

(3) *Assessment of PHA's/IHA's modernization capability:* As part of its technical review of the CIAP Application, the Field Office shall evaluate the PHA's/IHA's modernization capability, including the progress of previously approved modernization, the status of any outstanding items on monitoring visits, and the quality of the PHA's/IHA's current CIAP application in rating the PHA's/IHA's modernization and management capability.

(4) *Technical review:* After batching, the Field Office shall review and rate each eligible development for each type of modernization within Groups 2 and 3 on the following factors, in accordance with the point range specified, with one point being low.

Technical review factors	Point range
Extent and urgency of need, including lead-based paint testing and abatement and physical accessibility needs	1-20
PHA's/IHA's modernization capability	1-10
PHA's/IHA's management capability	1-10
Extent of vacancies	1-10
Adequacy of PHA's/IHA's maintenance systems, including preventive and routine maintenance	1-10
Degree of resident involvement in PHA/IHA operations	1-5
Degree of PHA/IHA activity in resident initiatives, including resident management, economic development activities on behalf of residents, and drug elimination efforts	1-5
Degree of Resident Employment	1-5
Local government and resident/homebuyer support for proposed modernization	1-5
Total maximum score	80 points

(i) LBP insurance: CIAP funds may be used to pay for the annual premium of LBP insurance incident to approved CIAP work from a company which has a policy equal to or better than the Master Policy, in accordance with the requirements of HUD Notice PIH 91-3 (PHA), dated January 15, 1991. The PHA/IHA may charge such costs to development account 1410.19 for the

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project being modernized under comprehensive, special purpose or homeownership modernization. Such cost will be charged to the project(s) being approved for LBP modernization.

(5) *Ranking and recommendations:* After technical review, the Field Office shall prepare its recommendations for Joint Review, in accordance with Chapter 3 of the CIAP Handbook 7485.1 REV–4. To the extent that the reason for any missed deadline, other than obligation deadline, under section III(a)(11) below, appears to have been within the PHA's/IHA's control, the Field Office shall rate the PHA/IHA lower on modernization capability when scoring the technical review factor, as follows: If one deadline is missed, no more than seven points; if two deadlines are missed, no more than five points; and if three deadlines are missed, no more than three points.

(6) *Joint review:* The purpose of the Joint Review is to discuss the proposed modernization program, as set forth in the CIAP Application, and reach agreement on PHA/IHA needs and approach. Subject to the publication of the Comprehensive Grant Program final rule, Regional or Field Office will no longer be required to conduct an on-site Joint Review on a proposed modernization program. However, Field Offices are encouraged to conduct Joint Reviews where necessary. Where a Joint Review is not conducted, the HUD Office shall, at a minimum, have recent first hand knowledge of the development for which funds are requested in accordance with the criteria listed in appendix 10 of Notice PIH 92–5 (PHA). When a Joint Review is conducted it shall be carried out in accordance with the requirements set forth in Chapter 3 of the CIAP Handbook 7485.1 REV–4.

(7) *Draft project implementation schedules.* This year's processing schedule requires all PHA's/IHA's considered for funding to submit drafts of project implementation schedules, along with any required budget revisions, after the Field Office has conducted Joint Reviews. If no Joint Review was conducted and the PHA/IHA is still considered for funding, those PHA's/IHA's are still required to submit draft implementation schedules along with the PHA's/IHA's which were Joint Reviewed, in accordance with the processing schedule outlined below.

(8) *Funding decisions:* The procedures which are to be followed after Joint Review with respect to Field Office re-rating and re-ranking, Field Office funding decisions and completion of the fund reservation process are set forth in chapter 3 of the CIAP Handbook 7485.1 REV–4 and the annual CIAP processing instructions in Notice PIH 92–5 (PHA), dated January 27, 1992.

(9) *Notification to PHA/IHA and local community:* (i) PHA/IHA: The Field Office shall notify the PHA/IHA of HUD's funding decision by an Approval/Disapproval Letter in accordance with chapter 3 of the CIAP Handbook 7485.1 REV–4. For a PHA/IHA disapproved for funding, the letter should provide a description of the reasons why the development was not funded and invite the PHA/IHA to come in and discuss any questions or concerns that might bear on future funding.

(ii) Local Community: The Field Office shall notify the Chief Executive Officer of the community or tribe with which the PHA/IHA has the Cooperation Agreement covering the funded development of the CIAP grant approval. This notification should occur after Congressional notification is completed.

(1) *"Fast Tracking" applications:* Emergency applications do not have to be processed within the normal processing time allowed for other applications. Where an immediate hazard must be addressed, PHA/IHA applications may be submitted and processed at any time during the year when funds are available. The Field Office shall "fast track" processing of these emergency requests so that fund reservation may occur as soon as possible.

(11) *Use of leftover unobligated funds:* The PHA/IHA is urged, with HUD approval, to use leftover unobligated funds to complete random testing for LBP and subsequent abatement, but only after the PHA/IHA addresses any necessary contract modifications to existing contracts or emergencies.

(e) Other Program Items

(1) *Special purpose modernization:* In FY 1992, to provide more flexibility to CIAP agencies, similar to that provided to CGP agencies, the Department is not limiting the amount of each Field Office's subassignment that may be approved for certain categories of special purpose modernization. In addition, subject to the publication of the CGP Final Rule, the Department has provided a new funding mechanism under the special purpose category called "Special Purpose/Management Improvement". This new funding category will allow PHAs/IHAs to apply for funds to meet management improvement needs which are not otherwise eligible for assistance under CIAP, and which pertain to any low-income housing development other than Section 8 of the Act. Also, this modernization type has been widened to allow work equivalent to comprehensive modernization for vacant non-homebuyer occupied Turnkey III units.

(2) *Comprehensive modernization completed:* Paragraph 3–20b of the CIAP Handbook 7485.1 REV–4 provides a definition of comprehensive modernization completed. This modernization type shall be used whenever a PHA/IHA has completed comprehensive modernization (expended all funds), but needs additional CIAP funds to meet replacement needs, replace or update items based on new technology, or implement statutory requirements, such as changes to the LBP or 504 regulations.

(3) *Comprehensive modernization not completed:* If the PHA/IHA has not completed a comprehensive modernization (is still expending funds) and, therefore, is not eligible for comprehensive modernization completed, and needs additional rehabilitation funds, the Regional or Field Ofice may fund the rehabilitation through another modernization type, such as Lead Based Paint or special purpose modernization. If the additional needs are not eligible under any other modernization type but comprehensive modernization, the Field Office may permit a one-time funding of a new comprehensive modernization, under Group 2C or 3B.

(4) *CGP phase-in.* In FY 1993, PHAs/IHAs that own or operate 250 or more units will be eligible to participate in the CGP and will be ineligible to participate in the CIAP. PHAs/IHAs that will phase into the CGP in FY 1993 may request FY 1992 CIAP funds to prepare their Comprehensive Plans, which are statutorily required for participation in the CGP, through one of the following:

(a) First stage of a multi-stage comprehensive modernization where the PHA/IHA has a rental development which has not been comprehensively modernized;

(b) Single stage amendment to comprehensive modernization in progress or additional stage of multi-stage comprehensive modernization in progress;

(c) Single stage comprehensive modernization of Mutual Help Units;

(d) Homeownership modernization (as administrative costs) where the PHA/IHA does not have any rental developments or any which have not been comprehensively modernized;

(e) Reprogramming of previously approved, unobligated CIAP funds, with prior Field Office approval, or;

(f) Special purpose management improvements.

(5) *Professional risk assessment for lead based paint.* An additional $23,853,455 set-aside will be made available for Professional Risk Assessments under a separate Notice of Funding Availability and Processing Notice. PHA's/IHA's are strongly encouraged to apply for these funds to conduct professional risk assessments. However, should a PHA not be successful in obtaining funding for such risk assessments from the $23,853,455 set-aside, the PHA/IHA may request a budget revision to accomplish this work after HUD guidance has been issued. To the extent that funds are available in FY 1993, a PHA/IHA which has had a budget revision approved for this purpose may request funds to complete the items which were eliminated as a result of the budget revision. In addition, the Appropriations Act makes clear that PHAs/IHAs who have paid for professional risk assessments in fiscal year 1991 shall be paid or reimbursed for modernization funds in fiscal year 1992. Accordingly, these requests for funds shall be placed in Group 2A, LBP modernization.

(6) *In place management (interim containment of lead based paint).* Where the results of the professional risk assessment recommends the PHA/IHA to take interim containment measures, the PHA/IHA may request a budget revision to accomplish such measures provided that HUD has issued guidance on interim containment. To the extent that funds are available in FY 1993, a PHA/IHA which has had a budget revision approved for this purpose may request funds to complete the items which were eliminated as a result of the budget revision.

II. Application Process

(a) Section III(a) of this NOFA identifies all items necessary for submission as the CIAP Application. Any PHA/IHA that does not retain the necessary forms can obtain them from the local HUD Field Office.

(b) All completed applications must be submitted to the HUD Field Office which covers the PHAs/IHAs jurisdiction.

(c) The CIAP Application must be physically received by the local HUD Field Office by close of business on March 26, 1992. Faxed copies will not be considered official applications. If the official CIAP Application is not received in the Field Office as described above, it is ineligible for further processing, except applications for emergency funding.

(d) *Consultation requirements:* The PHA/IHA shall develop the application in consultation with local officials and residents/homebuyers at the development to be modernized, as set forth in 24 CFR 968.220 and 968.225 for PHAs/IHAs and 24 CFR 905.620 and 905.625 for IHAs. Before developing the application, the PHA shall consult with local government officials as to whether the proposed modernization, excluding Group 1 modernization, is financially feasible and will result in long-term physical and social viability at the development.

(e) Secretarial Initiatives

(1) *General:* Consistent with Secretarial resident initiatives, 24 CFR 968.220 and 905.620 require the PHA/IHA to involve residents in both planning for modernization needs and monitoring all phases of modernization implementation. The regulations require the PHA/IHA to have a process for the involvement of residents that includes, but is not limited to:

(i) Notification of residents, resident organizations, and resident management corporations (RMCs) of its intent to submit a CIAP Application and involvement of residents in the development of the application;

(ii) Notification of the residents of the development to be modernized and request for resident recommendations. If an application is considered for funding prior to the time when the HUD Field Office schedules Joint Reviews, the PHA/IHA must make reasonable notification to the residents and make requests for recommendations for the development to be modernized;

(iii) Provision of copies to HUD and residents of its evaluation of resident recommendations, (in the cases of the Joint Review, provide copies of comments and evaluations at the time the HUD Field Office schedules the Joint Reviews); and

(iv) After HUD approval, notification to residents of the approval and provision to residents of a copy of the HUD-approved Project Implementation Schedule.

(2) *Relationship to technical review factors:* Resident priority programs to build resident capacity provide for self-sufficiency opportunities and empowerment shall be taken into consideration when scoring the PHA/IHA at the technical review stage. Homeownership opportunities are encouraged as a vital part of CIAP. The initiatives which are listed below also are included in the technical review factors in section I(d)(4) of this NOFA.

(i) Restoration of vacant units to occupancy;

(ii) Economic development and job training initiatives for residents which relate to CIAP;

(iii) Drug elimination;

(iv) Resident capacity-building and resident management;

(v) Homeownership; and

(vi) Fair housing and equal opportunity.

(3) *Use of dwelling units for economic self-sufficiency services and/or drug elimination activities:* On August 24, 1990, the Department issued HUD Notice PIH 90-39 (PHA), concerning the eligibility for funding under the Performance Funding System of dwelling units used to promote economic self-sufficiency services for residents and anti-drug programs. CIAP funds may be used to convert units for these purposes. See Notice PIH 90-39 (PHA). Also, the Family Self-Sufficiency Program Guidelines (56 FR 49592, September 30, 1991).

(4) *Duplicate funding:* The PHA/IHA shall not receive duplicate funding for the same work item or activity under any circumstance and shall establish controls to assure that an activity, program, or project that is funded under any other HUD program, shall not be funded by CIAP. Accordingly, the PHA/IHA shall include, in its Board Resolution, language certifying that it is not receiving duplicate funds under any other grant program for the same work items.

III. Checklist of Application Submission Requirements

(a) *CIAP application:* Within the established time frame, the PHA/IHA shall submit to the Field Office, Attention: Director, Public Housing Division, the CIAP Application in accordance with Chapter 3 of the CIAP Handbook 7485.4 REV-4 and as modified by this NOFA, in an original and two copies (or any lesser number of copies as specified by the Field Office). The PHA/IHA also shall send a copy of the CIAP Application to the chief executive officer, as well as any other appropriate local officials. See Chapter 5 of the CIAP Handbook 7485.1 REV-4 for resident/homebuyer notification requirements. The CIAP Application comprises the following documents and all HUD Forms can be obtained in the local HUD Field Offices:

(1) Form HUD-52824, Five-Year Funding Request Plan, setting forth the PHA's/IHA's plan to request funds over a five-year period and listing projects in priority order by modernization type.

(2) Form HUD.52825, Comprehensive Assessment/Program Budget (Parts I and II), covering developments for

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which funding is requested in the current FY.

(3) A narrative statement addressing each of the technical review factors.

(4) For modernization proposed for funding in the current FY, excluding developments in Group 1, a Modernization Organization and Staffing Plan, stating the proposed organization, staffing and inspection of the modernization program.

(5) For each development proposed for funding in the current FY, excluding developments in Group 1 or with comprehensive modernization in progress, the PHA's/IHA's viability review.

(6) PHA/IHA Report on compliance by the local governing body with the terms of the Cooperation Agreement, or as embodied by Article VIII of the Tribal Ordinance as applicable for certain IHAs, and any additional services or facilities that the PHA/IHA plans to request from the local governing body.

(7) Form HUD-50070, Certification for a Drug-Free Workplace.

(8) Form HUD-52820, PHA/IHA Board Resolution Approving CIAP Application.

Note: This includes PHA/IHA certification of compliance with resident consultation requirements. The PHA/IHA must provide evidence of such consultation upon request by HUD.

(9) Certification for Contracts, Grants, Loans and Cooperative Agreements, required of RMCs, PHAs, and IHAs established under State law, applying for grants exceeding $100,000.

(10) SF-LLL, Disclosure of Lobbying Activities, required of RMCs, PHAs and IHAs established under State law, only where any funds, other than federally appropriated funds, will be or have been used to influence Federal workers, Members of Congress and their staff regarding specific grants or contracts.

(11) Report on Project Implementation Schedule(s), an explanation required of PHAs/IHAs that have missed any deadlines, which should have been met during FY 1991, as set forth in the HUD-approved Schedules. See Section I(c)(6) of this NOFA.

(12) Section 504 Needs Assessment and/or Transition Plan for comprehensive modernization or the accessibility category under special purpose modernization. If there has been a delay in preparing the assessment and/or plan, an explanation for the delay.

(13) For LBP modernization only, a Lead Toxicity Risk Assessment: Buildings and Projects (Independent of Occupants) or equivalent.

(b) *Schedule for FY 1992 CIAP Processing*

Steps	Completion
PHA/IHA submits CIAP Application	03/26/92
FO makes Joint Review selections [1]	*04/03/92
FO completes Joint Reviews	*05/04/92
PHA/IHA submits any required budget revisions and draft Project Implementation Schedules	05/15/92
FO completes fund reservations and notifies Counsel	*05/29/92
FO forwards Congressional notifications to Headquarters	*06/08/92
Congressional notification is completed and FO notifies PHAs/IHAs of funding decisions	*06/19/92
FO Counsel forwards ACC amendments to PHAs/IHAs for signature and return	*06/30/92
FO executes ACC amendments	*07/13/92
PHA/IHA submits final Project Implementation Schedules [2]	08/19/92

[1] PHD shall notify the RICs and FHEO and CPD Divisions of all selected PHAs/IHAs or those still considered for funding. Since Joint Reviews may not be conducted for certain developments, all PHAs/IHAs shall make appropriate notifications to residents regardless of the Joint Review if the development is still considered for funding by the FO.

[2] 60 calendar days from date PHA/IHA is notified of funding decisions (6/19/92).

* These dates may vary by Field Office depending on local workload issues.

IV. Corrections to Deficient Applications

(a) Immediately after the deadline for submission of CIAP Applications, the Field Office will screen each application to determine whether all items were submitted. If items (1), (2), and (3) listed in section III (a) above are missing from the CIAP Application, the PHA's/IHA's application will be considered substantially incomplete and, therefore, ineligible for further processing.

(b) If the PHA/IHA fails to submit certain technical items or the application contains a technical mistake such as an incorrect signatory, the Field Office shall immediately notify the PHA/IHA in writing that the PHA/IHA has 14 calendar days from date of HUD's written notification to submit or correct any of the specified items. If the items listed below are missing, and the PHA/IHA does not submit them within the required time period, the PHA's/IHA's CIAP Application will be ineligible for further processing.

(1) PHA/IHA Report on Cooperation Agreement;

(2) Form HUD-50070, Certification for a Drug-Free Workplace;

(3) Form HUD-52820, PHA/IHA Board Resolution Approving CIAP Application;

(4) Certification for Contracts, Grants, Loans and Cooperative Agreements;

(5) SF-LLL, Disclosure of Lobbying Activities;

(6) Report on Project Implementation Schedule(s);

(7) Section 504 Needs Assessment and/or Transition Plan or explanation for delay in preparation;

(8) Modernization Organization Staffing Plan;

(9) Viability Review except where funds are requested for emergency, comprehensive modernization in progress, and comprehensive completed.

(10) For LBP modernization only, a Lead Toxicity Risk Assessment: Buildings and Projects (Independent of Occupants) or equivalent.

V. Other Matters

(a) *Environmental impact:* A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50 implementing section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the Office of the Rules Docket Clerk, 451 Seventh Street, SW., room 10276, Washington, DC 20410.

(b) *Federalism executive order:* The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the provisions of this NOFA do not have "federalism implication" within the meaning of the Order.

(c) *Family executive order:* The General Counsel, as the Designated Official for Executive Order 12606, the Family, has determined that the provisions of this NOFA do not have the potential for significant impact on family formation, maintenance and general well-being within the meaning of the Order.

Section 102 of HUD Reform Act of 1989

On March 14, 1991, the Department published in the **Federal Register** a final rule to implement section 102 of the Department of Housing and Urban Development Reform Act of 1989 (24 CFR part 12, 56 FR 11032). Section 102 contains a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by the Department.

The following should be noted regarding the relationship of the CIAP to part 12:

1. Since HUD makes assistance under the program available on a competitive basis, HUD must:

—Ensure that documentation and other information regarding each application submitted to the Department are sufficient to indicate the basis upon which assistance was provided or denied. HUD must make this material available for public inspection for a five-year period.

(§ 12.14(b)) HUD will provide further guidance on how this material may be accessed in a later Notice published in the **Federal Register**.

—Publish a Notice in the **Federal Register** at least quarterly indicating the recipients of the assistance. 24 CFR 12.16(a).

2. Subpart C of part 12 requires applicants that seek assistance from HUD for a specific project or activity must make the disclosures required under § 12.32. This subpart will be made effective through later publication of a Notice in the **Federal Register**. Since it will apply to applications solicited on or after the effective date of the Notice, this NOFA is not subject to its provisions.

Section 103 HUD Reform Act of 1989

HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989 was published May 13, 1991 (56 FR 22088) and became effective on June 12, 1991. That regulation, codified as 24 CFR part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants.

HUD employees involved in the review of applications and in the making of funding decisions are limited by part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants who have questions should contact the HUD Office of Ethics (202) 708–3815. (This is not a toll-free number.) The Office of Ethics can provide information of a general nature to HUD employees, as well. However, a HUD employee who has specific program questions, such as whether particular subject matter can be discussed with persons outside the Department, should contact his or her Regional or Field Office Counsel, or Headquarters counsel for the program to which the question pertains.

Section 112 HUD Reform Act of 1989

Section 13 of the Department of Housing and Urban Development Act contains two programs dealing with efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence the award of assistance or the taking of a management action by the Department and those who are paid to provide the influence. The section restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance.

Section 13 was implemented by final rule published in the **Federal Register** on May 17, 1991 (56 FR 22912). If readers are involved in any efforts to influence the Department in these ways, they are urged to read the final rule, particularly the examples contained in appendix A of the rule.

Any questions regarding the rule should be directed to Arnold J. Haiman, Director, Office of Ethics, room 2158, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone: (202) 708–3815; TDD: (202) 708–1112. (These are not toll-free numbers). Forms necessary for compliance with the rule may be obtained from the local HUD office.

(The Catalog of Federal Domestic Assistance Program number is 14.852.)

Dated: January 30, 1992.

Joseph G. Schiff,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 92–3030 Filed 2–7–92; 8:45 am]

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Note: The List of Public Laws for the first session of the 102d Congress has been completed and will be resumed when bills are enacted into public law during the second session of the 102d Congress, which convenes on January 3, 1992. A cumulative list of Public Laws for the first session was published in Part II of the **Federal Register** on January 2, 1992.

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

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1, 2 (2 Reserved)	(869-013-00001-3)	$12.00	Jan. 1, 1991
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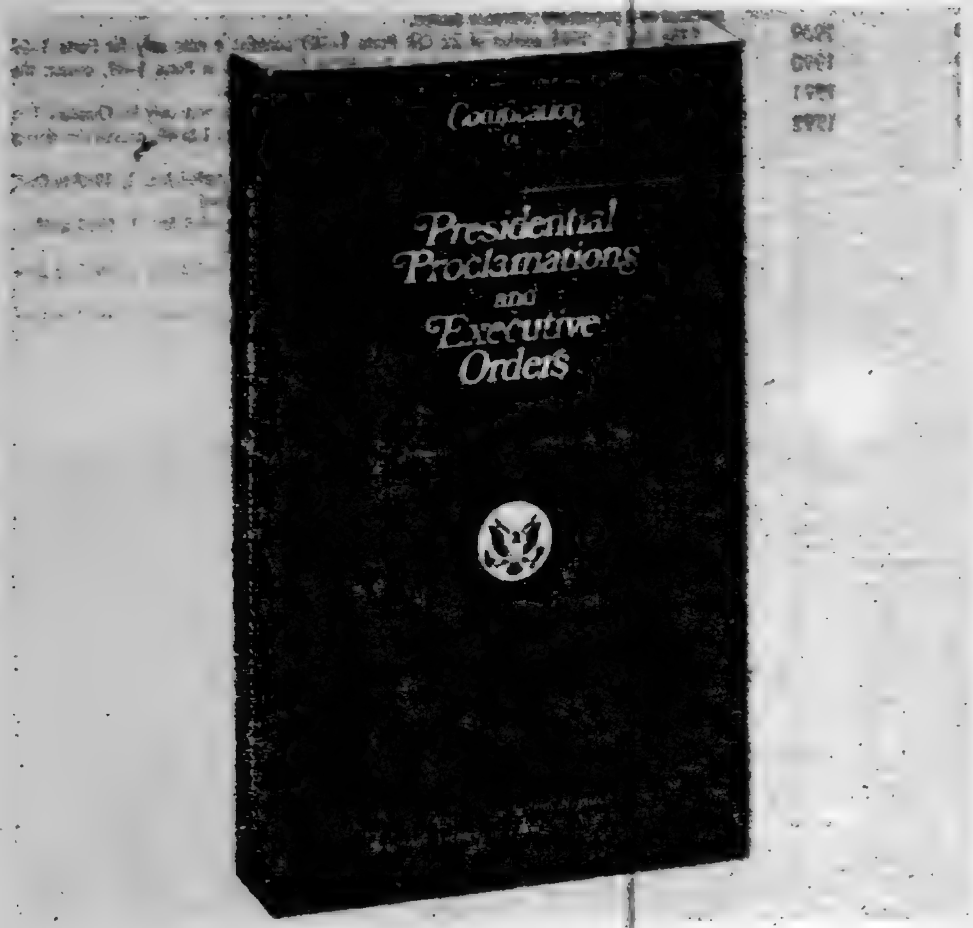

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Rules and Regulations

Federal Register
Vol. 57, No. 28
Tuesday, February 11, 1992

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92-NM-16-AD; Amendment 39-8178; AD 92-04-07]

Airworthiness Directives; Boeing Model 737-300, -400, and -500 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to all Boeing 737-300, -400, and -500 series airplanes. This action requires repetitive visual inspections of wire bundles located above the cockpit-to-cabin door header frame for damage due to chafing or interference against the door header frame, and repair and rework, if necessary. This amendment is prompted by a report of burned wire bundles caused by short circuits resulting from chafed wiring. The actions specified in this AD are intended to prevent fire and smoke in the passenger cabin and cockpit.

DATES: Effective February 21, 1992.

Comments for inclusion in the Rules Docket must be received on or before April 13, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-16-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

FOR FURTHER INFORMATION CONTACT: Stephen Slotte, Seattle Aircraft Certification Office, Systems and Equipment Branch, ANM-130S, FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2797; fax (206) 227-1181.

SUPPLEMENTARY INFORMATION: The FAA has recently received a report of an electrical wiring short circuit and subsequent fire in the forward cabin ceiling area above the cockpit-to-cabin door in a Model 737-300 airplane. Investigation has revealed that a wire bundle containing galley power and several other systems had come into contact with the right upper corner of the cockpit-to-cabin door frame and shorted out. The burned wires were the result of electrical short circuits caused by damage to wire insulation; the insulation was damaged due to chafing of the wire bundle with the cockpit-to-cabin door header frame. This condition, if not corrected, could result in fire and smoke in the passenger cabin and cockpit.

The ceiling panel and wire bundle installation design is common on Model 737-300, -400, and -500 series airplanes. Therefore, the potentially unsafe condition could exist on any of these models.

Since an unsafe condition has been identified that is likely to exist or develop on other Boeing Model 737-300, -400, and -500 series airplanes of the same type design, this AD is being issued to prevent an electrical wiring short circuit in the forward cabin ceiling area, above the cockpit-to-cabin door, and subsequent cabin fire. This AD requires repetitive visual inspections of certain wire bundles located above the cockpit-to-cabin door header frame for damage due to chafing or interference against the door header frame, and repair and rework, if necessary. (Necessary repairs are to be accomplished in accordance with the Boeing Standard Wiring Practices Document. That document describes generalized procedures for wiring repairs on Boeing airplanes.)

This is considered interim action. The FAA may consider further rulemaking when a corrective modification is developed and approved.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption "**ADDRESSES.**" All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92-NM-16-AD". The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures. (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption "**ADDRESSES**."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

92–04–07. Boeing: Amendment 39–8178. Docket 92–NM–16–AD.

Applicability: All Model 737–300, 737–400, and 737–500 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent the occurrence of fire and smoke in the passenger cabin and cockpit, accomplish the following:

(a) Within 20 days after the effective date of this AD, visually inspect the wire bundles above the cockpit-to-cabin door header frame for damage due to chafing or interference with the door header frame. Pay particular attention to the wire bundle crossing over the right-hand corner of the header frame. Proper inspection requires removal of the aft center ceiling panel located just forward of the cockpit-to-cabin door. Ensure that the wire bundle clamps above the cockpit-to-cabin door header frame located approximately at Station 282.5, stringers 2R and 2L, are connected securely to stringer clip standoffs. (These should not be free floating clamps.) If any damaged wire bundle or loose clamp is found, prior to further flight, repair and/or secure it, in accordance with Boeing Standard Wiring Practices Document.

(b) Repeat the inspection procedure required by paragraph (a) of this AD at intervals not to exceed 120 days.

(c) Within 30 days after the effective date of this AD, sleeve the wire bundles in the area where they cross the cockpit-to-cabin door header frame with Expando PT or equivalent protective sleeving. Ensure that there is a minimum of 0.25 inch of clearance between these bundles and the cockpit-to-cabin door frame header, to prevent chafing or interference. If rework is necessary, perform it prior to further flight, in accordance with Boeing Standard Wiring Practices Document.

(d) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle Aircraft Certification Office (ACO).

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) This amendment (39–8178), AD 92–04–07, becomes effective February 21, 1992.

Issued in Renton, Washington, on January 30, 1992.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–3170 Filed 2–10–92; 8:45 am]

BILLING CODE 4910–13–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1203b

RIN 2700–AA60

Security Programs; Arrest Authority and Use of Force by NASA Security Force Personnel

AGENCY: National Aeronautics and Space Administration (NASA)

ACTION: Final rule.

SUMMARY: NASA implements section 304(f) of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2456a). By establishing guidelines for the exercise of arrest authority and for the exercise of physical force, including deadly force, in conjunction with such arrest authority.

EFFECTIVE DATE: February 11, 1992.

ADDRESSES: NASA Security Office, NASA Headquarters, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Erwin V. Minter, (202) 453–2911.

SUPPLEMENTARY INFORMATION: The National Aeronautics and Space Administration has determined that:

1. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, since it will not exert a significant economic impact on a substantial number of small business entities.

2. This rule is not a major rule as defined in Executive Order 12291.

List of Subjects in 14 CFR Part 1203b

Security programs, Arrest authority, Use of force.

Title 14 of the Code of Federal Regulations is amended by adding a new part 1203b to read as follows:

PART 1203b—SECURITY PROGRAMS; ARREST AUTHORITY AND USE OF FORCE BY NASA SECURITY FORCE PERSONNEL

Sec.
1203b.100 Purpose.
1203b.101 Scope.
1203b.102 Definitions.
1203b.103 Arrest authority.
1203b.104 Exercise of arrest authority—general guidelines.
1203b.105 Use of non-deadly physical force when making an arrest.
1203b.106 Use of deadly force.
1203b.107 Use of firearms.
1203b.108 Management oversight.
1203b.109 Disclaimer.

Authority. Sec. 304(f) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2456a).

§ 1203b.100 Purpose.

This regulation implements section 304(f) of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2456a), by establishing guidelines for the exercise of arrest authority and for the exercise of physical force, including deadly force, in conjunction with such arrest authority.

§ 1203b.101 Scope.

This part applies to only those NASA and NASA contractor security force personnel who are authorized to exercise arrest authority in accordance with 42 U.S.C. 2456a and this regulation.

§ 1203b.102 Definitions.

Accredited Course of Training. A course of instruction offered by the Federal Law Enforcement Training Center, or an equivalent course of instruction offered by another Federal agency. See § 1203b.103(a)(1).

Arrest. An act, resulting in the restriction of a person's movement, other than a brief detention for purposes of questioning about a person's identity and requesting identification.

accomplished by means of force or show of authority under circumstances that would lead a reasonable person to believe that he/she was not free to leave the presence of the officer.

Contractor. NASA contractors and subcontractors at all tiers.

§ 1203b.103 Arrest authority.

(a) NASA security force personnel may exercise arrest authority, provided that:

(1) They graduate from an accredited training course (see § 1203b.102(a)); and

(2) They have been certified in writing by the Associate Administrator for Management Systems and Facilities, or designee, as specifically authorized to exercise arrest authority.

(b) The authority of NASA security force personnel to make a warrantless arrest is subject to the following conditions:

(1) The arresting officer must be guarding and protecting property owned or leased by, or under the control of, the United States under the administration and control of NASA or one of its contractors or subcontractors, at facilities owned by or contracted to NASA; and

(2) The person to be arrested has committed in the arresting officer's presence any offense against the United States; or

(3) The arresting officer has reasonable grounds to believe that the person to be arrested has committed or is committing any felony cognizable under the laws of the United States.

(c) The Office of the General Counsel, NASA Headquarters, or the Installation Chief Counsel's Office, as appropriate, shall provide guidance as to the applicability of these regulations.

§ 1203b.104 Exercise of arrest authority—general guidelines.

(a) In making an arrest, the security force officer should announce his/her authority and that the person is under arrest prior to taking the person into custody. If the circumstances are such that making such announcements would be useless or dangerous to the security force officer or others, the security force officer may dispense with these announcements.

(b) The security force officer at the time and place of arrest may search the arrested person and the area immediately surrounding the arrested person for weapons and criminal evidence. This is to protect the arresting officer and to prevent the destruction of evidence.

(c) After the arrest is effected, the arrested person shall be advised of his/her constitutional right against self-incrimination. If the circumstances are such that making such advisement is dangerous to the officer or others, this requirement may be postponed until the immediate danger has passed. However, no interrogation of the individual may occur until he/she has been properly advised of his/her right against self-incrimination.

(d) Custody of the person arrested should be transferred to other Federal law enforcement personnel (e.g., United States Marshals or FBI agents) or to local law enforcement agency personnel, as appropriate, as soon as possible, in order to ensure that the person is brought before a magistrate without unnecessary delay.

§ 1203b.105 Use of non-deadly physical force when making an arrest.

When a security force officer has the right to make an arrest, as discussed in § 1203b.103, the officer may use only that non-deadly physical force which is reasonable and necessary to apprehend and arrest the offender; to prevent the escape of the offender; or to defend himself/herself or a third person from what the security force officer reasonably believes to be the use or threat of imminent use of non-deadly physical force by the offender. Verbal abuse alone by the offender cannot be the basis under any circumstances for use of non-deadly physical force by a security force officer.

§ 1203b.106 Use of deadly force.

Deadly force shall be used only in those circumstances where the security force officer reasonably believes that either he/she or another person is in imminent danger of death or serious bodily harm.

§ 1203b.107 Use of firearms.

(a) If it becomes necessary to use a firearm in any of the circumstances described in § 1203b.106, NASA security force personnel shall comply with the following precautions whenever possible:

(1) Give an order to halt before firing.

(2) Do not fire if shots are likely to harm innocent bystanders.

(3) Aim to disable.

(b) Warning shots are not authorized.

(c) In the event that a security force officer discharges a weapon while in a duty status:

(1) The incident shall be reported by the security force officer to the NASA Security Office as expeditiously as possible, with as many details supplied as are available.

(2) The officer shall be promptly suspended from duty with pay or reassigned to other duties not involving the use of a firearm, as the Installation Director or the Associate Administrator for Management Systems and Facilities deems appropriate, pending investigation of the incident.

(3) The cognizant Installation Director, or for incidents occurring at NASA Headquarters, the Associate Administrator for Management Systems and Facilities, shall appoint an investigating officer to conduct a thorough investigation of the incident. Additional personnel may also be appointed, as needed to assist the investigating officer. Upon conclusion of the investigation, the investigating officer shall submit a written report of findings and recommendations to the appropriate Installation Director or the Associate Administrator for Management Systems and Facilities.

(4) Upon conclusion of the investigation, the Installation Director or the Associate Administrator for Management Systems and Facilities, with the advice of Counsel, shall determine the disposition appropriate to the case.

(d) Firearms will be periodically inspected and kept in good working order by a qualified gunsmith. Ammunition, holsters, and related equipment will be periodically inspected for deterioration and kept in good working order. Firearms and ammunition will be securely stored separately in locked containers. Firearms will not be stored in a loaded condition. Neither firearms nor ammunition will be stored in the same containers as money, drugs, precious materials, or classified information. NASA Headquarters and each Installation shall adopt procedures for the maintenance of records with respect to the issuance of firearms and ammunition.

§ 1203b.108 Management oversight.

(a) The Administrator shall establish a committee to exercise management oversight over the implementation of arrest authority.

(b) The Administrator shall establish a reporting requirement for Headquarters and Field Installations.

(c) The Associate Administrator for Management Systems and Facilities, or designee, will ensure that all persons who are authorized to exercise arrest authority will, before performing these duties:

(1) Receive instructions on regulations regarding the use of force, including deadly force; and

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(2) Demonstrate knowledge and skill in the use of unarmed defense techniques and their assigned firearms.

(d) The Associate Administrator for Management Systems and Facilities, or designee, will also:

(1) Provide periodic refresher training to ensure continued proficiency and updated knowledge as to the use of unarmed defense techniques;

(2) Require security force officers exercising arrest authority to re-qualify annually with their assigned firearms; and

(3) Require periodic refresher training to ensure continued familiarity with regulations.

(e) The Associate Administrator for Management Systems and Facilities and Installation Directors shall issue local management instructions, subject to prior NASA Headquarters approval, which will supplement this regulation for Headquarters/Installation-specific concerns.

§ 1203b.109 Disclaimer.

These regulations are set forth solely for the purpose of internal National Aeronautics and Space Administration guidance. They are not intended to, do not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter, civil or criminal, and they do not place any limitations on otherwise lawful activities of security force personnel or the National Aeronautics and Space Administration.

Dated: February 4, 1992.

Richard H. Truly,

Administrator.

[FR Doc. 92-3157 Filed 2-10-92; 8:45 am]

BILLING CODE 7510-01-M

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14 CFR Part 1212

RIN 2700-AB20

Privacy Act—NASA Regulations

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Interim final rule with request for comment.

SUMMARY: NASA is revising its regulations implementing the Privacy Act of 1974, 5 U.S.C. 552a, as amended, which currently appear at 14 CFR part 1212. These regulations establish procedures for individuals to access their Privacy Act records and to request amendment of information in records concerning them. It also provides for procedures for appeals and other remedies.

EFFECTIVE DATE: February 11, 1992. Comments must be received in writing on or before March 12, 1992.

ADDRESSES: IRM Policy and Acquisition Management Office, Code JTD-1, NASA Headquarters, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Wallace D. Keene, 202/453-1775.

SUPPLEMENTARY INFORMATION: This revision changes internal Agency responsibility with regard to the handling of appeals, sets forth general housekeeping policies and procedures, and makes changes to bring NASA's regulation in line with statutory requirements.

The National Aeronautics and Space Administration has determined that:

1. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601-612, since it will not exert a significant economic impact on a substantial number of small entities.

2. This rule is not a major rule as defined in Executive Order 12291.

List of Subjects in 14 CFR Part 1212

Privacy Act, Administrative practice and procedure.

For reasons set out in the Preamble, 14 CFR part 1212 is revised to read as follows:

PART 1212—PRIVACY ACT—NASA REGULATIONS

Subpart 1212.1—Basic Policy

Sec.
1212.100 Scope and purpose.
1212.101 Definitions.

Subpart 1212.2—Access to Records

1212.200 Determining existence of records subject to the Privacy Act.
1212.201 Requesting a record.
1212.202 Identification procedures.
1212.203 Disclosures.
1212.204 Fees.
1212.205 Exceptions to individuals' rights of access.

Subpart 1212.3—Amendments to Privacy Act Records

1212.300 Requesting amendment.
1212.301 Processing the request to amend.
1212.302 Granting the request to amend.

Subpart 1212.4—Appeals and Related Matters

1212.400 Appeals.
1212.401 Filing statements of dispute.
1212.402 Disclosure to third parties of disputed records.

Subpart 1212.5—Exemptions to Individuals' Rights of Access

1212.500 Exemptions under 5 U.S.C. 552a(j) and (k).
1212.501 Record systems determined to be exempt.

Subpart 1212.6—Instructions for NASA Employees

1212.600 General policy.
1212.601 Maintenance and publication requirements for systems of records.
1212.602 Requirements for collecting information.
1212.603 Mailing lists.
1212.604 Social security numbers.
1212.605 Safeguarding information in systems of records.
1212.606 Duplicate copies of records or portions of records.

Subpart 1212.7—NASA Authority and Responsibilities

1212.700 NASA employees.
1212.701 Assistant Deputy Administrator.
1212.702 Associate Administrator for Management Systems and Facilities.
1212.703 Headquarters and Field or Component Installations.
1212.704 System manager.
1212.705 Assistant Administrator for Procurement.
1212.706 Delegation of authority.

Subpart 1212.8—Failure to Comply With Requirements of This Part

1212.800 Civil remedies.
1212.801 Criminal penalties.

Authority: The National Aeronautics and Space Act of 1958, as amended, 72 Stat. 429, 42 U.S.C. 2473; the Privacy Act of 1974, as amended, 88 Stat. 1896, 5 U.S.C. 552a.

Subpart 1212.1—Basic Policy

§ 1212.100 Scope and purpose.

This part 1212 implements the Privacy Act of 1974, as amended (5 U.S.C. 552a). It establishes procedures for individuals to access their Privacy Act records and to request amendment of information in records concerning them. It also provides procedures for administrative appeals and other remedies. This part applies to systems of records located at or under the cognizance of NASA Headquarters, NASA Field Installations, and NASA Component Installations, as defined in part 1201 of this chapter.

§ 1212.101 Definitions.

For the purposes of this part, the following definitions shall apply in addition to definitions contained in the Privacy Act of 1974, as amended (5 U.S.C. 552a):

(a) The term *individual* means a living person who is either a citizen of the United States or an alien lawfully admitted for permanent residence.

(b) The term *maintain* includes maintain, collect, use or disseminate.

(c) The term *record* means any item, collection, or grouping of information about an individual including, but not limited to, education, financial transactions, medical history, and criminal or employment history, and that contains a name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.

(d) The term *system of records* means a group of any records from which information is retrieved by the name of the individual or by some identifying number, symbol or other identifying particular assigned to the individual.

(e) The term *system manager* means the NASA official who is responsible for a system of records as designated in the system notice of that system of records published in the **Federal Register**. When a system of records includes portions located at more than one NASA Installation, the term *system manager* includes any subsystem manager designated in the system notice as being responsible for that portion of the system of records located at the respective Installation.

(f) The term *systems notice* means, with respect to a system of records the publication of information in the **Federal Register** upon establishment or revision of the existence and character of the system of records. The notice shall include that information as required by 5 U.S.C. 552a(e)(4).

(g) The term *routine use* means, with respect to the disclosure of a record, the use of the record for a purpose which is compatible with the purpose for which it was collected.

(h) The term *NASA employee* or *NASA official*, particularly for the purpose of § 1212.203(g) related to the disclosure of a record to those who have a need for the record in the performance of their official duties, includes employees of a NASA contractor which operates or maintains a NASA system of records for or on behalf of NASA.

(i) The term *NASA information center* refers to information centers established to facilitate public access to NASA records under part 1206 of this chapter. See § 1206.401 of this chapter for the address of each NASA information center.

Subpart 1212.2—Access to Records

§ 1212.200 Determining existence of records subject to the Privacy Act.

The procedures outlined in this subpart 1212.2 apply to the following types of requests under the Privacy Act made by individuals concerning records about themselves:

(a) To determine if information on the requester is included in a system of records;

(b) For access to a record; and

(c) For an accounting of disclosures of the individual's Privacy Act records.

§ 1212.201 Requesting a record.

(a) Individuals may request access to their Privacy Act records, either in person or in writing.

(b) Individuals may also authorize a third party to have access to their Privacy Act records. This authorization shall be in writing, signed by the individual and contain the individual's address as well as the name and address of the representative being authorized access. The identities of both the subject individual and the representative must be verified in accordance with the procedures set forth in § 1212.202 of this part.

(c)(1) Requests must be directed to the appropriate system manager, or, if unknown, to the NASA Headquarters or Field Installation Information Center. The request should be identified clearly on the envelope and on the letter as a "Request Under the Privacy Act."

(2) Where possible, requests should contain the following information to ensure timely processing:

(i) Name and address of subject.

(ii) Identity of the system of records.

(iii) Nature of the request.

(iv) Identifying information specified in the applicable system notice to assist in identifying the request, such as location of the record, if known, full name, birth date, etc.

(d) NASA has no obligation to comply with a nonspecific request for access to information concerning an individual, e.g., a request to provide copies of "all information contained in your files concerning me," although a good faith effort will be made to locate records if there is reason to believe NASA has records on the individual. If the request is so incomplete or incomprehensible that the requested record cannot be identified, additional information or clarification will be requested in the acknowledgement, and assistance to the individual will be offered as appropriate.

(e) If the information center receives a request for access, the Information Center will record the date of receipt and immediately forward the request to the responsible system manager for handling.

(f) Normally, the system manager shall respond to a request for access within 10 work days of receipt of the request and the access shall be provided within 30 work days of receipt.

(1) In response to a request for access, the system manager shall:

(i) Notify the requester that there is no record on the individual in the system of records and inform the requester of the procedures to follow for appeal (See § 1212.4);

(ii) Notify the requester that the record is exempt from disclosure, cite the appropriate exemption, and inform the requester of the procedures to follow for appeal (See § 1212.4);

(iii) Upon request, promptly provide copies of the record, subject to the fee requirements (§ 1212.204); or

(iv) Make the individual's record available for personal inspection in the presence of a NASA representative.

(2) Unless the system manager agrees to another location, personal inspection of the record shall be at the location of the record as identified in the system notice.

(3) When an individual requests records in a system of records maintained on a third party, the request shall be processed as a Freedom of Information Act (FOIA) request under 14 CFR part 1206. If the records requested are subject to release under FOIA (5 U.S.C. 552(b)), then a Privacy Act exemption may not be invoked to deny access.

(4) When an individual requests records in a system of records maintained on the individual, the request shall be processed under this part. NASA will not rely on exemptions contained in FOIA to withhold any record which is otherwise accessible to the individual under this part.

§ 1212.202 Identification procedures.

(a) The system manager will release records to the requester or representative in person only upon production of satisfactory identification which includes the individual's name, signature, and photograph or physical description.

(b) The system manager will release copies of records by mail only when the circumstances indicate that the requester and the subject of the record are the same. The system manager may require that the requester's signature be notarized or witnessed by two individuals unrelated to the requester.

(c) Identity procedures more stringent than those required in this section may be prescribed in the system notice when the records are medical or otherwise sensitive.

§ 1212.203 Disclosures.

(a) The system manager shall keep a disclosure accounting for each disclosure to a third party of a record from a system of records. This includes records disclosed pursuant to computer matching programs (See NASA Management Instruction (NMI) 1382.18).

(b) Disclosure accountings are not required but are recommended for disclosures made:

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(1) With the subject individual's consent; or

(2) In accordance with § 1212.203(g)(1) and (2), below.

(c) The disclosure accounting required by paragraph (a) of this section shall include:

(1) The date, nature, and purpose of the disclosure; and

(2) The name and address of the recipient person or Agency.

(d) The disclosure accounting shall be retained for at least 5 years after the disclosure or for the life of the record, whichever is longer.

(e) The disclosure accounting maintained under the requirements of this section is not itself a system of records.

(f) Records in a NASA system of records may not be disclosed to third parties without the consent of the subject individual. However, in consonance with 5 U.S.C. 552a(b), disclosure may be authorized without consent, if disclosure would be:

(1) To an officer or employee of NASA who has a need for the record in the performance of official duties;

(2) Required under the Freedom of Information Act (5 U.S.C. 552) and part 1206 of this chapter;

(3) For a routine use described in the system notice for the system of records;

(4) To the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of Title 13, U.S. Code;

(5) To a recipient who has provided NASA with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(6) To the National Archives and Records Administration as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government or for evaluation by the Archivist of the United States or the Archivist's designee to determine whether the record has such value;

(7) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity, if the activity is authorized by law and if the head of the agency or instrumentality has made a written request to NASA specifying the particular portion desired and the law enforcement activity for which the record is sought;

(8) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual;

(9) To either House of Congress or, to the extent the matter is within its jurisdiction, any committee or subcommittee, or any joint committee of Congress or subcommittee of any such joint committee;

(10) To the Comptroller General, or any of the Comptroller's authorized representative(s), in the course of the performance of the duties of the General Accounting Office;

(11) Pursuant to the order of a court of competent jurisdiction; or

(12) To a consumer reporting agency in accordance with section 3711(f) of Title 31.

§ 1212.204 Fees.

(a) Fees will not be charged for:

(1) Search for a retrieval of the requesting individual's records;

(2) Review of the records;

(3) Making a copy of a record when it is a necessary part of the process of making the record available for review;

(4) Transportation of the record(s);

(5) Making a copy of an amended record to provide evidence of the amendment; or

(6) Copies of records if this is determined to be in the best interest of the Government.

(b) Fees for the duplication of records will be assessed in accordance with § 1206.700(a) of this chapter.

(c) Where it appears that duplication fees chargeable under this section will exceed $25, the requester shall be provided an estimate of the fees before copies are made. Where possible, the requester will be afforded the opportunity to confer with Agency personnel in a manner which will reduce the fees, yet still meet the needs of the requester.

(d) Where the anticipated fee chargeable under this section exceeds $25, an advance deposit of part or all of the anticipated fee may be required.

§ 1212.205 Exceptions to individual's rights of access.

(a) The NASA Administrator has determined that the systems of records set forth in § 1212.501 are exempt from disclosure to the extent provided therein.

(b) Medical records. Normally, an individual's medical record shall be disclosed to the individual, unless the system manages, in consultation with a medical doctor, determines that access to the record could have an adverse effect upon the individual. In this case, NASA shall allow access to the record by a medical doctor designated in writing by the requesting individual.

(c) Test and qualification materials. Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service the disclosure of which would compromise the objectivity or fairness of the testing or examination process and copies of certificates of eligibles and other lists of eligibles, the disclosure of which is proscribed by 5 CFR 300.201, shall be removed from an individual's record containing such information before granting access.

(d) Information compiled for civil actions or proceedings. Nothing in this part shall allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding.

Subpart 1212.3—Amendments to Privacy Act Records

§ 1212.300 Requesting amendment.

Individuals may request that NASA amend their records maintained in a NASA system of records. This request shall be in writing, addressed to the appropriate system manager, and shall contain the following:

(a) A notation on the envelope and on the letter that it is a "Request for Amendment of Individual Record under the Privacy Act;"

(b) The name of the system of records;

(c) Any information necessary to retrieve the record, as specified in the system notice for the system of records (See § 1212.201(c)(2));

(d) A description of that information in the record which is alleged to be inaccurate, irrelevant, untimely, or incomplete; and,

(e) Any documentary evidence or material available to support the request.

§ 1212.301 Processing the request to amend.

(a) Within 10 work days of receipt by NASA of a request to amend a record, the system manager shall provide the requester with a written determination or acknowledgement advising when action may be taken.

(b) When necessary, NASA may utilize up to 30 work days after receipt to provide the determination on a request to amend a record.

(c) If the request for amendment is denied, the determination shall explain the reasons for the denial and inform the requester of the procedures to follow for appeal (See § 1212.4).

§ 1212.302 Granting the request to amend.

NASA shall make the requested amendment clearly on the record itself and all information deemed to be inaccurate, irrelevant, or untimely shall be deleted and destroyed. Incomplete information shall either be amended or deleted and destroyed. The individual shall then be informed in writing that the amendment has been made. If the inaccurate, irrelevant, untimely, or incomplete portion of the record has previously been disclosed, then the system manager shall notify those persons or agencies of the amended information, referencing the prior disclosures (See § 1212.402).

Subpart 1212.4—Appeals and Related Matters

§ 1212.400 Appeals.

(a) Individuals may appeal to the Assistant Deputy Administrator when they:

(1) Have requested amendment of a record and have received an adverse initial determination;

(2) Have been denied access to a record; or,

(3) Have not been granted access within 30 work days of their request.

(b) An appeal shall:

(1) Be in writing and addressed to the Assistant Deputy Administrator, NASA, Washington, DC 20546;

(2) Be identified clearly on the envelope and in the letter as an "Appeal under the Privacy Act;"

(3) Include a copy of any pertinent documents; and

(4) State the reasons for the appeal.

(c) Appeals from adverse initial determinations or denials of access must be submitted within 30 work days of the date of the requester's receipt of the initial determination. Appeals involving failure to grant access may be submitted any time after the 30 work day period has expired (See § 1212.201(f)).

(d) A final determination on an appeal shall be made within 30 work days after its receipt by the Assistant Deputy Administrator, unless, for good cause shown, the Assistant Deputy Administrator extends such 30 work day period. Prior to the expiration of the 30 work day period, the requester shall be notified of any such extension.

(e) If a denial of a request to amend a record is upheld, the final determination shall:

(1) Explain the basis for the detail;

(2) Include information as to how the requester goes about filing a statement of dispute under the procedures of § 1212.401; and,

(3) Include a statement that the final determination is subject to judicial review under 5 U.S.C. 552a(g).

§ 1212.401 Filing statements of dispute.

(a) A statement of dispute shall:

(1) Be in writing;

(2) Set forth reasons for the individual's disagreement with NASA's refusal to amend the record;

(3) Be concise;

(4) Be addressed to the system manager; and,

(5) Be identified on the envelope and in the letter as a "Statement of Dispute under the Privacy Act."

(b) The system manager shall prepare an addendum to the statement explaining the basis for NASA's refusal to amend the disputed record. A copy of the addendum shall be provided to the individual.

(c) The system manager shall ensure that the statement of dispute and addendum are either filed with the disputed record or that a notation appears in the record clearly referencing the statement of dispute and addendum so that they may be readily retrieved.

§ 1212.402 Disclosure to third parties of disputed records.

(a) The system manager shall promptly provide persons or agencies to whom the disputed portion of a record was previously disclosed and for which an accounting of the disclosure exists under the requirements of § 1212.203 of this part, with a copy of the statement of dispute and addendum, along with a statement referencing the prior disclosure. The subject individual shall be notified as to those individuals or agencies which are provided with the statement of dispute and addendum.

(b) Any subsequent disclosure of a disputed record shall clearly note the portion of the record which is disputed and shall be accompanied by a copy of the statement of dispute and addendum.

Subpart 1212.5—Exemptions to Individuals' Rights of Access

§ 1212.500 Exemptions under 5 U.S.C. 552a(j) and (k).

(a) These provisions authorize the Administrator of NASA to exempt certain NASA Privacy Act systems of records from portions of the requirements of this regulation.

(b) The Administrator has delegated this authority to the Assistant Deputy Administrator (See § 1212.701).

(c) For those NASA systems of records that are determined to be exempt, the system notice shall describe the exemption and the reasons.

§ 1212.501 Record systems determined to be exempt.

The Administrator has determined that the following systems of records are exempt to the extent provided hereinafter.

(a) *Inspector General Investigations Case Files*—(1) *Sections of the Act from which exempted.* (i) The Inspector General Investigations Case Files system of records is exempt from all sections of the Privacy Act (5 U.S.C. 552a) except the following: (b) relating to conditions of disclosure; (c) (1) and (2) relating to keeping and maintaining a disclosure accounting; (e)(4) (A) through (F) relating to publishing a system notice setting forth name, location, categories of individuals and records, routine uses, and policies regarding storage, retrievability, access controls, retention and disposal of the records; (e) (6), (7), (9), (10), and (11) relating to dissemination and maintenance of records, and (i) relating to criminal penalties. This exemption applies to those records and information contained in the system of records pertaining to the enforcement of criminal laws.

(ii) To the extent that there may exist noncriminal investigative files within this system of records, the Inspector General Investigations Case Files system of records is exempt from the following sections of the Privacy Act (5 U.S.C. 552a): (c)(3) relating to access to the disclosure accounting, (d) relating to access to records, (e)(1) relating to the type of information maintained in the records; (e)(4)(G), (H), and (I) relating to publishing the system notice information as to agency procedures for access and amendment and information as to the categories of sources or records, and (f) relating to developing agency rules for gaining access and making corrections.

(2) *Reason for exemptions.* (i) The Office of Inspector General is an office of NASA, a component of which performs as its principal function activity pertaining to the enforcement of criminal laws, within the meaning of 5 U.S.C. 552a(j)(2). This exemption applies only to those records and information contained in the system of records pertaining to criminal investigations. This system of records is exempt for one or more of the following reasons:

(A) To prevent interference with law enforcement proceedings.

(B) To avoid unwarranted invasion of personal privacy, by disclosure of information about third parties, including other subjects of investigation, investigators, and witnesses.

(C) To protect the identity of Federal employees who furnish a complaint or information to the OIG, consistent with

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section 7(b) of the Inspector General Act of 1978, as amended, 5 U.S.C. App.

(D) To protect the confidentiality of non-Federal employee sources of information.

(E) To assure access to sources of confidential information, including that contained in Federal, State, and local criminal law enforcement information systems.

(F) To prevent disclosure of law enforcement techniques and procedures.

(G) To avoid endangering the life or physical safety of confidential sources and law enforcement personnel.

(ii) Investigative records within this system of records which are compiled for law enforcement purposes, other than material within the scope of subsection (j)(2), are exempt under the provisions of 5 U.S.C. 552a(k)(2): *Provided, however,* That if any individual is denied any right, privilege, or benefit that they would otherwise be entitled by Federal law, or for which they would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to January 1, 1975, under an implied promise that the identity of the sources would be held in confidence. This system of records is exempt for one or more of the following reasons:

(A) To prevent interference with law enforcement proceedings.

(B) To protect investigatory material compiled for law enforcement purposes.

(C) To avoid unwarranted invasion of personal privacy, by disclosure of information about third parties, including other subjects of investigation, law enforcement personnel, and sources of information.

(D) To fullfill commitments made to protect the confidentiality of sources.

(E) To protect the identity of Federal employees who furnish a complaint or information to the OIG, consistent with section 7(b) of the Inspector General Act of 1978, as amended, 5 U.S.C. App.

(F) To assure access to sources of confidential information, including that contained in Federal, State, and local criminal law enforcement information systems.

(G) To prevent disclosure of law enforcement techniques and procedures.

(H) To avoid endangering the life or physical safety of confidential sources and law enforcement personnel.

(iii) Records within this system of records comprised of investigatory material compiled solely for the purpose of determining suitability or eligibility for Federal civilian employment or access to classified information, are exempt under the provisions of 5 U.S.C. 552a(k)(5), but only to the extent that disclosure would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to January 1, 1975, under an implied promise that the identity of the source would be held in confidence. This system of records is exempt for one or more of the following reasons:

(A) To fulfill commitments made to protect the confidentiality of sources.

(B) To assure access to sources of confidential information, including that contained in Federal, State, and local criminal law enforcement information systems.

(b) *Security Records System.*—(1) *Sections of the Act from which exempted.* The Security Records System is exempted from the following sections of the Privacy Act (5 U.S.C. 552a): (c)(3) relating to access to the disclosure accounting; (d) relating to access to the records; (e)(1) relating to the type of information maintained in the records; (e)(4) (G), (H), and (I) relating to publishing the system notice information as to agency procedures for access and amendment, and information as to the categories of sources of records; and (f) relating to developing Agency rules for gaining access and making corrections.

(2) *Reason for exemption.* (i) Personnel Security Records contained in the system of records which are compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information are exempt under the provisions of 5 U.S.C. 552a(k)(5), but only to the extent that the disclosure of such material would reveal the identity of the source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to January 1, 1975, under an implied promise that the identity of the sources would be held in confidence. This system of records is exempt for one or more of the following reasons:

(A) To fulfill commitments made to protect the confidentiality of sources.

(B) To assure access to sources of confidential information, including that contained in Federal, State, and local criminal law enforcement information systems.

(ii) Criminal Matter Records are contained in the system of records and are exempt under the provisions of 5 U.S.C. 552a(k)(2): *Provided, however,* That if any individual is denied any right, privilege, or benefit that they would otherwise be entitled by Federal law, or for which they would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to January 1, 1975, under an implied promise that the identity of the sources would be held in confidence. This system of records is exempt for one or more of the following reasons:

(A) To prevent interference with law enforcement proceedings.

(B) To protect investigatory material compiled for law enforcement purposes.

(C) To avoid unwarranted invasion of personal privacy, by disclosure of information about third parties, including other subjects of investigation, law enforcement personnel, and sources of information.

(D) To fulfill commitments made to protect the confidentiality of sources.

(E) To assure access to sources of confidential information, including that contained in Federal, State, and local criminal law enforcement information systems.

(F) To prevent disclosure of law enforcement techniques and procedures.

(G) To avoid endangering the life or physical safety of confidential sources and law enforcement personnel.

(iii) The system of records includes records subject to the provisions of 5 U.S.C. 552(b)(1) (required by Executive order to be kept secret in the interest of national defense or foreign policy), and such records are exempt under 5 U.S.C. 552a(k)(1).

Subpart 1212.6—Instructions for NASA Employees

§ 1212.600 General policy.

In compliance with the Privacy Act and in accordance with the requirements and procedures of this regulation, NASA has an obligation to:

(a) Advise individuals, when requested, as to whether any specific system of records maintained by NASA contains records pertaining to them;

(b) Prevent records being maintained by NASA in a system of records for a specific purpose from being used or made available for another purpose without the individual's consent; and,

(c) Permit individuals to have access to information about themselves in a

NASA system of records, to have a copy made, and, if appropriate under Subpart 1212.3 of this part, to amend the records.

§ 1212.601 Maintenance and publication requirements for systems of records.

(a) In maintaining systems of records, NASA shall:

(1) Maintain any record in a system of records for necessary and lawful purposes only, assure that the information is current and accurate for its intended use, and provide adequate safeguards to prevent misuse of the information.

(2) Maintain only information about an individual relevant and necessary to accomplish a purpose or to carry out a function of NASA authorized by law or by Executive order of the President.

(3) Maintain records used by NASA officials in making any determination about any individual with such accuracy, relevance, timeliness, and completeness reasonably necessary to assure fairness to the individual in making the determination.

(4) Maintain no record describing how an individual exercises rights guaranteed by the First Amendment unless expressly authorized by statute, by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity.

(5) Maintain and provide access to records of other agencies under NASA's control consistent with the regulations of this part.

(b) Any system of records maintained by NASA which is in addition to or substantially different from a Governmentwide systems of records described in a systems notice published by another agency shall be regarded as a NASA system of records subject to the requirements of this part, and the NASA system notice shall include a reference to the system notice of the other agency.

(c) NASA shall provide adequate advance notice to Congress and OMB of any proposal to establish a new system of records or alter any existing system of records as prescribed by OMB Circular No. A-130, Appendix I.

§ 1212.602 Requirements for collecting information.

In collecting information for systems of records, the following requirements shall be met:

(a) Information shall be collected to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs. Exceptions to this policy may be made under certain circumstances, such as one of the following:

(1) There is a need to verify the accuracy of the information supplied by an individual.

(2) The information can only be obtained from a third party.

(3) There is no risk that information collected from third parties, if inaccurate, could result in an adverse determination to the individual concerned.

(4) Provisions are made to verify with the individual information collected from a third party.

(b) Each individual who is asked to supply information shall be informed of the following:

(1) The authority (whether granted by statute, or by Executive order of the President) for requesting the information;

(2) Whether disclosure is mandatory or voluntary;

(3) The intended official use of the information;

(4) The routine uses which may be made of the information, as published in the system notices;

(5) The effects, if any, on the individual of not providing all or any part of the requested information.

§ 1212.603 Mailing lists.

NASA will not sell, rent, or otherwise disclose an individual's name and address to anyone, unless otherwise specifically authorized by law.

§ 1212.604 Social security numbers.

(a) It is unlawful for NASA to deny to individuals any rights, benefits, or privileges provided by law because of the individuals' refusal to disclose their social security numbers, except where:

(1) The disclosure is required by law; or

(2) The disclosure is from a system of records in existence and operating before January 1, 1975, and was required under statute or regulation adopted before that date to verify the identity of the individual(s).

(b) Any time individuals are requested to disclose their social security numbers, NASA shall indicate whether that disclosure is mandatory or voluntary, by what authority the numbers are requested, and what uses will be made of them.

§ 1212.605 Safeguarding information in systems of records.

(a) Safeguards appropriate for a NASA system of records shall be developed by the system manager in a written plan approved by the Installation Security Officer.

(b) When records or copies of records are distributed within NASA they shall be prominently identified as records protected under the Privacy Act and shall be subject to the same safeguard, retention, and disposition requirements applicable to the system of records.

(c) When records or copies of records are distributed to other Federal agencies, other than those having custody of the systems of records, they shall be prominently identified as records protected under the Privacy Act.

(d) Records that are otherwise required by law to be released to the public need not be safeguarded or identified as Privacy Act records.

§ 1212.606 Duplicate copies of records or portions of records.

(a) NASA officials may maintain and use, for official purposes, duplicate copies of records or portions of records from a system of records maintained by their own organizational unit. This practice should occur only where there are justifiable organizational needs for it, e.g., where geographic distances make use of the system of records time consuming or inconvenient. These duplicate copies shall not be considered a separate NASA system of records. For example, an office head or designee may keep duplicate copies of personnel, training, or similar records on employees within the organization for administrative convenience purposes.

(b) No disclosure shall be made from duplicate copies outside of the organizational unit. Any outside request for disclosure shall be referred to the appropriate system manager for response.

(c) Duplicate copies are subject to the same safeguard requirements applicable to the system of records.

Subpart 1212.7—NASA Authority and Responsibilities

§ 1212.700 NASA employees.

(a) Each NASA employee is responsible for adhering to the requirements of the Privacy Act and this regulation.

(b) An employee shall not seek or obtain access to a record in a NASA system of records or to copies of any portion of such records under false pretenses. Only those employees with an official "need to know" may seek and obtain access to records pertaining to others.

(c) Employees shall refrain from discussing or disclosing personal information about others which they have obtained because of their official need to know such information in the performance of official duties.

(d) To the extent included in a contract which provides for the maintenance by or on behalf of NASA of a system of records to accomplish a function of NASA, the requirements of this section shall apply to contractor employees who work under the contract.

§ 1212.701 Assistant Deputy Administrator.

The Assistant Deputy Administrator is responsible for:

(a) Making final Agency determinations on appeals (§ 1212.400);

(b) Authorizing exemptions from one or more provisions of the Privacy Act for NASA systems of records (See § 1212.500); and,

(c) Authorizing an extension for making a final determination on an appeal (§ 1212.400(d)).

§ 1212.702 Associate Administrator for Management Systems and Facilities.

(a) The Associate Administrator for Management Systems and Facilities is responsible for the following:

(1) Providing overall supervision and coordination of NASA's policies and procedures under this regulation;

(2) Approving system notices for publication in the **Federal Register**;

(3) Assuring that NASA employees and officials are informed of their responsibilities and that they receive appropriate training for the implementation of these requirements; and,

(4) Preparing and submitting the biennial report on implementation of the Privacy Act to OMB and special reports required under this regulation, including establishing appropriate reporting procedures in accordance with OMB Circular No. A–130.

(b) The Associate Administrator for Management Systems and Facilities may establish a position of 'NASA Privacy Officer,' or designate someone to function as such an officer, reporting directly to the Associate Administrator for Management Systems and Facilities, and delegate to that officer any of the functions described in paragraph (a) of this section.

§ 1212.703 Headquarters and Field or Component Installations.

(a) Officials-in-Charge of Headquarters Offices, Directors of NASA Field Installations and Officials-in-Charge of Component Installations are responsible for the following with respect to those systems of records maintained in their organization:

(1) Avoiding the establishment of new systems of records or new routine uses of a system of records without first complying with the requirements of this regulation;

(2) Ensuring that the requirements of this regulation and the Privacy Act are followed by employees;

(3) Ensuring that there is appropriate coordination within NASA before a determination is made to disclose information without the individual's consent under authority of 5 U.S.C. 552a(b) (See § 1212.203(g)); and

(4) Providing appropriate oversight for responsibilities and authorities exercised by system managers under their jurisdiction (§ 1212.704).

(b) Directors of NASA Field Installations and Officials-in-Charge of Component Installations or designees may establish a position of installation Privacy Officer to assist in carrying out the responsibilities listed in paragraph (a) of this section.

§ 1212.704 System manager.

(a) Each system manager is responsible for the following with regard to the system of records over which the system manager has cognizance:

(1) Overall compliance with the "Privacy Act—NASA Regulations" (NASA Management Instruction (NMI) 1382.17) and the Computer Matching Program (NMI 1382.18);

(2) Ensuring that each person involved in the design, development, operation, or maintenance of the system of records is instructed with respect to the requirements of this regulation and the possible penalties for noncompliance;

(3) Submitting a request to the Assistant Deputy Administrator for an exemption of the system under subpart 1212.5 of this part, setting forth in proposed rulemaking form the reasons for the exemption and citing the specific provision of the Privacy Act which is believed to authorize the exemption;

(4) After consultation with the Office of the General Counsel or the Chief Counsel, making reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record;

(5) Making an initial determination on an individual's request to correct or amend a record, in accordance with § 1212.302;

(6) Prior to disclosure of any record about an individual, assuring that the record is first reviewed for accuracy, completeness, timeliness, and relevance;

(7) Authorizing disclosures of a record without the individual's consent under § 1212.203(g)(1) through (12);

(8) Responding within the requirements of § 1212.200 to an individual's request for information as to whether the system contains a record pertaining to the individual;

(9) Responding to an individual's request for access and copying of a record, in accordance with subpart 1212.2 of this part;

(10) Amending a record under subpart 1212.3 of this part, or filing in an individual's record a statement of dispute;

(11) Preparing an addendum to an individual's statement of dispute to be filed in the individual's records, in accordance with § 1212.401;

(12) Maintaining disclosure accountings in accordance with 5 U.S.C. 552a(c) and 14 CFR 1212.203. This includes records disclosed pursuant to any computer matching programs;

(13) Notifying persons to whom a record has been disclosed and for which an accounting was made as to disputes and corrections involving the record; and

(14) Developing appropriate safeguards for the system of records in accordance with § 1212.605(a).

(b) Where a system of records has subsystems described in the system notice, the subsystem manager will have the responsibilities outlined in paragraph (a) of this section. Although the system manager has no line authority over subsystem managers, the system manager does have overall functional responsibility for the total system, and may issue guidance to subsystem managers on implementation of this part. When furnishing information for required reports, the system manager will be responsible for reporting the entire system of records, including any subsystems.

(c) Exercise of the responsibilities and authorities in paragraph (a) of this section by any system or subsystem managers at a NASA Installation shall be subject to any conditions or limitations imposed in accordance with § 1212.703 (a)(4) and (b).

§ 1212.705 Assistant Administrator for Procurement.

The Assistant Administrator for Procurement is responsible for developing appropriate procurement regulations and procedures under which NASA contracts requiring the maintenance of a system of records in order to accomplish a NASA function are made subject to the requirements of this part.

§ 1212.706 Delegation of authority.

Authority necessary to carry out the responsibilities specified in this regulation is delegated to the officials

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named; subject to any conditions or limitations imposed in accordance with this subpart 1212.7.

Subpart 1212.8—Failure To Comply With Requirements of This Part

§ 1212.800 Civil remedies.

Failure to comply with the requirements of the Privacy Act and this part could subject NASA to civil suit under the provisions of 5 U.S.C. 552a(g).

§ 1212.801 Criminal penalties.

(a) A NASA officer or employee may be subject to criminal penalties under the provisions of 5 U.S.C. 552a(i) (1) and (2).

(1) Section 552a(i)(1). Any officer or employee of an agency, who by virtue of employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this section or by rules or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than $5,000.

(2) Section 552a(i)(2). Any officer or employee of any agency who willfully maintains a system of records without meeting the notice requirements of subsection (e)(4) of this section shall be guilty of a misdemeanor and fined not more than $5,000.

(3) These two provisions apply to NASA civil service employees as well as those employees of a NASA contractor with responsibilities for maintaining a Privacy Act system of records.

(b) Section 552a(i)(3). Any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than $5,000.

Dated: February 5, 1992.

Richard H. Truly,

Administrator.

[FR Doc. 92-3156 Filed 2-10-92; 8:45 am]

BILLING CODE 7510-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 600

Statement of General Policy or Interpretation; Commentary on the Fair Credit Reporting Act

AGENCY: Federal Trade Commission.

ACTION: Amendment to commentary.

SUMMARY: The Commission is issuing an amendment to its Commentary on the Fair Credit Reporting Act revising one sentence in comment 7 to section 609 of that Act to reflect the Commission's view that a "risk score" must be disclosed to a consumer by a consumer reporting agency.

EFFECTIVE DATE: February 11, 1992.

ADDRESSES: Federal Trade Commission, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Clarke Brinckerhoff, Attorney, Division of Credit Practices, Federal Trade Commission, Washington, DC 20580, 202-326-3208.

SUPPLEMENTARY INFORMATION: The Commission published its Commentary on the Fair Credit Reporting Act ("FCRA") on May 4, 1990 (55 FR 18804) to provide guidance to the consumer reporting industry, consumer report users, and consumers.

Section 609 of the FCRA specifies the disclosures that consumer reporting agencies must make to consumers who properly request the information maintained on them. The Commentary, in comment 7 to section 609, currently includes the following sentence:

> Similarly, a point score that is provided to evaluate the report for its recipient (and/or the scoring system used to calculate the score) need not be disclosed, because the score is not used in preparing future reports. 55 FR 18822.

Based on a review of the use of point scores (also referred to as risk scores) by consumer reporting agencies and consistent with the legislative history of the FCRA, the Commission has reconsidered its position on the disclosure of a risk score that is provided to assist the recipient in evaluating the report. The Commission has determined that such risk scores must be disclosed by consumer reporting agencies to consumers requesting information maintained on them.

Risk scores, which were used less frequently in the past, now are commonly provided by consumer reporting agencies to assist clients in interpreting the agencies' consumer reports. Indeed, through recent investigations in the consumer reporting industry, the Commission has learned that, in some instances, a consumer reporting agency provides only a risk score and no other information to its client. Congresswoman Leonor Sullivan, when introducing the conference report on the bill that ultimately enacted the FCRA, stated:

> (The House conferees) stressed that the consumer should have access to all information *in any form which would be relayed to a prospective employer, insurer or creditor in making a judgment as to the worthiness of the individual's application for such benefits* * * *. It is not intended that the credit reporting firm should have a free hand in excluding from the consumer's access information other than medical information it just does not want to give him, but will give to a client-user.
>
> 116 Cong. Rec. 36572, October 12, 1970 (Emphasis added)

A consumer reporting agency provides a risk score (or other numerical evaluation, however named) to its client (creditor, insurer, employer, etc.) specifically to assist that client in making a judgment as to the worthiness of the consumer's application (for credit, insurance, employment, etc.). In light of this information and consistent with the legislative history of the FCRA, the Commission believes that the FCRA Commentary should be revised. Accordingly, comment 7 to section 609 (55 FR 18822) is revised by deleting the above-quoted sentence and replacing it with the following:

> However, a risk score (or other numerical evaluation, however named) that is reported by a consumer reporting agency to a client to assist in evaluating a consumer's eligibility for credit (or other permissible purposes) — must be disclosed (along with an explanation of the risk score), because, as indicated in the legislative history, each consumer should have access to all such information, regardless of form. [See 116 Cong. Rec. 36572 (1970) (remarks of Rep. Sullivan).]

List of Subjects in 16 CFR Part 600

Credit, Trade practices.

For the reasons set out in the preamble, title 16, chapter I, part 600 of the Code of Federal Regulations, is amended as follows:

PART 600—STATEMENT OF GENERAL POLICY OR INTERPRETATIONS

1. The authority citation for part 600 continues to read as follows:

Authority: 15 U.S.C. 1681s and 16 CFR 1.73.

2. Section 609 of the appendix is amended by revising comment 7 to read as follows:

Appendix—Commentary on the Fair Credit Reporting Act

* * * * *

Section 609—Disclosure to Consumers

* * * * *

7. Ancillary Information

A consumer reporting agency is not required to disclose information consisting of an audit trail of changes it makes in the consumer's file, billing records, or the contents of a consumer relations folder, if the information is not from consumer reports and will not be used in preparing future consumer reports. Such data is not included in the term "information in its files" which must be disclosed to the consumer pursuant to this section. However, a risk score (or other numerical evaluation, however named) that is reported by a consumer reporting agency to a client to assist in evaluating a consumer's eligibility for credit (or other permissible purposes) must be disclosed (along with an explanation of the risk score), because, as indicated in the legislative history, each consumer should have access to all such information, regardless of form. [See 116 Cong. Rec. 36572 (1970) (remarks of Rep. Sullivan).] A consumer reporting agency must disclose claims report information only if it has appeared in consumer reports.

* * * * *

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 92-3193 Filed 2-10-92; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 10

[T.D. 92-20]

Reciprocal Privileges Extended to Aircraft of Argentina

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations by expanding the exemptions from Customs duties and internal revenue taxes on equipment, spare parts, and supplies withdrawn from Customs or internal revenue custody for use by commercial aircraft registered in Argentina. Previously, the exemption for Argentine aircraft supplies has not applied to aircraft fuel and lubricants. The Department of Commerce has advised Customs that the Government of Argentina now affords exemption privileges to U.S.-registered aircraft for fuel and lubricants, in connection with international commercial operations, substantially reciprocal to those exemption privileges which may be provided under U.S. law to aircraft of foreign registry. Accordingly, commercial aircraft of Argentine registry will now be exempt from the payment of duties and taxes on fuel and lubricants withdrawn from Customs or internal revenue custody.

DATES: This amendment is effective January 27, 1992.

FOR FURTHER INFORMATION CONTACT: William Rosoff, Entry Rulings Branch (202-566-5856).

SUPPLEMENTARY INFORMATION:

Background

Sections 309 and 317, Tariff Act of 1930, as amended (19 U.S.C. 1309 and 1317), provide that foreign-registered aircraft engaged in foreign trade may withdraw articles of foreign or domestic origin from Customs or internal revenue custody, for use as supplies (including equipment), ground equipment, maintenance, or repair of the aircraft, without the payment of Customs duties and/or internal revenue taxes. This exemption from duties and taxes is a privilege which may be granted to aircraft registered in a foreign country only if the Secretary of Commerce finds, and so advises the Secretary of the Treasury, that the foreign country in question affords substantially reciprocal privileges to aircraft registered in the United States. Section 10.59(f), Customs Regulations (19 CFR 10.59(f)), lists those foreign countries whose aircraft have been granted such an exemption.

In T.D. 54925(1) an exemption from duties and taxes was granted under 19 U.S.C. 1309 and 1317 to aircraft registered in Argentina with regard to "airline equipment, spare parts, and supplies other than fuel and lubricants." Accordingly, § 10.59(f) reflects this exemption, including the exception thereto regarding fuel and lubricants.

In accordance with 19 U.S.C. 1309(d), the Secretary of Commerce has found, and has so advised the Customs Service, that the Government of Argentina affords exemption privileges for fuel and lubricants to aircraft of U.S. registry, in connection with international commercial operations, substantially reciprocal to those exemption privileges provided to aircraft of foreign registry under 19 U.S.C. 1309 and 1317. This document amends the list in § 10.59(f), Customs Regulations (19 CFR 10.59(f)), by removing the exception which indicated that Argentine commercial aircraft were not exempt from the payment of duties and taxes on fuel and lubricants withdrawn from Customs or internal revenue custody.

The authority to amend this section of the Customs Regulations has been delegated to the Chief, Regulations and Disclosure Law Branch.

Inapplicability of Public Notice and Delayed Effective Date Requirements

Because the subject matter of this document does not constitute a departure from established policy or procedures but merely announces the granting of an exemption for which there is a statutory basis, it has been determined, pursuant to 5 U.S.C. 553(b)(B), that notice and public procedure thereon are unnecessary. In addition, for the same reasons and because Argentina is presently granting reciprocal exemption privileges to U.S. aircraft, a delayed effective date is not appropriate.

Regulatory Flexibility Act and Executive Order 12291

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) does not apply to regulations such as this for which a notice of proposed rulemaking is not required by the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) or by any other statute. In addition, this document does not meet the criteria for a "major rule" as specified in E.O. 12291 and, accordingly, no regulatory impact analysis has been prepared.

Drafting Information

The principal author of this document was Francis W. Foote, Regulations and Disclosure Law Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 10

Customs duties and inspection, Imports, Exports.

Amendment to the Regulations

Part 10, Customs Regulations (19 CFR part 10), is amended as set forth below:

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. The authority citation for part 10 continues to read as follows:

Authority: 19 U.S.C. 66, 1202, 1481, 1484, 1498, 1508, 1623, 1624;

* * * * *

Section 10.59 also issued under 19 U.S.C. 1309, 1317;

* * * * *

§ 10.59 [Amended]

2. Section 10.59(f) is amended by adding the number 92-20 opposite "Argentina" in the column headed "Treasury Decision(s)", and by removing the words "other than fuel and lubricants" opposite "Argentina" in the column headed "Exceptions if any, as noted".

Dated: February 6, 1992.

Kathryn C. Peterson,

Chief, Regulations and Disclosure Law Branch.

[FR Doc. 92-3192 Filed 2-10-92; 8:45 am]

BILLING CODE 4820-02-M

Internal Revenue Service

26 CFR Part 301

[TD 8391]

RIN 1545–AM71

Statute of Limitations on Collection After Assessment and Collection After Commencement of Judicial Proceedings

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains regulatory amendments regarding the statute of limitations on collection after assessment and collection after the commencement of judicial proceedings. The existing regulations provide that a proceeding in court to collect an assessable tax may be begun, or a levy for the collection of an assessable tax may be made, within six years after the timely assessment of such tax. The Omnibus Budget Reconciliation Act of 1990 amended the Internal Revenue Code by extending the statute of limitations on collection after assessment from six to ten years. The existing regulations also provide that the period during which a tax liability may be collected by levy shall not be extended or curtailed by reason of a judgment against the taxpayer. The Technical and Miscellaneous Revenue Act of 1988 amended the Internal Revenue Code to provide that if a timely proceeding in court for the collection of a tax is commenced, the period during which the tax may be collected by levy shall be extended until the liability or a judgment arising out of the liability is satisfied or becomes unenforceable. The regulations amend the existing regulations to conform them to the present law.

EFFECTIVE DATES: The amendment concerning § 301.6502–1 (a)(1) and (a)(2)(i) (the statute of limitations on collection after assessment) is effective for taxes assessed after November 5, 1990, and for taxes assessed on or before November 5, 1990, if the period prescribed in section 6502 of the Internal Revenue Code of 1986 (determined without regard to the amendments made by the Omnibus Budget Reconciliation Act of 1990) for the collection of such taxes had not expired as of November 5, 1990.

The amendment concerning § 301.6502–1(a)(3) (collection after commencement of judicial proceedings) is effective for levies issued after November 10, 1988.

The amendment concerning § 301.6502–1(c) is effective February 11, 1992.

FOR FURTHER INFORMATION CONTACT: Kevin B. Connelly, 202–535–9682 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains regulations amending the Procedure and Administration Regulations (26 CFR part 301) under section 6502 of the Internal Revenue Code. The regulations reflect the amendment of section 6502 by section 11317 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. No. 101–5080), by section 1015(u)(1) of the Technical and Miscellaneous Revenue Act of 1988 (Pub. L. No. 100–647), and by section 7811(k)(2) of the Omnibus Budget Reconciliation Act of 1989 (Pub. L. No. 101–239).

Explanation of Provisions

The Internal Revenue Service published a notice of proposed rulemaking in the **Federal Register** on June 18, 1991 (56 FR 27928). Prior to publication of the notice, the Internal Revenue Service gave the Small Business Administration the opportunity to comment.

The Internal Revenue Service has not received any public comments on the proposed regulation. The proposed regulation, therefore, is adopted in toto as the final regulation.

Section 11317 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. No. 101–508, 104 Stat. 1388) amended section 6502(a) of the Internal Revenue Code by extending the statute of limitations on collection after assessment from six years to ten years. The regulation conforms the existing regulations to section 6502(a) in its present form.

Section 1015(u)(1) of the Technical and Miscellaneous Revenue Act of 1988 (TAMRA) (Pub. L. No. 100–647, 102 Stat. 3573) amended section 6502 of the Internal Revenue Code to provide that if a timely proceeding in court for the collection of a tax is commenced, the period during which the tax may be collected by levy shall be extended until the tax liability or a judgment against the taxpayer arising from the liability is satisfied or becomes "enforceable." The word "enforceable" appeared in the statute through a clerical error. The error was corrected by section 7811(k)(2) of the Omnibus Budget Reconciliation Act of 1989 (Pub. L. No. 101–239, 103 Stat. 2412), which changed the word "enforceable" to "unenforceable." The existing regulations under section 6502(a) of the Internal Revenue Code provide that the period for collection by levy after an assessment shall not be extended or curtailed by reason of a judgment against a taxpayer. This is now an incorrect statement of the law, in view of the TAMRA amendment. The regulations would conform the existing regulations to section 6502(a) in its present form.

Special Analyses

It has been determined that these rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, a copy of these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comments on their impact on small business.

Drafting Information

The principal authors of these proposed regulations are Kevin B. Connelly and Anne P. Rosselot, Office of the Assistant Chief Counsel (General Litigation), Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 301

Administrative practice and procedure, Alimony, Bankruptcy, Child support, Continental shelf, Courts, Crime, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Investigations, Law enforcement, Oil pollution, Penalties, Pensions, Reporting and recordkeeping requirements, Statistics, Taxes.

Adoption of Addition to the Regulations

Accordingly, title 26, part 301 of the Code of Federal Regulations is amended as follows:

PART 1—[AMENDED]

Paragraph 1. The authority citation for part 301 continues to read in part:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 301.6502–1 is amended as follows:

1. Paragraph (a)(1) is amended by removing the words "6 years" and adding the words "10 years" in their place.

2. Paragraph (a)(2)(i) is amended by removing the words "6-year period of limitation" and adding "10-year period of limitation" in their place.

3. Paragraph (a)(3) is revised to read as set forth below.

4. Paragraph (c) is added to read as set forth below.

§ 301.6502–1 Collection after assessment.

(a) * * *

(3) If a proceeding in court for the collection of a tax is begun within the period provided in paragraph (a)(1) of this section (or within any extended period as provided in paragraph (a)(2) of this section), the period during which the tax may be collected by levy is extended until the liability for the tax or for a judgment against the taxpayer arising from the liability is satisfied or becomes unenforceable.

* * * * *

(c) *Effective dates.* (1) Paragraph (a)(1) of this section shall apply to—

(i) Taxes assessed after November 5, 1990; and

(ii) Taxes assessed on or before November 5, 1990, if the period prescribed in section 6502 of the Internal Revenue Code of 1986 (determined without regard to the amendments made by the Omnibus Budget Reconciliation Act of 1990) for the collection of such taxes has not expired as of such date.

(2) Paragraph (a)(3) of this section shall apply to levies issued after November 10, 1988.

Fred T. Goldberg, Jr.,

Commissioner of Internal Revenue.

Approved: January 7, 1992.

Kenneth W. Gideon,

Assistant Secretary of the Treasury.

[FR Doc. 92–2026 Filed 2–10–92; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Judge Advocate General of the Navy has determined that USS BOISE (SSN 764) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special functions as a naval submarine. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: January 16, 1992.

FOR FURTHER INFORMATION CONTACT: Captain R.R. Rossi, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332–2400, Telephone number: (703) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This amendment provides notice that the Judge Advocate General of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS BOISE (SSN 764) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21(c), pertaining to the arc of visibility of the sternlight; Annex I, section 2(a)(i), pertaining to the height of the masthead light; Annex 1, section 2(k), pertaining to the height and relative positions of the anchor lights; and Annex 1, section 3(b), pertaining to the location of the sidelights. Full compliance with the above-mentioned 72 COLREGS provisions would interfere with the special functions and purposes of the vessel. The Judge Advocate General of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that USS BOISE (SSN 764) is a member of the SSN–688 class of vessels for which certain exemptions, pursuant to 72 COLREGS, Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of § 706.3, are equally applicable to USS BOISE (SSN 764).

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR part 706 is amended as follows:

1. The authority citation for 32 CFR part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

2. Table One of § 706.2 is amended by adding the following vessel:

TABLE ONE

Vessel	Number	Distance in meters of forward masthead light below minimum required height. Section 2(a)(i), Annex I
*	*	*
USS BOISE	SSN 764	3.5

3. Table Three of § 706.2 is amended by adding the following vessel:

TABLE THREE

Vessel	Number	Masthead lights, arc of visibility; Rule 21(a)	Side lights, arc of visibility; Rule 21(b)	Stern light, arc of visibility; Rule 21(c)	Side lights, distance inboard of ship's sides in meters; section 3(b), Annex I	Stern light distance forward of stern in meters; Rule 21(c)	Forward anchor light, height above hull in meters; section 2(k), Annex I	Anchor lights, relationship of aft light to forward light in meters; section 2(k), Annex I
* * * * * * *								
USS BOISE	SSN 764	—	—	209	4.3	6.1	3.4	1.7 below.

Dated: January 16, 1992.

J. E. Gordon,

Rear Admiral, JAGC, U.S. Navy, Judge Advocate General.

[FR Doc. 92–3132 Filed 2–10–92; 8:45 am]

BILLING CODE 3810-AE-M

GENERAL SERVICES ADMINISTRATION

48 CFR Part 570

[Acquisition Circular AC–91–1, Supplement No. 1]

General Services Administration Acquisition Regulation; Clauses for Acquisitions of Leasehold Interests in Real Property

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Temporary regulation.

SUMMARY: This supplement to the General Services Administration Acquisition Regulation, Acquisition Circular AC–91–1, extends the expiration date to January 31, 1993. The intended effect is to extend the policies and procedures established in AC–91–1, which revised part 570 of the regulation, to modify the prescriptions for use of certain contract clauses in acquisitions of leasehold interests in real property by simplifying the terms and conditions of leases for blocks of space in buildings of 10,000 square feet or less.

DATES: *Effective date:* February 1, 1992. *Expiration date:* January 31, 1993.

FOR FURTHER INFORMATION CONTACT: Ida M. Ustad, Office of GSA Acquisition Policy (VP), (202) 501–1224.

SUPPLEMENTARY INFORMATION:

A. Public Comment

This rule was not published in the **Federal Register** for public comment because it is not a significant revision as defined in section 1.501–1 of the Federal Acquisition Regulation.

B. Executive Order 12291

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The exemption applies to this rule.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 et seq., is not applicable because the proposed rule was not required to be published in the **Federal Register**.

D. Paperwork Reduction Act

The temporary rule does not contain information collection requirements that require approval of OMB under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501).

List of Subjects in 48 CFR Part 570

Government procurement.

PART 570 [AMENDED]

1. The authority citation for 48 CFR part 570 continues to read as follows:

Authority: 40 U.S.C. 486(c).

2. 48 CFR part 570 is amended by the following supplement to Acquisition Circular AC–91–1.

General Services Administration Acquisition Regulation Acquisition Circular AC–91–1, Supplement No. 1

TO: All GSA Contracting Activities.

SUBJECT: Revision of prescriptions for use of certain clauses in acquisitions of leasehold interests in real property.

1. *Purpose.* This supplement extends the expiration date of the General Services Administration Acquisition Regulation Acquisition Circular AC–91–1.

2. *Effective date.* February 1, 1992.

3. *Expiration date.* Acquisition Circular AC–91–1 and this supplement will expire on January 31, 1993, unless canceled earlier.

Dated: January 31, 1992.

Richard H. Hopf, III,

Associate Administrator for Acquisition Policy.

[FR Doc. 92–3131 Filed 2–10–92; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 911176–2016]

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: NMFS has established a directed fishing allowance and is prohibiting directed fishing for pollock in statistical area 63 in the Gulf of Alaska (GOA). This action is necessary to prevent the first quarter allowance of total allowable catch (TAC) for pollock in statistical area 63 in the GOA from being exceeded. The intent of this action is to promote optimum use of groundfish while conserving pollock stocks.

EFFECTIVE DATES: 12 noon, Alaska local time (A.l.t.), February 7, 1992, through 12 midnight, A.l.t., March 29, 1992.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, Resource Management Specialist, Fisheries Management Division, NMFS, (907) 586–7228.

SUPPLEMENTARY INFORMATION: The domestic and foreign groundfish fisheries in the exclusive economic zone of the GOA are managed by the Secretary of Commerce under the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) under the Magnuson Fishery Conservation and Management Act. The FMP was prepared by the North Pacific

Fishery Management Council under the Magnuson Fishery Conservation and Management Act and is implemented by regulations appearing at 50 CFR 611.92 and parts 620 and 672.

The amount of a species or species group apportioned to a fishery is TAC, as defined at § 672.20(c). Under the final notice of specifications (57 FR 2844; January 24, 1992), the TAC of pollock for the combined Western/Central (W/C) Regulatory areas in the GOA was established as 84,000 metric tons (mt).

Under regulations found at 50 CFR 672.20(a)(2)(iv), the TAC for pollock in the combined W/C Regulatory areas is apportioned among statistical areas 61, 62, and 63, in proportion to the distribution of the pollock biomass as determined by the most recent NMFS surveys. Each apportionment is divided equally into the four quarterly reporting periods of the fishing year. The apportionment to statistical area 63 is 46,200 mt. This amount is further divided into quarterly allowances of 11,550 mt.

Within any fishing year, any unharvested amount of any quarterly allowance of TACs will be added in equal proportions to the quarterly allowances of the following quarters, resulting in a sum for each quarter not to exceed 150 percent of the initial quarterly allowance. Within any fishing year, harvests in excess of a quarterly allowance of any TAC will be deducted in equal proportions from the quarterly allowances of each of the remaining quarters of that fishing year.

Under § 672.20(c)(2), the Director, Alaska Region, NMFS (Regional Director), has determined that the apportionment in statistical area 63 will soon be reached. NMFS has established a directed fishing allowance of 10,800 mt, and is setting aside the remaining 750 mt of the current apportionment as bycatch to support other anticipated groundfish fisheries. The Regional Director has determined that the directed fishery soon will catch its allowance. Consequently, under § 672.20(c)(2), NMFS is prohibiting directed fishing for pollock in GOA statistical area 63, effective from 12 noon A.l.t., February 7, 1992, through 12 midnight, A.l.t., March 29, 1992.

After this closure, in accordance with § 672.20(g)(4), amounts of pollock retained on board a vessel in GOA statistical area 63 may not equal or exceed 20 percent of the aggregate amount of all other fish species retained at the same time by the vessel during the same trip as measured in round weight equivalents.

Classification

This action is taken under 50 CFR 672.20, and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR 672

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 5, 1992.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92-3147 Filed 2-5-92; 4:36 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 57, No. 28
Tuesday, February 11, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 625

[FHWA Docket No. 92-8]

RIN 2125-AC84

Design Standards for Highways; Requirements for Roadside Barriers and Safety Appurtenances

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: The Federal Highway Administration (FHWA) is requesting comments on possible revisions of 23 CFR part 625 to revise the guidelines and establish standards for installation of roadside barriers and other safety appurtenances, including longitudinal barriers, end terminals, and crash cushions. The objective of the revisions would be to provide an enhanced level of crashworthy performance in roadside barriers and other safety appurtenances to accommodate vans, mini-vans, pickup trucks, and 4-wheel drive vehicles.

DATES: Comments must be received on or before April 17, 1992.

ADDRESSES: Submit written, signed comments to FHWA Docket No. 92-8, Federal Highway Administration, room 4232, HCC-10, 400 Seventh Street SW., Washington, DC., 20590. All comments received will be available for examination at the above address between 8:30 a.m. and 3:30 p.m., e.t., Monday through Friday, except legal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. James H. Hatton, Jr., Office of Engineering (202) 366-1329, or Mr. Wilbert Baccus, Office of the Chief Counsel (202) 366-0780. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: Section 1073 of Public law 102-240, 105 Stat. 1914, The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), enacted December 18, 1991, states that, "* * * the Secretary (of Transportation) shall initiate a rulemaking proceeding to revise the guidelines and establish standards for installation of roadside barriers and other safety appurtenances, included longitudinal barriers, end terminals, and crash cushions. Such rulemaking shall reflect state-of-the-art designs, testing, and evaluation criteria contained in National Cooperative Highway Research Program Report 230 (Recommended Procedures for the Safety Performance Evaluation of Highway Appurtenances), relating to approval standards which provide an enhanced level of crashworthy performance to accommodate vans, mini-vans, pickup trucks, and 4-wheel drive vehicles." The section further states that, "[n]ot later than 1 year after the date of enactment of this Act, the Secretary shall complete the rulemaking proceeding * * * and issue a final rule regarding the implementation of revised guidelines and standards for acceptable roadside barriers and other safety appurtenances, including longitudinal barriers, end terminals, and crash cushions. Such revised guidelines and standards shall accommodate vans, mini-vans, pickup trucks, and 4-wheel drive vehicles and shall be applicable to the refurbishment and replacement of existing roadside barriers and safety appurtenances as well as to the installation of new roadside barriers and safety appurtenances.".

Current FHWA guidance and requirements on traffic barriers and safety appurtenances are found in 23 CFR part 625 (Design Standards for Highways) where the following relevant documents are cited: "A Policy on Geometric Design of Highways and Streets," AASHTO 1984; "Standard Specifications for Highway Bridges," Thirteenth Edition, AASHTO 1983, and "Interim Specifications, Bridges," AASHTO, issued annually 1984, through 1988; "Standard Specifications for Structural Supports for Highway Signs, Luminaries and Traffic Signals," AASHTO 1985, and "Interim Specifications, Bridges," AASHTO 1986 through 1988; "Roadside Design Guide," AASHTO 1989; and "Guide Specifications for Bridge Railings," AASHTO 1989. None of these documents expressly addresses performance with the vehicles cited in the ISTEA except the "Guide Specifications for Bridge Railings," which does recommend testing bridge railings with a pickup truck (and larger and smaller vehicles).

The National Cooperative Highway Research Program (NCHRP) Report 230 does not include guidance for testing or evaluating appurtenances with the vehicles cited in the ISTEA. However, the NCHRP has an on-going project to develop a replacement for Report 230. This project should be completely by the middle of this year. The Report 230 replacement document will address testing and evaluating appurtenances with pickup trucks. Available data from testing appurtenances with pickups and vans should allow an assessment of the applicability of the Report 230 replacement guidance to the evaluation of appurtenance performance with the various vehicles cited in the ISTEA.

The FHWA intends that any requirements that might come from this anticipated rulemaking will lead to cost beneficial safety appurtenance installations. In order to meet the statutory deadline established in section 1073 of the ISTEA, analyses based on currently available data and research results and engineering judgment, as well as public input, will be significant bases for any requirements resulting from this anticipated rulemaking. Of course, any relevant new research that can be completed in time to meet the schedule will be used.

The FHWA is also aware that NCHRP has an active research project, "Improved Procedures for Cost-Effectiveness Analysis of Roadside Safety Features," scheduled for completion in late 1993. This study is expected to provide improved guidance and support for designing and selecting safety appurtenances to meet the needs of the occupants of the full range of vehicles using our highways. The results from this NCHRP study may be used to refine any requirements that might result from the current rulemaking process.

At this time the Federal Highway Administration (FHWA) is requesting all interested parties with information or views on the subject of this ANPRM to respond to the docket at the address given under the heading **ADDRESSES.** Of particular value will be information on safety appurtenance testing with vehicles of the types cited in the ISTEA, data on accidents involving those vehicles striking traffic barriers or other safety appurtenances, and highway agency appurtenance selection procedures that are intended to ensure installation of appurtenances compatible with the vehicles cited in the ISTEA.

Rulemaking Analyses and Notices

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

The action being considered by the FHWA in this document would amend requirements for traffic barriers and other safety appurtenances installed on the National Highway System. The FHWA has not yet determined whether this action would constitute a major rule under Executive Order 12291. However, because the action is expected to implement state-of-the-art practices not greatly different from those currently followed, the FHWA does not at this time consider this to be a significant regulation under the regulatory policies and procedures of the Department of Transportation. The potential economic impact of this rulemaking is not known at this stage. Therefore, a full regulatory evaluation has not yet been prepared.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354), the agency will evaluate the effects of this proposal on small entities. Following the agency's evaluation, the FHWA will certify whether this proposed action will have a significant economic impact on a substantial number of small entities.

Executive Order 12612 (Federalism Assessment)

This action will be analyzed in accordance with the principles and criteria contained in Executive Order 12612 to determine whether it has sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

This rule does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

National Environmental Policy Act

The agency will analyze this action for the purpose of the National Environmental Policy Act of 1969 to determine whether this action will have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 625

Design standards, Grant programs—transportation, Highways and roads.

Authority: 23 U.S.C. 109, 315, and 402; section 1073 of Pub. L. 102–240, 105 Stat. 1914; 49 CFR 1.48 (b) and (n).

Issued on: February 4, 1992.

T.D. Larson,
Administrator.

[FR Doc. 92–3169 Filed 2–10–92; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[FI–3–91]

RIN 1545–AQ14

Capitalization of Certain Policy Acquisition Expenses; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document contains a correction to the notice of proposed rulemaking (FI–3–91), which was published in the **Federal Register** on November 15, 1991 (56 FR 58003). This proposed regulation relates to the requirement that insurance companies capitalize specified policy acquisition expenses for tax purposes.

FOR FURTHER INFORMATION CONTACT: Gary Geisler, (202) 566–3478 (not a toll-free number.).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking that is the subject of this correction amends the Income Tax Regulations (26 CFR part 1) under 848 of the Internal Revenue Code, relating to the capitalization of certain policy acquisition expenses of insurance companies. Section 848 was added to the Code by section 11301(a) of the Revenue Reconciliation Act of 1990, Public Law No. 101–508.

Need for Correction

As published, the proposed regulations contain an error which may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of proposed regulations (FI–3–91), which was the subject of FR Doc. 91–27515, is corrected as follows:

1. On page 58014, column 2, § 1.848–3(d), paragraph (ii) of *Example 4*, line 18, the language "(40%×8,000) and as having paid return" is corrected to read "(40%×8,000) and is treated as having paid return".

Dale D. Goode,
Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 92–3212 Filed 2–10–92; 8:45 am]

BILLING CODE 4830–01–M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 734]

RIN 1512–AA07

Realignment of the Northern Boundary of the Alexander Valley Viticultural Area (89F751P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Petition for rulemaking: withdrawal.

SUMMARY: ATF is withdrawing from further consideration the notice of proposed rulemaking regarding the realignment of the Northern Boundary of the Alexander Valley viticultural area, as proposed in Notice No. 719 published in the **Federal Register** on May 20, 1991 (56 FR 23041). After considering the comments received in response to the notice, the Bureau has concluded that the petitioner failed to meet the burden

of showing that the present northern boundary of the Alexander Valley viticultural area should be revised. The northern boundary of the Alexander Valley viticultural area will therefore remain unchanged.

DATES: This withdrawal is effective February 11, 1992.

FOR FURTHER INFORMATION CONTACT: David W. Brokaw, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927-8230.

SUPPLEMENTARY INFORMATION:

Background

On May 20, 1991, ATF published Notice No. 719 in response to a petition submitted by Mr. James W. Reed of Oak Ridge Ranch and Vineyards. Mr. Reed requested that the northern boundary of the Alexander Valley viticultural area be revised to include vineyard land that was not included when the viticultural area was established by Treasury Decision ATF-187 on November 23, 1984.

Mr. Reed stated that his northernmost eight-acre vineyard block known as CS73 lies just outside the northern boundary of the Alexander Valley viticultural area. Mr. Reed further stated that this vineyard is isolated and, in fact, cannot be reached or the fruit removed without entering the present Alexander Valley viticultural area. Mr. Reed owns other vineyards within the Alexander Valley viticultural area and only recently became aware that vineyard block CS73 was not included within the established boundaries of the Alexander Valley viticultural area. However, the current boundaries do not split any of Mr. Reed's existing vineyards. Mr. Reed submitted evidence that the topography, climate, and soils of the proposed area of extension were similar to the topography, climate, and soils within the Alexander Valley viticultural area. However, the only evidence of name submitted by the petitioner consisted of letters from three wineries which considered that Mr. Reed's vineyards belonged in the Alexander Valley viticultural area.

Currently, the northern boundary of the Alexander Valley viticultural area follows the line between Sonoma and Mendocino Counties, with the viticultural area located entirely within Sonoma County. Furthermore, the northern boundary of the Alexander Valley viticultural area coincides with the northern boundary of the Northern Sonoma viticultural area. With one exception, the boundaries of the Northern Sonoma viticultural area generally coincide with the "outer" portions of the boundaries of the Alexander Valley, Dry Creek Valley, Russian River Valley, and Knights Valley viticultural areas.

The proposed extension would have only added approximately 80 acres to the Alexander Valley viticultural area. However, the revision of the northern boundary would have extended Alexander Valley into Mendocino County. The proposed northern boundary for the Alexander Valley viticultural area would also have diverged from the northern boundary of the Northern Sonoma viticultural area. None of the evidence submitted by the petitioner addressed these issues. Thus, in Notice No. 719, ATF specifically solicited comments on these issues.

Comments Received in Response to Notice No. 719

In response to the notice of proposed rulemaking, ATF received 17 comments. Many of the comments were given the same consideration as those received on or before the closing date, since it was practical to do so. Sixteen of the comments were in opposition to the proposed extension, and the remaining comment also expressed concerns about whether there was sufficient evidence to justify extending the Alexander Valley viticultural area outside of Sonoma County.

While several of the comments were general, many of the commenters specifically addressed the issues which ATT had raised in Notice No. 719. A comment from the Sonoma County Grape Growers Association stated that "[a]s long as anyone in our organization can remember, Alexander Valley has been inextricably and exclusively linked to Sonoma County." The owner of a vineyard asserted that "in 14 decades Alexander Valley has been in Sonoma County and does not include any of Mendocino County." A comment from several vineyard and winery owners stated that "[t]he association of the Valley with the County is absolute as there has never, locally or elsewhere, been any usage of the name outside of Sonoma County." The Alexander Valley Association commented that "[f]or over 100 years Alexander Valley has been recognized as a winegrape growing area wholly within Sonoma County, not extending into any adjoining county." These comments from local wineries and grape growers contradicted the petitioner's contention that the area of the proposed extension was locally known as part of Alexander Valley.

In response to these comments, ATF researched the materials on file from the original Alexander Valley rulemaking record, looking for evidence which would support the extension of the Alexander Valley viticultural area into Mendocino County. ATF could find no such evidence; nor could the Sonoma County Agricultural Extension Agent, whom ATF contacted, provide any such evidence.

Decision

After carefully studying the evidence and analyzing the comments, ATF has found no basis for amending the current northern boundary of the Alexander Valley viticultural area. The petitioner demonstrated that the proposed area of extension does share similar geographical characteristics (climate, soil, elevation, physical features, etc.) with the current Alexander Valley viticultural area. However, the weight of the evidence supports the finding that Alexander Valley has always been identified with Sonoma County and has never been known to extend into Mendocino County. The petitioner has not shown that the proposed area of extension is locally or nationally known as part of Alexander Valley. For this reason, ATF is withdrawing Notice No. 719.

Drafting Information

The author of this document is David W. Brokaw, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority and Issuance

This document is issued under the authority in 27 U.S.C. 205.

Dated: February 4, 1992.

Stephen E. Higgins,

Director.

[FR Doc. 91–3329 Filed 2–10–91; 8:45 am]

BILLING CODE 4810–31–M

Notices

Federal Register
Vol. 57, No. 28
Tuesday, February 11, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Intent To Grant an Exclusive Patent License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant an exclusive license for practice in Canada to the Bovine Blood Typing Laboratory, Saskatoon, Saskatchewan, on the Canadian counterpart of U.S. Patent Application Serial No. 07/764,466, "Diagnostic Assays for Genetic Mutations Associated with Bovine Leukocyte Adhesion Deficiency," filed September 20, 1991. Licenses for practice in the United States of America and certain other foreign countries remain available and interested parties are invited to apply. Notice of Availability was given on January 23, 1992, in the **Federal Register**.

DATES: Comments must be received on or before April 13, 1992.

ADDRESSES: Send comments to: USDA–ARS–Office of Cooperative Interactions, Beltsville, Agricultural Research Center, Baltimore Boulevard, Building 005, room 403, BARC–W, Beltsville, Maryland 20705–2350.

FOR FURTHER INFORMATION CONTACT: M. Ann Whitehead of the Office of Cooperative Interactions at the Beltsville address given above; telephone: 301/504–6786, (FTS) 964–6786.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights to this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention for the said applicant has submitted a complete and sufficient application for a license to practice in Canada; promises to make the resources available to bring the invention to practical application in Canada; and, commits itself to keep the invention available to the Canadian public on reasonable terms. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty days from the date of this published Notice, ARS receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

M. Ann Whitehead,

Coordinator, National Patent License Program.

[FR Doc. 92–3191 Filed 2–10–92; 8:45 am]

BILLING CODE 3410–03–M

Soil Conservation Service

Finding of No Significant Impact for Ararat River Watershed; Patrick Soil and Water Conservation District, Virginia, New River Soil and Water Conservation District, Virginia, Surry Soil and Water Conservation District, North Carolina, Patrick and Carroll Counties, Virginia, Surry County, North Carolina

Introduction

The flood prevention measures to be installed in the Ararat River Watershed will be funded under the authority of the Watershed Protection and Flood Preventions Act, Public Law 93–566, amended (16 U.S.C. 1001–1008) and in accordance with Section 102(2)(c) of the National Environmental Policy Act of 1969, Public Law 91–190, as amended (42 U.S.C. 4321 et seq.). An interdisciplinary evaluation of the environment was made by the Soil Conservation Service (SCS) in consultation with local, state and federal agencies and interested persons during the planning of these measures.

The purpose of the Ararat River Watershed Plan—Environmental Assessment is to reduce flood damages to roads, bridges and other fixed improvements as well as agriculture. Community benefits will result in Ararat, Virginia through the installation of this Plan which is sponsored by the Patrick Soil and Water Conservation District and the Patrick County Board of Supervisors.

Recommended Action

Proposed is the installation of 55 small dams (similar to farm ponds but with increased storage capacity) which will control 34 percent of the watershed drainage area and benefit 1,564 acres of high value agricultural lands. The proposed plan will prevent excessive flood damages to high value agricultural crops, loss of flood plain cropland to scour erosion and damages to roads and bridges.

Effect of Recommended Action

The proposed project will reduce agricultural flood damages by 54 percent along the mainstreams of Clark and Johnson Creeks, and Ararat River. The 25-year flood will be reduced on 1,564 acres with 375 acres flood-free from the 25-year flood. This will encourage and promote the agricultural enterprises in the watershed through improved efficiency and reduction of crop losses. The project will reduce flood damages to roads and bridges by 56 percent.

In consultation with appropriate state and federal agencies, it has been determined that there are no federally listed endangered or threatened species in the project area. Surveys will be conducted as needed to determine impacts on state listed species.

A cultural resources review was conducted of the weatershed. Surveys will be conducted prior to construction as the sites are finalized.

There will be little or no effect on wetlands. The small dams will be located in the headwaters areas of the watershed where there are very few existing wetlands. Wetland inventories will be conducted on a site-by-site basis. The small dams will create fringe areas of wetlands around 8 miles of shoreline.

There will be a loss of 4.2 miles of natural intermittent stream channel and associated ecosystem. There will be a loss of 117 acres of forested wildlife habitat. However, the proposed project will create 117 acres of warm water fishing lake, provide additional edge habitat and add diversity to the habitat.

Dams located on drainages containing native trout populations will benefit trout populations by trapping sediment that adversely affects fish health, reproduction, and physical habitat conditions. The small dams will be located on intermittent streams where there will be little or no adverse impacts on stream temperatures. Water flowing through the principal spillway will be drawn from near the pond bottom, as opposed to the warmer surface waters.

The reduction in overbank flooding and scour will reduce sediment loads in streams. Also, impacts due to pesticides and nutrients attached to soil particles will be reduced.

The proposed project will provide 798 acre-feet of water for beneficial uses, including irrigation, livestock water, and firefighting. In addition to fishing, the ponds will provide other recreational opportunities, such as picknicking.

Land values around the small ponds will be enhanced.

Adverse Environmental Impacts Which Cannot Be Avoided

Installation of the proposed works of improvement will have short-term adverse impacts on noise, dust and exhaust levels. These levels will increase only during construction.

Alternatives

Non-structural, structural, and land treatment measures were considered in the formulation of alternatives. These measures include flood warning, floodproofing, relocation, dikes, channels, clearing and snagging, accelerated land treatment, large floodwater retarding structures, and small floodwater retarding structures. All the measures were considered during the planning process and discounted for various reasons except for the small floodwater retarding structures.

1. No action. With no action, there would be continued agricultural flood damage on 1,885 acres with damages in excess of $378,000 annually. There would be 650 acres of flood plain damaged by scour from flooding. In addition, the disruption of services and community functions caused by the flooding of roads and bridges would continue during flood events.

2. The National Economic Development Plan (the recommended plan). This alternative would include 55 small, flood control dams to be constructed in the headwaters area of the watershed on intermittent streams. The average annual costs and benefits are $368,000 and $590,000 respectively.

3. Alternative 3. This alternative would include 29 small, flood control dams. The average annual costs and benefits are $207,000 and $328,000 respectively.

4. Alternative 4. This alternative would include 21 small, flood control dams. The average annual costs and benefits are $152,000 and $189,000 respectively.

5. Alternative 5. This alternative would include 60 small, flood control dams. The average annual costs and benefits are $434,000 and $632,000 respectively.

Consultation—Public Participation

Formal agency consultation began with the initiation of the notification of the State Single Point of Contact for Federal Assistance in November 1989. The Governor and the Virginia Division of Soil and Water Conservation were also notified of the application for federal assistance. Agencies were again notified when planning was authorized in August, 1991.

Input and involvement of the public has been solicited throughout the planning of the project. Public meetings with landowners and other interested individuals were held throughout the planning process to keep all interested parties informed of the study progress and to obtain public input to the plan and environment evaluation.

A scoping meeting was held in May, 1991 utilizing interdisciplinary planning.

Specific consultation was conducted with the State Historic Preservation Officer and the Patrick County Historical Museum Society concerning cultural resources in the watershed.

The Ararat River Watershed Plan-Environmental Assessment was transmitted to all participating and interested agencies, groups, and individuals for review and comment in January, 1992.

Agency consultation and public participation to date has shown no unresolved conflicts with the implementation of the selected plan.

Conclusion

This Watershed Plan has been planned and environmentally evaluated to ensure that effects are commensurate with the impacts described in this Finding of No Significant Impact. The Environmental Assessment file on the Ararat River is available for public inspection through the office of Mr. George C. Norris, State Conservationist, USDA, Soil Conservation Service, Federal Building, room 9201, 400 North Eighth Street, Richmond, Virginia 23240-9999, telephone (404) 771-2455.

The Environmental Assessment summarized above indicates that this federal action will not cause significant local, regional, or national impacts on the environment. Therefore, based on the above findings, I have determined that an environmental impact statement for the Ararat River Watershed Plan is not required.

Dated: January 10, 1992.

George C. Norris,

State Conservationist.

[FR Doc. 92-3163 Filed 2-10-92; 8:45 am]

BILLING CODE 3410-16-M

Finding of no Significant Impact for Lower North River Watershed—Lilly Dike; Shenandoah Valley Soil and Water Conservation District; Rockingham County, Virginia

The flood prevention measures to be installed in the Lower North River Watershed will be funded under the authority of the Flood Control Act of 1944 (Pub. L. 534, 78th Congress) as amended and in accordance with section 102(2)(c) of the National Environmental Policy Act of 1969. An interdisciplinarian evaluation of the environment was made by the Soil Conservation Service (SCS) in consultation with local, state and federal agencies and interested persons during the planning of these measures.

The purpose of the Lower North River Watershed Plan—Environmental Assessment—Lilly Dike is to reduce flood damages to homes, buildings, roads, bridges and other fixed improvements as well as agriculture. Community benefits will result in Lilly, Virginia through the installation of this Plan which is sponsored by the Shenandoah Valley Soil and Water Conservation District, the City of Harrisonburg and the Rockingham County Board of Supervisors.

Planned Action

Treatment includes the installation of approximately 7,200 feet of dike along Dry River at Lilly, Virginia, and approximately 600 feet of channel

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enlargement near the highway 613 bridge.

Environmental Impacts

The proposed project will reduce flood damages.

In consultation with appropriate state and federal agencies, it has been determined that there are no endangered or threatened species in the project area.

An intensive archaeological investigation was conducted of the project area. Archival research, surface reconnaissance and shovel testing yielded no evidence of either prehistoric or historic remains within the project area.

The 600 foot segment of channel realignment and clearing near the highway 613 bridge will leave the resulting channel with similar characteristics as the existing channel.

The 7,200 foot dike will have no direct effect on normal stream conditions. The dike will serve to restrict flood flows on the south side of Dry River and will result in an insignificant increase in velocities during flood flows. The increase in velocities upstream of highway 613 will diminish quickly downstream of highway 613 since flow will be unrestricted.

It has been determined in consultation with the Virginia Department of Game and Inland Fisheries and other appropriate agencies that there will be no significant impact on fisheries.

There will be no significant impact on water quality. Local Erosion and Sedimentation Control Program guidelines will be followed during construction. Any impacts to water quality will therefore, be temporary in nature.

A small (500 square feet) area of wetland will be lost in the section of stream channel to be realigned. In consultation with other state and federal agencies, it has been determined this loss is insignificant.

Approximately 2.5 acres of forestland and 1.5 acres of grassland will be lost to dike construction. In addition, riparian habitat in the 600 foot channel section will be lost. The minor loss of forestland and grassland will not result in any significant loss of biological values in the project area. The portion of dike constructed in forest land will provide additional edge habitat and add diversity to the habitat.

Adverse Environmental Impacts Which Cannot Be Avoided

Installation of the proposed works of improvement will have short-term adverse impacts on noise, dust and exhaust levels. These levels will increase only during construction.

Alternatives

1. No action. With no action, there would be continued flooding damages in excess of $30,000. In addition, the disruption of services and community functions would continue during flood events.

2. The National Economic Development Plan (the recommended plan). This alternative would include approximately 7,200 feet of dike on the south side of Dry River and approximately 600 feet of channel realignment, clearing and snagging at the highway 613 bridge. Buildings subject to induced damages as a result of the dike will be protected by ring levees and pumps. Flap gates will be used to allow interior drainage to enter Dry River during low flow times and to exclude flood waters during times of high flows. The average annual cost and benefits are $16,855 and $30,145 respectively.

Short-term Uses vs. Long-term Productivity

The reduction in flood damages will improve the quality of life in this area.

Commitment of Resources

Labor, capital resources and energy used by these planned actions will be irretrievably and irreversibly committed.

Conclusion

This Watershed Plan has been planned and environmentally evaluated to ensure that effects are commensurate with the impacts described in this Finding of No Significant Impact. The Environmental Assessment file on the Lower North River—Lilly Dike is available for public inspection through the office of Mr. George C. Norris, State Conservationist, USDA, Soil Conservation Service, Federal Building, room 9201, 400 North Eighth Street, Richmond, Virginia 23240-9999, telephone (804) 771-2455.

I have reviewed the Environmental Assessment and have determined this Watershed Plan will not result in significant impact on the human environment. I conclude that an Environmental Impact Statement is not necessary.

Dated: January 29, 1992.

George C. Norris,

State Conservationist.

[FR Doc. 92-3136 Filed 2-10-92; 8:45 am]

BILLING CODE 3410-16-M

COMMISSION ON CIVIL RIGHTS

Georgia Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Georgia Advisory Committee to the Commission will convene at 2 p.m. and adjourn at 4 p.m. on Friday, February 28, 1992, at the Candler Building, 127 Peachtree Street, 11th Floor, Troutman Room, Atlanta, Georgia 30303. The purpose of this meeting is: (1) To discuss the status of the Commission; (2) to hear a report on civil rights progress and/or problems in the State; and (3) to discuss the adopted project for FY 1992.

Persons desiring additional information, or planning a presentation to the Committee should contact Georgia Chairperson, Dale M. Schwartz 404/657-8097 or Bobby D. Doctor, Regional Director, Southern Regional Office of the U.S. Commission on Civil Rights at (404/730-2476, TDD 404/730-2481). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Southern Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, February 4, 1992.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 92-3135 Filed 2-10-92; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; Majid Modarressi; Order Denying Permission To Apply for or Use Export Licenses

In the matter of Majid Modarressi, 2935 Montana Avenue, Cincinnati, Ohio 45211, Respondent.

On November 7, 1988, Majid Modarressi was convicted in the United States District Court for the District of Massachusetts of violating section 38 of the Arms Export Control Act (currently codified at 22 U.S.C.A. 2778 (1991)) (AECA).

Section 11(h) of the Export Administration Act of 1979, as amended (currently codified at 50 U.S.C.A. app.

2401–2420 (1991)) (EAA),[1] provides that, at the discretion of the Secretary of Commerce,[2] no person convicted of a violation of the EAA, or certain other provisions of the United States Code, including section 38 of the AECA, shall be eligible to apply for or use any export license issued pursuant to, or provided by, the EAA or the Export Administration Regulations (currently codified at 15 CFR parts 768–799 (1991)) (the Regulations), for a period of up to 10 years from the date of the conviction. In addition, any export license issued pursuant to the EAA in which such a person has any interest at the time of his conviction may be revoked.

Pursuant to §§ 770.15 and 772.1(g) of the Regulations, upon notification that a person has been convicted of violating Section 38 of the AECA, the Director, Office of Export Licensing, in consultation with the Director, Office of Export Enforcement, shall determine whether to deny that person permission to apply for or use any export license issued pursuant to, or provided by, the EAA and the Regulations and shall also determine whether to revoke any export license previously issued to such a person. Having received notice of Modarressi's conviction for violating section 38 of the AECA, and following consultations with the Director, Office of Export Enforcement, I have decided to deny Modarressi permission to apply for or use any export license, including any general license, issued pursuant to, or provided by, the EAA and the Regulations, for a period of 10 years from the date of his conviction. The 10-year period ends on November 7, 1998. I have also decided to revoke all export licenses issued pursuant to the EAA in which Modarressi had an interest at the time of his conviction.

Accordingly, it is hereby *Ordered:*

I. All outstanding individual validated licenses in which Modarressi appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of Modarressi's privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

II. Until November 7, 1998, Majid Modarressi, 2935 Montana Avenue, Cincinnati, Ohio, 45211, hereby is denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction in the United States or abroad involving any commodity or technical data exported or to be exported from the United States, in whole or in part, and subject to the Regulations. Without limiting the generality of the foregoing, participation, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (i) As a party or as a representative of a party to any export license application submitted to the Department; (ii) in preparing or filing with the Department any export license application or request for reexport authorization, or any document to be submitted therewith; (iii) in obtaining from the Department or using any validated or general export license, reexport authorization, or other export control document; (iv) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported or to be exported from the United States and subject to the Regulations; and (v) in financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. After notice and opportunity for comment as provided in § 770.15(h) of the Regulations, any person, firm, corporation, or business organization related to Modarressi by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

IV. As provided in § 787.12(a) of the Regulations, without prior disclosure of the facts to and specific authorization of the Office of Export Licensing, in consultation with the Office of Export Enforcement, no person may directly or indirectly, in any manner or capacity: (i) Apply for, obtain, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to an export or reexport of commodities or technical data by, to, or for another person then subject to an order revoking or denying his export privileges or then excluded from practice before the Bureau of Export Administration; or (ii) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate: (a) In any transaction which may involve any commodity or technical data exported or to be exported from the United States; (b) in any reexport thereof; or (c) in any other transaction which is subject to the Export Administration Regulations, if the person denied export privileges may obtain any benefit or have any interest in, directly or indirectly, any of these transactions.

V. This Order is effective immediately and shall remain in effect until November 7, 1998.

VI. A copy of this Order shall be delivered to Modarressi. This Order shall be published in the **Federal Register**.

Dated: February 3, 1992.

Iain S. Baird,

Director, Office of Export Licensing.

[FR Doc. 92–3133 Filed 2–10–92; 8:45 am]

BILLING CODE 3510-DT-M

[Docket No. 911201–1301]

Foreign Availability Determination: High Precision Bearings

AGENCY: Office of Foreign Availability, Bureau of Export Administration, Commerce.

ACTION: Notice of positive determination.

SUMMARY: The Department of Commerce has determined that foreign availability of certain high precision bearings controlled under ECCN 1371A of the former Commodity Control List exists to controlled destinations. High precision bearings are currently controlled principally under ECCN 2A01 of the new Commerce Control List (CCL) (15 CFR 799.1, Supp. 1).

FOR FURTHER INFORMATION CONTACT: Steven Goldman, Director, Office of Foreign Availability, room 1087, Department of Commerce, Washington, DC 20230; Telephone: (202) 377–8074.

SUPPLEMENTARY INFORMATION:

Background

Although the Export Administration Act (EAA) expired on September 30, 1990, the President invoked the International Emergency Economic Powers Act and continued in effect, to the extent permitted by law, the provisions of the EAA and the Export Administration Regulations (EAR) in Executive Order 12730 of September 30, 1990.

Part 791 of the EAR (15 CFR part 730 *et seq.*) establishes the procedures and criteria for determining the foreign availability of goods and technology whose export is controlled for national security purposes. The Secretary of

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[1] The EAA expired on September 30, 1990. Executive Order 12730 (55 FR 40373, October 2, 1990) continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. 1701–1706 (1991)).

[2] Pursuant to appropriate delegations of authority that are reflected in the Regulations, the Director, Office of Export Licensing, in consultation with the Director, Office of Export Enforcement, exercises the authority granted to the Secretary by section 11(h) of the EAA.

Commerce or his designee determines whether foreign availability exists.

With limited exceptions, the Department of Commerce may not maintain national security controls on exports of an item to affected countries if the Secretary or his designee determines that items of comparable quality are available in fact to such countries from a foreign source in quantities sufficient to render the controls ineffective in achieving their purpose.

On June 8, 1987, OFA initiated a foreign availability assessment of high precision bearings to controlled destinations. This item was controlled under ECCN 1371A of the former Commodity Control List. High precision bearings are currently controlled under ECCN 2A01 of the new Commerce Control List and under certain other ECCNs.

OFA provided its assessment and recommendation to the Office of the Deputy Assistant Secretary for Export Administration. The Deputy Assistant Secretary has considered the assessment and other relevant information and has determined that foreign availability to controlled destinations exists within the meaning of section 791 of the EAR for certain high precision bearings. Specific bearings for which foreign availability was found include: Ball and roller bearings having an inner bore diameter of 10mm or less and tolerances of ABEC 5, RBEC 5 (or national equivalents) made from high speed tool steels, and/or manufactured for normal operating temperatures above 302 °F (150 °C); and ball or roller bearings having tolerances of ABEC 7, RBEC 7 made from steel alloys and other materials except Monel metal, beryllium, metalloids, ceramics and sintered metal composites. All interested government agencies, including the Departments of State and Defense, were provided an opportunity to review and comment on the assessment and determination.

In the fall of 1990, the United States incorporated OFA's assessment and recommendation into the USG Core List proposal to the COCOM allies. The COCOM allies accepted the USG proposal. The removal of national security based licensing requirements from certain high precision bearings, therefore, was incorporated into the regulatory changes to the U.S. Commerce Control List implementing the new COCOM Core List. These categories of bearings remain controlled, however for foreign policy reasons.

If OFA receives new evidence concerning this foreign availability determination, OFA may reevaluate its assessment. Inquiries concerning the scope of this assessment should be sent to the Director of the Office of Foreign Availability at the above address.

Dated: February 5, 1992.

James M. LeMunyon,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 92-3154 Filed 2-10-92; 8:45 am]

BILLING CODE 3510-DT-M

[Docket No. 911225-1325]

Foreign Availability Determination: Hydroxyl Terminated Polybutadiene Resins

AGENCY: Office of Foreign Availability, Bureau of Export Administration, Commerce.

ACTION: Notice of positive determination.

SUMMARY: The Department of Commerce has determined that foreign availability of hydroxyl terminated polybutadiene resins and manufactures controlled under ECCN 1746A of the former Commodity Control List exists to controlled destinations. Hydroxyl terminated polybutadiene resins and manufactures are currently controlled under ECCN 1C31B of the Commerce Control List (CCL) (15 CFR 799.1, Supp. 1).

FOR FURTHER INFORMATION CONTACT: Steven C. Goldman, Director, Office of Foreign Availability, room 1087, Department of Commerce, Washington, DC 20230; Telephone: (202) 377-8074.

SUPPLEMENTARY INFORMATION:

Background

Although the Export Administration Act (EAA) expired on September 30, 1990, the President invoked the International Emergency Economic Powers Act and continued in effect, to the extent permitted by law, the provisions of the EAA and the Export Administration Regulations (EAR) in Executive Order 12730 of September 30, 1990.

Part 791 of the Export Administration Regulations (EAR) (15 CFR part 730 *et seq.*) establishes the procedures and criteria for determining the foreign availability of goods and technology whose export is controlled for national security purposes. The Secretary of Commerce or his designee determines whether foreign availability exists.

With limited exceptions, the Department of Commerce may not maintain national security controls on exports on an item to affected countries if the Secretary or his designee determines that items of comparable quality are available in fact to such countries from a foreign source in quantities sufficient to render the controls ineffective in achieving their purpose.

On June 8, 1987, OFA initiated a foreign availability assessment of hydroxyl terminated polybutadiene resins, a binder for solid rocket propellants, and manufactures thereof, to controlled destinations.

OFA provided its assessment and recommendation to the Deputy Assistant Secretary for Export Administration. The Deputy Assistant Secretary has considered the assessment and other relevant information and has determined that foreign availability to controlled destinations exists within the meaning of Section 791 of the EAR for hydroxyl terminated polybutadiene resins. This determination does not apply to those hydroxyl terminated polybutadiene resins or equivalents specifically formulated and designated as military grades. All interested government agencies, including the Departments of State and Defense, were provided an opportunity to review and comment on the assessment and determination.

In the Fall of 1990, the United States incorporated OFA's assessment and recommendations into the USG Core List proposal to the COCOM allies. COCOM accepted the U.S. proposal. The removal of national security based licensing requirements on hydroxyl terminated polybutadiene, therefore, was incorporated into the regulatory changes to the U.S. Commerce Control List implementing the new COCOM Core List. This item remains controlled for foreign policy reasons under ECCN 1C31B of the CCL.

If OFA receives new evidence concerning this foreign availability determination, OFA may reevaluate its assessment. Inquiries concerning the scope of this assessment should be sent to the Director of the Office of Foreign Availability at the above address.

Dated: February 5, 1992.

James M. LeMunyon.

Deputy Assistant Secretary for Export Administration.

[FR Doc. 92-3153 Filed 2-10-92; 8:45 am]

BILLING CODE 3510-DT-M

International Trade Administration

[A-588-809]

Certain Small Business Telephone Systems and Subassemblies Thereof From Japan; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On November 13, 1991, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on certain small business telephone systems and subassemblies thereof from Japan. The review covers one manufacturer/exporter of this merchandise to the United States for the period August 3, 1989 through November 30, 1990.

We gave interested parties an opportunity to comment on the preliminary results. At the request of Iwatsu Electric Company, Ltd. (Iwatsu) and American Telephone and Telegraph (AT&T), we held a public hearing on January 9, 1992. Based on our analysis of comments received, issues raised at the public hearing, and the correction of certain clerical errors, the final results of review differ from the preliminary results of review.

EFFECTIVE DATE: February 11, 1992.

FOR FURTHER INFORMATION CONTACT: Timothy A. Volker or Thomas F. Futtner, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-8120.

SUPPLEMENTARY INFORMATION:

Background

On November 13, 1991, the Department of Commerce (the Department) published in the **Federal Register** (56 FR 57609) the preliminary results of its administrative review of the antidumping duty order on certain small business telephone systems and subassemblies thereof from Japan (54 FR 50789, December 11, 1989). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act) and 19 CFR 353.22 (1991).

Scope of the Review

Imports covered by the review are shipments of certain small business telephone systems and subassemblies thereof (SBTS), currently classifiable under Harmonized Tariff Schedule item numbers 8517.30.2000, 8517.30.2500, 8517.30.3000, 8517.10.0020, 8517.10.0040, 8517.10.0050, 8517.10.0070, 8517.10.0080, 8517.90.1000, 8517.90.1500, 8517.90.3000, 8518.30.1000, 8504.40.0004, 8504.40.0008, 8504.40.0010, 8517.81.0010, 8517.81.0020, 8517.90.4000, and 8504.40.0015.

Certain small business telephone systems and subassemblies thereof are telephone systems, whether complete or incomplete, assembled or unassembled, with intercom or internal calling capability and total non-blocking port capacities of between two and 256 ports, and discrete subassemblies designed for use in such systems. A subassembly is "designed" for use in a small business telephone system if it functions to its full capability only when operated as part of a small business telephone system. These subassemblies are defined as follows:

(1) Telephone sets and consoles, consisting of proprietary, corded telephone sets or consoles. A console has the ability to perform certain functions including: Answer all lines in the system; monitor the status of other phone sets; and transfer calls. The term "telephone sets and consoles" is defined to include any combination of two or more of the following items, when imported or shipped in the same container, with or without additional apparatus: housing, hand set; cord (line or hand set); power supply; telephone set circuit cards; console circuit cards.

(2) Control and switching equipment, whether denominated as a key service unit, control unit, or cabinet/switch. "Control and switching equipment" is defined to include the units described in the preceding sentence which consist of one or more circuit cards or modules (including backplane circuit cards) and one or more of the following items, when imported or shipped in the same container as the circuit cards or modules, with or without additional apparatus: connectors to accept circuit cards or modules; building wiring.

(3) Circuit cards and modules, including power supplies. These may be incorporated into control and switching equipment or telephone sets and consoles, or they may be imported or shipped separately. A power supply converts or divides input power of not more than 2,400 watts into output power of not more than 1,800 watts supplying DC power of approximately 5 volts, 24 volts, and 48 volts, as well as 90 volt AC ringing capability.

The following merchandise has been excluded from the scope of this antidumping duty order: (1) Nonproprietary industry-standard ("tip/ring") telephone sets and other subassemblies that are not specifically designed for use in a covered system, even though a system may be adapted to use such nonproprietary equipment to provide some system functions; (2) telephone answering machines or facsimile machines integrated with telephone sets; and (3) adjunct software used on external data processing equipment.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results as provided by § 353.22(c) of the Commerce Regulations. We received comments from Iwatsu and AT&T, and, at the request of both parties, held a public hearing on January 9, 1992.

We have corrected any clerical errors noted by the respondents, and have addressed them specifically in this notice.

Comment 1: Iwatsu contends that the Department should have offset repair expenses by revenues obtained in performing repair services. Petitioner contends that the Department's refusal to offset warranty expenses with repair revenues was proper because Iwatsu cannot attribute repair revenues to specific products, and Iwatsu's repair revenues include revenues that are unrelated to warranty expenses.

Department's Position: We disagree with Iwatsu. The Department has disallowed Iwatsu's repair department revenues because Iwatsu could not specifically identify what portion, if any, of repair department revenue was attributable to merchandise subject to this review.

Comment 2: Iwatsu contends that the Department should have used third-country sales instead of constructed value in those situations where there were no sales of certain models in the home market. Petitioner contends that the Department's use of constructed value rather than third-country sales is appropriate.

Department's Position: We disagree with Iwatsu and agree with petitioner. Section 773(a)(1) of the Act states that foreign market value (FMV) "shall be the price * * * at which such or similar merchandise is sold * * * in the principal markets of the country from which exported" unless "the quantity sold for home consumption is so small in relation to the quantities sold * * * to countries other than the United States as to form an inadequate basis for comparison." The determination of whether home market sales are so small as to be inadequate is commonly referred to as the "viability test."

The viability test calls for a comparison of the quantity of sales of such or similar merchandise in the home market with the quantity sold to third countries. If that ratio is too small (normally, below five percent), then the Department considers home market sales to constitute an "inadequate basis for comparison" (i.e., the home market is not viable) and calculates FMV based on sales to a third country or based on constructed value. See, 19 CFR 353.48. If the home market is determined to be viable, in those situations where there are no home market sales of a particular model, it has traditionally been our practice to base FMV on constructed value for that particular model. See our response to Hosiden Comment 1 in High Information Content Flat Panel Displays and Display Glass Therefor from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition (56 FR 32376, July 16, 1991.) See also our response to Comment 1 Dry Cleaning Machinery from Germany, Final Results of Antidumping Duty Administrative Review (56 FR 66838, December 26, 1991.)

We found Iwatsu's home market to be viable. Accordingly, in those situations where Iwatsu had no home market sales of a particular model, even though there may have been third-country sales, we used constructed value instead of the third-country sales.

Comment 3: Iwatsu contends that the Department should have treated certain home market advertising expenses and commissions as direct expenses rather than indirect expenses.

Department's Position: We disagree with Iwatsu. Iwatsu did not adequately demonstrate that its advertising expenses and commissions were directly attributable to products covered by this review. Although Iwatsu provided two examples of advertisements, Iwatsu did not translate the advertisements, nor did it indicate the medium (*e.g.*, trade journals, magazines) in which the advertisements were placed. Hence, the advertising examples Iwatsu provided did not adequately demonstrate that they were directly attributable to products covered by this review, or that such advertisements were aimed at end users.

Comment 4: Iwatsu contends that the Department incorrectly disregarded Iwatsu's home market sales to related parties without first determining whether those sales were at arm's length. Citing Gray Portland Cement and Clinker From Japan (56 FR 12156, 12167, March 23, 1991), Iwatsu contends that if a respondent reports sales to related parties it is incumbent upon the Department to conduct a test to determine whether those sales are at arm's length.

Petitioner points out that the Department's regulations do not require it to consider sales to related parties, even when prices for such sales are comparable to sales prices to unrelated parties. Moreover, petitioner contends that there is no compelling reason for the Department to use Iwatsu's sales to related parties because such sales are not as reliable as sales to unrelated customers, nor are related party sales needed in order for the home market to be viable.

Department's Position: We disagree with Iwatsu and agree with petitioner. Transactions between related parties are ordinarily not used to calculate foreign market value. See our response to Comment 2 in Fishnetting of Man-Made Fibers From Japan: Final Results of Antidumping Duty Administrative Review (55 FR 34042, 34043, August 21, 1990.) In accordance with 19 CFR 353.45(a), the Department uses sales to related parties only if it is satisfied that such sales prices are "comparable" to sales prices to unrelated parties. It is incumbent on the respondent to demonstrate, through a detailed analysis, that related party sales are at arm's length since that is the party making the claim. For example, in Fishnetting From Japan, the Department stated that "it (the respondent) wanted the Department to use these (related party) transactions for FMV purposes, they clearly had the burden first to claim, then prove, that sales * * * were at arm's length." See our response to Comment 4 in Fishnetting of Man-Made Fibers From Japan: Final Results of Antidumping Duty Administrative Review (55 FR 34042, 34043, August 21, 1990.) See also our response to Comment 28 in Final Determinations of Sales at Less Than Fair Value: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany (54 FR 18992, 19090, May 3, 1989.)

Iwatsu's claim that related party sales should be used in the Department's analysis was first made in its pre-hearing brief; at no time did Iwatsu provide an analysis demonstrating that its home market sales to related parties were made at arm's length. In accordance with our regulations (19 CFR 353.31), we do not accept unsolicited factual information after the time limits specified in our regulations. To the extent that we deem unsolicited information after these dates to be new factual information, whether characterized as supplementing, explaining, or supporting previously submitted data or information, and whether submitted in case briefs, at a hearing, or otherwise, it is untimely and may not be considered in this review.

Iwatsu has cited Gray Portland Cement which states that "(the respondent) sustained its burden to produce a detailed analysis of prices to related and unrelated parties when it submitted its home market database which clearly indicates gross prices, and adjustments, to related and unrelated parties alike." Iwatsu misconstrued this statement to suggest that the mere submission of data accompanying an assertion of comparability constitutes a "detailed analysis." This is not the case. In order for us to analyze whether home market sales to related parties are at arm's length, a respondent must first (1) make a timely claim (e.g., in its questionnaire response) that sales to related parties are at arm's length and should therefore be included in the Department's analysis, and; (2) demonstrate through a comprehensive analysis that such sales are at arm's length. Once a respondent has fulfilled these criteria, we would then examine the respondent's claim and analysis to determine whether sales to related parties should be incorporated into our analysis. The mere submission of data on sales to related parties does not constitute an analysis of the data. Therefore, although Iwatsu identified on its computer tape which sales were made to related and unrelated parties, Iwatsu did not even attempt to demonstrate that sales prices to related parties were at arm's length, or that discounts and rebates were granted equally to related and unrelated parties. In any event, we note that the data submitted by Iwatsu indicate that a significant number of Iwatsu's sales to related parties were not made at arm's length. Accordingly, we did not use Iwatsu's home market sales to related parties in our analysis.

Comment 5: Iwatsu contends that the Department should have used weight-average costs from the entire review period in its constructed value calculations, instead of costs from the second half of 1989. Petitioner contends that the Department's action was appropriate, given that the vast majority of Iwatsu's U.S. sales occurred in the first half of 1989.

Department's Position: We agree, in part, with Iwatsu. The period of review covers 15 months. In accordance with its accounting records, the costs Iwatsu reported fell into four six-month periods. The majority of costs for two of the six-month periods fell outside the period of review; costs from the other two six-month periods were entirely within the period of review. Accordingly, in our constructed value calculations for the final results we have weight-averaged the cost of manufacture, as well as the selling, general, and administrative expenses from the two six-month periods which fell entirely within the period of review.

Comment 6: Iwatsu contends that the Department incorrectly assigned cost of manufacturing data for three of its products.

Department's Position: We agree with Iwatsu and have made the appropriate changes.

Comment 7: Iwatsu contends that cash discounts and non-competition rebates should be deducted from FMV.

Department's Position: We agree, in part with Iwatsu. For these final results, we deducted cash discounts and non-competition rebates from home market price before comparing the price to U.S. price. However, we have not deducted the rebates reported on Iwatsu's computer tape as VARIANCH, because Iwatsu did not provide an explanation for that variable in either its original or supplemental questionnaire responses.

Comment 8: Iwatsu contends that the Department should disregard two data entry errors reported on Iwatsu's computer tape which artifically increase Iwatsu's dumping margin.

Department's Position: We agree with Iwatsu and have made the changes for the final results.

Comment 9: Iwatsu contends that the Department incorrectly double-counted certain Iwatsu R&D expenses in the constructed value calculation.

Department's Position: We agree with Iwatsu and have made the change for the final results.

Final Results of the Review

As a result of comments received, we have revised our preliminary results of Iwatsu, and we determine the margin to be:

Manufacturer/exporter	Time period	Margin (percent)
Iwatsu Electric Co., Ltd	08/03/89–11/30/90	37.38

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentage stated above. Upon completion of this review, the Department will issue appraisement instructions concerning all respondents directly to Customs.

Furthermore, the following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of small business telephone systems and subassemblies from Japan entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed company will be that established in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the final determination in the original less-than-fair-value investigation, the cash deposit rate will continue to be the company-specific rate published in the final determination; (3) if the exporter is not a firm covered in this review or the original investigation, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in the final results of this review or, if not covered in this review, the original investigation; and (4) the cash deposit rate for any future entries from all other manufacturers or exporters who are not covered in this or prior administrative reviews and who are unrelated to the reviewed firm or any previously reviewed firm will be the "All Others" rate established in the final results of this administrative review. This rate represents the highest rate for any firm in the administrative review (whose shipments to the United States were reviewed), other than those firms receiving a rate based entirely on best information available. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22 (1991).

Dated: January 31, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92–3204 Filed 2–10–92, 8:45 am]

BILLING CODE 3510-DS-M

[A-588-604]

Tapered Roller Bearings, Finished and Unfinished, and Parts Thereof, From Japan; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On May 6, 1991, the Department of Commerce published the preliminary results of its 1988–89 administrative review of the antidumping duty order on tapered roller bearings, finished and unfinished, and parts thereof, from Japan. The review covers four manufacturers/exporters of this merchandise to the United States during the period October 1, 1988, through September 30, 1989.

We gave interested parties the opportunity to comment on our preliminary results. Based on our analysis of the comments received, we have adjusted the margins for some companies.

EFFECTIVE DATE: February 11, 1992.

FOR FURTHER INFORMATION CONTACT: Chip Hayes, Laurel LaCivita, or Paul McGarr, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–4733.

SUPPLEMENTARY INFORMATION:

Background

On May 6, 1991, the Department of Commerce (the Department) published the preliminary results of this administrative review of the antidumping duty order (52 FR 37352, October 6, 1987) on tapered roller bearings, finished and unfinished, and parts thereof, from Japan, in the **Federal Register** (56 FR 41508). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act).

Scope of the Review

Imports covered by the review are sales or entries of tapered roller bearings (TRBs), and parts thereof, which are flange, take-up cartridge, and hanger units incorporating tapered roller bearings, and tapered roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, whether or not for automotive use. Products subject to the outstanding dumping finding covering certain tapered roller bearings from Japan, four inches or less in outside diameter, and certain components thereof (A–588–054) (the 1976 finding), are not included within the scope of this order. However, this order includes all tapered roller bearings, and parts thereof, as described above, that are manufactured by NTN Toyo Bearing Co., Ltd. (NTN). During the review period, such merchandise was classifiable under item numbers 680.30, 680.39, 681.10, and 692.32 of the Tariff Schedules of the United States Annotated (TSUSA). This merchandise is currently classifiable under the Harmonized Tariff Schedule (HTS) item numbers 8482.99.30, 8483.20.40, 8482.20.00, 8483.20.80, 8482.91.00, 8483.30.80, 8483.90.20, 8483.90.30, and 8383.90.80. The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers TRB sales by Koyo Seiko, K.K. (Koyo), Nippon Seiko K.K. (NSK) Nachi Fujikoshi Corporation (Nachi), and entries of merchandise manufactured by NTN and entered by Caterpillar Inc. during the period October 1, 1988, through September 30, 1989.

ANALYSIS OF COMMENTS RECEIVED

We gave interested parties an opportunity to comment on the preliminary results. At the request of the Timken Company (Timken), the petitioner in this proceeding, Koyo, NSK, and NTN, respondents, and Caterpillar, Inc. (Caterpillar), an importer of the subject merchandise, we held a hearing on May 24, 1991. We received case and rebuttal briefs from all interested parties except Nachi.

Comments are addressed in the following order:

1. Model Match, Difference in Merchandise Adjustments, and Set Splitting
2. Clerical Errors, Programming Errors, and Use of Best Information Available
3. Packing and Movement
4. Adjustments to Foreign Market Value
5. Adjustments to U.S. Price
6. Cost of Production
7. Cost Test Methodology
8. Miscellaneous Issues Regarding Level of Trade, Related Parties, Sample Sales, Contemporaneity, Foreign Trade Zones, Consumption Tax, Cash Deposits, and Date of Sale

Comments Regarding Model Match, Difference in Merchandise Adjustments, and Set Splitting

Comment 1: Timken argues that the Department should use the "greatest single deviation" methodology, rather than the "sum of the deviations methodology," to determine model match comparisons. It argues that the greatest single deviation methodology closely approximates the concerns of customers, who evaluate each criterion independently to ensure that the application requirements for size and performance are properly met. Timken also believes that there are non-linear interrelationships between the criterion with the largest deviation and the rest of the criteria, so that a 10 percent change in one performance factor may lead to a 30 percent change in the performance characteristics of the other factors. Timken argues that this method does not give undue weight to any single factor, since the factor that deviates the most will be more important to the design engineer than lesser changes in multiple other factors. In addition, Timken notes that, unlike Koyo, it has not requested that a 10 percent cap be imposed on the deviation of each factor, and that Timken has provided a tie breaker for the instances where there is more than one "most similar" choice for each U.S. model.

Koyo argues that the Department should use the sum of the deviations methodology employing a 10 percent cap on each criterion in order to determine the most similar model. Koyo argues that models which deviate by more than 10 percent in any one criterion are not comparable under the requirement of the statute.

Department's Position: We are satisfied that the sum of the deviations methodology most accurately determines the most similar model sold in the home market. We have used the sum of the deviations methodology for model match comparisons in all of the final results of review concerning certain tapered roller bearings from Japan, four inches or less in outside diameter, and certain components thereof (A–588–054) (the 1976 finding) (see 55 FR 22369, June 1, 1990 (1974–1980 review), 55 FR 38720, September 20, 1990, (the 1986–1987 review), 56 FR 38721, June 3, 1991 (the 1987–1988 review), 56 FR 65228, December 16, 1991 (the 1988–1989 review)). In addition, this method has been upheld by the Court of International Trade (CIT): *Timken* v. *United States*, Slip. Op 84–63 (7 CIT 319) (June 5, 1984) (*Timken*), *Timken* v. *United States*, 630 F. Supp. 1327 (CIT 1986) (*Timken I*), and *Timken* v. *United States*, 673 F. Supp. 495 (CIT 1987) (*Timken II*), and used for the final results of review of this 1987 order: 56 FR 41508, August 21, 1991 (the 1987–1988 review). Therefore, for the reasons explained in those notices, we have not changed our methodology for this review.

Comment 2: NTN posits that the Department should not split sales of sets in the home market to derive a foreign market value (FMV) for cups and cones since the statute does not allow the creation of fictitious sales to calculate FMV.

Department's Position: We disagree. Our set-splitting methodology is used to apportion the price of a set to its component parts based on a ratio of the cost of production of each part to the cost of production of the set. Set splitting was specifically upheld by the CIT (see *Timken II* at 504). At no time do we create a fictitious sale; we allot portions of the price of actual sales to their component parts.

Comment 3: Timken states that NTN submitted cost of manufacture information for only similar models submitted in its model match concordance, rather than on all home market models. Timken asserts that the Department should apply the best information otherwise available for models it determines to be similar, but for which no difference in merchandise costs were submitted.

Department's Position: We agree. As explained in our response to Comment 5, for any home market models that the Department chose as physically similar, but for which no difference-in-merchandise costs were submitted, we set the difference in merchandise adjustment equal to 20 percent of the U.S. cost of manufacture as the best information available.

Comment 4: NSK argues that the Department should incorporate language into its model match programming that precludes normal precision bearings from being compared to high precision bearings.

Department's Position: We disagree. The physical criteria pertinent to model match selection have been well established in previous segments of this proceeding. NSK has not provided evidence that the chosen physical criteria and/or the standard for the comparable value of merchandise are inadequate.

Comment 5: Timken states that, in instances where NSK has not reported a variable cost of manufacture for U.S. models to calculate a difference in merchandise adjustment, the Department should use the maximum variable cost of manufacture for any U.S. model as the best information available.

Department's Position: We disagree. Because we consider only home market merchandise whose variable costs of manufacture are within 20 percent of those of U.S. merchandise to be of comparable value, we have calculated a difference in merchandise adjustment equal to 20 percent of home market costs as the best information available for U.S. models with no reported variable costs of manufacture.

Comments Regarding Clerical Errors, Programming Errors, and the Use of Best Information Available

Comment 6: Timken claims that the Department made programming errors in the NTN program for model reduction and the attachment of the correct production time periods in the cost test.

Department's Position: We agree and have corrected the programming for the final results of review.

Comment 7: Timken contends that NTN's sales, cost, and model match data are incomplete and should be rejected in favor of best information otherwise available. NTN avers that the Department either did not use all of its submitted information in the preliminary analysis or did not request necessary information for the analysis. Thus the Department is obliged to exhaust these sources before resorting to best information available.

Department's Position: We have incorporated additional data from NTN's original and supplemental responses in our final results of review. We requested and received adequate constructed value information from NTN, and we have used that data in our results.

Comment 8: Timken claims that, because of deficiencies in NTN's response for this review and because the response was not verified by the Department, the response must be rejected in favor of the best information otherwise available for NTN's sales.

Department's Position: We disagree. Section 776(b)(3) of the Tariff Act states that the administering authority shall verify all information relied upon in making a review and determination under section 751(a) if verification is timely requested and no verification was made during the two immediately preceding reviews and determination, except where good cause is shown. This administrative review is the second review of the antidumping duty order in this case. Thus, the verification requirement of section 776(b)(3) of the Tariff Act does not apply. In addition, we are satisfied that NTN's original and supplemental responses are adequate to conduct an analysis of sales.

Comment 9: Koyo argues that the Department's calculations contain the following clerical errors: (1) The value of net price and other variables for split cones were erroneously defined as a percentage of the cup price rather than as a percentage of the set price; (2) the value of the indirect selling expenses incurred in the home market for U.S. exports were erroneously included in the direct selling expenses rather than the indirect selling expenses for exporter's-sales-price (ESP) sales; (3) the cost of packing in Japan and the cost of reboxing in the United States were omitted from the calculation of the total cost of manufacturing used in the calculation of further manufacturing and the allocation of profit; and (4) there was no circumstance of sale adjustment for direct selling expenses when U.S. sales were compared to constructed value.

Department's Position: We agree that the first three items noted above were made in error and have corrected them for the final results of review. However, we disagree that our decision not to make a circumstance-of-sale adjustment for the sales compared to constructed value constitutes a clerical error. In this instance, Koyo did not quantify the amount of direct selling expenses attributable to commissions and credit in its calculation of constructed value. Therefore, we did not make an adjustment to constructed value for direct selling expenses. Instead, we added total direct selling expenses to indirect selling expenses and included them in the ESP cap.

Comment 10: NSK contends that the Department made the following clerical or programming errors: (1) The Department's program logic misclassifies the designation of certain cups and cones; (2) the Department used the wrong variable in the U.S. sales database for unit price; (3) the Department used the incorrect cost database for costs of manufacturing for U.S. models; (4) the Department incorrectly excluded U.S. bearings with a Y factor equal to zero from the model match programming; (5) the Department drew elements of constructed value from the wrong financial statement; (6) the Department incorrectly used the home market credit expense for the first half of the period of review (POR) as the expense for the entire POR.

Department's Position: We agree and have amended our programming for the final results of review.

Comments Regarding Movement and Packing Expenses

Comment 11: Timken alleges that, since Koyo's U.S. inland freight adjustment is based on the sales value of bearings, not weight, the freight figure is inherently distortive. Timken claims that Koyo's calculation results in a misallocation of freight expenses between sales at different levels of trade. Timken also notes that the Department has a stated preference for an allocation of freight based on the unit weight of the individual products (Final Determination of Sales at Less Than Fair Value, Antifriction Bearings from Various Countries, 54 FR 19044, May 3, 1989). Timken also alleges that Koyo mixed the freight costs it incurred with those incurred by its related distributors. Timken claims that the freight costs for shipping from the related distributors' warehouses must be different than the freight costs of shipping from Koyo's warehouses. Therefore, Timken charges that Koyo's reported freight expenses are inconsistent with actual experience so that the Department should not make an adjustment.

Timken also claims that NSK's foreign inland freight and foreign inland insurance, which were based on value rather than weight, are distortive. Petitioner believes that NSK's highest reported freight and insurance charges should be used as the best information available.

Department's Position: We agree that allocations of freight costs by volume, weight, distance, or a combination of these, are preferable to allocations based on sales value. However, Koyo does not maintain and cannot separate its records by volume, weight or destination. Therefore, since we have no evidence on the record that Koyo's sales prices are distorted between levels of trade or relatedness, we determined that the allocation of freight expense based on sales value is reasonable (see Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings Four Inches or Less in Outside Diameter from Japan, 55 FR 22372, June 1, 1990 (the 1974–1980 review), 56 FR 38721, June 3, 1991 (the 1987–1988 review), 56 FR 65228, December 16, 1991 (the 1988–1989 review); and Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings, Finished and Unfinished, and Parts Thereof, from Japan, 56 FR 41508, August 21, 1991 (the 1987–1988 review)).

The Department also verified NSK's movement expenses and determined that the allocation based on value was reasonable.

Comment 12: Timken claims that NTN's entire home market inland freight adjustment should be disallowed because NTN's use of an allocation based on value rather than volume or weight is distortive and because NTN failed to separate pre- and post-sale freight costs. NTN maintains that the Department should use the entire home market freight expense to adjust FMV rather than limit the adjustment to the cost incurred in shipping the merchandise to the unrelated customer.

Department's Position: We disagree with petitioner that NTN's allocation technique is distortive (see our response to Comment 11). In the preliminary results the Department treated pre-sale movement expenses incurred on home market sales as either production costs or indirect selling expenses. However, we have reconsidered our treatment of

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these expenses, since no distinction is made between pre-sale and post-sale movement charges in calculating U.S. price (USP). To ensure an equitable comparison, we have deducted all movement charges from FMV. (See A–588–054, the 1987–1988 review.)

Comment 13: NSK states that the Department must change the allocation factor for U.S. freight out based on information found at verification.

Department's Position: We agree and have made the change for the final results of review.

Comments Regarding Adjustments to Foreign Market Value

Comment 14: Timken argues that the Department should not adjust NTN's FMV for inventory carrying cost, since this type of financing expense is not incurred on behalf of, or related to, the sale to the purchaser in the home market.

Department's Position: This issue is moot. Since we are analyzing only purchase price sales by NTN, no adjustments for indirect expenses are appropriate. Therefore, we did not make any adjustments for inventory carrying costs for the final results of review.

Comment 15: Timken argues that the Department should not adjust FMV for post-sale rebates and discounts that Koyo and NSK gave to its home market customers, since Koyo and NSK failed to present any evidence that the rebates and discounts were part of a sales contract or were directly related to sales of the merchandise within the meaning of 19 CFR 353.56(a). Timken asserts that respondents must demonstrate that customers were aware at the time of purchase that such rebates and discounts might be granted, and that the adjustments are tied to specific sales. Timken alleges that Koyo has not demonstrated that the prices for which post-sale price adjustments were granted were not actually modified, rather than fixed, after the merchandise was shipped. Timken also claims that the Department should reject NTN's after-sale price adjustments as inadequately explained. Petitioner states that NTN has failed to establish that these adjustments are directly related to sales under review.

Department's Position: We disagree. The record demonstrates that Koyo's post-sale price adjustments are an established and accepted commercial practice in the TRB industry (see Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings Four Inches or Less in Outside Diameter from Japan, 56 FR 38721, June 3, 1991 and Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings, Finished and Unfinished, and Parts Thereof, from Japan, 56 FR 41508, August 21, 1991). We have examined the information provided in the questionnaire response and determined that these price adjustments are made on a customer-specific basis, but cannot be directly tied to the sale for which they were granted. Therefore, we have classified these post-sale price adjustments as indirect, rather than direct, selling expenses and deducted them from FMV. Therefore, we have not changed our calculations for the final results of review.

NSK reported a variety of adjustments labeled as returns, rebates, commissions, or discounts. Respondent granted and reported post sale price adjustments on a customer- and product-specific basis. The Department verified that NSK's allocation methodology for returns accurately reflected the returns on specific transactions. NSK's distributor incentive program rebated, and allocated, a standard proportion based on all products sold by qualifying distributors. Consequently, we have classified these as direct adjustments to price. However, NSK was not able to demonstrate that the lump-sum post-sale price adjustment (which is distributor-specific, but not a straight percentage of all sales), and commissions (which are also customer-specific only, but also not a straight percentage of all sales) applied to specific sales of covered products. This rebate and these commissions were not granted as a straight percentage of each sale so that, even when reported on a customer-specific basis, a misallocation of the expense may occur between covered and non-covered merchandise. Therefore, we have classified these expenses as indirect selling expenses for the final results of review. We calculated the amount of the adjustment to the home market price for the early payment discounts as if they were indirect selling expenses, since NSK was unable to provide information that ties the early payment discount directly to specific sales of in-scope merchandise. As noted in previous reviews, in instances where a respondent fails to provide sufficient information to support its claim that a price adjustment can be tied to a specific sale in the home market, we make the adverse assumption and calculate the price adjustment in the same manner as we would calculate all indirect selling expenses.

We are also satisfied that there is enough information in NTN's responses to demonstrate that these adjustments are the same as those verified and accepted during the investigation of this case, and that the adjustments are attributable to sales of TRBs.

Comment 16: Timken argues that the Department should not accept Koyo's reported home market credit expense because Koyo based its calculation on the number of days for which credit was extended for its major customers, which may not be representative of all of its sales. Timken also argues that NSK's credit expense is problematic in that the basis of the expense, commercial borrowing or promissory notes, is not clear, and the adjustment should therefore be denied.

Department's Position: We agree that respondents bear the burden of reporting the full number of days that credit is extended to all customers. We view the number of customers Koyo chose to use in its credit calculation as acceptable since it accounts for the vast majority of its home market sales of covered merchandise during the period of review. Given the massive number of transactions and the fact that respondent reported the number of credit days outstanding on a customer-specific basis, we accepted respondent's methodology and adjusted FMV for the number of credit days reported by respondent (see Final Results of Antidumping Duty Administrative Review; Antifriction Bearings from the Federal Republic of Germany, et al. (56 FR 31721, July 11, 1991), Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings, Finished and Unfinished, and Parts Thereof, from Japan, (56 FR 41508, August 21, 1991) and Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings, Four Inches or Less in Outside Diameter and Certain Components Thereof, from Japan, (56 FR 65228, December 16, 1991)).

We also verified NSK's calculation of its credit expense, including discounted notes, and found no discrepancies. Therefore, we accepted the adjustment.

Comment 17: Timken avers that NTN's interest rate for calculating credit costs should be recalculated without any adjustment for compensating deposits. NTN contends that factoring for compensating deposits is correct, but if respondent's argument is to be rejected, the Department should use NTN's nominal interest rate on loans.

Department's Position: We agree with petitioner that there is inadequate justification to accept NTN's credit cost calculation based on compensating deposits. In our preliminary results we recalculated NTN's credit costs based on the firm's net interest expense (interest expense minus interest income) as most representative of the firm's internal cost of funds. Because only purchase price sales by NTN are being analyzed in this review, the recalculated interest expense forms the basis of the credit cost adjustment for both home market and U.S. sales. We consider this the proper methodology for the final results (see Final Results of Antidumping Duty Administrative Review, Antifriction Bearings from the Federal Republic of Germany, et al., 56 FR 31721, July 11, 1991).

Comment 18: Koyo argues that, in its calculation of the ESP offset, the Department included commissions in indirect selling expenses when commissions were paid in one market but not in the other market. Koyo further notes that, if the resulting combination of home market commissions and indirect selling expenses exceeds the U.S. indirect selling expenses, the Department limits the home market deductions from FMV by the amount of the U.S. selling expenses, thereby depriving Koyo of the full amount of its circumstance-of-sale adjustment for commissions when home market indirect selling expenses plus commissions were greater than the indirect selling expenses in the United States.

Department's Position: We disagree that we have included home market commissions in indirect selling expenses in the calculation of the ESP offset. We have classified commissions paid to unrelated parties for home market sales of the subject merchandise as direct selling expenses which qualify for a circumstance-of-sale adjustment.

However, we agree with Koyo that the ESP offset was inappropriately calculated in the instance in which a commission existed in one market and not another. Therefore, we have changed our calculations to provide for a separate calculation of the circumstance-of-sale-adjustment for commissions and the ESP offset (see Final Results of Antidumping Duty Review, Certain Fresh Cut Flowers From Mexico (56 FR 1794, January 17, 1991) Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings, Finished and Unfinished, and Parts Thereof, from Japan, 56 FR 41508, August 21, 1991) and Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings, Four Inches or Less in Outside Diameter and Certain Components Thereof, from Japan, 56 FR 65228, December 16, 1991).

Comment 19: Timken claims that, because NSK is unable to tie technical service expenses to specific sales, the adjustment should be denied.

Department's Position: NSK combined sales branch expenses and certain general and administrative expenses to derive a technical service expense. None of these expenses were tied directly to sales of TRBs, but were allocated to TRBs. The Department verified that allocation and found no discrepancies. Consequently, we have treated the adjustment as an indirect expense.

Comment 20: Timken argues that the Department should classify Koyo's warranty as an indirect selling expense since Koyo's adjustment is based upon credit notes issued for all bearings sold during the period of review. Timken maintains that since Koyo did not demonstrate that the incidence of such costs is the same for covered and non-covered bearings, it is inappropriate to consider warranty expense a direct selling expense in the home market.

Department's Position: We agree. Since Koyo's home market warranty expenses could not be directly related to merchandise covered by the scope of the order, we reclassified warranty expenses as indirect selling expenses for the purposes of determining FMV in the final results of review.

Comment 21: Timken contends that the Department should eliminate any administrative expenses included in Koyo's listing of indirect selling expenses from the ESP offset. Timken notes that expenses such as depreciation, salaries and wages do not qualify as deductions if they are not itemized or linked directly to the sales department and to selling activities.

Department's Position: We agree with petitioner that expenses which are not itemized and linked to the sales department are not classified as indirect selling expenses. However, we have reviewed the information provided in the questionnaire response and have determined that Koyo properly classified the expenses reported by its sales department and its related distributors as indirect selling expenses. Therefore, we have not changed this calculation for the final results of review.

Comments Regarding Adjustments to U.S. Price

Comment 22: Timken contends that the Department should reject Koyo's calculation of credit expenses in the United States since Koyo based its calculation on the number of days for which Koyo extended credit to its major customers, which may not be representative of all of its sales.

Department's Position: We disagree. As explained in our final results of review on Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany, et al. (56 FR 31721, July 11, 1991) Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings, Finished and Unfinished, and Parts Thereof, from Japan, 56 FR 41508, August 21, 1991) and Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings, Four Inches or Less in Outside Diameter and Certain Components Thereof, from Japan, 56 FR 65228, December 16, 1991), the Department prefers to have credit calculated on a transaction-by-transaction basis. However, as we noted in Comment 17, we view the number of customers Koyo chose to use in its credit calculation as acceptable since it accounts for the vast majority of its U.S. sales of covered merchandise during the period of review. Therefore, we have not changed our calculations for the final results of review.

Comment 23: Timken claims that the source of NSK's U.S. credit expense is unclear and that NSK's adjusted credit expense for transactions with post sale price adjustments understates credit costs. NSK states that the Department should accept its reported adjustment to its credit expense for sales that had post sale price adjustments before receipt of payment.

Department's Position: The Department verified that NSK's credit expense was based on its own short-term commercial borrowing experience. We also verified that the adjustment to the credit expense was accurately reported and reasonable. Therefore, we have accepted NSK's credit adjustment.

Comment 24: Timken argues that the Department should classify the technical service expenses incurred in the United States as direct selling expenses since engineering support provided by a parent corporation to its subsidiary's customers is a direct selling expense in the United States. Timken further argues that Koyo should apply the technical service expenses incurred in the U.S. market to original-equipment-manufacturer (OEM) sales rather than to all sales of covered products during the review period, since it is unlikely that Koyo provides technical services to aftermarket customers.

Department's Position: We disagree. We examined the information provided in the questionnaire response and found Koyo's calculation to be reasonable and accurate. We did not see any evidence that technical services were provided by the parent corporation to its subsidiary's customers. Therefore, we did not change our calculations for the final results of review.

Comment 25: Timken argues that the Department should classify discounts and rebates in the United States as direct selling expenses under the presumption that all U.S. selling expenses are direct selling expenses unless proven otherwise.

Department's Position: Timken is correct in its assertion that the burden is placed on the respondent to prove that U.S. selling expenses are indirect and home market selling expenses are direct. We classify expenses in each market based on the information submitted during the review and on the Department's verification reports. In instances where a respondent fails to provide sufficient information to support its claim that an adjustment is directly related to a sale in the home market, we will generally reclassify the adjustment as indirect. Likewise, when a respondent fails to provide information to support its claim that an adjustment is indirect in the U.S. market, we generally reclassify the adjustment as direct. Since Koyo was not able to tie its reported discounts and rebates in the United States to sales of covered merchandise, we classified them as direct selling expenses for the purpose of calculating USP.

Comment 26: Petitioner avers that NTN's interest rate for calculating credit costs on purchase price sales should be calculated without any adjustment for compensating deposits. NTN contends that factoring for compensating deposits is correct, but if respondent's argument is to be rejected, the Department should use NTN's nominal interest rate on loans.

Department's Position: We agree with petitioner that there is inadequate justification to accept NTN's credit cost calculation based on compensating deposits. In our preliminary results we recalculated NTN's credit costs based on the firm's net interest expense (interest expense minus interest income) as most representative of the firm's internal cost of funds. Because only purchase price sales by NTN are being analyzed in this review, the recalculated interest expense forms the basis of the credit cost adjustment for both home market and U.S. sales. We consider this the proper methodology for the final results. (See Final Results of Antidumping Duty Administrative Review, Antifriction Bearings from the Federal Republic of Germany et al., 56 FR 31721, July 11, 1991.)

Comment 27: Koyo contends that the Department should not deduct direct selling expenses from ESP, but rather should add them to FMV. Koyo maintains that direct selling expenses in the United States are differences in circumstances of sale, and should be accounted for under 19 U.S.C. 1677b(a)(4) which requires that differences in the circumstances of sale be taken into account in the FMV.

Department's Position: We disagree. We are following long-standing agency practice by deducting direct selling expenses from ESP in accordance with 19 CFR 353.41(e). (See Final Results of Antidumping Duty Administrative Review; Antifriction Bearings from Germany, et al., 54 FR 31721, July 11, 1991; Final Results of Antidumping Duty Administrative Review; Certain Fresh Cut Flowers from Mexico, 56 FR 1794, January 17, 1991; Final Results of Antidumping Duty Administrative Review: Brass Sheet and Strip from Sweden, 55 FR 49317, November 27, 1990; Final Determination of Sales at Less Than Fair Value; Gray Portland Cement from Mexico, 55 FR 29244, July 18, 1990.)

Comment 28: Timken claims that, in the United States, Koyo paid commissions mainly on aftermarket (AM) sales while its own sales agents handled OEM sales. Therefore, Timken claims that the Department should offset any adjustment to FMV to the extent of the U.S. indirect selling expenses up to the amount of commissions deducted from FMV.

Department's Position: In general, the Department offsets commissions paid in one market by the indirect selling expenses paid in the other market up to the level of the U.S. indirect selling expenses. However, if commissions are paid in the United States, but not in the home market, we cap the offset by the sum of the U.S. commissions and indirect selling expenses.

Comment 29: Timken argues that the Department should treat Koyo's early payment discounts in the United States as direct selling expenses, unless proven otherwise. It further argues that the Department should apply the highest reported discount or rebate rate to every sale in the United States as the best information available, since Koyo was not able to tie the reported discounts to the sales to which they applied.

Department's Position: Koyo granted its early payment discounts and rebates on a customer-specific, rather than a sale-specific basis. As we noted in Comment 25, in instances where a respondent fails to provide sufficient information to demonstrate that its adjustment is indirect the U.S. market, we make an adverse assumption and reclassify it as direct.

Comment 30: NSK claims that the calculation of the U.S. inventory carrying cost should be based on the home market short-term credit rate, rather than the U.S. market rate, because the parent company incurs the cost of keeping the goods in inventory in the United States.

Department's Position: We agree with the respondent. Typically, the Department calculates U.S. inventory carrying cost using the U.S. interest rate born by the U.S. subsidiary for inventorying the merchandise. However, as per High Information Content Flat Panel Displays and Display Glass Therefor from Japan (July 16, 1991, 56 FR 32399), if the payment terms extended to a subsidiary by a parent indicate that the parent bears the cost of carrying the merchandise for a portion of time that the merchandise is in inventory, then the parent's short-term interest rate will be used to calculate that portion of the inventory carrying cost. Therefore, we have recalculated NSK's U.S. inventory carrying cost based on the home market credit rate (See Final Results of Antidumping Duty Administrative Review Tapered Roller Bearings, Four Inches or Less in Outside Diameter and Certain Components Thereof, from Japan, 56 FR 65228, December 16, 1992.)

Comments Regarding Cost of Production

Comment 31: Timken contends that Koyo's cost system used in its Japanese operations is flawed and does not accurately reflect the cost of producing the products under review. Timken states that respondent's basic cost system does not appropriately attribute the actual cost of production to either production lines manufacturing covered products or the specific models under review. Timken claims that Koyo's production costs and variance cannot be linked to its financial statements, and that the production costs on in-scope and out-of-scope bearings cannot be distinguished. Finally, Timken alleges that Koyo used corporate-wide variances by comparing the total figure for basic costs and the total figure for the cost of goods sold in the financial statements.

Department's Position: Koyo based its costs on the standard cost system used in its normal course of business. The standard costs were adjusted by the variance which occurred between these standards and its actual costs. The variances were calculated by comparing the basic cost to the actual cost of production. The Department reviewed Koyo's model-specific basic costs and variances by reconciling them to the financial statements. Koyo's standard costs are adjusted for variances incurred at each factory. Koyo calculated the plant-wide variance by comparing the total plant-wide cost of production with the plant-wide basic costs, which we determined did not distort model-

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specific costs of production. Furthermore, Koyo demonstrated that its cost system appropriately accounts for the different types of bearings, in-scope and out-of-scope. Therefore, as in the 1987–1988 review, we relied on the reported cost of production to calculate the final results of review. (See Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings, Finished and Unfinished, and Parts Thereof, from Japan, 56 FR 41508, August 21, 1991.)

Comment 32: Timken alleges that Koyo's cost response for its U.S. manufacturing operations in wanting in that the cost system used to prepare the cost submission covering those operations in the United States was entirely different from its normal cost accounting system. Petitioner maintains that Koyo did not explain how the alternative system affects product costs or allocation methods compared to its usual accounting system. In addition, Timken contends that the cycle times reported by AKBMC, Koyo's further manufacturing facility in the United States, are inaccurate since there were discrepancies between the reported times and the cycle times contained in the company's "Standard Cycle Time and Machine Efficiency Report", and, therefore, basic costs are distorted to the extent that Koyo relied on its (mis)reported cycle times to allocate costs to individual models. Timken also claims that Koyo's methodology for allocating direct and indirect selling expenses to the cost of production is not acceptable, since Koyo allocated its corporate expenses to production on the basis of headcount.

Department's Position: As in the 1987–1988 review, Koyo did not use the cost accounting system used to value inventory to prepare the questionnaire response, since that system does not account for current costs. Koyo based its submission on the financial statements from the period of review. The relevant costs were appropriately allocated on a model-specific basis according to cycle times, which measure the time required to perform a specific manufacturing operation in Koyo's U.S. manufacturing facility. We are satisfied that Koyo's allocation of selling expenses based on headcount does not misallocate the expenses of the company away from covered products.

Comment 33: Timken alleges that Koyo's purchase prices of certain materials are not arm's-length transactions because Koyo purchased materials from related suppliers at prices lower than similar materials from unrelated suppliers. In addition, Timken claims that subcontracting performed by related entities was sold to Koyo at less than the related subcontractors' cost of production.

Department's Position: Petitioner's comments address deficiencies noted in the verification report for the 1987–1988 review. We examined the information provided in the questionnaire response for this review and determined that Koyo appropriately accounted for the cost of materials originating from its related suppliers and subcontractors. Therefore, we made no changes to our calculations for the final results of review.

Comment 34: Timken alleges that at least one of Koyo's related contractors failed to provide verifiable costs, since the related contractor did not have a cost accounting system. Timken maintains that the figures provided were merely cost estimates based on production cycle times for one month.

Timken also alleges that a second related subcontractor did not adequately report the costs required to produce covered products since it calculated fabrication costs by multiplying the net weight of total output by a fabrication cost per kilogram. Timken alleges that, since these costs are neither model-specific nor production-line specific, they may not reflect the costs actually incurred for covered merchandise.

Department's Position: Petitioner's comments address deficiencies noted in the verification report for the 1987–1988 review. We examined the information provided in the questionnaire response for this review and determined that Koyo appropriately accounted for the cost of materials originating from its related suppliers and subcontractors. Therefore, we made no changes to our calculations for the final results of review.

Comment 35: Timken claims that the distribution of the subcontractor's variances over plant-wide production is highly distortive and inaccurate, since they are distributed without regard to whether the models in question incorporated any subcontracted costs. Timken maintains that the Department should reject these variances entirely.

Department's Position: As in the 1987–1988 review, Koyo did not allocate it's subcontractor's variances to the plant-wide cost of production. Instead, Koyo based its subcontracting expenses on the actual purchase price between Koyo and its subcontractors. Therefore, since there are no subcontracting variances affecting the reported costs, we did not adjust Koyo's reported costs for the final results of review. (See Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings, Finished and Unfinished, and Parts Thereof, from Japan, 56 FR 41508, August 21, 1991.)

Comment 36: Timken argues that Koyo's reported labor costs are inaccurate since they are based on plant-wide, rather than production-line wage rates. Timken claims that these labor costs are not adjusted for variances specific to the production of specific bearing types or production lines. Therefore, Timken argues that Koyo's system does not recognize the different net labor costs necessary to produce different type of bearings, including out-of-scope merchandise, high-precision bearings, or bearings produced continually versus those produced in lots.

Department's Position: The Department disagrees with Timken. As in our final results for the 1987–1988 review, the Department accepted the plant-wide labor rate because the other products produced by Koyo involve similar manufacturing processes to the processes for the subject merchandise. The Department believes that no distortion occurred as a result of using this rate or the associated plant-wide variance. Therefore, we did not change our calculations for the final results of review.

Comment 37: Timken argues that Koyo's calculation of general and administrative expenses (G&A) is inaccurate. It notes that Koyo paid bonuses for directors and statutory auditors from retained earnings, so that the period cost of these expenses is not correctly represented.

Department's Position: As in the 1987–1988 review, we determined that bonuses for directors and statutory auditors' fees were similar to a dividend payment and, accordingly, not a production cost. We otherwise determined that Koyo accurately reported its G&A expenses, and we did not change our calculations for the final results of review.

Comment 38: Timken argues that the Department should utilize the best information available for NSK's cost of production for several reasons: (1) The Department could not verify whether total material expenses were captured for the subject merchandise; (2) NSK understated its labor cost to the extent that non-bearing personnel are used in the production of TRBs; (3) NSK has not demonstrated whether transactions with related subcontractors were at arm's-length prices; (4) NSK improperly offset interest expense in its cost of production (COP) calculation with non-operating

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income derived from operations other than the production of bearings under review; and (5) NSK has failed to supply information on the depreciation of idle assets in an attempt to impede the completion of the administrative review.

Department's Position: The Department examined material costs for models covered in the review and overall material costs for all products that NSK produces, but did not attempt to examine total material cost for the subject merchandise. We found that, for the models verified, the standard material costs varied slightly from the actual costs. However, overall, we are satisfied that NSK's reported material costs were not distorted since the variance which accounts for the differences between standard and actual costs was correctly incorporated into the reported amounts. Therefore, we did not adjust the reported material costs.

The Department verified both direct and indirect labor costs at the NSK factor producing the subject merchandise. The costs reported by NSK were verified as accurate.

The Department did not have time to verify arm's-length prices with related parties. Because NSK's COP response verified as accurate overall, we are accepting NSK's data.

When calculating COP, the Department requires that interest income be related to the production of the subject merchandise in order to offset it against interest expense. We are satisfied that the interest income NSK received on back deposits and notes meets this requirement.

We agree that depreciation on idle assets should be included as an element of the cost of production. However, this element is insignificant within the meaning of 19 CFR 353.59. Consequently, we made no adjustment to NSK's costs.

Comments Concerning the Cost Test Methodology

Comment 39: Koyo asserts that the Department excluded certain home market sales which were sold at prices below the cost of production where such sales did not occur "over an extended period of time" during the period of review. Koyo notes that the Department defined an "extended period of time" as sales occurring below the cost of production in more than two months of the review period (i.e., in three or more months of the review period). Koyo suggests that the definition of "extended period of time" be changed to mean sold below cost in each month of the review period.

NTN disagrees with the Department's conclusion that three or more months during a period of review represents an extended period of time for sales made below the cost of production. NTN contends that an extended period must be defined as a majority of the period, or in excess of 50 percent of the period.

Department's Position: We disagree. Section 773(b)(1) of the Tariff Act is designed to ensure that below-cost sales are not disregarded if these sales occurred over a short period of time or resulted from normal business practices, such as selling obsolete or end-of-year merchandise at below-cost prices. TRBs are a commodity item that do not demonstrate perishability, seasonality, or frequent generational changes in models. No information on the record in this case indicates that below-cost sales are a normal practice or characteristic in the industry. We used the period of three months to define an extended period of time since three months is commonly used to measure corporate, financial, and economic performance. Use of three months to measure frequency of below-cost sales shows that sales below the cost of production are not random, accidental, or sporadic. This time measurement also ensures that the Department uses home market prices that are above the cost of production in its price-to-price comparisons in all but random or sporadic situations. Therefore, we have determined below-cost sales occurring in three or more months of the review period to have been made over an extended period of time. (See Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings, Four Inches or Less in Outside Diameter and Certain Components Thereof, from Japan, 56 FR 65228, December 16, 1991.)

Comment 40: Timken asserts that if a model is sold in three or fewer months, the Department should determine that sales below-cost occur over an extended period of time if sales below-cost occurring in any one of the months in which it is sold.

Department's Position: We disagree. We determined that sales below-cost occur over an extended period of time if the sales below-cost occur in all of the months in which a model is sold. Therefore, if a model is sold during one month only, the sales occur below cost, then that model is sold below cost over an extended period of time. Similarly, if a model is sold during two months of the review period, and, sales below-cost occur during both of those months, then that model is sold below cost over an extended period of time and all below cost sales of that model are excluded from our analysis. (See Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings, Four Inches or Less in Outside Diameter and Certain Components Thereof, from Japan, 56 FR 65228, December 16, 1991.)

Comment 41: Koyo argues that the Department should allocate losses as well as profits in its calculation of further manufacturing, rather than setting the allocated profit to zero for those sales which had a profit of less than zero (see Color Picture Tubes from Japan, 55 FR 37915, 1990 and Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings, Finished and Unfinished, and Parts Thereof, from Japan, 56 FR 41508, August 21, 1991).

Department's Position: We agree and have changed our calculations for the final results of review.

Miscellaneous Comments Regarding Level of Trade, Related Parties, Sample Sales, Consumption Tax, Contemporaneity, Foreign Trade Zones, Cash Deposits, and Date of Sale

Comment 42: NSK contends that the Department incorrectly ignored the commercial realities of distribution in the Japanese market by not accepting NSK's designations of four levels of trade in the home market. NSK believes the Department should compare home market sales to unrelated distributors for original manufacture to OEM sales in the United States and home market sales to OEMs for replacement to after-market sales in the United States.

Department's Position: We agree. Subsequent to our preliminary results of review, we compared OEM sales destined for original manufacture and after-market, and distributor sales destined for original manufacture and after-market. We found that, in most instances, sale to both OEMs and distributors destined for original manufacture were at higher quantities and at lower prices than sales destined for the after-market. Consequently, we have collapsed all home market sales destined for original manufacture and all home market sales destined for the after-market into distinct levels of trade for comparison to U.S. sales.

Comment 43: Timken argues that the Department should include Koyo's sample sales in its home market database. In addition, Timken alleges that Koyo has not demonstrated that sample sales are out of the "ordinary course of trade."

Department's Position: We disagree. We examined Koyo's sales practices with respect to sample sales at the verification for the 1987/1988 review and determined that the prices of samples were negotiated separately from the standard price agreements. We found no discrepancies between the reported and verified information in the previous review, and have no basis for challenging the information reported in the current review. Therefore, as in the final results of review on Tapered Roller Bearings Four Inches or Less in Outside Diameter from Japan, 56 FR 38721, June 3, 1991, and Tapered Roller Bearings, Finished and Unfinished, and Parts Thereof, from Japan, 56 FR 41508, August 21, 1991, we have not included sample sales in Koyo's home market database for the purpose of determining model match and FMV for the final results of review.

Comment 44: Timken contends that the Department must not exclude sample sales or sales NTN has classified as not in the ordinary course of trade in the home market.

Department's Position: Due to the significant number of home market sales transactions, we are satisfied that the results of this review are not meaningfully affected by the exclusion of sample sales and sales NTN identified as not in the ordinary course of trade. These transactions are comprised of trial sales for evaluation by customers, sales of sample merchandise, and sales of very small quantities on a spot basis in unusual circumstances. Consequently, we are satisfied that these are sales not in the ordinary course of trade, and we have not included them in our analysis.

Comment 45: It is petitioner's conclusion that TRBs entering a foreign trade zone or subzone (FTZ) are not exempt from the antidumping law. Therefore, Timken asserts that the Department should require the reporting on the date and status of admission and liquidation, and the collection of duties, for any of NTN's purchase price sales of TRBs brought into FTZs during the period of review. Importer Caterpillar contends that TRBs admitted to an FTZ, or transferred between FTZs, or re-exported from FTZs, are not subject to the collection of antidumping duties until, and unless, they are entered for consumption in the United States. Caterpillar also contends that TRBs admitted into an FTZ in non-privileged status and then transformed into merchandise not covered by an antidumping duty order are not subject to antidumping duties.

Department's Position: We disagree with petitioner's assertion that TRBs admitted into an FTZ are subject to an antidumping review and the collection of duties regardless of whether they enter U.S. customs territory as merchandise subject to the antidumping duty order. Section 751 of the Tariff Act instructs the Department to determine "the FMV and United States price of each entry of merchandise subject to the antidumping duty order," and the "amount, if any, by which the FMV of each entry exceeds the United States price of the entry." As we stated in the final results of review on Antifriction Bearings from the Federal Republic of Germany, et al. (56 FR 31703, July 11, 1991), our understanding of the term "entry" in the antidumping law is that it unambiguously refers to release of merchandise into the customs territory of the United States. To the extent TRBs were admitted into an FTZ in a non-privileged status and transformed into merchandise not subject to the order before entering U.S. Customs territory, the Department currently has no basis for the assessment of antidumping duties on the merchandise. The Department recently adopted regulations governing FTZs that address this issue, but they are only effective for merchandise entering an FTZ on or after November 7, 1991, with certain exceptions (*Foreign Trade Zones in the United States; Final Rule,* 56 FR 50790 (1991)) (to be codified in 15 CFR part 400). Under these rules, items subject to an antidumping order must be classified as privileged and will be subject to antidumping duties. Thus, respondents will be required to post cash deposits equal to the amount of estimated antidumping duties on all TRBs that enter an FTZ on or after November 7, 1991.

Comment 46: Petitioner states that a Japanese consumption-tax-adjusted USP must be compared to a tax inclusive home market price.

Department's Position: We agree. For U.S. sales that occurred on or after April 1, 1989, a three percent consumption tax has been calculated and added to both USP and FMV.

Comment 47: Koyo maintains that the Department erred in comparing actual U.S. sales transactions with a weighted-average FMV based on the entire 12-month period of review. Koyo believes that the Department's comparison of weighted-average FMVs for the entire period of review with individual U.S. prices yields margin calculations that are not representative. Koyo asserts that, particularly since negative margins are disregarded, the Department must calculate weighted-average U.S. prices on the same basis as FMV to produce fair and representative results.

Finally, Koyo argues that the Department's decision to replace the monthly weighted-average FMV with a weighted-average FMV for the entire review period is contrary to the purpose of U.S. antidumping law. Koyo asserts that the methodology used by the Department to calculate FMV must be predictable to allow the foreign manufacturers the opportunity to adjust their pricing policies.

Department's Position: We agree that section 777A of the statute requires the Department to ensure that samples and averages shall be representative of the transactions under review. Therefore, before adopting use of an weighted-average FMV for the 12-month period of review, we conducted two studies to insure that the results produced would be representative. First, we compared the monthly weighted-average price to the weighted-average price for the entire review period. We found that the period's weighted-average price for more than 90 percent of the products sold came within 10 percent of the monthly weighted-average price. Second, we tested whether home market prices of the subject merchandise consistently rose or fell during the period of review. We found that no significant correlation existed between price and time. That is, prices did not consistently rise or fall so as to make period weighted-average prices unrepresentative of home market prices.

Therefore, the results of these tests demonstrate that Koyo's pricing practices remained stable during the review period, thus insuring that a weighted-average FMV for the entire period of review is as representative of home market prices as the traditional monthly weighted-average FMV. We are satisfied that, if the weighted-average FMV is representative of the home market prices for the period of review, then the margins calculated using weighted-average prices are also representative.

We disagree with Koyo's assertion that, to insure representative results, we must average USPs on the same basis as FMV. An average USP has been, and continues to be, unacceptable, because it would allow a foreign producer to mask dumping margins by offsetting dumped prices with prices above FMV. That is, a foreign producer could sell half its merchandise in the United States at less than FMV, and the other half at more than FMV, and arrive at a zero dumping margin. Except in instances where the Department has conducted reviews of seasonal merchandise which has very significant price fluctuations due to perishability (Final Results of Antidumping Duty Administrative Review, Certain Fresh Cut Flowers from Colombia, 55 FR 20495, May 17, 1990), the idea of averaging USP has been rejected (Final Results of Antidumping Administrative Review, Pressure

Sensitive Plastic Tape from Italy, 54 FR 13091, March 30, 1989). Since the merchandise under review is not a perishable product and significant fluctuations in the price did not occur, there is no reason to believe that averaging of USP is needed.

We disagree with Koyo's assertion that our change in methodology has removed predictability from the process. Since such a high percentage of the sales have a weighted-average price for the entire 12-month period of review which falls within 10 percent of the monthly weighted-average price, the calculation of a weighted-average FMV for the entire review period, is not less predictable than the calculation of a monthly weighted-average FMV. (See Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings, Four Inches or Less in Outside Diameter and Certain Components Thereof, from Japan 56 FR 65228, December 16, 1991.)

Comment 48: Koyo argues that the interests of justice require that all interested parties be given an opportunity to review the Department's computer programs prior to the issuance of the final results. Koyo contends that if the Department fails to release the program prior to issuing the final results, there will be insufficient time to identify and correct programming errors before litigation commences and the Department is divested of jurisdiction and cannot make changes to the record. Therefore, the clerical errors in the Department's calculation without a Court order.

Department's Position: We disagree that the parties are denied the opportunity for meaningful comment on the clerical errors in the computer program if they do not have access to the calculations prior to the issuance of the final results of review. The Department's regulations provide parties an opportunity to request disclosure after issuance of final results and to identify and comment on any clerical errors in the calculations (19 CFR 353.28).

Comment 49: Caterpillar contends that separate importer-specific margins, both for purposes of assessment and for purposes of establishing an estimated duty deposit rate, must be determined for importers who engage only in purchase price transactions.

Department's Position: The Department agrees that importer-specific assessment rates are appropriate. However, in general, we do not agrees that importer-specific deposit rates are appropriate. Duty deposits are merely estimates of what the future duty amount will be. Therefore, we believe that the need for a precise, importer-by-importer estimate of duties is outweighed by the need to provide the Customs Service with a set of deposit rates that can be effectively administered. In this administrative review, we have limited our analysis to NTN's purchase price sales to Caterpillar. Therefore, we will issue a deposit rate for imports by Caterpillar from NTN based on our analysis. The cash deposit rate for the TRBs NTN exports to the United States for which Caterpillar is not the importer will remain at 36.53 percent, the rate established in the antidumping duty order, as amended.

Comment 50: Timken claims that NSK has not adequately defined the dates of sale for home market sales.

Department's Position: We disagree. Our verification of NSK's response showed the date of shipment to be the date of sale.

Comment 51: NSK asserts that merchandise that was entered prior to the POR, but was sold during the POR, may not be used to calculate antidumping margins.

Department's Position: We disagree. Because of the time lag between entry and sales in an ESP situation, the Department will never be able to gather complete information for the calculation of antidumping margins within the time constraints of an administrative review. Therefore we use the margins on sales within the POR as the most reasonable representation of margins on entries during the POR.

Final Results of Review

As a result of our comparison of United States price to foreign market value, we determine that the following margins exist for the period October 1, 1988, through October 31, 1989:

Manufacturer/exporter	Margin (percent)
Koyo Seiko, K.K	24.90
Nachi-Fujikoshi Corporation *	40.37
Nippon Seiko K.K.	40.37
NTN/Caterpillar	38.89

* No shipments; margin represents the highest non-BIA rate established for any firm included in this review.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the stated percentages. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Furthermore, as provided for by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties, shall be required on shipments of TRBs for Japan: (1) For companies participating in this review, the cash deposit rates established in this review; (2) For manufacturers or exporters not covered by this review, but covered in a prior segment of the proceeding (either the original investigation or a prior review), the cash deposit rate will be the rate published in the most recent segment of the proceeding in which the company participated; (3) For exporters who are not covered by this review or a prior segment of the proceeding, and who export merchandise produced by manufacturers that have been covered by this review or a prior segment of the proceeding, the cash deposit rate will be the rate published for the manufacturer of the merchandise in the most recent segment of the proceeding in which the manufacturer participated; and, (4) For all other exporters/producers of this merchandise who are unrelated to any reviewed firm, the case deposit will be 40.37 percent, the highest non-BIA rate established for any firm included in this review.

These deposit requirements are effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice, and will remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.222.

Dated: January 31, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-3202 Filed 2-10-92; 8:45 am]

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[A-588-604]

Tapered Roller Bearings, and Parts Thereof, Finished and Unfinished, From Japan; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On August 14, 1991, the Department of Commerce published the preliminary results of its 1989–90 administrative review of the antidumping duty order on tapered

roller bearings and parts thereof, finished and unfinished, from Japan. The review covers four manufacturers/exporters of this merchandise to the United States during the period October 1, 1989, through September 30, 1990.

We gave interested parties the opportunity to comment on our preliminary results. Based on our analysis of the comments received, we have adjusted the margins for some companies.

EFFECTIVE DATE: February 11, 1992.

FOR FURTHER INFORMATION CONTACT: Sheila Baker, Joseph Hanley, or Laurel LaCivita, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-4733.

SUPPLEMENTARY INFORMATION:

Background

On August 14, 1991, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order (52 FR 37352, October 6, 1987) on tapered roller bearings, and parts thereof, finished and unfinished, from Japan, in the **Federal Register** (56 FR 40307). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act).

Scope of the Review

Imports covered by the review include tapered roller bearings (TRBs) and parts thereof, which are flange, take-up cartridge, and hanger units incorporating TRBs, and tapered roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, whether or not for automotive use. Products subject to the outstanding dumping finding covering certain TRBs from Japan four inches or less in outside diameter and certain components thereof (A-588-054), are not included within the scope of this order. However, this order includes all tapered roller bearings, and parts thereof, as described above, that are manufactured by NTN Toyo Bearing Co., Ltd. (NTN). This merchandise is currently classifiable under Harmonized Tariff Schedule (HTS) item numbers 8482.99.30, 8483.20.40, 8482.20.20, 8483.20.80, 8482.91.00, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.80. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers four manufacturers/exporters of TRBs during the period October 1, 1989, through September 30, 1990: Koyo Seiko Company Ltd. (Koyo), Nachi-Fujikoshi Corporation (Nachi), NSK Ltd. (NSK) (formally (Nippon Seiko, K.K.), and entries of merchandise manufactured by NTN, and entered by Caterpillar Incorporated (Caterpillar) during the period October 1, 1989, through September 30, 1990. Because the Department did not establish a separate rate for Nachi in the antidumping investigation and Nachi has never before been subject to administrative review, we have assigned Nachi a rate of 45.95 percent. This rate, commonly referred to as the All Others rate, is the rate applicable to those companies for which we have not conducted an investigation or review.

ANALYSIS OF COMMENTS RECEIVED

We gave interested parties an opportunity to comment on the preliminary results. At the request of the petitioner, one respondent, and an unrelated importer, we held a hearing on October 8, 1991. We received case briefs and rebuttal briefs from petitioner (The Timken Company (Timken)), Koyo, NSK, and NTN, and Caterpillar.

Comments are addressed in the following order:

1. General Issues
2. Annual Average Foreign Market Value, Model Match, and Cost Test Methodology
3. Calculation of Foreign Market Value
4. Calculation of U.S. Price
5. Comments Regarding Cost of Production
6. Comments Regarding the Use of Best Information Available
7. Clerical Errors

Comments Regarding General Issues

Comment 1: Timken argues that the Department should have included in this review all products within the scope of the finding that are admitted to a foreign trade zone (FTZ) or subzone. Timken also argues that the Department should require respondents to post cash deposits in the amount of the estimated antidumping duties upon all TRBs subject to the scope of this order admitted to FTZs. At the least Timken argues that the Department should apply the regulation it has proposed regarding goods entered into an FTZ that are covered by an antidumping duty order.

Department's Position: We disagree with petitioner's assertion that at the time the subject merchandise was admitted into an FTZ it became subject to an antidumping review and the collection of duties regardless of whether it enters U.S. customs territory as merchandise subject to the antidumping duty order. Section 751 of the Tariff Act instructs the Department to determine "the foreign market value and United States price of each *entry* of merchandise subject to the antidumping duty order", and the "amount, if any, by which the foreign market value of each *entry* exceeds the United States price of the entry." (Emphasis added.)

Under the Department's practice, at the time the merchandise subject to this review as admitted into the FTZ the merchandise was not subject to antidumping duties. As we stated in the final results of review on Antifriction Bearings From the Federal Republic of Germany, et al. (56 FR 31703, July 11, 1991), Tapered Roller Bearings, Finished and Unfinished, and Parts Thereof, from Japan (56 FR 41506, August 21, 1991), Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Certain Components Thereof, from Japan (56 FR 65228, December 16, 1991), our understanding of the term "entry" in the antidumping law is that it unambiguously refers to release of merchandise into the customs territory of the United States. Importers were allowed to elect privileged or non-privileged status of TRBs admitted to FTZs. To the extent that TRBs were admitted into an FTZ in a non-privileged status and transformed into merchandise not subject to the finding before entering U.S. customs territory, the Department currently has no basis for the assessment of antidumping duties on the merchandise.

The Department recently adopted regulations governing FTZs that address this issue, but they are effective only for merchandise entering an FTZ on or after November 7, 1991, with certain exceptions (Foreign Trade Zones in the United States; Final Rule, 56 FR 50790 (1991)) (to be codified in 15 CFR part 400). Under these rules, items subject to an antidumping duty order must be classified as privileged on admission to the FTZ and will therefore be subject to antidumping duties on entry, even if transformed in the FTZ into goods not subject to the order. Respondents will be required to post cash deposits equal to the amount of estimated antidumping duties on all TRBs entered through FTZs (however transformed) on or after November 7, 1991.

Comment 2: Timken asserts that according to the statute and judicial precedent (*Zenith Electronics Corp.* v. *United States*, 10 CIT at 276, (1986)), the Department may not make an adjustment for consumption taxes forgiven on exports by simply deducting the tax from FMV. Rather, Timken argues, an upward adjustment in the amount of the tax must be made to U.S. price.

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Timken asserts that the Department should include the Japanese consumption tax in foreign market value (FMV) and make a corresponding upward adjustment to U.S. price. To impute the home market tax, Timken argues, the Department should simply apply the tax rate to both the U.S. price and the FMV. According to Timken, the antidumping law does not support the proposition that a tax differential generated by actual dumping is eligible for a circumstance of sale adjustment since it would artificially suppress margins in cases where dumping is present (Zenith, 10 CIT at 280–281, (1986)).

Additionally, Timken argues that the use of ESP as the basis for the consumption tax is inappropriate and overstates the amount of the adjustment to U.S. price since the Department does not deduct a reasonable amount for ESP to account for the reseller's profit. Accordingly, Timken believes that the Department should use the f.o.b. origin prices between related parties as the basis for the consumption tax.

Department's Position: We have added an imputed consumption tax to the U.S. price according to section 772(d)(1)(C) of the Tariff Act. Because the statute directs us to adjust for home market consumption taxes through an addition to U.S. price, we generally used tax-inclusive prices in each market to calculate a dumping margin. No consumption tax was added to the U.S. price when the FMV was based on constructed value, because section 773(e) of the Tariff Act does not provide for the inclusion of any tax in constructed value (Final Results of Antidumping Duty Administrative Review, Antifriction Bearings and Parts Thereof From the Federal Republic of Germany, et al. (56 FR 31729, July 11, 1991), Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Certain Components Thereof, From Japan (56 FR 65228, December 16, 1991).

We calculated the addition to U.S. price by applying the home market tax rate to the net U.S. price after all other adjustments were made. This "ex factory" tax basis for U.S. price is the best information available because the home market sales were reported net of the consumption tax. In order to ensure a tax-neutral absolute margin, we made a circumstance of sale adjustment to FMV to offset any difference in the home market and U.S. tax.

Comment 3: Koyo alleges that the Department failed to provide it with an adequate disclosure of the preliminary results, and therefore violated antidumping law, the Department's regulations, and Koyo's rights of due process of law. Koyo bases this allegation on the fact that the Department provided only sample printouts of the data that shows the margin calculations, rather than the entire data set. Koyo asserts that, due to this practice, it has been denied a full explanation of the procedures used by the Department to calculate the preliminary results.

Koyo argues that it could not determine from the printouts which home market sales were used to calculate the foreign market values, and which home market models the Department determined to be such or similar merchandise. As a result, Koyo alleges that it was forced to hypothesize as to which home market models were compared to the models sold in the U.S.

Koyo requests that the Department provide it with additional computer printouts, or, preferably, a magnetic tape containing a copy of the computer program and all of the intermediate data sets. Koyo also requests that it be given two weeks after disclosure of the newly requested information to file a supplemental case brief, and to request a further hearing on the preliminary results.

Department's Position: We disagree with Koyo's assertion that we failed to provide adequate disclosure of the preliminary results. One week before the scheduled disclosure conference we released to counsel for Koyo the entire computer program used to calculate the preliminary results along with computer printouts and an analysis memo explaining our methodology. After allowing Koyo's representatives the opportunity to examine these documents we met with them to fully explain our methodology and answer any questions they may have regarding our calculations.

Koyo's assertion that adequate disclosure of the preliminary results is only attainable by printing all data sets in their entirety is unfounded. The computer program, which we released in its entirety, includes every calculation used to produce the preliminary margins. Indeed, the computer program, along with the analysis memo, is the key to understanding the methodology employed by the Department.

In an annual review of TRBs there are often tens of thousands of sales in each market. The enormous data sets created by such a high volume of sales number thousands of pages in length and are a redundant and wasteful display of the Department's methodology. Therefore, in the interest of easing the administrative burden placed upon the Department, we printed sample pages of various data sets and released them to Koyo. These sample datasets, along with the computer program and the analysis memo, provide Koyo with the opportunity to examine the results of the calculations and comment meaningfully on our methodology.

Comment 4: Caterpillar contends that separate importer-specific margins, both for purposes of assessment and for purposes of establishing an estimated duty deposit rate, must be determined for importers who engage only in purchase price transactions.

Department's Position: The Department agrees that importer-specific assessment rates are appropriate. However, in general, we do not agree that importer specific deposit rates are appropriate. Duty deposits are merely estimates of what the future duty amount will be. Therefore, we believe that the need for a precise, importer-by-importer estimate of duties is outweighed by the need to provide the Customs Service with a set of deposit rates than can be effectively administered. In this administrative review, we have limited our analysis of NTN's purchase price sales to Caterpillar. Therefore, we will issue a deposit rate for imports by Caterpillar from NTN based on our analysis. The cash deposit rate for the TRBs NTN exports to the U.S. for which Caterpillar is not the importer will remain at 36.53%, the rate established in the antidumping duty order, as amended.

Comments Regarding Annual Averaging of Foreign Market Value, Model Match, and Cost Test Methodologies

Comment 5: Koyo argues that section 777A of the Tariff Act authorizes the Department to use averaging techniques to establish U.S. price and FMV only when such averaging techniques yield fair and representative results. Koyo believes that, regardless of whether an annual weighted-average FMV is as representative of home market prices as a monthly weighted-average FMV, the Department has failed to demonstrate that its use leads to margin calculations which are representative.

Koyo further submits that the Department's claim that the annual weighted-average FMV is as representative as the monthly weighted-average FMV is flawed. Koyo believes that the Department's determination that 98 percent of the home market sales have an annual weighted-average price that falls within 10 percent of the monthly weighted-average price is insufficient grounds for using an annual weighted-average FMV. Koyo believes that a 10 percent variance can have a dramatic, distortional effect on the margin calculation because it can increase the margin by as much as 10 percent, and produce findings of dumping where no dumping occurred. Koyo believes that this problem is further exacerbated by the Department's practice of not crediting respondents with negative dumping margins on sales made in the United States at prices above those in the home market.

Koyo asserts that, since the Department has already gone to the effort of calculating a monthly weighted-average FMV, it should use the monthly FMV in its margin calculations since it is a more contemporaneous match than an annual weighted-average FMV. Koyo cites section 773(a)(1) of the Tariff Act and § 353.46(a)(2) of the Department's regulations to support its argument that the Department must only compare foreign market values that are contemporaneous with U.S. sales.

Alternatively, Koyo argues, the Department should compare an annual weighted-average U.S. price to the annual weighted-average FMV to insure an apples-to-apples comparison. At the least, Koyo believes that a monthly weighted-average FMV should be used in instances where the annual weighted-average price deviates from the monthly weighted-average price by more than 10 percent.

Finally, Koyo argues that the Department's decision to replace the monthly weighted-average FMV with an annual weighted-average FMV without notifying Koyo is contrary to the purpose of U.S. antidumping law. Koyo asserts that the methodology used by the Department to calculate FMV must be predictable to allow the foreign manufacturers the opportunity to adjust their pricing policies.

Department's Position: Section 777A of the Tariff Act requires the Department to ensure that samples and averages shall be representative of the transactions under review. Therefore, before adopting the use of an annual weighted-average FMV, we conducted two studies on prices to ensure that the transactions and, thus, the results produced would be representative. First, we compared the monthly weighted-average price to the annual weighted-average price. We found that the annual weighted-average price for more than 90 percent of the products sold was within 10 percent of the monthly weighted-average price. Second, we tested whether home market prices of the subject merchandise consistently rose or fell during the period of review. We found that no significant correlation existed between price and time.

That is, prices did not consistently rise or fall so as to make annual weighted-average price unrepresenatives of home market prices.

Therefore, the results of these tests demonstrate that Koyo's pricing practices remained stable during the review period, thus insuring that an annual weighted-average FMV is as representative of home market prices as the traditional monthly weighted-average FMV. We are satisfied that, if the weighted-average FMV is representative of the home market prices for the period of review, then the margins calculated using the weighted-average price are accurate.

We disagree with Koyo's assertion that the Department's determination that 98 percent of the home market sales have an annual weighted-average price that falls within 10 percent of the monthly weighted-average price is insufficient grounds for using an annual weighted-average FMV. All averaging techniques, whether they are monthly or annual, result in variances between the actual price and the average price. The fact that over 90 percent of the annual weighted-average prices fall within 10 percent of the monthly weighted-average prices demonstrates that the variances produced by using an annual weighted-average FMV do not differ significantly from the variances produced by using a monthly weighted-average FMV. Furthermore, Koyo offers no evidence that an annual weighted-average FMV results in a systematic bias that would create higher dumping margins than would result from using a monthly weighted-average FMV.

Also, we disagree with Koyo's assertions that, to insure representative results, we must average U.S. prices on the same basis as FMV, or that we must credit respondents with negative dumping margins. Both cases have been, and continue to be, unacceptable, because they would allow a foreign producer to mask dumping margins by offsetting dumped prices with prices above FMV. That is, a foreign producer could sell half its merchandise in the U.S. at less than FMV, and the other half at more than FMV, and arrive at a zero dumping margin. The Department does not encourage selective dumping, nor do we reward a party for not dumping. Except in instances where the Department has conducted reviews of seasonal merchandise which has very significant price fluctuations due to perishability (Final Results of Antidumping Duty Administrative Review, Certain Fresh Cut Flowers From Colombia (55 FR 20495, May 17, 1990)), the idea of averaging U.S. prices has been rejected (Final Results of Antidumping Duty Administrative Review, Pressure Sensitive Plastic Tape From Italy (54 FR 13091, March 30, 1989)). Since the merchandise under review is not a perishable product, and our tests of home market sales revealed that there are no significant price fluctuations, there is no reason to believe that averaging of U.S. prices is needed to account for very significant price fluctuations.

The Department notes that the use of an annual weighted-average FMV in calculating margins dramatically simplifies the analysis in this review. Koyo's presumption that we have already 'gone to the effort' to calculate an annual weighted-average FMV at the onset of our analysis and, therefore, have completed the complicated calculations, is mistaken. At the onset of our analysis, we compare annual prices, not FMVs, to monthly prices, not FMVs, for representativeness. Upon finding that the annual price is representative, we then calculate an annual weighted-average FMV for a model. Since we have confirmed that price variations are not correlated with time, there is no contemporaneity issue. The fact that we do not have to make multiple searches for contemporaneous matches results in a dramatic simplification of our analysis, while maintaining the integrity of the representative FMV.

We disagree with Koyo's assertion that our change in methodology has removed predictability from the process. Since such a high percentage of the sales have an annual weighted-average price which falls within ten percent of the monthly weighted-average price, the calculation of an annual weighted-average FMV, which the Department has used in this review, is no less predictable than the calculation of a monthly weighted-average FMV.

Comment 6: Koyo asserts that the Department's model match methodology is flawed because it does not use a cap on the permissible difference between the home market model and the U.S. model for each of the five criteria used to determine similar merchandise. Koyo cites examples of home market models that it believes are dissimilar to the U.S. models to which they were compared. Koyo asserts that a ten percent cap on the five physical characteristics criteria would prevent the matching of alleged dissimilar home market models to U.S. models.

NTN argues that the Department should institute a ten percent cap on the five physical criteria. NTN claims that radically different bearings could pass the twenty percent difference in merchandise test, used by the Department to ensure that dissimilar bearings are not matched together

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simply because they have the lowest sum of the deviations.

Caterpillar contends that the Department is not justified in its failure to apply a ten percent cap in connection with the sum of the deviations method, as it did with the greatest single deviation method. Caterpillar argues that, without the implementation of a ten percent cap, the Department's model match could result in many matches which do not fall under any of the three definitions of such or similar merchandise provided for in 19 U.S.C. 1677(16), because the matched products are not at all alike in the purposes for which used. Caterpillar maintains that products that look different, have dissimilar components, constructions, and capabilities, and different uses could be matched under the sum of the deviations method. Caterpillar argues that such dissimilar products would be targeted and priced for sale in different markets and, consequently, would not be considered such or similar merchandise.

Department's Position: We disagree with the argument that our decision not to apply a ten percent criterion cap results in the comparison of models which do not constitute similar merchandise. We have based the determination of physical similarity on the smallest sum of the deviations of the five physical criteria. Consistent with section 771(16) of the statute, we determined that all TRBs are alike in the purposes for which they are used (*i.e.* to reduce friction) and we eliminated models that are not of equal commercial value. There is no further requirement that home market models must be technically substitutable, purchased by the same type of customer, or have the same end use as the U.S. model.

Throughout the extended history of the two TRB proceedings, the Department requested input by interested parties and evolved the use of these five physical criteria to identify and compare models sold in the U.S. and the home market. We are aware that these five characteristics are not substitutes for the technical specifications of the products under review, since TRB product manual list more than 25 statistics for each bearing. However, we have determined that, for the purposes of selecting similar merchandise in a dumping calculation, these five criteria are the pertinent data to be collected and analyzed.

Comment 7: Timken notes that the Department permitted the respondents to conduct the model match selection of such or similar merchandise according to the instructions included in the questionnaire, and to submit sales information on only those models that they determined to be such or similar to the models sold in the U.S. Timken objects to this method of data collection for two reasons.

First, Timken believes that the Department has the statutory responsibility to select which merchandise is such or similar and should not forfeit this responsibility to the respondents. At the least, Timken urges the Department to require respondents to submit model match criteria on all models sold in the home market so that the Department may confirm that the models included on the sales data set are the most similar models sold in the home market.

Second, Timken objects to the selection of such or similar merchandise before the Department determines the basis for averaging foreign market values. While Timken acknowledges that this was not a problem for this review since NTN reported sales data for all models sold in the home market and annual averaging was acceptable for Koyo and NSK, it notes that the home market model which is considered most similar to a U.S. model may change depending on the window period used to make the selection. Since the Department must test the stability of the home market sales before it determines whether it intends to use a monthly or annual average foreign market value, Timken urges the Department to collect sales information on all home market sales in future reviews, thus ensuring that, regardless of the averaging technique utilized, the Department will always have the most similar home market model in its home market sales data set.

Additionally, Timken objects to the fact that Koyo submitted a supplemental home market sales listing based on the Department's revised model match methodology without submitting a copy of the revised model match program used to select the models. Unless Koyo submits a copy of this program, Timken argues, the Department has abdicated to Koyo its "statutory responsibility for determining what TRB models * * * were the most similar to models sold in the United States." (*Timken* v. *United States*, 10 CIT 86, 98, 630 F. Supp. 1327, 1338 (1986)). Timken argues that because Koyo did not even supply the minimal information the Department requested, the Department has no choice but to use best information otherwise available for home market price.

Department's Position: We disagree with Timken's argument that the Department has abdicated its statutory responsibility by allowing the respondents to submit only such or similar merchandise sold in the home market. In the original questionnaire issued by the Department, we included specific and detailed instructions that spelled out the model match methodology to be used by the respondents to identify such or similar merchandise. The instructions, which the respondents are required to follow, detail a model match methodology which is highly objective in its selection of such or similar merchandise, thereby avoiding any subjective criteria that a respondent may wish to add to the selection process. Additionally, we required the respondents to submit the computer programs they used to identify such or similar merchandise in order that we may confirm that the respondents correctly followed our instructions.

Therefore, Timken's assertion that we abdicated our statutory responsibility to identify and select such or similar merchandise is unfounded. Our detailed instructions outlining the objective methodology to be used by the respondents, combined with our examination of the programs used by the respondents to identify such or similar merchandise, fulfills our statutory obligation to determine what merchandise should be considered such or similar.

Koyo submitted a computer tape containing model match criteria on every model sold in the home market during the period of review. Our analysis of this data reveals that Koyo properly followed the model match instructions conveyed by the Department and submitted sales of the four most similar models sold in the home market during the period of review.

Comment 8: NTN argues that the Department should only compare bearings of the same design type. Specifically, NTN claims that bearings of different precision ratings should not be compared. NTN contends that comparison of high precision (HP) bearings to normal precision bearings is contrary to law. NTN alleges that the physical nature of HP bearings is much different from that of normal bearings and that HP items are sold at much higher prices than normal bearings. NTN cites the first review of antifriction bearings (Final Results of Antidumping Duty Administrative Review, Antifriction Bearings From the Federal Republic of Germany, et al. (56 FR 31714, July 11, 1991)), where bearings of different precision ratings were not compared.

Timken contends that NTN has given no evidence on the record to demonstrate why these factors should be added to the Department's methodology. Timken further notes that if the design and component material were so radically different, the twenty percent difference in merchandise cost test would account for the differences.

Different's Position: We agree with Timken. If the bearings themselves are radically different, the sum of the deviations model match addresses the differences in physical criteria. If the bearings look similar, but their component materials are drastically different, and therefore not comparable, this difference would be addressed in the twenty percent difference in merchandise test.

Comment 9: NTN argues that the Department incorrectly used best information available when NTN failed to supply a set splitting (cost) ratio. NTN claims that the only bearings which are missing such information are certain types of bearings which cannot be split because the resulting split items are never sold commercially. NTN further argues that the Department should not split sales of sets at all. NTN claims that the statute does not permit the creation of fictitious sales for the purposes of calculating FMV. NTN contends that sales of sets may not be used to create sales of similar cups and cones because the set is not similar to the cup or cone sold in the U.S.

Timken argues that the Department's consistent practice of splitting sets to calculate FMV has been approved by the Court of International Trade (*Timken Company* v. *United States*, 11 CIT at 793–795, 673 F. Supp. at 504–595 (1987) (*Timken II*), Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Certain Components Thereof, From Japan (55 FR 22369, June 1, 1990), Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Certain Components Thereof, From Japan (55 FR 38721, June 6, 1991) ("It has been our consistent practice to create the largest possible FMV pool of comparable merchandise by splitting home market sets into component cups and cones and adding them to the home market sales dataset of individually sold cups and cones before making sales comparisons with U.S. sales"); Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings, Finished and Unfinished, and Parts Thereof, From Japan (52 FR 30703, August 17, 1987)).

Department's Position: We agree with Timken. In *Timken2*, the court pointed out that these split sales are not "fictitious" sales, as NTN alleges, but they are real sales made to real customers. The court upheld the Department's decision to split sales of sets because, in the absence of that practice, NTN could have forced the Department to use constructed value in its analysis by simply selling sets in one market and cups and cones in the other. "The court declines to read section 1677b(a)(1) to permit such control by foreign manufacturers of the manner in which foreign market value is determined" (*Timken2*, at 504–505). Likewise, the Department is faithful to this principle in the splitting of certain sets which NTN claims are not ever sold as single cups or cones. If these split cups or cones are determined to be the most similar merchandise to the product sold in the U.S., they should rightly be compared to the most similar merchandise.

Comment 10: Timken asserts that the Department needs to modify its test to determine whether below-cost sales occurred over an extended period of time. Timken notes that the Department determines that below-cost sales of a model take place over an extended period of time when the below-cost sales occur in three months or more of the review period. However, if a model is sold in less than three months of the review period, the Department determines that below-cost sales take place over an extended period of time when the below-cost sales take place in all of the months in which sales of the model occurred. Timken asserts that the cost test is illogical when applied to models sold in less than four months of the review period since it requires that below-cost sales be found in every month the model was sold before they are found to be sold over an extended period of time.

NTN argues that the Department has not defined what it considers an extended period of time. NTN maintains that an extended period of time must account for at least fifty percent of the period of review.

Department's Position: We used a period of three months to define extended period of time since three months is commonly used to measure corporate, financial, and economic performance. The use of three months to measure frequency of below-cost sales shows that sales below COP are not random, accidental, or sporadic. This time measurement also ensures that the Department uses home market prices that are above COP in its price to price comparisons in all but random or sporadic situations.

However, the use of only a three month time measurement is incomplete since it excludes models that were sold in only one or two months of the review period. In cases where a model was sold in only one or two months, we determined that below-cost sales took place over an extended period of time if the below-cost sales occurred in one or two months respectively. While this test for models sold in two months or less of the review period ensures that an extended period of time test is applied to all sales, it does not penalize the respondent for random, accidental, or sporadic sales below COP.

Comments Regarding Calculation of Foreign Market Value

Comment 11: Timken asserts that Koyo mischaracterized the home market level of trade classification by classifying certain sales to original equipment manufacturers (OEM) as aftermarket (AM) sales. Timken contends that Koyo should not be allowed to classify sales to OEM customers as AM sales even though those sales are intended to supply the customer's service or replacement business. Timken argues that Koyo did not report different prices for the sales it made to OEM customers for resale in the aftermarket, and did not provide information to the effect that these sales were at different levels of trade.

In addition, Timken alleges that in the U.S. market, Koyo characterized some of its sales to OEM customers as being ultimately destined for the aftermarket, but it failed to report these as AM sales as it had done in the home market. Timken asserts that Koyo's inconsistent treatement across both markets shows that its claim with respect to home market level of trade classification is invalid. Timken argues that the Department should reclassify any sales made to OEM customers in the home market as OEM sales, regardless of whether those sales are intended to supply the customer's service or replacement business.

NTN argues that the Department should recognize the existence of the AM level of trade when OEMs are selling to the replacement market. NTN notes that the Department stated in its analysis memorandum that NTN had satisfactorily differentiated its selling expenses for each level of trade, but, in fact, only recognized two of the three claimed levels of trade.

Department's Position: We recognize that some OEM customers also act as distributors and therefore purchase bearings in both markets. The classification of a sale as OEM or AM indicates the market in which the sale took place. The fact that a customer is an OEM, and purchases the majority of its bearings in the OEM market, does not preclude it from purchasing bearings in the aftermarket for replacement parts, resale, or distribution.

Further, there is no information on the record that suggests that Koyo's claim that its prices and selling costs in the aftermarket are higher than in the OEM market is invalid, or that Koyo's classification of sales is inconsistent across both markets. Therefore, we accepted Koyo and NTN's level of trade classifications.

Comment 12: NTN claims that comparisons across level of trade are incorrect. NTN further argues that a level of trade adjustment based on the differences in indirect selling expenses does not reflect the differences in value, but that a level of trade adjustment based on the price differences between the two levels of trade would accurately reflect the differences in value.

NTN contends that any adjustments for level of trade differences should not be limited to differences in expenses, but should account for the differences in price levels. NTN further claims that the differences in levels of trade represent different commercial quantity levels and different "courses of trade" and therefore should not be compared under 19 U.S.C. 1677(a)(1)(A).

Timken notes that the Department is authorized under 19 U.S.C. 1677b(a)(4) and 19 CFR 353.58 to make an adjustment for differences in levels of trade.

Department's Position: We agree with Timkin. In *Timken II* at 495, 504, the Court of International Trade decided that level of trade was not a relevant, much less a determinative, factor. Furthermore, NTN's argument that a level of trade adjustment should be based on the differences in price levels does not address the issue of whether the difference in price is solely due to the difference in level of trade, or whether other factors affect price. NTN submitted quantifiable evidence which reflects the difference in selling expenses, but because we have already made adjustments for the direct selling expenses, we have based our adjustment on indirect selling expenses only in order to avoid double counting the direct selling expenses (Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings, Finished and Unfinished, and Parts Thereof, From Japan (56 FR 41512, August 21, 1991)).

Comment 13: Timken asserts that the Department should merge home market sample sales submitted by Koyo with the home market sales data base, thus insuring that sample sales are included in the margin calculations. Timken argues that Koyo did not demonstrate that its sample sales were not in the ordinary course of trade, and that Koyo's claim for exclusion of "small volume sales made solely for the purpose of providing the customer an opportunity to inspect a given product" is not supported by any evidence and must be rejected by the Department.

Department's Position: Koyo confirmed in its letter to the Department, dated July 19, 1991, that it included sales it regarded as samples in the revised home market sales listing it submitted to the Department on July 8, 1991. Since Koyo only submitted one home market sales listing, which included sales designated by Koyo as sample and non-sample, it was not necessary for the Department to conduct a merge to include sales designated by Koyo as samples.

Comment 14: Timken argues that NTN has erroneously claimed exclusion of certain transactions which it considers outside the ordinary course of trade. These transactions consist of price changes and returns (with the original invoice), zero price sales, sample sales, and small quantity sales. Timken agrees that zero price sales should be excluded as outside the ordinary course of trade, but argues that NTN has offered no proof that its alleged sample sales are outside the ordinary course of trade.

Timken asserts that NTN incorrectly claimed exclusion of its small quantity sales, even though NTN stated that it has no quantity discounts and has not demonstrated any correlation between price and quantity. Timken also notes that sales of similar quantities have not been claimed as outside the ordinary course of trade in the U.S., which, according to 19 CFR 353.55(a), would indicate that sales are being made in comparable quantities in both markets.

NTN argues that the Department has verified the facts surrounding the circumstances of sample and small quantity sales and should therefore exclude the sales as outside the ordinary course of trade.

Department's Position: Due to the significant number of home market sales transactions, we are satisfied that the results of this review are not meaningfully affected by the exclusion of sample sales and sales NTN identified as not in the ordinary course of trade. These transactions are comprised of trial sales for evaluation by customers, sales of sample merchandise, and sales of very small quantities on a spot basis in unusual circumstances. Furthermore, the Department examined Timken's argument that a similar claim for small quantity sales has not been made in the United States and found that, in the few instances where sales of small quantities are made, they are made pursuant to long term contracts, have identical prices, and have the same dates of sale, so would not fall in the same category that NTN has claimed in the home market (where small quantity sales are defined as those of 5 units or less per month sold). Consequently, we are satisfied that these are sales not in the ordinary course of trade, and we have not included them in our analysis (Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings, Finished and Unfinished, and Parts Thereof, From Japan (56 FR 41517, August 21, 1991).

Comment 15: Timken argues that the Department must exclude Koyo's home market sales to related parties since Koyo failed to establish that its sales to related parties were at arm's length. Timken asserts that the Department has not performed the kind of analysis to determine whether unrelated prices are at arm's length that it did for NSK. Timken argues that absent detailed analysis demonstrating that sales to related parties are made at arm's length, the Department should exclude Koyo's related party sales from the home market data base for the purpose of the final results.

Department's Postion: We disagree. We performed the same type of analysis on Koyo's sales to related parties in the home market that we did for NSK. The results, which revealed that prices to Koyo's related customers were at arm's length, since, on average, they were higher than prices to unrelated customers, were released to Timken during disclosure of the preliminary results. Therefore, pursuant to 19 CFR 353.45(a), we included Koyo's sales to related parties in our pool of home market sales.

Comment 16: Timken contends that in Koyo and NSK's submission the variable cost information for many models on the sales tape is significantly higher than the variable cost information reported for the same models in the cost of production response. Timken submitted a sample printout to demonstrate the different variable costs for the same model. Timken argues that, due to these differences, the Department should reject both the sales and cost submissions and rely on the best information otherwise available to calculate a margin.

Department's Postion: We disagree with Timken that Koyo and NSK's sales and cost submission should be rejected due to differences in the variable costs submitted on the sales and COP computer files. Upon examination of the variable costs submitted by Koyo, we are satisfied that the differences in the variable costs are the result of the different periods used to average the variable costs submitted for difmer and COP. That is, variable costs submitted for difmer were averaged over the entire period of review, while variable costs used for COP were averaged over each six month fiscal period of the review. The difference in NSK's cost figures were traced in detail, at the Department's request, in NSK's supplemental submission of July 8, 1991 and we are satisfied that the cost figures have been reported accurately.

Comment 17: Timken asserts that Koyo's inland freight costs on home market sales do not accurately represent Koyo's inland freight costs for the subject merchandise. Timken alleges that Koyo divided freight costs incurred on all merchandise shipped by the sales of all merchandise except steering gear and equipment. Timken argues that, since the numerator of the freight calculation includes freight costs incurred to ship steering gear and equipment, the denominator should include the sales of steering gear and equipment. Timken asserts that if the Department does not have the proper information to be used in the denominator, the adjustment should not be made at all.

Department's Position: We disagree with Timken. Koyo's submitted freight expenses were attributable only to bearing and bearing-related products, not steering gear and equipment. Therefore, Koyo's methodology, which does not allocate freight expenses over sales of steering gear and equipment, is correct. Consistent with the preliminary results, we adjusted FMV using Koyo's submitted freight expense factor.

Comment 18: Timken contends that the Department should not allow home market inland freight from factories to distribution centers, as they claim that it should only be allowed if the storage at the distribution center constitutes a term of the sales contract. Timken additionally argues that NSK inappropriately included such items as fuel expenses in its freight charge. Finally, Timken argues that NSK's allocation of freight based on value rather than weight or volume is inappropriate, because identical items sold to different customers (e.g., at the OEM or AM level) would have different freight allocations.

NSK claims that, because the Department does not treat pre-sale and post-sale movement charges differently in calculating the ex-factory U.S. price, it should not treat them differently in calculating an ex-factory home market price in order to ensure an "apples-to-apples" comparison. NSK also notes that the items which Timken alleges were improperly included in its freight expense were singled out by the verifier in the previous review because they related to pre-sale freight, which the verifier then thought would not be included as a movement expense. Finally, NSK re-iterates the fact that value is the only available way by which inland freight may be calculated and that the Department has consistently permitted value-based allocations of freight expense by NSK (Final Results of Antidumping Duty Administrative Review, Antifriction Bearings From the Federal Republic of Germany, et al. (56 FR 31715, July 11, 1991); Final Determination of Sales at Less Than Fair Value; Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany (54 FR 19045, May 3, 1989)).

Department's Position: We agree with NSK. 19 U.S.C. 1677a(d)(2)(A), and 19 CFR 353.41(d)(2)(i) require the Department to deduct all inland freight expenses incurred on U.S. sales in order to establish the ex-factory price for sales comparison purposes. There is no explicit provision for deducting home market inland freight expenses from FMV. The Department previously attempted to adjust FMV for home market inland freight expenses as a circumstance of sale adjustment under 19 U.S.C. 1677b(a)(4)(B). In accordance with this provision, however, the Department attempted to limit any adjustments to expenses that were incurred as a direct result of sales under investigation. Consequently, the Department often was unable to grant respondents' claims for pre-sale inland freight expenses because respondents were unable to meet this requirement. This approach leads to unfair comparisons. By denying an adjustment for pre-sale inland freight expenses, the Department would compare an ex-factory price in the United States to an ex-warehouse price in the home market. By deducting pre-sale inland freight expenses from FMV, the Department is able to compare the U.S. ex-factory price with its counterpart in the home market. Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Certain Components Thereof, From Japan (56 FR 26054, June 6, 1991), Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Certain Components Thereof, From Japan (56 FR 65228, December 16, 1991). Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings, Finished and Unfinished, and Parts Thereof, From Japan (56 FR 41506, August 21, 1991).

We agree with Timken that allocations of freight costs by volume, weight, distance, or a combination of these, are preferable to allocations based on sales value. However, NSK does not maintain records based on weight. Therefore, we have determined that the allocation based on value is reasonable and does not produce distorted results (Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Certain Components Thereof, From Japan (55 FR 22372, June 1, 1990); Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Certain Components Thereof, From Japan (56 FR 26057, June 6, 1991)).

Comment 19: Timken argues that the Department should not accept Koyo's methodology for calculating home market credit expenses. Timken asserts that Koyo's calculation methodology is arbitrary because it uses a random number of their largest customers to calculate an average credit period. Timken believes that the average number of credit days outstanding for the largest customers may not accurately reflect the average number of credit days outstanding for a smaller customer. Timken argues that the Department should either deny the adjustment altogether, or recalculate the adjustment using the shortest payment term reported for any major customer as the best information available.

In addition, Timken alleges that the interest rate Koyo used in its credit calculation, which is based on the weighted average of Koyo's short term credit expenses incurred during the period of review, is not accurate. While Timken notes that Koyo stated in its questionnaire response that it "does not discount promissory notes", Timken asserts that Koyo may have discounted promissory notes at a lower interest rate than that which it must pay to finance accounts receivable. Timken argues that this lower rate, which it refers to as the "Gensaki" rate, should be used by the Department for both rates.

Department's Position: We disagree. We view the number of customers Koyo chose to use in its credit calculation as

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acceptable since it accounts for the vast majority of its home market sales of covered merchandise during the period of review. While the Department prefers that respondents report credit expenses on a sales-specific basis, we recognize the massive number of transactions in this review, and consider calculations based on average credit days outstanding on a customer-specific basis to be reasonable (Final Results of Antidumping Duty Administrative Review, Antifriction Bearings From the Federal Republic of Germany, et al. (56 FR 31721, July 11, 1991)). The information Koyo submitted is based on the average credit days outstanding on a customer-specific basis, and thereby takes into account the different actual payment periods extended to the majority of different customers.

Additionally, we are satisfied that the interest rate Koyo used in its credit calculation, which is based on Koyo's actual short-term borrowing during the period of review, accurately reflects Koyo's cost of short-term borrowing in the home market. There is no evidence to suggest that Koyo's claim that it does not discount promissory notes is untrue.

Comment 20: Timken argues that NSK's credit expense was incorrectly based on its home market commercial borrowing rate as payments are made mainly by promissory notes. Timken further argues that NSK inappropriately allocated its credit expense over all sales and not on a customer-specific basis.

NSK claims that its home market credit expense was based on actual short-term borrowing rates incurred by NSK and that this practice has been accepted by the Department as a reasonable basis for calculating home market credit where a respondent's records do not permit transaction-by-transaction calculations (Final Determination of Sales at Less Than Fair Value; Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany (54 FR 19053, May 3, 1989)). NSK also contends that it appropriately allocated its credit expense over all sales, as it does not keep its credit expense on a customer basis. NSK argues that this method was accepted in the previous administrative review and was directly related to the sales in question. NSK notes that it was demonstrated, during verification in the previous review, that the credit expenses were derived from ledgers for accounts and notes receivable.

Department's Position: We agree with NSK. It is apparent that NSK took promissory notes into account when calculating its credit rate. Although credit expenses for NSK's home market sales were not calculated on a sale-specific basis, we have accepted as reasonable the reported credit costs. Therefore, we continue to accept NSK's home market credit expense.

Comment 21: NTN argues that the Department incorrectly disregarded compensating deposits in revising NTN's calculation of home market credit. NTN cites the Final Determination of Sales at Less Than Fair Value, Tapered Roller Bearings, Finished and Unfinished, and Parts Thereof, From Japan (52 FR 30704, August 17, 1987) in its claim that the Department has previously accepted such deposits. NTN maintains that, if the Department disregards these compensating deposits, then the nominal interest rate should be used instead of the current formula.

Timken argues that, in the original investigation cited above, the compensating deposits were accepted only because NTN has demonstrated that these deposits were made pursuant to the discounting of receivables, which it has not established in this review.

Department's Position: We agree with Timken that there is inadequate justification to accept NTN's credit cost calculation based on compensating deposits. In our preliminary results, we recalculated NTN's credit costs based on the firm's net interest expense (disregarding compensating deposits) as most representative of the firm's internal cost of funds. Because only purchase price sales by NTN are being analyzed in this review, the recalculated interest expense forms the basis of the credit cost adjustment for both home market and U.S. sales (Final Results of Antidumping Duty Administrative Review, Antifriction Bearings and Parts Thereof From the Federal Republic of Germany, et al. (56 FR 31721, July 11, 1991)).

Comment 22: Timken argues that the Department should not allow an adjustment to Koyo's home market price for warranty expenses incurred in the home market. Timken contends that, since the adjustment to the home market price is based on warranty expenses for all bearing products sold in the home market, not just within-scope merchandise, and since Koyo has not demonstrated that the incidence of warranty costs for all bearings is representative of warranty costs incurred on TRB sales, the adjustment should be denied. At the least, Timken asserts that the Department should remain consistent with the preliminary results and add warranty expenses to the pool of home market indirect selling expenses.

Koyo argues that the Department should not have reclassified warranties as indirect selling expenses because warranties are a direct circumstance of sale adjustment. Koyo claims that the Department considers warranties to be directly related to sales under consideration if the work performed under warranty was anticipated or bargained for at the time of the sale (Forklift Trucks From Japan, 53 FR 12552 (1988)). Koyo asserts that based on its history of warranty claims and course of dealing, the Department should conclude that Koyo's customers anticipated and bargained for these expenses at the time of the sale.

Further, Koyo claims that its warranty expense calculation, which separated bearing from non-bearing warranty expense claims, and then proportionately allocated these expenses to the sale of subject merchandise, should qualify it as directly related to the sales under review according to *Smith-Corona Group* v. *United States* (713 F.2d 1568, 1580 (CAFC 1983)).

Department's Position: We disagree with Timken's assertion that Koyo's warranty expense claim should be denied because Koyo did not directly relate these expenses to sales of TRB's over four inches in outside diameter. However, since Koyo's warranty expenses could not be directly related to merchandise covered by the scope of the order, we have remained consistent with the preliminary results and reclassified warranty expenses incurred in the home market as an indirect selling expense (Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Certain Components Thereof, From Japan (56 FR 65228, December 16, 1991)).

Comment 23: Timken contends that Koyo's ESP offset claim is inflated by the inclusion of expenses that seem to be administrative rather than selling expenses. Timken notes that administrative expenses not related to sales of the subject merchandise should be excluded. Timken asks that the Department reject Koyo's indirect selling expenses, or at least the line items which Koyo has failed to sufficiently demonstrate as being eligible to be included in the pool of indirect selling expenses.

Department's Position: We agree with petitioner that expenses which are not itemized and linked to the sales department are not classified as indirect selling expenses. However, we have reviewed the information provided in the questionnaire response and have determined that Koyo properly classified the expenses reported as an indirect selling expense. Therefore, we have not changed this calculation for the final results.

Comment 24: Timken argues that Koyo and NSK have claimed technical service expenses as indirect selling expenses without any demonstration that they were in fact selling expenses, as opposed to production or overhead expenses. Timken asserts that technical service expenses, properly defined, are selling expenses attributable to specific sales. Timken argues that unless Koyo and NSK can identify technical service expenses as being directly related to sales, the Department should deny the claimed adjustment.

Department's Position: We disagree with Timken's contention that, unless a respondent ties its technical service expenses directly to a sale, the Department should deny the adjustment altogether. Therefore, consistent with the preliminary results, we accepted Koyo and NSK's classification of technical service expenses as an indirect selling expense.

Comment 25: Timken argues that, although Koyo characterized all of its home market advertising expenses as indirect selling expenses, Koyo has not demonstrated that these expenses are related to home market sales of bearings with outer diameters over four inches. Timken asserts that, since Koyo reported that its advertising expenses were "essentially institutional in nature", it is likely that its advertising is not aimed at end users and is not limited to the subject merchandise. Therefore, Timken contends, no adjustment should be made for Koyo's claimed advertising expenses.

Timken also claims that NSK's adjustment for advertising should be rejected, as its "company-image" advertising does not relate to bearings and the advertising directed at NSK's customers is not aimed at purchasers of scope merchandise.

Department's Position: We disagree. While such advertising expenses do not directly affect the sale of TRBs over four inches in outside diameter, they promote corporate image and thereby affect indirectly the sale of all a company's products. Additionally, NSK supplied an example of its advertising. This example prominently displays a picture of a bearing and refers to bearings in the text of the advertisement. Therefore Koyo and NSK properly classified these expenses as indirect selling expenses (Final Determination of Sales at Less Than Fair Value, Industrial Forklift Trucks From Japan (53 FR 12552, April 15, 1988)), (Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Certain Components Thereof, From Japan (56 FR 26055, June 6, 1991)).

Comment 26: Timken argues that the Department should deny Koyo's post-sale price adjustment and rebate adjustment incurred in the home market, or at the least they should be treated as indirect selling expenses. First, Timken contends that Koyo has not established that its rebate programs comply with the Department's requirement that rebates be related directly to specific sales under review and form part of a sales contract. Second, Timken asserts that it is not apparent that Koyo's allocation methodology results in the reporting of rebates and post-sale price adjustments separately. Timken asserts that the Department must presume that they are not reported separately and recalculate the adjustment using only the post-sale price adjustment factor.

Koyo asserts that, since price adjustments are revisions to price and not circumstance of sale adjustments, there is no requirement to establish that price revisions are directly related to specific transactions. Koyo argues that the Department must recognize that prices are established based on factors that cross product lines and include many individual transactions, and not penalize Koyo because its accounting practices do not allocate price adjustments to individual transactions.

Koyo asserts that even if it were correct to classify Koyo's post-sale price adjustments as circumstance of sale expenses, it has shown that these adjustments bear a reasonably direct relationship to sales and therefore do not have to prove that a particular price adjustment amount is related to a particular transaction (*Smith-Corona* v. *United States*, 713 F.2d 1568, 1580 (CAFC 1983)).

Department's Position: We disagree in part with both the petitioner and the respondent. The record demonstrates that Koyo's post-sale price adjustments are an established and accepted commercial practice in the TRB industry (Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Certain Components Thereof, From Japan (56 FR 26054, June 6, 1991)). We have examined the information provided in the questionnaire response and determined that these price adjustments are made on a customer-specific basis, but cannot be directly tied to the sale for which they were granted. Therefore, consistent with the preliminary results and previous final results issued by the Department (Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Certain Components Thereof, From Japan (56 FR 26054, June 6, 1991)), (Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings, Finished and Unfinished, and Parts Thereof, From Japan (56 FR 41513, August 21, 1991)), (Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Certain Components Thereof, From Japan (56 FR 65234, December 16, 1991)), we have classified these post-sale price adjustments as indirect, rather than direct, selling expenses and deducted them from FMV.

Koyo's rebate adjustment, which Koyo reported separately from its post-sale price adjustment, is unlike the post-sale price adjustments in that it is based on a set rebate percentage which applied to all merchandise sold to a customer. Therefore, Koyo's rebate adjustment qualifies as a direct adjustment to the home market price since the terms of the rebate remain consistent across the sale of all products.

Comment 27: Timken argues that NSK's rebates, discounts, and commissions should not be allowed as adjustments to FMV.

First, Timken argues that NSK's post-sale price adjustments post-sale price adjustments should not be accepted for the final results of review, as NSK provided no evidence that they were other than post-sale "goodwill gestures". Timken further argues that these adjustments were not directly related to specific sales under review, as it has not been demonstrated that they were a term of a sales contract or that the customer was aware that the adjustment might be granted at the time of the sale.

Second, Timken argues that NSK's "return" rebates should not be allowed as an adjustment to FMV. Timken claims that NSK must first demonstrate that these rebates are customer- and sale-specific, and then must provide proof that they are granted on over four inch bearings.

Third, Timken contends that distributor and performance incentives should not be allowed by the Department or, at a minimum, should be treated as indirect selling expenses, as they are allocated on a customer-specific, but not on a product-specific, basis.

Fourth, Timken argues that NSK's discounts for early payments should not be allowed as an adjustment (or should at least be considered as indirect selling expenses), as they are not directly tied to specified sales.

Fifth, Timken argues that "delivery on behalf of NSK" commissions, "repurchase for urgent delivery" commissions, and "stock transfer between distributor" commissions should all be treated as indirect selling expenses, as they are allocated over the basis of all sales combined.

Finally, Timken agrees with the Department's decision to disallow commissions to related parties.

NSK argues that all rebates, discounts, and commissions in the home market should be deducted from FMV as either price adjustments or circumstance of sale adjustments. NSK claims that its "return" rebates and post-sale price adjustments, are part-number- and customer-specific. NSK further claims that its lump-sum post-sale price adjustments, distributor incentives, and performance incentives are properly allocated on a customer-specific basis, as the figures are drawn from its narrowest accounting records. NSK argues that, where a respondent's narrowest accounting records do not permit separate identification of actual amounts incurred on individual sales, the respondent may allocate amounts incurred with respect to total sales (Final Results of Antidumping Duty Administrative Review, Antifriction Bearings From the Federal Republic of Germany, et al. (56 FR 31717, 31718, July 11, 1991)), Final Determination of Sales at Less Than Fair Value, Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany (54 FR 19055, 19056, May 3, 1989)). NSK contends that commissions and discounts should be recorded as direct expenses, as they are recorded on a customer-specific basis. Finally, NSK argues that commissions, which are directly related to services rendered, should be allowed as a circumstance of sale adjustment (or at least as an indirect selling expense) when made to related parties. NSK contends that the Department has determined that sales to related parties were made at arm's length (net of commissions, rebates, and discounts), so the related commissions must also be considered arm's-length transactions. NSK claims that the Department appropriately adjusted foreign market value for credit expense when sales were made to related parties and that credit expenses are no more or less intra-company transfers of funds than commissions.

Department's Position: NSK reported five types of rebates, three types of commissions, and one discount. Because two types of rebates (the performance incentive and the distributor incentive) were granted to the customer as a straight percentage of each sale, we have determined that these discounts are directly related to sales. Thus, performance incentive rebates and distributor incentive rebates are direct adjustments to the home market price since the terms of the rebates remain consistent across all customer-specific sales. The post-sale price adjustment, which is part-by-part and customer specific, and the return rebate, which applies to specific customers, as well as part numbers, are also directly related to specific sales. However, NSK was not able to demonstrate that the remaining rebate (the lump-sum PSPA) (which is only distributor-specific, but not a straight percentage of all sales), and commissions (which are also customer-specific only, but not a straight percentage of all sales) applied to specific sales of covered products. This rebate and these commissions were not granted as a straight percentage of each sale so that, even when reported on a customer-specific basis, a misallocation of the expense may occur between covered and non-covered merchandise. Therefore, we have classified these expenses as indirect selling expenses for the final results of review. We calculated the amount of the adjustment to the home market price for the early payment discounts as if they were indirect selling expenses, since NSK was unable to provide information that ties the early payment discount directly to specific sales of in-scope merchandise. As we have noted in previous reviews, in instances where a respondent fails to provide sufficient information to support its claim that a price adjustment can be tied to a specific sale in the home market, we make the adverse assumption and recalculate the price adjustment in the same manner as we would calculate an indirect selling expense.

With regards to commissions made to related parties, the Department has conducted a test on NSK's home market commissions and we have determined that commissions to related parties were not made at arm's length.

Comments Regarding Calculation of U.S. Price

Comment 28: Timken argues that zero price sample sales should be included in the U.S. sales data base. Timken contends that NSK has failed to demonstrate how these sales are outside the ordinary course of trade.

NSK argues that the Department correctly excluded zero price sample sales, as such sales are, by definition, outside the ordinary course of trade.

Department's Position: We agree with NSK. NSK's general and administrative expenses include a line item for sample sales. Therefore, it would be inappropriate to analyze those sample sales with zero prices because we have already accounted for them in the adjustment for general and administrative expenses (Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Certain Components Thereof, From Japan (56 FR 26059, June 6, 1991)).

Comment 29: Timken argues that the Department should not accept NSK's reported foreign inland freight as an adjustment to U.S. price, as the allocation is based on value, not on weight.

Department's Position: We agree with Timken that allocations of freight costs by volume, weight, distance, or a combination of these, are preferable to allocations based on sales value. However, NSK does not maintain records based on weight. Therefore, we have determined that the allocation based on value is reasonable and does not produce distorted results (Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Certain Components Thereof, From Japan (55 FR 22372, June 1, 1990); Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings, Four Inches of Less in Outside Diameter, and Certain Components Thereof, From Japan (56 FR 26057, June 6, 1991)).

Comment 30: Timken argues that Koyo's early payment discounts should be attributed to the sales for which the early payment was made. Timken asserts that Koyo's allocation of these discounts on a customer specific basis dilutes the impact that a discount has on a particular sale and reduces the dumping margins on both the individual sales and the overall review. Timken objects to the Department's decision to reclassify early payment discounts as indirect selling expenses. This action, according to Timken, results in an increase in the ESP cap and thus rewards the respondent for not supplying sales-specific data. Timken argues that Koyo must prove that selling expenses in the U.S. market are indirect selling expenses, otherwise the Department should assume that the expense is directly related to the sales under review. Timken contends that the Department should apply the highest early payment discount granted during the period of review to every U.S. sale, or, at the least, accept Koyo's classification of the adjustment as a direct expense and instead of reclassifying it as an indirect expense.

Department's Position: Koyo granted its early payments discounts on a customer-specific, rather than a sale-specific, basis. As we have noted in earlier reviews, in instances where a respondent fails to provide sufficient information to demonstrate that its adjustment is indirect in the U.S. market, we make an adverse assumption and reclassify them as direct. Therefore, we have changed our calculations for the final results of review.

Comment 31: Timken argues that the Department should reject Koyo's methodology for calculating U.S. credit expenses. Timken asserts that the average credit days methodology, based on the average accounts receivables, is inconsistent and self-serving, since the number of customers used in the calculation changes depending upon the market and the review period. Timken believes that the average number of days credit is outstanding for the larger customers may be radically different from the average for the smaller customers. Timken argues that unless Koyo's credit costs are based on actual payment days for each individual sale, the Department should use the highest credit period of any major customer as the best information available when calculating the final results.

Department's Position: We disagree. Please refer to our response to Comment 19 for an explanation of our position on Koyo's credit calculation methodology.

Comment 32: Timken contends that the Department should not accept NSK's reported average interest rate in the U.S. because it is based on a three-month moving average rate and it is not apparent if the reported short-term borrowing rates are based on rates in Japan or in the U.S. Timken urges the Department to use the actual U.S. borrowing rate for NSKC, as Timken claims that to do otherwise would not reflect an arm's-length transaction.

NSK argues that it based its U.S. interest rate on the short-term U.S. borrowing rate actually incurred.

Department's Position: We agree with NSK. NSK clearly explained in its response the calculations used to arrive at its short-term interest rate and the Department is satisfied that the reported credit expense reflects an arm's-length transaction and not an intra-company transfer of funds.

Comment 33: NSK contends that NSK's credit expense should be adjusted to account for the cost of credit between the date of the post-sale price adjustment and the date of payment. NSK reported two credit costs. The first, "CREDITE1", represents the cost of credit between the date of shipment (date of sale) and the date of payment, based on the original invoice amount. The second, "CREDITE2", reflects the increase or decrease in the cost of credit associated with the post-sale price adjustment. NSK argues that the Department denied the "CREDITE2" adjustment because it did not want to make an adjustment in the U.S. without making a corresponding adjustment in the home market, as both markets have post-sale price adjustments. NSK claims that, rather than permitting an inequitable adjustment, the "CREDITE2" adjustment allows the preservation of comparability to the home market sale, because the home market credit expenses are based on the average balance of accounts receivable. NSK argues that the Accounts Receivable in the home market are adjusted monthly to account for post-sale price adjustments and the credit expense is calculated on the basis of the average balance of accounts receivable, so the home market credit expense would already account for the post-sale price adjustments.

Department's Position: We agree. Because NSK's home market credit expense is calculated based on the average balance of accounts receivable, the effect on credit of post-sale price adjustments is already incorporated into the home market credit expense. Consequently, a similar adjustment in the U.S. provides for a more equitable analysis and we have included "CREDITE2" in our analysis of U.S. price.

Comment 34: Timken argues that the Department should re-allocate NSK's technical service expense over U.S. OEM sales only. Timken claims that the services performed at NSKC's technical center mainly benefit OEMs, not distributors or after-market customers.

NSK contends that technical services relate to both OEM and AM sales. NSK further points out that the majority of NSK's sales are to OEMs. NSK cites the first administrative review of antifriction bearings, where the Department determined that "[t]here is no evidence that NSK's technical services expenses were incurred exclusively for its OEM sales" (Final Results of Antidumping Duty Administrative Review, Antifriction Bearings From the Federal Republic of Germany, et al. (56 FR 31723, July 11, 1991)).

Department's Position: We agree with NSK. In accordance with Final Results of Antidumping Duty Administrative Review, Antifriction Bearings From the Federal Republic of Germany, et al. (56 FR 31723, July 11, 1991), and Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Certain Components Thereof, From Japan (56 FR 65228, December 16, 1991), we will continue to accept NSK's technical service expense in the U.S.

Comment 35: Timken contends that Koyo has not demonstrated that its commission expense is related to sales since Koyo does not distinguish between commissions paid for sales of the subject merchandise and commissions paid for sales of other products. Timken alleges that Koyo improperly attributed commissions to sales where the independent agents did not sell the subject merchandise and diminished the commissions on sales where the independent agent did in fact sell the subject merchandise. Timken proposes that the Department use the highest commission rate that Koyo reported for the purposes of the final results.

Department's Position: We disagree. Koyo reported that the commission it pays to independent sales agents does not depend upon the customer or class of customer and covers all products to a given account. Koyo calculated a separate expense factor for each sales agent that sells the subject merchandise. While the Department prefers that respondents report commission expenses on a sales-specific basis, we recognize the massive number of transactions in this review and consider Koyo's reported commission expenses to be the result of a reasonable allocation methodology that accurately reflects Koyo's commission expense in the U.S. market.

Comment 36: Koyo asserts that the Department erroneously changed the factor used in the preliminary results to calculate warranty expenses incurred in Japan on sales made in the United States. Koyo asserts that the same warranty expense factor that it reported in its narrative submission was reported on the computer tape submitted to the Department. Koyo notes that it confirmed the warranty expense amount and the calculation of this expense factor in its response to a supplemental questionnaire issued by the Department. Therefore, Koyo argues, the Department should change its computer program to apply the warranty expense factor as Koyo reported it.

Department's Position: Upon examination of Koyo's comment, we realized that Koyo's claim did not constitute a warranty adjustment within the meaning of section 772 (d) and (e) of the Tariff Act. Therefore, for the final

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results, we have not made this adjustment to U.S. price.

Comment 37: Koyo and NSK object to the practice of deducting direct selling expenses incurred in the United States from ESP.

They claim that this practice is erroneous as a matter of law, and that, in order to properly account for direct selling expenses incurred in the United States, the Department must make an upward adjustment to FMV, not a downward adjustment to ESP.

Koyo and NSK assert that in Timken II at 495, the Court of International Trade (CIT) rejected the Department's practice of subtracting direct selling expenses from ESP. According to Koyo and NSK, the CIT concluded that U.S. direct selling expenses are "differences in circumstances of sale", which are properly accounted for under section 773(a)(4) of the Tariff Act. Under that statutory provision, differences in circumstances of sale shall be accounted for in the calculation of FMV, not ESP.

Koyo and NSK contend that the Department has violated a straightforward judicial ruling governing this point, and consequently has artificially inflated the weighted average margin applied to Koyo's entries covered by this review.

Department's Position: We respectfully disagreed with the Court's position on this issue in the Final Results of Redetermination Pursuant to Court Remand (March 22, 1990). The Court held that the Department could not deduct direct expenses from ESP under section 772 of the Tariff Act. According to the Court, the Department must adjust FMV pursuant to section 773 of the Tariff Act. We maintain that section 773 of the Tariff Act does not preclude us from deducting selling expenses from ESP. Consequently, we have applied our longstanding practice of making adjustments for direct expenses in ESP cases under section 772 of the Tariff Act (see Final Results of Antidumping Duty Administrative Review, Antifriction Bearings from Germany, et al., (54 FR 31721, July 11, 1991), Final Results of Antidumping Duty Administrative Review, Certain Fresh Cut Flowers From Mexico, (56 FR 1794, January 17, 1991), Final Results of Antidumping Duty Administrative Review, Brash Sheet and Strip From Sweden, (55 FR 49317, November 27, 1990), Final Determination of Sales at Less Than Fair Value, Gray Portland Cement From Mexico, (55 FR 29244, July 18, 1990)).

Comment 38: Koyo argues that the Department should recalculate its profit on further manufacturing to take into account both U.S. inventory carrying costs and credit. Koyo has discovered in reviewing the preliminary results that it inadvertently failed to account for U.S. credit expenses when it calculated profit on further manufacturing. Koyo claims that, since the Department has a computer program available to perform this calculation, it should recalculate the profit adjustment, rather than using the profit adjustment submitted by Koyo. Further, Koyo argues that since the Department calculated U.S. inventory carrying costs—which the Department did not request Koyo to report—it should recalculate profit on further manufacturing to account for this additional expense.

Department's Position: We agree with Koyo that since we adjusted ESP for U.S. inventory carrying costs we should also recalculate the profit adjustment submitted by Koyo to account for this expense. Therefore, for the final results, we have recalculated profit according to the methodology employed in previous administrative reviews of this order.

Comments Regarding Cost of Production Issues

Comment 39: Timken argues that Koyo's methodology used to adjust its basic costs (or standards) in its COP response is deficient. Timken asserts that since Koyo's actual material price and manufacturing variances used to adjust the basic costs were calculated at the plant level, there is no complete definition of unit value at the production line level. Timken believes that Koyo's "top-down" allocation of actual costs can create significant distortions in the final determination of unit cost, especially where both scope and non-scope merchandise are produced in the same plant. Timken contends that the Department has stated that where variances are not specific to a product, the foreign producer bears the burden of showing that its methodology constitutes an acceptable alternative. Timken believes that the COP verification report issued for the 1987–88 review period demonstrates that Koyo's methodology is not an acceptable alternative.

Department's Position: We examined Koyo's cost system and found it acceptable. Its standard costs are adjusted to actual costs by the variances incurred at each factory. Koyo calculated the plant-wide variance by comparing the total plant-wide actual costs of production with the plant-wide standard costs, which we determined did not distort model-specific costs of production. Therefore, as in previous reviews of this order, we relied on the reported cost of production to calculate the final results of review (Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings, Finished and Unfinished, and Parts Thereof, From Japan (56 FR 41513, August 21, 1991)).

Comment 40: Timken challenges Koyo's claim that its actual materials cost data is reasonable and accurate. Timken, citing the 1987–88 cost of production verification report, questions whether Koyo's purchases from related subcontractors during this review period were made at arms-length, and whether the related suppliers can accurately account for their manufacturing costs in a manner that accurately reflects their unit costs. Timken asserts that Koyo has failed to present evidence on the record to show that the Department's assessment in the 1987–88 verification report is inaccurate, or has been reformed in the context of this review. Timken contends that the Department should determine the highest material cost for each component produced, whether related or unrelated, and apply statutory minimums for SG&A and profit as an alternative to material costs submitted by related subcontractors.

Department's Position: Petitioner's comments address deficiencies noted in the verification report for the 1987–88 review of this order. We examined the information provided in the questionnaire response for this review and determined that Koyo appropriately accounted for the cost of materials originating from its related suppliers and sub-contractors. Therefore, we made no changes to our calculations for the final results of review.

Comment 41: Timken argues that Koyo's use of a standard corporate hourly rate to calculate labor expenses results in inaccurate labor costs. Timken contents that Koyo's methodology reflects the labor costs of divisions not involved in the production of the subject merchandise, where there may be differences in the gender of workers and average years employed. Timken argues that because Koyo's methodology fails to report labor costs attributable to manufacture of the product under review, the Department should use the highest labor rate submitted by Koyo for any plant or division that forms a component of the corporate-wide labor rate.

Department's Position: We disagree. We accepted the corporate-wide labor rate because the other products produced by Koyo involve similar manufacturing processes as those processes required for the subject merchandise. Therefore, we believe that no distortion occurred as a result of using this rate.

Comment 42: Timken believes that the Department should reject Koyo and NSK's calculation of interest expense when calculating COP. Timken asserts that Koyo and NSK have not demonstrated that the interest income it received during the review period was related to TRB production or even to specific plants where TRBs were produced. Timken argues that, according to Departmental practice, Koyo and NSK are only allowed to offset its interest expense by short-term interest income directly related to the production of the subject merchandise. Timken asserts that the Department should remove any offset for interest income, and recalculate the interest expense.

Department's Position: We disagree with Timken. When calculating COP, the Department allows respondents to offset their interest expense with short-term interest income earned on working capital investments. We are satisfied that the interest income NSK and Koyo reported meets this requirement. However, in the case of NSK, the resulting net interest expense is negative, therefore, we have set the interest expense to zero.

Comment 43: Timken refers to several problems with the verification of Koyo's submitted SG&A expenses in the 1987–88 review period. For example, during that review period bonuses for directors and statutory auditors were paid from retained earnings. Additionally, Timken states that the Department could not tie SG&A figures submitted for the 1987–88 review period to Koyo's financial statements. As a result, Timken concludes that the Department should use the statutory minimum for SG&A as the best information available for the present review.

Department's Position: Petitioner's comments address deficiencies noted in the verification report for the 1987–88 review of this order. We examined the information provided in the questionnaire response for this review and determined that Koyo appropriately reported their SG&A expenses. Additionally, we determined that the amount of bonuses for directors and statutory auditors' fees is insignificant within the meaning of 19 CFR 353.59. Therefore, we did not change our calculations for the final results of review.

Comment 44: Timken claims that the Department should reject NSK's material costs in favor of best information available based on the cost verification from the previous review period. Timken claims that NSK's raw material costs do not accurately reflect the total cost of inputs. Timken further argues that the Department should reject NSK's material costs based on transfer prices, as NSK has not demonstrated that its transactions with related suppliers were made at arm's length. Timken refers to the verification report from a previous review period, where Timken claims the Department was unable to determine that transactions with related subcontractors were arm's-length transactions.

NSK argues that the Department verified NSK's cost accounting system in the previous review. NSK cites the verification report to argue that the Department verified NSK's material types and standard material usage rates, its annual material costs, and that NSK based its cost accounting system on actual material costs. NSK contends that, while NSK was not able to tie its material usage variances to its financial records, the verifier was satisfied with NSK's explanation of the variance calculation and found it to be a reasonable approach (see Home Market Verification Report at 21 (April 15, 1991)). NSK argues that the Department was not able to determine the arm's-length nature of transactions with related suppliers because comparison parts to those sold by related suppliers were not sold by unrelated suppliers. NSK claims that in the antifriction bearing investigation and in the 1986–87 review of under four inch TRBs, the Department determined that NSK's related subcontractors were profitable. NSK further cites the Japanese "Law of Prevention from Delayed Payment, etc., to Subcontractors", which prohibits NSK from setting prices to related subcontractors/suppliers at unreasonably low prices. NSK claims that it is required by law to protect the profitability of its related affiliates.

Department's Position: The Department has no information which suggests that there is comparable merchandise with which we could determine the arm's-length nature of transactions with related suppliers. Additionally, because NSK's cost of production response verified as accurate overall in the 1988–89 review of TRBs, four inches or less, we continue to accept NSK's data.

Comment 45: Timken argues that NSK's depreciation expense may be erroneous, as it is not apparent whether or not idle assets have been depreciated. Timken argues that the Department should take the highest depreciation for any bearing and apply it to all bearings as best information available.

NSK argues that the Department must adhere to the foreign Generally Accepted Accounting Principles (GAAP) used in the home country, unless there are material differences between U.S. and home country GAAP. Under Japanese GAAP, depreciation of idle assets is included in general and administrative expenses, not in the operating expenses.

Department's Position: We agree with Timken's assertion that depreciation on "idle assets" should be included in the submitted costs. However, there is no evidence on the record that suggests that idle assets are not being depreciated.

Comment 46: Timken argues that the Department should increase NSK's cost of production to account for write-offs and write-downs of inventory, as they were not included in NSK's cost of production, but in its non-operating expenses (Final Determination of Sales at Less Than Fair Value, Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany (54 FR 19076, May 3, 1989)).

NSK argues that this accounting adjustment has no bearing on the cost of actually producing the merchandise. NSK further argues that, if the Department should decide to include write-offs and write-downs of inventory in the cost of production calculation, all income or credits generated by these transactions should be offset to arrive at the actual costs incurred by NSK.

Department's Position: We agree with Timken that these costs should be included in the reported data. We agree with NSK that all incomes or credits generated by these transactions should be used as an offset to the expense. However, there is no information in the financial statements indicating that these costs have not been included. Therefore, we made no adjustment to NSK's costs.

Comments Regarding Use of Best Information Available

Comment 47: NSK argues that the Department incorrectly applied best information available when unable to find COP and constructed value information that the Department had requested. NSK claims that the Department never requested the cost data in question and therefore should not use the best information available under 19 U.S.C. 1677e(c). NSK cites the Department's COP questionnaire, which required respondents to:

> furnish production costs that coincide with the costs to produce the reported home market sales, *e.g.*, assuming a one month lead time to produce this merchandise, the production cost period for this questionnaire would be September 1, 1989 through August 30, 1990. (emphasis added)

NSK claims that the Department explicitly identified the production cost period in its questionnaire. NSK maintains that the Department may not apply punitive best information available when NSK has cooperated fully in supplying information requested by the Department.

Department's Position: We disagree with NSK. The Department did, in fact, request all cost of production information of the reported home market sales. The specific time period to which NSK refers was provided by the Department as an illustrative example to facilitate NSK's determination of the appropriate cost period. If NSK's lead time had actually been only one month, then all of the necessary cost information would have been captured in the example period. If NSK's lead time had been other than one month, which it appears it must have been, it would result in a different cost production period. Therefore, NSK did not provide all of the information requested by the Department and we will continue to apply best information available where cost information for constructed value analysis is missing.

Comments Regarding Clerical Errors

Comment 48: Timken and NTN argue that, in the constructed value FUPDOL calculation for NTN, the Department subtracted "OTHEXP1" from FMV instead of adding it.

Department's Position: We agree and have corrected the program for the final results of review.

Comment 49: Timken argues that, in line 184 of NSK's public program, the Department used the cone number instead of the cup number to create the new model.

Department's Position: We agree and have corrected the program for the final results of review.

Comment 50: NTN argues that there are various programming errors in the preliminary margin program. First, NTN incorrectly stated that its related party code was "2" and its unrelated party code was "1" and requests that the department account for this error in their programming. Second, NTN erroneously placed the decimal point in its "DISCNTHA–1" variable four places to the left of where it should be and requests that the Department correct this error in the final programming. Third, NTN did not originally report all of its purchase price sales due to an NTN computer error and resubmitted these sales after verification, at the verifying official's request. NTN requests that the revised tape be used in the final analysis. Fourth, the Department pointed out at verification that NTN had committed an error in the total cost calculation for fiscal year 1991. After verification, NTN submitted a revised exhibit which reflected the necessary changes. NTN requests that the Department use the revised SG&A figure for its final analysis. Finally, NTN argues that, in the constructed value FUPDOL formula, the Department added the home market credit and packing variables instead of the U.S. credit and packing variables. NTN requests that the Department add the U.S. variables and not the home market variables in this equation.

Department's Position: We have adjusted the final program to correct the first three errors. The error in the SG&A exhibit did not affect the information NTN submitted on tape, so no adjustment was made for the last error.

Comment 51: Koyo asserts that the Department erred by deducting U.S. inventory carrying costs directly from U.S. price instead of including the adjustment in U.S. indirect selling expenses. Koyo argues that this is contrary to the Department's practice of including inventory carrying costs in the ESP cap.

Department's Position: We agree and will correct this clerical error for the final results.

Comment 52: Koyo asserts that the Department used the wrong weight amount when calculating the movement charges on parts shipped to the United States to undergo further manufacturing. Koyo contends that the Department used the net weight of the entire finished bearing sold in the United States, rather than the net weight of the imported part. Koyo requests that the Department recalculate the movement expense for the final results by using the net weight of the imported part.

Department's Position: We agree with Koyo that, when calculating the movement charges on parts shipped to the United States to undergo further manufacturing, the weight of the imported part should be used. Therefore, for the final results, we have corrected this clerical error to ensure that the weight of the imported part was used in all calculations of movement charges incurred to ship the imported part.

Final Results of Review

As a result of our comparison of United States price to foreign market value, we determine that the following margins exist for the period of October 1, 1989, through September 30, 1990:

Manufacturer/exporter	Margin (percent)
NTN (Caterpillar)	45.95
Koyo Seiko Compay Ltd	25.24
NSK Ltd	4.06
Nachi-Fujikoshi Corporation	* 45.95

* No shipments during review period.

The Department shall determine and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between U.S. price and FMV may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of TRBs from Japan, entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Tariff Act: (1) The Customs Service shall continue to require a cash deposit of estimated antidumping duties for all merchandise produced or exported by any of the companies covered by this review, based on the final rates for the above period; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in previous reviews, or the final determination in the original less-than-fair-value investigation, the cash deposit rate will continue to be the rate published in the most recent final results or determination for which the manufacturer or exporter received a company-specific rate; (3) if the exporter is not a firm covered in this review, another review, or the original investigation, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in the final results of this review, or the final results of the most recent review in which the manufacturer received the company-specific rate, or the rate for the manufacturer from the less-than-fair-value investigation; and (4) the cash deposit rate for any future entries from all other manufacturers or exporters who are not covered in this or prior administrative reviews and who are unrelated to the reviewed firm or any previously reviewed firms, will be 45.95 percent. This is the highest most current non-BIA rate for any firm in this proceeding.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: January 31, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-3207 Filed 2-10-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-054]

Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On May 21, 1991, the Department of Commerce published the preliminary results of its 1989–90 administrative review of the antidumping finding on tapered roller bearings, four inches or less in outside diameter, and certain components thereof, from Japan. The review covers there manufacturers/exporters of the subject merchandise to the United States during the period August 1, 1989, through July 31, 1990.

We gave interested parties an opportunity to comment on our preliminary results. Based on our analysis of comments received, we have adjusted the margins for some companies.

EFFECTIVE DATE: February 11, 1992.

FOR FURTHER INFORMATION CONTACT: Sheila Baker or Laurel LaCivita, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-4733.

SUPPLEMENTARY INFORMATION:

Background

On May 21, 1991, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping finding (41 FR 34974, August 18, 1976 (the 1976 finding)) on tapered roller bearings, four inches or less in outside diameter, and certain components thereof, from Japan, in the **Federal Register** (56 FR 23278). The Department has now conducted this review in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act).

Scope of the Review

Imports covered by the review are sales of tapered roller bearings (TRBs), four inches or less in outside diameter, when assembled, including inner race or cone assemblies and outer races or cups, sold either as a unit or separately. This merchandise is currently classifiable under Harmonized Tariff Schedule (HTS) item numbers 8482.20.00 and 8482.99.30. The HTS item numbers are provided for convenience and Customer purposes. The written description remains dispositive.

The review covers three manufacturers/exporters of TRBs during the period August 1, 1989, through July 31, 1990: Koyo Seiko Company, Ltd. (Koyo), NSK Ltd. (formerly Nippon Seiko, K.K.) (NSK), and Nachi-Fujikoshi Corporation (Nachi). Nachi reported no shipments.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. At the request of the petitioner and two respondents, we held a hearing on July 9, 1991. We received case and rebuttal briefs from petitioner, Koyo, and NSK.

Comments are addressed in the following order:

1. General Issues
2. Annual Average Foreign Market Value, Model Match, and Cost Test Methodology
3. Calculation of Foreign Market Value
4. Calculation of U.S. Price
5. Comments Regarding Cost of Production
6. Comments Regarding the Use of Best Information Available
7. Clerical Errors

Comments Regarding General Issues

Comment 1: The petitioner, The Timken Company (Timken), argues that the Department should have included in this review all products within the scope of the finding that are admitted to a foreign trade zone (FTZ) or subzone. Timken also argues that the Department requires respondents to post cash deposits in the amount of the estimated antidumping duties upon all TRBs subject to the scope of this finding admitted to FTZs.

Department's Position: We disagree with petitioner's assertion that at the time the subject merchandise was admitted into an FTZ, it was subject to an antidumping review and the collection of duties regardless of whether they enter U.S. customs territory as merchandise subject to the antidumping finding. Section 751 of the Tariff Act instructs the Department to determine "the foreign market value (FMV) and U.S. price of each *entry* of merchandise subject to the antidumping duty order", and the "amount, if any, by which the foreign market value of each entry exceeds the U.S. price of the entry." (Emphasis added.)

Under the Department's practice, at the time the merchandise subject to this review was admitted into FTZ, the merchandise was not subject to antidumping duties. As we stated in the final results of review on Antifriction Bearings From the Federal Republic of Germany, et al. (56 FR 31703, July 11, 1991) and Tapered Roller Bearings, Finished and Unfinished, and Parts Thereof, From Japan (56 FR 41506, August 21, 1991), our understanding of the term "entry" in the antidumping law is that it unambiguously refers to release of merchandise into the customs territory of the United States. Importers were allowed to elect privileged or non-privileged status of TRBs admitted to FTZs. To the extent that TRBs were admitted into an FTZ in a non-privileged status and transformed into merchandise not subject to the finding before entering U.S. customs territory, the Department currently has no basis for the assessment of antidumping duties on the merchandise.

The Department recently adopted regulations governing FTZs that address this issue, but they are effective only for merchandise entering an FTZ on or after November 7, 1991 (with some exceptions) (Foreign Trade Zones in the United States; Final Rule, 56 FR 50790 (1991)) (to be codified in 15 CFR Part 400). Under these rules, items subject to an antidumping duty order must be classified as privileged on admission to the FTZ and will therefore be subject to antidumping duties on entry, even if transformed in the FTZ into goods not subject to the order. Respondents will be required to post cash deposits equal to the amount of estimated antidumping duties on all TRBs entered through FTZs (however transformed) on or after November 7, 1991.

Comment 2: Timken argues that, according to 19 USC § 1677F (sic), the Department should collect interest on under-deposits of antidumping duties from Koyo and NSK, *i.e.*, interest on the bonds posted previous to the time the Department imposed cash deposit requirements on entries of the subject merchandise. Koyo argues that it is not liable for interest on antidumping duties that are assessed on entries of TRBs where Koyo has not been ordered to make cash deposits on such entries.

Department's Position: We agree that the only statutory authorization for assessing or paying interest on under-payments or over-payments of amounts deposited for antidumping duties is section 737(b), which provides that if the amount of an estimated antidumping duty deposited under section 736(a)(3) is different from the amount of the antidumping duty determined under an antidumping duty order issued under section 736, then the difference shall be (1) collected, to the extent that the deposit under section 736(a)(3) is lower than the duty determined under the order, or (2) refunded, to the extent that the deposit under section 736(a)(3) is higher than the duty determined under the order, together with interest as provided by section 778. The amount of estimated antidumping duty deposited referred to in section 736(a)(3) is only a cash deposit, not a bond. See also, 19 CFR 353.24. Cash deposits were first required on entries of this merchandise manufactured by Koyo and NSK on June 1, 1990. Consequently, interest will only be collected or refunded on under- or overpayments of cash deposits on entries after that date. The Department's interpretation has been upheld by the CIT (*Timken* v. *United States*, Slip. Op. 91–95, October 25, 1991).

Comment 3: Timken argues that the Department should include the Japanese consumption tax in foreign market value (FMV) and make a corresponding upward adjustment to U.S. price. Timken asserts that according to the statute and judicial precedent (*Zenith Electronics Corp.* v. *United States*, 10 CIT at 276, (1986)), the Department may not make an adjustment for consumption taxes forgiven on exports by simply deducting the tax from FMV. Rather, Timken argues, an upward adjustment in the amount of the tax must be made to U.S. price.

Department's Position: We have added an imputed consumption tax to the U.S. price according to section 772(d)(1)(C) of the Tariff Act. Because the statute directs us to adjust for home market consumption taxes through an addition to U.S. price, we generally used tax-inclusive prices in each market to calculate a dumping margin. No consumption tax was added to the U.S. price when the FMV was based on constructed value because section 773(e) of the Tariff Act does not provide for the inclusion of any tax in constructed value (Final Results of Antidumping Duty Administrative Review, Antifriction Bearings and Parts thereof from the Federal Republic of Germany, et al. (56 FR 31729, July 11, 1991)).

We calculated the addition to U.S. price by applying the home market tax rate to the net U.S. price after all other adjustments were made. This "ex-factory" tax basis for U.S. price is the best information available (BIA) because the home market sales were reported net of the consumption tax. In order to ensure a tax-neutral absolute margin, we made a circumstance-of-sale adjustment to FMV to offset any difference in the home market and U.S. tax.

Comment 4: Timken asserts that the Department should presume that home market selling expenses are indirect and that U.S. selling expenses are direct, absent proof to the contrary. Timken argues that this reasoning was upheld in *Timken* v. *United States* 673 F. Supp. 495 (CIT 1987) (Timken II), when the Court of International Trade (CIT) recognized that respondents benefit when selling expenses are classified as direct in the home market and indirect in the United States. Timken contends that, since respondents possess the information necessary to support the claim, the burden is placed on them to prove that U.S. selling expenses are indirect and home market selling expenses are direct.

Timken cites NSK's failure to tie its home market rebates, discounts, and commissions directly to the sale of the subject merchandise as an example of a respondent's inadequate proof that an expense is direct in the home market. Timken maintains that the Department correctly classified these adjustments as indirect.

Department's Position: Timken is correct in its assertion that the burden is placed on the respondent to prove that U.S. selling expenses are indirect and home market selling expenses are direct. We classify expenses in each market based on the information submitted during the review and on the Department's verification reports. In instances where a respondent fails to provide sufficient information to support its claim that an adjustment is directly related to a sale in the home market, we will generally reclassify the adjustment as indirect. Likewise, when a respondent fails to provide information to support its claim that an adjustment is indirect in the U.S. market, we generally reclassify the adjustment as direct.

For the final results, where NSK failed to tie home market rebates, discounts, and commissions directly to a sale, the Department again classified these as indirect adjustments (see our response to Comment 24).

Comment 5: Koyo requests that, in light of the clerical errors noted after the issuance of the preliminary results, the Department release the computer program used in TRB proceedings for review by interested parties prior to issuing the final results. Koyo notes that the Department released the computer programs used in the antifriction bearings proceeding before issuing the final results. Koyo argues that the Department's current practice of releasing the computer programs after the final results are issued makes it impossible for errors to be identified and corrected before litigation challenging the results must be commenced in the CIT. The result, according to Koyo, is that a respondent may be required to provide estimated duty deposits on the basis of final results that contain clerical errors.

Department's Position: We disagree that it is impossible for the parties to identify clerical errors and provide meaningful comment on the computer program if they do not have access to the calculations prior to the issuance of the final results of review. All parties obtain access to the Department's program when the preliminary results are issued, and are provided the opportunity to comment on any clerical errors at that point in the proceeding. Unlike the AFB proceeding, where the Department had concluded only its first administrative review when it released the computer programs prior to the issuance of final results, the TRB proceeding's lengthy history has afforded the Department the opportunity to refine its program and calculate the final results with few, if any, errors. Indeed, Koyo noted only three clerical errors after the preliminary results were issued in this review. No clerical errors were noted by Koyo following the issuance of the final results in the 1987–88 review. Further, the Department's regulations provide parties an opportunity to request disclosure after issuance of final results and to identify and comment on any clerical errors in the calculations (19 CFR § 353.28).

Comment 6: Koyo and NSK argue that the Department should terminate the 1989–90 review. They assert that the Department was able to initiate this proceeding only because the Department acted in an improper fashion in conducting its review of the 1974–79(80) period. Koyo and NSK believe that the margins for those years should have been zero or *de minimis*. Had the Department completed its earlier review, the finding would have been revoked with respect to Koyo and NSK, and their shipments during the 1989–90 period would not have been subject to review. If the present review is not terminated, it should be discontinued until final disposition of the 1974–79(80) review.

Department's Position: Koyo and NSK are raising issues which are relevant to a different segment of the proceeding, and we have addressed those issues in our final results of review for the 1974–

79(80) period, published June 1, 1990, in the **Federal Register**. The issues in those final results are not pertinent to this segment of the proceeding. Judicial proceedings for the 1974–79(80) segment are underway. Based on our final results of review for the 1974–79(80), 1986–87, 1987–88, and 1988–89 periods, the Department is required to proceed with subsequent administrative reviews.

Comments Regarding Annual Averaging of Foreign Market Value, Model Match, and Cost Test Methodologies

Comment 7: Koyo argues that section 777A of the Tariff Act authorizes the Department to use averaging techniques to establish U.S. price and FMV only when such averaging techniques yield fair and representative results. Koyo believes that, regardless of whether an annual weighted-average FMV is as representative of home market prices as a monthly weighted-average FMV, the Department has failed to demonstrate that its use leads to margin calculations which are representative.

Koyo further submits that the Department's claim that the annual weighted-average FMV is as representative as the monthly weighted-average FMV is flawed. Koyo believes that the Department's determination that 98 percent of the home market sales have an annual weighted-average price that falls within 10 percent of the monthly weighted-average price is insufficient grounds for using an annual weighted-average FMV. Koyo believes that a 10 percent variance can have a dramatic, distortional effect on the margin calculation because it can increase the margin by as much as 10 percent, and produce findings of dumping where no dumping occurred. Koyo believes that this problem is further exacerbated by the Department's practice of not crediting respondents with negative dumping margins on sales made in the United States at prices above those in the home market.

Koyo asserts that, since the Department has already gone to the effort of calculating a monthly weighted-average FMV, it should use the monthly FMV in its margin calculations since it is a more contemporaneous match than an annual weighted-average FMV. Alternatively, Koyo argues, the Department should compare an annual weighted-average U.S. price to the annual weighted-average FMV to insure an apples-to-apples comparison. At the least, Koyo believes that a monthly weighted-average FMV should be used in instances where the annual weighted-average price deviates from the monthly weighted-average price by more than 10 percent.

Koyo argues that the Department's decision to replace the monthly weighted-average FMV with an annual weighted-average FMV without notifying Koyo is contrary to the purpose of U.S. antidumping law. Koyo asserts that the methodology used by the Department to calculate FMV must be predictable to allow the foreign manufacturers the opportunity to adjust their pricing policies.

Finally, Koyo cites section 773(a)(1) of the Tariff Act and § 353.46(a)(2) of the Department's Regulations in support of its argument that the Department must only compare FMVs that are contemporaneous with the U.S. sale.

Department's Position: Section 777A of the Tariff Act requires the Department to ensure that samples and averages shall be representative of the transactions under review. Therefore, before adopting the use of an annual weighted-average FMV, we conducted two studies on prices to ensure that the transactions and, thus, the results produced would be representative. First, we compared the monthly weighted-average price to the annual weighted-average price. We found that the annual weighted-average price for more than 90 percent of the products sold was within 10 percent of the monthly weighted-average price. Second, we tested whether home market prices of the subject merchandise consistently rose or fell during the period of review. We found that no significant correlation existed between price and time. That is, prices did not consistently rise or fall so as to make annual weighted-average prices unrepresentative of home market prices.

Therefore, the results of these tests demonstrate that Koyo's pricing practices remained stable during the review period, thus insuring that an annual weighted-average FMV is as representative of home market prices as the traditional monthly weighted-average FMV. We are satisfied that, if the weighted-average FMV is representative of the home market prices for the period of review, then the margins calculated using the weighted-average prices are accurate.

We disagree with Koyo's assertion that the Department's determination that 98 percent of the home market sales have an annual weighted-average price that falls within 10 percent of the monthly weighted-average price is insufficient grounds for using an annual weighted-average FMV. All averaging techniques, whether they are monthly or annual, result in variances between the actual price and the average price. The fact that over 90 percent of the annual weighted-average prices fall within 10 percent of the monthly weighted-average prices demonstrates that the variances produced by using an annual weighted-average FMV do not differ significantly from the variances produced by using a monthly weighted-average FMV. Furthermore, Koyo offers no evidence that an annual weighted-average FMV results in a systematic bias that would create higher dumping margins than would result from using a monthly weighted-average FMV.

Also, we disagree with Koyo's assertions that, to insure representative results, we must average U.S. prices on the same basis as FMV, or that we must credit respondents with negative dumping margins. Both positions have been, and continue to be unacceptable, because they would allow a foreign producer to mask dumping margins by offsetting dumped prices with prices above FMV. That is, a foreign producer could sell half its merchandise in the United States at less than FMV, and the other half at more than FMV, and arrive at a zero dumping margin. The Department does not encourage selective dumping, nor do we reward a party for not dumping. Except in instances where the Department has conducted reviews of seasonal merchandise which has very significant price fluctuations due to perishability (Final Results of Antidumping Duty Administrative Review, Certain Fresh Cut Flowers from Colombia (55 FR 20495, May 17, 1990)), the idea of averaging U.S. prices has been rejected (Final Results of Antidumping Administrative Review, Pressure Sensitive Plastic Tape from Italy (54 FR 13091, March 30, 1989)). Since the merchandise under review is not a perishable product, and our tests of home market sales revealed that there are no significant price fluctuations, there is no reason to believe that averaging of U.S. prices is needed to account for very significant price fluctuations.

The Department notes that the use of an annual weighted-average FMV in calculating margins dramatically simplifies the analysis in this review. Koyo's presumption that we have already gone 'the effort' to calculate an annual weighted-average FMV at the onset of our analysis and, therefore, have completed the complicated calculations, is mistaken. At the onset of our analysis, we compare annual prices, not FMVs, to monthly prices, not FMVs, for representativeness. Upon finding that the annual price is representative, we then calculate an annual weighted-average FMV for a model. Since we have confirmed that price variations are not correlated with time, there is no contemporaneity issue. The fact that we do not have to make multiple searches for contemporaneous matches results in a dramatic simplification of our analysis, while maintaining the integrity of the representative FMV.

We disagree with Koyo's assertion that our change in methodology has removed predictability from the process. Since such a high percentage of the sales have an annual weighted-average price which falls within 10 percent of the monthly weighted-average price, the calculation of an annual weighted-average FMV, which the Department has used in this review, is no less predictable than the calculation of a monthly weighted-average FMV.

Comment 8: Timken contends that Koyo failed to follow ITA's instructions concerning the reporting of "such or similar" merchandise. In this proceeding, the Department allowed respondents to limit the reporting of home market sales to those models considered "such or similar" merchandise according to the Department's model match criteria. The questionnaire required that the respondents provide the first four such or similar bearings for each comparison model based on the sum of the deviations criteria. If the sum of the deviations is the same for two or more bearings, they are to be ranked according to the similarity in costs, and, if the costs are the same, in alpha-numeric order. Timken charges that Koyo did not examine the cost of production (COP) in order to rank the most similar models. In addition, Timken argues that Koyo applied caps to the deviation of the individual criteria in contravention of the Department's instructions.

In response, Koyo notes that the Department has the necessary cost data to rank the choices of such or similar merchandise according to similarity in costs. Koyo also claims that it conformed to the Department's then current model match methodology when applying the caps to each individual criteria, citing the model match methodology used in the 0–4" 1986–87 TRB review (Final Results of Antidumping Administrative Review, Tapered Roller Bearings Four Inches or Less in Outside Diameter and Certain Components Thereof From Japan (55 FR 38720, September 20, 1990)).

Department's Position: We agree with Timken on both points. We permit respondents to limit their reporting of home market models to the first four such or similar models in an effort to limit the administrative burden for the respondents and the Department. With regard to the first point, the Department conducted its own model match and ordered the models according to the similarities in cost. With regard to the second point, Koyo claims that it was relying on the methodology from the 1986–87 review in this proceeding. However Koyo has applied caps to the individual criteria, in direct contravention of the Department's explicit instructions in both the questionnaire for this proceeding and in correspondence on January 3, 1991, from the Department to counsel for Koyo. In this correspondence, while clarifying that the Department was only requiring submission of the first four "such or similar" models sold during the period of review, the letter also "stress[ed] the importance of following the Department's model match methodology exactly as it is described in Section B of the questionnaire".

Where the Department's model match resulted in a different choice than Koyo's model match, and where home market sales information was not submitted for that particular model, we have applied the highest weighted average margin for the period of review as BIA when that model is chosen as the such or similar home market model.

Comment 9: Timken argues that NSK has not used the correct methodology in selecting such or similar merchandise. Timken claims that NSK's program was inaccurate because the selection of such or similar merchandise was limited to comparisons of models with the same precision code, industry code, heat treatment code, and flange code. Timken contends that NSK's inclusion of these five factors in the model match program could result in an exclusion of comparison merchandise from the home market sales listing.

NSK claims that it models match program was designed to carry out the Department's objective of obtaining truly similar comparisons and that neither the Department nor Timken objected to the additional criteria it used to determine comparison merchandise. NSK also contends that, if the methodology it employed is indeed flawed, only 9 percent of the matches could be influenced by the selection process, since 91 percent of the matches in the preliminary margin program were matched with identical models.

Department's Position: We agree with Timken. NSK improperly included additional criteria in its model match program, contrary to the explicit directions of the Department. Where the Department's model match resulted in a different choice than NSK's model match, and where home market sales information was not submitted for that particular model, we have applied the highest weighted average margin for the period of review as BIA when that model is chosen as the such or similar home market model.

Comment 10: Koyo asserts that the Department's model match methodology is flawed because it does not use a cap on the permissible difference between the home market model and the U.S. model for each of the five criteria used to determine similar merchandise. Koyo believes that without a ten percent cap on the five physical characteristics criteria, dissimilar home market merchandise will be compared to U.S. models.

Department's Position: We disagree that our decision not to apply a 10 percent criterion cap results in the comparison of models which do not constitute similar merchandise. We have based the determination of physical similarity on the smallest sum of the deviations of the five physical criteria. Consistent with section 771(16) of the statute, we determined that all TRBs are alike in the purposes for which they are used (*i.e.* to reduce friction), and we eliminated models that are not of equal commercial value. There is no further requirement that home market models must be technically substitutable, purchased by the same type of customer, or have the same end use as the U.S. model.

Throughout the extended history of the two TRB proceedings, the Department requested input by interested parties and evolved the use of these five physical criteria to identify and compare models sold in the United States and the home market. We are aware that these five characteristics are not substitutes for the technical specifications of the products under review, since TRB product manuals list more than 25 statistics for each bearing. However, we have determined that, for the purposes of selecting similar merchandise in a dumping calculation, these five criteria are the pertinent data to be collected and analyzed.

Comment 11: Koyo maintains that the Department's practice of comparing sales across levels of trade permit inequitable comparisons of U.S. and home market sales, as there is no remedy available to compensate for the differences in level of trade. Koyo cites USC 1677b(a)(1)(A) and section 773(a)(1)(A) of the Tariff Act as the basis to require analysis of sales at the same level of trade only. Koyo also points out that section 353.58 of the Department's regulations supports their position, as it states that the "Secretary normally will calculate foreign market value and U.S. price based on sales at the same commercial level of trade" (19 CFR 353.58).

Department's Position: We disagree. USC 1677b(a)(1)(A) and section 773 (a)(1)(A) refer to usual commercial quantities and the ordinary course of trade and not to levels of trade. The Department's regulations, in addition to the reference by Koyo, go on to state that "[i]f sales at the same commercial level of trade are insufficient in number to permit an adequate comparison, the Secretary will calculate foreign market value based on sales of such or similar merchandise at the most comparable commercial level of trade" (19 CFR 353.58). The Department has consistently concluded in past reviews that in order to exhaust all possible home market sales of such or similar merchandise before going to constructed value analysis, we must cross levels of trade. See Final Results of Antidumping Administrative Review, Antifriction Bearings and parts thereof from the Federal Republic of Germany et al (56 FR 31710, July 11, 1991); Final Results of Antidumping Duty Administrative Review, Brass Sheet and Strip from Canada (55 FR 31414, August 2, 1990); Final Determination of Sales at Less Than Fair Value, Fresh Cut Flowers from Costa Rica (52 FR 6582, March 4, 1987); Final Determination of Sales at Less Than Fair Value, Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan (52 FR 30701, August 17, 1987). This position has been affirmed by the CIT. See *Timken Company* v. *United States*, 11 CIT 786, 674 F. Supp. 495 (CIT 1987); *NTN Bearing Corp. of America* v. *United States*, 747 F. Supp. 726, 743 (CIT 1990).

Comment 12: Timken argues that the model match methodology used in this proceeding is inconsistent with the methodology the Department used in the final determination of sales at less than fair value on Tapered Roller Bearings Over Four Inches from Japan (52 FR 30700, August 17, 1987) (the 1987 LTFV determination). In the 1987 LTFV determination, the Department used the greatest single deviation methodology, in which the largest difference in a single criterion is measured, to determine comparison merchandise. The greatest single deviation methodology measures the percentage difference between each of the five physical characteristics of the home market model and the target U.S. model. It identifies the largest percentage difference for each home market model without taking into account the characteristic that produced the deviation. This largest deviation is known as the "greatest single deviation." It then ranks all the models sold in the home market in comparison to the target U.S. model from the smallest to the largest single deviation. Therefore, the most similar model is the model whose greatest single deviation is smaller than the greatest single deviation of any other model sold in the home market. In this and previous reviews of the 1976 finding (55 FR 22369, June 1, 1990; 55 FR 38721, September 20, 1990; 56 FR 26054, June 6, 1991, 56 FR 65228, December 16, 1991), the Department used the "sum of the deviations" methodology, in which the sum of the differences in U.S. and home market model criteria is measured. Timken asserts that the greatest single deviation methodology is supported by evidence on the record, and can be implemented using the same information the Department collected for the sum of the deviations methodology. Timken addresses a number of additional issues in its argument to have the Department adopt the greatest single deviation methodology in this proceeding.

First, Timken argues that the Department incorrectly concluded that the greatest single deviation methodology unreasonably emphasizes any one of the five criteria when choosing comparable merchandise. Timken notes that changes in any four of the five criteria used to select similar merchandise result in exponential, rather than linear, changes in a bearing's performance characteristics. Thus, Timken believes that the greatest single deviation methodology is sufficient to produce the most similar match. Additionally, Timken contends that when choosing which bearing to purchase, a customer evaluates each criterion independently to ensure that its application requirements will be met. In this same manner, Timken argues, the Department must also evaluate each criterion independently when selecting similar merchandise, thereby remaining consistent with actual commercial considerations.

Second, Timken asserts that the Department does not need to use a 10 percent cap on the deviation of each factor in order to adopt the greatest single deviation methodology. Without such a limit, Timken argues, just as many home market matches will be found with the greatest single deviation methodology as with the sum of the deviations methodology.

Finally, Timken contends that the Department should not reject the greatest single deviation methodology on the grounds that it fails to provide a mechanism for distinguishing between two potential matches when the greatest single deviation is the same. Timken believes that in these situations the Department should examine the next greatest deviating factor, exhausting all the criteria if need be, until a most similar match is found. If two or more bearings are equally similar after all the criteria are exhausted, Timken proposes that the Department use the weighted-average price of all the home market sales of the remaining equally similar choices as the basis for FMV.

Department's Position: In the 1987 LTFV determination, the Department used five criteria to match models employing the greatest single deviation methodology. In this review of the 1976 finding, we also used the five criteria to match models' however, we continued to employ the sum of the deviations methodology, which arose in litigation on final results for other parties covered by the 1976 finding, *Timken* v. *United States*, Slip. Op 84–63 (7 CIT 319) (June 5, 1984) (*Timken*), *Timken* v. *United States*, 630 F. Supp. 1327 (CIT 1986) (*Timken I*), and *Timken II*.

Because of concerns expressed by petitioner and respondents involving the aforementioned inconsistency, the Department extensively reevaluated the selection methodology. We requested input by parties to the proceeding and a TRB manufacturer subject only to the antidumping duty order on TRBs over four inches and parts thereof from Japan. Timken favored the greatest single deviation method, two respondents had no preference, and one respondent favored the sum of the deviations method.

The sum of the deviations method seeks the model with the lowest overall deviation for all criteria combined, while the greatest single deviation method seeks the model for which the greatest deviation for any single criterion is the lowest. While Timken is correct in asserting that the same information collected by the Department can be used to conduct the model match using either methodology, the Department believes the sum of the deviations method is preferable because it uses all five criteria in determining which home market model is the most similar. The greatest single deviation method relies on only one criterion, to the exclusion of all other criteria. In this way, the model match selection using the greatest single deviation relies on a single arbitrary criterion, since the criterion that produces the largest single deviation changes from one match to another for the same U.S. model.

Although Timken asserts that customers choose a bearing by a single criterion, Timken does not specify which criterion is the controlling factor. The criterion that may be important for one customer may be different from what is important to another. There is no evidence that any particular single criterion should be the deciding factor, or that all customers would rely on the same single criterion in deciding which model to purchase. Therefore, even if customer preference were a factor in the determination of the most similar model, the greatest single deviation method does not address the issue of customer preference.

Timken's contention that the non-linear relationships between the criteria and the performance characteristics make it unnecessary to analyze the four criteria that do not have the largest deviation, is not supported by the facts. The record shows that the parties to this proceeding have agreed that all five criteria are important factors to use when determining the similarity of merchandise. In addition, our analysis indicates that one must analyze the differences in all criteria in order to determine the most similar home market match.

Furthermore, the Department cannot select models based on performance expectations, whether those expectations are redundant, proportional, linear, or non-linear, since expectations are not subject to objective analysis. Since the greatest single deviation methodology ignores the relative value of four out of five criteria, it does not take all of the objective factors into account in selecting the most similar match.

Although Timken asserts that the removal of the 10 percent cap in the greatest single deviation methodology would result in the selection of as many home market matches as the sum of the deviations methodology, this was not a critical issue in the decision-making process. We chose to continue to use the sum of the deviations methodology in this proceeding because, as explained above, it provides for the most comprehensive analytical approach in choosing the most similar merchandise sold in the home market.

Finally, while we realize that Timken has provided a method of breaking a tie among two or more matches with the same greatest single deviation from the reference bearing, this does not alter the Department's analysis or conclusion. Because the sum of the deviations method uses all five criteria, instead of a single criterion, it is more discriminating and, therefore, less likely to produce ties in the selection of the most similar merchandise sold in the home market.

Comment 13: Koyo argues that the Department did not properly test home market sales made at prices below COP to determine if they were made over an extended period of time. Koyo asserts that the Department's definition of an extended period of time as three months or more of the review period is unreasonable and contrary to the statute. Koyo submits that a model is sold below COP for an extended period of time only when below-cost sales of that model occur during each month of the review period.

Department's Position: We disagree. Section 773(b)(1) of the Tariff Act is designed to ensure that below-cost sales are not disregarded if these sales occurred over a short period of time or resulted from normal business practices, such as selling obsolete or end-of year merchandise at below-cost prices. TRBs are a commodity item that do not demonstrate perishability, seasonality, or frequent generational changes in models. No information on the record in this case indicates that below-cost sales are a normal practice or characteristic in this industry. We used the period of three months to define an extended period of time since three months is commonly used to measure corporate, financial, and economic performance. Use of three month periods to measure distribution of below-cost sales demonstrates that sales below the COP are not random, accidental, or sporadic. Therefore, we have determined below-cost sales occurring in three or more months of the review period to have been made over on extended period of time.

Comments Regarding Calculation Foreign Market Value

Comment 14: NSK claims that the Department should not match U.S. sales of a certain model with a single sale of two pieces of that same model in the home market. This model accounts for a considerable percentage of NSK's sales in the United States and, except for one small after-market sale, those sales were all made to a single original equipment manufacturer customer. NSK argues that the single sale of two pieces in the home market is outside the ordinary course of trade. NSK states that the model in question is an inch-size bearing intended exclusively for the U.S. market and that, except for five pieces sold in 1983, no sales of that model were sold between 1974 and this period of review. Therefore, NSK argues that the sale in the home market of two pieces departs from its normal course of trade. NSK stresses that the small quantity in itself is not the reason that the sale is outside the ordinary course of trade, but that it is aberrant as "no sale of any quantity was intended in the past" (NSK Case Brief at 9, footnote 6 (June 28, 1991)). NSK claims that comparison of the model in question to the next most similar model would be consistent with 19 CFR 353.55 by using sales of comparable quantities when comparing U.S. and home market sales.

NSK makes the additional argument that the sale of the home market model was not contemporaneous with the U.S. sales according to 19 CFR 353.46(a)(2). NSK claims that, at the time of the sale, NSK had no basis to anticipate that the Department would use a single weighted-average price for the entire period, as sales were still being analyzed under the 90/60 day window approach. NSK argues that the Department should limit comparison to contemporaneous sales for this model.

Timken argues that NSK's submission of certain factual information in its case brief was untimely and should be rejected under 19 CFR 353.31(a)(ii). Timken further argues that the additional information fails to demonstrate that the sale in question was in unusual quantities or outside the ordinary course of trade. Timken states that the sale of two pieces in the home market satisfied none of the traditional criteria (sample sales, prototypes, limited editions, inventory clearance, damaged goods, or obsolete merchandise) that the Department looks for in order to determine sales that are outside the ordinary course of trade.

Timken points out that, while the sale of the set that corresponds to that model was reported in NSK's Section A response, it did not appear in the weighted-average home market sales listing in the preliminary margin program. Timken argues that NSK has neither demonstrated that the sale was of an extremely small quantity at a price substantially higher than the prices of the majority of sales reported, nor established that the price differential is due wholly or in part to the difference in quantity. Timken asserts that the Department should not "hybridize" its annual-average methodology in order to accommodate NSK. Timken points out that under the 90/60 day window period, the sale of two pieces would be matched with the sales of its identical counterpart that occurred in March through July, 1990.

Department's Position: We examined NSK's sales practices and determined that sales of very small quantities were not outside the ordinary course of trade However, in this instance, NSK sold a bearing intended exclusively for the U.S. market in the home market. Furthermore, NSK indicated that only one other sale (of five units) has been made in the home market since 1974. This illustrates that the sale was outside the ordinary course of trade. The argument regarding comparable quantities does not apply because NSK did not demonstrate that the "price differential is wholly or partly due to the difference in quantities" (19 CFR 353.55(a)), but merely focused on the fact that the quantities were different. The issue of contemporaneity is not applicable, because we are using a weighted-average value of all models sold during the period of review. Because this sale was made outside the ordinary course of trade, we disregarded the home market sale of this model for the final results of review, and compared the U.S. sales to the most similar model sold in the ordinary course of trade in the home market.

Comment 15: Timken asserts that, in at least one case, Koyo classified certain sales to an original equipment manufacturer (OEM) as after-market (AM) sales. Timken contends that Koyo should not be allowed to classify sales to OEM customers as AM sales even though those sales are intended to supply the customer's service or replacement business. Timken argues that the level of trade is determined by whether the first unrelated customer is itself an end-user or a reseller (distributor), and that the customer's customer is not relevant to a level of trade classification.

Department's Position: We agree with Timken that the customer's customer is not relevant to a level of trade classification. However, we also recognize the fact the some OEM customers also act as distributors and therefore purchase bearings for use in both markets. The classification of a sale as OEM or AM indicates the market in which the sale took place. The fact that a customer is an OEM, and purchases the majority of its bearings in the OEM market, does not preclude it from purchasing bearings in the AM for replacement parts, resale, or distribution. Therefore, we accepted Koyo's level of trade classification.

Comment 16: Timken alleges that Koyo's home market sales listing is incomplete since Koyo did not submit transaction-specific data on sample sales. In response to a supplementary questionnaire, Koyo submitted a listing of its home market sample sale transactions.

Department's Position: We have examined the volume and value of home market sample sales in Koyo's supplementary exhibit and compared it to the revised volume and value of domestic sales and find the amount insignificant for this review.

Comment 17: Timken asserts that NSK excluded sales of certain models from its home market list, because it considered them "not to have been sold in the usual commercial quantities or in the ordinary course of trade". Timken argues that the Department should determine what constitutes the most similar merchandise and that, for the purpose of the final results, the Department should include all aforementioned home market sales in its calculation of FMV.

Department's Position: We agree with the petitioner that the Department should determine what constitutes similar merchandise, either by directly analyzing the entire class or kind of merchandise or through instructions to the respondents.

Altogether, NSK excluded eight transactions as "outside the ordinary course of trade". In this review, such sales constitute an insignificant percentage of NSK's home market sales, and, therefore, we are satisfied that the exclusion of these transactions would not alter the results of the model match.

Comment 18: Timken asserts that, if NSK failed to show that sales to related parties were made at arm's-length prices, the Department must analyze related party sales and determine whether the transactions were at valid, arm's-length prices prior to using related party sales in the final results.

Department's Position: Both Koyo's and NSK's home market sales data revealed that prices to related customers were at arm's length, since, on average, they were higher than prices to unrelated customers. Therefore, pursuant to 19 CFR 353.45(a), we included sales to related parties in our pool of home market sales.

Comment 19: Timken argues that pre-sale inland freight should not be allowed as an adjustment to FMV. Timken asserts that freight costs incurred to ship the merchandise to related warehouses or distribution centers is not allowable as a direct adjustment to price and, therefore, should be excluded. NSK argues that home market inland freight should be treated as a direct expense to conform to the manner in which U.S. movement expenses are treated. NSK claims that the Department should follow the final results of the 1987–88 review in this proceeding and treat all home market inland freight expenses as direct expenses (Final Results of Antidumping Administrative Review, Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Certain Components Thereof, from Japan (56 FR 26056, June 6, 1991)). Koyo argues that the Department incorrectly excluded home market indirect inland freight because it thought that it was also included in direct expenses (internal inland freight). Koyo stated in its response that it had adjusted indirect selling expenses to exclude expenses reported elsewhere. Koyo also explained in its response that indirect inland freight expenses are pre-sale freight expenses and internal freight expenses are reported as part of indirect selling expenses because they do not directly relate to the subject sales (internal freight expenses include costs incurred at Koyo's distribution centers and branch warehouses, such as fuel, repair, accessories and insurance for forklift trucks).

Department's Position: 19 U.S.C. 1677a(d)(2)(A) of the Tariff Act and 19 CFR 353.41(d)(2)(i) require the Department to deduct all inland freight expenses incurred on U.S. sales in order to establish the ex-factory price for sales comparison purposes. There is no explicit provision for deducting home market inland freight expenses from FMV. The Department previously attempted to adjust FMV for home market inland freight expenses as a circumstance-of-sale adjustment under 19 U.S.C. 1677b(a)(4)(B). In accordance with this provision, however, the Department attempted to limit any adjustments to expenses that were incurred as a direct result of sales under investigation. Consequently, the Department often was unable to grant respondents' claims for pre-sale inland freight expenses because respondents were unable to meet this requirement. This approach leads to unfair comparisons. By denying an adjustment for pre-sale inland freight expenses, the Department would compare an ex-factory price in the United States to an ex-warehouse price in the home market. By deducting pre-sale inland freight expenses from FMV, the Department is able to compare the U.S. ex-factory price with its counterpart in the home market.

Comment 20: Timken argues that the Department should not accept Koyo's methodology for calculating home market credit expenses. Timken asserts that Koyo's calculation methodology is arbitrary because it uses a random number of customers to calculate an average credit period. Additionally, Timken believes that because payment is based on a month's total bills, the credit rate may not accurately reflect the credit terms of the covered merchandise, since the credit rate includes payment

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on products outside the scope of the finding. Timken argues that the Department should use the customer specific credit rates for the largest customers reported and then use the lowest credit rate for the remaining customers.

Department's Position: We disagree. We view the number of customers Koyo chose to use in its credit calculation as acceptable since it accounts for the vast majority of its home market sales of covered merchandise during the period of review. While the Department prefers that respondents report credit expenses on a sales-specific basis, we recognize the massive number of transactions in this review, and consider calculations based on average credit days outstanding on a customer-specific basis to be reasonable (Final Results of Antidumping Duty Administrative Review, Antifriction Bearings from the Federal Republic of Germany, et al. (56 FR 31721, July 11, 1991)).

Comment 21: Timken argues that the Department should not allow a direct adjustment for warranty expenses incurred in the home market. Timken contends that, since the adjustment to the home market price is based on warranty expenses for all bearing products sold in the home market, not just within-scope merchandise, it cannot be classified as a directly-related selling expense. Timken asserts that the Department should continue to classify the adjustment as an indirect selling expense.

Department's Position: We agree. Since Koyo's warranty expense could not be directly related to merchandise covered by the scope of the finding, we have classified warranty expenses incurred in the home market as an indirect selling expense for the final results.

Comment 22: Timken contends that Koyo's Exporter Sales Price (ESP) offset claim is inflated by the inclusion of general and administrative expenses. Timken argues that Koyo's reporting of selling, general, and administrative (SG&A) expenses fails to link the expenses to the sales function in the home market. Timken asks that the Department reexamine this issue to insure that Koyo properly segregated general and administrative expenses, and otherwise accurately reported indirect selling expenses.

Department's Position: We are satisfied that the adjustment used for the preliminary results accurately reflects the indirect selling expenses incurred by Koyo in the home market. Accordingly, we have made no change for the final results.

Comment 23: Timken argues that the Department should deny Koyo's claimed adjustment for post-sale price adjustments (PSPAs) and rebates incurred in the home market. Timken cites two reasons in its argument for denying the claimed adjustment. First, Timken contends that, since the rebates reported to the Department were not directly related to particular sales, and the terms of the rebates were not known prior to the date of sale, they should not be permitted as a circumstance-of-sale adjustment. Second, Timken asserts that, since it is not apparent that Koyo's allocation methodology results in the reporting of rebates and PSPAs that are specific to sales of in-scope TRBs, the Department should not even allow the adjustment as an indirect selling expense. Timken argues that, if Koyo is unable to tie the rebates and price adjustments to the specific transactions to which they applied, no adjustment to the home market price is warranted.

Koyo argues that the Department should not have reclassified home market rebates and PSPAs as indirect selling expenses. Koyo believes that, since rebates were allocated only to the customers that received them, and the rebate percentages were set prior to the sale and applied to all merchandise sold, the rebates should be considered directly related to Koyo's sales. Koyo argues that this should be enough to justify a direct adjustment to price since, under *Smith-Corona Group* v. *United States,* 713 F.2d 1568, 1580 (CAFC 1983), a circumstance-of-sale adjustment need only have a "reasonably direct relationship" to the sales under consideration.

Koyo asserts that, since price adjustments are revisions to price and not circumstance-of-sale adjustments, there is no requirement to establish that price revisions are related to specific transactions. Koyo argues that the Department must recognize that prices are established based on factors that cross product lines and include many individual transactions, and not penalize Koyo because its accounting practices do not allocate price adjustments to individual transactions.

Department's Position: We disagree in part with both the petitioner and the respondent. The record demonstrates that Koyo's PSPAs are an established and accepted commercial practice in the TRB industry (Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Certain Components Thereof, from Japan (56 FR 26054, June 6, 1991); Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Certain Components Thereof, from Japan (56 FR 65234, December 16, 1991)). Since Koyo has allocated its PSPAs on a customer-specific basis over both scope and non-scope merchandise, we have classified these PSPAs as indirect, rather than direct expenses.

Koyo's rebate adjustment, unlike the PSPAs, is based on a set rebate percentage which applies to all merchandise sold to a customer and, therefore, qualifies as a direct adjustment to the home market price, so we have reclassified it as a direct expense for the final results of review.

Comment 24: NSK argues that its rebates, commissions, and discounts (return system rebates, PSPAs, lump-sum PSPAs, distributor incentive rebates, delivery on behalf of NSK commissions, stock transfer commissions, and early payment discounts) should be considered direct adjustments, as they are customer specific and/or part number specific.

NSK contends that the Department's treatment of rebates, discounts, and commissions as indirect selling expenses is contrary to law and past Department practice. NSK claims that the return system rebate is granted on a claim-by-claim basis and reported on a product and customer-specific basis, so it should be treated as a direct adjustment. NSK also claims that its PSPA is granted on a customer-specific and part-by-part basis and should be afforded direct status. NSK further maintains that, while the lump-sum PSPA is reported on a customer-specific basis only, and it is granted to certain customers on various parts, it is appropriate to treat it as a direct circumstance-of-sale adjustment because it is a direct result of sales and applicable to all products. NSK asserts that its distributor incentive, while reported only on a customer-specific basis, is granted as a percentage of all sales, and may therefore be allocated across all sales. Finally, NSK argues that its commissions, which are customer-specific only, but not a percentage of all sales, should be considered direct expenses, as they are a result of sales.

NSK asserts that rebates reported by bearing manufacturers on a customer-specific basis, according to a consistent and reasonable allocation method, have been treated as a direct expense by the Department, and the Department should not depart from its precedent (Final Determination of Sales at Less Than Fair Value: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of

Germany et al. (54 FR 19056, May 3, 1989)). Also, NSK insists that, as with lump-sum rebates, discounts and commissions should be treated as a direct expense since they were allocated appropriately on a customer-specific basis; total discounts or commissions to each distributor were divided by total sales to each distributor, as neither amount was recorded by product.

Department's Position: NSK reported 5 types of rebates, 3 types of commissions, and 1 discount. Because two types of rebates (the performance incentive and the distributor incentive) were granted to the customer as a straight percentage of each sale, we have determined that these discounts are directly related to each sale. Thus, performance incentive rebates and distributor incentive rebates are direct adjustments to the home market price since the terms of the rebates remain consistent across all customer-specific sales. The PSPA, which is part-by-part and customer specific, and the return rebate, which applies to specific customers, as well as part numbers, are also directly related to specific sales. However, NSK was not able to demonstrate that the remaining rebate (the lump-sum PSPA) (which is only distributor-specific, but not a straight percentage of all sales), and commissions (which are also customer-specific only, but not a straight percentage of all sales) applied to specific sales of covered products. This rebate and these commissions were not granted as a straight percentage of each sale so that, even when reported on a customer-specific basis, a misallocation of the expense may occur between covered and noncovered merchandise. Therefore, we have classified these expenses as indirect selling expenses for the final results of review. We calculated the amount of the adjustment to the home market price for the early payment discounts as if they were indirect selling expenses, since NSK was unable to provide information that ties the early payment discount directly to specific sales of in-scope merchandise. As we noted in Comment 4, in instances where a respondent fails to provide sufficient information to support its claim that a price adjustment can be tied to a specific sale in the home market, we make the adverse assumption and calculate the price adjustment in the same manner as we would calculate an indirect selling expense.

Comment 25: NSK contends that commissions and incentive payments which were made only to related parties should be allowed as direct expenses. NSK argues that commissions paid to related parties, when those transactions are shown to be at arm's-length, should be allowed (Dry Cleaning Machinery from West Germany (50 FR 32154, August 8, 1985); Egg Filler Flats from Canada (50 FR 24009, June 7, 1985); Generic Cephalexin Capsules from Canada (54 FR 26820, June 26, 1989); *LMI-La Metalli Industriale S.p.A.* v. *United States,* (CIT 1989), affirmed in part, remanded in part, (Fed. Cir. 1990)).

Timken argues that the Department correctly disallowed the claim for commissions to related parties, as no circumstance-of-sale adjustment is permitted for commissions paid to related parties (Dry Cleaning Machinery from West Germany; Egg Filler Flats from Canada (50 FR 24009, June 7, 1985); Bicycle Tires and Tubes from Taiwan (48 FR 19438, April 29, 1983)).

Department's Position: An adjustment for commissions paid to related parties should be allowed as a proper basis for adjusting price, if such commissions are made at arm's length. (*LMI-La Metalli Industriale S.p.A.* v. *United States,* (CIT 1989), aff'd in part, remanded in part, (Fed. Cir. 1990)). The Department has tested NSK's home market commissions and established that the commissions were not granted equally to related and unrelated parties. For the final results of review, we have excluded commissions made to related parties. The incentive payment rebate, however, is classified as a rebate and not as a commission and has been allowed as a direct adjustment, as it can be directly related to sales of the subject merchandise.

Comment 26: Koyo argues that the Department should not include home market commissions with home market indirect selling expenses. Koyo, referring to 19 CFR 353.56(b), asserts that, when reviewing ESP sales, the Department should treat commissions as direct circumstance-of-sale adjustments.

Department's Position: We agree with Koyo that, in the preliminary results, the ESP offset was inappropriately calculated in the instances in which a commission existed in one market and not the other. Therefore, we have changed our calculation to provide for a separate calculation of the circumstance-of-sale adjustment for commissions and the ESP offset (See Final Results of Antidumping Duty Administrative Review, Certain Fresh Cut Flowers from Mexico (56 FR 1794, January 17, 1991)).

Comment 27: Timken argues that NSK's home market credit expense should not be allowed as an adjustment for differences in circumstances of sale because it is not calculated on an invoice-by-invoice basis.

Department's Position: We disagree. While the Department prefers to have credit expenses calculated on an invoice-by-invoice basis, NSK is unable to provide payment dates as it's computer system is unable to track them. The Department finds their calculation of average credit days outstanding to be reasonable. (See Final Results of Antidumping Duty Administrative Review, Antifriction Bearings from the Federal Republic of Germany, et al. (56 FR 31724, July 11, 1991)); Final Results of Antidumping Duty Administrative Review, Portable Electric Typewriters From Japan (56 FR 14074, April 5, 1991))

Comments Regarding Calculation of U.S. Price

Comment 28: Timken claims that Koyo's analysis of expenses involved in further manufacturing in the United States is erroneous. The sales in question have been reported as if they were fully Japan-made products (as Koyo claims it cannot identify which component was produced by Koyo or by some other manufacturer), yet Timken maintains that if the merchandise is "finished", then it is subject to the antidumping finding at issue, and if the merchandise is "unfinished", then it is subject to the antidumping duty order in Tapered roller Bearings, Finished and Unfinished, and Parts Thereof, from Japan. Timken further argues that the products that undergo assembly in the United States are subject to further manufacturing analysis and that, as there is no information on the record indicating even the total value of bearings affected by this practice, the Department should use as best information otherwise available the ranged public figure which indicates the dollar amount of U.S. sales that underwent further manufacturing in the previous period of review.

Koyo agrees with Timken that these sales with one Japan-made component should be, and are, included in the U.S. sales listing used to calculate the dumping margin. Koyo does not agree, however, that these sales should be subject to further manufacturing analysis as they were "combined", not "manufactured".

Department's Position: We agree with both Timken and Koyo that these sales should be included in the calculation of the dumping margin. We agree with Timken that these sales should be analyzed as "further manufactured" products. "Any increased value, including additional material and labor, resulting from a process of manufacture or assembly performed on the imported merchandise after the importation of the merchandise and before its sale to a person who is not the exporter" (emphasis added) (section 772(e)(3) of the Tarrif Act) is subject to further manufacturing analysis. We have used the public ranged number from the previous review (88/89) as BIA for the amount of U.S. sales that were further processed. We have applied to sales of such bearings, as BIA, the highest weighted-average margin in this review for the sales that we determined to be further manufactured.

Comment 29: Timken argues that the Department should include all sample sales in the U.S. sales listing, as Koyo has not provided any support for its assertion that these are sample sales. Timken argues that section 751 of the Act requires that the Department calculate dumping margins on each "entry" of merchandise that is sold in the United States.

Department's Position: We agree. Consistent with the preliminary results we have included all sample sales in our U.S. sales listing.

Comment 30: Timken argues that the Department should not reclassify Koyo's U.S. adjustment for rebates and other PSPAs as indirect selling expenses, because Koyo did not provide the information necessary to tie them to individual sales. Timken contends that the Department should use the highest rebate rate observed among all U.S. sales as the BIA when calculating the final results.

Department's Position: Koyo granted its early payments discounts and rebates on a customer-specific, rather than a sale-specific, basis. As we noted in Comment 4, in instances where a respondent fails to provide sufficient information to demonstrate that its adjustment is indirect in the U.S. market, we make an adverse assumption and reclassify them as direct. Therefore, we have changed our calculations for the final results of review.

Comment 31: Timken objects to the upward adjustment to U.S. price due to the occurrence of a credit balance in the allowance accounts of certain customers. Timken believes that such an adjustment is unwarranted since it is the result of an allowance claimed previously by a customer but disallowed by Koyo. Therefore, Timken contends, the balance relates to previous sales and not to the sale at issue. Timken asserts that the balance does not reflect an adjustment to price, since it is not apparent that the transaction price is affected by Koyo's refusal to permit the customer's claim.

Department's Position: We recognize that Koyo's reported expense experience is based on a snapshot of its accounts for the 12-month period of review. To do otherwise would result in constant adjustments to prices after a review is completed. Therefore, we accepted an upward adjustment to U.S. price in instances where a credit balance exists in the account of certain customers.

Comment 32: Timken objects to the allocation methodology which both NSK and Koyo used to calculate their U.S. technical service expenses. Timken claims that the allocation of these expenses over total sales value over-allocates technical service expenses to higher-priced sales to distributors, who seldom require such services. Timken proposes that the Department re-allocate U.S. technical service expenses to OEM sales, and deduct them as a direct selling expense.

Department's Position: Both Koyo and NSK have stated that they provide technical services to all customers that request assistance, including their aftermarket customers. Therefore, we are satisfied that NSK's and Koyo's allocation methodology for technical services is reasonable.

Comment 33: Timken argues that the Department should reject Koyo's methodology for calculating U.S. credit expenses. Timken asserts that the average credit days methodology, based on the average accounts receivables, is inconsistent and self-serving, since the number of customers used in the calculation changes depending upon the market and the review period. Timken contends that, unless Koyo's credit costs are based on actual payment days for each individual sale, the Department should use the highest credit period of any major customer as the BIA when calculating the final results.

Department's Position: We disagree. Please refer to our response to Comment 20 for an explanation of our position on Koyo's credit calculation methodology.

Comment 34: Timken argues that, since NSK did not support its claim that it incurred no "customer-directed" advertising expenses in the U.S. market, and since selling expenses in the United States are presumed to be direct absent proof to the contrary, NSK's corporate advertising expenses should be deducted from U.S. price as a direct selling expense.

Department's Position: We disagree. We verified NSK's U.S. advertising expense in the last review, and we are satisfied that NSK incurred no direct or "customer-directed" advertising in the United States for TRBs. Therefore, NSK correctly reported its indirect or corporate advertising as part of its U.S. indirect selling expenses.

Comment 35: NSK objects to the use of the U.S. short-term credit rate in the calculation of inventory carrying cost. NSK maintains that because its U.S. subsidiary, NSK Corporation (NSKC), has six months to pay for the imported merchandise, the parent company incurs the cost of keeping the goods in inventory for NSKC. Since it is the time value of the parent's funds being measured and, according to reasonable commercial practice, the parent would borrow at the lower rate in Japan, NSK argues that the Department should use the home market interest rate, which is consistent with commercial reality, to impute the U.S. inventory carrying cost.

Department's Position: We agree with the respondent. Normally, the Department calculates U.S. inventory carrying cost using the U.S. interest rate because the U.S. subsidiary bears the full cost of carrying the merchandise. However, as per High Information Content Flat Panel Displays and Display Glass Thereof From Japan (July 16, 1991, 56 FR 32399), if the payment terms that the parent extends to its subsidiary, in combination with the time the merchandise remains in the subsidiary's inventory, indicates that the parent bears the cost of carrying the merchandise for a portion of time the merchandise is in inventory, then the parent's short-term interest rate will be used to calculate that portion of the inventory carrying cost. Accordingly, we have recalculated NSKC's U.S. inventory carrying cost using NSK's short-term interest rate for the time that NSK bears the cost of carrying the inventory. (See Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Certain Components Thereof, From Japan (56 FR 65236, December 16, 1991)).

Comment 36: NSK argues that the second credit adjustment, "CREDIT 2", should be taken into consideration when making the U.S. credit adjustment. The first credit adjustment, "CREDIT 1", is the credit that applies to the original price of the sale and covers the full period from shipment date to payment date. When a PSPA is made, and the original price is either increased or decreased, NSK claims that the credit expense related to that sale is also either increased or decreased.

Timken argues that, while such an adjustment is not objectionable on principle, it is only acceptable as an adjustment to U.S. price if a similar adjustment is made in the home market. Timken contends that if a similar adjustment cannot be made in the home market, then it should not be allowed as an adjustment to U.S. price.

Department's Position: We agree with Timken. When there are PSPAs in both markets, then the PSPA credit adjustment should also be applied to both markets. To apply it to one market and not to the other would be inequitable.

Comments Regarding Cost of Production Issues

Comment 37: Timken argues that Koyo's allocation of direct costs and indirect overhead based on number of units produced is incorrect. Koyo allocates direct costs and indirect overhead that accumulate at the production line to the individual models based on the number of units of that model produced on that particular production line. Timken alleges that this methodology would equalize direct costs regardless of differences in processing time.

Koyo responds that its March 25, 1991, supplemental cost response explains that the products produced at the subject plants are homogenous and that their cost accounting methodology was verified in this proceeding (in a previous administrative review) and the Department found their allocations to be reasonable.

Department's Position: We disagree with Timken. The response did not indicate that many different size bearings were produced on the same production line. Accordingly, Koyo's allocation methodology does not appear to distort the calculated cost of a bearing or bearing component.

Comment 38: Timken argues that Koyo's practice of applying plant-wide variances to all products is inadequate, as the plants in question produce both covered and non-covered products.

Koyo responds that, although the plants involved produce both covered and non-covered products, the machines and production processes are similar and the variances are allocated to individual TRB models based on their individual basic costs relative to the total basic cost of all models produced at the plant.

Department's Position: The Department has verified Koyo's cost accounting system in this and the over four inch proceeding. We have determined that Koyo's practice of calculating variances on a plant-wide basis by comparing the total plant-wide cost of production (COP) with the plant-wide basic costs does "not distort model-specific costs of production. Furthermore, Koyo demonstrated . . . that its cost system appropriately accounts for the different types of bearings" Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings, Finished and Unfinished, and Parts Thereof, from Japan (56 FR 41514, August 21, 1991).

Comment 39: Timken alleges that Koyo included all the interest income (both long and short-term) from all bank deposits as an offset to interest expense instead of limiting it to short-term interest income. Timken assets that the Department should reject the offset, as it is not related to operations.

Koyo rebuts by asserting that its response clearly states that it offset interest expense only by short-term income which resulted from short-term investments related to the production of TRBs.

Department's Position: We agree with Koyo. When calculating COP, the Department requires that interest income be related to the production of the merchandise subject to the finding in order to offset it against interest expense. We are satisfied that the interest income Koyo received on bank deposits and notes meets this requirement. (Final Results of Antidumping Duty Administrative Review, Certain Fresh Cut Flowers from Colombia (55 FR 20495, May 17, 1990)).

Comment 40: Timken argues that, as NSK used a net, negative interest expense figure in COP, it credited COP on account of interest expense. Timken further argues that interest income must be directly tied to the production and sale of subject merchandise in order to qualify as an offset to interest expense. Further, Timken argues that if the Department does accept NSK's claim, interest expense should be set to zero.

NSK contends that for the Department to include non-operating interest expense in COP without equal consideration to non-operating interest income would be unfair. NSK additionally argues that to only include interest expense does not take into account NSK's non-operating interest income in relation to the production of merchandise subject to review.

Department's Position: In the COP calculation, interest expense may only be offset with short-term interest income. We have revised NSK's interest figure to only reflect short-term interest income as an offset. We are satisfied that the interest income NSK received on bank deposits and notes meets this requirement since these are within the normal operations of the firm (Final Results of Antidumping Duty Administrative Review, Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Certain Components Thereof, from Japan (56 FR 65238, December 16, 1991)).

Comment 41: Timken claims that Koyo's and NSK's COP figures should be revised to include the depreciation of idle assets, as it represents a COP even if it is not routinely reported as such. (Final Determination of Sales at Less Than Fair Value: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany et al (54 FR 19076, May 3, 1989); Final Results of Antidumping Duty Administrative Review, Antifriction Bearings and Parts thereof from the Federal Republic of Germany, et al. (56 FR 31733, July 11, 1991)).

Koyo maintains that its treatment of idle equipment is in accordance with Japanese law. Koyo further states that, while it understands that the Department considers the depreciation of idle equipment to represent a COP for purposes of antidumping reviews, the depreciation expenses for adjustment are *de minimis*, and, therefore, no adjustment should be made in accordance with Final Results of Antidumping Duty Administrative Review, Antifriction Bearings and Parts thereof from the Federal Republic of Germany, et al. (56 FR 31733, July 11, 1991) and 19 CFR § 353.59.

NSK argues that the practice of not depreciating idle equipment is in accordance with Japanese generally accepted accounting principles (GAAP), which should be considered reasonable and similar to those in the U.S. and should therefore be accepted. NSK also contends that the expense should be considered *de minimis* and no adjustment should be made.

Department's Position: We agree with Timken that depreciation of idle equipment should be included in the COP calculation. However, we have found that, for Koyo, these costs are insignificant within the meaning of 19 CFR 353.59 and have accordingly made no adjustment. As we have no information regarding NSK's idle equipment, we have used Koyo's figures as BIA and, consequently, have made no adjustment.

Comment 42: Timken argues that, in calculating the depreciation for self-constructed assets, Koyo did not include general and administrative expenses and consequently understated depreciation.

Koyo responds that, under both U.S. and Japanese GAAP, the capitalization of self-constructed assets is based on the costs incurred to construct that asset. Koyo points out that general and administrative expenses are not a capitalized cost, but a period expense, and therefore it is not appropriate to include these in the capitalized cost of self-constructed assets.

Department's Position: We agree with Koyo. GAAP does not require the capitalization of general and administrate expenses on self-constructed assets. Accordingly, we did not adjust Koyo's submitted depreciation expense.

Comment 43: Timken argues that an adjustment should be made to Koyo's and NSK's COP figures to account for the exclusion of non-operating expenses (which include write-downs and write-offs of inventory, disposal of fixed assets, and bonuses for directors and statutory auditors). Timken states that, while it may be that write-downs and write-offs of inventory are not included in COP according to Japanese GAAP, they are considered a COP by the Department and should be included as such.

Koyo responds that write-downs of inventory are included in its Selling, General and Administrative (SG&A) expenses and are therefore included in its COP. Koyo further points out that Timken's allegation is based on information from a prior period of review and that these expenses were reported for this period of review.

NSK responds that the accounting adjustment that occurs when writing down or writing off inventory has no bearing on the cost to produce the product and should not be included in the COP calculation. NSK further argues that, if the Department insists on including write-offs and write-downs of inventory in its COP calculations, all income or credits generated by those transactions should be incorporated as an offset to arrive at the actual cost incurred by NSK.

Department's Position: We agree with Timken that these expenses should be included in the COP calculation. We agree with NSK that all income or credits generated by those transactions should be used to offset the expense. We have calculated an adjustment for Koyo, taking into account inventory write-offs, loss on disposal of fixed assets, income from the sale of fixed assets, and bonuses for directors and statutory auditors, and have found that this amount is insignificant within the meaning of 19 CFR 353.59, so we have not adjusted COP. There is no information on the record indicating that these expenses have been excluded by NSK.

Comment 44: Koyo claims that home market selling expenses should be deducted from constructed value.

Department's Position: We agree that direct selling expenses should be deducted from constructed value. However, as Koyo combined its direct and indirect selling expenses into one variable, we have treated the selling expense as an indirect expense.

Comment 45: Timken argues that home market sales lacking COP information should not automatically go to constructed value analysis. Timken claims that the respondents could withhold COP data in order to have a model go to constructed value analysis. Timken suggests that home market sales lacking cost data should either use constructed value information as a COP proxy in the cost test or apply BIA for bearings with no cost data.

NSK responds that, as COP data were matched to home market sales on a quarterly basis, it is not unusual that COP data are lacking while constructed value data (provided on an annual basis) are not.

Department's Position: We agree with NSK and have used an average COP as BIA where no COP exists for the quarter in which the sale was made.

Comments Regarding Use of Best Information Available

Comment 46: Timken argues that the Department should not use the constructed value analysis for transactions that lack COP data. Timken asserts that NSK could simply withhold cost data on models that would produce high margins, and instead submit constructed value data for those transactions. As a result, Timken contends that constructed value could be used even though the home market sale was above the COP. Timken argues that the Department should either use constructed value as a proxy for COP or apply best information to calculate margins for those U.S. sales.

NSK argues that it submitted its COP data on a quarterly basis and, where a sale was not matched with the corresponding quarterly information, it was flagged as having no COP information. NSK claims that in such a situation the Department should use the cost information from the prior or following quarters as BIA.

Department's Position: We agree with NSK. Where COP and home market sales information did not match on a quarterly basis, we averaged the quarterly COP figures as BIA. Where COP information was still missing, we have used constructed value analysis, according to 19 U.S.C. 1677b(b)(2).

Comment 47: Timken argues that all U.S. models lacking difference in merchandise data should be assigned the BIA rate instead of using 20 percent of the home market difference in merchandise figure as BIA. The Department should not assume that U.S. models with no difference in merchandise information have a difference in merchandise figure within 20 percent of the home market model. NSK asserts that use of 20 percent of home market difference in merchandise as BIA is reasonable and in accordance with Department practice in this proceeding.

Department's Position: We agree with NSK and will continue to apply 20 percent of the home market cost data for the difference in merchandise between home market and U.S. similar models as BIA. (See Final Results of Antidumping Administrative Review, Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Certain Components Thereof, From Japan (56 FR 26057, June 6, 1991); Final Results of Antidumping Administrative Review, Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Certain Components Thereof, From Japan (56 FR 65238, December 16, 1991)).

Comments Regarding Clerical Errors

Comment 48: NSK claims that its monthly average credit rate should have been used in the calculation of U.S. price.

Department's Position: We have used NSK's monthly average credit rate for the purpose of the final results.

Comment 49: Timken requests that the BIA rate for NSK be activated in the preliminary margin program. The asterisk preceding the line of programming has deactivated that line. NSK notes that the BIA rate would have been NSK's own rate, but the one that appears is a rate from a previous review.

Department's Position: We have adjusted the final program to include the correct BIA rate.

Comment 50: Timken claims that the Department incorrectly inflated Koyo's COP by applying the packing and research and development variable to the cost of manufacturing without realizing that these numbers were reported on a percentage basis. Timken also argues that the Department similarly failed to convert percentages to numeric values in the constructed value calculations.

Department's Position: We agree and have amended the program for the final results of review.

Comment 51: Timken argues that the Department failed to take account of below-cost sales of models sold during less than three months of the period of review. In implementing the below cost test, Timken claims that a model sold in only two months during the period of review and sold below cost in those two months should not be subject to margin analysis.

Department's Position: We agree and have adjusted the cost test for the final results of review.

Comment 52: Timken and Koyo contend that the Department committed a clerical error in applying the set-splitting ratios to the newly-created transaction data for cups and cones. They note that, while the set-splitting ratios for cups were properly applied to the sets to create transaction data for cups, the set-splitting ratios for cones were mistakenly applied to the newly-created transaction data for the cups rather than to the transaction data for the sets. The result is that the transaction data for the cones are vastly understated.

Department's Position: We agree and have corrected this clerical error for the final results.

Comment 53: Koyo asserts that the variable for indirect selling expenses incurred in Japan for U.S. sales was incorrectly included in direct selling expenses.

Department's Position: We agree and have corrected this for the final results.

Comment 54: Koyo claims that the Department incorrectly added packing labor to the cost of manufacture (COM) in its calculation of constructed value.

Department's Position: We agree and have corrected this for the final results of review.

Comment 55: Koyo argues that the Department erroneously added 10 percent to the COP figures. Koyo claims that the statutory minimum of 10 percent of COM to be added as general and administrative expenses applies only to constructed value calculations.

Department's Position: We agree and have corrected this for the final results of review.

Final Results of Review

As a result of our comparison of U.S. price to foreign market value, we determine that the following margins exist for the period August 1, 1989, through July 31, 1990:

Manufacturer/exporter	Margin (percent)
Koyo Seiko Company Ltd.	16.35
Nippon Seiko, K.K.	4.92
Nachi-Fujikoshi Corporation	*18.07

* No shipments; margin from last review in which there were shipments.

The Department shall determine and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between U.S. price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of TRBs from Japan, entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Tariff Act: (1) The Customs Service shall continue to require a cash deposit of estimated antidumping duties for all merchandise produced or exported by any of the companies covered by this review, based on the final rates for the above period; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in previous reviews, or the final determination in the original less-than-fair-value investigation, the cash deposit rate will continue to be the rate published in the most recent final results or determination for which the manufacturer or exporter received a company-specific rate; (3) if the exporter is not a firm covered in this review, another review, or the original investigation, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in the final results of this review, or the final results of the most recent review in which the manufacturer received the company-specific rate, or the rate for the manufacturer from the less-than-fair-value investigation; and (4) the cash deposit rate for any future entries from all other manufacturers or exporters who are not covered in this or prior administrative reviews and who are unrelated to the reviewed firm or any previously reviewed firms, will be 16.35 percent. This is the highest most current non-BIA rate for any firm in this proceeding.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 USC 1675(a)(1)) and 19 CFR 353.22.

Dated: January 31, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

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BILLING CODE 3510-DS-M

[C-559-802]

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Singapore; Preliminary Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of preliminary results of countervailing duty administrative review.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on antifriction bearings (other than tapered roller bearings) and parts thereof from Singapore. We preliminarily determine the total bounty or grant to be 9.11 percent *ad valorem* for Sunstrand and zero for all other companies for the period January 1, 1990 through December 31, 1990. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: February 11, 1992.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore or Michael Rollin, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On May 21, 1991, the Department of Commerce (the Department) published in the **Federal Register** a notice of "Opportunity to Request Administrative Review" (56 FR 23271) of the countervailing duty order on antifriction bearings (other than tapered roller bearings) and parts thereof from Singapore (54 FR 19125; May 3, 1989). On May 31, 1991, Torrington Company, the petitioner, and the Minebea Companies, the producers and exporters, requested an administrative review of the order. We initiated the review covering the period January 1, 1990 through December 31, 1990, on June 18, 1991 (56 FR 27944). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of Review

Imports covered by this review are shipments of antifriction bearings (other than tapered roller bearings) and parts thereof. Such merchandise is described in detail in appendix A to this notice. The Harmonized Tariff Schedule item numbers listed in appendix A are

VOL
57
SS
28
FE
11
992
UMI

provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period January 1, 1990 through December 31, 1990, and twelve programs. Three related companies responded to the Department's questionnaire: NMB Singapore Ltd. (NMB), Pelmec Industries (Pte) Ltd. (Pelmec), and Minebea Co., Ltd. Singapore Branch (MSB). Sundstrand Pacific (Pte.) Ltd. (Sunstrand), an exporter of the subject merchandise to the United States, did not respond to the questionnaire.

Analysis of Programs

(1) Production for Export under Part VI of the Economic Expansion Incentives Act (EEIA)

Under Part VI of the EEIA, 90 percent of a qualifying company's incremental export profit above a predetermined base figure is exempt from corporate income tax. The base figure is the average of the company's export profits for the three years preceding the application for participation in the program. The base figure and ten percent of any incremental export profit are taxed at the normal corporate tax rate. If there is no export profit above the export profit base, no exemption is permitted. The exemption cannot be carried forward or backward. An exporting company qualifies for the exemption if its export sales of a product (or products) are at least 100,000 Singapore Dollars and a minimum of 20 percent of the value of its total sales of the product.

None of the companies that responded to the questionnaire used this program during the review period. For Sunstrand, which did not respond to the questionnaire, we used best information available (BIA), in accordance with section 776(c) of the Act. As BIA, we used the highest rate determined in any previous administrative review of the order or in the final determination in the investigation. On this basis, we preliminarily determine the benefit from this program to be 9.03 percent *ad valorem* for Sundstrand and zero for all other companies for the period January 1, 1990 through December 31, 1990.

(2) Monetary Authority of Singapore (MAS) Rediscount Facility

The MAS rediscounting scheme is intended to provide Singapore exporters with access to short-term financing by discounting export and pre-export bills of exchange. Companies apply for this program through approved banks. The bank discounts the exporters' bills at a rediscount rate established by the MAS, plus a maximum spread of 1.5 percent. We have previously determined that this program is countervailable because it is available only to exporters and the interest rate is preferential. See Final Affirmative Countervailing Duty Determinations and Countervailing Duty Orders: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Singapore (54 FR 19127; May 3, 1989).

However, none of the companies that responded to the questionnaire response used this program during the review period. For Sundstrand, which did not respond to our questionnaire, we used, as BIA, the highest rate determined in any previous administrative review of the order or in the final determination in the investigation for this program. On this basis, we preliminarily determine the rate to be 0.08 percent *ad valorem* for Sundstrand and zero for all other companies during the review period.

(3) Other Programs

We also examined the following programs and preliminarily determine that the exporters of the subject merchandise did not use any of these programs during the review period:

A. Tax Incentives under the EEIA—

- Part IV: Expansion of Established Enterprises
- Part VII: International Trade Incentives
- Part VIII: Foreign Loans for Productive Equipment
- Part XI: Warehousing and Servicing Incentives

B. Income Tax Act Incentives—

- Double Deduction of Export Promotion Expenses—Sections 14B and 14C,
- Double Deduction for Research and Development—Section 14E
- Write-Offs of Payments for "Know-how", Patents and Manufacturing Licenses—Section 19B

C. Programs Administered by the Economic Development Board—

- Capital Assistance Scheme
- Productive Development Assistance Scheme
- Initiatives in New Technology Program

Preliminary Results of Review

Because zero or *de minimis* rates are considered significantly different from the country-wide rate, we did not weight average Sundstrand's rate with the other respondents' rates to calculate a country-wide rate. See 19 CFR section 355.22 (d) (1991).

As a result of our review, we preliminary determine the total bounty or grant to be 9.11 percent *ad valorem* for Sundstrand and zero for all other companies for the period January 1, 1990 through December 31, 1990.

The Department intends to instruct the Customs Service to assess countervailing duties of 9.11 percent of the f.o.b. invoice price on shipments from Sundstrand and zero on shipments from all other companies exported on or after January 1, 1990 and on or before December 31, 1990.

Further, the Department intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, of 9.11 percent of the f.o.b. invoice price on all shipments of the subject merchandise from Sundstrand and zero from all other companies from Singapore entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

Interested parties may request a hearing not later than 10 days after the date of publication of this notice. Interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted seven days after the time limit for filing the case brief. Any hearing, if requested, will be held seven days after the scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with § 355.38(e) of the Commerce regulations.

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under 19 CFR 355.38(c), are due.

The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any case or rebuttal brief.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1) and 19 CFR 355.22.

Dated: February 4, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

Appendix A

Scope of The Review

The products covered by this review, antifriction bearings (other than tapered roller bearings), mounted or unmounted, and parts thereof, constitute the following separate "classes or kinds" of merchandise as outlined below.

(1) Ball Bearings, Mounted or Unmounted, and Parts Thereof: These products include all antifriction bearings which employ balls as the rolling element. Such merchandise is classifiable under the following Harmonized Tariff Schedule (HTS) item numbers: 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.10, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, and 8708.99.50.

(2) Spherical Roller Bearings, Mounted or Unmounted, and Parts Thereof: These products include all antifriction bearings which employ spherical rollers as the rolling element. Such merchandise is classifiable under the following HTS item numbers: 8482.30.00, 8482.80.00, 8482.91.00, 8482.99.50, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, and 8708.99.50.

(3) Cylindrical Roller Bearings, Mounted or Unmounted, and Parts Thereof: These products include all antifriction bearings which employ cylindrical rollers as the rolling element. Such merchandise is classifiable under the following HTS item numbers: 8482.50.00, 8482.80.00, 8482.91.00, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, and 8708.99.50.

(4) Needle Roller Bearings, Mounted or Unmounted, and Parts Thereof: These products include all antifriction bearings which employ needle rollers as the rolling element. Such merchandise is classifiable under the following HTS item numbers: 8482.40.00, 8482.80.00, 8482.91.00, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, and 8708.99.50.

(5) Spherical Plain Bearings, Mounted or Unmounted, and Parts Thereof: These products include all spherical plain bearings which do no employ rolling elements and include spherical plain rod ends. Such merchandise is classifiable under the following HTS item numbers: 8483.30.40, 8483.30.80, 8483.90.20, 8433.90.30, 8485.90.00, and 8708.99.50.

This review covers all of the subject bearings and parts thereof outlined above with certain limitations. With regard to finished parts (inner race, outer race, cage, rollers, balls, seals, shields, etc.), all such parts are included in the scope of this review. For unfinished parts (inner race, outer race, rollers, balls, etc.), such parts are included if (1) they have been heat treated, or (2) heat treatment is not required to be performed on the part. Thus, the only unfinished parts that are not covered by this review are those where the part will be subject to heat treatment importation.

[FR Doc. 92-3203 Filed 2-10-92; 8:45 am]

BILLING CODE 3510-DS-M

[C-122-816]

Postponement of Preliminary Countervailing Duty Determination: Certain Softwood Lumber Products From Canada

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce is postponing its preliminary determination in the countervailing duty investigation of certain softwood lumber products from Canada. The Department will now issue its preliminary determination no later than March 5, 1992.

EFFECTIVE DATE: February 11, 1992.

FOR FURTHER INFORMATION CONTACT: Bernard Carreau or Barbara Tillman, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Telephone (202) 377-2786.

SUPPLEMENTARY INFORMATION: On January 6, 1992, the Department of Commerce published its determination that the countervailing duty investigation on certain softwood lumber products from Canada was extraordinarily complicated in accordance with 19 CFR 355.15(b) and postponed the preliminary determination until February 24, 1992 (57 FR 397). In line with the reasoning set forth in that determination, the Department has determined that additional time is necessary to analyze the issues in this investigation and is postponing the preliminary determination until March 5, 1992. As a result of this postponement, the final determination will made on May 19, 1992.

This notice is published pursuant to 19 CFR § 355.15(e).

Dated: February 4, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-3206 Filed 2-10-92; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

South Atlantic Fishery Management Council; Public Hearing

AGENCY: National Marine Fisheries Service, (NMFS), NOAA, Commerce.

ACTION: Notice of a public hearing; request for comments.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a public hearing on the draft Shrimp Fishery Management Plan (Plan). The purpose of the hearing is to consider definitions of overfishing for pink, brown, royal red, and rock shrimp for inclusion in the plan. The Council will also reconsider the criteria for states' request for Federal closures for the white shrimp fishery following severe winter freezes. Following the hearing, the Council will decide if it will submit the plan to the Secretary of Commerce for final approval.

DATES: The hearing will begin at 3:30 p.m., local time, Wednesday, February 26, 1992.

ADDRESSES: The hearing will be held at the Hyatt Regency Savannah; Two W. Bay Street, Savannah, GA 31401-1189, (912) 238-1234.

FOR FURTHER INFORMATION CONTACT: Carrie Knight, Public Information Officer, South Atlantic Fishery Management Council, One Southpark Circle, suite 306, Charleston, SC 29407-4699; telephone (803) 571-4366.

Dated February 5, 1992.

David S. Crestin,

Acting Director Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92-3174 Filed 2-10-92; 8:45 am]

BILLING CODE 3510-22-M

Permits; Foreign Fishing

In accordance with a memorandum of understanding with the Secretary of State, the National Marine Fisheries Service, on behalf of the Secretary of State, publishes for public review and comment a summary of applications received by the Secretary of State requesting permits for foreign fishing vessels to operate in the Exclusive Economic Zone (EEZ) under provisions of the Magnuson Fishery Conservation and Management Act (Magnuson Act, 16 U.S.C. 1801 *et seq.*). This notice specifically concerns applications from the People's Republic of China requesting authorization for certain vessels identified below to conduct transshipment activities in the following fishery management areas: (1) Bering Sea and Aleutian Islands (BSA), (2) Gulf of Alaska (GOA) and, (3) Pacific Groundfish Fishery off Washington, Oregon and California (WOC). Send comments on any aspect of these applications to: NOAA—National

Marine Fisheries Services, Office of Fisheries Conservation and Management, 1335 East West Highway, Silver Spring, Maryland 20910, and/or, for comments related only to BSA/GOA matters, to: Clarence G. Pautzke, Executive Director, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, Alaska 99510, (907) 271–2809, and/or for comments related only to WOC matters, to: Lawrence D. Six, Executive Director, Pacific Fishery Management Council, Metro Center, suite 420, 2000 S.W. First Avenue, Portland, Oregon 97201, (503) 326–6352.

For further information contact John D. Kelly or Robert A. Dickinson (Office of Fisheries Conservation and Management, 301–713–2337).

Dated: February 5, 1992.

David S. Crestin,

Acting Director Office of Fisheries Conservation and Management, National Marine Fisheries Service.

The following Chinese factory ships (type "10"), cargo transports (type "11") and large stern trawlers (type "15") have applied for the activities indicated ("6" denotes transfers of U.S. processed product, "8" denotes transfers of fish harvested shoreward or seaward of the EEZ):

Permit Number	Vessel	Type	Fishery Mngt. Areas	Activities
CH-92-0001	GENG HAI	15	BSA GOA WOC	6 8
CH-92-0002	YAN YUAN 1	15	BSA GOA WOC	6 8
CH-92-0003	KAI CHUANG	15	BSA GOA WOC	6 8
CH-92-0006	YAN YUAN NO. 2	10	BSA GOA WOC	6 8
CH-92-0007	YUN HAI	10	BSA GOA WOC	6 8
CH-92-0008	HAI FENG 301	11	BSA GOA WOC	6 8
CH-92-0009	HAI FA	11	BSA GOA WOC	6 8
CH-92-0010	KAI TUO	15	BSA GOA WOC	6 8
CH-92-0011	YAN YUAN NO. 3	15	BSA GOA WOC	6 8
CH-92-0012	BAI LING HAI	15	BSA GOA WOC	6 8
CH-92-0013	MING ZHU	15	BSA GOA WOC	6 8
CH-92-0014	KAIFENG	15	BSA GOA WOC	6 8
CH-92-0015	KAIFA	15	BSA GOA WOC	6 8
CH-92-0016	TAIHE	15	BSA GOA WOC	6 8
CH-92-0017	FU XING HAI	15	BSA GOA WOC	6 8

[FR Doc. 92-3173 Filed 2-10-92; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Receipt of application for permit (P66G) and (P66I).

Notice is hereby given that the Alaska Department of Fish and Game, Division of Wildlife Conservation, has applied for permits to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531–1544), and the regulations governing endangered fish and wildlife permits (50 CFR parts 217–222).

Application No. 1 (P66G): The applicant proposes to take 700 harbor seals (*Phoca vitulina*) and 600 spotted seals (*Phoca vitulina*) for scientific research. During the study, 100 harbor seals and 50 spotted seals will be captured, restrained, blood sampled, flipper tagged with number Allflex tags, equipped with satellite-linked platform transmitter terminals (PTTs) and/or VHF telemetry tags, and released; these same activities will be conducted on an additional 100 harbor seals and 50 spotted seals except that this group will not be electronically tagged; up to 10 harbor seals and 5 spotted seals are requested to be inadvertently harassed during the conduct of the proposed activities. These activities are proposed over a 4-year period in the Gulf of Alaska (Prince William Sound).

Application No. 2 (P66I): The applicant proposes to take up to 60 Steller sea lions (*Eumetopias jubatus*) over a 2-year period. Specifically, up to 50 animals will be chemically immobilized (while testing drugs), blood sampled, measured, weighed, an upper premolar extracted, swabbed, blubber biopsy taken, equipped with satellite-linked platform transmitter terminal (PTTs) and/or VHF radio tags and released (wherever possible, animals with failed PTTS will be recaptured and instruments removed); up to 10 additional animals may be unintentionally killed in the course of developing and testing effective chemical immobilization protocols; up to 50 dead premature-born sea lions will be collected for sampling; and up to 1000 sea lions will be disturbed in the course of the proposed activities.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, NOAA, U.S. Department of Commerce, 1335 East-West Hwy., room 7324, Silver Spring, Maryland 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this application are summaries of those of the applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

By Appointment: Office of Protected Resources, National Marine Fisheries Service, NOAA, 1335 East-West Hwy., suite 7324, Silver Spring, Maryland 20910 (301/713–2289); and Director, Alaska Region, National Marine Fisheries Service, NOAA, Federal Bldg., 709 W. 9th Street, Juneau, Alaska 99802 (907/568–7221).

Dated: February 5, 1992.

Richard H. Schaefer,

Director of Office of Fisheries, Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92-3148 Filed 2-10-92; 8:45 am]

BILLING CODE 3510-22-M

National Institute of Standards and Technology

[Docket Number 920112-2012; Notice 1]

National Fire Codes: Request for Comments on NFPA Technical Committee Reports

AGENCY: National Institute of Standards and Technology, DOC.

ACTION: Notice of request for comments.

SUMMARY: The National Fire Protection Association (NFPA) revises existing standards and adopts new standards twice a year. At its Fall Meeting in November or its Annual Meeting in May, the NFPA acts on recommendations made by its technical committees.

The purpose of this notice is to request comments on the technical reports which will be presented at NFPA's 1992 Fall Meeting. The publication of this notice by the National Institute of Standards and Technology (NIST) on behalf of NFPA is being undertaken as a public service; NIST does not necessarily endorse, approve, or recommend any of the standards referenced in the notice.

DATES: Thirty-two reports are published in the 1992 Fall Meeting Technical Committee Reports and will be available on January 31, 1992. Comments received on or before April 10, 1992 will be considered by the respective NFPA Committees before final action is taken on the proposals.

ADDRESS: The 1992 Fall Technical Committee Reports are available from NFPA, Publication Department, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101. Comments on the reports should be submitted to Arthur E. Cote, P.E., Secretary, Standards Council, NFPA, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101.

FOR FURTHER INFORMATION CONTACT: Arthur E. Cote, P.E., Secretary, Standards Council, at above address, (617) 770-3000.

SUPPLEMENTARY INFORMATION:

Background

Standards developed by the technical committees of the National Fire Protection Association (NFPA) have been used by various Federal Agencies as the basis for Federal regulations concerning fire safety. The NFPA standards are known collectively as the National Fire Codes. Often, the Office of the Federal Register approves the incorporation by reference of these standards under 5 U.S.C. 552(a) and 1 CFR part 51.

Revisions of existing standards and adoption of new standards are reported by the technical committees at the NFPA's Fall Meeting in November or at the Annual Meeting in May each year. The NFPA invites public comment on its Technical Committee Reports.

Request for Comments

Interested persons may participate in these revisions by submitting written data, views, or arguments to Arthur E. Cote, P.E., Secretary, Standards Council, NFPA 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101. Persons who comment may use the forms provided for comments in the Technical Committee Reports. Each person submitting a comment should include his or her name and address, identify the notice, and give reasons for any recommendations. Comments received on or before April 10, 1992, will be considered by the NFPA before final action is taken on the proposals.

Copies of all written comments received and the disposition of those comments by the NFPA committees will be published as the Technical Committee Documentation by September 25, 1992, prior to the Fall Meeting.

A copy of the Technical Committee Documentation will be sent automatically to each person who comments. Action on the Technical Committee Reports (adoption or rejection) will be taken at the Fall Meeting, November 17-19, 1992 in Dallas, Texas by NFPA members.

Dated: February 5, 1992.

John W. Lyons,

Director.

1992 FALL MEETING—TECHNICAL COMMITTEE REPORTS

[P=Partial revision; W=Withdrawal; R=Reconfirmation; N=New; C=Complete Revision]

Doc. No.	Title	Action
NFPA 12	Carbon Dioxide Extinguishing Systems	C
NFPA 14	Installation of Standpipe & Hose Systems	C
NFPA 22	Water Tanks for Private Fire Protection	P
NFPA 36	Solvent Extraction Plants	P
NFPA 40E	Pyroxylin Plastic	P
NFPA 43B	Organic Peroxide Formulations	P
NFPA 55	Storage & Handling of Cylinder Gases	N
NFPA 80A	Buildings from Exterior Fire Exposures	P
NFPA 90A	Air Conditioning and Ventilating Systems	P
NFPA 90B	Warm Air Heating and Air Conditioning Systems	R
NFPA 99	Health Care Facilities	P
NFPA 99B	Hypobaric Facilities	P
NFPA 110	Emergency and Standby Power Systems	P
NFPA 110A	Stored Electrical Energy Emergency and Standby Power Systems	P
NFPA 256	Fire Tests of Roof Coverings	C
NFPA 259	Potential Heat of Building Materials	R
NFPA 306	Control of Gas Hazards on Vessels	P
NFPA 490	Ammonium Nitrate	P
NFPA 496	Purged and Pressurized Enclosures for Electrical Equipment	C
NFPA 501C	Recreational Vehicles	P
NFPA 501D	Recreational Vehicle Parks and Campgrounds	R
NFPA 702	Matrch Flame Field Test for Flame Resistant Textiles & Films	N
NFPA 802	Nuclear Research and Production Reactors	P
NFPA 803	Fire Protection for Light Water Nuclear Power Plants	P
NFPA 1033	Professional Qualifications for Fire Investigator	C
NFPA 1035	Professional Qualifications for Public Fire Educator	C
NFPA 1406	Outside Live Fire Training	N
NFPA 1452	Dwelling Firesafety Surveys	C
NFPA 1921	Fire Department Portable Pumping Units	C

1992 FALL MEETING—TECHNICAL COMMITTEE REPORTS—Continued

[P=Partial revision; W=Withdrawal; R=Reconfirmation; N=New; C=Complete Revision]

Doc. No.	Title	Action
NFPA 1962	Care, Use and Maintenance of Fire Hose, Including Connections and Nozzles	C
NFPA 1963	Screw Threads and Gaskets for Fire Hose Connections	P
NFPA 1964	Spray Nozzles (Shutoff and Tip)	C

[FR Doc. 92-3222 Filed 2-10-92; 8:45 am]

BILLING CODE 3510-13-M

[Docket Number 92013-2031; Notice 2]

National Fire Codes: Request for Proposals for Revision of Standards

AGENCY: National Institute of Standards and Technology, DOC.

ACTION: Notice of request for proposals.

SUMMARY: The National Fire Protection Association (NFPA) proposes to revise some of its fire safety standards and requests proposals from the public to amend existing NFPA fire safety standards. The purpose of this request is to increase public participation in the system used by NFPA to develop its standards. The publication of this notice of request for proposals by the National Institute of Standards and Technology (NIST) on behalf of NFPA is being undertaken as a public service; NIST does not necessarily endorse, approve, or recommend any of the standards referenced in the notice.

DATES: Interested persons may submit proposals on or before the dates listed with the standards.

ADDRESS: Arthur E. Cote, P.E., Secretary, Standards Council, NFPA, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101.

FOR FURTHER INFORMATION CONTACT: Arthur E. Cote, P.E., Secretary, Standards Council, at above address, (617) 770-3000.

SUPPLEMENTARY INFORMATION:

Background

The National Fire Protection Association (NFPA) develops fire safety standards which are known collectively as the National Fire Codes. Federal agencies frequently use these standards as the basis for developing Federal regulations concerning fire safety. Often, the Office of the Federal Register approves the incorporation by reference of these standards under 5 U.S.C. 552(a) and 1 CFR part 51.

Request for Proposals

Interested persons may submit amendments, supported by written data, views, or arguments to Arthur E. Cote, P.E., Secretary, Standards Council, NFPA, 1 Batterymarch Park, P.O. Box 910, Quincy, Massachusetts 02269-9101. Proposals should be submitted on forms available from the NFPA Standards Administration Office.

Each person must include his or her name and address, identify the document and give reasons for the proposal. Proposals received before or by 5 p.m. local time on the closing date indicated will be acted on by the Committee. The NFPA will consider any proposal that it receives on or before the date listed with the standard.

At a later date, each NFPA Technical Committee will issue a report which will include a copy of written proposals that have been received and an account of their disposition by the NFPA Committee as the Technical Committee Report. Each person who has submitted a written proposal will receive a copy of the report.

Dated: February 5, 1992.

John W. Lyons,

Director.

NFPA No.	Title	Proposal closing date
NFPA 11-1988	Low Expansion Foam and Combined Agent Systems	1/24/92
NFPA 11A-1988	Medium and High-Expansion Foam Systems	1/24/92
NFPA 13-1991	Installation of Sprinkler Systems	7/17/92
NFPA 13D-1991	Installation of Sprinkler Systems in One-and Two-Family Dwellings and Mobile Homes	7/17/92
NFPA 13R-1991	Installation of Sprinkler Systems in Residential Occupancies Up to & Including Four Stories in Height	7/17/92
NFPA 20-1990	Installation of Centrifugal Fire Pumps	1/24/92
NFPA 30-1990	Flammable and Combustible Liquids Code	1/24/92
NFPA 30A-1990	Automotive and Marine Service Station Code	1/24/92
NFPA 30B-1990	Aerosol Products	1/24/92
NFPA 32-1990	Drycleaning Plants	7/15/92
NFPA 33-1989	Spray Application Using Flammable and Combustible Materials	7/15/92
NFPA 34-1989	Dipping and Coating Processes Using Flammable or Combustible Liquids	7/15/92
NFPA 37-1990	Stationary Combustion Engines & Gas Turbines	6/1/92
NFPA 40-1988	Cellulose Nitrate Motion Picture Film	7/17/92
NFPA 43C-1986	Gaseous Oxidizing Materials	3/1/92
NFPA 51B-1989	Cutting and Welding Processes	7/17/92
NFPA 53M-1990	Fire Hazards in Oxygen-Enriched Atmospheres	6/1/92
NFPA 71-1989	Signaling Systems for Central Station Service	1/24/92
NFPA 72-1990	Protective Signaling Systems	1/24/92
NFPA 72E-1990	Automatic Fire Detectors	1/24/92
NFPA 72G-1989	Notification Appliances for Protective Signaling Systems	1/24/92
NFPA 72H-1989	Local, Auxiliary, Remote Station, and Proprietary Protective Signaling Systems	1/24/92
NFPA 73-Proposed	Reinspection of Electrical Dwellings	7/17/92
NFPA 74-1989	Household Fire Warning Equipment	1/24/92
NFPA 77-1988	Static Electricity	1/18/92
NFPA 85H-1989	Combustion Hazards in Atmospheric Fluidized Bed Combustion System Boilers	1/24/92
NFPA 96-1991	Removal of Smoke and Grease-Laden Vapors from Commercial Cooking Equipment	7/17/92
NFPA 101-1991	Life Safety Code	4/15/92
NFPA 105-1989	Smoke Control Door Assemblies	1/24/92
NFPA 120-1988	Coal Preparations Plants	7/17/92

NFPA No.	Title	Proposal closing date
NFPA 124-1988	Diesel Fuel and Diesel Equipment in Underground Mines	7/17/92
NFPA 130-1990	Fixed Guideway Transit Systems	1/24/92
NFPA 170-1991	Firesafety Symbols	6/1/92
NFPA 241-1989	Safeguarding Construction, Alteration, and Demolition Operations	1/24/92
NFPA 257-1990	Fire Tests of Window Assemblies	1/24/92
NFPA 258-1989	Determining Smoke Generation of Solid Materials	1/24/92
NFPA 260-1989	Cigarette Ignition Resistance of Components of Upholstered Furniture	1/24/92
NFPA 261-1989	Mock-up Upholstered Furniture Material Assemblies to Ignition by Smoldering Cigarettes	1/24/92
NFPA 321-1991	Classification of Flammable and Combustible Liquids	1/24/92
NFPA 327A-Proposed*	Safe Entry Into Tanks Containing Flammable or Combustible Liquids	1/24/92
NFPA 395-1988	Flamable and Combustible Liquids on Farms and Isolated Construction Projects	1/24/92
NFPA 474-Proposed*	Competencies for Hazardous Materials Specialists	1/24/92
NFPA 654-1988	Chemical, Dye, Pharmaceutical, and Plastics Industries	1/24/92
NFPA 655-1988	Sulfur Fires and Explosions	1/24/92
NFPA 664-1987	Wood Processing and Woodworking Facilities	1/24/92
NFPA 906M-1988	Fire Incident Field Notes	1/24/92
NFPA 907M-1988	Electrical Fire Causes	7/17/92
NFPA 912-1987	Fire Protection in Places of Worship	1/24/92
NFPA 913-1987	Protection of Historic Structures and Sites	1/24/92
NFPA 914-1989	Rehabilitation and Adaptive Reuse of Historic Structures	1/24/92
NFPA 1002-1988	Fire Apparatus Drive/Operator Professional Qualifications	1/24/92
NFPA 1003-1987	Airport Fire Fighter Professional Qualifications	1/24/92
NFPA 1122-1987	Code for Unmanned Rockets	7/17/92
NFPA 1123-1990	Outdoor Display of Fireworks	7/17/92
NFPA 1124-1988	Manufacture, Transportation, and Storage of Fireworks	7/17/92
NFPA 1127-Proposed*	High Power Rocketry	7/17/92
NFPA 1221-1991	Public Fire Service Communication Systems	1/24/92
NFPA 1231-1989	Water Supplies for Suburban & Rural Fire Fighting	1/24/92
NFPA 1410-1988	Initial Fire Attack	7/17/92

Proposed* Draft copies are available from the Standards Administration Department NFPA, 1 Batterymarch Park, Quincy, MA 02269-9101.

[FR Doc. 92-3223 Filed 2-10-92; 8:45 am]

BILLING CODE 3510-13-M

COMMODITY FUTURES TRADING COMMISSION

Extended Trading Hours Session at Financial Instrument Exchange

AGENCY: Commodity Futures Trading Commission.

ACTION: Request for comment.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is seeking comments on rule amendments submitted by the Financial Instrument Exchange, a Division of the New York Cotton Exchange ("FINEX" or "Exchange") pursuant to section 5a(12) of the Commodity Exchange Act ("Act") that would authorize an extended trading hours session at the Exchange. Specifically, the amendments would establish an additional session from 7 p.m. through 8:19 a.m. on each of the following calendar days (New York time), Sunday through Thursday, in the Dollar Index and European Currency Unit ("ECU") futures contracts and in options on both contracts. The Commission believes that publication of the proposal will assist the Commission in considering the views of interested persons and is consistent with the purposes of the Act. Copies of the proposed rule amendments and accompanying correspondence are available from the Secretary of the Commission at the address and telephone number set forth below.

DATES: Comments must be received on or before February 26, 1992.

FOR FURTHER INFORMATION CONTACT: Lois J. Gregory, Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Telephone (202) 254-8955.

SUPPLEMENTARY INFORMATION: FINEX has submitted rule amendments which would provide for an extended trading hours session from 7 p.m. to 8:19 a.m. on the following calendar day (New York time), Sunday through Thursday, in the Dollar Index and ECU futures contracts, in options on the Dollar Index contracts, and, after designation and approval by the Commission for trading, in options on ECU futures contracts, as well. Under the proposal, the extended trading hours session would be deemed to be the first part of the trading day—i.e., the extended session and the subsequent calendar day's regular session would be deemed to be parts of a single trading day. Highlights of the proposal are outlined below. Certain additional matters are addressed in correspondence between the Exchange and Commission staff that is available from the Office of the Secretariat.

Under the proposal, the extended session would start at 7 p.m., recess at 10 p.m., Eastern Standard Time, reopen ninety minutes later and trade through 8:19 a.m.[1] This trading break would correspond with a mid-day break in Japan during which no trading takes place pursuant to Tokyo Stock Exchange regulations. Original trading hours would then resume at 8:20 a.m. All trading from 8:20 through 8:21 a.m. would produce a "Reference Price". The Reference Price would be determined in the same manner and serve the same function as an opening and would also produce an average price for purposes of average price orders.

Under the proposal, a contract's settlement price would continue to be established at the end of an entire trading day. Daily price limits on the futures contracts would continue to be calculated on the basis of the settlement price and would apply to the entire following trading day. Volume and open interest would continue to be calculated once for each trading day.

FINEX intends to publish one high and low report per trading day; however, highs and lows for segments of the trading day would be noted by and available upon request to Exchange staff. The Exchange intends to continue to timely supply the Commission reports required by Commission regulations concerning volume, open interest, and prices, as well as various trader transactions and positions. Further, the

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[1] The extended session would start at 8 p.m. and the recess would begin at 11 p.m. on the first trading day after institution of Day Light Savings Time in New York.

Exchange does not expect to make any modifications to current procedures for delivery, or option exercise and assignment, and anticipates that net capital and segregation requirements would continue to be computed at the end of each trading day.

Original margin requirements would be based on a net calculation of positions established during a trading day and would be due at 10 a.m. on the next trading day. Intra-day margin which would be processed between 12 noon and 3 p.m. as well as additional original margin which would be due at 11 a.m. would be based on a net calculation of positions created during the previous trading day coupled with those created during the subsequent extended trading hours session.

Any person interested in submitting written data, views, or arguments on the proposed rule should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, by the specified date. Issued in Washington, DC, on February 5, 1992.

John C. Lawton,

Associate Director.

[FR Doc. 92-3141 Filed 2-10-92; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board's Committee on Technology Options for Global Reach—Global Power: 1995–2020 (Support Panel) will meet on 25–26 February 1992, at HQ AFLC, Wright-Patterson AFB, OH, 8 a.m. to 5 p.m.

The purpose of this meeting is to receive briefings and gather information for the study.

The meeting will be closed to the public in accordance with section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–4811.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 92-3158 Filed 2-10-92; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF EDUCATION

[CFDA No. 84.197E]

College Library Technology and Cooperation Grants Program—Biotechnology Education Information Demonstration Project; Notice Inviting Applications for a New Award for Fiscal Year (FY) 1992

Purpose of Program: The College Library Technology and Cooperation Grants Program provides grants for technological equipment and other special purposes designed to encourage the use of technology to enhance library resource sharing. The competition announced in this notice is for a biotechnology information education demonstration project under the College Library Technology and Cooperation Grants Program authority.

Eligible Applicants: Institutions of higher education.

Deadline for Transmittal of Applications: April 28, 1992.

Deadline for Intergovernmental Review: June 29, 1992.

Applications Available: February 28, 1992.

Available Funds: $2.5 million.

Size of Award: $2.5 million.

Number of Awards: One.

Project Period: Up to 36 months.

Budget Period: Under 34 CFR 779.8 grant funds for this project may be expended over a three-year period.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 82, 85, 86; and (b) the regulations for this program in 34 CFR part 779, but only those provisions which apply to Research and Demonstration grants as described in 34 CFR 779.2(d).

Supplementary Information: One category of grants under the College Library Technology and Cooperation Grants Program is for research and demonstration projects to meet specialized national or regional needs in using that technology. Public Law 102–107, enacted November 26, 1991, provides FY 1992 appropriations for federally assisted library programs. That legislation specifies that, of the total funds appropriated for federally assisted library programs, $2,500,000 shall be for a biotechnology information education demonstration project. Note that the competition announced in this notice is limited to applications for this project and is separate from the FY 1992 competition previously announced for the College Library Technology and Cooperation Grants Program in the **Federal Register** on June 12, 1991 (56 FR 27156). This notice does not affect the competitions announced in the June 12, 1991 notice.

Selection Criteria: Applications will be evaluated under the general selection criteria stated in the regulations for this program at 34 CFR 779.21(a) (60 points); and under the special program criteria for Research and Demonstration grants stated in the regulations for this program at 34 CFR 779.21(b)(9) (40 points), for a total of 100 points.

For Application or Information Contact: Dr. Neal K. Kaske, U.S. Department of Education, 555 New Jersey Avenue, NW., room 404B, Washington, DC 20208–5571. Telephone: (202) 219–1871. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

Program Authority: 20 U.S.C. 1047.

Dated: February 6, 1992.

Diane Ravitch,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 92-3219 Filed 2-10-92; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meetings

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(i)), the following notice of meetings is provided:

I. A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on Tuesday, February 18, 1992, at the offices of the Organization for Economic Cooperation and Development (OECD), 2, rue Andre Pascal, Paris, France, and continuing on Wednesday, February 19, 1992, beginning at 9:30 a.m. on both days. The purpose of this meeting is to permit representatives of U.S. company members of the IAB to participate in a meeting of the IEA's Standing Group on Emergency Questions (SEQ), scheduled to be held at the OECD on that date. The agenda for the meeting, which is under the control of the IEA Secretariat, is as follows:

1. Adoption of the Agenda.
2. Summary Record of the 73d Meeting.
3. The Gulf Crisis of 1990/91, the IEA Response and Lessons for IEA Emergency Preparedness.
4. SEQ Programme of Work for 1992.
5. IAB Activities.

6. Emergency Response Situation of IEA Countries.

—The Emergency Response Potential of Finland.

—Emergency Response Reviews of IEA Countries.

- —Spain
- —Norway
- —Belgium
- —Sweden

Schedule for the Review of Member Countries' Emergency Response Programmes

7. Preparations for AST–7.

8. International Oil/Supply Demand Situation.

—Current Oil Market Situation

9. IEA Emergency Response Potential.

—Aviation Fuel Demand Developments

—Tanker Regulations and Markets

10. Emergency Reserve and Net Import Situation of IEA Countries on 1st July and 1st October 1991.

11. Emergency Data System and Related Questions.

—Quarterly Oil Forecast 1Q92/4Q92

—Monthly Oil Statistics to November 1991

—Base Period Final Consumption 4Q90/3Q91

—Emergency Data Systems Working Group—Progress Report

12. Any Other Business

—IEA Membership of France

—Next Meeting

II. A meeting of the IAB will be held on Wednesday, February 19, at the OECD, beginning at 2:30 p.m., and continuing on Thursday, February 20, 1992, beginning at 9:30 a.m. The purpose of this meeting is to permit attendance by representatives of U.S. company members of the IAB at a meeting of the joint government/industry Design Group which has been established by the SEQ for the preparation of the IEA's Seventh Allocation Systems Test (AST–7).

The agenda for the meeting is under the control of the SEQ. It is expected that the following draft agenda will be followed:

1. Record of the last meeting.
2. AST–7 Outline by the Chairman/Secretariat and submissions received from Group members.
3. Objectives and organization of AST–7.
4. Next Meeting.

As permitted by 10 CFR 209.32, the usual 7-day period for publication of the notice of these meetings in the **Federal Register** has been shortened because unanticipated circumstances pertaining to the IEA's scheduling of these meetings delayed the issuance of this notice.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, these meetings are open only to representatives of members of the IAB and their counsel, representatives of the Departments of Energy, Justice, and State, the Federal Trade Commission, the General Accounting Office, Committees of the Congress, the IEA, the Commission of the European Communities, and invitees of the IAB, the SEQ, or the IEA.

Issued in Washington, DC, February 5, 1992.

John J. Easton, Jr.,

General Counsel.

[FR Doc. 92–3210 Filed 2–10–92; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. RM87-17-000]

Natural Gas Data Collection System; Revised Print Software for the FERC Form No. 2–A

February 4, 1992.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Availability of Revised Print Software for the FERC Form No. 2–A.

SUMMARY: Revised PC and mainframe versions of the software for printing the structured data file of the FERC Form No. 2–A (Annual Report of Non major Natural Gas Companies) are now available. This software has been developed for Commission use and to assist pipelines in complying with the electronic submission requirement for filing the FERC Form No. 2–A in accordance with Order Nos. 493 (53 FR 15025 (Apr. 27, 1988)), 493–A (53 FR 30027 (Aug. 10, 1988)), and 493–B (53 FR 49652 (Dec. 9, 1988)). The revised software includes corrections to the previous print program as well as many cosmetic enhancements (textual and numeric) to the output pages. In addition, a new user-friendly menu screen has been incorporated into the PC version. The User/Operations Manual, applicable to the FERC Form Nos. 2, 2–A and 16 print software, has been updated and is also available. An order form is attached for requesting the COBOL source code, PC executable code, and the User/Operations Manual.

DATES: The revised source code, PC executable software and User/Operations Manual are available on February 4, 1992.

ADDRESSES: Requests for the software and the documentation should be directed to: Reference and Information Center, Federal Energy Regulatory Commission, 941 North Capitol Street, NE., room 3308, Washington, DC 20426, (202) 208–1371.

FOR FURTHER INFORMATION CONTACT: Craig Hill, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., room 6000, Washington, DC 20426, (202) 208–2026.

SUPPLEMENTARY INFORMATION: Revised PC and mainframe software (executable files and source code) are now available to provide for the printing of the structured electronic data file for the FERC Form No. 2–A when submitted in accordance with the revised instructions and record formats issued on March 1, 1991. The print software was written in COBOL and one version is applicable to both the PC and mainframe environments (minor changes to the FILE-CONTROL statements are required). The executable files (*.EXE) can be run on an IBM or compatible PC with DOS 3.0 or later version and 640K of RAM. An updated User/Operations Manual for the Form No. 2–A (also applicable to the FERC Form Nos. 2 and 16) is available in hardcopy and on diskette in WordPerfect 5.1 and ASCII formats. The complete software and documentation files are available in two 'packages' on either 3.5" (1.44MB) or 5.25" (1.2MB) double-sided, high density diskettes. Package A contains the executable code required for PC environment execution and Package B contains the source code which is required for mainframe execution. A directory of files found on each diskette is listed in Appendix A.

The revised software is available from the Commission's copy contractor, LaDorn Energy Information Services ((202) 898–1151 or (800) 676–FERC), located in room 3106, 941 North Capitol Street, NE., Washington, DC 20426. Persons requesting the software may fill out the attached Order Form. The software is available without charge. However, the commission's copy contractor has a copy fee of $7.00 per diskette. The User/Operations Manual is also available in hardcopy format at 30 cents per page.

The software has been tested by staff. However, if problems occur relating to the software, the Commission staff recommends users to submit written comments as to the exact nature of the problem to Craig Hill, room 6000, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

This notice is available through the Commission Issuance Posting System (CIPS), an electronic bulletin board service that provides access to formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed on a 24-hour basis using a personal computer with a modem. Your communications software should be set at full duplex, no parity, eight data bits and one stop bit. To access CIPS at 300, 1200 or 2400 baud dial (202) 208–1397. For access at 9600 baud, dial (202) 208–1781. FERC is using U.S. Robotics HST Dual Standard modems. If you have any problems in obtaining a copy of this notice through CIPS, please call (202) 208–2474. This notice will be available on CIPS for 30 days from the date of issuance.

In addition to publishing the text of this notice in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this notice during normal business hours in the Reference and Information Center (Room 3308) at the Commission's headquarters, 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

Appendix A

Directory of Files for Each Diskette

Note: A detailed crosswalk between the program names, record formats, Report Title and Form No. 2–A page numbers is provided in Appendix D of the *User/Operations Manual.*

Package A—Diskette #1

FORM2A	EXE	Executable code—PC Driver program.
FM2A0	EXE	Executable code—Cover page, Parts I–II.
FM2A1	EXE	Executable code—Part III–VI.
FM2A2	EXE	Executable code—Parts VII–XX.
FM2F4B	EXE	Executable code—Substitute Parts III–V.
FM2F5B	EXE	Executable code—Substitute Part VIII.
FM2F5D	EXE	Executable code—Substitute Part Part X.
FM2F6A	EXE	Executable code—Substitute Part Part XIII.
FM2F6C	EXE	Executable code—Substitute Part XV.
FM2F6E	EXE	Executable code—Substitute Part XIV.
FM2F6G	EXE	Executable code—Substitute Part XVI.
FM2F7D	EXE	Executable code—Substitute Part XVII.

12 files

Package A—Diskette #2

FUG2A	W51	User/Operations Manual in WordPerfect 5.1.
FUG2A	ASC	User/Operations Manual in ASCII.
NOTICE2A	W51	Notice in WordPerfect 5.1.
NOTICE2A	ASC	Notice in ASCII.

4 files

Package B—Diskette #1

FORM2A	COB	Source code—Mainframe driver.
FM2A0	COB	Source code—Cover page, Parts I–II.
FM2A1	COB	Source code—Parts III–VI.
FM2A2	COB	Source code—Parts VII–XX.
FM2F4B	COB	Source code—Substitute Parts III–V..
FM2F5B	COB	Source code—Substitute Part VIII.
FM2F5D	COB	Source code—Substitute Part X.
FM2F6A	COB	Source code—Substitute Part XIII.
FM2F6C	COB	Source code—Substitute Part XV.
FM2F6E	COB	Source code—Substitute Part XIV.
FM2F6G	COB	Source code—Substitute Part XVI.
FM2F7D	COB	Source code—Substitute Part XVII.

12 files

Package B—Diskette #2

F2A1PD		Source code–copy member.
F2A2PD		Source code–copy member.
F2F4BPD		Source code–copy member.
F2F4BTB		Source code–copy member.
F2F5BPD		Source code–copy member.
F2F5BTB		Source code–copy member.
F2F5DPD		Source code–copy member.
F2F6APB		Source code–copy member.
F2F6ATB		Source code–copy member.
F2F6CPD		Source code–copy member.
F2HDRPD		Source code–copy member.
FIPSPROC		Source code–copy member.
FIPSTBL		Source code–copy member.
FM2ED10		Source code–copy member.
FM2ED10B		Source code–copy member.
FM2ED12		Source code–copy member.
FM2ED5		Source code–copy member.
FM2ED7		Source code–copy member.
FM2EDWS		Source code–copy member.
FM2EOP		Source code–copy member.
FOOTPD		Source code–copy member.
FOOTWS		Source code–copy member.
PARSERP		Source code–copy member.
PARSERWS		Source code–copy member.
STCODE	CPY	Source code–copy member.
STDMOVES		Source code–copy member.
FORM2A	CBL	Source code–PC Driver(optional).
F2ADRIV	JCL	Compile JCL file for Driver.
F2ACOMP	JCL	Compile JCL file for all other programs.
F2ARUN	JCL	Run JCL file for Form No. 2–A.

31 files

Package B—Diskette #3

FUG2A	W51	User/Operations Manual in WordPerfect 5.1.
FUG2A	ASC	User/Operations Manual in ASCII.
NOTICE2A	W51	Notice in WordPerfect 5.1.
NOTICE2A	ASC	Notice in ASCII.

4 files

[FR Doc. 92–3142 Filed 2–10–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. SP92–9–000]

Pre-Granted Special Permission for Oil Pipelines; Order Pre-Granting Special Permission for Certain Oil Pipeline Tariff Filings

Issued February 4, 1992.

Current oil pipeline regulations require oil pipelines to seek "special permission" to file a tariff to be effective on less than 30 days' notice. For the reasons discussed below, the Commission waives its regulations and pre-grants special permission to permit oil pipeline tariff filings to be made on less than 30 days' notice where the tariff revisions do not change a pipeline's rates or other substantive elements of the tariff and are made to revise a filing currently pending before the Commission.

Background

Section 6(3) of the Interstate Commerce Act (ICA)[1] requires oil pipelines to file their tariffs with a minimum of 30 days' notice. The ICA, however, provides for modification of the 30-day requirement in certain circumstances:

> [T]he Commission may, in its discretion and for good cause shown, allow changes upon less than the notice herein specified, or

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[1] 49 App. U.S.C. 6(3) (1991).

modify the requirements of this section in respect to publishing posting, and filing of tariffs, either in particular instances or by a general order applicable to special or particular circumstances or conditions * * *[2]

Thus, the Commission has authority under this section to grant waiver of the 30-day notice period by a general order.[3]

Section 341.58 of the Commission's regulations [4] provides that the Commission will exercise its authority to waive the 30-day notice period only in cases where actual emergency and real merit are shown. The regulation further provides that clerical and typographical errors constitute good cause, and requires the pipeline to file an application for special permission specifying the omissions or mistakes. Currently, these special permission applications are handled on a case-by-case basis.

Discussion

In order to reduce the administrative burden on the oil pipelines and the Commission, the Commission waives its regulations and pre-grants special permission to permit oil pipeline tariff filings on less than 30 days' notice where the tariff revisions are made to tariff filings that are pending before the Commission and do not affect the pipeline's rates or services. The types of changes to pending tariffs that would be permitted under this blanket special permission are typographical corrections, spelling corrections, date corrections, and other similar types of non-rate, non-service connected changes.

When filing under this special permission, the pipeline must include a cover letter that sets forth the basis for requesting a short notice period. The filing must also be made a minimum of three working days before its proposed effective date. If the filing meets the criteria under this blanket special permission for short notice filings, the tariff item will become effective as proposed. No Commission letter or order will be issued. If the filing is protested or must be suspended and consolidated with an ongoing proceeding, an order will be issued, but the short notice issue would still be automatic if the blanket permission criteria are met.

This special permission is granted for a five-year period from its date of issuance, or until the Commission adopts new oil pipeline procedural regulations that address this matter, whichever comes first.

The filing fee set forth in § 346.1(d)(5) of the Commission's regulations [5] is waived for filings made under this blanket special permission.

The Commission Orders: Special permission is pre-granted to permit oil pipelines to file tariff changes on less than 30 days notice consistent with the conditions set forth in this order.

By the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3143 Filed 2-10-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP88-312-011]

Natural Gas Pipeline Co., of America; Sale of Natural Gas

February 4, 1992.

Take notice that on January 30, 1992, Natural Gas Pipeline Company of America (Natural), 701 East Lombard Street, Lombard, Illinois, 60148-5072, submitted the following information regarding the sale of natural gas to be made to an affiliate under Natural's Rate Schedule IS-1, pursuant to the authorization granted by order in Docket No. CP88-312-000, and CP88-312-002, issued December 20, 1988, and June 7, 1989, respectively (45 FERC ¶ 61,465 and 47 FERC ¶ 61,334).

(1) *Name of Buyer:* OXY USA Inc. (OXY USA).

(2) *Location of Buyer:* Tulsa, Oklahoma.

(3) *Affiliation between Natural and Buyer:* Natural is a subsidiary of MidCon Corp (MidCon). Both MidCon and OXY USA are subsidiaries of Occidental Petroleum Corporation.

(4) *Term of Sale:* March 1, 1992, through April 1, 1992, and month to month thereafter.

(5) *Estimated Total and Maximum Daily Quantities:*

Daily Quantity: 250,000 MMBtu.

Estimated Total: 5,475,000 MMBtu.

(6) Maximum sales rate: $2.21 per MMBtu.

Minimum sales rate: $1.60 per MMBtu

Rate to be charged during billing period: $1.60 per MMBtu

Any interested party desiring to make any protest with reference to this sale of natural gas should file with the Federal Energy Reulatory Commission, Washington, DC 20426, within 30 days after issuance of this notice by the Commission, pursuant to the orders of December 20, 1988, and June 7, 1989. If no protest is filed within that time or the Commission denies the protest, the proposed sale may continue until the underlying contract expires. If a protest is filed, Natural may sell gas for 120 days from the date of commencement of service or until a termination order is issued, whichever is earlier.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3144 Filed 2-10-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP88-312-012]

Natural Gas Pipeline Co. of America; Sale of Natural Gas

February 4, 1992.

Take notice that on January 30, 1992, Natural Gas Pipeline Company of America (Natural), 701 East Lombard Street, Lombard, Illinois, 60148-5072, submitted the following information regarding the sale of natural gas to be made to an affiliate under Natural's Rate Schedule IS-1, pursuant to the authorization granted by order in Docket Nos. CP88-312-000 and CP88-312-002, issued December 20, 1988, and June 7, 1989, respectively (45 FERC ¶ 61,465 and 47 FERC ¶ 61,334).

(1) *Name of Buyer:* Trident NGL, Inc. (Trident).

(2) *Location of Buyer:* The Woodlands, Texas.

(3) *Affiliation between Natural and Buyer:* Natural is a subsidiary of MidCon Corp (MidCon). Both MidCon and OXY USA Inc. are subsidiaries of Occidental Petroleum Corporation. OXY USA Inc. owns a fifty percent interest in Trident.

(4) *Term of Sale:* March 1, 1992, through April 1, 1992, and month to month thereafter.

(5) *Estimated Total and Maximum Daily Quantities:*

Daily Quantity: 250,000 MMBtu

Estimated Total: 7,300,000 MMBtu

(6) Maximum sales rate: $2.21 per MMBtu

Minimum sales rate: $1.60 per MMBtu

Rate to be charged during billing period: $1.60 per MMBtu

Any interested party desiring to make any protest with reference to this sale of natural gas should file with the Federal Energy Regulatory Commission, Washington, DC 20426, within 30 days after issuance of this notice by the Commission, pursuant to the orders of December 20, 1988, and June 7, 1989. If no protest is filed within that time or the

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[2] *Id.*

[3] The Commission granted a similar blanket special permission in Association of Oil Pipelines, 50 FERC ¶ 61,415 (1990) (granting blanket special permission to allow oil pipelines to cancel tariffs under suspension).

[4] 18 CFR 341.58.

[5] 18 CFR 346.1(d)(5).

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Commission denies the protest, the proposed sale may continue until the underlying contract expires. If a protest is filed, Natural may sell gas for 120 days from the date of commencement of service or until a termination order is issued, whichever is earlier.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3145 Filed 2-10-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP88-67-000, RP88-81-000, RP88-221-000, RP90-119-001, RP91-4-000, and RP91-119-000 (Phase I/Rates)]

Texas Eastern Transmission Corp.; Informal Settlement Conference

February 4, 1992.

Take notice that a conference of the Steering Committee is scheduled to be convened in this proceeding on February 27, 1992, at 10 a.m., at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC. Parties may designate anyone they wish for the Steering Committee, but business representatives are encouraged. Participants on the Steering Committee should include individuals who are in a position to commit their parties quickly on matters of substance.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Dennis H. Melvin at (202) 208-0042 or Arnold H. Meltz at (202) 208-0737.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3146 Filed 2-10-92; 8:45 am]

BILLING CODE 6717-01-M

Office of Energy Research

Special Research Grant Program Notice 92-9: Experimental Program to Stimulate Competitive Research

AGENCY: Department of Energy.

ACTION: Notice inviting grant applications.

SUMMARY: The Office of Energy Research (ER) of the Department of Energy (DOE), in keeping with its energy-related mission to assist in strengthening the Nation's human resource infrastructure through the support of science, engineering and mathematics education at all levels of education, announces its interest in receiving special research grant applications for the support of training grants. A total of $5.0 million will be available for grant awards under the DOE/EPSCoR program in FY 1992 for graduate traineeships in energy-related science and engineering disciplines. The purpose of the DOE/EPSCoR program is to enhance the capabilities of the designated States to develop science and engineering manpower in energy-related areas and to conduct nationally competitive energy-related research.

DATES: Applications for grants under this notice should be received by 4:30 p.m. Eastern local time March 31, 1992.

ADDRESSES: Application kits and guides are available from the Office of University and Science Education Programs, ER-80, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-8949. The completed applications must be submitted to: U.S. Department of Energy, Office of Energy Research, Division of Acquisition and Assistance Management, ER-64, Washington, DC 20585. Telephone requests may be made by calling (202) 586-8949. The personal or courier delivery address is: U.S. Department of energy, Division of Acquisition and Assistance Management, ER-64, Office of Energy Research, 19901 Germantown Road, Germantown, MD 20874. Each application submitted must reference Notice No. 92-9. Telephone and telefax numbers must also be included in any application.

FOR FURTHER INFORMATION CONTACT: Mrs. Donna J. Prokop, Education Programs Manager, Office of University and Science Education Programs, Office of Energy Research, ER-82, Department of Energy, Washington, DC 20585, (202) 586-8949.

SUPPLEMENTARY INFORMATION: The Conference Committee for the fiscal Year 1991 Energy Water and Development Appropriations Bill recommended that DOE provide a total of 2 million dollars for graduate traineeships and 2 million dollars for planning grants to those states organizations involved in the Experimental Program to Stimulate Competitive Research (EPSCoR). The Department's response to this recommendation was the Department of Energy's Experimental Program to Stimulate Competitive Research (DOE/EPSCoR). In accordance with 10 CFR 600.7(b)(1), and due to the Congressionally directed limitations, it was determined that eligibility for these grants would be restricted to the DOE-designated planning committees for the following states and territory: Alabama, Arkansas, Idaho, Kansas, Kentucky, Louisiana, Maine, Mississippi, Montana, Nebraska, Nevada, North Dakota, Oklahoma, South Carolina, South Dakota, Vermont, West Virginia, Wyoming and the Commonwealth of Puerto Rico. The purpose for restricting eligibility in this program, to these States, is to enhance their capabilities and to develop science and engineering manpower in energy-related areas.

DOE published a notice inviting grant applications for the DOE/EPSCoR program from the eligible state planning committees, notice 91-6, in the **Federal Register** at 56 FR 2518, January 23, 1991. On March 8, 1991, DOE amended the January 23, 1991, notice (at 56 FR 9945) to clarify areas of the application and the review process and to provide further information on EPSCoR objectives and further funding opportunities.

A total of 18 planning grant applications and 18 training grant applications was received at DOE by March 20, 1991, all of which were peer reviewed. On August 22, 1991, Secretary of Energy James D. Watkins announced the awards for the DOE/EPSCoR program. Eighteen applications for planning grant funds were approved for funding under the program, and a total of eight states was competitively awarded funds for DOE/EPSCoR traineeship grants for a period of one year: Alabama, Arkansas, Kentucky, Mississippi, Oklahoma, South Carolina, West Virginia, and Wyoming.

The EPSCoR planning committees within the eligible states are again encouraged to apply for special research grants that will support the training efforts. Training grant applications must detail the need for energy-related graduate traineeships in energy-related scientific and technical educational disciplines.

Traineeship Support

Traineeship grant applications must not exceed $250,000 per year (Maximum $500,000) for a duration of two years. The amount available per year per student under this grant award is anticipated to be $25,000.

The primary objectives for the traineeship appointments are to: (1) Increase the number and quality of EPSCoR state U.S. graduates with advanced training in energy-related disciplines; (2) provide masters- and doctoral-level training and research experience through active participation in established, ongoing programs of energy research at selected universities; and (3) ensure that the trainees obtain a broader understanding of the development and application of energy-related research and technologies through close involvement with researchers and research programs in energy industries and/or the Department's major multiprogram laboratories. The traineeship appointments may be offered only to students who are U.S. citizens or permanent resident aliens who have been admitted to full graduate standing in an energy-related field. Applicants are required to supplement each traineeship in conjunction with other energy-related research, practicum experience and education activities which will contribute to the trainee(s) academic progress.

The application to the DOE/EPSCoR program shall include a narrative description which addresses the points listed below: (1) Identify academic institutions, departments and disciplines to be included in the traineeship program. Summarize the qualifications of the institution, including current energy research activities and available facilities. Discuss the potential of the proposed traineeship program to enhance the State's energy-related science and engineering manpower capabilities and to attract additional high quality trainees to energy-related research. (2) Identify and describe the energy-related research program(s) on which the traineeship request is based, including the number of degrees awarded to graduate students associated with the identified energy research area(s), a summary of accomplishments, and the record of master's and/or doctoral degree productivity of participating departments over the past five years, by year. (3) Describe plans for recruiting high quality trainee candidates (include the selection criteria to be used) and strategies for insuring meaningful trainee interaction with the DOE multiprogram or energy-related industrial laboratories. Provide examples of the proposed trainee-industry/laboratory interaction arrangements, and include names and brief backgrounds of the groups involved in developing the program. (4) List the qualifications of key faculty committed to the traineeship program as measured by such elements as research projects, publications, number and type of masters and/or doctoral dissertations supervised over the last five years. (5) List the support received for energy research projects from non-campus sources. (6) Provide a detailed budget, outlining the total amount requested, the amount requested per trainee; i.e., stipend, tuition and fees, and plans, if any, for augmenting or supplementing trainee costs from other non-Federal sources.

The eight state committees that received traineeship grant awards under the FY 1991 DOE EPSCoR program must submit a competitive renewal application to be eligible for continued support. The competitive renewal applications must include a separately bound Progress Performance Report summarizing the activities to date under the DOE/EPSCoR traineeship grant, including, but not limited to, the following information:

(a) A summary of overall progress of the traineeship awards to date, including, if applicable: recruiting methods/efforts utilized by the institutions involved; the number of applicants that responded; the method(s) by which the trainees were selected; the number of trainees selected; the trainees research topic area(s)/thesis project; practicum arrangements and dates, if applicable; and any other information relevant to the general goals of the DOE/EPSCoR traineeship grant award.

(b) An indication of any current problems or favorable or unusual developments;

(c) A summary of the effort to be performed during the succeeding funding period; and

(d) Other information pertinent to the current traineeship grant being supported.

The average cost of each traineeship is anticipated to be $25,000, which shall cover all expenses. Indirect costs may not be requested for the traineeship portion of the application of the DOE/EPSCoR program. Although no formal cost sharing is required for the DOE/EPSCoR traineeship program, information about outside funding sources, particularly non-Federal funds, should be provided and may be considered in selecting which of the most meritorious applications should be supported. DOE/EPSCoR traineeship funds may not be used for equipment.

DOE expects to make about ten grants in FY 1992 to meet the objectives of this program. However, DOE reserves the right to fund, in whole or in part, any, all, or none of the applications submitted. Additional information may be subsequently requested by DOE during evaluation of a submitted application.

General information about development and submission of applications, eligibility, limitations, evaluation and selection processes, and other policies and procedures are contained in the OER Special Research Grant Application Kit and Guide. This notice requests further that the "Detailed Description of Research Work Proposed" component of a complete grant application as established by 10 CFR part 605 should not exceed 30 double-spaced, typed pages, excluding curriculum vitae.

The Catalog of Federal Domestic Assistance Number for this program is 81.049.

D. D. Mayhew,

Deputy Director for Management, Office of Energy Research.

[FR Doc. 92-3118 Filed 2-10-92; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL HOUSING FINANCE BOARD

[No. FHFB 92-58]

Notice of Federal Home Loan Bank Members Selected for Community Support Review

AGENCY: Federal Housing Finance Board.

ACTION: Notice.

SUMMARY: The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 added a new section 10(g) to the Federal Home Loan Bank Act of 1932 requiring that members of the FHLBank System meet standards for community investment or service in order to maintain continued access to long-term FHLBank System advances. In compliance with this statutory change, the Finance Board promulgated Community Support regulations (12 CFR part 936) that were published in the Federal Register on November 21, 1991 (56 FR 58639). Under the review process established in the regulations, the Finance Board will select a certain number of members for review each quarter, so that all members will be reviewed once every two years. The purpose of this Notice is to announce the names of the members selected for this first review under the new regulations. The Notice also conveys the dates by which members need to comply with the Community Support regulation review requirements and by which comments from the public must be received.

DATES: Due Date For Member Community Support Statements for Members Selected in First Quarter Review: March 31, 1992.

Due Date For Public Comments on Members Selected in First Quarter Review: March 31, 1992.

FOR FURTHER INFORMATION CONTACT: Sylvia C. Martinez, Director, Housing Finance Directorate, (202) 408-2825, or Kathleen S. Brueger, Associate Director, Housing Finance Directorate, (202) 408–2821, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

A. Selection for Community Support Review

The Finance Board intends to review the entire FHLBank System membership once every two years. Approximately one-eighth of the FHLBank members in each district will be selected for review by the Finance Board each calendar quarter. Only members with post-July 1, 1990 CRA Evaluations and members not subject to CRA will be selected for review in the first two years following the effective date of the regulation. In selecting members, the Finance Board will follow the chronological sequence of the members' CRA Evaluations, to the greatest extent practicable, selecting one-eighth of each District's membership for review each calendar quarter.

Selection for review is not, nor should it be construed as, any indication of either the financial condition or Community Support performance of the institutions listed.

B. List of FHLBank Members to be Reviewed in First Quarter 1992, Grouped by FHLBank District.

Federal Home Loan Bank of Boston—District 1, Post Office Box 9106, Boston, Massachusetts 02205–9106.

Member	City	State
Bank of Darien	Darien	CT
First FS & LA of E. Hartford.	East Hartford	CT
Enfield FS&LA	Enfield	CT
Northeast Savings, F.A.	Hartford	CT
The Bank of New Haven.	New Haven	CT
Cargill Bank of Connecticut.	Putnam	CT
Sentry S&LA	Stamford	CT
First FS&LA of Waterbury.	Waterbury	CT
Heritage Bank	Watertown	CT
Boston Private Bank & Trust Co..	Boston	MA
First FSB of Boston	Boston	MA
First Trade Savings Bank, FSB.	Boston	MA
Union FS&LA of Boston.	Boston	MA
Greater Boston Bank, A Co-op Bank.	Brighton	MA
Foxboro FS&LA	Foxboro	MA
Georgetown Savings Bank.	Georgetown	MA
Hyde Park Co-op	Hyde Park	MA
Scituate Federal Savings Bank.	Scituate	MA
Middlesex Federal Savings, FA.	Somerville	MA
The Federal Savings Bank.	Waltham	MA
New England Federal Savings Bank.	Wellesley	MA
Auburn S&LA	Auburn	ME
Augusta Federal Savings Bank.	Augusta	ME
First FS&LA of Bath	Bath	ME
Brunswick Federal Savings, FA.	Brunswick	ME
Camden National Bank.	Camden	ME
Aroostook County FS&LA.	Caribou	ME
First Federal Savings Bank.	Lewiston	ME
Kennebec FS&LA of Waterville.	Waterville	ME
Watterville S&LA	Waterville	ME
Federal Savings Bank.	Dover	NH
NFS Savings Bank	Nashua	NH
Plaistow Co-operative Bank.	Plaistow	NH
Salem Co-op Bank	Salem	NH
Old Stone Bank, FSB.	Providence	RI
First Vermont Bank & Trust Co.	Brattleboro	VT
Vermont National Bank.	Brattleboro	VT
The Merchants Bank	Burlington	VT
Lyndonville Savings Bank & Trust Co..	Lyndonville	VT
Franklin-Lamoille Bank.	St. Albans	VT
Vermont Federal Bank, FSB.	Williston	VT

Federal Home Loan Bank of New York—District 2, One World Trade Center, 103rd Floor, New York, New York 10048.

Member	City	State
Axia Federal Savings Bank.	Avenel	NJ
Young Men's S&LA	Bridgeton	NJ
Inter-Boro S&LA	Cherry Hill	NJ
Central Jersey Savings Bank, SLA.	East Brunswick	NJ
Crestmont FS&LA	Edison Township	NJ
GSL Savings Bank, SLA.	Guttenberg	NJ
Kearny FS & LA	Kearny	NJ
Carteret Savings Bank.	Morristown	NJ
Dollar Savings Bank, SLA.	Newark	NJ
Penn Federal Savings Bank.	Newark	NJ
First Savings Bank, SLA.	Perth Amboy	NJ
Lakeland Savings Bank, FSB.	Succasunna	NJ
Union City S&LA	Union City	NJ
South Bergen S&LA	Wood Ridge	NJ
Albany Savings Bank, S&LA.	Albany	NY
Amsterdam Federal, SLA.	Amsterdam	NY
Bayside Federal Savings Bank.	Bayside	NY
Bay Ridge Federal, S&LA.	Brooklyn	NY
Brooklyn Federal Savings Bank.	Brooklyn	NY
Canisteo S&LA	Canisteo	NY
Elmira S&LA	Elmira	NY
Gloversville Federal, S&LA.	Gloversville	NY
Abacus Federal Savings Bank.	New York	NY
The Dime Savings Bank of NY, FSB.	New York	NY
First FS&LA of Peeksill.	Peekskill	NY
Home Federal Savings Bank.	Ridgewood	NY
Westerleigh Savings FS&LA.	Staten Island	NY
The Long Island Savings Bank, FSB.	Syosset	NY

Federal Home Loan Bank of Pittsburgh—District 3, 625West Ridge Pike, Suite B-107, Conshohocken, Pennsylvania 19428.

Member	City	State
Laurel Savings Asso.	Allison Park	PA
Altoona FS&LA	Altoona	PA
Peoples Home Savings Asso..	Beaver Falls	PA
Columbia County Farmers NB.	Bloomsburg	PA
Bryn Mawr Trust Co.	Bryn Mawr	PA
Founders' Bank	Bryn Mawr	PA
First Sterling Bank	Devon	PA
Armstrong County Bldg & Loan Asso..	Ford City	PA
First Fed. S&L Asso. of Kane.	Kane	PA
Mifflin County S&L Asso..	Lewistown	PA
First Federal Savings Bank.	Monessan	PA
Parkvale Savings Asso..	Monroeville	PA
Dollar Savings Asso.	New Castle	PA
First Bank of Philadelphia.	Philadelphia	PA
United Valley Bank	Philadelphia	PA
Dollar Bank, FSB	Pittsburgh	PA
Iron and Glass Bank	Pittsburgh	PA
North Side Deposit Bank.	Pittsburgh	PA
Troy Hill FS&LA	Pittsburgh	PA
West View S&LA	Pittsburgh	PA
Berks County Bank	Reading	PA
The First NB of Bradford County.	Towanda	PA
Northwest Savings Bank.	Warren	PA
First Fed. S&L Asso. of Greene County.	Waynesburgh	PA
First Capitol Bank	York	PA
Huntington Fed. S&L Asso..	Huntington	WV
First Fed S&L Asso. of Morgantown.	Morgantown	WV
Doolin Security Savings Bank, FSB.	New Martinsville	WV
United National Bank of Parkersburg.	Parkersburg	WV
First FS&LA of Sisterville.	Sisterville	WV

Federal Home Loan Bank of Atlanta—District 4, Post Office Box 105565, Atlanta, Georgia 30348.

Member	City	State
United Savings Bank, FSB.	Anniston	AL

Member	City	State
Birmingham Fed S&LA.	Birmingham	AL
Citizens FS&LA	Birmingham	AL
Secor Bank, FSB	Birmingham	AL
Central State Bank	Calera	AL
First FS&LA	Cullman	AL
First Federal Savings Bank.	Decatur	AL
Southland Bank of Alabama.	Dothan	AL
First Bank and Trust	Grove Hill	AL
New South Fed. Savings Bank.	Irondale	AL
First FS&LA of Russel Co.	Phoenix City	AL
Valley FSB	Sheffield	AL
Talladega FS&LA	Talladega	AL
First Liberty National Bank.	Washington	DC
Key Florida Bank, FSB.	Bradenton	FL
Beach FS&LA	Boynton Beach	FL
Crown Savings Asso	Casselberry	FL
Harbor FS&LA	Fort Pierce	FL
Bankatlantic, a FSB	Ft. Lauderdale	FL
First FS&LA of Florida.	Lakeland	FL
American Savings of Florida.	Miami	FL
Chase Federal Bank, a FSB.	Miami	FL
Citizens Fed. Bank, FSB.	Miami	FL
Financial FS&LA of Dade County.	Miami Lakes	FL
Bancflorida, a FSB	Naples	FL
Mercantile Bank of Naples.	Naples	FL
Mid-state Fed. Savings Bank.	Ocala	FL
Metro Savings Bank, FSB.	Orlando	FL
AMSouth Bank of Florida.	Pensacola	FL
Coast Federal Bank, FSB.	Sarasota	FL
Bay Financial Savings Bank.	Tampa	FL
City Bank of Tampa	Tampa	FL
Georgia Fed. Bank, FSB.	Atlanta	GA
Homebanc Fed. Savings Bank.	Atlanta	GA
Mutual FS&LA	Atlanta	GA
The Summit National Bank.	Atlanta	GA
Carrollton Fed. Bank, FSB.	Carrollton	GA
Mount Vernon FSB	Dunwoody	GA
Community FSB	Fort Oglethorpe	GA
Crescent Bank & Trust Co.	Jasper	GA
First FSB of La Grange.	La Grange	GA
Gwinnett Fed. Bank, FSB.	Lawrenceville	GA
Chattahoochee Bank	Marietta	GA
Cobb FSB	Marietta	GA
Charter FS&LA	West Pont	GA
Baltimore American Savings Bank, FSB.	Baltimore	MD
Chase Bank of Maryland.	Baltimore	MD
Harbor FS&LA	Baltimore	MD
Loyola FS&LA	Baltimore	MD
Rosedale FS&LA	Baltimore	MD
Chevy Chase Savings Bank, FSB.	Chevy Chase	MD
Standard Fed. Savings Bank.	Gaithersburg	MD
Key Federal Savings Bank.	Owings Mills	MD
Second National FSB	Salisbury	MD
Asheville FS&LA	Asheville	NC
Home FS&LA	Charlotte	NC
C-K Fed. Savings Bank.	Concord	NC
First American Savings Bank, FSB.	Greensboro	NC
BB&T FSB of High Point.	High Point	NC
Caldwell Savings Bank, Inc.	Lenoir	NC
Centura Bank, Inc	Rocky Mount	NC
First FS&LA of Anderson.	Anderson	SC
First FS&LA of Charleston.	Charleston	SC
South Carolina FSB	Columbia	SC
First Piedmont FS&LA.	Gaffney	SC
American Federal Bank, FSB.	Greenville	SC
First FS&LA of Spartanburg.	Spartanburg	SC
First FSB of Virginia	Lynchburg	VA
Vista Fed Savings Bank.	Reston	VA
Fidelity Fed. Savings Bank.	Richmond	VA
Investors Savings Bank.	Richmond	VA
Virginia Fed. Savings Bank.	Richmond	VA

Federal Home Loan Bank of Cincinnati—District 5, Post Office Box 598, Cincinnati, Ohio 45201.

Member	City	State
First Fed S&LA of Ashland.	Ashland	KY
Carrollton Fed. S&LA	Carrollton	KY
First Lancaster Fed. Savings Bank.	Lancaster	KY
First Fed. S&LA of Leitchfield.	Leitchfield	KY
Future Fed. Savings Bank.	Louisville	KY
Family FSB of Paintsville, KY.	Paintsville	KY
Kentucky Enterprise Fed. Savings.	Newport	KY
The Jessamine First Fed. S&LA.	Nicholasville	KY
Cardinal Fed. Savings Bank.	Owensboro	KY
First Bank & Trust Co.	Princeton	KY
Bullitt County Bank	Shepardsville	KY
Industrial S&LA	Bellevue	OH
Peoples S&L Co	Bucyrus	OH
The Cincinnatus S&LA.	Cheviot	OH
Heritage Savings Bank.	Cincinnati	OH
Oak Hills S&L Co	Cincinnati	OH
Thrift S&L Co	Cincinnati	OH
The Crestline Bldg &LA.	Crestline	OH
First National Bank of Dayton.	Dayton	OH
First FS&LA of Galion.	Galion	OH
Greenville FS&LA	Greenville	OH
Columbia FS&LA of Hamilton.	Hamilton	OH
The Hicksville Bldg L&S Co.	Hicksville	OH
Lawrence Fed. S&LA	Ironton	OH
Home Savings Bank	Kent	OH
Home Fed. Sav. Bank, Northern OH.	Lakewood	OH
Peoples FS&LA of Massillon.	Massillon	OH
Metro Savings Asso	Mayfield Heights	OH
Miami S&L Co	Miamitown	OH
First FS&LA of Newark.	Newark	OH
Geauga Savings Bank.	Newbury	OH
Cleves-North Bend Bldg & Loan Co.	North Bend	OH
American S&LA	Portsmouth	OH
People FS&LA	Sidney	OH
Monroe FS&LA	Tipp City	OH
Van Wert Fed. Savings Bank.	Van Wert	OH
First FS&LA of Van Wert.	Van Wert	OH
The Home S&LA	Wapakoneta	OH
Adams County Bldg & Loan Co.	West Union	OH
First FS&LA of Youngstown.	Youngstown	OH
Maury Fed. Savings Bank.	Columbia	TN
First Fidelity Sav. Bank, FSB.	Crossville	TN
Progressive Savings Bank, FSB.	Jamestown	TN
Home FS&LA of Upper E. TN.	Johnson City	TN
Home Fed. Bank of Tennessee.	Knoxville	TN
American Savings Bank.	Livingston	TN
First Southern FSB	Nashville	TN
First FSB of W. TN	Selmer	TN

Federal Home Loan Bank of Indianapolis—District 6, Post Office Box 60, Indianapolis, Indiana 46205–0060.

Member	City	State
Peoples Fed. Savings Bank.	Aurora	IN
Farmers & Mechanics Fed. S&LA.	Bloomfield	IN
The First State Bank	Bourbon	IN
English State Bank	English	IN
Evansville Fed. Savings Bank.	Evansville	IN
Union Fed. Savings Bank.	Evansville	IN
The Farmers Bank	Frankfort	IN
First Fed. S&LA of Greensburg.	Greensburg	IN
Lake Fed. S&LA of Hammond.	Hammond	IN
City Savings Bank	Hartford City	IN
Shelby Fed. Savings Bank.	Indianapolis	IN
First Commerce Savings Bank, FSB.	Lowell	IN
Muncie Fed. S&LA	Muncie	IN
Lincoln Fed. Savings Bank.	Plainfield	IN
Peoples Fed. Sav. Asso.	Richmond	IN
First FS&LA of Rushville.	Rushville	IN
Scottsburg Bldg&LA	Scottsburg	IN
Home Fed. Savings Bank.	Seymour	IN
Owen Fed. Savings Bank.	Spencer	IN

Member	City	State
First Farmers State Bank.	Sullivan	IN
First Fed. S&LA of Washington.	Washington	IN
Northwestern Savings Bank and Trust.	Traverse City	MI

Federal Home Loan Bank of Chicago—District 7, 111 East Wacker Drive, Suite 800, Chicago, Illinois 60601.

Member	City	State
First FS&LA of Barrington.	Barrington	IL
American Union S&LA.	Chicago	IL
Archer Fed. S&LA	Chicago	IL
Avondale Fed. Savings Bank.	Chicago	IL
Labe FS&LA	Chicago	IL
Liberty Bank for Savings.	Chicago	IL
Lincoln Park Fed. S&LA.	Chicago	IL
New Asia Bank	Chicago	IL
Washington S&LA of Chicago.	Chicago	IL
West Town S&LA	Cicero	IL
Home Fed. S&LA of Collinsville.	Collinsville	IL
First FS&LA of Des Plaines.	Des Plaines	IL
First Granite City S&L.	Granite City	IL
Security Savings Bank, FSB.	Hillsboro	IL
Hinsdale FS&LA	Hinsdale	IL
Eureka S&LA of La Salle.	La Salle	IL
Lawrenceville FS&LA	Lawrenceville	IL
Lisle S&LA	Lisle	IL
Milford Building &LA	Milford	IL
The Farmers Bank	Mount Pulaski	IL
Superior Bank, FSB	Oak Brook Terrace.	IL
Ottawa FS&LA	Ottawa	IL
First FS&LA of Pekin	Pekin	IL
River Valley Savings Bank, FSB.	Peoria	IL
Rochelle S&LA	Rochelle	IL
First FS&LA	Shelbyville	IL
United S&LA	Springfield	IL
First Fed. Bank, FSB	Waukegan	IL
Kenosha S&LA	Kenosha	WI
The Home S&LA	Madison	WI
Badger Bank, SSB	Milwaukee	WI
Paper City Savings Asso.	Nekoosa	WI
West Bend Savings Bank, St. Asso.	West Bend	WI

Federal Home Loan Bank of Des Moines—District 8, 907 Walnut Street, Des Moines, Iowa 50309.

Member	City	State
Hawkeye Fed. Savings Bank.	Boone	IA
Page County S&LA	Clarinda	IA
First Fed. S&LA of Lincoln-Iowa.	Council Bluffs	IA
State Fed. S&LA of Des Moines.	Des Moines	IA
Keokuk Fed. S&LA	Keokuk	IA
The Marshalltown S&LA.	Marshalltown	IA
Northwest Fed. Savings Bank.	Spencer	IA
First State Bank of Big Fork.	Big Fork	MN
St. Louis County Fed. S&LA.	Duluth	MN
First Fed. S&LA of Hastings.	Hastings	MN
Lake Elmo Bank	Lake Elmo	MN
Northwoods Bank of Minnesota, N.A.	Park Rapids	MN
Queen City S&LA	Virginia	MN
Missouri Federal Savings Bank.	Cameron	MO
First Fed. S&LA of Kansas City.	Kansas City	MO
Sentinel Fed. S&LA of Kansas City.	Kansas City	MO
Neosho S&LA	Neosho	MO
Home S&LA of Norbone.	Norbone	MO
Central Fed. S&LA	Rolla	MO
First State Savings Asso.	Sedalia	MO
Guaranty Fed. S&LA of Springfield.	Springfield	MO
Midwest Fed. S&LA of St. Joseph.	St. Joseph	MO
New Age Fed. S&LA of St. Louis.	St. Louis	MO

Federal Home Loan Bank of Dallas—District 9, 5605 N. MacArthur Boulevard, 9th Floor, Irving, Texas 75038.

Member	City	State
First Fed. S&LA	Camden	AR
Pocahontas Fed. S&LA.	Pocahontas	AR
Abbeville Bldg & LA	Abbeville	LA
Beauregard Fed. Savings Bank.	DeRidder	LA
First Fed. S&LA	Lake Charles	LA
Minden Bldg & LA	Minden	LA
Alerion Bank	New Orleans	LA
Carrollton Homestead Asso.	New Orleans	LA
Fifth District S&LA	New Orleans	LA
Globe Homestead Asso.	New Orleans	LA
Union S&LA	New Orleans	LA
Southland Fed. Savings Bank.	Opelousas	LA
Magnolia Fed. Bank For Savings.	Hattiesburg	MS
Inter-City Fed. Savings Bank.	Louisville	MS
Security Trust Fed. S&LA.	Knoxville	TN
Dona Ana S&LA	Las Cruces	NM
Centre Savings Asso.	Arlington	TX
Fidelity Savings-Austin FA.	Austin	TX
Franklin Federal Bancorp FSB.	Austin	TX
Horizon Savings Assoc.	Austin	TX
First American Savings Bank.	Bedford	TX
Davy Crockett Fed. Savings Bank.	Crockett	TX
Cuero Fed. S&LA	Cuero	TX
Dalhart Federal S&LA.	Cuero	TX
Sun World Savings Bank FSB	El Paso	TX
Fayette Savings Asso.	LaGrange	TX
Terrell Federal S&LA	Terrell	TX
First Southwest FS&LA.	Tyler	TX

Federal Home Loan Bank of Topeka—District 10, Post Office Box 176, Topeka, Kansas 66601.

Member	City	State
Pitkin County Bank	Aspen	CO
Delta S&LA	Delta	CO
Frontier Bank of Denver.	Denver	CO
Vectra Bank	Denver	CO
Vectra Bank-Englewood.	Englewood	CO
Gunnison S&LA	Gunnison	CO
Thatcher Bank, FSB	Salida	CO
Alpine Bank	Snowmass Village	CO
Bank Northwest	Steamboat Springs	CO
First Fed. S&LA of Lincoln.	Council Bluffs	IA
Golden Belt Banking & SA.	Ellis	KS
Southwestern S&LA of Hugoton.	Hugoton	KS
Argentine S&LA	Kansas City	KS
Conservative Savings Bank.	Omaha	NE
First State Bank	Keyes	OK
First Commercial Bank, SSB.	Lawton	OK
Lakeside State Bank	Oologah	OK
Heartland Fed. S&LA	Ponca City	OK
Local America Bank of Tulsa, a FSB.	Tulsa	OK

Federal Home Loan Bank of San Francisco—District 11, 307 East Chapman Avenue, Orange, California 92666.

Member	City	State
First Arizona Savings and Loan Asso.	Glendale	AZ
First Bank of Beverly Hills, SSB.	Beverly Hills	CA
Fidelity Federal Bank, FSB.	Glendale	CA
Far West Savings and Loan Asso.	Irvine	CA
Broadway FS&LA of Los Angeles.	Los Angeles	CA
California Federal Bank, a FSB.	Los Angeles	CA
Coast Federal Bank, FSB.	Los Angeles	CA
East-West Federal Bank, FSB.	Los Angeles	CA
Cornerstone Bank, SSB.	Mission Viejo	CA
El Dorado Savings Bank.	Placerville	CA
Commerce Savings Bank.	Sacramento	CA
California Savings and Loan, a FA.	San Francisco	CA
Citibank Federal Savings Bank.	San Francisco	CA
First Nationwide Bank, a FSB.	San Francisco	CA
Bay View FS&LA	San Mateo	CA

Member	City	State
First FS&LA of San Rafael.	San Rafael	CA
County Bank, a FSB	Santa Barbara	CA
First Federal Bank of California, FSB.	Santa Monica	CA
American Savings Bank, FA.	Stockton	CA
First FS&LA of San Gabriel Valley.	West Covina	CA

Federal Home Loan Bank of Seattle—District 12, 1501 4th Avenue, Seattle, Washington 98101–1693.

Member	City	State
American Savings Bank FSB.	Honolulu	HI
Ireland Bank	Malad City	ID
Security Federal Savings Bank.	Billings	MT
United Savings Bank, FA.	Great Falls	MT
Heritage Bank, a FSB.	Great Falls	MT
American FS&LA of Helena.	Helena	MT
Western FSB of Montana.	Missoula	MT
Treasure-Land S&LA	Ontario	OR
Logan Savings and Loan Asso.	Logan	UT
First Federal Savings Bank.	Salt Lake City	UT
Capital City Bank	South Salt Lake	UT
Timberland FS&LA	Hoquiam	WA
North Sound Bank	Poulsbo	WA
First FS&LA of Renton.	Renton	WA
Pacific Federal Savings Bank.	Seattle	WA
Buffalo FS&LA	Buffalo	WY

C. Due Dates

Members selected for review must submit completed Community Support Statements to their FHLBank no later than March 31, 1992.

All public comments concerning the Community Support performance of selected members must be submitted to the member's FHLBank no later than March 31, 1992.

D. Notice to Members Selected

Within 15 days of this Notice's publication in the **Federal Register**, the individual FHLBanks will notify each member selected to be reviewed that the member has been selected and when the member must return the completed Community Support Statement. At that time, the FHLBank will provide the member with a Community Support Statement form and written instructions and will offer assistance to the member in completing the Statement. The FHLBank will only review Statements for completeness, as the Finance Board will conduct the actual review.

E. Notice to Public

At the same time that the FHLBank members selected for review are notified of their selection, each FHLBank will also notify community groups and other interested members of the public. The purpose of this notification will be to solicit public comment on the Community Support records of the FHLBank members pending review.

Any person wishing to submit written comments on the Community Support performance of a FHLBank member under review in this quarter should send those comments to the member's FHLBank by the due date indicated in order to be considered in the review process.

By the Federal Housing Finance Board.

Dated: February 5, 1992.

Daniel F. Evans, Jr.,

Chairman.

[FR Doc. 92–3172 Filed 2–10–92; 8:45 am]

BILLING CODE 6725-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; City of Los Angeles, et al.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–200322–001.

Title: City of Los Angeles/Auto Warehousing, Inc.

Parties:

City of Los Angeles
Auto Warehousing, Inc.

Synopsis: This agreement, filed January 31, 1992, adds 4.5 acres to the original premises and sets the compensation to be paid at the rate specified in Port of Los Angeles Tariff No. 4. The addition is cancellable on thirty (30) days written notice.

Agreement No.: 224–200613.

Title: Georgia Ports Authority/Atlantic Container Line Terminal Agreement.

Parties:

Georgia Ports Authority ("GPA")
Atlantic Container Line ("ACL")

Synopsis: This Agreement, filed January 30, 1992, provides that GPA will assign ACL premises at Container Berth 5 for the storage and handling of containers, and ACL will pay GPA a per-container-charge consolidated rate (inclusive of wharfage, crane rental, slot use, stevedore use fee, etc.) for ship services. The consolidated rate will be $26.60 per TEU on or off vessels for loaded containers, and $17.10 for empty containers. Charges for additional field services are also specified. The term of the agreement is one year with an option to renew for two one-year periods.

Agreement No.: 202–008090–034.

Title: Mediterranean North Pacific Coast Freight Conference.

Parties:

"Italia" di Navigazione, S.p.A./d'Amico Societa di Navigazione per Azioni
Splosna Plovba—Piran
Zim Israel Navigation Company, Ltd.

Synopsis: The proposed amendment would delete Canada from the geographic scope and delete other references to Canada in the Agreement.

Agreement No.: 217–011324–005.

Title: Transpacific Space Utilization Agreement.

Parties:

TWRA Conference Parties:
American President Lines, Ltd.
Kawasaki Kisen Kaisha, Ltd.
A.P. Moller-Maersk Line
Mitsui O.S.K. Lines, Ltd.
Neptune Orient Lines, Ltd.
Nippon Yusen Kaisha, Ltd.
Sea-Land Service, Inc.
Orient Overseas Container Line

Independent Carrier Parties:
Hanjin Shipping Company, Ltd.
Transportacion Maritima Mexicana, S.A. de C.V. (Mexican Line)
Yang Ming Lines

Synopsis: The proposed amendment would add Westwood Shipping Lines as an independent carrier party to the Agreement.

Dated: February 5, 1992.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 92–3139 Filed 2–10–92; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Grayson Bankshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 9, 1992.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Grayson Bankshares, Inc.*, Independence, Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of The Grayson National Bank, Independence, Virginia.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *TB&C Bancshares, Inc.*, and Synovus Financial Corporation, Columbus, Georgia; to acquire 100 percent of the voting shares of Citizens First Bank, Rome, Georgia, a *de novo* bank. Synovus Financial Corporation will convert its current subsidiary, Citizens Federal Savings Bank of Rome, Rome, Georgia, to Citizens First Bank.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *First Financial Corporation*, and First State Bank of Arthur, both of Arthur, North Dakota; to acquire 100 percent of the voting shares of First State Bank of Buffalo, Buffalo, North Dakota. In connection with this application, First State Bank of Arthur has also applied to become a bank holding company.

Board of Governors of the Federal Reserve System, February 5, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-3155 Filed 2-10-92; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual casses, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 012092 AND 013192

Name of Acquiring Person, Name of Acquired Person, Name of Acquired Entity	PMN No.	Date Terminated
The Dow Chemical Company, The Merchant Navy Officers Pension Fund, EOG (New Mexico) Inc	92-0485	01/21/92
George L. Argyos, American Cyanamid Company, Applied Solar Energy Corporation	92-0462	01/23/92
AB Investor, Forvaltnings AB Providentia, Forvaltnings AB Providentia	92-0481	01/23/92
Phoenix Mutual Life Insurance Company, Home Life Insurance Company, Home Life Insurance Company	92-0492	01/23/92
The Dow Chemical Company, Koch Industries, Inc., Koch Protective Treatments, Inc	92-0458	01/23/93
Automatic Data Processing, Inc., The Independent Election Corporation of America, The Independent Election Corporation of America	92-0497	01/24/92
Mercantile Stores Company, Maison Blanche, Inc., Maison Blanche, Inc	92-0524	01/24/92
Carl M. Bouckaert and Marie T. Bouckaert, Interloom International, Inc., Interloom International, Inc	91-1349	01/27/92
M. Edward Ralston, Interloom International, Inc., Interloom International, Inc	91-1350	01/27/92
WICOR, Inc., Autotrol Corporation, Autotrol Corporation	92-0453	01/27/92
Century Telephone Enterprises, Inc., Centel Corporation, Central Telephone Company of Ohio	92-0491	01/27/92
Landmark Communications, Inc., Carl C. Icahn, The Travel Channel, Inc.	92-0501	01/27/92
Martin H. Rutchik, Polly Peck International plc, Standard Fruit and Vegetable Co., Inc., and	92-0509	01/27/92
Motorola, Inc., Echelon Corporation, Echelon Corporation	92-0513	01/27/92
The May Department Stores Company, JMB Income Properties, Ltd.-XII, JMB/Mid Rivers Associates	92-0487	01/28/92
The Prudential Insurance Company of America, JMB Income Properties, Ltd.-XII, JMB/Mid Rivers Associates	92-0488	01/28/92
The Prudential Insurance Company of America, JMB Income Propertries, Ltd.-XIII, JMB/Mid Rivers Associates	92-0489	01/28/92
The May Department Stores Company, JMB Income Properties, Ltd.-XIII, JMB/Mid Rivers Associates	92-0490	01/28/92
MAPCO Inc., Jack W. Hanks, The Maple Gas Corporation & The Maple Gathering	92-0473	01/29/92
Daganeve Foundation, Gadra Trust Settlement, Tetra Pak Inc	92-0539	01/29/92
General Electric Company, Hechinger Company, Hechinger Company	92-0549	01/29/92
Horrigan American, Inc., General Electric Company, Reli Financial Corp	92-0459	01/30/92
Stichting Ingka Foundation, STOR Furnishings International, Inc., STOR Furnishings International, Inc	92-0496	01/30/92
Suntory Finance, Kotobuki Fudosan Ltd., PepCOm Industries, Inc	92-0499	01/30/92
N.V. Philips, Steve Golin, Golin/Sighvatsson, Inc. & Propaganda Films	92-0505	01/30/92
N.V. Philips, Sigurjon Sighvatsson, Golin/Sighvatsson, Inc. & Propaganda Films	92-0506	01/30/92
Republic Waste Industries, Inc., Stout Environmental, Inc., Stout Environmental, Inc	92-0516	01/30/92

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 012092 AND 013192—Continued

Name of Acquiring Person, Name of Acquired Person, Name of Acquired Entity	PMN No.	Date Terminated
General Electric Company, George P. Ballas, George P. Ballas Leasing, Inc	92-0522	01/31/92
Mr. Harunori Takahashi, Robert H. Burns, Regent International Hotels Limited (Hong Kong Corp.)	92-0525	01/31/92
Matsushita Electric Industrial Co., Ltd., Fleet Call, Inc., Fleet Call, Inc	92-0527	01/31/92
Mr. Harunori Takahashi, Regent International Hotels California Corporation, Regent International Hotels California Corporation	92-0529	01/31/92
The Alpine Group, Inc., Hitachi Koki Co., Ltd., Dataproducts New England, Incorporated	92-0530	01/31/92
Trammell Crow Equity Partners II, Ltd., Marcourt Investments Incorporated, Marcourt Investments Incorporated	92-0538	01/31/92

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay or Renee A. Horton, Contact Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, room 303, Washington, DC 20580 (202) 326-3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 92-3194 Filed 2-10-92; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 91N-0130]

Research Procurement Co.; Revocation of U.S. License No. 692

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the revocation of the establishment license (U.S. License No. 692) and the product license issued to Research Procurement Co. for the manufacture of Source Plasma. A notice of opportunity for a hearing (NOOH) on a proposal to revoke the licenses was published in the **Federal Register** of May 31, 1991 (56 FR 24820). Research Procurement Co. neither requested a hearing nor submitted any data in support of a hearing in response to the NOOH.

DATES: The revocation of the above establishment and product licenses is effective on February 11, 1992.

FOR FURTHER INFORMATION CONTACT: Ann Reed Gaines, Center for Biologics Evaluation and Research (HFB-132), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892, 301-295-8188.

SUPPLEMENTARY INFORMATION: FDA is revoking the establishment license (U.S. License No. 692) and product license issued to Research Procurement Co. for the manufacture of Source Plasma. Research Procurement Co.'s business office is located at 9918A Holmes Rd., Kansas City, MO 64131, while Research Procurement Co.'s plasmapheresis facilities are located at 6040 Troost Ave., Kansas City, MO 64110.

By letter dated November 16, 1990, FDA advised Research Procurement Co. that FDA intended to initiate proceedings to revoke the licenses. Accordingly, FDA published a NOOH on the proposed revocation of the licenses in the **Federal Register** of May 31, 1991 (56 FR 24820), pursuant to 21 CFR 12.21(b), as provided in 21 CFR 601.5(b). In the NOOH, FDA explained the grounds for its determination that the licenses should be revoked. That information included the following: (1) The results of the most recent FDA inspection of Research Procurement Co. in September 1990; (2) the results of an FDA investigation of Research Procurement Co. conducted concurrently with the September 1990 inspection; (3) a determination by FDA that the deviations documented during the September 1990 inspection and investigation of Research Procurement Co. constituted a danger to public health; and (4) a determination by FDA that the inspectional history of Research Procurement Co. demonstrated a distinct pattern of continued noncompliance with, and careless disregard for, the regulations designed to assure the continued safety, purity, and potency of Source Plasma and to assure a continuous and healthy Source Plasma donor population. FDA noted that documentation in support of the proposed revocations had been placed on file for public examination with the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

The NOOH provided 30 days within which Research Procurement Co. was to submit any written request for a hearing, as specified in 21 CFR 12.21(b), and 60 days within which Research Procurement Co. was to submit any written data justifying a hearing. The NOOH further provided 30 days within which other interested persons could submit written comments on the proposed revocations. FDA advised Research Procurement Co., by telephone, that the NOOH had been published, and forwarded a copy of the NOOH to Research Procurement Co., by facsimile transmission, on June 7, 1991.

The Responsible Head of Research Procurement Co. responded to the NOOH by letter dated June 27, 1991. In that letter, the Responsible Head of Research Procurement Co. stated that the "* * * time lapse since the (license suspension in September 1990), the cost involved to review the evidence in Washington with an attorney, makes it impossible as a small business to pursue my defense any further, not because I feel the allegations are correct, but because of the financial hardship it presents to us (sic)."

Research Procurement Co.'s response neither requested a hearing nor submitted data in support of a hearing on the proposed license revocations. No other written comments on the proposed revocations were received within the prescribed 30 days specified in the NOOH. Accordingly, under 21 CFR 12.38(a)(1), 601.7, 601.8, and the Public Health Service Act (sec. 351 (42 U.S.C. 262)), and the authority delegated in 21 CFR 5.67(d), the establishment license (U.S. License No. 692) and the product license issued to Research Procurement Co. for the manufacture of Source Plasma are revoked, effective February 11, 1992.

Dated: February 4, 1992.

Janet Woodcock,

Acting Director, Center for Biologics, Evaluation and Research.

[FR Doc. 92-3107 Filed 2-10-92; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 92F-0014]

Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ciba-Geigy Corp. has filed a petition proposing that the food additive

regulations be amended to increase the level of safe use of 2-(2*H*-benzotriazol-2-yl)-4,6-bis(1-methyl-1-phenylethyl) phenol as a stabilizer in polycarbonate resins intended for contact with food.

FOR FURTHER INFORMATION CONTACT: Helen R. Thorsheim, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-254-9511.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2B4306) has been filed by Ciba-Geigy Corp., Seven Skyline Dr., Hawthorne, NY 10532-2188. The petition proposes to amend the food additive regulations in § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) to increase the level of safe use of 2-(2*H*-benzotriazol-2-yl)-4, 6-bis (1-methyl-1-phenylethyl) phenol as a stabilizer in polycarbonate resins intended for contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: February 4, 1991.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 92-3220 Filed 2-10-92; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 87F-0333]

Kelco, Division of Merck & Co., Inc.; Filing of Food Additive Petition; Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is amending the filing notice for a petition filed by Kelco, Division of Merck & Co., Inc., to provide for the safe use of gellan gum as stabilizer and thickener in foods, generally. Kelco, Division of Merck & Co., Inc., has amended its petition for gellan gum to request that the 5 percent limitation for acyl (glyceryl and acetyl) groups be removed.

FOR FURTHER INFORMATION CONTACT: Blondell Anderson, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C Street, SW., Washington, DC 20204 202-254-9515.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of December 2, 1987 (52 FR 45867 at 45868), FDA announced that a petition (FAP 7A4022) had been filed by Kelco, Division of Merck & Co., Inc., 8355 Aero Dr., San Diego, CA 92123, proposing that 21 CFR part 172—Food Additives Permitted for Direct Addition to Food for Human Consumption be amended to provide for the safe use of gellan gum as a stabilizer and thickener in food, generally. Kelco, Division of Merck and Co., Inc., is further proposing that § 172.665 *Gellan gum* (21 CFR 172.665) be amended in paragraph (a) to remove the 5 percent limitation for acyl (glyceryl and acetyl) groups, as a result of the refining of the processing conditions of gellan gum.

Dated: February 4, 1992.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutirtion.

[FR Doc. 92-3221 Filed 2-10-92; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 92D-0040]

Priority Enforcement Strategy for Problem Importers; Regulatory Procedures Manual Chapter 9-87; Revision; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the revised Regulatory Procedures Manual (RPM), Chapter 9-87 "Priority Enforcement Strategy For Problem Importers." The revision lists criteria for consideration for priority attention, and for consideration of legal actions (warning letters, recalls, seizures, injunctions, and prosecutions) in import cases.

ADDRESSES: Submit written requests for single copies of the revised RPM Chapter 9-87 to Import Operations (HFC-131), Office of Regional Operations, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Requests should be identified with the docket number found in brackets in the heading of this document. Send two self-addressed adhesive labels to assist that office in processing your requests. RPM Chapter 9-87 is available for public examination in the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD, between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mary J. Ayling, Import Operations (HFC-131), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6553.

SUPPLEMENTARY INFORMATION: The agency advises that this revision to RPM Chapter 9-87 represents its current definition of a problem importer. RPM Chapter 9-87 may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

The statements made in the revised chapter are not intended to create or confer any rights, privileges, or benefits on or for any private person, but are intended merely for internal guidance.

Dated: February 4, 1992.

Gary Dykstra,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 92-3166 Filed 2-10-92; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Hearing: Reconsideration of Disapproval of Pennsylvania State Plan Amendment (SPA)

AGENCY: Health Care Financing Administration, HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on March 17, 1992 at 10 a.m. in room 3030, 3535 Market Street, Philadelphia, Pennsylvania to reconsider our decision to disapprove Pennsylvania SPA 88-05.

CLOSING DATE: Requests to participate in the hearing as a party must be received by the Docket Clerk by February 26, 1992.

FOR FURTHER INFORMATION CONTACT: Docket Clerk, HCFA Hearing Staff, GF, 1849 Gwynn Oak Avenue, Meadowwood East Building, Baltimore, Maryland 21207, Telephone: (410) 597-3013.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to disapprove Pennsylvania State plan amendment (SPA) number 88-05.

Section 1116 of the Social Security Act (the Act) and 42 CFR part 430 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. The Health Care Financing Administration (HCFA) is required to publish a copy of the notice to a State Medicaid agency that informs the agency of the time and place of the hearing and the issues to be considered. If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice.

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with the requirements contained at 42 CFR 430.76(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins in accordance with the requirements contained at 42 CFR 430.76(c).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

Pennsylvania SPA 88-05 seeks protection under section 1902(r)(2) of the Act from income and resource policies which Pennsylvania believes are more liberal than those which are used by the Supplemental Security Income (SSI) and Aid to Families with Dependent Children (AFDC) programs.

The issues in this matter are whether: (1) The proposed income policies have the potential for exceeding the Federal financial participation (FFP) limits at section 1903(f) of the Act and, therefore, violate section 1902(a)(4) and (19) of the Act; (2) the proposed resource policy concerning property used in a trade or business is more restrictive than SSI policy and therefore does not qualify for approval under section 1902(r)(2) of the Act; and, (3) contrary to section 1902(a)(17) of the Act, the proposed post-eligibility changes contain standards for determining the extent of medical assistance to be received which are not in accordance with the standards prescribed by the Secretary for the post-eligibility process.

In general, the Medicaid statute requires States to use the eligibility criteria of the SSI program in determining eligibility for aged, blind, and disabled individuals, and the criteria of the AFDC program for families with dependent children. (See section 1902(a)(10)(A) of the Act.) Under section 1902(r)(2) of the Act, States may use more liberal methodologies than are used by the cash assistance programs in determining Medicaid eligibility for certain groups of individuals. Also, States may not use more liberal methodologies in determining income eligibility if those methodologies would result in the FFP limits provided for at section 1903(f) of the Act being exceeded.

Because FFP limits under section 1903(f) remain unchanged, application of more liberal income methods under section 1902(r)(2) to those eligibility groups which are subject to section 1903(f) limits might result impermissibly in these limits being exceeded.

HCFA has elected to disapprove policies that will result in FFP limits being exceeded. Disapproval authority is found under sections 1902(a) (4) and (19) of the Act. Under section 1902(a)(4) of the Act, States must provide such methods of administration as are found by the Secretary to be necessary for the proper and efficient operation of the plan. HCFA believes the decision not to approve policies which will result in FFP limits being exceeded is consistent with this requirement as it is the most efficient manner of handling the interface between the eligibility requirements and FFP limits. Under section 1902(a)(19) of the Act, the plan must provide such safeguards as may be necessary to assure that eligibility for care and services under the plan will be determined, and such care and services will be provided, in a manner consistent with simplicity of administration and the best interests of the recipients.

Eligibility Groups

In its SPA, Pennsylvania has identified some of its eligibility groups to be covered under section 1902(r)(2) of the Act as AFDC and SSI related categorically needy nonmoney payment and medically needy only applicants/recipients. This characterization is not specific enough for HCFA to clearly identify which groups are covered and which are not. Section 1902(r)(2) of the Act does not apply to all eligibility groups. Rather, certain groups (e.g., deemed cash assistance recipients) are excluded. In the absence of a clear specification of eligibility groups, HCFA disapproved those policies where groups are identified as AFDC and/or SSI related categorically needy nonmoney payment groups. Where such a policy is also identified as applying to the medically needy, any approval of the policy will apply to the medically needy only.

The statutory basis for this disapproval would also be section 1902 (a)(4) and (a)(19) of the Act. HCFA believes the uncertainty caused by the amendment by its failure to specify to which groups the policies are to apply does not contribute to proper and efficient administration of the plan, nor is it consistent with simplicity of administration and the best interest of recipients.

Eligibility Groups and FFP Limits

Section 1903(f) of the Act sets limits on the amount of income applicants/recipients can have and still have FFP available for their medical care. However, the FFP limits do not apply to all eligibility groups.

Rather, section 1903(f)(4) of the Act excludes certain groups from application of the FFP limits. HCFA believes the State's broad characterization of its eligibility groups discussed above creates similar problems with regard to determining to which groups in SPA 88-05 the FFP limits apply. Therefore, HCFA also disapproved, as violating the FFP limits, and policy where the applicable groups are identified as being AFDC and/or SSI related categorically needy nonmoney payment groups.

HCFA believes the statutory basis for this disapproval would also be sections 1902 (a)(4) and (a)(19) of the Act. The uncertainty caused by the amendment by its failure to specify to which groups the policies are to apply does not contribute to proper and efficient administration of the plan, nor is it consistent with simplicity of administration and the best interest of recipients.

Income Policies—Supplement 11 to Attachment 2.6-A

AFDC-Related

Lump Sum

Under the amendment, the receipt of a lump sum would normally be treated as a resource. However, when it would be more beneficial to the applicant/recipient to treat the lump sum in accordance with the AFDC cash assistance rules, those rules would be applied.

Work Expenses Deduction

Under the amendment, AFDC-related cases with earned income are entitled to a work expense deduction of actual and verified monthly work expenses of $75, whichever is greater.

Self-Employment Deduction

Under the amendment, AFDC-related medically needy only applicants/recipients with self-employment income are given a deduction for depreciation, personal business and entertainment expenses, personal transportation, purchase of capital equipment, and payments on the principal of loans for capital assets or durable goods.

Income policies for the AFDC program are set forth in 45 CFR 233 *et seq.* HCFA believes the income policies proposed by the State are more liberal than those used by the AFDC program.

However, HCFA believes that, while

the State's proposal is more liberal than AFDC, it also has the potential for exceeding the FFP limits at section 1903(f) of the Act. Additional deductions, such as the State proposes, could result in individuals' incomes exceeding the FFP limits. Therefore, HCFA believes, to the extent that the FFP limits apply to the groups which the State proposes to cover under its proposal, the income disregards cited above cannot be approved under section 1902(r)(2) of the Act. Where the FFP limits do not apply to a particular group, the income disregards cited above were approved under section 1902(r)(2) of the Act for that group.

AFDC and SSI-Related

Deduction for Recurring Medical Expenses

Under the amendment, SSI and AFDC-related medically needy-only applicants/recipients are permitted to project verified recurring and predictable medical expenses for the six month eligibility period.

This policy involves a disregard from income in the amount of certain medical expenses projected to be incurred for the medically needy. The policy is more liberal than the methods used by the cash assistance programs (which do not have a spenddown or a deduction of projected verified and predictable medical expenses). However, as with the income policies discussed above, HCFA believes this policy has the potential for violating the FFP limits in section 1903(f) of the Act. If an individual has income above the maximum allowed for FFP purposes and projects expenses which are in fact not incurred, he or she could receive medical assistance which is not entitled to FFP. Since the State plan does not contain a methodology for identifying instances where this occurs and for ensuring that any claims for FFP made on behalf of individuals in this situation will be withdrawn, HCFA disapproved this policy as violating sections 1902 (a)(4) and (a)(19) of the Act. A provision of the amendment which has the potential for generating claims for FFP on behalf of individuals with income in excess of the cap and which does not include a mechanism to protect against submission of such claims is not a method of administration consistent with the proper and efficient operation of the plan. In addition, it is not consistent with simplicity of administration and the best interests of recipients.

Treatment of Veterans Administration Aid and Attendance and Housebound Allowances

Under the amendment, these allowances are not income in the eligibility or the post eligibility determination process.

In determining AFDC eligibility, States need not take into account Department of Veterans Affairs aid and attendance and housebound allowances for a member of the AFDC assistance unit so long as these amounts are used to purchase care which is not covered under the AFDC need standard and the care is not purchased from another member of the assistance unit. Similarly, such allowances are not counted under the SSI program for eligibility purposes (20 CFR 426 subpart K). Thus, there is no need for a section 1902(r)(2) amendment to permit use of this deduction. Therefore, HCFA approved the eligibility portion of this provision because it does not conflict with the requirements of section 1902(r)(2).

With regard to post-eligibility, section 1902(r)(2) of the Act is applicable only to cash assistance eligibility methodologies. It is not applicable to the post-eligibility process. Thus, HCFA disapproved this portion of SPA 88–05 under section 1902(a)(17) of the Act because it does not contain the methodology specified by the Secretary for determining the extent of assistance to be provided under the post-eligibility process.

SSI-Related

Support and Maintenance In-Kind

Support and maintenance in-kind is not counted as income.

SSI income methodologies are set forth in regulations at 20 CFR 416.1130. Briefly, these regulations provide that in-kind support and maintenance is counted as income for SSI purposes with its value determined under specific rules of that program. Thus, the State's proposed policy is more liberal than SSI. HCFA believes a possible violation of the FFP limits under section 1903(f) of the Act is applicable to this policy. Thus, HCFA disapproved this portion of SPA 88–05, for the same reasons and under the same conditions as discussed above in relation to AFDC policies.

Resources—SSI-Related

Property Used in a Trade or Business

Under the amendment, the applicant/recipient's equity interest in property used in a trade or business essential to self-support is excluded, subject to a maximum of $15,000. The exclusion is applicable only if the property produces an annual net return of at least 6 percent of the excludable equity value.

The State maintains that this policy is more liberal than SSI. However, the Omnibus Budget Reconciliation Act of 1989 removed the limit on the value used in a trade or business which can be excluded as a resource under the SSI program. While SSI places no limit on the amount of this deduction, the State proposes a limit of $15,000. The result is that the State's policy is actually more restrictive rather than more liberal than SSI. As such, HCFA disapproved this portion of the plan under section 1902(r)(2) of the Act.

The notice to Pennsylvania announcing an administrative hearing to reconsider the disapproval of its SPA reads as follows:

Mr. John White, Secretary, Department of Public Welfare, Room 333, Health and Welfare Building, Harrisburg, Pennsylvania 17120

Dear Mr. White: I am responding to your request for reconsideration of the decision to disapprove Pennsylvania State Plan Amendment (SPA) 88–05.

Pennsylvania SPA 88–05 seeks protection under section 1902(r)(2) of the Social Security Act (the Act) for income and resource policies which Pennsylvania believes are more liberal than those which are used by the Supplemental Security Income (SSI) and Aid to Families with Dependent Children programs.

The issues in this matter are whether: (1) The proposed income policies have the potential for exceeding the Federal financial participation (FFP) limits at section 1903(f) of the Act and, therefore, violate section 1902(a)(4) and (19) of the Act; (2) the proposed resource policy concerning property used in a trade or business is more restrictive than SSI policy and therefore does not qualify for approval under section 1902(r)(2) of the Act; and, (3) contrary to section 1902(a)(17) of the Act, the proposed post-eligibility changes contain standards for determining the extent of medical assistance to be received which are not in accordance with the standards prescribed by the Secretary for the post-eligibility process.

I am scheduling a hearing on your request for reconsideration to be held on March 17, 1992 at 10 a.m. in room 3030, 3535 Market Street, Philadelphia, Pennsylvania. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties. The hearing will be governed by the procedures prescribed at 42 CFR part 430.

I am designating Mr. Stanley Katz as the presiding officer. If these arrangements present any problems, please contact the Docket Clerk. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached at (410) 597–3013.

Sincerely,

Gail R. Wilensky,

Administrator.

(Section 1116 of the Social Security Act (42 U.S.C. section 1316); 42 CFR section 430.18)

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: February 2, 1992.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

[FR Doc. 92-3150 Filed 2-10-92; 8:45 am]

BILLING CODE 4120-03-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ-040-02-4320-02]

Meeting of the Safford District Grazing Advisory Board

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: The Bureau of Land Management (BLM), Safford District announces a forthcoming meeting of the Safford District Grazing Advisory Board.

DATES: Friday, March 6, 1992, 9 a.m.

ADDRESSES: BLM Office, 425 E. 4th St., Safford, Arizona 85546.

SUPPLEMENTARY INFORMATION: This meeting is held in accordance with Public Law 92-463. The agenda for the meeting will include:

1. Discussion of Hot Well Dune Recreation Area.
2. BLM Management Update.
3. Business from the Floor.
4. Tour to Hot Well Dunes Recreation Area and southwest portion of Tanque Grazing Allotment.

The meeting will be open to the public. Interested persons may make oral statements to the Board. A written copy of the oral statement may be required to be provided at the conclusion of the presentation. Written statements may also be filed for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager by 4:15 p.m., Thursday, March 5, 1992, at 425 E. 4th St., Safford, AZ 85546.

At the conclusion of the meeting, Board members will depart via BLM provided vehicles for a tour of the Hot Well Dunes Recreation Area and the southwest portion of the Tanque Grazing Allotment Number 51080. Members of the public may accompany the tour, but must provide their own transportation. It is expected the Board members will return to Safford by 4 p.m.

Summary minutes of the meeting will be maintained in the District Office and will be available for public inspection and reproduction (during regular business hours) within thirty (30) days following the meeting.

Dated: January 31, 1992.

Ray A. Brady,

District Manager.

[FR Doc. 92-3129 Filed 2-10-92; 8:45 am]

BILLING CODE 4310-32-M

Fish and Wildlife Service

Receipt of Application for Permit

The public is invited to comment on the following application for a permit to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing marine mammals (50 CFR 18).

Applicant

Name: U.S. Fish & Wildlife Service File no. 690715, Alaska Fish & Wildlife Research Center.

Address: 1011 E Tudor Road, Anchorage, Alaska 99503.

Type of Permit: Scientific Research.

Name and Number of Animals: Walrus (*Odobenus rosmarus divergens*)

Summary of Activity to be Authorized: Renewal of permit to continue take of up to 5 walruses which may be chemically immobilized using any disassociative, narcotic and/or barbiturate immobilizing drugs, tagged (double tagged on flippers), radio-tagged with satellite-linked transmitters, and administered oxytetracycline HCL (for protection from secondary pneumonia and to mark the teeth for future identification). The renewal would allow for continuation of the following take activities with an unspecified number of walruses: (1) Collection of biological samples from walruses found dead or that die during the activities conducted under this permit; (2) Import of biological samples; and (3) Recapture of tagged walruses for replacement of malfunctioning radio-transmitters. In addition, as part of the radio-tagging process, an unspecified number of animals may be inadvertently harassed during subsequent radio-tracking flights. The study is for purposes of scientific research to aid in the understanding of the population dynamics of the species.

Source of Marine Mammals for Research: Bering Sea.

Period of Activity: April 1992 to August 1994.

Concurrent with the publication of this notice, the Office of Management Authority is forwarding copies of the application to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Written data or comments and/or requests for a public hearing on this application should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Documents and other information submitted with this applications are available for review by any party who submits a written request for a copy of such documents to, or by appointment during normal business hours (7:45-4:15) in, the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203. Phone: (703/358-2104); FAX: (703/358-2281).

Dated: February 5, 1992.

Susan Jacobsen,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 92-3130 Filed 2-10-92; 8:45 am]

BILLING CODE 4310-55-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31968]

The Buffalo Creek Railroad Co.; Acquisition and Operation Exemption—Buffalo Creek and Gauley Railroad Co.

The Buffalo Creek Railroad Company (BCR), a noncarrier, filed a notice of exemption to acquire and operate the entire 18.6-mile rail system of Buffalo Creek and Gauley Railroad Company (Gauley), extending between milespost 0.0, at or near Dundon, and milepost 18.6, at or near Widen, in Clay County, WV. The notice of exemption became effective on November 22, 1991, 7 days after it was filed (*see* 49 CFR 1150.32(b)), and the transaction apparently has been consummated.[1]

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[1] According to BCR's verified notice, the parties intended to consummate the transaction on November 24, 1991. They apparently did so, since

Continued

The notice of exemption is directly related to the petition for exemption filed in Finance Docket No. 31969, *William T. Bright—Control Exemption—The Buffalo Creek Railroad Company*, in which William T. Bright, the owner of The Elk Creek Railroad Company, seeks an exemption from the prior approval requirements of 49 U.S.C. 11343 to acquire control of BRC. Pending a grant of an exemption in that case, all BRC stock owned by Mr. Bright has been placed in an independent voting trust. The voting trust agreement is to be dissolved, and the BRC shares returned to Mr. Bright, upon effectiveness of the exemption in Finance Docket No. 31969.

Any comments must be filed with the Commission and served on Robert D. Rosenberg, Slover & Loftus, 1224 17th Street, NW., Washington, DC 20036.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: February 5, 1992.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92–3159 Filed 2–10–92; 8:45 am]

BILLING CODE 7035-01-M

John M. Turner, Gauley's president, confirmed in a letter filed January 14, 1992, that Gauley "is no longer a common carrier by rail," having sold its line and all other operating assets to BRC. In that letter, Mr. Turner also indicated that, as a result of the sale, he was "surrender[ing] its [Gauley's] Certificate of Public Convenience and Necessity to the Commission." The act of surrendering the certificate to the Commission is unnecessary, however, because consummation of the acquisition and operation transaction effectively transferred Gauley's certificate to BRC. *See* Finance Docket No. 31545, *et al., Clyde S. and Saundra Forbes and CSF Acquisition, Inc.—Control Exemption—Lamoille Valley Railroad Company and Twin State Railroad Corporation* (not printed), served October 8, 1991.

Because Gauley has ceased to be a common carrier by rail, there is no further need for the January 1, 1986, Voting Trust Agreement between The Pittston Company, predecessor-in-interest to Pittston Coal Company, and United Virginia Bank, predecessor-in-interest to Crestar Bank (Trustee), under which all shares of the stock of Gauley have been held by the Trustee. *See* Finance Docket No. 30743, *The Pittston Company—Control Exemption—Buffalo Creek and Gauley R. Co.* (not printed), served February 28, 1986. Accordingly, that voting trust agreement has been dissolved, and the Trustee has reconveyed the involved shares of stock to the Pittston Coal Company. Turner letter, *id.*

[Finance Docket No. 31982]

Butte/Anaconda Historic Park and Railroad Corp.; Acquisition Exemption; State of Montana, Department of Commerce

The Butte/Anaconda Historic Park and Railroad Corporation (BAHP), a non-carrier, has filed a notice of exemption to acquire 11.76 miles of rail line located in Silver Bow County, MT[1] and owned by the State of Montana, Department of Commerce. The main line consists of two segments: (1) The Missoula Gulch line, between milepost 0.00 at Rocker and milepost 4.40, at the Butte Hill Yard; and, (2) the Butte Hill line, between milepost 0.00 at the Butte Hill Yard and milepost 3.69, near the Badger Mine. In addition, there are approximately 3.67 miles of yard tracks, sidings and turnouts. The transaction was expected to be consummated on or before December 6, 1991.[2]

Any comments must be filed with the Commission and served on Rick Griffith, Butte/Anaconda Historic Park and Railroad Corporation, Inc., 305 West Mercury, Butte, MT 59701.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: February 5, 1992.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92–3160 Filed 2–10–92; 8:45 am]

BILLING CODE 7035-01-M

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[1] As pointed out by BAHP in its verified notice, the entire line is located in a designated Environmental Protection Agency (EPA) superfund site (an area contaminated with hazardous materials as a result of previous mining operations). EPA has assumed the responsibility for the clean-up of the affected properties and, as long as the railroad complies with EPA's clean-up requirements, the Commission is not involved.

[2] BAHP states that, upon consummation, it has in place a trackage rights agreement whereby the Rarus Railway Company will lease and operate the line. As a separate entity, Rarus must obtain the necessary authority to lease and operate the line prior to commencing operations

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DEPARTMENT OF JUSTICE

Bureau of Justice Assistance

FY 1992 Discretionary Grant Application Kit

AGENCY: Office of Justice Programs, Bureau of Justice Assistance, Justice.

ACTION: Public announcement of the availability of the Application Kit for Fiscal Year 1992 Discretionary Grants to be awarded by the Bureau of Justice Assistance prusuant to the Anti-Drug Abuse Act of 1988.

SUMMARY: The Bureau of Justice Assistance (BJA) is publishing this Notice of FY 1992 Discretionary Grant Application Kit availability for the interested applicants.

DATES: All proposals responding to the Competitive Section, the Noncompetitive Section, and the Continuation Section of the Application Kit must be postmarked by the specific due dates in the Application Kit for each program.

ADDRESSES: All proposals must be mailed or otherwise sent to: Central Control Desk, Bureau of Justice Assistance, 633 Indiana Avenue, NW., room 1044, Washingotn, DC 20531.

FOR FURTHER INFORMATION CONTACT: Gerald (Jerry) P. Regier Acting Director, Bureau of Justice Assistance, at the above address. Telephone (202) 514–6278. (This is not a toll free number.) To obtain Application Kits, call Bureau of Justice Assistance Clearinghouse 1–800–688–4252 at the National Criminal Justice Reference Service (NCJRS), Box 6000, Rockville, MD 20850.

SUPPLEMENTARY INFORMATION: The following supplementary information is provided.

Authority: This action is authorized under Sec. 6091 of the Anti-Drug Abuse Act of 1988, Public Law 100–690, 102 Stat. 4181, 4328, 42 U.S.C. 3742(2).

Background

On December 26, 1991, The Office of Justice Programs, Department of Justice, published a Notice in the **Federal Register**, 56 FR 66877, announcing the FY 1992 Discretionary Program Plans for its component bureaus, including the Program Plan for the Bureau of Justice Assistance. In the Discretionary Grant Application Kit announced herein, the BJA program plan is detailed further, together with application requirements and deadlines. Interested applicants should call the toll-free number at the BJA Clearinghouse (1–800–688–4252) to request a copy of the FY 1992 Discretionary Grant Application Kit.

Gerald (Jerry) P. Regier,

Acting Director, Bureau of Justice Assistance.

[FR Doc. 92–3200 Filed 2–10–92; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D–8891, et al.]

Proposed Exemptions; Amgen Retirement and Savings Plan, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restriction of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and request for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, room N–5649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, room N–5507, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Amgen Retirement and Savings Plan (the Plan) Located in Thousand Oaks, California

[Application No. D–8891]

Proposed Exemption

The Department of Labor is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed sale by the Plan of its interest in a Guaranteed Income Contract (the GIC) of Mutual Benefit Life Insurance Company (MBL) to Amgen, Inc. (Amgen), a party in interest with respect to the Plan, provided the following conditions are satisfied: (1) The sale is a one-time transaction for cash; (2) the Plan receives no less than the fair market value of the GIC at the time of the transaction; (3) the Plan's independent fiduciary, Security Pacific National Bank (SPNB) has determined that the proposed sales price is not less than the current fair market value of the GIC; and (4) SPNB has determined that the proposed transaction is appropriate for the Plan and in the best interests of the Plan and its participants and beneficiaries.

Summary of Facts and Representations

1. Amgen is an international company which develops, manufactures and markets pharmaceuticals based on advanced cellular and molecular biology. The Plan is a qualified stock bonus plan which had 1089 participants as of June 30, 1991. The Plan had assets of approximately $12,963,600 as of that date.

2. Among the options offered to Plan participants from January 1, 1991 through June 30, 1991 was participation in a Guaranteed Income Fund that was invested in the GIC, which was Contract GA–5237 offered by MBL. As of June 30, 1991, 1,052 Plan participants had Plan assets invested in the MBL GIC. The Plan and MBL were the only parties to the GIC. The initial deposit under the GIC was made on January 10, 1991, in the amount of $745,749.24. Subsequent deposits were made semi-monthly until June 30, 1991, when the Plan ceased making payments under the GIC as a result of MBL's legal and financial situation.

3. On July 16, 1991, MBL by court order was placed in conservatorship under the supervision of the New Jersey Commissioner of Insurance. As a result of the conservatorship, all of the assets of MBL have been frozen. The applicant represents that as a result of this development, Amgen questions the ability of MBL to honor its obligations with respect to the GIC.

4. Amgen proposes to protect the vested benefits of the affected Plan participants by purchasing at face value the Plan's investment in the GIC, plus accrued interest at the GIC's guaranteed interest rate of 8.4%. SPNB, the Plan's independent trustee, has determined that the proposed purchase price for the GIC equals or exceeds the current fair market value of the GIC in light of the financial condition of MBL.

5. SPNB represents that it has reviewed MBL's ratings as an insurer and as an issuer of GICs. As of September 30, 1991, A.M. Best Company rated MBL as NA–10, Under State Supervision; Duff & Phelps Credit Rating Company suspended MBL's rating; Moody's Investors Service rated MBL as Caa—Very Poor; and Standard & Poor's Corporation did not even list a rating for MBL. SPNB represents that under these circumstances, it has determined that the proposed sale of the GIC to Amgen is appropriate for the Plan and in the

best interest of the Plan's participants and beneficiaries.

6. In summary, the applicant represents that the proposed transaction satisfies the criteria of section 408(a) of the Act because: (1) The Plan will receive cash for the GIC in the amount of the face value of the GIC, plus accrued interest, as of the sale date, which SPNB has determined to be equal to or in excess of the fair market value of the GIC; (2) the transaction will enable the Plan to avoid any risk associated with continued holding of the GIC and to redirect assets to safer investments; (3) the Plan will not incur any expenses related to the transaction; and (4) SPNB has determined that the proposed sale of the GIC by the Plan to Amgen at the proposed price is in the best interests of the participants and beneficiaries of the Plan.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Equitable Life Assurance Society of the United States (Equitable) Located in New York, New York

[Exemption Application Nos. D-8649, D-8659, and D-8660]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to: (1) The reallocation of certain shared real estate investment interests (the Interests) between Equitable and Equitable Variable Life Insurance Company's (EVLICO) General Account and Separate Account Nos. 143 and 174 (the Separate Accounts), single customer accounts established pursuant to a group annuity contract with the International Business Machines (IBM) Retirement Plan (the Plan); (2) the reallocation of the Granite Run mortgage loan (the Granite Run Mortgage) from Equitable's General Account to Separate Account No. 174; and (3) the payments of cash from Equitable's General Account to Separate Account No. 143; provided that: (a) The transactions were on terms and conditions at least as favorable to the Plan as those between unrelated parties; (b) Equitable has not represented the Plan in any way with regard to the transactions; (c) the Plan retained Jackson-Cross to act as independent fiduciary with respect to the transactions; and (d) Jackson-Cross concluded that the transactions were in the best interests of the Plan.

EFFECTIVE DATE: This exemption, if granted, will be effective December 27, 1990.

Summary of Facts and Representations

1. Equitable is a mutual life insurance company organized under the laws of the State of New York and subject to supervision and examination by the Superintendent of Insurance of the State of New York. It is the third largest life insurance company in the United States. Among the wide variety of insurance products and services it offers, Equitable provides funding, asset management and other services for several thousand employee benefit plans subject to the provisions of Title I of the Act.

Equitable maintains several pooled separate accounts in which pension, profit-sharing, and thrift plans participate. Equitable also has several single customer separate accounts and investment management accounts pursuant to which Equitable manages all or a portion of the assets of a number of large plans. Equitable's real estate investment management subsidiary, Equitable Real Estate Investment Management, Inc. (EREIM), provides real estate investment advisory services to Equitable and property management services with respect to certain properties held by Equitable accounts. EREIM provides real estate investment advisory services to Equitable with respect to the real property assets of Separate Account Nos. 141, 143 and 174.

Equitable has substantial experience in managing real estate investments. Of the more than $61 billion in total assets held by Equitable at year-end 1989, Equitable's General Account held $12.2 billion in real estate mortgage loans and approximately $4 billion in equity investments in real property and interests in real estate joint ventures. Additionally, more than $6 billion of real property investments were held in Equitable's real estate separate accounts.

EVLICO is a wholly owned subsidiary of Equitable. EVLICO sells variable life insurance policies through Equitable agents in 50 states, Puerto Rico, the Virgin Islands and the District of Columbia. As of December 31, 1990, EVLICO had approximately $55 billion face amount of variable life insurance in force.

2. IBM and its subsidiaries and affiliates are the largest manufacturers of data processing equipment machines and systems in the world. As of December 31, 1989, IBM had total assets of $78 billion.

As of December 31, 1989, the Plan had total assets of approximately $22.9 billion. Of this amount, $2.1 billion were held in real estate investments. The named fiduciary of the Plan is the IBM Retirement Plans Committee (the IBM Committee). The IBM Committee is composed of three to five directors of IBM, a majority of whom are outside directors. As named fiduciary of the Plan, the IBM Committee has decided that the Plan should realign its real estate investment holdings and should proceed with the reallocation transaction described herein.

3. Equitable maintains six separate accounts on behalf of the Plan. Three of these accounts, Separate Account Nos. 141, 143 and 174 are the subject of this exemption application. As of December 31, 1989, the net asset value of Separate Account No. 141, which invests in regional shopping malls, was $92.5 million. Separate Account No. 143, which invests in office building complexes, had a net asset value of $485.6 million as of December 31, 1989. As of December 31, 1989, Separate Account No. 174, which holds reallocated investment interests in regional shopping malls, had a net asset value of $577.5 million.

4. On October 3, 1988, the Department published an individual exemption, Prohibited Transaction Exemption (PTE) 88-92 (53 FR 38798), which exempts certain transactions which may occur as a result of the sharing of real estate investments among various accounts maintained by Equitable, including Equitable's General Account, and accounts maintained by Equitable in which employee benefit plans participate, provided that specified conditions are met. The shared investments held in Separate Account Nos. 141 and 143 are held and administered in accordance with PTE 88-92.

On May 3, 1991, the Department published another individual exemption, PTE 91-26 (56 FR 20480), which exempts the transfer of certain interests in four parcels of real property from the General Account to Separate Account No. 143. Among the property interests transferred to Separate Account No. 143 pursuant to PTE 91-26, was a portion of the General Account's interest in International Square in Washington, DC, the First Interstate Bank Tower in Los Angeles, California, and the Corning

Building in New York, New York (described in paragraph 8 below).

5. The applicant represents that one of the original intentions of the Plan in entering into the shared investment relationships described above was to develop the Plan's in-house expertise in real estate investment matters. The Plan's goal was eventually to consolidate these investments and eliminate the sharing of investments with the General Account. The applicant further represents that the Plan has been in the process of reviewing its real estate investment strategy. Based on its review, the Plan has determined to de-emphasize the office building component of its portfolio. The Plan has also decided to expand its holdings of interests in regional shopping malls.

Specifically, the Plan became concerned about the performance of two of the office buildings in Separate Account No. 143, International Square and the First Interstate Bank Tower. The applicant represents that the First Interstate Bank Tower suffered a substantial loss due to a major fire. Due to the relatively poor performance of these two properties and the change in the Plan's investment strategy, IBM instructed Equitable to liquidate the Plan's interest in these properties. The applicant asserts that it was not possible to sell these properties at reasonable prices. Therefore, IBM initiated negotiations with Equitable for the realignment of the equity interests in the two office building properties noted above in exchange for equity interests in other General Account properties currently shared with the Plan. Specifically the transaction would involve the reallocation of the Plan's equity interests in the First Interstate Bank Tower (First Interstate) and International Square to Equitable's General Account and, in exchange, Equitable would reallocate its equity interests in the Corning Building, Granite Run Mall (including the first mortgage), Lindale Mall and Mesa Mall to the Plan's Separate Account. In addition, at the time of the exchange, Equitable would make a payment to the Plan of $14.3 million in cash. The applicant notes that Equitable has not represented the Plan in any way with regard to the reallocation transactions. The applicant represents that Equitable did not recommend that the Plan realign its real estate holdings, and, that the terms of the transaction, including the identification of the properties to be reallocated, have been the subject of arm's-length negotiations between Equitable and IBM.

6. In connection with the transaction subject to this proposed exemption, the Plan retained Jackson-Cross Company (Jackson-Cross) to act as independent fiduciary. Jackson-Cross is a Pennsylvania corporation engaged, directly and through its affiliates, in the business of commercial real estate consulting, brokerage, management, appraisal and related activities. Jackson-Cross has substantial experience in commercial real estate matters, including consulting, real estate brokerage, property management, property appraising and the review and approval of construction budgets. It currently manages approximately 10 million square feet of diverse industrial and commercial properties and office building space.

The Plan chose Jackson-Cross to act as independent fiduciary for the purpose of confirming that the agreed upon values of the Interests were fair and that the reallocation transaction was in the best interest of the Plan. The Plan's selection of Jackson-Cross was based on its past experience with Jackson-Cross, including its role as independent fiduciary under PTE 88–92 for Separate Account No. 143. The applicant represents that Jackson-Cross is independent from Equitable and receives less than 5 percent of its total yearly fees from Equitable and Equitable separate accounts.

7. In a letter dated December 21, 1990, (the Jackson-Cross letter) Jackson-Cross acknowledged its role as independent fiduciary with respect to the reallocation transaction. The Jackson-Cross letter states that Jackson-Cross reviewed the negotiations between the Plan and Equitable prior to the date of the transaction. Charles F. Seymour, Arnold S. Tesh and Dwight E. Wagner of Jackson-Cross serve on the Committee of Fiduciaries (the Committee), which acts as fiduciary for Separate Account Nos. 141 and 143. In connection with its duties as fiduciary, the Committee and/or Jackson-Cross has conducted the following activities:

(a) The members of the Committee have inspected each of the properties involved in the reallocation transaction;

(b) Jackson-Cross has reviewed detailed quarterly reports on all of the assets in Separate Accounts 141 and 143, including operating summaries and the latest quarterly valuations by Equitable's appraisal department;

(c) The Committee meets twice each year with representatives of Equitable and the Plan to review the office and retail portfolios in Separate Accounts 141 and 143;

(d) Mr. Seymour attended a shopping center review August 15, 1989, in which representatives of the property manager and Equitable reviewed in detail plans for the operation, maintenance and development of all the shopping malls, including Lindale and Mesa Malls;

(e) The members of the Committee have participated in numerous meetings and inspections of International Square and are familiar with the need to upgrade these facilities with plans ranging in estimated cost from $7 million to $23 million;

(f) The members of the Committee have participated in numerous meetings about First Interstate Bank Tower, including detailed discussions of the fire, the need for substantial upgrading, and the difficulties of competing in an over built market with small floor plates; and

(g) Jackson-Cross has reviewed Equitable's appraised values on all six of the properties involved in the reallocation transaction on a quarterly basis.

Based on its review of the terms of the reallocation transaction and its continuing role as independent fiduciary, Jackson-Cross concluded that the subject reallocation was in the best interest of the Plan and recommended that it be concluded.

8. The Interests subject to this exemption are described as follows:

(a) International Square

International Square is a 12-story office building located in Washington, DC. The building is owned by a joint venture partnership and is subject to a 99-year ground lease which will expire in 2073. The co-venturer is an entity in which a Washington, DC real estate developer is the majority owner.

International Square is subject to three mortgage loans. The first, which is held by the General Account, had an outstanding balance as of December 31, 1990 of $16.6 million. This loan bears an interest rate of 9 percent and will mature in August 2008. The second, which is also owned by the General Account, bears an interest rate of 8.75 percent, matures in November 2009, and had a balance of $13.3 million as of December 31, 1990. The third loan is held by EVLICO and represents the refinancing of two prior mortgage loans. The EVLICO loan bears an interest rate of 9.8759 percent, matures on June 26, 1992, and had a balance of $46.3 million as of December 26, 1990.

Equitable holds a 50 percent equity interest in the joint venture that owns International Square. Separate Account No. 143 holds 90 percent of Equitable's equity interest in the joint venture (45 percent of the whole joint venture), with the General Account holding the remaining 10 percent of Equitable's equity interest (5 percent of the total).[1] Equitable and the Plan negotiated a value for Separate Account No. 143's equity interest in International Square of $63.562 million. Separate Account No. 143's equity interest in International Square was transferred to the General Account on December 27, 1990, as part of the reallocation transaction.

(b) First Interstate

First Interstate is an office building complex located in Los Angeles, California. The complex consists of a 62-story office building and a 10-story parking structure. EREIM is the property manager of the First Interstate building. The office building is owned by a joint venture partnership and is subject to a long-term ground lease which will expire in the year 2033 with an additional 20-year option to extend the lease. Equitable holds a 50 percent equity interest in the joint venture. Separate Account No. 143 holds 90 percent of Equitable's equity interest in the joint venture (45 percent of the total), with the General Account holding 10 percent of Equitable's equity interest (5 percent of the total).[2] First Interstate is subject to a $42.5 million mortgage loan from the General Account. The loan bears interest at the rate of 7.875 percent and will mature on October 1, 2008.

Equitable and the Plan negotiated a value for Separate Account No. 143's equity interest in First Interstate of $51.3 million. Separate Account No. 143's entire equity interest in First Interstate was transferred to the General Account on December 27, 1990, as part of the reallocation transaction.

Concurrent with the reallocation transaction, Equitable also negotiated with the Plan an agreement relating to uninsured amounts resulting from the First Interstate fire. Pursuant to this agreement, Equitable has agreed to pay the Plan an additional $16.038 million with respect to these uninsured amounts together with 45 percent of any additional insurance payments which may be received by the joint venture. These amounts are in excess of the $53 million in insurance proceeds already received by the joint venture.

(c) The Corning Building

The Merrill Lynch Financial Center, also known as the Corning building, is a 26-story office building located in New York, New York. The Corning Building and underlying land are owned by Equitable and a university endowment fund as tenants in common. The property is managed by William White-Tishman East Management Company. Equitable is a 50 percent co-tenant in the Corning Building. The General Account currently holds 10 percent of this equity interest (5 percent of the total). Separate Account No. 143 holds 90 percent of Equitable's equity interest (45 percent of the total).[3] The co-owner holds the remaining 50 percent equity interest. There is no financing on the leasehold estate. The General Account's equity interest in the Corning Building was negotiated between Equitable and the Plan as having a value of $9 million. The General Account transferred its entire equity interest in the Corning Building to Separate Account No. 143 on December 27, 1990, as part of the reallocation transaction.

(d) Lindale Mall

Lindale Mall is a shopping mall located in Cedar Rapids, Iowa. Lindale Mall is a one-story mall situated on 68 acres with 458,783 square feet of gross leasable area. The General Account and Separate Account no. 141 each held a 50 percent equity interest in Lindale Mall. There is no outstanding mortgage loan on Lindale Mall. Equitable and the Plan negotiated the value of the General Account's 50 percent equity interest in Lindale Mall at $24.5 million. As part of the reallocation transaction, the General Account transferred its equity interest in Lindale Mall to Separate Account No. 174 on December 27, 1990.[4]

(e) Mesa Mall

Mesa Mall is a shopping mall located in Grand Junction, Colorado. Mesa Mall has 447,572 square feet of gross leasable area, with an additional 72,411 square feet under construction. The General Account and Separate Account No. 141 each hold a 50 percent equity interest in the property. The property is subject to a mortgage loan from an unrelated lender with a current balance of $23.1 million. The Plan and Equitable negotiated a value of the General Account's 50 percent equity interest in Mesa Mall at $8.7 million. As part of the reallocation transaction, the General Account transferred its entire equity interest in Mesa Mall to Separate Account 174 on December 27, 1990.

(f) Granite Run Mall

Granite Run Mall is a shopping mall located in Middletown Township, Pennsylvania. Granite Run is a two-story mall situated on 85.352 acres and has 590,538 square feet of gross leasable space. Equitable holds a 90.5 percent equity interest in the joint venture that owns Granite Run Mall. EVLICO holds the remaining 9.5 percent equity interest. Equitable's equity interest is allocated equally between the General Account and Separate Account No. 141. The property is subject to a mortgage with a current outstanding balance of approximately $18.7 million. The Granite Run Mall Mortgage is held by the General Account. Equitable and the Plan negotiated the value of the General Account and EVLICO's equity interest in Granite Run Mall to be $39 million. The value of the General Account's interest in the Granite Run Mall Mortgage was agreed to be $19.3 million due to the low interest rate of the loan to be assumed by the Separate Account. On December 27, 1990, the General Account and EVLICO transferred their equity interests in Granite Run Mall to Separate Account No. 174, as part of the reallocation transaction. The General Account also transferred its interest in the Granite Run Mall Mortgage to Separate Account No. 174 on December 27, 1990.

In addition to the allocations described in subparagraphs (a) through (f) above, the General Account made a cash payment of $14.362 million to Separate Account No. 143.

The transfer of assets may be summarized as follows: Reallocations to Equitable's General Account:

(1) International square interest	$63,562,000
(2) First interstate interest	51,300,000
Total	114,862,000
Reallocations to the plan's separate accounts:	
(1) Corning building interest	9,000,000
(2) Granite Run Mall interest	39,000,000
(3) Lindale Mall interest	24,500,000
(4) Mesa Mall interest	8,700,000
(5) Granite Run first mortgage	19,300,000

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[1] The original allocation of the interests in International Square between the General Account and Separate Account No. 143 was made pursuant to PTE 91–28, as noted in paragraph 4. The applicant represents that the original allocation price of this interest to Separate Account No. 143 was $59.2 million.

[2] The original allocation of the interests in First Interstate between the General Account and Separate Account No. 143 was made pursuant to PTE 91–28, as noted in paragraph 4. The applicant represents that the original value of this interest was $60.3 million.

[3] The original allocation of the interests in the Corning Building between the General Account and Separate Account No. 143 was made pursuant to PTE 91–28, as noted in paragraph 4.

[4] The applicant represents that, for ease of administration, the Plan's interests in Lindale Mall, Mesa Mall and Granite Run Mall were reallocated from Separate Account No. 141 to Separate Account No. 174.

(6) Cash	14,362,000
Total	114,862,000

9. In summary, the applicant represents that the proposed exemption meets the criteria of section 408(a) of the Act because: (a) The terms of the transactions were negotiated at arm's-length; (b) Equitable has not represented the Plan in any way with regard to the transactions; (c) the Plan retained Jackson-Cross to act as independent fiduciary with respect to the transactions; and (d) Jackson-Cross concluded that the transactions were in the best interests of the Plan.

FOR FURTHER INFORMATION CONTACT: Ms. Jean Anderson of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

Combs & Associates Inc. Retirement Plan and Trust (the Pension Plan) and Combs & Associates Inc. Profit Sharing Plan and Trust (the P/S Plan, collectively the Plans) Located in Charlotte, NC

[Application Nos. D-8830 and D-8831]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted the restrictions of section 406(a) and (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed cash sale by the Plans of certain parcels of unimproved real property (the Parcels) to Anthony R. Combs and his wife, Karen C. Combs (Mr. and Mrs. Combs), parties in interest with respect to the Plans; provided that the terms of the transaction are no less favorable to the Plans than those negotiated in similar transactions at arms' length with unrelated third parties; and provided further that the sales price is the greater of the total cost to the Plans of acquiring those Parcels or the fair market value of such Parcels on the date of the sale, as determined by an independent qualified appraiser.[5]

Summary of Facts and Representations

1. The Plans are a defined benefit plan and a defined contribution plan which were established by Combs & Associates, Inc. (the Employer) in 1982 and 1987, respectively. As of September 9, 1991, the Pension Plan and the P/S Plan had four (4) and eight (8) participants, respectively. On June 30, 1991, the Pension Plan and the P/S Plan had assets of approximately $236,739 and $110,485, respectively. It is represented that the Parcels involved in the proposed transaction constitute 15.4% and 11.3%, respectively, of the assets of the Pension Plan and the P/S Plan.

In 1987, the Employer also established a Money Purchase Pension Plan (the M/P Plan) for its employees. In 1990, the M/P Plan had assets of $61,928, and in 1991 the M/P Plan had eight (8) participants. The M/P Plan is not involved in the proposed transaction but at one time owned real property adjoining the Parcels.

2. Mr. and Mrs. Combs, sole shareholders of the Employer, are participants in the Plans and serve as administrators and co-trustees of the Plans. As such, both Mr. and Mrs. Combs exercise investment discretion with respect to the Plans, and are fiduciaries and parties in interest with respect to the Plans. Mr. Combs also serves as president of the Employer.

3. The Employer was incorporated on June 29, 1979, under the laws of South Carolina, but is licensed to do business in North Carolina. The Employer provides equipment and consulting services for companies engaged in the water and waste water treatment business. As of June 30, 1990, the Employer had seventeen (17) employees.

4. The Parcels which are the subject of this proposed exemption consists of six lots (Lots #1, #8, #9, #10, #13, and #14) out of fourteen adjacent lots (collectively, the Lots). All the Lots are numbered consecutively in the Mecklenburg County records as tax parcels 078-094-01 through 078-094-14. It is represented that the Lots are unencumbered and are located near to downtown Charlotte, North Carolina. The aggregate square footage of all fourteen Lots (2.94 acres) makes up an entire city block. This block is located across the street from the Employer's offices and warehouses and is bounded by North Tryon Street, West Liddle Street, North Church Street, and the right of way for the Seaboard/Chessie Railroad. All the Lots are zoned general industrial and are unimproved, except that a brick retaining wall exists on the North Tryon Street border and a sidewalk and six foot high chain link fence surrounds the perimeter of the Lots. It is represented that the Lots front on major thoroughfares and have access to public utilities.

5. It is represented that the Employer for investment purposes, in 1983 purchased from unrelated third parties Lot #2, and Lots #4 through #12. In December of 1986, the Pension Plan acquired from unrelated third parties Lots #1, #13, and #14 at a price of $80,500. After the purchase in 1988 of Lot #3 by the Employer from unrelated third parties, the owner of each of the fourteen Lots was either the Employer or the Pension Plan.

On March 15, 1989, upon advice of its counsel and the advice of its actuarial and employee benefit consulting firm, the Employer entered into three transactions. First, in satisfaction of it's yearly funding obligation, the Employer contributed in kind to the M/P Plan Lots #11 and #12, valued at $18,913 by an independent qualified appraiser. It is represented that following this transaction the M/P Plan had assets of $20,565 of which approximately 92% was attributable to the contribution in kind.

Second, the Employer made a discretionary contribution in kind to the P/S Plan of Lots #8 through #10, valued by the same appraiser at $24,589. Following the contribution of this property, the P/S Plan had total assets of $27,912 of which approximately 88% was attributable to the contribution in kind.

Third, the Employer sold Lots #2 through #7 to the Pension Plan at the fair market value of $88,602, as determined by the same appraiser. At the time this purchase was executed the Pension Plan had assets of $347,530 of which approximately 25% was involved in the purchase by the Pension Plan.

After these three transactions were concluded, the owner of each of the fourteen Lots was either the Pension Plan, the P/S Plan, or the M/P Plan. It is represented that the Lots have not been used by parties in interest for any purpose.

In April 1989, shortly after these three transactions were completed, the Employer received a letter from the legal department of their employee benefit consulting firm advising of potential problems with these transactions under the Act. After receiving this letter Mrs. Combs sought further clarification and obtained in writing an opinion from the same consulting firm that these transactions did not violate the provisions of the Act or the Code.

Thereafter, in December of 1990, the Employer retained a new employee benefit consulting firm. After reviewing the records and plan documents, the new employee benefit consulting firm advised the Employer of possible prohibited transactions in connection with the contribution in kind to the M/P Plan and the sale to the Pension Plan of the various Lots. With respect to two of these transactions, those involving the Pension Plan and the M/P Plan, the Employer represents that it has filed Form 5330 with the Internal Revenue Service (IRS), and has paid excise taxes due for taxable years 1988, 1989, and 1990. The Employeralso represents that it has corrected these two transactions by purchasing Lots #11 and #12 from the M/P Plan and Lots #2 through #7 from the Pension Plan at a price which was the greater of cost or the fair market value of such lots, as determined on June 4, 1991, by a qualified independent appraiser.[6]

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[5] For purposes of this proposed exemption references to specific provisions of Title I of the Act, unless otherwise specified, refer also to the corresponding provisions of the Code.

6. Six Parcels still remain in the Plans. These six Parcels consist of Lots #8 through #10, which were previously contributed by the Employer to the P/S Plan, and Lots #1, #13, and #14 acquired by the Pension Plan from unrelated third parties. In their application, Mr. and Mrs. Combs seek prospective exemptive relief in order to purchase for cash these six Parcels still remaining in the Plans. Mr. and Mrs. Combs will be responsible for closing costs associated with the proposed transaction, including the cost of the appraisal, all legal fees, recording fees, surveying, and other expenses connected with the sale. It is further represented that Mr. and Mrs. Combs will bear the cost of the exemption application and of notifying interested persons.

It is represented that the value of the six Parcels has declined since they were acquired by the Plans.[7] Accordingly, Mr. and Mrs. Combs propose to purchase the six Parcels for a price equal to the greater of the fair market value of the Parcels on the date of the sale, as determined by an independent qualified appraiser, or the total cost of $106,589 ($82,000 and $24,589, respectively, to the Pension Plan and the P/S Plan) in acquiring the Parcels.[8] It is represented that all taxes and other out-of-pocket expenses of holding the six Parcels have been paid by the Employer.

7. Thomas B. Harris, Jr., MAI, (Mr. Harris) and John T. Bosworth, SRA, (Mr. Bosworth), of T.B. Harris, Jr. & Associates in Charlotte, NC, serve as the qualified independent appraisers of the six Parcels. Both Mr. Harris and Mr. Bosworth are independent in that they have no prospective interest in the Parcels, nor any present interest or bias with respect to the parties involved. Mr. Harris is qualified as an MAI, is a member of the Society of Real Estate Appraisers and is certified by the state of North Carolina as a general real estate appraiser. Mr. Bosworth has earned the designation Senior Residential Appraiser (SRA) and is an approved course instructor for residental and general appraisal programs.

Mr. Harris and Mr. Bosworth together prepared two appraisals dated January 15, 1990, and June 4, 1991, respectively. The application also contains an update, as of August 12, 1991, of the value of the six Parcels. According to Mr. Harris and Mr. Bosworth, Lots #1, #13, and #14 collectively were worth $48,300 on the date of the first appraisal and $36,618 as of the update. Lots #8 through #10 collectively were valued at $14,950 on the date of the first appraisal and $12,515 as of the update. The total fair market value of the six Parcels calculated by Mr. Harris and Mr. Bosworth, as of the date of the update on August 12, 1991, was $49,133.

8. Because of the proximity of the Parcels to each other and to the Employer's facilities, the appraisers were asked to address whether the Parcels have a higher "assemblage" value to the Employer, as the owner of adjacent lots, than they would have to an unrelated third party purchaser. Accordingly, the appraisers supplemented the information contained in their previous two appraisals and in the update. In a letter dated December 20, 1991, Mr. Bosworth indicated that the appraised value of the Parcels did contemplate "assemblages" of two or more lots, because each of the Parcels is insufficient in size to contain an industrial improvement and is therefore unmarketable. However, in the opinion of Mr. Bosworth, a premium for the "assemblage" value of more than two of the Parcels is not justified under the circumstances, because: (a) The optimium size of a tract in this neighborhood is speculative, as the neighborhood has yet to mature for industrial use; (b) the location is stagnant in terms of development; (c) the improvements in the surrounding areas are unappealing; (d) the current real estate market is not conducive to industrial development; and (e) there is a relatively high crime rate in the neighborhood in which these Parcels are located.

The applicants represent that given the current economic conditions and the lack of development in the neighborhood that finding a third party purchaser for the six Parcels is not likely. Accordingly, the sale of the Parcels by the Plans to Mr. and Mrs. Combs provides an opportunity for the Plans to dispose of a rapidly depreciating asset and will prevent significant loss to the Plans and the participants and beneficiaries. It is represented that the sale is feasible in that it involves a one-time transaction for cash. In addition, it will be in the interest of the Plans to invest the cash proceeds from the sale of the six Parcels in more profitable assets.

9. In summary, Mr. and Mrs. Combs, as applicants, represent that the proposed transaction meets the statutory criteria for an exemption under section 408(a) of the Act because:

(a) The sale of the six Parcels by the Plans is a one time transaction for cash;

(b) The Plans will be able to invest the proceeds from the sale of the six Parcels in more profitable assets;

(c) The Plans will receive the greater of the cost to the Plan to acquire the six Parcels or the fair market value on the date of sale, as determined by a qualified independent appraiser; and

(d) The Plans will incur no costs, fees, or other expenses as a result of the sale of the six Parcels.

FOR FURTHER INFORMATION CONTACT: Angelena C. Le Blanc of the Department, telephone (202) 523-8883. (This is not a toll-free number).

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[6] In this regard, the Employer states that Advisory Opinion 90-05A (March 29, 1990) is applicable to the transaction involving the P/S Plan. This opinion held that a prohibited transaction did not arise from the voluntary contribution of unencumbered real property by an employer to a profit sharing plan. The Employer represents that the P/S Plan is funded at the sole discretion of the Employer and that the in kind contribution of Lots #8 through #10 did not relieve the Employer of any obligation to make a cash contribution to the P/S Plan; and therefore, did not violate section 406(a)(1)(A) through (D) or 406(b)(1) or (b)(2) of the Act. Accordingly, when the Employer filed Form 5330 and paid excise tax it did so only with respect to the transactions involving the Pension Plan and the M/P Plan. The Department expresses no opinion, and no exemptive relief is proposed herein with respect to any transaction involving the purchase, sale, or contribution of any of the Lots between the Employer and the Plans or the holding of the Lots by any of the Plans. Rather the proposed exemption is limited solely to that exemptive relief necessary to enable the Plans to dispose of their interests in the Parcels.

[7] The Department is providing no opinion as to whether the continued holding of any of the Lots by the Plans while the value declined violated any provision of part 4 of title I of the Act.

[8] It is represented that the proposed purchase of the Parcels by Mr. and Mrs. Combs will not cause the Pension Plan or the P/S Plan to exceed the limitations of section 415. It is further represented that the allocation to the Pension Plan or to the P/S Plan of any gain on the sale of the Parcels will not violate the discrimination provisions of section 401(a)(4) of the Code.

S.T.L.B. Inc. Profit Sharing Plan (the Plan) Located in South San Francisco, California

[Application No. D-8795]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a) and 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply for a period of five years to a series of loans from the Plan to S.T.L.B. Inc. (the Employer) and to a personal guarantee of the loans by parties in interest with respect to the Plan, provided that the following conditions are met:

1. The terms of the loans are at least as favorable as the Plan could obtain in arm's-length transactions with an unrelated party;

2. The outstanding principal balances of the loans in the aggregate do not at any time exceed 25 percent of the assets of the Plan;

3. Each loan will be for the purchase of a new vehicle on which there is no other encumbrance;

4. Each loan will be limited to a maximum of $5,000;

5. A fiduciary independent of the Employer will approve and monitor each loan on behalf of the Plan and will see that all the terms of the notes and the exemption are met;

6. Each loan will be for a period of no more than 36 months;

7. The value of the collateral for each loan will be maintained at no less than 200 percent of the balance of the loan;

8. The controlling owners of the Employer will personally guarantee all the payments due on the loans;

9. The Employer will maintain an appropriate bond with the California Department of Motor Vehicles in regard to public liability and property damage on each collateralized automobile;

10. The Employer will immediately pay to the Plan the outstanding balance of the loan on any automobile which is traded or sold or significantly damaged or destroyed;

11. The interest rate on each loan will be two percent above the prime rate as posted each month by Security Pacific National Bank; and

12. The title to each collateralized automobile will be held in the name of the Plan.

Temporary Nature of Exemption

The proposed exemption is temporary and, if granted, will expire five years after the date of grant. However, any loan made to the Employer pursuant to the proposed exemption may continue to its maturity date provided the loan was entered into during the five-year period.

Summary of Facts and Representations

1. The Employer is engaged in the automobile rental business and as a result must purchase new automobiles annually. The Plan is a profit sharing plan which had 24 participants and total assets of approximately $1,050,000 as of April 30, 1991.

2. The Employer obtained a previous prohibited transaction exemption (PTE 83-146, 48 FR 41660, September 16, 1983) which permitted its sponsored defined benefit plan to make a series of loans to the Employer for a period of eight years for the purpose of financing the purchases of new automobiles. That plan terminated on September 30, 1991, and its assets will be transferred to the Plan at some later time. Any outstanding loans from the previous plan exempt under PTE 83-146 will be paid off by the Employer prior to the transfer of assets. The applicant represents that all the terms and conditions of PTE 83-146 have been met and that all loan payments thereunder were received by the previous plan timely and in full.

3. The applicant now requests a temporary exemption for a period of five years to make a series of similar loans from the Plan to the Employer. All such loans will be for the purchase of new vehicles upon which has been placed no other encumbrance. Each loan will be limited to a maximum of $5,000, approximately half of the price of one of the new automobiles purchased by the Employer. In the aggregate, the loans will at no time account for more than 25 percent of Plan assets. Each loan under the requested exemption will be collateralized by a promissory note and a security agreement on the automobile being financed. The loan will create a first lien and the only lien on the vehicle. The title to all collateralized automobiles will be held in the name of the Plan. The loans will be repaid on a monthly basis with equal payments of principal and interest. The interest rate on the loans will be two percent above the prime rate as posted each month by Security Pacific National Bank.

4. Each loan will be for a period of no more than 36 months. The value of the collateral for each loan will be maintained at no less than 200 percent of the balance of the loan throughout the term of the loan. If any collateralized automobile is traded or sold or is significantly damaged or destroyed, the Employer will immediately pay the outstanding balance of the loan to the Plan. Robert and Vivian Leech, officers and controlling owners of the Employer, will personally guarantee all loans made under the proposed exemption as to both principal and interest and any payoff due to damaged or destroyed vehicles. The applicant represents that these individuals have sufficient net worth to make good on this guarantee.

The Employer is currently self-insuring its fleet of automobiles against collision and comprehensive damages, which the applicant represents is customary for the industry. In this regard, the applicant notes that the Employer had retained earnings of over $1.3 million as of December 31, 1990. The Employer will keep the subject automobiles in three separate locations in order to avoid any catastrophic losses. Also, the Employer maintains a bond with the California Department of Motor Vehicles in connection with public liability and property damage for the stated liability limits required by the State. Such policies will name the Plan as an additional insured loss payee.

5. The Plan received a letter from the San Bruno, California, office of the First National Bank (the Bank) dated September 5, 1991, concerning the requested exemption. The Bank represents that it is independent of the Employer and that the deposits of the Employer account for under one percent of the assets of the Bank. In the letter, the Bank states that it has reviewed the terms of the proposed loans and would be willing to make the same loans on the same terms.

6. Arthur H. Bredenbeck (Bredenbeck), an attorney in Burlingame, California, will serve as independent fiduciary in regard to the proposed transactions. The applicant represents that Bredenbeck is unrelated to the Employer except for serving as the independent fiduciary for PTE 83-146. Bredenbeck has specialized for several years in tax and estate and financial planning with special emphasis in the area of retirement plans. Bredenbeck states that he understands the meaning of being a fiduciary under the Act and that he is willing to assume the liability related to the transactions described in the application. As independent fiduciary, Bredenbeck has examined the asset portfolio of the Plan as to propriety and diversification and believes that the proposed loans will increase the yield on that portfolio without significantly affecting liquidity or availability of assets to pay benefits.

Bredenbeck will approve and monitor each loan on behalf of the Plan and will require that legal title to each collateralized automobile be held in the name of the Plan. He will see that all loan payments are received by the Plan timely and in full and at the appropriate rate of interest.

Bredenbeck will see that the collateral is maintained at no less than 200 percent of the balance of each loan. If at any time the collateral is not sufficient, Bredenbeck will take any action he deems necessary in order to bring the collateral up to 200 percent. The collateral will be valued annually using the published Blue Book valuation of a particular automobile for each year. Bredenbeck will assure that the Employer immediately pays to the Plan the outstanding balance of the loan on any automobile which is significantly damaged or destroyed. If Bredenbeck determines that a material default has occurred on a loan, he will take whatever steps he considers necessary in order to protect the interests of the Plan. Bredenbeck will file with the Plan on an annual basis a statement that all the terms of the notes and the exemption are being met.

7. In summary, the applicant represents that the proposed transactions will satisfy the statutory criteria of section 408(a) of the Act because: (1) An independent fiduciary has determined that the proposed loans are in the best interests of the Plan; (2) all loans will be for the purchase of new automobiles on which there is no other encumbrance; (3) each loan will be approved and monitored by the independent fiduciary on behalf of the Plan; (4) the outstanding principal balances of the loans in the aggregate will not at any time exceed 25 percent of the assets of the Plan; and (5) the controlling owners of the Employer will personally guarantee all the payments due on the loans to the Plan.

FOR FURTHER INFORMATION CONTACT: Paul Kelty of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 5th day of February, 1992.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 92-3217 Filed 2-10-92; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 92-7; Exemption Application No. D-8470, et al.]

Grant of Individual Exemptions; FDC Profit Sharing Trust, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

FDC Profit Sharing Trust (the Plan) Located in Temple, Texas

[Prohibited Transaction Exemption 92-7; Exemption Application No. D-8470]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) shall not apply to the sale by the Plan of undeveloped real property to Mr. Robert C. Jones, a party in interest with respect to the Plan provided that the Plan receives the greater of $40,000 or the fair market value of the property at the time of the transaction.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on December 12, 1991 at 56 FR 64810.

FOR FURTHER INFORMATION CONTACT: Allison Padams of the Department of Labor, telephone (202) 523–8971. (This is not a toll-free number.)

ASC, Inc. Individual Deferred Earnings Accounts Savings Plan (the Plan) Located in Southgate, Michigan

[Prohibited Transaction Exemption 92–8; Exemption Application No. D–8857]

Exemption

The restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the following transactions:

(1) Interest-free extensions of credit to the Plan (the Advances) by ASC Incorporated (ASC), the sponsor of the Plan, with respect to a group annuity contract (the GAC) issued by the Mutual Benefit Insurance Company of Newark, New Jersey (Mutual Benefit); provided that (a) no interest and/or expenses are paid by the Plan; (b) the proceeds of the Advances are used only in lieu of payments due from Mutual Benefit with respect to the GAC; and (c) repayment of the Advances will be restricted to proceeds from the proposed sale of the GAC to ASC; and

(2) The sale of the GAC by the Plan to ASC; provided that the purchase price for the GAC equals or exceeds the fair market value of the GAC as of the date of sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on December 12, 1991 at 56 FR 64813.

EFFECTIVE DATE: This exemption is effective as of September 10, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald Willett of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Asarco, Incorporated (Asarco) Located in New York, New York

[Prohibited Transaction Exemption 92–9; Exemption Application No. D–8869]

Exemption

The restrictions of sections 406 (a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the assignment by the Savings Plan of Asarco Incorporated and Participating Subsidiaries (the Plan) of the Plan's interest in a guaranteed investment contract (the E.L. GIC) issued by Executive Life Insurance Company of California (Executive Life) to Asarco, the sponsor of the Plan, in exchange for certain payments by Asarco to the Plan; provided that (1) all the terms of such transaction are no less favorable to the Plan than those which the Plan could obtain in an arm's-length transaction with an unrelated party, (2) the Plan's liability to Asarco resulting from such assignment will in no event exceed the amounts actually received from Executive Life, state guaranty funds and other responsible third parties, and (3) the assignment and transfer of amounts to Asarco will not exceed the total amount transferred by Asarco to the Plan with respect to the E.L. GIC, plus any interest which may accrue on such amounts determined at the Blended Rate following December 31, 1991, but prior to its final disposition.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on December 12, 1991 at 56 FR 64811.

EFFECTIVE DATE: This exemption is effective as of December 2, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald Willett of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions do not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 6th day of February, 1992.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 92–3218 Filed 2–10–92; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D–6303]

Amendment to Prohibited Transaction Exemption (PTE) 77–7 Involving the Transfer of Individual Life Insurance and Annuity Contracts to Employee Benefit Plans

AGENCY: Pension and Welfare Benefits Administration, Department of Labor.

ACTION: Adoption of amendment to PTE 77–7, and redesignation as PTE 92–5.

SUMMARY This document amends PTE 77–7, a class exemption that permits the transfer of certain individual insurance or annuity contracts to employee benefit plans by plan participants or by employers, any of whose employees participate in such plans, provided specified conditions are met. The amendment affects, among others, certain participants, beneficiaries and fiduciaries of plans engaged in the described transactions.

EFFECTIVE DATE The amendment to PTE 77–7 is effective as of October 22, 1986.

FOR FURTHER INFORMATION CONTACT: Eric Berger of the Office of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor, telephone (202) 523–8971 (this is not a toll-free number); or Diane Pedulla of the Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, (202) 523–9597. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On July 11, 1991, notice was published in the **Federal Register** (56 FR 31681) of the pendency before the Department of a proposed amendment to PTE 77–7 (42 FR 31575, June 21, 1977). PTE 77–7 provides an exemption from the restrictions of section 406(a) and 406(b)(1) and (2) of the Employee Retirement Income Security Act of 1974 (the Act) and the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1986 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code.

The amendment to PTE 77–7 adopted by this notice was requested in an exemption application dated August 16, 1989, by the American Council of Life Insurance.[1] The exemption application was submitted pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code [2] and in accordance with ERISA Procedure 75–1 (40 FR 18471, April 28, 1975).

The notice of pendency gave interested persons an opportunity to comment on the proposed amendment. Public comments were received pursuant to the provisions of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1.

For the sake of convenience, the entire text of PTE 77–7, as amended, has been reprinted with this notice. The Department has redesignated the exemption as PTE 92–5.

Description of the Exemption

PTE 77–7 permits the transfer of certain individual insurance or annuity contracts to employee benefit plans by plan participants or by employers, any of whose employees participate in the plan, provided certain conditions are met. As of the date PTE 77–7 was granted, section 408 (d) of the Act provided that no exemption could be granted under section 408(a) of the Act for transactions of the type described in the exemption between a plan and certain persons such as an owner-employee (as defined in section 401(c)(3) of the Internal Revenue Code of 1986) or a shareholder-employee (as defined in section 1379 of the Internal Revenue Code of 1954). The exemption is, however, applicable to such persons for purposes of section 4975 of the Code.

The amendment to PTE 77–7 granted pursuant to this notice expands the coverage of the exemption to include transactions with owner-employees (as defined in section 401(c)(3) of the Internal Revenue Code of 1986) and shareholder-employees (as defined in section 1379 of the Internal Revenue Code of 1954 as in effect on the day before the date of the enactment of the Subchapter S Revision Act of 1982).

The Department notes that all the conditions contained in PTE 77–7 still must be met under the amendment. These conditions include a requirement that, the plan pay, transfer, or otherwise exchange no more than the lesser of (a) the cash surrender value of the contract; (b) if the plan is a defined benefit plan, the value of the participant's accrued benefit at the time of the transaction (determined under any reasonable method); or (c) if the plan is a defined contribution plan, the value of the participant's account balance. Additionally, the exemption requires that, with regard to any plan which is an employee welfare benefit plan, such plan must not, with respect to the subject sale, transfer, or exchange, discriminate in form or in operation in favor of plan participants who are officers, shareholders, or highly compensated employees.

Written Comments

The Department received three letters supporting the proposed amendment to PTE 77–7.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which require, among other things, that a fiduciary discharge his or her duties respecting the plan solely in the interests of the participants and beneficiaries of the plan; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) In accordance with section 408(a) of the Act, the Department makes the following determinations:

(i) The amendment set forth herein is administratively feasible;

(ii) It is in the interests of plans and of their participants and beneficiaries; and

(iii) It is protective of the rights of the participants and beneficiaries of plans;

(3) The class exemption is applicable to a particular transaction only if the transaction satisfies the conditions specified in the exemption; and

(4) The amendment is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Exemption

Accordingly, PTE 77–7 is amended under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in ERISA Procedure 75–1, as set forth below.

I. Effective January 1, 1975, the restrictions of sections 406(a) and 406(b) (1) and (2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale, transfer, or exchange of an individual life insurance or annuity contract to an employee benefit plan from a plan participant on whose life the contract was issued, or from an employer, any of whose employees are covered by the plan, if:

1. The plan pays, transfers, or otherwise exchanges no more than the lesser of—

(a) The cash surrender value of the contract;

(b) If the plan is a defined benefit plan, the value of the participant's accrued benefit at the time of the transaction (determined under any reasonable method); or

(c) If the plan is a defined contribution plan, the value of the participant's account balance.

2. Such sale, transfer, or exchange does not involve any contract which is subject to a mortgage or similar lien which the plan assumes.

3. Such sale, transfer, or exchange does not contravene any provision of the plan or trust document.

4. With regard to any plan which is an employee welfare benefit plan, such plan must not, with respect to such sale, transfer, or exchange, discriminate in form or in operation in favor of plan participants who are officers,

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[1] The applicant also requested, and the Department is publishing elsewhere in this issue of the **Federal Register**, a similar amendment to PTE 77–8 (42 FR 31574, June 21, 1977).

[2] Section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978), effective December 31, 1978 (44 FR 1065, January 3, 1979), transferred the authority of the Secretary of the Treasury to issue exemptions of this type to the Secretary of Labor.

In the discussion of the exemption, references to sections 406 and 408 of the Act should be read to refer as well to the corresponding provisions of section 4975 of the Code.

shareholders, or highly compensated employees.

II. Effective October 22, 1986, the exemption provided for transactions described in part I is available for plan participants who are owner-employees (as defined in section 401(c)(3) of the Internal Revenue Code of 1986) or shareholder-employees (as defined in section 1379 of the Internal Revenue Code of 1954 as in effect on the day before the date of the enactment of the Subchapter S Revision Act of 1982) if the conditions set forth in part I are met.

Signed at Washington, DC, this 3rd day of February, 1992.

Alan D. Lebowitz,

Deputy Assistant Secretary for Program Operations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 92-3216 Filed 2-10-92; 8:45 am]

BILLING CODE 4510-29-M

Advisory Council on Employee Welfare and Pension Benefit Plans; Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Working Group on Individual Participant Rights of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 9 a.m., Monday March 2, 1992, in suite S-4215 AB, U.S. Department of Labor Building, Third and Constitution Avenue, NW., Washington, DC 20210.

This Individual Participant Rights Working Group was formed by the Advisory Council to study issues relating to Individual Participant Rights for employee benefit plans covered by ERISA.

The purpose of the March 2 meeting is to develop the Working Group's specific agenda for presentation to and approval by the Advisory Council. The Working Group will also take testimony and or submissions from employee representatives, employer representatives and other interested individuals and groups regarding the subject matter.

Individuals, or representatives of organizations wishing to address the Working Group should submit a written request on or before February 26, 1992 to William E. Morrow, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N-5677. Oral presentations will be limited to ten minutes, but witnesses may submit an extended statement for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statement should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before February 26, 1992.

Signed at Washington, DC, this 5th day of February, 1992.

David George Ball,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 92-3186 Filed 2-10-92; 8:45 am]

BILLING CODE 4510-29-M

Advisory Council on Employee Welfare and Pension Benefit Plans; Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Working Group on Health Care of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 11:30 a.m., Monday, March 2, 1992, in suite S-4215 AB, U.S. Department of Labor Building, Third and Constitution Avenue, NW., Washington, DC 20210.

This Health Care Working Group was formed by the Advisory Council to study issues relating to Health Care for employee benefit plans covered by ERISA.

The purpose of the March 2 meeting is to develop the Working Group's specific agenda for presentation to and approval by the Advisory Council. The Working Group will also take testimony and or submissions from employee representatives, employer representatives and other interested individuals and groups regarding the subject matter.

Individuals, or representatives of organizations wishing to address the Working Group should submit a written request on or before February 26, 1992 to William E. Morrow, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N-5677. Oral presentations will be limited to ten minutes, but witnesses may submit an extended statement for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statement should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before February 26, 1992.

Signed at Washington, DC, this 5th day of February, 1992.

David George Ball,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 92-3187 Filed 2-10-92; 8:45 am]

BILLING CODE 4510-29-M

Advisory Council on Employee Welfare and Pension Benefit Plans; Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Working Group on Pension Investment Activity of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 9:30 a.m., Tuesday March 3, 1992, in suite S-4215 AB, U.S. Department of Labor Building, Third and Constitution Avenue, NW., Washington, DC 20210.

This Pension Investment Activity Working Group was formed by the Advisory Council to study issues relating to Pension Investment Activity for employee benefit plans covered by ERISA.

The purpose of the March 3 meeting is to develop the Working Group's specific agenda for presentation to and approval by the Advisory Council. The Working Group will also take testimony and or submissions from employee representatives, employer representatives and other interested individuals and groups regarding the subject matter.

Individuals, or representatives of organizations wishing to address the Working Group should submit a written request on or before February 26, 1992 to William E. Morrow, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N-5677. Oral presentations will be limited to ten minutes, but witnesses may submit an extended statement for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statement should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before February 26, 1992.

Signed at Washington, DC, this 5th day of February, 1992.

David George Ball,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 92-3188 Filed 2-10-92; 8:45 am]

BILLING CODE 4510-29-M

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Advisory Council on Employee Welfare and Pension Benefit Plans; Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Working Group on Pension Coverage and Adequacy of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 2 p.m., Monday, March 2, 1992, in suite S–4215 AB, U.S. Department of Labor Building, Third and Constitution Avenue, NW., Washington, DC 20210.

This Pension Coverage and Adequacy Working Group was formed by the Advisory Council to study issues relating to Pension Coverage and Adequacy for employee benefit plans covered by ERISA.

The purpose of the March 2 meeting is to develop the Working Group's specific agenda for presentation to and approval by the Advisory Council. The Working Group will also take testimony and or submissions from employee representatives, employer representatives and other interested individuals and groups regarding the subject matter.

Individuals, or representatives of organizations wishing to address the Working Group should submit a written request on or before February 26, 1992 to William E. Morrow, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, suite N–5677. Oral presentations will be limited to ten minutes, but witnesses may submit an extended statement for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statement should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before February 26, 1992.

Signed at Washington, DC, this 5th day of February, 1992.

David George Ball,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 92–3189 Filed 2–10–92; 8:45 am]

BILLING CODE 4510-29-M

Advisory Council on Employee Welfare and Pension Benefit Plans; Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held on Tuesday, March 3, 1992, in suite S–4215 AB, U.S. Department of Labor Building, Third and Constitution Avenue NW., Washington, DC 20210.

The purpose of the Seventy-Third meeting of the Secretary's ERISA Advisory Council which will begin at 12:30 p.m., is to review and provide input as to the desired scope and agenda being prepared by each of the Council's work group i.e., Individual Participant Rights; Health Care; Pension Investment Activity; Pension Coverage & Adequacy, and to invite public comment on any aspect of the administration of ERISA.

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA by submitting 20 copies on or before February 27, to William E. Morrow, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, suite N–5677, 200 Constitution Avenue NW., Washington, DC 20210. Individuals, or representatives of organizations wishing to address the Advisory Council should forward their request to the Executive Secretary or telephone (202) 523–8753. Oral presentations will be limited to ten minutes, but an extended statement may be submitted for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statement should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before February 27, 1992.

Signed at Washington, DC, this 5th day of February, 1992.

David George Ball,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 92–3190 Filed 2–10–92; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL CREDIT UNION ADMINISTRATION

Public Information Collection Requirement Submitted to OMB for Review

Date: January 30, 1992

The National Credit Union Administration has submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submissions may be obtained by calling the NCUA Clearance Officer listed. Comments regarding information collections should be addressed to the OMB reviewer listed and to the NCUA Clearance Officer, NSCUA, Administrative Office, room 7344, 1776 G Street, Washington, DC 20456.

National Credit Union Administration

OMB Number: 3133–0004.

Form Number: NCUA 5300.

Type of Review: Revision of a currently approved collection.

Title: Semiannual Financial and Statistical Report.

Description: Provide information on credit unions necessary for supervisory purposes, internal management, policy and regulatory decisions and research.

Respondents: Federally-insured credit union.

Estimated Number of Respondents: 12,550.

Estimated Burden Hours per Response: 8.0 hours.

Frequency of Response: Quarterly and semiannually.

Estimated Total Reporting Burden: 215,200 hours.

Clearance Officer: Wilmer A. Theard, (202) 682–9700, National Credit Union Administration, room 7344, 1776 G Street, NW, Washington, DC 20456.

OMB Reviewer: Gary Waxman (202) 395–7340, Office of Management and Budget, room 3208, New Executive Office Building, Washington, DC 20503.

Becky Baker,

Secreary of the NCUA Board.

[FR Doc. 92–3126 Filed 2–10–92; 8:45 am]

BILLING CODE 7535-01-M

NUCLEAR REGULATORY COMMISSION

Final Memorandum of Understanding Between the U.S. Nuclear Regulatory Commission and the State of Michigan

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice.

SUMMARY: This notice is to advise the public of the issuance of a Final Memorandum of Understanding (MOU) between the U.S. Nuclear Regulatory Commission and the State of Michigan. The Memorandum of Understanding provides the basis for mutually agreeable procedures whereby the Michigan Department of State Police may utilize the NRC Emergency Response Data System to receive data during an emergency at a commercial nuclear power plant in the State of Michigan.

EFFECTIVE DATE: This Memorandum of Understanding is effective immediately.

ADDRESSEES: Copies of all NRC documents are available for public inspection and copying for a fee in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

For Further Information Contact: John R. Jolicoeur or Eric Weinstein, Office for Analysis and Evaluation of Operational Data, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 492–4155 or (301) 492–7836.

SUPPLEMENTARY INFORMATION: Section 274i. of the Atomic Energy Act of 1954, as amended allows the U.S. Nuclear Regulatory Commission (Commission or NRC) to enter into an agreement with a State "to perform inspections or other functions on a cooperative basis as the Commission deems appropriate." A section 274i. agreement, typically in the form of a Memorandum of Understanding (MOU), differs from an agreement between NRC and a State under the "Agreement State" program; the latter is accomplished only by entering into an agreement under section 274b. of the Atomic Energy Act. A State can enter into a section 274i. MOU whether or not it has a section 274b. agreement.

Background

As a result of the accident at Three Mile Island, Unit 2, on March 28, 1979, the Nuclear Regulatory Commission (NRC) and others recognized a need to improve the NRC's ability to acquire accurate and timely data on plant conditions during emergencies. The Emergency Response Data System (ERDS) has been developed to respond to this need. ERDS is a direct computer link between licensee computers at commercial nuclear power plants and computers at the NRC Operations Center at Bethesda, Maryland. The system allows for direct electronic transmission of a limited set of data points from the licensee computers to ERDS. Data transmitted over ERDS provides information concerning (1) core and coolant system conditions, needed to assess the extent or likelihood of core damage, (2) conditions inside the containment building, needed to assess the likelihood and consequences of containment failure, (3) radioactivity release rates, needed to assess the immediacy and degree of public danager, and (4) data from the plant meteorological tower, needed to assess the likely patterns of potential or actual impact on the public.

The ERDS design provides for access to ERDS data by State governments which have jurisdiction over any area which falls within the 10-mile plume exposure Emergency Planning Zone around each nuclear power plant.

On May 7, 1991 (56 FR 21178), the NRC published a proposed MOU between the NRC and the State of Michigan. The MOU defines the manner in which the NRC and the State of Michigan will cooperate in planning and maintaining the capability to transfer data relating to plant conditions during emergencies at nuclear power plants located in Michigan through ERDS.

Public Comments

Interested parties were invited to submit comments on the proposed MOU. Comments were received from five State governments and the Federal Emergency Management Agency. Comments received on the proposed MOU were docketed and may be examined at the Commission's Public Document Room located at 2120 L Street NW (Lower Level), Washington, DC. Upon consideration and disposition of comments received as set forth below, the Nuclear Regulatory Commission has entered into the Memorandum of Understanding with the State of Michigan without modification. Although some comments received may provide the basis for discussion of potential modification in the standard MOU on a State by State basis, no cause was found in the comments to modify the MOU in question prior to issuance.

Analysis of Public Comments

1. *Comment.* In the case of nuclear power plants which lie within ten miles of a State border, will the NRC transmit ERDS data to bordering States which include a portion of the ten mile Emergency Planning Zone.

Response. The ERDS can be configured to send data to all States which are included within the ten mile plume exposure emergency planning zone around a nuclear power plant.

2. *Comment.* Two States commented on Section III D. (5). One State while recognizing that the States do not have the regulatory authority to direct or recommend licensees to take or not take an action, noted that State governments are not precluded from making recommendations and suggestions to the licensee in the interest of consequence mitigation protective action recommendations, and other issues of great interest to the State. Another State commented that they believed that NRC intends that State authorities not make technical recommendations with regard to plant recovery from an accident, but did not intend to restrict the ability of a State to coordinate activities with utility responders during nuclear emergencies to effect the maximum use of limited resources.

Response. While the State does have an interest in the areas of consequence mitigation and protective action mitigation, entering into a Memorandum of Understanding with the NRC to receive ERDS data does not confer upon the State the ability to direct the licensee to take any action. The NRC agrees with the second comment concerning this section of the MOU.

3. *Comment.* It is possible that a State may require more than one ERDS terminal, located at difference facilities at difference times during a response to a nuclear accident.

Response. There is no limit to the number of ERDS terminals that a State may install. The only limit is that only one terminal per State may access ERDS at any one time. This limitation is a hardware limitation based on the number of communication ports available for State access on the ERDS computers.

4. *Comment.* One State commented that they looked to ERDS to correct widespread and long standing difficulties in acquiring information on plant parameters in the early stages of exercises and accidents. If through the MOU, the State were required to surrender a right to all voice communications with the licensee related to ERDS, and be required to converse with the utility only through NRC Liaison or the Region or Headquarters, they would be entertaining errors and delays.

Response. This provision was placed in the MOU to mitigate a potential adverse impact on licensee accident response due to ERDS data transfer. ERDS is an NRC system, therfore, it is appropriate that NRC bear the burden of responding to questions about ERDS data. Note that the restriction on the State is against questioning plant operators about ERDS data. This does not preclude the normal discussion of plant conditions with emergency response personnel when the licensee emergency response facilities are activated. Another State noted that one of the strengths of the MOU as written was that it does an excellent job of preventing State personnel from distracting the plant operator in his duties to recover from the emergency.

5. *Comment.* One State commented that the State already has access to plant data at the licensee's emergency response facilities and that access to data by personnel outside the

emergency response facilities would not contribute to the State's emergency response because the officials with the technical expertise to properly analyze the ERDS data will be at the licensee's emergency response facilities. This could potentially result in a conflict between the assessment of the plant conditions between the on-site State officials and those with access to ERDS data.

Response. ERDS data transfer is intended to be used at States that request it to provide plant parameter data to State Incident Response Centers at which event assessment is conducted. This process takes place at various places depending on the State in question. It is not recommended that States subscribe to ERDS just for the purpose of having it. The ERDS may be of value at the location where the State government conducts its assessment of reactor conditions. If this occurs at the licensee's emergency response facilities, ERDS would be of little value because plant data is readily available.

6. *Comment.* One State commented that since ERDS includes radiological and meteorological data, the system would also be very beneficial to those States responsible for ingestion pathway protection actions and recommended the ERDS be made available to all States in the 50-mile ingestion pathway emergency planning zone (EPZ).

Response. While there is data available on ERDS which could possibly be of use to States within the 50-mile EPZ, as noted earlier, system constraints require that the numbers of users on the system be limited to preclude excessive demand for communication ports on the computer. Because access to the system is by dial up telephone line, access is necessarily first come first served. The decision to limit ERDS data to the States within the ten mile EPZ was based on the immediacy of the need for data to those responsible for protective actions close in during an emergency.

It is recognized that there is need for event consequence data in the ingestion pathway EPZ, however, there is sufficient time to allow the use of other methods of data transfer for this purpose.

7. *Comment.* One State noted that since emergencies require prompt significant interaction with the public, it is unclear what is intended by the Section VI.C restrictions against premature public release of sensitive information.

Response. It is important to note that while ERDS represents a significant increase in the information available to Federal and State authorities during an accident, it does not augment the quality or quantity of information available to the licensee at the site. ERDS presents one of many information paths throughout the plant. The data presented is directly transmitted from the licensee computer to the NRC computer, and therefore, has not been analyzed or verfied. It is important that ERDS data and assessments based on ERDS data not be directly transmitted to the public or the media until it has been properly verified. Again, the responsibilities of the various parties involved in an emergency at a nuclear power plant are not intended to be changed based on the existence of ERDS. The licensee still bears the primary responsibility for accident assessment and mitigation.

This Memorandum of Understanding (Attachment 1) is intended to formalize and define the manner in which the NRC will cooperated with the State of Michigan to provide data related to plant conditions during emergencies at commercial nuclear power plants in Michigan.

Dated at Rockville, Maryland, this 29th day of January, 1992.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

Agreement Pertaining to the Emergency Response Data System Between the State of Michigan and the U.S. Nuclear Regulatory Commission

I. Authority

The U.S. Nuclear Regulatory Commission (NRC) and the State of Michigan enter into this Agreement under the authority of Section 274i of the Atomic Energy Act of 1954, as amended.

Michigan recognizes the Federal Government, primarily the NRC, as having the exclusive authority and responsibility to regulate the radiological and national security aspects of the construction and operation of nuclear production or utilization facilities, except for certain authority over air emissions granted to States by the Clean Air Act.

II. Background

A. The Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended, authorize the Nuclear Regulatory Commission (NRC) to license and regulate, among other activities, the manufacture, construction, and operation of utilization facilities (nuclear power plants) in order to assure common defense and security and to protect the public health and safety. Under these statutes, the NRC is the responsible agency regulating nuclear power plant safety.

B. NRC believes that its mission to protect the public health and safety can be served by a policy of cooperation with State governments and has formally adopted a policy statement on "Cooperation with States at Commercial Nuclear Power Plants and Other Nuclear Production or Utilization Facilities" (54 FR 7530, February 22, 1989). The policy statement provides that NRC will consider State proposals to enter into instruments of cooperation for certain program when these programs have provisions to ensure close cooperation with NRC. This agreement is intended to be consistent with, and implement the provisions of the NRC's policy statement.

C. NRC fulfills its statutory mandate to regulate nuclear power plant safety by, among other things, responding to emergencies at licensee's facilities, monitoring the status and adequacy of the licensee's responses to emergency situations.

D. Michigan fulfills its statutory mandate to provide for preparedness, response, mitigation, and recovery in the event of an accident at a nuclear power plant through the Emergency Management Division, Department of State Police as described in the Emergency Management Act of 1990.

III. Scope

A. This Agreement defines the way in which NRC and Michigan will cooperate in planning and maintaining the capability to transfer reactor plant data via the Emergency Response Data System During emergencies at nuclear power plants, in the State of Michigan.

B. It is understood by the NRC and the State of Michigan that ERDS data will only be transmitted by a licensee during emergencies classified at the Alert level or above, during scheduled tests, or during exercises when available.

C. Nothing in this Agreement is intended to restrict or expand the statutory authority of NRC, the State of Michigan, or to affect or otherwise alter the terms of any agreement in effect under the authority of Section 274b of the Atomic Energy Act of 1954, as amended; nor is anything in this Agreement intended to restrict or expand the authority of the State of Michigan on matters not within the scope of this Agreement.

D. Nothing in this Agreement confers upon the State of Michigan authority to (1) interpret or modify NRC regulations and NRC requirements imposed on the licensee; (2) take enforcement actions; (3) issue confirmatory letters; (4) amend, modify, or revoke a license issued by NRC; or (5) direct or recommend nuclear power plant employees to take or not to take any action. Authority for all such actions is reserved exclusively to the NRC.

IV. NRC's General Responsibilities

Under this agreement, NRC is responsible for maintaining the Emergency Response Data System (ERDS). ERDS is a system designed to receive, store, and retransmit data from in-plant data systems at nuclear power plants during emergencies. The NRC will provide user access to ERDS data to one user terminal for the State of Michigan during emergencies at nuclear power plants which have implemented an ERDS interface and for which any portion of the plant's 10 milc Emergency-Planning Zone (EPZ) lies within the State of Michigan. The NRC will provide any software which is not commercially available and is necessary for configuring an ERDS workstation.

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V. Michigan's General Responsibilities

A. Michigan will, in cooperation with the NRC, establish a capability to receive ERDS data. To this end, Michigan will provide the necessary computer hardware and commercially licensed software required for ERDS data transfer to users.

B. Michigan agrees not to use ERDS to access data from nuclear power plants for which a portion of the 10 mile Emergency Planning Zone does not fall within its State boundary.

C. For the purpose of minimizing the impact on plant operators, clarification of ERDS data will be pursued through the utility provided technical liaison personnel or the NRC.

VI. Implementation

Michigan and the NRC agree to work in concert to assure that the following communications and information exchange protocol regarding the NRC ERDS are followed.

A. Michigan and the NRC agree in good faith to make available to each other information within the intent and scope of this Agreement.

B. NRC and Michigan agree to meet as necessary to exchange information on matters of common concern pertinent to this Agreement. Unless otherwise agreed, such meetings will be held in the NRC Operations Center. The affected utilities will be kept informed of pertinent information covered by this Agreement.

C. To preclude the premature public release of sensitive information, NRC and Michigan will protect sensitive information to the extent permitted by the Federal Freedom of Information Act, the State Freedom of Information Act, 10 CFR 2.790, and other applicable authority.

D. NRC will conduct periodic test of licensee ERDS data links. A copy of the test schedule will be provided to Michigan by the NRC. Michigan may test its ability to access ERDS data during these scheduled tests, or may schedule independent tests of the State link with the NRC.

E. NRC will provide access to ERDS for emergency exercises with reactor units capable of transmitting exercise data to ERDS. For exercises in which the NRC is not participating, Michigan will coordinate with NRC in advance to ensure ERDS availability. NRC reserves the right to preempt ERDS use for any exercise in progress in the event of an actual event at any licensed nuclear power plant.

VII. Contacts

A. The principal senior management contacts for this Agreement will be the Director, Division of Operational Assessment, Office for Analysis and Evaluation of Operational Data, and the Governor-appointed State Director of Emergency Management. These individuals may designate appropriate staff representatives for the purpose of administering this Agreement.

B. Identification of these contacts is not intended to restrict communication between NRC and Michigan staff members on technical and other day-to-day activities.

VIII. Resolution of Disagreements

A. If disagreements arise about matters within the scope of this Agreement, NRC and Michigan will work together to resolve these differences.

B. Resolution of differences between the State and NRC staff over issues arising out of this Agreement will be the initial responsibility of the NRC Division of Operational Assessment management.

C. Differences which cannot be resolved in accordance with Sections VIII.A and VIII.B will be reviewed and resolved by the Director, Office for Analysis and Evaluation of Operational Data.

D. The NRC's General Counsel has the final authority to provide legal interpretation of the Commission's regulations.

IX. Effective Date

This Agreement will take effect after it has been signed by both parties.

X. Duration

A formal review, not less than 1 year after the effective date, will be performed by the NRC to evaluate implementation of the Agreement and resolve any problems identified. This Agreement will be subject to periodic reviews and may be amended or modified upon written agreement by both parties, and may be terminated upon 30 days written notice by either party.

XI. Separability

If any provision(s) of this Agreement, or the application of any provision(s) to any person or circumstances is held invalid, the remainder of this Agreement and the application of such provisions to other persons or circumstances will not be affected.

For the U.S. Nuclear Regulatory Commission.

Dated: November 20, 1991.

James M. Taylor,

Executive Director for Operations.

For the State of Michigan.

Dated: December 17, 1991.

Col. Michael D. Robinson,

Director, Department of State Police.

[FR Doc. 92–3199 Filed 2–10–92; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50–413 and 50–414]

Duke Power Co., et al. Catawba Nuclear Station, Units 1 and 2; Withdrawal of Application for Amendments to Facility Operating Licenses

The United States Nuclear Regulatory Commission (the Commission) has granted the request of the Duke Power Company, et al. (the licensee), to withdraw its April 24, 1990, application for proposed amendments to facility Operating License Nos. NPF–35 and NPF–52 for the Catawba Nuclear Station, Units 1 and 2, located in York County, South Carolina.

The proposed amendments would have relocated the tabular listing of containment penetration conductor overcurrent protective devices from Technical Specification Tables 3.8–1a and 3.8–1b to chapter 16 of the Final Safety Analysis Report, "Selected Licensee Commitment Manual." Proposed changes to Technical Specification 3/4.8.4 were also associated with this change.

The Commission has previously issued a Notice of Consideration of Issuance of Amendments published in the **Federal Register** on September 5, 1990 (55 FR 36340). However, by letter dated January 16, 1992, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendments dated April 24, 1990, and the licensee's letter dated January 16, 1992, which withdrew the application for license amendments. The above documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and the York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Dated at Rockville, Maryland, this 4th day of February, 1992.

For the Nuclear Regulatory Commission.

Robert E. Martin,

Senior Project Manager, Project Directorate II–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 92–3195 Filed 2–10–92; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50–413 and 50–414]

Duke Power Co. et al., Catawba Nuclear Station, Units 1 and 2 Withdrawal of Application for Amendments to Facility Operating Licenses

The United States Nuclear Regulatory Commission (the Commission) has granted the request of Duke Power Company, et al. (the licensee), to withdraw its March 26, 1990, application, as supplemented April 25, 1990, for proposed amendments to facility Operating License Nos. NPF–35 and NPF–52 for the Catawba Nuclear Station, Units 1 and 2, located in York County, South Carolina.

The proposed amendments would have relocated Table 3.6–1, "Secondary Containment Bypass Leakage Paths;" TS Table 3.6–2a, "Unit 1 Containment Isolation Valves;" and TS Table 3.6–2b, "Unit 2 Containment Isolation Valves," to Chapter 16 of Catawba's Final Safety Analysis Report (FSAR), Selected

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Licensee Commitments (SLC) Manual. Proposed changes to TS 1.7, 4.6.1.1., 3.6.1.2, 3.6.3, 4.6.3.1, 4.6.3.2, 4.6.3.3, and TS Bases 3/4.6.4 were also associated with relocation of the above Tables to the FSAR.

The Commission has previously issued a Notice of Consideration of Issuance of Amendments published in the **Federal Register** on May 16, 1990 (55 FR 20352). However, by letter dated January 16, 1992, the licensee withdrew the proposed changes.

For further details with respect to this action, see the application for amendments dated March 26, 1990, as supplemented April 26, 1990, and the licensee's letter dated January 16, 1992, which withdrew the application for license amendments. The above documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and the York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Dated at Rockville, Maryland, this 4th day of February, 1992.

For the Nuclear Regulatory Commission.

Robert E. Martin,

Senior Project Manager, Project Directorate II-3, Division of Reactor Projects-I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 92-3196 Filed 2-10-92; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-424 and 425]

Georgia Power Co, et al.; Vogtle Electric Generating Plant; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF-68 ad NPF-81 issued to Georgia Power Company, et al. (the licensee), for operation of the Vogtle Electric Generating Plant, Units 1 and 2, located in Burke County, Georgia.

The proposed amendments would change surveillance requirements in Technical Specifications (TS) 3/4.7.6, 3/4.7.7, and 3/4.9.12 and associated TS Bases, to revise the minimum heater capacity, and the relative humidity testing requirements for the control room emergency filtration system (CREFS), the piping penetration area filtration and exhaust systems (PPAFES), and the fuel handling building post accident filter system (FHBPAFS). The surveillance requirements in TS 4.7.7 and 4.9.12 for the charcoal adsorber decontamination efficiency for PPAFES and FHBPAFS would also be revised. Specifically, the proposed changes would revise.

(1) The minimum heater capacities in TS 4.7.6e(4), 4.7.7d(4), and 4.9.12d(4) for CREFS, PPAFES, and FHBPAFS to 95 kilowatts (kw), 65 kw, and 16 kw, respectively;

(2) The charcoal adsorber decontamination efficiency testing requirements of TS 4.7.7b(2), 4.7.7c, 4.9.12b(2), and 4.9.12c for PPAFES and FHBPAFS to change the relative humidity and methyl iodide penetration criteria limits, 70 and 99.8 percent, to 95 and 90 percent, respectively; and

(3) TSs 4.7.6c(2), 4.7.6d, 4.7.7b(2), 4.7.7c, 4.9.12b(2), and 4.9.12c to refer to ASTM D3803-89 for laboratory testing of charcoal filters.

Additionally, the temporary footnote to TS 4.7.7d(4) would be deleted. TS Bases 3/4.7.6, 3/4.7.7, and 3/4.9.12 would also be revised to reflect the proposed changes.

The CREFS, PPAFES, and FHBPAFS systems ensure that, following a loss of coolant accident, potential radioactive materials leaking from the containment would be filtered such that offsite and control room doses would meet regulatory limits. The TS surveillance requirements ensure that the heaters in these systems are periodically verified to be operable and capable of reducing relative humidity of incoming air to a level necessary to assure proper functioning of the filters.

Previously, by letter dated December 20, 1990, the licensee requested a change to TS 4.7.7.d.4 on the basis that the TS surveillance limits for heat outputs were overly conservative because they were based on the purchase specification's rated capacity for heaters and not on the filter system's design basis functional requirements (i.e., to maintain offsite and control room doses within regulatory limits). In response to the licensee's request, the NRC staff issued Vogtle Amendments 37 (Unit 1) and 27 (Unit 2). These amendments implemented a temporary revision to TS 4.7.7.d.4, allowing surveillance of heaters in the PPAFES to be conducted by verifying that the heater capacity is sufficient to maintain the relative humidity of the airstream through the filters at 70 percent or less under design basis accident conditions when tested in accordance with section 14 of ANSI N510-1980. The TS change was applicable until restart following the fourth refueling outage for Unit 1 and until restart following the second refueling outage for Unit 2. By its application of November 11, 1991, as supplemented by letter dated January 23, 1992, the licensee now proposes to make these TS changes permanent. Additionally, the license proposes similar changes to TS 4.7.6 and 4.9.12.

In support of its request, the licensee has performed accident evaluations and analyses of CREFS, PPAFES, and FHBPAFS performance, to demonstrate filter performance and capabilities to meet post accident dose limits of 10 CFR 100.11 and 10 CFR part 50 Appendix A, General Design Criterion 19. These analyses and evaluations have taken into consideration various parameters such as (1) minimum voltage expected at the heaters in the event of loss of off-site power, (2) ventilation system airflow, (3) initial room temperature and relative humidity, and (4) emergency core cooling system leakage moisture.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is present below:

1. The revised surveillance requirements do not increase the probability or consequences of accidents previously evaluated in the Final Safety Analysis Report (FSAR). The filter systems do not function as initiators of any accidents evaluated in the FSAR. The filter system will continue to perform its safety function as assumed in the revised dose analyses. Because no modifications are being made to the filter systems and the surveillance requirements are consistent with the performance requirements of the filter system, it can be concluded that the filter systems will continue to function as designed. Based on the results of the accident analysis, the changes will result in a reduction of the radiological consequences of a loss of coolant accident (LOCA) as previously evaluated in the FSAR.

2. The revisions to the surveillance requirements will not create the possibility of a new or different kind of accident other than

those already evaluated in the FSAR. No physical changes are being made to the filter systems, and the revised surveillance requirements demonstrate continued operability of the filter systems; therefore, no new accident scenarios, failure mechanisms, or limiting single failures are introduced.

3. The margin of safety provided by the Technical Specifications relative to the ability of the filter systems to perform their safety function is not significantly changed. The program to reduce leakage from those portions of the systems outside containment that could contain highly radioactive fluids during a serious transient or accident to as low as practical levels is maintained, and the revised filtration system surveillance requirements continue to show that the filter systems will control radioactivity releases and resultant offsite and control room doses to levels less than or equal to the acceptance values for previous accident analyses.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within thirty (30) days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By March 12, 1992, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board Panel, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board Panel will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to David B. Matthews: Petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Mr. Arthur H. Domby, Troutman, Sanders, Lockerman and Ashmore, Candler Building, suite 1400, 127 Peachtree Street, NE., Atlanta, Georgia 30043, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board Panel that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated November 11, 1991, as supplemented January 23, 1992, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830.

Dated at Rockville, Maryland, this 5th day of February 1992.

For the Nuclear Regulatory Commission.

Darl S. Hood,

Project Manager, Project Directorate II-3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 92-3197 Filed 2-10-92; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-397]

Washington Public Power Supply System; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-21 issued to the Washington Public Power Supply System (WPPSS) or the licensee, for operation of the WPPSS Nuclear Project No. 2 located in Benton County, Washington.

The proposed amendment would revise the technical specifications to more accurately define the acceptance criteria for the capacity of the blowers in the main steam isolation valve leakage control system.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below.

—It would not involve a significant increase in the probability or consequences of an accident. The MSIV Leakage Control System is a loss-of-coolant (LOCA) mitigation feature that cannot cause an accident. It will not increase the consequences of a LOCA as the required 30 cfm is considerably in excess of the design requirement for the system. The system has been shown to provide for adequate removal and treatment of MSIV leakage (FSAR Table 15.6-16).

—It would not create the possibility of a new or different kind of accident. As an accident mitigation feature the proposed change cannot cause a new kind of accident. It cannot result in a different kind of accident because as discussed above, 30 cfm satisfies the design requirement for the system.

—It would not create a significant decrease in a margin of safety because the proposed 30 cfm acceptance criteria is significantly in excess of the 3.8 scfm requirement based upon the requirement established in the Reference to accommodate five times the Technical Specification leakage.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within thirty (30) days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 7:30 a.m. to 4:15 p.m. Copies of written comment received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By March 12, 1992, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the

Richland Public Library, 955 Northgate Street, Richland, Washington 99352. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board Panel, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board Panel will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Theodore R. Quay: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Nicholas S. Reynolds, Esq., Winston & Strawn, 1400 L Street, NW., Washington, DC 20005-3502, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board Panel that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated January 21, 1992, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the Richland Public Library, 955 Northgate Street, Richland, Washington 99352.

Dated at Rockville, Maryland, this 5th day of February, 1992.

For the Nuclear Regulatory Commission.

Patricia L. Eng,

Project Manager, Project Directorate V, Division of Reactor Projects III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 92-3196 Filed 2-10-92; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301-84]

Request for Public Comment: Determinations Concerning Thailand's Acts, Policies and Practices Concerning Patent Protection

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of request for written comments from interested persons.

SUMMARY: The United States Trade Representative (USTR) is seeking further public comment on acts, policies and practices of the Government of Thailand concerning the availability of adequate and effective patent protection in that country. In particular, USTR is requesting comments on whether the Government of Thailand's acts, policies and practices with respect to providing patent protection are unreasonable and burden or restrict U.S. commerce, and if so, what responsive action, if any, should be taken pursuant to section 301 of the Trade Act of 1974, as amended, ("the Trade Act").

DATES: Written comments from interested persons are due on or before Tuesday, March 10, 1992.

FOR FURTHER INFORMATION CONTACT: Peter Collins, Director, Southeast Asian and Indian Affairs (202) 395–6813, Emery Simon, Deputy Assistant USTR for Intellectual Property (202) 395–6864, or Catherine Field, Associate General Counsel (202) 395–3432, Office of the United States Trade Representative.

SUPPLEMENTARY INFORMATION: On January 30, 1991, the Pharmaceutical Manufacturers' Association (PMA) filed a petition under section 302(a) of the Trade Act, alleging that the Royal Thai Government denies adequate and effective patent protection for pharmaceutical products. Deficiencies in the current Thai patent law include lack of product patent protection for pharmaceuticals, a short term of protection, requirements to manufacture a product or use a process in Thailand, and excessively broad compulsory licensing provisions. The petition requests that Thailand amend its patent law promptly to remedy these deficiencies. PMA also seeks transitional or "pipeline" protection for pharmaceutical products that have been patented in other countries but have not been marketed in Thailand.

On March 15, 1991, the USTR initiated an investigation under section 302(a) of the Trade Act. Thus, pursuant to section 304(a)(B) of the Trade Act, the USTR must determine, on or before March 15, 1992, whether the Government of Thailand's acts, policies and practices concerning patent protection are unreasonable and burden or restrict U.S. commerce. If that determination is affirmative, the USTR must determine what action, if any, to take under section 301 in response.

Requirements for Submissions

The USTR invites all interested persons to submit written comments on the required determinations. Comments will be considered in recommending any determination or action under section 301 to the USTR.

Comments must be filed in accordance with the requirements set forth in 15 CFR 2006.8(b) (55 FR 20593) and are due no later than Tuesday, March 10, 1992. Comments must be in English and provided in twenty copies to: Chairman, Section 301 Committee, room 223, USTR, 600 17th Street, NW., Washington, DC 20506.

Comments will be placed in a file (Docket 301–84) open to public inspection pursuant to 15 CFR § 2006.13, except confidential business information exempt from public inspection in accordance with 15 CFR 2006.15. (Confidential business information submitted in accordance with 15 CFR 2006.15 must be clearly marked "BUSINESS CONFIDENTIAL" in a contrasting color ink at the top of each page on each of 20 copies, and must be accompanied by a nonconfidential summary of the confidential information. The nonconfidential summary shall be placed in the Docket which is open to public inspection.) The docket shall be available for public inspection at the USTR Reading Room, room 101, Office of the U.S. Trade Representative, 600 17th Street, NW., Washington, DC. An appointment to review the docket may be made by calling Brenda Webb, (202) 395–6186. The USTR Reading Room is open to the public from 10 a.m. to 12 p.m. and from 1 p.m. to 4 p.m., Monday to Friday (except holidays).

Joshua B. Bolten,
General Counsel.

[FR Doc. 92–3336 Filed 2–7–92; 12:03 pm]

BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34–30338; File No. SR-Amex-92–02)

Self-Regulatory Organizations; American Stock Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval on a Temporary Basis of a Proposed Rule Change Relating to Additional Settlement Periods

February 4, 1992

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on January 10, 1992, the American Stock Exchange, Inc. ("Amex") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-Amex-92-02) as described in Items I, II, and III below, which Items have been prepared by the Amex, a self-regulatory organization ("SRO"). The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant accelerated approval on a temporary basis through July 31, 1992.

I. SRO's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to extend for six months the pilot program under which Amex Rule 124(e) ("Additional Settlement Periods") is amended to provide for additional settlement periods for securities transactions. These additional periods may include delivery on the second, third, and fourth days after trade date. The text of the proposed rule change is available at the Office of the Secretary of the Amex and at the Commission.

II. SRO's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth below in sections A, B, and C, of the most significant aspects of such statements.

A. SRO's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Under Amex Rule 124(e), bids and offers may specify that an order be subject to any additional settlement periods as the Amex may from time to time determine. On February 1, 1990, the Commission approved on an eighteen month pilot basis procedures under Rule 124(e) for delivery of Amex securities on the second, third, and fourth days following trade date ("T").[2] The

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[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Securities Exchange Act Release No. 27665 (February 1, 1990) 55 FR 4503 (File No. SR-Amex-88-20).

Commission subsequently approved a six-month extension of the pilot through January 31, 1992.[3] Previously, the Commission had approved, on a permanent basis, next day ("T+1") delivery under Amex Rule 124(b).[4] The Amex now proposes that the pilot procedures to accommodate additional settlement periods (*i.e.*, T+2 through T+4) be extended for an additional six-month period through July 31, 1992.

The Amex has reviewed operation of the T+1 through T+4 delivery periods during the pilot program and has concluded that Amex member firm clearance and settlement procedures have adequately accommodated such non-regular way delivery. The Amex is aware of no difficulties resulting from settlement of such transactions directly between the parties involved and outside of the facilities of a registered clearing agency. In addition, such additional delivery periods have afforded greater flexibility to members and their customers in structuring investment strategies and advancing their investment objectives.

2. Basis

The Amex believes that the proposed rule change is consistent with section 6(b) of the Act [5] in general and that it furthers the objectives of section 6(b)(5) [6] in particular in that it fosters cooperation and coordination with persons engaged in regulating, clearing, settling, and processing information with respect to and facilitating transactions in securities.

B. SRO's Statement on Burden on Competition

The Amex believes that the proposed rule change will impose no burden on competition.

C. SRO's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Amex neither solicited nor received any comments with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Commission finds that the Amex's proposal to extend the pilot program's procedures for an additional six months is consistent with the Act and the rules and regulations thereunder that are applicable to a national securities exchange and, in particular, with the requirements of section 6(b)(5) of the Act.[7] The proposed rule change will permit Amex member firms to accommodate the needs of their customers with respect to transactions on the Amex by providing market facilities for investors who wish to execute transactions for settlement on time frames shorter than the traditional five day settlement period. Moreover, an extension of the pilot program for an additional six months will provide Amex with an additional period to monitor and assess any effects the alternate delivery periods may have on its members' settlement procedures.

The Amex also has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause for so approving the proposed rule change. Accelerated approval will permit the Amex to offer to its clearing members continuity of services under the program relating to T+2 through T+4 settlement periods. The pilot program of procedures for additional settlement periods has imposed no significatnt burdens on member firm clearance and settlement systems, and the procedures are similar to the non-regular way settlement time frames currently permitted by other national securities exchanges.[8]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex.

All submissions should refer to the File No. SR–Amex–92–02 and should be submitted by March 3, 1992.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[9] that the proposed rule change (File No. SR–Amex–92–02) be, and hereby is, approved on a temporary basis through July 31, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–3175 Filed 2–10–92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC–18522; 811–3610]

Hutton California Municipal Fund Inc.; Application for Deregistration

February 4, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 ("Act").

APPLICANT: Hutton California Municipal Fund Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application on Form N–8F was filed on January 14, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 2, 1992, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, Two World Trade Center, New York, NY 10048.

FOR FURTHER INFORMATION CONTACT: Barry A. Mendelson, Staff Attorney, at (202) 504–2284, or Barry D. Miller,

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[3] Securities Exchange Act Release No. 29511 (July 31, 1991), 56 FR 37735 [File No. SR–Amex–91–19].

[4] Securities Exchange Act Release No. 26127 (September 29, 1988), 53 FR 39388 [File No. SR–Amex–88–20].

[5] 15 U.S.C. 78f(b) (1988).

[6] 15 U.S.C. 78f(b)(5) (1988).

[7] 15 U.S.C. 78f(b)(5) (1988).

[8] For reference to other exchanges having T+2 through T+4 delivery periods, see Securities Exchange Act Release No. 27665, *supra* note 2.

[9] 15 U.S.C. 78s(b)(2) (1988).

[10] 17 CFR 200.30–3(a)(12) (1991).

Branch Chief, at (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end diversified management investment company organized as a Maryland corporation on October 14, 1982. On November 24, 1982, applicant registered under the Act and filed a registration statement on Form N–1 under the Securities Act of 1933. The registration statement became effective on May 27, 1983, and applicant's initial public offering commenced immediately thereafter.

2. On August 5, 1988, applicant's board of directors approved an Agreement and Plan of Reorganization ("Plan") providing for the transfer of applicant's assets to SLH California Municipals Fund Inc.[1] ("Successor Fund") in exchange for shares of the Successor Fund and the assumption by the Successor Fund of certain stated liabilities of applicant. The Successor Fund's board of directors approved the Plan on July 20, 1988. On or about September 19, 1988, proxy materials relating to the Plan were mailed to applicant's shareholders, who approved the Plan at a special meeting held on October 25, 1988.

3. On November 4, 1988, pursuant to the Plan, each shareholder of applicant became a shareholder of the Successor Fund, receiving shares of that fund having an aggregate net asset value equal to the aggregate net asset value of his/her investment in applicant. The net asset value of applicant as of November 4, 1988 was $159,553,562.

4. The expenses incident to the reorganization, consisting of accounting, printing, administrative, and legal expenses, totaled $56,491.73. These expenses were borne by applicant ($10,440.96), the Successor Fund ($16,476.57), and Shearson Lehman Brothers Inc., applicant's investment adviser ($29,574.20).

5. Articles of Transfer were filed on November 4, 1988 and Articles of Dissolution will be filed on behalf of applicant with the Maryland State Department of Assessments and Taxation to effect the dissolution of applicant as a Maryland corporation.

6. As of the date of the amended application, applicant had no shareholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is not presently engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–3179 Filed 2–10–92; 8:45 am]

BILLING CODE 8010-01-M

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[1] Effective December 15, 1988, Shearson Lehman California Municipals Fund Inc. changed its name to SLH California Municipals Fund Inc.

[Rel. No. IC–18521; 811–3611]

Hutton New York Municipal Fund Inc.; Application for Deregistration

February 4, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 ("Act").

APPLICANT: Hutton New York Municipal Fund Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application on Form N–8F was filed on January 14, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 2, 1992, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, Two World Trade Center, New York, NY 10048.

FOR FURTHER INFORMATION CONTACT: Barry A. Mendelson, Staff Attorney, at (202) 504–2284, or Barry D. Miller, Branch Chief, at (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end diversified management investment company organized as a Maryland corporation on October 14, 1982. On November 24, 1982, applicant registered under the Act and filed a registration statement on Form N–1 under the Securities Act of 1933. The registration statement became effective on May 27, 1983, and applicant's initial public offering commenced immediately thereafter.

2. On August 5, 1988, applicant's board of directors approved an Agreement and Plan of Reorganization ("Plan") providing for the transfer of applicant's assets to SLH New York Municipals Fund Inc.[1] ("Successor Fund") and the assumption by the Successor Fund of certain stated liabilities of applicant. The Successor Fund's board of directors approved the Plan on July 20, 1988. On or about September 19, 1988, proxy materials relating to the Plan were mailed to applicant's shareholders, who approved the Plan at a special meeting held on October 25, 1988.

3. On November 4, 1988, pursuant to the Plan, each shareholder of applicant became a shareholder of the Successor Fund, receiving shares of that fund having an aggregate net asset value equal to the aggregate net asset value of his/her investment in applicant. The net asset value of applicant as of November 4, 1988 was $222,411,912.

4. The expenses incident to the reorganization, consisting of accounting, printing, administrative, and legal expenses, totaled $72,126.27. These expenses were borne by applicant ($11,237.71), the Successor Fund ($23,129.46), and Shearson Lehman Brothers Inc., applicant's investment adviser ($37,759.10).

5. Articles of Transfer were filed on November 4, 1988 and Articles of Dissolution will be filed on behalf of applicant with the Maryland State Department of Assessments and Taxation to effect the dissolution of applicant as a Maryland corporation.

6. As of the date of the amended application, applicant had no shareholders, assets, or liabilities. Applicant is not a party to any litigation

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[1] Effective December 15, 1988, Shearson Lehman New York Municipals Fund Inc. changed its name to SLH New York Municipals Fund Inc.

or administrative proceeding. Applicant is not presently engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–3178 Filed 2–10–92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC–18526; 811–4566]

Olympus Funds Trust; Application

February 5, 1992.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 ("1940 Act").

APPLICANT: Olympus Funds Trust.

RELEVANT 1940 ACT SECTIONS: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on January 7, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 2, 1992, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 230 Park Avenue, New York, New York 10169.

FOR FURTHER INFORMATION CONTACT: Maura A. Murphy, Staff Attorney, at (202) 272–7779, or Barry D. Miller, Branch Chief, at (202) 272–3030 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant, a Massachusetts business trust consisting of two separate series of shares of beneficial interest, Olympus Equity Plus Fund ("Olympus Equity") and Olympus Tax-Exempt High Yield Fund ("Olympus Tax-Free"), is an open-end diversified management investment company. Originally named Continental Tax-Exempt Fund, applicant registered under the 1940 Act and filed a registration statement on Form N–1A on January 21, 1986, which was declared effective on June 5, 1986. Applicant commenced public offering of its shares thereafter.

2. On June 12, 1991, applicant's Board of Trustees approved Agreements and Plans of Reorganization (the "Plans"), by and between applicant, on behalf of its two series, Olympus Equity and Olympus Tax-Free, and Associated Planners Investment Trust, on behalf of its two series, Associated Planners Growth Fund ("AP Growth") and Associated Planners National Tax-Free Fund ("AP Tax-Free"). The Board of Trustees also approved proxy materials for soliciting shareholder approval of the Plans, and made certain determinations in compliance with rule 17a–8.

3. Definitive proxy materials relating to the Plans were filed with the Commission on September 6, 1991, and mailed to shareholders on or about that date.

4. On October 15, 1991, shareholders of both Olympus Equity and Olympus Tax-Free approved the Plans.

5. On October 31, 1991, the closing date pursuant to the Plans (the "Closing Date"), there were 262,510.105 shares outstanding of Olympus Equity, with an aggregate net asset value of $3,241,999.80 and a per unit net asset value of $12.35, and 951,058.646 shares outstanding of Olympus Tax-Free, with an aggregate net asset value of $7,075,876.33 and a per share net asset value of $7.44.

6. On the Closing Date, each of Olympus Growth and Olympus Tax-Free individually transferred to AP Growth and AP Tax-Free, respectively, all of its assets. In consideration, AP Growth and AP Tax-Free assumed all obligations and liabilities of Olympus Equity and Olympus Tax-Free, respectively, and delivered to Olympus Equity and Olympus Tax-Free, respectively, a number of full and fractional shares of beneficial interest of AP Growth and AP Tax-Free equal to the number of full and fractional shares of Olympus Equity and Olympus Tax-Free then outstanding. Each of Olympus Equity and Olympus Tax-Free distributed those shares of AP Growth and AP Tax-Free, respectively, in complete liquidation pro rata to their shareholders of record as of the Closing Date. As reflected in the Combined Proxy Statement and Prospectus (Exhibit D to the application), after the reorganizations the assets of AP Growth and AP Tax-Free consisted entirely of the assets of Olympus Equity and Olympus Tax-Free, respectively.

7. Reorganization expenses, including accounting, printing, proxy solicitation, administrative and certain legal expenses, are approximately $100,000, and have been allocated among Furman Selz Incorporated, Associated Planners Management Company and their affiliated companies.[1] Applicant will not bear any of these expenses.

8. Applicant has no other assets or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant has no remaining shareholders and does not propose to engage in any business activities other than those necessary for the winding-up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary

[FR Doc. 92–3177 Filed 2–10–92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC–18523; 811–3236]

Shearson FMA Cash Fund; Application for Deregistration

February 4, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 ("Act").

APPLICANT: Shearson FMA Cash Fund.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application on Form N–8F was filed on January 14, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 2, 1992, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

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[1] Applicant's counsel stated, by letter dated February 4, 1992, that neither Associated Planners Investment Trust nor any other registered investment company bore any reorganization expenses associated with the Plans.

ADDRESSES: Secretary, SEC, 450 5th Street NW, Washington, DC 20549. Applicant, Two World Trade Center, New York, NY 10048.

FOR FURTHER INFORMATION CONTACT: Barry A. Mendelson, Staff Attorney, at (202) 504–2284, or Barry D. Miller, Branch Chief, at (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end diversified management investment company organized as a Massachusetts business trust on July 24, 1981. On July 31, 1981, applicant registered under the Act and filed a registration statement on Form N–1 under the Securities Act of 1933. The registration statement became effective on February 3, 1982, and applicant's initial public offering commenced immediately thereafter.

2. On July 21, 1988, applicant's board of trustees approved an Agreement and Plan of Reorganization ("Plan") providing for the transfer of applicant's assets to Shearson Lehman Daily Dividend Inc. ("Successor Fund") in exchange for shares of the Successor Fund and the assumption by the Successor Fund of certain stated liabilities of applicant. The Successor Fund's board of directors approved the Plan on July 20, 1988. On or about September 19, 1988, proxy materials relating to the Plan were mailed to applicant's shareholders, who approved the Plan at a special meeting held on November 22, 1988.

3. On December 2, 1988, pursuant to the Plan, each shareholder of applicant became a shareholder of the Successor Fund, receiving shares of that fund having an aggregate net asset value equal to the aggregate net asset value of his/her investment in applicant. The net asset value of applicant as of December 2, 1988 was $1,938,996,333.

4. The expenses incident to the reorganization, consisting of accounting, printing, administrative, and legal expenses, totaled $76,858.27. These expenses were borne by applicant ($33,238.00), the Successor Fund ($3,383.62), and Shearson Lehman Brothers Inc., applicant's investment adviser ($40,236.65).

5. Articles of Transfer were filed on December 2, 1988 and a letter of withdrawal will be filed on behalf of applicant with the Commonwealth of Massachusetts to effect the dissolution of applicant as a Massachusetts business trust.

6. As of the date of the amended application, applicant had no shareholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is not presently engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–3180 Filed 2–10–92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC–18524; 811–3238]

Shearson FMA Government Fund; Application for Deregistration

February [illegible], 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 ("Act").

APPLICANT: Shearson FMA Government Fund.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application on Form N–8F was filed on January 14, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 2, 1992, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, Two World Trade Center, New York, NY 10048.

FOR FURTHER INFORMATION CONTACT: Barry A. Mendelson, Staff Attorney, at (202) 504–2284, or Barry D. Miller, Branch Chief, at (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end non-diversified management investment company organized as a Massachusetts business trust on July 24, 1981. On July 31, 1981, applicant registered under the Act and filed a registration statement on Form N–1 under the Securities Act of 1933. The registration statement became effective on February 3, 1982, and applicant's initial public offering commenced immediately thereafter.

2. On July 21, 1988, applicant's board of trustees approved an Agreement and Plan of Reorganization ("Plan") providing for the transfer of applicant's assets to Shearson Government and Agencies Inc. ("Successor Fund") in exchange for shares of the Successor Fund and the assumption by the Successor Fund of certain stated liabilities of applicant. The Successor Fund's board of directors approved the Plan on July 20, 1988. On or about September 19, 1988, proxy materials relating to the Plan were mailed to applicant's shareholders, who approved the Plan at a special meeting held on November 22, 1988.

3. On December 2, 1988, pursuant to the Plan, each shareholder of applicant became a shareholder of the Successor Fund, receiving shares of that fund having an aggregate net asset value equal to the aggregate net asset value of his/her investment in applicant. The net asset value of applicant as of December 2, 1988 was $605,597,708.

4. The expenses incident to the reorganization, consisting of accounting, printing, administrative, and legal expenses, totaled $40,822.99. These expenses were borne by applicant ($17,974.93), the Successor Fund ($1,476.66), and Shearson Lehman Brothers Inc., applicant's investment adviser ($21,371.40).

5. Articles of Transfer were filed on December 2, 1988 and a letter of withdrawal will be filed on behalf of applicant with the Commonwealth of Massachusetts to effect the dissolution of applicant as a Massachusetts business trust.

6. As of the date of the amended application, applicant had no shareholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is not presently engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–3181 Filed 2–10–92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC–18525; 811–3237]

Shearson FMA Municipal Fund; Application for Deregistration

February 4, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 ("Act").

APPLICANT: Shearson FMA Municipal Fund.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application on Form N–8F was filed on January 14, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 2, 1992, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, Two World Trade Center, New York, NY 10048.

FOR FURTHER INFORMATION CONTACT: Barry A. Mendelson, Staff Attorney, at (202) 504–2284, or Barry D. Miller, Branch Chief, at (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end diversified management investment company organized as a Massachusetts business trust on July 24, 1981. On July 31, 1981, applicant registered under the Act and filed a registration statement on Form N–1 under the Securities Act of 1933. The registration statement became effective on February 5, 1982, and applicant's initial public offering commenced immediately thereafter.

2. On July 21, 1988, applicant's board of trustees approved an Agreement and Plan of Reorganization ("Plan") providing for the transfer of applicant's assets to Shearson Lehman Daily Tax-Free Dividend Inc. ("Successor Fund") in exchange for shares of the Successor Fund and the assumption by the Successor Fund of certain stated liabilities of applicant. The Successor Fund's board of directors also approved the plan on July 21, 1988. On or about September 19, 1988, proxy materials relating to the plan were mailed to applicant's shareholders, who approved the plan at a special meeting held on November 22, 1988.

3. On December 2, 1988, pursuant to the plan, each shareholder of applicant became a shareholder of the Successor Fund, receiving shares of that fund having an aggregate net asset value equal to the aggregate net asset value of his/her investment in applicant. The net asset value of applicant as of December 2, 1988 was $1,185,144,201.

4. The expenses incident to the reorganization, consisting of accounting, printing, administrative, and legal expenses, totaled $65,826.97. These expenses were borne by applicant ($24,209.45), the Successor Fund ($7,156.19), and Shearson Lehman Brothers Inc., applicant's investment adviser ($34,461.33).

5. Articles of Transfer were filed on December 2, 1988 and a letter of withdrawal will be filed on behalf of applicant with the Commonwealth of Massachusetts to effect the dissolution of applicant as a Massachusetts business trust.

6. As of the date of the amended application, applicant had no shareholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is not presently engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–3182 Filed 2–10–92; 8:45 am]

BILLING CODE 8010-01-M

[Investment Company Act Rel. No.18526; 811–3742]

Vanguard Adjustable Rate Preferred Stock Fund; Application

February 5, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Vanguard Adjustable Rate Preferred Stock Fund.

SUMMARY OF APPLICATION: Applicant seeks an Order declaring that Applicant has ceased to be an investment company under the Act.

FILING DATES: The application was filed on October 1, 1991 and amended on January 27, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 2, 1992, and should be accompained by proof of service on Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 1300 Morris Drive, P.O. Box 110, Valley Forge, Pennsylvania 19482.

FOR FURTHER INFORMATION CONTACT: C. David Messman, Senior Attorney, at (202) 272–2813 or Barry D. Miller, Branch Chief, at (202) 272–3023 (Division of Investment Management, Office of Investment Company Regulation).

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SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end diversified management investment company and was organized in 1983 as a Pennsylvania Business Trust. Applicant was formerly named the "Vanguard Qualified Dividend Portfolio III." On May 19, 1983, Applicant filed a Notification of Registration on Form N–8A pursuant to section 8(a) of the Act. On the same day, Applicant also filed a registration statement on Form N–1, registering an indefinite number of Applicant's shares of common stock under section 8(b) of the Act and under the Securities Act of 1933. Applicant's registration statement was declared effective on July 15, 1983. On July 26, 1983, Applicant completed its initial public offering of 1,300,000 shares.

2. Applicant was designed for corporate investors, with an investment objective to maximize dividend income which qualified for the intercorporate dividends received deduction under federal tax laws by investing primarily in adjustable rate preferred stocks ("ARPS"). However, since Applicant commenced operations, federal tax law changes have made ARPS a less attractive means of financing for corporations. In addition, ARPS proved to be an expensive form of capital for corporate issuers relative to the alternative of issuing short-term debt for which interest costs are tax deductible. As a result, the amount of ARPS outstanding has remained essentially flat over the past several years and the performance of Applicant could be described as disappointing.

3. With the decline of the ARPS market, Applicant's asset and shareholder bases had eroded significantly. The officers and Board of Trustees of Applicant believed that the liquidation and dissolution of Applicant was in the best interests of Applicant and its shareholders.

4. On February 20, 1991, the Board of Trustees approved a proposed Plan of Liquidation and Dissolution providing for the liquidation and dissolution of substantially all the assets of Applicant. At a Special Meeting of Shareholders of Applicant on April 16, 1991, held in compliance with the laws of the Commonwealth of Pennsylvania, the proposed Plan of Liquidation and Distribution was approved.

5. At the close of business April 23, 1991 (the "Record Date"), there were issued and outstanding 899,894 shares of beneficial interests of Applicant with a net asset value of $18.28 per share. The proportionate interests of shareholders in Applicant's assets were fixed on the basis of their respective holdings on the Record Date. Within seven days thereafter, Applicant mailed to each shareholder of record on the Record Date, (i) a liquidating distribution equal to the shareholder's proportionate interest in Applicant, or (ii) a confirmation of their proportionate interest and a request to return their certificates, if so held. The amount of all liquidating distributions was $16,447,125, applicable to the 899,894 shares outstanding. The only outstanding share certificate was returned and the shareholder submitting such certificate received his proportionate liquidating distribution.

6. The following expenses were paid by Applicant in connection with its liquidation: Accounting costs, $500; proxy statement printing, $4,568; and proxy statement processing, $90.

7. There are no securityholders of Applicant to whom distribution in complete liquidation of their interests have not been made.

8. Applicant as dissolved as a Pennsylvania business trust on April 23, 1991.

9. As of the date of the application, Applicant had no assets and no debts or liabilities. Applicant is not a party to any litigation or administrative proceeding. Finally, Applicant is not engaged in, nor does Applicant propose to engage in, any business activities other than those necessary for the winding up of its affairs.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–3176 Filed 2–10–92; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–92–3]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before March 2, 1992.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–10), Petition Docket No. ________, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–10), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. C. Nick Spithas, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–9704.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on February 5, 1992.

Denise D. Castaldo,

Manager, Program Management Staff.

Petitions for Exemption

Docket No.: 20049.

Petitioner: T.B.M., Inc.

Sections of the FAR Affected: 14 CFR 91.211(a)(1).

Description of the Relief Sought: To extend Exemption No. 2956, as amended, which allows the petitioner to conduct operations of its DC–6, DC–7, and DC–7B aircraft without a flight crew member holding a current flight engineer certificate.

Docket No.: 21605.

Petitioner: Alaska Airlines.

Sections of the FAR Affected: 14 CFR 121.574(a)(1) and (3).

Description of the Relief Sought: To extend Exemption No. 3850C which allows Alaska Airlines to carry and operate oxygen storage and dispensing equipment for medical use by patients requiring emergency medical attention and being carried as passengers when the equipment is furnished and maintained by hospitals within Alaska.

Docket No.: 26693.

Petitioner: Wright Air Service, Inc.

Sections of the FAR Affected: 14 CFR 135.181(a)(1).

Description of the Relief Sought: To allow the petitioner to operate suitably equipped turbine powered Cessna 208B Caravans in IFR conditions while carrying passengers.

Docket No.: 26713.

Petitioner: Mr. Richard H. Low.

Sections of the FAR Affected: 14 CFR 135.251.

Description of Relief Sought: To allow the petitioner to meet the FAA drug testing requirements imposed on operators who conduct sightseeing flights within a 25 mile radius of an airport by following the requirements of the United States Nuclear Regulatory Commission.

Docket No.: 26714.

Petitioner: Mr. Jack W. Tunstill.

Sections of the FAR Affected: 14 CFR 135.251.

Description of Relief Sought: To allow the petitioner to meet the FAA drug testing requirements imposed on operators who conduct sightseeing flights within a 25 mile radius of an airport by following the requirements of the United States Nuclear Regulatory Commission.

Docket No.: 26730.

Petitioner: New York Helicopter Corporation.

Sections of the FAR Affected: 14 CFR 135.244.

Description of Relief Sought: To allow the petitioner to credit operating experience in the S58T helicopter to operation of its Bell 206 model helicopter.

Docket No.: 26743.

Petitioner: Air Treads, Inc.

Sections of the FAR Affected: 14 CFR 145.45.

Description of Relief Sought: To allow Air Treads, Inc., to operate their repair stations without issuing the required number of Inspection Procedure Manuals to its supervisory and inspection personnel.

Docket No.: 26753.

Petitioner: Regional Airline Association.

Sections of the FAR Affected: 14 CFR 61.49.

Description of Relief Sought: To allow member airlines of the Regional Airline Association, and other similarly situated part 135 air carriers, to retest before the 30 day waiting period required by the FAR those member airmen who fail a written or practical test for the second (or subsequent) time.

Dispositions of Petitions

Docket No.: 22822.

Petitioner: Butler Aircraft Company, T.B.M., Inc.

Sections of the FAR Affected: 14 CFR 91.611.

Description of Relief Sought/Disposition: To extend Exemption No. 5204 that allows T.B.M., Inc., and its subsidiary, Butler Aircraft Company, to conduct ferry flights, with one engine inoperative on its McDonnell Douglas DC–6/DC–7 series aircraft, without obtaining a special flight permit for each flight.

Grant, January 28, 1992, Exemption No. 5204A.

Docket No.: 25643.

Petitioner: United Executive Jet, Inc.

Sections of the FAR Affected: 14 CFR 135.165(b) (5), (6) and (7).

Description of Relief Sought/Disposition: To permit United Executive Jet, Inc. to operate its Gates Learjet Corporation Model 35 (Learjet) in extended overwater operations equipped with one long range navigational system (LRNS) and one high-frequency communications system.

Grant, January 31, 1992, Exemption No. 5401.

Docket No.: 25336.

Petitioner: United Airlines, Inc.

Sections of the FAR Affected: 14 CFR 121.697(a)(3) and 121.709(b)(3).

Description of Relief Sought/Disposition: To extend indefinitely Exemption No. 5121, as amended by Exemption No. 5121A, which permits United Airlines, Inc. (UAL), to use a computerized signature to satisfy the signature requirements of §§ 121.697(a)(3) and 121.709(b)(3) of the Federal Aviation Regulations in lieu of a physical signature on the airworthiness release that is part of the log book carried aboard aircraft operated by UAL.

Grant, January 31, 1992, Exemption No. 5121B.

Docket No.: 25934.

Petitioner: Bill Morse Seaplane Service.

Sections of the FAR Affected: 14 CFR 135.243(b)(3).

Description of Relief Sought/Disposition: To extend Exemption No. 5137, which permits Mr. William L. Morse to the extent necessary, to serve as pilot-in-command for Bill Morse Seaplane Service within a specified area of northern Minnesota without holding an instrument rating, subject to certain conditions and limitations.

Grant, January 27, 1992, Exemption No. 5137A.

Docket No.: 26012.

Petitioner: Federal Express Corporation.

Sections of the FAR Affected: 14 CFR 121.583(a).

Description of Relief Sought/Disposition: To extend the termination date of Exemption No. 5129, as amended, from § 121.583(a) of the Federal Aviation Regulations, which otherwise would terminate on January 31, 1992. Exemption No. 5129, as amended, permits Federal Express Corporation to transport medical personnel assigned to Project Orbis, a flying eye hospital, without complying with certain passenger carrying requirements, specified in part 121 of the Federal Aviation Regulations.

Grant, January 28, 1992, Exemption No. 5129B.

Docket No.: 26183.

Petitioner: Air Transport Association of America.

Sections of the FAR Affected: 14 CFR Part 121, Appendix H.

Description of Relief Sought/Disposition: To permit the use of Phase II simulator for upgrade training to pilot-in-command (PIC) and the certification check required by § 61.157, when the pilot has previously qualified and served as second-in-command (SIC) with that operator in an airplane in the same type, and initial training to PIC and the certification check required by § 61.157, when the pilot has previously qualified and served as SIC with that operator in an airplane in the same group, without that pilot complying with the minimum number of flight hours that is required to use a Phase II rather than a Phase III simulator for training and certification.

Partial Grant, January 29, 1992, Exemption No. 5400.

Docket No.: 26294.

Petitioner: Douglas Aircraft Company.

Sections of the FAR Affected: 14 CFR 121.358(a).

Description of Relief Sought/Disposition: To permit Federal Express (FEDEX) to operate a McDonnell Douglas–11 (MD–11), airplane serial number 48459, manufactured after January 2, 1991, without this airplane being equipped with either an approved airborne windshear warning and flight guidance system, an approved airborne detection and avoidance system, or an approved combination of those systems.

Grant, January 17, 1992, Exemption No. 5395.

Docket No.: 26340.

Petitioner: Delta Air Lines, Inc.

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Sections of the FAR Affected: 14 CFR 121.433(c)(1)(i), 121.433(c)(1)(iii), 121.440(a), 121.441(a)(1) and 121.441(a)(2)(ii).

Description of Relief Sought/Disposition: To amend Exemption No. 5271, as amended which permits Delta Air Lines, Inc. (DAL) to conduct a Federal Aviation Administration monitored training program under which DAL pilots-in-command, seconds-in-command, and flight engineers meet annual ground and flight recurrent training requirements and annual proficiency check requirements, subject to certain conditions and limitations.

Grant, January 23, 1992, Exemption No. 5271B.

Docket No.: 26612.

Petitioner: Anthony Bruni.

Sections of the FAR Affected: 14 CFR 65.71(a)(2).

Description of Relief Sought/Disposition: To enable the petitioner to become eligible for a mechanic certificate and associated ratings although he cannot speak.

Grant, January 27, 1992, Exemption No. 5399.

Docket No.: 26646.

Petitioner: North American Airline Training Group.

Sections of the FAR Affected: 14 CFR Part 63, appendix C, Paragraph (a)(3)(iv)(a).

Descriprion of Relief Sought/Disposition: To allow North American Airline Training Group's (NAATG) nonpilot flight engineer applicants enrolled in NAATG's flight engineer flight training course of instruction to reduce the required 5 hours of flight training in an airplane to not less than 2 hours of intensive flight training in an airplane, subject to certain provisions.

Grant, January 28, 1992, Exemption No. 5398.

Docket No.: 26659.

Petitioner: Patrick S. Carmean.

Sections of the FAR Affected: 14 CFR 61.151(a).

Description of Relief Sought/Disposition: To permit the petitioner, who is 21, to be eligible for an airline transport pilot certificate prior to reaching 23 years of age.

Denial, January 23, 1992, Exemption No. 5397.

Docket No.: 26688.

Petitioner: Helicopter Association International.

Sections of the FAR Affected: 14 CFR 135.63 (c) and (d).

Description of Relief Sought/Disposition: This petition was withdrawn by the petitioner.

Docket No.: 25210.

Petitioner: Air Transport Association of America.

Sections of the FAR Affected: 14 CFR 63.39(b) (1) and (2), and 121.425(a)(2) (i) and (ii).

Description of Relief Sought/Disposition: To extend the termination date of Exemption No. 4901, as amended, which permits part 121 certificate holders to train and check flight engineer candidates in the performance of the airplane pre-flight inspection using advanced pictorial means instead of the airplane. This exemption also permits part 121 certificate holders and operators of Part 63 flight engineer schools to complete training and checking of flight engineer applicants in an appropriate simulator instead of taking that portion of the practical test in an airplane in flight.

Grant, January 29, 1992, Exemption No. 4901B.

[FR Doc. 92-3171 Filed 2-10-92; 8:45 am]

BILLING CODE 4910-13-M

Research and Special Programs Administration

Office of Hazardous Materials Safety; Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before March 12, 1992.

ADDRESS COMMENTS TO: Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10731-N	Amoco Petroleum Additives Company, Wood River, IL.	49 CFR 174.67 (i) & (j)	To authorize oleum tank car unloading lines to remain connected and unattended when unloading is discontinued. (mode 2).
10732-N	LPF/Griffin-Payne Equipment Co., Hutchinson, KS.	49 CFR 173.119, 173.304, 173.315	To authorize the transportation of a portable, trailer mounted meter prover with residual liquefied petroleum gas or propane. (mode 1).
10733-N	SUSPA Compart A.G., 8503 Altdorf, Germany.	49 CFR 173.306 (f)(2)(iii) & (f)(3), 175.3	To authorize shipment of limited quantities of compressed gases, in accumulators which deviate from the required retest parameters. (modes 1, 2, 3, 4, 5).
10735-N	J.R. Simplot Company, Helm, CA	49 CFR 174.67 (i) & (j)	To authorize phosphoric acid filled tank cars to remain connected during unloading without the physical presence of an unloader. (mode 2).
10736-N	General Chemical Corporation, Parsippany, NJ.	49 CFR 174.67 (i) & (j)	To authorize anhydrous ammonia filled tank cars to remain connected during unloading without the physical presence of an unloader. (mode 2).
10737-N	Foam-Tech, Inc., N. Thetford, VT	49 CFR 172.504	To exempt from placarding privately owned vehicles containing various amounts of non-flammable refrigerant gases (mode 1).

NEW EXEMPTIONS—Continued

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10738–N	R.M.I. Division of Koala Technologies, Gardena, CA.	49 CFR 173.118a, 173.119, 173.256, 173.266, 176.340, 178.19, 178.253.	To manufacture, mark and sell a 300 gallon non-DOT specification, rotationally molded, polyethylene tank equipped with bottom outlet designed to be stackable for use in transporting various classes of hazardous material. (modes 1, 2).
10739–N	Hill Brothers Chemical Co., Phoenix, AZ	49 CFR 174.67 (i) & (j)	To authorize chlorine filled tank cars to remain connected during unloading without the physical presence of an unloader. (mode 1).
10740–N	CSXT/BIDS, Philadelphia, PA	49 CFR 174.67 (i) & (j)	To authorize tank cars containing various hazardous materials to remain connected during unloading without the physical presence of an unloader. (mode 1).
10741–N	Northern Natural Gas Company, Houston, TX.	49 CFR 178.36–2 thru 178.36–18	To authorize the use of a non-DOT specification cylinder comparable to a 3AX cylinder for use transporting compressed natural gas. (mode 1).

This notice of receipt of applications for new exemptions is published in accordance with part 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on February 5, 1992.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 92–3214 Filed 2–10–92; 8:45 am]

BILLING CODE 4190-60-M

Office of Hazardous Materials Safety; Applications for Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of Applications for Modification of Exemptions or Applications to Become a Party to an Exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Requests for modifications of exemptions (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix "X" denote a modification request. Application numbers with the suffix "P" denote a party to request. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before February 26, 1992.

ADDRESS COMMENTS TO: Dockets Unit, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Unit, room 8426, Nassif Building, 400 7th Street SW., Washington, DC.

Application No.	Applicant	Renewal of exemption
9648–X	Thiokol Corporation, Elkton, MD (See Footnote 1).	9648
10678–X	National Aeronautics & Space Administration (NASA), Washington, DC (See Footnote 2).	10678

[1] To reinstate exemption to authorize shipment of Rocket motor, class B explosive, with igniter installed in a specially designed packaging configuration.

[2] To modify the exemption to include the packaging of a non DOT specification cylinder filled with Isobutane and include cargo aircraft as an additional mode of transportation.

Application No.	Applicant	Parties to exemption
2582–P	Gas Tech, Inc., Hillside, IL	2582
3004–P	Gas Tech, Inc., Hillside, IL	3004
3095–P	Good Chemical & Testing Co., Inc., Hennessey, OK.	3095
4453–P	Kentucky Powder Company, Lexington, KY.	4453
4575–P	Gas Tech, Inc., Hillside, IL	4575
4884–P	Gas Tech, Inc., Hillside, IL	4884
5923–P	Gas Tech, Inc., Hillside, IL	5923
6530–P	Gas Tech, Inc., Hillside, IL	6530
6543–P	Gas Tech, Inc., Hillside, IL	6543
6691–P	Gas Tech, Inc., Hillside, IL	6691
6805–P	Gas Tech, Inc., Hillside, IL	6805
7076–P	Aqua Laboratories, Inc., Amesbury, MA.	7076
7268–P	Gas Tech, Inc., Hillside, IL	7268
7274–P	Gas Tech, Inc., Hillside, IL	7274
7451–P	Gas Tech, Inc., Hillside, IL	7451
7835–P	Gas Tech, Inc., Hillside, IL	7835
7846–P	Gas Tech, Inc., Hillside, IL	7846
7943–P	Patterson Laboratories, Inc. (Patterson West), Phoenix, AZ.	7943
8013–P	Gas Tech, Inc., Hillside, IL	8013
8074–P	Gas Tech, Inc., Hillside, IL	8074
8125–P	Ermetainer S.A. CH–1211 Geneva 1, France.	8125
8156–P	Gas Tech, Inc., Hillside, IL	8156
8214–P	Mazda (North America), Inc., Irvine, CA.	8214
8627–P	Good Chemical & Testing Co., Inc., Hennessey, OK.	8627
8852–P	Gas Tech, Inc., Hillside, IL	8852
8877–P	Union Carbide Chemicals and Plastics Co., Inc., Charleston, WV.	8877
8915–P	Gas Tech, Inc., Hillside, IL	8915
9034–P	Gas Tech, Inc., Hillside, IL	9034
9047–P	Gas Tech, Inc., Hillside, IL	9047
9184–P	The Carbon/Graphite Group, Inc., Pittsburgh, PA.	9184
9414–P	Gas Tech, Inc., Hillside, IL	9414
9533–P	Westinghouse Electric Corporation, Pittsburgh, PA.	9533
9723–P	Waste Conversion Inc., Hatfield, PA.	9723
9946–P	Gas Tech, Inc., Hillside, IL	9946
10001–P	Gas Tech, Inc., Hillside, IL	10001
10184–P	Gas Tech, Inc., Hillside, IL	10184
10429–P	Baker Performance Chemicals, Inc., Houston, TX.	10429
10701–P	Gas Tech, Inc., Hillside, IL	10701
10733–P	SUSPA Compart A.G., 8503 Altdorf, Germany.	10733
10733–P	Verin S.A., 9442 Berneck, Switzerland.	10733

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on February 5, 1992.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 92-3215 Filed 2-10-92; 8:45 am]

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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket No. 91-7]

FEDERAL DEPOSIT INSURANCE CORPORATION

[Docket No. 050984]

FEDERAL RESERVE SYSTEM

[Docket No. R-0734]

The Supervisory Definition of Highly-Leveraged Transactions

AGENCIES: Office of the Comptroller of the Currency, Treasury (OCC); Federal Deposit Insurance Corporation (FDIC); and Board of Governors of the Federal Reserve System (Board).

ACTION: Notice.

SUMMARY: The Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation and the Board of Governors of the Federal Reserve System have approved: (1) The discontinuance, after June 30, 1992, of the supervisory definition of highly-leveraged transactions (HLT's); and (2) the discontinuance of the reporting of HLT exposure by banking organizations regulated by the agencies after the June 30, 1992 reporting date. In the interim, the agencies have approved revisions to the supervisory definition of HLT's to be used by banks and bank holding companies for reporting their HLT exposure as of March 31, 1992 and June 30, 1992.

Although the agencies will phase out the use of the formal supervisory definition, guidance previously issued by each agency for assessing individual credits that finance corporate restructurings and for evaluating internal processes for initiating and reviewing these credits will continue to be used by examiners for this purpose. Due to the complex nature and level of risk associated with such financings, boards of directors and management at banking organizations will be expected to continue to monitor carefully their banking organization's risk exposure to these credits.

DATES: *Effective date.* February 11, 1992.

Compliance dates. The use of the supervisory definition of highly-leveraged transactions by the agencies will be discontinued effective after the June 30, 1992 financial reporting date for banking organizations regulated by the agencies. In the period preceding discontinuance of the definition, revisions to the definition have been approved for reporting HLT exposure as of March 31, 1992 and June 30, 1992.

FOR FURTHER INFORMATION CONTACT: OCC: John W. Turner, National Bank Examiner, (202/874-5170), Chief's National Bank Examiner's Office.

FDIC: Garfield Gimber, Examination Specialist, (202/898-6913), Division of Supervision.

Board: Todd Glissman, Supervisory Financial Analyst (202/452-3953), or William Spaniel, Senior Financial Analyst (202/452-3469), Division of Banking Supervision and Regulation. For the hearing impaired only, Telecommunications Device for the Deaf ("TDD"), Dorothea Thompson (202/452-3544).

SUPPLEMENTARY INFORMATION: On July 10, 1991, the agencies published for comment the supervisory definition of highly-leveraged transactions (56 FR 31464, July 10, 1991). The agencies sought comment on all aspects of the HLT definition and criteria, as well as comments on specific issues raised by questions which the agencies had received. The comment period expired on September 26, 1991. The agencies received over 265 comments on the proposal.

After reviewing the status of the HLT definition, considering comments received from the public, and evaluating proposed revisions, the agencies have approved the phase out of the supervisory definition of HLT's and the discontinuance of reporting of HLT's after the June 30, 1992 financial reporting by banking organizations. The agencies have also approved revisions to the definition for use by banking organizations in reporting their HLT exposure as of March 30, 1992 and June 30, 1992.

The agencies, in approving the phase out of the supervisory definition of HLT's, have taken under consideration the public comments received on the HLT definition, the current status of HLT credits, the reduced level of merger and acquisition activity in recent months, and the reluctance of lenders, in some cases, to extend credit to sound borrowers. The agencies considered all options for maintaining or phasing out supervisory oversight of highly-leveraged transactions. These included phasing out the definition, giving banks the flexibility to establish their own individual definitions, and proposing revisions to the supervisory definition.

While the agencies did not favor the immediate discontinuance of the definition, the agencies believe that the HLT definition has largely accomplished its purposes and have approved the phase out of the definition. The definition encouraged financial institutions to focus attention on the need for internal controls and review mechanisms to monitor these types of financing transactions. The definition also encouraged financial institutions to structure highly leveraged credits in a manner consistent with the risks involved. The HLT definition has played a role in helping the bank regulatory agencies identify these credits and monitor the risks associated with HLT portfolios over time. At the same time, the supervisory definition of highly-leveraged transactions was not intended to impart supervisory criticism.

With the phase out of the definition, the agencies' examiners will continue to evaluate, on an annual basis, those credits meeting the Shared National Credit Program criteria to assess the risk posed to insured depository institutions and holding companies by the individual credits, and such credits will be subject to supervisory criticism when appropriate. All other credits will be reviewed, as appropriate, through the normal examination process. Examiners will continue to thoroughly review each borrower's financial condition, income and cash flow; the value of any collateral or guarantees; the quality and continuity of the borrower's management; the borrower's ability to service its debt obligations; and other credit quality considerations. Consistent with sound banking practice, banking organizations will continue to be expected to have systems in place to monitor the risks associated with segments of their lending portfolios, including highly leveraged credits.

The agencies have adopted revisions to the definition to address concerns raised by the application and content of the definition. These revisions in the definition are to be used by banking organizations during the period preceding the discontinuance of the definition to report the level of their HLT exposure as of March 30, 1992 and June 30, 1992. These revisions include: (1) Allowing banking organizations to delist certain companies from HLT status that adequately service debt and clearly demonstrate superior cash flow, relative to their respective industry or peer group; (2) reducing the timeframe in which a company's performance is evaluated before being delisted from HLT status; (3) delisting companies, previously designated as HLT's, emerging from Chapter 11 bankruptcy that are no longer highly leveraged; and (4) excluding certain loans from HLT reporting when fully collateralized by cash or cash equivalent securities.

Cash Flow Test

A cash flow test was not included in the original supervisory HLT definition or delisting criteria. Although delisting criteria state that cash flow coverage is to be taken into consideration when reviewing the overall performance of a borrower for delisting, a specific measure was not defined. The reason for not incorporating a specific cash flow test was because (1) the definition was implemented to provide a consistent means of aggregating and monitoring a type of financing transaction, thus relying heavily on a purpose test and an easily-calculated leverage test; (2) it was deemed problematic to develop a universal cash flow measure that could be used for all industries; and (3) there was a desire to avoid any impression that the definition implied a supervisory criticism of a credit, noting that cash flow is a primary factor in credit quality reviews.

The agencies, in publishing the supervisory definition of highly-leveraged transactions for comment, specifically sought comment on the appropriateness of the inclusion of a cash flow measure. A majority of comments from both compnaies and banks strongly favored the use of a cash flow test in the HLT definition, particularly for delisting purposes. Some favored a standardized cash flow test; others favored an industry-specific cash flow test; and some expressed a preference for both. Several banks stated, however, that it would be difficult to implement a cash flow measure for initially designating credits as HLTs because the analysis would have to be based on cash flow projections and not on historical performance.

In light of the comments received, the agencies reviewed potential cash flow measures including a debt service coverage ratio, an interest coverage ratio, and a ratio measuring the magnitude of debt in relationship to operating cash flow. All measures proved difficult to define adequately, particularly for use in analyzing companies in different industries. Moreover, it was found to be extremely difficult to establish a standardized level of "acceptable" cash flow that could be applied to all industries.

The agencies concluded that it was not appropriate to adopt a standarized cash flow test; rather, the agencies believe that banking organizations should analyze pertinent cash flow ratios for individual HLT companies, then make a determination as to the quality and strength of each company's cash flow performance, subject to examiner review. Under the revision approved by the agencies, the credits of a highly leveraged company could be considered eligible for delisting by banking organizations on a case-by-case basis, if the company demonstrates superior cash flow coverage, relative to the company's-industry or peer group, and the company has adequately serviced debt for a reasonable period of time since its last buyout, acquisition or leveraged recapitalization.

Reduce Timeframes for Delisting

Presently, a borrower designated as an HLT must show good performance for a minimum of two years from the date of the transaction before being eligible for delisting from HLT status.

After two years, if leverage [1] has been reduced below 75 percent, a borrower becomes eligible for delisting. If a borrower remains highly leveraged, however, the borrower must demonstrate performance for a period of up to four years before being eligible to be delisted from HLT status.

Upon considering the comments received, the agencies have determined that the delisting criteria should be amended by:

(a) Reducing the delisting timeframe from two years to one year for companies that deleverage below 75 percent or were designated as HLTs under the "doubling of liabilities to greater than 50 percent" leverage test. Under this standard, companies would have to continue to meet general performance criteria to be delisted.

(b) Reducing the delisting timeframe from four years to three years for companies that remain highly leveraged. A company would have to demonstrate performance for three consecutive years since its last highly-leveraged transaction and have a positive net worth in order to be eligible for delisting. The requirement that a company's leverage ratio not significantly exceed its industry norm in order to be delisted would be eliminated.

The agencies believe that allowing companies that deleverage themselves to be delisted sooner from HLT status should encourage companies to improve their capitalization and credit standing by reducing leverage and issuing additional equity. These substantive changes to HLT delisting criteria are expected to allow a significant number of companies to be removed from HLT status, given the number of companies recently issuing equity and the number of HLTs that have now aged beyond three years.

Delist Certain Companies Emerging From Chapter 11 Bankruptcy

In previous guidance, post-reorganization debt (after a company emerges from Chapter 11 bankruptcy) of a company that was designated HLT prior to bankruptcy proceedings retained an HLT designation until the company became eligible for delisting. Although a company was often deleveraged as a result of the reorganization, the company could not be delisted for at least two years from the date it was designated as an HLT.

Several comments stated that a company should not be designated HLT upon emerging from Chapter 11 reorganization if leverage is below 75 percent. It was indicated that continuing the HLT designation could interfere with these companies' ability to obtain post-reorganization financing. The agencies recognize that the purpose of Chapter 11 of the bankruptcy code is to help reorganize companies pursuant to a court-approved plan. Further, many reorganized companies emerging from bankruptcy are no longer highly leveraged and are, in essence, operating with a new balance sheet.

Reflecting these views, the Congress in the recently passed banking legislation "Federal Deposit Insurance Corporation Improvement Act of 1991" (section 474) amended the Federal Deposit Insurance Act to prohibit a federal banking agency from designating by regulation or otherwise a corporation as a highly-leveraged transaction (HLT) solely because such corporation is or has been a debtor or bankrupt under Title 11, if after confirmation of reorganization, such corporation would not otherwise be highly leveraged. In implementing the Congressional intent underlying this amendment, the agencies believe that this should serve to emphasize the role played by the bankruptcy code and remove any implied hindrance to this type of lending.

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[1] The leverage ratio is defined as total liabilities divided by total liabilities divided by total assets as reflected on financial statements prepared in accordance with generally accepted accounting principles (GAAP).

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Exclude Certain Fully Collateralized Loans from HLT Status

Comments were received on the inclusion of certain loans fully-collateralized by cash or cash equivalent securities in an HLT company's aggregate HLT exposure. It was indicated that the purpose of these fully-collateralized loans is generally not to take on additional debt for acquisition or restructuring purposes. It was also noted that a company arranging such a loan had sufficient liquid resources available on its balance sheet and, therefore, would not have needed to borrow such funds. Given these reasons, the agencies have found it appropriate to exclude certain fully-collateralized loans from HLT reporting by banking organizations.

Other comments

Comment letters expressed support for several additional revisions to the HLT definition that the agencies have decided not to adopt at this time. Potential revisions that were not adopted include (1) exempting companies with investment-grade senior debt from HLT designation and (2) excluding debt of certain subsidiaries from a consolidated company's HLT designation.

Under HLT guidelines, it is possible for a company with investment-grade senior debt to be designated an HLT if the company has been involved in significant merger and acquisition activity and has very high leverage. Comment letters indicated, however, that very few such companies exist.

To date, investment-grade companies have not been exempted from the HLT definition because of a desire to (1) avoid including credit quality criteria in the definition; (2) avoid inequitable treatment for companies that may meet investment grade criteria but are too small to be evaluated by the major rating agencies; and (3) avoid dependence on outside credit rating agencies, noting that credit quality of a company can quickly deteriorate under the burden of heavy debt.

Based on comment letters received, the agencies have determined that exempting companies with investment-grade senior debt from HLT designation would appear to have little impact on the number of companies designated as HLTs, but it would serve to reinforce the perception that an HLT designation conveys credit quality information or criticism. Some comments noted that financial institutions could publicly disclose the level of investment-grade companies in their HLT portfolios, thus mitigating criticism by analysts of this portion of their portfolios. Given that exempting investment-grade companies from HLT designation could further reinforce negative perceptions concerning the overall credit quality of HLT loan portfolios, the agencies decided not to adopt such a change.

Comments were received on the inclusion of the debt of subsidiaries as part of the aggregate HLT exposure. According to the HLT guidelines, if a company satisfies the HLT purpose and leverage tests on a consolidated basis, then a loan to any part of the organization is designated HLT. Also, if a subsidiary satisfies the HLT criteria and its debt level is significant enough to cause the consolidated organization to meet HLT leverage criteria, then all debt of the entire organization is designated HLT.

The review of financial statements and calculation of the leverage ratio for HLT purposes is conducted using generally accepted accounting principles (GAAP). Analyzing companies on a consolidated basis when determining HLT status is considered consistent with GAAP. Moreover, experience with consolidated organizations has shown that when one aspect of a company's operations becomes imperiled, the entire organization may be negatively impacted.

Although a significant number of comments favored excluding debt of certain subsidiaries from a parent company's HLT designation if appropriate protective covenants are maintained between the parent and subsidiary, the agencies found significant problems related to the use and review of protective covenants. Protective covenants cited as examples include restrictions on the movement of assets between parent and subsidiary companies, limitations on the payment of dividends to a parent company, restrictions on inter-company debt, and so forth. Each protective covenant, however, is unique, thus requiring a very difficult and time consuming review and evaluation process to determine its strength. Also, protective covenants may not work as specified when a company is in financial difficulty or enters bankruptcy proceedings. Experience has shown that technical separation of companies through the use of loan covenants has not always been effective in protecting a company against liabilities emanating from its parent, subsidiary, or affiliate, especially in bankruptcy situations where the separation between parent and subsidiary can and has been breached.

Given a desire to adhere closely to GAAP whenever possible, the influence that parent companies can exert over so-called "stand alone" subsidiaries when financial needs arise, and the difficulties invovled in evaluating and enforcing protective covenants, the agencies have determined not to exclude certain subsidiaries of HLT parent companies from the HLT designation.

Definition and Guidance Regarding Highly-Leveraged Transactions ("HLTs"), As Revised

Summary of Definition

A bank or bank holding company is considered to be involved in a highly-leveraged transaction when credit is extended to or investment is made in a business where the financing transaction involves the buyout, acquisition, or recapitalization of an existing business and one of the following criteria is met:

(a) The transaction results in a liabilities-to-assets leverage ratio higher than 75 percent; or

(b) The transaction at least doubles the subject company's liabilities and results in a liabilities-to-assets leverage ratio higher than 50 percent; or

(c) The transaction is designated an HLT by a syndication agent or a federal bank regulator.

Additional Guidance on the Definition of HLTs

A highly-leveraged transaction is a type of financing which involves the restructuring of an ongoing business concern financed primarily with debt. The purpose of an individual credit is most important when initially determining HLT status. Once an individual credit is designated as an HLT, all currently outstanding and future obligations of the same borrower are also included in HLT totals. This includes working capital loans and other ordinary credits, until such time as the borrower is delisted.

The regulatory purpose of the HLT definition is to provide a consistent means of aggregating and monitoring this type of financing transaction. It must be pointed out that the HLT designation does not imply a supervisory criticism of a credit. Before any HLT or any other credit is criticized, an examiner should review a whole range of factors on a credit-by-credit basis. These factors include cash flow, general ability to pay interest and principal on outstanding debt, economic conditions and trends, the borrower's future prospects, the quality and continuity of the borrower's management, and the lender's collateral position. Participation of banking organizations in highly-leveraged transactions is not considered inappropriate so long as it is conducted in a sound and prudent manner, including the maintenance of adequate capital and loan loss reserves to support the risks associated with these transactions.

Borrowers having questions regarding the HLT definition should first refer these questions to their bankers. Bankers should then refer questions they cannot answer to the bank's primary federal regulator.

Purpose Test

To become eligible for designation as an HLT, a financing transaction must involve the buyout, acquisition, or recapitalization of an existing business, domestic or foreign. This definition encompasses traditional leveraged buyouts, management buyouts, corporate mergers and acquisitions, and significant stock buybacks. Leveraged Employee Stock Option Plans (ESOPs) are also included when used to acquire or recapitalize an existing business.

For purposes of satisfying the HLT purpose test, a leveraged recapitalization involves a replacement of equity with debt on a company's balance sheet by means of a stock repurchase or dividend payout. Refinancing existing debt in a company is not deemed to be a leveraged recapitalization.

Exclusions from the HLT Definition

Single Asset or Lease: This purpose test exludes the acquisition or recapitalization of a single asset or lease (e.g., a large commercial building or an aircraft), or a shell company formed to hold a single asset or lease, from the HLT definition. Although such an acquisition may be highly leveraged, the asset or lease, in and of itself, is not considered an ongoing business concern and, therefore, is not intended to be included in the HLT category. However, the acquisition or recapitalization of a leasing corporation which invests in fleets of equipment for leasing, or a building company which invests in real estate projects would satisfy the HLT purpose test.

Threshold Test: Loans and exposures to any obligor in which the total financing package, including all obligations held by all participants, does not exceed $20 million, at the time of origination, may be excluded from HLT designation. Nonetheless, there may be some banking organizations that in the aggregate have significant exposure to transactions below the threshold level. It is expected that those organizations would continue to monitor closely these transactions as part of their aggregate HLT exposures.

Historical Cutoff Date: An HLT transaction not included in the Shared National Credit Program, that meets or exceeds the $20 million test, may be excluded from HLT designation if it originated prior to January 1, 1987, the original terms and conditions of the credit are materially unchanged, the credit has not been criticized by examiners, and the financial condition of the debtor has not deteriorated.

Debtor-in-Possession Financings: Court-approved debtor-in-possession (or trustee-in-possession) financing for a business concern in Chapter 11 reorganization proceedings will generally be exempt from HLT designation. All pre-petition debt of an HLT borrower and any post-reorganization debt (after a company emerges from Chapter 11 bankruptcy) will continue to be included in HLT exposure until delisting occurs.

Loans Fully Collateralized With Cash or Cash Equivalents: All loans (credit facilities) that are fully-collateralized with cash or cash equivalents are excluded from HLT reporting by banking organizations. Cash collateral consists of a deposit in the financial institution advancing the loan proceeds, segregated and under the control of the financial institution, and unequivocally pledged to secure the loan. Cash equivalents are deemed to include U.S. Government and certain other readily-marketable securities qualifying for a zero risk-weight under risk-based capital standards. Cash equivalents must be held in custody by and unequivocally pledged to the lending financial institution.

Leverage Tests

In addition to the purpose test, one of the following criteria must be met for the transaction to be considered an HLT:

(1) The transaction at least doubles the subject company's liabilities and results in a total liabilities to total assets (leverage) ratio higher than 50 percent.

Note: The purpose of this leverage test is to capture transactions in which a company must suddenly deal with a substantially higher debt burden. The greatest risk in a credit exposure is not necessarily the absolute level of debt but may be the impact on a company of significant new debt. A key HLT success factor is ability to handle a sudden, large increase in debt.

The "doubling of liabilities" is intended to capture those transactions where new debt is used to facilitate the buyout, acquisition, or recapitalization of a business. If the sum of the acquiring and acquired companies' liabilities would double as a result of the new debt taken on to effect the combination of the companies, then the transaction is considered an HLT, and all exposure to the company is designated an HLT. It is not intended to cover a doubling resulting from the simple addition of the existing liabilities of the two companies.

Any refinanced portion of old debt in a transaction should continue to be treated as old debt for purposes of applying this leverage test. Further, if there was no debt in either company prior to the transaction, then any new debt will result in a "doubling of liabilities."

In an acquisition involving one or more operating divisions of a company (as opposed to stand-along subsidiaries), existing liabilities of the seller associated with specific operating assets being transferred in the transaction may be allocated to the resulting company for purposes of applying the "doubling of liabilities" test. The burden of proof is on the resulting company and its financial institution(s) to substantiate that the allocation of the seller's liabilities to the resulting company is appropriate.

When calculating a company's leverage for the purpose of this test, captive finance company subsidiaries and subsidiary depository institutions should be excluded from the consolidated organization.

(2) The transaction results in a total liabilities to total assets (leverage) ratio higher than 75 percent.

Note: When a company's leverage ratio exceeds 75 percent, the determination of whether exposure to the company is designated an HLT further depends on the composition of the company's total liabilities after the transaction. If a significant portion of the liabilities (generally 25 percent or more of total liabilities) derives from buyouts, acquisitions, or recapitalizations, either past or present, then all exposure to the company is designated an HLT. If, after the transaction, debt related to buyouts, acquisitions, or recapitalizations, either past or present, represents less than 25 percent of total liabilities, then the exposure to the company need not be designated an HLT.

Again, when calculating a company's leverage for the purpose of this test, captive finance company subsidiaries and subsidiary depository institutions should be excluded from the consolidated organization.

(3) The transaction is designated an HLT by a syndication agent.

In specific cases, the bank supervisory agencies may also designate a transaction as an HLT even if it does not meet the conditions outlined above. (It is anticipated that this would be done infrequently and only in material cases).

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Definition of the Leverage Ratio

The leverage ratio is total liabilities divided by total assets as reflected in financial statements prepared in accordance with generally accepted accounting principles (GAAP). Total assets of the resulting enterprise include intangible assets (such as goodwill). Total liabilities include all forms of debt (including any new debt taken on to facilitate the transaction) and claims, including all subordinated debt and non-perpetual preferred stock. Perpetual preferred stock is generally considered equity for purposes of calculating HLT leverage. However, exceptions could be made on a case-by-case basis if the stock has characteristics more akin to debt than equity.

Off-balance sheet exposure, including claims related to foreign exchange contracts, interest rate swaps, and other risk protection or cash management products may normally be excluded from HLT exposure as long as their credit equivalent exposure is small relative to other types of obligations. (It is expected, however, that internal management information and control systems be in place to capture these exposures.)

If a parent company uses "double leverage" (that is, takes on debt and downstreams it as equity to a subsidiary) to assist a subsidiary in an HLT purpose-related transaction, then the debt at the parent company will be considered HLT purpose-related debt when calculating leverage for the company on a consolidated basis.

In an acquisition involving a pure assumption of debt with no new debt issued, the transaction is not designated an HLT unless the resulting company's aggregate outstanding HLT purpose-related debt (from all previous transactions) is significant (generally 25 percent or more of total liabilities) and the 75 percent leverage test is satisfied.

Consolidation of HLT Exposure

All credit extended to, or investments made in an HLT should be aggregated with any ordinary business loans to, or investments in, the same obligor.

If a company satisfies the HLT purpose and leverage tests on a consolidated basis, then a loan to any part of the organization is deemed to be an HLT. On the other hand, if only a subsidiary of a company satisfies the HLT tests, then the subsidiary could "stand alone" as an HLT; however, if the subsidiary's debt level is significant enough to cause the consolidated organization to meet HLT leverage criteria, then all debt of the entire organization is designated HLT.

Guarantees of Payment

If a parent company supplies an irrevocable, unconditional guarantee of payment on behalf of its subsidiary and the leverage of the consolidated organization does not meet HLT leverage criteria, then the subsidiary will generally not be designated an HLT. On the other hand, if the subsidiary's leverage is significant enough to cause the consolidated organization to meet HLT leverage criteria, then all debt of the entire organization is accorded HLT status.

(Note: Third-party guarantees and guarantees by related subsidiaries of a company have no effect on the HLT designation. While these types of guarantees offer credit enhancement benefits which will be taken into consideration during the review of individual credits by examiners, they generally lack the stronger bonds of support inherent in the relationship between a parent and its subsidiary.)

When a foreign parent company provides the equivalent of an irrevocable and unconditional guarantee of payment on behalf of a subsidiary, the subsidiary's debt will normally not be designated as HLT debt as long as the consolidated organization does not meet HLT leverage criteria and the following two conditions are met:

(1) Written opinions from legal counsel in the country of origin and the United States are provided which state that the equivalent of a written guarantee of debt repayment exists which is irrevocable and unconditional; and

(2) The credit files in the U.S. banking organizations lending to the subsidiary contain consolidated financial statements for the foreign parent stated in U.S. dollars under U.S. accounting rules.

Agent and Lead Bank Responsibility

To ensure consistent application of the definition, the agent or lead bank is responsible for determining whether or not a transaction qualifies as an HLT. The agent or lead bank is charged with the timely notification to participants regarding the status of the transaction and of any change in that status, i.e. designation as an HLT or delisting as an HLT.

The responsibility of the agent or lead bank to determine HLT status does not preclude a participant bank from designating a transaction as an HLT or relieve a participant from performing its own credit analysis. Examiners will review transactions for compliance with the HLT definition in the context of the Shared National Credit Program and during regular on-site examinations.

Delisting Criteria

HLT exposure of a given borrower may be removed from HLT status upon satisfying one of the following criteria:

(a) Credits of a company emerging from protection under Chapter 11 of the U.S. Bankruptcy Code at the consummation of a court-approved plan of reorganization will be immediately delisted from HLT status, if the company's leverage ratio is less than 75 percent at the time of reorganization.

(b) A borrower's credits that were designated as HLTs under the "doubling of liabilities to greater than 50 percent" leverage test or that have reduced leverage to less than 75 percent will be considered eligible for delisting if the company has performed well for one year (since its last buyout, acquisition, or leveraged recapitalization involving financing) and demonstrates an ability to continue satisfactorily servicing debt. To verify adequate performance and validate the appropriateness of financial projections of a company, the lender should conduct a thorough review of the obligor to include, at a minimum, overall management performance against the business plan, cash flow coverages, operating margins, industry risk, and status of asset sales, if applicable.

(c) Credits of a company whose leverage continues to exceed the 75 percent leverage test will be considered eligible for delisting by banking organizations on a case-by-case basis, if the company demonstrates superior cash flow coverage, relative to the company's industry or peer group, and the company has adequately serviced debt for a reasonable period of time since its last buyout, acquisition, or leveraged recapitalization involving financing. To verify strong performance, the lender should conduct a thorough review of the obligor to include, at a minimum, the quality and strength of cash flow coverages, operating margins, reduction in leverage, appropriateness of the company's financial projections, overall management performance against the business plan, industry risk, and status of asset sales, if applicable. Credits delisted in this manner will subsequently be reviewed, and potentially subject to relisting, by examiners during the normal course of an examination.

(d) Credits of a company whose leverage continues to exceed the 75 percent leverage test will be considered eligible for delisting if the company has performed adequately for at least three years since its last buyout, acquisition, or leveraged recapitalization involving financing; and the company has a positive net worth. To verify adequate performance and validate the appropriateness of financial projections of a company, the lender should conduct a thorough review of the obligor to include, at a minimum, overall management performance against the business plan, cash flow coverages, operating margins, industry risk, and status of asset sales, if applicable.

It is expected that banks will maintain records of delisted exposures and reasons for delisting. After delisting, any significant changes in the obligor's financial condition should cause the exposure to be reviewed for relisting. Record pertaining to delisting and relisting of HLTs will be reviewed by examiners in the context of the Shared National Credit Program and/or regular on-site examinations.

Dated: February 6, 1992.

Robert L. Clarke,

Comptroller of the Currency.

Hoyle L. Robinson,

Executive Secretary of the Federal Deposit Insurance Corporation.

William W. Wiles,

Secretary of the Board of Governors of the Federal Reserve System.

[FR Doc. 92-3185 Filed 2-10-92; 8:45 am]

BILLING CODES: 4810-33-M, 6714-01-M, 6210-01-M

Senior Executive Service; Combined Performance Review Board (PRB)

AGENCY: Treasury Department.

ACTION: Notice of members of Combined PRB.

SUMMARY: Pursuant to 5 U.S.C. 4313(c)(4), this notice announces the appointment of members of the Combined PRB for the Bureau of Engraving and Printing, the Financial Management Service, the U.S. Mint, the Bureau of the Public Debt, and the U.S. Savings Bonds Division. This Board reviews the performance appraisals of career senior executives below the level of bureau head and principal deputy in the five bureaus, and makes recommendations regarding ratings, bonuses, and other personnel actions. Three voting members constitute a quorum. The names and titles of the Combined PRB members are as follows:

Primary Members

Timothy G. Vigotsky, Assistant Director (Management), E&P.
Michael T. Smokovich, Deputy Commissioner, FMS.
Bland Brockenborough, Assistant Commissioner, Management, FMS.
Andrew Cosgarea, Jr., Associate Director for Operations, Mint.
Michael D. Pecovish, Assistant Commissioner, Public Debt Accounting, PD.
Thomas E. Anfinson, Executive Director, SBD.

Alternate Members

Carl V. D'Alessandro, Associate Director (Chief Operating Officer), E&P.
Diane E. Clark, Assistant Commissioner, Financial Information, FMS.
Mitchell A. Levine, Assistant Commissioner, Regional Operations, FMS.
Robert Jenkins, Director, Office of Automated Information Systems, Mint.
Eleanor J. Holsopple, Assistant Commissioner, Securities and Accounting Services, PD.
Richard J. Schneebeli, Deputy Executive Director for Marketing and Sales, SBD.

DATES: Membership is effective on the date of this notice.

FOR FURTHER INFORMATION CONTACT: Timothy G. Vigotsky, Assistant Director (Management), Bureau of Engraving and Printing, 14th & C Sts., SW., Washington, DC 20228; telephone (202) 447-9912 or 447-0273 TDD. This notice does not meet the Department's criteria for significant regulations.

Timothy G. Vigotsky,

Assistant Director (Management), E&P

[FR Doc. 92-3127 Filed 2-10-92; 8:45 am]

BILLING CODE 4840-01-M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 28
Tuesday, February 11, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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TIME AND DATE: Tuesday, February 18, 1992, and following.

PLACE: 1825 Connecticut Avenue, N.W., Suite 918, Washington, D.C. 20009.

STATUS: Closed pursuant to a vote taken January 31, 1992, based upon the provisions of 5 U.S.C. 552b(c)(10) (adjudication) and 37 CFR 301.13(i) (adjudication).

MATTERS TO BE CONSIDERED: Adjudication of the 1989 cable distribution proceeding.

CONTACT PERSON FOR MORE INFORMATION: Robert Cassler, General Counsel, Copyright Royalty Tribunal, 1825 Connecticut Avenue, N.W., Suite 918, Washington, D.C. 20009, (202) 606–4400.

Dated: February 5, 1992.

Cindy Daub,
Chairman.

[FR Doc. 92–3209 Filed 2–6–92; 1:52 pm]

BILLING CODE 1410-09-M

FEDERAL COMMUNICATIONS COMMISSION

To Hold Open Commission Meeting, Thursday, February 13, 1992

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, February 13, 1992, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, DC.

Item No, Bureau, and Subject

1—Office of Engineering and Technology—Title: Establishment of Procedures to Provide a Preference to Applicants Proposing an Allocation for New Services (GEN Docket No. 90–217). Summary: The Commission will consider adoption of a *Memorandum Opinion and Order* on reconsideration in this proceeding.

2—Common Carrier—Title: In the Matter of Amendment of Part 63 of the Commission's Rules to Provide for Notification by Common Carriers of Service Disruptions (CC Docket No. 91–273). Summary: The Commission will consider adoption of a *Report and Order* concerning the final rules which provide for notification by common carriers of major disruptions to telephone services provided by their networks.

3—Common Carrier—Title: Amendment of Rules Governing Procedures to be Followed when Formal Complaints are Filed Against Common Carriers. Summary: The Commission will consider adoption of a *Notice of Proposed Rule Making* which would solicit comment on proposed changes to the Rules regarding procedures applied by the Commission in handling formal complaints against common carriers.

4—Mass Media—Title: Clarification of Spousal Attribution Policy (MM Docket No. 91–122). Summary: The Commission will consider adoption of a *Policy Statement* clarifying its policies regarding the attribution of mass media interests of one spouse to another for purposes of the multiple ownership rules and cross-interest policies.

5—Mass Media—Title: Cable Television Technical and Operational Requirements (MM Docket Nos. 91–169 and 85–38). Summary: The Commission will consider adoption of a *Report and Order* concerning technical standards for cable television systems.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Steve Svab, Office of Public Affairs, telephone number (202) 632–5050.

Federal Communications Commission.

Issued: February 6, 1992.

Donna R. Searcy,
Secretary.

[FR Doc. 92–3319 Filed 2–7–92; 10:49 am]

BILLING CODE 6712-01-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, February 13, 1992.

PLACE: Room 600, 1730 K Street, NW., Washington, DC

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument on the following:

1. *Consolidation Coal Company,* Docket No. WEVA 89–234–R, etc.

(Issues include whether the judge erred in concluding that (i) 30 CFR § 50.30–1(g)(3) is a valid, enforceable regulation; (ii) Consolidation violated the regulation; and (iii) civil penalties may be assessed for the violations.)

Any person attending this hearing who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR § 2706.150(a)(3) and § 2706.160(e).

TIME AND DATE: Immediately following oral argument.

STATUS: Closed [Pursuant to 5 U.S.C. § 552b(c)(10)].

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Consolidation Coal Company,* Docket No. WEVA 89–234–R, etc. (See Oral Argument listing)

It was determined by a unanimous vote of Commissioners that this meeting be held in closed session.

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 653–5629/(202) 708–9300 for TDD Relay 1–800–877–8339 for toll free.

Issued: February 6, 1992.

Jean H. Ellen,
Agenda Clerk.

[FR Doc. 92–3395 Filed 2–7–92; 2:21 pm]

BILLING CODE 6735-01-M

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

TIME AND DATE: 1:30 p.m., February 1992.

PLACE: 5th Floor, Conference Room, 805 Fifteenth Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of the January 21, 1992, Board meeting.
2. Labor Department briefing.
3. Thrift Savings Plan activity report by the Executive Director.
4. Review of KPMG Peat Marwick audit reports entitled:

"Pension and Welfare Benefits Administration Review of the Thrift Savings Plan Billing Process at the United States Department of Agriculture, Office of Finance and Management, National Finance Center"

"Pension and Welfare Benefits Administration Review of the Thrift Savings Plan C and F Fund Investment Management Operations at Wells Fargo Institution Trust Company and Wells Fargo Nikko Investment Advisors"

"Pension and Welfare Benefits Administration Review of the Thrift Savings Plan Audit Performed by the U.S. Central Intelligence Agency, Office of the Inspector General"

"Pension and Welfare Benefits Administration Follow-up Review of the Thrift Savings Plan Annuity Operations at the Metropolitan Life Insurance Company and the Federal Retirement Thrift Investment Board"

"Pension and Welfare Benefit Administration Review of the Thrift Savings Plan Account Maintenance and Participant Support Subsystems at the United States Department of Agriculture, Office of Finance and Management, National Finance Center"

5. Quarterly review of investment policy.

CONTACT PERSON FOR MORE INFORMATION: Tom Trabucco, Director, Office of External Affairs, (202) 523–5660.

Dated: February 7, 1992.

Francis X. Cavanaugh,

Executive Director, Federal Retirement Thrift Investment Board.

[FR Doc. 92–3361 Filed 2–7–92; 1:31 pm]

BILLING CODE 6760-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9:30 a.m., Tuesday, February 25, 1992.

PLACE: The Board Room, 5th Floor, 490 L'Enfant Plaza, SW., Washington, DC 20024.

STATUS: Open.

MATTERS TO BE CONSIDERED:

5434A—Railroad Accident Report: Derailment and Collision of Amtrak Train 66 with MBTA Commuter Train 906 at Back Bay Station, Boston, Massachusetts, December 12, 1990.

NEWS MEDIA CONTACT: Telephone (202) 382–0660.

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 382–6525.

Dated: February 7, 1992.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 92–3393 Filed 2–7–92; 2:19 pm]

BILLING CODE 7533-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of February 10, 17, 24, and March 2, 1992.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of February 10

Wednesday, February 12

3:00 p.m.

Affirmation/Discussion and Vote (Public Meeting)

a. Georgia Power Company, Intervener's Appeal of LBP–91–21

Week of February 17—Tentative

Friday, February 21

10:00 a.m.

IG Briefing on Review of NRC Programs (Closed—Ex. 2)

11:30 a.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of February 24—Tentative

Tuesday, February 25

10:00 a.m.

Briefing on Design Basis Reconstitution Programs (Public Meeting)

Wednesday, February 26

4:00 p.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of March 2—Tentative

Wednesday, March 4

10:00 a.m.

Briefing by NARUC (Public Meeting)

Thursday, March 5

2:00 a.m.

Periodic Meeting with the Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting)

3:30 p.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To Verify the Status of Meeting Call (Recording)—(301) 504–1292

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 504–1661.

Dated: February 6, 1992.

William M. Hill, Jr.,

Office of the Secretary.

[FR Doc. 92–3394 Filed 2–7–92; 2:20 pm]

BILLING CODE 7590-01-M

VOL 57 ISS 28 FE 11 1992 UMI

Corrections

Federal Register
Vol. 57, No. 28
Tuesday, February 11, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Bank Reports of Condition and Income: Proposed Change in Definition of One-to-Four Family Residential Mortgages

Correction

In notice document 92-2444, beginning on page 4027 in the issue of Monday, February 3, 1992, make the following correction: On page 4027, in the second column, under **DATES**, in the second line, "February 3, 1992" should read "March 4, 1992".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 235

RIN 0970-AA75

Aid to Families With Dependent Children

Correction

In rule document 91-29363 beginning on page 64195, in the issue of Monday, December 9, 1991, make the following corrections#:

§ 235.113 [Corrected]

On page 64205, in the third column, in § 235.113(b)(3)(ii)(G) and (I), in line four of each paragraph, "international" should read "intentional".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 91N-0498]

Superharm Corp., et al.; Withdrawal of Approval of Abbreviated New Drug Applications

Correction

In notice document 91-30095 beginning on page 65489 in the issue of Tuesday, December 17, make the following corrections:

1. On page 65489, in the second column, under **EFFECTIVE DATE**, "1991" should read "1992".

2. On page 65490, in the first column, in the first paragraph following the table, in the last line, "1991" should read "1992".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 10, 12, 16, 20, 500, 510, 511, and 514

[Docket No. 88N-0058]

RIN 0905-AA35

New Animal Drug Regulations

Correction

In proposed rule document 91-29779, beginning on page 65544, in the issue of Tuesday, December 17, 1991, make the following corrections:

1. On page 65547, in the 1st column,:

a. In the 31st line, "24 CFR" should read "21 CFR".

b. In the 33d line, "542(m)" should read "512(m)".

c. In the 34th line, "(24 U.S.C. 360b(m))." should read "(21 U.S.C. 360b(m)).".

PART 16 [CORRECTED]

2. On page 65563, in the first column, in the last line of the authority citation,"U.S.C. 1451 1461" should read "U.S.C. 1451-1461".

§ 514.50 [Corrected]

3. On page 65565, in the second column, in § 514.50(c)(2)(iii), in the third line, "animal" was misspelled.

§ 514.72 [Corrected]

4. On page 65571, in the first column, in § 514.72(c), in the fifth line, "special" was misspelled.

§ 514.105 [Corrected]

5. On page 65573, in the second column, in § 514.105(a)(1), in the second line, "article:" was misspelled.

§ 514.125 [Corrected]

6. On page 65574, in the third column, in § 514.125(a)(1), in the third line, "514.122;" should read "514.120;".

§ 514.150 [Corrected]

7. On page 65577, in the first column, in § 514.150(b), in the first line, "applicant" was misspelled.

BILLING CODE 1505-01-D

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Proposed Revision to OMB Circular A-45, "Policy Governing Charges for Rental Quarters and Related Facilities;" Invitation for Public Comment

Correction

In notice document 91-28088 beginning on page 58932, in the issue of Friday, November 22, 1991, make the following correction:

On page 58935, in the second column, in the **DATES** section, in the second line, "December 23, 1991" should read "January 21, 1992".

BILLING CODE 1505-01-D

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2619

Valuation of Plan Benefits in Single-Employer Plans; Amendment Adopting Additional PBGC Rates

Correction

In rule document 92-1080 beginning on page 1644 in the issue of Wednesday, January 15, 1992, make the following correction:

Appendix B [Corrected]

On page 1645, in the table, in the second column, in the second entry, "2–1–82" should read "2–1–92".

BILLING CODE 1505-01-D

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Federal Register

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LIST OF PUBLIC LAWS

Note: The List of Public Laws for the first session of the 102d Congress has been completed and will be resumed when bills are enacted into public law during the second session of the 102d Congress, which convenes on January 3, 1992. A cumulative list of Public Laws for the first session was published in Part II of the **Federal Register** on January 2, 1992.

Public Laws

102d Congress, 2nd Session, 1992

Pamphlet prints of public laws, often referred to as slip laws, are the initial publication of Federal laws upon enactment and are printed as soon as possible after approval by the President. Legislative history references appear on each law. Subscription service includes all public laws, issued irregularly upon enactment, for the 102d Congress, 2nd Session, 1992.

(Individual laws also may be purchased from the Superintendent of Documents, Washington, DC 20402-9328. Prices vary. See Reader Aids Section of the Federal Register for announcements of newly enacted laws and prices).

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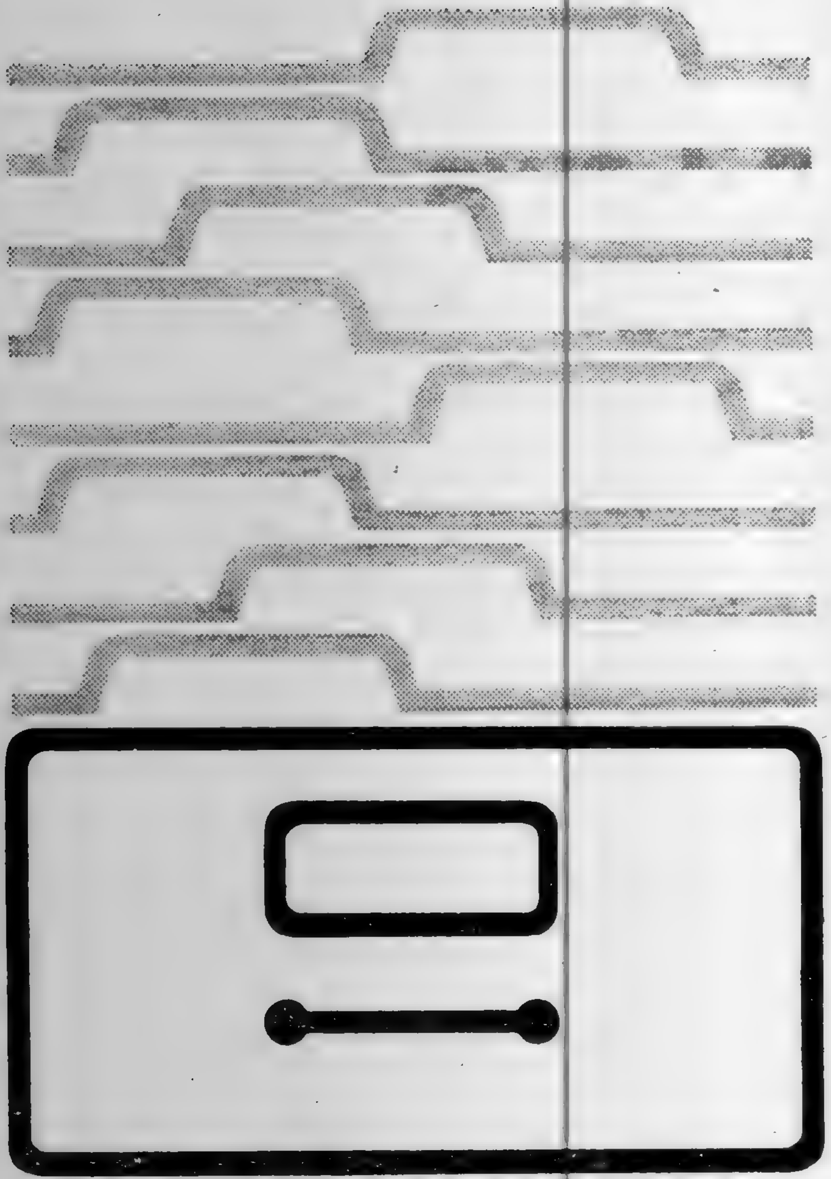

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February 12, 1992

Briefing on How To Use the Federal Register
For information on a briefing in Washington, DC, see announcement on the inside cover of this issue.

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DIRECTIONS: North on 11th Street from
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91–NM–159–AD; Amendment 39–8164; AD 92–03–09]

Airworthiness Directives; SAAB-Scania Model SF–340A and SAAB 340B Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to SAAB-Scania Model SF–340A and SAAB 340B series airplanes, which requires the disconnection of electrical power to the refuel/defuel panel lights. This amendment is prompted by reports of arcing and smoke emanating from the refuel/defuel panel during refueling. This condition, if not corrected, could result in a fire during the refueling process.

EFFECTIVE DATE: March 18, 1992.

ADDRESSES: Information pertaining to this rulemaking action may be examined at the FAA, Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Standardization Branch, ANM–113; telephone (206) 227–2145; fax (206) 227–1320. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to Model SAAB-Scania Model SF–340A and SAAB 340B series airplanes, was published in the **Federal Register** on October 4, 1991 (56 FR 50301). That action proposed to require the disconnection of electrical power to the refuel/defuel panel lights.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter agreed with the proposed requirements of this AD.

After a careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule, as proposed.

This is considered interim action until a new refuel/defuel lighted front panel is developed and available, at which time the FAA may consider further rulemaking.

It is estimated that 121 airplanes of U.S. registry will be affected by this AD, that it will take approximately 3 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $19,965.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

92–03–09 Saab-Scania: Amendment 39–8164. Docket 91–NM–159–AD.

Applicability: Model SF–340A and 340B series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent a fire during the refueling process, accomplish the following:

(a) Within 30 days after the effective date of this AD, disconnect the lighting to the refuel/defuel panel lights as follows:

(1) Remove the refuel/defuel panel assembly, P/N 7239160–502, –503, or –504, as applicable, in accordance with the Airplane Maintenance Manual (AMM) 28–21–05.

(2) With the refuel/defuel panel removed, loosen the four screws securing the lighting panel to the front, and remove the rear cover.

(3) Locate the lighting panel Jack 30 QA under the rear cover, and remove the screw securing the wire QA636–20. Remove the wire from Jack 30 QA, and reinstall the screw.

(4) Cap and stow wire QA636–20, and reassemble the refuel/defuel panel.

(5) Placard the lighting panel with "Lights inop."

(6) Reinstall and test the refuel/defuel panel in accordance with AMM 28–21–05.

(b) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM–113.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) This amendment (39-8164), AD 92-03-09, becomes effective March 18, 1992.

Issued in Renton, Washington, on January 13, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-3350 Filed 2-11-92; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 520

Animal Drugs, Feeds, and Related Products; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for a new animal drug application (NADA) from Farmers Friend Mineral Co., Inc., to Elanco Animal Health, a Division of Eli Lilly and Co.

EFFECTIVE DATE: February 12, 1992.

FOR FURTHER INFORMATION CONTACT: Benjamin Puyot, Center for Veterinary Medicine (HFV-130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-295-8646.

SUPPLEMENTARY INFORMATION: Farmers Friend Mineral Co., Inc., suite 1, 120 Village Sq., Louisville, KY 40243, has informed FDA that it has transferred ownership of, and all rights and interests in, NADA 119-823 for monensin-mineral granules to Elanco Animal Health, a Division of Eli Lilly and Co., Lilly Corporate Center, Indianapolis, IN 46285. The agency is amending the regulations in 21 CFR 520.1448b(b) to reflect this change. Also, the regulations are amended in 21 CFR 510.600 (c)(1) and (c)(2) by removing Farmers Friend Mineral Co., because the firm is no longer the sponsor of any approved NADA's.

List of Subjects in 21 CFR

Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 520 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 376).

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in the table in paragraph (c)(1) by removing the entry "Farmers Friend Mineral Co., Inc." and in the table in paragraph (c)(2) by removing the entry "030239".

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 520.1448b [Amended]

2. Section 520.1448b *Monensin-mineral granules* is amended in paragraph (b) by removing the number "030239" and adding in its place "000986".

Dated: February 6, 1992.

Robert Furrow,

Deputy Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 92-3303 Filed 2-11-92; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 522 and 556

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Trenbolone Acetate and Estradiol in Combination; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that amended the animal drug regulations to reflect approval of a new animal drug application (NADA 140-897) for use of trenbolone acetate and estradiol in combination in subcutaneous ear implants. The final rule incorrectly indicated that the NADA is sponsored by Hoechst-Roussel Agri-Vet Co. and supplied the incorrect drug labeler code. The correct sponsor is Roussel-UCLAF. This document corrects those errors.

EFFECTIVE DATE: December 30, 1991.

FOR FURTHER INFORMATION CONTACT: Warner J. Caldwell, Center for Veterinary Medicine (HFV-126), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-295-8638.

In FR Doc. 91-30103, appearing at page 67175 in the Federal Register of Monday, December 30, 1991, the following corrections are made:

1. On the same page, in the first column, in the "SUMMARY" section, lines 5 and 6, and in the "SUPPLEMENTARY INFORMATION" section, lines 1 and 2, "Hoechst-Roussel Agri-Vet Co." is corrected to read "Roussel-UCLAF".

§ 522.2477 [Corrected]

2. On the same page, in the third column, in § 522.2477 *Trenbolone acetate and estradiol in combination*, in paragraph (b), "012799" is corrected to read "012579".

Dated: February 6, 1992.

Richard H. Teske,

Deputy Director, Center for Veterinary Medicine.

[FR Doc. 92-3302 Filed 2-11-92; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Certain Drug Combinations Involving Melengestrol Acetate, Monensin, Lasalocid, and Tylosin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of three supplemental new animal drug applications (NADA's) filed by The Upjohn Co. The supplemental NADA's provide for the use of separately approved Type A medicated articles containing melengestrol acetate (MGA) (dry forms only), monensin, lasalocid, and tylosin to manufacture certain combination drug, dry, pelleted Type B medicated feeds for use in making Type C medicated feeds. The feeds are for heifers fed in confinement for slaughter for increased rate of weight gain, improved feed efficiency, suppression of estrus (heat), and reduced incidence of liver abscesses.

EFFECTIVE DATE: February 12, 1992.

FOR FURTHER INFORMATION CONTACT: Warner J. Caldwell, Center For Veterinary Medicine (HFV-126), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-295-8638.

SUPPLEMENTARY INFORMATION: The Upjohn Co., Kalamazoo, MI 49001, filed three supplemental NADA's providing for combining separately-approved MGA (dry forms only), monensin sodium, lasalocid sodium, and tylosin phosphate Type A medicated articles to manufacture the following dry, pelleted Type B medicated feeds: NADA 138-792, MGA plus monensin, plus tylosin; NADA 138-904, MGA plus lasalocid, plus tylosin; and NADA 138-995, MGA plus tylosin.

The dry, pelleted Type B medicated feeds are used to make Type C medicated feeds for heifers fed in confinement for slaughter for increased rate of weight gain, improved feed efficiency, suppression of estrus (heat), and reduced incidence of liver abscesses. The supplemental NADA's are approved as of February 12, 1992. Section 558.342 (21 CFR 558.342) is amended by revising paragraphs (C)(4)(ii), (c)(5)(ii), and (c)(6)(ii), and § 558.355 is amended by adding new paragraph (f)(3)(viii) to reflect the approvals.

In the **Federal Register** of April 5, 1991 (56 FR 14020), FDA amended § 558.342 (c)(4)(ii), (c)(5)(ii), and (c)(6)(ii) to state that the regulation does not provide for tylosin in a medicated feed at a concentration greater than 40 grams per ton with other drugs. With these amendments to the regulations, that statement is no longer correct. Therefore, that statement is being removed from the regulation.

These are new animal drugs used in Type A medicated articles to make Type B and C medicated feeds. MGA is a Category II drug which, as provided in § 558.4, requires an approved form FDA 1900 for making a Type B or C medicated feed from a Type A medicated article. Therefore, an approved form FDA 1900 is required for making a Type B or C medicated feed containing MGA in various combinations with monensin, lasalocid, and tylosin as in the approved subject NADA's and in the regulations in § 558.342, as revised.

Approval of these supplements, which provide for the use of a different physical form of Type B feeds, did not require reevaluation of the safety or effectiveness data supporting the NADA's, and a freedom of information summary is not required.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), none of these supplements qualifies for marketing exclusivity because no new clinical or field investigations and no new human food safety studies were essential to the approval of these supplements nor were they conducted or sponsored by the applicant.

The agency has determined under 21 CFR 25.24(d)(1)(ii) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs; Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

2. Section 558.342 is amended by revising paragraphs (c)(4)(ii), (c)(5)(ii), and (c)(6)(ii) to read as follows:

§ 558.342 Melengestrol acetate.

* * * * *

(c) * * *

(4) * * *

(ii) *Limitations.* Heifers being fed in confinement for slaughter. Withdraw melengestrol acetate 48 hours prior to slaughter. Melengestrol acetate and tylosin as provided by Nos. 000009 and 000986, respectively, in § 510.600(c) of this chapter. To administer 0.25 to 0.50 milligram of melengestrol acetate with 90 milligrams of tylosin per head per day:

(A) Add 0.5 to 2.0 pounds per head per day of a liquid or dry medicated feed containing 0.125 to 1.0 milligram of melengestrol acetate per pound to a medicated feed containing 8 to 10 grams of tylosin per ton; or

(B) Add 0.5 to 2.0 pounds per head per day of a liquid or dry medicated feed containing 0.125 to 1.0 milligram of melengestrol acetate per pound to 4.5 to 18 pounds of a dry medicated feed containing 10 to 40 grams of tylosin per ton; or

(C) Add 0.5 to 2.0 pounds per head per day of a dry pelleted medicated feed containing 0.125 to 1.0 milligram of melengestrol acetate (from a dry Type A article) plus 45 to 180 milligrams of tylosin per pound to a ration of nonmedicated feed.

(5) * * *

(ii) *Limitations.* Heifers being fed in confinement for slaughter. The liquid medicated feeds are required to be manufactured in accordance with § 558.355(f)(3)(i). Withdraw melengestrol acetate 48 hours prior to slaughter. Melengestrol acetate as provided by No. 000009 and monensin and tylosin as provided by No. 000986 in § 510.600(c) of this chapter. To administer 0.25 to 0.50 milligram of melengestrol acetate to 50 to 360 milligrams of monensin plus 90 milligrams of tylosin per head per day:

(A) Add 0.5 to 2.0 pounds per head per day of a liquid or dry medicated feed containing 0.125 to 1.0 milligram of melengestrol acetate per pound to a medicated feed containing 5 to 30 grams of monensin and 8 to 10 grams of tylosin per ton; or

(B) Add 0.5 to 2.0 pounds per head per day of a liquid or dry medicated feed containing 0.125 to 1.0 milligram of melengestrol acetate plus 25 to 720 milligrams of monensin per pound to 4.5 to 18 pounds of a dry medicated feed containing 10 to 40 grams of tylosin per ton; or

(C) Add 0.5 to 2.0 pounds per head per day of a dry pelleted medicated feed containing 0.125 to 1.0 milligram melengestrol acetate (from a dry Type A article), 25 to 600 milligrams of monensin, and 45 to 180 milligrams of tylosin per pound to a ration of nonmedicated feed.

(6) * * *

(ii) *Limitations.* Heifers being fed in confinement for slaughter. The liquid medicated feeds are required to be manufactured in accordance with § 558.311(d). Withdraw melengestrol acetate 48 hours prior to slaughter. Lasalocid, melengestrol acetate, and tylosin as provided by Nos. 000004, 000009, and 000986, respectively, in § 510.600(c) of this chapter. To administer 0.25 to 0.50 milligram of melengestrol acetate plus 100 to 360 milligrams of lasalocid plus 90 milligrams of tylosin per head per day:

(A) Add 0.5 to 2.0 pounds per head per day of a liquid or dry medicated feed containing 0.125 to 1.0 milligram of melengestrol acetate per pound to a medicated feed containing 10 to 30 grams of lasalocid and 8 to 10 grams of tylosin per ton; or

(B) Add 0.5 to 2.0 pounds per head per day of a liquid or dry medicated feed containing 0.125 to 1.0 milligram of melengestrol acetate plus 50 to 720 milligrams of lasalocid per pound to 4.5 to 18 pounds of a dry medicated feed containing 10 to 40 grams of tylosin per ton; or

(C) Add 0.5 to 2.0 pounds per head per day of a dry pelleted medicated feed containing 0.125 to 1.0 milligram of melengestrol acetate (from a dry Type A article), 50 to 720 milligrams of lasalocid, and 45 to 180 milligrams of tylosin per pound to a ration of nonmedicated feed.

3. Section 558.355 is amended by adding new paragraph (f)(3)(viii) to read as follows:

§ 558.355 Monensin.

* * * * *

(f) * * *

(3) * * *

(viii) *Additional combinations.* Monensin may be used for heifers being fed in confinement for slaughter with melengestrol acetate with or without tylosin as in § 558.342. Medicated feeds containing melengestrol acetate are required to be withdrawn 48 hours prior to slaughter.

* * * * *

Dated: February 6, 1992.

Richard H. Teske,

Deputy Director, Center for Veterinary Medicine.

[FR Doc. 92-3301 Filed 2-11-92; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8366]

RIN 1545-AN52

Real Estate Mortgage Investment Conduits; Reporting Requirements and Other Administrative Matters; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to the final regulations (T.D. 8366), which were published Monday, September 30, 1991 (56 FR 49512). The regulations related to real estate mortgage investment conduits (REMICs).

EFFECTIVE DATE: September 30, 1991.

FOR FURTHER INFORMATION CONTACT: James W.C. Canup, (202) 566-6624 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections, prescribe the manner in which an entity elects status as a REMIC for Federal income tax purposes and the procedures to be followed when filing a Federal income tax return as a REMIC.

Need for Correction

As published, the final regulations contain errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the final regulations (T.D. 8366), which were the subject of FR Doc. 91-22848, is corrected as follows:

§ 1.6049-7 [Corrected]

Par. 1. On page 49518, column two, following the instructional Par. 7., in § 1.6049-7, the first line of the section heading, the language "*§ 1.6049 Returns of information with*" is corrected to read "*§ 1.6049-7 Returns of information with*".

Par. 2. On page 49522, column one, in § 1.6049-7, paragraph (f)(4), line 5, the language "section with respect to certain holders of" is corrected to read "with respect to certain holders of".

Par. 3. On page 49522, column one, in § 1.6049-7, paragraph (f)(5)(i), line 6, the language "(f) of to be furnished to any person for a" is corrected to read "(f) to be furnished to any person for a".

Par. 4. On page 49522, column one, in § 1.6049-7, paragraph (f)(6)(i)(A), in lines 8 and 9, the language "and (f)(4) of this section, if applicable, of this section, or" is corrected to read "and (f)(4) of this section, if applicable, or".

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 92-3211 Filed 2-11-92; 8:45 am]

BILLING CODE 4830-01-M

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26 CFR Parts 1 and 602

[T.D. 8380]

RIN 1545-AP76

Treatment of Partnership Liabilities; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to Treasury Decision 8380, which was published in the **Federal Register** for Monday, December 23, 1991 (56 FR 66348). The final regulations relate to the treatment of partnership liabilities.

EFFECTIVE DATE: December 28, 1991.

FOR FURTHER INFORMATION CONTACT: Mary A. Berman (202) 566-3440 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections added new regulation §§ 1.752-0 through 1.752-5 to the Income Tax Regulations (26 CFR part 1) under section 752 of the Internal Revenue Code of 1986 and removed existing §§ 1.752-0T through 1.752-4T.

Need for Correction

As published, T.D. 8380 contains errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of final regulations (T.D. 8380), which was the subject of FR Doc. 91-30596, is corrected as follows:

1. On page 66350, column 1, in the preamble under the heading "F. Effective Dates", second full paragraph, line 7, the language "regulations: (1) § 1.751-1 (TD 6175 and" is corrected to read "regulations: (1) § 1.752-1 (TD 6175 and".

§ 1.752-2 [Corrected]

2. On page 66352, column 3, § 1.752-2(e)(1), two lines above the heading "*(2) Computation of present value.*", the language "accrue is less than 25% of the total" is corrected to read "accrue is less than 25 percent of the total".

3. On page 66354, column 3, § 1.752-2(g)(4), in the example, two lines above the heading "*(h) Partner providing property as security for partnership liability—(1) Direct pledge.*", the language "$28,795 and A bears to economic risk of loss" is corrected to read "$28,795 and A bears the economic risk of loss".

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 92-3229 Filed 2-11-92; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 751

Personnel Claims Regulations

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: This rule sets forth amended regulations pertaining to the Department

of the Navy's personnel claims program. This rule reflects changes to JAG Instruction 5890.1, Administrative Processing and Consideration of Claims on Behalf of and Against the United States. This rule simplifies the Department of the Navy processing of personnel claims.

EFFECTIVE DATE: February 12, 1992.

FOR FURTHER INFORMATION CONTACT: Captain Milton D. Finch, JAGC, USN, Deputy Assistant Judge Advocate General (Claims and Tort Litigation), Office of the Judge Advocate General, 200 Stovall Street, Alexandria, VA 22332–2400, (703) 325–9880.

SUPPLEMENTARY INFORMATION: Pursuant to the authority conferred under 5 U.S.C. 301; 10 U.S.C. 133, 939, 5013, and 5148; E.O. 11476; and 32 CFR parts 700.206 and 700.1202; the Judge Advocate General revises 32 CFR part 751. This revision reflects changes to JAG Instruction 5890.1, Administrative Processing and Consideration of Claims on Behalf of and Against the United States. This part has been revised and shortened. It sets forth the responsibilities and procedures for the supervision and management of the Navy's personnel claims program and the investigation of claims under the Military Personnel and Civilian Employees' Claims Act of 1964, as amended (31 U.S.C. 240–243). It also sets forth the procedures and responsibilities for the administrative processing and consideration of personnel claims against the United States.

This revision was adopted on January 17, 1991. To the limited extent that this revision could be deemed to originate any requirements within the Department of the Navy, it has been determined that such requirements relate entirely to internal Naval management and personnel practices that can be administered more effectively without public participation in the rule-making process. It has therefore been determined that invitation of public comment on this revision would be impracticable and unnecessary and is therefore not required under the provisions of 32 CFR parts 296 and 701. It has also been determined that this final rule is not a "major rule" within the criteria specified in Executive Order 12291, and does not have substantial impact on the public.

List of Subjects in 32 CFR Part 751

Claims.

For the reasons set out in the preamble, Title 32, Part 751 of the Code of Federal Regulations is revised to read as follows:

PART 751—PERSONNEL CLAIMS REGULATIONS

Subpart A—Claims Against the United States

Sec.
751.1 Scope of Subpart A.
751.2 Claims against the United States: In general.
751.3 Authority.
751.4 Construction.
751.5 Definitions.
751.6 Claims payable.
751.7 Claims not payable.
751.8 Adjudicating authorities.
751.9 Presentment of claim.
751.10 Form of claim.
751.11 Investigation of claim.
751.12 Computation of award.
751.13 Payments and collections.
751.14 Partial payments.
751.15 Reconsideration and appeal.
751.16–751.20 [Reserved]

Subpart B—Demand on Carrier, Contractor, or Insurer

751.21 Scope of Subpart B.
751.22 Carrier recovery: In general.
751.23 Responsibilities.
751.24 Notice of loss or damage.
751.25 Types of shipments and liability involved.
751.26 Demand on carrier, contractor, or insurer.
751.27 Preparation and dispatch of demand packets.
751.28 Assignment of claimants rights to the government.
751.29 Recoveries from carrier, contractor, or insurer.
751.30 Settlement procedures and third party responses.
751.31 Common reasons for denial by carrier or contractor.
751.32 Forwarding claims files for offset action.
751.33 Unearned freight packet.
751.34 GAO appeals.

Authority: 5 U.S.C 301; 10 U.S.C. 939, 5013, and 5148; E.O. 11476, 3 CFR, 1969 Comp., p. 132; 32 CFR 700.206 and 700.1202.

Subpart A—Claims Against the United States

§ 751.1 Scope of subpart A.

Subpart A of this part prescribes procedures and substantive bases for administrative settlement of claims against the United States submitted by Department of the Navy (DON) personnel and civilian employees of the naval establishment.

§ 751.2 Claims against the United States: In general.

(a) *Maximum amount payable.* The Military and Civilian Employees' Personnel Claims Act (Personnel Claims Act), 31 U.S.C. 3701, 3702, and 3721, provides that the maximum amount payable for any loss or damage arising from a single incident is limited to $40,000.00. Claims for losses occurring prior to 31 October 1988 are limited to $25,000.00.

(b) *Additional instructions.* The Judge Advocate General of the Navy may issue additional instructions or guidance as necessary to give full force and effect to this section.

(c) *Preemption.* The provisions of this section and the Personnel Claims Act are preemptive of other claims regulations. Claims not allowable under the Personnel Claims Act may, however, be allowable under another claims act.

(d) *Other claims.* Claims arising from the operation of a ship's store, laundry, dry cleaning facility, tailor shop, or cobbler shop should be processed in accordance with NAVSUP P487.

§ 751.3 Authority.

The Personnel Claims Act provides the authority for maximum payment up to $40,000.00 for loss, damage, or destruction of personal property of military personnel or civilian employees incident to their service. The Act provides for the recovery from carriers, warehouse firms, and other third parties responsible for such loss, damage, or destruction. No claim may be paid unless it is presented in writing within 2 years of the incident giving rise to the claim.

§ 751.4 Construction.

The provisions of this section and the Personnel Claims Act provide limited compensation to service members and civilian employees of the DON for loss and damage to personal property incurred incident to service. This limited compensation is not a substitute for private insurance. Although not every loss may be compensated under the Personnel Claims Act, its provisions shall be broadly construed to provide reasonable compensation on meritorious claims. Adjudications must be based on common sense and the reasoned judgment of the claims examiner giving the benefit of realistic doubt to the claimant.

§ 751.5 Definitions.

(a) *Proper claimants*—(1) *Members of the DON.* All Navy and Marine Corps active duty members and reservists on active duty for training under Federal law whether commissioned, enrolled, appointed, or enlisted. A retired member may only claim under this Act if loss or damage occurred while the claimant was on active duty or in connection with the claimant's last movement of personal property incident to service.

(2) *Civilian employees of the Navy.* Federal employees of the naval establishment paid from appropriated

funds. This term does not include Red Cross employees, USO personnel, and employees of Government contractors (including technical representatives).

(3) *Claims by nonappropriated-fund employees.* Claims by employees of Navy and Marine Corps nonappropriated-fund activities for loss, damage, or destruction of personal property incident to their employment will be processed and adjudicated in accordance with this enclosure and forwarded to the appropriate local nonappropriated-fund activity which employs the claimant for payment from nonappropriated-funds.

(4) *Separation from service.* Separation from the service or termination of employment shall not bar former military personnel or civilian employees from filing claims or bar designated officers from considering, ascertaining, adjusting, determining, and authorizing payment of claims otherwise falling within the provision of these regulations when such claim accrued prior to separation or termination.

(b) *Improper claimants.* Insurers, assignees, subrogees, vendors, lienholders, contractors, subcontractors and their employees, and other persons not specifically mentioned as proper claimants.

(c) *Unusual occurrence.* Serious events and natural disasters not expected to take place in the normal course of events. Two different types of incidents may be considered unusual occurrences: those of an unusual nature and those of a common nature that occur to an unexpected degree of severity. Examples of unusual occurrences include structural defects in quarters, faulty plumbing maintenance, termite or rodent damage, unusually large size hail, and hazardous health conditions due to Government use of toxic chemicals. Examples of occurrences that are not unusual include potholes or foreign objects in the road, ice and snow sliding off a roof onto a vehicle, and tears, rips, snags, or stains on clothing. Claims that electrical or electronic devices were damaged by a power surge may be paid when lightning has actually struck the claimant's residence or objects outside the residence, such as a transformer box, or when power company records or similar evidence shows that a particular residence or group of residences was subjected to a power surge of unusual intensity. In areas subject to frequent thunderstorms or power fluctuations, claimants are expected to use surge suppressors, if available, to protect delicate items such as computers or videocassette recorders.

(d) *Personal property.* Property including but not limited to household goods, unaccompanied baggage, privately owned vehicles (POV's), mobile homes, and boats.

(e) *Intangible property.* Property that has no intrinsic marketable value such as bankbooks, checks, promissory notes, non-negotiable stock certificates, bonds, baggage checks, insurance policies, money orders, and travelers checks.

(f) *Vehicles.* Includes automobiles, motorcycles, mopeds, utility trailers, camping trailers, trucks, mounted camper bodies, motor homes, boats, boat trailers, bicycles, and aircraft. Mobile homes and other property used as dwelling places are not considered vehicles.

§ 751.6 Claims payable.

Claims for loss, damage, or destruction of property may be considered as set out below if possession of the property was reasonable and useful under the circumstances and the loss did not result from the negligence of the claimant.

(a) *Transportation and storage losses.* (1) Incurred during transportation under orders, whether in possession of the Government, carrier, storage warehouse, or other Government contractor.

(2) Incurred during travel under orders, including temporary duty.

(3) Incurred during travel on a space available basis on a military aircraft, vessel, or vehicle.

(4) *Do-it-yourself (DITY) moves.* In certain circumstances, loss of or damage to property during a DITY move is compensable. Claimants, however, are required to substantiate the fact of loss or damage in shipment. Claimants who do not prepare inventories have difficulty substantiating thefts. In addition, unless evidence shows that something outside the claimant's control caused the damage, breakage is presumed to be the result of improper packing by the claimant. For example, if a claimant's truck is rear-ended by a drunk driver during a DITY move, it is out of claimant's control. If the claimant can substantiate that he was free from negligence, he can file a claim for damages to his household goods.

(5) *Shipment or storage at the claimant's expense.* The shipment or storage is considered Government-sponsored if the Government later reimburses the claimant for it. The Government, however, will not compensate a claimant for loss or damage that occurs while property is being shipped or stored at the claimant's expense, even if the Government reimburses the claimant for the shipment or storage fees. The reason for this is that there is no contract, called a Government Bill of Lading (GBL), between Government and the carrier. In such cases the claimant must claim against the carrier.

(b) *Losses at assigned quarters or other authorized places.* Damage or loss caused by fire, explosion, theft, vandalism, lightning, flood, earthquake, and unusual occurrences. Losses due to theft may only be paid if the claimant took reasonable measures to safeguard the property and the theft occurred as a result of a forced entry. Claimants are expected to secure windows and doors of their barracks, quarters, wall lockers, and other storage areas. Claimants are expected to store valuables in a secure area within their barracks, quarters, and storage areas. Claimants are also expected to take extra measures to protect cash, valuable jewelry, and similar small, easily pilferable items. Normally, such items should be kept in a locked container within a secured room. It is also advisable that the locked container be large enough that it is not convenient for a thief to carry off. Bicycles located at quarters or on base must be secured to a fixed object. Overseas housing is considered assigned quarters for claimants who are not local inhabitants.

(c) *Vehicle losses.* (1) Incurred while a vehicle is used in the performance of military duty, if such use was authorized or directed for the convenience of the Government, provided the travel did not include commuting to or from the permanent place of duty, and did not arise from mechanical or structural defect of the vehicle. There is no requirement that the loss be due to fire, flood, hurricane, or other unusual occurrence, or to theft or vandalism. As a general rule, however, travel is not considered to be for the convenience of the Government unless it was pursuant to written orders authorizing use for which the claimant is entitled to reimbursement. The claimant must be free from negligence in order to be paid for a collision loss. Travel by the claimant to other buildings on the installation is not considered to be under orders for the convenience of the Government. Travel off the installation without written orders may only be deemed to be for the convenience of the Government if the claimant was expressly directed by his superior to use POV to accomplish the mission. The issuance of written orders after the fact raises the presumption that travel was not for the convenience of the Government. The maximum payment of $2,000.00 authorized by the Allowance

List-Depreciation Guide still applies to loss of or damage to vehicles and contents. This maximum does not apply to DITY moves.

(2) Incurred while a vehicle is shipped at Government expense, provided the loss or damage did not arise from mechanical or structural defect of the vehicle during such shipment. Damage caused during shipment at the claimant's expense or while the vehicle is being moved to or from the port by an agent of the claimant is not compensable.

(3) Incurred while a vehicle is located at quarters or other authorized place of lodging, including garages, carports, driveways, assigned parking spaces, if the loss or damage is caused by fire, flood, hurricane, theft, or vandalism, or other unusual occurrence. Vandalism is damage intentionally caused. Stray marks caused by children playing, falling branches, gravel thrown by other vehicles, or similar occurrences are not vandalism. The amount payable on vandalism claims is limited to $2,000.00.

(4) Incurred while a vehicle is located at places other than quarters but on a military installation, if the loss or damage is caused by fire, flood, hurricane, theft, or vandalism, or other unusual occurrence. "Military installation" is used broadly to describe any fixed land area, wherever situated, controlled, and used by military activities or the Department of Defense (DOD). A vehicle properly on the installation should be presumed to be used incident to the claimant's service. A vehicle that is not properly insured or registered in accordance with local regulations is not properly on the installation. A vehicle left in a remote area of the installation that is not a designated long-term parking area for an undue length of time is presumed not to be on the installation incident to service.

(5) *Theft of property stored inside a vehicle.* Claimants are expected to lock doors and windows. Neither the passenger compartment nor the trunk of a vehicle is a proper place for the long-term storage of property unconnected with the use of the vehicle. The passenger compartment of a vehicle does not provide adequate security, except for very short periods of time for articles that are not of high value or easily pilferable. Car covers and bras are payable if bolted or secured to the vehicle with a wire locking device.

(6) *Rental vehicles.* Damage to rental vehicles is considered under paragraphs of the Joint Federal Travel Regulations (JFTR), rather than as a loss incident to service.

(d) *Mobile homes and contents in shipment.* Claims for damage to mobile homes and contents in shipment are payable unless the damage was caused by structural or mechanical defects (see § 751.12(g) below on mobile homes).

(e) *Borrowed property (including vehicles).* Loss or damage to borrowed property is compensable if it was borrowed for claimant's or dependent's own use. A statement will be provided by the owner of the property attesting to the use of the property by the claimant.

(f) *Clothing and articles being worn.* Repairs/replacement of clothing and articles being worn while on a military installation or in the performance of official duty may be paid if loss is caused by fire, flood, hurricane, theft, or vandalism, or other unusual occurrence. This paragraph shall be broadly construed in favor of compensation, but see § 751.5(c) for the definition of unusual occurrence. Articles being worn include hearing aids, eyeglasses, and items the claimant is carrying, such as a briefcase.

(g) *Personal property held as evidence or confiscated property.* If property belonging to the victim of a crime is to be held as evidence for an extended period of time (in excess of 2 months) and the temporary loss of the property will work a grave hardship on the claimant, a claim for the loss may be considered for payment. This provision will not be used unless every effort has been made to determine whether secondary evidence, such as photographs, may be substituted for the item. No compensation is allowed to a person suspected of an offense for property seized from that same person in the investigation of that offense. This also applies to property a foreign government unjustly confiscates or an unjust change in a foreign law that forces surrender or abandonment of property.

(h) *Theft from possession of claimant.* Theft from the person of the claimant is reimbursable if the theft occurred by use of force, violence, or threat to do bodily harm, or by snatching or pickpocketing, and at the time of theft the claimant was either on a military installation, utilizing a recreation facility operated or sponsored by the Department of Defense or any agency thereof, or in the performance of official duty. The theft must have been reported to appropriate police authorities as soon as practicable, and it must have been reasonable for the claimant to have had on his person the quality and the quantity of the property allegedly stolen.

(i) *Property used for the benefit of the Government.* Compensation is authorized where property is damaged or lost while being used in the performance of Government business at the direction or request of superior authority or by reason of military necessity.

(j) *Money deposited for safekeeping, transmittal, or other authorized disposition.* Compensation is authorized for personal funds delivered to and accepted by military and civilian personnel authorized by the commanding officer to receive these funds for safekeeping, deposit, transmittal, or other authorized disposition, if the funds were neither applied as directed by the owner nor returned to the owner.

(k) *Fees*—(1) *For obtaining certain documents.* The fees for replacing birth certificates, marriage certificates, college diplomas, passports, or similar documents may be allowed if the original or a certified copy is lost or destroyed incident to service. In general, compensation will only be allowed for replacing documents with a raised seal that are official in nature. No compensation will be allowed for documents that are representative of value, such as stock certificates, or for personal letters or records.

(2) *Estimate fees.* An estimate fee is a fixed cost charged by a person in the business of repairing property to provide an estimate of what it would cost to repair property. An estimate fee in excess of $50.00 should be examined with great care to determine whether it is reasonable. A person becomes obligated to pay an estimate fee when the estimate is prepared. An estimate fee should not be confused with an appraisal fee, which is not compensable (see § 751.7). A reasonable estimate fee is compensable if it is not going to be credited toward the cost of repair. If it is to be credited toward the cost of repair, it is not compensable regardless of whether the claimant chooses to have the work done. When an estimate fee is claimed, the file must reflect whether the fee is to be credited.

§ 751.7 Claims not payable.

(a) *Losses in unassigned quarters in the United States.* Claims for property damaged or lost at quarters occupied by the claimant within the United States that are not assigned or otherwise provided by the Government.

(b) *Currency or jewelry shipped or stored in baggage.* Claims for lost money, currency, or jewelry shipped or stored in baggage are not payable. Coin or paper money included in collections is payable only if listed on an inventory prepared at origin.

(c) *Enemy property or war trophies.* This includes only property that was originally enemy property or a war trophy that passed into the hands of a collector and was then purchased by a claimant.

(d) Unserviceable or Worn-Out Property.

(e) Loss or Damage to Property to the Extent of any Available Insurance Coverage as Set Forth in § 751.26 of this part.

(f) *Inconvenience or loss of use.* Expenses arising from late delivery of personal property, including but not limited to the expenses for food, lodging, and furniture rental, loss of use, interest, carrying charges, attorney's fees, telephone calls, additional costs of transporting claimant or family members, time spent in preparation of claim, or cost of insurance are not compensable. While such claims do not lie against the Government, members should be referred to the Personal Property Office for assistance in filing their inconvenience claims against the commercial carriers (NAVSUP Publication 490, Transportation of Personal Property).

(g) *Items of speculative value.* Theses, manuscripts, unsold paintings, or a similar creative or artistic work done by the claimant, friend, or a relative is limited to the cost of materials only. The value of such items is speculative. Compensation for a utilitarian object made by the claimant, such as a quilt or bookcase, is limited to the value of an item of similar quality.

(h) *Loss or damage to property due to negligence of the claimant.* Negligence is a failure to exercise the degree of care expected under the circumstances that is the proximate cause of the loss. Losses due, in whole or in part, to the negligence of the claimant, the claimant's spouse, child, houseguest, employee, or agent are not compensable.

(i) *Business property.* Losses of items acquired for resale or use in a private business are not compensable. If property is acquired for both business and personal use, compensation will not be allowed if business use is substantial, or is the primary purpose for which the item was purchased, or if the item is designed for professional use and is not normally intended for personal use.

(j) *Motor vehicles.* Collision damage is not payable unless it meets the criteria for payment as property used for the benefit of the Government as established in § 751.6(c)(1).

(k) *Violation of law or directives.* Property acquired, possessed, or transported unlawfully or in violation of competent regulations or directives. This includes vehicles, weapons, or property shipped to accommodate another person, as well as property used to transport contraband.

(l) *Sales tax.* Sales taxes associated with repair or replacement costs will not be considered unless the claimant provides proof that the sales tax was actually paid.

(m) *Appraisal fees.* An appraisal, as distinguished from an estimate of replacement or repair, is defined as a valuation of an item provided by a person who is not in the business of selling or repairing that type of property. Normally, claimants are expected to obtain appraisals on expensive items at their own expense.

(n) *Quantities of property not reasonable or useful under the circumstances are not compensable.* Factors to be considered are claimant's living conditions, family size, social obligations, and any particular need to have more than average quantities, as well as the actual circumstances surrounding the acquisition and loss.

(o) Intangible Property, such as Bankbooks, Checks, Promissory Notes, Stock Certificates, Bonds, Bills of Lading, Warehouse Receipts, Baggage Checks, Insurance Policies, Money Orders, and Traveler's Checks are not Compensable.

(p) Property Owned by the United States, Except where the Claimant is Responsible to an Agency of the Government other than the DON.

(q) *Contractual coverage.* Losses, or any portion thereof, that have been recovered or are recoverable pursuant to contract are not compensable.

§ 751.8 Adjudicating authorities.

(a) *Claims by Navy personnel.* (1) The following are authorized to adjudicate and authorize payment of personnel claims up to $40,000.00:

(1) The Judge Advocate General;

(ii) Deputy Judge Advocate General;

(iii) Any Assistant Judge Advocate General;

(iv) The Deputy Assistant Judge Advocate General (Claims and Tort Litigation); and

(v) Commanding officers of Naval Legal Service Offices.

(2) The Staff Judge Advocate attached to Naval Supply Center, Oakland is authorized to adjudicate and pay claims up to $25,000.00.

(3) The Staff Judge Advocate attached to Naval Station, Panama Canal is authorized to adjudicate and pay claims up to $10,000.00.

(4) The following are authorized to adjudicate and authorize payment of personnel claims up to $5,000.00:

(i) Officers in charge of Naval Legal Service Office Detachments;

(ii) The Staff Judge Advocate attached to Naval Station, Keflavik; and

(iii) Any personnel attached to a Naval Legal Service Office when specifically designated by the commanding officer of that Naval Legal Service Office.

(5) Any individual, when personally designated by the Judge Advocate General, may be authorized to adjudicate and authorize payment of personnel claims up to any delegated amount, not to exceed $40,000.00.

(b) *Claims by Marine Corps personnel.* (1) The following individuals are authorized to adjudicate and authorize payment of personnel claims up to $40,000.00:

(i) Commandant of the Marine Corps;

(ii) Deputy Chief of Staff, Manpower and Reserve Affairs Department;

(iii) Director, Human Resources Division;

(iv) Head, Personal Affairs Branch;

(v) Deputy Head, Personal Affairs Branch;

(vi) Head, Personnel Claims Section; and

(vii) Any individual, when personally designated by the Commandant of the Marine Corps, may be authorized to adjudicate and authorize payment of personnel claims up to any delegated amount, and not to exceed $40,000.00.

(2) The following individuals are authorized to adjudicate and authorize payment of personnel claims up to $25,000.00:

(i) Head, Adjudication Unit;

(ii) Head, Carrier Recovery Unit; and

(iii) Head, Administration Unit.

§ 751.9 Presentment of claim.

(a) *General.* A claim shall be submitted in writing and, if practicable, be presented to the claims office or personal property office serving the installation where the claimant is stationed, or nearest to the point where the loss or damage occurred. If submission in accordance with the foregoing is impractical under the circumstances, the claim may be submitted in writing to any installation or establishment of the Armed Forces which will forward the claim to the appropriate Navy or Marine Corps claims office for processing. To constitute a filing under this regulation, a claim must be presented in writing to one of the military departments. Claims that are incomplete will not be refused and shall be logged in as received. Claimants submitting such claims, however, shall be informed in writing that properly completed forms or necessary substantiation must be received within a fixed period of time (normally 30 days), otherwise the claim will be denied or paid only in the amount substantiated.

(b) *Statute of limitations.* A claim must be presented in writing to a military installation within 2 years after it accrues. This requirement is statutory and may only be waived if a claim accrues during armed conflict, or armed conflict intervenes before the 2 years have run, and good cause is shown. In this situation, a claim may be presented not later than 2 years after the end of the armed conflict. A claim accrues on the day the claimant knows or should know of the loss. For losses that occur in shipment of personal property, normally the day of delivery or the day the claimant loses entitlement to storage at Government expense (whichever occurs first) is the day the claim accrues. If a claimant's entitlement to Government storage terminates, but the property is later delivered at Government expense, the claim accrues on delivery. In computing the 2 years, exclude the first day (day of delivery or incident) and include the last day. If the last day falls on a non-workday, extend the 2 years to the next workday.

(c) *Substantiation.* The claimant is responsible for substantiating ownership or possession, the fact of loss or damage, and the value of property. Claimants are expected to report losses promptly. The greater the delay in reporting a loss, the more substantiation the claimant is expected to provide.

(1) *Obviously damaged or missing inventory items that are not reported at delivery.* Claimants are expected to list missing inventory items and obvious damage at time of delivery. Claimants who do not should be questioned. Obviously some claimants will simply not notice readily apparent damage. If, however, the claimant cannot provide an explanation or lacks credibility, payment should be denied based on lack of evidence that the item was lost or damaged in shipment.

(2) *Later-discovered shipment loss or damage.* A claimant has 70 days to unpack, discover, and report loss and damage that is not obvious at delivery. In most cases, loss and damage that is discovered later and reported in a timely manner should be deemed to have been incurred in shipment.

(3) *Damage to POV's in shipment.* Persons shipping POV's are expected to list damage on DD Form 788 (Private Vehicle Shipping Document for Automobile) when they pick up the vehicle. Obvious external damage that is not listed is not payable. Damage the claimant could reasonably be expected not to notice at the pickup point should be considered if the claimant reports the damage to claims personnel within a short time, normally a few days, after arriving at the installation.

(4) *Credibility.* Most claimants are honest. Most claimants objectively attempt to claim only what is due them. These persons are entitled to the presumption that what they list is honest, although it may not be correct. Some claimants lack credibility and their claims require careful scrutiny. Factors that indicate a claimant's credibility is questionable include amounts claimed that are exaggerated in comparison with the cost of similar items, insignificant or almost undetectable damage, very recent purchase dates for most items claimed, and statements that appear incredible. Such claimants should be required to provide more evidence than is normally expected.

(5) *Inspections.* Whenever a question arises about damage to property, the best way to determine a proper award is to examine the item closely to determine that nature of the damage. For furniture, undersurfaces and the edges of drawers and doors should be examined to determine whether the material is solid hardwood, fine quality veneer over hardwood, veneer over pressed wood, or other types of material. If the inspection is conducted at the claimant's quarters, the general quality of property should be determined. Claimants should routinely be directed to bring in vehicles and small broken items of value such as figurines for inspection, and inspections should be conducted on all large claims. Observations by repairmen and transportation inspectors are very valuable, but on occasion, claims personnel must go out of the office and inspect items themselves. Such inspections are necessary to reduce the number of reconsiderations and fraudulent claims and are invaluable in enabling claims personnel to understand the facts in many situations.

§ 751.10 Form of claim.

The claim should be submitted on DD Form 1842 (Claim for Personal Property) accompanied by DD Form 1844 (List of Property). If DD Forms 1842 and 1844 [1] are not available, any writing will be accepted and considered if it asserts a demand for a specific sum and substantially describes the facts necessary to support a claim cognizable under these regulations. The claim must be signed by a proper claimant (see § 751.5) or by a person with a power of attorney for a proper claimant. A copy of the power of attorney must be included with the claim.

§ 751.11 Investigation of claim.

Upon receipt of a claim filed under the Personnel Claims Act, the claim shall be stamped with the date and receiving office, and be referred to a claims investigating officer. The investigating officer shall consider all information and evidence submitted with the claim and shall conduct such further investigation as may be necessary and appropriate.

§ 751.12 Computation of award.

The Judge Advocate General will periodically publish an Allowance List-Depreciation Guide specifying rates of depreciation and maximum payments applicable to categories of property. The Allowance List-Depreciation Guide will be binding on all DON claims personnel. The value of the loss is determined and adjusted to reflect payments, repairs, or replacement by carriers or insurers, or lost potential insurance or carrier recoveries.

(a) *Repair of items.* For items that can be economically repaired, the cost of repair or an appropriate loss in value is the measure of the loss. The cost of repair may be the actual cost, as demonstrated by a paid bill, or reasonable estimated costs, as demonstrated by an estimate of repair prepared by a person in the business of repairing that type of property.

(1) *Loss of value (LOV)*—(i) *Minor damage not worth repairing.* An LOV, rather than replacement cost, should be awarded when an item suffers minor damage that is not economical to repair but the item remains useful for its intended purpose. An LOV is particularly appropriate when the item is not of great value and has preexisting damage (PED). An LOV is also appropriate to compensate claimants for minor damage, such as a chip or surface crack to a figure or knickknack. For example, if an inexpensive, fiberboard coffee table with extensive PED is scratched, repair of the scratch would exceed the value of the table. Under the circumstances, LOV is appropriate.

(ii) *Damage to upholstered furniture.* If damage can be repaired imperceptibly by cleaning or reweaving, the claimant is only entitled to repair cost. If repairs would be somewhat noticeable but the damage is to an area not normally seen, repair costs plus an LOV would be appropriate. Alternatively, if repairs would be somewhat noticeable but the item is of no great value and has already suffered PED, repair costs and LOV would be appropriate even if the damage is in an obvious area. If, however, repairs would be so noticeable as to destroy the usefulness of the item, the item should be reupholstered or replaced. What is noticeable will depend on the nature and value of the item, and the nature of the damage, and claims personnel should exercise sound judgment to avoid being too lenient or too harsh.

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[1] Copies of these forms may be obtained by contacting the claims office or personal property office serving the installation where the claimant is stationed, or nearest to the point where the loss or damage occurred.

(iii) *Cosmetic damage to nondecorative items.* LOV should also be awarded to compensate claimants for cosmetic damage to items that were not purchased for purposes of display or decoration. For example, the casing of a washing machine is dented. The washing machine is not decorative in nature and still functions perfectly. An LOV, rather than replacement of the washing machine or the casing, is the appropriate measure of the claimant's loss.

(2) *PED to repairable items.* PED is damage to an item that predates the incident giving rise to a claim. PED is most commonly identified by the use of symbols on household goods shipment inventories. Whenever PED is listed on an inventory, claims personnel must determine whether the PED did in fact exist and whether the cost of repairing the item includes repairing PED. The fact that a claimant signed the inventory that listed PED is conclusive evidence that PED did exist unless the member has taken written exceptions on the inventory to the carrier's description of PED. These findings are essential for recovery purposes. Often inspecting the item or calling the repairman who prepared the estimate is the only way to make an effective determination.

(i) *Estimates that do not include repair of PED.* If the estimate does not include repair of PED, even if PED is listed on the inventory, no deduction should be made. This fact should be recorded on the chronology sheet and on carrier recovery documents.

(ii) *Estimates that include repair of PED.* If repair of PED is included in the estimate, the percentage attributable to repair of PED is deducted.

(3) *Mechanical defects.* The Personnel Claims Act only provides compensation for losses incurred incident to service. Damage resulting from a manufacturer's defect or from normal wear and tear is not compensable. Damage to the engine or transmission of an old vehicle during shipment is probably due to a mechanical defect. Internal damage to appliances, such as old televisions, is also often due to a mechanical defect, particularly when their is no external damage to the item. Claims for internal damage to small appliances that are not normally repaired, such as toasters or hair dryers, should be assessed based on damage to other items in the carton and the shipment, the age of the item, the honesty of the claimant, and whether there are loose parts inside. If the evidence suggests rough handling caused the damage, a claim for the item should be paid. Internal damage to larger items such as televisions or stereos should be evaluated by a repairman. Evidence that suggests rough handling, such as smashed boards, provides a basis for payment. Evidence that suggests a fault in the item, such as burned-out circuits, does not. Deterioration because an item in storage was not used for a long time, rather than because the item was mishandled or the conditions of storage were improper, is also considered due to a mechanical defect.

(4) *Wrinkled clothing.* Clothing wrinkled in shipment presents special problems. Normally, unless the wrinkling is so severe as to amount to actual damage, the cost to press wrinkles out of clothing after a move is not compensable. The mere fact that clothing was "wadded-up" or "used as packing material" is not in itself sufficient. The wrinkling must be such that professional pressing is necessary to make the clothing usable. This determination will depend on the wrinkling and the nature of the material.

(5) *Wet and mildewed items.* A claimant has a duty to mitigate damages by drying wet items to prevent further deterioration. Items that have been wet are not necessarily damaged and claimants who throw them away have difficulty substantiating that a loss has occurred. Although a deeply seated mildew infestation is almost impossible to remove completely, items lightly infested can often be cleaned.

(b) *Replacement of items.* A claimant is entitled to the value of missing and destroyed items. An item that has sustained damage is considered destroyed if it is no longer useful for its intended purpose and the cost of repairing it exceeds its value. Value is measured in the following ways:

(1) *Similar used items.* If there is a regular market for used items of that particular type, the loss may be measured by the cost of a similar item of similar age. Prices obtained from industry guides or estimates from dealers in this type of property are acceptable to establish value. There is a regular market on used cars and the value of a used automobile is always measured according to the N.A.D.A. Official Car Guide rather than the depreciated replacement cost. Similarly, the Mobile Home Manufactured Housing Replacement Guide may be used to value a destroyed mobile home. Where there is no regular market in a particular type of used item, however, estimates from dealers in "collector's items" should be avoided.

(2) *Depreciated replacement cost.* This is the normal measure of a claimant's loss. A catalog or store price for a new item similar in size and quality is depreciated using the Allowance List-Depreciation Guide to reflect wear and tear on the missing or destroyed item. The replacement cost for identical items—particularly decorative items—should be used whenever the item is readily available in the local area, but a claimant who is eligible to use the Navy Exchange (NEX) and the NEX Mail Order Catalog should not be allowed a higher replacement cost of an item, such as a television, from a specialty store when the NEX carries an item comparable in size, quality, and features from another manufacturer.

(3) *"Fair and reasonable" (F&R) awards.* A fair and reasonable award should be used sparingly when other measures would compensate the claimant appropriately. Overuse of such awards impedes carrier recovery and "F&R" should never be used when a more precise measure of damages is available. An F&R award for a missing or destroyed item should reflect the value of an item similar in quality, description, age, condition, and function to the greatest extent possible. An F&R award for a damaged item should reflect either the amount a firm would charge for repair or the reduced value to the greatest extent possible. Whenever such an award is made, the basis for the award should be explained on the chronology sheet, in the comments block of DD Form 1844 (List of Property), or in a separate memorandum. A fair and reasonable award may be considered in the following instances:

(i) The item is obsolete and a simple deduction of a percentage for obsolescence is not appropriate.

(ii) The claimant cannot replace the item in the local area.

(iii) The claimant cannot replace the item at any cost.

(iv) Repair costs or replacement costs are excessive for the item and an LOV is not appropriate.

(v) The claimant has substantiated a loss in some amount but has failed to substantiate a loss in the amount claimed.

(c) *Depreciation.* The Personnel Claims Act is only intended to compensate claimants for the fair market value of their loss. Except in unusual cases, a used item that has been lost or destroyed is worth less than a new item of the same type. The price of a new replacement item must be depreciated to award the claimant the value of the lost or destroyed item. Average yearly and flat rates of depreciation have been established to determine the fair value of used property in various categories. These rates are listed in the Allowance-List Depreciation Guide. The listed depreciation rate should be adjusted if an item has been subjected to greater or lesser wear and tear than normal or if the replacement cost the claimant provides is for a used item rather than a new one. Yearly depreciation is not taken during periods of storage and normally no depreciation is taken on repair costs or on replacement cost for items less than 6 months old, excluding the month of purchase and the month the claim accrued (but see § 751.12(c)(3)).

(1) *Depreciating replacement parts.* No depreciation should be taken on replacement parts for damaged items unless these are parts separately purchased or normally replaced during the useful life of these items. The replacement cost for these latter items should be depreciated. For example, the glass top to a table is not normally replaced during the useful life of the table and should not be depreciated.

(2) *Depreciating fabric for reupholstery.* Fabric is normally replaced during the useful life of upholstered furniture. When upholstered furniture is reupholstered because the damage is too severe to be repaired and an LOV is not appropriate, the cost of new fabric is depreciated at a rate of 5 percent per year. If the item has been reupholstered since it was purchased, depreciation is measured from the date the item was last reupholstered, rather than from the date the item was originally purchased. Labor costs are allowed as claimed. If the estimate does not list separate costs for fabric and labor, the labor costs may be assumed to be 50 percent of the total bill.

(3) *Rapidly depreciating items.* Tires, most clothing items, and most toys rapidly lose their value, as the high depreciation rate for these items reflects. Depreciation should be taken on such items even when they are less than 6 months old. As a rule of thumb, half of the normal yearly or flat rate depreciation should be taken on such items when they are between 3 and 6 months old at the time of loss.

(4) *Obsolescence.* Even though depreciation is not taken during periods of storage, obsolescence should be claimed on those items that have lost value because of changes in style or technological innovations.

(5) *Military uniforms.* Normally, no depreciation should be taken on military uniforms. Depreciation, however, should be taken on military uniform items that are being phased out or that belong to persons separating from the service. Socks and underwear are not considered military uniform items.

(d) *Salvage value.* Whenever a claimant has been fully compensated for a destroyed item that still has some value, the claimant has the option of either retaining the item and having the claims office deduct an amount for the salvage value, or turning the item over to the Government or to the carrier if the carrier will fully reimburse the Government.

(1) *Turn-in to the Government.* On all claims, except CONUS domestic shipments, if the claimant does not choose to retain the items and accepts a reduction in the amount paid on the claim for salvage value, the claims office will require the claimant to turn them into a disposal unit designated by the Personal Property Office. Normally, the amount that the Government may obtain from selling such items is very low. If the claims office determines that the salvage value is less than $25.00, the claimant may be advised to dispose of the items by other means, either by throwing the item away or by turning it over to a charitable organization. Claimants may also be directed to make alternative disposition of items that have been refused by the designated disposal unit. This alternate disposition must be noted on the chronology sheet that is kept as part of the claims file. Claims personnel will not divert such items to personal use or use them to furnish Government offices. In determining whether an item has salvage value, the size of the item and the distance the claimant must travel to turn it in should be considered. A claimant must make his own arrangements to transport salvageable items prior to payment. Claims personnel should ask the claimant's command to make transportation available to assist the claimant in appropriate cases, particularly when the item is large or bulky. Sound discretion prohibits requiring a claimant living far from a designated disposal unit to turn in an item of relatively slight value.

(2) *Turn-in to the carrier.* On CONUS domestic shipments, the carrier may choose to pick up items for which it will fully reimburse the Government. Pursuant to a Joint Military-Industry Memorandum on Salvage, items that are hazardous to keep around, such as mildewed items or broken glass (except items such as figurines and crystal with a per item value of more than $50.00), may be disposed of as the claimant chooses. Claimants must retain other items for a maximum of 120 days from the date of delivery to allow the carrier to pick them up. Pursuant to this memorandum of understanding, the carrier has until the end of the inspection period or 30 days after receipt of the demand, whichever is greater, to identify such items. Claims offices must identify files in which the carrier is entitled to salvage and must process these claims for recovery action within 30 days so that the claimant does not dispose of salvageable items before the end of the period allotted for carrier pick-up.

(3) *Maximum allowances.* If the claimant will not be fully compensated for an item because a maximum allowance is applied, he will not be required to turn in the item.

(e) *Standard abbreviations.* The claims examiner's intent should be clear and unmistakable to anyone reviewing the remarks section of DD Form 1844. The following standardized abbreviations are used in completing the remarks section. Other abbreviations should not be used. Whenever one or more of these abbreviations will not adequately explain how the claimant has been compensated, a brief explanation should be inserted in the remarks section, in the comments section on the bottom of DD Form 1844, or on the chronology sheet that is kept in each claims file.

(1) *AC: Amount claimed.* The amount claimed was awarded to the claimant. This abbreviation is not used if the claimant has presented an estimate of repair.

(2) *AGC: Agreed cost of repairs.* The claimant did not present an estimate but instead, after discussing the matter with claims personnel, entered an amount that represents the claimant's guess as to how much it would cost to repair the damaged item. The claims office may accept this amount as a fair estimation of the cost of repair based on the amount of damage, the value of the item, and the cost of similar repairs in the area. A claimant may be allowed up to $50.00 as an AGC without an inspection and between $50.00 and $100.00 if claims personnel have inspected the item. The use of AGC is an integral part of small claims procedures.

(3) *CR: Carrier recovery.* The claimant was paid this amount by the carrier for the item. The payment is recorded in the remarks column, and the total carrier payment is deducted at the bottom of

DD Form 1844 in the same manner as insurance recovery.

(4) *D: Depreciation.* Yearly depreciation was taken on the destroyed or missing item in accordance with the appropriate depreciation guide in effect at the time of the loss. Deviations from standard rates must be explained.

(5) *DV: Depreciated value.* A claimant's repair costs exceeded the value of the item, so the depreciated value was awarded instead. Whenever a claimant claims a repair cost that is very high, relative to the age and probable replacement cost, the replacement cost should be obtained and the depreciated value determined.

(6) *ER: Estimate of repair.* The claimant provided an estimate of repair that was used to value the loss. If multiple estimates were provided, they should be numbered and referred to as exhibits.

(7) *EX: Exhibit.* When numerous documents have been provided to substantiate a claim, they should be numbered and referred to as exhibits.

(8) *FR: Flat rate depreciation.* Flat rate depreciation was taken on an item in accordance with the Depreciation Guide in effect at the time of the loss. Deviations from the normal rate must be explained.

(9) *F&R: Fair and reasonable.* A fair and reasonable award was made (see § 751.12(b)(3)).

(10) *LOV: Loss of value.* An LOV was awarded (see § 751.5(a)(1)).

(11) *MA: Maximum allowance.* The adjudicated value, listed in the "Amount Allowed" column, exceeds a maximum allowance. The amount in excess of the maximum allowance is subtracted at the bottom of the DD Form 1844.

(12) *N/P: Not payable.* The item is not payable. The reason for this comment should be noted (i.e., "not substantiated").

(13) *OBS: Obsolescence.* A percentage was deducted for obsolescence.

(14) *PCR: Lost potential carrier recovery.* A deduction was made for lost PCR.

(15) *PED: Preexisting damage.* A deduction was made for PED.

(16) *PP: Purchase price.* The purchase price was used to value the loss. Normally, the purchase price is not an adequate measure of the claimant's loss. If, however, the claimant used the replacement cost of a dissimilar item or otherwise failed to substantiate the replacement cost, a recent purchase price may be used at the discretion of claims personnel, if a true replacement cost is not available.

(17) *NEX: Navy Exchange replacement cost.* A replacement from the NEX was used.

(18) *RC: Replacement cost.* A replacement cost was used. The store or catalog from which the replacement cost was taken should be listed.

(19) *SV/N: Item has no salvage value.* A destroyed item was determined to have no salvage value.

(20) *SV/R: Salvage value, item retained.* A destroyed item was determined to have salvage value and the claimant chose to keep the item. Accordingly, a deduction was made for the salvage value.

(21) *SV/T: Salvage value, item turned in.* A destroyed item was determined to have salvage value and the claimant chose not to keep the item. If the item is part of a CONUS domestic shipment, the claimant must keep it for the carrier to pick up. Otherwise, the claimant must turn the item in prior to payment on the claim.

(f) *Sets.* Normally, when component parts of a set are missing or destroyed, the claimant is only entitled to the replacement cost of the missing or destroyed components. In some instances, however, a claimant would be entitled to replacement of the entire set or to an additional LOV. Some claimants will assert that all of the items in a room are part of a set. Pieces sold separately, however, are ordinarily not considered parts of a set, and pieces that merely complement other items, such as a loveseat purchased to complement a particular hutch, are never considered part of a set. When a component part of a set is missing or destroyed and cannot be replaced with a matching item, or has to be repaired so that it no longer matches other component parts of the set, the following rules apply:

(1) *The set is no longer useful for its intended purpose.* When a set is no longer useful for its intended purpose because component parts are missing or destroyed the entire set may be replaced. Note that several firms will match discontinued sets of china and crystal and that replacement of the set is not authorized if replacement items can be thus obtained. Generally, with china and crystal the value of the set as a whole is not destroyed unless more than 25 percent of the place settings are unusable. Exceptions may be made if the claimant can demonstrate a particular need for a certain number of place settings because of family size or social obligations. In those rare instances when an entire set is replaced, the claimant will be required to turn in undamaged pieces.

(2) *The set is still useful for its intended purpose.* When missing pieces cannot be matched and there is measurable decrease in the value of the set, but the set is still useful for its intended purpose, the claimant is awarded the value of the missing pieces plus an amount for the diminution in value of the set as a whole. The amount awarded as an LOV will vary depending on the exact circumstances.

(3) *Mattresses and upholstered furniture are recovered.* A mattress and box spring set is covered during normal use. Such sets are still useful for their intended purpose if one piece of the set has to be recovered in a different fabric. No award will be made for the undamaged piece. When one piece of a set of upholstered furniture suffers damage that cannot be repaired or recovered in matching fabric, recovering the entire set or recovering the damaged piece plus LOV should be considered. Factors to take into account include the value of the set, PED to the set, the nature of the current damage, and the extent to which the claimant's furniture is already mismatched.

(g) *Mobile homes.* Mobile homes present special problems. Most mobile homes, particularly larger ones, are not built to withstand the stress of multiple long moves. While the Mobile Home One-Time Only rate solicitation program, effective 1 November 1987, may have reduced the incidence of loss and damage by encouraging carriers to use extra axles when necessary, mobile home shipments can result in enormous uncompensated losses for servicemembers and present unusual difficulties for claims adjudicators. Because the risk is so great, claims offices must coordinate with their servicing transportation offices to ensure both that servicemembers shipping mobile homes are advised of the risk and of their responsibilities, and that the transportation office does not authorize shipment of a mobile home that has not been placed in a fit condition to be shipped.

(1) *Transportation counseling prior to shipment.* Servicemembers should be advised of the following:

(i) They are responsible for placing the mobile home and its tires, tubes, frames, and other parts in fit condition to ship and for loading the mobile home to withstand the stresses of normal transportation. They will not be compensated for any damage that results either from a latent defect in the construction of the mobile home (except when the carrier is aware of the defect and the servicemember is not) or from their failure to place the mobile home in fit condition to ship.

(ii) They are responsible for paying for necessary repairs en route. Such repairs can amount to several hundred or even several thousand dollars, and some mobile homes have been left in storage at the servicemember's expense hundreds of miles from destination because the owner could not pay for necessary repairs.

(iii) They are responsible for resealing the roof and weatherproofing the mobile home after delivery. The cost of this is not compensable, nor is any damage caused by the servicemember's failure to have it done.

(iv) They are responsible for removing obstructions, grading the roadway, or otherwise preparing the site to make it accessible for the carrier's equipment at both origin and destination.

(v) Because of the risk that damage will result for which they cannot be compensated, servicemembers should strongly consider purchasing private insurance coverage. A claimant usually must purchase separate insurance for property shipped inside the mobile home and most mobile home carriers will sell some sort of insurance coverage for damage to the mobile home itself. Often, when a mobile home has been moved repeatedly, the risk of uncompensated loss is so high that the servicemember should consider selling the home rather than attempting to ship it.

(2) *Inspection Prior to Shipment.* Transportation personnel should inspect the home prior to shipment in all instances. All defects should be recorded. In particular:

(i) A mobile home should not be shipped with a servicemember's furniture and other household goods inside. The maximum safe weight of appliances and additional property is very low. An overweight mobile home tends to blow tires and break apart during shipment. Servicemembers should be advised long before shipment that they will have to make other arrangements for shipping such items at their own expense.

(ii) A mobile home should never be shipped with defects in the steel frame or tow hitch.

(iii) The condition of all tires should be checked and recorded. Some carriers submit huge bills for "blown" tires during shipment.

(iv) Structural changes to the interior of the home, particularly those that involve cutting through beams, should be examined closely and a civil engineer should be called in to render an opinion. Frequently, it is not safe to ship mobile homes in which the claimant has altered the interior framing.

(3) *Latent Defects.* Many carriers will attempt to escape liability by attributing all damage to latent manufacturing defects. A loss due to such a defect, like a loss due to any other mechanical defect, is not considered incident to service. When an engineer's report or other evidence shows that damage was indeed caused by a defect rather than by the carrier's failure to take the necessary care, the following rules apply:

(i) If both the carrier and the claimant knew or should have known of the defect, and if the claimant took no corrective action and had the mobile home shipped anyway, the claim is not payable.

(ii) If the carrier knew or should have known of the defect, and the claimant could not reasonably have been expected to know of it, the claim is payable and liability should be pursued against the carrier.

(iii) If neither the claimant nor the carrier could reasonably be expected to know of the defect, the claim is not payable.

(4) *Substantiation of a claim.* Prior to adjudication of such claims, the mobile home should be inspected and the following evidence obtained, if possible:

(i) *DD Form 1800 (Mobile Home Shipment Inspection at Destination).* This document shows the condition of the home at origin prior to shipment. This document is prepared by the Transportation Office (TO) and is signed by the servicemember, the carrier's representative, and the Government inspector. It is vital and a claim should not be paid without it. At destination, damages noted at delivery should be annotated and the form dated and signed by the driver and the servicemember. Damages may be listed on this form or on the DD Form 1840 (Joint Statement of Loss or Damage at Delivery).

(ii) *DD Form 1863 (Accessorial Services-Mobile Home).* For shipments after 1 November 1987, DD Form 1863 lists all services the carrier is required to provide, including line-haul, payment of tolls, overdimension charges, permits and licenses, provision of anti-sway devices, axles with wheels and tires, temporary lights, and escort services. All costs and services may not appear on the GBL. For shipments prior to 1 November 1987, damages may also be listed on this form.

(iii) *DD Form 1840/1840R.* Beginning 1 November 1987, later-discovered damages must be listed on DD Form 1840R and dispatched to the carrier within 75 days of delivery. Timely notice on mobile home shipments differs slightly from such notice on other shipments. Item 306 of the carrier's rate solicitation provides that "upon delivery by the carrier, all loss of or damage to the mobile home shall be noted on the delivery document, the inventory form, the DD Form 1800, and/or the DD Form 1840. Late discovered loss or damage, including personal property within the mobile home, will be noted on the DD Form 1840R not later than 75 days following delivery and shall be accepted by the carrier as overcoming the presumption of correctness of delivery receipt."

(iv) *DD Form 1412 (Inventory of Items Shipped in Housetrailer).* Prior to 1 November 1987, the servicemember prepared DD Form 1412. After 1 November 1987, the carrier is required to prepare this in coordination with the servicemember.

(v) *DD Form 1841.* If a Government representative does not inspect the mobile home at delivery, an inspection should be requested.

(vi) *Driver's statement.* The mobile home carrier should be requested to provide (within 14 days) a statement from the driver of the towing vehicle explaining the circumstances surrounding the damage as well as detailed travel particulars. If the mobile home carrier does not respond, the file should be so annotated. Such statements are often self-serving and should be reviewed critically to determine whether the carrier is attributing damage to a latent defect.

(vii) *Owner's statement.* The claimant should provide a statement concerning the age of the mobile home, the date and place purchased, any prior damage or repairs, all prior moves, and prior claims.

(viii) *Estimates of repair.* When possible, the claimant should obtain two estimates of repair from firms in the business of repairing, rather than selling, mobile homes. Such estimates should list the approximate value of the home before and after damage, a detailed breakdown of the repairs needed and their cost, and the cause of damage.

(ix) *Engineer's statement.* Where the facts indicate the possibility of a latent defect, the claimant should be assisted in obtaining a statement from a qualified engineer or vehicle maintenance professional with expertise in mobile homes explaining the cause of damage. The claims office should coordinate in advance with facilities engineers or with local reserve units with engineering expertise to provide such inspection where possible.

(5) *Compensable damage.* In adjudicating the claim, the claimant may be paid for loss of or damage to the mobile home except when the damage is due to a latent defect, to the servicemember's failure to place the home in fit condition to ship, or to the servicemember's failure to have the roof

resealed. The servicemember may also be compensated for the reasonable cost of repair estimates provided by firms in the business of mobile home repair and of opinions prepared by qualified engineers. The claimant may not be compensated for services the carrier failed to perform or performed improperly or for other incidental expenses. The claimant should be referred to the transportation office for these. Such services (listed on DD Form 1843 and the GBL correction notice) include:

(i) Escort or pilot services, ferry fees, tolls, permits, overdimension charges, or taxes.

(ii) Storage costs or parking fees en route.

(iii) Expand charges and charges for anti-sway devices, brakes and brake repairs, or adding or replacing axles, tubes, or tires.

(iv) Wrecker service.

(v) Connecting or disconnecting utilities.

(vi) Blocking, unblocking, or removing or installing skirting.

(vii) The cost of separating or reassembling and resealing a double-wide mobile home.

(6) *Carrier liability and attempted waivers.* In the absence of additional coverage, the carrier's maximum liability for personal property shipped with the mobile home is $250.00. The carrier is fully liable for damages to the mobile home itself. Carriers are also liable for damage caused by third parties with whom they contract, such as wrecker services. Some carriers may still try to obtain waivers from the servicemember. A waiver signed by the servicemember, however, is not binding on the United States. The Navy is the contracting party and the owner has no authority to sign a waiver agreement or any other document purporting to exempt the carrier from the liability imposed under the GBL.

§ 751.13 Payments and collections.

Payment of approved personnel claims and deposit of checks received from carriers, contractors, insurers, or members will be made by the Navy or Marine Corps disbursing officer serving the adjudicating authority. Payments will be charged to funds made available to the adjudicating authority for this purpose. Credit for collections will be to the accounting data specified in Navy Comptroller Manual section 046370, paragraph 2 or in superseding messages, if applicable.

§ 751.14 Partial payments.

(a) *Partial payments when hardship exists.* When claimants need funds to feed, clothe, or house themselves and/or their families as a result of sustaining a compensable loss, the adjudicating authority may authorize a partial payment of an appropriate amount, normally one-half of the estimated total payment. When a partial payment is made, a copy of the payment voucher and all other information related to the partial payment shall be placed in the claim file. Action shall be taken to ensure the amount of the partial payment is deducted from the adjudicated value of the claim when final payment is made.

(b) *Marine hardship payments.* The Marine claimant's Transportation Management Office (TMO) shall ensure compliance with all requirements of § 751.14(a), and may request authority for payment by message from the Commandant of the Marine Corps (MHP-40).

(c) *Effect of partial payment.* Partial payments are to be subtracted from the adjudicated value of the claim before payment of the balance due. Overpayments are to be promptly recouped.

§ 751.15 Reconsideration and appeal.

(a) *General.* When a claim is denied either in whole or in part, the claimant shall be given written notification of the initial adjudication and of the right to submit a written request for reconsideration to the original adjudicating authority within 6 months from the date the claimant receives notice of the initial adjudication of the claim. If a claimant requests reconsideration and if it is determined that the original action was erroneous or incorrect, it shall be modified and, when appropriate, a supplemental payment shall be approved. If full additional payment is not granted, the file shall be forwarded for reconsideration to the next higher adjudicating authority. The next higher adjudicating authority may be the commanding officer of the Naval Legal Service Office if a properly delegated subordinate has acted initially on the claim. For claims originally adjudicated by the commanding officer, the files will be forwarded to the Judge Advocate General for final action. The claimant shall be notified of this action either by letter or by copy of the letter forwarding the file to higher adjudicating authority. The forwarding letter shall include a synopsis of action taken on the file and reasons for the action or denial, as well as a recommendation of further action or denial.

(b) *Files forwarded to JAG.* For files forwarded to JAG in accordance with § 751.15(a), the forwarding endorsement shall include the specific reasons why the requested relief was not granted and shall address the specific points or complaints raised by the claimant's request for reconsideration.

(c) *Appeals procedure for claims submitted by Marine Corps personnel.* Where any of the Marine Corps adjudicating authorities listed in § 751.8(b) fail to grant the relief requested, or otherwise resolve the claim to the satisfaction of the claimant, the request for reconsideration shall be forwarded together with the entire original file and the adjudicating authority's recommendation, to the Judge Advocate General.

§§ 751.16–751.20 [Reserved]

Subpart B—Demand On Carrier, Contractor, or Insurer

§ 751.21 Scope of subpart B.

Subpart B addresses the recovery process for loss or damage occurring during the storage or transport of household goods and other personal property for which military personnel and civilian employees were paid under the provisions of 31 U.S.C. 3721. The authority for pursuing recovery action is found at 31 U.S.C. 3711.

§ 751.22 Carrier recovery: in general.

(a) *Responsibility.* Recovery of amounts due for personal property lost or damaged while in transit or in storage at Government expense is a joint Personal Property Office/Naval Legal Service Office responsibility. In order to establish liability and to effectively pursue a recovery claim against a carrier, warehouseman, or other third party, it is essential that all required action be accomplished in an expeditious manner. Failure of the property owner or any Government agent to exercise diligence in the performance of duties may render collection of the claim impossible and thereby deprive the Government of rightful revenue. Claims approving and settlement authorities will ensure that all actions required of the property owner and naval personnel are accomplished promptly.

(b) *Elements of collection.* There are four elements in the successful assertion and collection of a recovery claim. They are:

(1) Proving that a transit loss occurred;

(2) Determining who had responsibility for the goods at the time of the transit loss;

(3) Calculating the amount of damages; and

(4) Pursuing the responsible party or parties vigorously.

§ 751.23 Responsibilities.

(a) *Notice of loss.* Claims office personnel must ensure that Notice of Loss or Damage, DD Form 1840R, is properly completed and dispatched to the liable third party or parties within 75 days of delivery of the property.

(b) *Counseling of claimant.* Claims office personnel should coordinate with the local personal property office to ensure proper counseling regarding potential claim procedures.

(c) *Documents.* Claims office personnel must obtain from the claimant or from the transportation office the following documents needed to process recovery actions:

(1) A copy of the GBL or other document used for shipment or storage.

(2) A copy of the inventory.

(3) A copy of the DD Form 1840 and DD Form 1840R.

(4) Where storage in transit was extended from 180 days to 270 days, a copy of the authorization from the transportation office allowing this extension at Government expense.

(5) Where storage converted from Government paid storage to storage at owner's expense, a copy of the claimant's contract with the warehouse.

(6) When necessary, a copy of DD Form 1164, Service Order for Personal Property, from the transportation office.

(7) When necessary, DD Form 619–1, Statement of Accessorial Services Performed, from the transportation office.

(d) *Carrier inspection.* Claims office personnel should inform claimants that the carrier has the right to inspect damaged goods within 75 days of delivery, or 45 days of dispatch of DD Form 1840R, whichever is later, and that damaged items must be held out for carrier inspection during that period. Essential items such as washer, dryer, television etc., may be repaired prior to that time if necessary.

(e) *Repair estimates.* Claims personnel must ensure that repair estimates describe the specific location and damage claimed and that the same damage is claimed on DD Form 1844, Schedule of Property and Claims Analysis Chart. Repair estimates that merely note "refinished" or "repaired" are not acceptable.

(f) *DD Form 1844.* Claims personnel must ensure that DD Form 1844 is properly completed with the nature and extent of the loss or damage to each item fully described, the correct inventory numbers supplied, and correct item weights utilized from the Military-Industry Table of Weights (when these weights are required for the code of service involved).

(g) *Demands on third parties.* Claims personnel must ensure that written demands against appropriate third parties are prepared as described in § 751.26 and § 751.27. No demand will be made where it conclusively appears that the loss or damage was caused solely by Government employees or where a demand would otherwise be clearly improper under the circumstances. If it is determined that a demand is not required, a brief written statement setting forth the basis for this determination will be included on the chronology sheet. Pursuant to the Joint Military-Industry Agreement on Claims of $25.00 or Less, claims of $25.00 or less will not be pursued because administrative costs outweigh recovery proceeds.

§ 751.24 Notice of loss or damage.

(a) *Exceptions.* The claimant is required to take exceptions and note any loss of damage at the time of delivery on the DD Form 1840 (Joint Statement of Loss or Damage at Delivery). Later discovered damage must be noted on the DD Form 1840R (Notice of Loss or Damage) and delivered to the claims office or Personal Property Office within 70 days of delivery. Failure to take exceptions at delivery and note and report later discovered damage will result in deduction on any lost potential carrier recovery from payment of the claim. Failure to note on the DD Form 1840 items missing at the time of delivery may result in denial of claims for those items.

(b) *DD Form 1840/1840R.* The DD Form 1840/1840R is printed in carbon sets of five with DD Form 1840 on the front side and DD Form 1840R on the reverse side. DD Form 1840/1840R is provided by the carrier to the member at delivery. Carriers were required to use this revised DD Form 1840/1840R beginning 15 August 1988 for international shipments and 15 September 1988 for domestic shipments. This is the only document the carriers will accept for reporting loss and damage to household goods. The requirement to list all know loss and damage at the time of delivery on the DD Form 1840 is a joint responsibility of the claimant and the carrier. If the carrier fails to give the claimant a DD Form 1840 at the time of the delivery, the carrier is liable for all damage and does not have to be notified in the 75-day timeframe

(c) *Military-Industry Memorandum of Understanding on Loss and Damage Rules.* The Military-Industry Memorandum of Understanding on Loss and Damage Rules became effective in 1985 with the implementation of the new DD Form 1840/1840R. This document should be thoroughly studied and completely understood.

§ 751.25 Types of shipments and liability involved.

(a) *Codes 1 and 2 (domestic including Alaska).* Increased released valuation, also referred to as "Basic Coverage," became effective within CONUS and Alaska on 1 April 1987 for intrastate shipments (shipments within a single State), and on 1 May 1987 for interstate shipments (shipments from one State to another). For Codes 1 and 2 shipments picked up after these dates, the carrier's released valuation (the carrier's maximum liability for loss and damage) increased from $.60 per pound per article to $1.25 multiplied by the net weight of the shipment ($2.50 for shipments to and from Alaska). For Codes 1 and 2 shipments picked up prior to these dates, carrier liability remains at $.60 per pound per article and is calculated the same as for Code 4 shipments. There are also two higher levels of coverage available in which the owner pays the difference between the basic coverage and the higher level requested: High or higher increased released valuation (Option 1) and full replacement protection (Option 2). These higher carrier released valuation rates only apply to Codes 1 and 2 shipments and they do not affect the liability of a non-temporary storage (NTS) warehouse which remains at $50.00 per line item.

(1) *Increased Released Valuation (IRV).* IRV is the basic valuation for service Codes 1 and 2 and is fully paid by the Government. If the claimant is due additional recovery money, the words "claimant due carrier recovery" must be added on the claims file to ensure the recovered amount is provided to the claimant if eligible. IRV is not reflected on the GBL by an special language. For Codes 1 and 2 shipments picked up after the effective dates mentioned above, the carrier's released valuation is $1.25 multiplied by the new weight of the shipment ($2.50 multiplied times the net weight of the shipment for shipments to and from Alaska). For example, if the weight of an IRV shipment moved from Kansas to New York is 10,000 pounds, the most the carrier could be held liable for would be $12,500 (10,000 pounds times $1.25 = $12,500). If the same shipment was moved from Alaska to New York, the maximum carrier liability would

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instead be $25,000 (10,000 pounds times $2.50=$25,000).

(2) *Higher Increased Released Valuation (Option 1).* This type of coverage may be purchased by an owner who desires protection for items whose value exceeds a maximum allowance or for a shipment whose value exceeds the statutory maximum. If the claimant is due additional recovery money, the words "claimant due carrier recovery" must be added in the claims file. Option 1 must be annotated on the original GBL. A GBL correction notice is acceptable only if the carrier or his agent has notice of the correction before pick-up. Option 1 may be listed in block 27 or block 30 either as a lump sum, such as "Option 1—$30,000," or as a multiple, such as "Option 1—$3.00 times the net weight." The carrier's maximum liability is whatever higher valuation the claimant places on the shipment. For example: The owner of a 10,000 pound shipment requests Option 1 coverage of $30,000.00 and has this listed on the GBL. The carrier's maximum liability is $30,000.00. Under basic coverage, the carrier's maximum liability for this shipment would only be $12,500.00. The claimant must initially file a claim with the carrier. The Government will only accept a claim if the carrier denies the claim, if delay would cause hardship, or if the carrier fails to satisfactorily settle the claim within 30 days. The claim is adjudicated in the normal fashion, applying depreciation and maximum allowances. Demand is then made on the carrier for the full value of the item lost or damaged. When recovery is effected, the Government keeps an amount equal to that paid to the claimant and disperses the remaining recovery to the claimant.

(3) *Full Replacement Protection (Option 2).* This type of coverage may be purchased by an owner who desires protection for items whose value exceeds a maximum allowance, for a shipment whose value exceeds the statutory maximum, or because the claimant does not wish to have the replacement cost of destroyed or missing items depreciated to their fair market value. The minimum coverage available under Full Replacement Protection is $21,000.00 or $3.50 times the net weight of the shipment, whichever is greater. A member who chooses this coverage must initially file a claim with the carrier, allowing the carrier the right to repair or replace items. The Government will only accept a claim if the carrier denies the claim, if delay would cause hardship, or if the carrier fails to satisfactorily settle the claim within 30 days. If a claim is submitted to the Government, the claim is adjudicated normally, applying depreciation and maximum allowances. The claimant should be informed that any additional amount will be forwarded after recovery action is effected against the carrier. Option 2 must be annotated on the original GBL. A GBL correction notice is acceptable only if the carrier or his agent receives notice of the correction before pick-up. Option 2 may be listed in block 27 or block 30 either as a lump sum, such as "Full Replacement Protection—$50,000.00," or as a multiple, such as "Full Replacement Protection—$3.50 times the net weight." The carrier's maximum liability is the higher valuation the claimant places on the shipment. For example: The owner of a 10,000 pound shipment requests full replacement protection of $3.50 times the net weight of the shipment and has this listed on the GBL. The carrier's maximum liability is $35,000.00 (10,000 pounds times $3.50=$35,000.00). Under basic coverage, the carrier's maximum liability for this shipment would only be $12,500.00.

(4) *Calculating liability on IRV, Option 1, and Option 2 shipments.* (i) Under IRV and Option 1, the carrier's maximum liability for loss or damage to a single item is limited to the repair cost or depreciated replacement cost of the item. Under Option 2, the carrier's maximum liability for a single item is the repair cost or the undepreciated replacement cost of the item. The carrier's maximum liability for the entire claim is limited to the released valuation, which is either the lump sum declared by the owner or the net weight of the shipment times the applicable multiplier. The net weight of the shipment is normally listed in block 4 of DD Form 1840 (block 3 of DD Form 1840 dated September 84). If the net weight is missing, it should be obtained from the transportation office.

(ii) In completing the carrier liability section of DD Form 1844, ignore the Joint Military-Industry Table of Weights. Assert the amount adjudicated on each item for which the carrier is liable in the carrier liability column. Where the Government payment was limited by application of a maximum allowance (or by depreciation on full replacement cost claims), assert the full, substantiated value. Total the amounts for which the carrier is liable in the carrier liability column. If this total exceeds the maximum carrier liability for the entire claim, the maximum carrier liability should be entered on DD Form 1843 as the amount demanded. Do not, however, change the total of the amounts for which the carrier is liable on the DD Form 1844.

(iii) If the amount the claimant receives from the Government is limited by application of a maximum allowance (or by depreciation on full replacement protection claims) leaving the claimant with an uncompensated loss, the claimant may be due reimbursement from recovery money after recovery is effected on the claim. Claimants with uncompensated losses who have basic coverage are only entitled to reimbursement from recovery money if the amount recovered exceeds the amount paid by the Government (unless the loss was in excess of the statutory maximum). Claimants with uncompensated losses who purchased Option 1 or Option 2 are entitled to reimbursement up to the value of their additional coverage. Such files should be marked: "claimant due carrier recovery." The claimant should be informed that recovery from the carrier is dependent on the amount and quality of the substantiation the claimant provided, and that the actual recovery may be less than anticipated. The claimant should further be informed that considerable time will elapse before recovery is effected and reimbursement made. Such claims should be processed for recovery action as expeditiously as possible.

(b) *Codes 4 and 6 (International and Hawaii).* On Codes 4 and 6, international GBL shipments, carrier liability is computed at $.60 per pound multiplied by the weight of the article or carton as prescribed by the Joint Military-Industry Table of Weights. In cases where the entire shipment is lost or damaged, liability will be computed on the net weight of the shipment times $.60 per pound. The net weight of the shipment may be obtained from the origin transportation office.

(c) *Codes 5 and T (International and Hawaii).* (1) A Code 5 shipment is the movement of household goods in Military Traffic Management Command (MTMC) approved door-to-door shipping containers (wooden boxes) and where a carrier provides line-haul service from origin residence to a military ocean terminal. The Government, through the Military Sealift Command (MSC), provides ocean transportation to the designated port of discharge, and the carrier provides line-haul service to the destination residence.

(2) A Code T shipment is the movement of household goods where the carrier provides containerization at origin and transportation to the designated Military Airlift Command

(MAC) terminal. MAC provides terminal services at both origin and destination, and air transportation to a designated MAC terminal. The carrier provides transportation to the destination residence.

(3) On Code 5 and T shipments, it is often difficult to decide whether the Government or the carrier was in actual custody of the shipment at the time of loss or damage. In order to reduce liability disputes in such situations, a 50-percent compromise agreement between industry and the military has been reached.

(4) When the 50-percent compromise is appropriate or applicable, the DD Form 1844 is prepared in the normal fashion utilizing weights indicated in the Military-Industry Table of Weights multiplied by $.60 per pound. Two different sums should be listed for carrier liability at the bottom of the DD Form 1844, the amount of liability due under the 50-percent compromise and the full amount that will be offset if carrier fails to pay, e.g., "$100.00 Code T, $200.00 Full Liability." This same computation should be reflected in the "amount of claim" box on DD Form 1843 (Demand on Carrier/Contractor). If a carrier refuses to make a satisfactory settlement or fails to make a timely response to the demand, the carrier's full liability will be collected.

(d) *Codes 7, 8, and J (Unaccompanied Baggage Shipments). Gross Weight Rules.* Government payment to the carrier for transportation of unaccompanied baggage (Codes 7, 8, and J) is based upon gross weight of the shipment. Unless the inventory is prepared as a "Proper Household Goods Descriptive Inventory," computation of carrier liability for loss or damage incurred in a Code 7, 8, or J shipment will also be based upon gross weight. Gross weight is defined as the total weight of all articles, including necessary packing materials and packing containers. The shipping container is the external crate (tri-wall or other Government approved container) into which individual articles and/or packing cartons are placed. For the majority of claims, liability will be asserted on gross weight of the container.

(2) *Baggage shipments prepared using a "Proper Household Goods Descriptive Inventory."* The Joint Military/Industry Table of Weights will apply to Code 7, 8, or J unaccompanied baggage shipments if the inventory has been prepared as a "Proper Household Goods Descriptive Inventory," in accordance with Paragraph 54 of the Tender of Service for Personal Property Household Goods and Unaccompanied Baggage (DOD 4500.34-R, appendix A). A properly prepared inventory should reflect the size of each individual carton, give a general description of carton contents, and note preexisting damage. The complete inventory, not just a portion, must have been prepared as a proper household goods inventory. If an inventory is only partially prepared as a proper household goods descriptive inventory, gross weight will be used.

(e) *Local moves and NTS.* There are basically two types of NTS shipments: A direct delivery from NTS by the same company that stored the property and a delivery from NTS which was picked up at the warehouse by a GBL carrier. Direct deliveries of household goods from NTS are often erroneously construed as local moves. It is sometimes difficult to tell the difference between the two since a shipment delivered from NTS by the warehouseman is usually also a short distance (local) move. The type of contract involved determines whether or not the shipment is considered a local move, a direct delivery from NTS, or a carrier delivery picked up from NTS. These distinctions are important since different liability is involved.

(1) *Local move.* A local move is a shipment performed under a local contract that authorizes property to be moved from one residence to another within a specified area (usually a move from off base to on base, or the reverse). The contract for a local move is the purchase order prepared by the transportation office which lists the services required of the carrier in accordance with the provisions of the Federal Acquisition Regulation (FAR). The purchase order usually includes packing and picking up the goods at origin residence or from storage, transporting the goods within a designated distance, and delivering and unpacking the goods at destination. All these services are performed under the authority of one purchase order and will usually be accomplished the same day or within a few days of pickup. Timely notice must exist in order to pursue carrier recovery and liability is usually based on a released valuation of $.60 per pound per article. The Joint Military/Industry Table of Weights is used to calculate liability. There is no insurance coverage required on local contractors; if the local contractor is no longer in business or bankrupt, the file may be closed.

(2) *Direct delivery from NTS.* In circumstances where one contractor is responsible for pick-up, NTS, and delivery of the shipment, liability for loss or damage is assessed against that carrier. Nontemporary storage of household goods requires completion of DD Form 1164 (Service Order for Personal Property) in accordance with the provisions of the Basic Ordering Agreement (BOA). The "handling-in" portion of the shipment is accomplished by issuance of the Initial Service Order, DD Form 1164. The goods are usually stored for a period of 6 months to 4 years. The "handling-out" and post-storage services are accomplished by a supplemental service order. These are usually long term storage, short distance moves processed under the authority of at least two documents: the initial service order and the supplemental service order. The BOA states that the contractor shall be liable "in an amount not exceeding fifty dollars ($50.00) per article or package listed on the warehouse receipt or inventory form" (i.e., $50.00 per inventory line item).

(3) *Carrier delivery picked up from NTS.* The NTS portion of the shipment requires completion of an Initial Service Order, DD Form 1164, to accomplish the "handling-in" of the goods into the warehouse for storage, as prescribed by the provisions of the BOA. When storage is terminated, the "handling-out" and post-storage services are accomplished by issuance of a GBL in accordance with the tender of service. The GBL may be issued to a different company or in some cases to the same company that stored the goods. These are long-term storage, long-distance moves processed under the authority of two documents: the initial service order and the GBL. Liability is assessed entirely against the delivering carrier at whatever rate is appropriate for the code of service involved, unless the carrier prepares an exception sheet (rider) noting damage or loss at the time the goods are picked up from the warehouse. The exception sheet must be signed by a warehouse representative. If a valid exception sheet exists, liability for items noted on the exception sheet is assessed against the NTS warehouse at $50.00 per inventory line item. An exception sheet should be prepared by the GBL carrier who picks up the goods from NTS even if that carrier is the same company that stored the goods. This is necessary in order to relieve the carrier from liability as a carrier. If either the carrier alone, or both the carrier and the NTS facility, fail to pay their proper liability, the file is forwarded to the Naval Material Transportation Office, (NAVMTO), Norfolk, Virginia for offset action.

(f) *Direct Procurement Method (DPM).* (1) A DPM move is a method in which the Government manages the shipment from origin to destination. Contracts are issued to commercial firms for packing, containerization, local drayage, and storage services, or Government facilities and employees provide these services. Separate arrangements are made with carriers and separate documents are issued for each segment throughout. DPM contractors are also known as packing and crating (P&C) contractors, as local drayage contractors, or just as local contractors.

(2) GBL's for DPM shipments are usually only issued to motor freight carriers.

(i) Block 3 on the GBL entitled "service code" will contain the letters A, B, H, or V, followed by a second letter A, H, K, N, P, R, W, X, or Y. These two letter codes identify the GBL as a DPM contract.

(ii) Block 18, "consignee," and Block 19, "from," on the GBL contain the name and address of another carrier or transportation office rather than the name and address of the claimant.

(iii) Block 27, "description of shipment," on most GBL's contains the statement, "household goods released at a value of 10 cents per pound per article." This refers to the motor freight carrier's liability only. The origin and destination contractors' liability is still $.60 per pound times the weight of the article or carton, as indicated in the Joint Military/Industry Table of Weights.

(iv) If liability lies against the motor freight carrier, the term "article" is defined as the weight of each packed item, such as the weight of a broken dish within a carton rather than the net weight of a carton, as used against the origin and destination contractors. Liability is computed against the motor freight carrier at a rate of $.10 per pound times the weight of the article.

(3) Since 1 January 1981 the destination contractor has been held liable for loss and damage unless it can prove that it is not at fault, i.e., took exceptions prior to receipt of goods. The motor freight carrier is liable for any damage or loss noted against it during its portion of the move. If the motor freight carrier has noted specific damage when it received the shipment, liability is charged against the origin contractor at $.60 per pound times the weight of the article or carton. Damage noted against the origin contractor or motor freight carrier should be indicated on a valid shipping document and generally involves distinct damage to or missing containers. These documents must be signed by all parties involved in the transfer of the goods.

(4) The destination contractor must receive timely notice of loss or damage via DD Form 1840/1840R and a demand packet. If exceptions were taken against the origin contractor or motor freight carrier on a transfer document, they should receive only demand packets.

(5) In determining destination or origin contractor's liability, the term "article" has been defined as each shipping carton or container and the contents thereof, less any exterior crate or shipping carton. The net weight of each article (carton or box) packed within the exterior crate or carton may be used to determine the contractor's liability for a damaged or missing item originating out of that carton.

(6) Claims offices should obtain a copy of the DPM contract from the local contracting office or transportation office in order to identify which company has the DPM contract and verify the limits of the liability clause. Contracts are awarded on a calendar-year basis.

(g) *Mobile homes.* Mobile home claims represent such a small percentage of claims received that claims personnel are often unfamiliar with the requirements and documentation necessary to process such claims. For an explanation of the adjudication of such claims and the forms used to effect shipment, see § 751.12(g) above.

(1) *Carrier liability*—(i) *For damage to the mobile home.* Carrier liability for damage to a mobile home is generally the full cost of repairs for damage incurred during transit. A mobile home carrier is excused from liability when the carrier can introduce substantial proof that a latent structural defect (one not detectable during the carrier's preliminary inspection) caused the loss or damage.

(ii) *For damage to contents.* The carrier's liability for loss or damage to household or personal effects inside the mobile home (such as clothing and furniture, or furnishings which were not part of the mobile home at the time it was manufactured) is limited to $250.00 unless a greater value is declared in writing on the GBL. Under the Mobile Home One-Time-Only (MOTO) rate system, effective for shipments after 1 November 1987 the owner no longer prepares his own inventory. Under the MOTO system, the carrier in coordination with the owner is required to prepare a legible descriptive inventory on DD Form 1412, Inventory of Articles Shipped in House Trailer.

(iii) *Agents of the mobile home carrier.* If the shipment is transferred to another mobile home carrier for transport, the first carrier will continue to be shown on the GBL and is responsible for the mobile home from pickup to delivery. The carrier is also responsible for damage caused by third parties it engages to perform services such as auxiliary towing and wrecking.

(iv) *Water damage.* Water damage to a double-wide or expando-type mobile home is usually due to the carrier's failure to provide sufficient protection against an unexpected rainstorm. Carriers will often assert that this damage is due to an "act of God" and attempt to avoid liability. It is, however, the carrier's responsibility to ensure safe transit of the mobile home from origin to destination. Not only should carriers be aware of the risk of flash floods and storms in certain locales during certain seasons, but a carrier is supposed to provide protective covering over areas of the mobile home exposed to the elements. Carrier recovery should be pursued for water damage to these types of mobile homes.

(v) *Waivers signed by the claimant.* The carrier may attempt to escape liability by having the owner execute a waiver of liability. Such waivers are not binding upon the United States.

(vi) *Extensions of storage in transit (SIT).* The extension of SIT past 180 days is only applicable to household goods and holdbaggage shipments. It is not applicable to the shipment of mobile homes. If a mobile home remains in SIT past 180 days, storage is at the owner's expense.

(2) *Notice.* Item 306 of the carrier's rate solicitation states that: "Upon delivery by the carrier, all loss of or damage to the mobile home shall be noted on the delivery document, the inventory form, the DD Form 1800, and/or the DD Form 1840. Late(r) discovered loss or damage, including personal property within the mobile home, will be noted on DD Form 1840R not later than 75 days following delivery and shall be accepted by the carrier as overcoming the presumption of correctness of delivery receipt." Notification to the carrier may be made on any of the documents. Claims personnel will dispatch the DD Form 1840R in accordance with § 751.14.

(3) *Preparation of demands.* The carrier is liable for the full amount of substantiated damage to the mobile home itself (less estimate fees), plus up to $250.00 for loss or damage to contents (unless the claimant purchased increased released valuation on the contents). Prepare a demand for this amount. In addition to the DD Form 1843 and DD Form 1844, the demand packet should include the following documents:

(i) DD Form 1800, Mobile Home Inspection Record;

(ii) DD Form 1863, Assessorial Services, Mobile Home;

(iii) DD Form 1840/1840R, Joint Statement of Loss or Damage at Delivery/Notice of Loss;

(iv) DD Form 1412, Inventory of Items Shipped in House Trailer;

(v) DD Form 1841, Government Inspection Report;

(vi) Driver's statement, from the driver of the towing vehicle;

(vii) Claimant's statement concerning previous moves;

(viii) Estimates of repair, preferably two, from firms in the business of repairing mobile homes; and

(ix) Engineer's statement, or statement by other qualified professionals.

(4) *References.* Chapter 3 and Appendix E of DOD 4500.34-R, pertain to mobile home shipment and contain much valuable information. Another source is NAVSUP 490, Chapter 10 "Mobile Homes of Military Personnel."

§ 751.26 Demand on carrier, contractor, or insurer.

(a) *Carrier.* When property is lost, damaged, or destroyed during shipment under a GBL pursuant to authorized travel orders, the claims investigating officer or adjudicating authority (whichever can more efficiently perform the task) shall file a written claim for reimbursement with the carrier according to the terms of the bill of lading or contract. This demand shall be made against the last carrier known to have handled the goods, unless the carrier in possession of the goods when the damage or loss occurred is known. In this event, the demand shall be made against the responsible carrier. If it is apparent the damage or loss is attributable to packing, storing or handling while in the custody of the Government, no demand shall be made against the carrier.

(b) *Marine Corps claimants.* For Marine Corps claimants, the claims investigating officer will prepare the claim against the carrier, contractor, and/or insurer and will mail it (together with the DD Form 1842 claim package) to the Commandant of the Marine Corps (MHP-40), who will submit and assume the responsibility of monitoring the claim against the carrier.

(c) *NTS warehousemen.* Whenever property is lost, damaged, or destroyed while being stored under a basic agreement between the Government and the warehouseman, the claims investigating officer, or appropriate Naval Legal Service Command (NLSC) activity, shall file a written claim for reimbursement with the warehouseman under the terms of the storage agreement.

(d) *Insurer.* When the property lost, damaged, or destroyed is insured, the claimant must make a demand against the insurer for payment under the terms of the insurance coverage within the time provided in the policy. If the amount claimed is clearly less than the policy deductible, no demand need be made. Failure to pursue a claim against available insurance will result in reducing the amount paid on the claim by the amount which could have been recovered from the insurer. When an insurer makes a payment on a claim in which the Government has made a recovery against the carrier or contractor, the insurer shall be reimbursed a pro rated share of any money recovered.

§ 751.27 Preparation and dispatch of demand packets.

Demand on a carrier or contractor shall be made in writing on DD Form 1843 (Demand on Carrier) with a copy of the adjudicated DD Form 1844 (Schedule of Property) attached.

(a) *Demand packets.* A demand is a monetary claim against a carrier, contractor, or insurer, to compensate for loss or damage incurred to personal property during shipment or storage. DD Form 1843 represents the actual demand. The demand packet is a group of documents, stapled together and sent to the liable third party. More than one demand packet should be prepared when more than one party is deemed to be liable. Do not use original documents. Demand packets should be mailed in official DON envelopes. No demand packet should be prepared for claim files that have been closed or when potential recovery is $25.00 or less. In those cases the outside of file folders in the upper left-hand corner should be marked "CLOSED." A demand packet will include the following:

(1) DD Form 1843, Demand on Carrier/Contractor;

(2) DD Form 1844, Schedule of Property and Claim Analysis Chart;

(3) DD Form 1841, Government Inspection Report (if available);

(4) DD Form 1164, Service Order for Personal Property (when applicable);

(5) Copies of all repair estimates (translated from foreign languages); and

(6) Copies of all other supporting documents deemed appropriate.

(b) *Dispatch of demand packets.* (1) The demand packets are directly dispatched by the appropriate personal property office or the Naval Legal Service Office to the third party.

(2) *Privately Owned Vehicles (POV's).* Demands for loss or damage to POV's will not be made directly against ocean carriers operating under contract with the MSC. After payment is made to the claimant, one copy of the complete claim file will be forwarded directly to Commander, MSC. Each file shall include the following:

(i) The payment voucher;

(ii) The completed personnel claim forms;

(iii) The estimated or actual cost of repair;

(iv) A document indicating the conditions of the items upon delivery to the carrier; and

(v) a document indicating the forwarding condition of the POV upon its return to Government control.

The letter of transmittal should identify the vessel by name, number, and if available, the sailing date.

§ 751.28 Assignment of claimants rights to the government.

The claimant shall assign to the Government, to the extent of any payment made on the claim, all rights and interest the claimant may have against any contractor, carrier, or insurer or other party arising out of the incident on which the claim is based. The claimant shall also furnish such evidence as may be required to enable the Government to enforce its claim. If the claimant refuses to cooperate, steps may be taken to ensure return of monies paid on the item which the Government is trying to collect.

§ 751.29 Recoveries from carrier, contractor, or insurer.

(a) *Recoveries.* If a claimant receives payment from the Government under this instruction and also receives compensation from a carrier, contractor, or insurer for the same loss, the Government shall collect from the claimant the amount necessary to prevent the claimant from being compensated twice for the same loss. If the amount payable on a claim is less than the adjudicated value of the claim, excess recoveries from carriers, and other third parties shall be paid to the member as long as the total amount paid does not exceed the value of the claim as adjudicated.

(b) *Recovered property.* When lost property is found, the claimant may, at his option, accept all or part of the property and return the full payment or a pro-rated share of the payment received from the Government on the claim for the recovered property. Surrendered property shall be disposed of under applicable salvage and disposal procedures.

§ 751.30 Settlement procedures and third party responses.

(a) *Settlement procedures.* In the interest of expeditious office administration, correspondence to carriers and contractors should be kept to a minimum. Normally, one rebuttal to a third party's denial of liability is sufficient, unless the carrier or contractor raises new arguments or provides new information.

(1) *Checks from third parties.* Accept checks for the amount demanded from carriers and contractors. If a carrier or contractor forwards a check for less than the amount demanded, review the carrier's arguments for reducing liability to determine if they are acceptable. If the third party's basis for reducing liability is acceptable in the light of all evidence, deposit the check and dispatch the unearned freight letter, if applicable. Mark the front upper left-hand corner of the file as "CLOSED."

(2) *Third party offers of settlement.* If a carrier or contractor offers to settle the claim, review the carrier's arguments for reducing liability to determine if they are acceptable. If the third party's basis for reducing liability is acceptable in light of all evidence, inform the carrier that the offer is accepted, but that offset action will be initiated if a check for that amount is not received within 45 days. If a check in the amount acceptable to the Government is received, deposit it and dispatch the unearned freight letter, if applicable. Mark the front upper left-hand corner of the file as "CLOSED." If a check in the proper amount is not received within 45 days, send the request to NAVMTO, Norfolk (or appropriate contract officer) for offset action (see § 751.32 of this part).

(3) *Unacceptable third party checks and offers of settlement.* If a third party's basis for denying liability is not valid, respond to that carrier or contractor. Return unacceptable checks. Explain the reasons for not accepting the check or offer, and request the amount that is justified under the circumstances in the light of all the evidence. If a release was included, amend the release to the revised amount and sign, date, witness, and return it. Warn the carrier or contractor that the claim will be forwarded for offset action if a check for the amount justified under the circumstances is not received within 45 days. Suspend the file for 45 days and if a check in the proper amount is received, deposit it and dispatch the unearned freight letter, if applicable. If a check in the proper amount is not received within 45 days, request NAVMTO, Norfolk (or appropriate contract officer) to take offset action.

(4) *Third party denials of liability.* Upon receipt, review the carrier or contractor's basis for denying liability in the light of all the evidence.

(i) *Acceptable third party reasons for denial.* Mark the front upper left-hand corner of such files as "CLOSED."

(ii) *Partially acceptable and unacceptable third party reasons for denial.* If the carrier or contractor's basis for denying liability is acceptable only in part or is completely unacceptable, follow the procedures in subparagraph (3) above, requesting the amount that is justified under the circumstances in the light of all the evidence. If a response is not received within 45 days, or if the third party's reply is not responsive, request NAVMTO, Norfolk (or appropriate contract officer) take offset action as described above.

(b) *Depreciation.* In determining payments to claimants, the depreciation rates from the Allowance List—Depreciation Guide are used. In determining third party liability, however, a different depreciation guide, the Joint Military/Industry Depreciation Guide is used instead. In most instances, the depreciation rates are the same in both guides, and claims personnel are not required to consult the Joint Military/Industry Depreciation Guide or alter the depreciation taken on items prior to dispatching demands. If, however, a carrier or contractor objects to the depreciation rate utilized for certain items, consult the Joint Military/Industry Depreciation Guide and use the depreciation rate found in that guide if it differs from the rate in the Allowance List-Depreciation Guide.

§ 751.31 Common reasons for denial by carrier or contractor.

The following are common reasons given for denial of an entire claim, or for individual items on a claim. Each reason for denial is followed by a short discussion of the validity of such a denial.

(a) *The carrier alleges that valid exceptions were made at the time of pickup from the NTS facility.* When a carrier provides an exception sheet it contends was made at time of transfer, this exception sheet must bear the signature of a representative of the NTS facility. Without a signed exception sheet there is no evidence that the NTS facility was made aware of these exceptions and given the opportunity to confirm or deny the alleged condition of the items in question. The burden of proof is on the carrier to provide the valid exception sheet and establish its freedom from liability.

(b) *The carrier denies liability for missing or damaged item packed in cartons because it did not pack the shipment and the cartons did not show outside damage.* When a carrier accepts a shipment in apparent good order, it is responsible for damage to packed items, unless it can prove that the packing was improper and was the sole cause of the damage.

(c) *The carrier contends that the mildew damage occurred in NTS and not during its transport of the shipment.* Mildew formation is more likely to occur in NTS than in transport. Unsupported by evidence, however, an allegation that mildew formation occurred during NTS does not rebut the established prima facie case of a carrier liability. A carrier must prepare an exception sheet and note any mold or mildew damage when the items were picked up from the NTS facility. The burden of proof is on the carrier to show that it was free from negligence and that the damage was due solely to the formation of mildew or mold during the NTS storage.

(d) *The carrier claims that damage is due to "inherent vice."* Although the carrier may allege that damage was due to "inherent vice," the mere allegation of "inherent vice" is insufficient to relieve the carrier of liability. The burden of proof is on the carrier to establish that an "inherent vice" existed and that it was the sole cause of the damage claimed. Since the carrier can rarely establish this burden of proof, denial due to "inherent vice" is seldom acceptable.

(e) *The carrier contends that it was denied the right to inspect.* Often a carrier will state that it made several attempts to make an inspection, but the shipper failed to keep the appointment. If such a case exists, the proper procedure for the carrier to follow is to contact the claims office for assistance in accomplishing the inspection within a timely manner. A carrier's efforts to obtain the inspection should be documented in the file by claims personnel. Lack of an inspection alone, however, does not relieve the carrier of liability and is insufficient to rebut a well-established prima facie case of liability.

(f) *The carrier denies liability on missing items because the items do not appear on the new inventory made at pickup from the NTS facility.* When a carrier picks up a shipment from NTS and chooses to prepare a new inventory, it must use identical or cross-referenced numbers. If an article such as a chair or a lawnmower is missing, it must be indicated as "missing" on the new inventory. Whether or not a new inventory is made, an exception sheet must be prepared and the missing articles must be noted thereon. To relieve the carrier of liability, both the new inventory and the exception sheet must be signed by representatives of the NTS facility and the carrier.

(g) *The carrier denies liability due to "act of God."* An act of God is an event that could not have been prevented by human prudence. It is generally seen as an occurrence in which human skill or watchfulness could not have foreseen the disaster. The burden of proof is on the carrier to establish that an "act of God" existed and that it was the sole cause of the damage claimed. Since the carrier can rarely establish this burden of proof, denial due to an "act of God" is generally not acceptable. The carrier cannot avoid liability if it has been negligent in exposing the goods to potential danger or if it failed to take reasonable steps to reduce the extent of the injury once the danger was discovered.

(h) *The carrier contends that the claimant's repair estimate is excessive and that its own repair firm can do the job cheaper.* A claimant has the right to select a repair firm provided the cost is reasonable and not in excess of the item's value. The carrier is liable for the reasonable cost of repairing damaged merchandise that includes labor, material, overhead, and other incidental expenses incurred in reconditioning or putting the goods in salable condition. If the carrier did not provide the claims office with an acceptable, lower estimate to use in adjudicating the claim, and if the claimant's estimate is reasonable, then the carrier is liable for the amount paid the claimant.

(i) *The carrier contends that liability should have been predicated on the agreed weight of a sofa and not a hide-a-bed.* This argument only applies when carrier liability is based on weight. At the time the inventory is prepared, the carrier's driver must establish whether a sofa is merely a sofa, or one that converts into a bed. Failure to properly identify the item on the inventory does not relieve the carrier of liability for the greater weight of a sofa bed.

(j) *The carrier argues that it is not responsible for warpage, rust, etc., due to climatic changes.* This argument does not relieve a carrier of liability unless the carrier offers substantial evidence to show that the damages resulted solely from unusual circumstances beyond its control, as with an "act of God," or that it occurred while the property was in the hands of another contractor, as reflected upon a valid NTS exception sheet. The burden of proof is on the carrier to establish that the damage was not due to its negligence and that circumstances beyond its control were the sole cause of the loss. Because the carrier can rarely establish this, denial due to "climatic changes" is rarely acceptable.

§ 751.32 Forwarding claims files for offset action.

(a) *General.* Claim files are forwarded with a recommendation for offset action when 120 days have passed since a demand and a response has not been received from the carrier or contractor. Files are also forwarded for offset action when an impasse is reached. An impasse occurs when legitimate efforts to collect the fully justified amount demanded have reached a standstill and the carrier has no valid basis for denial. Prior to forwarding files for offset action, claims personnel must ensure that timely notice has been given, that all necessary documents are included, and that the demand and any correspondence were mailed to the proper carrier or contractor at its correct address. When applicable, claims personnel must also ensure that an unearned freight packet is included.

(b) *Claim files forward to local contracting offices.* Claims forwarded to local contracting offices for offset action include claims involving local moves and DPM shipments in which the origin and/or destination contractor is determined to be liable. When the contractor fails to reply to a demand within 120 days or fails to make an acceptable offer, the file should be forwarded to the local contracting office with a request for offset action.

(c) *Unjustified denials and inadequate settlement offers by carrier or contractor*—(1) *GBL carriers.* If a GBL carrier or insurer has refused to acknowledge or respond to a demand within a reasonable time (usually 30 days), if the claims investigating officer considers a valid claim to have been denied or not adequate settlement offered, or if settlement has been delayed beyond 120 days (see § 751.32(a)), the claim shall be forwarded to the NLSC activity serving the geographical location recommending that set-off action be taken against the carrier or contractor. The 120-day period begins to run on the date initial demand is made on the carrier. The NLSC activity shall review the file and if the carrier liability is correctly computed, forward a copy of the GBL, copies of the DD Forms 1843 and 1844, SCAC code, and final demand on carrier to the Commanding Officer, Naval Material Transportation Office, Code 023, Bldg. Z–133–5, Naval Station, Norfolk, VA 23511 directing set-off action against the carrier or contractor.

(2) *Nontemporary warehousemen.* If a warehouseman or insurer has refused to acknowledge or respond to a claim within a reasonable time, if the claims investigating officer considers a valid claim to have been denied or no adequate settlement offered, or if settlement has been delayed beyond 120 days, the claim shall be referred to the NLSC activity serving the geographic location recommending set-off action be taken against the contractor. The 120-day time period begins to run on the date the initial demand was made. The NLSC activity shall review the file and if the warehouseman's liability is correctly computed, forward the file to the appropriate MTMC Regional Storage Management Office for set-off.

§ 751.33 Unearned freight packet.

(a) *Preparation.* An unearned freight packet should be prepared when the loss or destruction of an item in shipment is attributable to a GBL carrier. Unearned freight packets should be addressed to the carrier, and not to the agents of GBL carriers, NTS contractors, or other contract movers. An unearned freight packet is required when a mobile home is lost or completely destroyed. An unearned freight packet includes:

(1) A Request For Deduction of Unearned Freight Charges;

(2) A copy of DD Form 1843;

(3) A copy of DD Form 1844; and

(4) A copy of the GBL.

(b) *Dispatch.* The unearned freight packet is not dispatched to the NAVMTO, Norfolk until the carrier has paid its agreed liability or when offset has been accomplished.

§ 751.34 GAO appeals.

(a) *General.* Sections 1 through 12 and 52 through 65 of Title 4, GAO Manual, Policy and Procedures Manual for Guidance of Federal Agencies, and 4 CFR parts 30–32 set forth procedures for carriers to appeal setoff action. Before a carrier can appeal a setoff action to GAO, the command requesting setoff action must make an administrative report to GAO.

(b) *Procedures for appeals.* (1) The carrier must request appeal from the command requesting setoff action and request a GAO review.

(2) The command requesting setoff action will review the appeal and if it is determined the setoff action was appropriate, will do an administrative report and notify the carrier when this has been accomplished.

(3) The administrative report and complete claims file will be forwarded to the NLSC activity serving the geographic location for review prior to forwarding to GAO.

(4) The complete claims package, including all correspondence with the carrier, will then be forwarded to GAO.

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(c) The administrative report and enclosures must support the setoff action.

(d) *GAO Manual.* All NLSC activities have been provided a copy of a manual published by the Claims Group General Government Division, U.S. General Accounting Office entitled Procedures of the U.S. General Accounting Office for Household Goods Loss and Damage Claims. Other commands dealing with carrier recoveries should get a copy of the manual from the NLSC activity servicing the local area.

§ 751.35 Forms and instructions.

Copies of all of the forms and instructions discussed in this part may be obtained if needed, from the Commanding Officer, Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120.

Dated: January 30, 1992.

Wayne T. Baucino,

Lieutenant, JAGC, U.S. Naval Reserve, Alternate Federal Register Liaison Officer.

[FR Doc. 92-3066 Filed 2-11-92; 8:45 am]

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32 CFR Part 757

Affirmative Claims Regulations

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: This rule sets forth amended regulations pertaining to the Department of the Navy's affirmative claims program. This rule reflects changes to JAG Instruction 5890.1, Administrative Processing and Consideration of Claims on Behalf of and Against the United States.

EFFECTIVE DATE: February 12, 1992.

FOR FURTHER INFORMATION CONTACT: Captain Milton D. Finch, JAGC, USN, Deputy Assistant Judge Advocate General (Claims and Tort Litigation), Office of the Judge Advocate General, 200 Stovall Street, Alexandria, VA 22332-2400, (703) 325-9880.

SUPPLEMENTARY INFORMATION: Pursuant to the authority conferred under 5 U.S.C. 301; 10 U.S.C. 133, 939, 5013, and 5148; E.O. 11476; and 32 CFR parts 700.206 and 700.1202; the Judge Advocate General revises 32 CFR part 757. This revision reflects changes to JAG Instruction 5890.1, Administrative Processing and Consideration of Claims on Behalf of and Against the United States. This part has been revised and shortened. It sets forth the responsibilities and procedures for the supervision and management of the Navy's affirmative claims program and the investigation of claims under the various Affirmative Federal Claims Statutes. It also sets forth the procedures and responsibilities for the administrative processing and consideration of claims on behalf of the United States.

This revision was adopted on January 17, 1991. To the limited extent that this revision could be deemed to originate any requirements within the Department of the Navy, it has been determined that such requirements relate entirely to internal Naval management and personnel practices that can be administered more effectively without public participation in the rule-making process. It has therefore been determined that invitation of public comment on this revision would be impracticable and unnecessary and is therefore not required under the provisions of 32 CFR parts 296 and 701. It has also been determined that this final rule is not a "major rule" within the criteria specified in Executive Order 12291, and does not have substantial impact on the public.

List of Subjects in 32 CFR Part 757

Claims.

For the reasons set out in the Preamble, title 32, part 757 of the Code of Federal Regulations is revised to read as follows:

PART 757—AFFIRMATIVE CLAIMS REGULATIONS

Subpart A—Property Damage Claims

Sec.

757.1 Scope of subpart A.
757.2 Statutory authority.
757.3 Regulatory authority.
757.4 Claims that may be collected.
757.5 Assertion of claims and collection procedures.
757.6 Waiver, compromise, and referral of claims.
757.7—757.10 [Reserved]

Subpart B—Medical Care Recovery Act (MCRA) Claims

757.11 Scope of subpart B.
757.12 Statutory authority.
757.13 Responsibility for MCRA action.
757.14 Claims asserted.
757.15 Claims not asserted.
757.16 Claims asserted only with JAG approval.
757.17 Statute of limitations.
757.18 Asserting the claim.
757.19 Waiver and compromise.
757.20 Receipt and release.

Authority: 5 U.S.C. 301; 10 U.S.C. 939, 5013, and 5148; E.O. 11476, 3 CFR, 1969 Comp., p. 132; 32 CFR 700.206 and 700.1202.

Subpart A—Property Damage Claims

§ 757.1 Scope of subpart A.

Subpart A describes how to assert, administer, and collect claims for damage to or loss or destruction of Government property through negligence or wrongful acts.

§ 757.2 Statutory authority.

(a) *General.* With the exception of MCRA claims, all affirmative claims for money or property in favor of the United States shall be processed in accordance with the Federal Claims Collection Act (31 U.S.C. 3711). Department of Defense Directive 5515.11 [1] of 10 December 1966 delegates to the Secretary of the Navy, and designees, the authority granted to the Secretary of Defense under the Federal Claims Collection Act.

(b) *Statute of limitations.* There is a 3-year statute of limitations on affirmative Government tort claims pursuant to 28 U.S.C. 2415(b).

§ 757.3 Regulatory authority.

The regulations published in 4 CFR chapter II control the collection and settlement of affirmative claims. This section supplements the material contained in those regulations. Where this section conflicts with the materials and procedure published in 4 CFR chapter II, the latter controls.

§ 757.4 Claims that may be collected.

(a) *Against responsible third parties for damage to government property, or the property of nonappropriated-fund activities.* It should be noted, however, that as a general rule, the Government does not seek payment from servicemembers and Government employees for damages caused by their simple negligence. Exceptions to this general policy will be made when the incident involves aggravating circumstances.

(b) *For medical costs from third party payers in accordance with 10 U.S.C. 1095.* These claims are asserted and collected by the medical treatment facilities under the coordination of benefits program.

(c) *For money paid or reimbursed by the government for damage to a rental car in accordance with the Joint Federal Travel Regulations (volume 1, paragraph U 3415-C and volume 2, paragraph C 2101-2).* Collection action shall be taken against third parties liable in tort. Collection action shall not be taken against Government personnel who rented the vehicle.

(d) *Other claims.* Any other claim for money or property in favor of the United States cognizable under the Federal

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[1] Copies may be obtained if needed, from the Commanding Officer, U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120.

Claims Collection Act not specifically listed above.

§ 757.5 Assertion of claims and collection procedures.

(a) *General.* The controlling procedures for administrative collection of claims are established in 4 CFR part 102.

(b) *Officials authorized to pursue claims.* The following officers are authorized to pursue and collect all affirmative claims in favor of the United States:

(1) The Judge Advocate General; the Deputy Judge Advocate General; any Assistant Judge Advocate General; and the Deputy Assistant Judge Advocate General (Claims and Tort Litigation); and

(2) Commanding officers of Naval Legal Service Offices and applicable Detachments, except Naval Legal Service Offices in countries where another service has single service responsibility in accordance with DOD Directive 5515.8.[2]

(c) *Dollar limitations.* All of the officers listed in § 757.5(b) are authorized to compromise and terminate collection action on affirmative claims of $20,000.00 or less.

(d) *Determining liability.* Liability must be determined in accordance with the law of the place in which the damage occurred, including the applicable traffic laws, elements of tort, and possible defenses.

(e) *Assertion of a claim.* (1) Assertion of the claim is accomplished by mailing to the tortfeasor a "Notice of Claim." The notice is to be mailed certified mail, return receipt requested, and should include the following information:

(i) Reference to the statutory right to collect;

(ii) A demand for payment or restoration;

(iii) A description of damage;

(iv) The date and place of the incident; and

(v) The name, phone number, and office address of the claims personnel to contact.

(2) See also 4 CFR part 102.

(f) *Full payment.* When a responsible party or insurer tenders full payment or a compromise settlement on a claim, the payment should be in the form of a check or money order made payable to the collection activity, such as the "Commanding Officer, Naval Legal Service Office, (Name)." The check or money order shall then be forwarded to the disbursing officer serving the collecting activity for deposit in accordance with the provisions of the Navy Comptroller Manual.

(g) *Installment payments.* See 4 CFR 102.11 for specific procedures. In general, if the debtor is financially unable to pay the debt in one lump sum, an installment payment plan may be arranged. Installment payments will be required on a monthly basis and the size of payment must bear a reasonable relation to the size of the debt and the debtor's ability to pay. The installment agreements should specify payments of such size and frequency to liquidate the Government's claim in not more than 3 years. Installment payments of less than $50.00 per month should be accepted only if justified on the grounds of financial hardship or for some other reasonable cause. In all installment arrangements, a confession of judgment note setting out a repayment schedule should be executed.

(h) *Damage to nonappropriated-fund instrumentality (NAFI) property.* Any amount collected for loss or damage to property of a NAFI shall be forwarded to the headquarters of the nonappropriated-fund activity for deposit with that activity. In those situations where the recovery involves damage to both NAFI-owned property and other Government property, e.g., destruction of an exchange building resulting in damage to both the building and the exchange-owned property inside, recovery for the exchange-owned property shall be forwarded to the NAFI. Recovery for building damage shall be deposited in accordance with § 757.5(f) above.

(i) *Damage to industrial-commercial property.* When a loss or cost of repair has been borne by an industrial-commercial activity, payment shall be deposited in the Navy Industrial Fund of the activity in accordance with the provisions of the Navy Comptroller Manual. When a claim is based on a loss or damage sustained by such an activity, a notation to this effect shall be included in any claim file forwarded to the Judge Advocate General.

(j) *Replacement in kind or repair.* The responsible party, or insurer, may want to repair or replace in kind damaged property. The commanding officer or officer in charge of the activity sustaining the loss is authorized to accept repair or replacement if, in his discretion, it is considered to be in the best interests of the United States.

(k) *Release.* The commanding officer or officer in charge is authorized to execute a release of the claim when all repairs have been completed to the Government's satisfaction, and when all repair bills have been paid. No prior approval from the Judge Advocate General is required for this procedure. If repair or replacement is made, a notation shall be made in any investigation or claims file.

§ 757.6 Waiver, compromise, and referral of claims.

(a) *Officials authorized to compromise claims.* The officers identified in § 757.5(b) may collect the full amount on all claims, and may compromise, execute releases or terminate collection action on all claims of $20,000.00 or less. Collection action may be terminated for the convenience of the Government if the tortfeasor cannot be located, is found to be judgment-proof, has denied liability, or has refused to respond to repeated correspondence concerning legal liability involving a small claim. A termination for the convenience of the Government is made after it is determined that the case does not warrant litigation or that it is not cost-effective to pursue recovery efforts.

(b) *Claims over $100,000.00.* Claims in excess of $100,000.00 may not be compromised for less than the full amount or collection action terminated without approval from the Department of Justice (DOJ).

(c) *Notification.* The Judge Advocate General shall be notified prior to all requests made to the DOJ to compromise, terminate collection, or referral for further collection action or litigation.

(d) *Litigation Reports.* Litigation reports prepared in accordance with 4 CFR part 103 shall be forwarded to the DOJ along with any case file forwarded for further collection action or litigation as required by the Federal Claims Collections Standards.

§§ 757.7-757.10 [Reserved]

Subpart B—Medical Care Recovery Act (MRCA) Claims

§ 757.11 Scope of subpart B.

Subpart B describes the assertion and collection of claims for medical care under the Medical Care Recovery Act (MCRA). The MCRA states that when the Federal Government provides treatment or pays for treatment of an individual who is injured or suffers a disease, the Government is authorized to recover the reasonable value of that treatment from any third party legally liable for the injury or disease.

§ 757.12 Statutory authority.

Medical Care Recovery Act, 42 U.S.C. 2651–2653 (1982).

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[2] See footnote 1 to § 757.2.

§ 757.13 Responsibility for MCRA action.

(a) *JAG designees.* (1) Primary responsibility for investigating, asserting, and collecting Department of the Navy (DON) MCRA claims and properly forwarding MCRA claims to other Federal departments or agencies rests with the following officers:

(i) Commanding officers and officers in charge, Naval Legal Service Command (NLSC) activities, in their areas of geographic responsibility;

(ii) Officer in charge, U.S. Sending State Office, Rome in his area of geographic responsibility.

(2) JAG designees may assert and receive full payment on any MCRA claim. They may, however, agree to compromise or waive only claims for $40,000.00 or less. Claims in excess of $40,000.00 may be compromised or waived only with DOJ approval. Such claims will be forwarded to the Judge Advocate General in accordance with § 757.6. See § 757.7 for further discussion of waiver and compromise.

(b) *Navy Medical Treatment Facilities (MTF).* (1) Naval MTF's are responsible for ensuring potential MCRA claims are brought to the attention of the appropriate NLSC activity or U.S. Sending State Office (USSSO).

(2) The MTF reports all potential MCRA cases by forwarding a copy of the daily injury log entries and admissions records to the cognizant NLSC activity or USSSO within 7 days of treatment for which a third party may be liable. The NLSC activity or USSSO makes the determination of liability.

(i) MTF computes the value of the care it provided on NAVJAG Form 5890/12. Rates used to compute this value are published annually in the **Federal Register** by the Office of Management and Budget.

(ii) Block 4 of NAVJAG Form 5890/12 requires a statement from the patient describing the circumstances of the injury or disease.

(iii) An "interim" report is prepared for inpatients only. An interim report is prepared every 4 months until the patient is released, transferred or changed to an outpatient status.

(iv) A "final" report is prepared for all patients when inpatient and outpatient treatment is completed or the patient's care is transferred to another facility. A narrative summary should accompany the final report in all cases involving inpatient care. In addition, the back side of NAVJAG Form 5890/12 is completed as part of the final report when the value of Federal Government care exceeds $1,000.00.

(c) *The Office of Medical and Dental Affairs (OMA).* The office pays emergency civilian medical expenses incurred by active duty members. This office furnishes MCRA claims information to the NLSC activity or USSSO. The address is Bldg. 38H, U.S. Naval Training Center, Great Lakes, IL 60088–5200.

(d) *Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) contractors.* CHAMPUS contractors forward reports of payments in injury cases to the appropriate NLSC activity. Responsible JAG designees should, however, initiate regular contact with contractors within their geographic area to ensure all relevant cases have been reported.

(e) *Department of Justice (DOJ).* Only the DOJ may authorize compromise or waiver of an MCRA claim in excess of $40,000.00; settle an MCRA claim which was previously forwarded by the DON to DOJ for action; or settle an MCRA claim in which the third party has filed a suit against the United States or the injured person as a result of the incident which caused the injury.

§ 757.14 Claims asserted.

(a) *General.* The DON asserts MCRA claims when medical care is furnished to Navy and Marine Corps active duty personnel, retirees, or their dependents, and third-party tort liability for the injury or disease exists. Claims are asserted when the injured party is treated in a military MTF or when the DON is responsible for reimbursing a non-Federal care provider. Claims for medical care furnished are also asserted using alternate theories of recovery if the MCRA does not apply. See § 757.14(e).

(b) *Independent cause of action.* The MCRA creates an independent cause of action for the United States. The Government can administratively assert and litigate MCRA claims in its own name and for its own benefit. Procedural defenses, such as a failure of the injured person to properly file and/or serve a complaint on the third party, that may prevent the injured person from recovering, do not prevent the United States from pursuing its own action to recover the value of medical treatment provided to the injured person. The right arises directly from the statute; the statutory reference to subrogation pertain only to one mode of enforcement. In creating an independent right in the Government, the Act prevents a release given by the injured person to a third party from affecting the Government's claim.

(c) *Liable parties.* MCRA claims may be asserted against individuals, corporations, associations and non-Federal Government agencies subject to the limitations described in § 757.15.

(d) *Reasonable value of medical care.* The reasonable value of medical care provided to an injured person is determined:

(1) By using the rates set by the Office of Management and Budget and published in the **Federal Register** for care provided in Federal medical care facilities; or

(2) By the actual amount paid by the Federal Government to non-Federal medical care providers.

(e) *Alternate Theories of Recovery.* Often, recovery under the MCRA is not possible because no third-party tort liability exists. For example, if a member, retiree, or dependent is driving a vehicle and is injured in a single-car accident, there is no tortfeasor. State law, including insurance, workers' compensation, and uninsured motorist coverage provisions, determines the DON's right to recover in situations not covered by the MCRA. If, under the law where the injury occurred, the injured party is entitled to compensation for medical care received, usually the Federal Government may recover. The two most common alternate theories are described below.

(1) Recovery may be possible under the injured party's automobile insurance policy. In most cases, the Federal Government should seek recovery as a third-party beneficiary under the medical payments or the underinsured/uninsured portion of the injured party's policy. The ability of the Federal Government to recover as a third-party beneficiary has been upheld in some states, while other states have taken the contrary position.

(2) Recovery may also be possible under State workers' compensation laws. Case law in this area is still emerging, but in most jurisdictions, the United States stands in the position of a lien claimant for services rendered.

§ 757.15 Claims not asserted.

In some cases, the MCRA or public policy considerations limit the DON's assertion of claims against apparent third-party tortfeasors. MCRA claims are not asserted against:

(a) *Federal Government agencies.* Claims are not asserted against any department, agency or instrumentality of the United States. "Agency or instrumentality" includes self-insured, non-appropriated-fund activities but does not include private associations.

(b) *Injured servicemembers, dependents and employers of the United States.* Claims are not asserted directly against a servicemember, the dependent of a servicemember, or an employee of the United States who is injured as a result of his willful or negligent acts. The United States does assert, however, against medical care and treatment insurance coverage the member, employee, or dependent might have.

(c) *Employers of merchant seamen.* Claims are not asserted against the employer of a merchant seaman who receives Federal medical care under 42 U.S.C. 249.

(d) *Department of Veterans Affairs care for service-connected disability.* Claims are not asserted for care provided to a veteran by the Department of Veterans Affairs when the care is for a service-connected disability. The United States will, however, claim for the reasonable value of care provided an individual before he is transferred to a Department of Veterans Affairs hospital.

§ 757.16 Claims asserted only with JAG approval.

The responsible NLSC activity or USSSO will investigate potential MCRA claims against the following third parties and forward a copy of their claims file, along with recommendations on assertion, to the Judge Advocate General:

(a) *Certain Government contractors.* JAG approval is required before asserting an MCRA claim against a Federal Government contractor when the contract provides that the contractor will be indemnified or held harmless by the Federal Government for tort liability.

(b) *Foreign Governments.* JAG approval is required before asserting MCRA claims against foreign governments, their political subdivisions, Armed Forces members, or civilian employees.

(c) *U.S. personnel.* JAG approval is required before asserting MCRA claims against U.S. servicemembers, their dependents and employees of the United States, or their dependents for injury to another person.

§ 757.17 Statute of limitations.

(a) *Federal.* The United States, or the injured party on behalf of the United States, must file suit within 3 years after an MCRA action accrues. 28 U.S.C. 2415. Generally this is 3 years from the date of initial Federal treatment or Federal Government payment to a private care provider, whichever is first.

(b) *State.* Some State statutes of limitations may also apply where recovery is based on authority such as workers' compensation statutes, no-fault insurance statutes, no-fault medical payments, or uninsured motorist provisions of insurance contracts.

§ 757.18 Asserting the claim.

(a) *Initial action by JAG designee.* When advised of a potential MCRA claim, the JAG designee will determine the Federal agency or department responsible for investigating and asserting the claim.

(1) When the DON has reimbursed a non-Federal provider for health care or when CHAMPUS has made payment for a Navy health care beneficiary, the DON will assert any resulting MCRA claim.

(2) When care is provided in a Federal treatment facility, the status of the injured person will determine the agency which will assert a resulting MCRA claim.

(i) Where Navy or Marine Corps members, retirees, or their dependents receive medical treatment from another Federal agency or department, the DON will usually assert any MCRA claim on behalf of the United States based on information provided by the treating agency or department.

(ii) Similarly, where a Navy MTF provides care to personnel of another Federal agency or department, that other agency or department will usually assert any claim on behalf of the United States.

(3) If the claim is not one which the DON should assert, the JAG designee will forward all available information to the appropriate department or agency.

(4) If the claim is one which the DON should assert, the JAG designee will ensure an appropriate investigation into the circumstances underlying the claim is initiated and will provide notice to the injured party and all third parties who may be liable to the injured person and the United States under the MCRA.

(b) *Investigating the claim.* While there is no prescribed form or content for investigating these claims, the claims file will contain sufficient information on which to base valuation, assertion, settlement, waiver, and/or compromise decisions. Usually the file will contain:

(1) Identification of each person involved in the incident including name, address, occupation, and nature of involvement;

(2) Police, social service, and other Federal, State and local agency reports on the incident;

(3) Completed copies of NAVJAG Form 5890/12[3] or equivalent forms from other agencies and departments;

(4) Inpatient summaries and outpatients records of treatment of the involved injury in non-Federal facilities;

(5) Documents reflecting Federal payment for non-Federal treatment of the injured person;

(6) Calculations of the reasonable value of the Government's MCRA claim;

(7) Itemized repair bills or estimates of repair of damaged Federal Government property;

(8) Where an identified third-party tortfeasor is a uniformed servicemember or a U.S. employee, information and findings concerning that person's duty or scope of employment status at the time of the incident giving rise to the injury;

(9) Where an identified third-party tortfeasor is a uniformed servicemember or a U.S. employee or the dependent of a uniformed service member or U.S. employee, information and findings concerning whether that individual was grossly negligent or willfully culpable and whether that individual had insurance coverage at the time of the incident giving rise to the injury;

(10) Financial information on identified third-party tortfeasors including names and addresses of insurance carriers, insurance policy numbers, and extent of coverage; and

(11) A statement whether the injured person or his attorney will protect the interests of the United States.

(c) *Claims forwarded to JAG or DOJ.* In those cases where the file must be forwarded to JAG or DOJ, the file will also include:

(1) A summary of the case which includes the circumstances of the incident which caused the injury, the source, extent and value of medical care provided and a brief of the applicable law on the liability of the third party;

(2) Copies of all correspondence; and

(3) Recommended disposition.

(d) *Request for assistance in conducting investigation.* When an injury for which the DON may assert an MCRA claim occurs at a place where the DON does not have a command, unit, or activity conveniently located for conducting an inquiry into the circumstances underlying the injury, the NLSC activity or USSSO having responsibility for administering any resulting MCRA claim may request assistance from any other command, unit, or activity within the DOD. Such assistance may take the form of a complete inquiry into the circumstances underlying the incident or it may only cover part of the necessary inquiry and fact gathering. If a NLSC activity or USSSO receives a similar request from another command, unit or activity within the DOD, every effort should be made to honor the request. Assistance will normally be provided without reimbursement from the requesting service.

(e) *Notice of claim.* (1) The JAG designee will assert appropriate MCRA

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[3] See footnote 3 to § 757.2.

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claims by mailing, certified mail, return receipt requested, a notice of claim (SF 96) to identified third-party tortfeasors and their insurers, if known. Many insured tortfeasors fail to notify their insurance companies of incidents. This failure may be a breach of the cooperation clause in the policy and may be grounds for the insurer to refuse to defend the insured or be responsible for any liability. The United States, as a claimant, may preclude such an invocation by giving the requisite notification itself. The purpose of the insurance clause is satisified if the insurer receives actual notice of the incident, regardless of the informant. This notice should be mailed as soon as it reasonably appears an identified third party may be liable for the injuries to the injured person. It is not necessary or desirable to delay mailing this notice until the completion of the investigation convened to inquire into the circumstances underlying the incident causing the injury. The prompt assertion of the claim will ensure that the Government is named on the settlement draft. If the United States is not so named, and the claim has been asserted, the insurer settles at its own risk.

(2) The JAG designee will also notify the injured person or his legal representative of the Government's interest in the value of the medical care provided by the United States. This notice will advise that:

(i) The United States may be entitled to recover the reasonable value of medical care furnished or paid for by the Federal Government;

(ii) The injured person is required to cooperate in the efforts of the United States to recover the reasonable value of medical care furnished or paid for by the Federal Government;

(iii) The injured person is required to furnish a statement regarding the circumstances surrounding the care and treatment;

(iv) The injured person may seek legal guidance concerning any possible claim for personal injury;

(v) The injured person is required to furnish information concerning legal action brought against any individual involved in the incident and provide the name of counsel representing the parties to such an action; and

(vi) The injured person should not execute a release or settle a claim arising from the incident causing the injury without first notifying the JAG designee.

(f) *Administering the claim.* (1) After investigating and asserting the claim, the JAG designee will maintain contact with all parties, their legal representatives, and insurers.

(2) An effort should be made to coordinate collection of the Federal Government's MCRA interest with the injured person's action to collect his own claim for damages.

(i) Attorneys representing an injured person may be authorized to include the Federal Government's MCRA claim as an item of special damages with the injured person's claim or suit.

(ii) An agreement that the Government's claim will be made a party of the injured person's action should be in writing and state that counsel fees will not be paid by the Government or computed on the basis of the Government's portion of recovery.

(3) If the injured person is not bringing an action for damages or is refusing to include the Federal Government's MCRA interest, the JAG designee will pursue independent collection. The United States is specifically allowed to intervene or join in any action at law brought by or through the injured person against the liable third person or bring an original suit in its own name or in the name of the injured person. The JAG designee will ensure all parties are aware that the United States must be a party to all subsequent collection negotiation.

(4) When the MCRA interests are not being represented by the injured person and independent collection efforts have failed, the JAG designee will request JAG to refer the claim to the DOJ for possible suit. In such cases, the JAG designee will forward the complete file to JAG in accordance with §§ 757.18 (b) and (c).

(g) *Access to DON records and information.* (1) The medical records of the injured person will be released to the injured person or his legal representative upon request. This release will be without cost except in unusual circumstances. These records may not be released to anyone else outside the DON except in accordance with the provisions of the Privacy Act, 5 U.S.C. 552a. Usually such a release will require authorization from the injured individual or legal representative or an order from a court of competent jurisdiction. A clerk or attorney signed subpoena is not "an order from a court of competent jurisdiction."

(2) In appropriate cases, military health care providers who have examined or treated the injured person may be made available by their commands to testify regarding the medical care provided to the injured person. Requests for such testimony will be processed in accordance with DOD Directive 5405.2, 28 CFR part 725, and 32 CFR part 725, except when the injured party is asserting the Federal Government's MCRA claim as part of his action for damages. In that situation, the injured person or legal representative is considered also to be a representative of the United States and the foregoing regulations are not applicable. In such a case, the JAG designee may, if appropriate, request the command of an involved military health care provider to make the provider available for testimony on behalf of the injured person.

§ 757.19 Waiver and compromise.

(a) *General.* A JAG designee may authorize waiver or compromise of any MCRA claim under his authority which does not exceed $40,000.00. A third party's liability for medical costs to the United States arising from a particular incident will be considered as a single claim in determining whether the claim is more than $40,000.00 for the purpose of waiver and compromise. When the JAG designee considers waiver or compromise appropriate in a claim which exceeds $40,000.00, the claim file will be forwarded to JAG in accordance with §§ 757.18 (b) and (c).

(b) *Waiver.* The JAG designee may waive the Federal Government's MCRA interest when a responsible third-party tortfeasor cannot be located, is judgment proof, or has refused to pay and litigation is not feasible. Waiver is also appropriate when, upon written request by the injured person or legal representative, it is determined that collection would cause undue hardship to the injured person. In assessing undue hardship, the following circumstances of the injured person should be considered:

(1) Permanent disability or disfigurement;

(2) Lost earning capacity;

(3) Out-of-pocket expenses;

(4) Financial status;

(5) Disability, pension and similar benefits available;

(6) Amount of settlement or award from third-party tortfeasor; and

(7) Any other factors which objectively indicate fairness requires waiver.

(c) *Compromise.* The JAG designee may, upon written request of the injured person or legal representative, compromise the Federal Government's MCRA interest using the criteria listed above.

§ 757.20 Receipt and release.

(a) *Payment.* The JAG designee may receive payment in part or in full for any claim for which he is responsible. Written acknowledgment of this receipt will be mailed to the party making payment and a copy of the acknowledgement kept in the claim file.

(b) *Release.* The JAG designee will execute and deliver a release to third parties making full or compromised payment on the Federal Government's MCRA interest. A copy of the release will be kept in the claims file.

Dated: January 30, 1992.

Wayne T. Baucino,

Lieutenant, JAGC, U.S. Naval Reserve Alternate Federal Register Liaison Officer.

[FR Doc. 92–3322 Filed 2–11–92; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[SF–92–01]

Safety Zone; Suisun Bay, CA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a Safety Zone on the waters of Suisun Bay, at the northeastern end of Anchorage No. 26. The U.S. Navy, in conjunction with the U.S. Air Force, has requested a safety zone around ammunition-carrying barges temporarily located in Suisun Bay. These barges will be used to facilitate the transfer of ammunition between vessels anchored in San Francisco Bay and the nearby Naval Weapons Station in Concord, California. A safety zone is necessary to ensure the safety of commercial and recreational vessels which may transit the area and security personnel aboard the barges. This regulation establishes a circular area of a 250-yard radius around the barge location. Entry into this safety zone is prohibited without the permission of the Captain of the Port, San Francisco Bay, California.

EFFECTIVE DATES: This regulation becomes effective at 8 a.m. PST, January 17, 1992 and terminates 8 a.m. PDT, June 30, 1992, unless canceled earlier by the Captain of the Port. Any comments on this regulation must be received on or before March 20, 1992.

ADDRESSES: Comments should be mailed to U.S. Coast Guard Marine Safety Office, San Francisco Bay, Building 14, Coast Guard Island, CA 94501, Attention: Port Safety. The comments will be available for inspection and copying at U.S. Coast Guard Marine Safety Office, San Francisco Bay, Building 14, room 128, Coast Guard Island, CA 94501. Normal office hours are between 7 a.m. and 4 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Lorne Thomas, Coast Guard Marine Safety Office, San Francisco Bay, CA (510) 437–3073.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a Notice of Proposed Rulemaking (NPRM) was not published for this regulation and good cause exists for making it effective in less than 30 days from the date of **Federal Register** publication. Following normal rulemaking procedures by publishing an NPRM and delaying its effective date would be impracticable. The request for this regulation was not received until December 20, 1991 and there was not sufficient time to publish a proposal in advance of the event for which the regulation is needed. In addition, any delay in the effective date of this regulation would be contrary to the public interest since immediate action is needed to safeguard commercial vessels, local boating traffic and boaters.

Although this regulation is published as a final rule without prior notice, an opportunity for public comment is nevertheless desirable to ensure that the regulation is both reasonable and workable. Accordingly, persons wishing to comment may do so by submitting written comments to the office listed under "**ADDRESSES**" in this preamble. Commenters should include their names and addresses, identify the docket number for the regulations, and give reasons for their comments. Based upon comments received, the regulation may be changed.

Drafting Information

The drafters of this regulation are Lieutenant Lorne Thomas, Project Officer for the Captain of the Port, and Commander J.J. Jaskot, Project Attorney, Eleventh Coast Guard District Legal Office.

Discussion of Regulation

The Department of Defense is returning conventional ammunition from the Persian Gulf to storage facilities in the U.S. and overseas. In some locations, the ships returning this ammunition are being backloaded with reserve ammunition so that they may be prepositioned at strategic locations around the world. Two of the Air Force's selected preposition ships are the LASH (Lighter Aboard Ship) vessels AUSTRAL RAINBOW and AMERICAN KESTRAL. They carry loaded ammunition lighters (or barges) aboard and can lower the barges into the water so they can be towed to other locations. The barges from these vessels will be used to proceed to and from Naval Weapons Station Concord to offload and onload ammunitions.

The first loaded LASH vessel will arrive in January 1992 and the second LASH vessel will arrive in March 1992. Both vessels will anchor at Explosive Anchorage No. 14 in San Francisco Bay. Some of the barges from these LASH vessels will be towed in groups to the barge fleeting location at Suisun Bay. The number of tows will be kept to a minimum. The Coast Guard will escort the barges and their movements will be coordinated with the Coast Guard's Vessel Traffic Service (VTS).

In order to minimize transit distances, the U.S. Navy has created the LASH barge fleeting site within Anchorage No. 26. Naval Weapons Station Concord will be positioning five 110′×35′ Navy utility barges end-to-end within the northeast corner of Anchorage No. 26 at position 38–05.68 N, 122–04.32 W. The LASH barges will then be nested along both sides of the anchored utility barges.

All of the ammunition that will be stored aboard the barges is unarmed and inherently safe. All fuses, boosters, adapters, flares and small arms will be stored ashore. Even though the barges will be located within an existing anchorage area, creating a safety zone will further protect any commercial or recreational vessels in the vicinity.

Impact on the maritime traffic of Suisun Bay will be minimal because this safety zone is located within the established Federal Anchorage No. 26 and a designated restricted area under 33 CFR 162.270. Commercial and recreational traffic will still be able to traverse Suisun Bay and remain outside of the safety zone. Vessels may also proceed to Grizzly Bay, Suisun Slough, and Montezuma Slough through Suisun Cutoff which runs between Simmons and Ryer Islands. The only identified users of Suisun Bay who may be affected by the safety zone are sturgeon fishermen. The California Department of Fish & Game advised that seasonal sturgeon fishing occurs from January to March in Suisun Bay and in the area of Anchorage No. 26. Excluding the fishermen from an area of a 250-yard radius is expected to have a minimal effect on their fishing activity. Routine operations by the Maritime Reserve fleet personnel will not be encumbered by the safety zone.

Information concerning the safety zone will be published in the Local Notice to Mariners and a Broadcast Notice to Mariners will be made requesting mariners to remain clear of the safety zone.

This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of part 33 CFR part 165.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Final Regulation:

In consideration of the foregoing, subpart C of part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; and 49 CFR 1.46.

2. Section 165.T1161 is added to read as follows:

§ 165.T1161 Safety Zone: Suisun Bay, CA

(a) *Location.* A Safety Zone is established on the waters of Suisun Bay, at the northeastern end of Anchorage No. 26. The Safety Zone is a circular area having a radius of 250 yards centered at 38–05.68 N, 122–04.32 W.

(b) *Effective Date.* This regulation is effective at 8 a.m. PST, January 17, 1992 and terminates 8 a.m. PDT, June 30, 1992, unless canceled earlier by the Captain of the Port.

(c) *Regulations.* In accordance with the general regulations in 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port.

Dated: January 16, 1992.

J.M. MacDonald

Captain, U.S. Coast Guard Captain of the Port.

[FR Doc. 92–333[illegible] Filed 2–11–92; 8:45 am]

BILLING CODE 49[illegible]–14–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 620

General Provisions for Domestic Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Emergency interim rule.

SUMMARY: The Secretary of Commerce (Secretary) has determined that it is necessary to close a portion of the Mid-Atlantic area to all fishing. This closure is implemented due to the potential adverse environmental conditions created by the loss of 441 drums of arsenic trioxide from a cargo vessel in the area, some of which may have ruptured. This action will prevent fishermen from harvesting fish in the area and will also facilitate salvage operation designed to locate and recover the drums of arsenic trioxide.

EFFECTIVE DATE: February 6, 1992 through May 12, 1992.

FOR FURTHER INFORMATION CONTACT: Myles Raizin at (508) 281–9104, or One Blackburn Drive, Gloucester, MA 01930–2298.

SUPPLEMENTARY INFORMATION: This emergency action is taken by the Secretary in response to the January 3, 1992, loss of 441 drums of arsenic trioxide from a cargo vessel in the area defined as a rectangle bounded by four straight lines connecting the following coordinates in the order stated: (a) 38°54.0′ N. latitude, 74°12.0′ W. longitude; (b) 38°55.5′ N. latitude, 74°14.5′ W. longitude; (c) 38°50.0′ N. latitude, 74°16.0′ W. longitude; (d) 38°51.5′ N. latitude, 74°18.5′ W. longitude; and (a) 38°54.0′ N. latitude, 74°12.0′ longitude. This area is roughly 4 square miles and was identified by the U.S. Coast Guard in consultation with the Environmental Protection Agency, NOAA's Hazardous Materials Response Team, the U.S. Food and Drug Administration and officials of the States of New Jersey and Delaware. The extent of rupture of these drums is not known at this time. Arsenic Trioxide exposure could be lethal to humans and marine life. However, unlike PCBs and DDT, arsenic trioxide does not accumulate in the food chain; impacts are usually swift and severe.

The emergency action authority vested in the Secretary under section 305(c) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), 16 U.S.C. 1855(c) is invoked to make the closure effective immediately.

The closure prohibits all fishing in the area from February 6, 1992 through May 12, 1992. The area will reopen when the Secretary, in association with other State and Federal agencies, determines that the threat of environmental degradation of the marine environment represented by the presence of the drums of arsenic trioxide, and any potential negative impact on fishing operations, has terminated due to the search and salvage operation. If the Secretary has not made this determination before the end of this closure period, the Secretary will extend the closure of the area for a second 90-day period.

This action has the support of the Mid-Atlantic Fishery Management Council, the Food and Drug Administration, the U.S. Coast Guard, and State agencies in Delaware and New Jersey.

Classification

This rule is necessary to respond to an emergency situation and is consistent with the Magnuson Act.

The reasons justifying promulgation of this rule on an emergency basis make it impracticable and contrary to the public interest to provide notice and opportunity for comment upon, or to delay for 30 days the effective date of this emergency rule, under the provisions of sections 553 (b) and (d) of the Administrative Procedure Act. Any delay in implementing this rule would increase the potential for risk to human health and safety and increase the likelihood of possible harm to fishery resources in the designated area.

The Assistant Administrator has determined that this action is consistent to the maximum extent practicable with the approved coastal management programs of Delaware and New Jersey.

This emergency rule is exempt from normal review procedures of Executive Order 12291 as provided in section (8)(a)(1) of that Order. This rule is being reported to the Director of the Office of Management and Budget, with an explanation of why it is not possible to follow the procedures of that order.

The Assistant Administrator has determined that this action will not have a significant impact on endangered species consistent with the Endangered Species Act.

The Assistant Administrator has determined that this action will not have a significant impact on the marine mammal population consistent with the Marine Mammal Protection Act.

This action does not contain a collection-of-information requirement subject to the Paperwork Reduction Act.

This emergency action is exempt from the procedures of the Regulatory Flexibility Act because it is being issued without opportunity for prior public comment.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

This action is categorically excluded by NOAA Administrative Order 216–6 from the requirement to prepare an environmental assessment. Due to the small area being closed, this action is of limited magnitude and would not have significant environmental impacts. The underlying reason for this action makes it noncontroversial.

List of Subjects in 50 CFR Part 620

Fisheries.

Dated: February 6, 1992.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 620 is temporarily amended from February 6, 1992 through May 12, 1992 as follows:

PART 620—GENERAL PROVISIONS FOR DOMESTIC FISHERIES

1. The authority citation for part 620 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 620.7, a new paragraph (i) is added to read as follows:

§ 620.7 General prohibitions.

* * * * *

(i) Fish in the area of the Mid-Atlantic defined as a rectangle bounded by four straight lines connecting the following coordinates in the order stated: (a) 38°54.0′ N. latitude, 74°12.0′ W. longitude; (b) 38°55.5′ N. latitude, 74°14.5′ W. longitude; (c) 38°50.0′ N. latitude, 74°16.0′ W. longitude; (d) 38°51.5′ N. latitude, 74°18.5′ W. longitude; and (a) 38°54.0′ N. latitude, 74°12.0′ W. longitude.

[FR Doc. 92-3226 Filed 2-6-92; 3:55 pm]

BILLING CODE 3510-22-M

Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Chapter V

[No. 92-31]

90-Day Regulatory Review: Reducing the Burden of Government Regulation

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Notice of proposed rulemaking, public hearing, request for comment.

SUMMARY: On January 30, the President announced a 90-day regulatory review program as part of his plan to promote economic growth and reduce the burden of government regulation. In accordance with that plan, the heads of the major federal regulatory agencies have been asked to "set aside a 90-day period to review regulations and programs that may hinder economic growth, and to identify and accelerate action on initiatives that will reduce the burden of existing regulations or otherwise promote economic growth". During this 90-day review period, the federal agencies, including the Office of Thrift Supervision, have been asked to work with the public and other interested agencies to (i) identify regulations and programs that impose a substantial cost on the economy and (ii) determine whether each such regulation or program adheres to standards such as providing a net benefit to society, being cost effective and providing clarity and certainty to the regulated community.

By this action, the OTS is (1) notifying the public that hearings will be held to solicit comments from the public on these matters on March 16, 1992, in Washington DC and on March 12, 1992, in San Francisco, California, and (2) requesting written comment.

DATES: Comments must be received on or before March 13, 1992.

The public hearings will be held on March 12, 1992, and March 16, 1992, from 9 a.m. to 5 p.m.

ADDRESSES: Comments and written requests to participate in the public hearing should be sent to: Director, Information Services Division, Office of Communication, 1700 G Street, NW., Washington, DC 20552, with a copy to Sonja Rodriguez, Special Assistant to the Director, at the above address. Written requests may also be hand delivered to the same address between the hours of 9 a.m. and 5 p.m. Monday through Friday. Requests to participate must be received no later than February 26, 1992. Comments will be available for public inspection at Information Services Division, Office of Thrift Supervision, 1776 G Street, NW., Street Level.

Hearing Locations: On March 12, 1992, hearings will be held at the OTS, San Francisco, Pacific Telesis Center, One Montgomery Street, suite 400, San Francisco, CA 94104.

On March 16, 1992, hearings will be held at the Office of Thrift Supervision, Second Floor Amphitheater, 1700 G Street, NW., Washington, DC 20552.

FOR FURTHER INFORMATION CONTACT: Sonja Rodriguez, Special Assistant to the Director, (202) 906-7857, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: In his State of the Union address, the President announced a comprehensive, 90-day review of federal regulations to be undertaken by all of the major federal regulatory agencies. During this time, agencies will work "to identify regulations and programs that significantly reduce jobs or otherwise impose a significant burden on the economy, * * * to propose administrative changes that will bring each of (their) existing and proposed regulations into conformity with these standards" to the extent permitted by law, and to refrain from proposing or issuing new regulations and programs that are not consistent with this program. As part of this review, each agency has been encouraged to work in part with the public. Notice is therefore given that the OTS will seek public comment on these matters during the comment period ending March 13, 1992 and will hold hearings at the OTS's offices in Washington DC on March 16, 1992, and in San Francisco on March 12, 1992. The hearings are being held in two locations in order to solicit wider participation by commenters.

Persons wishing to participate in these hearings should send a written request to participate to the address listed in the "**ADDRESSES**" portion of this document, to be received no later than 5 on February 26, 1992. Requests to participate in the hearing must include the following information: (1) The name, address, and business telephone number of the participant; (2) the entity or entities that the participant will be representing; (3) a brief summary of the participant's remarks, identifying any specific issues to be addressed; and (4) whether the participant prefers to attend the Washington or the San Francisco hearing.

Depending on the number of requests received, participants may be limited in the length of their oral presentations. The OTS will notify participants of the time scheduled for their presentation. The OTS anticipates establishing panels of participants for presentations and reserves the right to limit the number of participants and to select, in its discretion, those persons who may make oral presentations if it receives more requests for participation then may be accommodated in the time available.

Participants will be required to submit written statements in advance of the hearing date. These written statements should incorporate the major points to be presented at the hearing and, if they exceed 25 doubled-spaced, typewritten pages, should be accompanied by an Executive Summary of no more than 3–5 pages. Participants attending the hearings in either Washington or San Francisco must deliver their written submissions to the address listed in the "**ADDRESSES**" portion of this document no later than 5 p.m. on March 5, 1992. Written submissions for those attending in San Francisco must also be delivered to that address (c/o Virginia Varella) no later than March 5, 1992.

Hearing participants or commenters who recommend repeal or modification of any OTS regulation should identify the regulation by citation to the Code of Federal Regulations and should provide a clear, succinct explanation of the reasons why repeal or modification is being recommended.

Dated: February 7, 1992.

By the Office of Thrift Supervision.

Jonathan L. Fiechter,

Deputy Director For Washington Operations.

[FR Doc. 92-3343 Filed 2-11-92; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92-NM-03-AD]

Airworthiness Directives; Aerospatiale Model SN 601 Corvette Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes the adoption of a new airworthiness directive (AD) that is applicable to Aerospatiale Model SN 601 Corvette series airplanes. This proposal would require repetitive high frequency eddy current inspections of the canopy inner skin for evidence of cracks, and modification, if necessary. This proposal is prompted by the detection of a structural crack on a fatigue test airframe. This condition, if not corrected, could reduce the structural integrity of the fuselage and may cause decompression.

DATES: Comments must be received by April 6, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-03-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Aerospatiale, 316 Route de Bayonne, 31060, Toulouse, Cedex 03, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Hank Jenkins, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2141; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92-NM-03-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-03-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

Discussion

The Direction Général de l'Aviation Civile (DGAC), which is the airworthiness authority of France, recently notified the FAA that an unsafe condition may exist on Aerospatiale Model SN 601 Corvette series airplanes. The DGAC advises that, during fatigue testing by the manufacturer, a structural crack was detected on the fatigue test airframe. Fatigue testing demonstrated that cracks may develop in the left-hand (LH) and/or right-hand (RH) side canopy inner skin between frame 9 and frame 10 fore to aft, and between stringer 4 and stringer 2 in circumference. This condition, if not corrected, could reduce the structural integrity of the fuselage and may cause decompression.

Aerospatiale has issued Aerospatiale Service Bulletin No. 53-26, dated January 24, 1991, which describes procedures for high frequency eddy current inspections to detect fatigue cracks of the LH and RH side canopy inner skin. Repair of identified cracking comprises the installation of Modification 1395. The DGAC has classified this service bulletin as mandatory and has issued French Airworthiness Directive No. 91-102-016(B) in order to assure the airworthiness of these airplanes in France.

Aerospatiale also has issued Service Bulletin No. 53-14, Revision 1, dated January 24, 1991, which describes Modification 1395, involving the replacement of the frame 10 fuselage forward and rear section junction reinforcements. This Modification serves as the repair necessary if fatigue cracks are found in this area. The DGAC has not classified this service bulletin as mandatory.

This airplane model is manufactured in France and type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to a bilateral airworthiness agreement, the DGAC has kept the FAA totally informed of the above situation. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design registered in the United State, the proposed AD would require repetitive high frequency eddy current inspections of the canopy inner skin for evidence of cracks, and modification, if necessary. The actions would be required to be accomplished in accordance with the service bulletins previously described. Incorporation of Modification 1395, in accordance with Aerospatiale Service Bulletin 53-14, would constitute terminating action for the repetitive high frequency eddy current inspections.

In this action, the FAA is not proposing to mandate Modification 1395 for the following reasons:

a. The necessary inspections are easy to perform, requiring a total of 5 work hours or less for access, inspection, and closure.

b. The inspection area is easily accessible.

c. Failure of the area is not likely to be catastrophic.

It is estimated that 1 airplane of U.S. registry would be affected by this proposed AD, that it would take

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approximately 5 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $275.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a sufficient economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Aerospatiale: Docket 92–NM–03–AD.

Applicability: Model SN 601 Corvette series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent a reduction in the structural integrity of the fuselage, accomplish the following:

(a) Prior to the accumulation of 14,100 flight cycles or within the next 100 flight cycles after the effective date of this AD, whichever occurs later, perform a high frequency eddy current inspection to detect cracks in the left-hand (LH) and right hand (RH) side canopy inner skins forward of Frames 10 at the height of Stringer 4, in accordance with Aerospatiale Service Bulletin 53–26, dated January 24, 1991.

(b) Repeat the inspection required by paragraph (a) of this AD at intervals not to exceed 5,600 flight cycles.

(c) If cracks are detected as a result of the inspection required by paragraphs (a) or (b) of this AD, prior to further flight, install Modification 1395 in accordance with Aerospatiale Service Bulletin No. 53–14, Revision 1, dated January 24, 1991.

(d) Accomplishment of Modification 1395, in accordance with Aerospatiale Service Bulletin No. 53–14, Revision 1, dated January 24, 1991, constitutes terminating action for the inspections requirements of this AD.

(e) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch.

(f) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on January 22, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–3349 Filed 2–11–92; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 91–NM–280–AD]

Airworthiness Directives; British Aerospace Model DH/BH/HS 125 Series Airplanes, Excluding Model 125–600A, –700A, –800A, and –1000A Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes the adoption of a new airworthiness directive (AD) that is applicable to certain British Aerospace Model DH/BH/HS 125 series airplanes. This proposal would require eddy current inspections and, if necessary, dye penetrant inspections of certain areas of the wing upper skins to detect cracks in the vicinity of countersunk bolt holes and in internal stringers; and repair, if necessary. This proposal is prompted by recent reports of cracks in countersunk bolt holes in left and right wing upper skins and internal stringers attached to the underside of the wing upper skins. The actions specified by the proposed AD are intended to prevent reduced structural integrity of the wings.

DATES: Comments must be received by April 6, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 91–NM–280–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

The service information referenced in the proposed rule may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041–0414. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2113; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 91–NM–280–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No.

91-NM-280-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority of the United Kingdom, recently notified the FAA that an unsafe condition may exist on certain British Aerospace Model DH/BH/HS 125 series airplanes (excluding Model 125-600A, -700A, -800A, and -1000A series airplanes). The CAA advises that there have been recent reports of fatigue cracks in countersunk bolt holes in left and right wing upper skins and internal stringers attached to the underside of the wing upper skins. This condition, if not corrected, could result in reduced structural integrity of the wings.

British Aerospace has issued Service Bulletin S.B. 57-75, dated July 30, 1991, which describes procedures for eddy current and dye penetrant inspections of areas in the vicinity of the wing upper skins for cracks around countersunk bolt holes and in internal stringers, and procedures for repair of certain fatigue cracks. The CAA has classified this service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom and type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to a bilateral airworthiness agreement, the CAA has kept the FAA totally informed of the above situation. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require an eddy current inspection and, if necessary, a dye penetrant inspection of certain areas of the wing upper skins to detect cracks in the vicinity of countersunk bolt holes and in internal stringers, and repair, if necessary. The actions would be required to be accomplished in accordance with the service bulletin previously described.

It is estimated that 133 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 12 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $87,780.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

British Aerospace: Docket 91-NM-280-AD.

Applicability: Model DH/BH/HS 125 series airplanes, excluding 600A, 700A, 800A, and 1000A series airplanes; as listed in Service Bulletin SB 57-75, dated July 30, 1991; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of the wings, accomplish the following:

(a) Within 3 months after the effective date of this AD, and thereafter at intervals not to exceed 4 years or 2,200 flights, whichever occurs first, perform an eddy current inspection on specified areas of the left and right wing upper skins to detect cracks in countersunk bolt holes in the wing skins and in the internal stringers, in accordance with British Aerospace Service Bulletin S.B. 57-75, dated July 31, 1991.

(b) If cracks are discovered as a result of the eddy current inspection required by paragraph (a) of this AD, prior to further flight, perform a dye penetrant inspection, in accordance with British Aerospace Service Bulletin S.B. 57-75, dated July 31, 1991.

(c) If cracks are discovered as a result of either the eddy current inspections required by paragraph (a) if this AD, or the dye penetrant inspection required by paragraph (b) of this AD, prior to further flight, repair the crack(s) as follows:

(1) Cracks that do not exceed the limits specified in British Aerospace Service Bulletim S.B. 57-75, dated july 31, 1991, must be repaired in accordance with the procedures in the Service Bulletin.

(2) Cracks that exceed the limits specified in British Aerospace Service Bulletin S.B. 57-75, dated July 31, 1991, must be repaired in accordance with a method approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

(d) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on January 14, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-3352 Filed 2-11-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 91-NM-281-AD]

Airworthiness Directives; British Aerospace Viscount Model 744, 745D and 810 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes the adoption of a new airworthiness directive (AD), that is applicable to certain British Aerospace Viscount Model 744, 745D and 810 series airplanes. This proposal would require visual inspection of the upper boom of a wing rib for proper fastener edge distance, and, repair or replacement of the rib boom with a new part, if necessary. This proposal is prompted by

reports of undersized end rib booms. The actions specified by the proposed AD are intended to prevent reduced structural integrity of the engine mount attachment to the wing and wing structure.

DATES: Comments must be received by April 6, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 91-NM-281-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

The service information referenced in the proposed rule may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041-0414. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue S.W., Renton, Washington. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2148; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 91-NM-281-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention Rules Docket No. 91-NM-281-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

Discussion

The Civil Aviation Authority, which is the airworthiness authority of the United Kingdom, recently notified the FAA that an unsafe condition may exist on certain British Aerospace Viscount Model 744, 745D and 810 series airplanes. The Civil Aviation Authority advises that cases have been reported of undersized end rib booms installed in these airplanes during incorporation of Modifications D3070 and D3292 (on Models 744 and 745D) and Modifications FG1925 and FG2172 (on Model 810). This condition, if not corrected, could result in reduced structural integrity of the engine mount attachment to the wing and wing structure.

British Aerospace has issued Viscount Alert Preliminary Technical Leaflet (PTL) 192 (for Model 810 series airplanes) and PTL 323 (for Model 744 and 745D series airplanes), both dated January 31, 1990, which describe procedures for visual inspection of the upper boom of the wing rib for proper fastener edge distance, and repair or replacement of the rib boom with a new part, if necessary. The Civil Aviation Authority has classified these service bulletins as mandatory.

These airplane models are manufactured in the United Kingdom and type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to a bilateral airworthiness agreement, the Civil Aviation Authority has kept the FAA totally informed of the above situation. The FAA has examined the findings of the Civil Aviation Authority, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require visual inspection of the upper boom of the wing rib for proper fastener edge distance, and repair or replacement of the rib boom with a new part, if necessary. The actions would be required to be accomplished in accordance with the British Aerospace PTL's described previously.

It is estimated that 29 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 30 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $47,850.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

British Aerospace: Docket 91–NM–281–AD.

Applicability: Viscount Model 744 and 745 series, post-mod D3070 and D3292; and Viscount Model 810 series, post-mod FG1925 and FG2172; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of the engine mount attachment to the wing and wing structure, accomplish the following:

(a) Within 100 landings or within 4 months after the effective date of this AD, whichever occurs earlier, visually inspect the upper boom of the wing rib at wing station 257, left and right, for proper fastener edge distance, in accordance with British Aerospace Viscount Alert Preliminary Technical Leaflet (PTL) 192 or PTL 323, both dated January 31, 1990, as applicable.

(b) If any discrepancies are detected in the fastener edge distance, prior to further flight, replace the rib boom with a new part, or repair in a manner approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(c) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM–113.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on January 14, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–3353 Filed 2–11–92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 92–NM–06–AD]

Airworthiness Directives; British Aerospace Model 146–100A, 200A, and 300A Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes the adoption of a new airworthiness directive (AD) that is applicable to certain British Aerospace Model 146–100A, 200A, and 300A series airplanes. This proposal would require installation of shorter hoses at certain locations in the pitot-static system on affected airplanes. This proposal is prompted by recent reports of low spots in pitot-static system hoses that could result in water being trapped and causing the pitot-static system to malfunction. The actions specified by the proposed AD are intended to eliminate the low spots and prevent the generation of incorrect air speed and altitude information.

DATES: Comments must be received by April 6, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration, Transportation Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–06–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in the proposed rule may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041–0414. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4036; telephone (206)227–2113; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92–NM–06–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–06–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority of the United Kingdom, recently notified the FAA that an unsafe condition may exist on certain British Aerospace Model 146–100A, 200A, and 300A series airplanes. The CAA advises that visual inspections have resulted in the discovery of low spots in certain pitot-static hoses that could result in water being trapped in pitot-static hoses and causing malfunctioning of the pitot-static system. This condition, if not corrected, could result in incorrect air speed and altitude information being generated by the pitot-static system.

British Aerospace has issued Service Bulletin SB.34–128–00950], dated March 22, 1991, Service Bulletin SB.34–132–46042A, dated June 24, 1991, and Service Bulletin SB.34–131–46041A, dated June 24, 1991, which describe procedures for installation of shorter hoses at certain locations in the pitot-static systems on affected airplanes. The CAA has classified these service bulletins as mandatory.

This airplane model is manufactured in the United Kingdom and type certified for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to a bilateral airworthiness agreement, the CAA has kept the FAA totally informed of the above situation. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since the unsafe condition described is likely to exist or develop on other airplanes of the type design registered in the United States, the proposed AD would require the installation of shorter hoses at certain locations in the pilot-static system on affected airplanes. The actions would be required to be accomplished in accordance with the service bulletins previously described.

It is estimated that 18 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 9 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would cost approximately $494 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $17,802.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

British Aerospace: Docket 92–NM–06–AD.

Applicability: Model 146–100A, 200A, and 300A series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent the generation of incorrect air speed and altitude information due to malfunctioning of the pitot-static system, accomplish the following:

(a) For British Aerospace Model 146–200A series airplanes with Serial Numbers E2164 and subsequent; and Model 146–300A series airplanes with Serial Numbers E3118, E3163, and subsequent: Within 30 days after the effective date of this AD, accomplish paragraphs (a)(1), (a)(2), and (a)(3) of this AD in accordance with instructions in British Aerospace Service Bulletin SB.34–128–00950J, dated March 22, 1991:

(1) Replace existing pitot-static system hoses at specified location with shorter hoses.

(2) Check the clamp block bolts installation. If any discrepancy is detected, correct it prior to further flight.

(3) Conduct a leak test of the pitot-static system. If any discrepancy is detected, correct it prior to further flight.

(b) For British Aerospace Model 146–100A, 200A, and 300A series airplanes equipped with a True Airspeed Computer No. 1 in accordance with modification HCM40159B or HCM40297G, along with a Mode "S" Transponder in accordance with modification HCM30118B or HCM40277A: Within 90 days after the effective date of this AD, accomplish paragraphs (b)(1) and (b)(2) of this AD in accordance with instructions in British Aerospace Service Bulletin SB.34–131–46041A, dated June 24, 1991:

(1) Replace existing pitot-static system hoses at specified locations with shorter hoses.

(2) Conduct a leak test of the pitot-static system. If any discrepancy is detected, correct it prior to further flight.

(c) For British Aerospace Model 146–100A, 200A, and 300A series airplanes equipped with a True Airspeed Computer No. 2 in accordance with modification HCM40160C or HCM40298G, along with a Mode "S" Transponder in accordance with modification HCM30118B or HCM40277A: Within 90 days after the effective date of this AD, accomplish paragraphs (c)(1) and (c)(2) of this AD in accordance with instructions in British Aerospace Service Bulletin SB.34–132–46042A, dated June 24, 1991:

(1) Replace existing pitot-static system hoses at specified locations with shorter hoses.

(2) Conduct a leak test of the pitot-static system. If any discrepancy is detected, correct it prior to further flight.

(d) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM–113.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on January 22, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–3351 Filed 2–11–92; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 91–NM–264–AD]

Airworthiness Directives; Airbus Industrie Model A300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposes rulemaking (NPRM).

SUMMARY: This notice proposes the supersedure of an existing airworthiness directive (AD), applicable to Airbus Industrie Model A300 series airplanes, which currently requires inspections and replacement of the bolts in the aft attachment of flap beam numbers 2 through 6. This action would require a change in the size of the replacement bolts in flap beam numbers 3 through 6. This proposal is prompted by reports indicating that the existing AD inadvertently cited the incorrect dimensions for the replacement bolt in flap beam numbers 3 through 6. The actions specified by the proposed AD are intended to prevent the installation of incorrectly sized bolts, which could lead to loss of tension in the aft attachment of the flap beams.

DATES: Comments must be received by April 6, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 91–NM–264–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Greg Holt, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2140; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 91–NM–264–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 91–NM–264–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

Discussion

On October 11, 1988, the FAA issued AD 88–22–08, Amendment 39–6049 (53 FR 41149, October 20, 1988), to require repetitive inspections and replacement of the bolts in the aft attachment of flap beam numbers 2 through 6. That action was prompted by the findings of damaged nut and bolt threads as a result of a routine inspection of the flap beam aft attachments. The requirements of that AD are intended to prevent rupture of the bolts located at the aft attachment of the flap beams and the wings.

Since the issuance of that AD, the FAA has received reports indicating that the requirement in AD 88–22–08 to replace the bolts on flap beam numbers 3, 4, 5, and 6 with "$\frac{7}{16}$-inch diameter bolts" contradicts the procedure described in Airbus Industrie Service Bulletin A300–57–145, Revision 3, dated February 10, 1988, which was referenced in that AD. This service bulletin states that these bolts should be replaced with "$\frac{5}{8}$-inch diameter bolts."

After further review of the replacement procedure described in the service bulletin, the FAA concurs that the bolts on flap beam numbers 3, 4, 5, and 6 must be replaced with $\frac{5}{8}$-inch diameter bolts, rather than $\frac{7}{16}$-inch diameter bolts, as currently required by AD 88–22–08. The installation of incorrectly sized bolts could lead to loss of tension in the aft attachment of the flap beams.

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority of France, has kept the FAA totally informed of the situation described above. The FAA has examined the findings of the French DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 88–22–08. It would continue to require inspection and replacement of the bolts on flap beam numbers 2, 3, 4, 5, and 6, but this action would change the required size of the replacement bolts on flap beam numbers 3 through 6 to $\frac{7}{16}$-inch diameter bolts.

To delineate the differences in the requirements for the dimensions of the bolts on flap beam number 2, this proposal has addressed, in separate paragraphs, airplanes on which Modification 3553 has been accomplished separately from airplanes on which Modification 3553 has not been accomplished. Furthermore, the requirements for flap beam number 2 and the requirements for flap beam numbers 3, 4, 5, and 6 have been addressed in separate paragraphs.

It is estimated that 77 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 78 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would be nominal in cost. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $330,330.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–6049, and by adding the following new airworthiness directive:

Airbus Industrie: Docket 91–NM–264–AD. Supersedes AD 88–22–08, Amendment 39–6049.

Applicability: Model A300 airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of tension in the aft attachment of flap beams, accomplish the following:

(a) Within 350 landings after December 1, 1988 (the effective date of AD 88–22–08, Amendment 39–6049), perform a detailed visual inspection of flap beam numbers 2, 3, 4, 5, and 6 aft attachment on both wings to detect damage. Repeat this inspection within 700 landings after December 1, 1988. If damaged parts are found, replace in accordance with Airbus Industrie Service Bulletin A300–57–150, Revision 1, dated September 18, 1987, or in accordance with Airbus Industrie Service Bulletin A300–57–145, Revision 3, dated February 10, 1988.

(b) For airplanes on which Modification 3553 has not been accomplished: Within 700 landings after December 1, 1988 (the effective date of AD 88–22–08, Amendment 39–6049), replace the bolts on flap beam number 2 with $\frac{5}{8}$-inch diameter bolts in accordance with Airbus Industrie Service Bulletin A300–57–145, Revision 3, dated February 10, 1988.

(c) For airplanes on which Modification 3553 has been accomplished: Within 1,000 landings after December 1, 1988 (the effective date of AD 88–22–08, Amendment 39–6049), replace the bolts on flap beam number 2 with $\frac{7}{16}$-inch diameter bolts in accordance with Airbus Industrie Service Bulletin A300–57–145, Revision 3, dated February 10, 1988.

(d) For all airplanes: Within 1,000 landings after the effective date of this AD, replace the bolts on flap beam numbers 3, 4, 5, and 6 with $\frac{5}{8}$-inch diameter bolts, in accordance with Airbus Service Bulletin A300–57–145, Revision 3, dated February 10, 1988.

(e) Replacement of the flap beam bolts in accordance with Airbus Service Bulletin A300–57–145, Revision 3, dated February 10, 1988, constitutes terminating action for the inspections required by paragraph (a) of this AD.

(f) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM–113.

(g) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on January 28, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–3355 Filed 2–11–92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 91–NM–250–AD]

Airworthiness Directives; Airbus Industrie Model A320 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes the adoption of a new airworthiness directive (AD), that is applicable to certain Model A320 series airplanes. This proposal would require inspection, operational tests, and replacement, of the hydraulic fire shut off valve actuator. This proposal is prompted by reports of the hydraulic fire shut off valve failing to close during maintenance checks. The actions specified by the proposed AD are intended to prevent a short circuit of the hydraulic fire shut off valve actuator, which could result in the inability to isolate hydraulic fluid from an engine fire.

DATES: Comments must be received by April 6, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 91–NM–250–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Greg Holt, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2140; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 91–NM–250–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA,Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 91–NM–250–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

Discussion

The Direction Général de l'Aviation Civile (DGAC), which is the airworthiness authority of France, recently notified the FAA that an unsafe condition may exist on certain Airbus Industrie Model A320 series airplanes. The French DGAC advises that, during maintenance of Model A320 series airplanes, several hydraulic fire shut off valves failed to close. Investigation revealed that the electrical motor brushes can chafe and subsequently damage the insulation on the internal cables of the actuator, running from the connector to the microswitches. This condition, if not corrected, could result in a short circuit of the hydraulic fire shut off valve actuator which could result in the inability to isolate hydraulic fluid from an engine fire.

The affected actuators have been identified and isolated to a specific batch. This actuator has been redesigned to preclude the possibility for the cable to chafe against the motor brushes. The redesigned actuator is identified by part number (P/N) "EO 1100, Amendment A" or P/N "A08 A00."

Airbus Industrie has issued All Operator Telex (AOT) 29–04, Revision 1, dated June 1, 1991, which describes procedures for inspection, operational tests, and replacement of the hydraulic fire shut off valve actuator with a redesigned actuator. The French DGAC has classified this AOT as mandatory and has issued French Airworthiness Directive 91–152–019(B) in order to assure the airworthiness of these airplanes in France.

This airplane model is manufactured in France and type certificated for operation in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to a bilateral airworthiness agreement, the French DGAC has kept the FAA totally informed of the above situation. The FAA has examined the findings of the French DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require inspection, operational tests, and replacement, if necessary, of the hydraulic fire shut off valve actuator. The actions would be required to be accomplished in accordance with the AOT previously described.

It is estimated that 36 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 3 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $5,940.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Docket 91–NM–250–AD.

Applicability: Model A320 series airplanes on which Modification 22155 has not been accomplished, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent a short circuit of the hydraulic fire shut off valve actuator, which could result in the inability to shut off fuel to the engine in the event of an engine fire, accomplish the following:

(a) Within 400 hours time-in-service after the effective date of this AD, perform an inspection of the hydraulic fire shut off valve to ascertain the part number (P/N) of the actuator, in accordance with Airbus Industrie All Operator Telex (AOT) 29–04, Revision 1, dated June 1, 1991.

(b) If the actuator does not have P/N "EO 1100," without Amendment designation; or P/N "EO 1100, Amendment B": No further action is required.

(c) If the actuator has P/N "EO "1100," without Amendment designation; or P/N "EO 1100, Amendment B": Within 400 hours time-in-service after the effective date of this AD, perform an operational test of the fire shut off valve in accordance with Chapter 29–10–00, page 501, of the airplane maintenance manual.

(1) If the valve passes the operational test, repeat that operational test at intervals not to exceed 400 hours time-in-service.

(2) If the valve fails the operational test, prior to further flight, replace the actuator in accordance with Airbus Industrie All Operator Telex (AOT) 29–04, Revision 1, dated June 1, 1991.

(i) If the replacement actuator has P/N "EO 1100, Amendment A"; or P/N "EO 1100, Amendment AB"; or P/N "EO 1100, Amendment C"; or P/N "A06 A00": No further action is required.

(ii) If the replacement actuator has P/N "EO 1100," without Amendment designation; or P/N "EO 1100, Amendment B": Repeat the operational test at intervals not to exceed 400 hours time-in-service.

(d) Prior to the accumulation of 3,000 hours time-in-service after the effective date of this AD, replace each actuator that has P/N "EO 1100," without Amendment designation; or P/N "EO 1100, Amendment B"; with an actuator having P/N "EO 1100, Amendment A"; or P/N "EO 1100, Amendment AB"; or P/N "EO 1100, Amendment C"; or P/N "A06 A00." Accomplishment of this replacement constitutes terminating action for the repetitive operational tests required by this AD.

(e) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM–113.

(f) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on January 14, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–3356 Filed 2–11–92; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 91–NM–278–AD]

Airworthiness Directives; British Aerospace Model BAC 1–11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes the supersedure of an existing airworthiness directive (AD), applicable to British Aerospace Model BAC 1–11 200 and 400 series airplanes, which currently requires a one-time measurement of the voltage and frequency outputs from Static Inverters No. 1 and No. 2, and recalibration, if necessary. That action was prompted by a report of inadvertent operation of the stick shaker and stick pusher shortly after takeoff, due to a faulty static inverter. This action would require repetitive check measurements of the static inverter voltage and frequency outputs, and recalibration, if necessary. A terminating action has also been added, which, when accomplished, would eliminate the need for repetitive inspections. The actions specified by the proposed AD are intended to prevent erroneous stick shake and stick push occurrences, which could adversely affect the controllability of the airplane.

DATES: Comments must be received by April 6, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 91–NM–278–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041-0414. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM-113; FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2148; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 91-NM-278-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 91-NM-278-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

Discussion

On December 10, 1990, the FAA issued AD 91-01-02, Amendment 39-6846 (55 FR 52038, December 19, 1990), to require a one-time measurement of the voltage and frequency outputs from Static Inverters No. 1 and 2, and recalibration, if necessary. That action was prompted by a report of inadvertent operation of the stick shaker and stick pusher shortly after take-off, due to a faulty static inverter. This difficulty was traced to a fault within the static inverter, which caused both the stick shake and stick push to operate in advance of the normal stall vane operating angle positions on one system. The requirements of that AD were intended to prevent erroneous stick shake and stick push occurrences, which could adversely affect the controllability of the airplane.

Since the issuance of that AD, new data indicate that the static inverter voltage and frequency outputs should be measured repetitively in order to ensure the continued airworthiness of these airplanes.

British Aerospace has issued Alert Service Bulletin 27-A-PM6005, Issue 2, dated June 17, 1991, which describes procedures for repetitive measurements of the voltage and frequency output of the static inverters, and recalibration of the static inverters, if necessary.

British Aerospace has also issued Service Bulletin SB 27-PM6005, dated June 11, 1991, which describes procedures for installation of Modification PM6005. This modification involves the addition of multiple capacitors to the existing static inverter, resulting in enhancement of the stall protection system. Once this modification is installed, the repetitive measurements of the static inverter voltage and frequency outputs are no longer necessary.

The United Kingdom Civil Aviation Authority (UK-CAA) has classified these service bulletins as mandatory.

This airplane model is manufactured in the United Kingdom and type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to a bilateral airworthiness agreement, the Civil Aviation Authority has kept the FAA totally informed of the above situation. The FAA has examined the findings of the UK-CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 91-01-02 to require repetitive measurements of the static inverter voltage and frequency outputs; and recalibration, if necessary. This proposal would also require operators to install Modification PM6005 as terminating action for the repetitive measurements. The actions would be required to be accomplished in accordance with the service bulletins previously described.

It is estimated that 70 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1.5 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. The cost of required parts is approximately $1,100 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $82,775.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39-6846, and by adding the following new airworthiness directive:

British Aerospace: Docket 91-NM-278-AD. Supersedes AD 91-01-02, Amendment 39-6846.

Applicability: All Model BAC 1-11 200 and 400 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To ensure stall warning protection, accomplish the following:

(a) Within 600 hours time-in-service or within 120 days after January 28, 1991 (the effective date of AD 91-01-02, Amendment 39-6846), whichever occurs first, measure the voltage and frequency outputs of Static Inverters No. 1 and No. 2, in accordance with the Accomplishment Instructions in British Aerospace Alert Service Bulletin 27-A-PM6005, Issue 1, dated March 28, 1990, or Issue 2, dated June 17, 1991. If the measured voltage and/or frequency do not conform with the tolerances as detailed in the Maintenance Manual, Paragraph E, "Stall Protection—Simulated Flight Condition Check," prior to further flight, remove the inverter from the airplane and recalibrate it in accordance with the service bulletin.

(b) Repeat the measurements required by paragraph (a) of this AD at the later of the times specified in subparagraphs (b)(1) and (b)(2) of this AD:

(1) Within 600 hours time-in-service or 4 months after performing the measurement required by paragraph (a) of this AD, whichever occurs first; or

(2) Within 100 hours time-in-service after the effective date of this AD.

(c) After performing the measurements required by paragraph (b) of this AD, repeat the measurements thereafter at intervals not to exceed 600 hours time-in-service or 4 months, whichever occurs first.

(d) Within 12 months after the effective date of this AD, install Modification PM6005 in the number 1 and 2 inverters, in accordance with British Aerospace Service Bulletin SB 27-PM6005, dated June 11, 1991. Installation of Modification No. PM6005 in the number 1 and 2 inverters constitutes terminating action for the requirements of this AD.

(e) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

(f) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on January 14, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-3354 Filed 2-11-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 91-NM-252-AD]

Airworthiness Directives; Airbus Industrie Model A300-600 and A310 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Industrie Model A300-600 and Model A310 series airplanes. This proposal would require inspection of the forward engine mount link and the aft engine mount bean assembly to detect cracks and replacement of the link or beam assembly, if necessary. This proposal is prompted by reports indicating that the forward engine mount links may have been overheated during the machining process and the aft engine mount beam assemblies may not have been dip etched prior to fluorescent penetrant inspections. The actions specified by the proposed AD are intended to prevent reduced structural integrity of the airplane.

DATES: Comments must be received by April 6, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 91-NM-252-AD, 1601 Lind Avenue SW., Renton, Washington, 98055-4056.

The service information referenced in the proposed rule may be obtained from Pratt and Whitney, Commercial Products Division, 400 Main Street, East Hartford, Connecticut 06108. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Greg Holt, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2140; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing data for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 91-NM-252-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention Rules Docket No. 91-NM-252-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority of France, recently notified the FAA that an unsafe condition may exist on certain Airbus Industrie Model A300-600 and Model A310 series airplanes. The French DGAC advises that, during the machining process, forward engine mount links may have been overheated, which would make the surface of the links prone to cracking. Additionally, the aft engine mount beam assemblies may not have been dip etched prior to fluorescent penetrant inspection, which would have allowed forging laps and material flaws to go undetected. This condition, if not corrected, could result in reduced structural integrity of the airplane.

The FAA has reviewed and approved the following Pratt and Whitney Service Bulletins, each dated May 10, 1991:

a. Service Bulletins PW4NAC 71-86 and PW7R4 71-90, which describe procedures for the inspection and replacement of the forward engine mount link; and

b. Service Bulletins PW7R4 71-100 and PW4NAC 71-105, which describe procedures for the inspection and replacement of the aft engine mount beam assembly.

This airplane model is manufactured in France and type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to a bilateral airworthiness agreement, the French DGAC has kept the FAA totally informed of the above situation. The FAA has examined the findings of the French DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require inspection of the forward engine mount link and the aft engine mount bean assembly to detect cracks, and replacement of the link or beam assembly, if necessary. The actions would be required to be accomplished in accordance with the service bulletins previously described.

It is estimated that 21 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $4,620.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Docket 91-NM-252-AD.

Applicability: Model A300-B4-620, A310-221, A310-222, and A310-322 series airplanes, equipped with Pratt and Whitney JT9D-7R4D1, JT9D,7R4E1, or JT9D-7R4H1 series engines; and Model A300-B4-622, A300B4-622R, and A310-324 series airplanes, equipped with Pratt and Whitney PW 4152 or PW 4158 series engines; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of the airplane, accomplish the following:

(a) Accomplish the requirements of paragraphs (a)(1), (a)(2), and (a)(3) of this AD as follows: For airplanes equipped with Pratt and Whitney JT9D-7R4D1, JT9D-7R4E1, and JT9D-7R4H1 series engines, accomplish the actions in accordance with Pratt and Whitney Service Bulletin PW7R4 71-90, dated May 10, 1991, unless previously accomplished in accordance with Pratt and Whitney All Operator Letter JT9/71-00/SS:JDS:0-12-3-1. For airplanes equipped with Pratt and Whitney PW 4152 and PW 4158 series engines, accomplish the actions in accordance with Pratt and Whitney Service Bulletin PW4NAC 71-86, dated May 10, 1991, unless previously accomplished in accordance with Pratt and Whitney All Operator Letter 4000/71.00/SS:TJF:0-12-03-1.

(1) Prior to the accumulation of 500 hours time-in-service after the effective date of this AD, perform a visual inspection to detect cracks or a broken link in the forward engine mount thrust link, in accordance with Part 1 of the applicable service bulletin.

(i) If no crack or broken link is found, repeat the visual inspection thereafter at intervals not to exceed 1,000 landings until the requirements of paragraph (a)(2) of this AD are accomplished.

(ii) If any crack or a broken link is found as a result of the visual inspection, prior to further flight, replace the link with a serviceable part that has been inspected in accordance with the applicable service bulletin. Such replacement constitutes terminating action for the requirements of paragraph (a) of this AD.

(2) At the next engine removal or within 4,000 hours time-in-service after the effective date of this AD, whichever occurs first, perform a nital etch inspection to detect cracks or a broken link in the forward engine mount thrust link, in accordance with the applicable service bulletin.

(i) If no crack is found as a result of the nital etch inspection, reinstall the link assembly in accordance with the applicable service bulletin. No further action is required.

(ii) If any crack or broken link is found as a result of the nital etch inspection, prior to further flight, replace the link with a serviceable part, in accordance with the applicable service bulletin. Such replacement constitutes terminating action for the requirements of paragraph (a) of this AD.

(3) Replacement of the forward engine mount thrust link in accordance with the applicable service bulletin constitutes terminating action for the requirements of this AD.

(b) Accomplish the requirements in paragraphs (b)(1), (b)(2), (b)(3), and (b)(4) of this AD as follows: For airplanes equipped with Pratt and Whitney JT9D-7R4D1, JT9D-7R4E1, and JT9D-7R4H1 series engines, accomplish the actions in accordance with Pratt and Whitney Service Bulletin PW7R4 71-100, dated May 10, 1991, unless previously accomplished in accordance with Pratt and Whitney All Operator Letter JT9/71-00/SS:0-12-3-1. For airplanes equipped with Pratt and Whitney PW 4152 and PW 4158 series engines, accomplish the actions in accordance with Pratt and Whitney Service Bulletin PW4NAC 71-105, dated May 10, 1991, unless previously accomplished in accordance with Pratt and Whitney All Operator Letter 4000/71-00/SS:TJF:0-12-03-1.

(1) Prior to the accumulation of 500 hours time-in-service after the effective date of this AD, perform a visual inspection to detect cracks or forging laps in the aft engine mount beam assembly, in accordance with Part 1 of the applicable service bulletin.

(i) If no crack or forging lap is found as a result of the visual inspection, repeat the visual inspection thereafter at intervals not to exceed 1,000 landings until the requirements of paragraph (b)(2) of this AD are accomplished.

(ii) If any crack is found as a result of the visual inspection, prior to further flight, perform a dip etch and a spot fluorescent penetrant inspection to confirm the findings of cracks or forging laps, in accordance with Part 2 of the applicable service bulletin. If any finding of cracks or forging laps is confirmed, prior to further flight, replace the defective beam assembly with a serviceable part, in accordance with the applicable service bulletin. Such replacement constitutes terminating action for the requirements of paragraph (b) of this AD. As of the effective date of this AD, none of the aft beam assemblies listed in the applicable service bulletin shall be installed on any airplane.

(2) Except as provided by paragraph (b)(3) of this AD, at the next engine removal or within 4,000 hours time-in-service after the effective date of this AD, whichever occurs first, perform a dip etch and a fluorescent penetrant inspection to detect cracks or forging laps in the aft engine mount beam assembly, in accordance with Part 2 of the applicable service bulletin.

(i) If no crack or forging lap is found as a result of the dip etch and fluorescent penetrant inspection, reinstall the beam assembly in accordance with the applicable service bulletin. No further action is required.

(ii) If any crack or forging lap is found as a result of the dip etch and fluorescent penetrant inspection, prior to further flight, replace the beam assembly with a serviceable part, in accordance with the applicable service bulletin. Such replacement constitutes terminating action for the requirements of this AD.

(3) If the requirements of paragraph (b)(2) of this AD result in a dual engine removal, the dip etch and fluorescent penetrant inspection of one of the two aft engine mounts may be deferred to the next 4,000 hours time-in-service or engine removal, whichever occurs first, provided no crack or forging lap is found while accomplishing the visual inspections required by paragraph (b)(1) of this AD. If those inspections are deferred, repeat the visual inspection of the deferred aft engine mount, as required by paragraph (b)(1) of this AD, at intervals not to exceed 1,000 landings.

(4) Replacement of the aft engine mount beam assembly, in accordance with the applicable service bulletin, constitutes terminating action for the requirements of paragraph (b) of this AD.

(c) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on January 14, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-3312 Filed 2-11-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 91-NM-257-AD]

Airworthiness Directives; Boeing Model 727 and 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposed the adoption of a new airworthiness directive (AD), that is applicable to all Boeing Model 727 series airplanes and certain Boeing Model 737 series airplanes. This proposal would require inspection of the input shaft in the auxiliary (standby) rudder Power Control Unit (PCU), and reporting to the FAA of units that fail the inspection test procedure outlined in this proposed AD. This proposal is prompted by a report that the input shaft of the PCU of one airplane showed evidence of galling which may have greatly increased the force necessary to move the input shaft. The action specified by the proposed AD are intended to prevent an uncommanded rudder input and reduced controllability of the airplane.

DATES: Comments must be received no later than April 6, 1992.

ADDRESSES: Send comments in triplicate to the Federal Aviation Administration, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 91-NM-257-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kenneth W. Frey, Aerospace Engineer, Seattle Aircraft Certification Office, Systems and Equipment Branch, ANM-130S, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056, telephone (206) 227-2673, fax (206) 227-1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rules. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 91-NM-257-AD." The postcard will be date stamped and returned to the commenter.

Availability of NRPMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, Attention: Rules Docket No. 91-NM-257-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

Discussion

On March 3, 1991, a Boeing Model 737-291 airplane was involved in an accident during an approach to the Colorado Springs, Colorado, airport. The National Transportation Safety Board (NTSB) has not yet determined the cause(s) of the accident, and an investigation of airframe, operations, and weather factors is continuing.

During the post accident examination of the rudder control components, it was noted that the input lever for the auxiliary (standby) actuator was seized to the point that it could not be moved by hand. After disassembly, the bearing and shaft displayed evidence of galling damage (metal transfer) on the unlubricated area of the parts. It has not been determined what effect, if any, the galling damage may have had on the controllability of the accident airplane. Nonetheless, excessive binding between the input shaft and bearing for the standby rudder actuator could cause an uncommanded rudder input to these airplanes, which may lead to control difficulties.

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that AD action should be taken to prevent an uncommanded rudder input and reduced controllability of the airplane.

Since the unsafe condition described is likely to exist or develop on other products of this same type design, the proposed AD would require a one-time inspection of all Boeing Model 727 and 737 airplanes, equipped with part number (P/N) 1087-23 input shaft installed in the rudder auxiliary actuator unit, to identify airplanes on which excess force is needed to rotate the shaft lever relative to the P/N 1087-22 bearing of the auxiliary actuator unit, and replacement of defective units. The shaft and bearing are a matched pair and together are referred to as "P/N 1087-21 shaft assembly." According to the manufacturer, the maximum force to move the input lever relative to the actuator housing should not exceed 0.5 pounds. Since the extent of the galling problem is not known, the FAA is proposing to require operators to submit a report of those standby rudder actuator units that are found to require excess force to operate. Based on the reports received, the FAA may consider further rulemaking.

There are approximately 1,943 Model 727 series airplanes and 1,370 Model 737 series airplanes of the affected design in the worldwide fleet. It is estimated that 1,414 airplanes of U.S. registry would be affected by this AD, that it would take approximately 6 work hours per airplane to accomplish the required actions, and that the average labor cost would be $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $466,620.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket No. 91-NM-257-AD.

Applicability: All Model 727 series airplanes; and Model 737 series airplanes, line number 1 through line number 1370; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent an uncommanded rudder input, accomplish the following:

(a) Within 4,000 flight hours after the effective date of this AD, test the standby rudder actuator for excessive actuation force using the following method:

(1) Shutoff all hydraulic power.

(2) Gain access to the standby rudder actuator.

(3) Disconnect only the input rod from the standby actuator.

(4) Using a push/pull spring scale (minimum ±10% accuracy at 1.0 pound, preferably one having a peak load memory function), push on the standby rudder actuator input lever with sufficient force to move the lever from the neutral position up to, but not touching, the aft stop. The scale must be contacting the input lever at approximately the clevis bolt centerline. While applying the load required to move the lever, the scale must be maintained at an angle perpendicular to the lever arm (not to exceed 20 degrees from perpendicular). The force required to move the input lever throughout this range of motion must not exceed one pound.

(5) Repeat this test, moving the lever arm from the aft stop position up to the forward stop but not touching. The force required to move the input lever throughout this range of motion must not exceed one pound.

(6) Repeat this test moving the lever arm from the forward stop position back to the neutral position. The force required to move the input lever throughout this range of motion must not exceed one pound.

(7) If the actuation force encountered during any of the procedures required by paragraph (a)(4), (a)(5), or (a)(6) of this AD exceeds one pound, prior to further flight, replace the standby rudder actuator with a serviceable actuator, and test in accordance with paragraph (a)(9) of this AD.

(8) If the actuation force encountered during any of the procedures required by paragraph (a)(4), (a)(5), or (a)(6) of this AD is one pound or less, prior to further flight, reconnect the input rod to the standby rudder actuator, and test in accordance with paragraph (a)(9) of this AD.

(9) Perform a functional test of the standby rudder actuator in accordance with Maintenance manual 737-100/-200, chapter 27-21-141, removal/installation; or Maintenance Manual 737-300/-400/-500, chapter 27-21-24, removal/installation; or Maintenance Manual 727, chapter 27-20-151, removal/installation.

(10) Restore the airplane to its normal condition.

(b) Within 15 days after completion of the test required by paragraph (a) of this AD, submit a report on each unit that exceeded the one pound actuation force encountered during the procedures required by paragraph (a)(7) of this AD, to the Manager, Seattle Aircraft Certification Office, ANM-100S, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056. The report should identify the airplane, specify the forces measured, include the total number of flight hours that the airplane has accumulated, and include the serial number of the standby actuator. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (P.L. 96-511) and have been assigned OMB Control Number 2120-0056.

(c) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

Issued in Renton, Washington, on January 3, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-3315 Filed 2-11-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 92-NM-13-AD]

Airworthiness Directives; Boeing Model 747-400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 747-400 series airplanes. This proposal would require installation of shields and tape to keep unwanted materials away from the drain mast heater elements. This proposal is prompted by reports of fires in the drain mast areas. The actions specified by the proposed AD are intended to prevent fires in the drain mast internal space.

DATES: Comments must be received by April 6, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-13-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Don Eiford, Aerospace Engineer, Systems and Equipment Branch, ANM-130S, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2788; fax (206) 227-1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92-NM-13-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-13-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

Discussion

Recently, two operators of Boeing Model 747 series airplanes reported incidents of fires occurring in the drain mast areas. In one incident, the operator reported that an in-flight fire occured in the aft lower lobe cargo compartment. The fire caused structural damage to the fuselage skin, frames, and stringers. The fire also damaged the insulation blankets and the cargo ballmat.

In the other incident, the operator reported that, during a line check, a ground mechanic noted evidence of fire in the mid drain mast area of the airplane fuselage. Further investigation of this incident indicated that the wire bundle, heater tape, and insulation blankets were burnt and the floor beam web was heat-damaged. No fire or overheat condition had been reported previously by the flight or ground crews.

The drain mast has a heater element in its internal space. The heater helps prevent out-flow blockage caused by frozen waste water. In both incidents described above, foreign material may have contacted the heating element in the drain mast internal space, which could have triggered the fires. This condition, if not corrected, could result in a fire in the drain mast internal space.

The FAA has reviewed and approved Boeing Alert Service Bulletin 747-38A2090, dated November 21, 1991, which describes procedures for the installation of shields over the drain masts and installation of moisture resistant and thermal insulation tape around the forward drain mast tube and heater elements on the mid and aft drain masts.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require installation of shields and tape to keep unwanted materials away from the drain mast heater elements. The actions would be required to be accomplished in accordance with the service bulletin previously described.

There are approximately 28 Model 747-400 series airplanes of the affected design in the worldwide fleet. Currently, there are no airplanes on U.S. registry that would be affected by this proposed AD. However, should an airplane be added to the U.S. registry, it would take approximately 43 work hours per airplane to accomplish the proposed actions, and the average labor rate is $55 per work hour. Required parts would be provided at no cost to the operator. Based on these figures, the total cost impact of the proposed AD is estimated to be $2,365 per airplane.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 92–NM–13–AD.

Applicability: Model 747–400 series airplanes as listed in Boeing Alert Service Bulletin 747–38A2090, dated November 21, 1991, certificated in any category.

Compliance: Required within 12 months after the effective date of this AD, unless accomplished previously.

To prevent fires in the drain mast internal space, accomplish the following:

(a) Install shields with sealant over the mid and aft drain masts in accordance with Boeing Alert Service Bulletin 747–38A2090, dated November 21, 1991.

(b) Install moisture resistant and thermal insulation tape around the forward drain tube and heater elements on the mid and aft drain masts in accordance with Boeing Alert Service Bulletin 747–38A2090, dated November 21, 1991.

(c) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on January 22, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–3310 Filed 2–11–92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 91-NM-235-AD]

Airworthiness Directives; Boeing Model 757 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Boeing Model 757 series airplanes, which currently requires that landing gear brake wear limits be incoroporated into the FAA-approved maintenance inspection program. This action would require the inspection of certain additional landing gear brakes, which were not listed in the existing rule, for wear, replacement of the brakes if the wear limits prescribed this proposal are not met, and the incorporation of new maximum wear limits into the FAA-approved maintenance inspection program. This proposal is prompted by the determination of the allowable brake wear limits for the additional brakes. The actions specified by the proposed AD are intended to prevent the loss of braking effectiveness of the landing gear brakes.

DATES: Comments must be received no later than April 6, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration, Transport Airplane Directorate, ANM–103, Attention: Airworthiness Rules Docket No. 91–NM–235–AD, 1601 Lind Avenue SW., Renton, Washington, 98055–4056.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124, and BFGoodrich Aerospace, Aircraft Wheels and Brakes, P.O. Box 340, Troy, Ohio 45373. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: David M. Herron, Aerospace Engineer, Seattle Aircraft Certification Office, Systems and Equipment Branch, ANM–130S, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, 98055–4056, telephone (206) 227–2672, fax (206) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 91–NM–235–AD." The postcard will be date stamped and returned to the commenter.

Availabilty of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, Attention: Rule Docket No. 91–NM–235–AD, 1601 Lind Avenue SW., Renton, Washington, 98055–4056.

Discussion

On September 26, 1991, the FAA issued AD 91–18–09, Amendment 39–8012 (56 FR 51156, October 10, 1991), to require that maximum wear limits for landing gear brakes on Model 757 series airplanes be incorporated into operators' FAA-approved maintenance inspection programs. That action was prompted by an accident in which a transport airplane executed a rejected takeoff (RTO) and was unable to stop on the runway. An investigation revealed that 8 out of 10 brakes on the airplane were unable to absorb the required RTO energy, thus contributing to the accident. This condition, if not corrected, could result in loss of brake effectiveness during a high energy RTO.

Since issuance of that AD, additional brakes, not included in the existing rule, have been evaluated and their maximum allowable brake wear limits have been determined in accordance with the methodology approved by the FAA. The FAA has determined that airplanes equipped with these brakes are currently subject to the same unsafe condition addressed in the existing AD, and that new maximum brake wear limits must be applied to these brake configurations in order to ensure braking effectiveness.

The FAA has reviewed and approved BFGoodrich Service Bulletin 2–1457–32–13, dated January 30, 1991, which describes methods for adjusting currently recommended brake wear limits to account for the decreases determined in accordance with the methodology for determining allowable wear accepted by the FAA. The service bulletin also provides instructions for overhauling brakes for future use to comply with the allowable wear limits proposed within this rule for these brakes.

An option to extend the maximum allowable brake wear limit for the BFGoodrich 2–1510 carbon brake from 1.7 inches to 2.2 inches is also provided for in this proposal. This brake has demonstrated a capability to absorb the maximum energy developed during a refused takeoff at an allowable brake wear limit of 2.4 inches. The option proposed for this amendment is established at a lesser limit than that demonstrated for energy purposes for other reasons. This proposed limit may be extended further when in-service experience demonstrates it is appropriate.

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that AD action should be taken to prevent loss of braking effectiveness of the landing gear brakes.

Since the unsafe condition described is likely to exist or develop on other products of this same type design, equipped with the addressed brake configurations, the proposed AD would supersede AD 91–18–09 with a new airworthiness directive to require the inspection of certain additional landing gear brakes, for wear, their replacement if the wear limits prescribed in this proposal are not met, and the incorporation of these new wear limits into the FAA-approved maintenance inspection program.

There are approximately 305 Model 757 series airplanes of the affected design in the worldwide fleet. It is estimated that 217 airplanes of U.S. registry and 8 operators would be affected by this AD; 106 airplanes would be added by this action. For 106 airplanes of U.S. registry, it would take approximately 21 work hours per airplane to accomplish the required actions, and the average labor cost would be $55 per work hour. In addition, it is estimated that the cost of parts to accomplish the change in wear limits to these 106 airplanes (cost resulting from the requirement to change brakes before they are worn to their previously recommended limits for a one-time change) is estimated to be $3,350 per airplane. Further, it is estimated that it will require 20 work hours per operator, at an average labor cost of $55 per work hour, to incorporate the proposed requirements into an operator's FAA-approved maintenance inspection program. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $486,330.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–8012 and by adding the following new airworthiness directive:

Boeing: Docket No. 91–NM–235–AD. Supersedes AD 91–18–09, Amendment 39–8012.

Applicability: Model 757 series airplanes, equipped with brake part numbers (P/N) identified in paragraphs (a) and (c) of this AD, certificated in any category.

Compliance required as indicated, unless accomplished previously.

To prevent loss of main landing gear braking effectiveness, accomplish the following:

(a) Within 180 days after November 12, 1991 (the effective date of Amendment 39–8012, AD 91–18–09), incorporate the maximum brake wear limits, shown below, into the FAA-approved maintenance inspection program.

Brake mfr.	Brake P/N	Boeing P/N	Max. wear limit (inches)
Dunlop	AHA 1301	S160N020–1	2.46
Dunlop	AHA 1637	S160N020–5	2.46
Dunlop	AHA 1676	S160N020–7	2.46
Dunlop	AHA 1693	S160N020–8	2.46
Dunlop	AHA 1884	S160N020–14	2.60
BFGoodrich	2–1510	S160N020–11	1.70

(b) For BFGoodrich brake P/N 2–1510 (Boeing P/N S160N020–11), in lieu of the limit specified in paragraph (a) of this AD, the maximum allowable brake wear may be extended to 2.2 inches when it is placed into the FAA-approved maintenance inspection program.

(c) Within 180 days after the effective date of this AD, accomplish the following:

(1) For airplanes equipped with BFGoodrich Brake P/N's 2–1457 and 2–1457–1, (Boeing P/N S160N010–43 AND S160N010–45): Accomplish the procedures specified in Section 2.B.(1) of BFGoodrich Service Bulletin 2–1457–32–13, dated January 30, 1991. Brakes found worn more than the 1.4 inch allowable brake wear, must be removed and replaced, prior to further flight, with either a brake built in accordance with Section 2.B.(1)c. of the service bulletin, or a brake with more than 1.4 inches of allowable wear remaining.

(2) For airplanes equipped with BFGoodrich Brake P/N's 2–1457, 2–1457–1, and 2–1457–2, (Boeing P/N S160N010–43, S160N010–45, and S160N010–46): Incorporate either Figure 1 and/or Figure 2 of Section 2.B.(1)c. of BFGoodrich Service Bulletin 2–1457–32–13, dated January 30, 1991, into the FAA-approved maintenance inspection program.

(d) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

Issued in Renton, Washington, on January 3, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certificate Service.

[FR Doc. 92–3314 Filed 2–11–92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 91–NM–166–AD]

Airworthiness Directives; British Aerospace Model ATP Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: This notice revises an earlier proposed airworthiness directive (AD), applicable to certain British Aerospace Model ATP series airplanes, which would have required the installation of modified earthing arrangements to the pitot static and stall warning systems and overhead stowage units, modification of the roof and sidewall light wiring, and a standby compass check. That proposal was prompted by reports of standby compass deviations exceeding the required tolerance when certain airplane electrical equipment is operated. This action revises the proposed rule by adding a requirement for installation of a warning placard. The actions specified by this proposed AD are intended to prevent inaccurate navigation when using the standby compass.

DATES: Comments must be received by April 6, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 91–NM–166–AD, 1601 Lind Avenue SW., Renton, Washington, 98055–4056. Comment may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041–0414. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 91–NM–166–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 91–NM–166–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations to add an airworthiness directive (AD), applicable to British Aerospace Model ATP series airplanes, was published as a notice of proposed rulemaking (NPRM) in the Federal Register on October 21, 1991 (56 FR 52490). That NPRM would have required installation of modified earthing arrangements to the pitot static and stall warning systems and overhead stowage units, and modification of the roof and sidewall light wiring. That NPRM was prompted by reports of standby compass deviations exceeding the ±10 degree type design tolerance when certain airplane electrical equipment is operated. The excessive deviation of the standby compass is caused by electromagnetic fields associated with the operation of certain electrical equipment installed on the airplane. That condition, if not corrected, could have resulted in inaccurate navigation when using the standby compass.

Since the issuance of that NPRM, one commenter has requested that, due to the known potential for inaccurate navigation, the AD include a requirement for installation of a placard to warn the flight crew of the potential non-reliability of the standby compass when operating certain airplane electrical equipment. The placard could be removed upon accomplishment of each of the modifications required by the proposed AD. The FAA concurs that such a placard would be advantageous in alerting the flight crew to the potential unsafe condition and may serve to assure safety in the interim. This requirement has been added to the proposed rule.

Since this change expands the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional time for public comment.

It is estimated that 8 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 229 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would cost approximately $1,523 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $112,944.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation repared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

British Aerospace: Docket 91–NM–166–AD.

Applicability: Model ATP series airplanes; as listed in British Aerospace Service Bulletins ATP–24–34, dated April 25, 1991, and ATP–33–8, Revision 2, dated April 11, 1991; certified in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent inaccurate navigation when using the standby compass, accomplish the following:

(a) Within 14 days after the effective date of this AD, fabricate and install a temporary placard near the standby magnetic compass, worded as follows:

"WARNING: OPERATION OF CABIN ROOF AND SIDEWALL LIGHTING, PITOT HEAT, AND STALL WARNING SYSTEMS MAY INDUCE EXCESSIVE ERROR IN THE MAGNETIC COMPASS READINGS."

(b) Within 8 months after the effective date of this AD, accomplish the following:

(1) Modify the earthing arrangements to the pilot static and stall warning systems (Modification 10194A) and to the overhead stowage units (Modification 10194B), as applicable, in accordance with British Aerospace Service Bulletin ATP 24–34, dated April 25, 1991.

(2) Modify the roof and sidewall light wiring (Modification 35113A) in accordance with British Aerospace Service Bulletin ATP–33–8, Revision 2, dated April 11, 1991.

(3) Accomplish a compass swing of the standby compass in accordance with British Aerospace Service Bulletin ATP–24–34, dated April 25, 1991.

(4) Remove the temporary placard installed in accordance with paragraph (a) of this AD.

(c) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM–113.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on January 22, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–3311 Filed 2–11–92; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 91–NM–277–AD]

Airworthiness Directives; British Aerospace Viscount Model 744, 745D and 810 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes the adoption of a new airworthiness directive (AD) that is applicable to all British Aerospace Viscount Model 744, 745D, and 810 airplanes. This proposal would require initial and repeated inspections of the rear pressure bulkhead, using both visual and non-destructive test methods, and, if necessary, repair of damaged parts. This proposal is prompted by reports of corrosion found on the rear pressure bulkhead. The actions specified by the proposed AD are intended to prevent structural failure of the bulkhead and associated decompression of the passenger cabin.

DATES: Comments must be received by April 6, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 91–NM–277–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

The service information referenced in the proposed rule may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041–0414. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rule Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 91–NM–277–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention Rules Docket No. 91–NM–277–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

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Discussion

The Civil Aviation Authority, which is the airworthiness authority of the United Kingdom, recently notified the FAA that unsafe condition may exist on all British Aerospace Viscount Model 744, 745D and 810 series airplanes. The Civil Aviation Authority advises that cases have been reported of corrosion found on the fuselage rear pressure bulkhead. If uncorrected, this condition could result in structural failure of the bulkhead and associated decompression of the passenger cabin.

British Aerospace has issued Viscount Alert Preliminary Technical Leaflet (PTL) 195 (Model 810 series airplanes), dated December 12, 1990, and PTL 325 (Model 744 and 745D series airplanes, dated June 11, 1991, which describe procedures for visual and non-destructive test inspections of the rear pressure bulkhead, and, if necessary, repair of corroded, cracked, or other damaged parts. The Civil Aviation Authority has classified this service bulletin as mandatory.

These airplane models are manufactured in the United Kingdom and type certificated for operation in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to a bilateral airworthiness agreement, the Civil Aviation Authority has kept the FAA totally informed of the above situation. The FAA has examined the findings of the Civil Aviation Authority, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require initial and repetitive inspections of the rear pressure bulkhead, using both visual and specified non-destructive test methods, and repair of damaged parts, if necessary. The actions would be required to be accomplished in accordance with the service bulletins previously described.

It is estimated that 29 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 100 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $159,500.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

British Aerospace: Docket 91–NM–277–AD.

Applicability: All Viscount Model 744, 745D and 810 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent structural failure of the bulkhead and associated decompression of the passenger cabin, accomplish the following:

(a) Within 90 days after the effective date of this AD, using both visual and specified non-destructive test methods, inspect the rear pressure bulkhead for corrosion, cracks, and damage, in accordance with British Aerospace Viscount Alert Preliminary Technical Leaflet (PTL) 195 (for Model 810 series airplanes), dated December 12, 1990; or PTL 325 (for Model 744 and 745D series airplanes), dated June 11, 1991; as applicable.

(b) Repeat the visual and non-destructive test inspections required by paragraph (a) of this AD at the following intervals:

(1) For "Part One: Rear pressure Bulkhead—Rear Face," as specified in the applicable service bulletin: At intervals not to exceed 500 landings or 6 months, whichever occurs first.

(2) For "Part Two: Rear Pressure Bulkhead Web Lap-Joints," as specified in the applicable service bulletin: At intervals not to exceed 1,600 landings or 2 years, whichever occurs first.

(3) For "Part Three: Rear Pressure Rear Face, Boundary Member, Adjacent Skin and Structure," as specified in the applicable service bulletin: At intervals not to exceed 2,500 landings or 3 years, whichever occurs first.

(4) For "Part Four: Rear Pressure Bulkhead Forward Face including Boundary Member and Adjacent Skin," as specified in the applicable service bulletin: At intervals not to exceed 4,800 landings or 6 years, whichever occurs first.

(5) For "Part Five: Rear Pressure Bulkhead Forward Face," as specified in the applicable service bulletin: At intervals not to exceed 500 landings or 6 months, whichever occurs first.

(c) If corroded, cracked, or damaged parts are found as a result of inspections required by paragraphs (a) and (b) of this AD, prior to further flight, repair in accordance with British Aerospace Viscount Alert Preliminary Technical Leaflet (PTL) 195, dated December 21, 1990; or PTL 325, dated June 11, 1991; as applicable.

(d) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM–113.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on January 14, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–3313 Filed 2–11–92; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[FI-90-91]

RIN 1545-AQ19

Transferred Proceeds Allocations and Other Arbitrage Restrictions on Refunding Issues

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to arbitrage restrictions applicable to tax exempt bonds issued by State and local governments. Changes to the applicable law were made by the Tax Reform Act of 1986, the Technical and Miscellaneous Act of 1988, and the Revenue Reconciliation Act of 1990. The proposed regulations affect issuers of tax exempt bonds and provide guidance on transferred proceeds allocations and other restrictions on refunding issues for purposes of arbitrage yield restrictions, the arbitrage rebate requirement, and advance refunding limitations.

DATES: Written comments must be received by April 13, 1992. However, for those wishing to participate at the hearing, written comments, requests to speak, and outlines of oral comments should be received by March 20, 1992. See notice of hearing published elsewhere in this issue of the **Federal Register.**

ADDRESSES: Send comments, requests to appear at the public hearing, and outlines of comments to be presented to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R (FI-90-91), room 5228, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, William P. Cejudo, 202-566-3283 (not a toll-free number). Concerning the public hearing, Carol Savage of the Regulations Unit, 202-566-3935 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collection of information should be sent to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer T:FP, Washington, DC 20224.

The collection of information in this regulation is in proposed § 1.148-11(k)(2), which provides for an election that requires the preparation and maintenance of a written statement. The taxpayers affected are states and political subdivisions that issue bonds and entities that issue bonds on behalf of states or political subdivisions.

These estimates are an approximation of the average time expected to be necessary for a collection of information. They are based on such information as is available to the Internal Revenue Service. Individual recordkeepers may require greater or less time, depending on their particular circumstances. Estimated total annual recordkeeping burden: 3000 hours.

The estimated average annual burden per recordkeeper is 1 hour.

Estimated number of recordkeepers: 3000.

Background

This document proposes to amend the Income Tax Regulations (26 CFR part 1) to provide guidance on allocations of transferred proceeds and other restrictions on refunding issues for purposes of arbitrage yield restrictions under section 148, the arbitrage rebate requirement under section 148(f), and the advance refunding limitations under section 149(d) of the Internal Revenue Code. The proposed regulations propose to amend the provisions of § 1.103-14(e) of the Income Tax Regulations, as superseded in part by the temporary regulations §§ 1.148-0T through 1.148-8T published in the Federal Register for May 15, 1989 (54 FR 20787), and modified by temporary regulations published in the Federal Register for April 25, 1991 (56 FR 19045).

Explanation of Provisions

I. Introduction and History

A. General Introduction

The use of proceeds of an issue of tax exempt bonds to refinance or refund another issue raises considerations involving arbitrage yield restrictions under section 148, the arbitrage rebate requirement under section 148(f), and the advance refunding limitations under section 149(d). The proposed regulations provide rules on refunding issues, including certain taxable issues in a series of refundings. They provide guidance concerning the extent to which unspent proceeds of a prior issue become "transferred proceeds" of a refunding issue. The proposed regulations also provide guidance concerning allocation of gross proceeds, investments, and bonds in refunding issues for various purposes.

The proposed regulations simplify transferred proceeds computations, clarify the definition of a refunding issue, and provide flexible allocation rules for multipurpose issues involving refundings.

B. History of Regulation of Transferred Proceeds

1. 1979 Regulations

On May 31, 1979, final regulations were published under the predecessor of section 148 at § 1.103-14(e) (the "1979 regulations"). For approximately 10 years, those regulations governed refunding issues for arbitrage yield restriction purposes. The 1979 regulations used a "principal-to-principal" allocation method for transferred proceeds. This principal-to-principal method required proportionate transfers of unspent proceeds of a prior issue to a refunding issue based on the percentage of the outstanding principal amount of the prior issue paid with proceeds of the refunding issue.

2. 1989 Temporary Regulations

On May 15, 1989, temporary regulations were published under section 148 at § 1.148-0T through § 1.148-9T (the "1989 temporary regulations"). These regulations generally implemented the arbitrage rebate requirement of section 148(f). Section 1.148-4T(e) of the 1989 temporary regulations significantly changed the rules on refunding issues for all purposes of section 148 and largely superseded the 1979 regulations. The 1989 temporary regulations replaced the principal-to-principal transfer method with a general "dollar-for-dollar" payment of debt service method. This dollar-for-dollar method requires transfers whenever proceeds of a refunding issue are used to pay any debt service, whether principal or interest, on a prior issue. The dollar-for-dollar method is limited by a "transfer cap," which limits the aggregate value of investments that may be allocated to the refunding portion of an issue to the value of the bonds allocated to that portion of the issue on a transfer date. In addition, the 1989 temporary regulations did not provide any significant operating rules to separate a multipurpose issue into refunding and nonrefunding portions.

The dollar-for-dollar transfer method of the 1989 temporary regulations has been criticized because it increases the frequency of transferred proceeds computations and accelerates transfers. Some commentators recommended reinstatement of the 1979 regulations with appropriate modifications.

II. Description of Proposed Regulations

A. Introduction and Scope of Application

The proposed regulations generally reinstate the principal-to-principal transfer method of the 1979 regulations and incorporate concepts from both the 1979 regulations and the 1989 temporary regulations.

Subject to certain exceptions, the proposed regulations apply for all purposes of section 148 and section 149(d). Under one exception, the proposed regulations do not apply to determine whether two or more obligations are part of the same "issue" for arbitrage yield computation purposes. In addition, subject to an anti-abuse rule, the proposed regulations do not apply to limit the number of taxable advance refunding issues.

B. Definition of Refunding Issue

The proposed regulations provide a more comprehensive definition of a refunding issue than did either the 1979 regulations or the 1989 temporary regulations. Under the proposed regulations, a refunding issue generally includes any issue the gross proceeds of which are used to pay debt service on another issue. The proposed regulations provide that an issue is not a refunding issue to the extent that the obligor of one issue is neither the obligor of the other issue nor a party related to the obligor of the other issue.

Unlike prior definitions, the definition of a refunding issue in the proposed regulations focuses on the conduit borrower in a conduit financing. Thus, for purposes of determining whether an issue is a refunding issue, the conduit borrower is treated as the obligor of the issue. A refinancing of a conduit loan is treated as a refunding of the conduit loan. In addition, a refinancing of a conduit loan may also be treated as a refunding of the original issue that financed the conduit loan or another issue unless, within a limited period of time, the issuer of the original issue "recycles" or re-lends the amounts received when the conduit loan is paid off.

Under the proposed regulations, in the absence of other applicable controlling rules, the determination of whether an issue is a refunding issue is based on the substance of the transaction. In general, the proposed regulations do not permit an issue to be treated as a refunding issue if the proceeds of the issue are used to reimburse amounts that were used to pay debt service on another issue that was discharged previously. In limited circumstances, however, treatment of such an issue as a refunding issue might result from the application of the provision in the proposed regulations that focuses on the substance of a transaction. The proposed regulations do not define a "refunding issue" for other purposes of the tax exempt bond rules under section 103 and sections 141 to 150.

The Service solicits comments on all aspects of the definition of a refunding issue. Comment is solicited particularly on the approach taken towards so-called "conduit" or "pooled" financing issues under this definition. In addition, comment is solicited on whether the proposed definition of a refunding issue should be extended to any other purposes of section 103 and sections 141 to 150 either in the proposed form or with specified modifications.

C. Certain Other Definitions

1. *Definition of obligation.* For purposes of defining a refunding issue or prior issue of "obligations," the proposed regulations generally include as obligations both tax exempt and taxable evidences of indebtedness. Taxable obligations are included to accomplish proper tracing of transferred proceeds through a series of refundings that includes taxable issues.

2. *Definition of replacement proceeds of a refunding issue.* The proposed regulations contain two rules that supplement the definition of "replacement proceeds" in the case of a refunding. Under one rule, replacement proceeds of a refunding issue include certain amounts that, as a result of the refunding, cease to be replacement proceeds of the prior issue and that are not spent for a governmental purpose within six months after the date of issue of the refunding issue. Thus, issuers are required to take certain existing funds associated with a prior issue into account in determining the necessary amount of the refunding issue.

Under the second rule, the proposed regulations also treat as replacement proceeds of a refunding issue certain amounts that arise after the date of the refunding issue as a result of the refunding and that are used to pay debt service on any other issue.

D. *Principal-to-Principal Allocation Method for Transferred Proceeds*

Under the proposed principal-to-principal transfer method, transfers of unspent proceeds from a prior issue to a refunding issue are based on the portion of the outstanding principal amount of the prior issue paid with gross proceeds of the refunding issue on any date. Unspent proceeds of a prior issue covered by this rule may include, for example, proceeds in a construction fund, a reserve fund, or an escrow fund created as a result of a previous refunding. If a bond has more than de minimis original issue discount or premium, the proposed regulations treat the present value of the bond as its principal amount.

This principal-to-principal transfer method was adopted because the principal amount of a debt that is refunded is generally a reasonable measure of the portion of the prior issue that is replaced by a refunding issue. In addition, by limiting transfers to principal payment dates, this method significantly reduces the number of transferred proceeds computations.

E. Other Special Allegation Rules for Refundings

1. *Allocations of investments to transferred proceeds.* Once proceeds of a prior issue become transferred proceeds of a refunding issue, it is necessary to identify which specific investments of proceeds of the prior issue transfer to the refunding issue.

The proposed regulations provide rules for allocating investments to transferred proceeds. In the case of investments of proceeds of a prior issue that are held in a refunding escrow fund for another issue, a ratable portion of each investment must be allocated to transferred proceeds. In the case of those investments that are not held in a refunding escrow fund for another issue, either a ratable portion of each investment or a representative portion of the investment portfolio must be allocated to transferred proceeds.

2. *Special allocation rule for mixed escrows.* The proposed regulations contain a special allocation rule for "mixed escrows." A mixed escrow is a refunding escrow fund that contains both gross proceeds of a refunding issue and non-proceeds. The special allocation rule generally requires allocations of gross proceeds to expenditures for debt service on the prior issue in a manner that ensures that disproportionately large amounts of gross proceeds are not allocated to these expenditures. The proposed regulations also contain a related special allocation rule for certain short-term funds. These rules address in part the section 149(d)(4) prohibition against abusive "devices" in refundings. These rules are intended to address certain potential

abuses associated with structuring a refunding escrow fund to take inappropriate advantage of the higher permitted yield on amounts that are not gross proceeds of the refunding issue (so-called "flip-flops").

3. *Restrictions on escrow restructurings.* The proposed regulations contain an anti-abuse rule that restricts the ability of issuers to liquidate an existing refunding escrow fund and to refinance that escrow fund with proceeds of another refunding issue to avoid the impact of transferred proceeds allocations.

F. Temporary Periods for Unrestricted Investments in Refundings

The temporary periods available for investment of proceeds of refunding issues at unrestricted yields under the 1979 regulations were numerous and complex. The proposed regulations simplify these prescribed temporary periods. Under the proposed regulations, the general temporary period for refunding issues is the 30-day period beginning on the date of issue. The proposed regulations also contain certain special temporary period rules for transferred proceeds, investment proceeds, accrued interest, and costs of issuance.

G. Minor Portions in Refundings

Prior to the Tax Reform Act of 1986, a minor portion of the proceeds of an issue, generally defined by regulation to include up to 15 percent of those proceeds, could be invested at unrestricted yields. Section 148(e), enacted in 1986, significantly reduced the permitted minor portion to the lesser of (a) $100,000, or (b) 5 percent of the proceeds of an issue. The proposed regulations allow this minor portion for both the refunding issue and the prior issue. The proposed regulations clarify that, for this purpose, "proceeds of the issue" means sale proceeds (as defined in § 1.148–8T(d)(4)).

H. Reasonably Required Reserve and Replacement Funds in Refundings

Both the 1979 regulations and the 1989 temporary regulations contain detailed rules with respect to reasonably required reserve and replacement funds for refunding issues and prior issues. Under section 148(d), the amount of proceeds of an issue that may be invested at unrestricted yields in a reasonably required reserve or replacement fund is generally limited to 10 percent of the proceeds of the issue. In addition, under section 148(f), most reasonably required reserve or replacement funds are subject to the arbitrage rebate requirement. Thus, the proposed regulations simplify the rules governing reasonably required reserve and replacement funds in refundings.

The proposed regulations generally permit proceeds of a refunding issue to be invested in the amount prescribed by section 148(d) in a reasonably required reserve or replacement fund for the refunding issue. Proceeds invested in the reserve or replacement fund for the refunding issue, however, may not be used to pay debt service on the prior issue. In addition, under a new overall limitation effective as of the date of issue of a refunding issue, the aggregate amount that may be invested in higher-yielding investments in reasonably required reserve or replacement funds for both the refunding issue and the prior issue is limited to 10 percent of sale proceeds of the refunding issue.

I. Payment of Transferred Proceeds Penalty in a Current Refunding

In an advance refunding, proceeds of a prior issue that "transfer" and become transferred proceeds of a refunding issue often had been invested previously in an irrevocable, yield-restricted, refunding escrow fund to defease another issue that was refunded by the prior issue. In an advance refunding, since the yield on the transferred proceeds in the escrow fund cannot be adjusted, the issuer generally complies with the requirement to reduce the yield on transferred proceeds by reducing the yield on the refunding escrow fund financed by the refunding issue. In a current refunding, however, there is no refunding escrow fund. Under the 1989 temporary regulations, an issuer could accomplish the required yield reduction by creating a sinking fund for the refunding issue and limiting the yield on investments in the sinking fund to a lower restricted yield. The proposed regulations permit an issuer to reduce the yield on certain transferred proceeds in a current refunding by making a payment to the Internal Revenue Service.

J. Multipurpose Issue Allocations

The proposed regulations contain new, flexible allocation rules for multipurpose issues. The primary purpose of these rules is to facilitate the division of multipurpose issues involving refundings into separate issues for purposes of computing transferred proceeds and properly allocating gross proceeds, investments, and bonds. Subject to various special rules, the proposed regulations permit gross proceeds, investments, and bonds of a multipurpose issue to be allocated among the separate governmental purposes of the issue using any reasonable, consistently applied allocation method.

The proposed allocation rules for multipurpose issues contain certain restrictions on allocating bonds to the refunding portion of the multipurpose issue to prevent artificial allocations of the earliest maturities to that portion. Such an allocation would maximize the ability to advance refund the nonrefunding portion under section 149.

The proposed allocation rules for multipurpose issues apply only to the extent that these allocations affect allocations with respect to the refunding purposes of a multipurpose issue. The Service solicits comments on whether these allocation rules should be extended to other purposes of sections 103 and 141–150 either in the proposed form or with specified modifications.

K. Certain Changes to Other Regulations

1. *Ruling required for gross refundings.* A gross refunding is a refunding in which investment earnings on the proceeds of the refunding issue are not taken into account in determining the size of the refunding issue. The 1979 regulations contained numerous special rules for gross refundings. Since gross refundings are rarely done in modern transactions, the proposed regulations do not contain specific rules for gross refundings. The proposed regulations, however, do permit an issuer to seek a ruling with respect to a gross refunding. In determining whether to grant a ruling, the Service may consider the provisions on gross refundings that were part of the 1979 regulations.

2. *Certain definitional changes.* The proposed regulations include a definition of "replacement proceeds" in § 1.148–8 that is intended to cover amounts treated as proceeds under the replacement language of section 148(a)(2). This proposed definition does not define replacement comprehensively, but merely adopts appropriate terminology in lieu of the phrase "reserve or replacement fund," which was undefined and used in the 1989 temporary regulations to refer to this category of proceeds.

In addition, the proposed regulations include a revised definition of "proceeds" in § 1.148–8. This revised definition removes from the scope of "proceeds" the category of "discount proceeds," which was undefined in the 1989 temporary regulations. The intent of this deletion is to recognize that proceeds associated with the original issue discount component of bonds properly are a part of replacement proceeds. The proposed regulations also

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contain some conforming definitional changes to § 1.148–8T. References in the proposed regulations to definitions in § 1.148–8T are intended to include any proposed changes to those definitions made by these regulations.

Effective Date

The regulations are proposed to apply to bonds issued after [the date that is 30 days after publication of final regulations in the **Federal Register**].

If an allocation of any multipurpose refunding issue or multipurpose prior issue would affect allocations of any refunding issue that is issued on or after [the date of publication of the proposed regulations in the **Federal Register**], and before the general effective date of the proposed regulations, then the issuer may elect to apply the allocation rule for multipurpose issues for purposes of making that allocation.

Special Analyses

It has been determined that these proposed rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Public Hearing

Before the adoption of these proposed regulations, consideration will be given to any written comments that are submitted (preferably a signed original and eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying.

See the notice of public hearing on these proposed regulations published elsewhere in this issue of the **Federal Register**.

Drafting Information

The principal authors of these proposed regulations are John J. Cross III, Office of Assistant Chief Counsel (Financial Institutions and Products), Internal Revenue Service, and David A. Walton, Office of Tax Legislative Counsel, Department of the Treasury. However, other personnel from the Service and Treasury Department participated in their development.

List of Subjects in 26 CFR 1.101–1 through 1.150–1T

Bonds, Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

Note: The section numbers cited in the instructional paragraphs below as proposed sections reflect the section numbers as they would appear in the final rule (example: § 1.148–1). They do not reflect the "T" suffix currently found in the temporary rule version (example: § 1.148–1T).

PART 1—INCOME TAXES; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. The authority for part 1 continues to read in part:

Authority: Sec. 7805, 68A Stat. 917 (26 U.S.C. 7805) * * * Sections 1.148–0 through 1.148–9 also issued under 26 U.S.C. 148(f) and (i). * * *

Par. 2. Paragraph (e) of § 1.103–14 is removed.

Par. 3. Paragraph (c) of § 1.103–15 is revised to read as follows:

§ 1.103–15 Excess proceeds.

* * * * *

(c) *First exception: gross refunding with a prior ruling.* This section does not apply to a gross refunding if, prior to the date of issue of any refunding issue that is part of the gross refunding, the Internal Revenue Service gives the issuer a ruling in accordance with paragraph (e) of this section.

* * * * *

Par. 4. Proposed § 1.148–0 published May 15, 1989 (54 FR 20861) by cross-referencing temporary regulations published the same day (54 FR 20787), as amended by a notice of proposed rulemaking published April 25, 1991 (56 FR 19045) by cross-referencing temporary regulations published the same day (56 FR 19023), is amended as follows:

1. The introductory text of paragraph (d) of § 1.148–0 is revised as set forth below.

2. In § 1.148–0, paragraph (d), the entries for § 1.148–8 heading and § 1.148–8(d)(7) are revised and new entries for § 1.148–11 are added to read as set forth below.

§ 1.148–0 Scope and effective date of restrictions on arbitrage.

* * * * *

(d) *List of subjects.* This paragraph (d) lists the captioned paragraphs contained in the temporary and final regulations in §§ 1.148–1 through 1.148–11.

* * * * *

§ 1.148–8 Definitions and special rules relating to required rebate.

* * * * *

(d) * * *
(7) Replacement proceeds.

* * * * *

§ 1.148–11 Arbitrage rules for refunding issues.

(a) Scope of application.
  (1) In general.
  (2) Limitations on application for purposes of section 148.
  (i) Arbitrage yield on a particular issue.
  (ii) Arbitrage rebate on a particular issue.
  (3) Limitations on application for purposes of section 149(d) restriction on the number of advance refundings.
  (4) Certain taxable advance refundings taken into account under section 149(d).
  (i) In general.
  (ii) Series of refundings.
  (iii) Example.
Definitions of refunding issue and prior issue.
  (1) Refunding issue.
  (2) Exceptions and special rules.
  (i) Payment of certain interest.
  (ii) Certain issues with different obligors.
  (iii) Certain repayments of debt to related parties.
  (iv) Certain special rules for purpose investments.
  (v) Substance of transaction controls.
  (3) Current refunding issue.
  (4) Advance refunding issue.
  (5) Prior issue.
  (6) Unrefunded amount remains eligible for future advance refunding.
(c) Other definitions.
  (1) Debt service.
  (2) Gross proceeds of a refunding issue.
  (i) In general.
  (ii) Certain released amounts.
  (iii) Certain after arising amounts.
  (iv) Examples.
  (3) Multipurpose issue.
  (4) Obligation.
  (5) Principal amount.
  (i) Bonds issued at a discount.
  (ii) Bonds issued at a premium.
  (6) Proceeds.
  (7) Purpose investment.
  (8) Refunding escrow fund.
  (9) Sale proceeds.
  (10) Transferred proceeds.
(d) Transferred proceeds allocation rule.
  (1) In general.
  (2) Application of transferred proceeds rule before universal cap rule.
(e) Special allocation rules for refunding issues.
  (1) Allocations of investments to transferred proceeds.
  (i) In general.
  (ii) Ratable allocation method.
  (iii) Representative allocation method.
  (2) Allocations of mixed escrows to investments and expenditures for debt service on a prior issue.
  (i) In general.

(ii) Special rule for certain short-term funds.
(3) Restrictions on escrow restructurings.
(i) In general.
(ii) Example.
(f) Temporary periods in refundings.
(1) General temporary period for refunding issues.
(2) Temporary periods for transferred proceeds.
(i) In general.
(ii) Termination of initial temporary period for prior issue in an advance refunding.
(3) Certain investment proceeds.
(4) Certain accrued interest.
(5) Certain costs of issuance.
(g) Minor portions in refundings.
(h) Reasonably required reserve or replacement funds in refundings.
(1) In general.
(i) Aggregate size limitation for both refunding issue and prior issue.
(ii) Use limitation.
(2) Ruling required for reserve or replacement funds in higher amounts.
(i) Payment to Internal Revenue Service with respect to certain transferred proceeds of a current refunding issue.
(1) In general.
(2) Effect of payment.
(3) Manner of payment.
(j) Multipurpose issue allocations.
(1) In general.
(i) Allocation of gross proceeds and investments to portions of issue.
(ii) Allocation of bonds to portions of issue.
(iii) Allocations involving certain common costs.
(iv) Separate issue treatment.
(2) General anti-abuse rule for multipurpose issue allocations.
(3) Separate governmental purposes of a multipurpose issue.
(i) In general.
(ii) Financing of common costs.
(4) Allocations of bonds of a multipurpose issue.
(i) Safe harbor for pro rata allocation method for bonds.
(ii) Safe harbor for allocations of bonds used to finance separate purpose investments.
(iii) Rounding of bond allocations to next whole bond denomination permitted.
(iv) Restrictions on bond allocations to refunding purposes.
(k) Effective date.
(1) In general.
(2) Elective early application of multipurpose issue allocation rule.

Par. 5. Proposed § 1.148–8 published May 15, 1989 (54 FR 20861) by cross-referencing temporary regulations published the same day (54 FR 20787), as amended by a notice of proposed rulemaking published April 25, 1991 (56 FR 19045) by cross-referencing temporary regulations published the same day (56 FR 19023), is amended as follows:

1. Paragraph (d)(1) is revised.
2. Paragraph (d)(2) is revised.
3. Paragraph (d)(7) heading is revised and text is added.
4. Paragraph (d)(8) is revised.
5. Paragraph (f)(2)(i) is revised.
6. Paragraph (f)(2)(ii) is revised.
7. The revised and added provisions read as follows:

§ 1.148–8 Definitions and special rules relating to required rebate.

* * * * *

(d) *Gross proceeds*—(1) *In general.* "Gross proceeds" means, with respect to an issue, any proceeds of the issue and any replacement proceeds of the issue.

(2) *Proceeds.* "Proceeds" means, with respect to an issue, any original proceeds and any transferred proceeds of the issue.

* * * * *

(7) *Replacement proceeds.* "Replacement proceeds" means, with respect to an issue, amounts (excluding proceeds of that issue, as defined in § 1.148–8T(d)(2)), that are gross proceeds of that issue because the amounts are replaced by proceeds of that issue under section 148(a)(2) of the Code. Replacement proceeds include amounts held in a sinking fund, pledged fund, or reserve or replacement fund for the issue and, in the case of a refunding issue, any amounts that are replacement proceeds of the refunding issue under § 1.148–11(c)(2).

(8) *Transferred proceeds.* "Transferred proceeds" has the same meaning as in § 1.148–11(c)(10).

* * * * *

(f) * * *

(2) * * * (i) *Refunding issue.* "Refunding issue" has the same meaning as in § 2.148–11(b)(1).

(ii) *Refunded issue.* "Refunded issue" has the same meaning as the term "prior issue" in § 1.148–11(b)(5).

* * * * *

Par. 6. New § 1.148–11 is added to read as follows:

§ 1.148–11 Arbitrage rules for refunding issues.

(a) *Scope of application*—(1) *In general.* This section contains special rules for refunding issues. Except as provided in paragraphs (a)(2) and (a)(3) of this section, these rules apply for all purposes of sections 148 and 149(d). These rules govern allocations of gross proceeds, bonds, and investments to determine transferred proceeds, temporary periods, reasonably required reserve or replacement funds, minor portions, and separate issue treatment of certain multipurpose issues.

(2) *Limitations on application for purposes of section 148.* This section does not apply in determining whether two or more obligations (as defined in paragraph (c)(4) of this section) are part of the same "issue" for the following purposes:

(i) *Arbitrage yield on a particular issue.* Determining the composite "yield" on an issue for purposes of the arbitrage yield restrictions of section 148 and the arbitrage rebate requirement of section 148(f). See § 1.103–13(c)(1)(ii) and § 1.148–3T.

(ii) *Arbitrage rebate on a particular issue.* Applying the arbitrage rebate requirement of section 148(f) to an issue.

(3) *Limitations on application for purposes of section 149(d) restriction on the number of advance refundings.* For purposes of determining compliance with the restriction in section 149(d)(3)(A)(i) on the number of advance refunding issues, except as provided in paragraph (a)(4) of this section, if the interest on an advance refunding issue (as defined in paragraph (b)(4) of this section) is not excludable from gross income under section 103(a), then that advance refunding issue (a taxable advance refunding issue) is not treated as an advance refunding issue for purposes of section 149(d)(3)(A)(i).

(4) *Certain taxable advance refundings taken into account under section 149(d)*—(i) *In general.* For purposes of determining the permitted number of advance refunding issues under section 149(d)(3)(A)(i), a taxable advance refunding issue is taken into account if—

(A) It is part of a series of refundings (as defined in paragraph (a)(4)(ii) of this section);

(B) A tax exempt current refunding issue directly or indirectly succeeds the taxable advance refunding issue; and

(C) That tax exempt current refunding issue and another tax exempt issue in the series are outstanding concurrently for longer than 90 days.

(ii) *Series of refundings.* An issue is part of a series of refundings if it finances or refinances the same expenditures for a particular governmental purpose as another issue.

(iii) *Example.* If an issuer refunds a tax exempt issue with a taxable advance refunding issue, the issuer refunds that taxable issue with a tax exempt current refunding issue, and the two tax exempt issues remain outstanding concurrently for more than 90 days, then the taxable advance refunding issue is treated as an advance refunding issue in that series for purposes of section 149(d)(3)(A)(i).

(b) *Definitions of refunding issue and prior issue.* For purposes of this section, the following definitions apply:

(1) *Refunding issue.* Except as provided in paragraph (b)(2) of this section, "refunding issue" means an

issue of obligations (or, in the case of a multipurpose issue, the portion of the multipurpose issue allocable under paragraph (j)(1)(iv) of this section to a use described in this paragraph (b)(1)) the gross proceeds of which are used to pay debt service (as defined in paragraph (c)(1) of this section) on another issue (a "prior issue," as more particularly defined in paragraph (b)(5) of this section) or to finance reasonable issuance costs, accrued interest, capitalized interest on the refunding issue, a reasonably required reserve or replacement fund, amounts permitted by § 1.103-15, or similar costs properly allocable to the issue.

(2) *Exceptions and special rules.* For purposes of paragraph (b)(1) of this section, the following exceptions and special rules apply:

(i) *Payment of certain interest.* An issue is not a refunding issue if the gross proceeds of the issue are not used to pay any debt service (as defined in paragraph (c)(1) of this section) on another issue other than interest described as follows:

(A) Interest that accrues on the other issue during a one-year period including the date of issue of the issue that finances the interest,

(B) Interest that is a "capital expenditure" (as defined in § 1.150-1(h)), or

(C) Interest that is a "qualified working capital expenditure" (as defined in § 1.148-4(d)(3)(ii) [1]).

(ii) *Certain issues with different obligors*—(A) *In general.* An issue is not a refunding issue to the extent that the obligor (as defined in paragraph (b)(2)(ii)(B) of this section) of one issue is neither the obligor of the other issue nor a related party (as defined in paragraph (b)(2)(ii)(C) of this section) with respect to the obligor of the other issue.

(B) *Definition of obligor.* Except as otherwise provided in the following sentence, the "obligor" of an issue means the actual issuer of the issue. If a portion of an issue is properly allocable to an investment in a purpose investment, the obligor of that portion of the issue means the conduit borrower (as defined in § 1.150-1(g)) under that purpose investment.

(C) *Definition of related party.* When applied to a governmental unit or a 501(c)(3) organization, "related party" means any member of the same "controlled group" (as defined in § 1.150-1(f)) as that party. When applied to any person that is not a governmental unit or 501(c)(3) organization, "related party" means "related person" (as defined in section 144(a)(3)).

(iii) *Certain repayments of debt to related parties.* If the gross proceeds of an issue are used directly or indirectly to pay debt service on an obligation owed to a person that is a related party to the obligor, that use is not treated as an expenditure of those gross proceeds under § 1.148-4(d). Thus, that use is not an expenditure for the payment of debt service on the obligation owed to the related party.

(iv) *Certain special rules for purpose investments.* For purposes of this paragraph (b), the following special rules apply:

(A) *Definition of conduit loan, conduit financing issue, and conduit loan refunding issue.* For purposes of this paragraph (b)(2)(iv)—

(*1*) A "conduit loan" is a purpose investment that is an obligation;

(*2*) A "conduit financing issue" is an issue all or a portion of the gross proceeds of which are invested in one or more conduit loans; and

(*3*) A "conduit loan refunding issue" is a refunding issue within the meaning of paragraph (b)(1) that is used to refund a prior issue that is a conduit loan.

(B) *Refunding of a conduit financing issue by a conduit loan refunding issue.* Except as provided in paragraph (b)(2)(iv)(C) of this section, if a conduit borrower uses gross proceeds of a conduit loan refunding issue to make debt service payments on a conduit loan ("conduit loan refunding payments") and the issuer of a conduit financing issue uses those conduit loan refunding payments directly or indirectly to pay debt service on the conduit financing issue or any other issue, then for purposes of paragraph (b)(1) of this section, that debt service so paid is treated as paid from the gross proceeds of the conduit loan refunding issue. Thus, a conduit loan refunding issue may be a refunding issue under paragraph (b)(1) of this section with respect to both the conduit loan and either the conduit financing issue or another issue.

(C) *Recycling of certain payments under purpose investments.* If an issuer of a conduit financing issue, as holder of a conduit loan, receives conduit loan refunding payments and uses those payments either to make a new conduit loan during the applicable temporary period for those amounts under section 148(c) or to pay interest on the conduit financing issue during that temporary period, then, for purposes of paragraph (b)(1) of this section, the conduit loan refunding issue is not a refunding issue with respect to the conduit financing issue. Any such new conduit loan is treated as made from the gross proceeds of the conduit financing issue.

(v) *Substance of transaction controls.* In the absence of other applicable controlling rules under this paragraph (b), the determination of whether an issue is a refunding issue is based on the substance of the transaction in light of all the facts and circumstances.

(3) *Current refunding issue.* "Advance refunding issue" means a refunding issue that is issued not more than 90 days before the last expenditure of any gross proceeds of the refunding issue for the payment of debt service on the prior issue.

(4) *Advance refunding issue.* "Advance refunding issue" means a refunding issue that is not a current refunding issue.

(5) *Prior issue.* "Prior issue" means an issue of obligations all or a portion of the debt service on which is paid or provided for with gross proceeds of a refunding issue. A prior issue may be issued before, at the same time as, or after a refunding issue.

(6) *Unrefunded amount remains eligible for future advance refunding.* For purposes of the restriction in section 149(d)(3)(A)(i) on the permitted number of advance refunding issues, any debt service on a prior issue that has not been paid or provided for by any advance refunding issue is not treated as having been advance refunded for purposes of section 149(d).

(c) *Other definitions.* For purposes of this section, the following definitions apply—

(1) *Debt service.* "Debt service" means any principal of an issue of obligations, any interest on an issue, and any redemption premium or other amount paid to retire or redeem an issue.

(2) *Gross proceeds of refunding issue*—(i) *In general.* "Gross proceeds," with respect to a refunding issue, has the same meaning as in § 1.148-8T(d)(1).

(ii) *Certain released amounts.* Replacement proceeds of a refunding issue include any amounts that become available to an issuer as a direct or indirect result of the refunding ("released amounts") to the extent that—

(A) Immediately prior to the date of issue of the refunding issue, the released amounts were replacement proceeds of the prior issue;

(B) As a result of the refunding, the released amounts cease to be replacement proceeds of the prior issue; and

(C) The released amounts are not allocated to expenditures for a governmental purpose within 180 days after the date of issue of the refunding issue. For this purpose, released amounts are allocated to expenditures only if the allocation satisfies § 1.148–4, applied as if the amounts were gross proceeds of the prior issue.

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[1] See proposed rules published on January 30, 1992 (57 FR 3562).

(iii) *Certain after-arising amounts.* Replacement proceeds of a refunding issue include any amounts, including investment earnings thereon, that become available to an issuer after the date of issue of the refunding issue as a direct or indirect result of the refunding ("after-arising amounts") to the extent that—

(A) As of the date of issue of the refunding issue, the after-arising amounts are reasonably expected by the issuer to become available to acquire higher yielding investments;

(B) The after-arising amounts are used directly or indirectly to pay debt service on the prior issue or any other issue; and

(C) The after-arising amounts are in excess of the savings attributable to the refunding. For this purpose, "savings" means present value debt service savings within the meaning of section 149(d)(3)(B)(i).

(iv) *Examples.* The following examples illustrate the application of paragraph (c)(2)(iii) of this section:

Example 1. City *A* had an outstanding $10,000,000 issue that bore interest at 10 percent, that was callable at par beginning on January 1, 1996, and that matured on January 1, 2016 (the "prior issue"). On January 1, 1993, *A* issued a $2,665,000 refunding issue that bore interest at 7 percent and that matured on January 1, 2023, to pay all interest on the prior issue through January 1, 1996 (the "refunding issue"). The proceeds of the refunding issue, including investment earnings, invested at a yield of approximately 7 percent will be used to pay interest on the prior issue. Thus, *A* will reduce its cash flow needs for interest costs by $813,450 annually during the period from January 1, 1993, through January 1, 1996. This reduction represents the difference between the interest on the prior issue paid with the proceeds of the refunding issue ($1,000,000) and the interest payable on the refunding issue ($186,550). Each year, *A* will deposit $800,000 in revenues in a sinking fund for the prior issue and will use those amounts to pay principal of the refunded bonds on January 1, 1996. As a sinking fund for the prior issue, these $800,000 annual deposits would be restricted as to yield to the 10 percent yield on the prior issue. These revenues became available for this purpose as a consequence of the structure of the refunding issue. Thus, these amounts were reasonably expected to become available to be used to acquire higher yielding investments and to pay debt service on the prior issue. These amounts were used to pay a portion of the debt service on the refunded bonds. There were no present value savings associated with the refunding, however, because the refunding issue paid no principal of the prior issue prior to maturity. Therefore, as of each date that *A* deposits the $800,000 of revenues in the sinking fund for the prior issue, these amounts are treated as replacement proceeds of the refunding issue.

Example 2. City *A* had an outstanding $10,000,000 issue that bore interest at 10 percent, that was callable at par beginning on January 1, 1996, and that matured on January 1, 2016 (the "prior issue). On January 1, 1993, City *A* issued a $10,800,000 refunding issue (the "refunding issue") that bore interest at 7 percent and that matured on January 1, 2023, to pay all debt service on the prior issue from January 1, 1993, through January 1, 1996, and to redeem the outstanding principal amount of the bonds of the prior issue at par on January 1, 1996. As a result of the refunding, *A* reduced its annual debt service by approximately $244,000 (not taking into account costs of issuance). This annual reduction represents the difference between the annual interest on the prior issue ($1 million) and the annual interest on the refunding issue ($756,000). This annual reduction is attributable to present value savings on the refunding. Accordingly, that amount is not replacement proceeds of the refunding issue under paragraph (c)(2)(iii) of this section, even if *A* deposits the amount in a sinking fund annually to provide for payment of debt service on any other issue.

(3) *Multipurpose issue.* "Multipurpose issue" means an issue that is used for two or more separate governmental purposes determined in accordance with paragraph (j) of this section.

(4) *Obligation.* "Obligation" means any evidence of indebtedness regardless of whether the interest on the indebtedness is excludable from gross income under section 103(a) or the obligor is a State or political subdivision thereof. A purpose investment that is an evidence of indebtedness is an obligation. The obligor of a purpose investment that is an obligation is a conduit borrower (as defined in § 1.150–1(g)).

(5) *Principal amount.* Except as provided in paragraph (c)(5)(i) or (c)(5)(ii) of this section, "principal amount" of a bond means face amount.

(i) *Bonds issued at a discount.* If the excess of the stated retirement price (as defined in § 1.148–3T(b)(6)(ii)) of the bond over its issue price (as defined in § 1.148–8T(c)) exceeds one-fourth of one percent of the stated retirement price at maturity multiplied by the number of complete years to maturity, the "principal amount" of that bond is its present value (as defined in § 1.148–3T(b)(8)).

(ii) *Bonds issued at a premium.* If the excess of the issue price (as defined in § 1.148–8T(c)) of the bond over its stated retirement price (as defined in § 1.148–3T(b)(6)(ii)) exceeds one-fourth of one percent of the stated retirement price at maturity multiplied by the number of complete years to maturity, the "principal amount" of that bond is its present value (as defined in § 1.148–3T(b)(8)).

(6) *Proceeds.* "Proceeds," with respect to an issue, has the same meaning as in § 1.148–8T(d)(2).

(7) *Purpose investment.* "Purpose investment" has the same meaning as in § 1.148–8T(e)(10).

(8) *Refunding escrow fund.* "Refunding escrow fund" means any escrow fund or funds invested in nonpurpose investments to provide for payment of any debt service on any prior issue.

(9) *Sale proceeds.* "Sale proceeds" has the same meaning as in § 1.148–8T(d)(4).

(10) *Transferred proceeds.* "Transferred proceeds" means any proceeds of a prior issue that become proceeds of a refunding issue and cease to be proceeds of the prior issue pursuant to paragraph (d) of this section (or the applicable corresponding provision of prior law).

(d) *Transferred proceeds allocation rule*—(1) *In general.* At the time that gross proceeds of the refunding issue (as defined in paragraph (c)(2) of this section)) discharge any of the outstanding principal amount of the prior issue, proceeds of the prior issue (as defined in paragraph (c)(6) of this section) become transferred proceeds of the refunding issue and cease to be proceeds of the prior issue. The amount of proceeds of the prior issue that becomes transferred proceeds of the refunding issue is an amount equal to the total proceeds of the prior issue at the time of that discharge multiplied by a fraction—

(i) The numerator of which is the principal amount of the prior issue discharged with gross proceeds of the refunding issue on that date, and

(ii) The denominator of which is the total outstanding principal amount of the prior issue immediately prior to that discharge.

(2) *Application of transferred proceeds rule before universal cap rule.* Paragraphs (d)(1) and (e) of this section apply to allocate transferred proceeds and corresponding investments to a refunding issue on any date required by those paragraphs before the universal cap rule of § 1.148–4(b)(3) applies to reallocate any of those amounts.

(e) *Special allocation rules for refunding issues*—(1) *Allocations of investments to transferred proceeds.* (i) *In general.* When proceeds of a prior issue become transferred proceeds of a refunding issue, investments of proceeds of the prior issue that are held in a refunding escrow fund for another issue are allocated to the transferred proceeds under the ratable allocation method described in paragraph (e)(1)(ii) of this section. Investments of proceeds of the prior issue that are not held in a refunding escrow fund for another issue are allocated to the transferred proceeds by consistent application of either the ratable allocation method described in paragraph (e)(1)(ii) of this section or the representative allocation method described in paragraph (e)(1)(iii) of this section.

(ii) *Ratable allocation method.* As a portion of the proceeds of a prior issue becomes transferred proceeds of a refunding issue under paragraph (d) of this section, an equal portion of each nonpurpose investment of proceeds of the prior issue is allocated to transferred proceeds of the refunding issue. In addition, an equal portion of each purpose investment of proceeds of the prior issue is allocated to transferred proceeds of the refunding issue.

(iii) *Representative allocation method.* As a portion of the proceeds of a prior issue becomes transferred proceeds of a refunding issue under paragraph (d) of this section, representative portions of the portfolio of nonpurpose investments and the portfolio of purpose investments of proceeds of the prior issue are allocated to transferred proceeds of the refunding issue. Unlike the ratable allocation method, this representative allocation method permits an allocation of particular whole investments. Whether a portion is representative is based on all the facts and circumstances, including, without limitation, whether the current yields, maturities, and current unrealized gains or losses on the particular allocated investments are reasonably comparable to those of the unallocated investments in the aggregate.

(2) *Allocations of mixed escrows to investments and expenditures for debt service on a prior issue*—(i) *In general.* Except as provided in paragraph (e)(2)(ii) of this section, if gross proceeds of a refunding issue and other amounts that are not gross proceeds of a refunding issue are deposited in a refunding escrow fund (a "mixed escrow fund"), the issuer must allocate those gross proceeds and other amounts to investments and to expenditures for debt service on the prior issue in a consistent manner that complies with § 1.148–4(e); provided that the expenditure of those gross proceeds must not occur faster than ratably with the expenditure of those other amounts in the mixed escrow fund. For example, if an accounting method allocates the amounts in the refunding escrow fund that are not gross proceeds of the refunding issue to expenditures for debt service on the prior issue before any allocations of gross proceeds of the refunding issue to those expenditures, that method meets the requirements of this paragraph (e)(2).

(ii) *Special rule for certain short-term funds.* If an amount is deposited in a mixed escrow fund, and, prior to the date of issue of the refunding issue, that amount had been held in a bona fide debt service fund, a fund to carry out the governmental purpose of the prior issue (e.g., a construction fund), or another fund the inappropriate use of which could cause the issue to violate section 149(d)(4), the issuer must allocate that amount to investments and expenditures in a consistent manner that complies with § 1.148–4(e); provided that the expenditure of that amount must occur not later than six months after the date that, prior to the date of issue of the refunding issue, the amount was reasonably expected by the issuer to be expended.

(3) *Restrictions on escrow restructurings*—(i) *In general.* If gross proceeds of a refunding issue are set aside in a refunding escrow fund to be used to pay debt service on a specified prior issue, those gross proceeds may not be allocated subsequently to expenditures for the payment of debt service on any other issue.

(ii) *Example.* The following example illustrates the application of this paragraph (e)(3).

Example. On January 1, 1985, County *B* issued a $10 million issue (the "1985 issue") that bore interest at 7 percent and that matured in 30 years. On January 1, 1996, to refund the 1985 issue, *B* issued an $8 million issue (the "1996 issue") that bore interest at 10 percent, that was callable in 10 years, and that matured in 30 years. *B* invested the proceeds of the 1996 issue in a refunding escrow fund (the "1985 escrow") structured to pay the 1995 issue at maturity. On January 1, 1997, *B* issued a $10 million issue (the "1997 issue") that bore interest at 6 percent, that was callable in 10 years, and that matured in 30 years. Instead of investing the proceeds of the 1997 issue in a refunding escrow fund to pay the 1996 issue, *B* sold the investments in the 1985 escrow at a premium. *B* used a portion of the proceeds of that escrow sale to fund a new refunding escrow fund for the 1996 issue. *B* invested the proceeds of the 1997 issue in a refunding escrow fund for the 1985 issue (the "new 1985 escrow"). *B* asserted that since the restructured escrow fund for the 1996 issue was financed with proceeds of the 1996 issue, payment of any principal amount of the 1996 issue from this source would not cause proceeds of the 1996 issue to become transferred proceeds of the 1997 issue. Since the proceeds of the 1996 issue were set aside in a refunding escrow fund to be used to refund the 1985 issue, these proceeds may not be allocated subsequently to expenditures for payment of debt service on any other issue.

(f) *Temporary periods in refundings.* Gross proceeds of a refunding issue may be invested in higher yielding investments under section 148(c) only during the following temporary periods:

(1) *General temporary period for refunding issues.* The general temporary period for gross proceeds (other than transferred proceeds) of a refunding issue is the period ending 30 days after the date of issue of the refunding issue. This general temporary period may be extended as provided in paragraphs (f)(3), (4), and (5) of this section.

(2) *Temporary periods for transferred proceeds*—(i) *In general.* Except as otherwise provided in paragraph (f)(2)(ii) of this section, each available temporary period for transferred proceeds of a refunding issue begins on the date they become transferred proceeds of the refunding issue and ends on the date that, without regard to the discharge of the prior issue, the available temporary period for those proceeds would have ended had those proceeds remained proceeds of the prior issue.

(ii) *Termination of initial temporary period for prior issue in an advance refunding.* The initial temporary period under § 1.103–14(b)(1) for gross proceeds of a prior issue terminates on the date of issue of an advance refunding issue to refund that issue.

(3) *Certain investment proceeds.* Except for those investment proceeds of a refunding issue held in a refunding escrow fund or otherwise reasonably expected to be used to pay debt service on the prior issue, the temporary period for investment proceeds (as defined in § 1.148–8T(d)(5)) of a refunding issue is the 1-year period beginning on the date of receipt of those investment proceeds.

(4) *Certain accrued interest.* Except for those proceeds of the refunding issue held in a refunding escrow fund or otherwise reasonably expected to be used to pay debt service on the prior issue, the temporary period for proceeds of a refunding issue that represent not more than 6 months' accrued interest on the refunding issue is the 1-year period beginning on the date of issue.

(5) *Certain costs of issuance.* Except for those proceeds of a refunding issue held in a refunding escrow fund or otherwise reasonably expected to be used to pay debt service on the prior issue or those proceeds described in paragraph (f)(4) of this section, the temporary period for proceeds of a refunding issue that are to be used to

pay issuance costs is the 1-year period beginning on the date of issue.

(g) *Minor portions in refundings.* As of the date of issue of the refunding issue and at all times thereafter, a minor portion of the proceeds of the refunding issue qualifies for investment in higher yielding investments under section 148(e), and a minor portion of the proceeds of the prior issue qualifies for investment in higher yielding investments under either section 148(e) or section 149(d)(3)(v), whichever is applicable. For purposes of section 148(e) and 149(d)(3)(v), "proceeds of the issue" means sale proceeds.

(h) *Reasonably required reserve or replacement funds in refundings*—(1) *In general.* As of the date of issue of a refunding issue and at all times thereafter, a reserve or replacement fund with respect to the refunding issue or the prior issue is a reasonably required reserve or replacement fund under section 148(d) only if:

(i) *Aggregate size limitation for both refunding issue and prior issue.* Except as provided in paragraph (h)(2) of this section, the aggregate amount invested in reserve or replacement funds for both the refunding issue and the portion of the prior issue refunded by the refunding issue does not exceed 10 percent of sale proceeds of the refunding issue (regardless of whether proceeds of the prior issue have become transferred proceeds of the refunding issue).

(ii) *Use limitation.* The gross proceeds of the refunding issue invested in the reserve or replacement fund are not used to pay debt service on the prior issue.

(2) *Ruling required for reserve or replacement funds in higher amounts.* A reserve or replacement fund in an amount in excess of the amount allowed under paragraph (h)(1) of this section is a reasonably required reserve or replacement fund only if the issuer receives a ruling from the Internal Revenue Service that the specified larger reserve or replacement fund is necessary.

(i) *Payment to Internal Revenue Service with respect to certain transferred proceeds of a current refunding issue*—(1) *In general.* If, as a result of a current refunding, proceeds of a prior issue that are held in a refunding escrow fund for another issue become transferred proceeds of a current refunding issue and the issuer is required to reduce the yield on nonpurpose investments of those transferred proceeds to satisfy arbitrage yield restrictions under section 148(a), the issuer may pay an amount to the Internal Revenue Service. That amount is treated as provided in paragraph (i)(2) of this section.

(2) *Effect of payment.* As of the date that a payment is made, the amount paid under this paragraph (i) is treated as a reduction in the yield on the nonpurpose investments of the transferred proceeds under § 1.103–13(c) and a reduction in actual receipts (as defined in § 1.148–2T(b)(2)(i)) from these investments.

(3) *Manner of payment.* Except as otherwise prescribed by the Commissioner, a payment under paragraph (i)(1) of this section is made when paid to the Internal Revenue Service at the same time and place, and in the same manner, as the issuer is required to file an information reporting return for the current refunding issue to which the payment relates under section 149(e).

(j) *Multipurpose issue allocations*—(1) *In general.* This paragraph (j) applies to allocations of multipurpose issues to the extent that these allocations affect allocations with respect to the refunding purposes of the multipurpose issue. Except as otherwise provided in this paragraph (j), gross proceeds, investments, and bonds of a multipurpose issue may be allocated among the various separate governmental purposes of the issue using any reasonable, consistently applied allocation method. The reasonableness of any allocation method used for this purpose is determined based on all the facts and circumstances. Except as otherwise provided in this paragraph (j), the following general allocation rules apply to multipurpose issues:

(i) *Allocation of gross proceeds and investments to portions of issue.* The portion of the gross proceeds and investments of gross proceeds of a multipurpose issue used for any separate governmental purpose of the issue must be reasonably allocated to the portion of the issue treated as a separate issue for that governmental purpose.

(ii) *Allocation of bonds to portions of issue.* The portion of the bonds of a multipurpose issue allocated to a separate governmental purpose must have an issue price that bears the same ratio to the aggregate issue price of all the bonds of the multipurpose issue as the portion of the sale proceeds of the multipurpose issue used for that governmental purpose bears to the aggregate sale proceeds of the multipurpose issue.

(iii) *Allocations involving certain common costs.* Except as otherwise provided in this paragraph (j)(1)(iii), gross proceeds, investments, and bonds of a multipurpose issue must be allocated among the separate governmental purposes to account for common costs described in paragraph (j)(3)(ii) of this section using any reasonable allocation method. For this purpose, ratable allocations of common costs among the separate governmental purposes of the multipurpose issue is generally a reasonable allocation method. If another allocation method more accurately reflects the extent to which any separate governmental purpose of a multipurpose issue enjoys the economic benefit or bears the economic burden of certain common costs, that allocation method may be used to account for those common costs.

(iv) *Separate issue treatment.* The portion of the bonds of a multipurpose issue reasonably allocated to any separate governmental purpose under this paragraph (j) is treated as a separate issue for all purposes of section 148 and 149(d) except as limited by paragraph (a) of this section.

(2) *General anti-abuse rule for multipurpose issue allocations.* An allocation method used to allocate gross proceeds, investments, or bonds of a multipurpose issue is not reasonable if it is employed as an artifice or device under § 1.103–13(j) or § 1.148–9T(g) to avoid, in whole or in part, arbitrage yield restrictions or arbitrage rebate requirements.

(3) *Separate governmental purposes of a multipurpose issue.*

For purposes of this paragraph (j), separate governmental purposes of a multipurpose issue are determined as follows—

(i) *In general.* Separate governmental purposes of a multipurpose issue include the refunding of a separate prior issue, the financing of a separate purpose investment, the financing of a construction issue (as defined in § 1.148–6(e)), and each other clearly discrete governmental purpose reasonably expected to be financed by that issue. For purposes of the preceding sentence, if a prior issue was used for separate governmental purposes, the separate governmental purposes of a refunding issue with respect to that issue include the separate governmental purposes of the prior issue. Separate governmental purposes may be treated as a single governmental purpose if gross proceeds of the multipurpose issue used to finance those purposes are eligible for the same initial temporary period under section 148(c). For example, the use of gross proceeds of a multipurpose issue to finance separate qualified loans for owner-occupied residences under section 143 may be treated as a single purpose.

(ii) *Financing of common costs.* Common costs of a multipurpose issue are not separate governmental purposes. Common costs include issuance costs, accrued interest, capitalized interest on the issue, a reasonably required reserve or replacement fund, costs permitted by § 1.103–15, and similar costs properly allocable to the issue.

(4) *Allocations of bonds of a multipurpose issue*—(i) *Safe harbor for pro rata allocation method for bonds.* For purposes of paragraph (j)(1) of this section, allocation of bonds of a multipurpose issue among its separate governmental purposes using a pro rata allocation method is a reasonable method. Under the pro rata allocation method, either a ratable portion of each bond or a ratable number of substantially identical whole bonds (same interest rate, maturity, credit, and other terms) of the multipurpose issue are allocated among its separate governmental purposes in proportion to the amount of sale proceeds of the issue used for each separate governmental purpose.

(ii) *Safe harbor for allocations of bonds used to finance separate purpose investments.* For purposes of paragraph (j)(1) of this section, an allocation of a portion of the bonds of a multipurpose issue to a particular purpose investment is generally reasonable if that purpose investment has debt service that generally corresponds in time and amount to the debt service on the bonds allocated to that purpose investment.

(iii) *Rounding of bond allocations to next whole bond denomination permitted.* If a fractional allocation of bonds of a multipurpose issue among its separate governmental purposes satisfies paragraph (j)(4) of this section, then an allocation that rounds each such fractional allocation up or down to the next integral multiple of a permitted denomination of bonds of that issue not in excess of $100,000 also satisfies paragraph (j)(4) of this section.

(iv) *Restrictions on allocations of bonds to refunding purposes.* If a portion of a multipurpose issue is used for refunding purposes, a method of allocating bonds of that issue is reasonable under this paragraph (j) only if it satisfies one of the following tests:

(A) *Pro rata allocation method.* The portion of the bonds allocated to refunding purposes results from use of the pro rata allocation method under paragraph (j)(4)(i) of this section.

(B) *Weighted average maturity test.* The portion of the bonds allocated to refunding purposes has a weighted average maturity that is not less than 90% of the remaining weighted average maturity of the bonds being refunded by the multipurpose issue.

(k) *Effective Date*—(1) *In general.* The provisions of this section are effective FOR ALL ISSUES ISSUED AFTER [THE DATE THAT IS 30 DAYS AFTER THE DATE OF PUBLICATION OF FINAL REGULATIONS IN THE **FEDERAL REGISTER**].

(2) *Elective early application of multipurpose issue allocation rule.* If an allocation of any multipurpose refunding issue or multipurpose prior issue would affect allocations with respect to the refunding purposes of a multipurpose issue that is issued on or after February 12, 1992 and before the general effective date of this section under paragraph (k)(1) of this section, the issuer may elect to apply paragraph (j) of this section for purposes of making that allocation. This election must be made on or before [THE DATE THAT IS FOUR MONTHS AFTER THE DATE OF PUBLICATION OF FINAL REGULATIONS IN THE **FEDERAL REGISTER**] in the manner provided in § 1.148–8T(h) without regard to the times specified in § 1.148–8T(h)(i) (i) and (ii).

David G. Blattner,

Acting Commissioner of Internal Revenue.

[FR Doc. 92–3162 Filed 2–16–92; 12:52 pm]

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26 CFR Part 1

[FI–66–89; FI–90–91; and FI–1–90]

RIN 1545–AO14; 1545–AQ19; and 1545–AO33

Allocation and Accounting Rules for Arbitrage Rebate Purposes; Transferred Proceeds Allocations and Other Arbitrage Restrictions on Refunding Issues; and Spending Exceptions to Arbitrage Rebate Requirement on Tax Exempt Bonds; Hearing

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on three separately-issued sets of proposed regulations. First, the hearing will cover proposed regulations on general allocation and accounting rules applicable to bonds issued by States and local governments for purposes of the arbitrage rebate requirement. Second, the hearing will cover proposed regulations on transferred proceeds allocations and other restrictions on refunding issues for purposes of arbitrage yield restrictions and the arbitrage rebate requirements. Third, the hearing will cover proposed regulations on the availability and application of the 6-month exception and the 2-year construction exception to the arbitrage rebate requirement.

DATES: The public hearing will be held on Friday, April 3, 1992, beginning at 10 a.m. Written comments from persons wishing to participate at the hearing, requests to speak and outlines of oral comments must be received by Friday, March 20, 1992.

ADDRESSES: The public hearing will be held in the Internal Revenue Service Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC. Requests to speak and outlines of oral comments should be submitted to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R, (FI–66–89; FI–90–91; and FI–1–90), room 5228, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Carol Savage of the Regulations Unit, Assistant Chief Counsel (Corporate), 202–377–9236 or (202) 566–3935 (not toll-free numbers).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is three separately-issued sets of proposed regulations under section 148 of the Internal Revenue Code. The proposed regulations on allocation and accounting rules for arbitrage rebate purposes, FI–66–89, appeared in the **Federal Register** for January 30, 1992 (57 FR 3562). The other proposed regulations that are the subject of the hearing appear elsewhere in this issue of the **Federal Register.**

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR part 601) shall apply with respect to the public hearing. Persons who have submitted written comments by March 20, 1992, and who also desire to present oral comments at the hearing on the proposed regulations should also submit not later than Friday, March 20, 1992, an outline of the oral comments/testimony to be presented at the hearing and the time they wish to devote to each subject.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be permitted beyond the lobby of the Internal Revenue Service Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the persons testifying. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 92-3168 Field 2-6-92; 12:53 pm]

BILLING CODE 4830-01-M

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26 CFR Part 1

[FI-1-90]

RIN 1545-AO33

Spending Exceptions to the Arbitrage Rebate Requirement on Tax Exempt Bonds

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations that clarify the availability and application of the 6-month exception and the 2-year construction exception to the arbitrage rebate requirement applicable to tax exempt bonds issued by States and local governments. Changes to the applicable law were made by the Tax Reform Act of 1986, the Technical and Miscellaneous Revenue Act of 1988, the Revenue Reconciliation Act of 1989, and the Revenue Reconciliation Act of 1990.

DATES: Written comments must be received by April 13, 1992. However, for those wishing to participate at the hearing, written comments, requests to speak, and outlines of oral comments should be received by March 20, 1992. See notice of hearing published elsewhere in this issue of the **Federal Register**.

ADDRESSES: Send comments, requests to appear at the public hearing, and outlines of comments to be presented, to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R (FI-1-90), room 5528, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Scott R. Lilienthal, (202) 566-3347 (not a toll-free number). Concerning the public hearing, Carol Savage of the Regulations Unit, (202) 566-3935 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collection of information should be sent to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer T:FP, Washington, DC 20224.

The collection of information in this regulation is in proposed §§ 1.148-6(e)(2), (g), (h)(2), (h)(3)(iii), (j), (k)(2), (l), (m), (n), (o), (p), and (q). This information will be used to verify that an issuer of tax exempt bonds is properly complying with the 6-month exception and the 2-year constuction exception to the arbitrage rebate requirements. The taxpayers affected are States and political subdivisions that issue bonds, entities that issue bonds on behalf of States or political subdivisions, and substantial beneficiaries of bonds issued by such entities.

These estimates are an approximation of the average time expected to be necessary for a collection of information. They are based on such information as is available to the Internal Revenue Service. Individual recordkeepers may require greater or less time, depending on their particular circumstances. Estimated total annual recordkeeping burden: 3,750 hours.

The estimated average annual burden per recordkeeper is 1.5 hours.

Estimated number of recordkeepers: 2,500.

Background

This document proposes to amend the Income Tax Regulations (26 CFR part 1) to provide rules regarding the availability and application of the 6-month exception and the 2-year construction exception to the arbitrage rebate requirement provided in sections 148(f)(4) (B) and (C) of the Internal Revenue Code. The proposed regulations reflect the amendments to section 148(f)(4)(B) and the addition of section 148(f)(4)(C) to the Code by the Revenue Reconciliation Act of 1990 (Pub. L. 101-508).

Explanation of Provisions

I. Overview

Sections 148(f)(4) (B) and (C) provide two exceptions to the requirement that, in order for the interest on bonds to be excludable from gross income under section 103, arbitrage earned by investing bond proceeds in higher-yielding nonpurpose investments be rebated to the United States. Both of these exceptions are based on the principle that, if bond proceeds are spent within a reasonably short period of time after the date of issue, issuers should be relieved of the administrative burden of complying with the arbitrage rebate requirement because the potential for arbitrage is minimal. These two provisions are referred to as the "spending exceptions" to arbitrage rebate.

The 6-month exception of section 148(f)(4)(B) generally provides an exception from the arbitrage rebate requirement if the gross proceeds of an issue are expended for its governmental purposes within 6 months after the date of issue, with an additional 6-month spending period for certain de minimis amounts in the case of governmental (i.e., non-private activity) or qualified 501(c)(3) bonds.

The 2-year construction exception of section 148(f)(4)(C) applies only to construction issues, which are generally defined as any issue of governmental or qualified 501(c)(3) bonds of which at least 75 percent of the available construction proceeds are used for construction expenditures. This exception applies if the available construction proceeds of a construction issue are spent for the governmental purposes of the issue within 2 years of the date of issue according to a prescribed schedule of semi-annual spending periods. An issuer of a construction issue also may elect to pay a penalty in lieu of arbitrage rebate if the issue fails the spending requirements. The penalty amount is equal to 1½ percent of the amount that was not spent as required at the close of any semi-annual spending period.

The proposed regulations address technical issues raised by the spending exceptions.

II. 6-Month Exception

A. Definitions

The definitions provided for purposes of the 6-month exception are generally consistent with the definitions used for purposes of the arbitrage rebate provisions, except for certain special rules applicable only for purposes of the 6-month exception.

B. Refunding Bonds

The proposed regulations provide rules for application of the 6-month exception to refunding bonds. As under the 2-year construction exception, any portion of an issue used to refund another issue must be treated as a separate issue. A spending rule for transferred proceeds is also provided to clarify that the spending period is measured from the date of issue of the refunded bonds.

C. De Minimis Violations Caused by Unforeseeable Events

The preamble to the 1989 temporary rebate regulations (TD 8252) stated that safe harbors were being considered for de minimis failures to spend all gross proceeds within 6 months if caused by unforeseeable events. The proposed regulations do not include such a safe harbor because a sufficient de minimis rule for governmental bonds and qualified 501(c)(3) bonds is provided by section 148(f)(4)(B)(ii), under which, if the issue fails the 6-month spending requirement by no more than the lesser of 5 percent of the issue price or $100,000, the spending period is extended for an additional 6 months.

III. 2-year Construction Exception

A. Definitions

The proposed regulations define certain terms to clarify the scope of the 2-year construction exception.

Construction expenditures. Section 148(f)(4)(C)(iv) provides that an issue is not a construction issue eligible for the 2-year construction exception unless at least 75 percent of the available construction proceeds of the issue are to be used for construction expenditures. Thus, the scope of the 2-year construction exception depends upon the definition of construction expenditure.

The proposed regulations generally distinguish construction expenditures from acquisition expenditures. If property is being acquired rather than constructed, the issuer generally is able to spend all proceeds within 6 months and to qualify for the 6-month exception.

The proposed regulations provide a general rule that expenditures that are properly chargeable to, or may be capitalized as part of, the basis of real property, except expenditures for the acquisition of real property, are construction expenditures.

Turnkey contracts for real property improvements are common in State and local bond financings. The proposed regulations provide that turnkey-type arrangements for real property improvements are not treated as an acquisition of property for purposes of the 2-year construction exception, except to the extent of construction performed by the seller before the contract is entered into.

The proposed regulations exclude all expenditures for the acquisition of land from the definition of construction expenditures. For example, the proposed regulations do not treat the costs of acquisition of rights-of-way for a sewer or road construction project, or for power transmission lines, as construction expenditures. Nonetheless, up to 25 percent of the available construction proceeds of a construction issue may be used for non-construction expenditures. This 25 percent allowance will accommodate the financing of land acquisitions and related costs. Comments are solicited on this issue.

In addition to the general rule focusing on real property, the proposed regulations include a special rule providing that expenditures for certain personal property, referred to as "constructed personal property," are construction expenditures. Personal property not built by the issuer is constructed personal property if the property is acquired pursuant to a contract that requires the property to be specially built to the specifications of the buyer, the performance of the contract is completed more than 6 months after the date of the contract, and the issuer has no reason to believe that the seller could have performed the contract within 6 months. Personal property built by the issuer is constructed personal property if no more than 60 percent of the basis of the completed property is attributable to the costs of raw materials and components of the property acquired by the issuer, the property is completed more than 6 months after the date the issuer began building it, and the issuer, exercising due diligence, could not have completed the property within 6 months.

Construction issue. Section 148(f)(4)(C)(iv) generally defines "construction issue" as any issue of governmental or qualified 501(c)(3) bonds at least 75 percent of the available construction proceeds of which "are to be used" for construction expenditures. The proposed regulations provide that this use-of-proceeds test for qualification as a construction issue is determined based on actual expenditures. However, the proposed regulations permit an issuer to elect to satisfy this use-of-proceeds test based on its reasonable expectations concerning the use of proceeds for construction expenditures as of the date of issue. If an issuer makes this special election, the determination of whether expenditures are construction expenditures, and the determination of whether 75 percent of the available construction proceeds are "to be used" for those expenditures, are based on the issuer's reasonable expectations as of the date of issue. An issuer must make this special election in order to elect to pay the penalty in lieu of arbitrage rebate.

If an issuer makes this special election, the proposed regulations require that reasonable expectations be stated and supported in a written certification. The certification is not conclusive and may be disregarded by the Service in appropriate situations. The proposed regulations also clarify that reasonable expectations are determined based on all the relevant facts and circumstances.

Available construction proceeds. Section 148(f)(4)(C)(vi) defines "available construction proceeds" of a construction issue as the issue price of the issue, plus earnings on the issue price, earnings on amounts in any reasonably required reserve or replacement fund not funded from the issue, and earnings on all of these earnings, less the amount of the issue price in any reasonably required reserve or replacement fund and the issuance costs financed by the issue. The proposed regulations provide that earnings include both actual earnings up to the end of a spending period and reasonably expected earnings thereafter. This rule requires issuers to reevaluate their expectations regarding future investment earnings every 6 months during the 2-year construction period in order to recalculate the available construction proceeds for purposes of the spending requirements.

In order to simplify computations for issuers, the proposed regulations permit issuers to elect to use reasonably expected earnings as of the date of issue to determine the available construction proceeds as of the end of the first three semi-annual spending periods. An issuer that makes this election is still required to take into account actual earnings plus expected future earnings as of the end of the fourth spending period and any spending period thereafter.

The proposed regulations also provide guidance regarding the effect on available construction proceeds of earnings on a reasonably required reserve or replacement fund and amounts paid as penalty in lieu of arbitrage rebate.

B. Apportioning an Issue

The proposed regulations provide rules regarding the election under section 148(f)(4)(C)(v) to treat a portion of an issue as a separate construction issue. In general, an issuer making this election must specify the amount of the apportionment on or before the date of issue.

C. Penalty in Lieu of Arbitrage Rebate

The proposed regulations provide rules concerning the election to pay a penalty, in lieu of paying arbitrage rebate, if the spending requirements of the 2-year construction exception are not met. Rules are provided regarding the calculation of the amount of the penalty, including the treatment of reasonable retainage, and procedures are provided for making payments of the penalty. Rules are also provided for terminating the penalty. These provisions are intended to be consistent, where possible, with similar rules dealing with the payment of arbitrage rebate.

D. Pooled Financing Bonds

Section 148(f)(4)(C)(xi) permits an issuer of pooled loan financing bonds to elect to have the 2-year period for the spending requirements apply separately to each loan. Under this rule, the 2-year period for each loan begins on the earlier of the date the loan is made by the issuer or 1 year after the date of issue. The proposed regulations provide certain operating rules for purposes of this election.

Ordinarily, issuers that elect to apportion an issue must, on or before the date of issue, specifically identify the amount of the issue that is to be treated as a separate construction issue. In certain pooled loan financings, however, the issuer may not know on the date of issue the amount to be apportioned to each loan to be made. Accordingly, the proposed regulations provide that, if an issuer of pooled financing bonds makes the election described in the preceding paragraph, it is not required on the date of issue to identify the specific amount of the issue that will be treated as a separate construction issue. Instead, the issuer is required to supplement its election by identifying, on or before the date the loan is made, the specific amount of each loan made within 1 year of the date of issue that is treated as part of the separate construction issue. All other proceeds that are part of the construction issue must be specifically identified no later than 1 year after the date of issue. In addition, the provisions regarding termination of the penalty in lieu of arbitrage rebate apply to each loan separately instead of to the entire issue; this is to permit an issuer to terminate the penalty for a particular loan without terminating the penalty for all other loans from the issue as well. All other elections must be made by the issuer with respect to the entire issue.

E. Election Out or 2-Year Construction Exception.

The proposed regulations permit an issuer to elect that a construction issue not be subject to the 2-year construction exception.

F. Effective Date

These regulations are proposed to apply to bonds issued after [the date that is 30 days after the date of publication of final regulations in the **Federal Register**], and to bonds issued before that date if the issuer so elects.

Special Analyses

It has been determined that these proposed rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. Although this document is a notice of proposed rulemaking that solicits public comments, the notice and public comment procedure requirements of 5 U.S.C. 553(b) do not apply because the regulations proposed herein are interpretative. Therefore, an initial Regulatory Flexibility Analysis is not required by the Regulatory Flexibility Act (5 U.S.C. chapter 6). Pursuant to section 7805(f)(1) of the Internal Revenue Code, these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably a signed original and eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying in their entirety.

See the notice of public hearing on these proposed regulations published elsewhere in this issue of the **Federal Register.**

Drafting Information

The principal authors of these proposed regulations are Michael G. Bailey and Scott R. Lilienthal, Office of the Assistant Chief Counsel (Financial Institutions and Products), Internal Revenue Service. However, other personnel from the Service and the Treasury Department participated in their development.

List of subjects in 26 CFR 1.148–0 Through 1.150–1T

Bonds, Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

Note: The section numbers cited in the instructional paragraphs below as proposed sections reflect the section numbers as they would appear in the final rule (example: § 1.148–6). They do not reflect the "T" suffix currently found in the temporary rule version (example: § 1.148–6T).

PART 1—INCOME TAXES; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. The authority for part 1 continues to read in part:

Authority: Sec. 7805, 68A Stat. 917 (26 U.S.C. 7805) * * * Sections 1.148–0 through 1.148–9 also issued under 26 U.S.C. 148(f) and (i). * * *

Par. 2. Proposed § 1.148–0 published May 15, 1989 (54 FR 20861) by cross-referencing temporary regulations published the same day (54 FR 20787), as amended by a notice of proposed rulemaking published April 25, 1991 (56 FR 19045) by cross-referencing temporary regulations published the same day (56 FR 19023), is amended as follows:

1. The third sentence in paragraph (a)(3) is revised as set forth below.

2. New paragraphs (b)(1)(iv) and (b)(6) are added as set forth below.

3. Paragraph (d) is amended by revising the entry for § 1.148–6 as set forth below.

4. The added and revised provisions read as follows:

§ 1.148–0 Scope and effective date of restrictions on arbitrage.

(a) * * *

(3) * * * Section 148(f)(4) provides exceptions from arbitrage rebate for certain proceeds spent within 6-months, for certain proceeds used to finance construction expenditures within 2 years, and for small issuers with general taxing powers. * * *

(b) * * *

(1) * * *

(iv) Revenue Reconciliation Act of 1989 and Revenue Reconciliation Act of 1990. Section 148(f)(4) was amended by the Revenue Reconciliation Act of 1989 and the Revenue Reconciliation Act of 1990 to add section 148(f)(4)(C) to provide an exception from arbitrage rebate for certain proceeds used to finance construction expenditures. These amendments to section 148(f)(4) are generally effective for bonds issued after December 19, 1989.

* * * * *

(6) *Effective date for provisions relating to spending exceptions to arbitrage rebate*—(i) *In general.* Section 1.148–6 applies to bonds issued after [the date that is 30 days after publication of that section as final regulations in the **Federal Register**].

(ii) *Election in.* In the case of bonds issued on or before [the date that is 30 days after publication of final regulations in the **Federal Register**], an issuer may elect to apply the provisions of § 1.148–6 to the bonds. This election must be made on or before the later of—

(A) The date that is 6 months after publication of final regulations in the **Federal Register**; and

(B) Sixty days after the first computation date of the issue that occurs after [the date that is 30 days after publication of final regulations in the **Federal Register**]. For the purposes of this paragraph (b)(6)(ii)(B), "computation date" means either an installment computation date or final computation date under § 1.148–8T(b) or the last day of a semi-annual spending period under section 148(f)(4)(C)(ii).

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(d) *List of subjects.* * * *

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§ 1.148–6 Spending exceptions.

(a) Scope of section.
  (1) In general.
  (2) Relationship of 6-month exception and 2-year construction exception.
(b) 6-month exception.
  (1) General rule.
  (2) Additional period for certain bonds.
  (3) Definition of gross proceeds.
  (4) Payments of interest on the issue.
  (5) Refunding issues.
  (i) In general.
  (ii) Multipurpose issues.
  (6) Accounting procedures.
(c) 2-year construction exception.
  (1) General rule.
  (2) Exception for reasonable retainage.
(d) Certain payments of interest.
(e) Construction issue.
  (1) Definition.
  (2) Special election.
  (i) Use of reasonable expectations as of date of issue.
  (ii) Requirement to state and support reasonable expectations.
  (3) Ownership requirement.
  (i) In general.
  (ii) Safe harbor for leases and management contracts.
  (iii) On-behalf-of issuers.
  (iv) Ownership by issuer not required.
(f) Construction expenditures.
  (1) Definition.
  (2) Turnkey contracts and similar contracts.
  (3) Constructed personal property.
  (i) Property that the issuer acquires.
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  (4) Definitions of real property and tangible personal property.
  (i) Real property.
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  (5) Definition of issuer.
  (6) Examples.
(g) Reasonable retainage.
  (1) Definition.
  (2) Five percent limitation.
(h) Available construction proceeds.
  (1) Definition.
  (2) Earnings on a reasonably required reserve or replacement fund.
  (3) Treatment of expected earnings.
  (i) Determination on issue date.
  (ii) Determination at end of spending periods.
  (iii) Election to use date of issue reasonable expectations.
  (4) One and one-half percent penalty in lieu of arbitrage rebate.
  (5) Payments on purpose investments.
  (6) Examples.
(i) Refunding issues.
  (1) Definition.
  (2) Refundings of construction issues.
  (3) Example.
(j) Apportioning of multipurpose issues.
  (1) Portion of issue used for refunding treated as separate issue.
  (2) Election to treat portion of issue used for construction as separate issue.
  (i) In general.
  (ii) Limitation on use of nonconstruction issue for construction expenditures.
  (3) Example.
(k) Accounting procedures.
  (1) In general.
  (2) Earnings as of fourth spending period.
  (3) Allocation of issuance costs.
(l) One and one-half percent penalty in lieu of arbitrage rebate.
  (1) In general.
  (2) No reasonable expectations required.
  (3) Application to reasonable retainage.
  (4) Coordination with arbitrage rebate requirement.
(m) Termination of 1½ percent penalty in lieu of arbitrage rebate.
  (1) Termination of 1½ percent penalty after initial temporary period.
  (2) Termination of 1½ percent penalty before end of initial temporary period.
  (3) Application to reasonable retainage.
  (4) Date construction is substantially completed.
  (5) Initial temporary period.
  (6) Example.
(n) Payment of penalties.
  (1) Rounding rule.
  (2) Computation credit.
  (3) Method.
  (4) Failure to pay.
  (i) Innocent failures.
  (ii) Payment of additional penalty in lieu of loss of tax exemption.
  (A) General rule.
  (B) Waiver by Commissioner.
  (iii) Effect of failure to pay.
(o) Pooled financing bonds.
  (1) Definition.
  (2) In general.
  (3) Spending requirements.
  (4) Apportionment of loans.
  (5) Termination of 1½ percent penalty in lieu of arbitrage rebate.
  (6) Other elections.
  (7) Examples.
(p) Election out of 2-year construction exception.
(q) Elections.
  (1) In general.
  (2) Transition rule for certain elections.
  (3) Procedural requirements.
  (4) Extension of time.

* * * * *

Par. 3. Proposed § 1.148–6 published May 15, 1989 (54 FR 20861) by cross-referencing temporary regulations published the same day (54 FR 20787) is amended by revising the heading and adding text to read as follows:

§ 1.148–6 Spending exceptions.

(a) *Scope of section*—(1) *In general.* This section provides guidance on the two spending exceptions to the arbitrage rebate requirement of section 148(f)(2). Paragraph (b) of this section provides guidance only for the exception in section 148(f)(4)(B) (the "6-month exception"). Paragraphs (c) through (q) of this section provide guidance only for the exception in section 148(f)(4)(C) (the "2-year construction exception").

(2) *Relationship of 6-month exception and 2-year construction exception.* The 6-month exception and the 2-year construction exception are independent exceptions to the requirement to pay arbitrage rebate. Qualification for one exception does not require qualification for the other. For example, a construction issue that satisfies the 6-month exception need not satisfy the 2-year construction exception in order to be exempt from the arbitrage rebate requirement. A construction issue may qualify for the 6-month exception even though the issuer makes one or more elections under the 2-year construction exception with respect to the issue.

(b) *6-month exception*—(1) *General rule.* Under section 148(f)(4)(B), an issue is treated as meeting the arbitrage rebate requirement of section 148(f)(2) if—

(i) The gross proceeds (as defined in paragraph (b)(3) of this section) of the issue are expended for the governmental purposes of the issue within the 6-month period beginning on the date of issue (the "6-month spending period"), and

(ii) The requirement of section 148(f)(2) is met for amounts not required to be spent within the 6-month spending period (other than earnings on amounts in any bona fide debt service fund).

(2) *Additional period for certain bonds.* Under section 148(f)(4)(B)(ii), the 6-month spending period is extended for an additional 6 months if—

(i) No part of the issue is a private activity bond (other than a qualified 501(c)(3) bond) or a tax or revenue anticipation bond, and

(ii) The gross proceeds of the issue are expended within the 6-month spending period except for a failure to spend an amount not exceeding the lesser of 5 percent of the issue price of the issue or $100,000.

(3) *Definition of gross proceeds.* For purposes of section 148(f)(4)(B) only, "gross proceeds" has the same meaning as in § 1.148–8T(d), except that it does not include—

(i) Amounts held in a bona fide debt service fund (as defined in § 1.103–14(b)(10)),

(ii) Amounts held in a reasonably required reserve or replacement fund (as defined in § 1.103–14(d), but limited in amount as required by section 148(d)),

(iii) Amounts that, as of the date of issue of the bonds, are not reasonably expected to be gross proceeds but that become gross proceeds after the end of the 6-month spending period, and

(iv) Payments received under any purpose investment of the issue and earnings on those payments.

(4) *Payments of interest on the issue.* The governmental purpose of an issue includes payments of interest on, but not payments of principal of, the issue.

(5) *Refunding issues*—(i) *In general.* A refunding issue (as defined in § 1.148–11(b)(1) [1]) satisfies the spending requirements of section 148(f)(4)(B)(i)(I) and paragraph (b)(1)(i) of this section only if—

(A) All amounts that become transferred proceeds (as defined in § 1.148-11(c)(10)) of the refunding issue are expended within 6 months after the date of issue of the earliest tax exempt issue under section 103(a) (including the refunding issue) with respect to which the amounts were treated as proceeds for purposes of section 148(f), and

(B) All other gross proceeds of the refunding issue are expended within 6 months after the date of issue of the refunding issue.

(ii) *Multipurpose issues.* If any portion of a multipurpose issue (as defined in § 1.148–11(c)(3)) is treated as a separate issue allocable to refunding purposes under § 1.148–11(j), that portion is treated as a separate issue, except as limited by § 1.148-11(a)(2).

(6) *Accounting procedures.* All allocations made for purposes of section 148(f)(4)(B) must comply with the requirements of §§ 1.148–4 [2] and 1.148–11. For example, gross proceeds are expended when they are allocated to an expenditure under § 1.148–4, and allocations between the refunding issue and the nonrefunding issue of a multipurpose issue must comply with § 1.148–11.

(c) *2-year construction exception*—(1) *General rule.* Under section 148(f)(4)(C), the arbitrage rebate requirement of section 148(f)(2) does not apply to the available construction proceeds of a construction issue if the available construction proceeds are spent for the governmental purposes of the issue in accordance with the schedule provided in this paragraph (c)(1). "Construction issue" is defined in section 148(f)(4)(C)(iv) and paragraph (e) of this section, and "available construction proceeds" is defined in section 148(f)(4)(C)(vi) and paragraph (h) of this section. The spending schedule is as follows:

(i) At least 10 percent are spent within the 6-month period beginning on the date of issue (the "first spending period");

(ii) At least 45 percent are spent within the 1-year period beginning on the date of issue (the "second spending period");

(iii) At least 75 percent are spent within the 18-month period beginning on the date of issue (the "third spending period"); and

(iv) Except as otherwise provided in paragraph (c)(2) of this section, 100 percent are spent within the 2-year period beginning on the date of issue (the "fourth spending period").

(2) *Exception for reasonable retainage.* Under section 148(f)(4)(C)(iii), the requirement that 100 percent of available construction proceeds be spent by the end of the fourth spending period is treated as met if—

(i) As of the end of the fourth spending period, all of the available construction proceeds have been spent for the governmental purposes of the issue, except for amounts set aside as reasonable retainage (as defined in paragraph (g)(1) of this section),

(ii) The amounts set aside as reasonable retainage satisfy the 5 percent limitation described in paragraph (g)(2) of this section, and

(iii) 100 percent of the available construction proceeds are actually spent for the governmental purposes of the issue within the 3-year period beginning on the date of issue.

(d) *Certain payments of interest.* The governmental purpose of an issue includes—

(1) Payments of interest on, but not payments of principal of, the issue, and

(2) Payments of interest on other obligations of the issuer if those payments do not cause the issue to be a refunding issue. See paragraph (i) of this section.

(e) *Construction issue*—(1) *Definition.* "Construction issue" means any issue (including a portion of a multipurpose issue treated as a separate issue under paragraph (j) of this section) that is not a refunding issue, if—

(i) At least 75 percent of the available construction proceeds of the issue are spent for construction expenditures (as defined in paragraph (f) of this section) with respect to property owned by a governmental unit or a 501(c)(3) organization, and

(ii) Any private activity bonds that are part of the issue are qualified 501(c)(3) bonds or private activity bonds issued to finance property owned by a governmental unit or a 501(c)(3) organization.

(2) *Special election*—(i) *Use of reasonable expectations as of date of issue*—(A) An issuer may elect, on or before the date of issue, to satisfy the requirements described in section 248(f)(4)(C)(iv)(I) and paragraph (e)(1)(i) of this section based upon its reasonable expectations as of the date of issue. Thus, if this special election is made, the issuer must, as of the date of issue, reasonably expect the existence of all facts and the occurrence of all events necessary for the issue to meet the requirements of a construction issue. For example, the issuer must reasonably expect the existence of facts and the occurrence of events that are necessary for expenditures to qualify as construction expenditures under paragraph (f) of this section and also must reasonably expect that at least 75 percent of the available construction proceeds of the issue will be used for those expenditures.

(B) An issuer must make this special election in order to elect to pay the 1½ percent penalty in lieu of arbitrage rebate under section 148(f)(4)(C)(vii) and paragraph (l) of this section.

(C) An issuer need not reasonably expect to meet the semi-annual spending requirements described in section 148(f)(4)(C)(ii) and paragraph (c)(1) of this section in order for the issue to qualify as a construction issue.

(ii) *Requirement to state and support reasonable exceptations*—(A) If an issuer makes this special election, expectations regarding the use of available construction proceeds must be stated and supported by the issuer in a written certification, included as part of the books and records maintained for the issue, made on or prior to the date of issue. This certification is binding upon the issuer but is not conclusive and may be disregarded by the Commissioner in appropriate circumstances.

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[1] See proposed rules published elsewhere in this issue of the **Federal Register**.

[2] See proposed rules published on January 30, 1992, (57 FR 3562).

(B) The determination of whether an issuer has reasonable expectations on the date of issue is based on all relevant facts and circumstances, including its history of using proceeds in accordance with similar certifications and actions taken toward use of the proceeds in accordance with the certification.

(3) *Ownership requirement*—(i) *In general.* Except as otherwise provided in this paragraph (e)(3), a governmental unit or 501(c)(3) organization is treated as the owner of property if it is treated as the owner for Federal income tax purposes or would be so treated if it were subject to Federal income taxation.

(ii) *Safe harbor for leases and management contracts.* Property leased by a governmental unit or a 501(c)(3) organization is treated as owned by the governmental unit or 501(c)(3) organization if the lessee complies with the requirements of section 142(b)(1)(B).

(iii) *On-behalf-of issuers.* Obligations issued on behalf of a State or local governmental unit (as defined in § 1.103–1) will qualify as a construction issue if the requirements of this paragraph (e) are met, even if the entity that actually issues the bonds and that is to hold legal title to the financed facility is not a governmental unit or a 501(c)(3) organization.

(iv) *Ownership by issuer not required.* The issuer need not be the owner of the property financed by the issue in order for the issue to qualify as a construction issue.

(f) *Construction expenditures*—(1) *Definition.* "Construction expenditures" means capital expenditures (as defined in § 1.150–1(h)) that are properly chargeable to or may be capitalized as part of the basis of—

(i) Real property (as defined in paragraph (f)(4)(i) of this section), other than expenditures for—

(A) The acquisition of any interest in land, and

(B) Except as provided in paragraph (f)(2) of this section, the acquisition of any interest in real property other than land, or

(ii) Constructed personal property (as defined in paragraph (f)(3) of this section).

(2) *Turnkey contracts and similar contracts.* Expenditures are not for the acquisition of an interest in real property other than land if the contract between the seller and the issuer requires the seller to build or install the property (such as under a "turnkey contract"), and the property has not been built or installed at the time the parties enter into the contract. If the property has been partially built or installed at the time the parties enter into the contract, expenditures that are allocable to the portion of the property built or installed before that time are expenditures for the acquisition of real property.

(3) *Constructed personal property.* "Constructed personal property" means tangible personal property (as defined in paragraph (f)(4)(ii) of this section) that meets the requirements of either paragraph (f)(3)(i) or paragraph (f)(3)(ii) of this section.

(i) *Property that the issuer acquires.* In the case of property that the issuer does not build itself—

(A) The issuer acquires the property pursuant to a purchase contract requiring the property to be specially built to the issuer's specifications,

(B) The property is delivered to the issuer more than 6 months after the date the contract is entered into, and

(C) The issuer has no reason to believe that the seller, giving the contract ordinary priority, could have delivered the property within 6 months after the date the contract is entered into.

(ii) *Property that the issuer builds.* In the case of property that the issuer builds itself—

(A) No more than 60 percent of the amount that, under general Federal income tax principles, is properly chargeable to or may be capitalized as part of the basis of the completed property is attributable to tangible personal property acquired by the issuer (such as components, raw materials, and other supplies),

(B) The property is completed more than 6 months after the date the issuer began building it, and

(C) The issuer, exercising due diligence, could not have completed the property within 6 months.

(4) *Definitions of real property and tangible personal property.* Local law definitions are not controlling for purposes of determining the meanings of "real property" and "tangible personal property" as used in this paragraph (f). For purposes of this paragraph (f), the following definitions apply:

(i) *Real property.* "Real property" means land and improvements thereto, such as buildings or other inherently permanent structures, including items that are structural components of such buildings or structures. In addition, "real property" includes interests in real property. For example, real property includes wiring in a building, plumbing systems, central heating or central air-conditioning systems, pipes or ducts, elevators or escalators installed in a building, paved parking areas, roads, wharves and docks, bridges, and sewage lines.

(ii) *Tangible personal property.* "Tangible personal property" means any tangible property except real property. In addition, "tangible personal property" includes interests in tangible personal property. For example, tangible personal property includes machinery that is not a structural component of a building, subway cars, fire trucks, automobiles, office equipment, testing equipment, and furnishings.

(5) *Definition of issuer.* For purposes of this paragraph (f) only, "issuer" generally means the entity that actually issues the issue (the "actual issuer"). If the proceeds of an issue are provided to a conduit borrower (as defined in § 1.2501–1(g)), the term issuer generally means the conduit borrower and does not include the actual issuer.

(6) *Examples.* The operation of this paragraph (f) is illustrated by the following examples:

Example 1. City *C* issued bonds to finance a new office building. *C* entered into a turnkey contract with developer *X* under which *X* agreed to provide *C* with a completed building on a specified completion date on land currently owned by *X*. Under the agreement, *X* held title to the land and building and assumed any risk of loss until the completion date, at which time title to the land and the building were transferred to *C*. No construction had been performed by the date that *C* and *X* entered into the agreement. All payments by *C* to *X* for construction of the building are construction expenditures because all the payments are properly capitalized as part of the basis of the building, but payments by *C* to *X* allocable to the acquisition of the land are not construction expenditures. Alternatively, if *X* had partially constructed the building prior to entering into the contract with *C*, only those payments by *C* for construction performed after the contract date would be construction expenditures.

Example 2. P, a public agency, issued bonds to finance the acquisition of a right-of-way and the construction of sewage lines through numerous parcels of land. The right-of-way was acquired primarily through *P*'s exercise of its powers of eminent domain. At the time the bonds were issued, *P* reasonably expected that it would take approximately 2 years to acquire the entire right-of-way because of the time normally required for condemnation proceedings. No expenditures for the acquisition of the right-of-way are construction expenditures because they are costs incurred to acquire an interest in real property. If 25 percent or less of the available construction proceeds are used to acquire the right-of-way, however, and the balance of the available construction proceeds are used for construction expenditures, the issue is a construction issue.

Example 3. City *D* issued bonds to finance new subway cars for its mass transit system.

The subway cars were custom built by *A* to *D*'s specifications in order to operate properly on the system. Before they entered into the acquisition agreement for the subway cars, *A* informed *D* that it would take in excess of 6 months to provide the completed cars because of the time needed to build or modify the cars to *D*'s specifications. The subway cars are constructed personal property. Payments by *D* for the subway cars are construction expenditures because they are properly capitalized as part of the basis of the subway cars. Alternatively, if *A* had informed *D* that it would only take 3 months to provide the completed cars but *D* requested that *A* delay delivery for 12 months until construction of a new portion of the system was completed, no payments for the subway cars would be construction expenditures.

Example 4. U, a public agency, issued bonds to finance a partial interest in a newly constructed power-generating facility. *U* contributed its ratable share of the cost of building the new facility to the joint entity that will own the facility. The joint entity is a 501(c)(3) organization. *U*'s contributions to the joint entity are construction expenditures in the same proportion that the total expenditures by the joint entity for the facility qualify as construction expenditures.

Example 5. City *E* issued bonds to finance the purchase of unimproved land and the cost of subsequent improvements to the land, such as grading and landscaping, necessary to transform it into a park. The costs of the improvements were properly chargeable to the basis of the land. Expenditures by *E* for the improvements to the land are construction expenditures, but expenditures for the acquisition of the land are not.

(g) *Reasonable retainage*—(1) *Definition.* "Reasonable retainage" means an amount retained by the issuer for reasonable business purposes relating to the property financed with the proceeds of the issue, such as to ensure or promote compliance with the terms of one or more construction contracts (e.g., "punch list" items). Retainage is not reasonable unless it is consistent with prudent business practice, but it need not be required by law. In order for retainage to be reasonable—

(i) The payee must concede that the amount retained is not yet payable (as with "punch list" items),

(ii) The construction contract must expressly provide for retainage, or

(iii) An actual dispute must have arisen regarding either completion of construction or payment, the matters in dispute must be set forth in writing, and the retainage amount must be held in escrow.

(2) *Five percent limitation.* Reasonable retainage as of the end of the fourth spending period may not exceed 5 percent of the excess of the available construction proceeds as of that date (including actual earnings up to the end of the fourth spending period) over any amount used to, or deposited into an escrow to be used to, redeem bonds under paragraph (m) of this section. Earnings that accrue after the end of the 2-year spending period are not part of available construction proceeds for purposes of the 5 percent limitation, but are part of available construction proceeds for all other purposes.

(h) *Available construction proceeds*—(1) *Definition.* Except as otherwise provided in this paragraph (h), "available construction proceeds" means the amount equal to the sum of the issue price of an issue, earnings on the issue price, earnings on any amounts in a reasonably required reserve or replacement fund not funded from the issue, and earnings on all of the foregoing earnings, less the amount of the issue price deposited in any reasonably required reserve or replacement fund and the issuance costs financed by the issue.

(2) *Earnings on a reasonably required reserve or replacement fund.* Earnings on any reasonably required reserve or replacement fund (within the meaning of section 148(d)) are available construction proceeds only to the extent that those earnings accrue before the earlier of the date construction is substantially completed (as defined in paragraph (m)(4) of this section) or the date that is 2 years after the date of issue. On or before the date of issue, the issuer may elect under section 148(f)(4)(C)(vi)(IV) to exclude from available construction proceeds the earnings on any reasonably required reserve or replacement fund. If the election is made, the arbitrage rebate requirement of section 148(f)(2) applies to the excluded amounts from the date of issue.

(3) *Treatment of expected earnings*—(i) *Determination on issue date.* If the special election under paragraph (e)(2) of this section is made, for purposes of determining whether an issue is a construction issue under section 148(f)(4)(C)(iv) and paragraph (e) of this section, available construction proceeds include future earnings that the issuer reasonably expects as of the date of issue.

(ii) *Determination at end of spending periods.* Except as provided in paragraph (h)(3)(iii) of this section, for purposes of determining whether the spending requirements under section 148(f)(4)(C)(ii) and paragraph (c) of this section have been met as of the end of any semi-annual spending period (other than for purposes of the 5 percent limitation on reasonable retainage under section 148(f)(4)(C)(iii)(I) and paragraph (g)(2) of this section), available construction proceeds include actual earnings allocated to the issue as of the end of the spending period and future earnings that the issuer reasonably expects as of that date.

(iii) *Election to use date of issue reasonable expectations.* For purposes of determining whether the spending requirements have been met as of the end of each of the first three spending periods, the issuer may elect, on or before the date of issue, to include in available construction proceeds the amount of earnings that the issuer reasonably expects as of the date of issue for the entire 2-year spending period, in lieu of including actual earnings and expected earnings as of the end of each spending period.

(4) *One and one-half percent penalty in lieu of arbitrage rebate.* For purposes of the semi-annual spending requirements of section 148(f)(4)(C)(ii) and paragraph (c) of this section, available construction proceeds of a construction issue as of the end of any spending period are reduced by the amount of penalty in lieu of arbitrage rebate (under section 148(f)(4)(C)(vii) and paragraph (l) of this section) that the issuer has paid from available construction proceeds before the last day of the spending period.

(5) *Payments on purpose investments.* Available construction proceeds do not include payments received under any purpose investment or earnings on those payments.

(6) *Examples.* The operation of this paragraph (h) is illustrated by the following examples:

Example 1. City *F* issued bonds having an issue price of $10,000,000. *F* made the election under paragraph (e)(2) of this section to qualify the issue as a construction issue based on reasonable expectations as of the date of issue. *F* did not elect to determine the amount of earnings included in available construction proceeds on the basis of its reasonable expectations on the date of issue. *F* deposited all of the proceeds of the issue into a construction fund to be used for expenditures other than costs of issuance. *F* estimated on the date of issue that, based on reasonably expected expenditures and rates of investment, total earnings on the construction fund would be $800,000. As of the end of the first spending period, *F* had received $350,000 in earnings on the construction fund. Based on revised reasonably expected expenditures and rates of investment, *F* estimated that total additional earnings on the construction fund would be $600,000. As of the date of issue, the amount of available construction proceeds is $10,800,000. In order to qualify as a construction issue, *F* must reasonably expect on the date of issue that at least $8,100,000 (75 percent of $10,800,000) in the construction fund will be used for construction expenditures. As of the end of the first spending period, the amount of available construction proceeds is $10,950,000. In order to meet the 10 percent spending requirement for the first spending period, *F* must have spent at least $1,095,000 of proceeds.

Example 2. The facts are the same as *Example 1*, except that *F* elected on the date of issue to determine the amount of earnings included in available construction proceeds on the basis of its reasonable expectations as of the date of issue. In addition, as of the end of the fourth spending period, *F* had received $1,100,000 in earnings. As of the end of each of the first three spending periods, the amount of available construction proceeds is $10,800,000. Thus, for example, in order to meet the 10 percent spending requirement at the end of the first spending period, *F* must have spent at least $1,080,000 of proceeds. In order to meet the spending requirement at the end of the fourth spending period, however, *F* must have spent all of the $11,100,000 of actual available construction proceeds (except possibly for a reasonable retainage amount not exceeding $555,000).

Example 3. City *G* issued bonds having an issue price of $11,200,000. *G* made the election under paragraph (e)(2) of this section to qualify the issue as a construction issue based on reasonable expectations as of the date of issue. *G* did not elect to determine the amount of earnings included in available construction proceeds on the basis of its reasonable expectations as of the date of issue, and did not elect to exclude earnings on the reserve fund from available construction proceeds. *G* used $200,000 of proceeds to pay issuance costs and deposited $1,000,000 of proceeds into a reasonably required reserve fund. *G* deposited the remaining $10,000,000 of proceeds into a construction fund to be used for construction expenditures. On the date of issue, *G* reasonably expected that, based on the reasonably expected date of substantial completion and rates of investment, total earnings on the construction fund would be $800,000, and total earnings on the reserve fund to the date of substantial completion would be $150,000. *G* reasonably expected that substantial completion would occur during the fourth spending period. On the date of issue, *G* reasonably expected to use $10,800,000 of proceeds for construction expenditures ($10,000,000 in the construction fund plus $800,000 of expected earnings on the construction fund). At the end of the first spending period, *G* had received $40,000 in earnings on the reserve fund and $350,000 in earnings on the construction fund, and estimated that, based on the reasonably expected date of substantial completion and rates of investment, total additional earnings on the reserve fund would be $140,000 and on the construction fund would be $600,000. As of the date of issue, the amount of available construction proceeds is $10,950,000 ($10,000,000 originally deposited into the construction fund plus $800,000 expected earnings on the construction fund and $150,000 expected earnings on the reserve fund). In order for the issue to qualify as a construction issue, *G* must reasonably expect on the date of issue that at least $8,212,500 in the construction fund will be used for construction expenditures. As of the end of the first spending period, the amount of available construction proceeds is $11,130,000 ($10,000,000 originally deposited in the construction fund plus $350,000 actual earnings on the construction fund, $600,000 expected earnings on the construction fund, $40,000 actual earnings on the reserve fund, and $140,000 expected earnings on the reserve fund). In order to meet the 10 percent spending requirement on that date, *G* must have spent at least $1,113,000 of proceeds.

Example 4. The facts are the same as *Example 3*, except that *G* elected, on or before the date of issue, to exclude earnings on the reserve fund from available construction proceeds. The amount of available construction proceeds as of the date of issue is $10,800,000, and as of the end of the first spending period is $10,950,000.

(i) *Refunding issues*—(1) *Definition.* "Refunding issue" has the meaning used in § 1.148–11(b)(1).

(2) *Refundings of construction issues.* Solely for purposes of section 148(f)(4)(C), a refunding of a construction issue by either a tax exempt or a taxable issue is not taken into account, and proceeds of the construction issue do not become proceeds of the refunding issue ("transferred proceeds"). Therefore, although proceeds of a construction issue may "transfer" to the refunding issue and become transferred proceeds of the refunding issue for other purposes of section 148 (see § 1.148–11), these proceeds continue to be treated as unspent available construction proceeds of the construction issue for purposes of section 148(f)(4)(C).

(3) *Example.* The operation of this paragraph (i) is illustrated by the following example.

Example. In 1992, City *H* issued a construction issue having an issue price of $10,000,000. In 1993, *H* issued a refunding issue and used the proceeds to immediately retire all of the 1992 bonds. As of the date of issue of the refunding issue, $5,000,000 of available construction proceeds of the refunded issue were unspent. For purposes of the 2-year construction exception, $5,000,000 of available construction proceeds of the refunded issue continue, after the refunding, to be unspent available construction proceeds of the refunded issue. In addition, the refunding issue is not a construction issue, and the use of proceeds of that issue to pay principal or interest on the refunded issue is not a construction expenditure of proceeds of either the refunded issue or the refunding issue.

(j) *Apportioning of multipurpose issues*—(1) *Portion of issue used for refunding treated as separate issue.* For purposes of section 148(f)(4)(C), if any portion of a multipurpose issue (as defined in § 1.148–11(c)(3)) is treated as a separate issue allocable to refunding purposes under § 1.148–11(j), that portion is treated as a separate refunding issue.

(2) *Election to treat portion of issue used for construction as separate issue*—(i) *In general.* For purposes of section 148(f)(4)(C), if any proceeds of an issue are to be used for construction expenditures, the issuer may elect to treat the portion of the multipurpose issue that is not a refunding issue under paragraph (j)(1) of this section as two, and only two, separate issues, if—

(A) One of the separate issues meets the definition of a construction issue in section 148(f)(4)(C)(iv) and paragraph (e) of this section,

(B) The issuer reasonably expects, as of the date of issue, that this construction issue will finance all of the construction expenditures to be financed by the multipurpose issue, and

(C) On or before the date of issue, the issuer makes an election to apportion the multipurpose issue under section 148(f)(4)(C)(v) that specifically identifies the amount of the issue price of the issue allocable to the construction issue.

(ii) *Limitation on use of nonconstruction issue for construction expenditures.* The Commissioner may treat as invalid any election under section 148(f)(4)(C)(v) and paragraph (j)(2) of this section if proceeds of the multipurpose issue that are not part of the construction issue (the "nonconstruction issue") are used for construction expenditures, unless the expenditure is a result of circumstances not reasonably foreseeable by the issuer as of the date of issue and is made after all available construction proceeds of the construction issue have been spent.

(3) *Example.* The operation of this paragraph (j) is illustrated by the following example.

Example. City *D* issued bonds having an issue price of $19,000,000. *D* made the election under paragraph (e)(2) of this section to determine qualification as a construction issue based on reasonable expectations as of the date of issue. On the date of issue, *D* reasonably expected to use $10,800,000 of bond proceeds (including investment earnings) for construction expenditures for the project being financed. *D* deposited $10,000,000 in a construction fund to be used for construction expenditures and $9,000,000 in an acquisition fund to be used for acquisition of equipment not qualifying as construction expenditures. *D* estimated on the date of issue, based on reasonably expected expenditures and rates of investment, that total earnings on the construction fund would be $800,000 and total earnings on the acquisition fund would be $200,000. *D* may elect on or before the date of issue to treat up to $13,333,333 of the issue price as a construction issue ($10,000,000 divided by .75) but may not treat less than $10,000,000 of the issue price as a construction issue. D's election must specify the amount of the construction issue. The balance of the issue price is treated as a separate nonconstruction issue that is subject to the arbitrage rebate requirement of section 148(f)(2) unless it meets another exception to arbitrage rebate, such as the 6-month exception of section 148(f)(4)(B).

(k) *Accounting procedures*—(1) *In general.* Except as otherwise provided in this paragraph (k), all allocations made for purposes of section 148(f)(4)(C) must comply with the requirements of §§ 1.148-4 and 1.148-11. Examples of allocations that must comply with these requirements are allocations of available construction proceeds to expenditures and allocations between the construction, nonconstruction, and refunding issues of a multipurpose issue.

(2) *Earnings as of fourth spending period.* Accrued earnings allocable to the available construction proceeds of an issue that have not been actually or constructively received as of the end of the fourth spending period are deemed to have been spent if—

(i) On or before the end of the fourth spending period, the earnings are designated for a specific expenditure for the governmental purposes of the issue as evidenced by an entry on the issuer's books and records maintained for the issue, and

(ii) On or before the date that is 30 months after the date of issue, the expenditure is actually made, and the earnings are relieved from any restrictions under the relevant legal documents and applicable state law that apply only to unspent bond proceeds.

(3) *Allocation of issuance costs.* If the issuer makes the election under section 148(f)(4)(C)(v) and paragraph (j)(2) of this section to treat a multipurpose issue as a construction issue and a nonconstruction issue, the issuer must allocate all issuance costs paid out of proceeds of the multipurpose issue to the nonconstruction issue. If the issuer does not make an apportionment election, the issuance costs paid out of proceeds of the issue are treated as paid out of a separate nonconstruction issue, but no portion of the earnings on any reasonably required reserve or replacement fund are allocated to that nonconstruction issue.

(l) *One and one-half percent penalty in lieu of arbitrage rebate*—(1) *In general.* Under section 148(f)(4)(C)(vii), the issuer of a construction issue may elect, on or before the date of issue, to pay a penalty (the "1½ percent penalty") to the United States in lieu of the obligation to pay arbitrage rebate on available construction proceeds in the event that the issue fails to satisfy the spending requirements of section 148(f)(4)(C)(ii) and paragraph (c) of this section. An election of the 1½ percent penalty is not effective unless the issuer also makes the special election under paragraph (e)(2) of this section to qualify as a construction issue based upon reasonable expectations as of the date of issue. The 1½ percent penalty is calculated separately for each spending period, including any semi-annual spending period after the end of the fourth spending period, and is equal to 0.015 times the underexpended proceeds as of the end of the spending period. For each spending period, underexpended proceeds are computed by subtracting available construction proceeds spent for the governmental purposes of the issue by the end of the spending period from available construction proceeds required to be spent by the end of the spending period. No penalty is due if the underexpended proceeds are equal to or less than zero. The 1½ percent penalty ceases to apply only after the last maturity of bonds that are part of the issue, including bonds of any other issue that refunds bonds of the issue, unless the penalty is terminated under paragraph (m) of this section. The 1½ percent penalty must be paid to the United States no later than 90 days after the end of the spending period to which the penalty relates.

(2) *No reasonable expectations required.* In order to elect to pay the 1½ percent penalty in lieu of arbitrage rebate, the issuer of a construction issue is not required to reasonably expect that the issue will meet the spending requirements of section 148(f)(4)(C)(ii) and paragraph (c) of this section.

(3) *Application to reasonable retainage.* The 1½ percent penalty does not apply to unspent available construction proceeds as of the close of the fourth spending period and any spending period thereafter if the issue meets the exception for reasonable retainage described in section 148(f)(4)(B)(iii) and paragraph (c)(2) of this section. If the issue meets the exception for reasonable retainage except that all retainage is not spent within 36 months of the date of issue, then, within 90 days after the end of the 36-month period, the issuer is required to make payments of the 1½ percent penalty to the United States with respect to any reasonable retainage that was not spent as of the close of the fourth spending period and the spending periods ending 30 and 36 months after the date of issue. The 1½ percent penalty continues to apply at the end of each semi-annual spending period thereafter until the earliest of the following:

(i) The termination of the penalty under section 148(f)(4)(C)(viii) or (ix) and paragraph (m) of this section, except as provided in paragraph (m)(3) of this section;

(ii) The expenditure of all of the retainage; or

(iii) The last maturity of every bond that is part of the issue (including any bonds of another issue that refund bonds of the issue).

(4) *Coordination with arbitrage rebate requirement.* The arbitrage rebate requirement of section 148(f)(2) is treated as met for a period if a penalty for that period is paid in lieu of arbitrage rebate as provided in section 148(f)(4)(C)(vii), (viii), or (ix).

(m) *Termination of 1½ percent penalty in lieu of arbitrage rebate*—(1) *Termination of 1½ percent penalty after initial temporary period.* Under section 148(f)(4)(C)(viii), the issuer of a construction issue may terminate the 1½ percent penalty after the initial temporary period (as defined in paragraph (m)(5) of this section) if—

(i) Not later than 90 days after the earlier of the end of the initial temporary period or the date construction is substantially completed (as defined in paragraph (m)(4) of this section), the issuer elects to terminate the 1½ percent penalty

(ii) Within 90 days after the end of the initial temporary period, the issuer pays a penalty equal to 3 percent of the unexpended available construction proceeds determined as of the end of the initial temporary period, multiplied by the number of years (including fractions of years computed to 2 decimal places) in the initial temporary period;

(iii) As of the close of the initial temporary period, the unexpended amount is invested either in tax exempt bonds or in other investments at yields not exceeding the yield on the issue. This yield restriction requirement applies at all times, and no further temporary periods under section 148(c) are permitted, including but not limited to temporary periods for investment of proceeds; and

(iv) On the earliest date on which the bonds may be called or otherwise redeemed, the unexpended amount as of that date is used to redeem the bonds. The presence of any call premium or penalty does not prevent a date from being the earliest call date. This redemption requirement may be met by purchases of bonds by the issuer on the open market at prices not exceeding fair market value. A portion of the annual principal payment due on serial bonds of a construction issue may be paid from the unexpended amount, but only in an amount no greater than the amount that bears the same ratio to the annual principal due that the total unexpended amount bears to the issue price of the construction issue.

(2) *Termination of 1½ percent penalty before end of initial temporary period.* Under section 148(f)(4)(C)(ix), if the construction to be financed by the construction issue is substantially completed before the end of the initial temporary period, the issuer may elect to terminate the 1½ percent penalty before the end of the initial temporary period if—

(i) Before the close of the initial temporary period and not later than 90 days after the date the construction is substantially completed, the issuer elects to terminate the 1½ percent penalty;

(ii) The election identifies the amount of available construction proceeds that will not be spent for the governmental purposes of the issue; and

(iii) The issuer has met all of the conditions for termination of the 1½ percent penalty described in paragraph (m)(1) of this section, applied as if the initial temporary period ended as of the date the election is made under paragraph (m)(2)(i) of this section. A penalty termination election under paragraph (m)(2)(i) of this section satisfies the penalty termination election requirement of paragraph (m)(1)(i) of this section.

(3) *Application to reasonable retainage.* Solely for the purposes of determining whether the conditions for terminating the 1½ percent penalty are met, reasonable retainage may be treated as spent for a governmental purpose of the construction issue. Reasonable retainage that is so treated continues to be subject to the 1½ percent penalty.

(4) *Date construction is substantially completed.* The "date construction is substantially completed" is either the date on which the issuer reasonably determines that the project financed with the proceeds of the construction issue is substantially complete or the date on which the issuer abandons the project. In no event is construction substantially completed, however, earlier than the date that the issuer has spent available construction proceeds on the project in an amount equal to at least 90 percent of the total costs of the project that the issuer reasonably expects, as of that date, will be financed with the proceeds of the construction issue. If the issuer abandons only a portion of the project, the date of substantial completion is the date that the non-abandoned portion of the project is substantially completed.

(5) *Initial temporary period.* "Initial temporary period" means the period described in section 148(c), except that the end of the initial temporary period is determined without regard to section 149(d)(3)(A)(iv).

(6) *Example.* The operation of this paragraph (m) is illustrated by the following example.

Example. City *I* issued a construction issue having a 20-year maturity and qualifying for a 3-year initial temporary period. The bonds were first subject to optional redemption 12 years after the date of issue at a premium of 3 percent. *I* elected, on or before the date of issue, to pay the 1½ percent penalty in lieu of arbitrage rebate. At the end of the 3-year temporary period, the project was not substantially completed, and $1,500,000 of available construction proceeds of the issue were unspent. *I* reasonably expected to need $500,000 to complete the project. *I* may terminate the 1½ percent penalty in lieu of arbitrage rebate with respect to the excess $1,500,000 by (1) electing to terminate within 90 days of the end of the initial temporary period, (2) paying a penalty to the United States of $135,000 (3 percent of $1,500,000 multiplied by 3 years), (3) restricting the yield on the unspent available construction proceeds for 9 years to the first call date, and (4) using the available construction proceeds that have not been spent for the governmental purposes of the issue to redeem bonds on the first call date. If *I* fails to make the termination election, *I* is required to pay the 1½ percent penalty on unspent available construction proceeds every 6 months until the latest maturity date of bonds that were part of the issue (including any bonds of another issue that refunds bonds of the issue).

(n) *Payment of penalties*—(1) *Rounding rule.* Each penalty payment under sections 148(f)(4)(C)(vii), (viii), and (ix) and paragraphs (l) and (m) of this section may be rounded down to the nearest multiple of $100. Thus, any amount less than $100 is rounded to zero.

(2) *Computation credit.* Each penalty payment may be reduced by a computation credit of $100.

(3) *Method.* A penalty or correction amount is paid under section 148(f)(4)(C) and this paragraph (n) when payment is made to the Internal Revenue Service. The penalty payment must be accompanied by the appropriate form.

(4) *Failure to pay*—(i) *Innocent failures.* A construction issue is treated as meeting the requirements for payment of a penalty under section 148(f)(4)(C)(vii), (viii), and (ix) and paragraphs (l) and (m) of this section notwithstanding an innocent failure to pay if the issuer pays the correction amount to the United States in the manner provided in paragraph (n)(4)(ii) of this section and within the time and in the manner permitted for correction of innocent failure to pay arbitrage rebate as provided in § 1.148–1T(c), excluding § 1.148–1T(c)(2)(ii). For this purpose, payment of a penalty is treated as a rebate payment.

(ii) *Payment of additional penalty in lieu of loss of tax exemption*—(A) *General rule.* A construction issue that (but for this paragraph (n)(4)(ii)) would fail to meet a requirement to pay a penalty under section 148(f)(4)(C)(vii), (viii), or (ix) because of a failure to pay a penalty in the required amount or within the required time is treated as meeting the requirement only if—

(*1*) The Commissioner determines that the failure is not due to willful neglect; and

(*2*) The issuer pays to the United States, no later than the date specified by the Commissioner in the determination, the correction amount plus an additional penalty equal to 50 percent of the sum of the penalty not paid when required plus interest on the penalty not paid when required for the period beginning on the date the penalty was required to be paid at the underpayment rate established under section 6621. For the purpose of determining the correction amount, § 1.148–1T(c)(2), excluding § 1.148–1T(c)(2)(ii), applies to this paragraph (n)(4)(ii), and a payment of penalty is treated as a payment of rebate.

(B) *Waiver by Commissioner.* The Commissioner may waive all or any part of the additional penalty under this paragraph (n)(4)(ii).

(iii) *Effect of failure to pay.* Bonds that are part of an issue for which there is a failure to pay any required penalty amount under sections 148(f)(4)(C)(vii), (viii), and (ix) and paragraphs (l) and (m) of this section (and any bonds of another issue that refund those bonds) are treated as never having been described in section 103(a).

(o) *Pooled financing bonds*—(1) *Definition.* Bonds are "pooled financing bonds" if the issuer reasonably expects on the date of issue to provide the proceeds of the bonds to 2 or more conduit borrowers (as defined in § 1.150–1(g)).

(2) *In general.* Under section 148(f)(4)(C)(xi), at the election of the issuer of a construction issue of pooled financing bonds, the periods for the spending requirements set forth in section 148(f)(4)(C)(ii) and paragraph (c) of this section are determined separately for each loan to a conduit borrower and the spending period for a loan begins on the earlier of the date the loan is made, or the first day following the 1-year period beginning on the date of issue of the pooled financing bonds. If the issuer

of the pooled financing bonds makes this election, the arbitrage rebate requirements of section 148(f)(2) apply to, and the 2-year construction exception of section 148(f)(4)(C) is not available for, available construction proceeds of the pooled financing bonds prior to the date on which the spending period for those proceeds begins under the preceding sentence.

(3) *Spending requirements.* If the issuer of a construction issue makes the election under section 148(f)(4)(C)(xi) and paragraph (o)(2) of this section, the spending requirements set forth in section 148(f)(4)(C)(ii) and paragraph (c) of this section apply separately to each loan to a conduit borrower. If the issuer makes this election but does not make the election to pay the 1½ percent penalty in lieu of arbitrage rebate under section 148(f)(4)(C)(vii) and paragraph (l) of this section, the arbitrage rebate requirements of section 148(f)(2) apply to the available construction proceeds of the entire issue unless each loan meets the spending requirements. If the issuer makes the election to pay the 1½ percent penalty in lieu of arbitrage rebate, the 1½ percent penalty must be paid for each loan in the manner and at the times required by section 148(f)(4)(C)(vii) and paragraph (l) of this section.

(4) *Apportionment of loans.* Notwithstanding paragraph (j) of this section, if the issuer of pooled financing bonds makes the election under section 148(f)(4)(C)(v) and paragraph (j)(2) of this section, the issuer is not required to specifically identify the amount of the multipurpose issue that is treated as a separate construction issue in the election made on or prior to the date of issue. For a loan made to a conduit borrower from the pool within 1 year of the date of issue, the issuer must, on or before the date the loan is made, supplement the election by specifically identifying the amount of the loan that is part of the separate construction issue. For available construction proceeds that have not been loaned within 1 year of the date of issue, the issuer must, on or before the date that is 1 year after the date of issue, supplement the election by specifically identifying the amount of those proceeds that is part of the separate construction issue of the multipurpose issue. For purposes of section 148(f)(4)(C)(iv) and paragraph (e) of this section, each pool loan is treated as a separate issue, and, if the special election under paragraph (e)(2) of this section is made, reasonable expectations as to the portion of the loan to be used for construction expenditures are determined as of the date of the pool loan. Except as otherwise provided in this paragraph (o)(4), the requirements of sections 148(f)(4)(C)(v) and (xiii)(II) and paragraph (j) of this section relating to apportionment apply to each loan rather than to the issue.

(5) *Termination of 1½ percent penalty in lieu of arbitrage rebate.* Notwithstanding paragraph (m) of this section, the issuer of a pooled financing bond may elect to terminate the 1½ percent penalty in lieu of arbitrage rebate for a loan rather than the entire issue. If the issuer so elects, the requirements of sections 148(f)(4)(C)(viii) and (ix) and paragraph (m) of this section apply to each loan (as if it were a separate issue), rather than to the issue.

(6) *Other elections.* All other elections permitted under section 148(f)(4)(C) and paragraphs (c) through (q) of this section must be made by the issuer with respect to the entire issue.

(7) *Examples.* The operation of this paragraph (o) is illustrated by the following examples:

Example 1. On January 1, 1992, Authority *J* issued bonds. *J* made the election under paragraph (e)(2) of this section to qualify as a construction issue based on reasonable expectations as of the date of issue. As of the date of issue, *J* reasonably expected to use the proceeds of the issue to make loans to City *K* and to County L, and also reasonably expected that more than 75 percent of the available construction proceeds of the issue would be used for construction expenditures, but did not reasonably expect that more than 75 percent of the available construction proceeds in each loan would be used for construction expenditures. On or before the date of issue, *J* elected that the spending periods for each loan begin on the earlier of the date the loan is made and the first day following the 1-year period beginning on the date of issue. On February 1, 1992, *J* loaned a portion of the available construction proceeds to *K*. On March 1, 1993, *J* loaned the remainder of the available construction proceeds to *L*. For the loan to *K*, the first spending period ends on July 31, 1992, and the available construction proceeds loaned to *K* are subject to the arbitrage rebate requirements of section 148(f)(2) for the period prior to the loan (January 1, 1992 through January 31, 1992). For the loan to *L*, the first spending period ends on July 1, 1993, and the available construction proceeds loaned to *L* are subject to the arbitrage rebate requirements of section 148(f)(2) for the 1-year period starting on the date of issue. The issue is a construction issue, but each loan must meet its spending requirements in order for the available construction proceeds of the issue to be excepted from the requirement to pay arbitrage rebate.

Example 2. The facts are the same as *Example 1* except as stated below. On the date of issue, *J* reasonably expected that 50 percent of the available construction proceeds of the issue would be used for construction expenditures and elected to treat a portion of the issue as a separate construction issue, but did not specify the amount of the issue price to be treated as a separate construction issue. For the available construction proceeds loaned to *K*, *J* must specify the amount of the loan that is treated as part of the separate construction issue on or before February 1, 1992. For the remaining available construction proceeds, *J* must specify, on or before January 2, 1993, the amount of those proceeds that are treated as part of the separate construction issue.

(p) *Election out of 2-year construction exception.* An issuer may elect on or before the date of issue that a construction issue not be subject to the 2-year construction exception to arbitrage rebate. This election results in the issue being subject to all other provisions of section 148(f).

(q) *Elections*—(1) *In general.* Any election made by an issuer under section 148(f)(4)(C) or paragraphs (c) through (q) of this section is irrevocable and must be evidenced by a written entry in the books and records of the issuer maintained for the issue and must comply with any filing requirements promulgated by the Internal Revenue Service. An election under this section must be made by the governing body of the issuer or by an officer of the issuer responsible for issuing the issue. Except for elections under sections 148(f)(4)(C)(viii) and (ix) and paragraph (m) of this section and under § 1.148–0T(b)(6)(ii) and except as provided in paragraph (q)(2) of this section, any election for an issue under this section must be made on or before the date of issue.

(2) *Transition rule for certain elections.* If an issuer makes the election for an issue under § 1.148–0T(b)(6)(ii), the issuer may make the elections under paragraphs (h)(3)(iii) and (e)(2) of this section on or before the date that the election under § 1.148–OT(b)(6)(ii) is made.

(3) *Procedural requirements.* An election under this section must satisfy the requirements of § 1.148–8T(h)(2).

(4) *Extension of time.* The Commissioner may extend the time to make the elections under paragraphs (h)(3)(iii) and (e)(2) of this section if the requirements of §§ 1.148–8T(h)(3)(ii) (A) and (B) are satisfied.

David G. Blattner,

Acting Commissioner of Internal Revenue.

[FR Doc. 92–3161 Filed 2–6–92; 12:53 pm]

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26 CFR Part 1

[FI-42-90]

RIN 1545-AO69

Bad Debt Reserves of Thrift Institutions; Correction

AGENCY: Internal Revenue Service.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document contains corrections to the notice of proposed rulemaking (FI-42-90), which was published in the Federal Register on January 13, 1992 (57 FR 1232). The proposed regulations relate to the thrift institutions that become ineligible to use the reserve method of accounting for bad debts allowed by section 593 of the Internal Revenue Code (Code).

FOR FURTHER INFORMATION CONTACT: Bernita L. Thigpen, (202) 566-3297 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking that is the subject of these corrections provides guidance for thrift institutions that become ineligible to use the reserve method of accounting for bad debts allowed by Internal Revenue Code section 593. The proposed regulations set forth rules on changing from and returning to this method of accounting, and the proposed regulations provide procedures for complying with these rules. These proposed regulations are issued under the authority of Internal Revenue Code sections 446 and 481.

Need for Correction

As published, the proposed regulations contain errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of proposed regulations (FI-42-90), which was the subject of FR Doc. 92-697, is corrected as follows:

§ 1.593-13 [Corrected]

1. On page 1239, column 1, § 1.593-13(c)(5), line 1 of the *Example*, the language "*Example 1.* Thrift institution T, a calendar" is corrected to read "*Example.* Thrift institution T, a calendar".

§ 1.593-14 [Corrected]

2. On page 1242, column 3, § 1.593-14(d)(6), line 4 of paragraph (i) of *Example 1*, the language "Pursuant to § 1.593-13(c)(2), in 1992 R restates" is corrected to read "Pursuant to § 1.593-13(c)(2), T restates".

3. On page 1242, column 3, § 1.593-14(d)(6), line 2 of paragraph (ii) of *Example 1*, the language "§ 1.591-14(d)(2)(i) is $560,000 and is not lower" is corrected to read "§ 1.593-14(d)(2)(i) is $560,000 and is not lower".

4. On page 1243, column 1, § 1.593-14(d)(6), paragraph (ii) of *Example 3*, last line of that column, the language "Under the principles of § 1.593-14d(4)(iv)," is corrected to read "Under the principle of § 1.593-14(d)(v),".

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 92-3213 Filed 2-11-92; 8:45 am]

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 335

[DoD Instruction 5030.AA]

Defense Mapping Agency (DMA) Mapping, Charting, and Geodesy (MC&G) Data; Public Availability and Exceptions

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed rule.

SUMMARY: This rule defines applicability and terms, establishes policy, assigns responsibilities, and prescribes procedures regarding the public availability of DoD mapping, charting, and geodesy data in the Defense Mapping Agency inventory. This regulation implements 10 U.S.C. 2796.

DATES: Written comments on this proposed rule must be received by March 13, 1992.

ADDRESSES: Forward comments to the Office of Deputy Assistant Secretary of Defense (Intelligence), Director, Requirements and Analysis, room 3C200, Pentagon, Washington, DC 20301-3040.

FOR FURTHER INFORMATION CONTACT: Dennis Moellman, (703) 695-1830.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 335

Freedom of Information.

Accordingly, title 32, subchapter P is proposed to be amended to add part 335 to read as follows:

PART 335—DEFENSE MAPPING AGENCY (DMA) MAPPING, CHARTING, AND GEODESY (MC&G) DATA; PUBLIC AVAILABILITY AND EXCEPTIONS

Sec.
335.1 Purpose.
335.2 Applicability.
335.3 Definitions.
335.4 Policy.
335.5 Responsibilities.
335.6 Procedures.

Authority: 10 U.S.C. 2794 and 2796.

§ 335.1 Purpose.

This part:

(a) Establishes policy, assigns responsibilities, and prescribes procedures in accordance with 10 U.S.C. 2796 and 32 CFR part 360 for the release and withholding of otherwise unclassified DMA MC&G data in the possession of, or under the control of, the Department of Defense.

(b) Authorizes the publication of DoD 5030.AA-M,[1] "Use and Release of Defense Mapping Agency (DMA) Mapping, Charting, and Geodesy (MC&G) Data," in accordance with DoD 5025.1-M.[2]

§ 335.2 Applicability.

This part applies to the Office of the Secretary of Defense, the Military Departments (including their National Guard and Reserve components), the Chairman of the Joint Chiefs and Staff and the Joint Staff, the Unified and Specified Combatant Commands, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "the DoD Components").

§ 335.3 Definitions.

(a) *Defense Mapping Agency Mapping, Charting and Geodesy Data.* The term includes the total inventory of DMA MC&G materials, whether produced by the DMA or obtained under contract, international agreement, or other bilateral or multilateral arrangement, but does not include architectural and engineering site plans. It is synonymous with the terms maps, charts, and geodetic data and geodetic products used in 10 U.S.C. 2794 and 2796.

(b) *Limited Distribution.* Distribution limited to the Department of Defense, U.S. DoD contractors, and to U.S. Government Agencies supporting DoD functions, and that is made under the authority of the Director, DMA.

(c) *Mapping, Charting and Geodesy (MC&G).* Comprises the collection, transformation, generation, dissemination, and storing of geodetic, geomagnetic, gravimetric, aeronautical, topographic, hydrographic, cultural, and toponymic data. These data may be used for military planning, training, and operations including aeronautical, nautical, and land navigation, as well as for weapon orientation and target positioning. MC&G also includes the evaluation of topographic, hydrographic, or aeronautical features for their effect on military operations or intelligence. The data may be presented in the form of topographic, planimetric, relief, or thematic maps and graphics; nautical and aeronautical charts and publications; and in simulated, photographic, digital, or computerized formats.

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[1] Copies will be available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

[2] Copies are available, at cost, from the National Technical Information Service.

§ 335.4 Policy.

It is DoD policy that:

(a) The DMA shall offer for sale to the public maps and charts and other MC&G data at scales of 1:500,000 and smaller. Exceptions are maps and charts and other MC&G data withheld in accordance with paragraph (b) of this section, or those specifically authorized under criteria established by E.O. 12356 to be classified in the interest of national defense or foreign policy and are, in fact, properly classified under such E.O. Sales may be made by the DMA directly or through its authorized agents.

(b) Notwithstanding any other provision of law, the Secretary of Defense may withhold from public disclosure any MC&G data in the possession of, or under the control of, the Department of Defense that:

(1) Was obtained or produced, or that contains information that was provided under an international agreement that restricts disclosure of such product or information to government officials of the agreeing parties or that restricts use of such product or information to government purposes only,

(2) Contains information that the Secretary of Defense has determined in writing would, if disclosed, reveal sources and methods used to obtain source material for production of the MC&G data, or

(3) Contains information that the Director of the DMA has determined in writing would, if disclosed, reveal military operational or contingency plans.

(c) DMA MC&G data, withheld from the public under paragraph (b) of this section, may, nevertheless, be released to allies of the United States and to qualified U.S. contractors under the following conditions:

(1) MC&G data received from foreign governments under an international agreement may only be disclosed outside the DoD in accordance with the terms of the international agreement.

(2) MC&G data described in paragraph (b)(2) of this section, may be released to U.S. allies and qualified U.S. contractors in accordance with applicable treaties, international agreements, 32 CFR part 250, 48 CFR chapter 1, 48 CFR chapter 2, DoD 5220.22–R [3], DoD Instructions 0–5230.22 [4], National Disclosure Policy (NDP–1) [5], DoD 5220.22–M [6], and 32 CFR part 159a.

(d) Prices for the sale of DMA MC&G data shall be determined in accordance with 10 U.S.C. 2794 and DoD 7220.9–M [7].

§ 335.5 Responsibilities.

(a) The Assistant Secretary of Defense for Command, Control, Communications and Intelligence shall:

(1) Implement the DoD responsibilities contained in 10 U.S.C. 2796.

(2) Make the determinations required in § 335.4(b)(2). This responsibility may not be redelegated.

(3) Promulgate a Manual, in accordance with DoD 5025.1–M, for the use and release of MC&G data in the possession or under the control of the DoD.

(b) The Director, Defense Mapping Agency shall:

(1) Establish regulations for the public sale of DoD MC&G data in accordance with 10 U.S.C. 2794.

(2) Make the determinations required in section 335.4(b)(3).

(3) Implement the determinations made under section 335.4(b).

(4) Mark each product "Limited Distribution," which is withholdable under § 335.4(b).

(c) The Heads of other DoD Components shall:

(1) Establish policies or procedures to implement this program within their Components.

(2) Refer all Freedom of Information Act requests for unclassified DoD MC&G data marked with the legend "Limited Distribution," "DISTRIBUTION LIMITED—DESTROY WHEN NO LONGER NEEDED," "For Official Use Only," or other similar or restrictive caveats to the Director, DMA.

§ 335.6 Procedures.

(a) Unclassified DoD MC&G materials marked with the legend "Limited Distribution," "DISTRIBUTION LIMITED—DESTROY WHEN NO LONGER NEEDED," "For Official Use Only," or any other similar or restrictive caveats are presumed to be withholdable under this Instruction. DoD Components having such materials in their possession shall not release them outside the DoD without prior approval of the Assistant Secretary of Defense for Command, Control, Communications and Intelligence or the Director, DMA.

(b) Requests received under 5 U.S.C. 552 for unclassified restrictively marked DoD MC&G materials shall be forwarded to the Director, DMA for action.

Dated: February 5, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–3084 Filed 2–11–92; 8:45 am]

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[3] See footnote 2 to § 335.1(b).

[4] For official use only. Not releasable to the public.

[5] Available from the Office of the Director for International Security Programs, Office of the Deputy Under Secretary for Security Policy.

[6] Copies may be obtained, at cost, from Superintendent of Documents, Government Printing Office, Washington, DC 20402.

[7] See footnote 2 to § 335.1(b).

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1035

[Ex Parte No. 495]

Bills of Lading

AGENCY: Interstate Commerce Commission.

ACTION: Proposed rule; stay of comment due date until further notice.

SUMMARY: By a notice of proposed rulemaking published in the **Federal Register** on December 30, 1991, 56 FR 67268, the ICC proposed to vacate its prescription of railroad and water carrier uniform bills of lading and livestock contracts. Comments were requested by February 13, 1992. Transportation Claims and Prevention Council, Inc. (TCPC) and National Grain and Feed Association (NGFA), have filed petitions requesting that we extend the comment period.

DATES: This stay of comment period is February 12, 1992.

SUPPLEMENTARY INFORMATION: Transportation Claims and Prevention Council, Inc. (TCPC) has filed a letter petition arguing that: (1) In 1935, motor carriers were ordered to conform to railroad bills of lading; (2) removal of the railroad bills of lading prescription may affect motor carrier bills of lading, as it would rail and water carrier bills of lading; and (3) the shipping community has not been given adequate notice of the potential impact. TPCP requests a new order to explain the possible impact of the instant proposal on motor carrier bills of lading, and that we extend the comment deadline. Alternatively, TCPC asks that the Commission institute an additional proceeding to consider these issues and set simultaneous comment due dates for both proceedings.

National Grain and Feed Association (NGFA), also has filed a petition to extend the comment by 60-days. According to NGFA, the present regulations and prescriptions of uniform bills of lading have been in place for most of this century and the prospect of revoking the regulations creates substantial uncertainty for shippers. The NFGA believes that an extension will permit shippers and carriers to discuss the necessity for the present regulations at its annual convention in March and generate more substantive comments regarding the proposed rulemaking.

The February 13th comment deadline is stayed pending Commission action on the petitions.

Decided: February 7, 1992.

By the Commission, Sidney L. Strickland, Jr., Secretary

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-3362 Filed 2-11-92; 8:45 am]

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Notices

Federal Register
Vol. 57, No. 29
Wednesday, February 12, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Assistant Secretary for Food and Consumers Services

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Assistant Secretary for Health

National Nutrition Monitoring Advisory Council: Notice of Meeting

SUMMARY: The National Nutrition Monitoring Advisory Council will hold its first meeting on February 26, 1992, 9 a.m. to 4:30 p.m. and February 27, 1992, 9 a.m. to 1 p.m. in the U.S. Department of Agriculture's Administration Building, Conference Room 107A, between 12th and 14th Streets on Independence Avenue, SW., Washington, DC 20250. The meeting is open to the public. However, the meeting is contingent upon timely chartering of the Council.

FOR FURTHER INFORMATION CONTACT: Alanna J. Moshfegh, Co-Executive Secretary to the Council from USDA, Human Nutrition Information Service, U.S. Department of Agriculture, 6505 Belcrest Road, room 366, Hyattsville, MD 20782, (301) 436–8457; or Linda Meyers, Ph.D., Co-Executive Secretary to the Council from DHHS, Public Health Service, Office of Disease Prevention and Health Promotion, room 2132, Switzer Building, 330 C Street SW., Washington, DC 20201, (202) 472–5307.

SUPPLEMENTARY INFORMATION: The National Nutrition Monitoring Advisory Council was established by Executive Order of the President on January 25, 1991, pursuant to Public Law 101–445, the National Nutrition Monitoring and Related Research Act of 1990. The Council will evaluate the scientific and technical quality of the comprehensive plan and the effectiveness of the coordinated program, provide guidance to the Secretaries of USDA and DHHS, and recommend areas for improvement of the program in annual reports to the Secretaries of both Departments.

The Council consists of nine voting members—five appointed by the President and four appointed by Congress. Members appointed by the President are David L. Call, Dean, College of Agriculture and Life Sciences, Cornell University, Ithaca, New York, for a four-year term; Shiriki K. Kumanyika, Associate Professor, Pennsylvania State University, University Park, Pennsylvania, for a three-year term; Suzanne S. Harris, Director, Human Nutrition Institute, International Life Sciences Institute, Washington, DC, for a three-year term; Charles H. James, III, President and Chief Executive Officer, C.H. James & Company, Charlestown, West Virginia, for a two-year term; Helen E. Lee, Instructor, Foothill College, Los Altos Hills, California, for a two-year term. Members appointed by Congress include Sue Greig, Adjunct Professor, Kansas State University, Manhattan, Kansas, for a five-year term. The remaining three members are to be appointed by the President pro tempore of the Senate, and the Speaker and the minority leader of the House of Representatives.

The Council meeting agenda will include an overview of the National Nutrition Monitoring and Related Research Program and discussion of the proposed Ten-year Comprehensive Plan for the National Nutrition Monitoring and Related Research Program. The public may file statements with the Council before or after the meeting by addressing them to either of the contact persons listed above.

Done at Washington, DC, this 5th of February 1992.

Steve Abrams,

Deputy Assistant Secretary for Food and Consumer Services, U.S. Department of Agriculture.

J. Michael McGinnis, M.D.,

Deputy Assistant Secretary for Health, U.S. Department of Health and Human Services.

[FR Doc. 92–3339 Filed 2–11–92; 8:45 am]

BILLING CODE 3410-KE-M

DEPARTMENT OF AGRICULTURE

Forest Service

Draft Supplement to a Final Environmental Impact Statement for the Accelerated Engelmann Spruce Harvest for the Brush Creek, Hendricks Creek, and Copet Creek Salvage Timber Sales on the McCall Ranger District of the Payette National Forest, Valley and Idaho Counties, ID

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare a supplement to an environmental impact statement.

SUMMARY: The Department of Agriculture, Forest Service will prepare a Draft and Final Supplement to the Environmental Impact Statement previously prepared for the Accelerated Engelmann Spruce Harvest for the Brush Creek, Hendricks Creek, and Copet Creek Salvage Timber Sales (August 1991). The supplement will focus on the results of revised biological evaluations prepared in accordance with Forest Service Manual 2670.32 for all sensitive species that may occur within the project area. The evaluations will clearly analyze the effects on those species by assessing the impacts of the proposed project and cumulative effects on population viability, numbers, and distribution.

Since 1989, considerable scoping, public meetings, and analyses were completed in response to this proposal. Specific public meetings were held in May, 1989, which were designed to explain and receive comments on the projects involved. These meetings and the continued scoping precipitated a large number of comments from the public, Federal, State, and local agencies.

Due to the extensive scoping and public participation that has already occurred, the Forest Supervisor determined there is no need for additional scoping prior to the release of the DSFEIS. Regulations for implementing the procedural provisions of the National Environmental Policy Act (NEPA), specifically 40 CFR 1502.9(c)(4), allow agencies to exclude scoping when preparing supplements to environmental impact statements. The Forest Supervisor has; however, decided

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to accept written comments for fifteen days after the Environmental Protection Agency's publishing of this Notice of Intent in the **Federal Register**.

The agency will accept written comments and suggestions on the scope of the analysis. However, because the Forest has been communicating with interested persons concerning the scope of the proposed project throughout the environmental analysis process, the agency urges that any comments be concise and specific to the focus of the supplement. Comments directed to the substance, rather than the scope of the proposed project, would be more appropriately submitted during the comment period following release of the Draft Supplement to the Final Environmental Impact Statement.

DATES: Comments on the scope of the analysis must be received by February 29, 1992.

ADDRESSES: Submit written comments and suggestions concerning the scope of the analysis to Linda Fitch, McCall District Ranger, Payette National Forest, P.O. Box 1026, McCall, Idaho 83638.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action should be directed to the District Ranger.

SUPPLEMENTARY INFORMATION: The Payette National Forest Supervisor released the Final Environmental Impact Statement for the Accelerated Engelmann Spruce Harvest for the Brush Creek, Hendricks Creek, and Copet Creek Salvage Timber Sales and the Record of Decision to approve the timber sales on August 22, 1991. The Idaho Conservation League appealed the decision on September 27, 1991. After reviewing the appeal, the Intermountain Regional Forester reversed the Forest Supervisor's decision on appeal point number one regarding sensitive species and affirmed the Forest Supervisor on all other appeal issues.

The Regional Forester directed the Forest Supervisor to complete biological evaluations on all sensitive species that may occur within the project area in accordance with Forest Service Manual 2670.32 by clearly analyzing the effects on those species and by assessing the impacts of the proposed project and cumulative effects on population viability, numbers, and distribution. The Regional Forester also directed that the Forest Supervisor prepare the results as a supplement to the environmental impact statement and make the supplement available to the public for review and comment.

Scoping for the project was initiated in May, 1989, when public scoping meetings were held in McCall and Boise, Idaho. A notice of intent to prepare an environmental impact statement appeared in the **Federal Register** in January 1991 (56 FR 1789). A Draft Environmental Impact Statement was released in June 1991.

The Draft Supplement to the Final Environmental Impact Statement is expected to be filed with the Environmental Protection Agency and be available for public review on March 1, 1992. At that time the Environmental Protection Agency will publish a notice of availability of the Draft Supplement in the **Federal Register**.

The comment period on the Draft Supplement will be 45 days from the date the Environmental Protection Agency's notice of availability appears in the **Federal Register**. It is very important that those interested participate at that time. To be the most helpful, comments on the Draft Supplement should be as specific as possible and address the adequacy of the supplement.

Comments on the Draft Supplement will be analyzed and considered by the Forest Service in preparing the Final Supplement, which is scheduled to be completed by April 16, 1992. The Forest Service is required to respond to the comments received (40 CFR 1503.4). After reviewing the supplement along with any public comments on the supplement, the Forest Supervisor will then determine if the original decision should be amended. If the original decision does not require amendment, the Forest Supervisor may proceed with the project without issuing a new Record of Decision. If the Forest Supervisor determines that the decision should be amended, the decision and reasons supporting it will be documented in a new Record of Decision. That decision will be subject to appeal under 36 CFR part 217.

Veto J. LaSalle, Forest Supervisor of Payette National Forest, McCall, Idaho, is the responsible official for this action.

Dated: February 6, 1992.

Veto J. LaSalle,
Forest Supervisor.

[FR Doc. 92–3296 Filed 2–11–92; 8:45 am]

BILLING CODE 3410-11-M

Packers and Stockyards Administration

Posting of Stockyard; S&J Villari Livestock, Gumboro, DE; Correction

On February 3, 1992, a notice was published in the **Federal Register** (55 FR 147) giving notice of the posting for certain stockyards listing their facility number, name and location.

This notice is to correct the facility number assigned to S&J Villari Livestock, Gumboro, Delaware.

DE–102, S&J Villari Livestock, Gumboro, Delaware, December 18, 1991.

Done in Washington, DC, this 6th day of February, 1992.

Harold W. Davis,
Director, Livestock Marketing Division, Packers and Stockyards Administration.

[FR Doc. 92–3246 Filed 2–11–92; 8:45 am]

BILLING CODE 3410-20-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; Yuzo Oshima, The Sound You Company, Ltd., Tatsuno-Nishitenma Building, 3–1–6, Nishitenma, Kita-ku, Osaka, Japan; Order Temporarily Denying Export Privileges

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (Department), pursuant to the provisions of § 788.19 of the Export Administration Regulations (currently codified at 15 CFR parts 768–799 (199)) (the Regulations), issued pursuant to the Export Administration Act of 1979, as amended (currently codified at 50 U.S.C.A. app. 2401–2420 (1991)) (Act),[1] has Yuzo Oshim (Oshima) and The Sound You Company, Ltd. (Sound You). The initial order was issued on February 11, 1991 (56 FR 7007, February 21, 1991). A second order was issued on August 8, 1991 extending the denial of export privileges for an additional period of 180 days (56 FR 40599, August 15, 1991).

In its renewal request of January 15, 1992, the Department stated that it continues to have reason to believe that an order temporarily denying the export privileges of Oshima and Sound You is necessary in the public interest to prevent an imminent violation of the Regulations.

In its initial request, the Department stated that, as a result of its investigation, the Department had reason believe that, during the period February 20, 1990 to February 5, 1991, Oshima and Sound You were trying to obtain near state-of-the-art Intel CPU–386 microprocessors, controlled for reasons of national security, so that they could export that equipment from the United States to North Korea, a country against which the United States has a virtually complete embargo, without first obtaining the required validated license. There is a presumption that a license application to ship the CPU-386 microprocessors to North Korea would not be granted.

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[1] The Act expired on September 30, 1990. Executive Order 12730 (55 FR 40373, October 2, 1990) continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. 17091–1706 (1991))

The Department also started that the investigation had given it reason to believe that Oshima and Sound You intend to effectuate the export of the Intel CPU-386 microprocessors from the United States by sending them to third countries and then reexporting them to North Korea. The Department also had reason to believe that Oshima and Sound You are capable of bringing about such exports because it believed that Oshima and Sound You have access to large sums of money and that, given the opportunity, they would use that money in the near future to acquire the CPU-386 microprocessors and export them through other countries to North Korea.

In its renewal request, the Department stated that nothing the Department has learned since the time of its initial and subsequent request has given it reason to believe that its initial suspicions were inaccurate. Indeed, the Department noted that, since the initial request, the Department has received information that gives it reason to believe that a TDO is still necessary and appropriate.

Specifically, the Department stated that Oshima originally informed Intel (the manufacturers of the CPU-386s) that it wanted the CPU-386s for export to North Korea, but subsequently changed his story, saying he wanted to export the CPU-386 to, *inter alia*, two end users in Taiwan. The Department further stated that, since the issuance of the original TDO, it has obtained information which gives it reason to believe that story was false. The Department further believes that Oshima provided the false information to the Department because he wanted to obtain the CPU-386s under the guise that they were going to be exported to Taiwan, when in fact he really intended to ship them to North Korea as he had originally planned.

In addition, in its initial request, the Department noted that, on February 6, 1991, it had initiated administrative proceedings against Oshima and Sound You. Those matters are presently before the office of the Administrative Law Judge.

Nevertheless, in light of the above-described events and those described in the Department's initial request, the Department continues to believe that the violations Oshima and Sound You are suspected of having committed were deliberate and covert and are likely to occur again unless the temporary denial order naming Oshima and Sound You is renewed. In addition, the Department believes that, pending resolution of the administrative actions the Department has initiated against Oshima and Sound You, renewal of temporary denial order is necessary to give notice to companies in the United States and abroad that they should cease dealing with Oshima and Sound You in transactions involving U.S.-origin goods.

On January 27, 1992, this office received "Respondent's Opposition to the Second Request for the Renewal of the Temporary Denial Order." That opposition reiterates a number of points raised by the respondent in previous submissions and exhibits filed in this case. The following are three major points raised in the respondent's submission:

First, the respondent claims that it never intended to violate U.S. Export Administration Regulations when it entered into negotiations with Intel over the export of the CPUs from the United States to North Korea. However, the record to date indicates otherwise. Department's February 8, 1991 Request for the Issuance of an Order Temporarily Denying Export Privileges (hereinafter "Department's Original Request") at 2-4. Second, the respondent alleges that it discontinued negotiations with Intel over the sale after discovering a legal transaction was not possible. In fact, the record to date indicates that the respondent understood the transaction in question was illegal no later than March 13, 1991. Further, it was only after three months of ongoing negotiations on the sale, during which the respondent repeatedly attempted to circumvent the law, was the transaction suspended. *See* Department's Original Request at 3-4, exhibits 1, 3, 5, 6, 7-10. Third, the respondent contends that there is no evidence that their decision to ship the CPUs to Taiwan and Singapore was anything but a "legitimate switchover of business policies." Again, the record includes evidence about the transaction in question that suggests that Taiwan and Singapore were not meant to be the ultimate end users of this equipment. I also note that any failure of the Department to prove that these transactions were designed to illegally circumvent COCOM restrictions does not undermine the Department's allegations regarding the respondent's original intent to export CPUs illegally to North Korea.

Based on the showing made by the Department and my close review of the respondent's opposition paper, I find that an order temporarily denying the export privileges of Yuzo Oshima and The Sound You Company, Ltd. is necessary in the public interest to prevent an imminent violation of the Act and Regulations and to give the notice to companies in the United States and abroad to cease dealing with Yuzo Oshima and the Sound You Company, Ltd. in goods and technical data subject to the Acts and the Regulations, in order to reduce the substantial likelihood that Yuzo Oshima and The Sound You Company, Ltd. will continue to engage in activities that are in violation of the Act and the Regulations.

Accordingly, it is hereby

Ordered

I. All outstanding individual validated licenses in which Oshima or Sound You appear or participate, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of Oshima's and Sound You's privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

II. For a period of 180 days from the date of entry of this order, Yuzo Oshima and The Sound You Company, Ltd., both with an address at Tatsuno-Nishitenma Building, 3-1-6, Nishitenma, Kitaku, Osaka, Japan, and all successors, assignees, officers, partners, representatives, agents, and employees, hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in an transaction in the United States or abroad involving any commodity or technical data exported or to be exported from the United States, in whole or in part, or that is otherwise subject to the Act and the Regulations. Without limiting the generality f the foregoing, participation, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (i) As a party or as a representative of a party to any export license application submitted to the Department; (ii) in preparing or filling with the Department any export license application or request for reexport authorization, or any document to be submitted therewith; (iii) in obtaining from the Department or using any validated or general export license or other export control document; (iv) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodity or technical data exported or to be

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exported from the United States, in whole or in part, or that is otherwise subject to the Act and the Regulations; and (v) in financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. After notice and opportunity for comment as provided in § 788.3(c), any person, firm, corporation, or business organization related to Oshima and/or Sound You by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

IV. Without prior disclosure of the facts to and specific authorization of the Office of Export Licensing, in consultation with the Office of Export Enforcement, no person may directly or indirectly, in any manner or capacity: (i) Apply for, obtain, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to an export or reexport of commodities or technical data by, to, or for another person then subject to an order revoking or denying his export privileges or then excluded from practice before the Bureau of Export Administration; or (ii) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate (a) in any transaction which may involve any commodity or technical data exported or to be exported from the United States, (b) in any reexport thereof, or (c) in any other transaction which is subject to the Export Administration Regulations, if the person denied export privileges may obtain any benefit from or have any interest in, directly or indirectly, any of these transactions.

V. In accordance with the provisions of § 788.19(e) of the Regulations, either respondent may, at any time, appeal this temporary denial order by filing with the Office of the Administrative Law Judge, U.S. Department of Commerce, room H-6716, 14th Street and Constitution Avenue, NW., Washington, DC 20230, a full written statement in support of the appeal.

VI. This order is effective immediately and shall remain in effect for 180 days.

VII. In accordance with the provisions of § 788.19(d) of the Regulations, the Department may seek renewal of this temporary denial order by filing a written request not later than 20 days before the expiration date. Either respondent may oppose a request to renew this temporary denial order by filing a written submission with the Assistant Secretary for Export Enforcement, which must be received not later than seven days before the expiration date of this order.

A copy of this order shall be served on each respondent and this order shall be published in the **Federal Register**.

Dated: February 4, 1992.

Douglas E. Lavin,

Acting Assistant Secretary for Export Enforcement,

[FR Doc. 92-3230 Filed 2-11-92; 8:45 am]

BILLING CODE 3510-DT-M

Economics and Statistics Administration

Advisory Committee of the Task Force for Designing the Year 2000 Census and Census-Related Activities for 2000-2009

AGENCY: Economics and Statistics Administration, Department of Commerce.

ACTION: Notice of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463 as amended by Pub. L. 94-409) we are giving notice of a meeting of the Advisory Committee of the Task Force for Designing the Year 2000 Census and Census-Related Activities for 2000-2009. The meeting will convene on Friday, March 6, 1992, at the Washington Court Hotel, 525 New Jersey Avenue, NW., Washington, DC 20001.

The Advisory Committee is composed of a Chairperson, twenty-five member organizations, and eight *ex officio* members, all appointed by the Secretary of Commerce. The Advisory Committee will consider the goals of the census and user needs for information provided by the census, and provide a perspective from the standpoint of the outside user community on how proposed designs for the year 2000 Census realize those goals and satisfy those needs. The Advisory Committee shall consider all aspects of the conduct of the census of population and housing for the year 2000, and shall make recommendations for improving that census.

DATES: The meeting will begin at 9:30 a.m. and adjourn at 4:30 p.m. on Friday, March 6, 1992.

ADDRESSES: The meeting will take place at the Washington Court Hotel, 525 New Jersey Avenue, NW., Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Persons wishing additional information regarding this meeting, or who wish to submit written statements or questions, may contact Thomas P. DeCair, Office of the Under Secretary, Economics and Statistics Administration, Department of Commerce, room 4838, Herbert C. Hoover Building, Washington, DC 20230. Telephone: (202) 377-3709.

SUPPLEMENTARY INFORMATION: The agenda for the meeting will include consideration of possible design features and options for the 2000 census and other items that the Chair and Advisory Committee members deem appropriate for this meeting.

The meeting is open to the public. A brief period will be set aside for public comment and questions. However, persons with extensive questions or statements for the record must submit them in writing to the Commerce Department official named below at least three working days prior to the meeting.

Dated: January 28, 1992.

Mark W. Plant,

Acting Under Secretary and Acting Administrator, Economics and Statistics Administration.

[FR Doc. 92-2542 Filed 2-11-92; 8:45 am]

BILLING CODE 3510-EA-M

International Trade Administration

[A-122-601]

Brass Sheet and Strip From Canada; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to requests by the petitioners and one respondent, the Department of Commerce has conducted an administrative review of the antidumping duty order on brass sheet and strip from Canada. The review covers Wolverine Tube (Canada) Inc. (Wolverine), a manufacturer of this merchandise, and the period January 1, 1990 through December 31, 1990, during which time Wolverine had no shipments of the subject merchandise to the United States. As a result of this review, the Department preliminarily finds that Wolverine is the successor company to Noranda Metals Inc. and, as such, should receive the antidumping duty cash deposit rate previously assigned to NMI of 21.32 percent *ad valorem*.

EFFECTIVE DATE: February 12, 1992.

FOR FURTHER INFORMATION CONTACT: Beth Chalecki, Anne D'Alauro, or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On January 17, 1991, the Department of Commerce (the Department) published in the **Federal Register** a notice of "Opportunity to Request Administrative Review" (56 FR 1793) of the antidumping duty order on brass sheet and strip from Canada (52 FR 1217; January 12, 1987) for the period January 1, 1990 through December 31, 1990. On January 31, 1991, one of the respondents, Ratcliffs/Severn Ltd., requested an administrative review of the antidumping duty order for itself, and the petitioners, American Brass, et al., requested a review of the Canadian manufacturer, Wolverine. We initiated the review on February 19, 1991 (56 FR 6621). Ratcliffs/Severn Ltd. has since been revoked from the order (56 FR 57317; November 8, 1991). The Department has now conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Review

Imports covered by this review are shipments of brass sheet and strip, other than leaded brass and tin brass, currently classifiable under Harmonized Tariff Schedule (HTS) item numbers 7409.21.00 and 7409.29.00. The chemical compositions of the products under review are currently defined in the Copper Development Association (CDA) 200 series or the Unified Numbering System (UNS) C2000 series. Products whose chemical compositions are defined by other CDA or UNS series are not covered by this review. The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

The review covers one manufacturer of this merchandise, Wolverine, and the period January 1, 1990 through December 31, 1990. The other manufacturer, Ratcliffs/Severn Ltd., which requested a review for itself on January 31, 1991, has since been revoked from this order.

Sales

Wolverine made no shipments of the subject merchandise to the United States during the period of review.

Successorship

In October 1988, Wolverine purchased the brass sheet and strip facility of Noranda Metals, Inc., (NMI). For the 1988 review period, NMI was assigned a cash deposit rate of 21.32 percent *ad valorem*. (See Final Results of Antidumping Duty Administrative Review: Brass Sheet and Strip from Canada (55 FR 31414; August 2, 1990).) Prior to acquiring the NMI plant, Wolverine was not a producer of brass sheet and strip and was never reviewed under this order.

For purposes of assigning Wolverine a cash deposit rate, the Department is concerned with the consequences of the acquisition of the NMI plant in the proper administration of the antidumping laws. (See Final Results of Antidumping Duty Administrative Review of Brass Sheet and Strip from Canada and Revocation In Part of Antidumping Duty Order (56 FR 57318; November 8, 1991) (hereinafter Brass Sheet and Strip Final Results); see also *NIEL* v. *United States*, 739 F. Supp. 1567, 1574 (CIT 1990).) In this review, we have examined whether Wolverine is the successor company to NMI in the production and sale of brass sheet and strip and, as such, should receive NMI's cash deposit rate, rather than the "all other" rate which would otherwise be assigned to a company never reviewed under this order.

In determining whether a company is the successor company pursuant to an acquisition, the Department takes into account a number of factors, such as, but not limited to, changes in management, production facilities, suppliers, and customer base. (See, e.g., Brass Sheet and Strip Final Results, at 57318–19; Steel Wire Strand for Prestressed Concrete from Japan; Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review (55 FR 7759, 7759–60; March 5, 1990); Large Power Transformers from Italy: Final Results of Antidumping Duty Administrative Review (52 FR 46806, 46810; December 10, 1987).)

Generally, the Department will consider the acquiring company to be a successor if its resulting operation is essentially similar to that of its predecessor. (See id.) Thus, unless the company demonstrates that it operates as a substantially different business entity from the one it acquired, the Department will assign it the cash deposit rate of its predecessor, which will remain in effect until completion of an administrative review of its own U.S. sales transactions.

The record in this review indicates that Wolverine acquired NMI's entire business complex, inclusive of physical plant, equipment, and personnel; that production continued virtually uninterrupted since the time of the acquisition; that Wolverine continued to supply essentially the same customer base it acquired from NMI (except for U.S. customers); and that the majority of the managers operating the plant under NMI continued to perform the same functions under Wolverine's ownership. Under these circumstances, the Department finds that, concerning production and sales of brass sheet and strip, Wolverine is operating essentially as the same business entity as NMI, and, therefore, for antidumping duty cash deposit purposes, should receive the rate assigned to NMI.

Preliminary Results of the Review

We preliminarily conclude that, for purposes of establishing Wolverine's antidumping duty cash deposit rate, Wolverine is the successor to NMI, and is, therefore, assigned the 21.32 percent *ad valorem* antidumping duty cash deposit rate previously assigned to NMI.

Parties to the proceeding may request disclosure and interested parties may request a hearing not later than ten days after publication of this notice. Interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted seven days after the time limit for filing the case brief. Any hearing, if requested, will be held seven days after the scheduled date for submission of rebuttal briefs, or the first workday thereafter. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 353.38(e). Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs are due. The Department will publish the final results of the administrative review including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

Furthermore, the following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise from Canada entered, or withdrawn from warehouse, for consumption on or after the publication date (with the exception of those by manufacturer/exporter Ratcliffs/Severn Limited, which has been revoked from the order), as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for Wolverine will be that established in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in previous reviews or the initial less-than-fair value investigation, the cash deposit rate will continue to be the company-specific rate published in the final determination covering the most recent period; (3) if the exporter is not a firm covered in this review, previous reviews, or the original investigation, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in the final results of this review, or if not covered in this review, the most recent review period or the original investigation; and (4) the cash deposit rate for any future entries from all other manufacturers or exporters who are not covered in this or prior administrative reviews, and who are unrelated to Wolverine or any other previously reviewed firm, will be the "all others" rate of zero established in the final results of the last administrative review. (See Brass Sheet and Strip Final Results.)

We are relying on the final results of the last administrative review for purposes of the "all others" rate since the sole company in this review, Wolverine, had no shipments. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Act, as amended (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: February 6, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-3386 Filed 2-11-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-429-601]

Solid Urea From the German Democratic Republic; Initiation of Changed Circumstances Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of initiation of changed circumstances antidumping duty administrative review.

SUMMARY: On October 3, 1990 the German Democratic Republic and the Federal Republic of Germany were unified into a single jurisdiction of the Federal Republic of Germany. We are initiating a changed circumstances review to examine the effect of unification on the antidumping duty order from the German Democratic Republic, specifically its applicability to post unification shipments of the subject merchandise from producers located in the pre-unification area of the Federal Republic.

EFFECTIVE DATE: February 12, 1992.

FOR FURTHER INFORMATION CONTACT: Dennis U. Askey or Melissa G. Skinner, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-4851.

SUPPLEMENTARY INFORMATION:

Background

On July 14, 1987, the Department of Commerce (Department) published in the **Federal Register** (53 FR 2636) an antidumping duty order on solid urea from the German Democratic Republic (GDR), establishing a cash deposit rate of 44.80 percent. On October 3, 1990, the GDR and the Federal Republic of Germany were unified into a single jurisdiction of the Federal Republic of Germany (FRG). On October 10, 1990, the Department issued a new case number designation for the antidumping duty order on solid urea from the GDR and instructed the U.S. Customs Service to suspend liquidation of all entries of solid urea from the FRG. U.S. Customs officials were also instructed to collect cash deposits on manufacturers located in what was the German Democratic Republic and to not collect cash deposits from any company located in what was the pre-unification territory of the FRG.

There have been shipments of solid urea since the date of unification from companies located in the pre-unification territory of the FRG. The Department is initiating this review to determine whether the order on solid urea from the GDR is applicable to shipments by producers located in the pre-unification territory of the FRG. If we determine that the order is applicable, we will also determine what cash deposit, if any, is applicable to these shipments.

The unification of the GDR and the FRG are changed circumstances sufficient to warrant a changed circumstances antidumping duty administrative review on solid urea from the GDR, pursuant to 19 CFR 353.22(f).

We are hereby notifying the public of our intent to initiate a changed circumstances antidumping duty administrative review on solid urea from the GDR. We are also inviting interested parties to comment on the above and on any other relevant issue(s) which are associated with the foregoing.

This notice is published in accordance with section 751b of the Tariff Act of 1930, 19 U.S.C. 1673(e) and 19 CFR 353.22(f).

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-3387 Filed 2-11-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-401-603]

Stainless Steel Hollow Products From Sweden; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request by respondents Sandvik AB, AB Sandvik Steel, and Sandvik Steel Co., the Department of Commerce has conducted an administrative review of the antidumping duty order on stainless steel hollow products from Sweden. The review covers one manufacturer/exporter of this merchandise to the United States, and the period December 1, 1989, through November 30, 1990. The review indicates the existence of a dumping margin for the respondent during the administrative review period.

As a result of the review, the Department has preliminarily determined to assess dumping duties equal to the calculated differences between United States prices and foreign market values.

Interested parties are invited to comment on these preliminary results of review.

EFFECTIVE DATE: February 12, 1992.

FOR FURTHER INFORMATION CONTACT: Fred Baker or Robert Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC, 20230; telephone (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On December 12, 1990, the Department of Commerce (the Department) published a notice of "Opportunity to Request an Administrative Review" (55 FR 51139) of the antidumping duty order on stainless steel hollow products from Sweden (52 FR 45985; December 3, 1987). On December 18, 1990, respondents Sandvik AB, AB Sandvik Steel, and Sandvik Steel Co. (collectively "Sandvik") requested a review of the antidumping duty order. We initiated the review, covering the period December 1, 1989, through November 30, 1990, on January 30, 1991 (56 FR 3445). The Department has now conducted this review in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act). The final determination of sales at less than fair value was published on October 9, 1987 (52 FR 37810), and amended on December 3, 1987 (52 FR 45985).

The Department verified the sales questionnaire response of Sandvik Steel Co., in Scranton, Pennsylvania on October 22–24, 1991, and the cost questionnaire response on October 21–23, 1991. The Department verified the sales questionnaire response of Sandvik GmbH in Dusseldorf, Germany on October 29–31, 1991, and the sales questionnaire response of AB Sandvik Steel in Sandviken, Sweden on November 4–6, 1991. The Department verified the cost questionnaire response of AB Sandvik Steel in Sandviken, Sweden on November 4–8, 1991.

Scope of the Review

The merchandise covered by this review is seamless stainless steel hollow products including pipes, tubes, hollow bars, and blanks of circular cross section, containing over 11.5 percent chromium by weight. This merchandise is currently classified under subheadings 7304.41.00 and 7304.49.00 of the Harmonized Tariff System (HTS).

The HTS numbers are provided for convenience and Customs purposes. The written description remains dispositive.

United States Price

In calculating United States price, the Department used purchase price (PP) or exporter's sales price (ESP), both as defined in section 772 of the Tariff Act of 1930, as amended (the Act). PP and ESP were based on the packed, delivered prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, inland insurance, ocean or air freight, marine insurance, brokerage and handling, import duty, repacking, all U.S. freight and insurance, rebates, royalties, warranties, credit, and selling expenses. We also deducted indirect selling expenses, which included Sandvik's reported indirect selling expenses, plus product liability insurance, inventory carrying costs, and commissions. We allowed deductions, where appropriate, for discounts. (All reported unit prices were net of discounts).

In addition to the aforementioned deductions, we deducted value added in the United States pursuant to section 772(e)(3) of the Act for sales involving further manufacture in the U.S. (The Department considered all such sales to be ESP sales.) The value added consists of the production costs incurred in converting an imported redraw hollow into a finished pipe or tube, the expenses incurred in the sale of the finished pipe or tube, and a proportional amount of profit or loss related to the value added. We calculated profit or loss by deducting from the sales price of the finished pipe or tube:

1. The production cost of the redraw hollow;
2. The finishing costs in the U.S.; and
3. All expenses incurred in transporting the redraw hollow into the United States.

We then allocated proportionately the total profit or loss to the imported redraw hollow and the finished pipe or tube based on the proportion of the total cost of production accounted for by the production cost of the redraw hollow and the further manufacturing cost, respectively. We deducted only the profit or loss attributable to the U.S. value added.

We have determined that further manufacturing costs included: (1) The cost of manufacture (labor and overhead cost; there is no material cost since the pipe or tube is made from the imported redraw hollow); (2) movement charges; and (3) general expenses, including selling, general, and administrative expenses. We adjusted the manufacturing costs submitted by Sandvik as follows:

(1) Factory overhead was revised to reflect year-end adjustments;

(2) General and administrative costs were revised to include the U.S. holding company expenses, and allocated based on cost of sales rather than sales value; and

(3) Interest expense was revised by basing it on consolidated financial statements.

Foreign Market Value

In order to determine whether there were sufficient sales of SSHP in the home market to serve as a basis for calculating foreign market value (FMV), we compared the volume of home market sales to the aggregate volume of third country sales, in accordance with section 773(a)(1) of the Act. We have determined that there are three such or similar categories: (1) Pipes and tubes; (2) redraw hollows; and (3) hollow bars. During this review period, Sandvik sold only pipes and tubes in the U.S. It also imported redraw hollows for further manufacture. The volume of home market sales was less than five percent of the aggregate volume of third country sales. Therefore, we based FMV for sales of pipes and tubes and redraw hollows on third country sales. See 19 CFR 353.48.

In selecting the appropriate third country market to use for comparison purposes, we first determined which third country markets had "adequate" volumes of sales within the meaning of 19 CFR 353.49(b)(1). We determined that the volume of sales to a third country market was adequate if the sales of such or similar merchandise exceeded or were equal to five percent of the volume sold in the United States. We selected the third country market with the largest volume of sales, and whose organization and development is most like that of the U.S., as the most appropriate market for comparison, in accordance with 19 CFR 353.49(b)(2) and 19 CFR 353.49(b)(3). Therefore, for sales of both pipe and tubes and redraw hollows, we based FMV on Sandvik's sales to Germany.

In this review, petitioners alleged that Sandvik sold pipes and tubes and redraw hollows in the German market below their cost of production. Based on the evidence presented in petitioner's allegations, the Department initiated COP investigations on this merchandise.

We based the cost of production on the cost data supplied by Sandvik, and the findings obtained at the cost verifications held in Scranton, Pennsylvania, and in Sandviken, Sweden. Sandvik adjusted its cost data to conform with generally accepted accounting principles (GAAP) used in the United States. The company's cost records are based on Swedish GAAP, while its financial statement conforms to U.S. GAAP. Under Swedish GAAP, production costs must include imputed interest, and depreciation must be based on replacement cost. Sandvik adjusted its cost data by replacing imputed interest with actual interest expenses and by substituting depreciation based on replacement costs with historical depreciation costs. In addition, the Department made the following changes to Sandvik's cost data:

(1) It based the cost of manufacturing on the variable costs Sandvik submitted in the difference in merchandise section of its questionnaire response, but increased them to account for fixed overhead.

(2) The calculated variances were revised to reflect the average standard cost rather than the average sales price.

(3) G & A costs were revised to reflect costs incurred by the steel subsidiaries and parent company which were not reflected in the questionnaire response. Furthermore, G & A costs were allocated based on a cost of sales amount which was reflected in the financial statements.

The results of our cost test showed that more than ten percent but less than ninety percent of German sales were below the cost of production. Thus, we dropped out of our dumping margin calculations all German sales below the cost of production. Where there were no identical German models to use for comparison to a U.S. sale, we looked for a similar model, making an appropriate difference in merchandise adjustment. Where there were no similar German models to use for comparison to a U.S. sale of a particular model, we calculated the dumping margin by use of that model's U.S. constructed value. For U.S. sales for which no constructed value information was available, the Department used the mean margin of all sales as the best information available.

We calculated FMV based on the C.I.F. and delivered prices to unrelated customers in Germany. We made deductions, where appropriate, for inland freight from Sweden to Germany, inland insurance, brokerage and handling, German inland freight to the customer, repacking expenses in Germany, royalties, selling expenses, and rebates. We also allowed deductions for discounts. (Sandvik reported the German prices net of discounts). We deducted Swedish packing from the third country price and added U.S. packing to the third country price, in accordance with section 773(a)(1) of the Act. For ESP sales, we deducted credit from both U.S. and third country price. For PP sales we made a circumstance of sale adjustment in accordance with 19 CFR 353.56(a)(2) by deducting credit from the third country price, and adding U.S. credit to the third country price.

For ESP sales and sales involving U.S. manufacturing, we adjusted third country prices for indirect selling expenses, which included Sandvik's reported indirect selling expenses, plus the cost of product liability insurance and inventory carrying expenses. We capped the deduction for third country indirect selling expenses by the amount of indirect selling expenses incurred in the U.S. market, in accordance with 19 CFR 353.56(b)(2). We made further adjustments to third country prices to account for differences in the physical characteristics of the merchandise, in accordance with section 773(a)(4)(c) of the Act.

We denied Sandvik's claimed adjustment for warranty expenses because Sandvik included more than just warranty expenses in its adjustment. In a supplemental questionnaire, the Department requested that Sandvik break out the warranty expenses from the non-warranty expenses, but Sandvik declined to do so because of the time it would take.

Sandvik claims that in accordance with 19 CFR 353.55 the Department should, wherever possible, compare U.S. sales to German sales of the same quantity range, and that wherever this is not possible the Department should make a quantity discount adjustment. To support its claim, Sandvik submitted its sales price list for ex-stock sales. These lists have the form of a "quantity extra" schedule, i.e., a pricing scheme in which progressively smaller quantities are charged a progressively larger unit price. Along with these price lists, Sandvik submitted the average mark-up for each quantity bracket smaller than the base (largest) quantity bracket. Sandvik requested that the quantity adjustment be based on these mark-ups.

The Department has determined that the evidence on the record does not justify either comparing only similar quantities or making a quantity discount adjustment. In reviewing Sandvik's sales prices, the Department has found numerous listings of sales from different quantity brackets of the same model, channel of distribution, and level of trade for which the sale from the higher quantity bracket has a higher unit price than the sale from the smaller quantity bracket. Such sales are inconsistent with Sandvik's quantity extra schedule. Therefore, in calculating these preliminary results, we have not compared U.S. sales only with German sales of the same quantity, nor have we made a quantity discount adjustment.

In both Germany and the U.S. market, Sandvik sells the subject merchandise out of inventory (ex-stock sales) or produces to order and ships directly from the production site to the customer (ex-mill sales). Sandvik argues that, whenever possible, the Department should compare sales made through the same channel of distribution, and when not possible, it should make a "warehouse mark-up" adjustment to reflect the higher costs of selling products ex-stock. Sandvik claims that the costs include carrying inventory, running and maintaining the Dusseldorf warehouse, and additional customer services such as cutting tube to length. However, Sandvik makes its adjustment claim based on the difference in average price between a mix of 32 identical models sold both ex-stock and ex-mill in Germany.

It is the Department's practice to make circumstance of sale adjustments based on cost, not price. See, e.g., Portable Electric Typewriters from Japan, Final Results of Antidumping Duty Administrative Review, 52 FR 1504, 1511 (Jan. 14, 1987). 19 CFR 353.56(a)(2) provides: "Differences in circumstances of sales for which the Secretary will make reasonable allowances normally are those involving differences in commissions, credit terms, guarantees, warranties, technical assistance, and servicing." These difference are all based on actual costs. The Department normally will not accept differences in prices as a basis for adjustment because prices can be influenced by factors not related to the differences in circumstances of sale, such as shifts in demand and pricing strategy. In this case, the cost differences that would be accounted for in any such adjustment are already reflected in the indirect selling expense adjustment. Thus, there is no need to compare ex-stock sales to ex-stock sales, or ex-mill sales to ex-mill sales, nor to make a "warehouse mark-up" adjustment.

Sandvik claims that during the review period it imposed an alloy surcharge on most of its sales in Germany. This alloy surcharge was used to offset the fluctuating price of nickel and ferrochrome, two inputs in the production of the subject merchandise. The alloy surcharge applied to each sale was the surcharge in place at the time of shipment to the customer. Sandvik argues that the Department should make an adjustment for the alloy surcharge as a difference in merchandise adjustment under 19 CFR 353.57, even when comparing identical merchandise. In the alternative, they state that the Department should make the adjustment as a circumstances of sale adjustment under 19 CFR 353.56.

Under 19 CFR 353.57, the Department is not allowed to make adjustments for differences in the cost of production when comparing merchandise with identical physical characteristics. Furthermore, with respect to the adjustment as a circumstance of sale adjustment, the Department stated in Brass Sheet and Strip from Germany, Final Results of Antidumping Duty Administrative Review, 56 FR 60087, 60089 (Nov. 27, 1991), "(c)ircumstances of sale adjustments are normally only allowed for differences in selling expenses being compared, not differences in raw material costs, and would therefore be inappropriate in this case." For this same reason, we have disallowed Sandvik's claimed adjustment for the alloy surcharge.

Furthermore, Sandvik reported in its sales prices the alloy surcharge in effect on the date of sale, rather than the alloy surcharge actually billed to the customer on the date of invoice. We have asked

Sandvik to supply us with the actual surcharge billed to the customer. For these preliminary results, we have used as the best information available (BIA) the highest surcharge charged on any sale during the period of review.

Sandvik made a claim for a level of trade adjustment on sales in Germany under 19 CFR 353.58. We disallowed this claimed adjustment because Sandvik did not demonstrate that it incurred different indirect selling expenses on sales to different levels of trade in the German market. However, as is our established practice, we compared, where possible, distributor sales in the United States to distributor sales in Germany, and end-user sales in the United States to end-user sales in Germany.

Preliminary Results of Review

As a result of our review, we preliminarily determine that a margin of 6.89 percent exists for Sandvik AB for the period December 1, 1989, through November 30, 1990. Interested parties may request disclosure and/or an administrative protective order within five days of the date of publication of this notice and may request a hearing within eight days of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first workday thereafter. Pre-hearing briefs and/or written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 37 days after the date of publication. The Department will publish the final results of administrative review, including an analysis of issues raised in any written comments or at the hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of stainless steel hollow products from Sweden entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for Sandvik AB will be that established in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in previous reviews or the final determination in the original less-than-fair-value investigation, the cash deposit rate will continue to be the rate published in the most recent final results or determination for which the manufacturer or exporter received a company-specific rate; (3) if the exporter is not a firm covered in this or prior reviews or the original investigation, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in the final results of this review or the most recent review for which it received a rate, or, if not covered in this or an earlier review, the rate from the less than fair value investigation; and (4) the cash deposit rate for any future entries from all other manufacturers or exporters who are not covered in this or prior administrative reviews and who are unrelated to the reviewed firm or any previously reviewed firm, will be 6.89 percent. This is the most recent non-BIA rate for any firm in this proceeding.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review. This administrative review and notice are in accordance with section 751(a)(1) of the Act and section 353.22(c)(5) of the Department's regulations.

Dated: February 6, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-3388 Filed 2-11-92; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of issuance of an Export Trade Certificate of Review (Application No. 91-00007).

SUMMARY: The Department of Commerce has issued an Export Trade Certificate of Review to the National Association of Energy Service Companies ("NAESCO"). This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: George Muller, Director, Office of Export Trading Company Affairs, International Trade Administration, 202-377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("the Act") (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificate of Review. The regulations implementing title III are found at 15 CFR part 325 (1990) (50 FR 1804, January 11, 1985).

The Office of Export Trade Trading Company Affairs is issuing this notice pursuant to 15 CFR part 325.6(b), which requires the Department of Commerce to publish a summary of a certificate in the **Federal Register** under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct:

Export Trade

1. Products

Equipment instrumentation and supplies for: (1) Auditing and Measuring energy use in residential, commercial, industrial, and government facilities, including (a) meters for measuring foot candle and kWh, (b) auditing machines (for example bar code); (2) installing, maintaining and monitoring energy management systems (EMS) in order to conserve energy through more efficient control of lighting, refrigeration, heating, ventilation, air conditioning, electric motors, and thermal energy storage systems, including master control units, remote terminal units, current transducers, computer hardware for EMS (for example user interfaces, modems), computer software for EMS; (3) using energy management systems to measure the savings that are achieved as a result of the installation of energy conservation measures, including metering equipment, and submetering equipment; (4) lighting systems and the equipment used for the installation, maintenance and monitoring of lighting systems, including high efficiency bulbs (incandescent, fluorescent, high pressure sodium and metal halide), screw-in fluorescent or compact fluorescent bulbs and lamps, high efficiency fluorescent exit signs, natural light prisms, wiring, wiring connections for lighting, lighting dusters; (5) energy efficient modifications for refrigeration systems (commercial and industrial), including liquid line condensers, liquid pressure amplifiers, compressors; (6) equipment used to modify heating, ventilation and air conditioning (HVAC) systems including energy management systems (EMS) (for example, to control chillers, heat pumps, furnaces, boilers, fans and thermostates), ductwork, air handling units, variable frequency drivers, fans, diffusers; (7) installing, maintaining, and monitoring efficient electric motors for commercial and industrial uses, such as air handling system's components, compressors/chillers, machine tools, blowers and fans, including variable speed drives (mechanical and electronic), high efficiency electric motors; (8) installing weatherization and insulation measures in residential, commercial, industrial and government facilities, including wall, ceiling, and attic insulation (for example cellulose and fiberglass), water heater blankets and boiler insulation, rubber, sponge rubber, metal, and wood weather stripping, maintaining, monitoring and measuring the energy consumption of Thermal Energy Storage (TES) systems, including cooling plants, cooling tower storage tanks, ice harvesters, heat exchangers, condenser pumps, chilled water pumps, ductwork, air handling units, VAV boxes, fans, diffusers, variable frequency drives, U heaters; (10) general and technical energy service information and publications; and (11) all other products related to energy service development and production.

2. Services

Engineering design, and other services related to: (1) identification, conceptual prefeasibility, and feasibility assessment of residential, commercial, and industrial conservation programs for home owners, businesses, companies, utilities, or foreign governmental entities; (2) engineering studies, final design, and installation of energy conservation measures and programs; (3) project and construction management of energy conservation measure installations; (4) arranging or offering financing for investments in energy conservation measures, including lease, municipal lease, loan shared savings arrangements, chauffage, guaranteed lease, third party financing; (5) proving bonded performance guarantees that guarantee a certain level of energy savings as a result of the installation of energy service and conservation measures; (6) marketing energy conservation services to residential, commercial, industrial, and foreign government customers; (7) providing ongoing monitoring and maintenance of energy service and conservation equipment installation; (8) measuring the savings that are achieved as a result of the installation of energy conservation measures; (9) servicing, training, and other services related to the sale, use, installations, maintenance monitoring, rehabilitation or upgrading of Products or to projects that substantially incorporate Products; and (10) all other products related to energy service development.

3. Technology Rights

Patents, trademarks, service marks, trade names, copyrights, trade secrets, technical expertise, utility models, hydrologic and hydraulic physical and computer modeling, industrial designs and computer software protection associated with Products, Services, or Export Facilitation Services.

4. Export Trade Facilitation Services (As They Relate to the Export of Products, Services and Technology Rights

Consulting, such as product manufacture, engineering and construction; international market research; marketing and trade promotion; trade show participation; trade missions and reverse trade missions; financing for projects or support services; legal assistance; accounting assistance; services related to compliance with customs requirements, transportation, trade documentation and freight forwarding; communication and processing of export orders and sales leads; warehousing; foreign exchange; financing; government policy formulation; taking title to goods and liaison with foreign and domestic government and multinational agencies, trade associations and banking institutions.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Members (in Addition to Applicant)

CES/Way International, Inc. of Houston, TX; Energy Investment, Inc. of Boston, MA; Kenetech Energy Management of Burlington, MA; Northeast Energy Services, Inc. of Framingham, MA; SYCOM Enterprises of Washington, DC.

Export Trade Activities and Methods of Operation

To engage in Export Trade in the Export Markets, NAESCO and/or one or more of its Members may undertake the following activities:

1. Engage in joint selling arrangements in export market countries for the sale of Products and/or Services in the Export Markets, such as joint marketing negotiation, offering, bidding and financing; and allocate sales resulting from such arrangements.

2. Establish export prices for sales of Products and/or Services by the Members in the Export Markets.

3. Discuss and agree on interface specifications, engineering and other technical Products and/or Services of specific export customers or Export Markets.

4. Refuse to quote prices for, or to market or sell, Products and Services in the Export Markets.

5. Solicit non-Member Suppliers from the United States and abroad (a) to sell their Products and/or Services, or (b) to offer their Export Trade Facilitation Services through the certified activities of NAESCO and/or the Members.

6. Coordinate with respect to the development of projects in Export Markets, such as project identification, scientific and technical assessment, engineering, design, maintenance, monitoring, construction and delivery, installation and construction, project ownership, project operation and transfer of project ownership; establish joint warranty service centers establishing operation and maintenance services for energy service facilities, parts warehousing, training centers and support services related to the foregoing.

7. Engage in joint promotional activities aimed at developing existing or new Export Markets, such as advertising, demonstrating, field trips, trade missions, reverse trade missions and conferences; and bring together, from time to time, groups of Members to plan and discuss how to fulfill the technical Product and Service requirements of specific export customers or particular Export Markets.

8. Establish and operate joint ventures and/or jointly owned entities, such as for-profit corporations and partnerships and/or other joint venture entities owned exclusively by Members, for the purpose of engaging in the Export Trade Activities and Methods of Operation herein described. NAESCO and/or one or more of its Members may establish and operate joint ventures for operations and projects in Foreign Markets with non-Members, including (a) public sector foreign corporations and other foreign governmental entities, and/or (b) private-sector foreign entities such as corporations. Non-Members engaging in such activities shall not receive protection under this Certificate of Review.

9. Provide Export Trade Facilitation Services as an exclusive or non-exclusive Export Intermediary for the Members whereby NAESCO and/or one or more of the Members may:

a. arrange to have NAESCO and/or one or more of the Members and/or non-members to act as an exclusive or non-exclusive Export Intermediary for the Members;

b. establish an entity owned jointly and exclusively by Members to act as an exclusive or non-exclusive Export Intermediary for the Members;

c. enter into exclusive arrangements with an Export Intermediary, which arrangement may provide that such Export Intermediary may not represent any non-Member Supplier of Products and/or Services in specified Export Markets; and Members may agree that they will not export independently into specified Export Markets either directly or through any other Export Intermediary or other party; and

d. act as an Export Intermediary negotiating and concluding licenses and sublicenses of Technology Rights which are consistent with paragraph 16, below.

10. Agree that any information obtained pursuant to this Certificate shall not be provided to any non-Member.

11. Act as a shippers association to negotiate favorable transportation rates and other terms for the transport of Products, with individual ocean common carriers and individual shipping conferences.

12. Jointly establish and/or negotiate with purchasers regarding specifications for Products and/or Services, on a country-by-country basis for the Export Markets.

13. Exchange and discuss the following types of information about Export Trade, Export Markets, Export Trade Activities and Methods of Operation, and the agreements related thereto:

a. information (other than information about Technology Rights, costs, output, capacity, inventories, domestic prices, domestic sales, domestic orders, terms of domestic marketing or sale or United States business plans, strategies or methods) that is already generally available to the trade or public;

b. information about sales, marketing, and opportunities for sales of Products and/or Services in the Export Markets; selling strategies for the Export Markets; prices and pricing; projected demands (quality and quantity); customary terms of sale; the types of Products and/or Services available from competitors for sales; market strengths and economic business conditions in the Export Markets;

c. information about the export prices, quality, quantity, sources, available capacity to produce, and delivery dates of Products available from Members for export;

d. information about terms and conditions of contracts for sales in the Export Markets to be considered and/or bid on by NAESCO and the Members;

e. information about joint bidding, selling, or servicing arrangements for the Export Markets and allocation of sales resulting from such arrangements among the Members;

f. information about expenses specific to exporting Products and Services to the Export Markets, such as expenses related to transportation, intermodal shipments, insurance, inland freight to port, port shortage, commissions, export sales documentation, financing, customs, duties, and taxes;

g. information about U.S. and foreign legislation, regulations and policies and executive actions affecting the sales of Products and/or Services in the Export Markets, such as U.S. Federal and State programs affecting the sale of Products and/or Services in the Export Markets or foreign policies which could affect the sale of Products and/or Services; and

h. information about NAESCO's or the Members' export operations, including without limitation, sales and distribution networks established by NAESCO or the Members in the Export Markets, and prior export sales by Members, such as export price information;

i. information necessary to the conduct of Export Trade, Export Trade Activities and Methods of Operation in the Export Markets; and

j. information on the organization, governance, financial condition and membership of NAESCO.

14. Forward inquiries to the appropriate individual Members concerning requests for information received from a foreign government or its agent, such as that Member's domestic and export activities, including prices and/or costs. If such Member elects to respond, that Member may respond directly to the requesting foreign government or its agent with respect to such information. Information relating to the domestic prices and/or costs of an individual Member may be relayed only by such Member directly to the requesting foreign government or its agent.

15. Forward inquiries such as inquiries about foreign policy related to privatization or rural electrification, to a foreign government or its agent; and responses to such inquiries from a foreign government or its agent to the appropriate Member(s).

16. Individually license and sub-license Technology Rights in the Export Markets to non-Members. Such licenses and sub-licenses may:

a. convey exclusive or non-exclusive rights in the Export Markets;

b. impose requirements as to the prices at which Products and/or Services incorporating or manufactured, or produced, using Technology Rights may be sold or leased in the Export Markets;

c. impose requirements as to pricing and other terms and conditions of sub-licenses of Technology Rights in the Export Markets;

d. restrict licensees and sub-licensees as to the field of use, or maximum sales or operations, in the Export Markets;

e. impose territorial restrictions relating to any Export Market on foreign licensees and sub-licensees;

f. require the assignment back or exclusive or non-exclusive grant back to the licensor Member of rights in the Export Market to all improvements in Technology Rights, whether or not such improvement falls within the field of use authorized in such license;

g. require package licensing of Technology rights; and

h. require products and or services (including but not limited to Products and/or Services) to be used, sold, or leased as a condition of the license of Technology Rights.

17. Refuse to provide Export Trade Facilitation Services or participation in Export Trade, Export Trade Activities and Methods of Operation to non-Members.

18. Individually purchase Products and/or Services for export to the Export Markets.

19. Enter into agreements whereby one or more Members, or an entity owned jointly and exclusively by Members, will provide transportation services to Members, such as the chartering and space chartering of vessels, the negotiation and utilization of intermodal rates with common and contract carriers for inland freight transportation for export shipments to the United States export terminal, port or gateway.

20. Meet to engage in the Export Trade, Export Trade Activities and Methods of Operation certified herein.

A copy of this certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Dated: February 6, 1992.

George Muller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 92–3304 Filed 2–11–92; 8:45 am]

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University of California, Riverside, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Material Importation Act of 1966 (Public Law 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 91–115. *Applicant:* University of California, Riverside, Riverside, CA 92521. *Instrument:* Chlorophyll Fluorescence Measuring System. *Manufacturer:* Heinz Walz GmbH, Germany. *Intended Use:* See notice at 56 FR 41120, August 19, 1991. *Reasons:* The foreign instrument provides 10.0 μs resolution for pulse modulated time-resolved chlorophyll fluorescence measurements. *Advice Submitted by:* National Institutes of Health, December 18, 1991.

Docket Number: 91–116. *Applicant:* Research Foundation for Mental Hygiene at New York State Psychiatric Institute, New York, NY 10032. *Instrument:* Ultrasound Signal Processor. *Manufacturer:* Ultra Sound Advice, United Kingdom. *Intended Use;* See notice at 56 FR 41121, August 19, 1991. *Reasons:* The foreign instrument provides digital frequency conversion of ultrasonic animal calls (20 to 40 kHz) so that they may be recorded and analyzed by conventional acoustic techniques used for the audible frequency range. *Advice Submitted By:* National Institutes of Health, December 18, 1991.

Docket Number: 91-128. *Applicant:* Rutgers University, New Brunswick, NJ 08903. *Instrument:* Micromanipulators. *Manufacturer:* Narishige Scientific, Japan. *Intended Use:* See notice at 56 FR 47187, September 18, 1991. *Reasons:* The foreign instrument provides low viscosity hydraulic control for isolation from vibrational or electrical interference. *Advice Submitted By:* National Institutes of Health, January 14, 1992.

Docket Number: 91–133. *Applicant:* Emory University, Atlanta, GA 30322. *Instrument:* Microvolume Stopped-Flow Spectrofluorimeter. *Manufacturer:* Hi-Tech, United Kingdom. *Intended Use:* See notice at 56 FR 50095, October 3, 1991. *Reasons:* The foreign instrument provides: Small sample (80–100 μl) capability, (2) dead time of 1.55 ms, (3) low (-20°C) temperature operation and (4) anaerobic operation. *Advice Submitted By:* National Institutes of Health, January 14, 1992.

Docket Number: 91–137. *Applicant:* University of Nebraska-Lincoln, Lincoln, NE 68583–0718. *Instrument:* Stopped Flow Spectrophotometer. *Manufacturer:* Applied Photophysics Ltd., United Kingdom. *Intended Use:* See notice at 56 FR 50861, October 9, 1991. *Reasons:* The foreign instrument provides: (1) 80 spectra per millisecond, (2) microliter sample volume and (3) anaerobic operation. *Advice Submitted By:* National Institutes of Health, January 14, 1992.

Docket Number: 91–139. *Applicant:* University of Minnesota, Minneapolis, MN 55455. *Instrument:* (2) Multimicroelectrode Manipulators. *Manufacturer:* Thomas Recording, Germany. *Intended Use:* See notice at 56 FR 50861, October 9, 1991. *Reasons:* The foreign instrument provides individual drive of seven fiber electrodes, each in 2 μm steps. *Advice Submitted By:* National Institutes of Health, January 14, 1992.

Docket Number: 91–141. *Applicant:* University of Minnesota, Minneapolis, MN 55455. *Instrument:* Solid State Video Camera, MS–4030 and Desk Top Illuminator, Model NL2. *Manufacturer:* Northern Lights Incorporated, Canada. *Intended Use:* See notice at 56 FR 51880, October 16, 1991. *Reasons:* The foreign instrument provides: (1) Freedom from flicker, (2) precise control of intensity, (3) constant light output and (4) a compatible CCD camera for *in vivo* videography. *Advice Submitted By:* National Institutes of Health, January 14, 1992.

Docket Number: 91–165. *Applicant:* University of Houston-University Park, Houston, TX 77204–5383. *Instrument:* ALV–5000 Multiple-Tau Digital Correlator and ALV–25 Goniometer. *Manufacturer:* ALV-Laser Vertriebs GmbH, Germany. *Intended Use:* See notice at 56 FR 64244, December 9, 1991. *Reasons:* The foreign instrument provides 256 digital real time correlation channels with fixed grid sampling time (multiple tau sampling) and logarithmic expansion of sampling time ranging from 0.1 μs up to several seconds. *Advice Received By:* National Institutes of Standards and Technology, January 17, 1992.

The National Institutes of Health and National Institute of Standards and Technology advise that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 92–3389 Filed 2–11–92; 8:45 am]

BILLING CODE 3510-DS-M

University of Washington, et al.; Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 91–153. *Applicant:* University of Washington, Seattle, WA 98195. *Instrument:* Electron Microscope, Model JEM–1200EXII/SEG/DP/DP. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 56 FR 56409, November 4, 1991. *Order Date:* August 20, 1991.

Docket Number: 91–164. *Applicant:* Henrietta Egleston Children's Hospital, Atlanta, GA 30322–1101. *Instrument:* Electron Microscope, Model EM 900. *Manufacturer:* Carl Zeiss, Inc., Germany. *Intended Use:* See notice at 56 FR 60972, November 29, 1991. *Order Date:* August 28, 1991.

Docket Number: 91–173. *Applicant:* Laboratory of Cellular Biology—NIDCD, NIH, Bethesda, MD 20892. *Instrument:* Electron Microscope, Model CEM 902. *Manufacturer:* Carl Zeiss, Germany. *Intended Use:* See notice at 57 FR 399, January 6, 1992. *Order Date:* September 27, 1991.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered. *Reasons:* Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States either at the time of order of each instrument or at the time of receipt of application by the U.S. Customs Service.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 92-3390 Filed 2-11-92; 8:45 am]

BILLING CODE 3510-DS-M

Minority Business Development Agency

Business Development Center Applications: Seattle, WA

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625, the Minority Business Development Agency (MBDA) is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for approximately a 3-year period, subject to Agency priorities, recipient performance, and the availability of funds. The cost of performance for the first budget period (12 months) is estimated at $193,473 in Federal funds and a minimum of $34,142 in non-Federal (cost sharing) contributions. The Federal share consist of a base amount of $184,260 and a $9,213 allowance for an audit fee. Cost-Sharing contributions may be in the form of cash contributions, client fees, in-kind contributions or combinations thereof. The period of performance will be from July 1, 1992 to June 30, 1993. The MBDC will operate in the Seattle, Washington Geographic Service Area.

The award number for this MBDC will be 10-10-92007-01.

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian Tribes and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can identify and coordinate public and private sector resources on behalf of minority individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated initially by regional staff on the following criteria: The experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive. The selection of an application for further processing by MBDA will be made by the Director based on a determination of the application most likely to further the purpose of the MBDC program. The application will then be forwarded to the Department for final processing and approval, if appropriate. The Director will consider past performance of the applicant on previous Federal awards.

MBDCs shall be required to contribute at least 15% of the total project cost through non-Federal contributions. To assist them in this effort, MBDCs may charge client fees for management and technical assistance (M&TA) rendered. Based on a standard rate of $50.00 per hour, MBDCs will charge client fees at 20% of the total cost for firms with gross sales of $500,000 or less, and 35% of the total cost for firms with gross sales of over $500,000.

MBDCs performing satisfactorily may continue to operate after the initial competitive year for up to 2 additional budget periods. MBDCs with year-to-date "commendable" and "excellent" performance ratings may continue to be funded for up to 3 or 4 additional budget periods, respectively. Under no circumstances shall an MBDC be funded for more than 5 consecutive budget periods without competition. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's performance, the availability of funds and Agency priorities.

Awards under this program shall be subject to all Federal and Departmental regulations, policies, and procedures applicable to Federal assistance awards.

In accordance with OMB Circular A-129, "Managing Federal Credit Programs," applicants who have an outstanding account receivable with the Federal Government may not be considered for funding until these debts have been paid or arrangements satisfactory to the Department of Commerce are made to pay the debt.

Applicants are subject to Governmentwide Debarment and Suspension (Nonprocurement) requirements as stated in 15 CFR part 26.

The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the MBDC has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are failure to meet cost-sharing requirements; unsatisfactory performance of MBDC work requirements; and reporting inaccurate or inflated claims of client assistance or client certification. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

On November 18, 1988, Congress enacted the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, title V, subtitle D). The statute requires contractors and grantees of Federal agencies to certify that they will provide a drug-free workplace. Pursuant to these requirements, the applicable certification form must be completed by each applicant as a precondition for receiving Federal grant or cooperative agreement awards.

"Certification for Contracts, Grants, Loans, and Cooperative Agreements" and SF-LLL, the "Disclosure of Lobbying Activities" (if applicable) is required in accordance with Section 319 of Public Law 101-121, which generally prohibits recipients of Federal contracts, grants, and loans from using Legislative Branches of the Federal Government in connection with a specific contract, grant or loan.

CLOSING DATE: The closing date for submitting an application is March 23, 1991. Applications must be postmarked on or before March 23, 1992.

Proposals will be reviewed by the Dallas Regional Office. The mailing address for submission is: Dallas Regional Office, Minority Business Development Agency, U.S. Department of Commerce, 1100 Commerce Street, room 7B23, Dallas, Texas 75242, 214/767-8001.

A pre-application conference to assist all interested applicants will be held at the following address and time: San Francisco Regional Office, Minority Business Development Agency, U.S. Department of Commerce, 221 Main

Street, room 1280, San Francisco, California 94105, March 3, 1992 at 10 a.m.

FOR FURTHER INFORMATION CONTACT: Xavier Mena, Regional Director, San Francisco Regional Office at 415/744–3001.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive Order 12372, "Intergovernmental Review of Federal Programs," is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained from the San Francisco Regional Office.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Dated: February 6, 1992.

Xavier Mena,

Regional Director, San Francisco Regional Office.

[FR Doc. 92–3289 Filed 2–11–92; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

Caribbean Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Caribbean Fishery Management Council (Council's) Administration Committee will hold a meeting on February 19, 1992, at the Colegio de Ingenieros y Agrimensores, Nin and Skerret Streets, Hato Rey, Puerto Rico. The meeting will begin at 10 a.m. and adjourn at 3 p.m.

The agenda items will include budget revision for CY–92, and information from the Chairmen's meeting. The meeting will be conducted in the English language. Fishermen and other interested persons are invited to attend. Members of the public will be allowed to submit oral or written statements regarding agenda items.

For more information contact Miguel A. Rolon, Executive Director, Caribbean Fishery management Council, Banco de Ponce Building, suite 1108, Hato Rey, Puerto Rico 00918–2577; telephone: 809–766–5926.

Dated: February 5, 1992.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92–3292 Filed 2–11–92; 8:45 am]

BILLING CODE 3510-22-M

National Oceanic and Atmospheric Administration, Gulf of Mexico Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Gulf of Mexico Fishery Management Council (Council) and its Committees will meet on March 9–12, 1992, at the Stouffer Riverview Plaza Hotel, 64 Water Street, Mobile, Alabama.

Council

On March 11, 1992, the Council will convene at 9:30 a.m. and recess at 5 p.m. Council agenda items and the times allocated for discussion are as follows:

From 9:45 a.m. to 11 a.m.: Hear public testimony on Mackerel Amendment #6, *Note:* Testimony cards must be turned in to staff *before* the start of public testimony;

From 11 a.m. to 2:30 p.m.: Discuss Committee recommendations on Mackerel Amendment #6;

From 2:30 a.m. to 5 p.m.: Receive reports from Committees:

1. Budget Committee (2:30 p.m. to 2:45 p.m.);
2. AP Selection Committee (2:45 p.m. to 3:00 p.m.);
3. The Data Collection Committee (3:00 p.m. to 3:30 p.m.);
4. Stone Crab Management Committee (3:30 p.m. to 4:00 p.m.);
5. Butterfish Management Committee (4:00 p.m. to 4:15 p.m.);
6. Red Drum Management Committee (4:15 p.m. to 4:30 p.m.);
7. Reef Fish Management Committee (4:30 p.m. to 5:00 p.m.).

The Council will reconvene at 8:30 a.m. on March 12. From 8:30 a.m. until 8:45 a.m., it will consider the appointment of the Law Enforcement Committee Vice Chairman and Committee assignments for new members. It will then receive the following reports:

1. Habitat Protection Committee (8:45 a.m. to 9 a.m.);
2. Shrimp Management Committee (9 a.m. to 9:30 a.m.);

From 9:30 a.m. to 9:45 a.m.: Review the new council member workshop on stock assessment and fishery management; and

From 9:45 a.m. to 10 a.m.: Review the Council Chairmen's meeting, and conclude with the Enforcement and the Director's reports.

The Council's meeting will then adjourn.

Committees

On March 9 the Budget, AP Selection, Stone Crab Management, and Butterfish Management Committees will convene meetings at 12:30 p.m. and adjourn at 5 p.m. On March 10 the Red Drum Management, Reef Fish Management, Data Collection, Mackerel Management and Habitat Protection Committees will convene meetings at 8 a.m. and adjourn at 5 p.m. On March 11 the Shrimp Management Committee will meet at 8 a.m. to 9 a.m.

Scoping Meeting

A scoping meeting will be held by the Butterfish Management Committee from 3:30 p.m. to 5:00 p.m. on Monday, March 9, 1992 to discuss with the public issues related to development of a Fishery Management Plan for Gulf Butterfish.

For more information contact Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 881, Tampa, FL; telephone: (813) 228–2815.

Dated: February 6, 1992.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92–3294 Filed 2–11–92; 8:45 am]

BILLING CODE 3510-22-M

North Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

A Bycatch Team, composed of staff from the North Pacific Fishery Management Council (NPFMC), National Marine Fisheries Service (NMFS), International Pacific Halibut Commission, and Alaska, Washington and Oregon state agencies, will meet on February 13, 1992. The meeting will be held at the Alaska Fisheries Science Center, 7600 Sand Point Way NE in room 2143, Building 4, Seattle, Washington and begin at 10 a.m. There will be two other sites connected to this meeting by teleconference: the NPFMC office, 605 W. 4th Avenue, room 306, Anchorage, Alaska, and the NMFS Regional Office at 9109 Mendenhall Mall Road, Suite 6, Juneau, Alaska.

The Bycatch Team will further develop bycatch amendment alternatives for the Council's review at its meeting the week of April 20, 1992. Also the Bycatch Team will hold further discussions on its Individual Bycatch Quota alternative.

For more information contact Brent Paine, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: (907) 271–2809;

Dated: February 5, 1992.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92-3293 Filed 2-11-92; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board's Committee on Technology Options for Global Reach—Global Power: 1995-2020 (Support Panel) will meet on 27-28 February 1992, at AL/HRA, Williams AFB, AZ, 8 a.m. to 5 p.m.

The purpose of this meeting is to receive briefings and gather information for the study.

The meeting will be closed to the public in accordance with section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697-4811.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 92-3231 Filed 2-11-92; 8:45 am]

BILLING CODE 3910-01-M

Department of the Air Force;

USAF Scientific Advisory Board, Meeting

The USAF Scientific Advisory Board's Committee on Technology Options for Global Reach—Global Power: 1995-2020 (Support Panel) will meet on 5-6 March 1992, at ANSER Corporation, 1215 Jefferson Davis Highway, Washington DC 22202, 8 a.m. to 5 p.m.

The purpose of this meeting is to receive briefings and gather information for the study.

The meeting will be closed to the public in accordance with section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697-4811.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 92-3232 Filed 2-11-92; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Availability for Licensing

AGENCY: Office of the Army Judge Advocate General, DoD.

ACTION: Notice of government-owned invention available for licensing.

SUMMARY: U.S. Patent Application SN 07/642,093, filed on 12 January 1991, entitled IMMUNOGENIC PEPTIDE VACCINES AND METHODS OF PREPARATION, is available for licensing from the Department of the Army.

FOR FURTHER INFORMATION CONTACT: Earl T. Reichert, Department of the Army, Office of the Judge Advocate General, Intellectual Property Law Division, 5611 Columbia Pike, Falls Church, VA 22041-5013, telephone (703) 756-2623.

Kenneth L. Denton,

Army Federal Register, Liaison Officer.

[FR Doc. 92-3323 Filed 2-11-92; 8:45 am]

BILLING CODE 3710-08-M

Availability for Licensing

AGENCY: Office of the Army Judge Advocate General, DoD.

ACTION: Notice of government-owned invention available for licensing.

SUMMARY: U.S. Patent No. 4,791,135 entitled NOVEL ANTIMALARIAL DIHYDROARTEMISINI DERIVATIES is available for licensing from the Department of the Army.

FOR FURTHER INFORMATION CONTACT: Earl T. Reichert, Department of the Army, Office of the Judge Advocate General, Intellectual Property Law Division, 5611 Columbia Pike, Falls Church, VA 22041-5013, telephone (703) 756-2623.

Kenneth L. Denton,

Army Federal Register, Liaison Officer.

[FR Doc. 92-3324 Filed 2-11-92; 8:45 am]

BILLING CODE 3710-08-M

Personal Property Movement and Storage Program; Qualification Procedures for Motor Carriers and Freight Forwarders

AGENCY: Military Traffic Management Command (MTMC), DoD.

ACTION: Proposed change to qualification procedures for motor carriers and freight forwarders to participate in the Department of Defense (DOD) International Personal Property Movement and Storage Program.

SUMMARY: The Directorate of Personal Property, Headquarters, Military Traffic Management Command, proposes to change the qualification procedures for carriers to participate in the international through Government bill of lading (ITGBL) program for the movement of DOD household goods (HHGs) and unaccompanied baggage (UB) shipments.

DATES: Comments must be received by April 13, 1992.

ADDRESSES: Headquarters, Military Traffic Management Command, ATTN: MTPP-C (Mrs. Guzzardo or Mrs. Walker), room 408, 5611 Columbia Pike, Falls Church, VA 22041-5050.

FOR FURTHER INFORMATION CONTACT: Mrs. Rosemarie F. Guzzardo or Mrs. Sylvia Walker at (703) 756-1190.

SUPPLEMENTARY INFORMATION: The same codes of service for the movement of HHGs and UB shipments will be maintained.

Carriers desiring to participate in the international movement of DOD HHGs and UB shipments must meet the following conditions and submit the following documents:

1. Tender of Service Signature Sheet (TOSSS), MTPP Form 9. Form must be completed and signed.

2. Certificate of Cargo Liability Insurance, MT-HQ Form 49-R. Certificate must be executed by an insurer with a rating of "A" or better in the Best's Key Rating Guide.

3. Performance Bond. The performance bond must be:

a. Continuous until cancelled.

b. For a sum of a minimum of $100,000 or 2.5 percent of a carrier's previous year's annual gross income derived from DOD ITGBL traffic, whichever is more. New carriers seeking approval must submit a bond for a minimum of $100,000.

c. Must be received at HQMTMC, ATTN: MTPP-C, no later than 1 month before the cycle in which the carrier will begin receiving shipments. Cycles begin with an effective date of April 1 or October 1. Therefore, bonds must be received for the respective cycle not later than March 1 or September 1.

d. Must be issued by a surety company listed in the Treasury Department Circular No. 570.

4. Small Business Certification. Form must be completed and signed. This requirement is for statistical reporting.

5. Woman-Owned Small Business Certificate. Form must be completed and signed. This requirement is statistical reporting.

6. Small Disadvantaged Business Certificate. Form must be completed and

signed. This requirement is for statistical reporting.

7. Outline of Common Financial and/or Administrative Control (CFAC). This form is to provide information relative to the financial and/or administrative control of a company. Completing this form requires a knowledge of the financial structure of the company (e.g., investors, the type of stock issued, shares held by each entity, etc.). In addition, a complete listing of officers and directors and their financial interest in the company is required.

CFAC must be declared in accordance with the requirements of the Tender of Service. Carriers declaring CFAC will be approved in the same rate channel but not in the same code of service to a destination rate area. A carrier failing to disclose and subsequently determined to be in or under CFAC with another carrier may be removed from the DOD personal property program for a period of up to 2 years.

8. Employee Experience Resume. The carrier must submit employee experience resumes for a minimum of two employees who have prior traffic management experience. Each employee must have a minimum of 3 years of prior experience in the movement of personal property shipments. Experience from employment with an international freight forwarder, van line, or agent for a freight forwarder or van line is considered acceptable experience for purposes of meeting this requirement. The resume must be accompanied by a detailed description of the employee's present or future duties and responsibilities for the carrier seeking approval.

9. Certificate of Independent Pricing. Form must be completed and signed. Signature on this certificate must be by the same person signing the TOSSS.

10. Interstate Commerce Commission (ICC) Freight Forwarder's Permit. The carrier must submit a copy of the permit with the request for approval. The permit must contain the words "foreign commerce" in the text.

11. Financial Statement(s).

a. Carriers must furnish financial statements for the last 2 taxable years. The statements shall be audited by an independent C.P.A. firm and must meet a 2:1 minimum requirement ($2 liquid assets to $1 liabilities). Statements must include an auditor's opinion statement, balance sheet, income statement, retained earnings, and explanation of changes in financial position statements. Notes to financial statements and the auditor's report are an integral part of the financial data and are to be enclosed in this submission.

b. Applicants seeking approval to participate in only the international movement of UB shipments must submit a Net Worth Statement that indicates the applicant has assets of a minimum of $50,000. The statement must be supported by a statement from a United States banking or financial institution which certifies the availability of the capital. The applicant may also meet this requirement by submission of an audited financial statement which certifies liquid assets of a minimum of $50,000.

c. Applicants seeking approval to participate in only the international movement of HHGs must submit a Net Worth Statement that indicates the applicant has assets of a minimum of $100,000. The statement must be supported by a statement from a United States banking or financial institution which certifies the availability of the capital. The applicant may also meet this requirement by submission of an audited financial statement which certifies liquid assets of a minimum of $100,000.

d. Applicants seeking approval to participate in the international movement of HHGs and UB must submit a Net Worth Statement that indicates the applicant has assets of a minimum of $125,000. The statement must be supported by a statement from a United States banking or financial institution which certifies the availability of the capital. The applicant may also meet this requirement by submission of an audited financial statement which certifies liquid assets of a minimum of $125,000.

e. New carriers, just being established and having no historical financial background, are required to submit an actual balance sheet (as of the date of organization). A Pro Forma Balance Sheet (an estimated statement to picture what the financial condition will look like at some given date in the future) is unacceptable and will automatically be rejected. The same minimum financial standard applies, as outlined in the paragraph above. New carriers will be granted temporary approval. In order to receive permanent approval, a new carrier must submit audited financial statements for the next 3 years, in the manner indicated in the above paragraph. Thereafter, MTMC will inform the carrier of any requirements for additional financial statement submissions.

12. Port Rosters. Five copies each of:

a. Overseas general agents.

b. Contiguous United States (CONUS) surface and aerial port terminal agents.

c. Overseas surface and aerial port terminal agents.

Necessary changes may be made during the year, but complete lists must be submitted annually.

Note: Port Roster forms have been developed by HQMTMC. If you want a copy of the forms, please contact Mrs. Guzzardo or Mrs. Walker at (703) 756–1190.

13. Line of Credit. It is essential that the carrier have adequate working capital or access to funds to cover shipment expenses while awaiting payment from DOD. A line of credit from an accredited U.S.-based financial institution must be submitted indicating the following minimum amounts:

a. HHGs = $100,000

b. UB = $50,000

c. HHGs and UB = $125,000

The line of credit must be:

a. Continuously in effect with no break between effective dates, e.g., current line of credit, April 1, 19XX to September 30, 19XX; new line of credit, October 1, 19XX to March 31, 19XX.

b. Must be received at HQMTMC, ATTN: MTPP–C, no later than 1 month before the cycle in which the carrier will begin receiving shipments. Cycles begin with an effective date of April 1 or October 1. Therefore, the lines of credit must be received for the respective cycle not later than March 1 or September 1.

c. Issued by a bank listed in the Robert Morris Associates Standards.

The carrier and bank must agree to give a written 30-day notice of line of credit cancellation to Headquarters, Military Traffic Management Command, ATTN: MTPP–C, 5611 Columbia Pike, Falls Church, Virginia 22041–5050. Such notice commences to run from the date said notice is actually received at the office of MTMC.

14. Business License. Carrier must submit a copy of the state or District of Columbia business license in whose jurisdiction the carrier is registered or certified to conduct operations. New carriers must submit a copy of the appropriate business license or other evidence that indicates approval to do business by the Government organization responsible for granting authority to operate within the jurisdiction. When the state Government organization does not regulate or otherwise require registration of a business, the applicant will so state in the request for approval.

15. Containers. Carriers must submit either a bill of sale or lease agreement for containers to be used for international HHGs movements. Generally, only containers listed in MTMC Pamphlet 55–12, Commercial Containers for DOD Household Goods Shipments, are acceptable. The bill of

sale or lease agreement must list the total number of containers the carrier has purchased or intends to purchase or lease.

Note: A container form has been developed by HQMTMC. If you want a copy of the form, please contact Mrs. Guzzardo or Mrs. Walker at (703) 756–1190.

16. Occupancy or Tenancy Agreement. Carrier must submit a copy of either proof of ownership or proof of a lease agreement for the location of the company's primary business office. When a lease is used to meet this requirement, there must be a minimum of 12 months remaining on the lease at the time of submission of the request for approval.

17. Agency Agreements.

a. General Agency Agreement. Carrier must submit a notarized copy of its overseas general agency agreement. The general agent is a business entity employed as a carrier's representative in a country or specified geographic area.

b. Booking Agency Agreement. Carrier must submit a notarized copy of its standard booking agency agreement used to secure the services of origin and destination agents for shipment services such as packing, storage, unpacking, delivery, and similar services customarily provided by local agents providing services on behalf of the carrier. Signed (executed) agreements, between the carrier and agent(s), or agreements containing agreed-upon prices for services are not required for the approval process. However, they are to be made available upon request from HQMTMC, MTPP. As a minimum, agreements must contain information related to the following areas: type(s) of service to be provided by the agent; quality assurance standards; traffic management procedures for registering outgoing shipments and reporting inbound shipments; documentation requirements of both the carrier and agent; billing procedures; and information indicating the terms under which the agreement can be canelled by either party.

18. Business Plan. Copy of company business plan. If your firm is organized by function, i.e., separate commercial, Government, and cash on delivery sections, a business plan, relating to DOD shipments only, is acceptable.

19. Quality Assurance Plan. The Tender of Service (paragraph 48) requires carriers to have a quality control program covering areas such as employee training, agent supervision, and traffic management (routing, tracing, and billing). Carriers must submit a copy of their company's quality assurance plan.

20. On-Site Visit. The carrier must agree to an on-site inspection of the carrier's primary business office by a representative of HQMTMC, MTPP, or an MTMC-designated representative. The on-site inspection is at the option of HQMTMC and is to be conducted to verify the carrier's operating capability, availability of communications equipment, and personnel. The on-site inspection may be conducted prior to or after the carrier has received MTMC approval. Unless unusual circumstances exist, MTMC normally provides the carrier 5-day advance notice prior to the inspection date. The inspecting official provides the carrier with a written report summarizing the results of the inspection.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 92–3328 Filed 2–11–92; 8:45 am]

BILLING CODE 3710–08–M

AGENCY: Military Traffic Management Command (MTMC), DOD.

ACTION: Notice of deletion of Joint Carriage Verbiage from the Personal Property Traffic Management Regulation (PPTMR), DOD 4500.34–R.

SUMMARY: This is to inform all Department of Defense (DOD) approved domestic and international household goods, unaccompanied baggage, mobile home, and boat carriers of the deletion of joint carriage verbiage from the Personal Property Traffic Management Regulation (PPTMR), DOD 4500.34–R. The Military Traffic Management Command (MTMC), Directorate of Personal Property (MTPP), has already deleted joint carriage from the Tender of Service. This deletion of the term joint carriage from the PPTMR is an administrative action and does not impact a carrier's ability to interline shipments with any other carrier as identified under Item 49 at definition page xxxvi of the DOD 4500.34–R.

Affected items are:

deleted Item 60, page xxxviii,
deleted Item 61, page xxxviii,
deleted wording, Item 2014.a.(1), page 2–10, line 4, deleted the words "Joint Carriage" and replaced with the word "Interline."
Page A–6, Item 16.d, line 1, deleted the words "or joint carriage."

FOR FURTHER INFORMATION CONTACT: Mrs. Rosemarie F. Guzzardo or Mrs. Sylvia Walker at (703) 756–1190.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 92–3330 Filed 2–11–92; 8:45 am]

BILLING CODE 3710–08–M

Military Personal Property Claims Symposium, Military Traffic Management Command, DOD; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Military Personal Property Claims Symposium.

Date: 27 February 1992.

Time: 0830–1630 hours.

Place: Best Western Old Colony Inn, Alexandria, Virginia.

Proposed Agenda: The purpose of the symposium is to provide an open discussion and free exchange of ideas with the public on procedural changes to the Personal Property Traffic Management Regulation, DOD 4500.34–R, and the handling of other matters of mutual interest concerning the Department of Defense Personal Property Movement and Storage Program.

All interested persons desiring to submit topics to be discussed should contact the Commander, Military Traffic Management Command, ATTN: MTPP–M, 5611 Columbia Pike, Falls Church, VA 22041–5050, telephone number (703) 756–1600, between 0800–1630 hours. Topics to be discussed should be received on or before 17 February 1992.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 92–3331 Filed 2–11–92; 8:45 am]

BILLING CODE 3710–08–M

AGENCY: U.S. Army Engineers Waterways Experiment Station, DoD.

ACTION: Notice of availability for exclusive or partially exclusive licensing of a proposed U.S. Patent concerning Computer Controlled Microwave Drying System for Rapid Soil Water Content Determination.

SUMMARY: In accordance with 37 CFR 404.7(a)(1)(i), announcement is made of the availability of U.S. Patent 5,085,527 for licensing. This patent has been assigned to the United States of America as represented by the Secretary of the Army, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mrs. Norma E. Logue, United States Army, Corps of Engineers, Waterways Experiment Station, ATTN: CEWES–CT–C, Vicksburg, MS 39180–6199, Phone: 601–634–3076.

SUPPLEMENTARY INFORMATION: The invention is based on computer controlled pulsed application of microwave energy to soil while continuously measuring the weight of soil to determine water content equivalent to the conventional oven water content in a time period of about 15 minutes compared with 16 to 24 hours for the latter. The equipment is

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automated, user friendly, and requires minimal input and labor from a user; laboratory studies and field trials have shown the equipment to be quick, reliable and accurate to within one-half percentage point of conventional over water content. The prototypes of this invention give quicker and more accurate answers than ASTM Standard Test Method D 4643-87. The device and the data proving its reliability are described in more detail in the following publicly available reference.

Gilbert, P.A., "Computer Controlled Microwave Oven System for Rapid Water Content Determination," Technical Report GL-88-21, USAEWES, November 1988 (NTIS number ADA203684).

Gilbert, P.A., "Computer Controlled Microwave Drying of Potentially Difficult Organic and Inorganic Soils," Technical Report GL-90-26, USAEWES, Vicksburg, MS, December 1990 (NTIS number ADA237487/4/XAB).

Gilbert, P.A., "Rapid Water Content by Computer Controlled Microwave Oven Drying," Journal of the Geotechnical Engineering Division, American Society of Civil Engineers, Vol 117, No. 1, January 1991.

The subject computer controlled microwave drying system would be potentially useful to businesses, agencies, or concerns involved in construction on or with soil, inspection and monitoring of compacted earth fill, laboratory soil testing, or any operation where a rapid soil water content is required. Potential users are Federal Government Agencies (Corps of Engineer District and Division field projects, Department of Interior field projects, Department of Agriculture field projects, etc.) state highway departments, university soil testing laboratories, private soil testing laboratories, quality assurance laboratories, geotechnical consulting firms, or generally anyone involved with soil in construction. The potential U.S. market is believed to exist for several thousand of these devices.

Under the authority of section 11(a)(2) of the Federal Technology Transfer Act of 1986 (Pub. L. 99-502) and section 207 of title 35, United States Code, the Department of the Army, Corps of Engineers, Waterways Experiment Station wishes to license the above United States Patent in an exclusive or partially exclusive manner to any party interested in manufacturing or selling the equipment covered by the above mentioned patent.

Each interested party is requested to submit a proposal for an exclusive or a partially exclusive license. The proposals for the manufacturing and selling the equipment covered by the above mentioned patent will be evaluated using the following criteria, experience and quality control in manufacturing related products; scope of advertisement; method of sales; royalties; Small Business.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 92-3327 Filed 2-11-92; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

President's Board of Advisors on Historically Black Colleges and Universities; Meeting

AGENCY: President's Board of Advisors on Historically Black Colleges and Universities, Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the proposed agenda for a forthcoming meeting of the President's Board of Advisors on Historically Black Colleges and Universities. This notice also describes the functions of the Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE AND TIME: February 27, 1992, 9 a.m. until 5 p.m. Place: Omni Shoreham Hotel, 2500 Calvert Street, NW. Washington, DC 20008.

FOR FURTHER INFORMATION CONTACT: Hazel Mingo, Acting Executive Director, White House Initiative on Historically Black Colleges and Universities, U.S. Department of Education, 400 Maryland Avenue, SW., room 3682, ROB-3, Washington, DC 20202, Telephone (202) 708-8667.

SUPPLEMENTARY INFORMATION: The President's Board of Advisors on Historically Black Colleges and Universities is established in accordance with Executive Order 12677, signed April 28, 1989. The Board is established to provide advice and make recommendations on developing an annual plan to increase the participation by historically Black colleges and universities in federally sponsored programs and on how to increase the private sector's role in strengthening historically Black colleges and universities. The Board is also responsible for developing alternative sources of faculty talent, particularly in the fields of science and technology; and for providing advice on how historically Black colleges and universities can achieve greater financial security through the use of improved business, accounting, management, and development techniques.

This is the second meeting of the President's Board of Advisors on HBCUs for fiscal year 1992. The full Board will convene: (1) To discuss the various recommendations developed by the AMERICA 2000, the Economic Development, the Corporate/HBCU Workforce 2000, and the Management and Technical Assistance Task Forces; and (2) to review the final draft of the fiscal year 1991 annual report to the President, including the Annual Federal Performance Report on Executive Agency Actions to Assist Historically Black Colleges and Universities. The agenda will include time for interested parties to comment on information to be included in the annual report to the President.

Records are kept of all Board meetings and are available for public inspection at the White House Initiative, U.S. Department of Education, ROB-3, room 3682, Washington, DC from the hours of 8:30 a.m. to 5 p.m., Monday through Friday.

Dated: February 7, 1992.

Carolynn Reid-Wallace,

Assistant Secretary for Postsecondary Education.

[FR Doc. 92-3385 Filed 2-11-92; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Financial Assistance Award; American Statistical Association; Procurement and Assistance Management Directors

AGENCY: U.S. Department of Energy.

ACTION: Notice of intent to make a noncompetitive financial assistance grant award.

SUMMARY: DOE announces that, pursuant to 10 CFR 600.7(b)(2)(i)(D), it intends to award a grant to the American Statistical Association (ASA), under Grant Number DE-FG01-92EI22939 for the purpose of conducting a total of six meetings to review the Energy Information Administrations (EIA) statistical programs. The grant will provide funding up to $267,806.

The ASA is a widely recognized and highly prestigious professional society established to further statistical theory in numerous fields. The ASA sponsors the Committee on Energy Statistics which will provide EIA with guidance in addressing key statistical, economic, and technical issues faced by EIA.

ELIGIBILITY: The ASA is a non-profit institution with unique assets. The membership of the ASA includes large numbers of highly-qualified and widely recognized statisticians, economists, and other professionals. These committee members are selected by and under purview of the ASA, and no other organization has the necessary knowledge of available Committee members and Committee structure. There is no other entity which represents the statistical community and combines the complete objectivity and academic expertise necessary to carry out this review function. Therefore, DOE has determined that it is appropriate to restrict eligibility in its solicitation.

TERM: The term (project period) of the grant is expected to be 3 years, from the effective date of award.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Placement and Administration, Attn: Shirley Jones, PR-321.1, 1000 Independence Ave., SW., Washington, DC 20585.

Jeffrey Rubenstein,

Director, Operations Division "A", Office of Placement and Administration.

[FR Doc. 92-3377 Filed 2-11-92; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER92-289-000, et al.]

PSI Energy, Inc., et al; Electric Rate, Small Power Production, and Interlocking Directorate Filings

February 3, 1992.

Take notice that the following filings have been made with the Commission:

1. PSI Energy, Inc.

[Docket No. ER92-289-000]

Take notice that PSI Energy, Inc. (PSI), formerly named Public Service Company of Indiana, Inc., on January 27, 1992, tendered for filing a supplement to Service Schedule D—Supplemental Power and Energy of the Power Coordination Agreement, dated August 27, 1982, amended, between PSI and the Indiana Municipal Power Agency (IMPA), in order to provide certain Economic Development incentives under Section 5 of said Service Schedule.

Such Economic Development incentives are for an expanded industrial facility at Archer-Daniels-Midland Company in Frankfort, Indiana. Frankfort City and Light is a member of IMPA. The Economic Development incentives are limited to one megawatt, the expected load of the expansion project.

PSI has requested waiver of the Commission's applicable requirements of part 35 of its Regulation not complied with including any notice requirements of § 35.3. The requested effective date for such Economic Development incentives applicable to Archer-Daniels-Midland Company is December 15, 1991.

Copies of the filing were served on Frankfort City Light and Power, the Indiana Municipal Power Agency and the Indiana Utility Regulatory Commission.

Comment date: February 18, 1992, in accordance with Standard Paragraph E at the end of this notice.

2. Central Louisiana Electric Company, Inc.

[Docket No. ER92-287-000]

February 3, 1992.

Take notice that on January 27, 1992, Central Louisiana Electric Company, Inc. ("CLECO") tendered for filing an agreement modifying the Contract for the Sale of Special Energy Between Central Louisiana Electric Company, Inc. to the City of Alexandria effective henceforth.

CLECO has requested that the Commission waive its notice and filing requirements to permit this agreement to become effective in accordance with the term of the original contract. CLECO has served copies of the filing on the affected customer and on the Louisiana Public Service Commission.

Comment date: February 18, 1992, in accordance with Standard Paragraph E at the end of this notice.

3. Pacific Gas and Electric Company

[Docket No. ER92-285-000]

February 3, 1992.

Take notice that on January 27, 1992, Pacific Gas and Electric Company (PG&E) tendered for filing with the Commission an amendment to the Comprehensive Agreement Between State of California Department of Water Resources and Pacific Gas and Electric Company (Comprehensive Agreement).

The amendment is a letter agreement negotiated to allow California Department of Water Resources (CDWR) greater scheduling flexibility at PG&E's Midway Substation (Midway). This letter agreement does not change CDWR's Firm Transmission Service, as provided by PG&E pursuant to the Comprehensive Agreement. It provides some additional as-available transmission service between Midway and the Southern California Edison Company transmission system. There are no additional charges for services in this letter agreement. PG&E has requested a retroactive effective date of November 1, 1991.

Copies of this filing have been served upon CDWR and the CPUC.

Comment date: February 18, 1992, in accordance with Standard Paragraph E at the end of this notice.

4. Pacific Gas and Electric Company

[Docket No. ER91-628-000]

February 3, 1992.

Take notice that on January 27, 1992, Pacific Gas and Electric Company (PG&E) tendered for filing an amendment to FERC Docket No. ER91-628-000. That Docket consisted of a rate schedule, filed to enable PG&E and the Los Angeles Department of Water and Power (LADWP) to engage in short-term transactions, including purchases, sales, or exchanges of surplus energy, capacity and transmission services. Services under this rate schedule are to be provided at the prices not to exceed certain cost-based prices specified in the Rate Exhibit of the rate schedule. In response to comments from FERC Staff, PG&E has negotiated with LADWP certain changes to the Rate Exhibit. The present amended filing tenders a revised Rate Exhibit for filing and acceptance.

Copies of this filing were served upon LADWP and the California Public Utilities Commission.

Comment date: February 18, 1992, in accordance with Standard Paragraph E at the end of this notice.

5. New England Power Company

[Docket No. ER92-286-000]

February 3, 1992.

Take notice that New England Power Company (NEP), on January 27, 1992, tendered for filing six service agreements and two certificates of concurrence executed under NEP's FERC Electric Tariff, Original Volume Number 5, System Energy Sales and Exchanges Tariff. The service agreements are with the following companies: Chicopee Municipal Lighting Plant, Chicopee, MA, Hudson Light & Power Dept., Hudson, MA, Long Island Lighting company, Hicksville, NY, Niagara Mohawk Corp., Syracuse, NY, UNITIL Power Corp., Exeter, NH, and Vermont Electric Generation and Transmission Cooperative, Inc., Johnson, VT. The certificates of concurrence are with: Niagara Mohawk Corp., Syracuse, NY and UNITIL Power Corp., Exeter, NH. NEP requests waiver of the Commission's notice requirements so that these agreements may become effective in accordance with their terms.

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Comment date: February 18, 1992, in accordance with Standard Paragraph E end of this notice.

6. The Montana Power Company

[Docket No. ER92-294-000]

February 3, 1992.

Take notice that on January 23, 1992, The Montana Power Company ("Montana") tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13 a revised Index of Purchasers under FERC Electric Tariff, 2nd Revised Volume No. 1 (M-1 Tariff).

A copy of the filing was served upon Tucson Electric Power Company, Turlock Irrigation District, Western Area Power Administration (Loveland), Western Area Power Administration (Salt Lake City-for Montrose), and Deseret Generation & Transmission Co-operative.

Comment date: February 18, 1992, in accordance with Standard Paragraph E at the end of this notice.

7. New York Power Pool

[Docket No. ER92-142-000]

Take notice that on January 24, 1992, the New York Power Pool ("NYPP") filed additional information in support of proposed amendments to the New York Power Pool Agreement, on file with the Commission as NYPP FERC Rate Schedule No. 1, which proposed changes were filed on October 30, 1991. The additional information was requested by Commission Staff. NYPP renews its request for an effective date of January 1, 1992, as requested in the October 30th filing, and accordingly, seeks waiver of the Commission's notice requirements for good cause shown.

Comment date: February 18, 1992, in accordance with Standard Paragraph E at the end of this notice.

8. Iowa Power Inc.

[Docket No. ER92-288-000]

Take notice that on January 27, 1992, Iowa Power Inc. (Iowa Power) tendered for filing a General Facilities Agreement between Iowa Power and Central Iowa Power Cooperative ("CIPCO") dated November 26, 1991.

Iowa Power states that the General Facilities Agreement is a negotiated agreement specifying the respective rights and obligations of the parties; that is supersedes several existing agreements between Iowa Power and CIPCO; and that CIPCO and the Iowa State Utilities Board have been mailed copies of the filing.

Iowa Power requests an effective date of January 1, 1992, and therefore requests a waiver of the Commission's notice request-requirements.

Comment date: February 18, 1992, in accordance with Standard Paragraph E at the end of this notice.

9. Vermont Electric Power Company, Inc.

[Docket No. ER92-284-000]

Take notice that Vermont Electric Power Company, Inc. (VELCO) on January 23, 1992, tendered for filing a transmission agreement entitled, VELCO 1991 Transmission Agreement, which would terminate and supersede VELCO Rate Schedules Nos. 235, 239, and 240.

The nature of the change is as follows: the service provided under the rate schedules that are being superseded (VELCO Rate Schedules Nos. 235, 239 and 240) will continue under the new rate schedule without alteration or interruption. The only substantive change is to the pricing formula (Article IV of the new rate schedule).

The pricing formula under the rate schedules to be superseded provide for postage-stamped charges based on the total of VELCO's costs, without regard to which facilities provide service to which customers. Under the new formula, the carrying charges for new facilities that are to be used by and benefit one or more, but not all, of the Purchasers by direct interconnection to the VELCO system would be paid for, for a period of ten years, exclusively by those benefiting from them. After ten years, such facilities would be grandfathered into the common facilities, whose support charges would then be paid for by all Purchasers.

There are several other changes to the pricing formula. The principal billing determinant will be peak load, rather than contract demand. Also, a credit will be given for internal generation. Lastly, a lower rate for transmission for short-term sales is provided.

These changes will yield small alterations in the distribution of VELCO's transmission charges among the Purchasers, but it will result in no net change in VELCO's revenues.

VELCO states that the reasons for the change are as follows: The principal reason for the changes to be effected by placing the 1991 VELCO Transmission Agreement into effect, and by terminating the existing rate schedules referenced above, is referenced above, is to implement a pricing formula for transmission service that provides appropriate, efficiency-promoting price signals to the Purchasers. Both VELCO and the Purchasers have long recognized that the existing pricing formula fails to provide appropriate financial incentives for the efficient selection of transmission facilities used to serve specific customers, and recent experience with independent power producers indicates that it may also provide distorted incentives for the siting of generation facilities. Until now, however, it has been impossible to reach consensus among the majority of VELCO's customers as to how to structure a new mechanism that is both equitable and conducive to efficient transmission system development.

With the new formula in place, no single Purchaser, or limited group of purchasers, will be likely to request that VELCO construct new transmission facilities that will not provide significant benefits to the majority of Purchasers, unless it or they are willing to bear all of the associated costs for a period of ten years. The change will also make it less likely that any Vermont utility will build new generating facilities (r will agree to buy power from new generating facilities to be built by others) unless that generation is a sound investment after taking into account any necessary, associated transmission improvements.

The internal generation credit is also an efficiency-promoting feature that accounts for the benefits that internal generation provides to the transmission system. Lastly, the lower rate for short-term, off-system sales will encourage greater, and hence more efficient use of available transmission capacity on the VELCO system.

Copies of the filing were served upon the following: Barton Village, Inc., City of Burlington Electric Department, Central Vermont Public Service Corporation, Citizens Utilities Company, Village of Enosburg Falls Water and Light Department, Franklin Electric Light Department, Green Mountain Power Corporation, Town of Hardwick Electric Department, Village of Hyde Park, Inc., Village of Jacksonville Electric Company, Village of Johnson Electric Light Department, Village of Ludlow Electric Light Department, Village of Lyndonville Electric Department, Village of Morrisville Water and Light Department, Village of Northfield Electric Department, Village of Orleans Electric Department, Village of Readsboro Electric Light Department, Rochester Electric Light Department, Village of Swanton, Vermont Department of Public Service, Vermont Electric Cooperative, Inc., Vermont Marble Company, Vermont Public Service Board.

Comment date: February 18, 1992, in accordance with Standard Paragraph E at the end of this notice.

10. Iowa Southern Utilities Company

[Docket No. ER91-559-000]

Take notice that Iowa Southern Utilities Company (ISU) on January 21, 1992, tendered for filing a second amendment to its July 29, 1991 filing in this docket. The amendment provides additional information relating to and justification for the rate charged in the Transmission Agreement between ISU and the City of Pella, Iowa (Pella).

Copies of the filing were served upon Pella and upon the Iowa State Utilities Board.

Comment date: February 18, 1992, in accordance with Standard Paragraph E at the end of this notice.

11. Alabama Power Company

[Docket No. ER92-215-000]

Take notice that on January 23, 1992, Alabama Power Company tendered for filing supplemental information in connection with proposed changes in its Rate Schedule MUN-1, which were filed on December 3, 1991. Alabama Power Company has requested an effective date of February 1, 1992. Copies of this filing were served upon customers of Alabama Power Company served under Rate Schedule MUN-1, the Alabama Public Service Commission and the Southeastern Power Administration.

Comment date: February 18, 1992, in accordance with Standard Paragraph E at the end of this notice.

12. Wisconsin Public Service Company

[Docket No. EL92-12-000]

Take notice that Wisconsin Public Service Company ("WPSC") on January 24, 1992 tendered for filing an amendment to its petition for permission to modify its fuel adjustment clause for customers under its W-1, W-2 and W-3 rates and the proposed fuel clause amendments.

The customers affected by WPSC's filing are:

Customer	Rate category	Rate schedule or tariff designation
Alger Delta Electric Assoc..	W-1	Tariff, Original Vol. 2, Service Agreement #8.
Washington Island Electric.	W-1	Tariff, Original Vol. 2, Service Agreement #5.
Village of Daggett.	W-1	Tariff, Original Vol. 2, Service Agreement #3.
City of Stephenson.	W-1	Tariff, Original Vol. 2, Service Agreement #4.
Village of Stratford.	W-1	Tariff, Original Vol. 2, Service Agreement #6.
Wisconsin Public Power, Inc. System.	W-1	Tariff, Original Vol. 2, Service Agreement #1.
City of Wisconsin Rapids.	W-1	Tariff, Original Vol. 2, Service Agreement #7.
Consolidated Water Power Co..	W-3	Tariff, Original Vol. 3, Service Agreement #1.
City of Manitowoc.	W-2	Tariff, Original Vol. 1, Service Agreement #5.
City of Marshfield..	W-1	Tariff, Original Vol. 2, Service Agreement #9.

The Alger Delta Electric Association, the Village of Daggett and the City of Stephenson are located in Michigan. The other customers are located in Wisconsin.

WPSC requests that the Commission waive the provisions of 18 CFR 35.14 of its regulations to the extent necessary to permit recovery of the buyout costs through the fuel clause and that it waive its notice requirements to allow the change to become effective on January 1, 1992. If the proposed January 1, 1992 effective date is not granted, WPSC requests that the December 31, 1991 filing be granted a January 1, 1991 effective date and that the proposed amendments to that filing become effective on March 25, 1992, 60 days from the date of filing. WPSC states that the filing has been served on the affected customers and on the public service commissions of Michigan and Wisconsin and that the filing has been posted as required by the Commission's regulations.

Comment date: February 18, 1992, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 92-3285 Filed 2-11-92; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2232-250]

Duke Power Co. Application

January 22, 1992.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Shoreline Management Plan.

b. *Project No:* 2232-250.

c. *Date Filed:* December 20, 1991.

d. *Applicant:* Duke Power Company.

e. *Name of Project:* Catawba-Wateree.

f. *Location:* Alexander, Burke, Caldwell, Catawba, Gaston, Iredell, Lincoln, McDowell and Mecklenburg Counties, North Carolina and Chester, Fairfield, Kershaw, Lancaster and York Counties, South Carolina.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. John E. Lansche, Associate General Counsel, Legal Department, Duke Power Company, P.O. Box 33189, Charlotte, NC 28242, (704) 373-4871.

i. *FERC Contact:* Mr. Dan Hayes, (202) 219-2660.

j. *Comment Date:* March 5, 1992.

k. *Description of Project:* Duke Power Company has filed an application for a shoreline management plan which will provide primary guidance for determining the acceptability of future development on the shoreline of all lake developments within the project. The application describes the requirements which will be enforced regarding specific types of development, and provides general guidance as to the amount of future development which can occur at various lakes within the project.

l. *This notice also consists of the following standard paragraphs: B, C, and D2.*

Standard Paragraphs

B. Comments, Protests, or Motions To Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to

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intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "**COMMENTS**", "**NOTICE OF INTENT TO FILE COMPETING APPLICATION**", "**COMPETING APPLICATON**", "**PROTEST**", "**MOTION TO INTERVENE**", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, Room 1027, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3286 Filed 2-11-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP92-314-000, et al.]

Tennessee Gas Pipeline Company, et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Tennessee Gas Pipeline Co.

[Docket No. CP92-314-000]

February 3, 1992.

Take notice that on January 24, 1992, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP92-314-000, an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon three interruptible transportation services for Amoco Production Company (Amoco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Tennessee states that by orders issued in Docket Nos. CP77-31, CP81-482-000 and CP85-532-000, certificates of public convenience and necessity were granted to Tennessee authorizing Tennessee to transport natural gas produced in the offshore area of Louisiana to various onshore points of delivery for Amoco in the states of Louisiana and Mississippi.

Tennessee indicates that it filed the gas transportation agreements dated September 10, 1976, October 20, 1980, and March 27, 1985, providing for such transportation services by Tennessee. Tennessee further indicates that the agreements have been designated as Rate Schedules T-50, T-128 and T-162 of Tennessee's FERC Gas Tariff, Original Volume No. 2. Tennessee further indicates that no service has actually been rendered by Tennessee under any of the rate schedules for at least two years. Tennessee states that Amoco has executed written confirmation of its agreement that the transportation services are no longer needed and may be abandoned. Tennessee further states that no facilities would be abandoned.

Comment date: February 24, 1992, in accordance with Standard Paragraph F at the end of this notice.

2. Arkla Energy Resources, a Division of Arkla, Inc.

[Docket No. CP92-320-000]

February 3, 1992.

Take notice that on January 27, 1992, Arkla Energy Resources (AER), a division of Arkla, Inc., 525 Milam Street, Shreveport, Louisiana 71151, filed in Docket No. CP92-320-000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to abandon a compressor unit in the state of Arkansas under its blanket certificate issued in Docket Nos. CP82-384-000 and CP82-384-001 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

AER states that it proposes to abandon and remove a 120 hp skid-mounted rental compressor unit installed temporarily on its Line JM-21, section 2, T4N, R2E, to serve customers in St. Francis County, Arkansas. AER further states that this compressor was installed pursuant to its blanket certificate issued in Docket No. CP82-384-000 and will be reported in the 1991 Annual Construction Report as required by § 157.207 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.207).

To alleviate any future low pressure problems that may be experienced in this area, AER indicates that it plans to install a permanent 180 hp compressor unit at this location.

Comment date: March 19, 1992, in accordance with Standard Paragraph G at the end of this notice.

3. Northwest Pipeline Corp.

[Docket No. CP92-318-000]

February 3, 1992.

Take notice that on January 27, 1992, Northwest Pipeline Corporation (Northwest) 295 Chipeta Way, Salt Lake City, Utah 84158-0900, filed in Docket No. CP92-318-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon an interruptible transportation service for Questar Pipeline Company (Questar) which was originally authorized in Docket No. CP84-498, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northwest states that it is requesting authorization to abandon the transportation service it provided to Questar pursuant to a Gas Transportation Agreement dated November 21, 1983. This Agreement covered the transportation of up to 3,000 MMBtu's per day of gas from Northwest's Opal Plant to the Crossover 16 mainline interconnect with Questar in Sweetwater County, Wyoming. Northwest indicates that pursuant to a letter agreement dated April 15, 1991, Northwest and Questar agreed to terminate the subject agreement as of April 15, 1991. Northwest further states that no abandonment of facilities is proposed in conjunction with the abandonment of this service.

Comment date: February 24, 1992, in accordance with Standard Paragraph F at the end of this notice.

4. Panhandle Eastern Pipe Line Co.

[Docket No. CP92-321-000]

February 4, 1992.

Take notice that on January 29, 1992, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP92-321-000 an application pursuant to section 7(b) of the Natural Gas Act for an order granting permission and approval for the abandonment of the transportation service provided to Kansas Power and Light Company (KPL) as authorized in Docket No. CP84-152-000, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Panhandle states that it is authorized to provide interruptible transportation of up to 1,000 Mcf of natural gas to KPL under Panhandle's Rates Schedule T-58, FERC Gas Tariff, Original Volume No. 2.

Panhandle also states that it transports the gas under a transportation agreement dated October 13, 1983. Panhandle received KPL's gas purchased from Rhine Exploration Company (Rhine) according to a gas purchased agreement between KPL and Rhine dated October 13, 1983, it is stated. It is stated that by letter dated March 8, 1989, KPL notified Panhandle of its desire to terminate the agreement effective June 9, 1989. Panhandle states upon approval of the abandonment authorization, it would modify its existing tariff to reflect the abandonment of its Rate Schedule T-58.

Comment date: February 25, 1992, in accordance with Standard Paragraph F at the end of the notice.

5. El Paso Natural Gas Co.

[Docket No. CP92-316-000]

February 4, 1992.

Take notice that on January 27, 1992, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas, 79978, filed in Docket No. CP92-316-000, a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act for authorization to construct and operate a delivery point and to provide interruptible transportation service for Texaco Gas Marketing, Inc. (TGM) all as more fully set forth in the request for authorization on file with the Commission and open to public inspection.

El Paso states that El Paso and TGM have entered into a Transportation Service Agreement (Agreement) dated November 21, 1991, which will provide, *inter alia*, for transportation service by El Paso to TGM of up to 1,133 MMBtu of natural gas per day from Texaco Inc.'s North Eunice Processing Plant to a proposed point of delivery to Texaco Exploration and Production Inc. (Texaco E&P) in Lea County, New Mexico. El Paso states that the estimated daily and annual quantities would be 2,060 MMBtu and 413,545 MMBtu, respectively.

El Paso states that Texaco E&P is currently involved in an oil recovery program and that it will utilize the natural gas delivered by El Paso to inject water into oil wells to recovery oil trapped beneath the surface.

El Paso also states that the construction of the proposed delivery point is not prohibited by El Paso's existing tariff and that El Paso has sufficient capacity to accomplish the deliveries specified under the Agreement without detriment or disadvantage to El Paso's other customers. Accordingly, El Paso seeks authorization to construct and operate the proposed Grobe Fuel Delivery Point to be located in Lea County, New Mexico.

El Paso estimates the proposed facilities to cost approximately $21,000. El Paso states Texas E&P has agreed to reimburse El Paso for cost related to the construction of the proposed delivery point.

El Paso further states that El Paso's environmental analysis supports the conclusion that the construction and operation of the proposed delivery point will not be a major Federal action significantly affecting the human environment.

Comment date: March 20, 1992, in accordance with Standard Paragraph G at the end of this notice.

6. Midwestern Gas Transmission Co.

[Docket No. CP92-324-000]

February 4, 1992.

Take notice that on January 31, 1992, Midwestern Gas Transmission Company (Midwestern), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP92-324-000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to establish a new delivery point to an existing firm sales customer, Community Natural Gas Company (Community), under Midwestern's blanket certificate issued in Docket No. CP82-414-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Midwestern states that pursuant to Community's request, it has agreed to establish a new delivery point at Carlisle, Sullivan County, Indiana, which delivery point is required to provide service to a new customer. Midwestern further states that it currently provides service to Community under Midwestern's SR-1 Rate Schedule and pursuant to an agreement dated August 14, 1981, at an existing Carlisle delivery point located at Midwestern's Main Line Valve 2112-1 plus 12.56 miles in Sullivan County. Midwestern advises that the new delivery point would require the construction of a 2-inch hot tap and would be known as the Carlisle Prison Sales Meter Station. Additionally, Midwestern states that all costs associated with the construction of the proposed new delivery point (estimated to be $8,658) would be reimbursed by Community.

Also, Midwestern states that it does not propose to increase or decrease the total daily and/or annual quantities it is authorized to deliver to Community for the Town of Carlisle. Midwestern asserts that the establishment of the proposed new delivery point is not prohibited by Midwestern's currently effective tariff and that it has sufficient capacity to accomplish the deliveries (390 Dekatherms equivalent per day, 142,350 Dekatherms annually) at the proposed new delivery point without detriment or disadvantage to any of Midwestern's customers.

Comment date: March 20, 1992, in accordance with Standard Paragraph G at the end of this notice.

7. ANR Pipeline Co.

[Docket No. CP92-306-000]

February 4, 1992.

Take notice that on January 16, 1992, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, a request pursuant to §§ 157.205 and 157.212 of the Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to operate, under the provisions of section 7 of the Natural Gas Act, the Overisal delivery point for the delivery of gas to Consumers Power Company in Allegan County, Michigan, all as more fully set forth in the request on file with the Commission and open to public inspection.—

ANR states that it has contracts with Consumers to transport up to 443,205 dth of natural gas per day under ANR's Rate Schedule FT-1 (139,665 dth daily) and under ANR's Rate Schedule IT-1 (303,540 dth daily). It is stated that the quantity of gas to be delivered to the Overisal delivery point for part of Consumer's system supply is up to 275,000 dth per day. ANR states that it anticipates no significant impact on its peak day or annual deliveries as a result of the proposed service.

Comment date: March 20, 1992, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3287 Filed 2-11-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-13-20-000]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

February 6, 1992.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on January 30, 1992, filed proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1, tariff sheets Fifth Revised Sheet No. 92 and Fifth Revised Sheet No. 674D, to be effective March 1, 1992.

Algonquin states that the purpose of this filing is to track changes to the amount of take-or-pay charges to be billed to Algonquin by CNG Transmission Corporation. The take-or-pay charges are recovered by operation of § 33.7 of the General Terms and Conditions to Algonquin's FERC Gas Tariff, Third Revised Volume No. 1. Algonquin also states that the revised take-or-pay surcharges are the result of revised allocation methods imposed by its pipeline suppliers in response to the Commission's Order No. 528 and 528-A.

Algonquin notes that copies of this filing were served upon each affected party and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before February 12, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3277 Filed 2-11-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. IS92-3-000, IS92-3-000, IS92-4-000, IS92-5-000, IS92-6-000, IS92-7-000, IS92-8-000, IS92-9-000, IS92-5-000]

Conoco Inc. v. Amerada Hess Pipeline Corp., ARCO Transportation Alaska, Inc., BP Pipeline (Alaska) Inc., Exxon Pipeline Co., Mobil Alaska Pipeline Co., Phillips Alaska Pipeline Corp., Unocal Pipeline Co.; Notice of Complaint

February 5, 1992.

Take notice that on December 20, 1991, Conoco Inc. (Conoco), pursuant to Rules 206, 211, 212 and 1403 of the Commission's Rules of Practice and Procedure (18 CFR 385.206, 385.211, 385.212, and 385.1403 (1991) and sections 13(1), 15(1), and 15(7), tendered for filing a complaint concerning each of the captioned tariff filings. In its complaint, Conoco states that it ships Milne Point crude oil from its facility on the North Slope of Alaska to the Kuparuk Transportation Company (Kaparuk) pipeline and from there to the Trans Alaska Pipeline System (TAPS). Conoco alleges that it indirectly pays the TAPS Carriers a higher transportation rate than other shippers based solely on the pumpability of its crude oil as determined by a calculation applied to the petroleum it ships. Conoco states that it must pay this rate because its production is commingled with heavier Kuparuk crude oil. Conoco alleges that the higher rate charged Kuparuk shippers is not justified because it is not explained in the tariff and is not discussed in the Commission order approving the rate methodology employed for TAPS transportation rates. Further, Conoco alleges that the pumpability surcharge is based on hypothetical flow conditions that bear no relationship to cost of service, and that the pumpability factor is, therefore, unduly discriminatory, unjust, and unreasonable.

Any person desiring to be heard or to protest said complaint should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214, 385.211. All such motions or protests should be filed on or before March 6, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. Answers to this complaint shall be due on or before March 6, 1992.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3276 Filed 2-11-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-4-48-000]

ANR Pipeline Co.; Proposed Changes in FERC Gas Tariff

February 5, 1992.

Take notice that ANR Pipeline Company ("ANR"), on January 30, 1992 tendered for filing as part of its Original Volume Nos. 1, 1-A, 2 and 3 of its FERC Gas Tariff, six copies of the tariff sheets as listed in appendix A attached to the filing.

ANR states that the referenced tariff sheets are being submitted to remove all references in ANR's tariff to the Gas Research Institute ("GRI") and the GRI Adjustment Charge. ANR has requested that the Commission accept the tendered tariff sheets to become effective March 1, 1992.

ANR states that all of its Volume Nos. 1, 1-A, 2 and 3 customers and interested State Commissions have been apprised of this filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Commission, 825 N. Capitol Street, N.E., Washington, D.C. 20426 by February 12, 1992, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3259 Filed 2-11-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ92-3-63-000, TQ92-3-63-001]

Carnegie Natural Gas Co; Proposed Changes in FERC Gas Tariff

February 5, 1992.

Take notice that on January 31, 1992, Carnegie Natural Gas Company ("Carnegie") tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1, to be effective march 1, 1992:

Twenty-Seventh Revised Sheet No. 8
Twenty-Seventh Revised Sheet No. 9

Carnegie states that pursuant to the PGA clause in its FERC Gas Tariff and § 154.308 of the Commission's regulations, it is proposing to adjust its sales rates effective March 1, 1992, as part of its scheduled Quarterly PGA filing. The revised rates reflect the following changes from Carnegie's last regularly-scheduled quarterly PGA filing in Docket No. TQ92-2-63-000: a $0.1762 per Dth decrease in the demand rates under Rate Schedules LVWS and CDS; a $0.8758 per Dth decrease in the commodity rates under Rate Schedules LVWS and CDS and the summer period rate under Rate Schedule LVIS; a $0.8816 per Dth decrease in the winter period rate under Rate Schedule LVIS; and a $0.0058 per Dth decrease in the DCA component of its sales rates under Rate Schedules LVWS and CDS.

Carnegie states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure, 18 CFR sections 385.214 and 18 CFR 385.211. All such protests should be filed on or before February 12, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3267 Filed 2-11-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ92-2-22-000]

CNG Transmission Corporation; Proposed Changes in FERC Gas Tariff

February 5, 1992.

Take notice that CNG Transmission Corporation (CNG) on January 30, 1992, pursuant to section 4 of the Natural Gas Act and Section 12 of the General Terms and Conditions of CNG's FERC Gas Tariff, filed the following revised tariff sheets to First Revised Volume No. 1 of CNG's FERC Gas Tariff, to be effective March 1, 1992:

Sixteenth Revised Sheet No. 31
Eleventh Revised Sheet No. 34

CNG states that the primary filing would increase CNG's RQ, ACD, and CD commodity rates by 37.01 cents per dekatherm and decrease D-1 demand rates by $0.06 per dekatherm from the rates currently in effect. CNG states that other rates will change correspondingly.

CNG states that copies of the filing have been served upon each of its customers and interested State commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before February 12, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3271 Filed 5-11-92; 8:45 am]

BILLING CODE 6717-01-M

Colorado Interstate Gas Co., Proposed Changes in FERC Gas Tariff

[Docket Nos. RP92-96-000 and RP92-96-001]

February 5, 1992.

Take Notice that Colorado Interstate Gas Company ("CIG") on January 30, 1992, tendered for filing certain revisions to its FERC Gas Tariff, Original Volume Nos. 1, 2, and 3. CIG states that the purpose of this filing is to make miscellaneous update changes to the Table of Contents and other minor administrative changes. An effective date of March 1, 1992, is requested for these tariff sheets. Additionally, CIG states that three of the submitted tariff sheets correct an administrative oversight related to tariff sheets filed to implement its August 5, 1991, rate settlement in Docket No. RP90-69, *et al.* CIG requests an effective date for these three sheets of April 1, 1991.

CIG states that is has served a copy of this filing upon all holders of its Volume Nos. 1, 2, and 3 Tariff.

Any person desiring to be heard or protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 214 or Rule 211 (18 CFR 385.214 or 385.211) of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before

February 12, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3260 Filed 2-11-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ92-3-24-000]

Equitrans, Inc.; Proposed Changes in FERC Gas Tariff

February 5, 1992.

Take notice that Equitrans, Inc. (Equitrans) on January 30, 1992, tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, to be effective March 1, 1992, the following primary tariff sheets:

Thirty-Fourth Revised Sheet No. 10
Twenty-Fourth Revised Sheet No. 34

Equitrans also states that it is filing the following alternate tariff sheets:

Alternate Thirty-Fourth Revised Sheet No. 10
Alternate Twenty-Fourth Revised Sheet No. 34

Equitrans states that the purpose of the filing is to implement its regularly scheduled Quarterly Purchased Gas Adjustment filing in accordance with §§ 154.308 and 154.304 of the Commission's Regulations, and section 19 of Equitrans' FERC Gas Tariff.

Equitrans states that the changes proposed in the primary filing to the purchased gas cost adjustment under Rate Scheduled PLS consist of an increase in the demand cost of $0.0042 per dekatherm (dth) and a decrease in the commodity cost of $0.7359 per dth. Equitrans asserts that the purchased gas cost adjustment to Rate Schedule ISS is a decrease of $0.6750 per dth for the winter period and $0.6751 per dth for the base rate.

Equitrans states that the alternate tariff sheets are being filed to implement the pending certification before the Commission in Docket No. CP92-109-000 to provide firm sales service of up to 50,000 dth per day of natural gas to Texas Eastern Transmission Corporation during the winter season of November through March. The changes to Rate Schedule PLS in the alternate filing consist of an increase in the demand cost of $0.0042 per dth and a decrease in the commodity cost of $0.7630 per dth. The alternate purchased gas adjustment to Rate Schedule ISS is a decrease of $0.6978 per dth for the winter period and $0.6979 per dth for the base period.

Equitrans states that copies of the filing have been served upon its affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before February 12, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3275 Filed 2-11-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ92-1-53-000]

K N Energy, Inc.; Proposed Changes in FERC Gas Tariff

February 5, 1992.

Take notice that K N Energy, Inc. ("K N") on January 30, 1992 tendered for filing proposed changes in its FERC Gas Tariff to adjust the rates charged to its jurisdictional customers pursuant to the Purchased Gas Adjustment provision (section 19) of the General Terms and Conditions of K N's FERC Gas Tariff, First Revised Volume No. 1-B to reflect changes in the Current Adjustment. The filing proposes increases (decreases) to K N's rates per Mcf as set forth in the table below:

	Zone 1	Zone 2
CD, SF and WPS Commodity	$(0.0041)	$(0.0041)
D1 Demand	0.0002	0.0003
D2 Demand	0.0017	0.0025
WPS Demand	0.0004	0.0006
IOR Commodity	(0.0022)	(0.0013)

K N states that the filing reflects revision to its base tariff rates to reflect projected weighted average gas costs for the quarter ending May 31, 1992. The proposed effective date for the rate changes is March 1, 1992.

K N states that copies of the filing were served upon K N's jurisdictional customers and interested public bodies.

Any person desiring to be heard or to make any protest with reference to this filing should, on or before February 12, 1992, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a petition to intervene or a protest in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3265 Filed 2-11-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-102-000]

Kentucky West Virginia Gas Company; Proposed Changes in FERC Gas Tariff

February 5, 1992.

Take notice that on January 31, 1992, Kentucky West Virginia Gas Company (Kentucky West) tendered for filing proposed changes to the following tariff sheets of its FERC Gas Tariff, Second Revised Volume No. 1, to be effective March 1, 1992:

Thirty-Fourth Revised Sheet No. 41
Fourth Revised Sheet No. 42
Fourth Revised Sheet No. 43

Kentucky West states that the purpose tariff changes are filed pursuant to §§ 154.63 and 154.303(e) of the Commission's Regulations, and establish new base tariff rates (referred to as the primary base tariff rates) to be effective March 1, 1992, based upon actual costs for the base period ended October 31, 1991, and adjusted only for changes occurring in that period. In the event the proposed primary rates are suspended, Kentucky West has tendered interim base tariff rates to be effective for the suspension period. The alternate interim rates only restate Kentucky West's base tariff rates to reflect the current cost of gas sold in the base rates.

Kentucky West states that copies of the filing have been served upon each of its customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before February 12, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3270 Filed 2-11-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ92-2-15-000]

Mid Louisiana Gas Co.; Proposed Change of Rates

February 5, 1992.

Take notice that Mid Louisiana Gas Company (Mid Louisiana) on January 30, 1992, tendered for filing as part of First Revised Volume No. 1 of its FERC Gas Tariff the following Tariff Sheet to become effective February 1, 1992:

Eighty-Ninth Revised Sheet No. 3a

Mid Louisiana states that the purpose of the filing of Eighty-Ninth Revised Sheet No. 3a is to reflect current gas costs for the month of February 1992.

Mid Louisiana states that the tariff sheet was filed as an out-of-cycle PGA to reflect the latest estimated gas cost to Mid Louisiana from its various suppliers. Mid Louisiana states that the majority of these suppliers have contracts with Mid Louisiana which contain pricing provisions which are tied to the spot market price of gas.

Mid Louisiana states that copies of the filing are being mailed to each of its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before February 12, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3263 Filed 2-11-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ92-3-15-000]

Mid Louisiana Gas Co.; Proposed Change of Rates

February 5, 1992.

Take notice that Mid Louisiana Gas Company (Mid Louisiana) on January 31, 1992, tendered for filing as part of First Revised Volume No. 1 of its FERC Gas Tariff the following Tariff Sheet to become effective March 1, 1992:

Ninetieth Revised Sheet No. 3a

Mid Louisiana states that the purpose of the filing of Ninetieth Revised Sheet No. 3a is to reflect a $.0151 per Mcf decrease in its current cost of gas.

Mid Louisiana states that this filing is being made in accordance with Section 19 of Mid Louisiana's FERC Gas Tariff.

Mid Louisiana states that copies of the filing are being mailed to each of its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's rules and regulations. All such motions or protests should be filed on or before February 12, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3262 Filed 2-11-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ92-6-25-000]

Mississippi River Transmission Corporation; Rate Change Filling

February 5, 1992.

Take notice that on January 30, 1992 Mississippi River Transmission Corporation (MRT) tendered for filling Seventy-Second Revised Sheet No. 4, and Thirty-First Sheet No. 4.1 to its FERC Gas Tariff, Second Revised Volume No. 1, to be effective February 1, 1992. MRT states that the purpose of the instant filling is to reflect an out-of-cycle purchase gas cost adjustment (PGA).

MRT states the Seventy-Second Revised Sheet No. 4 and Thirty-First Revised Sheet No. 4.1 reflect a decrease of 36.39 cents per MMBtu in the commodity cost of purchased gas from PGA rates filed to be effective January 1, 1992 in Docket No. TQ92-5-25-000. MRT also states that since the December 30, 1991 filing date, MRT has experienced decreases in purchase and transportation costs for its system supply that could not have been reflected in that filing under current Commission regulations.

MRT states that a copy of the filing has been mailed to each of MRT's jurisdictional sales customers and to the State Commissions of Arkansas, Missouri, and Illinois.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before February 12, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary

[FR Doc. 92-3286 Filed 2-11-92; 8:45 am]

BILLING CODE 6717-01-M

Mississippi River Transmission Corporation; Rate Change Filing

[Docket Nos. RP92-101-000 and TQ92-7-25-000]

February 5, 1992.

Take notice that on January 30, 1992 Mississippi River Transmission Corporation (MRT) tendered for filing Seventy-Third Sheet No. 4 and Thirty-Second Revised Sheet No. 4.1 to its FERC Gas Tariff, Second Revised Volume No. 1, to be effective March 1, 1992.

MRT states that the instant filing reflects its quarterly purchased gas cost adjustment (PGA), submitted pursuant to § 154.308 of the Commission's Regulations and Paragraph 17.2 of MRT's FERC Gas Tariff. MRT states that it is also adjusting the level of Account No. 858 expenses included in the average commodity cost of gas pursuant to the Transportation Cost Recovery Mechanism set forth in Article V of the Stipulation and Agreement in Docket No. RP89-248 approved by Commission order dated August 7, 1991. MRT states that the impact of the instant filing on its Rate Schedule CD-1 rates is a decrease of $.015 per MMBtu in the demand charge, and a decrease of 16.86 cents per MMBtu in the commodity charge from the rate levels established in MRT's last out-of-cycle PGA effective February 1, 1992 in Docket No. TQ92-6-25-000. The single part rate under Rate Schedule SGS-1 reflects a decrease of 17.01 cents per MMBtu.

MRT states that a copy of the revised tariff sheets is being mailed to each of MRT's jurisdictional sales customers and to the State Commissions of Arkansas, Missouri, and Illinois.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 12, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3269 Filed 2-11-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP81-319-002]

National Fuel Gas Distribution Corp.; Compliance Filing for Rate Election Pursuant to Section 284.224(e)(2)

February 5, 1992.

Take notice that on January 29, 1992 National Fuel Gas Distribution Corporation (National Fuel Gas Distribution) made a compliance filing pursuant to its blanket certificate in Docket No. CP81-319-000 which authorized it to engage in the sale, transportation, or assignment of natural gas subject to the Commission's jurisdiction under the Natural Gas Act to the same extent and in the same manner that intrastate pipelines are authorized to engage in such activities by subparts C, D, and E of Part 284 of the Commission's regulations. National Fuel Gas Distribution states that this filing complies with the order in Docket No. CP81-319-000 which stated that if it decided to perform transportation services utilizing the proposed blanket authorization, it must file pursuant to section 284.224(e)(2) of the regulations for approval of a proposed methodology.

National Fuel Gas Distribution states in its filing that it has no existing rates on file with the New York Public Service Commission (NYPSC) for city-gate service. Accordingly, National Fuel Gas Distribution states that it has elected to derive its maximum unit rate applicable to such transportation on the methodology used by NYPSC in designing its rates for the recovery of the costs of transportation, less distribution and gas costs. That methodology produces a rate of $0.3966 per Mcf. The derivation of the rate is set forth in Appendix A to the filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 or 214 of the Commission's rules of practice and procedure. All such motions or protests should be filed within 20 days following publication of this notice in the **Federal Register**. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestant parties to the proceeding. Any person wishing to become a party must file a motion to intervene. A copy of the filing is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3272 Filed 2-11-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP92-1-000 and CP92-71-000]

Northern Natural Gas Co.; Informal Settlement Conference

February 5, 1992.

Take notice that an informal settlement conference will be convened in the above-captioned proceeding on February 13, 1992, at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC, for the purpose of exploring the possible settlement of the above-referenced dockets. The settlement conference will follow the previously-scheduled prehearing conference in the above-referenced dockets.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervener status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information please contact Michael D. Cotleur, (202) 208-1076, or John J. Keating, (202) 208-0762.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3264 Filed 2-11-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-202-001]

Paiute Pipeline Co.; Motion to Make Tariff Sheets Effective

February 5, 1992.

Take notice that on January 30, 1992, Paiute Pipeline Company (Paiute) filed a motion pursuant to section 4(e) of the Natural Gas Act and § 154.67(a) of the Commission's regulations to make effective on February 1, 1992 certain rates and tariff sheets in connection with Paiute's request for general rate relief in Docket No. RP91-202-000. Specifically, Paiute has moved to place into effect on February 1, 1992 Substitute First Revised Sheet No. 10 and First Revised Sheet No. 130 of the First Revised Volume No. 1-A of its FERC Gas Tariff.

Paiute states that on August 1, 1991, Paiute filed First Revised Sheet Nos. 10 and 130 of First Revised Volume No. 1-A in this proceeding, pursuant to section 4 of the Natural Gas Act, to implement a proposed general rate increase. Paiute further states that by order issued August 30, 1991, the Commission accepted Paiute's proposed tariff sheets and suspended their effectiveness for five months to become effective February 1, 1992, subject to refund. Paiute states that in its suspension order, the Commission permitted Paiute to include in its proposed rates costs associated with facilities which at the time of Paiute's August 1, 1991 filing had not yet been placed in service, subject to the condition that Paiute refile its rates to remove all costs associated with all facilities which had not been placed in service as of December 31, 1991.

With its motion, Paiute submitted Substitute First Revised Sheet No. 10.

Paiute indicates that Substitute First Revised Sheet No. 10, in accordance with the Commission's suspension order, sets forth the rates proposed by Paiute in its August 1, 1991 filing in this proceeding, modified to reflect the exclusion of all costs associated with facilities which had not been placed in service as of December 31, 1991. Paiute also states that Substitute First Revised Sheet No. 10 incorporates the change in the annual charge adjustment surcharge rate which was approved by the Commission in Docket No. TM92-1-41-000 by order issued September 30, 1991. Paiute moves that Substitute First Revised Sheet No. 10, along with First Revised Sheet No. 130, which was included in Paiute's August 1, 1991 filing, be made effective February 1, 1992.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests should be filed on or before February 12, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3258 Filed 2-11-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ92-2-55-000]

Questar Pipeline Co.; Rate Change

February 5, 1992.

Take notice that on January 31, 1992, Questar Pipeline Company tendered for filing and acceptance to be effective March 1, 1992, Seventeenth Revised Sheet No. 12, to Original Volume No. 1 of its FERC Gas Tariff.

Questar states that the purpose of this filing is to adjust the purchased gas cost under Questar's sale-for-resale Rate Schedule CD-1 effective March 1, 1992.

Questar states that the Seventeenth Revised Sheet No. 12 shows a commodity base cost of purchased gas as adjusted of $2.71897/Dth which is $0.35927/Dth higher than the currently effective rate of $2.35970/Dth. The demand base cost of purchased gas as adjusted increased $0.00061/Dth, from $0.00614/Dth to $0.00675/Dth.

Questar states that a copy of the filing has been provided to Mountain Fuel Supply Company and interested state public service commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20436, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 and 385.211. All such protests should be filed on or before February 12, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3273 Filed 2-11-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ92-2-30-000]

Trunkline Gas Co; Proposed Changes in FERC Gas Tariff

February 5, 1992.

Take notice that Trunkline Gas Company (Trunkline) on January 30, 1992, tendered for filing the following revised sheet to its FERC Gas Tariff, Original Volume No. 1:

Ninety-First Revised Sheet No. 3-A

The proposed effective date of this revised tariff sheet is March 1, 1992.

Trunkline states that the instant filing reflects a commodity rate decrease of (1.45¢) per Dt in projected purchased gas cost component.

Trunkline states that the tariff sheets are being filed in accordance with § 154.308 (quarterly PGA filing) of the Commission's Regulations and pursuant to section 18 (Purchase Gas Adjustment Clause) of the General Terms and conditions in Trunkline's FERC Gas Tariff, Original Volume No. 1. Trunkline states that copies of this filing have been served on all jurisdictional sales customers and applicable state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20436, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before February 12, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3261 Filed 2-4-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ92-2-56-000]

Valero Interstate Transmission Co.; Proposed Changes in FERC Gas Tariff

February 5, 1992.

Take notice that Valero Interstate Transmission Company ("Vitco"), on January 30, 1992 tendered for filing the following tariff sheet as required by Orders 483 and 483-A containing changes in Purchased Gas Cost Rates pursuant to such provisions:

FERC Gas Tariff, First Revised Volume No. 2

3rd Revised Sheet No. 6

Vitco states that this filing reflects changes in its purchased gas cost rates pursuant to the requirements of Orders 483 and 483-A. The change in rates to Rate Schedule S-3 includes a decrease in purchased gas cost of $0.9401 per MMBtu as compared to the previously scheduled quarterly PGA filing.

The proposed effective date of the above filing is March 1, 1992. Vitco requests a waiver of any Commission order or regulations which would prohibit implementation by March 1, 1992.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before February 12, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3268 Filed 2-11-92; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2471—Michigan]

Wisconsin Electric Power Co.; Notice Soliciting Applications

February 5, 1992.

On December 19, 1988, Wisconsin Electric Power Company, the existing licensee for the Sturgeon Hydroelectric Project No. 2471, filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Public Law 99–495. The original license for Project No. 2471 was issued effective April 1, 1962, and expires December 31, 1993.

The project is located on the Sturgeon River in Dickinson County, Michigan. The principal project works consist of: (a) A 217-foot-long concrete arch dam, a 14-foot-wide penstock intake, and a 7.5-foot-wide trash gate; (b) a reservoir of 248 acres; (c) a 7-foot-diameter, 260-foot-long penstock; (d) a powerhouse with an installed capacity of 800 kW; (e) a transmission line connection; and (f) appurtenant facilities.

Pursuant to § 16.20 of the Commission's regulations, the deadline for filing an application for new license and any competing license applications was December 31, 1991. No applications for license for this project were filed. Therefore, pursuant to § 16.25 of the Commission's regulations, the Commission is soliciting applications from potential applicants other than the existing licensee.

Pursuant to § 16.19 of the Commission's regulations, the licensee is required to make available certain information described in § 16.7 of the Commission's regulations. Such information is available from the licensee at Real Estate Department, Public Service Building, room 452, 231 West Michigan Street, Milwaukee, WI 53201.

A potential applicant that files a notice of intent within 90 days from the date of issuance of this notice: (1) May apply for a license under part I of the Act and part 4 (except § 4.38) of the Commission's regulations within 18 months of the date on which it files its notice; and (2) must comply with the requirements of § 16.8 of the Commission's regulations.

Lois D. Cashell,

Secretary.

[FR Doc. 92–3274 Filed 2–11–92; 8:45 am]

BILLING CODE 6717–01–M

Office of Fossil Energy

[FE Docket No. 91–103–LNG]

Phillips Alaska Natural Gas Corporation and Marathon Oil Co.; Application To Amend Authorization to Export Liquefied Natural Gas

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of an application to amend authorization to export liquefied natural gas.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on November 26, 1991, of an application filed by Phillips Alaska Natural Gas Corporation (PANGC) and Marathon Oil Company (Marathon) to amend their existing export authorization to permit a twelve percent increase in exports of Alaskan liquefied natural gas (LNG) to Japan.

The application if filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time, March 13, 1992.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Allyson C. Reilly, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–094, FE–53, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9394.

Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E–042, GC–14, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: Marathon is an Ohio corporation with principal offices in Houston, Texas, and is unaffiliated with PANGC. PANGC, a Delaware corporation with principal offices in Bartlesville, Oklahoma, is a wholly-owned subsidiary of Phillips 66 Natural Gas Company (P66NGC), which in turn is a subsidiary of Phillips Petroleum Company. DOE/FE Opinion and Order 261–B, issued December 19, 1991, transferred from P66NGC to PANGC the export authority held with Marathon.

Originally authorized by the Federal Power Commission in 1967, the PANGC-Marathon LNG exports have been extended and amended from time-to-time by DOE. Under DOE/ERA Opinion and Order 261, 1 ERA ¶70,130, and DOE/FE Opinion and Order 261–A, 1 FE ¶70,454, the applicants currently are authorized to export 52.0 TBtu of LNG per year, through March 31, 2004, under a pricing formula that is market responsive to other LNG prices and world energy prices. The LNG is exported from the applicant's Kenai Liquefaction plant in the Cook Inlet area of Alaska to two Japanese customers, the Tokyo Electric Company, Inc., and the Tokyo Gas Company, Ltd.

The parties to this export arrangement signed a letter of intent on October 31, 1991, to amend their gas purchase agreement. The new agreement provides for a twelve percent increase in exports between April 1, 1993, and March 31, 2004. Beginning April 1, 1993, the annual contract quantity (ACQ) would increase to 56.0 TBtu for the contract year 1993. The ACQ would be further increased to 64.6 TBtu beginning in the 1994 contract year, when new tankers are expected to be in service, through the end of the contract term. The new agreement provides sellers with an option, if exercised by March 31, 1994, to cancel the 64.4 TBtu ACQ. In addition, currently authorized provisions for annual sales of up to 106 percent of the ACQ remain unchanged.

In support of their application, PANGC and Marathon assert there is no evidence of domestic need, either national or regional, for the increased volumes of natural gas which is requested, and the Cook Inlet area has ample natural gas reserves to supply regional needs well beyond the current term of the export authority. Applicants also emphasize the benefits to Alaska and the Federal Government through continuing royalty payments and an improved U.S. balance of payments with Japan.

The export application will be reviewed under section 3 of the Natural Gas Act and the authority contained in DOE Delegation Order Nos. 0204–111 and 0204–127. In deciding whether the proposed export is in the public interest, domestic need for the natural gas will be considered, and any other issue determined to be appropriate, including whether the arrangement is consistent with DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment on these matters as they relate to the requested export authority. PANGC and Marathon assert the amendment is not inconsistent with the public interest for the reasons briefly described herein. Parties opposing the arrangement bear the burden of overcoming this assertion.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have their written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of PANGC's and Marathon's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, February 6, 1992.

Anthony J. Como,

Director, Office of Coal and Electricity, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 92–3378 Filed 2–11–92; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 91–113–NG]

Tangram Transmission Corporation; Application to Export Natural Gas to Mexico

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of application for blanket authorization to export natural gas to Mexico.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on December 23, 1991, of an application filed by Tangram Transmission Corporation (Tangram) for blanket authorization to export up to 72 Bcf of natural gas to Mexico annually or up to 146 Bcf over a two-year term beginning on the date of first delivery.

Tangram intends to utilize existing pipeline facilities for the transportation of the volumes to be exported and submit quarterly reports detailing each transaction.

The application is filed under section 3 of the Natural Gas Act (NGA) and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time, March 13, 1992.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Allyson C. Reilly, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–094, FE–53, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9394.

Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E–042, GC–14, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: Tangram is a corporation organized under the laws of the State of Texas with its principal place of business at The Woodlands, Texas. Tangram requests authorization to export natural gas to Mexico for sale to a variety of purchasers. The natural gas would be supplied by various U.S. producers and exported under arrangements negotiated in response to market conditions.

The decision on the application for export authority will be made consistent with section 3 of NGA and the authority contained in DOE Delegation Order Nos. 0204–111 and 0204–127. In deciding whether the proposed export of natural gas is in the public interest, domestic need for the gas will be considered, and any other issue determined to be appropriate, including whether the arrangement is consistent with the DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application should comment on these matters as they relate to the requested export authority. The applicant asserts that there is no current need for the domestic gas that would be exported under the proposed arrangements. Parties opposing this arrangement bear the burden of overcoming this assertion.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as application, and written comments. Any person wishing to become a party to the proceeding and to have their written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Tangram's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, February 6, 1992.

Anthony J. Como,

Director, Office of Coal and Electricity, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-3379 Filed 2-11-92; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1876]

Petitions for Reconsideration and Clarification of Actions in Rule Making Proceedings

February 6, 1992.

Petitions for reconsideration have been filed in the Commission rule making proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents are available for viewing and copying in room 239, 1919 M Street, NW., Washington, DC, or may be purchased from the Commission's copy contractor Downtown Copy Center (202) 452-1422. Oppositions to these petitions must be filed by February 27, 1992. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Codification of the Commission's Political Programming Policies. (MM Docket 91-168).

Number of Petitions Filed: 10.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92-3326 Filed 2-11-92; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOUSING FINANCE BOARD

[No. 92-55]

Community Support Requirements for Members of the Federal Home Loan Bank System

AGENCY: Federal Housing Finance Board.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

SUMMARY: The Federal Housing Finance Board ("Finance Board") hereby gives notice that it has submitted to the Office of Management and Budget ("OMB") a request for review and approval of a new information collection entitled "Community Support Requirements for Members of the Federal Home Loan Bank System" in accordance with section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35).

Type of Review. New information collection.

Title: Community Support Requirements for Members of the Federal Home Loan Bank System.

Form Number: Form FHFB 92-18.

OMB Number: New.

Frequency of Response: Biennially.

Respondents: Members of the Federal Home Loan Bank System.

Number of Respondents: 3,000.

Number or Responses per Respondent: 1 every other year.

Total Annual Responses: 1,500.

Average Number of Hours per Response: 6.0.

Total Annual Burden Hours: 9,000.

Finance Board Contact: Elaine L. Baker, (202) 408-2837, Executive Secretariat, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

OMB Reviewer: Gary Waxman, (202) 395-7340, Desk Officer for the Federal Housing Finance Board, Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Act Project, Washington, DC 20503.

Comments: Comments on this information collection request should be received on or before March 13, 1992.

ADDRESSES: A copy of the submission may be obtained by calling or writing the Finance Board contact listed above. Comments regarding the submission should be addressed to both the OMB reviewer and the Finance Board contact listed above.

NEEDS AND USES: Section 710(c) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA," Pub. L. No. 101-73, 103 Stat. 183, Aug. 9, 1989) amended the Federal Home Loan Bank Act (12 U.S.C. 1430) by adding a new section 10(g). That new section directed the Finance Board to adopt regulations establishing standards of community investment or service for members of the Federal Home Loan Bank System to maintain continued access to long-term advances (loans).

The Finance Board adopted final implementing regulations that were published in the **Federal Register** on November 21, 1991 (56 FR 58639–58650). Those regulations require member institutions to submit once every two years a "Community Support Statement." This statement will include: (1) A copy of the Public Disclosure section from the member's most recent Performance Evaluation under the Community Reinvestment Act of 1977 (12 U.S.C. 2901) and, if applicable, a statement of how the member has or will address any deficiencies; (2) a narrative concerning the member's lending to first-time homebuyers; (3) a certification concerning any final judicial or administrative decisions concerning violations within the past two years of the Fair Housing Act (42 U.S.C. 3601 *et seq.*), the Equal Credit Opportunity Act (15 U.S.C. 1691 *et seq.*), or similar state or local laws; and (4) any other such information the member chooses to submit.

The statute directs the Finance Board to evaluate the community investment or service of member institutions for continued access to long-term advances. Without the information requested, the Finance Board would not have at its disposal any consistent information for all member institutions upon which to base this evaluation.

Members whose community investment or service is judged inadequate may be required to submit a "Community Support Action Plan." The Finance Board will make a separate submission to OMB for the information collection associated with an Action Plan.

Dated: February 5, 1992.

J. Stephen Britt,

Executive Director.

[FR Doc. 92–3283 Filed 2–11–92: 8:45 am]

BILLING CODE 6725-01-M

FEDERAL MARITIME COMMISSION

South Carolina State Ports Authority; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–200614.

Title: South Carolina State Ports Authority/Lykes Bros. Steamship Co., Inc. Terminal Agreement.

Parties: South Carolina State Ports Authority, Lykes Bros. Steamship Co., Inc. ("Lykes").

Synopsis: This Agreement, filed February 3, 1992, provides that Lykes will be assessed a per container fee for various services performed. Lykes guarantees 125,000 net tons minimum throughput at the Port of Charleston per year. The term of the Agreement is 5 years with options to extend.

Agreement No.: 224–200615.

Title: South Carolina State Ports Authority/D.B., Turkish Cargo Lines Terminal Agreement.

Parties: South Carolina State Ports Authority, D.B. Turkish Cargo Lines.

Synopsis: This Agreement, filed February 3, 1992, provides that Turkish Cargo Lines will receive a discounted rate for certain container services performed in the Ports Authority's common user area. Turkish Lines guarantees a minimum throughout, 18 container vessel calls and 6 breakbulk vessel calls at the Port of Charleston per contract year. The term of the Agreement is 5 years.

Agreement No.: 202–011259–3.

Title: United States/Southern Africa Conference Agreement.

Parties: Empresa de Navegacao International, Lykes Bros. Steamship Co., Inc., Safbank Line, Ltd.

Synopsis: The proposed amendment adds a new Article 14(d) (Service Contracts), which provides that new members to the Agreement have no rights or obligations under service contracts which were effective prior to the effective date of their membership, unless agreed upon by unanimous vote of the participating members. It also modifies Article 16(b) (Agreements With Other Carriers and Persons) to set forth new provisions governing the rights and obligations of new members of the Conference.

Agreement No.: 203–011365.

Title: The "8900" Lines/P&O Containers, Ltd., Discussion Agreement.

Parties: The "8900" Lines, P&O Containers, Ltd.

Synopsis: The proposed Agreement authorizes the parties to discuss, exchange information and agree upon all aspects of transportation and service in the trade from U.S. Atlantic, Gulf and Pacific ports and inland points to Saudi Arabian, Persian Gulf and other Middle Eastern ports except Aden and Karachi, and inland points via such ports. The parties have no obligation under this Agreement, other than voluntarily, to adhere to any consensus or agreement reached. The parties have requested a shortened review period.

Dated: February 6, 1992.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 92–3320 Filed 2–11–92: 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

National Institute of Mental Health; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meetings of the advisory committees of the National Instittute of Mental Health for March 1992.

The initial review groups will be performing review of applications for Federal assistance; therefore, a portion of these meetings will be closed to the public as determined by the Administrator, ADAMHA, in accordance with 5 U.S.C. 552b(c)(6) and 5 U.S.C. app. 210(d).

Summaries of the meeting and rosters of committee members may be obtained from: Ms. Joanna L. Kieffer, NIMH Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration, Parklawn Building, room 9–105, 5600 Fishers Lane, Rockville, MD 20857 (Telephone: 301–443–4333).

Substantive program information may be obtained from the contact whose name, room number, and telephone number is listed below.

Committee Name: Clinical Subcommittee, Mental Health Special Projects Review Committee.

Meeting Date: March 13, 1992.

Place: La Jolla Village Inn, 3299 Holiday Court, La Jolla, CA 92037.

Open: March 13, 8:30 a.m.–9 a.m.

Closed: Otherwise.

Contact: Gwen Artis, room 9–C18 Parklawn Building, Telephone (301) 443–3944.

Dated: February 6, 1992.

Peggy W. Cockrill,

Committee Management Officer; Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 92-3307 Filed 2-11-92; 8:45 am]

BILLING CODE 4160-20-M

National Institute on Drug Abuse; Meetings.

Pursuant of Public Law 92-463, notice is hereby given of the meetings of the advisory committees of the National Institute on Drug Abuse for March 1992.

The initial review groups will be performing review of applications for Federal assistance; therefore, portions of these meetings will be closed to the public as determined by the Administrator, ADAMHA, in accordance with 5 U.S.C. 552b(c)(6) and 5 U.S.C. app. 2 10(d).

The Drug Testing Advisory Board will be performing reviews of National Laboratory Certification Program inspections and operations; therefore portions of this meeting will be closed to the public as determined by the Administrator, ADAMHA, in accordance with 5 U.S.C. 552b(c)(2), (4), and (6) and 5 U.S.C. app. 2 10(d).

Summaries of the meetings and rosters of committee members may be obtained from: Ms. Camilla L. Holland, NIDA Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration, Parklawn Building, room 10-42, 5600 Fishers Lane, Rockville, MD 20857 (Telephone: 301/443-2755).

Substantive program information may be obtained from the contacts whose names, room numbers, and telephone numbers are listed below.

Committee Name: Biobehavioral/Clinical Subcommittee, Drug Abuse AIDS Research Review Committee.

Meeting Date: March 10-12, 1992.

Place: Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, Maryland 20814.

Open: March 10, 9 a.m. to 9:30 a.m.

Closed: Otherwise.

Contact: Iris W. O'Brien, room 10-42, Parklawn Building, Telephone (301) 443-2620.

Committee Name: Sociobehavioral Subcommittee, Drug Abuse AIDS Research Review Committee.

Meeting Date: March 10-12, 1992.

Place: Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, Maryland 20814.

Open: March 10, 9 a.m. to 9:30 a.m.

Closed: Otherwise.

Contact: H. Noble Jones, room 10-22, Parklawn Building, Telephone (301) 443-9042.

Committee Name: Drug Testing Advisory Board, NIDA.

Meeting Date: March 19, 1992.

Place: Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, Maryland 20852.

Open: 9 a.m. to 12:00 p.m.

Closed: Otherwise.

Contact: Donna M. Bush, Ph.D., room 9A-53, Parklawn Building, Telephone (301) 443-6014.

Dated: February 6, 1992.

Peggy W. Cockrill,

Committee Management Officer; Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 92-3308 Filed 2-11-92; 8:45 am]

BILLING CODE 4160-20-M

National Institute on Alcohol Abuse and Alcoholism; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the advisory committee of the National Institute on Alcohol Abuse and Alcoholism for March 1992.

The initial review group will be performing review of applications for Federal assistance; therefore, portions of this meeting will be closed to the public as determined by the Administrator, ADAMHA, in accordance with 5 U.S.C. 552b(c)(6) and 5 U.S.C. app. 2 10(d).

A summary of the meeting and a roster of committee members may be obtained from: Ms. Diana Widner, NIAAA Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration, Parklawn Building, room 16C-20, 5600 Fishers Lane, Rockville, MD 20857 (Telephone: 301-443-4375).

Substantive program information may be obtained from the contact whose name, room number, and telephone number is listed below.

Committee Name: Immunology and AIDS Subcommittee of the Alcohol Biomedical Research Review Committee.

Meeting Dates: March 5-6, 1992.

Place: Holiday Inn Crowne Plaza, Rockville, Maryland 20852.

Open: March 5, 9 a.m.-10 a.m.

Closed: Otherwise.

Contact: Barbara Smothers, Ph.D., rm. 16C-26, Parklawn Bldg., Phone (301) 443-6106.

Dated: February 6, 1992.

Peggy W. Cockrill,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 92-3309 Filed 2-11-92; 8:45 am]

BILLING CODE 4160-20-M

Centers for Disease Control

Mine Health Research Advisory Committee: Cancellation of Meeting

This notice announces the cancellation of a previously announced meeting.

Federal Register *Citation of Previous Announcement:* 57 FR 3759, January 31, 1992.

Previosly Announced Times and Dates: 9 a.m.—5 p.m., February 19, 1992, 9 a.m.—12 noon, February 20, 1992.

Change in the Meeting: This meeting has been canceled.

Contact Person for More Information: Gregory R. Wagner, M.D., Director, Division of Respiratory Disease Studies, National Institution for Occupational Safety and Health, Centers for Disease Control, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505, telephone 304/291-4474 or FTS 923-4474.

Dated: February 6, 1992.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 92-3297 Filed 2-11-92; 8:45 am]

BILLING CODE 4160-18-M

National Institutes of Health

National Cancer Institute (Division of Cancer Treatment Board of Scientific Counselors); Meeting

Pursuant to Public Law 92-463, notice is hereby given to the meeting of the Board of Scientific Counselors, DCT, National Cancer Institute, National Institutes of Health, February 24-25, 1992, Building 31C, Conference Room 6, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public on February 24 from 8:30 a.m. to approximately 5:30 p.m., and again on February 25 for approximately 11 a.m., until adjournment, to review program plans, concepts of contract recompetitions and budget for the DCT program. In addition, there will be scientific reviews by serveral programs in the Division. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sec. 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Public Law 92-463, the meeting will be closed to the public on February 25 from 8:30 a.m. to approximately 11 a.m., for the review, discussion and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Carole Frank, Committee Management Officer, National Cancer Institute, Building 31, room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301–496–5708) will provide summaries of the meeting and rosters of committee members upon request.

Dr. Bruce A. Chabner, Director, Division of Cancer Treatment, National Cancer Institute, Building 31, room 3A44, National Institutes of Health, Bethesda, Maryland 20892 (301–496–4291) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control.)

Dated: February 6, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–3257 Filed 2–11–92; 8:45 am]

BILLING CODE 4140-01-M

National Center for Research Resources; Meeting

Notice is hereby given of a change in the meeting of the National Advisory Research Resources Council (NARRC), on February 19–21, 1992, which was published in the **Federal Register**, January 28 (57 FR 3209).

This Council was to have convened at 6:45 p.m., on February 19, 1992, to recess in open session for the Planning and Agenda Subcommittee. The meeting now will convene in open session from 7:30 to 8:30 a.m. on February 20, 1992, in Conference Room 3B41, Building 31, National Institutes of Health.

Dated: February 4, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–3248 Filed 2–11–92; 8:45 am]

BILLING CODE 4140-01-M

National Center for Research Resources; Comparative Medicine Review Committee; Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Comparative Medicine Review Committee, National Center for Research Resources, National Institutes of Health.

The meeting will be held on March 8, 1992, at the Hyatt Regency, in the Old Georgetown Room, One Bethesda Center, Bethesda, MD 20814, and on March 9, 1992, at the National Institutes of Health, in Building 31, Conference Room 10, 9000 Rockville Pike, Rockville, MD 20892. The meeting will be open to the public as indicated below for a brief staff presentation on the current status of the Comparative Medicine Program and the selection of future meeting dates. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public as indicated below for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Comparative Medicine Review Committee.

Date of Meeting: March 8–9, 1992.

Place of Meeting: Hyatt Regency Bethesda, Old Georgetown Room, One Bethesda Center, Wisconsin Avenue at Old Georgetown Road, Bethesda, MD 20814.

Open: March 8, 1992–7 p.m. until Recess.

Place of Meeting: National Institutes of Health, Building 31, Conference Room 10, 9000 Rockville Pike, Bethesda, MD 20892.

Closed: March 9, 1992–8:30 a.m. until Adjournment.

Mr. James J. Doherty, Acting Information Officer, National Center for Research Resources, 5333 Westbard Avenue, room 10A15, Bethesda, Maryland 20892, (301) 496–5545, will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Arthur D. Schaerdel, Scientific Review Administrator of the Comparative Medicine Review Committee, Office of Review, National Center for Research Resources, National Institutes of Health, 5333 Westbard Avenue, room 10A16, Bethesda, Maryland 20892, (301) 496–4390, will furnish substantive program information upon request.

(Catalog of Federal Domestic Assistance Programs No. 93.306, Laboratory Animal Sciences, National Institutes of Health.)

Dated: February 6, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–3251 Filed 2–11–92; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Heart, Lung, and Blood Research Review Committee A; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee A, National Heart, Lung, and Blood Institute, National Institutes of Health, on March 26 and 27, 1992, in Building 31, Conference Room 9, 9000 Rockville Pike Bethesda, Maryland 20892.

This meeting will be open to the public on March 26, from 8 a.m. to approximately 9 a.m., to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C., and section 10(d) of Public Law 92–463, the meeting will be closed to the public on March 26, from approximately 9 a.m. until recess, and from 9 a.m. until adjournment on March 27, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, room 4A–21, National Institutes of Health, Bethesda, Maryland 20892, 301–496–4236, will provide a summary of the meeting and roster of the committee members.

Dr. Jon Ranhand, Scientific Review Administrator (Acting), Heart, Lung, and Blood Research Review Committee A, Westwood Building, room 554, National Institutes of Health, Bethesda, Maryland 20892, 301–496–7265, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; National Institutes of Health.)

Dated: February 6, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–3250 Filed 2–11–92; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Allergy and Infectious Diseases; Basic Sciences I Subcommittee of the Acquired Immunodeficiency Syndrome Research Review Committee; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Basic Sciences I Subcommittee of the Acquired Immunodeficiency Syndrome Research Review Committee, National Institute of Allergy and Infectious Diseases, on March 10–12, 1992, at the Bethesda Ramada, 8400 Wisconsin Avenue, Bethesda, Maryland 20814.

The meeting will be open to the public from 8:30 a.m. to 9 a.m. on March 10, 11, and 12 to discuss administrative details relating to committee business and for program review. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 9 a.m. until recess on March 10 and 11, and from 9 a.m. until adjournment on March 12. These applications, proposals, and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301–496–5717), will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Madelon Halula, Acting Scientific Review Administrator, Basic Sciences I Subcommittee of the Acquired Immunodeficiency Syndrome Research Review Committee, NIAID, NIH, Control Data Building, room 4C22, Bethesda, Maryland 20892, telephone (301–496–8206), will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 93.855, Immunology, Allergic and Immunologic Diseases Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health.)

Dated: February 6, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–3249 Filed 2–11–92; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Child Health and Human Development; Meetings

Pursuant to Public law 92–463, notice is hereby given of meetings of the review committees of the National Institute of Child Health and Human Development of March 1992

These meetings will be open to the public to discuss items relative to committee activities including announcements by the Director, NICHD, and scientific review administrators, for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Public law 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Mary Plummer, Committee Management Officer, NICHD, Executive Plaza North Building, room 520, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–1486, will provide a summary of the meeting and a roster of committee members.

Other information pertaining to the meetings may be obtained from the Scientific Review Administrator indicated.

Name of Committee: Population Research Committee.

Scientific Review Administrator: Dr. A.T. Gregoire, room 520, Executive Plaza North Building, Telephone: 301, 496–1485.

Date of Meeting: March 3–4, 1992.

Place of Meeting: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, Maryland.

Open: March 3, 1992, 8 a.m.–9 a.m.

Closed March 3, 1992, 9 a.m.–5 p.m. March 4, 1992, 8 a.m.—adjournment.

Name of the Committee: Maternal and Child Health Research Committee.

Scientific Review Administrator: Dr. Gopal Bhatnagar, room 520, Executive Plaza North Building, Telephone: 301, 496–1485.

Date of Meeting: March 3–4, 1992.

Place of Meeting: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, Maryland 20814.

Open: March 3, 1992, 8 a.m.–9 a.m.

Closed: March 3, 1992, 9 a.m.–5 p.m. March 4, 1992, 8 a.m.—adjournment.

Name of the Committee: Mental Retardation Research Committee.

Scientific Review Administrator: Dr. Norman Chang, room 520, Executive Plaza North Building, Telephone: 301, 496–1485.

Date of Meeting: March 5–6, 1992.

Place of Meeting: Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, Maryland 20814.

Open: March 5, 1992, 8 a.m.–9 a.m.

Closed: March 5, 1992, 9 a.m.–5 p.m. March 6, 1992, 8 a.m.—adjournment.

(Catalog of Federal Domestic Assistance Program No. 13.864, Population Research and No. 13.865, Research for Mothers and Children, National Institutes of Health.)

Dated: February 6, 1992.

Susan K. Feldman,

Commitee Management Officer, NIH.

[FR Doc. 92–3252 Filed 2–11–92; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute; Meeting of the Cancer Biology-Immunology Contracts Review Committee

Purusant to Public Law 92–463, notice is hereby given to the meeting of the Cancer Biology-Immunology Contracts Review Committee, National Cancer Institute, National Institutes of Health, February 27–28, 1992, Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Bethesda, MD, 20815, suite 1202.

This meeting will be open to the public on February 27 from 8:30 a.m. to 9:30 a.m. to discuss administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public on February 27, from 9:30 a.m. to recess and on February 28 from 8:30 a.m. to adjournment for the review, discussion and evaluation of individual contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The Committee Management Officer, National Cancer Institute, Building 31, room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5708) will provide summaries of the meeting and rosters of committee members upon request.

Dr. Lalita D. Palekar, Scientific Review Administrator, Cancer Biology-Immunology Contracts Review Committee, 5333 Westbard Avenue, room 805, Bethesda, Maryland 20892 (301/496–7575) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control.)

Dated: February 6, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–3253 Filed 2–11–92; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute; Meeting (Cancer Education Review Committee)

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Cancer Education Review Committee, National Cancer Institute, National Institutes of Health, February 24–25, 1992, Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

This meeting will be open to the public on February 24 from 8:30 a.m. to 9 a.m. to discuss administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)6, title 5, U.S.C. and section 10(d) of Public Law 922–463, the meeting will be closed to the public on February 24 from 9 a.m. to recess and on February 25 from 8:30 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Ms. Carole Frank, Committee Management Officer, National Cancer Institute, Building 31, room 10A06, National Institutes of Health, Bethesda, Maryland 20892, (301–496–5708), will provide a summary of meeting and a roster of committee members upon request.

Dr. John W. Abrell, Scientific Review Administrator, Cancer Education Review Committee, 5333 Westbard Avenue, room 832, Bethesda, Maryland 20892, (301–496–9767), will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control).

Dated: February 6, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–3254 Filed 2–11–92; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, Division of Cancer Etiology on March 26–27, 1992. The meeting will be held in Building 31, C Wing, Conference Room 10, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public from 11 a.m. to recess on March 26 and from 9 a.m. to adjournment on March 27 for discussion and review of the Division budget and review of concepts for grants and contracts. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public from 9 a.m. to approximately 11 a.m. on March 26 for the review, discussion and evaluation of individual programs and projects conducted by the Division of Cancer Etiology. These programs, projects, and discussions could reveal personal information concerning individuals associated with the programs and projects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Ms. Carole A. Frank, Committee Management Officer, National Cancer Institute, Building 31, room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. David McB. Howell, Executive Secretary of the Board of Scientific Counselors, Division of Cancer Etiology, National Cancer Institute, Building 31, room 11A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496–6927) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399 Cancer Control.)

Dated: February 6, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–3255 Filed 2–11–92; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute; Meeting—Board of Scientific Counselors, Division of Cancer Biology, Diagnosis, and Centers

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, Division of Cancer Biology, Diagnosis, and Centers, National Cancer Institute, March 16, 1992. The meeting will be held in Building 31C, Conference Room 6, National Institutes of Health, Bethesda, Maryland 20892.

This meeting will be open to the public from 8:30 a.m. to 12 noon for concept review of proposed research projects. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public from 1 p.m. to adjournment for the review and discussion of previous site visit reports and responses, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Committee Management Office, National Cancer Institute, Building 31, room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5708) will provide summary minutes of the meeting and roster of committee members.

Dr. Ihor J. Masnyk, Deputy Director, Division of Cancer Biology, Diagnosis, and Centers, National Cancer Institute, Building 31, room 3A03, National Institutes of Health, Bethesda, Maryland 20892 (301/496–3251) will provide substantive Program information.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control.)

Dated: February 6, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–3256 Filed 2–11–92; 8:45 am]

BILLING CODE 4140–01–M

Social Security Administration

Statement of Organization, Functions, and Delegations of Authority

Part S of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services covers the Social Security Administration. Notice is hereby given that chapter 4, the Office of the Deputy Commissioner for Systems, is being amended to reflect the establishment of new Staff and Division-level components and functions within the Office of Telecommunications (S4L). The new material and changes are as follows:

Section S4L.10 *The Office of Telecommunications*—(Organization):

Delete:

D. The Division of Network Communications Support (S4LA).

E. The Division of Communications (S4LB).

Add:

D. The Distributed Data Processing Management Staff (S4L–1).

E. The Telecommunications Resource Management Staff (S4LC).

F. The Division of IWS/LAN Engineering (S4LE).

G. The Division of Integrated Telecommunications Management (S4LG).

H. The Division of Wide-Area Network Engineering (S4LH).

I. The Division of Telecommunications Operations (S4LJ).

Section S4L.20 *The Office of Telecommunications*—(Functions):

Delete:

D. The Division of Network Communications Support (S4LA) in its entirety.

E. The Division of Communications (S4LB) in its entirety.

Add:

D. Distributed Data Processing Management Staff (S4L–1).

1. Directs the plans and activities to implement distributed data processing systems across SSA.

2. Initiates major program, subprogram, project and task activities in support of the implementation of Distributed Data Processing Management Staff (DDPMS) plans outlined in the Integrated System Plan and the Agency Strategic Plan.

3. Oversees/coordinates all DDPMS implementation activity among all systems components including the incorporation of office automation, programmatic systems, existing distributed-type systems, stand-alone personal computer-based systems, stand-alone personal computer-based systems, pilot systems and user-developed systems into a unified distributed processing environment.

4. Develops and manages the DDPMS procurement plan, outlining all acquisitions related to the project. Manages the development of distributed data processing acquisitions in the intelligent workstation (IWS) and local area network (LAN) areas.

5. Develops and manages the delivery, implementation and acceptance plans for DDPMS acquisitions.

6. Manages the evaluation process for all technology substitutions, technology refreshments, upgrades and unsolicited proposals for DDPMS. Manages the administration of DDPMS contracts to include amendments, cancellations and renewals.

7. Establishes and maintains the coordination and liaison interfaces to all other systems components, all SSA central office and field components and external committees, conferences and organizations involved in and affected by DDPMS.

8. Approves technical specifications, technical evaluation criteria, technology substitution specifications for DDPMS-related workstation, network and application acquisitions.

9. Directs project activities to ensure that SSA-level DDPMS initiatives maintain compatibility with HHS-wide and Governmentwide Information Technology Systems (ITS) standards.

E. The Telecommunications Resource Management Staff (S4LC).

1. Manages, plans and coordinates the activities relating to business and financial planning of SSA's telecommunications needs.

2. Manages and plans for the acquisition of network hardware, software and related services. Controls, reviews and tracks status of telecommunications requisitions through the procurement process.

3. Coordinates within the Office of Telecommunications (OTC) and SSA the planning of the design and configuration of the telecommunications network.

4. Serves as focal point for procurement of telecommunications and related equipment and services.

5. Coordinates within OTC the development of planning documents assessing current and future technology for suitability and impact on the telecommunications network.

6. Develops short-term and long-range telecommunications strategic plans and 5-year telecommunications macro strategic plans.

7. Assists HHS/SSA users in determining network requirements and interfacing needs. It is responsible for the coordination of strategic and tactical planning and implementing telecommunications expansion.

8. In conjunction with other Systems components, develops user service level agreements in support of the telecommunications solutions.

9. Develops, executes and monitors the telecommunications network portion of the ITS budget. Monitors budgetary commitments for contract awards of network telecommunications acquisitions.

10. Maintains a database of telecommunications hardware and sofeware and ensures proper disposition of telecommunications equipment no longer in use.

F. The Division of IWS/LAN Engineering (S4LE).

1. Responsible for all aspects of engineering, design, configuration, implementation and support of LAN Operating System (OS) software, telecommunications and connectivity service functions at SSA.

2. Responsible for telecommunications and connectivity projects, including acquisition, implementation, integration and control.

3. Develops, disseminates and enforces standards and policies relating to workstations, workstation configurations, peripherals, LANs, LAN OS, local bridges and routers and related customer support and service.

4. Works with SSA users to provide solutions to LAN telecommunications needs that are consistent with SSA-network architecture policies; determines network and interfacing hardware needs, implementing solutions, planning and expansion and determines staff hardware training needs. It assists SSA telecommunications users in determining and refining services and support requirements, configuration and engineering solutions, planning for future needs, coordinating implementation and evaluating effectiveness.

5. Provides a full range of initial and followup telecommunications and connectivity services and support for SSA users in network requirements analysis, system design, LAN needs determination, engineering, implementing, network control, OS software support and training.

6. Supports operating system and connectivity software on the LANs and IWS. It researches and tests current off-the-shelf products for their network configuration to LAN and workstation needs.

7. Develops and distributes research papers on applied technology and its relationship to existing and future telecommunications and connectivity requirements. It also develops alternate systems configurations to meet specific alternative requirements (non-traditional technology approaches).

8. Solves network problems by applying information on state-of-the-art OS, telecommunications and connectivity software and hardware currently available in the marketplace. It develops turn-key telecommunications systems and special menus to meet unusual customer requirements.

G. The Division of Intergrated Telecommunications Management (S4LG).

1. Plans and manages the strategic and tactical direction of the SSA voice communications and voice-data integration programs.

2. Provides technical and analytical support for the National 800 Number and other communications initiatives and programs.

3. Provides and manages voice communications systems hardware, software, services and ancillary equipment for SSA nationwide.

4. Directs the acquisition, operations, maintenance, retention and disposal of voice communications systems and services SSA-wide. Develops and administers voice communications ITS contracts.

5. Administers Federal Telecommunication System (FTS) FTS 2000 services SSA-wide and supports OTC in representing SSA in all related negotiations with SSA, General Services Administration and FTS vendors and carriers.

6. Directors the evaluation, acquisition, installation, operation and disposal of voice communications systems and services for SSA nationwide.

7. Serves as the SSA focal point for voice communications capacity planning.

8. Manages SSA-wide programs for imaging, video, facsimile, satellite, radio and emergency communications.

9. Manages SSA headquarters voice communications systems.

10. Serves as SSA-level liaison with Federal, State and other government and private-sector entities on voice communications and voice-data integration.

11. Manages within SSA the development and application of emerging voice communications technology.

12. Manages technical solutions for "800" and other toll-free services SSA-wide.

13. Manages the acquisition of data circuits.

H. The Division of Wide-Area Network Engineering (S4LH).

1. Directs and design, development, implementation, maintenance and support of specialized data communications software to support SSA's international network (SSANet).

2. Responsible for network design, connectivity, management, automation, availability, performance and capacity planning modeling.

3. Researches network prototypes and performs testing of new network technologies and implements and monitors network standards.

4. Supports SSA components as well as other Government agencies to provide optimum network interface design, management capabilities, connectivity, availability and response time.

5. Integrates and validates new network hardware, software products, versions and maintenance levels into SSANet and SSANet connectivity management.

6. Manages and coordinates all change management system control relating to network hardware and software changes to SSANet under the auspices of the change management facility.

7. Performs Level 3 network monitoring and problem determination for the SSANet.

8. Develops and implements a network backup recovery.

9. Performs network software planning, installation and management at all remote sites.

10. Serves as the SSA-level liaison with Federal, State, and local Government agencies and with the private sector to integrate them into the SSA network.

11. Responsible for SSANet software distribution and version management.

12. Interfaces with SSANet users to determine the impact of new applications and workloads and supports user liaison and systems development activities of other SSA components in the resolution of network technical and operational problems.

13. Manages communications software changes to ensure compatibility with hardware modifications at Central Office and all remote network platform locations.

14. Directs and planning, analysis and design of specialized network software systems for providing information relevant to the development of existing and proposed data communications systems.

I. The Division of Telecommunications Operations (S4LJ).

1. Manages the installation, relocation and operation of SSA's telecommunications network facilities for the transmission of program and management data over SSA established networks.

2. Monitors telecommunications operations, analyzes equipment problems and effects proper maintenance and repair.

3. Develops and directs the implementation of new procedures and updates existing procedures for network node operations.

4. Escalates outages to vendor management for prompt resolution and is responsible for the repair of advanced communications electronics equipment.

5. Provides emergency support services for equipment reconfiguration as well as repair, assembly/disassembly and installation of advanced telecommunications electronics.

6. Serves as the initial point of contact for user and technical problem determination for telecommunications. Diagnoses data-center hardware and network problems and coordinates network operations issues with applications and systems support staff.

7. Monitors and controls functions for the nationwide telecommunications system. Develops operational procedures to modernize and streamline network operation and develops plans for automation.

8. Manages traffic flow between telecommunications complexes and other SSA complexes.

9. Communicates status of the network to other network nodes and advises users of abnormal or extraordinary situations affecting network operations.

10. Monitors voice communications operations, analyzes equipment problems and effects proper maintenance and repair.

VOL 57 ISS 29 FE 12 1992 UMI

Dated: February 3, 1992.

Ruth A. Pierce,

Deputy Commissioner for Human Resources.

[FR Doc. 92–3337 Filed 2–11–92; 8:45 am]

BILLING CODE 4190-29-M

Public Health Service

National Toxicology Program; National Toxicology (NTP) Board of Scientific Counselors' Meeting; Cancellation

The meeting of the NTP Board of Scientific Counselors' Technical Reports Review Subcommittee scheduled for March 17–18, 1992, has been cancelled. The draft Technical Reports to be peer reviewed at this meeting will be reviewed at the next meeting of the Subcommittee on June 23 and 24, 1992.

For more information, contact the Executive Secretary Dr. Larry G. Hart, P.O. Box 12233, Research Triangle Park, North Carolina 27709 (telephone 919/541–3971, FTS 629–3971).

Dated: February 6, 1992.

Kenneth Olden,

Director, National Toxicology Program.

[FR Doc. 92–3391 Filed 2–11–92; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–92–3241; FR–2983–N–02]

Section 312 Rehabilitation Loan Program; Announcement of Funding Awards for Loans Exceeding $200,000

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for rehabilitation loans that exceed $200,000 under the Section 312 Rehabilitation Loan Program. This announcement contains the names and addresses of the award winners and the amounts of the awards.

DATES: February 12, 1992.

FOR FURTHER INFORMATION CONTACT: Richard R. Burk, Director, Program Operations Division, Office of Affordable Housing Programs, Department of Housing and Urban Development, room 7168, 451 South 7th Street, SW., Washington, DC 20410. Telephone (202) 708–1367. The TDD number for the hearing impaired is (202) 708–0564. (These telephone numbers are not toll-free).

SUPPLEMENTARY INFORMATION: Section 312(b) of the Housing Act of 1964, as amended, 42 U.S.C. 1452b ("the Act"), authorizes HUD to make loans for rehabilitation for single-family, multifamily residential, and mixed-use and nonresidential properties in federally-aided Community Development Block Grant and Urban Homesteading areas identified by local governments. Pursuant to the HUD Appropriations Act for Fiscal Year 1991 (Pub. L. 101–507, approved November 5, 1990), a Notice of Funding Availability (NOFA) was published in the **Federal Register** on June 10, 1991 announcing funding of the section 312 Loan Program for Fiscal Year 1991 for loans $200,000 or above. Although section 312 funds are available for all types of loans, only loan applications over $200,000 were addressed by the NOFA. The section 312 program is a demand-type program and thereby not normally subject to rules of competition. However, the Department made loans $200,000 or above subject to the requirements governing competitive programs under section 102 of the Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235), as implemented by regulations at 24 CFR part 12.

The Department received 48 applications for loans exceeding $200,000 and approved 23 loans. The Appropriations Act for FY 1991 anticipated the availability of $144 million for Section 312 rehabilitation loans derived from repayments and recaptures of prior years obligations. The amount of funds derived from repayments and recaptures from October 1, 1990 through September 30, 1991 was estimated to be $149,514,378. From the available funds, $63,950,850 was obligated for 1,425 loans during Fiscal 1991. Loans for the rehabilitation of 1,330 single-family homes accounted for $37,747,450. In addition, $7,323,850 was obligated for individual loans of less than $200,000 for the rehabilitation of 72 multi-family and/or commercial buildings, and $18,429,050 was obligated for 23 individual loans which exceeded $200,000 for the rehabilitation of eligible multi-family and commercial buildings. This notice of funding awards pertains to those funds obligated for section 312 Rehabilitation loans of $200,000 or more

Pursuant to section 102 of the HUD Reform Act of 1989, as implemented by 24 CFR part 12, the Department issued a NOFA to announce the availability of Section 312 loan funds for loans $200,000 or more and to describe the application and review procedures. This NOFA was published in the **Federal Register** on June 10, 1991 (56 FR 26728) and stated that applications for section 312 Rehabilitation loans exceeding $200,000 would be accepted by the Department through August 1, 1991. All such loan applications were received, logged-in and considered in the order in which they were received. The Department received and reviewed 48 applications for completeness and conformance with the guidelines and regulations of the section 312 Rehabilitation Loan Program. All applications were reviewed in compliance with the procedures of the NOFA. The Department approved 23 section 312 Rehabilitation loans over $200,000, which collectively account for $18,429,050. The Department has obligated funds for the loans and has notified these applicants of the funding reservations. The obligated loans listed below are subject to the requirements of loan closing pursuant to the regulations and provisions of the section 312 Program.

In compliance with section 102 (b) of the HUD Reform Act of 1989, as implemented by regulation at 24 CFR part 12, the following is a listing of approved Section 312 loans for $200,000 or more:

Applicant(s)	Project	Amount
Brattleboro Housing Partnership, P.O. Box 1936, Brattleboro, VT 05301	Abbott Block, 2–4 Canal Street, Brattleboro, VT 05301	$580,900
Vermont Housing Enterprise, Inc., P.O. Box 397, Montpelier, VT 05601	30 South Street, White River Junction, VT 05001	245,000
Vermont YWCA, 278 Main Street, Burlington, VT 05401	YWCA of Burlington, 278 Main Street, Burlington, VT 05401	254,000
Loretto Housing Dev. Fund Co., Inc., 700 East Brighton Ave., Syracuse, NY 13205.	Loretto Housing, 750 East Brighton Ave., Syracuse, NY 13202	2,512,500
Park Avenue Tenants Assoc., 329 Par Avenue, East Orange, NJ 07107	329 Park Avenue, East Orange, NJ	1,306,500
Teresa Mann, 89–10 Whitney Ave., Elmhurst, NY 11373 and Chi Kao, 46–25 88th Street, Elmhurst, NY 11373.	187 Jefferson Avenue, Brooklyn, NY	301,000

Applicant(s)	Project	Amount
Kenneth Hoyte & Gail Hoyte, 149a Lexington Avenue, Brooklyn, NY 11216.	1073-75 Bedford Avenue, Brooklyn, NY 11216	267,000
Andre Dache, 959 Kent Avenue, Brooklyn, NY 11238	884-886 Fulton Street, Brooklyn, NY 11238	234,000
Rivpin-HDFC, P.O. Box 1394, Stuyvesant Station, New York, NY 10009	515 East 15th Street, New York, NY 10009	301,500
Aaron From, 500 B Grand Street, New York, NY 10002 and Leonard Greher, 455 FDR Drive, New York, NY 10002.	280 St. Ann's Avenue, Bronx, NY 10455	277,000
Beatream E. Davis, 34-18 110th Street, Queens, NY 11368	255 Van Buren Street, Brooklyn, NY 11221	219,500
Lamarca Holding Corporation, 101 South Bergen Place #201, Freeport, NY 11520.	8806 Bay Parkway, Brooklyn, NY 11214	272,900
Samuel & Carol Allen, 137 Bessida Street, Bloomfield, NY 07003	372-374 South Orange Ave., Newark, NJ 07103	234,000
Hassan Kia, 9 First Street, Greenvale, NY 11548	48 East 105th Street, New York, NY 10029	320,000
Savannah Street Associates, 1445 Pennsylvania Avenue, SE., Washington, DC 20002.	Savannah Garden Apartments, 1301 Savannah Street SE., Washington, DC 20032.	1,500,000
Walkers Point Grove St. Ltd., Prtns., 914 South 5th Street, Milwaukee, WI 53204.	Walkers Point, 914 South 5th Street, Milwaukee, WI 53204	300,000
Grainger Ltd. Partnership, Haymarket Revitalization, Inc., 335 North 8th Street, Lincoln, NE 68508.	Grainger Building, 744 O Street, Lincoln, NE 68508	971,000
Reggie and Anne Crossan, 8 West 6th Street, Eureka, CA 95501	506 A Street, Eureka, CA 95501	288,700
Park Place General Partners, West 505 Riverside, Suite 500, Spokane, WA 99201.	The Edge Cliff, South 500 Park Road, Spokane, WA 99206	4,019,500
Ronald & Julie Wells, 911 East 20th Street, Spokane, WA 99203 and Clarence H. Barnes, 614 West 17th Avenue, Spokane, WA 99203 and DBA Finch Hall Properties, 911 East 20th Avenue, Spokane, WA 99203.	Finch Hall, 852 North Summit Avenue, Spokane, WA 99201	469,000
Paul & Meiyea Liao, 2816 29th Avenue, West, Seattle, WA 98199	523-525 Pine Street, Seattle, WA 98101	2,780,000
Spokane Care Services, Inc., 415 E Sprague, P.O. Box 2845, Spokane, WA 99220	Spokane Care Center, 165 South Howard Road, Spokane, WA 99201	412,550
Wells & Company Renovation Partners II, East 911 20th Avenue, Spokane, WA 99203	Hotel Vallamount, West 1324 First Avenue, Spokane, WA 99202	362,500
Total		$18,429,050

Dated: February 6, 1992

Anna Kondratas,

Assistant Secretary for Community Planning and Development

[FR Doc. 92-3346 Filed 2-11-92; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT-020-02-4370-12]

Salt Lake District; Temporary Land Closure

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of temporary land closure to all travel.

SUMMARY: Notice is hereby given that public lands as listed below in the Cedar Mountain area, Tooele County, are closed to all foot, bicycle, horseback and motorized travel from February 15, 1992 through March 15, 1992 to ensure a safe, cost effective wild horse capture in accordance with 43 CFR 8364.1 and 8360.0-7. Temporary closure of public lands is within:

Salt Lake Meridian, Utah

T. 2 S., R. 10 W.,
T. 2 S., R. 11 W.,
T. 3 S., R. 10 W.,
T. 3 S., R. 11 W.,
T. 4 S., R. 10 W.,
T. 4 S., R. 11 W.,

This closure does not restrict travel by government agencies or private enterprises including current BLM permittees conducting official duties.

The Bureau of Land Management will be capturing wild horses in the Cedar Mountain area during the time period of February 15 through March 15, 1992. Heavy concentrations of wild horses are causing severe over grazing of vegetative resources around critical watering areas on sections of the mountain. In order for the removal efforts to be conducted in the most humane, cost effective method possible, it is essential that wild horse distribution and movement into trapping areas not be altered by horseback riders or vehicles moving into the capture area.

For more information, contact: Howard Hedrick, Bureau of Land Management, Pony Express Resource Area Manager, 2370 South 2300 West, Salt Lake City, Utah 84119, (801) 977-4300.

Jordon C. Pope,

Assoc. District Manager.

[FR Doc. 92-3288 Filed 2-11-92; 8:45 am]

BILLING CODE 4310-DQ-M

[MT-020-02-4320-02]

Meeting; Montana

AGENCY: Bureau of Land Management, Miles City District Office, Interior.

ACTION: Notice of meeting.

SUMMARY: The Miles City District Advisory Council will meet Tuesday, April 28, 1992 at 10 a.m. The meeting will be held in the District Office Conference Room on Garryowen Road. Specific agenda items to be discussed are the FY92 budget and updates on the Brewer Ranch, Cherry Creek Dam, the weed control program, the wild horse sanctuaries, Pompeys Pillar, Fort Meade, guides and outfitters, and effects of land exchanges and purchases on school taxation.

The meeting is open to the public. The public may make oral statements before the Council or file written statements for the Council to consider. Depending on the number of persons wishing to make an oral statement, a per person time limit may be established. Summary minutes of the meeting will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

FOR FURTHER INFORMATION CONTACT: District Manager, Miles City District, Bureau of Land Management, P.O. Box 940, Miles City, Montana 59301 or phone (406) 232-4331.

Darrel G. Pistorius,

Acting District Manager.

[FR Doc. 92-3332 Filed 2-11-92; 8:45 am]

BILLING CODE 4310-DN-M

[MT-020-02-4320-02]

Meeting, Montana

AGENCY: Bureau of Land Management, Miles City District Office, Interior.

ACTION: Notice of meeting.

SUMMARY: The Miles City District Grazing Advisory Board will meet Thursday, May 21, 1992 at 10 a.m. The meeting will be held in the District Office Conference Room on Garryowen Road.

The agenda for the meeting will include:

(1) The FY92 District budget.

(2) Weed control funding and program results.

(3) Range improvement fund collections and expenditures.

(4) Endangered species reports.

(5) Drought policy.

The meeting is open to the public. The public may make oral statements before the Council or file written statements for the Council to consider. Depending on the number of persons wishing to make an oral statement, a per person time limit may be established. Summary minutes of the meeting will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

FOR FURTHER INFORMATION CONTACT: District Manager, Miles City District, Bureau of Land Management, P.O. Box 940, Miles City, Montana 59301 or phone (406) 232–4331.

Darrel G. Pistorius,

Acting District Manager.

[FR Doc. 92–3333 Filed 2–11–92; 8:45 am]

BILLING CODE 4310-DN-M

[AK-919-02-4830-02-ADVB]

Northern Alaska Advisory Council

The Northern Alaska Advisory Council has postponed its public meeting, scheduled for Thursday, February 20, 1992.

The new date for the meeting will be announced in the **Federal Register** 30 days in advance. For information, contact the Public Affairs Office, Bureau of Land Management, 1150 University Avenue, Fairbanks, Alaska 99709, telephone (907) 474–2231.

Dated: February 5, 1992.

Helen M. Hankins,

Designated District Manager.

[FR Doc. 92–3295 Filed 2–11–92; 8:45 am]

BILLING CODE 4310-JA-M

[WY-010-02-4320-10]

Meeting of the Worland District Grazing Advisory Board.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and agenda of a meeting of the Worland District Grazing Advisory Board.

DATES: March 25, 1992, 10 a.m.

ADDRESSES: Bureau of Land Management, Conference Room, 101 South 23d Street, Worland, Wyoming.

FOR FURTHER INFORMATION CONTACT: Darrell Barnes, District Manager, Worland District Bureau of Land Management, P.O. Box 119, Wyoming 82401, (307) 347–9871.

SUPPLEMENTARY INFORMATION: The agenda for the meeting will include.

1. Discussion of the Worland District Grazing Advisory Board Charter.
2. Election of a chairperson and a vice chairperson.
3. Review of New Bureau policy for use of 8100 funds.
4. Review of allotment management plans.
5. Review of fiscal year 1991–92 range projects and discussion and recommendations for proposed 1993 range improvement projects.
6. Review of range program summary progress.
7. Briefing concerning the Grass Creek Area Planning.
8. Update on the fence modification proposal in Washakie Resource Area.
9. Wild horse management update.
10. Opportunity for the public to present information or make comments.

The meeting is open to the public. Interested persons may make oral statements to the Board during the public comment period or file written statements for the Board's consideration. Anyone wishing to make an oral statement should notify the District Manager, at the above address by March 2, 1992.

Dated: February 6, 1992.

Bruce Carroll,

Acting District Manager.

[FR Doc. 92–3299 Filed 2–11–92; 8:45 am]

BILLING CODE 4310-22-M

[CA-050-02-4212-21; CACA 29460]

Lease of Public Land; Butte County; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following public land has been found suitable for an occupancy lease under authority of the Federal Land Policy and Management Act of 1976:

Mount Diablo Meridian

T. 22 N., R. 4 E.,
Sec. 6, SW¼NW¼SE¼SW¼SE¼
Approximately 1.25 acres.

A lease, for a 30-year period, will be entered into with Robert J. Wray, to resolve a survey-related trespass. The public land will be leased at fair market rental.

EFFECTIVE DATE: For a period of 45 days from publication of this notice, the public is invited to comment on the proposed lease. Comments may be sent to the Area Manager, Redding Resource Area, 355 Hemsted Drive, Redding, California 96002.

FOR FURTHER INFORMATION CONTACT: Patricia Cook, Realty Specialist, at the address above.

Francis Berg,

Acting Area Manager.

[FR Doc. 92–3238 Filed 2–11–92; 8:45 am]

BILLING CODE 4310-40-M

[OR-056-4410-10:GP2-121]

Intent To Prepare a Plan Amendment to the Brothers/LaPine Resource Management Plan; Deschutes and Crook Counties, OR

February 3, 1992.

AGENCY: U.S. Department of Interior, Bureau of Land Management, Prineville District, Prineville, Oregon.

ACTION: To amend the Brothers/LaPine Resource Management Plan for Public Lands in the vicinity of the Bend, Redmond and Sisters communities.

SUMMARY: Rapid growth in the area has caused increased competition for use of public lands. The Prineville District is responding to public concerns and is in the issue scoping phase in the preparation of an Urban-Interface Plan. Land use competition centers around land tenure agreements such as Recreation and Public Purpose Act leases, land exchanges, and land disposal; and recreational uses. Recreational uses in the area include off-highway vehicle use, horseback riding, shooting, archery, nature study, hiking, model airplanes, star gazing, paintball, cycling, etc. Other concerns have risen over wildlife habitat, vandalism, law enforcement, illegal activities such as dumping, and citizen involvement in land management decisions.

For additional information regarding issue scoping or the Urban-Interface planning process contact Sharon Netherton or Phil Paterno at the Bureau of Land Management, Prineville District Office, 185 E. Fourth Street, Prineville, OR 97754, telephone (503) 447–8766 or 447–8724 respectively.

Interested parties may submit issues, concerns or alternatives to the above address until March 15, 1992.

Dated: February 3, 1992.

James L. Hancock,

District Manager, Prineville District Office.

[FR Doc. 92-3239 Filed 2–11–92; 8:45 am]

BILLING CODE 4310-33-M

Bureau of Land Management

[ES–962–4950–13; ES–044997, Group 27, Missouri]

Filing of Plat of Dependent Resurvey

The plat, in ten sheets, of the dependent resurvey of a portion of the east and north boundaries, a portion of the subdivision lines, and a portion of U.S. Survey No. 727, and the survey of the subdivision of certain sections; certain metes-and-bounds surveys and the survey of road easements necessary to delineate the Wappapello Lake Acquisition Boundary in Township 28 North, Range 5 East, Fifth Principal Meridian, Missouri, will be officially filed in the Eastern States Office, Alexandria, Virginia at 7:30 a.m., on March 25, 1992.

The survey was made upon request submitted by the U.S. Army Corps of Engineers.

All inquiries or protests concerning the technical aspects of the survey must be sent to the Deputy State Director for Cadastral Survey, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, prior to 7:30 a.m., March 25, 1992. Copies of the plat will be made available upon request and prepayment of the reproduction fee of $4.00 per copy.

Stephen G. Kopach,

Associate Deputy State Director for Cadastral Survey.

[FR Doc. 92-3236 Filed 2–11–92; 8:45 am]

BILLING CODE 4310-GJ-M

[ES–962–4950–13; ES–045002, Group 28, Missouri]

Filing of Plat of Dependent Resurvey and Subdivision of Sections 7 and 18

The plat, in two sheets, of the dependent resurvey of a portion of the subdivisional lines, and the survey of the subdivision of sections 7 and 18; certain metes-and-bounds surveys, and the survey of road easements necessary to delineate the Wappapello Lake Acquisition Boundary in Township 28 North, Range 6 East, Fifth Principal Meridian, Missouri, will be officially filed in the Eastern States Office, Alexandria, Virginia at 7:30 a.m., on March 25, 1992.

The survey was made upon request submitted by the U.S. Army Corps of Engineers.

All inquiries or protests concerning the technical aspects of the survey must be sent to the Deputy State Director for Cadastral Survey, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, prior to 7:30 a.m., March 25, 1992. Copies of the plat will be made available upon request and prepayment of the reproduction fee of $4.00 per copy.

Stephen G. Kopach,

Associate Deputy State Director for Cadastral Survey.

[FR Doc. 92-3237 Filed 2–11–92; 8:45 am]

BILLING CODE 4310-GJ-M

(CA-060-343-7122-10-D063; CACA 28709)

Amendment to Withdrawal Application and Opportunity for Public Meeting; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Department of the Army has filed an application to amend its withdrawal proposal to expand the Army's National Training Center at Fort Irwin to include an additional 229,200 acres. These additional acres will be analyzed as an alternative in the Environmental Impact Statement currently being prepared on the proposed expansion of Ft. Irwin. A separate Notice of Scoping Update will be issued requesting input on this new alternative. This notice provides a public comment period and the opportunity for a public meeting as to the amended portion of the application. This notice closes the lands from surface entry and mining through September 30, 1993, the date the segregative period provided by the original application will terminate. The lands will remain open to mineral leasing.

DATES: Comments and requests for a public meeting must be received by May 12, 1991.

ADDRESSES: Comments and meeting requests should be sent to Sharon Paris, Environmental Coordinator, BLM, 150 Coolwater Lane, Barstow, California 92311–3221, 619–256–3591.

FOR FURTHER INFORMATION CONTACT: Viola Andrade, BLM California State Office, 916–978–4820.

SUPPLEMENTARY INFORMATION: On January 30, 1992, the United States Department of the Army filed an application to withdraw additional public lands from settlement, sale, location, or entry under the general land laws, including the mining laws, subject to valid existing rights. The lands are described as follows:

San Bernardino Meridian

T. 18 N., R. 3 E.,
  Sec. 13, N½ and SW¼, unsurveyed;
  Secs. 14 and 15, unsurveyed;
  Secs. 20 to 24, inclusive.
T. 18 N., R. 4 E.,
  Sec. 13, S½, unsurveyed;
  Sec. 14, S½, partly unsurveyed;
  Sec. 15, S½;
  Sec. 17, S½;
  Sec. 18, S½;
  Sec. 19;
  Secs. 20 and 21, partly unsurveyed;
  Sec. 22;
  Secs. 23 and 24, partly unsurveyed.
T. 17 N., R. 5 E.,
  Sec. 1, excluding patented land, unsurveyed;
  Sec. 2, excluding patented land, unsurveyed;
  Sec. 3, excluding patented land, unsurveyed;
  Sec. 4, unsurveyed;
  Sec. 5, excluding patented land, unsurveyed;
  Sec. 6, excluding patented land, unsurveyed;
  Sec. 7, unsurveyed;
  Sec. 8, excluding patented land, unsurveyed;
  Secs. 9 to 12, inclusive, unsurveyed.
T. 18 N., R. 5 E.,
  Sec. 13, S½;
  Sec. 14, S½;
  Sec. 15, S½, excluding patented land, partly unsurveyed;
  Sec. 17, S½; unsurveyed;
  Sec. 18, S½; excluding patented land, partly unsurveyed;
  Sec. 19, excluding patented land, partly unsurveyed;
  Sec. 20, unsurveyed;
  Sec. 21, excluding patented land, unsurveyed;
  Sec. 22, excluding patented land, partly unsurveyed;
  Sec. 23, partly unsurveyed;
  Sec. 24;
  Sec. 25, partly unsurveyed;
  Sec. 26, excluding patented land, unsurveyed;
T. 18 N., R. 5 E. (continued)
  Sec. 27, excluding patented land, unsurveyed;
  Sec. 28, excluding patented land, partly unsurveyed;
  Secs. 29 to 33, inclusive, unsurveyed;
  Sec. 34, excluding patented land, unsurveyed;
  Sec. 35, excluding patented land, unsurveyed.

T. 16 N., R. 6 E.,
Sec. 1, excluding patented land, unsurveyed;
Sec. 2, unsurveyed;
Sec. 11, unsurveyed;
Sec. 12, excluding patented land, unsurveyed;
Sec. 13, excluding patented land, unsurveyed;
Sec. 14, unsurveyed;
Secs. 23 to 26, inclusive, unsurveyed;
Sec. 35, unsurveyed.
T. 17 N., R. 6 E.,
Secs. 1 to 4, inclusive, unsurveyed;
Sec. 5, excluding patented land, unsurveyed;
Sec. 6, excluding patented land, unsurveyed;
Sec. 7, excluding patented land, unsurveyed;
Sec. 8, excluding patented land, unsurveyed;
Secs. 9 to 15, inclusive, unsurveyed;
Secs. 17 and 18, unsurveyed;
Secs. 22 to 27, inclusive, unsurveyed;
Secs. 34 to 35, unsurveyed;
T. 18 N., R. 6 E.,
Secs. 1 to 4, inclusive;
Sec. 5, lots 1, 2, 7, 8, 9, 10, 11, and 12;
Sec. 8, E½;
Secs. 9 to 15, inclusive;
Sec. 17, S½ and NE¼;
Sec. 18, S½;
Secs. 19 to 25, inclusive;
Secs. 26 to 30, inclusive, partly unsurveyed;
Sec. 31, excluding patented land, unsurveyed;
Secs. 32 to 35, inclusive, unsurveyed;
T. 19 N., R. 6 E.,
Secs. 25 and 26;
Sec. 27, partly unsurveyed;
Sec. 28, unsurveyed;
Sec. 29, E½, unsurveyed;
Sec. 32, E½, unsurveyed;
Sec. 33, partly unsurveyed;
Secs. 34 and 35.
T. 14 N., R. 7 E.,
Secs. 10 to 12, inclusive.
T. 16 N., R. 7 E.,
Sec. 1;
Sec. 2, partly unsurveyed;
Secs. 3 to 5, inclusive, unsurveyed;
Sec. 6, excluding patented land, unsurveyed;
Sec. 7, excluding patented land, unsurveyed;
Secs. 8 to 11, inclusive, unsurveyed;
Secs. 12 and 13;
Secs. 14 and 15, unsurveyed;
Secs. 17 to 23, inclusive, unsurveyed;
Secs. 24 and 25;
Secs. 26 to 34, inclusive, unsurveyed;
Sec. 35, partly unsurveyed.
T. 17 N., R. 7 E.,
Secs. 1 to 3, inclusive;
Secs. 4 and 5, partly unsurveyed;
Secs. 6 to 9, inclusive, unsurveyed;
Secs. 10 to 14, inclusive;
Sec. 15, partly unsurveyed;
Secs. 17 to 22, inclusive, unsurveyed;
Secs. 23 to 26, inclusive;
Secs. 27 to 34, inclusive, unsurveyed;
Sec. 35.
T. 18 N., R. 7 E.,
Secs. 13 to 15, inclusive;
Sec. 17, partly unsurveyed;
Secs. 18 and 19, unsurveyed;
Sec. 20, partly unsurveyed;
Secs. 21 to 29, inclusive;
Sec. 30, partly unsurveyed;
Sec. 31, unsurveyed;
Sec. 32, partly unsurveyed;
Secs. 33 to 35, inclusive.
T. 14 N., R. 8 E.,
Secs. 6 and 7.
T. 15 N., R. 8 E.,
Sec. 1, partly unsurveyed;
Secs. 2 to 11, inclusive;
Sec. 12, partly unsurveyed;
Secs. 14 and 15;
Secs. 17 to 20, inclusive;
Secs. 29 to 31, inclusive.
T. 16 N., R. 8 E.,
Sec. 1, excluding patented land, unsurveyed;
Sec. 2, excluding patented land, partly unsurveyed;
Sec. 3, partly unsurveyed;
Secs. 4 to 15, inclusive;
Secs. 17 to 35, inclusive.
T. 17 N., R. 8 E.,
Secs. 1 to 15, inclusive;
Secs. 17 to 20, inclusive;
Secs. 21 to 23, inclusive, partly unsurveyed;
Secs. 24 to 27, inclusive, unsurveyed;
Sec. 28, partly unsurveyed;
Secs. 29 to 32, inclusive;
Sec. 33, partly unsurveyed;
Secs. 34 and 35, unsurveyed.
T. 18 N., R. 8 E.,
Secs. 13 to 15, inclusive, partly unsurveyed;
Secs. 17 to 21, inclusive;
Secs. 22 to 24, inclusive, partly unsurveyed;
Secs. 25 to 35, inclusive.
T. 15 N., R. 9 E.,
Secs. 5 and 6, unsurveyed.
T. 16 N., R. 9 E.,
Secs. 5 and 6, partly unsurveyed;
Secs. 7 and 8;
Secs. 17 to 20, inclusive;
Sec. 29, unsurveyed;
Sec. 30, partly unsurveyed;
Secs. 31 and 32, unsurveyed.
T. 17 N., R. 9 E.,
Secs. 5 to 8, inclusive;
Secs. 17 and 18;
Sec. 19, partly unsurveyed;
Sec. 20;
Secs. 29 and 30, partly unsurveyed;
Secs. 31 and 32, unsurveyed.
T. 18 N., R. 9 E.,
Secs. 17 to 20, inclusive;
Secs. 29 to 32, inclusive.

The areas described aggregate approximately 229,200 acres in San Bernardino County.

Effective on the date of publication, the additional acreage is subject to the requirements set forth in the original withdrawal application notice published in the **Federal Register**, 56 FR 49792, October 1, 1991.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the amended application may present their views in writing to Sharon Paris, Environmental Coordinator, of the Bureau of Land Management at the address shown above.

Dated: February 6, 1992.

Nancy J. Alex,

Chief, Lands Section.

[FR Doc. 92-3300 Filed 2-11-92; 8:45 am]

BILLING CODE 4310-40-M

Minerals Management Service

Outer Continental Shelf; Adoption of NAD 27-NAD 83 Datum Transformation Software

This document is notification that the Department of the Interior, Minerals Management Service (MMS) has adopted NADCON version 2.00 (v2.00) as the Agency's standard horizontal datum transformation software. NADCON v2.00 will be used to transform MMS Outer Continental Shelf (OCS) positional coordinates between the North American Datums of 1927 (NAD 27) and 1983 (NAD 83). (For MMS purposes the World Geodetic System of 1984 (WGS 84) is considered equivalent to NAD 83 offshore of Alaska and the conterminous United States.)

NADCON v2.00 is available from the Department of Commerce, National Oceanic and Atmospheric Administration, National Ocean Service, National Geodetic Survey (NGS), Information Services Center, Rockville, Maryland 20852, (301) 443-8631.

For technical information, contact Alice Drew, Senior Geodesist, MMS, Mapping and Survey Group, Denver, Colorado, (303) 236-7050 or Dave Doyle, Senior Geodesist, NGS, Horizontal Network Branch, (301) 443-8684.

Dated: February 7, 1992.

Thomas Gernhofer,

Associate Director for Offshore Minerals Management.

[FR Doc. 92-3338 Filed 2-11-92; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Cape Cod National Seashore, South Wellfleet, MA; Environmental Assessment for Race Point Road Improvements; Availability and Public Comment Period

In accordance with the National Environmental Policy Act (Pub. L. 91-190), the National Park Service, U.S. Department of the Interior, announces that an Environmental Assessment for Race Point Road Improvement, Provincetown, Massachusetts is available for public review and comment.

Interested persons may review the document and make written comments to the Superintendent, Cape Cod National Seashore, Headquarters Building, Marconi Station, South Wellfleet, Massachusetts 02663, during the public review period from February 14, 1992 through March 15, 1992. A public meeting to discuss the assessment alternatives will be held on Thursday, March 5, 1992 in Provincetown, Massachusetts (time and site location to be announced in local media).

Limited copies of the document are available to the public upon request by writing to the above address or calling Jim Killian at (508) 349–3785. Full size drawings of Alternatives 3 and 4 are also available at the Park Headquarters.

Dated: February 5, 1992.

Steven H. Lewis,

Acting Regional Director.

[FR Doc. 92–3321 Filed 2–11–92; 8:45 am]

BILLING CODE 4310–70–M

AGENCY FOR INTERNATIONAL DEVELOPMENT

Public Information Collection Requirements Submitted to OMB for Review

The Agency of International Development (A.I.D) submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of the entry no later than ten days after publication. Comments may also be addressed to, and copies of the submissions obtained from the Reports Management Officer, Fred D. Allen, (703) 875–1573, FA/AS/ISS, room 1209B, SA–14, Washington, DC 20523–1413.

Date Submitted: January 31, 1992.

Submitting Agency: Agency for International Development.

OMB Number: None Assigned.

Form Number: None Assigned.

Type of Submission: New Collection.

Title: The Microenterprise Monitoring System Project (MEMS).

Purpose: The Agency for International Development (A.I.D.) provides funds to various organizations worldwide to carry out activities in support of microentrepreneurs. These activities rang from the provision of technical assitance to the creation of credit programs for the very poor. As a part of legislation A.I.D. has been directed to report annually to the Congress on its microenterprise program. It has also been instructed to implement a monitoring system which will enable the Agency to provide very detailed data on the outputs and beneficiaries of the microenterprise programs.

Annual Reporting Burden

Respondents: 485; annual responses: 1; average hours per response: 21.1; burden hours: 10,290.

Reviewer: Lin Liu (202) 395–7340, Office of Management and Budget, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: February 3, 1992.

Elizabeth Baltimore,

Information Support Services Division.

[FR Doc. 92–3233 Filed 2–11–92; 8:45 am]

BILLING CODE 6116–01–M

Notice of Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of a meeting of the Advisory Committee on Voluntary Foreign Aid (ACVFA) Tuesday, February 25, 1992 and Wednesday, February 26, 1992.

Date: February 25, 1992, (9 a.m. to 5 p.m.); February 26, 1992, (9 a.m. to 1 p.m.).

Place: State Department.

The purpose of the meeting will be to focus on the dramatic changes occurring in the former Soviet Union and the evolving A.I.D./PVO role that these changes suggest. The two-day meeting will revolve around discussions of two broad issues: the operational challenges which PVOs face in the region; and, the move from emergency humanitarian relief efforts to long range technical assistance development programs.

The meeting is free and open to the public. However, notification by February 20, 1992, through the Advisory Committee Headquarters is required.

Persons wishing to attend the meeting must call Theresa Graham or Susan Saragi (703) 351–0203, or facsimile (703) 351–0212. Persons attending must include their name, organization, birth date and social security number for security purposes.

Dated: January 30, 1992.

Sally H. Montgomery,

Deputy Assistant Administrator, Private and Voluntary Cooperation, Food and Humanitarian Assistance.

[FR Doc. 92–3234 Filed 2–11–92; 8:45 am]

BILLING CODE 6116–01–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–317]

Economy-Wide Modeling of the Economic Implications of a FTA With Mexico and a NAFTA With Canada and Mexico

AGENCY: United States International Trade Commission.

ACTION: Date of public hearing.

SUMMARY: The public hearing in connection with this investigation will be held in the Commission Hearing Room, 500 E Street, SW., Washington, DC, beginning at 9:30 a.m. on March 26, 1992. All persons with an interest in the investigation have the right to appear in person or by counsel, to present information, and to be heard. Persons wishing to appear at the hearing should file prehearing briefs or statements (original and 14 copies) with the Secretary, United States International Trade Commission, 500 E Street, SW., Washington, DC, not later than the close of business on March 12, 1992. Any posthearing briefs or statements must be filed by April 9, 1992.

The hearing is being held as a followup to a symposium on the technical merits and major findings of economy-wide modeling of the economic implications of a FTA with Mexico and a NAFTA with Mexico and Canada. The symposium is scheduled for February 24–25, also at the Commission in Washington. The purpose of the hearing is to allow the public and discussants additional opportunity to provide technical comments on the papers that were to have been discussed at the symposium. These papers will be contained in a preliminary report to be issued by the Commission on February 10, 1992. The preliminary report can be obtained by contacting William Bishop (202–205–1806), Office of the Secretary, U.S. International Trade Commission.

As stated in the Commission's notice of investigation, which was published in the **Federal Register** of November 29, 1991 (56 FR 61048), the investigation is being conducted under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) pursuant to a request received on July 24, 1991, from the U.S. Trade Representative. In that notice the Commission issued a call for papers. The Commission has now selected the papers to be presented and, as indicated above, these papers will be made available in a preliminary report to be issued by the Commission prior to the symposium.

EFFECTIVE DATE: February 4, 1992.

FOR FURTHER INFORMATION CONTACT: Edward Carroll (202-205-1819), Office of Public Affairs, U.S. International Trade Commission. Hearing impaired persons can obtain information on this study by contacting the Commission's TDD terminal on (202-205-1810).

Issued: February 7, 1992.

By Order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 92-3380 Filed 2-11-92; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-331]

Certain Microcomputer Memory Controllers, Components Thereof and Products Containing Same; Commission Determination Not To Review an Initial Determination Granting in Part Complainant's Motion for Summary Determination on the Issue of Domestic Industry

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (ID) issued by the presiding administrative law judge (ALJ) granting in part complainant's motion for summary determination on the existence of a domestic industry in the above-captioned investigation.

ADDRESSES: Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202-205-2000.

FOR FURTHER INFORMATION CONTACT: Daniel Hopen, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202-205-3108.

Hearing-impaired individuals are advised that information about this matter can be obtained by contacting the Commission's TDD terminal, 202-205-1810.

SUPPLEMENTARY INFORMATION: On November 19, 1991, complainant Chips and Technologies, Inc. filed a motion for summary determination on the issue of the existence of a domestic industry. The motion was opposed by respondents Sun Electronics Corporation, OPTi Computer, Inc., ETEQ Microsystems, Inc., and Elite Microelectronics, Inc. The Commission investigative attorney filed a response in support of a partial summary determination. On January 9, 1992, the presiding ALJ issued an ID granting the motion in part. The ALJ determined that, assuming complainant is selling products that in fact practice each of the patent claims in issue, there is substantial exploitation of the patents in issue and an industry exists in the United States as to each patent claim. No petitions for review were received.

This action is taken under the authority of section 337 of the Tariff act of 1930 (19 U.S.C. 1337) and section 210.53 of the Commission's Interim Rules of Practice and Procedure (19 CFR 210.53).

Issued: February 5, 1992.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 92-3358 Filed 2-11-92; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-333]

Certain Woodworking Accessories; Change of Commission Investigative Attorney

Notice is hereby given that, as of this date, James M. Gould, Esq., of the Office of Unfair Import Investigations is designated as the Commission investigative attorney in the above-cited investigation instead of James M. Gould, Esq. and Gabrielle Siman, Esq.

The Secretary is requested to publish this Notice in the **Federal Register**.

Dated: February 3, 1992.

Respectfully submitted,

Lynn I. Levine,

Director, Office of Unfair Import Investigations, 500 E Street SW., Washington, DC 20436.

[FR Doc. 92-3359 Filed 2-11-92; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decrees Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on January 29, 1992 a proposed Consent Decree in *United States* v. *Gary Hodges d/b/a Blue Ridge Exhaust* (W.D. Va.), Civil Action No. 89-0936(R), was lodged with the United States District Court for the Western District of Virginia. The proposed Consent Decree (the "Decree") concerns violations of section 203(a)(3) of the Clean Air Act, 42 U.S.C. 7522(a)(3), with respect to Defendant's provision of nonfunctioning, empty catalytic converter shells to an automotive repair facility which installed the shells on automobiles in place of functioning catalytic converters that are designed to control automobile emissions. The Decree requires Defendant to comply with section 203(a)(3) of the Clean Air Act, to refrain from supplying automotive shops with empty catalytic converter shells, and to pay a $10,000.00 civil penalty.

The Department of Justice will receive comments relating to the proposed Decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Gary Hodges d/b/a Blue Ridge Exhaust*, D.J. No. 90-5-2-1-1421.

The proposed Decree may be examined at the office of the United States Attorney for the Western District of Virginia, Poff Federal Building, room 456, 210 Franklin Road, SW., Roanoke, Virginia 24011. The proposed Decree may also be examined at the Environmental Enforcement Section Document Center, 1333 F Street, NW., suite 600, Washington, DC 20004, 202-347-7829. A copy of the proposed Decree may be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check payable to Consent Decree Library in the amount of $2.00 (25 cents per page reproduction costs).

John C. Cruden,

Chief, Environmental Enforcement Section.

Consent Decree

Whereas, Plaintiff, the United States of America ("United States"), on behalf of the Administrator of the United States Environmental Protection Agency ("EPA"), filed a Complaint in this matter against Defendant Gary Hodges doing business as Blue Ridge Exhaust (Gary Hodges and Blue Ridge Exhaust are collectively referred to hereinafter as "Hodges"), a used automotive parts salvage dealer located at Route 2, Galax, Virginia, seeking civil penalties for alleged violations of section 203(a)(3)(B) of the Clean Air Act (the "Act"), 42 U.S.C. 7522(a)(3)(B), which prohibits tampering and causing tampering with automobile emissions control devices; and

Whereas, Hodges was served with the United States' Complaint and, on July

24, 1990, the Clerk entered Hodges' default pursuant to Fed. R. Civ. P. 55(a); and

Whereas, The United States and Hodges stipulate and agree to the making and entry of this Consent Decree ("Decree") without any admission of liability as to any matter arising out of the pleadings; and

Whereas, The parties recognize and the Court, by entering this Decree, finds that settlement of this matter without costly and protracted litigation between the parties is in the public interest;

Now, Therefore, It is hereby Ordered, Adjudged and Decreed:

I. Jurisdiction and Venue

1. This Court has jurisdiction over the subject matter of this action and over the parties pursuant to 28 U.S.C. 1345 and 1355. Venue of this action lies with this Court pursuant to 28 U.S.C. 1391(b) and 1395(a). The Complaint states a claim for which relief might be granted under sections 203(a)(3)(B) and 205 of the Act, 42 U.S.C. 7522(a)(3)(B) and 7524.

II. Parties Bound

2. The provisions of this Decree shall apply to and be binding upon Hodges, his employees, agents and assigns.

III. Future Compliance With the Act

3. Hodges shall comply with section 203(a)(3) of the Act, 42 U.S.C. 7522(a)(3). Hodges shall not sell, trade, or otherwise supply catalytic converter shells (*i.e.*, catalytic converters from which catalytic material has been removed) to any person or entity engaged in the business of repairing, servicing, selling, leasing, or trading motor vehicles or motor vehicle engines, or who operates a fleet of motor vehicles.

IV. Civil Penalties

4. In full settlement of all civil claims in the Complaint filed herein, Hodges shall pay a civil penalty of $10,000 to the United States, payable in six installments, the first of which shall be in the amount of one thousand dollars ($1,000), and each of the next five of which shall be in the amount of one thousand eight hundred dollars ($1,800). The first installment shall be paid within thirty days after entry of this Decree. The second installment shall be paid on or before one year after the entry of this Decree. Each subsequent installment shall thereafter be paid annually, on or before the second, third, fourth, and fifth anniversary dates of the entry of this Decree, respectively.

5. If Hodges shall fail to comply with section 203(a)(3)(B) of the Act, 42 U.S.C. 7522(a)(3)(B) or with any provision of Paragraph 3 above while this Decree is in effect, Hodges shall pay to the United States a stipulated civil penalty in the amount of $2,500 for each violation.

6. Payments shall be made by certified or cashier's check payable to the "Treasurer of the United States" and shall reference Department of Justice case number 90-5-2-1-1421. Payments shall be remitted to the United States Attorney for the Western District of Virginia, P.O. Box 1709, Roanoke, VA 24008, Attention: Jean Barrett, Assistant United States Attorney, with a copy of the checks sent to:

(1) Chief, Environmental Enforcement Section, Environment and Natural Resources Division, United States Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044 Att'n: DOJ No. 90-5-2-1-1421 and

(2) Marilyn Bennett, Esq., Field Operations and Support Division, Office of Air and Radiation, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

7. Payments made under this Decree shall not be treated by Hodges as tax-deductible for federal tax purposes.

8. If the civil penalty is not timely paid, this Decree shall be considered an enforceable judgment for purposes of post-judgment collection in accordance with rule 69 of the Federal Rules of Civil Procedure and other applicable federal authority. The United States shall be entitled to interest on any overdue amount until collected, at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. 3717. Furthermore, Hodges shall be liable for attorney's fees and costs incurred by the United States to collect any amounts due under this Decree.

V. Attorney's Fees and Costs

9. Each party shall bear its own attorney's fees and costs incurred in this action.

VI. Lodging and Public Comment

10. The parties agree and acknowledge that final approval and entry of this Decree are subject to the provisions of 28 CFR 50.7, which provides, *inter alia*, that notice of the proposed Decree be given to the public, with a thirty day period within which to comment on its terms.

VII. Duration of the Decree

11. This Decree shall take effect upon entry by the Court and, unless extended by the Court, shall terminate five years from the date of its entry. Nothing contained herein shall limit the power of the Court to issue such orders or directions as may be necessary to implement, enforce, or modify the terms of this Decree or to provide such further relief as the interests of justice may require.

SO ORDERED THIS ______ DAY OF

______, 1991.

BY THE COURT

____

James C. Turk

United States District Judge

The undersigned representatives of each party enter into this Decree and agree that it may be entered subject to the requirements of 28 CFR 50.7.

For Defendant Hodges:

Dated: October 18, 1991.

Gary Hodges

Dated: October 18, 1991.

Raleigh M. Cooley,

Cooley & Compton, Attorneys at Law, P.O. Box 517, Hillsville, Virginia 24343.

For Plaintiff the United States of America:

Barry M. Hartman,

Acting Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice.

Dated: January 26, 1992.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division, U.S. Department of Justice.

Dated: January 22, 1992.

David Rosskam,

Trial Attorney, Environmental Enforcement Section Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, (202) 514-3974/(FTS) 368-3974.

E. Montgomery Tucker

United States Attorney.

Dated: January 28, 1992.

By:

Jean M. Barrett,

Assistant United States Attorney, Western District of Virginia, P.O. Box 1709, Roanoke, VA 24011, (703) 982-6250.

Dated: January 11, 1992.

Herbert Tate,

Assistant Administrator, Office of Enforcement, United States Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Dated: November 18, 1991.

Marilyn Bennett,

Field Operations and Support Division, Office of Air and Radiation, United States Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

[FR Doc. 92-3241 Filed 2-11-92; 8:45 am]

BILLING CODE 4410-01-M

VOL 57
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Lodging of Consent Decree in United States v. Kerr-McGee Chemical Corp., Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980

In accordance with section 122(d)(2) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9622(d)(2), and the policy of the Department of Justice, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States of America* v. *Kerr-McGee Chemical Corp.*, Civil Action No. 91–C–1396, was lodged with the United States District Court for the Eastern District of Wisconsin, on December 30, 1991. This action was brought pursuant to CERCLA sections 106 and 107(a), 42 U.S.C. 9606 and 9607(a), to achieve a cleanup of the Moss-American Site in Milwaukee, Wisconsin, and to recover costs expended by the United States at the Site. The Site is listed on the National Priorities List set forth at 40 CFR part 300, appendix B.

The Site comprises 88 acres in northwestern Milwaukee at the southeast corner of the intersection of Granville Rd. and Brown Deer Rd. The Little Menomonee River enters the Site through the northern boundary and leaves through the eastern boundary. A wood preserving plant was established on the Site in 1921. Kerr-McGee Chemical Corp. owned and operated the plant from approximately 1963 to 1976, and is a present owner of the Site. A number of water quality and soil/sediment contamination studies have been conducted at the Site. Based on the results of these studies, the U.S. Environmental Protection Agency ("U.S. EPA") has determined that materials used at the plant site containing creosote and its polynuclear aromatic hydrocarbon (PAH) derivatives are present in the soils, underground soils, sediments, groundwater, and surface water at the Site.

Under the proposed Consent Decree, a defendant Kerr-McGee Chemical Corp. will finance and perform a remedy previously selected by U.S. EPA for the Site. The main components of the remedy that will be implemented include the following actions. (1) The Little Menomonee River will be rechanneled to a new channel roughly parallel to the existing channel; (2) approximately 5,200 cubic yards of highly contaminated sediment from the old river channel and 80,000 cubic yards of on-site soil will be excavated and treated by soil-washing and an on-site slurry bio-reactor to health based risk levels established in EPA's Record of Decision (appendix 2 to the proposed Decree); (3) the treatment residue and low level remaining contamination will be covered on-site; (4) the old river channel will be covered with soil from the new channel; and (5) extracted groundwater will be treated using an oil/water separator and activated carbon. The selected remedy provides for continued monitoring of the groundwater for at least 5–10 years after the remedial action is complete.

Under the proposed Decree, Kerr McGee also would reimburse $1 million of the costs incurred by the United States at the Site.

The Department of Justice will receive comments on the proposed Consent Decree for a period of 30 days from the publication of this Notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530. All comments should refer to *United States* v. *Kerr-McGee Chemical Corporation*, D.J. Ref. No. 90–11–2–590.

The proposed Consent Decree may be examined at the Office of the United States Attorney (Civil Division) for the Eastern District of Wisconsin, 330 U.S. Courthouse, 517 East Wisconsin Ave., Milwaukee, WI 53202–4580, (room 16G28); the Region V Office of the U.S. Environmental Protection Agency, 111 West Jackson Street, Third Floor, Chicago, Illinois; and at the U.S. Department of Justice, Environmental Enforcement Section Document Center, 601 Pennsylvania Ave., NW., Box 1097, Washington, DC 20004 (202–347–7829). A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center. In requesting a copy, please specify the documents required, together with a check payable to the "Consent Decree Library" for the appropriate amount, as follows:

Consent Decree only ($.25 per page reproduction costs): $19.50.
Consent Decree with appendices: $70.00.

John C. Cruden,
Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 92–3298 Filed 2–11–92; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

United States v. Massachusetts Allergy Society, Inc.; Wilfred N. Beaucher; Jack E. Farnham; Bernard A. Berman; and Irving W. Bailit

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b)–(h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the District of Massachusetts, in *United States of America* v. *Massachusetts Allergy Society, Inc., et. al.*, Civil No. 92–10273H.

The Complaint in this case alleges that defendants unreasonably restrained trade in violation of section 1 of the Sherman Act, 15 U.S.C. 1, by conspiring to fix and raise the fees paid for allergy services by certain health maintenance organizations ("HMOs") in Massachusetts. The Complaint alleges that defendants and their co-conspirators combined and conspired to, among other things, agree to have the Massachusetts Allergy Society, Inc. ("MAS") act as their joint negotiating agent to obtain higher fees from certain HMOs for allergy services and to resist competitive pressures to discount fees, and also to develop and adopt a fee schedule to be used by MAS in negotiating higher fees on their behalf from certain HMOs.

The proposed Final Judgment prohibits MAS from entering into, negotiating, or attempting to enter into any agreement or understanding concerning any fee regarding any allergy or allergy-related service, either on its own behalf or as a representative of any physician, with any third-party payer; and also enjoins MAS from advocating or recommending that any physician withdraw from or refuse to enter into an agreement with any third-party payer. The proposed Final Judgment also provides that the Court may impose a civil fine upon MAS for violating these prohibitions without any showing of willfulness or intent and requires MAS to institute a stringent antitrust compliance program.

The consenting individual physician defendants are similarly enjoined from discussing with or submitting to any third-party payer any fee regarding any allergy or allergy-related service on behalf of MAS or, except in very limited circumstances, as an agent for any other physician, and must submit annual written certifications regarding compliance with the Final Judgment.

Public comment on the proposed Final Judgment is invited within the statutory 60-day comment period. Such comments and responses thereto will be published in the **Federal Register** and filed with the Court. Comments should be directed to

Robert E. Bloch, Chief, Professions and Intellectual Property Section, U.S. Department of Justice, Antitrust Division, 555 4th Street, NW., room 9903, Judiciary Center Building, Washington, DC 20001 (202/307-0467).

John W. Clark,

Acting Director of Operations Antitrust Division.

[Civil Action No. 92-10273H]

Filed: February 3, 1992.

Judge Harrington

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party of other proceedings, provided that Plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on Defendant and by filing that notice with the Court;

2. In the event Plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

Dated: February 3, 1992.

For the Plaintiff:

James F. Rill,

Assistant Attorney General.

Joseph H. Widmar,

Robert E. Bloch,

Gail Kursh,

Attorneys, U.S. Department of Justice, Antitrust Division.

Edward D. Eliasberg, Jr.,

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James F. Shalleck,

Karen L. Gable,

Attorneys, U.S. Department of Justice, Antitrust Division, Judiciary Center Building, Room 9911, 555 Fourth Street, N.W., Washington, DC 20001. 202/307-0808.

For the Defendants:

Daniel Goldberg,

Counsel for the Massachusetts Allergy Society, Inc.

Elliot D. Lobel,

Counsel for Jack E. Farnham.

Robert M. Buchanan,

Counsel for Irving W. Bailit.

Phillip A. Proger,

Counsel for Wilfred N. Beaucher

Dated: February 5, 1992.

Mitchell Rogovin,

Counsel for Bernard A. Berman

Final Judgment

Plaintiff, United States of America, having filed its Compliant on February 3, 1992, and plaintiff and defendants by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any such issue:

Now, Therefore, Before the taking of any testimony and without trial or adjudication of any issue of fact or law and upon consent of the parties, it is hereby

Ordered, Adjudged and Decreed as follows:

I.

Jurisdiction

This Court has jurisdiction over the subject matter of and parties to this action. The Compliant states a claim upon which relief may be granted against each defendant under section 1 of the Sherman Act, 15 U.S.C 1.

II.

Definitions

As used in this Final Judgment:

(A) *Fee* means any proposed, suggested, recommended, or actual charge, capitation rate, reimbursement rate, relative value conversion factor relative value unit, or price term or condition for any allergy or allergy-related service or any methodology for determining or computing any of the foregoing;

(B) *Fee schedule* means any list of physician services showing a fee, range of fees, or methodology for determining or computing fees for such services;

(C) *Individual defendant* means each defendant other than MAS;

(D) *Integrated joint venture* means a joint arrangement to provide prepaid health care services in which physicians who would otherwise be competitors pool their capital to finance the venture, by themselves or together with others, and share substantial risk of adverse financial results caused by unexpectedly high utilization or costs of health care services;

(E) *MAS* means Massachusetts Allergy Society, Inc.;

(F) *Peer review* means an examination of a physician's charges in a particular case and an assessment of whether those charges were excessive;

(G) *Physician* means a doctor of medicine or osteopathy;

(H) *Relative value scale* means any list or compilation of medical services or procedures that sets comparative values for such procedures or services whether or not those values are expressed in or convertible to monetary terms; and

(I) *Third party payer* means any person or entity that reimburses for, purchases, or pays for health care services provided to any other person and includes, but is not limited to, health maintenance organizations, preferred provider organizations, health insurance companies, prepaid hospital, medical, or other health service plans such as Blue Shield and Blue Cross plans, government health benefits programs administrators of self-insured health benefits programs, and employers or other entities providing self-insured health benefit programs.

III.

Applicability

This Final Judgment shall apply to defendant MAS and to each of its officers, committee members, agents, employees, successors, and assigns, to each individual defendant until the retirement of his license to practice medicine or the assumption of inactive status as provided in 243 CMR 2.06(3) and 243 CMR 2.07(7) and during any subsequent period of reinstatement of his license or resumption of active practice, and to each of their agents and employees, and to all other persons acting in concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV.

MAS Prohibited Conduct

Defendant MAS is enjoined from:

(A) Entering into, negotiating, or attempting to enter into any agreement or understanding concerning any fee, either on its own behalf or as a representative of any physician, with any third party payer;

(B) Providing recommendations to any physician on the desirability or appropriateness of any fee paid or to be paid by any third party payer, except that (1) nothing in this Section IV(B) shall prohibit MAS from engaging in the conduct permitted by Section IV(C), and (2) nothing in this Final Judgment shall prohibit MAS when requested by a third party payer or patient from participating in peer review of fees charged by individual physicians in individual cases;

(C) Developing, adopting or distributing any fee schedule or relative value scale for any use with any third party payer, including use in negotiating or attempting to enter an agreement or understanding with a third party payer, except that (1) nothing in this Final Judgment shall prohibit MAS from suggesting or providing a fee schedule or relative value scale to a third party payer solely for informational purposes when (a) the third party payer initiates in writing a specific request to MAS for that information, and (b) MAS, at the time of transmitting the fee schedule or relative value scale to the third party payer, expressly states in writing that the payer is not required to accept or adopt the fee schedule or relative value scale; and (2) nothing in this Final Judgment shall prohibit MAS from considering or developing any other type of fee information for use by a third party payer, or from actually suggesting or providing such fee information to a third party payer provided MAS, at the time of the transmission, expressly states that the payer is not required to accept or adopt the information.

(D) Advocating or recommending that any physician withdraw from or refuse to enter into, or threaten to withdraw from or refuse to enter into, any actual or proposed agreement with any third party payer; and

(E) Communicating to any third party payer that any physician will or may withdraw from or refuse to enter into any actual or proposed agreement with any third party payer if any term or condition is not acceptable to MAS or to any physician.

V.

Phohibited Conduct of Individual Defendants

Except as provided in section VI below, each individual defendant is enjoined from:

(A) Discussing any fee with or submitting any fee to any third party payer on behalf of MAS or as an agent for any other physician;

(B) Agreeing or attempting to agree with defendant MAS or any other physician on any fee; and

(C) Agreeing or attempting to agree with defendant MAS or any other physician to withdraw from or refuse to enter into, or threaten to withdraw from or refuse to enter into, any actual or proposed agreement with any third party payer.

VI.

Bona Fide Group Practices and Integrated Joint Ventures

Nothing in this Final Judgment shall prohibit an individual defendant from continuing to be or becoming a member or employee of a partnership, professional corporation, or other bona fide group practice or, on behalf of any such entity, from negotiating any fee or withdrawing from or refusing to enter into or stating an intention to withdraw from or refuse to enter into any actual or proposed agreement with any third party payer. Nor shall anything in this Final Judgment prohibit an individual defendant from continuing to be or becoming a member of an integrated joint venture before or after the entry of this Final Judgment so long as the integrated joint venture in no way discourages or prohibits any participating physician from negotiating or contracting independently with any third party payer. Each individual defendant shall promptly inform plaintiff of the name and address of any integrated joint venture he joins after the entry of this Final Judgment.

VII.

First Amendment Rights

Nothing in this Final Judgment shall prohibit any defendant acting either alone or with others from exercising rights permitted under the First Amendment to the United States Constitution to petition any federal or state government executive agency, legislative body or other governmental agency concerning legislation, rules, or procedures, or to participate in any federal or state administrative or judicial proceeding.

VIII.

Bar From Office

Each individual defendant is further enjoined from holding any office in defendant MAS for the next five years or serving on any committee of defendant MAS that provides any information on fees to third party payers.

IX.

MAS Compliance Program

Defendant MAS is ordered to maintain an antitrust compliance program which shall include at a minimum:

(A) Establishing, adopting, and maintaining a written statement setting forth the policy of MAS regarding compliance with the antitrust laws and this Final Judgment;

(B) Distributing by certified mail, return receipt requested, within 60 days from the entry of this Final Judgment, a copy of this Final Judgment along with the Complaint and Competitive Impact Statement in this matter and the policy statement required by section IX(A) to each member of MAS;

(C) Providing a copy of this Final Judgment along with the Complaint and Competitive Impact Statement in this matter and the policy statement required by section IX(A) to each person joining MAS within 60 days of that person joining MAS;

(D) Holding a briefing annually at a general membership meeting on the meaning and requirements of this Final Judgment and the antitrust laws;

(E) Obtaining from each officer and Executive Committee member an annual written certification that he or she: (1) Has read, understands, and agrees to abide by the terms of this Final Judgment; (2) has been advised and understands that noncompliance with this Final Judgment may result in his or her conviction for criminal contempt of court and imprisonment and/or fine and (3) is not aware of any violation of this Final Judgment;

(F) Maintaining for inspection by plaintiff a record of recipients to whom the Final Judgment has been distributed and from whom the certification required by Section IX(E) has been obtained; and

(G) Conducting an audit of its activities within 60 days from the entry of this Final Judgment and periodically thereafter while this Final Judgment remains in effect, to determine compliance with this Final Judgment.

X.

Required Action by Individual Defendants

Each individual defendant shall distribute a copy of this Final Judgment to each physician in, and the business and office managers of, their respective practices within 10 days of the entry of this Final Judgment. Each individual defendant shall distribute a copy of this Final Judgment to any physician who joins their respective practices or to any person who becomes the business or office manager of their respective practices within 10 days of that person joining or becoming employed by that practice.

XI.

Certifications

(A) Within 75 days after entry of this Final Judgment, defendant MAS shall certify to plaintiff that it has establisned and adopted a written antitrust compliance policy and provide a copy thereof to plaintiff; and that it has made the distribution of this Final Judgment, the Complaint and the Competitive Impact Statement in this matter and the policy statement as required by Sections IX(A)–(B) above;

(B) For 10 years after the entry of this Final Judgment, on or before its anniversary date, defendant MAS shall certify annually to plaintiff whether defendant MAS has complied with the provisions of sections IX(C)–(G) above; and

(C) For 10 years after the entry of this Final Judgment, on or before its anniversary date, each individual defendant shall certify annually using the form attached to this Final Judgment as Appendix A that defendant has read the Final Judgment and understands it and has complied with section X of this Final Judgment.

XII.

Sanctions

If, after the entry of this Final Judgment, defendant MAS violates section IV of this Final Judgment, the Court may, after notice and hearing, but without any showing of willfulness or intent, impose a civil fine upon defendant MAS in an amount reasonable in light of all surrounding circumstances. A fine may be levied upon defendant MAS for each separate violation of section IV.

XIII.

Preservation of Remedies

Nothing in this Final Judgment shall bar the United States from seeking, or the Court from imposing, against any defendant or person any other relief available under any other applicable provision of law for violation of this Final Judgment, in addition to or in lieu of the civil penalties provided for in section XII above.

XIV.

Plaintiff's Access

(A) For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable written notice to the relevant defendant be permitted:

(1) Access during office hours of such defendant to inspect and copy all records and documents in the possession or under the control of such defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, employees and agents of such defendant, who may have counsel present, regarding any such matters.

(B) Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to any defendant, and subject to any legally recognized privilege, such defendant shall submit such written reports, under oath if requested, to plaintiff relating to any of the matters contained in this Final Judgment as may be requested.

(C) No information or documents obtained by the means provided in this section XIV shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(D) If at the time information or documents are furnished by an individual defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given any plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which that defendant is not a party.

XV

Jurisdiction Retained

Jurisdiction is retained by this Court to enable any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or implementation of this Final Judgment, for the enforcement or modification of any of its provisions, and for the punishment of any violation hereof.

XVI

Notifications

Defendant MAS shall notify plaintiff at least 30 days before any proposed change in its legal structure such as dissolution, reorganization, or merger resulting in the creation of a successor corporation or association, or any other change which may affect compliance with this Final Judgment. Each individual defendant shall notify, in writing, plaintiff not later than 15 days after the retirement of his license to practice medicine or his assumption of inactive status, and shall provide plaintiff with evidence of such retirement or assumption of inactive status. In the event that the retiring or inactive individual defendant subsequently seeks reinstatement of his license or resumes active status, he shall notify plaintiff, in writing, not later than 15 days after such reinstatement or resumption of active status.

XVII.

Expiration of Final Judgment

This Final Judgment shall expire ten (10) years from the date of entry.

XVIII.

Public Interest Determination

Entry of this Final Judgment is in the public interest.

Dated:

United States District Judge

Appendix A

Annual Certification

As required by section XI(C) of the Final Judgment in this matter, I certify that I have read the Final Judgment in this case and understand it. I also certify that I have given a copy of the Final Judgment in this case to each physician, office manager, or business manager who has joined or become employed by my practice during the past year within 10 days of the person joining or becoming employed by the practice.

I understand that under 18 U.S.C. 1001 the making of a false, fictitious or fraudulent statement or representation in any matter within the jurisdiction of any department or agency of the United States is a felony punishable by a fine or not more than $10,000 or imprisonment of not more than five years or both.

(Name of Person Submitting Certification)

Competitive Impact Statement

Pursuant to section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), the United States submits this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

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Nature and Purpose of the Proceeding

On February 3, 1992, the United States filed a civil antitrust Complaint alleging that the defendants named above and their co-conspirators conspired unreasonably to fix and raise the fees paid for allergy services by certain health maintenance organizations ("HMOs") in Massachusetts in violation of section 1 of the Sherman Act, 15 U.S.C. 1.

The Complaint alleges that, beginning at least as early as October 1984 and continuing at least until the date of the Complaint, defendants and their co-conspirators violated section 1 of the Sherman Act, 15 U.S.C. 1, by agreeing to have defendant Massachusetts Allergy Society, Inc. ("MAS") act as their joint negotiating agent to obtain higher fees from certain HMOs for allergy services and to resist competitive pressures to discount fees, and to develop and adopt a fee schedule to be used by defendant MAS in negotiating higher fees on their behalf from certain HMOs. According to the Complaint, the effects of the conspiracy have been to unreasonably restrain price competition among defendants for the sale of their services to certain HMOs in Massachusetts, to artificially increase fees for allergy services provided to members of certain HMOs in Massachusetts, and to deprive certain HMOs in Massachusetts of the benefit of free and open competition in the sale of allergy services.

The relief sought in the Complaint is to enjoin defendants for a period of 10 years from continuing or renewing the conspiracy or from engaging in any other conspiracy or arrangement having a similar purpose or effect. The Complaint also seeks to require MAS to institute a compliance program to ensure that MAS does not enter into or participate in any plan, program or other arrangement having the purpose or effect of continuing or renewing the conspiracy.

Entry of the proposed Final Judgment will terminate the action with respect to the consenting defendants, except that the Court will retain jurisdiction over the matter for further proceedings which may be required to interpret, enforce or modify the Judgment, or to punish violations of any of its provisions.

II

Description of the Practices Involved in the Alleged Violation

At trial, the Government would have contended the following:

1. An HMO is an entity that, for a set premium, provides comprehensive health care services to its members through designated providers who contract with the HMO.

2. In 1988, approximately 20 HMOs provided health care services to approximately 1.3 million people in Massachusetts.

3. HMOs in Massachusetts often provide allergy services to their members by contracting with independent, private practice physicians who specialize in the treatment of allergies ("allergists"). HMOs typically pay these allergists according to fee schedules set by the HMO. These fee schedules frequently represent a discount from the physicians' usual charges.

4. MAS was founded in 1977 and is a not-for-profit membership corporation organized and existing under the laws of the Commonwealth of Massachusetts. MAS is a professional association of about 53 allergists. Most of the allergists practicing in Massachusetts are members of MAS and compete with each other for both private-pay patients and the opportunity to provide service to HMO members.

5. Wilfred N. Beaucher, M.D. ("Beaucher") is an allergist licensed to practice medicine in Massachusetts and is in private practice. Beaucher since October 1984 has been the official MAS representative to negotiate fees with HMOs and served as Chairman of the MAS HMO Liaison Committee from its inception in September 1986.

6. Jack E. Farnham, M.D. ("Farnham") is an allergist licensed to practice medicine in Massachusetts and is in private practice. Farnham was Secretary-Treasurer of MAS from June 1984 to June 1986 and President of MAS from June 1986 to June 1988. Farnham served as an ex-officio member of the MAS HMO Liaison Committee from September 1986 until at least June 1988.

7. Bernard A. Berman, M.D. ("Berman") is an allergist licensed to practice medicine in Massachusetts and is in private practice. Berman is a founder of MAS and served as a member of the MAS HMO Liaison Committee from its inception in September 1986.

8. Irving W. Bailit, M.D. ("Bailit") is an allergist and is licensed to practice medicine in Massachusetts. Bailit is a former president of MAS and served as a member of the MAS HMO Liaison Committee from its inception in September 1986.

9. Defendants Beaucher, Farnham, Berman, and Bailit each provide allergy services to members of one or more HMOs in Massachusetts.

10. Beginning at least as early as October 1984, defendants and some other MAS members agreed to use MAS as a joint negotiating agent to obtain higher fees from certain HMOs for allergy services and resist competitive pressures to discount fees.

11. On or about October 2, 1984, Beaucher was appointed as the official representative of MAS to negotiate higher fees from HMOs for allergy services on behalf of the individual defendants and other MAS members, and on subsequent dates Beaucher's appointment was reconfirmed.

12. On or about September 16, 1986, the MAS HMO Liaison Committee was created and Berman, Bailit and another allergist were appointed to that Committee to assist Beaucher in negotiating higher fees from certain HMOs for allergy services.

13. On or before December 3, 1986, defendants and some other MAS members agreed to develop and use a fee schedule in negotiating higher fees from certain HMOs for allergy services and agreed that MAS members would take a uniform position on the prices to be sought from these HMOs.

14. On or about December 31, 1986, MAS submitted a fee schedule to an HMO on behalf of MAS for the purpose of negotiating higher fees for allergy services from that HMO for the individual defendants and other MAS members.

15. On or about May 29, 1987, Beaucher submitted a revised fee schedule to the same HMO on behalf of MAS and pressured the HMO to raise its allergy fees to the level specified in the schedule.

16. On or before August 6, 1987, MAS agreed with that HMO on the fee to be paid by the HMO for allergy services.

17. On or about August 19, 1987, Berman submitted a fee schedule, on behalf of MAS, to another HMO for the purpose of negotiating higher fees for allergy services from that HMO.

III

Explanation of the Proposed Final Judgment

The United States and four of the five defendants have stipulated that the Court may enter the proposed Final Judgment after compliance with the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b)–(h). The proposed Final Judgment provides that its entry does not constitute any evidence against or admission by either party with respect to any issue of fact or law.

Under the provisions of section 2(e), the proposed Final Judgment may not be entered unless the Court finds that entry is in the public interest. Section XVIII of the proposed Final Judgment sets forth such a finding.

The proposed Final Judgment is intended to ensure that defendant MAS does not act for and is not used by allergists as a joint negotiating agent on fees with any HMO.

A. Prohibitions and Obligations

Under section IV(A) of the proposed Final Judgment, MAS is enjoined from entering into, negotiating, or attempting to enter into any agreement or understanding concerning any fee, either on its own behalf or as a representative of any physician, with any third party payer. "Fee" is defined in section II of the Final Judgment as "any proposed, suggested, recommended, or actual charge, capitation rate, reimbursement rate, relative value conversion factor, relative value unit, or price term or condition for any allergy or allergy-related service or any methodology for determining or computing any of the foregoing." "Third party payer" is defined in section II of the Final Judgment as "any person or entity that reimburses for, purchases, or pays for health care services provided to any other person and includes, but is not limited to, health maintenance organizations, preferred provider organizations, health insurance companies, prepaid hospital, medical, or other health service plans such as Blue Shield and Blue Cross plans, government health benefits programs, administrators of self-insured health benefits programs, and employers or other entities providing self-insured health benefit programs."

Section IV(B) enjoins MAS from providing recommendations to any physician on the desirability or appropriateness of any fee paid or to be paid by any third party payer. Section IV(B) states, however, that (1) nothing in section IV(B) prohibits MAS from engaging in the conduct permitted by section IV(C), and (2) nothing in the Final Judgment prohibits MAS when requested by a third party or patient from participating in peer review of fees charged by individual physicians in individual cases. "Peer review" is defined in section II of the Final Judgment as "an examination of a physician's charges in a particular case and an assessment of whether those charges were excessive.'

Section IV(C) enjoins MAS from developing, adopting or distributing any fee schedule or relative value scale for any use with any third party payer, including use in negotiating or attempting to enter into an agreement or understanding with a third party payer, with one exception. Under the Final Judgment, MAS may suggest or provide a fee schedule or relative value scale to a third party payer solely for informational purposes if (a) the third party payer initiates in writing a specific request to MAS for that information, and (b) MAS, at the time of transmitting the fee schedule or relative value scale to the third party payer, expressly states in writing that the payer is not required to accept or adopt the fee schedule or relative value scale. "Fee schedule" is defined in section II of the Final Judgment as "any list of physician services showing a fee, range of fees, or methodology for determining or computing fees for such services." Relative value scale" is defined in section II of the Final Judgment as "any list or compilation of medical services or procedures that sets comparative values for such procedures or services whether or not those values are expressed in or convertible to monetary terms." Section IV(C) further states that nothing in the Final Judgment prohibits MAS from considering or developing any other type of fee information for use by a third party payer, or from actually suggesting or providing such fee information to a third party payer provided MAS, at the time of the transmission, expressly states that the payer is not required to accept or adopt the information.

Under section IV(D), MAS is enjoined from advocating or recommending that any physician withdraw from or refuse to enter into, or threaten to withdraw from or refuse to enter into, any actual or proposed agreement with any third party payer. MAS is also prohibited under section IV(E) from communicating to any third party payer that any physician will or may withdraw from or refuse to enter into any actual or proposed agreement with any third party payer if any term or condition is not acceptable to MAS or to any physician.

Under section V, each individual defendant is enjoined, except as provided in section VI, from (1) discussing any fee with or submitting any fee to any third party payer on behalf of MAS or as an agent for any other physician; (2) agreeing or attempting to agree with MAS or any other physician on any fee; and (3) agreeing or attempting to agree with MAS or any other physician to withdraw from or refuse to enter into, or threaten to withdraw from or refuse to enter into, any actual or proposed agreement with any third party payer.

Section VI provides that nothing in the Final Judgment prohibits an individual defendant from continuing to be or becoming a member or employee of a partnership, professional corporation, or other bona fide group practice, or, on behalf of any such entity, from negotiating any fee or withdrawing from or refusing to enter into or stating an intention to withdraw from or refuse to enter into any actual or proposed agreement with any third party payer. Section VI also provides that nothing in the Final Judgment prohibits an individual defendant from continuing to be or becoming a member of an integrated joint venture before or after the entry of the Final Judgment so long as the integrated joint venture in no way discourages or prohibits any participating physician from negotiating or contracting independently with any third party payer. "Integrated joint venture" is defined in section II of the Final Judgment as "a joint arrangement to provide prepaid health care services in which physicians who would otherwise be competitors pool their capital to finance the venture, by themselves or together with others, and share substantial risk of adverse financial results caused by unexpectedly high utilization or costs of health care services." Under section VI, an individual defendant must promptly inform plaintiff of the name and address of any integrated joint venture he joins after the entry of this Final Judgment.

Section VII provides that nothing in the Final Judgment prohibits any defendant acting either alone or with others from exercising rights permitted under the First Amendment to the United States Constitution to petition any federal or state government executive agency, legislative body or other governmental agency concerning legislation, rules, or procedures, or to participate in any federal or state administrative or judicial proceeding.

Section VIII provides that each individual defendant is enjoined from holding any office in MAS for the next five years or serving on any committee of MAS that provides any information on fees to third party payers.

Section IX requires MAS to maintain an antitrust compliance program. Section IX provides that this program at a minimum shall include (1) establishing, adopting, and maintaining a written statement setting forth the policy of MAS regarding compliance with the antitrust laws and this Final Judgment; (2) distributing by certified mail, return receipt requested, within 60 days from the entry of this Final Judgment, a copy of this policy statement and the Final Judgment, Complaint, and Competitive Impact Statement in this matter to each member of MAS; (3) providing a copy of the policy statement and the Final Judgment, Complaint, and Competitive

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Impact Statement in this matter to each person joining MAS within 60 days of that person joining MAS; (4) holding a briefing annually at a general membership meeting on the meaning and requirements of the Final Judgment and the antitrust laws; (5) obtaining from each MAS officer and Executive Committee member an annual written certification that he or she (a) has read, understands, and agrees to abide by the terms of the Final Judgment, (b) has been advised and understands that noncompliance with the Final Judgment may result in his or her conviction for criminal contempt of court and imprisonment and/or fine, and (c) is not aware of any violation of the Final Judgment; (6) maintaining for inspection by plaintiff a record of recipients to whom the Final Judgment has been distributed and from whom the required certification has been obtained; and (7) conducting an audit of its activities within 60 days from the entry of the Final Judgment and periodically thereafter while the Final Judgment remains in effect, to determine compliance with the Final Judgment.

Section X requires each individual defendant to distribute a copy of the Final Judgment to each physician in, and the business and office managers of, their respective practices within 10 days of the entry of the Final Judgment. Section X also requires each individual defendant to distribute a copy of the Final Judgment to any physician who joins their respective practices or to any person who becomes the business or office manager of their respective practices within 10 days of that person joining or becoming employed by the practice.

Section XI requires various certifications of defendants. Section XI requires MAS to certify to plaintiff within 75 days after the entry of the Final Judgment that MAS has established and adopted a written antitrust compliance policy and provide a copy thereof to plaintiff; and that MAS has made the distribution of the policy statement and Final Judgment, Complaint, and Competitive Impact Statement in this matter as required by sections IX (A)–(B) of the Final Judgment. Under section XI, MAS must also certify annually to plaintiff whether MAS has complied with the provisions of sections IX (C)–(G). Section XI also requires each individual defendant to certify annually using the form attached to the Final Judgment that defendant has read the Final Judgment and understands it and has complied with section X of the Final Judgment.

Section XII of the proposed Final Judgment provides that the Court may, after notice and hearing, impose upon MAS a civil fine for violating section IV of the Final Judgment without there having to be any showing of willfulness or intent. Section XIII of the proposed Final Judgment provides that, in addition to or in lieu of the civil penalties provided for in section XII of the Final Judgment, the United States may seek and the Court may impose against any defendant or any person any other relief allowed by law for violation of the Final Judgment.

Section XVI requires defendants to provide various notifications to plaintiff. Under section XVI, MAS must notify plaintiff at least 30 days before any proposed change in its legal structure such as dissolution, reorganization, or merger resulting in the creation of a successor corporation or association, or any other change which may affect compliance with the Final Judgment. Section XVI also requires each individual defendant to notify, in writing, plaintiff not later than 15 days after the retirement of his license to practice medicine or his assumption of inactive status, and to provide plaintiff with evidence of such retirement or assumption of inactive status. In the event that the retiring or inactive individual defendant subsequently seeks reinstatement of his license or resumes active status, Section XVI requires him to notify plaintiff, in writing, not later than 15 days after such reinstatement or resumption of active status.

B. Scope of the Proposed Final Judgment

The Final Judgment applies to MAS and to each of its officers, committee members, agents, employees, successors, and assigns, to each individual defendant until the retirement of his license to practice medicine or the assumption of inactive status as provided in 243 CMR 2.06(3) and 243 CMR 2.07(7) and during any subsequent period of reinstatement of his license or resumption of active practice, and to each of their agents and employees, and to all other persons acting in concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

Section XVII of the proposed Final Judgment provides that the Final Judgment shall remain in effect for 10 years.

C. Effect of the Proposed Judgment on Competition

The relief in the proposed Final Judgment is designed to ensure that MAS does not act for and is not used by allergists as a joint negotiating agent on fees with any HMO. The relief is also designed to ensure that the individual defendants do not negotiate fees on behalf of MAS or, except in very limited circumstances, as an agent for any other physician with any third party payer.

Three separate methods for determining compliance with the terms of the Final Judgment are provided. First, Section XI(A) requires MAS to certify to the Department of Justice within 75 days after the Final Judgment is entered that MAS has established and adopted a written antitrust compliance policy, provided a copy to plaintiff; and made the required distribution of the statement and Complaint and Competitive Impact Statement under Sections IX (A)–(B) of the Final Judgment. Section XI(B) requires MAS to certify annually to the Department of Justice that it has made the various distributions, held the briefings, obtained the certifications, maintained the records, and conducted the audits required by sections IX (C)–(G) of the Final Judgment. Section XI(C) requires each individual defendant to certify annually using the form attached to the Final Judgment that he has read the Final Judgment and understands it and has complied with Section X of the Final Judgment.

Second, section XIV(A) provides that, upon reasonable notice, the Department of Justice shall be given access to any records of a defendant and be permitted to interview any officers, employees, or agents of such defendant.

Finally, section XIV(B) provides that, upon written request, the Department of Justice may require a defendant to submit written reports, under oath if asked, about any matters relating to the Final Judgment as may be requested.

The Department of Justice believes that this proposed Final Judgment contains adequate provisions to prevent further violations of the type upon which the Complaint is based and to remedy the effects of the alleged conspiracy.

IV

Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages suffered, as well as costs and reasonable attorney's fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of such actions. Under the provisions of section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the judgment has no *prima facie* effect in any subsequent lawsuit that may be brought against defendants in this matter.

V

Procedures Available for Modification of the Proposed Final Judgment

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed Final Judgment should be modified may submit written comments to Robert E. Bloch, Chief, Professions and Intellectual Property Section, Antitrust Division, U.S. Department of Justice, 555 Fourth Street, NW., Washington, DC 20001, within the 60-day period provided by the Act. These comments, and the Department's responses, will be filed with the Court and published in the **Federal Register**. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed judgment at any time prior to entry. Section XV of the proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI

Alternative to the Proposed Final Judgment

The alternative to the proposed Final Judgment would be a full trial of the case with respect to the consenting defendants. In the view of the Department of Justice, such a trial would involve substantial cost to the United States and is not warranted since the proposed Final Judgment provides all the relief that the United States sought in its Complaint.

VII

Determinative Materials and Documents

No materials and documents of the type described in section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b), were considered in formulating the proposed Final Judgment.

Dated: February 3, 1992.

Respectfully submitted,

Edward D. Eliasberg, Jr.,

Seymour H. Dussman,

James F. Shalleck,

Karen L. Gable,

Attorneys, U.S. Department of Justice, Antitrust Division, 555 Fourth Street, NW., Washington, DC 20001, Telephone: (202) 307-0808.

Certificate of Service

I, Edward D. Eliasberg, Jr., hereby certify that a copy of the Competitive Impact Statement in United States v. Massachusetts Allergy Society, Inc., et al. was served on the 3rd day of February 1992, first class mail, to counsel as follows:

Daniel L. Goldberg, Esquire, Bingham, Dana & Gould, 150 Federal Street, Boston, Massachusetts 02110.

Philip A. Proger, Esquire, Jones, Day Reavis & Pogue, 1450 G Street, NW., Washington, DC 20005.

Elliot D. Lobel, Esquire, Peckham, Lobel, Casey, Prince & Tyne, 585 Commercial Street, Boston, Massachusetts 02109-2024.

Mitchell Rogovin, Esquire, Donovan Leisure, Rogovin, Huge & Schiller, 1250 Twenty-Fourth Street, NW., Washington, DC 20037-1124.

Robert M. Buchanan, Esquire, Sullivan & Worcester, One Post Office Square, Boston, Massachusetts 02109.

Edward D. Eliasberg, Jr.

[FR Doc. 92-3240 Filed 2-11-92; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Bill's Pharmacy; Denial of Application for Registration

On September 25, 1991, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to Bill's Pharmacy, 130 Fountain Avenue, Pudacah, Kentucky 42001 (Respondent), proposing to deny its application, executed on September 12, 1990, for registration as a practitioner under 21 U.S.C. 823(f). The Order to Show Cause alleged that Respondent's registration would be inconsistent with the public interest.

On October 22, 1991, proceeding pro se, Respondent waived its opportunity for a hearing and submitted a written statement on the issues raised by the Order to Show Cause. Based upon the waiver of hearing in this matter, the Administrator of the Drug Enforcement Administration enters this final order based upon the investigative file and written statement submitted by Respondent. See 21 CFR 1301.54(c), 1301.54(d) and 1301.54(e).

The Administrator finds that Respondent's previous DEA Certificate of Registration was revoked by final order of the Acting Administrator of the Drug Enforcement Administration, such order becoming effective on September 4, 1990. The Administrator further finds that the final order revoking Respondent's registration, found at 55 **Federal Register** 31456 (August 2, 1990), was based upon substantial evidence in the record. The evidence in the record demonstrated that Respondent pharmacy was in a state of chaotic disarray and was filthy. Further evidence showed that Respondent prepared controlled substances in an apartment adjacent to the pharmacy to send to a nursing home. The apartment was filled with trash and animal droppings were found on various surfaces. Audits of Respondent's controlled substances inventory revealed significant shortages of various controlled substances, and Respondent's recordkeeping was seriously deficient. Among the conclusions reached in the Acting Administrator's decision was the conclusion that Respondent had not expressed any willingness to comply with the laws and regulations under which it is obligated to function.

The Administrator finds that the written statement tendered by the Respondent is, in essence, an attempt to appeal the Acting Administrator's earlier final order while remaining in the administrative forum. The written statement merely challenges the findings made in the earlier final order and presents no arguments which would justify the issuance of a new registration to the Respondent. The Respondent has offered no new information to indicate that its registration is suddenly consistent with the public interest, and no evidence of rehabilitation or efforts to become educated in the laws and regulations relating to DEA registrants. Therefore, the Administrator finds that Respondent's application for registration finds that Respondent's application for registration, executed on September 12, 1990, must be denied.

Having concluded that there are lawful bases for the denial of Respondent's application, and having concluded that its pending application for registration must be denied, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824, and 28 CFR 0.100(b), orders that the application for registration, executed by Bill's Pharmacy on September 12, 1990, be, and it hereby is, denied. This denial is effective February 12, 1992.

Dated: February 5, 1992.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 92-3306 Filed 2-11-92; 8:45 am]

BILLING CODE 4410-09-M

Rifat Erenmemis, M.D.; Denial of Application for Registration

On September 9, 1991, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to Rifat Erenmemis, M.D., 4601 State Street, East St. Louis, Illinois 62205 (Respondent), proposing to deny his application, executed on July 14, 1989, for registration as a practitioner under 21 U.S.C. 823(f). The Order to Show Cause alleged that Respondent's registration would be inconsistent with the public interest.

On October 7, 1991, proceeding pro se, Respondent waived his opportunity for a hearing and submitted a written statement on the issues raised by the Order to Show Cause. Based upon the waiver of hearing in this matter, the Administrator of the Drug Enforcement Administration enters this final order based upon the investigative file and written statement submitted by Respondent. See 21 CFR 1301.54(c), 1301.54(d) and 1301.54(e).

The Administrator finds that Respondent's DEA Certificate of Registration was surrendered in August 1988, following the summary suspension of his state registration by the State of Illinois on July 24, 1988. The Administrator further finds that, on July 5, 1988, Respondent pled guilty to a reduced charge of unlawful possession of controlled substances, receiving a two year probation which ended on July 5, 1990. The original charges against Respondent stemmed from several undercover buys of controlled substances, during which investigators received controlled substances for no legitimate medical purpose. Respondent was subsequently indicted on seven felony counts of violation of the Illinois Controlled Substances Act and ultimately pled guilty as stated earlier. The Administrator determines from a review of the information before him and from a review of the written submission of Respondent, that Respondent's actions do not merit the issuance of a DEA Certificate of Registration to him.

The Administrator finds that Respondent has clearly failed to recognize the significance of his wrongdoing. Indeed, Respondent continues to deny responsibility for any wrongdoing at all. Respondent's written statement indicates that he is unfamiliar with the laws and regulations relating to controlled substances, instead branding himself a victim of the judicial system. Due to Respondent's inability to accept responsibility for his actions, due to the criminal activity itself, and due to Respondent's obvious lack of knowledge of the laws and regulations by which he is bound as a DEA registrant, the Administrator finds that Respondent's application for registration must be denied.

Having concluded that there are lawful bases for the denial of Respondent's application, and having concluded that his pending application for registration must be denied, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824, and 28 CFR 0.100(b), orders that the application for registration, executed by Rifat Erenmemis, M.D., on July 14, 1989, be, and it hereby is, denied. This denial is effective February 12, 1992.

Dated: February 5, 1992.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 92-3306 Filed 2-11-92; 8:45 am]

BILLING CODE 4410-09-M

Federal Bureau of Investigation

Uniform Crime Reporting (UCR) Data Providers Advisory Policy Board (APB); Meeting

The UCR APB will meet on March 27 and 28, 1992, from 9 a.m. until close of business each day at the Opryland Hotel, 2800 Opryland Drive, Nashville, Tennessee.

Major topics to be considered: (1) To obtain an assessment of the revised "Analysis of Law Enforcement Officers Killed and Assaulted" form; (2) to discuss and describe the contents of a "Violence Against Police Officers" grant, the purpose of which is to study instances of serious assaults of on-duty law enforcement officers; (3) to evaluate and compare UCR policy as it relates to classifying infant deaths due to negligence or alleged negligence of the mother, for example, physical neglect, drug addiction, or previously diagnosed HIV infection; and (4) resolve questions of access to NIBRS' data.

The meeting will be open to the public with approximately 25 seats available on a first-come, first-served basis. Any member of the public may file a written statement with the APB before or after the meeting. Anyone wishing to address a session of the meeting should notify the Committee Management Liaison Officer, FBI, at least 24 hours prior to the start of the session. The notification may be by mail, telegram, cable, or hand-delivered note. It should contain their name, corporate or Government designation, and consumer affiliation, along with the capsulized version of the statement and an outline of the material to be offered. A person will be allowed not more than 15 minutes to present a topic, except with the special approval of the Chairperson of the Board.

Inquiries may be addressed to Mr. J. Harper Wilson, Committee Management Liaison Officer, Information Management Division, Federal Bureau of Investigation, Washington, DC 20535, telephone number (202) 324-2614.

William S. Sessions,

Director.

[FR Doc. 92-3242 Filed 2-11-92; 8:45 am]

BILLING CODE 4410-02-M

Office of the Attorney General

[Order No. 1569-92]

Delay of Effective Date of Notice-Related Provisions of Section 242B of the Immigration and Nationality Act

AGENCY: Department of Justice.

ACTION: Notice.

SUMMARY: In a notice published August 13, 1991, the Department of Justice, 56 FR 38463, August 13, 1991, pursuant to section 242B(a)(4) of the Immigration and Nationality Act, as amended (the "Act") (8 U.S.C. 1252b), certified creation of the Central Address File System. The notice further stated that the notice-related provisions contained in subsections (a), (b), (c), and (e)(1) of section 242B of the Act, as amended, would take effect on "February 13, 1991." In a correction published August 22, 1991, 56 FR 41726, August 22, 1991, the effective date was corrected to "February 13, 1992." The purpose of this notice is to delay the effective date of the notice-related provisions until June 13, 1992.

Section 242B(a)(1), (2), and (3) requires service upon aliens in deportation proceedings of notice written in English and Spanish that sets forth, *inter alia*, the nature of the proceedings, the time and place, and the consequences of failing to appear. This notice will delay the effective date of these and other related provisions (section 242B(b), (c), and (e)(1)) in order to allow additional time to implement the notice requirement.

This notice affects only the notice-related provisions of section 242B and not the establishment of the Central Address File System as provided in section 242B(a)(4) of the Act.

EFFECTIVE DATE: This notice is effective February 13, 1992.

FOR FURTHER INFORMATION CONTACT: William W. Kummings, Deputy Associate General Counsel, Office of the General Counsel, 425 I Street, NW, room 7048, Washington, DC 20536, telephone (202) 514–5001.

The notice-related provisions contained in subsections (a), (b), (c), and (e)(1) of section 242B of the Immigration and Nationality Act, as amended, shall take effect on June 13, 1992.

Dated: February 7, 1992.

William P. Barr,

Attorney General.

[FR Doc. 92–3429 Filed 2–17–92; 8:45 am]

BILLING CODE 4410-10-M

Office of Justice Programs

Office for Victims of Crime

FY 1992 Discretionary Grant Application

AGENCY: Office of Justice Programs, Office for Victims of Crime.

ACTION: Public announcement of the availability of the Application Kit for Fiscal Year 1992 Discretionary Grants to be awarded by the Office for Victims of Crime.

SUMMARY: The Office for Victims of Crime (OVC) is publishing this Notice of FY 1992 Discretionary Grant Application Kit availability for all interested applicants.

DATES: All proposals responding to the announcement of the Application Kit must be received by the Office for Victims of Crime by the specific due dates indicated in the Application Kit for each program.

ADDRESSES: Office for Victims of Crime, room 1386, 633 Indiana Avenue, NW., Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: Jo Morrow, Special Projects Division, Office for Victims of Crime, at the above address. Telephone: (202) 616–3572. To obtain Application Kits, call the National Victims Resource Center (NVRC) 1–800–627–6872 at the National Criminal Justice Reference Service (NCJRS), Box 6000, AHG, Rockville, MD 20850.

SUPPLEMENTARY INFORMATION: The following supplementary information is provided:

Authority: This action is authorized under the following: § 303(b) of Title III ("Family Violence Prevention and Services Act") of the Child Abuse Prevention, Adoption, and Family Services Act of 1988 (Pub. L. 100–294), 42 U.S.C. 10401; and the Victims of Crime Act of 1984, Sec. 1401–1410 of Pub. L. 98–473 as amended by the Children's Justice and Assistance Act of 1986 (CJA), Pub. L. 99–401, and by the Anti-Drug Abuse Act of 1988, title VII, subtitle D, of the Pub. L. 100–690, 42 U.S.C. 10601–10605.

Background

The Office of Justice Programs, Department of Justice, published a Notice in the **Federal Register** (56 FR 66877, Dec. 26, 1991) announcing the FY 1992 Discretionary Program Plan for its component bureaus, including the Program Plan for the Office for Victims of Crime. The OVC Discretionary Grant Application Kit, announced herein, expands upon information provided in the program plan and defines specific Application requirements and deadlines. Interested applicants should call the toll-free number at 1–800–627–6872 to request a copy of the FY 1992 Discretionary Grant Application Kit.

Brenda G. Meister,

Acting Director, Office for Victims of Crime.

[FR Doc. 92–3392 Filed 2–11–92; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. chapter 35), considers comments on the reporting/recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review: As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and/or Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Kenneth A. Mills ((202) 523–5095). Comments and questions about the items on this list should be directed to Mr. Mills, Office of Information Resources Management Policy, U.S. Department of Labor, 200 Constitution Avenue, NW., room N–1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, room 3001, Washington, DC 20503 ((202) 395–6880).

Any member of the public who wants to comment on recordkeeping/reporting requirements which have been submitted to OMB should advise Mr. Mills of this intent at the earliest possible date.

New

Occupational Safety and Health Administration

Occupational Safety and Health Administration Test of Revised OSHA, Forms No. 101 and OSHA No. 200, Reporting (non-recurring), State or local governments; businesses or other for-profit; small businesses or organizations, 189 respondents; 271 total burden hours, 1.43 average hours per response.

The purpose of the data collection is to obtain input on the comprehensibility of the data elements and the format (detail an ease of use) of the proposed revised OSHA forms No. 200 and No. 101 from people who will be filling out and retrieving information from the forms.

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Signed at Washington, DC, this 6th day of February, 1992.

Kenneth A. Mills,

Departmental Clearance Officer.

[FR Doc. 92-3380 Filed 2-11-92; 8:45 am]

BILLING CODE 4510-26-M

Employment and Training Administration

Labor Certification Process for the Temporary Employment of Aliens in Agriculture and Logging in the United States: 1992 Agricultural Adverse Effect Wage Rates; and Allowable Charges for Agricultural and Logging Workers' Meals

AGENCY: U.S. Employment Service, Employment and Training Administration, Labor.

ACTION: Notice of adverse effect wage rates (AEWRs) and allowable charges for meals for 1992.

SUMMARY: The Director, U.S. Employment Service, announces 1992 adverse effect wage rates (AEWRs) for employers seeking nonimmigrant alien (H-2A) workers for temporary or seasonal agricultural labor or services and the allowable charges employers seeing nonimmigrant alien workers for temporary or seasonal agricultural labor or services or logging work may levy upon their workers when they provide three meals per day.

AEWRs are the minimum wage rates which the Department of Labor has determined must be offered and paid to U.S. and alien workers by employers of nonimmigrant alien agricultural workers (H-2A visaholders). AEWRs are established to prevent the employment of these aliens from adversely affecting wages of similarly employed U.S. workers.

The Director also announces the new rates which covered agricultural and logging employers may charge their workers for three daily meals.

EFFECTIVE DATE: February 12, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Robert J. Litman, Acting Director, U.S. Employment Service, Employment and Training Administration, Department of Labor, room N4456, 200 Constitution Avenue NW., Washington, DC 20210. Telephone: 202-535-0157 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Attorney General may not approve an employer's petition for admission of temporary alien agricultural (H-2A) workers to perform agricultural labor or services of a temporary or seasonal nature in the United States, unless the petitioner has applied to the Department of Labor (DOL) for an H-2A labor certification showing that: (1) There are not sufficient U.S. workers who are able, willing, and qualified and who will be available at the time and place needed to perform the labor or services involved in the petition; and (2) the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed. 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184(c), and 1188.

DOL's regulations for the H-2A program require that covered employers offer and pay their U.S. and H-2A workers no less than the applicable hourly adverse effect wage rate (AEWR). 20 CFR 655.102(b)(9); see also 20 CFR 655.107. Reference should be made to the preamble to the July 5, 1989, final rule (54 FR 28037), which explains in great depth the purpose and history of AEWRs, DOL's discretion in setting AEWRs, and the AEWR computation methodology at 20 CFR 655.107(a). See also FR 20496, 20502-20505) June 1, 1987).

A. Adverse Effect Wage Rates (AEWRs) for 1992

Adverse effect wage rates (AEWRs) are the minimum wage rates which DOL has determined must be offered and paid to U.S. and alien workers by employers of nonimmigrant (H-2A) agricultural workers. DOL emphasizes, however, that such employees must pay the highest of the AEWR, the applicable prevailing wage or the statutory minimum wage, as specified in the regulations. 20 CFR 655.102(b)(9). Except as otherwise provided in 20 CFR part 655, subpart B, the regionwide AEWR for all agricultural employment (except those occupations deemed inappropriate under the special circumstances provisions of 20 CFR 655.93) for which temporary alien agricultural labor (H-2A) certification is being sought, is equal to the annual weighted average hourly wage rate for field and livestock workers (combined) for the region as published annually by the U.S. Department of Agriculture (USDA does not provide data on Alaska). 20 CFR 655.107(a).

The regulation at 20 CFR 655.107(a) requires the Director, U.S. Employment Service, to publish USDA field and livestock worker (combined) wage data as AEWRs in a **Federal Register** notice. Accordingly, the 1992 AEWRs for work performed on or after the effective date of this notice, are set forth in the table below:

TABLE—1992 ADVERSE EFFECT WAGE RATES (AEWRs)

State	1992 AEWR
Alabama	$4.91
Arizona	5.17
Arkansas	4.73
California	5.90
Colorado	5.29
Connecticut	5.61
Delaware	5.39
Florida	5.68
Georgia	4.91
Hawaii	7.95
Idaho	4.94
Illinois	5.59
Indiana	5.59
Iowa	5.15
Kansas	5.36
Kentucky	5.04
Louisiana	4.73
Maine	5.61
Maryland	5.39
Massachusetts	5.61
Michigan	5.16
Minnesota	5.16
Mississippi	4.73
Missouri	5.15
Montana	4.94
Nebraska	5.36
Nevada	5.29
New Hampshire	5.61
New Jersey	5.39
New Mexico	5.17
New York	5.61
North Carolina	4.97
North Dakota	5.36
Ohio	5.59
Oklahoma	4.87
Oregon	5.94
Pennsylvania	5.39
Rhode Island	5.61
South Carolina	4.91
South Dakota	5.36
Tennessee	5.04
Texas	4.87
Utah	5.29
Vermont	5.61
Virginia	4.97
Washington	5.94
West Virginia	5.04
Wisconsin	5.16
Wyoming	4.94

B. Allowable Meal Charges

Among the minimum benefits and working conditions which DOL requires employers to offer their alien and U.S. workers in their applications for temporary logging and H-2A agricultural labor certification is the provision of three meals per day or free and convenient cooking and kitchen facilities. 20 CFR 655.102(b)(4) and 655.202(b)(4). Where the employer provides meals, the job offer must state the charge, if any, to the worker for meals.

DOL has published at 20 CFR 655.102(b)(4) and 655.111(a) the methodology for determining the maximum amounts covered H-2A agricultural employers may charge their U.S. and foreign workers for meals. The same methodology is applied at 20 CFR

655.202(b)(4) and 655.211(a) to covered H–2B logging employers. These rules provide for annual adjustments of the previous year's allowable charge based upon Consumer Price Index (CPI) data.

Each year the maximum charges allowed by 20 CFR 655.102(b)(4) and 655.202(b)(4) are changed by the same percentage as the twelve-month percent change in the CPI for all Urban Consumers for Food (CPI-U for Food) between December of the year just past and December of the year prior to that. Those regulations and 20 CFR 655.111(a) and 655.211(a) provide that the appropriate Regional Administrator (RA), Employment and Training Administration, may permit an employer to charge workers no more than a higher maximum amount for providing them with three meals a day, if justified and sufficiently documented. Each year, the higher maximum amounts permitted by 20 CFR 655.111(a) and 655.211(a) are changed by the same percentage as the twelve-month percent change in the CPI-U for Food between December of the year just past and December of the year prior to that. The regulations require the Director, U.S. Employment Service, to make the annual adjustments and to cause a notice to be published in the **Federal Register** each calendar year, announcing annual adjustments in allowable charges that may be made by covered agricultural and logging employers for providing three meals daily to their U.S. and alien workers. The 1991 rates were published in a notice on February 26, 1991 at 56 FR 7880.

DOL has determined the percentage change between December of 1990 and December of 1991 for the CPI–U for Food was 2.9 percent.

According, the maximum allowable charges under 20 CFR 655.102(b)(4), 655.202(b)(4), 655.111, and 655.211 were adjusted using this percentage change, and the new permissible charges for 1992 are as follows: (1) for 20 CFR 655.102(b)(4) and 655.202(b)(4), the charge, if any, shall be no more than $6.58 per day, unless the RA has approved a higher charge pursuant to 20 CFR 655.111 or 655.211(b); for 20 CFR 655.111 and 655.211, the RA may permit an employer to charge workers up to $8.23 per day for providing them with three meals per day, if the employer justifies the charge and submits to the RA the documentation required to support the higher charge.

Signed at Washington, DC, this 21st day of January, 1992.

Robert J. Litman,

Acting Director, U.S. Employment Service.

[FR Doc. 92–3381 Filed 2–11–92; 8:45 am]

BILLING CODE 4510-30-M

Attestations Filed by Facilities Using Nonimmigrant Aliens as Registered Nurses

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is publishing, for public information, a list of the following health care facilities which plan on employing nonimmigrant alien nurses. These organizations have attestations on file with DOL for that purpose.

ADDRESSES: Anyone interested in inspecting or reviewing the employer's attestation may do so at the employer's place of business.

Attestations and short supporting explanatory statements are also available for inspection in the Immigration Nursing Relief Act Public Disclosure Room, U.S. Employment Service, Employment and Training Administration, Department of Labor, room N4456, 200 Constitution Avenue, NW., Washington, DC 20210.

Any complaints regarding a particular attestation or a facility's activities under that attestation, shall be filed with a local office of the Wage and Hour Division of the Employment Standards Administration, U.S. Department of Labor. The address of such offices are found in many local telephone directories, or may be obtained by writing to the Wage and Hour Division, Employment Standards Administration, Department of Labor, room S3502, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT:

Regarding the Attestation Process:

The Employment and Training Administration has established a voicemail service for the H–1A nurse attestation process. Call Telephone Number: 202–535–0643 (this is not a toll-free number). At that number, a caller can:

(1) Listen to general information on the attestation process for H–1A nurses;

(2) Request a copy of the Department of Labor's regulations (20 CFR part 655, subparts D and E, and 29 CFR part 504, subparts D and E) for the attestation process for H–1A nurses, including a copy of the attestation form (form ETA 9029) and the instructions to the form;

(3) Listen to information on H–1A attestations filed within the preceding 30 days;

(4) Listen to information pertaining to public examination of H–1A attestations filed with the Department of Labor;

(5) Listen to information on filing a complaint with respect to a health care facility's H–1A attestation (however, see the telephone number number regarding complaints, set forth below); and

(6) Request to speak to a Department of Labor employee regarding questions not answered by Nos. (1) through (4) above.

Regarding the Complaint Process:

Questions regarding the complaint process for the H–1A nurse attestation program shall be made to the Chief, Farm Labor Program, Wage and Hour Division. Telephone: 202–523–7605 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Immigration and Nationality Act requires that a health care facility seeking to use nonimmigrant aliens as registered nurses first attest to the Department of Labor (DOL) that it is taking significant steps to develop, recruit and retain United States (U.S.) workers in the nursing profession. The law also requires that these foreign nurses will not adversely affect U.S. nurses and that the foreign nurses will be treated fairly. The facility's attestation must be on file with DOL before the Immigration and Naturalization Service will consider the facility's H–1A visa petitions for bringing nonimmigrant registered nurses to the United States. 26 U.S.C. 1101(a)(15)(H)(i)(a) and 1181(m). The regulations implementing the nursing attestation program are at 20 CFR part 655 and 29 CFR part 504, 55 FR 50500 (December 6, 1990). The Employment and Training Administration, pursuant to 20 CFR 655.310(c), is publishing the following list of facilities which have submitted attestations which have been accepted for filing.

The list of facilities is published so that U.S. registered nurses, and other persons and organizations can be aware of health care facilities that have requested foreign nurses for their staffs. If U.S. registered nurses or other persons which to examine the attestation (on Form ETA 9029) and the supporting documentation, the facility is required to make the attestation and documentation available. Telephone numbers of the facilities' chief executive officers also are listed, to aid public inquiries In addition, attestations and supporting short explanatory statements (but not the full supporting documentation) are available for inspection at the address for the Employment and Training Administration set forth in the ADDRESSES section of this notice.

If a person wishes to file a complaint regarding a particular attestation or a facility's activities under that attestation, such complaint must be filed at the address for the Wage and Hour Division of the Employment Standards Administration set forth in the ADDRESSES section of this notice.

Signed at Washington, DC, this 5th day of February 1992.

Robert J. Litman,

Acting Director, United States Employment Service.

DIVISION OF FOREIGN LABOR CERTIFICATIONS APPROVED ATTESTATIONS

[1/01/92 to 1/31/92]

CEO name/facility name/address	State	Approval date
Mr. Peter Petruzzi, Humana Hospital, 911 Big Cove Rd., Huntsville, 35801, 205-532-5600.	AL	1/03/92
Mr. Charles C. Colvert, Shelby Medical Center, 1000 First Street, Alabaster 35007, 205-663-8100.	AL	1/03/92
Mr. Hugh D. Means, Springdale Mem. Hosp., 607 Maple Street, Springdale 72764, 501-751-5711.	AR	1/17/92
Mr. Eldon Dingler, St. Vincent Infirmary, Inc., Two St. Vincent Circle, Little Rock 72205, 501-660-3000.	AR	1/24/92
Mr. Randell O'Donnell, Arkansas Children's Hosp., 800 Marshall Street, Little Rock 72202, 501-320-1398.	AR	1/24/92
J.D. Stahl, Silver Ridge Village, Life-Co, 2812 Silver Creek Road, Bullhead City, 86442, 602-763-1404.	AZ	1/31/92
Ms. Bernice Schraback, Walnut Whitney Conv. Hosp., Sierra Med. Ctr., Carmichael 95608, 916-624-6230.	CA	1/03/92
Mr. Bill Mathias, DBA Oak Meadows Conval. Ctr., 350 De Soto Drive, Los Gatos 95030, 916-635-3806.	CA	1/09/92
Mr. William W. Daniel, Pioneers Memorial Host. Dist., 207 West Legion Road, Brawley, 92227 619-344-2120.	CA	1/10/92
Mr. Jerry A. Levine, Hebrew Home for the Aged Disabled, San Francisco 94112, 415-334-2500.	CA	1/10/92
Mr. Joel Bergenfeld, Century City Hospital, 2070 Century Park East, Los Angeles 90067, 213-201-6660.	CA	1/10/92
Mr. Kenneth Willes, Parkview Comm. Hosp. Med. Ctr., 3865 Jackson Street, Riverside 92503, 714-688-2211.	CA	1/16/92
Mr. Frank Nachtman, Marshall Hospital, Marshall Way, Placerville 95667, 916-622-1441.	CA	1/16/92
Mr. Edward Renford, Martin Luther King Jr./Drew Med. Ctr., Los Angeles 90059, 213-603-5201.	CA	1/24/92
Mr. Bruce Perry, Sierra Comm. Hosp., 2025 E. Dakota, Fresno 93726, 209-221-5600.	CA	1/24/92
Mr. Bruce Perry, Fresno Comm. Hosp. & Med. Ctr., Fresno and R Sts., Fresno 93701, 209-442-6000.	CA	1/24/92
Mr. Bruce Perry, Clovis Comm. Hosp., 2755 Herndon, Clovis 93612, 209-323-4000.	CA	1/24/92
Mr. Steven R. Fraser, Orangegrove Rehab. Hosp., 12332 Garden Grove Blvd., Garden Grove 92643, 714-534-1041.	CA	1/24/92
Mr. Douglas Bagley, Olive View Med. Ctr., 14445 Olive View Drive, Sylmar 91342, 818-364-1556.	CA	1/24/92
Sister Marie Madeleine, Saint John's Hosp. & Health Ctr., 2020 Santa Monica Blvd., Santa Monica 90404, 213-829-8633.	CA	1/30/92
Mr. C. Larry Carr, Bakersfield Mem. Hosp., 420-34th Street, Bakersfield 93301, 805-327-1792.	CA	1/31/92
Mr. Mark J. Funanage, United Nurses, Inc., 12444 Victory Blvd., North Hollywood 91606, 818-509-0996.	CA	1/31/92
Mr. Sheldon S. King, Cedars-Sinai Med. Ctr., 8700 Beverly Blvd., Los Angeles 90048, 213-855-5000.	CA	1/31/92
Mr. Joseph A. Zaccagnino, Yale New Haven Hospital, 20 York Street, New Haven 06504, 203-785-2414.	CT	1/24/92
Mr. Kevin E. Lofton, Howard U. Hospital, 2041 Georgia Ave. NW., Washington 20060, 202-865-1521.	DC	1/10/92
Steven Wenzel, Brooksville Regional Hospital, 55 Ponce De Leon Blvd., Brooksville 34605, 904-544-6150.	FL	1/15/92
Mr. Ronald A. Cass, Hosp. Staffing Serv. Inc., 6245 N. Federal Hwy., Fort Lauderdale 33308, 305-771-0500.	FL	1/17/92
Mr. Andrew Orange, Jr., HCA New Port Richey Hosp. Med. Ctr., New Port Richey 34656, 813-845-9117.	FL	1/24/92
Mr. Thomas L. Werner, Florida Hospital, 601 E. Rollins, Orlando 32803, 407-896-6611.	FL	1/24/92
Mr. Stephen Sutherlin, Humana Hospital, Humhosco, Inc. t/a, St. Petersburg 33709, 813-521-5073.	FL	1/24/92
Mr. Ralph R. Aleman, Victoria Hosp. Partnership, 955 N.W. Third Street, Miami 33128, 305-545-8050.	FL	1/30/92
Mr. Fred D. Hirt, Mount Sinai Med. Ctr., 4300 Alton Road, Miami Beach 33140, 305-674-2517.	FL	1/30/92
Mr. James A. Hotchkiss, Jr., Villa Maria Nur. & Rehab. Ctr., 1050 N.E. 125 Street, North Miami 33161, 305-891-8850.	FL	1/30/92
Mr. Edward J. Rosasco, Jr., Mercy Hospital, 3663 South Miami Ave., Miami 33133, 305-285-2100.	FL	1/31/92
Mr. John Bowling, South Georgia Med. Ctr., P.O. Box 1727, Valdosta 31603, 912-333-1000.	GA	1/31/92
Mr. Carl E. Roland, Jr., Southwestern State Hospital, P.O. Box 1378, Thomasville 31799, 912-228-2257.	GA	1/31/92
Mr. Gary K. Kajiwara, Kuakini Health System, 347 N. Kuakini Street, Honolulu 96817, 808-547-9450.	HI	1/30/92
Ms. Nancy A. Kulas, Skyline Health, Bev. Enterprises, Inc., Pocatello 83201, 206-696-3914.	ID	1/09/92
Ms. Nancy A. Kulas, Harral's Nursing, Bev. Enterprises, Inc., Buhl 83316, 206-696-3914.	ID	1/09/92
Ms. Nancy A. Kulas, Orchards Villa, Bev. Enterprises, Inc., Lewiston 83501, 206-696-3914.	ID	1/09/92
Ms. Nancy A. Kulas, Magic Valley Manor, Bev. Enterprises, Inc., Wendell 83335, 206-696-3914.	ID	1/09/92
Ms. Nancy A. Kulas, Green Acres Care, Bev. Enterprises, Inc., Gooding 83330, 206-696-3914.	ID	1/09/92
Ms. Nancy A. Kulas, Payette Lake Care, Bev. Enterprises, Inc., McCall 83638, 206-696-3914.	ID	1/09/92
Ms. Shirley Dunn, Evergreen Nursing & Conval. Ctr., 1115 N. Wenthe, Effingham 62401, 217-347-7121.	IL	1/03/92
Mr. Howard L. Wengrow, All American Nursing Home, 5448 N. Broadway, Chicago 60640, 312-334-2224.	IL	1/03/92
Mr. Jeffrey Webster, Atrium Health Care Center, 1425 W. Estes, Chicago 60626, 312-973-4780.	IL	1/03/92
Mr. Robert L. Schmelter, Community Hospital of Ottawa, 1100 E. Norris Drive, Ottawa 61350, 815-433-3100.	IL	1/03/92
Mr. Lexie Quigg, Morgan View Terrace, Ltd., 1024 W. Walnut, Jacksonville 62650, 217-245-5175.	IL	1/03/92
Mr. Howard L. Wengrow, Hickory Nursing Pavilion, Inc., 9246 S. Roberts Rd., Hickory Hills 60457, 708-598-4040.	IL	1/08/92

DIVISION OF FOREIGN LABOR CERTIFICATIONS APPROVED ATTESTATIONS—Continued

[1/01/92 to 1/31/92]

CEO name/facility name/address	State	Approval date
Mr. Morris Esformes, West Chicago Terrace, 928 Joliet Street, West Chicago 60185, 708-231-9292.	IL	1/10/92
Mr. Jeffrey Webster, Arbour Health Care Center, 1512 W. Estes, Chicago 60626, 312-465-7751.	IL	1/15/92
Mr. Lucia Lariosa Skokie Meadows Nursing Ctrs., Inc., Skokie 60076, 708-679-4161.	IL	1/16/92
Mr. Joseph Beard, Convenant Med. Ctr., 1400 West Park, Urbana 61801, 217-337-2224.	IL	1/16/92
Mr. Benn Greespan, Mt. Sinai Hosp. Med. Ctr., 15th at Calif. Ave., Chicago 60608, 312-650-6653.	IL	1/24/92
Mr. Eugene Caldwell, St. Agnes Health Care Ctr., 60 E. 18th Street, Chicago, 60616, 312-922-2777.	IL	1/30/92
Mr. Filipinas Madriaga, Nursing Resource Group, 7256 W. Olive Ave., Chicago 60631, 312-763-4134.	IL	1/30/92
Mr. Frank Butler, University of Kentucky Hosptial, 800 Rose Street, Lexington 40536, 606-233-5000.	KY	1/08/92
Mr. Joseph W. Gross, St. Elizabeth Medical Center, 401 E. 20th Street, Covington 41014, 606-292-4000.	KY	1/10/92
Ms. Ann Markis, DePaul Hosptial, 1040 Calhoun Street, New Orleans 70118, 504-897-5700.	LA	1/30/92
Sister Barbara Grant, Mercy Hospital, 301 N. Jeff. Davis Pkway., New Orleans 70119, 504-483-5600.	LA	1/30/92
Mr. Lawrence Beck, The Good Samaritan Hosp. of MD., 5601 Loch Raven Boulevard, Baltimore 21239, 410-532-8000.	MD	1/15/92
Ms. Darlene Grover, Int'l Nurses Alliance, P.O. Box 661, Brunswick 04011, 207-729-5895.	ME	1/10/92
Ms. Gail Warden, Henry Ford Hospital & Henry Ford Med. Grp.,. Detroit, 48202, 313-876-2600.	MI	1/07/92
Mr. Herbert B. Schneiderman, Saint Louis University Hospital, 3635 Vista, St. Louis 63110, 314-577-8580.	MO	1/15/92
Mr. Charles Faulkner, Golden Triangle Reg'l Med. Ctr., 2520 5th Street North, Columbus 39701, 601-243-1000.	MS	1/24/92
Mr. Kyle W. Dilday, Springmoor Life Care Retire., 1500 Sawmill Road, Raleigh 27615, 919-848-7000.	NC	1/24/92
Mr. John R. Willis, Rex Hospital, 4420 Lake Boone Trail, Raleigh 27606, 919-783-3100.	NC	1/30/92
Sister Elizabeth Corry, Our Lady of Lourdes Med. Ctr., 1600 Haddon Ave., Camden 08103, 609-757-3838.	NJ	1/24/92
Sister Patricia Lynch, Holy Name Hospital, 718 Teaneck Road, Teaneck 07666, 201-833-3000.	NJ	1/31/92
Mr. Thomas G. Doherty, Bellevue Hospital, Immigration Program Ser., New York 10013, 212-788-3485.	NY	1/02/92
Mr. Thomas G. Doherty, Elmhurst Hospital, Immigration Program Ser., New York 10013, 212-788-3485.	NY	1/02/92
Mr. Thomas G. Doherty, Harlem Hospital Ctr., Immigration Program Ser., New York 10013, 212-788-3485.	NY	1/07/92
Mr. Thomas G. Doherty, Woodhull Hospital, Immigration Program Ser., New York 10013, 212-788-3485.	NY	1/07/92
Mr. Thomas G. Doherty, Coney Island Hospital, Immigration Program Ser., New York 10013, 212-788-3485.	NY	1/07/92
Mr. Thomas G. Doherty, Metropolitan Hospital, Immigration Program Ser., New York 10013, 212-788-3485.	NY	1/07/92
Mr. Thomas G. Doherty, Goldwater Hospital, Immigration Program Ser., New York 10013, 212-788-3485.	NY	1/07/92
Mr. Thomas G. Doherty, Bronx Municipal Hosp., Immigration Program Ser., New York 10013, 212-788-3485.	NY	1/07/92
Mr. Thomas G. Doherty, Lincoln Hospital, Immigration Program Ser., New York 10013, 212-788-3485.	NY	1/07/92
Mr. Thomas G. Doherty, Gouverneur Med. Ctr., Immigration Program Ser., New York 10013, 212-788-3485.	NY	1/07/92
Mr. Thomas G. Doherty, Coler Memorial Hosp., Immigration Program Ser., New York 10013, 212-788-3485.	NY	1/07/92
Mr. Thomas G. Doherty, Neponsit Health Care Ctr., Immigration Program Ser., New York 10013, 212-788-3485.	NY	1/07/92
Mr. Thomas G. Doherty, Kings County Hospital, Immigration Program Ser., New York 10013, 212-788-3485.	NY	1/07/92
Mr. Thomas G. Doherty, North Central Bronx Hosp., Immigration Program Ser., New York 10013, 212-788-3485.	NY	1/07/92
Mr. Paqul A. Marks, Mem. Sloan-Kettering Cancer Ctr., 1275 York Avenue, New York 10021, 212-639-3952.	NY	1/10/92
Mr. William R. Wedral, Putnam Hospital Center, Stoneleigh Avenue, Carmel 10512, 914-279-5711.	NY	1/15/92
Mr. Martin F. Nester, Jr., Long Beach Memorial Hosp., 455 East Bay Drive, Long Beach 11561, 516-432-8000.	NY	1/17/92
Mr. Lloyd C. Hardware, The Little Mile Professional Recruitment Agency, Inc., Bronx 10466, 212-547-1679.	NY	1/24/92
Dr. Ronald Gade, St. Barnabas Hospital, E. 183rd St. & 3rd Ave., Bronx 10457, 212-960-6198.	NY	1/24/92
Robert K. Match, M.D., Long Island Jewish Med. Ctr., 269-01 76th Ave., New Hyde Park 11042, 718-470-7000.	NY	1/30/92
Mr. Jacob Reingold, Hebrew Home for the Aged, Riversale/Palis. Nur. Home, Bronx 10471, 212-549-8700.	NY	1/30/92
Mr. Barry M. Spero, Maimonides Medical Ctr., 4802 Tenth Avenue, Brooklyn 11219, 718-283-6000.	NY	1/30/92
Mr. James Davis, Amsterdam Nursing Home Corp., 1060 Amsterdam Avenue, New York 10025, 212-678-2600.	NY	1/30/92
Mr. Bertram J. Oppenheimer, M.D., Yonkers Gen'l Hosp., 2 Park Avenue, Yonkers 10703, 914-964-7300.	NY	1/31/92
Ms. Nancy A. Kulas, Gladstone Convalescent, Bev. Enterprises, Inc., Gladstone 97027, 206-696-3914.	OR	1/09/92
Ms. Nancy A. Kulas, Powellhurst Nursing, Bev. Enterprises, Inc., Portland 97236, 206-696-3914.	OR	1/09/92
Ms. Nancy A. Kulas, Corvallis Care, Bev. Enterprises, Inc., Corvallis 97330, 206-696-3914.	OR	1/09/92
Ms. Nancy A. Kulas, Forest View Care, Bev. Enterprises, Inc., Forest Grove 97116, 206-696-3914.	OR	1/09/92
Ms. Nancy A. Kulas, Cedarwood Care Center, Bev. Enterprises, Inc., Independence 97351, 206-696-3914.	OR	1/09/92
Ms. Nancy A. Kulas, Raleigh Care Center, Bev. Enterprises, Inc., Portland 97225, 206-696-3914.	OR	1/09/92
Ms. Nancy A. Kulas, Hillside Heights, Bev. Enterprises, Inc., Eugene 97401, 206-696-3914.	OR	1/09/92
Ms. Nancy A. Kulas, Laurelhurst Care, Bev. Enterprises, Inc., Portland 97214, 206-696-3914.	OR	1/09/92
Ms. Nancy A. Kulas, Centennial Health, Bev. Enterprises, Inc., Portland 97233, 206-696-3914.	OR	1/09/92
Ms. Nancy A. Kulas, King City Conval., Bev. Enterprises, Inc., Tigard 97223, 206-696-3914.	OR	1/09/92
Ms. Nancy A. Kulas, Capitol View, Bev. Enterprises, Inc., Salem 97304, 206-696-3914.	OR	1/09/92

DIVISION OF FOREIGN LABOR CERTIFICATIONS APPROVED ATTESTATIONS—Continued

[1/01/92 to 1/31/92]

CEO name/facility name/address	State	Approval date
Ms. Nancy A. Kulas, Chehalem Convalescent, Bev. Enterprises, Inc., Newburg 97132, 206-696-3914.	OR	1/09/92
Ms. Nancy A. Kulas, Green Valley, Bev. Enterprises, Inc., Eugene 97401, 206-696-3914.	OR	1/09/92
Ms. Nancy A. Kulas, Horena Care, Bev. Enterprises, Inc., Eugene 97402 206-696-3914.	OR	1/08/92
Ms. Nancy A. Kulas, Mountain Park Convalescent, Bev. Enterprises, Inc. Lake Oswego 97034, 206-696-3914.	OR	1/09/92
Ms. Nancy A. Kulas, Mountain View Conval., Bev. Enterprises, Inc., Oregon City 97045, 206-696-3914.	OR	1/09/92
Ms. Nancy A Kulas, Tigard Care Center, Bev. Enterprises, Inc., Tigard 97224, 206-696-3914.	OR	1/09/92
Ms. Nancy A. Kulas, Camelot Care Center, Bev. Enterprises, Inc., Forest Grove 97116, 206-696-3914.	OR	1/09/92
Mr. Rich Kramer, Holston Valley Hospital & Med. Center, Kingsport 37862, 615-229-7711.	TN	1/24/92
Mr. Patrick Wallace, East Texas Med. Ctr—Athens, 2000 S. Palestine, Athens 75751, 903-675-2216.	TX	1/10/92
Mr. Robert Reid, Midland Phys. & Surgs. Hosp., 3201 Sage St., Midland, 79705, 915-683-2273.	TX	1/10/92
Mr. Jose Quintanilla, York Plaza Hospital & Med. Ctr., 2807 Little York Road, Houston 77093, 713-697-2961.	TX	1/15/92
Mr. William Behnke, Southwestern Gen'l Hosp., 1221 N. Cotton, El Paso 79902, 915-533-9361.	TX	1/15/92
Ms. Nancy Byrnes, HCA South Arlington Medical Ctr., 3301 Matlock, Arlington, 76015, 817-472-4850.	TX	1/16/92
Sister M. Fatima McCarthy, St. Elizabeth Hospital, 2830 Calder Avenue, Beaumont 77702, 409-899-7165.	TX	1/17/92
Ms. Jolyn W. Schewman, JWS Health Consult., Inc., d/b/a Ultrastaff, Houston 77098, 713-522-5355.	TX	1/23/92
Mr. Jack Chapman, Beaumont Medical Surg. Hospital, 3080 College, Beaumont 77701, 409-839-7113.	TX	1/24/92
Mr. Pat L. Horn, East Texas Med. Ctr.-Pitts., 414 Quitman St., Pittsburg 75686, 903-[illegible].	TX	1/30/92
Sam Raney, Hamilton Hospital, 903 West Hamilton Street, Olney 76374, 512-564-5521.	TX	1/30/92
Mr. Thomas Kennedy, Rolling Plains Mem. Hosp., 200 E. Arizona, Sweetwater 79556, 915-235-1701.	TX	1/30/92
Mr. Richard Kraus, HCA Chippenham Med. Ctr., 7101 Jahnke Rd., Richmond 25225, 804-323-8785.	VA	1/24/92
Ms. Nancy A. Kulas, Palouse Hills Conval. Ctr., Bev. Enterprises, Inc., Pullman 99163, 206-696-3914.	WA	1/08/92
Ms. Nancy A. Kulas, Willapa Harbor, DBA, 1108 Jackson Street, Raymond 98577, 206-696-3914.	WA	1/09/92
Ms. Nancy A. Kulas, Hillcrest Nursing, DBA, 912 Hillcrest Avenue, Grandview 98930, 206-696-3914	WA	1/09/92
Ms. Nancy A. Kulas, Linn Care Center, Bev. Enterprises, Inc., Albany 97321, 206-696-3914.	WA	1/09/92
Ms. Nancy A. Kulas, Rose Vista, Bev. Enterprises, Inc., Vancouver 98661, 206-696-3914.	WA	1/09/92
Ms. Nancy A. Kulas, Meadow Glade, 11117 NE 189th Street, Battleground 98604, 206-696-3914.	WA	1/09/92
Ms. Nancy A. Kulas, Renton Terrace, Bev. Enterprises, Inc., Renton 98055, 206-696-3914.	WA	1/09/92
Ms. Nancy A. Kulas, Monarch Care Center, Bev. Enterprises, Inc. Seattle 98198, 206-696-3914.	WA	1/09/92
Ms. Nancy A. Kulas, Lilac City Convalescent, DBA Bev. Enterprises, Inc., Spokane 99207, 206-696-3914.	WA	1/09/92
Ms. Nancy A. Kulas, Hillcrest Manor, Bev. Enterprises, Inc., Sunnyside 98944, 206-696-3914.	WA	1/09/92
Ms. Nancy A. Kulas, Sunny Haven, Bev. Enterprises, Inc., Sunnyside 98944, 206-696-3914.	WA	1/09/92
Ms. Nancy A. Kulas, Clearview Manor, Bev. Enterprises, Inc., Tacoma 98404, 206-696-3914.	WA	1/09/92
Ms. Nancy A. Kulas, Highland Terrace, DBA, P.O. Box 1148, Camas 98607, 206-696-3914.	WA	1/09/92
Ms. Nancy A. Kulas, Midway Manor Conval. Ctr., Bev. Enterprises, Inc., Des Moines 98661, 206-696-3914.	WA	1/09/92
Ms. Nancy A. Kulas, Wildwood Health, DBA, 909 South Meridian, Puyallup 98371, 206-696-3914.	WA	1/09/92
Ms. Nancy A. Kulas, Hillcrest Convalescent, DBA, 2004 North 22nd Street, Pasco 99301, 206-696-3914.	WA	1/09/92
Ms. Nancy A. Kulas, Othello Convalescent, DBA, 495 N 13th Street, Othello 99344, 206-696-3914.	WA	1/09/92
Ms. Nancy A. Kulas, Benson Heights DBA, 22410 Benson Road SE., Kent 98031 206-696-3914.	WA	1/09/92
Ms. Nancy A. Kulas, Pleasant Acres, DBA, 5129 Hilltop Road, Everett 98203, 206-696-3914.	WA	1/09/92
Ms. Nancy A. Kulas, Pinewood Terrace, DBA, 1000 East Elep, Colville 99114, 206-696-3914.	WA	1/09/92
Ms. Nancy A. Kulas, Manor Health Care, DBA, 308 West King, Aberdeen 98520, 206-696-3914.	WA	1/09/92
Ms. Nancy A. Kulas, Wedgewood Rehab. Ctr., Bev. Enterprises, Inc., Seattle 98115, 206-696-3914.	WA	1/09/92
Ms. Nancy A. Kulas, Sherwood Terrace Nur. Home, Bev. Enterprises, Inc., Tacoma 98444, 206-696-3914.	WA	1/09/92
Ms. Betty Smit, Caravilla, P.O. Box 75, Beloit 63512, 608-365-8877.	WI	1/03/92
Total Attestations—148		

[FR Doc. 92-3382 Filed 2-11-92; 8:45 am]

BILLING CODE 4510-30-M

Office of Workers' Compensation Programs

Adjustment to Federal Employees' Compensation Act Fee Schedule

Under authority provided by 20 CFR 10.411(f), the Director of the Department of Labor's Office of Workers' Compensation Programs (OWCP) may adjust the fee schedule for medical services for injuries covered by the Federal Employees' Compensation Act (FECA). This notice explains how OWCP has modified the fee schedule to reflect recent changes in the standard coding text.

The medical fee schedule was implemented in 1986. The system uses the American Medical Association's (AMA) Physician's Current Procedural Terminology (CPT) coding structure to distinguish services and procedures performed by physicians. The procedures are then assigned relative unit values (RUV's) to codify the relative work value of procedures. The RUV's, the geographic indices assigned to provider's zip codes, and the dollar conversion factors, determine the maximum allowable reimbursable amount for a particular medical service or procedure.

OWCP has used the RUV's assigned to CPT coded medical procedures by the State of Washington's Department of Labor and Industry under that state's medical fee schedule for industrial injuries. The CPT is revised each year to accommodate the identification of new procedures and to better define contemporary medical practice, and Washington State has traditionally assigned RUV's to those newly coded procedures as changes have been made. Recent CPT coding changes, however, will not be assigned new RUV's by Washington State for at least a year. Since these coding changes involve approximately 35 percent of all items billed, OWCP cannot delay assigning RUV's to the 1992 CPT changes and has, therefore, devised its own formula for assigning RUV's for these new procedure codes.

The formula is based on the Department of Health and Human Services' (HHS) Health Care Financing Administration's (HCFA) medical fee schedule for professional services that is now being applied nationally. The HCFA method is conceptually similar to that used by the State of Washington in assigning RUV's.

The revisions in the 1992 version of the AMA's Current Procedural Terminology, Fourth Edition, affected by the new formula are as follows (the reader should refer to the AMA publication for the narrative descriptions for these codes):

72156 thru 72158
99201 thru 99205
99211 thru 99215
99221 thru 99223
99231 thru 99233
99238
99241 thru 99245
99251 thru 99255
99261 thru 99263
99271 thru 99275
99281 thru 99285
99288
99291 thru 99292

These changes were effective January 17, 1992.

Signed at Washington, DC, on the 6th of February, 1992.

Lawrence W. Rogers,

Director, Office of Workers' Compensation Programs.

[FR Doc. 92-3383 Filed 2-11-92; 8:45 am]

BILLING CODE 4510-27-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Comments on this information collection must be submitted on or before March 13, 1992.

ADDRESSES: Send comments to Ms. Susan Daisey, Assistant Director, Grants Office, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., room 310, Washington, DC 20506 (202-786-0494) and Mr. Daniel Chenok, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., room 3002, Washington, DC 20503 (202-395-7316).

FOR FURTHER INFORMATION CONTACT: Ms. Susan Daisey, Assistant Director, Grants Office, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., room 310, Washington, DC 20506 (202) 786-0494 from whom copies of forms and supporting documents are available.

SUPPLEMENTARY INFORMATION: All of the entries are grouped into new forms, revisions, extensions, or reinstatements. Each entry is issued by NEH and contains the following information: (1) The title of the form; (2) the agency form number, if applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what the form will be used for; (6) an estimate of the number of responses; (7) the frequency of response; (8) an estimate of the total number of hours needed to fill out the form; (9) an estimate of the total annual reporting and recordkeeping burden. None of the entries are subject to 44 U.S.C. 3504(h).

Category: Extension

Title: Information Needed for an Indirect Cost Rate.

Form Number: 3136-0055.

Frequency of Collection: One per year from each respondent.

Respondents: Not-for-Profit Institutions.

Use: Evaluation of Indirect Cost Rate.

Estimated Number of Respondents: 60.

Frequency of Response: Depending on type of rate: provisional-annually, predetermined-biennial.

Estimated Hours for Respondents to Provide Information: 20 hours per respondent or 1,200 total hours for all respondents.

Estimated Total Annual Reporting and Recordkeeping Burden: 1,320 hours.

Thomas S. Kingston,

Assistant Chairman for Operations.

[FR Doc. 92-3344 Filed 2-11-92; 8:45 am]

BILLING CODE 7536-01-M

National Endowment for the Humanities

Humanities Panel Advisory Committee; Renewal

The Humanities Panel Advisory Committee is being renewed for an additional two years.

The Chairman, National Endowment for the Humanities, has determined that the renewal of this committee is necessary and in the public interest in connection with the performance of duties imposed upon the National Endowment for the Humanities by law. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Dated: February 6, 1992.

David C. Fisher, Jr.

Advisory Committee Management Officer.

[FR Doc. 92-3245 Filed 2-11-92; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

Renewal of Charter for the Nuclear Safety Research Review Committee

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of renewal of the Nuclear Safety Research Review Committee.

SUMMARY: The Nuclear Safety Research Review Committee was established by the Nuclear Regulatory Commission as a Federal advisory committee in February 1988 to provide advice to the Director, Office of Nuclear Regulatory Research, on matters relating to NRC's nuclear safety research programs. The committee is composed of experts capable of providing a wide variety of technical and managerial viewpoints

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drawn from industrial, national laboratory, university and not-for-profit research organizations.

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463), and after consultation with the General Services Administration, the Nuclear Regulatory Commission has determined that there is a continuing need for the Nuclear Safety Research Review Committee and that renewal of the committee for a two-year period beginning February 9, 1992, is in the public interest.

FOR FURTHER INFORMATION CONTACT: Mr. George Sege, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 492-3904.

Dated: February 6, 1992.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 92-3340 Filed 2-11-92; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Nuclear Waste; Revision of Meeting Agenda

The agenda for the 40th Advisory Committee on Nuclear Waste (ACNW) scheduled to be held on Thursday and Friday, February 20 and 21, 1992, 8:30 a.m.–5 p.m., room P-110, 7920 Norfolk Avenue, Bethesda, MD has been revised. Notice of this meeting was published previously in the **Federal Register** on Monday, February 3, 1992 (57 FR 4070).

The agenda for the subject meeting shall be as follows:

A. Continue work on a systems analysis approach to review the overall high-level waste program.

B. Report on EPRI follow-on meeting concerning the EPA's High-Level Waste Standards.

C. Hear a presentation on the latest draft of EPA's high-level waste standards.

D. Report on recent attendances at the Low-Level Waste Forum Winter Meeting in San Diego, CA.

E. Report on recent visit with Dr. David Morrison of NRC's Nuclear Safety Research Committee.

F. Discuss anticipated and proposed Committee activities, future meeting agenda, administrative, and organizational matters, as appropriate. Also, discuss matters and specific issues that were not completed during previous meetings as time and availability of information permit.

Procedures for the conduct of and participation in ACNW meetings were published in the **Federal Register** on June 6, 1988 (53 FR 20699). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and staff. The office of the ACRS is providing staff support for the ACNW. Persons desiring to make oral statements should notify the Executive Director of the office of the ACRS as far in advance as practical so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the Executive Director of the office of the ACRS, Mr. Raymond F. Fraley (telephone 301/492-4516), prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director or call the recording (301/492-4600) for the current schedule if such rescheduling would result in major inconvenience.

Dated: February 6, 1992.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 92-3342 Filed 2-11-92; 8:45 am]

BILLING CODE 7590-01-M

Amendment to License Approving Change to a Reclamation Plan for an Inactive Uranium Recovery Facility—Bear Creek

AGENCY: Nuclear Regulatory Commission.

ACTION: Approval of revision to reclamation plan for an inactive uranium recovery facility.

1. Description of Federal Action

In accordance with a memorandum of understanding (MOU) between the Environmental Protection Agency (EPA) and the Nuclear Regulatory Commission (NRC) published in the **Federal Register** on October 25, 1991, (Volume 56, No. 207, pp. 55432–55435), NRC hereby notices the approval of a request to revise a reclamation plan from Bear Creek Uranium Company, a subsidiary of Union Pacific, for their Bear Creek Uranium Mill, Docket No. 40-8452, Source Material License No. SUA-1310.

This request, dated September 30, 1986, and subsequent submittals justify modification of the reclamation and closure plan approved by the NRC as part of the license renewal on September 28, 1984. The basis for this change is the decrease in the volume of tailings due to premature shutdown of the mill.

The NRC staff has reviewed the proposed reclamation plan against current design guidance and determined that it meets or exceeds the requirements of 10 CFR part 40, appendix A. In accordance with the above referenced MOU, the intent to approve the revised reclamation plan was published in the **Federal Register** on December 20, 1991 (Volume 56, Number 245, page 66089). A 45-day period was provided for receipt of comments regarding NRC's intent to amend the Bear Creek Uranium Company license; none were received. Therefore, the Bear Creek Uranium Company reclamation plan was approved and their license was amended on February 4, 1992.

2. Contact

Copies of the license amendment request, the staff analysis which is the basis for revision to the license, and the license amendment are available for inspection at the Uranium Recovery Field Office, 730 Simms, suite 100, Lakewood, Colorado, and at the Public Document Room, 2120 L Street, NW., Washington, DC. Comments or questions regarding the licensing action may be directed to the Director, Uranium Recovery Field Office, P.O. Box 25325, Denver, Colorado 80225.

Subject: Amendment—Bear Creek

Dated at Denver, Colorado, this 2d day of February 1992.

For the Nuclear Regulatory Commission.

Ramon E. Hall,

Director, Uranium Recovery Field Office, Division of Radiation Safety and Safeguards, Region IV.

[FR Doc. 92-3341 Filed 2-11-92; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Performance Review Board

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: Notice is hereby given of the names of the members of the Performance Review Board.

DATES: February 12, 1992.

FOR FURTHER INFORMATION CONTACT: Mary K. Hill, Executive Personnel Division Office of Personnel, Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415, (202-606-2420).

SUPPLEMENTARY INFORMATION: Section (c)(1) through (5) of title 5 U.S.C. requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards. The board shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any recommendations to the appointing authority relative to the performance of the senior executive.

Office of Personnel Management.

Constance Berry Newman,

Director, Office of Personnel Management.

The Members of the Performance Review Board Are:

1. Judy Van Rest, Chief of Staff, Office of the Director-Chair.
2. Dona Wolf, Director, Human Resources Development Group.
3. Curtis J. Smith, Associate Director, Retirement and Insurance Group.
4. Claudia Cooley, Associate Director, Personnel Systems and Oversight Group.
5. Leonard R. Klein, Associate Director, Career Entry Group.
6. Steven R. Cohen, Regional Director, Chicago.
7. Patricia W. Lattimore, Associate Director, Administration Group.

[FR Doc. 92-3247 Filed 12-11-92; 8:45 am]

BILLING CODE 6325-01-M

PENSION AND WELFARE BENEFITS ADMINISTRATION

[Application No. D-8337]

Amendment to Prohibited Transaction Exemption (PTE) 77-8 Involving the Transfer of Individual Life Insurance Contracts and Annuities From Employee Benefit Plans To Plan Participants, Certain Beneficiaries of Plan Participants, Employers and Other Employee Benefit Plans

AGENCY: Pension and Welfare Benefit Administration, Department of Labor.

ACTION: Adoption of amendment to PTE 77-8, and redesignation as PTE 92-6.

SUMMARY: This document amends PTE 77-8, a class exemption that enables an employee benefit plan to sell individual life insurance contracts and annuities to (1) a plan participant insured under such policies, (2) a relative of such insured participant who is the beneficiary under the contract, (3) an employer any of whose employees are covered by the plan or, (4) another employee benefit plan, for the cash surrender value of the contracts, provided specified conditions are met. The amendment affects, among others, certain participants, beneficiaries and fiduciaries of plans engaged in the described transactions.

EFFECTIVE DATE: The amendment to PTE 77-8 is effective as of October 22, 1986.

FOR FURTHER INFORMATION CONTACT: Eric Berger of the Office of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor, telephone (202) 523-8971 (This is not a toll-free number.); or Diane Pedulla of the Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, (202) 523-9597. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On July 11, 1991, notice was published in the **Federal Register** (56 FR 31679) of the pendency before the Department of a proposed amendment to PTE 77-8 (42 FR 31574, June 21, 1977). PTE 77-8 provides an exemption from the restrictions of section 406(a) and 406(b) (1) and (2) of the Employee Retirement Income Security Act of 1974 (the Act) and the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1986 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code.

The amendment to PTE 77-8 adopted by this notice was requested in an exemption application dated August 16, 1989, by the American Council of Life Insurance.[1] The exemption application was submitted pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code [2] and in accordance with ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

The notice of pendency gave interested persons an opportunity to comment on the proposed amendment. Public comments were received pursuant to the provisions of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1.

For the sake of convenience, the entire text of PTE 77-8, as amended, has been reprinted with this notice. The Department has redesignated the exemption as PTE 92-6.

Description of the Exemption

PTE 77-8 permits an employee benefit plan to sell individual life insurance contracts and annuities to (1) a plan participant insured under such policies, (2) a relative of such insured participant who is the beneficiary under the contract, (3) an employer any of whose employees are covered by the plan, or (4) another employee benefit plan, for the cash surrender value of the contracts, provided the conditions set forth in the exemption are met. As of the date PTE 77-8 was granted, section 408(d) of the Act provided that no exemption could be granted under section 408(a) of the Act for transactions of the type described in the exemption between a plan and certain persons such as an owner-employee (as defined in section 401(c)(3) of the Internal Revenue Code of 1986) or a shareholder-employee (as defined in section 1379 of the Internal Revenue Code of 1954). The exemption is, however, applicable to such persons for purposes of section 4975 of the Code.

The amendment to PTE 77-8 granted pursuant to this notice expands the coverage of the exemption to include transactions with owner-employees (as defined in section 401(c)(3) of the Internal Revenue Code of 1986) and shareholder-employees (as defined in section 1379 of the Internal Revenue Code of 1954 as in effect on the day before the date of the enactment of the Subchapter S Revision Act of 1982).

The Department notes that all the conditions contained in PTE 77-8 still must be met under the amendment. These conditions include a requirement that the amount received by the plan as consideration for the sale is at least equal to the amount necessary to put the plan in the same cash position as it would have been in had it retained the contract, surrendered it, and made any distribution owing to the participant of his vested interest under the plan. Additionally, the exemption requires that, with regard to any plan which is an employee welfare benefit plan, such plan must not, with respect to such sale, discriminate in form or in operation in favor of plan participants who are officers, shareholders, or highly compensated employees.

Written Comments

The Department received three letters supporting the proposed amendment to PTE 77-8.

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[1] The applicant also requested, and the Department is publishing elsewhere in this issue of the **Federal Register**, a similar amendment to PTE 77-7 (42 FR 31575, June 21, 1977).

Section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978), effective December 31, 1978 (44 FR 1065, January 3, 1979), transferred the authority of the Secretary of the Treasury to issue exemptions of this type to the Secretary of Labor.

In the discussion of the exemption, references to sections 406 and 408 of the Act should be read to refer as well to the corresponding provisions of section 4975 of the Code.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which require, among other things, that a fiduciary discharge his or her duties respecting the plan solely in the interests of the participants and beneficiaries of the plan; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) In accordance with section 408(a) of the Act, the Department makes the following determinations:

(i) The amendment set forth herein is administratively feasible;

(ii) It is in the interests of plans and of their participants and beneficiaries; and

(iii) It is protective of the rights of the participants and beneficiaries of plans;

(3) The class exemption is applicable to a particular transaction only if the transaction satisfies the conditions specified in the exemption; and

(4) The amendment is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Exemption

Accordingly, PTE 77-8 is amended under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in ERISA Procedure 75-1, as set forth below.

I. Effective January 1, 1975, the restrictions of sections 406(a) and 406(b)(1) and (2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)((A) through (E) of the Code, shall not apply to the sale of an individual life insurance or annuity contract by an employee benefit plan to (1) a participant under such plan; (2) a relative of a particular under such plan; (3) an employer, any of whose employees are covered by the plan; or (4) another employee benefit plan, if—

(1) Such participant is the insured under the contract;

(2) Such relative is a "relative" as defined in section 3(15) of the Act (or is a "member of the family)" as defined in section 4975(e)(6) of the Code), or is a brother or sister of the insured (or a spouse of such brother or sister), and is the beneficiary under the contract;

(3) The contract would, but for the sale, be surrendered by the plan;

(4) With respect to sales of the policy to the employer, a relative of the insured or another plan, the participant insured under the policy is first informed of the proposed sale and is given the opportunity to purchase such contract from the plan, and delivers a written document to the plan stating that he or she elects not to purchase the policy and consents to the sale by the plan of such policy to such employer, relative or other plan;

(5) The amount received by the plan as consideration for the sale is at least equal to the amount necessary to put the plan in the same cash position as it would have been in had it retained the contract, surrendered it, and made any distribution owing to the participant of his vested interest under the plan; and

(6) With regard to any plan which is an employee welfare benefit plan, such plan must not, with respect to such sale, discriminate in form or in operation in favor of plan participants who are officers, shareholders, or highly compensated employees.

II. Effective October 22, 1986, the exemption provided for transactions described in part I is available for plan participants who are owner-employees (as defined in section 401(c)(3) of the Internal Revenue Code of 1986) or shareholder-employees (as defined in section 1379 of the Internal Revenue Code of 1954 as in effect on the day before the date of the enactment of the Subchapter S Revision Act of 1982) if the conditions set forth in part I are met.

Signed at Washington, DC, this 5d day of February, 1992.

Alan D. Lebowitz,

Deputy Assistant Secretary for Program Operations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 92-3348 Filed 2-11-92; 8:45 am]

BILLING CODE 7708-01-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSALS:

(1) *Collection title:* Placement Service.

(2) *Form(s) submitted:* ES-2, ES-20a, ES-20b, ES-21, ES-21c, and UI-35.

(3) *OMB Number:* 3220-0057.

(4) *Expiration date of current OMB clearance:* Three years from date of OMB approval.

(5) *Type of request:* Revision of a currently approved collection.

(6) *Frequency of response:* On occasion.

(7) *Respondents:* Individuals or households, State or local governments, Businesses or other for-profit.

(8) *Estimated annual number of respondents:* 52,900.

(9) *Total annual responses:* 59,600.

(10) *Average time per response:* See supporting statement.

(11) *Total annual reporting hours:* 4,467.

(12) *Collection description:* Under the RUIA, the Railroad Retirement Board provides job placement assistance for unemployed railroad workers. The collection obtains information from job applicants, railroad and non-railroad employees, and State Employment Service Offices for use in placement, for providing referrals for job openings and reports of referral results and for verifying and monitoring claimant eligibility.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed forms and supporting documents can be obtained from Dennis Eagan, the agency clearance officer (312-751-4693). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Laura Oliven (202-395-7316), Office of Management and Budget, room 3002, New Executive Office Building, Washington, DC 20503.

Dennis Eagan,

Clearance Officer.

[FR Doc. 92-3243 Filed 2-11-92; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Boston Stock Exchange, Inc.

February 6, 1992.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

U.S. Alcohol Testing of America, Inc.
  Common Stock, $.01 Par Value (File No. 7-7913)
Brown & Sharp Manufacturing Co.
  Common Stock, $1.00 Par Value (File No. 7-7914)
Delta Woodside Industries
  Common Stock, $.01 Par Value (File No. 7-7915)
Fisher Scientific International
  Common Stock, $.01 Par Value (File No. 7-7916)
Granda Biosciences, Inc.
  Common Stock, $.10 Par Value (File No. 7-7917)
Olin Corp.
  Series A, Conv. Pfd. $1.00 Par Value (File No. 7-7918)
St. Pauls Co's, Inc.
  Common Stock, No Par Value (File No. 7-7919)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 28, 1992, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-3279 Filed 2-11-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30337; File No. SR-GSCC-91-6]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Filing and Immediate Effectiveness of Proposed Rule Change Relating to Billing Procedure Modifications

February 4, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on November 29, 1991, Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Under the proposed rule change, GSCC will discontinue its practice of billing members in advance for their anticipated business during the following month and, instead, bill members for anticipated business for the current month and any adjustments for actual use during the previous month.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, GSCC included statements concerning the purpose of, and basis for, the proposed rule change and discussed comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. GSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On January 4, 1990, the Commission approved rule filing SR-GSCC-89-15, which authorized GSCC to bill its members at the beginning of each month for such member's anticipated fee obligations for that month and for the following month (with an adjustment made to take into account any overcharge or undercharge made with regard to the member's activity during the previous month). The Commission's approval was issued on an accelerated, temporary basis until July 31, 1990.[1]

On August 6, 1990, the Commission approved rule filing SR-GSCC-90-04, which requested an extension, until July 31, 1991, of GSCC's authority to pre-bill members.[2]

On July 24, 1991, the Commission approved rule filing SR-GSCC-91-02, which requested an extension, until July 31, 1992, of GSCC's authority to pre-bill members.[3]

On October 24, 1991, the Board of Directors of GSCC determined that it would be appropriate from a financial perspective for GSCC to discontinue by the end of 1991, on a permanent basis, billing members in advance for their anticipated business during the following month. Thus, beginning in December of 1991, GSCC's monthly billing will not charge members for their anticipated business during the following month.

To make this transition, the December 1991 billing will only adjust for the difference between the estimated and actual amounts of business done in the previous month (November 1991). Starting in January 1991, each billing will charge for anticipated business for that current month, and will adjust for actual business done during the previous month.

The proposed rule change will promote the prompt and accurate clearance and settlement of securities transactions for which GSCC is responsible and is, therefore, consistent with the requirements of the Securities Exchange Act of 1934, as amended, and Rule 17A thereunder.

B. Self-Regulatory Organization's Statement on Burden on Competition

GSCC does not believe that the proposed rule change would impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were not solicited by GSCC for the proposed rule change, and none have been received. Members will be notified of the rule filing, and comments will be solicited by an "Important Notice." GSCC will notify the Commission of any written comments it receives.

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[1] Securities Exchange Act Release No. 27581 (January 4, 1990), 55 FR 1151.

[2] Securities Exchange Act Release No. 28315 (August 6, 1990), 55 FR 32719.

[3] Securities Exchange Act Release No. 29479 (July 24, 1991), 56 FR 36183.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective, pursuant to section 19(b)(3)(A) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4 because it changes the fee structure imposed by GSCC. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements regarding the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of GSCC. All submissions should refer to File No. SR–GSCC–91–6 and should be submitted by March 4, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–3278 Filed 2–11–92; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

February 6, 1992.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Margaretten Financial Corporation
Common Stock, $.01 Par Value (File No. 7–7920)
National Re Holdings Corp.
Common Stock, No Par Value (file No. 7–7921)
Olin Corporation
Series A Conversion Preferred Stock, No Par Value (File No. 7–7922)
Strategic Global Income Fund, Inc.
Common Stock, $0.01 Par Value (File No. 7–7923)

These securities are listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 26, 1992, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92–3280 Filed 2–11–92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34–30342; File No. SR–NASD–92–4]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to the Charge for Fingerprint Cards Submitted to the Association

February 6, 1992.

Pursuant to section 19(b)1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 73s(b)(1), notice is hereby given that on February 3, 1992, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The NASD has designated this proposal as one constituting a fee imposed exclusively on its members under section 19(b)(3)(A)(ii) of the Act, which renders the rule effective upon the Commission's receipt of this filing. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing to Amend Schedule A, section 14 to the NASD By-Laws to amend the charge for fingerprint cards submitted to the NASD. Below is the text of the proposed rule change. Proposed deletions are in brackets.

Schedule A to the NASD By-Laws

Section 14—Service Charge for Fingerprints Submitted

In addition to such charge as may be imposed by the United States Department of Justice, there shall be a service charge of $2.50 for each fingerprint card submitted[, and $1.50 for each fingerprint card re-submitted,] to the Association's Membership Department.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

Section 14 of Schedule A to the By-Laws was added in September 1989 in order to permit the NASD to recover some of the cost of processing fingerprint card submissions made in connection with applications for registration as an associated person. Currently, section 14 specifies that there shall be a service charge of $2.50 for each fingerprint card submitted to the NASD, and $1.50 for each fingerprint card resubmitted. The NASD charges are in addition to any charges imposed by the U.S. Department of Justice.[1]

The U.S. Department of Justice recently changed its fees and procedures for fingerprint card submissions by imposing new fees for resubmitted cards. The new procedures impose a substantial new fee collection and procedural burden on the NASD. Accordingly, the NASD is proposing to eliminate the distinction in charges between original submissions and resubmissions and make the charge a uniform $2.50 for all fingerprint cards submitted to the NASD.

The NASD believes that the proposed rule change is consistent with the provisions of section 15A(b)(5) of the Act which requires that the rules of the Association provide for the equitable allocation of reasonable dues, fees, and other charges among issuers and other persons using any facility or system which the Association operates or controls.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to section 19(b)(3)(A)(ii) of the Act and subparagraph (e) of Rule 19b-4 thereunder in that it constitutes a fee imposed exclusively upon the members of the NASD.

At any time within 60 days of the filing of a rule change pursuant to section 19(b)(3)(A) of the Act, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by March 4, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-3374 Filed 2-11-92; 8:45 am]

BILLING CODE 8010-01-M

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[1] The requirement that associated persons submit fingerprints is set forth in SEC Rule 17f-2.

[Release No. 34- 30341; File No. SR-NASD-91-68]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc., Relating to the Forwarding of Proxy Material

February 6, 1992.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 19, 1991, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is herewith filing a proposed rule change to the Interpretation of the Board of Governors—Forwarding of Proxy and Other Materials, Article III, section 1 of the NASD Rules of Fair Practice. Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

Article III

Rules of Fair Practice

Business Conduct of Members

Section 1. A member, in the conduct of his business, shall observe high standards of commercial honor and just and equitable principles of trade.

* * * * *

Interpretation of the Board of Governors

Forwarding of Proxy and other Materials

Introduction

.05 A member has an inherent duty in carrying out high standards of commercial honor and just and equitable principles of trade to forward *(i)* all proxy material[,] *which is properly furnished to it by the issuer of the securities or a stockholder of such issuer, to each beneficial owner of shares of that issue which are held by the member for the beneficial owner thereof and (ii) all* annual reports, information statements and other material sent to stockholders, which are properly furnished to it by the issuer of the securities, to each beneficial owner of shares of that issue which are held by the member for the beneficial owner thereof. For the assistance and guidance of members in meeting their responsibilities, the Board of Governors has promulgated this interpretation. The provisions hereof shall be followed by all members and failure to do so shall constitute conduct inconsistent with high standards of commercial honor and just and equitable principles of trade in violation of Article III, Section 1 of the Rules of Fair Practice of the Association.

Interpretation

* * * * *

Section 2. Whenever an [person] *issuer or stockholder of such issuer* soliciting proxies shall timely furnish to a member:

(1) sufficient copies of all soliciting material which such person is sending to registered holders, and

(2) satisfactory assurance that he will reimburse such member for all out-of-pocket expenses, including reasonable clerical expenses incurred by such member in connection with such solicitation,

such member shall transmit promptly to each beneficial owner of stock of such issuer which is in its possession or control and registered in a name other than the name of the beneficial owner all such material furnished. Such material shall include a signed proxy indicating the number of shares held for such beneficial owner and bearing a symbol identifying the proxy with proxy records maintained by the member, and a letter informing the beneficial owner of the time limit and necessity for completing the proxy form and forwarding it to the person soliciting proxies prior to the expiration of the time limit in order for the shares to be represented at the meeting. A member shall furnish a copy of the symbols to the person soliciting the proxies and shall also retain a copy thereof pursuant to the provisions of Rule 17a–4 of the General Rules and Regulations under the Securities Exchange Act of 1934, 17 CFR 240.17a–4. Notwithstanding the provisions of this section, a member may give a proxy to vote any stock pursuant to the rules of any national securities exchange to which the member is also responsible provided that the records of the member clearly indicate which procedure it is following.

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[1] On January 30, 1992, the NASD filed Amendment No. 1 to the proposed rule change. Amendment No. 1 clarifies the descriptive language of the proposal and does not reflect substantive changes.

This section shall not apply to beneficial owners residing outside of the United States of America though members may voluntarily comply with the provisions hereof in respect to such persons if they so desire.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in section (A), (B), and (C) below, of the most significant aspect of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In May 1991, staff of the Division of Market Regulation of the Securities and Exchange Commission requested that the NASD consider amending the Interpretation of the Board of Governors—Forwarding of Proxy and Other Material, Article III, section 1 of the NASD Rules of Fair Practice (the "Interpretation") to require NASD members to forward proxy material to beneficial owners at the request of persons other than the issuer, i.e. stockholders. Currently, the Interpretation requires NASD members to forward proxy material to beneficial owners upon the request by the issuer, but does not extend the duty to forward upon a request by other persons who are shareholders of the issuer.[2]

Upon review, the NASD believes that a potential exists for disruption in proxy communications in circumstances where stockholders in possession of the stockholder lists request NASD members to forward proxy material to beneficial owners. Currently, only those NASD members that are affiliated with the New York Stock Exchange ("NYSE") and the American Stock Exchange ("AMEX") are required to forward such proxy material upon the request of a "person" other than the issuer of the stock.[3]

The forwarding of such proxy material for non-issuers is not currently required under the proxy rules adopted by the Commission in accordance with the Act. Pursuant to Rule 14a–7 of Regulation 14A of the Act, an issuer may choose to give the list of record holders to a stockholder for purposes of proxy solicitation. Pursuant to Rule 14b–1(e)(1) of the Act, registered brokers an dealers are only required to forward material to beneficial owners if a "registrant" provides assurance of reimbursement of reasonable expenses. Under current practice, a registrant normally would not provide to a broker or dealers an assurance of reimbursement for services rendered by a member in forwarding proxy material upon the request of a person that is not the issuer. Therefore, a broker's or dealer's duty to forward under Rule 14b–1(e)(1) would not normally exist regarding nonissuer requests to forward proxy material.

The NASD is not aware of an occurrence wherein proxy material has not been forwarded by NASD members to beneficial owners upon the request of a stockholder other than the issuer. However, the NASD proposes to eliminate the potential for any such disruption in the forwarding of proxy material to beneficial owners by amending the Interpretation to clarify that NASD members are required to forward proxy material upon the request of either the issuer of the securities or a stockholder of such issuer.

The proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act, which requires, among other things, that the rules of the Association be designed to "foster cooperation and coordination with person engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest".

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by March 4, 1992.

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[2] The Interpretation was recently amended to require the forwarding of material other than proxy material upon the request of the issuer. SEC Rel. No. 34–29512 (July 31, 1991).

[3] NYSE affiliated members currently are required to forward proxy material upon the request of a "person" pursuant to NYSE Rule 451. AMEX affiliated members currently are required to forward proxy material upon the request of a "person" pursuant to AMEX Rule 576.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-3375 Filed 2-11-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30346; File No. SR-OCC-91-17]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Approving Proposed Rule Change Relating to a New Service to Facilitate Risk Analysis

February 6, 1992.

On November 19, 1991, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (SR-OCC-91-17) under section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] relating to a new service to facilitate risk analysis. On December 11, 1991, the Commission published the proposal in the **Federal Register** to solicit comments.[2] None were received. This order approves OCC's proposed rule change.

I. Description

OCC's proposal would convert its new service, the Risk Management System ("RMS"), from pilot to permanent status. RMS is a risk analysis system that uses theoretical market movements to evaluate the risk profile of certain positions in debt and equity securities, securities options, and futures contracts. Since May, 1990, RMS has been operational on a pilot basis for one participant exchange and at least six clearing members.

According to OCC, subsequent to the October 1987 market break, it formulated a plan to develop a risk analysis system based upon its Concentration Monitoring System ("ConMon") [3] and its Theoretical Intermarket Margining System ("TIMS").[4] Based upon this plan, OCC completed development of RMS,[5] which will be used by OCC participant exchanges and clearing members in the assessment and management of the risk of positions maintained in their proprietary, market professional, and customer accounts.[6]

Several of OCC's participant exchanges have mandated that certain of their members, including those that clear the accounts of options market professionals, must submit position and financial information to OCC for RMS processing. OCC will provide the results of RMS processing for such members to the appropriate participant exchanges. Each participant exchange will be required to execute a Risk Management System Participant Exchange Agreement ("RMS Participant Exchange Agreement").

OCC clearing members that subscribe to RMS will be required to execute a Risk Management System Clearing Member Agreement ("RMS Clearing Member Agreement"). Those OCC clearing members that submit data to OCC pursuant to a participant exchange mandate but that elect not to subscribe to RMS will not be required to execute an RMS Clearing Member Agreement as such clearing members will not receive the results of RMS processing.

Both the RMS Participant Exchange Agreement and the RMS Clearing Member Agreement (collectively "RMS Agreements") state that OCC shall have no liability for any damage or loss suffered by RMS users in connection with their use of RMS or the information therefrom except upon a clear showing of OCC's knowing or intentional misconduct. The RMS Agreements further provide that OCC shall have no liability if OCC is unable to conduct or complete RMS processing or if OCC is unable to maintain the availability of RMS as a result of power outages, fires, computer malfunctions, acts of public authorities, natural disasters, or other causes beyond the control of OCC. In addition, the RMS Agreements provide that OCC shall have no liability for consequential damages.

II. Discussion

The Commission believes that OCC's proposal is consistent with the Act and particularly with section 17A(b)(3)(F).[7] That section requires, among other things, that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which the clearing agency is responsible and to protect investors and the public interest. OCC's proposal should provide increased protection to OCC and its participants by enabling its participants to utilize directly OCC's proven risk management systems for the purpose of establishing a framework for risk management.

The Commission also believes that the proposal is consistent with section 17A(a)(1)(C) of the Act.[8] That section recommends using new data processing and communications techniques in order to achieve more efficient, effective, and safe procedures for clearance and settlement. OCC's RMS service will help accomplish these goals by providing OCC participants access to a sophisticated computer risk analysis system that otherwise would not be available to them and could help reduce systemic risk.

The Commission also believes that the terms of the RMS Agreements that limit OCC's liability are consistent with the Act. As noted above, section 17A(b)(3)(F) [9] of the Act requires clearing agencies to assure the safeguarding of securities and funds which are in their custody or control or for which they are responsible. However, the Act does not specifically delineate the standard of care that must be exercised in connection with this responsibility. The Commission has determined that a federal standard of care is generally not appropriate for the governance of clearing agency activities. However, the Commission has determined that a gross negligence standard of care is acceptable for non-custodial functions where the parties agree contractually to limit liability.[10] A

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[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 30023 (December 3, 1991), 56 FR 64673.

[3] ConMon identifies concentrations in clearing margin portfolios and monitors the financial risk associated with clearing member options positions. If OCC's staff determined that a firm's positions lack diversification and therefore violate certain preset parameters, OCC can move the firm to a higher watch level and require additional margin.

[4] TIMS uses options pricing theory to project the cost of liquidating each portfolio of positions in the event of an assumed "worst case" change in the price of the underlying assets. TIMS sets OCC's margin requirements to cover that cost. For a comprehensive description of TIMS, see Securities Exchange Act Release Nos. 23167 (April 22, 1986), 51 FR 16127 ("Non-Equity TIMS") and 28928 (March 1, 1991), 56 FR 9985 (Equity TIMS").

[5] Based upon favourable comments from RMS pilot participants and the results of ongoing OCC reviews of RMS, several enhancements to RMS have been installed during the pilot period or are currently being installed. In addition, OCC anticipates performing continual, ongoing reviews of RMS which will result in further enhancements to the system.

[6] OCC has represented that RMS operations will not affect OCC's capacity to clear options transactions because RMS processing does not begin until nightly processing is completed.

[7] 15 U.S.C. 78q-1(b)(3)(F).

[8] 15 U.S.C. 78q-1(a)(1)(C).

[9] 15 U.S.C. 78q-1(b)(3)(F).

[10] In a release setting forth standards to be used by the Division of Market Regulation ("Division") in evaluating clearing agency registration applications, the Division urged clearing agencies to embrace a strict standard of care in safeguarding participants' funds and securities (Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 4192 ("Standards Release")). In a subsequent release, however, the Commission indicated that it did not believe that sufficient justification existed at that time to require a unique federal standard of care for

Continued

custodial function can be defined generally as any function that directly or substantially affects participants' securities or funds that are in a clearing agency's possession or control.[11] The Commission believes that OCC's RMS service is not a custodial function because it is an ancillary service that merely allows OCC participants to access certain risk management data created by OCC. Should the RMS service break down, participant securities and funds in OCC's possession will not be jeopardized directly as a result. Accordingly, the proposed standard of care is consistent with the Act.

III. Conclusion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular with the requirements of section 17A of the Act.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[12] that the proposed rule change (File No. SR-OCC-91-17) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-3373 Filed 2-11-92; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

February 6, 1992.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities.

- Marriott Corporation
  - Preferred Stock (File No. 7-7924)
- Boise Cascade Corporation
  - Depositary Shares, Preferred Stock (File No. 7-7925)
- American Adjustable Rate Term, Inc.—1998
  - Common Stock, $.01 Par Value (File No. 7-7926)
- Strategic Global Income Fund, Inc.
  - Common Stock, $.001 Par Value (File No. 7-7927)
- Chemical Banking Corporation
  - Adjustable Rate Cum. Preferred Stock, $1 Par Value (File No. 7-7928)
- Fleet Norstar Financial Group
  - Preferred Depositary Shares (File No. 7-7929)
- Environmental Elements Corp.
  - Common Stock, $.01 Par Value (File No. 7-7930)
- Haemonetics Corporation
  - Common Stock, $0.01 Par Value (File No. 7-7931)
- Mellon Bank Corporation
  - Preferred Stock, $1.00 Par Value (File No. 7-7932)
- Southern National Corporation
  - Depositary Shares (File No. 7-7933)
- Argentina Fund, Inc.
  - Common Stock, $0.01 Par Value (File No. 7-7934)
- Vencor, Inc.
  - Common Stock, $.25 Par Value (File No. 7-7935)
- National Re Holding Corp.
  - Common Stock, No Par Value (File No. 7-7936)
- TransAmerica Corp.
  - Depositary Shares, Preferred Stock (File No. 7-7937)
- Margaretten Financial Corp.
  - Common Stock, $.01 Par Value (File No. 7-7938)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 28, 1992, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-3281 Filed 2-11-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18530; 811-4958]

Apollo Institutional Investments, Inc.; Notice of Application

February 6, 1992.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for deregulation under the Investment Company Act of 1940 (the "Act").

APPLICANT: Apollo Institutional Investments, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILLING DATE: The application was filed on January 28, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 2, 1992, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issue contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 31 West 52nd Street, New York, NY 10019.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 272-3026, or Nancy M. Rappa, Branch Chief, at (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

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registered clearing agencies (Securities Exchange Act Release No. 22940 (February 24, 1986), 51 FR 7169). Finally, in a release granting the approval of temporary registration as a clearing agency for the International Securities Clearing Corporation ("ISCC"), the Commission indicated that, historically, it has left to user-governed clearing agencies the question of how to allocate losses associated with non-custodial, data processing, clearing agency functions and has approved clearing agency services embodying a gross negligence standard of care (Securities Exchange Act Release No. 26812 (May 12, 1989), 54 FR 21691).

[11] For example, OCC's service of matching and netting trades for purposes of settlement is a custodial function because it directly affects participant funds or securities in OCC's custody or control and because any breakdown or mistake in the rendering of such service might cause monetary damage to a participant.

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30-3(a)(12).

Applicant's Representations

1. Applicant is an open-end diversified investment company that was organized as a corporation under the laws of Maryland. On December 22, 1986, applicant filed a notification of registration pursuant to section 8(a) of the Act. On March 19, 1987, applicant filed a registration statement pursuant to section 8(a) of the Act. Applicant has not filed any registration statements pursuant to the Securities Act of 1933.

2. On September 4, 1991, applicant's board of directors approved a merger into Titan Institutional Investments, Inc. ("Titan") and recommended the merger be approved by shareholders. At a special meeting held on September 19, 1991, applicant's shareholders approved the merger.

3. On September 27, 1991, the outstanding shares of applicant were converted into shares of Titan on the basis of their relative net asset value per share, and the assets and liabilities of applicant became assets and liabilities of Titan. Applicant had one shareholder immediately prior to the merger.

4. Expenses incurred in connection with the merger totalled approximately $5,000, which were allocated between applicant and Titan on the basis of their relative net assets.

5. There are no securityholders to whom distributions in complete liquidation of their interests have not been made. Applicant has no debts or other liabilities that remain outstanding. Applicant is not a party to any litigation or administrative proceeding.

6. The applicant ceased to have any legal existence under the laws of Maryland upon the filing of articles of merger with the state of Maryland on September 27, 1991.

7. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-3369 Filed 2-11-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18531; 811-4151]

Atlas Institutional Investments, Inc.; Notice of Application

February 6, 1992.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Atlas Institutional Investments, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on January 28, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 2, 1992, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 31 West 52nd Street, New York, NY 10019.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 272-3026, or Nancy M. Rappa, Branch Chief, at (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end diversified investment company that was organized as a corporation under the laws of Maryland. On November 9, 1984, applicant filed a notification of registration pursuant to section 8(a) of the Act. On April 29, 1985, applicant filed a registration statement pursuant to section 8(b) of the Act. Applicant has not filed any registration statements pursuant to the Securities Act of 1933.

2. On September 4, 1991, applicant's board of directors approved a merger into Titan Institutional Investments, Inc. ("Titan") and recommended the merger be approved by shareholders. At a special meeting held on September 19, 1991, applicant's shareholders approved the merger.

3. On September 27, 1991, the outstanding shares of applicant were converted into shares of Titan on the basis of their relative net asset value per share, and the assets and liabilities of applicant became assets and liabilities of Titan. Applicant had four shareholders immediately prior to the merger.

4. Expenses incurred in connection with the merger totalled approximately $5,000, which were allocated between applicant and Titan on the basis of their relative net assets.

5. There are no securityholders to whom distributions in complete liquidation of their interests have not been made. Applicant has no debts or other liabilities that remain outstanding. Applicant is not a party to any litigation or administrative proceeding.

6. The applicant ceased to have any legal existence under the laws of Maryland upon the filing or articles of merger with the state of Maryland on September 27, 1991.

7. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-3370 Filed 2-11-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-18529; 812-7752]

Bessemer Securities Corporation, et al.; Notice of Application

February 5, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("Act").

APPLICANTS: Bessemer Securities Corporation, Bessemer Venture Partners L.P., Bessemer Venture Partners II L.P., Bradford Venture Partners L.P., and Bessemer Capital Partners, L.P.

RELEVANT ACT SECTION: Exemption requested under section 6(c) from all provisions of the Act.

SUMMARY OF APPLICATION: Applicants, investment vehicles substantially owned and controlled by one family and certain persons and entities employed by, controlled by, affiliated with, or otherwise related to members of that family, seek an exemption from all provisions of the Act.

FILING DATE: The application was filed on July 10, 1991 and amended on December 20, 1991.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 2, 1992, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, c/o Bessemer Securities Corporation, 630 Fifth Avenue, New York, NY 10111, Attn: R. Daniel Saxe, Jr.

FOR FURTHER INFORMATION CONTACT: Barry A. Mendelson, Staff Attorney, at (202) 504–2284, or Barry D. Miller, Branch Chief, at (202) 272–3023 (Division of Investment Management, Office of Investment Company Regulation.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. Bessemer Securities Corporation ("Bessemer"), incorporated under Delaware law in 1924, is a private investment company which has outstanding one class of securities, its common stock. All of the outstanding common stock of Bessemer is owned by trusts established for the benefit of descendants of Henry Phipps ("Phipps Family Members") and charitable trusts established by Phipps Family Members (collectively, the "Trusts"). None of the Trusts currently owns in excess of 10% of Bessemer's outstanding stock. There are currently 75 Trusts and the number is increasing with each generation of the Phipps family, as most Trusts permit the creation of subtrusts or the transfer in further trust upon the death of an income beneficiary.

2. At no time has there been a public offering of Bessemer stock, nor has Bessemer stock been registered under any of the federal securities laws. Pursuant to an agreement among the holders of Bessemer's stock, each such holder is bound not to sell, pledge or otherwise dispose of its Bessemer shares to third parties without first offering such shares to the other stockholders, except that dispositions are permitted (a) to or in trust for Phipps Family Members, their spouse, or charitable trusts established by Phipps Family Members, and (b) to the executors or administrators of the estate of a Phipps Family Member.

3. The trustees of the Trusts consist solely of one or more of the following: (i) Bessemer Trust Company, a New Jersey chartered bank, (ii) Bessemer Trust Company, N.A., a federally chartered bank, and (iii) Phipps Family Members. The trust companies are wholly-owned subsidiaries of The Bessemer Group Incorporated ("Bessemer Group"), a Delaware corporation registered under the Federal Bank Holding Company Act. All of the outstanding stock of Bessemer Group (except for directors' qualifying shares)[1] is beneficially owned by Phipps Family Members or by trusts established for their benefit. In addition, all of Bessemer Group's outstanding stock (except for directors' qualifying shares) is subject to an agreement, similar to the agreement described above with respect to Bessemer stock, that restricts the disposition of Bessemer Group stock.

4. Bessemer Group's board of directors consists of the president/chief executive officer of Bessemer, the president/chief executive officer of Bessemer Group, and five Phipps Family Members. These seven individuals also serve on Bessemer's ten member board of directors, along with three individuals who are neither Phipps Family Members nor employees of Bessemer or any of its affiliates.

5. Bessemer's investments fall into three major categories: Marketable securities, private investments, and real estate. At December 31, 1990, these investments comprised approximately 61%, 30%, and 6%, respectively, of Bessemer's net assets. Bessemer maintains an internal staff of investment professionals which oversees investment decisions concerning its marketable securities investments. In addition, Bessemer obtains investment management services from Bessemer Trust Company, N.A. for its marketable securities portfolio and also may from time to time obtain investment advice from investment banking firms and other third parties with respect to specific investments. Marketable security trades are frequently made through a registered broker-dealer subsidiary of Bessemer Group.

6. The private investment portion of Bessemer's portfolio consists of illiquid majority and minority interests in selected companies with growth potential, often in closely held or privately held companies. These investments are sometimes made directly by Bessemer, but in the majority of cases are made by the Partnerships (see next paragraph), of which Bessemer is the primary or sole limited partner. In connection with its private investments, Bessemer or the relevant Partnership may have representation on the issuer's board of directors or other means of access to information about the issuer.

7. Bessemer Venture Partners L.P. ("Venture"), Bessemer Venture Partners II L.P. ("Venture II"), Bradford Venture Partners L.P. ("Bradford"), and Bessemer Capital Partners, L.P. ("BCP") (collectively, the "Partnerships") are limited partnerships established primarily as vehicles for Bessemer's investment activity in closely held or privately held companies. The ownership and operation of the various Partnerships, except Venture, is discussed below. Venture does not presently intend either to make further investments or to seek additional investors, and contemplates a future liquidation. Applicants represent that the ownership and operation of Venture is substantially similar to Venture II.

8. A wholly-owned subsidiary of Bessemer is the sole limited partner of each of the Partnerships except for BCP. BCP currently has twelve limited partners, including Bessemer (which owns a majority interest), Bradford, and ten natural persons each of whom was, at the time of admission to BCP, an employee or a retired former employee of Bessemer or an affiliate of Bessemer who had a high level of executive, investment management, investment analysis, or administrative responsibility.

9. The general partner of Venture II is Deer II & Co., a general partnership that has five general partners, each of whom is a natural person who actually manages Venture II's investment program. The general partner of Bradford is Bradford Associates, a general partnership that has four general partners, each of whom is a natural person who actually manages Bradford's investment program. The individuals who manage Venture II and Bradford are neither Phipps Family Members nor shareholders, officers, directors, or employees of Bessemer, Bessemer Group, or any affiliate of either. The

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[1] Pursuant to federal law, every director of a national bank must own in his or her own right stock in such bank with a par value of at least $1,000 or an equivalent interest in any company that has control over such bank. Accordingly, each director of the trust companies owns at least 100 shares of Bessemer Group.

general partner of BCP is Kylix Partners, L.P. ("Kylix"). Kylix has three general partners, each of which is a subchapter S corporation owned entirely by one natural person. Each of those persons is a member of Bessemer's senior management but not a Phipps Family Member, including the president of Bessemer, who has general management responsibility over Kylix. Kylix has three limited partners, two natural persons and one subchapter S corporation owned by one natural person.

10. The individuals who manage the Partnerships identify and analyze potential investments, request funding from Bessemer for investments, and manage investments made by the Partnerships. Except for Venture II, the decision whether to fund an investment recommended by a Partnership's managers is made on a case-by-case basis by Bessemer's board of directors. In the case of Venture II, Bessemer's board from time to time approves capital contributions to the partnership for investment without necessarily knowing in advance the specific investments to be purchased with such contributions.

11. It is possible that in the future other entities (each, a "Phipps Family Investment Vehicle") will be formed primarily as vehicles for investment by Bessemer (i) to make investments in the manner in which the Partnerships make investments, (ii) to make specifically identified new investments, or (iii) to succeed one or more of the Partnerships. Applicants anticipate that each Phipps Family Investment Vehicle will be funded, managed, and operated in a manner similar to one or more of the Partnerships, although a Phipps Family Investment Vehicle may be structured as a corporation rather than a partnership.

Applicants' Legal Analysis

1. Section 3(c)(1) of the Act excepts from the definition of "investment company" any issuer whose outstanding securities are beneficially owned by not more than 100 persons and which is not making, and does not presently propose to make, a public offering of its securities. Each of the applicants is currently excepted from the definition of investment company by reason of section 3(c)(1).

2. Applicants argue that section 3(c)(1) was intended to exclude "private" investment companies from the purview of the Act and that the Commission has authority under section 6(c) to exempt private companies that have more than 100 beneficial owners. Maritime Corporation, 9 SEC 906 (1941). Applicants cite several instances where relief similar to the relief requested herein was granted to private investment companies substantially owned and controlled by members of a single family. See The Richardson Corporation, Investment Company Act Release Nos. 16566 (Sept. 22, 1988) (notice) and 16606 (Oct. 21, 1988) (order); 5600, Inc., Investment Company Act Release Nos. 16004 (Sept. 25, 1987) (notice) and 16067 (Oct. 21, 1987) (order); The O-W Fund, Inc., Investment Company Act Release Nos. 11597 (Feb. 2, 1981) (notice) and 11658 (March 2, 1981) (order).

3. Applicants submit that, even after the 100 shareholder threshold is reached, each of them will continue to be a private investment vehicle to which the Act was not intended to apply. Bessemer is (and has long been) owned entirely by Phipps Family Members and trusts established by Phipps Family Members. Bessemer has not sought and does not seek new investors, either public or private, and there is no market for its shares. Condition 1.c below ensures that Bessemer will continue to be substantially owned and controlled by Phipps Family Mmebers and related persons. Each of the Partnerships is (and each of the Phipps Family Investment Vehicles will be) primarily a vehicle for Bessemer's investment activity and thus should also be viewed as an essentially private enterprise to which the provisions of the Act should not apply. There is no market for interests in any of the Partnerships, and none of the Partnerships seeks investors who are not affiliated with Bessemer or its affiliates. Conditions 2.b and 3.b ensure that the Partnerships and any Phipps Family Investment Vehicles that may be created in the future will be substantially owned and controlled by Bessemer, Phipps Family Members, and related persons. Accordingly, applicants contend that the requested exemption, pursuant to section 6(c) of the Act, is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants' Conditions

1. The requested exemption with respect to Bessemer may be conditioned on Bessemer's observance of the following conditions:

a. Bessemer will continue to hold annual meetings of its stockholders for the purpose of electing directors, ratifying the appointment of the independent accountants engaged by Bessemer, and transacting such other business as may properly come before such meetings.

b. Bessemer will continue to furnish annually to its stockholders its financial statements audited by an accounting firm of recognized national standing.

c. Bessemer will be at least 80% owned by or for the benefit of Phipps Family Members and their spouses, Trust beneficiaries, charitable corporations, trusts, and foundations established by descendants of Henry Phipps, and natural persons who, at the time they receive an interest in Bessemer, are employees or retired former employees of Bessemer or an affiliate of Bessemer who have (or had, in the case of retired former employees) a high level of executive, investment management, investment analysis, or administrative responsibility, and any part of Bessemer which is not owned by or for the benefit of such persons will be beneficially owned (as the term is used in section 3(c)(1) of the Act) by not more than 35 persons and will not have been publicly offered.

d. Bessemer will not knowingly make available to any broker or dealer registered under the Securities Exchange Act of 1934 any financial information concerning Bessemer for the purpose of knowingly enabling that broker or dealer to initiate any regular trading market for Bessemer's common stock.

2. The requested exemption with respect to each Partnership may be conditioned on the observance by that Partnership of the following conditions:

a. The Partnership will furnish annually to each partner its financial statements audited by an accounting firm of recognized national standing.

b. The Partnership will neither admit as a new partner, nor permit the assignment or transfer of any interest in that Partnership to, any individual or entity if that admission, assignment or transfer would cause that Partnership to fail to have the following characteristics: (a) That Partnership will be at least 90% owned by or for the benefit of the following persons ("Bessemer Investors"): (i) Bessemer or one or more of its subsidiaries, (ii) Phipps Family members and their spouses, (iii) natural persons who, at the time of their admission to the Partnership, are employees or retired former employees of Bessemer or an affiliate of Bessemer who have (or had, in the case of retired former employees) a high level of executive, investment management, investment analysis or administrative responsibility, and (iv) natural persons who, although not employees of Bessemer or an affiliate of Bessemer, actually manage a Partnership's investments; (b) it will be at least 50% owned by or for the benefit of Bessemer; and (c) any part of the Partnership that is not held by or for the benefit of Bessemer Investors will be beneficially owned (as the term is used in section 3(c)(1) of the Act) by not more than 35 persons and will not have been publicly offered.

c. The Partnership will not (a) admit any new general partner without the approval of a majority in interest of its partners, or (b) have as an investment adviser to that vehicle any investment adviser other than (i) Bessemer and/or one of its affiliates, (ii) one or more employees of Bessemer and/or one of its affiliates, or (iii) a general partner (or one or more of its employees) approved by a majority in interest of the partners.

d. The Partnership will not knowingly make available to any broker or dealer registered under the Securities Exchange Act of 1934 any financial information concerning that Partnership for the purpose of knowingly enabling that broker or dealer to initiate any regular trading market in any partnership interest in that Partnership.

3. The requested exemption with respect to each Phipps Family Investment Vehicle may be conditioned on the observance by that Phipps Family Investment Vehicle of the following conditions:

a. The Phipps Family Investment Vehicle will furnish annually to each shareholder, partner or investor its financial statements audited by an accounting firm of recognized national standing.

b. The Phipps Family Investment Vehicle will neither admit as a new investor, nor permit the assignment or transfer of any interest in that Phipps Family Investment Vehicle to, any individual or entity if that admission, assignment or transfer would cause that Phipps Family Investment Vehicle to fail to have the following characteristics: (a) That Phipps Family Investment Vehicle will be at least 90% owned by or for the benefit of Bessemer Investors; (b) it will be at least 50% owned by or for the benefit of Bessemer; and (c) any part of that Phipps Family Investment Vehicle that is not held by or for the benefit of Bessemer Investors will be beneficially owned (as the term is used in section 3(c)(1) of the Act) by not more than 35 persons and will not have been publicly offered.

c. The Phipps Family Investment Vehicle will not (a) admit any new general partner (in the case of a limited partnership) or manager without the approval of a majority in interest of its investors, or (b) have as an investment adviser to that vehicle any investment adviser other than (i) Bessemer and/or one of its affiliates, (ii) one or more employees of Bessemer and/or one of its affiliates, or (iii) an investment adviser (or one or more of its employees) approved by a majority in interest of the investors.

d. The Phipps Family Investment Vehicle will not knowingly make available to any broker or dealer registered under the Securities Exchange Act of 1934 any financial information concerning that Phipps Family Investment Vehicle for the purpose of knowingly enabling that broker or dealer to initiate any regular trading market in any interest in that Phipps Family Investment Vehicle.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-3282 Filed 2-11-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18532; 811-4238]

Hercules Institutional Investments, Inc.; Notice of Application

February 6, 1992.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Hercules Institutional Investments, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on January 28, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 2, 1992, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 31 West 52nd Street, New York, NY 10019.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 272-3026, or Nancy M. Rappa, Branch Chief, at (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end diversified investment company that was organized as a corporation under the laws of Maryland. On February 26, 1985, applicant filed a notification of registration pursuant to section 8(a) of the Act. On May 24, 1985, applicants filed a registration statement pursuant to section 8(b) of the Act. Applicant has not filed any registration statements pursuant to the Securities Act of 1933.

2. On September 4, 1991, applicant's board of directors approved a merger into Titan Institutional Investments, Inc. ("Titan") and recommended the merger be approved by shareholders. At a special meeting held on September 19, 1991, applicant's shareholders approved the merger.

3. On September 27, 1991, the outstanding shares of applicant were converted into shares of Titan on the basis of their relative net asset value per share, and the assets and liabilities of applicant became assets and liabilities of Titan. Applicant had one shareholder immediately prior to the merger.

4. Expenses incurred in connection with the merger totalled approximately $5,000, which were allocated between applicant and Titan on the basis of their relative net assets.

5. There are no securityholders to whom distributions in complete liquidation of their interests have not been made. Applicant has no debts or other liabilities that remain outstanding. Applicant is not a party to any litigation or administrative proceeding.

6. The applicant ceased to have any legal existence under the laws of Maryland upon the filing of articles of merger with the state of Maryland on September 27, 1991.

7. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–3371 Filed 2–11–92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC–18533; 811–4664]

Hermes Institutional Investments, Inc.; Notice of Application

February 6, 1992.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Hermes Institutional Investments, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on January 28, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 2, 1992, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 31 West 52nd street, New York, NY 10019.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 272–3026, or Nancy M. Rappa, Branch Chief, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representation

1. Applicant is an open-end diversified investment company that was organized as a corporation under the laws of Maryland. On May 7, 1986, applicant filed a notification of registration pursuant to section 8(a) of the Act. On July 28, 1986, applicant filed a registration statement pursuant to section 8(b) of the Act. Applicant has not filed any registration statements pursuant to the Securities Act of 1933.

2. On September 4, 1991, applicant's board of directors approved a merger into Titan Institutional Investments, Inc. ("Titan") and recommended the merger be approved by shareholders. At a special meeting held on September 19, 1991, applicant's shareholders approved the merger.

3. On September 27, 1991, the outstanding shares of applicant were converted into shares of Titan on the basis of their relative net asset value per share, and the assets and liabilities of applicant became assets and liabilities of Titan. Applicant had three shareholders immediately prior to the merger.

4. Expenses incurred in connection with the merger totalled approximately $5,000, which were allocated between an applicant and Titan on the basis of their relative net assets.

5. There are no securityholders to whom distributions in complete liquidation of their interests have not been made. Applicant has no debts or other liabilities that remain outstanding. Applicant is not a party to any litigation or administrative proceeding.

6. The applicant ceased to have any legal existence under the laws of Maryland upon the filing of articles of merger with the state of Maryland on September 27, 1991.

7. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–3372 Filed 2–11–92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC–18534; 811–4152]

Mercury Institutional Investments, Inc.; Application

February 6, 1992.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Mercury Institutional Investments, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on January 28, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 2, 1992, and should be accompanied by proof of service on applicant, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 31 West 52nd Street, New York, NY 10019.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 272–3026, or Nancy M. Rappa, Branch Chief, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end diversified investment company that was organized as a corporation under the laws of Maryland. On November 9, 1984, an applicant filed a notification of registration pursuant to section 8(a) of the Act. On March 28, 1985, applicant filed a registration statement pursuant to section 8(b) of the Act. Applicant has not filed any registration statement pursuant to the Securities Act of 1933.

2. On September 4, 1991, applicant's board of directors approved a merger into Titan Institutional Investments, Inc. ("Titan") and recommended the merger be approved by shareholders. At a special meeting held on September 19, 1991, applicant's shareholders approved the merger.

3. On September 27, 1991, the outstanding shares of applicant were converted into shares of Titan on the

basis of their relative net asset value per share, and the assets and liabilities of applicant became assets and liabilities of Titan. Applicant had one shareholder immediately prior to the merger.

4. Expenses incurred in connection with the merger totalled approximately $5,000, which were allocated between applicant and Titan on the basis of their relative net assets.

5. There are no securityholders to whom distributions in complete liquidation of their interests have not been made. Applicant has no debts or other liabilities that remain outstanding. Applicant is not a party to any litigation or administrative proceeding.

6. The applicant ceased to have any legal existence under the laws of Maryland upon the filing of articles of merger with the state of Maryland on September 27, 1991.

7. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-3384 Filed 2-11-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18535; 811-4268]

Olympus Institutional Investments, Inc.; Notice of Application

February 6, 1992.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Olympus Institutional Investments, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on January 28, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 2, 1992, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 31 West 52nd Street, New York, NY 10019.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 272-3026, or Nancy M. Rappa, Branch Chief, at (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end diversified investment company that was organized as a corporation under the laws of Maryland. On March 26, 1985, applicant filed a notification of registration pursuant to section 8(a) of the Act. On June 26, 1985, applicant filed a registration statement pursuant to section 8(b) of the Act. Applicant has not filed any registration statements pursuant to the Securities Act of 1933.

2. On September 4, 1991, applicant's board of directors approved a merger into Titan Institutional Investments, Inc. ("Titan") and recommended the merger be approved by shareholders. At a special meeting held on September 19, 1991, applicant's shareholders approved the merger.

3. On September 27, 1991, the outstanding shares of applicant were converted into shares of Titan on the basis of their relative net asset value per share, and the assets and liabilities of applicant became assets and liabilities of Titan. Applicant had one shareholder immediately prior to the merger.

4. Expenses incurred in connection with the merger totalled approximately $5,000, which were allocated between applicant and Titan on the basis of their relative net assets.

5. There are no securityholders to whom distributions in complete liquidation of their interests have not been made. Applicant has no debts or other liabilities that remain outstanding. Applicant is not a party to any litigation or administrative proceeding.

6. The applicant ceased to have any legal existence under the laws of Maryland upon the filing of articles of merger with the state of Maryland on September 27, 1991.

7. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-3363 Filed 2-11-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18537; 811-4089]

Pegasus International Investments, Inc.; Notice of Application

February 6, 1992.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Pegasus Institutional Investments, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on January 28, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 2, 1992, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 31 West 52nd Street, New York, NY 10019.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 272-3026, or Nancy M. Rappa, Branch Chief, at (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end diversified investment company that was organized as a corporation under the laws of Maryland. On August 10, 1984, applicant filed a notification of registration pursuant to section 8(a) of the Act. On September 21, 1984, applicant filed a registration statement pursuant to section 8(b) of the Act. Applicant has not filed any registration statements pursuant to the Securities Act of 1933.

2. On September 4, 1991, applicant's board of directors approved a merger into Titan Institutional Investments, Inc. ("Titan") and recommended the merger be approved by shareholders. At a special meeting held on September 19, 1991, applicant's shareholders approved the merger.

3. On September 27, 1991, the outstanding shares of applicant were converted into shares of Titan on the basis of their relative net asset value per share, and the assets and liabilities of applicant became assets and liabilities of Titan. Applicant had four shareholders immediately prior to the merger.

4. Expenses incurred in connection with the merger totalled approximately $5,000, which were allocated between applicant and Titan on the basis of their relative net assets.

5. There are no securityholders to whom distributions in complete liquidation of their interests have not been made. Applicant has no debts or other liabilities that remain outstanding. Applicant is not a party to any litigation or administrative proceeding.

6. The applicant ceased to have any legal existence under the laws of Maryland upon the filing of articles of merger with the state of Maryland on September 27, 1991.

7. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-3364 Filed 2-11-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18536; 811-4918]

Orion Institutional Investments, Inc.; Notice of Application

February 6, 1992.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Orion Institutional Investments, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on January 28, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 2, 1992, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 31 West 52nd Street, New York, NY 10019.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 272-3026, or Nancy M. Rappa, Branch Chief, at (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Application is an open-end diversified investment company that was organized as a corporation under the laws of Maryland. On November 25, 1986, applicant filed a notification of registration pursuant to section 8(a) of the Act. On February 23, 1987, applicants filed a registration statement pursuant to section 8(b) of the Act. Applicant has not filed any registration statements pursuant to the Securities Act of 1933.

2. On September 4, 1991, applicant's board of directors approved a merger into Titan Institutional Investments, Inc. ("Titan") and recommended the merger be approved by shareholders. At a special meeting held on September 19, 1991, applicant's shareholders approved the merger.

3. On September 27, 1991, the outstanding shares of applicant were converted into shares of Titan on the basis of their relative net asset value per share, and the assets and liabilities of applicant became assets and liabilities of Titan. Applicant had two shareholders immediately prior to the merger.

4. Expenses incurred in connection with the merger totalled approximately $5,000, which were allocated between applicant and Titan on the basis of their relative net assets.

5. There are no securityholders to whom distributions in complete liquidation of their interests have not been made. Applicant has no debts or other liabilities that remain outstanding. Applicant is not a party to any litigation or administrative proceeding.

6. The applicant ceased to have any legal existence under the laws of Maryland upon the filing of articles of merger with the state of Maryland on September 27, 1991.

7. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-3368 Filed 2-11-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18538; 811-4128]

Taurus Institutional Investments, Inc.; Application

February 6, 1992.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Taurus Institutional Investments, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on January 28, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 2, 1992, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 31 West 52nd Street, New York, NY 10019.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 272–3026, or Nancy M. Rappa, Branch Chief, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end diversified investment company that was organized as a corporation under the laws of Maryland. On October 15, 1984, applicant filed a notification of registration pursuant to section 8(a) of the Act. On February 28, 1985, applicant filed a registration statement pursuant to section 8(b) of the Act. Applicant has not filed any registration statements pursuant to the Securities Act of 1933.

2. On September 4, 1991, applicant's board of directors approved a merger into Titan Institutional Investments, Inc. ("Titan") and recommended the merger be approved by shareholders. At a special meeting held on September 19, 1991, applicant's shareholders approved the merger.

3. On September 27, 1991, the outstanding shares of applicant were converted into shares of Titan on the basis of their relative net asset value per share, and the assets and liabilities of applicant became assets and liabilities of Titan. Applicant had two shareholders immediately prior to the merger.

4. Expenses incurred in connection with the merger totalled approximately $5,000, which were allocated between applicant and Titan on the basis of their relative net assets.

5. There are no securityholders to whom distributions in complete liquidation of their interests have not been made. Applicant has no debts or other liabilities that remain outstanding. Applicant is not a party to any litigation or administrative proceeding.

6. The applicant ceased to have any legal existence under the laws of Maryland upon the filing of articles of merger with the state of Maryland on September 27, 1991.

7. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–3365 Filed 2–11–92; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–18539; 811–5352]

Vespucci Income Shares, Inc.; Application

February 6, 1992.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Vespucci Income Shares, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on January 28, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 2, 1992, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 31 West 52nd Street, New York, NY 10019.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 272–3026, or Nancy M. Rappa, Branch Chief, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end diversified investment company that was organized as a corporation under the laws of Maryland. On October 1, 1987, applicant filed a notification of registration pursuant to section 8(a) of the Act. On December 24, 1987, applicant filed a registration statement pursuant to section 8(b) of the Act. Applicant has not filed any registration statements pursuant to the Securities Act of 1933.

2. On September 4, 1991, applicant's board of directors approved a merger into Titan Institutional Investments, Inc. ("Titan") and recommended the merger be approved by shareholders. At a special meeting held on September 19, 1991, applicant's shareholders approved the merger.

3. On September 27, 1991, the outstanding shares of applicant were converted into shares of Titan on the basis of their relative net asset value per share, and the assets and liabilities of applicant became assets and liabilities of Titan. Applicant had four shareholders immediately prior to the merger.

4. Expenses incurred in connection with the merger totalled approximately $5,000, which were allocated between applicant and Titan on the basis of their relative net assets.

5. There are no securityholders to whom distributions in complete liquidation of their interests have not been made. Applicant has no debts or other liabilities that remain outstanding. Applicant is not a party to any litigation or administrative proceeding.

6. The applicant ceased to have any legal existence under the laws of Maryland upon the filing of articles of merger with the state of Maryland on September 27, 1991.

7. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-3366 Filed 2-11-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18540; 811-4941]

Zeus Institutional Investments, Inc.; Application

February 6, 1992.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Zeus Institutional Investments, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on January 28, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 2, 1992, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 31 West 52nd Street, New York, NY 10019.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 272-3026, or Nancy M. Rappa, Branch Chief, at (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end diversified investment company that was organized as a corporation under the laws of Maryland. On December 18, 1986, applicant filed a notification of registration pursuant to section 8(a) of the Act. On March 20, 1987, applicant filed a registration statement pursuant to section 8(b) of the Act. Applicant has not filed any registration statements pursuant to the Securities Act of 1933.

2. On September 4, 1991, applicant's board of directors approved a merger into Titan Institutional Investments, Inc. ("Titan") and recommended the merger be approved by shareholders. At a special meeting held on September 19, 1991, applicant's shareholders approved the merger.

3. On September 27, 1991, the outstanding shares of applicant were converted into shares of Titan on the basis of their relative net asset value per share, and the assets and liabilities of applicant became assets and liabilities of Titan. Applicant had seventeen shareholders immediately prior to the merger.

4. Expenses incurred in connection with the merger totalled approximately $5,000, which were allocated between applicant and Titan on the basis of their relative net assets.

5. There are no securityholders to whom distributions in complete liquidation of their interests have not been made. Applicant has no debts or other liabilities that remain outstanding. Applicant is not a party to any litigation or administrative proceeding.

6. The applicant ceased to have any legal existence under the laws of Maryland upon the filing of articles of merger with the state of Maryland on September 27, 1991.

7. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-3367 Filed 2-11-92; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 17-92-01]

Vessel Certificates and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS)

AGENCY: Coast Guard, DOT.

ACTION: Notice of granting a Certificate of Alternative Compliance to a vessel.

SUMMARY: This notice provides notification of the granting of a Certificate of Alternative Compliance for an offshore supply vessel. The vessel cannot fully comply with certain provisions of Annex I of the 72 COLREGS without interfering with its operation.

EFFECTIVE DATE: December 16, 1991.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Richard Simonson, Seventeenth Coast Guard District, Marine Safety Division, P.O. Box 25517, Juneau, AK. 99802-5517. Telephone: (907) 467-2215, (FTS) 871-2215.

SUPPLEMENTARY INFORMATION: Under the provisions of section 1605(c) of title 33 United States Code, the Coast Guard publishes, in the **Federal Register** a listing of any vessel granted a Certificate of Alternative Compliance. A certificate is issued on a determination that a vessel cannot fully comply with the light, shape and sound signal provisions of the 72 COLREGS without interfering with the special function of the vessel and, instead meets alternative requirements.

The vessel listed below does not comply with Annex I, section 2(a)(i), 2(a)(ii), 2(g) and 3(a) of the 72 COLREGS in that its forward masthead light is mounted on top of the bridge cabin 8 meters above the hull and less than one meter above the side lights and the second mast (after) masthead light mounted on a mast 7.47 meters abaft of the forward masthead light at a height of 10 meters above the hull and 2 meters above the forward one. Full compliance would require the forward masthead light installed 12 meters above the hull, an after masthead light 4.5 meters higher than the forward masthead with the horizontal distance between them being not less than one half of the length of the vessel, with side lights placed at a height above the hull not greater than three quarters of that of the forward masthead light. Complying with these requirements would interfere with cargo transfer operations at platforms located in Cook Inlet during high water periods when platform air gaps are less than required mast heights. Ice conditions and extreme tidal currents require the supply boats to either moor or remain underway, with the bow facing into the current and positioned under the platforms. Providing proper masthead heights and horizontal spacing would interfere with and limit cargo transfer operations to low tidal periods when the air gaps would allow sufficient clearance. Accordingly, the vessel has been issued a Certificate of Alternative Compliance, pursuant to Rule 1(e) of the 72 COLREGS.

M/V Lafayette, O.N. 592492.

Dated: December 16, 1991.

D.E. Bodron,

Captain, U.S. Coast Guard, Chief, Marine Safety Division, Seventeenth Coast Guard District.

[FR Doc. 92–3335 Filed 2–11–92; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Noise Exposure Map Notice

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by Municipality of Anchorage, Alaska, for Merrill Field Airport under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR part 150 are in compliance with applicable requirements.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps is January 13, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. James S. Perham, Airports Division, Planning and Programming Branch, Federal Aviation Administration, 222 W. 7th Avenue, Box 14, Anchorage, Alaska 99513.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for Merrill Field Airport are in compliance with applicable requirements of part 150, effective January 13, 1992.

Under section 103 of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by the FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR's) part 150, promulgated pursuant to title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by the Municipality of Anchorage. The specific maps under consideration are NEM's 1988 and 1993 in the submission. The FAA has determined that these maps for Merrill Field Airport are in compliance with applicable requirements. This determination is effective on January 13, 1992. The FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in appendix A of FAR part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under § 150.21 of FAR part 150, that the statutorily required consultation has been accomplished.

Copies of the noise exposure maps and of the FAA's evaluation of the maps are available for examination at the following locations:

Federal Aviation Administration, 800 Independence Avenue, SW., Room 617, Washington, DC 20591.

Federal Aviation Administration, Alaskan Region, 222 W. 7th Avenue, Box 14, Anchorage, Alaska 99513.

Mr. Joe C. Fouts, Manager, Merrill Field Airport, 800 Merrill Field Drive, Anchorage, Alaska 99501–4129.

Questions may be directed to the individual named above under the heading.

Issued in Alaskan Region, January 13, 1992.

Russell S. Hathaway,

Manager, Airports Division, Alaskan Region.

[FR Doc. 92–3318 Filed 2–11–92; 8:45 am]

BILLING CODE 4910-13-M

Air Carrier Operations Subcommittee of the Aviation Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Air Carrier Operations Subcommittee of the Aviation Rulemaking Advisory Committee.

DATES: The meeting will be held on March 10, 1992, at 9 a.m.

ADDRESSES: The meeting will be held in the L'Enfant Plaza Hotel, 490 E. Building, third floor, L'Enfant Plaza SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mrs. Etta Schelm, Flight Standards Service, Air Transportation Division (AFS–200), 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–8166.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Air Carrier Operations Subcommittee to be held on March 10, 1992, at the L'Enfant Plaza Hotel, 490 E. Building, third floor, L'Enfant Plaza SW., Washington, DC. The agenda for this meeting will include progress reports from the Airport Noise

Assessment Working Group, Fuel Requirements Working Group, Wet Leasing Working Group, Autopilot Engagement Requirements Working Group, and Controlled Rest on the Flight Deck Working Group. Each Working Group Chair will report on the progress of the working group.

Attendance is open to the interested public but may be limited to the space available. The public must make arrangements in advance to present oral statements at the meetings or may present written statements to the committee at any time. Arrangements may be made by contacting the person listed under the heading "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Washington, DC, on February 6, 1992.

David S. Potter,

Executive Director, Air Carrier Operations Subcommittee, Aviation Rulemaking Advisory Committee.

[FR Doc. 92-3316 Filed 2-11-92; 8:45 am]

BILLING CODE 4910-13-M

Title XIII Standard Premium Insurance Policy; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public that it is holding a public meeting for all interested parties on the revised title XIII draft premium "insurance policy". The meeting will provide for an exchange of public comments on the standard "insurance policy" in order to explore the range of practical parameters required to assure general industry acceptance.

DATES: The meeting will be held on February 27, 1992, at 10 a.m.

ADDRESSES: The meeting will be held at the facilities of Air Transport Association of America headquarters, 5th floor at 1709 New York Ave., NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Requests for the draft "insurance policy" and any comments, observations, or questions you may have regarding it before the meeting may be directed to Douglas A. Thieman, at (202) 267-3315.

SUPPLEMENTARY INFORMATION: Under Title XIII of the Federal Aviation Act, 49 U.S.C. App. 1532, 1302, the Federal Aviation Administration (FAA) provides War Risk hull and liability insurance for commercial air carrier operations when commercial insurance cannot be obtained on reasonable terms. The experience gained during the Gulf war has amplified the need to have a standard FAA premium War Risk insurance policy which most carriers can consistently accept in full and maintain compliance with the insurance requirements of their lenders and lessors. The Office of Aviation Policy and Plans (APO) is developing such a standard "insurance policy" which will be completely independent of any "commercial policy" and provide coverage for any carrier within the scope of title XIII. The standard "insurance policy" shall provide reasonable and adequate alternate coverage during the emergencies for which the title XIII program is intended. The policy shall be flexible enough to accommodate title XIII premium and non-premium insurance issuances, and will also be used in conjunction with the Civil Reserve Air Fleet program. Copies of the draft "insurance policy" are available upon request.

Paul A. Larson,

Acting Director, Office of Aviation Policy and Plans.

[FR Doc. 92-3317 Filed 2-11-92; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

Rulemaking, Research, and Enforcement Programs, Meeting

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: This notice announces a public meeting at which NHTSA will answer questions from the public and the automobile industry regarding the agency's rulemaking, research and enforcement programs.

DATES: The Agency's regular, quarterly public meeting relating to the Agency's rulemaking, research, and enforcement programs will be held on March 26, 1992, beginning at 10:15 a.m. and ending at approximately 1 p.m. Questions relating to the agency's rulemaking, research, and enforcement programs, must be submitted in writing by March 17, 1992, to the address shown below. If sufficient time is available, questions received after the March 17 date may be answered at the meeting. The individual, group or company submitting a question(s) does not have to be present for the question(s) to be answered. A consolidated list of the questions submitted by March 17, 1992, and the issues to be discussed will be mailed to interested personnel by March 20, 1992, and will be available at the meeting.

ADDRESSES: Questions for the March 26 meeting relating to the agency's rulemaking, research, ad enforcement programs should be submitted to Barry Felrice, Associate Administrator for Rulemaking, National Highway Traffic Safety Administration, room 5401, 400 Seventh Street, SW., Washington, DC 20590. The meeting will be held at the Best Western Domino Farms Hotel, (Salons A & B), 3600 Plymouth Road, Ann Arbor, MI.

SUPPLEMENTARY INFORMATION: NHTSA will hold its regular, quarterly meeting to answer questions from the public and the related industries regarding the agency's rulemaking, research and enforcement programs, on March 26, 1992. The meeting will be held at the Best Western Domino Farms Hotel, (Salons A & B), 3600 Plymouth Road, Ann Arbor, MI. The purpose of the meeting is to focus on those phases of NHTSA activities which are technical, interpretative or procedural in nature. A transcript of the meeting will be available for public inspection in the NHTSA Technical Reference Section in Washington, DC, within four weeks after the meeting. Copies of the transcript will then be available at five cents for the first page and five cents for each additional page (length has varied from 100 to 150 pages) upon request to NHTSA Technical Reference Section, room 5108, 400 Seventh Street, SW., Washington DC 20590. The Technical Reference Section is open to the public from 9:30 a.m. to 4 p.m.

Issued: February 6, 1992.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 92-3284 Filed 2-11-92; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Fiscal Services

[Dept. Circ. 570, 1991 Rev., Supp. No. 14]

Surety Companies Acceptable on Federal Bonds Atlantic Alliance Fidelity and Surety Company

A Certificate of Authority as an acceptable surety on Federal bonds is hereby issued to the following company under sections 9304 to 9308, title 31, of the United States Code. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1991 Revision, on page 30134 to reflect this addition:

Atlantic Alliance Fidelity and Surety Company. Business Address: P.O. Box 985, Cherry Hill, New Jersey 08003.

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Underwriting Limitation b/: $160,000.
Surety Licenses c/: DE, NJ, and PA.
Incorporated In: New Jersey. Federal Process Agents d/.

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

Copies of the Circular may be obtained from the Surety Bond Branch, Fund Management Division, Financial Management Service, Department of the Treasury, Washington, DC 20227, telephone (202) 874-6850.

Dated: February 4, 1992.

Charles F. Schwan III,

Director, Funds Management Division, Financial Management Service.

[FR Doc. 92-3325 Filed 2-11-92; 8:45 am]

BILLING CODE 4810-35-M

UNITED STATES INFORMATION AGENCY

Meeting of the Advisory Board for Cuba Broadcasting

The Advisory Board for Cuba Broadcasting will conduct a meeting on February 14, 1992, in the Executive Conference Room of the Cudjoe Key Air Force Base, Cudjoe Key, Florida. Below is the intended agenda.

Friday, February 14, 1992

Agenda

Part One—Closed to the Public

1 p.m.

1. TV Marti Technical Adjustments.
2. Radio Marti Technical Adjustments.

Part Two—Open to the Public

2:30 p.m.

3. Recommendations by the President's Task Force on U.S. Government International Broadcasting.
4. New Programming on Radio Marti.
5. Office of Cuba Broadcasting Budget.
6. Cuba's Internal Opposition.
7. Public Testimony.

Items one and two, which will be discussed from 1 p.m. to 2:30 p.m., will be closed to the public. Discussion of items one and two will include information the premature disclosure of which would be likely to frustrate the implementation of a proposed agency action (5 U.S.C. 522(c)(9)(B)).

Members of the public interested in attending the open portion of the meeting should contact James Skinner at (202) 401-7312 to make prior arrangements since access to the Cudjoe Key facility is strictly controlled.

Dated: February 6, 1992.

Henry E. Catto,

Director.

[FR Doc. 92-3345 Filed 2-11-92; 8:45 am]

BILLING CODE 8230-01-M

Advisory Commission on Public Diplomacy; Meeting

AGENCY: United States Information Agency.

ACTION: Notice.

SUMMARY: A meeting of the U.S. Advisory Commission on Public Diplomacy will be held on February 12 in room 600, 301 4th Street, SW., Washington, DC from 9:45–10:30 a.m. and from 12–12:30 p.m.

At 9:45 a.m. the Commission will meet with Mr. Bruce Koch, Acting Director, Office of European Affairs, USIA, to discuss public diplomacy in Eastern Europe and the independent republics of the former Soviet Union. At 12 p.m. the Commission will meet with Mr. Stanley Silverman, USIA Comptroller, to discuss the Agency's FY 1993 budget.

FOR FURTHER INFORMATION CONTACT: Please call Gloria Kalamets (202) 619-4468, if you are interested in attending the meeting. Space is limited and entrance to the building is controlled.

Dated: February 6, 1992.

Rose Royal,

Management Analyst, Federal Register Liaison.

[FR Doc. 92-3244 Filed 2-11-92; 8:45 am]

BILLING CODE 8230-01-M

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Advisory Committee on Environmental Hazards; Charter Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92-463) of October 6, 1972, that the Veterans' Advisory Committee on Environmental Hazards has been renewed for a 2-year period beginning January 23, 1992, through January 23, 1994.

Dated: January 30, 1992.

By direction of the Secretary:

Diane H. Landis,

Committee Management Officer.

[FR Doc. 92-3290 Filed 2-11-92; 8:45 am]

BILLING CODE 8320-01-M

Merit Review Boards; Charter Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92-463) of October 6, 1972, that the Department of Veterans Affairs 14 Merit Review Review Boards have been renewed for a 2-year period beginning January 31, 1992, through January 31, 1994.

Dated: February 3, 1992.

By direction of the Secretary.

Diane H. Landis,

Committee Management Officer.

[FR Doc. 92-3291 Filed 2-11-92; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 29
Wednesday, February 12, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Regular Meeting

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming regular meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The regular meeting of the Board will be held February 13, 1992, at the offices of the Farm Credit Administration in McLean, Virginia, from 10:00 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Curtis M. Anderson, Secretary of the Farm Credit Administration Board, (703) 883-4003, TDD (703) 883-4444.

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts of this meeting will be closed to the public. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

B. New Business

1. 90-Day Regulatory Review
2. Regulations
   a. Expansion of Privacy Act Exemptions to Inspector General Investigatory Files—Amendment of 12 CFR 603.355 (Proposed)
3. Supervision of the Office of Secondary Market
4. National Consumer Cooperative Bank

Closed Session*

A. New Business

1. Other Prior Approval
   a. Bakersfield PCA and FLBA Financial Assistance to Facilitate Merger for Northwest North Dakota, ACA
2. Enforcement Actions

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* Session closed to the public—exempt pursuant to 5 U.S.C. 552b(c)(8) and (9).

Dated: February 7, 1992.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 92-3445 Filed 2-10-92; 9:19 am]

BILLING CODE 6705-01-M

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Meeting

TIME AND DATE: 9:30 a.m., Tuesday, February 18, 1992.

PLACE: Filene Board Room, 7th Floor, 1776 G Street, NW., Washington, DC 20456.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Closed Meeting.

2. Application for Agent Membership in the Central Liquidity Facility. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).

3. Insurance Appeal. Closed pursuant to exemptions (6), (8), and (9)(B).

4. Administrative Actions under Section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).

FOR MORE INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (202) 682-9600.

Becky Baker,

Secretary of the Board.

[FR Doc. 92-3528 Filed 2-10-92; 3:00 pm]

BILLING CODE 7535-01-M

Corrections

Federal Register
Vol. 57, No. 29
Wednesday, February 12, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 75

[Docket No. 88-173]

Communicable Diseases in Horses, Asses, Ponies, Mules, and Zebras

Correction

In rule document 92-1521 beginning on page 2439 in the issue of Wednesday, January 22, 1992, make the following correction:

PART 75-[CORRECTED]

On page 2440, in the second column, in the authority, in the first line, "113m" should read "113."

BILLING CODE 1505-01-D

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 105

[Docket No. 90-170]

Viruses, Serums, Toxins, and Analogous Products

Correction

In rule document 91-30343 beginning on page 66782, in the issue of Thursday, December 26, 1991, make the following correction:

PART 105—[CORRECTED]

On page 66783, in the second column, under amendatory item 16., in the authority, in the second line, "2.15" should read "2.51".

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM92-2-7-000]

Southern Natural Gas Co.; Proposed Changes to FERC Gas Tariff

Correction

In notice document 91-23011 appearing on page 48550 in the issue of Wednesday, September 25, 1991, in the third column, in the file line at the end of the document, "FR Doc. 91-23010" should read "FR Doc. 91-23011".

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. TA92-2-82-000 and TM92-2-82-000]

Viking Gas Transmission Co.; Rate Filing Pursuant to Tariff Rate Adjustment Provisions

Correction

In notice document 91-23013 beginning on page 48551 in the issue of Wednesday, September 25, 1991, make the following correction:

On page 48552, in the first column, in the file line at the end of the document, "FR Doc. 91-23012" should read "FR Doc. 91-23013".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[OPP-34017;FRL 3935-5]

Intent to Remove Certain Active Ingredients From Reregistration List D and to Cancel Pesticides Containing Those Ingredients

Correction

In notice document 91-23710 beginning on page 50422 in the issue of Friday, October 4, 1991, make the following correction:

On page 50432, in the third column, in the file line at the end of the document, "FR Doc. 91-23968" should read "FR Doc. 91-23710".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

[Docket No. 86N-0451]

New Animal Drugs for Use in Animal Feeds; Removal of Regulation

Correction

In rule document 92-1020 beginning on page 1641 in the issue of Wednesday, January 15, 1992, make the following corrections:

On page 1642, in the first column, in the second line, "RFS" should read "Refs." In the 13th line, after "preamble" insert "to".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 720

[Docket No. 89P-0180]

Modification in Voluntary Filing of Cosmetic Product Ingredient and Cosmetic Raw Material Composition Statements

Correction

In rule document 92-1989 beginning on page 3128 in the issue of Tuesday, January 28, 1992, make the following correction:

On page 3130, in the first column, above amendatory instruction 5., the heading should read:

§ 720.5 [Removed and Reserved]

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3160

[WO-610-4111-02 24 1A; Circular No. 2630]

RIN 1004-AA 67

Onshore Oil and Gas Order No. 6, Hydrogen Sulfide Operations; Correction

Correction

In rule document 92-1336, appearing on page 2039, in the issue of Friday, January 17, 1992, in the second column, in paragraph 1., in the fourth line, "May 21, 1990" should read "May 21, 1930".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6919

[CO-930-4214-10; COC-06298]

Partial Revocation of Public Land Order 1825; Colorado

Correction

In rule document 92-1771 beginning on page 2841 in the issue of Friday, January 24, 1992, make the following correction:

On page 4842, in the first column, in the second line of the land description, "Sec. 28" should read "Sec. 18".

BILLING CODE 1505-01-D

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federal register

Wednesday
February 12, 1992

Part II

Department of the Interior

Bureau of Indian Affairs

Reinstatement to Former Status for the Guidiville Band of Pomo Indians, the Scotts Valley Band of Pomo Indians and Lytton Indian Community of CA; Notice

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Notice of Reinstatement to Former Status for the Guidiville Band of Pomo Indians, the Scotts Valley Band of Pomo Indians and Lytton Indian Community of CA

AGENCY: Bureau of Indian Affairs.

ACTION: Notice.

SUMMARY: This notice advises the public that the Federal government has settled litigation reinstating the status and rights of three California Indian rancherias with which the Federal government had terminated its relationship. Effective September 6, 1991, the Indians of the Guidiville Band of Pomo Indians, the Scotts Valley Band of Pomo Indians and Lytton Indian Community of California, were reinstated to the status they had before termination. Each of the groups and their members are eligible for all rights and benefits extended to other federally recognized Indian tribes and their members.

DATES: Effective September 6, 1991.

ADDRESSES: All three groups are under the operational jurisdiction of the Superintendent, Central California Agency, Bureau of Indian Affairs, 1824 Tribute Road, suite J, Sacramento, CA 95815–4308, telephone (916) 978–4337; and the Director, Sacramento Area Office, Bureau of Indian Affairs, 2800 Cottage Way, Sacramento, CA 95825–1884, telephone (916) 978–4691.

FOR FURTHER INFORMATION CONTACT: Harold M. Brafford, Superintendent, Central California Agency, or Ronald Jaeger, Director, Sacramento Area Office, at the addresses listed above; or William Wirtz, Esq., Office of the Regional Solicitor, Pacific Southwest Region, 2800 Cottage Way, room E–2753, Sacramento, CA 95825–1890, telephone (916) 978–4824; or Scott Keep, Assistant Solicitor, Branch of Tribal Government & Alaska, Division of Indian Affairs, Office of the Solicitor, Mail Stop 6556, U.S. Department of the Interior, 1849 C Street, NW., Washington, DC 20240, telephone (202) 208–5134.

SUPPLEMENTARY INFORMATION: Pursuant to the authority in the Act of August 18, 1958, P.L. 85–671, 72 Stat. 619, as amended by the Act of August 11, 1964, Public Law 88–419, 78 Stat. 390 ("the Rancheria Act"), the Federal government terminated its relationship with many California Indian rancherias, including those for the Indians of the Guidiville Band of Pomo Indians, the Scotts Valley Band of Pomo Indians and Lytton Indian Community of California, and distributed the assets of the rancherias pursuant to plans adopted by the Indians. The Indians of these three rancherias and the Mechoopda Indians of the Chico Rancheria, brought suit against the United States alleging that the termination was unlawfully done because the United States had not taken all actions required by the Rancheria Act prior to the purported termination. They sought reinstatement of the status they had individually and collectively enjoyed prior to the termination and certain other relief. A settlement of the litigation was negotiated which recognizes that the distributes of the rancheria assets are eligible for all rights and benefits extended to Indians under Federal law and that the tribes or communities of the rancherias and their members.

Indians of the Sugar Bowl Rancheria, et al. v. *United States*, No. C–86–3660 WWS, N. D. California.

Dated: February 6, 1992.

Eddie F. Brown,

Assistant Secretary—Indian Affairs.

[FR Doc. 92–3357 Filed 2–11–92; 8:45 am]

BILLING CODE 4310-02-M

federal register

Wednesday
February 12, 1992

Part III

Department of Health and Human Services

Administration on Aging

Grants to Indian Tribal Organizations for Supportive and Nutritional Services for Older Indians; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Program Announcement 13655.911]

Grants to Indian Tribal Organizations for Supportive and Nutritional Services for Older Indians

AGENCY: Administration on Aging (AoA), OS, HHS.

ACTION: Announcement of availability of funds and opportunity to apply under the Older Americans Act, title VI, Grants for Native Americans, part A—Indian Program.

SUMMARY: The Administration on Aging will accept applications for funding in Fiscal Year 1992 under the Older Americans Act, title VI, Grants for Native Americans, part A—Indian Program, from eligible federally recognized Indian tribal organizations that are not now participating in title VI, all current title VI, part A grantees and current grantees who wish to leave a consortium and apply as a new grantee. Successful applications from new grantees will be funded if funds permit.

DATES: There will only be a 30 day turnaround time for this application and the application will be due March 13, 1992.

ADDRESSES: See Appendix A.

FOR FURTHER INFORMATION CONTACT: M. Yvonne Jackson, Ph.D., Office for American Indian, Alaskan Native, and Native Hawaiian Programs, Administration on Aging, Department of Health and Human Services, Wilbur J. Cohen Federal Building, room 4752, 330 Independence Avenue, SW., Washington, DC 20201, telephone (202) 619–2957.

SUPPLEMENTARY INFORMATION:

1. Background and Program Purpose

The Administration on Aging (AoA) is responsible for administering title VI, part A of the Older Americans Act, which provides for grants to Indian tribal organizations representing federally recognized Tribes for the provision of nutritional and supportive services to Indian elders.

The 1978 Amendments to the Older Americans Act created a new title, title VI, Grants for Indian Tribal Organizations. The purpose of this title is to promote the delivery of supportive and nutritional services for Indian elders that are comparable to services provided under title III of the Older Americans Act. (title III of the Older Americans Act, entitled "Grants for State and Community Programs on Aging" is the nationwide program of supportive and nutritional services which serves persons over age 60 of all ethnic groups.)

In the Older Americans Act Amendments of 1987, the name of title VI was changed to Grants for Native Americans, and part B—Native Hawaiian Programs—was added.

Nutritional services and information and referral services are required by the Act. Nutritional services include congregate meals and home-delivered meals. Supportive services include information and referral, transportation, chore services, and other supportive services which contribute to the welfare of older Native Americans.

2. Eligibility of an Indian Tribal Organization or Indian Tribe to Receive a Grant

To be eligible to receive a grant, a tribal organization or Indian tribe must meet the application requirements contained in sections 612(a) and 612(b) of the Act, which are: "(1) The tribal organization represents at least 50 individuals who are 60 years of age or older; and (2) the tribal organization demonstrates the ability to deliver supportive services, including nutritional services." For purposes of title VI, part A, the terms "Indian tribe" and "tribal organization" have the same meaning as in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

This announcement concerns all federally recognized Indian tribal organizations, those currently participating in title VI, part A individually or as members of a consortium and those that are not currently participating in title VI, part A.

3. Available Funds

Funds have been appropriated for Fiscal Year 1992. Funds will be awarded to tribal organizations applying under this announcement based on a formula which considers the number of eligible applicant tribal organizations, and the number of elders over age 60 in each tribal organization's proposed title VI service area. The amounts awarded included funds for both direct and indirect costs. Therefore, since funds are limited by a Tribe's annual allotment, Tribal grantees must carefully plan their programs and consider all costs. No additional funds will be available.

Applications from current grantees who are a part of a consortium and wish to leave the consortium will be treated as new grant applications. Successful applications from new grantees will be funded pending availability of additional funds.

Information on grant levels in Fiscal Year 1991 is given below as a guide to possible funding levels for Tribes representing the following documented numbers of Indian elders over age 60:

Population range (number of older Indians age 60 years and over, represented by the tribal organization)	Amounts of awards in FY 1991
50 to 100	$45,682
101 to 200	53,693
201 to 300	62,115
301 to 400	70,537
401 to 500	78,959
501+	87,381

4. Application Process

Applicants should submit applications, describing their proposed plans for nutritional and supportive services for older Indians for project period April 1, 1992—March 31, 1993, as described in section 5 below, "Content of the Application." One signed original and one copy of the application including all attachments, must be submitted to the Regional Program Director, Administration on Aging Regional Office of the Department of Health and Human Services. (See appendix)

5. Content of the Application

The application must meet the criteria in sections 614 (a) and (b) of the Act, and title 45 of the Code of Federal Regulations, § 1326.19. The application may be presented in any format selected by the tribal organization. No standard Federal forms are required. The application must include the following information:

A. Objectives and Need for Assistance

This section must include objectives, expressed in measurable terms, which are related to the needs of the service population.

B. Results or Benefits Expected

The application should describe the results or benefits expected from each service proposed.

C. Approach

(1) Description and Method of Delivery of Each Service

(a) *Nutrition.* Nutrition services are required. There should be a description of the methods, facilities, and staff to be used in preparing, serving, and delivering meals, and the approximate number of persons to be served. Nutrition services must be substantially in compliance with the provisions of part C of title III. If no title VI, part A funds are to be used for nutrition services, the application must state how such services are provided in other ways, and how they are financed.

(b) *Information and referral.* Information and referral services are required. They must be available for older Indians living in the title VI part A service area and there should be a description of how they will be provided. The approximate number of individuals to be served should be stated. If no title VI, part A funds are to be used for information and referral services, the application must state how such services are provided in other ways, and how they are financed.

(c) *Other supportive services.* The application must describe any other supportive services to be provided wholly or partly by title VI, part A funds. The approximate number of persons to be served by each service should be stated.

Legal assistance and ombudsman services may be provided, but are not required. However, if provided, they should be reported as "Supportive Services."

If a tribal organization elects to provide legal services, it must substantially comply with the requirements in title 45 of the Code of Federal Regulations § 1321.71, and all legal assistance providers must comply fully with the requirements in § 1321.71(d) through § 1321.71(k).

Transportation of persons to nutrition sites or other places is a part of "Supportive Services."

(d) *Coordination with title III.* The application should provide a description of how title VI and title III resources are to be coordinated within the title VI service area.

(2) Evaluation Criteria

The application must discuss the criteria to be used to evaluate the results and successes of the program, and explain the methodology that will be used to determine if the needs identified and discussed are being met and if the results and benefits identified in Item B above are being achieved.

D. Geographic Location

The application must include a narrative description of the title VI, part A service area, and a map. The area to be served by title VI, part A must have clear geographic boundaries. There is no prohibition, however, on its overlapping with areas served by title III.

E. Additional Information

(1) Older Indians in the Title VI, Part A Service Area

The law requires that, to be eligible for title VI funding, a tribal organization must represent at least 50 persons aged 60 years or over. Therefore, the number of persons aged 60 or over living in the proposed title VI service area must be stated in the application. The amount of the grant is based on this number of persons aged 60 years or over. As a separate matter, the regulations allow a Tribe to define, based on its own criteria, who the Tribe will consider to be an "older Indian" for purposes of eligibility to receive title VI services. If a Tribe selects a different definition of "older Indian" for service delivery, the application must state the age selected, and the number of Indians under age 60 eligible to be served. If more than one Tribe is included in the application, this information must be stated separately for each Tribe. All Tribes in a consortium must use the same age for "older Indian."

(2) Resolution

The tribal organization representing a federally recognized Tribe must submit a copy of the Tribal council resolution authorizing participation in title VI, part A. If the tribal organization represents a consortium of more than one Tribe, a resolution is required from each participating Tribe, specifically authorizing representation for the purpose of title VI, part A of the Older Americans Act.

(3) Program Assurances

Title VI, part A Program Assurances must be included in the application. The title VI, part A Program Assurances are those provisions identified in section 614(a) of the Older Americans Act, and in title 45 of the Code of Federal Regulations § 1326.19(d), issued August 31, 1988 (see appendix B). The tribal organization must state that it agrees to abide by all the provisions for the entire period being applied for (Fiscal Year 1992).

Copies of the title III and title VI current law and regulations, and of part 92, may be obtained from the Regional Program Director for the Administration on Aging. See addresses and telephone number in section 4 above, "Application Process."

(4) Certification Forms

Certifications are required of the applicant regarding (a) lobbying; (b) debarment, suspension, and other responsibility matters; and (c) drug-free workplace requirements. Please note that a duly authorized representative of the applicant organization must attest to the applicant's compliance with these certifications.

(5) Identifying Information

Applications must identify both the principal official of the tribal organization, and the proposed title VI program director: Name, Title, Address including Zip Code, Telephone number, and, if available, the FAX Number. The tribal organization's EIN (Employer Identification Number) must also be included.

If the applicant tribal organization is a consortium, the applicant must list the federally recognized tribes which are included. A copy of each tribal resolution must be enclosed.

6. Closing Date for Application

To be eligible for consideration, applications must be received or postmarked on or before March 13, 1992. (Applicants are cautioned to request a legibly dated U.S. Postal service postmark, or to obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks are not acceptable as proof of timely mailing.)

7. Action on Applications

Awards will be made by the Commissioner on Aging. Funding decisions will be announced as soon as possible.

(Catalog of Federal Domestic Assistance Program #93.655 Grants to Indian Tribes and Native Hawaiians. This Program Announcement is not subject to E.O. 12372.)

Dated: February 5, 1992.

Joyce T. Berry,

U.S. Commissioner on Aging.

Appendix A

Regional Offices

Region I (CT, MA, ME, NH, RI, VT), Thomas Hooker, RPD, John F. Kennedy Building, room 501, Boston, Massachusetts 02203, (617) 565–1158, FAX (617) 565–1111.

Region II (NY, NJ, PR, VI), Judith Rackmill, RPD, 26 Federal Plaza, room 4149, Broadway and Worth Streets, New York, New York 10278, (212) 264–2976, FAX (212) 264–4826.

Region III (DC, MD, VA, DE, PA, WV), Paul E. Ertel, Jr., RPD, 3535 Market Street, P.O. Box 13716, Philadelphia, Pennsylvania 19101, (215) 596–6891, FAX (215) 596–5028.

Region IV (AL, FL, MS, SC, TN, NC, KY, GA), Frank Nicholson, RPD, 101 Marietta Tower, suite 903, Atlanta, Georgia 30323, (404) 331–5900, FAX (404) 730–3386.

Region V (IL, IN, MI, MN, OH, WI), Eli Lipschultz, RPD, 105 West Adams Street, 21st Floor, Chicago, Illinois 60603, (312) 353–3141, FAX (312) 353–2629.

Region VI (AR, LA, OK, NM, TX). John Diaz, RPD, 1200 Main Tower Building, room 1000, Dallas, Texas 75202, (214) 767–2971, FAX (214) 767–4537.

Region VII (IA, KS, MO, NE). William Weisent, Acting RPD, 601 East 12th Street, room 384, Kansas City, Missouri 64106, (816) 426–2955, FAX (816) 426–2888.

Region VIII (CO, MT, UT, WY, ND, SD). Larry A. Brewster, Ph.D., RPD, 1961 Stout Street, room 1185, Federal Office Building, Denver, Colorado 80294, (303) 844–2951, FAX (303) 844–3642.

Region IX (CA, NV, AZ, HI, GU, TTPI, CNMI, AS). Howard Williams, Acting RPD, 50 United Nations Plaza, room 480, San Francisco, California 94102, (415) 556–6003, FAX (415) 556–4161.

Region X (AK, ID, OR, WA). Chisato Kawabori, RPD, Blanchard Plaza, RX–33; room 600, 2201 Sixth Avenue, Seattle, Washington 98121, (206) 553–5341, FAX (206) 553–6790.

Appendix B

The Older Americans Act, section 614(a)—provides that no grant may be made under this part unless the eligible tribal organization submits an application to the Commissioner which meets such criteria as the Commissioner may by regulation prescribe. Each such application shall—

(1) Provide that the eligible tribal organization will evaluate the need for supportive and nutrition services among older Indians to be represented by the tribal organizations;

(2) Provide for the use of such methods of administration as are necessary for the proper and efficient administration of the program to be assisted;

(3) Provide that the tribal organization will make such reports in such form and containing such information, as the Commissioner may reasonably require, and comply with such requirements as the Commissioner may impose to assure the correctness of such reports;

(4) Provide for periodic evaluation of activities and projects carried out under the application;

(5) Establish objectives consistent with the purposes of this part toward which activities under the application will be directed, identify obstacles to the attainment of such objectives, and indicate the manner in which the tribal organization proposes to overcome such obstacles;

(6) Provide for establishing and maintaining information and referral services to assure that older Indians to be served by the assistance made available under this part will have reasonably convenient access to such services;

(7) Provide a preference for Indians aged 60 and older for full- or part-time staff positions whenever feasible;

(8) Provide assistance that either directly or by way of grant or contract with appropriate entities nutrition services will be delivered to older Indians represented by the tribal organization substantially in compliance with the provisions of part C of title III, except that in any case in which the need for nutritional services for older Indians represented by the tribal organization is already met from other sources, the tribal organization may use the funds otherwise required to be expended under this clause for supportive services;

(9) Contain assurance that the provision of sections 307(a)(14)(A) (i) and (iii), 307 (a)(14)(B), and 307(a)(14)(C) will be complied with whenever the application contains provisions for the acquisition, alteration, or renovation of facilities to serve as multipurpose senior centers;

(10) Provide that any legal or ombudsman services made available to older Indians represented by the tribal organization will be substantially in compliance with the provisions of title III relating to the furnishing of similar services; and

(11) Provide satisfactory assurance that fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this part to the tribal organization, including any funds paid by the tribal organization to a recipient of a grant or contract.

45 CFR 1328.19, paragraph (d) requires that the application shall provide for assurances as prescribed by the Commissioner that:

(1) A tribal organization represents at least 50 individuals who have attained 60 years of age or older;

(2) A tribal organization shall comply with all applicable State and local license and safety requirements for the provision of those services;

(3) If a substantial number of the older Indians residing in the service area are of limited English-speaking ability, the tribal organization shall utilize the services of workers who are fluent in the language spoken by a predominant number of older Indians;

(4) Procedures to ensure that all services under this part are provided without use of any means tests;

(5) A tribal organization shall comply with all requirements set forth in § 1328.7 through § 1328.17; and

(6) The services provided under this part will be coordinated, where applicable, with services provided under title III of the Act

BILLING CODE 4130-01-M

Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Organization

Authorized Signature   Title   Date

NOTE: If Disclosure Forms are required, please contact: Mr. William Sexton, Deputy Director, Grants and Contracts Management Division, Room 341F, HHH Building, 200 Independence Avenue, SW, Washington, D.C. 20201-0001

BILLING CODE 4130-01-C

Department of Health and Human Services

Certification Regarding Drug-Free Workplace Requirements Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR part 76, subpart F. The regulations, published in the May 25, 1990 **Federal Register**, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the Department of Health and Human Services (HHS) determines to award the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HHS, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or government wide suspension or debarment.

Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios.)

If the workplace identified to HHS changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see above).

Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

Controlled substance means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15).

Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

Employee means the employee of a grantee directly engaged in the performance of work under a grant, including (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll or employees of subrecipients or subcontractors in covered workplaces).

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of each prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace; (2) The grantee's policy of maintaining a drug-free workplace; (3) Any available drug counseling, rehabilitation, and employee assistance programs, and, (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and, (2) Notify the employer in writing of his or her conviction for a violation or a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, of every grant officer or other designee on whose grant activity the convicted employee was working unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or, (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant (Use attachments, if needed):

Place of Performance (Street address, City, County, State, ZIP Code) __________

Check __ if there are workplaces on file that are not identified here.

Sections 76.630 (c) and (d)(2) and 76.635 (a)(1) and (b) provide that a Federal agency may designate a central receipt point for State-Wide and State Agency-Wide certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central receipt point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, room 517-D, 200 Independence Avenue, SW., Washington, DC 20201.

Signature __________
Date __________
Title __________
Organization __________

DGMO Form #2 Revised May 1990

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR part 76, certifies to the best of its knowledge and belief that its principals involved:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a 3-year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation for this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services' (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions", provided below, without modification in all lower tier covered transactions and in all solicitations for lower tier covered actions.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusions—Lower Tier Covered Transactions (To Be Supplied to Lower Tier Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(b) Where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusions—Lower Tier Covered Transactions" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

[FR Doc. 92–3151 Filed 2–11–92; 8:45 am]

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Part IV

The President

Executive Order 12789—Delegation of Reporting Functions Under the Immigration Reform and Control Act of 1986

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Wednesday, February 12, 1992

Presidential Documents

Title 3—

The President

Executive Order 12789 of February 10, 1992

Delegation of Reporting Functions Under the Immigration Reform and Control Act of 1986

By the authority vested in me as President by the Constitution and laws of the United States of America, including section 301 of title 3, United States Code, and title IV of the Immigration Reform and Control Act of 1986, Public Law 99–603 ("Reform Act"), it is hereby ordered as follows:

Section 1. The Attorney General shall: (a) perform, in coordination with the Secretary of Labor, the functions vested in the President by section 401 of the Reform Act (8 U.S.C. 1364);

(b) perform, except for the functions in section 402(3)(A), the functions vested in the President by section 402 of the Reform Act (8 U.S.C. 1324a note); and

(c) perform, insofar as they relate to the initial report described in section 404(b), the functions vested in the President by section 404 of the Reform Act (8 U.S.C. 1255a note).

Sec. 2. The Secretary of Labor shall: (a) perform the functions vested in the President by section 402(3)(A) of the Reform Act (8 U.S.C. 1324a note);

(b) perform the functions vested in the President by section 403 of the Reform Act (8 U.S.C. 1188 note); and

(c) perform, insofar as they relate to the second report described in section 404(c), the functions vested in the President by section 404 of the Reform Act (8 U.S.C. 1255a note).

Sec. 3. The functions delegated by sections 1 and 2 of this order shall be performed in accordance with the procedures set forth in OMB Circular A–19.

Sec. 4. This order shall be effective immediately.

Bush

THE WHITE HOUSE,
February 10, 1992.

[FR Doc. 92–3602
Filed 2–11–92; 11:30 am]
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LIST OF PUBLIC LAWS

This is the first in a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202-523-6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office Washington, DC 20402 (phone, 202-512-2470).

H.R. 4095/P.L. 102-244

To increase the number of weeks for which benefits are payable under the Emergency Unemployment Compensation Act of 1991, and for other purposes. (Feb. 7, 1992; 106 Stat. 3; 4 pages) Price: $1.00

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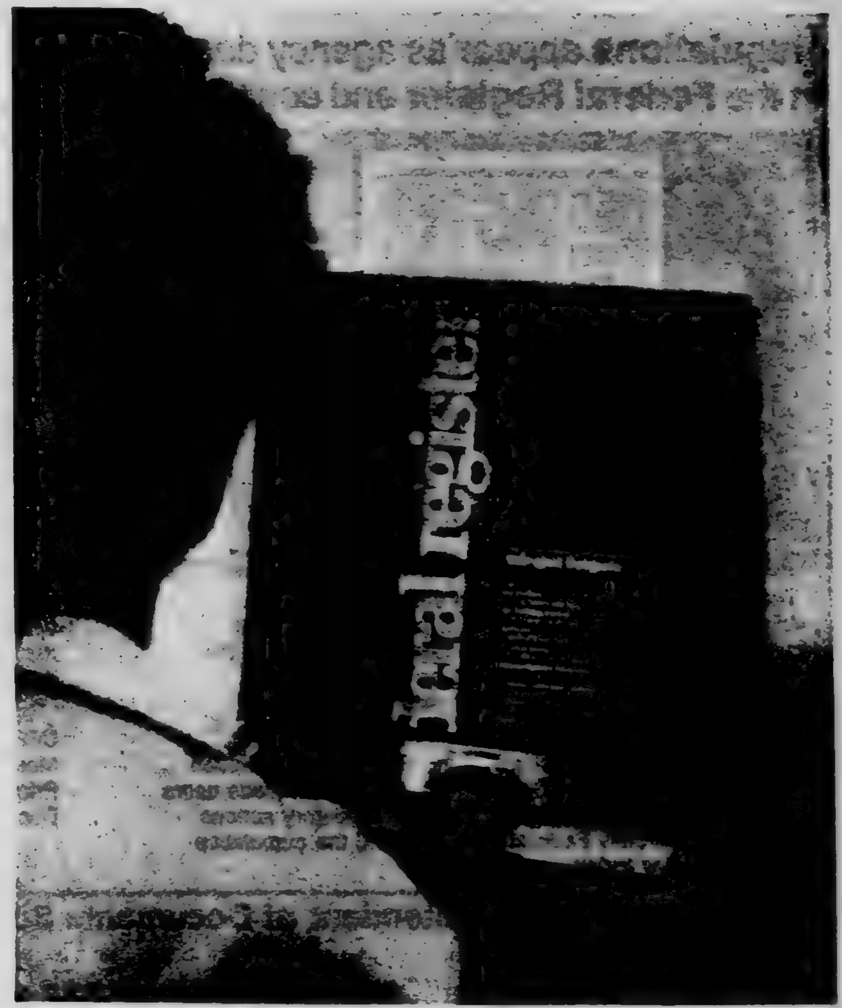

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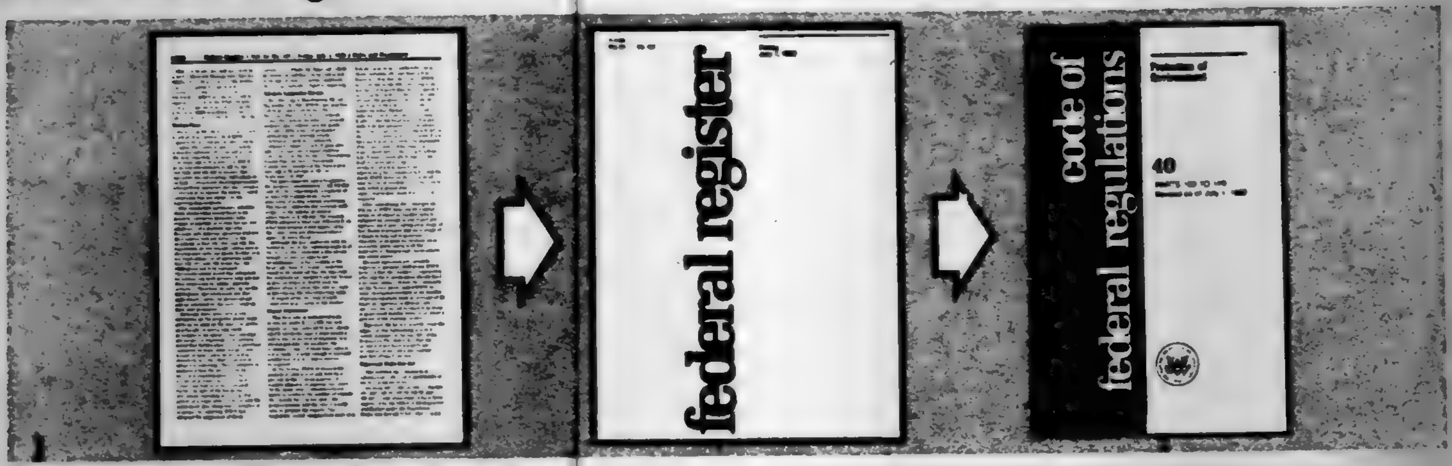

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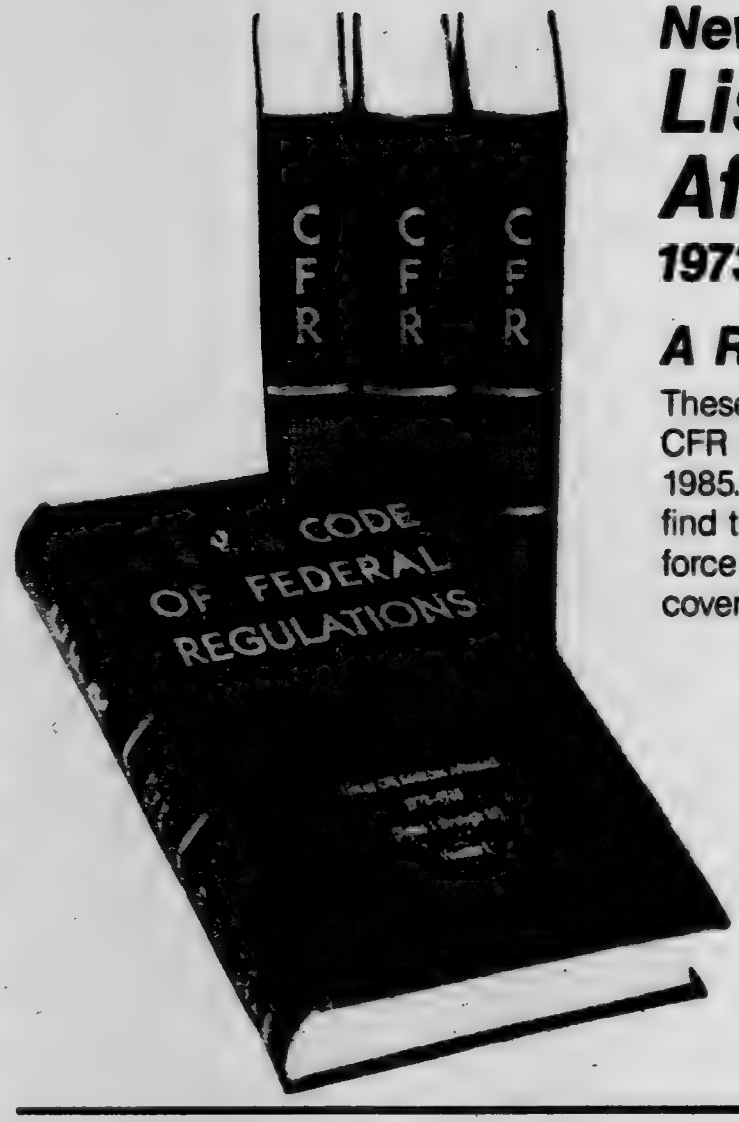

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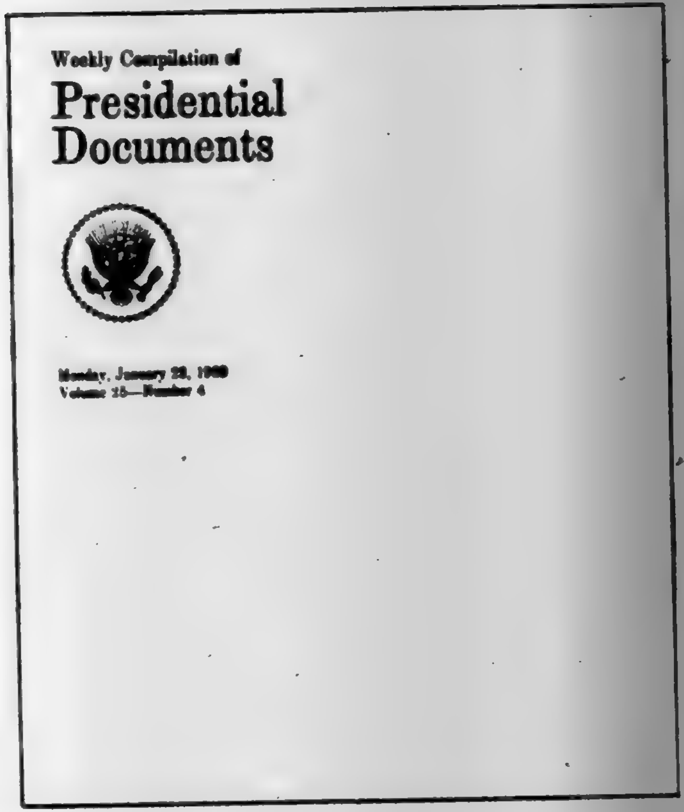

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Volume 25—Number 4

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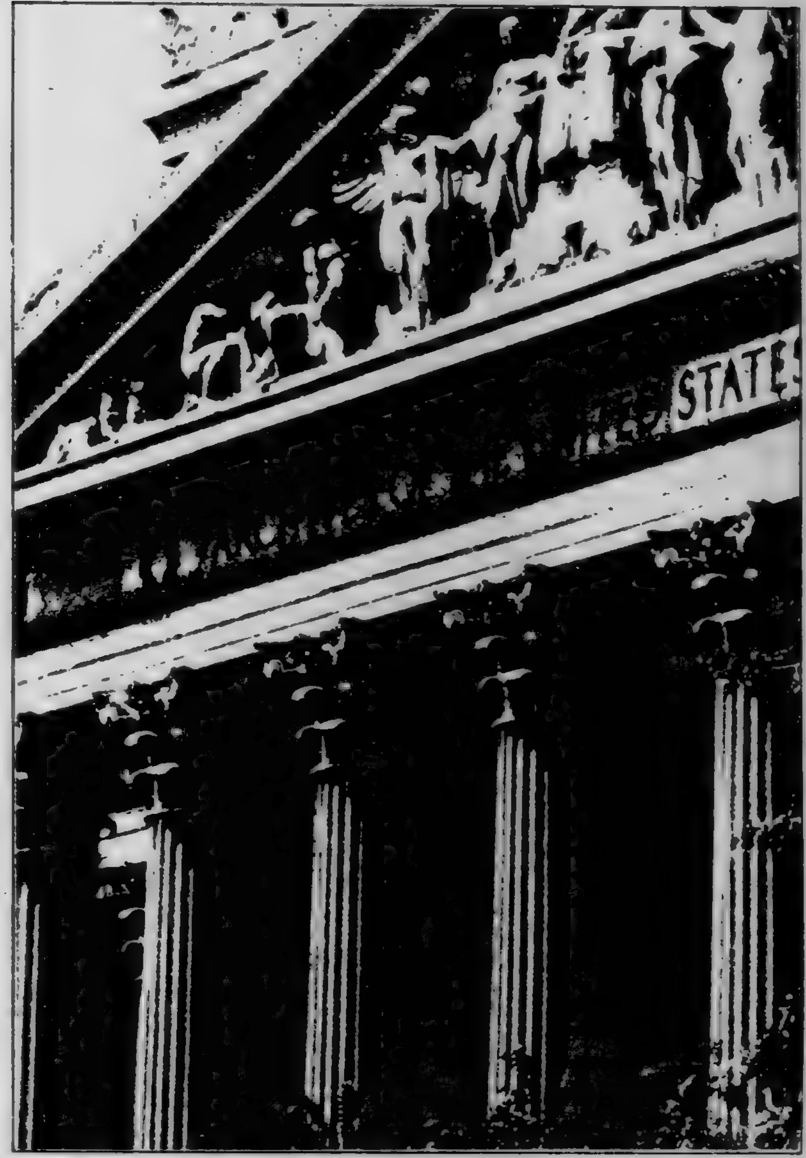

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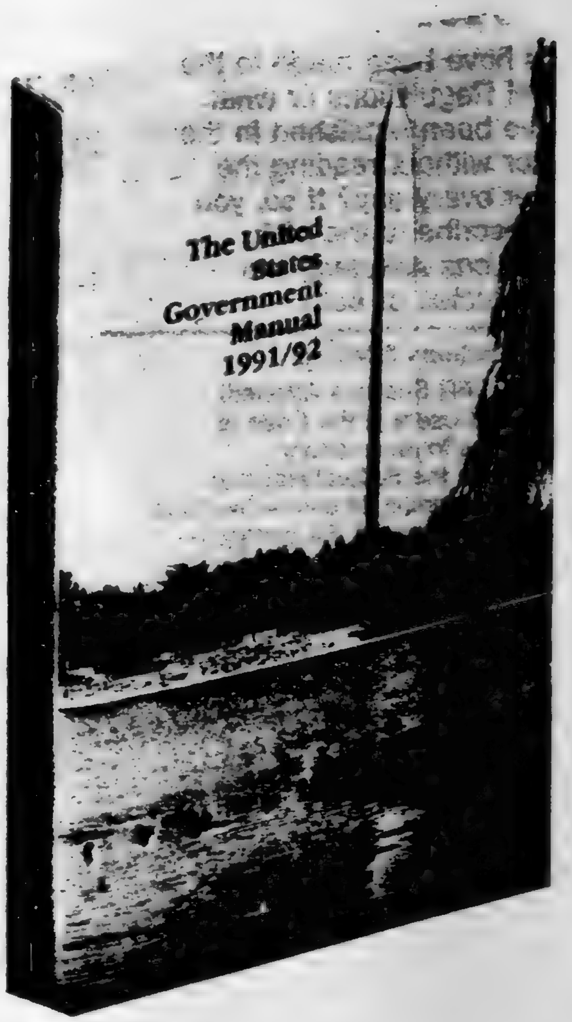

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Briefing on How To Use the Federal Register
For information on a briefing in Washington, DC, see announcement on the inside cover of this issue.

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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 103

[INS No. 1453–92]

RIN 1115–AC30

Employment Authorization Document Fee for National of El Salvador Under Temporary Protected Status

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This rule reduces the fee required for an employment authorization document (EAD) of a National of El Salvador in Temporary Protected Status (TPS) from $60.00 to $20.00. This action is being taken because the status requires that the amount of the fee for registering a national of El Salvador for TPS (including providing the alien with a work permit) shall be sufficient to cover the costs of administration of section 303 of the Immigration Act of 1990 (IMMACT), November 29, 1990, Public Law 101–649, 104 Stat. 4978. The fee reduction provided by this interim rule is calculated to ensure that the combined fees for registration and work authorization collected from nationals of El Salvador in temporary protected status will cover all costs of program administration but will not generate a surplus through June 30, 1992, the termination date of the program.

DATES: This interim rule is effective February 14, 1992. Written comments must be received no later than March 16, 1992.

ADDRESSES: Please submit written comments in triplicate to Director, Policy Directives and Instructions Branch, Records Systems Division, Immigration and Naturalization Service, room 5304, 425 I Street, NW., Washington, DC 20536. Please include INS Number 1453–92 on correspondence to ensure proper handling.

FOR FURTHER INFORMATION CONTACT: Joanna London, General Attorney, Immigration and Naturalization Service, room 7048, Office of the General Counsel, 425 I Street NW., Washington, DC 20536. Telephone: (202) 514–2895.

SUPPLEMENTARY INFORMATION: It is estimated that the present fee, together with the TPS registration fees and employment authorization application fees already collected, will produce a small surplus in program receipts and expenses (including receipts and expenses generated by employment authorization) by June 30, 1992. Because section 303(b)(1)(C)(2) of IMMACT, unlike most statutes authorizing fees for immigration services and benefits, specifically includes employment authorization as an aspect of the "registration" for which a fee shall be charged, INS has taken account of receipts and expenses from employment authorization applications along with other receipts and expenses in determining whether the registration fees are sufficient to cover the costs of administration of this section, as further required by section 303(b)(1)(C)(2). The fee reduction provided by this interim rule is calculated to ensure that fees collected from nationals of El Salvador in temporary protected status will cover all costs of program administration but will not generate a surplus.

In accordance with 5 U.S.C. 605(b), the Commissioner of the Immigration and Naturalization Service certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. This rule is not a major rule within the meaning of section 1(b) of Executive Order 12291, nor does this rule have Federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612.

The Service's implementation of this rule as an interim rule, with provision for post-promulgation public comment, is based upon the "good cause" exception found at 5 U.S.C. 553(d). The reasons and the necessity for immediate implementation of this interim rule are that it provides a benefit to the applicants involved, the period for which nationals of El Salvador in TPS may apply for an extension of employment authorization in connection with that status will end on June 30, 1992, and more nationals of El Salvador will benefit from the reduction if the effective date is not delayed.

The information collection requirement contained in this rule has been cleared by the Office of Management and Budget under the provisions of the Paperwork Reduction Act. The clearance number for this collection is contained in 8 CFR 299.5, Display of Control Number.

List of Subjects in 8 CFR Part 103

Administrative practice and procedures, Archives and records, Authority delegations (Government agencies), Bonding, Fees, Forms, Freedom of Information, Organization and functions (Government agencies), Privacy, Reporting and recordkeeping requirements, Surety bonds.

Accordingly, part 103, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. The authority citation for part 103 is revised to read as follows:

Authority: 5 U.S.C. 552, 552a; 8 U.S.C. 1101, 1103, 1201, 1304; 31 U.S.C. 9701; E. O. 12356, 47 FR 14874, 15557; 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

2. In § 103.7, paragraph (b)(1) is amended by revising the entry for Form I–765 to read as follows:

§ 103.7 Fees.

* * * * *

(b)* * *

(1)* * *

* * * * *

Form I–765. For filing application for employment authorization pursuant to 8 CFR 274a.13. Applicants must pay a fee of sixty dollars ($60.00) to be remitted in the form of cash, check, or money order, except that an applicant who is a national of El Salvador in temporary protected status must pay a fee of twenty dollars ($20.00), to be remitted in the form of cash, check, or money order, for the employment authorization for which application is made at the time of the applicant's final reregistration for temporary protected status on or before June 30, 1992.

* * * * *

Dated: January 29, 1992.

Gene McNary,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 92-3590 Filed 2-11-92; 11:29 am]

BILLING CODE 4410-10-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 720

Delivery of Servicemembers, Civilians, and Dependents; Service of Process and Subpoenas

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: This rule sets forth amended guidelines and procedures for the delivery of personnel to civilian authorities, service of process, and subpoenas. This rule reflects changes to chapter VI of the Manual of the Judge Advocate General, JAG Instruction 5800.7C.

EFFECTIVE DATE: February 13, 1992.

FOR FURTHER INFORMATION CONTACT: LT Alicia Connolly, JAGC, U.S. Naval Reserve, General Litigation Division (Code 34), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332-2400, (703) 325-9870.

SUPPLEMENTARY INFORMATION: Pursuant to the authority conferred under 5 U.S.C. 301; 10 U.S.C. 133, 939, 5013, and 5148; E.O. 11476; and 32 CFR 700.206 and 700.1201; the Judge Advocate General revises 32 CFR part 720. This revision reflects the redesignation of former chapter XIII as the new chapter VI of the Manual of the Judge Advocate General of the Navy, JAG Instruction 5800.7C. This part has been revised to reflect changes effected by the new chapter VI. It provides direction and guidance for various situations where a military commander is asked to provide or, at a minimum, permit the taking of personnel, property, or records from a military installation by civilian authorities.

This revision was adopted on October 3, 1990. To the limited extent that this revision could be deemed to originate any requirements within the Department of the Navy, it has been determined that such requirements relate entirely to internal Naval management and personnel practices that can be administered more effectively without public participation in the rule-making process. It has therefore been determined that invitation of public comment on this revision would be impracticable and unnecessary and is therefore not required under the provisions of 32 CFR parts 296 and 701. It has also been determined that this final rule is not a "major rule" within the criteria specified in Executive Order 12291, and does not have substantial impact on the public.

Lists of Subjects in 32 CFR Part 720

Service of process, Personnel.

For the reasons set out in the preamble, title 32, part 720 of the Code of Federal Regulations is amended as follows:

PART 720—DELIVERY OF PERSONNEL; SERVICE OF PROCESS AND SUBPOENAS; PRODUCTION OF OFFICIAL RECORDS

1. The authority citation for 32 CFR part 720 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. 5031 and 5148; 32 CFR 700.206 and 700.1202.

2. Subparts A and B are revised to read as follows:

Subpart A—Delivery of Personnel

Sec.
720.1 Delivery of persons requested by state authorities in criminal cases.
720.2 Delivery when persons are within territorial limits of the requesting State.
720.3 Delivery when persons are beyond territorial limits of the requesting state.
720.4 Persons stationed outside the United States.
720.5 Authority of the Judge Advocate General and the General Counsel.
720.6 Agreement required prior to delivery to state authorities.
720.7 Delivery of persons to federal authorities.
720.8 Delivery of persons to foreign authorities.
720.9 Circumstances in which delivery is refused.
720.10 Members released by civil authorities on bail or on their own recognizance.
720.11 Interviewing servicemembers or civilian employees by federal civilian investigative agencies.
720.12 Request for delivery of members serving sentence of court-martial.
720.13 Request for delivery of members serving sentence of a state court.
720.14–720.19 [Reserved]

Subpart B—Service of Process and Subpoenas Upon Personnel

720.20 Service of process upon personnel.
720.21 Members or civilian employees subpoenaed as witnesses in state courts.
720.22 Members or civilian employees subpoenaed as witnesses in federal courts.
720.23 Naval prisoners as witnesses or parties in civilian courts.
720.24 Interviews and depositions in connection with civil litigation in matters pertaining to official duties.
720.25 Repossession of personal property.
720.26–720.29 [Reserved]

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Subpart A—Delivery of Personnel

§ 720.1 Delivery of persons requested by state authorities in criminal cases.

Subpart A of this part deals with requests by State authorities for the surrender of members or civilians pursuant to arrest warrants or similar process, generally in connection with a criminal prosecution. Responding to such requests by a State for delivery of members or civilian employees involves balancing the Federal interest in preserving sovereign immunity and the productivity, peace, good order, and discipline of the installation against the right of the State to exercise its jurisdiction. Additionally, by regulation, naval and Marine authorities are limited in the extent to which they can directly assist such an act. Commands should respond to such requests as set out below, generally using the minimum authority necessary to preserve the Federal interests without unduly restricting State jurisdiction.

§ 720.2 Delivery when persons are within the territorial limits of the requesting state.

When the delivery of any member or civilian is requested by local civil authorities of a State for an offense punishable under the laws of that jurisdiction, and such person is located at a Navy or Marine Corps installation within the requesting jurisdiction, or aboard a ship within the territorial waters of such jurisdiction, commanding officers are authorized to and normally will deliver such person when a proper warrant is issued. In the case of a member, delivery will only be effected upon compliance with § 720.6, subject to the exceptions in § 720.9. A judge advocate of the Navy or Marine Corps should be consulted before delivery is effected. The rule discussed above applies equally to civilian employees and civilian contractors and their employees when located on a Navy or Marine Corps installation, except that compliance with § 720.6 and consideration of § 720.9 are not required (for purposes of this part, "State" includes the District of Columbia, territories, commonwealths, and all possessions or protectorates of the United States). Commands should normally not become actively involved in civilian law enforcement. When a command has determined that a person is to be delivered in response to a valid warrant, the following guidance should be considered. If the person to be delivered is a military member, the member may be ordered to report to a location designated by the commanding officer and surrendered to civil authorities under Article 14, UCMJ (10 U.S.C. 814). If the person to be delivered is a civilian, the person may be invited to report to the designated space for delivery. If the civilian refuses, the civilian authorities may be escorted to a place where the civilian is located in order that delivery may be effected. A civilian may be directed to leave a classified area. All should be done with minimum interference to good order and discipline.

§ 720.3 Delivery when persons are beyond territorial limits of the requesting state.

(a) *General.* When State civil authorities request delivery of any member of the Navy or Marine Corps for an alleged crime or offense punishable under the law of the jurisdiction making the request, and such member is not attached to a Navy or Marine Corps activity within the requesting State or a ship within the territorial waters thereof, the following action will be taken. Any officer exercising general court-martial jurisdiction, or officer designated by him, or any commanding officer, after consultation with a judge advocate of the Navy or Marine Corps, is authorized (upon compliance with the provisions of this section and § 720.6, and subject to the exceptions in § 720.9) to deliver such member to make the member amenable to prosecution. The member may be delivered upon formal or informal waiver of extradition in accordance with § 720.3(b), or upon presentation of a fugitive warrant, in which case the procedures of § 720.3(c) apply. The rule discussed above applies equally to civilian employees and civilian contractors and their employees when located on a Department of the Navy installation not within the requesting State, except that compliance with § 720.6 and consideration of § 720.9 are not required.

(b) *Waiver of extradition.* (1) Any member may waive formal extradition. A waiver must be in writing and be witnessed. It must include a statement that the member signing it has received counsel of either a military or civilian attorney prior to executing the waiver, and it must further set forth the name and address of the attorney consulted.

(2) In every case where there is any doubt as to the voluntary nature of a waiver, such doubt shall be resolved against its use and all persons concerned will be advised to comply with the procedures set forth in § 720.3(c).

(3) Executed copies of all waivers will be mailed to the Judge Advocate General immediately after their execution.

(4) When a member declines to waive extradition, the nearest Naval Legal Service Office or Marine Corps staff judge advocate shall be informed and shall confer with the civil authorities as appropriate. The member concerned shall not be transferred or ordered out of the State in which he is then located without the permission of the Secretary of the Navy (Judge Advocate General), unless a fugitive warrant is obtained as set forth in § 720.3(c).

(c) *Fugitive warrants.* (1) A fugitive warrant, as used in this chapter, is a warrant issued by a State court of competent jurisdiction for the arrest of a member. Normally, a State requesting delivery of a member from another State will issue a fugitive warrant to the State where the member is then located.

(2) Upon issuance of a fugitive warrant by the requesting State to the State in which the member is located, the latter State will normally request delivery of the member to local State authorities. Delivery to local State authorities should be arranged by Navy or Marine Corps officers designated in § 720.3(a), upon compliance with the provisions of § 720.6, and subject to the conditions of §§ 720.9 and 720.3(c) (3) and (4).

(3) Upon receipt of a request for delivery of a member under fugitive warrant to State authorities, if the member voluntarily waives extradition, the provisions of § 720.3(b) apply. If the member is delivered to local authorities but refuses to waive extradition in the courts of the State in which he is located.

(4) No delivery of a member by Navy or Marine Corps officers pursuant to a fugitive warrant or waiver of extradition shall be effected without completion of the agreement required by § 720.6 and execution of such agreement either:

(i) By authorities of both the requesting State and the State in which the member is located, or

(ii) By authorities of the State in which the member is located if such authorities, on behalf of the requesting State, accept the full responsibility for returning the number to a command designated by the Department of the Navy.

(d) *Members stationed outside the United States.* When the member sought by State authorities is not located within the United States, see § 720.4.

§ 720.4 Persons stationed outside the United States.

(a) *Persons desired by local U.S. authorities.* When delivery of any member in the Navy or Marine Corps, or any civilian employee or dependent, is desired for trial by state authorities and the individual whose presence is sought is stationed outside the United States, the provisions of subpart D of this part will be followed. In all such cases, the nearest judge advocate of the Navy or Marine Corps shall be consulted before any action is taken.

(b) *Members desired by U.S. Federal authorities.* When delivery of any member of the Navy or Marine Corps is desired for trial in a Federal district court, upon appropriate representation by the Department of Justice to the Secretary of the Navy (Judge Advocate General), the member will be returned to the United States at the expense of the Department of the Navy and held at a military facility convenient to the Department of the Navy and to the Department of Justice. Delivery may be accomplished as set forth in § 720.7, subject to the exceptions in § 720.9.

§ 720.5 Authority of the Judge Advocate General and the General Counsel.

(a) *Authority of the Judge Advocate General.* The Judge Advocate General, the Deputy Judge Advocate General, and the Assistant Judge Advocates General are authorized to act for the Secretary of the Navy in performance of functions under this chapter.

(b) *Authority of the General Counsel.* The authority of the General Counsel of the Navy is prescribed by Navy Regulation (32 CFR 700.203 (a) and (g)) and by appropriate departmental directives and instructions (e.g., SECNAVINST 5430.25D).[1] The principal areas of responsibility of the Office of the General Counsel (OGC) are commerical law, including maritime contract matters; civilian employee law; real property law; and Freedom of Information Act and Privacy Act matters as delineated in 32 CFR part 701. The Office of the General Counsel shares responsibility with the Judge Advocate General for environmental law cases.

(c) *Points of contact.* Commanding officers are advised to contact their local area judge advocates for assistance in referring matters to the appropriate office of the Judge Advocate General or General Counsel.

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[1] Copies may be obtained if needed, from the Commanding Officer, Naval Publication and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120.

(d) *Coordination with the Commandant of the Marine Corps.* Marine Corps commands shall inform the Commandant of the Marine Corps (CMC) of all matters referred to the Judge Advocate General or the Office of General Counsel. Copies of all correspondence and documents shall also be provided to CMC. The Staff Judge Advocate to the Commandant (CMC (JAR)) shall be advised of all matters referred to the Judge Advocate General. Counsel to the Commandant shall be advised of matters referred to the Office of General Counsel.

§ 720.6 Agreement required prior to delivery to state authorities.

(a) *Delivery under Article 14, UCMJ.* When delivery of any member of the Navy or Marine Corps to the civilian authorities of a State is authorized, the member's commanding officer shall, before making such delivery, obtain from the Governor or other duly authorized officer of such State a written agreement. The State official completing the agreement must show that he is authorized to bind the State to the terms of the agreement. When indicating in the agreement the naval or Marine Corps activity to which the member delivered is to be returned by the State, care should be taken to designate the closest appropriate activity (to the command to which the member is attached) that possesses special court-martial jurisdiction. The Department of the Navy considers this agreement substantially complied with when:

(1) The member is furnished transportation (under escort in cases of delivery in accordance with § 720.12) to a naval or Marine Corps activity as set forth in the agreement;

(2) The member is provided cash to cover incidental expenses en route thereto; and

(3) The Department of the Navy is so informed.

As soon as practicable, a copy of the delivery agreement shall be forwarded to the Judge Advocate General.

(b) *Delivery under Interstate Agreement on Detainers Act.* Special forms are used when delivering prisoners under the Interstate Agreement on Detainers Act. The Act is infrequently used and most requests are pursuant to Article 14, UCMJ. See § 720.12 for a detailed discussion of the Detainers Act.

§ 720.7 Delivery of persons to Federal authorities.

(a) *Authority to deliver.* When Federal law enforcement authorities display proper credentials and Federal warrants for the arrest of members, civilian employees, civilian contractors and their employees, or dependents residing at or located on a Department of the Navy installation, commanding officers are authorized to and should allow the arrest of the individual sought. The exceptions in § 720.9 may be applied to members. A judge advocate of the Navy or Marine Corps should be consulted before delivery is effected.

(b) *Agreement not required of Federal authorities.* The agreement described in § 720.6 is not a condition to the delivery of members to Federal law enforcement authorities. Regardless of whether the member is convicted or acquitted, after final disposition of the case, the member will be returned to the Naval Service (provided that naval authorities desire his return) and the necessary expenses will be paid from an appropriation under the control of the Department of Justice.

§ 720.8 Delivery of persons to foreign authorities.

Except when provided by agreement between the United States and the foreign government concerned, commanding officers are not authorized to deliver members or civilian employees of the Department of the Navy, or their dependents residing at or located on a naval or Marine Corps installation, to foreign authorities. When a request for delivery of these persons is received in a country with which the United States has no agreement or when the commanding officer is in doubt, advice should be sought from the Judge Advocate General. Detailed information concerning the delivery of members, civilian employees, and dependents to foreign authorities when a status of forces agreement is in effect is contained in DoD Directive 5525.1 of 9 April 1985 and SECNAVINST 5820.4F.[2]

§ 720.9 Circumstances in which delivery is refused.

(a) *Disciplinary proceedings pending.* When disciplinary proceedings involving military offenses are pending, commanding officers should obtain legal guidance from a judge advocate of the Navy or Marine Corps prior to delivery of members to Federal or State authorities.

(b) *When delivery may be refused.* Delivery may be refused only in the following limited circumstances:

(1) Where the accused has been retained for prosecution; or

(2) When the commanding officer determines that extraordinary circumstances exist which indicate that delivery should be refused.

(c) *Delivery under Detainers Act.* When the accused is undergoing sentence of a court-martial, see § 720.12.

(d) *Reports required.* When delivery will be refused, the commanding officer shall report the circumstances to the Judge Advocate General by telephone, or by message if telephone is impractical. The initial report shall be confirmed by letter setting forth a full statement of the facts. A copy of the report shall be forwarded to the regional coordinator.

§ 720.10 Members released by civil authorities on bail or on their own recognizance.

A member of the Navy or Marine Corps arrested by Federal or State authorities and released on bail or on his own recognizance has a duty to return to his parent organization. Accordingly, when a member of the Navy or Marine Corps is arrested by Federal or State authorities and returns to his ship or station on bail, or on his own recognizance, the commanding officer, upon verification of the attesting facts, date of trial, and approximate length of time that should be covered by the absence, shall grant liberty or leave to permit appearance for trial, unless this would have a serious negative impact on the command. In the event that liberty or leave is not granted, a judge advocate of the Navy or Marine Corps should immediately be requested to act as liaison with the court. Nothing in this section is to be construed as permitting the member arrested and released to avoid the obligations of bond or recognizance by reason of the member's being in the military service.

§ 720.11 Interviewing servicemembers or civilian employees by federal civilian investigative agencies.

Requests by the Federal Bureau of Investigation, Naval Investigative Service Command, or other Federal civilian investigative agencies to interview members or civilian employees of the Department of the Navy suspected or accused of crimes should be promptly honored. Any refusal of such a request shall be immediately reported to the Judge Advocate General, or the Office of General Counsel, as appropriate, by telephone, or by message if telephone is impractical. When the employee in question is a member of an exclusive bargaining unit, a staff judge advocate or General Counsel attorney will be consulted to determine whether the employee has a right to have a bargaining unit representative present during the interview.

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[2] See footnote 1 of § 720.5(b).

§ 720.12 Request for delivery of members serving sentence of court-martial.

(a) *General.* Article 14, UCMJ (10 U.S.C. 814), provides authority to honor requests for delivery of members serving a sentence of a court-martial. Although seldom utilized, additional authority and mandatory obligation to deliver such members are provided by the Interstate Agreement on Detainers Act (18 U.S.C. app. 9, hereinafter "the Act"), which applies to the Federal agency holding the prisoner. The Department of the Navy, as an agency of the Federal Government, shall comply with the Act. The Act is designed to avoid speedy-trial issues and to aid in rehabilitation efforts by securing a greater degree of certainty about a prisoner's future. The Act provides a way for a prisoner to be tried on charges pending before State courts, either at the request of the State where the charges are pending or the prisoner's request. When refusal of delivery under Article 14, UCMJ, is intended, comply with § 720.9(d).

(b) *Interstate Agreement on Detainers Act.* Upon request under the Act by either State authorities or the prisoner, the cognizant Navy or Marine Corps staff judge advocate, as appropriate, shall communicate with the appropriate State officials, and monitor and ensure that the cognizant commander acts on all such requests. The Act provides that court-martial sentences continue to run during temporary custody. This section does not cover requests between Federal authorities. The procedure set forth in § 720.12(c) shall be applied in such cases.

(1) *State request.* State officials may request delivery of prisoners in military custody under section 2, Article IV, of the Act. Where a detainer has been lodged against the prisoner, and the prisoner is serving a sentence (regardless of whether an appeal is in process), delivery is mandatory unless the request is disapproved by the Director of the Bureau of Prisons, Washington, DC, 20537 as the designee of the Attorney General for this purpose. 28 CFR 0.96(n). There has been no further delegation to military authority. The prisoner should be informed that he may request the Director of the Bureau of Prisons, Washington, DC 20537, within 30 days after such request is received, to deny the request. Upon the expiration of such 30-day period or upon the Director of the Bureau of Prisons' denial of the prisoner's request, whichever occurs first, the prisoner shall be delivered to the requesting authority.

(2) *Prisoner request.* The obligation to grant temporary custody under the Act also applies to prisoners' requests to be delivered to State authority. Section 2, Article III(c) of the Act requires the custodial official to inform the prisoner of the existence of any detainer and of the prisoner's right to request disposition. The prisoner's request is directed to the custodial official who must forward it to the appropriate prosecuting official and court, with a certificate of prisoner status as provided by Article III of the Act.

(c) *Article 14, UCMJ.* When a request for custody does not invoke the Interstate Agreement on Detainers Act, delivery of custody shall be governed by Article 14, UCMJ, and §§ 720.2 through 720.9. The request shall be honored unless, in the exercise of discretion, there is an overriding reason for retaining the accused in military custody, e.g., additional courts-martial are to be convened or the delivery would severely prejudice the prisoner's appellate rights. Execution of the agreement discussed in § 720.6 is a condition precedent to delivery to State authorities. It is not required before delivery to Federal authorities. See § 720.7. Unlike delivery under the Act, delivery of custody pursuant to Article 14, UCMJ, interrupts execution of the court-martial sentence.

§ 720.13 Request for delivery of members serving sentence of a state court.

(a) *General.* Ordinarily, members serving protracted sentences resulting from a State criminal conviction will be processed for administrative discharge by reason of misconduct. It may, however, be in the best interest of the Naval Service to retain a member charged with a serious offense, subject to military jurisdiction, to try the member by court-martial. The Navy may obtain temporary custody of incarcerated members for prosecution with a request to the State under the Interstate Agreement on Detainers Act. 18 U.S.C. app. 9. The Department of the Navy may use the Act in the same manner in which State authorities may request members pursuant to § 720.12.

(b) *Interstate Agreement on Detainers Act.* Military authorities may use the Act to obtain temporary custody of a member incarcerated in a State institution, pursuant to conviction by a State court, to resolve criminal charges against the member before a court-martial.

(1) *Detainer.* If a command requests temporary custody under the Act, the commanding officer of the cognizant naval legal service office or the Marine Corps staff judge advocate, shall file a detainer with the warden, commissioner of corrections, or other State official having custody of the member. The detainer shall identify the member with particularity, enumerate the military charges pending, and request the command be notified in advance of any intention to release the member from confinement.

(2) *Request for delivery.* As soon as practical after filing the detainer, the commanding officer of the cognizant naval legal service office or the Marine Corps staff judge advocate, shall prepare a written request for temporary custody of the member addressed to the State official charged with administration of the State penal system. The request shall designate the person(s) to whom the member is to be delivered and shall be transmitted via the military judge to whom the member's case has been assigned. If the request is properly prepared, the military judge shall approve, record, and transmit the request to the addressee official. The Act provides the State with a 30-day period after receipt of the request before the request is to be honored. Within that period of time, the governor of the State may disapprove the request, either unilaterally or upon the prisoner's request. If the governor disapproves the request, the command should coordinate any further action with the Judge Advocate General.

(3) *Responsibilities.* The cognizant command shall ensure that the responsibilities of a receiving jurisdiction, delineated in section 2, Article IV of the Act, are discharged. In particular, the Act requires that the receiving jurisdiction:

(i) Commence the prisoner's trial within 120 days of the prisoner's arrival, unless the court, for good cause shown during an Article 39(a), UCMJ, session, grants a continuance necessary or reasonable to promote the ends of justice;

(ii) Hold the prisoner in a suitable jail or other facility regularly used for persons awaiting prosecution, except for periods during which the prisoner attends court or travels to or from any place at which his presence may be required;

(iii) Return the prisoner to the sending jurisdiction at the earliest practical time, but not before the charges that underlie the request have been resolved (prematurely returning the prisoner will result in dismissal of the charges); and

(iv) Pay all costs of transporting, caring for, keeping, and returning the prisoner to the sending jurisdiction, unless the command and the State agree on some other allocation of the costs or responsibilities.

§§ 720.14–720.19 [Reserved]

Subpart B—Service of Process and Subpoenas Upon Personnel

§ 720.20 Service of process upon personnel.

(a) *General.* Commanding officers afloat and ashore may permit service of process of Federal or State courts upon members, civilian employees, dependents, or contractors residing at or located on a naval installation, if located within their commands. Service will not be made within the command without the commanding officer's consent. The intent of this provision is to protect against interference with mission accomplishment and to preserve good order and discipline, while not unnecessarily impeding the court's work. Where practical, the commanding officer shall require that the process be served in his presence, or in the presence of a designated officer. In all cases, individuals will be advised to seek legal counsel, either from a legal assistance attorney or from personal counsel for service in personal matters, and from Government counsel for service in official matters. The commanding officer is not required to act as a process server. The action required depends in part on the status of the individual requested and which State issued the process.

(1) *In-State process.* When a process server from a State or Federal court from the jurisdiction where the naval station is located requests permission to serve process aboard an installation, the command ordinarily should not prevent service of process so long as delivery is made in accordance with reasonable command regulations and is consistent with good order and discipline. Withholding service may be justified only in the rare case when the individual sought is located in an area under exclusive Federal jurisdiction not subject to any reservation by the State of the right to serve process. Questions on the extent of jurisdiction should be referred to the staff judge advocate, command counsel, or local naval legal service office. If service is permitted, an appropriate location should be designated (for example, the command legal office) where the process server and the member or employee can meet privately in order that process may be served away from the workplace. A member may be directed to report to the designated location. A civilian may be invited to the designated location. If the civilian does not cooperate, the process server may be escorted to the location of the civilian in order that process may be served. A civilian may be required to leave a classified area in order that the process server may have access to the civilian. If unusual circumstances require that the command not permit service, see § 720.20(e).

(2) *Out-of-State process.* In those cases where the process is to be served by authority of a jurisdiction other than that where the command is located, the person named is not required to accept process. Accordingly, the process server from the out-of-State jurisdiction need not be brought face-to-face with the person named in the process. Rather, the process server should report to the designated command location while the person named is contacted, apprised of the situation, and advised that he may accept service, but also may refuse. In the event that the person named refuses service, the process server should be so notified. If service of process is attempted from out-of-State by mail and refused, the refusal should be noted and the documents returned to the sender. Questions should be referred to the staff judge advocate, command counsel, or the local naval legal service office.

(b) *Service of process arising from official duties.* (1) Whenever a member or civilian employee of the Department of the Navy is served with process because of his official position, the Judge Advocate General or the Associate General Counsel (Litigation), as appropriate, shall be notified by telephone, or by message if telephone is impractical. Notification shall be confirmed by a letter report by the nearest appropriate command. The letter report shall include the detailed facts which give rise to the action.

(2) Any member or civilian employee served with Federal or State court civil or criminal process or pleadings (including traffic tickets) arising from actions performed in the course of official duties shall immediately deliver all such process and pleadings to the commanding officer. The commanding officer shall ascertain the pertinent facts and notify the Judge Advocate General or Associate General Counsel (Litigation), as appropriate, by telephone or by message if telephone is impractical, of the service and immediately forward the pleadings and process to the relevant office. The member or civilian employee will be advised of the right to remove civil or criminal proceedings from State to Federal court under 28 U.S.C. 1442, 1442a, rights under the Federal Employees Liability Reform and Tort Compensation Act (28 U.S.C. 2679b), if applicable, and the right of a Federal employee to request representation by Department of Justice attorneys in Federal (civil) or State (civil or criminal) proceedings and in congressional proceedings in which that person is sued in an individual capacity, as delineated in 28 CFR 50.15. Requests for representation shall be addressed to the Judge Advocate General or Associate General Counsel (Litigation), as appropriate, and shall be endorsed by the commanding officer, who shall provide all necessary data relating to the questions of whether the person was acting within the course of official duty or scope of employment at the time of the incident out of which the suit arose.

(3) If the service of process involves a potential claim against the Government, see 32 CFR 750.12(a), 750.12(b), and 750.24. The right to remove to Federal Court under 28 U.S.C. 1442 and 1442a must be considered where the outcome of the State court action may influence a claim or potential claim against the United States. Questions should be directed to the Judge Advocate General or the Associate General Counsel (Litigation).

(c) *Service of process of foreign courts.* (1) Usually, the amenability of members, civilian employees, and their dependents stationed in a foreign country, to the service of process from courts of the host country will have been settled by an agreement between the United States and the foreign country concerned (for example, in the countries of the signatory parties, amenability to service of civil process is governed by paragraphs 5(g) and 9 of Article VIII of the NATO Status of Forces Agreement, TIAS 2846). When service of process on a person described above is attempted within the command in a country in which the United States has no agreement on this subject, advice should be sought from the Judge Advocate General or the Associate General Counsel (Litigation), as appropriate. When service of process is upon the United States Government or one of its agencies or instrumentalities as the named defendant, the doctrine of sovereign immunity may allow the service of process to be returned to the court through diplomatic channels. Service of process directed to an official of the United States, on the other hand, must always be processed in accordance with the applicable international agreement or treaty, regardless of whether the suit involves acts performed in the course of official duties. The Judge Advocate General or the Associate General Counsel (Litigation), as appropriate, will arrange through the Department of Justice for defense of the suit against the United States or an official acting within the scope of official duties, or make other arrangements, and will issue instructions.

(2) Usually, the persons described in § 720.20(c)(1) are not required to accept service of process outside the geographic limits of the jurisdiction of the court from which the process issued. In such cases, acceptance of the service is not compulsory, but service may be voluntarily accepted in accordance with § 720.20(b). In exceptional cases when the United States has agreed that service of process will be accepted by such persons when located outside the geographic limits of the jurisdiction of the court from which the process issued, the provisions of the agreement and of § 720.20(a) will govern.

(3) Under the laws of some countries (such as Sweden), service of process is effected by the document, in original or certified copy, being handed to the person for whom the service is intended. Service is considered to have taken place even if the person refuses to accept the legal documents. Therefore, if a commanding officer or other officer in the military service personally hands, or attempts to hand, that person the document, service is considered to have been effected, permitting the court to proceed to judgment. Upon receipt of foreign process with a request that it be served upon a person described in § 720.20(c)(1), a commanding officer shall notify the person of the fact that a particular foreign court is attempting to serve process and also inform that person that the process may be ignored or received. If the person to be served chooses to ignore the service, the commanding officer will return the document to the embassy or consulate of the foreign country with the notation that the commanding officer had the document, that the person chose to ignore it, and that no physical offer of service had been made. The commanding officer will advise the Judge Advocate General or the Associate General Counsel (Litigation), as appropriate, of all requests for service of process from a foreign court and the details thereof.

(d) *Leave or liberty to be granted persons served with process.* When members or civilian employees are either served with process, or voluntarily accept service of process, in cases where the United States is not a party to the litigation, the commanding officer normally will grant leave or liberty to the person served to permit compliance with the process, unless to do so would have an adverse impact on naval operations. When a member or civilian employee is a witness for a nongovernmental party because of performance of official duties, the commanding officer may issue the person concerned permissive orders authorizing attendance at the trail at no expense to the Government. The provisions of 32 CFR part 725 must also be considered in such cases. Members or civilian employees may accept allowances and mileage tendered; however, any fees tendered for testimony must be paid to the Department of the Navy unless the member or employee is on authorized leave while attending the judicial proceeding. When it would be in the best interests of the United States Government (for example, in State criminal trails), travel funds may be used to provide members and civilian employees as witnesses as provided in the Joint Federal Travel Regulations. Responsibility for the payment of the member's mileage and allowances will be determined pursuant to the Joint Federal Travel Regulations, Volume 1, paragraph M6300, subsections 1–3.[3]

(e) *Report where service not allowed.* Where service of process is not permitted, or where the member or civilian employee is not given leave, liberty, or orders to attend a judicial proceeding, a report of such refusal and the reasons therefor shall be made by telephone, or message if telephone is impractical, to the Judge Advocate General or the Associate General Counsel (Litigation), as appropriate.

§ 720.21 Members or civilian employees subpoenaed as witnesses in state courts.

Where members or civilian employees are subpoenaed to appear as witnesses in State courts, and are served as described in §§ 720.20, 720.20(d) applies. If these persons are requested to appear as witnesses in State courts when the interests of the Federal Government are involved (e.g., Medical Care Recovery Act cases), follow the procedures described in § 720.22. If State authorities are attempting to obtain the presence of a member or a civilian employee as a witness in a civil or criminal case, and such person is unavailable because of an overseas assignment, the command should immediately contact the Judge Advocate General, or the Associate General Counsel (Litigation), as appropriate.

§ 720.22 Members or civilian employees subpoenaed as witnesses in Federal courts.

(a) *Witnesses on behalf of Federal Government.* When members or civilian employees of the Department of the Navy are required to appear as witnesses in a Federal Court to testify on behalf of the Federal Government in cases involving Department of the Navy activities, the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, will issue temporary additional duty orders to that person. The charges for such orders will be borne by the activity to which the required witness is attached. Payment to witnesses will be as provided by the Joint Federal Travel Regulations and U.S. Navy travel instructions. If the required witness is to appear in a case in which the activities of the Department of the Navy are not involved, the Department of the Navy will be reimbursed in accordance with the procedures outlined in the Navy Comptroller Manual, section 046268.

(b) *Witnesses on behalf of nongovernmental parties*—(1) *Criminal actions.* When members or civilian employees are served with a subpoena to appear as a witness for a defendant in a criminal action and the fees and mileage required by rule 17(d) of the Federal Rules of Criminal Procedure are tendered, the commanding officer may issue the person subpoenaed permissive orders authorizing attendance at the trial at no expense to the Government, unless the person's absence would have an adverse impact on naval operations. In such a case, a full report of the circumstances will be made to the Judge Advocate General or, in the case of civilian employees, to the Associate General Counsel (Litigation). In those cases where fees and mileage are not tendered as required by rule 17(d) of the Federal Rules of Criminal Procedure, but the person subpoenaed still desires to attend, the commanding officer also may issue permissive orders at no cost to the Government. Such persons, however, should be advised that an agreement as to reimbursement for any expenses incident to travel, lodging, and subsistence should be effected with the party desiring their attendance and that no reimnbursement should be expected from the Government.

(2) *Civil actions.* When members or civilian employees are served with a subpoena to appear as a witness on the behalf of a nongovernmental party in a civil action brought in a Federal court, the provisions of § 720.20 apply.

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[3] See footnote 1 of § 720.5(b).

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§ 720.23 Naval prisoners as witnesses or parties in civilian courts.

(a) *Criminal actions.* When Federal or State authorities desire the attendance of a naval prisoner as a witness in a criminal case, they should submit a written request for such person's attendance to the Judge Advocate General. The civilian authority should include the following averments in its request:

(1) That the evidence to be derived from the prisoner's testimony is unavailable from any other source:

(2) That the civilian authority will provide adequate security arrangements for the prisoner and assume responsibility for the prisoner while he is in its custody; and

(3) that the civilian authority will assume all costs of transporting the prisoner from the brig, of maintaining that prisoner while in civilian custody, and of returning the prisoner to the brig from which he was removed.

The civilian authority should also include in its request an estimate of the length of time the prisoner's services will be required, and should specify the mode of transport by which it intends to return the prisoner. Upon receipt of such a request, authority by the Judge Advocate General will be given, in a proper case, for the production of the requested naval prisoner in court without resort to a writ of habeas corpus ad testificandum (a writ which requires the production of a prisoner to testify before a court of competent jurisdiction).

(b) *Civil actions.* The Department of the Navy will not authorize the attendance of a naval prisoner in a Federal or State court, either as a party or as a witness, in private litigation pending before such a court. The deposition of a naval prisoner may be taken in such a case, subject to reasonable conditions or limitations imposed by the command concerned.

§ 720.24 Interviews and depositions in connection with civil litigation in matters pertaining to official duties.

Requests to interview, depose, or call as witnesses, current or former members or civilian employees of the Department of the Navy, regarding information obtained in the course of their official duties, including expert testimony related thereto, shall be processed in accordance with 32 CFR Part 725.

§ 720.25 Repossession of personal property.

Repossession of personal property, located on a Navy or Marine Corps installation, belonging to a member or to any dependent residing at or located on a Department of the Navy installation, may be permitted in the discretion of the commanding officer of the installation where the property is located, subject to the following. The documents purporting to authorize repossession and the procedures for repossessing the property must comply with State law. Prior to permitting physical repossession of any property, the commanding officer shall cause an informal inquiry into the circumstances and then determine whether to allow the repossession. If repossession is to be allowed, the person whose property is to be repossessed should be asked if he wishes to relinquish the property voluntarily. Repossession must be carried out in a manner prescribed by the commanding officer. In the case of property owned by civilian employees of the Department of the Navy or civilian contractors or their employees or dependents, the commanding officer should direct that the disputed property be removed from the installation until the commanding officer is satisfied that the dispute is resolved.

§§ 720.26–720.29 [Reserved]

Dated: January 31, 1992.

Wayne T. Baucino,

Lieutenant, JAGC, U.S. Naval Reserve, Alternate Federal Register Liaison Officer.

[FR Doc. 92–3465 Filed 2–12–92; 8:45 am]

BILLING CODE 3810-AE-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

48 CFR Parts 701, 705, 706, 731, 749, and 752

[AIDAR Notice 92–2]

Miscellaneous Amendments

AGENCY: Agency for International Development, IDCA.

ACTION: Final rule.

SUMMARY: The Agency for International Development Acquisition Regulation (AIDAR) is being amended to make miscellaneous editorial and administrative changes.

EFFECTIVE DATE: March 16, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. James M. Kelly, FA/PPE, room 1600I, SA–14, Agency for International Development, Washington, DC 20523–1435, Telephone (703) 875–1534.

SUPPLEMENTARY INFORMATION: A brief summary of the changes being made to the AIDAR follows:

Section 701.105 which lists AIDAR information collections together with their OMB approval number, approval expiration date and burden estimate is being re-formatted, and one additional previously approved item is being added. This is a non-substantive editorial change.

Section 705.202(b)(2) is being removed as redundant. The exemption in 705.202(b)(1) is considered to cover the same subject matter. This is considered a non-substantive editorial change.

Section 706.302–70(b)(2) (the exception to full and open competition requirements based on impairment of foreign aid programs) has been amended to increase the exception for awards by an overseas contracting activity from $100,000 to $250,000. This change reflects an adjustment for inflation and an increase which will help reduce the administrative burden on AID's contracting officers overseas without significantly affecting contracting opportunities by U.S. small business. Based on dollar figures developed by the GAO and reports submitted to the AID Competition Advocate, increasing the exception from $100,000 to $250,000 will exempt approximately another 6% of the actions awarded overseas, but will still leave approximately 93% of the dollars spent on contracts overseas outside of this exemption. This proposed change was coordinated with the Small Business Administration, which concurred with the proposed change and concluded that increasing the exception from $100,000 to $250,000 would not be detrimental to small business interests.

Various sections in part 731 (cost principles) have been revised/amended to make them briefer, eliminate repetition, and make them clearer. All of the changes are considered editorial and non-substantive.

Section 749.111–71(a) has required that termination settlements over $50,000 be reviewed by the AID Settlement Review Board. Based on experience with proposed settlements, considering the levels of contracting authority within AID, and allowing for inflation, the Agency has decided to increase the review threshold from $50,000 to $100,000. This is considered an internal administrative change with no effect outside of the Agency.

The introductory statements to AID's contract clauses (sections 752.200 and 752.7000) are being amended to incorporate reference to AIDAR Appendix J concerning personal services contracts with cooperating country and third country nationals, in addition to the existing reference to Appendix D concerning U.S. personal services contracts. This is a non-substantive editorial change.

In section 752.7015, the address for contractor mail being sent via diplomatic pouch is being updated. This is an editorial change.

A new contract clause requiring that AID be acknowledged in publications funded under AID contracts, and that such acknowledgements include a disclaimer that opinions expressed do not necessarily represent the views of AID is being added as section 752.7034. This is considered an administrative change without significant impact on our contractors.

A new contract clause encouraging contractors to publicly announce receipt of the contract, and of subsequent progress or significant accomplishments is being added as section 752.7035. This is an optional clause for use when the technical office believes it to be appropriate. This is considered an administrative change without significant impact on our contractors.

The changes being made by this Notice are editorial and administrative and are not considered significant rules under FAR section 1.301 or subpart 1.5, nor major rules as defined in Executive Order 12291. This Notice will not have an impact on a substantial number of small entities, nor does it establish any information collection as contemplated by the Regulatory Flexibility Act and Paperwork Reduction Act. Because of the nature and subject matter of this Notice, use of the proposed rule/public comment approach was not considered necessary. We decided to issue as a final rule; however, we welcome public comment on the material covered by this Notice or any other part of the AIDAR at any time. Comments or questions may be addressed as specified in the "FOR FURTHER INFORMATION CONTACT" section of the preamble.

List of Subjects in 48 CFR Parts 701, 705, 706, 731, 749, and 752

Government procurement.

Accordingly, for the reasons set out in the Preamble, 48 CFR chapter 7 is amended as follows:

1. The authority citation for parts 701, 705, 706, 731, 749, and 752 continues to read as follows:

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445 (22 U.S.C. 2381), as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673, 3 CFR 1979 Comp., p. 435.

PART 701—FEDERAL ACQUISITION REGULATION SYSTEM

Subpart 701.1—Purpose, Authority, Issuance

2. Paragraph (a) of section 701.105 is revised to read as follows:

701.105 OMB approval under the Paperwork Reduction Act.

(a) The following information collection and recordkeeping requirements established by AID have been approved by OMB, and assigned an OMB control number and approval/expiration dates as specified below:

AIDAR segment	OMB control no.	Expiration date	Burden hours per report
733.7003(c)	0412-0520	Oct. 31, 1993.	40
752.209-70	0412-0520	do	4
752.219-8	0412-0520	do	1
752.245-70	0412-0520	do	1
752.245-71	0412-0520	do	1
752.7001(a)	0412-0520	do	.5
752.7001(b)	0412-0520	do	.5
752.7002(j)	0412-0520	do	1
752.7003	0412-0520	do	8
752.7004(b)(4)	0412-0520	do	.5
752.7032	0412-0520	do	2
752.7033	0412-0536	May 31, 1992.	4

* * * * *

PART 705—PUBLICIZING CONTRACT ACTIONS

Subpart 705.2—Synopsis of Proposed Contract Actions

3. Paragraph (b) of section 705.202 is revised to read as follows:

705.202 Exceptions.

* * * * *

(b) The head of the Agency for International Development has determined after consultation with the Administrator for Federal Procurement Policy and the Administrator of the Small Business Administration, that advance notice is not appropriate or reasonable for contract actions described in 706.302-70(b)(1) through (b)(3).

* * * * *

PART 706—COMPETITION REQUIREMENTS

Subpart 706.3—Other Than Full and Open Competition

706.302-70 [Amended]

4. Paragraph (b)(2) of section 706.302-70, impairment of foreign aid programs, is amended by removing "$100,000" and adding "$250,000".

PART 731—CONTRACT COST PRINCIPLES AND PROCEDURES

Subpart 731.2—Contracts With Commercial Organizations

5. Section 731.205-6 is revised as follows:

731.205-6 Compensation for personal services.

(a) *General.* When establishing the workweek for employees overseas the contractor will take local and AID Mission practice into account and will insure that the workweek is compatible with that of those AID Mission and Cooperating Country employees with whom the contractor will be working.

(b) and (c) [Reserved].

(d) *Salaries and wages.* It is AID policy that if an employee's base salary

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plus overseas recruitment incentive, if any (see AIDAR 731.205–70), exceeds the maximum hourly, daily, or annual rate for a Foreign Service Officer Class FS–1, it will be allowable only if approved in writing by the Contracting Officer. (AID procedures for review/approval of salaries in excess of the FS–1 rate are set forth in Appendix G to the AID Acquisition Regulation.) AID policies on compensation of third country national or cooperating country national employees are set forth in AIDAR 722.170.

(e) through (l) [Reserved].

(m) *Fringe benefits.* AID's policies on certain fringe benefits related to overseas service, including but not limited to leave, holidays, differentials and allowances, etc. are set forth in the appropriate contract clauses in AIDAR subpart 752.70.

6. Section 731.205–46 is revised as follows:

731.205–46 Travel costs.

It is AID policy to require prior written approval of international travel by the Contacting Officer. See AIDAR 752.7032 for specific requirements and procedures.

7. A new section 731.205–70 is added to read as follows:

731.205–70 Overseas recruitment incentive.

(Note; the term "employee" as used in this section means an employee who is a U.S. citizen or a U.S. resident alien.)

(a) If a contractor employee serving overseas under a contract does not qualify for the exemption for overseas income provided under section 911 of the U.S. Internal Revenue Code (26 U.S.C. 911), such employee is eligible to receive an overseas recruitment incentive (ORI), to the extent the ORI: Is authorized by the contractor's normal policy and practice; is deemed necessary by the contractor to recruit and retain qualified employees for overseas services; and does not exceed 10% of the base salary of the employee from date of arrival at overseas post to begin assignment to date of departure from post at the end of assignment. ORI is to be paid as a single payment at the end of the employee tour of duty overseas. The contractor shall take all reasonable and prudent steps to ensure that ORI is not paid to any employee who has received the IRS section 911 exemption.

(b) In the event that an employee subsequently receives a section 911 exclusion for any part of the base salary upon which this supplement has been paid, such supplement or appropriate portion thereof shall be reimbursed by the contractor to AID with interest. The interest shall be calculated at the average U.S. Treasury rate in effect for the period that the contractor or his employee had the funds. Neither the contractor's nor the subcontractor's inability to collect refunds from eligible employees shall be used as a basis to excuse subsequent refunds by the contractor to AID.

Subpart 731.3—Contracts With Educational Institutions

8. Section 731.371 is revised as follows:

731.371 Compensation for personal services.

(a) *General.* When establishing the workweek for employees overseas the contractor will take local and AID Mission practice into account and will ensure that the workweek is compatible with that of those AID Mission and Cooperating Country employees with whom the contractor will be working.

(b) *Salaries and wages.* (1) It is AID policy that if an employee's base salary plus overseas recruitment incentive, if any (see AIDAR 731.205–70), exceeds the maximum hourly, daily, or annual rate for a Foreign Service Officer Class FS–1, it will be allowable only if approved in writing by the Contracting Officer. (AID procedures for review/approval of salaries in excess of the FS–1 rate are set forth in Appendix G to the AID Acquisition Regulation.)

(2) In considering consulting income as a factor when determining allowable salary for service under a contract:

(i) For faculty members working under annual appointments, salary for service under the contract may include the employee's on-campus salary plus "consulting income" (that is, income from employment other than the employee's regular on-campus appointment, excluding business or other activities not connected with the employee's profession) earned during the year preceding employment under the contract.

(ii) For faculty members working under academic year appointments, salary for service under the contract may include the employee's on-campus academic year salary plus "consulting income" as defined above earned during the year proceeding employment under the contract, or salary for service under the contract may be derived by annualizing the academic year salary (in which case "consulting income" may not be included).

(3) AID policies and compensation of third country national or cooperating country national employees are set forth in AIDAR 722.170.

9. A new section 731.372 is added to read as follows:

731.372 Fringe benefits.

AID's policies on certain fringe benefits related to overseas service, including but not limited to leave, holidays, differentials and allowances, etc. are set forth in the appropriate contract clauses in AIDAR 752.70.

10. A new section 731.373 is added to read as follows:

731.373 Overseas recruitment incentive.

AID's policies regarding overseas recruitment incentives are set forth in AIDAR 731.205–70. These policies are also applicable to contracts with an educational institution.

Subpart 731.7—Contracts With Nonprofit Organizations

11. Section 731.772 is revised as follows:

731.772 Compensation for personal services.

The policies set for in AIDAR 731.205–6 are also applicable to contracts with a nonprofit organization.

12. A new section 731.774 is added to read as follows:

731.774 Overseas recruitment incentive.

AID's policies regarding overseas recruitment incentives are set forth in AIDAR 731.205–70. These policies are also applicable to contracts with a nonprofit organization.

PART 749—TERMINATION OF CONTRACTS

Subpart 749.1—General Policies

749.111–71 [Amended]

13. Paragraphs (a)(1) and (a)(2)(i) and (ii) of § 749.111–71, Required review and approval, are amended by removing "$50,000" and adding "$100,000".

PART 752—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Subpart 752.2—Texts of Provisions and Clauses

752.200 [Amended]

14. Section 752.200, Scope of subpart, is amended by adding the following to the last sentence of the section: "and AIDAR Appendix J—Direct AID Contracts with Cooperating Country Nationals and with Third Country Nationals for Personal Services Abroad."

Subpart 752.70—Texts of AID Contract Clauses

752.7000 [Amended]

15. Section 752.7000, Scope of subpart, is amended by adding the following to the last sentence of the section: "and AIDAR Appendix J—Direct AID Contracts with Cooperating Country Nationals and with Third Country Nationals for Personal Services Abroad."

752.7015 [Amended]

16. Section 752.7015, Use of Pouch Facilities, is amended by revising the contract clause date from "(APR 1984)" to "(JUNE 1991)", and by revising paragraph (a)(4) of the clause as follows:

752.7015 Use of Pouch Facilities.

* * * * *

(a) * * *

(4) Official mail as authorized by paragraph (c)(1) of this clause should be addressed as follows: Individual or Organization Name, followed by the symbol "(C)", City Name of Post, Agency for International Development, Washington, DC 20523–0001.

* * * * *

17. A new section 752.7034 is added to read as follows:

752.7034 Acknowledgement and disclaimer.

For use in any AID contract which funds or partially funds publications, videos, or other information/media products.

Acknowledgement and Disclaimer (Dec 1991)

(a) AID shall be prominently acknowledged in all publications, videos or other information/media products funded or partially funded through this contract, and the product shall state that the views expressed by the author(s) do not necessarily reflect those of AID. Acknowledgements should identify the sponsoring AID Office and Bureau or Mission as well as the U.S. Agency for International Development substantially as follows:

"This (publication, video or other information/media product (specify)) was made possible through support provided by the Office of ______, Bureau for ______, U.S. Agency for International Development, under the terms of Contract No. ______. The opinions expressed herein are those of the author(s) and do not necessarily reflect the views of the U.S. Agency for International Development."

(b) Unless the contractor is instructed otherwise by the cognizant technical office, publications, videos or other information/media products funded under this contract and intended for general readership or other general use will be marked with the AID logo and/or U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT appearing either at the top or at the bottom of the front cover or, if more suitable, on the first inside title page for printed products, and in equivalent/appropriate location in videos or other information/media products. Logos and markings of co-sponsors or authorizing institutions should be similarly located and of similar size and appearance.

(End of Clause.)

18. A new section 752.7035 is added to read as follows:

752.7035 Public Notices.

The following clause is for use when the cognizant technical office determines that the contract is of public interest, and that both the public and the Government would benefit from public notices concerning the contract, and requests that the Contracting Officer include the clause in the contract.

Public Notices (Dec 1991)

It is AID's policy to inform the public as fully as possible of its programs and activities. The contractor is encouraged to give public notice of the receipt of this contract and, from time to time, to announce progress and accomplishments. Press releases or other public notices should include a statement substantially as follows: "The U.S. Agency for International Development administers the U.S. foreign assistance program providing economic and humanitarian assistance in more than 80 countries worldwide." The contractor may call on AID's Office of External Affairs for advice regarding public Notices. The contractor is requested to provide copies of notices or announcements to the cognizant technical officer and to AID's Office of External Affairs as far in advance of release as possible.

(End of Clause.)

Dated: January 15, 1992.

John F. Owens,

Procurement Executive.

[FR Doc. 92–3235 Filed 2–12–92; 8:45 am]

BILLING CODE 6116-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1121

[Ex Parte No. 400 (Sub-No. 3)]

Rail Exemption Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Commission modifies 49 CFR 1121.4(g) to permit the Commission to set different time limits for filing petitions to stay and petitions to reopen when circumstances warrant. This technical amendment to its reissued exemption procedures in 49 CFR part 1121 is not intended to have any substantive effect on any person or proceeding.

EFFECTIVE DATE: This amendment is effective February 12, 1992.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927–5660, (TDD for hearing impaired: (202) 927–5721).

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to, call or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission, Washington, DC 20423. Telephone: (202) 289–4357/4359. (Assistance for the hearing impaired is available through TDD services (202) 927–5721.)

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

This action will have no significant effect on a substantial number of small entities.

List of Subjects in 49 CFR Part 1121

Administrative practice and procedure, Railroads.

Decided: February 6, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners, Simmons, Phillips, and Emmett.

Sidney L. Strickland, Jr.,

Secretary.

For the reasons set forth in the preamble, title 49, chapter X, part 1121 of the Code of Federal Regulations is amended as follows:

PART 1121—RAIL EXEMPTION PROCEDURES

1. The authority citation for part 1121 continues to read as follows:

Authority: 49 U.S.C. 10505; 5 U.S.C. 553.

2. In § 1121.4, paragraph (g) is revised to read as follows:

§ 1121.4 Procedures.

* * * * *

(g) An exemption generally will be effective 30 days from the service date of the decision granting the exemption. Unless otherwise provided in the decision, petitions to stay must be filed within 10 days of the service date, and petitions to reopen under 49 CFR part 1115 or 1152.25(e) must be filed within 20 days of the service date. A petition to reopen may include comments on the proposal, requests for employee protection, or other conditions.

* * * * *

[FR Doc. 92–3493 Filed 2–12–92; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 657

[Docket No. 920241-2041]

Atlantic Salmon Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule, technical amendment.

SUMMARY: NMFS issues this final rule implementing a technical amendment to change the address of the Regional Director, Northeast Region of the National Marine Fisheries Service in the regulations for the Atlantic Salmon Fishery.

EFFECTIVE DATE: February 13, 1992.

FOR FURTHER INFORMATION CONTACT: Austin R. Magill or David G. Deuel, NMFS, Recreational and Interjurisdictional Fisheries Division, 1335 East-West Highway, Silver Spring, MD 20910, telephone 301-713-2347.

SUPPLEMENTARY INFORMATION: Since regulations implementing the Fishery Management Plan for Atlantic Salmon were published, the Northeast Regional Office, NMFS, moved to new facilities at One Blackburn Drive, Gloucester, Massachusetts. This final rule, technical amendment, amends only the definition of "Regional Director" at 50 CFR 657.2 to reflect the new mailing address for the Director, Northeast Region, NMFS.

Under 5 U.S.C. 553(b)(B), notice and public comment on this final rule, technical amendment, are unnecessary because the final rule merely changes the mailing address for the Regional Director. Because no change in fishing practices is required as a result of this final rule, delaying its effectiveness for 30 days is also unnecessary.

Because this rule is being issued without prior comment, is not subject to the Regulatory Flexibility Act requirement for a regulatory flexibility analysis and none has been prepared.

This rule makes a minor technical change to a rule that has been determined not to be a major rule under Executive Order 12291, does not contain policies with federalism implications requiring assessment under Executive Order 12612, and does not contain a collection-of-information requirement for the purposes of the Paperwork Reduction Act. There is no change in the regulatory impacts previously reviewed and analyzed.

List of Subjects in 50 CFR Part 657

Fisheries, Fishing.

Dated: February 7, 1992.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 657 is amended as follows:

PART 657—ATLANTIC SALMON FISHERY

1. The authority citation for part 657 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 657.2, the definition of "Regional Director" is revised to read as follows:

§ 657.2 Definitions.

* * * * *

Regional Director means the Director, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930.

* * * * *

[FR Doc. 92-3489 Filed 2-12-92; 8:45 am]

BILLING CODE 3510-22-M

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50 CFR Part 675

[Docket No. 911172-2021]

Groundfish of the Bering Sea and Aleutian Islands

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Closure of directed fishing.

SUMMARY: NMFS is prohibiting directed fishing for the "other red rockfish" species group in the Bering Sea subarea (BS). This action is necessary to prevent the total allowable catch (TAC) for "other red rockfish" in the BS from being exceeded. The intent of this action is to promote optimum use of groundfish while conserving "other red rockfish" stocks.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), February 9, 1992, through 12 midnight, A.l.t., December 31, 1992.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, Resource Management Specialist, NMFS, 907-586-7228.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the groundfish Fishery of the Being Sea and Aleutian Islands (FMP) Groundfish Fishery governs the groundfish fishery in the exclusive economic zone in the Bering Sea (BS) and Aleutian Islands under the Magnuson Fishery Conservation and Management Act. The FMP was prepared by the North Pacific Fishery Management Council and is implemented by regulations appearing at 50 CFR 611.93 and part 675.

The amount of a species or species group apportioned to a fishery is defined as TAC at § 675.20(a)(2). Under the final notice of initial specifications (57 FR 3952, February 3, 1992), the TAC of "other red rockfish" for the BS was established as 1,400 metric tons (mt). Under § 675.20(a), 15 percent of the TAC (210 mt) was apportioned to a nonspecific reserve, leaving an initial TAC of 1,190 mt.

The Regional Director has determined that the entire TAC of "other red rockfish" will be necessary as bycatch in other directed fisheries. Under § 675.20(a)(8), NMFS is establishing a directed fishing allowance of 0 mt, and is prohibiting directed fishing for "other red rockfish" in the BS, effective 12 noon, A.l.t., February 9, 1992, through December 31, 1992.

After this closure in the BS subarea, in accordance with § 675.20(h):

(1) The operator of a vessel using trawl gear in the BS subarea may not retain on board at any particular time during a trip an amount of "other red rockfish" caught using trawl gear equal to or greater than 10 percent of the total amount of all sablefish and Greenland turbot retained at the same time on the vessel during the same trip plus 1 percent of the total amount of other fish species retained at the same time on the vessel during the same trip, all measured in round weight equivalents; and

(2) The operator of a vessel using other than trawl gear in the BS subarea may not retain on board at any particular time during a trip an amount of "other red rockfish" caught with other than trawl gear equal to or greater than 20 percent of the amount of all other fish species retained at the same time on the vessel during the same trip, all measured in round weight equivalents.

Classification

This action is taken under 50 CFR 675.20 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 7, 1992.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92-3403 Filed 2-7-92; 4:49 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 57, No. 30
Thursday, February 13, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 30 and 32

Offer and Sale of Foreign Exchange-Traded Options to Persons Located Outside the United States

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed order and request for comment.

SUMMARY: Pursuant to its authority under section 4c(b) [1] of the Commodity Exchange Act ("CEA" or "Act"), the Commodity Futures Trading Commission ("Commission") is proposing to provide relief under Commission rules 32.11 and 30.3(a) [2] to permit futures commission merchants ("FCMs") to solicit and accept orders and funds for foreign exchange-traded options as defined in Commission rule 30.1(b) [3] that have not been approved for trading in the United States from customers located outside the United States.[4] This proposed Order would not address transactions in foreign exchange-traded options based on a foreign stock index futures contract or foreign government debt futures contract and the restrictions thereon.[5]

DATES: Comments must be received by March 16, 1992.

ADDRESSES: Comments should be sent to the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581.

FOR FURTHER INFORMATION CONTACT: Jane C. Kang, Esq. or Robert Rosenfeld, Esq., Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Telephone (202) 254–8955.

SUPPLEMENTARY INFORMATION: The Commission is engaged in the on-going review of existing regulations in light of growing internationalization of the marketplace so as to continue to exercise its oversight responsibility of maintaining customer and market protection without unnecessarily or inappropriately restricting market development. As discussed below, Commission rules prohibit FCMs from acting as agents for customers located outside the United States in foreign option transactions. To the extent such transactions, if permitted, would not infringe a regulatory interest of the Commission, the current prohibition may be unnecessary. In this connection, section 4c(b) of the CEA affords the Commission plenary authority over option transactions.[6]

Commission rule 32.11 prohibits any person from soliciting or accepting orders for, or from soliciting or accepting funds in connection with, the purchase or sale of any option until further rule, regulation or order of the Commission. Among other things, rule 30.3(a) of the Commission's part 30 rules governing foreign futures and option transactions makes it unlawful for any person to engage in the domestic offer or sale of any foreign option contract until the Commission, by order, authorizes the foreign option to be offered or sold in the United States.[7] As a result, until the Commission has issued an Order permitting the offer or sale in the United States of a particular foreign option, rules 32.11 and 30.3(a) operate to prohibit an FCM from engaging in such foreign option transaction even on behalf of a customer located outside the United States.

In adopting a regulatory scheme to govern the offer or sale in the U.S. of foreign options,[8] the Commission was cognizant that certain unlawful practices historically had affected the offer and sale of commodity options in the United States.[9] Accordingly, the Commission determined to phase in such products on a market-by-market basis through review of applications submitted by individual markets and the issuance of authorization orders.[10] In determining whether to issue such an order, the Commission examines criteria intended to assure the protection of U.S. customers engaged in foreign option transactions on each foreign market for which such order is entered.[11]

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[1] Section 4c(b), 7 U.S.C. 6c(b), provides in relevant part that:

> No person shall offer to enter into, enter into or confirm the execution of, any transaction involving any commodity regulated under this Act which is of the character of, or is commonly known to the trade as, an option, privilege, indemnity, bid, offer, put, call, advance guaranty, or decline guaranty, contrary to any rule, regulation, or order of the Commission prohibiting any such transaction or allowing any such transaction under such terms and conditions as the Commission shall prescribe.

[2] 17 CFR 32.11 and 30.3(a) (1991).

[3] "Foreign option" is defined in Commission rule 30.1(b), 17 CFR 30.1(b) (1991), as:

> Any transaction or agreement which is or held out to be of the character of, or is commonly known to the trade as, an "option," "privilege," "indemnity," "bid," "offer," "put," "call," "advance guaranty," or "decline guaranty," made or to be made on or subject to the rules of any foreign board of trade.

Thus, this Order does not address foreign option contracts that are not traded on or subject to the rules of a foreign board of trade. Commission rule 32.4(a), 17 CFR 32.4(a) (1991), (the trade option exemption) also is not affected by this Order.

[4] In determining the location of a pool *cf.* Division of Trading and Markets letter dated January 29, 1992, granting relief from certain requirements of part 4 with respect to a commodity pool to be organized outside the U.S. (publication pending in (CCH) Comm. Fut. L. Rep.).

[5] *See* 7 U.S.C. 2a, 15 U.S.C. 78c(a)(12), and 17 CFR 240.3a12–8 (1991).

[6] *See* 7 U.S.C. 6c(b). See also, 7 U.S.C. 2.

[7] Rule 30.3(a) provides in relevant part:

> It shall be unlawful for any person to engage in any foreign futures contract or foreign options transaction for or on behalf of a foreign futures or foreign options customer, except in accordance with the provisions of this part: *Provided,* That, notwithstanding any other provisions of this part, it shall be unlawful for any person to engage in the offer and sale of any foreign option until the Commission, by order, authorizes such foreign option to be offered in the United States. . . .

As stated above, this proviso is of general applicability and is not limited to transactions effected on behalf of customers located in the U.S. (*i.e.,* "foreign futures and option customers" as defined in 17 CFR 30.1(c)).

[8] *See* 17 CFR part 30 rules, which govern the offer or sale of foreign futures and options in the United States.

[9] *See* 51 FR 12104, 12106 (April 8, 1986).

[10] *See*, 53 FR 22840 (July 29, 1988) (Montreal Exchange); 53 FR 28828 (July 29, 1988) (Singapore International Monetary Exchange); 53 FR 28832 (July 29, 1988) (Sydney Futures Exchange); 54 FR 37636 (September 12, 1989) (London International Financial Futures Exchange); 54 FR 50348 (December 6, 1989) (London Futures and Options Exchange); 54 FR 59356 (December 6, 1989) (International Petroleum Exchange); 55 FR 23902 (June 13, 1990) (Mutual Recognition Memorandum of Understanding between the Commission and the French Commission des Operations de Bourse); 56 FR 66345 (December 23, 1991) (Marche a Terme International de France).

[11] The Commission routinely has considered: The availability of information necessary to, for example, confirm and trace off-shore transactions, arrangements in place to assure that sales practice abuses do not occur, arrangements for U.S. customers to redress grievances and the regulatory

Continued

Once an Order has been issued concerning a particular foreign option, the effect of such an Order is to permit foreign futures and options customers as defined in Commission rule 30.1(c) [12] to engage in such a foreign option transaction and registered FCMs to enter into such a transaction on behalf of such foreign futures and options customers, subject to the provisions of part 30. In addition, FCMs could offer or sell such foreign options on behalf of customers located outside the U.S., whether or not subject to the provisions of part 30.[13]

In particular, except for the antifraud provision in Commission rule 30.9,[14] which prohibits fraud in connection with *all* foreign futures and options transactions by any person, including an FCM, the Commission rules do not mandate that the full panoply of the regulatory provisions in part 30 apply in connection with customers located outside the U.S. trading foreign futures and option products. Under such circumstances, there appears to be no U.S. customer protection interest advanced by prohibiting registered FCMs from engaging in non-approved foreign option transactions on behalf of customers located outside the U.S. It is relevant to inquire, however, whether such transactions could have any impact on the financial and operational viability of a registered FCM, which could, in turn, affect its U.S. customers and other "regulated" transactions.

The effect on FCM capital under the Commission's capital rules of carrying a non-approved foreign option transaction on behalf of a customer located outside the U.S. would be no different from the effect on such firm's capital of carrying that option for a person located outside the U.S. even if it were authorized for sale in the United States. That is, whether or not a foreign option is the subject of a Commission order under rule 30.3(a), the treatment of a transaction involving such an option for customers located outside the U.S. under the Commission's capital rules would be identical. Specifically, such transactions would neither increase nor decrease an FCM's *required* net capital, which pursuant to the Commission's minimum net capital requirement in Commission rule 1.17 is calculated as 4% of the amount of funds required to be segregated or set aside on behalf of customers.[15] Further, such transactions may require an FCM to take certain charges against net capital regardless of whether the customer is U.S. or foreign.[16]

Accordingly, the Commission is publishing for public comment, this proposed Order that would allow registered FCMs to engage in foreign option transactions for customers located outside the U.S. involving options which have not been the subject of a Commission Order pursuant to Commission rule 30.3. This proposed Order would not apply to such transactions on behalf of customers located in the U.S., nor would a registered FCM by permitted to engage in such transactions for its proprietary purposes.[17]

Further, this proposed Order would be subject to the condition that in engaging in such non-approved foreign option transactions for customers located outside the U.S., the FCM must treat such option as if it had been the subject of a Commission order issued under rule 30.3(a). For example, if it elects to commingle the funds of such non-U.S. customers trading a non-approved option with the secured amount funds of U.S. customers trading approved foreign futures and options, it must, among other things, comply with the provisions of rule 30.7(b).[18] As a further condition, the FCM must maintain transaction-specific records sufficient to document that the option transaction in fact was executed in a foreign market.

In addition, as noted above, the rule 30.9 prohibition on fraud in connection with all foreign futures and option contracts would continue to apply to FCMs engaging in transactions with their customers located outside the U.S.

Finally, this proposed Order would not address transactions in foreign options based on a foreign stock index or foreign government debt futures contract and the restrictions thereon. *See* section 2(a)(1)(B) of the CEA, section 3(a)(12) of the Securities Exchange Act of 1934 and rule 3a12–8 promulgated thereunder.[19]

Issued in Washington, DC on February 7, 1992.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 92–3398 Filed 2–12–92; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM91-8-000]

Qualifying Certain Tight Formation Gas for Tax Credit

February 6, 1992.

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Notice of proposed rulemaking; request for additional comments.

SUMMARY: The Federal Energy Regulatory Commission (Commission) issued a Notice of Proposed Rulemaking in this proceeding on March 20, 1991, proposing to amend its regulations to carry out Congress' intent in restoring the tax credit for gas from newly drilled tight formation wells, 56 FR 13094 (March 29, 1991). In this Request for Additional Comments, the Commission seeks comments concerning the proper averaging methodology for establishing the permeability of a tight formation.

DATES: An original and 14 copies of the written comments on this Request for Comments must be filed with the Commission by March 4, 1992.

ADDRESSES: All filings should be addressed to the Secretary, Federal Energy Regulatory Commission, 825

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environment in which such foreign options are traded. *See e.g.*, 53 FR 28826 (July 29, 1988); 54 FR 50348 (December 6, 1989).

[12] Commission rule 30.1(c), 17 CFR 30.1(c)(1991), defines a foreign futures and option customer as: "Any person located *in the United states, its territories or possessions* who trades in foreign futures or foreign options * * *." (emphasis added.)

[13] Although FCMs are prohibited from engaging in non-approved foreign option transactions on behalf of non-U.S. customers under Commission rules 32.11 and 30.3(a), firms granted rule 30.10 relief, notwithstanding exemptive relief granted from the FCM registration requirement, are not prohibited from carrying a non-approved option transaction for a non-U.S. customer.

[14] 17 CFR 30.9 (1991).

[15] *See* Commission rules 1.3(gg) and 1.3(rr), 17 CFR 1.3(gg) and 1.3(rr) (1991).

[16] Rule 1.17(c)(5)(iii), 17 CFR 1.17(c)(5)(iii) (1991), requires an FCM to take a charge against unadjusted net capital in an amount equal to 4% of the market value (premium) of short options traded on a foreign board of trade. An FCM also is required to take a charge against unadjusted net capital for any commodity trading account it carries if the account is undermargined for a certain period. Rule 1.17(c)(5)(viii) requires a charge for undermargined accounts after a customer's account is undermargined three business days. Rule 1.17(c)(5)(ix) requires a charge to be taken for undermargined non-customer and omnibus accounts after two business days. *See also* Financial & Segregation Interpretation 1 and instructions to Form 1–FR, adding additional two days to these periods. A foreign customer that buys or sells an option contract on a foreign board of trade will have that contract and its value included, along with any foreign futures and previously approved foreign option contracts, in determining whether the account is undermargined.

[17] Rule 1.19, 17 CFR 1.19 (1991), would continue to prohibit an FCM from acting in a principal capacity for any unapproved option transaction, including an option which had not been the subject of a Commission order under rule 30.3(a).

[18] 17 CFR 30.7(b) (1991).

[19] 7 U.S.C. 2a, 15 U.S.C. 78c(a)(12), and 17 CFR 240.3a12–8 (1991).

North Capitol St., NE., Washington, DC 20426, and should refer to Docket No. RM91-8-000.

FOR FURTHER INFORMATION CONTACT: Darrell Blakeway, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. (202) 208-0224.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in room 3308, 941 North Capitol Street, NE., Washington, DC.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208-1397. To access CIPS, set your communications software to use 300, 1200 or 2400 baud, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this notice will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

Request for Additional Comments

February 6, 1992.

I. Introduction

The Commission issued a Notice of Proposed Rulemaking in this proceeding on March 20, 1991,[1] proposing three minor amendments to § 271.703(c) of the Commission's regulations to carry out Congress' intent in restoring the tax credit for gas produced from newly drilled tight formation wells.

II. Background

One of the guidelines for qualifying a formation under § 271.703(c)(2) is that "the estimated average *in situ* gas permeability, throughout the pay section, is expected to be 0.1 millidarcy or less." The Commission has never stated a preferred methodology for determining the average permeability.

In practice, however, the Commission has consistently used an arithmetic averaging method to determine whether estimated *in situ* permeability meets the guidelines established by the Commission. As a result, when a jurisdictional agency's estimate of *in situ* permeability was based on median and/or geometric averaging methodologies, the Commission did not approve the recommendation unless the data fulfilled the arithmetic averaging standards as well.

The question of the appropriate methodology to use to designate tight formations has been raised in several recent tight formation determinations. Therefore, the Commission has determined to seek comments concerning the proper averaging methodology to use to designate tight formations in this proceeding.[2] Specifically, the Commission requests comments on whether the Commission should continue to use the arithmetic average methodology to designate tight formations or whether it should allow jurisdictional agencies to use geometric or median methodologies.[3]

The comments should also address the proper methodology the Commission should use when the tight formation determination covers lands administered by two or more jurisdictional agencies. In addition comments should address whether a jurisdictional agency may use the geometric mean methodology in one case and the median methodology in another case.

III. Written Comment Procedure

The Commission invites all interested persons to submit written data, views, and other information concerning the limited inquiry in this Request for Comments. All comments in response to this Notice should be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, and should refer to Docket No. RM91-8-000. An original and fourteen copies should be filed with the Commission within 20 days after publication of this Notice in the **Federal Register**.

Written comments will be placed in the Commission's public files and will be available for inspection in the Commission's Public Reference Room, 941 North Capitol Street, NE., Washington, DC, during regular business hours.

By direction of the Commission.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 92-3413 Filed 2-12-92; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Ch. I

[Docket No. 91P-0156/CP1]

Needle-Bearing Devices; Citizen Petition; Request for Comment

AGENCY: Food and Drug Administration, HHS.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the Service Employees International Union (SEIU) submitted a citizen petition requesting that FDA amend the regulations and undertake administrative actions to ensure that needle-bearing medical devices are safe and effective. FDA is soliciting comments on the citizen petition. This action is being taken under 21 CFR 10.30. A conference on the prevention of blood-borne infections from device injuries will be held August 17 through 19, 1992, in Washington, DC.

DATES: Written comments by April 13, 1992.

ADDRESSES: Submit written comments to the Dockets Managment Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Citizen petition: Marquita B. Steadman, Center for Devices and Radiological Health (HFZ-84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4874.

Conference: Laurea Timperio, Pace Enterprises, Inc., 17 Executive Park Dr., suite 200, Atlanta, GA 30329, 404-633-8610.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 513(a) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c(a)) FDA has classified medical devices intended for human use into one of three regulatory classes, i.e., class I, general controls; class II, special controls; and class III, premarket approval. Classification depends on the extent of control necessary to assure the safety and effectiveness of each device.

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[1] 56 FR 13094 (Mar. 20, 1991), III FERC Stats. & Regs. ¶ 32,479.

[2] Although the methodology for determining permeability is not directly related to the proposals in the Notice of Proposed Rulemaking in this proceeding, the Commission prefers to receive comments on the issue in a rulemaking proceeding. Since this proceeding deals with guidelines for qualifying tight formations and is ripe for issuance of a final rule, it affords an appropriate procedural vehicle for addressing the issue of determining average permeability

[3] The Commission is not reopening for comments the issues raised in the original Notice of Proposed Rulemaking in this proceeding.

Needle-bearing devices are classified as class II devices which are devices for which general controls by themselves are insufficient to provide reasonable assurance of the safety and effectiveness of the device, and for which there is sufficient information to establish special controls to provide such assurance. See 21 CFR 880.5200, 880.5570, and 880.5860. These special controls include the issuance of performance standards, postmarket surveillance, patient registries, development and dissemination of guidelines (including guidelines for the submission of clinical data in premarket notification submissions in accordance with section 510(k) of the act (21 U.S.C. 360(k)), recommendations, and other appropriate actions as the Secretary of Health and Human Services deems necessary to provide such assurance. (See section 513(a)(1)(B) of the act (21 U.S.C. 360c(a)(1)(B).)

II. Citizen Petition

SEIU submitted the petition, dated April 18, 1992, under sections 514, 518, and 519 of the act (21 U.S.C. 360d, 360h, and 360i) to request the Commissioner of Food and Drugs to amend FDA's regulations and undertake administrative actions to ensure that needle-bearing medical devices are safe and effective.

A. Action Requested

In this petition, SEIU is requesting FDA to: (1) Issue performance standards for class II needle-bearing devices, intravascular (IV) cathethers, IV admistration sets, hypodermic single-lumen needles and piston syringes, and all other needle-bearing medical devices, including prefilled syringes marketed as pharmaceutical packaging, blood-collecting needles, winged steel needles and lancets; including spring-loaded needles and lancets; (2) amend existing regulations on reporting to include all needle-stick injuries within the definition of serious injury; (3) issue labeling guidance for prefilled syringes; and (4) adopt alternative methods of regulation of needle devices.

Furthermore SEIU is requesting that FDA undertake the following administrative actions: (1) Convene a public conference on needle-stick injuries and methods for reducing them through changes in medical devices, (2) circulate an advisory notice on the nonpercutaneous applications of needle-bearing devices with IV administration sets, and (3) circulate an advisory notice on reporting needle-stick injuries.

SEIU believes that performance standards are the only special controls which can provide reasonable assurance of the safety and effectiveness of needle-bearing medical devices. Alternatively, if the issuance of performance standards is delayed, SEIU requests that FDA reclassify needle-bearing devices, which are currently in wide use, as class III devices requiring premarket approval until appropriate standards are promulgated because these devices pose an unreasonable risk of illness or injury.

SEIU believes that these regulatory and administrative actions will result in major benefits to public health. It asserts that immediate action is necessary, given the serious and growing health threat posed by the human immunodeficiency virus (HIV), the role which needle-bearing medical devices play in transmitting HIV and other blook-borne diseases, and the existence of technology which can substantially reduce, if not eliminate, this health problem.

To obtain a copy of the citizen petition, please contact the contact person listed above.

B. Statement of Grounds

Approximately 357,000 SEIU members are health care workers. Their jobs pose a risk of exposure to blood, which carries a number of pathogens, including human immunodeficiency virus (HIV), and hepatitis B virus (HBV). The Center for Disease Control (CDC) has identified 40 health care workers who have contracted HIV occupationally. These 40 health care workers did not have any other identified risk factors other than occupational exposure. Another 15 to 20 cases are still under investigation. SEIU believes that these numbers of case reports are underestimates. SEIU asserts that more health care workers might be included in the CDC data if the agency had set up a special surveillance system of occupationally infected health care workers. More common is transmission of HBV. CDC estimates that 12,000 health care workers contract HBV on the job each year. The Occupational Safety and Health Administration (OSHA), in its proposed rule on occupational exposure to blood-borne pathogens, estimated that over 2 million health care workers are at risk for occupational exposure to blood-borne pathogens including HBV and HIV. SEIU asserts that at the time that needle-bearing devices were classified as class II medical devices, little was known about HIV and the role which needle-bearing devices play in that and other serious blood-borne diseases. However, much more is know now, and more can be done about it.

The spread of HIV infection constitutes a national public health emergency requiring urgent steps to curb its transmission wherever possible, i.e., safer medical devices. Contaminated needles and sharp objects pose the single most serious risk of exposure to blood-borne pathogens to health care workers. SEIU asserts that needle-bearing devices are a major cause of percutaneous injuries because the vast majority of such devices on the market have inherently unsafe designs, even though safer products are currently available that would significantly reduce, if not eliminate, the threat of clinical transmission of HIV and other infectious diseases. SEIU asserts that unsafe devices continue to be used, in part, because of the absence of Federal standards imposing performance safety requirements.

Therefore, SEIU is requesting that FDA issue performance standards to: (1) Eliminate the uncecessary use of non-percutaneous needle-bearing devices, i.e., use of needles to connect two segments of IV line; and (2) require the exclusive use of medical devices which are designed to eliminate the chance of needle injury to patient and user, i.e., design needle covers that remain in place during and after use.

III. Public Conference

SEIU further requests that FDA convene a public conference on needle-stick injuries and mothods for reducing them through changes in medical devices. A conference, "Frontline Healthcare Workers: A National Conference on Prevention of Device-Mediated Bloodborne Infections," will be held at the Hyatt Regency Washington on Capitol Hill, August 17 through 19, 1992. It will be sponsored by FDA, CDC, and OSHA. The purpose of the conference are to: (1) Focus attention on needle-stick injuries and performance safety of medical devices and instruments; (2) bring together device manufacturers and users/purchasers to facilitate understanding of the needs and interventions pertaining to device-mediated infections; and (3) facilitate private-sector initiatives for technology advancement, including the development of infection prevention devices and strategies.

Correspondence regarding the conference should be addressed to the contact person listed above.

IV Comments

FDA is particulary interested in comments from inventors, manufacturers, distributors, purchasers, and users of needle-bearing medical devices. Comments from other interested individuals or groups are also welcome. FDA advises that under 21 CFR 10.30(d) any comments submitted in response to this notice will be included under the docket number found in brackets in the heading of this document. Such comments may support or oppose the petition in whole or in part. Interested persons may, on or before April 13, 1992 submit to the Dockets Management Branch (address above) written comments regarding this notice. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments should be identified with the docket number found in brackets in the heading of the documents. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 7, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92–3459 filed 2–12–92; 8:45 am]

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Notices

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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Southeast Federal Center, Washington, DC; Master Development Plan; Availability of Comment

AGENCY: Advisory Council on Historic Preservation.

ACTION: Availability of comment.

SUMMARY: Notice is hereby given in accordance with the regulations of the Advisory Council on Historic Preservation, "Protection of Historic Properties" (36 CFR part 800), that a panel of three members of the Council met on January 27, 1992, to consider the proposed master development plan for the Southeast Federal Center in Washington, District of Columbia. It has been determined this undertaking will affect the Washington Navy Yard Annex Historic District, which is eligible for listing in the National Register of Historic Places.

Following the meeting, the panel adopted comments which have been transmitted to the Administrator of the General Services Administration. Pursuant to 36 CFR 800.6(c)(2), GSA is required to consider the Council's comments in reaching a final decision on the proposed undertaking.

This notice is to advise interested parties that copies of these comments are available from the Executive Director, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue NW., suite 809, Washington, DC, 20004–2604, 202–786–0505, ATTN: Ralston Cox.

Dated: February 6, 1992.

Robert D. Bush,

Executive Director.

[FR Doc. 92–3468 Filed 2–12–92; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

February 7, 1992.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, DC 20250, (202) 690–2118.

New Collection

- Food Safety and Inspection Service,
Nutrition Labeling of Meat and Poultry Products,
Recordkeeping; On Occasion,
Businesses or other for-profit; Small businesses or organizations; 545,931 responses; 415,948 hours,
Roy Purdie, Jr. (202) 720–5372.
Foreign Agricultural Service,
Supplemental Qualifications Statement,
On occasion,
Individuals or households; 252 responses; 1,008 hours,
Barbara S. Warner (202) 720–1587
- Food and Nutrition Service,
Study of: WIC participant and Program Chracteristics: 1992,
Biennially,
State or local governments; 87 responses; 129 hours,
Julie Kresge (703) 305–2133.

Larry K. Roberson,

Deputy Departmental Clearance Officer.

[FR Doc. 92–3498 Filed 2–12–92; 8:45 am]

BILLING CODE 3410-01-M

Agricultural Marketing Service

[Docket No. LS–92–002]

Beef Promotion and Research; Certification and Nomination Cattlemen's Beef Promotion and Research Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: Notice is hereby given that the United States Department of Agriculture's Agricultural Marketing Service (AMS) is accepting applications from State cattle producer organizations and beef importers who desire to be certified to nominate producers or importers for appointment to vacant positions on the Cattlemen's Beef Promotion and Research Board (Board). Organizations which have not previously been certified that are interested in submitting nominations must complete and submit an official application form to AMS. Previously certified organizations do not need to reapply. Notice is also given that vacancies will occur on the Board and that during a period to be established, nominations will be accepted from eligible organizations and individual importers.

DATES: Applications for Certification must be received by close of business March 16, 1992.

ADDRESSES: Certification forms as well as copies of the certification and nomination procedures may be requested from Ralph L. Tapp, Chief; Marketing Programs Branch; Livestock and Seed Division; Agricultural Marketing Service, USDA; room 2624–S; P.O. Box 96456; Washington, DC 20090–6456.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp at 202/720–1115 (FTS 720–1115).

SUPPLEMENTARY INFORMATION: The Beef Promotion and Research Act of 1985 (Act) (7 U.S.C. 2901 et seq.), approved December 23, 1985, authorizes the implementation of a National Beef

Promotion and Research Order. The Order, as published in the July 18, 1986, **Federal Register** (51 FR 26132), provides for the establishment of a Board. The current Board consists of 105 cattle producers and 6 importers appointed by the Secretary. The duties and responsibilities of the Board are specified in the Order.

The Act and the Order provide that the Secretary shall either certify or otherwise determine the eligibility of State or importer organizations or associations to nominate members to the Board to ensure that nominees represent the interests of cattle producers and importers. Nominations for importer representatives may also be made by individuals who import cattle, beef, or beef products. Individual importers do not need to be certified as eligible to submit nominations. When individual importers submit nominations, they must establish to the satisfaction of the Secretary that they are in fact importers of cattle, beef, or beef products, pursuant to § 1260.143(b)(2) of the Order (7 CFR 1260.143(b)(2)). Individual importers are encouraged to contact AMS at the above address to obtain further information concerning the nomination process including the beginning and ending dates of the established nomination period and required nomination forms and background information sheets. Certification and nomination procedures were promulgated in the final rule, published in the April 4, 1986, **Federal Register** (51 FR 11557). Organizations which have previously been certified to nominate members to the Board do not need to reapply for certification to nominate producers and importers for the existing vacancies.

The Act and the Order provide that the members of the Board shall serve for terms of three (3) years. The Order also requires USDA to announce when a Board vacancy does or will exist. The following States have one or more members whose terms will expire in 1992:

State or unit	Number of vacancies
Alabama	1
Arkansas	1
California	2
Colorado	1
Florida	1
Georgia	1
Idaho	1
Illinois	1
Indiana	1
Iowa	2
Kansas	2
Kentucky	1
Minnesota	1
Missouri	2
Montana	1
Nebraska	2
New York	1
North Dakota	1
Ohio	1
Oklahoma	2
Oregon	1
Pennsylvania	1
South Dakota	1
Tennessee	1
Texas	5
Virginia	1
Wisconsin	1
Northwest Unit	1
Importers	1

Since there are no anticipated vacancies on the Board for the remaining States' positions, or for the positions of the Northeast and mid-Atlantic units, nominations will not be solicited from certified organizations or associations in those States or units.

Uncertified eligible producer organizations in all States that are interested in being certified as eligible to nominate cattle producers for appointment to the listed producer positions, must complete and submit an official "Application for Certification of Organization or Association," which must be received by close of business March 16, 1992. Uncertified, eligible importer organizations that are interested in being certified as eligible to nominate importers for appointment to the listed importer positions must apply by the same date. Importers should not use the application form but should provide the requested information by letter as provided for in 7 CFR 1260.540(b). Applications from States or units without vacant positions on the Board and other applications not received within the 30-day period after publication of this Notice in the **Federal Register** will be considered for eligibility to nominate producers or importers for subsequent vacancies on the Board.

Only those organizations or associations which meet the criteria for certification of eligibility promulgated at 7 CFR 1260.530 as published in 51 FR 11557, 11559 (April 4, 1986) are eligible for certification. Those criteria are:

(a) For State organizations or associations:

(1) Total paid membership must be comprised of at least a majority of cattle producers or represent at least a majority of cattle producers in a State or unit.

(2) Membership must represent a substantial number of producers who produce a substantial number of cattle in such State or unit.

(3) There must be a history of stability and permanency.

(4) There must be a primary or overriding purpose of promoting the economic welfare of cattle producers.

(b) For organizations or associations representing importers, the determination by the Secretary as to the eligibility of importer organizations or associations to nominate members to the Board shall be based on applications containing the following information:

(1) the number and type of members represented (i.e., beef or cattle importers, etc.).

(2) Annual import volume in pounds of beef and beef products and/or the number of head of cattle.

(3) The stability and permanency of the importer organization or association.

(4) The number of years in existence.

(5) The names of the countries of origin for cattle, beef, or beef products imported.

All certified organizations and associations, including those which were previously certified in the States or units having vacant positions on the Board, will be notified simultaneously in writing of the beginning and ending dates of the established nomination period and will be provided with required nomination forms and background information sheets.

The names of qualified nominees received by the established due date will be submitted to the Secretary of Agriculture for consideration as appointees to the Board.

The information collection requirements referenced in this notice have been previously approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35 and have been assigned OMB No. 0581–0093, except Board member nominee information sheets are assigned OMB No. 0505–0001.

Authority: 7 U.S.C. 2901 et seq.

Done at Washington, DC on February 7, 1992.

Daniel D. Haley,
Administrator.

[FR Doc. 92–3411 Filed 2–12–92; 8:45 am]

BILLING CODE 3410-02-M

Forest Service

Program to Collect Pacific Yew on Certain Federal Lands for Cancer Research

AGENCY: Forest Service, USDA.

ACTION: Revision of a notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service published a Notice of Intent (NOI) to prepare an environmental impact statement (EIS) in the **Federal Register** (56 FR 49451) on September 30, 1991 for a 5 year program to harvest Pacific Yew in the Northern, Pacific Northwest, and Pacific Southwest Regions of the Forest Service and on Bureau of Land Management Districts in the state of Oregon. The current title does not reflect the scope and purpose of this proposed analysis. The revised title of the EIS will be "Program to Collect Pacific Yew on Federal Lands in California, Idaho, Montana, Oregon, and Washington for Cancer Research and Treatment".

The NOI stated that the Bureau of Land Management (BLM) and the National Cancer Institute (NCI) would be invited to participate as a cooperating agencies in the development of the program. The NOI is revised to show that the BLM has agreed and will be a cooperator on the EIS and to show that the impacts of harvest will be analyzed on BLM lands in Washington and California as well as Oregon. The NCI will not be a cooperator on the EIS but will provide any necessary information, advice, and consultation. The Food and Drug Administration (FDA) has requested cooperating agency status and will be added as a cooperating agency.

As part of the cumulative effects analysis, the EIS will consider the potential impacts to the yew resource on all lands (state, private, and federal) in the 5-state area resulting from the harvest of yew to fulfill the demand for yew pending the FDA's possible approval of a new drug application for taxol. Food and Drug Administration's environmental assessment for new drug approval will tier to the EIS where appropriate.

FOR FURTHER INFORMATION CONTACT: Questions and comments about this EIS should be directed to Sally Campbell, EIS team leader, Pacific Northwest Region, 333 SW. First St., PO Box 3623, Portland, OR 97208-3623, telephone (503) 326-7755.

Dated: February 7, 1992.

John E. Lowe,

Deputy Regional Forester.

[FR Doc. 92-3454 Filed 2-12-92; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; Arnold I. Mandel and Rona K. Mandel

Order Denying Permission to Apply For or Use Export Licenses

In the matter of Arnold I. Mandel and Rona K. Mandel, 1581 Debra Sue Place, N. Tucson, Arizona 85715.

On July 9, 1991, Arnold I. Mandel and Rona K. Mandel (hereinafter collectively referred to as the Mandels) were convicted in the United States District Court for the Eastern District of California of violating section 2410(a) of the Export Administration Act of 1979, as amended (currently codified at 50 U.S.C.A. app. 2401-2420 (1991)) (EAA).[1] Section 11(h) of the EAA provides that, at the discretion of the Secretary of Commerce,[2] no person convicted of a violation of the EAA, or certain other provisions of the United States Code, shall be eligible to apply for or use any export license issued pursuant to, or provided by, the EAA or the Export Administration Regulations (currently codified at 15 CFR parts 768-799 (1991)) (the Regulations), for a period of up to 10 years from the date of the conviction. In addition, any export license issued pursuant to the EAA in which such a person has any interest at the time of his conviction may be revoked.

Pursuant to §§ 770.15 and 772.1(g) of the Regulations, upon notification that a person has been convicted of violating the EAA, the Director, Office of Export Licensing, in consultation with the Director, Office of Export Enforcement, shall determine whether to deny that person permission to apply for or use any export license issued pursuant to, or provided by, the EAA and the Regulations and shall also determine whether to revoke any export license previously issued to such a person. Having received notice of the Mandels' convictions for violating the EAA, and following consultations with the Director, Office of Export Enforcement, I have decided to deny the Mandels permission to apply for or use any export license, including any general license, issued pursuant to, or provided by, the EAA and the Regulations, for a period of 10 years from the date of their convictions. The 10-year period ends on July 9, 2001. I have also decided to revoke all export licenses issued pursuant to the EAA in which the Mandels had an interest at the time of their convictions.

Accordingly, *It is Hereby Ordered.*

I. All outstanding individual validated licenses in which the Mandels appear or participate, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of the Mandels' privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

II. Until July 9, 2001, Arnold L. Mandel and Rona K. Mandel, 1581 Debra Sue Place, N., Tucson, Arizona 85715, hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction in the United States or abroad involving any commodity or technical data exported or to be exported from the United States, in whole or in part, and subject to the Regulations. Without limiting the generality of the foregoing, participation, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (i) As a party or as a representative of a party to any export license application submitted to the Department; (ii) in preparing or filing with the Department any export license application or request for reexport authorization, or any document to be submitted therewith; (iii) in obtaining from the Department or using any validated or general export license, reexport authorization, or other export control document; (iv) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported or to be exported from the United States and subject to the Regulations; and (v) in financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. After notice and opportunity for comment as provided in § 770.15(h) of the Regulations, any person, firm, corporation, or business organization related to the Mandels by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

IV. As provided in § 787.12(a) of the Regulations, without prior disclosure of the facts to and specific authorization of the Office of Export Licensing, in consultation with the Office of Export Enforcement, no person may directly or indirectly, in any manner or capacity: (i) apply for, obtain, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to an export or reexport of commodities or technical data by, to, or for another person then subject to an order revoking or denying his export privileges or then excluded from practice before the Bureau of Export Administration; or (ii) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate: (a) In any transaction which may involve any commodity or technical data exported or to be exported from the United States; (b) in any reexport thereof; or (c) in any other transaction which is subject to the Export Administration Regulations, if the person denied export privileges may obtain any benefit or have any interest in, directly or indirectly, any of these transactions.

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[1] The EAA expired on September 30, 1990. Executive Order 12730 (55 FR 40373, October 2, 1990) continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. 1701-1706 (1991)).

[2] Pursuant to appropriate delegations of authority that are reflected in the Regulations, the Director, Office of Export Licensing, in consultation with the Director, Office of Export Enforcement, exercises the authority granted to the Secretary by section 11(h) of the EAA.

V. This Order is effective immediately and shall remain in effect until July 9, 2001.

VI. A copy of this Order shall be delivered to the Mandels. This Order shall be published in the **Federal Register.**

Dated: February 4, 1992.

Iain S. Baird,

Director, Office of Export Licensing.

[FR Doc. 92-3472 Filed 2-12-92; 8:45 am]

BILLING CODE 3510-DT-M

Biotechnology Technical Advisory Committee; Closed Meeting

A meeting of the Biotechnology Technical Advisory Committee will be held March 3, 1992, 9:30 a.m. in the Herbert C. Hoover Building, room 1617M, 14th Street & Pennsylvania Avenue, NW., Washington, DC. The Committee advises the Office of Technology and policy analysis with respect to technical questions that affect the level of export controls applicable to biotechnology and related equipment and technology.

The Committee will meet only in executive Session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on December 28, 1990, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C., 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6628, U.S. Department of Commerce, Washington, DC 20230. For further information, contact Lee Ann Carpenter on (202) 377-2583.

Dated: February 6, 1992.

Betty Anne Ferrell,

Director, Technical Advisory Unit, Office of Technology & Policy Analysis.

[FR Doc. 92-3515 Filed 2-12-92; 8:45 am]

BILLING CODE 3510-DT-M

Materials Processing Technical Advisory Committee; Closed Meeting

A meeting of the Materials Processing Technical Advisory Committee will be held February 27, 1992, 9 a.m., in the Herbert C. Hoover Building, room 1617M, 14th Street & Pennsylvania Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions that affect the level of export controls applicable to materials processing and related technology. The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on February 5, 1992, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C., 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6628, U.S. Department of Commerce, Washington, DC 20230. For further information, contact Lee Ann Carpenter on (202) 377-2583.

Dated: February 6, 1992.

Betty A. Ferrell,

Director, Technical Advisory Committee Staff.

[FR Doc. 92-3516 Filed 2-12-92; 8:45 am]

BILLING CODE 3510-DT-M

Telecommunications Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Telecommunications Equipment Technical Advisory Committee will be held February 26, 1992, 9:30 a.m., in the Herbert C. Hoover Building, room 1617M, 14th & Pennsylvania Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions that affect the level of export controls applicable to telecommunications and related equipment and technology.

Agenda

General Session

1. Opening remarks by the Chairman.
2. Approval of minutes.
3. Presentation of papers or comments by the public.
4. Report on status of U.S. implementation of Core List.
5. Discussion of industry reaction to Core List and recommendations for future changes.

Executive Session

6. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials two weeks prior to the meeting date to the following address:

Lee Ann Carpenter
Technical Support Staff

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OTPA/BXA, Room 1621
U.S. Department of Commerce
14th & Pennsylvania Ave., NW.
Washington, DC 20230

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on February 5, 1992, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C., 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6628, U.S. Department of Commerce, Washington, DC 20230. For further information or copies of the minutes, contact Lee Ann Carpenter on (202) 377-2583.

Dated: February 6, 1992.

Betty Anne Ferrell,

Director, Technical Advisory Committee Unit.

[FR Doc. 92-3517 Filed 2-12-92; 8:45 am]

BILLING CODE 3510-DT-M

International Trade Administration

[C-549-804]

Carbon Steel Butt-Weld Pipe Fittings From Thailand; Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On October 25, 1991, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on carbon steel butt-weld pipe fittings from Thailand for the period November 3, 1989 through December 31, 1990 (56 FR 55283). We have now completed that review and determine the total bounty or grant to be 1.02 percent *ad valorem* for the period November 3, 1989 through December 31, 1989 and 1.76 percent *ad valorem* for the period January 1, 1990 through December 31, 1990 for all exports of the subject merchandise to the United States. The rate for the period January 1, 1990 through December 31, 1990 differs from the preliminary rate of 2.02 percent *ad valorem* because of calculation adjustments.

EFFECTIVE DATE: February 13, 1992.

FOR FURTHER INFORMATION CONTACT: Donna Kinsella or Barbara Tillman, Office of Countervailing Duty Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On October 25, 1991, the Department of Commerce (the Department) published in the **Federal Register** (56 FR 55283) the preliminary results of its administrative review of the countervailing duty order on carbon steel butt-weld pipe fittings from Thailand (55 FR 1695; January 18, 1990). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of Review

Imports covered by this review are shipments of carbon steel butt-weld pipe fittings, having an inside diameter of less than 360 millimeters (fourteen inches), imported in either finished or unfinished form. These formed or forged pipe fittings are used to join sections in piping systems where conditions require permanent, welded connections, as distinguished from fittings based on other fastening methods (e.g., threaded, grooved, or bolted fittings). During the review period, such merchandise was classifiable under item number 73.07.93.30 of the Harmonized Tariff Schedule. The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period November 3, 1989 through December 31, 1990, and the following programs: (1) Tax certificates for exports; (2) export packing credits; (3) tax and duty exemptions under section 28 of the Investment Promotion Act (IPA); (4) electricity discounts for exporters; (5) repurchase of industrial bills; (6) export processing zones; (7) International Trade Promotion Fund; (8) reduced business taxes for producers of intermediate goods for export industries; and (9) additional incentives under the IPA. Three companies produced and exported the subject merchandise to the United States during the review period.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received comments from all three respondents—TTU Industrial Corporation Ltd., (TTU), Awaji Sangyo (Thailand) Company, Ltd., (AST), and Thai Benkan Company, Ltd., (TBC)—and the Royal Thai Government (RTG).

Comment 1: All three respondents and the RTG argue that the Department should recalculate AST's benefits under section 28 of the Investment Promotion Act to reflect the actual amount of exempted import duties and taxes on AST's importations of machinery during the review period.

AST states that in its questionnaire response it reported section 28 exemptions on duties and taxes based upon the amounts stated in its applications to the Board of Investment. AST argues that at verification it presented copies of Thai Customs import entry documentation which showed that the actual exempted duties and taxes for two importations were different than the duty and tax exemptions reported in its applications to the BOI and in the questionnaire response. Respondents argue therefore that the Department should calculate the benefits under section 28 using the actual amount of duties and taxes exempted as evidenced on the Thai Customs import entry documentation.

Response: We agree with respondents that, with respect to taxes and import charge exemptions, it is the Department's normal practice to calculate the benefit to respondent based on the actual amount of taxes and import charges a firm would have paid absent the exemption. See, *e.g.*, Final Affirmative Countervailing Duty Determination; Certain Fresh Cut Flowers from Costa Rica (52 FR 32030, 32031, August 25, 1987). While we note that data regarding AST's actual tax and duty exemptions was not submitted on the record of this review until after verification, we also find that the actual tax and duty exemptions stated on the relevant Thai Customs import documentation vary from the estimated tax and duty exemptions on only two importations. Given that this change constitutes only a minor correction to the questionnaire response, and given that it is our normal practice to use actual exemption amounts where possible, for these final results, we have used the actual amount of duties and taxes exempted on AST's imports of machinery in calculating the benefits under section 28 of the IPA.

Comment 2: AST and TBC argue that for purposes of calculating the benefit received under section 28 of the IPA the Department should exclude tax and duty exemptions on machinery which is used exclusively to produce non-subject merchandise.

AST states that in its questionnaire response it reported that a portion of the company's tax and duty exemptions under section 28 were for machinery and equipment used to produce merchandise outside the scope of this review. AST states that it calculated the amount of the exemptions on such equipment and requested that the Department exclude this amount from its calculation of AST's benefits. AST asserts that it demonstrated at verification that the section 28 exemptions for which it requested exclusion consisted entirely of duties and taxes on imported machinery used exclusively to produce non-subject merchandise.

Response: We disagree with respondents. At verification, the Department examined documentation relating to the importation of machinery, some of which respondent states is used exclusively to produce non-subject merchandise. As we stated in our preliminary results, however, we were unable to tie exempted duties and taxes as recorded on Thai Customs documentation to specific pieces of machinery based on the evidence obtained at verification and on the record. As a result, we calculated the benefit under this program by dividing the total amount of exemptions received during the review period by the respondent's total export sales value.

The documentation referred to by respondent as proof that certain pieces of machinery exempted from duties and taxes are used exclusively to produce merchandise outside the scope of the order consists of invoices, packing lists, and Thai Customs import documentation. While the packing lists accompanying certain invoices list various pieces of equipment by size, the relevant Customs documentation does not specify the value of, or the exact amount of, actual duties and taxes pertaining to individual pieces of equipment. As a result, the Department could not determine the exact amount of tax and duty exempted on each piece of equipment, and, as such, could not segregate the exact amount of taxes and duties exempted on machinery used to produce non-subject merchandise. Furthermore, after reviewing respondent's questionnaire response and subsequent submissions and examining documentation obtained at verification relating to this issue, the Department found several discrepancies. For example, respondent's September 20, 1991 submission to the Department differs from its original questionnaire response as to which exemptions should be excluded from the benefit calculation. Respondent provided no explanation for these discrepancies.

In view of the above, for these final results, the Department has continued to include all tax and duty exemptions received during the review period in calculating section 28 benefits.

Comment 3: The RTG and TTU argue that the Department should revise its treatment of the allowable rebate rate under the tax certificate program to reflect information submitted by respondents on additional physically incorporated inputs.

Response: Respondents' information relating to the tax certificate program is untimely. Contrary to statements in respondents' brief, there was no discussion of this matter at verification. The Department did not receive additional information regarding the allowable rebate rate under the tax certificate program until after the preliminary results of review were issued. In accordance with Departmental practice, new factual information submitted after the issuance of preliminary results of review is considered untimely and cannot be considered for these final results.

Comment 4: Respondents argue that in the preliminary results of this review the Department wrongly rejected the use of the 1989 and 1990 Bank of Thailand (BOT) benchmarks in favor of an average of the minimum loan rates (MLR) and maximum overdraft rates (MOR) for 1989 and 1990. They argue that the BOT benchmarks are based on accurate and reliable data and that the methodology used to calculate the BOT benchmarks is consistent with the Department's proposed regulations. Respondents state that the MLR and MOR are not representative of the actual average commercial lending rates in Thailand, because much commercial lending in Thailand is at lower rates. Based on the above, respondents urge the Department to utilize the BOT benchmark interest rates for these final results of review.

Response: As stated in the preliminary results of this review, the Department concluded in Final Affirmative Countervailing Duty Determination and Countervailing Duty Order; Steel Wire Rope from Thailand (56 FR 46299, September 11, 1991) (Steel Wire Rope) that the MLR and MOR rates are more representative of short-term interest rates in Thailand for calendar years 1988 and 1989 than the weighted-average interest rates charged by commercial banks on domestic loans, bills, and overdrafts used in previous Thai cases. Respondents submitted no evidence on the record of this review to refute this determination. Therefore, as the benchmark interest rate for purposes of calculating the benefit from Export Packing Credit loans (EPCs) on which interest was paid in 1989, we used an average of the 1989 MLR and MOR rates as calculated in Steel Wire Rope. Furthermore, absent new evidence that the MLR and MOR rates are not more representative of short-term interest rates during 1990 than the benchmark calculated by the BOT, we have used an average of these rates during 1990 as the benchmark interest rate for calculating the benefit from EPCs on which interest was paid in 1990.

Final Results of Review

As a result of our review, we determine the total bounty or grant to be 1.02 percent *ad valorem* for the period November 3, 1989 through December 31, 1989 and 1.76 percent *ad valorem* for the period January 1, 1990 through December 31, 1990.

The Department will instruct the Customs Service to assess countervailing duties of 1.02 percent of the f.o.b. invoice price on all shipments of this merchandise exported on or after November 3, 1989 and on or before December 31, 1989 and 1.76 percent of the f.o.b. invoice price on all shipments of this merchandise exported on or after January 1, 1990 and on or before December 31, 1990.

The Department will instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 1.76 percent of the f.o.b. invoice price on all shipments of this merchandise from Thailand entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: January 31, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-3518 Filed 2-12-92; 8:45 am]

BILLING CODE 3510-DS-M

Minority Business Development Agency

Business Development Center Applications: Miami/Ft. Lauderdale, FL

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625, the U.S. Department of Commerce's Minority Business Development Agency (MBDA) is soliciting competitive applications under its Minority Business Development Center (MBDC) program to operate an MBDC for approximately a 3-year period, subject to Agency priorities, recipient performance and the availability of funds. The cost of performance for the first budget period (12 months) is $483,525 in Federal funds and a minimum of $85,328 in non-Federal (cost-sharing) contributions. Cost-sharing contributions may be in the form of cash contributions, client fees, in-kind contributions or combinations thereof. The period of performance will be from July 1, 1992 to June 30, 1993. The MBDC will operate in the Miami/Ft. Lauderdale geographic service area.

The award number for this MBDC will be 04-10-92007-01.

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, State and local governments, American Indian tribes and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can identify and coordinate public and private sector resources on behalf of minority individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated initially by regional staff on the following criteria: The experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to perform the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive. The selection of an application for further processing by MBDA will be made by the Director based on a determination of the application most likely to further the purpose of the MBDC program. The application will then be forwarded to the Department for final processing and approval, if appropriate. The Director will consider past performance of the applicant on previous Federal awards.

MBDCs shall be required to contribute at least 15% of the total project cost through non-Federal contributions. To assist them in this effort, MBDCs may charge client fees for management and technical assistance (M&TA) rendered. Based on a standard rate of $50 per hour, MBDCs will charge client fees at 20% of the total cost for firms with gross sales of $500,000 or less, and 35% of the total cost for firms with gross sales of over $500,000.

MBDCs performing satisfactorily may continue to operate after the initial competitive year for up to 2 additional budget periods. MBDCs with year-to-date "commendable" and "excellent" performance ratings may continue to be funded for up to 3 or 4 additional budget periods, respectively. Under no circumstances shall an MBDC be funded for more than 5 consecutive budget periods without competition. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDC based on such factors as an MBDC's performance, the availability of funds and Agency priorities.

Awards under this program shall be subject to all Federal and Departmental regulations, policies, and procedures applicable to Federal assistance awards.

In accordance with OMB Circular A-129 "Managing Federal Credit Programs," applicants who have an outstanding account receivable with the Federal Government may not be considered for funding until these debts have been paid or arrangements, satisfactory to the Department of Commerce, are made to pay the debt.

Applicants are subject to Governmental Debarment and Suspension (Nonprocurement) requirements as stated in 15 CFR part 26.

The Department Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the MBDC has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are failure to meet cost-sharing requirements; unsatisfactory performance of MBDC work requirements; and reporting inaccurate or inflated claims of client assistance or client certification. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

On November 18, 1988, Congress enacted the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, title V subtitle D). The statute requires contractors and grantees of Federal agencies to certify that they will provide a drug-free workplace. Pursuant to these requirements, the applicable certification form must be completed by each applicant as a pre-condition for receiving Federal grant or cooperative agreement awards.

15 CFR, part 28, is applicable and prohibits recipients of Federal contracts, grants, and cooperative agreements from using appropriated funds for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a specific contract, grant or cooperative agreement. Form CD-511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying" and, when applicable, the SF-LLL, "Disclosure of Lobbying Activities," are required.

CLOSING DATE: The closing date for submitting an application is March 16, 1992. Applications must be postmarked on or before March 16, 1992. Proposals will be reviewed by the Washington Regional Office. The mailing address for submission of RFA responses is: Washington Regional Office, Minority Business Development Agency, 14th & Constitution Avenue, NW., room 6711, Washington, DC 20230.

A pre-application conference to assist all interested applicants will be held on February 26, 1992, 9 a.m. at the following address: U.S. Department of Commerce, Minority Business Development Agency, 401 West Peachtree Street, NW., room 1930, Atlanta, Georgia 30308.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive Order 12372, "Intergovernmental Review of Federal Programs," is not applicable to this program. To order a Request for Application (RFA) and to receive additional information, contact: Carlton L. Eccles, Regional Director of the Atlanta Regional Office on (404) 730-3300 or U.S. Department of Commerce, Minority Business Development Agency, 401 West Peachtree Street, NW., room 1930, Atlanta, Georgia 30308.

11.800 Minority Business Development

(Catalog of Federal Domestic Assistance)

Dated: February 7, 1992.

Carlton L. Eccles,

Regional Director, Atlanta Regional Office.

[FR Doc. 92-3453 Filed 2-12-92; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

Evaluation of State Coastal Management Programs

AGENCY: Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), DOC.

ACTION: Notice of availability of evaluation findings.

SUMMARY: Notice is hereby given of the availability of the evaluation findings for the Alaska and Virgin Islands coastal management programs and the Waquoit Bay (Massachusetts) and Old Woman Creek (Ohio) National Estuarine Research Reserves. Section 312 of the Coastal Zone Management Act of 1972 (CZMA), as amended, requires a continuing review of the performance of coastal States with respect to coastal management and the operation and management of estuarine reserves.

The State of Alaska and the Territory of the Virgin Islands were found to be implementing and enforcing their federally approved coastal management programs, addressing the national coastal management objectives identified in CZMA section 303(2)(A)-(K), and adhering to the programmatic terms of their financial assistance awards. The Wacquoit Bay and Old Woman Creek National Estuarine Research Reserves were found to be adhering to National Estuarine Research Reserves were found to be adhering to National Estuarine Research Reserve System goals, to their federally approved management plans, and to the terms of their financial assistance awards.

Copies of these findings may be obtained upon request from: Vickie Allin, Chief, Policy Coordination Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1825 Connecticut Avenue, NW., Washington, DC 20235, (202) 606-4100.

(Federal Domestic Assistance Catalog 11.419, Coastal Zone Management Program Administration)

Dated: February 7, 1992.

John J. Carey,

Acting Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 92-3410 Filed 2-12-92; 8:45 am]

BILLING CODE 3510-08-M

Evaluation of State Coastal Management Programs and National Estuarine Research Reserves

AGENCY: Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), DOC.

ACTION: Notice of intent to evaluate.

SUMMARY: The NOAA Office of Ocean and Coastal Resource Management (OCRM) announces its intent to evaluate the performance of the Virginia Coastal Management Program (VCMP) and of the Weeks Bay (Alabama) and Jobos Bay (Puerto Rico) National Estuarine Research Reserves.

These evaluations will be conducted pursuant to section 312 of the Coastal Zone Management Act of 1972 (CZMA), as amended. The CZMA requires a continuing review of the performance of coastal States with respect to coastal management and the operation and management of national estuarine research reserves (NERRs). Evaluation of a coastal management program requires findings concerning the extent to which a State has implemented and enforced the management program approved by the Secretary of Commerce, addressed the coastal management needs identified in CZMA section 303(2) (A) through (K), and adhered to the terms of financial assistance awards funded under the CZMA. Evaluation of an estuarine reserve requires findings pertaining to a State's implementation of its federally approved NERR management plan, and adherence to the terms of financial assistance awards funded under the CZMA. These reviews include a site visit, consideration of public comments, and consultations with interested Federal, State, and local agencies and members of the public. A public meeting(s) is held as part of the site visit.

Notice is hereby given of the dates of the site visit for listed evaluations, and the date, local time, and location of a public meeting(s) during the site visit:

(1) Weeks Bay NERR site visit, March 23-26, 1992. A public meeting will be held Tuesday, March 24, 1992, at the Faulkner State Community College, Bell Building, Fairhope, Alabama.

(2) Jobos Bay NERR site visit, March 23-27, 1992. A public meeting will be held Thursday, March 26, 1992, 7 p.m., at Casa Del Rey, 23 E. Genaro Cautino St., Guayama, Puerto Rico.

(3) Virginia Coastal Management Program site visit, April 6-10, 1992. A public meeting will be held Wednesday, April 8, 1992, 7 p.m., at the Rappahannock Community College, South Campus, room 131, Glenns, Virginia.

The respective States will issue notice of the public meeting(s) in local newspapers at least 45 days prior to being held and will issue other timely notices as appropriate.

Copies of the State's most recent performance reports, as well as OCRM's notification and supplemental request letter to the State, are available upon request from OCRM. Written comments from interested parties regarding each of these programs are encouraged at this time and will be accepted until seven days after the site visit. Please direct written comments to Vickie Allin, Chief, Policy Coordination Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1825 Connecticut Ave., NW., Washington, DC 20235. When the final evaluation findings are completed, OCRM will place a notice in the **Federal Register** announcing their availability.

FOR FURTHER INFORMATION CONTACT: Vickie Allin, Chief, Policy Coordination Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1825 Connecticut Avenue, NW., Washington, DC 20235, (202) 606-4100.

(Federal Domestic Assistance Catalog 11.419, Coastal Zone Management Program Administration)

Dated: February 7, 1992.

John J. Carey,

Acting Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 92-3409 Filed 2-12-92; 8:45 am]

BILLING CODE 3510-08-M

Marine Mammals

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Interim modification of scientific research permit No. 748 (P77#50).

On August 8, 1991, pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and

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Importing of Marine Mammals (50 CFR part 216), and § 220.24 of the Regulations Governing Endangered Species (50 CFR parts 217–222), Scientific Research Permit No. 748 was issued to the National Marine Fisheries Service, Southwest Fisheries Science Center, P.O. Box 271, La Jolla, CA 92038 to harass up to 17 species of cetaceans over a 36-month period, during the course of photo-identification studies and aerial surveys along the California coast.

As a result of an apparent misinterpretation of the numbers requested in the original permit application, the Permit as currently written does not take into account the numbers of animals that may be taken by inadvertent harassment during the conduct of aerial survey activities over the full 36-month permit period. Consequently, notice is hereby given that, pursuant to the provisions noted above, Special Condition A.3 of the permit has been modified to provide for the short term continuance of aerial surveys of the species/numbers of marine mammals currently authorized under the Permit. A second modification is anticipated to fully cover aerial surveys throughout the duration of the Permit.

All other conditions currently contained in the Permit remain in effect.

This modification becomes effective on February 5, 1992.

Dated: February 5, 1992.

Michael F. Tillman,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 92-3402 Filed 2-12-92; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Prospective Grant of Exclusive Patent License

This notice is in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Technical Information Service (NTIS), U.S. Department of Commerce, is contemplating the grant of an exclusive license in the United States to practice the invention embodied in U.S. Patent 4,860,529, "Shaking Mechanism for Fruit Harvesting", to B.E.I. company, having a place of business at 1375 Kalamazoo Street, South Haven, Michigan. The patent rights in this invention have been assigned to the United States of America.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The invention relates to a spiked-drum shaking mechanism for small fruits designed so that the point of oscillation is located at a distance from the point of rotation, providing uniform acceleration along the spikes.

The availability of the invention for licensing was published in the **Federal Register** Vol. 55 No. 138, p. 29256, July 18, 1990. A copy of the patent may be purchased for $3.00 from the U.S. Patent and Trademark Office, Box 9, Washington, DC 20231.

Inquiries, comments and other materials relating to the contemplated license must be submitted to Douglas J. Campion, Center for Utilization of Federal Technology, NTIS, Box 1423, Springfield, VA 22151. Properly filed competing applications received by the NTIS in response to this notice will be considered as objections to the grant of the contemplated license.

Douglas J. Campion,

Center for Utilization of Federal Technology, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 92-3396 Filed 2-12-92; 8:45 am]

BILLING CODE 3510-04-M

Prospective Grant of Exclusive Patent License

This is notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Technical Information Service (NTIS), U.S. Department of Commerce, is contemplating the grant of an exclusive license in the State of Florida to Busbee, Wilkins and Sealy, Inc., having a place of business at Groveland, Florida, to practice the invention embodied in U.S. Patent 4,284,651, "Method of Preparing Citrus Fruit Sections with Fresh Fruit Flavor and Appearance". The patent rights in this invention have been assigned to the United States of America.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty days from the date of this published Notice, NTIS received written evidence and argument which establishes that the grant of the license would be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The invention relates to a process of preparing thick albedo type citrus fruit sections by treating citrus fruit with enzymes to allow the removal of peel and separation of the sections from one another without the loss of juice or tissue.

The availability of the invention for licensing was published in the **Federal Register** Vol. 46, No. 18, p. 9160 (January 28, 1981). A copy of the instant patent may be purchased for $3.00 from the U.S. Patent and Trademark Office, Box 9, Washington, DC 20231.

Inquiries, comments and other materials relating to the contemplated license must be submitted to Douglas J. Campion, Center for Utilization of Federal Technology, NTIS, Box 1423, Springfield, VA 22151. Properly filed competing applications received by the NTIS in response to this notice will be considered as objections to the grant of the contemplated license.

Douglas J. Campion,

Center for Utilization of Federal Technology, National Technical Information Service, Department of Commerce.

[FR Doc. 92-3470 Filed 2-12-92; 8:45 am]

BILLING CODE 3510-04-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Contract Administration Working Group of the DOD Advisory Panel on Streamlining and Codifying Acquisition Laws

AGENCY: Defense Systems Management College, DOD.

ACTION: Request for public comment.

SUMMARY: The DOD Advisory Panel has designated working groups of the Panel to address specified areas of acquisition laws. The working group that is addressing laws relating to contract administration is reviewing them in the following groupings and order of priority:

Contract payment
Cost principles
Contract audit and access to records
Cost Accounting Standards
Administration of contract provisions relating to price, delivery, and product quality
Claims and disputes
Extraordinary contractual relief—Public Law 85–804

Listed below are the laws identified by the panel that relate to cost principles:

10 U.S.C. 2324 Allowable costs
10 U.S.C. 2372 IR&D
41 U.S.C. 256 Allowability of costs

41 U.S.C. 420 Travel expenses

Request responses to the following questions on each law:

—Is the law serving its intended purposes?
—Has the law created inefficiencies?
—Has it unduly burdened the buyer/seller relationship?
—Is it required for the continuing financial and ethical integrity of defense procurement programs?
—Is it required to protect the best interests of DOD?
—Is the law still relevant?
—Does it overlap, duplicate, or conflict with other laws?
—Does it contain ambiguous terms or provisions which have led to problems in interpretation?
—Should the law apply to commercial products?
—Should it apply to first tier subcontracts, or all subcontracts?

In addition to the laws relating to cost principles, the Contract Administration Working Group is considering 10 U.S.C. 2382, Contract profit controls during emergency periods. Comments are requested on the application of this law to Department of Defense procurements.

The panel also solicits suggestions of other laws relating to cost principles that should be considered by the Panel.

Individuals and organizations wishing to provide information to the Working Group may provide the information to Ms. Joanne Barreca, Acquisition Law Task Force analyst, at Defense Systems Management College, 8580 Cinderbed, suite 800, Newington, VA 22122 (703-355-2666).

Dated: February 7, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92-3476 Filed 2-12-92; 8:45 am]

BILLING CODE 3810-01-M

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Public Law 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, March 3, 1992; Tuesday, March 10, 1992; Tuesday, March 17, 1992; Tuesday, March 24, 1992; and Tuesday, March 31, 1992, at 10 a.m. in room 800, Hoffman Building #1, Alexandria, Virginia.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Force Management and Personnel) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Public Law 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Public Law 92-463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b.(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy/Equal Opportunity) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b.(c)(2)), and the detailed wage data considered were obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b(c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, room 3D264, The Pentagon, Washington, DC 20310.

Dated February 7, 1992.

L. M. Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92-3478 Filed 2-12-92; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

Intent To Grant Exclusive Patent License

Pursuant to the provisions of part 404 of title 37, Code of Federal Regulations, which implements Public Law 96-517, the Department of the Air Force announces its intention to grant Arbor Research Corporation, 1030 Fairmont Drive, Ann Arbor, MI 48105, a corporation of the State of Michigan, an exclusive license under United States Letters Patent No. 4,880,443, which matured from application Serial No. 07/288,315, filed 22 December 1988 in the names of George W. Miller and Clarence F. Theis for "Molecular Sieve Oxygen Concentrator with Secondary Oxygen Purifier."

The license described above will granted unless an objection thereto, together with a request for an opportunity to be heard, if desired, is received in writing by the addressee set forth below within sixty (60) days from the date of publication of this Notice. Copies of the patent may be obtained, on request, from the same addressee.

All communications concerning this Notice should be sent to Mr. Donald J. Singer, Chief, Patents Division, Air Force Legal Services Agency, 1900 Half Street SW., Washington, DC 20324, Telephone No. (202) 475-1386.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 92-3484 Filed 2-12-92; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Availability of Army's Response to DOL Evaluation Report

AGENCY: Office of the Chief of Staff, Army, DoD.

ACTION: Notice, availability of Army's response to DOL Evaluation Report.

SUMMARY: A copy of the Army's response to the Department of Labor evaluation report of the U.S. Department of the Army's Occupational Safety and Health Program for the Chemical and Biological Defense Research Laboratories (February 1991) is available by writing to: HQDA(DACS-SF), ATTN: Mr. William Wortley, room 2C717, Pentagon, Washington, DC 20310-0200. Only written requests will be acknowledged.

FOR FURTHER INFORMATION CONTACT: Mr. William Wortley, HQDA(DACS-SF), room 2C717, Pentagon, Washington, DC 20310-0200.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 92-3483 Filed 2-12-92; 8:45 am]

BILLING CODE 3710-08-M

Environmental Impact Statement; Reuse and Disposal of Fort Ord

AGENCY: Department of the Army, DoD.

ACTION: Notice of intent to prepare an environmental impact statement (EIS) for the reuse and disposal of Fort Ord.

SUMMARY: The action to be evaluated by this EIS is the disposal and reuse of Fort Ord, California, in accordance with the

legislative requirements of the Defense Base Closure and Realignment Act of 1990, Public Law 101–510.

ALTERNATIVES: Public Law 101–510 exempted the decision making process, the need to make the realignment, and consideration of alternative installations from the requirements of the National Environmental Policy Act of 1969 (NEPA). This EIS will evaluate alternative methods of implementing the Commission's decision, including alternative reuses of the disposed property. Potential reuse alternatives will be explored as further information about Fort Ord's environmental status is developed. Development of the potential alternative reuses of the disposed property will be made in conjunction with the local community, Office of Economic Adjustment, and the Army. The EIS will also address the socioeconomic effects of the relocation of the Army on Fort Ord. As required by NEPA, the Army will also analyze the "no action" alternative as a baseline for gauging the impacts of the disposal and reuse.

PUBLIC INVOLVEMENT: The public will be invited to participate in the scoping process, review of the draft Environmental Impact Statement, and a public meeting. The location and time of the scoping meeting to be scheduled during the month of March, 1992, will be announced in the local news media. Release of the draft EIS for public comment and the public meeting will also be announced in the local news media, as these dates are established.

POINT OF CONTACT: Mr. Bob Verkade, Sacramento District, Corps of Engineers, 916/557–7423.

Lewis D. Walker,

Deputy Assistant Secretary of the Army, Environment, Safety and Occupational Health OASA(IL&E).

[FR Doc. 92–3521 Filed 2–12–92; 8:45 am]

BILLING CODE 3710-08-M

Intent Chemical Stockpile Disposal Program

Intent to prepare an Environmental Impact Statement (EIS) and to initiate the public scoping process for the construction and operation of the chemical agent disposal facility at the Newport Army Ammunition Plant, Indiana.

AGENCY: Department of the Army, DoD.

ACTION: Notice of the intent.

SUMMARY: This announces the Notice of Intent to prepare an EIS on the potential impact of the design, construction, operation and closure of the proposed chemical agent demilitarization facility at the Newport Army Ammunition Plant (NAAP), Indiana. The proposed facility will be used to demilitarize all VX (a nerve agent) filled ton containers currently stored at the NAAP. Potential environmental impacts will be examined for several locations at NAAP of the on-site incineration facility and "no action" alternatives. The "no action" alternative is considered to be continued storage of the VX-filled ton containers at the NAAP.

SUPPLEMENTARY INFORMATION: In its Programmatic Record of Decision (53 FR 5816, February 26, 1988) for the Chemical Stockpile Disposal Program, the Department of the Army decided to incinerate the stockpile on site at all eight chemical munitions storage sites within the continental United States. The Army has decided that an EIS will be prepared to asses the site-specific health and environmental impacts of on-site incineration of VX-filled ton containers at the NAAP. The first phase (scoping) of this effort will entail the collection and analysis of detailed site-specific information to ensure that the selected programmatic alternative (on-site incineration) remains valid for the NAAP. A separate report, required by Congress, summarizing this effort will be published prior to preparation of the draft EIS for the NAAP. The draft EIS will be available in the summer of 1993. Upon completion of the draft EIS, the public will be notified of its availability for review.

NOTICE OF PUBLIC MEETING: Notice is further given of the Army's intention to conduct a scoping meeting to aid in determining the significant issues related to the proposed action at the NAAP. Public, as well as Federal, State and local agencies, participation and input are welcome. The scoping meeting will be held on April 3, 1992, at 7 p.m. at the North Vermillion High School, located on State Road 63, ½ mile north of Cayuga in Vermilllion County, Indiana. Interested individuals, governmental agencies and private organizations are encouraged to attend and submit information and comments for comments for consideration by the Army.

FOR FURTHER INFORMATION CONTACT: Program Manager for Chemical Demilitarization, ATTN: SAIL–PMM–N (Ms. Monica Satrape), Aberdeen Proving Ground, Maryland 21010–5401. Individuals desiring to be placed on a mailing list to receive additional information on the public scoping process and copies of the draft and final EIS should contact the Program Manager at the above address.

Lewis D. Walker,

Deputy Assistant Secretary of the Army, Environment, Safety and Occupational Health, OASA(I,L&E).

[FR Doc. 92–3496 Filed 2–12–92; 8:45 am]

BILLING CODE 3710-06-M

DEPARTMENT OF EDUCATION

Office of Human Resources and Administration: Availability of Data Acquisition Activities

AGENCY: Department of Education.

ACTION: Notice of availability of data acquisition activities approved prior to February 15, 1992.

SUMMARY: The Secretary publishes this notice to advise interested persons that they may obtain information regarding a list of approved education-related data acquisition activities that Federal agencies will use to collect data during school year 1992–93. The list includes all data acquisition activities approved before February 15, 1992.

DATES: The listing of approved data acquisition activities will be available February 15, 1992.

FOR FURTHER INFORMATION CONTACT: For information about this list or copies of the list, contact Michael R. Zysman, U.S. Department of Education, Information Management and Compliance Division, 400 Maryland Avenue, SW., room 5624, ROB–3, Washington, DC 20202–4651. Telephone: (202) 708–9275. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: Under section 400A of the General Education Provisions Act, the Secretary of Education is responsible for reviewing and coordinating the collection of information and data acquisition activities of Federal agencies:

(a) Whenever the respondents are primarily educational agencies or institutions; or

(b) Whenever the purpose of the activities is to request information needed for the management of, or the formulation of, policy related to Federal education programs or research or evaluation studies related to the implementation of Federal education programs.

Under section 400A the Secretary also informs the public of data acquisition activities that were approved by

February 15, 1992. These data acquisition activities are considered information collection requests under the Paperwork Reduction Act of 1980. Under that Act and Office of Management and Budget (OMB) implementing regulations, proposed information collection requests must be published in the **Federal Register** on or before submission to OMB for final approval. Thus, the list announced by this notice includes each data acquisition activity for which the following requirements have been met prior to February 15, 1992: Approval by the Secretary for use in the 1992–93 school year; publication in the **Federal Register** as a proposed information collection request; and approval by OMB.

Interested persons may obtain a copy of the list of approved information collection requests, or information regarding that list from Michael R. Zysman at the address and telephone number listed at the beginning of this notice.

Dated: February 7, 1992.

Donald A. Laidlaw,

Assistant Secretary for Human Resources and Administration.

[FR Doc. 92–3446 Filed 2–12–92; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Developing Area Specific Waste Management Plans for Oil and Gas Exploration and Production Operations

AGENCY: Metairie Site Office, U.S. Department of Energy.

ACTION: Notice of non-competitive financial assistance (Grant) award with International Human Resources Development Corporation (IHRDC).

SUMMARY: The Department of Energy (DOE), Metairie Site Office announces that pursuant to 10 CFR 600.7(b)(2)(i) criteria (B), it intends to make a Non-Competitive Financial Assistance (Grant) Award through the Pittsburgh Energy Technology Center to IHRDC for a series of workshops entitled "Developing Area Specific Waste Management Plans for Oil and Gas Exploration and Production Operations."

SUPPLEMENTAL INFORMATION: *Awardee:* International Human Resources Development Corporation (IHRDC).

Grant Number: DE–FG22–92MT92014.

Grant Value: $400,000.00.

SCOPE: The objective of the grant project is to cofund up to 40 workshops entitled "How to Develop Area Specific Exploration and Production Waste Management Plans" throughout the United States. The primary objective of these workshops is to train and motivate applicable independent and major oil and gas operating company personnel to develop and use an area-specific Waste Management Plan for exploration and production operations. The workshops provide practical training focusing on the methodology for developing area specific waste management plans. They emphasize wastes generated in onshore oil and gas production lease operations, onsite drilling and servicing operations, and gas plant operations. Workshops in coastal areas will also address some of the major considerations for offshore waste management plans.

The area plan communicates how wastes should be managed and disposed. The area-specific Waste Management Plan can be used for: (1) insuring ongoing regulatory compliance and continued protection of the environment, (2) a basis for an ongoing training program for field personnel, and (3) evaluation and monitoring of the waste management practices.

The target audience for the workshops are industry regulatory and environmental specialists, field supervisors, engineers, Federal and state regulatory agency personnel, and consultants, with waste management responsibilities. These workshops are currently planned in 27 cities throughout the United States over an 23-month period in 1992 and 1993. This training would be based on the API Environmental Guidance Document: Onshore Solid Waste Management in Exploration and Production Operations, a workbook, a case study approach, Federal and state environmental laws and regulations, and other materials. The American Petroleum Institute (API) is planning on allocating a minimum of $50,000 in their own funds towards the workshops. IHDRC is serving as the contractor to API for these workshops. This DOE grant would allow IHRDC to underwrite the per attendee charge, lowering the costs from approximately $300 to $250 or less.

In accordance with 10 CFR 600.7(b)(2)(i) criteria (B), a noncompetitive Financial Assistance Award to IHRDC has been justified.

This effort would be conducted by the IHRDC using their own resources and those of API; however, DOE support of the activity would enhance public benefits to be derived by making these workshops available to a wider audience than would otherwise be able to afford to attend. DOE knows of no other entity which is conducting or planning to conduct such an effort. This effort is considered suitable for noncompetitive financial assistance and would not be eligible for financial assistance under a solicitation, and a competitive solicitation would be inappropriate.

The grant is for an estimated total value of $400,000. The API share of cofunding for the workshops is a minimum of approximately $50,000. The DOE share of cofunding for the workshops is estimated at $100,000 and shall be used to pay for the reasonable cost of staff, administrative support personnel, consultants, experts, advertising, and printing costs as necessary for the workshops.

For further information contact: U.S. Department of Energy, Pittsburgh Energy Technology Center, Acquisition and Assistance Division, P.O. Box 10940, MS921–118, Pittsburgh, PA 15236, Attn: Rhonda Dupree. Telephone: AC (412) 892–4949.

Dated: February 4, 1992.

Richard D. Rogus,

Contracting Officer, Pittsburgh Energy Technology Center.

[FR Doc. 92–3506 Filed 2–12–92; 8:45 am]

BILLING CODE 6450-01-M

Financial Assistance Award; Intent to Award a Noncompetitive Grant

AGENCY: Savannah River Field Office, DOE.

ACTION: Notice of noncompetitive award of grant.

SUMMARY: The DOE announces that it plans to award a grant to the South Carolina Department of Health and Environmental Control (SCDHEC), 2600 Bull Street, Columbia, SC 29201 for emergency response to radiological and hazardous materials at the DOE's Savannah River Site (SRS) near Aiken, SC. The grant will be awarded for a five-year period at an estimated cost of $2,330,668. Funds of $534,420 will be provided for the first year. Pursuant to 600.7(b)(2)(i)(C) of the DOE Assistance Regulations (10 CFR part 600), DOE has determined that a noncompetitive award is appropriate since the applicant is a unit of government and the activity to be supported is related to performance of their function within the subject jurisdiction.

PROCUREMENT REQUEST NUMBER: U9–92SR18264.001.

PROJECT SCOPE: SCDHEC shall develop and maintain effective State and local

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radiological and hazardous material emergency preparedness capabilities for responding to an emergency at the SRS. In addition, the grantee will coordinate State and local emergency plans and procedures development, training, and public awareness programs and emergency response exercise participation.

SCDHEC is the authorized and qualified State regulatory agency to perform the functions covered under this grant.

DOE has determined that this award to SCDHEC on a noncompetitive basis is appropriate.

FOR FURTHER INFORMATION CONTACT: Elizabeth T. Martin, Contracts Management Branch, U.S. Department of Energy, Savannah River Field Office, P.O. Box A, Aiken, SC 29802. Telephone: (803) 725-2191.

Issued in Aiken, South Carolina on: 3 February 1992.

Peter M. Hekman, Jr.,

Manager, DOE Savannah River Field Office. Head of Contracting Activity.

[FR Doc. 92-3507 Filed 2-12-92; 8:45 am]

BILLING CODE 6450-01-M

Workshop on High-Efficiency Fine Coal Preparation

AGENCY: Pittsburgh Energy Technology Center, U.S. Department of Energy.

ACTION: Notice of non-competitive financial assistance (Grant) award with Virginia Polytechnic Institute and State University.

SUMMARY: The Department of Energy (DOE), Pittsburgh Energy Technology Center announces that pursuant to 10 CFR 600.7(b)(2)(i) criteria (B), it intends to make a Non-Competitive Financial Assistance (Grant) Award to the Virginia Polytechnic Institute and State University for a workshop entitled "Workshop on High-Efficiency Fine Coal Preparation". Although the workshop would be organized and conducted by the grantee using its own funds or those donated by third parties, DOE support of the workshop will enhance the public benefits to be derived, and the DOE knows of no other entity which is conducting or is planning to conduct such an activity.

SUPPLEMENTARY INFORMATION:

Awardee: Virginia Polytechnic Institute and State University.

Grant Number: DE-FG22-92PC92245.

Grant Value: $ 20,000, with DOE estimated funding of $5,000.

Scope: The objective of the grant project is to cofund the Workshop on High-Efficiency Fine Coal Preparation. The purpose of the workshop is to transfer information regarding recently developed technological advances that have potential for near-term application in the coal field. Technology transfer concerning high-efficiency coal preparation methods in particular will promote the coal industry's technical contribution toward achieving the environmental quality goals expressed in both the National Energy Strategy and recent amendments to the Clean Air Act. The primary benefit of this transaction accrues to the public interest in the form of substantial economic advantages associated with the stimulated use, in an environmentally acceptable manner, of the abundant supply of high-sulfur coals.

The grant is for an estimated total value of $20,000.00. The DOE share of funding for the workshop is estimated at $5,000.00.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Pittsburgh Energy Technology Center, Acquisition and Assistance Division, P.O. Box 10940, MS 921-118, Pittsburgh, PA 15236, Attn: John R. Columbia, Telephone: AC 412/892-6219.

Dated: February 5, 1992.

Dale A. Siciliano,

Chief, Contracts Group I, Acquisition and Assistance Division, Pittsburgh Energy Technology Center.

[FR Doc. 92-3508 Filed 2-12-92; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Agency Information Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Notice of request submitted for review by the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act (Pub. L. No. 96-511, 44 U.S.C. 3501 *et seq.*).

The entry contains the following information: (1) The sponsor of the collection; (2) Collection number; (3) Current OMB docket number (if applicable); (4) Collection title; (5) Type of request, e.g., new, revision, extension, or reinstatement; (6) Frequency of collection; (7) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (8) Affected public; (9) An estimate of the number of respondents per report period; (10) An estimate of the number of responses per respondent annually; (11) An estimate of the average hours per response; (12) The estimated total annual respondent burden; and (13) A brief abstract describing the proposed collection and the respondents.

DATES: Comments must be filed on or before March 16, 1992. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer. The Desk Officer may be telephoned at (202) 395-3084. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.)

FOR FURTHER INFORMATION AND COPIES OF RELEVANT MATERIALS CONTACT: Jay Casselberry, Office of Statistical Standards, (EI-73), Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Mr. Casselberry may be telephoned at (202) 254-5348.

SUPPLEMENTARY INFROMATION: The energy information collection submitted to OMB for review was:

1. Energy Information Administration.
2. EIA-819.
3. 1905-0183.
4. Monthly Oxygenate Telephone Report.
5. Extension.
6. Monthly.
7. Mandatory.
8. Businesses or other for-profit; Federal agencies or employees.
9. 89 respondents.
10. 12 responses.
11. .50 hour per response.
12. 534 hours.
13. This collection will be used to measure the availability of oxygenates in 1992 which can be used to produce finished motor gasoline that meets the Clean Air Act of 1990 requirements. This data will be used by the Administration, the Congress, the energy industry, energy analysts, and other interested parties to better understand and assess the availability of oxygenates.

Statutory Authority

Sec. 5(a), 5(b), 13(b), and 52, Pub. L. No. 93-275, Federal Energy Administration Act of 1974, 15 U.S.C. 764(a), 764(b), 772(b), and 790a.

Issued in Washington, DC, February 6, 1992.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration

[FR. Doc. 92–3513 Filed 2–12–92; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. EL85–19–118 and EL85–19–119]

Nooksack River Basin, WA, Skagit River Basin, WA; Intent to Prepare Separate Environmental Impact Statements and Conduct Scoping Meetings

February 6, 1992.

The staff of the Federal Energy Regulatory Commission (Commission) has determined that licensing 17 proposed hydroelectric power projects in the Nooksack and Skagit River Basins, listed below, would constitute a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969 and the Commission's regulations. Therefore, the staff will prepare separate environmental impact statements (EIS) for the Nooksack and Skagit River Basins.

Skagit River Basin Projects

Thunder Creek Project No. 3913
Rocky Creek Project No. 4376
Diobsud Creek Project No. 4437
Boulder Creek Project No. 6984
Jordan Creek Project No. 9787
Irene Creek Project No. 10100
Jackman Creek Project No. 10269
Rocky Creek Project No. 10311
Anderson Creek Project No. 10416

Nooksack River Basin Projects

Nooksack Falls Project No. 3721
Boulder Creek Project No. 4270
Deadhorse Creek Project No. 4282
Canyon Creek Project No. 4312
Wells Creek Project No. 4628
Glacier Creek Project No. 4738
Canyon Lake Project No. 9231
Clearwater Creek Project No. 10952

The staff's EIS's will objectively consider both site specific and cumulative environmental impacts of the projects and reasonable alternatives, and will include an economic, financial, and engineering analysis.

Scoping Meetings

The major issues to be evaluated in these EIS's will be discussed at two scoping meetings, both scheduled to be held on Wednesday, February 26, 1992. Prior to this date, a scoping document (Scoping Document I) will be mailed to all recipients of this notice; copies will also be available at the scoping meetings. Scoping Document I will be subsequently revised to reflect any new information provided at the scoping meetings (Scoping Document II), which will be mailed to all parties, interested agencies, Indian tribes, and individuals.

All interested individuals, organizations, Indian tribes, and agencies are invited to attend the scoping meetings and assist staff in identifying the scope of environmental issues that should be analyzed in the EIS's. Individuals presenting statements for the record will be asked to identify themselves and indicate the entity they represent.

The first scoping meeting will be held from 9:30 a.m. to 12:30 p.m. at the Washington Department of Wildlife, Region 4 Office conference room, 16018 Mill Creek Boulevard, Mill Creek, Washington 98012. This meeting will focus on resource agency concerns. The second meeting will be held from 7 p.m. to 10 p.m. at the Skagit County Administration Building Hearing rooms B and C, 700 South Second Street, Mount Vernon, Washington 98273. This meeting is primarily designed for public input.

Objectives

At the scoping meetings, the staff will:

(1) Present environmental issues that are identified for coverage in the EIS;

(2) Receive input from meeting participants on the issues presented;

(3) Clarify the significance of issues;

(4) Identify any additional issues that need treatment in the EIS; and

(5) Identify those issues that do not merit treatment in the EIS.

Procedures

Both scoping meetings will be recorded by a stenographer and all statements (oral or written) will become part of the Commission's public record for Docket No. EL85–19–118 and EL85–19–119. Interested persons who are unable to attend, or do not choose to speak at the scoping meetings, may submit written statements for inclusion in the public record. All written comments must be filed with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, until March 31, 1992.

All written correspondence should clearly show on the first page of each document one of the following captions: Nooksack River Basin Docket No. EL–85–19–118 or the Skagit River Basin Docket No. EL85–19–119. If a single letter or other piece of correspondence includes information about both basins, the commentor should separate the information and identify the information by river basin.

Further, parties are reminded of the Commission's Rules of Practice and Procedure, requiring parties filing documents about specific project(s) with the Commission, to serve a copy of the document on each person whose name is on the official service list for that specific project(s).

For further information, please contact Tom Dean at (202) 219–2778 about projects located in the Nooksack River Basin, and Lee Emery at (202) 219–2779 about projects located in the Skagit River Basin.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92–3416 Filed 2–12–92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP92–4–000; FERC No. JD92–02504T]

Railroad Commission of Texas, Tight Formation Determination; Texas–15 Addition 4; Preliminary Finding

February 6, 1992.

On December 23, 1991, the Railroad Commission of Texas (Texas) notified the Commission that the W, X, Y and Z Sands within the Lower Vicksburg Formation underlying portions of Hidalgo and Starr Counties, Texas, qualify as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978 (NGPA). For the reasons discussed below, the Commission issues this preliminary finding that Texas' determination is not supported by substantial evidence.

Texas' Determination

On December 23, 1991, Texas submitted an affirmative tight formation area determination for the W, X, Y and Z Sands in the Lower Vicksburg Formation, in portions of Hidalgo and Starr Counties, Texas.[1] The determination covers approximately 20,000 acres in the Javelina-East McCook area.[2] The W, X, Y and Z Sand intervals are four separate sand "packages". Each sand package is between 500 and 1,500 feet thick. The shallowest package is the W Sand and the deepest is the Z Sand. The recommended surface area is the same for each sand package.[3]

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[1] Texas Docket No. 4–97,109. Shell Western Exploration & Production requested Texas to designate the recommended area as a tight formation.

[2] The determination covers an irregular H-shaped area. The western portion consists of the Boston Texas Land and Trust (BTLT) lease, which accounts for approximately 10,732 acres in the recommended area. The central portion consists of roughly 4,631 acres. The eastern portion consists of approximately 4,637 acres.

The record on which Texas based its determination shows that 64 Vicksburg wells have been drilled in the recommended area since 1956 and that 41 of these wells have interpretable pre-stimulation or post-stimulation pressure build-up data. Of the 41 data wells, 8 are in the W Sand, 20 are in the X Sand, 10 are in the Y Sand, and 3 are in the Z Sand. Texas analyzed each sand package independently and concluded that each sand satisfies the Commission's 0.1 millidarcy (md) permeability guideline in § 271.703(c)(2)(i)(A) of the regulations throughout the entire recommended area. Texas also concluded that each sand meets the applicable maximum allowable flow rate under § 271.703(c)(2)(i)(B) of the regulations over the entire recommended area.

Discussion

Section 271.703(c)(2)(i)(A) of the Commission's regulations establishes the guidelines that a formation must meet to be designated as a tight formation. Among other things, the estimated average *in situ* gas permeability, throughout the pay section, must be expected to be 0.1 md or less. Our review shows that the average permeability for the W, X and Y Sands, on an arithmetic basis, exceeds the 0.1 md guideline.

Our review also shows that there are significant portions of the recommended area that do not contain any well data showing that the formation meets the guidelines.[4] For example, there are only three data wells in the Z Sand and all three wells are located on a lease which covers approximately 3% of the recommended area. In addition, there is no well data from the Boston Texas Land and Trust (BTLT) lease, which covers more than half of the recommended area, to support Texas' determination for the Y and Z Sands. Additionally, 5 of the 8 data wells in the W Sand are concentrated in a rectangular area roughly 1,200 acres in size, located in the central portion of the BTLT lease.[5]

Finally, Texas' determination does not contain all the information required by the regulations. Section 271.703(c)(4)(ii) of the Commission's regulations requires the notice to contain engineering data and calculations to support the jurisdictional agency's conclusions that the formation meets the Commission's guidelines. Texas' notice does not include the individual well flow rate data and corresponding calculations which resulted in the average flow rates for each sand package, nor does it identify the source of the data used to support the average flow rates it calculated.

Based on the above, the Commission hereby makes a preliminary finding, under § 275.202(a) of the regulations, that the determination is not supported by substantial evidence in the record upon which it was made. Texas or the applicant may, within 30 days from the date of this preliminary finding, submit written comments and request an informal conference with the Commission pursuant to § 275.202(f) of the regulations. A final Commission order will be issued within 120 days after the issuance of this preliminary finding.

By direction of the Commission.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-3412 Filed 2-12-92; 8:45 am]

BILLING CODE 6717-01-M

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[3] Texas' notice states that no well is presently completed in or producing from more than one of the sand packages.

[4] Order No. 99 (FERC Statutes and Regulations, Regulations Preambles, 1977-1981, ¶ 30,183) states that portions of formations that do not meet the tight formation guidelines should be excluded from a jurisdictional agency's recommendation.

[5] Section 271.703(c)(4)(iii) of the regulations requires a jurisdictional agency to include a map which clearly locates wells which are currently producing from the determined tight formation, or a list locating all wells which are currently producing natural gas from the determined tight formation.

Although the maps and well lists in the notice do not correlate all of the data wells to a location on a map in the notice, the Commission believes that it has properly located all of the data wells except for the Daugherty #1 well.

[Docket No. TA92-1-31-000]

Arkla Energy Resources; Annual PGA Filing

February 6, 1992.

Take notice that on January 31, 1992, Arkla Energy Resources (AER), a division of Arkla, Inc., tendered for filing the following revised tariff sheets to become effective April 1, 1992:

Rate Schedule No. X-26

Original Volume No. 3
Seventeenth Revised Sheet No. 185.1

Rate Schedule No. G-2

Second Revised Volume No. 1
Ninth Revised Sheet No. 11

Rate Schedule No. CD

Second Revised Volume No. 1
Ninth Revised Sheet No. 16

AER states that the tariff sheets reflect AER's fourth annual PGA filing made pursuant to the Commission's rules under Order Nos. 483 and 483-A.

AER states that the proposed changes reflect an increase in AER's system cost of $49,311 and would increase its revenue from jurisdictional sales and service by $69 for the PGA period of April, May and June 1992 as adjusted.

AER states that copies of the filing is being mailed to the jurisdictional customers served under AER's Rate Schedule Nos. X-26 and G-2 and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before February 24, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-3420 Filed 2-12-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. EL92-14-000 and EC92-10-000]

Beaver Michigan Associates; Notice of Filing

February 6, 1992.

Take notice that on January 31, 1992, as amended on February 6, 1992, Beaver Michigan Associates Limited Partnership ("BMA") tendered for filing with the Federal Energy Regulatory Commission ("Commission") a petition for declaratory order disclaiming jurisdiction and a request for authorization pursuant to sections 203 and 204 of the Federal Power Act, 16 U.S.C. leaseback of a qualifying small power production facility located in Cadillac, Michigan (the "Facility"). See 37 FERC ¶ 62,001 (1986).

BMA seeks Commission authorization under sections 203 and 204 of the Federal Power Act in connection with a sale and leaseback transaction pursuant to which BMA will sell the facility to an Owner Trustee for the benefit of General Electric Capital Corporation ("GE Capital"), and simultaneously lease back the Facility from the Owner

Trustee. The Owner Trustee will be a bank or trust company acting as trustee for the benefit of GE Capital, who will be the Owner Participant.

BMA also requests the Commission (i) disclaim jurisdiction over GE Capital and the Owner Trustee as public utilities, (ii) confirm the continued applicability of BMA's supplemental rate schedule and (iii) confirm that the change in ownership of the Facility pursuant to the proposed sale and leaseback transaction will not result in the loss of the Facility's qualifying facility status.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before March 6, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-3421 Filed 2-12-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP92-44-001 and RP89-98-015]

Colorado Interstate Gas Co.; Compliance Filing

February 6, 1992.

Take Notice that Colorado Interstate Gas Company ("CIG") on January 30, 1992, tendered for filing the following tariff sheet to revise its FERC Gas Tariff, Original Volume No. 1:

First Revised Sheet No. 61G11.2

CIG states that the above-referenced traiff sheet is being filed in compliance with the Commission's Orders issued in these dockets to reflect the election of alternate Amortization Periods or lump-sum payments for recovery of the respective Buyout-Buydown Obligations in Docket No. RP92-44-000 for CIG's affected customers.

CIG states that the provision to allow affected customers the option of electing alternate Amortization Periods is contained in CIG's Volume No. 1 Tariff and was approved and accepted by the Commission's Order of March 31, 1989, in Docket No. RP89-98-000.

CIG states that copies of the filing were served upon all of the parties to these proceedings and affected state commissions as well as all of CIG's firm sales customers.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before February 13, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-3422 Filed 2-12-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP92-326-000]

Granite State Gas Transmission, Inc.; Application

February 6, 1992.

Take notice that on January 31, 1992, Granite State Gas Transmission, Inc., (Granite State), 300 Friberg Parkway, Westborough, Massachusetts 01581, filed an abbreviated application pursuant to sections 7(b) and 7(c) of the Natural Gas Act and part 157 of the Commission's Regulations, for a certificate of public convenience and necessity to construct and operate approximately 1.6 miles of 12-inch diameter replacement mainline and an order authorizing the abandonment of approximately 2.5 miles of existing 6 and 8-inch diameter mainline in Portsmouth and Newington, Rockingham County, New Hampshire, all as more fully set forth in the application on file with the Commission and open to public inspection.

According to Granite State, the sections of its mainline that will be abandoned are located in the path of a major highway reconstruction project on the Spaulding Turnpike in Portsmouth and Newington that will be undertaken by the New Hampshire Department of Transportation (NHDOT), beginning in March 1992. Granite State further states that it will replace the abandoned sections of pipeline with a new 12-inch line in a right-of-way adjacent to the Turnpike that will be provided by the NHDOT in connection with the highway reconstruction. It is further stated that existing delivery points to the Pease Air Force Base and Northern Utilities, Inc. on the sections of pipeline that will be abandoned will be connected to the replacement 12-inch pipeline and no abandonment or discontinuance of natural gas service will result from the relocation of the facilities. According to Granite State, the estimated cost of the proposed construction is $1,006,100 and the construction is required to commence in April 1992. Granite State is proposing to finance the construction by internal sources, augmented by its existing lines of credit. The permanent capital requirements will be included in Granite State's ongoing financing program.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 21, 1992, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate, and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Unde the procedure herein provided for, unless otherwise advised, it will be

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unnecessary for Granite State to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-3419 Filed 2-12-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES92-29-000]

Gulf States Utilities Co., Application

February 6, 1992.

Take notice that on January 30, 1992, Gulf States Utilities Company (Gulf States) filed an application with the Federal Energy Regulatory Commission under section 204 of the Federal Power Act requesting authority to issue not more than $600 million principal amount of First Mortgage Bonds. Also, Gulf States requests exemption from the Commission's competitive bidding regulations.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before February 27, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-3423 Filed 2-12-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA92-1-5-000]

Midwestern Gas Transmission Co.; Rate Filing Pursuant to Tariff Rate Adjustment Provisions

February 6, 1992.

Take notice that on January 31, 1992, Midwestern Gas Transmission Company (Midwestern) filed the following revised tariff sheets to First Revised Volume No. 1 of its FERC Gas Tariff to be effective April 1, 1992:

Thirty-First Revised Sheet No. 5

Midwestern states that the purpose of this revision is to change the rates on Midwestern's system through the Annual Purchased Gas Adjustment (PGA) filing pursuant to Section 16 of the General Terms and Conditions of Midwestern's Tariff.

Midwestern states that the Current Purchased Gas Cost Rate Adjustments reflected on Revised Sheet No. 5 consist of $(.3552) per dekatherm adjustment to the gas rate, and a $(.65) per dekatherm adjustment to the demand rate.

Midwestern states that the revisions also reflect a $.0456 per dekatherm surcharge adjustment to the gas rates and a $(.01) per dekatherm surcharge adjustment to the demand rate for amortizing the Unrecovered Gas Cost Account.

Midwestern states that all copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Captiol Street NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before February 24, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene.

Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Waston, Jr.,

Acting Secretary.

[FR Doc 92-3424 Filed 2-12-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA92-1-37-000]

Northwest Pipeline Corp.; Annual Filing Pursuant to Purchased Gas Cost Adjustment

February 6, 1992.

Take notice that on January 31, 1992, Northwest Pipeline Corporation (Northwest) tendered for filing the following tariff sheets as part of its FERC Gas Tariff, Second Revised Volume No. 1, with a proposed effective date of April 1, 1992:

Seventeenth Revised Sheet No. 10
Sixteenth Revised Sheet No. 11

Northwest states that the purpose of the filing is to (1) restate the approved January 1, 1992 PGA rates, to be effective April 1, 1992 without change; and (2) account for the changes in unrecovered purchased gas costs since Northwest's PGA filing dated January 30, 1991.

Northwest states that copies of its filing were served upon each person designated in the official service list and upon all of jurisdictional sales customers and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before February 24, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-3425 Filed 2-12-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ92-2-28-000 and TA92-1-28-001]

Panhandle Eastern Pipe Line Co., Proposed Changes in FERC Gas Tariff

February 6, 1992.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle) on February 4, 1992, tendered for filing the following revised tariff sheets listed to its FERC Gas Tariff, Original Volume No. 1:

Sub 4th/Eighty-Eighth/Sheet No. 3-A
Sub 4th/Second Revised Sheet No. 3-A.1
Sub 4th/Sixty-Fifth/No. 3-B
Sub 4th/Twelfth/Sheet No. 3-B.1

The proposed effective date of these tariff sheets is March 1, 1992.

Panhandle states that these revised tariff sheets filed herewith reflect: a decrease of ($0.22) for Panhandle's D1 demand rate and (0.88¢) per December 31, 1991 in Docket No. TA92-1-28-000.

Panhandle further states the above referenced tariff sheets are being filed in accordance with § 154.305(c)(4) of the Commission's Regulations and pursuant to sections 18.1, 18.2 and 18.4 of Panhandle's FERC Gas Tariff, Original Volume No. 1 to reflect the changes in Panhandle's jurisdictional sales rates effective March 1, 1992.

Panhandle states that copies of its filing have been served on all jurisdictional sales customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC. 20426, in accordance with such motions 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before February 13, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-3426 Filed 2-12-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA92-1-7-000]

Southern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

February 6, 1992.

Take notice that on January 31, 1992, Southern Natural Gas Company (Southern) tendered for filing the following revised sheets to its FERC Gas Tariff, Six Revised Volume No. 1, with a proposed effective date of April 1, 1992:

One Hundred Thirteenth Revised Sheet No. 4A
Twenty Sixth Revised Sheet No. 4B
Thirty Second Revised Sheet No. 4J

Southern states that the proposed tariff sheets reflect the following revisions to the Current Adjustment and Surcharge Adjustment components of Southern's rates:

Current Adjustment

1. A decrease of $.615 per Mcf at 1,000 Btu in the commodity component.

2. A decrease of $.005 per Mcf at 1,000 Btu in the demand component for Zone 1, an increase of $.004 per Mcf at 1,000 Btu in the demand component for Zone 2, and a decrease of $.016 per Mcf at 1,000 Btu in the demand component for Zone 3.

Surcharge Adjustment

1. An increase of $.044 per Mcf at 1,000 Btu in the commodity component.

2. An increase of $.134 per Mcf at 1,000 Btu in the demand component.

Southern states that copies of its filing were served upon all of the Southern's jurisdictional purchasers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before February 24, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-3415 Filed 2-12-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-203-005]

Tennessee Gas Pipeline Co.; Tariff Filing

February 6, 1992.

Take notice that on January 31, 1992, Tennessee Gas Pipeline Company (Tennessee) filed changes in its FERC Gas Tariff pursuant to the Commission's August 30, 1991 order in the captioned proceeding and to make certain other changes. The following revised tariff sheets are to be effective February 1, 1992:

Third Revised Volume No. 1

Substitute Sixth Revised Sheet No. 20
Substitute Original Sheet No. 20A
Substitute Sixth Revised Sheet No. 21
Substitute Original Sheet No. 21A
Substitute Sixth Revised Sheet No. 22
Substitute Fourth Revised Sheet No. 23
Substitute Third Revised Sheet No. 24
Substitute Original Sheet No. 24A
Substitute Fourth Revised Sheet No. 25
Substitute Original Sheet No. 25A
Substitute Fourth Revised Sheet No. 26
Substitute Original Sheet No. 26A
Second Revised Sheet No. 27
Substitute Second Revised Sheet No. 28
Substitute Original Sheet No. 28A
Original Sheet No. 28B
Sixth Revised Sheet No. 30
First Revised Sheet Nos. 57, 63, 69, 71, 74, 78–82, 86–90, 92
Second Revised Sheet Nos. 97, 101, 102
Substitute First Revised Sheet No. 106
First Revised Sheet No. 111
Second Revised Sheet Nos. 116, 121
First Revised Sheet Nos. 130, 132
Substitute First Revised Sheet No. 133
First Revised Sheet No. 136
Substitute First Revised Sheet No. 141
First Revised Sheet Nos. 142, 222, 231–233, 246–252
Fourth Revised Sheet No. 156
Second Revised Sheet No. 253
Substitute First Revised Sheet No. 253A
First Revised Sheet Nos. 266, 272–274, 467

Original Volume No. 2

Third Substitute Twenty-Fifth Revised Sheet No. 5
Third Substitute Original Sheet No. 5A
Substitute Twenty-Fourth Revised Sheet No. 6
Substitute Original Sheet No. 6A
Substitute Eighth Revised Sheet No. 7
Substitute Original Sheet No. 7A
Substitute Ninth Revised Sheet No. 8
Substitute Original Sheet No. 8A
Substitute Eighth Revised Sheet No. 9
Substitute Original Sheet No. 9A
Thirteenth Revised Sheet No. 10

Tennessee states that the revised tariff sheets reflect the following changes:

1. Elimination of the costs of facilities not in service by January 31, 1992;

2. Contract demand levels as of January 31, 1992;

3. Removal of tariff language with respect to Tennessee's proposed reconciliation surcharge, proposed lien on customer-owned gas, and proposed Rate Schedules FT-B and SS-S;

4. Reversal of a test period adjustment to working capital that was made to reflect the transfer of system storage to AQL-restricted customers pursuant to the Cosmic Settlement, which is not yet effective and is pending before the Commission;

5. Correction to Tennessee's filed rates related to FASB 106;

6. Classification of Canadian demand charges according to the Enhanced Fixed Variable methodology;

7. Revised rates under Rate Schedule HU;

8. General reduction in Tennessee's filed rates in Docket No. RP91-203; and

9. Revised rates for Rate Schedule NET-EU and Tennessee's systemwide rates to correct an error in the calculation of the Segment U rate.

Tennessee further states that the revised tariff sheets also reflect the (1) Surcharge for Amortizing the Unrecovered Purchased Gas Cost Account, (2) Current Purchased Cost Rate, (3) GRI Rate Adjustment, and (4) Annual Charge Adjustment, as shown in Tennessee's November 1, 1991 filing in Docket No. TA92-1-9, effective on January 1, 1991. Tennessee also states that the revised tariff sheets reflect the Transition Cost Rate Surcharges contained in Tennessee's November 29, 1991 filing in Docket No. RP92-51.

Tennessee states that copies of the filing have been mailed to all parties on the official service list in this proceeding, affected customers and affected state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 202426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before February 13, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

FR Doc 92-3417 Filed 2-12-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-203-006]

Tennessee Gas Pipeline Co.; Tariff Filing

February 6, 1992.

Take notice that on February 4, 1992, Tennessee Gas Pipeline Company (Tennessee) filed Second Substitute Sixth Revised Sheet No. 22 to Third Revised Volume No. 1 of its FERC Gas Tariff to be effective February 1, 1992.

Tennessee states that the purpose of the tariff filing is to correct a clerical error that mixed up the Base Tariff Rates among Tennessee's Zoned Rate Schedules.

Tennessee states that copies of the filing have been mailed to all affected customers and to all parties on the official service list in Docket No. RP91-203.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before February 13, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-3427 Filed 2-12-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA92-2-000]

TOMCAT, a Texas Intrastate Pipeline; Petition for Staff Adjustment Under Section 502(c)

February 6, 1992.

Take notice that on January 29, 1992, TOMCAT, a Texas Intrastate Pipeline, filed with the Commission a petition for adjustment pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) and part 385 (subpart K) of the Commission's regulations to permit TOMCAT to charge its existing intrastate transportation rate for comparable transportation services performed pursuant to section 311 of the NGPA.

In support of its petition, TOMCAT states that it currently provides intrastate transportation services for gas consumption within the State of Texas. TOMCAT's tariffs for such services are on file with the Texas Commission. TOMCAT also provides transportation services pursuant to section 311(a)(2) of the NGPA. TOMCAT's current rate for section 311(a)(2) transportation was established pursuant to § 284.123(b)(2) in a settlement approved by the Commission on June 21, 1989. This settlement required TOMCAT to justify its rate on or before January 31, 1992. Concurrent with this filing, TOMCAT is filing a motion requesting that the Commission suspend the January 31, 1992 filing date until after the Commission acts on this adjustment application. TOMCAT states that in the event that the Commission grants this adjustment application, then a rate filing with the Commission will not be required. TOMCAT here seeks an adjustment to allow it to use an existing tariff currently on file with the Texas Commission as the fair and equitable rate for transportation services to be performed under section 311 of the NGPA.

Any person desiring to be heard or protest this petition should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before February 20, 1992. All protests filed will be considered, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene in accordance with the Commission's rules. Copies of this petition are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-3428 Filed 2-12-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-103-000]

Transwestern Pipeline Co.; Proposed Changes in FERC Gas Tariff

February 6, 1992.

Take notice that Transwestern Pipeline Company (Transwestern) on February 4, 1992 tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, to become effective April 1, 1992:

9th Revised Sheet No. 5
Original Sheet No. 5D(vii)
1st Revised Sheet No. 5E(iv)
58th Revised Sheet No. 6
4th Revised Sheet No. 6C
20th Revised Sheet No. 37
12th Revised Sheet No. 89
12th Revised Sheet No. 90

Transwestern states that the tariff sheets are being filed to modify its take-or-pay, buy-out and buy-down mechanism (TCR mechanism) in order to recover certain take-or-pay, buy-out, buy-down, and contract reformation costs (Transition Costs) which amounts it paid subsequent to the implementation date of its Gas Inventory Charge (GIC), October 1, 1989, and which do not qualify under the Litigation Exception provision of its tariff.

Transwestern states that it has paid an additional $2,149,184.00 in settlement costs (TCR Amount Ten) and is revising certain tariff sheets and requesting authority to begin recovery of a portion of such amounts under the tariff sheets. Transwestern notes that it has not previously filed for recovery of such amounts.

Transwestern states that copies of the filing were served on its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before February 13, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-3418 Filed 2-12-92; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2113-022—Wisconsin/Michigan]

Wisconsin Valley Improvement Co.; Establishing Procedures for Relicensing and a Deadline for Submission of Final Amendments

February 6, 1992.

The license for the Wisconsin Valley Project No. 2113, located on the Wisconsin River and its tributaries, Vilas, Oneida, Forest, Marathon, and Lincoln Counties, Wisconsin, and Gogebic County, Michigan, expires on July 31, 1993. The statutory deadline for filing an application for new license was July 31, 1991. An application for new license has been filed as follows:

Project No.	Applicant	Contact
2113-022	Wisconsin Valley Improvement Company, 2301 North Third Street, Wausau, WI 54401.	Mr. Robert W. Gall, Wisconsin Valley Improvement Company, 2301 North Third Street, Wausau, WI 54401, 715 848-2976.

The Commission's deadline for applicant for filing a final amendment, if any, to its application is March 1, 1992.

The following is an approximate schedule and procedures that will be followed in processing the application:

Date	Action
Mar. 15, 1992	Commission notifies applicant that its application has been accepted.
Mar. 25, 1992	Commission issues public notice of the accepted application establishing dates for filing motions to intervene and protests.

Upon receipt of all additional information and the information filed in response to the public notice of the acceptance of the application, the Commission will evaluate the application in accordance with applicable statutory requirements and take appropriate action on the application.

Any questions concerning this notice should be directed to Michael Dees at 202-219-2807.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-3414 Filed 2-12-92; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. 91-111-NG]

Bridgegas U.S.A., Inc., Application To Export Natural Gas to Mexico

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of application for blanket authorization to export natural gas to Mexico.

SUMMARY: The Office of Fossel Energy (FE) of the Department of Energy (DOE) gives notice of receipt on December 20, 1991, of an application filed by BridgeGas U.S.A., Inc. (BridgeGas) requesting blanket authorization to export from the United States to Mexico up to 98.6 Bcf of natural gas on a short-term or spot market basis over a two-year period beginning with the date of first delivery. BridgeGas states that it will advise the DOE of the date of first delivery and submit quarterly reports detailing each transaction.

The application was filed under section 3 of the National Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATES: Protests, motions to intervene, or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time, March 16, 1992.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, room 3F-056, FE-50, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION:

Larine A. Moore, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478

Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E-042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6667.

SUPPLEMENTARY INFORMATION: BridgeGas is a Deleware corporation with its principal place of business in Dallas, Texas. According to BridgeGas, the gas to be exported would be purchased from U.S. producers on the spot market and would be surplus to domestic need. BridgeGas requests blanket export authorization to make short-term and spot market sales with terms of up to two years. All sales would result from arms-length negotiations and prices would be determined by market conditions. BridgeGas intends to use existing pipeline facilities to export this gas.

This export application will be reviewed under section 3 of the Natural Gas Act and the authority contained in DOE Delegation Order Nos. 0204-111 and 0204-127. In deciding whether the proposed export of natural gas is in the public interest, domestic need for the gas will be considered, and any other issue determined to be appropriate, including whether the arrangement is consistent with the DOE policy of promoting competition in the natual gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment on these matters as they relate to the requested export authority. The applicant asserts that there is no current need for the domestic gas that would be exported under the proposed arrangements. Parties opposing this arrangement bear the burden of overcoming this assertion.

NEPA Compliance:

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 et seq., requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have their written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests,

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motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the paraties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and response filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of BridgeGas's application is available for inspection and copying in the Office of Fuels Programs Docket Room, room 3F-056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on February 6, 1992

Anthony J. Como

Director, Office of Coal and Electricity, Office of Fuels Programs, Office of Fossil Energy.

[FR DOC. 92-3509 Filed 2-12-92; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 91-105-NG]

Entrade Gas Co., Application To Export Natural Gas to Canada and to Mexico

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of application for blanket authorization to export natural gas.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on December 6, 1991, of an application filed by EnTrade Corporation (EnTrade) requesting blanket authorization to export up to 150,000 Mcf of natural gas per day to Canada and up to 150,000 Mcf of natural gas per day to Mexico for a cumulative maximum of 100 Bcf and 100 Bcf, respectively, on a short-term or spot market basis over a two-year period beginning with the date of first deliveries. EnTrade states that it will advise the DOE of the dates of first delivery and submit quarterly reports detailing each transaction.

The application was filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene, or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time, March 16, 1992.

ADDRESS: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, room 3F-056, FE-50, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION:

Larine A. Moore, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478

Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E-042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6667.

SUPPLEMENTARY INFORMATION: EnTrade, a Kentucky corporation, is an independent natural gas marketer with its principal place of business in Louisville, Kentucky. According to EnTrade, the gas to be exported would be purchased from U.S. producers on the spot market and would be surplus to domestic need. Entrade requests authorization to export for its own account as well as for the account of U.S. suppliers and Canadian and Mexican purchasers. All sales would result from arms-length negotiations and prices would be determined by market conditions. EnTrade intends to use existing U.S. pipeline facilities which interconnect with Canadian and Mexican facilities at various points on the U.S./Canadian and U.S./Mexican borders for the transporation of this gas.

This export application will be reviewed under section 3 of the Natural Gas Act and the authority contained in DOE Delegation Order Nos. 0204-111 and 0204-127. In deciding whether the proposed export of natural gas is in the public interest, domestic need for the gas will be considered, and any other issue determined to be appropriate, including whether the arrangement is consistent with the DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment on these matters as they relate to the requested export authority. The applicant asserts that there is no current need for the domestic gas that would be exported under the proposed arrangements. Parties opposing this arrangement bear the burden of overcoming this assertion.

All persons should be aware that DOE, if it grants this application, may authorize aggregate term volumes rather than daily volumes, consistent with past practice and in order to maximize operating flexibility.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 et seq., requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have their written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and response filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of EnTrade's application is available for inspection and copying in the Office of Fuels Programs Docket Room, room 3F–056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on February 6, 1992.

Anthony J. Como,

Director, Office of Coal and Electricity, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 92–3510 Filed 2–12–92; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 91–119–NG]

PanCanadian Petroleum Co.; Application for Blanket Authorization to Import Natural Gas From Canada

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of application for blanket authorization to import natural gas.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application filed on December 27, 1991, and amended on January 14, 1992, by PanCanadian Petroleum Company (PanCanadian) requesting blanket authorization to import up to 146,000 MMBtu/d of Canadian natural gas to United States' markets over a term of two years, beginning on date of first delivery. PanCanadian intends to use existing facilities to import the gas and to file quarterly reports with FE giving the details of each transaction.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time, March 16, 1992.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–50, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION:

Larine A. Moore, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–53, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478.

Dianne Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E–042, GC–14, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORAMTION: PanCanadian is a corporation organized under the laws of the State of Delaware, owned by PanCanadian Petroleum Limited, a major producer of hydrocarbons in Western Canada, which is owned by Canadian Pacific Enterprises Limited of Calgary, Alberta, Canada. PanCanadian is a natural resources company with oil and gas interests in the United States.

PanCanadian proposes to import natural gas purchased from a variety of Canadian suppliers, for sale to various customers in the United States, including industrial customers, local distribution companies, municipalities and other end-users, on a short-term or spot market basis. PanCanadian proposes to import gas for its own account or act as agent for Canadian suppliers and/or U.S. purchasers. PanCanadian states that the specific terms of each transaction, including the price, would be responsive to competitive market conditions.

The decision on the application for import authority will be made consistent with DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that the proposed imports will be competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

All parties should be aware that if DOE approves this import, it may designate a total term volume rather than the daily limit requested in order to provide PanCanadian with maximum operating flexibility.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have their written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true diclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of PanCanadian's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, February 7, 1992.

Anthony J. Como,

Director, Office of Coal and Electricity, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 92–3511 Filed 2–12–92; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 91-91-NG]

Washington Natural Gas Co.; Application To Import Natural Gas From Canada

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of application for long term authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on October 30, 1991, of an application filed by Washington Natural Gas Company (Washington Natural) requesting authorization to import from Canada up to 7,500 MMBtu per day (7,212 Mcf/d) of natural gas through October 31, 1992, and up to 10,000 MMBtu per day (9,615 Mcf/d) from November 1, 1992, through October 31, 2002. The gas would be purchased on a firm basis under the terms of a gas sales agreement with Canadian Hydrocarbons Marketing Inc. (CHMI), and would be imported at the existing interconnection between Westcoast Energy Inc. (Westcoast) and Northwest Pipeline Corporation (Northwest) at the international border near Sumas, Washington.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., Eastern time, March 16, 1992.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–50, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION:

Peter Lagiovane, Office of Fuels Program, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–8116

Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E–042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: Washington Natural, a Washington corporation with its principal place of business in Seattle, is a natural gas distribution company serving approximately 380,000 customers in its five county service area in the State of Washington. Prior to July 1988, Washington Natural purchased almost all of its firm supply of natural gas from Northwest. Subsequently, Northwest became an open-access carrier and Washington Natural converted approximately 157,000 Mcf per day of firm supply service to firm transportation service. As a result of Washington Natural's reduction in firm domestic and Canadian purchase commitments with Northwest under the pipeline's open access program, and Washington Natural's growing market requirements, the company maintains that it must contract for approximately 108,000 MMBtu per day of firm gas supply from various suppliers. According to Washington Natural, the 11-year contract with CHMI is an important component of that needed firm gas supply.

The Washington Natural/CHMI gas sales agreement dated February 1, 1991, provides for a firm daily volume of up to 7,500 MMBtu per day (7,212 Mcf/d) during the period November 1, 1991, to October 31, 1992, and 10,000 MMBtu per day (9,615 Mcf/d) from November 1, 1992, through October 31, 2002. We note that the gas sales agreement also provided for a firm daily volume of up to 5,000 MMBtu per day (4,808 Mcf/d) during the period February 1, 1991, through October 31, 1991, which gas was imported by Washington Natural under its blanket authorization issued in DOE/ERA Opinion and Order No. 310, as extended in DOE/FE Opinion and Order No. 535. See 1 FE Para. 70,219, and Para. 70,483, respectively.

The contract price that Washington Natural will pay to CHMI consists of four components: the Westcoast demand charge, a commodity charge, a fuel gas charge, and a reservation fee. The monthly demand component is equal to the cost of transportation of the gas on the Westcoast system for delivery of gas at the international border near Sumas, Washington, and is the aggregate of the Westcoast firm service gathering, treatment, processing, liquids recovery, and transportation charges as approved by Canadian regulatory authorities.

The commodity charge component of the price is set on an annual basis, effective November 1 of each year. Under the contract, the initial commodity charge was $1.16 per MMBtu for the period February 1, 1991, through October 31, 1991. Beginning November 1, 1991, through October 31, 1992, the commodity charge is $1.22 per MMBtu. If Washington Natural and CHMI cannot agree on a mutually acceptable commodity price, either party may request arbitration.

The fuel charge is determined by multiplying the fuel gas volume by the gas commodity charge. The reservation fee through October 31, 1992, would be $.0915 per MMBtu. The reservation fee from November 1, 1992, to the end of the term of the gas sales agreement will be an amount equal to 15 percent of the gas commodity charge in effect from time to time.

Based on the foregoing contractual provisions, the price at the U.S./Canadian border under this contract, at 100% load factor, as of January 1, 1992, is $1.78 MMBtu.

There is no requirement for Washington Natural to purchase a minimum quantity of gas. Sales would be arranged on a monthly basis, with Washington Natural notifying CHMI of the amount it desires to purchase up to the daily maximum in the contract. Washington Natural has the right to change its designated purchase quantity for any day upon three days written notice to CHMI. Washington Natural is obligated to pay the demand charge whether any gas is taken or not.

CHMI will be responsible for arranging delivery of the gas on a firm basis through the facilities of Westcoast to the Sumas import point. At the delivery point the gas would enter the facilities of Northwest. Washington Natural would be responsible for arranging the transportation of the gas from the delivery point through the facilities of Northwest to Washington Natural's distribution system.

The decision on the application for import authority will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the market served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). In a long-term arrangement such as this, other matters that will be considered in making a public interest determination include need for the gas and security of the long-term supply. Parties, especially those that may oppose this application, should comment on these issues as set forth in the policy guidelines regarding the requested import authority. The applicant asserts that imports made under the proposed arrangement would be competitive and otherwise consistent with DOE import policy. Parties opposing this arrangement bear the burden of overcoming this assertion.

All parties should be aware that if the requested import arrangement is approved, the authorization would be conditioned on the filing of quarterly reports indicating volumes imported and the purchase price in order to facilitate the monitoring of DOE's natural gas import program.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have their written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comment must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Washington Natural's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on February 6, 1992.

Anthony J. Como,

Director, Office of Coal and Electricity, Office of Fuels Programs, Fossil Energy.

[FR Doc. 92-3512 Filed 2-12-92; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

Notice of Time Change for February 19-20 Meeting, and of a March 5 and 6 Meeting of the Coke Oven Batteries Advisory Committee

AGENCY: Environmental Protection Agency.

ACTION: Notice of meeting time change and of additional meeting.

SUMMARY: The National Emission Standards for Coke Oven Batteries Advisory Committee February 19 meeting will start at 9:30 a.m. instead of the previously announced 11 a.m. (57 FR 1730) It will still end at 6 p.m. The February 20 meeting will remain on the original schedule of starting at 8:30 a.m. and ending at 3 p.m. The Committee will meet again on March 5 and 6. The March 5 meeting will start at 9:30 a.m. and end at 6 p.m. The March 6 meeting will start at 8:30 a.m. and end at 3 p.m. The February meeting will be held at the Washington Court Hotel, 525 New Jersey Avenue NW., Washington, DC. The March meeting will be held at the Quality Hotel Capitol Hill, 415 New Jersey Avenue NW.

ADDRESSES: The Committee will meet at the Washington Court Hotel, 525 New

Jersey Avenue NW., Washington, DC 20001, [202] 628–2100, for the February 19 and 20 meeting and at the Quality Hotel Capitol Hill, 425 New Jersey Avenue NW., 20001, [202] 638–1616 for the March 5 and 6 meeting.

FOR FURTHER INFORMATION CONTACT: For information on substantive matters please contact Amanda Agnew, Office of Air Quality Planning and Standards [919] 541–5268. For information on administrative matters please contact the Committee's Facilitator, Phil Harter, at [202] 887–1033.

Dated: February 10, 1992.

Chris Kirtz,

Designated Federal Official Coke Oven Battery Advisory Committee.

[FR Doc. 92–3505 Filed 2–12–92; 8:45 am]

BILLING CODE 6560-50-M

[FRL–4103–9]

Science Advisory Board; Indoor Air Quality and Total Human Exposure Committee; Open Meeting

February 24–25, 1992.

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Science Advisory Board's (SAB) Indoor Air Quality and Total Human Exposure Committee (IAQTHEC) will meet on February 24–25, 1992 at the Days Inn Crystal City Hotel, 2000 Jefferson Davis Highway, Arlington, Virginia 22202. The meeting will begin 9 a.m. on February 24th and 8:30 a.m. on February 25th. The meeting will end no later than 4 p.m. on February 25th. The meeting is open to the public and seating is on a first-come basis.

The purpose of the meeting is for the Committee to review the following issues for the Risk Assessment Forum: (1) Guidance for estimating exposure to volatile organic compounds (VOC) during showering, and (2) Regional guidance on assessment of health risks associated with gasoline vapors in buildings. The charge to the Committee is to address the usefulness of the guidance presented in these documents and whether it reflects the state of current knowledge. Copies of background materials on these issues are NOT available from the Science Advisory Board. For more information concerning these materials and their availability, please contact: Ms. Claire Stine, U.S. EPA, Risk Assessment Forum (RD–689), 401 M Street, SW., Washington, DC 20460, Telephone: (202) 260–6743.

The Committee will also conduct a Consultation with the Office of Health Research on the National Exposure Assessment Survey (NHEXAS). A Consultation is a public discussion held between Agency Staff and the Committee which helps the Agency focus future activities on an issue. A Consultation is not a review and a written record or response is not produced. Finally, if time permits, the Committee will receive briefings on other relevant indoor air or exposure issues.

For details concerning this meeting, including a draft agenda, please contact Mr. Robert Flaak, Assistant Staff Director, or Ms. Carolyn Osborne, Program Assistant, Science Advisory Board (A–101F), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Telephone: (202) 260–6552 and FAX: (202) 260–7118. Members of the public who wish to make a brief oral presentation to the Committee must contact Mr. Flaak no later than Wednesday, February 19, 1992 in order to be included on the Agenda. Written statements of any length (at least 15 copies) may be provided to the Committee up until the meeting. The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, each individual or group making an oral presentation will be limited to a total time of five minutes.

Dated: February 5, 1992.

Donald Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 92–3569 Filed 2–12–92; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

Notice Agreement(s) Filed; Carribean Shipowners Association

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–010979–018

Title: Caribbean Shipowners Association.

Parties: Tropical Shipping & Construction Co., Ltd., Sea-Land Service, Inc. ("Sea-Land"), Trailer Marine Transport Corporation, Puerto Rico Maritime Shipping Authority ("PRMSA"), Seaboard Marine, Ltd., West Indies Shipping Corporation (WISCO), Tecmarine Lines, Inc., Bernuth Lines, Ltd., Interline Connection, Inc., Sea Barge Group, Inc. ("Sea Barge"), Kirk Line, Inc.

Synopsis: The proposed amendment would delete Sea-Land and Sea Barge as parties to the Agreement. It would reduce the scope of the Agreement by deleting service between Puerto Rico and Trinidad and Tobago. This former Agreement subtrade is now to be served under the provisions of the United States Atlantic & Gulf/Southeastern Caribbean Conference (FMC Agreement No. 202–007540).

Dated: February 7, 1992.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 92–3401 Filed 2–12–92; 8:45 am]

BILLING CODE 6730-01-M

[Agreement No. 212–011213–025]

Spain-Italy/Puerto Rico Island Pool Agreement; Erratum

The **Federal Register** notice of January 30, 1992 (57 FR 3630) stated that any party wishing to withdraw from the Agreement prior to June 30, 1992 was required to give notice of any intent to withdraw prior to January 14, 1992. The parties have revised their initial filing to state that any notice of withdrawal may be filed up to the effective date of Amendment No. 025 to the Agreement, March 2, 1992.

By Order of the Federal Maritime Commission.

Dated: February 7, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 92–3400 Filed 2–12–92; 8:45 am]

BILLING CODE 6730-01-M

VOL 57 ISS 30 FE 13 1992 UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

[MH-92-04]

State Service Systems Improvement Through Consumer and Family Support Activities

INSTITUTE: National Institute of Mental Health, HHS.

ACTION: Notice of request for applications.

INTRODUCTION: The National Institute of Mental Health (NIMH) announces the availability of support for projects to demonstrate and evaluate service system improvement strategies that integrate consumers and family members into the planning and provision of mental health and support services at State and local levels. These grants will be made under the authority of section 520 of the Public Health Service (PHS) Act which authorizes funds for demonstrations of mental health services for individuals with severe and persistent mental disorders. This Request for Applications (RFA) is an updated reissuance of the FY 1991 RFA.

Purpose

Since its inception, the Community Support Program (CSP) of the National Institute of Mental Health (NIMH) has supported a variety of initiatives to enhance the involvement of consumers, family members, and other interested individuals in the public mental health system. To support the developing role of consumers, family members, and other individuals in service delivery and systems planning, NIMH is inviting proposals under this Request for Applications (RFA) for 3-year projects to demonstrate and evaluate service system improvement strategies that integrate consumers, family members, and other interested individuals into the planning and provision of mental health and support services at State and local levels. This effort has also been reinforced by objectives 6.8 and 6.12 in Healthly People 2000: National Health Promotion and Disease Prevention Objectives.[1]

Activities supported in this effort must be relevant to the State's comprehensive mental health service plan submitted to NIMH for review in accordance with the requirements of title V of Public Law 99–660 and its subsequent amendments, and to the required involvement of consumers and family members on the Public Law 99–660 Advisory Councils.

Only mental health authorities in States and Territories that do not currently have a CSP State Service System Improvement Demonstration Grant, or are in the final year of a CSP State Service System Improvement Demonstration Grant for general community support development activities, are eligible to apply for these grants. Those States in the final year of a CSP grant which apply under this announcement must recognize that applications will only be accepted for totally new projects and cannot be extensions of current or previously funded projects. Each State and Territory may submit only one application.

NIMH is limiting potential applicants for demonstrations under this announcement to State mental health authorities for three reasons. First, because multiple agencies and providers are generally involved in implementing these demonstration initiatives, centralized State assistance is needed to assure that sufficient resources will be allocated to the project and appropriate staff and organizations will be involved. The State mental health authorities are best qualified to undertake this coordination function, since they oversee a wide range of mental health service providers. Prior NIMH demonstration efforts under section 504(f) of the PHS Act have shown the State mental health authorities to be effective in coordinating services.

Second, a related Federal initiative focused on the long-term mentally ill population, authorized under Public Law 99–660, The State Comprehensive Mental Health Service Plan Act of 1987 and its subsequent amendments, requires State governments to involve consumers and family members on Advisory Councils to assist in developing mental health plans. The projects supported through the grant will facilitate their involvement in the Public Law 99–660 planning process. Finally, if the consumer self-help and family support services stimulated through these grants are to survive beyond the grant period, it is probable that the main source of finding will come from State mental health authorities. Based on previous program experience, involving States in the demonstration projects greatly increases the probability that they will provide continuation funding for the services.

Population of Concern

The population of concern for CSP grants includes individuals 18 years and older with a severe and persistent mental disorder that seriously impairs functioning in the primary aspects of daily living such as interpersonal relations, living arrangements, or employment. Applicants should pay particular attention to the unique needs and special concerns of racial and ethnic minorities and women. It is Alcohol, Drug Abuse, and Mental Health Administration policy to include women and minorities in populations to be served, unless there is a compelling reason not to do so. The compelling reason may relate to circumstances such as disproportionate representation in terms of population size, age distribution, risk factors, incidence/prevalence, etc., of one gender or minority/majority group. Applications should include a description of the composition of the proposed population for the project by gender and racial/ethnic group.

In fiscal year 1992, NIMH has a priority on improving mental health services for American Indians and Alaskan Natives. Therefore, States with a significant population of American Indians or Alaskan Natives may request funds for specific activities for family members and consumers of these populations. (See Project Activities below.)

Program Goals

NIMH encourages the demonstration and evaluation of strategies that are directed toward the following programmatic goals:

- Integrating primary consumers, family members, and other interested individuals into State and local service delivery, systerm planning, decision-making, and research activities in order to develop mental health and support services that are considered responsive to consumer and family needs and preferences.
- Improving linkages between consumer self-help and family support groups and the formal community support, treatment, and rehabilitation service systems.
- Increasing the effectiveness of consumers, family members, and other individuals in identifying and fostering needed improvements in the mental health service system.
- Fostering participation of minority individuals and women in the planning

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[1] Potential applicants may obtain a copy of Healthy People 2000 (Full Report: Stock Number 017–001–00474–0) or Healthy People 2000 (Summary Report: Stock Number 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC. 20402–9325 (Telephone 202–783–3238).

of consumer self-help and family support groups.

- Increasing opportunities for meaningful consumer employment within the formal mental health service system.

Project Activities

The following are examples of potentially supportable projects:

- Demonstration and evaluation of mechanisms to establish or maintain consumer self-help, family support activities, or volunteer programs.
- Assessing the effectiveness of providing training and educational opportunities for consumers, family members, and volunteers. (Examples of such training and education could include: leadership training; family education on mental illness and co-morbidity; providing information on the organization and delivery of mental health services in the applicant's State or Territory; volunteer training in companion programs; providing information on recovery and coping strategies; disseminating information on starting, operating, and evaluating self-help groups; and training families and consumers on the use of research to improve mental health service systems.)
- Demonstration and evaluation of approaches for recruiting and training consumers and family members to participate on State and local mental health planning councils, advisory committees, governing boards, and task forces, including approaches for assuring racial/ethnic, majority/minority representation proportional to the State/community population.
- Development and evaluation of programs to hire and train consumers for employment at the State or local level in various positions. (Such positions could include: peer support counselors, resource managers, residential staff, research assistants, data technicians, and computer programmers.)
- Evaluation of the impact of using consumers and family members to educate health providers on their needs in the mental health system.
- Statewide surveys to determine consumer and family needs and preferences with respect to mental and supportive services.

Application Procedures

All applicants should use Form PHS-5161-1 (revised 3/89) to request support for State service system improvement activities described in this RFA. The number and title of the announcement, "CSP State Systems Improvement, RFA MH-92-04," and the Catalog of Federal Domestic Assistance 93.125 should be typed in Item 10 on the face page of the application. The descriptive title of the application should be entered in Item 11, but should not exceed 56 typewritten spaces. Applications must be complete and contain all information needed for initial and Advisory Council review. No subsequent addenda will be accepted unless specifically requested by the Scientific Review Administrator of the review committee. No site visits will be made.

Application kits are available from: Grants Management Branch, National Institute of Mental Health, Parklawn Building, room 7C-15, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-4414.

The signed original and two (2) permanent, legible copies of the completed application must be received (not postmarked) by the close of business May 18, 1992 at the latest.

Applications should be sent to: Division of Research Grants, National Institutes of Health, room 240, 5333 Westbard Avenue Bethesda, Maryland 20892.[1]

Important—The mailing envelope (including that provided by an express carrier) must be clearly marked "RFA MH 92-04." Failure to label the application could result in delayed processing such that is may not reach the review committee in time for review.

To facilitate the timely review of your application, it is also suggested that one additional copy of the application be sent directly to: Division of Extramural Activities, National Institute of Mental Health, 5600 Fishers Lane, room 9C-05, Rockville, Maryland 20857.[2]

Application Requirements

The application should be written in a manner that is self-explanatory to objective, outside reviewers who may not be familiar with prior related activities of the applicant. The application should be as brief as possible. The narrative is limited to 20 single-spaced pages and should contain the necessary information for reviewers to understand the project. Appendices may be attached but should *not* be used to merely extend the narrative; extensive appendices are discouraged. It is important that the relationship between the proposed project and ongoing State and/or local activities be clearly explained. It is also important that the activities that are specific to the proposed project be clearly identified.

To ensure that sufficient information is included for technical merit review, please follow the instructions for Program Narrative on page 16 of Form PHS-5161-1. In addition, include the following:

- Project abstract, which should not exceed one-half of a single-spaced, typewritten page.
- Summary description of the proposed project, preliminary analysis of the target population (including size, location, socioeconomic characteristic, racial/ethnic minority composition, etc.), and discussion of the rationale for the project, including factors such as gaps in consumer and family involvement; relationship to the State's comprehensive mental health services Public Law 99-660 plan and advisory council, review of the literature or other relevant knowledge that provides justification for the proposed project; and previous activities and accomplishments that the proposed project builds upon.
- Discussion of involvement of primary consumers, family members, and other interested individuals in planning the project.
- Management plan that identifies the organizational location for the project, describes how the project will be managed, and explains the roles and responsibilities of consumers and family members in managing the project.
- Evidence of support from all organizations and entities to be involved in the project.
- If the State proposes to fund single or multiple projects through a request for proposals (RFP) process, inclusion of the rationale for selecting this approach, copy of the RFP, list of eligible applicants, and description of the advertisement and review process.
- Evaluation plan that describes who will conduct the evaluation of the project (should be an objective, outside evaluator), how State evaluation staff will be involved, and how the project will be evaluated.
- In addition to the budget information requested in Form PHS-5161-1, for the funds to be requested through this grant, a detailed justification for each line item budget for each year of the project.
- Identification of all key staff and consultants who will have major roles in implementing or evaluating the project, including position descriptions and resumes.

Client Safeguards

If the project will be collecting identifiable information about individual clients or project staff for project evaluation purposes, assurances for protecting client and staff confidentiality and anonymity must be included.

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[1] If express mail or overnight courier service delivery is used, the zip code is 20816.

[2] The mailing envelope (including that provided by an express carrier) should be clearly marked, "RFA MH 92-04."

Terms and Conditions of Support

Period of Support

Support may be requested for a period of up to 3 years. Annual awards will be made, subject to continued availability of funds and progress achieved.

Availability of Funds

In fiscal year 1992, it is estimated that approximately $1.5 million will be available to support approximately 15 projects. The expected average amount of an award is $100,000 per year. However, the amount of funding available will depend on appropriated funds and program priorities at the time of award.

Allowable Costs

In accordance with section 520 of the Public Health Service Act, applicants must include the following agreement in their applications: "(Applicant) agrees that not more than 10 percent of any resultant grant award will be expended for administrative purposes." Administrative costs are non-programmatic support costs for the project such as expenditures for bookkeeping and grants administration. Administrative costs are not equivalent to indirect costs. Indirect costs are allowable costs which cannot be readily identified to individual projects and are, therefore, allocated to individual grant-supported projects based on a negotiated indirect cost rate.

Grants are intended to assist in meeting the costs of planning, developing, and implementing activities to support attainment of the project objectives. Applicants are expected to determine the costs of the project for the proposed project period. Grant funds are to be additive, not substitutive; they are not to be used to replace existing resources.

Grant funds may be used for expenses clearly related and necessary to carry out the proposed project, including both direct and indirect costs which are specifically identified with the proposed project. Grant funds may be used to obtain consultation (e.g., from primary consumers, family members, community organizers, evaluators, trainers) related to project activities. States are expected to provide inkind support for the staffing necessary to implement the activities under the approved project. States may, however, request grant support for salaries, wages, and fringe benefits for non-State agency staff involved in project-related activities who are consumers, family members, or citizens.

Other items of expenditures, for which applicants may request grant support include:

- Travel and training directly related to carrying out activities under the approved project. (Each grantee will be asked to participate, along with a consumer and a family leader, in one annual technical assistance/problem-solving meeting to be held in the Washington, DC area.)
- Supplies, communications, and rental of space directly related to approved project activities.
- Contracts to consumer or family organizations or programs and to consultants (preferably consumers or family members) as necessary for performance of activities under the approved project.
- Other such items necessary to support project activities, as approved by NIMH Grants must be administered in accordance with the PHS Grants Policy Statement (revised October 1, 1990). Federal regulations, 45 CFR parts 92 and 74, generic requirements concerning the administration of grants, are applicable to these awards.

Review Procedures

Applications received under this announcement will be assigned to an Initial Review Group (IRG) in accordance with established PHS Referral Guidelines. The IRGs, consisting primarily of non-Federal scientific and technical experts, will review the applications for scientific and technical merit. Notification of the review outcome will be sent to the applicant after the initial review. Applications will receive a second-level review by the National Advisory Mental Health Council whose review may be based on policy considerations as well as technical merit. Only applications recommended by the Council may be considered for funding.

Review Criteria

Each grant application is evaluated on its own merits. The following are the review criteria that will be used:

- Quality and clarity of the description of the proposed project, rationale, relationship to the State comprehensive mental health Public Law 99–660 services plan, relationship to previous activities and accomplishments, and potential benefits.
- Evidence that the project was planned by and has the endorsement of the major consumer and family support organizations in the State.
- Relevance of the project to the goals of the announcement.
- Quality, feasibility, and thoroughness of the project plan.
- Quality of the required evaluation plan.
- Capability and experience of the project director, consultants, and other key staff proposed for the project.
- Quality of the management plan.
- Potential of the project to enhance the meaningful involvement of consumers, family members, and other interested individuals in the planning and provision of mental health services.
- Attention to racial, ethnic, and minority population issues and concerns.
- Appropriateness of budget estimates for the proposed project activities.

Intergovernmental Review

The intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR part 100, are applicable to this program. E.O. 12372 sets up a system for State and local government review of proposed Federal assistance applications. Applicants (other than federally recognized Indian tribal governments) should contact the State's single point of contact (SPOC) as early as possible to alert them to the prospective application and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application kit. The SPOC should send any State process recommendations to Stephen J. Hudak. (See below for address.)

Receipt and Review Schedule

Receipt of applications	Initial review	Council review	Earliest Start Date
May 18, 1992.	June 1992...	September 1992.	September 1992.

Applications received after the above receipt date will be returned to the applicant without review.

Award Criteria

Applications recommended by the National Advisory Mental Health Council will be considered for funding on the basis of:

- Quality of the proposed project as determined by the review process.
- Geographical location so that all sectors of the Nation can be represented to the extent possible

- Availability of funds
- Projects requesting funds for improving mental health services for American Indians and Alaskan Natives will be given special consideration.

FOR FURTHER INFORMATION:

Program issues: Neal Brown, Chief, Community Support Section, National Institute of Mental Health, Parklawn Building, room 11C–22, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3653.

Grants management issues: Stephen J. Hudak, Chief, Grants Management Section, National Institute of Mental Health, Parklawn Building, room 7C–23, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4456.

The Catalog of Federal Domestic Assistance number for this program is 93.125.

Joseph R. Leone,

Associate Administrator for Management, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 92–3458 Filed 2–12–92; 8:45 am]

BILLING CODE 4160–20–M

Extramural Science Advisory Board Meeting in February

AGENCY: Alcohol, Drug Abuse, and Mental Health Administration, HHS.

ACTION: Correction of meeting notice.

SUMMARY: The public notice given in the **Federal Register** on January 13, 1992, Volume 57, No. 8 on pages 1270–1271, listed the NIMH Extramural Science Advisory Board's February 20–21 meeting location as Conference Room L of the Parklawn Building, 5600 Fisher's Lane, Rockville, MD 20857. The meeting location has been changed to:

Bethesda Marriott, 5151 Pooks Hill Road,
Bethesda, Maryland 20814.

Also, the starting time of the meeting has been changed from 8:30 a.m. to 12 noon on February 20. All other meeting information is correct.

Dated: February 7, 1992.

Peggy W. Cockrill,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 92–3457 Filed 2–12–92; 8:45 am]

BILLING CODE 4160–20–M

Centers for Disease Control

HIV Progam Evaluation Meeting

The National Center for Prevention Services (NCPS) of the Centers for Disease Control (CDC) announces the following meeting.

Name: HIV Program Evaluation Meeting.

Time and Date: 8:30 a.m.–4:30 p.m., March 3, 1992.

Place: CDC, Freeway Office Park, Conference Room, 1644C Tullie Circle, NE, Atlanta, Georgia 30329.

Status: Open to the public, limited only by space available.

Purpose: A small group composed of CDC program staff, state HIV/sexually transmitted diseases (STD) project directors, state HIV/STD evaluation specialists, quality assurance specialists, and social scientists with expertise in program evaluation will discuss program issues related to the evaluation of HIV prevention programs. These discussions are preliminary to a larger meeting on this topic to be held April 14, 1992, in Atlanta.

Matters to be Discussed: The meeting will focus on a number of important public health questions, such as:

- What lessons have we learned about the methods used for HIV-prevention program evaluation?
- How can HIV program evaluations be structured so as to best serve the needs and constraints of state and local health departments?
- How can quality assurance methods be used to augment process evaluation methodologies?
- What forms of evaluation technical assistance are required by state and local health departments?

From these discussions, CDC may produce additional technical guidance for evaluators and program managers and may, in addition, refine its own technical assistance and training activities related to HIV prevention evaluation.

Contact Person for More Information: David Holtgrave, Ph.D., Behavioral Scientist, NCPS (HIV), CDC, Mailstop E07, 1600 Clifton Road, NE, Atlanta, Georgia 30333, telephone 404/639–1480 or FTS 236–1480.

Dated: February 7, 1992.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 92–3455 Filed 2–12–92; 8:45 am]

BILLING CODE 4160–18–M

National Committee on Vital and Health Statistics (NCVHS) Subcommittee on Long-Term Care Statistics: Meeting

Pursuant to Public Law 92–463, the National Center for Health Statistics (NCHS), Centers for Disease Control, announces the following meeting.

Name: NCVHS Subcommittee on Long-Term Care Statistics.

Times and Dates: 9:30 a.m.–5 p.m., March 4, 1992; 9 a.m.–1 p.m., March 5, 1992.

Place: Room 703A, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

Status: Open.

Purpose: The Subcommittee will discuss long-term care research issues and data needs and current long-term care data systems in the Department of Health and Human Services with program staff.

Contact Person for More Information: Substantive program information as well as summaries of the meeting and a roster of committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, NCHS, room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone 301/436–7050 or FTS 436–7050.

Dated: February 7, 1992.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 92–3456 Filed 2–12–92; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–010–4320–12/GP2–0107]

Albuquerque District, New Mexico; District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The BLM's Albuquerque District Grazing Advisory Board will meet on March 28, 1992 at 9:30 a.m. in the Albuquerque District office located at 435 Montano NE., Albuquerque, New Mexico.

The meeting agenda will include:

- Introduction and Opening Remarks.
- Range Improvements Progress Report for FY 92.
- Range Improvements Progress Ranking for FY 93.
- Video "Buffalo Lessons".
- Public Comment (1 p.m.).
- Land Exchanges.
- Resource Area—Current Issues.
- 1992 GAB Elections.

The meeting is open to the public. Anyone interested in attending this meeting to make a presentation must notify the District Manager by March 23, 1992. Written statements may also be filed for the Board's consideration.

FOR FURTHER INFORMATION CONTACT: Gary Wood, Range Conservationist, Bureau of Land Management, Albuquerque District, 435 Montano NE., Albuquerque, New Mexico 87107, (505) 761–8744.

Dated: February 5, 1992.

Robert T. Dale,

District Manager.

[FR Doc. 92–3486 Filed 2–12–92; 8:45 am]

BILLING CODE 4310–FB–M

[CA-010-02-4333.13]

Bakersfield District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Bakersfield District Advisory Council Meeting.

SUMMARY: The Bureau of Land Management Bakersfield District Advisory Council will meet to discuss the Bureau's role in the North American Waterfowl Management Plan and the Central Valley Habitat Joint Venture.

DATES: February 27–28, 1992.

ADDRESS: Sheraton Inn, Newport Room, 11211 Point East Drive, Rancho Cordova, California.

FOR FURTHER INFORMATION CONTACT: Larry Mercer, Public Affairs Officer, Bakersfield District Office, 800 Truxtun Avenue, room 300, Bakersfield, CA 93301. Tel: 805–861–4229.

SUPPLEMENTARY INFORMATION: The Bakersfield District Advisory Council is a 10 member citizen group appointed by the Secretary of the Interior under authority granted by section 309 of the Federal Land Policy and Management Act of 1976. Members provide counsel and advice to the District Manager on the planning and management of public lands. The Council will meet on Thursday and Friday, February 27–28, 1992. Members will leave at 8:30 a.m. Thursday from the Sheraton Inn in Rancho Cordova (at the corner of Sunrise and Folsom) for a field trip to the Consumnes River Preserve.

Public wetlands managed by the Bureau of Land Management is part of the wildlife preserve established by The Nature Conservancy and Ducks Unlimited. After a day long field trip, the Council will meet in the Newport Room of the Sheraton Inn in Rancho Cordova beginning at 8 a.m. on Friday. The main topic of discussion will be the Central Valley Habitat Joint Venture, and BLM's role in acquiring and preserving wetlands. The public is welcome to attend the field trip and the meeting. A public comment period has been set aside for 1 p.m. Friday during which time any member of the public may address the Council on any public land issue. Written comments for the Council to consider may be submitted to the BLM office in Bakersfield at the address listed above.

Dated: February 3, 1992.

Ron Fellows,

District Manager.

[FR Doc. 92–3491 Filed 2–12–92; 8:45 am]

BILLING CODE 4310–40–M

[AZ-040-02-4340-02]

Meetings for the Gila Box Advisory Committee

AGENCY: Bureau of Land Mnagement, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given in accordance with 43 CFR Part 1780, that three meetings of the Gila Box Riparian National Conservation Area (NCA) Advisory Committee will be held.

DATES: March 3, 1992, 10 am.–3:30 p.m., to be held at the Amerind Foundation, Dragoon, AZ;

March 19, 1992, 10 a.m.–4 p.m., Safford District Office;

April 14, 1992, 8:30 a.m.–4:30 p.m., field trip to Safford/Morenci Bridge, and Menges and Subia Allotments.

ADDRESSES: BLM Safford District Office, 425 E. 4th St., Saffford, Arizona 85546.

SUPPLEMENTARY INFORMATION: The NCA Advisory Committee was established by the Arizona Desert Wilderness Act of 1990 to provide input to the Safford District on management of the Gila Box Riparian National Conservation Area (NCA). The Advisory Committee will assist with preparation of the Gila Box Interdisciplinary Activity Plan by identifying issues and concerns, and by assisting with development of the plan using the Limits of Acceptable Change (LAC) planning process.

The meetings on March 3 and March 19 will be used to develop indicators and standards for the Interdisciplinary Activity Plan within the National Conservation Area using the LAC process. During the third meeting on April 14, Advisory Committee members will tour protions of the NCA.

All meetings are open to the public; persons wishing to participate in field tour must provide their own transportation. Interested persons may make oral statements to the Committee between 10:30 and 11 a.m., or may file written statements for consideration by the Committee. Anyone wishing to make an oral statement must contact the BLM Gila Area Manager at least two working days prior to the meeting.

Summary minutes of the meeting will be maintained in the Safford District Office and will be available for public inspection (during regular business hours) within 30 days after each meeting.

FOR FURTHER INFORMATION: Meg Jensen, Gila Resource Manager, or Jonathan Collins, Outdoor Recreation Planner, 425 E. 4th St., Safford, Arizona 85546. Telephone (602) 428–4040.

Dated: January 31, 1992.

Ray A. Brady,

District Manager.

[FR Doc. 92–3469 Filed 2–12–92; 8:45 am]

BILLING CODE 4310–32–M

[CO-050-4713-02]

Seasonal Road Closure

AGENCY: Bureau of Land Management, Interior.

ACTION: Seasonal road closure.

SUMMARY: Notice is hereby given in accordance with 43 CFR 8364.1(a) Closure and Restriction. Pursuant to 43 CFR 8364.1 the following Bureau of Land Management (BLM) roads in Conejos, Rio Grande, and Saguache Counties will be temporarily closed to protect roads and fragile resources during the wet conditions of the spring thaw.

Conejos County: Cumbres Toltec Rd. (#5035), Bighorn Rd. (#5041), Las Mesitas Rd. (#5048), Poso Loop Rd. (#5046), Ra Jadero Rd. (#5065), Posito Creek Rd. (#5075), Capulin Peak Rd. (#5060) and Cinder Pits Rd. (#5055).

Rio Grande County: Bronson Peak Rd. (#5100), Spring Gulch Rd. (#5105), and the Nine Mile Road access onto BLM Rd. #5100.

Saguache County: Poncha Loop Rd. (#5325), Clover Creek Rd. (#5330), Dorsey Creek Rd. (#5331), Noland Gulch Loop Rd. (#5305), Clayton Cone Rd. (#5310), Findley Gulch Rd. (#5290), Poison-Dry Loop Rd. (#5275), Ford Creek Rd. (#5270), Cabin Draw Rd. (#5265), Ward Gulch Rd. (#5260), Antelope Creek Rd. (#5250), Trickle Mountain Rd. (#5255), Big Dry Gulch Rd. (#5242), Taylor Canyon Rd. (#5248), Spanish Creek Rd. (#5252), Decker Creek Rd. (#5335) and Squaw Creek Rd. (#5245).

DATES: March 1, 1992 through May 31, 1992.

FOR FURTHER INFORMATION CONTACT: Joe Kraayenbrink at (719) 589–4975.

ADDRESSES: Comment can be directed to: Area Manager 1921 State Street, Alamosa, CO. 81101 or Canon City District Manager, BLM, P.O. Box 2200, Canon City, CO. 81215–2200.

SUPPLEMENTARY INFORMATION: This temporary closure will serve to protect

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the fragile vegetation and highly erodible soils from adverse effects of vehicle travel during the wet months of the year. Roads will be reopened to travel when dry soil conditions allow. Pursuant to 43 CFR 8346.1(4), the following persons are exempted from this order: Search and Rescue, Local Law Enforcement and BLM personnel in performance of official duties.

Donnie R. Sparks,

District Manager.

[FR Doc.92-3471 Filed 2-12-92; 8:45 am]

BILLING CODE 4310-JB-M

[WY-920-41-5700; WYW52066]

Proposed Reinstatement of Terminated Oil and Gas Lease

February 5, 1992.

Pursuant to the provisions of Public Law 97-451, 96 Stat. 2462-2466, and Regulation 43 CFR 3108.2-3 (a) and (b) (1), a petition for reinstatement of oil and gas lease WYW52066 for lands in Sweetwater County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5.00 per acre, or fraction thereof, per year and 16-2/3 percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW52066 effective October 1, 1990, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Florence R. Speltz,

Supervisory Land Law Examiner.

[FR Doc. 92-3480 Filed 2-12-92; 8:45 am]

BILLING CODE 4310-22-M

[(WY-060-02-4212-14; WYW116929)]

Realty Action; Direct Sale of Public Lands; WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction of notice of realty action, direct sale of public lands in Natrona County, Wyoming.

SUMMARY A Notice of Realty Action published in the **Federal Register** on August 7, 1991 (56 FR 37563-4) contained an error in the legal description of lands offered for sale. The legal description is corrected to the following:

Sixth Principal Meridian

T.40 N., R. 78 W.,
Sec. 7: lots 1 and 2.

The above land aggregates 70.12 acres in Natrona County, Wyoming.

FOR FURTHER INFORMATION CONTACT: Bill Mortimer, Area Manager, Platte River Resource Area (307) 261-7500.

Dated: February 4, 1992.

[FR Doc. 92-3479 Filed 2-12-92; 8:45 am]

BILLING CODE 4310-22-M

[AZ-942-02-4730-120]

Arizona, Filing of Plats of Survey

February [illegible], 1992.

1. The plats of survey of the following described lands were officially filed in the Arizona State Office, Phoenix, Arizona, on the dates indicated:

A plat (in 2 sheets) representing a dependent resurvey of a portion of the San Ignacio Del Babocomari Land Grant, the north boundary (Fourth Standard Parallel South), the west boundary, the subdivisional lines, certain Homestead Entry Surveys, and the subdivision of certain sections, and a metes-and-bounds survey in Township 21 South, Range 17 East, Gila and Salt River Meridian, Arizona, was accepted October 9, 1991, and was officially filed October 22, 1991.

This plat was prepared at the request of the U.S. Forest Service, Regional Office, Albuquerque, New Mexico.

A plat representing a survey of the south boundary, identical with the Seventh Standard Parallel North, through Range 29 East, in Township 29 North, Range 29 East, Gila and Salt River Meridian, Arizona, was accepted October 29, 1991, and was officially filed November 6, 1991.

A plat representing a survey of the south boundary, identical with the Seventh Standard Parallel North, through Range 30 East, the east, west and north boundaries, and the subdivisional lines in Township 29 North, Range 30 East, Gila and Salt River Meridian, Arizona, was accepted October 29, 1991, and was officially filed November 6, 1991.

A plat (in 2 sheets) representing a dependent resurvey of a portion of the Arizona-New Mexico State Line between the 72 mile post and the 79 mile post; and a survey of the south boundary, identical with the Seventh Standard Parallel North, through Range 31 East, the north boundary and the subdivisional lines of Township 29 North, Range 31 East, Gila and Salt River Meridian, Arizona; was accepted December 3, 1991, and was officially filed December 12, 1991.

A plat representing a survey of the east and west boundaries and the subdivisional lines of Township 28 North, Range 30 East, Gila and Salt River Meridian, Arizona, was accepted December 9, 1991, and was officially filed December 19, 1991.

A plat representing a dependent resurvey of a portion of the Arizona-New Mexico State Line between the 79 mile post and the 84 mile post; and a survey of the subdivisional lines of Township 28 North, Range 31 East, Gila and Salt River Meridian, Arizona; was accepted December 18, 1991, and was officially filed December 23, 1991.

These plats were prepared at the request of the Bureau of Indian Affairs, Navajo Area Office, Window Rock, Arizona.

A plat (in 2 sheets) representing a dependent resurvey of the partition line between sections 4 and 9, the fixed and limiting boundary of the left bank of the abandoned channel of the Colorado River, in section 4, and a portion of the south boundary of the La Follette Purchase in Township 17 North, Range 22 West, Gila and Salt River Meridian, Arizona, was accepted November 5, 1991, and was officially filed November 14, 1991.

This plat was prepared at the request of the Bureau of Indian Affairs, Phoenix Area Office.

A plat representing a dependent resurvey of a portion of the subdivisional lines in Township 14 North, Range 5 East, Gila and Salt River Meridian, Arizona, was accepted November 13, 1991, and was officially filed November 21, 1991.

A plat representing a dependent resurvey of a portion of the subdivisional lines and a portion of the subdivision of section 5, in Township 17 North, Range 6 East, Gila and Salt River Meridian, Arizona, was accepted November 18, 1991, and was officially filed November 27, 1991.

These plats were prepared at the request of the U.S. Forest Service, Coconino National Forest.

A plat representing a metes-and-bounds survey of Tract 37 is Unsurveyed Township 4 North, Range 17 East, Gila and Salt River Meridian, Arizona, was accepted December 3, 1991, and was officially filed December 12, 1991.

This plat was prepared at the request of the U.S. Forest Service, Tonto National Forest.

A plat representing a dependent resurvey of a portion of the north boundary, and a portion of the subdivision of section 3; and a survey of lot 29, in section 3, Township 15 South, Range 12 East, Gila and Salt River Meridian, Arizona; was accepted November 18, 1991, and was officially filed November 27, 1991.

This plat was prepared at the request of the Bureau of Land Management, Phoenix District Office.

A supplemental plat showing new lots 14 and 15, a subdivision of original lot 10, in section 6, Fractional Township 18 South, Range 5 West, Gila and Salt River Meridian, Arizona, was accepted December 18, 1991, and was officially filed December 23, 1991.

This plat was prepared at the request of the National Park Service, Western Region.

2. These plats will immediately become the basic records for describing the land for all authorized purposes. These plats have been placed in the open files and are available to the public for information only.

3. All inquiries relating to these lands should be sent to the Arizona State Office, Bureau of Land Management, P.O. Box 16563, Phoenix, Arizona 85011.

Joe A. Shotwell,

Acting Chief, Branch of Cadastral Survey

[FR Doc. 92-3474 Filed 2-12-92; 8:45 am]

BILLING CODE 4310-32-M

[ID-942-02-4730-12]

Idaho: Filing of Plats of Survey; Idaho

The plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, Effective 9 a.m., February 3, 1992.

The plat representing the dependent resurvey of portions of the subdivisional lines, T. 6 S., R. 13 E., Boise Meridian, Idaho, Group No. 823, was accepted, January 29, 1992.

This survey was executed to meet certain administrative needs of the Bureau of Land Management.

All inquiries concerning the survey of the above described land must be sent to the Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho,

Dated: February 3, 1992.

[FR Doc. 92-3468 Filed 2-12-92; 8:45 am]

BILLING CODE 4310-GG-M

[CA-060-02-4214-08]

Cancel Review of Land Use Plan Determinations

AGENCY: Bureau of Land Management, Interior.

ACTION: Cancellation of notice of intent.

SUMMARY: In the **Federal Register** of February 6, 1992 (57 FR 4641), the Bureau of Land Management published a Notice of Intent to prepare a Category 3 Amendment to the California Desert Conservation Area (CDCA) Plan for public lands in Imperial, Riverside, and San Bernardino Counties on which Bureau of Reclamation withdrawals are being considered for termination. The Notice of Intent is cancelled.

ADDRESSES: El Centro Resource Area Office, 333 South Waterman Avenue, El Centro, California 92243-2298.

FOR FURTHER INFORMATION CONTACT: Thomas F. Zale, Multi-Resource Staff Chief, El Centro Resource Area Office, 619-352-5842.

Dated: February 7, 1992.

G. Ben Koski,

Area Manager.

[FR Doc. 92-3460 Filed 2-12-92; 8:45 am]

BILLING CODE 4310-40-M

[NM-940-4214-11; NMNM 5820]

Proposed Continuation of Withdrawal; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Department of Agriculture, Forest Service, proposes that 458.59 acres of a 703.59-acre withdrawal of National Forest System Lands for use in connection with three lookouts, one picnic ground, one fishing site, two administrative sites, two campgrounds, and one communication site, continue for an additional 20 years. The lands will remain closed to mining. The lands have been and remain open to mineral leasing.

DATES: Comments should be received by May 13, 1992.

ADDRESSES: Comments should be sent to the New Mexico State Director, BLM, P.O. Box 27115, Santa Fe, New Mexico 87502-7115.

FOR FURTHER INFORMATION CONTACT: Clarence F. Hougland, BLM, New Mexico State Office, 505-438-7593.

SUPPLEMENTARY INFORMATION: The United States Department of Agriculture, Forest Service, proposes that the existing withdrawal made by Public Land Order No. 4592 be continued for a period of 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The lands are described as follows:

New Mexico Principal Meridian

Santa Fe National Forest

Pecos Ranger District

Glorieta Lookout and Picnic Ground

T. 16 N., R. 11 E.,
  Sec. 5, lot 7.

Dalton Fishing Site

T. 17 N., R. 12 E.,
  Sec. 32, lots 5 and 11;
  Sec. 33, lot 7.

Panchuela Administrative Site and Campground

T. 19 N., R. 12 E.,
  Sec. 27, that portion lying outside the Pecos Wilderness in the W½NE¼SW¼, SE¼NE¼SW¼, SE¼SW¼SW¼, E½SE¼SW¼, NW¼SE¼SW¼, and W½SW¼SE¼;
  Sec. 34, N½NW¼NE¼, SW¼NW¼NE¼, and N½SE¼NW¼NE¼.

Manzanares Administrative Site and Campground

T. 17 N., R. 13 E.,
  Sec. 32, E½ of lot 2, lot 3, S½SW¼NE¼, and NW¼SE¼.

Elk Mountain Lookout and Communication Site

T. 18 N., R. 13 E.,
  Sec. 22, S½NW¼SE¼ and N½SW¼SE¼.

Barillas Peak Lookout

T. 16 N., R. 14 E.,
  Sec. 33, W½SW¼SW¼.

The areas described aggregate 458.59 acres in Santa Fe and San Miguel Counties.

The purpose of the withdrawal is for the use and protection of substantial capital improvements in connection with three lookouts, one picnic ground, one fishing site, two administrative sites, two campgrounds, and one communication site. All of the lands are and remain segregated from operation of the mining laws, but not to the mineral leasing laws.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation, may present them in writing to the New Mexico State Director at the address indicated above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources.

A report will be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether the withdrawal will be continued, and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

Dated: February 4, 1992.

Monte G. Jordan,

Acting State Director.

[FR Doc. 92-3461 Filed 2-12-92; 8:45 am]

BILLING CODE 4310-FB-M

Fish and Wildlife Service

Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

PRT-765403.

Applicant: New York Zoological Society, Bronx, NY

The applicant requests a permit to import one captive-born female snow leopard (*Panthera uncia*) from Krefelder Zoo, Germany, for enhancement of propagation.

PRT-765404.

Applicant: New York Zoological Society, Bronx, NY

The applicant requests a permit to import one male and one female captive-hatched hooded cranes (*Grus monacha*) from Rare Crane Breeding Center, Oka Nature Reserve, Russia, for captive breeding.

PRT-765402.

Applicant: New York Zoological Society, Bronx, NY

The applicant requests a permit to import two male captive-held Maleo macropode (*Macrocephalon maleo*) from Nogeyama Zoological Gardens, Yokohama, Japan, for enchancement of propagation.

PRT-764975.

Applicant: Denver Zoological Gardens, Denver, CO.

The applicant requests a permit to import one captive-born male Babirusa (*Babyrousa babyrussa*) from the Antwerp Zoo, Antwerp, Belgium, for captive breeding.

PRT-764978.

Applicant: Edward Kraus, Ann Arbor, MI.

The applicant requests a permit to import the liver from a captive-born, unsexed Round Island boa (*Casarea dussumieri*) that died December 1990, from the Jersey Wildlife Preservation Trust, Jersey Channel Islands, for scientific research.

PRT-762968.

Applicant: Jan Giacinto & Dirk Arthur, Exotic Animals, Tarzana, CA.

The applicant requests a permit to import one female captive-born leopard (*Panthera pardus*) from Nassau, Bahamas for enhancement of propagation or survival. This animal is the progeny of the applicant's leopards that were performing in Nassau.

PRT-764235.

Applicant: Columbus Zoological Gardens, Powell, OH.

The applicant requests a permit to import and reexport a pair of giant pandas from China for the purposes of a zoological exhibition designed to promote conservation and education with respect to giant pandas and other endangered species. The pair of pandas consists of a male, "chang chang", brought into captivity from the wild in 1986 (estimated to be about 15 years of age at time of capture), and a female, "tao tao", also brought into captivity in 1986 (estimated to be 13 years of age at that time). Both animals originated in the Bai-sui-jiang National Nature Reserve, Gansu Province, China. The exhibition is proposed to begin in March, 1992, and to last a maximum of 219 days, through October, 1992.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to, or by appointment during normal business hours (7:45-4:15) in, the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203. Phone (703/358-2104); Fax (703/358-2281)

Dated: February 7, 1992.

Margaret Tieger,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 92-3404 Filed 2-12-92; 8:45 am]

BILLING CODE 4310-55-M

Availability of the Technical/Agency Draft Recovery Plan for the Cumberland Pigtoe Mussel for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and public comment period.

SUMMARY: The U.S. Fish and Wildlife Service announces the availability for public review of a draft recovery plan for the Cumberland pigtoe mussel. This species is endemic to the Caney Fork River system (a Cumberland River tributary) in Grundy, Van Buren, Warren, and White Counties, Tennessee. Although presumably once widely distributed in the Caney Fork system, the species now occurs in short reaches in only four Caney Fork River tributaries. The Service solicits review and comment from the public on this draft plan.

DATES: Comments on the draft technical/agency draft recovery plan must be received on or before April 13, 1992 to receive consideraton by the Service.

ADDRESSES: Persons wishing to review the technical/agency draft recovery plan may obtain a copy by contacting the Asheville Field Office, U.S. Fish and Wildlife Service, 330 Ridgefield Court, Asheville, North Carolina 28806. Written comments and materials regarding the plan should be addressed to the Field Supervisor at the above address. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Biggins at the above address (704/665-1195, ext. 228).

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems if a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, criteria for recognizing the recovery levels for downlisting or delisting them, and initial estimates of time and costs to implement the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 et seq.), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that a public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

The primary species considered in this draft recovery plan is the Cumberland pigtoe mussel (Pleurobema gibberum). The area of emphasis for recovery actions is the Caney Fork River basin in central Tennessee. Habitat protection, reintroduction, and preservation of genetic material are major objectives of this recovery plan.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of the plan.

Authority: The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: February 4, 1992.

Brian P. Cole,

Field Supervisor.

[FR Doc. 92-3487 Filed 2-12-92; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Revised Information Collection Submitted for Review

The collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the information collection requirement and related explanatory material may be obtained by contacting Jeane Kalas at 303-231-3046. Comments and suggestions on the requirement should be made directly to the Bureau Clearance Officer at the telephone number listed below and to the Office of Management and Budget Paperwork Reduction Project (1010-0022), Washington, DC, 20503, telephone 202-395-7340.

Title: Report of Sales and Royalty Remittance.

Abstract: The Report of Sales and Royalty Remittance is submitted by those individuals and companies producing minerals from leased Indian lands or from leased Federal lands both onshore and offshore. Respondents report monthly on mineral lease activities, documenting essential data used by the Royalty Management Program in the calculation of royalties due. This revised supporting statement is necessary because of the elimination of Form MMS-4014, Report of Sales and Royalty Remittance—Solid Minerals. Solid minerals sales and royalties, as well as oil, gas, and geothermal sales and royalty remittances, will now be reported on Form MMS-2014.

Bureau Form Number: MMS-2014.

Frequency: Monthly.

Description of Respondents: Oil, gas, solid mineral, and geothermal lessees reporting activities from Indian or Federal onshore or offshore leases.

Annual Responses: 2,609,580 lines.

Annual Burden Hours: 213,671.

Bureau Clearance Officer: Dorothy Christopher, 703-787-1239.

Dated: January 9, 1992.

John J. Russo,

Associate Director for Royalty Management.

[FR Doc. 92-3486 Filed 2-12-92; 8:45 am]

BILLING CODE 4310-MR-M

Information Collection Submitted for Review

The revised supporting statement for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related form and explanatory material may be obtained by contacting Jeane Kalas at 303-231-3046. Comments and suggestions on the requirement should be made directly to the Bureau Clearance Officer at the telephone number listed below and to the Office of Management and Budget Paperwork Reduction Project (1010-0064), Washington, DC 20503, telephone 202-395-7340.

Title: Payor Information Form—Solid Minerals.

Abstract: The information used in the Auditing and Financial System is collected from lessees and lease operators producing minerals from leased Indian land or from leased Federal land. The information required on the Payor Information Form is used to establish a data base and assign accounting identification numbers. The Form is also used on occasion to update the data base. This revision of an information collection approved under OMB number 1010-0064 is necessary because of the elimination of Form MMS-4014, Report of Sales and Royalty Remittance—Solid Minerals, and the transfer of burden associated with that Form to Form MMS-2014 (OMB approval No. 1010-0022).

Bureau Form Number: MMS-4030.

Frequency: Initially to establish a data base and then on occasion to update the data base.

Description of Respondents: Solid mineral companies and lease operators producing minerals from leased Federal and Indian lands.

Annual Responses: 130.

Annual Burden Hours: 89.

Bureau Clearance Officer: Dorothy Christopher 703-787-1239.

Dated: January 9, 1992.

John. J. Russo,

Acting Associate Director for Royalty Management.

[FR Doc. 92-3473 Filed 2-12-92; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

[Section 5a Application No. 60; Amdt No. 9]

Rocky Mountain Carriers—Agreement

AGENCY: Interstate Commerce Commission.

ACTION: Notice of decision and opportunity for comment.

SUMMARY: Rocky Mountain Carriers (RMB) has filed a petition seeking approval of a minor amendment to its ratemaking agreement approved under 49 U.S.C. 10706(b). The amendment would modify Article V, section 3 and Article VII of RMB's bylaws to: (1) Reduce the minimum required number of members on the Board of Directors from 15 to 8; (2) reduce the maximum number of members authorized to be on the Board of Directors from 25 to 15; and (3) reduce the size of the Executive Committee from 5 to 3 members, with 2 members constituting a quorum. The Commission has issued a decision proposing to approve the amendment.

DATES: Comments from interested persons are due March 16, 1992. Replies are due 15 days thereafter. If no timely filed adverse comments are received, the sought relief will automatically become effective at the close of the comment period. If opposition comments are filed, the comments and any reply will be considered, and the Commission will issue a final decision.

ADDRESSES: An original and 10 copies, if possible, of comments referring to Section 5a Application No. 60 (Amendment No. 9) should be sent to: Office of Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423. A copy of any comments filed with the Commission must also be served on applicant's representative.

FOR FURTHER INFORMATION CONTACT: Richard Felder, (202) 927–5610. [TDD for hearing impaired: (202) 927–5721]

SUPPLEMENTARY INFORMATION: Copies of RMB's approved agreement and the amendment are available for public inspection and copying at the Public Docket Room (room 1227) of the Commission in Washington, DC, and from RMB's representative: Don R. Devine, 4045 Pecos Street, Denver, CO 80217.

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pickup in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927–5721.]

Authority: 49 U.S.C. 10321 and 10706 and 5 U.S.C. 533.

Decided: February 5, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillips, and Emmett. Commissioner Simmons was absent and did not participate in the disposition of the proceeding.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92–3494 Filed 2–12–92; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with section 122(d)(2)(B) of the Comprehensive Environmental Response, Compensation and Liability Act and with Department of Justice policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Alsay, Inc., et al.*, Civil Action No. S92–0024 (Br.) was lodged on January 17, 1992 with the United States District Court for the Southern District of Mississippi. The proposed Consent Decree concerns the recovery of costs in connection with clean-up of the Disposal Systems, Inc. Superfund Site (the "Site") located on Fifth Street in Biloxi, Harrison County, Mississippi. The proposed Consent Decree requires the Defendants to reimburse the United States $740,961.66.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Alsay, Inc., et al* D.J. Ref. 90–11–2–581.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Southern District of Mississippi, 119 Main Street, Biloxi, Mississippi 39530, and at the Region IV, Office of the Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30365. The proposed Consent Decree may be examined at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building NW., Washington, DC 20004 (202–347–2072). A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue NW., Box 1097, Washington, DC 20004. In requesting a copy, please enclose a check in the amount of $28.00 (50 cents per page reproduction cost) payable to the Treasurer of the United States.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 92–3487 Filed 2–12–92; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (92–15)]

NASA Advisory Council (NAC), Aerospace Medicine Advisory Committee (AMAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NAC Aerospace Advisory Committee.

DATES: February 18, 1992, 8 a.m. to 5 p.m.; February 19, 1992, 8:30 a.m. to 3 p.m.

ADDRESSES: National Aeronautics and Space Administration, room 226, 600 Independence Avenue SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. J. Richard Keefe, Code SB, National Aeronautics and Space Administration, Washington, DC 20546 (202/453–1530).

SUPPLEMENTARY INFORMATION: The Aerospace Medicine Advisory Committee consults with and advises the NASA Office of Space Science and Applications (OSSA) on long-range planning of aerospace medicine research. The Committee will meet to discuss the status of OSSA, the Radiation Health program, the Biomedical Monitoring and Countermeasures (BMAC) program, and Space Station Freedom status. The Committee is chaired by Dr. Harry C. Holloway and is composed of 22 members. The meeting will be closed to the public from 8:15 a.m. to 9:30 a.m. on February 18, 1992, for a discussion of the qualifications of additional candidates for membership. Such a discussion would invade the privacy of the candidates and other individuals involved. Since this discussion will be concerned with matters lsited in 5 U.S.C. 552b(c)(6), it has been determined that the meeting will be closed to the public for this period of time. The remainder of the meeting will be open to the public up to the seating capacity of the room (approximately 50 persons including Committee members). It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Type of Meeting

Open—except for a closed session noted in the agenda below.

Agenda

Tuesday, February 18
- 8 a.m.—Introductory Remarks.
- 8:15 a.m.—Closed Session.
- 9:30 a.m.—Roles and Missions/OSSA Status.
- 11:15 a.m.—Discussion of International Activities.
- 1 p.m.–Discussion of NASA/National Institutes of Health Strategic Planning.
- 2:30 p.m.—Committee Executive Report Status.
- 4 p.m.—Discussion of Radiation Health Program Status.
- 5 p.m.—Adjourn.

Wednesday, February 19
- 8:30 a.m.—Extended Duration Orbiter Medical Program Status.
- 9:45 a.m.—Biomedial Monitoring and Countermeasures Program.

11 a.m.—Committee Executive Report Actions.
1 p.m.—Discussion of Space Station Freedom Status.
2:15 p.m.—Committee Action Items and Report Status.
3 p.m.—Adjourn.

Dated: February 10, 1992.

Philip D. Waller,

Deputy Director, Management Operations Division.

[FR Doc. 92-3499 Filed 2-12-92; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Open Forum: To Follow Up on White House Conference on Library and Information Services; Correction Notice

FR Doc. 92-2581, appearing on page 4218 in the issue of February 4, 1992 under the heading of DATE/LOCATION. The date is corrected from March 19, 1992, to Tuesday, March 10, 1992.

Dated: February 6, 1992.

Jane Williams,

NCLIS Research Associate.

[FR Doc. 92-3482 Filed 2-12-92; 8:45 am]

BILLING CODE 7527-01-M

NATIONAL COMMISSION ON MIGRANT EDUCATION

Meeting

ACTION: Notice of meeting.

SUMMARY: The National Commission on Migrant Education will hold its fourteenth meeting on March 1 and 2, 1992, for the purpose of conducting a business meeting. The Commission was established by Public Law 100-297, April 28, 1988.

DATE, TIME, AND PLACE: Sunday, March 1, 1:30 p.m. to 6 p.m., Holiday Inn Capitol, Columbia North Room, 550 C Street, SW., Washington, DC 20024; and Monday, March 2, 8:30 a.m. to 4 p.m., 2257 Rayburn House Office Building, Washington, DC.

STATUS: Open to the public.

AGENDA: Briefings will be provided by representatives of the Interstate Migrant Education Council (IMEC) and the National Preschool Coordination Project. All other time will be devoted to discussion of issues related to the Commission's final report.

FOR FURTHER INFORMATION CONTACT: Elizabeth J. Skiles (301) 492-5336, National Commission on Migrant Education, 8120 Woodmont Avenue, Fifth Floor, Bethesda, Maryland 20814.

Linda Chavez,

Chairman.

[FR Doc. 92-3514 Filed 2-12-92; 8:45 am]

BILLING CODE [illegible]-DE-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Cooperative Agreement for Evaluation of FY 93 Challenge Grant Applicants

AGENCY: National Endowment for the Arts.

ACTION: Notification of availability.

SUMMARY: The National Endowment for the Arts is requesting proposals leading to the award of a Cooperative Agreement to oversee the preparation of independent assessment reports of approximately 350 applicants for a FY93 Challenge grant, for use in the grant decision-making process. The assessments will result from the analysis of application documents and through telephone interviews with key staff and board members of the applicants, and will address each applicant's ability to successfully meet the Challenge Grant requirements for the proposed activities. The artistic quality of the applicant organization or the proposed project will not be included in the analysis. The role of the recipient of the Cooperative Agreement will be to provide independent assessment reports; advise the Endowment, its panels, and other decision-making bodies as to the feasibility and potential impact of a Challenge Grant for the applicants; and attend all meetings where applications are reviewed to answer questions about the assessment reports. Those interested in receiving the Solicitation package should reference Program Solicitation PS 92-03 in their written request and include two (2) self-addressed labels. Verbal requests for the Solicitation will not be honored.

DATES: Program Solicitation PS 92-03 is scheduled for release approximately March 2, 1992 with proposals due April 2, 1992.

ADDRESSES: Requests for the Solicitation should be addressed to the National Endowment for the Arts, Contracts Division, room 217, 1100 Pennsylvania Ave., NW., Washington, DC 20506

William I. Hummel,

Director, Contracts and Procurement Division.

[FR Doc. 92-3485 Filed 2-12-92; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Advanced Scientific Computing; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Advanced Scientific Computing.

Date and Time: March 12-13, 1992; 9 am to 5 pm.

Place: Room 417, National Science Foundation, 1800 G St., NW. Washington, DC 20550.

Type of Meeting: Closed.

Contact Persons: Dr. Merrell Patrick, Program Director, Division of Advanced Scientific Computing, room 417, Telephone: (202) 357-7727. Dr. John C. Cherniavsky, Acting Head, Office of Cross Directorate Activities, room 436, Telephone: (202) 357-7349. National Science Foundation, Washington, DC.

Purpose of Meeting: To provide advice and recommendations concerning applications submitted to NSF to research support.

Agenda: Review and evaluate Postdoctoral Research Associateships in Computational Science and Engineering and Experimental Computer Science applications.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions 4 and 6 of 5 U.S.C. 552 b. (c) (4) and (6) the Government in the Sunshine Act.

Dated: February 10, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-3500 Filed 2-12-92; 8:45 am]

BILLING CODE 7555-01-M

Earth Sciences Proposal Review Panel; Meeting

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review and evaluate proposals and provide advice and recommendations as part of the selection process for awards. Because the proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meetings are closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Name: Earth Sciences Proposal Review Panel.

Date: March 11, 12, and 13, 1992.

Time: 8 a.m. to 6 p.m. each day.

Place Room 543, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Closed.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Contact: Dr. Alan M. Gaines, Section Head, Division of Earth Sciences, room 602, National Science Foundation, Washington, DC, (202) 357-9591.

Dated February 10, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-3501 Filed 2-12-92; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Networking and Communications Research and Infrastructure; Meeting

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review and evaluate proposals and provide advice and recommendations as part of the selection process for awards. Because the proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meetings are closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Name: Special Emphasis Panel in Networking and Communications Research and Infrastructure.

Date: March 11, 1992.

Time: 8:30 a.m.-5 p.m.

Place: Room 417, National Science Foundation, 1800 G St., NW., Washington, DC 20550.

Type of Meeting: Closed.

Agenda: Review and evaluate NSFNET Connections proposals.

Contact: Mr. Daniel VanBelleghem, NSFNET Program, National Science Foundation, room 416, Washington, DC 20550 (202-357-9717).

Dated: February 10, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-3502 Filed 2-12-92; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Polar Programs; Meeting

Time: March 9, 1992, 8:30 a.m.-5:30 p.m., March 10, 1992, 8:30 a.m.-3:30 p.m.

Place: National Science Foundation, room 540, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Open.

Contact Person: Dr. Jane Dionne, Polar Science Section, Division of Polar Programs, or Ms. Pawnee Cromer, room 620, National Science Foundation, Washington, DC 20550. Telephone: (202) 357-7894.

Purpose of Committee: Serves to provide expert advice to the U.S. Antarctic Programs and the Arctic Program, including advice on science programs, polar operations support, budgetary planning, and polar coordination and information.

Agenda

March 9, 1992

8:30 Opening, Introductions, and Welcome—Solomon/Wilkniss
9:05 Discussion and approval of 3/91 minutes
9:15 Assistant Director GEO, Dr. Corell—Corell
9:45 DPP budget information and other—Wilkniss/Slater
10:15 Introductory discussion of Implementation Report and goals of Meeting—Solomon
10:30 Break
10:45 Current Progress and Issues in Arctic Science—DeLaca
11:30 Library of Congress Antarctic Bibliography Projection Review—Guthridge
12:00 Lunch
1:00 Status of Crary Lab and Science Issues—Peacock
2:00 Polar Communication Issues—Smith
2:45 GEO Long Range Plan—Alley
3:00 Break
3:15 Other DPP issues
4:00 Discussion of Implementation Report—Committee
5:30 Adjourn

March 10, 1992

8:30 Writing session by the DAC—Committee
10:00 Presentation of Implementation Report section by DAC members (approx. 10-15 min. each)—Committee
  Overview—Solomon
  Glaciology—Alley
  Earth Science—Rees
  Social Science—Schaeffer/McGovern
  Biology—Freckman
  ARCSS—Moritz/Muench
  Aeronomy & Astrophysics—Solomon/Peterson
  Data Transfer & Communications—Rosenberg
  Instrumentation—Robison
12:00 Lunch
1:00 Discussion of Report—Solomon/DAC
2:30 Adjourn

Dated: February 10, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-3503 Filed 2-12-92; 8:45 am]

BILLING CODE 7555-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-30348; File No. SR-Amex-91-25]

Self-Regulatory Organizations; Filing of Amendment No. 1 to Proposed Rule Change by the American Stock Exchange, Inc., Relating to New Listing Standards for an Emerging Company Marketplace

February 6, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 4, 1992, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") an amendment to the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed amendment from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to amend the proposed rule change (SR-Amex-91-25), which establishes listing criteria for an Emerging Company Marketplace ("ECM"), in several respects. First, the Exchange proposes to amend Exchange Rule 462 to provide that ECM securities be subject to a 100% maintenance margin requirement, unless the Exchange determines that such securities meet all applicable criteria enumerated in § 220.17(a) of Regulation T (Requirements for List of OTC Margin Stocks). Second, the Exchange proposes to clarify that all transactions in ECM stocks would be consolidated through Tape B of the Consolidated Tape Association ("CTA") on a real time, last-sale basis, and that failure to remain

CTA-eligible would result in immediate delisting in accordance with applicable Exchange procedures. Finally, the Exchange proposes to amend the Company Guide to clarify that the numerical guidelines for the ECM are mandatory and may not be waived, as well as amend those provisions of the Company Guide that are applicable to ECM companies.[1]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Amex has long played an active role in fostering capital formation for mid-size companies. Listing on the Amex provides these companies with a liquid, effficient auction market (a function of the last-sale based auction market) and a variety of services which raise their profile in the investment community. The net effect for these issuers is lowered cost of capital.

Promising growth companies traded over-the-counter ("OTC"), which are too small to satisfy the Exchange's present listing criteria, are unable to take advantage of these benefits. At the same time, a lack of credit and heightened global competition have made the environment in which these companies operate increasingly difficult. The Exchange believes that it can directly address the needs of these companies by developing an "incubator" marketplace (the "Emerging Company Marketplace" or "ECM"). As set forth below, the ECM will have both objective and subjective screening criteria.

Listing criteria. Companies presently traded in NASDAQ, which satisfy that marketplace's new financial maintenance criteria, and other companies which satisfy NASDAQ's new financial original listing criteria, would be eligible to apply to list on the ECM provided in each case that they also have a public float of at least 250,000 shares and outstanding shares with a total market value of at least $2,500,000. This is to insure that only those issues which have attracted significant investor interest would be eligible to list. In addition, alternate listing criteria for slightly small issuers with a larger market capitalization are being proposed. The proposed numerical criteria are as follows.

NUMERICAL CRITERIA

	Original				Maintenance (all)	
	Companies not presently traded in NASDAQ		Companies presently traded in NASDAQ		Regular	Alternate
	Regular	Alternate	Regular	Alternate		
Total Assets	$4M	$3M	$2M	$2M	$2M	$2M.
Capital & surplus	$2M	$2M	$1M	$2M	$1M	$2M.
Total market value	$2.5M	Over $10M	$2.5M	$2.5M	$500,000	$1M.
Public float	250,000 shs	400,000 shs	250,000 shs	250,000 shs	250,000 shs	250,000 shs.
Public shareholders	300	300	300	300	300	300.
Minimum price	$3	$2	$1	Below $1	$1	Below $1.

A company applying to list on the ECM would be reviewed (as would any candidate for regular listing on the Exchange) by the financial analysts in the Exchange's Corporate Finance & Analysis area. The analysts would apply strictly the numerical guidelines specified above. These guidelines are mandatory and will not be waived.

If the company receives a favorable review, it would be submitted to a new "blue ribbon" committee to be appointed by the Exchange for the express purpose of making final listing determinations on these issuers. Members of this committee would have expertise in evaluating the prospects and trading characteristics of small growth-oriented issues.

Companies which survive this screening process would not, however, benefit from the exemption normally afforded under state "blue sky" laws to offerings of securities listed on a primary exchange. Amex representatives have worked closely with the North American Securities Administrators Association ("NASAA") to develop appropriate approval language so that these issuers would continue to remain fully subject to state merit review.

Once listed, issuers on the ECM would be subject to a variety of governance requirements. For example, they would be required to file annual and quarterly reports with the Exchange (and the Commission) and would otherwise be held to the same standards of corporate disclosure as are other Amex-listed companies. They would also have to solicit proxies and hold annual shareholder meetings for the election of directors.

Trading environment. Companies listed in the new ECM would be allocated to a specialist unit and tranded in the same way as regular Amex-listed equity issues. The quality of the specialist unit's performance would be considered in evaluating its eligibility for further allocations on both the primary and secondary (ECM) list.

Specialists would be required to post firm quotations in these issues. Most importantly, all transactions in ECM-listed securities would be consolidated through CTA on a real time, last-sale basis, and the Amex expects that closing prices and volume would be published in all newspapers which carry the Amex stock table. ECM companies will have a readily identifiable data tag so that they can be distinguished on the Tape from other Amex issues, and the Amex intends to work with vendors and newspapers to attempt to secure separate presentation of the ECM list. Last sale reporting would enable the

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[1] The exact text of the amendment was attached to the rule filing as exhibit A and is available at the Amex and the Commission at the address noted in Item IV below.

Exchange's Stock Watch Department to monitor, on a real-time basis, all Amex transactions in the issues and facilitate the Exchange's ability to assure compliance with Exchange disclosure policies. In addition, the Exchange would apply all of its post-trade surveillance procedures to transactions in ECM securities.

Transfer to regular list/delisting. The Exchange is hopeful that companies which reach financial maturity on the ECM would eventually choose to become regular Amex-listed companies. Such companies would be required to make application to list in the same form as would other prospect companies.

If an ECM-listed company fails to adhere to the maintenance listing criteria, it would be provided prompt written notice of such deficiency. Companies with a deficiency in market value or price for 10 consecutive trading days would have 90 days thereafter in which to comply with the continued listing requirement. Companies with a deficiency in any other continued listing requirement for the ECM, or in any general Amex continued listing criteria made applicable to the ECM, or which fail to remain CTA-eligible, would be immediately subject to delisting in accordance with the procedures set forth in part 10 of the Company Guide.

Listing fees. Companies applying to list on the ECM would pay an original listing fee of $5,000. The fee would not be charged to any company which is approved for listing prior to the date on which the ECM's inaugural trades take place. If an ECM company later applies to join the Exchange's primary list, it would receive a credit for the ECM original listing fee. Annual listing fees for ECM issuers would be computed using the same schedule which applies to regular Amex-listed companies.

Marginability. ECM companies would not be entitled to automatic marginability as are companies on the Exchange's regular list. Rather, the Exchange is proposing to amend Exchange Rule 462 to require that companies listed on the ECM be subject to a 100% maintenance margin requirement, unless the Exchange determines that such companies satisfy the criteria enumerated in Regulation T for inclusion on the List of OTC Margin Stocks, other than the requirement regarding the number of dealers which must make a market in the stock.

The amendments to Rule 462 provide that the Exchange would determine which ECM stocks satisfy the criteria for marginability, and periodically publish a list of all ECM stocks which are eligible for margin credit ("ECM Margin List"). It is expected that the Exchange would publish such list concurrently with the Federal Reserve Board's quarterly publication of the OTC Margin List. If an ECM stock or its issuers ceases to be listed on the ECM or the stock no longer meets the criteria for continued inclusion on the OTC Margin List, the Exchange would remove the stock from the ECM Margin List.

2. Basis

The proposed rule change is consistent with section 6(b)(5) of the Act in that it is intended to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed amendment will remove or lessen existing burdens on competition in that it will give smaller issuers an additional option to choose from in selecting a marketplace for the trading of their securities.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–91–25 and should be submitted by February 28, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–3407 Filed 2–12–92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34–30351; File No. SR–DTC–92–04]

Self-Regulatory Organizations; The Depository Trust Company; Filing of Proposed Rule Change Relating to Procedures for Processing Partial Calls of Uniquely Denominated Securities

February 7, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 4, 1992, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (SR–DTC–92–04) as described in Items I, II, and III below, which items have been prepared by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change establishes procedures for applying DTC's existing automated call lottery system to partial calls of uniquely denominated securities. The proposed procedures are attached as exhibit B to the filing.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and statutory basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

DTC has developed the proposed procedures so that it can make eligible for its services uniquely denominated callable securities. Securities are deemed to be "uniquely denominated" where the issuer has authorized the issuance of certificates and/or trading in a minimum, base denomination (such as $100,000) and larger denominations that are not an integral multiple of the base denomination (such as ($105,000, $110,000, $115,000, $120,000, and so forth). Absent the proposed procedures, application of DTC's existing call lottery system to partial calls of uniquely denominated issues could unintentionally reduce participants' positions below the minimum, base denomination.

Under the proposed rule change, DTC's lottery procedures for the subject securities will fairly and equitably allocate the called quantity among Participants while avoiding wherever feasible leaving Participants with positions below the base denomination. As a result, DTC will be able to make these securities eligible for its services.

The proposed rule change is consistent with the requirements of section 17A(b)(3)(A) of the Act in that it promotes efficiencies in the clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impose any burden on competion that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

DTC has discussed the proposed rule change with, and invited written comments from, various industry groups and DTC Participants. Comment letters were received from the Bank Depository User Group, The Cashiers' Association of Wall Street, Inc., the New York Clearing House, the New York Stock Exchange, Inc., and the Securities Operations Division of the Securities Industry Association.

All of these letters from industry groups are supportive of DTC's proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the *Federal Register* or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which DTC consents, the Commission shall:

(a) By order approve such proposed rule change or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SR-DTC-92-04 and should be submitted by March 5, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 92-3497 Filed 2-12-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18542; 811-3224]

Daiwa Money Fund Inc.; Application for Deregistration

February 7, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Daiwa Money Fund Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application on Form N-8F was filed on January 13, 1992, and a supplementary letter was submitted by applicant's counsel on February 5, 1991.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 3, 1992 and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicant, 200 Liberty Street, New York, NY 10281.

FOR FURTHER INFORMATION CONTACT: Nicholas D. Thomas, Staff Attorney, at (202) 504-2263, or Max Berueffy, Branch Chief, at (202) 272-3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a Massachusetts corporation and an open-end diversified management investment company registered under the Act. On July 13, 1981, applicant filed a notification of registration on Form N-8A. On the same date, applicant filed a registration statement on Form N-1A under the Securities Act of 1933. Applicant's

registration statement was declared effective on December 22, 1981, and a public offering commenced on December 31, 1981.

2. On May 28, 1991, applicant's board of directors adopted an agreement and plan of reorganization under which applicant would transfer its assets and liabilities to Dreyfus Worldwide Dollar Money Market Fund, Inc. ("Dreyfus Fund") (File No. 811-5717) in exchange for shares in Dreyfus Fund. The reorganization plan was approved by the holders of a majority of the outstanding shares of applicant on August 20, 1991.

3. On September 18, 1991, applicant had outstanding 9,577,380.61 shares of its common stock with a net asset value of $1.00 per share. On that date, applicant exchanged its assets and liabilities for 9,577,380.61 shares of the Dreyfus Fund. The Dreyfus Fund shares were then distributed pro rata to applicant's shareholders.

4. The expenses of the reorganization were approximately $18,000. According to a supplementary letter submitted by applicant's counsel, applicant's principal underwriter, Daiwa Securities American, Inc., paid approximately $10,600 for the printing and mailing of proxy statements, and applicant and Dreyfus Fund paid approximately $7,400 in legal fees and disbursements to outside counsel on a pro rata basis according to the net asset value of each fund.

5. At the time of the application, appplicant had no shareholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is not presently engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-3405 Filed 2-12-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18543; 811-5673]

PaineWebber Classic Flexible Income Fund Inc.; Application for Deregistration

February 7, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: PaineWebber Classic Flexible Income Fund Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application on Form N-8F was filed on January 8, 1992, and a supplementary letter was submitted by applicant's counsel on February 5, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 3, 1992 and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicant, 1285 Avenue of the Americas, New York, NY 10019.

FOR FURTHER INFORMATION CONTACT: Nicholas D. Thomas, Staff Attorney, at (202) 504-2263, or Max Berueffy, Branch Chief, at (202) 272-3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a Massachusetts corporation and an open-end diversified management investment company registered under the Act. Prior to April 1, 1991, applicant operated as a closed-end investment company named "Flexible Bond Trust, Inc." On October 11, 1988, applicant filed a notification of registration on Form N-8A. On the same date, applicant filed a registration statement on Form N-2. Following pre-effective amendments filed on November 18, 1988 and December 22, 1988, the registration statement was declared effective. Applicant's initial public offering took place shortly thereafter.

2. On January 9, 1991, applicant filed a registration statement on Form N-1A, reflecting its proposed name change and shift to open-end status. Following pre-effective amendments on March 8, 1991 and April 1, 1991, applicant's registration statement was declared effective on June 7, 1991, and a continuous offering of applicant's shares commenced thereafter.

3. On June 12, 1991, applicant's board of directors adopted an agreement and plan of reorganization under which applicant would transfer its assets and liabilities to PaineWebber Income Fund (the "Income Fund"), a series of PaineWebber Master Series, Inc. (File No. 811-4448) in exchange for shares in the Income Fund. The reorganization plan was approved by the holders of a majority of the outstanding shares of applicant on October 10, 1991.

4. On October 18, 1991, applicant transferred its assets in exchange for shares of the Income Fund, and the assumption by the Income Fund of all of applicant's liabilities. The number of Income Fund shares issued to applicant was determined by dividing the net asset value of applicant by the net asset value of a share of the Income Fund as of the close of business, October 18, 1991. On October 21, 1991, applicant distributed pro rata to its shareholders of record as of October 18, 1991, shares of the Income Fund received in the exchange.

5. According to a supplementary letter submitted by applicant's counsel, as of February 5, 1992, the following expenses have been incurred in connection with the reorganization: $43,359.62 in legal fees, $43,908.11 in printing and proxy costs, and $3,500 in accounting fees. Applicant's counsel also estimates that transfer agency fees and other miscellaneous costs will total an additional $10,000. The reorganization plan provided that reorganization expenses would be borne by applicant and the Income Fund in proportion to their respective net assets. According to applicant's balance sheet dated October 18, 1991, the date of exchange, applicant paid $7,739.88 of the reorganization expenses.

6. At the time of the application, applicant had no shareholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is not presently engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-3406 Filed 2-12-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18541; 811-1583]

Sigma U.S. Government Fund, Inc.; Application for Deregistration

February 6, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 ("Act").

APPLICANT: Sigma U.S. Government Fund, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application on Form N-8F was filed on January 13, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be used unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 3, 1992, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicant, Christiana Executive Campus, 220 Continental Drive, Newark, Delaware 19713.

FOR FURTHER INFORMATION CONTACT: Barry A. Mendelson, Staff Attorney, at (202) 504-2284, or Barry D. Miller, Branch Chief, at (202) 272-3018 (Division of Investment Management), Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end diversified management investment company. On January 8, 1968, applicant registered under the Act and filed a registration statement under the Securities Act of 1933. The registration statement became effective on September 11, 1968, and applicant's initial public offering commenced shortly thereafter.

2. On October 20, 1988, applicant's board of directors approved an Agreement and Plan of Reorganization ("Plan") between applicant and Meritor U.S. Government Fund, Inc. ("Meritor Fund") pursuant to which Meritor Fund would acquire substantially all of the assets of applicant in exchange for Meritor Fund common stock. According to the combined proxy statement and prospectus, incorporated by reference into the application, as a result of the transaction each of applicant's shareholders would hold shares of Meritor Fund having the same aggregate net asset value as the shares of the applicant held by each such shareholder at the time of closing. The combined proxy statement and prospectus was mailed to applicant's shareholders on December 12, 1988. The Plan was approved at a special meeting of shareholders held on December 27, 1988.

3. As of December 29, 1988, the date of consummation of the acquisition, applicant had outstanding 2,047,939 shares, with a net asset value of $3.09 per share, for a total net asset value of $6,319,164. On December 29, 1988, applicant sold its portfolio securities and other assets to Meritor Fund, less a reserve of $12,928 for accrued but unpaid expenses unrelated to the applicant's liquidation and dissoluton. The shares of Meritor Fund received by applicant in exchange for its assets were then distributed to its shareholders pro rata in accordance with their respective interests in applicant.

4. All expenses incurred in connection with the liquidation and dissolution of applicant were borne by the investment adviser, ProvidentMutual Management Co., Inc. (formerly Sigma Management, Inc.) or its parent company, Sigma American Corporation.

5. Applicant filed a Certificate of Election to Wind Up and a Certificate of Dissolution with the Secretary of State of California on October 18, 1991.

6. As of the date of the amended application, applicant had no shareholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is not presently engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, Under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-3408 Filed 2-12-92; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Deferral of Ruling on Passenger Facility Charge (PFC) Applications at McCarran International Airport, Las Vegas, NV

AGENCY: Federal Aviation Administration (FAA), DOT.

EFFECTIVE DATE: January 22, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph R. Rodriguez, Supervisor, Planning/Programming, Airports District Office, 831 Mitten Road, room 210, Burlingame, California 94010-1303, (415) 876-2805.

Deferral

This notice informs the public that we have received a request from Clark County, Las Vegas, Nevada, to defer our ruling on Clark County's applications to impose a PFC at McCarran International Airport for future use at McCarran, current use at North Las Vegas Air Terminal, and current and future use at Sky Harbor Airport until such time as the FAA rules on the remaining PFC applications to impose at McCarran for concurrent use at McCarran under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158). Accordingly, we are deferring, until not later than February 26, 1992, the approval/disapproval of Clark County's PFC applications.

Date: January 29, 1992.

Lowell H. Johnson,

Manager, Grants-in-aid Division.

[FR Doc. 92-3079 Filed 2-12-92; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

[Docket No. 07; Notice 1]

Freightliner Corporation; Receipt of Petition for Determination of Inconsequential Noncompliance

Freightliner Corporation (Freightliner) of Portland, Oregon, has determined that some of its trucks and trailers fail to comply with 49 CFR 571.106, "Brake Hoses," and has filed an appropriate report pursuant to 49 CFR part 573. Freightliner has also petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15. U.S.C. 1381 *et seq.*) on the basis that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgement concerning the merits of the petition.

Freightliner determined that certain air brake hoses installed in 45,000 trucks and trailers failed to comply with the adhesion requirement of Standard No. 106. The suspect hose assemblies were manufactured by the Weatherhead Division of Dana Corporation and received by Freightliner from April 1988 through May 1990. Freightliner supports its petition with the following:

> The majority of this population has been in service in excess of 200,000 miles with a significant portion in excess of 300,000 miles. The operation, service, and warranty of these vehicles has been reviewed with no indication of any problems relating to hose layer separation.
>
> The adhesion requirement of FMVSS 106 is not applicable to a pressurized brake system as used on Freightliner vehicles but is more relevant in a vacuum application. This is supported by technical data supplied by Weatherhead. Freightliner therefore expects and has experienced acceptable performance of the subject brake hose assemblies.
>
> Freightliner has reviewed the petitions from Navistar, Mack, Volvo-MG, General Motors and Blue Bird and agrees with their conclusions which apply equally to Freightliner brake systems.
>
> The agency has acted favorably on the Navistar and Mack petitions (56 FR 51440). Freightliner requests that the agency also grant this petition as the noncompliance is inconsequential to motor vehicle safety.

Interested persons are invited to submit written data, views and arguments on the petition of Freightliner, described above. Comments should refer to the Docket Number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC, 20590. It is requested but not required that six copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, the Notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: March 16, 1992.

Authority: 15 U.S.C. 1417; delegation of authority at 49 CFR 1.50 and 49 CFR 501.8.

Issued on February 7, 1992.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 92-3430 Filed 2-12-92; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. 92-06, Notice]

The Kelly-Springfield Tire Co.; Receipt of Petition for Determination of Inconsequential Noncompliance

The Kelly-Springfield Tire Company (Kelly-Springfield) of Cumberland, Maryland, has determined that 1,848 of its tires fail to comply with 49 CFR 571.109, Federal Motor Vehicle Safety Standard No. 109, "New Pneumatic Tires-Passenger Cars," and has filed an appropriate report pursuant to 49 CFR part 573. Kelly-Springfield has also petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) on the basis that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgement concerning the merits of the petition.

Paragraph S4.3 of Standard No. 109 specifies that, "each tire shall have permanently molded into or onto both sidewalls, in letters and numerals not less than 0.078 inches high, the * * * (e) Actual number of plies in the sidewall, and the actual number of plies in the tread area if different."

During the period of November 3, 1991 to December 7, 1991, Kelly-Springfield produced 1,848 P195/60R15 Cordovan Grand Prix Radial G/T tires which did not comply with Standard No. 109. The subject tires were mislabeled "Tread 4 Plies (2 Polyester Cord + 2 Steel Cord), Sidewall 2 Plies (Polyester Cord)" on the non-serial sidewall. The correct information should have read "Tread 3 Plies (1 Polyester Cord + 2 Steel Cord), Sidewall 1 Ply (Polyester Cord)" as marked on the serial sidewall. The error occurred as a result of using an incorrectly stamped mold. Kelly-Springfield supports its petition for inconsequential noncompliance with the following:

> All other labeling requirements as specified in FMVSS-109 Paragraph S4.3 (a) thru (g) are correct and comply to FMVSS-109 in all respects including the load and inflation pressure information. Additionally, all tires shipped with the above stated condition were properly labeled on the tread with the actual number of plies in the sidewall, and the actual number of plies in the tread area.

Interested persons are invited to submit written data, views and arguments on the petition of Kelly-Springfield, described above. Comments should refer to the Docket Number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC, 20590. It is requested but not required that six copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, the Notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: March 16, 1992.

Authority: 15 U.S.C. 1417; delegation of authority at 49 CFR 1.50 and 49 CFR 501.8.

Issued on February 7, 1992.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 92-3431 Filed 2-12-92; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: February 7, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submissions(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Bureau of the Public Debt

OMB Number: New.
Form Number: PD F 1849.
Type of Review: New collection.
Title: Disclaimer and Consent with Respect to United States Savings Bonds/Notes.
Description: This form is used to obtain a disclaimer and consent as the result of an error in registration or otherwise, the payment, refund of the purchase price, or reissue as requested by one person would appear to affect the right, title or interest of some other person.
Respondents: Individuals or households.
Estimated Number of Respondents: 7,000.
Estimated Burden Hours Per Response: 6 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 700 hours.

OMB Number: New.
Form Number: PD F 2001.
Type of Review: New collection.
Title: Release.
Description: This form is used by the owner, coowner, or other person entitled to ratify payment of Savings Bonds/notes and release the United States of America from any liability.
Respondents: Individuals or households.
Estimated Number of Respondents: 200.
Estimated Burden Hours Per Response: 6 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 20 hours.

OMB Number: 1535–0062.
Form Number: PD F 2966.
Type of Review: Extension.
Title: Special Bond of Indemnity to the United States of America.
Description: This form is used by the purchaser of Savings Bonds in a chain letter scheme to request refund of the purchase price of the bonds.
Respondents: Individuals or households.
Estimated Number of Respondents: 5,000.
Estimated Burden Hours Per Response: 8 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 665 hours.
Clearance Officer: Rita DeNagy (202) 447–1315, Bureau of the Public Debt, room 137, BEP Annex, 300 13th Street, SW., Washington, DC 20239–0001.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 92–3461 Filed 2–12–92; 8:45 am]

BILLING CODE 4810-40-M

Public Information Collection Requirements Submitted to OMB for Review

Date: February 6, 1992.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171, Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Departmental Offices

OMB Number: 1505–0117.
Form Number: TD F 90–22.36.
Type of Review: Reinstatement.
Title: Panamanian Transactions Regulations.
Description: Submissions will provide the USG with information to be used in administering the continued blocking of Panamanian government assets which remain blocked after termination of the national emergency.
Respondents: Businesses or other for-profit.
Estimated Number of Respondents: 20.
Estimated Burden Hours Per Response: 2 hours.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 40 hours.
Clearance Officer: Lois K. Holland (202) 566–6579, Departmental Offices, room 3171, Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 92–3462 Filed 2–12–92; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: February 6, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512–0035.
Form Number: ATF F 5000.21.
Type of Review: Extension.
Title: Referral of Information.
Description: ATF asks the Federal agency or State or local regulatory compliance agency to respond as to any action will be taken and if so that action planned on referrals of potential violations of Federal, State or local law discovered by ATF personnel during investigations, also used to evaluate effectiveness of these referrals.
Respondents: State or local governments, Federal agencies or employees.
Estimated Number of Respondents: 500.
Estimated Burden Hours Per Respondent: 1 hour.
Frequency of response: On occasion.
Estimated Total Reporting Burden: 500 hours.

OMB Number: 1512–0138.
Form Number: ATF F 5120.20 (2605).
Type of Review: Extension.
Title: Certification of Tax Determination-Wine.
Description: Wine that has been manufactured, produced, bottled or packaged in bulk containers in the U.S. and then exported, may have the revenue tax already tax already paid or determined on the refund to the exporter. The form validates from the producing winery that the wine was produced in the U.S. and was taxpaid on withdrawal from bond.
Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 1,000.
Estimated Burden Hours Per Respondent: 30 minutes.
Frequency of response: On occasion.
Estimated Total Reporting Burden: 500 hours.
Clearance Officer: Robert N. Hogarth (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, room 3200, 650 Massachusetts Avenue, NW., Washington, DC 20226.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Butget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 92-3463 Filed 2-12-92; 8:45 am]

BILLING CODE 4810-31-M

Office of Thrift Supervision

Advanced Federal Savings Bank Northridge, CA; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Advanced Federal Savings Bank, Northridge, California, on January 23, 1992.

Dated: February 7, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92-3432 Filed 2-12-92; 8:45 am]

BILLING CODE 6720-01-M

Crossland Federal Savings Bank; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in Section 5(d)(2) (B) and (H) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Federal Deposit Insurance Corporation as sole Conservator for CrossLand Federal Savings Bank, Brooklyn, New York, on January 24, 1992.

Dated: February 7, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92-3433 Filed 2-12-92; 8:45 am]

BILLING CODE 6720-01-M

Hansen Federal Savings Association; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owner's Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Hansen Federal Savings Association, Hammonton, New Jersey, on January 10, 1992.

Dated: February 7, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92-3435 Filed 2-12-92; 8:45 am]

BILLING CODE 6720-01-M

Hansen Federal Savings Bank; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Hansen Federal Savings Bank, Palm Beach Gardens, Florida, on January 10, 1992.

Dated: February 7, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92-3434 Filed 2-12-92; 8:45 am]

BILLING CODE 6720-01-M

Security Federal Savings Association; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Security Federal Savings Association, Panama City, Florida, on January 31, 1992.

Dated: February 7, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92-3436 Filed 2-12-92; 8:45 am]

BILLING CODE 6720-01-M

Advanced Savings Bank, F.S.B. Northridge, Ca; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(A) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Advanced Savings Bank, F.S.B., Northridge, California, OTS No. 8004, on January 23, 1992.

Dated: February 7, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR doc. 92-3437 Filed 2-12-92; 8:45 am]

BILLING CODE 6720-01-M

Crossland Savings, FSB; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(A) of the Home Owner's Act, the Office of Thrift Supervision has duly appointed the Federal Deposit Insurance Corporation as sole Receiver for CrossLand Savings, FSB, Brooklyn, New York (OTS No. 7812), on January 24, 1992.

Dated: February 7, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92-3438 Filed 2-12-92; 8:45 am]

BILLING CODE 6720-01-M

Hansen Savings Bank; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(C) of the Home Owner's Loan Act, the Office of Thrift Superivison has duly appointed the Resolution Trust Corporation as sole Receiver for Hansen Savings Bank, Palm Beach Gardens, Florida, OTS No. 8060, on January 10, 1992.

Dated: February 7, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92-3439 Filed 2-12-92; 8:45 am]

BILLING CODE 6720-01-M

Hansen Savings Bank, SLA, Hammonton, NJ; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in Section 5(d)(2)(C) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Hansen Savings Bank, SLA, Hammonton, New Jersey, OTS No. 6268, on January 10, 1992.

Dated: February 7, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92-3440 Filed 2-12-92; 8:45 am]

BILLING CODE 6720-01-M

Home Federal Savings and Loan Association, F.A.; Replacement of Conservator with a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision

(F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Home Federal Savings and Loan Association, F.A., Algona, Iowa ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on January 31, 1992.

Dated: February 7, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92-3441 Filed 2-12-92; 8:45 am]

BILLING CODE 6720-01-M

Pelican Homestead and Savings Association; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Pelican Homestead and Savings Association, Metairie, Louisiana, OTS No. 3584, on January 31, 1992.

Dated: February 7, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92-3442 Filed 2-12-92; 8:45 am]

BILLING CODE 6720-01-M

Perpetual Savings Bank, F.S.B.; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(A) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Perpetual Savings Bank, F.S.B., McLean, Virginia, OTS No. 6579, on January 10, 1992.

Dated: February 7, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92-3443 Filed 2-12-92; 8:45 am]

BILLING CODE 6720-01-M

Security Federal Savings Bank of Florida; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in Section 5(d)(2)(A) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Security Federal Savings Bank of Florida, Panama City, Florida (OTS No. 5587), on January 31, 1992.

Dated: February 7, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92-3444 Filed 2-12-92; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395-7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before March 16, 1992.

Dated: February 6, 1992.

By direction of the Secretary.

Frank E. Lalley,

Associate Deputy, Assistant Secretary for Information Resources Policies and Oversight.

Extension

1. Application of Surviving Spouse or Child for REPS Benefits, VA Form 21-8924.
2. The form serves as the application for benefits under the REPS (Restored Entitlement Program for Survivors) program.
3. Individuals or households.
4. 2,500 hours.
5. 20 minutes.
6. On occasion.
7. 7,500 respondents.

[FR Doc. 92-3447 Filed 2-12-92; 8:45 am]

BILLING CODE 8320-01-M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Patti Viers, Records Management Service (723), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-3172.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395-7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before March 16, 1992.

Dated: February 6, 1992.

By direction of the Secretary.

Frank E. Lalley,

Associate Deputy Assistant Secretary for Information Resources Policies and Oversight.

Extension

1. Certification of Inability to Pay Transportation Cost, VA Form 2323 (formerly VA Form 70-2323).

2. This form is used by veteran claimants to provide income information which will form the basis for a determination as to the claimant's eligibility for reimbursement of travel cost incurred to obtain VA benefits.
3. Individuals or households.
4. 27,787 Hours.
5. 8 minutes.
6. Annually.
7. 208,400 respondents.

[FR Doc. 92-3448 Filed 2-12-92; 8:45 am]

BILLING CODE 8320-01-M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if appliable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-3021.

Comments and questions about the items on the list should be directed VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395-7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before March 16, 1992.

Dated: February 6, 1992.

By direction of the Secretary.

Frank E. Lalley,

Associate Deputy Assistant Secretary for Information Resources Policies and Oversight.

Revision

1. Designation of Beneficiary, VA Form 29-336.
2. The form is used by the insured to designate a beneficiary and select an optional settlement to be used when the insurance matures by death. The information is requested to determine the claimants eligibility to receive the proceeds.
3. Individuals or housholds.
4. 13,917 hours.
5. 10 minutes.
6. On occasion.
7. 83,500 respondents.

[FR Doc. 92-3449 Filed 2-12-92; 8:45 am]

BILLING CODE 8320-01-M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395-7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before March 16, 1992.

Dated: February 6, 1992.

By direction of the Secretary.

Frank E. Lalley,

Associate Deputy Assistant Secretary for Information Resources Policies and Oversight.

Reinstatement

1. Claim for Veterans Mortgage Life Insurance, VA Form 29-0549.
2. The form is used by the mortgage holder to apply for the proceeds of Veterans Mortgage Life Insurance (VMLI). The information is used to process the mortgage holder's claim.
3. Businesses or other for-profit.
4. 250 hours.
5. 60 minutes.
6. On occasion.
7. 250 respondents.

[FR Doc. 92-3450 Filed 2-12-92; 8:45 am]

BILLING CODE 8320-01-M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395-7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before March 16, 1992.

Dated: February 6, 1992.

By direction of the Secretary.

Frank E. Lalley,

Associate Deputy Assistant Secretary for Information Resources Policies and Oversight.

Extension

1. Veterans Mortgage Life Insurance Health Statement, VA Form 29–0562.

2. The form will all VA to obtain health information from veterans applying for Veterans Mortgage Life Insurance (VMLI). The information is used to determine if the veteran meets the health requirements necessary for granting VMLI.

3. Individuals or households.

4. 20 hours.

5. 5 minutes.

6. On occasion.

7. 240 respondents.

[FR Doc. 92–3451 Filed 2–12–92; 8:45 am]

BILLING CODE 8320-01-M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233–3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395–7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before March 16, 1992.

Dated: February 6, 1992.

By direction of the Secretary.

Frank E. Lalley,

Associate Deputy Assistant Secretary for Information Resources Policies and Oversight.

Reinstatement

1. Veterans Mortgage Life Insurance Inquiry, VA Form 29–0543.

2. The form is used by VA to ensure proper maintenance of Veterans Mortgage Life Insurance accounts.

3. Individuals or households.

4. 45 hours.

5. 5 minutes.

6. On occasion.

7. 540 respondents.

[FR Doc. 92–3452 Filed 2–12–92; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Tuesday, February 18, 1992.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: February 10, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-3584 Filed 2-11-92; 10:01 am]

BILLING CODE 6210-01-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, February 19, 1992.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: February 11, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-3665 Filed 2-11-92; 3:34 pm]

BILLING CODE 6210-01-M

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

TIME AND DATE: 1:30 p.m., February 18, 1992.

PLACE: 5th Floor, Conference Room, 805 Fifteenth Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of the January 21, 1992, Board meeting
2. Labor Department briefing on audit plans for 1992
3. Thrift Savings Plan activity report by the Executive Director
4. Review of completed audit reports—
   "Pension and Welfare Benefits Administration Review of the Thrift Savings Plan Forfeiture Process"
   "Pension and Welfare Benefits Administration Review of Thrift Savings Plan System Enhancement Methodology"
   "Pension and Welfare Benefits Administration Review of USDA/OFM/National Finance Center Backup, Recovery, and Contingency Planning for the Thrift Savings Plan"
   "Pension and Welfare Benefits Administration Review of National Finance Center Access Control and Security Over Thrift Savings Plan Resources"
   "Pension and Welfare Benefits Administration Review of National Finance Center Software Change Controls for Thrift Savings Plan Resources"
   "Pension and Welfare Benefits Administration Review of the Office of Finance and Management National Finance Center Billing Process for the Thrift Savings Plan"
   "Pension and Welfare Benefits Administration Review of the Thrift Savings Plan users Documentation at the National Finance Center"
5. Review of investment policy

CONTACT PERSON FOR MORE INFORMATION: Tom Trabucco, Director, Office of External Affairs, (202) 523-5660.

Dated: February 11, 1992.

Francis X. Cavanaugh,

Executive Director, Federal Retirement Thrift Investment Board.

[FR Doc. 92-3655 Filed 2-11-92; 2:14 pm]

BILLING CODE 6760-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Agenda

Failure to Publish Notice of Meeting in the **Federal Register** (transcript of the open portion of the meeting is available by contacting Executive Court Reporting Service 301-565-0064)

TIME AND DATE: 9:30 a.m., Tuesday, February 4, 1992.

PLACE: The Board Room, 5th Floor, 490 L'Enfant Plaza, S.W., Washington, D.C. 20024.

STATUS: The first item is open to the public. The last two items are closed under Exemption 10 of the Government in Sunshine Act.

MATTERS TO BE CONSIDERED:

5651—Hazardous Materials Special Investigation Report: Cargo Tank Rollover Protection
5638—Opinion and Order: Administrator v. Latham, Docket SE-10009; disposition of respondent's appeal
5642—Opinion and Order: Administrator v. Bass, Docket SE-8872; disposition of respondent's appeal

NEWS MEDIA CONTACT: Telephone (202) 382-0660.

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 382-6525.

Dated: February 10, 1992.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 92-3654 Filed 2-11-92; 2:13 pm]

BILLING CODE 7533-01-M

U.S. RAILROAD RETIREMENT BOARD

Notice of Public Meeting

Notice is hereby given that the Railroad Retirement Board will hold a meeting on February 18, 1992, 9:00 a.m., at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois, 60611. The agenda for this meeting follows:

(1) Backlog reductions (Task Force Report/Administrative Finality).

(2) Special Service Award recommendation—92-007 G for Employees in the Chicago, Illinois District Office.

(3) State Wage Matching Program—Commonwealth of Massachusetts.

(4) Medical Contract.

(5) Medical Fee Schedule.

(6) Regulations—Part 203, employees Under the Act.

(7) Regulations—Part 230, Reduction and Non-Payment of Annuities by Reason of Work.

(8) Final Rule—Part 255, Recovery of Overpayments.

(9) Regulations—Parts 202 and 301, Employers Under the Railroad Retirement Act and Railroad Unemployment Insurance Act.

(10) Board Order (Approved 12-17-91) Setting Forth Board's Policy on Disability Annuity Applications for Employees in Compensated Service.

(11) 1992 Railroad Retirement Handbook (Blue Book).

The entire meeting will be open to the public. The person to contact for more information is Beatrice Ezerski, Secretary to the Board, COM No. 312-751-4920, FTS No. 386-4920.

Dated: February 7, 1992.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 92-3596 Filed 2-11-92; 11:23 am]

BILLING CODE 7905-01-M

UNITED STATES DEPARTMENT OF AGRICULTURE

RURAL TELEPHONE BANK, USDA

ACTION: Regular Meeting of Board of Directors.

TIME AND DATE: 9:15 a.m., Tuesday, February 25, 1992.

PLACE: The Renoir Room, 2nd Floor, Loew's L'Enfant Plaza Hotel, 480 L'Enfant Plaza, SW., Washington, DC.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION: Blaine D. Stockton, Jr., Assistant Secretary, Rural Telephone Bank, (202) 382-9552.

AGENDA:

I. Call to Order

II. Report of Board Member Election Results

III. Swearing-in of New Board Members

IV. If necessary, provide procedures for valid election and resolve any tie votes

V. Approval of Minutes of the October 30, 1991, RTB Board Meeting

VI. Loans Approved in the first quarter of FY 1992

VII. Financial Statements for the first quarter of FY 1992

VIII. Report on Requests for Waiver of Prepayment Premiums

IX. Summary Report on McDermott, Will & Emery Presentation to Privatization Committee and Applicability of the Sunshine Act to Committee Operations

X. Role of Counsel to the RTB

XI. Federal Credit Reform Applicability to the RTB

XII. RTB Meetings

  a. Schedule for 1992

  b. Location for the next meeting

XIII. Adjournment.

Dated: February 11, 1992.

Michael M.F. Lin,

Acting Governor.

[FR Doc. 92-3609 Filed 2-11-92; 1:09 pm]

BILLING CODE 3410-15-M

VOL 57 ISS 30 FE 13 992 UMI

Corrections

Federal Register
Vol. 57, No. 30
Thursday, February 13, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 91-123]

Veterinarians Accredited by the Mexican Government

Correction

In proposed rule document 92-2011 beginning on page 3145 in the issue of Tuesday, January 28, 1992, make the following correction:

§ 92.429 [Corrected]

On page 3147, in the second column, in § 92.429, in the second line, after "veterinarian" insert "of the Mexican Government" would be removed and the phrase "certificate".

BILLING CODE 1505-01-D

FARM CREDIT ADMINISTRATION

12 CFR Part 615

RIN 3052-AB25

Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Management of Investments; Liquidity; Interest Rate Risk; Eligible Investments

Correction

In proposed rule document 91-30015 beginning on page 65691 in the issue of Wednesday, December 18, 1991, make the following corrections:

1. On page 65691, in the 2nd column, under **FOR FURTHER INFORMATION CONTACT:**, in the 5th line, after "4231" insert a "," and in the 12th line, after "4444" insert a ".".

2. On the same page, in the third column, in the second full paragraph, in the ninth line, "profolios" should read "portfolios".

3. On page 65692, in the first column, in the first line, "the" should read "to".

4. On page 65693, in the 2nd column, in the 14th line, "to" should read "so".

5. On the same page, in the same column, in the first full paragraph, in the 14th line, "loads" should read "loans".

6. On page 65694, in the 2nd column, in the first full paragraph, in the 9th line, "not" should read "now" and in the 12th line, "for" should read "from".

7. On page 65697:

a. In the first column, in the third line, "for" should read "For".

b. In the same column, in the second full paragraph, in the tenth line, "bands" should read "banks".

c. In the second column, in the second full paragraph, in the seventh line, after "existing" insert "§ § 615.5140(a)(11) and (12) into a single provision,".

d. In the third column, in the ninth line, after "commercial" insert "and finance".

e. In the same column, in the third full paragraph, in the fifth line "diversity" should read "diversify".

8. On page 65698, in the first column, in the first full paragraph, in the first line, "§ 615.5410(a)(13)" should read "§ 615.5140(a)(13)" and in the eighth line, "Fram" should read "Farm".

9. On the same page, in the second column, in the third full paragraph, "BX" should read "BC".

10. On page 65699, in the first column, in the third line, "1986" should read "1987".

§ 615.5131 [Corrected]

11. On page 65700, in the first column, in § 615.5131(k), in the sixth line, "specified" should read "specific".

12. On the same page, in the second column, in § 615.5131(r), in the third line, § 615.5201(1) should read "§ 615.5201(l)".

§ 615.5134 [Corrected]

13. On the same page, in the third column, in § 615.5134(c), in the ninth line, "exits" should read "exists".

§ 615.5135 [Corrected]

14. On page 65701:

a. In the first column, in § 615.5135(d) in the second line from the bottom, "or" should read "of".

b. In the same column, in the amendatory instruction 7., in the fifth line, "paragraph" should read "paragraphs".

§ 615.5140 [Corrected]

c. In the second column, in § 615.5140(a)(2)(ii), in the fifth line, "fixed" should read "fixed-rate".

d. In the same column, in § 615.5140(a)(2)(iii), in the seventh line, "purpose" should read "purposes".

e. In the same column, in § 615.5140(a)(5), in the 11th line, "services" should read "service".

§ 615.5141 [Corrected]

15. On page 65702, in the first column, in § 615.5141, in the second line, "of" should read "or".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Meeting

Correction

In notice document 92-1601 appearing on page 2752 in the issue of Thursday, January 23, 1992, in the first column, in the file line at the end of the document, "FR Doc. 92-1602" should read "FR Doc. 92-1601".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 177

[Docket No. 85F-0469]

Indirect Food Additives: Polymers

Correction

In rule document 92-2403 beginning on page 3938 in the issue of Monday, February 3, 1992, make the following corrections:

1. On page 3938:

a. In the first column, under **SUMMARY:**, in the fourth line, "resin" should read "resins".

b. In the second column, under **SUPPLEMENTARY INFORMATION:**, in the eighth line, "(21 CFR 177.1850)" should read "(21 CFR 177.1580)", and in the 10th line, after "by" insert "the".

c. In the third column, in the first full paragraph, in the eighth line, after "establishes" insert "that", and in the ninth line, "the" should read "that".

d. In the same column, in the same paragraph, in the 14th line, after "from" insert "the".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Change of Sponsor

Correction

In rule document 92-1741, appearing on page 2837, in the issue of Friday, January 24, 1992, make the following corrections:

1. On page 2837, in the first column, under **SUPPLEMENTARY INFORMATION:**, in the tenth line, delete "91-705".

PART 522—[CORRECTED]

2. In the same column, at the end of the authority citation, replace the colon with a period.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 92N-0016]

Drug Export; Optiray 240 (Ioversol Injection 51%), Optiray 300 (Ioversol Injection 64%), Optiray 350 (Ioversol Injection 74%)

Correction

In notice document 92-1552, appearing on page 2558, in the issue of Wednesday, January 22, 1992, in the first column, under **SUMMARY:**, in the third line, "Mallinckrodt" was misspelled.

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-943-4214-10; GP2-089; OR-22029-C(WASH), et al.]

Proposed Continuation of Withdrawals; Washington

Correction

In notice document 92-1599 beginning on page 2777 in the issue of Thursday, January 23, 1992, make the following corrections:

1. On page 2778, in the first column, in the fourth line, "N." should read "W.".
2. On the same page, in the same column, in the fourth full paragraph, in the fifth line, "Cost" should read "Coast".
3. On the same page, in the same column, in the 6th full paragraph, in the 13th line, after "will" insert "be published in the **Federal Register**. The existing withdrawals will".

BILLING CODE 1505-01-D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-30153; File No. SR-NYSE-91-37]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Amendments to Arbitration Procedures

Correction

In notice document 92-723 beginning on page 1292 in the issue of Monday, January 13, 1992, make the following correction:

On page 1292, in the third column, paragraph 6. should read as set forth below:

6. Rule 627: Awards

The NYSE proposes to amend rule 627(e) to require that an arbitration award include, in addition to the information required by the current rule, the names of counsel representing the parties and the type of product or security involved in the arbitration. The NYSE also proposes to amend rule 627 (g) to consolidate current rules 627(g) and (h) and to clarify when interest is payable on an award. The current rule provides that arbitrators may award interest as they deem appropriate. The rule also provides that all awards shall bear interest from the date of the award until payment. Amended rule 627(g) would continue to require payment of awards within thirty days of receipt unless a motion to vacate has been filed with a court of competent jurisdiction. The proposed rule change, however, would revise the rule's current requirement for payment of interest on awards from the date of the award. The rule would provide that an award shall bear interest from the date of the award if: (1) The award is not paid within thirty days of receipt; (2) the award is the subject of a motion to vacate which is denied; or (3) the arbitrators otherwise so specify in the award.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; Air Traffic Subcommittee; Unmanned Aerospace Vehicle Operations Working Group

Correction

In notice document 91-25851, appearing on page 55520, in the issue of Monday, October 28, 1991, in the third column, in the file line at the end of the document, "FR Doc. 91-25881" should read "FR Doc. 91-25851".

BILLING CODE 1505-01-D

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federal register

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Part II

Commission on National and Community Service

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45 CFR Chapter XXV

National and Community Service Grant Program; Final Rule

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COMMISSION ON NATIONAL AND COMMUNITY SERVICE

45 CFR Chapter XXV

National and Community Service Grant Program

AGENCY: Commission on National and Community Service.

ACTION: Final rule.

SUMMARY: The Commission on National and Community Service is issuing this final rule concerning the programs authorized by the National and Community Service Act of 1990, as amended. These programs are intended to promote national and community service among the citizens of the United States to help meet human, educational, environmental and public safety needs, particularly those related to poverty. This rulemaking is intended to govern the awarding of grants under the programs authorized by the National and Community Service Act, to delineate the requirements that must be met by recipients of funds, and to describe the activities that may be conducted under these programs.

EFFECTIVE DATE: February 13, 1992.

FOR FURTHER INFORMATION CONTACT: Anyone wishing further information concerning this rulemaking should contact: Terry Russell at 202–724–0600.

SUPPLEMENTARY INFORMATION:

Background

On November 8, 1991, the Commission on National and Community Service published a proposed rule implementing the National and Community Service Act of 1990, as amended. In response to the notice of proposed rulemaking, the Commission received over 100 comments from States, Indian Tribes, schools, higher education institutions, youth corps program sponsors, Older American Volunteer Program sponsors, and private nonprofit organizations concerned with youth, senior citizens, and volunteer service. The Commission has reviewed these comments, and made revisions to the proposed rule in response.

Summary of Comments

The Commission found comments on the proposed rule to be extremely helpful in identifying areas where greater clarity is needed, and recommending policy and technical revisions. In addition, numerous comments suggest changes that may be made only if the National and Community Service Act is amended. For example, comments suggested that living allowances and postservice benefits provided under the Act should not be allowed to affect means-tested benefits under the Social Security Act; that 14-year-olds should be included as eligible participants under the American Conservation and Youth Service Corps program; that summer programs should be expanded to include programs beginning in May; and that the Tort Claims Act should cover all participants and staff in funded programs.

Several comments suggested that the Comprehensive State Plan requirement could prove burdensome to States, and make it difficult for States just starting out to apply. Therefore, the final regulations allow States to meet the Comprehensive State Plan requirement by submitting a description of planning efforts to be conducted during the term of the grant, including a timetable for completion of the Comprehensive State Plan. Indian Tribes, which are treated as States in many provisions of the Act, will not be required to submit a Comprehensive State Plan.

Comments also suggested that provisions regarding the appointing of a State Advisory Board for National and Community Service should be revised to accommodate States that already have similar boards in place, and States that prefer other strategies for soliciting input from a broad-based group. The final regulations require all States to solicit broad-based and local input in developing the Comprehensive State Plan in a bipartisan or nonpartisan manner, through any appropriate means, including the appointment of a State Advisory Board.

Comments from both State and local organizations requested clarification of rules governing States in allocating Serve-America and American Conservation and Youth Service Corps funds to local applicants. The final regulations clarify that a State is not required to issue a formal request for proposals, but should solicit applications from a broad-based group of public and private nonprofit organizations. Under the Conservation Corps program, a State is asked to use a "reasonable" portion of its funds to make grants within the state (substate grants). The Commission declined to set a fixed percentage of funds that must be used for substate grants. The Commission anticipates that circumstances will vary from State to State depending on the cost of the State-operated program, the number of qualified local applicants within the State, and the amount of the award to the State.

Numerous comments suggested that the intergenerational focus of programs should be strengthened in the regulations. In response, the final regulations include as a purpose, "to expand full-time and part-time service opportunities for all citizens, particularly youth and older Americans." In addition, the Comprehensive State Plan was amended to include efforts to accomplish this goal.

Comments also asked for more detail regarding what is included in the five percent cap on administrative costs. As a result, we have revised the definition to provide added clarity, by first providing examples of administrative costs that will be included in the 5% cap. We have then provided examples of costs that are not administrative, but rather fall within the direct service category. Finally, we have set forth some general rules as to how, under certain circumstances, expenses should be prorated.

Several comments asked for more information about the Commission's plans for evaluation. Information about evaluation may be found in the applications and in additional written guidelines to be issued by the Commission at a later date.

Comments also requested information about the required three-week training program under part 2504. The Commission expects to design the training for full-time, part-time and special senior service participants in consultation with each grantee receiving funds under part 2504. The costs of the training need not be reflected in applications for fiscal year 1992 funds.

Comments indicated that there is confusion regarding roles for senior citizens in the Youth Corps and National and Community Service Programs.

Under the Youth Corps program senior citizens may be involved in three ways, at the discretion of the grantee. First, they may serve as Special Corps Members, as provided for in § 2503.21(c). As Special Corps Members, they will be subject to the same requirements and receive the same benefits as regular corps members. Second, they may serve as mentors for youth participants through a joint project between a youth corps and senior citizens organization, as provided for in § 2503.23. Nonparticipant volunteers may assist with the operation of the program—helping to train, supervise, or recruit participants, for example—or may work alongside participants on a project.

Under the National and Community Service program, senior citizens may be involved in three ways, again at the discretion of the grantee. First, they may be enrolled as regular full-time or part-time participants. As full-time or part-time participants, the senior citizens would be subject to the same requirements and receive the same benefits as other participants. Second, they may be enrolled as Special Senior Service participants, who may serve for any number of hours over any period of time specified by the grantee. Special Senior Service participants do not receive post-service benefits. However, they will receive a living allowance (for part-time Special Senior Service participants, the living allowance will be prorated based on number of hours served). Third, they may serve as nonparticipant volunteers.

Additional Considerations

In an effort to ensure that funded programs are those best suited to advance the goals of the Act, the final rules add four key elements to the criteria that will be used to determine whether a proposal receives funding. These criteria are quality (of program, leadership and management); innovation; replicability; and sustainability, and are amplified in the regulations. In all cases, the final regulations retain criteria for funding specified in the statute. The key elements discussed above expand, rather than modify, those statutory criteria.

Potential applicants should be aware that they will be required to comply with the nondiscrimination provisions of the Act. These provisions provide that programs receiving assistance will not discriminate against participants or staff on the basis of race, color, national origin, sex, age, disability, or political affiliation. In addition, the statute bars religious discrimination against participants or project staff paid with funds received under the Act. Finally, the Act provides that assistance provided under its provisions constitutes Federal financial assistance for purposes of title VI of the Civil Rights Act of 1964 (which bars discrimination based on race, color, or national origin), title IX of the Education Amendments of 1972 (which bars discrimination on the basis of sex), the Rehabilitation Act of 1973 (which bars discrimination on the basis of disability), and the Age Discrimination Act of 1975 (which bars discrimination on the basis of age). Regulations implementing these will be published prior to the awarding of grants.

Applicants should further be advised that Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, Administrative Requirements for Grants and Cooperative Agreements to other than State and Local Governments, and regulations for the Privacy Act, Freedom of Information Act, Sunshine Act, Government-wide Debarment and Suspension, and Government-wide Requirements for Drug-Free Workplace will also be published prior to awarding of grants.

As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on small business entities.

List of Subjects

45 CFR Part 2500

Grant programs—Social programs, Organization and functions.

45 CFR Part 2501

Grant programs—Social programs, Elementary and secondary education.

45 CFR Part 2502

Grant programs—Social programs, Colleges and Universities.

45 CFR Part 2503

Grant programs—Social programs, Youth.

45 CFR Part 2504

Grant programs—Social programs, Community development block grants, Community action programs.

45 CFR Part 2505

Grant programs—Social programs, Community development.

45 CFR Part 2506

Grant programs—Social programs, Grants administration.

For the reasons set forth in this preamble, the Commission on National and Community Service is hereby establishing a new chapter XXV, consisting of parts 2500–2506, in title 45 of the Code of Federal Regulations to read as follows:

CHAPTER XXV—COMMISSION ON NATIONAL AND COMMUNITY SERVICE

Part
2500—General.
2501—Serve-America: programs for students and out-of-school youth.
2502—Higher Education Program: innovative projects for community service.
2503—American Conservation and Youth Service Corps Programs.
2504—National and Community Service Programs.
2505—Innovative and Demonstration Programs.
2506—Administrative Requirements.

PART 2500—GENERAL

Sec.
2500.1 Purposes and goals.
2500.2 Definitions.
2500.3 Consolidated applications.
2500.4 Development of the Comprehensive State Plan.

Authority: 42 U.S.C. 12501 et seq., as amended.

§ 2500.1 Purposes and goals.

The purposes and goals of this chapter are:

(a) To renew the ethic of civic responsibility in the United States;

(b) To encourage citizens, regardless of age, income or ability, to engage in full-time or part-time service to the Nation;

(c) To involve youth in programs that will benefit the Nation and improve their own lives;

(d) To enable young adults to make a sustained commitment to service by removing barriers created by high education costs, loan indebtedness and the cost of housing;

(e) To build on the network of existing Federal, State, and local programs and agencies to expand full-time and part-time service opportunities for all citizens, particularly youth and older Americans;

(f) To involve participants in activities that would not otherwise be performed by paid workers;

(g) To generate additional volunteer service hours to help meet human, educational, environmental and public safety needs, particularly those relating to poverty;

(h) To encourage institutions to volunteer their resources and energies and encourage service among their members, employees, and affiliates;

(i) To identify successful and promising community service initiatives and disseminate information about them; and

(j) To discover and encourage new leaders, especially youth leaders, and to develop individuals and institutions that demonstrate that a successful life includes serving others.

§ 2500.2 Definitions.

(a) As used in this chapter:

(1) *Act* means the National and Community Service Act of 1990 (Pub. L. 101-610, as amended).

(2) *Administrative costs or expenses* include: Costs associated with overall program administration; salaries and benefits for director and administrative staff of existing organizations that sponsor a funded program; and insurance that protects the grantee (e.g., liability insurance). Non-administrative

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(direct service) Costs include: Costs relating to service delivery (services that directly benefit participants); salaries and benefits of staff who train, place, and supervise such staff; costs of providing living allowances and usual in-service education and training for participants; insurance that benefits participants; and evaluation of the program as required by the terms and conditions of the grant. Of course, particular costs charged to the proposed program might be pro-rated (with documentation) between direct services and administration. If personnel, equipment, or other resources are shared between the proposed program and unrelated programs, the costs must be pro-rated.

(3) *Adult volunteer* means:

(i) An individual who is beyond the age of compulsory schooling, including an older American, an individual with a disability, or a parent;

(ii) An employee of a private business;

(iii) An employee of a public or nonprofit agency; or

(iv) Any other individual working without financial remuneration in an educational institution to assist students or out-of-school youth.

(4) *Commission* means the Commission on National and Community Service established under section 190 of the Act.

(5) *Community-based agency* means a private nonprofit organization that is representative of a community or a significant segment of a community and that is engaged in meeting human, educational, or environmental community needs, including churches and other religious entities, public safety organizations and community action agencies.

(6) *Crew* means a team of youth corps participants organized to work jointly on a project or to engage in team activities even if participants do not work jointly on service projects.

(7) *Crew Leader* means a participant assigned to a position of responsibility or leadership over a crew of participants.

(8) *Crew Supervisor* means the adult staffperson who is responsible for supervising a crew of participants, including the crew leader.

(9) *Disability* has the same meaning given such term in section 3(2) of the Americans with Disabilities Act (42 U.S.C. 12101, et seq.).

(10) *Economically Disadvantaged* with respect to youth has the same meaning given such term in section 4(8) of the Job Training Partnership Act (29 U.S.C. 1503(8)).

(11) *Elementary School* means a day or residential school which provides elementary education, as determined under State law.

(12) *Indian* means a person who is a member of an Indian tribe.

(13) *Indian Lands* means any real property owned by an Indian tribe, any real property held in trust by the United States for Indian tribes, and any real property held by Indian tribes that is subject to restrictions on alienation imposed by the United States.

(14) *Indian Tribe* means an Indian tribe, band, nation, or other organized group or community, including Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) that is recognized by the United States as Indians because of their status as Indians.

(15) *Institution of Higher Education* has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

(16) *Local Applicant* means any eligible applicant other than a State or Indian tribe.

(17) *Local Educational Agency* has the same meaning given such term in Section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12)).

(18) *Local Government Agency* means a public agency that is engaged in meeting human, social, educational, or environmental needs, including public safety agencies.

(19) Non-Participant Volunteer means an individual who is not a participant enrolled in a program but who assists a program funded under this Chapter by providing volunteer services.

(20) *Out-Of-School Youth* means an individual who:

(i) Has not attained the age of 27;

(ii) Has not completed college or the equivalent thereof; and

(iii) Is not enrolled in an elementary or secondary school or institution of higher education.

(21) *Participant* means an individual enrolled in a program that receives assistance under this Chapter. Participants shall not be considered employees of the program.

(22) *Partnership Program* means a program through which adult volunteers, public or private aqencies, institutions of higher education, or businesses assist a local educational agency.

(23) *Placement* means the matching of a participant with a specific project.

(24) *Program* means an activity carried out with assistance provided under this Chapter.

(25) *Program Agency* means:

(i) A Federal or State agency designated to manage a youth corps program;

(ii) The governing body of an Indian tribe that administers a youth corps program; or

(iii) A local applicant administering a youth corps program.

(26) *Project* means an activity that results in a specific identifiable service or product that otherwise would not be done with existing funds, and that does not duplicate the routine services or functions of the employer to whom participants are assigned.

(27) *Public Lands* means any lands or waters (or interest therein) owned or administered by the United States or by an agency or instrumentality of a State or local government.

(28) *Secondary School* means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

(29) *Service-Learning* means a method:

(i) Under which students learn and develop through active participation in thoughtfully organized service experiences that meet actual community needs and that are coordinated in collaboration with the school and community;

(ii) That is integrated into the students, academic curriculum or provides structured time for a student to think, talk, or write about what the student did and saw during the actual service activity;

(iii) That provides students with opportunities to use newly acquired skills and knowledge in real-life situations in their own communities; and

(iv) That enhances what is taught in school by extending student learning beyond the classroom and into the community and helps to foster the development of a sense of caring for others.

(30) *Service Opportunity* means a program or project, including service-learning programs or projects, that enables participants to perform meaningful and constructive service in agencies, institutions, and situations where the application of human talent and dedication may help to meet human, educational, linguistic, public safety, and environmental community needs, especially those relating to poverty.

(31) *Special Senior Service Participant* means an individual who is age 60 or over and willing to work full-time or part-time in conjunction with a full-time national service program.

(32) *Sponsoring Organization* means an organization, eligible to receive assistance under this chapter, that has been selected to provide a placement for a participant.

(33) *State* means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and Palau, until such time as the Compact of Free Association is ratified.

(34) *State Educational Agency* has the same meaning given such term in section 1471(23) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(23)).

(35) *Student* means an individual who is enrolled in an elementary or secondary school or institution of higher education on a full- or part-time basis.

(36) *Summer Program* means a youth corps program authorized under this chapter that is limited to the months of June, July, and August.

(37) *Youth Corps Program* means a program, such as a conservation corps or youth service corps program, that offers full-time, productive work (to be financed through living allowances) with visible community benefits in a natural resource or human service setting and that gives participants a mix of work experience, basic and life skills, education, training, and support services.

(b) *Authority To Make State Grants.* The Commission may, in accordance with the provisions of this chapter, make grants to States, Indian Tribes, and local applicants, to enable them to carry out programs under parts 2501, 2502, 2503, 2504, and 2505 of this chapter.

§ 2500.3 Consolidated applications.

(a) General. The Commission shall not award more than one grant during each fiscal year to each State under this Chapter. The grant will be designated for use in accordance with one or more parts of this chapter.

(b) Number of Applications. A State may apply for a grant to operate one or more of the programs described in parts 2501 through 2505 of this chapter and shall consolidate all of its applications for the conduct of programs under parts 2501 through 2505 into a single application that meets the requirements of this chapter.

(c) Multiple Use. A grant awarded to a State shall be used by the State in accordance with the applications consolidated, submitted, and approved under the parts. A State may, for example, apply to operate programs under two of the programs authorized under this chapter, but might receive funds for only one of the two programs. States may not shift funds from one program to another, and must use its grant for the program or programs designated in the application and the grant award.

(d) Comprehensive Service Plan. All applications submitted by States shall include a service plan that includes information about the programs proposed to be conducted with funds under this chapter, as well as information related to the applicant's overall strategy for expanding commitment to service. The plan shall describe:

(1) Critical human, educational, environmental, and public safety needs, particularly those needs relating to low-income communities and people, that will be addressed through institutions and individuals engaging in community service;

(2) Efforts to generate additional community service hours each year and to encourage additional individuals to engage in community service;

(3) Efforts to discover and encourage new leaders, especially youth, develop individuals and institutions that serve as strong examples of a commitment to service, and convey to all Americans the importance of serving others;

(4) Efforts to encourage young people to serve in programs that will benefit the Nation, and eliminate barriers to full- and part-time service, especially for low-income individuals;

(5) Efforts to build on the existing organizational framework of Federal, State, and local programs and agencies to expand service-opportunities, particularly for youth and older Americans;

(6) Efforts to encourage institutions, such as government, business, nonprofit organizations, and religious and educational institutions, to volunteer their resources, and encourage and facilitate community service among their members, employees, affiliates and others involved with the institution;

(7) The interrelationship among programs proposed to be funded under the Act;

(8) Joint planning efforts and partnerships undertaken to develop this plan, including any involvement of local public and private organizations, youth, low-income communities and people, or a State Advisory Board; and

(9) Such other information as specified by the State.

(e) If a State cannot complete the Comprehensive State Plan in time to submit the Plan with its application, the State may submit a plan that describes planning efforts to be conducted during the term of the grant, including a timetable for completion of a plan that covers the information required in § 2500.3(d).

§ 2500.4 Development of the Comprehensive State Plan.

(a) *General.* Each State that applies for assistance under this Part is required to solicit broad-based and local input in developing the Comprehensive State Plan in a bipartisan or nonpartisan manner. A State might, for example, establish a State Advisory Board, assign an existing bipartisan or nonpartisan committee to perform an advisory function, or hold public hearings on the plan.

(b) *Formation of a State Advisory Board.* Each State that applies for assistance under this part is encouraged to establish a bipartisan and nonpartisan State Advisory Board for National and Community Service.

(c) *Appointment of a State Advisory Board.* If a State elects to appoint a new State Advisory Board: (1)The chief executive officer shall appoint members to the State Advisory Board of National and Community Service from among:

(i) Representatives of State agencies administering community service, youth service, and job training programs;

(ii) Youth and low-income individuals; and

(iii) Representatives of labor, business, agencies working with youth, community-based organizations such as community action agencies, students, teachers, Older American Volunteer Programs as established under title II of the Domestic Volunteer Service Act of 1973, full-time youth service corps programs, school-based community service programs, higher education institutions, local educational agencies, volunteer public safety organizations, educational partnership programs, and other organizations working with volunteers.

(2) To the extent possible, the membership of the Advisory Board shall be balanced according to race, ethnicity, age, gender, and political party, and shall include individuals with disabilities.

(d) *Duties of the Board.* If the State elects to appoint a state advisory board, the Board shall assist the State agency administering a program under this chapter in:

(1) Developing the Comprehensive Service Plan described in § 2500.3(d);

(2) Coordinating programs receiving assistance under this Chapter and related programs within the State;

(3) Disseminating information concerning service programs that receive assistance under this chapter;

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(4) Recruiting participants for projects that receive assistance under this chapter;

(5) Developing programs, training methods, curriculum materials, and other materials and activities related to programs receiving assistance under this chapter; and

(6) Developing an evaluation plan for the proposed program regarding its effectiveness and the achievement of proposed goals and predicted outcomes.

PART 2501—SERVE-AMERICA: PROGRAMS FOR STUDENTS AND OUT-OF-SCHOOL YOUTH

Sec.

2501.1 Eligibility to receive grants.

General Application Provisions and Procedures

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2501.15 Participation of children and teachers from private schools.
2501.16 Criteria for funding.

Authority: 42 U.S.C. 12501 et seq.

§ 2501.1 Eligibility to receive grants.

(a) States and Indian Tribes whose applications are approved by the Commission are eligible to receive Serve-America operating or planning grants.

(b) Local applicants meeting the requirements in paragraph (c) of this section are eligible to receive Serve-America operating grants to conduct activities described in § 2501.9 (b), (c), and (d):

(1) From the State in which they are located, subject to the approval of the State Educational Agency; or

(2) Directly from the Commission, if the local applicant is located in a State that has not submitted an application for a Serve-America operating or planning grant.

(c) Eligibility for Serve-America grants. (1) To implement, operate, or expand a school-based service-learning program described in § 2501.9(b) of this part, a local applicant must be:

(i) A local educational agency working in partnership with one or more public or private nonprofit organizations that will make service opportunities available for participants; or

(ii) A public or private nonprofit organization that will make service opportunities available for participants, working in partnership with one or more local educational agencies;

(2) To implement, operate, or expand a community service program described in § 2501.9(c) of this part, a local applicant must be:

(i) A public or private nonprofit organization that works with disadvantaged youth working in partnership with one or more public or private nonprofit organizations that will make service opportunities available for participants; or

(ii) A public or private nonprofit organization that will make service opportunities available working in partnership with one or more public or private nonprofit organizations that work with disadvantaged youth;

(3) To implement, operate, or expand an adult volunteer or partnership program described in § 2501.9(d) of this part, a local applicant must be:

(i) A local educational agency working in partnership with one or more public or private nonprofit organizations or private forprofit businesses; or

(ii) A public or private nonprofit organization working in partnership with one or more local educational agencies;

(4) For the purposes of this section, the term "partnership" means pursuant to a written agreement specifying the responsibilities of each partner with respect to the development and operation of the program proposed to be conducted under this part.

General Application Provisions and Procedures

§ 2501.2 State application.

(a) An application for Serve-America funds may be made by the State, acting through the State Educational Agency. The application must contain:

(1) The amount of funds requested for each fiscal year during the period covered by the State plan described in § 2501.5;

(2) An assurance that the State will comply with the requirements of this chapter;

(3) A budget of expenditures, which provides an estimate of the use and distribution of Serve-America funds during the period covered by the application consistent with the provisions of § 2501.5 of this part;

(4) An assurance that the State will ensure compliance with the Drug-Free Workplace Requirements for Federal Grant Recipients under section 5153 through 5158 of the Anti-Drug Abuse Act of 1988 (41 U.S.C. 702–707);

(5) The State Serve-America Proposal, as required in § 2501.5 of this part;

(6) The number of individuals currently involved in community service as participants in programs proposed to receive funds under this part (if known);

(7) The number of additional participants and non-participant volunteers expected to become involved in community service under the program (if known);

(8) A description of how non-participant volunteers will assist the program, (if known); and

(9) Such other information as specified by the Commission.

(b) Applications must be submitted annually at such time and in such manner as prescribed by the Commission.

§ 2501.3 Local application.

An application for Serve-America funds made by local applicants eligible for grants under § 2501.1(b) of this part must contain:

(a) The amount of funds requested for the period covered by the application;

(b) An assurance that the local applicant will comply with the requirements of this chapter;

(c) A budget of expenditures, which provides an estimate of the use of Serve-America funds during the period covered by the application;

(d) An assurance that the applicant will ensure compliance with the Drug-Free Workplace Requirements for Federal Grant Recipients under sections 5153 through 5158 of the Anti-Drug Abuse Act of 1988 (41 U.S.C. 702–707);

(e) A local Serve-America proposal, as required in § 2501.6 of this part;

(f) A copy of a written agreement between the partners stating that the proposed program was jointly developed by the parties and that the program will be jointly executed by the parties;

(g) The number of individuals currently involved in community service as participants in programs proposed to receive funds under this part (if applicable);

(h) The number of additional participants and non-participant volunteers expected to become involved in community service under the program;

(i) A description of how non-participant volunteers will assist the program; and

(j) Such other information as specified by the Commission or the State Educational Agency.

§ 2501.4 Assurances.

(a) The State Serve-America Proposal must include assurances that:

(1) The State will ensure that local applicants are funded in accordance with the provisions of this chapter;

(2) The State will keep such records and provide such information to the Commission as may be required for fiscal audits and program evaluation;

(3) The State will assure that local applicants comply with the requirements of this Chapter; and

(4) The State will develop the State Serve-America proposal in consultation with, and solicit information from, a broad-based group of public and private nonprofit eligible organizations.

(b) The local Serve-America proposal must include assurances that:

(1) The local applicant will assure compliance with the requirements of this chapter;

(2) Prior to the placement of a participant, the program will consult with any local labor organization representing employees in the area who are engaged in the same or similar work as that proposed to be carried out by such program;

(3) An assurance that the applicant will develop an age-appropriate learning component for participants in the program that shall include a chance for participants to reflect on service experiences and expected learning outcomes; and

(4) Assurances that participants in the program will be provided with information concerning VISTA, the Peace Corps, the GI Bill, full-time Youth Service Corps and National Service programs receiving assistance under this Title, and other service options and their benefits (such as student loan deferment and forgiveness) as appropriate.

§ 2501.5 State Serve-America Proposal.

(a) A State Serve-America Proposal for an operating grant must cover a period of not more than three years and must contain a description of the manner in which:

(1) Local applicants will be ranked by the State according to the criteria described in § 2501.16 of this part and in a manner that ensures the equitable treatment of local applications submitted by both local educational agencies and community-based organizations;

(2) Service programs within the State will be coordinated with each other and with other Federally assisted education programs, training programs, and other appropriate programs that serve youth;

(3) Cooperative efforts among local educational agencies, local government agencies, community-based agencies, businesses, and State agencies to develop and provide service opportunities, including those that involve the participation of urban, suburban, and rural youth working together, will be encouraged;

(4) Economically and educationally disadvantaged youths, including individuals with disabilities, youth with limited basic skills or learning disabilities, youth in foster care who are becoming too old for foster care, youth of limited English proficiency, and homeless youth are assured of service opportunities;

(5) Service programs that receive assistance under this Part will be evaluated for effectiveness in achieving program objectives;

(6) Programs that receive assistance under this Part will serve urban and rural areas and tribal areas that exist within such State;

(7) Training and technical assistance will be provided to local grantees by qualified and experienced individuals employed by the State or through grant or contract with experienced content specialist and youth service resource organizations;

(8) Non-Federal assistance will be used to expand service opportunities for students and out-of-school youth;

(9) Information and outreach services will be disseminated and utilized to ensure the involvement of a broad range of organizations, particularly community-based organizations; and

(10) The State will give special consideration to providing assistance to projects that will provide academic credit to participants or are integrated into the academic program of the school.

(b) A State Serve-America Proposal for a planning grant must cover a period of not more than one year, describe activities mentioned in § 2501.9(a) of this part proposed to be conducted under the plan, including a description of activities proposed to be accomplished through grants and contracts with qualified organizations and individuals.

§ 2501.6 Local Serve-America Proposal.

(a) A local Serve-America Proposal must: (1) Establish and specify the membership and role of an advisory committee. Representatives of community-based agencies including community action agencies, service recipients, youth-serving agencies, youth, parents, teachers, administrators, agencies that serve older adults, school board members, labor, business, and individuals with disabilities, if any such entities exist in the community, shall be offered the opportunity to serve on the committee;

(2) Describe the goals of the program, which shall include goals that are quantifiable, measurable, and demonstrate any benefits that flow from the program to the participants and the community;

(3) Describe service opportunities to be provided under the program that shall include evidence that participants will make a sustained commitment to the service project;

(4) Describe the manner in which the participants in the program will be recruited, including any special efforts that will be utilized to recruit out-of-school youth with the assistance of community-based agencies;

(5) Describe the manner in which participants in the program were or will be involved in the design and operation of the program;

(6) Describe the qualifications, and responsibilities of the coordinator of the program assisted under this part;

(7) Describe pre-service and in-service training for supervisors, teachers, and participants in the program;

(8) Describe the manner in which exemplary service will be recognized;

(9) Describe any potential resources that will permit continuation of the program, if needed, after the assistance received under this part has ended; and

(10) Disclose whether the program plans include preventing and treating school-age drug and alcohol abuse and dependency.

(b) If the local applicant intends to operate a program described in § 2501.9 (b) or (c) of this part, the local Serve-America proposal submitted by the applicant must include:

(1) A disclosure of whether or not the participants will receive academic credit for participation in the program and whether the program is integrated into the academic program of the school;

(2) The target levels of participants in the program and the target levels for the hours of service that such participants will provide individually and as a group;

(3) The proportion of expected participants in the program who are educationally or economically disadvantaged, including participants with disabilities;

(4) The ages or grade levels of expected participants in the program; and

(5) Other relevant demographic information concerning such expected participants.

(c) If the local applicant intends to operate a program described in § 2501.9(d) of this part, the local Serve-America proposal must describe the students who will be assisted through such a program, including the ages and grade levels of such students.

§ 2501.7 Distribution of funds.

(a) If less than $20,000,000 is made available in each fiscal year to carry out parts 2501 and 2502, the Commission may award operating or planning grants to States and Indian Tribes, and to eligible local applicants in States that have not applied for funding under this part, on a competitive basis.

(b) If $20,000,000 or more is made available to carry out parts 2501 and 2502, the Commission will:

(1) Reserve not more than 1 percent for payments to Indian Tribes, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands and Palau, until such time as the Compact of Free Association is ratified to be allotted in accordance with their respective needs;

(2) Allot the remaining funds as follows: (i) From 50 percent of such remainder the Commission shall allot to each State an amount which bears the same ratio to 50 percent of such remainder as the school age population of the State bears to the school-age population of all States.

(ii) From 50 percent of such remainder the Commission shall allot to each State an amount which bears the same ratio to 50 percent of such remainder as allocations to the State for the previous fiscal year's appropriation under the basic grant of chapter 1 of title 1 of the Elementary and Secondary Education Act of 1965 bears to such allocations to all States.

(iii) For purposes of this paragraph: (A) The term "school-age population" means the population aged 5 through 17, inclusive;

(B) The term "State" includes the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(3) For any year in which a State is solely carrying out planning activities pursuant to a grant described in § 2501.10 of this part, a State may be paid not more than 25 percent of its allotment under paragraph (b)(2) of this section;

(4) If any State does not have an application approved under § 2501.8 of this part, the Commission may use the allotment the State would otherwise have received under paragraph (b)(2) of this section to make grants to eligible local applicants located within the State using the priority criteria described in § 2501.16 of this part; and

(5) Funds remaining after the requirements of paragraphs (b) (1) through (4) of this section have been carried out will be reallotted to States as the Commission determines appropriate.

§ 2501.8 Approval.

(a)(1) If § 2501.7(a) of this part applies, the Commission will take into account whether the proposed plan meets the requirements of this Chapter and the appropriate criteria in § 2501.16 of this part in approving applications to receive grants.

(2) If § 2501.7(b) of this part applies, the Commission shall approve applications submitted by States, Indian Tribes, and eligible local applicants in States that have not applied for funding if such applications comply with the provisions of this Chapter and the appropriate criteria in § 2501.16. Applications that comply with the provisions of this Chapter but do not fully comply with the appropriate criteria in § 2501.16 may be approved for planning grants. The Commission may, at its discretion, assist applicants in bringing their applications into compliance.

(b) Applications submitted in the second or third year of a multi-year proposal will be approved if the Commission determines the applicant has made satisfactory progress under the proposal and if appropriated funds are available.

§ 2501.9 Uses of funds.

Grantees may use funds provided under this part for:

(a) Planning and building State capacity (which may be accomplished through grants and contracts with qualified organizations) for implementing statewide, school-aged service-learning programs, including:

(1) Pre-service and in-service training for teachers, supervisors, and personnel from community organizations in which service opportunities will be provided that will be conducted by qualified individuals or organizations that have experience in service-learning programs;

(2) Developing service-learning curricula, including age-appropriate learning components for students to analyze and apply their service experiences;

(3) Forming local partnerships to develop school-based community service programs in accordance with this part;

(4) Devising appropriate methods for research and evaluation of the educational value of youth service opportunities and the effect of youth service programs on communities;

(5) Establishing effective outreach and dissemination to ensure the broadest possible involvement of nonprofit community-based organizations and youth-service agencies with demonstrated effectiveness in their communities; and

(6) Integrating service-learning into academic curricula.

(b) The implementation, operation, or expansion of school-based service-learning programs.

(c) The implementation, operation, or expansion of community service programs for school dropouts, out-of-school youth and other youth.

(d) The implementation, operation, or expansion of programs involving adult volunteers in schools, or partnerships of schools and public or private organizations, to improve the education of at-risk students, school dropouts, and out-of-school youth.

§ 2501.10 Planning grants.

The Commission may make planning grants to States or Indian Tribes to conduct activities described in § 2501.9(a) of this part. Such grants will be not more than 25 percent of its formula allotment described in § 2501.7(b)(2) of this part, provided that appropriated funds are available, or, if § 2501.7(a) of this part applies, in an amount determined by the Commission to be sufficient to conduct the proposed activities. States are encouraged to use planning grants to assist potential local applicants plan Serve-America programs.

§ 2501.11 Term of grant.

(a) Grants to States and Indian Tribes, other than planning grants, shall be for a term of not more than three years, subject to annual appropriations.

(b) Grants made directly to local applicants by the Commission shall be for a term of not more than one year.

(c) Planning grants shall be for a term of not more than one year.

§ 2501.12 Federal share.

(a) The Federal share of an operating grant for a project under this part may not exceed:

(1) 90 percent of the total cost of a project for the first year for which the project receives assistance under this part;

(2) 80 percent of the total cost of a project for the second year for which the project receives assistance under this part; and

(3) 70 percent of the total cost of a project for the third year for which the project receives assistance under this part.

(b) The non-Federal share of the costs of the project may be in cash from public or private non-Federal funds or in kind.

(c) If a grantee is unable to pay the non-Federal share of the costs of the project due to lack of resources, the grantee may request a waiver of the requirements of paragraph (a) of this section. A request for a waiver must be in writing to the Commission and will be approved if the Commission determines that such a waiver would be equitable due to a lack of resources at the State or local level.

§ 2501.13 Reservation of funds.

A State receiving a Serve-America grant other than a planning grant shall use:

(a) Not more than 5 percent of such funds for administrative costs for any fiscal year;

(b) Not more than 10 percent of such funds to build capacity through training, technical assistance, curriculum development, and coordination activities, described in § 2501.9(a) of this part;

(c) Not less than 60 percent of such funds to carry out school-based service learning programs described in § 2501.9(b) of this part;

(d) Not less than 15 percent of such funds to carry out community-based service programs described in § 2501.9(c) of this part; and

(e) Not more than 10 percent of such funds to carry out adult volunteer and partnership programs described in § 2501.9(d) of this part.

§ 2501.14 Authorized uses of funds.

(a) Grants made under this part may be used for the supervision of participating students, including teacher stipends, program administration, training, reasonable transportation costs, insurance, evaluations, and for other reasonable expenses.

(b) Grants made available under this part may not be used to pay any stipend, allowance, or other financial support to any participant, except reimbursement for transportation, meals, and other reasonable out-of-pocket expenses directly related to participation in a program assisted under this part.

§ 2501.15 Participation of children and teachers from private schools.

To the extent consistent with the number of children in the State or in the school district of a local educational agency receiving funds under this part who are enrolled in private nonprofit elementary and secondary schools, such State or agency shall (after consultation with appropriate private school representatives) make provision:

(a) For the inclusion of services and arrangements for the benefit of such children so as to assure the equitable participation of such children in the programs or projects implemented to carry out the purposes and provide the benefits described in this part;

(b) Where applicable, for the training of the teachers of such children so as to assure the equitable participation of such teachers in the programs of projects implemented to carry out the purposes and provide the benefits described in this part; and

(c) If a State or local educational agency or institution of higher education is prohibited by law from providing for the participation of children or teachers from private nonprofit schools as required by paragraph (a) of this section, or if the Commission determines that a State or local educational agency substantially fails or is unwilling to provide for such participation on an equitable basis, the Commission shall waive such requirements and shall arrange for the provision of services to such children and teachers. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with section 1017 of the Elementary and Secondary Education Act of 1965.

§ 2501.16 Criteria for funding.

(a) In providing assistance under this part, the State Educational Agency, or the Commission if § 2501.1(b)(2) of this part applies, shall give priority for funds described in § 2501.9 (b) and (c) of this part to applications that describe programs that:

(1) Involve participants in the design and operation of the program;

(2) Are in the greatest need of assistance, such as programs targeting low-income areas;

(3) Involve students from both public and private elementary and secondary schools or individuals of different ages, races, sexes, ethnic groups, abilities and disabilities, and economic backgrounds serving together;

(4) Are integrated into the academic program;

(5) Involve a focus on substance abuse prevention or school dropout prevention;

(6) Best represent the potential of service-learning, including exploring the root-causes of community problems;

(7) Develop the leadership skills and qualities of participants; or

(8) Demonstrate the ability to achieve the goals of this chapter because of the program's quality, innovation, replicability, and sustainability.

(b) In providing assistance under this part, the State Educational Agency, or the Commission, if § 2501.2(b)(2) applies, shall give priority for funds described in § 2501.9(d) of this part to applications describing programs that:

(1) Involve older Americans or parents as adult volunteers;

(2) Involve a partnership between an educational institution and a private business in the community;

(3) Include a focus on substance abuse prevention, school dropout prevention, or nutrition;

(4) Will improve basic skills and reduce illiteracy; or

(5) Demonstrate the ability to achieve the goals of this chapter because of the program's quality, innovation, replicability, and sustainability.

(c) In providing assistance to States under this Part, if § 2501.7(b) applies, the Commission will consider:

(1)(i) The quality of the program, based on the program's ability to offer valuable services in the communities where they are needed most and where programs do not exist or where existing volunteer service programs are too limited to meet community needs; to provide productive, meaningful, educational experiences for participants which incorporate service-learning methods; to involve the participants in the design and operation of the program; to involve individuals from diverse backgrounds (including economically disadvantaged youth), who will serve together and explore the root-causes of community problems; to be integrated into the academic program; and to develop the leadership skills of participants;

(ii) The quality of leadership and management, as measured by the qualifications of the principal leaders of the program; and plans and processes for recruitment, training, supervision, participant support, evaluation, administration and other key activities;

(2) Innovative aspects of the program based on the:

(i) Ability of the program to advance knowledge about effective community service in ways that will be broadly applicable beyond the program location; and

(ii) Approach to evaluation and other means of learning from the experience of the program;

(3)(i) Replicability, based on the ability and willingness of the program to assist others in learning from the experience and replicating the approach of the program; and

(4) Sustainability, based on:

(i) Inclusion in a State Comprehensive Plan;

(ii) Strong and broad-based community support for and involvement in the program; and

(iii) Evidence that financial resources will be available to continue the program after the expiration of the grant.

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PART 2502—HIGHER EDUCATION PROGRAM: INNOVATIVE PROJECTS FOR COMMUNITY SERVICE

Sec.

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Authority: 42 U.S.C. 12501 et seq.

§ 2502.1 General.

The purpose of this Part is to support innovative projects to encourage students to participate in community service activities.

§ 2502.2 Eligibility for grants.

The following are eligible for grants under this Part:

(a) Institutions of higher education;

(b) Consortia of institutions of higher education; and

(c) Public or private nonprofit agencies and organizations, including States, in consortia with institutions of higher education.

§ 2502.3 Types of grants.

The Commission may make grants under this Part for the following purposes:

(a) To enable institutions to create or expand community service activities for students attending that institution;

(b) To encourage student-initiated and student-designed community service projects;

(c) To facilitate the integration of community service into academic curricula, so that students can obtain credit for their community service;

(d) To encourage students to participate in community service activities that will engender a sense of social responsibility and commitment to the community;

(e) To encourage students to assist in the teaching of individuals with limited basic skills or an inability to read and write; and

(f) To provide for the training of teachers, prospective teachers, related education personnel, and community leaders in the skills necessary to develop, supervise, and organize community service activities, taking into consideration the particular needs of a community and the ability of the grantee to actively involve a major part of the community in, and substantially benefit the community by, the proposed community service activities.

§ 2502.4 Application.

(a) To receive a grant under this Part, an eligible applicant shall prepare and submit to the Commission an application that includes the following information:

(1) A description of the proposed program to be established with assistance provided under the grant;

(2) A description of the human, educational, environmental or public safety service that participants will perform and the community need that will be addressed under such program;

(3) A description of how participants have been involved in the design of the program and how participants will take leadership positions in implementing and evaluating the program;

(4) A description of whether or not students will receive academic credit for community service activities under the program and whether the program is integrated into the academic curriculum;

(5) A description of the procedure for training supervisors and participants and supervising and organizing participants in such proposed program;

(6) A description of the procedures to ensure that the proposed program provides participants with an opportunity to reflect on their service experiences;

(7) A description of the budget for the program and the amount of funds requested for each fiscal year during the period covered by the application;

(8) Assurances that in the program, prior to the placement of a participant, the applicant will consult with any local labor organization representing employees in the area who are engaged in the same or similar work as that proposed to be carried out by such project;

(9) The number of individuals currently involved in community service as participants in programs proposed to receive funds under this part (if applicable);

(10) The number of additional participants and nonparticipant volunteers expected to become involved in community service under the program;

(11) A description of how non-participant volunteers will assist the program;

(12) Whether or not the proposed program is part of a State Comprehensive Service Plan or endorsed by the State, even if the application for funding under this part is not being submitted by the State;

(13) A description of any local advisory committee that includes broad representation from the community; and

(14) Any additional information that the Commission may require.

§ 2502.5 Criteria for evaluating applications.

Applications for grants under this Part will be evaluated according to the following criteria:

(a)(1) The quality of the program, based on the program's ability to offer valuable services in the communities where they are needed most and where programs do not exist or where existing volunteer service programs are too limited to meet community needs; to provide productive, meaningful, educational experiences for participants that incorporate service-learning methods; to involve the participants in the design and operation of the program; to involve individuals from diverse backgrounds (including economically disadvantaged youth) who will serve together and explore the root-causes of community problems; to be integrated into the academic program; and to develop the leadership skills of participants;

(2) The quality of leadership and management, as measured by the qualifications of the principal leaders of the program and plans and processes for recruitment, training, supervision, participant support, evaluation, administration and other key activities;

(b) Innovation, based on the:

(1) Ability of the program to advance knowledge about effective community service in ways that will be broadly applicable beyond the program location; and

(2) Approach to evaluation and other means of learning from the experience of the program;

(c)(1) Replicability, based on the ability and willingness of the program to assist others in learning from the experience and replicating the approach of the program; and

(d) Sustainability, based on:

(1) Strong and broad-based community support for and involvement in the program;

(2) Campus-wide involvement, including faculty, staff, administration, and students; and

(3) Evidence that financial resources will be available to continue the program after the expiration of the grant.

§ 2502.6 Federal share.

(a) The Federal share of each grant awarded under this part shall not exceed 50 percent of the cost of the community service activities carried out with each such grant;

(b) The non-Federal share of each grant may be in cash (from non-Federal public or private funds) or in kind (fairly evaluated).

§ 2502.7 Reservation of funds.

Not more than five percent of funds awarded by the Commission may be used for administrative costs for any fiscal year.

§ 2502.8 Term of grant.

Grants may be for up to three years, subject to annual review and availability of appropriations.

PART 2503—AMERICAN CONSERVATION AND YOUTH SERVICE CORPS PROGRAMS

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Authority: 42 U.S.C. 12501 et seq.

§ 2503.1 Purpose.

The purpose of this program is to provide grants for the creation or expansion of full-time or summer youth service or conservation corps programs, including grants for the addition of participants, an increase in the number of hours or weeks during which the program operates, the involvement of an existing program in new types of service, or the improvement of an existing program consistent with this part.

§ 2503.2 Eligibility.

States, Indian Tribes, local governments, and public and private nonprofit organizations are eligible to receive awards under this program. In addition, the Commission may make awards to, or enter into other appropriate arrangements with, the Secretary of Agriculture, the Secretary of the Interior, or the Director of ACTION to carry out this program.

§ 2503.3 Allocation of funds.

(a) The Commission will make awards on a competitive basis to States and Indian Tribes using the selection criteria and amount of award determination procedures specified in §§ 2503.4 and 2503.5 respectively.

(1) If a State does not apply for a grant, the Commission may award grants directly to local governments and public or private nonprofit agencies with experience in youth programs within the State;

(2) Under these circumstances, if more than one local applicant in the State applies for funds, the Commission will allocate funds among the local applicants in the State in a manner determined by the Commission;

(3) An Indian Tribe is treated the same as a State for purposes of making grants under this part. The Commission shall reserve an amount not to exceed one percent of the amounts available in each fiscal year to make grants to Indian Tribes; and

(4) The Commission shall reserve an amount not to exceed five percent of the amounts made available in each fiscal year to make grants for youth corps involvement in Federal disaster relief programs.

§ 2503.4 Selection criteria.

(a) In selecting programs for funding, the Commission will give preference to programs that:

(1) Will provide long-term benefits to the public;

(2) Will instill a work ethic and a sense of public service in the participants;

(3) Will be labor intensive and involve youth operating in crews;

(4) Can be planned and initiated promptly; and

(5) Will enhance skills development, educational level and opportunities, and leadership skills and qualities of participants.

(b) The Commission will also take into consideration:

(1)(i) The quality of the program, based on the program's ability to offer valuable services in the communities where they are needed most and where programs do not exist or where existing volunteer service programs are too limited to meet community needs; to provide productive, meaningful, educational experiences for participants that incorporate service-learning methods; to involve the participants in the design and operation of the program; to involve individuals from diverse backgrounds (including economically disadvantaged youth), who will serve together and explore the root-causes of community problems;

(ii) The quality of leadership and management, as measured by the qualifications of the principal leaders of the program, and the program's plans and processes for recruitment, training, supervision, participant support, evaluation, administration and other key activities;

(2) Innovative aspects of the program, based on the:

(i) Ability of the program to advance knowledge about effective community service in ways that will be broadly applicable beyond the program location; and

(ii) Approach to evaluation and other means of learning from the experience of the program;

(3)(i) Replicability, based on the ability and willingness of the program to assist others in learning from the experience and replicating the approach of the program; and

(4) Sustainability, based on:

(i) Inclusion in a State Comprehensive Plan;

(ii) Strong and broad-based community support for and involvement in the program; and

(5) Evidence that financial resources will be available to continue the program after the expiration of the grant.

(c) In addition, the Commission shall:

(1) Ensure the equitable treatment of both urban and rural areas; and

(2) Fund an equal number of service and conservation corps programs. A corps program performing both conservation and service corps activities shall be considered one conservation corps and one service corps.

(d) Further, in reviewing applications that propose to carry out activities on Federal public lands or Indian lands, the Commission shall consult with the Department of the Interior.

§ 2503.5 Amount of awards.

The Commission, in determining the amount of a grant to be awarded under this program, shall consider:

(a) The additional number of participants to be served;

(b) The youth unemployment rate, as measured by the U.S. Department of Labor, in the State;

(c) The type of activity proposed to be carried out; and

(d) Other criteria as may be determined by the Commission.

§ 2503.5 General content of the State application.

(a) All applications submitted to the Commission by the States, under this process, shall include:

(1) A description of any youth corps program the State proposes to operate directly;

(2) A description of any grant program the State proposes to conduct;

(3) The number of individuals currently involved in community service as participants in programs proposed to receive funds under this part (if known);

(4) The number of additional participants and non-participant volunteers expected to become involved in community service under the program (if known);

(5) A description of how non-participant volunteers will assist the program;

(6) The amount of funds required for each fiscal year during the period covered by the application;

(7) A budget of expenditures;

(8) An assurance that the State will comply with the requirements of this chapter;

(9) An assurance that the State will ensure compliance with the Drug-Free Workplace Requirements for Federal Grant Recipients under sections 5153 through 5158 of the Anti-Drug Abuse Act of 1988 (41 U.S.C. 702–707); and

(10) Such other information as specified by the Commission.

(b) A State may operate a program directly with funds provided under this part only if it also uses a reasonable portion of such funds to establish and implement a program to make grants to State and local applicants within the State consistent with the requirements of § 2503.8.

§ 2503.7 Specific content of the State application to operate a program directly.

Each application submitted by a State to operate a youth corps program directly shall include:

(a) A comprehensive description of the objectives and performance goals for the program to be conducted, a plan for managing and funding the program, and a description of the types and duration of training and work experience to be provided by such program;

(b) A plan that will lead to the certification of the training skills acquired by participants as determined by the State and the awarding of academic credit to participants for competencies developed through training programs or work experience;

(c) An age-appropriate learning component for participants that includes procedures that permit participants to reflect on their service experience;

(d) An estimate of the number of participants and crew leaders necessary for the proposed program, the length of time that the services of such participants and crew leaders will be required, the support services needed for participants and crew leaders, and a plan for recruiting participants, including educationally and economically disadvantaged youth, youth with limited basic skills or learning disabilities, youth with disabilities, homeless youth, youth who are in foster care who are becoming too old for foster care, and youth of limited English proficiency;

(e) A list of requirements to be imposed on the sponsoring organizations, such as giving preference to a sponsoring organization that invests in a program receiving assistance under this part (cash contribution or free training to participants), over a sponsoring organization that does not make such an investment;

(f) A description of the manner of appointment and training of sufficient supervisory staff (including participants who have displayed exceptional leadership qualities), to provide for other central elements of a youth corps, such as crew structure and a youth development component;

(g) A description of a plan to ensure the on-site presence of knowledgeable and competent supervisory personnel at program facilities;

(h) A description of the facilities, quarters and board (in the case of residential facilities), limited and emergency medical care, transportation from administrative facilities to work sites, accommodations for individuals with disabilities, and other appropriate services, supplies, and equipment that will be provided by such applicant;

(i) A description of the basic standards of work requirements, health, nutrition, sanitation, and safety, and the manner that such standards shall be enforced;

(j) A description of a plan to assign participants to facilities as near to the homes of such participants as is reasonable and practicable;

(k) An assurance that, prior to the placement of a participant, the program agency will consult with any local labor organization representing employees in the area who are engaged in the same or similar work as that proposed to be carried out by such program;

(l) A description of formal social counseling arrangements to be made available to the participant;

(m) A strategy for ensuring that individuals do not drop out of school for the purpose of participating in a youth corps program;

(n) A plan for ensuring that post-service education and training benefits are used solely for the purposes designated in this part;

(o) A description of any local advisory committee that includes youth and a broad representation from the community; and

(p) Such other information as the Commission may require.

§ 2503.8 Specific content of the State application to conduct a grant program.

Each application submitted by a State to conduct a grant program for the benefit of entities within a State shall include a description of the manner in which:

(a) The State will determine which local applicants receive funding;

(b) Service programs within the State will be coordinated;

(c) Economically and educationally disadvantaged youth, including youth with disabilities, youth with limited basic skills or learning disabilities, youth with limited English proficiency, homeless youth, youth with disabilities, and youth in foster care who are becoming too old for foster care, will be recruited;

(d) Projects that receive assistance will be evaluated concerning performance;

(e) The State will encourage cooperation among programs that receive assistance under this part and the appropriate State job training coordinating council established under the Job Training Partnership Act (29 U.S.C. 1501 et. seq.);

(f) Such State will develop a plan for the certification of the training skills acquired by each participant and the awarding of credit to each participant for competencies developed through training programs or work experience obtained under programs that receive assistance under this part;

(g) Prior to the placement of a participant under this part, the State will ensure that program agencies consult with each local labor organization representing employees in the area who are engaged in the same or similar work that is proposed to be carried out by such program; and

(h) Programs will be evaluated for effectiveness in achieving program objectives.

Local Application Process

§ 2503.9 Procedures governing applications to a State to operate a program.

When the State receives an award from the Commission to conduct a grant program, the State will define the contents and procedures to be followed when local applicants apply to the State to operate a project through a grant from the State. In defining the contents of the application and the procedures to be followed, the State must assure that all applicable requirements contained in these regulations are being met, and shall minimize paperwork required of local applicants. The State is not required to issue a formal request for proposals, but should solicit applications from a broad-based group of public and private nonprofit eligible organizations.

§ 2503.10 Procedures for submitting applications to the Commission.

The Commission may consider applications from eligible local applicants located in a State that does not apply for a grant.

§ 2503.11 Contents of a local application submitted directly to the Commission.

In those situations where a State does not apply for a grant from the Commission, and a local applicant chooses to apply directly to the Commission, the contents of the application from a local applicant shall be the same as those specified in § 2503.7.

§ 2503.12 Term of grant.

(a) Grants to States and Indian Tribes shall be for a term of not more than three years.

(b) Grants made by the Commission directly to local applicants shall be for a term of not more than one year.

Allowable Program Activities

§ 2503.13 Conservation Corps activities.

Projects that receive assistance for conservation corps activities may carry out activities that focus on:

(a) Conservation, rehabilitation, and the improvement of wildlife habitat, rangelands, parks, and recreational areas;

(b) Urban and rural revitalization, historical and cultural site preservation, and reforestation of both urban and rural areas;

(c) Fish culture, wildlife habitat maintenance and improvement, and other fishery assistance;

(d) Road and trail maintenance and improvement;

(e) Erosion, flood, drought, and storm damage assistance and controls;

(f) Stream, lake, waterfront harbor, and port improvement;

(g) Wetlands protection and pollution control;

(h) Insect, disease, rodent, and fire prevention and control;

(i) The improvement of abandoned railroad beds and rights-of-way;

(j) Energy conservation projects, renewable resource enhancement, and recovery of biomass;

(k) Reclamation and improvement of strip-mined land;

(l) Forestry, nursery, and cultural operations;

(m) Making public facilities accessible to individuals with disabilities; and

(n) Housing rehabilitation, renovation, construction, and repair for the purpose of providing affordable housing for low-income and homeless individuals.

§ 2503.14 Youth service corps activities.

Projects that receive assistance for youth service corps activities may carry out activities that include participant service in the following:

(a) State, local, and regional governmental agencies;

(b) Nursing homes, hospices, senior centers, hospitals, local libraries, parks, recreational facilities, child and adult day care centers, programs serving individuals with disabilities, and schools;

(c) Law enforcement agencies, and penal and prohibition systems;

(d) Private nonprofit organizations that primarily focus on social service, such as community action agencies;

(e) Activities that focus on the rehabilitation or improvement of public facilities and neighborhood improvements;

(f) Literacy training that benefits educationally disadvantaged individuals;

(g) Weatherization of, rehabilitation of, construction of, and basic repairs to low-income housing, including housing occupied by older adults, day care, senior citizens, and recreational center facilities, and other community facilities;

(h) Energy conservation (including solar energy techniques);

(i) Removal of architectural barriers to access by individuals with disabilities to public facilities;

(j) Activities that focus on drug and alcohol abuse education, prevention and treatment;

(k) Conservation, maintenance, or restoration of natural resources on publicly held lands; and

(l) Other nonpartisan civic activities and services that are of a substantial social benefit in meeting unmet human, educational, public safety or environmental needs (particularly related to poverty) in the community.

§ 2503.15 Combined eligible activities.

Projects may also carry out activities that encompass the focuses and service described in §§ 2503.13 and 2503.14.

§ 2503.16 Ineligible service categories.

The eligible activities described in §§ 2503.13, 2503.14, and 2503.15 shall not be conducted by any:

(a) Business organized for profit;

(b) Labor union;

(c) Partisan political organization;

(d) Organization engaged in religious activities, unless such activities do not involve the use of funds provided under this part by program participants and program staff to give religious instruction, conduct worship services, or engage in any form of proselytization; or

(e) Domestic or personal service company or organization.

Administrative and Other Program Requirements

§ 2503.17 Administrative and other expenses.

(a) States may not use more than five percent of the amounts made available for administrative costs.

(b) In addition, a program agency may not:

(1) Use more than five percent of the amount of assistance for administrative costs;

(2) Use more than ten percent of funds for the purchase of major capital equipment;

(3) Use less than ten percent of funds for pre-service and in-service training and educational materials and services for participants; or

(4) Use more than two percent of funds for joint projects with senior citizens organizations.

§ 2503.18 Public lands or Indian lands.

To be eligible to receive assistance, a program must carry out activities on public lands or Indian lands, or result in a public benefit. A program carried out with assistance for conservation, rehabilitation, or improvement of any public lands or Indian lands shall be consistent with:

(a) The provisions of law and policies relating to the management and administration of such lands, and all other applicable provisions of law;

(b) All management, operational, and other plans and documents that govern the administration of such lands; and

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(c) Any land or water conservation program (or any related program) administered in any State under the authority of any Federal program is encouraged to use services available under this part to carry out its program.

§ 2503.19 Training and education services.

(a) Assessment of Skills: Each program agency shall assess the educational level of participants at the time of their entrance into the program, using any available records or simplified assessment means or methodology and shall, where appropriate, refer such participants for testing for specific learning disabilities.

(b) Enhancement of Skills: Each program agency shall, through the programs and activities administered under this part, enhance the educational skills of participants.

(c) Provision of Pre-Service and In-Service Training and Education: (1) Program participants shall be provided with information concerning the benefits to the community that result from the activities undertaken by such participants.

(2) A program agency may enter into arrangements with academic institutions or education providers to evaluate the basic skills of participants and to make academic study available to participants to enable such participants to upgrade literacy skills, to obtain high school diplomas or the equivalent of such diplomas, to obtain college degrees, or to enhance employable skills. Such academic institutions or education providers may include:

(i) Local education agencies;
(ii) Community colleges;
(iii) 4-year colleges;
(iv) Area vocational-technical schools; and
(v) Community-based organizations.

(3) Career and education guidance and counseling shall be provided to a participant during a period of the in-service training as described in this part. Each graduating participant shall be provided with counseling with respect to additional study, job skills training or employment and shall be provided job placement assistance where appropriate; and

(4) A program agency shall give priority to participants who have not obtained a high school diploma or the equivalent of such diploma, in providing services under this Section.

(d) Standards and Procedures. Appropriate State and local officials shall certify that standards and procedures with respect to the awarding of academic credit and the certification of educational attainment in programs conducted under paragraph (c) of this section are consistent with the requirements of applicable State and local laws and regulations. These standards and procedures shall provide that participants:

(1) Will participate in a program that will prepare them to earn a high school diploma or the equivalent (non-high school graduates);

(2) May arrange to receive academic credit in recognition of the education and skills obtained from service satisfactorily completed; and

(3) Will use service-learning methods whenever practicable.

§ 2503.20 Matching requirement.

(a) The Federal share of each grant awarded under this part shall not exceed 75 percent of the cost of the community service activities carried out with each such grant.

(b) The non-Federal share may be in cash (from non-Federal public or private funds) or in-kind.

§ 2503.21 Age, citizenship, and other criteria for enrollment.

(a) Age and Citizenship. (1) Except as provided in paragraph (c) of this section, enrollment in projects that receive assistance under this program shall be limited to individuals who, at the time of enrollment, are:

(i) Not less than 16 years nor more than 25 years of age, except that summer programs may include individuals not less than 15 years of age nor more than 21 years of age at the time of the enrollment of such individuals; and

(ii) Citizens or nationals of the United States or lawful permanent resident aliens of the United States.

(2) A program agency may limit enrollment to any age group within the range specified above.

(b) Participation of Disadvantaged Youth. Programs that receive assistance shall ensure that educationally and economically disadvantaged youth, including youth in foster care who are becoming too old for foster care, youth with disabilities, youth with limited English proficiency, youth with limited basic skills or learning disabilities, and homeless youth, are offered opportunities to enroll.

(c) Special Corps Members. Program agencies may enroll a limited number of special corps members over age 25 so that the corps may draw on their special skills to fulfill the purposes of this Chapter. Projects are encouraged to consider senior citizens as special corps members.

§ 2503.22 Joint projects with senior citizens' organizations.

Program agencies shall use not more than 2 percent of amounts received to conduct joint projects with senior citizens' organizations to enable senior citizens to serve as mentors for youth participants.

§ 2503.23 Use of volunteers.

Program agencies may use volunteer services for purposes of assisting projects and may expend funds made available to provide for services or costs incidental to the utilization of such volunteers, including transportation, supplies, lodging, recruiting, training, and supervision. The use of volunteer services may not result in the displacement of any participant.

§ 2503.24 Post-service benefits.

Program agencies shall provide post-service education and training benefits (such as scholarships and grants) for each participant in an amount that is not in excess of $100 per week, or in excess of $5,000 per year, whichever is less.

§ 2503.25 Living allowance and other benefits.

(a) Full-time service allowance. (1) Each participant in a full-time youth corps program that receives assistance under this Part shall receive a living allowance of not more than 100 percent of the poverty line for a family of two. Program agencies have the flexibility to establish the amount of living allowance in accordance with this part.

(2) Notwithstanding this paragraph, a program agency may provide participants with additional amounts for living expenses that are made available from non-Federal sources.

(b) Adjustment to allowance. A program agency may deduct, from the amounts required to be provided to a participant, a reasonable portion of the costs of the rates for any room and board that is provided for such participant at a residential facility. Such deducted funds shall be deposited into rollover accounts that shall be used solely to defray the costs of room and board for participants. In addition, the program agency shall establish the amount of the deductions and rates for any room and board after evaluating the costs of providing these services to the participant.

(c) Allowance for quarters. For purposes of section 5911 of title 5, United States Code, relating to allowances for quarters, a participant or crew leader shall be considered an employee of the United States within the meaning of the term "employee" as defined in paragraph (a)(3) of that section.

(d) No requirement for a reduction in existing benefits. A program in existence as of November 16, 1990, is not required to decrease any stipends, salaries, or living allowances provided to participants in such program as a result of any of the above requirements, so long as the amount of any such stipends, salaries, or living allowances that is in excess of the levels specified above are paid from non-Federal sources.

(e) Health insurance. In addition to a living allowance, program agencies are encouraged to provide health insurance to each participant in a full-time youth corps program who does not otherwise have access to health insurance.

§ 2503.26 Miscellaneous duties and authorities of program agencies.

(a) *Responsibilities to participant.* A program agency may provide facilities, quarters, and board and shall provide limited and emergency medical care, transportation from administrative facilities to work sites, accommodations for individuals with disabilities, child care and other supportive services, and other appropriate services, supplies, and equipment to each participant.

(b) *Operation of maintenance agreements.* Program agencies may enter into contracts and other appropriate arrangements with local government agencies and nonprofit organizations for the operation or management of any projects or facilities under the program.

(c) *Coordination.* Program agencies shall coordinate their projects with related Federal, State, local, and private activities.

(d) *Limitation on placement.* No participant shall perform any specific activity for more than a six-month period. No participant shall remain enrolled in programs assisted under this part for more than 24 months.

§ 2503.27 Health and safety standards.

(a) Program agencies shall establish and meet standards and enforcement procedures concerning the health and safety of participants for all projects, consistent with Federal, State, and local health and safety standards.

(b) Due to the wide variety of eligible activities and locations in which these activities may be performed, the Commission will not set separate standards for these programs. The Commission requires that program agencies meet the existing Federal, State, and local health and safety standards that would otherwise be applicable to the particular location of the project and the activity being performed if the activity were performed by regular employees of the program.

§ 2503.28 Federal and State employee status.

(a) *General Responsibility.* Participants and crew leaders shall be responsible to, or be a responsibility of, the program agency administering the program on which such participants, crew leaders, and volunteers work.

(b) *General Treatment as a Non-Federal Employee.* Except as otherwise provided under paragraphs (c) and (d) of this Section, a participant or crew leader in a program that receives assistance shall not be considered a Federal employee and shall not be subject to the provisions of law relating to Federal employment.

(c) *Work-Related Injury.* A participant or crew leader serving in a program that receives assistance shall be considered an employee of the United States, within the meaning of the term *employee* as defined in section 8101 of title 5, United States Code, for the purposes of subchapter I of chapter 81 of title 5, United States Code, relating to the compensation of Federal employees for work injuries. The provision of that subchapter shall apply, except:

(1) The term *performance of duty*, as used in such subchapter, shall not include an act of a participant or crew leader while absent from the assigned post of duty of such participant or crew leader, except while participating in an activity authorized by or under the direction and supervision of a program agency, (including an activity while on pass or during travel to or from such post of duty);

(2) Compensation for disability shall not begin to accrue until the day following the date that the employment of the injured participant or crew leader is terminated; and

(3) In computing compensation benefits for disability or death, the annual rate of pay of a full-time participant shall be deemed to be such entry salary for a grade GS-5 employee, and the annual rate of pay of a participant enrolled for a period of summer service shall be deemed to be 25 percent of such entry salary.

(d) *Tort Claims Procedure.* For purposes of chapter 171 of title 28, United States Code, relating to tort claims procedure, a participant or crew leader assigned to a youth corps program for which a grant has been made to, or other appropriate arrangement entered into with, the Secretary of Agriculture, Secretary of the Interior, or the Director of ACTION, shall be considered an employee of the United States within the meaning of the term "employee of the government" as defined in 28 U.S.C. 2671.

PART 2504—NATIONAL AND COMMUNITY SERVICE PROGRAMS

Sec.

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Authority: 42 U.S.C. 12501 et seq.

§ 2504.1 General.

The Commission will make grants for the creation of full- and part-time national and community service programs.

§ 2504.2 Eligibility to receive grants.

States and Indian Tribes are eligible to receive grants under this part. For the purposes of this part, the definition of State includes Indian Tribes.

§ 2504.3 Eligibility to participate in a program funded under this part.

(a) Part-Time: (1) An individual may serve in a part-time national service program under this part if the individual:

(i) Is 17 years of age or older; and

(ii) Is a citizen of the United States or lawfully admitted for permanent residence.

(2) In selecting applicants for a part-time program, States must give priority to applicants who are currently employed.

(b) An individual may serve in a full-time national service program under this part if the individual:

(1) Is 17 years of age or older;

(2) Has received a high school diploma or the equivalent of such diploma, or agrees to achieve a high school diploma or the equivalent of such while participating in the program; and

(3) Is a citizen of the United States or lawfully admitted for permanent residence.

(c) An individual may serve as a special senior service participant under this part if the individual:

(1) Is 60 years of age or older; and

(2) Meets any additional eligibility criteria for special senior service participation established by the Commission.

§ 2504.4 State application.

(a) An application for funds under this part made by a State, must contain:

(1) The amount of funds requested for each fiscal year during the period covered by the State proposal;

(2) An assurance that the State will comply with the requirements of this Chapter and this part;

(3) A budget of estimated expenditures;

(4) The amount of Federal, State, and local public funds expended for services of the type assisted under this Chapter in the previous fiscal year;

(5) The State proposal, as required by § 2504.6 of this part;

(6) The number of individuals currently involved in community service part-time or full-time as participants in programs proposed to receive funds under this part (if applicable);

(7) The number of additional part-time, full-time, and special senior service participants and non-participant volunteers expected to become involved in community service under the program;

(8) Describe how non-participant volunteers will assist the program; and

(9) Such other information as specified by the Commission.

(b) Applications must be submitted annually at such time and in such manner as prescribed by the Commission.

§ 2504.5 Assurances.

The State proposal must include assurances that:

(a) The State will keep such records and provide such information to the Commission as may be required for fiscal audits and program evaluation;

(b) The State will ensure that the uses of post-service benefits described in § 2504.10 of this part are limited to the uses specified in § 2504.11 of this part;

(c) Prior to the placement of a participant, the State will consult with any local labor organization representing employees in the area who are engaged in the same or similar work as that proposed to be carried out by such program;

(d) Prior to the placement of a participant, the State will consult with employees at the proposed project site who are engaged in the same or similar work as that proposed to be carried out by such program;

(e) The State will ensure that any entity carrying out program functions pursuant to grant or contract will comply with the provisions of this chapter and part;

(f) The State will provide to each participant enrolled in a full-time program in-service educational services and materials to enable such participant to obtain a high school diploma or the equivalent of such diploma;

(g) The State will cooperate in arranging and conducting the three-week training provided to participants by the Commission; and

(h) The State will comply with the requirements of the Drug-Free Workplace Requirements for Federal Grant Recipients under section 5153 through 5158 of the Anti-Drug Abuse Act of 1988 (41 U.S.C. 401–707).

§ 2504.6 State proposal.

The State proposal must include the following information:

(a) A description of the State administrative plan for the implementation of a program with assistance provided under this part, including such functions, if any, that will be carried out by public or private nonprofit organizations pursuant to a grant or contract;

(b) A description of the manner in which an ethnically and economically diverse group of participants, including economically and educationally disadvantaged individuals, college-bound youth, individuals with disabilities, youth in foster care who are becoming too old for foster care, and employed individuals, shall be recruited and selected for participation in a program receiving assistance under this part;

(c) Whether the program will enroll individuals who have completed undergraduate education or specialized post-secondary training and whose training and skills enable them to provide needed services in the State;

(d) A description of the procedures for training supervisors and participants in skills relevant to the work to be conducted and for supervising and organizing participants in such program;

(e) A description of the procedures to ensure that the program provides participants with an opportunity to reflect on their service experience;

(f) A plan for providing full-time participants with educational services required in § 2504.5(f) of this part;

(g) A description of the geographical areas within the State in which the program would be operated to provide the optimum match between the need for services and the anticipated supply of participants;

(h) A description of the plan for placing the participants in teams or making individual placements in the programs;

(i) A description of the anticipated number of full- and part-time participants and special senior service members in such program;

(j) A plan for the recruitment and selection of sponsoring organizations that will receive participants under the programs that receive assistance under this part;

(k) A description of the procedures for matching the participants with the sponsoring organizations;

(l) A description of the procedures to be used to assure that sponsoring organizations that are not matched with participants shall be provided with information concerning the VISTA program and the Older American Volunteer Programs;

(m) The budget for the program, including anticipated public and private funding;

(n) A plan for evaluating the program and assurances that the State will fully cooperate with any evaluation undertaken by the Commission;

(o) The assurances required in § 2504.5 of this part; and

(p) Any other information required by the Commission.

§ 2504.7 Reservation of funds.

Not more than five percent of funds received under this part shall be used for administrative costs for any fiscal year.

§ 2504.8 Types of service.

A participant in a program that receives assistance under this part shall perform national service to meet unmet educational, human, environmental, and public safety needs, especially those needs relating to poverty.

§ 2504.9 Terms of service.

(a)(1) An individual performing part-time national service under this part shall agree to perform community service as a participant in the program for not less than 3 years unless the individual is unable to complete the term of service for reasons provided in paragraph (b) of this section.

(2) An individual performing full-time national service under this part shall agree to perform community service as a participant in the program for not less than 1 year nor more than 2 years, at the discretion of such individual, unless the individual is unable to complete the term of service for reasons provided in paragraph (b) of this section.

(3) A special senior service participant performing national service under this part shall serve for any period of time as determined by the State.

(b) If the State releases a participant from completing a term of service in a program receiving assistance under this part for compelling personal circumstances as demonstrated by the participant, or if the program in which the participant serves does not receive continual funding for any reason, the

State may provide such participant with that portion of the financial assistance described in paragraph (a) of this section that corresponds to the quantity of the service obligation completed by such individual.

(c)(1) A participant performing part-time national service under this part shall serve for:

(i) 2 weekends each month and 2 weeks during the year; or

(ii) An average of 9 hours per week each year in increments determined by the State;

(2) A participant performing full-time national service under this part shall participate in activities of the program for not less than 40 hours per week each year of service, including such holidays and vacation periods as designated by the program.

(3) A special senior service participant performing national service under this part shall serve either part- or full-time as permitted by the State.

§ 2504.10 Value of post-service benefits.

(a)(1) The Commission, through the State, will annually provide to each part-time participant a non-transferrable post-service benefit equal in value to $1,000 for each year of service that such participant provides to the program. Funds for this benefit shall be included in the budget for the program and reflected in the grant request.

(2)(i) The State shall annually provide to each part-time participant from non-Federal public or private funds a nontransferrable post-service benefit that is equal in value to $1,000 for each year of service that such participant provides to the program.

(ii) A State may apply for a waiver to reduce the amount of the post-service benefit to an amount that is equal to not less than the average annual tuition and required fees at four year public institutions of higher education within such State. Such waivers will be granted if the Commission determines that such waiver would be equitable due to lack of resources in the State.

(b)(1) The Commission, through the State, shall annually provide to each full-time participant a non-transferrable post-service benefit that is equal in value to $2,500 for each year of service that such participant provides to the program. Funds for this benefit shall be included in the budget for the program and reflected in the grant request.

(2)(i) The State shall annually provide from non-Federal public or private funds to each full-time participant a nontransferrable post-service benefit that is equal in value to $2,500 for each year of service that such participant provides to the program.

(ii) A State may apply for a waiver to reduce the amount of the post-service benefit to an amount that is equal to not less than the average annual tuition, required fees, and room and board costs at four year public institutions of higher education within such State. Such waiver will be granted if the Commission determines that such waiver would be equitable due to a lack of resources in the State.

(c) Nothing in this part shall be construed to prevent a State from using funds made available from non-Federal sources to increase the amount of post-service benefits to an amount in excess of that described in this part.

(d) A special senior service participant shall be ineligible to receive post-service benefits under this part.

(e) The Commission will increase the value of post-service benefits provided under this part in each fiscal year based on the increase in the costs associated with attending a four year institution of higher education during that fiscal year. The Commission will determine such increases in costs based on information made available by the Bureau of Labor Statistics and the National Center for Education Statistics.

§ 2504.11 Uses of post-service benefits.

(a) A post-service benefit for a part-time participant provided under § 2504.10(a) of this part shall only be used for:

(1) Payment of a student loan from Federal or non-Federal sources;

(2) Down-payment or closing costs associated with purchasing a first home; or

(3) Tuition at an institution of higher education on a fulltime basis, or to pay the expenses incurred in the full-time participation in an apprenticeship program approved by the appropriate State agency.

(b) A post-service benefit for a full-time participant provided under § 2504.10(b) of this part shall only be used for:

(1) Payment of a student loan from Federal or non-Federal sources; or

(2) Tuition, room and board, books and fees, and other costs associated with attendance (pursuant to section 472 of the Higher Education Act of 1965 (20 U.S.C. 108711)) at an institution of higher education on a full-time basis, or to pay the expenses incurred in the full-time participation in an apprenticeship program approved by the appropriate State agency.

§ 2504.12 Living allowance.

(a)(1) Each participant in a full-time program that receives assistance under this part shall receive a living allowance of not more than 100 percent of the poverty line for a family of two. Program agencies have the flexibility to establish the amount of living allowance in accordance with this part.

(2) Notwithstanding paragraph (a)(1) of this section, a program agency may provide participants with additional amounts that are made available from non-Federal sources.

(b) Nothing in this section shall be construed to require a program in existence on November 16, 1990, to decrease any stipends, salaries, or living allowances provided to participants under such program.

(c) In addition to the living allowances provided under paragraph (a) of this section, grantees are encouraged to provide health insurance to each participant in a full-time national service program who does not otherwise have access to health insurance.

(d)(1) Each full-time special senior service participant shall receive a living allowance equal to the living allowance provided to full-time participants under paragraph (a) of this Section and such other assistance as the Commission considers necessary and appropriate for a special senior service participant to carry out the service obligation of such participant.

(2) Each part-time special senior service participant shall receive a living allowance equal to a share of such allowance offered to a full-time special senior service participant under paragraph (d)(1) of this section, that has been prorated according to the number of hours such part-time participant serves in the program, and such other assistance as the Commission considers necessary and appropriate for a special senior service participant to carry out the service obligation of such participant.

§ 2504.13 Criteria for evaluating applications.

(a) In determining whether to award a grant, the Commission will consider:

(1) The ability of the proposed program to serve as an effective model for a large-scale national service program;

(2) The quality of the application, including the plan for training, recruitment, placement, and data collection;

(3) The extent that the program builds on existing programs; and

(4) The expedience with which the State proposes to make the program operational.

(b) The Commission will also consider:

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(1)(i) The quality of the program, based on the program's ability to offer valuable services in the communities where they are needed most and where programs do not exist or where existing volunteer service programs are too limited to meet community needs; to provide productive, meaningful, educational experiences for participants that incorporate service-learning methods; to involve the participants in the design and operation of the program; to involve individuals from diverse backgrounds (including economically disadvantaged youth) who will serve together and explore the root-causes of community problems; and to prepare the participants for future volunteer service leadership.

(ii) The quality of leadership and management, as measured by the qualifications of the principal leaders of the program and plans and processes for recruitment, training, supervision, participant support, evaluation, administration and other key activities.

(2) Innovative aspects of the program, based on the:

(i) Ability of the program to advance knowledge about effective community service in ways that will be broadly applicable beyond the program location; and

(ii) Approach to evaluation and other means of learning from the experience of the program;

(3)(i) Replicability, based on the ability and willingness of the program to assist others in learning from the experience and replicating the approach of the program; and

(4) Sustainability, based on:

(i) Inclusion in a State Comprehensive Plan;

(ii) Significant bipartisan, nonpartisan, or other broad-based support for and involvement in the program; and

(iii) Evidence that financial resources will be available to continue the program after the expiration of the grant.

(c) In addition, the Commission shall ensure that programs receiving assistance under this part are geographically diverse and include programs in both urban and rural areas.

§ 2504.14 Program training.

(a) Each participant shall receive three weeks of training provided by the Commission in cooperation with the State.

(b) Each training session described above will:

(1) Orient each participant in the nature, philosophy, and purpose of the program; and

(2) Build an ethic of community service, and the assigned program task of each participant by providing:

(i) General training in citizenship and civic and community service; and

(ii) If feasible, specialized training for the type of service that each participant will perform.

(c) The State may provide additional training as the State determines necessary.

(d) Each sponsoring agency will also train participants in skills relevant to the work to be conducted.

PART 2505—INNOVATIVE AND DEMONSTRATION PROGRAMS

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Authority: 42 U.S.C. 12501 et seq.

Subpart A—General

§ 2505.1 Limitation on grants.

Given the availability of funds, the Commission shall make grants for no fewer than three programs, as specified in subparts under this part.

Subpart B—Governors, Innovative Service Programs

§ 2505.10 Purpose.

This program is to support the creation of innovative volunteer and community service programs by providing assistance for certain service and demonstration activities as well as support functions such as training, technical assistance, and evaluation.

§ 2505.11 Projects to be funded.

The Commission may provide assistance through a general grant to States to support one or more of the following activities:

(a) Enhancements to existing volunteer and community service programs;

(b) Demonstration programs;

(c) Research concerning, and evaluation of, service programs;

(d) Coordination of service programs;

(e) Technical assistance;

(f) Training and staff development; and

(g) Collection and dissemination of information concerning service programs.

§ 2505.12 Application contents.

Applications proposing to perform activities under this subpart must contain:

(a) A description of the proposed program;

(b) A description of the human, educational, environmental or public safety service that participants will perform and the State or community need that will be addressed;

(c) A description of the target population of participants and how they will be recruited;

(d) A description of the procedures for training supervisors and participants and for supervising and organizing participants;

(e) A description of the procedures to ensure that the proposed program provides participants with an opportunity to reflect on their service experiences;

(f) An assurance that, prior to the placement of a participant in the program, the applicant will consult with any local labor organization representing employees in the area who are engaged in the same or similar work as that proposed to be carried out by the program;

(g) The number of individuals currently involved in community service as participants in programs proposed to receive funds under this part (if applicable);

(h) The number of additional participants and non-participant volunteers expected to become involved in community service under the program;

(i) A description of how non-participant volunteers will assist the program;

(j) An assurance that, prior to the placement of a participant in the program, the applicant will consult with employees at the proposed program site who are engaged in the same or similar work as that proposed to be carried out by the program;

(k) A description of the budget of the program;

(l) The amount of funds requested for each fiscal year during the period covered by the application;

(m) An assurance that the State will comply with requirements of this chapter and this part;

(n) An assurance that the State will ensure compliance with the Drug-Free Workplace Requirements for Federal Grant Recipients under sections 5153 through 5158 of the Anti-Drug Abuse Act of 1988 (41 U.S.C. 702–707); and

(o) Such other information as specified by the Commission.

§ 2505.13 Selection criteria.

The Commission makes awards under this program on the basis of the criteria specified below. The Commission determines the following in evaluating applications:

(a) Ability of the proposed program to serve as an effective model, including demonstrating the effectiveness of results;

(b) Quality of the plan of operation and staffing, including the quality of the management plan, adequacy of the proposed budget in relation to objectives, evaluation plan, and qualifications and capability of any staff assigned to the project;

(c) Extent to which the proposed program builds on existing programs, including both expanding services and improving their quality;

(d) The demonstrated innovation of the program in responding to one or more of the following needs: human, educational, environmental, and public safety;

(e) The demonstrated ability to achieve the goals of this Chapter; and

(f) Inclusion in a State Comprehensive Service Plan.

Subpart C—Peace Corps and VISTA Training Programs

§ 2505.20 Purpose.

The purpose of this demonstration program is to provide certain training and education benefits for potential VISTA and Peace Corps volunteers.

§ 2505.21 Eligibility.

The Commission may make grants to, or enter into other appropriate arrangements with, the Director of the Peace Corps and/or the Director of ACTION to carry out this program. The Director of the Peace Corps and/or the Director of ACTION are responsible, either directly or by way of grant, contract, or other arrangement, to carry out the provisions specified in sections 161, 162, and 163 of the Act. Any regulation determined necessary to govern the implementation of these provisions will be issued by the Director of ACTION and/or the Director of the Peace Corps.

Subpart D—Rural Youth Service Demonstration Project

§ 2505.30 Purpose.

The purpose of this program is to support demonstration projects in rural areas involving youth volunteers.

§ 2505.31 Designation of rural areas.

For the purposes of this subpart, a rural area is:

(a) Open country which is not part of or associated with an urban area;

(b) Any town, village, city or place, including the immediately adjacent densely settled area, which is not part of or associated with an urban area and which:

(1) Has a population not in excess of 10,000 if it is rural in character; or

(2) Has a population in excess of 10,000 but not in excess of 20,000 and is not contained within a Metropolitan Statistical Area.

§ 2505.32 Eligibility.

For the purposes of this subpart, States, local governments, and public and private nonprofit organizations are eligible to receive awards as specified in the **Federal Register** announcing the availability of funds for this program.

§ 2505.33 Projects to be funded.

The Commission will support demonstration projects providing education, human, environmental, and public safety service performed by students, school dropouts, and out-of-school youth, in rural areas, including services for the elderly, assisted living services for the elderly and individuals with disabilities, and services targeted at the needs of low-income individuals in the community.

§ 2505.34 Allowable uses of funds.

Grantees may use funds provided under this program to support and operate the demonstration project.

§ 2505.35 Selection criteria.

The Commission makes awards under this program on the basis of the criteria specified below. The Commission shall determine the following in evaluating applications:

(a) The quality of the plan of operation and staffing, including the quality of the management plan, adequacy of the proposed budget in relation to the objectives, evaluation plan, and qualifications and capability of any staff assigned to the project;

(b) The ability of the proposed program to address the particular needs of assisted individuals in rural areas;

(c) The innovation of the program; and

(d) The demonstrated ability to achieve the goals of this chapter.

Grantees may use funds provided under this program to support and operate the demonstration project.

Subpart E—Assistance for Head Start

§ 2505.40 Purpose.

The purpose of this program is to increase the number of low-income individuals who provide services under the Foster Grandparent program to children who participate in Head Start programs.

§ 2505.41 Eligibility.

Only those organizations which have a grant from ACTION, the Federal Domestic Volunteer Agency, to operate a Foster Grandparent program, are eligible to receive awards.

§ 2505.42 Applicable requirements.

Grantees' activities under this program are limited to the support of children who participate in Head Start programs.

§ 2505.43 Relationship with ACTION.

The Commission, at its discretion and with the concurrence of the Director of ACTION, may enter into an agreement to issue awards under this program through ACTION. If this agreement is applicable in any given year, the terms of the agreement will define the award process, and eligible applicants will be informed of the process through the notice of funding availability.

§ 2505.44 Selection criteria.

The Commission shall make grants under this program on the basis of the criteria specified below. The Commission shall consider the following in evaluating applications:

(a) The effectiveness of the project in addressing the needs of children enrolled in Head Start programs;

(b) The quality of the plan of operation and staffing, including the quality of the management plan, adequacy of the proposed budget in relation to objectives, and qualifications and capability of any staff assigned to the program;

(c) The demonstrated innovation of the program;

(d) The percentage of children in need not currently served by the program in the community;

(e) The unavailability of alternate funding sources to applicants; and

(f) The demonstrated ability to achieve the goals of this.

Subpart F—Employer-based Retiree Volunteer Programs

§ 2505.50 Purpose.

The purpose of the program is to provide support to bring together retirees, their former employers, and community agencies to develop employer-based retiree volunteer programs.

§ 2505.51 Eligibility.

Public and private nonprofit organizations are eligible to receive awards.

§ 2505.52 Projects to be funded.

The Commission will support projects involving retirees, their former employers, and community agencies engaged in volunteer activities.

§ 2505.53 Selection criteria.

The Commission makes awards under this program on the basis of the criteria specified below. The Commission shall consider the following in evaluating applications:

(a) The effectiveness of the program in addressing the needs of the community;

(b) The quality of the plan of operation and staffing, including the quality of the management plan, adequacy of the proposed budget in relation to objectives, and qualifications and capability of any staff assigned to the project;

(c) The demonstrated innovation of the program;

(d) The effectiveness of the program in involving retirees, their former employers, and community organizations in working together to address the needs of the local community; and

(e) The demonstrated ability to achieve the goals of this.

PART 2506—ADMINISTRATIVE REQUIREMENTS

Subpart A—Program Specific Requirements

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Authority: 42 U.S.C. 12501 et. seq.

Subpart A—Program Specific Requirements

§ 2506.1 Reporting specific requirements.

(a) Requirement for State reports. (1) Each State receiving assistance under this Chapter shall prepare and submit to the Commission an annual report concerning the use of Federal funds under this Chapter and the status of national and community service programs in the State; and

(2) The report shall include information demonstrating compliance with the provisions of this chapter, including §§ 2501.5(a)(9) and 2506.2, and any additional information requested by the Commission.

(b) Requirement for Reports from Local Grantees to the State. In order to meet the requirement in § 2506.1(a), each State may require local grantees to supply such information as is necessary, including a comparison of actual accomplishments with the goals established for the program, the number of participants, the number of service hours generated, and the existence of any problems, delays, or adverse conditions that have affected or will affect the attainment of program goals. In addition, local grantees may be asked to provide information to the State demonstrating compliance with the provisions of the chapter.

(c) Requirement for Reports from Local Grantees Receiving Grants Directly From the Commission. If a local grantee, including an institution of higher education, has received a grant directly from the Commission, the local grantee will be required to provide directly to the Commission a report concerning the use of Federal funds under this chapter, and such other information as is necessary, including a comparison of actual accomplishments with the goals established for the program, the number of participants, the number of service hours generated, and the existence of any problems, delays, or adverse conditions that have affected or will affect the attainment of program goals. In addition, local grantees may be asked to provide information to the Commission demonstrating compliance with the provisions of the chapter.

(d) Availability of report. Reports submitted to the Commission by the States and local grantees shall be made available to the public upon request.

§ 2506.2 Supplementation, nonduplication, and nondisplacement.

(a) *Supplementation.* (1) Recipients of funds under this Chapter are advised that such funds are to be used only to supplement, not supplant, State and local public funds expended for services of the type assisted under this Chapter in the previous fiscal year.

(2) Paragraph (a) of this section shall be satisfied, with respect to a particular program, if the aggregate expenditure for such program for the fiscal year in which services are to be provided will not be less than the aggregate expenditure for such program in the previous fiscal year, excluding the amount of Federal assistance provided and any other amounts used to pay the remainder of the costs of programs assisted under this chapter.

(b) *Nonduplication.* (1) In general, funds may be used only for a program that does not duplicate, and is in addition to, an activity performed by paid employees in the locality being served by the program; this requirement shall not be construed to bar the replication of an exemplary volunteer or community service program; and

(2) Assistance made available under this chapter shall not be provided to a private nonprofit entity to conduct activities that are the same or substantially equivalent to activities provided by a State or local government agency that such entity resides in, unless the requirements of paragraph (c) of this section are met.

(c) *Nondisplacement.* Further, an employer shall not displace an employee or position, including partial displacement such as reduction in hours, wages, or employment benefits, as a result of the assistance used by the employer of a participant in a program funded under this chapter. A service opportunity may not infringe in any manner on the promotional opportunity of an employed individual. Services may not be performed that would supplant the hiring of employed workers or would otherwise be performed by an employee, including an employed worker who recently resigned or was discharged; an employee who is subject to a reduction in force; an employee who is on leave (terminal, temporary, vacation, emergency, or sick); or an employee who is on strike or who is being locked out.

§ 2506.3 Suspension or termination of payments.

(a) *General.* The Commission may, in accordance with the provisions of this chapter, suspend or terminate payments under a grant or contract awarded under this chapter whenever the Commission determines there is a material failure, or threat of failure, to comply with the applicable terms and conditions of the grant or contract or to protect the fiduciary interests of the government.

(b) *Summary action.* In emergency situations, the Commission may summarily suspend a grant or contract for not more than 30 days. Examples of emergency situations that would allow such action are serious risk to persons or property; violations of Federal, State, or local criminal statutes; or material violations of the grant or contract that are sufficiently serious that they outweigh the general policy in favor of advance notice and opportunity to show cause.

(c) *Suspension or termination notice.* The Commission shall notify a recipient by letter or telegram that the Commission intends to suspend or terminate assistance either in whole or in part unless the recipient shows good cause why such assistance should not be suspended. In this communication, the grounds and the effective date for the proposed suspension or termination shall be described. The recipient shall be given at least 7 calendar days to submit written material in opposition to the proposed action.

(d) *Hearings.* The recipient may request a hearing on a proposed suspension or termination. With 5 days notice to the recipient, the Commission may authorize the conduct of a hearing or other meeting, at a location convenient to the recipient, to consider the proposed suspension or termination. A transcript or recording shall be made of such a hearing or meeting and it shall be available for inspection by any individual.

(e) *Decision.* The Commission's decision on suspension or termination of a grant or contract shall be final and shall be delivered by letter or telegram.

§ 2506.4 Grievance procedure.

(a) *General.* State and local applicants that receive assistance under this chapter shall establish and maintain a procedure to adjudicate grievances from participants, labor organizations, and other interested individuals concerning programs that receive assistance under this chapter. Such grievances may include proposed placements of participants in projects receiving assistance.

(b) *Deadline for grievances.* Except for a grievance that alleges fraud or criminal activity, a grievance shall be made not later than 1 year after the date of an alleged occurrence.

(c) *Deadline for hearing and decision.* If a hearing is held on a grievance, it shall be conducted no later than 30 days from the date of the filing of the grievance. A decision shall be made not later than 60 days from the date of the filing of the grievance.

(d) *Arbitration.* When there is an adverse decision on a grievance, or 60 days after the filing of a grievance if no decision has been reached, the party filing the grievance shall submit the grievance to binding arbitration before a qualified arbiter who is jointly selected and independent of the interested parties. Any resulting proceedings shall be held no later than 45 days after the request for arbitration, with a decision made not later than 30 days after the date of the proceeding. The cost of arbitration shall be divided evenly between the parties to the arbitration.

(e) *Proposed placement.* If a grievance is filed regarding a proposed placement of a participant in a program that receives assistance under this chapter, such placement shall not be made unless it is consistent with the resolution of the grievance in accordance with the requirements of this part.

(f) *Remedies.* Remedies for a grievance filed under this part include suspension or termination of payments for assistance under this chapter Act, and prohibition of a placement of a participant described in paragraph (e) of this section.

§ 2506.5 Prohibition on use of funds for certain purposes.

(a) *Prohibited uses.* No assistance made available under a grant under this chapter shall be used to provide religious instruction, conduct worship services, or engage in any form of proselytization.

(b) *Political activity.* Assistance provided under this chapter shall not be used by program participants and program staff to:

(1) Assist, promote, or deter union organizing; or

(2) Finance, directly or indirectly, any activity designed to influence the outcome of an election to Federal office or the outcome of an election to a State or local public office.

(c) *Contracts or collective bargaining agreements.* A project that receives assistance under this chapter shall not impair existing contracts for services or collective bargaining agreements.

§ 2506.6 Standards of conduct.

Programs that receive assistance under this chapter shall establish and stringently enforce standards of conduct at the program site to promote proper moral and disciplinary conditions.

§ 2506.7 Treatment of benefits.

Living allowances and post-service benefits provided to individuals participating in programs under this chapter shall not be considered as income for the purposes of determining eligibility for and the amount of income transfer and in-kind aid furnished under any Federal or federally assisted program based on need, other than programs under the Social Security Act.

§ 2506.8 Program evaluation.

(a) *General.* The Commission has broad responsibility for the continuing evaluation of programs receiving assistance under this chapter. In turn, program participants, States, and local grantees have the responsibility to provide information to the Commission as required by the Commission in order to evaluate programs and projects funded under this chapter. State and local grantees may be required to assist in the selection of, and collection of information about, control groups of individuals who are not selected to participate in funded programs.

(b) Standards for the evaluation of program effectiveness. (1) All funded programs will be evaluated based on their effectiveness in achieving any or all of the goals of this chapter.

(2) Specific evaluation standards for each of these broad goals will be established by the Commission and made available to funded programs and the public.

(c) Program objectives. Programs receiving funds under part 2504 will be evaluated to determine their effectiveness in:

(1) Recruiting and enrolling diverse participants in such programs based on economic background, race, ethnicity, gender, age, marital status, education levels, and ability and disability;

(2) Promoting the educational achievement of each participant based on earning a high school diploma or its equivalent and the future enrollment and completion of increasingly higher levels of education;

(3) Encouraging each participant to engage in public and community service after completing of the program based on career choices and service in other service programs such as VISTA, the Peace Corps, the military, and part-time volunteer service;

(4) Promoting positive attitudes among each participant regarding the participant's role in solving community problems, ability to improve the lives of others, sense of responsibilities as a citizen and community member, and other factors;

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(5) Enabling participants to finance a lesser portion of their higher education through student loans;

(6) Providing services and projects that benefit the community;

(7) Supplying additional volunteer assistance to community agencies without overloading such agencies with more volunteers than can be utilized effectively;

(8) Providing service and activities that could not otherwise be performed by employed workers and that will not supplant the hiring of, or result in the displacement of, employed workers or impair the existing contracts of such workers; and

(9) Attracting a greater number of citizens to public service, including service in the active and reserve components of the Armed Forces, the National Guard, the Peace Corps, VISTA, and the Older American Volunteer Programs.

(d) The Commission shall keep confidential the information acquired about individual participants or members of control groups from evaluations under paragraph (c) of this section.

§ 2506.9 Treatment of living allowances.

Living allowances received under this chapter shall not be considered in the determination of expected family contribution or independent student status under subpart 1 of part A of title IV, and part F of title IV, of the Higher Education Act of 1965.

Catherine Milton,

Executive Director, Commission on National and Community Service.

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Part III

Environmental Protection Agency

40 CFR Part 1, et al.

Changes to Regulations to Reflect the Role of the New Environmental Appeals Board in Agency Adjudications; Final Rule

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 1, 3, 17, 22, 27, 57, 60, 66, 85, 86, 114, 123, 124, 164, 209, 222, 223, 233 and 403

[FRL-4086-7]

Changes to Regulations to Reflect the Role of the New Environmental Appeals Board in Agency Adjudications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Under the environmental statutes administered by the Environmental Protection Agency, the Administrator has authority to decide appeals of permit decisions made by the Agency's Regional Administrators and administrative penalty decisions made by the Agency's Administrative Law Judges. Because it is unnecessary and impractical for the Administrator to make all such decisions, the Administrator has in the past either delegated authority to decide appeals in such cases to the Agency's Judicial Officers or decided such appeals himself primarily on the basis of recommendations from the Judicial Officers. As part of the response to an increasing level of administrative adjudications, the Administrator is creating a new entity called the Environmental Appeals Board to hear and decide the kinds of appeals that the Administrator formerly delegated to the Agency's Judicial Officers or decided on the basis of the Judicial Officers' recommendations. The rule promulgated herein makes technical changes to the rules of practice governing Agency permit and penalty decisions to bring such rules into conformity with the Administrator's action. The final rule delegates to the new Environmental Appeals Board the Administrator's authority to hear appeals of permit and penalty decisions. The rule also replaces references to the Judicial Officers and those references to the Administrator relating to appellate functions with references to the Environmental Appeals Board.

EFFECTIVE DATE: March 1, 1992.

FOR FURTHER INFORMATION CONTACT: James W. Black, Administrator's Office (A-101), 401 M Street, SW., Washington, DC, 20460, (202) 260-4076.

SUPPLEMENTARY INFORMATION:

The Environmental Appeals Board

The Administrator has authority to decide appeals of permitting decisions made by Regional Administrators and appeals of administrative penalty decisions made by Administrative Law Judges. In implementing this authority, the Administrator has delegated authority to decide most kinds of appeals to the Agency's Judicial Officers (two EPA attorneys, one denominated the Chief Judicial Officer and the other denominated the Judicial Officer). The Administrator has retained authority to decide a few types of appeals, but has decided such appeals primarily on the basis of recommendations from the Agency's Judicial Officers.

The Agency is now creating a new entity called the Environmental Appeals Board, the purpose of which is to hear and decide appeals in cases that were formerly either delegated to the Judicial Officers or decided on the basis of the Judicial Officers' recommendations. The Judicial Officer positions at EPA Headquarters are being abolished. The establishment of the Board is being accomplished by the Administrator through internal Agency action. The purpose of the rule promulgated herein is only to make technical changes to the rules of practice governing Agency permit and penalty decisions to bring such rules into conformity with the Administrator's action.

The Board will be a permanent body with continuing functions. It will be composed of three Environmental Appeals Judges designated by the Administrator. The Board will decide each matter before it by majority vote in accordance with applicable statutes and regulations. Two Board members constitute a quorum, and if the absence or recusal of a Board member so requires, the Board may sit as a Board of two members. In the case of a tie vote, the matter shall be referred to the Administrator to break the tie.

The rule promulgated herein defines the Board and sets qualifications for Board members. It also includes express delegations of authority from the Administrator to the Board to hear and decide appeals of various types of cases. Under the old scheme, the rules of practice governing Agency adjudications did not actually delegate authority to the Judicial Officers (with the exception of the Equal Access to Justice Act regulations in part 17). Instead, the rules merely recognized the possibility of such a delegation, while the actual delegations were accomplished through an internal Agency document called the delegations manual. By contrast, under the rule promulgated herein, the rules of practice actually effect the delegation of the Administrator's authority. In addition, the rule replaces references to the Judicial Officer and those references to the Administrator related to appellate functions with references to the Environmental Appeals Board.

The approach adopted in this rule, while having the same practical effect as the previous approach, is designed to provide greater clarity. Under the old approach, in which delegations of authority were effected in a separate internal delegations manual, there was considerable confusion in the regulated community over the role of the Judicial Officers in Agency adjudications. The approach adopted in this rule reflects more clearly and directly the role of the Board as the final decisionmaker in Agency adjudications. Also, effecting the delegation directly in the regulation confers on the Board the dignity and stature that is appropriate for the Agency's highest adjudicative body. The old approach, in which the rules of practice merely recognized the possibility of a delegation, was rejected because it might have fostered the perception that the Board is an ad hoc, provisional body.

As a result of the rule promulgated today, the Board now holds delegated authority from the Administrator to hear and decide the following types of cases:

—Appeals of cases arising under the Equal Access to Justice Act (EAJA) (5 U.S.C. 504), which are governed by the procedures set out in part 17;

—Appeals of civil penalty cases arising under sections 3005(e), 3008, 9006, 11005 of the Solid Waste Disposal Act (RCRA), as amended (42 U.S.C. 6925, 6928, 6991(e), and 6992(d)), which are governed by the procedures set out in part 22;

—Appeals of civil penalty cases arising under section 211 of the Clean Air Act (CAA), as amended (42 U.S.C. 7545), which are governed by the procedures set out in part 22;

—Appeals of Class II penalty cases arising under section 309(g) of the Clean Water Act (CWA) (33 U.S.C. 1319(g)), which are governed by the procedures set out in part 22;

—Appeals of civil penalty cases arising under section 16(a) of the Toxic Substances Control Act (TSCA) (15 U.S.C. 2615(a)), which are governed by the procedures set out in part 22;

—Appeals of civil penalty cases arising under section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 1361(a)), which are governed by the procedures set out in part 22;

—Appeals of administrative penalty cases arising under section 325 of the Emergency Planning and Community Right to Know Act (EPCRA) (42 U.S.C.

11045), which are governed by the procedures set out in part 22;

—Appeals of civil penalties cases arising under sections 105 (a) and (f) of the Marine Protection, Research, Sanctuaries Act of 1972 (MPRSA) (33 U.S.C. 1415(a)), which are governed by the procedures set out in part 22;

—Appeals of administrative penalty cases arising under section 109 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA) (42 U.S.C. 9609), which are governed by the procedures set out in part 22.

—Appeals of civil penalty cases arising under section 1414(g)(3)(B) of the Safe Drinking Water Act as amended (42 U.S.C. 300g–3(g)(3)(B)), which are governed by the procedures set out in part 22.

—Appeals of cases arising under the Program Fraud Civil Remedies Act (31 U.S.C. 3801), which are governed by the procedures set out in part 27;

—Appeals of determinations under § 60.539, which deals with standards of performance for new residential wood heaters promulgatged under the Clean Air Act.

—Appeals of Clean Air Act section 120 noncompliance penalty cases, which are governed by the procedures set out in part 66;

—Appeals of cases arising under the Clean Air Act involving control of air pollution from motor vehicles and motor vehicle engines, which are governed by the procedures set out in part 85;

—Appeals of cases arising under the Clean Air Act involving control of air pollution from new motor vehicles and new motor vehicle engines and certification and test procedures, which are governed by the procedures set out in part 86;

—Appeals of Spill Prevention, Containment and Control (SPCC) penalty cases arising under the Clean Water Act, which are governed by the oil pollution prevention regulations set out in part 114;

—Appeals from permit decisions made by Regional Administrators and Administrative Law Judges under the Clean Water Act (NPDES), which are governed by the procedures set out in part 124;

—Appeals from permit decisions made by Regional Administrators under RCRA, which are governed by the procedures set out in part 124;

—Appeals from permit decisions made by Regional Administrators and delegated States under the Clean Air Act (PSD permits), which are governed by the procedures set out in part 124;

—Appeals from permit decisions made by Regional Administrators under the Safe Drinking Water Act (UIC permits), which are governed by the procedures set out in part 124;

—Appeals of FIFRA cancellation, suspension and compensation cases, which are governed by the procedures set out in part 164;

—Appeals of cases under the Noise Control Act, which are governed by the procedures set out in part 209;

—Appeals from permit decisions made by Regional Administrators under the Marine Protection, Research, and Sanctuaries Act (MPRSA), which are governed by the procedures set out in part 222.

—Appeals of determinations under § 403.13, which deals with "fundamentally different factors" variances from Clean Water Act categorical pretreatment standards for publicly owned treatment works.

The Board will also have authority to decide appeals in cases arising under section 113(d) of the Clean Air Act, as soon as final action is taken on a proposed rule to make such cases subject to part 22. In addition, it is expected that the Administrator will, on occasion, ask the Board for advice and consultation on decisions that the Administrator has not delegated to the Board through these rule changes. In such cases, the Administrator may ask the Board to make findings of fact or conclusions of law, to prepare a recommended decision for the Administrator's consideration, or to serve as the final decisionmaker for the Agency, as is appropriate to a particular case.

The provisions promulgated herein to effect the delegation of the Administrator's authority to the Board provide that the delegation of authority does not preclude the Board from referring a particular case or motion to the Administrator for decision when the Board deems it appropriate to do so. The language of the provisions makes clear, however, that an appeal or motion for reconsideration of a Board decision must be directed to the Board. An appeal or motion for reconsideration directed to the Administrator will not be considered. One of the goals of the Board is to relieve the Administrator of the responsibility for responding to appeals. Allowing parties to petition the Administrator directly to hear an appeal or to overturn a Board decision would defeat this goal. It is expected that the Board will exercise its discretion to refer cases or motions to the Administrator directly to hear an appeal or to overturn a Board decision would defeat this goal. It is expected that the Board will exercise its discretion to refer cases or motions to the Administrator only in exceptional circumstances.

The rule promulgated herein also amends parts of Title 40 under which the Board will not have authority to hear appeals, but which contain incidental references to the Judicial Officer that need to be removed to reflect the abolition of that position. The following provisions have been amended for that purpose:

(1) Sections 57.103, 57.806, 57.809, relating to primary nonferrous smelter orders;

(2) Section 123.64, governing withdrawal of State NPDES programs;

(3) Section 223.4, relating to the revision, revocation, or limitation of ocean dumping permits under the Marine Protection, Research, and Sanctuaries Act;

(4) Section 233.53, relating to withdrawal of section 404 State program approval.

The Environmental Appeals Board will decide any appeals or related matters covered in this rule that are pending before a Judicial Officer or the Administrator at the time this rule becomes effective.

Reasons for the Change

The Environmental Appeals Board is being established to adapt the Agency's administrative appeals process to new realities facing the Agency. In recent years, the Agency has stepped up enforcement of the environmental statutes it is charged with administering. In addition, statutory amendments (most recently the Clean Air Act Amendments of 1990) have greatly increased the Agency's administrative penalty authority. This increase in administrative enforcement activity will continue to generate an increasing number of appeals to the Administrator. The Agency has also received a greater number of permit applications, resulting in more appeals from the permit decisions of Regional Administrators. As a result, the Agency needs to direct more resources to its administrative appeals process, so that it may keep pace with the growing case docket. The establishment of the Environmental Appeals Board will allow the Agency to do this. Another advantage of the Board is that it will allow for a broader range of input and perspective in administrative decisionmaking. It will do this in two ways. First, three individuals, rather than just one, will review each case, lending greater authority to the Agency's decisions. Second, the Board anticipates that, in

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appropriate cases, it will exercise its discretionary authority to grant or require oral argument, an authority that the Judicial Officers held under the rules but did not exercise. Another virtue of the Board is that it will make clear that the Administrator's enforcement authority (delegated to various Regional and Headquarters enforcement officers) and the Administrator's adjudicative authority are delegated to, and exercised by, separate and distinct components of the Agency, thus inspiring confidence in the fairness of Agency adjudications. Finally, the creation of the Board confers on Agency appellate proceedings the stature and dignity that are commensurate with the growing importance of such proceedings.

Issuance of Rule on Final Basis

The rule promulgated herein is being issued on a final basis pursuant to the Administrative Procedure Act, which allows the issuance of rules without prior notice and comment where the rules concern agency practice or procedure. 5 U.S.C. 553(b)(A). All of the changes made in this notice affect only Agency practice and procedure. None of the changes are substantive in nature. Accordingly, the Agency may take final action approving these rule changes without first providing for notice and comment.

Effective Date of Rule

The rule promulgated herein will become effective on March 1, 1992. This effective date was chosen to coincide with the internal Agency actions creating the Environmental Appeals Board and abolishing the positions of the Judicial Officers.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities. In such circumstances, a regulatory flexibility analysis is not required. The rule promulgated herein is not expected to have any impact on small entities. The rule does not impose additional regulatory requirements on small entities. Accordingly, the Administrator certifies that these regulations will not have a significant impact on a substantial number of small entities. These regulations, therefore, do not require a regulatory flexibility analysis.

Executive Order No. 12291

The rule promulgated herein has been reviewed under Executive Order 12291. The rule does not constitute a "major" regulation within the meaning of Executive Order 12291, because it will *not* result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or U.S. enterprises operating in foreign or domestic markets. Because the rule promulgated herein is not a "major" regulation, the Agency is not required to conduct a Regulatory Impact Analysis.

Paper Work Reduction Act

This rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction act of 1980.

List of Subjects

40 CFR Part 1

Organization and functions (Government agencies).

40 CFR Part 3

Conflicts of interest.

40 CFR Part 17

Claims, Equal access to justice, Lawyers.

40 CFR Part 22

Administrative practice and procedure, Air pollution control, Hazardous substances, Hazardous waste, Penalties, Pesticides and pests, Poison prevention, Water pollution control.

40 CFR Part 27

Administrative practice and procedure, Claims, Fraud, Penalties.

40 CFR Part 57

Administrative practice and procedure, Air pollution control, Intergovernmental relations.

40 CFR Part 60

Administrative practice and procedure, Air pollution control, Penalties.

40 CFR Part 85

Confidential business information, Imports, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements, Research, Warranties.

40 CFR Part 86

Administrative practice and procedure, Confidential business information, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements.

40 CFR Part 114

Administrative practice and procedure, Oil pollution, Penalties.

40 CFR Part 123

Administrative practice and procedure, Confidential business information, Hazardous substances, Indians-lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control.

40 CFR Part 124

Administrative practice and procedure, Air pollution control, Hazardous waste, Indians-lands, Reporting and recordkeeping requirements, Water pollution control, Water supply.

40 CFR Part 164

Administrative practice and procedure, Pesticides and pests.

40 CFR Part 209

Administrative practice and procedure, Noise control.

40 CFR Part 222

Administrative practice and procedure, water pollution control.

40 CFR Part 223

Administrative practice and procedure, Water pollution control.

40 CFR Part 233

Administrative practice and procedure, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control.

40 CFR Part 403

Confidential business information, Reporting and recordkeeping requirement, Waste treatment and disposal, Water pollution.

Dated: January 27, 1992.

William K. Reilly,

Administrator.

For the reasons set out in the preamble, title 40 is amended, effective March 1, 1992, as follows:

PART 1—STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

1. The authority citation for part 1 continues to read as follows:

Authority: 5 U.S.C 552.

2. Section 1.25 is amended by adding paragraph (e) to read as follows:

§ 1.25 Staff Offices.

* * * * *

(e)(1) *Environmental Appeals Board.* The Environmental Appeals Board is a permanent body with continuing functions composed of three Board Members designated by the Administrator. The Environmental Appeals Board shall decide each matter before it in accordance with applicable statutes and regulations. The Environmental Appeals Board shall decide each matter by majority vote. Two Board Members constitute a quorum, and if the absence or recusal of a Board Member so requires, the Board shall sit as a Board of two Members. In the case of a tie vote, the matter shall be referred to the Administrator to break the tie.

(2) *Functions.* The Environmental Appeals Board shall exercise any authority expressly delegated to it in this title. With respect to any matter for which authority has not been expressly delegated to the Environmental Appeals Board, the Environmental Appeals Board shall, at the Administrator's request, provide advice and consultation, make findings of fact and conclusions of law, prepare a recommended decision, or serve as the final decisionmaker, as the Administrator deems appropriate. In performing its functions, the Environmental Appeals Board may consult with any EPA employee concerning any matter governed by the rules set forth in this title, provided such consultation does not violate applicable ex parte rules in this title.

(3) *Qualifications.* Each member of the Environmental Appeals Board shall be a graduate of an accredited law school and a member in good standing of a recognized bar association of any state or the District of Columbia. Board Members shall not be employed by the Office of Enforcement, the Office of the General Counsel, a Regional Office, or any other office directly associated with matters that could come before the Environmental Appeals Board. A Board Member shall recuse himself or herself from deciding a particular case if that Board Member in previous employment performed prosecutorial or investigative functions with respect to the case, participated in the preparation or presentation of evidence in the case, or was otherwise personally involved in the case.

PART 3—EMPLOYEE RESPONSIBILITIES AND CONDUCT

1. The authority citation for part 3 continues to read as follows:

Authority: E.O. 11222, 30 FR 6469; 3 CFR 1964–65 Comp., p. 306; 5 CFR parts 734, 735 and 737.

2. Appendix C of subpart A is amended by revising 2(a), the first paragraph of 9(a), and the last sentence of the second paragraph of 9(a) to read as follows:

Appendix C to Subpart A—Procedures for Administrative Enforcement of Post-Employment Restrictions

* * * * *

2. * * *

* * * * *

(a) A member of the Environmental Appeals Board or its designee is the presiding official as provided by paragraph 9(a) of this appendix;

* * * * *

9. * * *

* * * * *

(a) *The Presiding Official.* A member of the Environmental Appeals Board or its designee presides at the hearing. The Presiding Official, if not a member of the Environmental Appeals Board, must be an attorney and an employee of the Environmental Protection Agency. If the Environmental Appeals Board designates a Presiding Official other than one of its members, it must promptly notify the former employee and the Inspector General of the Presiding Official's name, address and telephone number.

* * * The Environmental Appeals Board may remove a Presiding Official for cause.

* * * * *

PART 17—IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN EPA ADMINISTRATIVE PROCEEDINGS

1. The authority citation for part 17 continues to read as follows:

Authority: Section 504, Title 5 U.S.C., as amended by sec. 203(a)(1), Equal Access to Justice Act (Title 2 of Pub. L. 96-481, 94 Stat. 2323).

2. Section 17.8 is revised to read as follows:

§ 17.8 Delegation of authority.

The Administrator delegates to the Environmental Appeals Board authority to take final action relating to the Equal Access to Justice Act. The Environmental Appeals Board is described at 40 CFR 1.25(e). This delegation does not preclude the Environmental Appeals Board from referring any matter related to the Equal Access to Justice Act to the Administrator when the Environmental Appeals Board deems it appropriate to do so. When an appeal or motion is referred to the Administrator by the Environmental Appeals Board, all parties shall be so notified and the rules in this part referring to the Environmental Appeals Board shall be interpreted as referring to the Administrator.

3. Section 17.14 is amended by revising paragraph (b) to read as follows:

§ 17.14 Time for submission of application.

* * * * *

(b) Final disposition means the later of: (1) The date on which the Agency decision becomes final, either through disposition by the Environmental Appeals Board of a pending appeal or through an initial decision becoming final due to lack of an appeal or (2) the date of final resolution of the proceeding, such as settlement or voluntary dismissal, which is not subject to a petition for rehearing or reconsideration.

* * * * *

PART 22—CONSOLIDATED RULES OF PRACTICE GOVERNING THE ADMINISTRATIVE ASSESSMENT OF CIVIL PENALTIES AND THE REVOCATION OR SUSPENSION OF PERMITS

1. The authority citation for part 22 continues to read as follows:

Authority: Sec. 16 of the Toxic Substances Control Act, 15 U.S.C. 2615; secs. 211 and 301 of the Clean Air Act, 42 U.S.C. 7545 and 7601; secs. 14 and 15 of the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136i and 136m; secs. 105 and 108 of the Marine Protection, Research and Sanctuaries Act, 33 U.S.C. 1415 and 1418; secs. 2002 and 3008 of the Solid Waste Disposal Act, 42 U.S.C. 6912 and 6928; sec. 501 of the Clean Water Act, 33 U.S.C. 1361; and, sec. 1414 of the Safe Drinking Water Act, 42 U.S.C. 300g–3.

2. Section 22.03 is amended by revising the definition of "Complainant," removing the definition of "Judicial Officer" and adding the definition of "Environmental Appeals Board" in alphabetical order to read as follows:

§ 22.03 Definitions.

* * * * *

Complainant means any person authorized to issue a complaint on behalf of the Agency to persons alleged to be in violation of the Act. The complainant shall not be a member of

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the Environmental Appeals Board, the Regional Judicial Officer, or any other person who will participate or advise in the decision.

* * * * *

Environmental Appeals Board means the Board within the Agency described in § 1.25 of this title, located at U.S. Environmental Protection Agency, A–110, 401 M St. SW., Washington, DC 20460.

* * * * *

3. Section 22.04 is amended by revising paragraphs (a) and (b), the first, third, and fourth sentences of paragraph (d)(1), and paragraph (d)(2) to read as follows:

§ 22.04 Powers and duties of the Environmental Appeals Board, the Regional Administrator, the Regional Judicial Officer and the Presiding Officer; disqualification.

(a) *Environmental Appeals Board.* The Administrator delegates authority under the Act to the Environmental Appeals Board to perform the functions assigned to it in these rules of practice. An appeal or motion under this part directed to the Administrator, rather than to the Environmental Appeals Board, will not be considered. This delegation of authority to the Environmental Appeals Board does not preclude the Environmental Appeals Board from referring any case or motion governed by this part to the Administrator when the Environmental Appeals Board, in its direction, deems it appropriate to do so. When an appeal or motion is referred to the Administrator, all parties shall be so notified and the rules in this part referring to the Environmental Appeals Board shall be interpreted as referring to the Administrator. If a case or motion is referred to the Administrator by the Environmental Appeals Board, the Administrator may consult with any EPA employee concerning the matter, provided such consultation does not violate the ex parte rules set forth in § 22.08.

(b) *Regional Administrator.* The Regional Administrator shall exercise all powers and duties as prescribed or delegated under the Act and these rules of practice.

(1) *Delegation to Regional Judicial Officer.* One or more Regional Judicial Officers may be designated by the Regional Administrator to perform, within the region of their designation, the functions described below. The Regional Administrator may delegate his or her authority to a Regional Judicial Officer to act in a given proceeding. This delegation will not prevent the Regional Judicial Officer from referring any motion or case to the Regional Administrator. The Regional Judicial Officer shall exercise all powers and duties prescribed or delegated under the Act or these rules of practice.

(2) *Qualifications of Regional Judicial Officer.* A Regional Judicial Officer shall be an attorney who is a permanent or temporary employee of the Agency or some other Federal agency and who may perform other duties within the Agency. A Regional Judicial Officer shall not be employed by the Region's Enforcement Division or by the Regional Division directly associated with the type of violation at issue in the proceeding. A Regional Judicial Officer shall not have performed prosecutorial or investigative functions in connection with any hearing in which he serves as a Regional Judicial Officer or with any factually related hearing.

* * * * *

(d) * * * (1) The Administrator, the Regional Administrator, the members of the Environmental Appeals Board, the Regional Judicial Officer, or the Presiding Officer may not perform functions provided for in these rules of practice regarding any matter in which they (i) have a financial interest or (ii) have any relationship with a party or with the subject matter which would make it inappropriate for them to act. * * * Any party may at any time by motion to the Administrator request that the Regional Administrator, a member of the Environmental Appeals Board, or the Presiding Officer be disqualified or request that the Administrator disqualify himself or herself from the proceeding. The Administrator, the Regional Administrator, a member of the Environmental Appeals Board, the Regional Judicial Officer, or the Presiding Officer may at any time withdraw from any proceeding in which they deem themselves disqualified or unable to act for any reason.

(2) If the Administrator, the Regional Administrator, the Regional Judicial Officer, or the Presiding Officer is disqualified or withdraws from the proceeding, a qualified individual who has none of the infirmities listed in paragraph (d)(1) of this section shall be assigned to replace him. Assignment of a replacement for Regional Administrator or for the Regional Judicial Officer shall be made by the Administrator or the Regional Administrator, respectively. The Administrator, should he or she withdraw or disqualify himself or herself, shall assign the Regional Administrator from the Region where the case originated to replace him or her. If that Regional Administrator would be disqualified, the Administrator shall assign a Regional Administrator from another region to replace the Administrator. The Regional Administrator shall assign a new Presiding Officer if the original Presiding Officer was not an Administrative Law Judge. The Chief Administrative Law Judge shall assign a new Presiding Officer from among available Administrative Law Judges if the original Presiding Officer was an Administrative Law Judge.

* * * * *

4. Section 22.05 is amended by revising paragraph (c)(1) and the first and third sentences of paragraph (c)(5) to read as follows:

§ 22.05 Filings, service, and form of pleadings and documents.

* * * * *

(c) * * * (1) Except as provided herein, or by order of the Presiding Officer or of the Environmental Appeals Board, there are no specific requirements as to the form of documents.

* * * * *

(5) The Environmental Appeals Board, the Regional Administrator, the Presiding Officer, or the Regional Hearing Clerk may refuse to file any document which does not comply with this paragraph. * * * Such person may amend and resubmit any document refused for filing upon motion granted by the Environmental Appeals Board, the Regional Administrator, or the Presiding Officer, as appropriate.

5. Section 22.06 is amended by revising the second and third sentences to read as follows:

§ 22.06 Filing and service of rulings, orders, and decisions.

* * * All such documents issued by the Environmental Appeals Board shall be filed with the Clerk of the Environmental Appeals Board. Copies of such rulings, orders, decisions, or other documents shall be served personally, or by certified mail, return receipt requested, upon all parties by the Environmental Appeals Board, the Regional Administrator, the Regional Judicial Officer, or the Presiding Officer, as appropriate.

6. Section 22.07 is amended by revising the first sentence of paragraph (b) to read as follows:

§ 22.07 Computation and extension of time.

* * * * *

(b) * * * The Environmental Appeals Board, the Regional Administrator, or the Presiding Officer, as appropriate, may grant an extension of time for the filing of any pleading, document, or motion (1) upon timely motion of a party to the proceeding, for good cause shown, and after consideration of prejudice to other parties, or (2) upon its or his own motion. * * *

* * * * *

7. Section 22.08 is amended by revising the first and second sentences to read as follows:

§ 22.08 Ex parte discussion of proceeding.

At no time after the issuance of the complaint shall the Administrator, the members of the Environmental Appeals Board, the Regional Administrator, the Regional Judicial Officer, the Presiding Officer, or any other person who is likely to advise these officials in the decision on the case, discuss ex parte the merits of the proceeding with any interested person outside the Agency, with any Agency staff member who performs a prosecutorial or investigative function in such proceeding or a factually related proceeding, or with any representative of such person. Any ex parte memorandum or other communication addressed to the Administrator, the Regional Administrator, the Environmental Appeals Board, the Regional Judicial Officer, or the Presiding Officer during the pendency of the proceeding and relating to the merits thereof, by or on behalf of any party shall be regarded as argument made in the proceeding and shall be served upon all other parties. * * *

8. Section 22.09(a) is amended by revising the second sentence to read as follows:

§ 22.09 Examination of documents filed.

(a) * * * Such documents shall be made available by the Regional Hearing Clerk, the Hearing Clerk, or the Environmental Appeals Board, as appropriate.

* * * * *

9. Section 22.11 is amended by revising the third sentence of paragraph (d) to read as follows:

§ 22.11 Intervention.

* * * * *

(d) * * * If the motion is granted, the Presiding Officer or the Environmental Appeals Board shall issue an order setting the time for filing such brief. * * *

10. Section 22.16 is amended by revising the first sentence of paragraph (b) and the second and fourth sentences of paragraph (c) to read as follows:

§ 22.16 Motions.

* * * * *

(b) * * * The Presiding Officer, the Regional Administrator, or the Environmental Appeals Board, as appropriate, may set a shorter time for response, or make such other orders concerning the disposition of motions as they deem appropriate.

(c) * * * The Environmental Appeals Board shall rule on all motions filed or made after service of the initial decision upon the parties. * * * Oral argument on motions will be permitted where the Presiding Officer, the Regional Administrator, or the Environmental Appeals Board considers it necessary or desirable.

11. Section 22.23 is amended by revising the last sentence of paragraph (b) to read as follows:

§ 22.23 Objections and offers of proof.

* * * * *

(b) * * * Where the Environmental Appeals Board decides that the ruling of the Presiding Officer in excluding the evidence was both erroneous and prejudicial, the hearing may be reopened to permit the taking of such evidence.

12. Section 22.27 is amended by revising the last sentence of paragraph (a) and paragraph (c) to read as follows:

§ 22.27 Initial decision.

(a) * * * The Hearing Clerk shall forward a copy of the initial decision to the Environmental Appeals Board.

* * * * *

(c) *Effect of initial decision.* The initial decision of the Presiding Officer shall become the final order of the Environmental Appeals Board within forty-five (45) days after its service upon the parties and without further proceedings unless (1) an appeal to the Environmental Appeals Board is taken from it by a party to the proceedings, or (2) the Environmental Appeals Board elects, sua sponte, to review the initial decision.

13. Section 22.29 is amended by revising the first and second sentences of paragraph (a), paragraph (b), the first, second, third and fifth sentences of paragraph (c), and the first and third sentences of paragraph (d) to read as follows:

§ 22.29 Appeal from or review of interlocutory orders or rulings.

(a) * * * Except as provided in this section, appeals to the Environmental Appeals Board shall obtain as a matter of right only from a default order, an accelerated decision or decision to dismiss issued under § 22.20(b)(1), or an initial decision rendered after an evidentiary hearing. Appeals from other orders or rulings shall lie only if the Presiding Officer or Regional Administrator, as appropriate, upon motion of a party, certifies such orders or rulings to the Environmental Appeals Board on appeal. * * *

(b) *Availability of interlocutory appeal.* The Presiding Officer may certify any ruling for appeal to the Environmental Appeals Board when (1) the order or ruling involves an important question of law or policy concerning which there is substantial grounds for difference of opinion, and (2) either (i) an immediate appeal from the order or ruling will materially advance the ultimate termination of the proceeding, or (ii) review after the final order is issued will be inadequate or ineffective.

(c) * * * If the Environmental Appeals Board determines that certification was improvidently granted, or if the Environmental Appeals Board takes no action within thirty (30) days of the certification, the appeal is dismissed. When the Presiding Officer declines to certify an order or ruling to the Environmental Appeals Board on interlocutory appeal, it may be reviewed by the Environmental Appeals Board only upon appeal from the initial decision, except when the Environmental Appeals Board determines, upon motion of a party and in exceptional circumstances, that to delay review would be contrary to the public interest. Such motion shall be made within six (6) days of service of an order of the Presiding Officer refusing to certify a ruling for interlocutory appeal to the Environmental Appeals Board. * * * The Environmental Appeals Board may, however, allow further briefs and oral argument.

(d) * * * The Presiding Officer may stay the proceedings pending a decision by the Environmental Appeals Board upon an order or ruling certified by the Presiding Officer for an interlocutory appeal. * * * Where the Presiding Officer grants a stay of more than thirty (30) days, such stay must be separately approved by the Environmental Appeals Board.

14. Section 22.30 is amended by revising the first sentence of paragraph (a)(1), the first and third sentences of paragraph (a)(2), the paragraph heading and the first sentence of paragraph (b), paragraph (c) and paragraph (d) to read as follows:

§ 22.30 Appeal from or review of initial decision.

(a) * * * (1) Any party may appeal an adverse ruling or order of the Presiding Officer by filing a notice of appeal and an accompanying appellate brief with the Environmental Appeals

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Board and upon all other parties and amicus curiae within twenty (20) days after the initial decision is served upon the parties. * * *

(2) Within fifteen (15) days of the service of notices of appeal and briefs under paragraph (a)(1) of this section, any other party or amicus curiae may file and serve with the Environmental Appeals Board a reply brief responding to argument raised by the appellant, together with references to the relevant portions of the record, initial decision, or opposing brief. * * * Further briefs shall be filed only with the permission of the Environmental Appeals Board.

(b) *Sua sponte review by the Environmental Appeals Board.* Whenever the Environmental Appeals Board determines sua sponte to review an initial decision, the Environmental Appeals Board shall serve notice of such intention on the parties within forty-five (45) days after the initial decision is served upon the parties. * * *

(c) *Scope of appeal or review.* If the Environmental Appeals Board determines that issues raised, but not appealed by the parties, should be argued, it shall give counsel for the parties reasonable written notice of such determination to permit preparation of adequate argument. Nothing herein shall prohibit the Environmental Appeals Board from remanding the case to the Presiding Officer for further proceedings.

(d) *Argument before the Environmental Appeals Board.* The Environmental Appeals Board may, upon request of a party or sua sponte, assign a time and place for oral argument after giving consideration to the convenience of the parties.

15. Section 22.31 is amended by revising paragraph (a) to read as follows:

§ 22.31 Final order on appeal.

(a) *Contents of the final order.* When an appeal has been taken or the Environmental Appeals Board issues a notice of intent to conduct a review sua sponte, the Environmental Appeals Board shall issue a final order as soon as practicable after the filing of all appellate briefs or oral argument, whichever is later. The Environmental Appeals Board shall adopt, modify, or set aside the findings and conclusions contained in the decision or order being reviewed and shall set forth in the final order the reasons for its actions. The Environmental Appeals Board may, in its discretion, increase or decrease the assessed penalty from the amount recommended to be assessed in the decision or order being reviewed, except that if the order being reviewed is a default order, the Environmental Appeals Board may not increase the amount of the penalty.

* * * * *

16. Section 22.32 is revised to read as follows:

§ 22.32 Motion to reconsider a final order.

Motions to reconsider a final order shall be filed within ten (10) days after service of the final order. Every such motion must set forth the matters claimed to have been erroneously decided and the nature of the alleged errors. Motions for reconsideration under this provision shall be directed to, and decided by, the Environmental Appeals Board. Motions for reconsideration directed to the Administrator, rather than to the Environmental Appeals Board, will not be considered, except in cases that the Environmental Appeals Board has referred to the Administrator pursuant to § 22.04(a) and in which the Administrator has issued the final order. A motion for reconsideration shall not stay the effective date of the final order unless specifically so ordered by the Environmental Appeals Board.

PART 27—PROGRAM FRAUD CIVIL REMEDIES

1. The authority citation for part 27 continues to read as follows:

Authority: 31 U.S.C. 3809.

2. Section 27.2 is amended by removing the definitions of "Authority Head" and "Judicial Officer" and adding the definition of "Environmental Appeals Board" in alphabetical order to read as follows:

§ 27.2 Definitions.

* * * * *

Environmental Appeals Board means the Board within the Agency described in § 1.25 of this title.

* * * * *

3. Section 27.10 is amended by revising paragraphs (h), (i), (j), (k), and (l) to read as follows:

§ 27.10 Default upon failure to file an answer.

* * * * *

(h) The defendant may appeal to the Environmental Appeals Board the decision denying a motion to reopen by filing a notice of appeal within 15 days after the presiding officer denies the section. The timely filing of a notice of appeal shall stay the initial decision the Environmental Appeals Board decides the issue.

(i) If the defendant files a timely notice of appeal, the presiding officer shall forward the record of the proceeding to the Environmental Appeals Board.

(j) The Environmental Appeals Board shall decide expeditiously whether extraordinary circumstances excuse the defendant's failure to file a timely answer based solely on the record before the presiding officer.

(k) If the Environmental Appeals Board decides that extraordinary circumstances excused the defendant's failure to file a timely answer, the Environmental Appeals Board shall remand the case to the presiding officer with instructions to grant the defendant an opportunity to answer.

(l) If the Environmental Appeals Board decides that the defendant's failure to file a timely answer is not excused, the Environmental Appeals Board shall reinstate the initial decision of the presiding officer, which shall become final and binding upon the parties 30 days after the Environmental Appeals Board issues such decision.

4. Section 27.14 is amended by revising paragraphs (a)(2) and (b) to read as follows:

§ 27.14 Separation of functions.

(a) * * *

(2) Participate or advise in the initial decision or the review of the initial decision by the Environmental Appeals Board, except as a witness or representative in public proceedings; or

* * * * *

(b) Neither the presiding officer nor the members of the Environmental Appeals Board shall be responsible to, or subject to, the supervision or direction of the investigating official or the reviewing official.

* * * * *

5. Section 27.16 is amended by revising paragraph (f)(3) to read as follows:

§ 27.16 Disqualification of the reviewing official or presiding officer.

* * * * *

(f) * * *

(3) If the presiding officer denies a motion to disqualify, the Environmental Appeals Board may determine the matter only as part of its review of the initial decision upon appeal, if any.

6. Section 27.31 is amended by revising the first sentence of paragraph (a), the introductory text of paragraph (b) and paragraph (c) to read as follows:

§ 27.31 Determining the amount of penalties and assessments.

(a) In determining an appropriate amount of civil penalties and assessments, the presiding officer and the Environmental Appeals Board, upon appeal, should evaluate any circumstances that mitigate or aggravate the violation and should articulate in their opinions the reasons that support the penalties and assessments they impose. * * *

(b) Although not exhaustive, the following factors are among those that may influence the presiding officer and the Environmental Appeals Board in determining the amount of penalties and assessments to impose with respect to the misconduct (*i.e.*, the false, fictitious, or fraudulent claims or statements) charged in the complaint:

* * * * *

(c) Nothing in this section shall be construed to limit the presiding officer or the Environmental Appeals Board from considering any other factors that in any given case may mitigate or aggravate the offense for which penalties and assessments are imposed.

7. Section 27.35 is amended by revising paragraph (b) to read as follows:

§ 27.35 The record.

* * * * *

(b) The transcript of testimony, exhibits and other evidence admitted at the hearing, and all papers and requests filed in the proceeding constitute the record for the decision by the presiding officer and the Environmental Appeals Board.

* * * * *

8. Section 27.37 is amended by revising paragraph (d) to read as follows:

§ 27.37 Initial decision.

* * * * *

(d) Unless the initial decision of the presiding officer is timely appealed to the Environmental Appeals Board, or a motion for reconsideration of the initial decision is timely filed, the initial decision shall constitute the final decision of the Environmental Appeals Board and shall be final and binding on the parties 30 days after it is issued by the presiding officer.

9. Section 27.38 is amended by revising paragraphs (f) and (g) to read as follows:

§ 27.38 Reconsideration of initial decision.

* * * * *

(f) If the presiding officer denies a motion for reconsideration, the initial decision shall constitute the final decision of the Environmental Appeals Board and shall be final and binding on the parties 30 days after the presiding officer denies the motion, unless the initial decision is timely appealed to the Environmental Appeals Board in accordance with § 27.39.

(g) If the presiding officer issued a revised initial decision, that decision shall constitute the final decision of the Environmental Appeals Board and shall be final and binding on the parties 30 days after it is issued, unless it is timely appealed to the Environmental Appeals Board in accordance with § 27.39.

10. Section 27.39 is amended by revising paragraphs (a), (b)(3), (c), (f), (h), (i), (j), (k), and (l) to read as follows:

§ 27.39 Appeal to Environmental Appeals Board.

(a) Any defendant who has filed a timely answer and who is determined in an initial decision to be liable for a civil penalty or assessment may appeal such decision to the Environmental Appeals Board by filing a notice of appeal with the hearing clerk in accordance with this section.

(b) * * *

(3) The Environmental Appeals Board may extend the initial 30 day period for an additional 30 days if the defendant files a request for an extension within the initial 30 day period and shows good cause.

(c) If the defendant filed a timely notice of appeal, and the time for filing motions for reconsideration under § 27.38 has expired, the presiding officer shall forward the record of the proceeding to the Environmental Appeals Board.

* * * * *

(f) There is no right to appear personally before the Environmental Appeals Board.

* * * * *

(h) In reviewing the initial decision, the Environmental Appeals Board shall not consider any objection that was not raised before the presiding officer unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection.

(i) If any party demonstrates to the satisfaction of the Environmental Appeals Board that additional evidence not presented at such hearing is material and that there were reasonable grounds for the failure to present such evidence at such hearing, the Environmental Appeals Board shall remand the matter to the presiding officer for consideration of such additional evidence.

(j) The Environmental Appeals Board may affirm, reduce, reverse, compromise, remand, or settle any penalty or assessment, determined by the presiding officer in any initial decision.

(k) The Environmental Appeals Board shall promptly serve each party to the appeal with a copy of the decision of the Environmental Appeals Board and a statement describing the right of any person determined to be liable for a civil penalty or assessment to seek judicial review.

(l) Unless a petition for review is filed as provided in 31 U.S.C. 3805 after a defendant has exhausted all administrative remedies under this part and within 60 days after the date on which the Environmental Appeals Board serves the defendant with a copy of the Environmental Appeals Board's decision, a determination that a defendant is liable under § 27.3 is final and is not subject to judicial review.

11. Section 27.40 is revised to read as follows:

§ 27.40 Stay ordered by the Department of Justice.

If at any time the Attorney General or an Assistant Attorney General designated by the Attorney General transmits to the Environmental Appeals Board a written finding that continuation of the administrative process described in this part with respect to a claim or statement may adversely affect any pending or potential criminal or civil action related to such claim or statement, the Environmental Appeals Board shall stay the process immediately. The Environmental Appeals Board may order the process resumed only upon receipt of the written authorization of the Attorney General.

12. Section 27.41 is revised to read as follows:

§ 27.41 Stay pending appeal.

(a) An initial decision is stayed automatically pending disposition of a motion for reconsideration or of an appeal to the Environmental Appeals Board.

(b) No administrative stay is available following a final decision of the Environmental Appeals Board.

13. Section 27.42 is revised to read as follows:

§ 27.42 Judicial Review.

Section 3805 of title 31, United States Code, authorizes judicial review by an appropriate United States District Court of a final decision of the Environmental Appeals Board imposing penalties or assessments under this part and specifies the procedures for such review.

14. Section 27.46 is amended by revising paragraphs (c) and (e) to read as follows:

§ 27.46 Compromise or settlement.

* * * * *

(c) The Environmental Appeals Board has exclusive authority to compromise or settle a case under this part at any time after the date on which the

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presiding officer issues an initial decision, except during the pendency of any review under § 27.42 or during the pendency of any action to collect penalties and assessments under § 27.43.

* * * * *

(e) The investigating official may recommend settlement terms to the reviewing official, the Environmental Appeals Board, or the Attorney General, as appropriate. The reviewing official may recommend settlement terms to the Environmental Appeals Board or the Attorney General, as appropriate.

* * * * *

15. Section 27.48 is revised to read as follows:

§ 27.48 Delegated functions.

The Administrator delegates authority to the Environmental Appeals Board to issue final decisions in appeals filed under this part. An appeal directed to the Administrator, rather than the Environmental Appeals Board, will not be considered. This delegation of authority to the Environmental Appeals Board does not preclude the Environmental Appeals Board from referring an appeal or motion filed under this part to the Administrator for decision when the Environmental Appeals Board, in its descretion, deems it appropriate to do so. When an appeal or motion is referred to the Administrator, all parties shall be so notified and the rules in this part referring to the Environmental Appeals Board shall be interpreted as referring to the Administrator. If a case or motion is referred to the Administrator by the Environmental Appeals Board, the Administrator may consult with any EPA employee concerning the matter, provided such consultation does not violate the ex parte contacts restrictions set forth in §§ 27.14 and 27.15 of this part.

PART 57—PRIMARY NONFERROUS SMELTER ORDERS

1. The authority citation for part 57 continues to read as follows:

Authority: 31 U.S.C. 3809.

§ 57.103 [Amended]

2. Section 57.103 is amended by removing paragraph (p) and redesignating paragraphs (q) through (x) as new paragraphs (p) through (w).

3. Section 57.806 is amended by revising paragraph (a)(2) to read as follows:

§ 57.806 Presiding Officer.

(a) * * *

(2) If the parties to the hearing waive their right to have the Agency or an Administrative Law Judge preside at the hearing, the Administrator shall appoint an EPA employee who is an attorney to serve as presiding officer.

* * * * *

4. Section 57.809 is amended by revising the first sentence of paragraph (c)(2) to read as follows:

§ 57.809 Ex parte communications.

* * * * *

(c) * * *

(2) *Decisional body* means any Agency employee who is or may be reasonably expected to be involved in the decisional process of the proceeding including the Administrator, Presiding Officer, the Regional Administrator (if he does not designate himself as a member of the Agency trial staff), and any of their staff participating in the decisional process. * * *

* * * * *

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401, 7411, 7414, 7416, and 7601.

2. Section 60.539 is amended by revising the third sentence of paragraph (h)(1); paragraph (h)(2); and the last sentence of paragraph (h)(3) to read as follows:

§ 60.539 Hearing and appeal procedures.

* * * * *

(h)(1) * * * The initial decision shall become the decision of the Environmental Appeals Board without further proceedings unless there is an appeal to the Environmental Appeals Board or motion for review by the Environmental Appeals Board. * * *

(2) The Administrator delegates authority to the Environmental Appeals Board to issue final decisions in appeals filed under this section. An appeal directed to the Administrator, rather than to the Environmental Appeals Board, will not be considered. This delegation of authority to the Environmental Appeals Board does not preclude the Environmental Appeals Board from referring an appeal or a motion filed under this part to the Administrator for decision when the Environmental Appeals Board, in its discretion, deems it appropriate to do so. When an appeal or motion is referred to the Administrator, all parties shall be so notified and the rules in this section referring to the Environmental Appeals Board shall be interpreted as referring to the Administrator. On appeal from or review of the initial decision, the Environmental Appeals Board shall have all the powers that it would have in making the initial decision including the discretion to require or allow briefs, oral argument, the taking of additional evidence or the remanding to the Presiding Officer for additional proceedings. The decision by the Environmental Appeals Board shall include written findings and conclusions and the reasons or basis therefor on all the material issues of fact, law, or discretion presented on the appeal or considered in the review.

(3) * * * Any appeal to the Environmental Appeals Board shall be taken within 10 days of the initial decision, and the Environmental Appeals Board shall render its decision in the appeal within 30 days of the filing of the appeal.

PART 66—ASSESSMENT AND COLLECTION OF NONCOMPLIANCE PENALTIES BY EPA

1. The authority citation for part 66 continues to read as follows:

Authority: Sec. 120, Clean Air Act, as amended, 42 U.S.C. 7420.

2. Section 66.3 is amended by redesignating paragraphs (g) through (l) as paragraphs (h) through (m) and adding a new paragraph (g) to read as follows:

§ 66.3 Definitions.

* * * * *

(g) "Environmental Appeals Board" shall mean the Board within the Agency described in § 1.25 of this title. The Administrator delegates authority to the Environmental Appeals Board to issue final decisions in appeals filed under this part. Appeals directed to the Administrator, rather than to the Environmental Appeals Board, will not be considered. This delegation of authority to the Environmental Appeals Board does not preclude the Environmental Appeals Board from referring an appeal or a motion filed under this part to the Administrator for decision when the Environmental Appeals Board, in its discretion, deems it appropriate to do so. When an appeal or motion is referred to the Administrator, all parties shall be so notified and the rules in this part referring to the Environmental Appeals Board shall be interpreted as referring to the Administrator.

3. Section 66.6 is amended by revising paragraph (b) to read as follows:

§ 66.6 Effect of litigation; time limits.

* * * * *

(b) Failure of the Environmental Appeals Board or the Presiding Officer at a hearing to meet any of the time limits contained in this part 66 and part 67 of this chapter shall not affect the validity of any proceeding under these regulations.

* * * * *

4. Section 66.72 is amended by revising the first sentence of paragraph (a) to read as follows:

§ 66.72 Additional payment or reimbursement.

(a) Within 120 days after the source owner or operator receives notification pursuant to § 66.71(b) that it has achieved and is maintaining compliance with applicable legal requirements, or within 120 days after receipt of a decision to that effect upon petition and hearing, or within 120 days after receipt of a decision to that effect upon an appeal to the Environmental Appeals Board, the source owner or operator shall submit to the Administrator a revised penalty calculation as provided in the Technical Support Document and the Manual, together with data necessary for verification. * * *

* * * * *

5. Section 66.81 is amended by revising the second and third sentences of paragraph (b) and paragraph (c) to read as follows:

§ 66.81 Final action.

* * * * *

(b) * * * To exhaust administrative remedies, a source owner or operator must first petition for reconsideration of the decision in question and, if unsuccessful after hearing or after denial of hearing, appeal the decision in question to the Environmental Appeals Board. The action becomes final upon the completion of review by the Environmental Appeals Board and notice thereof to the owner or operator of the source.

(c) Where a petition seeks reconsideration both of the finding of noncompliance and of the finding of liability on the ground that the source owner or operator is entitled to an exemption, both questions must be decided before any review by the Environmental Appeals Board is sought, except on agreement of the parties.

6. Section 66.95 is amended by revising the first and second sentences of paragraph (c) to read as follows:

§ 66.95 Decision of the Presiding Officer, Appeal to the Environmental Appeals Board.

* * * * *

(c) An appeal to the Environmental Appeals Board from a decision of the Presiding Officer shall be made by petition filed within twenty (20) days from receipt by a party of the Presiding Officer's decision. The Environmental Appeals Board shall rule on the appeal within 30 days of receipt of a petition. * * *

PART 85—CONTROL OF AIR POLLUTION FROM MOTOR VEHICLES AND MOTOR VEHICLE ENGINES

1. The authority citation for subpart S of part 85 continues to read as follows:

Authority: Sec. 301(a), Clean Air Act, 81 Stat. 504, as amended by sec. 15(c), 84 Stat. 1713 (42 U.S.C. 1857g(a)). The regulations implement sec. 207(c)(1)–(2), Clean Air Act, 84 Stat. 1697 (42 U.S.C. 1847f–5a(c)(1)–(2)); sec. 208(a), Clean Air Act, 81 Stat. 501, as renumbered by sec. 8(a), 84 Stat. 1694 (42 U.S.C. 1857f–6(a)).

2. Section 85.1807 is amended by revising paragraphs (a)(6) and (o)(2), the second and third sentences of paragraph (o)(3), paragraphs (q)(1), (q)(4), (q)(5), (t)(1), (t)(2), (u)(1), (u)(3)(iv), (u)(4), (u)(5), (v)(1), (v)(2), (w)(1), (w)(2), and (w)(3), the first, second, and fourth sentences of paragraph (x), paragraphs (z)(1) and (z)(2), and the second sentence of paragraph (aa)(1) to read as follows:

§ 85.1807 Public hearings.

(a) * * *

(6) "Environmental Appeals Board" shall mean the Board within the Agency described in § 1.25 of this title. The Administrator delegates authority to the Environmental Appeals Board to issue final decisions in appeals filed under this subpart. Appeals directed to the Administrator, rather than to the Environmental Appeals Board, will not be considered. This delegation of authority to the Environmental Appeals Board does not preclude the Environmental Appeals Board from referring an appeal or a motion filed under this subpart to the Administrator for decision when the Environmental Appeals Board, in its discretion, deems it appropriate to do so. When an appeal or motion is referred to the Administrator, all parties shall be so notified and the rules in this part referring to the Environmental Appeals Board shall be interpreted as referring to the Administrator.

* * * * *

(o) * * *

(2) Within ten days after service of any motion filed pursuant to this section, or within such other time as may be fixed by the Environmental Appeals Board or the Presiding Officer, as appropriate, any party may serve and file an answer to the motion. The movant shall, if requested by the Environmental Appeals Board or the Presiding Officer, as appropriate, serve and file reply papers within the time set by the request.

(3) * * * The Environmental Appeals Board shall rule upon all motions filed prior to the appointment of a Presiding Officer and all motions filed after the filing of the decision of the Presiding Officer or accelerated decision. Oral argument of motions will be permitted only if the Presiding Officer or the Environmental Appeals Board, as appropriate, deems it necessary.

* * * * *

(q) *Interlocutory appeal.* (1) An interlocutory appeal may be taken to the Environmental Appeals Board either (i) with the consent of the Presiding Officer and where he certifies on the record or in writing that the allowance of an interlocutory appeal is clearly necessary to prevent exceptional delay, expense or prejudice to any party or substantial detriment to the public interest, or (ii) absent the consent of the Presiding Officer, by permission of the Environmental Appeals Board.

* * * * *

(4) Applications to file such appeals absent consent of the Presiding Officer shall be filed with the Environmental Appeals Board within 5 days of the denial of any appeal by the Presiding Officer.

(5) The Environmental Appeals Board will consider the merits of the appeal on the application and any answers thereto. No oral argument will be heard nor other briefs filed unless the Environmental Appeals Board directs otherwise.

* * * * *

(t) * * * (1) Unless extended by the Environmental Appeals Board, the Presiding Officer shall issue and file with the Hearing Clerk his decision within 30 days after the period for filing proposed findings as provided for in paragraph (s) of this section has expired.

(2) The Presiding Officer's decision shall become the opinion of the Environmental Appeals Board (i) when no notice of intention to appeal as described in paragraph (u) of this section is filed, 30 days after the issuance thereof, unless in the interim the Environmental Appeals Board shall have taken action to review or stay the effective date of the decision; or (ii) when a notice of intention to appeal is filed but the appeal is not perfected as required by paragraph (u) of this section, 5 days after the period allowed for perfection of an appeal has expired unless within that 5 day period, the

Environmental Appeals Board shall have taken action to review or stay the effective date of the decision.

* * * * *

(u) * * * (1) Any party to a proceeding may appeal the Presiding Officer's decision to the Environmental Appeals Board, *Provided*, That within 10 days after issuance of the Presiding Officer's decision such party files a notice of intention to appeal and an appeal brief within 30 days of such decision.

* * * * *

(3) * * * Any brief filed pursuant to this paragraph shall contain in the order indicated, the following:

* * * * *

(iv) A proposed form of rule or order for the Environmental Appeals Board's consideration if different from the rule or order contained in the Presiding Officer's decision.

(4) No brief in excess of 40 pages shall be filed without leave of the Environmental Appeals Board.

(5) Oral argument will be allowed in the discretion of the Environmental Appeals Board.

(v) * * * (1) If, after the expiration of the period for taking an appeal as provided for by paragraph (u) of this section, no notice of intention to appeal the decision of the Presiding Officer has been filed, or if filed, not perfected, the Hearing Clerk shall so notify the Environmental Appeals Board.

(2) The Environmental Appeals Board, upon receipt of notice from the Hearing Clerk that no notice of intention to appeal has been filed, or if filed, not perfected pursuant to paragraph (u) of this section, may, on its own motion, within the time limits specified in paragraph (t)(2) of this section, review the decision of the Presiding Officer. Notice of the intention of the Environmental Appeals Board to review the decision of the Presiding Officer shall be given to all parties and shall set forth the scope of such review and the issue which shall be considered and shall make provision for filing of briefs.

(w) * * * (1) Upon appeal from or review of the Presiding Officer's decision, the Environmental Appeals Board shall consider such parts of the record as are cited or as may be necessary to resolve the issues presented and, in addition shall to the extent necessary or desirable exercise all the powers which it could have exercised if it had presided at the hearing.

(2) In rendering its decision, the Environmental Appeals Board shall adopt, modify, or set aside the findings, conclusions, and rule or order contained in the decision of the Presiding Officer and shall set forth in its decision a statement of the reasons or bases for its action.

(3) In those cases where the Environmental Appeals Board determines that it should have further information or additional views of the parties as to the form and content of the rule or order to be issued, the Environmental Appeals Board, in its discretion, may withhold final action pending the receipt of such additional information or views, or may remand the case to the Presiding Officer.

(x) * * * Within twenty (20) days after issuance of the Environmental Appeals Board's decision, any party may file with the Environmental Appeals Board a petition for reconsideration of such decision, setting forth the relief desired and the grounds in support thereof. Any petition filed under this subsection must be confined to new questions raised by the decision or the final order and upon which the petitioner had no opportunity to argue before the Presiding Officer or the Environmental Appeals Board. * * * The filing of a petition for reconsideration shall not operate to stay the effective date of the decision or order or to toll the running of any statutory time period affecting such decision or order unless specifically so ordered by the Environmental Appeals Board.

* * * * *

(z) * * * (1) If, after the expiration of the period for taking an appeal as provided for by paragraph (u) of this section, no appeal has been taken from the Presiding Officer's decision, and, after the expiration of the period for review by the Environmental Appeals Board on its own motion as provided for by paragraph (v) of this section, the Environmental Appeals Board does not move to review such decision, the hearing will be deemed to have ended at the expiration of all periods allowed for such appeal and review.

(2) If an appeal of the Presiding Officer's decision is taken pursuant to paragraph (u) of this section, or if, in the absence of such appeal, the Environmental Appeals Board moves to review the decision of the Presiding Officer pursuant to paragraph (v) of this section, the hearing will be deemed to have ended upon the rendering of a final decision by the Environmental Appeals Board.

(aa) * * * (1) * * * Such officer shall be responsible for filing in the court the record on which the order of the Environmental Appeals Board is based.

* * * * *

2. Section 85.1808 is amended by revising paragraph (d) to read as follows:

§ 85.1808 Treatment of confidential information.

* * * * *

(d) If a claim is made that some or all of the information submitted pursuant to this subpart is entitled to confidential treatment, the information covered by that confidentiality claim will be disclosed by the Environmental Appeals Board only to the extent and by means of the procedures set forth in part 2, subpart B, of this chapter.

* * * * *

PART 86—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES; CERTIFICATION AND TEST PROCEDURES

1. The authority citation for part 86 continues to read as follows:

Authority: Secs. 202, 203, 206, 207, 208, 215, 301(a), of the Clean Air Act as amended; (42 U.S.C. 7521, 7522, 7524, 7525, 7541, 7542, 7549, 7550 and 7601(a)).

2. Section 86.614–84 is amended by revising paragraphs (b)(5) and (o)(2), the second and third sentences of paragraph (o)(3), paragraphs (s)(1), (s)(2), (t)(1), (t)(3)(iv), (t)(4), (t)(5), (u)(2), (u)(5), (v)(1), (v)(2), (w)(1), (w)(2), (w)(3), (w)(4), the first, second, and fourth sentences of paragraph (x), paragraphs (z)(1) and (z)(2), and the second sentence of paragraph (aa)(1) to read as follows:

§ 86.614–84 Hearings on suspensions, revocation, and voiding of certificates of conformity.

* * * * *

(b) * * *

(5) "Environmental Appeals Board" shall mean the Board within the Agency described in section 1.25 of this title. The Administrator delegates to the Environmental Appeals Board authority to issue final decisions in appeals filed under this subpart. Appeals directed by the Administrator, rather than to the Environmental Appeals Board, will not be considered. This delegation of authority to the Environmental Appeals Board does not preclude the Environmental Appeals Board from referring an appeal or a motion filed under this subpart to the Administrator for decision when the Environmental Appeals Board, in its discretion, deems it appropriate to do so. When an appeal or motion is referred to the Administrator, all parties shall be so notified and the rules in this part referring to the Environmental Appeals

Board shall be interpreted as referring to the Administrator.

(o) * * *

(2) Within such time as may be fixed by the Environmental Appeals Board or the Presiding Officer, as appropriate, any party may serve and file an answer to the motion. The movant shall, if requested by the Environmental Appeals Board or the Presiding Officer, as appropriate, serve and file reply papers within the time set by the request.

(3) * * * The Environmental Appeals Board shall rule upon all motions filed prior to the appointment of a Presiding Officer and all motions filed after the filing of the decision of the Presiding Officer or accelerated decision. Oral argument of motions will be permitted only if the Presiding Officer or the Environmental Appeals Board, as appropriate, deems it necessary.

* * * * *

(s) * * * (1) Unless extended by the Environmental Appeals Board, the Presiding Officer shall issue and file with the Hearing Clerk his decision within 14 days (or within 7 days in the case of a hearing requested under § 86.612(i)) after the period for filing proposed findings as provided for in paragraph (r) of this section has expired.

(2) The Presiding Officer's decision shall become the decision of the Environmental Appeals Board (i) when no notice of intention to appeal as described in paragraphs (t) and (u) of this section is filed, 10 days after issuance thereof, unless in the interim the Environmental Appeals Board shall have taken action to review or stay the effective date of the decision; or (ii), when a notice of intention to appeal is filed but the appeal is not perfected as required by paragraphs (t) or (u) of this section, 5 days after the period allowed for perfection of an appeal has expired unless within that 5 day period, the Environmental Appeals Board shall have taken action to review or stay the effective date of the decision.

* * * * *

(t) * * * (1) Any party to a proceeding may appeal the Presiding Officer's decision to the Environmental Appeals Board, *Provided*, That within 10 days after issuance of the Presiding Officer's decision such party files a notice of intention to appeal and an appeal brief within 20 days of such decision.

* * * * *

(3) * * *

(iv) A proposed order for the Environmental Appeals Board's consideration if different from the order contained in the Presiding Officer's decision.

(4) No brief in excess of 40 pages shall be filed without leave of the Environmental Appeals Board.

(5) Oral argument shall be allowed only in the discretion of the Environmental Appeals Board.

(u) * * *

(2) Any party to the proceeding may appeal the Presiding Officer's decision to the Environmental Appeals Board by filing a notice of appeal within 10 days.

* * * * *

(5) No brief in excess of 15 pages shall be filed without leave of the Environmental Appeals Board.

(v) * * * (1) If after the expiration of the period for taking an appeal as provided for by paragraph (t) or (u) of this section no notice of intention to appeal the decision of the Presiding Officer has been filed, or if filed, not perfected, the Hearing Clerk shall so notify the Environmental Appeals Board.

(2) The Environmental Appeals Board, upon receipt of notice from the Hearing Clerk that no notice of intention to appeal the decision of the Presiding Officer has been filed, or if filed, not perfected pursuant to paragraph (t) or (u) of this section, may, on its own motion, within the time limits specified in paragraph (s)(2) of this section, review the decision of the Presiding Officer. Notice of the intention of the Environmental Appeals Board to review the decision of the Presiding Officer shall be given to all parties and shall set forth the scope of such review and the issues which shall be considered and shall make provision for filing of briefs.

(w) * * * (1) Upon appeal from or review of the Presiding Officer's decision, the Environmental Appeals Board shall consider such parts of the record as are cited or as may be necessary to resolve the issues presented and in addition shall, to the extent necessary or desirable, exercise all the powers which it could have exercised if it had presided at the hearing.

(2) In rendering its decision, the Environmental Appeals Board shall adopt, modify or set aside the findings, conclusions, and order contained in the decision of the Presiding Officer and shall set forth in its decision a statement of the reasons or bases for its action.

(3) In those cases where the Environmental Appeals Board determines that it should further information or additional views of the parties as to the form and content of the rule or order to be issued, the Environmental Appeals Board, in its discretion, may withhold final action pending the receipt of such additional information or views, or may remand the case to the Presiding Officer.

(4) Any decision rendered under this paragraph which completes disposition of a case shall be a final decision of the Environmental Appeals Board.

(x) * * * Within twenty (20) days after issuance of the Environmental Appeals Board's decision, any party may file with the Environmental Appeals Board a petition for reconsideration of such decision, setting forth the relief desired and the grounds in support thereof. Any petition filed under this subsection must be confined to new questions raised by the decision or final order and upon which the petitioner had no opportunity to argue before the Presiding Officer or the Environmental Appeals Board; *Provided, however*, That in the case of a hearing requested under § 86.612(i) such new questions shall be limited to the issues specified in paragraph (c)(2)(ii) of this section. * * * The filing of a petition for reconsideration shall not operate to stay the effective date of the decision or order or to toll the running of any statutory time period affecting such decision or order unless specifically so ordered by the Environmental Appeals Board.

* * * * *

(z) * * * (1) If, after the expiration of the period for taking an appeal as provided for by paragraph (t) and (u) of this section, no appeal has been taken from the Presiding Officer's decision, and after the expiration of the period for review by the Environmental Appeals Board on its own motion as provided for by paragraph (v) of this section, the Environmental Appeals Board does not move to review such decision, the hearing will be deemed to have ended at the expiration of all periods allowed for such appeal and review.

(2) If an appeal of the Presiding Officer's decision is taken pursuant to paragraphs (t) and (u) of this section, or if, in the absence of such appeal, the Environmental Appeals Board moves to review the decision of the Presiding Officer pursuant to paragraph (v) of this section, the hearing will be deemed to have ended upon rendering of a final decision by the Environmental Appeals Board.

(aa) * * * (1) * * * Such officer shall be responsible for filing in the court the record on which the order of the Environmental Appeals Board is based.

* * * * *

3. Section 86.615–84 is amended by revising paragraph (d) to read as follows:

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§ 86.615–84 Treatment of confidential information.

* * * * *

(d) If a claim is made that some or all of the information submitted pursuant to this subpart is entitled to confidential treatment, the information covered by that confidentiality claim will be disclosed by the Environmental Appeals Board only to the extent and by means of the procedures set forth in part 2, subpart B, of this chapter.

* * * * *

4. Section 86.1014–84 is amended by revising paragraphs (b)(5) and (o)(2), the second and third sentences of paragraph (o)(3), paragraphs (s)(1), (s)(2), (s)(2)(i), (s)(2)(ii), (t)(1), (t)(3)(iv), (t)(4), (t)(5), (u)(2), (u)(5), (v)(1), (v)(2), (w)(1), (w)(2), (w)(3), (w)(4), and (x)(1), the second sentence of paragraph (x)(2), paragraphs (z)(1) and (z)(2), and the second sentence of (aa)(1) to read as follows:

§ 86.1014–84 Hearings on suspension, revocation and voiding of certificate of conformity.

* * * * *

(b) * * *

(5) *Environmental Appeals Board* shall mean the Board within the Agency described in § 1.25 of this title. The Administrator delegates authority to the Environmental Appeals Board to issue final decisions in appeals filed under this subpart. Appeals directed to the Administrator, rather than to the Environmental Appeals Board, will not be considered. This delegation of authority to the Environmental Appeals Board does not preclude the Environmental Appeals Board from referring an appeal or a motion filed under this subpart to the Administrator for decision when the Environmental Appeals Board, in its discretion, deems it appropriate to do so. When an appeal or motion is referred to the Administrator, all parties shall be so notified and the rules in this part referring to the Environmental Appeals Board shall be interpreted as referring to the Administrator.

* * * * *

(o) * * *

(2) Within the time fixed by the Environmental Appeals Board or the Presiding Officer, as appropriate, any party may serve and file an answer to the motion. The movant shall, if requested by the Environmental Appeals Board or the Presiding Officer, as appropriate, serve and file reply papers within the time set by the request.

(3) * * * The Environmental Appeals Board shall rule upon all motions filed prior to the appointment of a Presiding Officer and all motions filed after the filing of the decision of the Presiding Officer or accelerated decision. Oral argument of motions will be permitted only if the Presiding Officer or the Environmental Appeals Board, as appropriate, considers it necessary.

* * * * *

(s) * * * (1) Unless extended by the Environmental Appeals Board, the Presiding Officer shall issue and file with the Hearing Clerk his decision within fourteen (14) days (or within seven (7) days in the case of a hearing requested under § 86.1012–84(1)) after the period for filing proposed findings as provided for in paragraph (r) of this section has expired.

(2) The Presiding Officer's decision shall become the decision of the Environmental Appeals Board:

(i) When no notice of intention to appeal as described in paragraphs (t) and (u) of this section is filed, ten (10) days after issuance thereof, unless in the interim the Environmental Appeals Board shall have acted to review or stay the effective date of the decision; or

(ii) When a notice of intention to appeal is filed but the appeal is not perfected as required by paragraphs (t) or (u) of this section, five (5) days after the period allowed for perfection of an appeal has expired unless within that five (5) day period, the Environmental Appeals Board shall have acted to review or stay the effective date of the decision.

* * * * *

(t) * * * (1) Any party to a proceeding may appeal the Presiding Officer's decision to the Environmental Appeals Board: *Provided*, That within ten (10) days after issuance of the Presiding Officer's decision the party files a notice of intention to appeal and an appeal brief within twenty (20) days of the decision.

* * * * *

(3) * * *

(iv) A proposed order for the Environmental Appeals Board's consideration if different from the order contained in the Presiding Officer's decision.

(4) No brief in excess of 40 pages will be filed without leave of the Environmental Appeals Board.

(5) The Environmental Appeals Board may allow oral argument.

(u) * * *

(2) Any party to the proceeding may appeal the Presiding Officer's decision to the Environmental Appeals Board by filing a notice of appeal within ten (10) days.

* * * * *

(5) No brief in excess of fifteen (15) pages will be filed without leave of the Environmental Appeals Board.

(v) * * * (1) If after the expiration of the period for taking an appeal as provided for by paragraph (t) or (u) of this section, no notice of intention to appeal the decision of the Presiding Officer has been filed, or if filed, not perfected, the Hearing Clerk shall so notify the Environmental Appeals Board.

(2) The Environmental Appeals Board, upon receipt of notice from the Hearing Clerk that no notice of intention to appeal the decision of the Presiding Officer has been filed, or if filed, not perfected pursuant to paragraph (t) or (u) of this section, may, on its own motion, within the time limits specified in paragraph (s)(2) of this section, review the decision of the Presiding Officer. Notice of the intention of the Environmental Appeals Board to review the decision of the Presiding Officer shall be given to all parties and shall set forth the scope of such review and the issues to be considered and shall make provision for filing of briefs.

(w) * * * (1) Upon appeal from or review of the Presiding Officer's decision, the Environmental Appeals Board shall consider such parts of the record as are cited or as may be necessary to resolve the issues presented and in addition shall, to the extent necessary or desirable, exercise all the powers which it could have exercised if it had presided at the hearing.

(2) In rendering its decision, the Environmental Appeals Board shall adopt, modify or set aside the findings, conclusions, and order contained in the decision of the Presiding Officer and shall set forth in its decision a statement of the reasons or basis for its action.

(3) In those cases where the Environmental Appeals Board determines that it should have further information or additional views of the parties as to the form and content of the rule or order to be issued, the Environmental Appeals Board, in its discretion, may withhold final action pending the receipt of such additional information or views, or may remand the case to the Presiding Officer.

(4) Any decision rendered under this paragraph which completes disposition of a case constitutes a final decision of the Environmental Appeals Board.

(x) * * * (1) Within twenty (20) days after issuance of the Environmental Appeals Board's decision, any party may file with the Environmental Appeals Board a petition for reconsideration of such decision, setting forth the relief desired and the grounds in support thereof. Any petition filed under this subsection must be confined to new questions raised by the decision or final order and upon which the petitioner had no opportunity to argue before the Presiding Officer or the Environmental Appeals Board: *Provided, however,* That in the case of a hearing requested under § 86.1012–84(1) such new questions shall be limited to the issues specified in paragraph (c)(2)(ii) of this section.

(2) * * * The filing of a petition for reconsideration shall not operate to stay the effective date of the decision or order or to toll the running of any statutory time period affecting such decision or order unless specifically so ordered by the Environmental Appeals Board.

* * * * *

(z) * * * (1) If, after the expiration of the period for taking an appeal as provided for by paragraphs (t) and (u) of this section, no appeal has been taken from the Presiding Officer's decision, and after the expiration of the period for review by the Environmental Appeals Board on its own motion as provided for by paragraph (v) of this section, the Environmental Appeals Board does not move to review such decision, the hearing is considered ended at the expiration of all periods allowed for the appeal and review.

(2) If an appeal of the Presiding Officer's decision is taken pursuant to paragraphs (t) and (u) of this section, or if, in the absence of this appeal, the Environmental Appeals Board moves to review the decision of the Presiding Officer pursuant to paragraph (v) of this section, the hearing is considered ended upon rendering of a final decision by the Environmental Appeals Board.

(aa) * * * (1) * * * This officer shall be responsible for filing in the court the record of which the order of the Environmental Appeals Board is based.

* * * * *

(5) Section 86.1015–84 is amended by revising paragraph (d) to read as follows:

§ 86.1015–84 Treatment of confidential information.

* * * * *

(d) If a claim is made that some or all of the information submitted pursuant to this subpart is entitled to confidential treatment, the information covered by that confidentiality claim will be disclosed by the Environmental Appeals Board only to the extent and by means of the procedures set forth in part 2, subpart B, of this chapter.

* * * * *

6. Section 86.1115–87 is amended by revising paragraphs (b)(5) and (o)(2), the second sentence of (o)(3), paragraphs (s)(1), (s)(2), (t)(1), (t)(3)(iv), (t)(4), (t)(5), (u)(1), (u)(2), (v)(1), (v)(2), (v)(3), and (v)(4), the first, second, third, and fifth sentences of paragraph (w), paragraphs (y)(1) and (y)(2), and the second sentence of paragraph (z)(1) to read as follows:

§ 86.1115–87 Hearing procedures for nonconformance determinations and penalties.

* * * * *

(b) * * *

(5) *Environmental Appeals Board* shall mean the Board within the Agency described in § 1.25 of this title. The Administrator delegates authority to the Environmental Appeals Board to issue final decisions in appeals filed under this subpart. Appeals directed to the Administrator, rather than to the Environmental Appeals Board, will not be considered. This delegation of authority to the Environmental Appeals Board does not preclude the Environmental Appeals Board from referring an appeal or a motion filed under this subpart to the Administrator for decision when the Environmental Appeals Board, in its discretion, deems it appropriate to do so. When an appeal or motion is referred to the Administrator, all parties shall be so notified and the rules in this part referring to the Environmental Appeals Board shall be interpreted as referring to the Administrator.

* * * * *

(o) * * *

(2) Within such time as may be fixed by the Environmental Appeals Board or the Presiding Officer, as appropriate, any party may serve and file an answer to the motion. The movant shall, if requested by the Environmental Appeals Board or the Presiding Officer, as appropriate, serve and file reply papers, within the time set by the request.

(3) * * * The Environmental Appeals Board shall rule upon all motions filed prior to the appointment of a Presiding Officer and all motions filed after the filing of the decision of the Presiding Officer or accelerated decision. Oral argument of motions will be permitted only if the Presiding Officer or the Environmental Appeals Board, as appropriate, deems it necessary.

* * * * *

(s) * * * (1) Unless extended by the Environmental Appeals Board, the Presiding Officer shall issue and file with the Hearing Clerk his decision within 30 days after the period for filing proposed findings has expired, as provided for in paragraph (c) of this section.

(2) The Presiding Officer's decision shall become the decision of the Environmental Appeals Board (i) 10 days after issuance thereof, if no notice of intention to appeal as described in paragraph (t) of this section is filed, unless in the interim the Environmental Appeals Board shall have taken action to review or stay the effective date of the decision; or (ii) 5 days after expiration of the period allowed by paragraph (t)(1) of this section for perfection of an appeal, if a notice of intention to appeal is filed but the appeal is not perfected, unless within that 5 day period the Environmental Appeals Board shall have taken action to review or stay the effective date of the decision;

* * * * *

(t) * * * (1) Any party to a proceeding may appeal the Presiding Officer's decision to the Environmental Appeals Board, *Provided,* That within 10 days after issuance of the Presiding Officer's decision such party files a notice of intention to appeal and an appeal brief within 20 days of such decision.

* * * * *

(3) * * *

(iv) A proposed order for the Environmental Appeals Board's consideration if different from the order contained in the Presiding Officer's decision.

(4) No brief in excess of 15 pages shall be filed without leave of the Environmental Appeals Board.

(5) Oral argument will be allowed only in the discretion of the Environmental Appeals Board.

(u) * * * (1) If, after the expiration of the period for taking an appeal as provided for by paragraph (t) of this section, no notice of intention to appeal the decision of the Presiding Officer has been filed, or if filed, not perfected, the Hearing Clerk shall so notify the Environmental Appeals Board.

(2) The Environmental Appeals Board, upon receipt of notice from the Hearing Clerk that no notice of intention to appeal has been filed, or if filed, not perfected pursuant to paragraph (t)(1) of this section, may, on its own motion, within 14 days after notice from the Hearing Clerk, review the decision of the Presiding Officer. Notice of the intention of the Environmental Appeals Board to review the decision of the

Presiding Officer shall be given to all parties and shall set forth the scope of such review and the issues which shall be considered and shall make provisions for filing of briefs.

(v) * * * (1) Upon appeal from or review of the Presiding Officer's the Environmental Appeals Board shall consider such parts of the record as are cited or as may be necessary to resolve the issues presented and in addition shall, to the extent necessary or desirable, exercise all the powers which it could have exercised if it had presided at the hearing.

(2) In rendering its decision, the Environmental Appeals Board shall adopt, modify, or set aside the findings, conclusions, and order contained in the decision of the Presiding Officer and shall set forth in its decision a statement of the reasons or bases for this action.

(3) In those cases where the Environmental Appeals Board determines that it should have further information or additional views of the parties as to the form and content of the rule or order to be issued, the Environmental Appeals Board, in its discretion, may without final action pending the receipt of such additional information or views, or may remand the case to the Presiding Officer.

(4) Any decision rendered under this paragraph which completed disposition of a case shall be a final decision of the Environmental Appeals Board.

(w) * * * Any party may file with the Environmental Appeals Board a petition for reconsideration of such decision setting forth the relief desired and the grounds in support thereof. This petition must be filed within 20 days of the issuance of the Environmental Appeals Board's decision, and must be confined to new questions raised by the decision or final order and which the petitioner had no opportunity to argue before the Presiding Officer or the Environmental Appeals Board, unless otherwise specified by the Environmental Appeals Board. Subsequent to the expiration of the period for petitioning for reconsideration, the Environmental Appeals Board may, in its discretion and for good cause shown, grant the manufacturer a hearing to contest the compliance level or the penalty calculation even though such issues may have been raised in the previous proceeding. * * * The filing of a petition for reconsideration shall not operate to stay the effective date of the decision or order or to toll the running of any statutory time period affecting such decision or order unless specifically so ordered by the Environmental Appeals Board.

* * * * *

(y) * * * (1) If, after the expiration of the period for taking an appeal as provided by paragraph (t) of this section, no appeal has been taken from the Presiding Officer's decision, and after the expiration of the period for review by the Environmental Appeals Board on its own motion as provided for by paragraph (u) of this section, the Environmental Appeals Board does not move to review such decision, the hearing will be deemed to have ended at the expiration of all periods allowed for such appeal and review.

(2) If an appeal of the Presiding Officer's decision is taken pursuant to paragraph (t) of this section, or if, in the absence of such appeal the Environmental Appeals Board moves to review the decision of the Presiding Officer pursuant to paragraph (u) of this section, the hearing will be deemed to have ended upon issuance of a final decision by the Environmental Appeals Board.

(z) * * * (1) * * * Such officer shall be responsible for filing in the court the record on which the order of the Environmental Appeals Board is based.

* * * * *

7. Section 86.1116–87 is amended by revising paragraph (d) to read as follows:

§ 86.1116–87 Treatment of confidential information.

* * * * *

(d) If a claim is made that some or all of the information submitted pursuant to this subpart is entitled to confidential treatment, the information covered by that confidentiality claim will be disclosed by the Environmental Appeals Board only to the extent and by means of the procedures set forth in part 2, subpart B, of this chapter.

* * * * *

PART 114—CIVIL PENALTIES FOR VIOLATION OF OIL POLLUTION PREVENTION REGULATIONS

1. The authority citation for part 114 continues to read as follows:

Authority: Secs. 311(j), 501(a), Pub. L. 92–500, 86 Stat. 868, 885 (33 U.S.C. 1321(j), 1361(a)).

2. Section 114.10 is amended by revising the last sentence to read as follows:

§ 114.10 Decision.

* * * The decision of the Presiding Officer shall become the final decision of the Environmental Protection Agency unless within fifteen (15) days from the date of receipt of such decision, the person assessed the penalty appeals the decision to the Environmental Appeals Board, or unless the Environmental Appeals Board shall have stayed the effectiveness of the decision pending review.

3. Section 114.11 is amended by removing paragraph (c), redesignating paragraph (b) as new paragraph (c), redesignating paragraph (a) as new paragraph (b), adding a new paragraph (a), revising newly redesignated paragraphs (b) and (c)(4) and paragraph (d) to read as follows:

§ 114.11 Appeal to the Environmental Appeals Board.

(a) The Administrator delegates authority to the Environmental Appeals Board (which is described in § 1.25 of this title) to issue final decisions in appeals filed under this part. An appeal directed to the Administrator, rather than to the Environmental Appeals Board, will not be considered. This delegation does not preclude the Environmental Appeals Board from referring an appeal or a motion filed under this part to the Administrator when the Environmental Appeals Board, in its discretion, deems it appropriate to do so. When an appeal or motion is referred to the Administrator, all parties shall be so notified and the rules in this part referring to the Environmental Appeals Board shall be interpreted as referring to the Administrator.

(b) The person assessed a penalty in the Presiding Officer's determination shall have the right to appeal an adverse decision to the Environmental Appeals Board upon filing a written Notice of Appeal in the form required by paragraph (c) of this section within fifteen (15) days of the date of the receipt of the Presiding Officer's decision.

(c) * * *

(4) Contain a concise statement setting forth the action which the person proposes that the Environmental Appeals Board take.

(d) The Environmental Appeals Board, after a Notice of Appeal in proper form has been filed, shall render a decision with respect to the appeal promptly. In rendering its decision, the Environmental Appeals Board may adopt, modify, or set aside the decision of the Presiding Officer in any respect and shall include in its decision a concise statement of the basis therefor. The decision of the Environmental Appeals Board on appeal shall be effective when rendered.

PART 123—STATE PROGRAM REQUIREMENTS

1. The authority citation for part 123 continues to read as follows:

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

2. Section 123.64 is amended by revising paragraph (b)(3)(ii)(B) to read as follows:

§ 123.64 Procedures for withdrawal of State programs.

* * * * *

(b) * * *

(3)(ii) * * *

(B) *Ex parte discussion of proceedings.* At no time after the issuance of the order commencing proceedings shall the Administrator, the Regional Administrator, the Regional Judicial Officer, the Presiding Officer, or any other person who is likely to advise these officials in the decision on the case, discuss ex parte the merits of the proceeding with any interested person outside the Agency, with any Agency staff member who performs a prosecutorial or investigative function in such proceeding or a factually related proceeding, or with any representative of such person. Any ex parte memorandum or other communication addressed to the Administrator, the Regional Administrator, the Regional Judicial Officer, or the Presiding Officer during the pendency of the proceeding and relating to the merits thereof, by or on behalf of any party, shall be regarded as argument made in the proceeding and shall be served upon all other parties. The other parties shall be given an opportunity to reply to such memorandum or communication.

* * * * *

PART 124—PROCEDURES FOR DECISIONMAKING

1. The authority citation for part 124 continues to read as follows:

Authority: Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*; Safe Drinking Water Act, 42 U.S.C. 300(f) *et seq.*; Clean Water Act, 33 U.S.C. 1251 *et seq.*; and Clean Air Act, 42 U.S.C. 1857 *et seq.*

2. Section 124.2 is amended by adding a definition of "Environmental Appeals Board" in alphabetical order to read as follows:

§ 124.2 Definitions.

* * * * *

Environmental Appeals Board shall mean the Board within the Agency described in § 1.25(e) of this title. The Administrator delegates authority to the Environmental Appeals Board to issue final decisions in RCRA, PSD, or UIC permit appeals filed under this subpart. An appeal directed to the Administrator, rather than to the Environmental Appeals Board, will not be considered. This delegation does not preclude the Environmental Appeals Board from referring an appeal or a motion under this subpart to the Administrator when the Environmental Appeals Board, in its discretion, deems it appropriate to do so. When an appeal or motion is referred to the Administrator by the Environmental Appeals Board, all parties shall be so notified and the rules in this subpart referring to the Environmental Appeals Board shall be interpreted as referring to the Administrator.

* * * * *

3. Section 124.19 is amended by revising the first sentence of the paragraph (a) introductory text, paragraphs (a)(2) and (b), the first and third sentences of paragraph (c), the paragraph (d) introductory text, paragraphs (e) and (f)(1) (i), (ii) and (iii) and by adding paragraph (g) to read as follows:

§ 124.19 Appeal of RCRA, UIC, and PSD permits.

(a) Within 30 days after a RCRA, UIC, or PSD final permit decision (or a decision under § 270.29 to deny a permit for the active life of a RCRA hazardous waste management facility or unit) has been issued under § 124.15, any person who filed comments on that draft permit or participated in the public hearing may petition the Environmental Appeals Board to review any condition of the permit decision. * * *

* * * * *

(2) An exercise of discretion or an important policy consideration which the Environmental Appeals Board should, in its discretion, review.

(b) The Environmental Appeals Board may also decide on its initiative to review any condition of any RCRA, UIC, or PSD permit issued under this part. The Environmental Appeals Board must act under this paragraph within 30 days of the service date of notice of the Regional Administrator's action.

(c) Within a reasonable time following the filing of the petition for review, the Environmental Appeals Board shall issue an order granting or denying the petition for review. * * * Public notice of any grant of review by the Environmental Appeals Board under paragraph (a) or (b) of this section shall be given as provided in § 124.10. * * *

(d) The Environmental Appeals Board may defer consideration of an appeal of a RCRA or UIC permit under this section until the completion of formal proceedings under subpart E or F relating to an NPDES permit issued to the same facility or activity upon concluding that:

* * * * *

(e) A petition to the Environmental Appeals Board under paragraph (a) of this section is, under 5 U.S.C. 704, a prerequisite to the seeking of judicial review of the final agency action.

(f)(1) * * *

(i) When the Environmental Appeals Board issues notice to the parties that review has been denied;

(ii) When the Environmental Appeals Board issues a decision on the merits of the appeal and the decision does not include a remand of the proceedings; or

(iii) Upon the completion of remand proceedings if the proceedings are remanded, unless the Environmental Appeals Board's remand order specifically provides that appeal of the remand decision will be required to exhaust administrative remedies.

* * * * *

(g) Motions to reconsider a final order shall be filed within ten (10) days after service of the final order. Every such motion must set forth the matters claimed to have been erroneously decided and the nature of the alleged errors. Motions for reconsideration under this provision shall be directed to, and decided by, the Environmental Appeals Board. Motions for reconsideration directed to the administrator, rather than to the Environmental Appeals Board, will not be considered, except in cases that the Environmental Appeals Board has referred to the Administrator pursuant to § 124.2 and in which the Administrator has issued the final order. A motion for reconsideration shall not stay the effective date of the final order unless specifically so ordered by the Environmental Appeals Board.

4. Section 124.72 is amended by removing the definition of "Judicial Officer" and by adding the definition of "Environmental Appeals Board" in alphabetical order to read as follows:

§ 124.72 Definitions.

* * * * *

Environmental Appeals Board shall mean the Board within the Agency described in § 1.25 of this title. The Administrator delegates authority to the Environmental Appeals Board to issue final decisions in NPDES appeals filed under this subpart. An appeal directed to the Administrator, rather than to the Environmental Appeals Board, will not be considered. This delegation does not preclude the Environmental Appeals Board from referring an appeal or a motion to the Administrator when the

Environmental Appeals Board, in its discretion, deems it appropriate to do so. When an appeal or motion is referred to the Administrator by the Environmental Appeals Board, all parties shall be so notified and the rules in this subpart referring to the Environmental Appeals Board shall be interpreted as referring to the Administrator.

5. Section 124.74 is amended by revising the third and fourth sentences of the explanatory note at the end of paragraph (b)(1) to read as follows:

§ 124.74 Request for evidentiary hearing.

* * * * *

(b)(1) * * *

Note: * * * However, on review of the denial the Environmental Appeals Board is authorized by § 124.91(a)(1) to review policy or legal conclusions of the Regional Administrator. EPA is requiring an appeal to the Environmental Appeals Board even of purely legal issues involved in a permit decision to ensure that the Environmental Appeals Board will have an opportunity to review any permit before it will be final and subject to judicial review.

* * * * *

6. Section 124.75 is amended by revising the second sentence of paragraph (b) to read as follows:

§ 124.75 Decision on request for a hearing.

* * * * *

(b) * * * That denial is subject to review by the Environmental Appeals Board under § 124.91.

7. Section 124.78 is amended by revising the first sentence of paragraph (a)(2) to read as follows:

§ 124.75 Ex parte communications.

(a) * * *

(2) *Decisional body* means any Agency employee who is or may reasonably be expected to be involved in the decisional process of the proceeding including the Administrator, the members of the Environmental Appeals Board, the Presiding Officer, the Regional Administrator (if he or she does not designate himself or herself as a member of the Agency trial staff), and any of their staff participating in the decisional process. * * *

8. Section 124.89 is amended by revising paragraphs (b)(1) and (b)(2) to read as follows:

§ 124.89 Decisions.

* * * * *

(b) * * *

(1) A party files a petition for review by the Environmental Appeals Board pursuant to § 124.91; or

(2) The Environmental Appeals Board *sua sponte* files a notice that it will review the decision pursuant to § 124.91.

9. Section 124.90 is amended by revising the first and second sentences of paragraph (a), the paragraph (b) introductory text, all but the next to the last sentence of paragraph (c), and paragraph (d) to read as follows:

§ 124.90 Interlocutory appeal.

(a) Except as provided in this section, appeals to the Environmental Appeals Board may be taken only under § 124.91. Appeals from orders or rulings may be taken under this section only if the Presiding Officer, upon motion of a party, certifies those orders or rulings to the Environmental Appeals Board for appeal on the record. * * *

(b) The Presiding Officer may certify an order or ruling for appeal to the Environmental Appeals Board if:

* * * * *

(c) If the Environmental Appeals Board decides that certification was improperly granted, it shall decline to hear the appeal. The Environmental Appeals Board shall accept or decline all interlocutory appeals within 30 days of their submission; if the Environmental Appeals Board takes no action within that time, the appeal shall be automatically dismissed. When the Presiding Officer declines to certify an order or ruling to the Environmental Appeals Board for an interlocutory appeal, it may be reviewed by the Environmental Appeals Board only upon appeal from the initial decision of the Presiding Officer, except when the Environmental Appeals Board determines, upon motion of a party and in exceptional circumstances, that to delay review would not be in the public interest. Such motion shall be made within 5 days after receipt of notification that the Presiding Officer has refused to certify an order or ruling for interlocutory appeal to the Environmental Appeals Board. * * * The Environmental Appeals Board may, however, allow briefs and oral argument.

(d) In exceptional circumstances, the Presiding Officer may stay the proceeding pending a decision by the Environmental Appeals Board upon an order or ruling certified by the Presiding Officer for an interlocutory appeal, or upon the denial of such certification by the Presiding Officer.

* * * * *

10. Section 124.91 is amended by revising the first sentence of the paragraph (a)(1) introductory text, paragraphs (a)(1)(ii), (a)(3), (b), (c)(1), (c)(2), (d), (e), (f), the first, fourth, and fifth sentences of paragraph (g), paragraph (h), and by adding a new paragraph (i) to read as follows:

§ 124.91 Appeal to the Environmental Appeals Board.

(a)(1) Within 30 days after service of an initial decision, or a denial in whole or in part of a request for an evidentiary hearing, any party or requester, as the case may be, may appeal any matter set forth in the initial decision or denial, or any adverse order or ruling to which the party objected during the hearing, by filing with the Environmental Appeals Board notice of appeal and petition for review. * * *

* * * * *

(ii) An exercise of discretion or policy which is important and which the Environmental Appeals Board should review.

* * * * *

(3) Policy decisions made or legal conclusions drawn in the course of denying a request for an evidentiary hearing may be reviewed and changed by the Environmental Appeals Board in an appeal under this section.

(b) Within 30 days of an initial decision or denial of a request for an evidentiary hearing, the Environmental Appeals Board may, *sua sponte*, review such decision. Within 7 days after the Environmental Appeals Board has decided under this section to review an initial decision or the denial of a request for an evidentiary hearing, notice of that decision shall be served by mail upon all affected parties and the Regional Administrator.

(c)(1) Within a reasonable time following the filing of the petition for review, the Environmental Appeals Board shall issue an order either granting or denying the petition for review. When the Environmental Appeals Board grants a petition for review or determines under paragraph (b) of this section to review a decision, the Environmental Appeals Board may notify the parties that only certain issues shall be briefed.

(2) Upon granting a petition for review, the Regional Hearing Clerk shall promptly forward a copy of the record to the Environmental Appeals Board and shall retain a complete duplicate copy of the record in the Regional Office.

(d) Notwithstanding the grant of a petition for review or a determination under paragraph (b) of this section to review a decision, the Environmental Appeals Board may summarily affirm without opinion an initial decision or the denial of a request for an evidentiary hearing.

(e) A petition to the Environmental Appeals Board under paragraph (a) of this section for review of any initial decision or the denial of an evidentiary hearing is, under 5 U.S.C. 704, a prerequisite to the seeking of judicial review of the final decision of the Agency.

(f) If a party timely files a petition for review or if the Environmental Appeals Board *sua sponte* orders review, then, for purposes of judicial review, final Agency action on an issue occurs as follows:

(1) If the Environmental Appeals Board denies review or summarily affirms without opinion as provided in § 124.91(d), then the initial decision or denial becomes the final Agency action and occurs upon the service of notice of the Environmental Appeals Board's action.

(2) If the Environmental Appeals Board issues a decision without remanding the proceeding then the final permit, redrafted as required by the Environmental Appeals Board's original decision, shall be reissued and served upon all parties to the appeal.

(3) If the Environmental Appeals Board issues a decision remanding the proceeding, then final Agency action occurs upon completion of the remanded proceeding, inlcuding any appeals to the Environmental Appeals Board from the results of the remanded proceeding.

(g) The petitioner may file a brief in support of the petition within 21 days after the Environmental Appeals Board has granted a petition for review. * * * Any person may file an *amicus brief* for the consideration of the Environmental Appeals Board within the same time periods that govern reply briefs. If the Environmental Appeals Board determines, *sua sponte*, to review an initial Regional Administrator's decision or the denial of a request for an evidentiary hearing, the Environmental Appeals Board shall notify the parties of the schedule for filing briefs.

(h) Review by the Environmental Appeals Board of an initial decision or the denial of an evidentiary hearing shall be limited to the issues specified under paragraph (a) of this section, except that after notice to all the parties, the Environmental Appeals Board may raise and decide other matters which it considers material on the basis of the record.

(i) Motions to reconsider a final order shall be filed within ten (10) days after service of the final order. Every such motion must set forth the matters claimed to have been erroneously decided and the nature of the alleged errors. Motions for reconsideration under this provision shall be directed to, and decided by, the Environmental Appeals Board. Motions for reconsideration directed to the Administrator, rather than to the Environmental Appeals Board, will not be considered, except in cases that the Environmental Appeals Board has referred to the Administrator pursuant to § 124.72 and in which the Administrator has issued the final order. A motion for reconsideration shall not stay the effective date of the final order unless specifically so ordered by the Environmental Appeals Board.

11. Section 124.115 is amended by revising the second sentence to read as follows:

§ 124.115 Effect of denial of or absence of request for hearing.

* * * Any person whose hearing request has been denied may then appeal that recommended decision to the Environmental Appeals Board as provided in § 124.91.

12. Section 124.124 is amended by revising the last sentence to read as follows:

§ 124.124 Recommended decision.

* * * After the recommended decision has been filed, the Regional Hearing Clerk shall serve a copy of that decision on each party and upon the Environmental Appeals Board.

13. Section 124.125 is revised to read as follows:

§ 124.125 Appeal from or review of recommended decision.

Within 30 days after service of the recommended decision, any party may take exception to any matter set forth in that decision or to any adverse order or ruling of the Presiding Officer to which that party objected, and may appeal those exceptions to the Environmental Appeals Board as provided in § 124.91, except that references to the "initial decision" will mean recommended decision under § 124.124.

14. Section 124.126 is revised to read as follows:

§ 124.126 Final decision.

As soon as practicable after all appeal proceedings have been completed, the Environmental Appeals Board shall issue a final decision. The Environmental Appeals Board may consult with the Presiding Officer, members of the hearing panel, or any other EPA employee other than members of the Agency Trial Staff under § 124.78 in preparing the final decision. The Hearing Clerk shall file a copy of the decision on all parties.

15. Section 124.127 is revised to read as follows:

§ 124.127 Final decision if there is no review.

If no party appeals a recommended decision to the Environmental Appeals Board, and if the Environmental Appeals Board does not elect to review it, the recommended decision becomes the final decision of the Agency upon the expiration of the time for filing any appeals.

16. Section 124.128 is revised to read as follows:

§ 124.128 Delegation of authority; time limitations.

(a) The Administrator delegates authority to the Environmental Appeals Board (which is described in § 1.25 of this title) to issue final decisions in appeals filed under this subpart. An appeal directed to the Administrator, rather than to the Environmental Appeals Board, will not be considered. This delegation does not preclude the Environmental Appeals Board from referring an appeal or a motion filed under this subpart to the Administrator when the Environmental Appeals Board, in its discretion, deems it appropriate to do so. When an appeal or motion is referred to the Administrator by the Environmental Appeals Board, all parties shall be so notified and the rules in this subpart referring to the Environmental Appeals Board shall be interpreted as referring to the Administrator.

(b) The failure of the Environmental Appeals Board, the Regional Administrator, or the Presiding Officer to do any act within the time periods specified under this part shall not waive or diminish any right, power, or authority of the United States Environmental Protection Agency.

(c) Upon a showing by any party that it has been prejudiced by a failure of the Environmental Appeals Board, the Regional Administrator, or the Presiding Officer to do any act within the time periods specified under this part, the Environmental Appeals Board, the Regional Administrator, and the Presiding Officer, as the case may be, may grant that party such relief of a procedural nature (including extension of any time for compliance or other action) as may be appropriate.

17. In appendix A to part 124 figure 1 is amended by revising 1.c.ii, 6.a, and the second sentence of 7, and by revising the second sentence of the second paragraph of 4 in Figure 2 to read as follows:

Appendix A to Part 124—Guide to Decisionmaking Under Part 124

* * * * *

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Figure 1—Conventional EPA Permitting Procedures

* * * * *

1. * * *
c. * * *
ii. If the request is denied, an informal appeal to the Environmental Appeals Board is available.

* * * * *

6. * * *

a. RCRA, UIC, or PSD permits standing alone will be appealed directly to the Environmental Appeals Board under § 124.9.

* * * * *

7. * * * Procedures for appeal to the Environmental Appeals Board under § 124.19 are self-explanatory; subpart F procedures are diagrammed in Figure 2; and subpart E procedures are basically the same that would apply in any evidentiary hearing.

Figure 2—Non-Adversary Panel Procedures

* * * * *

4. * * *

* * * The recommended decision may then be appealed to the Environmental Appeals Board. See § 124.115.

* * * * *

18. The flow chart at the end of appendix A under the heading "Figure 2-Non-Adversary Panel Procedures" is revised to read as follows:

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Figure 2-Non-Adversary Panel Procedures

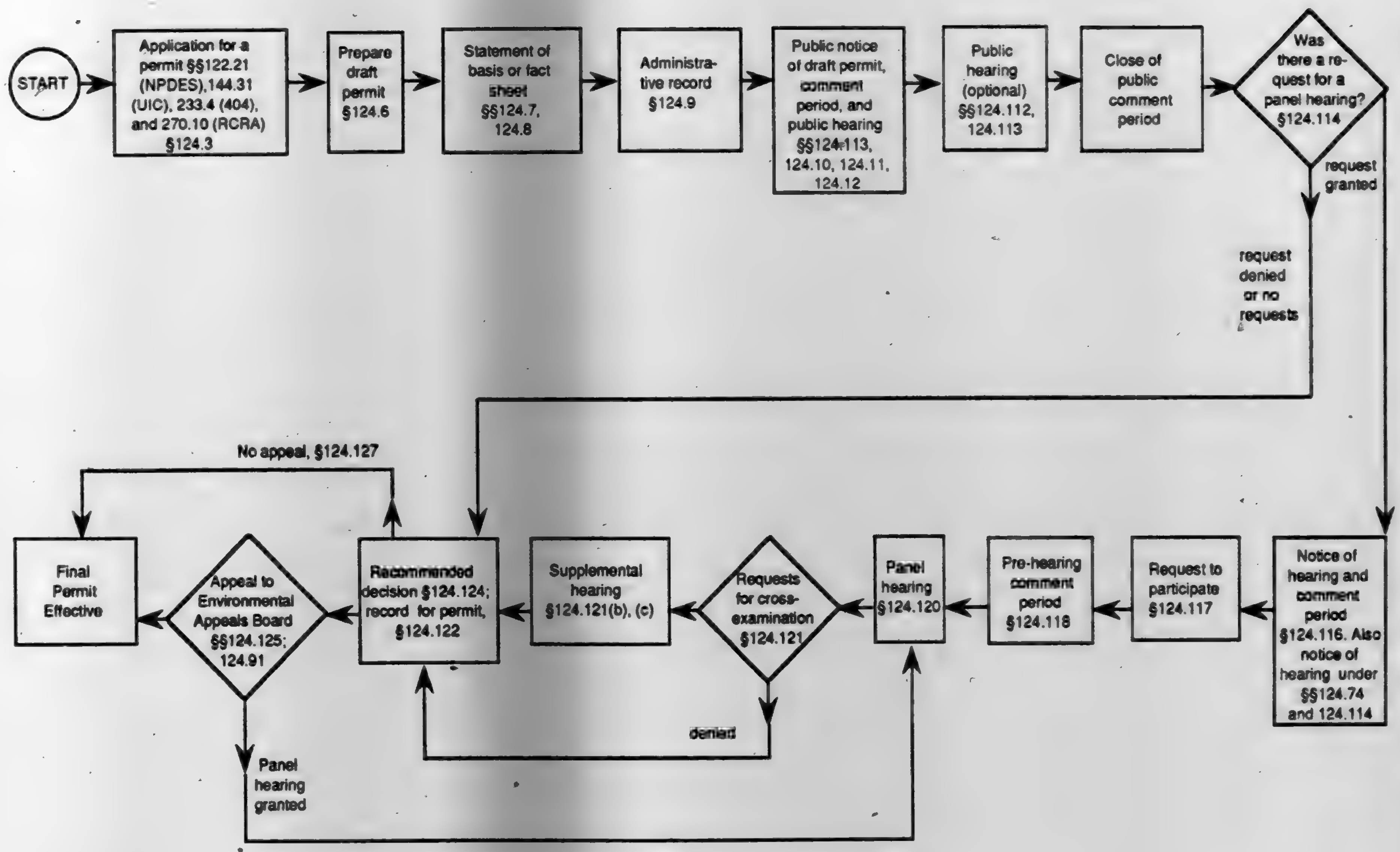
START
Application for a permit §§122.21 (NPDES),144.31 (UIC), 233.4 (404), and 270.10 (RCRA) §124.3
Prepare draft permit §124.6
Statement of basis or fact sheet §§124.7, 124.8
Administra-tive record §124.9
Public notice of draft permit, comment period, and public hearing §§124.113, 124.10, 124.11, 124.12
Public hearing (optional) §§124.112, 124.113
Close of public comment period
Was there a re-quest for a panel hearing? §124.114
request granted
request denied or no requests
Notice of hearing and comment period §124.116. Also notice of hearing under §§124.74 and 124.114
Request to participate §124.117
Pre-hearing comment period §124.118
Panel hearing §124.120
Requests for cross-examination §124.121
denied
Supplemental hearing §124.121(b), (c)
Recommended decision §124.124; record for permit, §124.122
No appeal, §124.127
Appeal to Environmental Appeals Board §§124.125; 124.91
Panel hearing granted
Final Permit Effective

BILLING CODE 6560-50-C

19. The flow chart at the end of appendix A under the heading "EPA Appeal Procedures" is revised to read as follows:

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EPA Appeal Procedures

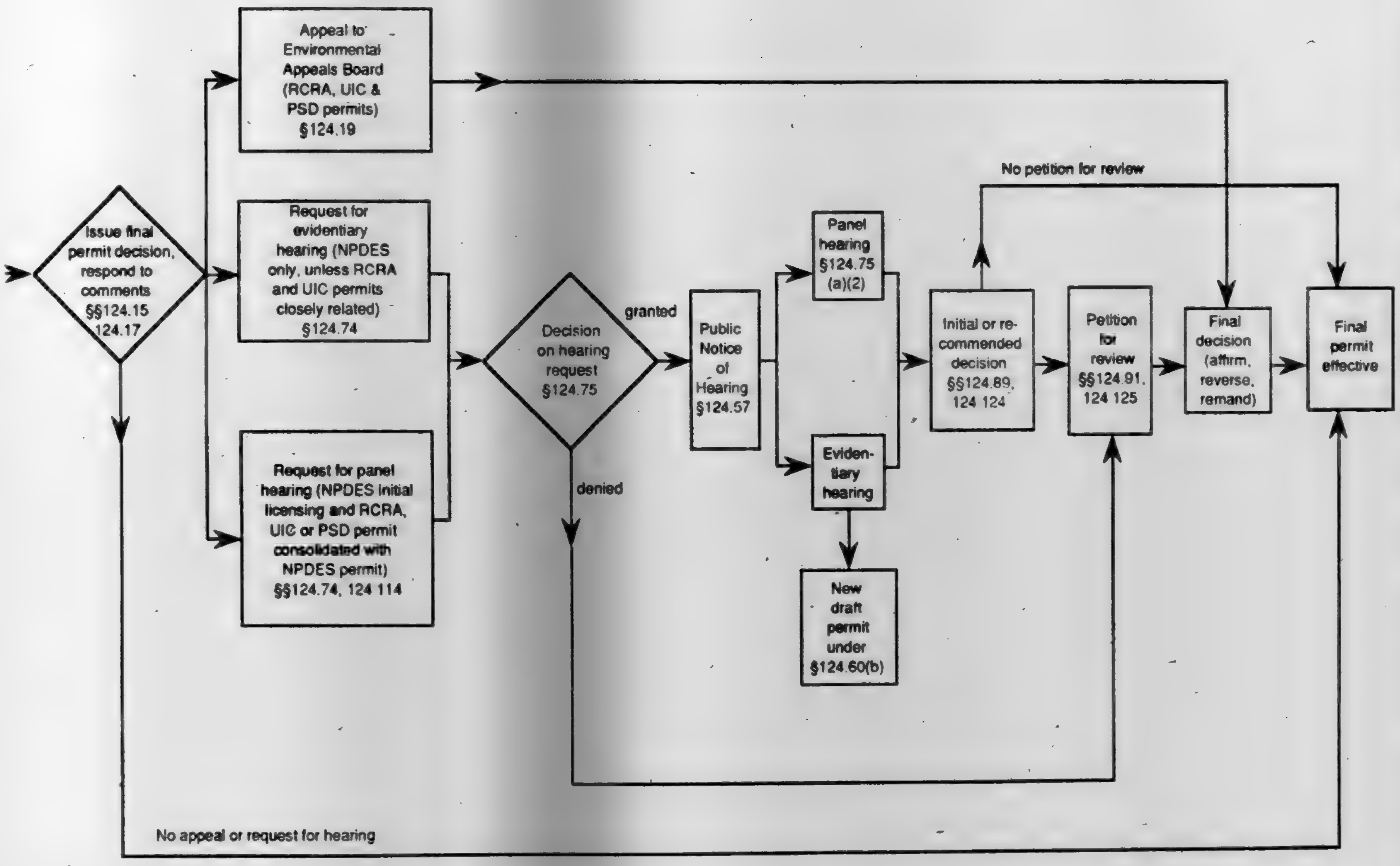
Appeal to Environmental Appeals Board (RCRA, UIC & PSD permits) §124.19
Issue final permit decision, respond to comments §§124.15 124.17
Request for evidentiary hearing (NPDES only, unless RCRA and UIC permits closely related) §124.74
Request for panel hearing (NPDES initial licensing and RCRA, UIC or PSD permit consolidated with NPDES permit) §§124.74, 124 114
Decision on hearing request §124.75
granted
denied
Public Notice of Hearing §124.57
Panel hearing §124.75 (a)(2)
Evidentiary hearing
New draft permit under §124.60(b)
No petition for review
Initial or recommended decision §§124.89, 124 124
Petition for review §§124.91, 124 125
Final decision (affirm, reverse, remand)
Final permit effective
No appeal or request for hearing

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PART 164—RULES OF PRACTICE GOVERNING HEARINGS, UNDER THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT, ARISING FROM REFUSALS TO REGISTER, CANCELLATIONS OF REGISTRATIONS, CHANGES OF CLASSIFICATIONS, SUSPENSIONS OF REGISTRATIONS AND OTHER HEARINGS CALLED PURSUANT TO SECTION 6 OF THE ACT

1. The authority citation for part 164 continues to read as follows:

Authority: 7 U.S.C. 136d.

2. Section 164.2 is amended by revising paragraph (c), redesignating paragraphs (g) through (j) as paragraphs (h) through (k) and by adding a new paragraph (g) to read as follows:

§ 164.2 Definitions

* * * * *

(c) The term *Administrator* means the Administrator of the United States Environmental Protection Agency.

* * * * *

(g) *Environmental Appeals Board* shall mean the Board within the Agency described in § 1.25 of this title. The Administrator delegates authority to the Environmental Appeals Board to issue final decisions in appeals filed under subparts B and C of this part. An appeal directed to the Administrator, rather than to the Environmental Appeals Board, will not be considered. This delegation does not preclude the Environmental Appeals Board from referring an appeal or a motion under subparts B and C to the Administrator when the Environmental Appeals Board, in its discretion, deems it appropriate to do so. When an appeal or motion is referred to the Administrator, all of the parties shall be so notified and the rules in subparts B and C referring to the Environmental Appeals Board shall be interpreted as referring to the Administrator.

* * * * *

3. Section 164.4 is amended by revising paragraphs (a), (c), and (d) to read as follows:

§ 164.4 Arrangements for examining Agency records, transcripts, orders, and decisions.

(a) Reporting of orders, decisions, and other signed documents. All orders, decisions, or other signed documents required by the rules in this part, whether issued by the Environmental Appeals Board or the Presiding Officer shall be made available to the public.

* * * * *

(c) Whenever any information or data is required to be produced or examined and any party to the proceeding claims that such information is a trade secret or commercial or financial information, other than information relating to the formulas of a pesticide, the Administrative Law Judge, the Presiding Officer, or the Environmental Appeals Board may require production or testimony *in camera* and sealed to all but the parties.

(d) All orders, decisions, or other documents made or signed by the Administrative Law Judge, the Presiding Officer, or the Environmental Appeals Board shall be filed with the hearing clerk. The hearing clerk shall immediately serve all parties with a copy of such order, decision, or other document.

4. Section 164.6 is amended by revising the first sentence after the hearing of paragraph (b) to read as follows:

§ 164.6 Time.

* * * * *

(b) * * * When by these rules or by order of the Administrative Law Judge, the Presiding Officer, or the Environmental Appeals Board, an act is required or allowed to be done at or within a specified time, the Administrative Law Judge (before his initial decision is filed), or the Presiding Officer (before his recommended decision is filed), or the Environmental Appeals Board (after the Administrative Law Judge's initial decision or the presiding officer's recommended decision is filed), for cause shown may at any time in their discretion: with or without motion or notice, order the period enlarged if request therefor, which may be made ex parte, is made before the expiration of the period originally prescribed or as extended by a previous order; or on motion made after the expiration of the specified period, permit the act to be done where the failure to act was the result of excusable neglect. * * *

5. Section 164.7 is revised to read as follows:

§ 164.7 Ex parte discussion of proceeding.

At no stage of a proceeding shall the Administrator, the members of the Environmental Appeals Board, the Presiding Officer, or the Administrative Law Judge discuss *ex parte* the merits of the proceeding with any party or with any person who has been connected with the preparation or presentation of the proceeding as an advocate, or in an investigative or expert capacity, or with any representative of such person, *Provided,* That the Environmental Appeals Board, the Presiding Officer, or the Administrative Law Judge may discuss the merits of the case with any such person if all parties to the proceeding, or their representatives, have been given reasonable notice and opportunity to be present. Any memorandum or other communication addressed to the Administrator, the Environmental Appeals Board, the Presiding Officer, or the Administrative Law Judge during the pendency of the proceeding, and relating to the merits thereof, by or on behalf of any party, shall be regarded as an argument made in the proceeding. The Administrator, the Environmental Appeals Board, the Presiding Officer, or the Administrative Law Judge shall cause any such communication to be filed with the hearing clerk and served upon all other parties to the proceeding who will be given the opportunity to file an answer thereto.

6. Section 164.20 is amended by revising the last sentence of paragraph (c) to read as follows:

§ 164.20 Commencement of proceeding.

* * * * *

(c) * * * The Chief Administrative Law Judge shall refer the proceeding to himself or another Administrative Law Judge who shall thereafter be in charge of all further matters concerning the proceedings, except as otherwise provided for by order of the Chief Administrative Law Judge, the Administrator, or the Environmental Appeals Board.

7. Section 164.31 is amended by revising the last sentence of paragraph (c) to read as follows:

§ 164.31 Intervention.

* * * * *

(c) * * * If leave is denied, the movant may request that the ruling be certified to the Environmental Appeals Board, pursuant to § 164.100 for a speedy appeal.

* * * * *

8. Section 164.40 is amended by revising paragraph (e) to read as follows:

§ 164.40 Qualifications and duties of Administrative Law Judge.

* * * * *

(e) *Absence or change of the Administrative Law Judge.* In the case of the absence or unavailability of the Administrative Law Judge, or his inability to act, or his removal by disqualification or withdrawal, the powers and duties to be performed by him under this part in connection with a hearing assigned to him may, unless otherwise directed by the Administrator, be assigned to another Administrative

Law Judge so designated to act by the Chief Administrative Law Judge, the Administrator or the Environmental Appeals Board.

9. Section 164.60 is amended by revising the third and fourth sentences of paragraph (c) to read as follows:

§ 164.60 Motions.

* * * * *

(c) * * * The Environmental Appeals Board shall rule upon all motions filed after the filing of the initial or accelerated decision. Oral argument of motions will be permitted only if the Administrative Law Judge or the Environmental Appeals Board deems it necessary.

10. Section 164.81 is amended by revising the last sentence of paragraph (f) to read as follows:

§ 164.81 Evidence.

* * * * *

(f) * * * In the event the Environmental Appeals Board decides that the Administrative Law Judge's ruling in excluding the evidence was erroneous and prejudicial, the hearings may be reopened to permit the taking of such evidence, or where appropriate, the Environmental Appeals Board may evaluate the evidence and proceed to a final decision.

11. Section 164.90 is amended by revising the second and the third sentences of paragraph (b) to read as follows:

§ 164.90 Initial Decision.

* * * * *

(b) * * * A copy of the initial decision shall be served upon each of the parties, and the hearing clerk shall immediately transmit a copy to the Environmental Appeals Board. The initial decision shall become the decision of the Environmental Appeals Board without further proceedings unless an appeal is taken from it or the Environmental Appeals Board orders review of it, pursuant to § 164.101.

12. Section 164.100 is revised to read as follows:

§ 164.100 Appeals from or review of interlocutory orders or rulings.

Except as provided herein, appeals as a matter of right shall lie to the Environmental Appeals Board only from an initial or accelerated decision of the Administrative Law Judge. Appeals from other orders or rulings shall, except as provided in this section, lie only if the Administrative Law Judge certifies such orders or rulings for appeal, or otherwise as provided. The Administrative Law Judge may certify an order or ruling for appeal to the Environmental Appeals Board when: (a) The order or ruling involves an important question of law or policy about which there is substantial ground for difference of opinion; and (b) either (1) an immediate appeal from the order and ruling will materially advance the ultimate termination of the proceeding or (2) review after the final judgment is issued will be inadequate or ineffective. The Administrative Law Judge shall certify orders or rulings for appeal only upon the request of a party. If the Environmental Appeals Board determines that certification was improvidently granted, or takes no action within thirty (30) days of the certification, the appeal shall be deemed dismissed. When an order or ruling is not certified by the Administrative Law Judge, it shall be reviewed by the Environmental Appeals Board only upon appeal from the initial or accelerated decision except when the Environmental Appeals Board determines, upon request of a party and in exceptional circumstances, that delaying review would be deleterious to vital public or private interests. Except in extraordinary circumstances proceedings will not be stayed pending an interlocutory appeal; where a stay is granted, a stay of more than 30 days must be approved by the Environmental Appeals Board. Ordinarily, the interlocutory appeal will be decided on the basis of the submission made to the Administrative Law Judge, but the Environmental Appeals Board may allow further briefs and oral argument.

13. Section 164.101 is amended by revising the first sentence of paragraph (a)(1), the second and third sentences of paragraph (b), and paragraph (c) to read as follows:

§ 164.101 Appeals from or review of initial decisions.

(a) * * * (1) Within 20 days after the filing of the Administrative Law Judge's initial decision, each party may take exception to any matter set forth in such decision or to any adverse order or ruling to which he objected during the hearing and may appeal such exceptions to the Environmental Appeals Board for decision by filing them in writing with the hearing clerk, including a section containing proposed findings of fact, conclusions, orders, or rulings. * * *

* * * * *

(b) * * * Within 10 days after said notification, the Environmental Appeals Board shall issue an order either declining review of the initial decision or expressing its intent to review said initial decision. Such order may include a statement of issues to be briefed by the parties and a time schedule concerning service and filing of briefs adequate to allow the Environmental Appeals Board to issue a final order within 90 days from the close of the hearing.

(c) *Argument before the Environmental Appeals Board.* (1) A party, if he files exceptions and a brief, shall state in writing whether he desires to make an oral argument thereon before the Environmental Appeals Board; otherwise, he shall be deemed to have waived such oral argument. The Environmental Appeals Board shall, however, on its own initiative, have the right to set an appeal for oral argument.

(2) If the Environmental Appeals Board determines that additional exceptions should be argued, counsel for the parties shall be given reasonable written notice of such determination so as to permit preparation of adequate argument on all of the exceptions to be argued.

14. Section 164.102 is amended by revising paragraph (c) to read as follows:

§ 164.102 Appeals from accelerated decisions.

* * * * *

(c) Ordinarily, the appeal from an accelerated decision will be decided on the basis of the submission of briefs, but the Environmental Appeals Board may allow additional briefs and oral argument.

15. Section 164.103 is revised to read as follows:

§ 164.103 Final decision or order on appeal or review.

Within 90 days after the close of the hearing or within 90 days from the filing of an accelerated decision, unless otherwise stipulated by the parties, the Environmental Appeals Board shall, on appeal or review from an initial or accelerated order of the Administrative Law Judge, issue its final decision and order, including its rulings on any exceptions filed by the parties; such final order may acept or reject all or part of the initial or accelerated decision of the Administrative Law Judge even if acceptable to the parties.

16. Section 164.110 is amended by revising the first sentence of paragraph (a) and paragraph (c) to read as follows:

§ 164.110 Motion for reopening hearings; for rehearing; for reargument of any proceeding; or for reconsideration of order.

(a) * * * A motion for reopening the hearing to take further evidence, or for rehearing or reargument of any proceeding or for reconsideration of the order, must be made by motion to the

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Environmental Appeals Board filed with the hearing clerk. * * *

* * * * *

(c) *Motions to rehear or reargue proceedings, or to reconsider final orders.* A motion to rehear or reargue the proceeding or to reconsider the final order shall be filed within 10 days after the date of service of the final order. Every such motion must state specifically the matters claimed to have been erroneously decided, and alleged errors must be briefly stated. Motions to rehear or reargue proceedings or to reconsider final orders shall be directed to, and heard by, the Environmental Appeals Board. Motions under this section directed to the Administrator will not be considered, except in cases that the Environmental Appeals Board has referred to the Administrator pursuant to § 164.2(g) and in which the Administrator has issued the final order. A motion for reconsideration shall not stay the effective date of the final order unless specifically so ordered by the Environmental Appeals Board.

17. Section 164.111 is amended by revising all but the first sentence to read as follows:

§ 164.111 Procedure for disposition of motions.

* * * As soon as practicable thereafter, the Environmental Appeals Board shall announce its decision whether to grant or to deny the motion. Unless the Environmental Appeals Board shall determine otherwise, operation of the order shall not be stayed pending the decision to grant or to deny the motion. In the event that any such motion is granted by the Environmental Appeals Board, the applicable rules of practice, as set out elsewhere herein, shall be followed.

18. Section 164.121 is amended by revising paragraphs (j)(3) and (j)(4) to read as follows:

§ 164.121 Expedited hearing.

* * * * *

(j) * * *

(3) Within 10 days of the conclusion of the presentation of evidence the Presiding Officer shall submit to the Environmental Appeals Board his recommended findings and conclusions, together with the record.

(4) Within 12 days of the conclusion of the presentation of evidence the parties shall submit to the Environmental Appeals Board their objections to the Presiding Officer's recommended findings and conclusions and written briefs in support thereof.

19. Section 164.122 is amended by revising the first sentence of paragraph (a) and the first sentence of paragraph (b) to read as follows:

§ 164.122 Final order and order of suspension.

(a) * * * Within 7 days of receipt of the record and of the Presiding Officer's recommended findings and conclusions, the Environmental Appeals Board shall issue a final decision and order. * * *

(b) * * * No final order of suspension shall be issued unless the Environmental Appeals Board has issued or at the same time issues a notice of its intention to cancel the registration or change the classification of the pesticide. * * *

20. Section 164.123 is amended by revising paragraph (a) and the first sentence of paragraph (b) to read as follows:

164.123 Emergency order.

(a) Whenever the Environmental Appeals Board determines that an emergency exists that does not permit him to hold a hearing before suspension, the Environmental Appeals Board may issue a suspension order in advance of notification to the registrant.

(b) The Environmental Appeals Board shall immediately notify the registrant of the suspension order. * * *

PART 209—RULES OF PRACTICE GOVERNING PROCEEDINGS UNDER THE NOISE CONTROL ACT OF 1972

1. The authority citation for part 209 continues to read as follows:

Authority: Sec. 11, Noise Control Act of 1972 (42 U.S.C. 4910) and additional authority as specified.

2. Section 209.3 is amended by revising paragraph (k) to read as follows:

§ 209.3 Definitions.

* * * * *

(k) "Environmental Appeals Board" means the Board within the Agency described in § 1.25 of this title. The Administrator delegates authority to the Environmental Appeals Board to issue final decisions in appeals filed under this part. An appeal directed to the Administrator, rather than to the Environmental Appeals Board, will not be considered. This delegation of authority to the Environmental Appeals Board does not preclude the Environmental Appeals Board from referring an appeal or a motion filed under this part to the Administrator for decision when the Environmental Appeals Board, in its discretion, deems it appropriate to do so. When an appeal or motion is referred to the Administrator, all parties shall be so notified and the rules in this part referring to the Environmental Appeals Board shall be interpreted as referring to the Administrator.

* * * * *

3. Section 209.14 is amended by revising paragraph (b) and the second and third sentences of paragraph (c) to read as follows:

§ 209.14 Motions.

* * * * *

(b) Within 10 days after service of any motion filed under this section or within such other time as may be fixed by the Environmental Appeals Board or the administrative law judge, as appropriate, any party may serve and file an answer to the motion. The movant shall, by leave of the Environmental Appeals Board or the administrative law judge, as appropriate, serve and file reply papers within the time set by the request.

(c) * * * The Environmental Appeals Board shall rule upon all motions filed before the appointment of the administrative law judge and all motions filed after the filing of the decision of the administrative law judge or accelerated decision. Oral argument of motions will be permitted only if the administrative law judge or the Environmental Appeals Board, as appropriate, deems it necessary.

4. Section 209.17 is amended by revising the first sentence to read as follows:

§ 209.17 Amicus curiae.

Persons not parties to the proceedings who wish to file briefs may do so by leave of the Environmental Appeals Board or the administrative law judge, as appropriate, granted on motion. * * *

5. Section 209.19 is amended by revising paragraph (b) and the first and second sentences of paragraph (c) to read as follows:

§ 209.19 Informal settlement and consent agreement.

* * * * *

(b) *Consent agreement.* A written consent agreement signed by the complainant and respondent shall be prepared by the complainant and forwarded to the Environmental Appeals Board whenever settlement or compromise is proposed. A copy shall be served on all other parties to the proceeding, no later than the date the consent agreement is forwarded to the Environmental Appeals Board. The consent agreement shall state that, for the purpose of this proceeding, respondent (1) admits the jurisdictional allegations of the complaint; (2) admits the facts as stipulated in the consent agreement or neither admits nor denies specific factual allegations contained in the complaint; and (3) consents to the issuance of a given remedial order. The consent agreement shall include (i) the terms of the agreement; (ii) any appropriate conclusions regarding material issues of law, fact and/or discretion as well as reasons therefor; and (iii) the Environmental Appeals Board's proposed final order. The administrative law judge does not have jurisdiction over a consent agreement.

(c) * * * No settlement or consent agreement shall be dispositive of any action pending under section 11(d) of the act without a final order of the Environmental Appeals Board. In preparing a final order, the Environmental Appeals Board may require that any or all of the parties to the settlement or other parties appear before it to answer inquiries relating to the proposed consent agreement. * * *

6. Section 209.24 is amended by revising the last sentence of paragraph (a) and the last sentence of paragraph (c) to read as follows:

§ 209.24 Default order.

(a) * * * The remedial order proposed is binding on respondent without further proceedings upon the issuance by the Environmental Appeals Board of a final order issued upon default.

* * * * *

(c) * * * An order issued by the Environmental Appeals Board upon default of respondent shall constitute a final order in accordance with the terms of § 209.33.

7. Section 209.27 is amended by revising paragraphs (a), (c), and (d) to read as follows:

§ 209.27 Interlocutory appeal.

(a) An interlocutory appeal may be taken to the Environmental Appeals Board either (1) with the consent of the administrative law judge where he or she certifies on the record or in writing that the allowance of an interlocutory appeal is clearly necessary to prevent exceptional delay, expense or prejudice to any party or substantial detriment to the public interest, or (2) absent the consent of the administrative law judge, by permission of the Environmental Appeals Board.

* * * * *

(c) Applications to file such appeals absent consent of the administrative law judge shall be filed with the Environmental Appeals Board within 5 days of the denial of any appeal by the administrative law judge.

(d) The Environmental Appeals Board will consider the merits of the appeal on the application and answers. No oral argument will be heard nor other briefs filed unless the Environmental Appeals Board directs otherwise.

* * * * *

8. Section 209.30 is amended by revising paragraph (b) to read as follows:

§ 209.30 Decision of the administrative law judge.

* * * * *

(b) The administrative law judge's decision shall become the decision of the Environmental Appeals Board (1) when no notice of intention to appeal as described in § 209.31 is filed, 30 days after its issuance, unless in the interim the Environmental Appeals Board shall have taken action to review or stay the effective date of the decision; or (2) when a notice of intention to appeal is filed but the appeal is not perfected as required by § 209.31, 5 days after the period allowed for perfection of an appeal has expired unless within that 5 day period, the Environmental Appeals Board has taken action to review or stay the effective date of the decision.

* * * * *

9. Section 209.31 is amended by revising paragraphs (a), (c)(4), (d), and (e) to read as follows:

§ 209.31 Appeal from the decision of the administrative law judge.

(a) Any party to a proceeding may appeal the administrative law judge's decision to the Environmental Appeals Board: Provided, That within 10 days after the administrative law judge's decision is issued, the party files a notice of intention to appeal, and within 30 days of the decision the party files an appeal brief.

* * * * *

(c) * * *

(4) A proposed form of rule or order for the Environmental Appeals Board's consideration if different from the rule or order contained in the administrative law judge's decision.

(d) Briefs shall not exceed 40 pages without leave of the Environmental Appeals Board.

(e) The Environmental Appeals Board may allow oral argument in its discretion.

10. Section 209.32 is revised to read as follows:

§ 209.32 Review of the administrative law judge's decision in absence of appeal.

(a) If, after the expiration of the period for taking an appeal under § 209.31, no notice of intention to appeal the decision of the administrative law judge has been filed, or if filed, not perfected, the hearing clerk shall so notify the Environmental Appeals Board.

(b) The Environmental Appeals Board, upon receipt of notice from the hearing clerk that no notice of intention to appeal has been filed, or if filed, not perfected pursuant to § 209.31, may, on its own motion, within the time limits specified in § 209.30(b), review the decision of the administrative law judge. Notice of the Environmental Appeals Board's intention to review the decision of the administrative law judge shall be given to all parties and shall set forth the scope of such review and the issues which shall be considered and shall make provision for filing of briefs.

11. Section 209.33 is revised to read as follows:

§ 209.33 Decision on appeal or review.

(a) Upon appeal from or review of the administrative law judge's decision, the Environmental Appeals Board shall consider such parts of the record as are cited or as may be necessary to resolve the issues presented and, in addition shall to the extent necessary or desirable exercise all the powers which the Environmental Appeals Board could have exercised if it had presided at the hearing.

(b) The Environmental Appeals Board shall render a decision as expeditiously as possible. The Environmental Appeals Board shall adopt, modify, or set aside the findings, conclusions, and rule or order contained in the decision of the administrative law judge and shall set forth in its decision a statement of the reasons or bases for its action. The Environmental Appeals Board's decision shall be the final order in the proceeding.

(c) In those cases where the Environmental Appeals Board determines that it should have further information or additional views of the parties as to the form and content of the rule or order to be issued, the Environmental Appeals Board, in its discretion, may withhold final action pending the receipt of such additional information or views, or may remand the case to the administrative law judge.

12. Section 209.34 is revised to read as follows:

§ 209.34 Reconsideration.

Within five (5) days after service of the Environmental Appeals Board's decision, any party may file a petition for reconsideration of such decision, setting forth the relief desired and the grounds in support thereof. Petitions for reconsideration under this provision shall be directed to, and decided by, the

Environmental Appeals Board. Petitions for reconsideration directed to the Administrator, rather than to the Environmental Appeals Board, will not be considered, except in cases that the Environmental Appeals Board has referred to the Administrator's pursuant to § 209.3(k) and in which the Administrator has issued the final order. Any petition filed under this subsection must be confined to new questions raised by the decision or final order and upon which the petitioner had no opportunity to argue before the administrative law judge or the Environmental Appeals Board. Any party desiring to oppose a petition shall filed an answer thereto within five (5) days after service of the petition. The filing of a petition for reconsideration shall not operate to stay the effective date of the decision or order.

13. Section 209.35 is revised to read as follows:

§ 209.35 Conclusion of hearing.

(a) If no appeal has been taken from the administrative law judge's decision before the period for taking an appeal under § 209.31 has expired, and the period for review by the Environmental Appeals Board on its own motion under § 209.30 has expired, and the Environmental Appeals Board does not move to review such decision, the hearing will be deemed to have ended at the expiration of all periods allowed for such appeal and review.

(b) If an appeal of the administrative law judge's decision is taken under § 209.31, or if, in the absence of such appeal, the Environmental Appeals Board moves to review the decision of the administrative law judge under § 209.32, the hearing will be deemed to have ended upon the rendering of a final decision by the Environmental Appeals Board.

14. Section 209.36 is amended by revising the second sentence of paragraph (a) to read as follows:

§ 209.36 Judicial review.

(a) * * * That officer shall be responsible for filing in the court the record on which the order of the Environmental Appeals Board is based.

* * * * *

PART 222—ACTION ON OCEAN DUMPING PERMIT APPLICATIONS UNDER SECTION 102 OF THE ACT

1. The authority citation for part 222 continues to read as follows:

Authority: 33 U.S.C. 1412 and 1418.

2. Section 222.12 is amended by revising paragraphs (a), (b)(4), (c), (e), and (f) to read as follows:

§ 222.12 Appeal to the Environmental Appeals Board.

(a)(1) The Administrator delegates to the Environmental Appeals Board authority to issue final decisions in appeals filed under this part. An appeal directed to the Administrator, rather than to the Environmental Appeals Board, will not be considered. This delegation of authority to the Environmental Appeals Board does not preclude the Environmental Appeals Board from referring an appeal or a motion filed under this part to the Administrator for decision when the Environmental Appeals Board, in its discretion, deems it appropriate to do so. When an appeal or motion to referred to the Administrator, all parties shall be so notified and the rules in this section referring to the Environmental Appeals Board shall be interpreted as referring to the Administrator.

(2) Within 10 days following receipt of the determination of the Regional Administrator pursuant to paragraph (f)(2) of § 222.11, any party to an adjudicatory hearing held in accordance with § 222.11 may appeal such determination to the Environmental Appeals Board by filing a written notice of appeal, or the Environmental Appeals Board may, on its own initiative, review any prior determination.

(b) * * *

(4) A concise statement setting forth the action which the person proposes that the Environmental Appeals Board take; and

* * * * *

(c) The effective date of any determination made pursuant to paragraph (f)(2) of § 222.11 may be stayed by the Environmental Appeals Board pending final determination by it pursuant to this section upon the filing of a notice of appeal which satisfies the requirements of paragraph (b) of this section or upon initiation by the Environmental Appeals Board of review of any determination in the absence of such notice of appeal.

* * * * *

(e) Within 45 days following the filing of a notice of appeal in accordance with this section, the Environmental Appeals Board shall render its final determination with respect to all issues raised in the appeal to the Environmental Appeals Board and shall affirm, reverse, or modify the previous determination and briefly state the basis for its determination.

(f) In accordance with 5 U.S.C. section 704, the filing of an appeal to the Environmental Appeals Board pursuant to this section shall be a prerequisite to judicial review of any determination to issue or impose conditions upon any permit, or to modify, revoke or suspend any permit, or to take any other enforcement action, under this subchapter H.

PART 223—CONTENTS OF PERMITS; REVISION, REVOCATION OR LIMITATION OF OCEAN DUMPING PERMITS UNDER SECTION 104(d) OF THE ACT

1. The authority citation for part 223 continues to read as follows:

Authority: Secs. 102, 104, 107, 108, Marine Protection Research, and Sanctuaries Act of 1972, as amended (33 U.S.C. 1412, 1414, 1417, 1418).

2. Section 223.4 is amended by revising the first sentence of paragraph (d) to read as follows:

§ 223.4 Request for, scheduling and conduct of public hearing; determination.

* * * * *

(d) * * * Any hearing convened pursuant to this part shall be conducted by a Presiding Officer, who shall be either a Regional Judicial Officer or a person having the qualifications of the members of the Environmental Appeals Board (described in 40 CFR 1.25(e)) if assigned by the Administrator or the qualifications of a Regional Judicial Officer if assigned by the Regional Administrator, as appropriate. * * *

* * * * *

PART 233—404 STATE PROGRAM REGULATIONS

1. The authority citation for part 233 continues to read as follows:

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

2. Section 233.53 is amended by revising the first and second sentences after the heading of paragraph (c)(3)(ii)(B) to read as follows:

§ 233.53 Withdrawal of program approval.

* * * * *

(c) * * *

(3) * * *

(ii) * * *

(B) * * * At no time after the issuance of the order commencing proceedings shall the Administrator, the Regional Administrator, the Regional Judicial Officer, the Presiding Officer, or any other person who is likely to advise these officials in the decisions on the case, discuss ex parte the merits of the proceeding with any interested person outside the Agency, with any Agency staff member who performs a prosecutorial or investigative function in such proceeding or a factually related proceeding, or with any representative of such person. Any ex parte memorandum or other communication addressed to the Administrator, the Regional Administrator, the Regional Judicial Officer, or the Presiding Officer during the pendency of the proceeding and relating to the merits thereof, by or on behalf of any party shall be regarded as argument made in the proceeding and shall be served upon all other parties. * * *

* * * * *

PART 403—GENERAL PRETREATMENT REGULATIONS FOR EXISTING AND NEW SOURCES OF POLLUTION

1. The authority citation for part 403 continues to read as follows:

Authority: Sec. 54(c)(2) of the Clean Water Act of 1977, (Pub. L. 95-217) sections 204(b)(1)(C), 208(b)(2)(C)(iii), 301(b)(1)(A)(ii), 301(b)(2)(A)(ii), 301(b)(2)(C), 301(h)(5), 301(i)(2), 304(e), 304(g), 307, 308, 309, 402(b), 405 and 501(a) of the Federal Water Pollution Control Act (Pub. L. 92-500) as amended by the Clean Water Act of 1977 and the Water Quality Act of 1987 (Pub. L. 100-4).

2. Section 403.13 is amended by revising paragraph (m)(2) to read as follows:

§ 403.13 Variances from categorical pretreatment standards for fundamentally different factors.

* * * * *

(m) * * *

(2) If the Regional Administrator declines to hold a hearing and the Regional Administrator affirms the findings of the Administrator's delegate the requester may submit a petition for a hearing to the Environmental Appeals Board (which is described in § 1.25 of this title) within 30 days of the Regional Administrator's decision.

[FR Doc. 92-2371 Filed 2-12-92; 8:45 am]

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Part IV

Department of the Interior

Bureau of Indian Affairs

Indian Gaming; Notice of Approved Tribal-State Compact

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved Tribal-State Compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority has approved a Tribal-State Compact between the Sokaogon Chippewa Community and the State of Wisconsin executed on August 22, 1991.

DATED: This action is effective February 13, 1992.

ADDRESSES: Office of Tribal Services, Bureau of Indian Affairs, Department of the Interior, MS–MIB 4603, 1849 "C" Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Joyce Grisham, Bureau of Indian Affairs, Washington, DC 20240 (202) 208–7445.

Dated: February 6, 1992.

Eddie F. Brown,

Assistant Secretary—Indian Affairs.

[FR Doc. 92–3399 Filed 2–12–92; 8:45 am]

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Part V

Department of Transportation

Federal Aviation Administration

14 CFR Parts 107 and 108
Unescorted Access Privilege; Proposed Rule

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 107 and 108

[Docket No. 26763; Notice No. 92-3]

RIN 2120-AE14

Unescorted Access Privilege

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to establish regulations for employment investigations and criminal history record checks. This proposal will affect individuals who have, or who may authorize others to have, unescorted access privileges to security identification display areas of U.S. airports. The regulations proposed in this NPRM implement requirements of the Aviation Security Improvement Act of 1990. The proposed regulations are intended to enhance the effectiveness of U.S. civil aviation security systems by disqualifying individuals convicted of certain enumerated crimes from having, or being able to authorize others to have, unescorted access privileges to security identification display areas of U.S. airports.

DATES: Comments must be received on or before March 16, 1992. However, late filed comments will be considered to the extent practicable.

ADDRESSES: Comments on this notice should be mailed, in triplicate, to: Federal Aviation Administration, Office of Chief Counsel, Attention: Rules Docket (AGC–10), Docket No. 26763, 800 Independence Avenue, SW., Washington, DC 20591. All comments must be marked: "Docket No. 26763." Comments may be examined in room 915G on weekdays except on Federal holidays between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Andrew V. Cebula, Office of Civil Aviation Security Policy and Plans, Policy and Standards Division (ACP–110), Federal Aviation Administration, 800 Independence Avenue, SW., Washington DC 20591, telephone (202) 267–8293.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on the proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, federalism, or international trade impacts that might result from adopting the proposals in this notice are also invited. Substantive comments should be accompanied by cost estimates. Comments should identify the regulatory docket or notice number and be submitted in triplicate to the Rules Docket at the address specified above. All comments received, as well as a report summarizing each substantive public contact with FAA personnel on this rulemaking, will be filed in the docket. The docket is available for public inspection before and after the comment closing date.

All comments received on or before the closing date will be considered by the Administrator before taking action on this proposed rulemaking. Late-filed comments will be considered to the extent practicable. The proposals contained in this notice may be changed in light of comments received.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include with their comments a pre-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 26763." When the comment is received, the postcard will be dated, time stamped and mailed to the commenter.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–200, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice or docket number of this NPRM.

Persons interested in being placed on a mailing list for future proposed rules should request from the above office a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

History

Throughout the last decade, the FAA has recognized the need to investigate the backgrounds of individuals authorized to have unescorted access to security-restricted areas at U.S. airports. On November 28, 1985, the FAA undertook emergency action with respect to the aviation security programs of U.S. airports and U.S. air carriers. Individuals with unescorted access to airport security areas were made subject to a background check. The check requires the verification of such individual's employment history and references for the previous five years to the extent allowable by law.

The December 21, 1988, destruction of Pan American World Airways Flight 103 by a terrorist bomb while in flight over Lockerbie, Scotland was the worst disaster of its kind in U.S. civil aviation history. In response to this tragedy, on August 4, 1989, President Bush established the President's Commission on Aviation Security and Terrorism (Commission) (E.O. 12686). The Commission was given the task of assessing the overall effectiveness of the U.S. civil aviation security system.

The Commission's May 15, 1990, report presented a series of recommendations intended to improve the U.S. civil aviation security system, which is administered by the FAA's Office of Civil Aviation Security. The Commission recommended that airport operators deny employment to individuals convicted of certain crimes to be specified by Congress. The Commissions's recommendations formed the basis of the Aviation Security Improvement Act of 1990, Public Law 101–604 (the Aviation Security Improvement Act or the Act).

Section 105(a) of the Aviation Security Improvement Act amends section 316 of the Federal Aviation Act of 1958 (FAA Act) by adding a new subsection "(g)," captioned "Air Carrier and Airport Security Personnel." This subsection directs the FAA Administrator to promulgate regulations that subject individuals with unescorted access to U.S. or foreign air carrier aircraft, or to secured areas of U.S. airports served by air carriers, to employment investigations and criminal history record checks. The Act requires the Administrator to prescribe procedures for taking fingerprints and establish requirements to limit the dissemination of criminal history information received from the Federal Bureau of Investigation (FBI).

While the Act did not specify an implementation deadline, the Department of Transportation Appropriation Act of 1992 (Pub. L. 102–143) directs the FAA to issue regulations on the investigation requirement within 180 days after its enactment. The Congressional deadline for issuing the final rule is April 24, 1992. This law requires that processing of these investigations begin no later than 60 days after the issuance of final regulations.

The FAA proposes to implement the legislative mandate of the Aviation Security Improvement Act by amending parts 107 and 108 of the Federal Aviation Regulations (FAR), 14 CFR parts 107 and 108. The proposed regulations add a requirement for investigation into the background of individuals with unescorted access to the security identification display area (SIDA) of U.S. airports. The SIDA is "any area identified in the airport security program as requiring each person to continuously display on their outermost garment, an airport-approved identification medium unless under airport-approved escort" (14 CFR 107.25(a)). This proposal takes into account recommendations provided by the Policy and Procedures Subcommittee of the FAA's Aviation Security Advisory Committee (ASAC).

Discussion of Proposed Rule

General

Part 107 of the FAR contains security requirements for airport operators. Part 107 addresses access control, law enforcement support, and submission of airport security programs for FAA approval. Part 108 prescribes security rules for U.S. air carriers. In the preamble to this Notice, the use of the term "air carrier" refers to U.S. air carriers only. As discussed below, employees of foreign air carriers would be addressed through requirements proposed under part 107. Throughout the preamble, references to "airport operator" apply to "air carrier" unless otherwise specified, since both operators and carriers would be authorized to conduct the investigations.

The Act does not prohibit employment of disqualified individuals. Rather, the Act prohibits any individual convicted of specified crimes from unescorted access to secured areas of a U.S. airport or U.S. and foreign air carrier aircraft.

The FAA proposes to amend Parts 107 and 108 to require criminal history record checks to determine whether an individual may be authorized to have unescorted access to the SIDA. This proposal, like the Act, also applies to individuals permitted to authorize others to have unescorted access to the SIDA. The requirement is limited to individuals directly responsible for authorizing unescorted access. This includes individuals performing the required investigations and individuals issuing the credentials for unescorted access privileges.

The proposed rule also codifies into regulatory requirement pre-existing airport operator and air carrier security program language on the conduct of employment verifications for individuals with unescorted access privileges.

Under the terms of the Act, both the airport operator and air carrier may be granted authority to perform criminal history record checks. The FAA proposes that the airport operator be responsible overall for ensuring that such checks have been performed for all individuals who have, or who may authorize others to have, unescorted SIDA access. This does not mean that the airport operator must perform the checks in all cases. Section 107.31(e) of the proposed rule permits the airport operator to accept certification from an air carrier that the carrier has performed a criminal history record check for carrier employees. Under this section, the airport operator would be responsible for having certification on file that the carrier has performed the check. The airport operator's acceptance of this certification would be deemed to be compliance with its obligations. The air carrier could be subject to FAA enforcement action if it falsely certified that it had performed the checks.

There are two situations where an air carrier would certify to an airport operator that it has performed the record check. In the first case, the carrier must perform the check for employees (such as flight crew members) who are issued identification by the air carrier that is accepted by an airport operator for access to the SIDA. The carrier would certify to each airport operator who accepts the identification that the check had been performed as part of the program for issuing such identification. One certification would cover the entire program and would not include individual names.

In the second case, for air carrier employees issued identification by an airport operator, the carrier could certify to the airport operator that the check had been performed for named individuals. These individuals could then receive airport-issued identification authorizing SIDA access at that airport. However, the proposed rule would permit the air carrier and the airport operator to determine which one of them would perform the checks for air carrier employees issued airport identification. Whichever one performs the check would be responsible for ensuring that it is done in accordance with these proposed rules.

Section-by-Section Analysis

Section 107.31 Unescorted Access Privilege

Section 107.31(a) Applicability

The FAA is proposing that individuals who have, or who may authorize others to have, unescorted access to the security identification display area (SIDA) identified in the airport security program as required by FAR § 107.25 would be subject to the investigation process.

The SIDA generally would include the secured area of an airport as defined under § 107.14, and the portions of an airport where U.S. and foreign air carrier aircraft operate. For airports which may not be required to define a SIDA, the investigation requirement would apply to areas identified in the airport security program that are controlled for security purposes.

The use of the term "SIDA," an area which the airport operator is required to define in its security program, would facilitate implementation of the Act's investigation requirements. Because individuals with unescorted access to the SIDA must display an airport-approved identification, the background check requirements can be incorporated into the review process for approval and issuance of such identification. The issuance or denial of identification media would serve as a control on the implementation of the requirement from a practical and enforcement standpoint.

Section 107.31(b) Types of Checks Required

Two types of investigations are proposed: (1) A 5-year employment and reference verification; and (2) a 10-year criminal history record check. The existing employment and reference verifications would now be required by regulation.

The 10-year criminal history record check is mandated by the Aviation Security Improvement Act. Individuals whose record shows a conviction during the previous 10 years for a crime listed in the regulations would not be permitted to have, or authorize others to have, unescorted access to the SIDA. The 10-year period covered by the investigation is measured from the date the investigation was initiated by the airport operator, *i.e.*, the date the fingerprints were taken.

As contemplated in the Act, the FAA's proposal limits the criminal history record check to the FBI's national criminal history record filing system. However, there is a concern that the FBI's records may not be complete and current in all cases. The FAA seeks comments on the desirability of augmenting the proposed FBI checks. For example, the FAA could require routine checks of law enforcement records in the State or local area where the individual resides, or has resided for a specific time, or the area where employment is being sought. Comments on the necessity, practicality, cost and additional benefit, if any, of such a requirement are invited.

The FAA is proposing that mandatory disqualifying convictions under the

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regulation be limited to the crimes listed in the Aviation Security Improvement Act. The crimes are: forgery of certificates, false marking of aircraft and other aircraft registration violations; interference with air navigation; improper shipment of a hazardous material; aircraft piracy; interference with flight crew members or flight attendants; commission of certain crimes aboard aircraft in flight; carrying weapons or explosives aboard aircraft; conveying false information and threats; aircraft piracy outside the special aircraft jurisdiction of the United States; lighting violations in connection with transportation of controlled substances; unlawful entry into an aircraft or airport area that serves air carriers or foreign air carriers contrary to established security requirements; destruction of an aircraft or aircraft facility; murder; assault with intent to murder; espionage; sedition; kidnapping; treason; rape; unlawful possession, sale, distribution, or manufacture of an explosive or weapon; extortion; armed robbery; distribution of, or intent to distribute, a controlled substance; and conspiracy to commit any of these criminal acts.

The FAA invites comments on the possible expansion of the list of disqualifying crimes to include, for example, those related to arson, possession or use of controlled substances, or any other crimes not named in the Act that may be relevant to the determination process. The FAA also seeks comments on whether a person found not guilty by reason of insanity for any of the disqualifying crimes should not be authorized for unescorted SIDA access.

The Act does not address the discretion of airport operators or air carriers to consider convictions or arrests for crimes other than those listed in the Act. The FAA does not propose to require that the criminal history records received from the FBI be screened to delete all information other than convictions for the enumerated crimes. Airport operators may find the complete record relevant to the access determination. Employers frequently require job applicants to disclose all criminal convictions on application forms. In addition, they may already obtain criminal history records from state or local sources for their employees. The FAA's proposed rule would not limit the discretion of airport operators and air carriers to review an individual's complete FBI criminal history record, and take appropriate action in accordance with applicable law and labor agreements.

However, the FAA recognizes the argument that the records could be screened to delete information other than convictions for the enumerated crimes. Individuals who will be affected by the proposed rule, especially those who are currently employed in positions that require unescorted SIDA access, may assert a privacy interest in limiting the basis of the access determination to the specific crimes Congress has determined should result in mandatory disqualification. Comments are invited on the effect this would have on security, along with the methods, procedures and costs that would be associated with developing a system to limit the criminal record information provided to the airport operator. Comments are also invited on whether the list of disqualifying crimes would have to be expanded if screening were required.

Section 107.31(c) Escorted Access

An individual who is not permitted unescorted access to the SIDA would have to be under escort to be present in the SIDA. The FAA proposes to define "escorted access" generally as continuous surveillance by an individual who has unescorted access privileges. Because of the confidential nature of escorting procedures, and the specific layout and operational considerations at each airport, the airport operator will be required to define the specific escort procedures that are acceptable for continuous surveillance in the SIDA in its FAA-approved security program.

Section 107.31(d) Exceptions to the Investigation Requirements

Government Employees

Under the proposed rule, no additional background checks would be required for Federal, state and local government employees who have been subject to a check of the FBI's criminal history file records as a condition of employment. For example, the airport operator could accept previous criminal history record checks of U.S. Customs Service officers and local law enforcement officers. Accepting previous criminal history checks from government employees avoids a redundant check. In addition, the checks performed for many Federal, state and local government employees may exceed those proposed in this rule.

Foreign Air Carrier Employees

The Act applies to individuals with authority for unescorted access to foreign aircraft. Thus, the FAA is proposing that foreign nationals and U.S. citizens working in the United States for a foreign air carrier would be subject to investigation under this rule prior to receiving airport issued identification for SIDA unescorted access. The airport operator or its designee will be responsible for these investigations pursuant to the proposed amendments to Part 107.

However, the FAA is proposing an alternate security arrangement for foreign air carrier flight crewmembers (*i.e.*, captain, second-in-command, flight engineer, or company check pilot) who are not otherwise issued airport identification. Alternate security arrangements are permitted by the Act and the FAA contends that there is a low probability of finding a disqualifying conviction for a foreign national through a check of FBI records, which routinely include only convictions entered in the U.S.

Under an alternate system, foreign air carrier flight crewmembers could be excluded from the investigation requirements of the proposed rule, provided that their access is restricted under an approved airport security program. An acceptable alternate access limitation under an airport security program could be to permit foreign air carrier employees who are performing the duties of a flight crewmember to have unescorted access limited to the footprint of their aircraft (*i.e.*, the aircraft and the immediate surrounding ramp area). To access any other aircraft or areas of the airport, the foreign air carrier flight crewmember would require an escort.

Transfer of Privileges

The FAA proposes that an individual who has been investigated and has unescorted access privileges may transfer that privilege to another airport by obtaining certification that the checks were performed. This proposal addresses flight crewmembers or other employees of airport tenants with unescorted access privileges who change their duty station or employer and require unescorted access. In such instances, the individual must have been continuously employed in a position requiring unescorted access since being qualified for unescorted SIDA access under this proposed rule.

No Area Exceptions

In its proposal, the FAA has chosen not to exclude any areas of SIDA from the criminal history check requirement. While the FAA is concerned about the confusion that may result from excluding any portions of the SIDA from this requirement, and the practical implementation of any such exclusion, comments are invited on this issue; comments are specifically invited on the methods and procedures that could be used if exceptions were permitted for some portions of the SIDA. For instance, should the FAA approve alternate security systems for individuals whose unescorted access is limited to portions of the SIDA separated from the operations of air carriers? The criteria that the FAA could use to analyze the effectiveness of an alternate system (e.g., a physical separation of an air cargo carrier facility from an air carrier passenger area by distance, by a barrier or by the use of access controls required by § 107.14) should also be included in any comments on an allowable exclusion.

Section 107.31(e) Investigations by Air Carriers and Airport Tenants

The FAA is proposing that an airport operator may accept written certification from an air carrier that the investigations were performed for its employees. Receipt of certification would satisfy the airport operator's obligation under the proposed rule.

The airport operator may accept a general certification that the checks were performed as part of the process when an air carrier issues identification media to its employees. When an air carrier employee is investigated by the carrier for receipt of airport-issued identification media, the airport operator must receive certification for each employee prior to issuing identification media.

The proposal also includes a provision permitting an airport operator to accept written certification from airport tenants that the 5-year reference and employment investigation has been performed. In many cases, these airport tenants currently perform the 5-year employment verification, and the FAA proposes that this practice continue. However, the criminal history record check would be the responsibility of the airport operator for all airport tenants other than U.S. air carriers. Under the Act, only airport operators and air carriers have the authority to conduct criminal history record checks. (Tenants, other than U.S. air carriers, may include employees of airline food service companies, employees of fixed base operators and employees of foreign air carriers receiving airport identification.)

Section 107.31(f) Appointing Contact

Under the proposal, the airport operator would appoint a person responsible for reviewing the results of the criminal history record check, and determining an individual's eligibility for unescorted access privileges. The designated person would also serve as the liaison in situations where the individual disputes the results of the criminal history record check that revealed information that would disqualify him or her from unescorted access. The FAA seeks comments on the appropriateness of assigning this responsibility to the Airport Security Coordinator.

Section 107.31(g) Designating an Entity and Individual Notification

The FAA proposes to allow the airport operator to designate an outside entity to conduct the criminal history record check required by the rule. The FAA has chosen not to develop or require the use of a single entity to batch requests from airport operators and be the designee. Rather, the FAA proposes to require the airport operator to be responsible for compliance with this section, even when the airport operator designates an outside entity to perform the check. The FAA expects that airport operators will choose to act jointly to improve efficiency in processing requests for criminal history checks.

The FBI has indicated the possibility of a fee differential for airports that submit relatively few requests. Currently, the FBI charges more for non-batched requests than batched requests. In addition, an entity batching requests can process a large number of requests for criminal history record checks more efficiently than multiple operators. To take advantage of the economies of scale, the FAA anticipates that many airport operators will utilize the services of entities able to batch their respective requests for criminal history record checks. In any case, the airport operator will be responsible for ensuring that the check is performed in accordance with the regulations.

Individuals covered by the proposed rule would be notified of the requirement for the investigations prior to the initiation of the checks.

Section 107.31(h) Fingerprint Processing

The proposal includes procedures for collecting fingerprints and requires that one set of legible fingerprints be taken on a card acceptable to the FBI. The airport operator or its designee could choose to have the airport law enforcement officers take the fingerprints or have another entity perform the function. The FAA also proposes to require that the identity of the individual be verified at the time the fingerprints are taken. The individual would present two forms of identification, one of which would have to bear the photograph of the individual. A current driver's license, military identification and passport are examples of acceptable identification. There is also a proposed requirement that the fingerprint cards be handled and shipped in a manner that would protect the privacy of the individual.

Section 107.31(i) Making the Access Determination

The FAA is concerned about individuals whose record shows an arrest for which there has been no disposition (e.g., the case is pending). The FAA is proposing that the airport operator or its designee investigate arrests for any of the enumerated offenses for which no disposition has been recorded in the FBI's records. This investigation would be conducted with the affected individual and the jurisdiction where the arrest took place in order to determine whether a disposition has been recorded in that jurisdiction but not forwarded to the FBI.

In determining whether to grant unescorted access to an individual with an arrest for one of the disqualifying crimes but no disposition, the airport operator should weigh all relevant information available on the individual, including the results of the 5-year employment and reference verification. The employer should then apply its own personnel decision guidelines in making the determination for unescorted access; the FAA does not propose to require specific action under these circumstances.

Section 107.31(j) Availability and Correction of FBI Records and Notification of Disqualification

The proposed rule requires the airport operator or its designee to notify an individual at the time the fingerprints are taken that he or she would be provided, upon written request, a copy of the results from the FBI criminal history record check, prior to rendering the access decision. All individuals subject to an unescorted access determination have the option to receive a copy of the results from the criminal history record check.

In instances where an individual's criminal history record check reveals information that would disqualify him or her from unescorted access, the FAA is proposing that the airport operator or its designee would be required to advise the affected individual of the presence of disqualifying information. The airport operator or its designee would also be required to provide the individual with a copy of the FBI criminal history check results. The individual has the right to contact the FBI, not the airport operator, to challenge the accuracy of the record. Since the FBI maintains the records and has established procedures to address possible inaccuracies, it is appropriate to direct any requests for correction solely to the FBI. The proposed rule does, however, require the individual to notify the airport operator or its designee within 30 days of receipt of the record of the intent to correct any information believed to be inaccurate. If the airport operator or its designee is not notified by the individual within the 30 day period, the airport operator may make the final access decision.

The affected individual would be given one year from the date the individual was notified of the presence of disqualifying information to provide a revised FBI criminal history record information to the airport operator or its designee. This process protects the individual's right to correct information that would affect the determination for unescorted access privileges.

If an individual is disqualified for unescorted access privileges based on the findings of the criminal history record check, the FAA is proposing that the individual be notified that the determination has been made.

Section 107.31(k) Individual Accountability

The Act does not require a recurrent check, and the FAA does not propose to require such checks by regulation. The FAA solicits comments on the need, utility and expense associated with a recurrent check requirement.

Instead of a requirement for recurrent checks, the FAA proposes to require that each affected individual report to the airport operator convictions for any disqualifying crimes that may occur after the completion of the 10-year criminal history record check. The individual would also be required to surrender his or her SIDA identification media to the airport operator. Any individual violating this provision by failing to report a disqualifying crime or surrendering SIDA identification media under this section would be subject to possible FAA enforcement action, including civil penalty liability. The FAA is also exploring with the FBI other systems that may be developed to communicate convictions for individuals with authority for unescorted access.

Section 107.31(l) Limits on Dissemination of Results

As required under the Act, the criminal history record check results should be used only to determine whether to grant unescorted access privileges to the SIDA. The proposed rule also includes limits on the dissemination of the criminal history information, as required by the Act. The FAA proposes to limit distribution of such information to:

(1) The individual to whom the record pertains or someone authorized by that person;

(2) The airport operator or entity designated by the airport operator; and

(3) Individuals designated by the Administrator (e.g., FAA special agents).

Section 107.31(m) Record Keeping

The proposed rule requires the airport operator to establish a record indicating that a criminal history record check was performed for individuals covered by the requirement. To protect the privacy of the individual and limit the use of criminal history record information, the FAA is proposing that the results of the check received from the FBI be destroyed after the determination has been made. The procedures for destroying the results must be acceptable to the Administrator. This would include shredding, burning or other acceptable means of destroying confidential personnel records.

The airport operator would be required to maintain a written record for all individuals permitted unescorted access. The FAA proposes that this record should be retained for 180 days after termination of that individual's authority. The record should be correlated to payment records for specific groups of individuals checked by the FBI and must include, at a minimum, the following:

(1) The date the fingerprints were taken;

(2) The date the fingerprints were sent to the FBI;

(3) The date the results of the fingerprint check were received back by the airport operator;

(4) The outcome and the date when the determination was made; and

(5) Any other information that the Administrator determines is necessary.

Section 107.31(n) Schedule for Implementation

The FAA is proposing two phase-in schedules for the proposed regulatory requirements. The implementation schedules would apply to both airport operators and air carriers.

For airports where at least 25 million persons are screened annually or airports that have been designated by the Assistant Administrator of Civil Aviation Security:

No later than 60 days after the effective date of the final rule, these airports would be required to implement § 107.31 for all new requests for unescorted access privileges. Until the investigation process is complete, individuals newly requiring access to the SIDA would be escorted by an individual who is authorized to have unescorted access.

By December 31, 1992, the fingerprints of at least 50 percent of all individuals who have, or may authorize others to have, unescorted access privileges would have to be submitted to the FBI. By June 30, 1993, the fingerprints of all individuals who have, or may authorize others to have, unescorted access would have to be submitted to the FBI.

For individuals who were authorized to have unescorted access prior to the effective date of the final rule, the 5-year employment and reference verification would not need to be repeated if it has already been performed. Individuals who were hired before the effective date of the security program amendment requiring employement verification (November 1, 1985), and who have been continuously employed since that date, also would not be subject to this investigation.

The deadline for completing the checks for all covered individuals would be January 1, 1994, unless otherwise specified in the airport security program. From that date forward, only individuals who have undergone the 5-year employment and reference check and 10-year criminal history record check could have, or could authorize others to have unescorted access to the SIDA.

For all other airports covered by the requirement:

The FAA is proposing that one year after the effective date of the final rule the airport operator must implement the 5-year employment and reference verification and 10-year criminal history record check for all new requests for unescorted access privileges. The existing 5-year employment and reference verification in the airport and air carrier security programs would remain in effect. Until the investigation process is complete, individuals newly requiring access to the SIDA would have to be escorted by an individual who is authorized to have unescorted access.

By December 31, 1993, the fingerprints of at least 50 percent of all individuals who have, or may authorize others to have, unescorted access would have to be submitted to the FBI. By June 30, 1994, the fingerprints of all individuals who have, or may authorize others to have, unescorted access would have to be submitted to the FBI.

For individuals who were authorized to have unescorted access prior to the effective date of the final rule, the 5-year employment and reference verification would not have to be repeated if it has already been performed. Individuals who were hired before the effective date of the security program amendment requiring employment verification (November 1, 1985), and who have been continuously employed since that date, also would not be subject to this investigation.

The deadline for completing the checks of all covered individuals would be January 1, 1995, unless otherwise specified in the airport security program. From that date forward, only individuals who have undergone the 5-year employment and reference verification and 10-year criminal history record check could have, or could authorize others to have, unescorted access to the SIDA.

Section 108.33 Unescorted Access Privilege (Air Carrier Employees)

The FAA is proposing that air carriers be authorized to perform for their employees the background investigations required of airport operators under proposed § 107.31. The air carrier may provide a general certification to an airport operator pursuant to § 107.31(e) that the checks were performed as part of the program when an air carrier issues identification media to its employees. When an individual air carrier employee is investigated by the carrier for receipt of airport-issued identification media, the air carrier must provide the airport operator with certification for each employee. For identification issued to an air carrier employee by the airport operator, the investigation may be performed by either the air carrier or airport operator. However, since the air carrier is responsible for performing a 5-year employment and reference check for its employees, it is logical that in most cases the 10-year criminal history record check would also be perfomed by the air carrier.

The proposed requirements for performing the checks by an air carrier are identical to those required of an airport operator in all major respects.

The FAA is proposing that the investigations for which the air carrier is responsible be phased-in according to the airport operator's implementation schedule.

Discussion of Issues Related to U.S. Customs Service

Since 1985, the U.S. Customs Service has required a background investigation of individuals with access to the Customs security areas of U.S. airports 19 CFR 122.181–188. This investigation includes a FBI criminal history record check and further background investigation by Customs to determine whether the individual should be issued a seal by Customs allowing access to the Customs security area. The Customs Service requires denial of access authority for any individual convicted of a felony or convicted of a misdemeanor involving theft, smuggling or any theft connected crime, or evidence of a pending or past investigation which establishes criminal or dishonest conduct, or a verified record of such conduct. In addition, when, in the judgment of the Customs District Director an individual would endanger the revenue or security of the Customs security area, he or she will also be denied access authority. The Customs Service regulation also specifies conditions for the revocation or suspension of access, which are the same conditions under which an individual will be denied initial access authority.

On December 11, 1991, the Customs Service issued a notice of proposed rulemaking (56 FR 64580) in which it proposed to charge $19.55 per person for the FBI fingerprint processing required to obtain access authority for Customs security areas at U.S. airports. Currently, Customs does not charge for FBI fingerprint processing.

The FAA invites comments on whether and what methods the criminal history record check required by Customs can be coordinated with the requirements of this proposed rule to minimize the burden on the individual, the airport operator and the air carrier.

Specifically, the FAA invites comments on whether the criminal history record check performed by Customs should be treated as acceptable under the proposed rule for SIDA access. If this concept were adopted, the airport operator could accept the previous criminal history record check of the Customs Service and authorize the individual for unescorted access. Accepting the previous background investigation by Customs would avoid an arguably redundant check because the investigation performed by Customs includes a review of the individual's FBI criminal history record and is based on more restrictive disqualifying criteria (*i.e.*, any felony convictions, or misdemeanor convictions for theft) than the FAA has proposed in this NPRM. Failure to obtain access authority to the Customs area would not preclude an individual from obtaining unescorted access to the SIDA under the FAA proposed rule. The Customs check is relevant to the determination for SIDA access only in cases where access was granted by Customs. If the FAA decides that individuals having existing Customs access authority meet the requirements of FAA's proposed criminal history record check, how should it be documented? Approximately what percentage of individuals requiring SIDA access authority currently have been approved for Customs security area access authority?

For individuals subject to the FAA required criminal history record check who are not currently authorized for access to Customs security areas, should the FAA establish procedures to permit the release of the FBI criminal history record from the airport operator or air carrier to the Customs Service? The limitations on the use of the criminal history record check results contained in the Act would require the consent of the individual applying for unescorted access authority to permit the results to be transmitted to Customs. Providing the criminal history record to Customs generally would preclude the need for an individual to be subject to a duplicative FBI criminal history record check by the Customs Service. If such a release to Customs is permitted with the individual's consent, the FAA would consider the physical release of the FBI criminal history check results as an acceptable disposal of the record as required under the proposed rule.

Regulatory Evaluation Summary

This section summarizes the regulatory evaluation prepared by the FAA. The regulatory evaluation provides more detailed information on estimates of the potential economic consequences of this proposal. This summary and the evaluation quantify, to the extent practicable, estimated costs of the rule to the private sector, consumers, and Federal, State, and local governments, and also the anticipated benefits.

Executive Order 12291, dated February 17, 1981, directs Federal agencies to promulgate new regulations or modify existing regulations only if potential benefits to society for each regulatory change outweigh potential costs. The order also requires the preparation of a Regulatory Impact Analysis of all "major" rules except those responding to emergency situations or other narrowly defined exigencies. A "major" rule is one that is likely to result in an annual effect on the economy of $100 million or more, a major increase in consumer costs, or a significant adverse effect on competition.

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The FAA has determined that this proposal is not "major" as defined in the executive order. Therefore, a full regulatory impact analysis, which includes the identification and evaluation of cost-reducing alternatives to the proposal, has not been prepared. Instead, the Agency has prepared a more concise document termed a "regulatory evaluation," which analyzes only this proposal without identifying alternatives. In addition to a summary of the regulatory evaluation, this section also contains an initial regulatory flexibility determination required by the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) and an international trade impact assessment. Any person who desires more detailed economic information than this summary contains should consult the regulatory evaluation contained in the docket.

Costs of the Proposed Amendment

The costs associated with this proposed rule consist of administrative and processing costs for airport operators and air carriers and the amount charged by the FBI for criminal history record checks for individuals covered by the investigation requirements. Various options are available to the aviation industry to implement this proposal. This analysis estimates a range of costs based on the type of processing selected by the affected entities. The discounted costs of this proposal vary from a low of $46 million under a fully-centralized system to a high of $66 million under a decentralized system over the period from 1992 through 2001.

The variation in costs reflects the differences in administrative processing methods. Centralized processing imparts economies of scale due to the division of labor, specialization of equipment, and reduced fixed costs.

Number of Affected Individuals

The FAA estimates that in 1991, 475,000 persons had authority for unescorted access at the 443 airports covered by part 107. The FAA assumes a 4 percent growth rate per year of individuals with unescorted access privileges to the SIDA based on the forecasted growth in passengers and subsequent need for additional employees. The estimated number of total badges and turnover rate are based on data from three sources: Airport Operators Council International, American Association of Airport Executives, and an FAA econometric estimate of airport employment.

According to data supplied by the aviation industry, the turnover rate for individuals authorized for unescorted access to the SIDA is estimated to be 35 percent per year. Based on the current total SIDA unescorted access population of 475,000, the estimated turnover rate would be approximately 165,000 individuals per year. Assuming a 4 percent growth in airport and air carrier employment per year over the 10-year period and a constant turnover rate, the annual number of individuals with new authority for unescorted access privileges will grow to 235,000 by the year 2001. Over the decade, the average annual number of criminal history record checks for new authorizations for SIDA access will be 198,000 per year.

Adding the individuals who will be seeking new authority to the current population of individuals holding unescorted access authority to the SIDA (individuals currently holding SIDA unescorted access will be phased-in under the requirement of the proposed rule) results in an average number of record checks over the next 10 years of 214,000 per year.

Processing Methods

The estimated total cost per record consists of three components: The average per record cost of any processing system, the amount charged by the FBI for criminal history record checks, and the cost of airport and air carrier staff time.

Fully-Centralized Processing

A fully-centralized processing system means that one entity completes most aspects of the criminal history records check except for making the final unescorted access determination and maintaining the FAA-mandated records. An entity providing full central processing would receive requests from airports and air carriers for background checks. The entity would verify the quality of the fingerprints and batch those requests, and route the fingerprint cards to the FBI. After the FBI completes the search of its index system, the results would be returned to the entity providing the central processing, which, in turn, would screen the results and forward the results to the airport operator or air carrier. Under a fully-centralized system, an entity providing the service would also follow up on arrests for disqualifying convictions for which there is no disposition. Economies of scale lower the average cost per record in a fully-centralized processing system since one staff person can deal with many background checks. In addition, the start up and other administrative costs can be distributed over the large number of record checks.

The average cost per record for a fully-centralized processing system is $34. This is calculated based on the following:

(1) The average record costs for a fully-centralized processing system is calculated as its annual cost ($895,000, which includes staffing and overhead) divided by the average number of record checks each year (214,000), resulting in an average $4 cost per record.

(2) The amount charged by the FBI for criminal history record checks is $21 per record for batched requests.

(3) The averge regulated party staff time (airport operator and air carrier) per record is 20 minutes at an average cost of $9 per record.

The discounted cost for a fully-centralized processing system from 1992 to 2001 is $46 million.

Partially-Centralized Processing

A partially-centralized system would reduce some of the administrative duties for airport operators and air carriers. Under this arrangement, one or more entities could provide partially centralized processing and would verify the quality of the fingerprints and batch the requests for FBI criminal history record checks. The FBI would send the results of the record check to the entities providing partially-centralized processing, which would in turn mail the record to the airport operator or air carrier.

The average cost per record for a partially-centralized processing system is $41. This is calculated based on the following:

(1) The average record costs for a partially-centralized processing system is calculated as its annual cost ($296,000, which includes staffing and overhead) divided by the average number of record checks each year (214,000), resulting in an average $1 cost per record.

(2) The amount charged by the FBI for criminal history record checks is $21 per record for batched requests.

(3) The average regulated party staff time (airport operator and air carrier) per record is 40 minutes at an average cost of $19 per record.

The discounted cost for a partially-centralized processing system from 1992 to 2001 is $52 million.

Decentralized System

In a decentralized system, each airport operator and air carrier would perform all administrative duties related to the criminal history record check. The requests would be mailed directory to the FBI and the FBI would send the results of the criminal history record check directly to the airport operator or air carrier. This analysis assumes that without a fully or partially-centralized processing system, airport and air carrier officials would use a total of one hour to fingerprint the applicant, to complete the appropriate form, to record the application, to evaluate the FBI report and follow-up on arrests for disqualifying convictions with no record of dispositon.

The average cost per record for a decentralized processing system is $51. This is calculated based on the following:

(1) This is a decentralized system, thus, there are no central system processing costs.

(2) The amount charged by the FBI for criminal history record checks is $23 per record for unbatched requests.

(3) The average regulated party staff time (airport operator and air carrier) per record is 60 minutes at an average cost of $28 per record.

The discounted cost for a decentralized processing system from 1992 to 2001 is $66 million.

Escorting Costs

The proposed rule provides for escorted access to the SIDA for individuals not authorized for unescorted access. The FAA has included this provision in the proposal to provide a method for employers to utilize the services of individuals while the criminal history record check is being completed. Based upon an FBI statement of its ability to process the checks and administrative handling and processing times, the FAA estimates that it may take from 30 to 60 days (or more) from the time the fingerprints are taken until a final determination can be made. However, in instances where an individual's FBI criminal history record check reveals information that would disqualify him or her from unescorted access, and the affected individual challenges the accuracy of the record to the FBI, the processing time would increase.

The cost estimates for the proposed regulations do not attach a cost for escorting individuals whose criminal history record check is not yet complete. The FA does not anticipate additional hiring costs associated with escorting individuals while the criminal history record check is pending. The proposal would allow an individual to be escorted by an individual previously authorized for unescorted access privileges.

In most, if not all, situations where an individual is awaiting completion of the criminal history record check, the individual will be in training, working under a closer degree of supervision or working with others who have unescorted access authority so that the task of escorting can be incorporated into the work environment. The proposed regulation does not require an air carrier or airport operator to appoint individuals whose sole function would be to serve as dedicated escorts. The FAA solicits comments on any costs for providing escorted access until the criminal history record check is completed.

The incremental costs of the rule could be reduced if the FAA decides in the final rule that individuals who currently have access to Customs security areas of U.S. airports meet the requirements of the FAA's proposed criminal history records check. Customs estimates that it submits to the FBI about 60,000 fingerprint cards annually for its airport security program. Depending on the proportion of these employees who have unescorted SIDA access but for whom the criminal history record check has not been completed, the number of individuals who require FAA checks could be correspondingly reduced.

The costs could also be reduced if the FAA determines that it would be appropriate to exclude any portion of the SIDA from the criminal history check requirement. As noted in the Section-by-Section Analysis (Section 107.31(d)), comments are invited on the methods and procedures that could be used if any such exclusions were permitted.

Finally, air carriers and airport operators could reduce the costs of implementing the final rule by deciding that some proportion of employees who currently have unescorted access to the SIDA will not require such access after the final rule takes effect.

Benefits of the Proposed Amendment

This proposed rule would augment other recent FAA security regulations by ensuring that individuals with unescorted SIDA access authority are investigated for records of conviction for certain disqualifying crimes. Each improvement of this network further enhances security in the U.S. civil aviation system.

The FBI estimates that approximately 10 percent of criminal history record checks result in a "hit," *i.e.*, a record of arrest. A recent FAA sample of 120 FBI criminal records of individuals would be covered by the proposed rule indicated that 16 percent (of the 10 percent that resulted in a "hit") had been convicted of crimes that would disqualify them for unescorted SIDA access privileges under the proposed rule. The remaining 84 percent had been arrested for or convicted of other crimes not considered to be disqualifying under the Act, such as possession of a controlled substance, driving while intoxicated, and petty theft. These data suggest that an estimated 1.5 percent, or approximately 3,000 individuals a year, would be disqualified from unescorted SIDA access under the proposed rule.

The U.S. aviation industry has not experienced incidents in which there was a direct relation between disqualifying offenses and serious security incidents, such as a terrorist bombing or hijacking. However, the legislation indicates Congress' concern that an individual's criminal history could show a disposition to engage in such conduct in the future, which could result in a serious security incident.

United States-registered air carrier operations have experienced 234 terrorist or other criminal events over the past 30 years resulting in a loss of 403 lives. These terrorist and other criminal acts included 221 hijackings and 13 bombings. At this level of criminal activity, the loss of one airplane within a 10-year period due to criminal activity is probable.

The potential value of avoiding a loss of this type is measured by the value of avoided fatalities and aircraft replacement costs. The FAA currently uses a value of $1.5 million to represent statistically a human fatality avoided.

The FAA has estimated that the destruction of a Boeing 727 would, on average, result in a death toll of 91 persons. The estimated benefit of avoiding these deaths is $137 million (excluding the possible loss of life on the ground). The replacement value of a Boeing 727 in 1990 dollars is approximately $6 million. The present value of such a disaster is valued at $92 million from 1992 through 2001. On the other end of the scale, the loss of a DC-10 would have a present value of $198 milion over the same time period.

Comparison of Cost and Benefits

At the 443 airports in the U.S. aviation security network, nearly 500,000 individuals have unescorted access to airport SIDAs. The proposal would require airports and air carriers to perform an employment history verification and a criminal history record check for individuals with unescorted access to the SIDA. These checks would cost, on average, between $34 and $51 each. The total cost over the next decade including the phase-in for individuals currently holding unescorted access authority ranges from $46 to $66 million. The cost of this rule would be exceeded by the benefit of preventing the destruction of one airplane.

International Trade Impact Assessment

The proposed rule would exempt foreign air carrier flight crewmembers from the employment and criminal history background checks provided they are covered by acceptable alternate access limitations. This exemption is proposed, in part, because the FBI does not routinely have records of convictions for crimes committed outside the United States. However, foreign nationals and U.S. citizens working in the United States for foreign air carriers who require unescorted SIDA access would be subject to these checks. Thus, the proposal could impose a slight trade disadvantage on domestic air carriers since they would have to incur the cost of the records check for flight crewmembers but foreign air carriers would not. However, the FAA believes that this extra cost is negligible. The additional annual cost per enplanement would be at most one half of one cent. Hence, domestic firms would not incur a discernible competitive trade advantage or disadvantage in the sale of United States aviation products or services in foreign countries.

Initial Regulatory Flexibility Analysis

Section 603(b) and 603(c) of the Regulatory Flexibility Act of 1980 (RFA) ensure that government regulations do not needlessly and disproportionately burden small businesses. The RFA requires FAA to review each rule that may have "a significant economic impact on a substantial number of small entities."

FAA criteria set a "substantial number" as not less than 11 and more than one-third of the small entities subject to the amendment. About 220 small airports will be affected by this rule. The threshold for small airports are those operated by towns, cities, or counties whose populations are each less than 50,000. The criteria define a threshold value for "a significant economic impact" as $6,950 for these airports.

Of the 220 airports which qualify as small entities, only four would incur costs that exceed the threshold. These costs are incurred because of personnel turnover. Thus, the proposed rule would not impose significant costs on a substantial number of small airports.

Air carriers will also incur some additional costs as a result of the proposed rule. The threshold size for air carriers is nine aircraft owned, but not necessarily operated, by the certificate holder; and the cost threshold ranges from $51,000 for scheduled operators with at least one airplane in their fleet having fewer than 60 seats to $107,900 for scheduled carriers whose entire fleet has a seating capacity of more than 60 seats.

The record checks of new employees would result in additional costs to small entities in these two groups. To exceed the threshold, a scheduled Part 135 operator with 9 or fewer aircraft would have to employ about 3,000 employees (assuming a 35 percent turnover rate); a Part 121 operator would have to employ 6,400 employees. However, small operators do not employ even a tenth of these numbers, and many large operators do not employ this threshold number. For example, Iowa Airways, which operates 5 aircraft (and is therefore a small entity) employs only 60 persons.

Hence, FAA has determined that this proposal will not have a significant impact on a substantial number of small entities.

Federalism Implications

The proposed rule would not have substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Most airports covered by the NPRM are public entities (state and local governments). However, relatively few of the covered individuals are actually employed by the airport operator, and it is anticipated that most of the costs for the required investigations would be borne by the airport tenants. Thus, the overall impact is not substantial within the meaning of Executive Order 12612. Therefore, in accordance with that Executive Order, it is determined that this proposal would not have sufficient Federal implications to warrant the preparation of a Federalism Assessment.

Paperwork Reduction Act

The reporting and recordkeeping requirement associated with this rule is being submitted to the Office of Management and Budget for approval in accordance with 44 U.S.C. 35 under *Dot No:* 3603; *OMB No:* New; *Title:* Unescorted Access Privilege; *Need for Information:* To record employment, reference and criminal history record check as required by Public Law 101–604; *Proposed Use of Information:* To determine eligibility for unescorted access; *Frequency:* Recordkeeping; *Burden Estimate:* 49,500 hours annually; *Respondents:* Airport operators and air carriers; *Form(s):* None; *Average Burden Hours Per Respondent:* 86—The annual hours per recordkeeper depends on the number of employees in each operation. The estimate is 15 minutes per employee.; *For Further Information Contact:* The Information Requirements Division, M–34, Office of the Secretary of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–4735, or Edward Clarke, Office of Management and Budget (OMB), New Executive Office Building, room 3228, Washington, DC 20503, (202) 395–7340.

Comments on these information collection requirements should be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for FAA. Comments submitted to OMB should also be submitted to the FAA docket.

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Initial Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this proposed regulation is not major under Executive Order 12291. In addition, this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities under the criteria of the Initial Regulatory Flexibility Act. This Proposal is considered significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). An initial regulatory evaluation of the proposal, including a Regulatory Flexibility Determination and Trade Impact Analysis, has been placed in the docket. A copy may be obtained by contacting the person identified under "**FOR FURTHER INFORMATION CONTACT.**"

List of Subjects in 14 CFR Parts 107 and 108

Airplane operator security, Aviation safety, Air transportation, Air carriers, Airlines, Security measures, Transportation, Weapons.

The Proposed Amendments

In consideration of the foregoing, the Federal Aviation Administration proposes to amend parts 107 and 108 of the Federal Aviation Regulations (14 CFR parts 107 and 108) as follows:

PART 107—[AMENDED]

1. The authority citation for part 107 is revised to read as follows:

Authority: Sec. 101, et seq., Pub. L. 101–604, 104 Stat. 3066; 49 U.S.C. 1354, 1356, 1357, 1358 and 1421; 49 U.S.C. 106(g).

2. Part 107 is amended by adding a new § 107.31 to read as follows:

§ 107.31 Unescorted access privilege.

(a) This section applies to all individuals who have, or may authorize others to have, unescorted access to the following areas:

(1) The security identification display area (SIDA) that is identified in the airport security program as required by § 107.25 of this chapter; or

(2) At airports that are not required to identify a SIDA under § 107.25, that portion of the airport where access is controlled for security purposes in accordance with the airport security program.

(b) Except as provided in paragraph (d) of this section, each airport operator shall ensure that no individual has, or may authorize others to have, unescorted access to the areas identified in paragraph (a) of this section unless:

(1) The individual has undergone verification of references and employment history for the 5 years preceding the date of the verification; and

(2) The individual's fingerprint and criminal history record maintained by the Federal Bureau of Investigation (FBI) establishes that within the past 10 years, ending on the date that the airport operator initiates the record check, there is no record of the individual's having been convicted in any jurisdiction of any of the following crimes enumerated in section 316(g)(3)(A)(ii) of the Federal Aviation Act of 1958, 49 U.S.C. App. 1357(g)(3)(A)(ii):

(i) Forgery of certificates, false marking of aircraft, and other aircraft registration violations;

(ii) Interference with air navigation;

(iii) Improper shipment of a hazardous material;

(iv) Aircraft piracy;

(v) Interference with flight crew members or flight attendants;

(vi) Commission of certain crimes aboard aircraft in flight;

(vii) Carrying weapons or explosives aboard aircraft;

(viii) Conveying false information and threats;

(ix) Aircraft piracy outside the special aircraft jurisdiction of the United States;

(x) Lighting violations in connection with transportation of controlled substances;

(xi) Unlawful entry into an aircraft or airport area that serves air carriers or foreign air carriers contrary to established security requirements;

(xii) Destruction of an aircraft or aircraft facility;

(xiii) Murder;

(xiv) Assault with intent to murder;

(xv) Espionage;

(xvi) Sedition;

(xvii) Kidnapping;

(xviii) Treason;

(xix) Rape;

(xx) Unlawful possession, sale, distribution, or manufacture of an explosive or weapon;

(xxi) Extortion;

(xxii) Armed robbery;

(xxiii) Distribution of, or intent to distribute, a controlled substance; or

(xxiv) Conspiracy to commit any of the aforementioned criminal acts.

(c) An airport operator may permit an individual to have escorted access in accordance with the airport security program to the areas identified in paragraph (a) of this section. At a minimum, this escorted access shall consist of continuous surveillance by an individual who is authorized to have unescorted access.

(d) Notwithstanding the requirements of this section, an airport operator may authorize the following individuals to have unescorted access to the areas identified in paragraph (a) of this section:

(1) Employees of the Federal government or a State or local government (including law enforcement officers) who, as a condition of employment, have been subject to a FBI criminal history record check;

(2) Flight crew members of foreign air carriers covered by an alternate security arrangement in the approved airport operator security program; and

(3) An individual who has been continuously employed in a position requiring unescorted access since being authorized by another airport operator or air carrier pursuant to the requirements of paragraph (b) of this section.

(e) An airport operator will be deemed to be in compliance with its obligations under paragraphs (b)(1) and (b)(2) of this section, as applicable, when it accepts certification from:

(1) An air carrier subject to § 108.33 that the air carrier has complied with paragraphs 108.33(a)(1) and (a)(2) for named employees referred to an airport operator and for a program accepted by an airport operator; and

(2) An airport tenant other than a U.S. air carrier that the tenant has complied with paragraph (b)(1) of this section for its employees.

(f) The airport operator shall designate an individual to—

(1) Review the results of each criminal history record check and identify any disqualifying convictions; and

(2) Serve as the contact to receive notification from an individual applying for unescorted access of his or her intent to seek correction of his or her criminal history record with the FBI.

(g) The airport operator may designate an entity to perform the investigation required by paragraph (b)(2) of this section. Prior to commencing any investigation, the airport operator or its designee shall notify affected individuals of the requirement to undergo a criminal history record check.

(h) The airport operator or its designee shall collect and process fingerprints in the following manner:

(1) One set of legible and classifiable fingerprints shall be recorded on fingerprint cards approved by the FBI;

(2) The fingerprints shall be obtained from the individual under direct observation by the airport operator or its designee;

(3) The identity of the individual must be verified at the time fingerprints are obtained. The individual must present two acceptable forms of identification media, one of which must bear his or her photograph; and

(4) The fingerprint cards shall be forwarded to the Identification Division of the Federal Bureau of Investigation in a manner that protects the confidentiality of the individual's record.

(i) In conducting the criminal history record check required by this section, the airport operator or its designee shall investigate arrest information for the crimes listed in paragraph (b) of this section for which no disposition has been recorded.

(j) The airport operator or its designee shall:

(1) At the time the fingerprints are taken, notify the individual that a copy of the criminal history record received from the FBI will be made available if requested in writing.

(2) Prior to making a final decision to deny authorization for unescorted access, advise the individual that the criminal history record received from the FBI discloses information that would disqualify him or her from unescorted access authority and shall provide each affected individual with a copy of his or her record received from the FBI. The individual may contact the FBI to complete or correct the information contained in the record before any final access decision is made regarding the check, subject to the following conditions:

(i) The individual must notify the airport operator or its designee, in writing, within 30 calendar days after being advised that the criminal history record received from the FBI discloses disqualifying information, of his or her intent to correct any information believed to be inaccurate. If no notification is received within 30 calendar days, the airport operator may make a final access decision.

(ii) The individual has one year from the date the airport operator or its designee notified him or her of information that would be disqualifying for unescorted access authority to provide a corrected record received from the FBI before the airport operator may make a final access decision.

(3) Shall notify an individual that a final decision has been made to deny authority for unescorted access.

(k) Any individual authorized to have unescorted access privileges to the areas identified in paragraph (a) of this section who is subsequently convicted of any of the crimes listed in paragraph (b)(2) of this section shall report the conviction and surrender SIDA identification media within 24 hours to the airport operator.

(l) Criminal history record information provided by the FBI shall be used solely for the purposes of this section, and no person shall disseminate the results of a criminal history record check to anyone other than:

(1) The individual to whom the record pertains or that individual's authorized representative;

(2) The airport operator or its authorized representative; or

(3) Others designated by the Administrator.

(m) After completing the investigations required by paragraph (b) of this section, the airport operator shall retain a written record that the investigation was conducted for the individual until 180 days after the termination of the individual's authority for unescorted access. The airport operator or its designee shall dispose of the FBI criminal history record check information in a manner acceptable to the Administrator. The written record shall be correlated to payments for FBI criminal history record checks for specific individuals, and shall include, at a minimum, the following information for each individual:

(1) The date the fingerprints were taken;

(2) The date the fingerprints were sent to the FBI;

(3) The date the criminal history record was received from the FBI;

(4) The date outcome and the date the determination for unescorted access privileges as identified in paragraph (a) of this section was made; and

(5) Any other information as required by the Assistant Administrator for Civil Aviation Security.

(n) Each airport operator shall implement the requirements of paragraph (b) of this section in accordance with the following schedule:

(1) For airports screening at least 25 million persons, or an airport that has been designated by the Assistant Administrator of Civil Aviation Security:

(i) After June 24, 1992, each airport operator shall implement the requirements of paragraph (b) of this section for all individuals who apply for authority to have, or authorize others to have, unescorted access to the areas identified in paragraph (a) of this section.

(ii) By December 31, 1992, each airport operator shall perform the functions required under paragraph (h) of this section for at least 50 percent of the individuals identified in paragraph (a) of this section.

(iii) By June 30, 1993, each airport operator shall perform the functions required under paragraph (h) of this section for all individuals identified in paragraph (a) of this section.

(iv) No later than January 1, 1994, unless otherwise approved by the Administrator in the airport security program, each airport operator shall not authorize any individual to have, or authorize others to have, unescorted access privileges to the areas identified in paragraph (a) of this section unless the individual has been authorized under paragraph (b) of this section.

(2) For all airports except those identified in paragraph (n) (1) of this section:

(i) After June 30, 1993, each airport operator shall implement the requirements of paragraph (b) of this section for all individuals who apply for authority to have, or authorize others to have, unescorted access to the areas identified in paragraph (a) of this section.

(ii) By December 31, 1993, each airport operator shall perform the functions required under paragraph (h) of this section for at least 50 percent of the individuals identified in paragraph (a) of this section.

(iii) By June 30, 1994, each airport operator shall perform the functions required under paragraph (h) of this section for all individuals identified in paragraph (a) of this section.

(iv) After January 1, 1995, unless otherwise approved by the Administrator in the airport security program, each airport operator shall not authorize any individual to have, or authorize others to have, unescorted access privileges to the areas identified in paragraph (a) of this section unless the individual has been authorized under paragraph (b) of this section.

PART 108—[AMENDED]

1. The authority citation for part 108 is revised to read as follows:

Authority: Sec. 101, et seq., Pub. L. 101–604, 104 Stat 3066; 49 U.S.C. 1354, 1356, 1357, 1421, 1424, and 1511; 49 U.S.C. 106(g).

2. Part 108 is amended by adding a new § 108.33 to read as follows:

§ 108.33 Unescorted access privilege

(a) For each employee covered under a certification made to an airport operator pursuant to § 107.31(e), the certificate holder shall ensure that:

(1) The individual has undergone verification of references and employment history for the 5 years preceding the date of the verification; and

(2) The individual's fingerprint and criminal history record maintained by the Federal Bureau of Investigation (FBI) establishes that within the past 10 years, ending on the date that the certificate holder initiates the check, there is no record of the individual's having been convicted in any jurisdiction of any of the following crimes enumerated in section 316 (g) (3) (A) (ii) of the Federal Aviation Act of 1958 (the Act), 49 U.S.C. App. 1357 (g) (3) (A) (ii):

(i) Forgery of certificates, false marking of aircraft, and other aircraft registration violations;

(ii) Interference with air navigation;

(iii) Improper shipment of a hazardous material;

(iv) Aircraft piracy;

(v) Interference with flight crew members or flight attendants;

(vi) Commission of certain crimes aboard aircraft in flight;

(vii) Carrying weapons or explosives aboard aircraft;

(viii) Conveying false information and threats;

(ix) Aircraft piracy outside the special aircraft jurisdiction of the United States;

(x) Lighting violations in connection with transportation of controlled substances;

(xi) Unlawful entry into an aircraft or airport area that serves air carriers or foreign air carriers contrary to established security requirements;

(xii) Destruction of an aircraft or aircraft facility;

(xiii) Murder;

(xiv) Assault with intent to murder;

(xv) Espionage;

(xvi) Sedition;

(xvii) Kidnapping;

(xviii) Treason;

(xix) Rape;

(xx) Unlawful possession, sale, distribution, or manufacture of an explosive or weapon;

(xxi) Extortion;

(xxii) Armed robbery;

(xxiii) Distribution of, or intent to distribute, a controlled substance; or

(xxiv) Conspiracy to commit any of the aforementioned criminal acts.

(b) The certificate holder shall designate an individual to—

(1) Review the results of each criminal history record check and identify any disqualifying convictions; and

(2) Serve as the contact to receive notification from an individual applying for unescorted access of his or her intent to seek correction of his or her criminal history record with the FBI.

(c) The certificate holder may designate an entity to perform the investigation required under paragraph (a)(2) of this section. Prior to commencing any investigation, the certificate holder or its designee shall notify affected individuals of the requirement to undergo a criminal history record check.

(d) The certificate holder or its designee shall collect and process fingerprints in the following manner:

(1) One set of legible and classifiable fingerprints shall be recorded on fingerprint cards approved by the FBI;

(2) The fingerprints shall be obtained from the applicant under direct observation by the certificate holder or its designee;

(3) The identity of the individual must be verified at the time fingerprints are obtained. The individual must present two acceptable forms of identification media, one of which must bear his or her photograph; and

(4) The fingerprint cards shall be forwarded to the Identification Division of the Federal Bureau of Investigation in a manner that protects the confidentiality of the individual's record.

(e) In conducting the criminal history record check required by this section, the certificate holder or its designee shall investigate arrest information for the crimes listed in paragraph (a)(2) of this section, if no disposition has been recorded.

(f) The certificate holder or its designee shall:

(1) At the time the fingerprints are taken, notify the individual that a copy of the criminal history record received from the FBI will be made available if requested in writing.

(2) Prior to making a final decision to deny authorization for unescorted access, advise the individual that the criminal history record received from the FBI discloses information that would disqualify him or her from unescorted access authority and shall provide each affected individual with a copy of his or her record received from the FBI. The individual may contact the FBI to complete or correct the information contained in the record before any final access decision is made regarding the check, subject to the following conditions:

(i) The individual must notify the certificate holder or its designee, in writing, within 30 calendar days after being advised that the criminal history record received from the FBI discloses disqualifying information, of his or her intent to correct any information believed to be inaccurate. If no notification is received within 30 calendar days, the certificate holder may make a final access decision.

(ii) The individual has one year from the date the certificate holder or its designee notified him or her of information that would be disqualifying for unescorted access authority to provide a corrected record received from the FBI before the certificate holder may make a final access decision.

(3) Shall notify an individual that a final decision has been made to deny authority for unescorted access.

(g) Any individual authorized to have unescorted access privileges as identified in paragraph (a) of this section who is subsequently convicted of any of the crimes listed in paragraph (a)(2) of this section shall report the conviction and surrender SIDA identification media within 24 hours to the airport operator.

(h) Criminal history record information provided by the FBI shall be used solely for the purposes of this section, and no person shall disseminate the results of a criminal history record check to anyone other than:

(1) The individual to whom the record pertains or that individual's authorized representative;

(2) The certificate holder or its authorized representative; or

(3) Others designated by the Administrator.

(i) Upon reaching a determination of an individual's eligibility for unescorted access to the areas identified in paragraph (a) of this section, the certificate holder shall retain a written record that the investigation was conducted for the individual until 180 days after the termination of the individual's authority for unescorted access privileges. The certificate holder or its designee shall dispose of the FBI criminal history record check information in a manner acceptable to the Administrator. The written record shall be correlated to payments for FBI criminal history record checks for specific individuals, and shall include, at a minimum, the following information for each individual:

(1) The date the fingerprints were taken;

(2) The date the fingerprints were sent to the FBI;

(3) The date the criminal history record was received from the FBI;

(4) The outcome and the date the determination for unescorted access privileges as identified in paragraph (a) of this section was made; and

(5) Any other information as required by the Assistant Administrator for Civil Aviation Security.

(j) Each certificate holder shall implement these requirements in accordance with the airport operator's schedule in § 107.31(n).

Issued in Washington, DC, on February 10, 1992.

Bruce R. Butterworth,

Director, Office of Civil Aviation Security Policy and Planning, ACP-1.

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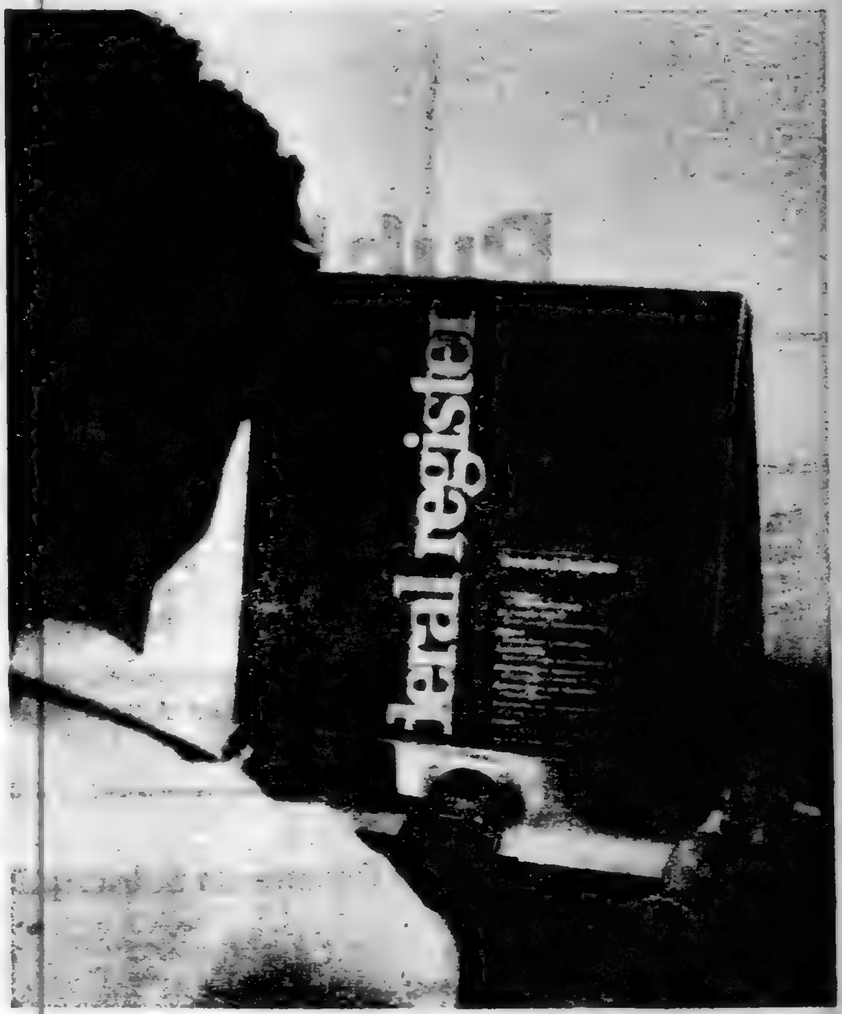

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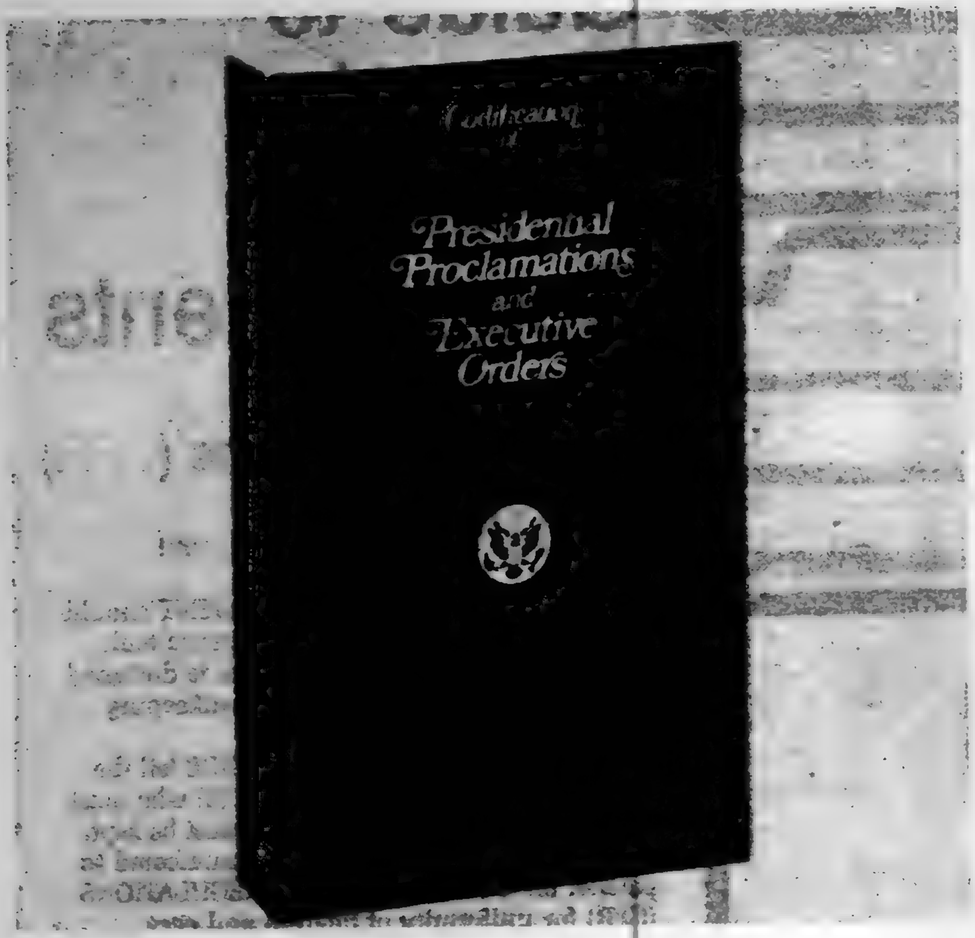

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For information on a briefing in Washington, DC, see announcement on the inside cover of this issue.

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Title 3—

The President

Memorandum of February 10, 1992

Delegation of Functions Related to Payment to the United Nations and Its Specialized Agencies of United States Assessments and Arrears

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3 of the United States Code and sections 102 and 162 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138) (the Act), I hereby delegate to you the functions vested in me by sections 102(a)(3) and 162(b) and (d) of the Act, relating to payment to the United Nations and its specialized agencies of United States assessments and arrears. These functions may be further redelegated within the Department of State.

The functions delegated by this memorandum shall be exercised in coordination with the Director of the Office of Management and Budget and the Assistant to the President for National Security Affairs.

You are authorized and directed to publish this memorandum in the **Federal Register**.

George Bush

THE WHITE HOUSE,
Washington, February 10, 1992.

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Memorandum of February 10, 1992

Delegation of Authority Regarding the Report to the Commission on Security and Cooperation in Europe on Implementation of Helsinki Final Act Commitments

Memorandum for the Honorable James A. Baker, III the Secretary of State

By virtue of the authority vested in me by the Constitution and laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby delegate to you the functions vested in me by section 5 of Public Law 94-304 (22 U.S.C. 3005). The authority delegated by this memorandum may be further delegated within the Department of State.

You are authorized and directed to publish this memorandum in the **Federal Register**.

Bush

THE WHITE HOUSE,
Washington, February 10, 1992.

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OFFICE OF GOVERNMENT ETHICS

5 CFR Part 2636

RIN 3209-AA13

Regulation Requiring Confidential Reporting of Payments to Charitable Organizations in Lieu of Honoraria; Additional Deferral of Effective Date

AGENCY: Office of Government Ethics.

ACTION: Additional deferral of effective date of interim rule provision.

SUMMARY: The Office of Government Ethics (OGE) is again further deferring the effective date of its interim rule provision for the executive branch on confidential reporting of payments to charities in lieu of honoraria (see 56 FR 1727–1728, 21589 and 51319). The rule provision, 5 CFR 2636.205, will now become effective once OGE obtains approval for the future implementing report form from the Office of Management and Budget (OMB) under Paperwork Reduction Act, as well as standard form approval for it from the General Services Administration (GSA).

EFFECTIVE DATE: Effective February 14, 1992, the effective date of 5 CFR 2636.205 is further deferred until the form to actually collect the information required under that section is approved by OMB. When that approval is received (as well as standard form approval from GSA), the Office of Government Ethics will publish a document in the **Federal Register** announcing the effective date of 5 CFR 2636.205.

ADDRESSES: Any comments or questions should be sent to William E. Gressman, Office of Government Ethics, suite 500, 1201 New York Avenue NW., Washington, DC 20005–3917.

FOR FURTHER INFORMATION CONTACT: Mr. Gressman, OGE, at the address above, telephone (202/FTS) 523–5757, FAX (202/FTS) 523–6325.

SUPPLEMENTARY INFORMATION: The Office of Government Ethics published 5 CFR 2636.205, the confidential reporting provision for payments to charitable organizations in lieu of honoraria, as an interim rule in the **Federal Register** on January 17, 1991 and initially provided for an effective date for it of May 15, 1991. The remainder of that interim regulation, 5 CFR part 2636, entitled "Limitations on Outside Employment and Prohibition of Honoraria; Confidential Reporting of Payments to Charities in Lieu of Honoraria," was effective January 1, 1991 (see 56 FR 1721–1730) and continues in effect (as revised effective January 1, 1992 at 56 FR 601–602 (Jan. 8, 1992)). On May 10, 1991 and October 11, 1991, OGE deferred the effective date of § 2636.205 until October 15, 1991 and February 18, 1992 respectively (see 56 FR 21589 and 51319), in order to allow more time to adopt a new reporting form. As noted below, OGE now needs still more time to complete that process.

The Office of Government Ethics continues to work on a draft confidential standard reporting form to collect from covered executive branch officials the information specified in 5 CFR 2636.205 and the underlying section of the Ethics in Government Act of 1978 as amended, 5 U.S.C. appendix, 102(a)(1)(A). Because the new form will collect information from some members of the public (terminees who file after leaving the Government) as well as current Federal employees, it must be submitted to the Office of Management and Budget for review and approval under the Paperwork Reduction Act of 1980 as amended, 44 U.S.C. chapter 35 (the § 2636.205 regulation itself was approved thereunder by OMB on April 10, 1991). In addition, since the form will be a standard form, OGE will also submit it to the General Services Administration for its review and approval in accordance with standard form clearance procedures.

The Office of Government Ethics needs additional time to finally finish preparing the new reporting form, to submit it to OMB and GSA for approval, and to allow for an appropriate public comment period before final issuance of the form.

Therefore, OGE has determined to further defer the effective date of the 5 CFR 2636.205 reporting regulation until the necessary OMB and GSA approvals are obtained for the implementing form.

Approved: February 10, 1992.

Stephen D. Potts,

Director, Office of Government Ethics.

[FR Doc. 92–3589 Filed 2–13–92; 8:45 am]

BILLING CODE 6345-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91–CE–62–AD; Amendment 39–8159; AD 92–03–04]

Airworthiness Directives; British Aerospace (BAe) Limited Jetstream Model 3201 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to BAe Limited Jetstream Model 3201 airplanes. This action requires a cold work expansion process of the bolt holes in the wing spar webs. Fatigue cracks have been found around the periphery of the three fuel tank access panels of the wing spar webs between Wing Station (WS) 36 and WS 83. The actions specified by the AD are intended to prevent fatigue failure of the wing structure on the affected airplanes.

DATES: Effective February 28, 1992. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 28, 1992.

ADDRESSES: Service information that is applicable to this AD may be obtained from British Aerospace, Manager Product Support, Commercial Aircraft Limited, Airlines Division, Prestwick Airport, Ayrshire, KA9 2RW Scotland; Telephone (44–292) 79888; Facsimile (44–292) 79703; or British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, DC, 20041; Telephone (703) 435–9100; Facsimile (703) 435–2628. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

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FOR FURTHER INFORMATION CONTACT: Mr. Raymond A. Stoer, Program Officer, Brussels Aircraft Certification Office, Europe, Africa, Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium; Telephone 322.513.38.30 extension 2710; or Mr. John P. Dow, Sr., Project Officer, Small Airplane Directorate, Aircraft Certification Service, FAA, 601 E. 12th Street, Kansas City, Missouri 64106; Telephone (816) 426–6932; Facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD that is applicable to certain British Aerospace (BAe) Limited Jetstream Model 3201 airplanes was published in the Federal Register on September 30, 1991 (56 FR 49439). The action proposed a cold work expansion process of the 5/16 inch diameter bolt holes around the periphery of the three fuel tank access panels on the wing main spar webs between Wing Station (WS) 36 and WS 83 in accordance with the Accomplishment Instructions of BAe Service Bulletin (SB) 57–JM 8160, dated June 19, 1991.

Interested persons have been afforded an opportunity to participate in the making of this amendment. One comment was received in favor of the proposed rule and no comments were received on the FAA's determination of the cost to the public.

Since the referenced NPRM was issued, the manufacturer (BAe) has revised BAe SB 57–JM 8160. This revision incorporates minor editorial corrections and does not increase the scope of work, cost, or effectivity that was originally proposed. The FAA has determined that the proposed action should be done in accordance with the Accomplishment Instructions in BAe SB 57–JM 8160, Revision No. 1, dated August 23, 1991, or BAe SB 57–JM 8160, dated June 19, 1991. The AD has been changed accordingly.

The NPRM referenced serial numbers 1 through 922 as the airplanes affected by the proposed action. According to FAA records, there are no BAE Limited Jetstream Model 3201 airplanes prior to serial number 790. Therefore, the effectivity of this AD action is being rewritten to reflect serial numbers 790 through 922. This change does not change the number of airplanes affected by this AD.

After careful review, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for the revision to the service information described above, the clarification in the serial number effectivity, and minor editorial corrections. The FAA has determined that these minor corrections, the revision to the service information, and the serial number clarification will not change the meaning of the AD nor add any additional burden upon the public than was already proposed.

It is estimated that 89 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 70 workhours per airplane to accomplish the required action, and that the average labor rate is approximately $55 an hour. Parts will be provided by the manufacturer at no cost to the operator. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $342,650. The FAA anticipates that the compliance schedule will allow sufficient scheduling flexibility so that operators could accomplish the actions during regularly scheduled maintenance, which could reduce the cost per airline/operator for this action.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

92-03-04. British Aerospace, Limited: Amendment 39–8159; Docket No. 91–CE–62–AD.

Applicability: Jetstream Model 3201 Airplanes (serial numbers 790 through 922), certificated in any category.

Compliance: Upon the accumulation of 6,000 landings, or within the next 1,000 landings after the effective date of this AD, whichever occurs later, unless already accomplished.

Note: If no record of landings is maintained, hours time-in-service (TIS) may be used with one hour TIS equal to two landings. For example, 100 hours TIS is equal to 200 landings.

To prevent fatigue failure of the wing structure, accomplish the following:

(a) Modify the 5/16 inch diameter bolt holes around the periphery of the three fuel tank access panels on the wing main spar webs between Wing Station (WS) 36 and WS 83 in accordance with the Accomplishment Instructions of BAe Service Bulletin 57–JM 8160, Revision 1, dated August 23, 1991.

(b) If the modification required by paragraph (a) of this AD has been accomplished in accordance with the original issue of BAe Service Bulletin 57–JM 8160, dated June 19, 1991, then no further action is required by this AD.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Brussels Aircraft Certification Office, Europe, Africa, Middle East office, FAA, c/o American Embassy, 1000 Brussels, Belgium. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels Aircraft Certification Office.

(e) The modification required by this AD shall be done in accordance with British Aerospace Service Bulletin 57–JM 8160, Revision 1, dated August 23, 1991, or British Aerospace Service Bulletin 57–JM 8160, dated June 19, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from British Aerospace, Manager Product Support, Commercial Aircraft Limited, Airlines Division, Prestwick Airport, Ayrshire, KA9 2RW Scotland; or British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, DC 20041.

Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 1100 L Street, NW.; room 8401, Washington, DC.

(f) This amendment (39-8159) becomes effective on February 28, 1992.

Issued in Kansas City, Missouri, on January 7, 1992.

Dwight A. Young,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-3615 Filed 2-13-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 91-NM-117-AD; Amendment 39-8112; AD 91-26-01]

Airworthiness Directives; British Aerospace Viscount Model 744, 745D, and 810 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to all British Aerospace Viscount Model 744, 745D, and 810 series airplanes. This amendment requires repetitive visual inspections to detect corrosion on elevator balance weights and elevator leading edge members, and repair or replacement, if necessary. This action is prompted by a report of corrosion found on the elevator balance weights and elevator leading edge member attachment. This condition, if not corrected, could result in reduced controllability of the airplane.

DATES: Effective March 23, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 23, 1992.

ADDRESSES: The applicable service information may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041-0414. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM-113; telephone (206) 227-2148. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to all British Aerospace Viscount Model 744, 745D, and 810 series airplanes, was published in the **Federal Register** on June 24, 1991 (56 FR 28728). That action proposed to require repetitive visual inspections to detect corrosion on elevator balance weights and elevator leading edge members, and repair or replacement, if necessary.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter objected to the proposed 4-year inspection interval, and stated that it was too long an interval in which to detect corrosion in a timely manner. The commenter requested that the FAA revise the rule to require an additional inspection for corrosion of the elevator balance weights within two years after the initial inspection to ensure an adequate level of safety in the interim. The FAA does not concur. The oldest of the affected airplanes has been in service for approximately 36 years without evidence of corrosion of the elevator balance weights and associated structure to the point of catastrophic failure. The FAA has determined that the actions required by the proposal, including the initial inspection of balance weights and their mounting structure for corrosion, removal of any corrosion found, reapplication of corrosion protection treatment, and renewal of any significantly corroded mounting structure, will ensure freedom from any catastrophic corrosion in this area for four years. In addition, the requirements of this AD do not preclude operators from performing inspections of the areas addressed as a matter of general maintenance of the airplane; such inspections may possibly be conducted at intervals shorter than those for the inspections required by this rule.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 29 airplanes of U.S. registry will be affected by this AD, that it will take approximately 100 work hours per airplane to accomplish the required actions, and that the average labor cost will be $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $159,500.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

91-26-01. British Aerospace: Amendment 39-8112. Docket No. 91-NM-117-AD.

Applicability: All Viscount Model 744, 745D, and 810 series airplanes, certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To prevent reduced controllability of the airplane, accomplish the following:

(a) Within 180 days after the effective date of this AD, and thereafter at intervals not to exceed 4 years, perform a visual inspection of the elevators to detect corrosion of the mild steel balance weights and of the forward face of the leading edge members in accordance with British Aerospace Preliminary Technical Leaflet (PTL) No. 324 (for Viscount Model 744 and 745D series airplanes), Issue 1, or PTL No. 193 (for Viscount Model 810 series

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airplanes), Issue 1, both dated February 10, 1990, as applicable.

(1) If corrosion is found in the mild steel balance weights, prior to further flight, repair in accordance with the applicable PTL.

(2) If corrosion is found in the forward face of the leading edge members, prior to further flight, repair in accordance with the applicable PTL. If corrosion exceeds the limits specified in the PTL, prior to further flight, replace the members in accordance with the PTL.

(b) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

(d) The inspection and repair requirements shall be done in accordance with British Aerospace Preliminary Technical Leaflet (PTL) No. 324 (for Viscount Model 744 and 745D series airplanes) Issue 1, dated February 10, 1990; or PTL No. 193 (for Viscount Model 810 series airplanes), Issue 1, dated February 10, 1990; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from British Aerospace, PLC, Librarian for Service bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041-0414. Copies may be inspected at the FAA, Transport Airplane Directorate, Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, DC.

(e) This amendment (39–8112), AD 91–20–01, becomes effective March 23, 1992.

Issued in Renton, Washington, on November 25, 1991.

Jim Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–3620 Filed 2–13–92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 91–NM–224–AD; Amendment 39–8119; AD 91–22–52]

Airworthiness Directives; Airbus Industrie Model A310 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the Federal Register an amendment adopting Airworthiness Directive (AD) 91–22–52, which was made effective previously as to all known U.S. owners and operators of Airbus Industrie Model A310 series airplanes by individual telegrams. This AD requires inspections to detect cracks in the area of the shock absorber attachment at the top of the barrel, and repair, if necessary; and a measurement of the gap between the barrel and the shock absorber attachment, and corrective action, if necessary. This amendment is prompted by a recent report of the rupture of the aft hinge arm of the left main landing year (MLG) barrel. The actions specified by this AD are intended to prevent the collapse of the MLG.

DATES: Effective March 2, 1992, to all persons except those persons to whom it was made immediately effective by telegraphic AD 91–22–52, issued October 24, 1991, which contained this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 2, 1992.

ADDRESSES: The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2140; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION: On October 24, 1991, the FAA issued Telegraphic AD 91–22–52, applicable to Airbus Industrie Model A310 series airplanes, which requires certain inspections and necessary repairs of the shock absorber attachment at the top of the barrel. That action was prompted by a report from the French Direction Général de l'Aviation Civile (DGAC), the airworthiness authority of France, which indicated that the aft hinge arm of the left main landing gear (MLG) barrel on an Airbus Model A310 series airplane had ruptured. Preliminary metallurgical investigation indicated that the rupture was due to stress corrosion. Further review of the available data indicated that excess space between the nut at the top of the shock absorber and the barrel may lead to cracking of the sealant and could result in corrosion. Corrosion at the top of the barrel/shock absorber area could lead to crack initiation, and subsequent rupturing of the MLG barrel aft hinge attachment. This condition, if not corrected, could result in the collapse of the MLG.

Airbus Industrie issued All Operators Telex (AOT) 32–04, Revision 1, dated October 22, 1991, which describes procedures to inspect the MLG barrel top area to detect cracks, and repair, if necessary; and to measure the gap between the barrel and the shock absorber attachment, and to perform the necessary corrective action. The DGAC classified this AOT as mandatory and issued French Airworthiness Directive CN 91–234–127(B) addressing this subject.

This airplane model is manufactured in France and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral agreement. The FAA examined the findings of the French DGAC, reviewed all available information, and determined that AD action was necessary for products of this type design certificated for operation in the United States.

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design registered in the United States, the FAA issued Telegraphic AD 91–22–52 to prevent the collapse of the MLG. The AD requires inspections of the MLG to detect cracks in the area of the shock absorber attachment at the top of the barrel, and repair, if necessary; and a measurement of the gap between the barrel and the shock absorber attachment, and corrective action, if necessary. The required actions are to be accomplished in accordance with the AOT previously described.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual telegrams issued on October 24, 1991, to all known U.S. owners and operators of Airbus Industrie Model A310 series airplanes. These conditions still exist, and the AD is hereby published in the Federal Register as an amendment to § 39.13 of part 39 of the Federal Aviation Regulations (FAR) to make it effective as to all persons.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The Federal Aviation Administration has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

91–22–52. **Airbus Industrie:** Amendment 39–8119. Docket No. 91–NM–224–AD.

Applicability: Model A310 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent the collapse of the main landing gear (MLG), accomplish the following:

(a) Within 2 years after installation of a new or overhauled MLG, or within 8 days after the effective date of this amendment, whichever occurs later, perform a visual inspection in the area of the shock absorber attachment at the top of the barrel to detect cracks, in accordance with Airbus Industrie All Operators Telex 32–04, Revision 1, dated October 22, 1991.

(b) Upon the accumulation of 4 years on a new or overhaul MLG (time running from installation on the airplane), repeat the inspection required by paragraph (a) of this AD at intervals not to exceed 8 days.

(c) If any crack is found as a result of the inspection(s) required by paragraph (a) or (b) of this AD, prior to further flight, repair in a manner approved by the Manager, Standardization Branch, ANM–113.

(d) Within 2 years after installation of a new or overhauled MLG, or within 8 days after the effective date of this amendment, whichever occurs later, perform a measurement of the gap between the barrel and the shock absorber attachment, in accordance with Airbus Industrie All Operators Telex 32–04, Revision 1, dated October 22, 1991.

(1) If the gap measurement is equal to or less than 2 mm, prior to further flight, apply corrosion inhibitor and reapply rubber sealant, in accordance with Airbus Industrie All Operators Telex 32–04, Revision 1, dated October 22, 1991.

(2) If the gap measurement exceeds 2 mm, within 16 days after performing the gap measurement, perform a gap recovery procedure in accordance with Messier Bugatti Gap Recovery Procedure DC/VA/B No. 20084, dated October 21, 1991. Repeat the inspection required by paragraph (a) of this AD at intervals not to exceed 2 days until the gap recovery procedure is accomplished.

(e) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM–113.

(f) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(g) The inspection and measurement requirements of this AD shall be done in accordance with Airbus Industrie All Operators Telex 32–04, Revision 1, dated October 22, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

(h) This amendment (39–8119), AD 91–22–52, becomes effective March 2, 1992, to all persons except those to whom it was made immediately effective by Telegraphic AD 91–22–52, issued October 24, 1991, which contained the requirements of this amendment.

Issued in Renton, Washington, on December 3, 1991.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–3616 Filed 2–13–92; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 91–NM–103–AD; Amendment 39–8137; AD 92–02–01]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

AGENCY: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, which requires repetitive inspections for cracking of the doorstop support fittings at the forward edge of the number 5 main entry door, and replacement, if necessary. This amendment is prompted by recent reports of cracks in certain doorstop fittings at the forward edge of number 5 main entry doors. This condition, if not corrected, could allow the door to open during flight, resulting in sudden decompression of the airplane.

DATES: Effective March 23, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 23, 1992.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Steven C. Fox, Seattle Aircraft Certification Office, Airframe Branch, ANM–120S; telephone (206) 227–2777. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to certain Boeing Model 747 series airplanes, was published in the Federal Register on July 19, 1991 (56 FR 33214).

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That action proposed to require repetitive inspections for cracking of the doorstop support fittings at the forward edge of the number 5 main entry door; replacement, if necessary; and eventual installation of a terminating modification.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter concurred with the proposed rule and supported its adoption.

Several commenters, including the manufacturer, the Air Transport Association (ATA) of America, and the Boeing 747 Structures Working Group (SWG), considered that the proposed mandatory replacement of all 7079 aluminum fittings within 4 years was unnecessary and requested that it be deleted from the rule. These commenters contend that the subject fittings, which are made of 7079 aluminum, have been installed and subject to corrosion stresses for more than 20 years, and most have not cracked. The fittings that have cracked most likely did so due to stress corrosion, since 7079 aluminum material has a poor stress corrosion resistance. These commenters contend that the inspection program mandated by this AD action will systematically remove all cracked fittings and replace them with fittings made of 7075–T73 aluminum (thereby constituting terminating action for the repetitive inspections).

The repetitive inspections would also preclude the possible situation in which several adjacent fittings would be cracked at one time. After reconsideration, the FAA concurs with the commenters. The FAA considers that the initial inspection required by this AD action will eliminate those fittings that have already cracked; the repetitive inspections and "on condition" replacement requirements will establish a continuing acceptable level of safety. Additionally, the inspection area is easily accessible, cracking is easily detectable, and the consequences of a cracked fitting are not likely to be catastrophic. The final rule has been revised to delete the proposed requirement to replace of all of the fittings within 4 years.

Several commenters requested that the proposed rule be revised to allow the continued operation of the airplane with some small known cracks in the doorstop fittings, as is specified in the manufacturer's service bulletin. The FAA does not concur. These small unrepaired cracks must be repaired, rather than deferred until a convenient maintenance interval, because they provide a direct source for continued cracking due to stress corrosion. Since the crack growth rate of the 7079 aluminum material can not be reliably predicted when subjected to additional corrosion, the deferral of repair of known cracks does not provide an acceptable level of safety.

Two commenters requested that the proposed 500 flight cycle compliance time for the initial inspection be increased to 1,000 flight cycles so that the initial inspections could be scheduled during routine maintenance. The FAA does not concur. Since the Notice was issued, an operator has reported finding cracking on eight out of nine fittings on a single door. Therefore, the initial inspection interval defined in the proposal is considered appropriate to detect cracking in a timely manner and maintain an acceptable level of safety.

Several commenters requested that the FAA not propose mandatory structural modification (i.e., the proposed replacement requirements) to older airplanes without recommendations from the appropriate Structures Working Group (SWG), which is part of the Aviation Rulemaking Advisory Committee (ARAC). The FAA does not concur. The FAA must proceed as the impact on safety dictates. Also, members of the SWG's are able to provide comments concerning a proposal, as are all segments of the public. This comment aside, the FAA has considered and concurred with the SWG's recommendations to delete the proposed mandatory replacement requirement, as explained previously.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the rule.

There are approximately 113 Model 747 series airplanes of the affected design in the worldwide fleet. It is estimated that 78 airplanes of U.S. registry will be affected by this AD, that it will take approximately 20 manhours per airplane to accomplish the required actions, and that the average labor cost will be $55 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $85,800.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

92–02–01. Boeing: Amendment 39–8137. Docket No. 91–NM–103–AD.

Applicability: Model 747 series airplanes, line number 001 through 113, certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To prevent sudden decompression of the airplane, accomplish the following:

(a) Within the next 500 flight cycles after the effective date of this AD, unless previously accomplished within the last 1,500 flight cycles, perform an initial high frequency eddy current inspection of the doorstop support fittings at the forward edge of the number 5 main entry doors, in accordance with Boeing Alert Service Bulletin 747–53A2326, dated December 20, 1990, to determine material type, if not known, and accomplish the following prior to further flight:

(1) For doorstop support fittings which have been determined to be made of 7075–

T73 aluminum: No further action is required under the inspection requirements of this AD.

(2) For doorstop support fittings which have been determined to be made of 7079-T6 aluminum: Visually inspect the fittings for cracking in accordance with Boeing Alert Service Bulletin 747-53A2326, dated December 20, 1990. Repeat this inspection thereafter at intervals not to exceed 2,000 flight cycles.

(b) If cracking is found as the result of the inspections required by paragraph (a) of this AD, prior to further flight, replace the cracked doorstop support fittings with doorstop support fittings made of 7075-T73 aluminum, in accordance with Boeing Alert Service Bulletin 747-53A2326, dated December 20, 1990. Continue to reinspect any remaining doorstop support fittings made of 7079-T6 material in accordance with paragraph (a)(2) of this AD.

(c) Replacement of all doorstop fittings made of 7079-T6 material in accordance with Boeing Alert Service Bulletin 747-53A2326, dated December 20, 1990, constitutes terminating action for the repetitive inspection requirements of this AD.

(d) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

(f) The inspection and replacement shall be done in accordance with Boeing Alert Service Bulletin 747-53A2326, dated December 20, 1990. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. Copies may be inspected at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

(g) This amendment (39-8137), AD 92-02-01, becomes effective March 23, 1992.

Issued in Renton, Washington, on December 23, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-3618 Filed 2-13-92; 8:45 am]

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14 CFR Part 39

[Docket No. 91-NM-255-AD; Amendment 39-8150; AD 92-02-14]

Airworthiness Directives; Airbus Industrie Model A320 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Airbus Industrie Model A320 series airplanes. This action requires inspection of the flexible control cables on the overwing emergency escape slides to ensure that the flexible control assemblies are correctly installed. This amendment is prompted by reports of the overwing emergency escape slides failing to deploy during functional testing. The actions specified in this AD are intended to prevent failure of the overwing emergency escape slides to deploy; failure of the slide to deploy would compromise use of the exit during an emergency.

DATES: Effective March 2, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 2, 1992.

Comments for inclusion in the Rules Docket must be received on or before April 14, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 91-NM-255-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

The service information referenced in this AD may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Greg Holt, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2140; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION: The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority of France, recently notified the FAA that an unsafe condition may exist on certain Airbus Industrie Model A320 series airplanes. The French DGAC advises that, during functional testing, the left-hand (LH) and right-hand (RH) overwing emergency escape slides failed to deploy on a Model A320 series airplane. Investigation revealed that during production, both the LH and RH actuating cables were incorrectly installed; i.e., the cables were disconnected at the cable joints just forward of the inflation bottles. After reconnection of the cable joints, the functional test was successfully completed. Subsequent investigation of this operator's fleet has revealed that on another Model A320 series airplane only the RH overwing slide failed to deploy. On airplanes having manufacturer's serial numbers 176 and subsequent, the manufacturer has conducted an additional check to ensure that the actuating cables are correctly installed. If the cable is disconnected, the inflation gas bottle cannot be activated and the overwing emergency escape slide will not deploy; failure of the slide to deploy would compromise use of the exit during an emergency.

Airbus Industrie has issued All Operator Telex 25-02, dated May 16, 1991, which describes procedures for inspection and reconnection, if necessary, of the flexible control cables of the right-hand and left-hand overwing emergency escape slides. The French DGAC has classified this AOT as mandatory and has issued Airworthiness Directive 91-153-018(B) in order to assure the airworthiness of these airplanes in France.

This airplane model is manufactured in France and type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to a bilateral airworthiness agreement, the French DGAC has kept the FAA totally informed of the above situation. The FAA has examined the findings of the French DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent failure of the overwing emergency escape slides to deploy. This AD requires inspection and reconnection, if necessary, of the flexible control cables on the right-hand and left-hand overwing emergency escape slides. The required actions are to be accomplished in accordance with the AOT previously described.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

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Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption "ADDRESSES." All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of the AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 91-NM-255-AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

92-02-14. **Airbus Industrie:** Amendment 39-8150. Docket 91-NM-255-AD.

Applicability: Model A320 series airplanes through manufacturer's serial number 175, inclusive, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the overwing emergency escape slides to deploy, accomplish the following:

(a) Within 50 hours time-in-service after the effective date of this AD, perform an inspection of the flexible control cables on the right-hand and left-hand overwing emergency escape slides to ensure that the flexible control assembly on each overwing escape slide is correctly installed, in accordance with Airbus Industrie All Operator Telex (AOT) 25-02, dated May 16, 1991.

(1) If each flexible control assembly is correctly installed, no further action is required.

(2) If a flexible control assembly is incorrectly installed, prior to further flight, reconnect the assembly, in accordance with the AOT.

(b) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The inspections and reconnections of the flexible control assemblies and release cable assemblies required by this AD shall be done in accordance with Airbus Industrie All Operator Telex 25-02, dated May 16, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France, Copies may be inspected at the FAA, Transport Airplane Directorate, Standardization Branch, ANM-113, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

(e) This amendment (39-8150), AD 92-02-14, becomes effective March 2, 1992.

Issued in Renton, Washington, on December 30, 1991.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-3617 Filed 2-13-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 91-NM-177-AD; Amendment 39-8163; AD 92-03-06]

Airworthiness Directives; SAAB-Scania Models SF-340A and SAAB 340B Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to Model SAAB-Scania Models SF-340A and SAAB 340B series airplanes, which currently requires replacement of certain life-limited components associated with the main landing gear (MLG) and nose landing gear (NLG) in accordance with revised life limits. This amendment requires replacement of additional life-limited components. This action is prompted by an analysis in which the life limits of additional landing gear components were recalculated in order to compensate for operation of the SAAB Model 340 series airplanes at higher weights than those used to establish the life limits during airplane certification. The actions specified by the AD are intended to prevent reduced structural capability of the MLG and NLG.

DATES: Effective March 16, 1992

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 16, 1992.

ADDRESSES: The service information referenced in this AD may be obtained from SAAB-Scania AB, Product Support, S-581.88, Linköping, Sweden.

This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Standardization Branch, ANM-113, telephone (206) 227-2145. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of Federal Aviation Regulations by superseding AD 91-07-02, Amendment 39-6932, which is applicable to certain Model SAAB-Scania Models SF-340A and SAAB 340B series airplanes, was published in the **Federal Register** on October 11, 1991 (56 FR 51351). The action proposed to require replacement of additional life-limited components specified in two additional service bulletin attachments not referenced in the existing AD.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supports the proposed rule.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and public interest require the adoption of the rule as proposed.

It is estimated that 121 airplanes of U.S. registry will be affected by this AD, that it will take approximately 48 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Required parts will cost approximately $4,700 per airplane. Based on figures, the total cost impact of the AD on U.S. operators is estimated to be $888,140.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air Transportation, Aircraft, Aviation Safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegate to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39-6932, and by adding the following new airworthiness directive:

92-03-08. **Saab-Scania:** Amendment 39-8163. Docket 91-NM-177-AD. Supersedes AD 91-07-02, Amendment 39-6932.

Applicability: Model SF-340A series airplanes, Serial Numbers 004 through 159; and SAAB 340B series airplanes, Serial Numbers 160 and subsequent; certificated in any category.

Compliance: Required as indicated, unless accomplished previously. To ensure proper operation of the nose landing gear (NLG) and main landing gear (MLG), accomplish the following:

(a) Remove the NLG and MLG components identified in the attachments (listed below) to SAAB Service Bulletin 340-32-066, Revision 1, dated October 17, 1990, and replace them with serviceable components prior to the accumulation of the number of landings listed in the "Fatigue-Life Flights" column of the applicable "Life Limited Parts List," or within 60 days after April 15, 1991 (the effective date of Amendment 39-6932, AD 91-07-02), whichever occurs later. Thereafter, replace these components with serviceable components at intervals not to exceed the number of landings listed in the "Fatigue-Life Limits" column of the applicable "Life Limited Parts List."

SAAB SERVICE BULLETIN 340-32-066 ATTACHMENTS

A precision hydraulics service bulletin No.	Date issued	Attachment No.
AIR83530-32-07	January 1990	1
AIR83570-32-04	January 1990	2
AIR83572-32-01	January 1990	3
AIR84306-32-07	January 1990	4
AIR84350-32-01	January 1990	5
AIR83022-32-18 REV1.	August 1990	6

(b) Remove the NLG and MLG components identified in the attachments (listed below) to SAAB Service Bulletin 340-32-066, Revision 1, dated October 17, 1990, and replace them with serviceable components prior to the accumulation of the number of landings listed in the "Fatigue-Life Flights" column of the applicable "Life Limited Parts List," or within 60 days after the effective date of this AD, whichever occurs later. Thereafter, replace these components with serviceable components at intervals not to exceed the number of landings listed in the "Fatigue-Life Limits" column of the applicable "Life Limited Parts List."

SAAB SERVICE BULLETIN 340-32-066 ATTACHMENTS

AP precision hydraulics service bulletin No.	Date issued	Attachment No.
AIR83064-32-02	January 1990	7
AIR84310-32-07	January 1990	8

(c) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

(e) The modifications required by this AD shall be done in accordance with SAAB-Scania Service Bulletin 340-32-066, Revision 1, dated October 17, 1990, and Attachments 1 through 8, which incorporate the following list of effective pages:

Page	Date
Title Page—Revision 1	October 17, 1991.
p 1	(None)
Attachment 1:	
AP Precision Hydraulics Service Bulletin AIR83530-32-07:	
pp. 1-3	January 1990.

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Page	Date
Attachment 2:	
AP Precision Hydraulics Service Bulletin AIR83570-32-04:	
pp. 1–2	January 1990.
Attachment 3:	
AP Precision Hydraulics Service Bulletin AIR83572-32-01:	
pp. 1–2	January 1990.
Attachment 4:	
AP Precision Hydraulics Service Bulletin AIR84306-32-07:	
pp. 1-2	January 1990.
Attachment 5:	
AP Precision Hydraulics Service Bulletin AIR84350-32-01:	
pp. 1-2	January 1990.
Attachment 6:	
AP Precision Hydraulics Service Bulletin AIR83022-32-16, REV1:	
p. 1	August 1990.
pp. 2–4	January 1990.
Attachment 7:	
AP Precision Hydraulics Service Bulletin AIR83064-32-02:	
pp. 1–3	January 1990.
Attachment 8:	
AP Precision Hydraulics Service Bulletin AIR84310-32-07:	
pp. 1–3	January 1990.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from SAAB-Scania AB, Product Support, S–581.88, Linköping, Sweden. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

(f) This amendment (39–8163), AD 92–03–08, becomes effective March 16, 1992.

Issued in Renton, Washington, on January 13, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–3619 Filed 2–13–92; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 91-ANE-37; Amendment 39-8120, AD 91-18-12]

Airworthiness Directives; Wytwornia Sprzetu Komunikacyjnego "PZL-RZESZOW" PZL-3S Second Series Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the Federal Register and makes effective to all persons an amendment adopting Airworthiness Directive (AD) 91–18–12, that was previously issued as a Priority Letter AD. This AD requires removal from service of certain modified pistons, and inspections of the propeller to engine propeller-flange area and rear crankshaft counterweight system. This AD is needed to prevent separation of the propeller from the aircraft and loss of the aircraft.

DATES: Effective February 14, 1992, to all persons except those persons to whom it was made immediately effective by Priority Letter AD 91–18–12, issued August 9, 1991, which contained this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 14, 1992.

ADDRESSES: The applicable service information may by be obtained from Wytwornia Sprzetu Komunikacyjnego "PZL-RZEWSZOW", 35–078 Rzeszow, Poland. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, room 311, 12 New England Executive Park, Burlington, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Robert E. Guyotte, Engine Certification Office, ANE–140, Engine and Propeller Directorate, Aircraft Certification Service, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803–5299; (617) 273–7094.

SUPPLEMENTARY INFORMATION: On August 9, 1991, the FAA issued Priority Letter AD 91–18–12 applicable to certain PZL–3S second series engines. The AD requires removal from service of certain modified pistons, inspection of the propeller to engine propeller-flange attachment bolts, inspection of the engine propeller-flange retaining nut, and inspection of the rear crankshaft counterweight system. There have been two reported occurrences of propeller to engine propeller-flange attachment bolts found to be cracked or failed. The FAA has determined that propeller to engine propeller-flange attachment bolt failure can be caused by increased vibratory stresses induced by the installation of pistons which have been modified and assembled with certain compression ring, scraper ring, and oil control ring components. This modification may result in excessive distress of the crankshaft rear counterweight system, and loss of propeller-flange retention nut torque. This condition, if not corrected, can result in separation of the propeller from the aircraft and loss of the aircraft.

Since this condition could result in separation of the propeller from the aircraft and loss of the aircraft, immediate corrective action is required. Therefore, safety in air transportation requires adoption of this amendment without prior notice and public comment. In addition, since this condition may still exist, there is a need to require the inspection of the affected engines as soon as possible. Therefore, it is found that notice and public procedure hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days. This AD, which was previously made effective upon receipt of individual letters issued to all known U.S. owners and operators of the affected engines, is hereby published in the **Federal Register** as an amendment to § 39.13 of part 39 of the Federal Aviation Regulations to make it effective to all persons.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the rule docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, and Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration (FAA) amends 14 CFR part 39 of the Federal Aviation Regulations (FAR) as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive (AD):

91–18–12. Wytwornia Sprzetu Komunikacyjnego "PZL–RZESZOW"—(Amendment 39–8120, Docket No. 91–ANE–37)

Applicability: Wytwornia Sprzetu Komunikacyjnego "PZL–RZESZOW" PZL–3S Second Series piston engines installed on but not limited to Grumman AG CAT aircraft.

Compliance: Required as indicated, unless previously accomplished.

To prevent separation of the propeller and loss of the aircraft, accomplish the following:

(a) Remove from service prior to further flight, pistons which have been modified and assembled with compression ring, Part Number (P/N) JRS 123421, scraper ring, P/N JRS 123423, and oil control ring, P/N JRS 123424.

(b) Within the next 10 hours in service after the effective date of the AD, remove, clean, and visually inspect using 10x magnification the propeller to engine propeller-flange attachment bolts for evidence of cracking or failure, and perform the following:

(1) For engines with bolts found to be cracked or broken, replace with new bolts and disassemble and visually inspect for distress of the rear crankshaft, rear counterweight and rear counterweight pins.

(i) If any distress is found in the rear crankshaft, rear counterweight, or rear counterweight pins, replace distressed parts with new parts.

(ii) Distress is defined as any evidence of wear, galling, pitting, or scoring, and includes discoloration (blue color) of the counterweight pins.

(2) For engines with bolts found not to be cracked, inspect the engine propeller-flange retaining nut for looseness and perform the following:

(i) Retorque the propeller-flange retaining nut if found loose in accordance with Section 3.3.4 of the PZL–3S Engine Servicing Instructions, revised March 1984.

(ii) Replace all propeller to engine propeller-flange attachment bolts with new bolts.

(c) Thereafter, re-inspect the engine propeller-flange retaining nut for looseness in accordance with paragraph b(2) of this AD at intervals not to exceed 100 hours in service since last inspection.

(d) Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

(e) Upon submission of substantiating data by an owner or operator through an FAA Inspector (maintenance, avionics, or operations, as appropriate), an alternate method of compliance with the requirements of this AD or adjustments to the compliance times specified in this AD may be approved by the Manager, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, FAA, 12 New England Executive Park, Burlington, Massachusetts 01803–5299.

(f) The inspection shall be done in accordance with the following Wytwornia Sprzetu Komunikacyjnego "PZL–RZESZOW" document:

Document No.	Page No.	Issue	Date
Engine Servicing.	3–11	Revised	February 1984.
Instructions.	3–12	Revised	March 1984.
Section 3.3.4.	3–13	Revised	March 1984.

Total pages: 3.

This incorporation was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to Wytwornia Sprzetu Komunikacyjnego "PZL–RZESZOW", 35–078 Rzeszow, Poland. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, room 311, 12 New England Executive Park, Burlington, Massachusetts, or at the Office of the Federal Register, 1100 L Street, NW., room 8401, Washington DC.

This amendment (39–8120, AD 91–18–12) becomes effective February 14, 1992, to all persons, except those persons to whom it was made immediately effective by Priority Letter AD 91–18–12, issued August 9, 1991, which contained this amendment.

Issued in Burlington, Massachusetts, on December 16, 1991.

Jack A. Sain,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 92–3613 Filed 2–13–92; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 91–ASW–29; Amdt. 39–8151; AD 92–02–15]

Airworthiness Directives; McDonnell Douglas Helicopter Company (MDHC) (Hughes) Model 369 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to MDHC Model 369 Series helicopters, which currently requires a one-time dye penetrant and tap test inspection as well as repetitive preflight checks of certain tail rotor blades for abrasion strip separation. This amendment retains the previous daily preflight visual checks, adds periodic visual inspections of tail rotor blade abrasion strips, and adds the 369 (YOH–6A) model number and several new blade part numbers to the AD. This amendment is prompted by recent reports of tail rotor abrasion strip separation which, if not corrected, could result in loss of tail rotor control and subsequent loss of the helicopter.

DATES: Effective March 10, 1992.

Comments for inclusion in the Rules Docket must be received by March 30, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 10, 1992.

ADDRESSES: The applicable service information notices may be obtained from MDHC Technical Publications, Building 543/D214, McDonnell Douglas Helicopter Company, 5000 E. McDowell Road, Mesa, Arizona 85205–9797, telephone (602) 891–6484; or may be examined in the Rules Docket, Office of the Assistant Chief Counsel, FAA, 4400 Blue Mound Road, room 158, Building 3B, Fort Worth, Texas.

Submit comments in triplicate to the Federal Aviation Administration, Attention: Rules Docket No. 91–ASW–29, 4400 Blue Mound Road, Fort Worth, Texas 76193–0007, or deliver in triplicate to room 158, Bldg. 3B, at the above address.

Comments must be marked: Docket No. 91–ASW–29. Comments may be inspected at the above location between the hours of 9 a.m. and 3 p.m. Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Sol Davis, Aerospace Engineer, Airframe Branch, ANM–123L, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 3229 E. Spring Street, Long Beach, California 90806–2425; telephone (213) 988–5233; fax (213) 988–5210.

SUPPLEMENTARY INFORMATION: On August 20, 1985, the FAA issued Airworthiness Directive (AD) 85–18–02, Amendment 39–5127 (50 FR 36990, September 11, 1985), to require a one-

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time dye penetrant and tap test inspection as well as repetitive preflight visual checks of certain tail rotor blades for abrasion strip separation on McDonnell Douglas Helicopter Company (MDHC) Model 369A, D, E, H, HE, HM, and HS helicopters. The FAA amended Amendment 39–5127 to include helicopter Models 369F and FF and additional tail rotor blade part numbers by issuing Amendment 39–5463 (51 FR 44438, December 9, 1986).

After issuing Amendment 39–5463, the FAA determined that further action is required as a result of a recent incident in Canada where a tail rotor blade abrasion strip came off causing a severe unbalance vibration and subsequent separation of the tail rotor gear box from the helicopter.

Since the unsafe condition described is likely to exist or develop on other rotorcraft of the same type designs, this AD supersedes AD 85–18–02, Amendment 39–5127 (50 FR 36990, September 11, 1985) as amended by Amendment 39–5463 (51 FR 44438, December 9, 1986). This AD retains the daily preflight visual checks and adds periodic visual inspections (10X magnification) of specified tail rotor blades with abrasion strips which do not have certain rivets installed. If bond failure of the abrasion strips is suspected, further inspection is required by the AD. The AD also requires installation of two rivets for the abrasion strips, after which no further AD inspections are required. Additional tail rotor blades and helicopter models are affected by this new AD. This AD mandates compliance with certain MDHC Service Information Notices.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Although this action is in the form of a final rule that involves requirements affecting flight safety and thus was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption "ADDRESSES." All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this final rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 91–ASW–29." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–5127 (50 FR 36990, September 11, 1985), AD 85–18–02, as amended by Amendment 39–5463 (51 FR 44438, December 9, 1986), and by adding the following new airworthiness directive:

AD 92–02–15. **McDonnell Douglas Helicopter Company (Hughes).** Amendment 39–8151. Docket No. 91–ASW–29. Supersedes AD 85–18–02, Amendment 39–5127, as amended by Amendment 39–5463.

Applicability: Models 369 (YOH–6A), 369A (OH–6A); 369H, HE, HS, HM; 369D, E, F, and FF helicopters, equipped with the following tail rotor blades with bonded abrasion strips installed during production: part numbers (P/N's) 421–088–BSC; 369A1613–7, –503, –505; 369D21606–BSC; 369A21613–11, –21, –31, –41, –51; 369A21615–BSC, –21 or, the following blades with abrasion strips installed in the field, P/N's 369A1613–BSC, –3, –501; 369D21606–503; 369A21613–BSC, certificated in any category.

Note: The addition of a suffix (such as the letters "M" or "M–STC") to a dash number does not exempt that dash number from compliance with this AD.

Compliance: Required as indicated, unless already accomplished.

To prevent possible loss of tail rotor control due to loss of a tail rotor abrasion strip, accomplish the following:

(a) Before the first flight of each day after the effective date of this AD, until two rivets are installed in accordance with paragraph (c) of this AD, accomplish the following:

(1) Check each tail rotor blade abrasion strip visually for any evidence of bond failure along the entire abrasion strip/airfoil bond line.

(2) This check may be performed by the pilot.

(b) If the check of paragraph (a) results in suspect areas, conduct the following inspections before further flight:

(1) Remove the blade from the helicopter, and perform dye penetrant and tap test inspections in accordance with the applicable helicopter maintenance manual to assure that the abrasion strip is secure.

Note: MDHC Service Information Notice: HN–197.2, DN–130.2, EN–19.2, and FN–17.1, dated March 23, 1987, pertains to the checks and inspections of paragraphs (a) and (b).

(2) If debonding is confirmed, remove the blade from service and replace with a serviceable blade prior to further flight.

(c) Within 25 hours' time in service after the effective date of this AD, unless previously accomplished within the last 100 hours' time in service, and thereafter at intervals not to exceed 100 hours' time in service from the last inspection, until in compliance with paragraph (e) of this AD, accomplish the following:

(1) Conduct a visual inspection (using a 10X magnifying glass) of the tail rotor blade abrasion strip/airfoil bond lines for debonding, without removing the blade from the helicopter.

(2) If abrasion strip debonding is suspected but cannot be confirmed by the inspection of paragraph (c)(1), remove the blade and perform dye penetrant and tap test inspections in accordance with the applicable helicopter maintenance manual to assure that the abrasion strip is secure.

(3) If debonding has occurred, remove the blade from service and replace with a serviceable blade prior to further flight.

(d) Record compliance with paragraphs (a), (b), and (c) of this AD in accordance with FAR § 91.417(a)(2)(v) after each check and inspection. NOTE: MDHC Service Information Notice HN-232, DN-179, EN-70, and FN-57, dated September 27, 1991, part I, paragraph (b), pertains to these inspections.

(e) Within 300 hours' time in service after the effective date of this AD, for tail rotor blades with an abrasion strip but without failsafe rivets for the abrasion strip, install tail rotor blade abrasion strip rivets in accordance with part II of McDonnell Douglas Helicopter Company Service Information Notice HN-232, DN-179, EN-70, and FN-57, dated September 27, 1991.

(f) In accordance with FAR §§ 21.197 and 21.199, the helicopter may be flown to a base where compliance with this AD may be accomplished.

(g) An alternative method of compliance with this AD, which provides an equivalent level of safety, may be used if approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region, 3229 E. Spring Street, Long Beach, California 90806-2425.

(h) The inspection, removal, modification, and replacement, if necessary, of the tail rotor blade assemblies required by this AD shall be done in accordance with McDonnell Douglas Helicopter Company Service Information Notice No. HN-232, DN-179, EN-70, and FN-57, dated September 27, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from MDHC Technical Publications, Building 543/D214, McDonnell Douglas Helicopter Company, 5000 E. McDowell Road, Mesa, Arizona 85205-9797. Copies may be inspected at the FAA, Office of the Assistant Chief Counsel, 4400 Blue Mound Road, Bldg. 3B, room 158, Fort Worth, Texas; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

(i) This amendment (39-8151), AD 92-02-15, becomes effective on March 10, 1992.

Issued in Forth Worth, Texas, on December 31, 1991.

Henry A. Armstrong,
Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 92-3614 Filed 2-13-92; 8:45 am]

BILLING CODE 4910-13-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2619

Valuation of Plan Benefits in Single-Employer Plans; Amendment Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This amendment to the regulation on Valuation of Plan Benefits in Single-Employer Plans contains the interest rates and factors for the period beginning March 1, 1992. The use of these interest rates and factors to value benefits is mandatory for some terminating single-employer pension plans and optional for others. The Pension Benefit Guaranty Corporation adjusts the interest rates and factors periodically to reflect changes in financial and annuity markets. This amendment adopts the rates and factors applicable to plans that terminate on or after March 1, 1992, which will remain in effect until the PBGC issues new interest rates and factors.

EFFECTIVE DATE: March 1, 1992.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Code 22500, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington DC 20006, 202-778-8850 (202-778-8859 for TTY and TDD only). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: The Pension Benefit Guaranty Corporation's ("PBGC's") regulation on Valuation of Plan Benefits in Single-Employer Plans (29 CFR part 2619) sets forth the methods for valuing plan benefits of terminating single-employer plans covered under Title IV of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). Under ERISA section 4041(c), all plans wishing to terminate in a distress termination must value guaranteed benefits and "benefit liabilities", i.e., all benefits provided under the plan as of the plan termination date, using the formulas set forth in part 2619, subpart C. (Plans terminating in a standard termination may, for purposes of the Standard Termination Notice filed with PBGC, use these formulas to value benefit liabilities, although this is not required.) In addition, when the PBGC terminates an underfunded plan involuntarily pursuant to ERISA section 4042(a), it uses the subpart C formulas to determine the amount of the plan's underfunding.

Appendix B in part 2619 sets forth the interest rates and factors that are to be used in the formulas contained in the regulation. Because these rates and factors are intended to reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

The rates and factors currently in use have been in effect since February 1, 1992. This amendment adds to appendix B a new set of interest rates and factors for valuing benefits in plans that terminate on or after March 1, 1992, which set reflects an increase of ¼ percent in the immediate interest rate from 6¼ percent to 6½ percent.

Generally, the interest rates and factors will be in effect for at least one month. However, any published rates and factors will remain in effect until such time as the PBGC publishes another amendment changing them. Any change in the rates normally will be published in the **Federal Register** by the 15th of the month preceding the effective date of the new rates or as close to that date as circumstances permit.

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest rates and factors promptly so that the rates can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation of benefits in plans that will terminate on or after March 1, 1992, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making the rates set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this is not a "major rule" under the criteria set forth in Executive Order 12291, because it will not result in an annual effect on the economy of $100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, or innovation.

List of Subjects in 29 CFR Part 2619

Employee benefit plans, Pension insurance, Pensions.

In consideration of the foregoing, part 2619 of chapter XXVI, title 29, Code of Federal Regulations, is hereby amended as follows:

1. The authority citation for part 2619 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, and 1362 (1988).

2. Rate Set 96 of appendix B is revised and Rate Set 97 of appendix B is added to read as follows. The introductory text is republished for the convenience of the reader and remains unchanged.

Appendix B—Interest Rates and Quantities Used to Value Immediate and Deferred Annuities

In the table that follows, the immediate annuity rate is used to value immediate annuities, to compute the quantity "Gy" for deferred annuities and to value both portions of a refund annuity. An interest rate of 5% shall be used to value death benefits other than the decreasing term insurance portion of a refund annuity. For deferred annuities, k_1, k_2, k_3, n_1, and n_2 are defined in § 2619.45.

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities				
	On or after	and before		k_1	k_2	k_3	n_1	n_2
*	*	*	*	*	*	*		
96	2-1-92	3-1-92	6.25	1.0550	1.0425	1.0400	7	8
97	3-1-92	....	6.50	1.0575	1.0450	1.0400	7	8

Issued in Washington, DC, on this 10th day of February, 1992.

James B. Lockhart III,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 92-3592 Filed 2-13-92; 8:45 am]

BILLING CODE 7708-01-M

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29 CFR Part 2676

Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal—Interest Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's regulation on Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal (29 CFR part 2676). The regulation prescribes rules for valuing benefits and certain assets of multiemployer plans under sections 4219(c)(1)(D) and 4281(b) of the Employee Retirement Income Security Act of 1974. Section 2676.15(c) of the regulation contains a table setting forth, for each calendar month, a series of interest rates to be used in any valuation performed as of a valuation date within that calendar month. On or about the fifteenth of each month, the PBGC publishes a new entry in the table for the following month, whether or not the rates are changing. This amendment adds to the table the rate series for the month of March 1992.

EFFECTIVE DATE: March 1, 1992.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy, Attorney, Office of the General Counsel (22500), Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, DC 20006; 202-778-8820 (202-778-8859 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The PBGC finds that notice of and public comment on this amendment would be impracticable and contrary to the public interest, and that there is good cause for making this amendment effective immediately. These findings are based on the need to have the interest rates in this amendment reflect market conditions that are as nearly current as possible and the need to issue the interest rates promptly so that they are available to the public before the beginning of the period to which they apply. (See 5 U.S.C. 553 (b) and (d).) Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

The PBGC has also determined that this amendment is not a "major rule" within the meaning of Executive Order 12291 because it will not have an annual effect on the economy of $100 million or more; or create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on competition, employment, investment, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 29 CFR Part 2676

Employee benefit plans and Pensions.

In consideration of the foregoing, Part 2676 of Subchapter H of Chapter XXVI of Title 29, Code of Federal Regulations, is amended as follows:

PART 2676—VALUATION OF PLAN BENEFITS AND PLAN ASSETS FOLLOWING MASS WITHDRAWAL

1. The authority citation for part 2676 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1399(c)(1)(D), and 1441(b)(1).

2. In § 2676.15, paragraph (c) is amended by adding to the end of the table of interest rates therein the following new entry:

§ 2676.15 Interest.

* * * * *

(c) Interest Rates.

For valuation dates occurring in the month:	The values for i_k are:															
	i_1	i_2	i_3	i_4	i_5	i_6	i_7	i_8	i_9	i_{10}	i_{11}	i_{12}	i_{13}	i_{14}	i_{15}	i_u
March 1992.	.0675	.06625	.0650	.06375	.0625	.06125	.06125	.06125	.06125	.06125	.06	.06	.06	.06	.05675	

Issued at Washington, DC., on this 10th day of February 1992.

James B. Lockhart III,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 92-3591 Filed 2-13-92; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 155

[DoD Directive 5220.6]

Defense Industrial Personnel Security Clearance Program

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This document revises 32 CFR part 155 to update policy, responsibilities, and procedures of the Defense Industrial Personnel Security Clearance Review Program. The revision incorporates adjudication policies set forth in DoD 5200.2-R, "Department of Defense Personnel Security Program", January 1987 (32 CFR part 154); reinstates reversal authority for Appeal Board; amends reimbursement procedures; provides for adverse action upon issuance of Administrative Judge decision rather than upon appellate decisions; provides for open hearings; and various other changes such as role of Director.

EFFECTIVE DATE: March 16, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. L. Schachter, telephone (703) 696-4598.

SUPPLEMENTARY INFORMATION: On March 11, 1991 (56 FR 10215), the Department of Defense published a proposed rule requesting comments by April 10, 1991. Comments were received and selected changes incorporated. This action is not a major rule as defined by Executive Order 12291. The rule will not have an annual effect on the economy of $100 million or more; result in a major increase in the cost or prices for consumers, industries, state or local governments; or adversely affect competition, employment, investment, or innovation. The rule is not subject to the Regulator Flexibility Act (5 U.S.C. 601 *et seq.*). Therefore, no Regulatory Flexibility Analysis was prepared.

List of Subjects in 32 CFR Part 155

Administrative practice and procedure, Business and industry, Classified information.

Accordingly, 32 CFR part 155 is revised to read as follows:

PART 155—DEFENSE INDUSTRIAL PERSONNEL SECURITY CLEARANCE PROGRAM

Sec.
155.1 Purpose.
155.2 Applicability and scope.
155.3 Definitions.
155.4 Policy.
155.5 Responsibilities.
155.6 Procedures.
Appendix A to Part 155—Additional Procedural Guidance

Authority: 10 U.S.C. 139; E.O. 10865, 3 CFR 1959–1963 Comp., p. 398.

§ 155.1 Purpose.

This part updates policy, responsibilities, and procedures of the Defense Industrial Personnel Security Clearance Review Program implementing E.O. 10865.

§ 155.2 Applicability and scope.

This part:

(a) Applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Inspector General of the Department of Defense (IG, DoD), and the Defense Agencies (hereafter referred to collectively as "the DoD Components").

(b) By mutual agreement, also extends to other Federal Agencies that include:

(1) Department of Agriculture.
(2) Department of Commerce.
(3) Department of Interior.
(4) Department of Justice.
(5) Department of Labor.
(6) Department of State.
(7) Department of Transportation.
(8) Department of Treasury.
(9) Environmental Protection Agency.
(10) Federal Emergency Management Agency.
(11) Federal Reserve System.
(12) General Accounting Office.
(13) General Services Administration.
(14) National Aeronautics and Space Administration.
(15) National Science Foundation.
(16) Small Business Administration.
(17) United States Arms Control and Disarmament Agency.
(18) United States Information Agency.
(19) United States International Trade Commission.
(20) United States Trade Representative.

(c) Applies to cases that the Defense Industrial Security Clearance Office (DISCO) forwards to the Directorate for Industrial Security Clearance Review (DISCR) for action under this part to determine whether it is clearly consistent with the national interest to grant or continue a security clearance for the applicant.

(d) Provides a program that may be extended to other security cases at the direction of the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence (ASD(C^{3}I)).

(e) Does not apply to cases in which:

(1) A security clearance is withdrawn because the applicant no longer has a need for access to classified information;

(2) An interim security clearance is withdrawn by the DISCO during an investigation; or

(3) A security clearance is withdrawn for administrative reasons that are without prejudice as to a later determination of whether the grant or continuance of the applicant's security clearance would be clearly consistent with the national interest.

(f) Does not apply to cases for access to sensitive compartmented information or a special access program.

§ 155.3 Definitions.

(a) *Applicant.* Any U.S. citizen who holds or requires a security clearance or

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any immigrant alien who holds or requires a limited access authorization for access to classified information needed in connection with his or her employment in the private sector; any U.S. citizen who is a direct-hire employee or selectee for a position with the North Atlantic Treaty Organization (NATO) and who holds or requires NATO certificates of security clearance or security assurances for access to U.S. or foreign classified information; or any U.S. citizen nominated by the Red Cross or United Service Organizations for assignment with the Military Services overseas. The term "applicant" does not apply to those U.S. citizens who are seconded to NATO by U.S. Departments and Agencies or to U.S. citizens recruited through such Agencies in response to a request from NATO.

(b) *Clearance Decision.* A decision made in accordance with this part concerning whether it is clearly consistent with the national interest to grant an applicant a security clearance for access to Confidential, Secret, or Top Secret information. A favorable clearance decision establishes eligibility of the applicant to be granted a security clearance for access at the level governed by the documented need for such access, and the type of investigation specified for that level in 32 CFR part 154. An unfavorable clearance decision denies any application for a security clearance and revokes any existing security clearance, thereby preventing access to classified information at any level and the retention of any existing security clearance.

§ 155.4 Policy.

It is DoD policy that:

(a) All proceedings provided for by this part shall be conducted in a fair and impartial manner.

(b) A clearance decision reflects the basis for an ultimate finding as to whether it is clearly consistent with the national interest to grant or continue a security clearance for the applicant.

(c) Except as otherwise provided for by E.O. 10865 or this part, a final unfavorable clearance decision shall not be made without first providing the applicant with:

(1) Notice of specific reasons for the proposed action.

(2) An opportunity to respond to the reasons.

(3) Notice of the right to a hearing and the opportunity to cross-examine persons providing information adverse to the applicant.

(4) Opportunity to present evidence on his or her own behalf, or to be represented by counsel or personal representative.

(5) Written notice of final clearance decisions.

(6) Notice of appeal procedures.

(d) Actions pursuant to this part shall cease upon termination of the applicant's need for access to classified information except in those cases in which:

(1) A hearing has commenced;

(2) A clearance decision has been issued; or

(3) The applicant's security clearance was suspended and the applicant provided a written request that the case continue.

§ 155.5 Responsibilities.

(a) The Assistant Secretary of Defense of Command, Control, Communications and Intelligence shall:

(1) Establish investigative policy and adjudicative standards and oversee their application.

(2) Coordinate with the General Counsel of the Department of Defense (GC, DoD) on policy affecting clearance decisions.

(3) Issue clarifying guidance and instructions as needed.

(b) The General Counsel of the Department of Defense shall:

(1) Establish guidance and provide oversight as to legal sufficiency of procedures and standards established by this part.

(2) Establish the organization and composition of the DISCR.

(3) Designate a civilian attorney to be the Director, DISCR.

(4) Issue clarifying guidance and instructions as needed.

(5) Administer the program established by this part.

(6) Issue invitational travel orders in appropriate cases to persons to appear and testify who have provided oral or written statements adverse to the applicant relating to a controverted issue.

(7) Designate attorneys to be Department Counsels assigned to the DISCR to represent the Government's interest in cases and related matters within the applicability and scope of this part.

(8) Designate attorneys to be Administrative Judges assigned to the DISCR.

(9) Designate attorneys to be Administrative Judge members of the DISCR Appeal Board.

(10) Provide for supervision of attorneys and other personnel assigned or attached to the DISCR.

(11) Develop and implement policy established or coordinated with the GC, DoD, in accordance with this part.

(12) Establish and maintain qualitative and quantitative standards for all work by DISCR employees arising within the applicability and scope of this part.

(13) Ensure that the Administrative Judges and Appeal Board members have the requisite independence to render fair and impartial decisions consistent with DoD policy.

(14) Provide training, clarify policy, or initiate personnel actions, as appropriate, to ensure that all DISCR decisions are made in accordance with policy, procedures, and standards established by this part.

(15) Provide for maintenance and control of all DISCR records.

(16) Take actions as provided for in § 155.6(b), and the additional procedural guidance in appendix A to this part.

(17) Establish and maintain procedures for timely assignment and completion of cases.

(18) Issue guidance and instructions, as needed, to fulfill the foregoing responsibilities.

(19) Designate the Director, DISCR, to implement paragraphs (b)(5) through (b)(18) of this section, under general guidance of the GC, DoD.

(c) The Heads of the DoD Components shall provide (from resources available to the designated DoD Component) financing, personnel, personnel spaces, office facilities, and related administrative support required by the DISCR.

(d) The ASD(C^3I) shall ensure that cases within the scope and applicability of this part are referred promptly to the DISCR, as required, and that clearance decisions by the DISCR are acted upon without delay.

§ 155.6 Procedures.

(a) Applicants shall be investigated in accordance with the standards in 32 CFR part 154.

(b) An applicant is required to give, and to authorize others to give, full, frank, and truthful answers to relevant and material questions needed by the DISCR to reach a clearance decision and to otherwise comply with the procedures authorized by this part. The applicant may elect on constitutional or other grounds not to comply; but refusal or failure to furnish or authorize the providing of relevant and material information or otherwise cooperate at any stage in the investigation or adjudicative process may prevent the DISCR from making a clearance decision. If an applicant fails or refuses to:

(1) Provide relevant and material information or to authorize others to provide such information; or

(2) Proceed in a timely or orderly fashion in accordance with this part; or

(3) Follow directions of an Administrative Judge or the Appeal Board; then the Director, DISCR, or designee, may revoke any security clearance held by the applicant and discontinue case processing. Requests for resumption of case processing and reinstatement of a security clearance may be approved by the Director, DISCR, only upon a showing of good cause. If the request is denied, in whole or in part, the decision is final and bars reapplication for a security clearance for 1 year from the date of the revocation.

(c) Each clearance decision must be a fair and impartial common sense determination based upon consideration of all the relevant and material information and the pertinent criteria in 32 CFR 154.7 and adjudication policy in appendix H to 32 CFR part 154, including as appropriate:

(1) Nature and seriousness of the conduct and surrounding circumstances.

(2) Frequency and recency of the conduct.

(3) Age of the applicant.

(4) Motivation of the applicant, and the extent to which the conduct was negligent, willful, voluntary, or undertaken with knowledge of the consequences involved.

(5) Absence or presence of rehabilitation.

(6) Probability that the circumstances or conduct will continue or recur in the future.

(d) Whenever there is a reasonable basis for concluding that an applicant's continued access to classified information poses an imminent threat to the national interest, any security clearance held by the applicant may be suspended by the ASD(C^3I), with the concurrence of the GC, DoD, pending a final clearance decision. This suspension may be rescinded by the same authorities upon presentation of additional information that conclusively demonstrates that an imminent threat to the national interest no longer exists. Procedures in appendix A to this part shall be expedited whenever an applicant's security clearance has been suspended pursuant to this section.

(e) Nothing contained in this part shall limit or affect the responsibility and powers of the Secretary of Defense or the head of another Department or Agency to deny or revoke a security clearance when the security of the nation so requires. Such authority may not be delegated and may be exercised only when the Secretary of Defense or the head of another Department or Agency determines that the hearing procedures and other provisions of this part cannot be invoked consistent with the national security. Such a determination shall be conclusive.

(f) Additional procedural guidance is in appendix A to this part.

Appendix A to Part 155—Additional Procedural Guidance

1. When the DISCO cannot affirmatively find that it is clearly consistent with the national interest to grant or continue a security clearance for an applicant, the case will be promptly referred to the DISCR.

2. Upon referral, the DISCR shall make a prompt determination whether to grant or continue a security clearance, issue a statement of reasons (SOR) as to why it is not clearly consistent with the national interest to do so, or take interim actions, including but not limited to:

a. Direct further investigation.

b. Propound written interrogatories to the applicant or other persons with relevant information.

c. Requiring the applicant to undergo a medical evaluation by a DoD Psychiatric Consultant.

d. Interviewing the applicant.

3. An unfavorable clearance decision shall not be made unless the applicant has been provided with a written SOR that shall be as detailed and comprehensive as the national security permits. A letter of instruction with the SOR shall explain that the applicant or Department Counsel may request a hearing. It shall also explain the adverse consequences for failure to respond to the SOR within the prescribed time frame.

4. The applicant must submit a detailed written answer to the SOR under oath or affirmation that shall admit or deny each listed allegation. A general denial or other similar answer is insufficient. To be entitled to a hearing, the applicant must specifically request a hearing in his or her answer. The answer must be received by the DISCR within 20 days from receipt of the SOR. Requests for an extension of time to file an answer may be submitted to the Director, DISCR, or designee, who in turn may grant the extension only upon a showing of good cause.

5. If the applicant does not file a timely and responsive answer to the SOR, the Director, DISCR, or designee, may discontinue processing the case, deny issuance of the requested security clearance, and direct the DISCO to revoke any security clearance held by the applicant.

6. Should review of the applicant's answer to the SOR indicate that allegations are unfounded, or evidence is insufficient for further processing, Department Counsel shall take such action as appropriate under the circumstances, including but not limited to withdrawal of the SOR and transmittal to the Director for notification of the DISCO for appropriate action.

7. If the applicant has not requested a hearing with his or her answer to the SOR and Department Counsel has not requested a hearing within 20 days of receipt of the applicant's answer, the case shall be assigned to an Administrative Judge for a clearance decision based on the written record. Department Counsel shall provide the applicant with a copy of all relevant and material information that could be adduced at a hearing. The applicant shall have 30 days from receipt of the information in which to submit a documentary response setting forth objections, rebuttal, extenuation, mitigation, or explanation, as appropriate.

8. If a hearing is requested by the applicant or Department Counsel, the case shall be assigned to an Administrative Judge for a clearance decision based on the hearing record. Following issuance of a notice of hearing by the Administrative Judge, or designee, the applicant shall appear in person with or without counsel or a personal representative at a time and place designated by the notice of hearing. The applicant shall have a reasonable time to prepare his or her case. The applicant shall be notified at least 15 days in advance of the time and place of the hearing, which generally shall be held at a location in the United States within a metropolitan area near the applicant's place of employment or residence. A continuance may be granted by the Administrative Judge only for good cause. Hearings may be held outside of the United States in NATO cases, or in other cases upon a finding of good cause by the Director, DISCR, or designee.

9. The Administrative Judge may require a prehearing conference.

10. The Administrative Judge may rule on questions of procedure, discovery, and evidence and shall conduct all proceedings in a fair, timely, and orderly manner.

11. Discovery by the applicant is limited to non-privileged documents and materials subject to control by the DISCR. Discovery by Department Counsel after issuance of an SOR may

be granted by the Administrative Judge only upon a showing of good cause.

12. A hearing shall be open except when the applicant requests that it be closed, or when the Administrative Judge determines that there is a need to protect classified information or there is other good cause for keeping the proceeding closed. No inference shall be drawn as to the merits of a case on the basis of a request that the hearing be closed.

13. As far in advance as practical, Department Counsel and the applicant shall serve one another with a copy of any pleading, proposed documentary evidence, or other written communication to be submitted to the Administrative Judge.

14. Department Counsel is responsible for presenting witnesses and other evidence to establish facts alleged in the SOR that have been controverted.

15. The applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel, and has the ultimate burden of persuasion as to obtaining a favorable clearance decision.

16. Witnesses shall be subject to cross-examination.

17. The SOR may be amended at the hearing by the Administrative Judge on his or her own motion, or upon motion by Department Counsel or the applicant, so as to render it in conformity with the evidence admitted or for other good cause. When such amendments are made, the Administrative Judge may grant either party's request for such additional time as the Administrative Judge may deem appropriate for further preparation or other good cause.

18. The Administrative Judge hearing the case shall notify the applicant and all witnesses testifying that 18 U.S.C. 1001 is applicable.

19. The Federal Rules of Evidence (28 U.S.C. 101 *et seq.*) shall serve as a guide. Relevant and material evidence may be received subject to rebuttal, and technical rules of evidence may be relaxed, except as otherwise provided herein, to permit the development of a full and complete record.

20. Official records or evidence compiled or created in the regular course of business, other than DoD personnel background reports of investigation (ROI), may be received and considered by the Administrative Judge without authenticating witnesses, provided that such information has been furnished by an investigative agency pursuant to its responsibilities in connection with assisting the Secretary of Defense, or the Department or Agency head concerned, to safeguard classified information within industry under to E.O. 10865. An ROI may be received with an authenticating witness provided it is otherwise admissible under the Federal Rules of Evidence (28 U.S.C. 101 *et seq.*).

21. Records that cannot be inspected by the applicant because they are classified may be received and considered by the Administrative Judge, provided the GC, DoD, has:

a. Made a preliminary determination that such evidence appears to be relevant and material.

b. Determined that failure to receive and consider such evidence would be substantially harmful to the national security.

22. A written or oral statement adverse to the applicant on a controverted issue may be received and considered by the Administrative Judge without affording an opportunity to cross-examine the person making the statement orally, or in writing when justified by the circumstances, only in either of the following circumstances:

a. If the head of the Department or Agency supplying the statement certifies that the person who furnished the information is a confidential informant who has been engaged in obtaining intelligence information for the Government and that disclosure of his or her identity would be substantially harmful to the national interest; or

b. If the GC, DoD, has determined the statement concerned appears to be relevant, material, and reliable; failure to receive and consider the statement would be substantially harmful to the national security; and the person who furnished the information cannot appear to testify due to the following:

(1) Death, severe illness, or similar cause, in which case the identity of the person and the information to be considered shall be made available to the applicant; or

(2) Some other cause determined by the Secretary of Defense, or when appropriate by the Department or Agency head, to be good and sufficient.

23. Whenever evidence is received under item 21. or 22., the applicant shall be furnished with as comprehensive and detailed a summary of the information as the national security permits. The Administrative Judge and Appeal Board may make a clearance decision either favorable or unfavorable to the applicant based on such evidence after giving appropriate consideration to the fact that the applicant did not have an opportunity to confront such evidence, but any final determination adverse to the applicant shall be made only by the Secretary of Defense, or the Department or Agency head, based on a personal review of the case record.

24. A verbatim transcript shall be made of the hearing. The applicant shall be furnished one copy of the transcript, less the exhibits, without cost.

25. The Administrative Judge shall make a written clearance decision in a timely manner setting forth pertinent findings of fact, policies, and conclusions as to the allegations in the SOR, and whether it is clearly consistent with the national interest to grant or continue a security clearance for the applicant. The applicant and Department Counsel shall each be provided a copy of the clearance decision. In cases in which evidence is received under items 21. and 22., the Administrative Judge's written clearance decision may require deletions in the interest of national security.

26. If the Administrative Judge decides that it is clearly consistent with the national interest for the applicant to be granted or to retain a security clearance, the DISCO shall be so notified by the Director, DISCR, or designee, when the clearance decision becomes final in accordance with item 36., below.

27. If the Administrative Judge decides that it is not clearly consistent with the national interest for the applicant to be granted or to retain a security clearance, the Director, DISCR, or designee, shall expeditiously notify the DISCO, which shall in turn notify the applicant's employer of the denial or revocation of the applicant's security clearance. The letter forwarding the Administrative Judge's clearance decision to the applicant shall advise the applicant that these actions are being taken, and that the applicant may appeal the Administrative Judge's clearance decision.

28. The applicant or Department Counsel may appeal the Administrative Judge's clearance decision by filing a written notice of appeal with the Appeal Board within 15 days after the date of the Administrative Judge's clearance decision. A notice of appeal received after 15 days from the date of the clearance decision shall not be accepted by the Appeal Board, or designated Board Member, except for good cause. A notice of cross appeal may be filed with the Appeal Board within 10 days of receipt of the notice of appeal. An untimely cross appeal shall not be accepted by the Appeal Board, or designated Board Member, except for good cause.

29. Upon receipt of a notice of appeal, the Appeal Board shall be provided the case record. No new evidence shall be

received or considered by the Appeal Board.

30. After filing a timely notice of appeal, a written appeal brief must be received by the Appeal Board within 45 days from the date of the Administrative Judge's clearance decision. The appeal brief must state the specific issue or issues being raised, and cite specific portions of the case record supporting any alleged error. A written reply brief, if any, must be filed within 20 days from receipt of the appeal brief. A copy of any brief filed must be served upon the applicant or Department Counsel, as appropriate.

31. Requests for extension of time for submission of briefs may be submitted to the Appeal Board or designated Board Member.

A copy of any request for extension of time must be served on the opposing party at the time of submission. The Appeal Board, or designated Board Member, shall be responsible for controlling the Appeal Board's docket, and may enter an order dismissing an appeal in an appropriate case or vacate such an order upon a showing of good cause.

32. The Appeal Board shall address the material issues raised by the parties to determine whether harmful error occurred. Its scope of review shall be to determine whether or not:

a. The Administrative Judge's findings of fact are supported by such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the same record. In making this review, the Appeal Board shall give deference to the credibility determinations of the Administrative Judge;

b. The Administrative Judge adhered to the procedures required by E.O. 10865 and this part; or

c. The Administrative Judge's rulings or conclusions are arbitrary, capricious, or contrary to law.

33. The Appeal Board shall issue a written clearance decision addressing the material issues raised on appeal. The Appeal Board shall have authority to:

a. Affirm the decision of the Administrative Judge;

b. Remand the case to an Administrative Judge to correct identified error. If the case is remanded, the Appeal Board shall specify the action to be taken on remand; or

c. Reverse the decision of the Administrative Judge if correction of identified error mandates such action.

34. A copy of the Appeal Board's written clearance decision shall be provided to the parties. In cases in which evidence was received under items 21. and 22., the Appeal Board's clearance decision may require deletions in the interest of national security.

35. Upon remand, the case file shall be assigned to an Administrative Judge for correction of error(s) in accordance with the Appeal Board's clearance decision. The assigned Administrative Judge shall make a new clearance decision in the case after correcting the error(s) identified by the Appeal Board. The Administrative Judge's clearance decision after remand shall be provided to the parties. The clearance decision after remand may be appealed pursuant to items 28. to 35.

36. A clearance decision shall be considered final when:

a. A security clearance is granted or continued pursuant to item 2.;

b. No timely notice of appeal is filed;

c. No timely appeal brief is filed after a notice of appeal has been filed;

d. The appeal has been withdrawn;

e. When the Appeal Board affirms or reverses an Administrative Judge's clearance decision; or

f. When a decision has been made by the Secretary of Defense, or the Department or Agency head, under item 23.

The Director, DISCR, or designee, shall notify the DISCO of all final clearance decisions.

37. An applicant whose security clearance has been finally denied or revoked by the DISCR is barred from reapplication for 1 year from the date of the initial unfavorable clearance decision.

38. A reapplication for a security clearance must be made initially by the applicant's employer to the DISCO and is subject to the same processing requirements as those for a new security clearance application. The applicant shall thereafter be advised he is responsible for providing the Director, DISCR, with a copy of any adverse clearance decision together with evidence that circumstances or conditions previously found against the applicant have been rectified or sufficiently mitigated to warrant reconsideration.

39. If the Director, DISCR, determines that reconsideration is warranted, the case shall be subject to this part for making a clearance decision.

40. If the Director, DISCR, determines that reconsideration is not warranted, the DISCR shall notify the applicant of this decision. Such a decision is final and bars further reapplication for an additional one year period from the date of the decision rejecting the application.

41. Nothing in this part is intended to give an applicant reapplying for a security clearance any greater rights than those applicable to any other applicant under this part.

42. An applicant may file a written petition, under oath or affirmation, for reimbursement of loss of earnings resulting from the suspension, revocation, or denial of his or her security clearance. The petition for reimbursement must include as an attachment the favorable clearance decision and documentation supporting the reimbursement claim. The Director, DISCR, or designee, may in his or her discretion require additional information from the petitioner.

43. Claims for reimbursement must be filed with the Director, DISCR, or designee, within 1 year after the date the security clearance is granted. Department Counsel generally shall file a response within 60 days after receipt of applicant's petition for reimbursement and provide a copy thereof to the applicant.

44. Reimbursement is authorized only if the applicant demonstrates by clear and convincing evidence to the Director, DISCR, that all of the following conditions are met:

a. The suspension, denial, or revocation was the primary cause of the claimed pecuniary loss; and

b. The suspension, denial, or revocation was due to gross negligence of the Department of Defense at the time the action was taken, and not in any way by the applicant's failure or refusal to cooperate.

45. The amount of reimbursement shall not exceed the difference between the earnings of the applicant at the time of the suspension, revocation, or denial and the applicant's interim earnings, and further shall be subject to reasonable efforts on the part of the applicant to mitigate any loss of earnings. No reimbursement shall be allowed for any period of undue delay resulting from the applicant's acts or failure to act. Reimbursement is not authorized for loss of merit raises and general increases, loss of employment opportunities, counsel's fees, or other costs relating to proceedings under this part.

46. Claims approved by the Director, DISCR, shall be forwarded to the Department or Agency concerned for payment. Any payment made in response to a claim for reimbursement shall be in full satisfaction of any further claim against the United States or any Federal Department or Agency, or any of its officers or employees.

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47. Clearance decisions issued by Administrative Judges and the Appeal Board shall be indexed and made available in redacted form to the public.

Dated: February 5, 1992.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92-3138 Filed 2-13-92; 8:45 am]

BILLING CODE 3810-01-M

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32 CFR Parts 286, 287, 290, 291, 292, 295, and 299

Freedom of Information Act Program

AGENCY: Office of the Secretary, DoD.

ACTION: Technical amendment.

SUMMARY: This makes administrative changes within Chapter 1 of title 32 of the Code of Federal Regulations for ease of use.

EFFECTIVE DATE: February 14, 1992.

FOR FURTHER INFORMATION CONTACT: L. M. Bynum, Correspondence and Directives Directorate, Washington Headquarters Services, Pentagon, Washington, DC 20301-1155, telephone 703-697-4111.

Accordingly, under the authority of 10 U.S.C. 131, the following parts in chapter I, subchapter P are transferred into subchapter N: 32 CFR parts 286, 287, 290, 291, 292, 295, and 299.

Dated: February 10, 1992.

L.M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 92-3475 Filed 2-13-92; 8:45 am]

BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 61

[FRL-4105-3]

Standards of Performance for New Stationary Sources; National Emission Standards for Hazardous Air Pollutants Supplemental Delegation of Authority to Knox County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Delegation of authority.

SUMMARY: On October 11, 1991, the Knox County Department of Air Pollution Control in the State of Tennessee, requested delegation of authority for implementation and enforcement of several standards in 40 CFR part 60, New Source Performance Standards (NSPS), and 40 CFR part 61, National Emissions Standards for Hazardous Air Pollutants (NESHAPS). EPA's review of Knox County's laws, rules and regulations showed them to be adequate for the implementation and enforcement of these federal standards. EPA has granted the delegation as requested.

EFFECTIVE DATE: The effective date of the delegation of authority is November 13, 1991.

ADDRESSES: Copies of the material submitted by Knox County may be examined during normal business hours at the following locations:

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Tennessee Department of Environment and Conservation, Customs House, 4th Floor, Nashville, Tennessee 37243-1531.

Knox County Department of Air Pollution, City-County Building, room 459, 400 West Main Avenue, Knoxville, Tennessee 37902.

Effective immediately, all requests, applications, reports and other correspondence required pursuant to the newly delegated standards should not be submitted to the Region IV office, but should instead be submitted to Terry C. Harris, Director, Knox County Department of Air Pollution at the above address.

FOR FURTHER INFORMATION CONTACT: Andrew Fischer, Air Programs Branch, EPA Region IV, at the above address and telephone number (404) 347-2864 or (FTS) 257-2864.

SUPPLEMENTARY INFORMATION: Section 301 in conjunction with sections 110, 111(c)(1) and 112(d)(1) of the Clean Air Act as amended November 15, 1990, authorize the Administrator to delegate authority to implement and enforce the standards set out in 40 CFR part 60, New Source Performance Standards (NSPS), and 40 CFR part 61, National Emission Standards for Hazardous Air Pollutants (NESHAPS).

After a thorough review of the categories requested for delegation, the Regional Administrator determined that such delegation was appropriate for these source categories with the conditions set forth in the original delegation letter of May 20, 1977, and subsequent letters of December 13, 1985; March 3, 1986; July 1, 1986; June 1, 1988; May 10, 1989; December 14, 1989; October 29, 1990, and in EPA issued guidance, including a May 20, 1988, letter from EPA to the state and local agencies.

EPA, thereby, delegated its authority for 40 CFR part 60 and 40 CFR part 61 for the following subparts (the revised standards are designated by "(R)":

40 CFR Part 60

Subpart D—Fossil-Fuel Steam Fired Generators for which Construction is Commenced After August 17, 1971 (R)
Subpart Da—Electric Utility Steam Generating Units for which Construction is Commenced September 18, 1978 (R)
Subpart E—Incinerators (R)
Subpart F—Portland Cement Plants (R)
Subpart G—Nitric Acid Plants (R)
Subpart H—Sulfuric Acid Plants (R)
Subpart I—Asphalt Concrete Plants (R)
Subpart J—Petroleum Refineries (R), except § 60.105(a)(13)(iii) and § 60.106(i)(12)
Subpart L—Secondary Lead Smelters (R)
Subpart M—Secondary Brass & Bronze Ingot Production Plants (R)
Subpart N—Iron and Steel Plants (R)
Subpart O—Sewage Treatment Plants (R), except § 60.153(e)
Subpart P—Primary Copper Smelters (R)
Subpart Q—Primary Zinc Smelters (R)
Subpart R—Primary Lead Smelters (R)
Subpart S—Primary Aluminum Reduction Plants (R)
Subpart T—Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants (R)
Subpart U—Phosphate Fertilizer Industry: Super Phosphoric Acid Plants (R)
Subpart V—Phosphate Fertilizer Industry: Diammonium Phosphate Plants (R)
Subpart W—Phosphate Fertilizer Industry: Triple Superphosphate Plants (R)
Subpart X—Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities (R)
Subpart Y—Coal Preparation Plants (R)
Subpart Z—Ferroalloy Production Facilities
Subpart AA—Steel Plants: Production Facilities (R)
Subpart BB—Kraft Pulp Mills (R)
Subpart CC—Glass Manufacturing Plants (R)
Subpart DD—Grain Elevators (R)
Subpart GG—Stationary Gas Turbines, except § 60.334(b)(2), § 60.335(f)(1)
Subpart HH—Lime Manufacturing Plants (R)
Subpart PP—Ammonium Sulfate Manufacture (R)
Subpart KK—Lead Acid Battery Manufacturing Plant (R)
Subpart NN—Phosphate Rock Plants (R)
Subpart UU—Asphalt Processing and Asphalt Roofing Manufacture (R), except § 60.474(g)
Subpart LL—Metallic Mineral Processing Plants (R)
Subpart VV—Equipment Leaks of VOC in the Synthetic Organic Chemical Manufacturing Industry (R), except § 60.482-1(c)(2), § 60.484
Subpart XX—Bulk Gasoline Terminals (R), except § 60.502(e)(6)
Subpart LLL—On Shore Natural Gas Processing; SO_2 Emissions (R)
Subpart OOO—Non-metallic Mineral Processing Plants (R)
Subpart Na—Secondary Emissions from Basic Oxygen Process Steelmaking Facilities (R)
Subpart AAa—Steel Plants: Electric Arc Furnaces and Argon-Oxygen

Decarburization Vessels Constructed After August 7, 1983 (R)
Subpart PPP—Wool Fiberglass Insulation Manufacturing Plants
Subpart EE—Metal Coil Surface Coating Operations, except § 60.316(d)
Subpart BBB—Rubber Tire Manufacturing Industry, except § 60.543(c)(2)(ii)(B)
Subpart K—Storage Vessels for Petroleum Liquids Constructed after June 11, 1973, and prior to May 19, 1978 (R)
Subpart Ka—Storage Vessels for Petroleum Liquids Constructed after May 18, 1973 (R), except § 60.144a

40 CFR Part 61

Subpart M—Asbestos (R), except § 61.149(c)(2), § 61.150(a)(4), § 61.151(c), § 61.152(b)(3), § 61.154(d), § 61.155(a)
Subpart C—Beryllium (R), except § 61.32(b)
Subpart D—Beryllium Rocket Motor Firing (R)
Subpart E—Mercury (R), except § 61.53(c)(4), § 61.55(d)
Subpart F—Vinyl Chloride (R), except § 61.66, § 61.67(g)
Subpart V—Equipment Leaks of Volatile Hazardous Air Pollutants (R), except § 61.424–1(c)(2), § 61.244

The Administrator retains the exclusive right to approve equivalent and alternative test methods, continuous monitoring procedures, and reporting requirements. Therefore, the following sections in the requested NESHAPS and NSPS standards are among the sections that may not be delegated:

40 CFR Part 60

Subpart J—§ 60.105(a)(13)(iii), § 60.106(i)(12)
Subpart O—§ 60.153(e)
Subpart GG—§ 60.334(b)(2), § 60.335(f)(1)
Subpart UU—§ 60.474(g)
Subpart VV—§ 60.482–1(c)(2), § 60.484
Subpart XX—§ 60.502(e)(6)
Subpart EE—§ 60.316(d)
Subpart BBB—§ 60.543(c)(2)(ii)(B)
Subpart Ka—§ 60.114a

40 CFR Part 61

Subpart M—§ 61.149(c)(2), § 61.150(a)(4), § 61.151(c), § 61.152(b)(3), § 61.154(d), § 61.155(a)
Subpart C—§ 61.32(b)
Subpart E—§ 61.53(c)(4), § 61.55(d)
Subpart F—§ 61.66, § 61.67(g)
Subpart V—§ 61.242–1(c)(2), § 61.244

The EPA hereby notifies the public that it has delegated the authority over certain NSPS and NESHAP subparts to Knox County in the State of Tennessee.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

This notice is issued under the authority of sections 101, 110, 111, 112, and 301 of the Clean Air Act, as amended (42 U.S.C. 7401, 7410, 74121, 7412, and 7601).

Dated: February 3, 1992.

Patrick M. Tobin,
Acting Regional Administrator.

[FR Doc. 92–3628 Filed 2–13–92; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[PP 6F3417/R1141; FRL–4045–2]

Pesticide Tolerances for Thiodicarb

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the insecticide thiodicarb (dimethyl *N,N'*[thiobis[[(methylimino) carbonyl] oxy]] bis[ethanimidothioate]) and its metabolite methomyl (*S*-methyl *N*-[(methylcarbamoyl) oxy]thioacetimidate) in or on the raw agricultural commodities broccoli, cabbage, and cauliflower. This regulation to establish a maximum permissible level for residues of the insecticide was requested pursuant to a petition submitted by the Rhone Poulenc Ag Co.

EFFECTIVE DATE: Effective February 14, 1992.

ADDRESSES: Written objections, identified by document control number, [PP 6F3417/R1141], must be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Dennis H. Edwards, Jr., Product Manager (PM) 19, Registration Division (H7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 202, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 305-6386.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of January 15, 1992 (57 FR 1733), which announced that Union Carbide Agricultural Products Co., T. W. Alexander Drive, Research Triangle Park, NC 27709, had submitted a pesticide petition (PP 6F3417) to EPA proposing to amend 40 CFR part 180 by establishing a permanent tolerance under section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), for residues of the insecticide thiodicarb (dimethyl *N,N'*-[thiobis [[(methylimino) carbonyl] oxy]]bis[ethanimidothioate]) and its metabolite methomyl (S-methyl N-[(methylcarbamoyl) oxy]thioacetimidate) in or on the raw agricultural commodities almond nutmeat at 2.0 parts per million (ppm); almond hulls at 50.0 ppm; broccoli, cabbage, and cauliflower at 7.0 ppm; and head lettuce at 25.0 ppm. Union Carbide was later acquired by the Rhone Poulenc Ag Co. The petitioner subsequently amended the petition by withdrawing the tolerance request for almonds and head lettuce.

There were no comments or requests for a referral to an advisory committee received in response to the notice of filing. A conditional registration is being issued currently requiring some studies described later in this document. The tolerances will expire on August 15, 1994, and the conditional registration will expire on August 16, 1993.

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance include a 2-year rat feeding/carcinogenic study with a systemic no-observed-effect-level (NOEL) of 3.0 mg/kg/day (60 ppm), a cholinesterase (ChE) NOEL greater than 10 mg/kg/day (200 ppm), and not carcinogenic at 10 mg/kg/day (200 ppm) (highest dose tested (HDT)); a 2-year mouse feeding/carcinogenic study with a systemic NOEL of 3 mg/kg/day (20 ppm), and not carcinogenic at 10 mg/kg/day (70 ppm) (HDT); a 1-year dog feeding study with red blood cells ChE NOEL of 4.5 mg/kg/day (180 ppm) and a systemic NOEL of 12.8 mg/kg/day (512 ppm); a rat teratology study with a maternal NOEL less than 0.5 mg/kg/day and a developmental toxicity NOEL of 3 mg/kg/day; a three-generation rat reproduction study with an NOEL for reproductive effects greater than 10 mg/kg/day (200 ppm) (HDT); and an acute delayed neurotoxicity study in the hen negative at 660 mg/kg. Mutagenicity studies include a structural chromosomal aberration study and other mutagenicity studies which did not demonstrate mutagenicity or genotoxicity.

The metabolism of thiodicarb in plants and animals is adequately understood for the purposes of the proposed tolerance. A ruminant metabolism study shows that thiodicarb is metabolized in steps to methomyl, methomyl oxime, acetonitrile, acetamide, acetic acid, and carbon dioxide. Plant metabolism studies show that thiodicarb is likewise metabolized to methomyl, methomyl oxime, acetonitrile, and carbon dioxide.

The animal metabolism study identified acetamide as a potential metabolite of thiodicarb. Acetamide is not a plant metabolite.

Four studies have been conducted with acetamide that have demonstrated a possible carcinogenic effect. Although none of the four studies meet current standards for carcinogenicity testing, the studies collectively demonstrate that, at least under certain conditions, long-term dietary administration of acetamide at high doses is associated with the occurrence of liver tumors in rats. Based on the four acetamide studies, the Agency in 1985 classified acetamide as a possible human carcinogen (Group C) and conducted a quantitative risk assessment for the cotton and soybean uses proposed for thiodicarb. These studies are described in detail in the **Federal Register** of July 3, 1985 (50 FR 27452 and 27463) in which the Agency proposed to establish tolerances for use of thiodicarb on cotton and soybeans. In the same **Federal Register** notice, it was also tentatively concluded that acetamide naturally occurs in milk and eggs. Additional followup analyses confirmed these findings. In a limited number of untreated samples, acetamide levels in milk averaged 170 ppb (0.17 ppm). These untreated background values are far in excess of those maximum expected values of acetamide estimated from thiodicarb, i.e., milk 0.3 ppb (0.0003 ppm) and eggs 0.07 ppb (0.0007 ppm), and it was concluded that the ubiquitous nature of acetamide may confound its regulation. A final rule establishing tolerances for cotton and soybeans was published in the **Federal Register** of October 10, 1985 (50 FR 41341 and 41349).

The Agency has since reevaluated the toxicity of acetamide. While the Agency believes that the previous classification of acetamide as a Group C carcinogen is appropriate, it has been determined that the acetamide studies are not suitable for quantitative risk assessment because of the deficiencies in the individual studies. These deficiencies include a small number of test animals, lack of a definitive dose-response relationship, extremely high exposure rates, questionable quality of test animals, and administration of oxytetracycline to test animals in one study which might have adversely influenced the test results. In addition, the toxicology data base for thiodicarb includes two valid oncogenicity studies that were negative for oncogenic effects.

However, because the data base for acetamide is incomplete to fully address its carcinogenic potential and to determine whether there may be a species-related difference in conversion of syn-methomyl to anti-methomyl and resultant excretion as acetonitrile or metabolic hydrolysis to acetamide, the Agency is requiring the following studies/information:

1. Metabolism study (with the parent chemical) in an appropriate species (primate) and information on whether there is a species-specific metabolic conversion of thiodicarb to acetamide.

2. Substantiation of the isomeric form of the registered product.

3. Studies designed to identify and measure (as the glucuronide or other conjugate) the N-hydroxy acetamide metabolite. A conditional registration and a tolerance with expiration date are being issued requiring these studies. Once these studies have been submitted and evaluated, the Agency may require additional toxicity studies.

On the basis of available studies on acetamide and the chronic carcinogenicity studies for thiodicarb, the Agency has concluded that the human risk posed by the use of thiodicarb on broccoli, cabbage, and cauliflower does not raise significant risk concerns.

Based on the 2-year rat feeding study with a NOEL of 3.0 mg/kg/day and using an uncertainty factor of 100, the reference dose (RfD) for humans is 0.03 mg/kg body weight/day. The theoretical maximum residue contribution (TMRC) for this chemical utilizes 41.7 percent of the RfD. The current action will contribute 0.0125 mg/kg/day of residue to the human diet utilizing an additional 3.8 percent of the RfD. This results in a total utilization of 45.5 percent of the RfD.

The nature of the residue in plants is considered to be adequately understood to support these tolerance requests. Adequate analytical methods involving gas chromatography with a flame photometric detector selective for sulfur-containing compounds and gas chromatography/mass spectrometry are available for enforcement purposes. The methodology has been published in the Food and Drug Administration's Pesticide Analytical Manual (PAM) II. There are no livestock feed items associated with this petition; there are no problems of secondary residues in meat, milk, poultry, and eggs.

Based on the above information, the Agency has concluded that the proposed tolerance for residues of the pesticide in or on leafy vegetables would protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested and the requestor's contentions on each such issue. A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: there is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Recording and recordkeeping requirements.

Dated: January 29, 1992.

Susan H. Wayland,

Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.407, by adding new paragraph (c), to read as follows:

§ 180.407 Thiodicarb; tolerances for residue.

* * * * *

(c) A tolerance to expire on August 15, 1994 is established for the combined residues of the insecticide thiodicarb (dimethyl *N,N'*-[thiobis [(methylimino) carbonyloxy]] bis[ethanimidothioate]) and its metabolite methomyl (*S*-methyl

N-[(methylcarbamoyl)oxy] thioacetimidate) in or on the following raw agricultural commodities:

Commodity	Parts per million
Broccoli	7
Cabbage	7
Cauliflower	7

[FR Doc. 92-3570 Filed 2-13-92; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 90-368, Phase I; FCC 92-14]

Communications Common Carriers; Computer Technology

AGENCY: Federal Communications Commission.

ACTION: Final rule; denial of petition for partial reconsideration.

SUMMARY: The Commission has affirmed its 1990 Computer III Remand Proceedings decision not to reconsider the regulatory classification of protocol processing. The Commission reached this decision in considering a petition for partial reconsideration, filed by BellSouth Corporation (BellSouth), requesting that the Commission revisit its long-standing classification of protocol processing as an enhanced service. The Commission concluded that BellSouth failed to show that either the legal or the factual underpinnings of the Commission's regulatory classification of protocol processing have eroded.

EFFECTIVE DATE: March 16, 1992.

FOR FURTHER INFORMATION CONTACT: Daniel Gonzalez, Policy and Program Planning Division, Common Carrier Bureau, (202) 632-9342.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order on Reconsideration (FCC 92-14), adopted January 9, 1992 and released January 24, 1992. This decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20036, (202) 452-1422.

Summary of Report and Order

1. On June 6, 1990, the United States Court of Appeals for the Ninth Circuit vacated and remanded three Commission decisions in the Computer III proceeding. In response to the Court's decision, the Commission issued a Notice of Proposed Rulemaking (55 FR 34032, 8/21/90) in this proceeding to consider reinstating certain Computer III decisions that were not challenged in the briefs before the Court. On December 17, 1990, the Commission released a Report and Order (56 FR 965, 1/10/91) that adopted the three narrowly focused proposals recommended in the Notice. In addition, the Commission found that no further action was needed as to the regulatory classification of protocol processing.

2. BellSouth Corporation (BellSouth) filed a petition for partial reconsideration of the Report and Order, requesting that the Commission expand the scope of this proceeding to revisit its long-standing classification of protocol processing as an enhanced service. BellSouth argued that the record of intervening technological, market, and regulatory changes developed in the Computer III proceeding, as well as unspecified subsequent developments, render the current classification contrary to the public interest.

3. The Commission determined that its classification of protocol processing was not affected by the Ninth Circuit opinion. In addition, the Commission found that BellSouth provided no factual justification to support revisiting the classification of protocol processing. Thus, the Commission denied BellSouth's petition for partial reconsideration.

Ordering Clauses

1. *It is Hereby Ordered*, That pursuant to Sections 1, 4(i), 4(j), 201, 202, and 205 of the Communications Act of 1934, 47 U.S.C. §§ 151, 154(i), 154(j), 201, 202, 205, the Petition for Partial Reconsideration filed by BellSouth Corporation is denied.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92-3529 Filed 2-13-92; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 91-321; RM-7833]

Radio Broadcasting Services; Port St. Joe, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 228C2 for Channel 228C3 at Port St. Joe, Florida, and modifies the license for Station WMTO(FM), to specify operation on Channel 228C2, at the request of WMTO Limited Partnership. See 56 FR 57606, November 13, 1991. Channel 228C2 can be allotted to Port St. Joe in compliance with the minimum distance separation requirements of the Commission's Rules at the petitioner's specified site 7.7 kilometers (4.8 miles) southeast of the community, in order to avoid a short-spacing to a construction permit for Station WRJM(FM), Channel 229C1, Geneva, Alabama. The coordinates are North Latitude 29-45-17 and West Longitude 85-15-26. With this action, this proceeding is terminated.

EFFECTIVE DATE: March 23, 1992.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 91-321, adopted January 29, 1992, and released February 7, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73 [AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Florida, is amended by removing Channel 228C3 and adding Channel 228C2 at Port St. Joe.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-3530 Filed 2-13-92; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 91-320; RM-7832]

Radio Broadcasting Services; Brunswick, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 281A to Brunswick, Georgia, as the community's third local FM service at the request of Robert L. Yontz. See 56 FR 57607, November 13, 1991. Channel 281A can be allotted to Brunswick in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for Channel 281A at Brunswick are North Latitude 31-10-00 and West Longitude 81-29-48. With this action, this proceeding is terminated.

EFFECTIVE DATE: March 23, 1992. The window period for filing applications will open on March 24, 1992, and close on April 23, 1992.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 91-320, adopted January 29, 1992, and released February 7, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by adding Channel 281A at Brunswick.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-3532 Filed 2-13-92; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 91-319; RM-7844]

Radio Broadcasting Services; Blakely, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 226C3 for Channel 226A at Blakely, Georgia, and modifies the license for Station WDKZ(FM) to specify operation on the higher class channel, at the request of Hirsch Broadcasting, Inc. See 56 FR 57606, November 13, 1991. Channel 226C3 can be allotted to Blakely in compliance with the Commission's minimum distance separation requirements with a site restriction of 16.6 kilometers (10.3 miles) southwest of the community. The coordinates are North Latitude 31-17-00 and West Longitude 85-04-00. With this action, this proceeding is terminated.

EFFECTIVE DATE: March 23, 1992.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 91-319, adopted January 28, 1992, and released February 7, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by removing Channel 226A and adding Channel 266C3 at Blakely.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-3531 Filed 2-13-92; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 91-285; RM-7811]

Radio Broadcasting Services; Honolulu, HI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 238C for Channel 238C1 at Honolulu, Hawaii, and modifies the license for Station KAIM(FM) to specify operation on the higher class channel, at the request of Christian Broadcasting Association. See 56 FR 50842, October 9, 1991. Channel 238C can be allotted to Honolulu in compliance with the Commission's minimum distance separation requirements with a site restriction of 26.0 kilometers (16.2 miles) west to accommodate petitioner's desired transmitter site. The coordinates are North Latitude 21-23-42 and West Longitude 158-05-55. With this action, this proceeding is terminated.

EFFECTIVE DATE: March 23, 1992.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 91-285, adopted January 30, 1992, and released February 7, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Hawaii, is amended by removing Channel 238C1 and adding Channel 238C at Honolulu.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-3533 Filed 2-13-92; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 90-594; RM-7250; RM-7660]

Radio Broadcasting Services; Oakdale and Campti, LA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Campti Broadcasting Company (RM-7660), allots Channel 253C3 to Campti, Louisiana. Channel 253C3 can be allotted to Campti in compliance with the Commission's minimum distance separation requirements with the site restriction of 19.9 kilometers (12.3 miles) west to accommodate Campti Broadcasting's desired site. The coordinates for Channel 253C3 at Campti are North Latitude 31–55–26 and West Longitude 93–19–25. The proposal filed by Oakdale Limited Partnership (RM-7250), see 55 FR 51133, December 12, 1990, requesting the substitution of Channel 254C1 for Channel 254C2 at Oakdale, Louisiana, is denied. With this action, this proceeding is terminated.

EFFECTIVE DATE: March 23, 1992. The window period for filing applications will open on March 24, 1992, and close on April 23, 1992.

FOR FURTHER INFORMATION CONTACT: Pamela Blumenthal, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90–594, adopted January 31, 1992, and released February 7, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452–1422, 1714 21st Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Louisiana, is amended by adding Channel 253C3, Campti.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-3534 Filed 2-13-92; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 91-337; RM-7138]

Radio Broadcasting Services; Muskegon Heights, MI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 269B1 for Channel 269A at Muskegon Heights, Michigan, and modifies the license for Station WQWQ–FM in response to a petition filed by Pathfinder Communications Corporation. See 56 FR 58530, November 20, 1991. Canadian concurrence has been obtained for this allotment at coordinates 43–16–39 and 86–20–00. With this action, this proceeding is terminated.

EFFECTIVE DATE: March 23, 1992.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 91–337, adopted January 31, 1992, and released February 7, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1714 21st Street, NW., Washington, DC 20036, (202) 452–1422.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Michigan, is amended by removing Channel 269A, Muskegon and adding Channel 269B1, Muskegon Heights.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-3535 Filed 2-13-92; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 91-229; RM-7761]

Radio Broadcasting Services; Potosi and Waynesville, MO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes FM Channel 249C3 for Channel 249A at Potosi, Missouri, in response to a petition filed by Prime Time Radio. See 56 FR 40591, August 15, 1991. We shall also modify the construction permit for Station KWVB to specify operation on Channel 249C3 in lieu of Channel 249A in accordance with § 1.420(g) of the Commission's Rules. The coordinates for Channel 249C3 are 37–52–51 and 90–47–01. To accommodate the substitution at Potosi, we shall substitute Channel 250A for Channel 249A at Waynesville, Missouri, and modify the license for Station KFBD–FM accordingly. The coordinates for Channel 250A are 37–49–42 and 92–10–27. With this action, this proceeding is terminated.

EFFECTIVE DATE: March 23, 1992.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 91–229, adopted January 29, 1992, and released February 7, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1714 21st Street, NW., Washington, DC, 20036, (202) 452–1422.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

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§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Missouri, is amended by removing Channel 249A and adding Channel 249C3 at Potosi, and by removing Channel 249A and adding Channel 250A at Waynesville.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-3536 Filed 2-13-92; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90-101; RM-7062, RM-7449, RM-7450, RM-7451]

Radio Broadcasting Services; Decatur, Wichita Falls, Jacksboro, TX; Healdton, OK

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document grants a proposal to modify existing facilities at Stephenville, Texas, and reallot those facilities to Decatur, Texas, with channel substitutions modifying an existing facility at Healdton, Oklahoma, a construction permit at Wichita Falls, and a vacant but applied for allotment at Jacksboro, Texas. This document also denies a counterproposal at Lone Grove, Oklahoma, and dismisses a counterproposal at Healdton, Oklahoma, as set forth *infra* (See **SUPPLEMENTARY INFORMATION**). With this action, this proceeding is terminated.

EFFECTIVE DATE: March 23, 1992.

FOR FURTHER INFORMATION CONTACT: Victoria M. McCauley, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90-101, adopted January 27, 1992, and released February 7, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

The Commission, at the request of Cen-Tex Media, Inc., licensee of Station KSTV-FM, Stephenville, Texas, substitutes Channel 289C for Channel 289C1 at Stephenville, Texas, reallots Channel 289C to Decatur, Texas, and modifies the license of Station KSTV-FM to specify operation on the higher powered channel at the reallotted community. See 55 FR 09931, March 16, 1990. This action grants petitioner's alternate proposal for reallotment of Channel 289C at Decatur rather than the originally proposed community of Benbrook. This action also denies a counterproposal filed by William L. Cook for the allotment of Channel 229C1 at Lone Grove, Oklahoma, and dismisses a counterproposal filed by Lake Country Communications, Inc. and expression of interest filed by Cook for the allotment of Channel 229C1 at Healdton, withdrawn by Lake Country. Channel 289C can be allotted at Decatur, Texas, without a site restriction. The coordinates for Channel 289C at Decatur are 32-57-30 and 98-00-15. This action also requires the substitution of Channel 229C2 for 289C2 at Healdton, Oklahoma, and the modification of the license of Station KICM(FM) at Healdton, accordingly, the substitution of Channel 273A for Channel 288A at Wichita Falls, Texas, and the modification of the construction permit of unbuilt Station KQXC(FM) at Wichita Falls, accordingly, and the substitution of Channel 269A for vacant Channel 229A at Jacksboro, Texas. The coordinates for Channel 229C2 at Healdton are 34-02-27 and 97-20-00. Coordinates for Channel 273A at Wichita Falls are 33-53-50 and 98-32-33. Coordinates for Channel 269A at Jacksboro are 33-13-06 and 98-09-48.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 289C1 at Stephenville and adding 289C at Decatur, and by removing Channel 288A and adding Channel 273A at Wichita Falls, and by removing Channel 229A and adding Channel 269A at Jacksboro.

3. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by removing Channel 289C2 and adding Channel 229C2 at Healdton.

Federal Communications Commission.

Andrew J. Rhodes,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-3537 Filed 2-13-92; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 57, No. 31
Friday, February 14, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 5, 101, and 105

[Docket No. 91N-0384]

RIN 0905-AD08

Food Labeling: Nutrient Content Claims, General Principles, Petitions, Definition of Terms; Submission of Reporting Requirements to OMB

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is announcing that it has submitted to the Office of Management and Budget (OMB) for its review the collection of information requirements of the proposed rule that would provide for petitions regarding nutrient content claims, synonyms for those claims, and implied nutrient content claims in brand names.

DATES: Written comments by February 25, 1992.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857, 301-443-1751 and to the Office of Information and Regulatory Affairs, OMB, rm. 3208, New Executive Office Building, Washington, DC 20503, Attn: Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Elizabeth J. Campbell, Center for Food Safety and Applied Nutrition (HFF-312), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-485-0229.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 27, 1991 (56 FR 60421), FDA published a proposed rule setting forth general principles and procedures to govern the use of nutrient content claims and definitions for specific nutrient content claims (hereinafter referred to as the proposed rule). FDA also proposed procedures by which a person may petition FDA to revise these regulations (nutrient content claims petitions), to provide for the use of new or similar descriptive terms (synonym petitions), or to provide for the use of implied claims in brand names (brand name petitions).

I. Paperwork Reduction Act of 1980

The proposed rule contains collection of information requirements that are subject to review by OMB under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). Therefore, in accordance with 5 CFR 1320, the title, description, and respondent descriptions of the proposed collection of information requirements are shown below with an estimate of the annual collection of information burden. Included in the estimate is the amount of time for reviewing instructions, searching existing data sources, gathering necessary information, and completion and submission of petitions.

Title

21 CFR 101.69—Food Labeling: Nutrient Content Claims, General Principles, Petitions, Definition of Terms.

Description

The proposed rule provides the procedures for the submission of petitions to the agency. The information included in these petitions will be reviewed by the agency, and a decision will be made in accordance with the criteria specified in the proposed rule.

The Nutrition Labeling and Education Act of 1990 (the 1990 amendments) added section 403(r)(4) (21 U.S.C. 403(r)(4)) to the Federal Food, Drug, and Cosmetic Act (the act). This section provides that any person may petition the Secretary to make nutrient content claims that are not specifically provided for in FDA's regulations. It describes the procedures for petitions that seek to define additional nutrient content claims, to establish synonyms, and to use an implied nutrient content claim in a brand name.

Nutrient Content Claim Petitions

Section 403(r)(4)(A)(i) of the act grants to any person the right to petition FDA to issue a regulation to define a nutrient content claim that has not been defined in the regulations under section 403(r)(2)(A)(i) of the act. The statute requires that such a petition include an explanation of the reasons why the claim that is the subject of the petition meets the requirements of section 403(r) of the act and a summary of the scientific data that support those reasons. Proposed § 101.69(m) sets forth the proposed data requirements specific to descriptor petitions.

Synonym Petitions

Section 403(r)(4)(A)(ii) of the act grants the right to petition the FDA for permission to use terms in a nutrient content claim that are consistent (i.e., synonymous) with terms defined in regulations issued under section 403(r)(2)(A)(i) of the act. The petition requirements in proposed § 101.69(n) are those that FDA believes are necessary to demonstrate that use of the proposed synonym is not misleading and consistent with the purpose of the 1990 amendments.

Brand-Name Petitions

Section 403(r)(4)(A)(iii) of the act grants the right to petition FDA for permission to use an implied claim in a brand name that is consistent with terms defined by the Secretary under section 403(r)(2)(A)(i) of the act. Proposed § 101.69(o)(1) sets forth the proposed data requirements specific to brand-name petitions. These requirements are, in FDA's opinion, those necessary for the petition to demonstrate that use of the proposed implied claim is not misleading and is consistent with the purpose of the 1990 amendments.

Description of Respondents

Persons and businesses, including small businesses.

ESTIMATED ANNUAL REPORTING AND RECORDKEEPING BURDEN

Section	Annual number of respondents	Annual frequency	Average burden per response	Annual burden hours
101.69(m)(1)	5	1	320	1,600
101.69(n)(1)	10	1	160	1,600
101.69(o)(1)	10	1	160	1,600
Total				4,800

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FDA has submitted copies of the proposed rule to OMB for its review of these reporting requirements.

II. Comments

Interested persons should send their comments regarding these estimated burdens, including suggestions for reducing these burdens, to the addressees given above.

Interested persons may, on or before February 25, 1992, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 7, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-3525 Filed 2-13-92; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 20 and 101

[Docket No. 85N-0061]

RIN 0905-AB67

Labeling; General Requirements for Health Claims for Food; Submission of Reporting Requirements to OMB

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is announcing that it has submitted to the Office of Management and Budget (OMB), for its review, the collection of information requirements of the proposed rule that would provide for petitions requesting the agency to issue a regulation authorizing a health claim on a substance-disease relationship.

DATES: Written comments by February 25, 1992.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857, 301-443-1751 and to the Office of Information and Regulatory Affairs, OMB, rm. 3208, New Executive Office Bldg., Washington, DC 20503, Attn: Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Victor P. Frattali, Center for Food Safety and Applied Nutrition (HFF-261), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1064.

SUPPLEMENTARY INFORMATION: The Nutrition Labeling and Education Act of 1990 (the 1990 amendments) added section 403(r)(4)(A)(i) (21 U.S.C. 403(r)(4)(A)(i)) to the Federal Food, Drug, and Cosmetic Act (the act). This section of the act grants to any person the right to petition FDA to issue a regulation authorizing a health claim on a substance-disease relationship. In the Federal Register of November 27, 1991 (56 FR 60537), FDA published a proposed rule amending the food labeling regulations (21 CFR Part 101) to, among other things, provide for these petitions (hereinafter referred to as the proposed rule).

I. Paperwork Reduction Act of 1980

The proposed rule contains collection of information requirements that are subject to review by OMB under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). Therefore, in accordance with 5 CFR 1320, the title, description, and respondent descriptions of the proposed collection of information requirements are shown below with an estimate of the annual collection and information burden. Included in the estimate is the amount of time for reviewing instructions, searching existing data sources, gathering necessary information, and completion and submission of petitions.

Title: 21 CFR 101.70—Food Labeling; General Requirements for Health Claims for Food.

Description: Section 403(r)(4)(A)(i) of the act grants any person the right to petition the agency to issue a regulation authorizing a health claim on a substance-disease relationship. The agency is proposing to establish § 101.70 as the general procedural regulation for health claims. Proposed § 101.70, paragraphs (a) through (d) address general issues and requirements such as the incorporation of various types of information into the petition and standard FDA requirements pertaining to clinical and nonclinical studies submitted to the agency for review.

Section 101.70(f) sets forth the proposed format for a health claim petition. It specifies the types of data and other requirements that the agency believes are necessary to provide for an efficient review and to demonstrate that the proposed substance-disease relationship complies with the requirements established under the 1990 amendments.

Description of Respondents: Persons and businesses, including small businesses.

ESTIMATED ANNUAL REPORTING AND RECORDKEEPING BURDEN

Section	Annual number of respondents	Annual frequency	Average burden per response	Annual burden hours
101.70	5	1	400	2000
Total				2000

FDA has submitted copies of this proposed rule to OMB for its review of this reporting requirement.

II. Comments

Interested persons should send their comments regarding these estimated burdens, including suggestions for reducing these burdens, to the addressees given above.

Interested persons may, on or before February 25, 1992, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m. Monday through Friday.

Dated: February 7, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-3524 Filed 2-13-92; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 100

[Docket No. 91N-0036]

RIN 0905-AD08

State Petitions Requesting Exemption From Federal Preemption; Submission of Reporting Requirements to OMB

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is announcing that it has submitted to the Office of Management and Budget (OMB), for its review, the collection of information requirements of the proposed rule that would provide for petitions requesting exemption from Federal preemption for certain State or local food standards and other labeling requirements that are preempted under the provisions of the Nutrition Labeling and Education Act of 1990 (the 1990 amendments).

DATES: Written comments by February 25, 1992.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857, 301-443-1751 and to the Office of Information and Regulatory Affairs, OMB, rm. 3208, New Executive Office Bldg., Washington, DC 20503, Attn: Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Elizabeth J. Campbell, Center for Food Safety and Applied Nutrition (HFF-312), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0229.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 27, 1991 (56 FR 60528), FDA published a proposed rule that would amend its general regulations (21 CFR part 100) to provide for petitions requesting exemption from preemption for certain State or local food standards and other labeling requirements that are preempted under the provisions of the 1990 amendments (hereinafter referred to as the proposed rule). The proposed rule sets out the procedures for the submission, and for agency review, of these petitions and the information that the petitioner should supply.

I. Paperwork Reduction Act

The proposed rule contains collection of information requirements that are subject to review by OMB under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). Therefore, in accordance with 5 CFR part 1320, the title, description, and respondent descriptions of the proposed collection of information requirements are shown below with an estimate of the annual collection of information burden. Included in the estimate is the amount of time for reviewing instructions, searching existing data sources, gathering necessary information, and completion and submission of petitions.

Title: 21 CFR 100.1—State Petitions Requesting Exemption from Federal Preemption.

Description: The 1990 amendments amended the Federal Food, Drug, and Cosmetic Act (the act) to provide for national uniform nutrition labeling by providing for the preemption of certain types of State and local labeling requirements that are not identical to the pertinent Federal requirements, e.g., food standards, nutrition labeling, health claims, and ingredient declaration requirements.

The 1990 amendments provided that States may petition FDA for exemption of State requirements from the Federal preemption accorded therein.

The proposed amendments to the regulations in 21 CFR part 100 add procedural requirements and provisions for petitions requesting exemption from preemption for certain State or local food standards and labeling requirements that were preempted under the provisions of the 1990 amendments. Proposed § 100.1(d) sets forth the information the petitioner is required to supply.

Description of Respondents: States.

ESTIMATED ANNUAL REPORTING AND RECORDKEEPING BURDEN

Section	Annual number of respondents	Annual frequency	Average burden per response	Annual burden hours
101.1(d)	20	1	40	800
Total				800

FDA has submitted copies of the proposed rule to OMB for its review of this reporting requirement.

II. Comments

States should send their comments regarding these estimated burdens, including suggestions for reducing these burdens, to the addressees given above.

Interested persons may, on or before February 25, 1992, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 7, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-3522 Filed 2-13-92; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 100

[Docket No. 91N-0343]

RIN 0905-AD08

State Enforcement Provisions of the Nutrition Labeling and Education Act of 1990; Submission of Reporting Procedures to OMB

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is announcing that it has submitted to the Office of Management and Budget (OMB), for its review, the reporting procedures of the proposed rule on State enforcement of certain requirements of the Federal Food, Drug, and Cosmetic Act (the act). Under the act, the State must provide 30 days notice of its intent to act and comply with other procedural requirements before taking enforcement action.

DATES: Written comments by February 25, 1992.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA-305), Food and Drug

Administration, rm. 1-23, 12420 Parklawn Drive, Rockville, MD 20857, 301-443-1751 and to the Office of Information and Regulatory Affairs, OMB, rm. 3208, New Executive Office Bldg., Washington, DC 20503, Attn: Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Janice F. Oliver, Center for Food Safety and Applied Nutrition (HFF-310), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0187.

SUPPLEMENTARY INFORMATION: The Nutrition Labeling and Education Act of 1990 (the 1990 amendments) amended the act to authorize a State to bring in Federal court in its own name and within its jurisdiction proceedings for the civil enforcement, or to restrain violations of, certain sections of the act provided that the State has given notice to FDA of its intent to act 30 days before commencing proceedings. In the **Federal Register** of November 27, 1991 (56 FR 60534), FDA published a proposed rule that would amend its general regulations (21 CFR part 100) to provide the States with instructions on how to give the requisite 30-day notice. The proposed regulation sets out the information that a State should supply.

I. Paperwork Reduction Act of 1980

The proposed rule contains reporting procedures that are subject to review by OMB under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). Therefore, in accordance with 5 CFR 1320, the title, description, and respondent descriptions of the proposed reporting procedures are shown below with an estimate of the annual reporting and recordkeeping burden. Included in the estimate is the amount of time for reviewing instructions, searching existing data sources, gathering necessary information, and completion and submission of correspondence to FDA.

The proposed amendments set forth the regulations in 21 CFR part 100 to provide the states with instructions on how to give the requisite 30-day notice. The proposed regulation sets out the information that a state should supply.

Title: 21 CFR 100.2—State Enforcement Provisions of the Nutrition Labeling and Education Act of 1990.

Description: The 1990 amendments provide for State enforcement of certain requirements of the act so long as the State provides 30 days notice of its intent to act and complies with other procedural requirements before taking any such enforcement action. Proposed § 100.2 provides the States with instructions on how to give the requisite 30-day notice.

Description of Respondents: States.

ESTIMATED ANNUAL REPORTING AND RECORDKEEPING BURDEN

Section	Annual number of respondents	Annual frequency	Average burden per response	Annual burden hours
100.2	15	5	4	300
Total				300

FDA has submitted copies of this proposed rule to OMB for its review of the reporting procedures.

II. Comments

States should send their comments regarding these estimated burdens, including suggestions for reducing these burdens, to the addressees given above.

Interested persons may, on or before February 25, 1992, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 7, 1992.

Michael R., Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-3523 Filed 2-13-92; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 101

[Docket No. 90N-0165]

RIN 0905-AD08

Food Labeling: Serving Sizes; Submission of Reporting Requirements to OMB

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is announcing that it has submitted to the Office of Management and Budget (OMB), for its review, the collection of information requirements of the proposed rule that would provide for petitions to add to or amend a standard serving size.

DATES: Written comments by February 25, 1992.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857, 301-443-1751 and to the Office of Information and Regulatory Affairs, OMB, rm. 3208, New Executive Office Building, Washington, DC 20503, Attn: Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Youngmee K. Park, Center for Food Safety and Applied Nutrition (HFF-265), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-485-0089.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 27, 1991 (56 FR 60394), FDA published a proposed rule that would amend its food labeling regulations (21 CFR part 101) to, among other things, establish reference amounts of food customarily consumed per eating occasion for 131 food product categories and to provide criteria for determining label serving size from the reference amounts (hereinafter referred to as the proposed rule). In the proposed rule, FDA also proposed a petition process to add to or to amend a reference amount or to establish a new subcategory if a reference amount for a product category does not apply to a particular product.

I. Paperwork Reduction Act of 1980

The proposed rule contains collection of information requirements that are subject to review by OMB under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). Therefore, in accordance with 5 CFR 1320, the title, description, and respondent descriptions of the proposed collection of information requirements are shown below with an estimate of the annual collection of information burden. Included in the estimate is the amount of time for reviewing instructions, searching existing data sources, gathering necessary information, and completion and submission of petitions.

Title

21 CFR 101.12—Food Labeling; Serving Sizes

Description

The proposed rule provides the procedure and format for the submission of petitions to the agency.

Proposed § 101.12(h) describes the information needed by FDA to evaluate a need for the change or addition requested in the petition and to determine the appropriate reference amount for the petitioned food if the change or addition is judged as needed.

The information included in these petitions will be reviewed by the agency and a decision will be made in accordance with the criteria specified in the proposed rule.

Description of Respondents

Businesses, including small businesses.

ESTIMATED ANNUAL REPORTING AND RECORDKEEPING BURDEN

Section	Annual number of respondents	Annual frequency	Average burden per response	Annual burden hours
101.12(h)	15	1	60	900
Total				900

FDA has submitted copies of the proposed rule to OMB for its review of this reporting requirement.

II. Comments

Interested persons should send their comments regarding these estimated burdens, including suggestions for reducing these burdens, to the addresses given above.

Interested persons may, on or before February 25, 1992, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 7, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-3526 Filed 2-13-92; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[IA-54-90]

RIN 1545-A099

Settlement Funds

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the tax treatment of transfers to certain escrow accounts, settlement funds, and other similar funds, the taxation of income earned by these funds, and the tax treatment of distributions made by these funds. Changes to the applicable law were made by the Tax Reform Act of 1986 and the Technical and Miscellaneous Revenue Act of 1988. The regulations affect certain escrow accounts, settlement funds, and other similar funds, taxpayers who make payments to these funds, and taxpayers who receive payments from these funds. The regulations are necessary to provide these taxpayers with guidance needed to comply with these changes.

DATES: Written comments must be received by April 14, 1992. Requests to appear and outlines of oral comments to be presented at the hearing scheduled for 8 a.m., May 27, 1992, must be received by May 6, 1992. See the notice of hearing published elsewhere in this issue of the **Federal Register.**

ADDRESSES: Send comments, requests for and outlines to be presented at the public hearing to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044, Attn: CC:CORP:T:R (IA-54-90), Room 5228.

FOR FURTHER INFORMATION CONTACT: Linda M. Kroening of the Office of Assistant Chief Counsel (Income Tax & Accounting), telephone (202) 377-7976 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collection of information should be sent to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, T:FP, Washington, DC 20224.

The collections of information in these proposed regulations are in §§ 1.468B-1(g), 1.468B-3(e), and 1.468B-5(c). This information is required by the Internal Revenue Service to assure that transferors and qualified settlement funds do not take inconsistent positions with respect to transfers made to qualified settlement funds. The respondents will be qualified settlement funds and transferors to qualified settlement funds.

The following estimates are an approximation of the average time expected to be necessary for a collection of information. They are based on such information as is available to the Internal Revenue Service. Individual respondents may require greater or lesser time, depending on their particular circumstances.

The estimated total annual reporting burden is 1,459 hours.

The estimated annual burden per respondent varies from 30 minutes to 1 hour and 45 minutes, depending on individual circumstances, with an estimated average of 45 minutes.

The estimated number of respondents is 2,000.

The estimated annual frequency of responses is 1.

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR part 1) to provide rules under section 468B of the Internal Revenue Code of 1986 (the "Code"). Section 468B was added to the Code by section 1807(a)(7)(A) of the Tax Reform Act of 1986 (Pub. L. 99-514, 100 Stat. 2814) and amended by section 1018(f)(5)(A) of the Technical and Miscellaneous Revenue Act of 1988 (Pub. L. 100-647, 102 Stat. 3582).

Explanation of Statutory Provisions

Section 468B (a) through (d) provides rules for the taxation of designated settlement funds and for taxpayers that make qualified payments to such funds. Section 468B(d)(2) defines a designated settlement fund as any fund—

1. That is established pursuant to a court order and that completely extinguishes the taxpayer's tort liability

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with respect to certain specified types of claims;

2. With respect to which no amounts may be transferred other than in the form of qualified payments;

3. That is administered by persons a majority of whom are independent of the taxpayer;

4. That is established for the principal purpose of resolving and satisfying present and future claims against the taxpayer (or a related person or formerly related person) arising out of personal injury, death, or property damage;

5. Under the terms of which the taxpayer (or a related person) may not hold any beneficial interest in the income or corpus of the fund; and

6. With respect to which an election is made under section 468B by the taxpayer.

Section 468B(d)(1) generally defines a qualified payment as any money or property transferred by a taxpayer to a designated settlement fund. A qualified payment does not include, however, any amount that may be transferred by a designated settlement fund to the taxpayer (or a related person), or any transfer of stock or debt of a taxpayer (or a related person).

Section 468B(a) provides that, for purposes of section 461(h), economic performance is deemed to occur as a qualified payment is made by the taxpayer to a designated settlement fund. Section 468B(c) denies a deduction, however, for any qualified payment of any amounts received from the settlement of any insurance claim to the extent such amounts are excluded from the gross income of the taxpayer.

Section 468B(b)(1) provides that the gross income of a designated settlement fund is taxable at the maximum trust rate under section 1(e) in effect for the taxable year. Section 468B(b)(2) states that a designated settlement fund is not allowed any deductions from gross income other than administrative costs and other incidental expenses that would be deductible in determining the taxable income of a corporation and that are incurred in connection with the operation of the fund. These costs and expenses include state and local taxes, and legal, accounting, and actuarial expenses.

Section 468B(b)(3) provides that a qualified payment is not treated as income of a designated settlement fund. In addition, the designated settlement fund's basis in any property received as a qualified payment is the fair market value of that property on the date of payment. Finally, a designated settlement fund is treated as the owner of all cash or other property received as a qualified payment (including any income earned on such property).

Section 468B(b)(4) states that the tax on the gross income of a designated settlement fund is in lieu of any other taxation under subtitle A of income from the assets of the fund. Thus, for example, the gross income of a designated settlement fund is not subject to the alternative minimum tax. Finally, section 468B(b)(5) provides that, for purposes of the provisions of subtitle F of the Internal Revenue Code, a designated settlement fund is treated as a corporation and any tax imposed by section 468B(b)(1) is treated as a tax imposed by section 11.

Section 468B(e) states that section 468B (other than subsection (g)) does not apply with respect to any liability of a taxpayer arising under a workers compensation act or any contested liability (within the meaning of section 461(f)) of a taxpayer.

Section 468B(g) provides that "[n]othing in any provision of law shall be construed as providing that an escrow account, settlement fund, or similar fund is not subject to current income tax." In addition, section 468B(g) states that "[t]he Secretary shall prescribe regulations providing for the taxation of any such account or fund whether as a grantor trust or otherwise." Section 468B(g) was enacted, in part, to reverse the finding in Rev. Rule. 71–119, 1971–1 Cumulative Bulletin 163. (Some taxpayers argued that Rev. Rul. 71–119 was authority for avoiding the current taxation of income earned on the assets of an escrow account, settlement fund, or other similar fund.) See H.R. Conf. Rep. No. 841, 99th Cong., 2d Sess. II–845 n. 2 (1986). Thus, Rev. Rul. 71–119 cannot be relied on as authority that the income of an escrow account, settlement fund, or other similar fund is not suject to current taxation.

The provisions applicable to designated settlement funds are generally effective after July 18, 1984, under rules applicable to section 461(h). Section 468B(g) is effective for funds established after August 16, 1986.

Explanation of Regulatory Provisions

Overview

Under the authority of section 468B(g), these proposed regulations provide a single set of operative rules for the taxation of designated settlement funds and certain funds, accounts, or trusts called qualified settlement funds. The definition of a qualified settlement fund provided in the regulations is broader than the definition of a designated settlement fund provided by section 468B(d)(2). Rules are also provided for the taxation of the income of a fund prior to the date it satisfies the requirements of a qualified settlement fund.

In addition to the rules for the taxation of fund income, the proposed regulations provide rules applicable to the transferors and claimants of designated and qualified settlement funds. For example, the regulations provide rules for determining if and when economic performance occurs with respect to a transfer to a fund.

Finally, the proposed regulations provide effective dates and provide transition rules for funds, accounts, and trusts established on or after the effective dates of section 468B and before the general effective date of the regulations.

Qualified Settlement Funds

The proposed regulations provide rules that treat certain funds, accounts, or trusts as separate taxable entities called qualified funds. Three requirements must be satisfied to qualify as a qualified settlement fund. A qualified settlement fund is a fund, account, or trust—

1. That is established pursuant to an order of, or is approved by, a governmental authority;

2. That is established to resolve or satisfy certain specified claims arising from an event, or series of events, that has occurred; and

3. That is a trust under applicable state law, or the assets of which are segregated from other assets of the transferor (or related person).

The proposed regulations define a transferor as a person that transfers (or on behalf of whom an insurer or other person transfers) money or property to a qualified settlement fund to resolve and satisfy claims against that person.

The proposed regulations provide that the governmental authority that orders or approves the establishment of a fund, account, or trust can be the United States, any state (including the District of Columbia), territory, possession, or political subdivision thereof, or any agency or instrumentality (including a court of law) of any of the foregoing. A court of law includes a United States federal bankruptcy court. The regulations provide that a fund, account, or trust is "ordered by" or "approved by" a governmental authority when the authority provides its initial or preliminary order or approval, even if that order or approval may be subject to review or revision. Except as provided under the relation-back election described below, the regulations do not treat a fund, account, or trust as a qualified settlement fund any earlier than the date the order or approval is granted even if the order or approval is retroactively effective.

A relation-back election is provided that generally allows a fund, account, or trust that meets the governmental order or approval requirement subsequent to the time it meets the other two requirements of a qualified settlement fund to be treated retroactively as a qualified settlement fund as of the date those other two requirements are met. However, if the governmental order or approval is granted in a calendar year subsequent to the one in which the other two requirements are met, the fund, account, or trust is retroactively treated as a qualified settlement fund only as of January 1 of that subsequent calendar year. All the transferors and the administrator must jointly make the relation-back election. If all the transferors do not jointly make the relation-back election, it cannot be used by any of the transferors or the qualified settlement fund.

The proposed regulations provide that the types of claims that can be resolved or satisfied by a qualified settlement fund are claims that give rise to liabilities under the Comprehensive Environmental Response, Compensation and Liability Act, or that arise out of a tort, breach of contract, or violation of law. In addition, the regulations provide that additional types of claims may be designated by the Commissioner in a revenue ruling or revenue procedure. The Internal Revenue Service invites comments regarding the extent to which qualified settlement funds should be available for the claims of general creditors and security holders in bankruptcy. In addition, comments are invited regarding whether claims for breach of contract should include claims of general creditors and security holders in bankruptcy.

Under the proposed regulations, a qualified settlement fund cannot be used to resolve or satisfy claims that give rise to certain regularly recurring liabilities: Liabilities arising under a workers compensation act; liabilities to refund the purchase price of, or to repair or replace, products regularly sold in the ordinary course of the transferor's business; liabilities arising under a self-insured health plan; and other liabilities designated by the Commissioner in a revenue ruling or revenue procedure. The Internal Revenue Service invites comments regarding other types of liabilities that are recurring in nature and that should be excluded from the qualified settlement fund rules.

If a fund, account, or trust is established to resolve or satisfy claims for which a qualified settlement fund may be used, but the fund does not yet have a governmental order or approval, or the assets of the fund are not yet segregated, the assets of the fund are deemed to be owned by the transferor. On the date all the requirements of a qualified settlement fund are satisfied, or deemed satisfied under the relation-back election, the regulations provide that the transferor is deemed to make a transfer of the assets of the fund, account, or trust to a qualified settlement fund.

Finally, the proposed regulations clarify that if a fund, account, or trust that is a qualified settlement fund could be classified as a trust for federal income tax purposes, it is classified as a qualified settlement fund for all purposes of the Code. Similarly, if a fund, account, or trust organized as a trust under applicable state law is a qualified settlement fund and could be classified as an association or a partnership for federal income tax purposes, it is classified as a qualified settlement fund for all purposes of the Code. In addition, if a fund, account, or trust established pursuant to the requirements of § 1.461-2(c)(1) (relating to contested liabilities) could be classified as a qualified settlement fund, it is classified as a qualified settlement fund for all purposes of the Code.

Taxation of Qualified Settlement Funds

The proposed regulations provide that the modified gross income of a qualified settlement fund is subject to tax, for each taxable year, at the maximum trust rate in effect under section 1(e) for that year. The modified gross income of a qualified settlement fund is defined as the gross income of the fund (within the meaning of section 61) computed with modifications specified in the proposed regulations.

The first modification is that amounts transferred to a qualified settlement fund to resolve or satisfy a liability for which the fund was established are excluded from the gross income of the fund. The proposed regulations clarify, however, that dividends on stock of the transferor (or a related person) that is held by the fund are not excluded from the gross income of the fund. Similarly, interest on debt of the transferor (or a related person) that is held by the fund, or payments in compensation for late or delayed transfers, are not excluded from the gross income of the fund.

The second modification allows a qualified settlement fund a deduction for administrative costs and other incidential expenses of the fund that would be deductible in computing the taxable income of a corporation under chapter 1 of the Code. These costs and expenses include state and local taxes, legal, accounting, and actuarial expenses relating to the operation of the fund, and expenses arising from the notification of claimants and the processing of their claims. Thus, for example, if a qualified settlement fund pays the claimants' attorney fees, the fund is not allowed a deduction for that payment because those legal fees do not relate to the operation of the fund.

The third modification allows a qualified settlement fund a deduction for a loss sustained in connection with the sale, exchange, or worthlessness of property held by the fund. A deduction is allowed, however, only to the extent it would be deductible in computing the taxable income of a corporation under section 165(f) or 165(g), and 1211(a) and 1212(a).

The fourth modification allows a qualified settlement fund a deduction for a net operating loss to the extent the loss would be deductible under section 172(a) in computing the taxable income of a corporation. The regulations define a qualified settlement fund net operating loss as the excess of the administrative costs and other incidental expenses, and losses sustained by the fund from the sale, exchange, or worthlessness of property over the gross income of a fund (excluding amounts transferred to the fund to resolve or satisfy a liability for which the fund was established).

The proposed regulations deny a deduction to a qualified settlement fund for any distributions by the fund to, or on behalf of, a transferor or claimant.

The proposed regulations provide that a qualified settlement fund's initial basis in the property it receives from a transferor (or from an insurer or other person on behalf of a transferor) is the fair market value of that property on the date the property is transferred to the fund. If a qualified settlement fund distributes property, the distribution is treated as a sale or exchange of that property for purposes of section 1001(a). In computing a qualified settlement fund's gain or loss from a distribution, the fund is deemed to realize an amount equal to the fair market value of the property on the date the proeprty is distributed.

The proposed regulations provide that the tax imposed on the modified gross income of a qualified settlement fund is in lieu of any other tax that could be imposed under subtitle A on the income of a fund. Thus, for example, the alternative minimum tax, the accumulated earnings tax, the personal holding company tax, and the maximum capital gains rate will not be imposed on

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the income of a qualified settlement fund. However, a qualified settlement fund is subject to taxes that are not imposed on income, such as the tax on the transfer of property to foreign entities under section 1491. Taxpayers should note that the regulations include the reference to section 1491 only as an example of taxes other than income taxes that a qualified settlement fund might be subject to. The regulations are not intended to address foreign tax issues that might involve qualified settlement funds. However, the Internal Revenue Service invites comments regarding potential foreign tax issues.

Taxpayers should note that the "in lieu of any other tax" provisions applies solely with respect to a tax that is imposed on a qualified settlement fund. This provision, therefore, has no effect on the taxability of a distribution to a claimant.

The proposed regulations provide that the tax imposed on the modified gross income of a qualified settlement fund cannot be reduced or offset by any credits against tax.

The proposed regulations provide that a qualified settlement fund must use the calendar year and an accrual method of accounting.

The Internal Revenue Service invites comments regarding whether a qualified settlement fund should be taxable on its modified gross income if the transferor is exempt from tax (e.g., a municipality or section 501(c)(3) organization) and the distrubitions to claimants will not be includible in the claimants' gross income (e.g., a distribution for damages that is excluded under section 104(a)(2)).

Administrative Treatment of a Qualified Settlement Fund

The proposed regulations provide that, for purposes of the rules under subtitle F, a qualified settlement fund is treated as a corporation and any tax imposed on the income of the fund is treated as a tax imposed by section 11. Subtitle F generally provides rules for information and income tax returns, the time and place for the payment of tax, and the assessment and colleciton of tax.

In applying the rules of subtitle F, the proposed regulations state that the administrator of a qualified settlement fund must obtain an employer identification number for the fund. The administrator must also file an income tax return with respect to the tax imposed on the income of a qualified settlement fund for each taxable year of the fund regardless of whether the fund has any gross income. The return must be filed on or before March 15 following the close of the taxable year unless the fund is granted an extension of time for filing. All payments of tax (including payments of estimated tax) must be deposited with an authorized government depositary.

Under the proposed regulations, the administrator of a qualified settlement fund is, in order of priority—

1. The person designated by the governmental authority that ordered or approved the establishment of the fund;
2. The person designated in the escrow agreement, settlement agreement, or other similar agreement;
3. The transferor or, if there are multiple transferors, the transferor designated as the administrator in an agreement signed by all the transferors; or
4. The escrow agent, custodian, or other person in possession or control of the fund assets.

For purposes of determining when a qualified settlement fund is in existence, the proposed regulations provide that the fund generally begins existence on the date the fund, account, or trust meets, or is deemed to meet, the requirements of a qualified settlement fund. The regulations provide that a qualified settlement fund ceases to exist on the earlier of the date the fund no longer meets the requirements of a qualified settlement fund or no longer has any assets and will not receive any more transfers.

The proposed regulations provide that a qualified settlement fund is subject to the information reporting requirements of sections 6031 through 6060 and the withholding requirements of sections 1441 through 1464 and 3101 through 3509. For purposes of determining whether information reporting or withholding is required for distributions to claimants, a qualified settlement fund must report, or withhold from, a distribution if the transferor would have been required to do so if the transferor had made the distribution directly to a claimant. Thus, for example, if a distribution of taxable interest income is made to a claimant, the qualified settlement fund would be required to report the distribution on a Form 1099-INT subject to the rules of section 6041 or 6049. For distributions by a qualified settlement fund with respect to liabilities of the fund (e.g., payment of wages to the administrator), the fund is the payor and subject to the applicable information reporting and withholding requirements.

Rules Applicable to the Transferor

The proposed regulations provide that a transferor must treat a transfer of property to a qualified settlement fund as a sale or exchange of that property for purposes of section 1001(a). In computing gain or loss to the transferor, the transferor is deemed to realize an amount equal to the fair market value of that property on the date the property is transferred. However, the regulations provide that the Commissioner may disallow a loss resulting from the transfer of property to a qualified settlement fund if the Commissioner determines that a principal purpose for the transfer was to claim a loss and either the transferor places significant retrictions on the fund's ability to use or dispose of the property or the property (or substantially identical property) is distributed to the transferor (or a related person).

The proposed regualtions provide that if a transferor that uses an accrual method of accounting makes a transfer to a qualified settlement fund to resolve or satisfy certain liabilities, economic performance (but not the all events test as defined in section 461(h)(4)) is generally deemed to occur with respect to the liabilities as the transfer is made and to the extent of the transfer. However, if a transferor transfers its debt to a qualified settlement fund, economic performance does not take place until, and to the extent, the transferor makes payments to the fund on the debt.

Economic performance does not occur to the extent the transferor (or a related person) has the right, excercisable currently and without the agreement of an unrelated person, to a refund or reversion of the transferred amount. Examples of an unrelated person include the court or agency that approved the qualified settlement fund, or the counsel representing the class of claimants. In addition, economic performance does not occur if the amount is transferred under conditions that allow its refund or reversion on the happening of an event that is certain to occur, such as the passage of time, or if the restrictions on the refund or reversion are illusory. Economic performance is deemed to occur subsequently, however, at the time and to the extent a transferor's right to these types of refunds or reversions is extinguished.

The proposed regulations do not address the treatment of transfers of the stock of a transferor (or a related person), and transfers of certain partnership interest (e.g., interest in a partnership where the transferor is the partnership or interests in a partnership controlled by the transferor (or a related person)). The Interval Revenue Service invites comments regarding the proper treatment of stock of a transferor (or a related person) and those partnership interests. Comments should address, for example—

1. Whether economic performance should occur at the time the stock or partnership interest is transferred to a qualified settlement fund or when the fund disposes of the stock or partnership interest;

2. Whether the transferor's deduction should be measured by the fair market value of the stock or partnership interest when it is transferred to the qualified settlement fund or the amount received by the fund when it sells the stock or partnership interest; and

3. If the fair market value of the stock or partnership interest is to be determined prior to the time it is disposed of by the qualified settlement fund and the stock or partnership interest is not publicly traded, what types of rules would adequately prevent valuation abuses resulting from the fact that interests of the transferor and the fund with respect to the fair market value may not be adverse?

The proposed regulations deny a deduction to a transferor for any transfer that represents amounts received from the settlement of an insurance claim to the extent the amounts are excludable from the gross income of the transferor. If the settlement of an insurance claim occurs after a transfer to a qualified settlement fund for which a deduction was taken, the regulations provide that the transferor must include in income the amounts received to the extent of the prior deduction.

The proposed regulations require a transferor to provide a statement of certain information to the administrator of a qualified settlement fund no later than February 15 of the year following the close of the calendar year in which a transfer is made to the fund. In addition, the regulations require the transferor to attach a copy of that statement as part of its income tax return for the taxable year in which the transfer is made.

The proposed regulations provide that a transferor must include in gross income any distribution it receives from a qualified settlement fund or any distribution made at the transferor's direction other than to a claimant to resolve or satisfy a liability for which the fund was established. If property is distributed, the regulations provide that the amount includible in the gross income of the transferor, and the transferor's basis in that property, is the fair market value of the property on the date of distribution. A limited tax benefit rule is provided if a transferor did not receive a deduction because economic performance did not occur by reason of the transferor's right to a refund or reversion, but only to the extent the amount distributed reduces the transferor's right to any additional refund or reversion. The Internal Revenue Service invites comments regarding alternatives to this rule.

The proposed regulations also specify two situations in which a distribution will be deemed to have been made to a transferor. The first type of deemed distribution occurs if a qualified settlement fund makes a distribution to a person (including a claimant) to resolve or satisfy a liability of the transferor (or a related person) other than a liability for which the fund was established. In that case, the distribution is deemed to have been made first to the transferor who then is deemed to make the transfer to the actual recipient. The second type of deemed distribution occurs if a transferor acquires, subsequent to the transfer of money or property to a qualified settlement fund, a right for which economic performance would be denied if the right existed at the time of a transfer. The transferor is deemed to receive, on the date the right is acquired, a distribution to the extent of the right of refund or reversion.

Taxability of Distributions to Claimants

The proposed regulations provide that the determination of whether a distribution to a claimant is includible in the claimant's gross income is generally made by reference to the claim for which the distribution is made.

Designated Settlement Funds

The proposed regulations provide that a designated settlement fund is taxed like a qualified settlement fund. In addition, the rules for transferors of a qualified settlement fund apply to the transferors of a designated settlement fund apply to claimants of a designated settlement fund.

The proposed regulations clarify that if a fund, account, or trust does not meet the requirements of a designated settlement fund but meets the requirements of a qualified settlement fund, it is treated as a qualified settlement fund.

Effective Dates and Transition Rules

The proposed regulations provide that the rules for qualified settlement funds are generally effective for January 1, 1993. Transition rules are provided, however, that give the Commisioner the discretion to permit a fund in existence on February 14, 1992, to be taxed in a manner other than that required for qualified settlement funds for taxable years ending after December 31, 1992. The permission of the Commissioner to use an alternative method of taxation must be jointly requested by all the transferors and the administrator of the fund in a letter ruling request that is received by the Internal Revenue Service no later than March 15, 1993. In general, the following facts must be demonstrated before the Commissioner will approve the request:

1. The proposed alternative method of taxation is a reasonable method of taxation in light of the facts and circumstances of the qualified settlement fund and the law prior to the publication of the proposed regulations.

2. The alternative method of taxation is consistent with the positions taken and the taxes paid by the qualified settlement fund and all the transferors for taxable years of the fund ending on or before December 31, 1992.

3. The qualified settlement fund is expected to be in existence after 1992 for only a reasonably short period of time.

For income of a fund earned prior to 1993, section 468B (including section 468B(g)) is effective as provided in the Tax Reform Act of 1986 and the Technical and Miscellaneous Revenue Act of 1988. With respect to the income earned prior to 1993 but after the effective date of section 468B(g), the proposed regulations state that the Internal Revenue Service will not challenge a reasonable, consistently applied method of taxation. In general, the transferors and the administrator of a qualified settlement fund are considered to have taken a reasonable position if the income of the fund was included currently in the income of a person as if the fund were a grantor trust, a complex trust, or a designated settlement fund. In no event, however, is the position that there is no current taxation on income earned prior to 1993 (e.g., a position that Rev. Rul. 71–119 applies) a reasonable position.

The proposed regulations also allow all the transferors and the administrator to jointly elect to apply these proposed regulations for all open years of the transferors and the qualified settlement fund prior to 1993 but after the effective date of section 468B(g). As a condition of the election, each transferor must file amended returns for any taxable year in which it took a position with respect to a transfer to the qualified settlement fund or a distribution from the fund that is inconsistent with the qualified settlement fund rules. Under the broad authority provided by section 468B(g), the regulations treat any income earned by the qualified settlement fund as income earned on the last day of each calendar year so that the fund will not have an addition to tax for failure to pay estimated tax for income earned in taxable years ending prior to 1993. In addition, the regulations provide that if returns for the qualified settlement fund for taxable years ending before 1993 are filed and payments of tax are made on or before March 15, 1993, the penalties for failure to file and failure to pay are also waived. The regulations do not waive the interest provisions with respect to these returns.

Special Analyses

It has been determined that these proposed regulations are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, a copy of the regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted timely (preferably a signed original and seven copies) to the Internal Revenue Service. All comments will be available for public inspection and copying in their entirety. A public hearing will be held at 8 a.m. on May 27, 1992. See the notice of hearing published elsewhere in this issue of the **Federal Register**.

Drafting Information

The principal author of these regulations is Linda M. Kroening of the Office of Assistant Chief Counsel (Income Tax & Accounting), Office of Chief Counsel, Internal Revenue Service. However, other personnel from the Internal Revenue Service and Treasury Department Participated in developing the regulations, in matters of both substance and style.

List of Subjects in 26 CFR 1.461–1 Through 1.469–11T

Accounting, Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. The authority for part 1 is amended by adding the following citation:

Authority: Section 7805, 68A Stat. 917; 26 U.S.C. 7805 * * * § 1.468B also issued under 26 U.S.C. 461(h) and 468B. §§ 1.468B–0 through 1.468B–5 also issued under 26 U.S.C. 461(h) and 468B. * * *

Par. 2. Sections § 1.468B and 1.468B–0 through 1.468B–5 are added to read as follows:

§ 1.468B Designated settlement funds.

A designated settlement fund, as defined in section 468B(d)(2), is taxed in the manner described in § 1.468B–2. The rules for transferors to a qualified settlement fund described in § 1.468B–3 apply to transferors to a designated settlement fund. Similarly, the rules for claimants of a qualified settlement fund described in § 1.468B–4 apply to claimants of a designated settlement fund. A fund, account, or trust that does not qualify as a designated settlement fund is, however, a qualified settlement fund if it meets the requirements of a qualified settlement fund described in § 1.468B–1.

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§ 1468B–1 Qualified settlement funds.

(a) *In general.* A qualified settlement fund is a fund, account, or trust that satisfies the requirements of paragraph (c) of this section.

(b) *Coordination with other entity classifications.* If a fund, account, or trust that is a qualified settlement fund could be classified as a trust within the meaning of § 301.7701–4 of this chapter, it is classified as a qualified settlement fund for all purposes of the Internal Revenue Code. If a fund, account, or trust organized as a trust under applicable state law is a qualified settlement fund, and could be classified as either an association (within the meaning of § 301.7701–3 of this chapter), or a partnership (within the meaning of § 301.7701–3 of this chapter), it is classified as a qualified settlement fund for all purposes of the Internal Revenue Code. If a fund, account, or trust established pursuant to the requirements of § 1.461–2(c)(1), relating to funds for contested liabilities, could be classified as a qualified settlement fund, it is classified as a qualified settlement fund for all purposes of the Internal Revenue Code.

(c) *Requirements.* A fund, account, or trust satisfies the requirements of this paragraph (c) if—

(1) It is established pursuant to an order of, or is approved by, the United States, any state (including the District of Columbia), territory, possession, or political subdivision thereof, or any agency or instrumentality (including a court of law) of any of the foregoing;

(2) It is established to resolve or satisfy one or more claims that result from an event, or series of events, that has occurred and that gives rise to liabilities—

(i) Under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 *et seq.*; or

(ii) Out of a tort, breach of contract, or violation of law; or

(iii) Designated by the Commissioner in a revenue ruling or revenue procedure; and

(3) The fund, account, or trust is a trust under applicable state law, or its assets are otherwise segregated from other assets of the transferor (and related persons).

(d) *Governmental order or approval.* A fund, account, or trust is ordered by or approved by a governmental authority if it is subject to the supervision or jurisdiction of that governmental authority. A fund, account, or trust is "ordered by" or "approved by" a governmental authority described in paragraph (c)(1) of this section when the authority grants its initial or preliminary order or approval of the fund, account, or trust, even if that order or approval may be subject to review or revision. Except as provided in paragraph (f)(2) of this section, the authority's order or approval has no retroactive effect and does not permit a fund, account, or trust to be a qualified settlement fund prior to the date the order is issued or the approval is granted.

(e) *Recurring liabilities.* A liability is not described in paragraph (c)(2) of this section if it—

(1) Arises under a workers compensation act or a self-insured health plan;

(2) Is an obligation to refund the purchase price of, or to repair or replace, products regularly sold in the ordinary course of the transferor's trade or business; or

(3) Is designated by the Commissioner in a revenue ruling or a revenue procedure.

(f) *Definitions.* For purposes of this section—

(1) *Transferor.* A "transferor" is a person that transfers (or on behalf of whom an insurer or other person transfers) money or property to a qualified settlement fund to resolve or satisfy claims described in paragraph (c)(2) of this section against that person.

(2) *Related person.* A "related person" is any person who is related to the transferor within the meaning of sections 267(b) and 707(b)(1).

(g) *Classification of fund prior to satisfaction of requirements in paragraph (c) of this section*—(1) *In general.* If a fund, account, or trust is established to resolve or satisfy claims described in paragraph (c)(2) of this section, the assets of the fund, account, or trust are treated as owned by the transferor of those assets until the fund, account, or trust also meets the requirements of paragraphs (c) (1) and (3) of this section. On the date the fund, account, or trust satisfies all the requirements of paragraph (c) of this section, the transferor is treated as transferring the assets to a qualified settlement fund.

(2) *Relation-back rule*—(i) *In general.* If a fund, account, or trust meets the requirements of paragraphs (c)(2) and (c)(3) of this section prior to the time it meets the requirements of paragraph (c)(1) of this section, the transferor and administrator (as defined in § 1.468B-2(j)(3)) may jointly make an election ("relation-back election") to treat the fund, account, or trust as coming into existence as a qualified settlement fund on the later of the date the fund, account, or trust meets the requirements of paragraphs (c)(2) and (c)(3) of this section or January 1 of the year in which all the requirements of paragraph (c) of this section are met. If a relation-back election is made, the assets that were held by the fund, account, or trust on the date the qualified settlement fund is treated as coming into existence are deemed transferred to the qualified settlement fund on that date.

(ii) *Relation-back election.* A relation-back election is made by attaching a copy of the election statement, signed by each transferor and the administrator, to (and as part of) the timely filed income tax return (including extensions) of the qualified settlement fund for the taxable year in which the fund is deemed to come into existence. A copy of the election statement must also be attached to (and as part of) the timely filed income tax return (including extensions), or an amended return, of each transferor for the taxable year of the transferor that includes the date on which the qualified settlement fund is deemed to come into existence. The election statement must contain—

(A) A legend "§ 1.468B-1 Relation-Back Election" at the top of the first page;

(B) Each transferor's name, address, and taxpayer identification number;

(C) The qualified settlement fund's name, address, and employer identification number;

(D) The date as of which the qualified settlement fund is treated as coming into existence; and

(E) A schedule of all assets deemed transferred to the qualified settlement fund under paragraph (g)(2)(i) of this section on the date the fund is treated as coming into existence.

(h) *Examples.* The following examples illustrate the rules of this section:

Example 1. In a class action brought in a United States federal district court, the court holds that the defendant, Corporation X, violated certain securities laws and must pay damages in the amount of $150 million. Pursuant to an order of the court, Corporation X transfers $50 million in cash and transfers property with a fair market value of $75 million to a trust. The trust will liquidate the property and then distribute cash proceeds to the plaintiffs in the class action. The trust is a qualified settlement fund because it was established pursuant to the order of a federal district court to resolve or satisfy claims against Corporation X for securities law violations that have occurred.

Example 2. (i) Assume the same facts as in *Example 1* except that Corporation X and the class of plaintiffs reach an out-of-court settlement that requires Corporation X to establish and fund a trust prior to the settlement agreement being submitted to the court for approval.

(ii) The trust is not a qualified settlement fund because it neither is established pursuant to an order of, nor has it been approved by, a governmental authority described in paragraph (c)(1) of this section. If the court grants preliminary approval of the settlement agreement, the trust will qualify as a qualified settlement fund as of the date of the approval (assuming a relation-back election is not made).

Example 3. On June 1, 1994, Corporation Y establishes a fund to resolve or satisfy claims against it arising from the violation of certain securities laws by Corporation Y. On that date Corporation Y transfers $10 million to a segregated account. On December 1, 1994 a federal district court approves the fund Assuming Corporation Y and the administrator of the qualified settlement fund do not make a relation-back election, Corporation Y is treated as the owner of the $10 million dollars, and is taxable on any income earned on that money, from June 1 through November 30, 1994. The fund is a qualified settlement fund beginning on December 1, 1994.

Example 4. (i) Corporation X, which has a taxable year ending on October 31, enters into a settlement agreement on September 1, 1993 with a plaintiff class for asserted tort liabilities. Under the settlement agreement Corporation X makes two payments of $50 million each into a segregated fund, one on September 1, 1993, and one on October 1, 1993, to resolve or satisfy the tort liabilities. A federal district court approves the settlement agreement on November 1, 1993.

(ii) The administrator of the fund and Corporation X elect to treat the fund as a qualified settlement fund prior to grovernmental approval under the relation-back rule of paragraph (g) of this section. The administrator must attach the relation-back election to the fund's income tax return for its 1993 calendar year, and Corporation X must attach the election to its imcome tax return for its taxable year ending October 31, 1993.

(iii) Pursuant to the relation-back election, the fund begins its existence as a qualified settlement fund on September 1, 1993. In addition, Corporation X is treated as making a $50 million transfer to a qualified settlement fund on each of September 1, 1993, and October 1, 1993.

(iv) By February 15, 1994, Corporation X must provide to the administrator of the qualified settlement fund the statement described in § 1.468B–3(e) with respect to these transfers. Corporation X must attach a copy of this statement to its income tax return for the taxable year ending October 31, 1993.

Example 5. Assume the same facts as in *Example 4*, except that the court approves the settlement on May 1, 1994. The administrator must attach the relation-back election to the fund's income tax return for its 1994 calendar year, and Corporation X must attach the election to its timely filed income tax return for its taxable year ending October 31, 1994. Pursuant to this election, the fund begins its existence as a qualified settlement fund on January 1, 1994. In addition, Corporation X is treated as transferring to a qualified settlement fund on January 1, 1994, all amounts held in the fund on January 1, 1994. By February 15, 1995, Corporation X must provide to the administrator of the qualified settlement fund the statement described in § 1.468B–3(e) with respect to this deemed transfer. Finally, Corporation X must attach a copy of this statement to its income tax return for its taxable year ending October 31, 1994.

Example 6. Corporation Z establishes a fund that meets all the requirements of section 468B(d)(2) for a designated settlement fund except that Corporation Z does not make the election under section 468B(d)(2)(F). Although the fund does not qualify as a designated settlement fund, it is a qualified settlement fund because the fund meets the requirements of paragraph (c) of this section.

§ 1.468B–2 Taxation of qualified settlement funds and related administrative requirements.

(a) *In general.* A qualified settlement fund is a United States person and is subject to tax on its modified gross income (as defined in paragraph (b) of this section) for any taxable year at a rate equal to the maximum rate in effect for that taxable year under section 1(e).

(b) *Modified gross income.* The modified gross income of a qualified settlement fund means gross income as defined in section 61, computed with the following modifications—

(1) In general, amounts transferred to the qualified settlement fund by, or on behalf of, a transferor to resolve or satisfy a liability for which the fund is established are excluded from gross income. However, dividends on stock of a transferor (or a related person), interest on debt of a transferor (or a related person), and payments in compensation for late or delayed transfers, are not excluded from gross income.

(2) A deduction is allowed for administrative costs and other incidental expenses incurred in connection with the operation of the qualified settlement fund that would be deductible under chapter 1 of the Internal Revenue Code in determining the taxable income of a corporation. Administrative costs and other incidental expenses include state and local taxes, legal, accounting, and actuarial fees relating to the operation of the qualified settlement fund, and expenses arising from the notification of claimants and the processing of their claims. Administrative costs and other incidental expenses do not include legal fees incurred by, or on behalf of, claimants.

(3) A deduction is allowed for losses sustained by the qualified settlement fund in connection with the sale, exchange, or worthlessness of property held by the fund to the extent the losses would be deductible in determining the taxable income of a corporation under section 165 (f) or (g), and sections 1211(a) and 1212(a).

(4) A deduction is allowed for the amount of a net operating loss of the qualified settlement fund to the extent the loss would be deductible in determining the taxable income of a corporation under section 172(a). For purposes of this paragraph (b)(4), the net operating loss of a qualified settlement fund for a taxable year is the amount by which the deductions allowed under paragraphs (b)(2) and (b)(3) of this section exceed the gross income of the fund computed with the modification described in paragraph (b)(1) of this section.

(c) *Distributions to transferors and claimants.* Amounts that are distributed by a qualified settlement fund to, or on behalf of, a transferor or a claimant are not deductible by the fund.

(d) *Basis of property transferred to a qualified settlement fund.* A qualified settlement fund's initial basis in property it receives from a transferor (or from an insurer or other person on behalf of a transferor) is the fair market value of that property on the date of transfer to the fund.

(e) *Distribution of property.* A qualified settlement fund must treat a distribution of property as a sale or exchange of that property for purposes of section 1001(a). In computing gain or loss, the amount realized by the qualified settlement fund is the fair market value of the property on the date of distribution.

(f) *Other taxes.* The tax imposed under paragraph (a) of this section is in lieu of any other taxation under subtitle A of the Internal Revenue Code on the income of a qualified settlement fund. Thus, a qualified settlement fund is not subject to the alternative minimum tax of section 55, the accumulated earnings tax of section 531, the personal holding company tax of section 541, or the maximum capital gains rate of section 1(h). A qualified settlement fund is, however, subject to taxes that are not imposed on the income of a taxpayer, such as the tax on transfers of property to foreign entities under section 1491.

(g) *Denial of credits against tax.* The tax imposed on the modified gross income of a qualified settlement fund under paragraph (a) of this section may not be reduced or offset by any credits against tax provided by part IV of subchapter A of chapter 1 of the Internal Revenue Code.

(h) *Taxable year and accounting method.* The taxable year of a qualified settlement fund is the calendar year. A qualified settlement fund must use an accrual method of accounting within the meaning of section 446(c).

(i) [Reserved]

(j) *Treatment as corporation for purposes of subtitle F.* Except as provided in §§ 1.468B–5 (b) and (c), for purposes of subtitle F of the Internal Revenue Code and the regulations thereunder, a qualified settlement fund is treated as a corporation and any tax imposed under paragraph (a) of this section is treated as a tax imposed by section 11. Subtitle F rules that apply to qualified settlement funds include, but are not limited to—

(1) A qualified settlement fund must file an income tax return with respect to the tax imposed under paragraph (a) of this section for each taxable year that fund is in existence whether or not the fund has gross income for that taxable year. The return must be made by the administrator of the qualified settlement fund as determined under paragraph (j)(3) of this section. For purposes of this paragraph (j)(1), a qualified settlement fund is in existence for the period that—

(i) Begins on the first date on which the fund is treated as a qualified settlement fund under § 1.468B–1; and

(ii) Ends on the earlier of the date the fund—

(A) No longer meets the requirements of § 1.468B–1; or

(B) No longer has any assets and will not receive any more transfers.

(2) The return described in paragraph (j)(1) of this section must be filed on or before March 15 of the year following the close of the taxable year of the qualified settlement fund unless the fund is granted an extension of time for filing under section 6081.

(3) For purposes of this section, the "administrator" of a qualified settlement fund is, in order of priority—

(i) The person designated by the governmental authority that ordered or approved the establishment of the fund for purposes of §1.468B–1(c)(1);

(ii) The person designated in the escrow agreement, settlement agreement, or other similar agreement governing the fund;

(iii) The transferor or, if there are multiple transferors, the transferor designated as the administrator in an agreement signed by all the transferors; or

(iv) The escrow agent, custodian, or other person in possession or control of the fund's assets.

(4) The administrator of a qualified settlement fund must obtain an employer identification number.

(5) A qualified settlement fund must deposit all payments of tax imposed under paragraph (a) of this section (including any payments of estimated tax) with an authorized government depositary in accordance with § 1.6302–1.

(6) A qualified settlement fund is subject to the addition to tax imposed by section 6655 in the case of any underpayment of estimated tax computed with respect to the tax imposed under paragraph (a) of this section. For purposes of section 6655(g)(2), a qualified settlement fund's taxable income is its modified gross income and a transferor is not considered a predecessor of a qualified settlement fund.

(7) A qualified settlement fund is subject to the information reporting requirements of part III of subchapter A of chapter 61 of the Internal Revenue Code. For purposes of those requirements, a qualified settlement fund must make a return for a distribution to a claimant if the transferor would have been required to make a return if it had made the distribution directly to the claimant.

(k) *Withholding requirements.* A qualified settlement fund is subject to the withholding requirements of subchapter A of chapter 3 of subtitle A and subtitle C of the Internal Revenue Code. For purposes of those requirements, a qualified settlement fund must withhold tax from a distribution to a claimant if the transferor would have been required to withhold tax if it had made the distribution directly to the claimant.

§ 1.468B–3 Rules applicable to the transferor.

(a) *Transfer of property—(1) In general.* A transferor must treat a transfer of property to a qualified settlement fund as a sale or exchange of that property for purposes of section 1001(a). In computing the gain or loss, the amount realized by the transferor is the fair market value of the property on the date the transfer is made (or is deemed made under § 1.468B–1(g) to the qualified settlement fund. If a person other than the transferor transfers property to a qualified settlement fund, there may be other tax consequences as determined under general federal income tax principles.

(2) *Anti-abuse rule.* The Commissioner may disallow a loss resulting from the transfer of property to a qualified settlement fund if the Commissioner determines that a principal purpose for the transfer was to claim the loss and—

(i) The transferor places significant restrictions on the fund's ability to use or dispose of the property; or

(ii) The property (or substantially identical property) is distributed to the transferor (or a related person).

(b) *Economic performance*—(1) *In general.* Except as provided in this paragraph (b), for purposes of section 461(h), economic performance occurs with respect to a liability described in § 1.468B–1(c)(2) (determined with regard to § 1.468B–1(e)) to the extent the transferor makes a transfer to a qualified settlement fund to resolve or satisfy the liability.

(2) *Right to a refund or reversion*—(1) *In general.* Economic performance does not occur to the extent—

(A) The transferor (or a related person) has a right exercisable currently and without the agreement of an unrelated person (e.g., the court or agency that approved the fund, or the fund claimants) to a refund or reversion of a transfer; or

(B) Money or property is transferred under conditions that allow its refund or reversion by reason of the occurence of an event that is certain to occur, such as the passage of time, or if restrictions on its refund or reversion are illusory.

(ii) *Right extinguished.* With respect to a transfer discribed in paragraph (b)(2)(i) of this section, economic performance is deemed to occur on the date, and to the extent, the transferor's right to a refund or reversion is extinguished.

(3) *Debt of transferor.* Economic performance does not occur when a transferor transfers its debt (or the debt of a related person) to a qualified settlement fund. Economic performance is deemed to occur only as the transferor (or related person) makes payments on the debt.

(c) *Transfer of transferor's stock and partnership interests in partnerships controlled by the transferor.* [Reserved]

(d) *Payment of insurance amounts.* No deduction is allowed to a transferor for a transfer to a qualified settlement fund to the extent the transferred amounts represent amounts received from the settlement of an insurance claim and are excludable from gross income. If the settlement of an insurance claim occurs after a transferor makes a transfer to a qualified settlement fund for which a deduction has been taken, the transferor must include in income the amounts received from the settlement of the insurance claim to the extent of the deduction.

(e) *Statement to the qualified settlement fund and the Internal Revenue Service*—(1) *In general.* A transferor must provide the statement described in paragraph (e)(2) of this section to the administrator of a qualified settlement fund no later than the February 15 of the year following each calendar year in which the transferor (or an insurer or other person on behalf of the transferor) makes a transfer to the fund. The transferor must attach a copy of the statement to (and as part of) its timely filed income tax return (including extensions) for the taxable year of the transferor in which the transfer is made.

(2) *Required statement.* The statement required by this paragraph (e) must provide the following information—

(i) A legend "§ 1.468B–3 Statement" at the top of the first page;

(ii) The transferor's name, address, and taxpayer identification number;

(iii) The qualified settlement fund's name, address, and employer identification number;

(iv) The date of each transfer;

(v) The amount of cash transferred; and

(vi) A description of property transferred and its fair market value on the date of transfer.

(f) *Distributions to transferors*—(1) *In general.* A transferor must include in gross income any distribution (including a deemed distribution described in paragraph (f)(2) of this section) it receives from a qualified settlement fund. If a distribution is made in property, the amount includible in gross income and the basis in that property, is the fair market value of the property on the date of the distribution.

(2) *Deemed distributions*—(i) *Other liabilities.* If a qualified settlement fund makes a distribution on behalf of the transferor to a person that is not a claimant, or to a claimant to resolve or satisfy a liability of the transferor (or a related person) other than a liability described in § 1.468B–1(c)(2) for which the fund was established, the distribution is deemed made by the fund to the transferor. The transferor, in turn, is deemed to have made a payment to the actual recipient.

(ii) *Constructive receipt.* To the extent a transferor acquires a right to a refund or reversion described in paragraph (b)(2) of this section of all or a portion of the assets of a qualified settlement fund subsequent to the transfer of those assets to the fund, the fund is deemed to distribute those assets to the transferor on the date the right is acquired.

(3) *Tax-benefit rule exception.* A distribution described in paragraph (f)(1) or (f)(2) of this section is not includible in the gross income of a transferor to the extent economic performance has been denied under paragraph (b)(2) of this section and to the extent the distribution reduces the transferor's refund or reversion rights.

(g) *Example.* The following example illustrates the rules of this section:

Example. (i) Corporation Y, an accrual method taxpayer, established a qualified settlement fund and transfers $10 million to it on July 1, 1993. Corporation Y retains the right, exercisable without the agreement of an unrelated person (as described in paragraph (b)(2) of this section), to withdraw from the fund prior to October 1, 1993, up to $2 million. On September 30, Corporation Y withdraws $2,015,000 from the fund.

(ii) Economic performance is deemed to occur with respect to $8 milllion of Corporation Y's liability when Corporation Y transfers the $10 million to the qualified settlement fund. Economic performance does not occur with respect to the remaining $2 million of Corporation Y's liability because Corporation Y retained a right to a refund or reversion in that amount. The qualified settlement fund is considered to own the entire $10 million for all other purposes of section 468B for the period it holds the money.

(iii) Corporation Y must include in income $15,000 of the distribution made to it by the qualified settlement fund on September 30. Because economic performance did not occur with respect to that portion of the transfer in which Corporation Y retained a right or refund or reversion, Corporation Y does not include in income the remaining $2 million of the distribution made to it by the qualified settlement fund.

§ 1.468B–4 Taxability of distribution to claimants.

Whether a distribution to a claimant is includible in the claimant's gross income is generally determined by reference to the claim in respect of which the distribution is made and as if the distribution were made directly by the transferor. For example, to the extent a distribution is in satisfaction of damages on account of personal injury or sickness, the distribution may be excludable from gross income under section 104(a)(2). Similarly, to the extent a distribution is in satisfaction of a claim for foregone taxable interest, the distribution is includible in the claimant's gross income under section 61(a)(4).

§ 1.468B–5 Effective dates and transition rules.

(a) *In general.* Section 468B, including section 468B(g), is effective as provided in the Tax Reform Act of 1986 and the Technical and Miscellaneous Revenue Act of 1988. Except as otherwise provided in this section, §§ 1.468B–1 through 1.468B–4 are effective on January 1, 1993. Thus, the regulations apply to income of a qualified settlement fund earned after December 31, 1992, transfers to a fund after December 31, 1992, and distributions from a fund after December 31, 1992. For purposes of § 1.468B–3(b) (relating to economic performance) assets previously transferred to (and held by) a qualified settlement fund on the date these regulations first apply to the fund (i.e., January 1, 1993 or the earlier date provided under paragraph (c)(2) of this section) are treated as transferred to the fund on that date, to the extent no taxpayer has previously claimed a deduction for the transfer.

(b) *Request for alternative taxation of post-1992 fund income.* A qualified settlement fund in existence on February 14, 1992, may request a ruling from the Internal Revenue Service permitting the fund to be taxed in a manner other than that required by §§ 1.468B–1 through 1.468B–4 for taxable years ending after December 31, 1992. The request must be made jointly by all the transferors and the administrator in accordance with the applicable rules relating to submission of ruling requests and must be received by the Internal Revenue Service no later than March 15, 1993. In general, the following facts must be demonstrated to the satisfaction of the Commissioner before the Commissioner will approve a ruling request—

(i) The method of taxation requested in the ruling is reasonable in light of the facts and circumstances of the qualified settlement fund and the law prior to the publication of these regulations. A method of taxation is reasonable only if it currently includes the income of the fund in the income of an appropriate person;

(ii) The method of taxation requested in the ruling is consistent with the positions taken and the taxes paid by all the transferors and the qualified settlement fund for taxable years ending prior to January 1, 1993; and

(iii) The qualified settlement fund will exist after 1992 for only a reasonably short period of time.

(c) *Taxation of pre-1993 fund income*—(1) *Reasonable method.* With respect to any escrow account, settlement fund, or similar fund established after August 16, 1986, the Internal Revenue Service will not challenge a reasonable, consistently applied method of taxation for transfers to the fund or income earned by the fund, prior to 1993 but after August 16, 1986. A method is generally considered to have been reasonble if, depending on the facts and circumstances, all the transferors and the administrator of the fund consistently treated transfers to the fund and the taxation of the income of the fund earned prior to 1933 but after August 16, 1986, as if the fund were—

(i) A grantor trust and the transferors were the grantors;

(ii) A complex trust and the transferors were the grantors; or

(iii) A designated settlement fund.

In no event is it a reasonable position to assert that there is no current taxation of the income of a fund established after August 16, 1986 (e.g., a position that Rev. Rul. 71–119 applies).

(2) *Election to apply qualified settlement fund rules*—(i) *In general.* All the transferors and the administrator may jointly elect to apply §§ 1.468B–1 through 1.468B–4 to taxable years ending after August 16, 1986. The election is effective beginning on the first day of the earliest open taxable year of the qualified settlement fund that ends with or within an open taxable year for all the transferors. For purposes of this paragraph (c)(2), a taxable year is considered open if the period for assessment and collection of tax has not expired pursuant to the rules of section 6501. The election must be signed by all the transferors and the administrator and must provide the following information—

(A) A legend "§ 1.468B–5(c)(2) Election" at the top of the first page;

(B) Each transferor's name, address, and taxpayer identification number;

(C) The qualified settlement fund's name, address, and employer identification number; and

(D) The date the qualified settlement fund was established within the meaning of § 1.468B–1(g).

(ii) *Due date of returns and amended returns.* The election under paragraph (c)(2)(i) must be filed with, and as part of, the qaulified settlement fund's timely filed tax return for the taxable year ended December 31, 1992. In order to have a valid election, each transferor of the qualified settlement fund must file an amended return for any taxable year to which the election applies in which the transferor took a position inconsistent with the rules in §§ 1.468B–1 through 1.468B–4, and the qualified settlement fund must file an amended return for any taxable year to which the election applies in which the fund took a position inconsistent with the rules in §§ 1.468B–1 through 1.468B–4. Any such amended return must apply the rules in §§ 1.468B–1 through 1.468B–4, must be filed no later than March 15, 1993, and must include a copy of the election described in paragraph (c)(2)(i) of this section.

(iii) *Computation of interest and waiver of penalties.* For purposes of section 6601 and section 6611, the income tax return for each taxable year of the qualified settlement fund to which the election applies is due on March 15 of the year following the taxable year of the fund. For taxable years of a qualified settlement fund ending prior to January 1, 1993, the income earned by the fund is deemed to have been earned on December 31 of each taxable year for purposes of section 6655. Thus, the addition to tax for failure to pay estimated tax under section 6655 will not be imposed. The penalty for failure to file a return under section 6651(a)(1), the penalty for failure to pay tax under section 6651(a)(2), and the accuracy-related penalty under section 6662 will not be imposed on a qualified settlement fund if the fund files its tax returns for taxable years ending before January 1, 1993, and pays any tax due for those taxable years, on or before March 15, 1993.

David G. Blattner,

Acting Commissioner of Internal Revenue.

[FR Doc. 92–3227 Filed 2–13–92; 8:45 am]

BILLING CODE 4830-01-M

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26 CFR Part 1

[IA–54–90]

RIN 1545–A099

Settlement Funds; Hearing

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of public hearing on proposed regulations relating to the tax treatment of transfers to certain escrow accounts, settlement funds, and other similar funds, the taxation of income earned by these funds, and the tax treatment of distributions made by these funds.

DATES: The public hearing will be held on Wednesday, May 27, 1992, beginning at 8 a.m. Requests to speak and outlines of oral comments must be received by Wednesday, May 6, 1992.

ADDRESSES: The public hearing will be held in the Internal Revenue Service Auditorium, Seventh floor, 7400 Corridor, Internal Revenue Service Building, 111 Constitution Avenue NW., Washington, DC. Requests to speak and outlines of oral comments should be submitted to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R, (IA–54–90), room 5228, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Carol Savage of the Regulations Unit, Assistant Chief Counsel (Corporate), 202–377–9236 or (202) 566–3935 (not toll-free numbers).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 468B of the Internal Revenue Code of 1986. The proposed regulations appear elsewhere in this issue of the **Federal Register**.

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than Wednesday, May 6, 1992, an outline of the oral comments/testimony to be presented at the hearing and the time they wish to devote to each subject.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be permitted beyond the lobby of the Internal Revenue Service Building until 7:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the persons testifying. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 92–3228 Filed 2–13–92; 8:45 am]

BILLING CODE 4830-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[AMS–FRL–4104–5]

Regulation of Fuels and Fuel Additives: Standards for Reformulated Gasoline and Conventional Gasoline

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public workshop.

SUMMARY: This notice announces the time and place for a public workshop related to EPA's development of the complex emissions model for reformulated gasoline.

DATES: The public workshop will be held on February 18, 1992. It will start at 9 a.m., will continue as long as necessary to complete the agenda.

ADDRESSES: The public workshop will be held at the Best Western Domino's Farms Hotel, 3600 Plymouth Road, Ann Arbor, Michigan 48105 (telephone 313–769–9800). Interested parties may submit written comments (in duplicate if possible) to Public Docket No. A–91–02, at: Air Docket Section (LE–131), U.S. Environmental Protection Agency, Attention: Docket No. A–91–02, First Floor, Waterside Mall, rm M–1500, 401 M Street, SW., Washington, DC 20460.

Materials related to this rulemaking have been placed in Docket No. A–91–02 by EPA. The docket is located at the above address and may be inspected between 8:30 a.m. and noon and between 1:30 p.m. and 3:30 p.m., Monday through Friday. EPA may charge a reasonable fee for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Sklar, Standards Development and Support Branch, Emission Control Technology Division,

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U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105. Telephone: (313) 741-7817.

SUPPLEMENTARY INFORMATION:

Background

Section 211(k) of the Clean Air Act, as amended (Act), requires that EPA promulgate regulations establishing the requirements for a reformulated gasoline program. EPA is holding a series of workshops to expedite the development and promulgation of a rule establishing a complex emission model for the reformulated gasoline program. All workshops in the series will be open to the public. The first such workshop was held in Ann Arbor, Michigan, on Wednesday, January 22 and Thursday, January 23. The purpose of the workshops and supplementary information regarding the workshops can be found in 57 FR 2068 (January 17, 1992).

Public Workshop

The February 18 workshop is the second in this series of public workshops. It will include the following topics:

—*Review of current and planned testing programs:* This topic will include a review of recent results from ongoing or recently completed testing programs. It will also include a review of planned future testing activities. EPA will present the results to date of its Reformulated Gasoline testing program. Other organizations are requested to present their results.

—*Review of existing emission models:* This topic will focus on emission models currently being developed. The methods used to develop each model will be discussed, focusing on the selection of data for inclusion in each model and the specific analytical and statistical methods used to develop each model. Where possible, predicted results from the models presented will be compared to available data; discrepancies between model predictions and test data will be discussed and steps to resolve those discrepancies will be identified.

Other presentations for existing vehicle testing programs and modeling efforts are encouraged. Those interested in making such presentations should notify Michael Sklar at (313) 741-7817 of such intent at least three days before the workshop. The contact person also should be provided an estimate of the time required for the presentation of the testimony and notification of any need for audio/visual equipment. Questions will be taken after each presentation.

Public Participation

As in past rulemaking actions, EPA strongly encourages full public participation in the development and assessment of information that will be used in developing a final rule. This workshop will help determine the methods used by the Agency in developing the complex model rule as well as the content of the proposed rule, and EPA welcomes public input regarding the rule and the methods most appropriate for use in developing the model.

EPA suggests that enough copies of the material for presentation be brought to the workshop for distribution to the audience. EPA anticipates attendance of 100 to 150 people. In addition, it will be helpful for EPA to receive an advance copy of any material for presentation before the schedule workshop date so as to allow EPA staff to give such material full consideration.

Mr. Charles Gray, Director of the Emission Control Technology Division of EPA's Office of Mobile Sources will chair the workshop. The workshop will be conducted informally, and technical rules of evidence will not apply.

Dated: February 7, 1992.

Michael Shapiro,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 92-3629 Filed 2-13-92; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 300

[FRL-4102-6]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Revised notice of intent to delete from the National Priorities List; request for comments.

SUMMARY: The Environmental Protection Agency (EPA) Region IV announces its intent to delete the Lees Lane Landfill Superfund site (Site) from the National Priorities List (NPL) and requests public comment on this action. On May 16, 1988, EPA issued a notice announcing its intent to delete this site and others. The notice is being revised to correct certain inaccuracies made with respect to the Lees Lane Landfill Site. The NPL constitutes appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended. EPA and the Commonwealth of Kentucky have determined that all appropriate CERCLA response actions have been implemented and that no further cleanup is appropriate. Moreover EPA and Kentucky determined that response activities conducted at the Site to date have been protective of public health, welfare, and the environment.

Deletion of sites from the NPL does not itself create, alter, or revoke any individual's rights or obligations.

DATES: Comments concerning this Site may be submitted on or before March 16, 1992.

ADDRESSES: Comments may be mailed to: Derek Matory, RPM, Waste Management Division, North Superfund Remedial Branch, Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, GA 30365.

Comprehensive information on the Site is available through the EPA Region IV public docket, which is located at EPA's Region IV office and is available for viewing by appointment only from 9 a.m. to 4 p.m., Monday through Friday, excluding holidays. Requests for appointments or copies of the background information from the Regional public docket should be directed to the EPA Region IV docket office.

The address for the Regional docket office is: Pricilla Pride, Region IV, USEPA, Library, room G-8, 345 Courtland Street, NE., Atlanta, GA 30365.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction.
II. NPL Deletion Criteria.
III. Basis for Intended Site Deletions.

I. Introduction

The Environmental Protection Agency (EPA) Region IV announces its intent to delete the Lees Lane Landfill Site from the National Priorities List (NPL), which constitutes appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), and requests comments on this deletion. The NPL is comprised of sites identified by EPA which may present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substances Superfund (Fund). Pursuant to § 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed remedial or removal actions if conditions at the Site warrant such actions.

EPA will accept comments concerning this notice of intent to delete for thirty (30) days after publication of this notice in the **Federal Register**. Concurrent with this notice of intent to delete, a notice has been published in local newspapers and has been distributed to appropriate state officials.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses how this Site meets the deletion criteria.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response action, other than operation and maintenance (O&M) activities, is appropriate. In making this determination, EPA will consider whether any of the following criteria have been met:

(i) EPA, in consultation with the State, has determined that responsible or other parties have implemented all appropriate response action required; or

(ii) All appropriate Fund-financed responses under CERCLA have been implemented and EPA, in consultation with the State, has determined that no further cleanup by responsible parties is appropriate; or

(iii) Based on a remedial investigation, EPA, in consultation with the State, has determined that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

III. Deletion Procedures

In the NPL rulemaking published on October 15, 1984 (49 FR 40320), the Agency solicited and received comments on whether the notice of comment procedures followed for adding sites to the NPL should also be used before sites are deleted. Comments were also received in response to the amendments to the NCP proposed on February 12, 1985 (50 FR 5862). Deletion of sites from the NPL does not itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for informational purposes and to assist Agency management.

EPA Region IV will accept and evaluate public comments before making a final decision to delete. The Agency believes that deletion procedures should focus on notice and comment at the local level. Comments from the local community may be the most pertinent to deletion decisions. The following procedures were used to the intended deletion of this site:

1. EPA Region IV has recommended deletion and has prepared the relevant documents.
2. The State of Kentucky has concurred with the deletion decision.
3. Concurrent with this National Notice of Intent to Delete, a local notice has been published in local newspapers and has been distributed to appropriate federal, state and local officials, and other interested parties. This local notice announces a thirty (30) day public comment period on the deletion package, which starts two weeks from the date of this notice.
4. The Region has made all relevant documents available in the Regional Office and local site information repository.

The comments received during the notice and comment period will be evaluated before the final decision to delete.

The Region will prepare a Responsiveness Summary, which will address the comments received during the public comment period.

A deletion will occur after the EPA Regional Administrator places a notice in the **Federal Register**. The NPL will reflect any deletions in the next final update. Public notices and copies of the Responsiveness Summary will be made available to local residents by Region IV.

IV. Basis for Intended Site Deletion

The following summary provides the Agency's rationale for deletion of the Site from the NPL.

Lees Lane Landfill Site, Louisville, Kentucky

The Lees Lane Landfill Site is located immediately adjacent to the Ohio River in Jefferson County, approximately 4.5 miles southwest of Louisville, Kentucky. The Site, consisting of approximately 112 acres, is approximately 5,000 feet in length and 1500 feet in width. Domestic, commercial and industrial wastes were disposed of in the landfill from the later 1940's to approximately 1975. Prior to and during its use as a landfill, sand and gravel were quarried at the Site. In 1975, residents near the Site were evacuated from their homes as a result of explosive levels of methane gas. These homes were ultimately purchased by the Jefferson County Housing Authority. In 1978, monitoring was conducted to define the gas migration problem. A gas collection venting system was installed in October 1980 to intercept migrating gases.

In February 1980, the Kentucky Department of Hazardous Materials and Waste Management (HMWM) discovered approximately 400 drums near the Ohio River bank. Over 50 chemicals were identified, including phenolic resins, benzene, and relatively high concentrations of copper, cadmium, nickel, lead, and chromium.

The drums were ultimately removed, and in 1981, the Kentucky Natural Resources and Environmental Protection Cabinet (NREPC) installed shallow ground-water monitoring wells at the Site, which revealed high concentrations of heavy metals and aluminum. On September 8, 1983, the Site was listed on the National Priorities List.

EPA signed an Enforcement Decision Document (EDD) on September 25, 1986. The EDD (similar to a Record of Decision) documents EPA's selected response action for the Lees Lane Landfill Site, which included the construction of a riprap system; surface waste clean-up; inspection and repair of the gas collection system; hook-up to an alternate water supply; gas, air, and ground-water monitoring; cautionary signs and installation of a gate at the entrance to the Site. On March 10, 1987, EPA initiated a removal action at the Site to implement the EDD.

All construction activities have been completed, and EPA recently entered into an Administrative Consent Order with the Louisville and Jefferson County Metropolitan Sewer District (MSD) under which MSD has agreed to perform certain O&M activities at the Site for twenty-nine (29) years. EPA anticipates that the Commonwealth of Kentucky will enter into an Intergovernmental Response Agreement with EPA under which Kentucky will provide oversight of MSD's O&M activities. Based on current information, EPA, with the concurrence of the Commonwealth of Kentucky, has determined that all appropriate Fund-financed response actions under CERCLA at the Lees Lane Landfill Site have been completed, and also has determined based on current information that no further response actions, other than long-term O&M activities, are appropriate at the Site.

V. Bibliography Docket

NUS Corporation, Lees Lane Landfill Remedial Investigation, April 1986, Prepared for U.S. EPA.

NUS Corporation, Lees Lane Landfill Feasibility Study, April 1986, Prepared for U.S. EPA.

United States Environmental Protection Agency, Lees Lane Landfill Community Relations Plan, January 1988.

EBASCO Services Incorporated, Lees Lane Landfill Basis of Design Report, December 1987, Prepared for U.S. EPA.

VOL 57 ISS 31 FE 14 1992 UMI

United States Environmental Protection Agency, Lees Lane Landfill Removal Action NPL Site OSC Report, December 1987.

EBASCO Services Incorporated, Lees Lane Landfill Operations and Maintenance Plan, February 1988, Prepared for U.S. EPA (Revised April 1991).

United States Environmental Protection Agency, Lees Lane Landfill Close Out Report, February 1988.

Kentucky Department of Natural Resources, Assurance Letter to Undertake O&M, February 1987, Submitted to U.S. EPA.

United States Environmental Protection Agency, Administrative Record Bibliography, February 1988.

Administrative Order on Consent with the Louisville and Jefferson County, Kentucky Metropolitan Sewer District to Conduct Site O&M, October 1991.

Kentucky Department of Natural Resources, Concurrence on Site Deletion Letter, December 1991, Submitted to U.S. EPA.

Dated: January 13, 1992.

Patrick M. Tobin,

Deputy Regional Administrator, U.S. EPA Region IV.

[FR Doc. 92-3152 Filed 2-13-92; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 92-16, RM-7887]

Radio Broadcasting Services; Hazelhurst, Jeffersonville, Mt. Vernon, Sandersville, Soperton and Tennille, GA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Jeff Davis Broadcasters, licensee of Station WVOH(FM), Channel 228A, Hazelhurst, Georgia, ALP Limited Partnership, permittee of Station WWST(FM), Channel 229A, Jeffersonville, Georgia, and Wesley James Holden, seeking the substitution of Channel 228C2 for Channel 228A at Hazelhurst, Georgia, and modification of Station WVOH(FM)'s license accordingly; the substitution of Channel 229C2 for Channel 229A at Jeffersonville, Georgia, and the modification of the construction permit (BPH880602ND) for Station WWST(FM) accordingly; and the allotment of Channel 269A to Mt. Vernon, Georgia. The proposals to upgrade at Hazelhurst and Jeffersonville require the substitution of Channel 260A for Channel 228A at Sandersville, Georgia, and the modification of Station WSNT(FM)'s license to specify Channel 260A; substitution of Channel 291A for Channel 269A at Soperton, Georgia, and the modification of Station WKTM(FM)'s license to specify Channel 291A; and the substitution of Channel 270A for vacant but applied for Channel 260A at Tennille, Georgia. *See* Supplementary Information, *infra.*

DATES: Comments must be filed on or before March 30, 1992, and reply comments on or before April 14, 1992.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Dennis F. Begley, Reddy, Begley & Martin, 2033 M Street, NW., suite 500, Washington, DC 20036 (attorney for Jeff Davis Broadcasters) and Lawrence J. Bernard, Jr. 1300 19th Street, NW., suite 240, Washington, DC 20036 (attorney for ALP Limited Partnership and Wesley James Holden).

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 92-16, adopted January 29, 1992, and released February 7, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1714 21 Street, NW., Washington, DC 20036.

The coordinates for Channel 228C2 at Hazelhurst are North Latitude 31-51-15 and West Longitude 82-34-00. The coordinates for Channel 229C2 at Jeffersonville are North Latitude 32-47-00 and West Longitude 83-28-36. The coordinates for Channel 260A at Sandersville are North Latitude 32-58-23 and West Longitude 82-48-34. The coordinates for Channel 270A at Tennille are North Latitude 32-56-24 and West Longitude 82-48-06. The coordinates for Channel 269A at Mt. Vernon are North Latitude 32-10-10 and West Longitude 82-33-09. The coordinates for Channel 291A at Soperton are North Latitude 32-23-19 and West Longitude 82-42-13.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-3538 Filed 2-13-92; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 92-15, RM-7886]

Radio Broadcasting Services; Poipu, HI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Lu Ann Uchida Lane seeking the allotment of Channel 240A to Poipu, Hawaii, as that community's first local broadcast service. Channel 240A can be allotted to Poipu in compliance with the Commission's minimum distance separation requirements without a site restriction. The coordinates for the proposal are North Latitude 21-52-35 and West Longitude 159-27-14.

DATES: Comments must be filed on or before March 30, 1992, and reply comments on or before April 14, 1992.

ADDRESSES: Federal Communication Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Lu Ann Uchida Lane, 3-2600 Kaumaualii Hwy., suite 3039-127, Lihue, Hawaii 96766 (petitioner).

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 92-15, adopted January 27, 1992, and released February 10, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452–1422, 1714 21st Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73:

Radio Broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92–3539 Filed 2–13–92; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 92–18, RM–7899]

Radio Broadcasting Services; Ravenswood, WV

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Rex Osborne seeking the allotment of Channel 226A at Ravenswood, West Virginia, as the community's second local FM transmission service. Channel 226A can be allotted to Ravenswood in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for Channel 226A at Ravenswood are North Latitude 38–56–54 and West Longitude 81–45–48. Since Ravenswood is located within 320 kilometers (200 miles) of the U.S.-Canadian border, concurrence by the Canadian government has been requested.

DATES: Comments must be filed on or before March 30, 1992, and reply comments on or before April 14, 1992.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows Rex Osborne, P.O. Box 667, Ravenswood, West Virginia 26164–0667 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 92–18, adopted January 30, 1992, and released February 7, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452–1422, 1714 21st Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92–3540 Filed 2–13–92; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1332

[Ex Parte No. MC–205]

Earlier Disposal of Postal Contracts Filed With the Commission by the U.S. Postal Service

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to change its practice of retaining contracts between the United States Postal Service (Postal Service) and ICC-regulated carriers beyond their effective date. Currently, the United States Postal Service files with the Commission contracts between it and surface carriers providing transportation of mail. The Postal Service also maintains contracts for public inspection and retains them until cancellation. The Commission questions whether its retention of documents already on file at the Postal Service serves any useful purpose. This change is proposed to alleviate the Commission's shortage of storage space and available personnel. The Commission's Section of Tariffs receives roughly 500 contracts each month and, under present procedures, retains them until cancellation. The contracts are rarely, if ever, reviewed by the public. The proposed change would require amending 49 CFR part 1332 as set forth below.

DATES: Comments are due March 30, 1992.

ADDRESSES: Send an original and 10 copies of comments to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTRACT: James W. Greene (202) 927–5597, Charles E. Langyher, III (202) 927–5160. (TDD for hearing impaired (202) 927–5721).

SUPPLEMENTARY INFORMATION: Under the existing regulatory scheme, the United States Postal Service must file at the Commission copies of contracts for transportation of mail which it enters into with surface carriers. When received the contracts are made available for public review, although requests for review are rare. The contracts are then stored until cancellation. Due to a severe shortage of space and personnel, the Commission proposes that, instead of retaining the contracts until cancellation, the contracts be retained only until they become effective. The Section of Tariffs would continue to receive and make the contracts available for public review until they become effective, but would at that time dispose of them. Under the revised regulation requests by the public would be referred to the Postal Service.

The Postal Service has informally indicated its willingness to respond to any additional public requests that might result from this change. We do not foresee any circumstance under which the proposed rule would impose an unreasonable burden on carriers or shippers.

The Commission finds that it has the statutory authority to institute this change. However, it would be necessary to amend 49 CFR 1332. In addition, assuming the Commission, after review of the public comments, determines to make the changes proposed, it will obtain the necessary approval to effect any changes in its record retention schedules under the Federal Records Act (44 U.S.C. chs. 29, 31, & 33) and implementing regulations.

The Commission also solicits comments on whether it may and should amend 49 CFR 1332.3(b) to eliminate the requirement that the Postal Service file in duplicate copies of the contracts. The Postal Reorganization Act of 1970, Public Law 91–375, states that such contracts "shall be available for inspection in the office of the Postal Service and the Interstate Commerce Commission * * * at least 15 days prior to the effective date of the contract." 39 U.S.C. 5005(b)(3). We solicit comment on whether that provision precludes the Commission from eliminating 49 CFR 1332, and, if not, on whether the present filing procedures serve any useful purpose.

List of Subjects in 49 CFR 1332

Government contracts, Motor carriers, Postal Service, Railroads.

This proposed rule is consistent with the Paperwork Reduction Act, 44 U.S.C. 3501. This proposed rule in not a major rule for the purposes of Executive Order 12291 of February 17, 1981. As required by the Regulatory Flexibility Act, 5 U.S.C. 601, it is hereby certified that this proposed rule will not have a significant impact on small business entities.

Decided: February 6, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillips, and Emmett.

Sidney L. Strickland, Jr,

Secretary.

For the reasons set forth in the preamble, the Commission proposes to amend title 49, chapter X, part 1332 as follows:

PART 1332—FILING CONTRACTS FOR SURFACE MAIL TRANSPORTATION

1. The authority citation for Part 1332 continues to read as follows:

Authority: Sec. 5005(b)(3), 84 Stat. 767, 39 U.S.C. 5005.

2. A new § 1332.4 is proposed to be added to read as follows:

§ 1332.4 Contracts to be disposed of on effective date.

Copies of contracts and amendments filed under § 1332.3 of this Part will not be retained past the effective date of those contracts or amendments.

[FR Doc. 92–3582 Filed 2–13–92; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 57, No. 31
Friday, February 14, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Agricultural Biotechnology Research Advisory Committee Meeting

In accordance with the Federal Advisory Committee Act of October 1972 (Pub. L. No. 92-463, 86 Stat. 770-776), the U.S. Department of Agriculture (USDA), Science and Education, announces the following advisory committee meeting:

Name: Agricultural Biotechnology Research Advisory Committee.

Date: March 11-13, 1992.

Time: 9 a.m. to approximately 5 p.m. on March 11; 9 a.m. to approximately 5 p.m. on March 12; and 9 a.m. to approximately 3 p.m. on March 13.

Place: Georgetown Room, Rosslyn Westpark Hotel, 1900 N. Fort Myer Drive, Arlington, Virginia 22209.

Type of Meeting: This meeting is open to the public. Persons may participate in the meeting as time and space permit. Members of the public wishing to speak at the meeting may be given such an opportunity at the discretion of the Chair.

Comments: The public may file written comments before or after the meeting with the contact person specified below.

Purpose: To review matters pertaining to agricultural biotechnology research and to develop advice for the Secretary through the Assistant Secretary for Science and Education with respect to policies, programs, operations and activities associated with the conduct of agricultural biotechnology research.

The major item to be considered at this meeting is a proposal from the Alabama Agricultural Experiment Station (AAES) to conduct research on transgenic channel catfish, which contain a rainbow trout growth hormone gene, in confined outdoor research ponds. The ponds are located at AAES's research facility in Auburn, Lee County, Alabama. Copies of the transgenic catfish research proposal and an environmental analysis prepared by AAES may be obtained by contacting the persons listed below.

Contact Persons: Dr. Alvin L. Young, Director, or Dr. Daniel D. Jones, Deputy Director, Office of Agricultural Biotechnology, Cooperative State Research Service, Department of Agriculture, room 1001, Rosslyn Plaza East, 14th Street and Independence Avenue SW., Washington, DC 20250. Telephone (703) 235-4419.

Done at Washington, DC, this 4th day of February 1992.

Harry C. Mussman,

Acting Assistant Secretary, Science and Education.

[FR Doc. 92-3608 Filed 2-13-92; 8:45 am]

BILLING CODE 3410-22-M

DEPARTMENT OF AGRICULTURE

Forest Service

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Natonal Park Service

Reintroduction of Black-footed Ferrets Into the Conata Basin/Badlands Area in South Dakota

AGENCY: Forest Service, USDA; Fish and Wildlife Service, Interior; National Park Service, Interior.

ACTION: Notice of meetings and intent to prepare an environmental impact statement.

SUMMARY: This notice advises the public that under provisions of the National Environmental Policy Act, the Fish and Wildlife Service, Forest Service, and National Park Service will jointly prepare an environmental impact statement evaluating the introduction of black-footed ferrets into the Conata Basin/Badlands area—specifically Badlands National Park and Buffalo Gap National Grassland—in South Dakota. Background information and public participation results to date are summarized. Comments and participation in this scoping process are solicited. Scoping meetings will be held in South Dakota.

DATES: Written comments must be received on or before March 30, 1992. Public meetings will be held in Wall, South Dakota, at the Community Center at 7:30 p.m., February 26, 1992, and in Sioux Falls, South Dakota, at the Center Inn at 7:30 p.m., February 27, 1992.

ADDRESSES: Written comments and suggestions regarding the black-footed ferret reintroduction into the Conata Basin/Badlands area in South Dakota should be sent to Merrill S. Zschomler, State Supervisor, U.S. Fish and Wildlife Service, 420 South Garfield, Pierre, South Dakota 57501.

FOR FURTHER INFORMATION CONTACT: Douglas A. Searls, Assistant State Supervisor, U.S. Fish and Wildlife Service, at the above address or call (505) 224-8693.

SUPPLEMENTARY INFORMATION: Once distributed across 12 western States, endangered black-footed ferrets survive today only on 1 experimental release site and in captivity. Most of the field research on the ferrets comes from projects carried out on two former wild populations one each in South Dakota and Wyoming. Recent successes with a breeding program show promise that enough ferrets will be available for reintroduction into the wild to meet the "Black-footed Ferret Recovery Plan" goal of establishing 10 self-sustaining populations across the ferret's historical range. An experimental reintroduction of 49 ferrets in the Shirley Basin, Wyoming, began in the fall of 1991.

The Fish and Wildlife Service joined with interested States to form individual State working groups, composed of a variety of agricultural, land management agency, and environmental interests, to evaluate ferret recovery potentials in each State. Using nationally standardized guidelines for evaluating potential ferret habitat, the Conata Basin/Badlands area was identified by the South Dakota State Working Group in 1989 as having the highest potential for ferret survival in South Dakota. Superlative prairie dog habitat, recent past occupation by ferrets, and supportive laws, regulations, and policies on the public lands involved account for the top ranking.

The proposed reintroduction area of approximately 42,000 acres in southwestern South Dakota supports mixed grass prairie interspersed with barren lands. More than 99 percent of the area is public land administered by the National Park Service as the Badlands National Park (National Park) or by the Forest Service as the Buffalo Gap National Grassland (National Grassland), all in Pennington County. Ferret survival is tied to large acreages of prairie dog colonies. About 9,000 acres of active black-tailed prairie dog colonies now exist in the proposed reintroduction area. Livestock grazing is permitted on the National Grassland portion of the area. Extensive prairie

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dog control using rodenticides has been conducted on this portion for several decades. Under a prairie dog management plan approved and implemented by the Forest Service in 1989, the acreage of untreated prairie dog colonies in the Conata Basin will be maintained between 5,200 and 5,850 acres by the end of 1996. With the exception of less than 400 acres, all of the proposed ferret reintroduction area in the National Park is within the Badlands Wilderness, where management policy has precluded extensive prairie dog control during the last 30 years. Land uses in the reintroduction and adjacent areas include tourism, recreational uses, ranching, and dryland farming.

As one step toward assessing the issues and alternatives for possibly reintroducing black-footed ferrets into the Conata Basin/Badlands area, the Fish and Wildlife Service, Forest Service, and National Park Service participated in the resource issue resolution process called "Coordinated Resource Management." A local-level committee representing public agencies, agricultural interests, individual landowners, recreational interests, and conservation groups met to explore the feasibility, desirability, consequences, and attitudes of people in South Dakota regarding the possible reintroduction of black-footed ferrets. Although the committee did not, in six meetings in 1990 and 1991, unanimously agree on whether to recommend a reintroduction effort, they did provide an excellent forum for people with diverse points of view to identify issues and concerns with the reintroduction proposal. Issues surfacing during the committee meetings include: Effects on land ownership and jurisdiction; effects on land uses in the reintroduction area and on nearby private lands; effects on prairie dog management; suitability and size of area needed for ferrets; costs and economics; and monitoring reintroduction activities.

The three Federal Agencies involved with the reintroduction proposal signed an agreement to define each Agency's roles and responsibilities. Under the agreement, the Fish and Wildlife Service is the overall coordinator and each Agency will have a "joint lead" in carrying out National Environmental Policy Act compliance, including the preparation of necessary documents.

Issues, concerns, and suggestions raised by the public and other agencies through written comments and meetings during this scoping process will be analyzed and the results used to develop alternatives for reintroducing black-footed ferrets in the Conata Basin/Badlands area. As a result of the public forums that have occurred to date, the following options were revealed.

1. To not release ferrets; this is the "no action" alternative.

2. Release ferrets as an experimental populations in accordance with Section 10(j) of the Endangered Species Act:
a. on the National Park only (15,000 acres),
b. on the National Grassland only (27,000 acres), and
c. on the National Park and National Grassland (42,000 acres).

3. Release ferrets as an endangered population:
a. on the National Park only (15,000 acres),
b. on the National Grassland only (27,000 acres), and
c. on the National Park and National Grassland (42,000 acres).

4. Release ferrets as noted in 2 and 3 above but on acreages larger or smaller than indicated.

Dated: February 4, 1992.

Galen L. Buterbaugh,

Regional Director, U.S. Fish and Wildlife Service.

Dated: February 7, 1992.

Gary Cargill,

Regional Forester, U.S. Forest Service.

Dated: February 5, 1992.

Boyd Evison,

Acting Regional Director, National Park Service.

[FR Doc. 92-3586 Filed 2-13-92; 8:45 am]

BILLING CODE 4310-55-M

Forest Service

Rocky Mountain Region; Environmental Impact Statement for Sheep Flats Timber Sales, Grand Mesa, Uncompahgre and Gunnison National Forests, Mesa County, CO.

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to preapre an environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement on three proposed timber sales, Grove Creek, Valley View and Sheep Flats located on the Grand Mesa National Forest, Collbran Ranger District.

DATES: Publication of Draft EIS: December, 1992; Final EIS: March, 1993.

ADDRESSES: Send written comments to Gene Grossman, District Ranger, Collbran Ranger District, P.O. Box 338, Collbran, Colorado 81624.

FOR FURTHER INFORMATION CONTACT: Michael R. Geary, Forester, Collbran Ranger District, 218 E. High Street, Collbran, Colorado 81624. Phone: (303) 487-3534.

SUPPLEMENTARY INFORMATION: The Forest Service is proposing three timber sales collectively called Sheep Flats. The three sales are located on National Forest lands and each sale area will utilize the preparatory cut of the 3-step shelterwood silvicultural system. The tree species scheduled for harvesting are predominantly Engelmann spruce, subalphine fir with a small component of aspen mixed in.

The following table displays each proposed individual sale name, species, gross and net acreages scheduled for harvesting, associated road miles, and proposed sell year:

Sales name	Approximate acres		Road miles	Sell year
	Gross	Net		
Grove Creek	1,000	725	4.5	1992
Valley View	1,000	750	3.5	1993
Sheep Flats	1,300	1,000	1.2	1994

Preliminary scoping of the Sheep Flats area from interested parties identified three tentative issues. These are: (1) Construction of roads within roadless areas identified during the 1979 RARE II process, (2) harvesting within old growth areas and (3) cumulative impacts from logging operations in and around the sale areas. Based upon these preliminary issues four alternatives will be analyzed:

1. No action.

2. Restricting harvesting operations to stands outside of roadless areas.

3. Vegetative treatment practices using commerical methods to manage designated areas for timber harvesting and motorized trail locations.

4. Maximize the commercial timber output within the constraints of the Amended Forest Plan.

A public meeting is scheduled for Monday, March 9, 1992, at Collbran Ranger District Office from 3 p.m. til 7 p.m. to display and discuss the Sheep Flats area with the public. In conjunction with this public meeting, a news release identifying the Sheep Flats area and requesting public input is being released to local news outlets and interested parties on the Collbran Ranger District's NEPA mailing list.

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency's notice of availability appears in the Federal

Register. It is very important that those interested in this proposed action participate at that time. To be the most helpful, comments on the draft environmental impact statement should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see The Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3). Please note that comments on the draft environmental impact statement will be regarded as public information.

In addition, Federal court decisions have established that reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' positions and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement. *City of Angoon* v. *Hodel*, (9th Circuit, 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final.

The responsible official for this EIS is Robert L. Storch, Forest Supervisor, Grand Mesa, Uncompahgre and Gunnison Nationl Forests, 2250 Highway 50, Delta, Colorado 81416.

Dated: February 10, 1992.

Robert L. Storch,

Forest Supervisor.

[FR Doc. 92-3585 Filed 2-13-92; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

International Trade Administration

[C-533-804]

Alignment of the Final Countervailing Duty Determination With the Final Antidumping Duty Determination and Postponement of the Countervailing Duty Public Hearing: Bulk Ibuprofen From India

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: February 14, 1992.

FOR FURTHER INFORMATION CONTACT: Paulo F. Mendes or Stephanie L. Hager, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-5050 or 377-5055 respectively.

Alignment of Antidumping and Countervailing Duty Cases

On December 23, 1991, we published a preliminary affirmative countervailing duty determination pertaining to bulk ibuprofen from India (56 FR 66432). The notice stated that we would make our final countervailing duty determination by February 26, 1992.

On January 28, 1992, in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended ("the Act"), we received a request from petitioner to extend the due date for the final countervailing duty determination to coincide with the date of the final determination in the antidumping duty investigation of bulk ibuprofen from India. Accordingly, we are extending the final determination in this countervailing duty investigation to not later than May 11, 1992.

In accordance with section 705 of the Act, and 19 CFR 355.20(c)(ii), the Department will direct the U.S. Customs Service to terminate the suspension of liquidation in the countervailing duty proceeding as of April 22, 1992. No cash deposits or bonds for potential countervailing duties will be required for merchandise which enters the United States on or after April 22, 1992. The suspension of liquidation will not be resumed unless and until the Department publishes a countervailing duty order. We will also direct the U.S. Customs Service to maintain the suspension of any entries suspended between December 23, 1991 and April 21, 1992, until the conclusion of this investigation.

Public Comment

In our preliminary determination we stated that, if requested, a public hearing would be held on February 20, 1992. We have rescheduled that public hearing for 10:30 a.m. on March 5, 1992, at the Department of Commerce, room 3606, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and the place of the hearing 48 hours before the scheduled time. The deadlines for case briefs and rebuttal briefs are now February 20, and February 27, 1992 respectively.

The U.S. International Trade Commission is being advised of this postponement. This notice is published pursuant to section 705(d) of the Act.

Dated: February 7, 1992.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92-3640 Filed 2-13-92; 8:45 am]

BILLING CODE 3510-DS-M

Importers and Retailers' Textile Advisory Committee; Partially Closed Meeting

A meeting of the Importers and Retailers' Textile Advisory Committee will be held on Monday, March 9, 1992, Herbert C. Hoover Building, room H3407, 14th Street and Constitution Avenue, NW., Washington, DC 20230. (The Committee was established by the Secretary of Commerce on August 13, 1963 to advise Department officials of the effects on import markets and retailing of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles.)

General Session: 10:30 a.m. Review of import trends, international activities, report on conditions in the market, and other business.

Executive Session: 11 a.m. Discussion of matters properly classified under Executive Order 12356 (3 CFR, 1982 Comp. p. 166) and listed in 5 U.S.C. 552b(c)(1).

The general session will be open to the public with a limited number of seats available. A Notice of Determination to close meetings or portions of meetings to the public on the basis of 5 U.S.C. 552b(c)(1) has been approved in accordance with the Federal Advisory Committee Act. A copy of the notice is available for public inspection and copying in the Central Facility Room H6628, U.S. Department of Commerce, (202) 377-3031.

For further information or copies of the minutes, contact Theresa Stuart (202) 377-3737.

Dated: February 10, 1992.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.92-3641 Filed 2-13-92; 8:45 am]

BILLING CODE 3510-DR-F

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Univ. of California, Los Alamos National Laboratory, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 91–162. *Applicant:* University of California, Los Alamos National Laboratory, Los Alamos, NM 87545. *Instrument:* Mass Spectrometer, Model VG Sector 54–30. *Manufacturer:* VG Instruments Inc., United Kingdom. *Intended Use:* See notice at 56 FR 60971, November 29, 1991. *Reasons:* The foreign instrument provides: (1) An array of 6 Faraday collectors, (2) an accuracy of 0.5% relative (2 sigma) for thorium samples to 250 ng and (3) a background for mass 230 no greater than 1.0% correction.

Docket Number: 91–170. *Applicant:* University of California, Berkeley, Berkeley, CA 94720. *Instrument:* Mass Spectrometer, Model 5400. *Manufacturer:* VG Instruments, United Kingdom. *Intended Use:* See notice at 56 FR 64244, December 9, 1991. *Reasons:* The foreign instrument provides: (1) Sensitivity to 10^{-3} A/torr for argon, (2) efficiency of 0.5 detected ions/atom for argon and (3) mass discrimination of 0.5% per amu for xenon.

The capability of each of the foreign instruments described above is pertinent to each applicant's intended purposes. We know of no instrument or apparatus being manufactured in the United States which is of equivalent scientific value to either of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 92–3642 Filed 2–13–92; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Marine Mammals; Permit Issuance

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Issuance of public display permit No. 759.

SUMMARY: On Wednesday, October 16, 1991, notice was published in the **Federal Register** (56 FR 51881) that an application (P489) had been filed by the New Jersey Academy for Aquatic Sciences, P.O. Box 95004, Camden, NJ 08101–5004. A public display permit was requested to obtain the care and custody of ten pinnipeds, from captive populations, in some combination of harbor seals (*Phoca vitulina*) and gray seals (*Halichoerus grypus*).

Notice is hereby given that on February 7, 1992, as authorized by the provisions of the Marine Mammal Protection Act, the National Marine Fisheries Service issued a permit for the above activities subject to the special conditions set forth therein.

The permit is available for review by appointment by interested persons in the following offices:

Permits Division, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Highway, room 7330, SSMC1, Silver Spring, Maryland 20910, (301) 427–2289; and

Director, Northeast Region, National Marine Fisheries Service, NOAA, One Blackburn Drive, Gloucester, Massachusetts 01930, (508) 281–9300.

Dated February 7, 1992.

Charles Karnella,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 92–3550 Filed 2–13–92; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Denial of Participation in the Special Access and Special Regime Programs

February 10, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs denying the right to participate in the Special Access and Special Regime Programs.

EFFECTIVE DATE: February 10, 1992.

FOR FURTHER INFORMATION CONTACT: Lori E. Goldberg, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–3400.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Committee for the Implementation of Textile Agreements (CITA) has determined that the Arrow Company is in violation of the requirements set forth for participation in the Special Access and Special Regime Programs.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs, effective on February 10, 1992, to deny the Arrow Company the right to participate in the Special Access and Special Regime Programs, for a period of three months, beginning February 10, 1992 and ending May 10, 1992. In addition, for the period February 10, 1992 through May 10, 1992, U.S. Customs will not sign ITA–370P forms for export of U.S.-formed and cut fabric for the Arrow Company.

Requirements for participation in the Special Access Program are available in **Federal Register** notices 51 FR 21208, published on June 11, 1986; 52 FR 26057, published on July 10, 1987; and 54 FR 50425, published on December 6, 1989.

Requirements for participation in the Special Regime Program are available in **Federal Register** notices 53 FR 15724, published on May 3, 1988; 53 FR 32421, published on August 25, 1988; 53 FR 49346, published on December 7, 1988; and 54 FR 50425, published on December 6, 1989.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

February 10, 1992.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: The purpose of this directive is to notify you that the Committee for the Implementation of Textile Agreements has determined that the Arrow Company is in violation of the requirements for participation in the Special Access and Special Regime Programs.

Effective on February 10, 1992, you are directed to prohibit the Arrow Company from further participation in the Special Access and Special Regime Programs, for a period of three months, beginning February 10, 1992 and ending May 10, 1992. Goods accompanied by Form ITA–370P which are presented to U.S. Customs for entry under the Special Access and Special Regime Programs will no longer be accepted. In addition, for the period February 10, 1992 through May 10, 1992, you are directed not to sign ITA–370P forms for export of U.S.-formed and cut fabric for the Arrow Company.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92–3583 Filed 2–13–92; 8:45 am]

BILLING CODE 3510-DR-F

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to and deletions from Procurement List.

SUMMARY: This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have severe disabilities, and deletes from the Procurement List military resale commodities previously furnished by such agencies.

EFFECTIVE DATE: March 16, 1992.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverely Milkman (703) 557–1145.

SUPPLEMENTARY INFORMATION: On August 2, November 8, 22, December 13 and 20, 1991, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (56 FR 37088, 57323, 58882, 65047 and 66019) of proposed additions to and deletions from the Procurement List:

Additions

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to produce the commodities and provide the services at a fair market price and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.
2. The action will not have a severe economic impact on current contractors for the commodities and services.
3. The action will result in authorizing small entities to furnish the commodities and services to the Government.
4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the commodities and services proposed for addition to the Procurement List.

Accordingly, the following commodities and services are hereby added to the Procurement List:

Commodities

Reeling Machine
3895-00-498-8343
Preventive Dentistry Kit, Patient
6520-00-086-6554

Services

Grounds Maintenance, Naval Hospital, Oakland, California.

Operation of the Postal Service Center, Wright-Pattern Air Force Base, Ohio.
Operation of Tool Crib, Kelly Air Force Base, Texas.

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Deletions

After consideration of the relevant matter presented, the Committee has determined that the military resale commodities listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Accordingly, the following military resale commodities are hereby deleted from the Procurement List:

Item No. and Name

060 Roller Ball Pen, Red
061 Roller Ball Pen, Blue
568 Board, Ironing, Table Top
581 Flatware, Assorted, Pg. of 24
583 Flatware, Forks, Pg. of 24
584 Flatware, Spoons, Pg. of 24
620 Vest, Safety, Joggers, Small
662 Web, Cargo, Large Car Top
663 Web, Cargo, Small Car Top
664 Web, Cargo, Large Truck
665 Web, Cargo, Small Truck
912 Brush, Lint, Plastic Filament
935 Ensembles, Christmas, Potholder and Towel
993 Pens, Stick, Air Force
994 Pens, Stick, Army

Beverly L. Milkman,

Executive Director.

[FR Doc. 92–3622 Filed 2–13–92; 8:45 am]

BILLING CODE 6820-33-M

Procurement List; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: March 16, 1992.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and service listed below from nonprofit agencies employing persons who are blind or have severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.
2. The action will result in authorizing small entities to furnish the commodities and service to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and

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service proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

It is proposed to add the following commodities and service to the Procurement List:

Commodities

Trousers, Wet Weather
8405-00-001-8025
8405-00-001-8026
8405-00-001-8027
8405-00-001-8028
8405-00-001-8029
8405-01-053-9400

Service

Janitorial/Custodial, Federal Building (Terminal Annex Building), 207 S. Houston, Dallas, Texas.

Beverly L. Milkman,
Executive Director.

[FR Doc. 92-3623 Filed 2-13-92; 8:45 am]

BILLING CODE 6820-33-M

Procurement List, Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: March 16, 1992.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the commodities and services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

It is proposed to add the following commodities and services to the Procurement List:

Commodities

Parka, Wet Weather
8405-00-001-1547
8405-00-001-1548
8405-00-001-1549
8405-00-001-1550
8405-00-001-1551
8405-01-053-9202
(25% of the total Government requirement)

Services

Commissary Shelf Stocking and Custodial, Kelly Air Force Base, Texas.
Janitorial/Custodial, Carl D. Perkins Federal Building and Courthouse, 1405 Greenup Avenue, Ashland, Kentucky.
Janitorial/Custodial, Federal Building, St. George, Utah.
Machining Parts, Naval Supply Center, Puget Sound, Bremerton, Washington.

Beverly L. Milkman,
Executive Director.

[FR Doc. 92-3624 Filed 2-13-92; 8:45 am]

BILLING CODE 6820-33-M

COMMODITY FUTURES TRADING COMMISSION

Chicago Board of Trade Proposal to Implement the Globex Trading System

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed rules and rule amendments to implement the Globex Trading System.

SUMMARY: The Chicago Board of Trade ("CBT") has submitted proposed new rules and rule amendments pursuant to section 5a(12) of the Commodity Exchange Act ("Act") to implement the Globex Trading System ("Globex") at the CBT.[1] Acting pursuant to the authority delegated by Commission Regulation 140.96, the Director of the Division of Trading and Markets has determined to publish the CBT's proposal for public comment. The Division believes that publication of the CBT's proposal is in the public interest and will assist the Commission in considering the views of interested persons.

DATES: Comments must be received on or before March 16, 1992.

FOR FURTHER INFORMATION CONTACT: David Van Wagner, Special Counsel, or Clarence Sanders, Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW, Washington, DC 20581. Telephone: (202) 254-8955.

SUPPLEMENTARY INFORMATION:

I. Description of Proposed Rules and Rule Amendments

By a letter dated December 17, 1991, and received December 18, 1991, the CBT submitted proposed new rules and rule amendments pursuant to Commission Regulation 1.41(b) to implement Globex at the CBT. Globex is an automated order entry and matching system for trading in futures and options contracts. The Commission has previously approved rules of the Chicago Mercantile Exchange ("CME") to implement Globex at the CME.[2] The CBT and CME subsequently established a joint-venture to operate Globex. The CBT has stated that the bulk of the proposed rules are substantially the same as, and in many instances identical to, the CME rules previously approved by the Commission.

Under the proposal, the Globex trading session at the CBT would run from 10:30 p.m. until 6 a.m. The Globex trading session would represent a resumption of trading between the night trading hours ("NTH") session and the regular trading hours ("RTH") session currently in place at the CBT. As is current practice, the trading day would continue to begin with the NTH session and end at the close of the RTH session.

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[1] The CBT proposal includes proposed new Rules XX.01, XX.02, XX.03, XX.04, XX.05, XX.06, XX.07, XX.08, XX.09, XX.10, XX.11, XX.12, XX.13, XX.14, XX.15, XX.16, XX.17, XX.18, XX.19, XX.20, XX.21, and XX.22, proposed amendments to existing Rules 180.01, 300.00, 301.10, 301.12, 310.00, 320.02, 320.19, 331.01A, 331.02, 333.00(c), 336.01, 350.06, 352.01, 423.01, 456.01, 928.00, 942.00, 943.00, 1007.00, and 1008.01, and proposed amendments to existing Appendix 3B.

[2] The Commission approved rules implementing the Globex Trading System at the CME on February 2, 1989. For additional information on the CME proposal to implement the Globex Trading System, see the notice published by the Commission in the **Federal Register** on July 7, 1988 (53 FR 25528).

Initially, the CBT is proposing to trade on Globex only the Ten Year Treasury Note futures and options contracts, and the U.S. Treasury bond futures and options contracts. Other futures and options contracts may be listed for trading through Globex at a later date.

II. Request for Comments

The Commission requests comments on any aspect of the CBT's proposed new rules and rule amendments that members of the public believe may raise issues under the Act or Commission regulations.

Copies of the proposed rules and related materials are available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Copies also may be obtained through the Office of the Secretariat at the above address or by telephoning (202) 254–6314. Some materials may be subject to confidential treatment pursuant to 17 CFR 145.5 or 145.9.

Any person interested in submitting written data, views, or arguments on the proposed rule should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, by the specified date.

Issued in Washington, DC, on February 10, 1992.

Alan L. Seifert,

Deputy Director.

[FR Doc. 92–3544 Filed 2–13–92; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Defense Investigative Service

Privacy Act of 1974; Delete and Amend Record Systems

AGENCY: Defense Investigative Service, DOD.

ACTION: Delete and Amend Record Systems.

SUMMARY: The Defense Investigative Service proposes to delete three and amend four record system notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The deletions are effective February 14, 1992. The proposed amendments will be effective March 16, 1992, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Chief, Office of Information and Public Affairs, Defense Investigative Service, 1900 Half Street, SW., Room 6115, Washington, DC 20324–1700.

FOR FURTHER INFORMATION CONTACT: Mr. Dale Hartig at (202) 475–1062.

SUPPLEMENTARY INFORMATION: The complete Defense Investigative Service system of records notices inventory subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, has been published in the **Federal Register** as follows:

50 FR 22943, May 29, 1985 (DOD Compilation, changes follow)
55 FR 22390, Jun 1, 1990
56 FR 12716, Mar 27, 1991
56 FR 46163, Sep 10, 1991
57 FR 1155, Jan 10, 1992

The amendments are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of altered system reports. The specific changes to the notices being amended are set forth below followed by the system notices, as amended, published in their entirety.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DELETIONS

V4–09

SYSTEM NAME:

Merit Promotion Plan Records (50 FR 22950, May 29, 1985).

Reason: Records are no longer retrieved by personal identifiers.

V5–05

SYSTEM NAME:

Subject and Reference Locator Records (50 FR 22956, May 29,1985).

Reason: This system has been discontinued.

V6–02

SYSTEM NAME:

Sensitive Compartmented Information (SCI) Access Files (50 FR 22957, May 29, 1985).

Reason: Records in this system are being incorporated into V6–01, Personnel Security Files (PSF).

AMENDMENTS

V4–07

SYSTEM NAME:

Adverse Actions, Grievance Files, and Administrative Appeals (50 FR 22949, May 29, 1985).

CHANGES

* * * * *

SYSTEM LOCATION:

Delete entry and replace with "Defense Investigative Service, Deputy Director (Resources), 1900 Half Street, SW., Washington, DC 20324–1700".

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with "All agency employees who are directly affected by grievances, complaints, and adverse actions".

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "Case files and related records pertaining to administrative inquiries into allegations of misconduct, statements of witnesses, employee's statements, reports of interviews and hearings, hearing notices, letters of decision, records of appeals and reconsideration requests, reversals of actions, notices of proposed actions with supporting documents".

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

On first line, after "Chapters" add "432".

PURPOSE(S):

Delete the entry and replace with "Records are used in the investigation and preparation of a case for initial disposition, and possible subsequent determinations in the event of appeal or reconsideration. Records are available for use by the examiner of the original case, or at the appellate level, both within and outside DIS".

* * * * *

RETRIEVABILITY:

Delete lines 2 and 3.

SAFEGUARDS:

On line 4, add a period (.) after "personnel". Delete the rest of line 4 and line 5.

RETENTION AND DISPOSAL:

Delete entry and replace with "Adverse action files are destroyed three years after the case is closed. Grievance and administrative appeals files are destroyed four years after the case is closed. Destruction is accomplished by burning or shredding".

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SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Defense Investigative Service, Deputy Director (Resources), 1900 Half Street, SW., Washington, DC 20324–1700".

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Defense Investigative Service, Office of Information and Public Affairs, 1900 Half Street, SW., Washington, DC 20324–1700".

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Defense Investigative Service, Privacy Act Office, 2200 Van Deman, Baltimore, MD 21224–6603.

A request for information must contain the full name and Social Security Number of the subject individual. Personal visits will require a valid driver's license or other picture identification and are limited to the Privacy Act Office".

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The agency's rules for accessing records, contesting contents, and appealing initial determinations by the individual concerned are contained in DIS Regulation 28–4, Access to and Maintenance of DIS Personal Records; 32 CFR part 321; or may be obtained from the Defense Investigative Service, Office of Information and Public Affairs, 1900 Half Street, SW., Washington, DC 20324–1700".

* * * * *

V4–07

SYSTEM NAME:

Adverse Actions, Grievance Files, and Administrative Appeals.

SYSTEM LOCATION:

Defense Investigative Service, Deputy Director (Resources), 1900 Half Street, SW., Washington, DC 20324–1700.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All agency employees who are directly affected by grievances, complaints, and adverse actions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Case files and related records pertaining to administrative inquiries into allegations of misconduct, statements of witnesses, employee's statements, reports of interviews and hearings, hearing notices, letters of decision, records of appeals and reconsideration requests, reversals of actions, notices of proposed action with supporting documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 Chapter 77 and FPM Chapters 432, 751, 752, 771.

PURPOSE(S):

Records are used in the investigation and preparation of a case for initial disposition, and possible subsequent determinations in the event of appeal or reconsideration. Records are available for use by the examiner of the original case, or at the appellate level, both within and outside DIS.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The "Blanket Routine Uses" published at the beginning of DIS' compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by name.

SAFEGUARDS:

Building employs security guards. Records are maintained in locked containers accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Adverse action files are destroyed three years after the case is closed. Grievance and administrative appeals files are destroyed four years after the case is closed. Destruction is accomplished by burning or shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Defense Investigative Service, Deputy Director (Resources), 1900 Half Street, SW., Washington, DC 20324–1700.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Defense Investigative Service, Office of Information and Public Affairs, 1900 Half Street, SW., Washington, DC 20324–1700.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Defense Investigative Service, Privacy Act Office, 2200 Van Deman, Baltimore, MD 21224–6603.

Individual should provide full name and all maiden and alias names under which files may be maintained. Note: Social Security numbers may be necessary for positive identification of certain records. Personal visits will require a valid driver's license or other picture identification and are limited to the Privacy Act Offices.

CONTESTING RECORD PROCEDURES:

The agency's rules for accessing records, contesting contents, and appealing initial determinations by the individual concerned are contained in DIS Regulation 28–4, Access to and Maintenance of DIS Personal Records; 32 CFR part 321; or may be obtained from the Defense Investigative Service, Office of Information and Public Affairs, 1900 Half Street, SW., Washington, DC 20324–1700.

RECORD SOURCE CATEGORIES:

Supervisors, complainants, investigators, and appropriate law enforcement agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

V5–01

SYSTEM NAME:

Investigative Files System (50 FR 22951, May 29, 1985)

CHANGES:

* * * * *

SYSTEM LOCATION:

At the end of line six delete "DIS". Delete lines 7 through 13.

CATEGORIES OF RECORDS IN THE SYSTEM:

Paragraph 1, at the end of line 4, delete the period and add "; industrial security administrative inquiries (AISs)".

Delete the second paragraph.

Paragraph 3, line 1, delete "ISRs" and replace with "AISs"; line 4, delete "fingerprint cards,".

Paragraph 4, at beginning of line 8, add "and"; after "subject" delete semicolon (;) and substitute a period (.); delete the rest of the paragraph.

* * * * *

PURPOSE(S):

On line 1 change "insure" to "ensure".

* * * * *

STORAGE:

On line 2, insert "diskettes," after "microfilm,".

RETRIEVABILITY:

On line 4, delete "Central Index of Investigations" and replace with "Clearance and Investigations Index".

* * * * *

RETENTION AND DISPOSAL:

At the end of line 25, delete "25" and substitute "15".

* * * * *

NOTIFICATION PROCEDURES:

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system of records should send written inquiries to the Defense Investigative Service, Office of Information and Public Affairs, 1900 Half Street, SW., Washington, DC 20324–1700."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Defense Investigative Service, Privacy Act Office, 2200 Van Deman, Baltimore, MD 21224–6603.

A request for information must contain the full name and Social Security number of the subject individual. Personal visits will require a valid driver's license or other picture identification and are limited to the Privacy Act Office."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The agency's rules for accessing records, contesting contents, and appealing initial determinations by the individual concerned are contained in DIS Regulation 28–4, Access to and Maintenance of DIS Personal Records; 32 CFR part 321; or may be obtained from the Defense Investigative Service, Office of Information and Public Affairs, 1900 Half Street, SW., Washington, DC 20324–1700."

* * * * *

V5–01

SYSTEM NAME:

Investigative Files System.

SYSTEM LOCATION:

Defense Investigative Service, Investigative Files Division, 2200 Van Deman, Baltimore, MD 21224–6603, has primary control over the system and is responsible for the maintenance of completed investigative records.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military personnel who are active duty; applicants for enlistment or appointment; members of Reserve units; National guardsmen; DOD civilian personnel who are paid from appropriated funds; industrial or contractor personnel who are working in private industry in firms which have contracts involving access to classified DOD information or installations; Red Cross personnel and personnel paid from nonappropriated funds who have DOD affiliation; ROTC cadets; former military personnel; and individuals residing on, have authorized official access to, or conducting or operating any business or other functions at any DOD installation or facility.

CATEGORIES OF RECORDS IN THE SYSTEM:

Official Reports of Investigation (ROIs) prepared by DIS or other DOD, federal, state, or local official investigative activities; industrial security administrative inquiries (AISs).

Attachments to ROIs or AISs including exhibits, subject or interviewee statements, police records, medical records, credit bureau reports, employment records, education records, release statements, summaries of, or extracts from other similar records or reports.

Case control and management documents which are not reports of investigation, but which serve as the basis for investigation, or which serve to guide and facilitate investigative activity, including documents providing the data to open and conduct the case; and documents initiated by the subject.

DIS file administration and management documents accounting for the disclosure of, control of, and access to a file.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 Department of Regulations; Executive Order 10450, Security Requirements for Government Employment; DOD Directive 5105.42, Defense Investigative Service; DOD Directive 5200.2, Department of Defense Personnel Security Program; DOD Directive 5200.27 (Section IV A and B), Acquisition of Information Concerning Persons and Organizations not Affiliated with the Department of Defense; DOD Directive 5220.6, Defense Industrial Personnel Security Clearance Program Review; DOD Directive 5220.28, Application of Special Eligibility and Clearance Requirements in the SIOP–ESI Program for Contractor Employees, and 18 U.S.C. 3056, Powers and Duties of the Secret Service.

PURPOSE(S):

To ensure that the acceptance or retention of persons in sensitive DOD positions or granting individuals including those employed in defense industry access to classified information is clearly consistent with national security.

To determine the loyalty, suitability, eligibility, and general trustworthiness of individuals for access to defense information and facilities.

To determine the eligibility and suitability of individuals for entry into and retention in the Armed Forces.

To provide information pertinent to the protection of persons under the provisions of 18 U.S.C. 3056, Powers and Duties of the Secret Service.

For use in criminal law enforcement investigations, including statutory violations and counterintelligence as well as counterespionage and other security matters.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

For maintenance and use by the requesting activity when collected during reciprocal investigations conducted for other DOD and federal investigative elements.

For dissemination to federal agencies or other DOD components when information regarding personnel security matters is reported by Information Summary Report.

The "Blanket Routine Use" published at the beginning of DIS' compilation of system of record notices apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, microfilm, diskettes, magnetic tape or supplementary index cards.

RETRIEVABILITY:

Information is retrieved by name and case control number.

SAFEGUARDS:

Completed investigative records are contained and stored in paper files, open shelves, filing cabinets and on magnetic tape which are housed in

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secured area accessible only to authorized personnel who are properly screened and have a need to know.

RETENTION AND DISPOSAL:

Retention of closed DIS investigative files is authorized for 15 years maximum, except as follows:

(1) Filed which have resulted in final adverse action against an individual will be retained 25 years;

(2) Files developed on persons who are being considered for affiliation with the Department of Defense will be destroyed within one year if the affiliation is not completed. In cases involving a preappointment investigation, of the appointment is not made due to information developed by investigation, the file will be retained 25 years upon notification from the requester for which the investigation was conducted. If the appointment is not made due to information developed by investigation, the file will be retained 25 years upon notification from he requester for which the investigation was conducted. If the appointment is not made for another reason not related to the investigation, the file will be destroyed within one year upon notification from the requesting agency service;

(3) Files concerning unauthorized disclosure of classified information and other specialized investigation files will be retained for 15 years; and

(4) Information within the purview of the Department of Defense Directive 5200.27, Acquisition of Information concerning Persons and Organizations not Affiliated with the Department of Defense, is destroyed within one year after acquisition by DIS unless its retention is required by law or unless its retention has been specifically authorized by the Secretary of Defense or his designee;

(5) Reciprocal investigations are retained for only 60 days; and

(6) Partial duplicate records of personnel security investigations are retained for 60 days by DIS field elements.

SYSTEM MANAGER(S) AND ADDRESS:

Defense Investigative Service, Director, Personnel Investigations Center, 2200 Van Deman, Baltimore, MD 21224–6603.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether information about themselves is contained in this system of records should send written inquiries to the Defense Investigative Service, Office of Information and Public Affairs, 1900 Half Street, SW., Washington, DC 20324–1700.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records and should address written inquiries to the Defense Investigative Service, Privacy Act Office, 2200 Van Deman, Baltimore, MD 21224–6603.

A request for information must contain the full name and Social Security number of the subject individual. Personal visits will require a valid driver's license or other picture identification and are limited to the privacy Act Office.

CONTESTING RECORD PROCEDURES:

The agency's rules for accessing records, contesting contents, and appealing initial determinations by the individual concerned are contained in DIS Regulation 28–4, Access to and Maintenance of DIS Personal Records; 32 CFR part 321; or may be obtained from the Defense Investigative Service, Office of Information and Public Affairs, 1900 Half Street, SW., Washington, DC 20324–1700.

RECORD SOURCE CATEGORIES:

Subjects of investigators, records of other DOD activities and components, Federal, state, county, and municipal records, employment records of private business and industrial firms. Educational and disciplinary records of schools, colleges, universities, technical and trade schools. Hospital, clinic, and other medical records.

Records of commercial enterprises such as real estate agencies, credit bureaus, loan companies, credit unions, banks, and other financial institutions which maintain credit information on individuals.

The interview of individuals who are thought to have knowledge of the subject's background and activities.

The interview of witnesses, victims, and confidential sources.

The interview of any individuals deemed necessary to complete the DIS investigation.

Miscellaneous directories, rosters, and correspondence.

Any other type of record deemed necessary to complete the DIS investigation.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Portions of this system of records may be exempt pursuant to 5 U.S.C. 552a (k)(2), (k)(3), and (k)(5) as applicable.

An exemption rule for this record system has been promulgated in accordance with the requirements of 5 U.S.C. 553(b) (1), (2), and (3), (c) and (e) and published in 32 CFR part 321. For additional information contact the system manager.

V5–03

SYSTEM NAME:

Defense Integrated Management System (DIMS) (50 FR 22955, May 29, 1985)

CHANGES:

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Add a new first paragraph "The DIMS Transaction file contains information on the addition to, deletion of, destruction of, and amendment to DIS investigative files."

* * * * *

STORAGE:

Delete the first paragraph and replace with "The DIMS Master File resides on a Direct Access Storage Device. The Master File is copied on magnetic tape as a backup to provide continuity of processing operations at alternate locations in the event of computer failure."

Paragraph 2, at the end of line two add "and on microfiche."

RETRIEVABILITY:

Paragraph 1, line five delete "in card form and".

Paragraph two, line one, delete "Lead" and replace with "Investigative".

SAFEGUARDS:

Delete entry and replace with "Generalized validation is provided in batch retrieval through program edits to prevent unauthorized access. User terminals with access to the Master Index are located in controlled access areas. Access to the system is limited to a specified time of day. Terminals are connected via dedicated data circuits which prevent access from standard dial-up telephones. Activities must be a part of DOD and accredited on the basis of authorized requirements before a new terminal is established or before batch requests will be honored and processed. Terminal holders and organizations authorized access by other means are responsible for insuring that individuals and organizations to whom they disclose index information have appropriate authority and need to know. The computer room is located within a building controlled by security personnel at all times. Identification badges are required for entrance. Access to the computer room is controlled by a combination lock on the entrance. Critical backup files are stored in locked fireproof data safes."

RETENTION AND DISPOSAL:

Add "DIMS Transaction records are retained for one year." to the end of the entry.

SYSTEM MANAGER(S) AND ADDRESS:

In line two, after "Director" insert "(Investigations)".

NOTIFICATION PROCEDURES:

Delete entry and replace with "Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Defense Investigative Service, Office of Information and Public Affairs, 1900 Half Street, SW., Washington, DC 20324-1700."

RECORD ACCESS PROCEDURES:

Delete the entry and replace with "Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Defense Investigative Service, Privacy Act Office, 2200 Van Deman, Baltimore, MD 21224-6603.

Individual should provide full name and all maiden and alias names under which files may be maintained. For verification purposes, the Social Security Number may be necessary for positive identification of certain records. Personal visits will require a valid driver's license or other picture identification and are limited to the Privacy Act Office."

CONTESTING RECORD PROCEDURES:

Delete the entry and replace with "The agency's rules for accessing records, contesting contents, and appealing initial determinations by the individual concerned are contained in DIS Regulation 28-4, Access to and Maintenance of DIS Personal Records; 32 CFR part 321; or may be obtained from the Defense Investigative Service, Office of Information and Public Affairs, 1900 Half Street, SW., Washington, DC 20324-1700."

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Delete entry and replace with "None."

* * * * *

V5-02

SYSTEM NAME:

Defense Integrated Management System (DIMS).

SYSTEM LOCATION:

Defense Investigative Service, Director, Personnel Investigations Center, 2200 Van Deman, Baltimore, MD 21224-6603.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any person who is the subject of an ongoing or recently completed Defense Investigative Service (DIS) investigation.

CATEGORIES OF RECORDS IN THE SYSTEM:

The DIMS Transaction file contains information on the addition to, deletion of, destruction of, and amendment to DIS investigative files. The DIMS Master File is composed of records of investigations which are being or have been conducted for DOD activities and personal identifying information on individuals who have been investigated. The DIMS master file also consists of records of leads assigned to DIS field elements for those investigations in progress. Records contain the name, Social Security Number, case control number, the investigative leads assigned, and their status. The DIMS History File consists of records of investigations that have been closed. Records contain the name and other personal identifying information, the type of investigation, requester category, case number, the closing status or the date closed or both.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; DOD Directive 5105.42, Defense Investigative Service (DIS); DOD Regulation 5200.2 Personnel Security Program.

PURPOSE(S):

To determine the existence, location, and status of subject cases; to control workload and prepare statistical reports, to inform federal agencies or requesters of investigations regarding the status of ongoing cases.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The "Blanket Routine Uses" published at the beginning of DIS' compilation of system of records notices apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The DIMS Master File resides on a Direct Access Storage Device. The master file is copied on magnetic tape as a backup to provide continuity of processing at alternate locations in the event of computer failure. The DIMS History File is contained on magnetic tape. DIMS Investigative Assignment Files are retained in paper form and on microfiche.

RETRIEVABILITY:

DIMS master records are accessed through the case control number. History file records are accessed by name from sequentially dated tapes. Investigative Assignment Files data is retrievable by name of individual or case control number.

SAFEGUARDS:

Generalized validation is provided in batch retrieval through program edits to prevent unauthorized access.

User terminals with access to the Master Index are located in controlled access areas. Access to the system is limited to a specified time of day. Terminals are connected via dedicated data circuits which prevent access from standard dial-up telephones. Activities must be a part of DOD and accredited on the basis of authorized requirements before a new terminal is reviewed or before batch requests will be honored and processed. Terminal holders and organizations authorized access by other means are responsible for insuring that individuals and organizations to whom they disclose index information have appropriate authority and need to know. The computer room is located within a building controlled by security personnel at all times. Identification badges are required for entrance. Access to the computer room is controlled by a combination lock on the entrance. Critical backup files are stored in locked fireproof data safes.

RETENTION AND DISPOSAL:

Monthly history tapes are retained indefinitely. After two years, all names are deleted from the records of monthly history tapes. Investigative Assignment Files are retained for one year after completion of field leads.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Investigation Center, Defense Investigative Service, 2200 Van Deman Street, Baltimore, MD 21224-6603.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Defense Investigative Service, Office of Information and Public Affairs, 1900 Half Street, SW., Washington, DC 20324-1700.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained

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in this system of records should address written inquiries to the Defense Investigative Service, Privacy Act Office, 2200 Van Deman, Baltimore, MD 21224-6603.

Individual should provide full name and all maiden and alias names under which files may be maintained. For verification purposes, the Social Security Number may be necessary for positive identification of certain records.

Personal visits will require a valid driver's license or other picture identification and are limited to the Privacy Act Office.

CONTESTING RECORD PROCEDURES:

The agency's rules for accessing records, contesting contents, and appealing initial determinations by the individual concerned are contained in DIS Regulation 28-4, Access to and Maintenance of DIS Personal Records; 32 CFR part 321; or may be obtained from the Defense Investigative Service, Office of Information and Public Affairs, 1900 Half Street, SW., Washington, DC 20324-1700.

RECORD SOURCE CATEGORIES:

DIS Investigative Reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

V6-01

SYSTEM NAME:

Personnel Security Files (PSF) (50 FR 22956, May 29, 1985)

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with "Primary electronic system is located at Defense Investigative Service, Personnel Investigations Center, 2200 Van Deman, Baltimore, MD 21224-6603.

Remote terminals are located at Defense Investigative Service, New England Region, 495 Summer Street, Boston, MA 02210-2192;

Defense Investigative Service, Mid-Atlantic Region, 1040 Kings Highway North, Cherry Hill, NJ 08034-1906;

Defense Investigative Service, Capital Region, 2461 Eisenhower Avenue, Room 752, Alexandria, VA 22331-1000;

Defense Investigative Service, Mid-Western Region, 610 South Canal Street, Room 908, Chicago, IL 60607-4577;

Defense Investigative Service, Southeastern Region, 2300 Lake Park Drive, Suite 250, Smyrna, GA 30080-7606;

Defense Investigative Service, Southwestern Region, 106 Decker Court, Suite 200, Irving, TX 75062-2795;

Defense Investigative Service, Northwestern Region, Building 35, Room 114, The Presidio, San Francisco, CA 94129-7700;

Defense Investigative Service, Pacific Region, 3605 Long Beach Boulevard, Suite 405, Long Beach, CA 90807-4013; and

Paper records and Sensitive Compartmented Information Access Records are located at the Defense Investigative Service, Office of Security, 1900 Half Street, SW., Washington, DC 20324-1700."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete everything after "employee".

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "Individuals' Certificates of Personnel Security Investigation, Certificates of Security Clearance and Access Authorization, Sensitive Compartmented Information (SCI) Access Records, Adjudicative Summary Sheets, certificates of clearance for other agencies. Security Briefing Statements, security clearance downgrade and discontinuation statements, Security Termination Statement and Debriefing Certificates, Defense Clearance and Investigations Index (DCII) check results, requests for Personnel Security Investigations, Badge and Credential Receipts, and related documents which may vary in certain cases. Personal identifying data to confirm identities is also contained in this system."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete line 1. Delete line 2 through "and". On line 4 delete "Directive" and replace with "Regulation". At the end of the entry delete the period, and add ", DIS 25-3 Regulation, Personnel Security Program."

PURPOSES:

Delete entry and replace with "Files are used during an individual's employment with the agency to provide a basis for: determining eligibility for assignment to, or retention in, a sensitive position; granting security clearance; evidence of clearance and access to classified defense information; to verify security clearance information of individuals visiting other offices regarding classified matters. File information may be provided to other authorized government departments, agencies, or offices when a change of the individual's employment is being considered."

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

Delete the entry.

STORAGE:

At end add "Summary data is recorded electronically in Federal Personnel Management System (FPMS) and Defense Clearance and Investigation Index (DCII)."

RETRIEVABILITY:

At end add "and by location (Region/Center). Summary data is retrievable by Social Security number or name."

SAFEGUARDS:

Delete entry and replace with "All system records are stored in locked security containers accessible only to authorized personnel. Summary data is accessed only by authorized personnel using assigned system passwords."

RETENTION AND DISPOSAL:

Delete entry and replace with "Records are kept for two years after termination of the individual's employment with DIS. Longer retention, not to exceed five years after termination of employment, may be approved by the Chief, Office of Security, DIS. Paper records are destroyed by burning or shredding; electronic records are erased or overwritten."

SYSTEM MANAGER(S) AND ADDRESS:

On line 2, insert "Office of" before "Security", and delete "Division".

NOTIFICATION PROCEDURES:

Delete entry and replace with "Individuals seeking to determine if information about themselves is contained in this system of records should address written inquiries to the Defense Investigative Service, Office of Information and Public Affairs, 1900 Half Street, SW., Washington, DC 20324-1700."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Defense Investigative Service, Privacy Act Office, 2200 Van Deman, Baltimore, MD 21224-6603.

A request for information must contain the full name and Social Security number of the subject individual. Personal visits will require a valid driver's license or other picture identification and are limited to the Privacy Act Office.

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The agency's rules for accessing records, contesting contents, and appealing initial determinations by the individual concerned are contained in DIS Regulation 28-4, Access to and Maintenance of DIS Personal Records; 32 CFR part 321; or may be obtained from the Defense Investigative Service, Office of Information and Public Affairs, 1900 Half Street, SW., Washington, DC 20324-1700."

* * * * *

V6-01

SYSTEM NAME:

Personnel Security Files (PSF)

SYSTEM LOCATION:

Primary electronic system is located at Defense Investigative Service, Personnel Investigations Center, 2200 Van Deman, Baltimore, MD 21203-1211.

Remote terminals are located at Defense Investigative Service, New England Region, 495 Summer Street, Boston, MA 02210-2192;

Defense Investigative Service, Mid-Atlantic Region, 1040 Kings Highway North, Cherry Hill, NJ 08034-1906;

Defense Investigative Service, Capital Region, 2461 Eisenhower Avenue, Room 752, Alexandria, VA 22331-1000;

Defense Investigative Service, Mid-Western Region, 610 South Canal Street, Room 908, Chicago, IL 60607-4577;

Defense Investigative Service, Southeastern Region, 2300 Lake Park Drive, Suite 250, Smyrna, GA 30080-7606;

Defense Investigative Service, Southwestern Region, 106 Decker Court, Suite 200, Irving, TX 75062-2795;

Defense Investigative Service, Northwestern Region, Building 35, Room 1143, The Presidio, San Francisco, CA 94129-7700;

Defense Investigative Service, Pacific Region, 3605 Long Beach Blvd., Suite 405, Long Beach, CA 90807-4013; and

Paper records and Sensitive Compartmented Information Access Records are located at the Defense Investigative Service, Office of Security, 1900 Half Street, SW., Washington, DC 20324-1700.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Every DIS employee.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's Certificates of Personnel Security Investigation, Certificates of Security Clearance and Access Authorization, Adjudicative Summary Sheets, Sensitive Compartmented Information (SCI) Access Records, certificates of clearance for other agencies, Security Briefing Statements, security clearance downgrade and discontinuation statements, Security Termination Statement and Debriefing Certificates, Defense Clearance and Investigations Index (DCII) check results, requests for Personnel Security Investigations, Badge and Credential receipts, and related documents which may vary in certain cases. Personal identifying data to confirm identities is also contained in this system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; DOD Regulation 5200.2, DOD Personnel Security Program; DIS Regulation 25-3, Personnel Security Program.

PURPOSE(S):

Files are used during an individual's employment with the agency to provide a basis for determining eligibility for assignment to, to retention in, a sensitive position; granting security clearance; evidence of clearance and access to classified defense information; and to verify security clearance information of individuals visiting other offices regarding classified matters. File information may be provided to other authorized government departments, agencies or offices when a change of the individual's employment is considered.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The "Blanket Routine Uses" published at the beginning of DIS" compilation of system of record notices apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders. Summary data is recorded electronically in Federal Personnel Management System (FPMS) and Defense Clearance and Investigations Index (DCII).

RETRIEVABILITY:

Paper records are filed alphabetically by last name and by location (Region/Center). Summary data is retrievable by Social Security number or by name.

SAFEGUARDS:

All system records are maintained in locked security containers accessible only to authorized personnel. Summary data is accessed only by authorized personnel using assigned system passwords.

RETENTION AND DISPOSAL:

Records are kept for two years after termination of an individual's employment with DIS. Longer retention, not to exceed five years after termination of employment, may be approved by the Chief, Office of Security, DIS. Paper records are destroyed by burning or shredding; electronic records are erased or overwritten.

SYSTEM MANAGER(S) AND ADDRESS:

Defense Investigative Service, Chief, Office of Security, 1900 Half Street, SW., Washington; DC 20324-1700.

NOTIFICATION PROCEDURES:

Individuals seeking to determine if information about themselves is contained in this system of records should address written inquiries to the Defense Investigative Service, Office of Information and Public Affairs, 1900 Half Street, SW., Washington, DC 20324-1700.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Defense Investigative Service, Privacy Act Office, 2200 Van Deman, Baltimore, MD 21224-6603.

A request for information must contain the full name and Social Security number of the subject individual. Personal visit will require a valid driver's license or other picture identification and are limited to the Privacy Act Office.

CONTESTING RECORD PROCEDURES:

The agency's rules for accessing records, contesting contents, and appealing initial determinations by the individual concerned are contained in DIS Regulation 28-4, Access to and Maintenance of DIS Personal Records; 32 CFR part 321; or may be obtained from the Defense Investigative Service, Office of Information and Public Affairs, 1900 Half Street, SW., Washington, DC 20324-1700.

RECORD SOURCE CATEGORIES:

Application and related forms from the individual, summaries of information from background investigations of the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 92-3595 Filed 2-13-92; 8:45 am]

BILLING CODE 3810-01

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ISS 31
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Defense Logistics Agency

Privacy Act of 1974; Computer Matching Program Between the Small Business Administration and the Defense Manpower Data Center of the Department of Defense

AGENCY: Defense Manpower Data Center, Defense Logistics Agency, Department of Defense.

ACTION: Notice of a computer matching program between the Small Business Administration (SBA) and the Defense Manpower Data Center (DMDC) of the Department of Defense (DOD) for public comment.

SUMMARY: DMDC, as the matching agency under the Privacy Act of 1974 (5 U.S.C. 552a), as amended, is hereby giving constructive notice in lieu of direct notice to the record subjects of a computer matching program between SBA and DMDC that their records are being matched by computer. The record subjects are delinquent debtors of the SBA who are current or former Federal employees receiving Federal salary or benefit payments and indebted and delinquent in their payment of debts owed to the United States Government under certain programs administered by SBA so as to permit SBA to pursue and collect the debt by voluntary repayment or by administrative or salary offset procedures under the provisions of the Debt Collection Act of 1982.

DATES: This proposed action will become effective March 16, 1992 and the computer matching will proceed accordingly without further notice, unless comments are received which would result in a contrary determination or if the Office of Management and Budget or Congress objects thereto. Any public comment must be received before the effective date.

ADDRESSES: Any interested party may submit written comments to the Director, Defense Privacy Office, 400 Army Navy Drive, Room 205, Arlington, VA 22202-2884. Telephone (703) 614-3027.

SUPPLEMENTARY INFORMATION: Pursuant to subsection (o) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, SBA and DMDC have concluded an agreement to conduct a computer matching program between the agencies. The purpose of the match is to assist SBA in identifying and locating those delinquent debtors employed in another Federal agency, including retirees receiving a Federal benefit. SBA will use this information to initiate independent collection of these debts under the Debt Collection Act of 1982 when voluntary payment is not forthcoming or by administrative or salary offset procedures until the obligation is paid in full. These colleciton efforts will include requests by SBA of the employing agency to apply administrative and/or offset procedures until such time as the obligation is paid in full. The parties to this agreement have determined that a computer matching program is the most efficient, effective and expeditious method for accomplishing this task with the least amount of intrusion of personal privacy of the individuals concerned. It was therefore concluded and agreed upon that computer matching would be the best and least obtrusive manner and choice for accomplishing this requirement.

A copy of the computer matching agreement between SBA and DMDC is available upon request to the public. Requests should be submitted to the address caption above or to the Small Business Administration, 409 3rd Street, SW, Washington, DC 20416.

Set forth below is a notice of the establishment of a computer matching program required by paragraph 6.c. of the Office of Mangement and Budget Guidelines on Computer Matching published in the **Federal Register** at 54 FR 25818 on June 19, 1989.

The matching agreement as required by 5 U.S.C. 552a(r) and an advance copy of this notice was submitted on February 5, 1992, to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget pursuant to paragraph 4b of Appendix I to OMB Circular No. A-130, "Federal Agency Responsibilities for Maintaining Records about Individuals" dated December 12, 1985 (50 FR 52738, December 24, 1985). This matching program is subject to review by OMB and Congress and shall not become effective until that review period has elapsed.

L.M. Bynum,
Alternate OSD Federal Register Liaison Officer, Department of Defense.

Computer Matching Program Between the Small Business Administration and the Defense Manpower Data Center of the Department of Defense for Debt Collection

A. *Participating agencies:* Participants in this computer matching program are the Small Business Administration (SBA) and the Defense Manpower Data Center (DMDC) of the Department of Defense (DOD). SBA is the source agency, i.e., the agency disclosing the records for the purpose of the match. DMDC is the specific recipient or matching agency, i.e., the agency that actually performs the computer matching.

B. *Purpose of the match:* The purpose of the match is to identify and locate delinquent debtors who are current or former Federal employees receiving any Federal salary or benefit payments and indebted and delinquent in their repayment of debts owed to the United States Government under certain programs administered by SBA so as to permit SBA to pursue and collect the debt by voluntary repayments or by administrative or salary offset procedures under the provisions of the Debt Collection Act of 1982.

C. *Authority for conducting the match:* The legal authority for conducting the matching program is contained in the Debt Collection Act of 1982 (Pub. L. 97-365), 31 U.S.C. Chapter 37, Subchapter I (General) and Subchapter II (Claims of the United States Government), 31 U.S.C. 3711 Collection and Compromise, 31 U.S.C. 3716-3718 Administrative Offset, 5 U.S.C. 5514 Installment Deduction for Indebtedness (Salary Offset); 10 U.S.C. 136, Assistant Secretaries of Defense, Appointment Powers and Duties; Section 206 of Executive Order 11222; 4 CFR Chapter II, Federal Claims Collection Standards (General Accounting Office—Department of Justice); 5 CFR 550.1101-550.1108 Collection by Offset from Indebted Government Employees (OPM); 13 CFR part 140, Debt Collection (SBA).

D. *Records to be matched:* The systems of records maintained by the respective agencies under the Privacy Act of 1974 (5 U.S.C. 552a), as amended, from which records will be disclosed for the purpose of this computer match are as follows:

1. This match will involve the SBA record system identified as SBA-075, "Loan Case File", last published in the **Federal Register** at 56 FR 8022 on February 26, 1991.

2. The DOD will use the system of records identified as S322.11 DLA-LZ, "Federal Creditor Agency Debt Collection Data Base" last published in the **Federal Register** at 52 FR 37495 on October 7, 1987. The DMDC file contains information on approximately ten million active duty, retired, and Reserve military members, current and former Federal civilian employees.

3. Both record systems contain appropriate routine use disclosure provisions required by the Privacy Act permitting the disclosure of the affected personal information between the SBA

and the DOD. The routine uses are compatible with the purposes for which the information was collected and maintained. Moreover, there will be a disclosure accounting maintained by DMDC for any disclosures from the S322.11 DLA–LZ record system.

E. *Description of computer matching program:* SBA, as the source agency, will provide DMDC with a magnetic tape of individuals who are indebted to the SBA. The tape will contain data elements on individual debtors. DMDC, as the recipient agency, will perform a computer match using all nine digits of the SSN of the SBA file against a DMDC computer data base. Matching records, "hits" based on the SSN, will produce the member's name, service or agency, category of employee, salary or benefit amounts, and current work or home address. Matching records will be returned to SBA. SBA will be responsible for verifying the information and for resolving any discrepancies or inconsistencies on an individual basis. SBA will be responsible for making the final determinations as to positive identification, amount of indebtedness, and recovery efforts as a result of the match. If the debtor is employed by another Federal agency, a request for salary or administrative offset is issued to the employing agency.

F. *Individual notice and opportunity to contest:* It will be the responsibility of SBA to verify and determine whether the data from the DMDC match are consistent with the data from the SBA debtor file, and to resolve any discrepancies or inconsistencies as to positive identification. SBA will screen the initial data to verify that the matched individual is in fact a delinquent debtor not in a repay status. SBA will do this by manually comparing the hit file with the SBA debtor files to verify debtor identity; conducting independent inquiries when necessary to resolve questionable identities; and reviewing records of the suspected debtor's account to confirm that the debt is still in a non-pay status without resolution. Any discrepancies or inconsistencies furnished by DMDC, or developed as the result of the match, such as amount of indebtedness or salaries of hits will be indpendently investigated and verified by SBA prior to any final adverse action being taken against the individual by SBA. There will be no adverse action taken based on raw hits. Raw hit data will be manually reviewed to ensure the individuals identified are eligible for salary offset.

The debtor is given an opportunity to enter into a voluntary agreement to repay the debt under terms agreeable to SBA. The debtor is given an opportunity to inspect and copy records related to the debt and for review of the decision related to the debt. Requests for copies of the records relating to the debt shall be made no later than 10 days from the receipt by the debtor of the notice of indebtedness.

The debtor is entitled to a 30 day written notification informing the debtor of the circumstances under which the debt occurred, the amount owed, the intent to collect by deduction from pay if the amount owed is not paid in full, and an explanation of other rights of the debtor under the law.

The debtor is also entitled to an opportunity for a hearing concerning the existence or the amount of the debt, or when a repayment schedule is established other than by written agreement concerning the terms of the repayment schedule. The debtor shall be advised that a challenge to either the existence of the debt, the amount of the debt, or the repayment schedule, must be made within 30 days of receipt by the debtor of the notice of indebtedness or within 30 days after receipt of the records relating to the debt, if such records are requested by the debtor.

G. *Inclusive dates of the matching program:* This computer matching program is subject to review by the Office of Management and Budget and Congress. If no objections are raised by either and the mandatory 30 day public notice period for comment has expired for this **Federal Register** notice with no significant adverse public comments in receipt resulting in a contrary determination, then this computer matching program becomes effective and the respective agencies may begin the exchange of data 30 days after the date of this published notice at a mutually agreeable time and may be repeated no more than once a year. Under no circumstances shall the matching program be implemented before this 30 day public notice period for comment has elapsed as this time period cannot be waived. By agreement SBA and DMDC, the matching program will be in effect and continue for 18 months with an option to renew for 12 additional months unless one of the parties to the agreement advises the other by written request to terminate or modify the agreement.

H. *Address for receipt of public comments or inquiries:* Director, Defense Privacy Office, 400 Army Navy Drive, Room 205, Arlington, VA 22202–2884. Telephone (703) 614–3027.

[FR Doc. 92–3594 Filed 2–13–92; 8:45 am]

BILLING CODE 3810-01-M

Department of the Navy

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app. 2), notice is hereby given that the Naval Research Advisory Committee Panel on Delivery of Artificial Blood to the Military will meet on March 3 and 4, 1992. The meeting will be held at the Office of the Chief of Naval Research, 800 North Quincy Street, room 915, Arlington, Virginia. The meeting will commence at 8 a.m. and terminate at 4:30 p.m. on March 3 and 4, 1992. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to provide the Navy with an evaluation of the opportunities to accelerate availability of artificial blood (erythrocyte) substitute products for implementation into military use, through testing, development of manufacturing methods or other developmental support where warranted; and to develop a strategy and plan that identify a development framework, timetable and investment recommendation for the Committees on Armed Services of the Senate (SASC) and House of Representatives (HASC) by 31 July 1992. The agenda will include briefings, discussions, and technical examination of information involving confidential commercial proprietary data and agency protected information from the Food and Drug Administration (FDA). Public disclosure of this information will likely reveal commercial trade secrets and significantly frustrate implementation of any proposed FDA agency actions related to artificial blood substitute products. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(4), and (9)(B) of title 5, United States Code.

For further information concerning this meeting contact: Commander John Hrenko, USN, Office of the Chief of Naval Research, 800 North Quincy Street, Arlington, VA 22217-5000, Telephone: (703) 696-4870.

Dated: February 10, 1992.

Wayne T. Baucino,

Lieutenant, JAGC, U.S. Naval Reserve, Alternate Federal Register Liaison Officer.

[FR Doc. 92–3653 Filed 2–13–92; 8:45 am]

BILLING CODE 3810-AE-F

Privacy Act of 1974; Amend Record System

AGENCY: Department of the Navy, DOD.

ACTION: Amend Record System.

SUMMARY: The Department of the Navy proposes to amend two existing system of records to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The amendment will be effective on March 16, 1992, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Head, PA/FOIA Branch, Office of the Chief of Naval Operations (OP-09B30), Department of the Navy, The Pentagon, Washington, DC 20350-2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn Aitken at (703) 614-2004.

SUPPLEMENTARY INFORMATION: The Department of the Navy record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, were published in the **Federal Register** as follows:

51 FR 12906, Apr 16, 1986
51 FR 18086, May 16, 1986 (DON Compilation changes follow)
51 FR 19884, Jun 3, 1986
51 FR 30377, Aug 26, 1986
51 FR 30393, Aug 26, 1986
51 FR 45931, Dec 23, 1986
52 FR 2147, Jan 20, 1987
52 FR 2149, Jan 20, 1987
52 FR 8500, Mar 18, 1987
52 FR 15530, Apr 29, 1987
52 FR 22671, Jun 15, 1987
52 FR 45846, Dec 2, 1987
53 FR 17240, May 16, 1988
53 FR 21512, Jun 8, 1988
53 FR 25363, Jul 6, 1988
53 FR 39499, Oct 7, 1988
53 FR 41224, Oct 20, 1988
54 FR 8322, Feb 28, 1989
54 FR 14378, Apr 11, 1989
54 FR 32682, Aug 9, 1989
54 FR 40160, Sep 29, 1989
54 FR 41495, Oct 10, 1989
54 FR 43453, Oct 25, 1989
54 FR 45781, Oct 31, 1989
54 FR 48131, Nov 21, 1989
54 FR 51784, Dec 18, 1989
54 FR 52976, Dec 26, 1989
55 FR 21910, May 30, 1990 (Navy Mailing Addresses)
55 FR 37930, Sep 14, 1990
55 FR 42758, Oct 23, 1990
55 FR 47508, Nov 14, 1990
55 FR 48678, Nov 21, 1990
55 FR 53167, Dec 27, 1991
56 FR 424, Jan 4, 1991
56 FR 12721, Mar 27, 1991
56 FR 27503, Jun 14, 1991
55 FR 28144, Jun 19, 1991
56 FR 31394, Jul 10, 1991 (DOD Updated Indexes)
56 FR 40877, Aug 16, 1991
56 FR 46167, Sep 10, 1991
56 FR 59217, Nov 25, 1991
56 FR 63503, Dec 4, 1991

The amendment is not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of altered systems reports. The specific changes to the system of records are set forth below followed by the system of records notice published in its entirety, as amended.

L. M. Bynum,
Alternate OSD Federal Register Liaison Officer, Department of Defense.

N05830-1

SYSTEM NAME:

JAG Manual Investigative Records (51 FR 18175, May 16, 1986)

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with "Office of the Judge Advocate General (Code 33), Department of the Navy, 200 Stovall Street, Alexandria, VA 22332-2400."

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

In line 15, after the abbreviation "U.S.C.", change the number "5031" to "5013".

In line 17, after the abbreviation "U.S.C.", change the numbers "5081-5082, 5085-5088" to "5031-5033, 5035-5037".

In line 22, delete "(U.S.C. 5201)" and replace with "(10 U.S.C. 5043)."

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USERS:

Delete paragraph four.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Delete entry and replace with "Paper documents and data stored prior to 1985 are stapled together (with real evidence attached, if any) in paper file folders and stored in metal file cabinets, on shelves, and in cardboard boxes.

Records stored since 1985 are maintained on magnetic disk, magnetic tape, and on hard copy forms."

RETRIEVABILITY:

Delete entry and replace with "Records and data stored prior to 1985 are filed in calendar year groupings by surname of individual, bureau number of aircraft, name of ship, hull number of unnamed watercraft, or vehicle number of Government vehicles, or date of incident. Incidents are topically cross-referenced.

Records stored since 1985 are maintained on data base and are retrievable from the data base in calendar year groupings by surname, Social Security Numbers, bureau number of aircraft, name of ship, hull number of unmanned watercraft, vehicle number of Government vehicles, or date of incident. Incidents are topically cross-referenced."

SAFEGUARDS:

At the end of the first paragraph, add "Access to the building is protected by uniformed guards requiring positive identification for admission. The data base system is protected by user account number and password sign-on, data base access authority, data set authority for add and delete, and data item authority for list and update."

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Deputy Assistant Judge Advocate General (Investigations), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332-2400."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Deputy Assistant Judge Advocate General (Investigations), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332-2400.

The request should contain as much identifying data as possible, including, but not limited to the complete names of all individuals involved, the location and date of incident, the bureau number of aircraft or name and hull number of ship, government vehicle number, and type of incident."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Deputy Assistant Judge Advocate General (Investigations), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332-2400.

The request should contain as much identifying data as possible, including, but not limited to the complete names of all individuals involved, the location and date of incident, the bureau number of aircraft or name and hull number of ship, government vehicle number, and type of incident."

* * * * *

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager."

* * * * *

N05830-1

SYSTEM NAME:

JAG Manual Investigative Records.

SYSTEM LOCATION:

Office of the Judge Advocate General (Code 33), Department of the Navy, 200 Stovall Street, Alexandria, VA 22332-2400.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual who participated in, who was involved in, who incurred an injury, disease, or death in, who was intoxicated (drugs or alcohol) during, before, or after, or who had an interest in any accident, incident, transaction, or situation involving or affecting the Department of the Navy, naval personnel, or any procedure, operation, material, or design involving the Department of the Navy.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records contain all documented evidence relevant to the item under investigation, together with an investigating officer's report, which makes findings of fact and expresses opinions and recommendations, the reviewing authority's actions which either approved or modified the investigating officer's report or returned the entire record for further investigation or remedial action to perfect the record, and, the results of hearings afforded persons who incurred injuries and diseases, to allow them to explain or rebut adverse information in the record.

The Judge Advocate General's correspondence to locate and obtain required investigations is also included in the record. Some records contain only a field command's explanation as to why an investigation is not required, together with documents pertinent to this lack of requirement. Some records contain only an accident, injury, or death report, prepared for the Department of the Navy by the Army, Air Force, Coast Guard, or other agency under reciprocal agreements, in situations where the Navy or Marine Corps could not conduct the investigation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Requirement that Enlisted Men Make Up Time Lost Due to Misconduct or Abuse of Alcohol or Drugs (10 U.S.C. 972(5)); Retirement or Separation for Physical Disability (10 U.S.C. 1201–1221); Executive Order 11476; Manual for Courts-Martial, paragraph 133b; Uniform Code of Military Justice (10 U.S.C. 815, 832, 869, 873, 935, 936, and 938–940); Military Claims Act (10 U.S.C. 2733); Foreign Claims Act (10 U.S.C. 2734, 2734a, 2734b); Emergency Payment of Claims (10 U.S.C. 2736); Non-scope Claims (10 U.S.C. 2737); Duties of the Secretary of the Navy (10 U.S.C. 5013); Duties of the Office of the Chief of Naval Operations (10 U.S.C. 5031–5033, 5035–5037); Duties of the Bureaus and Offices of the Department of the Navy and Duties of the Judge Advocate General (10 U.S.C. 5131–5153); Duties of the Commandant of the Marine Corps (10 U.S.C. 5043); Reservist's Disability and Death Benefits (10 U.S.C. 6148); Requirement of exemplary conduct (10 U.S.C. 5947); Promotion of Accident and Occupational Safety by the Secretary of the Navy (10 U.S.C. 7205); Admiralty Claims (10 U.S.C. 7622–23); Public Vessels Act (46 U.S.C. 781–790); Suits in Admiralty Act (46 U.S.C. 741–752); Admiralty Extension Act (46 U.S.C. 740); Transportation Safety Act (49 U.S.C. 1901); Federal Tort Claims Act (28 U.S.C. 1346, 2671–2680); Financial Liability of Accountable Officers (31 U.S.C. 82, 89–92); Military Personnel and Civilian Employee's Claims Act of 1964, as amended (31 U.S.C. 240–243); Federal Claim Collection Acts (31 U.S.C. 71–75, 951–953); Forfeiture of Pay for Time Lost Due to Incapacitation Caused by Alcohol or Drug Use (37 U.S.C. 802); Eligibility for Certain Veterans Benefits (38 U.S.C. 105); Postal claims (39 U.S.C. 712); Federal Medical Care Recovery Act (42 U.S.C. 2651–2653); General Authority to Maintain Records (5 U.S.C. 301); Records Management By Agency Heads (44 U.S.C. 3101); and E.O. 9397.

PURPOSE(S):

JAG Manual Investigative Records are used internally within the Department of the Navy as a basis for evaluating procedures operations, material, and designs with a view to improving the efficiency and safety of the Department of the Navy; determinations concerning status of personnel regarding disability benefits, entitlements to pay during periods of disability, severance pay, retirement pay, increases of pay for longevity, survivors' benefits, and involuntary extensions of enlistments, dates of expiration of active obligated service and accrual of annual leave; determinations concerning relief of accountable personnel from liability for losses of public funds or property; determinations pertaining to disciplinary or punitive action and evaluation of petitions, grievances, and complaints; adjudication, pursuit, or defense of claims for or against the Government; and public information releases.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To officials and employees of the Department of Veterans Affairs for use in determinations concerning entitlements to veterans and survivors' benefits.

To Servicemen's Group Life Insurance administrators for determinations concerning payment of life insurance proceeds.

To the U.S. Government Accounting Office for purposes of determinations concerning relief of accountable personnel from liability for losses of public funds and related fiscal matters.

To contractors for use in connection with settlement, adjudication, or defense of claims by or against the Government, and for use in design and evaluation of products, services, and systems.

To agencies of the Federal, State or local law enforcement authorities, court authorities, administrative authorities, and regulatory authorities, for use in connection with civilian and military criminal, civil, administrative, and regulatory proceedings and actions.

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of system of record notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper documents and data stored prior to 1965 are stapled together (with real evidence attached, if any) in paper file folders and stored in metal file cabinets, on shelves, and in cardboard boxes.

Records stored since 1965 are maintained on magnetic disk, magnetic tape, and on hard copy forms.

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RETRIEVABILITY:

Records and data stored prior to 1985 are filed in calendar year groupings by surname of individual, bureau number of aircraft, name of ship, hull number of unnamed watercraft, or vehicle number of Government vehicles, or date of incident. Incidents are topically cross-referenced.

Records stored since 1985 are maintained on data base and are retrievable from the data base in calendar year groupings by surname, Social Security Number, bureau number of aircraft, name of ship, hull number of unmanned watercraft, vehicle number of Government vehicles, or date of incident.

SAFEGUARDS:

Files are maintained in file cabinets and other storage devices under the control of authorized personnel during working hours; the office spaces in which the file cabinets and storage devices are locked outside official working hours. Access to the building is protected by uniformed guards requiring positive identification for admission. The data base system is protected by user account number and password sign-on, data base access authority, data set authority for add and delete, and data item authority for list and update.

RETENTION AND DISPOSAL:

The records are retained permanently. All naval activities which prepare JAG Manual Investigative Reports, or which are intermediate addressees, typically retain duplicate copies in local files for a two year period.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Assistant Judge Advocate General (Investigations), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332-2400.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Deputy Assistant Judge Advocate General (Investigations), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332-2400.

The request should contain as much identifying data as possible, including, but not limited to the complete names of all individuals involved, the location and date of incident, the bureau number of aircraft or name and hull number of ship, government vehicle number, and type of incident.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Deputy Assistant Judge Advocate General (Investigations), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332-2400.

The request should contain as much identifying data as possible, including, but not limited to the complete names of all individuals involved, the location and date of incident, the bureau number of aircraft or name and hull number of ship, government vehicle number, and type of incident.

CONTESTING RECORD PROCEDURES:

The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Records of JAG Manual Investigations are compilations of evidence, information, and data concerning the circumstances of incidents, accidents, events, transactions, and situations, prepared by administrative fact-finding bodies of utilization by proper authorities in making determinations, decisions, or evaluations relating to the matters under investigation.

Records may contain: (1) testimony or statements of individuals who are parties to the investigations, witnesses, and others having pertinent knowledge concerning matters under investigation; (2) documentary evidence, including records and reports of military or Federal, state, or foreign, civilian law enforcement investigation, judicial, or corrections authorities; medical records and reports, investigations and accident and injury reports prepared by federal, state, or foreign governmental agencies or other organizations or persons; court records and other public records; official logs and other official naval records; letters and correspondence, personnel, pay, and medical records; financial records, receipts, and cost estimates; publications, and other pertinent documents and writings; (3) pertinent real evidence; and (4) pertinent demonstrative evidence.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N05802-1

SYSTEM NAME:

Fiduciary Affairs Records (54 FR 51788, December 18, 1989)

CHANGES:

* * * * *

SYSTEM LOCATION:

In line 2, delete "12" and replace with "32".

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with "Five years after closure of case, files are transferred to the Federal Records Center, Suitland, MD 20409 for permanent retention."

N05802-1

SYSTEM NAME:

Fiduciary Affairs Records.

SYSTEM LOCATION:

Office of the Judge Advocate General (Code 32), Department of the Navy, 200 Stovall Street, Alexandria, VA 22332-2400.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All active duty, fleet reserve, and retired members of the Navy and Marine Corps who have been medically determined to be mentally incapable of managing their financial affairs, their appointed or prospective trustees, and members' next-of-kin.

CATEGORIES OF RECORDS IN THE SYSTEM:

Proceedings of medical boards, documentation indicating the origin of the mental incapability, the name(s) and address(es) of the individual's next-of-kin, the disability retirement index, a copy of the interview(s) of prospective trustee(s), the appointment of the approved trustee, authority to pay the individual's retirement pay to the approved trustee, the instruction of duties and responsibilities to the trustee, annual trustee accounting reports, copy of the trustee's surety bond, a copy of the affidavit executed by the trustee's surety bond, a copy of the affidavit executed by the trustee to obtain the surety bond, miscellaneous responsibilities, annual approvals of the trustee account, discharge(s) of trustee, release(s) of surety, periodic physical examinations, medical records, and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 37 U.S.C. 601–604; and 44 U.S.C. 3101.

PURPOSE(S):

To provide nonjudicial financial management of military pay and allowances payable to active duty, fleet reserve, and retired Navy and marine Corps members for the period during which they are medically determined to be mentally incapable of managing their financial affairs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To officials and employees of the Department of Justice when there is reason to suspect financial mismanagement and no satisfactory settlement with the surety can be reached.

To officials and employees of the Department of Veterans Affairs in connection with programs administered by the agency.

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of system of record notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Papers records in file folders stored in file cabinets or other storage devices.

RETRIEVABILITY:

By name of the member.

SAFEGUARDS:

Files are maintained in file cabinets and other storage devices under the control of authorized personnel during working hours; the office space in which the file cabinets and storage devices are located is locked outside official working hours.

RETENTION AND DISPOSAL:

Five years after closure of case, files are transferred to the Federal Records Center, Suitland, MD 20409 for permanent retention.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Judge Advocate General (Civil Law), Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332–2400.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Assistant Judge Advocate General (Civil Law), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332–2400. Request should contain the full name of the individual concerned and should be signed.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Assistant Judge Advocate General (Civil Law), Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, VA 22332–2400.

CONTESTING RECORD PROCEDURES:

The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Components within the Department of the Navy, medical doctors, approved trustees, prospective trustees, surety companies, and the Department of Veterans Affairs.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 92–3593 Filed 2–13–92; 8:45 am]

BILLING CODE 3810-01-F

DEPARTMENT OF ENERGY

Intent to Prepare an Environmental Impact Statement and Conduct Public Scoping Meetings for Phases 3 and 4 of the Hawaii Geothermal Project

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice of intent to prepare an environmental impact statement and conduct public scoping meetings for Phases 3 and 4 of the Hawaii Geothermal Project.

SUMMARY: Notice is hereby given that the Department of Energy (DOE) intends to prepare an environmental impact statement (EIS) for Phases 3 and 4 the Hawaii Geothermal Project (HGP) as defined by the State of Hawaii in its April 1989 proposal to Congress. Five scoping meetings will be held in Hawaii from March 7 through March 16, 1992, to afford the public an opportunity to raise environmental issues and concerns related to the proposed project. This Notice of Intent (NOI) follows an Advance NOI (ANOI) that was published in the **Federal Register** on September 3, 1991. Both the ANOI and NOI will be available for public review in reading rooms in Hawaii and the continental United States listed at the end of this NOI.

ADDRESSES: Requests for copies and questions about the Draft and/or Final EIS should be directed to: Dr. Lloyd Lewis, CE–121, Office of Conservation and Renewable Energy, U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone: (202) 586–6263.

For general information on the DOE NEPA process, please contact: Ms. Carol Borgstrom, Director, Office of NEPA Oversight (EH–25), U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone: (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION: DOE further announces its intent to prepare an EIS that identifies and evaluates the environmental impacts associated with the proposed HGP, as defined by the State of Hawaii in its April 1989 proposal to Congress. The EIS will be prepared pursuant to the requirements of the National Environmental Policy Act of 1969 (NEPA), as implemented by the President's Council on Environmental Quality regulations (40 CFR parts 1500–1508) and the DOE NEPA guidelines (52 FR 47662).

The four-phase HGP, as defined by the State of Hawaii, consists of (1) exploration and testing of the geothermal resource beneath the slopes of the active Kilauea volcano on the Big Island, (2) demonstration of deep-water power cable technology in the Alenuihaha Channel between the Big Island and Maui, (3) verification and characterization of the geothermal resource on the Big Island, and (4) construction and operation of commercial geothermal power production facilities on the Big Island, with overland and submarine transmission of electricity from the Big Island to Oahu and other islands. Phases 1 and 2 have been completed; DOE prepared appropriate NEPA documentation for separate Federal actions related to Phase 1 and 2 research projects. This EIS will consider Phases 3 and 4, as well as reasonable alternatives to the HGP. In this regard, in addition to considering non-geothermal alternative energy resources for power production (including, but not necessarily limited to, coal, solar,

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biomass, and wind), the HGP EIS will consider the reasonable alternatives among submarine cable technologies; geothermal extraction, production, and power generating technologies; pollution control technologies; overland and submarine power transmission routes; and sites reasonably suited to support project facilities in a safe and environmentally acceptable manner.

The purpose of this Notice of Intent (NOI) is to again invite public participation in the DOE NEPA process and to solicit public comments on the proposed scope and content of the EIS.

INVITATION TO COMMENT: To ensure that the full range of issues related to the HGP are addressed, DOE invites comments on the proposed scope and content of the EIS from all interested parties. Written comments or suggestions to assist DOE in identifying significant environmental issues and the appropriate scope of the EIS should be mailed to: Dr. Lloyd Lewis, CE-121, Office of Conservaion and Renewable Energy, U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone: (202) 586-6263.

Written comments should be postmarked by April 15, 1992 to ensure consideration. Late comments will be considered to the extent practicable.

In addition to soliciting written comments on the HGP EIS, DOE plans to hold scoping meetings in Hawaii at which agencies, organizations, and the general public will be invited to present oral comments or suggestions about the scope and content of the HGP EIS. The locations, dates, and times of meetings are described in a subsequent section of this NOI. Please note that written and oral comments will be given equal consideration during scoping of the EIS. All comments received during the scoping period will be summarized and responded to in an EIS Implementation Plan (IP) prepared by DOE. The IP will be made available for public review in reading rooms listed at the end of this NOI. The IP will list those issues and alternatives to the HGP identified during scoping that are within the scope of the EIS, and that therefore will be assessed in the EIS. The IP will also list those issues and alternatives that are outside the scope of the EIS and that therefore will be eliminated from further consideration. Further, the IP will provide a detailed outline for the Draft HGP EIS and will discuss the approach that DOE will take in its preparation, including proposed schedules and identification of cooperating agencies. The Draft EIS is expected to be completed by early 1993, at which time its availability will be announced in the **Federal Register** and in local media. The Draft EIS will be placed in the reading rooms listed at the end of this NOI. A public comment period will follow the release of the Draft EIS, during which time written comments will be accepted. Also, public hearings will be held in Hawaii at which DOE will receive oral comments on the Draft EIS. Comments on the Draft EIS will be addressed within the Final EIS.

Background

Description of the Proposed Action

The HGP, as defined by the State of Hawaii, is the culmination of research and development efforts begun in the mid-1970's to explore the feasibility of using Hawaii's indigenous geothermal resource for the production of electricity. Currently, the State of Hawaii uses petroleum for approximately 90 percent of its power production, which is the highest percentage usage of petroleum among the 50 states.

Geothermal exploration began in Hawaii in 1972 with funding from the National Science Foundation (NSF). A high-potential geothermal resource site was identified on the east rift of the Kilauea volcano on the Big Island. Subsequent exploratory drilling (also funded by NSF) between December 1975 and April 1976 resulted in a productive geothermal well at a depth of approximately 6000 feet. In 1976, the Energy Research and Development Administration (ERDA), a predecessor to DOE, funded the testing of the geothermal well, which was designated as the HGP-A well. DOE succeeded ERDA, and in 1979 it funded the development of a 3-MW(e) demonstration power plant at the HGP-A site. In 1986, the HGP-A well and power plant were transferred by DOE to the State of Hawaii to be used for further research. The State has referred to this early exploration and testing of the Big Island geothermal resource as Phase I of the HGP.

DOE also provided funds for the Hawaii Deep Water Cable Program, referred to by the State of Hawaii as Phase 2 of the HGP, which was initiated in 1981. The goal of the program was to determine the technical and economic feasibility of constructing and operating a deep water submarine power transmission cable that would serve the island of Oahu and would operate for a 30-year period. This project, which was completed in 1991, demonstrated the feasibility of the deep water power transmission cable. Over an 11-year period, DOE has provided approximately $33 million for geothermal and deep water cable research in Hawaii.

The State of Hawaii considers the unknown extent of the geothermal resource as the primary obstacle to private investment and commercial development. State and private industry experts estimate that at least 25 commercial-scale exploratory wells will need to be drilled to verify the generating potential of the resource. To that end, Phase 3 activities would include well drilling, logging of cores from holes, measuring temperatures, collecting and analyzing geothermal fluid samples, and making downhole geophysical and geochemical measurements.

After resource characterization, the State of Hawaii plan forecasts that from 10 to 20 separate geothermal power plants of from 25-30 MW(net) each could be developed. The actual number of plants will depend on the extent of the resource defined in Phase 3. The exact location of plants will not be known until Phase 3 is complete. Therefore, the EIS will have to rely on best available data and information to predict development sites. Based on current knowledge of the physical characteristics of the resource and contemporary geothermal energy development practice, the State estimates that about 125 production wells and 30 injection wells may be needed to produce 500 MW(e). The plants would most likely be connected by a network of roads, piping, and overland power transmission lines. Overland and underwater transmission lines (500 kV AC or DC) would be constructed to distribute power.

In April 1989, the State projected that permitting and financing for Phases 3 and 4 would occur in 1991 and that 500 MW(e) of power could be on-line by 2005. Based on the current schedule of State and Federal environmental reviews, these projections are not likely to be met.

DOE Participation in HGP

In April 1989, the State of Hawaii requested additional Federal funding for what is defined by the State as Phase 3 of the HGP: Resource Verification and Characterization. Congress appropriated $5 million for the State's use in Phase 3. Because Phase 3 work is essentially "research," not development or project construction, Congress indicated that this funding would not be considered a major Federal action under NEPA and would not typically require an EIS. However, because the project is highly visible, somewhat controversial, and involves a particularly sensitive environment in Hawaii, Congress directed that "* * * the Secretary of Energy shall use such sums as are necessary from amounts previously provided to the State of Hawaii for geothermal resource verification and characterization to conduct the necessary environmental assessments and/or environmental impact statement (EIS) for the geothermal initiative to proceed." In addition to the Congressional directive, the U.S. District Court of Hawaii, in litigation filed by several environmental groups, ruled that the Federal government must prepare an EIS for Phases 3 and 4 of the HGP prior to any further disbursement of Federal funds to the State for the HGP.

An ANOI regarding preparation of the HGP EIS was issued in the **Federal Register** by DOE on September 3, 1991. It announced the initiation of planning and scoping of the HGP EIS and solicited public input regarding scope and content of the EIS. DOE received 55 comment letters on EIS-related topics, all of which will be considered during preparation of the IP for the EIS. In addition to the ANOI, DOE held informal information exchange meetings during September, October, and November 1991 with Federal, State and local agencies and officials and with public interest groups as well as utilities and geothermal developers.

Alternatives

DOE is requesting public comment on reasonable alternatives related to the HGP. The basic alternatives available to DOE are to partially fund or to not partially fund Phase 3, as defined by the State, with the funds remaining from the $5 million Congressional appropriation after EIS expenditures; not funding Phase 3 would be considered as the 'no-action' alternative. Under the 'no-action' alternative, DOE would not contribute funds to future State-planned geothermal development in Hawaii, but this would not preclude the State's continuation of the HGP.

Based on preliminary scoping, other alternatives related to project implementation include, but are not limited to: (1)Alternative sites for geothermal development and construction of power plants, including sites on Maui; (2) alternative routes for transmission lines on land and in the sea; (3) alternative geothermal power generating technologies; (4) alternative submarine cable technologies; (5) alternative power production technologies, such as coal, solar, wind, and biomass; (6) non-supply alternatives such as demand-side management and conservation; (7) integrated resource planning by Hawaiian utilities and the State, which would afford consideration of both supply-side and demand-side alternatives to meet long-term power generating needs; and (8) continued reliance on oil-fired power plants.

Potential Environmental Issues

Based on public comments on the Advance NOI and information exchange meetings held with the Federal, State, and local agencies, civic and environmental interest groups, and utilities and geothermal developers, DOE has identified an array of potential environmental issues associated with the HGP. This list will be modified based on further input received during the scoping process. The following list is not organized in order of relative importance, nor is there presently a commitment by DOE to address all these issues to the same level of detail in the HGP EIS. The future IP, prepared after scoping is completed, will categorize issues and describe those that are within the scope of analysis in the EIS.

Land Use

The compatibility of geothermal development with other current and planned land uses will be considered. Phases 3 and 4 of the HGP, as defined by the State, will require land for resource verification, power plant(s) and related support facilities, roads, transmission lines, waste disposal areas, etc. Potential impacts related to the Wao Kele O Puna rainforest, native Hawaiian homelands, residential areas, and any other unique land resources will also be considered.

Air Quality

The effect on air quality on the Big Island from atmospheric emissions from well drilling and testing, geothermal power plant operations, and construction associated with facilities, roads, and transmission lines will be considered. Air pollutants from geothermal power plant operation may include hydrogen sulfide, ammonia, methane, carbon dioxide, radon, arsenic, boron, mercury, benzene, and particulate matter. Receptors in the proximity of the proposed HGP include residential areas, agricultural crops, vegetation, and bird populations. The contribution of the HGP, if any, to the national and world-wide issues of global climate change and ozone depletion will be considered. The contribution, if any, of power plant emissions of hydrogen sulfide to acid precipitation will also be considered.

Water Resources

Effects on the quality, use, and availability of surface waters (marine and fresh) and groundwater from geothermal well drilling, disposal of liquid and solid wastes, construction of transmission lines, and installation of the submarine cable will be considered. Erosion and sedimentation, deposition of permitted air pollutants, permitted point and permissible non-point discharges from power plants and support facilities, radiological levels associated with brine impoundments, reinjection and/or impoundment of geothermal fluids/brine, all as a result of normal operation, will be considered. The EIS also will consider the risks of certain accidents associated with water resources, such as well blowouts, and with spills of hazardous or toxic materials.

Ecological Resources

The effect on habitats and indigenous species of atmospheric emissions, effluent discharges, waste disposal, electromagnetic fields, and noise associated with the HGP will be considered. Such habitats include the Wao Kele O Puna rainforest, wetlands, coral reefs, the marine water column, especially the benthic community, and the commercial fisheries in the Hawaiian Islands. Federal- and State-protected aquatic species include the humpback whale, which has seasonal calving grounds in Hawaii, the hawksbill and green sea turtles, and the Hawaiian monk seal. Numerous protected bird species and the protected hoary bat are found in the vicinity of planned development.

Geologic Issues

Hazards associated with development of the geothermal resource on the site of an active volcano will be considered. The effects of geothermal well drilling, production, and reinjection on regional seismicity and local subsidence will be examined. The effect of well development and construction on soils, agriculture, and paleontological resources in areas proposed for development will be considered. Geothermal fluid withdrawal, reinjection, and the potential for resource depletion will be examined. Underwater and oceanic geologic hazards, such as tsunamis and landslides, and their subsequent effects on cable reliability and function will also be considered.

Noise

Increased ambient sound levels may result from well drilling, construction equipment and machinery operation, and well venting. The effects of such levels on residents in nearby developments will be considered, including any adverse effects on occupational and public health. The effect of elevated sound levels on wildlife reproductive capabilities and susceptibility to predation will be considered as well.

Health and Safety

Health and safety issues will be considered associated with the following: (1) Well blowout; (2) exposure to gaseous emissions from power plant operation, especially hydrogen sulfide and radon gases and trace elements/compounds, such as arsenic, boron, selenium, and benzene; (3) elevated ambient sound levels; and (4) evacuations of nearby residences because of well venting or hydrogen sulfide releases.

Socioeconomic Issues

Issues that will be considered include those associated with the effects of population growth stimulated by additional power production, such as effects on public services, education, taxes, property values, insurance rates, and the economy (in particular, tourism). Another issue is the cost of the HGP compared to other alternatives.

Cultural Resources

Construction on land and at sea and plant operations may affect historic, archeological, and cultural resources such as native Hawaiian religious practices and beliefs (e.g., worship of the goddess Pele), burial sites, subsistence hunting and gathering, ocean gathering and fishing rights, and homelands.

Visual Effects

Issues that will be considered include those related to clearing and development within a pristine environment, and the visual effects of industrial facilities, such as geothermal plants and transmission lines, which can, in turn, affect tourism, the economy, and native Hawaiian religious practices.

Scoping Meetings

DOE plans to conduct public scoping meetings to assist in identifying further potential environmental impacts associated with the HGP. The meeting schedule is as follows:

Hawaii–March 7, 1992, Pahoa High and Elementary School, 15–3038 Puna Road, Pahoa, Hawaii 96778, 2 p.m.-5:30 p.m. and 7 p.m.-10:30 p.m.

Maui–March 9, 1992, Maui County Council Chambers, 8th Floor, County Building, 200 S. High St., Wailuku, Hawaii 96793, 2 p.m.-5:30 p.m. and 7 p.m.-10:30 p.m.

Molokai–March 12, 1992, Mitchell Pauole Center, 90 Ainoa Street, Kaunakakai, Hawaii 96748, 2 p.m.-5:30 p.m. and 7 p.m.-10:30 p.m.

Oahu–March 14, 1992, Roosevelt High School, 1120 Nehoa St., Honolulu, Hawaii 96822, 2 p.m.-5:30 p.m. and 7 p.m.-10:30 p.m.

Hawaii–March 16, 1992, Hawaiian Homes Meeting Hall, P.O. Box 125, Kamuela (Waimea), Hawaii 96743, 2 p.m.-5:30 p.m. and 7 p.m.-10:30 p.m.

Location: The 55 miles marker Mamalahoa Highway, east edge of Waimea.

These meetings are intended to afford the public an opportunity to offer suggestions as to the scope and content of the EIS. There will be afternoon and evening meetings at each location. Individuals may speak at any one of the meetings, and should note their preference for speaking at either the afternoon or evening session. Those who do not register in advance to speak may register at the public meeting, and they will be afforded an opportunity to speak after preregistered speakers as time allows. On-site registration will begin one hour before each meeting. Requests to speak at any of the meetings should be directed to:

Thelma Patton, Oak Ridge National Laboratory, P.O. Box 2008, Building 4500N, Oak Ridge, TN 37831–6200, Telephone: (615) 574–6096, Facsimile: (615) 574–5788

or, in Hawaii; U.S. Department of Energy, Pacific Site Office, Prince Kuhio Building, rm. 4322, 300 Ala Moana Blvd., Honolulu, HI 96813, Contact: Irene Asato, Telephone: (808) 541–2561, Fax: (808) 541–2562

and should be postmarked no later than March 2, 1992. Letters should be sent via air mail.

A presiding officer will be designated by DOE for the scoping meetings, which will not be conducted as evidentiary hearings, and there will be no questioning of the speakers. However, the presiding officer may ask for clarification of statements to ensure that the comments are fully understood. The presiding officer will establish the order of speakers, which most likely will be public officials first followed, in turn, by group representatives and individuals. The presiding officer will provide any additional procedures necessary for the conduct of the meetings. To ensure that all persons wishing to make a presentation are given the opportunity, a 5-minute limit will be enforced for each speaker, with the exception that public officials and representatives of groups will be allotted 10-minutes each. Speakers will be limited to one presentation at one of the five scoping meetings. Speakers who wish to provide further information for the record should submit such information to: Dr. Lloyd Lewis, CE–121, Office of Conservation and Renewable Energy, U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone: (202) 586–6263 and postmarked by April 15, 1992, to ensure consideration. Late comments will be considered to the extent practicable.

DOE reserves the right to change dates, times, locations of meetings, and the procedures for conducting the meetings, if necessary. Notification of changes will be announced in the local media.

DOE will prepare transcripts of all scoping meetings after their completion. The public may review transcripts and other HGP EIS references at the following locations:

Department of Business, Economic Development & Tourism, Library, 220 South King Street, Fourth Florr, Honolulu, Hawaii 96804, Contact: Anthony Oliver, Telephone: (808) 586–2425, Fax: (808) 586–2452.

Department of Business, Economic Development & Tourism, Hilo Office, Century Building, 80 Pauahi Street, room 207, Hilo, Hawaii 96720, Contact: Michelle Wong-Wilson, Telephone: (808) 933–4600, Fax: (808) 933–4602.

Department of Business, Economic Development & Tourism, Information Office, 220 South King Street, suite 1100, Honolulu, Hawaii 96813, Contact: Norman Reyes, Telephone: (808) 586–2405 or 586–2406, Fax: (808) 586–2427.

Department of Business, Economic Development & Tourism, Geothermal Office, Financial Plaza of the Pacific, 130 Merchant Street, suite 1080, Honolulu, Hawaii 96813, Contact: Maurice Kaya, Telephone: (808) 587–3812, Fax: (808) 587–3820.

Department of Business, Economic Development & Tourism, Energy Division, Publications Section, 335 Merchant Street, room 110, Honolulu, Hawaii 96813, Contact: Steven Kam, Telephone: (808) 548–4080 Fax: (808) 531–5243.

Hana Public and School Library, Hana Highway, Hana, Hawaii 96713, Contact: Jeremy Kindred, Telephone: (808) 248–7714, Fax: (808) 248–7438.

Hawaii State Library, Hawaii Document Center Unit, 634 Pensacola Street, Honolulu, Hawaii 96814, Telephone: (808) 586–3535, Fax: (808) 586–3584.

Hawaii Energy Extension Service, Hawaii Business Center, 99 Aupuni Street, room 214, Hilo, Hawaii 96720, Contact: Andrea Beck, Telephone: (808) 933–4558, Fax: (808) 933–4602.

Hilo Public Library, 300 Waianuenue Avenue, Hilo, Hawaii 96721–0847, Contact: Claudine

Fujii, Telephone: (808) 953-5407, Fax: (808) 933-4656.

Kahuku Public and School Library, 56490 Kam Highway, Kahuku, Hawaii 96731, Contact: Jean Okimoto, Telephone: (808) 293-9275, Fax: (808) 293-5115.

Kahului Public Library, 90 School Street, Kahului, Hawaii 96732, Contact: Lani Scott Telephone: (808) 877-5046, Fax: (808) 871-9032.

Kailua-Kona Public Library, 75-138 Hualalai Road, Kailua-Kona, Hawaii 96740, Contact: Irene Horvath, Telephone: (808) 329-2196, Fax: (808) 326-4115.

Kauai Office of Economic Development, 4444 Rice Street, room 230, Lihue, Hawaii 96766, Contact: Glenn Sato, Telephone: (808) 245-7305, Fax: (808) 245-6479.

Lihue Public Library, 4391-A Rice Street, Lihue, Hawaii 96766 Contact: Karen Ikemoto, Telephone: (808) 245-3617, Fax: (808) 246-0159.

Maui Energy Extension Service 200 South High Street, Wailuku, Hawaii 96793, Contact: Kalvin Kobayashi, Telephone: (808) 243-7832, Fax: (808) 243-7870.

Molokai Public Library, Ala Maloma Street, Kaunakakai, Hawaii 96748, Contact: Sri Tencate, Telephone: (808) 553-5483, Fax: (808) 553-5958.

Mountain View Public and School Library, Highway 11, Mountain View, Hawaii 96771, Contact: Evelyn Garbo, Telephone: (808) 968-6300 Fax: (808) 968-6056.

Pahala Public and School Library, Pakalana Street, Pahala, Hawaii 96777, Contact: Lisa Cabudol, Telephone: (808) 928-8032, Fax: (808) 928-6199.

Pahoa Public and School Library, 15-3038 Puna Road, Pahoa, Hawaii 96778, Contact: Laura Ashton, Telephone: (808) 965-8574, Fax: (808) 965-7170.

Pearl City Public Library, 1138 Waimano Home Road, Pearl City, Hawaii 96782, Contact: Marilyn Van Gieson, Telephone: (808) 455-4134, Fax: (808) 456-4407.

U.S. Department of Energy, Freedom of Information Public Reading Room, room 1E 190, 1000 Independence Ave., SW., Washington, DC 20585, Contact: Mr. Ed McGinnis, Telephone: (202) 586-6020, FTS: 896-6020.

U.S. Department of Energy, Pacific Site Office, Prince Kuhio Building, room 4322, 300 Ala Moana Blvd., Honolulu, Hawaii 96813 Contact: Eilieen Yoshinaka, Telephone: (808) 541-2563, Fax: (808) 541-2562.

U.S. Department of Energy, San Francisco Field Office Public Reading Room, 1333 Broadway, Oakland, CA 94612, Contact: Ms. Estella Angel, Telephone: (510) 273-4428 FTS: 536-4428.

Waimanelo Public and School Library, 41-1320 Kalanianaole Highway, Waimanalo, Hawaii 96795, Contact: Nina O'Donnell Telephone: (808) 259-9925, Fax: (808) 259-6309.

Signed in Washington, DC, this 11th day of February, 1992, for the U.S. Department of Energy.

Paul L. Ziemer,

Assistant Secretary, Environment, Safety and Health.

[FR Doc. 92-3644 Filed 2-13-92; 8:45]

BILLING CODE 6450-01-M

Financial Assistance Award; Keystone Center

AGENCY: Department of Energy.

ACTION: Notice of unsolicited financial assistance award to the Keystone Center.

SUMMARY: The Department of Energy (DOE) announces that pursuant to 10 CFR 600.14(e)(1)(i), it is making a financial assistance award based on an unsolicited application under grant number DE-FG01-92PE79105. The grant is to determine the different positions of interest groups on key issues and to narrow the difference through dialogues. This effort will have a total estimated cost of $60,000 (cost sharing) to provided by DOE.

SCOPE: The grant will provide funding to the Keystone Center to select a working group of experts from affected constituents to discuss clarification and resolution of present uncertainties concerning Federal and State jurisdiction in the economic regulation of electric utilities and to address the subject of utility planning using least cost principles.

The project is meritorious because of its relevance to the accomplishment of an important public purpose—development of consensus on critical issues concerning the existing allocation of State/Federal regulatory authority to (1) govern evolving bulk power markets, and (2) provide the consumer with necessary energy services through utility planning based on least-cost dialogue that can be translated into legislation or regulatory policy.

ELIGIBILITY: Based on the evaluation of relevance to the accomplishment of a public purpose, it is determined that the proposal represents an innovative method and approach to determine the different positions of interest groups on key issues and to narrow the difference through dialogue. The proposed project represents a unique idea that would not be eligible for financial assistance under a recent, current, or planned solicitation.

FOR FURTHER INFORMATION CONTACT: Please write the U.S. Department of Energy, Office of Placement and Administration, ATTN: Mary Braxton, PR-321.1, 1000 Independence Ave. SW., Washington, DC 20585.

Jeffrey Rubenstein,

Director, Operations Division "A", Office of Placement and Administration.

[FR Doc. 92-3645 Filed 2-13-92; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project Nos. 10944-002, 10962-001, 10963-001, 10964-001, 11127-001, 11172-001, 11173-001, 11198-001 Oregon]

Portland General Electric Co.; Surrender of Preliminary Permits

Dated: February 7, 1992

Take notice that Portland General Electronic Company, Permittee for the following projects has requested that its preliminary permits be terminated.

All projects would have been located within the Mount Hood National Forest, in Clackamas County, Oregon.

Project No.	Project name	Creek name	Issued	Expires
10944-002	Cripple Creek	Cripple Creek	10/29/90	9/30/93
10962-001	Timothy Lake	Anvil Creek, Stone Creek	01/28/91	12/31/93
10963-001	South Fork Cripple Creek	South Fork Cripple Creek	10/31/90	09/30/93
10964-001	Bull Creek	Bull Creek	10/30/90	09/30/93
11127-001	Cot Creek	Cot Creek	06/26/91	05/31/94
11172-001	Deer Creek	Deer Creek	01/22/92	12/31/94
11173-001	Dinner Creek	Dinner Creek	01/23/92	12/31/94
11198-001	Three Lynx Creek	Three Lynx Creek	01/23/92	12/31/94

The Permittee filed the request on January 21, 1992, and the preliminary permits shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving these project sites, to the extent provided for under 18

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CFR part 4, may be filed on the next business day.

Lois D. Cashell,
Secretary.

[FR Doc. 92-3553 Filed 2-13-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-107-000]

Algonquin Gas Transmission Co., Rate Schedule Filing

February 7, 1992.

Take notice that on February 5, 1992, Algonquin Gas Transmission Company ("Algonquin"), 1284 Soldiers Field Road, Boston, Massachusetts 02135, filed cost of service information pursuant to 18 CFR 154.62 supporting its initial rates for Phase II service under Rate Schedule FTP and for service under Rate Schedule X-35.

Algonquin states that this data is being submitted in response to a request for information by the Commission Staff at the technical conference held January 31, 1992 in Algonquin Gas Transmission Co., Docket Nos. CP88-185-002 *et al.* According to Algonquin, the purpose of the filing is to provide the Commission Staff with information to verify the cost of service underlying (i) Algonquin's proposed initial rate for Phase II service under Rate Schedule FTP pursuant to Algonquin's March 5, 1991 application for amended certificate in its CDS Project in Docket No. CP88-185-007, and (ii) Algonquin's initial rate for service under Rate Schedule X-35 filed in Algonquin's application for amended certificate dated March 5, 1991 in its NIPPs III Project in Docket No. CP88-187-005, which was approved in the Commission's order issued August 6, 1991. Algonquin Gas Transmission Co., 56 FERC ¶ 61,235 (1991), request for rehearing pending.

Algonquin further states that in prior Commission orders in its various Northeast Expansion projects, there has been concern about possible double recovery of facilities costs among the different projects. At the January 31, 1992 technical conference, Algonquin states that although the Commission Staff indicated that a strong case had been made that there was no double recovery of facilities costs per se among Algonquin's expansion projects, in order to put the matter to rest, the Staff needed to verify that Algonquin would not over-recover the costs associated with its CDS and NIPPs III Projects, as reconfigured by Algonquin's amended applications in 1991, by retaining the rate levels authorized when the Commission initially approved the projects in 1990. Algonquin states that it has provided the information set out in its filing so that the Staff can verify the cost of service underlying the rates for Phase II service under Rate Schedule FTP and for service under Rate Schedule X-35.

According to Algonquin, the actual cost of service underlying the reconfigured *CDS* Project would justify a rate of $15.2550 per MMBtu, in comparison to the approved rate of $13.8498 per MMBtu, which Algonquin has agreed to retain per its commitment to its customers for Phase II service under Rate Schedule FTP. Similarly, Algonquin states that the cost of service for the reconfigured NIPPs III Project would justify a rate of $14.7590 per MMBtu, in comparison to the approved rate of $14.6661 per MMBtu, which Algonquin has agreed to retain for service under Rate Schedule X-35 per its commitment to its customer.

Algonquin has requested all necessary waivers so that the information it has submitted will be accepted under 18 CFR 154.62(c).

Algonquin states that copies of the filing have been mailed to all of its affected customers and to interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's rules and regulations. All motions or protests should be filed on or before February 14, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,
Secretary.

[FR Doc. 92-3554 Filed 2-13-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-65-000]

Arkla Energy Resources, a Division of Arkla, Inc.; Informal Settlement Conference

February 7, 1992.

Take notice that an informal settlement conference will be convened in this proceeding on Wednesday, February 19, 1992, at 10 a.m., at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC, for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact William J. Collins (202) 208-0248 or John P. Roddy (202) 208-1176.

Lois D. Cashell,
Secretary.

[FR Doc. 92-3555 Filed 2-13-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP90-2214-001]

El Paso Natural Gas Co., Site Visit

February 7, 1992.

This is to inform all parties to the proceeding in the above docket that the staff of the Federal Energy Regulatory Commission will conduct a site visit of El Paso's crossing of the San Juan River near Bloomfield, New Mexico, February 18, 1992 through February 20, 1992. The purpose of the staff's inspection is to review compliance with the environmental mitigation measures specified in El Paso's certificate, issued on August 1, 1991.

All parties to the proceedings are welcome to attend. Anyone interested must provide their own transportation. For more information contact Ms. Lauren O'Donnell, at (202) 208-0874.

Lois D. Cashell,
Secretary.

[FR Doc. 92-3556 Filed 2-13-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-106-000]

Freeport Interstate Pipeline Co., Proposed Changes in FERC Gas Tariff

February 7, 1992.

Take notice that on February 4, 1992, Freeport Interstate Pipeline Company (Freeport Interstate) tendered for filing the following tariff sheets as part of its FERC Gas Tariff, Original Volume No. 1, with a proposed effective date of January 3, 1992:

First Revised Sheet No. 50
First Revised Sheet No. 55

Freeport Interstate states that the proposed sheets are to revise Freeport Interstate's part 284 (§ 284.7, 284.8 and 284.9) transportation tariff, as accepted in the Commission's order in Freeport Interstate Pipeline Co., Docket Nos. RP88-224-000 and RP88-224-001, issued August 25, 1988.

Freeport Interstates that the purpose of the proposed sheets is to comply with § 284.102(e) of subpart B of part 284 of the Commission's regulations issued in Order No. 537 (Docket No. RM90-7-000).

Freeport Interstate states that copies of the filing were served on its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before February 13, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are avaiable for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3557 Filed 2-13-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ92-7-4-000]

Granite State Gas Transmission, Inc.; Proposed Changes in Rates

February 7, 1992.

Take notice that on February 5, 1992, Grante State Gas Transmission, Inc. (Granite State), 300 Friberg Parkway, Westborough, Massachusetts 01581-5309 tendered for filing with the Commission Eleventh Revised Sheet No. 21 in its FERC Gas Tariff, Second Revised Volume No. 1, containing proposed changes in rates for effectiveness on Febuary 5, 1992.

According to Granite State its filing is an out-of-cycle purchased gas cost adjustment made necessary primerily to reflect changes in the cost of gas purchased from Tennessee Gas Pipeline Company (Tennessee). Granite State further states that Tennessee is Granite State's largest supplier of firm gas supplies for its system supply. It is further stated that, in Docket No. RP91-203-000, Tennessee filed revised rates and a change in rate design applicable to Granite State's purchases under Rate Schedule CD-6, effective February 1, 1992. Granite State further states that its filing also reflects revised purchased gas costs for the remainder of the first quarter of 1992 based on the current costs for all projected gas purchases. According to Granite State, the net effect of its revisions is a reduction of approximately $900,000 in purchased gas costs.

It is stated that the proposed rate changes are applicable to Granite State's jurisdictional sales services rendered to Bay State Gas Company and Northern Utilities, Inc. Granite State further states that copies of its filing were served upon its customers and the regulatory commissions of the States of Maine, Massachusetts and New Hampshire.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426 in accordance with rules 211 and 214 of the Commission's rules of practice and procedures (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before February 14, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3558 Filed 2-13-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-11-4-000]

Granite State Gas Transmission, Inc.; Proposed Changes in Rates and Tariff Provisions

February 7, 1992.

Take notice that on February 5, 1992, Granite State Gas Transmission, Inc. (Granite State), 300 Friberg Parkway, Westborough, Massachusetts 01581-5039, tendered for filing with the Commission the revised tariff sheets listed below in its FERC Gas Tariff, Second Revised Volume No. 1 and First Revised Volume No. 2, containing changes in rates and tariff provisions for effectiveness on February 1, 1992.

Second Revised Volume No. 1

Tenth Revised Sheet No. 21
Fifth Revised Sheet No. 22
Eleventh Revised Sheet No. 25

First Revised Volume No. 2

First Revised Sheet No. 5
First Revised Sheet No. 15
First Revised Sheet No. 18
First Revised Sheet No. 25
First Revised Sheet No. 26
Third Revised Sheet No. 28
Second Revised Sheet No. 29
First Revised Sheet No. 38
First Revised Sheet No. 39

According to Granite State, the revised tariff sheets listed above track changes in rates and rate design for transportation services rendered by Tennessee Gas Pipeline Company (Tennessee) for Granite State resulting from Tennessee's filing in Docket No. RP91-203, effective February 1, 1992. Granite State further states that Tennessee's revised rates filed in Docket No. RP91-203 result in changes in the Transportation Cost Adjustment included in Granite State's rates for sales to its affiliated distribution company customers, Bay State Gas Company (Bay State) and Northern Utilities, Inc. (Northern Utilities) and for the rates and rate design for storage-related transportation services rendered to Bay State and Northern Utilities.

Granite State further states that copies of its filing were served upon Bay State and Northern Utilities and the regulatory commissions of the States of Maine, Massachusetts, and New Hampshire.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before February 14, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3559 Filed 2-13-92; 8:45 am]

BILLING CODE 6717-01-M

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[Docket No. ER92-300-000]

Idaho Power Co.; Filing

February 7, 1992.

Take notice that on January 31, 1992, Idaho Power Company (IPC) tendered for filing two letter agreements extending the term of an existing Transmission Service Agreement, and a new Transmission Service Agreement dated November 21, 1991, between Milner Irrigation District and Idaho Power Company. The term of the new Agreement would extend to December 31, 2002.

IPC has requested waiver of the notice provisions of § 35.3 of the Commission's regulations in order to permit the two extension agreements to become effective on October 31, 1991 and January 1, 1992 respectively. No new rates, terms or conditions are contained in these extensions. Idaho Power has requested an effective date for the November 21, 1991 Transmission Service Agreement of April 1, 1992.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of practice and procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before February 20, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3560 Filed 2-13-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-104-000]

K N Energy, Inc.; Petition for Waiver

February 7, 1992.

Take notice that on February 3, 1992, K N Energy, Inc., (K N) petitions the Commission for a waiver of the time requirement relating to the use of actual cost data in connection with a base tariff restatement filing.

K N requests that the Commission grant K N a waiver of the requirements of 18 CFR 154.303(e)(1)(ii)(B) to the extent that K N will be allowed to utilize actual cost data for the twelve month period ending November 30, 1991 in its forthcoming base tariff restatement filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's rules and regulations. All such motions or protests should be filed on or before February 14, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3561 Filed 2-13-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-105-000]

National Fuel Gas Supply Corporation; Proposed Changes in FERC Gas Tariff

February 7, 1992.

Take notice that on February 4, 1992, National Fuel Gas Supply Corporation ("National") tendered for filing the following tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1:

First Revised Sheet No. 34 Superseding
  Substitute Original Sheet No. 34
Original Sheet No. 34A
First Revised Sheet No. 44 Superseding
  Original Sheet No. 44
Original Sheet No. 44A

The proposed effective date of the revised tariff sheets is March 5, 1992.

National states that the purpose of this filing is to revise section 3 of Rate Schedule FT and section 4 of Rate Schedule IT of the National's FERC Gas Tariff to require that shippers provide certification and sufficient information to National to confirm their eligibility for transportation pursuant to section 311 of the Natural Gas Policy Act (NGPA) and § 284.102 of the Commission's Regulations, such services qualify as section 311 transportation.

National states that on September 20, 1991, the Commission issued a final rule in Order No. 537 regarding revisions to the Commission's regulations governing transportation pursuant to section 311 of the NGPA and blanket transportation certificates. National states that such Order, among other things, requires interstate pipelines to (a) obtain from its shippers certification, including sufficient information, to verify that services provided to them under section 311 of NGPA and § 284.102 of the Commission's regulations qualify as section 311 transportation, and (b) file by January 3, 1992 any tariff revisions or additions necessary to clarify that an interstate pipeline may require such certifications.

National states that copies of the filing have been served upon the Company's jurisdictional sales customers, and the Regulation Commissions of the States of New York, Ohio, Pennsylvania, Delaware, Massachusetts and New Jersey.

Any person desiring to be heard or to protest said filing should file a motion to intervene or portest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE. Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before February 14, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3562 Filed 2-13-92; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[Docket No. FE C&E 92-02; Certification Notice—95]

Filing Certification of Compliance: Coal Capability of New Electric Powerplant Pursuant to Provisions of the Powerplant and Industrial Fuel Use Act, as Amended

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of filing.

SUMMARY: Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended (42 U.S.C. 8301 *et seq.*), provides that no new electric powerplant may be constructed or operated as a base load powerplant without the capability to use coal or another alternate fule as a primary energy source (FUA section 201(a), 42 U.S.C. 8311(a), Supp. V. 1987). In order to meet the requirement of coal capability, the owner or operator of any new electric powerplant to be operated as a

base load powerplant proposing to use natural gas or petroleum as its primary energy source may certify, pursuant to FUA section 201(d), to the Secretary of Energy prior to construction, or prior to operation as a base load powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with section 201(a) as of the date it is filed with the Secretary. The Secretary is required to publish in the **Federal Register** a notice reciting that the certification has been filed. One owner and operator of proposed new electric base load power-plants has filed a self-certification in accordance with section 201(d).

Further information is provided in the **SUPPLEMENTARY INFORMATION** section below.

SUPPLEMENTARY INFORMATION: The following company has filed a self-certification:

Name	Date received	Type of facility	Megawatt capacity	Location
Altresco Lynn, Inc., Denver, CO	02-03-92	Combined Cycle.	170	Lynn, MA.

Amendments to the FUA on May 21, 1987 (Pub. L. 100-42), altered the general prohibitions to include only new electric base load power-plants and to provide for the self-certification procedure.

Copies of these self-certification may be reviewed in the Office of Fuels Programs, Fossil Energy, room 3F-056, FE-52, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, or for further information call Myra Couch at (202) 586-6769.

Issued in Washington, DC, on February 10, 1992.

Anthony J. Como,

Director, Office of Coal and Electricity, Office of Fuels Programs, Fossil Energy.

[FR Doc. 92-3646 Filed 2-13-92; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders During the Week of January 20 Through January 24, 1992

During the week of January 20 through January 24, 1992, the decisions and orders summarized below were issued with respect to applications for relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Implementation of Special Refund Procedures

Energy Corporation of America, Inc., Fuel Oil Supply & Terminaling, Inc., and the Estate of Eddie E. "Bud" Hadsell, 1/22/92 LEF-0036 LEF-0037

The Department of Energy (DOE) issued a Decision and Order concerning the procedures for the disbursement of $1,141,628.14 in crude oil overcharge funds received from Energy Corporation of America, Inc. and Fuel Oil Supply & Terminaling, Inc. and The Estate of Eddie E. "Bud" Hadsell. The DOE determined that the funds would be distributed pursuant to the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986).

Strasburger Enterprises, Inc., 1/22/92, LEF-0014

The DOE issued a Decision and Order announcing the procedures for the disbursement of $443,073.30, plus accrued interest, in alleged oil overcharge funds obtained from Strasburger Enterprises, Inc. The OHA has determined that the funds will be distributed in accordance with the DOE's special refund procedures, 10 CFR part 205, subpart V. Applications for Refund must be postmarked no later than January 29, 1993.

Refund Applications

BASF Corporation Chemicals Division, BASF Corporation Fibers Division, BASF Corporation Inmont Division, BASF K&F Corporation, 1/22/91 RF272-23214, RD272-23214, RF272-23215, RD272-23215, RF272-23216, RF272-23217

The DOE issued a Decision and Order granting four Applications for Refund filed by BASF Corporation, a manufactor of fibers and chemical products, in the subpart V crude oil refund proceeding. A group of States and Territories (States) objected to two of the applications on the grounds that the applicant was able to pass through increased petroleum costs to its customers. In support of their objections, the States submitted affidavits of an economist stating that, in general, the chemical and fibers industries were able to pass through increased petroleum costs. The DOE determined that the evidence offered by the States was insufficient to rebut the presumption of end-user injury and that the applicant should receive a refund. The DOE also denied Motions for Discovery submitted by the States, finding that discovery was not warranted where the States had not presented evidence sufficient to rebut the applicant's presumption of injury. The refund granted to the applicant in this Decision was $237,266.

Marathon Petroleum Co./Independent Oil & Tire Co., 1/22/92, RF250-2750

The DOE issued a Decision and Order considering an Application for Refund filed by Independent Oil & Tire Company in the Marathon Petroleum Company special refund proceeding. Independent claimed that it was entitled to a non-volumetric level refund because Marathon discontinued a hauling allowance to which Independent was entitled. In so doing, Independent alleged that Marathon violated the Normal Business Practice Rule. In considering the Independent application, the DOE found that the firm had submitted no evidence supporting the claim that Marathon violated the Normal Business Practice Rule. Instead, the DOE found that Independent was more nearly claiming that Marathon had overcharged it by removing the hauling allowance. The DOE determined that Independent had failed to provide any persuasive evidence that the price charged after the hauling allowance was removed was improper. The DOE also found that Independent had not provided reasonable evidence of a bank of unrecouped costs. Accordingly, the firm was limited to a mid-range presumptive level refund of $9,019 plus $4,729 in interest.

Pirelli Armstrong Tire Corp., 1/21/92, RF272-15953, RD272-15953

The Department of Energy (DOE) issued a Decision and Order granting a refund from crude oil overcharge funds to Pirelli Armstrong Tire Corporation, the successor-in-interest by merger to Armstrong Tire Company (Armstrong). The refund was based on Armstrong's purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981. During this period, Armstrong manufactured and sold tires and other rubber products. Armstrong was an end-user of the products claimed and was therefore presumed injured. A consortium of 30 states and two territories filed a consolidated Statement of Objections and Motion for Discovery in the proceeding. The DOE found that the states' filings were insufficient to rebut the presumption of injury for end-users in this case. Therefore, the DOE granted the Application for Refund and denied the Motion for Discovery. The refund granted to the applicant is $54,485.

Texaco Inc./Joan of Arc Co., 1/23/92, RF321-8320

The DOE issued a Decision and Order in the Texaco Inc. refund proceeding concerning an Application for Refund filed with respect to purchases made by Joan of Arc Company, a corporation and a consumer of Texaco products. The application was filed by Princeville Canning Company, which acquired the Joan of Arc facility which made the Texaco purchases subsequent to the refund period. The DOE noted that, generally, the owner of the firm that purchased the Texaco products is entitled to the refund, and that this right is not normally transferred to a successor firm, unless either (a) the owner during the price control period was a corporation whose stock was purchased by the successor or (b) the business was transferred under a contract that specified potential refunds as one of the assets being transferred. The DOE found that neither of these circumstances were present in this case. Accordingly, the refund accplication was denied.

Thomas P. Reidy/Crystal Oil Co., 1/24/92, RF322-10

The DOE issued a Decision and Order concerning an Application for Refund filed by Crystal Oil Company (Crystal), a refiner and refined products reseller with headquarters in Shreveport, LA. Crystal sought a portion of the settlement fund obtained by the DOE as a result of a consent order entered into by Thomas P. Reidy, Inc. The DOE denied the Crystal refund claim on the grounds that Crystal was a spot purchaser of Reidy product which failed to rebut the presumption that spot purchasers were not injured by Reidy's pricing practices.

Thomas P. Reidy/FS Services, Inc., System Fuels, Inc., Cenex, 1/22/92, RF322-6, RF322-7, RF322-11

The DOE issued a Decision and Order concerning three Applications for Refund filed by purchasers of petroleum products from Thomas P. Reidy, Inc. The applicants sought portions of the settlement fund obtained by the DOE through a consent order entered into with Reidy. Since two of the applicants are cooperatives and the other a utility, none of the applicants were required to submit a detailed demonstration of injury in support of their refund claim. Applying the criteria established to govern this proceeding, the DOE granted refunds in this proceeding which total $110,352 ($92,553 principal plus $17,799 interest).

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Atlantic Richfield Company/A.C.T. Co., Inc.	RF304-3041	01/21/92
Atlantic Richfield Company/C&A Service Station et al	RF304-7472	01/21/92
Atlantic Richfield Company/Corey's Arco et al	RF304-7832	01/23/92
Atlantic Richfield Company/the Archway School et al	RF304-12337	01/22/92
Empire Gas Corporation/Country Kitchen of Lebanon, Inc. et al	RF335-44	01/21/92
Enron Corporation/Marion Corporation	RF340-18	01/23/92
Gulf Oil Corporation/Stephens Oil Company, Inc	RF300-13109	01/24/92
Gibbons Oil Company	RF300-13211	
Moody Oil Company	RF300-13261	
Gulf Oil Corporation/Westside (S.S.) Independent	RF300-13704	01/21/92
Orient-Macksburg Comm. School District et al	RF272-84401	01/23/92
Reisch Trucking & Transportation Co.	RF272-69707	01/21/92
Texaco Inc./E. Leon Craig et al	RF321-8586	01/22/92
Texaco Inc./Fannin Brother's Texaco	RF321-9042	01/24/92
Harper's Texaco #2	RF321-18240	
Texaco Inc./Fork's Texaco et al	RF321-13350	01/22/92
Texaco Inc./Hopkins Texaco Service Station	RF321-18389	01/24/92
Texaco Inc./Lee Paradise Texaco	RF321-18399	01/22/92
Lee's Texaco Station	RF321-18402	
Texaco Inc./Miars Car Care Center, Inc	RF321-11446	01/23/92
Texaco Inc./York Oil Service, Inc. et al	RF321-13046	01/21/92

Dismissals

The following submissions were dismissed:

Name	Case No.
A-1 Foreign Auto Clinic #1	RF321-11301
Al Fitzgerald Gulf Service	RF300-8857
Charles Kowsky Resources Inc	RF300-11726
Heffington Oil Company	RF321-14781
Lafayette County, AR	RF272-84934
Middletown Ice & Coal Co	RF315-6640
Moore Regional Hospital	RF272-90769
Peoria County Highway Dept	RF272-85605
Randolph Oil Company	RF321-15156
Rockville Centre U.F.S.D	RF272-78607
Scott County, MS	RF272-86276
St. Anthony's Hospital	RF272-86984
Storck Baking Co., Inc	RF272-90389
Susquenita School District	RF272-88453
Swanson's Texaco	RF321-1968
Texas Fuel & Asphalt Co., Inc	RF272-27159
Thomas Automatic Car Wash #2	RF300-11108
Thomas Automatic Car Wash #2	RF300-11109
Town of Greene, ME	RF272-88427
Vinci Co	RF300-11328
William A. Hewgley	LFA-0178
William N. Creel Jr.	RF300-12394
William N. Creel Jr.	RF300-12393

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E-234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m. except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: February 10, 1992.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 92-3647 Filed 2-13-92; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF ENERGY

Final Filing Deadline in Special Refund Proceeding No. KEF-0093 Involving Shell Oil Company

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION Notice of setting final deadline for filing applications for refund in special refund proceeding KEF-0093, Shell Oil Company.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) has set the final deadline for filing Applications for Refund from the escrow account established pursuant to a consent order entered into between the DOE and Shell Oil Company (Shell). Special Refund Proceeding No. KEF-0093. The previous deadline was November 30, 1989. The new final deadline is April 1, 1992.

FOR FURTHER INFORMATION: Thomas O. Mann, Department of Energy, Office of Hearings and Appeals, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-2383.

SUPPLEMENTARY INFORMATION: On January 13, 1989, the Office of Hearings and Appeals of the Department of Energy issued a Decision and Order setting forth final refund procedures to distribute the monies in the oil overcharge escrow account established in accordance with the terms of a Consent Order entered into by the Department of Energy and the Shell Oil Company. See Shell Oil Company, 18 DOE ¶ 85,492 (1989), 54 F.R. 3124 (January 23, 1989). That Decision established November 30, 1989, as the filing deadline for the submission of refund applications for direct restitution by pruchasers of Shell's refined petroleum products. 18 DOE at 88,802,54 F.R. 3128.

We commenced accepting refund applications in the Shell refund proceeding on January 13, 1989, more than three years ago. While the deadline for such submission was November 30, 1989, we previously accepted applications after the deadline if the applicant could demonstrate good cause for its lateness. However, we have now concluded that eligible applicants have been provided with more than ample time to file. Therefore, we will not accept applications that are postmarked after April 1, 1992. All Applications for Refund from the Shell Consent Order fund postmarked after the final filing date of April 1, 1992, are subject to summary dismissal. Any unclaimed funds remaining after all pending claims are resolved will be made available for indirect restitution pursuant to the Petroleum Overcharge Distribution and Restitution Act of 1986, 15 U.S.C.4501.

Dated: February 10, 1992.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 92-3648 Filed 2-13-92; 8:45 am]

BILLING CODE 6450-01-M

Southeastern Power Administration

Cumberland System; Intent To Formulate Revised Power Marketing Policy

AGENCY: Southeastern Power Administration (SEPA), Department of Energy.

ACTION: Intent to revise policy for Cumberland System of Projects.

SUMMARY: Pursuant to its Procedure for Public Participation in the Formulation of Marketing Policy published in the **Federal Register** of July 6, 1978, 43 FR 29186, SEPA intends to revise its marketing policy for future disposition of power from its Cumberland System of Projects.

The current power marketing policy published on March 16, 1983, 48 FR 11148, for SEPA's Cumberland System is reflected in contracts involving such system power which are maintained in SEPA's headquarters offices. Proposals and recommendations for consideration in formulating the proposed revised marketing policy are solicited as are requests for further information or consultation.

DATES: All submissions or requests should be made as soon as possible but not later than April 14, 1992.

ADDRESSES: Five copies of written proposals or recommendations should be submitted to the Administrator, Southeastern Power Administration, Elberton, Georgia 30635, (404) 283-9911.

SUPPLEMENTARY INFORMATION: A "Power Marketing Policy; Cumberland System of Projects" was developed and published in the **Federal Register** on March 16, 1983, 48 FR 11148, by SEPA. The policy provides that contracts will be negotiated for terms of approximately 10 years. A contract was negotiated with the Tennessee Valley Authority effective as of June 30, 1984, and with various preference customers effective as of June 30, 1984, and September 1, 1986. The contracts may be terminated by either the customer or the Government as of June 30, 1995, upon proper notification.

Negotiations are in progress to provide various municipal preference agencies in the Kentucky Utilities (KU) service area an allocation of Government power from the Cumberland System of projects. Because the power available for these municipalities must be delivered into the Tennessee Valley Authority's (TVA's) system and transmitted by TVA to the KU service area, the term of contracts in the KU area is limited to that of the contract with TVA.

The existing Cumberland contracts may be cancelled by either the customers or the Government as early as June 30, 1995. The customers desire longer term contracts than those currently in effect. In order to go forward with these negotiations, new long term power contracts are needed with TVA and the preference agencies.

The Cumberland System consists of Barkley, Center Hill, Cheatham, Cordell Hull, Dale Hollow, Laurel, Old Hickory, J. Percy Priest, and Wolf Creek Projects. All of the projects except Laurel are interconnected with and integrated through the Tennessee Valley Authority (TVA) System. SEPA presently markets power from the Cumberland System to the Big Rivers Electric Corporation; East Kentucky Power Cooperative; City of Henderson, Kentucky; Municipal Energy Agency of Mississippi; Southern Illinois Power Cooperative; South Mississippi Electric Power Association; Town of Waynesville, North Carolina; French Broad EMC, Haywood EMC, and to TVA for the benefit of the 160 municipalities and electric cooperatives served by TVA.

The 12 municipalities in the Kentucky Utilities Company area are Barbourville, Bardstown, Bardwell, Benham, Corbin, Falmouth, Frankfort, Madisonville, Nicholasville, Paris, Providence, and Owensboro. All of these municipalities were included in the current marketing policy.

FOR FURTHER INFORMATION CONTACT: Administrator, Southeastern Power Administration, Elberton, Georgia 30635, (404) 283-9911.

Issued in Elberton, Georgia, January 30, 1992.

John A. McAllister, Jr.,

Administrator.

[FR Doc. 92-3649 Filed 2-13-92; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4105-4]

Office of Research and Development; Ambient Air Monitoring Reference and Equivalent Methods; Equivalent Method Designation

Notice is hereby given that EPA, in accordance with 40 CFR part 53, has designated another equivalent method for the measurement of ambient concentrations of sulfur dioxide. The new equivalent method is an automated method (analyzer) which utilizes a measurement principle based on UV fluorescence. The new designated method is identified as follows:

EQSA-0292-084, "Environnement S.A. Model AF21M Sulfur Dioxide Analyzer", operated on a range of 0-0.5 ppm with a response time coefficient setting of 01, a Teflon ® filter installed in the rear-panel filter assembly, and with or without any of the following options:

Rack Mount/Slides
RS-232-C Interface

This method is available from Environnement S.A., 111, bd Robespierre, 78300 Poissy, France. A notice of receipt of application for this method appeared in the Federal Register, volume 54, May, 23, 1989, page 22359.

A test analyzer representative of this method has been tested by the applicant, in accordance with the test procedures specified in 40 CFR part 53. After reviewing the results of these tests and other information submitted by the applicant, EPA has determined, in accordance with part 53, that this method should be designated as an equivalent method. The information submitted by the applicant will be kept on file at EPA's Atmospheric Research and Exposure Assessment Laboratory, Research Triangle Park, North Carolina 27711, and will be available for inspection to the extent consistent with 40 CFR part 2 (EPA's regulations implementing the Freedom of Information Act).

As a designated equivalent method, this method is acceptable for use by states and other air monitoring agencies under requirements of 40 CFR part 58, Ambient Air Quality Surveillance. For such purposes, the method must be used in strict accordance with the operation or instruction manual associated with the method and subject to any limitations (e.g., operating range) specified in the applicable designation (see description of the method above). Vendor modifications of a designated method used for purposes of part 58 are permitted only with prior approval of EPA, as provided in part 53. Provisions concerning modification of such methods by users are specified under § 2.8 of appendix C to CFR part 58 (Modifications of Methods by Users).

In general, this designation applies to any analyzer which is identical to the analyzer described in the designation. In many cases, similar analyzers manufactured prior to the designation may be upgraded (e.g., by minor modification or by substitution of a new operation or instruction manual) so as to be identical to the designated method and thus achieve designation status at a modest cost. The manufacturer should be consulted to determine the feasibility of such upgrading.

Part 53 requires that sellers of designated methods comply with certain conditions. These conditions are given in 40 CFR 53.9 and are summarized below:

(1) A copy of the approved operation or instruction manual must accompany the analyzer when it is delivered to the ultimate purchaser.

(2) The analyzer must not generate any unreasonable hazard to operators or to the environment.

(3) The analyzer must function within the limits of the performance specifications given in table B-1 of part 53 for at least one year after delivery when maintained and operated in accordance with the operation manual.

(4) Any analyzer offered for sale as a reference or equivalent method must bear a label or sticker indicating that it has been designated as a reference or equivalent method in accordance with part 53.

(5) If such an analyzer has two or more selectable ranges, the label or sticker must be placed in close proximity to the range selector and indicate which range or ranges have been included in the reference or equivalent method designation.

(6) An applicant who offers analyzers for sale as reference or equivalent methods is required to maintain a list of ultimate purchasers of such analyzers and to notify them within 30 days if a reference or equivalent method designation applicable to the analyzer has been canceled or if adjustment of the analyzers is necessary under 40 CFR 53.11(b) to avoid a cancellation.

(7) An applicant who modifies an analyzer previously designated as a reference or equivalent method is not permitted to sell the analyzer (as modified) as a reference or equivalent method (although he may choose to sell it without such representation), nor to attach a label or sticker to the analyzer (as modified) under the provisions described above, until he has received notice under 40 CFR 53.14(c) that the original designation or a new designation applies to the method as modified or until he has applied for and received notice under 40 CFR 53.8(b) of a new reference or equivalent method determination for the analyzers as modified.

Aside from occasional breakdowns or malfunctions, consistent or repeated noncompliance with any of these conditions should be reported to: Director, Atmospheric Research and Exposure Assessment Laboratory, Department E (MD-77), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

Designation of this equivalent method will provide assistance to the States in establishing and operating their air quality surveillance systems and under part 58. Technical questions concerning the method should be directed to the manufacturer. Additional information concerning this action may be obtained from Frank F. McElroy, Methods Research & Development Division (MD-77), Atmospheric Research and Exposure Assessment Laboratory, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, (919) 541-2622.

Erich W. Bretthauer,

Assistant Administrator for Research and Development.

[FR Doc. 92-3630 Filed 2-13-92; 8:45 a.m.]

BILLING CODE 6560-50-M

[FRL-4104-6]

Establishment of the National Environmental Education Advisory Council and Open Public Meeting

Notice is hereby given that the U.S. Environmental Protection Agency has established the National Environmental Education Advisory Council pursuant to section 9 of the National Environmental Education Act (Pub. L. 101-619). The Council is comprised of eleven individuals representing primary and secondary education, colleges and universities, not-for-profit organizations, states, business and industry, and senior Americans. Members will serve one to three year terms and are identified below.

Notice is also hereby given that the Advisory Council will hold an open meeting on February 27-28, 1992, at The Madison Hotel, 15th and M Streets, NW., Washington, DC. The meeting will be held from 9 a.m. to 5 p.m. on February 27th and from 9 a.m. to 3 p.m. on February 28th. The purpose of this first meeting of the Advisory Council is to bring the members up-to-date on how EPA is implementing the new environmental education program under NEEA, to solicit the Council's advice on how EPA is proceeding, and to develop a strategy for the Council's production of a national report to Congress assessing the state environmental education as mandated under section 9(d) of NEEA. Members of the public are invited to attend the meeting and to submit written comments to EPA following the meeting.

Members of the Council and their terms of appointment are as follows:

Primary and Secondary Education Representatives

1. Ms. Fenna Gatty—Science and Computer Teacher, New Haven Unified School District, Searles Elementary School, Union City, California (one year appointment).
2. Dr. Thomasena Woods—Science Supervisor, New Port News Public Schools, Newport News, Virginia (two year appointment).

Colleges and Universities Representatives

3. Dr. Eloy Rodriguez—Professor of Biological Sciences, University of California, Irvine, Irvine, California (one year appointment).
4. Dr. Richard Wilke—Associate Dean and Professor, College of Natural Resources, University of Wisconsin, Stevens Point, Stevens Point, Wisconsin (three year appointment).

Not-for-Profit Organization Representatives

5. Mr. Norbert Hill—Executive Director, American Indian Science and Engineering Society, Boulder, Colorado (two year appointment).
6. Ms. Michelle Perrault—International Vice President and Director of Summer Workshop for Teachers, Sierra Club, San Francisco, California (three year appointment).

States

7. Ms. Peggy Cowan—Science Specialist and Grants Program Manager, Alaska Department of Education, Juneau, Alaska (two year appointment).
8. Mr. John Strickler—Extension States Leader, Forestry Program, Kansas State University, Manhattan, Kansas (three year appointment).

Business and Industry Representatives

9. Ms. Cynthia Harrell Horn—Co-Founder and Boardmember, Environmental Media Association, Los Angeles, California (two year appointment).
10. Mr. Richard Holmgren—Chairman of the Board, James M. Montgomery Consulting Engineers, Inc., Bellevue, Washington (three year appointment).

Senior American Representative

11. Ms. Joan Rosner—Albuquerque, New Mexico and South Miami, Florida (one year appointment).

For additional information regarding the Advisory Council for the upcoming meeting or to submit written comments following the meeting, please contact Ms. Kathleen MacKinnon, Office of Environmental Education (A–107), 401 M Street, SW., Washington, DC 20460, 202–260–4951.

Dated: February 7, 1992.

Kathleen MacKinnon,

Designated Federal Official, National Environmental Education Advisory Council.

[FR Doc. 92–3631 Filed 2–13–92; 8:45 am]

BILLING CODE 6560-50-M

[AMS–FRL–4104–4]

Air Pollution Control; Motor Vehicle Emission Factors

AGENCY: Environmental Protection Agency.

ACTION: Notice of public workshop.

SUMMARY: The Environmental Protection Agency (EPA) is now in the process of revising the highway vehicle emission factor model. The current version of the model, MOBILE4.1, was finalized last year and is being used to develop 1990 base year emission inventories required by the Clean Air Act Amendments of 1990. EPA intends to update this model with a new release, MOBILE5, later this year. This notice announces a public workshop for the purpose of discussing the issues involved in updating the model for use in projecting future year emission factors.

DATES: The workshop will be Thursday, March 5, 1992, from 9 a.m. to 12 p.m. (EST).

ADDRESSES: The workshop will be held at Domino's Farms, 24 Frank Lloyd Wright Drive, Ann Arbor MI 48105; telephone (313) 930–5900.

FOR FURTHER INFORMATION CONTACT: Ms. Lois Bivins, U.S. EPA, Office of Mobile Sources, Emission Control Technology Division, Test and Evaluation Branch, at the address given above. Telephone (313) 668–4325 (FTS 374–8325).

SUPPLEMENTARY INFORMATION: Under section 130 of the Clean Air Act Amendments of 1990, EPA was required to review, and revise if necessary, the emission factors used to estimate emissions of volatile organic compounds (VOC), carbon monoxide (CO), and oxides of nitrogen (NO_x) from area and mobile sources. For highway mobile sources, emission factors for these pollutants are estimated using the highway vehicle emission factor model. This model, first developed in the late 1970s, has been revised periodically to reflect changes in vehicle technology and emission standards, and to incorporate additional data from EPA's emission factor testing programs.

In response to this requirement, EPA released the final version of the MOBILE4.1 model in 1991. This model must be used by States and others with responsibility for preparing 1990 base year emission inventories for those areas in non-attainment for the National Air Quality Standards for ozone and CO. MOBILE4.1 did not include modeling of all of the future vehicle and fuel requirements contained in the 1990 Clean Air Act Amendments, as noted in the **Federal Register** notice of the model's availability (56 FR 42053, August 26, 1991). MOBILE4.1 was developed so as to permit the most accurate possible modeling of base year emission factors, and hence highway mobile source emission inventories, since these inventories will constitute the basis for much of the modeling required in the future.

In addition to the base year emission inventory requirements, nonattainment areas are required to develop projection (future) year emission inventories. The construction of projection inventories for highway mobile sources, a significant contributor to overall emissions, requires development of another version of the highway vehicle mobile source emission factor reflecting the 1990 Clean Air Act Amendment requirements for new vehicles, engines, and fuels. This version of the model, MOBILE5, is in the development process and currently is planned for release by EPA in the Spring of 1992.

The purpose of this workshop is to discuss aspects of the model that EPA intends to review, update, or include in MOBILE5. The workshop will give the audience an opportunity to provide comment on the issues discussed, either at the workshop or subsequently in writing. There are a number of issues involved in developing this model. Among these are the modeling of the "Tier I" tailpipe emission standards, scheduled to be phased in over the mid to late 1990s, and the reformulated gasoline requirements for the most severe ozone nonattainment areas. There are a number of lesser issues to be resolved as well.

The workshop is taking place relatively early in the MOBILE5 development process. As such, EPA is not planning to focus on the presentation of results of any new emission analyses at the workshop, although such results will be presented to the extent available at that time. Office of Mobile Sources (OMS) personnel will provide an overview of the issues and what EPA intends to do in revising the model. This portion of the workshop is likely to end by around noon; additional time will be allowed for discussion. Another public workshop to present results of such revisions will be scheduled nearer the release of MOBILE5, and will be announced through another notice in the **Federal Register**.

Dated: February 7, 1992.

Michael Shapiro,

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. 92-3683 Filed 2-13-92; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4105-2]

Public Water System Supervision Program: Program Revision for the State of Iowa

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given that the State of Iowa is revising its approved State Public Water System Supervision (PWSS) Program. Iowa has adopted (1) drinking water regulations for eight volatile organic chemicals that correspond to the National Primary Drinking Water regulations for eight volatile organic chemicals published by EPA on July 8, 1987 (52 FR 25690) and corrected on July 1, 1988 (53 FR 25108); and (2) public notice regulations that correspond to the revised EPA public notice requirements published on October 26, 1987 (52 FR 41534). EPA has determined that these two sets of State program revisions are no less stringent than the corresponding Federal regulations. This determination was based upon a thorough evaluation of Iowa's PWSS program in accordance with the requirements stated in 40 CFR 142.10. Therefore, EPA has proposed to approve these State program revisions.

All interested parties are invited to request a public hearing. A request for a public hearing must be submitted within thirty (30) days of the date of this Notice to the Regional Administrator, at the address shown below. If a public hearing is requested and granted, this determination shall not become effective until such time following the hearing that the Regional Administrator issues an order affirming or rescinding this action. If no timely and appropriate request for a hearing is received, and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become effective thirty (30) days from this Notice date.

Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request is made within thirty (30) days after this notice, a public hearing will be held.

Requests for a public hearing should be addressed to: Pat Ritchey, Drinking Water Branch, U.S. Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101.

Any request for a public hearing shall include the following:

(1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing;

(2) A brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such hearing; and

(3) The signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

Notice of any hearing shall be given not less than thirty (30) days prior to the time scheduled for the hearing. Such notice will be made by the Regional Administrator in the **Federal Register** and in newspapers of general circulation in the State of Iowa. A notice will also be sent to the person(s) requesting the hearing as well as to the State of Iowa. The hearing notice will include a statement of purpose, information regarding time and location, and the address and telephone number where interested persons may obtain further information. The Regional Administrator will issue an order affirming or rescinding his determination upon review of the hearing record. Should the determination be affirmed, it will become effective as of the date of the order.

ADDRESSES: All documents relating to this determination are available for inspection between the hours of 7:30 a.m. and 4:30 p.m., Monday through Friday at the following locations: U.S. EPA Region VII Drinking Water Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101, and the Iowa Department of Natural Resources Surface and Groundwater Protection Bureau, Wallace State Office Building, 700 East Grand, Des Moines, Iowa 50319.

FOR FURTHER INFORMATION CONTACT: Pat Ritchey, EPA Region VII Drinking Water Branch, at the above address, telephone (913) 551-7409, (FTS) 276-7409.

Authority: Sec. 1413 of the Safe Drinking Water Act, as amended (1986); and 40 CFR 142.10 of the National Primary Drinking Water Regulations.

Dated: November 12, 1991.

Morris Kay,

Regional Administrator, EPA, Region VII.

[FR Doc. 92-3635 Filed 2-13-92; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-4104-9]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared January 27, 1992 Through January 31, 1992 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260-5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 05, 1991 (56 FR 14096).

Draft EISs

ERP No. D-NPS-K61122-AZ Rating EC2, Petrified Forest National Park General Management and Develop Concept Plans, Implementation, Navajo and Apache Counties, AZ.

Summary: EPA expressed environmental concerns because the proposed alternative should include additional measures to minimize impacts to air quality and water quality. EPA requested more information in the FEIS on pollution prevention, sensitive species, and the proposed land acquisition, including the presence of hazardous substances.

ERP No. D-VAD-G99004-TX Rating LO, Dallas-Fort Worth Area National Cemetery Construction/Operation, Site Selection, Cedar Hill, Mansfield and Mountain Creek, Possible section 404 Permit, Dallas and Tarrant Counties, TX.

Summary: EPA has no objections to the proposed project.

Final EISs

ERP No. F-AFS-J65182-MT Spring Creek Timber Sales and Road

Construction/Reconstruction, Implementation, Lewis and Clark National Forest, Musselshell Ranger District, Little Belt Mountains, Meagher and Harlowton, MT.

Summary: EPA recommends development of a monitoring plan to ensure that water quality and fishery resources are fully protected.

Dated: February 11, 1992.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 92-3658 Filed 2-13-92; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-4104-8]

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information (202) 260-5073 or (202) 260-5075.

Availability of environmental impact statments filed February 3, 1992 through February 7, 1992 pursuant to 40 CFR 1506.9

EIS No. 920037, Draft EIS, AFS, CA, Red Hill Planning area Timber Sale, Implementation, Sequoia National Forest, Tule River Ranger District, Tulare County, CA, Due: March 30, 1992, Contact: Susan Marthaller (209) 784-1500.

EIS No. 920038, Draft EIS, AFS, WA, Withrow Timber Sale, Implementation, Wenatchee National Forest, Naches Ranger District, Yakima County, WA, Due: March 30, 1992, Contact: John Durkee (509) 653-2205.

EIS No. 920039, Final EIS, FHW, AR, Siloam Springs Highway Construction, AR 71(AR-412) Siloam Springs to Springdale, Funding, section 404 Permit, Benton and Washington Counties, AR, Due: March 16, 1992, Contact: Carl Kraehmer (501) 324-6430.

Amended Notices

EIS No. 910401, Draft EIS, FAA, MN, Minneapolis-St. Paul International Airport, Runway 4-22 Extension, Funding, Wold-Chamberlain Field, Hennepin County, MN, Due: February 28, 1992, Contact: Glen Orcutt (612) 725-7221. Published FR—11-15-91—Review period extended.

Dated: February 11, 1992.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 92-3637 Filed 2-13-92; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4104-2]

Requests for Comments of the Draft Work Plan for the Grand Canyon Visibility Transport Commission

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of draft work plan, requesting comments and announcing a public meeting.

SUMMARY: Pursuant to section 169B of the Clean Air Act (42 U.S.C. 7492) the Administrator of EPA (the Administrator) has established the Grand Canyon Visibility Transport Commission (the Commission). At its first meeting, the Commission requested the Federal/State coordinating committee (described below) develop a draft workplan for the Commission. On behalf of the Commission, EPA is announcing the availability of the draft work plan, is requesting comments on that draft plan, and is announcing a public meeting to discuss the draft plan.

DATES: Comments must be received no later than March 13, 1992. The public meeting on the draft workplan has been scheduled for 9 a.m., March 6, 1992.

ADDRESSES:

Request for Copies of the Draft Work Plan and Comments

Request for copies of the draft work plan and comments should be sent to Grand Canyon Visibility Transport Commission, c/o Mr. John Core, Secretary/Treasurer, 1001 SW. Fifth Avenue, suite 1000, Portland, Oregon 97204, (503) 220-1660.

Public Meeting

The public meeting will be held in the Lower Level Auditorium, 3003 North Central, Phoenix, Arizona.

Central File

The Commission has voted to establish a central file for its activities. That file is to be maintained by the Commission's Secretary/Treasurer, Mr. John Core, 1001 SW. Fifth Avenue, suite 1000, Portland, Oregon 97204, (503) 220-1660. The central file will be available for inspection during normal business hours. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. John Core, 1001 SW. Fifth Avenue, suite 1000, Portland, Oregon 97204, (503) 220-1660.

SUPPLEMENTARY INFORMATION: Section 169B of the Clean Air Act (42 U.S.C. 7492) authorizes the Administrator of EPA to establish interstate visibility transport regions and associated commissions. Section 169B(f) specifically directs the Administrator to establish a commission for the region affecting the visibility of the Grand Canyon National Park by November 15, 1991.

Under section 169B, visibility transport commissions are to consist, at a minimum, of the Administrator of EPA (or his designee), the Governors of each State in the visibility transport region (or their designees), and representatives of each Federal agency charged with direct management of each Class I area (certain national parks and wildernesses) within the region. Section 169B(c)(3) provides that all representatives of the Federal government shall be ex officio members. The commissions are charged with assessing currently available studies and information pertaining to visibility impairment from sources in the transport region (including potential or projected growth) and are to issue a report to EPA within four years recommending what measures, if any, should be taken under the Clean Air Act to remedy such impairment.

Under his authority in section 169B(c), the Administrator expanded the scope of the Grand Canyon Visibility Transport Commission to include additional Class I areas in the vicinity of the Grand Canyon National Park—what is sometimes referred to as the "Golden Circle" of parks and wilderness areas of the Colorado Plateau. The Administrator established the visibility transport region to include all or part of the following States: Arizona, California, Colorado, New Mexico, Nevada, Oregon, and Utah, and invited the Governors of those States or their designees to participate as members of the Commission.[1] The Administrator also invited the Chief of the U.S. Forest Service and the Directors of the U.S. Bureau of Land Management, U.S. Fish and Wildlife Service, and National Park Service to represent their Federal agencies on the Commission.

In July 1991, EPA formed an ad hoc coordinating committee to facilitate the establishment of the Commission. The coordinating committee consisted of representatives from the affected Federal agencies and several of the affected States. The committee assisted EPA in arranging the first Commission meeting, developing a proposed agenda for that meeting, drafting proposed by-laws for the Commission, and developing proposed organizational structures for the Commission.

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[1] The Administrator also invited the Governor of the State of Idaho to participate on the Commission. The Governor of Idaho has declined to participate on the Commission at this time.

On November 13, 1991, the Commission held its first meeting (see 56 FR 57523 (November 12, 1991)). Commission members (or designated alternates) from the relevant Federal agencies and States participated on the Commission. At that meeting the Commission adopted by-laws and elected officers, but delayed adoption of an organizational structure for the Commission, pending the adoption of a work plan. The Commission requested the assistance of the coordinating committee in drafting a proposed work plan and reporting back to the Commission at its next meeting planned for the Spring of 1992.

On behalf of the Commission, the coordinating committee has developed a draft work plan and, to provide public participation in the development of the proposed work plan, is making it available for public review and is requesting comments on the draft plan.

Among other things, the coordinating committee requests comments on the subjects covered in the work plan, the type of analyses the Commission should conduct, and the availability of data and reports to be used in the analyses. The committee also requests comments on the type of report and issues to be covered in the final Commission report to the Administrator of EPA. In order to meet the schedule for presentation of the workplan at the next Commission meeting, the committee requests that these comments be received no later than March 13, 1992.

Any final decision regarding the work plan and ultimate recommendations to the Administrator will be made by the Commission. As noted, the Commission includes both State and Federal representatives. However, the Federal representatives are ex officio members. The EPA is publishing this notice simply to assist the Commission and the coordinating committee in their efforts to develop, in a timely manner, a work plan for the Commission's activities.

Dated: February 6, 1992.

John Wise,

Acting Regional Administrator.

[FR Doc. 92-3632 Filed 2-13-92; 8:45 am]

BILLING CODE 6560-50-M

[OPP-36185; FRL 4049-4]

Lawn and Garden Pesticide Focus Group

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Under Public Law 94-409, notice is hereby given that the Office of Prevention, Pesticides, and Toxic Substances will be holding a Lawn and Garden Pesticide Focus Group meeting on February 19-20, 1992. The purpose of the meeting is to help EPA gain insight into the views of different organizations on lawn and garden care issues. EPA has invited a balanced group of participants from the lawn and garden care service industry, pesticide manufacturers, environmental and consumer advocates, congressional staff, and public sector representatives including State health and pesticide officials, and Federal Government officials. Since space is limited, those who wish to attend as observers, should contact Dr. Michael Firestone, at the phone number indicated below.

DATES: The meeting will be held on February 19, 1992 from 8:30 a.m. to 6 p.m., and on February 20, 1992 from 8:30 a.m. to 12 p.m.

ADDRESSES: The February meeting will be held at the Holiday Inn at Solomon's Island, Route 2-4, Solomon's Island, Maryland.

FOR FURTHER INFORMATION CONTACT: Dr. Michael Firestone, Office of Prevention, Pesticides and Toxic Substances, 401 M St., SW., Washington, DC 20460, (202) 260-2899.

Dated: February 7, 1992.

Victor J. Kimm,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 92-3636 Filed 2-13-92; 8:45 am]

BILLING CODE 6560-50-F

[AMS-FRL-4104-3]

Nonroad Engines and Vehicles; Public Workshop

AGENCY: Environmental Protection Agency.

ACTION: Notice of public workshop.

SUMMARY: On March 11, 1992, the Environmental Protection Agency (EPA) will hold a public workshop to solicit information on technical characteristics, emissions, potential regulatory strategies and general regulatory issues related to nonroad engines under 50 horsepower.

DATES: The workshop will be convened at 9 a.m. on March 11, 1992. Persons interested in making presentations at the workshop are requested to notify the Agency contact listed below at least two weeks prior to the workshop so that a final agenda can be prepared. Written comment may be submitted to the same Agency contact until April 1, 1992.

ADDRESSES: The workshop will be held at the U.S. EPA Motor Vehicle Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan 48105.

FOR FURTHER INFORMATION CONTACT: Ms. Betsy McCabe, Certification Division, U.S. EPA Motor Vehicle Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan 48105. Telephone: (313) 668-4344, FTS 374-8344.

SUPPLEMENTARY INFORMATION: Section 213(a) of the Clean Air Act (CAA), as amended, requires EPA to conduct a study of emissions from nonroad engines and vehicles. The CAA further requires EPA to regulate emissions from nonroad engines and vehicles within twelve months after completion of the study if the Agency determines that these sources are significant contributors to ozone or carbon monoxide concentrations in more than one area which has failed to attain the national ambient air quality standards (NAAQS) for these pollutants.

EPA finalized the Nonroad Engine and Vehicle Emissions Study—Report and Appendices in November 1991. The report is available for public review in EPA Docket #A-91-24 and also through National Technical Information Services (NTIS). EPA published a notice of availability of the report on January 6, 1992 (57 FR 408). Throughout the nonroad engine and vehicle study process, EPA actively solicited information and comment from interested parties. A public workshop was held on April 3-4, 1991, to discuss the nonroad engine and vehicle study. An informal external technical review group, composed of representatives from a variety of manufacturer associations and State agencies, was convened by EPA to provide informal feedback throughout the development of the study. EPA published a draft of the nonroad engine and vehicle study report for public review in October 1991, and held a public meeting on the nonroad study on October 30, 1991.

The study quantifies, through the use of nonroad equipment emission inventories, the contributions of nonroad sources to air quality problems. The study does not make a determination of significance of emissions from nonroad sources. EPA is addressing the issues of the determination of significance in a separate action and will provide opportunity for public comment on this determination.

The final study indicates that nonroad emissions constitute the single largest known source of uncontrolled VOC, CO, and NO_x emissions. Due to the CAA mandates and the health effects associated with high ambient levels of ozone and CO, EPA is soliciting information relevant to the rulemaking process in advance of the determination of significance. Such information will allow EPA to target the most cost-effective regulatory strategies and proceed with proper test and development programs.

Series of Workshops

Today's notice announces the first of a series of workshops designed to facilitate exchanges of information among interested parties as EPA develops regulatory strategies for nonroad engines. EPA recognizes that continuing involvement by the manufacturing and environmental communities is essential as EPA explores the need for and feasibility of regulatory strategies for nonroad engines. EPA is conducting public workshops to solicit input from the industry and other knowledgeable parties regarding the technologies present in nonroad engines and vehicles, the emissions from such sources, the potential to reduce those emissions, and possible difficulties in doing so.

The workshop announced in today's notice addresses nonroad engines under 50 horsepower, excluding engines used in marine and recreational applications. Examples of types of equipment using engines addressed in this workshop include lawn and garden equipment and small construction, industrial and agricultural equipment.

The following list of issues constitutes a preliminary agenda for the workshop. EPA requests comments on additional items to be included in the agenda.

Issues to be Addressed in the Workshop

A. Definition of the Small Engine Category

EPA requests comment on whether the small engine category should be further subdivided from a technical standpoint for purposes of establishing control strategies. EPA's starting position is to include in one category all nonroad engines under 50 horsepower, excluding engines used in marine and recreational applications. This includes both diesel and gasoline engines. EPA requests comments on the advantages and disadvantages of subdividing this category, and what the subdivisions should be. EPA specifically requests comment on whether recreational applications should be included in this category, whether EPA should address gasoline and diesel engines in separate subdivisions, and whether EPA should consider subdividing engines above and below a horsepower level other than 50.

B. Structure of the Small Engine Market

EPA requests general information on the structure of the small engine manufacturing market, including information on sales volumes, scrappage rates, and useful lives of engines produced by small engine manufacturers, as well as descriptions of engine families produced by each manufacturer. Information on the impacts of recent regulatory activities in California on the industry are also solicited. Confidential information may be submitted to EPA directly without disclosure at the workshop.

C. Testing Programs and Testing Needs

EPA is currently conducting a test program through a contract with Southwest Research Institute to investigate the typical operation of representative small engines and the ability of different test cycles to represent actual in-use emissions from current technology and new technology engines. EPA requests information on typical in-use operation of small engines, any testing that is being or has been conducted on engines with new emission control technologies, and any other testing programs and testing needs. EPA is also interested in the discussion of the limitations of current test procedures and dynamometers for testing small engines, and possibilities for new test procedures and dynamometer designs.

D. Continuing Efforts to Characterize Emissions

In the Nonroad Vehicle and Engine Emissions Study-Report, EPA noted that nonroad inventory estimates could be enhanced by collection of additional data, particularly in the area of emission factors. While existing nonroad emission data allows an adequate assessment of tailpipe emissions from relatively new engines, more information is needed to quantify refueling, evaporative, crankcase, and toxic emissions, and the effects of deterioration and improper maintenance on in-use emissions.

E. Emissions Control Strategies

Workshop participants are requested to provide information on potential emission control strategies and the probable cost and effectiveness of those strategies, including the use of catalysts, Orbital technology for 2-stroke engines, overhead valves, fuel injection, ignition timing, air injection, EGR, enleanment, and others. EPA requests information on control of spillage during refueling and comment on whether EPA should pursue accelerated control of spillage (see Issue F, below). In addition, EPA requests comments on controls for evaporative emissions and crankcase emissions. EPA also solicits information on strategies to reduce in-use deterioration (such as emission control system useful life requirements or warranties, inspection and maintenance programs, rebates on old equipment, etc.). Finally, EPA requests information on possibilities for emission reductions through the use of fuels such as propane, natural gas, methanol, ethanol, reformulated and oxygenated fuels.

F. Spillage Control Strategies

EPA may pursue an accelerated spillage control program. Workshop participants are requested to provide data concerning spillage rates, information concerning available or potential control devices, and information on the probable cost, effectiveness, and safety of those devices. EPA also requests general information on the structure of the fuel can and control device manufacturing market including information on sales volumes and scrappage rates.

G. Additional Topics of Interest

EPA also requests comment or information on any additional incentives or strategies for emission control, including the possibility of a total hydrocarbon standard (allowing, for example, tradeoffs between tailpipe and evaporative and refueling emissions), taxes on high emitting engines and rebates on low emitters, labeling systems to indicate the emission levels of the equipment, and others.

H. Possible Consequences of Emission Control

In considering regulatory strategies for small non road engines and vehicles, EPA must also consider the possible impact of emission controls on noise, energy, and safety factors associated with emissions controls. EPA requests information on the potential for such impacts, and also information on any noise, energy, or safety regulations (e.g. state, local and international) that apply to small nonroad engines and vehicles.

Dated: February 7, 1992.

Michael Shapiro,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 92-3634 Filed 2-13-92; 8:45 am]

BILLING CODE 6560-50-M

[FR 4103-8]

Science Advisory Board, Research Strategies Advisory Committee February 28, 1992

Pursuant to the Federal Advisory Committee Act, Public Law 92-463, notice is hereby given that the Research Strategies Advisory Committee (RSAC) of the Science Advisory Board (SAB) will conduct a meeting on February 28, 1992. The purpose of the meeting will be to review the FY 1994 Strategic Research issues being proposed by EPA's Office of Research and Development. The Committee will examine strategies for 14 issues and will focus on: (1) Determining the adequacy of the strategic direction of each proposal and its funding, (2) the relationship between short- and long-term efforts in this area, and (3) how such efforts are integrated with similar activities elsewhere within and outside of the Agency. The meeting will be held at the Holiday Inn Old Towne, 480 King St., Alexandria, VA 22314. The hotel telephone number is (703) 549-6080. The session will begin at 9 a.m., ending no later than 5 p.m.

The meeting is open to the public, and seating is limited. Any member of the public wishing further information concerning the meeting should contact Mr. Randall C. Bond, Designated Federal Official, Research Strategies Advisory Committee at (202) 260-6552. Those individuals requiring a copy of the Agenda should contact Ms. Janice Jones at the same number. Members of the public wishing to make comments at the sessions should provide those comments to Mr. Bond no later than February 14, 1992. Comments will be limited to 5 minutes, and the Science Advisory Board expects that such items will not be repetitive of previously submitted materials.

Donald G. Barnes,

Director, Science Advisory Board.

[FR Doc. 92-3571 Filed 2-13-92; 8:45 am]

BILLING CODE 6560-50-M

[FRL 4103-7]

Science Advisory Board Environmental Engineering Committee; Open, Meeting

March 4—March 5, 1992.

Pursuant to the Federal Advisory Committee Act, Public Law 92-463, notice is hereby given that the Science Advisory Board's (SAB's) Environmental Engineering Committee (EEC), will conduct a planning, coordination and review meeting on Wednesday, March 4, and Thursday, March 5, 1992. The meeting will be at the One Washington Circle Hotel, One Washington Circle, Presidential Room, Washington, DC 20037. The meeting will begin at 9 a.m. on Wednesday, March 4th and 8:30 a.m. on Thursday, March 5th, 1992 and will adjourn no later than 3 p.m. on March 5th.

At this meeting, the EEC will plan and coordinate the remaining EEC review activities for FY 1992, review draft reports and conduct work sessions for reviews-in-progress, as well as plan follow-up activities to its recent report on leachability phenomena (EPA-SAB-EEC-92-003). Reviews-in-progress include draft reports on the Agency's pollution prevention research strategic plan, explosives and flammables criteria, and bioremediation research program strategy (if available). The pollution prevention draft report resulted from the Pollution Prevention Subcommittee's (PPS) review of April 11 and 12, 1991 on the Agency's research strategic plan for pollution prevention, as well as an editing teleconference which was held by the PPS on September 6, 1991. The explosives and flammables criteria draft report resulted from a review meeting of May 29 and 30, 1991 by the Explosives and Flammables Criteria Subcommittee (EFCS), as well as an editing teleconference which was held by the EFC on January 31, 1992. The bioremediation research program strategy was scheduled for review by the Bioremediation Research Subcommittee on February 10 and 11, 1992, as was annonced in the **Federal Register** on January 17, 1992 (Vol. 57, No. 12, pages 2093-94).

The meeting is open to the public and seating will be on a first come basis. Any member of the public wishing further information on the meeting or those who wish to submit oral or written comments or who wish to attend should contact Dr. K. Jack Kooyoomjian, Designated Federal Official, or Mrs. Diana L. Pozun, Secretary, Science Advisory Board (A101F), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, at Telephone: (202) 260-6552 or FAX (202) 260-7118 by February 26, 1992, in order to be included on the Agenda.

Written comments of any length (at least 15 copies) may be provided to the Committee up until the meeting. The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, each individual or group making an oral presentation will be limited to a total time of five minutes.

Dated: February 3, 1992.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 92-3572 Filed 2-13-92; 8:45 am]

BILLING CODE 6560-50-M

[FRL 4104-1]

Science Advisory Board, Clean Air Scientific Advisory Committee, March 5, 1992

Pursuant to the Federal Advisory Committee Act, Public Law 92-463, notice is hereby given that the Clean Air Scientific Advisory Committee (CASAC) of the Science Advisory Board (SAB) will conduct a meeting on March 5, 1992. The Committee will examine the draft document Review of the Nationa Ambient Air Quality Standards for Carbon Monoxide: 1992 Reassessment of Scientific and Technical Information. The focus of the session will be to assess the document's scientific and technical adequacy. The meeting will be held at the Guest Quarters Suites Hotel, 2515 Meridian Parkway, Durham, North Carolina 27713. The hotel telephone number is (919) 361-4660 and the fax number is (919) 361-2256. The session will begin at 9 a.m., ending no later than 5:p.m.

The meeting is open to the public, and seating is limited. Any member of the public wishing further information concerning the meeting should contact Mr. Randall C. Bond, Designated Federal Official, Clean Air Scientific Advisory Committee at (202) 260-6552. Those individuals requiring a copy of the Agenda should contact Ms. Janice Jones at the same number. Members of the public wishing to make comments at the sessions should provide those comments to Mr. Bond no later than February 24, 1992. Comments will be limited to 5 minutes, and the Science Advisory Board expects that such items will not be repetitive of previously submitted materials.

Donald G. Barnes,

Director, Science Advisory Board.

[FR Doc. 92-3573 Filed 2-13-92; 8:45 am]

BILLING CODE 6560-50-M

[FRL 4103-3]

Intent To Grant an Exclusive Patent License

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to grant an exclusive patent license.

SUMMARY: Pursuant to 37 CFR part 404, EPA hereby gives notice of its intent to grant Aladdin Steel Products, Inc., a small business located in Colville, Washington 99114 an exclusive, royalty-bearing, revocable license to practice the invention described and claimed in U.S. Patent Application Serial No. 07/788899, filed November 7, 1991, entitled "Single Chamber Woodstove with Destruction of Products of Incomplete Combustion Enhanced by a Gaseous-Fueled Pilot Burner." The exclusive license will include U.S. Patent Application Serial No. 07/788899 and all divisions, continuations, continuations-in-part, or extensions thereof, all patents granted from such applications, and all reexamined patents and reissued patents granted in connection with such applications. The announcement of this patent application as available for licensing was made in the January 10, 1992, issue of the **Federal Register** (57 FR 1181).

The proposed exclusive license will contain appropriate terms, limitations and conditions to be negotiated in accordance with 35 U.S.C. 209 and the U.S. Government Patent Licensing Regulation at 37 CFR part 404. EPA will negotiate the final terms and conditions and grant the exclusive license, unless within 60 days from the date of this Notice the EPA Patent Counsel receives, at the address below, written objections to the grant, together with supporting documentation. The Patent Counsel and other EPA officials will review all written responses and then recommend to the Assistant Administrator for Research and Development, for the U.S. Environmental Protection Agency, or his or her designee, who has been delegated the authority to issue patent licenses under 35 U.S.C. 207, whether to grant the exclusive license.

DATES: Comments to this notice must be received by the EPA Patent Counsel at the address listed below by April 14, 1992.

FOR FURTHER INFORMATION CONTACT: Thomas Gorman, Patent Counsel, Office of General Counsel (LE-132G), U.S. Environmental Protection Agency, Washington, DC 20460, Telephone (202) 260-7510.

Raymond B. Ludwiszewski,
Acting General Counsel.

[FR Doc. 92-3577 Filed 2-13-92; 8:45 am]

BILLING CODE 6560-50-M

[OPP-180856; FRL 4003-8]

Pesticide Programs Annual Report on Crisis Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice summarizes the number of crisis exemptions declared and the number of crisis exemptions revoked during fiscal year 1991. During 1991, State and Federal agencies issued 97 crisis exemptions authorizing unregistered pesticide uses in accordance with the regulations in 40 CFR 166.40 pursuant to section 18 of the FIFRA. During this same time period, EPA revoked six crisis exemptions and revoked the authority to utilize the crisis provisions for 5 pesticide uses.

FOR FURTHER INFORMATION CONTACT: By mail: Rebecca S. Cool, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA (703-305-7717).

SUPPLEMENTARY INFORMATION: The regulations pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act require the EPA to issue annually a notice for publication in the **Federal Register** which summarizes the number of crisis exemptions declared and the number of crisis exemptions revoked. Subpart C of 40 CFR part 166 sets forth the regulations pertaining to crisis exemptions. This subpart allows the head of a Federal or State agency to issue a crisis exemption in a situation involving an unpredictable emergency situation when: (1) An emergency condition exists; and (2) the time element with respect to the application of the pesticide is critical, and there is not sufficient time either to request a specific, quarantine, or public health exemption or, if such a request has been submitted, for EPA to complete review of the request. This subpart also provides for EPA review of crisis exemptions and revocation of individual crisis exemptions or the authority of a State or Federal agency to utilize the crisis provisions.

During the fiscal year 1991 (October 1, 1990 through September 30, 1991), a total of 97 crisis exemptions were declared by State and Federal agencies. A breakdown of the FY'91 crisis declarations by State/Federal agency follows:

State/Federal Agency	No. of crisis exemptions	Pesticide	Site
Alabama	2	Fluvalinate	Bees
		Clomazone	Sweet potatoes
Arkansas	7	Bromoxynil	Rice
		Clomazone	Cotton
		Clomazone	Cotton
		Triclopyr	Rice
		Sodium chlorate	Wheat
		Fomesafen	Snap beans
		Clomazone	Sweet potatoes
California	4	Gibberellin acid	Lemons
		Methyl bromide	Sweet potatoes
		Chlorpyrifos	Wheat
		Cyfluthrin	Oranges
Colorado	2	Permethrin	Small grains
		Chlorpyrifos	Wheat
Delaware	1	Cryolite[1]	Potatoes
Florida	5	Propiconazole	Sweet corn
		Chlorothalonil	Mangoes
		Cyromazine[2]	Potatoes
		Ferbam[2]	Mangoes
		Iprodione	Tobacco

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State/Federal Agency	No. of crisis exemptions	Pesticide	Site
Georgia	4	Fluvalinate	Bees
		Permethrin[2]	Southern peas
		Sodium chlorate	Wheat
		Iprodione	Canola
Idaho	2	Chlorpyrifos	Wheat
		Paraquat	Peas, lentils
Illinois	3	Thiabendazole[1]	Field corn
		Iprodione	Field corn
		Nicosulfuron	Field corn
Kansas	3	Permethrin	Wheat
		Primisulfuron/Nicosulfuron	Field corn
		Bifenthrin	Field corn
Louisiana	6	Triadimefon	Strawberries
		Pendimethalin[2]	Sugarcane
		Triclopyr	Rice
		Bromoxynil	Rice
		Sodium chlorate	Wheat
		Cyfluthrin[1]	Sugarcane
Massachusetts	2	Fluvalinate[1] [2]	Bees
		Diflubenzuron	Apples
Michigan	2	Oxytetracycline	Apples
		Bifenthrin	Strawberries
Minnesota	1	Nicosulfuron	Field corn
Mississippi	7	Fluvalinate	Bees
		Bromoxynil	Rice
		Primisulfuron/Nicosulfuron	Field corn
		Triclopyr	Rice
		Sodium chlorate	Wheat
		Sodium chlorate	Rapeseed
		Paraquat	Field corn
Missouri	1	Primisulfuron/Nicosulfuron	Field corn
Montana	2	Esfenvalerate	Small grains
		Malathion	Canola
Nebraska	3	Permethrin	Wheat
		Primisulfuron/Nicosulfuron	Field corn
		Bifenthrin	Field corn
New Jersey	1	Cryolite[1]	Potatoes
New Mexico	3	Chlorpyrifos	Small grains
		Bifenthrin	Corn
		Cyhalothrin	Sorghum
North Carolina	4	Clomazone	Sweet potatoes
		Napropamide	Sweet potatoes
		Fluvalinate	Bees
		Iprodione	Tobacco
Oklahoma	3	Permethrin	Wheat
		Diquat dibromide	Wheat
		Bifenthrin	Field corn
Pennsylvania	1	Cryolite[1]	Potatoes
South Carolina	2	Fluvalinate	Bees
		Acephate	Fresh tomatoes
South Dakota	2	Pendimethalin	Mint
		Chlorpyrifos	Wheat
Tennessee	1	Mancozeb	Tobacco
Texas	10	Iprodione	Cabbage
		Permethrin	Wheat
		Fluvalinate	Bees
		Chlorpyrifos	Wheat
		Sodium chlorate	Wheat
		Permethrin	Rice
		Triclopyr	Rice
		Triadimefon	Cotton
		Bifenthrin	Corn
		Cyromazine	Peppers

State/Federal Agency	No. of crisis exemptions	Pesticide	Site
USDA	10	Fluvalinate	Bees
		Quaternary ammonium	Equipment
		Methyl bromide	Durian
		Zinc phosphide	Potatoes
		Zinc phosphide	Sugar beets
		Zinc phosphide	Beans
		Zinc phosphide	Barley
		Zinc phosphide	Wheat
		Zinc phosphide	Alfalfa
		Zinc phosphide	Grass seed
Wisconsin	2	Sethoxydim	Canola
		Nicosulfuron	Field corn
Wyoming	1	Chlorpyrifos	Wheat

[1] Crisis revoked

[2] Crisis authority revoked

During the 1991 fiscal year, EPA revoked Louisiana's crisis exemption for the use of cyfluthrin on sugarcane to control sugarcane borers; Massachusetts' crisis exemption for the use of fluvalinate to control Varroa mites in honey bee packages; Illinois's crisis exemption for the use of thiabendazole on stored field corn to control storage molds; and Delaware's, New Jersey's, and Pennsylvania's crisis exemptions for the use of cryolite on potatoes to control Colorado potato beetles. EPA also revoked the authority of Florida to issue crisis exemptions for the use of cyromazine on potatoes to control leafminers; the authority of Florida to issue crisis exemptions for the use of ferbam or any other fungicide on mangoes to control anthracnose; the authority of Georgia to issue crisis exemptions for the use of permethrin on southern peas to control cowpea curculio; the authority of Louisiana to issue crisis exemptions for the use of pendimethalin or any other herbicide on sugarcane to control itchgrass and browntop panicum; and the authority of Massachusetts to issue crisis exemptions for the use of fluvalinate to control Varroa mites in honey bee packages.

Authority: 7 U.S.C. 136.

Dated: December 4, 1991.

Allan S. Abramson,

Acting Director, Office of Pesticide Programs.

[FR Doc 92-3574 Filed 2-13-92; 8:45 am]

BILLING CODE 6560-50-F

[FRL-4103-1]

Improved Pump-and-Treat Processes for Remediation of Superfund Sites

AGENCY: Environmental Protection Agency.

ACTION: Request for applications (RFA) ENG-01-92.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is soliciting proposals for research leading to practical methods for enhancing the effectiveness of pump-and-treat systems intended for use at superfund sites. While the treatment aspects of such systems may need improvement, emphasis should be on improving the processes for extracting contaminants from the subsurface. The projects being solicited are envisioned to be completed within two years.

DATES: The original and eight copies of the application must be received no later than the close of business May 15, 1992 to be considered.

I. Background

Many hazardous waste sites have been placed on the National Priority List for cleanup or remediation under Superfund. A wide variety of contaminants can be found at these sites which over a period of time may enter subsurface aquifers and endanger the nation's water supplies.

Organic chemicals are contaminants of particular concern because they occur in large quantities at the waste sites, and may be toxic at low concentrations. These substances include chlorinated and non-chlorinated solvents (e.g. trichloroethylene and benzene), preservatives and pesticides (e.g. creosote and lindane), and wastes from the manufacture of explosives, PCBs, and contaminants is that they are difficult to remove from hazardous waste sites using current technology. These organic compounds often occur as separate liquid phases with densities different than that of water, and their movement may be largely decoupled from that of the groundwater. Many of these compounds are not amenable to biodegradation by naturally occurring microorganisms. Although the treatment of choice is most often extraction from the subsurface followed by surface treatment (pump-and-treat), the majority of pump-and-treat systems fail to meet their design goals or to remediate the site to the level desired. The major problems with pump-and-treat, invariably relate to the difficulty in extracting contaminants from the subsurface. Surface treatment of contaminants once they are removed from the subsurface is not always easy, but on the whole this part of the technology is much better developed than the technology for removing contaminants from the subsurface. New techniques are needed to enhance the effectiveness of pump-and-treat technology.

II. Scope

The purpose of this RFA is to solicit proposals that will result in the development of cost-effective methods to enhance the effectiveness of pump-and-treat remedial actions at superfund sites. Remedial actions as used in this announcement include the use of chemical or physical agents to improve the efficiency of contaminant extraction, direct extraction of separate-phase liquids, and more effective pumping systems for removing dissolved contaminants. The research and development projects being solicited should result in products which have the potential for solicited should result in products which have the potential for application to improving the efficiency of pump-and-treat technology.

The areas listed below are examples of appropriate research topics for the proposals being solicited but are not meant to be all inclusive.

- Chemical or physical agents to enhance contaminant removal from the subsurface.
- Properties of multiphase fluid systems related to the ability to remove the fluids from the subsurface.
- Subsurface processes impacting pump-and-treat systems.

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- Site characterization methods to better define the spatial and temporal distribution of subsurface contaminants.
- Development and testing of simulation models to design and evaluate pump-and-treat systems.

III. Exclusions and Limitations

To be considered in this RFA, projects to improve the effectiveness of pump-and-treat must meet the following requirements:

1. The emphasis of the research must be on improving the efficiency with which hazardous substances can be extracted from the subsurface. Projects whose primary emphasis is to immobilize contaminants in the subsurface will not be considered.

2. Research, whose primary emphasis is on improving the treatment of hazardous materials once they are brought to the surface, will not be considered. Projects that include surface treatment may be considered if the surface treatment is an integral part of a system for improving the efficiency of contaminant extraction from the subsurface, e.g. separation and reuse of chemical agents used to enhance contaminant removal.

3. Technologies to remove hazardous materials using chemical or biochemical transformation processes will only be considered if the transformation enhances the efficiency of removal of the contaminants from the subsurface.

IV. Mechanisms of Support

Assistance under this RFA will be provided by a research grant administered through EPA's research grants program. The applicant will be responsible for planning, directing and executing the proposed research. Support under this program is limited to non-profit research organizations and educational institutions.

Approximately $1.0 million will be available from fiscal 1992 funds, and it is estimated that about 5 or 6 projects will be supported. Each project will be supported for a period of up to 2 years at no more than $100,000 per year. This RFA is for a single competition with a closing date of May 15, 1992.

V. The Application

Each application will consist of the **Application for Federal Assistance Form** (standard forms 424 and 424A) and separate sheets providing the budget breakdown for each year of the project, curriculum vitae for the principal investigators, abstract of the proposed project, and a project narrative. All certification (drug-free workplace, etc.) forms must be signed and included with the application. Application forms, instructions, and other pertinent information are contained in the Federal grant application kit obtainable from: Research Grants Staff (RD-675), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260-7473.

VI. Special Instructions

1. The project narrative section of the application must not exceed twenty-five 8½ × 11 inch, consecutively numbered pages of standard type (10 characters per inch), including tables, graphs and figures. Attachments, appendices and reference lists for the narrative section may be included, but come under the 25 page limitation. The SF-424 and other forms, itemized budget, resumes, and the abstract are not included in the 25 page limitation.

2. Biographical sketches or resumes must not exceed two pages for each principal investigator and should focus on education, positions held, and most recent or related publications.

3. Project periods will be for a maximum of 2 years.

4. Applications in response to this RFA must be identified by printing "RFA Eng-01-92" in item 10 on the face page of form 424. The absence of the above identifier from an application absolves EPA of any responsibility if it is not reviewed along with the other applications responding to the RFA.

VII. Application Review

All applications will be reviewed at a single meeting after the closing date, by a scientific peer review panel that will evaluate and rank each proposal according to its scientific merit as a basis for recommending Agency approval. The panel will consider:

- The quality of research plan including theoretical or experimental design, originality, and creativity
- The qualifications of the research team
- The availability and adequacy of facilities and equipment
- The appropriateness of the proposed budget.

VIII. Application Submission

To be considered, the original and eight copies of the application must be received no later than the close of business on the closing date. The applications must be sent to:

Grants Operations Branch (PM-216F), Grants Administration Division, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460

For overnight express mail, the address is: Grants Operations Branch (202) 260-9266, Grants Administration Division, U.S. Environmental Protection Agency, 499 South Capitol Street, SW., Washington, DC 20460

IX. Staff Contact

Administrative questions relating to this solicitation may be directed to Louis Swaby on (202) 260-7473.

Technical questions should be directed to Stephen Schmelling on (405) 332-8800, ext. 434.

Dated: February 3, 1992.

Robert A. Papetti,

Director, Research Grants Staff.

[FR Doc. 92-3576 Filed 2-13-92; 8:45 am]

BILLING CODE 6560-50-M

[OPPTS-44581; FRL-4046-7]

TSCA Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the receipt of test data on 2-ethylhexanol (CAS No. 104-76-7), submitted pursuant to a final test rule under the Toxic Substances Control Act (TSCA). Publication of this notice is in compliance with section 4(d) of TSCA.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, rm. E-543B, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: Section 4(d) of TSCA requires EPA to publish a notice in the **Federal Register** reporting the receipt of test data submitted pursuant to test rules promulgated under section 4(a) within 15 days after it is received.

I. Test Data Submissions

Test data for 2-ethylhexanol were submitted by the Chemical Manufacturers Association on behalf of the test sponsors and pursuant to a test rule at 40 CFR 799.1645. They were received by EPA on January 21, 1992. The submission describes the oncogenic potential of 2-ethylhexanol in mice after administration by gavage (aqueous emulsion) for 18 months. Health effects testing is required by this test rule. This chemical is used as an intermediate for the production of ester derivatives of various acids, such as phthalic, adipic, and phosphoric acid, which are used as plasticizers; and to make ethylhexyl acrylate. It is also used as a wetting agent in the mercerization of cotton, as a defoamer in textile printing, as a solvent for gums and resins, as a solvent extractant, and as a miscellaneous chemical intermediate.

EPA has initiated its review and evaluation process for these data submissions. At this time, the Agency is unable to provide any determination as to the completeness of the submissions.

II. Public Record

EPA has established a public record for this TSCA section 4(d) receipt of data notice (docket number OPPTS-44581). This record includes copies of all studies reported in this notice. The record is available for inspection from 8 a.m. to 12 noon, and 1 p.m. to 4 p.m., Monday through Friday, except legal holidays, in the TSCA Public Docket Office, rm. NE-G004, 401 M St., SW., Washington, DC 20460.

Authority: 15 U.S.C. 2603.

Dated: January 30, 1992.

James B. Willis,

Acting Director, Existing Chemical Assessment Division, Office of Pollution Prevention and Toxics.

[FR Doc. 92-3575 Filed 2-13-92; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL MARITIME COMMISSION

United States/Australasia Interconference and Carrier Discussion, et al.; Agreements Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 203-011117-010.

Title: United States/Australasia Interconference and Carrier Discussion Agreement.

Parties:

Australia-New Zealand Direct Line,
Blue Star PACE Limited,
Hamburg-Sudamerikanische Dampfschifffahrts-Gesellschaft
Eggert & Amsinck (Columbus Line),
Ocean Star Container Line A.G.,
Pacific Coast/Australia-New Zealand Tariff Bureau,
U.S. Atlantic & Gulf/Australia-New Zealand Conference,
Wilhelmsen Lines AS.

Synopsis: The proposed amendment adds Compagnie Generale Maritime as a party to the Agreement. The parties have requested a shortened review period.

Agreement No.: 203-011117-011.

Title: United States/Australasia Interconference and Carrier Discussion Agreement.

Parties:

Australia-New Zealand Direct Line,
Blue Star PACE Limited,
Compagnie Generale Maritime,
Hamburg-Sudamerikanische Dampfschifffahrts-Gesellschaft
Eggert & Amsinck (Columbus Line),
Ocean Star Container Line, A.G.,
Pacific Coast/Australia-New Zealand Tariff Bureau,
U.S. Atlantic & Gulf/Australia-New Zealand Conference,
Wilhelmsen Lines AS.

Synopsis: The proposed amendment clarifies the agreement authority to permit the parties to discuss and agree upon inland transport, credit and per diem terms, service contract terms and volume rates. It also adds a new provision to allow the parties to file a common tariff with respect to the transportation of any commodity or commodities.

Agreement No.: 203-011256-003.

Title: PNS Agreement.

Parties:

P&O Containers Limited,
Nedlloyd, Lijnen, B.V.,
Sea-Land Service, Inc.,
Compagnie Generale Maritime.

Synopsis: The proposed amendment moves the definition of "equipment" from Article 2 (Purpose) to Article 5 (Agreement Authority). It also clarifies that the term "equipment" includes loaded or empty containers.

By Order of the Federal Maritime Commission.

Dated: February 10, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 92-3541 Filed 2-13-92; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Annual Update of the HHS Poverty Guidelines

AGENCY: Department of Health and Human Services.

ACTION: Notice.

SUMMARY: This notice provides an update of the HHS poverty guidelines to account for last (calendar) year's increase in prices as measured by the Consumer Price Index.

EFFECTIVE DATE: These guidelines go into effect on the day they are published (unless an office administering a program using the guidelines specifies a different effective date for that particular program).

ADDRESSES: Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services (HHS), Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: For information about how the poverty guidelines are used in a particular program, contact the Federal (or other) office which is responsible for that program.

For information about the poverty guidelines in general, contact Joan Turek-Brezina or Gordon Fisher, Office of the Assistant Secretary for Planning and Evaluation, HHS—telephone: (202) 245-6141.

For information about the Hill-Burton Uncompensated Services Program (no-fee or reduced-fee health care services at certain hospitals and other health care facilities for certain persons unable to pay for such care), contact the Office of the Director, Division of Facilities Compliance, HHS—telephone: (301) 443-8512. The Division of Facilities Compliance notes that as set by 42 CFR 124.505(b), the effective date of this update of the poverty guidelines for facilities obligated under the Hill-Burton Uncompensated Services Program is sixty days from the date of this publication.

For information about the Department of Labor's Lower Living Standard Income Level (an alternative eligibility criterion with the poverty guidelines for certain Job Training Partnership Act programs), contact Hugh Davies, Office of Employment and Training Programs, U.S. Department of Labor—telephone: (202) 535-0580.

For information about the number of persons in poverty or about the Census Bureau (statistical) poverty thresholds, contact Kathleen Short, Chief, Poverty and Wealth Statistics Branch, U.S. Bureau of the Census—telephone: (301) 763–8576.

1992 POVERTY GUIDELINES FOR ALL STATES (EXCEPT ALASKA AND HAWAII) AND THE DISTRICT OF COLUMBIA

Size of family unit	Poverty guideline
1	$6,810
2	9,190
3	11,570
4	13,950
5	16,330
6	18,710
7	21,090
8	23,470

For family units with more than 8 members, add $2,380 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)

1992 POVERTY GUIDELINES FOR ALASKA

Size of family unit	Poverty guideline
1	$8,500
2	11,480
3	14,460
4	17,440
5	20,420
6	23,400
7	26,380
8	29,360

For family units with more than 8 members, add $2,980 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)

1992 POVERTY GUIDELINES FOR HAWAII

Size of family unit	Poverty guideline
1	$7,830
2	10,570
3	13,310
4	16,050
5	18,790
6	21,530
7	24,270
8	27,010

For family units with more than 8 members, add $2,740 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)

The preceding figures are the 1992 update of the poverty guidelines required by sections 652 and 673(2) of the Omnibus Budget Reconciliation Act (OBRA) of 1981 (Pub.L. 97–35). As required by law, this update reflects last year's change in the Consumer Price Index (CPI–U); it was done using the same procedure used in previous years.

Section 673(2) of OBRA–1981 (42 U.S.C. 9902(2)) requires the use of the poverty guidelines as an eligibility criterion for the Community Services Block Grant program, while section 652 (42 U.S.C. 9847) requires the use of the poverty guidelines as an eligibility criterion for the Head Start program. The poverty guidelines are also used as an eligibility criterion by a number of other Federal programs (both HHS and non-HHS). When such programs give an OBRA–1981 citation for the poverty guidelines, they cite section 673(2).

The poverty guidelines are a simplified version of the Federal Government's statistical poverty thresholds used by the Bureau of the Census to prepare its statistical estimates of the number of persons and families in poverty. The poverty guidelines issued by the Department of Health and Human Services are used for administrative purposes—for instance, for determining whether a person or family is financially eligible for assistance or services under a particular Federal program. The poverty thresholds are used primarily for statistical purposes. Since the poverty guidelines in this notice—the 1992 guidelines—reflect price changes through calendar year 1991, they are approximately equal to the poverty thresholds for calendar year 1991 which the Census Bureau will publish in late summer 1992.

In certain cases, as noted in the relevant authorizing legislation or program regulations, a program uses the poverty guidelines as only one of several eligibility criteria, or uses a percentage multiple of the guidelines (for example, 130 percent or 185 percent of the guidelines). Some other programs, while not using the guidelines to exclude non-lower-income persons as ineligible, use them for the purpose of giving priority to lower-income persons or families in the provision of assistance or services. In some cases, these poverty guidelines may not become effective for a particular program until a regulation or notice specifically applying to the program in question has been issued.

The poverty guidelines given above should be used for both farm and nonfarm families. Similarly, these guidelines should be used for both aged and non-aged units. The poverty guidelines have never had an aged/non-aged distinction; only the Census Bureau (statistical) poverty thresholds have separate figures for aged and non-aged one-person and two-person units.

Definitions

There is no single administrative definition of "income," "family," "family unit," or "household" that is valid for all programs that use the poverty guidelines. Federal programs may use administrative definitions that differ somewhat from the statistical definitions given below; the Federal office which administers a program has the responsibility for making decisions about administrative definitions. Similarly, non-Federal organizations which use the poverty guidelines in non-Federally-funded activities may use administrative definitions that differ from the statistical definitions given below. In either case, to find out the precise definitions used by a particular program, one must consult the office or organization administering the program in question. The following statistical definitions (derived for the most part from language used in U.S. Bureau of the Census, Current Population Reports, Series P–60, No. 175 and earlier reports in the same series) are made available for illustrative purposes only.

(a) *Family.* A family is a group of two or more persons related by birth, marriage, or adoption who live together; all such related persons are considered as members of one family. For instance, if an older married couple, their daughter and her husband and two children, and the older couple's nephew all lived in the same house or apartment, they would all be considered members of a single family.

(b) *Unrelated individual.* An unrelated individual is a person 15 years old or over (other than an inmate of an institution) who is not living with any relatives. An unrelated individual may be the only person living in a house or apartment, or may be living in a house or apartment (or in group quarters such as a rooming house) in which one or more persons also live who are not related to the individual in question by birth, marriage, or adoption. Examples of unrelated individuals residing with others include a lodger, a foster child, a ward, or an employee.

(c) *Household.* As defined by the Bureau of the Census for statistical purposes, a household consists of all the persons who occupy a housing unit (house or apartment), whether they are related to each other or not. If a family and an unrelated individual, or two unrelated individuals, are living in the same housing unit, they would constitute two family units (see next item), but only one household. Some programs, such as the food stamp program and the Low-Income Home

Energy Assistance Program, employ administrative variations of the "household" concept in determining income eligibility. A number of other programs use administrative variations of the "family" concept in determining income eligibility. Depending on the precise program definition used, programs using a "family" concept would generally apply the poverty guidelines separately to each family and/or unrelated individual within a household if the household includes more than one family and/or unrelated individual.

(d) *Family unit.* "Family unit" is not an official U.S. Bureau of the Census term, although it has been used in the poverty guidelines **Federal Register** notice since 1978. As used here, either an unrelated individual or a family (as defined above) constitutes a family unit. In other words, a family unit of size one is an unrelated individual, while a family unit of two/three/etc. is the same as a family of two/three/etc.

(e) *Income.* Programs which use the poverty guidelines in determining eligibility may use administrative definitions of "income" (or "countable income") which differ from the statistical definition given below. Note that for administrative purposes, in many cases, income data for a part of a year may be annualized in order to determine eligibility—for instance, by multiplying by four the amount of income received during the most recent three months.

For statistical purposes—to determine official income and poverty statistics—the Bureau of the Census defines income to include total annual cash receipts before taxes from all sources, with the exceptions noted below. Income includes money wages and salaries before any deductions; net receipts from nonfarm self-employment (receipts from a person's own unincorporated business, professional enterprise, or partnership, after deductions for business expenses); net receipts from farm self-employment (receipts from a farm which one operates as an owner, renter, or sharecropper, after deductions for farm operating expenses); regular payments from social security, railroad retirement, unemployment compensation, strike benefits from union funds, workers' compensation, veterans' payments, public assistance (including Aid to Families with Dependent Children, Supplemental Security Income, Emergency Assistance money payments, and non-Federally-funded General Assistance or General Relief money payments), and training stipends; alimony, child support, and military family allotments or other regular support from an absent family member or someone not living in the household; private pensions, government employee pensions (including military retirement pay), and regular insurance or annuity payments; college or university scholarships, grants, fellowships, and assistantships; and dividends, interest, net rental income, net royalties, periodic receipts from estates or trusts, and net gambling or lottery winnings.

For official statistical purposes, income does not include the following types of money received: capital gains; any assets drawn down as withdrawals from a bank, the sale of property, a house, or a car; tax refunds, gifts, loans, lump-sum inheritances, one-time insurance payments, or compensation for injury. Also excluded are noncash benefits, such as the employer-paid or union-paid portion of health insurance or other employee fringe benefits, food or housing received in lieu of wages, the value of food and fuel produced and consumed on farms, the imputed value of rent from owner-occupied nonfarm or farm housing, and such Federal noncash benefit programs as Medicare, Medicaid, food stamps, school lunches, and housing assistance.

Dated: February 11, 1992.

Louis W. Sullivan,

Secretary of Health and Human Services.

[FR Doc. 92–3725 Filed 2–13–92; 8:45 am]

BILLING CODE 4150-04-M

Federal Council on the Aging; Meeting

Agency Holding The Meeting: Federal Council on the Aging.

Time and Date: Meeting begins at 9 a.m. and ends at 4:30 p.m. on Thursday, February 27, 1992, and begins at 9 a.m. and ends at 4:30 p.m. on Friday, February 28, 1992.

Place: On Thursday, February 27, 1992, and on Friday, February 28, from 9 a.m. to 4:30 p.m., in the Jefferson Conference Room at the Jefferson Hotel, 16th and M Streets, NW., Washington, DC 20036.

Status: Meeting is open to the public.

Contact Person: Kevin W. Parks, room 4280, Wilbur Cohen Federal Building, 330 Independence Avenue SW., Washington, DC 20201, (202) 619–2451.

The Federal Council on the Aging was established by the 1973 Amendments to the Older Americans Act of 1965 (Pub. L. 93–29, 42 U.S.C. 3015) for the purpose of advising the President, the Secretary of Health and Human Services, the Commissioner on Aging and the Congress on matters relating to the special needs of older Americans.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub. L. 92–453, 5 U.S.C. app. 1, sec. 10, 1976) that the Council will hold its first meeting of 1992 on February 27 and 28, 1992, from 9 a.m. to 4:30 p.m. respectively in the Jefferson Conference Room at the Jefferson Hotel, 16th and M Streets NW., Washington, DC 20036.

The agenda will include: The Council's regular business meeting during the morning session on Thursday, February 27 from 9 to 12 noon. The afternoon session will begin at 1:30 p.m. and end at 4:30 p.m. and will include presentations and discussion of issues facing Older Persons Living Alone.

On Friday, February 28, the morning and afternoon sessions will be devoted to an orientation and training session provided by Congressional Quarterly, Inc., entitled "Understanding Congress." The morning session will be held from 9 a.m. to 12 noon, and the afternoon session will begin at 1 p.m. and end at 4:30 p.m.

Dated: February 7, 1992.

Ingrid C. Azvedo,

Chairperson, Federal Council on the Aging.

[FR Doc. 92–3542 Filed 2–13–92; 8:45 am]

BILLING CODE 4130-01-M

Health Resources and Services Administration

Filing of Annual Report of Federal Advisory Committee

Notice is hereby given that pursuant to section 13 of Public Law 92–463, the Annual Report for the following Health Resources and Service Administration's Federal Advisory Committee has been filed with the Library of Congress:

National Advisory Committee on Rural Health. Copies are available to the public for inspection at the Library of Congress Newspaper and Current Periodical Reading Room, room 1026, Thomas Jefferson Building, Second Street and Independence Avenue, SE., Washington, DC, or weekdays between 9 a.m. and 4:30 p.m. at the Department of Health and Human Services, Department Library, HHS North Building, room G–619, 330 Independence Avenue, SW., Washington, DC, telephone (202) 619–0791. Copies may be obtained from: Mr. Jeffery Human, Executive Secretary, National Advisory Committee on Rural Health, room 14–22, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–0836.

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Dated: February 11, 1992.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 92-3652 Filed 2-13-92; 8:45 am]

BILLING CODE 4160-15-M

Scholarships for the Undergraduate Education of Professional Nurses Grant Program

SUMMARY: A notice was published in the Federal Register (56 FR 55506) on October 28, 1991 to invite comments on a contract required for all scholarship recipients applying for Scholarships for the Undergraduate Education of Professional Nurses (SUEPN) Grant Program under the authority of section 843 of the Public Health Service Act, as added by Public Law 100-607.

In accordance with the statute, the Department requires public or private nonprofit schools which are accredited for the training of professional nurses to require scholarship recipients to sign a contract. Eligible individuals must sign a contract as prescribed by the Secretary, setting forth terms and conditions of the scholarship, including an agreement to serve as a full-time registered nurse upon graduation for a period of not less than 2 years or more than 4 years in an Indian Health Service health center, a Native Hawaiian health center, a public hospital, a migrant health center, a community health center, a nursing facility, in a rural health clinic, or in a health facility determined by the Secretary to have a critical shortage of nurses.

COMMENTS: The comment period on the contract closed December 27, 1991, and the Department received one public comment. The questions by the respondent are addressed below according to the contract headings.

B. Penalties if I Fail To Meet the Service Obligation

The respondent asked if the repayment obligation, once triggered by one of the factors defined in section "B" of the contract, could ever be suspended. Such factors defined under section "B" include: (1) Failure to work as a full-time R.N. in an eligible facility; (2) failure to maintain good standing in the nursing program; (3) voluntary withdrawal from the school before graduating from the program; (4) dismissal by the school for any reason; and (5) failure to become licensed to meet the service obligation.

A service obligation may be suspended and resumed depending on an individual's particualr circumstances. For example, the Department has allowed individuals who have not passed State licensing exams to defer service until licensure is received. Contracts stating the original term of service are reinstated for individuals who are in compliance with all other contractual requirements.

c. Cancellation, Suspension, and Waiver of Obligation

The respondent also questioned if a deferral for service or payment obligation would be possible under section C(2) should the recipient incur a temporary disability.

A deferral would be granted to an individual based on a temporary disability situation if supported by documentation. An individual's service obligation would be temporarily suspended, then resumed after temporary disability no longer exists. This would be covered under the provisions of section C(2)(a), that "meeting the terms and conditions of the contract is impossible or would involve extreme hardship".

Further the respondent questioned whether the inability to function as a registered nurse should be added to the total and permanent disability standard in the cancellation provision of section C(1).

If a SUEPN recipient dies or is determined to be premanently and totally disabled, cancellation of service obligation is made, regardless of whether the individual is a registered nurse or not. Any other condition which would result in a recipient not being able to complete their service obligation would be covered under section C(2)(a), which would "involve extreme hardship" or in section C(2)(b) "enforcement of the obligations would be unconscionable".

The provisions of the contract for the Scholarships for the Undergraduate Education of Professional Nurses (SUEPN) Grant Program, as published on October 28, 1991, are therefore unchanged.

The Office of Management and Budget has approved this contract under control number 0915-0141. Its approval date expires 6/30/93.

Dated: February 10, 1992.

Robert G. Harmon,

Administrator.

[FR Doc. 92-3529 Filed 2-13-92; 8:45 am]

BILLING CODE 4160-15-M

Pre-Application Technical Assistance; Meeting

AGENCY: Health Resources and Services Adminstration, HHS.

ACTION: Notice of public meeting.

SUMMARY: The Health Resources and Services Administration (HRSA) is conducting two concurrent pre-application technical assistance meetings concerning the development of grant applications for the Public Housing Primary Health Care Program authorized under section 340A of the Public Health Service (PHS) Act, and the Health Care for the Homeless Programs including the Outreach and Primary Health Services for Homeless Children Program authorized under section 340 of the PHS Act. These meetings will include a discussion and overview of program requirements and expectations. Eligible applicants for the section 340A program are public or nonprofit private entities that will provide comprehensive primary health care services, health screening, health counseling and education to their targeted residents of public housing. Preference for the Public Housing Primary Care Program will be given to applicants receiving funds under the Health Care for the Homeless Program, community health centers (section 330 of the PHS Act) or certified Resident Management Corporations (section 20 of the U.S. Housing Act of 1937). Eligible applicants under the Health Care for the Homeless Program are public or nonprofit private entities and for the Outreach and Primary Health Services for Homeless Children Program are section 340 grantees, other public and nonprofit private entities that provide primary health services to homeless individuals, and public and nonprofit private children's hospitals that provide primary health services to homeless individuals.

Purpose: The purpose of these meetings is to provide technical assistance to prospective applicants including an overview of the program and its requirements.

For specific information on location, anyone interested in attending these meetings should contact Ms. Tracy McClintock, Division of Special Populations Program Development, Bureau of Health Care Delivery and Assistance, room 7A-22, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301-443-2512).

Date and Time: March 17, and 18, 1992, 8:30 a.m. to 5 p.m.

Place: Washington, DC, and Denver, Colorado.

Dated: Feburary 8, 1992.

Robert G. Harmon,

Administrator.

[FR Doc. 92-3587 Filed 2-13-92; 8:45am]

BILLING CODE 4160-15-M

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Meeting: AIDS Research Advisory Committee, NIAID

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the AIDS Research Advisory Committee, National Institute of Allergy and Infectious Diseases, on March 30-31, 1992, at the National Institutes of Health, building 31C, Conference Room 10, Bethesda, Maryland 20892.

The entire meeting will be open to the public from 9 a.m. until recess on March 30 and from 8:30 a.m. to adjournment on March 31. The AIDS Research Advisory Committee advises and makes recommendations to the Director, National Institute of Allergy and Infectious Diseases, on all aspects of research on HIV and AIDS related to the mission of the Division of AIDS (DAIDS). The Committee is currently focusing its attention on clinical treatment research programs sponsored by DAIDS, the assessment of alternative and complementary therapies, the dissemination of information on research results and clinical trials to physicians and patients, and the implementation of expanded access programs. Attendance by the public will be limited to space available.

Ms. Patricia Randall, Office of Communications, National Institute of Allergy and Infectious Diseases, building 31, room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone 301-496-5717, will provide a summary of the meeting and a roster of the committee members upon request.

Jean S. Noe, Executive Secretary, AIDS Research Advisory Committee, Division of Acquired Immunodeficiency Syndrome, NIAID, NIH, Solar Building, room 2A22, telephone 301-496-0545, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 93.855, Immunologic, Allergic and Immunologic Diseases Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: February 7, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-3626 Filed 2-13-92; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

Statement of Organization, Functions and Delegations of Authority

Part H, Chapter HN (National Institutes of Health) of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services (40 FR 22859, May 27, 1975, as amended most recently at 56 FR 66449-50, December 23, 1991), is amended to reflect the following changes within the National Center for Nursing Research (NCNR). These changes will more clearly define the functions of each organizational component of the Center as it relates to the mission of the NCNR.

Section HN-B, Organization and Functions, is amended as follows:

(1) Under the heading National Center for Nursing Research (HN2), insert the following:

Office of Review (NH22)

(1) Provides policy direction and coordination for the planning and execution of initial scientific and technical review conducted within the National Center for Nursing Research (NCNR) involving applications for grant and contract research; (2) is responsible for supervision and management of the Nursing Science Review Committee and establishment of ad hoc review committees as required; (3) coordinates the identification and selection of qualified experts to serve on review committees and assists with the review of grant applications and contract proposals as required; (4) serves as information and coordination center for all grant applications and contract proposals pending review by the unit; (5) coordinates scientific review activities with staff of NCNR programs and the Division of Research Grants, NIH; (6) maintains uniform policies and procedures governing technical review of grant applications and contract proposals within NCNR; and (7) coordinates the Center's committee management functions and provides staff support to the National Advisory Council for Nursing Research.

Office of Planning, Analysis and Evaluation (HN23)

(1) Advises the Director of the National Center for Nursing Research (NCNR) on policy matters, scientific developments and other relevant issues that may affect programs and initiatives; (2) assists in the establishment of NCNR objectives and in the development or modification of program plans to meet these objectives; (3) structures and conducts the NCNR's planning, analysis and evaluation processes; (4) oversees NCNR's participation in the NIH and Departmental planning, analysis and evaluation processes; (5) coordinates and shares responsibility for the preparation and presentation of the Center's plans and reports; (6) designs, plans, and operates the NCNR computerized information system; and (7) has broad responsibility for the supervision of information resources management and computer related activities of the NCNR.

Office of Information and Legislative Affairs (HN24)

(1) Advises the Director of the National Center for Nursing Research (NCNR) on policy matters and other relevant issues that may affect NCNR programs and initiatives; (2) assists in the establishment of NCNR objectives and in the development or modification of program plans to meet these objectives; (3) plans and directs a broad communications and public information program aimed at disseminating information about the National Center for Nursing Research, its programs, and results from NCNR-supported research projects; (4) serves as liaison with the NIH public affairs and legislative analysis communities, keeping abreast of their policy and program developments; (5) prepares reports, publications, press releases, exhibits, and education programs, and responds to inquiries from the press, professional organizations, scientists, and the general public about the research programs and policies of the NCNR; (6) provides advice and assistance to members of the Center's scientific and administrative staff engaged in research and program reporting; (7) serves as liaison with counterparts in professional nursing and voluntary organizations and encourages joint activities to promote nursing research; and (8) conducts the Center's legislative liaison activities, including drafting testimony, reports and memos concerning NCNR activities, responding to Congressional requests for information, and analyzing and tracking legislation.

Office of Administrative Management (HN25)

(1) Advises the Director of the National Center for Nursing Research (NCNR) on policy matters and other relevant issues that may affect NCNR programs and initiatives; (2) assists in the establishment of NCNR objectives and in the development or modification of program plans to meet these objectives; (3) plans, implements, and evaluates administrative and management services and support to the programs and activities of the NCNR; (4) supervises and directs the formulation, presentation, and execution of the Center's budget and financial management operations; (5) interprets, analyzes, and implements new/revised administrative policies/regulations and

management activities affecting the mission of the Center; (6) provides staffing and personnel management services; (7) performs management analysis functions and provides relevant advice; (8) maintains liaison with the Office of Administration, NIH; (9) directs and coordinates the Center's grants and contracts management function; and (10) has broad responsibility for the supervision of administrative activities related to computer and data processing functions of the NCNR.

Division of Extramural Programs (HN26).

(1) Advises the Director of the National Center for Nursing Research (NCNR) on policy matters, scientific developments, and other relevant issues that may affect NCNR programs and initiatives; (2) assists in the establishment of NCNR objectives and in the development or modification of program plans to meet these objectives; (3) plans and directs a program of research grants, cooperative agreements, contracts, training and fellowship awards for nursing research activities to insure maximum utilization of available resources to attain program objectives; (4) identifies research developments and determines where additional research and training efforts are required; (5) arranges workshops, conferences, seminars, and meetings where appropriate to stimulate or facilitate research in an area; and (6) represents the Center on overall NIH extramural and collaborative program policy committees, coordinates such policy within the Center, and coordinates the Center's research grant and training programs with the National Advisory Council for Nursing Research.

Division of Intramural Research (HN27)

(1) Advises the Director of the National Center for Nursing Research (NCNR) on policy matters, scientific developments, and other relevant issues that may affect NCNR programs and initiatives; (2) assists in the establishment of NCNR objectives and in the development or modification of program plans to meet these objectives; (3) plans and directs the Center's intramural laboratory and clinical research program for nursing research; (4) evaluates research efforts and establishes program priorities; (5) allocates funds, space, and personnel ceilings and integrates new research activities into the program structure; (6) collaborates with other Institute and NIH programs and maintains an awareness of national research efforts in program areas; and (7) advises the Director and staff on the intramural research program and areas of scientific interest to the Center.

Dated: February 4, 1992.

Bernadine Healy,

Director, NIH.

[FR Doc. 92–3627 Filed 2-13-92; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Proposed Arvin-Edison/Metropolitan Water Storage and Exchange Program, Central Valley Project, CA

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability and notice of public hearings on a Draft Environmental Impact Report/Environmental Impact Statement (DEIR/DEIS): INT–DES 92–5.

SUMMARY: Pursuant to section 102(2)(c) of the National Policy Act of 1969, the Council on Environmental Quality Guidelines (40 CFR, part 1500), and section 21002 of the California Environmental Quality Act, the Bureau of Reclamation, (Reclamation), Arvin-Edison Water Storage District (Arvin-Edison), and Metropolitan Water District of Southern California (Metropolitan) have prepared a joint DEIR/DEIS. The purposes of the Arvin-Edision/Metropolitan project are to provide more ground-water storage and better operating efficiencies for Arvin-Edison and Metropolitan. Reclamation involvement stems from the necessity to modify Arvin-Edison's existing water delivery contract for the project to be implemented.

The Arvin-Edison/Metropolitan preferred alternative would allow storage of up to 135,000 acre-feet of water per year in the ground-water basin beneath Arvin-Edison until approximately 800,000 acre-feet of storage is reached. Arvin-Edison would use this stored ground water during dry years in exchange for their Reclamation water which would be diverted for Metropolitan use. Metropolitan would fund construction of additional spreading basins, ground-water pumping facilities, and a water conveyance system within Arvin-Edison boundaries. Other alternatives addressed in the document include: no action, alternate spreading basin locations, and water storage using existing facilities.

DATES: A 60-day public review period begins with the Environmental Protection Agency's publication of DEIS availability in the **Federal Register**. Within that review period, written comments on the DEIR/DEIS may be submitted to the Regional Director, Bureau of Reclamation, at the address provided below.

Public hearings on the DEIR/DEIS will be held on the following dates at the locations indicated.

Hearing 1: March 17, 1992; 1:30 p.m.; Hilton, 2200 Harvard Street, Sacramento, California; (916) 922–4700.

Hearing 2: March 18, 1992; 1:30 p.m.; Arvin High School, Auditorium, Campus Drive, (805) 854–5561.

ADDRESSES: Copies of the DEIR/DEIS may be requested at the following addresses:

- Regional Director, Bureau of Reclamation, Mid-Pacific Regional Office, 2800 Cottage Way, Sacramento CA 95825–1898, Attention: MP–750;
- Arvin-Edison Water Storage District, P.O. Box 175, Arvin CA 93203, Attention: Mr. Cliff Trotter; or
- Metropolitan Water District of Southern California, 1111 Sunset Boulevard, Los Angeles CA 90012, Attention: Mr. Steven Hirsch.

Copies of the DEIR/DEIS are available for inspection at the above addresses and at the following locations:

- Office of the Commissioner, Bureau of Reclamation, Technical Liaison Division, 1849 C Street, NW, Washington DC 20240; telephone: (202) 343–4662 and
- Denver Office, Bureau of Reclamation, Library, Room 167, Building 67, Denver Federal Center, Denver CO 80225; telephone: (303) 236–6963.

Libraries

California State University, 2000 Jed Smith Dr., Sacramento CA 95819. Sacramento County Library, 536 Downtown Plaza, Sacramento CA 95814. Kern County Library, 701 Truxtun Avenue, Bakersfield CA 93301. Los Angeles County Library, 630 W. Fifth Street, Los Angeles CA 90071.

FOR FURTHER INFORMATION CONTACT: Mr. Bob Shaffer, Environmental Specialist, Bureau of Reclamation, Mid-Pacific Region, telephone (916) 978–5487; Mr. Cliff Trotter, Arvin-Edison Water Storage District, telephone (805) 854–5573; or Mr. Steven Hirsch, Metropolitan Water District of Southern California, telephone (213) 250–6165.

SUPPLEMENTARY INFORMATION: The proposed construction would be confined to Arvin-Edison but funded by Metropolitan. It would include the following features:

(1) Expanding Spreading Works—Approximately 600 acres of new spreading facilities would be constructed.

(2) Additional Pipeline Distribution System—Aproximately 17 miles of underground pipeline would be installed to deliver water from the existing Arvin-Edision North Canal to approximately 5,000 acres of land within the existing Arvin-Edison ground-water service area.

(3) Additional Ground-Water Extraction Facilities—To facilitate Arvin-Edison ground-water pumping during dry years, approximately 10 new wells would be drilled, and the services of 37 existing wells would be acquired by Arvin-Edison within the lands served by the new pipeline distribution system.

These facilities would be available for Metropolitan use to store water from the State Water Project (SWP). During relatively wet years, Metropolitan would provide a portion of its SWP entitlement water to Arvin-Edison. This water would be stored in the ground-water basin underlying Arvin-Edison. During drought years, water would be available for us by Metropolitan through an exchange whereby Arvin-Edison would use the previously stored ground water and an equal amount of Reclamation Central Valley Project surface water would be available to Metropolitan.

HEARING PROCESS INFORMATION: Organizations and individuals wishing to present statements at a hearing should contact James Ragan Associates, 2265 Westwood Boulevard, suite 179, Los Angeles, California 90064, telephone (310) 470–0459, to announce their intention to participate. Requests for scheduled presentations will be accepted through 5 p.m. on March 13, 1992, and may also be made at each hearing. Requests should indicate at which hearing the speaker wishes to appear. Advance requests will be called before requests made at the hearings. Oral comments will be limited to 10 minutes per individual. Speakers not present when called will lose their privilege in the scheduled order and will be recalled at the end of the scheduled speakers.

Written comments from those unable to attend or those wishing to supplement their oral presentations at the hearings should be submitted to the Regional Director, Bureau of Reclamation, at the above addresses, by April 3, 1992, for inclusion in the hearing record. All comments received during the 60-day public comment period will be addressed in the final environmental impact statement.

Dated: February 3, 1992.

Raymond H. Willms,

Deputy Assistant Commissioner, Resources Management.

[FR Doc. 92–3625 Filed 2–13–92; 8:45 am]

BILLING CODE 4310-09-M

Bureau of Land Management

[NM–921–01–4120–16; G–921–G1–210]

The Establishment of "Category 5" Competitive Royalty Rates of 2% for Underground Mined Coal and 4% for Surface Mined Coal for all Federal Coal Within a Nine (9) County Area of Eastern Oklahoma

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision.

SUMMARY: This announcement gives notice that market competitive royalty rates have been established for Federally owned coal within the nine (9) county area of Eastern Oklahoma that has been determined to be "Qualified" for "Category 5" royalty rate reductions. If the Owners and/or Operators of Federal coal leases within the Oklahoma Counties of Atoka, Coal, Haskell, Latimer, LeFlore, McIntosh, Muskogee, Pittsburg, and Sequoyah can show by application in accordance with the guidelines set forth in BLM Manual 3485 (Reports, Royalties, and Records) that they are eligible to receive reduced royalties under "Category 5", and if they will certify that the Federal coal will be bypassed without a reduced royalty, then they will be granted the following royalty rates, which are the established competitive rates:

1. For all federally owned Oklahoma coal mined in the "Area" by what are commonly known as "Underground Methods", the market competitive reduced royalty rate is established at 2% of the value as set forth in the lease or as determined by the Minerals Management Service; whichever is prevailing.

2. For all federally owned Oklahoma coal mined in the "Area" by what are commonly known as "Surface Methods" the market competitive reduced royalty rate is now established at 4% of the value as set forth in the lease or as determined by the Minerals Management Service; whichever is prevailing.

These "Category 5" competitive royalty rates are to be considered as being in effect, for leases in "good standing" as determined by the Minerals Management Service, since December 17, 1990. all applications, or notices of intentions to file applications, that were received no later than September 30, 1991, shall be eligible for the minimum royalty rates established above. Representatives of the Bureau of Land Management advised all active Federal coal lease operators in the Area by letter, telephone, and **Federal Register** notice (dated June 17, 1991) (56 FR 27771) that the above-mentioned reduced royalty rates, when approved, would be retroactive to December 17, 1990. (It was assumed that all industry representatives knew that the Royalty Reduction Regulations clearly state that all leases must be in "good standing" in order to be eligible for reduced royalties in any category.) Consequently, there was no significant interruption to normal mining activities.

Unless there is overwhelming evidence to the contrary, the above minimum royalty rates shall be in effect for five (5) years from the effective date; i.e., until December 17, 1995, at which time there will be a reassessment to determine if market conditions, etc., still justify these rates.

DATES: Comments must be submitted or postmarked by March 16, 1992.

ADDRESSES: comments may be mailed to the Bureau of Land Management, New Mexico State Office, Minerals Division, (Mail Stop 924), P.O. Box 27115, Santa Fe, New Mexico 87502–7115.

FOR FURTHER INFORMATION CONTACT: Mr. Darwyn F. Pogue, Minerals appraiser, Branch of Appraisals and Evaluations, Minerals Division, New Mexico State Office, Bureau of Land Management, P.O. Box 27115, (Mail Stop 924), Santa Fe, New Mexico 87502–7115, Comm. Phone (505) 438–7466.

BACKGROUND INFORMATION: In September of 1987, Hagler, Bailly, and Company (HBC), a consulting firm contracted by the BLM Washington Office Division of Minerals Policy Analysis and Economic Evaluation (WO–690), published a document entitled "The Competitive Position of Federal Coal in North Dakota, Alabama, and Oklahoma. This document, a detailed and substantiated analytical report, illustrated the lack of any competitive position for the federally owned coal versus private and state owned coal in the three mentioned states, and it further illustrated a strong potential for the Federal coal to be bypassed. The Federal coal was found to have excessive costs in the areas of royalty, bonus, rent, and associated (administrative and environmental) expenses.

Prior to the HBC study there were four "categories" that, in order to prevent bypass and encourage maximum

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recovery, allowed for the reduction of the royalty stipulated in a Federal coal lease by the utilization of mining factors or financial statements, or combinations thereof, to provide justification. However, the HBC document was the groundwork for the BLM decision to establish a fifth "category" based upon certain qualifying criteria. If, after meeting the requirements of this criteria, it was affirmed that the Federal coal involved was not market competitive, and therefore subject to being bypassed, then states and/or areas could be designated as being qualified for royalty reductions under this fifth category, and the Federal lease owner/operators could be eligible and make application for reduced royalties.

The New Mexico State Office of the Bureau of Land Management (NMSO) published a "Notice of Decision" in the **Federal Register** on Monday, June 17, 1991, page 27771, that announced that a contiguous nine (9) county area of Oklahoma had satisfied the qualifying criteria and was designated as an "Area" eligible for "Category 5" royalty reductions. The counties are: Atoka, Coal, Haskell, Latimer, LeFlore, McIntosh, Muskogee, Pittsburg, and Sequoyah. Also, as a part of the "Notice of Decision" a request was made for information pertaining to terms and conditions contained in private lease documents. Five (5) coal companies responded with confidential copies of representative documents that indicated the basic contents of the typical private lease, and the intent of the parties involved was verbally confirmed.

Prior to the decision to establish the "Area", the NMSO determined that there would not be any detrimental effects to any Indian coal leases by this action, for there are no active Indian coal leases in Oklahoma or any of the neighboring coal producing localities.

The NMSO also determined that there would not be any detrimental effects upon any private or Federal coal leases in neighboring coal producing localities by allowing for "Category 5" royalty rates within the Oklahoma "Area." Coal production from Federal leases in Oklahoma has historically been relatively insignificant in relation to the total state production. For example, in the years of 1989 and 1990 the U.S. Energy Administration reported that the total State of Oklahoma coal production was 3,828,000 short tons (st), yet the total production from Federal leases in Oklahoma was only 247,340 st, or less than 6.5%. The U.S. Energy Administration's "Coal Distribution Reports" indicate that Oklahoma is predominantly a coal importing state, with only minor amounts exported for commercial/industrial uses. Oklahoma consumed over 29,380,000 st during the 1989–1990 calendar years while only producing the 3,828,000 st mentioned above, or 13% of the total consumption. The 1989–1990 total Oklahoma coal exports were approximately 0.2% of the total consumption. The receiving states were Arkansas, Kansas, Missouri, and Texas; all of which are also predominantly coal importing states. The Oklahoma coal imported into these states has had no adverse effects upon the local markets, and none are expected as a result of this action.

Therefore, since Oklahoma coal production from Federal leases has historically been relatively insignificant, and since the NMSO has determined that the establishment of market competitive reduced royalty rates will not create any detrimental effects on Indian coal leases, neighboring coal producing areas, or Oklahoma private coal lease production, market competitive royalty rates have been determined that are appropriate for the "Area."

A definitive market comparison analysis prepared by the NMSO and BLM Washington office personnel, utilizing data from Oklahoma coal producers and State of Oklahoma government sources, has determined that the following royalty rates will prevent bypass, encourage continued development, and allow federally owned coal in Oklahoma to be mined in a fair and market competitive manner:

1. Coal mined from Federal leases by what are commonly known as "Underground Methods" shall be eligible for a market competitive royalty rate of 2% of the value as stipulated by the terms of the lease, as modified, or as determined by the U.S. Minerals Management Services, whichever is prevailing.

2. Coal mined from Federal leases by what are commonly known as "Surface Methods" shall be eligible for a market competitive royalty rate of 4% of the value as determined by the terms of the lease, as modified, or as determined by the U.S. Minerals Management Service, whichever is prevailing.

Applicants for royalty reductions under this category are cautioned that they must carefully follow the guidelines that are contained in BLM Manual 3485—Reports, Royalties, and Records. If any points contained within this Manual are in need of clarification, applicants should contact the BLM Solid Minerals personnel in the Tulsa District Office, the New Mexico State Office in Santa Fe, or the Washington Office.

Prior to the publication of the decision, a statement explaining this action was submitted to the Office of the Governor of the State of Oklahoma, and that office has concurred that the action is appropriate. The Governor of Oklahoma supports the decision that this action will prevent the bypass of Federal coal reserves, will not result in any adverse effects upon neighboring coal producing areas, and will have a positive effect upon the Oklahoma coal market and the Oklahoma economy.

Dated: February 7, 1992.

Monte Jordan,

Acting State Director, Bureau of Land Management, New Mexico State Office.

[FR Doc. 92–2598 Filed 2–13–92; 8:45 am]

BILLING CODE 4310-FB-M

[NV-010-92-4130-09]

Elko District, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent to prepare an Environmental Impact Statement on an amendment to a mining Plan of Operations for Newmont Gold Company in Eureka and Elko Counties, Nevada; and notice of scoping period and public meetings.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 and 43 CFR part 3809, the Bureau of Land Management will prepare an Environmental Impact Statement on the impacts of a proposed amendment to an existing Plan of Operations for gold mining by Newmont Gold Company, in Eureka and Elko Counties, Nevada. The Bureau invites comments on the scope of the analysis.

EFFECTIVE DATES: Scoping meetings will be held April 7, 1992 at the Bureau of Land Management, Elko District Office, 3900 E. Idaho, Elko, NV, and on April 8, 1992 at the Holiday Inn, 1000 E. 6th St., Reno, NV, to identify issues and concerns to be addressed in the Environmental Impact Statement. Both meetings are scheduled form 7 p.m.–9 p.m. Representatives of Newmont Gold Company will be available to answer questions about the Plan of Operations amendment. Additional scoping meetings may be held as appropriate. Written comments on the Plan of Operations amendment and the scope of the Environmental Impact Statement will be accepted until April 24, 1992. Scoping comments may be sent to: District Manager, Bureau of Land Management, P.O. Box 831, Elko, NV

89801. Attn: Gold Quarry Environmental Impact Statement Coordinator.

A Draft Environmental Impact Statement is expected to be completed by December 1, 1992 and made available for public review and comment. At that time a Notice of Availability of the Draft Environmental Impact Statement will be published in the **Federal Register**. The comment period on the Draft Environmental Impact Statement will be 60 days from the date the Notice of Availability is published.

FOR FURTHER INFORMATION CONTACT: Write to the above address or call Dave Vandenberg at (702) 753–0200.

SUPPLEMENTARY INFORMATION: Newmont Gold Company of Carlin, Nevada has submitted an amendment to its existing Plan of Operations for the Gold Quarry Mine located approximately 7 miles northwest of Carlin, Nevada. The authorized operation includes an open-pit mine, tailing facilities, heap leach facilities, waste rock dumps, a milling complex as well as administrative and maintenance buildings. The proposal is to develop two new pits, expand and deepen the Gold Quarry Pit, enlarge existing waste dumps, develop new heap leach pads, construct a reservoir for water produced from dewatering of the Gold Quarry Pit, construct bioleaching pads, and develop new haul roads and additional ancillary facilities in order to maintain the current production level of gold ore. Additional activities on private lands, including construction of a roasting unit for processing of carbonaceous and sulfide ores, will be undertaken. While part of the proposed expansion would be confined to previously disturbed areas, additional surface disturbance is anticipated on approximately 798 acres of public land and 1604 acres of private lands.

The issues expected to be analyzed in the Environmental Impact Statement are: Surface and groundwater quantity and quality, mine pit water quality, threatened and endangered species, wildlife and fisheries, cultural resources, reclamation, hazardour materials, air quality, soils and watershed, vegetation, visual resources, recreation and wilderness, social and economic values, geology, paleontology, grazing management, access and land use, noise, and cumulative impacts. These topics will be evaluated by an interdisciplinary team and will include review of the proposed Plan of Operations amendment as well as other pertinent environmental documents and studies.

A range of alternatives (including but not limited to alternative reclamation measures and the no-action alternative), as well as mitigating measures, will be considered to evaluate and minimize environmental impacts and to assure that the proposed action does not result in undue or unnecessary degradation of public lands.

Federal, state and local agencies and other individuals or organizations who may be interested in or affected by the Bureau's decision on the amended Plan of Operations are invited to participate in the scoping process with respect to this environmental analysis. These entities and individuals will be invited to submit comments on the Draft Environmental Impact Statement.

It is important that those interested in the Plan of Operations amendment participate in the scoping and commenting processes. To be most helpful, comments should be as specific as possible. The tentative project schedule is as follows:

Begin Public Comment Period—February 14, 1992.
Issuance of Draft Environmental Impact Statement - December 1, 1992.
File Final Environmental Impact Statement - June 15, 1993.
Record of Decision - July 15, 1993.

The Bureau of Land Management's scoping process for the Environmental Impact Statement will include: (1) Identification of issues to be addressed; (2) identification of viable alternatives; and (3) notification of interested groups, individuals and agencies so that additional information concerning these issues, or other additional issues, can be obtained.

Dated: February 5, 1992.

Rodney Harris,
Elko District Manager.

[FR Doc. 92–3307 Filed 2–13–92; 8:45 am]

BILLING CODE 4310-HC-M

[CO-050-4320-12]

Canon City District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 463) that a meeting of the Canon City District Grazing Advisory Board will be held at 8:30 a.m. Thursday, April 2. at the Bureau of Land Management Office, 3170 East Main, Canon City, Colorado.

The purpose of this meeting will be:

1. Discuss proposed Range improvement projects.
2. Initiate, conduct, and settle business pertaining to the expenditures of Range Betterment Funds.
3. Review the FY 1992 Range Program.

SUPPLEMENTARY INFORMATION: This meeting will be open to the public, with a public comment period at 11 a.m. Any member of the public may file with the Board a written statement concerning matters to be discussed at the meeting.

FOR FURTHER INFORMATION CONTACT: Donnie R. Sparks, District Manager, Bureau of Land Management, 3170 East Main Street, Canon City, Colorado 81212 or telephone (719) 275–0631.

Stuart L. Freer,
Associate District Manager.

[FR Doc. 92–3600 Filed 2–13–92; 8:45 am]

BILLING CODE 4310-JB-M

[MT-060-02-4212-13; MTM-80160]

Realty Action; Private Exchange—Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: The Bureau of Land Management proposes to exchange public land for private land with Jim and Norma C. Wood. This proposed exchange involves only the surface estate. The public and private lands are in Chouteau County.

SUMMARY: This exchange facilitates the previous purchase of 1,667.33 acres from Jim and Norma C. Wood. The public will gain additional private lands with habitat for upland game and deer. This exchange if completed will become part of a 2,000 acre wildlife and recreation management area. The area is under joint management with the Department of Fish, Wildlife and Parks and Pheasants Forever. Disposal of the public lands is in conformance with the West HiLine Resource Management Plan. Disposal of public lands with relatively low public value will help meet the management goals for the area where the public will gain private land. This exchange is in the public interest. The Bureau of Land Management advised state and local officials about the proposed exchange.

The following described public lands are suitable for disposal by exchange under section 206 of the Federal Land Management Act of 1976, 43 U.S.C. 1716.

Principal Meridian Montana

T. 25 N., R. 9 E.,

Sec. 11, SE¼NW¼.
Totaling 40 acres.

The United States will exchange this public land to acquire the following described private land:

Principal Meridian Montana

T. 25 N., R 9 E.,
Sec. 13, SW¼SW¼.
Total 40 acres.

DATES: Interested parties may submit comments to the Bureau of Land Management by March 30, 1992. The State Director will weigh adverse comments. The State Director may vacate or change this notice. Without any objections this notice will become the final determination of the Department of the Interior.

ADDRESSES: Submit your comments on this proposed exchange to the address shown below. Information related to the exchange, including the environmental assessment, is available at the same address: Havre Resource Area, Drawer 911, Havre, MT 59501.

SUPPLEMENTARY INFORMATION: The publication of this notice segregates the public lands described above settlement, sale, location and entry under the public land laws. This notice also segregates from the mining laws, but not from exchange under section 206 of the Federal Land Policy and Management Act of 1976. The segregation will last for two years from the date of publication of this notice. This exchange is subject to:

1. A reservation to the United States of a right-of-way for ditches or canals under 43 U.S.C. 945.
2. The reservation to the United States of all federal minerals will occur.
3. The exchange must meet the requirements of 43 CFR 4110.4–2(b).
4. The proposed completion date is April 1992.

Dated: February 6, 1992.

B. Gene Miller,

Acting District Manager.

[FR Doc. 92–3599 Filed 2–13–92; 8:45 am]

BILLING CODE 4310-DN-M

[OR-942-00-4730-12: GP2-124]

Filing of Plats of Survey: Oregon/WA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Oregon State Office, Portland, Oregon, thirty (30) calendar days from the date of this publication.

Willamette Meridian

Oregon

T. 28 S., R. 4 W., accepted December 31, 1991
T. 28 S., R. 5 W., accepted January 9, 1992
T. 36½ S., R. 7 W., accepted January 17, 1992
T. 37 S., R. 7 W., accepted January 17, 1992
T. 35 S., R. 13 W., accepted January 16, 1992
T. 37 S., R. 1 E., accepted January 15, 1992
T. 2 S., R. 8 E., accepted January 27, 1992

Washington

T. 8 N., R. 15 E., accepted January 31, 1992
T. 9 N., R. 15 E., accepted January 22, 1992.

If protests against a survey, as shown on any of the above plat(s), are received prior to the date of official filing, the filing will be stayed pending consideration of the protest(s). A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

The plat(s) will be placed in the open files of the Oregon State Office, Bureau of Land Management, 1300 NE. 44th Avenue, Portland, Oregon 97213, and will be available to the public as a matter of information only. Copies of the plat(s) may be obtained from the above office upon required payment. A person or party who wishes to protest against a survey must file with the State Director, Bureau of Land Management, Portland, Oregon, a notice that they wish to protest prior to the proposed official filing date given above. A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the proposed official filing date.

The above-listed plats represent dependent resurveys, survey and subdivision.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 1300 NE. 44th Avenue, P.O. Box 2965, Portland, Oregon 97208.

Dated: February 6, 1992.

Robert E. Mollohan,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 92–3601 Filed 2–13–92; 8:45 am]

BILLING CODE 4310-33-M

Fish and Wildlife Service

Availability of a Technical/Agency Draft Recovery Plan for the Caribbean Roseate Tern (Sterna dougallii) for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service announces the availability for public review of a draft recovery plan for the Caribbean Roseate Tern (*Sterna dougallii*).

DATES: Comments on the draft recovery plan must be received on or before April 14, 1992 to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contacting the Southeast Regional Office, Richard B. Russell Federal Building, 75 Spring Street SW., Atlanta, Georgia 30303. Written comments and materials regarding the plan should be addressed to Field Supervisor, Caribbean Field Office, P.O. Box 491, Boquerón, Puerto Rico 00622. Comments and materials are available upon request for public inspection, by appointment, during normal business hours at either of the above-mentioned addresses.

FOR FURTHER INFORMATION CONTACT: Mr. Jorge E. Saliva, Caribbean Field Office, P.O. Box 491, Boquerón, PR 00622 (809/851–7297).

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a preliminary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, establish criteria for the recovery levels for downlisting or delisting them, and estimate time for implementing the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*) requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a pubic comment period prior to approval of each new or revised Recovery Plan. The Service and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

This Technical/Agency draft is for the Caribbean roseate tern (*Sterna* *dougallii*), a medium size white and gray seabird. The roseate tern was listed as endangered in the northeastern United States, and threatened in the Carribbean (52 FR 42064) on December 2, 1987 after a status survey of the northeastern United States population revealed a dramatic decline in their numbers.

Roseate terns in the United States Caribbean inhabit some of the rocky and coral offshore islands of Puerto Rico and St. Thomas (U.S. Virgin Islands). In Puerto Rico they nest on the keys off the southwest coast, and in the Culebra archipelago off the east end of the island. In St. Thomas they utilize several offshore islands, sometimes changing islands from year to year. It has been suggested that the apparent decline in numbers may be more of an intermixing of individuals from Virgin Islands and Puerto Rican colonies. Predation and human poaching seem to play an important role in nesting success and colony abandonment in these colonies.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of the plan.

Authority: The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: January 31, 1992.

James P. Oland,

Field Supervisor.

[FR Doc. 92-3597 Filed 2-13-92; 8:45 am]

BILLING CODE 4310-55-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-55 (Sub. 410X)]

Exemption; CSX Transportation, Inc.—Abandonment Exemption—In Raleigh County, WV

Applicant has filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon its 1.32-mile line of railroad between milepost CAN-24.62, at Marsh Fork Junction, and milepost CAN-25.94, at Surveyor, in Raleigh County, WV.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on March 15, 1992 (unless stayed). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by February 24, 1992.[3] Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by March 5, 1992, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Charles M. Rosenberger, CSX Transportation, Inc., 500 Water Street 150, Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by February 19, 1992. Interested persons may obtain a copy of the EA from SEE by writing to it (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 927-6248. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: January 31, 1992.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-3495 Filed 2-13-92; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31979]

CSX Corp. and American Commercial Lines, Inc.—Control and Merger—American Valley Line, Inc.; Decision

AGENCY: Interstate Commerce Commission.

ACTION: Notice of decision accepting application for consideration.

SUMMARY: The Commission is accepting for consideration the application, filed January 15, 1992, by CSX Corporation (CSX) and its subsidiaries, American Commercial Lines, Inc. (ACL), American Commercial Barge Line Company (ACBL), American Valley Line, Inc. (AVL), and by Sequa Corporation (Sequa) and its subsidiaries, The Valley Line Company (Valley Company), and Valley Transportation, Inc. (VTI), for CSX and ACL, through AVL, to acquire from Sequa control of Valley Company and VTI, and to merge AVL into ACL, and also to merge Valley Company and VTI into ACBL. Pursuant to 49 CFR Part 1180, the Commission finds this to be a minor transaction.

DATES: Written comments must be filed with the Interstate Commerce Commission no later than March 16, 1992, and concurrently served on applicant's representatives, the United States Secretary of Transportation, and the Attorney General of the United States. Comments from the Secretary of Transportation and Attorney General of the United States must be filed by March 30, 1992. The Commission will issue a service list shortly thereafter. Comments must be served on all parties of record within 10 days of the Commission's issuance of the service list and confirmed by certificate of service filed with the Commission indicating that all designated individuals and organizations on the service list have been properly served. Applicants' reply is due by April 20, 1992.

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[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] See *Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use statement as long as it retains jurisdiction to do so..

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar (202) 927–5660; [TDD for hearing impaired: (202) 927–5721].

ADDRESSES: Send original and 10 copies of all documents to: Office of the Secretary, Case Control Branch, Attn: Finance Docket No. 31979, Interstate Commerce Commission, Washington, DC 20423.

In addition, concurrently send one copy of all documents to the United States Secretary of Transportation, the Attorney General of the United States, and to applicant's representatives:

Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Room 8201, 400 Seventh St., SW., Washington, DC 20590.
Attorney General of the United States, United States Department of Justice, 10th & Constitution Ave., NW., Washington, DC 20530.
Peter J. Shudtz, CSX Corporation, 901 E. Clay Street, Richmond, VA 23219.
John J. Dowling III, Sequa Corporation, 120 South Central Ave., St. Louis, MO 63105.
G. Paul Moates, Sidley & Austin, 1722 Eye Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION: Applicants seek Commission approval under 49 U.S.C. 11343, *et seq.*, and the provisions of 49 U.S.C. 11321 (Panama Canal Act), for a proposal under which ACL, and thus CSX, will acquire control of Valley Company and VTI and subsequently merge Valley Company and VTI into ACBL. Applicant have submitted an application in accordance with the railroad consolidation procedures, 49 CFR part 1180,[1] and they contend that this is a minor transaction under 49 CFR 1180.2(c).

CSX is a non-carrier holding company that controls motor carriers and a railroad, CSX Transportation, Inc. (CSXT). CSXT is a Class I railroad which operates over 19,000 miles in 20 States, the District of Columbia, and the Province of Ontario, Canada. ACL is a wholly-owned subsidiary of CSX and controls ACBL, an inland barge carrier, and AVL, a non-carrier created to facilitate this transaction. Sequa owns Valley Company and VTI. Under the proposed transaction, AVL will acquire the stock of Valley Company and VTI (also collectively referred to as Valley Line) from Sequa for $138 million. CSX and ACL then will place the AVL stock in a voting trust during the pendency of this proceeding. If the Commission approves the proposed transaction, CSX and ACL will dissolve the voting trust, assume active control of AVL, and effectuate the proposed mergers.

ACBL operates barge transportation service on approximately 7,500 miles of the inland waterway on the Mississippi River System and Gulf Intracoastal Waterway (MRS–GIW).[2] ACBL's fleet includes 2,330 jumbo hopper barges and 198 tank barges. In addition, its affiliate, Hines American Line, Inc. (Hines) owns and operates 26 tank barges and operates 21 tank barges for other owners. ACL owns and operates, through ACBL, approximately 74 towboats of various power ratings. It also operates several towboats through Hines. ACL and its subsidiaries own a coal facility at St. Louis, MO, a liquid commodities terminal at Memphis, TN, and general commodities terminals at Louisville, KY, and Guntersville, AL, where it can handle grain shipments. ACL has fleeting facilities near its terminals and also has similar facilities at 11 other points.

Approximately 90 percent of ACBL's traffic is carried in mainline towing operations, in which large tows may pick up or deliver single barges at any location along the waterway. The remainder of its traffic moves in dedicated service or unit tows, in which large volumes of a single commodity are transported from a single or closely-related group of loading points to a single destination. ACBL's predominant traffic flow consists of coal and grain shipments from points on the Ohio River and upper Mississippi and Illinois Rivers south to domestic points on the Mississippi River or to the Gulf of Mexico for export. Some coal moves from Ohio River points to power plants in the northern states. ACBL also moves alumina, chemicals, iron, and steel from plants on the Gulf of Mexico to processing and distribution facilities in the north. The overwhelming traffic flow is southward, and ACBL aggressively seeks northbound traffic.

Valley Line operates over approximately 5,000 miles of inland waterways, including most of the inland river system of the United States. This includes the Mississippi, Missouri, Ohio, Illinois, Arkansas, and Tennessee Rivers and the Gulf Intracoastal Waterway, as well as their major tributaries. Valley Line operates a fleet of 21 line-haul tow boats, 8 harbor tug boats, and more than 900 barges over these routes. It does not, however, conduct water carrier operations through the Panama Canal. Valley Line and its subsidiaries own river terminal facilities at Memphis, on the Mississippi River, and at Cincinnati, OH, and Evansville, IN, on the Ohio River. They also own fleeting and repair facilities at Vacheria and Marrerro, LA, and at St. Louis.

The majority of the traffic it handles consists of grain, grain products, coal, and other dry bulk commodities, which move to destinations in the Port of New Orleans and the Gulf Intracoastal Waterway, as well as northbound movements from the Gulf of regulated commodities such as steel, sugar, and wood products and bulk products such as alumina, salt, and fertilizer.

In view of Valley Line's size and the primary service territories of ACBL and Valley Line, applicants do not propose significant operational changes, major capital construction projects, or facilities closings. They assert, however, that the transaction will result in operating and service benefits, such as expanded single-system barge services and improved coordination of intermodal services at Valley Line facilities served by CSXT. The combined ACBL/Valley Line, they say, would be able to build on the success achieved by the consolidated ACBL/SCNO operations.[3] It would be able to market transportation contracts for those customers preferring single-system service, thereby eliminating the costs, delays, and inefficiencies incurred by the use of multiple carriers. Furthermore, the addition of Valley Line would enable ACBL to expand its marketing efforts for the transportation of steel products to the Missouri River. Although ACBL has offered less-than-bargeload service for steel products to many points on its system, ACBL has only begun to extend that service to points on the Missouri River since the SCNO acquisition. The introduction of less-than-bargeload transportation to Missouri River points has created some new business opportunities, and the acquisition of Valley Line may create more transportation options for those

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[1] In Finance Docket No. 30300, Corp.—Control—American Commercial Lines, Inc. (not printed), served September 28, 1983, the Commission found that the railroad consolidation regulations, with appropriate modifications, were suitable for consideration of that rail/water consolidation application. In Finance Docket No. 31247, CSX Corp. and American Commercial Lines, Inc.—Cont.—SCNO Acquisition Corp. (not printed), served May 25, 1988 (SCNO), the Commission concluded that the rail consolidation regulations also were appropriate. for that the rail consolidation regulations also were appropriate for that rail/water consolidation. Here, too, they are appropriate for processing this application.

[2] The MRS–GIW includes the Ohio, Illinois, Mississippi, Tennessee, Cumberland, Kanawha, Green, Missouri, and Warrior Rivers, the Tennessee-Tombigbee Waterway, and the Gulf Intracoastal Waterway.

[3] Finance Docket No. 31247, CSX Corp. and American Commercial Lines, Inc.—Cont.—SCNO Acquisition Corp. (not printed), served December 5, 1988.

Missouri River receivers of small steel shipments.

Applicants also contend that the proposed consolidation will create opportunities for new and more efficient rail/barge transportation services, such as has occurred when CSX acquired ACL and when ACL acquired SCNO and Hines. It will expand the limited rail/barge options presently available to Valley Line shippers.

Sequa intends to exit the water carrier business and has placed Valley Line on the market. ACL's acquisition will ensure continuation of the Valley Line service as an integrated part of an efficient organization. Applicants believe that, through coordination of administrative services and operating functions, ACBL can increase the productivity of Valley Line's assets by 15 to 25 percent annually. A principal reason for this increase will be the availability and frequency of ACBL towboats, which will reduce the barge waiting time and help increase frequency to keep the barges loaded. Further, joint purchases of operating materials would save an estimated $165,000 a year, and avoiding duplicative boat overhaul expenses would save about $55,000 per year.

Applicants anticipate that most employees will be retained, although there will be some job loss from the consolidation of administrative functions. Those employees not retained will receive a severance package from ACL.

In addition to deciding whether to accept an application as complete, we also must determine under our consolidation regulations whether a proposed transaction is major, significant, minor, or exempt. On February 3, 1992,[4] The Ohio River Company (ORC) filed a petition to reject the application, arguing that the instant transaction is a significant transaction as defined at 49 CFR 1180.2(b) rather than minor as applicants assert.[5] ORC, which has the fourth largest jumbo dry barge fleet, points out that ACL has the largest jumbo dry barge fleet and Valley Line has the fifth largest as of 1989. According to ORC, the proposed transaction would result in one out of every six barges operating on the inland waterways and a comparable share of towboat horsepower coming under direct railroad control through CSX/ACL. ORC contends that ACL and Valley Line are direct competitors on much of the inland waterway system and thus argues that the transaction is of regional or national significance. Further, it says, the transaction will result in a major market extension within the meaning of 49 CFR 1180.3,[6] because one carrier will expand its service in a market while the other will contract its service in that area.

ORC also says that applicants have not submitted all of the data required by the Commission's regulations for significant transactions or otherwise necessary for the Commission to conduct the required analyses under the controlling statutes and Commission precedent.[7] Therefore, ORC requests that the Commission reject the application as incomplete because of the lack of information. In the alternative, ORC requests the Commission to treat the application as a prefiling notice, designate it as a significant transaction, and require the applicants to furnish the additional data required for significant transactions and otherwise necessary for the required analyses here.

The fact that a combination of two of the largest water carriers is likely to involve direct competitors does not by itself make that combination a significant transaction. The ACL/Valley Line combination will have about 17 percent of the jumbo dry barges owned by the 295 companies which have barges.[8] There are 245 companies operating on some or all of the MRS–GIW system. The top 10 barge operators, each moving more than 10 million short tons, accounted for about 52 percent of the tonnage moved in 1989. By acquiring Valley Line, ACBL will gain only another 2.6 percent of the barge traffic on the MRS–GIW system. It's share will grow to only 12.2 percent of the total market. In these circumstances, an increase of that magnitude shows that the transaction is not significant.

The proposal here has no regional or national significance and does not meet the definition for a major market extension as defined under our rules for rail consolidations. Specifically, it does not involve an extension of water carrier service to a new area, since ACBL already has the authority to serve, and does serve, the Valley Line territory. Nor is ORC correct in its argument that ACBL will expand its service into the territory where Valley Line is contracting its service. There will be no reduction in Valley Line as a result of this transaction. It will become part of the ACBL service already existing in that market. Moreover, as noted previously, 49 CFR 1180.3(c) also defines as significant a transaction "providing significantly more efficient and effective competitive service to a market presently being served." Although applicants assert some efficiency gains from the transaction, these gains are procompetitive yet not significantly so, if true. The anticipated minor increase in ACBL's ability to provide competitive service would be healthy and in the public interest. Accordingly, we conclude that the proposal is a minor transaction as defined in 49 CFR 1180.2(c).

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[4] Applicants replied on February 6, 1992.

[5] As noted, with appropriate modifications, the Commission has applied its rail consolidation regulations at 49 CFR Part 1180 to transactions involving a railroad and a water carrier. These regulations provide at 49 CFR 1180.2(b) that a significant transaction involves at least one class I railroad, acting together with one or more other class I or class II railroads, in a major market extension. It is of regional or national transportation significance as defined in 49 U.S.C. 11345. A minor transaction is one which involves more than one railroad and which is not a major, significant, or exempt transaction. 49 CFR 1180.2(c).

[6] As defined in 49 CFR 1180.3(c) specifically for rail consolidations, a major market extension is a transaction which may significantly increase competition by extending service into a new market, expanding service in a currently served market when another carrier concurrently contracts its service to that market as part of the same transaction, or providing significantly more efficient and effective competitive service to a market presently being served. Under that rule, criteria which can be used to determine if a railroad is proposing to provide a more competitive service to a currently served area include: (1) creating a shorter route; (2) providing enhanced service capabilities (speed is not the only factor); (3) entering an interchange or market generating more than 5,000 cars per year or 5 percent of applicant's traffic; (4) filing the application as a condition of relief to a pending proceeding; and (5) permitting a carrier to become more competitive (extending its length of haul). See, Burlington Northern, Inc.—Control & Merger—St. L., 354 I.C.C. 616, 617 (1978).

[7] The major thrust of ORC's complaint involves the data regarding the present extent of competition between ACL and Valley Line. It complains that applicants' submission relies on outdated conclusions drawn by the Commission in CSX Corp.—Control—American Commercial Lines, Inc. 2 I.C.C.2d 490 (1984), *aff'd sub nom. Crouse Corp.* v. *ICC,* 781 F.2d 1176 (6th Cir. 1986), *cert. denied,* 107 S.Ct. 290 (1986) (CSX/ACL) and SCNO. In CSX/ACL, the Commission concluded that CSX's control of ACL would not diminish or harm the vigorous competition that characterized the inland barge industry or make possible the exercise of market power detrimental to shippers. In SCNO, the Commission said that the barge industry remained highly competitive and unconcentrated and retained its essential character as a market with easy entry and exit. ORC says that the industry has changed so dramatically in the past 11 years that the Commission cannot undertake the analysis of the competitive impact of the transaction required by the Panama Canal Act by merely referencing those prior decisions, and specifically challenges the Commission's conclusion in those cases that the barge industry should be treated for purposes of analysis as a single economic market. As an example of the change, ORC says that only six carriers have the necessary equipment or traffic density and patterns to offer competitive pricing on major long-terms contracts. Therefore, ORC maintains that applicants should have to provide a breakdown of traffic and market shares by traffic lane and by commodity.

[8] This is based on applicants' 1989 data. Some 26 companies have more than 100 barges, 80 companies have 10 or more barges, and 113 companies have only 1 barge.

Regardless of the technical classification (either minor or significant) we assign to this proposal under our rail consolidation rules, the evidence in the application is sufficient for the Commission to discharge its duty under 49 U.S.C. 11321 and 11343–45. Admittedly, as in other areas of transportation, there have been changes in the barge industry since the CSX/ACL decision. The Commission, however, is aware of those changes because it conducted a post-proceeding monitoring process in CSX/ACL which showed no adverse impact. Further, applicants have presented sufficient statistics relative to the industry structure for the necessary analyses under the controlling statutes. Their base year of 1989 is recent enough to constitute an acceptable update from the 1981 proceeding. Since the application complies with our regulations governing minor transactions, we are accepting it for consideration and will deny ORC's rejection request.[9]

The application and exhibits are available for inspection in the Public Docket Room at the Offices of the Interstate Commerce Commission in Washington, DC. In addition, they may be obtained upon request from applicants' representatives named above.

Any interested persons, including government entities, may participate in this proceeding by submitting written comments. Any person who files timely written comments shall be considered a party of record if the person's comments so request. In this event, no petition for leave to intervene need be filed.

Consistent with 49 CFR 1180.4(d)(1)(iii), written comments must contain:

(a) The docket number and title of the proceeding;

(b) The name, address, the telephone number of the commenting party and its representative upon whom service shall be made;

(c) The commenting party's position, *i.e.*, whether it supports or opposes the proposed transaction;

(d) A statement of whether the commenting party intends to participate formally in the proceeding or merely comment upon the proposal;

(e) If desired, a request for an oral hearing with reasons supporting this request; the request must indicate the disputed material facts that can only be resolved at a hearing; and

(f) A list of all information sought to be discovered from applicant carriers.

Because we have determined that the proposal in this proceeding constitutes a minor transaction, no responsive applications will be permitted. The time limits for processing a minor transaction are set forth at 49 U.S.C. 11345(d).

Discovery may begin immediately. We admonish the parties to resolve all discovery matters expeditiously and amicably.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The Ohio River Company's petition filed February 3, 1992, is denied.

2. This proposal is found to be a minor transaction under 49 CFR 1180.2(c).

3. The application in Finance Docket No. 31979 is accepted for consideration.

4. The parties shall comply with all provisions as stated above.

5. This decision is effective on February 14, 1992.

Decided: February 10, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillips, and Emmett. Commissioner Simmons concurred in the result.

Sidney L. Strickland, Jr.,
Secretary.

[FR Doc. 92–3043 Filed 2–13–92; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment Standards Administration; Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and date made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon and Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue NW., room S-3014, Washington, DC 20210.

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[9] Moreover, ORC has failed to show how it or the public will be prejudiced by our processing this proposal as a minor transaction as filed. The parties may conduct discovery regardless of whether we find the proposal to be minor or significant and may use the information they gain through discovery to attempt to demonstrate that circumstances have indeed materially changed in the barge industry or otherwise to establish that the proposal does not meet the standards of 49 U.S.C. 11321 and 11343–45.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

District of Columbia, DC91-(Feb. 22, 1991).	p.All.
Georgia:	
GA91-3(Feb. 22, 1991)	p.All.
GA91-22(Feb. 22, 1991)	p.All.
GA91-23(Feb. 22, 1991)	p.All.
GA91-33(Feb. 22, 1991)	p.All.
Maryland, MD91-16(Feb. 22, 1991).	p.All.
Massachusetts:	
MA91-1(Feb. 22, 1991)	p.421, pp.422-423, 425, p. 427.
MA91-2(Feb. 22, 1991)	p.439, pp.440-441, 443.
MA91-3(Feb. 22, 1991)	p.453, pp.454-456.
MA91-5(Feb. 22, 1991)	p.465, p.466.
New Jersey, NJ91-2(Feb. 22, 1991).	p.701, 703.
New York, NY91-11(Feb. 22, 1991).	p.885, 886.
Pennsylvania:	
PA91-4(Feb. 22, 1991)	p.985, pp.986, 988.
PA91-11(Feb. 22, 1991)	p.1053, p. 1054.
Virginia:	
VA91-5(Feb. 22, 1991)	p.All.
VA91-25(Feb. 22, 1991)	p.All.

Volume II

Illinois:	
IL91-1(Feb. 22, 1991)	p.69, p.77.
IL91-8(Feb. 22, 1991)	p.145, p.146.
Indiana, IN91-6(Feb. 22, 1991).	p.315, p.320.
Kansas, KS91-7(Feb. 22, 1991).	p.369, p.370.
Missouri:	
MO91-8(Feb. 22, 1991)	p.717, p.718.
MO91-9(Feb. 22, 1991)	p.721, pp.722-724.
MO91-12(Feb. 22, 1991)	p.741, p.742.
Texas:	
TX91-3(Feb. 22, 1991)	p.1021, p.1022.
TX91-19(Feb. 22, 1991)	p.All.
TX91-26(Feb. 22, 1991)	p.All.
TX91-27(Feb. 22, 1991)	p.All.
TX91-29(Feb. 22, 1991)	p.All.
TX91-30(Feb. 22, 1991)	p.All.
TX91-32(Feb. 22, 1991)	p.All.
TX91-33(Feb. 22, 1991)	p.All.
TX91-37(Feb. 22, 1991)	p.All.
TX91-38(Feb. 22, 1991)	p.All.
TX91-43(Feb. 22, 1991)	p.All.
TX91-48(Feb. 22, 1991)	p.All.
Wisconsin, WI91-1(Feb. 22, 1991)	p.All.

Volume III

None.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 7th Day of February 1991.

Alan L. Moss

Director, Division of Wage Determinations.

[FR Doc. 92-3376 Filed 2-13-92; 8:45 am]

BILLING CODE 4510-27-M

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 24, 1992.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 24, 1992.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 3rd day of February 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	date of petition	Petition No.	Articles produced
Computalog Drilling Services (Wkrs)	Corpus Christi, TX	02/03/92	01/24/92	26,793	Oil Well Services.
Cor Agra Flour Mill (Wkrs)	Blackwell, OK	02/03/92	01/21/92	26,794	Flour.

APPENDIX—Continued

Petitioner (union/workers/firm)	Location	Date received	date of petition	Petition No.	Articles produced
Dole Packaged Foods Co. (ILWU)	Honolulu, HI	02/03/92	01/20/92	26,795	Pinapple, Fresh, Canned, Juice.
E.W. Bliss, Inc. (Wkrs)	Hastings, MI	02/03/92	01/15/92	26,796	Punch Presses & Forming Presses.
East Texas Pipe Service, Inc. (Co)	Hughes Springs, TX	02/03/92	01/22/92	26,797	Oil, Gas Drilling and Exploration.
Exxon Co. U.S.A. (Wkrs)	New Orleans, LA	02/03/92	01/21/92	26,798	Oil and Natural Gas.
First Seismic Corp (Co)	Oklahoma City, OK	02/03/92	01/24/92	26,799	Services for Oil & Gas Exploration.
First Seismic Corp. (Co)	Dallas, TX	02/03/92	01/24/92	26,800	Services for Oil & Gas Exploration.
First Seismic Corp. (Co)	New Orleans, LA	02/03/92	01/24/92	26,801	Services for Oil & Gas Exploration.
First Seismic Corp. (Co)	Houston, TX	02/03/92	01/24/91	26,802	Service for Oil & Gas Exploration.
First Seismic Corp. (Co)	Midland, TX	02/03/92	01/24/92	26,803	Services for Oil & Gas Exploration.
First Seismic Corp. (Co)	Denver, CO	02/03/92	01/24/92	26,804	Services for Oil and Gas Exploration.
Greaseby Volkman Corp. (Wkrs)	Concordville, PA	02/03/92	01/22/92	26,805	Electric Drives.
Halliburton Services (Wkrs)	Bradford, PA	02/03/92	01/21/92	26,806	Oilfield Services.
J.D. Operating Co., Inc. (Wrks)	Cairnbrook, PA	02/03/92	01/14/92	26,807	Ladies Sleepwear.
John Deere Foundry East Moline (Wkrs)	East Moline, IL	02/03/92	01/10/92	26,808	Ductile Iron Castings.
Kelsey Hayes (UAW)	Mount Vernon, OH	02/03/92	01/13/92	26,809	Drum and Disc Brakes.
Key Tronic (Wkrs)	Cheney, WA	02/03/92	02/02/92	26,810	Electronic Keyboards.
Knox Knitting Co., Inc. (Co)	Creston, NC	02/03/92	01/16/92	26,811	Rib Knitted Fabric.
Loewengart & Co., Inc., (Co)	Mercersburg, PA	02/03/92	01/23/92	26,812	Leather.
Magnetek Louis Allis (IUE)	Milwaukee, WI	02/03/92	01/23/92	26,813	Electric Motors, Machined Components.
Moniterm Corp. (Co)	Minnetonka, MN	02/03/92	01/23/92	26,814	Monitors and Boards for Computer Systems.
Pan American World Airway (Wkrs)	Miami, FL	02/03/92	01/21/92	26,815	Commercial Airline.
Park Drop Forge Co. (Co)	Cleveland, OH	02/03/92	01/20/92	26, 816	Crankshaft.
Ponder Industries, Inc. (Wkrs)	Alice, TX	02/03/92	01/14/92	26,817	Oil Field Equipment and Services.
Pool Company (Wkrs)	Sonora, TX 76950	02/03/92	01/22/92	26,818	Water Hauling.
Production Geophysical Serv., Inc. (Co)	Englewood, CO	02/03/92	01/24/92	26,819	Services for Oil & Gas Exploration.
RMI Sodium Co (Wkrs)	Ashtabula, OH	02/03/92	01/03/92	26,820	Titanum Sponge.
Schlumberger Well Services (Wrkrs)	Corpus Christi, TX	02/03/92	01/22/92	26,821	Oil and Natural Gas.
Schlumberger Well Services (Wkrs)	Alice, TX	02/03/92	01/22/92	26,822	Oil and Natural Gas.
T-M Vacuum Products, Inc. (Wkrs)	Riverton, NJ	02/03/92	01/13/92	26,823	Machined Parts.
Timex Corp. (IAM)	Little Rock, AR	02/03/92	01/22/92	26,824	Watches and Watch Parts.
Valmont Electric, Inc. (Co)	Danville, IL	02/03/92	01/15/92	26,825	Ballasts for Florescent lights.
Wasatch High Voltage (Co)	Salt Lake City, UT	02/03/92	01/23/92	26,826	Monitors and Boards.

[FR Doc. 92-3566 Filed 2-13-92; 8:45 am]

Billing Code 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period of January 1992.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-26,529; Carolina Glove Co., Marshall, NC

TA-W-26,568; Homecraft Manufacturing Co., Newark, NJ

TA-W-26,523; North American Refractories Co., Womelsdorf, PA

TA-W-26,556; Union Camp Corp., Bag Div of Retail Packaging, Lagrange Plant, Lagrange, GA

TA-W-26,571; Kirkwood Industries, Conway Div., Conway, AR

TA-W-26,456; Dayton Castings, Dayton, OH

TA-W-26,567; Hanlin Chemical-WV, Inc., Washington Lands Plant, Moundsville, WV

TA-W-26,483; Custom Concepts, Inc., Gibsonia, PA

TA-W-26,543; Mohawk Tools, Inc., Montpelier, OH

TA-W-26,598; Ferro Corp., Clay Plant, Sebring, OH

TA-W-26,502; B.J.'s Ceramics, Ashland, OH

TA-W-26,584; Varityper, Inc., East Hanover, NJ

In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA-W-26,619; BMY—Wheeled Vehicle Div., Marysville, OH

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-26,615; Tri-State Oil Tools, Inc., Bossier City, LA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-26,593; Coastal Oil and Gas Corp., Exploration & Production Div., Houston, TX

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-26,491; Milk Marketing, Inc., Dairy Farmers Div., Orrville, OH

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-26,594; Dana Corp Warehouse Operations, Fogelsville, PA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-26,603; J.C. Boardman; Wallingford, CT

U.S. imports of flatware and related products including holloware, silver, nickel silver, pewter, stainless steel and plated declined both absolutely and as a percentage of U.S. shipment in 1990 compared in 1989.

TA-W-26,612; Rushton Mining Co., Philipsburg, PA

U.S. imports of coal are negligible.

TA-W-26,616; Tuboscope, Inc., Williston, ND

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-26,664; David Warren Enterprises, Inc., New York, NY

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-26,631; Power Application and Manufacturing Co., Casper, WY

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-26,611; Ozalid Corp., Binghamton, NY

U.S. imports of all types of photocopying machines declined in 1990 compared to 1989 and imports of plain paper copiers and other photocopying machines declined in the first three quarters of 1991 compared to the same period in 1990.

TA-W-26,629; Pancanadian Petroleum Co., Houston, TX

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-26,537; Keystone Forging Co., Northumberland, PA

U.S. imports of iron and steel forgings declined in 1990 compared to 1989 and increased in the first nine months of 1991 compare to the same period in 1990.

TA-W-26,525; S and S Grinders, Canton, OH

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-26,711; Tuboscope, Inc., Houston, TX

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-26,587; American National Can Co., Edison, NJ

Aggregate imports of products like or directly competitive with aerosol cans and coffee cans were negligible during the period under investigation.

TA-W-26,635; Amerada Hess Corp., Tioga District Office, Tioga, ND

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-26,636; Amerada Hess Corp., Tioga Gas Plant, Tioga, ND

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-26,624; Geo Western Drilling Fluids, Bakersfield, CA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-26,509; Emerson Radion Corp., North Bergen, NJ

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-26,650; PPG Industries, Inc., Glass Research & Development Center, Harmerville, PA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-26,741; Sears Roebuck & Co., Melrose Park, IL

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-26,674; Occidental Chemical Corp., North Burlington, NJ

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-26,590; Baroid Corp., Atlas Bradford & Shaffer Div., Houston, Tx & Operating at Various Locations in the Following States: A; AK, B; CA, C; CO, D; LA, E; OK, F; TX, G; WY

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-26,591; Baroid Corp., Baroid Logging/Sperry Sun/MWD/Div, Houston, TX & Operating at Various Locations in The Following States: A; AL, B; AK, C; CA, D; CO, E; LA, F; MS, G; OK, H; TX, I; WY

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

Affirmative Determinations

TA-W-26,508; Elgin Electronics, Erie, PA

A certification was issued covering all workers separatead on or after October 25, 1990.

TA-W-26,545; NTI, Colorado Springs, CO

A certification was issued covering all workers separatead on or after October 30, 1990.

TA-W-26,613; Seagate Technology, Delray Beach, FL

A certification was issued covering all workers separated on or after November 21, 1991 and before May 1, 1992.

TA-W-26,602; International Drilling Fluids, Inc., New Orleans, LA & All Other Operations in the State of Louisiana

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A certification was issued covering all workers separated on or after January 1, 1991 and before January 1, 1992.

TA-W-26,451; B.I. Industries, Inc., Waterbury Felt, Oriskany, NY

A certification was issued covering all workers separated on or after October 9, 1990.

TA-W-26,692; Ardmore Industries, Ardmore, TN

A certification was issued covering all workers separated on or after December 5, 1990.

TA-W-26,572; Loanne Manufacturing Corp., Bloomsburg, PA

A certification was issued covering all workers separated on or after November 7, 1990.

TA-W-26,478; Armstrong Store Fixturer Corp, Pittsburgh, PA

A certification was issued covering all workers separated on or after October 16, 1990.

TA-W-26,620; CAC Microcircuits, Inc., Mt. Carmel, IL

A certification was issued covering all workers separated on or after November 21, 1990.

TA-W-26,742; United Penn Dress Co., York PA

A certification was issued covering all workers separated on or after December 23, 1990.

TA-W-26,597; Etonic Warehouse, Lewiston, ME

A certification was issued covering all workers separated on or after November 8, 1990.

TA-W-26,575; N.H. Industries, Greenville, TX

A certification was issued covering all workers separated on or after October 16, 1990.

TA-W-26,639; Colebrook-Terry, Inc., Colebrook, PA

A certification was issued covering all workers separated on or after November 27, 1990.

TA-W-26,648; Marine Drilling Companies, Inc., Sugarland, TX

A certification was issued covering all workers separated on or after January 1, 1991 and before January 1, 1992.

TA-W-26,623; Country Miss, Inc., Cookeville, TN

A certification was issued covering all workers separated on or after November 21, 1990.

TA-W-26,586; Alba-Waldensian, Inc., Chilhowie, VA

A certification was issued covering all workers separated on or after November 12, 1990.

TA-W-26,609; Nicor Oil and Gas Corp., Denver, CO

A certification was issued covering all workers separated on or after January 1, 1991.

TA-W-26,646; Halliburton Services, Big Spring, TX

A certification was issued covering all workers separated on or after January 1, 1991 and before January 1, 1992.

TA-W-26,626; Jay-Zee Merchandising, Inc., New York, NY

A certification was issued covering all workers separated on or after November 22, 1990.

TA-W-26,627; Jay-Zee, Inc., Maryland Heights, MO

A certification was issued covering all workers separated on or after November 22, 1990.

TA-W-26,589; Baroid Corp, Baroid Drilling Fluids Div., Houston, TX & Operating at Various Locations in the Following States: A; AK, B; AR, C; AR, D; CA, E; CO, F; IL, G; KS, H; KY, I; LA, J; MS, K; MO, L; MT, M; NV, N; NM, O; OH, P; OK, Q; PA, R; SD, S; TX, T; UT, U; WV, V; WY

A certification was issued covering all workers separated on or after July 5, 1991.

I hereby certify that the aforementioned determinations were issued during the month of January, 1992. Copies of these determinations are available for inspection in room C-4318, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons to write to the above address.

Dated: February 10, 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92-3565 Filed 2-13-92; 8:45 am]

BILLING CODE 4510-30-M

Emergency Unemployment Compensation; General Administration Letters for Implementing Title I of the Emergency Employment Compensation Act of 1991

On November 15, 1991, the President signed into law the Emergency Unemployment Compensation Act of 1991 (Pub. L. 102-164), which in title I created the Emergency Unemployment Compensation (EUC) program. On December 4, 1991, the President signed into law Public Law 102-182, which provided amendments to the Emergency Unemployment Compensation Act of 1991, as if such amendments were included in that Act, as of its effective date (weeks of unemployment beginning on and after November 17, 1991).

In its role as principal in the EUC program, the Department of Labor issued controlling guidance for the States and cooperating State agencies in the operating instructions set forth in the Attachments to GAL 4-92, dated November 27, 1991. Based on issues raised by the States and cooperating State agencies, GAL 4-92, Change 1 was issued February 10, 1992, providing changes to, and clarifications of, the operating instructions set forth in the Attachments to GAL 4-92.

Therefore, GALs 4-92, and 4-92, Change 1 (or any subsequent or supplemental operating instructions) provide the essential operating instructions to the States, which administer the EUC program pursuant to agreements between the States and the Secretary of Labor.

Since the States and cooperating State agencies may not vary from the operating instructions in GAL 4-92 and GAL 4-92, Change 1 (or any subsequent or supplemental operating instructions) without the prior approval of the Department of Labor, the GALs are published below.

Signed at Washington, DC on February 10, 1992.

Roberts T. Jones,

Assistant Secretary of Labor.

U.S. Department of Labor

Employment and Training Administration,
Washington, D.C. 20210

Classification UI/EUC
Correspondence symbol TEU
Date: November 27, 1991

Directive: General Administration Letter No. 4-92
To: All State Employment Security Agencies
From: Donald J. Kulick, Administrator for Regional Management
Subject: Emergency Unemployment Compensation Act of 1991, as Amended

1. *Purpose.* To advise State Employment Security Agencies (SESAs) of the provisions of Title I of the Emergency Unemployment Compensation Act of 1991, as amended by H.R. 1724, to provide instructions for implementing the legislation to ensure the timely and accurate payment of benefits, and to provide fiscal and reporting instructions.

2. *References.* The Emergency Unemployment Compensation Act of 1991, Public Law 102-164; H.R. 1724; the Federal-State Extended Unemployment Compensation Act of 1970, as amended; and 20 CFR Part 615.

3. *Background.* Public Law 102-164, as amended by H.R. 1724, created the Emergency Unemployment Compensation (EUC) program. The EUC program provides 13 or 20 weeks of benefits depending on the State's unemployment rate or combination of the State's unemployment rate and

exhaustions. EUC is payable to individuals who have no rights to regular, extended, or additional benefits under any State law. Except where inconsistent with the EUC law (as specifically noted in the attached instructions), the terms and conditions of State law which apply for payment of extended benefits apply to claims for EUC.

The EUC program is administered through a voluntary agreement between a State and the Secretary of Labor. Under the law, EUC becomes payable in a State upon the later of: (1) the week following the week the agreement is signed, or (2) the week beginning November 17, 1991. The program terminates at the end of the last week which begins on or before June 13, 1992. No new EUC claims may be approved for weeks beginning after that date. Public Law 102–164 was enacted on November 15, 1991 and each State entered into an agreement prior to November 17, 1991; therefore, the EUC program became effective in all States on November 17, 1991.

4. *Policy.* It is imperative that this program be implemented in a timely, uniform and effective manner. This will require cooperation and coordination between the Unemployment Insurance Service and the Employment Service in each SESA. On the one hand, payment of benefits should be timely; on the other, eligibility of beneficiaries should be carefully reviewed. At the same time, SESAs are to make every effort to avoid overpayment to EUC claimants and, in the event overpayment is made, to effect timely recovery.

This document furnishes information concerning Title I of Public Law 102–164, as amended, and provides the Department's interpretation of Title I of the Act as it establishes the EUC program. This document also sets forth operating instructions of the Department of Labor to guide the States in implementing the EUC program.

The instructions in this document are issued to the States and cooperating State agencies as guidance provided by the Department of Labor in its role as the principal in the EUC program. As agents of the United States, the States and cooperating State agencies may not vary from the operating instructions in this document (or any subsequent or supplemental operating instructions) without the prior approval of the Department of Labor.

The payment of EUC will be limited to individuals who satisfy the work test for extended benefits. This requires individuals, after being advised of their work search responsibilities, to engage in a sustained and systematic effort to find work and to be willing to apply for and accept any work, within their capabilities (if their reemployment prospects are not good, as provided in Attachment A). Such individuals may not limit the employment they will search for and accept to their higher skills or previous rates of pay or customary occupations. They are required to provide tangible evidence of their efforts to find work each week.

The Employment Service in each SESA must establish effective procedures to refer EUC claimants to jos openings and to facilitate the prompt identification and exchange of eligibility information for the adjudication of EUC claims. All EUC claimants must be registered for work, with the registration containing sufficient information to make a job referral and be in the active file; all claimants, whose job prospects are determined to be "not good", must be provided at least one reinterview for job placement assistance early in the EUC eligibility period.

In the case of a violation of the law and these instructions, be it by a SESA or be it by any State appellate authority in paying EUC, the State may be determined to be responsible for making the United States whole, under the "Lopez Rule." (See Section III.R. of Attachment A.)

5. *Implementation, Fiscal, and Reporting Instructions.* Emergency Unemployment Compensation Implementation, Fiscal and Reporting Instructions are attached. Instructions in the form of regulations will not be issued. This GAL is binding on the States for the operation of this program. This GAL will be published in the **Federal Register**.

6. *Action Required.* Administrators shall provide the above referenced information and instructions to appropriate staff.

7. *Inquiries.* Direct questions to the appropriate Regional Office.

8. *Attachments.* Attachment A, Implementation Instructions; Attachment B, Fiscal Instructions; Attachment C, Reporting Instructions.

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Attachment A—Emergency Unemployment Compensation Implementing Instructions

Title I of Public Law 102–164 created the Emergency Unemployment Compensation (EUC) Program.

I. Section-by-Section Explanation of Title I of Public Law 102–164, as Amended by H.R. 1724

A. Section 1—Title of Program.

Public Law (P.L.) 102–164 may be cited as the "Emergency Unemployment Compensation Act of 1991" and the program established by Title I shall be known as the EUC Program.

B. Section 101—Federal-State Agreements.

1. Agreements.

Subsection (a) provides for administration of the EUC Program through an agreement between the Secretary of Labor and the State. The agreement may be terminated by the State on 30 days' written notice to the Secretary.

2. Eligible Individuals.

Subsection (b) provides for payment of EUC to individuals who:

a. Have exhausted all rights to regular compensation under the State law,

b. Have no rights to compensation (including regular and extended compensation) for a week under such law or any other State unemployment compensation law or to compensation under any other Federal law,

c. Are not paid or entitled to be paid any additional compensation under any such State or Federal law, and

d. Are not receiving compensation for such week under the unemployment compensation law of Canada.

EUC is payable for any week of unemployment which begins in an individual's period of eligibility (as defined in section 106(a)(2) of the Act).

3. Exhaustion of Regular Benefits.

For EUC, subsection (c) defines an exhaustion of regular benefits as occurring when:

a. No regular benefits may be paid because the individual has received all regular compensation available based on employment and/or wages during the base period, or

b. Rights to regular benefits were terminated because of the expiration of the benefit year with respect to which such rights existed.

4. Weekly Amount of EUC Payable; Applicability of Extended Benefit (EB) Provisions.

Subsection (d) provides: (a) That the weekly amount of EUC payable for a week of total unemployment will be equal to the amount of regular compensation (including dependents' allowances) payable during the most recent benefit year, (b) except where inconsistent with the EUC law (as set out in these instructions), the terms and conditions of State law for payment of extended compensation apply to EUC claims, and (c) the maximum amount payable to any individual shall not exceed the amount established in an EUC account for such individual eligible for EUC.

5. Election.

Subsection (e) provides that the Governor of a State in a 13- or 20-week period is authorized to and may elect to trigger off an EB period if State law permits, in order to provide payment of EUC to individuals who have exhausted their rights to regular compensation under the State law.

C. Section 102—EUC Account.

1. Account Establishment.

Subsection (a) provides that an EUC account will be established for each eligible individual who files an application for EUC.

2. Maximum EUC Payable.

Subsection (b) provides that the amount payable as established in each individual account is the lesser of:

a. 100 percent of the total amount of regular compensation (including dependents' allowances) payable with respect to the most recent benefit year, or

b. The applicable limit times the average weekly benefit amount for the benefit year as determined for extended benefits under 20 CFR 615.6.

3. Applicable Limit.

The applicable limit under section 102(b)(2) is:

a. 20, in the case of weeks beginning during a 20-week period.

b. 13, in the case of weeks beginning during a 13-week period.

4. No Reduction of Applicable Limit.

An individual's applicable limit for any week shall not be less than the highest applicable limit in effect for any prior week for which EUC was payable to the individual from the account established for such individual.

5. Increase in Applicable Limit.

If the applicable limit in effect for any week increases to a limit higher than the limit for any prior week, then the applicable limit is the higher limit reduced by the number of prior EUC weeks paid from the account established for the individual.

6. Reduction for Extended Benefits.

An individual's EUC maximum amount shall be reduced (but not below zero) by the aggregate amount of extended compensation (if any) received by the individual related to the same benefit year under the Federal-State Extended Unemployment Compensation Act 1970.

7. Weekly Benefit Amount.

An individual's weekly benefit amount for any week will be equal to the amount of regular compensation (including dependents' allowances) payable under the State law. This is a duplicate provision of section 101(d)(1) of the Act and described at I.B.4. of this GAL.

8. Periods.

Subsections (c) and (d) describe the periods of weeks that an individual may be entitled to EUC.

a. The term "20-week period" means, with respect to any State, the period which begins with the third week after the first week for which the State triggers "On" for a 20-week period and ends with the third week after the first week for which the State triggers "Off" the requirements for a 20-week period.

(i) The requirements are satisfied for a 20-week period in a State if the adjusted rate of insured unemployment in the State for such week and the immediately preceding 12 weeks is at least 5 percent, *or*

(ii) The average rate of total unemployment in such State for the period consisting of the most recent 6-calendar month period (published data) is at least 9 percent.

b. The term "13-week" means, with respect to any State, any period which is not a 20-week period.

9. Special Rules.

Subsection (e) provides special rules related to periods.

a. *Coordination Between Periods.* A 13-week period shall not be in effect for any week if a 20-week period is in effect for such week.

b. *Determining Periods.* A 20-week period or a 13-week period shall last for not less than 13 weeks, except that a 20-week period shall take effect without regard to the 13-week limitation.

c. *Notification by Secretary.* When a determination has been made that a 20-week period or a 13-week period is beginning or ending in a State, the Secretary shall publish such determination in the **Federal Register**.

10. *Effective Dates.*

Subsection (f) provides that EUC becomes payable the later of:

a. (i) The week beginning November 17, 1991, or

(ii) The week following the week in which an agreement is entered into.

b. The program terminates June 13, 1992 and no new EUC claims for benefits may be approved for any week of unemployment beginning after that date; however, individuals paid benefits for the week including June 13 and with a remaining balance may be paid for consecutive weeks after that date provided all other eligibility requirements are satisfied for each week.

11. Reachback Provisions.

a. *In General.* If any individual who has a benefit year that ends after February 28, 1991, such individual shall be entitled to EUC in the same manner as if such individual's benefit year ended no earlier than the last day of the first week following November 16, 1991.

b. *Limitation of Benefits.* If an individual has received rights to both regular and extended benefits, any EUC payable must be reduced by the amount of EB received.

12. Transitional and Special Rules.

Subsection (g) provides that for purposes of determining whether a 20-week period is in effect for the first week in which EUC may be paid, the Act shall be treated as having been in effect for all weeks ending on or after October 19, 1991. For purposes of determining whether a 20-week period shall begin with the first week in which EUC may become payable, the actual and estimated data developed by DOL for a State for the week which ends October 19, 1991 is to be utilized.

D. Section 103—Payments to the States.

1. Amounts.

Subsection (a) authorizes payments to a State, which has entered into an agreement, equal to 100 percent of the amount of EUC payments made by the State in accordance with the Act and these instructions, as determined by the Secretary.

2. UCFE–UCX.

Subsection (b) specifies that a State is not entitled to reimbursement to the extent the State is reimbursed under any other Federal law, and that a State is not entitled to reimbursement for EUC payments to UCFE and UCX claimants under Chapter 85 to the extent the State receives reimbursement under P.L. 102–164 from the funds provided for EUC payments.

3. Method of Payment.

Subsection (c) provides for payments to the States either in advance or by reimbursement in amounts the Secretary estimates for each calendar month. Estimates may be made based on statistical sampling, or other agreed upon methods.

E. Section 104—Financing Provisions

1. EB Account.

Subsection (a) requires the use of funds in the Extended Unemployment Compensation Account (EUCA) in the Unemployment Trust Fund for payments to States for the costs of EUC. Subsection (b) provides that the Secretary of Labor will, from time to time, certify to the Secretary of the Treasury the amounts to be paid to State, and the Secretary of the Treasury will make such payments prior to audit or settlement by the General Accounting Office.

2. Authorization.

Subsection (c) authorizes Congress to appropriate funds to finance costs of EUC administration. Subsection (d) authorizes Congress to appropriate general revenue funds to the EUCA account to cover costs of EUC payable to UCFE/UCX, State and local government, and 26 U.S.C. 501(c)(3) non-profit organization claimants.

F. Section 105—Fraud and Overpayments.

1. Fraud Penalties.

Subsection (a) specifies that if an individual knowingly has made, or caused to be made by another, a false statement or representation or nondisclosure of a material fact and as a result obtains any amount of EUC to which he/she was not entitled, the individual:

a. Shall be ineligible for further EUC, as provided in the provisions of the applicable State law relating to fraudulent claims, and

b. Shall be subject to prosecution under 18 U.S.C. 1001.

2. Recovery of Overpayments.

Subsection (b) specifies that the States shall require repayment of EUC overpayments, except that the State agency may waive repayment if:

a. The individual was without fault in receiving the payment, and

b. Repayment would be contrary to equity and good conscience.

The criteria for the above tests of waiver of overpayments are detailed in the instructions under recovery of overpayments.

Subsection (c)(1) authorizes recovery of EUC overpayments by offset against any EUC payable or against any compensation or amounts in the nature of compensation payable under any other Federal unemployment compensation law (UCFE or UCX) or similar Federal law (TRA, DUA, REPP, AEPP, etc.) administered by the State agency. The period during which EUC overpayments may be recovered by offset is limited to 3 years after the date the improper payment was received, and recoupment may not exceed 50 percent of the individual's weekly benefit payment from which the deduction is made.

3. Fair Hearing.

Subsection (c)(2) prohibits recovery of the overpayment until an appealable determination has been issued and has become final.

4. Review.

Subsection (d) provides that reconsideration and appeal rights from determinations made under the State law also apply to EUC fraud and overpayment determinations. It should be especially noted that such reconsideration and appeal rights apply to all determinations of entitlement to or denial of rights to EUC.

G. Section 106—Definitions.

1. Terms.

Under subsection (a)(1), the following terms have the same meaning as those applied to claims for extended benefits:

a. Compensation
b. Regular Compensation
c. Extended Compensation
d. Additional Compensation
e. Benefit Year
f. Base Period
f. State
g. State Agency
h. State Law
i. Week

The meanings assigned to these terms in the extended benefit regulations (20 CFR part 615) shall apply to the EUC program.

2. Period of Eligibility.

Subsection (a)(2) limits eligibility for EUC by specifying that an individual will have a period of eligibility for EUC for any week:

a. That begins on or after November 17, 1991 and,

b. Begins before June 13, 1992, except that an individual shall not have any period of eligibility unless his/her benefit year ends on or after November 16, 1991 or, in the case of reachback, is treated as having a benefit year ending after such date. (See section 102(f)(3)(A) of the Act.)

Subsection (a)(3) provides that the adjusted rate of insured unemployment (AIUR) shall be computed in the same manner as the rate of insured unemployment is determined under Section 203 of the Federal-State Extended Unemployment Compensation Act of 1970, except that individuals exhausting their rights to regular compensation during the most recent 3 calendar months for which data are available shall be added to the numerator as if they were individuals filing claims for regular compensation.

Subsection (a)(4) defines the term "rate of total unemployment" as follows: The term *rate of total unemployment* (TUR) means, with respect to any period, the average unadjusted total rate of unemployment (as determined by the Secretary) for a State for such period.

c. Subsection (b) provides that any AIUR, or TUR that is computed shall be rounded to the nearest 1/10th percent.

II. The Emergency Unemployment Compensation (EUC) Trigger Mechanism

A. Duration and Periods.

There are two periods or levels of benefits under the EUC program: 20 weeks and 13 weeks.

1. 20-Week Period.

For a State to trigger onto in a 20-week period, one of the following situations must exist:

a. The State average (or "mean") rate of total unemployment (MTUR) for the most recent six-month period for which data are published is at least 9 percent.

OR

b. The State AIUR for the week and the immediately preceding 12 weeks is at least 5 percent.

2. 13-Week Period.

Any State that does not meet either of the criteria for a 20-week trigger is in a 13-week period.

B. Beginning Date for a Period.

The beginning date for a period will be the beginning of the third week after the week in which the requirements specified for that particular period are met.

A period will end with the last day of the third week following the week in which the State no longer meets the requirements for that period.

D. Duration of Periods/Movement Between Periods.

1. 20-Week Period.

Once a State triggers onto a 20-week period, it shall continue in that period for at least 13 weeks, regardless of the trigger level for the State. After the end of 13 weeks in the 20-week period, a State may drop to the 13-week period, if the trigger level dictates this change.

2. 13-Week Period.

If the requirements of the 20-week period are met with respect to a State in a 13-week period, it will move to the higher period at any time, subject to the requirements for beginning and ending dates of periods. (See Sections B and C above.)

E. Trigger Freeze.

The data for the EUC trigger for any one week or month will be frozen as published for purposes of the EUC program even though the data used to compute the values may be subsequently revised.

F. EUC Trigger Notice.

1. Publication and Distribution.

The EUC trigger notice will be published by the U.S. Department of Labor, Unemployment Insurance Service, each Friday. It will be Faxed to the Regional Offices of the Employment and Training Administration (ETA). Regional Offices will then Fax the triggers to their States.

Thus, two separate trigger notices will be produced, one for the permanent EB program and another for the temporary EUC program. Both will be published on the same day of the week, and they will be distributed at the same time.

2. Trigger Notice Format.

The EUC trigger notice will display, by State, the level for the AIUR and the MTUR. It will show how many weeks are currently available in each State. The beginning date of this period and the date of the 13th week will be displayed.

G. Computation of Triggers.

The triggers are to be calculated as follows with all data being rounded to the nearest 1/10th of a percent.

1. AIUR.

The AIUR will be computed by using data from the ETA 5159 and the ETA 539 reports for the most recent reports which are due. The sum of weeks claimed for the current reportable week and the previous 12 weeks from the ETA 539 is divided by 13. This quantity is then added to the most recent three months of regular State exhaustions from the ETA 5159. This result is then divided by the average 12-month covered employment figure as reported on the ETA 539 for the current reportable week.

2. MTUR.

The average or "mean" total unemployment rate is computed by the Bureau of Labor Statistics using the most recently published data. It is the average of six months of non-seasonally adjusted total unemployment in a State divided by the average labor force for the same six-month period. Two different time periods will be involved for any given trigger report since publication of total unemployment data differs by State according to whether the total unemployment is measured directly from the Current Population Survey (CPS) sample ("direct use States") or by a statistically adjusted method ("non-direct use States").

a. *Direct Use States.* The data for the 11 "direct use" States is derived directly from the Current Population Survey sample and is usually published on the first Friday of the month following the month to which the data relates. The direct use States are: California, Florida, Illinois, Massachusetts, Michigan, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and Texas.

b. *Non-Direct Use States.* All other States' data are usually published the second Tuesday of the second month following the month to which the data relates.

3. Initial Computation.

Initial trigger data for the beginning of the EUC program have been set in the EUC legislation. For these data:

a. The AIUR uses actual weeks claimed data through September 28, 1991, which was used to project rates through October 19, 1991, while exhaustions were for the months of July, August and September, 1991—where September data had not been reported, estimates were used.

b. The MTUR is for the 6 months ending in August 1991 for the direct use States and in July 1991 for the non-direct use States.

Note that the computations differ from the methodology that will be used prospectively for calculating the EUC trigger. The MTUR was rounded to one decimal place from a MTUR that was taken to two decimal places—resulting in Arizona, Georgia, and North Carolina being rounded up instead of down.

The initial trigger values are listed below.

INITIAL EMERGENCY UNEMPLOYMENT COMPENSATION BENEFIT LEVELS

	AIUR	MTUR	Available weeks
Alabama	3.1	7.4	13
Alaska	6.5	7.7	20
Arizona	3.0	5.0	13
Arkansas	3.7	7.7	13
California	4.7	7.7	13
Colorado	2.1	5.4	13
Connecticut	5.0	5.9	20
Delaware	2.7	6.9	13
Dist. of Col	3.8	7.4	13
Florida	3.3	7.5	13
Georgia	3.0	6.0	13
Hawaii	1.9	2.7	13
Idaho	3.5	6.6	13
Illinois	3.4	6.7	13
Indiana	1.9	6.3	13
Iowa	1.8	4.9	13
Kansas	2.5	4.7	13
Kentucky	3.0	7.3	13
Louisiana	2.7	7.0	13
Maine	5.0	8.2	20
Maryland	3.7	5.9	13
Massachusetts	5.4	9.0	20
Michigan	4.2	9.4	20
Minnesota	2.2	5.3	13
Mississippi	3.4	9.0	20
Missouri	3.2	6.7	13
Montana	2.5	7.0	13
Nebraska	1.4	2.6	13
Nevada	3.8	6.0	13
New Hampshire	2.8	7.1	13
New Jersey	5.0	6.5	20
New Mexico	2.9	7.6	13
New York	4.6	7.2	13
North Carolina	2.7	6.0	13
North Dakota	1.6	4.2	13
Ohio	2.6	6.5	13
Oklahoma	2.2	6.7	13
Oregon	4.3	6.0	13
Pennsylvania	4.4	7.0	13
Puerto Rico	6.0	16.1	20
Rhode Island	6.9	8.2	20
South Carolina	3.2	6.2	13
South Dakota	0.7	3.6	13
Tennessee	3.4	6.5	13
Texas	2.5	6.5	13
Utah	1.6	4.9	13
Vermont	4.0	7.2	13
Virgin Islands	NA	NA	13
Virginia	1.8	5.9	13
Washington	4.1	6.4	13
West Virginia	4.0	9.6	20
Wisconsin	2.8	5.7	13
Wyoming	1.8	5.2	13

III. Procedures for Implementing EUC

A. Definitions.

1. *Act* means Title I of the Emergency Unemployment Compensation Act of 1991", Public Law 102-164, approved November 15, 1991, as amended by H.R. 1724.

2. *Agreement* means the agreement entered into pursuant to the Act between a State and the Secretary of Labor, under which the State agency makes payments of Emergency Unemployment Compensation in accordance with the Act as interpreted by the Secretary or the Department of Labor as set forth in these instructions or other instructions issued by the Department.

3. *Period of Eligibility* means, with respect to any individual, the period beginning with the week following the week in which the State entered into an agreement to pay Emergency Unemployment Compensation, or the period beginning on or after November 17, 1991, whichever is the later; and ending with the last week which begins before June 13, 1992; except that an individual shall not have a period of eligibility unless such individual's benefit year ends on or after November 16, 1991, except for individuals subject to the reachback provisions under section 102(f)(3)(A) of the Act who are treated as having a benefit year ending after November 16, 1991.

4. *Emergency Unemployment Compensation* means the compensation payable under the Act, and which is referred to as EUC.

5. To the extent applicable, the following terms have the same meanings as those defined in the Extended Benefit regulations, 20 CFR part 615:

a. *Base Period* means, with respect to an individual, the base period as determined under the applicable State law for the individual's applicable benefit year.

b. *Benefit Year* means, with respect to an individual, the benefit year as defined in the applicable State law.

c. *Applicable Benefit Year* means, with respect to an individual, the current benefit year if, at the time an initial claim for EUC is filed, the individual has an unexpired benefit year only in the State in which such claim is filed, or, in any other case, the individual's most recent benefit year. For this purpose, the most recent benefit year, for an individual who has unexpired benefit years in more than one State when an initial claim for EUC is filed, is the benefit year with the latest ending date or, if such benefit years have the same ending date, the benefit year in which the latest continued claim for regular compensation was filed.

d. *Compensation* means cash benefits (including dependents' allowances) payable to individuals with respect to their unemployment, and includes regular compensation, additional compensation and extended compensation as defined in this section.

e. *Regular Compensation* means compensation payable to an individual under any State law, and, when so payable includes compensation payable pursuant to 5 U.S.C. chapter 85, but does not include extended compensation or additional compensation.

f. *Extended Compensation* means the extended unemployment compensation payable to an individual for weeks of unemployment which begin in an extended benefit period, under those provisions of a State law which satisfy the requirements of the Federal-State Extended Unemployment Compensation

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Act of 1970, and, when so payable, includes compensation payable pursuant to 5 U.S.C. chapter 85, but does not include regular compensation or additional compensation. Extended compensation is referred to as Extended Benefits or EB.

g. *Additional Compensation* means compensation totally financed by a State under its laws by reason of conditions of high unemployment or by reason of other special factors, and when so payable includes compensation payable pursuant to 5 U.S.C. chapter 85.

h. *Secretary* means the Secretary of Labor of the United States.

i. *State* means the State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

j. *State Law* means the unemployment compensation law of a State approved by the Secretary under section 3304(a) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(a)).

k. *Applicable State Law* means the State law of the State which is the applicable State for an individual.

l. *Week* means, for purposes of eligibility for and payment of EUC, a week as defined in the applicable State law.

m. *Week of Unemployment* means a week of total, part-total, or partial unemployment as defined in the applicable State law, which shall be applied in the same manner and to the same extent to the EUC program, as if the individual filing a claim for EUC were filing a claim for regular compensation.

n. *Insured Unemployment Rate* means the rate of insured unemployment for a week determined in the same manner as such rate is determined for the purposes of Section 203 of the Federal State Extended Unemployment Compensation Act of 1970.

6. *Adjusted Insured Unemployment Rate* means the adjusted rate of insured unemployment for any period shall be determined in the same manner as the rate of insured unemployment is determined under section 203 of the Federal-State Extended Unemployment Compensation Act of 1970; except that individuals exhausting their rights to regular compensation during the most recent 3 calendar months for which data are available before the close of the period for which such rate is being determined shall be taken into account as if they were individuals filing claims for regular compensation for each week during the period for which such rate is being determined.

7. *Total Unemployment Rate* means, with respect to any period, the average unadjusted total rate of unemployment (as determined by the Secretary) for a State for such period. (See also MTUR at II.G.2. of this GAL.

B. Beginning and Ending of the EUC Program.

For States which enter into a signed agreement before November 17, 1991, an EUC period of eligibility begins November 17, 1991. The earliest compensable week for which EUC will be payable is the week ending November 23, 1991.

For States which enter into agreements after November 17, 1991, the first compensable week will be the first full week beginning on or after the Sunday which follows the date the agreement was signed.

The EUC program is scheduled to end on June 13, 1992, and no EUC will be paid for any new claim for a week of unemployment which begins after that date. Individuals paid benefits for the week including June 13 and with a remaining balance may be paid benefits for consecutive weeks after that date provided all other eligibility requirements are satisfied for each week.

States may terminate the EUC agreement upon 30 days written notice. The EUC period will end 30 days from the date the State notifies the Secretary of its election to terminate the EUC program. No EUC will be payable for weeks which begin after the date the agreement is terminated. The agreement may also be terminated by the Secretary, as provided in the agreement.

C. Eligibility Requirements for Emergency Unemployment Compensation.

1. Basic Eligibility Requirements.

To be eligible for a week of Emergency Unemployment Compensation, an individual must:

a. Have exhausted all rights to regular compensation under the applicable State law,

b. Have no rights to compensation (including regular and extended compensation) with respect to that week under such law or any other State unemployment compensation law, the Railroad Unemployment Insurance Act or under any other Federal law, administered by a State agency, and is not paid or entitled to be paid any additional compensation under any such State or Federal law,

c. Not be receiving compensation with respect to such week under the unemployment compensation law of Canada,

d. Have a benefit year under the State law which ended on or after November 16, 1991, or, under the reachback provision (Section C. 11, above), after February 28, 1991,

e. Have at least 20 weeks of work during the base period or earned its equivalent under State law (1½ times the high quarter wage or 40 times the weekly benefit amount) during that period,

f. Have satisfied the requirement of section 202(a)(4) of the Federal-State Extended Unemployment Compensation Act of 1970, which provides that no disqualification which has been imposed under State law for "voluntary leaving, discharge for misconduct, or refusing suitable employment" will be deemed terminated for the purposes of paying EB (and now EUC) unless the State law requires employment to terminate such disqualification,

g. Have satisfied the requirements of section 202(a)(3) (A)(ii) and (E) of the Federal-State Extended Unemployment Compensation Act of 1970, which provides that individuals claiming EB (and now EUC) for a week shall be required to actively engage in seeking work during the week he/she is claiming EUC and provide to the State agency tangible evidence of a systematic and sustained effort to obtain work,

h. Have satisfied any State law disqualification under section 202(a)(3) of the Federal-State Extended Unemployment Compensation Act of 1970 for failing to actively engage in seeking work or failing to apply for or accept any offer of suitable work by earning not less than four times his/her WBA and is employed during at least four weeks following the week he/she was disqualified (a 4×4 disqualification), and

i. Have filed a timely claim for EUC. as determined under the applicable State law.

2. Determining Exhaustees.

For an individual to be deemed to have exhausted benefit rights to regular compensation, with respect to any week of unemployment in the individual's eligibility period, either:

a. The individual must have received all regular compensation payable based on employment and/or wages during the applicable base period and have a benefit year ending after February 28, 1991, or

b. The individual's rights to regular compensation have been terminated by reason of the expiration of the benefit year after February 28, 1991, with respect to which such rights existed.

In addition, to be an exhaustee the individual must not have sufficient wages, or employment, or both, on the basis of which a subsequent benefit year could be established in any State that includes such week.

To determine that an individual has no rights to regular compensation or extended compensation, the factors are the same as those used for determining an exhaustee for EB, as specified in 20 CFR part 615. Specifically, an individual is considered to have no rights to benefits if, during a week in his/her eligibility period, the individual received all benefits available under the applicable State law or any other State law (including UCFE and UCX benefits under 5 U.S.C. chapter 85) after some or all wage credits are canceled, or his/her entitlement to benefits was otherwise totally or partially reduced.

An individual is an exhaustee with respect to an expired benefit year which ends on or after February 28, 1991, and the individual was, therefore, unable to monetarily exhaust his/her remaining entitlement during a week ending after February 28, 1991, when he/she is precluded from establishing a second (new) benefit year by reason of the requalifying provision in State law which requires earnings after the beginning of the first benefit year or he/she establishes a second benefit year but is suspended indefinitely until he/she has met the requalifying earnings requirements. The individual ceases to be an exhaustee for the purpose of EUC payments with respect to the expired benefit year when he/she satisfies the requalifying earnings requirement and compensation is payable in the new benefit year.

An individual shall be treated as having no rights to benefits even though as a result of pending appeal with respect to wages or employment or both which were not included in his/her original monetary determination he/she may subsequently be determined to be entitled to more or less compensation. This also applies to an individual who may be denied benefits for certain weeks during the year by reason of a State law seasonal provision but has entitlement to future weeks in the off season.

For an individual who has established a benefit year but during such year his/her wage credits were canceled or the right to regular, additional, or extended compensation was totally reduced as the result of a disqualification, he/she too is considered to have no benefit rights to such compensation and is an exhaustee for the purposes of EUC.

In those States which pay additional benefits (AB), it will be necessary to determine if an individual has been paid or is entitled to be paid additional compensation before EUC can be paid. Certain State laws provide for the suspension of the payment of AB when a federally financed program of benefits is payable. In these cases, individuals may be paid EUC in lieu of AB. However, under no circumstances shall EUC and AB (or any other unemployment benefits) be paid for the same week.

Under section 202(c) of the Federal-State Extended Unemployment Compensation Act of 1970, an individual filing for Extended Benefits under the Interstate Benefit Payment Plan from a State which is not in an EB period is eligible for the first two weeks of EB filed from that State and is disqualified for any other benefits in his/her EB account until such time as his/her agent State begins an EB period or until such time as he/she files from a State which is in an extended benefit period. Individuals who were denied extended benefits under this provision shall be deemed to have no benefit rights to EB and will be eligible for EUC.

Liable State interstate claim units need to monitor the extended benefit trigger status of agent States and be prepared to redetermine EUC claimants' eligibility for extended benefits when an EB period begins in a given agent State. (Also see III.E.6. relating to Interstate Claims.)

3. Determination of "Period of Eligibility".

Under section 106(a)(2) of the Act, an individual's period of eligibility consists of any week which began on or after November 17, 1991, and which (except as provided in section 102(f)(2)) begins before June 13, 1992; except that an individual shall not have any period of eligibility unless his benefit year ends on or after November 16, 1991. However, the reachback provisions permit any individual whose benefit year ended after February 28, 1991 and before the first week following November 16, 1991, to be considered entitled to EUC in the same manner as if such individual's benefit year ended no earlier than the last day of such following week.

This means that State agencies, in determining whether an individual can qualify for a period of eligibility for EUC, must look at the individual's benefit year ending date (BYE) and date of last or final payment. If that BYE date or monetary exhaustion is on or after February 28, 1991, the individual qualifies for a period of eligibility for EUC and can be paid EUC if all the other eligibility requirements are met.

If an individual has a BYE date which is on or before February 28, 1991, the individual is not covered by the EUC program, and may not be paid any EUC.

4. 20-Weeks of Work Requirement.

The 20 weeks of full-time work or equivalent qualifying requirement for the payment of extended benefits under section 202(a)(5) of the Federal-State Extended Unemployment Compensation Act of 1970 shall be applied with respect to any individual claiming a week of EUC beginning on or after November 17, 1991. State interpretations on full-time work weeks will apply as in the case of EB.

States which have enacted an equivalent test under their UI laws to the 20 weeks of work (1½ times the high quarter or 40 times the weekly benefit amount) must apply the same equivalency test to an individual claiming EUC. For those States in which no 20 weeks of work or equivalent requirement is provided under State law, agencies should develop an administratively feasible method of applying this test which will effectively carry out the intent of the law.

States must determine a claimant's eligibility under the 20 weeks of work requirement as part of the initial claims process.

5. Disqualifications Based on Separation from Work.

Section 202(a)(4) of the Federal-State Extended Unemployment Compensation Act of 1970 requires State laws to provide for the termination of disqualifications for voluntary leaving, discharge for misconduct or refusal of suitable work only with subsequent employment before an individual can be eligible for extended benefits. This same provision applies to the payment of EUC. Therefore, any individual who was denied EB because his/her disqualification was terminated under State law without the required period of employment would similarly be ineligible for EUC.

States which have not paid extended benefits and applied the denial provisions of section 202(a)(4) of the Federal-State Extended Unemployment Compensation Act of 1970 must review any nonmonetary determination issued to potentially eligible EUC claimants and determine whether they are qualified for EUC under this provision. Employment for the purpose of terminating a disqualification means service performed in an employer-employee relationship as provided in the State law which would requalify an individual on EB.

In no case may a period of reemployment be used to terminate a disqualification for the purpose of paying EUC, unless the State law

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specifically requires new work to purge this denial of benefits.

6. Actively Seeking Work Requirement.

The extended benefit requirement to actively seek work under section 202(a)(3)(A)(ii) of the Federal-State Extended Unemployment Compensation Act of 1970, is also a condition of eligibility for EUC. In accordance with the provisions of 202(a)(3)(E) of the Federal-State Extended Unemployment Compensation Act of 1970, an individual will be treated as actively engaged in seeking work if:

a. The individual has engaged in a systematic and sustained effort to obtain work during such week, and

b. The individual provides tangible evidence to the State agency that he/she has engaged in such an effort during such week.

Any disqualification of an individual for failure to actively seek work during a week in which he/she is claiming EUC will result in a denial of benefits with respect to the week in which such failure occurs and will not end until such individual purges the special disqualification in accordance with section 202(a)(3)(B) of the Federal-State Extended Unemployment Compensation Act of 1970. The total amount required to be earned to purge this disqualification cannot be less than four times the individual's weekly benefit amount and the work must be performed in four separate weeks.

7. Suitable Work Provisions.

The provisions of section 202(a)(3)(B) of the Federal-State Extended Unemployment Compensation Act of 1970, will be applied to any individual claiming a week of EUC who fails to apply for or accept any offer of suitable work as defined in section 202(a)(3)(C) of the Federal-State Extended Unemployment Compensation Act of 1970.

The term suitable work means, with respect to any individual claiming EUC, any work which is within such individual's capabilities; except that, if the individual furnishes evidence satisfactory to the State agency that such individual's prospects for obtaining work in his/her customary occupation within a reasonably short period are good, the determination of whether any work is suitable work with respect to such individual shall be made in accordance with the State law applicable to entitlement for regular benefits.

Paralleling the provisions of section 202(a)(3)(D) of the Federal-State Extended Unemployment Compensation Act of 1970, EUC shall not be denied under provisions required by section 202(a)(3)(B) of the Federal-State Extended Unemployment Compensation Act of 1970, to any individual for any week by reason of a failure to accept an offer of, or to apply for, suitable work:

a. If the gross average weekly remuneration payable to such individual for the work does not exceed the sum of:

(i) The individual's weekly benefit amount of EUC, plus

(ii) The amount (if any) of supplemental unemployment benefits (as defined in Section 501(c)(17)(D) of the Internal Revenue Code of 1986) payable to such individual for such week,

b. If the position was not offered to such individual in writing or was not listed with the State employment service,

c. If such failure would not result in a denial of compensation under the provisions of the applicable State law to the extent that such provisions are not inconsistent with the provisions of subparagraphs (C) and (D) of Section 202(a)(3) of the Federal-State Extended Unemployment Compensation Act of 1970, or

d. If the position pays wages less than the higher of:

(i) The minimum wage provided by Section 6(a)(1) of the Fair Labor Standards Act of 1938, without regard to any exemption, or

(ii) Any applicable State or local minimum wage.

Detailed guidance on the appropriate application of the active search for work and refusal of suitable work provisions of section 202(a)(3) of the Federal-State Extended Unemployment Compensation Act of 1970 are in 20 CFR 615.2 and .8.

States will use the appropriate provisions of State law when issuing determinations for EUC which are required by the corresponding provisions of the Federal-State Extended Unemployment Compensation Act of 1970 but such determinations shall not be inconsistent with Federal law regardless of the particular provisions of State law.

8. Approved Training.

In accordance with 20 CFR 615.2(b)(8)(v), any individual who is in approved training as defined under State law (including training under section 236(e) of the Trade Act of 1974), may be exempted from the requirements of law relating to availability for work, active search for work or refusals of referral to or an offer of suitable work.

It is the responsibility of the EUC claimant to provide written documentation initially and, upon request of the SESA, from the training or educational institution, regarding the hours of attendance, type and duration of courses or training (including beginning and ending dates), and the accreditation of the educational institution to the State agency.

D. Weekly Benefit Amount

1. Total Unemployment

The EUC weekly benefit amount payable to an individual for a week of total unemployment will be equal to the individual's weekly benefit amount for regular compensation (including dependents' allowances) payable during such individual's most recent benefit year. If an individual had more than one weekly benefit amount of regular compensation, the SESA will determine the EUC weekly benefit amount in the same manner that it would determine the weekly extended benefit amount, as prescribed in 20 CFR 615.6.

2. Partial and Part-Total Unemployment

The weekly amount of EUC payable for a week of partial or part-total unemployment will be determined in accordance with the State law applicable to such a week of unemployment.

E. Maximum EUC Payable

1. Accounts

The SESA will establish a separate EUC account for each eligible individual. The amount of EUC payable in the individual's account will be the lesser of:

a. 100 percent of the total entitlement to regular benefits (including dependents' allowances) payable to the individual with respect to the most recent benefit year, from which the individual received benefits, or

b. The maximum EUC payable in the State as prescribed by the applicable limit.

2. Maximum EUC Payable in a State—Applicable Limit

a. *Thirteen weeks.* The maximum amount of EUC payable is *up to* thirteen times the individual's weekly benefit amount as computed under 20 CFR 615.6 of EUC in all States that are in a 13-week period.

b. *Twenty weeks.* The maximum amount of EUC payable is *up to* twenty times the individual's weekly benefit amount as computed under 20 CFR 615.6 of EUC in all States that are in a 20-week period.

3. Computation of EUC Payable Based on a New Benefit Year

During the life of the EUC program, a small number of EUC claimants may establish new benefit years with a new entitlement to regular benefits and again become exhaustees within the meaning of the Act. These individuals' monetary entitlement to EUC will be determined without regard to the amount of EUC they have already received based on a previous benefit year. Although the Act limits the amount of EUC payable during an individual's period of eligibility, it does not limit the number of eligibility periods an individual may have during the life of the program.

4. Beginning of an Extended Benefit Period After the Effective Date of the Act

States may reach an extended benefit "On" trigger after the effective date of the EUC Act. If so, (and if State law permits), the Governor of a State in a 13-week period or 20-week period is authorized to and may elect to trigger off an extended benefit period in order to provide payment of EUC to individuals who have exhausted their rights to regular compensation under State law.

If the Governor cannot or does not elect to trigger off EB and an extended benefit period begins, the SESA must, prior to paying EUC for a week of unemployment, determine each person's eligibility for extended benefits, in accordance with State law provisions relating to EB. If an individual has entitlement to extended benefits, such individual is not eligible for EUC. Once an individual has exhausted any entitlement to extended benefits, the individual may receive any remaining balance in his/her EUC account after an appropriate deduction for EB payments received. A new entitlement to EUC is not made since the individual has the same period of eligibility upon which the EUC entitlement was determined.

5. Governor's Notification to Secretary of Election

Within 10 calendar days after the end of any week with respect to which the head of the State agency has determined there is an "On" indicator for the payment of extended benefits in the State, the Governor of a State, if State law permits, shall notify the Department of his/her election to trigger "Off" extended benefits in order to provide payment of EUC in accordance with Section 101(e) of the Act. Such notice shall not become final until such notice is accepted by the Department.

The above notification is separate from the notification requirements of 20 CFR 615.12(e), however, the Department will follow the requirements of 20 CFR 615.13 to announce the "Off" notification and election of the Governor. The State agency must follow the provisions of 20 CFR 615.13(b) and also 615.13(c), if such is applicable.

6. Interstate Claims

EUC shall be payable to individuals filing under the Interstate Benefit Payment Plan (IBPP) in the same manner and to the same extent that benefits are payable to intrastate claimants, except that both the agent and liable States must have entered into an agreement to administer the EUC program. IB claimants shall receive the maximum duration payable under the liable State law.

The EB provision which limits interstate claimants to two weeks of extended benefits if they file claims in an agent State not in an extended benefit period applies to the payment of EUC if the agent State has not signed or has canceled an agreement to administer EUC. (See III.C.3. of this GAL.)

The liable State must identify and notify all EUC potentially eligible interstate claimants of the beginning of an EUC period in the manner outlined in III.I.4 of this GAL. The notice (or a separate informational enclosure) should provide sufficient information pertaining to the eligibility requirements to ensure that claimants are informed of their responsibilities as early in their EUC status as possible.

7. Combined Wage Claims

EUC shall be payable to individuals filing under the Interstate Arrangement for Combining Employment and Wages (CWC) in the same manner and to the same extent that benefits are payable to intrastate or interstate claimants. Administrative, entitlement and eligibility requirements and procedures provided in other sections of this GAL also apply to claims filed under the CWC program, except where clearly inconsistent with combined wage procedures (and interstate, when applicable) policies and rules and the specific instructions this GAL.

The following sections provide additional information and procedures that are specific to claims filed under the combined wage program.

When an EUC claim is established, the paying State must notify the transferring State of its potential liability with a Report of Determination of Combined-Wage Claim, Form IB-5 or telecommunicated TC-IB5, as appropriate. The Form IB-5 must be identified as pertaining to an EUC claim. The TC-IB5 must be checked "other".

Unlike prior Federally funded extended compensation programs where the paying State billed all benefits directly to the Federal Government, EUC attributable to State covered wages shall be billed to the transferring State(s) in the same manner as regular or extended benefits. The transferring State will charge the EUCA account. Refer to Attachments B and C of this GAL for benefit financing and reporting instructions, with respect to both the paying and transferring States.

8. Changes in Account

If it is later determined as the result of a redetermination or appeal that an individual was entitled to more or less regular or extended benefits under the State law or under 5 U.S.C. Chapter 85, the individual's status as an exhaustee shall be redetermined as of the new date of the individual's exhaustion, and an appropriate change shall be made in the individual's EUC account. The EUC maximum in a State may change with trigger changes. If the individual is entitled to more EUC as a result of a change in the maximum weeks of EUC payable in the State, the appropriate change shall be made in the individual's EUC account.

F. Effect of Other UI-Related Federal Programs on Eligibility for EUC

1. Trade Readjustment Allowances (TRA)

The maximum amount of EUC payable to an individual who is also entitled to TRA shall not be reduced by reason of any TRA entitlement. However, the individual's entitlement to EUC will reduce the individual's maximum amount of "basic" TRA payable if the EUC is payable during the UI benefit period established by or in effect at the time of the individual's first TRA qualifying separation under the applicable trade adjustment assistance certification issued by this Department. (For the definition of "benefit period," refer to section 247(15) of the Trade Act of 1974, as amended, rather than the definition of "benefit period" at 20 CFR 617.3(h).) If the EUC entitlement occurs during a UI benefit period subsequent to the one in which the individual's first TRA qualifying separation occurred, the maximum amount of "basic" TRA payable will not be reduced by the amount of EUC entitlement. In the latter case, however, the individual is not eligible for TRA until EUC entitlement is exhausted.

The provisions of section 233(d) of the Trade Act of 1974 (relating to reduction of EB entitlement because of the receipt of TRA in the most recent benefit year) are not applicable to determinations of entitlement to EUC.

2. Disaster Unemployment Assistance (DUA)

An individual is not eligible for DUA with respect to a week of unemployment under section 410 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5177) if the individual is eligible to receive EUC for that week.

G. UCX Changes and Effect of on EUC

Prior to establishing an EUC claim it shall be determined that an individual is not entitled to have the maximum benefit amount of the parent UCX claim recalculated because of the amendments to the UCX law contained in section 301 of Public Law 102-164. (See GAL 3-92.)

H. Claims for Emergency Unemployment Compensation

1. Intrastate Initial Claims

An initial claim for EUC shall be filed by an individual with respect to the individual's applicable State and according to the applicable State law on a form, which shall be furnished to the individual by the State agency.

2. Interstate Initial Claims

Interstate EUC claimants are filed on the same forms and in the same manner as interstate claims for EB. Before accepting an initial interstate EUC claim, the agent State must review the claimant's work history to ensure that the claimant does not have sufficient employment/wages to establish a new benefit year under any State or Federal program or under the combined wage arrangement. At the time of the initial EUC claim, the agent State will:

a. Complete an Initial Interstate Claim, Form IB-1, check claim type "other" and identify as EUC;

b. Review the claimant's work history to ensure that an EUC claim is appropriate;

c. Complete an Interstate Eligibility Review, Form IB-10. During the initial claimstaking interview, the claimant's occupation shall be assessed and the claimant's jobs prospects shall be classified. Agent States shall use the Jobs Prospects Classification Form used for intrastate claimants or record the necessary information in the "work search plan" area of the Form IB-10. It is important that the agent States explain the claimant's rights and responsibilities under the EUC program for individual's with such classification, although the liable State shall send general information to EUC claimants.

The EUC eligibility requirements are the same as for EB and require the imposition of a 4×4 (not a week-to-week) disqualification for failure to engage in an active search for work during a week claimed. For instance, except for attendance in State approved training, jury duty, and hospitalization for an emergency, there are no "good causes" for not actively seeking work.

d. Issue two (2) Continued Interstate Claim, Form IB-2s, identified as "other" "EUC", to each claimant;

e. Transmit a TC-IB1, identified as claim type "other", to the liable State.

3. Intrastate Weeks Claimed

Claims for payments of EUC for weeks of unemployment shall be filed with respect to the individual's applicable State at the times and in the same manner as claims for regular compensation are filed under the applicable State law, and on forms, which shall be furnished to the individual by the State agency.

4. Interstate Weeks Claimed

Claims for payments of EUC for weeks of unemployment shall be filed with respect to the individual's applicable State in accordance with the interstate weeks claimed procedures for regular claims and EB. The liable State will issue to each claimant claim certification forms and instructions, and benefit rights information.

The liable State shall follow its EB certification procedures to ensure that claimant's are meeting the "tangible evidence" of a systematic and sustained work search requirements.

The liable State shall request eligibility review interviews for EUC claimants at intervals determined appropriate. For individuals whose job prospects classification is "good", the liable State should schedule the claimant for interview and possible reclassification if the claimant has not returned to work within a "reasonably short period."

5. Secretary's Standard

The procedures for reporting and filing claims for EUC shall be consistent with these instructions and the Secretary's "Standard for Claim Filing, Claimant Reporting, Job Finding and Employment Service" (*Employment Security Manual*, part V, sections 5000 et seq.).

I. Determination of Entitlement: Notices to Individual

1. Determination of Initial Claim

The State agency shall promptly, upon the filing of an initial claim for EUC, determine whether the individual is eligible and whether a disqualification applies, and, if the individual is found to be eligible, the weekly and maximum amounts of EUC payable to the individual.

2. Determination of Weekly Claims

The State agency shall promptly, upon the filing of a claim for a payment of EUC with respect to a week of unemployment, determine whether the individual is entitled to a payment of EUC with respect to such week, and, if entitled, the amount of EUC to which the individual is entitled.

3. Redetermination

The provisions of the applicable State law concerning the right to request, or authority to undertake, reconsideration of a determination pertaining to regular compensation under the applicable State law shall apply to determinations pertaining to EUC.

4. Notices to Individual

The State agency shall give notice in writing to the individual of any determination or redetermination of an initial claim and determinations and redeterminations of all weekly claims with respect to seeks of unemployment, and each notice of determination or redetermination shall include such information regarding the determination or redetermination and notice of right to reconsideration or appeal, or both, as is furnished with written notices of determinations and written notices of redeterminations with respect to claims for regular compensation.

5. Promptness

Full payment of EUC when due shall be made with the greatest promptness that is administratively feasible.

6. Secretary's Standard

The procedures for making determinations and redeterminations and furnishing written notices of determinations, redeterminations, and rights of appeal to individuals claiming EUC shall be consistent with the Secretary's "Standard for Claim Determinations-Separation Information" (*Employment Security Manual*, part V, sections 6010 et seq.).

J. Appeal and Hearing

1. Applicable State Law

The provisions of the applicable State law concerning the right of appeal and fair hearing from a determination or redetermination of entitlement to regular compensation shall apply to determinations and redeterminations of eligibility for or entitlement to EUC.

2. Rights of Appeal and Fair Hearing

The provisions on right of appeal and opportunity for a fair hearing with respect to claims for EUC shall be consistent with these instructions and with sections 303(a)(1) and 303(a)(3) of the Social Security Act (SSA) (42 U.S.C. 503(a)(1) and 503(a)(3)).

3. Promptness of Appeals Decisions

a. Decisions on appeals under the EUC Program shall accord with the Secretary's "Standard for Appeals Promptness-Unemployment Compensation" in 20 CFR part 650.

b. Any provision of an applicable State law for advancement or priority of unemployment compensation cases on judicial calendars, or otherwise intended to provide for the prompt payment of unemployment compensation when due, shall apply to proceedings involving entitlement to EUC.

K. Applicability of State Law Provisions

Except where inconsistent with this Act and the Federal-State extended Unemployment Compensation Act of 1970, as amended, the terms and conditions of the State unemployment compensation law which are applicable to claims for and payment of regular compensation in the State, apply to the same extent to claims for, and payment of, EUC in the State. The provisions of the applicable State law which apply to claims for, and payment of, EUC include but are not limited to:

1. Claim Filing and Reporting,
2. Information to individuals, as appropriate,
3. Notices to individuals and employers, as appropriate, including notice to each individual of each determination and redetermination of eligibility for or entitlement to EUC,
4. Determinations, redeterminations, appeals, and hearings,
5. Disqualifications, including disqualifying income provisions,
6. The Interstate Benefit Payment Plan (see also special instruction for interstate claims in section E.6.),
7. The interstate arrangement for combining employment and wages.

L. Claimstaking Procedures

1. Notification of Potential EUC Claimants

The SESA will identify individuals who are potentially eligible for EUC, and provide each such individual with appropriate written notification of his/her potential entitlement to EUC. The liable State will notify its interstate claimants of potential entitlement to EUC.

2. Initial Claim

When an individual files an initial EUC claim, the SESA must:

a. Review eligibility for EUC and make an initial determination of eligibility,

b. Fully inform claimant of rights and responsibilities under the EB provisions,

c. Ensure that the EB provisions with respect to assessing the claimant's prospects for work, are applied,

d. Ensure the individual is registered for referral to "suitable work", as defined for EB, if the individual's prospects for obtaining work in customary occupations are not good.

3. Notification of Responsibility

EUC claimants must be fully informed of their rights and responsibilities under EUC. Specifically, EUC claimants must be informed of the EB eligibility requirements applicable to EUC. The SESA shall follow the requirements set out in 20 CFR part 615. However, if the claimant received such information prior to claiming EB, the SESA need only advise the claimant that the same requirements apply to EUC claims.

To the extent possible, SESAs should provide a notice to any potential EUC claimant prior to entering EUC status.

4. EUC Eligibility Requirements

a. *Assessing Job Prospects.* As part of the initial claims process, the SESA must assess a claimant's job prospects. If the SESA has recently classified the claimant's job prospects as "good" or "not good," the SESA need only ascertain that the classification is still valid based on any changes in the claimant's circumstances or the local labor market. In assessing job prospects, the SESA shall refer to and follow the requirements in 20 CFR part 615.

b. *Applying Active Search for Work Requirements; Referral for Job Placement; Failure to Apply for or Accept Suitable Work.* The extended benefits requirements on active search for work, referral to "suitable work," and the disqualification for failure to apply for or accept suitable work are applicable to claims for EUC. 20 CFR part 615 describes the requirements for administering these provisions. SESAs shall refer to and follow these same requirements for EUC claimants.

5. Work Registration

All EUC claimants must be registered for employment with the SESA. Procedures shall be adopted to annotate EUC claim records to ensure that claimstakers know whether EUC claimants have been registered for work and, if not, the claimstakers must refer EUC claimants to the job placement staff for registration for work (i.e., sufficient information must be available to make a job referral). Likewise, the work registration record shall be annotated to show that an individual is an EUC claimant.

It is also important that UI staff coordinate the job prospects classification process with the Job Service staff. This will be necessary to ensure that the Job Service is aware of an EUC claimant's current job prospects classification in order that the work registration record can be updated for claimants with poor prospects of returning to work and the referrals can be made using a wider range of job openings than those related to the EUC claimant's primary DOT code.

6. Documentation and Reporting of Referral Results

Job placement staff must notify the claims adjudication staff in writing of:

a. Failure to respond to a mailed call-in for an appointment to which the claimant did not appear,

b. Refusal of referrals to suitable work, and

c. Failure to appear for a job interview or refusal of an offer of suitable work.

7. Eligibility Review Program

It is expected that EUC claimants who have been through an eligibility review will continue to receive services in this program.

M. Fraud and Overpayment

The Act contains specific provisions with respect to fraud and overpayments of EUC.

Provisions of the State law applied to detection and prevention of fraudulent overpayments of EUC will be, as a minimum, commensurate with those applied by the State with respect to regular compensation and which are consistent with the Secretary's "Standard for Fraud and Overpayment Detection" (*Employment Security Manual*, Part V, Sections 7510, et seq.)

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1. Fraudulent Claiming of EUC

If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact or knowingly has failed or caused another to fail to disclose a material fact, and as a result of such false statement or representation or such nondisclosure the individual has received an amount of EUC to which the individual was not entitled, the individual:

a. Shall be ineligible for further EUC in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation, and

b. Shall be subject to prosecution under section 1001 of title 18, U.S.C.

Provisions of State law relating to disqualification for fraudulently claiming or receiving a payment of compensation shall apply to claims for and payment of EUC.

When a SESA has sufficient facts to make a prima facie case under 18 U.S.C. 1001, it will consider criminal prosecution in accordance with the provisions of Section 7560, Part V, *Employment Security Manual.* If prosecution in the Federal Courts is to be recommended, the matter will be referred to the appropriate office of the U.S. Department of Labor, Office of the Inspector General (OIG).

For those cases not referred to the OIG for prosecution, or if the U.S. Attorney declines prosecution, the SESA should refer the case for prosecution under State law.

2. Recovery of Overpayments

Each State is authorized to require repayment from individuals who have received any payment of EUC to which they are not entitled (whether fraudulent or non-fraudulent), unless the SESA waiver recovery of the overpayment. The SESA may waive recovery of a non-fraudulent overpayment if it determines that—

a. The payment of such EUC was without fault on the part of the individual, and

b. Such repayment would be contrary to equity and good conscience.

(1) In determining whether fault exists, the following factors shall be considered:

(a) Whether a statement or representation of a material nature was made by the individual in connection with the application for EUC that resulted in the overpayment, and whether the individual knew or should have known that the statement or representation was inaccurate.

(b) Whether the individual failed or caused another to fail to disclose a material fact, in connection with an application for EUC, that resulted in the overpayment, and whether the individual knew or should have known that the fact was material.

(c) Whether the individual knew or could have been expected to know that the individual was not entitled to the EUC payment.

(d) Whether, for any other reason, the overpayment resulted directly or indirectly, and partially or totally, from any other action or omission of the individual of which the individual had knowledge, and which was erroneous or inaccurate or otherwise wrong.

(e) Whether there has been a determination of fraud under paragraph 1 of this section or Section 105 of the Act.

In the event of an affirmative finding on any of the foregoing factors, recovery of the overpayment shall not be waived.

(2) In determining whether equity and good conscience exists, the following factors shall be considered:

(a) Whether the overpayment was the result of a decision on appeal, and whether the State agency had given notice to the individual that the case has been appealed further and that the individual shall be required to repay the overpayment in the event of a reversal of the appeal decision.

(b) Whether recovery of the overpayment will not cause extraordinary financial hardship to the individual, and there has been no affirmative finding under paragraph 2(a) of this section with respect to such individual and such overpayment.

In the event of an affirmative finding on either of the foregoing factors, recovery of the overpayment shall not be waived. For this purpose an extraordinary financial hardship shall exist if recovery of the overpayment would result directly in the individual's loss of or inability to obtain minimal necessities of food, medicine, and shelter, and extraordinary and lasting financial hardship shall be extraordinary as described above and "lasting" means that the financial hardship may be expected to endure for the foreseeable future.

In applying this hardship test in the case of attempted recovery by repayment, a substantial period of time shall be 30 days, and the foreseeable future shall be at least three months. In applying this hardship test in the case of proposed recoupment from other benefits, a substantial period of time and the foreseeable future shall be the longest potential period of benefit entitlement as seen at the time of the request for a waiver determination. In making financial hardship determinations, the State agency shall take into account all potential income of the individual and the individual's family and all cash resources available to the individual and the individual's family in the time period being considered. Notices of determination of overpayments shall include information concerning the waiver provisions of this section.

(3) Determinations granting or denying waivers of overpayments shall be made only on request for a waiver determination.

(4) An EUC overpayment may be recovered either by offset or repayment by the individual. The SESA will, during the three-year period after the date the individual received the payment of EUC to which the individual was not entitled, recover the amount to be repaid, or any part thereof,

(a) From any EUC payable under the Act;

(b) From any compensation payable to the individual under any Federal unemployment compensation law administered by the SESA;

(c) Under any other federal law administered by the SESA which provides for payment of any assistance of allowance with respect to any week of unemployment.

(5) No single deduction, however, may exceed 50 percent of the amount of the payment from which such deduction is made, and when a deduction is made it shall be 50 percent of the amount actually payable. To the extent permitted under State law, an EUC overpayment may be recovered by offset, within the 50 percent and three-year limitations, from benefits payable under the State unemployment compensation law.

(6) At the end of the three-year limitation, the SESA may remove the overpayment from its accounting record. Although no further active collection efforts by the SESA are required, the SESA shall maintain an administrative record during the subsequent three-year period to provide for possible collection through methods other than offset. After the subsequent three-year period, the SESA may dispose of the overpayment record.

(7) Under the Act, no repayment shall be required, and no deduction shall be made, until a determination of overpayment has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(8) EUC overpayment recovery shall be enforced by an action or proceeding

which may be brought under State or Federal law, unless recovery of the overpayment is waived in accordance with the Act and these instructions. Overpayments of EUC recovered in any manner shall be credited or returned to the appropriate account of the United States.

(9) If a State has an agreement in effect with the Secretary to implement the cross-program offset provisions of section 303(g)(2) of the SSA, EUC payments may be used to offset State regular UI or EB over-payments. However, EUC payments shall be used to recover any existing overpayments made under any federal unemployment benefit or allowance program administered by the SESA prior to EUC payments being used to offset State regular or EB overpayments. Determinations under this section, shall be subject to the determination and appeal and hearing provisions of sections I and J.

N. Payment to States (See also Attachment B.)

Under section 103 of the Act each State which has entered into an agreement to pay EUC will be paid an amount equal to 100 percent of the amount of EUC which is paid to individuals by the State pursuant to the agreement and in full accordance with the Act and these instructions.

Further, no payment shall be made to any State for EUC to the extent the State is entitled to reimbursement under the provisions of any other federal law other than the Act, which shall mean and include chapter 85 of title 5 of the U.S.C. This means that States will charge the EUCA account for EUC paid to UCFE or UCX claimants.

The paying State will bill the transferring State its full pro rata share for all EUC paid on CWC claims (excluding UCX and UCFE). Each transferring and paying State will obtain 100 percent reimbursement for its prorated share of EUC paid from the Federal Extended Unemployment Compensation Account (EUCA). In the case of UCFE and UCX regular payments (non EUC), the paying State obtains reimbursement for such payments from the Federal Employees Compensation Account (FECA).

While all EUC will be paid from the EUCA account, general revenue funds will be used to reimburse the EUCA account for benefits where the compensation is payable under chapter 85 of title 5, United States Code (UCFE/UCX), and compensation is payable on the basis of services to which section 3309(a)(1) of the Internal Revenue Code (Federal Unemployment Tax Act (FUTA)) applies, which are benefits payable to State and local government workers and individuals who performed services for a non-profit organization described in section 501(c)(3) of the Internal Revenue Code. Therefore, the transferring State (in the case of State and local government and 501(c)(3) wages) and the paying State (in the case of UCFE/UCX) will utilize the EUCA account for reimbursement of its pro rata share of benefits paid to the above claimants and will break-out the expenditures that need to be charged to general revenue in accordance with the fiscal reporting instructions provided in Attachment B to this GAL.

O. Reports, Records, and Records Retention (See also Attachment C.)

1. Reports

The SESA will maintain EUC claims and payment data (including data on eligibility, disqualification and appeals) as required by the Employment and Training Administration (ETA). The SESA will report such required data as specified in instructions in Attachments B and C to this GAL.

2. Records

Each SESA will make and maintain records pertaining to the administration of the EUC program as the ETA requires, and will make all such records available for inspection, examination, and audit by such Federal officials or employees as the Secretary of Labor or ETA may designate or as may be required by the law.

3. Disposal of EUC Records

Generally the requirements provide for the transfer of the records to State accountability 3 years after final action on the claim or in less than 3-year period if copied by microphotocopy or by an electronic imaging method.

P. Disclosure of Information.

Information in records made and maintained by a State agency in administering the Act shall be kept confidential, and information in such records may be disclosed only in the same manner and to the same extent as information with respect to regular compensation and the entitlement of individuals thereto may be disclosed under the applicable State law. This provision on the confidentiality of information obtained in the administration of the Act shall not apply, however, to the U.S. Department of Labor, or in the case of information, reports and studies requested pursuant to section N of these instructions, or where the result would be inconsistent with the Freedom of Information Act (5 U.S.C. 552), the Privacy Act of 1974 (5 U.S.C. 552a) or regulations of the U.S. Department of Labor promulgated thereunder.

Q. Inviolate Rights to EUC.

Except as specifically provided in these instructions, the right of individuals to EUC shall be protected in the same manner and to the same extent as the rights of persons to regular compensation are protected under the applicable State law. Such measures shall include protection of claimants for EUC from waiver, release, assignment, pledge, encumbrance, levy, execution, attachment, and garnishment, of their rights to EUC. In the same manner and to the same extent, individuals shall be protected from discrimination and obstruction in regard to seeking, applying for and receiving any right to EUC.

R. Applicable Regulations.

The provisions of the "Lopez Rule" as set out at 20 CFR 617.52(c), shall be applicable to the administration of the Act by the States under their Agreements with the Secretary of Labor. In addition, other regulations of the United States Government that are applicable to Federal financial assistance programs, such as any unemployment compensation program administrated by the States, include the Department's regulations at 29 CFR Parts 31, 32, 33, 93, 96, 97, and 98, and, in accordance with Part 97, Office of Management and Budget Circular No. A–87 (46 FR 9548) shall be applicable to the administration of this Act.

IV. Job Placement and Work Test Activities.

As previously indicated, the objectives of the EUC program are to make timely and accurate benefit payments, to assist in the reemployment of EUC claimants, and to apply the same work test applicable under the extended benefits program. To carry out the reemployment and work test objectives, the following requirements are being established for EUC eligibility.

A. All EUC claimants whose job prospects are classified as "not good" must have an active full registration with the designated State job placement agency. SESAs must ensure that EUC claimants are registered as quickly as is administratively feasible. In all but exceptional cases, the EUC claimant should be registered by no later than the end of the second compensable week.

B. Each State agency shall establish appropriate internal mechanisms and procedures so that all EUC claimants whose prospects for work have been determined to be "not good" are provided at least one reinterview for job placement assistance during the eligibility period—preferably at the outset of the period. The reinterview shall focus on:

1. Reassessment of the claimant's qualifications and updating the application to reflect all relevant work experience and EUC status,
2. Exposure to and referral of the claimants to all suitable job listings fitting the EB suitable work definition,
3. Referral to a Job Finding Club and other self directed job search assistance projects in areas where they are operating.

C. SESAs are also to establish procedures for the prompt interchange of information for the adjudication of EUC claims issues regarding:

1. Failure to report for call-in
2. Refusal of referral
3. Failure to report for job interview
4. Refusal of job offer
5. Results of referral to suitable work
6. Able, available, and other related issues.

SESAs are to ensure that the work test is applied to EUC claimants in the same manner as it is applied to EB claimants, and consistent with section 202(a)(3) of the Federal-State Extended Unemployment Compensation Act of 1970.

Attachment B—Emergency Unemployment Compensation Fiscal Instructions

1. Requesting EUC (Benefits) and EUC Administrative Funds

a. EUC (Benefits).

State Employment Security Agencies (SESAs) will request funds from the Extended Unemployment Compensation Account (EUCA) to pay EUC. Drawdown procedures are not changed. Funds must be requisitioned via the State Unemployment Data System (SUDS), and will be transferred to State benefit payment accounts via FEDWIRE no later than the next business day after request. The SUDS screen now includes a line titled "Temporary EB" (third line from the top). EUC fund requests must be entered on that line.

States should estimate the amount of EUC they will pay during the period for which funds are requested and specify that amount in the current requisition. Over and under estimates should be adjusted in later requisitions. States are reminded that SUDS and FEDWIRE provide almost immediate availability of funds. Furthermore, provisions of the Cash Management Improvement Act of 1990 may require the payment of interest to the U.S. Government on Federal funds for the time between receipt and disbursement by the State.

The Funds Accounting Branch in the U.S. Treasury will transfer the EUC portion specified the requisition from EUCA to the State account in the UTF and wire transfer the total requisition in the usual manner.

Under the interstate arrangement for combining employment and wages (CWC), a State should include the EUC drawdowns 100 percent of the amount it expects to disburse to claimants (as a paying State) and to reimburse other States (as a transferring State). All future requisitions must be adjusted for reimbursement received from other States under the CWC program.

b. UEC Administrative Funds.

UI administrative requirements relating to the processing of EUC workloads will be funded through the contingency funding process (Worksheet UI–3). The Administrative Financing Initiative short-term changes made in FY 1987 to contingency funding standardized the minutes per unit (MPU) values for the broadband workload items for the various UI programs (regular, additional benefits, short-time compensation, extended benefits, and FSC). Therefore, the allocated MPU values apply also to EUC workload, which should be included in the appropriate lines of the regular program UI–3 worksheet. Contingency funds provided for EUC through the UI–3 process will cover both operating costs and any start-up costs. Therefore, States should not submit supplemental budget requests for implementing the EUC program.

Although the FY 1992 contingency funding level ($440 million) contained in the Labor/HHS appropriations bill did not include the administrative costs associated with the new EUC legislation, it included a new provision—contingency reserve langauge—which makes available additional funds automatically based on a formula tied to the Average Weeks of Insured Unemployment (AWIU) level. Thus, as soon as the FY 1992 appropriations bill is enacted, additional contingency funds can be made available to fund EUC administrative costs. In the interim, we will use regular contingency funds.

The procedures for handling both regular contingency and reserve contingency funding are the same from the States' perspective; administrative costs associated with EUC claims will be paid out of contingency through the regular process. The fact that some of the contingency funds are made available from additional funding through the reserve mechanism is not relevant. The important message regarding the contingency reserve language is that it should assure adequate and timely administrative funding, regardless of the workload level.

2. EUC Reporting Instructions

a. Time Distribution.

Time used for all EUC activities will be charged to appropriate UI time codes, in conjunction with Project Code 210.

b. Administrative Fund Accounting.

All accounting for administrative resources relating to the EUC program will be recorded in Fund Ledger No. 92102.

c. Accounting for EUC Payments (Benefits).

(1) EUC advantages to the States' UTF accounts during the month will be reported on line 22 of the ETA 2112; EUC benefits paid to State UI, UCFE, and UCX claimants will be reported on line 39. Accurate reporting of advances and payments is important due to the monthly reconciliation of balances with UIS records; balances are subject to constant congressional and public inquiries.

(2) Since all EUC will be funded out of EUCA, the Federal Employees Compensation (FEC) Account will not be used to pay UCFE and UCX claimants. Therefore, Federal agencies will not be required to reimburse the Unemployment Trust Fund for EUC paid to Federal employees. The ETA 191 report and UCFE/UCX detailed claimant data provided by States to Federal agencies must exclude EUC.

(3) Reporting instructions in Attachment C to this GAL for the ETA 2112 require States to separate the benefits paid to UCFE and UCX claimants to be billed to Federal agencies from the EUC paid to UCFE and UCX claimants. This distinction is important to the reconciliation of the ETA 2112 and ETA 191 reports. The reporting instructions in Attachment C to this GAL will also give instructions for reporting benefits paid to former employees of reimbursing employers.

Attachment C—Emergency Unemployment Compensation Reporting Instructions

1. General.

Data on the Emergency Unemployment Compensation (EUC) program will be reported on forms ETA 207, ETA 218, ETA 227, ETA 5130, ETA 5159, ETA 2112, and ETA 539. Generally, electronic reporting will not be used because of the short duration of the EUC program. Separate paper forms will be labeled "EUC" at the top and mailed or sent using facsimile services to the National Office and a copy to the Regional Office. Unless otherwise specified, definitions of items will follow definitions in the regular program. Due dates will be the same as the regular versions of reports.

Reporting will begin with the first reporting period in which the effective date of the EUC program falls. Reporting for all reports except the ETA 2112 will continue for twelve full months or four full quarters after the last payable week of the EUC program. For those reporting periods in this post-EUC time frame, only reports which have non-zero data need be submitted. Reporting for the ETA 2112 should continue for as long as there is activity.

2. Data Items To Be Reported.

a. ETA 207.

Report column 1, Total Determinations and Redeterminations, for lines 101 through 106. Report also lines 201 and 202, columns 7 through 10; and lines 301 and 302, columns 11 through 16.

b. ETA 218.

Report line 100, columns 1 through 3. Note that monetary determinations here refer to determinations that the claimant meets the EB 20 weeks of work eligibility requirement.

c. ETA 227.

Report lines 101, Total Fraud Overpayments, and 108, Total Nonfraud Overpayments for columns 1 through 4. Also report all of Section B, Reconciliation of Overpayment Activity.

d. ETA 5130.

Report all data elements.

e. ETA 5159.

For Section A Claims Activities, report initial claims information for columns 1 through 6 for lines 101 through 103. Report eligibility reviews and continued weeks claimed activity for columns 7 through 12 for lines 201 through 203. The claims information needed for column 10 for lines 201 through 203 will be identified as FSB on the Interstate Statistical Bypass Data Exchange. Report all of Section B, Payment Activities.

(1) Final Payments.

Because of the multi-tier nature of the EUC program, it is theoretically possible for a claimant to receive a final payment in one tier and, if the claimant's State triggers into a higher tier after his/her exhaustion, receive a subsequent final payment in the next tier. A final payment is to be counted when a claimant receives a final payment and there are no more benefits available at that point in time even though more may become available later.

(2) First Payments.

A claimant may not receive more than one first payment under EUC.

(3) Regular ETA 5159 Exhaustion.

The regular program exhaustions will be used to calculate triggers for the EUC program. Exhaustion data need to be available for the publication of the EUC Trigger Notice. Therefore, timeliness of the regular ETA 5159 becomes even more important than it has been in the past. The due date remains the 15th of the month following the month to which the data relate. The release date for this information is now the 21st of the month, or the first business day after the 21st, following the month to which the data relate.

f. ETA 2112.

Do not use a separate form for this report. Amounts received as advances or reimbursements for EUC should be reported on line 22 in column C and E. Disbursements for such payments are to be reported on line 39 in columns C and F. Amounts reported on line 39 are to be broken out by four categories and shown in the comments section. For example: "EUC line 39: Regular=$1,473, UCFE=$452, UCX=$389, Other=$122". "Other" includes payments made to former employees of State and local governments and 501(c)(3) non-profit organizations.

(1) Relationship to the Regular Program.

Benefits paid to ex-federal employees (UCFE, ex-service persons (UCX), and former employees of State governments, local governments, and non-profit organizations will be financed by funds from general revenues and are not required to be reimbursed. Therefore, receipts and disbursements related to EUC for such claimants should *not* be included on lines which reflect activities under the regular UI program (lines 17–20, 23, 33–36, and 43).

(2) Relationship to the ETA 191.

Because EUC payments to UCFE and UCX claimants are not billable to individual agencies, they should *not* be included in the ETA 191 report.

g. ETA 539.

For this report only, data will be reported electronically. Total weeks claimed for State, UCFE, and UCX for the EUC program for the report period will be reported in the comments section and labeled as "EUC" with the number following it. For example: "EUC=239". (The agent weeks claimed information needed for this report will be obtained from the Interstate Statistical Bypass Data Exchange, column labeled FSB.)

3. Election of EUC in Lieu of Extended Benefits (EB).

States which trigger onto the EB program may elect to pay EUC instead. This election should be expressed in the comments section of the ETA 539. The usual letter from the governor or appropriate State official declaring that the State has triggered onto EB should contain a declaration that EUC will be paid instead of EB.

4. Transmission.

Forms will be mailed to: U.S. Department of Labor, Employment and Training Administration, Attn: TEURA-Reports, rm. S-4519, 200 Constitution Avenue, NW., Washington, DC 20210.

Forms may be sent via facsimile in lieu of mailing to 202-523-8506. The cover sheet should indicate delivery to TEURA-Reports.

5. OMB Approval.

These instructions have been submitted to the Office of Management and Budget (OMB) for review and approval. SESAs will be notified when approval has been received.

U.S. Department of Labor

Employment and Training Administration, Washington, D.C. 20210

Classification UI/EUC ______
Correspondence Symbol TEUMI ______
Date February 10, 1992 ______

Directive: General Administration Letter No. 4-92, Change 1
To: All State Employment Security Agencies
From: Donald J. Kulick, Administrator for Regional Management
Subject: Emergency Unemployment Compensation Act of 1991, As Amended

1. *Purpose.* to provide clarification of, and changes to GAL 4-92, setting forth operating instructions for States and State Employment Security Agencies (SESAs) for the administration of the provisions of Title I of the Emergency Unemployment Compensation Act of 1991, as amended by Public Law 102–182.

2. *References.* Title I of the Emergency Unemployment Compensation Act of 1991, Public Law 102–164, as amended by Public Law 102–182; the Federal-State Extended Unemployment Compensation Act of 1970, as amended; 20 CFR part 615; GAL 4-92; UIPL 9–92 and Changes.

3. *Background.* Title I of the Emergency Unemployment Compensation Act of 1991, created the Emergency Unemployment Compensation (EUC) program. The EUC program provides 13 or 20 weeks of benefits depending on the State's total unemployment rate or a combination of the State's insured unemployment rate and exhaustions. EUC is payable to individuals who have no rights to regular, extended, or additional benefits under any State or Federal Law. Except where inconsistent with the operating instructions in GAL 4-92 (and changes thereto), the terms and conditions of State law which apply to claims for extended benefits and to the payment thereof shall apply to claims for EUC.

Public Law 102–164 was enacted November 15, 1991 and the EUC program became effective in all States for weeks of unemployment beginning on and after November 17, 1991. The Employment and Training Administration issued controlling guidance for the States and State agencies in the operating instructions in GAL 4–92, dated November 27, 1991.

Based on issues raised by the SESAs subsequent to the issuance of GAL 4–92, this Change 1 includes changes to, and clarifications of, the operating instructions set forth in the Attachments to GAL 4–92. This directive provides further guidance by the Department of Labor to the States and the cooperating State agencies.

The operating instructions in GAL 4–92 and this Change 1 (including ATTACHMENTS A, B, and C) are issued to the States and the cooperating State agencies and constitute the controlling guidance provided by the Department of Labor in its role as the principal in the EUC program. As agents of the United States, the States and the cooperating State agencies may not vary from the operating instructions in GAL 4–92 or this Change 1 (or any subsequent or supplemental operating instructions) without the prior approval of the Department of Labor.

4. *Attachment A—Changes to Operating Instructions.*

a. Throughout Attachment A, various references are made to specific Sections of the Federal-State Extended Unemployment Compensation Act of 1970, by using such phrases as "in accordance with" or "as required by" or similar phrasing. In all cases, such phrasings mean State law provisions that are "in accordance with" or "as required by" the specific provisions of the Federal-State Extended Unemployment Compensation Act of 1970, as implemented by 20 CFR part 615.

Therefore, State law provisions which are consistent with 20 CFR part 615 govern the payment of EUC, except where such provisions are inconsistent with the provisions of Public Law 102–164, as amended.

b. In Section III.C.3. of Attachment A, second paragraph (pg.18), the first sentence is amended by deleting from the end of the sentence the phrase "and date of last or final payment". Also, the second sentence is amended to read "Reading the standard and reachback provisions together, an individual qualifies for EUC if that individual's BYE date is after February 28, 1991, and the individual is otherwise eligible."

Public Law 102–182 amended section 102(f)(3) of Public Law 102–164 to specifically provide that only individuals whose benefit year ends after February 28, 1991 are eligible for EUC under the "reachback" provision.

c. In section III.C.4. of Attachment A (pg. 19), delete the second sentence from the second paragraph. Under section 202(a)(5) of the Federal-State Extended Unemployment Compensation Act of 1970, a State law must specify which one of the three listed methods shall be used in that State, in order for an individual to be eligible for EB and therefore EUC. If State law does not so specify, then any individual not meeting the Section 202(a)(5) requirement (20 weeks of full-time work test) cannot be determined eligible for EUC.

d. In section III.C.8. of Attachment A (pg. 21), the third line should reflect the correct cite of section 236(a) of the Trade Act of 1974, rather than section 236(e).

In addition, under the same section, the first full paragraph on page 22 should be deleted. Under the Secretary's "Standard for Claim Determinations-Separation Information" (*Employment Security Manual*, Part V, sections 6010 et seq.), it is the responsibility of the State agency to take the initiative in the discovery of information. The responsibility may not be passed on to the claimant or employer.

5. *Attachment B—Fiscal Instructions.*

a. In section 2.c.(3), the words "reimbursing employers" on page 3 should be changed to read "State and local government and section 501(c)(3), non-profit organizations". Under some States' laws, some of the entities are not reimbursing employers.

6. *Attachment C—Reporting Instructions.*

a Add the following after the last sentence in paragraph two of Section 1. *General.* "State agency administrators must assure that the reports provide only EUC data, not data for regular UI activity. In addition, the data should not duplicate any data provided for the regular UI program, except where the work history indicates an actual intrastate or interstate regular claim must be processed in order to determine entitlement because a decision cannot be made upon screening the information available whether a regular claim or EUC claim should be filed. If the result is a determination of ineligibility for regular UI, then an EUC claim may be filed. Reports could properly reflect an initial claim count for each program (See UIPL 9–92, Change 1)."

7. *Action Required.* Administrators shall provide the above controlling guidance to appropriate staff.

8. *Inquiries.* Direct questions to the appropriate Regional Office.

[FR Doc. 92–3621 Filed 2–13–92; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

Summary of Decisions Granting in Whole or in Part Petitions for Modification

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice of affirmative decisions issued by the Administrators for Coal Mine Safety and Health and Metal and Nonmetal Mine Safety and Health on petitions for modification of the application of mandatory safety standards.

SUMMARY: Under section 101(c) of the Federal Mine Safety and Health Act of 1977, the Secretary of Labor may modify the application of a mandatory safety standard to a mine if the Secretary determines either that an alternate method exists at a specific mine that will guarantee no less protection for the miners affected than that provided by the standard, or that the application of the standard at a specific mine will result in a dimunition of safety to the affected miners.

Summaries of petitions received by the Secretary appear periodically in the **Federal Register.** Final decisions on these petitions are based upon the petitioner's statements, comments and information submitted by interested persons and a field investigation of the conditions at the mine. MSHA has granted or partially granted the requests for modification submitted by the petitioners listed below. In some instances the decisions are conditioned upon compliance with stipulations stated in the decision.

FOR FURTHER INFORMATION CONTACT: Petitions and copies of the final decisions are available for examination by the public in the Office of Standards, Regulations and Variances, MSHA, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203.

Dated: February 7, 1992.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Affirmative Decisions on Petitions for Modification

Docket No.: M–89–148–C.

FR Notice: 54 FR 43150.

Petitioner: Cyprus Empire Corporation.

Reg Affected: 30 CFR 75.507.

Summary of Findings: Petitioner's proposal to use three nonpermissible submersible pumps in boreholes drilled in sump areas of the mine considered acceptable atlternate method. Granted with conditions for the two high voltage submersible pumps located in the 1 North area of the mine.

Docket No.: M–89–150–C.

FR Notice: 54 FR 42581.

Petitioner: Cyprus Emerald Resources Corporation.

Reg Affected: 30 CFR 75.900.

Summary of Findings: Petitioner's proposal to use contactors instead of circuit breakers to obtain undervoltage protection with specific equipment and procedures considered acceptable alternate method. Granted with conditions.

Docket No.: M–90–55–C.

FR Notice: 55 FR 20346.

Petitioner: Arch of Wyoming, Inc.

Reg Affected: 30 CFR 75.507.

Summary of Findings: Petitioner's proposal to have two nonpermissible submersible deep-well pumps to dewater inactive old workings in order to recover the reserves in underlying areas considered acceptable alternate method. Granted with conditions for the two pumps located in No. 1 and No. 3 seam.

Docket No.: M–90–57–C.

FR Notice: 55 FR 21124.

Petitioner: Jim Walter Resources, Inc.

Reg Affected: 30 CFR 75.1002.

Summary of Findings: Petitioner's proposal to continue using high-voltage cables at the No. 1 Longwall inby the last open crosscut considered acceptable alternate method. Granted with conditions for Longwall No. 1 located in the No. 3 Mine for a period of two (2) years.

Docket No.: M–90–60–C.

FR Notice: 55 FR 20671.

Petitioner: Jim Walter Resources, Inc.

Reg Affected: 30 CFR 75.1002.

Summary of Findings: Petitioner's proposal to continue using high-voltage cables at the longwall considered acceptable alternate method. Granted with conditions for the Longwall No. 3 located in the No. 4 Mine for a period of two (2) years.

Docket No.: M–90–62–C.

FR Notice: 55 FR 20347.

Petitioner: Jim Walter Resources, Inc.

Reg Affected: 30 CFR 75.1002.

Summary of Findings: Petitioner's proposal to continue using high-voltage cables at the longwall considered acceptable alternate method. Granted with conditions for longwall located in the No. 4 Mine for a period of two (2) years.

Docket No.: M–90–68–C.

FR Notice: 55 FR 21957.

Petitioner: Pyro Mining Company.

Reg Affected: 30 CFR 75.1100–2(b).

Summary of Findings: Petitioner's proposal to install the waterline in an entry adjacent to the conveyor belt entry with firehose outlets at a maximum of 300-foot intervals, a 250-foot firehose attached to each firehose outlet and located in the crosscut open to the belt entry, and each firehose outlet location clearly marked from each direction of the belt conveyor entry considered acceptable alternate method. Granted with conditions.

Docket No.: M–90–73–C.

FR Notice: 55 FR 21806.

Petitioner: Island Creek Coal Company.

Reg Affected: 30 CFR 75.1002.

Summary of Findings: Petitioner's proposal to use high-voltage cables inby the last open crosscut and within 150 feet of pillar workings with specific equipment and conditions considered acceptable alternate method. Granted with conditions for its Virginia Pocahontas No. 3 Mine and Virginia Pocahontas No. 5 Mine.

Docket No.: M–90–113–C.

FR Notice: 55 FR 33787.

Petitioner: U.S. Steel Mining Company, Inc.

Reg Affected: 30 CFR 75.1002.

Summary of Findings: Petitioner's proposal to use high-voltage cables to power the longwall inby the last open crosscut and within 150 feet of pillar workings with specific equipment and procedures considered acceptable alternate method. Granted with conditions for the Cumberland Mine.

Docket No.: M–90–122–C.

FR Notice: 55 FR 34780.

Petitioner: Pigeon Branch Coal Company.

Reg Affected: 30 CFR 75.305.

Summary of Findings: Due to roof falls and adverse conditions certain areas of the mine cannot be safely traveled. Petitioner's proposal to establish checkpoints where the quantity and quality of air entering and leaving the affected area would be monitored considered acceptable alternate method. Granted with conditions.

Docket No.: M–90–136–C.

FR Notice: 55 FR 39752.

Petitioner: Bridger Coal Company.

Reg Affected: 30 CFR 77.1304(a).

Summary of Findings: Petitioner's proposal to blend recycled oil with fuel oil to create a blasting agent considered acceptable alternate method. Granted with conditions.

Docket No.: M–90–142–C.

FR Notice: 55 FR 41905.

Petitioner: Wolf-Creek Collieries Company.

Reg Affected: 30 CFR 75.900.

Summary of Findings: Petitioner's proposal to use pump power contactors instead of circuit breakers considered acceptable alternate method. Granted with conditions.

Docket No.: M–90–144–C.

FR Notice: 55 FR 42520.

Petitioner: Wolf-Creek Collieries Company.

Reg Affected: 30 CFR 75.1002.

Summary of Findings: Petitioner's proposal to use high-voltage cables to power permissible longwall face equipment in or inby the last open crosscut considered acceptable alternate method. Granted with conditions for Longwall No. 4 located in the No. 4 Mine.

Docket No.: M–90–150–C.

FR Notice: 55 FR 45875.

Petitioner: Peabody Coal Company.

Reg Affected: 30 CFR 75.305.

Summary of Findings: Petitioner's proposal to establish six evaluation points and monitor for dangerous and harmful mine gases considered acceptable alternate method. Granted with conditions.

Docket No.: M–90–167–C.

FR Notice: 55 FR 49443.

Petitioner: Valley Coal Company.

Reg Affected: 30 CFR 75.326.

Summary of Findings: Petitioner's proposal to use air in the belt haulage entries to ventitlate active working places considered acceptable alternate method. Granted with conditions.

Docket No.: M–90–169–C.

FR Notice: 55 FR 49443.

Petitioner: BethEnergy Mines, Inc.

Reg Affected: 30 CFR 75.1002.

Summary of Findings: Petitioner's proposal to use high-voltage cables to power the longwall considered acceptable alternate method. Granted with conditions for the longwall located in the Livingston Portal, Eighty-Four Complex Mine.

Docket No.: M–90–177–C.

FR Notice: 55 FR 51359.

Petitioner: Jeff Coal Company.

Reg Affected: 30 CFR 75.1405–1.

Summary of Findings: Due to sharp curves in the track, the undulating pitch of the slopes, small lightweight cars, and the systems of haulage, installation of automatic couplers on the track haulage cars would result in a dimunition of safety to the miners affected. Granted with conditions.

Docket No.: M–90–190–C.

FR Notice: 55 FR 52898.

Petitioner: Consolidation Coal Company.

Reg Affected: 30 CFR 75.326.

Summary of Findings: Petitioner's proposal to use belt air to ventilate active working places considered acceptable alternate method. Granted with contitions.

Docket No.: M–90–192–C.

FR Notice: 55 FR 52899.

Petitioner: Consolidation Coal Company.

Reg Affected: 30 CFR 75.326.

Summary of Findings: Petitioner's proposal to use belt air to ventilate active working places considered acceptable alternate method. Granted with conditions.

Docket No.: M–90–194–C.

FR Notice: 56 FR 90.

Petitioner: Keystone Coal Mining Corporation.

Reg Affected: 30 CFR 75.326.

Summary of Findings: Petitioner's proposal to install a fire detection (CO monitoring) system and use belt air to ventilate the working sections considered acceptable alternate method. Granted with conditions.

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Docket No.: M-90-202-C.

FR Notice: 56 FR 2046.

Petitioner: Andalex Resources, Inc.

Reg Affected: 30 CFR 75.1101-8.

Summary of Findings: Petitioner's proposal to install a single line of automatic sprinklers for fire protection systems at main and secondary belt-conveyor drives considered acceptable alternate method. Granted with conditions.

Docket No.: M-90-203-C.

Fr Notice: 56 FR 1826.

Petitioner: Southern Ohio Coal Company.

Reg Affected: 30 CFR 75.1002.

Summary of Findings: Petitioner's proposal to use high-voltage cables inby the last open crosscut with specific equipment and conditions as outlined in the petition considered acceptable alternate method. Granted with conditions.

Docket No.: M-90-204-C.

FR Notice: 56 FR 2048.

Petitioner: Southern Ohio Coal Company.

Reg Affected: 30 CFR 75.1002.

Summary of Findings: Petitioner's proposal to use high-voltage cables inby the last open crosscut considered acceptable alternate method. Granted with conditions.

Docket No.: M-91-06-C.

FR Notice: 56 FR 8800.

Petitioner: Freeman United Coal Mining.

Reg Affected: 30 CFR 75.901.

Summary of Findings: Petitioner's proposal to operate a dieselpowered generator without an earth referenced grounded system considered acceptable alternate method. Granted with conditions for the Orient No. 6 Mine.

Docket No.: M-91-12-C.

FR Notice: 56 FR 8800.

Petitioner: Kerr-McGee Coal Corporation.

Reg Affected: 30 CFR 75.503.

Summary of Findings: Petitioner's proposal to use electric nonpermissible motore-driven mine equipment in the longwall recovery area considered acceptable alternate method. Granted with conditions only for trailing cables supplying power to specific equipment.

Docket No.: M-91-13-C.

FR Notice: 56 FR 8800.

Petitioner: Trapper Mining, Inc.

Reg Affected: 30 CFR 77.1304.

Summary of Findings: Petitioner's proposal to use fuel oil blended with recycled oil as a blasting agent considered acceptable alternate method. Granted with conditions.

Docket No.: M-91-16-C.

FR Notice: 56 FR 9237.

Petitioner: Utah Fuel Company.

Reg Affected: 30 CFR 75.1002.

Summary of Findings: Petitioner's proposal to use high-voltage cables inby the last open crosscut and within 150 feet of pillar workings considered acceptable alternate method. Grant with conditions

Docket No.: M-91-19-C.

FR Notice: 56 FR 10577.

Petitioner: Webster County Coal Corporation.

Reg Affected: 30 CFR 75.1103-4(a).

Summary of Findings: Petitioner's request to amend its petition to change the location of carbon monixide sensors considered acceptable alternate method. Granted with conditions.

Docket No.: M-91-22-C.

FR Notice: 56 FR 12277.

Petitioner: White County Coal Corporation.

Reg Affected: 30 CFR 75.901(a).

Summary of Findings: Petitioner's proposal to oeprate the diesel-powered generator without an earth referenced ground considered acceptable alternate method. Granted with conditions.

Docket No.: M-91-23-C.

FR Notice: 56 FR 12395.

Petitioner: Freeman United Coal Company.

Reg Affected: 30 CFR 75.901(a).

Summary of Findings: Petitioner's proposal to operate the diesel-powered generator without an earch referecned grounded system considered acceptable alternate method. Granted with conditions.

Docket No.: M-91-24-C.

FR Notice: 56 FR 14131.

Petitioner: Baylor Rush, Inc.

Reg Affected: 30 CFR 75.1405.

Summary of Findings: Due to sharp radius curves, undulating pitch of slopes, and extremely small capacity railcars, the use of automatic couplers on haulage equipment would result in a dimunition of safety to the miners. Granted with conditions.

Docket No.: M-91-26-C.

FR Notice: 56 FR 14131.

Petitioner: ACM Oklahoma, Inc.

Reg Affected: 30 CFR 75.1700.

Summary of Findings: Petitioner's proposal to seal and mine through oil and gas wells considered acceptable alternate method. Granted with conditions.

Docket No.: M-91-31-C.

FR Notice: 56 FR 20478.

Petitioner: S & J Coal Company.

Reg Affected: 30 CFR 75.301.

Summary of Findings: Petitioner's proposal that the minimum quantity of air reaching the working face be 1,500 cubic feet a minute (cfm), reaching the last open crosscut be 5,000 cfm, and reaching the intake end of a pillar line be 5,000 cfm considered acceptable alternate method. Granted with conditions.

Docket No.: M-91-34-C.

FR Notice: 56 FR 22889.

Petitioner: Gordon Coal Company.

Reg Affected: 30 CFR 75.313.

Summary of Findings: Petitioner's proposal to use a hand-held methane and oxygen detector instead of machine-mounted methane monitors on permissible three-wheel battery-powered tranctors considered acceptable alternate method. Granted with conditions.

Docket No.: M-91-37-C.

FR Notice: 56 FR 22889.

Petitioner: Deep Star Mining, Inc.

Reg Affected: 30 CFR 75.305.

Summary of Findings: Petitioner's proposal to evaluate the ventilation through a 300-foot area instead of traveling the return entry in its entirety considered acceptable alternate method. Granted with conditions.

Docket No.: M-91-44-C.

FR Notice: 56 FR 26842.

Petitioner: U.S. Steel Mining Company, Inc.

Reg Affected: 30 CFR 75.1105.

Summary of Findings: Petitioner's proposal to enclose electrical equipment in a monitored fireproof structure instead of ventilating the equipment to the return considered acceptable alternate method. Granted with conditions.

Docket No.: M-91-45-C.

FR Notice: 56 FR 26842.

Petitioner: U.S. Steel Mining Company, Inc.

Reg Affected: 30 CFR 75.1105.

Summary of Findings: Petitioner's proposal to enclose electrical equipment in a monitored fireproof structure instead of ventilating the pump to a return aircourse considered acceptable alternate method. Granted with conditions.

Docket No.: M-91-46-C.

FR Notice: 56 FR 26842.

Petitioner: Canterbury Coal Company.

Reg Affected: 30 CFR 75.1100-3.

Summary of Findings: Petitioner's proposal to maintain a dry waterline equipped with an automatic valve actuated by a signal from fire sensors along the slope belt considered acceptable alternate method. Granted with conditions.

Docket No.: M-91-48-C.

FR Notice: 56 FR 27976.

Petitioner: DK & D Coal Company

Reg Affected: 30 CFR 75.1400.

Summary of Findings: Petitioner's proposal to use a slope conveyance with increased rope strength and a secondary safety rope connection instead of safety catches to transport persons considered acceptable alternate method. Granted with conditions.

Docket No.: M-91-53-C.
FR Notice: 56 FR 27976.
Petitioner: Consolidation Coal Company.
Reg Affected: 30 CFR 75.901.
Summary of Findings: Petitioner's proposal to use a low- and medium-voltage circuit from a portable diesel-driven alternator and transformer to feed underground electrical equipment considered acceptable alternate method. Granted with conditions.

Docket No.: M-91-54-C.
FR Notice: 56 FR 30773.
Petitioner: Kerr-McGee Coal Corporation.
Reg Affected: 30 CFR 75.326.
Summary of Findings: Petitioner's proposal to develop two entries through a one-mile wide rock channel with one entry serving as the intake airway and primary escapeway and other as a conveyor belt/return airway and secondary escapeway considered acceptable alternate method. Granted with conditions.

Docket No.: M-91-59-C.
FR Notice: 56 FR 33309.
Petitioner: Mountain Coal Company.
Reg Affected: 30 CFR 75.1002.
Summary of Findings: Petitioner's proposal to use 2400-volt cables and equipment to power permissible longwall equipment considered acceptable alternate method. Granted with conditioners.

Docket No.: M-91-66-C.
FR Notice: 56 FR 40915.
Petitioner: Eastern Associated Coal Corporation.
Reg Affected: 30 CFR 75.305.
Summary of Findings: Petitioner's proposal to monitor ventilation in the longwall tailgate entry instead of traveling the return aircourse in its entirety considered acceptable alternate method. Granted with conditions for the tailgate entry of the 27 left longwall panel.

Docket No.: M-91-71-C.
FR Notice: 56 FR 40915.
Petitioner: L.V. Coal Company.
Reg Affected: 30 CFR 75.1400.
Summary of Findings: Petitioner's proposal to use a slope conveyance (gunboat) equipped with a secondary safety rope instead of safety catches considered acceptable alternate method. Granted with conditions.

Docket No.: M-90-07-M.
FR Notice: 55 FR 30536.
Petitioner: Bunker Hill Mining Company (U.S.), Inc.
Reg Affected: 30 CFR 57.19011.
Summary of Findings: Petitioner's request to minimize the radial extension of the flanges on the No. 1 hoist considered acceptable alternate method. Granted with conditions.

Docket No.: M-90-10-M.
FR Notice: 55 FR 37583.
Petitioner: Sunshine Mining Company.
Reg Affected: 30 CFR 57.11051.
Summary of Findings: Petitioner's proposal to place conspicuous and easily read directional signs to all shafts and exits accessible from the level and at each intersection on active levels in the mine or inactive levels that might be used for emergency travel considered acceptable alternate method. Granted with conditions.

Docket No.: M-90-19-M.
FR Notice: 55 FR 53209.
Petitioner: Energy Fuels Nuclear, Inc.
Reg Affected: 30 CFR 57.19025.
Summary of Findings: Petitioner's proposal to use an epoxy resin as a socketing medium instead of zinc in the poured socket wire rope termination considered acceptable alternate method. Granted with conditions.

Docket No.: M-91-01-M.
FR Notice: 56 FR 10577.
Petitioner: Richard Sykora.
Reg Affected: 30 CFR 57.4431.
Summary of Findings: Petitioner's proposal to store a 550 gallon fuel tank 57 feet from the mine opening considered acceptable alternate method. Granted with conditions.

Docket No.: M-91-03-M.
FR Notice: 56 FR 23941.
Petitioner: Tg Soda Ash, Inc.
Reg Affected: 30 CFR 57.22305.
Summary of Findings: Petitioner's proposal to use a nonpermissible battery-powered drill for drilling holes for surveying spads in the panel face area in by the last open crosscut considered acceptable alternate method. Granted with conditions.

Docket No.: M-91-04-M.
FR Notice: 56 FR 27976.
Petitioner: Americold Corporation.
Reg Affected: 30 CFR 57.4761.
Summary of Findings: Petitioner's proposal to install a 3-hour rated roll-up fire door at the underground shop considered acceptable alternate method. Granted with conditions.

Docket No.: M-91-05-M.
FR Notice: 56 FR 27976.
Petitioner: Tenneco Minerals Company.
Reg Affected: 30 CFR 57.22305.
Summary of Findings: Petitioner's proposal to use nonpermissible tools in or beyond the last open crosscut considered acceptable alternate method. Granted with conditions.

[FR Doc. 92-3567 Filed 2-13-92; 8:45 am]

BILLING CODE 4510-43-M

Mine Safety and Health Administration; Petitions for Modification

The following parties have filed petitions to modify the application of mandatory safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Kerr-McGee Coal Corporation

[Docket No. M-91-133-C]

Kerr-McGee Coal Corporation, P.O. Box 727, Harrisburg, Illinois 62946 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Galatia No. 56-1 Mine (I.D. No. 11-02752) located in Saline County, Illinois. The petitioner proposes to replace two Fletcher single-boom roofbolters, Model No. DR-13 with Model No. CDR-13 which has the same horsepower rating and the same size trail cable.

2. Doverspike Bros. Coal Company, Inc.

[Docket No. M-92-02-C]

Doverspike Bros. Coal Company, Inc., R.D. #4, Box 271, Punxsutawney, Pennsylvania 15767 has filed a petition to modify the application of 30 CFR 75.1710 (canopies or cabs; electric face equipment) to its Clutch Run Mine (I.D. No. 36-08191) located in Jefferson County, Pennsylvania. The petitioner states that due to low mining heights, the use of cabs or canopies on electric face equipment would result in a dimunition of safety to the equipment operator.

3. Windsor Coal Company

[Docket No. M-92-03-C]

Windsor Coal Company, P.O. Box 39, West Liberty, West Virginia 26074 has filed a petition to modify the application of 30 CFR 75.1105 (housing of underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps) to its Windsor Mine (I.D. No. 46-01286) located in Brooke County, West Virginia. The petitioner proposes to enclose electrical equipment in a monitored fireproof structure instead of ventilating the pump to the return aircourse.

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4. Empire Coal Company

[Docket No. M-92-04-C]

Empire Coal Company, P.O. Box 729, Gnadenhutten, Ohio 44629 has filed a petition to modify the application of 30 CFR 77.216-5 (water, sediment or slurry impoundments and impounding structures; abandonment) to its Belden Mine (I.D. No. 33-02055), (Impoundment No. 1211-OH08-02055-01) located in Tuscarawas County, Ohio. The petitioner proposes to eliminate the weekly pond inspections in the watershed area of the mine since the work is completed and the dam is, and will remain, stable.

5. Anco Mining, Inc.

[Docket No. M-92-05-C]

Anco Mining, Inc., 42410 National Road, Belmont, Ohio 43718 has filed a petition to modify the application of 30 CFR 77.216-5 (water, sediment or slurry impoundments and impounding structures; abandonment) to its Peoli Mine (I.D. No. 33-04022), (Impoundment No. 1211-OH-0804022-01 located in Tuscarawas County, Ohio. The petitioner proposes to eliminate the weekly pond inspections in the watershed area of the mine since the work is completed and the dam is, and will remain, stable.

6. Sunnyside Coal Company

[Docket No. M-92-06-C]

Sunnyside Coal Company, P.O. Box 99, Sunnyside, Utah 84539 has filed a petition to modify the application of 30 CFR 75.507 (power connection points) to its Sunnyside Mine No. 1 (I.D. No. 42-00093) located in Carbon County, Utah. The petitioner proposes to install a nonpermissible deep well pump/pumps in the return aircourse at the bottom of the manshaft dips with specified conditions.

7. Kiah Creek Mining Company

[Docket No. M-92-07-C]

Kiah Creek Mining Company, P.O. Box 1409, Pikeville, Kentucky 41502 has filed a petition to modify the application of 30 CFR 75.1710 (canopies or cabs; electric face equipment) to its No. 4 Mine (I.D. No. 15-16678) located in Pike County, Kentucky. The petitioner states that due to low mining heights, the use of a canopy on electric face equipment would result in a dimunition of safety to the operator.

8. Cyprus Emerald Resources Corporation

[Docket No. M-92-08-C]

Cyprus Emerald Resources Corporation, Route 218 South, P.O. Box 871, Waynesburg, Pennsylvania 15370 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley wires, trolley feeder wires, high-voltage cables and transformers) to its Emerald Mine No. 1 (I.D. No. 36-05466) located in Greene County, Pennsylvania. The petitioner proposes to use high-voltage cables to power permissible longwall equipment.

Request for Comments

Persons interested in these petitions may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 16, 1992. Copies of these petitions are available for inspection at that address.

Dated: February 6, 1992.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 92-3568 Filed 2-13-92; 8:45 am]

BILLING CODE 4510-43-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Design Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Design Arts Advisory Panel (Project Grants for Organizations, Design Education, Heritage Conservation and Rural and Small Communities Section) to the National Council on the Arts will be held on March 3-5, 1992 from 9 a.m.-6:30 p.m. and March 6 from 9 a.m.-3 p.m. in room M-14 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

Portions of this meeting will be open to the public on March 3 from 9 a.m.-9:30 a.m. and March 6 from 1 a.m.-3 p.m. The topics will be welcoming remarks and policy discussion.

The remaining portions of this meeting on March 3 from 9:30 a.m.-6:30 p.m., March 4-5 from 9 a.m.-6:30 p.m. and March 6 from 9 a.m.-1 p.m. are for purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: February 7, 1992.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 92-3563 Files 2-13-92; 8:45 am]

BILLING CODE 7537-01-M

Theater Advisory Panel (Professional Companies Prescreening Section); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Theater Advisory Panel (Professional Companies Prescreening Section) to the National Council on the Arts will be held on March 3-4, 1992 from 9:30 a.m.-5:30 p.m. in room M-07 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on March 3 from 9:30 a.m.-9:45 a.m. The topic will be opening remarks.

The remaining portions of this meeting on March 3 from 9:45 a.m.-5:30 p.m. and March 4 from 9:30 a.m.-5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: February 11, 1992.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 92-3639 Filed 2-13-92; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-237, 50-249, 50-254, and 50-265]

Commonwealth Edison Co ; (Dresden Nuclear Power Station, Units 1 and 2; Quad Cities Nuclear Power Station, Units 1 and 2); Exemption

I

Commonwealth Edison Company (CECo, the licensee) is the holder of Operating License Nos. DPR-19 and DPR-25, which authorize operation of Dresden Nuclear Power Station, Units 1 and 2; and Operating License Nos. DPR-29 and DPR-30, which authorize operation of Quad Cities Nuclear Power Station, Units 1 and 2. These licenses provide, among other things, that Dresden and Quad Cities are subject to all rules, regulations, and Orders of the Commission now or hereafter in effect.

Dresden Station is comprised of two boiling water reactors at the Licensee's site located in Grundy County, Illinois. Quad Cities Station is comprised of two boiling water reactors at the licensee's site located in Rick Island County, Illinois.

II

By letter dated November 12, 1991, the licensee requested an exemption from certain Type B (local leak rate) testing requirements of appendix J to 10 CFR part 50, for a total of 83 two-ply containment penetration expansion bellows at four reactor units. This is because the bellows design is such that they cannot be properly tested to satisfy Type B testing requirements, barring replacement with bellows of a different design.

On November 19, 1990, during the Quad Cities, Unit 1, Cycle 11 refueling Outage, the licensee performed a local leak rate test (LLRT) on the Drywell Ventilation Penetration X-25 bellows. This was done in the normal way, by pressurizing the small space between the two plies of the bellows assembly by using a test tap made for that purpose. The measured leakage rate was 4.3 standard cubic feet per hour (scfh). After the LLRT was performed, a significant amount of maintenance and new construction work was performed in the area surrounding the bellows assembly. This included extensive maintenance on a valve located in-line with the bellows (valve 1-1601-23) and installation of a new penetration (X-109, Reactor Vessel Level Instrumentation Lines) directly above X-25. After the completion of this maintenance and construction, a new LLRT was performed on the X-25 bellows, with a measured leakage rate of 6 scfh. Appproximately two days later, the primary containment integrated leak rate test (ILRT) was performed. While the containment was at pressure, application of a soap solution to the surface of the X-25 bellows indicated three cracks ranging in length from 0.187 inch to 1.7 inch, and a large number of small pin-hole cracks. The ILRT was successfully completed with the leaking bellows in its as-found condition. Following the ILRT, an additional LLRT was performed on the bellows, and the results matched the previous LLRT leakage rate. A soap solution was applied to the bellows assembly during this LLRT and showed only a few small leaks.

Next a "special" LLRT was performed in an effort to quantify actual leakage from the bellows. A steel plate was welded to the vent line inlet which is located inside the drywell. The bellows were pressurized through a threaded hole in the plate and a leak rate test was performed on the entire penetration. The soap solution indicated a large leak with many small leaks similar to that encountered during the ILRT. A leakage rate of 137 scfh was measured.

With the validity of the LLRT in question, the licensee tried to determine the sensitivity of the LLRT procedure to detect and quantify leaks. A 0.25-inch hole was drilled through the two bellows from the outer diameter to the inner diameter in the convolute adjacent to the LLRT taps on the bellows. A LLRT was performed and resulted in a small increase in leakage (from 6 scfh to 7 scfh). A second hole was drilled and the LLRT was repeated. The measured leakage was 8 scfh.

These circumstances indicated that the current method used to perform a LLRT on two-ply containment penetration bellows could identify leakage, but could not quantify the extent of the leakage. The licensee formally notified the Commission of these findings by letter dated March 27, 1991.

The bellows assembly for penetration X-25 at Quad Cities Station is typical of two-ply bellows for other containment penetrations at both Quad Cities and Dresden Stations. These assemblies are original plant equipment, which were manufactured and installed in the late 1960s and early 1970s. These flexible metallic bellows are constructed with two plies of austenitic type 304 stainless steel which are formed together into cylindrical corrugated bellows elements. This design configuration is typical of bellows penetrations which are used at all units at Dresden and Quad Cities Stations. The investigation conducted by the licensee, which included discussions with the supplier and an independent analysis at Argonne National Laboratory, revealed that the forming process can bring the plies into contact, thereby limiting the flow of the local leak rate test medium (inert gas or air) between the inner and outer plies. The X-25 LLRT and ILRT test results indicated that leakage can be detected under these conditions; however, the leakage cannot be accurately quantified.

In order to achieve full compliance with Type B testing requirements, both Dresden and Quad Cities would be required to replace all two-ply containment penetration bellows with a testable bellows design. The cost of replacement of two-ply bellows assemblies is projected to be approximately $400,000 per assembly, which would mean between approximately $7.1 million and $9.5 million per unit for both Dresden and Quad Cities Stations. The total cost of bellows replacement is projected to be approximately $33.35 million.

III

In lieu of an appendix J Type B test on the applicable two-ply containment penetration bellows assemblies at Dresden and Quad Cities Stations, the licensee proposes to implement the following testing program:

1. All two-ply bellows will be locally pressurized with air (between the plies) at a pressure of Pa. The leakage rate will be measured in accordance with station procedures. If leakage is less than 0.5 scfh, the bellows assembly will be considered to be intact and no further testing on that bellows assembly is necessary.

2. If the leakage rate is greater than or equal to 0.5 scfh, then the bellows assembly will be locally pressurized at the test taps with helium (between the plies) at a pressure of Pa. The outer ply will then be tested for the presence of helium with a helium sniff detector. If no helium is detected, the integrity of the outer ply will be considered to be intact, and no further testing on that bellows assembly is necessary.

3. If helium leakage is detected through the outer ply, then the inner ply will be tested for the presence of helium. If no helium is detected, the integrity of the inner ply will be considered to be intact, and no further testing on that bellows assembly is necessary.

4. If helium is detected through both the inner and outer plies, then the protective covers will be removed, and the outer ply will be examined by penetrant and/or snoop testing. All observed flaw indications will be measured and mapped. Bellows assemblies which indicate leakage through both plies will not be considered to be intact.

5. All crack indications will be evaluated by the [licensee's] Nuclear Engineering Department (NED) and the current and projected leakage rate will be calculated. The NED review will include a structural assessment of the bellows with regards to critical flaw size.

6. Upon completion of the two-ply bellows testing program, a Type A ILRT test will be performed to verify primary containment integrity.

7. All two-ply bellows assemblies which demonstrate leakage through both plies will be replaced during the subsequent refuel outage, unless Commonwealth Edison Comany provides justification for continued operation greater than one operating cycle.

This Exemption and associated testing program is requested for each nontestable two-ply bellows assembly (original design). Upon replacement with a testable bellows assembly, that bellows will no longer be included in the Exemption and will be required to be tested in accordance with the normal Type B test program. Similarly, if a method is developed which insures a valid Type B test on one or more bellows assemblies, those bellows will also be excluded from the Exemption and will be required to be tested in accordance with the normal Type B test program.

This testing program is intended to assure that at least one ply of a two-ply bellows is intact and that overall containment leakage is within its allowable limit as shown by Type A testing. The Type A test is essential to this program, because it is the only test available that can properly quantify the bellows' leakages, albeit not individually. This is especially important for those bellows which are known to leak but will not be replaced until after another cycle.

It is also important to be assured that a leaking bellows will not degrade excessively during the period that ends with its replacement. The licensee examined the X-25 bellows assembly from Quad Cities and determined that the crack mechanism was transgranular stress corrosion cracking (TGSCC). The licensee stated that this mechanism, which has caused previous bellows assembly deterioration at Dresden and Quad Cities, is normally characterized by the slow development and propagation of cracks. The X-25 penetration deterioration is unique in the licensee's experience since the bellows appeared to exhibit a large increase in leakage during one operating cycle based upon the potential impact of 137 scfh on the ILRT results. This large amount of leakage would have had a noticeable impact upon ILRT results during previous outages (although it would not have led to the failure of the ILRT). This significant leakage increase may have occurred as a result of maintenance work associated with the replacement of a valve which is directly in-line with the bellows. During the replacement of the in-line valve (1–1601–23), which is located approximately 12 inches from the bellows assembly, excessive force was used to remove the valve. Resultant torsional and/or translational forces may have caused an accelerated growth of existing TGSCC in the bellows. The metallurgical investigation also identified the presence of several corrosive species which contribute to TGSCC. These included chlorides, flourides, and sulfides. The original form of this material could not be determined and the method substance deposit is therefore unknown.

The licensee has performed a fracture mechanics evaluation, detailed in their submittal, which concludes that substantial structural margin exists to ensure that, during one operating cycle, catastrophic failure should not occur for bellows assemblies with cracks and holes of the type and size that would be detected by the proposed surveillance procedure.

Recent tests at Dresden, using the proposed procedures, have detected flaws of the anticipated size in several bellows assemblies. The staff questions, however, whether the LLRT with air could detect all significant flaws, since the flow of air between the plies is so restricted. In order to insure that the air test and associated threshold of 0.5 scfh would, with sufficient sensitivity, detect leakage from a bellows assembly, the licensee performed a one-time helium flow rate validation test on the two-ply bellows assemblies at Dresden Station during October 1991. This validation consisted of two separate pressurizations and leak rate measurements, one with air at Pa, and one with helium at Pa. By pressurizing with helium, the licensee would then be able to detect if an obstruction between the plies was preventing air from reaching a leak. The helium flow rate compared favorably with the expected flow rates of helium calculated for turbulent and laminar flow conditions, knowing the measured airflow rates.

Therefore, the initial air leakage test described in the proposed test program is a valid means to test for the presence of leaks in two-ply bellows assemblies. This in turn validates the ability of the proposed testing program (which includes a Type A test) to verify the integrity of a bellow assembly, and insure that primary containment leakage is less than 0.75 La.

The staff finds that the proposed testing program will detect bellows assemblies with significant flaws and result in replacement of flawed assemblies within one operating cycle, during which period there is reasonable assurance that the bellows assemblies will not suffer excessive degradation. If the licensee should propose to wait longer than one cycle to replace any bellows assembly, the staff must evaluate and approve the request at that time.

IV

Accordingly, the Commission has determined pursuant to 10 CFR 50.12(a)(1) and (a)(2)(ii), that (1) the Exemption from appendix J is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security, and (2) application of the regulation in this particular circumstance is not necessary to achieve the underlying purpose of the rule. The Commission concludes the testing and replacement program for the containment penetration bellows assemblies is an acceptable alternative to the appendix J Type B testing requirement. Accordingly, the Commission hereby grants the Exemption from appendix J.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this Exemption will have no significant impact on the quality of the human environment (57 FR 4651).

This Exemption is effective upon issuance.

Dated at Rockville, Maryland this 6th day of February 1992.

For the Nuclear Regulatory Commission.

Bruce A. Boger,

Director, Division of Reactor Projects III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 92–3606 Filed 2–13–92; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 04008989–ML and ASLBP No. 91–638–01–ML]

Atomic Safety and Licensing Board; Prehearing Conference

In the Matter of Envirocare of Utah, Inc. (Byproduct Material Waste Disposal License).

February 7, 1992.

Before Administrative Judges: Charles Bechhoefer, Chairman, Dr. Richard F. Foster, and Frederick J. Shon.

This proceeding concerns an application for a license to accept and dispose of uranium and thorium byproduct material (as defined in section 11e.(2) of the Atomic Energy Act, as amended) received from other persons, at a site near Clive, Utah.

Notice is hereby given that a prehearing conference in this proceeding is scheduled for Tuesday, March 10, 1992, beginning at 9:30 a.m. and extending until 5 p.m., at room 8102, Wallace F. Bennett Federal Building, 125 South State Street, Salt Lake City, Utah. To the extent necessary, the conference will continue on Wednesday, March 11, 1992, beginning at 9 a.m.

The purpose of the conference is to hear argument on Kerr-McGee's request for a hearing and petition for leave to intervene, including Kerr-McGee's standing to participate, either as a matter of right or of discretion, and its proposed contentions. In that connection, Kerr-McGee should be prepared to specify which, if any, of its proposed contentions remains viable under Envirocare of Utah's revised application dated December 16, 1991.

At the conference, the Board will also consider schedules for the remainder of the proceeding, depending on the conclusions reached with respect to the above questions. In addition, the Board hereby requests that the Applicant arrange a site tour for the Board and parties or petitioner, to take place during the course of the conference or at its conclusion (on Thursday, March 12, 1992 if necessary).

In accordance with 10 CFR 2.715(a), any person not a party to the proceeding will be permitted to make a limited appearance statement, either orally or in writing, setting forth his or her position on the issues. The Board will hear oral statements at the outset of the prehearing conference on March 10, 1992. These statements do not constitute testimony or evidence in this proceeding, and the persons making such statements may not participate in any other way. The number of persons making oral statements and the time allotted for each statement may be limited depending on the number of persons present at the designated time. Written statements may be presented at any time. Written statements, and requests to make oral statements, should be submitted to the Office of the Secretary, Docketing and Service Branch, U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Maryland 20852. A copy of such a statement or request should also be served on the Chairman of this Atomic Safety and Licensing Board, Atomic Safety and Licensing Board Panel, EW-439, Washington, DC 20555.

Documents relating to this proceeding are on file at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555.

Dated: Bethesda, Maryland, February 7, 1992.

For the Atomic Safety and Licensing Board.

Charles Bechhoefer,

Chairman, Administrative Judge.

[FR Doc. 92–3605 Filed 2–13–92; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–305]

Wisconsin Public Service Corporation; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–43 issued to Wisconsin Public Service Corporation (the licensee) for operation of the Kewaunee Nuclear Power Plant located in Kewaunee County, Wisconsin.

The proposed amendment would revise the Technical Specifications (TS) in 4.2, "ASME Code Class Inservice Inspection and Testing," and in Figure TS 4.2–1, "Application of Plugging Limits," and would revise 2.C(5), "Steam Generator Tube Repairs," of the Operating License. The proposed amendment would allow use of Combustion Engineering Nuclear Services sleeves and plugs for tube repair in the Kewaunee Nuclear Power Plant steam generators. Administrative changes are also proposed dealing with format and typographical inconsistencies.

Before issuance of the proposed license amendment, the Commission will have made findings required by the atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) The proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated. The intent of this proposed amendment is to allow WPSC to use CENS welded sleeves to repair the KNPP SG tubes showing degradation in sleevable regions of the tube sheet and the tube support plate crevice areas. To support this, changes are being proposed to TS 4.2.b.4.a to reference both WCAP 11643 and CEN–413–P as acceptable methods to repair the tubes, revise TS 4.2.b.4.b to state it is only applicable to Westinghouse mechanical sleeves, and to add a plugging limit for the CENS welded leak tight sleeves. In addition, the existing license condition 2.C(5) is being deleted.

Deleting license condition 2.C.(5) is an administrative change. The information is being relocated to TS 4.2.b.4.a. This will consolidate the requirements for SG tube repair into one TS while still maintaining the original intent of the license condition; that is, repair methods shall be submitted to the NRC for prior review and approval. Therefore, this proposed change will not increase the probability or consequences of an accident previously evaluated.

Report CEN–413–P, "Kewaunee Steam Generator Tube Repair Using Leak Tight Sleeves", demonstrates that repair of degraded tubes using the CENS sleeves will result in tube bundle integrity consistent with the original design basis.

The sleeve design, materials, and joints were designed to the applicable ASME Boiler and Pressure Vessel Codes. An extensive analysis and test program was undertaken to prove the adequacy of the CENS welded sleeve. This program determined the effect of normal operating postulated accident conditions on the sleeve-tube assembly, as well as the adequacy of the assembly to perform its intended function.

The postulated LOCA and non-LOCA transients were assessed to determine the impact of repair by sleeving. The installation of sleeves into a SG results in additional flow restriction within the primary system and associated increase in the pressure drop across the SG. The effects of this flow restriction for installing tubesheet and/or tube support plate sleeves were evaluated. The current safety analysis supports plant operation with up to 13.94% of the SG tubes plugged. Any combination of sleeving and plugging up to this limit are bounded by the existing analysis. WPSC maintains an administratively controlled program to assure that this allowable SG tube plugging level is not exceeded.

Furthermore, in accordance with Regulatory Guide 1.83 recommendations, the sleeves can be regularly monitored by ET inspection techniques. A sleeve plugging limit is being proposed based on a Regulatory Guide 1.121 analysis.

Therefore, based on extensive analysis and test programs performed, the provisions not to exceed the current analyzed tube plugging limit, and the ability to monitor and remove degraded sleeves from service, it can be concluded that this proposed change will not significantly increase the probability or consequences of an accident previously evaluated.

(2) The proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated. Using CENS welded sleeves for tube repair in the KNPP SGs does not alter the design basis of the plant. The structural adequacy of the repair sleeve-tube assembly has been demonstrated to meet regulatory requirements, therefore, the overall fuctional capability of the SG tube bundle remains unchanged. Use of CENS sleeves will not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The proposed change will not involve a significant reduction in the margin of safety. Sleeve repair of degraded SG tubes has been demonstrated to maintain the structural ability of the SG tubing during normal and postulated accident conditions, and to prevent the effect of sleeving on the transients and accidents evaluated in the KNPP USAR has been reviewed. The existing safety analysis supports plant operation with up to 13.94% of the SG tubes plugged (USAR section 14.3.10). An administratively controlled program exists to assure that the allowable SG tube plugging level is not exceeded. In addition, the sleeve assemblies can be monitored through periodic inspection and a sleeve plugging limit has been established based on RG 1.121 criteria.

Use of CENS leak tight sleeves for the upcoming refueling outage provides several advantages. The current sleeving method permitted by the KNPP TSs only allows access to 64% of the SG tube bundle. The curved peripheral sleeves will extend the tubesheet sleeving boundary to all but the outermost tubes. Approval to use the tube support plate sleeves will allow the option to repair pluggable indications up to the sixth support plate in the cold leg and the unsleeved hot leg tubes prior to the approval of the alternate plugging criteria for the tube support plates.

Repair of SG tubes by sleeving will decrease the number of tubes that would be taken out of service by plugging. Installation of tube plugs reduces the coolant flow rate available for core cooling, thus sleeving will maintain the margin of flow that would otherwise be reduced by plugging. Based on the above, it is concluded that the proposed change does not result in a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and; based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within thirty (30) days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By March 16, 1992, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the Government Documents Section, Library Learning Center, University of Wisconsin, 2420 Nicolet Drive, Green Bay, Wisconsin. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board Panel, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board Panel will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interst in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should aslo identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expect opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documentsd of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issueof law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John N. Hannon: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to David Baker, Esq., Foley and Lardner, P.O. Box 2103, Orlando, Florida 31082, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board Panel that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated January 27, 1992, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the Government Documents Section, Library Learning Center, University of Wisconsin, 2420 Nicolet Drive, Green Bay, Wisconsin.

Dated at Rockville, Maryland, this 7th day of February 1992.

For the Nuclear Regulatory Commission.

Jon B. Hopkins,

Acting Director, Project Directorate III-3, Division of Reactor Projects III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 92-3607 Filed 2-13-92; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-30356; File No. SR-AMEX-91-35]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange, Inc. Relating to the Development of Stock Indexes for Index Option Trading

February 10, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 26, 1991, the American Stock Exchange, Inc. ("AMEX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex, pursuant to Rule 19b-4 under the Act, proposes to amend Exchange Rules 900C and 901C in order to provide greater flexibility in developing stock indexes for index option trading.

The text of the proposed rule change is attached as Exhibit A.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and statutory basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

In 1982, the Exchange adopted rules for the development and trading of options on broad-based and narrow-based stock indexes.[1] Exchange Rule 900C defines the term "stock index group" as a group of stocks each of whose inclusion and relative representation in the group is determined by the inclusion and relative representation of their current market values or market prices in a widely disseminated stock index. Exchange Rule 901C describes the types of stock indexes upon which options may be traded on the Exchange.

Due to concerns that stock indexes with a small number of stocks and with a substantial portion of those stocks traded on the exchange where the index option is also trading may result in increased opportunities for manipulation and other improper trading activities, the Exchange placed limitations on the number of AMEX-traded stocks that could be included in a stock index upon which an option is also traded on the AMEX. However, since 1982, the options industry has evolved considerably; options are now traded on a variety of broad-based and narrow-based indexes and indexes are being created that use new and different methods for calculation and determination of the relative representation of the stocks within the index.

In an effort to continue to encourage the development of indexes that fit investors' needs and strategies, the Exchange is proposing to revise Exchange Rules 900C and 901C to provide for greater flexibility in the design and development of new and useful stock index options. The Exchange proposes to change the definition of "stock index group" in Rule 900C to eliminate references to either market value or market price as the method of determining the relative representation of a stock within an index. this will clarify that an index need not be based on a strictly proportional representation of the prices or market values of its component stocks.This clarification is appropriate since the Exchange is currently developing a Biotechnology Index option which will be based upon an "equalweighting" calculation method that will take into consideration both the market price and the capitalization value of the component stocks.[2]

The Exchange also proposes to revise Rule 901C to remove the limitation on the number of AMEX stocks that can be included in an index which underlies a stock index option traded on the Exchange. This revision will allow indexes of less than 50 stocks to have AMEX-listed stocks account for more than 10% of the index's market value, and it will allow AMEX-listed stocks to be included in indexes that are composed of less than 25 stocks.

The Exchange states that concerns that certain market participants would have an informational advantage when trading an option on an index that is comprised of stocks that also trade on the same exchange have lessened considerably since index options were first developed, due in large part to the real-time electronic quotation and transaction information dissemination systems that now link participants in today's sophisticated market. The Exchange also states that there is less concern that an index value can be influenced by any one stock, given the clear preference for insuring that no one individual security represents an excessive portion of any index. In fact, options on indexes where one component represents a large portion of the index's value, *i.e.*, the Computer Index, have not traded successfully, so that indexes currently being developed for options trading generally use component stocks whose market values and/or capitalization values are generally similar.

(2) Basis

The AMEX believes that the proposed rule change is consistent with section 6(b) of the Act, in general, and furthers the objectives of section 6(b)(5), in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Amex believes that the proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by March 6, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Exhibit A

Italics indicates material proposed to be added; [brackets] indicate material proposed to be deleted.

Section II. Stock Index Options

Rule 900C *Applicability and Definitions*

(a) Applicability. No change.

(b) Definitions—The following terms as used in the Rules in this Section shall, unless the context otherwise indicates, have the meaning herein specified.

(1) Stock Index Group; Broad Stock Index Group; Stock Index Industry Group. The term "stock index group" means a group of stocks each of whose inclusion and relative representation in the group is determined by

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[1] A stock index that reflects representative stock values of a broad segment of the stock market is a "broad-based" index, while an index that represents a particular industry or related industries is known as a "narrow-based" index.

[2] *See* File No. SR-AMEX-92-01 filed with the Commission on January 6, 1992.

[the] *its* inclusion and relative representation [of their current market values or market prices] in a widely disseminated stock index. A stock index group may relate to a stock index which *represents* [reflects representative stock market values or prices of] either a broad segment of the stock market ("broad stock index group") or [stocks representing] a particular industry or related industries ("stock index industry group").

(2)–(19) No change.

Rule 901C *Designation of Stock Index Options*

(a) The Exchange may from time to time approve for listing and trading on the Exchange American style and European style put option contracts and call option contracts in respect of underlying stock index groups comprised of 5 or more underlying stocks; [provided that if stocks traded on the Exchange constitute 10 percent or more of the total market value of all of the underlying stocks included in a stock index group such group must consist of not less than 50 underlying stocks; and] provided [further] that if the stock index group shall consist of less than 25 underlying stocks, at least 50 percent of the stock index group's numerical index value must be accounted for by stocks which meet the criteria and guidelines set forth in Rule 915. [and none of such underlying stocks may be stocks which are traded on the Exchange.]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–3611 Filed 2–13–92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34–30349; File No. 600–25]

Self-Regulatory Organizations; Participants Trust Co.; Notice of Filing of a Request of Temporary Registration as a Clearing Agency

February 7, 1992.

Pursuant to section 19(a) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(a), notice is hereby given that on January 28, 1992, the Participants Trust Company ("PTC") filed with the Securities and Exchange Commission ("Commission") an amendment to its Form CA–1, requesting the Commission to extend PTC's registration as a clearing agency until March 31, 1993.[1] The Commission is publishing this notice to solicit comments on the proposed application from interested persons.

The Commission granted PTC temporary registration as a clearing agency on March 28, 1989, pursuant to sections 17A and 19(a)(1) of the Act, for a period of twelve months.[2] On March 28, 1990, the Commission extended PTC's temporary registration until March 31, 1991,[3] and on March 28, 1991, the Commission extended PTC's temporary registration until March 31, 1992.[4]

PTC provides depository facilities for mortgaged-backed securities, particularly, securities guaranteed by the Government National Mortgage Association ("GNMA"). PTC services include certificate safekeeping, book entry deliveries, an automated facility for the pledge or segregation of securities and other services related to the immobilization of securities certificates.

Interested persons are invited to submit written data, views and arguments concerning the foregoing application within twenty-one days of the date of publication of this notice in the **Federal Register**. Such written data, views and arguments will be considered by the Commission in granting registration or instituting proceedings to determine whether registration should be denied in accordance with section 19(a)(1) of the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the application and all written comments will be available for inspection at the Securities and Exchange Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. All submissions should refer to File No. 600–25 and should be submitted by March 6, 1992.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–3552 Filed 2–13–92; 8:45 am]

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[1] See letter from John J. Sceppa, President and CEO, PTC, to Ester Saverson, Jr., Branch Chief, Division of Market Regulation, Commission, dated January 24, 1992.

[2] See Securities Exchange Act Release No. 26671 (March 28, 1989), 54 FR 13266.

[3] On March 28, 1990, the Commission approved PTC's proposal to amend its application requesting that the Commission extend PTC's registration as a clearing agency until March 31, 1991. Securities Exchange Act Release No. 27858 (March 28, 1990), 55 FR 12614.

[4] On March 28, 1991, the Commission approved PTC's proposal to amend its application requesting that the Commission extend PTC's registration as a clearing agency until March 31, 1992. Securities Exchange Release No. 29024 (March 28, 1991), 56 FR [illegible].

[Release No. 34–30350; File No. SR-GSCC-92-02]

Self-Regulatory Organizations; Government Securities Clearing Corp.; Filing Relating to the Netting of Forward-Settling Trades in Government Securities

February 7, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, ("Act") 15 U.S.C. 78s(b)(1), notice is hereby given that on Janaury 23, 1992, the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would revise GSCC's rules to allow for the netting of forward-settling trades.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, GSCC included statements concerning the purpose of, and basis for, the proposed rule change, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. GSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) On April 12, 1990, the Commission approved on a temporary basis, until April 30, 1992, a proposed rule change (SR–GSCC–90–01) [1] that expanded GSCC's netting service to include forward-settling trades in Government securities ("forward trades"). By this filing, GSCC requests that such authority be made permanent by the Commission or, in the alternative, that the Commission further extend on a temporary basis GSCC's authority to net forward trades.

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[1] Securities Exchange Act Release No. 27902 (April 20, 1991), 55 FR 15066.

In its approval order of April 12, 1990 (the "Approval Order"), [2] the Commission stated that, "in light of its significance to GSCC and its membership, the proposed netting service for forward-settling transactions should be carefully monitored before it becomes a permanent feature of GSCC's netting system." The Approval Order was a lengthy one; however, the essence of the Commission's concerns regarding the proposal may be said to have been the adequacy of each of the following: (1) GSCC's forward mark allocation payment process; (2) the revised Clearing Fund formula; and (3) GSCC's system prices. Each of these concerns is discussed below.

1. The forward Mark Allocation Calculation

As was stated in the original rule filing (SR-GSCC-90-01), in designing a system for the netting of forward trades, GSCC considered fully applying mark-to-market requirements during the period between trade and settlement, in the same manner as is done for regular-way trading. That is, GSCC considered requiring Netting Members (hereinafter "members") to pay on a daily basis in cash the full amount of mark payments stemming from net settlement positions in forward-settling securities.

In view, however, of the potential for significant amounts of money to have to be passed through GSCC on a daily basis, which might on any particular day drain liquidity from a firm in an unpredicatable manner, GSCC chose an alternative approach that realistically reflects, and sufficiently minimizes, the risk of disruption to the settlement process. This method provides for the daily collection of a percentage of any debit mark amount allocable to a forward-settling position (the "forward mark allocation amount") that ensures, on a per-CUSIP basis, that the failure of up to all of the five members with the largest debit mark levels on any given day would not disrupt GSCC's ability to successfully settle that day's Government securities trades.

GSCC's experience to date shows that this approach to the margining of forward trades strikes an appropriate balance between the need for a sufficient margin to ensure GSCC's liquidity and to prevent a loss upon liquidation of a member's position versus the desire to not unduly drain funds from members. (The sufficiency of GSCC's margining process for forward trades also is supported by the preliminary conclusions of a comprehensive risk assessment of GSCC that will be forwarded to the Commission later this year.) Analyses done by GSCC indicate that, in the morning of a typical date for forward trades, when GSCC faces exposure equal to the difference between the amount of forward mark allocation ("FMA") payments collected on the previous business day (which has not yet been returned) and the amount of transaction adjustment payments ("TAP") owed to GSCC on such day (and not yet paid), the amount already "pre-collected" in FMA payments is a majority (often a large majority) of that day's TAP amount.

To the extent that GSCC has had concerns with its FMA process, it has been with the increasing activity in non new-issue securities (in particular, zero coupon securities). Such activity typically is not as evenly spread among members as the activity in normally recurring issues (such as the weekly Bill issues and the monthly two-year and five-year Note issues). Instead, it tends to be more concentrated in a few members. For a particular CUSIP, this often leads to the total debit mark level of the five members with the largest such debit marks constituting a higher percentage of the daily liquidation exposure incurred by GSCC as regards that CUSIP than if the activity were more evenly spread. Currently, only a maximum of 75 percent of a member's debit mark is collected as FMA.

This matter, together with numerous other margining issues, was addressed in a recent filing (SR-GSCC-91-04) [3] by GSCC, wherein GSCC requested authority to raise the cap on a member's daily FMA payment amount from 75 percent of the calculation to 100 percent. This will increase the dollar amount collected by GSCC in the event that certain members create a relatively large exposure for GSCC vis-a-vis other members.

2. GSCC's Clearing Fund Formula

With regard to the sufficiency of FMA payments, GSCC notes that the Commission, in the Approval Order, indicated a concern that the FMA payment process provide "adequate collateral protection for forward-settling transactions independently from other liquidity sources designed to protect against risks stemming from the settling of regular-way trades." Of course, the source of liquidity protection for next-day trades are Clearing Fund deposits. Thus, the Commission has, in effect, indicated that the Clearing Fund formula must factor in exposure arising from next-day and forward trades independently of each other and cumulatively. GSCC's experience to date confirms that the formula does in fact do so, and that the nature of GSCC's margining process for forward trades, wherein such trades are both margined for Clearing Fund purposes and are subject to a separate margin requirement (the FMA payment process), is quite conservative and prudent in nature. This is particularly true in light of GSCC's recent rule filing (SR-GSCC-91-04) noted above.

GSCC's Clearing Fund formula provides for the collection of 125 percent of the member's average daily funds-only settlement amount over the most recent 20 business days and the greater of: (1) The margin amount on the member's net settlement positions taking into account offsetting positions averaged over the most recent 20 business days or (2) 50 percent of the margin amount for that business day on the member's net settlement positions calculated without taking into account offsetting positions. Currently, a member's net securities and funds-only settlement obligations arising from forward trades are factored into the calculation of such member's Clearing Fund requirement during the post-auction forward-settling period, except that such positions are factored into the 20-day averages only for purposes of determining the current day's margin calculation. The rule filing changes this to provide for GSCC to treat forward settlement positions for Clearing Fund calculation purposes essentially as it does all other net settlement obligations, thus providing for a smoother Clearing Fund collection process and greater amounts of margin received from members.

3. Prices

A significant event that has occurred since the issuance of the Approval Order is that GSCC now has close to two-years' worth of its own price volatility data. This data base now is used in assessing and monitoring the adequacy of its margin factors. GSCC hereby represents that the information contained in this data base is being and will continue to be considered on a periodic basis by GSCC's Membership and Standards Committee in reviewing the sufficiency of GSCC's margin factors.

It is noteworthy that GSCC has ensured, and will continue to ensure, the sufficiency of its margining process through the use of conservative margin factor criteria.

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[2] Securities Exchange Act Release No. 27902 (April 21, 1991), 55 FR 15066.

[3] Securities Exchange Act Release No. 30135 (December 31, 1991), 57 FR 942.

With regard to obtaining additional third party Government securities price volatility data, in the past, there has been no available source of data that was sufficiently comprehensive and accurate to consider as an alternative to GSCC's internal data base. Indeed, GSCC's own data base is likely always to be more precise than any third-party data source for off-the-run issues, because GSCC receives price data across a broad spectrum of issues and products and is not focused on leading issues within a maturity or product range.

Recently, however, private sector initiatives in the Government securities marketplace have arisen, such as the establishment of GOVPX, Inc., which have made significant steps toward disseminating the type of Government securities price information that would be of particular benefit to GSCC. In view of this, GSCC continues to evaluate the types of third-party price volatility information that are available and the usefulness of such information. GSCC notes in this regard that it continues to believe that its own data base would be able to serve as the most accurate and meaningful source of price volatility data on Government securities in existence if it were to receive trade data from its members on a time-stamped basis.

In sum, in view of GSCC's positive experience to date in the netting of forward trades, the conservative nature of its margining process for forwards and the general strengthening of the process that has taken place, and its ability now to use internal price volatility data to assess the adequacy of its margin factors, GSCC believes that its method for margining forward trades is an appropriate one and that its authority to net forward trades should be made permanent.

(b) The proposed rule change will encompass forward-settling Government securities transactions within the Netting System and, thus, will further promote the prompt and accurate clearance and settlement of securities transactions for which GSCC is responsible. It is therefore consistent with section 17A of the Act, and section 17A(b)(3)(A) of the Act in particular.

B. Self-Regulatory Organizations's Statement on Burden on Competition

GSCC does not believe that the proposed rule will have an impact or impose a burden on competition.

C. Self-Regulatory Organization's Statement of Comments on the Proposed Rule Changes Received From Members, Participants, or Others

Comments on the proposed rule changes have not yet been solicited or received. Members will be notified of the rule filings, and comments will be solicited, by an Important Notice. GSCC will notify the Commission of any written comments received by GSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if its finds such longer period to be appropriate and publishes its reason for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principle office of GSCC. All submissions should refer to File No. SR-GSCC-92-02 and should be submitted by March 6, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-3551 Filed 2-13-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30355; File No. SR-PHLX-91-12]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to the Crossing of Options Orders and the Execution of Solicited Options Orders

February 10, 1992.

On July 5, 1991, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] a proposed rule change to provide that a floor broker, when crossing orders, must bid and offer at prices differing by the minimum fraction and must improve the market by bidding above the highest bid or offering below the lowest offer. In addition, with regard to solicited orders, the proposal would require disclosure of the identity of a solicited party to the trading crowd by the solicitor of an order. Currently, the solicitor must disclose to the trading crowd all information which was given to the solicited member.

The proposed rule change was published in Securities Exchange Act Release No. 29558 (August 14, 1991), 56 FR 41714. No comments were received on the proposed rule change.

Specifically, the Exchange proposes to amend PHLX Rule 1064 and Options Floor Procedure Advice ("OFPA") B-11 relating to the execution of orders to be crossed and solicited orders. First, the PHLX has sought to clarify that a floor broker, when undertaking a crossing transaction, must bid and offer at prices differing by the minimum fractional amount.[3] In addition, under the proposal, the floor broker must improve the market by bidding above the highest bid or offering below the lowest offer. Presently, PHLX Rule 1064(a)(ii) requires that a floor broker undertaking a cross transaction must bid or offer at a price better than the market price.

Second, the PHLX proposes to clarify a floor broker's responsibility with respect to notifying the trading crowd of a solicited order.[4] In particular, the proposal would require that the identity of the solicited party be disclosed to the trading crowd. PHLX Rule 1064(c) presently requires that the solicitor or his representatives share with the trading crowd all the information which was given to the solicited member and the other members in the trading crowd must be given a reasonable opportunity to respond to the order. The PHLX represents that the disclosure of the solicited party's identity maximizes the available information to the trading crowd, and, thereby, places all potential participants on an equal foundation.

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1989).

[3] For example, in the case of stock options, the minimum fractional change is 1/8 of a point for those contracts trading at $3.00 or higher, and 1/16 of a point for those contracts trading under $3.00.

[4] A solicited order is an order, other than a cross, presented for execution in the trading crowd as a result of an away-from-the-crowd expression of interest by one broker-dealer to another.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5) and the rules and regulations thereunder. Specifically, the Commission finds that the proposed rule change dealing with the execution of crossed orders will benefit investors since the rule will ensure that both the buy side and the sell side to a cross transaction will receive an execution price better than the prevailing best offer or bid, respectively, when the orders were presented to the trading crowd. Previously, the PHLX's rules mandated that only one side to a cross transaction receive a price better than the prevailing bid or offer. The Commission also believes that the proposed rule governing the disclosure of a solicited party's identity in a solicited trade promotes the concept of a free and open market since this additional information provided to the trading crowd will enable a trader in the crowd to make a better informed decision on whether to participate in a particular trade. In this regard, the Commission agrees with the PHLX that such information ensure that all trading crowd participants have the same information about an order presented in the crowd.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[5] that the proposed rule change (SR-PHLX-91-12) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-3612 Filed 2-13-92; 8:45 am]

BILLING CODE 8010-01-M

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[5] 15 U.S.C. 78s(b)(2) (1982).

[6] 17 CFR 200.30-3(a)(12) (1990).

[Release No. 35-25472]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

February 7, 1992.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by March 2, 1992 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

TransCanada PipeLines Limited (31-865)

TransCanada PipeLines Limited ("TransCanada"), 111 5th Avenue SW., Calgary, Alberta, Canada T2P 3Y6, a Canadian natural gas transportation and gas marketing company, has filed an application for an order granting an exemption under section 3(a)(5) from all provisions of the Act, except section 9(a)(2). TransCanada also seeks an unqualified order of exemption under section 3(b) in connection with a proposed electric generating project in Canada, as described below.

TransCanada is developing a $45 million, 36 megawatt natural gas-fired combined cycle electric generating plant at TransCanada's Nipigon Compressor Station in Ontario, Canada, which is expected to go into operation in 1992 ("Nipigon Project"). The Nipigon Project will be owned and operated by TransCanada, either directly or through a wholly owned subsidiary company that may be organized ("Nipigon Power"). Once the Nipigon Project is operational, Nipigon Power would be an "electric utility company" as defined in section 2(a)(3) of the Act. Under this ownership structure, TransCanada would be a "holding company," as defined in section 2(a)(7) of the Act, with respect to Nipigon Power.

TransCanada, through its wholly owned subsidiary company, TCPL Power Limited, also owns a 9.9% voting interest and a 40% equity interest in Ocean State Power ("OSP") and Ocean State Power II ("OSP II"), two separate Rhode Island partnerships that own and operate combined cycle electric generating plants in Burrillvile, Rhode Island. OSP and OSP II are "electric utility companies" within the meaning of section 2(a)(3) of the Act and "public-utility companies" within the meaning of section 2(a)(5) of the Act. Since TCPL Power has a greater than 5% interest in OSP and OSP II, they are "affiliates" of TCPL Power and TransCanada, as defined in section 2(a)(11) of the Act.

TransCanada, which seeks an order of exemption under section 3(a)(5), states that it is not a company the principal business of which within the United States is that of a public utility, and that it will not derive any material part of its income, directly or indirectly, from any one or more subsidiary companies the principal business of which within the United States is that of a public utility. In addition, TransCanada, which also seeks an order of exemption under section 3(b), states that Nipigon Power will not derive any material part of its income, directly or indirectly, from sources within the United States, and that neither it nor any of its subsidiary companies is a public-utility company operating in the United States.

Louisiana Power & Light Co. (70-7822)

Louisiana Power & Light Company, 317 Baronne Street, New Orleans, Louisiana 70122 ("LP&L"), an electric public-utility subsidiary company of Entergy Corporation, a registered holding company, has filed a post-effective amendment to its application-declaration under sections 6(a), 7, 9(a), 10, 12(c) and 12(d) of the Act and Rules 42, 44, 50 and 50(a)(5) thereunder.

By order dated March 21, 1991 (HCAR No. 25279) ("March 1991 Order"), the Commission authorized LP&L, among other things, and subject to certain reservations of jurisdiction, to issue and sell, through December 31, 1992, not more than $200 million aggregate principal amount of its first mortgage bonds ("Bonds") with fixed or variable interest and in one or more new series from time-to-time pursuant to competitive bidding. The March 1991

Order also authorizes LP&L to use the net proceeds derived from the issuance and sale of Bonds and other securities in addition to other available funds, for general corporate purposes, which may include the acquisition of certain outstanding securities at any time or from time-to-time prior to December 31, 1992, in whole or in part, through tender offer, negotiated, open market or other forms of purchase or otherwise by means other than redemption, prior to their respective maturities.

LP&L now proposes to increase, under its authorization under the March 1991 Order: (1) From $200 million to $500 million the amount of its Bonds which it is authorized to issue and sell; and (2) from $250 million to $550 million the amount of its outstanding first mortgage bonds which it may repurchase. LP&L proposes to issue the additional Bonds and to acquire such outstanding first mortgage bonds subject to the same terms, conditions and reservations of jurisdiction as the March 1991 Order.

LP&L further requests authorization to begin negotiations, pursuant to an exception from the requirements of Rule 50, pursuant to subsection 50(a)(5) thereunder, with respect to the terms of any additional series of Bonds to be sold by negotiated public offering or private placement. It may do so.

Western Massachusetts Electric Co. (70–7898)

Western Massachusetts Electric Company ("WMECO"), 174 Brush Hill Avenue, West Springfield, Massachusetts 01089, an electric utility subsidiary company of Northeast Utilities, a registered holding company, has filed an application—declaration ("Application") under sections 6(b) and 12(c) of the Act and Rules 42, 50 and 50(a)(5) thereunder.

WMECO proposes to issue and sell first mortgage bonds ("Bonds") or preferred stock ("Preferred"), or a combination of both (together, the Securities) through December 31, 1993. WMECO first proposes to issue and sell up to $50 million in principal amount of Bonds or up to $50 million aggregate par value of Preferred, or a combination of both not exceeding $50 million, for the purpose of repaying short-term borrowings consisting of bank loans, commercial paper and system company money pool borrowings, which were incurred or are expected to be incurred to finance WMECO's construction program and for general working capital purposes.

WMECO also proposes to issue and sell up to $152 million in principal amount of Bonds or up to $15 million aggregate par value of Preferred or a combination of both, not to exceed $167 million, for the purpose of redeeming and replacing high interest rate outstanding first mortgage bonds and high dividend preferred stock, to purchase these securities on the open market, to refinance maturing long-term debt and to finance long-term debt and preferred stock sinking fund obligations. The total amount of Bonds and Preferred proposed to be issued herein would not exceed $217 million.

WMECO will not enter into a refunding transaction unless the breakeven rate, defined below, for each series of bonds or preferred stock to be refunded exceeds the then current market rate for first mortgage bonds and preferred stock of similar amount and maturity or average life. The breakeven rate is a discount rate that equates the present value of the cash flow associated with the new series of Securities, including premiums and issuing expenses, to the present value of the cash flow associated with the series to be redeemed, and assuming comparable maturities or average life.

Each series of Bonds would have a maturity of not less than two nor more than thirty years. The interest rate and the price, exclusive of accrued interest, which will not be less than 98% nor more then 100% of the principal amount, will be determined by the competitive bidding requirements of Rule 50 under the Act, as modified by the Commission's Statement of Policy Concerning the Application of Rule 50 under the Public Utility Holding Company Act of 1935 (HCAR No. 22623, September 2, 1982).

The Preferred would have a fixed dividend rate or would be an auction rate preferred stock. With the exception of the auction rate preferred stock, the dividend rate for the preferred would be determined through the receipt of competitive offers.

In the event that it issues an auction rate Preferred, WMECO has requested an exception from the competitive bidding requirements of Rule 50 pursuant to subparagraph (a)(5) thereunder, in order to negotiate the initial dividend rate and the underwriters compensation. Dividend rates for auction rate Preferred would be established for relatively short, successive periods (generally 49 days) through an auction process among holders and prospective purchasers of the securities. If the auction fails for any reason, or in the event of default in the payment of dividends, maximum dividend rates will apply and will be based on specified percentages (no higher than 110% to 250%) of certain defined composite commercial paper rates that will be determined by WMECO in consultation with the underwriter. The auction Preferred will be redeemable in whole or in part at the end of each dividend period at a specified redemption price, plus accrued and unpaid dividends to the date ending the dividend period. WMECO may negotiate the initial terms of the auction rate Preferred.

The Connecticut Light and Power Co. (70–7900)

The Connecticut Light and Power Company ("CL&P"), Selden Street, Berlin, Connecticut 06037, a public-utility subsidiary company of Northeast Utilities, a registered holding company, has filed an application-declaration under sections 6(b) and 12(c) of the Act and Rules 42, 50 and 50(a)(5) thereunder.

CL&P proposes to issue and sell in one or more series, from time to time through December 31, 1993, up to $540 million principal amount of its first mortgage bonds ("Bonds") and/or up to $192 million aggregate par value of preferred stock ("Stock") (collectively, "Securities"), such that the aggregate principal amount of the Securities does not exceed $632 million.

Each series of the Bonds will have a maturity of not less than two nor more than thirty years and will be issued under the Indenture of Mortgage and Deed of Trust dated as of May 1, 1921 as supplemented and amended between CL&P and Bankers Trust Company, Trustee ("Indenture"). The interest rate shall be a multiple of ⅛ of 1% and the price, exclusive of accrued interest (which shall be between 98% and 100% of the principal amount), will be determined by the competitive bidding standards of Rule 50 of the Act, as modified by the Commission's Statement of Policy Concerning the Application of Rule 50 under the Public Utility Holding Company Act of 1935, HCAR No. 22623 (Sept. 2, 1982) ("SOP").

If the Bonds have a maturity of more than five years, the Bonds will be subject to a requirement that none of the Bonds of that series may be redeemed at the applicable general redemption price before a date in 1997 or 1998 if the redemption is for the purpose of or in anticipation of refunding the Bonds through the use, directly or indirectly, of funds borrowed by CL&P at an effective interest cost to CL&P of less than the effective interest cost to CL&P of the applicable series of Bonds. If the Bonds of any series have a maturity of five years or less, they will not be refundable with lower cost funds throughout the life of the Bonds. The Indenture may provide protection against redemptions with the use of sinking and improvement fund moneys.

The Stock will have either a fixed dividend rate ("Fixed Rate Stock") or will be an auction rate preferred stock ("Auction Rate Stock"). The Stock will be sold at par in one or more offerings and will have a $50 par value, $25 par value, or a combination of both. The dividend rate and the underwriters' compensation of the Fixed Rate Stock will be determined through the receipt of competitive offers under Rule 50 of the Act, as modified by the Commission's SOP.

The Fixed Rate Stock may provide for a cumulative sinking fund pursuant to which, commencing no earlier than five years subsequent to the first day of the month in which the Fixed Rate Stock is issued, CL&P would redeem, to the extent any funds of CL&P are legally available therefor, at the initial public offering price per share (plus accrued dividends), 5% to 20% annually of the number of shares initially issued, with the option for CL&P to credit against the sinking fund requirement any shares of Fixed Rate Stock previously purchased and canceled or otherwise acquired and canceled by CL&P in the preceding twelve-month period. The terms of the Fixed Rate Stock also may provide CL&P with the non-cumulative option on any sinking fund date of redeeming or purchasing for said sinking fund an additional number of shares in any such year.

The Fixed Rate Stock will be subject to a requirement that no Fixed Rate Stock may be redeemed before a date in 1997 or 1998 if the redemption is for the purpose of or in anticipation of refunding the Fixed Rate Stock through the use, directly or indirectly, of borrowed funds or of the proceeds of the issue or shares of any stock ranking prior to or on a parity with the Fixed Rate Stock as to dividends or assets, if such borrowed funds or such shares have an effective interest cost or effective dividend cost of less than the effective dividend cost of the Fixed Rate Stock.

In the event that it issues the Auction Rate Stock, CL&P has requested an exception from Rule 50, under subsection (a)(5), to engage the services of an investment banking firm in order to negotiate the initial dividend rate and the underwriters compensation. It may do so. The dividend rates for the Auction Rate Stock would be established for relatively short, successive periods (generally 49 days) through an auction process among holders and prospective purchasers of the Auction Rate Stock. If the auction fails for any reason, or in the event of default in the payment of dividends, maximum dividend rates will apply and will be based on specified percentages (no higher than 110% to 250%) of certain defined composite commercial paper rates that will be determined by CL&P in consultation with the underwriter. The Auction Rate Stock will be redeemable in whole or in part at the end of each dividend period at a specified redemption price, plus accrued and unpaid dividends to the date ending the dividend period.

Up to $150 million of the proceeds from the issue and sale of the Securities would be used to repay short-term borrowings which were incurred or are expected to be incurred to finance CL&P's construction program and for general working capital purposes. Up to $482 million of the remaining net proceeds from the issue and sale of the Securities may be used to refund outstanding first and refunding mortgage bonds bearing relatively high interest rates or high dividend rate preferred stock or to refinance maturing debt and/or to fund debt and preferred stock sinking funds. CL&P temporarily may invest the net proceeds from the sale(s) of the Securities in the NU System Money Pool.

CL&P will not enter into a refunding transaction unless the breakeven rate, defined below, for each series of bonds or preferred stock to be refunded exceeds the then current market rate for first mortgage bonds and preferred stock of similar amount and maturity or average life. The breakeven rate is a discount rate that equates the present value of the cash flow associated with the new series of Securities, including premiums and issuing expenses, to the present value of the cash flow associated with the series to be redeemed, and assuming comparable maturities or average life.

General Public Utilities Corp. (70-7933)

General Public Utilities Corporation ("GPU"), 100 Interpace Parkway, Parsippany, New Jersey 07054, a registered holding company, has filed a declaration under Section 12(b) of the Act and Rule 45 thereunder.

GPU proposes to make cash capital contributions, through December 31, 1993, to its three electric public-utility subsidiary companies ("Subsidiaries") in the following amounts: $100 million for Jersey Central Power & Light, $50 million for Metropolitan Edison Company and $50 million for Pennsylvania Electric Company.

During 1992 and 1993, the subsidiaries estimate that their construction programs will require gross capital expenditures totalling approximately $500 million and $650 million, respectively. Authorization to make cash capital contributions will provide GPU with the needed flexibility to meet the Subsidiaries' financing and cash working capital requirements, while enabling the Subsidiaries to remain within the short-term debt limits of their respective charters. GPU states that the funds to make the proposed cash capital contributions will be principally derived from short-term bank borrowings previously, or hereafter, authorized by the Commission.

Southwestern Electric Power Co. (70-7934)

Southwestern Electric Power Compnay ("SEPCO"), 428 Travis Street, Shreveport, Louisiana 71101, an electric public-utility subsidiary company of Central and South West Corporation, a registered holding company, has filed a declaration under sections 6(a) and 7 of the Act and Rule 50 thereunder.

SEPCO proposes to issue and sell first mortgage bonds ("New Bonds") in an aggregate principal amount up to $40 million, in one or more series, from time-to-time through December 31, 1993. The New Bonds will have maturities of not less than five nor more than thirty years.

The proceeds from the sale of the New Bonds will be used, among other things, to redeem all or a portion of SEPCO's outstanding first mortgage bonds, Series M, due August 1, 2005, at the then current general redemption price plus accrued and unpaid interest to the redemption date.

Transok, Inc. (70-7935)

Transok, Inc. ("Transok"), 2 West Sixth Street, P.O. Box 3008, Tulsa, Oklahoma 74101, a natural gas gathering and transmission subsidiary company of Central and South West Corporation ("CSW"), a registered company, has filed a declaration under sections 6(a) and 7 of the Act and Rule 50(a)(5) thereunder. Transok proposes to issue and sell, in one or more transactions from time-to-time through December 31, 1993, up to an aggregate principal amount of $200 million of its medium-term notes ("MTN"). Transok may privately place the MTN with qualified institutional buyers through one or more agents, or sell them to one or more investment bankers as principal(s) for resale to investors at a discount. The MTN would be offered from time-to-time as the need for funds arises and as opportunities arise in the marketplace to issue at favorable terms. Transok will use the proceeds from the sale of the MTN to: (1) Reduce its debt to CSW (HCAR No. 25385, September 26, 1991);

(2) repay short-term debt (HCAR No. 25288, March 29, 1991); and (3) fund Transok's 1992 and 1993 capital expenditures.

Transok proposes to begin negotiations for the issuance and sale of the MTN without further Commission approval, which will conform to the following terms and conditions: (1) The MTN would have maturity dates not less than nine months from the date of issue; (2) the MTN may be redeemable pursuant to agreement between Transok and the respective purchasers; (3) the price to be paid to Transok for the MTN will not be less than 98%, and will not exceed 102%, of their principal amount; (4) the MTN will bear a fixed or floating rate and will be sold at a cost of money not exceeding the rate prevailing at the time of issuance for medium-term notes of comparable quality and of the particular maturity; and (5) the MTN may be issued at a discount of up to 2%, or Transok may pay a commission or similar fee not greater than 2%, of the principal amount of the MTN.

Transok requests an exception from the competitive bidding requirements of Rule 50 under the Act pursuant to subparagraph (a)(5) thereunder in order to enter into negotiations for the placement and sale of the MTN. It may do so.

West Texas Utilities Co. (70–7936)

West Texas Utilities Company ("WTU"), 301 Cypress, Abilene, Texas 79601–5820, a subsidiary of Central and South West Corporation, a registered holding company, has filed a declaration under sections 6(a) and 7 of the Act and Rule 50 thereunder.

WTU proposes to issue and sell, in one or more series from time-to-time through December 31, 1993, up to an aggregate principal amount of $25 million of its first mortgage bonds ("New Bonds"). The New Bonds will mature in not less than five years nor more than thirty years. Interest rates and the price to be paid to WTU for the New Bonds will be determined by competitive bidding.

The proceeds from the sale of the New Bonds will be applied (1) to the redemption of WTU's outstanding $25 million, 9⅞% First Mortgage Bonds, Series I, due May 1, 2009 ("Old Bonds") (HCAR No. 21036, May 4, 1979); (2) to repay short-term borrowings (HCAR No. 25288, March 29, 1991); and (3) for other general corporate purposes. WTU will not issue the New Bonds unless the estimated present value savings derived from the net difference between interest payments on any New Bonds to be issued for refunding purposes and the Old Bonds is, on an after-tax basis, greater than the present value of all redemption and issuing costs, assuming an appropriate discount rate. Such discount rate would be based on the estimated after-tax interest rate on the New Bonds.

Appalachian Power Co., et al. (70–7955)

Appalachian Power Company ("APCo"), 40 Franklin Road, Roanoke, Virginia 24022, and Columbus Southern Power Company ("CSPCO"), 215 North Front Street, Columbus, Ohio 43215, electric-utility subsidiary companies of American Electric Power Company, Inc., a registered holding company, has filed a declaration under Section 12(c) of the Act and Rule 42 thereunder.

As permitted under Rule 52, APCO and CSPCO each plan to issue and sell, through December 31, 1992, $50 million of cumulative preferred stock, without par value for APCO and with par values of $25 and/or $100 for CSPCO ("Preferred Stock"). APCO and CSPCO seek authorization to acquire the Preferred Stock, up to $50 million for APCO and up to $50 million for CSPCO, through the operation of a sinking fund or pursuant to a voluntary redemption provision.

APCO and CSPCO expect that the Preferred Stock will be subject to optional redemption at the per share price of par value for CSPCO and of the involuntary liquidation price for APCO (collectively, "Par Value") plus the annual dividend per share declining on an annual basis to Par Value not later than the year in which the Preferred Stock would be retired pursuant to the provisions of the mandatory sinking fund. However, it may be that during the first five years the Preferred Stock could only be redeemed at a price equal to Par Value plus the annual dividend, and could be subject to a provision prohibiting any redemption if accomplished through a borrowing or stock issuance at an effective cost less than the effective dividend cost of the Preferred Stock.

The terms of the Preferred Stock may also include a sinking fund provision ("Sinking Fund Provision"). Under the Sinking Fund Provision, APCO and CSPCO would be required to retire annually at Par Value, commencing not earlier than two years after the first day of the month in which the Preferred Stock is first sold, a number of shares equal to between 5% and 20% of the number of shares of such series initially issued. The Sinking Fund Provision may give APCO and CSPCO the option to retire annually an equal amount of additional Preferred Stock. The Sinking Fund Provision would also give APCO and CSPCO the option to credit against any sinking fund requirement Preferred Stock theretofore purchased or otherwise acquired by APCO and CSPCO and not previously credited against any sinking fund requirement.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–3610 Filed 2–13–92; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Lawton Municipal Airport, Lawton, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comments on the application to impose and use the revenue from a PFC at Lawton Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before March 16, 1992.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Mr. William Perkins, Planning and Programming Branch, ASW–610D, Airports Division, Southwest Region, Fort Worth, Texas 76193–0611.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Charles P. Beller of the city of Lawton, Metropolitan Area Airport Authority, at the following address: Metropolitan Area Airport Authority, P.O. Box 531, Lawton, Oklahoma 73502.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the city of Lawton, Metropolitan Area Airport Authority, under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. William Perkins, Federal Aviation Administration, Planning and Programming Branch, ASW–610D, Airports Division, Southwest Region, Fort Worth, Texas 76193–0611, (817) 624–5979.

The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comments on the application to impose and use the revenue from a PFC at Lawton Municipal Airport, under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On February 5, 1992, the FAA determined that the application to impose and use the revenue from a PFC submitted by the city of Lawton was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than May 8, 1992.

The following is a brief overview of the application:

Level of the proposed PFC: $2.00.

Proposed charge effective date: August 1, 1992.

Proposed charge expiration date: July 31, 1996.

Total estimated PFC revenue: $363,803.00.

Brief description of proposed project(s)

Construct terminal expansion.

Purchase ARFF vehicle and mechanical lift.

Reconstruct portions of ARFF station access road.

Construct warmup apron and distance-to-go markers.

Rehabilitate T-hangar taxiways and construct drainage improvements.

Rehabilitate airport access roads.

Rehabilitate cracks and joints on runway, taxiways and aprons.

Update airport Master Plan.

Class or classes of air carriers which the public agency has requested not be required to collect PFC's: None.

Any person may inspect the application in person at the FAA office listed above under "**FOR FURTHER INFORMATION CONTACT**" and at the FAA regional Airports office located at: Federal Aviation Administration, Airports Division, Planning and Programming Branch ASW–610D, 4400 Blue Mound Road, Fort Worth, Texas 76193–0611.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the city of Lawton.

Issued in Fort Worth, Texas on February 5, 1992.

John M. Dempsey,

Manager, Airports Division.

[FR Doc. 92–3546 Filed 2–13–92; 8:45 am]

BILLING CODE 4910–13–M

Stapleton International Airport/Denver International Airport, CO, Intent To Rule

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent to rule on application to impose a Passenger Facility Charge (PFC) at Stapleton International Airport/Denver International Airport and use the revenue from the PFC at Denver International Airport, Denver, Colorado.

SUMMARY: The Federal Aviation Administration (FAA) proposes to rule and invites public comment on the application to impose a PFC at Stapleton International Airport/Denver International Airport and use the revenue from a a PFC at Denver International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) Pub. L. 101–508) and 14 CFR part 158.

On February 6, 1992 the FAA determined that the application to impose and use the revenue from a PFC submitted by the City and County of Denver was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than May 29, 1992.

DATES: Comments must be received on or before March 16, 1992.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Alan E. Wiechmann, Manager, Denver Airports District Office, 5440 Roslyn, suite 300, Denver, CO 80216–6026.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to: Mr. George F. Doughty, Director of Aviation, of the City and County of Denver, at the following address: Terminal Building, room 3227, Stapleton International Airport, Denver, CO 80207.

Comments from air carriers and foreign air carriers may be in the same form as provided to the City and County of Denver under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Dakota Chamberlain, Wyoming State Engineer, Denver Airports District Office, 5440 Roslyn, suite 300, Denver, CO 80216–6026, (303) 286–5543. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: June 1, 1992.

Proposed charge expiration date: November 15, 2025.

Total estimated PFC revenue: $2,396,520,741.00.

Brief description of proposed project: Development items associated with the construction of the Denver International Airport, as indicated in the application.

AVAILABILITY OF APPLICATION: Any person may inspect the application in person at the FAA office listed above and at the FAA regional Airports office located at: Federal Aviation Administration, Airports Division, 1601 Lind Avenue, suite 540, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the City and County of Denver.

Issued in Renton, Washington on February 6, 1992.

Edward G. Tatum,

Manager, Airports Division, Northwest Mountain Region.

[FR Doc. 92–3547 Filed 2–13–92; 8:45 am]

BILLING CODE 4910–13–M

Intent To Rule on Application To Impose a Passenger Facility Charge (PFC) at Tulsa International Airport, Tulsa, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comments on the application to impose a PFC at Tulsa International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before March 16, 1992.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate copies to the FAA at the following address: Mr. William Perkins, Planning and Programming Branch, ASW-610D, Airports Division, Southwest Region, Fort Worth, Texas 76193-0611.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. T. W. Bates, Jr., of the city of Tulsa, Airports Improvement Trust, at the following address: Tulsa Airports Improvement Trust, P.O. Box 581838, Tulsa, Oklahoma 74158.

Comments from air carriers and foreign air carriers may be in the same form as provided to the city of Tulsa, Airports Improvement Trust, under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. William Perkins, Federal Aviation Administration, Planning and Programming Branch, ASW-610D, Airports Division, Southwest Region, Fort Worth, Texas 76193-0611, (817) 624-5979.

The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comments on the application to impose a PFC at Tulsa International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On February 5, 1992, the FAA determined that the application to impose a PFC submitted by the city of Tulsa was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than May 9, 1992.

The following is a brief overview of the application.

Level of the proposed PRC: $3.00.

Proposed charge effective date: June 1, 1992.

Proposed charge expiration date: May 31, 2002.

Total estimated PFC revenue: $42,081.00.

Brief description of proposed project(s):

Emergency communications equipment.
ARFF vehicle replacement.
Taxiway Alpha holding apron and Taxiway Delta reconstruction.
Taxiway X-Ray extension.
Construct ARFF facility.
Taxiway Juliet extension.
Construct air carrier runway.
Taxiway Whiskey reconstruction.
Taxiway Tango extension.
Runway 8/26 extension.

Proposed class or classes of air carriers to be exempted from collecting PFC's: None.

Any person may inspect the application in person at the FAA office listed above under "**FOR FURTHER INFORMATION CONTACT**" and at the FAA regional Airports office located at: Federal Aviation Administration, Airports Division, Planning and Programming Branch ASW-610D, 4400 Blue Mound Road, Fort Worth, Texas 76193-0611.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the city of Tulsa.

Issued in Fort Worth, Texas on February 5, 1992.

John M. Dempsey,

Manager, Airports Division.

[FR Doc. 92-3548 Filed 2-13-92; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 11(Rev. 22)]

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of Authority.

SUMMARY: Allows for the delegation of authority to accept or reject offers in compromise to the level of Division Chief. The authority delegated to Division Chiefs does not include the authority to reject offers in compromise for public policy reasons. Authority to reject offers in compromise for public policy reasons is restricted to the Deputy Assistant Commissioner (International), Associate Chief Counsels, Regional Counsels, Chiefs and Associates Chiefs, Appeals Offices, and District Directors. This authority may not be redelegated. It also allows for the delegation of authority to accept offers in compromise in cases in which the unpaid liability (including any interest, penalty, additional amount or addition to tax) is $100,000 or less and to reject offers in compromise for other than public policy reasons, regardless of the amount of the liability sought to be compromised to Chief, Field Branch and Chief, Special Procedures. The Chief, Field Branch and Chief, Special Procedures are also delegated authority to acknowledge withdrawal of any offer regardless of the amount sought to be compromised.

EFFECTIVE DATE: January 30, 1992.

FOR FURTHER INFORMATION CONTACT: Cheryl Isom, CO:O:2:SP, room 7601, 1111 Constitution Avenue NW., Washington, DC 20224, (202) 566-4471 (not a toll free number).

Authority To Accept or Reject Offers in Compromise

The authority vested in the Commissioner of Internal Revenue by Treasury Order Nos. 150-04, 26 CFR 301.7122-1 and 26 CFR 301.7701-9, and Treasury Order No. 150-13 is hereby delegated as follows:

1. The Deputy Assistant Commissioner (International), Associate Chief Counsels, Regional Counsel, Chiefs and Associate Chiefs, Appeals Offices and Division Chiefs are delegated authority under section 7122 of the Internal Revenue Code, to accept offers in compromise and to reject offers in compromise for matters under their respective jurisdictions regardless of the amount of the liability sought to be compromised. The authority delegated to Division Chiefs does not include the authority to reject offers in compromise for public policy reasons. Authority to reject offers in compromise for public policy reasons is restricted to the Deputy Assistant Commissioner (International), Associate Chief Counsels, Regional Counsels, Chiefs and Associate Chiefs, Appeals Offices, and District Directors. This authority may not be redelegated. The authority delegated to Regional Counsel may not be redelegated, except that the authority to reject offers in compromise for other than public policy reasons may be redelegated, but not lower than District Counsel. Regional Director of Appeals, Chief and Associate Chiefs, Appeals Offices, may not redelegate this authority.

2. Chief, Field Branch and Chief, Special Procedures are delegated authority under section 7122 of the Internal Revenue Code, to accept offers in compromise in cases in which the unpaid liability (including any interest, penalty, additional amount or addition to tax) is $100,000 or less and to reject offers in compromise for other than public policy reasons, regardless of the amount of the liability sought to be compromised. Chief, Field Branch and Chief, Special Procedures are delegated authority to acknowledge withdrawal of any offer regardless of the amount of the liability sought to be compromised. The authority delegated to Chief, Field Branch and Chief, Special Procedures may not be redelegated.

3. Assistant Service Center Directors and Assistant Director, Austin Compliance center are delegated authority, under section 7122 of the Internal Revenue Code, to accept offers in compromise, limited to penalties

based on solely on doubt as to liability, and to reject offers in compromise, limited to penalties, regardless of the amount of the liability sought to be compromised, and to summarily reject without further investigation, offers based solely on doubt as to liability regardless of the amount of the liability sought to be compromised, limited to obvious offers that are frivolous, groundless or dilatory, or where the liability has been finally determined by the Tax Court or other courts, or by a Commissioner's final closing agreement, or where the offer is based upon an agreed liability in which administrative appeal rights has been exercised or waived. This authority may be redelegated only to the Chief, Compliance Division (Service Centers) and Chief Collection Division (Austin Compliance Center).

4. To the extent that the authority previously exercised consistent with this Order may require ratification, it is hereby approved and ratified. Delegation Order No. 11 (Rev. 21), effective October 1, 1991, is superseded.

Dated: January 30, 1992.

Approved:

David G. Blattner,

Chief Operations Officer.

[FR Doc. 92-3549 Filed 2-13-92; 8:45 am]

BILLING CODE 4830-01-M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 31
Friday, February 14, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR COMMISSION

Notice of Meeting

Notice is hereby given in accordance with Section 552b of Title 5, United States Code, that a business meeting of the Blackstone River Valley National Heritage Corridor Commission will be held on Monday, March 2, 1992.

The Commission was established pursuant to Public Law 99-647. The purpose of the Commission is to assist federal, state and local authorities in the development and implementation of an integrated resource management plan for those lands and waters within the Corridor.

The meeting will convene at 7:00 p.m. at the North Smithfield Public Library, 20 Main Street, N. Smithfield, RI for the following reasons:

1. To Review and Approve Demonstration Projects.

It is anticipated that about twenty people will be able to attend the session in addition to the Commission members.

Interested persons may make oral or written presentations to the Commission or file written statements. Such requests should be made prior to the meeting to: James Pepper, Executive Director, Blackstone River Valley National Heritage Corridor Commission, P.O. Box 34, Uxbridge, MA 01569. Telephone: (508) 278-9400.

Further information concerning this meeting may be obtained from James Pepper, Executive Director of the Commission at the address below.

James Pepper,

Executive Director, Blackstone River Valley National Heritage Corridor Commission.

[FR Doc. 92-3746 Filed 2-12-92; 2:16 pm]

BILLING CODE 4310-70-M

FEDERAL MARITIME COMMISSION

TIME AND DATE: 10 a.m., February 19, 1992.

PLACE: Hearing Room One, 1100 L Street, N.W., Washington, DC 20573-0001.

STATUS: Part of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTER(S) TO BE CONSIDERED:

Portion Open to the public:

1. Docket No. 91-32—*Passenger Vessel Financial Responsibility Requirements for Indemnification of Passengers for Nonperformance of Transportation*—Consideration of Comments.
2. Delegated Authority—Issuance of Section 3, Public Law 89-777, Certificates of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation.

Portion Closed to the public:

Docket No. 89-07—*Inquiry Into Laws, Regulations and Policies of the Government of Ecuador Affecting Shipping in the United States/Ecuador Trades*—Fact Finding Report.

CONTACT PERSON FOR MORE INFORMATION: Joseph C. Polking, Secretary, (202) 523-5725.

Joseph C. Polking,

Secretary.

[FR Doc. 92-3702 Filed 2-12-92; 9:58 am]

BILLING CODE 6730-01-M

UNITED STATES INTERNATIONAL TRADE COMMISSION

[USITC SE-92-03]

Emergency Notice

TIME AND DATE: February 20, 1992 at 2:00 p.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting
2. Minutes
3. Ratification List
4. Petition and complaint—
   Certain single in-line memory modules and products containing the same (Docket Number 1699)
5. Any items left over from previous agenda

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 205-2000.

Dated: February 12, 1992.

Kenneth R. Mason,

Secretary.

[FR Doc. 92-3745 Filed 2-12-92; 2:15 pm]

BILLING CODE 7020-02-M

Corrections

Federal Register
Vol. 57, No. 31
Friday, February 14, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

International Trade Administration

[A-583-009]

Color Television Receivers, Except for Video Monitors, From Taiwan; Final Results of Antidumping Duty Administrative Review

Correction

In notice document 91-29977, beginning on page 65218, in the issue of Monday, December 16, 1991, make the following correction:

On page 65226, in the third column, after "*Comment 42:*", insert "Shirasuna claims that the department neglected to insert into the program credit expense data for thirteen third-country sales." Also, a new paragraph headed with "*Department's Position:*", should preceed "We Disagree.".

BILLING CODE 1505-01-D

DEPARTMENT OF EDUCATION

Computer Matching Program; Notice

Correction

In notice document 92-2911 appearing on page 4542 in the issue of Wednesday, February 5, 1992, at the end of the document the date filed should read, "2–4–92".

BILLING CODE 1505-01-D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 43 and 63

[CC Docket No. 90-337; FCC 91-401]

Common Carrier Services: In the Matter of Regulation of International Accounting Rates

Correction

In rule document 92-57 beginning on page 646, in the issue of Wednesday, January 8, 1992, make the following correction:

On page 647, in the second column, in the third full paragraph, in the third line, the effective date "February 6, 1992" should read "April 7, 1992".

BILLING CODE 1505-01-D

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-7032]

Federal Insurance Administration; Proposed Flood Elevation Determinations

Correction

In proposed rule document 91-29839, appearing on page 65037, in the issue of Friday, December 13, 1991, the headings for the table were printed incorrectly, and the table should read as set forth below:

PROPOSED MODIFIED BASE (100-YEAR) FLOOD ELEVATION

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
Texas	Corpus Christi, City Nueces and Kleburg Counties.	Gulf of Mexico	Eastern Mustang Island shoreline southeast of Coyote Island.	*10	*13
			West of Leeward Drive	*8	*9
		Laguna Madre	Wilsons Cut	*8	*9
			Park Road No. 22 approximately 2,200 feet south of Commodores Drive.	*8	*10
		Corpus Christi Bay	Mustang Island western shoreline approximately 9,000 feet south of Coyote island.	*8	*9
			Approximately 3,000 feet northwest of Pelone Island	*8	*10

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 91E-0492]

Determination of Regulatory Review Period for Purposes of Patent Extension; Accupril

Correction

In notice document 92-2633 beginning on page 4212 in the issue of Tuesday, February 4, 1992, make the following correction:

On page 4213, in the first column, in the third line, "1991" should read "1992".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB80

Endangered and Threatened Wildlife and Plants; Notice of Intent Concerning Manatee Protection Areas in Lake Woodruff National Wildlife Refuge, Florida

Correction

In proposed rule document 91-2954, beginning on page 4745, in the issue of Friday, February 7, 1992, make the following correction:

On page 4745, in the third column, under **DATES:**, in the third line, "1991." should read "1992.".

BILLING CODE 1505-01-D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-30296; File No. SR-PTC-90-02]

Self Regulatory Organizations; Participants Trust Company; Order Approving a Proposed Rule Change Relating to the Formation of a Subsidiary

Correction

In notice document 92-2590, beginning on page 4232, in the issue of Tuesday, February 4, 1992, make the following correction:

On page 4232, in the second column, in the first line, the release no. was printed incorrectly and should read as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 8380]

RIN 1545-AP75

Treatment of Partnership Liabilities

Correction

In rule document 91-30596 beginning on page 66348, in the issue of Monday, December 23, 1991, make the following corrections:

1. On page 66350, in the third column, in the table of contents, in § 1.752-2(b)(6), "or" should read "of".

2. On the same page, in the same column, in the table of contents, in § 1.752-2(j)(4), "Examples." should read "Example.".

§ 1.752-2 [Corrected]

3. On page 66352, in the first column, in § 1.752-2(b)(2)(i), in the fifth line, "1.701-1(b)(4)(i)" should read "1.704-1(b)(4)(i)".

4. On the same page, in the second column, in the same section, paragraph designation "(5)" should read "(6)".

5. On the same page, in the same column, in § 1.752-2(d)(2), in the 14th line, after "which" insert "would".

6. On page 66353, in the second column, in § 1.752-2(e)(4), in Example 2., in the third line under the table, "Capital" should read "capital".

7. On the same page, in the same column, in the same section, in Example 3., in the fourth line, after the "F" insert ",".

BILLING CODE 1505-01-D

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federal register

Friday,
February 14, 1992

Part II

Department of Housing and Urban Development

Assistant Secretary for Public and Indian Housing

24 CFR Parts 905, 968, and 990

Public and Indian Housing Comprehensive Grant Program and Amendments to the Comprehensive Improvement Assistance Program; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Assistant Secretary for Public and Indian Housing

24 CFR Parts 905, 968, and 990

[Docket No. R-92-1531; FR-2980-F-02]

RIN 2577-AB06

Public and Indian Housing Comprehensive Grant Program and Amendments to the Comprehensive Improvement Assistance Program

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Final rule.

SUMMARY: This final rule amends 24 CFR parts 905, 968 and 990 to establish the new Comprehensive Grant program for public housing agencies (PHAs) and Indian Housing Authorities (IHAs) that own or operate 500 or more public or Indian housing units. The Comprehensive Grant program, which allocates modernization funds on the basis of a formula, is designed to provide larger housing authorities with greater discretion in the planning and implementation of modernization activities. The rule also revises the existing Comprehensive Improvement Assistance program (CIAP) to limit its applicability to PHAs and IHAs that own or operate fewer than 500 public or Indian housing units.

In addition, the rule also implements: (1) Section 509 of the Cranston-Gonzalez National Affordable Housing Act ("the NAHA"), as amended by the HUD Appropriations Act for FFY 1992, which established the formula process for allocating modernization funds under the Comprehensive Grant program; (2) section 509(e) of the NAHA which, beginning with funding for FFY 1993, reduces the threshold for participation in the Comprehensive Grant program from 500 or more public or Indian housing units to 250 or more units. Also beginning in FFY 1993, the ceiling for participation in the CIAP shall be reduced from fewer than 500 public or Indian housing units, to fewer than 250 units. Because the Department considers section 509(e) to be a self-executing provision, it is implementing this section in this rulemaking for effect in FFY 1993; (3) section 516 of the NAHA which provides for the comprehensive modernization of Mutual Help homeownership units using no more than a single CIAP or CGP grant; (4) amendments to the Indian Housing CIAP under 24 CFR part 905, subpart I; and (5) various technical and conforming amendments contained in the NAHA.

EFFECTIVE DATE: This rule shall be effective on March 16, 1992.

FOR FURTHER INFORMATION CONTACT: Janice D. Rattley, Director, Office of Construction, Rehabilitation and Maintenance, Public and Indian Housing, Department of Housing and Urban Development, room 4122, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–1800.

Indian housing authorities may contact Dom Nessi, Director, Office of Indian Housing, Public and Indian Housing, Department of Housing and Urban Development, room 4230, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–1015.

Hearing or speech impaired individuals may call HUD's TDD number (202) 708–4594. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

I. Paperwork Burden

The Department has submitted this final rule to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980. The OMB control number, when assigned, will be announced by separate document in the **Federal Register.**

HUD received a number of public comments on the paperwork burden associated with the Comprehensive Grant program. In response to these comments, the Department has made significant changes to the CGP requirements by reducing the number of paperwork submissions and eliminating duplicative paperwork requirements. For a complete summary of the public comments concerning the CGP paperwork burden, and the Department's response to these comments, see Section IV of this preamble.

Public reporting burden for the collection of information requirements contained in this rule are estimated to include the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Information on the estimated public reporting burden is provided under the Preamble heading, *Findings and Certifications.* Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Department of Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street, SW., room 10276, Washington, DC 20410; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

II. Background

Section 14 of the U.S. Housing Act of 1937 (42 U.S.C. 1437l) ("Act") established the Department's current public housing modernization program: The Comprehensive Improvement Assistance Program (CIAP). The CIAP was designed to improve the physical condition of existing public housing developments, and to upgrade the management and operation of these developments to ensure that the developments continue to be available to serve low income families. The Department promulgated regulations for the CIAP at 24 CFR part 968, and these regulations have governed the modernization of all public housing assisted under the Act.

(The reader should note that, for ease of discussion, the preamble to this final rule uses the terms "public housing" to refer to both public and Indian Housing, and "PHA" or "public housing agency," to refer to both PHAs and IHAs, unless otherwise stated. In addition, the term "development" is used to refer to "low income projects," as defined at section 3(b)(1) of the Act.)

On February 5, 1988, the Housing and Community Development Act of 1987 (Pub. L. 100–242) ("1987 Act") was enacted, and contained a provision which revised significantly the public housing modernization program. Section 119 of the 1987 Act established the new Comprehensive Grant program (CGP) which was designed to govern the modernization needs of PHA's that owned or operated 500 or more public housing units. In addition, section 119 amended the CIAP to limit its applicability only to PHAs that owned or operated fewer than 500 public housing units.

(Beginning with funding for FFY 1993, the statutory threshold for participation in the CGP will be reduced from 500 or more public housing units to 250 or more units. In the CIAP, the ceiling for participation will be reduced from fewer than 500 public housing units to fewer than 250 units.)

The Department published a proposed rule on October 27, 1988 (53 FR 43648) to implement the amendments contained in section 119 of the 1987 Act, and also to propose changes to the CIAP which were intended to simplify and streamline the program. HUD did not, however, publish a final rule to implement most of the amendments contained in the proposed rule because of language contained in section 14(k)(1) of the Act, which directed HUD to fund public housing modernization "in substantial accordance with the allocation method in effect on the date of enactment of the (1987 Act), "(i.e., to continue funding modernization activities using the CIAP allocation method). The Department was directed to use the CIAP allocation method until such time as Congress established a revised method for allocating modernization assistance under section 14(k)(1).

Accordingly, the Department published a final rule on December 21, 1989 (54 FR 52686) which implemented only those provisions of HUD's October, 1988 proposed rule which pertained to the streamlined CIAP application process, and to the reorganization of part 968 into a subpart A (with generally applicable provisions), and subpart B (containing the revised CIAP provisions). The final rule did not contain any provisions relating to the Comprehensive Grant program, since Congress had not yet enacted a law governing the funds allocation process for that program. Thus, the CIAP remained HUD's sole vehicle for providing modernization funds to PHAs of all sizes.

The Department subsequently incorporated the streamlined CIAP into its consolidated rulemaking for the Indian housing program (see 24 CFR part 905, subpart I, of the interim rule published on June 18, 1990 at 55 FR 24722), and solicited public comment on those provisions. As a result of public comments received on the June, 1990 interim rule, HUD is including in this final rule amendments to the CIAP portion of the Indian Housing Consolidated rule. For a further discussion of these public comments, and the Department's responses to the comments, see Section V of this preamble.

On November 28, 1990, President Bush signed into law the Cranston-Gonzalez National Affordable Housing Act (Pub. L. 101–625) ("the NAHA"). Section 509 of the NAHA established a formula allocation method for the Comprehensive Grant program, which HUD is required to implement following notice and comment rulemaking.

On April 26, 1991, HUD published a proposed rule (see 56 FR 19434) to implement the formula allocation process contained in section 509 of the NAHA, and also to republish with modifications the program requirements that were originally contained in the October, 1988 proposed CGP rule. Accordingly, the public was provided with an additional opportunity to comment on the CGP requirements, and to review it in conjunction with the formula allocation method.

III. Program Objectives

The Comprehensive Grant program has two basic objectives for PHAs that own or operate 500 or more public housing units (250 or more units beginning in FFY 1993): (1) To provide greater discretion to PHAs in carrying out their modernization programs, thereby returning it to local control; and (2) to establish reliable funding for capital improvements through the use of formula funding for the annual accrual of capital improvement needs and for current needs.

Under the program, larger PHAs receive capital improvement funds by a formula allocation method, instead of the current competitive, discretionary CIAP in which HUD decides which developments are to be funded by setting priorities, establishing a ranking system, and reviewing and approving individual applications. The program provides PHAs with much greater discretion in planning and carrying out modernization of their public housing developments.

This final rule: (1) Amends the CIAP at 24 CFR part 968, subpart B, to limit its applicability to PHAs that own or operate fewer than 500 public housing units (fewer than 250 units beginning in FFY 1993); (2) adds a new Subpart C to Part 968, which sets forth the new Comprehensive Grant program for PHAs that own or operate a total of 500 or more public housing units (250 or more units beginning in FFY 1993); and (3) revises both the CIAP and Comprehensive Grant programs for purposes of implementing various technical and substantive program amendments contained in sections 509 (b) through (f) of the NAHA.

In the Indian Housing program, the final rule renames part 905, subpart I, as "Modernization;" and reorganizes subpart I into three undesignated headings: (1) The first heading contains provisions which are generally applicable to both the CIAP and Comprehensive Grant modernization under part 905, subpart I; (2) the second heading contains the streamlined CIAP requirements with amendments reflecting public comments received on the CIAP portions of the June, 1990 Indian Housing Consolidated interim rule, and with modifications which limit the applicability of the CIAP to IHAs that own or operate fewer than 500 Indian housing units (fewer than 250 units beginning in FFY 1993); (3) the third heading adds the new Comprehensive Grant program for IHAs that own or operate 500 or more Indian housing units (250 or more units beginning in FFY 1993); and (4) In addition, the rule revises both the CIAP and Comprehensive Grant programs under subpart I to implement various technical and substantive program amendments contained in sections 509 (b) through (f) of the NAHA, as well as section 516 of the NAHA which provides for the comprehensive modernization of a Mutual Help unit using a single CIAP or CGP grant.

The following schedule specifies the location of comparable provisions for the Indian Housing and Public Housing Modernization programs codified in parts 905 and 968, respectively:

Location in part 968	Section heading	Location in part 905 (subpart I)
Subpart A	*General*	
§ 968.101	Purpose and applicability	§ 905.600.
968.103	Allocation of funds under Section 14	905.601.
968.105	Definitions	905.102
968.110	Other program requirements	905.120
968.112	Special requirements for homeownership developments	905.602.
968.115	Modernization and energy conservation standards	905.603.
968.120	Preemption of State prevailing wage requirements	905.120.
Subpart B	Comprehensive Improvement Assistance Program (for PHAs that own or operate fewer than 500 public housing units)	
§ 968.201	Purpose	§ 905.609.
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IV. Public Comments

The Department received 48 comments on its April 26, 1991 proposed rule (56 FR 19434). The commenters included 39 public and Indian housing authorities, three municipalities, two resident organizations, the Council for Large PHAs (CLPHA), the National Association of Housing Redevelopment Officials (NAHRO), the PHA Directors Association (PHADA), and the National Housing Law Project.

Following the publication of the proposed rule, HUD officials met with representatives from CLPHA, NAHRO and PHADA to discuss their comments on the proposed rule. Representatives of resident organizations and IHAs were also invited to the meeting, but were unable to attend. This final rule reflects public comments received during the rulemaking process, many of which were reiterated at HUD's July 18, 1991 meeting with public housing organizations.

Paperwork Burden

Numerous objections were raised by commenters in response to the proposed paperwork requirements in the CGP rule. Many of these commenters indicated that the proposed CGP paperwork requirements reflected a significant increase in the paperwork burden currently being imposed upon larger PHAs and IHAs under the CIAP. Others asserted that HUD's estimate of the "burden hours" and "hours per response" were unrealistic, and argued further that merely consolidating paperwork into "fewer primary documents" would not necessarily result in PHAs spending less time preparing those documents.

Two commenters, a housing authority and a municipality, maintained that HUD had failed to fully recognize the significant departure in modernization management spawned by the Housing Act of 1987 and the NAHA. They asserted that the Department continued to rely on the CIAP model, "* * * with its corresponding over-regulation, federal control, and burdensome paperwork requirements," rather than to envision the broader array of mod activities that a PHA might now pursue.

Another commenter asserted that the proposed level of detail in the comprehensive plan and annual statement exceeded the level authorized by the 1987 Act and, therefore, runs contrary to the Paperwork Reduction Act.

In response to these public comments, the Department has reassessed the CGP submission and reporting requirements and made significant changes. For example, the executive summary has been simplified, and the high needs component has been omitted. In addition, the required level of detail for the physical and management needs assessments and the performance and evaluation report has been reduced significantly. Although the 1987 Act does require an assessment of "each project" of the PHA, the final rule nevertheless permits a more general description of the needed improvements (e.g., bathrooms) at each development. HUD has also made substantial changes in the overall program approach so as to increase the level of discretion accorded to PHAs, while lessening the degree of oversight by HUD.

Although the Department has reduced the level of detail, it acknowledges that the paperwork burden for the submission and reporting requirements in this final rule are greater than the estimates provided in the proposed rule. Specifically, the Department has recognized the intensity of effort that PHAs must undertake to thoroughly assess both physical and management needs, initially, and revised the burden hours accordingly. In the first year of program implementation (i.e., in FY 1992, for PHAs with 500 or more units and, in FY 1993, for PHAs with 250 to 499 units), the burden hours have been revised to reflect the level of effort required to develop the comprehensive plan, inclusive of the resident and local government involvement. In subsequent years, however, the submission and reporting requirements will be greatly reduced from that of the initial year. HUD believes that the revised paperwork burden now accurately reflects the submission and reporting requirements in this final CGP rule.

Another commenter questioned HUD's capacity to implement the new CGP modernization program, as proposed in the April 1991 rulemaking. This commenter asserted that the amount of paperwork to be submitted to HUD for review and approval under the CGP represented a significant increase over the current CIAP submission and reporting requirements, and expressed doubt as to whether HUD staff could respond appropriately to these expanded program requirements. In addition, HUD was asked to extend the implementation date for the CGP because the Department "appeared to be having some difficulty in developing the PHMAP."

While the Department appreciates these concerns, it believes that it has the capacity to carry out the requirements of the CGP, even more so now that the program requirements have been scaled back significantly. In addition, the implementation of the program has been greatly assisted as a result of joint HUD/NAHRO training conducted for PHAs, residents and HUD staff at various sites around the country during the spring and summer of 1991. HUD believes that although there are always uncertainties at the beginning of any new program, it will be possible to effectively implement the CGP in FY 1992, thereby providing the benefits of predictable formula funding to PHAs at the earliest possible time.

Nevertheless, the Department does concede that additional time is needed before it can implement the mod troubled portion of the PHMAP program. Hence, the Department will designate PHAs as mod troubled under PHMAP in FFY 1993 and will implement the authority under section 509(a)(5)(A) to reduce a PHA's formula allocation under the CGP based upon its designation as a mod troubled agency under PHMAP in that FFY. HUD intends to use such designations for purposes of reducing mod troubled PHAs' formula allocations beginning in FFY 1993. HUD fully intends in each succeeding year to carry out the statutory mandate to reduce a mod troubled PHA's formula allocation under the CGP

Purpose and Applicability (§§ 905.600 and 968.101)

A. General

A commenter urged HUD to adopt as the title of the program the name given to it by NAHA, i.e., "the Public and Indian Housing Modernization program." The commenter stated that such a change was appropriate since annual grants to PHAs will no longer be for the "comprehensive modernization" of any individual development, but will be used flexibly by the PHA according to the modernization strategy it deems best.

HUD has not adopted this comment since, although section 509(g) establishes the "Public and Indian Housing Modernization" as the name of the modernization programs under section 14, there nevertheless remain two separate modernization programs within this umbrella designation. Namely the CIAP under 24 CFR part 968 (Subpart B), and 24 CFR part 905 (Subpart I), for modernization grants to PHAs and IHAs with fewer than 500 public housing units (fewer than 250 units beginning in FY 1993), and the CGP under CFR part 968 (Subpart C), and 24 CFR part 905 (Subpart I), for formula funded grants to PHAs with 500 or more public housing units (more than 250 units beginning in FY 1993). Moreover, HUD notes that the designation, "Comprehensive Grant," has a statutory basis since it derives from the House Committee Report to the 1987 Act (see reference to "[P]ublic Housing Comprehensive Grants" contained in H.R. Rep. No. 122, 100th Cong., 1st Sess 20, 1987).

Further, under the CGP, PHAs will plan comprehensively for all developments in their inventory, although the improvements may be carried out over numerous years. HUD does not intend that the CGP will be operated in the same manner as "comprehensive modernization" under the CIAP. Rather, HUD supports emphatically the statutory mandate under the CGP which requires PHAs to identify the total needs of all developments and, thereafter, to prioritize the use of available funds to meet all or some of those needs over the next one-year period in the annual statement (or up to two years, if so elected by a PHA), and over the next five-year period in the action plan. Under the CGP approach, a PHA may also spend its grant funds at various developments and for various purposes, consistent with the action plan and annual statement. This program approach differs significantly from the CIAP where funds have to be spent for specific mod types, i.e., comprehensive, special purpose, emergency, lead-based paint or homeownership modernization.

One housing authority, however, objected to the difference in program approaches between the CIAP and CGP modernization programs, arguing that the proposed CGP abandons the CIAP's emphasis on "comprehensive" improvements and, when combined with the final PHMAP regulations, sets up PHAs to fail, albeit under the guise of greater PHA discretion and flexibility.

The Department does not believe that this prediction is accurate. The Comprehensive Grant program permits a PHA to totally modernize its developments over a short or long period of time, depending upon the availability of funds and its own competing priorities. HUD notes also that, in response to public comments, it has made significant changes to the PHMAP program, which are reflected in the published PHMAP interim rule. Many of these revisions affect the timeframes in which a PHA must improve performance in failed areas. Accordingly, HUD believes that the CGP, in conjunction with the PHMAP, will provide greater PHA discretion and flexibility over modernization activities, while more effectively and efficiently upgrading the public housing stock.

Three commenters noted that HUD appeared to imply in its April 1991 proposed rule that a new modernization program was limited by statute to larger PHAs. These commenters stated that nothing in the 1987 Act prevented HUD from adopting for PHAs with fewer than 500 units a modernization program or allocation system that is simpler than the CIAP. Furthermore, they contended that Congress intended expressly that the revised modernization program under section 14 would provide to all PHAs (both large and small) greater discretion, local control and flexibility in the planning and implementation of modernization activities. Consequently, these commenters urged HUD to establish simplified procedures for making modernization grants to small PHAs, citing in particular that PHAs with fewer than 250 units should not be required to prepare CPMs at all, while the CPM requirements for PHAs with 250–500 units should be greatly simplified.

Initially, HUD notes that section 119 of the 1987 Act, which established the Comprehensive Grant program, applies expressly to PHAs that own or operate 500 or more units. This is clear from numerous and explicit references throughout the legislative text to the 500-unit threshold for participation in the CGP (see, for example, section 14(e)(1), (e)(3)(A), (e)(4)(A), and (e)(4)(B) of the Act, as added by section 119).

Furthermore, the purpose of section 119 is limited almost exclusively to establishing the Comprehensive Grant program, and to making conforming amendments to the CIAP so as to limit its applicability to PHAs with fewer than 500 units (fewer than 250 units beginning in FY 1993). Hence, when section 119(a) provides that "[I]t is the purpose of the amendments made by this section" to provide "considerable discretion to PHAs to decide the specific improvements, the manner of their execution, and the timing of the expenditure of funds in the modernization of projects," it is referring to the amendments establishing the Comprehensive Grant Program, and not the CIAP.

This interpretation is supported by the fact that section 119(a) states that another statutory purpose of the section

119 amendments is to provide PHAs with "greater control in planning and expending funds" under the Act. This statutory purpose is then implemented expressly in the CGP by section 14(e)(4)(D) of the Act which states that, "[I]n administering this section, the Secretary shall, to the greatest extent possible respect the professional judgment of the administrators of the public housing agency." There is no comparable language in the CIAP, either as a result of section 119 of the 1987 Act, or subsequent enactments (including the NAHA).

Finally, it should be noted that HUD does not have the discretion unilaterally to abolish in the CIAP the statutory requirement for a comprehensive assessment of needs. Section 14(d) of the Act expressly states that:

> Except as provided in subsection (f)(4), no assistance may be made available under subsection (b) to a public housing agency that owns or operates less than 500 units [250 units beginning in FY 1993] unless the Secretary has approved an application from the public housing agency which has been developed in consultation with appropriate local officials and with tenants of the housing projects for which assistance is required. Such application shall contain at least—* * *. [listing of mandatory comprehensive assessment requirements.]

Consequently, HUD may not remove the requirement for a comprehensive assessment of need under the CIAP in the absence of a legislative amendment to section 14. Hence, a PHA receiving modernization funds under the CIAP must submit to HUD a comprehensive assessment (except in the case of emergencies). Nevertheless, there is no legal prohibition to HUD's simplifying (as opposed to eliminating) the comprehensive assessment of need, as well as other facets of the CIAP, and the Department fully intends to propose such modifications in a separate rulemaking.

A couple of commenters criticized HUD for publishing the October, 1988 proposed rule for the Comprehensive Grant program, stating that there had been no Congressional authorization for a "new comprehensive grants program." They maintained that the 1987 Act amended section 14, primarily by adding statutory requirements concerning modernization plans, action strategies and procedural simplifications for PHAs with more than 500 units. Thus, these commenters maintained that the statutory provisions could have been implemented as changes to the CIAP, rather than as authority for an "entirely new" Comprehensive Grant program. Accordingly, they urged HUD to remove from the final CGP rule any reference to a "new program of comprehensive grants" being authorized by the 1987 Act.

The Department has not adopted this comment since it believes that section 119 of the 1987 Act did, indeed, intend to establish a new program of "comprehensive grants" for large PHAs, rather than simply to amend the existing CIAP. This view is supported by the House Committee Report to the 1987 Act (H.R. Rep. No. 122, 100th Cong., 1st Sess. 21 (1987)) which provides under the heading of "Public housing comprehensive grants:"

> The Committee is interested in considering an *alternative system* for providing sufficient funds on a reliable and consistent basis to permit PHAs to develop and implement a comprehensive rehabilitation and maintenance program * * * (Emphasis added).

HUD's view is supported further by express statutory language as well. Section 509 of the NAHA established a 500-unit threshold (to be reduced to 250 units beginning in FY 1993) as the cutoff for PHA participation in the CGP, and provided expressly in section 509(k)(2)(D)(iii)(4) that "the amount determined under the formula for each agency that owns or operates 500 or more units shall be allocated to each qualifying agency in accordance with subsection (e)" [i.e., in accordance with the requirements of the Public Housing Comprehensive Grant program].

Finally, section 509(g) establishes a "transition" provision from the CIAP to the CGP, and states:

> Any amount that the Secretary has obligated to a public housing agency under this section *other than pursuant to the program established under subsection (e)* [i.e., under the Comprehensive Grant program], shall be used for purposes consistent with an action plan submitted by the agency under subsection (e) and approved by the Secretary, as the agency determines to be appropiate. [Emphasis added.]

HUD construes these provisions as evidencing a clear congressional intent to establish an alternative, new program of modernization for larger PHA, to be designated as "Public Housing Comprehensive Grant." Accordingly, the Department has retained without modification its proposed distinction between the CIAP and Comprehensive Grant programs.

A housing authority asserted that early discussions on the CGP considered the notion of fungibility of operating and CGP funds. This commenter urged that a HUD–PHA dialogue be established to discuss the development of a system which would allocate to a PHA both PFS and CGP funds at the beginning of the PHA's fiscal year, and which would permit the PHA to use the combined income to develop its operating and capital budgets.

HUD has not adopted this recommendation since operating subsidy and CGP funding cannot, in the absence of a legislative amendment, be combined into one income source for PHAs because they derive from separate appropriations. Operating subsidy supplements a PHA's income to ensure that its developments are properly maintained and managed. CGP funds, on the other hand, are intended to provide for long-term capital improvements. While a PHA may utilize its operating subsidy (i.e., the extraordinary maintenance account) to fund certain capital improvements, it may not use modernization funds for routine operating expenses.

A number of commenters asserted that, although section 119 of the 1987 Act provided explicit guidance to HUD concerning the purposes of the Act, HUD chose to ignore these statutory objectives when it promulgated its April 1991 proposed rule. As an example, these commenters stated that even though section 119(a) states that HUD is to provide PHAs with greater authority and flexibility in planning and administering their own modernization programs, the Department actually proposed to increase its control over a PHA's modernization activities. These commenters also pointed to section 14(e)(4)(D) of the Act, which requires HUD "* * * to respect, to the greatest extent possible, the professional judgment of a PHA's administrators," and asserted that HUD had actually afforded very little discretion to PHAs under the proposed rule.

As a result of these comments, the Department has reassessed its overall program approach under the proposed CGP rule, and has revamped significantly the requirements contained in this final rule so as to decrease the level of HUD control over PHA modernization activities, while increasing PHA discretion and responsibility. These changes will be discussed throughout this preamble, under the appropriate program components (e.g., needs assessments, action plan, annual statement, viability determinations, program monitoring, etc.).

The New York City Housing Authority (NYCHA) objected to HUD's failure to create finer distinctions among PHAs with more than 500 units. The NYCHA maintained that although HUD recognized its uniquely large size by excluding it from the formula, the

Department had failed to propose abbreviated program submission requirements for very large PHAs, such as the NYCHA. Initially, the Department wants to point out that section 14 of the Act does not differentiate between the types of submissions to be made by PHAs participating in the CGP, irrespective of their size. Nevertheless, HUD believes that the NYCHA will be benefitted, along with all other PHAs participating in the CGP, as a result of the simplified program submission requirements contained in this final rule.

A PHA organization urged HUD to remove the provision in the proposed rule which would permit a PHA to use modernization funds for homeownership development, claiming that section 14(b) and (c) of the Act restricts the use of modernization funds to rental housing developments. This commenter maintained that, since homeownership developments do not provide "rental housing," the provision of the rule which authorizes the use of modernization funds for homeownership developments must be removed. In addition, the commenter requested that HUD add to the final rule the statutory objective of ensuring the continued availability of public housing units "as rental housing."

Initially, the Department wants to clarify that the issue raised by this commenter, as well as all of the ensuing discussion, pertains to Turnkey III and Mutual Help homeownership developments. Public housing rental developments which are planned for homeownership conversion under sections 5(h) or 21 of the Act, or pursuant to HOPE I or III, but which have not yet been sold by a PHA, continue to qualify for assistance under parts 905 and 968 as "low-rent" developments.

With respect to the issue raised by the commenter, HUD has considered this matter in some detail and, as a result, is making a number of changes in this final rule with respect to Turnkey III and Mutual Help homeownership developments operating under the CIAP and CGP. HUD's approach, and its rationale for this approach, is set forth below:

The Department believes, notwithstanding section 14(b) and (c) of the Act which limit the use of modernization assistance for "low-rent housing projects which * * * are operated as rental housing projects * * *," that it has implicit authority under section 509(k)(2)(D)(i) of the NAHA to permit a PHA to use CIAP and CGP modernization funds for a homeownership development. That section establishes the method for counting public housing units, not only for purposes of determining the threshold for participation in the CGP and CIAP, but also for assessing the relative modernization needs of PHAs, and provides specifically that:

> In determining how many units an agency owns or operates *and the relative modernization needs of agencies*, the Secretary shall count each existing unit under the annual contributions contract, except that an existing unit under the *turnkey III and Mutual Help programs may be counted as less than one unit, to take into account the responsibility of families for the costs of certain maintenance and repair* * * * (Emphasis added.)

Thus, this provision authorizes HUD to affirmatively count (to a greater or lesser extent) the number of Turnkey III and Mutual Help units owned or operated by a PHA for purposes of determining its relative modernization needs. Since Congress clearly intended to provide additional assistance under the formula for a PHA's homeownership units, the Department believes that it is implicitly authorized, notwithstanding section 14(b) and (c) of the Act, to permit PHAs to use modernization assistance for their homeownership developments.

In addition, section 516 of the NAHA provides express authority for an IHA to comprehensively modernize it Mutual Help units using no more than a single CIAP grant (or to "substantially rehabilitate" its Mutual Help units using no more than a single CGP grant). In this final rule, HUD is providing that it will count as one unit (instead of as three-quarters of a unit, as proposed in the April 1991 rule), each existing Mutual Help unit under the CGP. However, once a Mutual Help unit has been funded for substantial rehabilitation under CGP, it will be phased out over a period of three years for purposes of the threshold for participation in the CGP, and for the formula. As a result, to the extent that an IHA wants to provide additional limited physical and management improvements for a Mutual Help unit which has already been substantially rehabilitated, it would have to do so using modernization funds allocated on behalf of its other units.

Under both the CIAP and CGP, HUD is limiting the improvements which may be carried out in a Mutual Help homeownership development (aside from the comprehensive modernization/substantial rehabilitation authorized by section 516 of the Act) to those authorized under the definition of "homeownership modernization." In addition, HUD is implementing section 509(d) of the NAHA with respect to homeownership developments, so that a PHA may carry out special purpose management modernization for such developments under CIAP.

HUD is providing a different modernization approach for Turnkey III developments, because of a lack of statutory authority similar to that provided by section 516 of the NAHA for Mutual Help developments, and also because of differences in the statutory requirements under the CIAP and CGP.

For Turnkey III developments under the CIAP only, section 14(i)(1)(C), (D) and (E) of the Act prescribes the types of improvements which may be carried out in homeownership developments, i.e., emergency and special purpose physical and management improvements. After careful consideration, the Department has come to the conclusion that this statutory provision does not authorize the comprehensive modernization of a Turnkey III development under CIAP, as proposed by HUD in the April 1991 rule. For this reason, the Department has removed in this final rule the proposed provision which appeared at §§ 905.615(f)(3) and 968.205(f)(2), and which provided for the comprehensive modernization of a Turnkey III development using a "single CIAP grant."

In its place, HUD is providing that vacant or non-homebuyer occupied units in Turnkey III developments are eligible under the CIAP not only for the physical improvements authorized under the definition of emergency and special purpose modernization, but also for special purpose management improvements, as authorized by section 509(d) of the NAHA. HUD intends to broadly construe by handbook the definition of "special purpose modernization" so as to give PHAs the greatest amount of latitude in carrying out physical and management improvements in vacant or non-homebuyer-occupied Turnkey III developments.

The Department also is removing for purposes of vacant or non-homebuyer-occupied Turnkey III developments the one-time limitation on special purpose modernization, which currently exists under the CIAP. It should be noted, however, that before a PHA may be approved for special purpose modernization of a unit under this section, it must first deplete *all* funds remaining in any Earned Home Payments Account (EHPA) or Non-Routine Maintenance Reserve (NRMR) which pertains to the unit and, to prevent duplicate funding of any activity, exhaust the maximum operating subsidy for which the vacant unit is eligible. In this manner, the

Department hopes to promote the Department's priority objective of accelerating the rate at which homeownership opportunities are provided for low-income families.

In the case of homebuyer-occupied Turnkey III developments under the CIAP, HUD is continuing to limit the improvements which may be carried out in such developments to those authorized under the definition of "homeownership modernization." HUD's approach is based on the fact that the homebuyer family is responsible for the costs of certain maintenance and repair. However, HUD is allowing Turnkey III developments to be funded for management improvements under special purpose modernization.

Finally, HUD notes that, unlike the CIAP, there are no restrictions in the Comprehensive Grant program on the type or extent of assistance which may be provided by a PHA on behalf of its Turnkey III developments, i.e., there is no language under the CGP which is comparable to that of section 14(i)(1)(C), (D) and (E). Hence, HUD has the discretion under the CGP to permit a PHA to substantially rehabilitate its vacant or non-homebuyer-occupied Turnkey III units.

For this reason, HUD has decided to retain with three modifications the provision which appeared at §§ 905.615(f)(3) and 968.310(b)(2) of the April 1991 proposed rule, and which authorized a PHA to comprehensively modernize its vacant or non-homebuyer-occupied Turnkey III units using no more than a single CGP grant. The first modification consists of removing the reference to "comprehensive modernization," and using the term "substantial rehabilitation" instead. Moreover, HUD has included a definition of the term "substantial rehabilitation," which is defined to mean a modernization program for a development which provides for all physical and management improvements needed to meet the modernization and energy conservation standards and which ensures its long-term physical and social viability.

Second, HUD is removing the language which limited the substantial rehabilitation of the development to "no more than a single CGP grant." Instead, HUD is providing in this final rule that a PHA may substantially rehabilitate its Turnkey III units whenever they become vacant or are occupied by a non-homebuyer. As stated above, this approach is intended to modernize and upgrade the units so as to facilitate the sale of homeownership developments to low-income families.

The third modification consists of requiring a PHA to deplete all funds remaining in any tenant equity account or Non-Routine Maintenance Reserve (NRMR) pertaining to the unit before approving funds for the substantial rehabilitation of the unit, and to request the maximum operating subsidy. The April 1991 proposed rule authorized a PHA to retain certain funds in the NRMR even though it was comprehensively modernizing the unit.

Finally, a Turnkey III unit under the CGP which is homebuyer-occupied may receive only limited physical and management improvements, to take into account the responsibility of the homebuyer family for certain maintenance and repair costs. The final rule has been revised to reflect the changes discussed above with respect to Mutual Help and Turnkey III homeownership developments.

B. Transition

HUD was urged to ease the transition from the CIAP to the Comprehensive Grant program in the first year by allowing any PHA with over 500 units to use, without modification, the needs assessments contained in the PHA's existing CPM. In addition, a number of commenters stated that the proposed rule failed to consider the effect of the new CGP on MROP or comprehensive modernization that is underway, but not yet completely funded. These commenters urged that money should be set aside during a transition period to complete such work, or that modernization activities under pending multistage CIAP developments be "melded" into the CGP comprehensive plan, in a manner deemed appropriate by the PHA. Alternatively, they asserted that if PHAs have to "scale down" their planned mod improvements at certain developments, the PHAs should have the option to adjust the intended use and the expenditure schedule for previously received but unspent CIAP funds.

Initially, the Department notes that it does not have the authority to waive the statutory requirement under section 14(e)(1)(A) and (B) that a PHA must submit a physical and management needs assessment. Nevertheless, a PHA may complete its physical needs assessment for the CGP using information which already exists, and which is available to the PHA. Moreover, HUD has eliminated the requirement that a PHA complete Form HUD–52827 with respect to each of its developments, and has simplified significantly the physical and management needs assessments by permitting the assessments to cover broad categories of work, rather than detailed and itemized listings of work. These modifications should facilitate greatly the PHA's ability to use its existing CPM without major modifications.

The Department also wants to point out that it has no statutory authority to establish a set-aside to complete existing CIAP projects. Pursuant to section 14(o) of the Act, each PHA must operate within its formula amount, combined with its unobligated CIAP funds, to complete work already approved under CIAP or work approved in the action plan under the CGP. This means that the PHA may revise work previously planned to make way for competing priorities.

Allocation of Funds Under Section 14 (§§ 905.601 and 968.103).

A. General

One commenter stated that, although the 1987 Act required HUD to propose to Congress alternative methods for allocating modernization funds to PHAs, the Department had failed to do so. The Department disagrees with this comment, noting that in April of 1990, HUD submitted to the Congress the statutorily required report entitled, "Alternative Methods for Funding Public Housing Modernization," which analyzed nine alternative methods for funding the backlog of modernization needs, and three alternative methods for funding the accrual of new modernization needs.

A housing authority objected to HUD's proposal to delete the requirement contained in the October, 1988 proposed rule which stated that, "[T]he Secretary shall review the relative needs for restoring public housing shown by the comprehensive plans in HUD's regional or field offices." The commenter stated that since it is uncertain what kind of plan will be adopted for allocating assistance, any such change to the CGP must be adopted by Congress.

The Department has not adopted this suggestion, since the NAHA established a formula which provides for the allocation of funds under the Comprehensive Grant program. Thus, this statutory allocation of funds supersedes the requirement contained in the 1987 Act which states that the Secretary, in establishing the funding for any agency, shall review the relative needs shown in comprehensive plans. Thus, the statutory language under the 1987 Act is now ineffective and may not be implemented.

Another housing authority asked HUD to spell out in the final rule the allocation formula so that PHAs can run for themselves the formula, using their own numbers. The Department wants to point out that the proposed rule established the explicit methods by which HUD will derive estimates of PHA backlog and accrual need. A PHA can compute these estimates itself, provided it has the necessary validated data. However, in order to compute the actual formula amounts, a PHA would also have to know the validated estimates for all other PHAs. These estimates will require a computer computation that can only be generated at HUD using the complete database for all PHAs and PHA aggregates.

A PHA organization urged HUD to develop and distribute, before the formula is implemented as well as on a continuing basis thereafter, the formula's predictions of individual development-level, and PHA-level modernization needs. The commenter maintained that HUD could then use these predictions to make adjustments to the formula whenever a PHA's real needs are significantly greater than the needs predicted by the HUD formula. The commenter requested that such predictions be based upon estimates of the modernization needs of those developments (either as developed by the PHA or the HUD field office; as contained in a PHA's comprehensive plan; or based upon the actual costs that have been required to complete the modernization of a development with similar characteristics and needs).

The Department notes that there is merit to the commenter's request to evaluate predictions of need at the development level, and PHA level, in comparison to actual need. However, with respect to the current implementation of the formula, the Department notes that the allocation method provided in this regulation is statutorily mandated. However, HUD will consider this commenter's recommendation for purposes of developing its plans for the statutorily required evaluation of the CGP.

A commenter asked that each PHA annually be given a full explanation of its annual grant award amount, which would include for each development: (1) The backlog need for each development (as estimated by the formula, unadjusted by other factors); (2) the adjustments made by HUD (stated separately for inflation, accrual and the deduction of previously received CIAP and MROP funds); and (3) the amount of annual accrual funding for the development, as predicted by the formula. The commenter also requested that HUD include the characteristics of each development, as used by HUD in the formula, so that the PHA could check these factors for accuracy and conformity with the development characteristics supplied to HUD by the PHA.

The Department notes that prior to implementing the formula in FFY 1992, HUD will provide PHAs with the formula characteristics of each development, which the PHA must validate and review for accuracy. Once the data are reexamined by HUD and prepared for use in the formula, they will be provided to the PHA.

Two commenters asked that the formula provide explicitly that, whenever the number of units owned or operated by a PHA is reduced as a result of "breakthroughs" (i.e., the conversion of smaller units into larger ones), HUD will not adjust the PHA's formula share. These commenters also requested that HUD adopt a method for including in the formula those units which are added to a PHA's inventory via development.

The Department wants to clarify that for purposes of determining a PHA's formula allocation amount, it is required by the NAHA to utilize the number of existing units under the ACC. Consequently, to the extent that a breakthrough results in a diminished unit count under the ACC, HUD is required to adopt this reduced unit count for formula purposes. However, HUD intends to phase in over a three-year period the reduced ACC unit count, in a manner similar to that provided for units lost through demolition or disposition. It should be noted, however, that even though breakthrough units result in a reduced unit count under the ACC, the reduction in units will be counterbalanced under the formula, at least to some extent, by the expanded size of the units.

In response to the commenters' second concern, the Department notes that new units added via development will be added to the overall unit count, and their characteristics reflected in the PHA Formula Characteristics Report, as long as they have a DOFA date before the first day of the FFY in which the formula is being run (e.g., a DOFA date of September 30, 1991 or earlier for the 1992 FFY appropriation). New units that are added to the ACC after that date will be counted for formula purposes as of the following FFY.

A couple of housing authorities asserted that the proposed formula allocation system is based upon data which did not take into consideration the cost of lead-based paint abatement. These commenters urged that allocations for lead-based paint abatement be separate from, and in addition to, CGP formula allocations. Although the Department has not adopted these comments in this rulemaking, it appreciates the concerns raised by these commenters and intends to examine this issue further in the course of developing its report to the Congress on the relative needs of PHAs for lead-based paint testing and abatement.

A housing authority commented that Congress should appropriate money for various "funding categories," including a Secretary's Discretionary and Emergency fund, as well as individual funds for Indian Housing, Major Redevelopment, Hazardous Materials, the Annual Grants program for large PHAs, and a simplified CIAP for small PHAs. While HUD believes that this comment should more appropriately be addressed to the Congress than to HUD, the Department nevertheless notes that it would not support the establishment of "funding categories." It is HUD's view that a broad-based formula funded program like the Comprehensive Grant program permits PHAs to address any needs they may have, rather than being bound by a categorical grant system, such as the one proposed by the commenter.

B. Formula Factors

Several commenters raised concerns about the adequacy of the statutory formula for allocating modernization funds. One housing authority asserted that the CGP tends to favor PHAs who are mod complete or close to mod complete, while it disfavors PHAs with a large backlog of modernization needs. Another housing authority asserted that the formula favors large inner-city and East Coast housing authorities, while a third commenter asserted that the formula favors large family developments, and suggested that instead of adopting a bedroom standard, that buildings be weighted instead by type of construction and total square footage.

A housing authority stated that the formula fails to consider modernization of a PHA's elderly housing stock, and does not take into account all unique regional needs. Another commenter maintained the formula failed to take into account the degree to which a development had been modernized, even though "this was the most important factor affecting developments' modernization needs at the time of the 1985 inspections." The commenter urged that this factor be reflected in the formula, rather than as a deduction for past modernization.

A commenter also objected to the requirement contained in the formula which states that HUD shall allocate 50 percent of mod funding via a backlog formula, and 50 percent via an accrual formula, arguing that the backlog formula should play a much greater role in distributing mod money than the accrual formula.

Finally, a commenter asserted that the formula failed to estimate adequately the modernization needs of higher need developments, and suggested that this might be because the HUD/Abt study defined "modernization needs" as the combination of "FIX" plus "ADDS," which effectively eliminated such excluded activities as redesign and reconstruction. The commenter asserted that because redesign and reconstruction activities were not encompassed by the definitions of "FIX" and "ADDS," they were not included in the formula, even though funding for these activities is desperately needed.

The formula factors for assessing a PHA's backlog and accrual needs are, of course, spelled out in the statute. The Department believes that it is not appropriate to seek any change in the formula elements at this time, but rather will consider these concerns in developing its plans for the statutorily required evaluation of the CGP. The Department wants to point out that, consistent with the HUD Report to Congress, it is including in this final rule a provision which authorizes HUD to calibrate upward by a constant ratio of 1.5 the level of backlog need for developments constructed prior to 1985. The purpose of calibrating a PHA's backlog need in this manner is to update the costs of modernizing the categories of backlog need for a PHA's public housing stock.

A commenter objected to the fact that, under the formula, many PHAs are assigned similar annual formula allocations, even though their actual modernization needs are widely divergent. As an example, this commenter pointed out that the public housing stock of Washington, DC and Seattle, Washington are highly divergent, but nevertheless lead to similar per unit allocation amounts under the formula.

The Department concedes that while the formula may result in certain anomalies, by and large these anomalies are infrequent. Moreover, sometimes apparent anomalies are based upon sound reasons. For example, the cost estimates used by the independent contractor, and which are reflected in the formula, take into account the inter-area costs of production. Assuming that all other factors are equal, a high cost area can expect to receive 20 to 30 percent more per unit than a low cost area.

In addition, while a PHA may be known to have certain high need developments, it might also have numerous elderly and low-need developments which tend to lower its average need. Meanwhile, a PHA in the more favored setting, and with the more favorable reputation, might have many large family developments with significant needs.

Thus, HUD believes that the backlog formula represents well the needs found in the inspections conducted for the Abt study of the backlog of modernization needs. While it is true, as stated in the HUD report to Congress, that the accrual portion of the formula is based upon a model, rather than upon direct estimates, the accrual model was the subject of substantial discussion with representatives of public housing agencies and Congressional staff, and was considered to be the best available method for estimating the future accrual of capital needs in public housing developments.

A housing authority requested that HUD establish a minimum set-aside of $10 million per region to address local "unique circumstances," and to complement or "lend balance" to the nationally-based formula. A similar proposal was advanced by two other commenters, who asked that HUD establish a "high needs fund." These commenters urged that the "high needs fund" could be used to provide additional funds for developments or PHAs whose actual needs for modernization or redevelopment significantly exceeded the level of need predicted by the formula.

Although HUD can appreciate these commenters' concerns, it does not have the statutory authority under either the 1987 Act or the NAHA to establish such a set-aside. To the extent, however, that a PHA can establish that it has "unique circumstances," in accordance with the regulatory criteria established in this final rule, it may appeal the amount of its formula allocation, and HUD will make any necessary adjustments to the subsequent year's appropriation.

A couple of commenters maintained that the funding levels determined by the backlog formula are determined almost entirely by two characteristics of a PHA's developments: The number of bedrooms per unit, and the proportion of a PHA's family units that are in a high-rise building. These commenters pointed out that there are a large number of older low-rise developments, which do not have a higher-than-average number of bedrooms per unit, and which have received below-average amounts of mod funding in the past, which appear to be significantly discriminated against by the formula. The commenter argued that this is the largest group of developments for which a systematic adjustment to the formula needs to be made.

The Department notes that, although certain formula factors refer to the number of bedrooms per unit, these factors have different meanings and funding results. For instance, the total number of two-bedroom units in a PHA is a measure of PHA size. However, the average number of bedrooms per unit and the proportion of large-family units proxy the elderly, family, and large family proportions of a PHA, while the high-rise indicator emphasizes the high-rise aspect of family developments.

It should be noted, moreover, that the age and population loss indicators, as well as the cost indicators, can also play a significant role in the backlog formula. Under the formula, the population loss indicator can be expected to assist PHAs facing difficult urban circumstances, many of whom may have large, older, low-rise buildings.

Moreover, all of the statutory formula indicators were based upon previous studies of the factors that cause differences in PHA needs, and those factors were then compared to PHA needs as shown by actual inspections of a large sample of public housing units. The comparison showed very similar measures of need. The comparison method tended to prevent systematic bias for or against certain types of PHAs, although it is very possible that individual PHAs will be overfunded or underfunded relative to some measure of need, such as standardized inspections undertaken for all developments in all PHAs. However, the Department believes that only greater inequity would result if it were to replace a formula which compares well actual inspection data with subjective judgments of need. HUD will consider further this issue.

Two commenters asserted that the regional cost variation factor should not be an independent variable in the formula, but rather an adjustment to both the inputs and outputs of the formula. In this way, they stated, each development would receive 100 percent of the regional cost adjustment that it merits.

The Department wants to point out that, as indicated in the HUD report to Congress, the method used in the formula provided a better fit between the formula estimates and the cost estimates derived from the inspections than a method that adjusted both the inputs and outputs of the formula. It should be noted, also, that the cost variable adjusts below the regional level, typically to the metropolitan area (or non-metro area) in which the PHA is located.

These same commenters also contended that the population decline variable used in the formula has only a "tenuously plausible" relationship to variations in mod need at the development level. They urged HUD to eliminate this variable, and to add other variables which improve substantially the "fit," such as: degree days (operating budget); household income; prior mod funding received (1981–84); number of children; and percentage of elderly. Both commenters asserted that much of this information is readily available to HUD from Form-50058 and PHA budget submissions.

The Department disagrees with this comment, since the population decline variable has been proven to be effective not only in the statistical sense of fitting the formula to direct inspection costs at the development and PHA level, but also as a proxy of urban social and fiscal stress. In addition, HUD notes that this variable, like all of the other formula variables, is statutorily mandated and HUD has no discretion to eliminate or modify this factor.

Another commenter maintained that the sampling plan for the study was not "adequately stratified" to capture adequate information concerning the needs of high needs developments. As a result, the commenter contended that the total mod needs at the national level are somewhat underestimated, while the needs of higher need developments are greatly under-represented in the formula predictions of PHA backlog at these developments. Moreover, the commenter asserted that the PHAs most likely to be affected by this bias are those that have high-need developments with characteristics for which there are no compensating counter-biases in the formula.

The Department disagrees with this comment, since the sampling was, in fact, stratified to oversample high needs developments. This sampling plan was developed by an independent contractor, and was scrutinized by a research advisory group which had technical advice provided by representatives of PHAs with a large proportion of high needs developments.

A couple of commenters complained that the accrual formula is primarily based upon a set of hypothetical constructs, which does not include certain important factors that contribute to modernization costs, such as the cost of lead paint abatement, improved handicapped accessibility, and other factors required by law. The Department agrees that the accrual formula is based upon a model set of hypothetical constructs; however, this model was based on the actual age of systems data and was constructed with the assistance of public housing experts.

Other commenters pointed out that the actual formula contains no variable indicating that high-rise buildings have a higher rate of accrual of mod needs, even though high-rises are given greater weight in the backlog formula. They suggested that the accrual formula be changed to include either an independent variable, or a proportionality factory, which would scale the rate of accrual for any development to its backlog need.

As noted in HUD's report to Congress, the backlog formula was based on actual inspections, while the accrual formula was based on a physical model. the actual inspections showed that high-rise family units, indeed, had very high backlog needs. On the other hand, the accrual model, in which square footage and average number of systems per unit played a major role, would often predict a lower accrual cost per unit for a high-rise family development than for a comparable low-rise development, because the high-rise development had physical economies of scale such as less square footage of roof per unit. Therefore, the accrual formula reflects these predictions of the accrual model on which the formula is based.

(For purposes of clarity, HUD notes that in construing all terms used in the statutory indicators for estimating backlog and accrual need, it will utilize the meanings cited in Appendix B of the HUD Report to the Congress on Alternative Methods for Funding Public Housing Modernization (April 1990).)

C. Deduction for Prior CIAP and MROP.

The Department received several comments concerning the proposed method for deducting prior years' CIAP and MROP funding. One commenter asserted that, given the "rapidly expanding requirements" for PHAs to spend mod funding for purposes other than those included in the "FIX" and "ADD's" categories, the deduction for CIAP funding should represent no more than 60% of the CIAP funding each PHA has received beginning with FY 84. In addition, the deduction for MROP funding should represent no more than 40% of the MROP funding each PHA has received, since an even higher proportion of MROP than of CIAP funding must be spent by the PHA for items that exceed "FIX" and "ADDS."

In addition, a number of commenters urged that the deductions for both CIAP and MROP be made on a development-specific basis, provided that the deduction for any development never exceed the mod backlog need predicted by the formula for that development as of January, 1986 (i.e., there should never be a net negative figure as a result of the deduction which would be carried over and applied to the PHA's other developments). On the other hand, two other housing authorities and PHADA asserted that the deduction for past mod should not exceed 60%, and should be applied on a PHA-wide basis.

Meanwhile, a housing authority maintained that the deduction for previously received mod funding should be totally disregarded. It stated that the enormous amount of backlog and unmet need, along with the additional costs of testing and abatement of lead-based paint and 504 requirements would, in most cases, offset any mod funding previously received. The commenter concluded that, since neither one of the proposed systems for deducting prior mod seemed to be adequate, HUD should allocate mod funds without *any* deductions for previously-received modernization funds.

A municipality commented that the two methods proposed by HUD for deducting previously received mod funds would produce such different results that each method should be tested on a series of PHAs before a decision is reached. However, the commenter added that the deduction of funds for any specific development should never exceed the amount of need predicted for that development by the formula.

A PHA organization asserted that the proposed rule failed to provide sufficient information on the differences between the two methods of deducting prior years' mod funding to enable the public adequately to compare their impact.

Another commenter disagreed with the proposed adjustment to reduce substantially the backlog formula amount for funds received in the mid-1980's, but less substantially for funds received in the most recent years.

Another municipality argued that since the PHA has not always been involved in determining the level of need for which funding has been provided under the CIAP and MROP programs, it was unfair to apply a deduction based upon their mod funding under these programs. This commenter also asked that, in any event, the 60% deduction should be applied for 1984 through 1991 based upon real dollars, rather than as a straight percentage.

Another commenter asserted that it made little sense to use development funding in general as an adjustment to a formula which already considers the age of developments.

In addition, a commenter maintained that it was unclear whether HUD intended, after deducting the amount of CIAP and MROP funding received by a PHA from the January 1986 backlog estimate, to continue deducting mod funds received under the CGP. This commenter pointed out that if HUD intended to follow the latter approach, the backlog needs of most PHAs could become negative in a short period of time.

A couple of commenters asserted that the Abt/ICF study substantiated the fact that a relatively high proportion of each PHA's CIAP funding was being spent for items which fell within the "FIX" plus "ADDS" categories. However, these commenters stated that since that time, PHAs have been spending a larger proportion of their mod money for activities that do not fall within the original "FIX" plus "ADDs" categories, especially in FY 1989, 1990 and 1991. These commenters attribute this pattern to the fact that PHAs have been spending a significant amount of their mod funds on activities that are related to hazardous materials abatement and handicapped accessibility. Consequently, the commenters concluded that the proportion of these expenditures that would be deducted from the backlog estimate needs to be reduced accordingly.

Finally, a commenter maintained that although HUD proposed in its April 1991 rule various methods for making deductions to the backlog amount, the Department failed to propose any particular method. This commenter then asserted that such a provision should have gone through notice-and-comment rulemaking, rather than being left to handbook instructions. In addition, the commenter asserted that HUD should have calculated and specified the impact for individual PHAs of alternative methods of deducting prior mod, including the impact of HUD's own proposed method, and any other methods considered by HUD.

Initially, HUD notes that the deduction for prior CIAP and MROP is mandated by statute pursuant to section 14(k)(2)(A) of the Act, and HUD does not have the discretion to eliminate this requirement. However, after considering all of the comments, the Department has decided that, because CIAP and MROP met some needs other than those estimated in the formula, it will deduct from the backlog estimate 60 percent of previously received CIAP funds, and 40 percent of previously received MROP funds (and only that amount of MROP which does not exceed the estimaated backlog need of a specific MROP development).

In addition, HUD will deduct no more than 50 percent of a PHA's total estimated backlog need to reflect amounts previously received for CIAP and MROP funding. Equally important, prior to any deduction of CIAP or MROP, all developments constructed prior to 1985 (the date of the Abt inspections) will have their estimated backlog multiplied by 1.5 (or 50 percent)—an adjustment which updates inflation, accrued need, and pipeline funding, and brings the dollar amount of modernization need in 1986 to the equivalent dollar amount of unfunded modernization need. This adjustment provides a current base from which to deduct past modernization funding.

As an example, suppose that a PHA has one development constructed prior to 1985 which: (1) Consists of 500 units; (2) has an estimated formula backlog need of $1 million total; and (3) received a total of $1 million in CIAP funding from 1984 onwards. Prior to the partial deduction of recent CIAP funding, this PHA would have its estimated backlog (based on statistical analysis of a national sample of 1985 inspection cost patterns) raised by 50 percent to estimate its need as of 1991 (based upon national estimates). Thus, its estimate would be raised from $1 million to $1.5 million. Only then would 60 percent of its recent CIAP funding be deducted, subject to an overall cap of 50 percent on the PHA. In this example, 60 percent of $1 million in CIAP comes to $.6 million. Since this amount is less than half of the adjusted backlog estimate ($.75 million is half of $1.5 million), the net unfunded backlog used for computing formula shares of backlog would be $.9 million (or the difference between the adjusted estimated backlog of $1.5 million and the partial deduction of recent CIAP of $.6 million).

This procedure corresponds to the method used in Chapter Two of the 1990 HUD report to Congress. Moreover, the HUD report to Congress suggests why a straight percentage adjustment would be more equitable for undating unfunded backlog, rather than a method which combines backlog and accrual estimates. The primary reasons given is that this method avoids indiscriminately mixing a backlog formula based upon inspections, with an accrual formula based upon a model.

Several Indian housing authorities objected to the proposed requirement that the deduction for past modernization funds in Mutual Help developments begin with FY 1984, and asked that FY 1988 be used instead. The IHAs asserted that only four Mutual Help developments and 27 low-rent developments were inspected for sample estimates of backlog and accrual needs. In addition, the IHAs pointed out that the work items addressed in Mutual Help developments during the deductible funding years were not comprehensive repair programs.

HUD has not adopted this comment, since it believes that there is no basis for treating IHAs differently than PHAs with respect to deducting recent CIAP funds from 1984 onwards. As part of the Abt study, 354 units were inspected in 31 Indian Housing developments, which were spread across 20 IHAs and six HUD regions. As with other PHAs (except for the New York City Housing Authority), IHAs under the CGP will have their funding based upon formula estimates. Because the backlog and accrual formulae give high funding weight to a high average number of bedrooms per unit, and because the accrual formula additionally gives a high funding weight to single-family units, IHAs will be treated equitably under the formula. Moreover, because IHAs tended to be underfunded with respect to the CIAP relative to their estimated formula backlog need, the effects of the CIAP deduction will also be less for IHAs than for the average funded PHA.

D. Newly Constructed Units.

One housing authority agreed explicitly that some portion of mod funds should be deducted for newly constructed developments in the same manner that recent mod funds are partially deducted from the estimated backlog need for older developments. However, two other commenters objected to such a deduction, claiming that the premise that newly constructed units do not have a backlog of needs is faulty. Specifically, one commenter maintained that development cost containment guidelines may have led to significant maintenance and modernization problems much earlier in the physical life cycle of the units than expected, which would not then be included in the accrual needs estimates.

Another commenter asked HUD to clarify that the date of the initial backlog estimates is January 1986, and requested specifically that the backlog be adjusted forward to a specific date (e.g., through January 1990 or January 1991). In this way, the commenter contended that developments constructed after that time would simply have no backlog needs, and the value for their backlog estimate in the formula would be set at zero. These developments would, however, have an accrual estimate based upon the characteristics in the formula.

The Department has decided not to change the formula to adjust a PHA's backlog for newly constructed units which entered its inventory between 1985 and September 30, 1991. However, newly constructed units with a DOFA date as of October 1, 1991 or thereafter will have their backlog set to zero. HUD also wants to point out that for purposes of computing unfunded backlog need, the formula procedure will adjust backlog to 1991 levels. Developments with a DOFA date of October 1, 1991 and thereafter will be assigned zero formula backlog, but will receive their full formula share of accrual.

In addition, the Department notes that this final rule includes a provision on acquired developments. Such developments with a DOFA date of October 1, 1991 or thereafter will be considered to have a zero backlog, but will receive their full formula share of accrual.

Modernization and Energy Conservation Standards (§§ 905.603 and 968.115)

A PHA organization asserted that since the appropriate standard for assessing the quality of physical improvements is the modernization standards, HUD should remove from the comprehensive plan all references to the Housing Quality Standards.

The Department wants to point out that while the proposed rule contained a reference to the HQS, this was contained in the preamble and not in the regulation itself. Since the Department recognized that it may take several years for a PHA to meet the modernization and energy conservation standards, the HQS serve as a useful, interim measure of progress toward those standards. While the Department is aware that the HQS do not address all physical deficiencies, they can be used as a relative measure of whether the PHA is providing "decent, safe, and sanitary living conditions." The PHMAP contains the HQS requirement.

A housing authority asserted that the HQS conflict with the Lead-Based Paint Guidelines concerning defective paint surfaces. In addition, this commenter pointed out that the HQS do not deal with any other hazardous materials which need to be addressed in any "bona fide" needs assessment. As a result, the commenter stated that the HQS must be revised before it can be used to determine improvement needs under the comprehensive plan.

The Department wants to clarify that under the PHMAP it intends to use the HQS (codified at § 882.109) as a relative measure of whether the PHA is providing "decent, safe, and sanitary living conditions. However, HUD will not utilize the provisions under the HQS which address lead based paint requirements, but will use instead the Lead Based Paint Interim Guidelines, published on April 18, 1990 at 55 FR 14556, which were subsequently revised and redistributed in October 1990, and which are applicable to the public housing program to determine "decent, safe and sanitary living conditions" with respect to lead based paint. Other environmental concerns will continue to be governed by the HQS requirements (see § 882.109(k)). HUD received a comment claiming that the "mandatory standard" concept has no statutory basis under the Act, and should be dropped by HUD. Another commenter asserted that the rule is overly restrictive in terms of only allowing improvements necessary to meet HUD modernization and energy conservation standards. This commenter stated that the intent is for residents to have the discretion to play a major role in determining the needs for their development, and their recommendations may go well beyond HUD's "modernization and energy conservation standards."

The Department wants to clarify that the modernization standards are comprised of both mandatory and development-specific standards. The mandatory standards are intended to provide decent, safe, and sanitary living conditions for all public housing, including corrections of violations of basic health and safety codes, and to address all deficiencies, including those related to deferred maintenance. A PHA may choose to exceed the mandatory standards by carrying out improvements to the development-specific standards. These standards permit a PHA to undertake improvements that are "necessary or highly desirable" for the long-term physical and social viability of a particular development, which include site and building security. While HUD cannot prohibit a PHA from carrying out with non-Federal funds improvements which exceed the development-specific standards, it cannot condone the use of HUD funds for such a purpose.

A commenter maintained that any modernization funds that the PHA obtains from non-HUD sources should not be used to decrease a PHA's funding eligibility under any HUD modernization project. The Department wants to emphasize that it does not intend to, nor does it have any authority to, reduce the level of the CGP modernization grant as a result of State or local government contributions to a PHA, and strongly encourages PHAs to explore with their State and local governments the possibility of obtaining additional funding to meet their modernization needs.

Definitions (§§ 905.102 and 968.305)

A commenter asked that the definition of "action plan" be expanded to indicate that the plan is supposed to be not only realistic, but also based upon a PHA's and HUD's best estimate of funding likely to become available. In addition, this commenter urged that the definition of "action plan" be clarified to state that physical and management improvements are to be included in the action plan. HUD agrees with these comments, and has made the necessary changes in this final rule.

Another commenter objected to HUD's reserving in its April 1992 proposed rule the definitions of "improvement plan" (IP) and "memorandum of agreement" (MOA). It asserted that these definitions must be included in a proposed rule subject to public comment. While the Department agrees that these definitions are subject to notice and comment rulemaking, they were, in fact, included as part of HUD's proposed PHMAP rule on which public comments were solicited. Accordingly, HUD is including in this final rule the definitions of "improvement plan" and "memorandum of agreement" which were incorporated into the interim PHMAP rule.

A PHA organization commented that HUD's proposed definition of "lack of management capability" was unclear, and should either be dropped, or clarified and made appropriate to the CGP. The Department agrees with this comment, and has removed this definition in its entirety from the final rule.

A commenter noted that HUD's definition of "modernization project" would result in each year's funding allocation being a separate "modernization project," which would result in an extremely complicated way of accounting for such funds. The commenter urged that the definition be revised so that the CGP accounting system for the various annual allocations can be consolidated and streamlined.

The Department has decided to eliminate the proposed reference to "modernization project" in order to provide greater flexibility to PHAs in using each annual grant. Although each annual grant must have a unique grant number, it will incorporate by reference all of a PHA's developments. This approach will enable the PHA to add or delete developments from each annual statement, as necessary, without a formal ACC amendment.

HUD received a number of comments concerning the proposed definition of "PHA-wide resident group." The commenters asserted that the requirements far exceeded those authorized by statute and were unreasonable. These commenters stated that the special election of a resident from each development was an expensive, cumbersome, and unnecessary procedure, and that residents and resident councils could represent themselves. HUD was asked to remove the definition in its entirety, and to permit PHAs to work with the duly elected resident groups that are available. Other commenters asserted that the term should be amended to require consultation only where a PHA-wide resident group actually exists.

The Department has eliminated the requirement for a PHA-wide resident group. Instead, the Department has included a definition of "resident groups" and of "partnership process" to assure that the PHA/resident group partnership process is implemented in all aspects of the CGP, and throughout all of its developments. The PHA, however, has the option of implementing the partnership process through various alternative types of democratically elected resident groups, such as PHA-wide resident groups, area-wide resident groups; newly elected resident groups; RMCs; or other existing resident groups. HUD believes that this modification to the program will provide PHAs with greater flexibility in meeting the resident participation requirements established under the rule, while ensuring that residents are involved in a meaningful way in all aspects of the planning, development, implementation and monitoring of the CGP.

Several Indian housing authorities objected to the definition of "IHA-Wide Resident Group," maintaining that the definition is inappropriate for the Mutual Help program. They recommended instead that the IHA-wide resident group be composed of two percent of all homebuyers occupying units in all developments listed in the IHA's comprehensive plan, not to exceed five persons. The commenters urged that such individuals be elected by homebuyers from each geographical area in which developments are located.

The Department is not adopting the recommendation to cap Mutual Help representation at two percent of the homebuyers, since it believes that this would establish an arbitrary cap on the statutory requirement that residents of each of the developments covered by the comprehensive plan be involved in the modernization process. However, as discussed above, HUD has made a number of changes with respect to the composition of "resident groups" so that, to the extent that a democratically-elected resident group already exists within a Mutual Help development, it may be used for purposes of meeting the resident participation requirements established in this final rule.

An IHA asked HUD to revise the definition of "homeownership developments," so that items which otherwise would have been excluded as eligible costs would now be regarded as eligible costs, e.g., nonroutine maintenance or replacements, additions, and items that are the responsibility of the homebuyer families.

HUD notes that, in addition to the physical improvements currently authorized by §§ 905.615(f)(1), 905.666(d)(1), 968.205(f)(1) and 968.310(d)(1), the Department is also implementing in this final rule section 516 of the NAHA which provides for the comprehensive modernization of a Mutual Help unit using no more than a single CIAP grant, or the substantial rehabilitation of such a unit using no more than a single CGP grant. As such, all needed repairs can be completed at no cost to the homebuyer. However, other than the one-time comprehensive modernization/substantial rehabilitation authorized by section 516, maintenance for a homeownership unit (including nonroutine maintenance, replacements and additions) remains the responsibility of the homebuyer and is not an eligible CIAP/CGP cost.

It should be noted, however, that the Department has decided to implement with respect to Mutual Help (and Turnkey III) developments section 509(f) of the NAHA to permit such homeownership developments to carry out special purpose management improvements. Consequently, the current CIAP prohibition on management improvements for homeownership developments is being removed in this rulemaking.

A housing authority commented that it did not believe a definition of "special purpose modernization" was necessary under the new flexible grants program, since PHAs would have flexibility to do this type of work anyway. However, another housing authority asked HUD to clarify in the final rule that special purpose mod is permissible under the CGP, as long as the costs are included in the 5-year plan. Similarly, a third commenter asked HUD to clarify that the CGP is designed to allow PHAs to utilize their funding for a comprehensive list of modernization activities, and not necessarily to comprehensively modernize any particular development.

The Department notes that "special purpose modernization" is a term used in the CIAP, but which is obsolete (along with other "mod types") under the Comprehensive Grant program. A PHA may set forth in its action plan a variety of approaches to modernization, depending upon the type of work needed at its developments and its estimated funding amounts. For example, a PHA may plan substantial rehabilitation at one development, but only selected work items at another development. Any work items which formerly were eligible under special purpose mod under CIAP continue to be eligible under the CGP.

Finally, one commenter asked that the definition of "emergency work" be expanded to include not only an "immediate" threat to resident life, health and safety, but also an "imminent" threat. HUD has not adopted this suggested language, since section 14 refers specifically to "an immediate threat." The Department notes, however, that to the extent that fire safety costs meet the statutory definition of "emergency work," they would qualify as eligible costs under this section.

Eligible Costs (§§ 905.666 and 968.310)

A number of IHAs urged HUD to remove the proposed requirement that Mutual Help homebuyers who agree to have their units comprehensively modernized must agree to have their homebuyer agreements amended to reflect the cost of the comprehensive modernization. These commenters asserted that amending the homebuyer agreement would only circumvent the residents' and HUD's goal of homeownership. Moreover, they contended that since IHAs will continue to pay payment-in-lieu of taxes (PILOT), as well as insurance coverage under the minimum administrative payments, most residents will continue to pay this minimum amount only and none of the actual comprehensive repair cost will be reimbursed by the residents.

The Department is persuaded by these comments and, since it firmly supports the goal of promoting homeownership opportunities for residents, it is removing the requirement in the Mutual

Help program that the homebuyer agreement must be amended to reflect the cost of comprehensive modernization under CIAP, or substantial rehabilitation under CGP. Moreover, the Department notes that *not* charging the homebuyer is fully consistent with the Department's goals for homeownership, as stated in HUD Notice PIH 91-29, which provides IHAs with an option for determining purchase price schedules. This may result in homebuyers acquiring title to homeownership units earlier than anticipated.

The Department is not removing the requirement in the Mutual Help or Turnkey III programs that the homebuyers agreement be amended to reflect the cost of certain limited physical improvements under homeownership modernization in CIAP and the CGP. The Department had previously excluded the costs of correcting development deficiencies, energy audits, cost-effective energy conservation measures, and lead-based paint testing and abatement from this requirement. In this regulation, the Department is excluding costs associated with physical repairs necessary for handicapped accessibility. However, the Department believes that work necessary to correct health and safety items was originally the responsibility of the homebuyer which has been deferred to the point where further deferral could threaten the health or safety of the occupants. Therefore, the Department believes it is appropriate to charge homebuyers for the repair of health and safety items.

A housing authority maintained that the task of defining eligible improvements under the CGP should be left to the PHAs, not HUD, and that HUD's role should be geared toward evaluating how PHAs use mod funds in general. However, another housing authority asserted that HUD must establish a clear, definitive list of eligible work items and expenditures so that residents attending the public meetings would have a clear understanding of what the CGP involves.

The Department believes that its statutory responsibility to assure that work funded by the CGP is consistent with the statutory purposes of the program makes it necessary for these regulations to include a list of eligible work items. That list has been clarified and extended significantly in this regulation to assist PHAs and residents to carry out their roles in the planning and operation of the program. Generally speaking, all costs which are eligible under the CIAP are also eligible under the Comprehensive Grant program. The only major distinctions in eligible activities between the two programs are that the CGP authorizes the establishment of a replacement reserve, allows audit costs directly attributable to modernization, and establishes different rules with respect to homeownership developments, as addressed elsewhere in this preamble. The Department intends to provide additional guidance in the CGP handbook concerning eligible activities under the CGP.

Several comments were received concerning the proposed 10 percent cap on administrative costs, with some commenters requesting that alternative caps of 15, 20, or 25 percent be used instead. A number of commenters maintained that an increase in the cap was necessary to take into account the cost of obtaining professional assistance to prepare and revise periodically the comprehensive plan, while others urged that the caps be increased only for the first year of the program to take into account the need for planning. Other commenters noted that it would be helpful to apply the limitation on soft costs over a longer timeframe, either over the five-year period covered by the action plan, or for a shorter period of time. Yet another commenter urged that the category of fees and costs be considered under a separate limitation, based on a relationship to the "design package's associated hard costs," while architectural and engineering fees could be included within the minimum 80% hard costs funds. In addition, a commenter asked that the final rule authorize explicitly the use of modernization funds for outside architectural, engineering, or other assistance needed to prepare a PHA's comprehensive plan.

The Department has decided not to impose any limitation on architectural/engineering or consultant fees charged to account 1430, since such a limitation appears unnecessary in light of previous funding history. The Department has also reconsidered the eligibility of certain administrative costs charged to account 1410, such as telephone and facsimile, and has included these items as eligible costs in this final rule.

However, HUD has decided to limit to no more than seven percent the amount of the annual grant which may be used for administrative costs (charged to account 1410). The cap would exclude any costs related to in-house LBP testing, in-house architectural/engineering (A/E) work in lieu of contracting for such services, or other special administrative costs required by State, local or tribal law. The Department believes that the seven percent cap is generous in view of previous funding history, as determined by a HUD survey of the administrative costs of all PHAs funded in FY 1990, which reflected the following:

Size of PHA	Average percentage of grant used for administration
1-249 units	3.47%
250-499 units	3.41%
500-1249 units	3.95%
1250-6599 units	3.93%
More then 6599 units	[illegible]

Since these percentages include costs which the Department is now excluding, HUD believes that the seven percent cap on administration costs is realistic and generous.

However, HUD has included a provision in this final rule which authorizes a PHA whose jurisdiction covers an unusually large geographic area to utilize an additional two percent of its annual grant for costs related to travelling to its developments on CGP-related business, where specifically approved by HUD. For this purpose, "an unusually large geographic area" is an area served by a PHA whose offices are physically separated from the majority of its developments by distances which require overnight travel and/or travel by air or other commercial carriers, e.g., a statewide PHA with developments in multiple localities; a regional PHA with developments in multiple counties or states; or an Alaska IHA with developments in multiple villages.

A housing authority asserted that PHAs with scores below "C" on PHMAP indicators should have the flexibility to increase management improvement costs to twenty five percent, provided that a maximum of 10 percent would be used for management improvements not directly triggered by PHMAP deficiencies.

The Department rejects this suggestion since it believes that this would be a perverse incentive for poor management. In addition, the CGP is primarily intended to be a physical improvement program, with management improvements, either PHA-wide or development-specific, being eligible for funding only to upgrade the general operation, sustain the physical improvements, or correct management deficiencies identified in the comprehensive plan. The Department would like to point out that operating subsidies should be the primary source of funding for management improvements, not CGP funds, and that many management improvements may be undertaken within the PHA's operating budget, or at no extra cost. Accordingly, the Department is retaining the 10 percent annual limitation on management improvements, which is consistent with the existing limitation on management improvements in the CIAP.

A housing authority asked that salaries, including benefits for craftsmen and superintendents to perform construction work as "force account," be charged against physical improvement costs, not as administrative costs for technical salaries. The Department notes that, in accordance with instructions set forth in the Low-Rent Housing Accounting Handbook, 7510.1, the salaries of force account labor are charged to the appropriate development account related to the type of work being carried out, i.e., the appropriate physical improvement costs. As such, if work is being carried out on dwelling structures, then force account labor costs would be charged to account 1460 (dwelling structures). Force account labor costs should not be charged to administration.

A commenter noted that, since the proposed rule would prohibit a PHA's use of grant funds for luxury improvements, it should similarly prohibit such by RMCs. The Department agrees that the prohibition against using grant funds for luxury improvements applies equally to a PHA as it does to an RMC acting on a PHA's behalf. HUD has made the necessary clarifications in this final rule.

A housing authority expressed its agreement with the provision in the proposed rule which stated that social service types of activities would not be considered eligible management improvements. The Department has retained this provision without modification; thus, the provision of direct social services by either contract or force account labor is not an eligible cost under the CGP.

A PHA organization objected to HUD's proposed two-prong test for determining when a PHA can allocate funds to its reserve fund, arguing that the test cannot be expected to cover the variety of situations which may arise. This commenter maintained that a third, more general, provision should be added to the final rule, which would permit funds to be allocated to a PHA's reserve "for other reasons, as contained in the PHA's approved comprehensive plan."

Other commenters objected to HUD's imposing any limitations whatsoever on the establishment of a reserve account, arguing that since section 14 of the Act does not impose any restrictions upon the ability of a PHA to allocate its modernization funds to a reserve account, neither should HUD.

Two housing authorities maintained that the eligible ways to carry a reserve for future needs is too limited, and recommended that HUD authorize PHAS to set aside a certain percentage (e.g., five to 10 percent a year), into a general reserve to supplement future years' funding, as needed.

However, one housing authority asserted that PHAs should be precluded from developing huge unused capital reserves. This commenter maintained that limits should be established and enforced, and that amounts greater than the established limits could be credited to the PHA by formula or other procedure, and retained for the PHA. This method, according to the housing authority, would allow PHAs to build up money to carry out ongoing mod programs.

Finally, a couple of commenters urged HUD to require each PHA which proposes to set aside some of its annual grant in a modernization reserve to establish a separate modernization reserve account to ensure that funds provided for modernization (and any accruing interest) will be accounted for and used for the intended purposes.

In response to these comments, the Department notes that it has decided to retain the proposed two-prong test for the establishment of a reserve fund. Under this test, the PHA must be able to establish that: (1) Annual CGP funds are not needed for existing needs, as identified by the PHA in its needs assessments; or (2) a proposed physical improvement requires more funds than the PHA would receive under its annual formula allocation. However, HUD has included in this final rule a provision which permits a PHA to allocate a portion of its annual CGP funds to its replacement reserve for management improvements if: (1) The particular management improvements require more funds than the PHA can use under its annual formula allocation (i.e., greater than 10 percent of its annual grant); or (2) the PHA needs to save a portion of its annual grant in order to combine it with a portion of its subsequent year(s) grants, to fund the work item.

Funds may still be obtained for natural disasters. PHAs are required by the statute to include in their physical needs assessments the replacement needs that will be required to be met in the next five years. Action plans should respond to these needs by stating which replacements are anticipated to be funded in the five years of the plan. The reliable nature of the annual grant should eliminate the need for a replacement reserve in most cases and allow PHAs to use all of their currently awarded funds to meet existing needs. Finally, HUD wants to clarify that a PHA that has funds in its replacement reserve must apply these funds to an emergency before it is eligible to receive funds from the emergency reserve under §§ 905.601(b) and 968.103(b).

A number of commenters stated that if HUD required PHAs to transfer all interest on the reserve account to the operating budget, such a policy would serve only as a disincentive to PHAs to save funds from one year to the next. These commenters asserted that interest received by the PHA on any funds in mod reserve accounts (including those into which some or all of a PHA's formula allocation funds have been placed) should be retained in those accounts and continue to be available for use in conjunction with the PHA's mod program, rather than transferred to other purposes.

The Department agrees with these comments, and notes that it intends to exclude the CGP from the existing requirements under §§ 905.725(e)(1) and 990.109(e)(1), which provide that regular program income includes interest on grant funds. As such, HUD will not consider as program income the interest accrued by a PHA on its replacement reserves, so that these funds are not subject to offset against operating subsidy amounts. A PHA may use its accrued interest for any eligible modernization activity under the CGP, and there is no time period in which either the replacement reserves or the accrued interest must be used. The Department has included a requirement, however, that a PHA must report in its annual performance and evaluation report on the obligation and expenditure of these funds. In addition, the PHA shall invest the replacement reserve funds in order to generate a return equal to or greater than the average 91-day Treasury bill rate.

A housing authority asserted that the proposed CGP requirements fail to provide PHAs with adequate flexibility in combining several years of formula allocation funding, and asked that the final rule provide for a carryover of funds to accomplish comprehensive modernization. The Department disagrees with this comment. Since PHAs will be receiving funding every year, there is no need to carry over funds from one year to the next in order to accomplish comprehensive modernization. Moreover, PHAs are not required to obligate and expend all funds from an annual allocation in that year; these funds may be obligated and expended over a period of several years if necessary to accomplish the work identified in the annual statement.

Reserve for Emergencies and Disasters (§§ 905.667 and 968.312)

A housing authority commented that a $75 million set aside for emergencies is insufficient for 3,200 housing authorities, and questioned whether HUD derived this figure based on past actual natural disaster and emergency needs.

Another housing authority maintained that funding for unpredictable and uncontrollable events should not be reimbursed from future years' grants. The commenter suggested, instead, that a national pool be established in which funds could be obtained as needed, and that only when a disaster results in a work item being moved up in scheduled replacement timeframes should some future adjustment in grants be attempted.

The Department wants to point out that the $75 million set-aside is mandated by statute pursuant to section 14(k)(1) of the Act, and exceeds HUD's estimate, based upon its past experience, of what would be required to meet emergencies and natural or other disasters. The size of the reserve for natural disasters was based upon a year in which several disasters of the scale of Hurricane Hugo and the Loma Prieta earthquake occurred. With respect to the reserve for emergency modernization needs, HUD analyzed data pertaining to prior years CIAP emergency funding, as discussed in the HUD Report to Congress.

The Department believes on the basis of these historical analyses, and the fact that the reserve is available only to PHAs and IHAs operating under the CGP, that the $75 million reserve will be more than adequate to meet the need for emergencies and natural or other disasters, since PHAs must first use their annual formula allocation of CGP funds, any other unobligated CIAP or CGP funds, or replacement reserve, for emergencies before they can apply for funds from the $75 million reserve. (PHAs and IHAs under the CIAP will continue to receive assistance for emergencies and disasters in accordance with the existing CIAP requirements and procedures.)

The Department also notes that funding for repair and replacement needs which arise from natural and other disasters will not be required to be reimbursed from future years' grants, since these unpredictable and uncontrollable events cannot, by their nature, be accounted for under the formula.

On the other hand, emergency repair needs are not different in kind from the types of repair and replacement needs identified in the Abt survey, and which are estimated under the formula for both the backlog of modernization need, and the accrual of new need. Rather, they differ only in their relative urgency. For example, a boiler failure may lead to an immediate need for replacement in order to provide heat and hot water for tenants, and thus fall into the category of emergency need. However, a planned replacement of the same boiler would not be an emergency but would be part of ongoing modernization work, and would be identified as either a backlog or an accrual need. Thus, since the repair and replacement work which becomes an emergency is already included in the work on which the formula is based, and for which the formula provides funding, it is appropriate for a PHA which has no unobligated formula or other funds available to address emergency needs to be required to repay emergency funding out of future years allocations of CGP funds, as mandated by NAHA.

A housing authority stated that although the proposed rule provided that HUD would process immediately any requests for funds from the emergencies and natural disaster reserve, the final rule should specify a maximum response time. The PHA maintained that 20 days to respond would be a reasonable period of time, and that HUD's failure to respond to a request within that time period should result in automatic approval.

Although the Department intends to process requests for funds for emergencies and natural disasters as expeditiously as possible, it believes that a processing timeframe is more appropriate for the CGP companion handbook, rather than this final rule. Consequently, HUD has not made any modifications in response to this comment.

Allocation of Assistance (§ 905.669); and Allocation of Assistance for Troubled and Non-Troubled PHAs (§ 968.315)

A. Submission of Data

A commenter asserted that since the backlog need of individual developments represents their needs at a particular point in time (i.e., 1985), and since changes in a development's characteristics after 1985 will not affect the estimate of its backlog needs in 1985, PHAs should only have to submit one time data that are used solely to estimate backlog needs of individual public housing developments.

The Department agrees with this comment and is providing in this final rule that each PHA, in its first year of participation in the CGP, must verify and provide to HUD, in a form and at a time to be prescribed by HUD, data concerning PHA and development characteristics so that HUD can develop the PHA's annual funding allocation. After its first year of participation in the CGP, and PHA is not required to submit formula characteristics data to HUD, but is required to respond to data transmitted by HUD if there have been changes to its inventory from that previously reported, or where requested by HUD.

A housing authority objected to the provision in the proposed rule requiring that the formula characteristics report be certified and approved by Board resolution. It stated that the information to be contained in the report is already on file at HUD, and is submitted by PHAs in other required reports. Consequently, the commenter requested that the report be provided by HUD, and simply verified and signed by the PHA's executive director.

The Department wants to clarify that while it does have most of the information to be contained in the formula characteristics report, and plans to supply this information to PHAs for verification, it does not have all of the necessary information on file (e.g., the actual construction date for acquired properties). Since this information is crucial in determining the funds to be allocated to a PHA, the Department believes it is important for the PHA Board to make the determination that the information in the report reflects its understanding of the characteristics of the PHA, as well as its belief that this is the basis on which the PHA should receive mod funding. However, as noted above, a PHA shall only be required to supply and verify information for the formula characteristics report for its first year of participation in the CGP. Thereafter, such data shall be limited to verifying changes to the PHA's reported inventory, or otherwise responding to requests by HUD.

A commenter urged HUD to establish a timetable for the CGP, whereby HUD would notify PHAs of their expected formula amounts by November 1; PHAs would submit their plans to HUD no later than January 1; HUD would approve the plans by February 1; and funds would be obligated by March 1. This commenter also noted that to meet this schedule, any revisions to the PHA's comprehensive plan (including

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the five-year action strategy), and the approval of any amendments to the plan, would need to be completed each year no less than 90 days before the beginning of the new FFY.

The Department intends to notify PHAs as early as possible of the schedule, although it is unable to specify in this final rule the exact dates, since the schedule will vary from year to year depending upon the availability of the Department's appropriation.

For FFY 1992, HUD intends to provide PHAs with preliminary formula estimates in the winter of 1991, and with final formula amounts in the spring of 1992. PHAs will submit comprehensive plans and annual statements in the summer of 1992. HUD will review these and complete grant reservations by the end of the 1992 fiscal year (i.e., September 30, 1992).

For FFY 1993 and most other years, HUD intends to provide PHAs with preliminary estimates based on the President's budget in the previous summer and revised estimates based on the congressional appropriation of modernization funds in the fall. The summer estimate will enable the PHA to begin the planning process early.

PHAs will submit annual statements in early winter. After they have submitted their annual statements to HUD for review, PHAs will receive their final formula amounts. This will permit PHAs to receive their annual grant early in the year. HUD will complete its review of the annual statements and complete grant reservations by the spring. Each year, the program year will close on June 30, and PHAs will submit their performance and evaluation report by September 30.

A commenter noted that the proposed rule failed to address the possibility that an IHA may elect to enter the new program in the initial funding cycles, yet still wish to do so at a later date without the imposition of penalties or other serious repercussions. The Department agrees with this comment and, accordingly, has made a couple of changes in this final rule. First, HUD is eliminating the requirements that a PHA must affirmatively state on an annual basis that it intends to participate in the CGP. Any PHA which elects not to participate in the CGP in any FFY may nevertheless participate in the program in any succeeding year without adverse consequences.

In addition, the Department would like to clarify that if a PHA fails to submit the comprehensive plan/annual statement by the HUD-established deadline, the PHA may still submit such data to HUD at any time prior to 75 calendar days before the end of the FFY. However, it should be noted that the purpose of the HUD-established deadline is to make the CGP funds available to PHAs as early as possible in the FFY.

B. Appeals Based Upon "Unique" Circumstances and Error

Several commenters complained that HUD had very narrowly construed a PHA's right to appeal its formula allocation on the basis of unique circumstances. They maintained that by requiring PHAs to specify "the way in which it is different from all other PHA's" participating in the formula-funded modernization program, HUD had virtually closed off any opportunity for a PHA to wage a successful appeal based upon unique circumstances. They also contended that the term "unique" could have been construed more broadly by HUD to mean, "unlike, unequal, or unusual."

After considering all of these comments, the Department has decided to retain its proposed standard for sustaining an appeal based upon "unique circumstances." HUD notes that an appeal based upon unique circumstances does not require the PHA to prove that the formula is in error; rather, it requires that the PHA be able to establish that there is something so uncommon at this particular PHA that the formula, by its nature, could not have addressed it.

However, HUD cannot make a determination based upon the numerous scenarios posed by commenters as to whether unique circumstances would, indeed, exist in a given situation so as to justify increasing a PHA's formula allocation and decreasing the formula allocations of all other PHAs. A PHA which believes that it has conditions which make it unique should submit an appeal as prescribed in the regulation, stating how it is different from all other PHAs participating in the CGP.

A commenter urged that the appeals process for unique circumstances be extended from 30 days to 90 days, following the initial notification of a PHA's formula allocation. Another commenter asserted that PHAs should have a least 60 days to appeal their formula allocation, irrespective of the basis for the appeal. The Department agrees that more time is necessary for an appeal based on unique circumstances, and has extended from 30 to 60 days the period for this appeal. Any adjustments resulting from unique circumstances will be made in the following FFY.

However, the Department believes that 30 days is adequate for a PHA to identify an error and submit an appeal. Appeals will be reviewed at the Field Office level and forwarded to the Regional Office with a recommendation for approval or disapproval. The Regional Office will render the final decision on the approval or disapproval of appeals. Hence, HUD is providing that it will inform a PHA within 60 days of its receipt of a request for an appeal of a PHAs estimated formula amount as to whether the appeal can be resolved so that adjustments can be made to the formula in the current FFY. If HUD determines that there are no issues in dispute, a decision on the appeal will be issued at the earliest possible time but no later than 60 days from the date of the PHA's appeal request. Any adjustments resulting from a successful appeal would be made to the current year's allocation of funds from the CGP.

Alternatively, if HUD determines that there are issues in dispute, HUD will notify the PHA within 60 days of the date of its receipt of the appeal request that it will have to extend its review period. In this case, or in the case of a PHA appeal of its final formula amount, any adjustments resulting from a successful appeal based on error will be made to the following year's allocation of funds for the CGP.

C. Reduced Formula Allocation for PHAs Designated as Mod Troubled Under PHMAP

A number of commenters objected to HUD's proposed method under the PHMAP rule for designating PHAs as mod troubled agencies. Many asserted that the number of criteria to be used to establish mod troubled status under PHMAP were excessive, while others maintained that there was an inconsistency between the criteria to be used to establish mod troubled status and those to be used to remove the designation. While the Department has considered and taken into account all of these comments on the PHMAP, it believes that these comments should more properly be addressed in the separate PHMAP rule. HUD will only address in this final rule those PHMAP comments which directly relate to the CGP. The reader is therefore advised to refer to the interim PHMAP rule for a full discussion of the PHMAP issues raised in this rulemaking.

A commenter urged HUD to expedite the release of each year's mod funds by competing well before the beginning of the FFY the determination as to whether a PHA is initially designated as mod troubled under PHMAP. The commenter also asked that HUD's review of a PHA's status with respect to whether it continues to be "troubled with respect to the modernization program" be completed no later than 90 days before the beginning of the FFY, so as to provide PHAs with adequate time to appeal. Finally, the commenter requested that mod-troubled PHAs be notified early in the year as to the amounts of funding they will receive, so they can submit annual statements on the same schedule as other PHAs.

The Department recognizes the validity of many of these comments but notes, initially, that HUD's Appropriation for the 1992 Fiscal Year eliminates the distinction which previously existed between PHAs which are initially designated as mod troubled under PHMAP, and those which are subsequently so designated. Moreover, as discussed above, HUD does not intend to designate PHAs as mod troubled in FFY 1992. Such designations and resulting formula reductions will not be implemented until FFY 1993.

Additionally, each PHA will know at the time it develops its annual statement whether or not it is designated mod troubled, based on its most recent management assessment. All PHAs will submit annual statements on the same schedule. The Department notes, however, that it may still condition a PHA's annual grant based upon its prior performance under the CIAP and, if the deficiencies noted by HUD are not corrected within a specified period of time, HUD may withhold a PHA's grant, in accordance with section 14(e)(4)(D) of the Act.

Nevertheless, in response to the commenter's concern, HUD intends to notify mod troubled PHAs as early as possible in FFY 1993, and in each succeeding year, of their tentative formula allocations.

One commenter recommended that HUD adopt a technical assistance approach for PHA's which have failed to perform, rather than withhold their modernization grant funds. The Department does intend to provide technical assistance to PHAs with respect to their MOAs. However, HUD is statutorily required to withhold a certain portion of CGP modernization funds from a PHA that is designated as mod troubled under PHMAP. In addition, all PHAs are authorized to use CGP funds for the purpose of obtaining technical assistance with respect to their modernization programs.

A PHA organization objected to provision in the April 1991 proposed rule which stated that HUD would reallocate funding withheld from mod troubled PHAs to PHAs which have not been determined to be either troubled or mod troubled under PHMAP, as well as to IHAs which have been determined to be administratively capable. This commenter asserted that since the NAHA does not restrict troubled PHAs from receiving reallocated funds, HUD's proposed language exceeds the statute and must be removed.

The Department is not persuaded by these comments, since HUD believes that it has the administrative discretion under section 14(k)(6) of the Act to restrict troubled PHAs from receiving reallocated funds. Moreover, HUD believes that its decision to limit the receipt of CGP reallocated funds to PHAs and IHAs which have been determined to have a satisfactory level of management performance will serve as an incentive for well managed PHAs.

The Department was asked by one commenter to revise the language concerning the treatment of credits which exceed the five percent reserve. This commenter asked that the language be clarified by stating that the PHA remains entitled to receive its remaining balance of credits in future FFY, including any credit not actually received because of a pro rata reduction. HUD agrees with this suggestion, and has made the necessary modifications in this final rule.

Two commenters objected to the proposed four-year "step program," in which a PHA would be able to get no more than 10 percent of its credits in the first year. The commenters maintained that such an approach is too slow, especially in light of the urgency of the PHA's modernization needs which would be accumulating during the period in which funds are withheld. They maintained further that when a PHA has been designated as mod troubled, HUD should negotiate with the PHA for a change in the PHA's five year action plan so as to increase as rapidly as possible the PHA's receipt of its credits. At a minimum, the commenters contended, HUD should provide the PHA with an opportunity to appeal the proposed new distribution scheme.

The Department wants to emphasize that the four-year step program, in which a PHA would be able to get 10 percent of its credits in the first year, serves only as a general guideline, rather than as an absolute standard. Nevertheless, HUD intends to consult with formerly mod troubled PHAs to determine the schedule of credit repayment in order to step up mod activities. This change is reflected in this final rule.

Numerous commenters objected strenuously to HUD's proposal to withhold all funds (with certain limited exceptions) from PHAs that are subsequently designated as mod troubled under PHMAP. Similarly, the commenters objected to HUD's proposal to disqualify such PHAs from obtaining credits for amounts previously withheld. The commenters urged HUD to treat PHAs that are subsequently designated as mod troubled under PHMAP in a manner similar to those that are initially so designated.

As discussed above, HUD's FFY 1992 Appropriations Act expressly eliminated section 14(k)(5)(E) of the Act, which served as the authority for HUD to promulgate special rules with respect to PHAs subsequently designated as mod troubled under PHMAP. Accordingly, the Department has eliminated the provisions of the proposed rule which established different requirements for such PHAs. In this final rule, all PHAs which are designated as mod troubled under PHMAP will be treated in the same manner, pursuant to the method set forth in the April 1991 proposed rule.

A housing authority asked HUD to clarify in the final rule how much funding can be given to "troubled" PHAs versus "mod-troubled" PHAs. Another commenter stated that troubled PHAs should be given a "clean slate" before they are required to meet the "stringent" performance standards established under PHMAP. Alternatively, the commenter urged HUD to establish a separate set of criteria especially for troubled PHAs. The commenter added that PHAs operating under a MOA should be excluded from the CGP requirements until they meet the PHMAP standards, and should be able to submit an action plan which is graded on a pass/fail manner so that the PHA is able to receive all of its grant. The Department wants to clarify that there is no automatic statutory reduction in funding for a troubled PHA. The authority to reduce funding applies only to mod troubled PHAs, although HUD has the authority to withhold grant funds from any PHA based upon program performance, in accordance with § 968.345 of this final rule. In addition, the statute does not exclude from the CGP those PHAs which meet the unit threshold requirements but which do not meet the PHMAP standards. In fact, such PHAs may use CGP funds to help them make the improvements or corrections which are needed to attain the PHMAP standards.

Another commenter asserted that whenever a PHA is determined to be mod troubled, HUD should notify development residents so that they can be apprised of the impact of a mod troubled designation, particularly with respect to withheld modernization funds. The Department agrees that residents should be informed of the estimated formula amount to be provided to the PHA, including any potential reduction in this amount due to the PHA's designation as a mod troubled agency.

D. Appeal Based Upon Formula Reduction.

A couple of commenters urged that HUD, in evaluating a mod troubled PHA's appeal of its allocation amount, consider factors other than a PHA's progress in meeting goals and targets set forth in its MOA under PHMAP. These commenters maintained that there are a variety of other factors which HUD should also consider as a basis for an appeal, including factors related to the PHA's mod need and the capability of its staff to effectively carry out the modernization work.

The Department can appreciate these concerns but notes that at the present time it has decided to limit the bases upon which a PHA can appeal the reduction in its formula allocation, i.e., based upon the PHA's progress toward meeting the modernization indicator under PHMAP. However, if HUD decides at a later date that it wants to adopt additional factors for purposes of considering an appeal under this section, it shall do so after notice and comment rulemaking.

Comprehensive Plan (Including Action Plan) (§§ 905.672 and 968.320)

A. General

A commenter complained that there is some ambiguity concerning the word "binding," as it is used with respect to the comprehensive plan. On the one hand, the commenter states that PHAs are intended to be given maximum flexibility, according to the purposes of the Act. However, under the proposed rule, once HUD approves a comprehensive plan it is considered to be "binding" upon both HUD and the PHA. Thus, this language would appear to eliminate the very flexibility which the Act purports to promote. Consequently, this commenter asked that the term, "binding" be clearly defined in the final rule, and that its applicability be highly limited. The Department wants to clarify that, although the comprehensive plan is "binding" in nature, it nevertheless is subject to modification at any time. Moreover, the action plan is binding only to the extent that funding by HUD is made available.

Other commenters asserted that the five-year action plan "duplicates much of the material from the comprehensive plan." These commenters also stated that the executive summary is too long and duplicative of the comprehensive plan, while the annual statement is "too inflexible." One commenter urged HUD to eliminate "unnecessary detail" from the comprehensive plans, and requested specifically that the detailed statement of proposed work and costs be required only for modernization activities which the PHA proposes to carry out within the first two years of the five-year action plan.

The Department believes that it has reduced significantly the level of detail required under the executive summary, needs assessments, action plan and annual statement. Moreover, it has increased the level of flexibility in the annual statement by providing PHAs with the option of submitting up to a two-year annual statement. For a further discussion of these changes, see the appropriate section headings under this preamble (e.g., needs assessment, action plan, annual statement, etc.)

B. Resident and Local Government Participation

One commenter which supported the involvement of residents in planning and establishing priorities for a PHA's modernization program urged HUD to provide additional funding for PHA operating budgets so that PHAs can develop and implement resident training and employment programs designed to foster greater participation in mod activities.

HUD has clarified the description of eligible expenses under the CGP to specifically cover economic development activities, including job training and resident employment for the purpose of carrying out activities related to improvements under the CGP.

HUD agrees with the commenter that resident training is important, and encourages all PHAs to invest the maximum amount prudent in this endeavor. In addition, HUD wants to point out that PHAs are provided with operating subsidy in accordance with the formula established under the Performance Funding System (PFS). Any non-utility costs are subsidized through the PHA's Allowable Expense Level. PHAs are free to make their own decisions as to how to spend their available resources for eligible expenses, including resident training.

Two commenters asserted that, while they did not object to requiring significant resident participation in the annual update of the comprehensive plan, any hearings, participation and involvement should be limited solely to the new year being added to the plan, and to any major changes proposed for the other four years of the plan. The Department disagrees with this comment and believes that the five-year action plan and annual statement should be subject to resident review and comment every year.

A number of resident organizations urged HUD to "quantify and qualify" in the final rule the specific requirements for a PHA/resident partnership. They maintained that without such requirements, the rule would become a vehicle to empower PHAs at the expense of both residents and the broader community.

The Department agrees that further clarification of resident requirements is necessary, and is providing in this final rule that after a PHA is notified of its tentative formula allocation, it must notify residents that the physical and management needs assessments are about to begin; describe the process by which the PHA proposes to carry out these assessments, and for including residents in the process (including assisting the PHA in the prioritization of needs).

In addition, the PHA is required to hold one advance meeting, in addition to the statutorily required public hearing, so as to increase resident participation in the modernization process. Moreover, residents must be involved in the ongoing implementation and monitoring of the modernization program, and the PHA must set forth in its Executive Summary the proposed process for resident participation, and report on the results of that participation in its annual performance and evaluation report.

HUD received differing views concerning the type of notice which should be given to residents concerning any public hearing or meeting. One commenter stated that, rather than requiring the PHA to undertake reasonable efforts to provide advance notice to "each resident," HUD should instead state that "the PHA will make reasonable efforts to advise residents, including all elected representatives of a PHA-wide resident group, of the proposed meeting." However, one organization asserted that every resident should be given notice of such meetings or hearings, either by mail or by delivering the notice to an adult who answers the door.

The Department has decided to require PHAs to undertake reasonable efforts to provide written notice to all residents and resident groups of the advance meeting. The notice required under this section may be in the form of flyers or advertisements, although HUD is not prescribing the particular form of the written notice so that PHAs will have maximum discretion in determining the method best suited to their own circumstances.

However, with respect to the statutorily required public hearing, HUD is requiring that the PHA undertake reasonable efforts to provide written notice to each resident of the date and time of the public hearing, and other pertinent information. In this case, the PHA must provide individual notices to its development residents, rather than a more generalized form of notice.

Three housing authorities asked HUD to adopt for the CGP the current CIAP rules governing resident meetings and comments, and consultation with local government officials. Another housing authority commented that HUD's proposed method of resident participation is unnecessarily cumbersome and would actually reduce effective participation as compared to CIAP rules. This commenter suggested that the pre-hearing meeting be eliminated; that the special elections requirement be removed; and that each resident and resident council be mailed a copy of the executive summary of the plan, with the notice of public hearing, and be advised that they may submit written comments as well as appear and speak at the hearing. Other commenters maintained that the public hearing requirement is an unnecessary burden, costly both in terms of time and money, and should be eliminated.

Two other commenters objected to HUD's attempt to specify the method of resident involvement, claiming that in many PHAs there are no PHA-wide resident groups. These commenters pointed out that, in other PHAs, there are both PHA-wide resident organizations and individual development resident organizations specializing in different types of activities. These commenters maintained that the PHA should be able to adopt the method of resident involvement which it believes to be most appropriate for its particular circumstances.

The Department appreciates many of these concerns, at the same time that it strongly supports resident involvement as a critical and integral part of the CGP modernization process. Initially, though, HUD wants to point out that the CGP public hearing is required by statute and HUD has no authority to waive this requirement. As discussed above, HUD is persuaded that PHAs must be able to work with existing, democratically elected resident groups, rather than being required to establish entirely new entities as a pre-condition for participation in the CGP. Hence, HUD has eliminated the requirement that a PHA must establish a PHA-wide resident group; instead, the final rule now provides maximum flexibility and discretion to PHAs by permitting them to deal with a broad range of existing, democratically elected resident groups.

Nevertheless, the Department is continuing to prescribe the nature of the partnership process since HUD believes that this is a critical element of the CGP, which not only promotes resident participation in the modernization process but also fosters a system of checks and balances which enhances program accountability. Thus, the Department believes it is important to set realistic standards for what constitutes acceptable resident involvement in the CGP. These standards must be based upon an understanding of how the PHA and residents can work and plan together within a partnership framework. The partnership process established in the CGP provides that type of framework since, by its very design, it can insure that all partnership members always know the current status of the CGP.

A number of resident organizations asked that the final rule provide that capacity building and resident training be made easily accessible to insure meaningful resident participation in both the CGP planning process and the CGP itself. These commenters also urged that resident initiatives, such as homeowernship, resident management, economic development and anti-drug activity be included as eligible costs under the CGP. The Department agrees emphatically with this comment, since it is fully consistent with the notion of implementing a partnership process to insure PHA and resident participation in the development, implementation and monitoring of the CGP.

A municipality commented that HUD failed to provide guidance in the proposed rule concerning the incorporation into the annual plan of the local community's comments. The Department agrees with this comment and has included a requirement which states that the PHA must give full consideration to the comments and concerns not only of residents and local government officials, but also of other interested parties. Moreover, HUD is requiring a PHA to summarize in the executive summary comments received on the comprehensive plan.

Finally, HUD has revised the local government statement to include a certification by the chief executive officer (CEO) that the PHA developed the comprehensive plan in consultation with interested members of the community, in addition to residents and local government officials. In the case of a PHA with developments in multiple jurisdictions, the PHA may meet this requirement by consulting with an advisory group representative of all jurisdictions.

One commenter asked that PHAs be required to provide residents with copies of all relevant materials, including the draft or working copy of the plan, amendments or annual statement, in addition to the final plan, amendments, or statement. The Department agrees with this comment, and has decided to require PHAs to make available to residents, on-site, such as in the PHA development offices, where possible, all of the components of the comprehensive plan, including the needs assessments, action plan, annual statement, etc., rather than to overburden the PHA by requiring it to provide each resident with copies of these documents at its own expense.

The same commenter also asserted that the PHA should not be limited to considering only the comments of the residents of the affected developments. In particular, the comments of individuals on the waiting list should be solicited and considered, the commenter maintained, especially if the PHA plans to reduce the number of units, convert units into units of different bedroom sizes, or convert family units into elderly housing, etc. The Department notes that the comprehensive plan provides for input by "other interested parties," and not just residents of the covered developments. Hence, residents on a waiting list may comment on the proposed plan at the public hearing, and their comments must be given full consideration by the PHA and included in the Executive Summary portion of the plan. However, given the fact that the term "other interested parties" encompasses an indeterminable number of people, the PHA cannot be expected to provide notice to the members of this class. As a result, HUD is requiring a PHA to provide general notice (e.g., in the form of flyers, advertisements, etc.) to the community at large concerning the public hearing on the comprehensive plan, rather than individual notices.

One PHA proposed that, instead of requiring a state-wide meeting, HUD should permit meetings to be held in those communities in which residents reside, and only to the extent affordable. In addition, the PHA asked that such meetings, at the option of the housing authority, be conducted through the use of telephonic services.

The Department has decided that, where geographic constraints or other conditions (e.g., size of the PHA), limit the possibility that a single resident group can provide for meaningful resident participation, an alternative form of participation may be developed (e.g., an area-wide resident group). Thus, it is not necessary that a PHA hold a PHA-wide or state-wide meeting, so long as residents, members of the resident group, local government officials and interested members of the community are given an adequate opportunity to participate in the public hearing and other meetings established under this final rule.

With respect to the commenter's second concern, HUD has decided not to permit meetings to be conducted by telephone, since the Department believes that this would greatly hamper the ability of residents to comprehend and contribute to the development of the comprehensive plan.

One commenter asked that the local political leadership be involved on an advisory basis in the CGP modernization process. However, a contrary view was expressed by two housing authorities which asserted that including the political element into public hearings would not serve any useful purpose other than to provide a platform for campaign and re-election rhetoric. These commenters stated that only by holding a public hearing in a non-governmental, non-political forum can residents have the kind of control over the CGP that the rule intends. Other commenters stated that the degree of local participation provided for in the proposed rule appeared to be excessive, and stated that a better method would be to include the comprehensive plan in the locality's comprehensive housing affordability strategy, or to simply invite the local government to provide input at the level it deems to be appropriate. Another commenter stated that only work items which involve new construction or demolition should be brought to the community-at-large during a public hearing.

The Department wants to point out that the participation of local government officials in the development of the comprehensive plan is statutorily mandated. Hence, HUD does not have the administrative discretion to eliminate this requirement. In addition, the Department strongly favors a public hearing and democratic process wherein an informed community is involved in the decision making process within a partnership framework. Thus, HUD has retained without modification the provisions of the rule governing local government participation.

A housing authority commented that the rule should clarify that local government approval is limited strictly to sign-off by the CEO (e.g., the mayor) or his or her designee, and that approval by the city council or other legislative body is not required. The Department agrees that the local government certification need only be signed by the CEO (or his or her designee) of the unit of local government in which the PHA is located. Hence, it is not statutorily required (nor is HUD requiring) that the local government statement also be approved by a legislative body. However, HUD notes that, to the extent a PHA has developments in more than one unit of general local government, it is required to submit a certification from the CEO of each such governmental entity. Finally, for purposes of clarity, the Department has included in this final rule a definition of the term "chief executive officer of a unit of general local government"(CEO).

Two housing authorities stated that HUD's reference to local government approval of the CGP was an undue expansion of the statute and should be withdrawn. The Department disagrees with this comment, since section 14(e)(1)(E)(1) of the Act prescribes explicitly that a PHA must include in its comprehensive plan a statement signed by the chief local government official concerning, among other things, compliance by the PHA with the public participation requirements. In addition, the CEO must certify that the PHA's proposed comprehensive plan is consistent with the locality's assessment of its lower income housing needs. HUD has construed this latter provision to mean that the comprehensive plan must be consistent with the locality's Comprehensive Housing Assistance Strategy (CHAS), if applicable.

C. Executive Summary

A number of commenters asserted that the executive summary, as proposed by HUD, was too long and needed to be abbreviated significantly. In particular, several commenters asked HUD to remove the reference to "high need developments," claiming that there was no need to establish different requirements with respect to high need developments. Other commenters questioned the criteria proposed by HUD to determine whether a development is a "high need development."

The Department wants to clarify that the purpose of the Executive Summary is to promote understanding of the comprehensive plan by residents, local government officials, and the public. Consequently, while HUD has reduced the paperwork submission requirements under the Executive Summary, it has attempted to retain those features of the Executive Summary which are needed to carry out this purpose. The Department has, however, removed in this final rule all references to a separate category of "high needs" developments. In addition, HUD has further abbreviated the Executive Summary by limiting it to the following items:

(1) A summary of total preliminary estimated costs for the physical needs of each development, as well as for PHA-wide management and operations needs;

(2) A PHA statement concerning its overall modernization strategy, and its rationale for the approach and priorities adopted in the plan;

(3) A statement by the PHA of its plans for development(s) currently funded for comprehensive modernization under the CIAP; and

(4) A narrative description of the PHA's proposed process for maximizing the level of participation by residents in planning, implementing and monitoring of the plan, accompanied by a summary of the general issues raised on the plan by residents and others during the public comment period process, and the PHA's response to the general issues.

Another commenter asked HUD to clarify that the executive summary should summarize the resident concerns, and not just those which are addressed in the plan. The Department believes that the PHA must summarize those comments that are related to the modernization of the PHA's developments.

D. Physical and management needs assessments.

Several housing authorities argued that the requirement that a PHA must provide a physical needs assessment of all of its development is an unnecessary expense. A PHA organization stated further that HUD is requiring "an excessive amount of detail" in comprehensive plans, especially for needs that are unlikely to be addressed within the next two or three years.

The commenter proposed an alternative approach for the needs assessment in which a PHA's mod strategy would start out with a general (not detailed) assessment of the mod needs of its various buildings. Thereafter, the PHA would use this information to establish general priorities among its modernization needs at these various developments. The PHA would then develop a timeframe for the modernization of the various buildings, indicating which of those buildings would be modernized within the next two, three-to-five, and five-to-ten year periods. The PHA could authorize the preparation of detailed mod plans for the developments which are scheduled to be modernized in the next two years, while authorizing the preparation of preliminary evaluations and analyses for developments scheduled for modernization within three to five years.

The Department agrees to reduce significantly the level of detail required in the physical needs assessment under the comprehensive plan. As provided in this final rule, a PHA would need to submit the following information in its physical needs assessment with respect to each of its developments:

(1) A brief summary of the physical improvements necessary to bring each of a PHA's developments to a level at least equal to the modernization and energy conservation standards, with the relative urgency of need indicated;

(2) The replacement needs of equipment systems and structural elements that will be required to be met (assuming routine and timely maintenance is performed) during the period covered by the action plan;

(3) A preliminary estimate of the cost to complete the physical work;

(4) The projected FFY in which the PHA anticipates that each development will meet the modernization and energy conservation standards;

(5) Any physical disparities between buildings occupied predominantly by one racial or ethnic group and buildings occupied predominantly by other racial or ethnic groups and, in such cases, the physical improvements required to correct the conditions;

(6) With respect to vacant or non-homebuyer-occupied Turnkey III units, the estimated number of units that the PHA is proposing for substantial rehabilitation and subsequent sale; and

(7) The sources from which the PHA derived the data used to develop the physical needs assessment, viability assessment and reasonable cost.

Thus, HUD has eliminated the requirement that a PHA use Form HUD-52827 to identify the needs of each of its developments, and is providing instead that physical needs may be described in broad categories, e.g., kitchens, electrical systems, with the relative urgency of need indicated.

Other commenters objected to the requirement that the PHA must submit detailed cost estimates as part of its comprehensive plan, arguing that most PHAs will not have prepared detailed mod plans for their developments at the time they submit their comprehensive plan to HUD. These commenters asked that detailed cost estimates be developed, instead, at the end of the mod planning process, not at the beginning. The Department agrees with these commenters and, as noted above, is providing only for a total gross cost estimate for each development.

One housing authority maintained that since the CGP is intended to be a capital improvement program, PHAs should not be required to submit comprehensive physical and management needs assessments for each development in the plan, but rather should be asked to justify the work being proposed. The Department has not adopted this suggestion, since the requirement that a PHA submit a comprehensive assessment of its physical and management needs on a development-by-development basis is mandated by statute and cannot be modified by HUD.

Two commenters asked HUD to revise the language in the rule which states that the physical needs assessment identifies all of the work that a PHA must undertake to bring its developments up to the mod and energy conservation standards. Instead, these commenters asked that this language be revised to reflect the conditional nature of a PHA's obligation to meet such standards, depending upon whether HUD provides adequate funding. Consequently, they urged HUD to revise this provision to state specifically, "subject to the availability of funding." HUD has not adopted this comment, since the mandatory needs assessment is not subject to the availability of funding, but rather is intended to identify all physical and management deficiencies within a PHA's developments or PHA-wide.

Several commenters objected to the requirement for a cost certification by an architect or engineer in the case of high needs developments, claiming that architects and engineers are being taxed with increasing liability lawsuits and, in most cases, are unwilling to "certify" the very rough estimates of mod work items that will be available at the time a PHA prepares its comprehensive plan. The Department notes that, since it has eliminated the separate category of "high needs developments," this issue is now moot.

One commenter indicated that some PHAs may wish to include in their action plans some of their newly accruing needs, even though they will not be able to specify precisely which of these actions will be taken. By including them in the plan in general terms, the commenter stated, PHAs will be able to set aside some funding to meet these newly accruing needs on an on-going basis. As a result, this commenter recommended that the comprehensive plan may include a very general estimate of additional broad categories of modernization needs that can reasonably be expected to occur due to normal aging and deterioration of the stock over the ensuing five year period. The Department agrees that this is required pursuant to the authority under section 14(e)(1)(A)(iii), and notes that such a provision was included in the April 1991 proposed rule (see § 968.320(c)(2)(i)(B) at 56 FR 19488), and is being retained without modification in this final rule.

A housing authority objected to the proposed provision which requires a PHA to specify whether its substandard developments are predominantly occupied by a particular racial group, claiming that such an admission might be grounds for litigation on the basis of civil rights violations. Instead, the housing authority maintained that the building condition analysis based on ethnic or racial occupancy should be based upon an objective standard, e.g. whether the units meet HQS. In addition, the PHA stated that the reference to "significantly worse condition" should be removed from the rule, since it is a highly subjective judgment and is not further defined in the regulation.

HUD has not adopted this comment, since the Secretary has determined that such a comparative analysis of racial and ethnic data is necessary to enable the Department to fulfill its responsibilities pursuant to sections 808(e)(6) and 808(a) of the Fair Housing Act. Nevertheless, HUD has removed the reference to "significantly worse conditions," and has provided instead that the PHA must specify whether there are any physical disparities between buildings occupied predominantly by one racial or ethnic group and buildings occupied predominantly by other racial or ethnic groups and, in such cases, the physical improvements that are necessary to correct those conditions. The Department wants to clarify that this requirement does not apply to IHAs organized under tribal law, and only applies to IHAs organized under state law which have been determined on a case-by-case basis to be subject to Title VI of the Civil Rights Act of 1964, and title VIII of the Civil Rights Act of 1968.

A number of commenters asserted that HUD interpreted the "management improvement" requirements of the 1987 Act in the broadest possible manner, so as to increase its control over PHA management activities. Several of these commenters maintained that any detailed management improvement strategies should flow out of the PHMAP program, and need not be repeated and incorporated in the CGP comprehensive plan. They asked that PHAs be permitted to refer in their comprehensive plans to their PHMAP evaluations, in addition to any corrective actions agreed to by the PHA. The commenter also asked that the PHA be required to include in the comprehensive plan only those management improvements (if any) which are proposed for funding under the CGP modernization program. In addition, they asked that PHAs only be required to provide substantial details in the comprehensive plan for those management improvement actions which the PHA plans to carry out in the near future (e.g., with the next two years) using modernization funds. These commenters maintained that HUD's attempt to approve all of a PHA's modernization and operational activities in advance is directly contrary to the clearly stated purposes of the 1987 Act.

The Department agrees that the statutorily mandated management needs assessment should be simplified and has made a significant number of changes. This needs assessment now consists of the following components (with the relative urgency of need indicated):

(1) An identification of a PHA's management and operations needs for each of the statutory areas prescribed by section 14(e)(1)(B), in addition to areas prescribed by HUD in the regulation. To the extent that any of these needs is addressed in a HUD-approved MOA or IP (applicable to a PHA) or MIP (applicable to an IHA), the PHA may simply include a cross-reference to these documents;

(2) Any additional deficiencies identified through PHMAP, audits, and HUD monitoring reviews, and which are not otherwise addressed in paragraph (1). To the extent that any of these needs is addressed in a HUD-approved MOA or IP/MIP, the PHA may simply include a cross-reference to these documents;

(3) Any other management and operations needs which the PHA wants to address at the PHA-wide or development level;

(4) A PHA-wide preliminary cost estimate for addressing all the needs identified in the management needs assessment, without regard to the availability of funds; and

(5) An identification of the sources from which the PHA derived its data for the management needs assessment.

In this manner, HUD has greatly simplified the management needs assessment by permitting a cross-reference to a HUD-approved MOA or IP/MIP for PHAs which have deficiencies identified and which are operating under these documents. The PHA also would not be required to submit to HUD copies of its MOA or IP/MIP since these documents are already on file with the Department (although copies would need to be made available as part of the resident and local community participation process). A PHA which wants to carry out improvements not covered by a MOA or IP/MIP must identify those needs as part of the assessment. It should be noted, however, that needs identified by the PHA, or as a result of the resident and local government consultation process, must be added to the PHA's needs assessment.

One housing authority asserted that if HUD intends that grant-funded management improvements must be tied to specific needs identified in the five-year plan, then the Department should encourage explicitly a broader approach to the assessment of management needs than may be assumed from HUD's concentration on the correction of PHMAP fail grades (e.g., maintaining state-of-the-art capabilities).

HUD wants to clarify that a PHA may include in its comprehensive plan management needs other than those required to correct deficiencies identified under PHMAP, provided there is adequate justification. For example, a PHA which obtains a satisfactory rating under PHMAP may want to provide for improvements to raise its capability to a higher level of performance, and this certainly is permissible under the CGP.

A PHA organization recommended that HUD delete its proposed requirement of including the PHA's score on all PHMAP factors, and suggested instead that only the scores for PHMAP factors which are to be addressed with CGP funds need to be included in the needs assessment, action plan and annual statement.

The Department wants to clarify that, while a PHA is not required to indicate its PHMAP score in its needs assessment, it must list all management deficiencies identified under PHMAP, irrespective of the source of funding to be used to correct those deficiencies. Moreover, HUD is permitting in this final rule that a PHA with management deficiencies identified under PHMAP may simply cross-reference to those deficiencies in its CGP comprehensive plan. In the action plan and annual statement, a PHA is only required to list those PHMAP-related deficiencies which it intends to address with CGP funds.

E. Physical and Social Viability

A number of commenters contended that all of the procedures for establishing modernization cost reasonableness and viability should have been included in the proposed rule for public comment. These commenters asserted that HUD should not now adopt such procedures without going through notice-and-comment rulemaking procedures. The department believes that it was justified in providing the basic standards for physical and social viability in the proposed rule, even though it intended to elaborate upon those standards in the HUD Handbook for the CGP.

In addition, a couple of commenters maintained that since many PHAs will be proposing on-going rather than comprehensive modernization in their action plans, it is unreasonable to require that these limited numbers of on-going modernization improvements "ensure the long-term viability" of that development. They contended that HUD is carrying over from the CIAP an obsolete approach to viability which needs to be changed in light of the changed modernization approaches that will be taken by PHAs under the CGP. One commenter recommended specifically that PHAs be allowed to present a variety of arguments concerning factors they believe relate to a development's viability, not just a cost factor.

Another commenter stated that the proposed rule was unclear as to the timing and measurement of viability. To avoid any "possible conflict," this commenter recommended that repeat viability reviews of properties be abandoned after 25 percent of the total estimated mod costs have been expended on the units. Meanwhile, another commenter maintained that the viability reviews should be eliminated altogether, claiming that it is a "fruitless exercise which yields meaningless information."

A number of commenters stated that the concept of a "total project cost" is no longer an appropriate concept for evaluating the reasonableness of a PHA's modernization expenditures. They contended that, under the revised mod program, a PHA will no longer be required to carry out its mod activities solely in terms of a "comprehensive modernization project" which would have a corresponding "total project cost." Instead, they claim that most PHAs probably will propose a variety of ongoing mod activities rather than "comp mod projects," for which there is no "total project cost" that can be compared to the "total development cost" concept used under the development program.

Other commenters objected to HUD's proposal to use the total cost of all the activities which the PHA believes would be required to correct all of the physical and management defects in the comprehensive assessments, as the basis of cost reasonableness. They maintained that this approach is unrealistic, since the sum of all these costs would be a highly hypothetical figure and would not serve as a good basis for estimating the real modernization expenditures a PHA is likely to make at a particular housing development. As an alternative, the commenters recommended that the rule provide PHAs with the option of deciding whether to choose a comprehensive approach to modernization or piecemeal modernization, depending upon which strategy it believes to be most appropriate.

In the case of ongoing modernization, the commenters maintained that cost reasonableness and viability could not be evaluated in terms of the costs of a hypothetical comp mod development, but should be based upon unit costs of the major categories of modernization work proposed to be undertaken by the PHA. Under this approach, HUD would evaluate whether or not a particular cost component, e.g., a completely renovated kitchen, is reasonable, while reviewing these components using widely available private market cost indices for general, not highly detailed, categories of improvements proposed by the PHA.

Another commenter asked that the definition of "reasonable cost" be revised to include certain soft costs (e.g., relocation costs). Moreover, because of the significant cost of lead-based paint abatement and section 504 accessibility modifications, this commenter recommended that the test for viability be reexamined and revised, so that these costs are excluded from the total mod cost when compared to a percent of total development cost (TDC).

A couple of commenters stated that the definition of "reasonable cost" establishes a ratio of modernization costs to TDC (i.e., 62.5% and 69%), which are carry overs from the CIAP. Not only were these figures never adequately justified in the CIAP, the commenters maintained, but they also appeared to be inconsistent with HUD's definition of "high needs development." The commenters urged that costs higher than 62.5% and 69% should automatically be approvable.

The Department agrees that the current viability test under CIAP, including financial feasibility, is difficult to apply to the CGP since there is no requirement for a comprehensive approach to modernization. However, section 14(e)(1)(C) of the Act does require that improvements "will reasonably ensure the long-term physical and social viability of each project at a reasonable cost." Therefore, the Department has adopted a new and more workable approach to "reasonable cost," which is a HUD review standard required under the statute. The Department is requiring the PHA to estimate the total hard costs of meeting the modernization and energy conservation standards for each development in its inventory at the time it prepares its physical needs assessment. If the total preliminary estimated hard costs for a development are at or below 90% of the computed TDC limit for a new development, and the PHA determines that, upon completion of the improvements and replacements, the development can reasonably be expected to be viable, i.e., to be structurally sound and achieve full occupancy, the PHA shall determine the development to be viable at a reasonable cost, and so state in the plan.

Where the total preliminary estimate of hard costs exceeds 90% of the computed TDC limit for a new development, but the PHA nevertheless wants to modernize the development, the PHA shall complete and submit to HUD with its plan a viability analysis of the development, as prescribed by HUD, which demonstrates that, upon completion of the improvements and replacements identified as needed for the development, the development can reasonably be expected to be structurally sound and achieve full occupancy. The PHA shall also submit to HUD a request to exceed 90 percent of TDC in modernization hard costs for the development. HUD will review such requests on a case-by-case basis, in accordance with criteria set forth in the final rule.

Where a PHA's analysis determines that a development cannot be made viable at a reasonable cost, the PHA shall not expend CGP funds, except for emergencies, at that development. The plan must indicate what action the PHA proposes to take with respect to the development, such as demolition or disposition.

F. Action Plan

A commenter pointed out that if HUD is proposing to restrict the comprehensive plan and the action plan to only those improvements which are eligible under the CGP, it needs to clarify the regulatory language under these sections. The Department concurs with this comment, and has included clarifying language in this final rule.

A couple of commenters objected to HUD's statement in the proposed rule that the comprehensive plan is not linked to the availability of funds. These commenters stated that, while this statement might be true with respect to the needs assessments, it is not true with respect to the action plan, which is also a part of the comprehensive plan. They contended that the action plan was clearly intended by Congress to be a realistic statement of what the PHA actually proposes to do, given the likely availability of funding over that time period. The Department agrees that the action plan, but not the needs assessment, is linked to the availability of funds.

A number of commenters asserted that, even though HUD acknowledged in its October 1988 proposed rule that it had erroneously referred to a "comprehensive modernization project," the proposed rule still seemed to imply the notion of a comprehensive project, i.e., one in which a five-year period can at least come close to meeting all of HUD's standards and requirements. These commenters stated that such a notion will not be possible for most PHAs, and asked that the five-year action plan include only those actions which the PHAs can feasibly include within the five-year period covered by the plan, based upon the funding likely to become available during that period. Another commenter also asserted that the rule should state that all deficiencies may not be addressed within the initial 5-year plan and allow for indication by the PHA of its unfunded need at the end of the 5-year plan.

The Department notes that the language regarding the action plan has been revised to reflect that it shall include how to address the deficiencies (or a portion of the deficiencies) identified under its management and physical needs assessments. Also, the requirement for updating the comprehensive plan every six years implies that all deficiencies may not be addressed during the initial five years. Although there are no specific provisions for a PHA to identify its unfunded needs at the end of five years, the update of the comprehensive plan will accomplish this end since it will eliminate needs funded in previous years, and will add new needs which have arisen in that time.

The Department also wants to point out that, in order to develop its action plan and establish priorities, a PHA must make a determination regarding the strategy for all of its developments. Where there are extensive needs which may be difficult to address in the near future with the annual CGP allocation, PHAs are encouraged to seek other sources of funding. PHAs may not, however, reference other funds as a means for taking corrective action unless there is a reasonable expectation that such funds will be forthcoming, e.g., the City has provided CDBG funds in the past and expects to continue such funding. If there is no reasonable expectation of other funds, the PHA must address its corrective actions within the confines of its expected CGP funding.

Some commenters complained that the five-year action plan duplicates much of the material from the comprehensive plan, while two commenters specifically urged HUD to delete the requirement for "hypothetical data," e.g., "the length of time, target date and the cost needed to upgrade each development to the mod standards * * *"

In this final rule, the Department has reduced substantially the amount of detail required in the action plan. For example, with respect to physical improvements, the PHA must now indicate in the action plan the work to be undertaken by the PHA in major work categories (e.g., kitchens, electrical systems, etc.); establish priorities among the major work categories by development and year, based upon the relative urgency of need; and estimate the cost of each of the identified major work categories.

Insofar as management improvements are concerned, the PHA must now identify how it intends to address the deficiencies (or a portion thereof) identified in the management needs assessment, including work identified and cross-referenced through PHMAP (or, for IHAs, the ACA), audits and HUD monitoring findings; and provides a preliminary PHA-wide cost estimate by major work category. These changes to the action plan should eliminate any duplication, and reduce significantly the paperwork burden associated with the action plan.

G. Amendments to the Comprehensive Plan

Two commenters asserted it was the intent of the 1987 Act that, once a comprehensive plan is completed by a PHA, it would remain a reasonably stable document, acting as a general guide for a PHA's mod activities over a five-year period. These commenters contended further that any major revisions to the comprehensive plan should be incorporated at the end of the five-year period, so that while a PHA might propose changes to its comprehensive plan during the five-year period, HUD should not require it to do so, but should itself be bound to the provisions of the approved comprehensive plan. Thus, HUD's implementation of management changes via PHMAP should not require changes to a PHA's comprehensive plan, except when it proposes as part of the normal annual update of the comprehensive plan to change the management improvement activities which will be funded with modernization funds.

The Department does not agree that the approved comprehensive plan is a static document which may not be modified or revised within the five-year period since, clearly, there are events which may occur which can affect the comprehensive plan, including a significant change in the PHA's physical and modernization needs, or in the PHA's proposed strategy for addressing those needs. Although the plan is binding, the statute contemplates amendments to the plan, and HUD is providing for such amendments in the case of major changes to the annual statement, annual updates of the rolling base five-year action plan, and the on-going identification of deficiencies under PHMAP. HUD further believes that a dynamic comprehensive plan will serve as a more useful planning tool than a static document.

A commenter objected to the proposed requirement that all amendments to a PHA's comprehensive plan must be accompanied by the certification and PHA resolution required for the initial submission of the plan. This commenter maintained that there should be a threshold which establishes when an amendment will require HUD approval, such as an amendment that would significantly change the scope of the action plan by adding the equivalent of new items. Only in such cases, argues the commenter, should the PHA be required to submit an additional resolution.

The Department disagrees with this comment since it believes that an amendment to the comprehensive plan, constituting a major change to the approved annual statement (the first year of the action plan) or otherwise amending portions of the plan, must be accompanied by the same certifications and resolutions as an original submission. This is especially true for purposes of ensuring adequate opportunity for resident participation on amendments to the comprehensive plan. It should be noted that a PHA which wants to use modernization funds for new activities under the action plan, which were not included in the needs assessment, must also submit an amendment to its needs assessments, as well as its action plan. Although amendments to the needs assessments may be submitted at any time, they must be submitted at least once every sixth year.

H. Local Government Statement

A commenter asserted that the rule should remove the requirement that a comprehensive plan must be consistent with a locality's Comprehensive Housing Assistance Strategy (CHAS). For most communities, the commenter stated, the CHAS will include only limited statements concerning public housing modernization needs, and will not include the PHA's comprehensive plan. The requirement of consistency with the locality's assessment of its housing assistance needs is statutory and cannot be waived by HUD.

The CHAS regulation requires "a description of the number of public housing units in the jurisdiction, their physical condition, and the restoration and revitalization needs of public housing projects within the jurisdiction. The strategy of the jurisdiction and the public housing agency for improving the management and operation of public housing projects and for improving the living environment of low- and very low-income families residing in public housing must be included." (See 24 CFR 91.15(i).) Thus, HUD expects the CHAS to include substantial information about public housing modernization needs and hopes that the PHA and local government will work closely together to identify and plan for these needs.

A housing authority recommended that HUD delete the requirement that the local government cooperate in providing resident programs and services, since the rule does not address HUD or PHA actions when the local government declines to provide the requested certifications. The Department has not adopted this suggestion, since this requirement is statutory. (See section 14(e)(l)(E)(ii) of the Act.) Thus, HUD may not approve a comprehensive plan which fails to contain the appropriate local government certification.

I. PHA resolution

A number of commenters asserted that the PHA certification which obligates a PHA to carry out all requirements (e.g., lead based paint, etc.) should be made conditional upon funding being received by the PHA to do these tasks.

HUD agrees that a PHA's certification to carry out certain required activities is conditional upon the PHA's receiving modernization funds from HUD. Nevertheless, the Department wants to point out that a PHA should also seek sources of funding in addition to CGP funding to carry out its needed modernization work. Secondly, HUD is requiring that after a PHA addresses its emergency work items that it then respond to statutorily mandated activities, such as lead based paint testing and abatement. In this manner, the PHA will be assured that it can submit a certification indicating that it will comply with these statutorily mandated requirements.

A housing authority stated that the National Environmental Policy Act (NEPA) checklist seemed to be excessive for remodeling work, and asserted that a much lower standard of review is appropriate. Although HUD appreciates these concerns, the Department is statutorily responsible for determining NEPA compliance. HUD intends to pursue a statutory change to NEPA, which would permit PHAs to certify to NEPA compliance, similar to the procedure permitted for entitlement cities under the Community Development Block Grant program. However, until such legislation is enacted, the existing NEPA requirements must remain in effect.

A commenter noted that because the comprehensive occupancy plans (COPs) are expected to undergo major changes in the future, HUD should simply ask PHAs to refer in their comprehensive plans to their COPs, rather than to require that the COPs be incorporated directly into the comprehensive plan. The Department agrees with this comment, and is providing that PHAs may reference their COPs in their CGP comprehensive plan.

J. Extension of Time for Performance

A commenter objected to HUD's listing of only two possible bases for an extension of project implementation schedules, claiming that the list of reasons for such extensions should be greatly expanded and left generally to the judgment of the PHA. The commenter maintained that the 1987 Act intended that PHAs have this flexibility.

In order to preserve the integrity and accountability of the CGP modernization program, HUD has decided to retain the original bases for extending project implementation schedules. Nevertheless, HUD is providing pursuant to section 14(e)(3)(B) that a PHA shall have a right to amend its comprehensive plan and related statements to extend the time for performance whenever HUD has not provided the amount of assistance set forth in the annual statement, or has not provided the assistance in a timely manner.

In addition, a PHA may revise the target dates for fund obligation and expenditure in the approved annual statement without prior HUD approval whenever any valid delay outside of the PHA's control occurs. In this latter situation, HUD will review the revisions and the PHA's justifications for those revisions during its end-of-the-year evaluation of the PHA's performance for purposes of determining whether the PHA's revisions were based on valid delays and, therefore, the PHA has a continuing capacity to carry out its comprehensive plan.

HUD Review and Approval of Comprehensive Plan (Including Action Plan) (§§ 905.675 and 968.325)

Two commenters argued that HUD has no statutory authority to propose a partial approval of the comprehensive plan. The commenters stated that this proposed provision attempts to "sidestep the statute" and attempts to "control PHAs at an excessive level of detail" since the 1987 Act provides specifically that if the plan is not approved by HUD within 75 days, it shall be deemed to be approved, and that HUD can only disapprove a comprehensive plan under certain circumstances.

In addition, several commenters maintained that the HUD approval process is unclear, and that criteria for disapproval are "foggy," as is the process for what happens when HUD disapproves a plan. The commenters also noted that the rule should specify the nature of a PHA's recourse if HUD disapproves the plan.

The Department notes initially that it concurs with the commenters' recommendations, and has removed the provision concerning partial approval of the comprehensive plan. In addition, this final rule attempts to clarify what constitutes disapproval of a comprehensive plan, what happens next, and the timeframe for getting the plan approved. Furthermore, HUD is providing that it has 75 calendar days in which to review the comprehensive plan, once it has been accepted by HUD for review. If HUD fails to disapprove the comprehensive plan by the 75th day, the plan will automatically be approved. However, if HUD notifies the PHA within the 75 day review period that it needs to make modifications to the plan, the PHA will need to submit the revised plan to HUD by a specified date. Failure to submit the revised plan by the specified deadline will result in that year's CGP funds being withheld and reallocated to PHAs in the subsequent FFY.

Another commenter stated that the proposed rule should specify the process by which a PHA can correct any deficiencies in the comprehensive plan which result in the plan being unapprovable. The Department agrees with this comment, and has clarified in this final rule the process for correcting deficiencies in the comprehensive plan.

Two housing authorities and two resident organizations commented that once a PHA grant program is approved and thresholds established, HUD's only role should be to review program progress and to provide requested technical assistance. The Department notes that with respect to monitoring, the statute mandates that at least annually HUD must carry out reviews necessary to determine if: (1) a PHA's mod work is timely and in accordance with the comprehensive plan; (2) the PHA has continuing capacity; and (3) the PHA is making satisfactory progress towards meeting the performance standards. Thus, HUD is responsible for ensuring that PHAs follow all applicable program requirements in implementing their comprehensive plans. HUD intends to implement this statutory mandate in monitoring the CGP.

Another commenter noted that the comprehensive plan should not be approved or binding if the requirements for tenant participation are not fully complied with. The Department concurs with this comment, since section 14 expressly requires that the resident participation requirement must be complied with before a PHA can have a "complete" (and, hence, approvable) plan.

Some commenters objected to HUD's statement in the proposed rule that it would disapprove a PHA's comprehensive plan "if the proposed work fails to address all management and operation areas that HUD has determined to be deficient," claiming that use of the word "all" sets too strict a standard. These commenters maintained that this provision should be qualified to state, "subject to the availability of funding being provided to the PHA." However, the Department has decided to retain this provision without modification since the requirement that a PHA specify all management and operations deficiencies in its comprehensive plan is statutory. Consequently, a PHA's failure to address all such deficiencies in its needs assessment is a basis for disapproval under the statute, and may not be modified.

Nevertheless, HUD recognizes that the action plan and annual statement are subject to the availability of funding, so that a PHA cannot be expected to address all physical and management deficienceis in its five-year action plan, when it lacks the funds to do so.

Annual Statement of Activities and Expenditures (§§ 905.678 and 968.330)

A housing authority commented that the proposed PHMAP program stresses repeatedly a PHA's compliance with "program implementation schedules." Consequently, this commenter asserted that HUD should more clearly delineate in the CGP exactly what those program implementation schedules consist of.

Another commenter urged HUD to limit its monitoring role under the rule, claiming that HUD should monitor a PHA's project implementation schedule by reviewing whether or not the work on developments has been completed within a reasonable time. The commenter cautioned HUD against attempting to specify precisely when the proposed mod work would actually begin, and without referring to a variety of intermediate deadlines.

HUD agrees with these comments, and has clarified that the annual statement must include estimated target dates for the obligation and expenditure of the current year's funds on a development by development basis. Under this formulation, PHAs will not be required to provide target dates on a work item basis, nor will they be required to establish any intermediate deadlines. For example, a PHA which proposes several work items at a development, e.g., windows, doors, roofs, etc., will provide a single target date for the obligation and expenditure of all funds at that development, rather than provide deadlines for the completion of each of the individual work items at that development.

The Department agrees with this recommendation and wants to clarify that the implementation schedule will apply to the annual statement for the obligation and expenditure of funds on a development basis. A PHA will be required to report in its end-of-year performance and evaluation report its progress against the target dates. In this final rule, HUD is also providing that it expects all of a PHA's current year CGP funds to be obligated within two years of the date such funds were provided to the PHA, and expended within three years of such date, unless longer time frames are approved by HUD. If a PHA fails to meet its approved deadlines and thereby fails to carry out its comprehensive plan in a timely manner, HUD may issue a notice of deficiency and request corrective action or may issue a corrective action order. If the PHA fails to take appropriate corrective action to obligate and expend the funds, as specified by HUD in a corrective action order, pursuant to the procedures established in this final rule, HUD may declare a breach of the grant agreement with respect to some or all of the PHA's functions so that the PHA or the modernization function may be administered by another entity; or HUD may withhold some or all of the PHA's annual grant.

Another housing authority objected to the language in the proposed rule which states that HUD promptly will notify a PHA that it has disapproved its annual statement, claiming that "prompt notification" is too vague and arbitrary a timeframe.

The Department notes that although it is unable to specify exactly when it will notify a PHA that its annual statement has been disapproved, it wants to reiterate that it will do so within the 75-day statutory deadline. A number of comments objected to the proposed requirement that any "major change" in a PHA's annual statement must be approved by HUD, since the definition of "major change" as involving more than 10 percent of a PHA's annual grant would mean that virtually any change would require HUD approval. One commenter proposed an alternative approach, namely that if a proposed mod activity is included in a PHA's HUD-approved action plan, the PHA should have the latitude to reschedule that item within its five-year framework without the need to obtain HUD approval. According to this view, the PHA should only be required to submit to HUD a statment explaining the nature of, and the reasons for, the change. Furthermore, only when a PHA adds items which previously were not contained in the comprehensive plan, or where a PHA completely abolishes such items, should the PHA be required to obtain HUD approval.

Another commenter asserted that HUD should not be concerned about variations in the annual statement from planned expenditures, so long as the Resident Advisory group agrees with the PHA's decision to vary these expenditures.

A third commenter suggested that HUD allow major changes of up to 20 percent without prior HUD approval, and prescribe a time period in the final rule for HUD approval of major changes.

Some commenters stated that the rule provided little flexibility with regard to permitting PHAs to shift funds from one year's mod developments to another, and requested that HUD expressly authorize PHAs to move such funds without HUD approval so long as the new mod activity was included in the original five-year plan.

A PHA organization complained that the proposed rule failed to implement the statutory goal of providing PHAs with greater flexibility in using mod funds, and mentioned specificially that HUD is placing too much emphasis on section 504-related activities. The commenter maintained that HUD must grant PHAs the flexibility to apply funds where they are most needed. This final rule provides PHAs with flexibility in establishing their funding priorities and in planning work to meet statutorily mandated deadlines, such as for section 504 and lead-based paint requirements.

The Department is providing in this final rule that in addition to the first year of funding, a PHA may, at its option, submit an annual statement in part or in toto for the second year of funding. If the PHA exercises this option, it may shift work items in the approved annual statement(s) between years 1 and 2. The PHA would still be required to submit a new annual statement each year. If a PHA elects to submit a two-year annual statement, all work items in the first two years would be interchangeable withour prior HUD approval.

In addition, major changes up to 10% of the annual grant would be permitted without HUD approval for any items in the five year plan (years 2 to 5) or, in the case of a two-year annual statement, years 3 to 5.

In order for the funds to be fungible, HUD would require that a PHA submit a detailed annual statement for both years covered by the statement. Thereafter, the PHA would be required to explain in its performance and evaluation report where it has deviated from the order of work presented in the annual statement. This will provide PHAs with flexibility for purposes of shifting funds over and above that provided with regard to major changes.

A PHA may review the target dates for fund obligation and expenditure in the approved annual statement without prior HUD approval whenever any valid delay outside the PHA's control occurs. Such revision is subject to postreview by HUD in determining whether the PHA has a continuing capacity to carry out its comprehensive plan in a timely manner. Revisions to target dates to reflect work shifted from year two to year one of the approved annual statement are permitted.

In addition, a PHA may revise its comprehensive plan and related statements whenever HUD does not provide the amount of assistance set forth in the plan or has not provided the assistance in a timely manner. Such revisions are not subject to post-review by HUD for purposes of determining whether the PHA has a continuing capacity to carry out the comprehensive plan.

A housing authority maintained that the proposed rule was unclear as to whether the 10 percent major change threshold applied to each annual grant, or to the aggregate of grants under the program. The Department wants to clarify that the 10 percent major change threshold applies to each annual grant under the program.

Two commenters recommended that as soon as the President signs the appropriation bill for a particular FFY, PHAs should be notified of their probable funding amounts, so that they can begin to prepare their one-year annual statements. They contended that the advantages of expediting the release of mod funds outweigh the disadvantages of any last minute tinkering required when the precise formula allocations are known. The Department agrees that tentative estimates for planning are useful, and plans to notify PHAs of their estimated formula amounts as expeditiously as possible.

A housing authority asserted that the annual statement duplicates much of the material from the five-year action plan. However, after considering this comment, HUD notes that the annual statement does not duplicate material contained in the action plan since it is the first year of the action plan. The annual statement sets forth in much greater detail the actual work to be carried out using the year's annual grant. This detail is necessary for greater understanding by the residents, local government, the public and HUD as to what exactly the PHA intends to do with the annual grant. Hence, HUD has not revised the annual statement in response to this comment.

Another housing authority stated that the proposed requirement that any substitutions in the annual statement must be included in the five-year plan is an incentive to PHAs to include everything they possibly can from the physical needs assessment into the action plan. The commenter asserted that this approach compromises the supposed intent of identifying specific needs. HUD disagrees with this comment, since the action plan is necessarily restricted by the availability of funds.

Conduct of Modernization Activities (§§ 905.681 and 968.335)

A commenter objected to HUD's statement in the proposed rule that it would not permit a PHA to draw down funds from its estimated five-year allocation on an up-front basis. This commenter maintained that although the Department's decision was apparently premised upon 24 CFR 85.21(b), which requires HUD to ensure that its methods and procedures for payment to a grantee "minimize" the time elapsing between HUD's transfer of funds and the subsequent disbursement of those funds by the grantee, a reasonable interpretation of the word "minimize" does not necessarily mean "eliminate." Hence, the commenter asserted that a reasonable time elapsing between the transfer and disbursement of funds is consistent with the purposes of the Act and should be acceptable.

An IHA stated that it would support at least a 15 percent drawdown up front from the first year's approved allocation to facilitate timely vendor payments. However, other PHAs asserted that once the annual statement has been approved, the full amount of the PHA's annual funding level should be advanced to the PHA.

The Department cannot accept these comments because Treasury regulations (31 CFR part 205) require PHAs to disburse funds within 3 days of receipt. However, funds approved for the replacement reserve may be drawn down up front in order for the PHA to accrue and retain the interest earned for future work. Funding replacement reserves must generate a return equal to or greater than the average 91-day Treasury bill rate.

One commenter asserted that the proposed rule failed to set forth the procedures that HUD will use to distribute modernization funding under the program, and stated that the schedule and method of fund requisitioning and disbursement was a significant matter which should have been included in the rule. Another commenter asserted that if HUD adopts a disbursement method which does not supply funding from a PHA's annual formula grant until it submits documentation to HUD that it is ready to expend such funds, this would substantially subvert the purposes and intent of the 1987 Act that PHAs receive their funds in a timely, expedited and uncomplicated way. The commenter maintained that it would also rule out HUD's providing funds to a PHA for a mod reserve account for purposes of expenditure in future years, as reflected in the approved comprehensive plan.

Three commenters pointed out that the current "Rapid Payment System" is not expeditious, and requires a substantial amount of time by the PHA to supply necessary paperwork to HUD. These commenters contended that if the Treasury Department or OMB require this payment system, HUD should attempt to obtain a legislative amendment to eliminate this requirement.

One housing authority recommended that HUD utilize the same letter of credit system for the CGP payment system that it uses for the CDBG program, claiming that this approach assures the availability of funds when needed and provides ample controls for HUD and the Treasury.

The Department intends that CGP funds will be requisitioned through the Voice Response System/Letter of Credit Control System (VRS/LOCCS) which is used for some other HUD programs. The Department believes this will streamline significantly PHA requisitions and reduce the corresponding paperwork burden. HUD intends to implement a revised requisition system by handbook as expeditiously as possible.

Another commenter asserted that the proposed rule failed to set forth the procedures that HUD will use to distribute mod funding under the program, and stated that the schedule and method of fund requisitioning and disbursement was a significant matter which should have been included in the rule. The Department can appreciate this concern, but notes that it was unable to provide greater detail concerning the method of fund requisitioning and disbursement at the time the proposed rule was published, since it was looking into several alternative methods. HUD intends to provide greater specificity in a separate requisition handbook concerning the method and procedures that are ultimately adopted in the CGP.

This commenter also objected to the proposed requirement that prior HUD approval is required for all proposed contract modifications, including modifications to construction and equipment contracts, and management contracts, claiming that this detailed level of HUD approval is inappropriate and unreasonable. Instead, the commenter maintained that PHAs should be given to the discretion over their own day-to-day mod activities, as intended by statute. Other commenters asserted, however, that HUD should utilize "thresholds," as it has in the past, whereby PHAs can self-certify on certain contracts, change orders, etc.

The Department agrees with these comments and is providing in this final rule that HUD may request or require a PHA where deficiencies have been identified to submit contracts and other documents to HUD for prior approval. This eliminates the mandatory nature of the submission requirements, as proposed in the April 1991 rule. The thresholds used in the CIAP program will not automatically roll over and apply to the CGP. Instead, thresholds may be established under the CGP where HUD has issued a notice of deficiency or order of corrective action and, where established, will also apply to CIAP programs in progress. The Department will try to establish any thresholds as high as possible to allow for maximum PHA discretion.

A commenter asserted that PHAs should be required to employ (or to require contractors to employ) residents in their modernization efforts. The Department notes that both the old CIAP, and the new CGP, have provisions governing the employment of residents in the modernization program, and contracting with resident-controlled businesses, and the Department strongly encourages that PHAs implement these provisions.

One housing authority objected to the proposed requirement under § 968.335(c)(1) which states that a payment and performance bond is required for all contracts greater than $25,000. The housing authority maintained that this requirement also exists under CIAP, and has hampered its ability to obtain adequate competition on small contracts, i.e., $25,000 to $100,000. The housing authority proposed an alternative standard, namely, to only require payment and performance bonds for developments greater than $100,000, or to require bonds that comply with State or local requirements, whichever is less.

The $25,000 threshold is the threshold which applies government-wide and is set forth in 24 CFR Part 85, Uniform Administrative Requirements for Grants and Cooperative Agreements for States and Local Governments. The Department believes that the $25,000 threshold is necessary to protect the PHA's, as well as the Federal, interest by assuring the completion of the contract work. As a result, the comment has not been adopted. However, the Department notes that, in addition to a performance and payment bond, there are two alternative methods to assure completion, namely, a 20 percent cash escrow, and a 25 percent irrevocable letter of credit.

A number of commenters asserted that there should be a maximum time limit for HUD to respond concerning ACC approval and NEPA compliance. They maintained that without specific time guidelines upon which the PHA can rely, the implementation schedule and work plan contained in the comprehensive plan would be seriously compromised and would have little effect other than as an "administrative exercise."

The Department recognizes that any delay on HUD's part in preparing and executing the ACC amendment, and completing determinations of NEPA compliance, will affect a PHA's implementation schedule for the annual statement. The Department fully intends to prepare the ACC amendments and to complete the NEPA determinations as expeditiously as possible, but believes that a processing time frame is more appropriate for the companion handbook. HUD notes, however, that any delay by HUD is a valid reason for a PHA to extend the target dates for the obligation and expenditure of funds in the approved implementation schedule.

Performance and evaluation report (§§ 905.684 and 968.340)

A housing authority asserted that a PHA should only be required to submit a statement saying that it has complied with the comprehensive plan. The Department has not adopted this comment, since section 14 requires each CGP agency to submit "a performance and evaluation report concerning the use of funds made available under this section." The report is to include an assessment of the use of funds in relation to the needs of the agency and purposes of the modernization program and is to be made available to residents for review and comment prior to submission to HUD. It seems clear that the report is intended to be substantive and not merely a statement of compliance.

A housing authority objected to the proposed requirement that a PHA provide notice to "each" resident concerning the availability of the performance and evaluation report, and an opportunity to comment on the draft report.

The Department concurs with this comment and is providing in this final rule that a PHA must make reasonable efforts to notify residents and local government officials of the availability of the draft report, and to make copies available to residents on-site, such as the development office, where feasible, upon request. Residents and local government officials have 30 days in which to comment on the draft performance and evaluation report. Also, PHAs must include as part of the performance and evaluation report a summary of any resident comments included on the report.

HUD Review of PHA Performance (§§ 905.687 and 968.345)

A couple of commenters objected to HUD's statement in the proposed rule that "[A] PHA which has been determined to be mod troubled under the PHMAP will automatically be considered not to have a continuing capacity." These commenters contended that if a PHA fails any of the "mod troubled" standards under the PHMAP, HUD will have the authority under this provision to shut down the PHA's entire mod program by ordering it not to incur any further financial obligations, or by suspending payments.

A number of commenters objected to HUD's imposing penalties upon PHAs that have been determined to lack "modernization capability," even though they are not "mod troubled" under PHMAP. They contended that section 509 of the NAHA authorizes HUD to reduce the amount of the annual modernization grant, as determined under the formula, only if a PHA has been "designated as a troubled agency with respect to the program under section 14." Hence, these commenters maintained that HUD is not authorized by the Act to provide PHAs with less than the full formula share of mod funds using standards and criteria other than those applicable specifically to the mod program.

Two commenters asserted that HUD failed to explain in the proposed rule how it intends to implement the authority to condition a PHA's CGP grant under § 968.345, and thereby precluded commenters from determining whether the proposed level of conditioning is appropriate and authorized by statute.

In response to these comments, the Department has made major changes to this section of the rule. First of all, the statement that any mod troubled PHA would "automatically be considered not to have a continuing capacity" has been stricken. Secondly, the section on conditioning has been deleted. Thirdly, the remaining provisions regarding HUD's ability to ensure compliance with program requirements have been reorganized and clarified. These provisions are based on section 14(e)(4)(D) of the Act, a section which was created by amendments to the HCD Act of 1987. Unlike section 509 of the NAHA and certain provisions of HUD's FY 1992 Appropriations Act which specify the extent to which mod troubled PHAs may have funds withheld and reallocated based on their ratings on certain performance indicators, the compliance provisions of the HCD Act of 1987 focus on PHA failure to take corrective action to remedy specific deficiencies after notice and a reasonable opportunity to do so, and apply to all PHAs.

The final rule provides for three stages in the compliance process. First, if HUD makes a determination of a deficiency in program operations as a result of a monitoring review or review of the performance and evaluation report, HUD may issue a "notice of deficiency" stating the specific program requirement which has been violated, and requesting corrective action. Second, if the deficiency continues, HUD may issue a "corrective action order," again identifying the specific program requirement which has been violated, but in this case ordering corrective action and making the corrective action a condition of the grant agreement. Corrective action may include such actions as requiring the provision of additional information; submission of documents to HUD prior to their implementation; suspension of payments for one or more activities; or simply requiring correction of the deficiency. In cases of an extremely serious deficiency or a deficiency which has existed for a substantial period of time, HUD may issue a corrective action order without a prior notice of deficiency. For example, this may occur in the first year of the program where serious operating deficiencies have existed in the CIAP and seem likely to carry over in the CGP unless corrective action is required.

If the PHA fails to take the corrective action, HUD will have several options available. One avenue would be to increase the stringency of the corrective action order. Another would be to declare a breach of the grant agreement with respect to some or all of the PHA's functions. If a breach of the agreement is declared, HUD could provide for continued administration of the PHA or administration of the modernization function through a contractor. Another option would be a temporary withholding of CGP funds until the PHA is able to utilize the funds legally and responsibly. It is not HUD's intention to withhold funds and then reallocate them to other PHAs, except in the most extreme and rare cases where other, more satisfactory options are not available or are not likely to succeed. The withholding provisions of §§ 905.687 and 968.345 apply on a case-by-case basis to all PHAs, including those designated as mod-troubled. Hence, these provisions are independent of the requirements applicable to mod troubled PHAs under § 968.312(c) for purposes of reducing their formula funding.

Two commenters stated that HUD has no authority to impose the "severe corrective actions" included in the proposed rule, and requested that all provisions which refer to HUD's withholding, recapturing or reallocating a PHA's modernization funding, except as authorized explicitly by statute, be removed.

One commenter objected to the interpretation that because section 14 expressly authorizes HUD to withhold a PHA's grant allocation, the Department has inherent authority to subsequently reallocate those funds. The commenter asserted that since the NAHA specified precisely the conditions under which HUD may withhold formula grants from PHAs, as well as the procedures to be used by HUD to reallocate any available funds, the Department cannot claim to have broad "inherent powers" to take away and reallocate a PHA's modernization grant on a solely discretionary basis.

Three commenters stated that HUD granted itself almost unlimited authority to withhold, recapture and reallocate a PHA's modernization grant under § 968.345 of the proposed rule. In particular, the commenters maintained that HUD provides no opportunity for appeal, only "an opportunity within a prescribed period of time, to consult with HUD regarding the proposed action."

HUD's power to withhold funds is specified in the HCD Act of 1987 amendments to section 14, and relates to specific failures to take corrective action, as described above. HUD's power to recapture "for good cause" is mentioned in section 14(k)(6), in amendments made in the NAHA. The ability to reallocate funds that have been withheld under the HCD Act of 1987 is inherent in the right to withhold. It is not reasonable to assume that Congress would intend funds that have been withheld to be held forever in situations where they cannot be responsibly managed by the PHA from which they have been withheld. Given the serious and widespread need for modernization funds, it is important that they be obligated where they can be utilized. However, as stated above, it is not HUD's intention to use this provision except in the most extreme circumstances.

The regulation has been revised with respect to "the opportunity for consultation" to specify more clearly a right to be heard by and present facts and data to the Assistant Secretary, who will make all decisions regarding withholding or recapture of funds.

One housing authority stated that the annual HUD review would be much more meaningful if it was framed as a joint review at which time HUD and the PHA would review the PHA's progress and develop the final report. It is HUD's intention to conduct monitoring reviews of PHAs in close communication with the PHA, encouraging correction of deficiencies through discussion, negotiation and technical assistance. Before HUD issues any notification of deficiency or corrective action order, the PHA will have an opportunity to discuss the proposed action with HUD and to present alternative information or analysis.

Another housing authority encouraged HUD to establish sufficient program guidelines so as to prevent future abuses of the program. This commenter stated that the safeguards should be put in place immediately so that there will be no excuses to "discontinue a program that good PHAs have clamored over for years." The Department believes that the CGP will be managed well by the overwhelming proportion of CGP agencies, and hopes to provide adequate guidance in the program handbook, high quality training, and reasonable monitoring and compliance actions to prevent and correct abuses.

V. Public Comments on the CIAP Portion of the Indian Consolidated Rule

The Indian Housing Revised Consolidated program regulation was published as an interim rule on June 18, 1990 with an effective date of October 1, 1991. The rule was published as an interim rule so that public comment could be solicited. One area where public concern was specifically requested was subpart I, Comprehensive Improvement Assistance Program. The preamble to the consolidated rule stated that the Department was considering changes to the program which would broaden the applicability of CIAP for homeownership developments. Several comments were received based on our request.

Also on November 28, 1990, the Cranston-Gonzalez National Affordable Housing Act was signed. Section 516 of the Act authorized the Secretary to provide for comprehensive modernization of homeownership units under Section 14 of the Act. The Act further states that any assistance shall be provided only in the form of a single grant for each housing development (or unit within a development) selected for such assistance.

Based on the above, HUD believes it would be useful to develop a final rule on subpart I prior to finalizing the entire consolidated rule so that the rule can be effective for the 1992 FFY. For that reason, HUD is responding in this final rule to the public comments submitted on the CIAP portion of the Indian Housing Consolidated rule. In addition, HUD is amending subpart A of part 905 (Definitions) in order to implement the comprehensive modernization of Mutual Help units.

HUD received approximately 31 public comments requesting that the Department broaden the scope of the CIAP for homeownership units, both with respect to physical and management improvement needs. In response to these comments, as well as the recently enacted NAHA, the Department has revised subpart I to provide for "comprehensive modernization for the Mutual Help program which shall be available in the Mutual Help program only, and shall be similar to the current provision for comprehensive modernization of rental units. Comprehensive modernization for Mutual Help will provide expanded eligibility for physical improvements as well as management improvements needs on a one-time per development, or per unit, basis only.

One commenter requested that the Department remove the requirement that a unit must be ten years old before it is eligible for comprehensive homeownership funding. The Department believes that restricting comprehensive modernization to Mutual Help units which are at least 10 years old is necessary to obtain the maximum benefits from the one-time comprehensive modernization, and that a Mutual Help unit should not need comprehensive modernization before that time. Additionally, Notice PIH 91-29 provides IHAs with an option for redetermining purchase price schedules. This may result in homebuyers acquiring title to homeownership units earlier than anticipated. To comprehensively modernize Mutual Help units before they are at least 10 years old also could result in units needing substantial modernization work, for which they are no longer eligible, at the time of conveyance. The Department is, therefore, not removing the requirement that comprehensive modernization cannot be approved for Mutual Help until the units become 10 years old. This requirement, however, will not preclude an IHA from applying for homeownership modernization for construction deficiencies, energy conservation items, lead based paint testing and abatement and health and safety items, as provided under the existing CIAP.

One commenter requested a clarification in the final rule concerning an IHA's ability to apply only once every three years for the CIAP. In response this comment, HUD notes that this was never a requirement under CIAP, hence no regulatory clarification is necessary.

Three commenters requested that because of the complexity of the CIAP regulation, HUD provide funding to IHAs to develop viable CIAP applications. The Department notes that § 905.605(d) states that planning costs necessary for developing the application are eligible modernization costs. Furthermore, it states that financially distressed IHAs may request approval from HUD for up-front funding of planning costs where the HUD office determines that developing the application would otherwise present an undue financial hardship. Since these provisions already exist in the current regulation, HUD has not made any further modifications in this final rule.

One commenter disagreed with the notion that the CIAP can be used to fund Resident Management Corporations. However, it is HUD's policy to encourage participation by residents in the management of Indian housing, as may be determined appropriate by an IHA after consultation with the residents. In addition, an IHA may request CIAP funds to assist in developing or improving resident management capabilities as part of management improvements under comprehensive homeownership modernization. Based on the Department's policy, no change is being made to the regulation in this regard.

Several commenters requested changes in the regulations which would add the eligibility of certain physical improvements to the regulation, such as fenced park and playground areas for safety, fire stations and equipment, solid waste landfills or transfer stations. The regulations do not provide a detailed list of eligible physical improvements. However, § 905.670 states that all improvements funded under subpart I shall meet the HUD modernization standards so as to provide decent, safe and sanitary living conditions in IHA-owned and IHA-administered housing. The standards are designed to provide decent, safe and sanitary living conditions in Indian housing, including corrections of violations of basic health and safety codes, and address all deficiencies, including those related to deferred maintenance. In addition, these standards cover improvements relating to site and building security. The modernization standards are contained in HUD Handbook 7485.2, as revised. Any questions regarding the eligibility of work items may be referred to the appropriate HUD Office of Indian Programs or to HUD Headquarters.

HUD notes that fenced playground areas are currently eligible modernization costs under the CIAP, hence, no change in the regulation is necessary. The Department does not agree with the commenter's request to expand eligibility to include facilities which typically are not owned or operated by the IHA. Therefore, the Department has not accepted the suggestion to include solid waste landfills, transfer stations, fire stations, or fire station equipment, as eligible work items.

One commenter requested that the language in § 905.605(b)(2)(iii)(a) be revised to include as eligible management improvements "certain substance abuse activities," instead of the current language which states "certain drug elimination activities." The Department believes that, at this time, available resources should be concentrated on the very critical area of drug elimination and, therefore, has not adopted this comment. Additionally, there are other sources of funds available for substance abuse programs, such as those administered by the Indian Health Service.

One commenter requested clarification as to where the Secretary's Initiative for Economic Development appears as an economic activity. The Department agrees that additional guidance is necessary and intends to provide such guidance in the near future.

VI. Other Changes

In this final rule, HUD also is implementing a number of technical and substantive amendments to the CIAP and Comprehensive Grant programs contained in sections 509(b) through (f), and section 516, of the NAHA. A brief discussion of HUD's implementation of these amendments follows:

a. *Section 509(b)—Removal of certain requirements for PHAs with fewer than 500 units (fewer than 250 units beginning in FFY 1993).* Section 509(b) amended section 14(d)(4) of the Act by removing the requirement under the CIAP for replacement needs and planning estimates, operating budget, and financial resources estimates. (See §§ 905.618(e); 968.210(e).)

b. *Section 509(c) Limitation of special purpose modernization to PHAs with fewer than 500 units (fewer than 250 units beginning in FFY 1993).* Section 509(c) amended section 14(f)(2)(B) of the Act by limiting the availability of special purpose modernization funding to PHAs participating under the CIAP.

c. *Section 509(d)—Special purpose management modernization for agencies with fewer than 500 units (fewer than 250 units beginning in FFY 1993).* Section 509(d) amended section 14(i)(1) of the Act by adding special purpose management modernization as a new category of eligible activities under the CIAP. The term "special purpose management modernization" is defined under section 509(b) to mean "management improvement needs which are not otherwise eligible for assistance under the CIAP, and which pertain to any low-income housing development other than a development assisted under section 8 of the Act. HUD is implementing this provision not only with respect to rental housing developments, but also for purposes of homeownership developments assisted under the Act. (See §§ 905.615(b)(3); 968.205(b)(3).

d. *Section 509(e)(1)—establishment of 250-unit threshold beginning in FFY 1993*—Effective October 1, 1992, section 509(e)(1) of the NAHA amended section 14 of the Act by reducing the threshold for participation under the Comprehensive Grant program from 500 or more units to 250 or more units. Furthermore, section 509(e)(2) of the NAHA amended section 14 of the Act by reducing the threshold for continued participation by a PHA which has already qualified for assistance under the CGP from at least 400 units to at least 200 units. (See §§ 905.6009b)(1) and 905.601(i); 968.101(b)(1) and 968.103(i).)

e. *Section 509(f)—Transition*—Section 509(f) amended section 14 of the Act by providing that any amount that the Secretary has obligated to a PHA under the CIAP shall be used for the purposes for which the funding was provided, or for purposes consistent with an action plan submitted by the PHA under the CGP and approved by HUD, as the PHA determines to be appropriate. (See §§ 905.600(c); 968.101(c).)

f. *Section 516—Eligibility of Indian Mutual Help Housing for Comprehensive Improvement*

Assistance. Section 516 of the NAHA amended section 202(b) of the Act to provide that, notwithstanding the provisions of section 14(c) of the Act, the Secretary may provide comprehensive modernization assistance to Mutual Help developments (or units within a development) under both the CIAP and Comprehensive Grant program. This section further provides that any such assistance shall be provided ". . . only in the form of a single grant for each housing development (or unit within a development) selected for such assistance." For a full discussion of HUD's implementation of section 516 of NAHA, see Section V of this preamble.

VII. Findings and Certifications

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection and copying during regular business hours (7:30 a.m. to 5 p.m. weekdays) in the Office of the Rules Docket Clerk, room 10272, 451 Seventh Street, SW., Washington, DC 20410.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulations issued by the President on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, or innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule was listed as sequence number 1515 in the Department's Semiannual Regulatory Agenda published on October 21, 1991 (56 FR 53380, 53431) under Executive Order 12291 and the Regulatory Flexibility Act.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule establishes a new Comprehensive Grant program under which larger PHAs receive modernization assistance from HUD on a formula basis. HUD does not anticipate a significant economic impact on small entities since PHAs will continue to carry out their modernization activities by entering into contracts for the work as they now do.

On February 26, 1990, the Department published an interim final rule (24 CFR part 87) advising recipients and subrecipients of Federal contracts, grants, cooperative agreements and loans of a new prohibition recently mandated by Congress. Section 319 of the Department of the Interior Appropriations Act (Pub. L. 101-121, approved October 23, 1989) generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative branches of the Federal Government in connection with a specific contract, grant, or loan. The interim final rule generally prohibits the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. In addition, the recipient must also file a disclosure if it has made or has agreed to make any payment with nonappropriated funds that would be prohibited, if paid with appropriated funds. These requirements do not apply to IHAs organized under tribal law.

The certification and disclosure requirements apply to all grants in excess of $100,000. All potential grantees are required to submit the certification, and to make the required disclosure if the grant amount exceeds $100,000. Potential grantees should refer to 24 CFR part 87 for the language for the certification and disclosure. The law provides substantial monetary penalties for failure to file the required certification or disclosure.

The information collection requirements for the Comprehensive Grant program have been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act of 1980. Information on these requirements is provided as follows:

SUMMARY OF BURDEN HOURS

	No. of PHAs/IHAs		Annual total burden hours		Average annual burden hours	
	CIAP	Comp grant	CIAP	Comp grant	CIAP	Comp grant
Current Program	1,600		127,482		79.6	
Year 1	1,193	407	95,053	188,237.5	79.6	[a] 462.5
Year 2	746	854	59,439	177,277	79.6	[b] 207.5
Year 3	746	854	[b] 59,439	53,352	79.6	62.4

The first two years of the Comprehensive Grant Program will be an anomaly because PHAs/IHAs are required to submit a Comprehensive Plan for approval. This document provides the basic framework for the Program and will be submitted during the first year. PHAs/IHAs, will be required to thorougnly analyze all physical and management needs and this requires burden hours that will not be required after the initial submission.

[a] 427 hours have been allocated for the 407 PHAs/IHAs that have 500 units or more (all except 38 IHAs have plans that will be adapted to current program requirements).

[b] 305 hours have been allocated for the 447 PHAs/IHAs that have 250–499 units. Although these PHAs/IHAs have never developed Comprehensive Plans, the unit inventory is smaller and they will not require as many total burden hours to thoroughly assess their needs.

The total burden hours for both the CIAP and Comp Grant Program will be 112,791 (after the initial years requiring the submission of comprehensive plans) reflecting a *decrease* in total annual burden hours of *14,691 hours.*

COMPREHENSIVE GRANT PROGRAM PAPERWORK BURDEN HOURS 1ST YEAR

Description of information collection	Section of 24 CFR affected	No. of respondents	No. of responses per respondent	Total annual responses	Hours per response	Total hours
Executive Summary of Preliminary Estimated Costs—Form HUD-52831.	968.320(d)(1) 905.672(d)(1)	407	1	407	10	4,070
Physical Needs Assessment—Form HUD-52832.	968.320(d)(2) 905.672(d)(2)	407	1	407	252	102,564

COMPREHENSIVE GRANT PROGRAM PAPERWORK BURDEN HOURS 1ST YEAR—Continued

Description of information collection	Section of 24 CFR affected	No. of respondents	No. of responses per respondent	Total annual responses	Hours per response	Total hours
Management Needs Assessment—Form HUD-52833.	968.320(d)(3) 905.672(d)(3)	407	1	407	110	44,770
Five-Year Action Plan—Form HUD-52834.	968.320(d)(5) 905.672(d)(5)	407	1	407	40	16,280
Local Government Statement—Form HUD-52835.	968.320(d)(6) 905.672(d)(6)	407	1	407	0.5	203.5
PHA/IHA Board Resolution Approving Comprehensive Plan or Annual Statement—Form HUD-52836.[1]	968.320(d)(7) 905.672(d)(7)	407	1	407		
Annual Statement/Performance Evaluation Report—Form HUD-52837.						
a. Prior to Fund Reservation	968.330(a) 905.678(a)		1	407	50	20,350
b. End of Program Year[1]	968.340(b) 905.684(b)					
Actual Comprehensive Grant Cost Certificate—Form HUD-52839.[1]	968.335(e) 905.681(e)					
Comprehensive Grant Program Amendment—Form HUD-52840.[2]	968.330(j) 905.678(j)	407	1	407		
Annual Statement/Performance and Evaluation Report of Replacement Review for Form HUD-52842.[1]	968.340(b) 905.684(b)					
Total Annual Paperwork Burden Hours.						188,237.5

[1] During the First year, the approval of the Comprehensive Plan and fund reservation will not occur until September. Therefore, there will be no activity in these categories during the initial year.

[2] Forms are completed by HUD for PHA/IHA Representative's signature.

COMPREHENSIVE GRANT PROGRAM PAPERWORK BURDEN HOURS 2ND YEAR

Description of information collection	Section of 24 CFR affected	No. of respondents	No. of responses per respondent	Total annual responses	Hours per response	Total hours
Executive Summary of Preliminary Estimated Costs—Form HUD-52831.	968.320(d)(1) 905.672(d)(1)	447	1	447	10	4,470
Physical Needs Assessment—Form HUD-52832.	968.320(d)(2) 905.672(d)(2)	447	1	447	170	75,990
Management Needs Assessment—Form HUD-52833.	968.320(d)(3) 905.672(d)(3)	447	1	447	100	44,700
Five-Year Action Plan—Form HUD-52834.	968.320(d)(5) 905.672(d)(5)	854	1	407 447	10 20	4,070 8,940
Local Government Statement—Form HUD-52835.	968.320(d)(6) 905.672(d)(6)	854	1	854	0.5	427
PHA/IHA Board Resolution Approving Comprehensive Plan or Annual Statement—Form HUD-52836 [1].	968.320(d)(7) 905.672(d)(7)	854	1	854		
Annual Statement/Performance Evaluation Report—Form HUD-52837						
a. Prior to Fund Reservation	968.330(a) 905.678(a)	854	1	407 447	50 20	20,350 8,940
b. End of Program Year	968.340(b) 905.684(b)	407	1	407	20	8,140
Actual Comprehensive Grant Cost Certificate—Form HUD-52839.	968.335(e) 905.681(e)	200	1	200	5	1,000
Comprehensive Grant Program Amendment—Form HUD-52840 [1].	968.330(j) 905.678(j)	854	1	854		
Annual Statement/Performance and Evaluation Report of Replacement Review for Form HUD-52842.	968.340(b) 905.684(b)	50	1	50	5	250
Total Annual Paperwork Burden Hours.						177,277

[1] Forms are completed by HUD for PHA/IHA Representative's signature.

COMPREHENSIVE GRANT PROGRAM PAPERWORK BURDEN HOURS 3RD YEAR

Description of information collection	Section of 24 CFR affected	No. of respondents	No. of responses per respondent	Total annual responses	Hours of response	Total hours
Five-Year Action Plan—Form HUD 52834.	968.320(d)(5) 905.672(d)(5)	854	1	407 447	10 5	4,070 2,235

COMPREHENSIVE GRANT PROGRAM PAPERWORK BURDEN HOURS 3RD YEAR—Continued

Description of information collection	Section of 24 CFR affected	No. of respondents	No. of responses per respondent	Total annual responses	Hours of response	Total hours
Local Government Statement—Form HUD 52835.	968.320(d)(6) 905.672(d)(6)	854	1	854	0.5	427
PHA/IHA Board Resolution Approving Comprehensive Plan or Annual Statement—Form HUD 52836 [1].	968.320(d)(7) 905.672(d)(7)	854	1	854		
Annual Statement/Performance Evaluation Report—Form HUD-52837						
a. Prior to Fund Reservation	968.330(a)	854	1	407	50	20,350
	905.678(a)			447	20	8,940
b. End of Program Year	968.340(b)	854	1	407	20	8,140
	905.684(b)			447	10	4,470
Actual Comprehensive Grant Cost Certificate—Form HUD-52839.	968.335(e) 905.681(e)	854	1	854	5	4,270
Comprehensive Grant Program Amendment—Form HUD-52840 [1].	968.330(j) 905.678(j)	854	1	854		
Annual Statement/Performance and Evaluation Report of Replacement Review for Form HUD-52842.	968.340(b) 905.684(b)	100	1	100	5	500
Total Annual Paperwork Burden Hours.						53,352

[1] Forms are completed by HUD for PHA/IHA Representative's signature.

This final rule has been developed in accordance with Executive Order 12612, Federalism, and determined by the General Counsel not to have substantial, direct effects on PHAs. The Comprehensive Grant program simply provides an alternative means of funding PHAs, based on the allocation method contained in section 509 of the NAHA. PHAs no longer have to compete for funding, and are given greater discretion in carrying out their modernization activities. The new program is consistent with federalism principles since it reduces unnecessary burdens on PHAs. While it is a "new" program, it is primarily a change only in the way that HUD funds PHA modernization activities, and not as to the modernization activities.

In addition, since the changes in this final rule primarily relate to the allocation system for providing modernization assistance, and participation by PHAs is discretionary, the rule lacks the direct and substantial effects on PHAs required for a policy with federalism implications under the Order.

This rule has been developed in accordance with Executive Order 12606, the Family. The rule does not have the potential for significant impact on family formation, maintenance, or general well-being, since its effect is limited to providing funding for large PHAs on a formula grant basis. Families are not affected since PHAs will continue to carry out modernization activities at public housing developments.

The Catalog of Domestic Assistance numbers for the programs affected by this rule are 14.146, 14.147, 14.850, 14.851, 14.852, and 15.141.

List of Subjects

24 CFR Part 905

Aged, Grant programs—housing and community development, Grant programs—Indians, Handicapped, Homeownership, Indians, Low and moderate income housing, Public housing, Reporting and recordkeeping requirements.

24 CFR Part 968

Grant programs—housing and community development, Indians, Loan programs—housing and community development, Public housing, Reporting and recordkeeping requirements.

24 CFR Part 990

Grant programs—housing and community development, Public housing, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, parts 905, 968, and 990 of title 24 of the Code of Federal Regulations are amended as follows:

PART 905—INDIAN HOUSING PROGRAMS

1. The authority citation for 24 CFR part 905 continues to read as follows:

Authority: Secs. 201, 202, 203, 205, United States Housing Act of 1937, as added by the Indian Housing Act of 1988 (Pub. L. 100–358) (42 U.S.C. 1437aa, 1437bb, 1437cc, 1437ee); sec. 7(b), Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. Section 905.102 is amended by adding in alphabetical order definitions of "action plan"; "administrative capabilities assessment"; "annual statement"; "chief executive officer"; "comprehensive grant number"; "comprehensive plan"; "emergency work"; "hard costs"; "major changes"; "management improvement plan"; "partnership process"; "resident groups"; "soft costs"; "special purpose management modernization"; and "substantial rehabilitation"; and by revising the definitions of "homeownership modernization"; "modernization funds"; "modernization project"; first sentence of paragraph (b) of "nonroutine maintenance"; and introductory text of "special purpose modernization", to read as follows:

§ 905.102 Definitions.

* * * * *

Action plan. A plan of the actions to be funded by an IHA over a period of five years (including an IHA's proposed allocation of its modernization funds to a reserve established under § 905.666(a)(3)) to make the necessary physical and management improvements identified in the IHA's comprehensive plan. The plan shall be based upon HUD's best estimates of the funding reasonably expected to become available over the next five-year period. The action plan is updated annually to reflect a rolling five-year base. See the Comprehensive Grant program under subpart I of this part.

* * * * *

Administrative Capabilities Assessment (ACA). An annual evaluation of the IHA's administrative capability to administer programs in compliance with the Act and all applicable HUD regulations, contracts, HUD handbooks, and other applicable requirements. (See § 905.135).

* * * * *

Annual statement. A statement submitted annually by an IHA to HUD of the activities and related costs it expects to fund with the annual grant. An IHA may also elect to submit an annual statement covering work proposed for up to a two-year period, so that it can increase its flexibility in carrying out work items in the coming year. Soon the Comprehensive Grant program under Subpart I of this part.

* * * * *

Chief executive officer (CEO). The CEO of a unit of general local government means the elected official or the legally designated official, who has the primary responsibility for the conduct of that entity's governmental affairs. Examples of the CEO of a unit of general local government are: the elected mayor of a municipality; the elected county executive of a county; the chairperson of a county commission or board in a county that has no elected county executive; or the official designated pursuant to law by the governing body of a unit of general local government (e.g., tribal administrator). The CEO for an Indian tribe is the tribal governing official.

* * * * *

Comprehensive grant number. A grant number which is unique to each annual statement covering the improvements to one or more existing Indian housing developments.

Comprehensive plan. A plan prepared by an IHA, and approved by HUD, under the Comprehensive Grant Program setting forth all of the physical and management improvement needs of the IHA and its Indian housing developments, indicating the relative urgency of needs, and which includes the IHA's action plan, cost estimates, and required local government and IHA certifications. The comprehensive plan may be revised, as necessary, but must be revised at least every sixth year. See Subpart I of this part.

* * * * *

Emergency work. Physical work items of an emergency nature, posing an immediate threat to the health or safety of residents, which must be completed within one year of funding. Under the Comprehensive Grant program, management improvements are not eligible as emergency work and, therefore, must be covered by the comprehensive plan (including the action plan), before the IHA may carry them out. See Subpart I of this part.

* * * * *

Hard costs. The physical improvement costs in development accounts 1450 through 1475 of the Low-Rent Housing Accounting Handbook, 7510.1, as revised, which include: Account 1450 Site Improvements; Account 1460 Dwelling Structures; Account 1465.1 Dwelling Equipment—Nonexpendable; Account 1470 Nondwelling Structures; and Account 1475 Nondwelling Equipment.

* * * * *

Homeownership modernization. A modernization program for a development that is under the Turnkey III Homeownership Opportunities Program or the Mutual Help Homeownership Opportunity Program. Under homeownership modernization, limited physical improvements and special purpose management improvements are eligible modernization costs.

* * * * *

Major changes. Major changes means additions, deletions or modifications of work items cumulatively totaling 10 percent or more of an IHA's annual grant allocation, excluding emergencies. Major changes require prior HUD approval. Any changes with respect to work items cumulatively totaling less than 10 percent of an IHA's annual grant allocation, excluding emergencies, do not require prior HUD approval, so long as the work is covered under the IHA's action plan. (See § 905.678(h).)

* * * * *

Management improvement plan. A document developed by the IHA in accordance with § 905.135 which specifies the actions to be taken, including timetables, to correct deficiencies identified as a result of a management assessment.

* * * * *

Modernization funds. Funds derived from an allocation of budget authority for the purpose of funding physical and management improvements.

* * * * *

Modernization project. The improvement of one or more existing Indian housing developments, under a new project number designated for modernization under the Comprehensive Improvement Assistance Program (CIAP).

Nonroutine maintenance. * * *

(b) For purposes of the CIAP and Comprehensive Grant Modernization Programs under subpart I of this part and the applicability of wage rates, nonroutine maintenance refers to work items that ordinarily would be performed on a regular basis in the course of upkeep of a property, but have become substantial in scope because they have been put off, and that involve expenditures that would otherwise materially distort the level trend of maintenance expenses. * * *

* * * * *

Partnership Process. A specific and ongoing process that is designed to ensure that residents, resident groups, and the IHA work in a cooperative and collaborative manner to develop, implement and monitor the Comprehensive Grant program. At a minimum, the IHA shall ensure that this Partnership Process incorporates full resident participation in each of the required program components.

* * * * *

Resident groups. Democratically elected resident groups such as IHA-wide resident groups, area-wide resident groups, single development resident groups, or RMCs.

* * * * *

Soft costs. The non-physical improvement costs which exclude any costs in development accounts 1450 through 1475.

Special purpose management modernization. Mutual Help, Turnkey III, and rental developments are eligible for this category of special purpose modernization.

Special purpose modernization. A modernization program for a development that is limited to any one or more of the following types of physical and management improvements otherwise eligible for CIAP funding under this part, subject to a HUD determination that the physical or management improvements are necessary and sufficient to extend substantially the useful life of the development, beyond that which it would have if such improvements were not made (examples cited in each category are for illustration only):

* * * * *

Substantial rehabilitation. A modernization program for a development which provides for all physical and management improvements needed to meet the modernization and energy conservation standards and to ensure long-term physical and social viability.

* * * * *

3. Section 905.120 is amended by adding a new paragraph (k) to read as follows:

§ 905.120 Compliance with other Federal requirements.

* * * * *

(k) *Coastal barriers.* In accordance with the Coastal Barriers Resources Act, 16 U.S.C. 3501, no financial assistance under this part may be made available within the Coastal Barrier Resources System.

4. 24 CFR part 905, subpart I is revised, to read as follows:

Subpart I—Modernization

General Provisions

Sec.

905.600 Purpose and applicability.
905.601 Allocation of funds under Section 14.
905.602 Special requirements for Turnkey III and Mutual Help Developments.
905.603 Modernization and energy conservation standards.

Comprehensive Improvement Assistance Program (For IHAs That Own or Operate Fewer Than 500 Indian Housing Units) (Fewer than 250 Units Beginning in FFY 1993)

Sec.

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905.615 Eligible costs.
905.618 Procedures for obtaining approval of a modernization program.
905.621 Modernization project.
905.624 Resident participation.
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905.633 Special requirements for Section 23 leased housing bond-financed developments.
905.636 Additional limitations for special purpose modernization.
905.639 Contracting requirements.
905.642 Fund requisitions.
905.645 Progress reporting.
905.648 Budget revisions.
905.651 On-site inspections.
905.654 Fiscal closeout of a modernization program.

Comprehensive Grant Program (For IHAs That Own or Operate 500 or More Indian Housing Units) (250 or More Units Beginning in FFY 1993)

Sec.

905.660 Purpose.
905.666 Eligible costs.
905.667 Reserve for emergencies and disasters.
905.669 Allocation of assistance.
905.672 Comprehensive plan (including action plan).
905.675 HUD review and approval of comprehensive plan (including action plan).
905.678 Annual statement of activities and expenditures.
905.681 Conduct of modernization activities.
905.684 IHA performance and evaluation report.
905.687 HUD review of IHA performance.

Subpart I—Modernization

General Provisions

§ 905.600 Purpose and applicability.

(a) *Purpose.* Section 14 of the United States Housing Act of 1937 established the Indian Housing Modernization program, authorizing HUD to provide financial assistance to Indian Housing Authorities (IHAs) to improve the physical condition and upgrade the management and operation of existing Indian housing developments to assure that such developments continue to be available to serve lower income families. These physical and management improvements are authorized under sections 5(c) and 14(b)(2) of the Act, pursuant to the funding method prescribed under section 14(k) of the Act. This subpart prescribes the requirements and procedures for the Indian Housing Modernization program.

(b) *Applicability.* (1) The undesignated heading entitled, **General Provisions,** applies to all modernization under this subpart. The undesignated heading entitled, Comprehensive Improvement Assistance Program (CIAP), sets forth the requirements and procedures for the CIAP for IHAs that own or operate fewer than 500 Indian housing units (fewer than 250 units beginning in FFY 1993). An IHA that qualifies for participation in the CGP is not eligible to participate in the CIAP. The undesignated heading entitled, Comprehensive Grant program (CGP), sets forth the requirements and procedures for the CGP for IHAs that own or operate 500 or more Indian housing units (250 or more units beginning in FFY 1993). For purposes of the 500 or more unit threshold for participation in the CGP (250 or more units beginning in FFY 1993), and for the formula allocation under § 905.601, an existing rental and section 23 bond-financed unit under the ACC shall count as one unit; and a unit under the Turnkey III program shall count as one-fourth of a unit. A unit under the Mutual Help program shall count as one unit. An IHA that has already qualified to participate in the CGP because it owns or operates 500 or more units (250 or more units beginning in FFY 1993), may elect to continue to participate in the CGP so long as it owns or operates at least 200 units;

(2) This subpart applies to IHA-owned low income Indian housing developments (including developments managed by a Resident Management Corporation pursuant to a contract with the IHA), and to Section 23 Leased Housing Bond-Financed developments, for which IHAs request assistance under the CIAP or CGP. This subpart also applies to the implementation of modernization programs which were approved before FFY 1992. Rental developments which are planned for conversion to homeownership under sections 5(h), 21, or 301 of the Act, but which have not yet been sold by an IHA, continue to qualify for assistance under this part. This subpart does not apply to developments under the Section 23 Leased Housing Non-Bond Financed program, the Section 10(c) Leased program, or the Section 23 or Section 8 Housing Assistance Payments programs.

(c) *Transition.* Any amount that HUD has obligated to an IHA under the CIAP program must be used for the purposes for which the funding was provided, or for purposes consistent with an approved action plan submitted by the IHA under the CGP, as the IHA determines to be appropriate.

(d) See subpart A of this part for applicable requirements, other than the Act, that apply to modernization under this subpart.

§ 905.601 Allocation of funds under section 14.

(a) *General.* This section describes the process for allocating modernization funds to the aggregate of IHAs and PHAs participating in the CIAP (i.e., agencies that own or operate fewer than 500 units, or fewer than 250 units beginning in FFY 1993), and to individual IHAs and PHAs participating in the CGP (i.e., agencies that own or operate 500 or more units, or 250 or more units beginning in FFY 1993). The program requirements governing PHA participation in the CIAP and CGP are contained in 24 CFR part 968.

(b) *Set-aside for emergencies and disasters for CGP agencies.* For each FFY, HUD shall reserve from amounts approved in the appropriation act for grants under this part, $75 million (which shall include unused reserve amounts carried over from previous FFYs), which shall be made available to IHAs under the CGP and to PHAs under 24 CFR part 968 (subpart C), for modernization needs resulting from natural and other disasters, and from emergencies. HUD shall replenish this reserve at the beginning of each FFY so that it always begins with a $75 million balance. Any unused funds from previous years will remain in the reserve until allocated. The requirements governing the reserve for disasters and emergencies, and the procedures by which an IHA may request such funds, are set forth in § 905.667.

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(c) *Set-aside for credits for mod troubled PHAs under 24 CFR part 968, subpart C*—(1) *General.* After deducting amounts for the reserve for natural and other disasters and for emergencies under paragraph (b) of this section, HUD shall set aside no more than five percent of the remaining amount for the purpose of providing credits to PHAs under 24 CFR part 968 (subpart C) that were formerly designated as mod troubled agencies under the Public Housing Management Assessment program ("PHMAP") at 24 CFR part 901. The purpose of this set-aside is to compensate such PHAs for amounts previously withheld by HUD because of their prior designation as a mod troubled agency;

(2) *Nonapplicability to IHAs.* Since the PHMAP performance indicators under 24 CFR part 901 do not apply to IHAs, these agencies cannot be deemed "mod troubled" for purposes of the CGP. Hence, IHAs are not subject to any reduction in funding under section 14(k)(5)(a) of the Act, nor do they participate in the set-aside of credits established under paragraph (c)(1) of this section.

(d) *Formula allocation based on relative needs.* After determining the amounts to be reserved under paragraphs (b) and (c) of this section, HUD shall allocate the amount remaining pursuant to the formula set forth in paragraphs (e) and (f) of this section, which is designed to measure the relative backlog and accrual needs of IHAs and PHAs.[1]

(e) *Allocation for backlog needs.* HUD shall allocate half of the formula amount under paragraph (d) of this section based on the relative backlog needs of IHAs and PHAs, as follows:

(1) *Determination of backlog need:* (i) *Statistically reliable data.* Where HUD determines that the data concerning the categories of backlog need identified under paragraph (e)(4) of this section are statistically reliable for individual IHAs and PHAs with 500 or more units (250 or more units beginning in FFY 1993), or the aggregate of IHAs and PHAs with fewer than 500 units (fewer than 250 units beginning in FFY 1993) not participating in the formula funding portion of the modernization program, it will base its allocation on direct estimates of the statutory categories of backlog need, based on the most recently available, statistically reliable data;

(ii) *Statistically reliable data are unavailable.* Where HUD determines that statistically reliable data concerning the categories of backlog need identified under paragraph (e)(4) of this section are not available for individual IHAs and PHAs with 500 or more units (250 or more units beginning in FFY 1993), it will base its allocation of funds under this section on estimates of the categories of backlog need using:

(A) The most recently available data on the categories of backlog need under paragraph (e)(4) of this section;

(B) Objectively measurable data concerning the following IHA or PHA, community and development characteristics:

(*1*) The average number of bedrooms in the units in a development. (Weighted at 2858.7);

(*2*) The proportion of units in a development available for occupancy by very large families. (Weighted at 7295.7);

(*3*) The extent to which units for families are in high-rise elevator developments. (Weighted at 5555.8);

(*4*) The age of the developments, as determined by the DOFA date (date of full availability). In the case of acquired developments, HUD will use the DOFA date unless the IHA provides HUD with the actual date of construction, in which case HUD will use the age of the development (or, for scattered sites, the average age of all the buildings), subject to a 50 year cap. (Weighted at 206.5);

(*5*) In the case of a large agency, the number of units with 2 or more bedrooms. (Weighted at .433);

(*6*) The cost of rehabilitating property in the area. (Weighted at 27544.3);

(*7*) For family developments, the extent of population decline in the unit of general local government determined on the basis of the 1970 and 1980 censuses. (Weighted at 759.5); and

(C) An equation constant of 1412.9.

(2) *Calibration of backlog need for developments constructed prior to 1985.* The estimated backlog need, as determined under either paragraphs (e)(1)(i) or (e)(1)(ii) of this section, shall be adjusted upward for developments constructed prior to 1985 by a constant ratio of 1.5 to more accurately reflect the costs of modernizing the categories of backlog need under paragraph (e)(4) of this section, for the Indian housing stock as of 1991;

(3) *Deduction for prior modernization.* HUD shall deduct from the estimated backlog need, as determined under either paragraphs (e)(1)(i) or (e)(1)(ii) of this section, amounts previously provided to an IHA or PHA for modernization, using one of the following methods:

(i) *Standard deduction for prior CIAP and MROP.* HUD shall deduct 60 percent of the CIAP funds made available on an IHA-wide or PHA-wide basis from FFY 1984 to 1991, and 40 percent of the funds made available on a development-specific basis for the Major Reconstruction of Obsolete Projects (MROP) (not to exceed the estimated formula need for the development), subject to a maximum fifty percent deduction of an IHA's or PHA's total need for backlog funding;

(ii) *Newly constructed units.* Units with a DOFA date of October 1, 1991 or thereafter will be considered to have a zero backlog; or

(iii) *Acquired developments.* Developments acquired by an IHA with major rehabilitation, with a DOFA date of October 1, 1991 or thereafter will be considered to have a zero backlog.

(4) *Categories of backlog need.* The most recently available data to be used under either paragraphs (e)(1)(i) or (e)(1)(ii) of this section must pertain to the following categories of backlog need:

(i) Backlog of needed repairs and replacements of existing physical systems in Indian housing developments;

(ii) Items that must be added to developments to meet HUD's modernization standards under § 905.803, and State, local and tribal codes; and

(iii) Items that are necessary or highly desirable for the long-term viability of a development, in accordance with HUD's modernization standards.

(f) *Allocation for accrual needs.* HUD shall allocate the other half remaining under the formula allocation under paragraph (d) of this section based upon the relative accrual needs of IHAs and PHAs, determined as follows:

(1) *Statistically reliable data.* Where HUD determines that statistically reliable data are available concerning the categories of need identified under paragraph (f)(3) of this section for individual IHAs and PHAs with 500 or more units (250 or more units beginning in FFY 1993), and for the aggregate of IHAs and PHAs with fewer than 500 units (fewer than 250 units beginning in FFY 1993), it shall base its allocation of assistance under this section on the needs that are estimated to have accrued since the date of the last objective measurement of backlog needs under paragraph (e)(1)(i) of this section; or

(2) *Statistically reliable data are unavailable.* Where HUD determines that statistically reliable data

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[1] In construing all terms used in the statutory indicators for estimating backlog and accrual need, HUD shall use the meanings cited in appendix B of the *HUD Report to the Congress on Alternative Methods for Funding Public Housing Modernization* (April 1990). Copies of the HUD Report to Congress may be obtained by calling the HUD User at 1-800-245-2891.

concerning the categories of need identified under paragraph (f)(3) of this section are not available for individual IHAs and PHAs with 500 or more units (250 or more units beginning in FFY 1993), it shall base its allocation of assistance under this section on estimates of accrued need using:

(i) The most recently available data on the categories of backlog need under paragraph (f)(3) of this section;

(ii) Objectively measurable data concerning the following IHA or PHA, community, and development characteristics:

(A) The average number of bedrooms in the units in a development. (Weighted at 100.1);

(B) The proportion of units in a development available for occupancy by very large families. (Weighted at 356.7);

(C) The age of the developments. (Weighted at 10.4);

(D) The extent to which the buildings in developments of an agency average fewer than 5 units. (Weighted at 87.1);

(E) The cost of rehabilitating property in the area. (Weighted at 679.1);

(F) The total number of units of each IHA or PHA that owns or operates 500 or more units (250 or more units beginning in FFY 1993). (Weighted at .0144); and

(iii) An equation constant of 602.1.

(3) *Categories of need.* The data to be provided under either paragraph (f)(1) or (f)(2) of this section must pertain to the following categories of need:

(i) Backlog of needed repairs and replacements of existing physical systems in Indian housing developments; and

(ii) Items that must be added to developments to meet HUD's modernization standards under § 905.603, and State, local and tribal codes.

(g) *Allocation for CIAP.* The formula amount determined under paragraphs (e) and (f) of this section for IHAs and PHAs with fewer than 500 units (fewer than 250 units beginning in FFY 1993) shall be allocated to IHAs in accordance with the requirements of the undesignated heading under this subpart entitled, "Comprehensive Improvement Assistance Program," (CIAP) and to PHAs in accordance with the requirements of 24 CFR part 968 (subpart B).

(h) *Allocation for CGP.* The formula amount determined under paragraphs (e) and (f) of this section for IHAs with 500 or more units (250 or more units beginning in FFY 1993) shall be allocated in accordance with the requirements of the undesignated heading under this subpart entitled, "Comprehensive Grant Program," and for PHAs in accordance with the requirements of 24 CFR part 968 (subpart C). An IHA that is eligible to receive a grant under the CGP may appeal the amount of its formula allocation under this section in accordance with the requirements set forth in § 905.669(b)(2). An IHA which is eligible to receive modernization funds under the CGP because it owns or operates 500 or more units (250 or more units beginning in FFY 1993), is disqualified from receiving assistance under the CIAP under this part.

(i) *Use of formula allocation.* Any amounts allocated to an IHA under paragraphs (e) and (f) of this section may be used for any eligible activity under this subpart, notwithstanding that the allocation is determined by allocating half based on the relative backlog needs and half based on the relative accrual needs of IHAs and PHAs.

(j) *Calculation of number of units.* For purposes of determining under this section the number of units owned or operated by an IHA or PHA, and the relative modernization needs of IHAs and PHAs, HUD shall count as one unit each existing rental and Section 23 Bond-Financed unit under the ACC, except that it shall count as one-fourth of a unit each existing unit under the Turnkey III program. In addition, HUD shall count as one unit each existing unit under the Mutual Help program, except that once the unit has been funded for substantial rehabilitation under the CGP, it will be phased out over a period of three years for purposes of the threshold for participation in the CGP and for the formula.

(k) *Demolition, disposition and conversion of units*—(1) *General.* Where an existing unit under an ACC is demolished, disposed of, or converted into a larger or smaller unit, including the substantial rehabilitation of a Mutual Help unit, HUD shall not adjust the amount the IHA or PHA receives under the formula, unless more than one percent of the units are affected on a cumulative basis. Where more than one percent of the existing units are demolished, disposed of, or converted, HUD shall reduce the formula amount for the IHA or PHA over a 3-year period to reflect removal of the units from the ACC;

(2) *Determination of one percent cap.* In determining whether more than one percent of the units are affected on a cumulative basis, HUD will compare the units eligible for funding in the initial year under formula funding with the number of units eligible for funding for formula funding purposes for the current year, and shall base its calculations on the following:

(i) New units which are added to an IHA's or PHA's inventory (or increases resulting from the conversion of existing units) will be added to the overall unit count so long as they are covered by an ACC amendment as of the first day of the FFY in which the formula is being run. Any increase in ACC units as of the beginning of the FFY, including increases as a result of conversion, shall result in an adjustment upwards in the number of units under the formula. New units added to the ACC after this date will be counted for formula purposes as of the following FFY;

(ii) Units which are lost as a result of demolition, disposition or conversion shall not be offset against units subsequently added to an IHA's or PHA's inventory;

(iii) For purposes of calculating the number of converted units, HUD shall regard the converted size of the unit as the appropriate unit count (e.g., a unit that originally was counted as one unit under paragraph (j) of this section, but which later was converted into two units, shall be counted as two units under the ACC).

(3) *Phased-in reduction of units.* (i) *Reduction less then one percent.* If HUD determines that the reduction in units under paragraph (k)(2) of this section is less than one percent, the IHA or PHA will be funded as though no charge had occurred;

(ii) *Reduction greater than one percent.* If HUD determines that the reduction in units under paragraph (k)(2) of this section is greater than one percent, the number of units on which formula funding is based will be the number of units reported as eligible for funding for the current program, plus two thirds of the difference between the initial year and the current year in the first year, plus one third of the difference in the second year, and at the level of the current year in the third year.

(iii) *Exception.* A unit which is conveyed under the Mutual Help or Turnkey III programs will result in an automatic (rather than a phased-in) reduction in the unit count.

(4) *Subsequent reductions in unit count.* (i) Once an IHA's or PHA's unit count has been fully reduced under paragraph (k)(3)(ii) of this section to reflect the new number of units under the ACC, this new number of units will serve as the base for purposes of calculating whether there has been a one percent reduction in units on a cumulative basis;

(ii) A reduction in formula funding, based upon additional reductions to the number of an IHA's or PHA's units, will also be phased in over a three-year period, as described in paragraph (k)(2) of this section.

§ 905.602 Special requirements for Turnkey III and Mutual Help developments.

(a) Promptly after HUD approval of the application, each homebuyer family shall execute an amendment to its Homebuyer Agreement, reflecting an increase in the purchase price of its home and an extension of the amortization period in accordance with paragraphs (b) and (c) of this section, except for:

(1) Eligible homeownership costs, as set forth in §§ 905.615(f)(1) and 905.666(d)(1);

(2) Comprehensive modernization of a Mutual Help unit pursuant to § 905.615(f)(2), or the substantial rehabilitation of a Mutual Help unit pursuant to § 905.666(b)(2);

(3) Special purpose modernization of a vacant or non-homebuyer occupied Turnkey III unit pursuant to § 905.615(f)(3), or the substantial rehabilitation of a vacant or non-homebuyer occupied Turnkey III unit pursuant to § 905.666(b)(3).

(b) For Turnkey III developments that have purchase price schedules and for Mutual Help developments placed under ACC on or after March 9, 1976:

(1) The amount of modernization cost attributable to the home, as shown in the HUD-approved application, shall be added to the homebuyer's purchase price as initially determined for Turnkey III or Mutual Help developments;

(2) The period of the homebuyer's current purchase price schedule shall be extended by the same percentage as the percentage of increase in the homebuyer's purchase price. The new purchase price schedule shall:

(i) Show monthly amortization of the new purchase price over a period commencing on the same day as the original purchase price schedule and terminating at the end of the extended period; and

(ii) Be computed on the basis of the same interest rate as used for the current purchase price schedule. (For Mutual Help grant funding, no interest rate is used when computing the new purchase price schedule.)

(3) If a modernization program is approved for a development after one or more earlier modernization programs for the same development, the total amount of modernization cost attributable to the home under the prior modernization program(s) shall be included as part of the homebuyer's initial purchase price in applying the provisions of paragraphs (b)(1) and (b)(2) of this section.

(c) For Turnkey III developments that do not have purchase price schedules and Mutual Help developments placed under ACC before March 9, 1976 and not converted:

(1) These developments do not involve purchase price schedules for amortization of the homebuyer's purchase price over a fixed period of time because the homebuyer's purchase price in these developments is based on the unamortized balance of the portion of the development debt attributable to the home. Consequently, it is necessary to establish a separate schedule for the amortization of the estimated modernization cost attributable to the home, as shown by HUD-approved application;

(2) The IHA shall furnish to the homebuyer a schedule showing monthly amortization of the modernization cost attributable to the home, at the minimum loan interest rate specified in the ACC for the modernization project, over a period commencing on the first day of the month after the date of original occupancy of the home by the homebuyer and terminating at the end of the period determined as follows:

(i) Divide the amount of the modernization cost attributable to the home (including the total amount of modernization cost attributable to the home under prior modernization programs, if any) by the amount of the current HUD-approved estimated replacement cost of the home;

(ii) Multiply this amount by 25, round the result to the next higher number, and add that number to 25. This is the number of years to be used as the period for the modernization amortization schedule; and

(iii) The purchase price for the unit shall be the sum of:

(A) the balance of the debt attributable to the home and

(B) the amount remaining on the modernization schedule at the time of settlement.

§ 905.603 Modernization and energy conservation standards.

(a) All improvements funded under this subpart, which may include alterations, betterments, additions, replacements or non-routine maintenance, shall meet the HUD modernization standards, described in paragraph (b) of this section and to comply with lead-based paint testing and abatement requirements in Subpart H of this Chapter and established to provide decent, safe, and sanitary living conditions in IHA-owned and IHA-operated housing. All improvements funded under this part shall meet the HUD-energy conservation standards for cost-effective energy conservation measures in such developments, described in paragraphs (c) and (d) of this section.

(b) The modernization standards are comprised of both mandatory and development-specific standards. The mandatory standards are intended to provide decent, safe, and sanitary living conditions in Indian housing, including corrections of violations of basic health and safety codes, and to address all deficiencies, including those related to deferred maintenance. The development-specific standards permit an IHA to undertake improvements that are necessary or highly desirable for the long-term physical and social viability of a development, which includes site and building security. The modernization standards are contained in HUD Handbook 7485.2, as revised, Public and Indian Housing Modernization Standards, and in other documents cited in the Handbook. Copies may be obtained by writing to the HUD Regional Office of Indian Programs within the applicant's jurisdiction.

(c) The energy conservation standards are standards for the installation of cost-effective energy conserving improvements, including solar energy systems. The energy conservation standards provide for the conducting or updating of energy audits, including cost-benefit analyses of energy saving opportunities, in order to determine which measures will be cost effective in conserving energy. The energy conservation standards are contained in the HUD Workbook, Energy Conservation for Housing, and in other documents cited in the Workbook.

(d) Life-cycle cost-effective energy performance standards established by HUD to reduce the operating costs of the Indian housing developments over the estimated life of the buildings shall apply to developments modernized under this subpart. These standards are contained in HUD Handbook 7418.1, as revised, Life-Cycle Cost Analysis for Utility Combinations. Copies may be obtained by writing to the HUD Regional Office of Indian Programs within the applicant's jurisdiction.

Comprehensive Improvement Assistance Program (For IHAs That Own or Operate Fewer Than 500 Indian Housing Units) (Fewer Than 250 Units Beginning in FFY 1993)

§ 905.609 Purpose.

The purpose of the undesignated heading entitled, Comprehensive Improvement Assistance Program (CIAP), is to set forth the policies and procedures for the CIAP under which IHAs that own or operate fewer than a total of 500 units of Indian housing (fewer than 250 units beginning in FFY 1993) may receive financial assistance for the modernization of Indian housing developments, including comprehensive, emergency, lead-based paint, homeownership, and special purpose modernization. Funding for this program is provided under section 5(c) of the Act, pursuant to section 14(k) of the Act (see § 905.601 for the formula allocation process for the aggregate of CIAP agencies under this subpart.

§ 905.615 Eligible costs.

(a) *Physical improvements.* Physical improvements eligible for modernization funding include alterations, betterments, additions, replacements, and non-routine maintenance that are necessary to meet the modernization and energy conservation standards prescribed in § 905.603. These standards may be exceeded only when necessary or highly desirable for the long-term physical and social viability of the individual development. If demolition is proposed, the IHA shall comply with subpart M.

(b) *Management improvement costs—(1) Eligibility.* Management improvements that are development-specific or IHA-wide in nature are eligible costs only under special purpose management modernization under paragraph (b)(3) of this section, or comprehensive modernization, subject to all of the following conditions:

(i) The management improvements are necessary to correct identified management problems and to sustain the physical improvements at the development to be modernized comprehensively, or pursuant to special purpose modernization, as set forth in this section;

(ii) The management improvements require additional funds for implementation and the funds are not available from other sources;

(iii) The combined costs for management improvements and planning under paragraph (d) of this section do not exceed 10 percent of the total estimated physical improvement costs for a multi-stage project (from all FFYs), unless specifically approved by HUD. Under paragraph (d) of this section, planning costs shall not exceed five percent of the funds available to the HUD office in a particular FFY;

(iv) Management improvement costs are funded only for the implementation period of the physical improvements. In rare cares, the HUD office may approve a longer period, up to a maximum of five years, where it is clearly shown to be necessary to complete the initial installation and demonstrate that the management work item will bring about needed management improvements; and

(v) Where an approved modernization program includes management improvements that involve ongoing costs, HUD is not obligated to provide continued funding or additional operating subsidy after the end of the implementation period of the management improvements. The IHA is responsible for finding other funding sources, reducing its ongoing management costs, or terminating the management activities.

(2) *Eligible management areas.* Subject to the conditions set forth in paragraph (b)(1) of this section, management improvements may involve or upgrade the following areas:

(i) Management, financial and accounting control systems of the IHA;

(ii) Adequacy and qualifications of personnel employed by the IHA in its management and operation, for each significant category of employment;

(iii) Adequacy and efficacy of the following for the development to be modernized:

(A) Resident programs and services, including certain drug elimination activities;

(B) Resident and development security;

(C) Resident selection and eviction;

(D) Occupancy;

(E) Rent collection;

(F) Maintenance; and

(G) Equal opportunity; and

(iv) Resident management corporations under paragraph (i) of this section.

(3) *Special purpose management modernization.* Special purpose management improvements are eligible modernization costs under the category of special purpose modernization, if they address needs which are not otherwise eligible for assistance under paragraph (b)(1) of this section.

(c) *Relocation and moving costs.* (1) *Temporary relocation.* The following policies cover residential residents who are moved temporarily due to rehabilitation or demolition of a development assisted under this subpart, but are offered the opportunity to return to the same development at the same site, although not necessarily the same unit or building in the development. The IHA shall provide such residents:

(i) All actual reasonable moving and related costs incurred in connection with the temporary relocation, by either undertaking the move itself or reimbursing for such costs; and

(ii) Appropriate advisory services, including reasonable advance written notice of: the date and approximate duration of the temporary relocation; the suitable, decent, safe, and sanitary temporary housing that will be made available; and the provisions of paragraph (c)(1)(i) of this section;

(2) *Relocation assistance for displaced persons.* An IHA must provide relocation assistance to displaced persons, as defined in paragraph (c)(6)(i) of this section, at the levels described in, and in accordance with, the provisions of 49 CFR part 24, which implements the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), 42 U.S.C. 4601;

(3) *Real property acquisition requirements.* The acquisition of real property for a development by an IHA is subject to the URA and the requirements described in 49 CFR part 24, subpart B, whether it is organized pursuant to State law or Tribal law;

(4) *Responsibility of the IHA.* The IHA shall certify compliance with URA and 49 CFR part 24 and with the requirements of this section. This certification shall be included in the agreement between HUD and the IHA. The cost of assistance required by this section may be paid from local public funds or tribal funds, funds provided in accordance with this subpart, or funds available from other sources;

(5) *Appeals.* A person who disagrees with the IHA's determination concerning a payment or other assistance required by this section may file a written appeal of that determination with the IHA. The appeal procedures to be followed are described in 49 CFR 24.10;

(6) *Definition of displaced person.* (i) The term *displaced person* means a person (family, individual, business, nonprofit organization, or farm) that moves from real property, or moves personal property from real property, permanently and involuntarily, as a direct result of acquisition, rehabilitation, or demolition for a development assisted under this subpart. Permanent, involuntary moves for an assisted development include:

(A) A permanent move from the real property (development/site) following notice by the IHA to move permanently from the property, if the move takes place on or after the date that HUD approves the IHA's application for assistance;

(B) A permanent move from the real property that occurs before HUD's approval of the IHA's application, if the IHA or HUD determines that the displacement resulted directly from acquisition, rehabilitation or demolition for a development;

(C) A permanent move from the real property by a resident of a dwelling unit that occurs after the execution of the ACC between the IHA and HUD if:

(*1*) The resident has not been provided a reasonable opportunity to lease and occupy a suitable, decent, safe and sanitary dwelling in the same development/site following the completion of the development at a rent, including estimated average utility costs, that does not exceed the greater of the resident's rent and estimated average utility costs before the initiation of negotiations (as defined in 49 CFR 24.2(k)), or 30 percent of gross household income; or

(*2*) the resident has been required to relocate temporarily as described in paragraph (c)(1) of this section, but the resident is not offered payment for all actual reasonable moving and related expenses incurred in connection with the temporary relocation or other conditions of the temporary relocation are not reasonable; or

(*3*) the resident is required to move to another unit in the same development/site, but is not offered reimbursement for all moving and related expenses incurred in connection with the move;

(ii) A person shall not qualify as a displaced person, if:

(A) The person has been evicted for cause based upon a serious or repeated violation of material terms of the lease or occupancy agreement and the IHA determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance;

(B) The person moved into the property after HUD approval of the application and, before commencing occupancy, received written notice of the expected displacement;

(C) The person is ineligible under 49 CFR 24.2(g)(2); or

(D) The IHA determines and HUD concurs that the person was not displaced as a direct result of acquisition, rehabilitation, or demolition for the development;

(iii) The IHA may, at any time, request a HUD determination as to whether a displacement is or would be covered by 49 CFR part 24.

(d) *Planning costs.* Planning costs necessary for developing the application (*i.e.*, costs incurred before modernization program approval) are eligible modernization costs. These costs may be reimbursed after application approval. Financially distressed IHAs may request approval from HUD for upfront funding of planning costs where the HUD office determines that developing the application would otherwise present an undue financial hardship. For this purpose, a financially distressed IHA is an IHA that has an operating reserve level of 20 percent or less of its authorized maximum or other level as determined by HUD, as shown on the latest year-end financial statement. Not more than five percent of the funds available to the HUD office in a particular FFY shall be used for planning costs.

(e) *Administrative costs.* Administrative costs necessary for the additional design and implementation of the physical and management improvements (*i.e.*, costs to be incurred after modernization program approval) are eligible modernization costs, as follows:

(1) *Nontechnical and technical salaries.* The salaries of nontechnical and technical IHA personnel assigned full-time or part-time to the modernization program are eligible modernization costs. Any proration of salaries shall be justified by the IHA, authorized by the HUD office, and reflected by an appropriate revision to the IHA's operating budget; and

(2) *Employee benefit contributions.* IHA contributions to employee benefit plans on behalf of nontechnical and technical IHA personnel are eligible modernization costs in proportion to the amount of salary charged to the modernization program.

(f) *Turnkey III and Mutual Help developments.* (1) *General.* Eligible physical improvement costs for existing Turnkey III and Mutual Help developments are limited to work items which are not the responsibility of the homebuyer families, and which are related to health and safety, correction of development deficiencies, physical accessibility, energy audits and cost-effective energy conservation measures, and lead-based paint testing and abatement. Nonroutine maintenance or replacements, additions, and item that are the responsibility of the homebuyer families are ineligible modernization costs for homeownership developments. Management improvements are eligible modernization costs for homeownership developments under special purpose modernization, in accordance with § 905.615(b)(3). Costs of health and safety work items shall increase the purchase price and amortization period for homebuyer families; other eligible costs shall not increase the purchase price and amortization period;

(2) *Exception for Mutual Help units.* Notwithstanding the requirements of paragraph (f)(1) of this section, an IHA may use no more than a single CIAP grant under this subpart for purposes of comprehensively modernizing a Mutual Help unit which is at least 10 years old, and which the IHA has identified in its CIAP application;

(3) *Exception for vacant or non-homebuyer-occupied Turnkey III units.* Notwithstanding the requirements of paragraph (f)(1) of this section, an IHA may carry out special purpose modernization in a Turnkey III development whenever a Turnkey III unit becomes vacant or is occupied by a non-homebuyer family. An IHA that intends to use funds under this paragraph must identify in its application the estimated number of units that the IHA is proposing for special purpose modernization and subsequent sale. In addition, the IHA must demonstrate in its application that: the proposed modernization under this paragraph would result in bringing the identified units into full compliance with the homeownership objectives under the Turnkey III program (see Subpart G of this part); and the IHA has homebuyers who are both eligible for homeownership, in accordance with the requirements of 24 CFR part 905, and who have demonstrated their intent to be placed into each of the Turnkey III units proposed for special purpose modernization. Before an IHA may be approved for the special purpose modernization of a unit under this paragraph, it must first deplete any Earned Home Payments Account (EHPA), or Non-Routine Maintenance Reserve (NRMR) pertaining to the unit, and request the maximum operating subsidy. Any increase in the value of unit caused by its special purpose modernization under this paragraph shall be reflected solely by its subsequent appraised value and not by an automatic increase in its selling price.

(g) *Resident management corporations.* Eligible modernization costs include use of management improvement funds to assist a resident management corporation, as defined in § 905.355, to develop its management capabilities and carry out management improvements identified as IHA-wide or development-specific in nature, under the terms of a management contract between the IHA and the resident management corporation. Such funding is subject to the limitations indicated in paragraph (b) of this section.

§ 905.618 Procedures for obtaining approval of a modernization program.

(a) *HUD notification.* As soon as possible after modernization funds for a particular FFY become available, HUD shall give written notification of the availability of such funds and the time frame for submission of the application.

(b) *IHA consultation with local officials and residents/homebuyers.* The IHA shall develop the application in consultation with local officials and residents/homebuyers at the development to be modernized, as set forth in § 905.624 and § 905.627. Before developing the application, the IHA shall consult with local officials as to whether the proposed comprehensive, special purpose, or homeownership modernization is financially feasible and will result in long-term physical and social viability of the development.

(c) *Application.* The IHA shall submit to HUD an application, in a form prescribed by HUD, which shall include, but not be limited to the following:

(1) A five-year funding request plan, which includes the IHA's estimate of the comprehensive modernization funds to be requested over a five-year period to meet the total physical and management improvement needs of its developments sufficient to meet the modernization and energy conservation standards in § 905.603, including any special purpose and homeownership needs, as well as any emergency needs in the current FFY;

(2) A preliminary assessment of the total physical and management needs of each development for which the IHA is requesting comprehensive modernization and of the specialized needs for each development for which the IHA is requesting special purpose, emergency or homeownership modernization funds in the current FFY;

(3) For each development proposed for comprehensive modernization in the current FFY, an identification of an estimate of the total costs of replacement of the equipment, systems, or structural elements that would normally be replaced (assuming routine and timely maintenance is performed) over the remaining period of the ACC or during the 30-year period beginning on the date of submission of the application, whichever period is longer;

(4) A resolution by the IHA Board of Commissioners, approving the application and containing certifications as required by HUD;

(5) Other data related to the operation of the program, as may be required to comply with other Federal laws and regulations.

(d) *HUD screening and review.* The HUD office shall screen and review the applications, and select applications for further processing, on the basis of such factors as the extent and urgency of the need and the IHA's management and modernization capability. Management capability will be deemed to be adequate unless, in accordance with § 905.135, HUD has determined that management practices are inadequate. Among the IHA practices considered for this determination are the management, financial, and accounting controls; resident programs and services; resident and development security; resident selection and eviction; occupancy; and maintenance. Modernization capability is adequate if the IHA obligates approved modernization funds within the HUD-approved schedule, except in circumstances beyond the IHA's control, and the IHA's expenditure of modernization funds assures the long-term social and physical viability of the modernized units. Funds are considered obligated when the IHA awards a contract or starts force account work for the modernization project. Circumstances beyond the IHA's control may be found by the HUD office in such cases as delays resulting from litigation, environmental review or strikes.

(e) *IHA preparation for joint review.* The IHA shall prepare for the joint review by:

(1) Reaching agreement with the HUD office on the specific development(s) to be covered during the joint review;

(2) Completing an assessment of the needs of each development for which the IHA is requesting funds in the current FFY. The IHA will complete a detailed, comprehensive assessment, in a form prescribed by HUD, of the total physical and management needs of each development for which the PHA is requesting comprehensive or special purpose modernization; except that if the request for a particular development is limited to physical improvements to increase accessibility for elderly and handicapped families and to increase energy efficiency, a specialized assessment will be completed unless HUD determines that there is evidence indicating that the development has major problems that justify a comprehensive assessment. An assessment of specialized physical improvement needs will be completed for each development for which the IHA is requesting emergency or homeownership modernization;

(3) Reviewing the other factors to be covered during the joint review as prescribed by HUD.

(f) *Joint review.* If determined by HUD to be necessary, the IHA and the HUD office may conduct a joint review to discuss the proposed modernization program, as set forth in the application, and reach tentative agreement on the IHA needs. The joint review may include an on-site inspection of the property and resolution of the relevant issues as prescribed by HUD.

(g) *Comprehensive modernization approach.* HUD will fund proposed comprehensive modernization in one stage, or, on an exception basis, in more than one stage, subject to future fund availability. Grounds for exception including an IHA's lack of management capability, as determined in accordance with § 905.135, or lack of modernization capability, as described in paragraph (d) of this section (which necessitates multi-stage funding).

(1) *One-stage funding.* Under one-stage funding, the total amount of modernization funds for all required physical and management improvements at the development shall be approved at one time, out of funds for a single FFY, under one application;

(2) *Multi-stage funding.* Under multi-stage funding, the total amount of the modernization funds for all required physical and management improvements at the development shall be approved in the fewest number of stages that are feasible, over several different FFYs. The first stage will include funds for architectural/engineering work and/or a portion of the physical improvements. Management improvements may be included in the first stage to the extent they are eligible costs under § 905.615(b);

(i) *First stage.* At the first stage of funding, the application shall include a comprehensive assessment of the development's physical and management improvement needs and a plan under paragraph (c) of this section addressing only the work items to be completed during this stage. When approving the first stage, the HUD office will indicate the approximate balance of the funds required to complete the comprehensive modernization, but also will indicate that future funding will be subject to all of the following conditions: the availability of funds, satisfactory progress by the IHA in obligating first stage and subsequent stage funds, IHA submission of additional documents, and IHA compliance with HUD regulatory and statutory requirements;

(ii) *Subsequent stages.* Where the IHA is requesting funds for a subsequent stage of a multi-stage comprehensive modernization, the HUD office will determine whether the IHA has made satisfactory progress in obligating prior stage funds, whether it has submitted necessary additional documents, and whether it has complied with HUD regulatory and statutory requirements. If the IHA has not satisfied these conditions, the HUD office will not approve that subsequent stage of funding at this time. The IHA submission for any subsequent stage should not duplicate items previously submitted.

(3) *Implentation.* After the application for each stage is approved, the IHA and the HUD office shall agree on an implementation period that is appropriate for that funding stage, not to exceed five years for any stage from the date on which that stage is first funded.

(h) *HUD funding decisions.* After all of the joint reviews, the HUD office will determine whether the IHA will be approved for funding and whether any further modifications to the application are required, including IHA submission of the budget. HUD will give preference to IHAs that request assistance for:

(1) Group 1, developments having emergency conditions that pose an immediate threat (*i.e.*, must be corrected within one year of funding approval) to resident life, health, or safety, or are related to fire safety. Funding is limited to correction of emergency conditions and may not be used for substantial rehabilitation;

(2) Group 2, developments:

(i) Having conditions that threaten resident life, health, or safety or having a significant number (10 percent or more) of vacant or substandard units; and

(ii) Located in IHAs having demonstrated a capability of carrying out the proposed modernization activities (comprehensive, special purpose, and homeownership modernization); and

(iii) Within this group, the Secretary may give priority to additional factors, such as whether the development is at the second or subsequent stage of comprehensive modernization, and the cost benefit.

(3) Group 3, other developments located in IHAs that have demonstrated a capability of carrying out the proposed modernization activities (comprehensive, special purpose, and homeownership modernization). The Secretary may give priority to factors which demonstrate that the modernization will result in the greatest cost benefit;

(4) HUD may set aside for special purpose modernization a portion of the total modernization funds available for any FFY, as determined by HUD to be necessary to assure that special purpose needs are appropriately addressed;

(i) *ACC amendment.* After HUD approval of the application, HUD and the IHA shall enter into an ACC amendment for modernization funds.

(j) *Implementation schedule.* After HUD executes the ACC, the IHA shall submit for HUD approval an implementation schedule for each development in the approved modernization program.

§ 905.621 Modernization project.

(a) *Modernization projects.* For purposes of funding modernization, each modernization program approved for an IHA shall be treated as a separate modernization project. The modernization project may include improvements to one or more developments. Improvements to a single development may be included in more than one modernization project.

(b) *ACC.* HUD and the IHA shall enter into an ACC amendment for each modernization project. The ACC amendment shall require lower income use of the housing for not less than 20 years from the date of the ACC amendment (subject to sale of homeownership units in accordance with the terms of the ACC).

(c) *Declaration of trust.* The IHA shall execute and file for record a Declaration of Trust as provided under the ACC to protect the rights and interests of HUD throughout the 20-year period during which the IHA is obligated to operate the individual developments receiving modernization grant funds in accordance with the ACC, the Act, the HUD regulations and requirements.

(d) *Other program requirements.* The IHA shall comply with 24 CFR part 85, except as modified by § 905.639, and with other program requirements, as enumerated in § 905.120. In addition, in accordance with the ACC, IHA shall carry insurance, as prescribed by HUD, to cover the additional exposures created by the modernization activities and to reflect the increased value of the buildings after modernization

§ 905.624 Resident participation.

For a rental development only, before submission of the application, the IHA shall consult with the residents (including, for purposes of this section, resident organizations and resident management corporations, if any) regarding its intent to submit an application for modernization funds. Before the joint review, the IHA shall notify the residents of the development to be modernized of the proposed modernization program, give residents a reasonable opportunity to present their views on the proposed program and alternatives to it, and give full and serious consideration to resident recommendations. At the Joint Review, or upon request, the IHA shall provide the residents and HUD with a copy of, and an evaluation of, resident recommendations, indicating the reasons for IHA acceptance or rejection, consistent with HUD requirements and the IHA's own determination of efficiency, economy, and need. After HUD approval of the modernization program, the IHA shall inform the residents of the approved work items. The provisions of this section do not apply to proposed work items of an emergency nature, affecting the life, health, and safety of residents, which are processed in a "first track" mode outside the normal processing schedule. However, the IHA shall inform residents of approved emergency work items.

§ 905.627 Homebuyer participation.

(a) For a homeownership development only, before the joint review (if one is held), the IHA shall discuss the modernization program with the homebuyer families of the development to be modernized and advise them of the effect of the modernization on the terms of the homebuyer agreements. The IHA shall afford the homebuyer families a reasonable opportunity to present their views on the proposed program and give full and serious consideration to their recommendations, consistent with HUD requirements and the IHA's own determination of efficiency, economy, and need.

(b) The IHA shall inform each homebuyer family that:

(1) To participate, it must be in compliance with its financial obligations under its homebuyer agreement;

(2) It will have an opportunity to express its views and preferences with respect to the modernization of its home;

(3) The purchase price and the amortization period will be increased as provided in § 906.602;

(4) It will have an opportunity to participate in the final inspection of the work to determine completion in accordance with the requirements; and

(5) Participation in the program is optional.

(c) The IHA shall provide each homebuyer family with a copy of the IHA's evaluation of its recommendations, the tentative decisions reached on the modernization program to be submitted to the HUD office, the estimated cost of the proposed modernization program, and the amount of the cost to be attributed to its home.

(d) If the homebuyer family decides to participate in the modernization program with respect to any of the proposed work items, it must agree in writing that its homebuyer agreement will be amended upon approval of the application to provide that, as a result of the amount of modernization cost attributed to its home, the purchase price and the amortization period will be increased as provided in § 905.602.

(e) Any homebuyer family may decline to participate without risk to the homebuyer status.

(f) Before HUD approval of the application, the IHA shall obtain a signed agreement from each participating homebuyer family that it will amend its homebuyer agreement upon approval of the application. The IHA shall retain copies of the signed agreements in its files for inspection by the HUD office.

(g) The provisions of paragraphs (b) through (f) of this section apply only where modernization work relates to health and safety items.

§ 905.633 Special Requirements for Section 23 Leased Housing Bond-Financed Developments.

(a) A Section 23 Leased Housing Bond-Financed development is eligible for modernization only if HUD determines that the development has met the following conditions:

(1) The development was financed by the issuance of bonds;

(2) Clear title to the development will be conveyed to or vested in the IHA at the end of the Section 23 lease term;

(3) There are no legal obstacles affecting the IHA's use of the property as Indian housing during the 20-year period of the modernization;

(4) After completion of the modernization, the development will have a remaining useful life of at least 20 years and it is in the financial interest of the Federal Government to improve the development; and

(5) The development is covered by a cooperation agreement between the IHA and local governing body the 20-year period of the modernization.

(b) A Section 23 Leased Housing Bond-Financed development that has been conveyed to the IHA after bonds have been retired is similarly eligible for modernization if the conditions specified under paragraph (a) of this section have been satisfied.

§ 905.636 Additional limitations for special purpose modernization.

(a) For each of the three types of special purpose modernization relating to major equipment systems or structural elements, security, and reduction of vacant, substandard units, an IHA may obtain special purpose modernization funding only once for a development that has not been comprehensively modernized, except as provided in § 905.615(f)(2) for the special purpose modernization of vacant or non-homebuyer occupied Turnkey III units. Subsequent funding for the same development for any additional physical improvements of these types may be provided only as a part of a program that addresses all of the physical and management improvement needs of the development under a comprehensive modernization program. This limitation does not apply to a development that has been comprehensively modernized.

(b) Special purpose modernization to reduce the number of vacant, substandard units will be limited to physcial improvements that are necessary to meet local code requirements and return such units to a condition that is comparable to the condition of occupied units in the same development, except as provided in § 905.615(f)(3).

§ 905.639 Contracting requirements.

(a) *Compliance with State, Tribal and local law and Federal requirements.* The IHA shall comply with State, Tribal and local laws and Federal requirements applicable to bidding and contract awards.

(b) *IHA agreement with architect/engineer.* The IHA shall obtain architectural/engineering services through the competitive proposal process, as described in § 905.175(d). Notwithstanding 24 CFR 85.36(g), the IHA shall comply with HUD requirements either to:

(1) Submit the contract for prior HUD approval before execution; or

(2) Certify that the scope of work is consistent with any agreements reached with HUD, and that the fee is appropriate and does not exceed the HUD-approved budget amount.

(c) *Sealed bid (formal advertising) requirements.* For each construction or equipment contract over $25,000, the PHA shall conduct formal advertising as provided in § 905.175(c), except for procurement under the HUD Consolidated Supply Program, as described in § 905.175(f).

(d) *Assurance of completion.* For each construction or equipment contract over $25,000, the contractors shall furnish a performance and payment bond for 100 percent of the contract price or, notwithstanding 24 CFR 85.36(h), subpart B of this part, and as may be required by law, one of the following:

(1) Separate performance and payment bonds, each for 50 percent or more of the contract price;

(2) A 20 percent cash escrow; or

(3) A 25 percent letter of credit.

(e) *Construction and bid documents.* Notwithstanding 24 CFR 85.36(g) and subpart B of this part, the IHA shall comply with HUD requirements either to:

(1) Submit complete construction and bid documents for prior HUD approval before inviting bids; or

(2) Certify to receipt of the required architect's/engineer's certification that the construction documents accurately reflect HUD-approved work and that the bid documents are complete and include all mandatory items.

(f) *Contract award.* The IHA shall contain HUD approval of the proposed award of modernization construction and equipment contracts if the bid amount exceeds the HUD-approved budget amount or if the procurement meets the criteria set forth in § 85.36(g)(2) (i) through (iv). In all other instances, the IHA shall make the award without HUD approval after the IHA has certified that:

(1) The bidding procedures and award were conducted in compliance with State, Tribal or local laws and Federal requirements;

(2) The award does not exceed the approved budget amount and does not meet the criteria in § 85.36(g)(2) (i) through (iv) for prior HUD approval; and

(3) HUD clearance has been obtained for the award under previous participation procedures, including absence of the contractor from the GSA List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

(g) *Contract modifications.* Notwithstanding 24 CFR 85.36, except in an emergency endangering life or property, the IHA shall comply with HUD requirements either to submit the proposed contract changes for prior HUD approval or to certify that the proposed work is within the scope of the contract and that any additional costs are within the latest HUD-approved budget or otherwise approved by HUD.

(h) *Construction requirements.* The IHA shall submit to the HUD office periodic progress reports and shall submit all contract settlement documents for prior HUD approval.

(i) *Management improvement contracts.* The IHA shall obtain consultant services through the competitive proposal process, as described in § 905.175(d). The IHA shall comply with HUD requirements either to:

(1) Submit contracts for management improvements, as well as contract changes, for prior HUD approval; or

(2) Certify that the contracts accurately reflect HUD-approved work, do not exceed the HUD-approved budget amount, and have received HUD clearance under previous participation procedures.

§ 905.642 Fund requisitions.

To request modernization funds against the total approved modernization budget, the IHA shall submit a request to the HUD office in accordance with HUD requirements.

(Approved by the Office of Management and Budget under control number 2577-0104)

§ 905.645 Progress reporting.

For each quarter until completion of the modernization program, the IHA shall submit, in a form prescribed by HUD, to the HUD field office:

(a) A report on modernization fund obligations and expenditures; and

(b) A narrative report on management improvement progress, where applicable.

(Information collection requirements were approved by the Office of Management and Budget under control number 2577-0049)

§ 905.648 Budget revisions.

The IHA shall not incur any modernization cost in excess of the total approved budget. The IHA shall submit a revision of the budget, in a form prescribed by HUD, if the IHA plans (within the total approved modernization budget) to incur modernization costs in excess of the approved budget amount for any development. The IHA also shall comply with HUD requirements either to:

(a) Submit the proposed budget revision for prior HUD approval if the IHA plans to delete or substantially revise approved work items, add new work items, or incur modernization costs in excess of the approved budget amount for a work item; or

(b) Certify that the revisions are necessary to carry out the approved work and do not result in the approved budget amount for any development being exceeded.

§ 905.651 On-site inspections.

The IHA shall provide, by contract or otherwise, adequate and competent supervisory and inspection personnel during modernization, whether work is performed by contract or force account labor and with or without the services of an architect/engineer, to assure work quality and progress.

§ 905.654 Fiscal closeout of a modernization program.

Upon completion of a modernization program, the IHA shall submit the actual modernization cost certificate, in a form prescribed by HUD, to the HUD field office for review, audit verification, and approval. The IHA shall immediately remit any excess funds provided by HUD. The audit shall follow the requirements of 24 CFR Part 44, Non-Federal Government Audit Requirements. If the audited modernization cost certificate indicates that there are still excess funds, the IHA shall remit the excess funds as directed by HUD. If the audited modernization cost certificate discloses unauthorized expenditures, the IHA shall take such corrective actions as HUD may direct.

7. 24 CFR part 905, subpart I is amended by adding a new undesignated center heading to follow immediately after § 905.654 and by adding new §§ 905.660, 905.666, 905.667, 905.669, 905.672, 905.675, 905.678, 905.681, 905.684, and 905.687, to read as follows:

Comprehensive Grant Program (For IHAs That Own or Operate 500 or More Indian Housing Units) (250 or More Units Beginning in FFY 1993)

§ 905.660 Purpose.

(a) *Purpose.* (1) The purpose of the Comprehensive Grant program (CGP) under this subpart is:

(i) To provide modernization assistance to IHAs that own or operate a total of 500 or more units of Indian housing (250 or more units beginning in FFY 1993) on a reliable and more predictable basis, to enable them to operate, upgrade, modernize, and rehabilitate Indian housing developments, to ensure their continued availability for low income families as decent, safe, and sanitary rental housing at affordable rents;

(ii) To provide considerable discretion to IHAs to decide the specific improvements, the manner of their execution, and the timing of the expenditure of funds;

(iii) To simplify significantly the program of Federal assistance for capital improvements in Indian housing developments;

(iv) To provide increased opportunities and incentives for more efficient management of Indian housing developments; and

(v) To give IHAs greater control in planning and expending funds for modernization, rehabilitation, maintenance, and improvement of Indian housing developments to benefit low income families.

(2) The purpose of the sections under the undesignated heading entitled, Comprehensive Grant Program (CGP), is to set forth the policies and procedures for the CGP under which IHAs that own or operate a total of 500 or more units of Indian housing (250 or more units beginning in FFY 1993) receive financial assistance on a formula grant basis in accordance with § 905.601 (e) and (f) for the modernization of Indian housing developments.

§ 905.666 Eligible costs.

(a) *General.* An IHA may use financial assistance received under the CGP for the following eligible costs:

(1) Understanding activities described in its approved action plan under § 905.672(d)(5) and its annual statement under § 905.678;

(2) Carrying out emergency work, whether or not the need is indicated in the IHA's approved comprehensive plan (including the action plan) or annual statement;

(3) Funding a replacement reserve to carry out eligible activities in future years, subject to the restrictions set forth in paragraph (g) of this section;

(4) Preparing the comprehensive plan and action plan under § 905.672, including reasonable costs necessary to assist residents to participate in a meaningful way in the planning, implementation and monitoring process; and

(5) Carrying out an audit, in accordance with 24 CFR part 44 and § 905.120.

(b) *Demonstration of viability.* Except in the case of emergency work, an IHA shall only expend funds on a development for which the IHA has demonstrated that completion of the improvements and replacements identified in the comprehensive plan will reasonably ensure the long-term physical and social viability of the development at a reasonable cost.

(c) *Physical improvement costs.* Eligible costs included alterations, betterments, additions, replacements, and non-routine maintenance that are necessary to meet the modernization and energy conservation standards prescribed in § 905.603. These mandatory standards may be exceeded only when the IHA determines that it is necessary or highly desirable for the long-term physical and social viability of the individual development. Such development specific work may include property purchases. If demolition or disposition is proposed, the IHA shall comply with 24 CFR part 905, subpart M.

(d) *Costs for Turnkey III and Mutual Help developments*—(1) *Eligible costs.* Eligible physical improvement costs for existing Turnkey III and Mutual Help developments are limited to work items which are not the responsibility of the homebuyer families and which are related to health and safety, correction of development deficiencies, physical accessibility, energy audits and cost-effective energy conservation measures, and lead-based paint testing and abatement. In addition, management improvements are eligible modernization costs for existing homeownership developments. Costs of health and safety work items shall increase the purchase price and amortization period for homebuyer families, in accordance with § 905.602; other eligible costs shall not increase the purchase price and amortization period;

(2) *Ineligible costs.* Nonroutine maintenance or replacements, additions, and items that are the responsibility of the homebuyer families are ineligible costs;

(3) *Exception for vacant or non-homebuyer-occupied Turnkey III units.* (i) Notwithstanding the requirements of paragraph (d)(2) of this section, an IHA may substantially rehabilitate a Turnkey III development whenever a unit becomes vacant or is occupied by a non-homebuyer family. An IHA that intends to use funds under this paragraph must identify in its needs assessment the estimated number of units that the IHA is proposing for substantial rehabilitation and subsequent sale. In addition, an IHA must demonstrate in its needs assessment that: The proposed modernization under this paragraph would result in bringing the identified units into full compliance with the homeownership objectives under the Turnkey III program (see subpart G); and the IHA has homebuyers who are both eligible for homeownership, in accordance with the requirements of 24 CFR part 905 (Subpart G), and who have demonstrated their intent to be placed into each of the Turnkey III units proposed to be substantially rehabilitated;

(ii) Before an IHA may be approved for the substantial rehabilitation of a unit under this paragraph, it must first deplete any Earned Home Payments Account (EHPA) or Non-Routine Maintenance Reserve (NRMR) pertaining to the unit, and request the maximum amount of operating subsidy. Any increase in the value caused by its substantial rehabilitation under this paragraph shall be reflected solely by its subsequent appraised value, and not by an automatic increase in its selling price.

(4) *One-time exception for Mutual Help units.* Notwithstanding the requirements of paragraph (d)(2) of this section, an IHA may use no more than a single CGP grant under this subpart for purposes of substantially rehabilitating a Mutual Help unit, and may do so only with a unit which is at least 10 years old, and which the IHA has identified in its comprehensive plan (including its action plan and annual statement);

(5) The IHA must maintain records by unit of the work carried out under this section to permit HUD to review the extent to which Mutual Help and Turnkey III units have been substantially rehabilitated.

(e) *Demolition and conversion costs.* Eligible costs include:

(1) Demolition of dwelling units or nondwelling facilities, where the demolition is approved by HUD under 24 CFR part 905 (Subpart M), and related costs, such as clearing and grading the site after demolition and subsequent site improvement to benefit the remaining portion of the existing development; and

(2) Conversion of existing dwelling units to different bedroom sizes.

(f) *Replacement reserve costs.* (1) Funding a replacement reserve to carry out eligible activities in future years is an eligible cost, subject to the following restrictions:

(i) Annual CGP funds are not needed for existing needs, as identified by the IHA in its needs assessments; or

(ii) A physical improvement requires more funds than the IHA would receive under its annual formula allocation; or

(iii) A management improvement requires more funds than the IHA may use under its 10% limit for management improvements, and the IHA needs to save a portion of its annual grant in order to combine it with a portion of subsequent year(s) grants, to fund the work item;

(2) The IHA shall invest replacement reserve funds so as to generate a return equal to or greater than the average 91-day Treasury bill rate;

(3) Interest earned on funds in the replacement reserve will not be added to the IHA's income in the determination of an IHA's operating subsidy eligibility, but must be used for eligible modernization costs;

(4) To the extent that its annual formula allocation and any unobligated balances of modernization funds are not adequate to meet emergency needs, an IHA must first use its replacement reserve, where funded, to meet emergency needs, before requesting funds from the $75 million reserve. An IHA is not required to use its replacement reserve for natural and other disasters.

(g) *Management improvement costs.* Management improvements that are needed to upgrade the operation of the IHA's developments, sustain physical improvements at those developments or correct management deficiencies identified by the IHA in its comprehensive plan are eligible costs. An IHA's ongoing operating expenses, including direct provision of social services through either contract or force account labor, are ineligible management improvement costs.

(1) *Economic development activities costs.* Economic development activities such as job training, resident employment and resident businesses, for the purposes of carrying out activities related to the eligible management and physical improvements are eligible costs, as approved by HUD. HUD encourages IHAs, to the greatest extent feasible, to hire residents as trainees or employees to carry out the modernization program under this subpart, and to contract with resident-owned businesses for modernization work;

(2) *Resident management costs.* Technical assistance to a resident council or resident management corporation (RMC), as defined in § 905.455, in order to determine the feasibility of the resident management entity or assist in its formation is an eligible cost;

(3) *Resident home ownership costs.* The study of the feasibility of converting rental to homeownership units, as well as the preparation of an application for conversion to ownership, is an eligible cost.

(h) *Drug elimination costs.* Drug elimination activities, involving management or physical improvements are eligible costs, as specified by HUD.

(i) *Administrative costs.* Administrative costs necessary for the planning, design, implementation and monitoring of the physical and management improvements are eligible costs and include the following:

(1) The salaries of nontechnical and technical IHA personnel assigned full-time or part-time to modernization are eligible costs only where the scope and volume of the work are beyond that which could be reasonably expected to be accomplished by such personnel in the performance of their nonmodernization duties. The IHA shall properly apportion to the appropriate program budget any direct charges for the salaries of assigned full- or part-time staff (e.g., to the CIAP, CGP or operating budgets);

(2) IHA contributions to employee benefits plans on behalf of nontechnical and technical IHA personnel are eligible costs in direct proportion to the amount of salary charged to the CGP; and

(3) Other administrative costs, such as telephone and facsimile, as specified by HUD.

(j) *Audit costs.*

(k) *Architectural/engineering and consultant fees.* Fees for planning, preparation of needs assessments and required documents, detailed design work, preparation of construction and bid documents, lead-based paint testing, etc., are eligible costs.

(l) *Relocation costs.* Relocation costs as a direct result of rehabilitation, demolition or acquisition for a CGP-funded activity are eligible costs, as required by § 905.120.

(m) *Cost limitations.* (1) An IHA shall not use more than a total of 10 percent of its annual grant for management improvement costs in account 1408, unless specifically approved by HUD.

(2) An IHA shall not use more than a total of 7 percent of its annual grant on administrative costs in account 1410, excluding any costs related to in-house lead based paint testing, in-house architectural/engineering (A/E) work, or other special administrative costs required by state, tribal or local law, unless specifically approved by HUD. In the case of an IHA whose jurisdiction covers as unusually large geographic area, an additional two percent of the annual grant may be spent on costs related to travelling to the IHA's developments for CGP-related business, as specifically approved by HUD. (For purposes of this subparagraph, "an unusually large geographic area" means an area served by an IHA whose offices are physically separated from the majority of its developments by distances which require overnight travel and/or travel by air or other commercial carriers, e.g., a statewide IHA with developments in multiple localities; a regional IHA with developments in multiple counties or states; or an Alaska IHA with developments in multiple villages.);

(3) Where the physical or management improvement will benefit programs other than Indian Housing, such as Section 8, local renewal, etc., eligible costs are limited to the amount directly attributable to the Indian Housing Program.

(n) *Ineligible costs.* An IHA (or an RMC acting on behalf of an IHA) shall not make luxury improvements, or carry out any other ineligible activities, as specified by HUD.

§ 905.667 Reserve for emergencies and disasters.

(a) *Emergencies*—(1) *Eligibility for assistance.* An IHA (including an IHA which has been determined by HUD not to be administratively capable under § 905.135) may obtain funds, at any time, for any eligible emergency work item under § 905.102, from the reserve established under § 905.601(b), except that such funds may be provided to an IHA that has the necessary funds available from any of the following sources: under its annual formula allocation under § 905.601 (e) and (f); from other unobligated modernization funds; or from its replacement reserves under § 905.666. An IHA is not required to have an approved comprehensive plan under § 905.672 before it can request emergency assistance from this reserve;

(2) *Procedure.* To obtain emergency funds, an IHA must submit a request, in a form to be prescribed by HUD, which demonstrates that without the requested funds from the set-aside under this section, the IHA does not have adequate funds available to correct the conditions which present an immediate threat to the health or safety of the residents. HUD will immediately process a request for such assistance and, if it determines that the IHA's request meets the requirements of paragraph (a)(1) of this section, it shall approve the request, subject to the availability of funds in the reserve;

(3) *Repayment.* An IHA that receives assistance for its emergency needs from the reserve under § 905.601(b) must repay such assistance from its succeeding years' formula allocations, where available. To this extent, HUD shall deduct up to 50 percent of an IHA's succeeding year's formula allocation under § 905.601 (e) and (f) to repay emergency funds previously provided by HUD to the IHA. The remaining balance, if any, shall be deducted from an IHA's succeeding years' formula allocations.

(b) *Natural and other disasters.*

(1) *Eligibility for assistance.* An IHA (including an IHA which has been determined by HUD not to be administratively capable under § 905.135) may request assistance at any time from the reserve under § 905.601(b) for the purpose of permitting the IHA to respond to a natural or other disaster. To qualify for assistance, the disaster must pertain to an extraordinary event affecting only one or a few IHAs, such as an earthquake or hurricane. Any disaster declared by the President (or which HUD determines would qualify for a Presidential declaration if it were on a larger scale) qualifies for assistance under this paragraph. An IHA may receive funds from the reserve regardless of the availability of other modernization funds or reserves, but only to the extent its needs are in excess of its insurance coverage. An IHA is not required to have an approved comprehensive plan under § 905.672 before it can request assistance from the reserve under § 905.601(b);

(2) *Procedure.* To obtain funding for natural or other disasters under § 905.601(b), an IHA must submit a request, in a form prescribed by HUD, which demonstrates that it meets the requirements of paragraph (b)(1) of this section. HUD will immediately process a request for such assistance and, if it determines that the request meets the requirements under paragraph (b)(1) of this section, it will approve the request, subject to the availability of funds in the reserve;

(3) *Repayment.* Funds provided to an IHA under paragraph (b)(1) of this section for natural and other disasters shall be in the form of a grant, and are not required to be repaid.

§ 905.669 Allocation of assistance.

(a) *Submission of formula characteristics report*—(1) *Formula characteristics report.* In its first year of participation in the CGP, each IHA shall verify and provide data to HUD, in a form and at a time to be prescribed by HUD, concerning IHA and development characteristics, so that HUD can develop the IHA's annual funding allocation under the CGP in accordance with § 905.601 (e) and (f). If an IHA fails to submit to HUD the formula characteristics report by the prescribed deadline, HUD will use the data which it has available concerning IHA and development characteristics for purposes of calculating the IHA's formula share. After its first year of participation in the CGP, an IHA is required to respond to data transmitted by HUD if there have been changes to its inventory from that previously reported, or where requested by HUD;

(2) *IHA Board Resolution.* The IHA must include with its formula characteristics report under paragraph (a)(1) of this section, a resolution adopted by the IHA Board of Commissioners approving the report, and certifying that the data contained in the formula characteristics report are accurate.

(b) *HUD notification of formula amount; appeal rights.*—(1) *Estimated formula amounts.* After HUD determines an IHA's estimated formula allocations under § 905.601 (e) and (f) based upon the IHA, development, and community characteristics, it shall notify the IHA of its estimated formula amount;

(2) *Appeal based upon unique circumstances.* An IHA may appeal in writing HUD's determination of its estimated formula amount within 60 calendar days of the date of HUD's determination on the basis of "unique circumstances." The IHA must indicate how it is unique, and specify the manner in which it is different from all other IHAs participating in the CGP, and provide any necessary supporting documentation. HUD shall render a

written decision on an IHA's appeal under this paragraph within 60 calendar days of the date of its receipt of the IHA's request for an appeal. HUD shall publish in the **Federal Register** a description of the facts supporting any successful appeals based upon "unique" circumstances. Any adjustments resulting in a particular FFY from successful appeals under this paragraph shall be made from the subsequent years' appropriation of funds under this part;

(3) *Appeal based upon error.* (i) *Estimated formula amount.* An IHA may appeal in writing HUD's determination of its estimated formula amount within 30 calendar days of the date of HUD's determination on the basis of an error. The IHA must describe the nature of the error, and provide any necessary supporting documentation. HUD shall respond to the IHA's request within 60 calendar days of the date of its receipt of the IHA's request for an appeal. If HUD determines that there are no issues in dispute, it will inform the IHA within the 60-day period. Any adjustment resulting from successful appeals shall be made from the current year's allocation of funds under this subpart. If, however, HUD determines that there are substantial issues in dispute with respect to the appeal, HUD will so inform the IHA within the 30-day period. Any adjustments resulting from successful appeals, in this case, shall be made from the succeeding year's allocation of funds under the CGP;

(ii) *Final formula amount.* An IHA may appeal in writing HUD's determination of its estimated formula amount within 30 calendar days of the date of HUD's determination on the basis of an error. The IHA must describe the nature of the error, and provide any necessary supporting documentation. If HUD determines that there are no issues in dispute, it will inform the IHA within the 60-day period. Any adjustment resulting from successful appeals shall be made from the current year's allocation of funds under this subpart, to the greatest extent feasible;

(c) *IHAs determined not to be administratively capable.* If an IHA is determined by HUD not to be administratively capable in accordance with § 905.135, the ACA, and the Field Office Monitoring of IHAs Handbook 7440.3, or if the IHA fails to meet, or to make reasonable progress toward meeting, the goals established in its management improvement plan under § 905.135, HUD may issue a notice of deficiency or a corrective action order. If the IHA fails to take corrective action in a reasonable period of time as specified by HUD in a corrective action order, pursuant to the procedures established in § 905.687, HUD may declare a breach of the grant agreement with respect to all or some of the IHA's functions so that the IHA or a particular function of the IHA may be administered by another entity; HUD may withhold some or all of the IHA's annual grant; or HUD may take other sanctions authorized by law or regulation. (Copies of HUD Handbook 7440.3 may be obtained by writing to the HUD Regional Office of Indian Programs within the applicant's jurisdiction.)

§ 905.672 Comprehensive plan (including action plan).

(a) *Deadline for submission.* As soon as possible after modernization funds first become available for allocation under this subpart, HUD shall notify IHAs in writing of their formula amount for use in developing their comprehensive plan, including the action plan, and the deadline for submitting a comprehensive plan.

(b)(1) *Resident participation.* An IHA is required to develop, implement, monitor and annually amend portions of its comprehensive plan in consultation with residents of the developments covered by the comprehensive plan, and with democratically elected resident groups. In addition, the IHA must also consult with resident management corporations (RMCs) to the extent that an RMC manages a development covered by the comprehensive plan. The IHA, in partnership with the residents, must develop and implement a process for resident participation which ensures that residents are involved in a meaningful way in all phases of the CGP. Such involvement shall involve implementing the Partnership Process as a critical element of the CGP;

(2) *Establishment of Partnership Process.* The IHA, in partnership with the residents of the developments covered by the plan, and with democratically elected resident groups, must establish a Partnership Process to develop and implement the goals, needs, strategies and priorities identified in the comprehensive plan. After residents have organized to participate in the CGP, they may decide to establish a volunteer advisory group of experts in various professions to assist them in the CGP Partnership Process. The Partnership Process shall be designed to achieve the following:

(i) To assure that residents are fully briefed and involved in developing the content of, and monitoring the implementation of, the comprehensive plan including, but not limited to, the physical and management needs assessments, viability analysis, action plan, and annual statement. Where necessary, the IHA shall develop and implement capacity building strategies to ensure meaningful resident participation in the CGP. Such technical assistance efforts are eligible CGP costs;

(ii) To enable residents to participate, on an IHA-wide or area-wide basis, in ongoing discussions of the comprehensive plan and strategies for its implementation, and in all meetings necessary to enable meaningful participation.

(3) *Initial notice.* Once HUD notifies an IHA of its estimated funding level, the IHA shall, within 30 calendar days of the date of HUD's notice, provide written notice to each of the democratically elected presidents of resident organizations of the developments covered by the comprehensive plan, concerning: HUD's estimated modernization funding level; a summary of the CGP requirements; the timeframes for completion of the required CGP documents; and the requirement for resident participation in the planning, development and monitoring of modernization activities under the CGP. This information shall also be made available to residents in written form and, where feasible, within each development;

(4) *Advance meeting for resident groups.* The IHA shall hold, at least three weeks before the public hearing under paragraph (b)(5) of this section, a meeting for residents and resident groups at which the IHA shall provide residents with draft copies of the executive summary, and shall explain the components of the comprehensive plan. The IHA shall make reasonable efforts to provide advance notice to all residents of the date and time of the meeting (in the form of flyers, advertisements, etc.). Residents shall be advised prior to the meeting that the comprehensive plan shall be available for their review at specified locations within the IHA's jurisdiction. The meeting shall be open to all residents and resident groups;

(5) *Public hearing.* The IHA shall hold at least one public hearing, and any appropriate number of additional hearings, to ensure ample opportunity for residents, resident groups, local government officials, and other interested parties, to express their priorities and concerns. The IHA shall make reasonable efforts to provide advance written notice to each resident of the date and time of the public hearing. The IHA shall give full consideration to the comments and

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concerns of residents, local government officials, and other interested parties.

(c) *Local governments participation.* An IHA shall consult with appropriate local government officials with respect to the development of the comprehensive plan. In the case of an IHA with developments in multiple jurisdictions, the IHA may meet this requirement by consulting with an advisory group representative of all the jurisdictions. At a minimum, such consultation must include providing such officials with:

(1) Advance written notice of the public hearing required under paragraph (b)(5) of this section;

(2) A copy of the executive summary; and

(3) An opportunity to express their priorities and concerns to ensure due consideration in the IHA's planning process.

(d) *Contents of comprehensive plan.* The comprehensive plan shall identify all of the physical and management improvements needed for an IHA and all of its developments, and that represent needs eligible for funding under § 905.666. The plan shall also include preliminary estimates of the total cost of these improvements. The plan shall set forth general strategies for addressing the identified needs, and highlight any special strategies, such as major redesign or partial demolition of a development, that are necessary to ensure the long-term physical and social viability of the development. Each comprehensive plan shall contain the following elements:

(1) *Executive summary.* An IHA shall include as part of its comprehensive plan an Executive Summary to facilitate review and comprehension by development residents and by the public. The Executive Summary shall include:

(i) A summary of total preliminary estimated costs to address physical needs by each development and management/operations needs IHA-wide;

(ii) A statement by the IHA concerning its overall modernization strategy, and its rationale for the approach and priorities adopted in its comprehensive plan. For example, an IHA's strategy may be that it will focus its resources on addressing its vacant properties before it brings its occupied units up to the modernization standards;

(iii) A statement by the IHA of its plan for development(s) currently funded for comprehensive modernization under the CIAP; and

(iv) A specific description of the IHA's process for maximizing the level of participation by residents during the development, implementation and monitoring of the comprehensive plan, a summary of the general issues raised on the plan by residents and others during the public comment process and the IHA's response to the general issue. IHA records, such as minutes of planning meetings or resident surveys, shall be maintained in the IHA's files and made available to residents, resident organizations, and other interested parties, upon request.

(2) *Physical needs assessment.* (i) *Requirements.* The physical needs assessment identifies all of the work that an IHA would need to undertake to bring each of its developments up to the modernization and energy conservation standards, as required by section 14(e)(1)(A)(ii) of the Act, to comply with lead based paint testing and abatement requirements under § 905.120(i), and to comply with other program requirements under § 905.120. The physical needs assessment is completed without regard to the availability of funds, and shall include the following information with respect to each of an IHA's developments:

(A) A brief summary of the physical improvements necessary to bring each development to a level at least equal to the modernization standards contained in HUD Handbook 7485.2 (Public and Indian Housing Modernization Standards), and to the energy conservation and life-cycle cost-effective performance standards, as required in § 905.603, and to comply with the Lead-Based Testing and Abatement requirements under § 905.120(i), and the relative urgency of need also must be indicated. If the IHA has no physical improvement needs at a particular development at the time it completes its comprehensive plan, it must so indicate. Similarly, if the IHA intends to demolish, partially demolish, convert, or dispose of a development (or units within a development) it must so indicate in the summary of physical improvements. (Copies of HUD Handbook 7485.2 may be obtained by writing to HUD Regional Office of Indian Programs within the applicant's jurisdiction.);

(B) The replacement needs of equipment systems and structural elements that will be required to be met (assuming routine and timely maintenance is performed) during the period covered by the action plan;

(C) A preliminary estimate of the cost to complete the physical work;

(D) Any physical disparities between buildings occupied predominantly by one racial or ethnic group and buildings occupied predominantly by other racial or other ethnic groups and, in such cases, the physical improvements required to correct the conditions. This requirement shall apply only to IHAs which are determined, on a case-by-case basis, to be subject to Title VI of the Civil Rights Act of 1964 and Title VIII of the Civil Rights Act of 1968;

(E) In addition, the IHA shall provide the following information:

(*1*) The Mutual Help units that the IHA is proposing for substantial rehabilitation, in accordance with § 905.666(b)(2); and

(*2*) With respect to vacant or non-homebuyer-occupied Turnkey III units and the estimated number of units that the IHA is proposing for substantial rehabilitation and subsequent sale, in accordance with § 905.666(b)(3).

(ii) *Sources of data.* The IHA shall identify in its needs assessment the sources from which it derived data to develop the physical needs assessment under this paragraph, and shall retain such source documents in its files.

(3) *Management needs assessment.* (i) *Requirements.* The plan shall include a comprehensive assessment of the improvements needed to upgrade the management and operation of the IHA and of each viable development so decent, safe and sanitary living conditions will be provided. The management needs assessment shall include the following, with the relative urgency of need indicated:

(A) An identification of the most current needs related to the following areas (to the extent that any of these needs is addressed in a HUD-approved management improvement plan, the IHA may simply include a cross-reference to these documents);

(*1*) The management, financial, and accounting control systems of the IHA;

(*2*) The adequacy and qualifications of personnel employed by the IHA in the management and operation of its developments, for each significant category of employment;

(*3*) The adequacy and efficacy of:

(*i*) Resident programs and services;

(*ii*) Resident and development security;

(*iii*) Resident selection and eviction;

(*iv*) Occupancy;

(*v*) Maintenance;

(*vi*) Resident management and resident capacity building programs;

(*vii*) Resident opportunities for employment and business development and other self-sufficiency opportunities for residents; and

(*viii*) Homeownership opportunities for residents.

(B) Any additional deficiencies identified through audits and HUD monitoring reviews which are not addressed under paragraph (d)(3)(i)(A) of this section. To the extent that any of these is addressed in a HUD-approved management improvement plan, the IHA may include a cross-reference to these documents;

(C) Any other management and operations needs which the IHA wants to address at the IHA-wide or development level;

(D) An IHA-wide preliminary cost estimate for addressing all the needs identified in the management needs assessment, without regard to the availability of funds; and

(E) The projected FFY in which the IHA anticipates that all identified management deficiencies will be corrected.

(ii) *Sources of data.* The IHA shall identify in its needs assessment the sources from which it derived data to develop the management needs assessment under this paragraph, and shall retain such source documents in its files.

(4) *Demonstration of long-term physical and social viability.* (i) *General.* The plan shall include, on a development-by-development basis, an analysis of whether completion of the improvements and replacements identified under paragraphs (d)(2) and (d)(3) of this section will reasonably ensure the long-term physical and social viability of the development at a reasonable cost;

(ii) *Developments with hard cost of 90 percent or less of TDC.* Where the preliminary estimate of hard cost for work proposed at a development is 90 percent or less of TDC, and the IHA determines that, upon completion of the improvements and replacements under paragraphs (d)(2) and (d)(3) of this section, the development can reasonably be expected to be structurally sound and achieve full occupancy, the IHA may determine that the development has long-term physical and social viability at a reasonable cost;

(iii) *Developments with hard cost of greater than 90 percent of TDC.* Where the preliminary estimate of hard cost for work proposed at a development exceeds 90 percent of TDC, the IHA shall complete and submit to HUD, as part of its comprehensive plan, a viability analysis of the development, as prescribed by HUD. Where the IHA determines that completion of the improvements and replacements identified under paragraphs (d)(2) and (d)(3) of this section, the development can reasonably be expected to be structurally sound and achieve full occupancy, the IHA shall also submit to HUD a request to exceed the 90 percent of TDC. The Field Office shall review such requests on a case-by-case basis, in accordance with the following criteria:

(A) The IHA has adequately explained any special or unusual conditions, justified all work as necessary to meet the modernization and energy conservation standards, provided reasonable cost estimates, and made every effort to reduce costs;

(B) Rehabilitation of the existing development is more cost-effective in the long-term than construction or acquisition of replacement housing; and

(C) The IHA has no practical low-income housing alternative;

(iv) *Determination of non-viability.* Where an IHA's analysis of a development, either under paragraphs (c) or (d) of this section, establishes that completion of the identified improvements and replacements will not result in the long-term physical and social viability of the development at a reasonable cost, the IHA shall not expend CGP funds for the development, except for emergencies. The IHA shall specify in its comprehensive plan the actions it proposes to take with respect to the non-viable development (e.g., demolition or disposition under 24 CFR part 905, subpart M).

(5) *Five-year action plan.* (i) *General.* The comprehensive plan shall include a rolling five-year action plan to carry out the improvements and replacements (or a portion thereof) identified under paragraphs (d)(2) and (d)(3) of this section. The IHA shall develop the action plan based on estimates provided by HUD of the amount of assistance the IHA will receive annually for a five-year period under § 905.103(e) and (f) (for this purpose, the IHA should assume that the current year level of funding will be available for each year of its five-year plan), and an IHA's estimate of the funds that will be available from other sources, such as State, local and tribal governments. All activities specified in an IHA's action plan are contingent upon the availability of funds;

(ii) *Requirements.* Under the action plan, an IHA must indicate how it intends to use the funds available to it under the CGP to address the deficiencies, or a portion of the deficiencies, identified under its physical and management needs assessments, as follows:

(A) *Physical condition.* With respect to the physical condition of an IHA's developments, an IHA must indicate in its action plan how it intends to address, over a five-year period, the deficiencies (or a portion of the deficiencies) identified in its physical needs assessment so as to bring each of its developments up to a level at least equal to the modernization and energy conservation standards and the projected FFY the IHA anticipates that such standards will be met. This would include specifying the work to be undertaken by the IHA in major work categories (e.g., kitchens, electrical systems, etc.); establishing priorities among the major work categories by development and year based upon the relative urgency of need; and estimating the cost of each of the identified major work categories. In addition, an IHA must estimate the FFY in which it anticipates that the development will meet the modernization and energy conservation standards. In developing its action plan, an IHA shall give priority to the following:

(*1*) Activities required to correct emergency conditions;

(*2*) Activities required to meet statutory (or other legally mandated) requirements;

(*3*) Activities required to meet the needs identified in the Section 504 needs assessment within the regulatory timeframes; and

(*4*) Activities required to complete lead-based paint testing and abatement requirements by December 6, 1994.

(B) *Management and operations.* An IHA must address in its action plan the management and operations deficiencies (or a portion of the deficiencies) identified in its management needs assessment, as follows:

(*1*) With respect to the management and operations needs of the IHA, the IHA must identify how it intends to address with CGP funds, if necessary, the deficiencies (or a portion thereof) identified in its management needs assessment, including work identified through audits, the ACA, HUD monitoring reviews, and self-assessments (this would include establishing priorities based upon the relative urgency of need); and

(*2*) A preliminary IHA-wide cost estimate, by major work category.

(iii) *Procedure for maintaining current five-year action plan.* The IHA shall maintain a current five-year action plan by annually amending its action plan, in connection with the submission of its annual statement, so that the previous year of the existing action plan is eliminated and an additional year is added;

(6) *Local government statement.* The comprehensive plan shall include a statement signed by the chief executive officer of the appropriate governing body (or, in the case of an IHA with developments in multiple jurisdictions,

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from the CEO of each such jurisdiction), certifying as to the following:

(i) The IHA developed the comprehensive plan/annual statement in consultation with officials of the appropriate governing body and with development residents covered by the comprehensive plan/annual statement, in accordance with the requirements of § 905.672(b)(3);

(ii) The comprehensive plan/annual statement is consistent with the appropriate governing body's assessment of its low income housing needs and that the appropriate governing body will cooperate in providing resident programs and services; and

(iii) The IHA's proposed drug elimination activities are coordinated with, and supportive of, local drug elimination strategies and neighborhood improvement programs, is applicable.

(7) *IHA resolution.* The plan shall include a resolution adopted by the IHA Board of Commissioners, and signed by the Board Chairman of the IHA, approving the comprehensive plan or any amendments thereto and certifying that:

(i) The IHA will comply with all policies, procedures, and requirements prescribed by HUD for modernization, including implementation of the modernization in a timely, efficient, and economical manner;

(ii) IHA has established controls to assure that any activity funded by the CGP is not also funded by any other HUD program, thereby preventing duplicate funding of any activity;

(iii) The IHA will not provide to any development more assistance under the CGP than is necessary to provide affordable housing, after taking into account other government assistance provided;

(iv) The proposed physical work will meet the modernization and energy conservation standards under 24 CFR 905.603;

(v) The proposed activities, obligations and expenditures in the Annual Statement are consistent with the proposed or approved Comprehensive Plan of the IHA;

(vi) The IHA will comply with applicable civil rights requirements under 24 CFR 905.115, and, where applicable, will carry out the Comprehensive Plan in conformity with title VI of the Civil Rights Act of 1964, the Fair Housing Act, and section 504 of the Rehabilitation Act of 1973;

(vii) The IHA will, to the greatest extent feasible, give preference to the award of modernization contracts to Indian organizations and Indian-owned economic enterprises under 24 CFR 905.165;

(viii) The IHA has provided HUD with any documentation that the Department needs to carry out its review under the National Environmental Policy Act (NEPA) and other related authorities in accordance with 24 CFR 905.120 (a) and (b), and will not obligate, in any manner, the expenditure of CGP funds, or otherwise undertake the activities identified in its Comprehensive Plan/Annual Statement, until the IHA receives written notification from HUD indicating that the Department has complied with its responsibilities under NEPA and other related authorities;

(ix) The IHA will comply with the wage rate requirements under 24 CFR 905.120 (c) and (d);

(x) The IHA will comply with the relocation assistance and real property acquisition requirements under 24 CFR 905.120(e);

(xi) The IHA will comply with the requirements for physical accessibility under 24 CFR 905.120(f);

(xii) The IHA will comply with the requirements for access to records and audits under 24 CFR 905.120(g);

(xiii) The IHA will comply with the uniform administrative requirements under 24 CFR 905.120(h);

(xiv) The IHA will comply with lead-based paint testing and abatement requirements under 24 CFR 905.120(i);

(xv) The IHA has complied with the requirements governing tribal government and resident participation in accordance with 24 CFR 905.672(b), 905.678(b), and 905.684, and has given full consideration to the priorities and concerns of tribal government and residents, including any comments which were ultimately not adopted, in preparing the Comprehensive Plan/Annual Statement and any amendments thereto;

(xvi) The IHA will comply with the special requirements of 24 CFR 905.666(d) with respect to a homeownership development; and

(xvii) The IHA will comply with the special requirements of § 905.633 with respect to a Section 23 leased housing bond-financed development.

(e) *Amendments to the comprehensive plan*—(1) *Extension of time for performance.* An IHA shall have the right to amend its comprehensive plan (including the action plan) to extend the time for performance whenever HUD has not provided the amount of assistance set forth in the comprehensive plan or has not provided the assistance in a timely manner;

(2) *Amendments to needs assessments:* The IHA must amend its plan by revising its needs assessments whenever it proposes to carry out activities in its action plan or annual statement which are not reflected in its current needs assessments (except in the case of emergencies). When the bases for the needs assessment have changed substantially, an IHA may propose an amendment to its needs assessments, in connection with the submission of its annual statement (see § 905.678(b)), or at any other time. These amendments shall be reviewed by HUD in accordance with § 905.675;

(3) *Six-year revision of comprehensive plan.* The physical and management needs assessments, and the executive summary, are required to be revised only every sixth year, although the IHA may elect to revise some or all of these assessments more frequently. Consequently, every sixth year, an IHA must submit to HUD, with its annual statement, a complete revision of its comprehensive plan;

(4) *Annual revision of action plan.* Annually, the IHA shall submit to HUD, with its annual statement, an update of its five-year action plan, eliminating the previous year and adding an additional year;

(5) *Required submissions.* Any amendments to the comprehensive plan under this section must be submitted with the IHA resolution under § 905.672(d)(7).

(f) *Prerequisite for receiving assistance*—(1) *Prohibition of assistance.* No financial assistance, except for emergency work to be funded under §§ 905.601(b) and 905.666(a)(2), and for modernization needs resulting from disasters under § 905.601(b), may be made available under this subpart unless HUD has approved a comprehensive plan submitted by the IHA which meets the requirements of § 905.672. An IHA that has failed to obtain approval of its comprehensive plan by the end of the FFY shall have its formula allocation for that year (less any formula amounts provided to the IHA for emergencies) added to the subsequent year's appropriation of funds for grants under this part. HUD shall allocate such funds to IHAs and PHAs participating in the CGP in accordance with the formula under § 905.601 (e) and (f) in the subsequent FFY. An IHA which elects in any FFY not to participate in the CGP under this subpart may participate in the CGP in subsequent FFYs;

(2) *Requests for emergency assistance.* An IHA may receive funds from its formula allocation to address emergency modernization needs where HUD has not approved an IHA's comprehensive plan. To request such

assistance, an IHA shall submit to HUD a request for funds in such form as HUD may prescribe, including any documentation necessary to support its claim that an emergency exists. HUD shall review the request and supporting documentation to determine if it meets the definition of "emergency work," as set forth in § 905.102.

§ 905.675 HUD review and approval of comprehensive plan (including action plan).

(a) *Submission of comprehensive plan.* (1) Upon receipt of a comprehensive plan from an IHA, HUD shall determine whether:

(i) The plan contains each of the required components specified at § 905.672(d); and

(ii) Where applicable, the IHA has submitted any additional information or assurances required as a result of HUD monitoring, findings of inadequate IHA performance, audit findings, or civil rights compliance findings.

(2) *Acceptance for review.* If the IHA has submitted a comprehensive plan (including the action plan) which meets the criteria specified in paragraph (a)(1) of this section, HUD shall accept the comprehensive plan for review, within 14 calendar days of its receipt in the field office. The IHA shall be notified in writing that the plan has been accepted by HUD, and that the 75-day review period is proceeding;

(3) *Time period for review.* A comprehensive plan that is accepted by HUD for review shall be considered to be approved unless HUD notifies the IHA in writing, postmarked within 75 calendar days of the date of HUD's receipt of the comprehensive plan for review, that HUD has disapproved the plan. HUD shall not disapprove a comprehensive plan on the basis that it cannot complete its review within the 75-day deadline;

(4) *Rejection of comprehensive plan.* If an IHA has submitted a comprehensive plan (including the action plan), which does not meet the requirements of paragraph (a)(1) of this section, HUD shall notify the IHA within 14 calendar days of its receipt that HUD has rejected the plan for review. In such case, HUD shall indicate the reasons for rejection, the modifications required to qualify the comprehensive plan for HUD review, and the deadline date for receipt of any modifications.

(b) *HUD approval of comprehensive plan (including action plan).* (1) A comprehensive plan (including the action plan) that is accepted by HUD for review in accordance with paragraph (a) of this section shall be considered to be approved, unless HUD notifies the IHA in writing, postmarked within 75 days of the date of HUD's receipt of the comprehensive plan for review, that HUD has disapproved the plan, indicating the reasons for disapproval, and the modifications required to make the comprehensive plan approvable. The IHA must re-submit the comprehensive plan to HUD, in accordance with the deadline established by HUD, which may allow up to 75 calendar days before the end of the FFY for HUD review. If the revised plan is disapproved by HUD following its resubmission, or the IHA fails to resubmit the plan by the deadline established by HUD, any funds that would have been allocated to the IHA shall be added to the subsequent year's appropriation of funds for grants under this subpart. HUD shall allocate such funds to IHAs and PHAs participating in the CGP in accordance with the formula under §968.103 (e) and (f). HUD shall not disapprove a comprehensive plan on the basis that the Department cannot complete its review under this section within the 75-day deadline;

(2) HUD shall approve the comprehensive plan except where it makes a determination in accordance with one or more of the following:

(i) *The comprehensive plan is incomplete in significant matters.* HUD determines that the IHA has failed to include all required information or documentation in its comprehensive plan, e.g., the physical needs assessment does not provide all of the information required by HUD concerning all of its developments; or the IHA has supplied incomplete data on the current condition and other characteristics of its developments;

(ii) *Identified needs are plainly inconsistent with facts and data.* On the basis of available significant facts and data pertaining to the physical and operational condition of the IHA's developments or the management and operations of the IHA, HUD determines that the IHA's identification of modernization needs (see §905.672(d) (2) and (3)) is plainly inconsistent with such facts and data. HUD will take into account facts and data such as those derived from recent HUD monitoring, audits, and resident comments and will disapprove a comprehensive plan based on such findings as:

(A) *Identified physical improvements and replacement are inadequate.* The completion of the identified physical improvements and replacements will not bring all of an IHA's developments to a level at least equal to the modernization and energy conservation and life-cycle cost-effective standards in §905.603 (except that a development must meet the energy conservation standards under §905.603 only when they are applicable to the work being performed);

(B) *Identified management improvements are inadequate.* The identified management and operations improvement needs do not address all of an IHA's areas of deficiency, or the completion of those improvements would not result in each area of deficiency under an IHA's management improvement plan under §905.135 being brought up to an acceptable level of performance under the ACA and the Field Office Monitoring of IHAs Handbook 7440.3; or

(C) *Proposed physical and management improvements fail to address identified needs.* The proposed physical and management improvements in the action plan are not related to the identified needs in the needs assessments portion of the comprehensive plan, e.g., a heating plant renovation is in the action plan, but it was not included in the needs assessment for that development.

(iii) *Action plan is plainly inappropriate to meeting identified needs.* On the basis of the comprehensive plan, HUD determines that the action plan (see § 905.672(d)(5)) is plainly inappropriate to meet the needs identified in the comprehensive plan, e.g., the proposed work item will not correct the need identified in the needs assessment. HUD will take into account the availability of funds. In addition, HUD will take into account whether the action plan fails to address work items that are needed to correct known emergency conditions or which are otherwise needed to meet statutory or other legally mandated requirements, as identified by the IHA in its comprehensive plan;

(iv) *Inadequate demonstration of long-term viability at reasonable cost.* HUD determines that the IHA has failed to demonstrate that completion of improvements and replacements identified in the comprehensive plan, as required by § 905.672(d) (2) and (3), will reasonably ensure long-term viability of one or more Indian housing developments to which they relate at a reasonable cost, as required by § 905.672(d)(4);

(v) *Contradiction of local government statement or IHA resolution.* HUD has evidence which tends to challenge, in a substantial manner, the appropriate governing body's statement or IHA resolution contained in the comprehensive plan, as required in § 905.672(d) (6) and (7). Such evidence may include, but is not necessarily limited to:

(A) Evidence that the IHA failed to implement the Partnership Process and to meet the requirements for resident participation, as set forth in § 905.672(b). In such cases, HUD shall review the IHA's resident participation process and any supporting documentation to determine whether the standards for participation under § 905.672(b) were met;

(B) With respect to an IHA established under state law and determined to be subject to the requirements of title VI of the Civil Rights Act of 1964 and the Fair Housing Act, HUD shall also consider as such evidence the following:

(*1*) A pending proceeding against the IHA based upon a charge of discrimination pursuant to the Fair Housing Act. (For purposes of this provision, "a charge of discrimination" means a charge, pursuant to Section 810(g)(2) of the Fair Housing Act, issued by the HUD General Counsel, or his or her legally authorized designee);

(*2*) A pending civil rights suit against the IHA instituted by the Department of Justice;

(*3*) Outstanding HUD findings of IHA noncompliance with civil rights statutes and executive orders under § 905.120, or implementing regulations, as a result of formal administrative proceedings, unless the IHA is implementing a HUD-approved resident selection and assignment plan or compliance agreement designed to correct the area(s) of noncompliance;

(*4*) A deferral of the processing of applications from the IHA imposed by HUD under title VI of the Civil Rights Act of 1964, the Attorney General's Guidelines (28 CFR 50.3) and the HUD title VI regulations (24 CFR 1.8) and procedures (HUD Handbook 8040.1), or under section 504 of the Rehabilitation Act of 1973 and HUD section 504 regulations (24 CFR 8.57). (Copies of HUD Handbook 8040.1 may be obtained by writing to the HUD Regional Office of Indian Programs within the applicant's jurisdiction.); or

(*5*) An adjudication of a violation under any of the authorities under § 905.120(a) in a civil action filed against the IHA by a private individual, unless the IHA is implementing a HUD-approved resident selection and assignment plan or compliance agreement designed to correct the area(s) of noncompliance.

(c) *Effect of HUD approval of comprehensive plan.* After HUD approves the comprehensive plan (including the action plan), or any amendments to the plan, it shall be binding upon HUD and the IHA, until such time as the IHA submits, and HUD approves, an amendment to its plan. If HUD determines as a result of an audit or monitoring findings that an IHA has provided false or substantially inaccurate data in its comprehensive plan, HUD may condition the receipt of assistance, in accordance with § 905.678(d). Moreover, in accordance with 18 U.S.C. 1001, any individual or entity who knowingly and willingly makes or uses a document or writing containing any false, fictitious or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

§ 905.678 Annual statement of activities and expenditures.

(a) *General.* HUD shall notify IHAs in writing of their estimated formula amount for use in developing the annual statement and an update of the five-year action plan. The annual statement is the first year of the five-year rolling base action plan, and is intended to provide a more detailed discussion of the activities, obligations and expenditures which the IHA plans to undertake, in whole or in part, with the assistance to be provided by HUD. Thus, the annual statement provides HUD, the residents, and the public with greater detail concerning the planned utilization of current year funds, than the remaining years covered by the action plan. An IHA may elect to submit an annual statement which covers up to a two-year period, to enable the IHA to shift work items within the two years of its approved annual statement. Such an IHA is still required to submit a new annual statement every year.

(b) *Submission.* After being advised by HUD of the estimated formula amount of assistance it will receive under this subpart with respect to any FFY, and estimating how much funding will be available from other sources, such as State and tribal governments, the IHA shall submit an annual statement of activities and expenditures and an update of the action plan, in accordance with instructions provided by HUD.

(c) *Acceptance for review.* Since the annual statement constitutes the first year (or, if so elected by an IHA, any period up to two years) of an IHA's rolling base action plan under § 905.672(d)(4), the IHA shall submit its annual statement to HUD at the same time that it submits its amendment to the action plan under § 905.672. Upon receipt of an annual statement from an IHA, HUD shall determine whether:

(1) It is complete in all significant matters; and

(2) The IHA has submitted any additional information or assurances required as a result of HUD monitoring, findings of inadequate IHA performance, audit findings, and civil rights compliance findings. If the IHA has submitted a complete annual statement and all required information and assurances, HUD will accept the statement for review, as of the date of receipt. If the IHA has not submitted all required material, HUD will promptly notify the IHA that it has disapproved the statement as submitted, indicating the reasons for disapproval, the modifications required to qualify the annual statement of HUD review, and the date by which such modifications must be received by HUD.

(d) *Resident and local government participation.* An IHA is required to develop its annual statement, including any proposed amendments to its comprehensive plan as provided in § 905.672(d), in consultation with officials of the appropriate governing body (or, in the case of an IHA with developments in multiple jurisdictions, in consultation with the CEO of each such jurisdiction or with an advisory group representative of all jurisdictions) and with residents of the developments covered by the comprehensive plan, as follows:

(1) *Notification.* The IHA will undertake reasonable efforts to provide advance written notice to each of the residents in the affected housing development(s) and to officials of the appropriate governing body, of the date and time of the public hearing under paragraph (d)(3) of this section. In addition, the IHA shall undertake reasonable efforts to provide advance written notice (in the form of flyers, advertisements, etc.) to all residents of the affected housing development(s) by means of advertisements or flyers of any other meetings which the IHA intends to hold, including the meeting with resident groups under paragraph (d)(2) of this section;

(2) *Meeting with resident groups.* The IHA shall hold, at least three weeks before the public hearing under paragraph (d)(3) of this section, a meeting with residents and resident groups at which the IHA will provide residents with information concerning the contents of the IHA's annual statement (and any proposed amendments to the IHA's comprehensive plan to be submitted with the annual statement) so that residents can comment adequately at the public hearing on the contents of the

annual statement and any proposed amendments;

(3) *Public hearing.* The IHA shall hold a public hearing which allows residents of the developments covered by the comprehensive plan, democratically elected resident groups, officials of the appropriate governing body, and other interested parties, an opportunity to summarize their priorities and concerns. The IHA shall give full consideration to the comments and concerns of residents of the affected developments and officials of the appropriate governing body in developing its annual statement, or any amendments to its comprehensive plan (including its updated action plan).

(e) *Contents of annual statement.* The annual statement must include, for each development (or on an IHA-wide basis for management improvements) for which work is to be funded out of that year's grant:

(1) A list of development accounts (e.g., "dwelling structures") with a general description of work items (e.g., "replace kitchen cabinets," "repair bathroom floors");

(2) The cost for each work item, as well as a summary of cost by development account;

(3) The IHA-wide or development-specific management improvements to be undertaken during the year;

(4) For each development and for or any management improvements not covered by a HUD-approved management improvement plan, a schedule for the use of current year funds, including target dates for the obligation and expenditure of the funds. In general, HUD expects that an IHA will obligate its current year's allocation of CGP funds (except for its funded replacement reserves) within two years, and expend such funds within three years, of the date of HUD approval, unless longer time-frames are approved by HUD due to local differences;

(5) A summary description of the actions to be taken with non-CGP funds to meet physical and management improvement needs which have been identified by the IHA in its needs assessments;

(6) Any documentation that HUD needs to assist it in carrying out its responsibilities under the National Environmental Policy Act and other related authorities in accordance with § 905.120 (a) and (b);

(7) Other information, as specified, by HUD, and as approved by OMB under the Paperwork Reduction Act; and

(8) An IHA resolution approving the annual statement or any amendments thereto, as set forth in § 905.672(d)(7).

(f) *Additional submissions with annual statement.* An IHA must submit with the annual statement any amendments to the comprehensive plan, as set forth in §905.672(e), and such additional information as may be prescribed by HUD. HUD shall review any proposed amendments to the comprehensive plan in accordance with the review standards under § 905.675(b).

(g) *HUD review and approval of annual statement.*—(1) *General.* An annual statement accepted in accordance with paragraph (a) of this section shall be considered to be approved, unless HUD notifies the IHA in writing, postmarked within 75 calendar days of the date that HUD accepts the annual statement for review under paragraph (c) of this section, that HUD has disapproved the annual statement, indicating the reasons for disapproval, the modifications required to make the annual statement approvable, and the date by which such modifications must be received by HUD. HUD shall not disapprove an annual statement on the basis that the Department cannot complete its review under this section within the 75-day deadline;

(2) *Bases for disapproval of annual statement.* HUD shall approve the annual statement, except where:

(i) *Plainly inconsistent with comprehensive plan.* HUD determines that the activities and expenditures proposed in the annual statement are plainly inconsistent with the IHA's approved comprehensive plan;

(ii) *Contradiction of IHA resolution.* HUD has evidence which tends to challenge, in a substantial manner, the certifications contained in the board resolution, as required by § 905.672(d)(7).

(h) *Amendments to annual statement.* The IHA shall submit to HUD for prior approval any major changes, as defined in § 905.102, except in the case of emergency work. Major changes shall be submitted in the form of an amendment to the IHA's approved annual statement. The IHA shall advise HUD of all changes due to emergencies in its performance and evaluation report submitted under § 905.684. HUD shall review a request to amend an annual statement in accordance with paragraph (f)(2) of this section. Any changes with respect to work items involving cumulatively less than 10% of an IHA's annual grant allocation do not require prior HUD approval, so long as the work is covered under the IHA's action plan. An IHA that has elected to submit an annual statement which covers up to a two year period may undertake without submitting an amendment for prior HUD approval the work items contained in either the first or second year of its annual statement. Such rescheduling of activities is not considered a major change.

(i) *Extension of time for performance.* An IHA may revise the target dates for fund obligation and expenditure in the approved annual statement whenever any valid delay outside the IHA's control occurs, as specified by HUD. Such revision is subject to HUD review and approval under § 905.687(a)(2) as to the IHA's continuing capacity. HUD shall not review as to an IHA's continuing capacity any revisions to an IHA's comprehensive plan and related statements caused by HUD's failure to provide the amount of assistance set forth in the annual statement, or to provide such assistance in a timely manner.

(j) *ACC Amendment.* After HUD approval of each year's annual statement, HUD and the IHA shall enter into an ACC amendment to obtain modernization funds.

§ 905.681 Conduct of modernization activities.

(a) *Initiation of activities.* After HUD has approved the annual statement and entered into an ACC amendment or grant agreement with the IHA, the IHA shall undertake the modernization activities and expenditures set forth in its approved annual statement, subject to the following requirements:

(1) The IHA may undertake the activities using force account or contract labor, including contracting with an RMC. If the entirety of modernization activity (including the planning and architectural design of the rehabilitation) is administered by an RMC, the IHA shall not retain for any administrative or other reason, any portion of the CGP funds provided, unless the IHA and the RMC provide otherwise by contract; and

(2) All activities shall be monitored by resident groups within the framework and intent of the Partnership Process.

(b) *Fund requisitions.* To request modernization funds against the approved annual statement, the IHA shall submit a request to HUD in accordance with requirements to be prescribed by HUD.

(c) *Contracting requirements.* The IHA shall comply with the wage rate requirements in § 905.120. In addition, the IHA shall comply with the requirements, as set forth in subpart B of this part, except as follows:

(1) *Assurance of completion.* For each construction or equipment contract over $25,000, the contractors shall furnish a

performance and payment bond for 100 percent of the contract price or, notwithstanding 24 CFR 85.36(h) and § 905.170, a 20 percent cash escrow, or a 25 percent letter of credit or, as may be required by law, separate performance and payments bonds, each for 50 percent or more of the contract price;

(2) *Previous participation.* The IHA shall obtain HUD clearance under previous participation procedures for construction or equipment contract awards, over a HUD-specified amount, which shall include verifying that the contractor is not included on the Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs.

(d) *Assurance of non-duplication.* The IHA shall ensure that there is no duplication between the activities carried out pursuant to the CGP, and activities carried out with other funds.

(e) *Fiscal closeout of a comprehensive grant.* Upon expenditure by an IHA of all funds, or termination by HUD of the activities funded by each annual grant, the IHA shall submit the actual modernization cost certificate, in a form prescribed by HUD, to HUD for review, audit verification, and approval. The audit shall follow the guidelines prescribed by 24 CFR part 44, Non-Federal Government Audit Requirements. If the audited modernization cost certificate discloses unauthorized expenditures, the IHA shall take such corrective actions as HUD may direct.

§ 905.684 IHA performance and evaluation report.

(a) *Submission.* For any FFY in which an IHA has received assistance under this subpart, the IHA shall submit a performance and evaluation report, in a form and at a time to be prescribed by HUD, describing its use of assistance in accordance with the approved annual statement. The IHA must make reasonable efforts to notify residents and officials of the appropriate governing body of the availability of the draft report, make copies available to residents in the development office, and provide residents with at least 30 calendar days in which to comment on the report.

(b) *Content.* The report shall include the following:

(1) An explanation of how the IHA has used other funds, such as Community Development Block Grant program assistance, State or tribal assistance, and private funding, for the needs identified in the IHA's comprehensive plan and for the purposes of this subpart;

(2) An explanation of how the IHA has used the CGP funds to address the needs identified in its comprehensive plan and to carry out the activities identified in its approved annual statement, and shall specifically address:

(i) Any funds used for emergency needs not set forth in its annual statement; and

(ii) Any deviations within the 10% cap for "major changes" to the annual statement under § 905.678;

(3) In the case of an IHA that has elected to submit an annual statement which covers up to a two-year period, any deviations in the order of work presented between years one and two of the approved annual statement;

(4) The results of the IHA's process for consulting with residents on the implementation of the plan;

(5) The current status of the IHA's obligations and expenditures and specifying how the IHA is performing with respect to the implementation schedules provided in its approved annual statement, and an explanation of any necessary revisions to the planned target dates;

(6) A summary of resident, tribal or local government comments received on the report; and

(7) A resolution by the IHA Board of Commissioners approving the performance and evaluation report and containing a certification that the IHA has made reasonable efforts to notify residents in the development(s) of the opportunity to review the draft report and to comment on it before its submission to HUD, and that copies of the report were provided to residents in the development office, upon their request.

§ 905.687 HUD review of IHA performance.

(a) *HUD determination.* At least annually, HUD shall carry out such reviews of the performance of each IHA as may be necessary or appropriate to make the determinations required by this paragraph, taking into consideration all available evidence.

(1) *Conformity with comprehensive plan.* HUD will determine whether the IHA has carried out its activities under this subpart in a timely manner and in accordance with its comprehensive plan:

(i) In making this determination, HUD will review the IHA's performance to determine whether the modernization activities undertaken during the period under review conform substantially to the activities specified in the approved annual statement, consistent with the approved comprehensive plan. HUD will also review an IHA's schedules which are provided with its annual statement for purposes of determining whether the IHA has carried out its modernization activities in a timely manner;

(ii) HUD will review an IHA's performance to determine whether the activities carried out comply with the requirements of the Act, including the requirement that the work carried out meets the modernization and energy conservation standards in § 905.603, this part, and other applicable laws and regulations.

(2) *Continuing capacity.* HUD will determine whether the IHA has a continuing capacity to carry out its comprehensive plan in a timely manner. After the first full operational year of CGP, CIAP experience will not be taken into consideration except where the IHA has not yet had comparable experience under the CGP.

(i) The primary factors to be considered in arriving at a determination that a recipient has a continuing capacity are those described in paragraphs (a)(1) and (a)(3) of this section as they relate to carrying out the comprehensive plan. HUD generally will consider an IHA to have a continuing capacity if it determines that the IHA has:

(A) Carried out its activities under the CGP program, as well as the CIAP, in a timely manner, taking into account the level of funding available and whether the IHA obligates and expends approved modernization funds in accordance with the approved implementation schedule, (except in circumstances beyond the IHA's control);

(B) Adequately inspected the funded modernization to assure that the physical work is being carried out in accordance with the plans and specifications and the modernization and energy conservation standards (or, in the case of an IHA's performance under CIAP, whether the IHA has carried out the physical work in accordance with the HUD-approved budget and in conformance with the modernization and energy conservation standards) and that any HUD monitoring findings relating to the quality of the physical work have been, or are being, resolved);

(C) Established and maintained internal controls for its modernization program in accordance with HUD requirements for financial management and accounting, as determined by the fiscal audit;

(D) Administered its modernization contracts in accordance with a HUD-approved procurement policy, which meets the requirements of 24 CFR 85.36(a) and § 905.160;

(E) Carried out its activities in accordance with its comprehensive plan and HUD requirements; and

(F) Has satisfied, or made reasonable progress toward satisfying, the performance standards prescribed in paragraph (a)(3) of this section as they relate to activities under the CGP program;

(ii) HUD will give particular attention to IHA efforts to accelerate the progress of the program and to prevent the recurrence of past deficiencies or noncompliance with applicable laws and regulations.

(3) *Reasonable progress.* HUD shall determine whether the IHA has satisfied, or has made reasonable progress towards satisfying, the following performance standards:

(i) With respect to the physical condition of each development, whether the work items being carried out by the IHA are in conformity with the modernization and energy conservation standards in § 905.603, and whether the IHA has brought, or is making reasonable progress toward bringing, all of its developments to these standards, in accordance with its physical needs assessment; and

(ii) With respect to the management condition of the IHA, whether the IHA is making reasonable progress in implementing the work items necessary to eliminate the deficiencies identified in its management needs assessment.

(b) *Notice of deficiency.* Based on HUD reviews of IHA performance and findings of any of the deficiencies in paragraph (d) of this section, HUD may issue to the IHA a notice of deficiency, stating the specific program requirements which the IHA has violated and requesting the IHA to take any of the actions in paragraph (e) of this section.

(c) *Corrective action order.* (1) Based on HUD reviews of IHA performance and findings of any of the deficiencies in paragraph (d) of this section, HUD may issue to the IHA a corrective action order, whether or not a notice of deficiency has previously been issued in regard to the specific deficiency on which the corrective action order is based. HUD may order corrective action at any time by notifying the IHA of the specific program requirements which the IHA has violated, and specifying that any of the corrective actions listed in section (e) must be taken. HUD shall design corrective action to prevent a continuation of the deficiency, mitigate any adverse effects of the deficiency to the extent possible, or prevent a recurrence of the same or similar deficiencies;

(2) Before ordering corrective action, HUD will notify the IHA and give it an opportunity to consult with HUD regarding the proposed action;

(3) Any corrective action ordered by HUD shall become a condition of the grant agreement; and

(4) If HUD orders corrective action by an IHA in accordance with this section, the IHA's Board of Commissioners must notify affected residents of HUD's determination, the bases for the determination, the conditioning requirements imposed under this paragraph, and the consequences to the IHA if it fails to comply with HUD's requirements.

(d) *Basis for corrective action.* HUD may order an IHA to take corrective action only if HUD determines:

(1) The IHA has not submitted a performance and evaluation report, in accordance with § 905.684;

(2) The IHA has not carried out its activities under the CGP program in a timely manner and in accordance with its comprehensive plan or HUD requirements, as described in paragraph (a)(1) of this section;

(3) The IHA does not have a continuing capacity to carry out its comprehensive plan in a timely manner or in accordance with its comprehensive plan or HUD requirements, as described in paragraph (a)(2) of this section;

(4) The IHA has not satisfied, or has not made reasonable progress towards satisfying, the performance standards specified in paragraph (a)(3) of this section;

(5) An audit conducted in accordance with 24 CFR part 44 and § 905.120, or pursuant to other HUD reviews (including monitoring findings) reveals deficiencies that HUD reasonably believes require corrective action;

(6) The IHA has failed to repay HUD for amounts awarded under the CGP program that were improperly expended; or

(7) The IHA has been determined not to be administratively capable, in accordance with § 905.135.

(e) *Types of corrective action.* HUD may direct an IHA to take one or more of the following corrective actions:

(1) Submit additional information:

(i) Concerning the IHA's administrative, planning, budgeting, accounting, management, and evaluation functions, to determine the cause for a IHA not meeting the standards in paragraph (a)(1), (2), or (3) of this section;

(ii) Explaining any steps the IHA is taking to correct the deficiencies;

(iii) Documenting that IHA activities were not inconsistent with the IHA's annual statement or other applicable laws, regulations, or program requirements; and

(iv) Demonstrating that the IHA has a continuing capacity to carry out the comprehensive plan in a timely manner;

(2) Submit schedules for completing the work identified in its annual statement and report periodically on its progress on meeting the schedules;

(3) Notwithstanding 24 CFR 85.36(g), submit to HUD the following documents for prior approval, which may include, but are not limited to:

(i) Proposed agreement with the architect/engineer (prior to execution);

(ii) Complete construction and bid documents (prior to soliciting bids);

(iii) Proposed award of contracts, including construction and equipment contracts and management contracts; or

(iv) Proposed contract modifications prior to issuance, including modifications to construction and equipment contracts, and management contracts.

(4) Submit additional material in support of one or more of the statements, resolutions, and certifications submitted as part of the IHA's comprehensive plan, annual statement, or performance and evaluation report;

(5) Not incur financial obligations, or to suspend payments for one or more activities;

(6) Reimburse, from non-HUD sources, one or more program accounts for any amounts improperly expended;

(7) Take such other corrective actions HUD determines appropriate to correct IHA deficiencies.

(f) *Failure to take corrective action.* In cases where HUD has ordered corrective action and the PHA has failed to take the required actions within a reasonable time, as specified by HUD, HUD may take one or more of the following steps:

(1) Withhold some or all of the IHA's grant;

(2) Declare a breach of the ACC grant amendment with respect to some or all of the IHA's functions; or

(3) Any other sanction authorized by law or regulation.

(g) *Reallocation of funds that have been withheld.* Where HUD has withheld for a prescribed period of time some or all of an IHA's annual grant, HUD may reallocate such amounts to other IHAs/PHAs under the CGP program, subject to approval in appropriations acts. The reallocation shall be made to IHAs which HUD has determined to be administratively capable under § 905.135, and to PHAs under the CGP program which are not designated as either troubled or mod troubled under the PHMAP at 24 CFR part 901, based upon the relative needs of these IHAs and PHAs, as determined under the formula at § 905.601.

(h) *Right to appeal.* Before withholding some or all of the IHA's annual grant, declaring a breach of the ACC grant amendment, or reallocating funds that have been withheld, HUD will notify the IHA and give it an opportunity, within a prescribed period of time, to present to the Assistant Secretary for Public and Indian Housing any arguments or additional facts and data concerning the proposed action.

(i) *Notification of residents.* The IHA's Board of Commissioners must notify affected residents of HUD's final determination to withhold funds, declare a breach of the ACC grant amendment, or reallocate funds, as well as the basis for, and the consequences resulting from, such a determination.

(j) *Recapture.* In addition, HUD may recapture for good cause any grant amounts previously provided to an IHA, based upon a determination that the IHA has failed to comply with the requirements of the CGP program. Before recapturing any grant amounts, HUD will notify the IHA and give it an opportunity to appeal in accordance with § 905.687(h). Any reallocation of recaptured amounts will be in accordance with § 905.687(g). The IHA's board of Commissioners must notify affected residents of HUD's final determination to recapture any funds.

5–8. Section 905.725 is amended by revising paragraph (e)(1), to read as follows:

§ 905.725 Projected operating income level.

* * * * *

(e) *IHA's estimate of income other than dwelling rental income*—(1) *Investment income.* IHAs with an estimated average cash balance of less than $20,000, excluding investment income earned from a funded replacement reserve under § 905.666(f), shall make a reasonable estimate of investment income for the Requested Budget Year. IHAs with an estimated average cash balance of $20,000 or more, excluding investment income earned from a funded replacement reserve under § 905.666(f), shall estimate interest on general fund investments based on the estimated average yield for 91-day Treasury bills for the IHA's Requested Budget Year (yield information will be provided by HUD. * * *

* * * * *

9. Section 905.950 is amended by revising the first sentence of paragraph (a) to read as follows:

§ 905.950 Operating subsidy eligibility projects owned by IHAs in Alaska.

(a) The provisions of this subpart N are applicable to the development, modernization, and operation of the Turnkey III and Turnkey IV Homeownership Opportunity Programs and the rental housing owned by the IHAs in the State of Alaska. * * *

* * * * *

PART 968—PUBLIC HOUSING MODERNIZATION

10. The authority citation for 24 CFR part 968 continues to read as follows:

Authority: Secs. 6 and 14, United States Housing Act of 1937 (42 U.S.C. 1437d, 1437*l*); (sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

§ 968.230 [Redesignated as § 968.102]

11. Section 968.101 is revised, § 968.230 is redesignated as § 968.102, paragraph (a) as redesignated § 968.102 is revised, and a new § 968.103 is added, to read as follows:

§ 968.101 Purpose and applicability.

(a) *Purpose.* Section 14 of the Act established the Public Housing Modernization program, authorizing HUD to provide financial assistance to public housing agencies (PHAs) to improve the physical condition and upgrade the management and operation of existing public housing developments, to assure that such developments continue to be available to serve low income families. These physical and management improvements are authorized under sections 5(c) and 14(b)(2) of the Act, pursuant to the funding method prescribed under section 14(k) of the Act. This part prescribes the requirements and procedures for the Public Housing Modernization program.

(b) *Applicability.* (1) Subpart A of this part applies to all modernization under this part. Subpart B of this part sets forth the requirements and procedures for the Comprehensive Improvement Assistance program (CIAP) for PHAs that own or operate fewer than 500 public housing units (fewer than 250 units beginning in FFY 1993). The PHA that qualifies for participation in the CGP is not eligible to participate in the CIAP. Subpart C of this part sets forth the requirements and procedures for the Comprehensive Grant program (CGP) for PHAs that own or operate 500 or more public housing units (250 or more units beginning in FFY 1993). The PHA that qualifies for participation in the CGP is not eligible to participate in the CIAP. Modernization of housing owned or operated by Indian housing authorities (IHAs) is covered by 24 CFR part 905. For purposes of the 500 or more unit threshold for participation in the CGP (250 or more units beginning in FFY 1993), and for the formula allocation under § 968.103, an existing rental and section 23 bond-financed unit under the ACC shall count as one unit; and a unit under the Turnkey III program shall count as one-fourth of a unit. A unit under the Mutual Help program shall count as one unit. A PHA that has already qualified to participate in the CGP because it owns or operates 500 or more units (250 or more units beginning in FFY 1993), may elect to continue to participate in the CGP so long as it owns or operates at least 200 units;

(2) This part applies to PHA-owned low income public housing developments (including developments managed by a resident management corporation pursuant to a contract with the PHA); conveyed Lanham Act and Public Works Administration (PWA) developments; and to Section 23 Leased Housing Bond-Financed developments. This part also applies to the implementation of modernization program which were approved before FFY 1992. Rental developments which are planned for conversion to homeownership under sections 5(h), 21, or 301 of the Act, but which have not yet been sold by a PHA, continue to qualify for assistance under this part. This part does not apply to developments under the Section 23 Leased Housing Non-Bond Financed program, the Section 10(c) Leased program, or the Section 23 or Section 8 Housing Assistance Payments programs.

(c) *Transition.* Any amount that HUD has obligated to a PHA under the CIAP must be used for the purposes for which the funding was provided, or for purposes consistent with an approved action plan submitted by the PHA under the CGP, as the PHA determines to be appropriate.

§ 968.102 Special requirements for Turnkey III developments.

(a) Promptly after HUD approval of the application, each homebuyer family shall execute an amendment to its Homebuyer Agreement, reflecting an increase in the purchase price of its home and an extension of the amortization period in accordance with paragraphs (b) and (c) of this section, except for:

(1) Eligible homeownership costs, as set forth in §§ 968.205(f)(1) and 968.310(d)(1); and

(2) Special purpose modernization of a vacant or non-homebuyer occupied Turnkey III unit pursuant to § 968.205(f)(2), or the substantial rehabilitation of a vacant or non-homebuyer occupied Turnkey III pursuant to § 968.310(d)(3).

* * * * *

§ 968.103 Allocation of funds under section 14.

(a) *General.* This section describes the process for allocating modernization funds to the aggregate of PHAs and IHAs participating in the CIAP (i.e., agencies that own or operate fewer than 500 units, or fewer than 250 units beginning in FFY 1993), and to individual PHAs and IHAs participating in the CGP (i.e., agencies that own or operate 500 or more units, or 250 or more units beginning in FFY 1993). The program requirements governing IHA participation in the CIAP and CGP are contained in 24 CFR part 905 (subpart I).

(b) *Set-aside for disasters and emergencies for CGP agencies.* For each FFY, HUD shall reserve from amounts approved in the appropriations act for grants under this part, $75 million (which shall include unused reserve amounts carried over from previous FFYs), which shall be made available to PHAs under 24 CFR part 968 (subpart C) and to IHAs with 500 or more units (250 or more units beginning in FFY 1993) under 24 CFR part 905 (subpart I), for modernization needs resulting from natural and other disasters, and from emergencies. HUD shall replenish this reserve at the beginning of each FFY so that it always begins with a $75 million balance. Any unused funds from previous years will remain in the reserve until allocated. The requirements governing the reserve for disasters and emergencies, and the procedures by which a PHA may request such funds, are set forth in § 968.312.

(c) *Set-aside for credits for mod troubled PHAs under subpart C of this part*—(1) *General.* After deducting amounts for the reserve for natural and other disasters and for emergencies under paragraph (b) of this section, HUD shall set aside no more than five percent of the remaining amount for the purpose of providing credits to PHAs that were formerly designated as mod troubled agencies under the Public Housing Management Assessment Program (PHMAP) (see 24 CFR part 901). The purpose of this set-aside is to compensate such PHAs for amounts not allocated by HUD because of their prior designation as a mod troubled agency;

(2) *Non-applicability to IHAs.* Since the PHMAP performance indicators under 24 CFR part 901 do not apply to IHAs, these agencies cannot be deemed "mod troubled" for purposes of the CGP. Hence, IHAs are not subject to any reduction in funding under section 14(k)(5)(a) of the Act, nor do they participate in the set-aside of credits established under paragraph (c)(1) of this section.

(d) *Formula allocation based on relative needs.* After determining the amounts to be reserved under paragraphs (b) and (c) of this section, HUD shall allocate the amount remaining pursuant to the formula set forth in paragraphs (e) and (f) of this section, which is designed to measure the relative backlog and accrual needs of PHAs and IHAs.[1]

(e) *Allocation for backlog needs.* HUD shall allocate half of the formula amount under paragraph (d) of this section based on the relative backlog needs of PHAs and IHAs, as follows:

(1) *Determination of backlog need:*

(i) *Statistically reliable data.* Where HUD determines that the data concerning the categories of backlog need identified under paragraph (e)(4) of this section are statistically reliable for individual IHAs and PHAs with 500 or more units (250 or more units beginning in FFY 1993), or the aggregate of IHAs and PHAs with fewer than 500 units (fewer than 250 units beginning in FFY 1993), not participating in the formula funding portion of the modernization program, it will base its allocation on direct estimates of the statutory categories of backlog need, based on the most recently available, statistically reliable data;

(ii) *Statistically reliable data are unavailable.* Where HUD determines that statistically reliable data concerning the categories of backlog need identified under paragraph (e)(4) of this section are not available for individual PHAs and IHAs with 500 or more units (250 or more units beginning in FFY 1993), it will base its allocation of funds under this section on estimates of the categories of backlog need using:

(A) The most recently available data on the categories of backlog need under paragraph (e)(4) of this section;

(B) Objectively measurable data concerning the following PHA or IHA, community and development characteristics:

(*1*) The average number of bedrooms in the units in a development. (Weighted at 2858.7);

(*2*) The proportion of units in a development available for occupancy by very large families. (Weighted at 7295.7);

(*3*) The extent to which units for families are in high-rise elevator developments. (Weighted at 5555.8);

(*4*) The age of the developments, as determined by the DOFA date (date of full availability). In the case of acquired developments, HUD will use the DOFA date unless the PHA provides HUD with the actual date of construction, in which case HUD will use the actual date of construction (or, for scattered sites, the average dates of construction of all the buildings), subject to a 50 year cap. (Weighted at 206.5);

(*5*) In the case of a large agency, the number of units with 2 or more bedrooms. (Weighted at .433);

(*6*) The cost of rehabilitating property in the area. (Weighted at 27544.3);

(*7*) For family developments, the extent of population decline in the unit of general local government determined on the basis of the 1970 and 1980 censuses. (Weighted at 759.5);

(C) An equation constant of 1412.9.

(2) *Calibration of backlog need for developments constructed prior to 1985.* The estimated backlog need, as determined under either paragraphs (e)(1)(i) or (e)(1)(ii) of this section, shall be adjusted upward for developments constructed prior to 1985 by a constant ratio of 1.5 to more accurately reflect the costs of modernizing the categories of backlog need under paragraph (e)(4) of this section for the public housing stock as of 1991.

(3) *Deduction for prior modernization:* HUD shall deduct from the estimated backlog need, as determined under either paragraphs (e)(1)(i) or (e)(1)(ii) of this section, amounts previously provided to a PHA or IHA for modernization, using one of the following methods:

(i) *Standard deduction for prior CIAP and MROP.* HUD shall deduct 60 percent of the CIAP funds made available on a PHA-wide or IHA-wide basis from FFY 1984 to 1991, and 40 percent of the funds made available on a development-specific basis for the Major Reconstruction of Obsolete Projects (MROP) (not to exceed the estimated formula need for the development), subject to a maximum fifty percent deduction of a PHA's or IHA's total need for backlog funding;

(ii) *Newly constructed units.* Units with a DOFA date of October 1, 1991 or thereafter will be considered to have a zero backlog; or

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[1] In construing all terms used in the statutory indicators for estimating backlog and accrual need, HUD shall use the meanings cited in Appendix B of the HUD Report to the Congress on Alternative Methods for Funding Public Housing Modernization (April 1990). Copies of the HUD Report to Congress may be obtained by contacting the HUD User at 1-800-245-2691.

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(iii) *Acquired developments.* Developments acquired by a PHA with a DOFA date of October 1, 1991 or thereafter will be considered by HUD to have a zero backlog.

(4) *Categories of backing need.* The most recently available data used under either paragraphs (e)(1)(i) or (e)(1)(ii) of this section must pertain to the following categories of backlog need:

(i) Backlog of needed repairs and replacements of existing physical systems in public housing developments;

(ii) Items that must be added to developments to meet HUD's modernization standards under § 968.115, and State and local codes; and

(iii) Items that are necessary or highly desirable for the long-term viability of a development, in accordance with HUD's modernization standards.

(f) *Allocation for accrual needs.* HUD shall allocate the other half remaining under the formula allocation under paragraph (d) of this section based upon the relative accrual needs of PHAs and IHAs, determined as follows:

(1) *Statistically reliable data.* Where HUD determines that statistically reliable data are available concerning the categories of need identified under paragraph (f)(3) of this section for individual PHAs and IHAs with 500 or more units (250 or more units beginning in FFY 1993), and for the aggregate of PHAs and IHAs with fewer than 500 units (fewer than 250 units beginning in FFY 1993), it shall base its allocation of assistance under this section on the needs that are estimated to have accrued since the date of the last objective measurement of backlog needs under paragraph (e)(1)(i) of this section;

(2) *Statistically reliable data are unavailable.* Where HUD determines that statistically reliable data concerning the categories of need identified under paragraph (f)(3) of this section are not available for individual PHAs and IHAs with 500 or more units (250 or more units beginning in FFY 1993), it shall base its allocation of assistance under this section on estimates of accrued need using:

(i) The most recently available data on the categories of backlog need under paragraph (f)(3) of this section;

(ii) Objectively measurable data concerning the following PHA or IHA, community, and development characteristics:

(A) The average number of bedrooms in the units in a development. (Weighted at 100.1);

(B) The proportion of units in a development available for occupancy by very large families. (Weighted at 356.7);

(C) The age of the developments. (Weighted 10.4);

(D) The extent to which the buildings in developments of an agency average fewer than 5 units. (Weighted at 67.1);

(E) The cost of rehabilitating property in the area. (Weighted at 679.1);

(F) The total number of units of each PHA or IHA that owns or operates 500 or more units (250 or more units beginning in FFY 1993). (Weighted at .0144);

(iii) An equation constant of 602.1.

(3) *Categories of need.* The data to be provided under either paragraph (f)(1) or (2) of this section must pertain to the following categories of need:

(i) Backlog of needed repairs and replacements of existing physical systems in public housing developments; and

(ii) Items that must be added to developments to meet HUD's modernization standards under § 968.115, and State and local codes.

(g) *Allocation of CIAP.* The formula amount determined under paragraphs (e) and (f) of this section for PHAs and IHAs with fewer than 500 units (fewer than 250 units beginning in FFY 1993) shall be allocated to PHAs in accordance with the requirements of subpart B of this part (the CIAP), and to IHAs in accordance with the requirements of 24 CFR part 905 (subpart I, the CIAP).

(h) *Allocation for CGP.* The formula amount determined under paragraphs (e) and (f) of this section for PHAs with 500 or more units (250 or more units beginning in FFY 1993) shall be allocated in accordance with the requirements of subpart C of this part (the CGP), and for IHAs in accordance with the requirements of 24 CFR part 905 (subpart I, the CGP). A PHA that is eligible to receive a grant under the CGP may appeal the amount of its formula allocation in accordance with the requirements set forth in § 968.315(b)(2). A PHA which is eligible to receive modernization funds under the CGP because it owns or operates 500 or more units (250 or more units beginning in FFY 1993), is disqualified from receiving assistance under the CIAP under this part.

(i) *Use of formula allocation.* Any amounts allocated to a PHA under paragraphs (e) and (f) of this section may be used for any eligible activity under this part, notwithstanding that the allocation amount is determined by allocating half based on the relative backlog needs and half based on the relative accrual needs of PHAs and IHAs.

(j) *Calculation of number of units.* For purposes of determining under this section the number of units owned or operated by a PHA or IHA, and the relative modernization needs of PHAs and IHAs, HUD shall count as one unit each existing rental and section 23 bond-financed unit under the ACC, except that it shall count as one-fourth of a unit each existing unit under the Turnkey III program. In addition, HUD shall count as one unit each existing unit under the Mutual Help program.

(k) *Demolition, disposition and conversion of units*—(1) *General.* Where an existing unit under an ACC is demolished, disposed of, or converted into a larger or smaller unit, including the substantial rehabilitation of a Mutual Help or Turnkey III unit, HUD shall not adjust the amount the PHA or IHA receives under the formula, unless more than one percent of the units are affected on a cumulative basis. Where more than one percent of the existing units are demolished, disposed of, or converted, HUD shall reduce the formula amount for the PHA or IHA over a 3-year period to reflect removal of the units from the ACC;

(2) *Determination of one percent cap.* In determining whether more than one percent of the units are affected on a cumulative basis, HUD will compare the units eligible for funding in the initial year under formula funding with the number of units eligible for funding for formula funding purposes for the current year, and shall base its calculations on the following:

(i) New units which are added to a PHA's or IHA's inventory (or increases resulting from the conversion of existing units) will be added to the overall unit count so long as they are covered by an ACC amendment as of the first day of the FFY in which the formula is being run. Any increase in ACC units as of the beginning of the FFY, including increases as a result of conversion, shall result in an adjacent upwards in the number of units under the formula. New units added to the ACC after this date will be counted for formula purposes as of the following FFY;

(ii) Units which are lost as a result of demolition, disposition or conversion shall not be offset against units subsequently added to a PHA's or IHA's inventory;

(iii) For purposes of calculating the number of converted units, HUD shall regard the converted size of the unit as the appropriate unit count (e.g., a unit that originally was counted as one unit under paragraph (j) of this section, but which later was converted into two units, shall be counted as two units under the ACC).

(3) *Phased-in reduction of units.* (i) *Reduction less than one percent.* If HUD determines that the reduction in units

under paragraph (k)(2) of this section is less than one percent, the PHA or IHA will be funded as though no change had occurred;

(ii) *Reduction greater than one percent.* If HUD determines that the reduction in units under paragraph (k)(2) of this section is greater than one percent, the number of units on which formula funding is based will be the number of units reported as eligible for funding for the current program, plus two thirds of the difference between the initial year and the current year in the first year, plus one third of the difference in the second year, and at the level of the current year in the third year;

(iii) *Exception.* A unit which is conveyed under the Mutual Help or Turnkey III program will result in an automatic (rather than a phased-in) reduction in the unit count.

(4) *Subsequent reductions in unit count.* (i) Once a PHA's or IHA's unit count has been fully reduced under paragraph (k)(3)(ii) of this section to reflect the new number of units under the ACC, this new number of units will serve as the base for purposes of calculating whether there has been a one percent reduction in units on a cumulative basis;

(ii) A reduction in formula funding, based upon additional reductions to the number of a PHA's or IHA's units, will also be phased in over a three-year period, as described in paragraph (k)(2) of this section.

12. Section 968.105 is amended by adding the following new definitions, to read as follows:

§ 968.105 Definitions.

* * * * *

Development. The term "development" has the same meaning as that provided for "low-income housing project," as that term is defined in section 3(b)(1) of the Act.

* * * * *

Force account labor. Labor employed directly by the PHA on either a permanent or a temporary basis. Under Section 107(d) of the ACC, use of force account labor requires prior HUD approval.

Hard costs. The physical improvement costs in development accounts 1450 through 1475 of the Low-Rent Housing Accounting Handbook 7510.1, as revised, which include: Account 1450 Site Improvements; Account 1460 Dwelling Structures; Account 1465.1 Dwelling Equipment—Nonexpendable; Account 1470 Nondwelling Structures; and Account 1475 Nondwelling Equipment.

* * * * *

Modernization funds. Funds derived from an allocation of budget authority for the purpose of funding physical and management improvements.

Non-routine maintenance. Work items that ordinarily would be performed on a regular basis in the course of upkeep of property, but have become substantial in scope because they have been put off, and involve expenditures that would otherwise materially distort the level trend of maintenance expenses. Replacement of equipment and materials rendered unsatisfactory because of normal wear and tear by items of substantially the same kind does qualify, but reconstruction, substantial improvement in the quality or kind of original equipment and materials, or remodeling that alters the nature or type of housing units does not qualify.

* * * * *

Soft costs. The non-physical improvement costs which exclude any costs in development accounts 1450 through 1475.

13. Section 968.110 is amended by adding a new paragraph (m) to read as follows:

§ 968.110 Other program requirements.

* * * * *

(m) *Coastal barriers.* In accordance with the Coastal Barriers Resources Act, 16 U.S.C. 3501, no financial assistance under this part may be made available within the Coastal Barrier Resources System.

14. Section 968.115 is amended by revising paragraphs (a) and (b), to read, as follows:

§ 968.115 Modernization and energy conservation standards.

(a) All improvements funded under this part, which may include alterations, betterments, additions, replacements, or non-routine maintenance, shall meet the HUD modernization standards described in paragraph (b) of this section and to comply with lead-based paint testing and abatement requirements in § 968.110(k) and established to provide decent, safe, and sanitary living conditions in PHA-owned and PHA-operated public housing. All improvements funded under this part shall meet the HUD-energy conservation standards for cost-effective energy conservation measures in such developments, described in paragraphs (c) and (d) of this section.

(b) The modernization standards are comprised of both mandatory and development-specific standards. The mandatory standards are intended to provide decent, safe, and sanitary living conditions in public housing, including corrections of violations of basic health and safety codes, and to address all deficiencies, including those related to deferred maintenance. The development-specific standards permit a PHA to undertake improvements that are necessary or highly desirable for the long-term physical and social viability of a development, which include site and building security. The modernization standards are contained in HUD Handbook 7485.2, as revised, Public and Indian Housing Modernization Standard, and in other documents cited in the Handbook. (Copies of the handbook may be obtained from the PHA's local HUD field office.)

* * * * *

15. The heading of subpart B of part 968 is revised to read as follows:

Subpart B—Comprehensive Improvement Assistance Program (For PHAs That Own or Operate Fewer Than 500 Public Housing Units) (Fewer than 250 Units Beginning in FFY 1993)

16. Section 968.201 is revised to read as follows:

§ 968.201 Purpose.

The purpose of this subpart is to set forth the policies and procedures for the CIAP under which PHAs that own or operate fewer than a total of 500 units of public housing (fewer than 250 units beginning in FFY 1993) receive financial assistance for the modernization of public housing developments, including comprehensive, emergency, homeownership, lead-based paint, and special purpose modernization. Funding for this program is provided under section 5(c) of the Act, pursuant to section 14(k) of the Act (see § 968.103 for the formula allocation process for the aggregate of CIAP agencies under this subpart).

17. Section 968.203 is amended by revising the introductory text, and by adding a new paragraph (6), to the definition of "special purpose modernization," and by removing the word "and" at the end of paragraph (4) and by revising the period at the end of paragraph (5) to read "; and", to read as follows:

§ 968.203 Definitions.

* * * * *

Special purpose modernization. A modernization program for a development that is limited to any one or more of the following types of physical and management

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improvements otherwise eligible for CIAP funding under this part, subject to a HUD determination that the physical improvements are necessary and sufficient to extend substantially the useful life of the development, beyond that which it would have if such improvements were not made (examples cited in each category are for illustration only):

* * * * *

(6) *Special purpose management modernization.* Management improvements for Mutual Help, Turnkey III and rental developments.

* * * * *

18. Section 968.205 is amended by revising the introductory text of paragraph (b)(1), by revising paragraph (b)(1)(i), by adding a new paragraph (b)(3), and by revising paragraph (f), to read as follows:

§ 968.205 Eligible costs.

* * * * *

(b) *Management improvement costs*—(1) *Eligibility.* Management improvements that are development-specific or PHA-wide in nature are eligible costs only under special purpose management modernization under paragraph (b)(3) of this section, or under comprehensive modernization, subject to all of the following conditions:

(i) The management improvements are necessary to correct identified management problems and to sustain the physical improvements at the development to be comprehensively modernized, or pursuant to special purpose modernization, as set forth in this section;

* * * * *

(3) *Special purpose management modernization.* Special purpose management improvements are eligible modernization costs under the category of special purpose modernization, if they address needs which are not otherwise eligible for assistance under paragraph (b)(1) of this section.

* * * * *

(f) *Turnkey III developments*—(1) *General.* Eligible physical improvement costs for existing Turnkey III developments are limited to work items which are not the responsibility of the homebuyer families and which are related to health and safety, correction of development deficiencies, physical accessibility, energy audits and cost-effective energy conservation measures, and lead-based paint testing and abatement. In addition, management improvements are eligible modernization costs for existing Turnkey III developments under § 968.205(b)(3). Nonroutine maintenance or replacements, additions, and items that are the responsibility of the homebuyer families are ineligible modernization costs for homeownership developments. The cost of health and safety work items shall increase the purchase price and amortization period for homebuyer families; other eligible costs shall not increase the purchase price and amortization period;

(2) *Exception for vacant or non-homebuyer-occupied Turnkey III units.* Notwithstanding the requirements of paragraph (f)(1) of this section, a PHA may carry out special purpose modernization in a Turnkey III development whenever a Turnkey III unit becomes vacant or is occupied by a non-homebuyer family. A PHA that intends to use funds under this paragraph must identify in its application the estimated number of units that the PHA is proposing for special purpose modernization and subsequent sale. In addition, the PHA must demonstrate in its application that: the proposed modernization under this paragraph would result in bringing the identified units into full compliance with the homeownership objectives under the Turnkey III program (see 24 CFR part 904); and the PHA has homebuyers who are both eligible for homeownership, in accordance with the requirements of 24 CFR part 904, and who have demonstrated their intent to be placed into each of the Turnkey III units proposed for special purpose modernization. Before a PHA may be approved for the special purpose modernization of a unit under this paragraph, it must first deplete any Earned Home Payments Account (EHPA) or Non-Routine Maintenance Reserve (NRMR) pertaining to the unit, and request the maximum amount of operating subsidy. Any increase in the value of a unit caused by its special purpose modernization under this paragraph shall be reflected solely by its subsequent appraised value, and not by an automatic increase in its selling price.

* * * * *

19. Section 968.210 is amended by removing paragraph (e)(3), by redesignating paragraph (e)(4) as paragraph (e)(3), and by revising paragraphs (f), (g) introductory text and the first sentence of (g)(2), to read as follows:

§ 968.210 Procedures for obtaining approval of a modernization program.

* * * * *

(f) *Joint review.* If determined necessary by HUD, the PHA and HUD may conduct a joint review to discuss the proposed modernization program, as set forth in the application, and reach tentative agreement on the PHA needs. The joint review may include the on-site inspection of the property and resolution of the relevant issues, as prescribed by HUD.

(g) *Comprehensive modernization.* HUD will fund proposed comprehensive modernization in one stage, or, on an exception basis, in more than one stage, subject to future fund availability. Grounds for exception include a PHA's lack of modernization or management capability (which necessitates multistage funding).

* * * * *

(2) *Multi-stage funding.* Under multi-stage funding, the total amount of modernization funds for all required physical and management improvements at the project shall be approved in the fewest number of stages that are feasible, over several different FFYs. * * *

* * * * *

20. Section 968.236 is revised to read as follows:

§ 968.236 Additional limitations for special purpose modernization.

(a) For each of the three types of special purpose modernization relating to major equipment systems or structural elements, security, and reduction of vacant, substandard units, a PHA may obtain special purpose modernization funding only once for a development that has not been comprehensively modernized, except as provided in § 968.205(f)(2) for the special purpose modernization of vacant or non-homebuyer occupied Turnkey III units. Subsequent funding for the same development for any additional physical improvements of these types may be provided only as a part of a program that addresses all of the physical and management improvement needs of the development under a comprehensive modernization program. This limitation does not apply to a development that has been comprehensively modernized.

(b) Special purpose modernization to reduce the number of vacant, substandard units will be limited to physical improvements that are necessary to meet local code requirements and return such units to a condition that is comparable to the condition of occupied units in the same development, except as provided in § 968.205(f)(2).

21. In part 968, a new Subpart C is added to read as follows:

Subpart C—Comprehensive Grant Program (For PHAs That Own or Operate 500 or More Public Housing Units) (250 or More Units Beginning in FFY 1993)

Sec.
968.301 Purpose.
968.305 Definitions.
968.310 Eligible costs.
968.312 Reserve for emergencies and disasters.
968.315 Allocation of assistance for troubled and non-troubled PHAs
968.320 Comprehensive plan (including action plan).
968.325 HUD review and approval of comprehensive plan (including action plan).
968.330 Annual statement of activities and expenditures.
968.335 Conduct of modernization activities.
968.340 PHA performance and evaluation report.
968.345 HUD review of PHA performance.

Subpart C—Comprehensive Grant Program (For PHAs That Own or Operate 500 or More Public Housing Units) (250 or More Units Beginning in FFY 1993)

§ 968.301 Purpose.

(a) The purpose of the Comprehensive Grant program (CGP) under this subpart is:

(1) To provide modernization assistance to PHAs that own or operate a total of 500 or more units of public housing (250 or more units beginning in FFY 1993) on a reliable and more predictable basis to enable them to operate, upgrade, modernize, and rehabilitate public housing developments, to ensure their continued availability for low income families as decent, safe, and sanitary rental housing at affordable rents;

(2) To provide considerable discretion to PHAs to decide the specific improvements, the manner of their execution, and the timing of the expenditure of funds;

(3) To simplify significantly the program of Federal assistance for capital improvements in public housing developments;

(4) To provide increased opportunities and incentives for more efficient management of public housing developments; and

(5) To give PHAs greater control in planning and expending funds for modernization, rehabilitation, maintenance, and improvement of public housing developments to benefit low income families.

(b) The purpose of this subpart is to set forth the policies and procedures for the CGP under which PHAs that own or operate a total of 500 or more units of public housing (250 or more units beginning in FFY 1993) receive financial assistance on a formula grant basis in accordance with § 968.103 (e) and (f) for the modernization of public housing developments.

§ 968.305 Definitions.

In addition to the definitions in § 968.105, the following definitions apply to this subpart:

Action plan. A plan of the actions to be funded by a PHA over a period of five years (including a PHA's proposed allocation of its modernization funds to a reserve established under § 968.310(a)(3)) to make the necessary physical and management improvements identified in the PHA's comprehensive plan. The plan shall be based upon HUD's and the PHA's best estimates of the funding reasonably expected to become available under the next five-year period. The action plan is updated annually to reflect a rolling five-year base. (See § 968.320(d)(5).)

Annual statement. A statement submitted annually by a PHA to HUD of the activities and related costs it expects to fund with the annual grant. A PHA may also elect to submit an annual statement covering work proposed for up to a two-year period so that it can increase its flexibility in carrying out work items during the coming year. (See § 968.330.)

Chief executive officer (CEO). The CEO of a unit of general local government means the elected official or the legally designated official, who has the primary responsibility for the conduct of that entity's governmental affairs. Examples of the CEO of a unit of general local government are: the elected mayor of a municipality; the elected county executive of a county; the chairperson of a county commission or board in a county that has no elected county executive; or the official designated pursuant to law by the governing body of a unit of general local government (e.g., city manager).

Comprehensive grant number. A grant number which is unique to each annual statement, covering the improvements to one or more existing public housing developments.

Comprehensive plan. A plan prepared by a PHA and approved by HUD setting forth all of the physical and management improvement needs of the PHA and its public housing developments, indicating the relative urgency of needs and which includes the PHA's action plan, cost estimates, and required local government and PHA certifications. The comprehensive plan may be revised, as necessary, but must be revised at least every sixth year. (See § 968.320(d).)

Emergency work. Physical work items of an emergency nature, posing an immediate threat to the health or safety of residents, which must be completed within one year of CGP funding. Management improvements are not eligible as emergency work and, therefore, must be covered by the comprehensive plan (including the action plan) before the PHA may carry them out.

Homebuyer agreement. A Turnkey III Homebuyer Ownership Opportunity Agreement or a Mutual Help and Occupancy Agreement.

Improvement plan. A document developed by the PHA and approved by HUD specifying the actions to be taken, including timetables, to correct deficiencies identified as a result of an assessment, either under PHMAP or pursuant to HUD monitoring or audit findings.

Major changes. Major changes means additions, deletions or modifications of work items cumulatively totaling 10 percent or more of a PHA's annual grant allocation, excluding emergencies. Major changes require prior HUD approval. Any changes with respect to work items cumulatively totaling less than 10 percent of a PHA's annual grant allocation, excluding emergencies, do not require prior HUD approval, so long as the work is covered under the PHA's action plan. (See § 968.330(h).)

Memorandum of Agreement (MOA). A binding contractual agreement between HUD and a troubled PHA, or a mod troubled PHA, which is designed to bring about significant, expeditious and long-lasting improvements in the PHA's management of its PHA-owned units. A MOA is required for each PHA designated as troubled or mod troubled.

Partnership Process. A specific and ongoing process that is designed to ensure that residents and the PHA work in a cooperative and collaborative manner to develop, implement and monitor the CGP. At a minimum, the PHA shall ensure that this Partnership Process incorporates full resident participation in each of the required program components.

PHMAP. The Public Housing Management Assessment Program (PHMAP) is a process designed to allow HUD and the PHA to identify PHA management capabilities and deficiencies, and to lead to overall better management of the public housing program, in accordance with 24 CFR part 901.

Resident groups. Democratically elected resident groups such as PHA-wide resident groups, area-wide resident groups, single development resident groups, or RMCs.

Substantial rehabilitation. A modernization program for a development which provides for all physical and management improvements needed to meet the modernization and energy conservation standards and to ensure its long-term physical and social viability.

§ 968.310 Eligible costs.

(a) *General.* A PHA may use financial assistance received under this subpart for the following eligible costs:

(1) Undertaking activities described in its approved action plan under § 968.320(d)(5), and its annual statement under § 968.330;

(2) Carrying out emergency work, whether or not the need is indicated in the PHA's approved comprehensive plan (including the action plan) or annual statement;

(3) Funding a replacement reserve to carry out eligible activities in future years, subject to the restrictions set forth in paragraph (g) of this section;

(4) Preparing the comprehensive plan and action plan under § 968.320, including reasonable costs necessary to assist residents to participate in a meaningful way in the planning, implementation and monitoring process; and

(5) Carrying out an audit, in accordance with 24 CFR part 44 and § 968.110(i).

(b) *Demonstration of viability.* Except in the case of emergency work, a PHA shall only expend funds on a development for which the PHA has demonstrated that completion of the improvements and replacements identified in the comprehensive plan will reasonably ensure the long-term physical and social viability of the development at a reasonable cost.

(c) *Physical improvement costs.* Eligible costs include alterations, betterments, additions, replacements, and non-routine maintenance that are necessary to meet the modernization and energy conservation standards prescribed in § 968.115. These mandatory standards may be exceeded only when the PHA determines that it is necessary or highly desirable for the long-term physical and social viability of the individual development. If demolition or disposition is proposed, the PHA shall comply with 24 CFR part 970.

(d) *Costs for Turnkey III developments*—(1) *General.* Eligible physical improvement costs for existing Turnkey III developments are limited to work items which are not the responsibility of the homebuyer families and which are related to health and safety, correction of development deficiencies, physical accessibility, energy audits and cost-effective energy conservation measures, and lead-based paint testing and abatement. In addition, management improvements are eligible modernization costs for existing Turnkey III developments. Costs of health and safety work items shall increase the purchase price and amortization period for homebuyer families; other eligible costs shall not increase the purchase price and amortization period;

(2) *Ineligible costs.* Nonroutine maintenance or replacements, additions, and items that are the responsibility of the homebuyer families are ineligible costs;

(3) *Exception for vacant or non-homebuyer-occupied Turnkey III units.* (i) Notwithstanding the requirements of paragraph (d)(1) of this section, a PHA may substantially rehabilitate a Turnkey III unit whenever the unit becomes vacant or is occupied by a non-homebuyer family. A PHA that intends to use funds under this paragraph must identify in its needs assessment the estimated number of units that the PHA is proposing for substantial rehabilitation and subsequent sale. In addition, a PHA must demonstrate in its needs assessment that: the proposed modernization under this paragraph would result in bringing the identified units into full compliance with the homeownership objectives under the Turnkey III program (see 24 CFR part 904); and the PHA has homebuyers who are both eligible for homeownership, in accordance with the requirements of 24 CFR part 904, and who have demonstrated their intent to be placed into each of the Turnkey III units proposed to be substantially rehabilitated;

(ii) Before a PHA may be approved for the substantial rehabilitation of a unit under this paragraph, it must first deplete any Earned Home Payments Account (EHPA) or Non-Routine Maintenance Reserve (NRMR) pertaining to the unit, and request the maximum amount of operating subsidy. Any increase in the value caused by its substantial rehabilitation under this paragraph shall be reflected solely by its subsequent appraised value, and not by an automatic increase in its selling price;

(iii) The PHA must maintain records by unit of the work carried out under this section to permit HUD to review the extent to which Turnkey III units have been substantially rehabilitated.

(e) *Demolition and conversion costs.* Eligible costs include:

(1) Demolition of dwelling units or nondwelling facilities, where the demolition is approved by HUD under 24 CFR part 970, and related costs, such as clearing and grading the site after demolition and subsequent site improvement to benefit the remaining portion of the existing development; and

(2) Conversion of existing dwelling units to different bedroom sizes.

(f) *Replacement reserve costs.* (1) Funding a replacement reserve to carry out eligible activities in future years is an eligible cost, subject to the following restrictions:

(i) Annual CGP funds are not needed for existing needs, as identified by the PHA is its needs assessments; or

(ii) A physical improvement requires more funds than the PHA would receive under its annual formula allocation; or

(iii) A management improvement requires more funds than the PHA may use under its 10% limit for management improvements and the PHA needs to save a portion of its annual grant, in order to combine it with a portion of subsequent year(s) grants, to fund the work item;

(2) The PHA shall invest replacement reserve funds so as to generate a return equal to or greater than the average 91-day Treasury bill rate;

(3) Interest earned on funds in the replacement reserve will not be added to the PHA's income in the determination of a PHA's operating subsidy eligibility, but must be used for eligible modernization costs;

(4) To the extent that its annual formula allocation and any unobligated balances of modernization funds are not adequate to meet emergency needs, a PHA must first use its replacement reserve, where funded, to meet emergency needs, before requesting funds from the $75 million reserve. A PHA is not required to use its replacement reserve for natural and other disasters.

(g) *Management improvement costs.* Management improvements that are needed to upgrade the operation of the PHA's developments, sustain physical improvements at those developments or correct management deficiencies identified by the PHA in its comprehensive plan are eligible costs. A PHA's ongoing operating expenses, including direct provision of social services through either contract or force account labor, are ineligible management improvement costs.

(1) *Economic development activities costs.* Economic development activities such as job training, resident employment and resident businesses, for the purpose of carrying out activities

related to the eligible management and physical improvements are eligible costs, as approved by HUD. HUD encourages PHAs, to the greatest extent feasible, to hire residents as trainees or employees to carry out the modernization program under this subpart, and to contract with resident-owned businesses for modernization work;

(2) *Resident management costs.* Technical assistance to a resident council or resident management corporation (RMC), as defined in § 964.7 of this chapter, in order to determine the feasibility of the resident management entity or assist in its formation is an eligible cost;

(3) *Resident homeownership costs.* The study of the feasibility of converting rental to homeownership units, as well as the preparation of an application for conversion to homeownership, is an eligible cost.

(h) *Drug elimination costs.* Drug elimination activities involving management or physical improvements are eligible costs, as specified by HUD.

(i) *Administrative costs.* Administrative costs necessary for the planning, design, implementation and monitoring of the physical and management improvements are eligible costs and include the following:

(1) The salaries of nontechnical and technical PHA personnel assigned full-time or part-time to modernization are eligible costs only where the scope and volume of the work are beyond that which could be reasonably expected to be accomplished by such personnel in the performance of their nonmodernization duties. The PHA shall properly apportion to the appropriate program budget any direct charges for the salaries of assigned full- or part-time staff (e.g., to the CIAP, CGP or operating budgets);

(2) PHA contributions to employee benefit plans on behalf of nontechnical and technical PHA personnel are eligible costs in direct proportion to the amount of salary charged to the CGP; and

(3) Other administrative costs, such as telephone and facsimile, as specified by HUD.

(j) *Audit costs.*

(k) *Architectural/engineering and consultant fees.* Fees for planning, preparation of needs assessments and required documents, detailed design work, preparation of construction and bid documents, lead-based paint testing, etc., are eligible costs.

(l) *Relocation costs.* Relocation costs as a direct result of rehabilitation, demolition or acquisition for a CGP-funded activity are eligible costs, as required by § 968.110(g).

(m) *Cost limitations.* (1) A PHA shall not use more than a total of 10 percent of its annual grant for management improvement costs in account 1408, unless specifically approved by HUD;

(2) A PHA shall not use more than a total of 7 percent of its annual grant on administrative costs in account 1410, excluding any costs related to in-house lead-based paint testing, in-house architectural/engineering (A/E) work, or other special administrative costs required by State or local law, unless specifically approved by HUD. In the case of a PHA whose jurisdiction covers an unusually large geographic area, an additional two percent of the annual grant may be spent on costs related to travelling to the PHA's developments for CGP-related business, as specifically approved by HUD. For purposes of this paragraph, "an unusually large geographic area" is an area served by a PHA whose offices are physically separated from the majority of its developments by distances which require overnight travel and/or travel by air or other commercial carrier, e.g., a State-wide PHA with developments in multiple localities, or a regional PHA with developments in multiple counties or states; or an Alaska IHA with developments in multiple villages;

(3) Where the physical or management improvement will benefit programs other than Public Housing, such as Section 8, local renewal, etc., eligible costs are limited to the amount directly attributable to the Public Housing Program.

(n) *Ineligible costs.* A PHA (or an RMC acting on behalf of a PHA) shall not make luxury improvements, or carry out any other ineligible activities, as specified by HUD.

§ 968.312 Reserve for emergencies and disasters.

(a) *Emergencies*—(1) *Eligibility for assistance.* A PHA (including a PHA that has been designated as mod troubled under PHMAP) may obtain funds at any time, for any eligible emergency work item as defined in § 968.305, from the reserve established under § 968.103(b), except that such funds may not be provided to a PHA that has the necessary funds available from any of the following sources: from its annual formula allocation under § 968.103 (e) and (f); from other unobligated modernization funds; or from its replacement reserves under § 968.310(a)(3). A PHA is not required to have an approved comprehensive plan under § 968.320 before it can request emergency assistance from this reserve;

(2) *Procedure.* To obtain emergency funds, a PHA must submit a request, in a form to be prescribed by HUD, which demonstrates that without the requested funds from the set-aside, the PHA does not have adequate funds available to correct the conditions which present an immediate threat to the health or safety of the residents. HUD will immediately process a request for such assistance and, if it determines that the PHA's request meets the requirements under paragraph (a)(1) of this section, it shall approve the request, subject to the availability of funds in the reserve;

(3) *Repayment.* A PHA that receives assistance for its emergency needs from the reserve under § 968.103(b) must repay such assistance from its succeeding years' formula allocations, where available. To this extent, HUD shall deduct up to 50 percent of a PHA's succeeding year's formula allocation under § 968.103 (e) and (f) to repay emergency funds previously provided by HUD to the PHA. The remaining balance, if any, shall be deducted from a PHA's succeeding years' formula allocations.

(b) *Natural and other disasters*—(1) *Eligibility for assistance.* A PHA (including a PHA that has been designated as mod troubled under PHMAP) may request assistance at any time from the reserve established under § 968.103(b) for the purpose of permitting the PHA to address a natural or other disaster. To qualify for assistance, the disaster must pertain to an extraordinary event affecting only one or a few PHAs, such as an earthquake or hurricane. Any disaster declared by the President (or which HUD determines would qualify for a Presidential declaration if it were on a larger scale) qualifies for assistance under this paragraph. A PHA may receive funds from the reserve regardless of the availability of other modernization funds or reserves, but only to the extent that its needs are in excess of its insurance coverage. A PHA is not required to have an approved comprehensive plan under § 968.320 before it can request assistance from the reserve under § 968.103(b);

(2) *Procedure.* To obtain funding for natural or other disasters under § 968.103(b), a PHA must submit a request, in a form to be prescribed by HUD, which demonstrates that the PHA meets the requirements of paragraph (b)(1) of this section. HUD will immediately process a request for such assistance and, if it determines that the request meets the requirements under paragraph (b)(1) of this section, it shall

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approve the request, subject to the availability of funds in the reserve;

(3) *Repayment.* Funds provided to a PHA under § 968.103(b) for natural and other disasters shall be in the form of a grant, and are not required to be repaid.

§ 968.315 Allocation of assistance for troubled and non-troubled PHAs.

(a) *Submission of formula characteristics report*—(1) *Formula characteristics report.* In its first year of participation in the CGP, each PHA shall verify and provide data to HUD, in a form and at a time to be prescribed by HUD, concerning PHA and development characteristics so that HUD can develop the PHA's annual funding allocation under this subpart, in accordance with § 968.103 (e) and (f). If a PHA fails to submit to HUD the formula characteristics report by the prescribed deadline, HUD will use the data which it has available concerning PHA and development characteristics for purposes of calculating the PHA's formula share. After its first year of participation in the CGP, a PHA is not required to submit formula characteristics data to HUD, but is required to respond to data transmitted by HUD if there have been changes to its inventory from that previously reported, or where requested by HUD;

(2) *PHA Board Resolution.* The PHA must include with its formula characteristics report under paragraph (a)(1) of this section, a resolution adopted by the PHA Board of Commissioners approving the report, and certifying that the data contained in the formula characteristics report are accurate.

(b) *HUD notification of formula amount; appeal rights*—(1) *Estimated formula amounts.* After HUD determines a PHA's estimated formula allocations under § 968.103 (e) and (f) based upon the PHA, development and community characteristics, it shall notify the PHA of its estimated formula amount;

(2) *Appeal based upon unique circumstances.* A PHA may appeal in writing HUD's determination of its estimated formula amount within 60 calendar days of the date of HUD's determination on the basis of "unique circumstances." The PHA must indicate how it is unique, and specify the manner in which it is different from all other PHAs participating in the CGP, and provide any necessary supporting documentation. HUD shall render a written decision on a PHA's appeal under this paragraph within 60 calender days of the date of its receipt of the PHA's request for an appeal. HUD shall also publish in the **Federal Register** a description of the facts supporting any successful appeals based upon "unique" circumstances. Any adjustments to the formula allocation resulting from successful appeals under this paragraph shall be made from the subsequent years' appropriation of funds under this part;

(3) *Appeal based upon error*—(i) *Estimated formula amount.* A PHA may appeal in writing HUD's determination of its estimated formula amount within 30 calendar days of the date of HUD's determination on the basis of an error. The PHA must describe the nature of the error and provide any necessary supporting documentation. HUD shall respond to the PHA's request within 60 calendar days of the date of its receipt of the PHA's request for an appeal. If HUD determines that there are no issues in dispute, it will so inform the PHA within 60-day period. Any adjustment resulting from successful appeals shall be made from the current year's allocation of funds under this subpart. If, however, HUD determines that there are issues in dispute with respect to the appeal, HUD will so inform the PHA within the 60-day period. Any adjustment resulting from successful appeals, in this case, shall be made from the succeeding year's allocation of funds under this subpart;

(ii) *Final formula amounts.* A PHA may appeal in writing HUD's determination of its final formula amount within 30 calendar days of the date of HUD's determination on the basis of an error. The PHA must describe the nature of the error and provide any necessary supporting documentation. If HUD determines that there are no issues in dispute, it will so inform the PHA within the 60-day period. Any adjustment resulting from successful appeals shall be made from the current year's allocation of funds under this subpart, to the greatest extent feasible.

(c) *Reduced formula allocation for PHAs designated as mod troubled under PHMAP*—(1) *Notification.* After a PHA is designated as a mod troubled agency under PHMAP (24 CFR part 901), HUD shall inform the PHA that its funding may be limited under this subpart because of its designation as a mod troubled PHA. HUD shall also provide the PHA with information concerning the PHA's funding levels for CGP, CIAP and MROP for each of the preceding three FFYs for purposes of determining the PHA's reduced formula allocation, in accordance with paragraph (c)(2)(ii) of this section. In addition, HUD will provide the PHA with information on, or an estimate of, its full formula allocation under § 968.103 (e) and (f), and the amount which represents 25 percent of the difference between the average amounts provided to the PHA in each of the preceding three FFYs and its full formula allocation.

(2) *Calculation of funding for mod troubled PHAs.* HUD shall calculate the funding level for mod troubled PHAs in accordance with paragraph (c)(1) of this section in the following manner:

(i) The average of the amount that the mod troubled PHA received for modernization activities under this part, and for Major Reconstruction of Obsolete Projects (MROP), for each of the preceding three FFYs, which average shall be adjusted to take into account changes in the cost of rehabilitating property based upon the Means Construction Cost Index; plus

(ii) Twenty five percent of the difference between the amount determined under paragraph (c)(1)(i) of this section, and the amount that would have been allocated to the PHA for the FFY if it were not designated as a mod troubled PHA.

(3) *Right of appeal.* The notice under paragraph (c)(1) of this section shall also specify that a PHA may petition HUD within 30 calendar days of its receipt of HUD's notice to increase the amount of its fund allocation. HUD shall determine whether to increase the amount of assistance to be provided a PHA under this paragraph based upon the PHA's demonstrated progress in meeting goals and targets set forth in the PHA's Memorandum of Agreement (MOA) under PHMAP, and toward achieving satisfactory performance under the mod troubled indicator/standard under PHMAP. In its appeal request, a PHA must specify how it is achieving or making progress toward achieving the goals and objectives set forth in the MOA. The request must be submitted to HUD within 30 calendar days of the date of HUD's notice under this paragraph. HUD shall render a decision in writing on the PHA's request within 60 calendar days of the date of its receipt of the PHA's appeal and any supporting documentation.

(4) *Maximum alllowable allocation to mod troubled PHAs.* The maximum amount that HUD may provide to a PHA under this paragraph is the amount that would have been allocated to the PHA for the FFY if it had not been designated as a mod troubled PHA under PHMAP. Where the full formula allocation is less than the average of funding received by the PHA for modernization and MROP for each of the preceding three FFYs, the PHA will receive its full formula amount, and not its average funding level for the preceding three FFYs, plus

25 percent of the difference between that figure and its full formula amount.

(5) *Reallocation of funds withheld from mod troubled PHAs.* Any amounts which are not provided to a PHA under paragraph (c)(1) of this section because the PHA is designated as a mod troubled agency under PHMAP, shall be reallocated by HUD to other PHAs under this subpart which are not designated as either troubled or mod troubled agencies under PHMAP, and to IHAs with 500 or more units (250 or more units beginning in FFY 1993) under 24 CFR part 905 (subpart I) which have been determined to be administratively capable, in accordance with § 905.135, the ACA, and the Field Office Monitoring of IHAs Handbook. Such funds shall be reallocated in the same FFY based upon the relative needs of these PHAs and IHAs, as determined under the formula.

(6) *Credits for PHAs designated as mod troubled*—(i) *Accrual of credits.* A PHA that has received a reduced formula allocation under paragraph (c)(1) of this section because it was designated as a mod troubled agency under PHMAP may accrue credits under this paragraph, for up to three consecutive FFYs, representing the difference between:

(A) The amount the PHA would have been allocated for the FFY under § 968.103(e) and (f) if it were not designated as a mod troubled PHA under PHMAP; and

(B) The reduced funding amount actually provided to the PHA under paragraph (c)(2) of this section because it was designated as a mod troubled PHA under PHMAP.

(ii) *Failure to remove mod troubled designation.* After a three-year period during which the mod troubled PHA has accrued credits under paragraph (c)(6)(i) of this section, the credits accrued by the PHA shall be:

(A) Decreased by 10 percent of the total accumulated credits if the PHA's designation as a mod troubled agency under PHMAP is not removed before the end of the first FFY following the three-year accrual period;

(B) Decreased by an additional 20 percent of the original total accumulated credits if the PHA's designation as a mod troubled agency under PHMAP is not removed before the end of the second FFY following the three-year accrual period;

(C) Decreased by an additional 30 percent of the original total accumulated credits if the PHA's designation as a mod troubled agency under PHMAP is not removed before the end of the third FFY following the three-year accrual period; and

(D) Eliminated if the PHA's designation as a mod troubled agency under PHMAP is not removed before the end of the fourth FFY following the three-year accrual period.

(iii) *Obtaining credits.* HUD shall reserve under § 968.103(c) up to five percent of the total formula funds available for allocation in any FFY for the purpose of providing PHAs that were formerly designated as mod troubled PHAs under PHMAP with additional assistance after HUD determines that a PHA is no longer a mod troubled agency. HUD shall make the determination that a PHA is no longer a mod troubled agency based upon its achieving satisfactory performance under the mod indicator/standard that was initially used to designate the agency as mod troubled under PHMAP. The additional assistance shall be provided to the formerly mod troubled PHA in the FFY following the year in which the PHA is removed from the mod troubled list. Such assistance shall be provided to the PHA in addition to a PHA's regular formula allocation under § 968.103(e) and (f), and shall consist of:

(A) The total amount of credits accumulated by the PHA under paragraph (c)(6)(i) of this section; minus

(B) Any reductions under paragraph (c)(6)(ii) of this section to the total accumulated credits, based upon the length of time that the PHA has taken to remove its mod troubled designation; and

(C)(*1*) Adjusted by HUD to take into account the PHA's ability to expeditiously expend the accrued credit amounts. HUD shall consult with the PHA to determine the rate at which the PHA shall be provided access to its credits under this section. As a general guideline, HUD intends to provide a PHA with 10% of its accrued credits in the first year; an additional 20% of its accrued credits in the second year; an additional 30% of its accrued credits in the third year; and the remaining 40% of its accrued credits in the fourth year;

(*2*) In any FFY where formerly mod troubled PHAs are entitled to credits exceeding the five percent reserve, HUD shall apply a pro rata reduction for each formerly mod troubled PHA for such FFY. A PHA shall remain entitled to receive its outstanding balance of credits, including any credits not actually received because of such pro rata reduction, in future FFYs, depending upon the availability of funds in the set-aside under § 968.103(c).

§ 968.320 Comprehensive plan (including action plan).

(a) *Deadline for submission.* As soon as possible after modernization funds first become available for allocation under this subpart, HUD shall notify PHAs in writing of their formula amount for use in developing their comprehensive plan, including the action plan, and the deadline for submitting a comprehensive plan.

(b)(1) *Resident participation.* A PHA is required to develop, implement, monitor and annually amend portions of its comprehensive plan in consultation with residents of the developments covered by the comprehensive plan. In addition, the PHA must also consult with resident management corporations (RMCs) to the extent that an RMC manages a development covered by the comprehensive plan. The PHA, in partnership with the residents, must develop and implement a process for resident participation which ensures that residents are involved in a meaningful way in all phases of the CGP. Such involvement shall involve implementing the Partnership Process as a critical element of the CGP.

(2) *Establishment of Partnership Process.* The PHA, in partnership with the residents of the developments covered by the plan (and which may include resident leaders, resident councils, resident advisory councils/boards, and RMCs) must establish a Partnership Process to develop and implement the goals, needs, strategies and priorities identified in the comprehensive plan. After residents have organized to participate in the CGP, they may decide to establish a volunteer advisory group of experts in various professions to assist them in the CGP Partnership Process. The Partnership Process shall be designed to achieve the following:

(i) To assure that residents are fully briefed and involved in developing the content of, and monitoring the implementation of, the comprehensive plan including, but not limited to, the physical and management needs assessments, viability analysis, action plan, and annual statement. Where necessary, the PHA shall develop and implement capacity building strategies to ensure meaningful resident participation in the CGP. Such technical assistance efforts are eligible CGP costs;

(ii) To enable residents to participate, on a PHA-wide or area-wide basis, in ongoing discussions of the comprehensive plan and strategies for its implementation, and in all meetings necessary to ensure meaningful participation.

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(3) *Initial notice.* Once HUD notifies a PHA of its estimated funding level, the PHA shall, within 30 calendar days of the date of HUD's notice, provide written notice to each of the democratically elected presidents of resident organizations of the developments covered by the comprehensive plan, concerning: HUD's estimated modernization funding level; a summary of the CGP requirements; the timeframes for completion of the required CGP documents; and the requirement for resident participation in the planning, development and monitoring of modernization activities under the CGP. This information also shall be made available to residents in written form and, where feasible, within each development;

(4) *Advance meeting for resident groups.* The PHA shall hold, at least three weeks before the public hearing under paragraph (b)(5) of this section, a meeting for residents and resident groups at which the PHA shall provide residents with draft copies of the executive summary, and shall explain the components of the comprehensive plan. The PHA shall make reasonable efforts to provide advance notice to all residents of the date and time of the meeting (in the form of flyers, advertisements, etc.). Residents shall be advised prior to the meeting that the comprehensive plan shall be available for their review at specified locations within the PHA's jurisdiction. The meeting shall be open to all residents and resident groups;

(5) *Public hearing.* The PHA shall hold at least one public hearing, and any appropriate number of additional hearings, to ensure ample opportunity for residents, local government officials, and other interested parties, to express their priorities and concerns. The PHA shall make reasonable efforts to provide advance written notice to each resident of the date and time of the public hearing. The PHA shall give full consideration to the comments and concerns of residents, local government officials, and other interested parties.

(c) *Local government participation.* A PHA shall consult with appropriate local government officials with respect to the development of the comprehensive plan. In the case of a PHA with developments in multiple jurisdictions, the PHA may meet this requirement by consulting with an advisory group representative of all the jurisdictions. At a minimum, such consultation must include providing such officials with:

(1) Advance written notice of the public hearing required under paragraph (b)(5) of this section;

(2) A copy of the executive summary; and

(3) An opportunity to express their priorities and concerns to ensure due consideration in the PHA's planning process;

(d) *Contents of comprehensive plan.* The comprehensive plan shall identify all of the physical and management improvements needed for a PHA and all of its developments, and that represent needs eligible for funding under § 968.310. The plan shall also include preliminary estimates of the total cost of these improvements. The plan shall set forth general strategies for addressing the identified needs, and highlight any special strategies, such as major redesign or partial demolition of a development, that are necessary to ensure the long-term physical and social viability of the development. Each comprehensive plan shall contain the following elements:

(1) *Executive summary.* A PHA shall include as part of its comprehensive plan an Executive Summary to facilitate review and comprehension by development residents and by the public. The Executive Summary shall include:

(i) A summary of total preliminary estimated costs to address physical needs by each development and management/operations needs PHA-wide;

(ii) A statement by the PHA concerning its overall modernization strategy, and its rationale for the approach and priorities adopted in its comprehensive plan. For example, a PHA's strategy may be that it will focus its resources on addressing its vacant properties before it brings its occupied units up to the modernization standards;

(iii) A statement by the PHA of its plans for development(s) currently funded for comprehensive modernization under the CIAP; and

(iv) A specific description of the PHA's process for maximizing the level of participation by residents during the development, implementation and monitoring of the comprehensive plan, a summary of the general issues raised on the plan by resident and others during the public comment process and the PHA's response to the general issues. PHA records, such as minutes of planning meetings or resident surveys, shall be maintained in the PHA's files and made available to residents, resident organizations, and other interested parties upon request;

(2) *Physical needs assessment.* (i) *Requirements.* The physical needs assessment identifies all of the work that a PHA would need to undertake to bring each of its developments up to the modernization and energy conservation standards, as required by section 14(e)(1)(A)(ii) of the Act, to comply with lead-based paint testing and abatement requirements under § 968.110(k), and to comply with other program requirements under § 968.110. The physical needs assessment is completed without regard to the availability of funds, and shall include the following:

(A) A brief summary of the physical improvements necessary to bring each such development to a level at least equal to the modernization standards contained in HUD Handbook 7485.2 (Public and Indian Housing Modernization Standards) and to the energy conservation and life-cycle cost-effective performance standards, as required in § 968.115; and to comply with the leadbased paint testing and abatement requirements under § 968.110(k); and the relative urgency of need also must be indicated. If the PHA has no physical improvement needs at a particular development at the time it completes its comprehensive plan, it must so indicate. Similarly, if the PHA intends to demolish, partially demolish, convert, or dispose of a development (or units within a development) it must so indicate in the summary of physical improvements;

(B) The replacement needs of equipment systems and structural elements that will be required to be met (assuming routine and timely maintenance is performed) during the period covered by the action plan;

(C) A preliminary estimate of the cost to complete the physical work;

(D) Any physical disparities between buildings occupied predominantly by one racial or ethnic group and, in such cases, the physical improvements required to correct the conditions;

(E) In addition, the PHA shall provide with respect to vacant or non-home buyer-occupied Turnkey III units, the estimated number of units that the PHA is proposing for substantial rehabilitation and subsequent sale, in accordance with § 968.310(b)(2).

(ii) *Source of data.* The PHA shall identify in its needs assessment the sources from which it derived data to develop the physical needs assessment under this paragraph, and shall retain such sources documents in its files.

(3) *Management needs assessment*—(i) *Requirements.* The plan shall include a comprehensive assessment of the improvements needed to upgrade the management and operation of the PHA and of each viable development so decent, safe and sanitary living conditions will be provided. The

management needs assessment shall include the following, with the relative urgency of need indicated:

(A) An identification of the most current needs related to the following areas (to the extent that any of these needs is addressed in a HUD-approved MOA or improvement plan, the PHA may simply include a cross-reference to these documents):

(*1*) The management, financial, and accounting control systems of the PHA;

(*2*) The adequacy and qualifications of personnel employed by the PHA in its management and operation, for each significant category of employment;

(*3*) The adequacy and efficacy of:

(*i*) Resident programs and services;

(*ii*) Resident and development security;

(*iii*) Resident selection and eviction;

(*iv*) Occupancy;

(*v*) Maintenance;

(*vi*) Resident management and resident capacity building programs;

(*vii*) Resident opportunities for employment and business development and other self-sufficiency opportunities for residents; and

(*viii*) Homeownership opportunities for residents.

(B) Any additional deficiencies identified through PHMAP, audits and HUD monitoring reviews which are not addressed under paragraph (c)(3)(i)(A) of this section. To the extent that any of these is addressed in a HUD-approved MOA or improvement plan, the PHA may include a cross-reference to these documents;

(C) Any other management and operations needs which the PHA wants to address at the PHA-wide or development level; and

(D) A PHA-wide preliminary cost estimate for addressing all the needs identified in the management needs assessment, without regard to the availability of funds;

(ii) *Sources of data.* The PHA shall identify in its needs assessment the sources from which it derived data to develop the management needs assessment under this paragraph, and shall retain such source documents in its files.

(4) *Demonstration of long-term physical and social viability.*—(i) *General.* The plan shall include, on a development-by-development basis, an analysis of whether completion of the improvements and replacements identified under paragraphs (d)(2) and (d)(3) of this section will reasonably ensure the long-term physical and social viability of the development at a reasonable cost;

(ii) *Developments with hard cost of 90 percent or less of TDC.* Where the preliminary estimate of hard cost for work proposed at a development is 90 percent or less of TDC, and the PHA determines that, upon completion of the improvements and replacements under paragraphs (d)(2) and (d)(3) of this section, the development can reasonably be expected to be structurally sound and achieve full occupancy, the PHA may determine that the development has long-term physical and social viability at a reasonable cost;

(iii) *Developments with hard cost of greater than 90 percent of TDC.* Where the preliminary estimate of hard cost for work proposed at a development exceeds 90 percent of TDC, the PHA shall complete and submit to HUD, as part of its comprehensive plan, a viability analysis of the development, as prescribed by HUD. Where the PHA determines that completion of the improvements and replacements identified under paragraphs (d)(2) and (d)(3) of this section, the development can reasonably be expected to be structurally sound and achieve full occupancy, the PHA shall also submit to HUD a request to exceed the 90 percent of TDC. The Field Office shall review such requests on a case-by-case basis, in accordance with the following criteria:

(A) The PHA has adequately explained any special or unusual conditions; justified all work as necessary to meet the modernization and energy conservation standards, provided reasonable cost estimates, and made every effort to reduce costs;

(B) Rehabilitation of the existing development is more cost-effective in the long-term than construction or acquisition of replacement housing; and

(C) The PHA has no practical low-income housing alternative;

(iv) *Determination of non-viability.* Where a PHA's analysis of a development, either under paragraphs (d)(4)(ii) or (d)(4)(iii) of this section, establishes that completion of the identified improvements and replacements will not result in the long-term physical and social viability of the development at a reasonable cost, the PHA shall not expend CGP funds for the development, except for emergencies. The PHA shall specify in its comprehensive plan the actions it proposes to take with respect to the non-viable development (e.g., demolition or disposition under 24 CFR Part 970);

(5) *Five-year action plan*—(i) *General.* The comprehensive plan shall include a rolling five-year action plan to carry out the improvements and replacements (or a portion thereof) identified under paragraphs (d)(2) and (d)(3) of this section. The PHA shall develop the action plan based on estimates provided by HUD of the amount of assistance the PHA will receive annually for a five-year period under § 968.103(e) and (f) (for this purpose, the PHA should assume that the current year level of funding will be available for each year of its five-year plan), and a PHA's estimate of the funds that will be available from other sources, such as State and local governments. All activities specified in a PHA's action plan are contingent upon the availability of funds;

(ii) *Requirements.* Under the action plan, a PHA must indicate how it intends to use the funds available to it under the CGP to address the deficiencies, or a portion of the deficiencies, identified under its physical and management needs assessments, as follows:

(A) *Physical condition.* With respect to the physical condition of a PHA's developments, a PHA must indicate in its action plan how it intends to address, over a five-year period, the deficiencies (or a portion of the deficiencies) identified in its physical needs assessment so as to bring each of its developments up to a level at least equal to the modernization and energy conservation standards and the projected FFY the PHA anticipates that such standards will be met. This would include specifying the work to be undertaken by the PHA in major work categories (e.g., kitchens, electrical systems, etc.); establishing priorities among the major work categories by development and year based upon the relative urgency of need; and estimating the cost of each of the identified major work categories. In developing its action plan, a PHA shall give priority to the following:

(*1*) Activities required to correct emergency conditions;

(*2*) Activities required to meet statutory (or other legally mandated) requirements, e.g., compliance with a court-ordered desegregation plan or voluntarily compliance agreement);

(*3*) Activities required to meet the needs identified in the Section 504 needs assessment within the regulatory timeframe; and

(*4*) Activities required to complete lead-based paint testing requirements by December 6, 1994.

(B) *Management and operations.* A PHA must address in its action plan the management and operations deficiencies (or a portion of the deficiencies) identified in its management needs assessment, as follows:

(*1*) With respect to the management and operations needs of the PHA, the PHA must identify how it intends to address the CGP funds, if necessary, the deficiencies (or a portion thereof) identified in its management needs assessment, including work identified through PHMAP, audits, HUD monitoring reviews, and self-assessments (this would include establishing priorities based upon the relative urgency of need);

(*2*) A preliminary PHA-wide cost estimate, by major work category.

(iii) *Procedure for maintaining current five-year action plan.* The PHA shall maintain a current five-year action plan by annually amending its action plan, in connection with the submission of its annual statement, so that the previous year of the existing action plan is eliminated and an additional year is added.

(6) *Local government statement.* The comprehensive plan shall include a statement signed by the chief executive officer of the unit of general local government (or, in the case of a PHA with developments in multiple jurisdictions, from the CEO of each such jurisdiction; certifying as to the following:

(i) The PHA developed the comprehensive plan/annual statement in consultation with local government officials and with residents of the developments covered by the comprehensive plan/annual statement, in accordance with the requirements of § 968.320(b)(1) and (2);

(ii) The comprehensive plan/annual statement is consistent with the unit of general local government's assessment of its low income housing needs (as evidenced by its Comprehensive Housing Affordability Strategy under 24 CFR Part 91, if applicable), and that the unit of general local government will cooperate in providing resident programs and services;

(iii) The PHA's proposed drug elimination activities are coordinated with, and supportive of, local drug elimination strategies and neighborhood improvement programs, if applicable.

(*7*) *PHA resolution.* The plan shall include a resolution adopted by the PHA Board of Commissioners, and signed by the Board Chairman of the PHA, approving the comprehensive plan or any amendments thereto and certifying that:

(i) The PHA will comply with all policies, procedures, and requirements prescribed by HUD for modernization, including implementation of the modernization in a timely, efficient, and economical manner;

(ii) PHA has established controls to assure that any activity funded by the CGP is not also funded by any other HUD program, thereby preventing a duplicate funding of any activity;

(iii) The PHA will not provide to any development more assistance under the CGP than is necessary to provide affordable housing, after taking into account other government assistance provided;

(iv) The proposed physical work will meet the modernization and energy conservation standards under 24 CFR 968.115;

(v) The proposed activities, obligations and expenditures in the Annual Statement are consistent with the proposed or approved Comprehensive Plan of the PHA;

(vi) The PHA will comply with applicable civil rights requirements under 24 CFR 968.110(a), and will carry out the Comprehensive Plan in conformity with title VI of the Civil Rights Act of 1964, the Fair Housing Act, and section 504 of the Rehabilitation Act of 1973;

(vii) The PHA has adopted the goal of awarding a specified percentage of the dollar value of the total of the modernization contracts, to be awarded during subsequent FFYs, to minority business enterprises and will take appropriate affirmative action to assist resident-controlled and women's business enterprises under 24 CFR 968.110(b);

(viii) The PHA has provided HUD with any documentation that the Department needs to carry out its review under the National Environmental Policy Act (NEPA) and other related authorities in accordance with 24 CFR 968.110(c), (d) and (m) and will not obligate, in any manner, the expenditure of CGP funds, or otherwise undertake the activities identified in its Comprehensive Plan/Annual Statement, until the PHA receives written notification from HUD indicating that the Department has complied with its responsibilities under NEPA and other related authorities;

(ix) The PHA will comply with the wage rate requirements under 24 CFR 968.110(e) and (f);

(x) The PHA will comply with the relocation assistance and real property acquisition requirements under 24 CFR 968.110(g);

(xi) The PHA will comply with the requirements for physical accessibility under 24 CFR 968.110(h);

(xii) The PHA will comply with the requirements for access to records and audits under 24 CFR 968.110(i);

(xiii) The PHA will comply with the uniform administrative requirements under 24 CFR 968.110(j);

(xiv) The PHA will comply with lead-based paint testing and abatement requirements under 24 CFR 968.110(k);

(xv) The PHA has complied with the requirements governing local government and resident participation in accordance with 24 CFR 968.320(b) and (c), 968.330(d) and 968.340, and has given full consideration to the priorities and concerns of local government and residents, including any comments which were ultimately not adopted, in preparing the Comprehensive Plan/Annual Statement and any amendments thereto;

(xvi) The PHA will comply with the special requirements of 24 CFR 968.102 and 968.310(d) with respect to homeownership development; and

(xvii) The PHA will comply with the special requirements of 24 CFR 968.235 with respect to a Section 23 leased housing bond-financed development.

(e) *Amendments to the comprehensive plan*—(1) *Extension of time for performance.* A PHA shall have the right to amend its comprehensive plan (including the action plan) to extend the time for performance whenever HUD has not provided the amount of assistance set forth in the comprehensive plan or has not provided the assistance in a timely manner;

(2) *Amendments to needs assessments:* The PHA must amend its plan by revising its needs assessments whenever it proposes to carry out activities in its action plan or annual statement which are not reflected in its current needs assessment (except in the case of emergencies). When the bases for the needs assessment have substantially changed, a PHA may propose an amendment to its needs assessments, in connection with the submission of its annual statement (see § 968.330(b)), or at any other time. These amendments shall be reviewed by HUD in accordance with § 968.325;

(3) *Six-year revision of comprehensive plan.* The physical and management needs assessments, and the executive summary, are required to be revised only every sixth year, although the PHA may elect to revise some or all of these assessments more frequently. Consequently, every sixth year, a PHA must submit to HUD, with its annual statement, a complete revision of its comprehensive plan;

(4) *Annual revision of action plan.* Annually, the PHA shall submit to HUD, with its annual statement, an update of its five-year action plan, eliminating the

previous year and adding an additional year;

(5) *Required submissions.* Any amendments to the comprehensive plan under this section must be submitted with the PHA resolution under § 968.320(d)(7).

(f) *Prerequisite for receiving assistance*—(1) *Prohibition of assistance.* No financial assistance, except for emergency work to be funded under § 968.103(b) and 968.310(a)(2), and for modernization needs resulting from disasters under § 968.103(b), may be made available under this subpart unless HUD has approved a comprehensive plan submitted by the PHA which meets the requirements of § 968.320. A PHA that has failed to obtain approval of its comprehensive plan by the end of the FFY shall have its formula allocation for that year (less any formula amounts provided to the PHA for emergencies) added to the subsequent year's appropriation of funds for grants under this part. HUD shall allocate such funds to PHAs and IHAs participating in the CGP in accordance with the formula under § 968.103(e) and (f) in the subsequent FFY. A PHA which elects in any FFY not to participate in the CGP may participate in the CGP in subsequent FFYs;

(2) *Requests for emergency assistance.* A PHA may receive funds from its formula allocation to address emergency modernization needs where HUD has not approved a PHA's comprehensive plan. To request such assistance, a PHA shall submit to HUD a request for funds in such form as HUD may prescribe, including any documentation necessary to support its claim that an emergency exists. HUD shall review the request and supporting documentation to determine if it meets the definition of "emergency work" as set forth in § 968.305.

§ 968.325 HUD review and approval of comprehensive plan (including action plan).

(a) *Submission of comprehensive plan.* (1) Upon receipt of a comprehensive plan from a PHA, HUD shall determine whether:

(i) The plan contains each of the required components specified at § 968.320(d); and

(ii) Where applicable, the PHA has submitted any additional information or assurances required as a result of HUD monitoring, findings of inadequate PHA performance, audit findings, or civil rights compliance findings;

(2) *Acceptance for review.* If the PHA has submitted a comprehensive plan (including the action plan) which meets the criteria of paragraph (a)(1) of this section, HUD shall accept the comprehensive plan for review, within 14 calendar days of its receipt in the field office. The PHA shall be notified in writing that the comprehensive plan has been accepted by HUD for review, and that the 75-day review period is proceeding;

(3) *Time period for review.* A comprehensive plan that is accepted by HUD for review shall be considered to be approved unless HUD notifies the PHA in writing, postmarked within 75 calendar days of the date of HUD's receipt of the comprehensive plan for review, that HUD has disapproved the plan. HUD shall not disapprove a comprehensive plan on the basis that it cannot complete its review within the 75-day deadline;

(4) *Rejection of comprehensive plan.* If a PHA has submitted a comprehensive plan (including the action plan), which does not meet the requirements of paragraph (a)(1) of this section, HUD shall notify the PHA within 14 calendar days of its receipt that HUD has rejected the plan for review. In such case, HUD shall indicate the reasons for rejection, the modifications required to qualify the comprehensive plan for HUD review, and the deadline date for receipt of any modifications.

(b) *HUD approval of comprehensive plan (including action plan).*—(1) A comprehensive plan (including the action plan) that is accepted by HUD for review in accordance with paragraph (a) of this section shall be considered to be approved, unless HUD notifies the PHA in writing, postmarked within 75 days of the date of HUD's receipt of the comprehensive plan for review, that HUD has disapproved the plan, indicating the reasons for disapproval, and the modifications required to make the comprehensive plan approvable. The PHA must re-submit the comprehensive plan to HUD, in accordance with the deadline established by HUD, which may allow up to 75 calendar days before the end of the FFY for HUD review. If the revised plan is disapproved by HUD following its resubmission, or if the PHA fails to resubmit by the deadline established by HUD, any funds that would have been allocated to the PHA shall be added to the subsequent year's appropriation of funds for grants under this part. HUD shall allocate such funds to PHAs and IHAs participating in the CGP in accordance with the formula under § 968.103(e) and (f). HUD shall not disapprove a comprehensive plan on the basis that the Department cannot complete its review under this section within the 75-day deadline;

(2) HUD shall approve the comprehensive plan except where it makes a determination in accordance with one or more of the following:

(i) *Comprehensive plan is incomplete in significant matters.* HUD determines that the PHA has failed to include all required information or documentation in its comprehensive plan, e.g., the physical needs assessment does not provide all of the information required by HUD concerning all of its developments, or the PHA has supplied incomplete data on the current conditions and other characteristics of its developments;

(ii) *Identified needs are plainly inconsistent with facts and data.* On the basis of available significant facts and data pertaining to the physical and operational condition of the PHA's developments or the management and operations of the PHA, HUD determines that the PHA's identification of modernization needs (see § 968.320(d)(2) and (3)) is plainly inconsistent with such facts and data. HUD will take into account facts and data such as those derived from recent HUD monitoring, audits, and resident comments and will disapprove a comprehensive plan based on such findings as:

(A) *Identified physical improvements and replacements are inadequate.* The completion of the identified physical improvements and replacements will not bring all of the PHA's developments to a level at least equal to the modernization and energy conservation and life-cycle cost-effective standards in § 968.115 (except that a development must meet the energy standards under § 968.115 only when they are applicable to the work being performed);

(B) *Identified management improvements are inadequate.* The identified management and operations improvement needs do not address all of a PHA's areas of deficiency, or the completion of those improvements would not result in each of the PHMAP indicators/standards being brought up to at least a satisfactory level of performance;

(C) *Proposed physical and management improvements fail to address identified needs.* The proposed physical and management improvements in the action plan are not related to the identified needs in the needs assessments portion of the comprehensive plan, e.g., a heating plant renovation is in the action plan, but it was not included in the needs assessment for that development;

(iii) *Action plan is plainly inappropriate to meeting identified needs.* On the basis of the

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comprehensive plan, HUD determines that the action plan (see § 968.320(d)(5)) is plainly inappropriate to meet the needs identified in the comprehensive plan, e.g., the proposed work item will not correct the need identified in the needs assessment. HUD will take into account the availability of funds. In addition, HUD will take into account whether the action plan fails to address work items that are needed to correct known emergency conditions or which are otherwise needed to meet statutory or other legally mandated requirements, as identified by the PHA in its comprehensive plan;

(iv) *Inadequate demonstration of long-term viability at reasonable cost.* HUD determines that the PHA has failed to demonstrate that completion of improvements and replacements identified in the comprehensive plan, as required by § 968.320(d)(2) and (3), will reasonably ensure long-term viability of one or more public housing developments to which they relate at a reasonable cost, as specified in § 968.320(d)(4);

(v) *Contradiction of local government certification or PHA resolution.* HUD has evidence which tends to challenge, in a substantial manner, the local government certification or PHA resolution contained in the comprehensive plan, as required in § 968.320(d) (6) and (7). Such evidence may include, but is not necessarily limited to:

(A) Evidence that the PHA failed to implement the Partnership Process and to meet the requirements for resident participation, as set forth in § 968.320(b). In such cases, HUD shall review the PHA's resident participation process and any supporting documentation to determine whether the standards for resident participation under § 968.320(b)(1) were met;

(B) A pending proceeding against a PHA based upon a charge of discrimination issued pursuant to the Fair Housing Act. (For purposes of this provision, "a charge of discrimination" means a charge, pursuant to Section 810(g)(2) of the Fair Housing Act issued by the HUD General Counsel, or his or her legally authorized designee.);

(C) A pending civil rights suit against the PHA instituted by the Department of Justice;

(D) Outstanding HUD findings of PHA noncompliance with civil rights statutes and executive orders under 24 CFR 968.110, or implementing regulations, as a result of formal administrative proceedings, unless the PHA is implementing a HUD-approved resident selection and assignment plan or compliance agreement designed to correct the area(s) of noncompliance;

(E) A deferral of the processing of applications from the PHA imposed by HUD under title VI of the Civil Rights Act of 1964, the Attorney General's Guideline (28 CFR 50.3) and the HUD title VI regulations (24 CFR 1.8) and procedures (HUD Handbook 8040.1), or under section 504 of the Rehabilitation Act of 1973 and HUD section 504 regulations (24 CFR 8.57); or

(F) An adjudication of a violation under any of the authorities under 24 CFR 968.110(a) in a civil action filed against the PHA by a private individual, unless the PHA is implementing a HUD-approved resident selection and assignment plan or compliance agreement designed to correct the area(s) of noncompliance.

(c) *Effect of HUD approval of comprehensive plan.* After HUD approves the comprehensive plan (including the action plan), or any amendments to the plan, it shall be binding upon HUD and the PHA, until such time as the PHA submits, and HUD approves, an amendment to its plan. If HUD determines, as a result of an audit or monitoring findings, that a PHA has provided false or substantially inaccurate data in its comprehensive plan, HUD may condition the receipt of assistance, in accordance with § 968.345(d). Moreover, in accordance with 18 U.S.C. 1001, any person or entity who knowingly and willingly makes or uses a document or writing containing any false, fictitious or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

§ 968.330 Annual statement of activities and expenditures.

(a) *General.* HUD shall notify PHAs in writing of their estimated formula amount for use in developing the annual statement and an update of the five-year action plan. The annual statement is the first year of the five-year rolling base action plan, and is intended to provide a more detailed discussion of the activities, obligations and expenditures which the PHA plans to undertake, in whole or in part, with the assistance to be provided by HUD. Thus, the annual statement provides HUD, the residents, and the public with greater detail concerning the planned utilization of current year funds, than the remaining years covered by the action plan. A PHA may elect to submit an annual statement which covers up to a two-year period, which would enable the PHA to shift work items within the two years of its approved annual statement. Such a PHA is still required to submit a new annual statement every year.

(b) *Submission.* After being advised by HUD of the estimated formula amount of assistance it will receive under this subpart with respect to any FFY, and estimating how much funding will be available from other sources, such as State and local governments, the PHA shall submit an annual statement of activities and expenditures and an update of the action plan, in accordance with instructions provided by HUD.

(c) *Acceptance for review.* Since the annual statement constitutes the first year (or, if so elected by a PHA, any period up to two years) of a PHA's rolling base action plan under § 968.320(d)(5), the PHA shall submit its annual statement to HUD at the same time that it submits its amendment to the action plan under § 968.320. Upon receipt of an annual statement from a PHA, HUD shall determine whether:

(1) It is complete in all significant matters; and

(2) The PHA has submitted any additional information or assurances required as a result of HUD monitoring, findings of inadequate PHA performance, audit findings, or civil rights compliance findings. If the PHA has submitted a complete annual statement and all required information and assurances, HUD will accept the statement for review, as of the date of receipt. If the PHA has not submitted all required material, HUD will promptly notify the PHA that it has disapproved the statement as submitted, indicating the reasons for disapproval, the modifications required to qualify the annual statement for HUD review, and the date by which such modifications must be received by HUD.

(d) *Resident and local government participation.* A PHA is required to develop its annual statement, including any proposed amendments to its comprehensive plan as provided in § 968.320 (b) and (c), in consultation with local government officials (or, in the case of a PHA with developments in multiple jurisdictions, in consultation with the CEO of each such jurisdiction or with an advisory group representative of all jurisdictions) and with residents of the developments covered by the comprehensive plan, as follows:

(1) *Notification.* The PHA shall undertake reasonable efforts to provide advance written notice to each of the residents in the affected housing development(s), and to appropriate local government officials, of the date and time of the public hearing under

paragraph (d)(3) of this section. In addition, the PHA shall undertake reasonable efforts to provide advance written notice (in the form of flyers, advertisements, etc.) to all residents of the affected housing development(s) of any other meetings which the PHA intends to hold, including the meeting with resident groups under paragraph (d)(2) of this section;

(2) *Meeting with Resident Groups.* The PHA shall hold, at least three weeks before the public hearing under paragraph (d)(3) of this section, a meeting with residents and resident groups at which the PHA will provide residents with information concerning the contents of the PHA's annual statement (and any proposed amendments to the PHA's comprehensive plan to be submitted with the annual statement) so that residents can adequately comment on the contents of the annual statement, and any proposed amendments, at the public hearings;

(3) *Public hearing.* The PHA shall hold a public hearing which allows residents of the developments covered by the comprehensive plan, appropriate local government officials, and other interested parties, an opportunity to summarize their priorities and concerns. The PHA shall give full consideration to the comments and concerns of residents of the affected developments and of local government officials in developing its annual statement, or any amendments to its comprehensive plan (including its dated action plan).

(e) *Contents of annual statement.* The annual statement must include, for each development or on a PHA-wide basis for management improvements for which work is to be funded out of that year's grant:

(1) A list of development accounts (e.g., "dwelling structures") with a general description of work items (e.g., "replace kitchen cabinets," "repair bathroom floors");

(2) The cost for each work item, as well as a summary of cost by development account;

(3) The PHA-wide or development-specific management improvements to be undertaken during the year;

(4) For each development and for any management improvements not covered by a HUD-approved MOA or improvement plan, a schedule for the use of current year funds, including target dates for the obligation and expenditure of the funds. In general, HUD expects that a PHA will obligate its current year's allocation of CGP funds (except for its funded replacement reserves) within two years and expend such funds within three years of the date of approval from HUD, unless longer time frames are approved by HUD due to local differences;

(5) A summary description of the actions to be taken with non-CGP funds to meet physical and management improvement needs which have been identified by a PHA in its needs assessments;

(6) Any documentation that HUD needs to assist it in carrying out its responsibilities under the National Environmental Policy Act and other related authorities in accordance with § 968.110(c) and (d);

(7) Other information, as specified by HUD and as approved by OMB under the Paperwork Reduction Act; and

(8) A PHA resolution approving the annual statement or any amendments thereto, as set forth in § 968.320(d)(7).

(f) *Additional submissions with annual statement.* A PHA must submit with the annual statement any amendments to the comprehensive plan, as set forth in § 968.320(e), and such additional information as may be prescribed by HUD. HUD shall review any proposed amendments to the comprehensive plan in accordance with the review standards under § 968.325(b).

(g) *HUD review and approval of annual statement—(1) General.* An annual statement accepted in accordance with paragraph (a) of this section shall be considered to be approved, unless HUD notifies the PHA in writing, postmarked within 75 calendar days of the date that HUD receives the annual statement for review under paragraph (c) of this section, that HUD has disapproved the annual statement, indicating the reasons for disapproval, the modifications required to make the annual statement approvable, and the date by which such modifications must be received by HUD. HUD shall not disapprove an annual statement on the basis that the Department cannot complete its review under this section within the 75-day deadline;

(2) *Bases for disapproval of annual statement.* HUD shall approve the annual statement, except where:

(i) *Plainly inconsistent with comprehensive plan.* HUD determines that the activities and expenditures proposed in the annual statement are plainly inconsistent with the PHA's approved comprehensive plan;

(ii) *Contradiction of PHA resolution.* HUD has evidence which tends to challenge, in a substantial manner, the certifications contained in the board resolution, as required by § 968.320(d)(7).

(h) *Amendments to annual statement.* The PHA shall submit to HUD for prior approval any major changes, as defined in § 968.305, except in the case of emergency work. Major changes shall be submitted in the form of an amendment to the PHA's approved annual statement. The PHA shall advise HUD of all changes due to emergencies in its performance and evaluation report submitted under § 968.340. HUD shall review a request to amend an annual statement in accordance with paragraph (f)(2) of this section. Any changes with respect to work items involving cumulatively less than 10% of a PHA's annual grant allocation do not require prior HUD approval, so long as the work is covered under the PHA's action plan. A PHA that has elected to submit an annual statement which covers up to a two year period may undertake without submitting an amendment for prior HUD approval the work items contained in either the first or second year of its annual statement. Such rescheduling of activities is not considered a major change.

(i) *Extension of time for performance.* A PHA may revise the target dates for fund obligation and expenditure in the approved annual statement whenever any valid delay outside the PHA's control occurs, as specified by HUD. Such revision is subject to HUD review and approval under § 968.345(a)(2) as to the PHA's continuing capacity. HUD shall not review with respect to a PHA's continuing capacity any revisions to the comprehensive plan and related statements where the basis for the revision is that HUD has not provided the amount of assistance set forth in the annual statement, or has not provided such assistance in a timely manner.

(j) *ACC Amendment.* After HUD approval of each year's annual statement, HUD and the PHA shall enter into an ACC amendment to obtain modernization funds.

§ 968.335 Conduct of modernization activities.

(a) *Initiation of activities.* After HUD has approved the annual statement and entered into an ACC amendment or grant agreement with the PHA, the PHA shall undertake the modernization activities and expenditures set forth in its approved annual statement, subject to the following requirements:

(1) The PHA may undertake the activities using force account or contract labor, including contracting with an RMC. If the entirety of modernization activity (including the planning and architectural design of the rehabilitation) is administered by the RMC, the PHA shall not retain for any administrative or other reason, any

portion of the CGP funds provided, unless the PHA and the RMC provide otherwise by contract; and

(2) All activities shall be monitored by resident groups within the framework and intent of the Partnership Process.

(b) *Fund requisitions.* To request modernization funds against the approved annual statement, the PHA shall submit a request to HUD in accordance with to be prescribed by HUD.

(c) *Contracting requirements.* The PHA shall comply with the wage rate requirements in § § 968.110 (e) and (f), and 968.120. In addition, the PHA shall comply with State and local laws and Federal requirements, as set forth in 24 CFR part 85, except as follows:

(1) *Assurance of completion.* For each construction or equipment contract over $25,000, the contractors shall furnish a performance and payment bond for 100 percent of the contract price or, notwithstanding 24 CFR 85.36(h), a twenty percent cash escrow, or a twenty-five percent letter of credit or, as may be required by law, separate performance and payments bonds, each for fifty percent or more of the contract price;

(2) *Previous participation.* The PHA shall obtain HUD clearance under previous participation procedures for construction or equipment contract awards, over a HUD-specified amount, which shall include verifying that the contractor is not included on the Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs.

(d) *Assurance of non-duplication.* The PHA shall ensure that there is no duplication between the activities carried out pursuant to the CGP, and activities carried out with other funds.

(e) *Fiscal closeout of a comprehensive grant.* Upon expenditure by the PHA of all funds, or termination by HUD of the activities funded by each annual grant, the PHA shall submit the actual modernization cost certificate, in a form prescribed by HUD, to HUD for review, audit verification, and approval. The audit shall follow the guidelines prescribed by 24 CFR Part 44, Non-Federal Government Audit Requirements. If the audited modernization cost certificate discloses unauthorized expenditures, the PHA shall take such corrective actions as HUD may direct.

§ 968.340 PHA performance and evaluation report.

(a) *Submission.* For any FFY in which a PHA has received assistance under this subpart, the PHA shall submit a performance and evaluation report, in a form and a time to be prescribed by HUD, describing its use of assistance in accordance with the approved annual statement. The PHA must make reasonable efforts to notify residents and local government officials of the availability of the draft report, make copies available to residents in the development office, and provide residents with at least 30 calendar days in which to comment on the report.

(b) *Content.* The report shall include the following:

(1) An explanation of how the PHA has used other funds such as Community Development Block Grant program assistance, State assistance, and private funding, for the needs identified in the PHA's comprehensive plan and for the purpose of this subpart;

(2) An explanation of how the PHA has used the CGP funds provided under this subpart to address the needs identified in its comprehensive plan and to carry out the activities identified in its approved annual statement, and shall specifically address:

(i) Any funds used for emergency needs not set forth in its annual statement; and

(ii) Any deviations within the 10% cap for "major changes" to the annual statement under § 968.330;

(3) In the case of a PHA that has elected to submit an annual statement which covers up to a two-year period, any deviations in the order of work presented between years one and two of the approved annual statement;

(4) The results of the PHA's process for consulting with residents on the implementation of the plan;

(5) The current status of the PHA's obligations and expenditures, and specifying how the PHA is performing with respect to the implementation schedules provided in its approved annual statement; and an explanation of any necessary revisions to the planned target dates;

(6) A summary of resident or local government comments received on the report; and

(7) A resolution by the PHA Board of Commissioners approving the performance and evaluation report and containing a certification that the PHA has made reasonable efforts to notify residents in the development(s) of the opportunity to review the draft report and to comment on it before its submission to HUD, and that copies of the report were provided to residents in the development office, or upon their request.

§ 968.345 HUD review of PHA performance.

(a) *HUD determination.* At least annually, HUD shall carry out such reviews of the performance of each PHA as may be necessary or appropriate to make the determinations required by this paragraph, taking into consideration all available evidence.

(1) *Conformity with comprehensive plan.* HUD will determine whether the PHA has carried out its activities under this subpart in a timely manner and in accordance with its comprehensive plan.

(i) In making this determination, HUD will review the PHA's performance to determine whether the modernization activities undertaken during the period under review conform substantially to the activities specified in the approved annual statement, consistent with the approved comprehensive plan. HUD will also review a PHA's schedules which are provided with its annual statement for purposes of determining whether the PHA has carried out its modernization activities in a timely manner;

(ii) HUD will review a PHA's performance to determine whether the activities carried out comply with the requirements of the Act, including the requirement that the work carried out meets the modernization and energy conservation standards in § 968.115, this part, and other applicable laws and regulations.

(2) *Continuing capacity.* HUD will determine whether the PHA has a continuing capacity to carry out its comprehensive plan in a timely manner. After the first full operational year of CGP, CIAP experience will not be taken into consideration except where the PHA has not yet had comparable experience under the CGP.

(i) The primary factors to be considered in arriving at a determination that a recipient has a continuing capacity are those described in paragraphs (a)(1) and (a)(3) of this section as they relate to carrying out the comprehensive plan. HUD generally will consider a PHA to have a continuing capacity if it determines that the PHA has:

(A) Carried out its activities under the CGP program, as well as the CIAP, in a timely manner, taking into account the level of funding available and whether the PHA obligates and expends approved modernization funds in accordance with the approved implementation schedule (except in circumstances beyond the PHA's control);

(B) Adequately inspected the funded modernization to assure that the physical work is being carried out in accordance with the plans and specifications and the modernization and energy conservation standards (or, in the case of a PHA's performance under CIAP, whether the PHA has carried out the physical work in accordance with the HUD-approved budget and in conformance with the modernization and energy conservation standards) and that any HUD monitoring findings relating to the quality of the physical work have been, or are being, resolved);

(C) Established and maintained internal controls for its modernization program in accordance with HUD requirements for financial management and accounting, as determined by the fiscal audit;

(D) Administered its modernization contracts in accordance with a HUD-approved procurement policy, which meets the requirements of 24 CFR 85.36(a);

(E) Carried out its activities in accordance with its comprehensive plan and HUD requirements; and

(F) Has satisfied, or made reasonable progress toward satisfying, the performance standards prescribed in paragraph (a)(3) of this section as they relate to activities under the CGP program;

(ii) HUD will give particular attention to PHA efforts to accelerate the progress of the program and to prevent the recurrence of past deficiencies or noncompliance with applicable laws and regulations.

(3) *Reasonable progress.* HUD shall determine whether the PHA has satisfied, or has made reasonable progress towards satisfying, the following performance standards:

(i) With respect to the physical condition of each development, whether the work items being carried out by the PHA are in conformity with the modernization and energy conservation standards in § 968.115, and whether the PHA has brought, or is making reasonable progress toward bringing, all of its developments to these standards, in accordance with its physical needs assessment; and

(ii) With respect to the management condition of the PHA, whether the PHA has achieved, or is making reasonable progress towards implementing, the work items specified in its annual statement and five-year action plan which are designed to address deficiencies identified through PHMAP, audits, or HUD reviews.

(b) *Notice of deficiency.* Based on HUD reviews of PHA performance and findings of any of the deficiencies in paragraph (d) of this section, HUD may issue to the PHA a notice of deficiency stating the specific program requirements which the PHA has violated and requesting the PHA to take any of the actions in paragraph (e) of this section.

(c) *Corrective action order.* (1) Based on HUD reviews of PHA performance and findings of any of the deficiencies in paragraph (d) of this section, HUD may issue to the PHA a corrective action order, whether or not a notice of deficiency has previously been issued in regard to the specific deficiency on which the corrective action order is based. HUD may order corrective action at any time by notifying the PHA of the specific program requirements which the PHA has violated, and specifying that any of the corrective actions listed in paragraph (e) of this section must be taken. HUD shall design corrective action to prevent a continuation of the deficiency, mitigate any adverse effects of the deficiency to the extent possible, or prevent a recurrence of the same or similar deficiencies;

(2) Before ordering corrective action, HUD will notify the PHA and give it an opportunity to consult with HUD regarding the proposed action;

(3) Any corrective action ordered by HUD shall become a condition of the grant agreement;

(4) If HUD orders corrective action by a PHA in accordance with this section, the PHA's Board of Commissioners must notify affected residents of HUD's determination, the bases for the determination, the conditioning requirements imposed under this paragraph, and the consequences to the PHA if it fails to comply with HUD's requirements.

(d) *Basis for corrective action.* HUD may order a PHA to take corrective action only if HUD determines:

(1) The PHA has not submitted a performance and evaluation report, in accordance with § 905.684;

(2) The PHA has not carried out its activities under the CGP program in a timely manner and in accordance with its comprehensive plan or HUD requirements, as determined in paragraph (a)(1) of this section;

(3) The PHA does not have a continuing capacity to carry out its comprehensive plan in a timely manner or in accordance with its comprehensive plan or HUD requirements, as determined in paragraph (a)(2) of this section;

(4) The PHA has not satisfied, or has not made reasonable progress towards satisfying, the performance standards specified in paragraph (a)(3) of this section;

(5) An audit conducted in accordance with 24 CFR Part 44, or pursuant to other HUD reviews (including monitoring findings) reveals deficiencies that HUD reasonably believes require corrective action; or

(6) The PHA has failed to repay HUD for amounts awarded under the CGP program that were improperly expended.

(e) *Types of corrective action.* HUD may direct a PHA to take one or more of the following corrective actions:

(1) Submit additional information:

(i) Concerning the PHA's administrative, planning, budgeting, accounting, management, and evaluation functions, to determine the cause for a PHA not meeting the standards in paragraph (a)(1), (a)(2), or (a)(3) of this section;

(ii) Explaining any steps the PHA is taking to correct the deficiencies;

(iii) Documenting that PHA activities were not inconsistent with the PHA's annual statement or other applicable laws, regulations, or program requirements; and

(iv) Demonstrating that the PHA has a continuing capacity to carry out the comprehensive plan in a timely manner;

(2) Submit schedules for completing the work identified in its annual statement and report periodically on its progress on meeting the schedules;

(3) Notwithstanding 24 CFR 85.36(g), submit to HUD the following documents for prior approval, which may include, but are not limited to:

(i) Proposed agreement with the architect/engineer (prior to execution);

(ii) Complete construction and bid documents (prior to soliciting bids);

(iii) Proposed award of contracts, including construction and equipment contracts and management contracts; or

(iv) Proposed contract modifications prior to issuance, including modifications to construction and equipment contracts, and management contracts;

(4) Submit additional material in support of one or more of the statements, resolutions, and certifications submitted as part of the PHA's comprehensive plan, annual statement, or performance and evaluation report;

(5) Not incur financial obligations, or to suspend payments for one or more activities;

(6) Reimburse, from non-HUD sources, one or more program accounts for any amounts improperly expended;

(7) Take such other corrective actions HUD determines appropriate to correct PHA deficiencies.

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(f) *Failure to take corrective action.* In cases where HUD has ordered corrective action and the PHA has failed to take the required actions within a reasonable time, as specified by HUD, HUD may take one or more of the following steps;

(1) Withhold some or all of the PHA's grant;

(2) Declare a breach of the ACC grant amendment with respect to some or all of the PHA's functions; or

(3) Any other sanction authorized by law or regulation.

(g) *Reallocation of funds that have been withheld.* Where HUD has withheld for a prescribed period of time some or all of a PHA's annual grant, HUD may reallocate such amounts to other PHAs/IHAs under the CGP program, subject to approval in appropriations acts. The reallocation shall be made to IHAs which HUD has determined to be administratively capable under § 905.135, and to PHAs under the CGP program which are not designated as either troubled or mod troubled under the PHMAP at 24 CFR Part 901, based upon the relative needs of these IHAs and PHAs, as determined under the formula at § 905.601.

(h) *Right to appeal.* Before withholding some or all of the PHA's annual grant, declaring a breach of the ACC grant amendment, or reallocating funds that have been withheld, HUD will notify the PHA and give it an opportunity, within a prescribed period of time, to present to the Assistant Secretary for Public and Indian Housing any arguments or additional facts and data concerning the proposed action.

(i) *Notification of residents.* The PHA's Board of Commissioners must notify affected residents of HUD's final determination to withhold funds, declare a breach of the ACC grant amendment, or reallocate funds, as well as the basis for, and the consequences resulting from, such a determination.

(j) *Recapture.* In addition, HUD may recapture for good cause any grant amounts previously provided to an PHA, based upon a determination that the PHA has failed to comply with the requirements of the CGP program. Before recapturing any grant amounts, HUD will notify the PHA and give it an opportunity to appeal in accordance with § 968.345(h). Any reallocation of recaptured amounts will be reallocated in accordance with § 968.345(g). The PHA's board of Commissioners must notify affected residents of HUD's final determination to recapture any funds.

(k) *Cumulative remedies.* The authority to condition, withhold, reallocate or recapture a PHA's grant, as provided in this section, is in addition to the authority contained in § 968.312(c) to reduce a PHA's formula allocation based upon its designation as a mod troubled PHA.

PART 990—ANNUAL CONTRIBUTIONS FOR OPERATING SUBSIDY

22. The authority citation for part 990 is revised to read as follows:

Authority: 42 U.S.C. 1437(g) and 3535(d).

23. In § 990.109, the first and second sentence of paragraph (e)(1) is revised to read as follows:

§ 990.109 Projected operating income level.

* * * * *

(e) * * *

(1) *Investment income.* PHAs with an estimated average cash balance of less than $20,000, excluding investment income earned from a funded replacement reserve under § 968.310(g), shall make a reasonable estimate of investment income for the Requested Budget Year. PHAs with an estimated average cash balance of $20,000 or more, excluding investment income earned from a funded replacement reserve under § 968.310(g), shall estimate interest on general fund investments based on the estimated average yield for 91-day Treasury bills for the PHA's Requested Budget Year (yield information will be provided by HUD). * * *

* * * * *

24. Section 990.202 is revised to read as follows:

§ 990.202 Applicability.

The provisions of this subpart B are applicable to the development, modernization, and operation of the Turnkey III and Turnkey IV Homeownership Opportunity Programs and the housing owned by the PHAs of the Virgin Islands, Guam, Puerto Rico and Alaska.

Dated: January 28, 1992.

Joseph G. Schiff,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 92-3149 Filed 2-13-92; 8:45 am]

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Friday
February 14, 1992

Part III

Department of Housing and Urban Development

Office of the Assistant Secretary for Community Planning and Development

Federal Property Suitable as Facilities to Assist the Homeless; Notice

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-92-1917; FR-2934-N-65]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

ADDRESSES: For further information, contact James N. Forsberg, room 7262, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–4300; TDD number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 56 FR 23789 (May 24, 1991) and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD reviewed in 1991 for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property.

In accordance with 56 FR 23789, § _____.3(b) landholding agencies are required to notify HUD by December 31, 1991, the current availability status and classification of each property controlled by the Agencies that were published by HUD as suitable and available which remain available for application for use by the homeless.

Pursuant to 56 FR 23789, § _____.8(d)(e) HUD is required to publish a list of those properties reported by the Agencies and a list of suitable/unavailable properties including the reasons why they are not available.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A–10, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–2265. (This is a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications the reader is encouraged to refer to the interim rule governing this program, 56 FR 23789 (May 24, 1991).

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: U.S. Army: Robert Conte, Dept. of Army, Military Facilities, DAEN–ZCI–P; rm. 1E671, Pentagon, Washington, DC 20310–2600; (202) 693–4583; Corps of Engineers: Bob Swieconek, Army Corps of Engineers, Civilian Facilities, rm. 5138, 20 Massachusetts Ave. NW., Washington, DC 20314–1000; (202) 272–1750; Dept. of Transportation: Ronald D. Keefer, Director, Administrative Services & Property Management, DOT, 400 Seventh St. SW., room 10319, Washington, DC 20590; (202) 366–4246; Corps of Engineers: Gary B. Paterson, Chief, Base Realignment and Closure Office, Directorate of Real Estate, 20 Massachusetts Ave., NW., rm. 4133, Washington, DC 20314–1000; (202) 272–0520; U.S. Navy: John J. Kane, Deputy Division Director, Dept. of Navy, Real Estate Operations, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria VA 22332–2300; (202) 325–0474; U.S. Air Force: Bob Manke, USAF, Bolling AFB, SAF–MIIR, Washington, DC 20332–5000; (202) 767–6235; U.S. Air Force: John Carr, Realty Specialist, HQ–AFBDA/BDR, Pentagon, Washington, DC 20330–5130; (703) 693–0674; GSA: Ronald Rice, Federal Property Resources Services, GSA, 18th and F Streets NW., Washington, DC 20405; (202) 501–0067; Dept. of Veterans Affairs: Douglas Shinn, Management Analyst, Dept. of Veterans Affairs, room 414 Lafayette Bldg., 811 Vermont Ave. NW., Washington, DC 20420; (202) 233–8474; Dept. of Interior: Lola D. Knight, Property Management Specialist, Dept. of Interior, 1849 C St. NW., Mailstop 5512–MIB, Washington, DC 20240; (202) 208–4080; Dept. of Energy: Tom Knox, Realty Specialist, AD223.1, 1000 Independence Ave. SW., Washington, DC 20585; (202) 586–1191; (These are not toll-free numbers).

Dated: February 7, 1992.

Anna Kondratas,

Assistant Secretary.

TITLE V PROPERTIES REPORTED IN YEAR 91 WHICH ARE SUITABLE AND AVAILABLE

Air Force

California

Land

60 ARG/DE
Property Number: 189010169
Fed Reg Date: 11/15/91
Project Name: Travis Air Force Base
Travis ILS Outer Marker Annex
Rio-Dixon Road
Travis AFB, CA, Co: Solano, Zip: 94535–5496
Location: State Highway 113
Status: Excess.
Comment: .13 acres; most recent use—location for instrument landing systems equipment.

Buildings

Hawes Site (KHGM)
Property Number: 189010064
Fed Reg Date: 11/15/91
Project Name: Hawes Site
March AFB
Hinckley, CA, Co: San Bernardino, Zip: 92402—
Status: Unutilized
Comment: 9290 sq. ft., 2 story concrete, most recent use—radio relay station, possible asbestos, land belongs to Bureau of Land Management, potential utilities.

Bldg. 604
Property Number: 189010237
Fed Reg Date: 11/15/91
Project Name: Point Arena Air Force Station
Point Arena Air Force Station
(See County), CA, Co: Mendocino, Zip: 95468–5000
Status: Unutilized
Comment: 1232 sq. ft.; stucco-wood frame; most recent use—housing.

Bldg. 605
Property Number: 189010238
Fed Reg Date: 11/15/91
Project Name: Point Arena Air Force Station
Point Arena Air Force Station
(See County), CA, Co: Mendocino, Zip: 95468–5000
Status: Unutilized
Comment: 1232 sq. ft.; stucco-wood frame; most recent use—housing.

Bldg. 612
Property Number: 189010239
Fed Reg Date: 11/15/91
Project Name: Point Arena Air Force Station
Point Arena Air Force Station
(See County), CA, Co: Mendocino, Zip: 95468–5000
Status: Unutilized
Comment: 1232 sq. ft.; stucco-wood frame; most recent use—housing.

Bldg. 611
Property Number: 189010240
Fed Reg Date: 11/15/91
Project Name: Point Arena Air Force Station

Point Arena Air Force Station
(See County), CA, Co: Mendocino, Zip: 95468-5000
Status: Unutilized
Comment: 1232 sq. ft.; stucco-wood frame; most recent use—housing.

Bldg. 613
Property Number: 189010241
Fed Reg Date: 11/15/91
Project Name: Point Arena Air Force Station
Point Arena Air Force Station
(See County), CA, Co: Mendocino, Zip: 95468-5000
Status: Unutilized
Comment: 1232 sq. ft.; stucco-wood frame; most recent use—housing.

Bldg. 614
Property Number: 189010242
Fed Reg Date: 11/15/91
Project Name: Point Arena Air Force Station
Point Arena Air Force Station
(See County), CA, Co: Mendocino, Zip: 95648-5000
Status: Unutilized
Comment: 1232 sq. ft.; stucco-wood frame; most recent use—housing.

Bldg. 615
Property Number: 189010243
Fed Reg Date: 11/15/91
Project Name: Point Arena Air Force Station
Point Arena Air Force Station
(See County), CA, Co: Mendocino, Zip: 95468-5000
Status: Unutilized
Comment: 1232 sq. ft.; stucco-wood frame; most recent use—housing.

Bldg. 616
Property Number: 189010244
Fed Reg Date: 11/15/91
Project Name: Point Arena Air Force Station
Point Arena Air Force Station
(See County), CA, Co: Mendocino, Zip: 95468-5000
Status: Unutilized
Comment: 1232 sq. ft.; stucco-wood frame; most recent use—housing.

Bldg. 617
Property Number: 189010245
Fed Reg Date: 11/15/91
Project Name: Point Arena Air Force Station
Point Arena Air Force Station
(See County), CA, Co: Mendocino, Zip: 95468-5000
Status: Unutilized
Comment: 1232 sq. ft.; stucco-wood frame; most recent use—housing.

Bldg. 618
Property Number: 189010246
Fed Reg Date: 11/15/91
Project Name: Point Arena Air Force Station
Point Arena Air Force Station
(See County), CA, Co: Mendocino, Zip: 95468-5000
Status: Unutilized
Comment: 1232 sq. ft.; stucco-wood frame; most recent use—housing; needs rehab.

Bldg. 21180
Property Number: 189130384
Fed Reg Date: 11/15/91
Vandenberg Air Force Base
Vandenberg AFB, CA, Co: Santa Barbara, Zip: 93437–
Location: Hwy 1, Hwy 246, Coast Road, PT Sal Rd., Miguelito CYN
Status: Unutilized
Comment: 7487 sq. ft., 1 story/wood shingle structure, most recent use—contracting administrative office, needs major rehab.

Guam

Land

Annex 1
Property Number: 189010427
Fed Reg Date: 11/15/91
Project Name: Andersen Communication
Andersen Communication
Dededo, GU, Co: Guam, Zip: 96912–
Location: In the municipality of Dededo
Status: Underutilized
Comment: 862 acres; subject to utilities easements.

Annex 2, (Partial)
Property Number: 189010428
Fed Reg Date 11/15/91
Project Name: Andersen Petroleum Storage
Andersen Petroleum Storage
Dededo, GU, Co: Guam, Zip: 96912–
Location: In the municipality of Dededo
Status: Underutilized
Comment: 35 acres; subject to utilities easements.

BUILDINGS

Anderson VOR
Property Number: 189010267
Fed Reg Date: 11/15/91
Project Name: Anderson VOR
In the municipality of Dededo
Dededo, GU, Co: Guam, Zip: 96912–
Location: Access is through Route 1 and Route 3, Marine Drive
Status: Unutilized
Comment: 550 sq. ft.; 1 story perm/concrete; on 226 acres.

Anderson Radio Beacon Annex
Property Number: 189010268
Fed Reg Date: 11/15/91
Project Name: Anderson Radio Beacon Annex
In the municipality of Dededo
Dededo, GU, Co: Guam, Zip: 96912–
Location: Approximately 7.2 miles southwest of Anderson AFB proper; access is from Route 3, Marine Drive
Status: Unutilized
Comment: 480 sq. ft.; 1 story perm/concrete; on 25 acres; most recent use—radio beacon facility.

Annex No. 4
Property Number: 189010545
Fed Reg Date: 11/15/91
Project Name: Anderson Family Housing
Anderson Family Housing
Municipality of Dededo
Dededo, GU, Co: Guam, Zip: 96912–
Location: Access is through Route 1, Marine Drive
Status: Underutilized
Comment: Various sq. ft.; 1 story frame/modified quonset; on 376 acres; portions of building and land leased to Government of Guam.

Harmon VOR site (Portion) (AJKZ)
Property Number: 189120234
Fed Reg Date: 11/15/91
Dededo, GU, Co: Guam, Zip: 96912–
Location: Approx. 12 miles southwest of Anderson AFB proper
Status: Unutilized
Comment: 550 sq. ft. bldg., needs rehab on 82 acres.

Idaho

Buildings

Bldg. 121
Property Number: 189030007
Fed Reg Date: 11/15/91
Project Name: Mountain Home Air Force Base
Mountain Home Air Force Base
Main Avenue
(See County), ID, Co: Elmore, Zip: 83648–
Status: Excess
Comment: 3375 sq. ft.; 1 story wood frame; potential utilities; needs rehab; presence of asbestos; building is set on piers; most recent use—medical administration, veterinary services.

Louisiana

Buildings

Barksdale Radio Beacon Annex
Property Number: 189010269
Fed Reg Date: 11/15/91
Project Name: Barksdale Radio Beacon Annex
Barksdale Radio Beacon Annex
Curtis, LA, Co: Bossier, Zip: 71111–
Location: 7 miles south of Bossier City on highway 71 south; left 1¼ miles on highway C1552.
Status: Unutilized
Comment: 380 sq. ft.; 1 story wood/concrete; on 11.25 acres.

Michigan

Land

Calumet Air Force Station
Property Number: 189010862
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Section 1, T57N, R31W
Houghton Township
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 34 acres; potential utilities.

Calumet Air Force Station
Property Number: 189010863
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Section 31, T58N, R30W
Houghton Township
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 3.78 acres; potential utilities.

Buildings

Bldg. 21
Property Number: 189010776
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 2146 sq. ft.; 1 floor; concrete block; potential utilities; possible asbestos; most recent use—storage.

Bldg. 22
Property Number: 189010777
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess

Comment: 1546 sq. ft.; 1 floor; concrete block; potential utilities; possible asbestos; most recent use—administrative facility.

Bldg. 30
Property Number: 189010779
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 2593 sq. ft.; 1 floor; concrete block; possible asbestos; potential utilities; most recent use—communications transmitter building.

Bldg. 40
Property Number: 189010780
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 2069 sq. ft.; 2 floor; concrete block; possible asbestos; potential utilities; most recent use—administrative facility.

Bldg. 41
Property Number: 189010781
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 2069 sq. ft.; 1 floor; concrete block; potential utilities; possible asbestos; most recent use—dormitory.

Bldg. 42
Property Number: 189010782
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 4017 sq. ft.; 1 floor; concrete block; potential utilities; possible asbestos; most recent use—dining hall.

Bldg. 43
Property Number: 189010783
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 3674 sq. ft.; 2 story; concrete block; potential utilities; possible asbestos; most recent use—dormitory.

Bldg. 44
Property Number: 189010784
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 7216 sq. ft.; 2 story; concrete block; possible asbestos; potential utilities; most recent use—dormitory.

Bldg. 45
Property Number: 189010785
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 6070 sq. ft.; 2 story; concrete block; potential utilities; possible asbestos; most recent use—administrative.

Bldg. 46
Property Number: 189010786
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 5898 sq. ft.; 2 story; concrete block; potential utilities; possible asbestos; most recent use—visiting personnel housing.

Bldg. 47
Property Number: 189010787
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 83 sq. ft.; 1 story; concrete block; potential utilities; possible asbestos; most recent use—storage.

Bldg. 48
Property Number: 189010788
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 96 sq. ft.; 1 story; concrete block; potential utilities; possible asbestos; most recent use—storage.

Bldg. 49
Property Number: 189010789
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1944 sq. ft.; 1 story; concrete block; potential utilities; possible asbestos; most recent use—dormitory.

Bldg. 50
Property Number: 189010790
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 6171 sq. ft.; 1 story; concrete block; potential utilities; possible asbestos; most recent use—Fire Department vehicle parking building.

Bldg. 51
Property Number: 189010791
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1134 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 52
Property Number: 189010792
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1134 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 53
Property Number: 189010793
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1134 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 54
Property Number: 189010794
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1134 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 55
Property Number: 189010795
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1134 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 56
Property Number: 189010796
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1134 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 57
Property Number: 189010797
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1134 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 58
Property Number: 189010798
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1134 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 59
Property Number: 189010799
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1134 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 60
Property Number: 189010800
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1134 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 61
Property Number: 189010801
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1134 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 62
Property Number: 189010802
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1134 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 63
Property Number: 189010803
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1306 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 64
Property Number: 189010804
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1306 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 65
Property Number: 189010805
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1306 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 66
Property Number: 189010806
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1306 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 67
Property Number: 189010807
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1306 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 68
Property Number: 189010808
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1478 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 70
Property Number: 189010809
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1394 sq. ft.; 1 story concrete block; possible asbestos; most recent use—youth center.

Bldg. 72
Property Number: 189010811
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 73
Property Number: 189010812
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 74
Property Number 189010813
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 75
Property Number 189010814
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 76
Property Number 189010815
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 77
Property Number 189010816
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 78
Property Number 189010817
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 79
Property Number 189010818
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 80
Property Number 189010819
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 81
Property Number 189010820
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 82
Property Number 189010821
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 83
Property Number 189010822
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 84
Property Number 189010823
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; possible utilities; possible asbestos.

Bldg. 85
Property Number 189010824
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 86
Property Number 189010825
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 87
Property Number 189010826
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 88
Property Number 189010827
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 89
Property Number 189010828
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1168 sq. ft.; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 97
Property Number 189010829
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 171 sq. ft; 1 floor; potential utilities; most recent use—pump house.

Bldg. 98
Property Number 189010830
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 114 sq. ft.; 1 floor potential utilities; most recent use—pump house.

Bldg. 14
Property Number 189010833
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 6751 sq. ft.; 1 floor concrete block; possible asbestos; most recent use—gymnasium.

Bldg. 16
Property Number 189010834
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 3000 sq. ft.; 1 floor concrete block; most recent use—commissary facility.

Bldg. 9
Property Number 189010835
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 1056 sq. ft.; 1 story wood frame residence.

Bldg. 10
Property Number: 189010836
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913
Status: Excess
Comment: 1056 sq. ft.; 1 story wood frame residence.

Bldg. 11
Property Number: 189010837
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913
Status: Excess
Comment: 1056 sq. ft.; 1 floor wood frame residence.

Bldg. 12
Property Number: 189010838
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913
Status: Excess
Comment: 1056 sq. ft.; 1 story wood frame residence.

Bldg. 13
Property Number: 189010839
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913
Status: Excess
Comment: 1056 sq. ft.; 1 story wood frame residence.

Bldg. 5
Property Number: 189010840
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913
Status: Excess
Comment: 864 sq. ft.; 1 floor wood frame residence; possible asbestos.

Bldg. 6
Property Number: 189010841
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913
Status: Excess
Comment: 864 sq. ft.; 1 floor wood frame residence; possible asbestos.

Bldg. 7
Property Number: 189010842
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913
Status: Excess
Comment: 864 sq. ft.; 1 story wood frame residence; possible asbestos.

Bldg. 8
Property Number: 189010843
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913
Status: Excess
Comment: 864 sq. ft.; 1 floor wood frame residence; possible asbestos.

Bldg. 4
Property Number: 189010844
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913
Status: Excess
Comment: 2340 sq. ft. concrete block; most recent use—heating facility.

Bldg. 3
Property Number: 189010845
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913
Status: Excess
Comment: 5314 sq. ft.; 1 floor concrete block; possible asbestos; most recent use—maintenance shop and office.

Bldg. 1
Property Number: 189010846
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913
Status: Excess
Comment: 4528 sq. ft.; 1 floor concrete block; possible asbestos; most recent use—office.

Bldg. 216
Property Number: 189010847
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913
Status: Excess
Comment: 780 sq. ft.; 1 story wood frame housing garage.

Bldg. 217
Property Number: 189010848
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913
Status: Excess
Comment: 780 sq. ft.; 1 story wood frame housing garage.

Bldg. 218
Property Number: 189010849
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913
Status: Excess
Comment: 780 sq. ft.; 1 story wood frame housing garage.

Bldg. 219
Property Number: 189010850
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913
Status: Excess
Comment: 780 sq. ft.; 1 story wood frame housing garage.

Bldg. 220
Property Number: 189010851
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913
Status: Excess
Comment: 780 sq. ft.; 1 story wood frame housing garage.

Bldg. 221
Property Number: 189010852

Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913
Status: Excess
Comment: 780 sq. ft.; 1 story wood frame housing garage.

Bldg. 222
Property Number: 189010853
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913
Status: Excess
Comment: 780 sq. ft.; 1 story wood frame housing garage.

Bldg. 223
Property Number: 189010854
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913
Status: Excess
Comment: 780 sq. ft.; 1 story wood frame housing garage.

Bldg. 224
Property Number: 189010855
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913
Status: Excess
Comment: 780 sq. ft.; 1 story wood frame housing garage.

Bldg. 215
Property Number: 189010856
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913
Status: Excess
Comment: 390 sq. ft.; 1 story wood frame housing garage.

Bldg. 158
Property Number: 189010857
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913
Status: Excess
Comment: 3603 sq. ft.; 1 story concrete/steel; possible asbestos; most recent use—electrical power station.

Bldg. 212
Property Number: 189010859
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913
Status: Excess
Comment: 780 sq. ft.; 1 story wood frame housing garage.

Bldg. 214
Property Number: 189010861
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 780 sq. ft.; 1 story wood frame housing garage.

Bldg. 15
Property Number: 189010864
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 538 sq. ft.; 1 floor; concrete/wood structure; potential utilities; most recent use—gymnasium facility.

Bldg. 23
Property Number: 189010865
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 44 sq. ft.; 1 story metal frame; prior use—storage of fire hoses.

Bldg. 24
Property Number: 189010866
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 44 sq. ft.; 1 story metal frame; prior use—storage of fire hoses.

Bldg. 31
Property Number: 189010867
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 36 sq. ft.; 1 story metal frame; prior use—storage of fire hoses.

Bldg. 32
Property Number: 189010868
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 36 sq. ft.; 1 story metal frame; prior use—storage of fire hoses.

Bldg. 33
Property Number: 189010869
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 36 sq. ft.; 1 story metal frame; storage of fire hoses.

Bldg. 34
Property Number: 189010870
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 36 sq. ft.; 1 story metal frame; prior use—storage of fire hoses.

Bldg. 35
Property Number: 189010871
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 36 sq. ft.; 1 story metal frame; prior use—storage of fire hose.

Bldg. 36
Property Number: 189010872
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 25 sq. ft.; 1 story metal frame; prior use—storage of fire hoses.

Bldg. 37
Property Number: 189010873
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 25 sq. ft.; 1 story metal frame; prior use—storage of fire hoses.

Bldg. 39
Property Number: 189010874
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 25 sq. ft.; 1 floor metal frame; prior use—storage of fire hoses.

Bldg. 201
Property Number: 189010879
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 25 sq. ft.; 1 floor metal frame; prior use—storage of fire hoses.

Bldg. 202
Property Number: 189010880
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 25 sq. ft.; 1 floor metal frame; prior use—storage of fire hoses.

Bldg. 203
Property Number: 189010881
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 25 sq. ft.; 1 floor metal frame; prior use—storage of fire hoses.

Bldg. 204
Property Number: 189010882
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 25 sq. ft.; 1 floor metal frame; prior use—storage of fire hoses.

Bldg. 205
Property Number: 189010883
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 25 sq. ft.; 1 floor metal frame; prior use—storage of fire hoses.

Bldg. 206
Property Number: 189010884
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station

Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 25 sq. ft.; 1 floor metal frame; prior use—storage of fire hoses.

Bldg. 207
Property Number: 189010885
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 25 sq. ft.; 1 floor metal frame; prior use—storage of fire hoses.

Bldg. 153
Property Number: 189010886
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 4314 sq. ft.; 2 story concrete block facility (radar tower bldg.) potential use—storage.

Bldg. 154
Property Number: 189010887
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 8960 sq. ft.; 4 story concrete block facility; (radar tower bldg.) potential use—storage.

Bldg. 157
Property Number: 189010888
Fed Reg Date: 11/15/91
Project Name: Calument Air Force Station
Calument Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Comment: 3744 sq. ft.; 1 story concrete/steel facility; (radar tower bldg.); potential use—storage.

North Dakota

Buildings

Bldg. 101
Property Number: 189110095
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 768 sq. ft.; 2 bedroom single family housing unit; needs rehab; off-site use only.

Bldg. 102
Property Number: 189110096
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 988 sq. ft.; 3 bedroom single family housing unit; needs rehab; off-site use only.

Bldg. 103
Property Number: 189110097
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 988 sq. ft.; 3 bedroom single family housing unit; needs rehab; off-site use only.

Bldg. 104
Property Number: 189110098
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 988 sq. ft.; 3 bedroom single family housing unit; needs rehab; off-site use only.

Bldg. 105
Property Number: 189110099
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Unutilized
Comment: 988 sq. ft.; 3 bedroom single family housing unit; needs rehab; off-site use only.

Bldg. 106
Property Number: 189110100
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 988 sq. ft.; 3 bedroom single family housing unit; needs rehab; off-site use only.

Bldg. 107
Property Number: 189110101
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 768 sq. ft.; 2 bedroom single family housing unit; needs rehab; off-site use only.

Bldg. 110
Property Number: 189110102
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 768 sq. ft.; 2 bedroom single family housing unit; needs rehab; off-site use only.

Bldg. 111
Property Number: 189110103
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 768 sq. ft.; 2 bedroom single family housing unit; needs rehab; off-site use only.

Bldg. 112
Property Number: 189110104
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 1510 sq. ft.; 3 bedroom single family housing unit with attached garage; needs rehab; off-site use only.

Bldg. 113
Property Number: 189110105
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 1510 sq. ft.; 3 bedroom single family housing unit with attached garage; needs rehab; off-site use only.

Bldg. 114
Property Number: 189110106
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 1510 sq. ft.; 3 bedroom single family housing unit with attached garage; needs rehab; off-site use only.

Bldg. 115
Property Number: 189110107
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 1510 sq. ft.; 3 bedroom single family housing unit with attached garage; needs rehab; off-site use only.

Bldg. 116
Property Number: 189110108
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station

Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 1510 sq. ft.; 3 bedroom single family housing unit with attached garage; needs rehab; off-site use only.

Bldg. 117
Property Number: 189110109
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of
Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 1595 sq. ft.; 3 bedroom single family housing unit with attached garage; needs rehab; off-site use only.

Bldg. 118
Property Number: 189110110
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of
Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 2295 sq. ft.; 4 bedroom single family housing unit; needs rehab; off-site use only.

Bldg. 119
Property Number: 189110111
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of
Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 1595 sq. ft.; 3 bedroom single family housing unit with attached garage; needs rehab; off-site use only.

Bldg. 120
Property Number: 189110112
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of
Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 1595 sq. ft.; 3 bedroom single family housing unit with attached garage; needs rehab; off-site use only.

Bldg. 121
Property Number: 189110113
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of
Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 1595 sq. ft.; 3 bedroom single family housing unit with attached garage; needs rehab; off-site use only.

Bldg. 122
Property Number: 189110114
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of
Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 1595 sq. ft.; 3 bedroom single family housing unit with attached garage; needs rehab; off-site use only.

Bldg. 123
Property Number: 189110115
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of
Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 1510 sq. ft.; 3 bedroom single family housing unit with attached garage; needs rehab; off-site use only.

Bldg. 124
Property Number: 189110116
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of
Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 1510 sq. ft.; 3 bedroom single family housing unit with attached garage; needs rehab; off-site use only.

Bldg. 125
Property Number: 189110117
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of
Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 1510 sq. ft.; 3 bedroom single family housing unit with attached garage; needs rehab; off-site use only.

Bldg. 126
Property Number: 189110118
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of
Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 1510 sq. ft.; 3 bedroom single family housing unit with attached garage; needs rehab; off-site use only.

Bldg. 127
Property Number: 189110119
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of
Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 1510 sq. ft.; 3 bedroom single family housing unit with attached garage; needs rehab; off-site use only.

Bldg. 128
Property Number: 189110120
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of
Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 1510 sq. ft.; 3 bedroom single family housing unit with attached garage; needs rehab; off-site use only.

Bldg. 129
Property Number: 189110121
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of
Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 1510 sq. ft.; 3 bedroom single family housing unit with attached garage; needs rehab; off-site use only.

Bldg. 141
Property Number: 189110122
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of
Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 384 sq. ft.; 1 stall vehicle garage; needs rehab; off-site use only.

Bldg. 142
Property Number: 189110123
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of
Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 624 sq. ft.; 2 stall vehicle garage; needs rehab; off-site use only.

Bldg. 143
Property Number: 189110124
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–

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Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 624 sq. ft.; 2 stall vehicle garage; needs rehab; off-site use only.

Bldg. 144
Property Number: 189110125
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 624 sq. ft.; 2 stall vehicle garage; needs rehab; off-site use only.

Bldg. 145
Property Number: 189110126
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 624 sq. ft.; 2 stall vehicle garage; needs rehab; off-site use only.

Bldg. 201
Property Number: 189110127
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Base
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 1203 sq. ft.; 3 bedroom single family relocatable housing unit; needs rehab; off-site use only.

Bldg. 202
Property Number: 189110128
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Base
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 1203 sq. ft.; 3 bedroom single family relocatable housing unit; needs rehab; off-site use only.

Bldg. 203
Property Number: 189110129
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 1203 sq. ft.; 3 bedroom single family relocatable housing unit; needs rehab; off-site use only.

Bldg. 204
Property Number: 189110130
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 1203 sq. ft.; 3 bedroom single family relocatable housing unit; needs rehab; off-site use only.

Bldg. 205
Property Number: 189110131
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 1203 sq. ft.; 3 bedroom single family relocatable housing unit; needs rehab; off-site use only.

Bldg. 206
Property Number: 189110132
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 1203 sq. ft.; 3 bedroom single family relocatable housing unit; needs rehab; off-site use only.

Bldg. 207
Property Number: 189110133
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 1203 sq. ft.; 3 bedroom single family relocatable housing unit; needs rehab; off-site use only.

Bldg. 208
Property Number: 189110134
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 1203 sq. ft.; 3 bedroom single family relocatable housing unit; needs rehab; off-site use only.

Bldg. 209
Property Number: 189110135
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 1203 sq. ft.; 3 bedroom single family relocatable housing unit; needs rehab; off-site use only.

Bldg. 210
Property Number: 189110136
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 1203 sq. ft.; 3 bedroom single family relocatable housing unit; needs rehab; off-site use only.

Bldg. 211
Property Number: 189110137
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 1203 sq. ft.; 3 bedroom single family relocatable housing unit; needs rehab; off-site use only.

Bldg. 212
Property Number: 189110138
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 1203 sq. ft.; 3 bedroom single family relocatable housing unit; needs rehab; off-site use only.

Bldg. 213
Property Number: 189110139
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85
Status: Excess
Comment: 1203 sq. ft.; 3 bedroom single family relocatable housing unit; needs rehab; off-site use only.

Bldg. 214
Property Number: 189110140
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State Highway 5, four miles west of Fortuna and

approximately 60 miles north of Williston
via U.S. Highway 85
Status: Excess
Comment: 1203 sq. ft.; 3 bedroom single
family relocatable housing unit; needs
rehab; off-site use only.

Bldg. 215
Property Number: 189110141
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State
Highway 5, four miles west of Fortuna and
approximately 60 miles north of Williston
via U.S. Highway 85
Status: Excess
Comment: 1203 sq. ft.; 3 bedroom single
family relocatable housing unit; needs
rehab; off-site use onlv

Bldg. 216
Property Number: 189110142
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State
Highway 5, four miles west of Fortuna and
approximately 60 miles north of Williston
via U.S. Highway 85
Status: Excess
Comment: 1203 sq. ft.; 3 bedroom single
family relocatable housing unit; needs
rehab; off-site use only.

Bldg. 217
Property Number: 189110143
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State
Highway 5, four miles west of Fortuna and
approximately 60 miles north of Williston
via U.S. Highway 85
Status: Excess
Comment: 1203 sq. ft.; 3 bedroom single
family relocatable housing unit; needs
rehab; off-site use only.

Bldg. 218
Property Number: 189110144
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State
Highway 5, four miles west of Fortuna and
approximately 60 miles north of Williston
via U.S. Highway 85
Status: Excess
Comment: 1203 sq. ft.; 3 bedroom single
family relocatable housing unit; needs
rehab; off-site use only.

Bldg. 221
Property Number: 189110145
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State
Highway 5, four miles west of Fortuna and
approximately 60 miles north of Williston
via U.S. Highway 85
Status: Excess
Comment: 672 sq. ft.; 2 stall vehicle garage;
needs rehab; off-site use only.

Bldg. 222
Property Number: 189110146
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State
Highway 5, four miles west of Fortuna and
approximately 60 miles north of Williston
via U.S. Highway 85
Status: Excess
Comment: 672 sq. ft.; 2 stall vehicle garage;
needs rehab; off-site use only.

Bldg. 223
Property Number: 189110147
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State
Highway 5, four miles west of Fortuna and
approximately 60 miles north of Williston
via U.S. Highway 85
Status: Excess
Comment: 672 sq. ft.; 2 stall vehicle garage;
needs rehab; off-site use only.

Bldg. 224
Property Number: 189110148
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State
Highway 5, four miles west of Fortuna and
approximately 60 miles north of Williston
via U.S. Highway 85
Status: Excess
Comment: 672 sq. ft.; 2 stall vehicle garage;
needs rehab; off-site use only.

Bldg. 225
Property Number: 189110149
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State
Highway 5, four miles west of Fortuna and
approximately 60 miles north of Williston
via U.S. Highway 85
Status: Excess
Comment: 672 sq. ft.; 2 stall vehicle garage;
needs rehab; off-site use only.

Bldg. 226
Property Number: 189110150
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State
Highway 5, four miles west of Fortuna and
approximately 60 miles north of Williston
via U.S. Highway 85
Status: Excess
Comment: 672 sq. ft.; 2 stall vehicle garage;
needs rehab; off-site use only.

Bldg. 227
Property Number: 189110151
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State
Highway 5, four miles west of Fortuna and
approximately 60 miles north of Williston
via U.S. Highway 85
Status: Excess
Comment: 672 sq. ft.; 2 stall vehicle garage;
needs rehab; off-site use only.

Bldg. 228
Property Number: 189110152
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State
Highway 5, four miles west of Fortuna and
approximately 60 miles north of Williston
via U.S. Highway 85
Status: Excess
Comment: 672 sq. ft.; 2 stall vehicle garage;
needs rehab; off-site use only.

Bldg. 229
Property Number: 189110153
Fed Reg Date: 11/15/91
Project Name: Fortuna Air Force Station
Fortuna Air Force Station
Fortuna, ND, Co: Divide, Zip: 58844–
Location: Located on North Dakota State
Highway 5, four miles west of Fortuna and
approximately 60 miles north of Williston
via U.S. Highway 85
Status: Excess
Comment: 672 sq. ft.; 2 stall vehicle garage;
needs rehab; off-site use only.

Nevada

Buildings

Bldg. 300
Property Number: 189120001
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 1573 sq. ft., one story family
housing, easement restrictions, potential
utilities, off-site removal only.

Bldg. 301
Property Number: 189120002
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 1573 sq. ft., one story family
housing, easement restrictions, potential
utilities, off-site removal only.

Bldg. 302
Property Number: 189120003
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 1573 sq. ft., one story family
housing, easement restrictions, potential
utilities, off-site removal only.

Bldg. 303
Property Number: 189120004
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized

Comment: 2750 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 304
Property Number: 189120005
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 2750 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 305
Property Number: 189120006
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 2750 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 306
Property Number: 189120007
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 2750 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 307
Property Number: 189120008
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 2170 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 308
Property Number: 189120009
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 2170 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 309
Property Number: 189120010
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 2170 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 310
Property Number: 189120011
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 2170 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 311
Property Number: 189120012
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 2424 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 312
Property Number: 189120013
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 2424 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 313
Property Number: 189120014
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 2424 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 314
Property Number: 189120015
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 2424 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 315
Property Number: 189120016
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 2424 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 316
Property Number: 189120017
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 2424 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 317
Property Number: 189120018
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 2424 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 318
Property Number: 189120019
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 2170 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 319
Property Number: 189120020
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 2424 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 320
Property Number: 189120021
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 2170 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 321
Property Number: 189120022
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 2170 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 322
Property Number: 189120023
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 2170 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 323
Property Number: 189120024
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 1233 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 324

Property Number: 189120025
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 2424 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.
Bldg. 325
Property Number: 189120026
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 2424 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.
Bldg. 326
Property Number: 189120027
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 2424 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.
Bldg. 331
Property Number: 189120028
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 1170 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.
Bldg. 332
Property Number: 189120029
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 1170 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.
Bldg. 333
Property Number: 189120030
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 1170 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.
Bldg. 334
Property Number: 189120031
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 1170 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.
Bldg. 335
Property Number: 189120032
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 1170 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.
Bldg. 336
Property Number: 189120033
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 1170 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.
Bldg. 337
Property Number: 189120034
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 1170 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.
Bldg. 338
Property Number: 189120035
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 1170 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.
Bldg. 339
Property Number: 189120036
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 1170 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.
Bldg. 340
Property Number: 189120037
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 1170 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.
Bldg. 341
Property Number: 189120038
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 1170 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.
Bldg. 343
Property Number: 189120039
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 1170 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.
Bldg. 345
Property Number: 189120040
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 1170 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.
Bldg. 346
Property Number: 189120041
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 1170 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.
Bldg. 348
Property Number: 189120042
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 1170 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.
Bldg. 349
Property Number: 189120043
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 1170 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.
Bldg. 350
Property Number: 189120044
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 1170 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.
Bldg. 351
Property Number: 189120045
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base

Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 1170 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 352
Property Number: 189120046
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 1170 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 353
Property Number: 189120047
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 1170 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 400
Property Number: 189120048
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 2464 sq. ft., one story, most recent use—maintenance shop, easement restrictions, potential utilities, off-site removal only.

Bldg. 402
Property Number: 189120049
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 2570 sq. ft., one story, most recent use—Chapel, easement restrictions, potential utilities, off-site removal only.

Bldg. 404
Property Number: 189120050
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 2376 sq. ft., one story, most recent use—religious education facility, easement restrictions, potential utilities, off-site removal only.

Bldg. 406
Property Number: 189120051
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 2605 sq. ft., one story, most recent use—child care facility, easement restrictions, potential utilities, off-site removal only.

Bldg. 3027
Property Number: 189120052
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 120 sq. ft., one story, most recent use—storage, easement restrictions, potential utilities, off-site removal only.

Bldg. 3028
Property Number: 189120053
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 60 sq. ft., one story, most recent use—storage, easement restrictions, potential utilities, off-site removal only.

Bldg. 3029
Property Number: 189120054
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 120 sq. ft., one story, most recent use—storage, easement restrictions, potential utilities, off-site removal only.

Bldg. 3030
Property Number: 189120055
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 120 sq. ft., one story, most recent use—storage, easement restrictions, potential utilities, off-site removal only.

Bldg. 3031
Property Number: 189120056
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 120 sq. ft., one story, most recent use—storage, easement restrictions, potential utilities, off-site removal only.

Bldg. 3032
Property Number: 189120057
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 120 sq. ft., one story, most recent use—storage, easement restrictions, potential utilities, off-site removal only.

Bldg. 3033
Property Number: 189120058
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 120 sq. ft., one story, most recent use—storage, easement restrictions, potential utilities, off-site removal only.

Bldg. 3034
Property Number: 189120059
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 120 sq. ft., one story, most recent use—storage, easement restrictions, potential utilities, off-site removal only.

Bldg. 3035
Property Number: 189120060
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 120 sq. ft., one story, most recent use—storage, easement restrictions, potential utilities, off-site removal only.

Bldg. 3036
Property Number: 189120061
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 120 sq. ft., one story, most recent use—storage, easement restrictions, potential utilities, off-site removal only.

Bldg. 3037
Property Number: 189120062
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 120 sq. ft., one story, most recent use—storage, easement restrictions, potential utilities, off-site removal only.

Bldg. 3038
Property Number: 189120063
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 120 sq. ft., one story, most recent use—storage, easement restrictions, potential utilities, off-site removal only.

Bldg. 3039
Property Number: 189120064
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 120 sq. ft., one story, most recent use—storage, easement restrictions, potential utilities, off-site removal only.

Bldg. 3040
Property Number: 189120065
Fed Reg Date: 11/15/91
Project Name: Indian Springs AF Aux. Field
Nellis Air Force Base

Indian Springs AF Aux. Field
Indian Springs, NV, Co: Clark, Zip: 89018–
Status: Unutilized
Comment: 120 sq. ft., one story, most recent use—storage, easement restrictions, potential utilities, off-site removal only.

Summary of Properties for Air Force

Buildings=243.
Land=5.
Total Suitable and Available by agency=248.

Air Force-BC

California

Land

Fac. Number: 170
Property Number: 199120496
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: Five acres, most recent use—softball field; scheduled to be vacated 12/31/92.

Fac. Number: 525
Property Number: 199120497
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: Five acres, most recent use—softball field; scheduled to be vacated 12/31/92.

Fac. Number: 544
Property Number: 199120498
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: Six acres, most recent use—softball field; scheduled to be vacated 12/31/92.

Fac. Number: 1161
Property Number: 199120499
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: One acre, most recent use—baseball field; scheduled to be vacated 12/31/92.

Fac. Number: 1162
Property Number: 199120500
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: Two acres, most recent use—baseball field; scheduled to be vacated 12/31/92.

Fac. Number: 1164
Property Number: 199120501
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: Two acres, most recent use—baseball field; scheduled to be vacated 12/31/92.

Fac. Number: 1160
Property Number: 199120502
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: Three acres, most recent use—soccer field; scheduled to be vacated 12/31/92.

Fac. Number 50177
Property Number: 199120503
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: One acre, most recent use—track; scheduled to be vacated 12/31/92.

Fac. Number 1145
Property Number: 199120504
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: Sixty-seven acres, most recent use—golf course; scheduled to be vacated 12/31/92.

Fac. Number 1143
Property Number: 199120505
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: Three acres, most recent use—driving range; scheduled to be vacated 12/31/92.

Buildings

Bldg. 5063
Property Number: 199120001
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2554 sq. ft., two-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5064
Property Number: 199120002
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2554 sq. ft., two-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5066
Property Number: 199120003
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2554 sq. ft., two-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5067
Property Number: 199120004
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2554 sq. ft., two-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5069
Property Number: 199120005
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2554 sq. ft., two-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5072
Property Number: 199120006
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2554 sq. ft., two-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5074
Property Number: 199120007
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2554 sq. ft., two-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5077
Property Number: 199120008
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2554 sq. ft., two-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5078
Property Number: 199120009
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2554 sq. ft., two-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5079
Property Number: 199120010
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2554 sq. ft., two-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5081
Property Number: 199120011
Fed Reg Date: 11/29/91
George Air Force Base

George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2554 sq. ft., two-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5083
Property Number: 199120012
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2554 sq. ft., two-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5084
Property Number: 199120013
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2554 sq. ft., two-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5086
Property Number: 199120014
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2554 sq. ft., two-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5087
Property Number: 199120015
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2554 sq. ft., two-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5088
Property Number: 199120016
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2554 sq. ft., two-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5090
Property Number: 199120017
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2554 sq. ft., two-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5096
Property Number: 199120018
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2554 sq. ft., two-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5097
Property Number: 199120019
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2554 sq. ft., two-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5098
Property Number: 199120020
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2554 sq. ft., two-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5100
Property Number: 199120021
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2554 sq. ft., two-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5102
Property Number: 199120022
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2554 sq. ft., two-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5104
Property Number: 199120023
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2554 sq. ft., two-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5107
Property Number: 199120024
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2554 sq. ft., two-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5065
Property Number: 199120025
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5108 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5070
Property Number: 199120026
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5108 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5071
Property Number: 199120027
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5108 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5073
Property Number: 199120028
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5108 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5075
Property Number: 199120029
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5108 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5076
Property Number: 199120030
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5108 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5082
Property Number: 199120031
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5108 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5085
Property Number: 199120032
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5108 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5089
Property Number: 199120033
Fed Reg Date: 11/29/91
George Air Force Base

George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5108 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5098
Property Number: 199120034
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5108 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5101
Property Number: 199120035
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5108 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5105
Property Number: 199120036
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5108 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5106
Property Number: 199120037
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5108 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5096
Property Number: 199120038
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5884 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5103
Property Number: 199120039
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5884 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5108
Property Number: 199120040
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5884 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5080
Property Number: 199120041
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2924 sq. ft., two-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5091
Property Number: 199120042
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2942 sq. ft., two-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5092
Property Number: 199120043
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2942 sq. ft., two-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5094
Property Number: 199120044
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2942 sq. ft., two-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5095
Property Number: 199120045
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2942 sq. ft., two-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5099
Property Number: 199120046
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2942 sq. ft., two-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5109
Property Number: 199120047
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2942 sq. ft., two-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5110
Property Number: 199120048
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5111
Property Number: 199120049
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5112
Property Number: 199120050
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5113
Property Number: 199120051
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5114
Property Number: 199120052
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5115
Property Number: 199120053
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5116
Property Number: 199120054
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5117
Property Number: 199120055
Fed Reg Date: 11/29/91
George Air Force Base

George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5118
Property Number: 199120056
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5119
Property Number: 199120057
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5120
Property Number: 199120058
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5121
Property Number: 199120059
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5122
Property Number: 199120060
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5123
Property Number: 199120061
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5124
Property Number: 199120062
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5125
Property Number: 199120063
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5126
Property Number: 199120064
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5127
Property Number: 199120065
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5128
Property Number: 199120066
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5129
Property Number: 199120067
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5130
Property Number: 199120068
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5131
Property Number: 199120069
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5132
Property Number: 199120070
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5133
Property Number: 199120071
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5144
Property Number: 199120072
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5145
Property Number: 199120073
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5146
Property Number: 199120074
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5147
Property Number: 199120075
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5148
Property Number: 199120076
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5149
Property Number: 199120077
Fed Reg Date: 11/29/91
George Air Force Base

George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5160
Property Number: 199120078
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5161
Property Number: 199120079
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5171
Property Number: 199120080
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5172
Property Number: 199120081
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5166
Property Number: 199120082
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5167
Property Number: 199120083
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5205
Property Number: 199120084
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5206
Property Number: 199120085
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5207
Property Number: 199120086
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5208
Property Number: 199120087
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5209
Property Number: 199120088
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5210
Property Number: 199120089
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5211
Property Number: 199120090
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5212
Property Number: 199120091
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5213
Property Number: 199120092
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5214
Property Number: 199120093
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., four-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5215
Property Number: 199120094
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., 4-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5216
Property Number: 199120095
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., 4-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5220
Property Number: 199120096
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., 4-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5221
Property Number: 199120097
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., 4-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5217
Property Number: 199120098
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., 4-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5218
Property Number: 199120099
Fed Reg Date: 11/29/91
George Air Force Base

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George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4580 sq. ft., 4-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5219
Property Number: 199120100
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5956 sq. ft., 4-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5150
Property Number: 199120101
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5956 sq. ft., 4-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5155
Property Number: 199120102
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5956 sq. ft., 4-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5156
Property Number: 199120103
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5956 sq. ft., 4-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5157
Property Number: 199120104
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5956 sq. ft., 4-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5162
Property Number: 199120105
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5956 sq. ft., 4-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5163
Property Number: 199120106
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5956 sq. ft., 4-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5164
Property Number: 199120107
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5956 sq. ft., 4-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5173
Property Number: 199120108
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5956 sq. ft., 4-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5174
Property Number: 199120109
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5956 sq. ft., 4-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5176
Property Number: 199120110
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5956 sq. ft., 4-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5188
Property Number: 199120111
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5956 sq. ft., 4-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5189
Property Number: 199120112
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5956 sq. ft., 4-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5190
Property Number: 199120113
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5956 sq. ft., 4-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5191
Property Number: 199120114
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5956 sq. ft., 4-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5192
Property Number: 199120115
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5956 sq. ft., 4-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5199
Property Number: 199120116
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5956 sq. ft., 4-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5200
Property Number: 199120117
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5956 sq. ft., 4-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5222
Property Number: 199120118
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2576 sq. ft., 2-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5223
Property Number: 199120119
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2576 sq. ft., 2-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5141
Property Number: 199120120
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2576 sq. ft., 2-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5142
Property Number: 199120121
Fed Reg Date: 11/29/91
George Air Force Base

George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 2576 sq. ft., 2-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5134
Property Number: 199120122
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 2576 sq. ft., 2-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5135
Property Number: 199120123
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 2576 sq. ft., 2-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5158
Property Number: 199120124
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 2576 sq. ft., 2-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5159
Property Number: 199120125
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 2576 sq. ft., 2-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5165
Property Number: 199120126
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 2576 sq. ft., 2-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5166
Property Number: 199120127
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 2576 sq. ft., 2-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5169
Property Number: 199120128
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 2576 sq. ft., 2-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5170
Property Number: 199120129
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 2576 sq. ft., 2-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5177
Property Number: 199120130
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 2576 sq. ft., 2-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5178
Property Number: 199120131
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 2576 sq. ft., 2-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5181
Property Number: 199120132
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 2576 sq. ft., 2-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5182
Property Number: 199120133
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 2576 sq. ft., 2-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5184
Property Number: 199120134
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 2576 sq. ft., 2-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5185
Property Number: 199120135
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 2576 sq. ft., 2-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5197
Property Number: 199120136
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 2576 sq. ft., 2-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5198
Property Number: 199120137
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 2576 sq. ft., 2-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 6056
Property Number: 199120138
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 6576 sq. ft., 4-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 6058
Property Number: 199120139
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 6576 sq. ft., 4-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 6059
Property Number: 199120140
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 6576 sq. ft., 4-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 6060
Property Number: 199120141
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 6576 sq. ft., 4-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 6062
Property Number: 199120142
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 6576 sq. ft., 4-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 6057
Property Number: 199120143
Fed Reg Date: 11/29/91
George Air Force Base

George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 3288 sq. ft., 2-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 6061
Property Number: 199120144
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 3288 sq. ft., 2-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 6063
Property Number: 199120145
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 3168 sq. ft., 2-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 6064
Property Number: 199120146
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 3168 sq. ft., 2-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 6065
Property Number: 199120147
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 3168 sq. ft., 2-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 6066
Property Number: 199120148
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 3168 sq. ft., 2-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 6066
Property Number: 199120149
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 3168 sq. ft., 2-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 6067
Property Number: 199120150
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92304–5000
Status: Excess
Comment: 3168 sq. ft., 2-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 6088
Property Number: 199120151
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 3168 sq. ft., 2-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 6089
Property Number: 199120152
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 3162 sq. ft., 2-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 6091
Property Number: 199120153
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 3168 sq. ft., 2-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 6092
Property Number: 199120154
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 3168 sq. ft., 2-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 6067
Property Number: 199120155
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 3056 sq. ft., 2-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 6069
Property Number: 199120156
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 3056 sq. ft., 2-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 6070
Property Number: 199120157
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 3056 sq. ft., 2-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 6071
Property Number: 199120158
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip 92394–5000
Status: Excess
Comment: 3056 sq. ft., 2-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 6072
Property Number: 199120159
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 3056 sq. ft., 2-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 6073
Property Number: 199120160
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 3056 sq. ft., 2-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 6074
Property Number: 199120161
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 3056 sq. ft., 2-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 6075
Property Number: 199120162
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 3056 sq. ft., 2-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 6076
Property Number: 199120163
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 3056 sq. ft., 2-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 6077
Property Number: 199120164
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 3056 sq. ft., 2-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 5136
Property Number: 199120164
Fed Reg Date: 11/29/91
George Air Force Base

George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5220 sq. ft., 4-unit wood/stucco frame housing, possible asbestos, scheduled to be vacated 12/31/92.
Bldg. 5137
Property Number: 199120166
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5220 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.
Bldg. 5138
Property Number: 199120167
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5220 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.
Bldg. 5139
Property Number: 199120168
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5220 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.
Bldg. 5140
Property Number: 199120169
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5220 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.
Bldg. 5143
Property Number: 199120170
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5220 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.
Bldg. 5151
Property Number: 199120171
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5220 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.
Bldg. 5152
Property Number: 199120172
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5220 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.
Bldg. 5153
Property Number: 199120173
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5220 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.
Bldg. 5154
Property Number: 199120174
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5220 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.
Bldg. 5167
Property Number: 199120175
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5220 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.
Bldg. 5168
Property Number: 199120176
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5220 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.
Bldg. 5171
Property Number: 199120177
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5220 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.
Bldg. 5172
Property Number: 199120178
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5220 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.
Bldg. 5176
Property Number: 199120179
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5220 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.
Bldg. 5179
Property Number: 199120180
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5220 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.
Bldg. 5180
Property Number: 199120181
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5220 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.
Bldg. 5183
Property Number: 199120182
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5220 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.
Bldg. 5193
Property Number: 199120183
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5220 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.
Bldg. 5194
Property Number: 199120184
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5220 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.
Bldg. 5195
Property Number: 199120185
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5220 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.
Bldg. 5196
Property Number: 199120186
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5220 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.
Bldg. 5201
Property Number: 199120187
Fed Reg Date: 11/29/91
George Air Force Base

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George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5220 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5202
Property Number: 199120188
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5220 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5203
Property Number: 199120189
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5220 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5204
Property Number: 199120190
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5220 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5224
Property Number: 199120191
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5220 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5225
Property Number: 199120192
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5220 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5226
Property Number: 199120193
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5220 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5227
Property Number: 199120194
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5220 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5228
Property Number: 199120195
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5220 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5229
Property Number: 199120196
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5220 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7021
Property Number: 199120197
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5220 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7022
Property Number: 199120198
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5220 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7030
Property Number: 199120199
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5220 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6078
Property Number: 199120200
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 1911 sq. ft.; 1-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6079
Property Number: 199120201
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 1911 sq. ft.; 1-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6080
Property Number: 199120202
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 1911 sq. ft.; 1-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6081
Property Number: 199120203
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 2219 sq. ft.; 1-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6082
Property Number: 199120204
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 3056 sq. ft.; 2-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6083
Property Number: 199120205
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 3056 sq. ft.; 2-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6084
Property Number: 199120206
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 3056 sq. ft.; 2-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6085
Property Number: 199120207
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 3056 sq. ft.; 2-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6090
Property Number: 199120208
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 3056 sq. ft.; 2-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6093
Property Number: 199120209
Fed Reg Date: 11/29/91
George Air Force Base

George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 3056 sq. ft.; 2-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.
Bldg. 6094
Property Number: 199120210
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 3056 sq. ft.; 2-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.
Bldg. 7000
Property Number: 199120211
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4324 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.
Bldg. 7001
Property Number: 199120212
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4324 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.
Bldg. 7002
Property Number: 199120213
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4324 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.
Bldg. 7003
Property Number: 199120214
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4324 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.
Bldg. 7014
Property Number: 199120215
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4324 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.
Bldg. 7015
Property Number: 199120216
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4324 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.
Bldg. 7016
Property Number: 199120217
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4324 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.
Bldg. 7017
Property Number: 199120218
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4324 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.
Bldg. 7020
Property Number: 199120219
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4324 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.
Bldg. 7023
Property Number: 199120220
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4324 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.
Bldg. 7029
Property Number: 199120221
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4324 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.
Bldg. 7031
Property Number: 199120222
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4324 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.
Bldg. 7039
Property Number: 199120223
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4324 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.
Bldg. 7040
Property Number: 199120224
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4324 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.
Bldg. 7042
Property Number: 199120225
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4324 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.
Bldg. 7043
Property Number: 199120226
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4324 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.
Bldg. 7045
Property Number: 199120227
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4324 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.
Bldg. 7046
Property Number: 199120228
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4324 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.
Bldg. 7048
Property Number: 199120229
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4324 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.
Bldg. 7049
Property Number: 199120230
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4324 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.
Bldg. 7052
Property Number: 199120231
Fed Reg Date: 11/29/91
George Air Force Base

George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4324 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7053
Property Number: 199120232
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4324 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7004
Property Number: 199120233
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2924 sq. ft.; 2-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7006
Property Number: 199120234
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2924 sq. ft.; 2-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7007
Property Number: 199120235
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2924 sq. ft.; 2-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7009
Property Number: 199120236
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2924 sq. ft.; 2-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7010
Property Number: 199120237
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2924 sq. ft.; 2-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7011
Property Number: 199120238
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2924 sq. ft.; 2-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7012
Property Number: 199120239
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2924 sq. ft.; 2-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7013
Property Number: 199120240
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2924 sq. ft.; 2-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7019
Property Number: 199120241
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2924 sq. ft.; 2-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7024
Property Number: 199120242
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2924 sq. ft.; 2-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7025
Property Number: 199120243
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2924 sq. ft.; 2-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7032
Property Number: 199120244
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2924 sq. ft.; 2-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7033
Property Number: 199120245
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2924 sq. ft.; 2-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7034
Property Number: 199120246
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2924 sq. ft.; 2-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7035
Property Number: 199120247
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2924 sq. ft.; 2-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7036
Property Number: 199120248
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2924 sq. ft.; 2-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7037
Property Number: 199120249
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2924 sq. ft.; 2-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7038
Property Number: 199120250
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2924 sq. ft.; 2-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7044
Property Number: 199120251
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2924 sq. ft.; 2-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7026
Property Number: 199120252
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 6088 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7027
Property Number: 199120253
Fed Reg Date: 11/29/91
George Air Force Base

George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 6088 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7028
Property Number: 199120254
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 6088 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7005
Property Number: 199120255
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 6088 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7008
Property Number: 199120256
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 6088 sq. ft.; 4-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7041
Property Number: 199120257
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2576 sq. ft.; 2-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7047
Property Number: 199120258
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2576 sq. ft.; 2-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7050
Property Number: 199120259
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2576 sq. ft.; 2-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7051
Property Number: 199120260
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2576 sq. ft.; 2-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7054
Property Number: 199120261
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2576 sq. ft.; 2-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7055
Property Number: 199120262
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2576 sq. ft.; 2-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7301
Property Number: 199120263
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 1440 sq. ft.; 1-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7302
Property Number: 199120264
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 1440 sq. ft.; 1-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7305
Property Number: 199120265
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 1440 sq. ft.; 1-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7306
Property Number: 199120266
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 1440 sq. ft.; 1-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7309
Property Number: 199120267
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2880 sq. ft.; 2-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7310
Property Number: 199120268
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2880 sq. ft.; 2-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7311
Property Number: 199120269
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2880 sq. ft.; 2-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7312
Property Number: 199120270
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2880 sq. ft.; 2-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7313
Property Number: 199120271
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2880 sq. ft.; 2-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7318
Property Number: 199120272
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2880 sq. ft.; 2-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7319
Property Number: 199120273
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2880 sq. ft.; 2-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7356
Property Number: 199120274
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2880 sq. ft.; 2-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7358
Property Number: 199120275
Fed Reg Date: 11/29/91
George Air Force Base

George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2880 sq. ft.; 2-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7172
Property Number: 199120276
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2880 sq. ft.; 2-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7389
Property Number: 199120277
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2880 sq. ft.; 2-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7320
Property Number: 199120278
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 8550 sq. ft.; 6-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7328
Property Number: 199120279
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 8550 sq. ft.; 6-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7336
Property Number: 199120280
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 8550 sq. ft.; 6-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7399
Property Number: 199120281
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 8550 sq. ft.; 6-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7407
Property Number: 199120282
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 8550 sq. ft.; 6-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7419
Property Number: 199120283
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 8550 sq. ft.; 6-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7324
Property Number: 199120284
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 8450 sq. ft.; 6-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7332
Property Number: 199120285
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 8450 sq. ft.; 6-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7344
Property Number: 199120286
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 8450 sq. ft.; six-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7352
Property Number: 199120287
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 8450 sq. ft.; six-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7359
Property Number: 199120288
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 8450 sq. ft.; six-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7367
Property Number: 199120289
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 8450 sq. ft.; six-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7373
Property Number: 199120290
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 8450 sq. ft.; six-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7377
Property Number: 199120291
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 8450 sq. ft.; six-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7381
Property Number: 199120292
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 8450 sq. ft.; six-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7385
Property Number: 199120293
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 8450 sq. ft.; six-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7391
Property Number: 199120294
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 8450 sq. ft.; six-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7395
Property Number: 199120295
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 8450 sq. ft.; six-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7403
Property Number: 199120296
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 8450 sq. ft.; six-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7411
Property Number: 199120297
Fed Reg Date: 11/29/91
George Air Force Base

George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 8450 sq. ft.; six-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7415
Property Number: 199120298
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 8450 sq. ft.; six-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7423
Property Number: 199120299
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 8450 sq. ft.; six-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7427
Property Number: 199120300
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 8450 sq. ft.; six-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7314
Property Number: 199120301
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 4200 sq. ft.; six-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7315
Property Number: 199120302
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 4200 sq. ft.; six-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7316
Property Number: 199120303
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 4200 sq. ft.; six-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7317
Property Number: 199120304
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 4200 sq. ft.; six-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7340
Property Number: 199120305
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 8460 sq. ft.; six-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7346
Property Number: 199120306
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 8460 sq. ft.; six-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 7363
Property Number: 199120307
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 7078 sq. ft.; six-unit wood/stucco frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6046
Property Number: 199120308
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 1893 sq. ft.; one-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6041
Property Number: 199120309
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 2285 sq. ft.; one-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6043
Property Number: 199120310
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 1620 sq. ft.; one-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6044
Property Number: 199120311
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 1620 sq. ft.; one-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6045
Property Number: 199120312
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 1620 sq. ft.; one-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6049
Property Number: 199120313
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 1620 sq. ft.; one-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6050
Property Number: 199120314
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 1620 sq. ft.; one-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6051
Property Number: 199120315
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 1620 sq. ft.; one-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6052
Property Number: 199120316
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 1620 sq. ft.; one-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6039
Property Number: 199120317
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 1240 sq. ft.; one-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6040
Property Number: 199120318
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 1240 sq. ft.; one-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6042
Property Number: 199120319
Fed Reg Date: 11/29/91
George Air Force Base

George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 1240 sq. ft.; one-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6047
Property Number: 199120320
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 1240 sq. ft.; one-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6048
Property Number: 199120321
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 1240 sq. ft.; one-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6053
Property Number: 199120322
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 1240 sq. ft.; one-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6054
Property Number: 199120323
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 1240 sq. ft.; one-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6038
Property Number: 199120324
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5590 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6003
Property Number: 199120325
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 4383 sq. ft.; three-unit wood; frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6004
Property Number: 199120326
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co San Bernardino, Zip: 92394-5000
Status Excess
Comment: 4383 sq. ft.; three-unit wood; frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6035
Property Number: 199120327
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 4383 sq. ft.; three-unit wood; frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6037
Property Number: 199120328
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 4383 sq. ft.; three-unit wood; frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6002
Property Number: 199120329
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5775 sq. ft.; six-unit wood; frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6006
Property Number: 199120330
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5775 sq. ft.; six-unit wood; frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6012
Property Number: 199120331
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5775 sq. ft.; six-unit wood; frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6014
Property Number: 199120332
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5775 sq. ft.; six-unit wood; frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6023
Property Number: 199120333
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5775 sq. ft.; six-unit wood; frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6024
Property Number: 199120334
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5775 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6028
Property Number: 199120335
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5775 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6001
Property Number: 199120336
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5960 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6021
Property Number: 199120337
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5960 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6029
Property Number: 199120338
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5960 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6030
Property Number: 199120339
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5960 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6034
Property Number: 199120340
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5960 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6007
Property Number: 199120341
Fed Reg Date: 11/29/91
George Air Force Base

George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 6588 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6008
Property Number: 199120342
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 6588 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6009
Property Number: 199120343
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 6588 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6010
Property Number: 199120344
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 6588 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6011
Property Number: 199120345
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 6588 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6013
Property Number: 199120346
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 6588 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6015
Property Number: 199120347
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 6588 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6016
Property Number: 199120348
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 6588 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6017
Property Number: 199120349
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 6588 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6018
Property Number: 199120350
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 6588 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 619
Property Number: 199120351
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 6588 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6020
Property Number: 199120352
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 6588 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6022
Property Number: 199120353
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 6588 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6025
Property Number: 199120354
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 6588 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6026
Property Number: 199120355
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 6588 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6027
Property Number: 199120356
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 6588 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6031
Property Number: 199120357
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 6588 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6032
Property Number: 199120358
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 6588 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6033
Property Number: 199120359
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 6588 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6036
Property Number: 199120360
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 6588 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 6055
Property Number: 199120361
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 6588 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5037
Property Number: 199120362
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 6588 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5035
Property Number: 199120363
Fed Reg Date: 11/29/91
George Air Force Base

George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5660 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5036
Property Number: 199120364
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5660 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5038
Property Number: 199120365
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5660 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5042
Property Number: 199120366
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5660 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5021
Property Number: 199120367
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5784 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5024
Property Number: 199120368
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5784 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5029
Property Number: 199120369
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5784 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5032
Property Number: 199120370
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5784 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5022
Property Number: 199120371
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5449 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5023
Property Number: 199120372
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5449 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5025
Property Number: 199120373
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5449 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5026
Property Number: 199120374
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5449 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5027
Property Number: 199120375
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5449 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5028
Property Number: 199120376
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5449 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5030
Property Number: 199120377
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5449 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5031
Property Number: 199120378
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5449 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5016
Property Number: 199120379
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 3705 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5006
Property Number: 199120380
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 6846 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5004
Property Number: 199120381
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5845 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5005
Property Number: 199120382
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5845 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5010
Property Number: 199120383
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5845 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5011
Property Number: 199120384
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5845 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5015
Property Number: 199120385
Fed Reg Date: 11/29/91
George Air Force Base

George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5845 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5046
Property Number: 199120386
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5845 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5047
Property Number: 199120387
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5845 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5051
Property Number: 199120388
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5845 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5052
Property Number: 199120389
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5845 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5053
Property Number: 199120390
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5845 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5057
Property Number: 199120391
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5845 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5058
Property Number: 199120392
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5845 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5059
Property Number: 199120393
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5845 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5001
Property Number: 199120394
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 8598 sq. ft.; eight-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5008
Property Number: 199120395
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 8598 sq. ft.; eight-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5013
Property Number: 199120396
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 8598 sq. ft.; eight-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5019
Property Number: 199120397
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 8598 sq. ft.; eight-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5033
Property Number: 199120398
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 8598 sq. ft.; eight-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5040
Property Number: 199120399
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 8598 sq. ft.; eight-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5043
Property Number: 199120400
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 8598 sq. ft.; eight-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5048
Property Number: 199120401
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 8598 sq. ft.; eight-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5055
Property Number: 199120402
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 8598 sq. ft.; eight-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5062
Property Number: 199120403
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 8598 sq. ft.; eight-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5002
Property Number: 199120404
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 6106 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5003
Property Number: 199120405
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 6106 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5007
Property Number: 199120406
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 6106 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5009
Property Number: 199120407
Fed Reg Date: 11/29/91
George Air Force Base

George AFB, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 6106 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5012
Property Number: 199120408
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 6106 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5014
Property Number: 199120409
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 6106 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5016
Property Number: 199120410
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 6106 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5020
Property Number: 199120411
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 6106 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5034
Property Number: 199120412
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 6106 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5039
Property Number: 199120413
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 6106 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5041
Property Number: 199120414
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 6106 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5044
Property Number: 199120415
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 6106 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5045
Property Number: 199120416
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 6106 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5049
Property Number: 199120417
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 6106 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5050
Property Number: 199120418
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 6101 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5054
Property Number: 199120419
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 6101 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 5056
Property Number: 199120420
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 6106 sq. ft.; six-unit wood frame housing; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 94
Property Number: 199120421
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 1800 sq. ft.; one story wood structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.

Bldg. 666
Property Number: 199120422
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 2083 sq. ft.; one story concrete block structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.

Bldg. 717
Property Number: 199120423
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 24000 sq. ft.; one story concrete block structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.

Bldg. 718
Property Number: 199120424
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 22000 sq. ft.; one story concrete block structure, possible asbestos; most recent use—office, scheduled to be vacated 12/31/92.

Bldg. 720
Property Number: 199120425
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 49400 sq. ft.; one story concrete block structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.

Bldg. 727
Property Number: 199120426
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 3600 sq. ft.; one story trailer structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.

Bldg. 728
Property Number: 199120427
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 18000 sq. ft.; one story concrete block structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.

Bldg. 737
Property Number: 199120428
Fed Reg Date: 11/29/91
George Air Force base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 10500 sq. ft.; one story concrete block structure, possible asbestos; most

recent use—office; scheduled to be vacated 12/31/92.
Bldg. 763
Property Number: 199120429
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 6000 sq. ft.; one story concrete block structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.
Bldg. 190
Property Number: 199120430
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 8100 sq. ft.; one story concrete block structure, possible asbestos; most recent use—office; scheduled to be vacated 12/3/92.
Bldg. 707
Property Number: 199120431
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 9400 sq. ft.; one story concrete block structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.
Bldg. 196
Property Number: 199120432
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 1200 sq. ft.; one story concrete block structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.
Bldg. 317
Property Number: 199120433
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 2800 sq. ft.; one story concrete block structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.
Bldg. 356
Property Number: 199120434
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 4800 sq. ft.; one story concrete block structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.
Bldg. 641
Property Number: 199120435
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 288 sq. ft.; one story concrete block structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.
Bldg. 694
Property Number: 199120436
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 9200 sq. ft.; one story concrete block structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.
Bldg. 747
Property Number: 199120437
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 200 sq. ft.; one story concrete block structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.
Bldg. 748
Property Number: 199120438
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 200 sq. ft.; one story concrete block structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.
Bldg. 285
Property Number: 199120439
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 13000 sq. ft.; one story concrete block structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.
Bldg. 299
Property Number: 199120440
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 36000 sq. ft.; one story concrete block structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.
Bldg. 208
Property Number: 199120441
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 9300 sq. ft.; one story concrete block structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.
Bldg. 321
Property Number: 199120442
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 56600 sq. ft.; three story concrete block structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.
Bldg. 323
Property Number: 199120443
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 6800 sq. ft.; one story concrete block structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.
Bldg. 651
Property Number: 199120444
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 9100 sq. ft.; one story concrete block structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.
Bldg. 421
Property Number: 199120445
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 1800 sq. ft.; one story wood structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.
Bldg. 605
Property Number: 199120446
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 3600 sq. ft.; one story concrete block structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.
Bldg. 658
Property Number: 199120447
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 9400 sq. ft.; one story wood structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.
Bldg. 510
Property Number: 199120448
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 28000 sq. ft.; one story concrete block structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.
Bldg. 667

Property Number: 199120449
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 18000 sq. ft.; one story wood structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.

Bldg. 674
Property Number: 199120450
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2300 sq. ft.; one story wood structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.

Bldg. 697
Property Number: 199120451
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 600 sq. ft.; one story concrete block structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.

Bldg. 698
Property Number: 199120452
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 600 sq. ft.; one story concrete block structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.

Bldg. 701
Property Number: 199120453
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 19800 sq. ft.; one story concrete block structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.

Bldg. 771
Property Number: 199120454
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2000 sq. ft.; one story concrete block structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.

Bldg. 765
Property Number: 199120455
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 11400 sq. ft.; one story concrete block structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.

Bldg. 786
Property Number: 199120456
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 6200 sq. ft.; one story concrete block structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.

Bldg. 793
Property Number: 199120457
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 720 sq. ft.; one story concrete block structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.

Bldg. 794
Property Number: 199120458
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 720 sq. ft.; one story concrete block structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.

Bldg. 1055
Property Number: 199120459
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 10800 sq. ft.; one story wood structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.

Bldg. 1110
Property Number: 199120460
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 1700 sq. ft.; one story wood structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.

Bldg. 1122
Property Number: 199120461
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 8700 sq. ft.; one story concrete block structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.

Bldg. 558
Property Number: 199120462
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co; San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2000 sq. ft.; one story concrete block structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.

Bldg. 565
Property Number: 199120463
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5600 sq. ft.; one story concrete block structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.

Bldg. 762
Property Number: 199120464
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5600 sq. ft.; one story concrete block structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.

Bldg. 763
Property Number: 199120465
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 15000 sq. ft.; one story concrete block structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.

Bldg. 391
Property Number: 199120466
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 1800 sq. ft.; one story wood structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.

Bldg. 723
Property Number: 199120467
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 18000 sq. ft.; one story concrete block structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.

Bldg. 514
Property Number: 199120470
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 400 sq. ft.; one story concrete block structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.

Bldg. 1057
Property Number: 199120471
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000

Status: Excess
Comment: 4300 sq. ft.; one story trailer structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.

Bldg. 422
Property Number: 199120472
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 4800 sq. ft.; one story wood structure, possible asbestos; most recent use—jail; scheduled to be vacated 12/31/92.

Bldg. 7018
Property Number: 199120473
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 2900 sq. ft.; one story concrete structure, possible asbestos; most recent use—office; scheduled to be vacated 12/31/92.

Bldg. 240
Property Number: 199120474
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 11400 sq. ft.; one story concrete structure, possible asbestos; most recent use—theater; scheduled to be vacated 12/31/92.

Bldg. 210
Property Number: 199120475
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 21500 sq. ft.; one story concrete structure, possible asbestos; most recent use—rec center; scheduled to be vacated 12/31/92.

Bldg. 59
Property Number: 199120476
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 540 sq. ft.; one story concrete structure, possible asbestos; most recent use—bowling center; scheduled to be vacated 12/31/92.

Bldg. 61
Property Number: 199120477
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 16600 sq. ft.; one story concrete structure, possible asbestos; most recent use—bowling center; scheduled to be vacated 12/31/92.

Bldg. 286
Property Number: 199120478
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 23000 sq. ft.; one story concrete structure, possible asbestos; most recent use—gym; scheduled to be vacated 12/31/92.

Bldg. 357
Property Number: 199120479
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 8000 sq. ft.; one story wood structure, possible asbestos; most recent use—library; scheduled to be vacated 12/31/92.

Bldg. 15
Property Number: 199120480
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 7000 sq. ft.; one story concrete structure, possible asbestos; most recent use—craft center; scheduled to be vacated 12/31/92.

Bldg. 27–29
Property Number: 199120481
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 288 sq. ft.; one story concrete structure, possible asbestos; most recent use—craft center; scheduled to be vacated 12/31/92.

Bldg. 18
Property Number: 199120482
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 7900 sq. ft.; one story concrete structure, possible asbestos; most recent use—shop; scheduled to be vacated 12/31/92.

Bldg. 381
Property Number: 199120483
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 1800 sq. ft.; one story wood structure, possible asbestos; most recent use—youth center; scheduled to be vacated 12/31/92.

Bldg. 1118
Property Number: 199120485
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 725 sq. ft.; one story concrete structure, possible asbestos; most recent use—youth center; scheduled to be vacated 12/31/92.

Bldg. 1160
Property Number: 199120486
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 10300 sq. ft.; one story concrete structure, possible asbestos; most recent use—youth center; scheduled to be vacated 12/31/92.

Bldg. 1139
Property Number: 199120487
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 288 sq. ft.; one story concrete structure, possible asbestos; most recent use—golf course bldg.; scheduled to be vacated 12/31/92.

Bldg. 1140
Property Number: 199120488
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5400 sq. ft.; one story concrete structure, possible asbestos; most recent use—golf course bldg.; scheduled to be vacated 12/31/92.

Bldg. 1141
Property Number: 199120489
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 1750 sq. ft.; one story wood structure, possible asbestos; most recent use—golf course bldg; scheduled to be vacated 12/31/92.

Bldg. 1146
Property Number: 199120490
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 4000 sq. ft.; one story concrete structure, possible asbestos; most recent use—golf course bldg; scheduled to be vacated 12/31/92.

Bldg. 450
Property Number: 199120491
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 800 sq. ft.; concrete structure, possible asbestos; most recent use—pool; scheduled to be vacated 12/31/92.

Bldg. 182
Property Number: 199120492
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5000 sq. ft.; concrete structure, possible asbestos; most recent use—pool; scheduled to be vacated 12/31/92.

Bldg. 585

Property Number: 199120493
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5100 sq. ft.; concrete structure, possible asbestos; most recent use—pool; scheduled to be vacated 12/31/92.

Bldg. 183
Property Number: 199120494
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 1200 sq. ft.; one story wood structure, possible asbestos; most recent use—bathhouse; scheduled to be vacated 12/31/92.

Bldg. 586
Property Number: 199120495
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 960 sq. ft.; one story concrete structure, possible asbestos; most recent use—bathhouse; scheduled to be vacated 12/31/92.

Bldg. 456
Property Number: 199120506
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 7500 sq. ft.; wood structure, one story, possible asbestos; most recent use—quarters; scheduled to be vacated 12/31/92.

Bldg. 470
Property Number: 199120507
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 17000 sq. ft.; concrete block structure, two story, possible asbestos; most recent use—quarters; scheduled to be vacated 12/31/92.

Bldg. 162
Property Number: 199120508
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 25000 sq. ft.; concrete structure, two story, possible asbestos; most recent use—dorm; scheduled to be vacated 12/31/92.

Bldg. 163
Property Number: 199120511
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 25000 sq. ft.; concrete structure, two story, possible asbestos; most recent use—dorm; scheduled to be vacated 12/31/92.

Bldg. 252
Property Number: 199120512
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 9200 sq. ft.; concrete structure, one story, possible asbestos; most recent use—dorm; scheduled to be vacated 12/31/92.

Bldg. 253
Property Number: 199120513
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 21000 sq. ft.; concrete structure, two story, possible asbestos; most recent use—dorm; scheduled to be vacated 12/31/92.

Bldg. 254
Property Number: 199120514
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 9200 sq. ft.; concrete structure, one story, possible asbestos; most recent use—dorm; scheduled to be vacated 12/31/92.

Bldg. 255
Property Number: 199120515
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 10800 sq. ft.; concrete structure, one story, possible asbestos; most recent use—dorm; scheduled to be vacated 12/31/92.

Bldg. 256
Property Number: 199120516
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 19000 sq. ft.; concrete structure, one story, possible asbestos; most recent use—dorm; scheduled to be vacated 12/31/92.

Bldg. 257
Property Number: 199120517
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 4700 sq. ft.; concrete structure, one story, possible asbestos; most recent use—dorm; scheduled to be vacated 12/31/92.

Bldg. 262
Property Number: 199120518
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 23000 sq. ft.; concrete structure, two story, possible asbestos; most recent use—dorm; scheduled to be vacated 12/31/92.

Bldg. 264
Property Number: 199120519
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 23000 sq. ft.; concrete structure, two story, possible asbestos; most recent use—dorm; scheduled to be vacated 12/31/92.

Bldg. 267
Property Number: 199120520
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 23000 sq. ft.; concrete structure, two story, possible asbestos; most recent use—dorm; scheduled to be vacated 12/31/92.

Bldg. 423
Property Number: 199120527
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 4800 sq. ft.; wood structure, one story, possible asbestos; most recent use—dorm; scheduled to be vacated 12/31/92.

Bldg. 427
Property Number: 199120528
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 4800 sq. ft.; wood structure, one story, possible asbestos; most recent use—dorm; scheduled to be vacated 12/31/92.

Bldg. 497
Property Number: 199120529
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 10300 sq. ft.; concrete structure, one story, possible asbestos; most recent use—dorm; scheduled to be vacated 12/31/92.

Bldg. 498
Property Number: 199120530
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 9300 sq. ft.; concrete structure, one story, possible asbestos; most recent use—dorm; scheduled to be vacated 12/31/92.

Bldg. 499
Property Number: 199120531
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 10300 sq. ft.; concrete structure, one story, possible asbestos; most recent use—dorm; scheduled to be vacated 12/31/92.

Bldg. 500
Property Number: 199120532

Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 9300 sq. ft.; concrete structure, one story, possible asbestos; most recent use—dorm; scheduled to be vacated 12/31/92.

Bldg. 501
Property Number: 199120533
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 10300 sq. ft.; concrete structure, one story, possible asbestos; most recent use—dorm; scheduled to be vacated 12/31/92.

Bldg. 502
Property Number: 199120534
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 9300 sq. ft.; concrete structure, one story, possible asbestos; most recent use—dorm; scheduled to be vacated 12/31/92.

Bldg. 588
Property Number: 199120535
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 24000 sq. ft.; concrete structure, two story, possible asbestos; most recent use—dorm; scheduled to be vacated 12/31/92.

Bldg. 590
Property Number: 199120536
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 25000 sq. ft.; concrete structure, two story, possible asbestos; most recent use—dorm; scheduled to be vacated 12/31/92.

Bldg. 593
Property Number: 199120537
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 25000 sq. ft.; concrete structure, two story, possible asbestos; most recent use—dorm; scheduled to be vacated 12/31/92.

Bldg. 246
Property Number: 199120538
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4300 sq. ft.; concrete structure, one story, possible asbestos; most recent use—lodge; scheduled to be vacated 12/31/92.

Bldg. 247
Property Number: 199120539
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4300 sq. ft.; concrete structure, one story, possible asbestos; most recent use—lodge; scheduled to be vacated 12/31/92.

Bldg. 249
Property Number: 199120540
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4300 sq. ft.; concrete structure, one story, possible asbestos; most recent use—lodge; scheduled to be vacated 12/31/92.

Bldg. 250
Property Number: 199120541
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4300 sq. ft.; concrete structure, one story, possible asbestos; most recent use—lodge; scheduled to be vacated 12/31/92.

Bldg. 248
Property Number: 199120542
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 380 sq. ft.; concrete structure, one story, possible asbestos; most recent use—shed; scheduled to be vacated 12/31/92.

Bldg. 251
Property Number: 199120543
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 380 sq. ft.; concrete structure, one story, possible asbestos; most recent use—shed; scheduled to be vacated 12/31/92.

Bldg. 454
Property Number: 199120544
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2400 sq. ft.; wood structure, one story, possible asbestos; most recent use—shed; scheduled to be vacated 12/31/92.

Bldg. 263
Property Number: 199120545
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 3300 sq. ft.; concrete structure, one story, possible asbestos; most recent use—lounge; scheduled to be vacated 12/31/92.

Bldg. 265
Property Number: 199120546
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 3300 sq. ft.; concrete structure, one story, possible asbestos; most recent use—lounge; scheduled to be vacated 12/31/92.

Bldg. 266
Property Number: 199120547
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 3300 sq. ft.; concrete structure, one story, possible asbestos; most recent use—lounge; scheduled to be vacated 12/31/92.

Bldg. 559
Property Number: 199120548
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 5100 sq. ft.; one story concrete block frame; most recent use—hanger; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 652
Property Number: 199120549
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 20000 sq. ft.; one story concrete block frame; most recent use—hanger; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 756
Property Number: 199120550
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 46000 sq. ft.; one story wood frame; most recent use—hanger; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 672
Property Number: 199120551
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 86000 sq. ft.; one story concrete block frame; most recent use—hanger; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 683
Property Number: 199120552
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 42000 sq. ft.; one story concrete block frame; most recent use—hanger; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 691
Property Number: 199120553
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000

Status: Excess
Comment: 57000 sq. ft.; one story wood frame; most recent use—hanger; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 731
Property Number: 199120554
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 23000 sq. ft.; one story wood frame; most recent use—hanger; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 734
Property Number: 199120555
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 23000 sq. ft.; one story wood frame; most recent use—hanger; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 761
Property Number: 199120556
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 22000 sq. ft.; one story concrete block frame; most recent use—hanger; possible asbestos, scheduled to be vacated 12/31/92.

Bldg. 744
Property Number: 199120557
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 14000 sq. ft.; one story wood frame; most recent use—terminal; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 700
Property Number: 199120558
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 1298 sq. ft.; one story concrete block frame; most recent use—tower; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 671
Property Number: 199120559
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 3444 sq. ft.; one story concrete block frame; most recent use—shop; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 675
Property Number: 199120560
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 3444 sq. ft.; one story concrete block frame; most recent use—storage; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 677
Property Number: 199120561
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 8000 sq. ft.; one story concrete block frame; most recent use—storage; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 640
Property Number: 199120562
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 480 sq. ft.; one story concrete block frame; most recent use—shop; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 643
Property Number: 199120563
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 520 sq. ft.; one story concrete block frame; most recent use—shop; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 764
Property Number: 199120564
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 400 sq. ft.; one story concrete block frame; most recent use—shop; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 789
Property Number: 199120565
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 15900 sq. ft.; one story concrete block frame; most recent use—shop; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 560
Property Number: 199120566
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 44800 sq. ft.; one story concrete block frame; most recent use—lab; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 710
Property Number: 199120567
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 2900 sq. ft.; one story concrete block frame; most recent use—control center; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 842
Property Number: 199120568
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 4129 sq. ft.; one story concrete block frame; most recent use—radar; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 822
Property Number: 199120569
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 341 sq. ft.; one story concrete block frame; most recent use—navigation station; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 860
Property Number: 199120570
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 368 sq. ft.; one story concrete block frame; most recent use—runway unit; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 875
Property Number: 199120571
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 368 sq. ft.; one story concrete block frame; most recent use—runway unit; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 895
Property Number: 199120572
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 368 sq. ft.; one story concrete block frame; most recent use—runway unit; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 568
Property Number: 199120573
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 1060 sq. ft.; one story concrete block frame; most recent use—shop;

possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 685
Property Number: 199120574
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 35000 sq. ft.; one story concrete block frame; most recent use—dock; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 682
Property Number: 199120575
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 35000 sq. ft.; one story concrete block frame; most recent use—dock; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 642
Property Number: 199120576
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 2400 sq. ft.; one story concrete block frame; most recent use—storage; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 645
Property Number: 199120577
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 360 sq. ft.; one story concrete block frame; most recent use—storage; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 755
Property Number: 199120578
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 360 sq. ft.; one story concrete block frame; most recent use—storage; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 879
Property Number: 199120579
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 8000 sq. ft.; one story concrete block frame; most recent use—shop; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 570
Property Number: 199120580
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 2100 sq. ft.; one story concrete block frame; most recent use—shop; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 634
Property Number: 199120581
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 4000 sq. ft.; one story concrete block frame; most recent use—shop; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 686
Property Number: 199120582
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 58000 sq. ft.; one story concrete block frame; most recent use—shop; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 709
Property Number: 199120583
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 960 sq. ft.; one story concrete block frame; most recent use—shop; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 607
Property Number: 199120584
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 256 sq. ft.; one story concrete block frame; most recent use—shop; possible asbestos; scheduled to be vacated 12/3/92.

Bldg. 719
Property Number: 199120585
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 10000 sq. ft.; one story concrete block frame; most recent use—shop; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 768
Property Number: 199120586
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5000 sq. ft.; one story concrete block frame; most recent use—shop; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 564
Property Number: 199120587
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 4100 sq. ft.; one story concrete block frame; most recent use—shop; possible asbestos; scheduled to be vacated 12/31/92.

Bldg. 571
Property Number: 199120588
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 216 sq. ft.; one story concrete structure, possible asbestos, most recent use—maintenance & engineering facilities, scheduled to be vacated 12/31/92.

Bldg. 635
Property Number: 199120589
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 200 sq. ft.; one story concrete structure, possible asbestos, most recent use—maintenance & engineering facilities, scheduled to be vacated 12/31/92.

Bldg. 810
Property Number: 199120590
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 610 sq. ft.; one story wood structure, possible asbestos, most recent use—maintenance & engineering facilities, scheduled to be vacated 12/31/92.

Bldg. 1130
Property Number: 199120591
George Air Force Base
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 288 sq. ft.; one story wood structure, possible asbestos, most recent use—maintenance & engineering facilities, scheduled to be vacated 12/31/92.

Bldg. 513
Property Number: 199120592
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 2400 sq. ft.; one story concrete structure; possible asbestos, most recent use—maintenance & engineer. facilities, scheduled to be vacated 12/31/92.

Bldg. 540
Property Number: 199120593
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 1473 sq. ft.; one story wood structure, possible asbestos, most recent use—maintenance & engineering facilities, scheduled to be vacated 12/31/92.

Bldg. 670
Property Number: 199120594

Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 17000 sq. ft.; one story concrete structure; possible asbestos, most recent use—maintenance & engineering facilities, scheduled to be vacated 12/31/92.

Bldg. 784
Property Number: 199120595
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 3900 sq. ft.; one story concrete structure; possible asbestos, most recent use—maintenance & engineering facilities, scheduled to be vacated 12/31/92.

Bldg. 835
Property Number: 199120596
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 1789 sq. ft.; one story concrete structure; possible asbestos, most recent use—maintenance & engineering facilities, scheduled to be vacated 12/31/92.

Bldg. 999
Property Number: 199120597
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 3800 sq. ft., 1 story concrete structure, possible asbestos, most recent use—maintenance and eng. facilities, scheduled to be vacated 12/31/92.

Bldg. 648
Property Number: 199120599
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 1400 sq. ft., 1 story wood structure, possible asbestos, most recent use—maintenance and eng. facilities, scheduled to be vacated 12/31/92.

Bldg. 659
Property Number: 199120600
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 10000 sq. ft., 1 story wood structure, possible asbestos, most recent use—maintenance and eng. facilities, scheduled to be vacated 12/31/92.

Bldg. 661
Property Number: 199120601
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 9600 sq. ft., 1 story wood structure, possible asbestos, most recent use—maintenance and eng. facilities, scheduled to be vacated 12/31/92.

Bldg. 725
Property Number: 199120602
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 492 sq. ft., 1 story wood structure, possible asbestos, most recent use—maintenance and eng. facilities, scheduled to be vacated 12/31/92.

Bldg. 666
Property Number: 199120603
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 1600 sq. ft., 1 story concrete structure, possible asbestos, most recent use—maintenance and eng. facilities, scheduled to be vacated 12/31/92.

Bldg. 673
Property Number: 199120604
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 14000 sq. ft., 1 story concrete structure, possible asbestos, most recent use—maintenance and eng. facilities, scheduled to be vacated 12/31/92.

Bldg. 679
Property Number: 199120605
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 960 sq. ft., 1 story concrete structure, possible asbestos, most recent use—maintenance and eng. facilities, scheduled to be vacated 12/31/92.

Bldg. 688
Property Number: 199120606
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 960 sq. ft., 1 story concrete structure, possible asbestos, most recent use—maintenance and eng. facilities, scheduled to be vacated 12/31/92.

Bldg. 689
Property Number: 199120607
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 960 sq. ft., 1 story concrete structure, possible asbestos, most recent use—maintenance and eng. facilities, scheduled to be vacated 12/31/92.

Bldg. 997
Property Number: 199120608
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 800 sq. ft., 1 story concrete structure, possible asbestos, most recent use—maintenance and eng. facilities, scheduled to be vacated 12/31/92.

Bldg. 163
Property Number: 199120609
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 10800 sq. ft., 1 story concrete structure, possible asbestos, most recent use—training facility, scheduled to be vacated 12/31/92.

Bldg. 320
Property Number: 199120610
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 10100 sq. ft., 1 story concrete structure, possible asbestos, most recent use—training facility, scheduled to be vacated 12/31/92.

Bldg. 120
Property Number: 199120611
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 16000 sq. ft., 1 story concrete structure, possible asbestos, most recent use—training facility, scheduled to be vacated 12/31/92.

Bldg. 196
Property Number: 199120612
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip 92394-5000
Status: Excess
Comment: 14000 sq. ft., 1 story wood structure, possible asbestos, most recent use—training facility, scheduled to be vacated 12/31/92.

Bldg. 753
Property Number: 199120613
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 1200 sq. ft., 1 story concrete structure, possible asbestos, most recent use—training facility, scheduled to be vacated 12/31/92.

Bldg. 320
Property Number: 199120614
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5000 sq. ft., 1 story concrete structure, possible asbestos, most recent use—training facility, scheduled to be vacated 12/31/92.

Bldg. 348
Property Number: 199120615
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000

Status: Excess
Comment: 1900 sq. ft., 1 story wood structure, possible asbestos, most recent use—training facility, scheduled to be vacated 12/31/92.

Bldg. 683
Property Number: 199120616
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 6200 sq. ft., 1 story concrete structure, possible asbestos, most recent use—training facility, scheduled to be vacated 12/31/92.

Bldg. 720
Property Number: 199120617
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 4400 sq. ft., 1 story concrete structure, possible asbestos, most recent use—training facility, scheduled to be vacated 12/31/92.

Bldg. 310
Property Number: 199120618
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 16800 sq. ft., 1 story concrete structure, possible asbestos, most recent use—training facility, scheduled to be vacated 12/31/92.

Bldg. 12
Property Number: 199120619
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 2969 sq. ft.; 1 story concrete structure, possible asbestos, most recent use—gas station, scheduled to be vacated 12/31/92.

Bldg. 14
Property Number: 199120620
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 2596 sq. ft.; 1 story concrete structure, possible asbestos, most recent use—gas station, scheduled to be vacated 12/31/92.

Bldg. 23
Property Number: 199120621
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 1800 sq. ft.; 1 story wood structure, possible asbestos, most recent use—store/office, scheduled to be vacated 12/31/92.

Bldg. 283
Property Number: 199120622
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 8800 sq. ft.; 1 story wood structure, possible asbestos, most recent use—store, scheduled to be vacated 12/31/92.

Bldg. 60
Property Number: 199120623
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 17000 sq. ft.; 1 story concrete structure, possible asbestos, most recent use—store, scheduled to be vacated 12/31/92.

Bldg. 64
Property Number: 199120624
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 30700 sq. ft.; 1 story concrete structure, possible asbestos, most recent use—store, scheduled to be vacated 12/31/92.

Bldg. 58
Property Number: 199120625
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 2080 sq. ft.; 1 story concrete structure, possible asbestos, most recent use—store, scheduled to be vacated 12/31/92.

Bldg. 158
Property Number: 199120626
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 6200 sq. ft.; 1 story concrete structure, possible asbestos, most recent use—store, scheduled to be vacated 12/31/92.

Bldg. 211
Property Number: 199120627
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 4200 sq. ft.; 1 story concrete structure, possible asbestos, most recent use—store, scheduled to be vacated 12/31/92.

Bldg. 70
Property Number: 199120628
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 41000 sq. ft.; 1 story concrete structure, possible asbestos, most recent use—store, scheduled to be vacated 12/31/92.

Bldg. 655
Property Number: 199120629
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 9300 sq. ft.; 1 story wood structure, possible asbestos, most recent use—store, scheduled to be vacated 12/31/92.

Bldg. 72
Property Number: 199120630
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5900 sq. ft.; 1 story concrete structure, possible asbestos, most recent use—store, scheduled to be vacated 12/31/92.

Bldg. 290
Property Number: 199120631
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 24100 sq. ft.; 1 story concrete structure, possible asbestos, most recent use—chapel, scheduled to be vacated 12/31/92.

Bldg. 97
Property Number: 199120632
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 4900 sq. ft.; 1 story wood structure, possible asbestos, most recent use—chapel, scheduled to be vacated 12/31/92.

Bldg. 1155
Property Number: 199120633
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 147000 sq. ft.; 3 story concrete block structure, possible asbestos, most recent use—hospital, scheduled to be vacated 12/31/92.

Bldg. 724
Property Number: 199120634
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 16000 sq. ft.; 2 story concrete structure, possible asbestos, most recent use—fire station, scheduled to be vacated 12/31/92.

Bldg. 873
Property Number: 199120635
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 1800 sq. ft.; 1 story concrete structure, possible asbestos, most recent use—fire command center, scheduled to be vacated 12/31/92.

Bldg. 107
Property Number: 199120636

Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 1800 sq. ft.; 1 story wood structure, possible asbestos, most recent use—lab, scheduled to be vacated 12/31/92.

Bldg. 350
Property Number: 199120637
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 2300 sq. ft.; 1 story concrete structure, possible asbestos, most recent use—lab, scheduled to be vacated 12/31/92.

Bldg. 353
Property Number: 199120638
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 1898 sq. ft.; 1 story wood structure, possible asbestos, most recent use—lab, scheduled to be vacated 12/31/92.

Bldg. 527
Property Number: 199120639
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 800 sq. ft.; 1 story concrete structure, possible asbestos, most recent use—vehicle shop, scheduled to be vacated 12/31/92.

Bldg. 533
Property Number: 199120640
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 74 sq. ft., 1 story concrete structure, possible asbestos, most recent use—vehicle shop, scheduled to be vacated 12/31/92.

Bldg. 550
Property Number: 199120641
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 3500 sq. ft., 1 story concrete structure, possible asbestos, most recent use—vehicle shop, scheduled to be vacated 12/31/92.

Bldg. 555
Property Number: 199120642
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 33000 sq. ft., 1 story concrete structure, possible asbestos, most recent use—vehicle shop, scheduled to be vacated 12/31/92.

Bldg. 569
Property Number: 199120643
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 2014 sq. ft., 1 story concrete structure, possible asbestos, most recent use—vehicle shops, scheduled to be vacated 12/31/92.

Bldg. 552
Property Number: 199120644
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 2700 sq. ft., 1 story concrete structure, possible asbestos, most recent use—vehicle shop, scheduled to be vacated 12/31/92.

Bldg. 558
Property Number: 199120645
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 2400 sq. ft., 1 story concrete structure, possible asbestos, most recent use—vehicle shop, scheduled to be vacated 12/31/92.

Bldg. 560
Property Number: 199120646
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 13000 sq. ft., 1 story concrete structure, possible asbestos, most recent use—shop, scheduled to be vacated 12/31/92.

Bldg. 157
Property Number: 199120647
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 3523 sq. ft., 1 story concrete structure, possible asbestos, most recent use—food service, scheduled to be vacated 12/31/92.

Bldg. 115
Property Number: 199120648
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 8038 sq. ft., 1 story wood structure, possible asbestos, most recent use—mess, scheduled to be vacated 12/31/92.

Bldg. 185
Property Number: 199120649
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 15000 sq. ft., 1 story concrete structure, possible asbestos, most recent use—mess, scheduled to be vacated 12/31/92.

Bldg. 451
Property Number: 199120650
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 19000 sq. ft., 1 story wood structure, possible asbestos, most recent use—mess, scheduled to be vacated 12/31/92.

Bldg. 160
Property Number: 199120651
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 8400 sq. ft., 1 story concrete structure, possible asbestos, most recent use—dining hall, scheduled to be vacated 12/31/92.

Bldg. 591
Property Number: 199120652
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 13000 sq. ft., 1 story concrete structure, possible asbestos, most recent use—dining hall, scheduled to be vacated 12/31/92.

Bldg. 167
Property Number: 199120653
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 2700 sq. ft., 1 story concrete structure, possible asbestos, most recent use—child care, scheduled to be vacated 12/31/92.

Bldg. 289
Property Number: 199120654
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 9700 sq. ft., 1 story concrete structure, possible asbestos, most recent use—child care, scheduled to be vacated 12/31/92.

Bldg. 1163
Property Number: 199120655
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 1800 sq. ft., 1 story wood structure, possible asbestos, most recent use—child care, scheduled to be vacated 12/31/92.

Bldg. 280
Property Number: 199120656
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 10200 sq. ft., 1 story concrete block structure, possible asbestos, most recent

use—communication facility, scheduled to be vacated 12/31/92.

Bldg. 324
Property Number: 199120657
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 7900 sq. ft., 1 story concrete block structure, possible asbestos, most recent use—communication facility, scheduled to be vacated 12/31/92.

Bldg. 386
Property Number: 199120658
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 1200 sq. ft., 1 story wood structure, possible asbestos, most recent use—communication facility, scheduled to be vacated 12/31/92.

Bldg. 389
Property Number: 199120659
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 108 sq. ft., 1 story concrete block structure, possible asbestos, most recent use—communication facility, scheduled to be vacated 12/31/92.

Bldg. 415
Property Number: 199120660
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 1850 sq. ft., 1 story wood structure, possible asbestos, most recent use—communication facility, scheduled to be vacated 12/31/92.

Bldg. 600
Property Number: 199120661
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 218 sq. ft., 1 story concrete block structure, possible asbestos, most recent use—communication facility, scheduled to be vacated 12/31/92.

Bldg. 757
Property Number: 199120662
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 9200 sq. ft., 1 story wood structure, possible asbestos, most recent use—communication facility, scheduled to be vacated 12/31/92.

Bldg. 760
Property Number: 199120663
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 3200 sq. ft., 1 story concrete block structure, possible asbestos, most recent use—communication facility, scheduled to be vacated 12/31/92.

Bldg. 800
Property Number: 199120664
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 324 sq. ft., 1 story concrete block structure, possible asbestos, most recent use—communication facility, scheduled to be vacated 12/31/92.

Bldg. 805
Property Number: 199120665
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 1285 sq. ft., 1 story concrete block structure, possible asbestos, most recent use—communication facility, scheduled to be vacated 12/31/92.

Bldg. 806
Property Number: 199120666
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 1089 sq. ft., 1 story concrete block structure, possible asbestos, most recent use—communication facility, scheduled to be vacated 12/31/92.

Bldg. 518
Property Number: 199120667
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 70000 sq. ft., 1 story concrete structure, possible asbestos, most recent use—warehouse, scheduled to be vacated 12/31/92.

Bldg. 520
Property Number: 199120668
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 54000 sq. ft., 1 story concrete structure, possible asbestos, most recent use—warehouse, scheduled to be vacated 12/31/92.

Bldg. 633
Property Number: 199120669
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 1124 sq. ft., 1 story concrete structure, possible asbestos, most recent use—warehouse, scheduled to be vacated 12/31/92.

Bldg. 653
Property Number: 199120670
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 22400 sq. ft., 1 story wood structure, possible asbestos, most recent use—warehouse, scheduled to be vacated 12/31/92.

Bldg. 732
Property Number: 199120671
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 12700 sq. ft., 1 story wood structure, possible asbestos, most recent use—warehouse, scheduled to be vacated 12/31/92.

Bldg. 733
Property Number: 199120672
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 12700 sq. ft., 1 story wood structure, possible asbestos, most recent use—warehouse, scheduled to be vacated 12/31/92.

Bldg. 738
Property Number: 199120673
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 25000 sq. ft., 1 story wood structure, possible asbestos, most recent use—warehouse, scheduled to be vacated 12/31/92.

Bldg. 739
Property Number: 199120674
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 12700 sq. ft., 1 story wood structure, possible asbestos, most recent use—warehouse, scheduled to be vacated 12/31/92.

Bldg. 538
Property Number: 199120675
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 7750 sq. ft., 1 story concrete block structure, possible asbestos, most recent use—warehouse, scheduled to be vacated 12/31/92.

Bldg. 539
Property Number: 199120676
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394-5000
Status: Excess
Comment: 5660 sq. ft., 1 story concrete block structure, possible asbestos, most recent use—warehouse, scheduled to be vacated 12/31/92.

Bldg. 657

Property Number: 199120677
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 9300 sq. ft., 1 story wood structure, possible asbestos, most recent use—warehouse, scheduled to be vacated 12/31/92.

Bldg. 656
Property Number: 199120678
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Comment: 9100 sq. ft., 1 story wood structure, possible asbestos, most recent use—warehouse, scheduled to be vacated 12/31/92.

Colorado

Land

NTMU—Partial Area
Property Number: 189010254
Fed Reg Date: 11/29/91
Project Name: Lowry Air Force Base
Lowry Air Force Base
Denver, CO, Co: Denver, Zip: 80230–5000
Location: West of Aspen Terr. housing area and South of (AFAFC) along the base boundary.
Status: Excess
Comment: Approximately 20 acres; sloping parts in area.

Illinois

Buildings

Bldg. 9
Property Number: 189030224
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 11
Property Number: 189030225
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 12
Property Number: 189030226
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 13
Property Number: 189030227
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 14
Property Number: 189030228
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 21
Property Number: 189030229
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 22
Property Number: 189030230
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 23
Property Number: 189030231
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 24
Property Number: 189030232
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 32
Property Number: 189030233
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 33
Property Number: 189030234
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 35
Property Number: 189030235
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 37
Property Number: 189030236
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 39
Property Number: 189030237
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 41
Property Number: 189030238
Fed Reg Date: 11/29/91

Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 49
Property Number: 189030239
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 51
Property Number: 189030240
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 53
Property Number: 189030241
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 55
Property Number: 189030242
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 56
Property Number: 189030243
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 57
Property Number: 189030244
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 58
Property Number: 189030245
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 59
Property Number: 189030246
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 60
Property Number: 189030247
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 61
Property Number: 189030248
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 62
Property Number: 189030249
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 63
Property Number: 189030250
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 64
Property Number: 189030251
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 65
Property Number: 189030252
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 66
Property Number: 189030253
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 67
Property Number: 189030254
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 68
Property Number: 189030255
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts

Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 69
Property Number: 189030256
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 70
Property Number: 189030257
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 71
Property Number: 189030258
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 73
Property Number: 189030259
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 74
Property Number: 189030260
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 75
Property Number: 189030261
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 77
Property Number: 189030262
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 78
Property Number: 189030263
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 79
Property Number: 189030264
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 80
Property Number: 189030265
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 81
Property Number: 189030266
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 82
Property Number: 189030267
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 83
Property Number: 189030268
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 84
Property Number: 189030269
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 87
Property Number: 189030270
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 89
Property Number: 189030271
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 92
Property Number: 189030272
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab;

possible asbestos; possible easement restriction.

Bldg. 93
Property Number: 189030273
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 95
Property Number: 189030274
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 96
Property Number: 189030275
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 97
Property Number: 189030276
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 99
Property Number: 189030277
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 103
Property Number: 189030278
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 107
Property Number: 189030279
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 111
Property Number: 189030280
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 112
Property Number: 189030281
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 113
Property Number: 189030282
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 119
Property Number: 189030283
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 122
Property Number: 189030284
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 123
Property Number: 189030285
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 124
Property Number: 189030286
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 128
Property Number: 189030287
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 130
Property Number: 189030288
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 132
Property Number: 189030289
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 133

Property Number: 189030290
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 134
Property Number: 189030291
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 135
Property Number: 189030292
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 136
Property Number: 189030293
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 138
Property Number: 189030294
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 140
Property Number: 189030295
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 141
Property Number: 189030296
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 145
Property Number: 189030297
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 146
Property Number: 189030298
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 150
Property Number: 189030299
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 152
Property Number: 189030300
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 154
Property Number: 189030301
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 2
Property Number: 189030302
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 4-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 4
Property Number: 189030303
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 4-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 6
Property Number: 189030304
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 4-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 7
Property Number: 189030305
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 4-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 8
Property Number: 189030306
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 4-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 125
Property Number: 189030307
Fed Reg Date: 11/29/91

Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 4-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.
Bldg. 127
Property Number: 189030308
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 4-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.
Bldg. 128
Property Number: 189030309
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 4-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.
Bldg. 129
Property Number: 189030310
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 4-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.
Bldg. 131
Property Number: 189030311
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 4-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.
Bldg. 153
Property Number: 189030312
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 4-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.
Bldg. 15
Property Number: 189030313
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 4-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.
Bldg. 17
Property Number: 189030314
Fed Reg Date:11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.
Bldg. 18
Property Number: 189030315
Fed Reg Date:11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.
Bldg. 19
Property Number: 189030316
Fed Reg Date:11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.
Bldg. 20
Property Number: 189030317
Fed Reg Date:11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.
Bldg. 26
Property Number: 189030318
Fed Reg Date:11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.
Bldg. 27
Property Number: 189030319
Fed Reg Date:11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.
Bldg. 29
Property Number: 189030320
Fed Reg Date:11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.
Bldg. 30
Property Number: 189030321
Fed Reg Date:11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.
Bldg. 31
Property Number: 189030322
Fed Reg Date:11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.
Bldg. 38
Property Number: 189030323
Fed Reg Date:11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.
Bldg. 40
Property Number: 189030324
Fed Reg Date:11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts

Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 42
Property Number: 189030325
Fed Reg Date:11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 43
Property Number: 189030326
Fed Reg Date:11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 44
Property Number: 189030327
Fed Reg Date:11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 45
Property Number: 189030328
Fed Reg Date:11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 47
Property Number: 189030329
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 52
Property Number: 189030330
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 54
Property Number: 189030331
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 72
Property Number: 189030332
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 85
Property Number: 189030333
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 86
Property Number: 189030334
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 90
Property Number: 189030335
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 91
Property Number: 189030336
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 102
Property Number: 189030337
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 106
Property Number: 189030338
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 114
Property Number: 189030339
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 115
Property Number: 189030340
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 120
Property Number: 189030341
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab;

possible asbestos; possible easement restriction.

Bldg. 144
Property Number: 189030342
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 5
Property Number: 189030343
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 2707 sq. ft.; 1 story wood frame; termite damage; possible asbestos; needs major rehab; possible easement restriction; most recent use—administrative office.

Bldg. 732
Property Number: 189030344
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 13336 sq. ft.; 2 story wood frame; needs structural repairs; most recent use—warehouse.

Bldg. 118
Property Number: 189030345
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 3996 sq. ft.; 1 story wood frame; needs structural repairs; most recent use—band facility.

Bldg. 107
Property Number: 189030346
Fed Reg Date: 11/29/91
Project Name: Chanute Air Force Base, Base Closure
Chanute Air Force Base
Falcon Street
Rantoul, IL, Co: Champaign, Zip: 61866–
Status: Excess
Comment: 17118 sq. ft.; 1 story wood frame; needs rehab; potential utilities; most recent use—cold storage.

Maine

Buildings

Bldg. 1
Property Number: 189010590
Fed Reg Date: 11/29/91
Project Name: Family Housing Annex
Family Housing Annex, Loring Air Force Base
U.S. Route #1
Caswell, ME, Co: Aroostook, Zip: 04750–
Status: Excess
Comment: 1116 sq. ft.; 1 story frame residence; no utilities; asbestos and radon tests pending; fuel tanks removed; sewage line needs repair.

Bldg. 2
Property Number: 189010591
Fed Reg Date: 11/29/91
Project Name: Family Housing Annex
Family Housing Annex, Loring Air Force Base
U.S. Route #1
Caswell, ME, Co: Aroostook, Zip: 04750–
Status: Excess
Comment: 1116 sq. ft.; 1 story frame residence; no utilities; asbestos and radon tests pending; fuel tanks removed; sewage line needs repair.

Bldg. 3
Property Number: 189010592
Fed Reg Date: 11/29/91
Project Name: Family Housing Annex
Family Housing Annex, Loring Air Force Base
U.S. Route #1
Caswell, ME, Co: Aroostook, Zip: 04750–
Status: Excess
Comment: 1116 sq. ft.; 1 story frame residence; no utilities; asbestos and radon tests pending; fuel tanks removed; sewage line needs repair.

Bldg. 4
Property Number: 189010593
Fed Reg Date: 11/29/91
Project Name: Family Housing Annex
Family Housing Annex, Loring Air Force Base
U.S. Route #1
Caswell, ME, Co: Aroostook, Zip: 04750–
Status: Excess
Comment: 1116 sq. ft.; 1 story frame residence; no utilities; asbestos and radon tests pending; fuel tanks removed; sewage line needs repair.

Bldg. 5
Property Number: 189010594
Fed Reg Date: 11/29/91
Project Name: Family Housing Annex
Family Housing Annex, Loring Air Force Base
U.S. Route #1
Caswell, ME, Co: Aroostook, Zip: 04750–
Status: Excess
Comment: 1116 sq. ft.; 1 story frame residence; no utilities; asbestos and radon tests pending; fuel tanks removed; sewage line needs repair.

Bldg. 6
Property Number: 189010595
Fed Reg Date: 11/29/91
Project Name: Family Housing Annex
Family Housing Annex, Loring Air Force Base
U.S. Route #1
Caswell, ME, Co: Aroostook, Zip: 04750–
Status: Excess
Comment: 1116 sq. ft.; 1 story frame residence; no utilities; asbestos and radon tests pending; fuel tanks removed; sewage line needs repair.

Bldg. 7
Property Number: 189010596
Fed Reg Date: 11/29/91
Project Name: Family Housing Annex
Family Housing Annex, Loring Air Force Base
U.S. Route #1
Caswell, ME, Co: Aroostook, Zip: 04750–
Status: Excess
Comment: 1116 sq. ft.; 1 story frame residence; no utilities; asbestos and radon tests pending; fuel tanks removed; sewage line needs repair.

Bldg. 8
Property Number: 189010597
Fed Reg Date: 11/29/91
Project Name: Family Housing Annex
Family Housing Annex, Loring Air Force Base
U.S. Route #1
Caswell, ME, Co: Aroostook, Zip: 04750–
Status: Excess
Comment: 1116 sq. ft.; 1 story frame residence; no utilities; asbestos and radon tests pending; fuel tanks removed; sewage line needs repair.

Bldg. 9
Property Number: 189010598
Fed Reg Date: 11/29/91
Project Name: Family Housing Annex
Family Housing Annex, Loring Air Force Base
U.S. Route #1
Caswell, ME, Co: Aroostook, Zip: 04750–
Status: Excess
Comment: 1116 sq. ft.; 1 story frame residence; no utilities; asbestos and radon tests pending; fuel tanks removed; sewage line needs repair.

Bldg. 10
Property Number: 189010599
Fed Reg Date: 11/29/91
Project Name: Family Housing Annex
Family Housing Annex, Loring Air Force Base
U.S. Route #1
Caswell, ME, Co: Aroostook, Zip: 04750–
Status: Excess
Comment: 1116 sq. ft.; 1 story frame residence; no utilities; asbestos and radon tests pending; fuel tanks removed; sewage line needs repair.

Bldg. 11
Property Number: 189010600
Fed Reg Date: 11/29/91
Project Name: Family Housing Annex
Family Housing Annex, Loring Air Force Base
U.S. Route #1
Caswell, ME, Co: Aroostook, Zip: 04750–
Status: Excess
Comment: 1116 sq. ft.; 1 story frame residence; no utilities; asbestos and radon tests pending; fuel tanks removed; sewage line needs repair.

Bldg. 12
Property Number: 189010601
Fed Reg Date: 11/29/91
Project Name: Family Housing Annex
Family Housing Annex, Loring Air Force Base
U.S. Route #1
Caswell, ME, Co: Aroostook, Zip: 04750–
Status: Excess
Comment: 1116 sq. ft.; 1 story frame residence; no utilities; asbestos and radon tests pending; fuel tanks removed; sewage line needs repair.

Bldg. 13
Property Number: 189010602
Fed Reg Date: 11/29/91
Project Name: Family Housing Annex
Family Housing Annex, Loring Air Force Base
U.S. Route #1
Caswell, ME, Co: Aroostook, Zip: 04750–
Status: Excess
Comment: 1116 sq. ft.; 1 story frame residence; no utilities; asbestos and radon tests pending; fuel tanks removed; sewage line needs repair.

Bldg. 14
Property Number: 189010603
Fed Reg Date: 11/29/91

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Project Name: Family Housing Annex
Family Housing Annex, Loring Air Force Base
U.S. Route #1
Caswell, ME, Co: Aroostook, Zip: 04750
Status: Excess
Comment: 1116 sq. ft.; 1 story frame residence; no utilities; asbestos and radon tests pending; fuel tanks removed; sewage line needs repair.

Bldg. 15
Property Number: 189010604
Fed Reg Date: 11/29/91
Project Name: Family Housing Annex
Family Housing Annex, Loring Air Force Base
U.S. Route #1
Caswell, ME, Co: Aroostook, Zip: 04750
Status: Excess
Comment: 1116 sq. ft.; 1 story frame residence; no utilities; asbestos and radon tests pending; fuel tanks removed; sewage line needs repair.

Bldg. 16
Property Number: 189010605
Fed Reg Date: 11/29/91
Project Name: Family Housing Annex
Family Housing Annex, Loring Air Force Base
U.S. Route #1
Caswell, ME, Co: Aroostook, Zip: 04750
Status: Excess
Comment: 1116 sq. ft.; 1 story frame residence; no utilities; asbestos and radon tests pending; fuel tanks removed; sewage line needs repair.

New Hampshire

Buildings

Bldg. 8
Property Number: 189010534
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Newington Road
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 32589 sq. ft., 3 story steel frame structure, presence of asbestos, most recent use—storage.

Bldg. 94
Property Number: 189010535
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base, Temp. Lodging Facility
Rockingham Drive
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 23682 sq. ft., 2 story wood frame, presence of asbestos, most recent use—storage.

Bldg. 600
Property Number: 189040059
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 601
Property Number: 189040060
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 602
Property Number: 189040061
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 3936 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 603
Property Number: 189040062
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 604
Property Number: 189040063
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 605
Property Number: 189040064
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 606
Property Number: 189040065
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 3936 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 607
Property Number: 189040066
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 608
Property Number: 189040067
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 609
Property Number: 189040068
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 610
Property Number: 189040069
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 611
Property Number: 189040070
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 612
Property Number: 189040071
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3936 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 613
Property Number: 189040072
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–

Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 614
Property Number: 189040073
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3936 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 615
Property Number: 189040074
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 616
Property Number: 189040075
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 617
Property Number: 189040076
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3936 sq. ft., 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 618
Property Number: 189040077
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4636 sq. ft., 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 619
Property Number: 189040078
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 620
Property Number: 189040079
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 621
Property Number: 189040080
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 622
Property Number: 189040081
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 623
Property Number: 189040082
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4636 sq. ft., 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 624
Property Number: 189040083
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 625
Property Number: 189040084
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4636 sq. ft., 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 626
Property Number: 189040085
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 627
Property Number: 189040086
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 628
Property Number: 189040087
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 629
Property Number: 189040088
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 630
Property Number: 189040089
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 631
Property Number: 189040090
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4636 sq. ft., 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 632
Property Number: 189040091
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure

Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 3936 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 633
Property Number: 189040092
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 634
Property Number: 189040093
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 635
Property Number: 189040094
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 636
Property Number: 189040095
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 3936 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 637
Property Number: 189040096
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 638
Property Number: 189040097
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 639
Property Number: 189040098
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 3936 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 640
Property Number: 189040099
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 3936 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 641
Property Number: 189040100
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 642
Property Number: 189040101
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 643
Property Number: 189040102
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 644
Property Number: 189040103
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 645
Property Number: 189040104
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 646
Property Number: 189040106
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 3936 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 647
Property Number: 189040106
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 3936 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 648
Property Number:189040107
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 3936 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 649
Property Number:189040108
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 650
Property Number:189040109
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 651
Property Number:189040110

Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 652
Property Number: 189040111
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame: 4-unit residence: scheduled to be vacated 3/31/91.

Bldg. 653
Property Number: 189040112
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 654
Property Number: 189040113
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 3636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 655
Property Number: 189040114
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 656
Property Number: 189040115
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 657
Property Number: 189040116
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 658
Property Number: 189040117
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence: scheduled to be vacated 3/31/91.

Bldg. 659
Property Number: 189040118
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 660
Property Number: 189040119
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 661
Property Number: 189040120
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 3936 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 662
Property Number: 189040121
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 3936 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 663
Property Number: 189040122
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 664
Property Number: 189040123
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 665
Property Number: 189040124
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 3936 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 666
Property Number: 189040125
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame: 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 667
Property Number: 189040126
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 668
Property Number: 189040127
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 669
Property Number: 189040128
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess

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Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 670
Property Number: 189040129
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3744 sq. ft., 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 671
Property Number: 189040130
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 672
Property Number: 189040131
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft., 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 673
Property Number: 189040132
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4636 sq. ft., 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 674
Property Number: 189040133
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft., 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 675
Property Number: 189040134
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 676
Property Number: 189040135
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3744 sq. ft., 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 677
Property Number: 189040136
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4636 sq. ft., 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 678
Property Number: 189040137
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft., 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 679
Property Number: 189040138
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3936 sq. ft., 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 680
Property Number: 189040139
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft., 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 681
Property Number: 189040140
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3936 sq. ft., 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 682
Property Number: 189040141
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 683
Property Number: 189040142
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 684
Property Number: 189040143
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft., 2 story wood frame: 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 685
Property Number: 189040144
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft., 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 686
Property Number: 189040145
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft., 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 687
Property Number: 189040146
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4636 sq. ft.; 3 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 688
Property Number: 189040147
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure

Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 699
Property Number: 189040148
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 700
Property Number: 189040149
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 701
Property Number: 189040150
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/90.

Bldg. 702
Property Number: 189040151
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft., 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 703
Property Number: 189040152
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 704
Property Number: 189040153
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 705
Property Number: 189040154
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 706
Property Number: 189040155
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 707
Property Number: 189040156
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 708
Property Number: 189040157
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft., 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 709
Property Number: 189040158
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3744 sq. ft., 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 710
Property Number: 189040159
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft., 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 711
Property Number: 189040160
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 712
Property Number: 189040161
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 713
Property Number: 189040162
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 714
Property Number: 189040163
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3744 sq. ft., 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 715
Property Number: 189040164
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3744 sq. ft., 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 716
Property Number: 189040165
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4636 sq. ft., 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 717
Property Number: 189040166

Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 718
Property Number: 189040167
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4636 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 719
Property Number: 189040168
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 720
Property Number: 189040169
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 721
Property Number: 189040170
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 722
Property Number: 189040171
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 723
Property Number: 189040172
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 724
Property Number: 189040173
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 725
Property Number: 189040174
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 726
Property Number: 189040175
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 727
Property Number: 189040176
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 728
Property Number: 189040177
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 729
Property Number: 189040178
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 730
Property Number: 189040179
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 731
Property Number: 189040180
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 732
Property Number: 189040181
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 733
Property Number: 189040182
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 734
Property Number: 189040183
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 735
Property Number: 189040184
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess

Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 736
Property Number: 189040185
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 737
Property Number: 189040186
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 738
Property Number: 189040187
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 739
Property Number: 189040188
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 740
Property Number: 189040189
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 741
Property Number: 189040190
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 742
Property Number: 189040191
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 743
Property Number: 189040192
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 744
Property Number: 189040193
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 745
Property Number: 189040194
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 746
Property Number: 189040195
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 747
Property Number: 189040196
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 748
Property Number: 189040197
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 749
Property Number: 189040198
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4 unit residence; scheduled to be vacated 3/31/91.

Bldg. 750
Property Number: 189040199
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 751
Property Number: 189040200
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4 unit residence; scheduled to be vacated 3/31/91.

Bldg. 752
Property Number: 189040201
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 753
Property Number: 189040202
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 754
Property Number: 189040203
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure

Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 755
Property Number: 189040204
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 756
Property Number: 189040205
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 757
Property Number: 189040206
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 758
Property Number: 189040207
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 759
Property Number: 189040208
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 760
Property Number: 189040209
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 761
Property Number: 189040210
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 762
Property Number: 189040211
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 763
Property Number: 189040212
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 764
Property Number: 189040213
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 765
Property Number: 189040214
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 766
Property Number: 189040215
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 767
Property Number: 189040216
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 768
Property Number: 189040217
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 769
Property Number: 189040218
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 770
Property Number: 189040219
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 771
Property Number: 189040220
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 772
Property Number: 189040221
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 773
Property Number: 189040222

Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 774
Property Number: 189040223
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 775
Property Number: 189040224
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 776
Property Number: 189040225
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 777
Property Number: 189040226
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 800
Property Number: 189040227
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 800
Property Number: 189040228
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 801
Property Number: 189040229
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 802
Property Number: 189040230
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 803
Property Number: 189040231
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 804
Property Number: 189040232
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 805
Property Number: 189040233
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 806
Property Number: 189040234
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 807
Property Number: 189040235
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 808
Property Number: 189040236
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 809
Property Number: 189040237
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 810
Property Number: 189040238
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 811
Property Number: 189040239
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 812
Property Number: 189040240
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess

Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 813
Property Number: 189040241
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 814
Property Number: 189040242
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 815
Property Number: 189040243
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 816
Property Number: 189040244
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 817
Property Number: 189040245
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 818
Property Number: 189040246
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 819
Property Number: 189040247
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 820
Property Number: 189040248
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 821
Property Number: 189040249
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 822
Property Number: 189040250
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 823
Property Number: 189040251
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 824
Property Number: 189040252
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 825
Property Number: 189040253
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 826
Property Number: 189040254
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 827
Property Number: 189040255
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 828
Property Number: 189040256
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 829
Property Number: 189040257
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 830
Property Number: 189040258
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 831
Property Number: 189040259
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure

Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 832
Property Number: 189040260
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 833
Property Number: 189040261
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 834
Property Number: 189040262
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 835
Property Number: 189040263
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 836
Property Number: 189040264
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 837
Property Number: 189040265
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 838
Property Number: 189040266
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 839
Property Number: 189040267
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 840
Property Number: 189040268
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 841
Property Number: 189040269
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 842
Property Number: 189040270
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 843
Property Number: 189040271
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 844
Property Number: 189040272
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 845
Property Number: 189040273
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 846
Property Number: 189040274
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 847
Property Number: 189040275
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 848
Property Number: 189040276
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 5100 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 849
Property Number: 189040277
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 850
Property Number: 189040278

Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 851
Property Number: 189040279
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 852
Property Number: 189040280
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 853
Property Number: 189040281
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 854
Property Number: 189040282
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 855
Property Number: 189040283
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 856
Property Number: 189040284
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 857
Property Number: 189040285
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 858
Property Number: 189040286
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 859
Property Number: 189040287
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 860
Property Number: 189040288
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 861
Property Number: 189040289
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 862
Property Number: 189040290
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 863
Property Number: 189040291
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 864
Property Number: 189040292
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 865
Property Number: 189040293
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 866
Property Number: 189040294
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 867
Property Number: 189040295
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 868
Property Number: 189040296
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess

Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 869
Property Number: 189040297
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 870
Property Number: 189040298
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 871
Property Number: 189040299
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 872
Property Number: 189040300
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4400 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 873
Property Number: 189040301
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 874
Property Number: 189040302
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 875
Property Number: 189040303
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3744 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 901
Property Number: 189040304
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 7960 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 902
Property Number: 189040305
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 7960 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 904
Property Number: 189040306
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 7960 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 905
Property Number: 189040307
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 8064 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 906
Property Number: 189040308
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 7960 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 907
Property Number: 189040309
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 8064 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 908
Property Number: 189040310
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 8064 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 909
Property Number: 189040311
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 7960 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 910
Property Number: 189040312
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 7960 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 911
Property Number: 189040313
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 8064 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 912
Property Number: 189040314
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 7960 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 913
Property Number: 189040315
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure

Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 7960 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 915
Property Number: 189040316
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 7960 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 921
Property Number: 189040317
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 7960 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 922
Property Number: 189040318
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 7960 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 923
Property Number: 189040319
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 7960 sq. ft.; 2 story wood frame; 4-unit residence; scheduled to be vacated 3/31/91.

Bldg. 26
Property Number: 189040320
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 15088 sq. ft.; 1 story concrete block/brick; most recent use—open mess; scheduled to be vacated 3/31/91.

Bldg. 46
Property Number: 189040321
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 12704 sq. ft.; 1 story concrete block/brick; most recent use—open mess; presence of asbestos; scheduled to be vacated 3/31/91.

Bldg. 60
Property Number: 189040322
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 12764 sq. ft.; 1 story concrete block/brick; most recent use—dining hall; presence of asbestos; scheduled to be vacated 3/31/91.

Bldg. 99
Property Number: 189040323
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 13222 sq. ft.; one story concrete block/brick; most recent use—open mess; presence of asbestos; scheduled to be vacated 3/31/91.

Bldg. 41
Property Number: 189040324
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Credit Union
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 2400 sq. ft.; one story brick; most recent use—bank facility; scheduled to be vacated 3/31/91.

Bldg. 44
Property Number: 189040325
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 14234 sq. ft.; 2 story brick/concrete; most recent use—lodging; scheduled to be vacated 3/31/91.

Bldg. 96
Property Number: 189040326
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 11801 sq. ft.; 2 story wood/steel; most recent use—lodging presence of asbestos in pipe insulation; scheduled to be vacated 3/31/91.

Bldg. 89
Property Number: 189040327
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4260 sq. ft.; one story; possible asbestos; hospital heat plant; scheduled to be vacated 3/31/91.

Bldg. 93
Property Number: 189040328
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 28233 sq. ft.; 4 story; most recent use—hospital; scheduled to be vacated 3/31/91.

Bldg. 98
Property Number: 189040329
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 1536 sq. ft.; 1 story; trailer/office space; scheduled to be vacated 3/31/91.

Bldg. 35
Property Number: 189040330
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 29456 sq. ft.; 1 story; possible asbestos; training facility; scheduled to be vacated 3/31/91.

Bldg. 36
Property Number: 189040331
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 7602 sq. ft.; 1 story; possible asbestos; training facility; scheduled to be vacated 3/31/91.

Bldg. 88
Property Number: 189040332
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 10863 sq. ft.; 3 story; possible asbestos; education center; scheduled to be vacated 3/31/91.

Bldg. 74
Property Number: 189040333
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Child Care Facility
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4426 sq. ft.; one story; child care center; scheduled to be vacated 3/31/91.

Bldg. 76
Property Number: 189040334
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Child Care Facility
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 11500 sq. ft.; 1 story; child care center; scheduled to be vacated 3/31/91.

Bldg. 62

Property Number: 189040335
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 5160 sq. ft.; 1 story masonry frame; most recent use—fire services; scheduled to be vacated 3/31/91.

Bldg. 30
Property Number: 189040347
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4510 sq. ft.; 1 story brick; most recent use—sales store; presence of asbestos; scheduled to be vacated 3/31/91.

Bldg. 115
Property Number: 189040349
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 48973 sq. ft.; 1 story brick/blocks; most recent use—sales store; scheduled to be vacated 3/31/91.

Bldg. 116
Property Number: 189040350
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 71509 sq. ft.; 1 story masonry unit; most recent use—commissary; presence of asbestos; scheduled to be vacated 3/31/91.

Bldg. 25
Property Number: 189040351
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 10426 sq. ft.; 1 story wood frame; presence of asbestos; most recent use—chapel; scheduled to be vacated 3/31/91.

Bldg. 63
Property Number: 189040352
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 7550 sq. ft.; 1 story wood frame; presence of asbestos; most recent use—chapel; scheduled to be vacated 3/31/91.

Bldg. 423
Property Number: 189040383
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 1338 sq. ft.; 1 story wood frame residence; possible asbestos; scheduled to be vacated 3/31/91.

Bldg. 427
Property Number: 189040384
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4995 sq. ft.; 2 story wood frame; most recent use—rod and gun club; scheduled to be vacated 3/31/91.

Bldg. 130
Property Number: 189040385
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 36570 sq. ft., 1 story metal; presence of asbestos; most recent use—motor pool; scheduled to be vacated 3/31/91.

Bldg. 9
Property Number: 189040386
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 32589 sq. ft., 3 story steel/concrete dormitory; presence of asbestos; scheduled to be vacated 3/31/91.

Bldg. 47
Property Number: 189040387
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 32589 sq. ft., 3 story steel/concrete dormitory; scheduled to be vacated 3/31/91.

Bldg. 49
Property Number: 189040388
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 32589 sq. ft., 3 story steel/concrete dormitory; scheduled to be vacated 3/31/91.

Bldg. 50
Property Number: 189040389
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 32589 sq. ft., 3 story steel/concrete dormitory; scheduled to be vacated 3/31/91.

Bldg. 56
Property Number: 189040390
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 32589 sq. ft., 3 story steel/concrete dormitory; scheduled to be vacated 3/31/91.

Bldg. 56
Property Number: 189040391
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 32589 sq. ft., 3 story steel/concrete dormitory; scheduled to be vacated 3/31/91.

Bldg. 80
Property Number: 189040392
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 32589 sq. ft., 3 story steel/concrete dormitory; scheduled to be vacated 3/31/91.

Bldg. 81
Property Number: 189040393
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 32589 sq. ft., 3 story steel/concrete dormitory; scheduled to be vacated 3/31/91.

Bldg. 84
Property Number: 189040394
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 32589 sq. ft., 3 story steel/concrete dormitory; scheduled to be vacated 3/31/91.

Bldg. 500
Property Number: 189040395
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 2021 sq. ft., 1 story brick/blocks residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 501
Property Number: 189040396
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 2021 sq. ft., 1 story brick/blocks residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 502
Property Number: 189040397
Fed Reg Date: 11/29/91

Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 2021 sq. ft., 1 story brick/blocks residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 503
Property Number: 189040398
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 2021 sq. ft., 1 story brick/blocks residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 504
Property Number: 189040399
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 2021 sq. ft., 1 story brick/blocks residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 505
Property Number: 189040400
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 2021 sq. ft., 1 story brick/blocks residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 506
Property Number: 189040401
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3138 sq. ft., 1 story brick/blocks residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 507
Property Number: 189040402
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 2317 sq. ft., 1 story brick/blocks residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 508
Property Number: 189040403
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 2524 sq. ft., 1 story brick/blocks residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 509
Property Number: 189040404
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 1621 sq. ft.; 1 story brick/blocks residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 510
Property Number: 189040405
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 511
Property Number: 189040406
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 512
Property Number: 189040407
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 513
Property Number: 189040408
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 514
Property Number: 189040409
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 515
Property Number: 189040410
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 516
Property Number: 189040411
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 517
Property Number: 189040412
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 518
Property Number: 189040413
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 519
Property Number: 189040414
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 520
Property Number: 189040415
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess

Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 521
Property Number: 189040416
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 522
Property Number: 189040417
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 523
Property Number: 189040418
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 524
Property Number: 189040419
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 525
Property Number: 189040420
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 526
Property Number: 189040421
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 527
Property Number: 189040422
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 528
Property Number: 189040423
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 529
Property Number: 189040424
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 530
Property Number: 189040425
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 531
Property Number: 189040426
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 532
Property Number: 189040427
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 533
Property Number: 189040428
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 534
Property Number: 189040429
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 535
Property Number: 189040430
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 536
Property Number: 189040431
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 537
Property Number: 189040432
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 538
Property Number: 189040434
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 539
Property Number: 189040435
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure

Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 540
Property Number: 189040436
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 541
Property Number: 189040437
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 542
Property Number: 189040438
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 543
Property Number: 189040439
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 544
Property Number: 189040440
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 545
Property Number: 189040441
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 546
Property Number: 189040442
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 547
Property Number: 189040443
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 548
Property Number: 189040444
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 549
Property Number: 189040445
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 550
Property Number: 189040446
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 552
Property Number: 189040447
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 553
Property Number: 189040448
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 554
Property Number: 189040449
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 555
Property Number: 189040450
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 556
Property Number: 189040451
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 557
Property Number: 189040452
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 558
Property Number: 189040453
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 559
Property Number: 189040454

Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham; Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 560
Property Number: 189040455
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 561
Property Number: 189040456
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 562
Property Number: 189040457
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 563
Property Number: 189040458
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 564
Property Number: 189040459
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 565
Property Number: 189040460
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 566
Property Number: 189040461
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 3326 sq. ft.; 2 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 900
Property Number: 189040462
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4462 sq. ft.; 1 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 903
Property Number: 189040463
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4462 sq. ft.; 1 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 914
Property Number: 189040464
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4462 sq. ft.; 1 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 917
Property Number: 189040465
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4462 sq. ft.; 1 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 920
Property Number: 189040466
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4462 sq. ft.; 1 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 925
Property Number: 189040467
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4462 sq. ft.; 1 story wood frame; 2 unit residence with detached garage; scheduled to be vacated 3/31/91.

Bldg. 916
Property Number: 189040468
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 13058 sq. ft.; 2 story wood frame; 6 unit residence with attached garage; scheduled to be vacated 3/31/91.

Bldg. 918
Property Number: 189040469
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 13508 sq. ft.; 2 story wood frame; 6 unit residence with attached garage; scheduled to be vacated 3/31/91.

Bldg. 919
Property Number: 189040470
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 13058 sq. ft.; 2 story wood frame; 6 unit residence with attached garage; scheduled to be vacated 3/31/91.

Bldg. 924
Property Number: 189040471
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Capehart Family Housing
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 13058 sq. ft.; 2 story wood frame; 6 unit residence with attached garage; scheduled to be vacated 3/31/91.

Bldg. 16000
Property Number: 189040472
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess

Comment: 516 sq. ft.; wood frame detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16010
Property Number: 189040473
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16020
Property Number: 189040474
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16030
Property Number: 189040475
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16040
Property Number: 189040476
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 363 sq. ft.; wood frame detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16050
Property Number: 189040477
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 325 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16060
Property Number: 189040478
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16070
Property Number: 189040479
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16080
Property Number: 189040480
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 322 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16090
Property Number: 18904081
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16100
Property Number: 189040482
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 363 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16110
Property Number: 189040483
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16120
Property Number: 189040484
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 327 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16130
Property Number: 189040485
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 253 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16140
Property Number: 189040486
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16150
Property Number: 189040487
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 489 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16160
Property Number: 189040488
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16170
Property Number: 189040489
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16180
Property Number: 189040490
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 464 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16190
Property Number: 189040491
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16200
Property Number: 189040492
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 325 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16210
Property Number: 189040493
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.
Bldg. 16220
Property Number: 189040494
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 363 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.
Bldg. 16230
Property Number: 189040495
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.
Bldg. 16240
Property Number: 189040496
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.
Bldg. 16250
Property Number: 189040497
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.
Bldg. 16260
Property Number: 189040498
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.
Bldg. 16270
Property Number: 189040499
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.
Bldg. 16280
Property Number: 189040500
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.
Bldg. 16290
Property Number: 189040501
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.
Bldg. 16300
Property Number: 189040502
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.
Bldg. 16310
Property Number: 189040503
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.
Bldg. 16320
Property Number: 189040504
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 284 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.
Bldg. 16330
Property Number: 189040505
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.
Bldg. 16340
Property Number: 189040506
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.
Bldg. 16350
Property Number: 189040507
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.
Bldg. 16360
Property Number: 189040508
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 284 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.
Bldg. 16370
Property Number: 189040509
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.
Bldg. 16380
Property Number: 189040510
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 322 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.
Bldg. 16390
Property Number: 189040511
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 327 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.
Bldg. 16400
Property Number: 189040512
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 370 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.
Bldg. 16410
Property Number: 189040513
Fed Reg Date: 11/29/91

Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 322 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16420
Property Number: 189040514
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 322 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16430
Property Number: 189040515
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 360 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16440
Property Number: 189040516
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 360 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16450
Property Number: 189040517
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16460
Property Number: 189040518
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16470
Property Number: 189040519
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 327 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16480
Property Number: 189040520
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 325 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16490
Property Number: 189040521
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 363 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16500
Property Number: 189040522
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16510
Property Number: 189040523
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16520
Property Number: 189040524
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16530
Property Number: 189040525
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 325 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16540
Property Number: 189040526
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 327 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16550
Property Number: 189040527
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16560
Property Number: 189040528
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 363 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16570
Property Number: 189040529
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 363 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16580
Property Number: 189040530
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 322 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16590
Property Number: 189040531
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 322 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16600
Property Number: 189040532
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 464 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16610
Property Number: 189040533
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess

Comment: 395 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16620
Property Number: 189040534
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16630
Property Number: 189040535
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16640
Property Number: 189040536
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16650
Property Number: 189040537
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16660
Property Number: 189040538
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16670
Property Number: 189040539
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16680
Property Number: 189040540
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 360 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16690
Property Number: 189040541
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 322 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16700
Property Number: 189040542
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 370 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16710
Property Number: 189040543
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 464 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16720
Property Number: 189040544
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 322 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16730
Property Number: 189040545
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 322 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16740
Property Number: 189040546
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 360 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16750
Property Number: 189040547
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 360 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16760
Property Number: 189040548
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 284 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16770
Property Number: 189040549
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16780
Property Number: 189040550
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 360 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16790
Property Number: 189040551
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16800
Property Number: 189040552
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 322 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16810
Property Number: 189040553
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16820
Property Number: 189040554
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 327 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16830
Property Number: 189040555
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16840
Property Number: 189040556
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16850
Property Number: 189040557
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16860
Property Number: 189040558
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 363 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16870
Property Number: 189040559
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16880
Property Number: 189040560
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 322 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 16890
Property Number: 189040561
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 464 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17000
Property Number: 189040562
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17010
Property Number: 189040563
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 396 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17020
Property Number: 189040564
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 396 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17030
Property Number: 189040565
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 396 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17040
Property Number: 189040566
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 396 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17050
Property Number: 189040567
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 396 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17060
Property Number: 189040568
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 396 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17070
Property Number: 189040569
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 260 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17080
Property Number: 189040570
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17090
Property Number: 189040571
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 280 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17100
Property Number: 189040572
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17110
Property Number: 189040573
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 280 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17120
Property Number: 189040574
Fed Reg Date: 11/29/91

Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 284 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17130
Property Number: 189040575
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17140
Property Number: 189040576
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17150
Property Number: 189040577
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 396 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17160
Property Number: 189040578
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 396 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17170
Property Number: 189040579
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 396 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17180
Property Number: 189040580
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17190
Property Number: 189040581
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17200
Property Number: 189040582
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17210
Property Number: 189040583
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 396 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17220
Property Number: 189040584
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17230
Property Number: 189040585
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17240
Property Number: 189040586
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17250
Property Number: 189040587
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17260
Property Number: 189040588
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17270
Property Number: 189040589
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17280
Property Number: 189040590
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17290
Property Number: 189040591
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17300
Property Number: 189040592
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 396 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17310
Property Number: 189040593
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17320
Property Number: 189040594
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess

Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17330
Property Number: 189040595
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17340
Property Number: 189040596
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17350
Property Number: 189040597
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17360
Property Number: 189040598
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17370
Property Number: 189040599
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17380
Property Number: 189040600
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17390
Property Number: 189040601
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17400
Property Number: 189040602
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17410
Property Number: 189040603
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17420
Property Number: 189040604
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 284 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17430
Property Number: 189040605
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17440
Property Number: 189040606
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17450
Property Number: 189040607
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17460
Property Number: 189040608
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17470
Property Number: 189040609
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17480
Property Number: 189040610
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17490
Property Number: 189040611
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17500
Property Number: 189040612
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17510
Property Number: 189040613
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17520
Property Number: 189040614
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17530
Property Number: 189040615
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17540
Property Number: 189040616
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 284 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17550
Property Number: 189040617
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17560
Property Number: 189040618
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17570
Property Number: 189040619
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 284 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17580
Property Number: 189040620
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17590
Property Number: 189040621
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17600
Property Number: 189040622
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 284 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17610
Property Number: 189040623
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 284 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17620
Property Number: 189040624
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17630
Property Number: 189040625
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17640
Property Number: 189040626
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17650
Property Number: 189040627
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 284 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17660
Property Number: 189040628
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17670
Property Number: 189040629
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17680
Property Number: 189040630
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17690
Property Number: 189040631
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17700
Property Number: 189040632
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17710
Property Number: 189040633
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 284 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17720
Property Number: 189040634
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17730
Property Number: 189040635
Fed Reg Date: 11/29/91

Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 284 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17740
Property Number: 189040636
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17750
Property Number: 189040637
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17760
Property Number: 189040638
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 17770
Property Number: 189040639
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18000
Property Number: 189040640
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18010
Property Number: 189040641
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18020
Property Number: 189040642
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18030
Property Number: 189040643
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18040
Property Number: 189040644
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18050
Property Number: 189040645
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18060
Property Number: 189040646
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 562 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18070
Property Number: 189040647
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 384 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18080
Property Number: 189040648
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18090
Property Number: 189040649
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18100
Property Number: 189040650
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18110
Property Number: 189040651
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18120
Property Number: 189040652
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18130
Property Number: 189040653
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18140
Property Number: 189040654
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18150
Property Number: 189040655
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess

Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18160
Property Number: 189040656
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18170
Property Number: 189040657
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18180
Property Number: 189040658
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18190
Property Number: 189040659
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18200
Property Number: 189040660
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18210
Property Number: 189040661
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18220
Property Number: 189040662
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18230
Property Number: 189040663
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18240
Property Number: 189040664
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18250
Property Number: 189040665
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18260
Property Number: 189040666
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18270
Property Number: 189040667
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 384 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18280
Property Number: 189040668
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 384 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18290
Property Number: 189040669
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18300
Property Number: 189040670
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18310
Property Number: 189040671
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18320
Property Number: 189040672
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18330
Property Number: 189040673
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18340
Property Number: 189040674
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18350
Property Number: 189040675
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18360
Property Number: 189040676
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18370
Property Number: 189040677
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18380
Property Number: 189040678
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18390
Property Number: 189040679
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18400
Property Number: 189040680
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18410
Property Number: 189040681
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18420
Property Number: 189040682
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18430
Property Number: 189040683
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18440
Property Number: 189040684
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18450
Property Number: 189040685
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18460
Property Number: 189040686
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18470
Property Number: 189040687
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 432 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18480
Property Number: 189040688
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 396 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18490
Property Number: 189040689
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 396 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18500
Property Number: 189040690
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 396 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18510
Property Number: 189040691
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 396 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18520
Property Number: 189040692
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 267 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18530
Property Number: 189040693
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 254 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18540
Property Number: 189040694
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 193 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18550
Property Number: 189040695
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 292 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18560
Property Number: 189040696
Fed Reg Date: 11/29/91

Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 370 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18570
Property Number: 189040697
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 173 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18580
Property Number: 189040698
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 254 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18590
Property Number: 189040699
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 395 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18600
Property Number: 189040700
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 267 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18610
Property Number: 189040701
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18620
Property Number: 189040702
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18630
Property Number: 189040703
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18640
Property Number: 189040704
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 396 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18650
Property Number: 189040705
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 396 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18660
Property Number: 189040706
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18670
Property Number: 189040707
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 396 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18680
Property Number: 189040708
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.; wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18690
Property Number: 189040709
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.:, wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18700
Property Number: 189040710
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.:, wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18710
Property Number: 189040711
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.:, wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18720
Property Number: 189040712
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.:, wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18730
Property Number: 189040713
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 562 sq. ft.:, wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18740
Property Number: 189040714
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.:, wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 18750
Property Number: 189040715
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 420 sq. ft.:, wood frame; detached housing storage shed; scheduled to be vacated 3/31/91.

Bldg. 22
Property Number: 189040720
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Communications Facilities
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–

Status: Excess
Comment: 5345 sq. ft.;, 1 story concrete block; possible asbestos; most recent use—communications facility; scheduled to be vacated 3/31/91.

Bldg. 32
Property Number: 189040721
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Communications Facilities
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 11310 sq. ft.;, 1 story brick/block frame; possible asbestos most recent use—data processing; scheduled to be vacated 3/31/91.

Bldg. 420
Property Number: 189040728
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Communications Facilities
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 1843 sq. ft.;, 1 story concrete frame; most recent use—communications transmitter; scheduled to be vacated 3/31/91.

Bldg. 18
Property Number: 189040734
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 6134 sq. ft.;, 1 story concrete block; most recent use—library; scheduled to be vacated 3/31/91.

Bldg. 28
Property Number: 189040735
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 14417 sq. ft.;, 1 story concrete block; presence of asbestos; most recent use—bowling center; scheduled to be vacated 3/31/91.

Bldg. 29
Property Number: 189040736
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 13362 sq. ft.;, 1 story concrete block; presence of asbestos; most recent use—theater; scheduled to be vacated 3/31/91.

Bldg. 37
Property Number: 189040737
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 27415 sq. ft.;, 1 story concrete block: presence of asbestos; most recent use—gymnasium: scheduled to be vacated 3/31/91.

Bldg. 38
Property Number: 189040738
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 25785 sq. ft.;, 1 story concrete block; presence of asbestos; most recent use—recreation center; scheduled to be vacated 3/31/91.

Bldg. 61
Property Number: 189040739
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 5730 sq. ft.;, 1 story concrete block: presence of asbestos; most recent use—youth center; scheduled to be vacated 3/31/91.

Bldg. 85
Property Number: 189040740
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 12220 sq. ft.;, 1 story concrete block; most recent use—storage facility; scheduled to be vacated 3/31/91.

Bldg. 108
Property Number: 189040741
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 7863 sq. ft.;, 1 story concrete block; most recent use—automotive shop; scheduled to be vacated 3/31/91.

Bldg. 470
Property Number: 189040742
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 1105 sq. ft.;, 1 story concrete block; presence of asbestos; most recent use—swimmers bath house; scheduled to be vacated 3/31/91.

Bldg. 434
Property Number: 189040743
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Munitions Storage Area
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 968 sq. ft.; 1 story concrete frame; most recent use—munitions storage area; possible asbestos; scheduled to be vacated 3/31/91.

Bldg. 435
Property Number: 189040744
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Munitions Storage Area
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 2385 sq. ft.; 1 story concrete frame: most recent use—munitions storage area; scheduled to be vacated 3/31/91.

Bldg. 436
Property Number: 189040745
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Munitions Storage Area
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 5000 sq. ft.; 1 story concrete frame; most recent use—munitions storage area; scheduled to be vacated 3/31/91.

Bldg. 437
Property Number: 189040746
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Munitions Storage Area
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 5100 sq. ft.; 1 story concrete frame; most recent use—munitions storage area; scheduled to be vacated 3/31/91.

Bldg. 438
Property Number: 189040747
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Munitions Storage Area
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 357 sq. ft.; 1 story concrete frame; most recent use—munitions storage area; scheduled to be vacated 3/31/91.

Bldg. 452
Property Number: 189040748
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Munitions Storage Area
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 48 sq. ft.; 1 story concrete frame; most recent use—munitions storage area; scheduled to be vacated 3/31/91.

Bldg. 465
Property Number: 189040749
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Munitions Storage Area
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 540 sq. ft.; 1 story concrete frame; most recent use—munitions storage area; scheduled to be vacated 3/31/92.

Bldg. 466
Property Number: 189040750
Fed Reg Date: 11/29/91

Project Name: Pease Air Force Base, Base Closure
Munitions Storage Area
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4961 sq. ft.; 1 story concrete frame; most recent use—munitions storage area; scheduled to be vacated 3/31/91.

Bldg. 468
Property Number: 189040751
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Munitions Storage Area
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 5695 sq. ft.; 1 story concrete frame; most recent use—munitions storage area; scheduled to be vacated 3/31/91.

Bldg. 2
Property Number: 189040752
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 1206 sq. ft.; 1 story brick block; most recent use—administrative facility; scheduled to be vacated 3/31/91.

Bldg. 4
Property Number: 189040753
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4120 sq. ft.; brick/block; presence of asbestos; most recent use—post office; scheduled to be vacated 3/31/91.

Bldg. 5
Property Number: 189040754
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 10863 sq. ft.; 3 story steel/blocks; presence of asbestos; most recent use—administrative facility; scheduled to be vacated 3/31/91.

Bldg. 6
Property Number: 189040755
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 13019 sq. ft.; 1 story concrete; most recent use—administrative facility; scheduled to be vacated 3/31/91

Bldg. 7
Property Number: 189040756
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4120 sq. ft.; 1 story brick/block; presence of asbestos; most recent use—administrative facility; scheduled to be vacated 3/31/91.

Bldg. 10
Property Number: 189040757
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4640 sq. ft.; 1 story brick/block; presence of asbestos; most recent use—administrative facility; scheduled to be vacated 3/31/91.

Bldg. 21
Property Number: 189040758
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 2178 sq. ft.; 1 story brick/blocks; most recent use—administrative facility; scheduled to be vacated 3/31/91.

Bldg. 23
Property Number: 189040759
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 14572 sq. ft.; 2 story wood/concrete blocks; presence of asbestos; most recent use—administrative facility; scheduled to be vacated 3/31/91.

Bldg. 31
Property Number: 189040760
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 14959 sq. ft.; 1 story brick/blocks; presence of asbestos; most recent use—administrative facility; scheduled to be vacated 3/31/91.

Bldg. 34
Property Number: 189040761
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 5111 sq. ft.; 1 story brick/blocks; presence of asbestos; most recent use—photo lab; scheduled to be vacated 3/31/91.

Bldg. 43
Property Number: 189040762
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 6641 sq. ft.; 1 story wood frame; most recent use—administrative facility; scheduled to be vacated 3/31/91.

Bldg. 48
Property Number: 189040763
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4120 sq. ft.; 1 story brick/blocks; presence of asbestos; most recent use—post office; scheduled to be vacated 3/31/91.

Bldg. 59
Property Number: 189040764
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4120 sq. ft.; 1 story brick/blocks; presence of asbestos; most recent use—administrative facility; scheduled to be vacated 3/31/91.

Bldg. 77
Property Number: 189040765
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 12220 sq. ft.; 1 story concrete; presence of asbestos; most recent use—administrative facility; scheduled to be vacated 3/31/91.

Bldg. 78
Property Number: 189040766
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4120 sq. ft.; 1 story brick/blocks; presence of asbestos; most recent use—administrative facility; scheduled to be vacated 3/31/91.

Bldg. 79
Property Number: 189040767
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 10863 sq. ft.; 3 story concrete; presence of asbestos; most recent use—administrative facility; scheduled to be vacated 3/31/91.

Bldg. 86
Property Number: 189040768
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 4850 sq. ft.; 1 story brick/blocks; most recent use—administrative facility; scheduled to be vacated 3/31/91.

Bldg. 90
Property Number: 189040769
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base

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Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 6282 sq. ft.; 2 story brick/blocks; most recent use—administrative facility; scheduled to be vacated 3/31/91.

Bldg. 91
Property Number: 189040770
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 10898 sq. ft.; 1 story brick; most recent use—administrative facility; scheduled to be vacated 3/31/91.

Bldg. 95
Property Number: 189040771
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 12683 sq. ft.; 1 story wood frame; presence of asbestos; most recent use—band center; scheduled to be vacated 3/31/91.

Bldg. 40
Property Number: 189040773
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 100 sq. ft.; 1 story metal frame; limited utilities; possible asbestos; scheduled to be vacated 3/31/91.

Bldg. 66
Property Number: 189040774
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 1000 sq. ft.; 1 story cinder blocks frame; limited utilities; possible asbestos; scheduled to be vacated 3/31/91.

Bldg. 67
Property Number: 189040775
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 1728 sq. ft.; 1 story wood frame; limited utilities; possible asbestos; most recent use—maintenance shop; scheduled to be vacated 3/31/91.

Bldg. 69
Property Number: 189040776
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 240 sq. ft.; 1 story wood frame; limited utilities; possible asbestos; most recent use—storage; scheduled to be vacated 3/31/91.

Bldg. 82
Property Number: 189040777
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 720 sq. ft.; 1 story wood frame; limited utilities; possible asbestos; most recent use—storage; scheduled to be vacated 3/31/91.

Bldg. 104
Property Number: 189040778
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 488 sq. ft.; 1 story cement frame; limited utilities; possible asbestos; most recent use—offices; scheduled to be vacated 3/31/91.

Bldg. 125
Property Number: 189040779
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 345 sq. ft.; 1 story masonry frame; limited utilities; possible asbestos; most recent use—storage; scheduled to be vacated 3/31/91.

Bldg. 134
Property Number: 189040780
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 1344 sq. ft.; 1 story aluminum frame; limited utilities; most recent use—clubhouse; scheduled to be vacated 3/31/91.

Bldg. 135
Property Number: 189040781
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 2100 sq. ft.; 1 story brick/block frame; limited utilities; possible asbestos; most recent use—administrative; scheduled to be vacated 3/31/91.

Bldg. 179
Property Number: 189040782
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 54 sq. ft.; 1 story concrete frame; limited utilities; possible asbestos; most recent use—traffic check house; scheduled to be vacated 3/31/91.

Bldg. 20
Property Number: 189040783
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 192 sq. ft.; 1 story concrete frame; limited utilities; possible asbestos; scheduled to be vacated 3/31/91.

Bldg. 208
Property Number: 189040784
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 32 sq. ft.; 1 story aluminum frame; limited utilities; possible asbestos; most recent use—storage; scheduled to be vacated 3/31/91.

Bldg. 218
Property Number: 189040785
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 54 sq. ft.; 1 story brick/block frame; limited utilities; possible asbestos; scheduled to be vacated 3/31/91.

Bldg. 228
Property Number: 189040786
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 54 sq. ft.; 1 story brick/block frame; limited utilities; possible asbestos; most recent use—traffic check house; scheduled to be vacated 3/31/91.

Bldg. 265
Property Number: 189040787
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 451 sq. ft.; 1 story metal frame; limited utilities; possible asbestos; most recent use—storage; scheduled to be vacated 3/31/91.

Bldg. 307
Property Number: 189040788
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 1325 sq. ft.; 1 story cement frame; limited utilities; possible asbestos; most recent use—administrative; scheduled to be vacated 3/31/91.

Bldg. 367
Property Number: 189040790
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess

Comment: 70 sq. ft.; 1 story brick/block frame; limited utilities; possible asbestos; most recent use—traffic check house; scheduled to be vacated 3/31/91.

Bldg. 410
Property Number: 189040791
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 1470 sq. ft.; 1 story concrete frame; limited utilities; possible asbestos; most recent use—club house; scheduled to be vacated 3/31/91.

Bldg. 431
Property Number: 189040792
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 500 sq. ft.; 1 story concrete frame; limited utilities; possible asbestos; most recent use—storage; scheduled to be vacated 3/31/91.

Bldg. 457
Property Number: 189040793
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 1325 sq. ft.; 1 story cement frame; limited utilities; possible asbestos; most recent use—administrative; scheduled to be vacated 3/31/91.

Bldg. 30005
Property Number: 189040795
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 120 sq. ft.; 1 story concrete frame; limited utilities; possible asbestos; most recent use—storage; scheduled to be vacated 3/31/91.

Bldg. 30008
Property Number: 189040796
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 120 sq. ft.; 1 story concrete frame; limited utilities; possible asbestos; most recent use—storage; scheduled to be vacated 3/31/91.

Bldg. 30009
Property Number: 189040797
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 120 sq. ft.; 1 story concrete frame; limited utilities; possible asbestos; most recent use—storage; scheduled to be vacated 3/31/91.

Bldg. 30047
Property Number: 189040798
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 120 sq. ft.; 1 story concrete frame; limited utilities; possible asbestos; most recent use—storage; scheduled to be vacated 3/31/91.

Bldg. 30049
Property Number: 189040799
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803-
Status: Excess
Comment: 120 sq. ft.; 1 story concrete frame; limited utilities; possible asbestos; most recent use—storage; scheduled to be vacated 3/31/91.

Bldg. 30050
Property Number: 189040800
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 120 sq. ft.; 1 story concrete frame; limited utilities; possible asbestos; most recent use—storage; scheduled to be vacated 3/31/91.

Bldg. 30056
Property Number: 189040801
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 120 sq. ft.; 1 story concrete frame; limited utilities; possible asbestos; most recent use—storage; scheduled to be vacated 3/31/91.

Bldg. 30058
Property Number: 189040802
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 120 sq. ft.; 1 story concrete frame; limited utilities; possible asbestos; most recent use—storage; scheduled to be vacated 3/31/91.

Bldg. 30080
Property Number: 189040803–
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 120 sq. ft.; 1 story concrete frame; limited utilities; possible asbestos; most recent use—storage; scheduled to be vacated 3/31/91.

Bldg. 30081
Property Number: 189040804
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 120 sq. ft.; 1 story concrete frame; limited utilities; possible asbestos; most recent use—storage; scheduled to be vacated 3/31/91.

Bldg. 30084
Property Number: 189040805
Fed Reg Date: 11/29/91
Project Name: Pease Air Force Base, Base Closure
Pease Air Force Base
Pease AFB, NH, Co: Rockingham, Zip: 03803–
Status: Excess
Comment: 120 sq. ft.; 1 story concrete frame; limited utilities; possible asbestos; most recent use—storage; scheduled to be vacated 3/31/91.

SUMMARY OF PROPERTIES FOR AIR FORCE-BC

Buildings—1,483
Land—11
Total Suitable and Available by agency—1,494

Army

Alaska

Land

Eklutna Dispersal Site
Property Number: 219014606
Fed Reg Date: 12/20/91
Project Name: Fort Richardson
Fort Richardson
Anchorage, AK, Co: Anchorage, Zip: 99505–
Status: Underutilized
Comment: 500 acres; parkland; environmentally protected.

Alabama

Buildings

Bldg. T00220
Property Number: 219110041
Fed Reg Date: 12/20/91
Project Name: Fort McClellan
Fort McClellan
Fort McClellan, AL, Co: Calhoun, Zip: 36205–5000
Location: Take left turn off Baltzell Gate Road
Status: Underutilized
Comment: 1040 sq. ft.; 1 story wood frame; needs major rehab; termite infested; off-site use only.

Bldg. T00221
Property Number: 219110042
Fed Reg Date: 12/20/91
Project Name: Fort McClellan
Fort McClellan
Fort McClellan, AL, Co: Calhoun, Zip: 36205–5000
Location: Take left turn off Baltzell Gate Road.
Status: Underutilized
Comment: 4125 sq. ft.; one story wood frame; needs major rehab; termite infested; presence of asbestos; off-site use only.

Bldg. T00796
Property Number: 219110043
Fed Reg Date: 12/20/91
Project Name: Fort McClellan

Fort McClellan
Fort McClellan, AL, Co: Calhoun, Zip: 36205–5000
Location: Intersection of 19th and 20th Streets.
Status: Unutilized
Comment: 1340 sq. ft.; one story wood frame; needs major rehab; presence f asbestos; off-site use only.

Bldg. T00883
Property Number: 219110044
Fed Reg Date: 12/20/91
Project Name: Fort McClellan
Fort McClellan
3rd Avenue
Ft. McClellan, AL, Co: Calhoun, Zip: 36205–5000
Status: Unutilized
Comment: 760 sq. ft.; one story wood frame; needs major rehab; presence of asbestos; off-site use only.

Bldg. T01121
Property Number: 219110048
Fed Reg Date: 12/20/91
Project Name: Fort McClellan
Fort McClellan
MacArthur Avenue
Fort McClellan, AL, Co: Calhoun, Zip: 36205–5000
Status: Unutilized
Comment: 2400 sq. ft.; two story wood frame; needs rehab; presence of asbestos; off-site use only.

Bldg. T01123
Property Number: 219110049
Fed Reg Date: 12/20/91
Project Name: Fort McClellan
Fort McClellan
MacArthur Avenue
Fort McClellan, AL, Co: Calhoun, Zip: 36205–5000
Status: Unutilized
Comment: 2400 sq. ft.; two story wood frame; needs rehab; presence of asbestos; off-site use only.

Bldg. T01124
Property Number: 219110050
Fed Reg Date: 12/20/91
Project Name: Fort McClellan
Fort McClellan
MacArthur Avenue
Fort McClellan, AL, Co: Calhoun, Zip: 36205–5000
Status: Unutilized
Comment: 2400 sq. ft.; two story wood frame; needs rehab; presence of asbestos; off-site use only.

Bldg. T01125
Property Number: 219110051
Fed Reg Date: 12/20/91
Project Name: Fort McClellan
Fort McClellan
21st Street and MacArthur Avenue
Fort McClellan, AL, Co: Calhoun, Zip: 36205–5000
Status: Unutilized
Comment: 2556 sq. ft.; one story wood frame; needs rehab; presence of asbestos; off-site use only.

Bldg. T01394
Property Number: 219110052
Fed Reg Date: 12/20/91
Project Name: Fort McClellan
Fort McClellan
4th Avenue in Area 13 of Post
Fort McClellan, AL, Co: Calhoun, Zip: 36205–5000
Status: Unutilized
Comment: 191 sq. ft.; one story tin and lumber building; needs major rehab; off-site use only.

Bldg. T01692
Property Number: 219110053
Fed Reg Date: 12/20/91
Project Name: Fort McClellan
Fort McClellan
25th Street
Fort McClellan, AL, Co: Calhoun, Zip: 36205–5000
Status: Unutilized
Comment: 4404 sq. ft.; one story wood frame; needs rehab; presence of asbestos; off-site use only.

Bldg. T02264
Property Number: 219110054
Fed Reg Date: 12/20/91
Project Name: Fort McClellan
Fort McClellan
WAC Circle
Fort McClellan, AL, Co: Calhoun, Zip: 36205–5000
Status: Unutilized
Comment: 664 sq. ft.; one story wood frame; needs major rehab; electrical hazard; presence of asbestos; off-site use only.

Bldg. T02266
Property Number: 219110055
Fed Reg Date: 12/20/91
Project Name: Fort McClellan
Fort McClellan
WAC Circle
Fort McClellan, AL, Co: Calhoun, Zip: 36205–5000
Status: Unutilized
Comment: 664 sq. ft.; one story wood frame; structurally deteriorated electrical hazard; presence of asbestos; off-site use only.

Bldg. T00123
Property Number: 219110145
Fed Reg Date: 12/20/91
Project Name: Fort Rucker
Post Chapel—Fort Rucker
5th Avenue
Fort Rucker, AL, Co: Dale, Zip: 36362–
Status: Unutilized
Comment: 4798 sq. ft.; 1 story wood structure; minor repairs; scheduled to be vacated September 1991.

Bldg. T09307
Property Number: 219110146
Fed Reg Date: 12/20/91
Project Name: Fort Rucker
Post Chapel—Fort Rucker
3rd Avenue
Fort Rucker, AL, Co: Dale, Zip: 36362–
Status: Unutilized
Comment: 3739 sq. ft.; 1 story wood structure; minor repairs; scheduled to be vacated September 1991.

Bldg. T09309
Property Number: 219110147
Fed Reg Date: 12/20/91
Project Name: Fort Rucker
Fort Rucker—Education Facility
3rd Avenue
Fort Rucker, AL, Co: Dale, Zip: 36362–
Status: Unutilized
Comment: 1500 sq. ft.; 1 story wood structure; minor repairs; scheduled to be vacated September 1991.

Bldg. T05020—Fort Rucker
Property Number: 219120108
Fed Reg Date: 12/20/91
3rd Avenue
Fort Rucker, AL, Co: Dale, Zip: 36362–
Status: Unutilized
Comment: 2500 sq. ft., one story, possible asbestos, off-site use only.

Bldg. T08917—Fort Rucker
Property Number: 219120112
Fed Reg Date: 12/20/91
Corner of Division Road & 7th Avenue
Fort Rucker, AL, Co: Dale, Zip: 36362–
Status: Unutilized
Comment: 16004 sq. ft., two story, possible asbestos, needs rehab.

Bldg. T00108
Property Number: 219120270
Fed Reg Date: 12/20/91
Fort Rucker
6th Avenue
Fort Rucker, AL, Co: Dale, Zip: 36362–
Status: Unutilized
Comment: 24992 sq. ft., 1 story wood structure, most recent use—youth center gymnasium, possible asbestos, off-site use only.

Bldg. T03204, Fort Rucker
Property Number: 219130096
Fed Reg Date: 12/27/91
Cowboy & Crusader Streets
Fort Rucker, AL, Co: Dale, Zip: 36362–
Status: Unutilized
Comment: 3003 sq. ft., one story wood structure, most recent use—administration, presence of asbestos, off-site use only.

Bldg. T03205, Fort Rucker
Property Number: 219130097
Fed Reg Date: 12/27/91
Cowboy & Crusader Streets
Fort Rucker, AL, Co: Dale, Zip: 36362–
Status: Unutilized
Comment: 3003 sq. ft., one story wood structure, most recent use—administration, presence of asbestos, off-site use only.

Bldg. T03220, Fort Rucker
Property Number: 219130098
Fed Reg Date: 12/27/91
Cowboy & Crusader Streets
Fort Rucker, AL, Co: Dale, Zip: 36362–
Status: Unutilized
Comment: 1250 sq. ft., one story wood structure, most recent use—administration, presence of asbestos, off-site use only.

Bldg. T03224, Fort Rucker
Property Number: 219130099
Fed Reg Date: 12/27/91
Cowboy & Crusader Streets
Fort Rucker, AL, Co: Dale, Zip: 36362–
Status: Unutilized
Comment: 2677 sq. ft., one story wood structure, most recent use—administration, presence of asbestos, off-site use only.

Bldg. T03210, Fort Rucker
Property Number: 219130100
Fed Reg Date: 12/27/91
Cowboy & Crusader Streets
Fort Rucker, AL, Co: Dale, Zip: 36362–
Status: Unutilized
Comment: 3000 sq. ft., one story wood structure, most recent use—maintenance shop, presence of asbestos, off-site use only.

Bldg. T03212, Fort Rucker

Property Number: 219130101
Fed Reg Date: 12/27/91
Cowboy & Crusader Streets
Fort Rucker, AL, Co: Dale, Zip: 36362–
Status: Unutilized
Comment: 5310 sq. ft., two story wood structure, presence of asbestos, off-site use only.

Bldg. T03214, Fort Rucker
Property Number: 219130102
Fed Reg Date: 12/27/91
Cowboy & Crusader Streets
Fort Rucker, AL, Co: Dale, Zip: 36362–
Status: Unutilized
Comment: 3306 sq. ft., one story wood structure, presence of asbestos, most recent use—storehouse, off-site use only.

Bldg. T03201, Fort Rucker
Property Number: 219130103
Fed Reg Date: 12/27/91
Cowboy & Crusader Streets
Fort Rucker, AL, Co: Dale, Zip: 36362–
Status: Unutilized
Comment: 5310 sq. ft., two story wood structure, presence of asbestos, most recent use—barracks, off-site use only.

Bldg. 5119
Property Number: 219140023
Fed Reg Date: 12/27/91
Fort Rucker
3rd Avenue
Ft. Rucker, AL, Co: Dale, Zip: 36362–
Status: Unutilized
Comment: 2500 sq. ft., 1 story, most recent use—supply building, off-site use only.

Bldg. 5120
Property Number: 219140024
Fed Reg Date: 12/27/91
Fort Rucker
3rd Avenue
Ft. Rucker, AL, Co: Dale, Zip: 36362–
Status: Unutilized
Comment: 2500 sq. ft., 1 story, most recent use—supply building, off-site use only.

Bldg. 8913
Property Number: 219140025
Fed Reg Date: 12/27/91
Fort Rucker
7th Avenue
Ft. Rucker, AL, Co: Dale, Zip: 36362–
Status: Unutilized
Comment: 3100 sq. ft., 1 story wood, most recent use—chaplain's conference room, off-site use only.

Bldg. 8914
Property Number: 219140026
Fed Reg Date: 12/27/91
Fort Rucker
7th Avenue
Ft. Rucker, AL, Co: Dale, Zip: 36362–
Status: Unutilized
Comment: 2250 sq. ft., 1 story wood, most recent use—chaplain headquarters, off-site use only.

Arkansas

Land

Pine Bluff Arsenal
Property Number: 219013841
Fed Reg Date: 12/20/91
Project Name: Pine Bluff Arsenal
Pine Bluff, AR, Co: Jefferson, Zip: 71602–9500
Location: 8 miles north of Pine Bluff on Highway 365
Status: Unutilized
Comment: 1 acre and 3 acres; potential utilities; brush terrain; used as safety buffer; subject to easements.

Buildings

Fort Chaffee
Property Number: 219012811
Fed Reg Date: 12/20/91
Project Name: Fort Chaffee
U.S. Army Garrison
1095 4th Avenue
Barling, AR, Co: Sebastian, Zip: 72905–5000
Status: Underutilized
Comment: 3634 sq. ft.; 1 story wood frame; possible asbestos; selected periods used for military/training exercises.

Fort Chaffee
Property Number: 219012812
Fed Reg Date: 12/20/91
Project Name: Fort Chaffee
U.S. Army Garrison
1094 4th Avenue
Barling, AR, Co: Sebastian, Zip: 72905–5000
Status: Underutilized
Comment: 2161 sq. ft.; 1 story wood frame; possible asbestos; selected periods used for military/training exercises.

Fort Chaffee
Property Number: 219012813
Fed Reg Date: 12/20/91
Project Name: Fort Chaffee
U.S. Army Garrison
1092 4th Avenue
Barling, AR, Co: Sebastian, Zip: 72905–5000
Status: Underutilized
Comment: 3321 sq. ft.; 1 story wood frame; possible asbestos; selected periods used for military/training exercises.

U.S. Army Garrison
Property Number: 219013267
Fed Reg Date: 12/20/91
Project Name: Fort Chaffee
Fort Chaffee
1070 2nd Avenue
Barling, AR, Co: Sebastian, Zip: 72905–5000
Status: Underutilized
Comment: 3191 sq. ft.; 2 story wood frame; possible asbestos; selected periods used for military training; most recent use—barracks.

U.S. Army Garrison
Property Number: 219110112
Fed Reg Date: 12/20/91
Project Name: Fort Chaffee
Fort Chaffee
260 Taylor Avenue
Fort Chaffee, AR, Co: Sebastian, Zip: 72905–5000
Status: Underutilized
Comment: 173 sq. ft.; one story; no water or heat in bldg.; most recent use—administration.

U.S. Army Garrison
Property Number: 219110113
Fed Reg Date: 12/20/91
Fort Chaffee
263 Taylor Avenue
Fort Chaffee, AR, Co: Sebastian, Zip: 72905–5000
Status: Underutilized
Comment: 707 sq. ft.; one story; no water or heat in bldg.; needs rehab; most recent use—storage.

Arizona

Buildings

Bldg. S–306
Property Number: 219011725
Fed Reg Date: 12/20/91
Project Name: Yuma Proving Ground
Yuma Proving Ground
Main Admin. Area—near inter. 1st & D sts
Yuma, AZ, Co: Yuma/La Paz, Zip: 85365–9102
Status: Underutilized
Comment: 2 story wood and stucco frame; needs structural upgrading; portion of 2nd floor vacant.

Bldg. S–1003
Property Number: 219011727
Fed Reg Date: 12/20/91
Project Name: Yuma Proving Ground
Yuma Proving Ground
Main Admin Area—5th & Barranca Road
Yuma, AZ, Co: Yuma/La Paz, Zip: 85365–9102
Status: Underutilized
Comment: 2227 sq. ft.; two-story wood and stucco frame; 2 floor wood and frame; possible asbestos; bldg. committed to Congress for disposal.

Bldg. S–503
Property Number: 219011746
Fed Reg Date: 12/20/91
Project Name: Yuma Proving Ground
Yuma Proving Ground
Main Admin. Area—2nd St. bet. D & F Sts.
Yuma, AZ, Co: Yuma/La Paz, Zip: 85365–9102
Status: Underutilized
Comment: 2123 sq. ft.; possible asbestos; 2nd floor vacant; structural upgrading needed; bldg. scheduled for renovation and used as community center.

Bldg. S–501
Property Number: 219011747
Fed Reg Date: 12/20/91
Project Name: Yuma Proving Ground
Yuma Proving Ground
Main Admin Area—D & 2nd Sts.
Yuma, AZ Co: Yuma/La Paz, Zip: 85365–9102
Status: Unutilized
Comment: 4000 sq. ft.; possible asbestos; scheduled for renovation; to be used as "Army Continuing Education Facility"; 2 floors.

Bldg. S–611
Property Number: 219013928
Fed Reg Date: 12/20/91
Project Name: Yuma Proving Ground
Yuma Proving Ground
Yuma, AZ, Co: Yuma/La Paz, Zip: 85365–9102
Location: Main Administrative Area—Near intersection of 5th and D streets.
Status: Unutilized
Comment: 1840 sq. ft.; 1 story wood and stucco frame; most recent use—child care center.

Bldg. S–1005
Property Number: 219013930
Fed Reg Date: 12/20/91
Project Name: Yuma Proving Ground
Yuma Proving Ground
Yuma, AZ, Co: Yuma/La Paz, Zip: 85365–9102
Location: Main Administrative Area—Near intersection of 7th and F streets.
Status: Unutilized
Comment: 176 sq. ft.; 1 story wood and stucco frame; most recent use—cold storage and refrigeration facility.

VOL
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Bldg. T67208
Property Number: 219120113
Fed Reg Date: 12/20/91
U.S. Army Intelligence Center
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 2546 sq. ft., one story wood, most recent use—storage.

Bldg. T70224
Property Number: 219120149
Fed Reg Date: 12/20/91
U.S. Army Intelligence Center
Fort Huachuca
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Unutilized
Comment: 1252 sq. ft., one story wood; most recent use—Administrative.

Bldg. 70117—Fort Huachuca
Property Number: 219120306
Fed Reg Date: 12/20/91
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Excess
Comment: 3434 sq. ft., 1 story wood structure, presence of asbestos, most recent use—general instructional.

Bldg. 70118—Fort Huachuca
Property Number: 219120307
Fed Reg Date: 12/20/91
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Excess
Comment: 3434 sq. ft., 1 story wood structure, presence of asbestos, most recent use—general instructional.

Bldg. 70119—Fort Huachuca
Property Number: 219120308
Fed Reg Date: 12/20/91
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Excess
Comment: 3434 sq. ft., 1 story wood structure, presence of asbestos, most recent use—general instructional.

Bldg. 70120—Fort Huachuca
Property Number: 219120309
Fed Reg Date: 12/20/91
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Excess
Comment: 3434 sq. ft., 1 story wood structure, presence of asbestos, most recent use—admin. gen. purpose.

Bldg. 70225—Fort Huachuca
Property Number: 219120310
Fed Reg Date: 12/20/91
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Excess
Comment: 3813 sq. ft., 1 story wood structure, presence of asbestos, most recent use—admin. gen. purpose.

Bldg. 83006, Fort Huachuca
Property Number: 219120311
Fed Reg Date: 12/20/91
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Excess
Comment: 2062 sq. ft., 1 story wood structure, presence of asbestos, most recent use—admin. gen. purpose.

Bldg. 83007, Fort Huachuca
Property Number: 219120312
Fed Reg Date: 12/20/91
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Excess
Comment: 2000 sq. ft., 2 story wood structure, presence of asbestos, most recent use—admin. gen. purpose.

Bldg. 83008, Fort Huachuca
Property Number: 219120313
Fed Reg Date: 12/20/91
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Excess
Comment: 2192 sq. ft., 2 story wood structure, presence of asbestos, most recent use—admin. gen. purpose.

Bldg. 83015, Fort Huachuca
Property Number: 219120314
Fed Reg Date: 12/20/91
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Excess
Comment: 2325 sq. ft., 1 story wood structure, presence of asbestos, most recent use—admin. gen. purpose.

Bldg. 67202, Fort Huachuca
Property Number: 219130061
Fed Reg Date: 12/27/91
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Excess
Comment: 2165 sq. ft., two story wood frame, most recent use—office, presence of asbestos.

Bldg. 67203, Fort Huachuca
Property Number: 219130062
Fed Reg Date: 12/27/91
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Excess
Comment: 2166 sq. ft., two story wood frame, most recent use—office, presence of asbestos.

Bldg. 67211, Fort Huachuca
Property Number: 219130063
Fed Reg Date: 12/27/91
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Excess
Comment: 1070 sq. ft., one story, most recent use—storehouse, presence of asbestos.

Bldg. 68224, Fort Huachuca
Property Number: 219130064
Fed Reg Date: 12/27/91
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Excess
Comment: 2614 sq. ft., one story wood frame, most recent use—storehouse, presence of asbestos.

Bldg. 68310, Fort Huachuca
Property Number: 219130065
Fed Reg Date: 12/27/91
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Excess
Comment: 1653 sq. ft., one story wood frame, most recent use—office, presence of asbestos.

Bldg. 70227, Fort Huachuca
Property Number: 219130066
Fed Reg Date: 12/27/91
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Excess
Comment: 1868 sq. ft., one story wood frame, most recent use—office, presence of asbestos.

Bldg. 70219, Fort Huachuca
Property Number: 219130067
Fed Reg Date: 12/27/91
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Excess
Comment: 2180 sq. ft., one story wood frame, most recent use—office, presence of asbestos.

Bldg. 73440, Fort Huachuca
Property Number: 219130068
Fed Reg Date: 12/27/91
Sierra Vista, AZ, Co: Cochise, Zip: 85635–
Status: Excess
Comment: 1700 sq. ft., one story metal frame, most recent use—storage, possible asbestos.

California

Buildings

T–1771 Fort Ord
Property Number: 219010738
Fed Reg Date: 12/20/91
Project Name: Fort Ord
4th St. and 2nd Ave.
Fort Ord, CA, Co: Monterey, Zip: 93940–
Status: Unutilized
Comment: 2 story; possible asbestos, needs extensive repairs.

T–1772 Fort Ord
Property Number: 219010740
Fed Reg Date: 12/20/91
Project Name: Fort Ord
4th St. and 2nd Ave.
Fort Ord, CA, Co: Monterey, Zip: 93940–
Status: Unutilized
Comment: 2 story; possible asbestos, needs extensive repairs.

T–1773 Fort Ord
Property Number: 219010742
Fed Reg Date: 12/20/91
Project Name: Fort Ord
4th St. and 2nd Ave.
Fort Ord, CA, Co: Monterey, Zip: 93940–
Status: Unutilized
Comment: 2 story; possible asbestos, needs extensive repairs.

T–1774 Fort Ord
Property Number: 219010743
Fed Reg Date: 12/20/91
Project Name: Fort Ord
4th St. and 2nd Ave.
Fort Ord, CA, Co: Monterey, Zip: 93940–
Status: Unutilized
Comment: 2 story; possible asbestos, needs extensive repairs.

T–1775 Fort Ord
Property Number: 219010745
Fed Reg Date: 12/20/91
Project Name: Fort Ord
4th St. and 2nd Ave.
Fort Ord, CA, Co: Monterey, Zip: 93940–
Status: Unutilized
Comment: 2 story; possible asbestos, needs extensive repairs.

Bldg. 608
Property Number: 219012855
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 49500 sq. ft.; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 609
Property Number: 219012856
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 49500 sq. ft.; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 610
Property Number: 219012857
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 49500 sq. ft.; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 612
Property Number: 219012858
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 49500 sq. ft.; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 613
Property Number: 219012859
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 49500 sq. ft.; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 614
Property Number: 219012860
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 49500 sq. ft.; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 615
Property Number: 219012861
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 49500 sq. ft.; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 616
Property Number: 219012862
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 49500 sq. ft., 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 617
Property Number: 219012863
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 49500 sq. ft.; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 618
Property Number: 219012864
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 49500 sq. ft.; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 619
Property Number: 219012865
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 49500 sq. ft.; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 621
Property Number: 219012866
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 49500 sq. ft.; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 622
Property Number: 219012867
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 49500 sq. ft.; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 623
Property Number: 219012868
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 49500 sq. ft.; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 624
Property Number: 219012869
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 49500 sq. ft.; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 625
Property Number: 219012870
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 49500 sq. ft.; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 626
Property Number: 219012871
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 49500 sq. ft.; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 627
Property Number: 219012872
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 49500 sq. ft.; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 628
Property Number: 219012873
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 49500 sq. ft.; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 629
Property Number: 219012874
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 49500 sq. ft.; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 856
Property Number: 219012884
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 63290 sq. ft.; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 857
Property Number: 219012885
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 63290 sq. ft.; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 858
Property Number: 219012886
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 63290 sq. ft.; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 859
Property Number: 219012887
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 63290 sq. ft.; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 860
Property Number: 219012888
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area

Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 63290 sq. ft.; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 861
Property Number: 219012889
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 63290 sq. ft.; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 862
Property Number: 219012890
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 63290 sq. ft.; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 863
Property Number: 219012891
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 63290 sq. ft.; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 864
Property Number: 219012892
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 63290 sq. ft.; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 865
Property Number: 219012893
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 63290 sq. ft.; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 866
Property Number: 219012894
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 63290 sq. ft.; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 867
Property Number: 219012895
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 63290 sq. ft.; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 868
Property Number: 219012896
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 63290 sq. ft.; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 869
Property Number: 219012897
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 63290 sq. ft.; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 875
Property Number: 219012902
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 63290 sq. ft.; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 881
Property Number: 219012903
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 63290 sq. ft.; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 882
Property Number: 219012904
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 63290 sq. ft.; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 883
Property Number: 219012905
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 63290 sq. ft.; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 884
Property Number: 219012906
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 63290 sq. ft.; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 885
Property Number: 219012907
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 63290 sq. ft.; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 886
Property Number: 219012908
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 63290 sq. ft.; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 887
Property Number: 219012909
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 63290 sq. ft.; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 889
Property Number: 219012910
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 63290 sq. ft., 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 890
Property Number: 219012911
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 63290 sq. ft.; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 988
Property Number: 219012918
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 906
Property Number: 219012923
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 907
Property Number: 219012924
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area

Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 908
Property Number: 219012925
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 909
Property Number: 219012926
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 912
Property Number: 219012929
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area,
Parks Reserve Forces Training Area,
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 913
Property Number: 219012930
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area,
Parks Reserve Forces Training Area,
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 914
Property Number: 219012931
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area,
Parks Reserve Forces Training Area,
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 915
Property Number: 219012932
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area,
Parks Reserve Forces Training Area,
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 916
Property Number: 219012933
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area,
Parks Reserve Forces Training Area,
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 917
Property Number: 219012934
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area,
Parks Reserve Forces Training Area,
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 918
Property Number: 219012935
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area,
Parks Reserve Forces Training Area,
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 919
Property Number: 219012936
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area,
Parks Reserve Forces Training Area,
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 924
Property Number: 219012938
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area,
Parks Reserve Forces Training Area,
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 925
Property Number: 219012939
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area,
Parks Reserve Forces Training Area,
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 926
Property Number: 219012940
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area,
Parks Reserve Forces Training Area,
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 927
Property Number: 219012941
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area,
Parks Reserve Forces Training Area,
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 928
Property Number: 219012942
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area,
Parks Reserve Forces Training Area,
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 929
Property Number: 219012943
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area,
Parks Reserve Forces Training Area,
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 930
Property Number: 219012944
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area,
Parks Reserve Forces Training Area,
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 931
Property Number: 219012945
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area,
Parks Reserve Forces Training Area,
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 932
Property Number: 219012946
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area,
Parks Reserve Forces Training Area,
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 933
Property Number: 219012947
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area,
Parks Reserve Forces Training Area,
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 934
Property Number: 219012948
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area,
Parks Reserve Forces Training Area,
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 935
Property Number: 219012949
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area,
Parks Reserve Forces Training Area,
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized

Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 936
Property Number: 219012950
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 937
Property Number: 219012951
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 938
Property Number: 219012952
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 942
Property Number: 219012953
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 943
Property Number: 219012954
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 944
Property Number: 219012955
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 945
Property Number: 219012956
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 946
Property Number: 219012957
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 947
Property Number: 219012958
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 948
Property Number: 219012959
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 949
Property Number: 219012960
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 950
Property Number: 219012961
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 951
Property Number: 219012962
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 952
Property Number: 219012963
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 953
Property Number: 219012964
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 954
Property Number: 219012965
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 955
Property Number: 219012966
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 956
Property Number: 219012967
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 957
Property Number: 219012968
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 958
Property Number: 219012969
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 959
Property Number: 219012970
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 966
Property Number: 219012975
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 967
Property Number: 219012976
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 968
Property Number: 219012977
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 969
Property Number: 219012978
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 971
Property Number: 219012980
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 972
Property Number: 219012981
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 976
Property Number: 219012984
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 977
Property Number: 219012985
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 978
Property Number: 219012986
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 979
Property Number: 219012987
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 987
Property Number: 219012995
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11300 sq. ft.; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 218
Property Number: 219013002
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 219
Property Number: 219013003
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 227
Property Number: 219013011
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 228
Property Number: 219013012
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 229
Property Number: 219013013
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 237
Property Number: 219013021
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 238
Property Number: 219013022
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 239
Property Number: 219013023
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 240
Property Number: 219013024
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 241
Property Number: 219013025
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 242
Property Number: 219013026
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 243
Property Number: 219013027
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area, Parks Reserve Forces Training Area, Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 244
Property Number: 219013028
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area.

Parks Reserve Forces Training Area,
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 245
Property Number: 219013029
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area,
Parks Reserve Forces Training Area,
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 246
Property Number: 219013030
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area,
Parks Reserve Forces Training Area,
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 247
Property Number: 219013031
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area,
Parks Reserve Forces Training Area,
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 248
Property Number: 219013032
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area,
Parks Reserve Forces Training Area,
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 249
Property Number: 219013033
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area,
Parks Reserve Forces Training Area,
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 252
Property Number: 219013036
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area,
Parks Reserve Forces Training Area,
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 253
Property Number: 219013037
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area,
Parks Reserve Forces Training Area,
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 254
Property Number: 219013038
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area,
Parks Reserve Forces Training Area,
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 255
Property Number: 219013039
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area,
Parks Reserve Forces Training Area,
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 256
Property Number: 219013040
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area,
Parks Reserve Forces Training Area,
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 257
Property Number: 219013041
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area,
Parks Reserve Forces Training Area,
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 258
Property Number: 219013042
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area,
Parks Reserve Forces Training Area,
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 259
Property Number: 219013043
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area,
Parks Reserve Forces Training Area,
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 260
Property Number: 219013044
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area,
Parks Reserve Forces Training Area,
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 261
Property Number: 219013045
Fed Reg Date; 12/20/91
Project Name: Parks Res. Forces Trng. Area,
Parks Reserve Forces Training Area,
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 262
Property Number: 219013046
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area,
Parks Reserve Forces Training Area,
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 263
Property Number: 219013047
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area,
Parks Reserve Forces Training Area,
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 264
Property Number: 219013048
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area,
Parks Reserve Forces Training Area,
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 265
Property Number: 219013049
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area,
Parks Reserve Forces Training Area,
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 266
Property Number: 219013050
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 267
Property Number: 219013051
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 268
Property Number: 219013052
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area

Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 269
Property Number: 219013053
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 279
Property Number: 219013062
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 282
Property Number: 219013065
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 283
Property Number: 219013066
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 286
Property Number: 219013068
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 287
Property Number: 219013069
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 288
Property Number: 219013070
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 289
Property Number: 219013071
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldg. 920
Property Number: 219030289
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces
Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11300 sq. ft.; 1 story wood frame; needs major rehab; extensive asbestos present.

Bldg. 921
Property Number: 219030290
Fed Reg Date: 12/20/91
Project Name: Parks Reserve Forces
Parks Reserve Forces
Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11300 sq. ft.; 1 story wood frame; needs major rehab; extensive asbestos present.

Bldg. 922
Property Number: 219030291
Fed Reg Date: 12/20/91
Project Name: Parks Reserve Forces
Parks Reserve Forces
Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11300 sq. ft.; 1 story wood frame; needs major rehab; extensive asbestos present.

Bldg. 940
Property Number: 219030293
Fed Reg Date: 12/20/91
Project Name: Parks Reserve Forces
Parks Reserve Forces
Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11300 sq. ft.; 1 story wood frame; needs major rehab; extensive asbestos present.

Bldg. 941
Property Number: 219030294
Fed Reg Date: 12/20/91
Project Name: Parks Reserve Forces
Parks Reserve Forces
Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Comment: 11300 sq. ft.; 1 story wood frame; needs major rehab; extensive asbestos present.

EM Barracks, T–1201
Property Number: 219110117
Fed Reg Date: 12/20/91
Sierra Army Depot
DS Hall Avenue
Herlong, CA, Co: Lassen, Zip: 96113–
Status: Underutilized
Comment: 5310 sq. ft.; two story wood frame; security restrictions.

EM Barracks, T–1202
Property Number: 219110118
Fed Reg Date: 12/20/91
Sierra Army Depot
DS Hall Avenue
Herlong, CA, Co: Lassen, Zip: 96113–
Status: Underutilized
Comment: 5310 sq. ft.; two story wood frame; security restrictions.

EM Barracks, T–1203
Property Number: 219110119
Fed Reg Date: 12/20/91
Sierra Army Depot
DS Hall Avenue
Herlong, CA, Co: Lassen, Zip: 96113–
Status: Underutilized
Comment: 5310 sq. ft.; two story wood frame; security restrictions.

EM Barracks, T–1204
Property Number: 219110120
Fed Reg Date: 12/20/91
Sierra Army Depot
DS Hall Avenue
Herlong, CA, Co: Lassen, Zip: 96113–
Status: Underutilized
Comment: 5310 sq. ft.; two story wood frame; security restrictions.

EM Barracks, T–1208
Property Number: 219110121
Fed Reg Date: 12/20/91
Sierra Army Depot
DS Hall Avenue
Herlong, CA, Co: Lassen, Zip: 96113–
Status: Underutilized
Comment: 5310 sq. ft.; two story wood frame; security restrictions.

EM Barracks, T–1214
Property Number: 219110122
Fed Reg Date: 12/20/91
Sierra Army Depot
DS Hall Avenue
Herlong, CA, Co: Lassen, Zip: 96113–
Status: Underutilized
Comment: 5310 sq. ft.; two story wood frame; security restrictions.

Open Mess & NCO Club, T–1218
Property Number: 219110123
Fed Reg Date: 12/20/91
Sierra Army Depot
DS Hall Avenue
Herlong, CA, Co: Lassen, Zip: 96113–
Status: Underutilized
Comment: 8694 sq. ft.; one story wood frame; needs rehab; presence of asbestos; security restrictions.

Bldg. 60
Property Number: 219120315
Fed Reg Date: 12/20/91
Los Alamitos Armed Forces Reserve Center
Main entrance on Lexington Dr.
Los Alamitos, CA, Co: Orange, Zip: 90720–5001
Status: Unutilized
Comment: 1024 sq. ft.; two story concrete-wood plaster, possible asbestos, off-site use only, most recent use—nose hanger.

Bldg. 95
Property Number: 219120316
Fed Reg Date: 12/20/91
Los Alamitos Armed Forces Reserve Center
Main entrance on Lexington Dr.
Los Alamitos, CA, Co: Orange, Zip: 90720–5001
Status: Unutilized

Comment: 392 sq. ft.; 1 story raised portable, off-site use only, most recent use—radar maint.

Bldg. 186
Property Number: 219120317
Fed Reg Date: 12/20/91
Los Alamitos Armed Forces Reserve Center
Main entrance on Lexington Dr.
Los Alamitos, CA, Co: Orange, Zip: 90720-5001
Status: Unutilized
Comment: 996 sq. ft., 1 story steel, off-site use only, most recent use—storage.

Bldg. 196
Property Number: 219120318
Fed Reg Date: 12/20/91
Los Alamitos Armed Forces Reserve Center
Main entrance on Lexington Dr.
Los Alamitos, CA, Co: Orange, Zip: 90720-5001
Status: Unutilized
Comment: 1029 sq. ft., stucco structure, off-site use only, most recent use—storage.

Bldg. 197
Property Number: 219120319
Fed Reg Date: 12/20/91
Los Alamitos Armed Forces Reserve Center
Main entrance on Lexington Dr.
Los Alamitos, CA, Co: Orange, Zip: 90720-5001
Status: Unutilized
Comment: 720 sq. ft., 1 story stucco structure, off-site use only, most recent use—storage, possible asbestos.

Bldg. 262
Property Number: 219120320
Fed Reg Date: 12/20/91
Los Alamitos Armed Forces Reserve Center
Main entrance on Lexington Dr.
Los Alamitos, CA, Co: Orange, Zip: 90720-5001
Status: Unutilized
Comment: 448 sq. ft. trailer, off-site use only, most recent use—storage.

Bldg. 263
Property Number: 219120321
Fed Reg Date: 12/20/91
Los Alamitos Armed Forces Reserve Center
Main entrance on Lexington Dr.
Los Alamitos, CA, Co: Orange, Zip: 90720-5001
Status: Unutilized
Comment: 448 sq. ft. trailer, off-site use only, most recent use—storage.

Bldg. 265
Property Number: 219120322
Fed Reg Date: 12/20/91
Los Alamitos Armed Forces Reserve Center
Main entrance on Lexington Dr.
Los Alamitos, CA, Co: Orange, Zip: 90720-5001
Status: Unutilized
Comment: 448 sq. ft. trailer, off-site use only, most recent use—storage.

Bldg. 268
Property Number: 219120323
Fed Reg Date: 12/20/91
Los Alamitos Armed Forces Reserve Center
Main entrance on Lexington Dr.
Los Alamitos, CA, Co: Orange, Zip: 90720-5001
Status: Unutilized
Comment: 448 sq. ft. trailer, off-site use only, most recent use—storage.

Colorado

Buildings

Bldg. 1642, Fort Carson
Property Number: 219140077
Fed Reg Date: 12/27/91
Specker Ave.
Colorado Springs, CO, Co: El Paso, Zip: 80913
Status: Unutilized
Comment: 1575 sq. ft., 1 story wood, needs rehab, most recent use—admin. bldg., presence of asbestos.

Bldg. 2218, Fort Carson
Property Number: 219140078
Fed Reg Date: 12/27/91
Specker Ave.
Colorado Springs, CO, Co: El Paso, Zip: 80913
Status: Unutilized
Comment: 2488 sq. ft., 1 story wood, needs rehab, most recent use—production, presence of asbestos.

Bldg. 2222, Fort Carson
Property Number: 219140079
Fed Reg Date: 12/27/91
Mister St.
Colorado Springs, CO, Co: El Paso, Zip: 80913
Status: Unutilized
Comment: 5310 sq. ft., 2 story wood, needs rehab, most recent use—admin. bldg., presence of asbestos.

Bldg. 2223, Fort Carson
Property Number: 219140080
Fed Reg Date: 12/27/91
Mister St.
Colorado Springs, CO, Co: El Paso, Zip: 80913
Status: Unutilized
Comment: 4720 sq. ft., 2 story wood, needs rehab, most recent use—classroom, presence of asbestos.

Bldg. 2224, Fort Carson
Property Number: 219140081
Fed Reg Date: 12/27/91
Mister St.
Colorado Springs, CO, Co: El Paso, Zip: 80913
Status: Unutilized
Comment: 4720 sq. ft., 2 story wood, needs rehab, most recent use—admin. bldg., presence of asbestos.

Bldg. 2225, Fort Carson
Property Number: 219140082
Fed Reg Date: 12/27/91
Mister St.
Colorado Springs, CO, Co: El Paso, Zip: 80913
Status: Unutilized
Comment: 5310 sq. ft., 2 story wood, needs rehab, most recent use—admin. bldg., presence of asbestos.

Bldg. 2226, Fort Carson
Property Number: 219140083
Fed Reg Date: 12/27/91
Mister St.
Colorado Springs, CO, Co: El Paso, Zip: 80913
Status: Unutilized
Comment: 5310 sq. ft., 2 story wood, needs rehab, most recent use—education center, presence of asbestos.

Bldg. 2317, Fort Carson
Property Number: 219140084
Fed Reg Date: 12/27/91
Mister St.
Colorado Springs, CO, Co: El Paso, Zip: 80913
Status: Unutilized
Comment: 5310 sq. ft., 2 story wood, needs rehab, most recent use—admin. bldg., presence of asbestos.

Bldg. 2320, Fort Carson
Property Number: 219140085
Fed Reg Date: 12/27/91
Mister St.
Colorado Springs, CO, Co: El Paso, Zip: 80913
Status: Unutilized
Comment: 5310 sq. ft., 2 story wood, needs rehab, most recent use—education center, presence of asbestos.

Bldg. 2321, Fort Carson
Property Number: 219140086
Fed Reg Date: 12/27/91
Mister St.
Colorado Springs, CO, Co: El Paso, Zip: 80913
Status: Unutilized
Comment: 5310 sq. ft., 2 story wood, needs rehab, most recent use—education center, presence of asbestos.

Bldg. 2323, Fort Carson
Property Number: 219140087
Fed Reg Date: 12/27/91
Mister St.
Colorado Springs, CO, Co: El Paso, Zip: 80913
Status: Unutilized
Comment: 5310 sq. ft., 2 story wood, needs rehab, most recent use—storage, presence of asbestos.

Bldg. 2324, Fort Carson
Property Number: 219140088
Fed Reg Date: 12/27/91
Mister St.
Colorado Springs, CO, Co: El Paso, Zip: 80913
Status: Unutilized
Comment: 5310 sq. ft., 2 story wood, needs rehab, most recent use—classroom, presence of asbestos.

Bldg. 2325, Fort Carson
Property Number: 219140089
Fed Reg Date: 12/27/91
Mister St.
Colorado Springs, CO, Co: El Paso, Zip: 80913
Status: Unutilized
Comment: 5310 sq. ft., 2 story wood, needs rehab, most recent use—admin. bldg., presence of asbestos.

Bldg. 2326, Fort Carson
Property Number: 219140090
Fed Reg Date: 12/27/91
Wetzel Ave.
Colorado Springs, CO, Co: El Paso, Zip: 80913
Status: Unutilized
Comment: 2988 sq. ft., 1 story wood, needs rehab, most recent use—classroom, presence of asbestos.

Bldg. 2327, Fort Carson
Property Number: 219140091
Fed Reg Date: 12/27/91
Wetzel Ave.
Colorado Springs, CO, Co: El Paso, Zip: 80913
Status: Unutilized
Comment: 2488 sq. ft., 1 story wood, needs rehab, presence of asbestos.

Bldg. 2330, Fort Carson
Property Number: 219140166
Fed Reg Date: 12/27/91
Polio St.
Colorado Springs, CO, Co: El Paso, Zip: 80913
Status: Unutilized
Comment: 5310 sq. ft., 2 story wood, needs rehab, most recent use—admin. bldg., presence of asbestos.

Bldg. 2331, Fort Carson
Property Number: 219140167
Fed Reg Date: 12/27/91

Mister St.
Colorado Springs, CO, Co: El Paso, Zip: 80913
Status: Unutilized
Comment: 1850 sq. ft., 1 story wood, needs rehab, most recent use—storage, presence of asbestos.

Bldg. 2333, Fort Carson
Property Number: 219140168
Fed Reg Date: 12/27/91
Polio St.
Colorado Springs, CO, Co: El Paso, Zip: 80913
Status: Unutilized
Comment: 5310 sq. ft., 2 story wood, needs rehab, most recent use—education center, presence of asbestos.

Bldg. 2334, Fort Carson
Property Number: 219140169
Fed Reg Date: 12/27/91
Polio St.
Colorado Springs, CO, Co: El Paso, Zip: 80913–
Status: Unutilized
Comment: 5310 sq. ft., 2 story wood, needs rehab, most recent use—education center, presence of asbestos.

Bldg. 2335, Fort Carson
Property Number: 219140170
Fed Reg Date: 12/27/91
Specker Ave.
Colorado Springs, CO, Co: El Paso, Zip: 80913–
Status: Unutilized
Comment: 2488 sq. ft., 1 story wood, needs rehab, presence of asbestos.

Bldg. 2336, Fort Carson
Property Number: 219140171
Fed Reg Date: 12/27/91
Specker Ave.
Colorado Springs, CO, Co: El Paso, Zip: 80913–
Status: Unutilized
Comment: 2488 sq. ft., 1 story wood, needs rehab, most recent use—storage, presence of asbestos.

Bldg. 2418, Fort Carson
Property Number: 219140172
Fed Reg Date: 12/27/91
Polio St.
Colorado Springs, CO, Co: El Paso, Zip: 80913–
Status: Unutilized
Comment: 5310 sq. ft., 2 story wood, needs rehab, most recent use—classroom, presence of asbestos.

Bldg. 2419, Fort Carson
Property Number: 219140173
Fed Reg Date: 12/27/91
Polio St.
Colorado Springs, CO, Co: El Paso, Zip: 80913–
Status: Unutilized
Comment: 1852 sq. ft., 1 story wood, needs rehab, most recent use—education center, presence of asbestos.

Bldg. 2422, Fort Carson
Property Number: 219140174
Fed Reg Date: 12/27/91
Polio St.
Colorado Springs, CO, Co: El Paso, Zip: 80913–
Status: Unutilized
Comment: 5310 sq. ft., 2 story wood, needs rehab, most recent use—classroom, presence of asbestos.

Bldg. 2424, Fort Carson
Property Number: 219140175
Fed Reg Date: 12/27/91
Polio St.
Colorado Springs, CO, Co: El Paso, Zip: 80913–
Status: Unutilized
Comment: 5310 sq. ft., 2 story wood, needs rehab, most recent use—classroom, presence of asbestos.

Bldg. 2425, Fort Carson
Property Number: 219140176
Fed Reg Date: 12/27/91
Polio St.
Colorado Springs, CO, Co: El Paso, Zip: 80913–
Status: Unutilized
Comment: 2700 sq. ft., 1 story wood, needs rehab, most recent use—admin. bldg., presence of asbestos.

Bldg. 2433, Fort Carson
Property Number: 219140177
Fed Reg Date: 12/27/91
Specker Ave.
Colorado Springs, CO, Co: El Paso, Zip: 80913–
Status: Unutilized
Comment: 3108 sq. ft., 1 story wood, needs rehab, most recent use—education center, presence of asbestos.

Bldg. 2435, Fort Carson
Property Number: 219140178
Fed Reg Date: 12/27/91
Specker Ave.
Colorado Springs, CO, Co: El Paso, Zip: 80913–
Status: Unutilized
Comment: 2488 sq. ft., 1 story wood, needs rehab, most recent use—admin., presence of asbestos.

Georgia

Buildings

Bldg. 4920
Property Number: 219010002
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905—
Status: Unutilized
Comment: 1888 sq. ft.; most recent use—barracks; needs rehab.

Bldg. 4921
Property Number: 219010003
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1888 sq. ft.; most recent use—barracks; needs rehab.

Bldg. 4915
Property Number: 219010004
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1297 sq. ft.; most recent use—headquarters building; needs rehab.

Bldg. 4914
Property Number: 219010005
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 810 sq. ft.; most recent use—arms building; needs rehab.

Bldg. 4910
Property Number: 219010105
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1888 sq. ft.; most recent use—barracks; needs rehab.

Bldg. 4911
Property Number: 219010106
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1888 sq. ft.; most recent use—barracks; needs rehab.

Bldg. 4927
Property Number: 219010107
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1888 sq. ft.; most recent use—classrooms; 2-stories; needs rehab.

Bldg. 4928
Property Number: 219010108
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1888 sq. ft.; most recent use—barracks; needs rehab.

Bldg. 5288
Property Number: 219010109
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1216 sq. ft.; most recent use—arms building; needs rehab.

Bldg. 5289
Property Number: 219010110
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1216 sq. ft.; most recent use—store house; needs rehab.

Bldg. 5290
Property Number: 219010111
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1216 sq. ft.; most recent use—arms building; needs rehab.

Bldg. 5291
Property Number: 219010112
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2529 sq. ft.; most recent use—dining room; needs rehab.

Bldg. 5292
Property Number: 219010113
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–

Status: Unutilized
Comment: 2525 sq. ft.; most recent use—snack bar; needs rehab.

Bldg. 5293
Property Number: 219010114
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2529 sq. ft.; most recent use—dining room; needs rehab.

Bldg. 5294
Property Number: 219010115
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2529 sq. ft.; most recent use—dining room; needs rehab.

Bldg. 5295
Property Number: 219010116
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2529 sq. ft.; most recent use—dining room; needs rehab.

Bldg. 5297
Property Number: 219010117
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1080 sq. ft.; most recent use—storehouse; needs rehab.

Bldg. 5298
Property Number: 219010118
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 3759 sq. ft.; most recent use—general; needs rehab.

Bldg. 5299
Property Number: 219010119
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 3759 sq. ft.; most recent use—general; needs rehab.

Bldg. 5300
Property Number: 219010120
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1400 sq. ft.; most recent use—day room; needs rehab.

Bldg. 5301
Property Number: 219010121
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2124 sq. ft.; most recent use—barracks; needs rehab.

Bldg. 5302
Property Number: 219010122
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1400 sq. ft.; most recent use—day room; needs rehab.

Bldg. 5303
Property Number: 219010123
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2124 sq. ft.; most recent use—barracks; needs rehab.

Bldg. 5304
Property Number: 219010124
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2124 sq. ft.; most recent use—barracks; needs rehab.

Bldg. 5305
Property Number: 219010125
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2124 sq. ft.; most recent use—barracks; needs rehab.

Bldg. 5306
Property Number: 219010126
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2406 sq. ft.; most recent use—dining room; needs rehab.

Bldg. 5307
Property Number: 219010127
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1216 sq. ft.; most recent use—arms building; needs rehab.

Bldg. 5308
Property Number: 219010128
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1680 sq. ft.; most recent use—storehouse; needs rehab.

Bldg. 5309
Property Number: 219010129
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1829 sq. ft.; most recent use—clinic; needs rehab.

Bldg. 5310
Property Number: 219010130
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 3484 sq. ft.; most recent use—diagnostic center; needs rehab.

Bldg. 5311
Property Number: 219010131
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 5767 sq. ft.; most recent use—post exchange (store); needs rehab.

Bldg. 5315
Property Number: 219010132
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2930 sq. ft.; most recent use—hdqts. bldg.; needs rehab.

Bldg. 5316
Property Number: 219010133
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1400 sq. ft.; most recent use—day room; needs rehab.

Bldg. 5320
Property Number: 219010134
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2124 sq. ft.; most recent use—barracks; needs rehab.

Bldg. 5366
Property Number: 219010135
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 3759 sq. ft.; most recent use—recreation bldg.; needs rehab.

Bldg. 5367
Property Number: 219010136
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 3759 sq. ft.; most recent use—recreation bldg.; needs rehab.

Bldg. 5390
Property Number: 219010137
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2432 sq. ft.; most recent use—dining room; needs rehab.

Bldg. 5328
Property Number: 219010139
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2486 sq. ft.; most recent use—arms bldg.; needs rehab.

Bldg. 5324
Property Number: 219010141
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2124 sq. ft.; most recent use—barracks; needs rehab.

Bldg. 5323
Property Number: 219010142
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2525 sq. ft.; most recent use—dining room; needs rehab.

Bldg. 5322
Property Number: 219010143
Fed Reg Date: 12/20/91

Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2124 sq. ft.; most recent use—barracks; needs rehab.

Bldg. 5321
Property Number: 219010144
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2124 sq. ft.; most recent use—barracks; needs rehab.

Bldg. 5360
Property Number: 219010145
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 3759 sq. ft.; most recent use—recreation bldg.; needs rehab.

Bldg. 5361
Property Number: 219010146
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 3759 sq. ft.; most recent use—recreation bldg.; needs rehab.

Bldg. 5362
Property Number: 219010147
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 5559 sq. ft.; most recent use—service club; needs rehab.

Bldg. 5363
Property Number: 219010148
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 3759 sq. ft.; most recent use—recreation bldg.; needs rehab.

Bldg. 5365
Property Number: 219010150
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 3759 sq. ft.; most recent use—recreation bldg.; needs rehab.

Bldg. 5392
Property Number: 219010151
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2432 sq. ft.; most recent use—dining room; needs rehab.

Bldg. 5391
Property Number: 219010152
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2432 sq. ft.; most recent use—dining room; needs rehab.

Bldg. 4865
Property Number: 219011447
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1098 sq. ft., 1 floor, most recent use—storehouse, needs rehab.

Bldg. 4867
Property Number: 219011448
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1888 sq. ft., 2 floors; most recent use—trainee barracks; needs rehab/major construction to be made habitable.

Bldg. 4868
Property Number: 219011450
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1888 sq. ft.; 2 floors; most recent use—trainee barracks; needs major rehab/construction to be habitable.

Bldg. 4869
Property Number: 219011451
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1888 sq. ft.; 2 floors; most recent use—trainee barracks; needs major rehab/construction to be habitable.

Bldg. 4870
Property Number: 219011452
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1888 sq. ft.; 2 floors; most recent use—trainee barracks; needs major rehab/construction to be made habitable.

Bldg. 4871
Property Number: 219011453
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1507 sq. ft.; 1 floor; most recent use—day room; needs major rehab/construction to be made habitable.

Bldg. 4875
Property Number: 219011455
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1888 sq. ft.; 2 floors; most recent use—BN classrooms; major rehab/construction to be habitable.

Bldg. 4872
Property Number: 219011458
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2183 sq. ft.; 1 floor; most recent use—dining room; major construction required to be made habitable.

Bldg. 4873
Property Number: 219011465
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2183 sq. ft.; 1 floor; most recent use—dining room; major construction required to be made habitable.

Bldg. 4874
Property Number: 219011467
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1507 sq. ft.; 1 floor; most recent use—day room; major construction required to be made habitable.

Bldg. 4877
Property Number: 219011468
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1888 sq. ft.; 2 floors; most recent use—trainee barracks; major rehab/construction required to be habitable.

Bldg. 4876
Property Number: 219011470
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1888 sq. ft.; 2 floors; most recent use—trainee barracks; needs major rehab/construction required to be habitable.

Bldg. 4878
Property Number: 219011472
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1888 sq. ft.; 2 floors; most recent use—trainee barracks; major rehab/construction required to be made habitable.

Bldg. 4880
Property Number: 219011474
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1888 sq. ft.; 2 floors; most recent use—trainee barracks; major rehab/construction required to be made habitable.

Bldg. 4902
Property Number: 219011476
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1888 sq. ft.; 2 floors; most recent use—barracks; major construction required to be made habitable.

Bldg. 4903
Property Number: 219011477
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning

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Fort Benning, GA, Co: Muscogee, Zip: 31095–
Status: Unutilized
Comment: 1888 sq. ft.; 2 floors; most recent use—trainee barracks; major construction required to be made habitable.

Bldg. 4904
Property Number: 219011478
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31095–
Status: Unutilized
Comment: 1888 sq. ft.; 2 floors; most recent use—trainee barracks; major construction required to be made habitable.

Bldg. 4905
Property Number: 219011479
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31095–
Status: Unutilized
Comment: 1888 sq. ft.; 2 floors; most recent use—trainee barracks; major construction required to be made habitable.

Bldg. 4906
Property Number: 219011480
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31095–
Status: Unutilized
Comment: 1507 sq. ft.; 1 floor; most recent use—day room; major construction required to be made habitable.

Bldg. 4907
Property Number: 219011481
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31095–
Status: Unutilized
Comment: 2183 sq. ft.; 1 floor; most recent use—dining room facility; major construction required to be made habitable.

Bldg. 4908
Property Number: 219011482
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31095–
Status: Unutilized
Comment: 2183 sq. ft.; 1 floor; most recent use—dining room facility; major construction required to be made habitable.

Bldg. 4909
Property Number: 219011483
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31095–
Status: Unutilized
Comment: 1507 sq. ft.; 1 floor; most recent use—day room; major construction required to be made habitable.

Bldg. 4901
Property Number: 219011484
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31095–
Status: Unutilized
Comment: 810 sq. ft.; 1 floor; most recent use—other inst st.; major rehab/construction required to be made habitable is required.

Bldg. 4866
Property Number: 219011485
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Fort Benning, Zip: 31095–
Status: Unutilized
Comment: 794 sq. ft.; 1 floor; most recent use—arms bldg.; major rehab/construction required to be made habitable.

Bldg. 4879
Property Number: 219011486
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31095–
Status: Unutilized
Comment: 794 sq. ft.; 1 floor; most recent use—arms building; major rehab/construction required to be made habitable.

Bldg. 4605
Property Number: 219011493
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31095–
Status: Unutilized
Comment: 915 sq. ft.; buildings in poor condition, major construction needed to be made habitable.

Bldg. 4615
Property Number: 219011494
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31095–
Status: Unutilized
Comment: 915 sq. ft.; bldgs. in poor condition, major construction needed to be made habitable.

Bldg. 4642
Property Number: 219011495
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31095–
Status: Unutilized
Comment: 3,068 sq. ft.; buildings in poor condition, major construction needed to be made habitable.

Bldg. 4643
Property Number: 219011496
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31095–
Status: Unutilized
Comment: 3,068 sq. ft.; buildings in poor condition, major construction needed to be made habitable.

Bldg. 4747
Property Number: 219011497
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31095–
Status: Unutilized
Comment: 794 sq. ft.; buildings in poor condition, major construction needed to be made habitable.

Bldg. 4834
Property Number: 219011498
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31095–
Status: Unutilized
Comment: 794 sq. ft.; buildings in poor condition, major construction needed to be made habitable.

Bldg. 4835
Property Number: 219011499
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31095–
Status: Unutilized
Comment: 1,501 sq. ft.; buildings in poor condition, major construction needed to be made habitable.

Bldg. 4840
Property Number: 219011500
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31095–
Status: Unutilized
Comment: 2,930 sq. ft.; buildings in poor condition, major construction needed to be made habitable.

Bldg. 4841
Property Number: 219011501
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31095–
Status: Unutilized
Comment: 2,930 sq. ft.; buildings in poor condition, major construction needed to be made habitable.

Bldg. 4843
Property Number: 219011502
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31095–
Status: Unutilized
Comment: 1,776 sq. ft.; buildings in poor condition, major construction needed to be made habitable.

Bldg. 4844
Property Number: 219011503
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31095–
Status: Unutilized
Comment: 3,776 sq. ft.; buildings in poor condition, major construction needed to be made habitable.

Bldg. 4846
Property Number: 219011504
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1,455 sq. ft., building in poor condition, major construction needed to be made habitable.

Bldg. 4847
Property Number: 219011505
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning

Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 900 sq. ft., building in poor condition, major construction needed to be made habitable.

Bldg. 4848
Property Number: 219011506
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 804 sq. ft., buildings in poor condition, major construction needed to be made habitable.

Bldg. 4851
Property Number: 219011507
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1,888 sq. ft., buildings in poor condition, major construction needed to be made habitable.

Bldg. 4852
Property Number: 219011508
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1,888 sq. ft., buildings in poor condition, major construction needed to be made habitable.

Bldg. 4853
Property Number: 219011509
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1,888 sq. ft., buildings in poor condition, major construction needed to be made habitable.

Bldg. 4854
Property Number: 219011510
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1,888 sq. ft., buildings in poor condition, major construction needed to be made habitable.

Bldg. 4855
Property Number: 219011511
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1,507 sq. ft., buildings in poor condition, major construction needed to be made habitable.

Bldg. 4856
Property Number: 219011512
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2,183 sq. ft., buildings in poor condition, major construction needed to be made habitable.

Bldg. 4857
Property Number: 219011513
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2,160 sq. ft., building in poor condition, major construction needed to be made habitable.

Bldg. 4858
Property Number: 219011514
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1,507 sq. ft., building in poor condition, major construction needed to be made habitable.

Bldg. 4859
Property Number: 219011515
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1,888 sq. ft., buildings in poor condition, major construction needed to be made habitable.

Bldg. 4860
Property Number: 219011516
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1,888 sq. ft., buildings in poor condition, major construction needed to be made habitable.

Bldg. 4861
Property Number: 219011517
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1,888 sq. ft., building in poor condition, major construction needed to be made habitable.

Bldg. 4862
Property Number: 219011518
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1,888 sq. ft., buildings in poor condition, major construction needed to be made habitable.

Bldg. 4863
Property Number: 219011519
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 794 sq. ft., building in poor condition, major construction needed to be made habitable.

Bldg. 4864
Property Number: 219011520
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1,292 sq. ft., building in poor condition, major construction needed to be made habitable.

Bldg. 4507
Property Number: 219011673
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1888 sq. ft., most recent use—barracks, needs substantial rehabilitation, 2 floors.

Bldg. 4506
Property Number: 219011675
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2145 sq. ft., most recent use—dining facilities, needs substantial rehabilitation, 1 floor.

Bldg. 4505
Property Number: 219011676
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2145 sq. ft., most recent use—dining facilities, needs substantial rehabilitation, 1 floor.

Bldg. 4487
Property Number: 219011681
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1868 sq. ft., most recent use—telephone exchange bldg.; needs substantial rehabilitation; 1 floor.

Bldg. 4484
Property Number: 219011682
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1098 sq. ft.; most recent use—storehouse; needs substantial rehabilitation; 1 floor.

Bldg. 4319
Property Number: 219011683
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2584 sq. ft.; most recent use—vehicle maintenance shop; needs substantial rehabilitation; 1 floor.

Bldg. 4481
Property Number: 219011685
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized

Comment: 1507 sq. ft.; most recent use—administrative (day room); needs substantial rehabilitation; 1 floor.

Bldg. 4479
Property Number: 219011686
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1507 sq. ft.; most recent use—administrative (day room); needs substantial rehabilitation; 1 floor.

Bldg. 3400
Property Number: 219011694
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2570 sq. ft.; most recent use—fire station; needs substantial rehabilitation; 1 floor.

Bldg. 2285
Property Number: 219011704
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 4574 sq. ft.; most recent use—clinic; needs substantial rehabilitation; 1 floor.

Bldg. 4092
Property Number: 219011709
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 336 sq. ft.; most recent use—inflammable materials storage; needs substantial rehabilitation; 1 floor.

Bldg. 4089
Property Number: 219011710
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 176 sq. ft.; most recent use—gas station; needs substantial rehabilitation; 1 floor.

Bldg. 5266
Property Number: 219012364
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1400 sq. ft.; one story; most recent use—day room; in poor condition; needs major rehab.

Bldg. 5267
Property Number: 219012365
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2124 sq. ft.; 2 story; most recent use—barracks; poor condition; needs major rehab.

Bldg. 5268
Property Number: 219012367
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2124 sq. ft.; 2 story; most recent use—barracks; poor condition; needs major rehab.

Bldg. 5269
Property Number: 219012368
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2124 sq. ft.; 2 story; most recent use—barracks; poor condition; needs major rehab.

Bldg. 5270
Property Number: 219012369
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2124 sq. ft.; 2 story; most recent use—barracks; poor condition; needs major rehab.

Bldg. 5271
Property Number: 219012370
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2124 sq. ft.; 2 story; most recent use—administrative; poor condition; needs major rehab.

Bldg. 5272
Property Number: 219012372
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2124 sq. ft.; 2 story; most recent use—barracks; poor condition; needs major rehab.

Bldg. 5273
Property Number: 219012373
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2124 sq. ft.; 2 story; most recent use—barracks; poor condition; needs major rehab.

Bldg. 5274
Property Number: 219012374
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2124 sq. ft.; 2 story; most recent use—barracks; poor condition; needs major rehab.

Bldg. 5275
Property Number: 219012375
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2124 sq. ft.; 2 story; most recent use—barracks; poor condition; needs major rehab.

Bldg. 5276
Property Number: 219012376
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2124 sq. ft.; 2 story; most recent use—barracks; poor condition; needs major rehab.

Bldg. 5277
Property Number: 219012378
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2124 sq. ft.; 2 story; most recent use—barracks; poor condition; needs major rehab.

Bldg. 5278
Property Number: 219012379
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2124 sq. ft.; 2 story; most recent use—barracks; poor condition; needs major rehab.

Bldg. 5279
Property Number: 219012381
Fed Reg Date: 12/20/91
Project Name: Fort Benning.
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2124 sq. ft.; 2 story; most recent use—barracks; poor condition; needs major rehab.

Bldg. 5280
Property Number: 219012382
Fed Reg Date: 12/20/91
Project Name: Fort Benning.
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2124 sq. ft.; 2 story; most recent use—barracks; poor condition; needs major rehab.

Bldg. 5281
Property Number: 219012383
Fed Reg Date: 12/20/91
Project Name: Fort Benning.
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2124 sq. ft.; 2 story; most recent use—barracks; poor condition; needs major rehab.

Bldg. 5282
Property Number: 219012385
Fed Reg Date: 12/20/91
Project Name: Fort Benning.
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2124 sq. ft.; 2 story; most recent use—barracks; poor condition; needs major rehab.

Bldg. 5283
Property Number: 219012386
Fed Reg Date: 12/20/91
Project Name: Fort Benning,
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2124 sq. ft.; 2 story; most recent use—barracks; poor condition; needs major rehab.

Bldg. 4936
Property Number: 219012388
Fed Reg Date: 12/20/91
Project Name: Fort Benning,
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1888 sq. ft.; 2 story; most recent use—barracks; poor condition; needs major rehab.

Bldg. 4937
Property Number: 219012389
Fed Reg Date: 12/20/91
Project Name: Fort Benning,
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2183 sq. ft.; 1 story; most recent use—dining room; poor condition; needs major rehab.

Bldg. 4938
Property Number: 219012391
Fed Reg Date: 12/20/91
Project Name: Fort Benning,
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1320 sq. ft.; one story; most recent use—administrative; poor condition; needs major rehab.

Bldg. 4939
Property Number: 219012392
Fed Reg Date: 12/20/91
Project Name: Fort Benning,
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1800 sq. ft.; one story; most recent use—classrooms; poor condition; needs major rehab.

Bldg. 4951
Property Number: 219012394
Fed Reg Date: 12/20/91
Project Name: Fort Benning,
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2192 sq. ft.; one story; most recent use—storehouse; poor condition; needs major rehab.

Bldg. 4953
Property Number: 219012395
Fed Reg Date: 12/20/91
Project Name: Fort Benning,
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 794 sq. ft.; 1 story; most recent use—storehouse; poor condition; needs major rehab.

Bldg. 4954
Property Number: 219012397
Fed Reg Date: 12/20/91
Project Name: Fort Benning,
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1888 sq. ft.; 2 story; most recent use—custody fac.; poor condition; needs major rehab.

Bldg. 4926
Property Number: 219012398
Fed Reg Date: 12/20/91
Project Name: Fort Benning,
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1888 sq. ft.; 2 story; most recent use—classrooms; poor condition; needs major rehab.

Bldg. 4925
Property Number: 219012400
Fed Reg Date: 12/20/91
Project Name: Fort Benning,
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1507 sq. ft.; one story; most recent use—classroom; poor condition; needs major rehab.

Bldg. 4924
Property Number: 219012401
Fed Reg Date: 12/20/91
Project Name: Fort Benning,
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2183 sq. ft.; one story; most recent use—dining room; poor condition; needs major rehab.

Bldg. 4919
Property Number: 219012403
Fed Reg Date: 12/20/91
Project Name: Fort Benning,
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1888 sq. ft.; 2 story; most recent use—barracks; poor condition; needs major rehab.

Bldg. 4918
Property Number: 219012404
Fed Reg Date: 12/20/91
Project Name: Fort Benning,
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1888 sq. ft.; 2 story; most recent use—barracks; poor condition; needs major rehab.

Bldg. 4917
Property Number: 219012405
Fed Reg Date: 12/20/91
Project Name: Fort Benning,
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 810 sq. ft.; 1 story; most recent use—arms building; poor condition; needs major rehab.

Bldg. 4929
Property Number: 219012406
Fed Reg Date: 12/20/91
Project Name: Fort Benning,
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1888 sq. ft.; 2 story; most recent use—barracks; poor condition; needs major rehab.

Bldg. 4930
Property Number: 219012408
Fed Reg Date: 12/20/91
Project Name: Fort Benning,
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 810 sq. ft.; 1 story; most recent use—arms building; poor condition; needs major rehab.

Bldg. 4931
Property Number: 219012410
Fed Reg Date: 12/20/91
Project Name: Fort Benning,
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1888 sq. ft.; two story; most recent use—barracks; poor condition; needs major rehab.

Bldg. 5287
Property Number: 219012411
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1216 sq. ft.; 1 story; most recent use—arms building; poor condition; needs major rehab.

Bldg. 4912
Property Number: 219012417
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1888 sq. ft.; 2 story; most recent use—barracks; needs major rehab.

Bldg. 4933
Property Number: 219012418
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1888 sq. ft.; 2 story; most recent use—barracks; needs major rehab.

Bldg. 4934
Property Number: 219012419
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1507 sq. ft.; one story; most recent use—dayroom; needs major rehab.

Bldg. 4932
Property Number: 219012421
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 794 sq. ft.; 1 story; most recent use—storehouse; needs rehab.

Bldg. 4935
Property Number: 219012422
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized

Comment: 1888 sq. ft.; 2 story; most recent use—barracks; needs major rehab.

Bldg. 20701
Property Number: 291014281
Fed Reg Date: 12/20/91
Project Name: Fort Gordon
Fort Gordon
Augusta, GA, Co: Richmond, Zip: 30905–
Location: Located on Barnes Avenue and 20th street.
Status: Unutilized
Comment: 4524 sq. ft.; 2 story wood structure; needs major rehab; off-site use only.

Bldg. 20703
Property Number: 291014282
Fed Reg Date: 12/20/91
Project Name: Fort Gordon
Fort Gordon
Augusta, GA, Co: Richmond, Zip: 30905–
Location: Located on 20th Street.
Status: Underutilized
Comment: 4524 sq. ft.; 2 story wood structure; needs major rehab; off-site use only.

Bldg. 20709
Property Number: 291014284
Fed Reg Date: 12/20/91
Project Name: Fort Gordon
Fort Gordon
Augusta, GA, Co: Richmond, Zip: 30905–
Location: Located on 20th Street.
Status: Underutilized
Comment: 4524 sq. ft.; 2 story wood structure; needs major rehab; off-site use only.

Bldg. 34402
Property Number: 291014285
Fed Reg Date: 12/20/91
Project Name: Fort Gordon
Fort Gordon
Augusta, GA, Co: Richmond, Zip: 30905–
Location: Located on the Avenue of the States.
Status: Underutilized
Comment: 4524 sq. ft.; 2 story wood structure; needs major rehab; off-site use only.

Bldg. 34404
Property Number: 291014286
Fed Reg Date: 12/20/91
Project Name: Fort Gordon
Fort Gordon
Augusta, GA, Co: Richmond, Zip: 30905–
Location: Located on the Avenue of the States.
Status: Underutilized
Comment: 4524 sq. ft.; 2 story wood structure; needs major rehab; off-site use only.

Bldg. 35401
Property Number: 291014287
Fed Reg Date: 12/20/91
Project Name: Fort Gordon
Fort Gordon
Augusta, GA, Co: Richmond, Zip: 30905–
Location: Located on Avenue of the States.
Status: Underutilized
Comment: 4524 sq. ft.; 2 story wood structure; needs major rehab; off-site use only.

Bldg. 1235
Property Number: 219014887
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 9367 sq. ft.; 1 story building; needs rehab; most recent use—General Storehouse.

Bldg. 1236
Property Number: 219014888
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 9367 sq. ft.; 1 story building; needs rehab; most recent use—General Storehouse.

Bldg. 1251
Property Number: 219014889
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 18385 sq. ft.; 1 story building; needs rehab; most recent use—Arms Repair Shop.

Bldg. 2591
Property Number: 219014906
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1663 sq. ft.; 1 story building; needs rehab; most recent use—General storehouse.

Bldg. 3005
Property Number: 219014907
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 7688 sq. ft.; 2 story building; needs rehab; most recent use—Barracks.

Bldg. 3006
Property Number: 219014908
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 7688 sq. ft.; 2 story building; needs rehab; most recent use—Barracks.

Bldg. 3007
Property Number: 219014909
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 7688 sq. ft.; 2 story building; needs rehab; most recent use—Barracks.

Bldg. 3008
Property Number: 219014910
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 7688 sq. ft.; 2 story building; needs rehab; most recent use—Barracks.

Bldg. 3009
Property Number: 219014911
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 7688 sq. ft.; 2 story building; needs rehab; most recent use—Barracks.

Bldg. 3010
Property Number: 219014912
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 7688 sq. ft.; 2 story building; needs rehab; most recent use—Barracks.

Bldg. 3080
Property Number: 219014913
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1372 sq. ft.; 1 story building; needs rehab; most recent use—General Storehouse.

Bldg. 3081
Property Number: 219014914
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2284 sq. ft.; 1 story building; needs rehab; most recent use—Clinic.

Bldg. 4022
Property Number: 219014915
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1712 sq. ft.; 1 story building; needs rehab; most recent use—Clinic.

Bldg. 4491
Property Number: 219014916
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 18240 sq. ft.; 1 story building; needs rehab; most recent use—Vehicle maintenance shop.

Bldg. 4500
Property Number: 219014917
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1372 sq. ft.; 1 story building; needs rehab; most recent use—Arms Building.

Bldg. 4511
Property Number: 219014918
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 4720 sq. ft.; 2 story building; needs rehab; most recent use—Barracks.

Bldg. 4633
Property Number: 219014919
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 5069 sq. ft.; 1 story building; needs rehab; most recent use—Training Building.

Bldg. 4634
Property Number: 219014920
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 5069 sq. ft.; 1 story building; needs rehab; most recent use—Training Building.

Bldg. 4646
Property Number: 219014921
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized

Comment: 1372 sq. ft.; 1 story building; needs rehab; most recent use—General Storehouse.

Bldg. 4649
Property Number: 219014922
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2250 sq. ft.; 1 story building; needs rehab; most recent use—Headquarters Building.

Bldg. 4690
Property Number: 219014923
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1372 sq. ft.; 1 story building; needs rehab; most recent use—General Storehouse.

Bldg. 4751
Property Number: 219014924
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 3960 sq. ft.; 1 story building; needs rehab; most recent use—Recreation building.

Bldg. 4752
Property Number: 219014925
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2284 sq. ft.; 1 story building; needs rehab; most recent use—Headquarters Building.

Bldg. 95
Property Number: 219120253
Fed Reg Date: 12/20/91
Fort Benning
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1006 sq. ft.; 1 story, most recent use—fire station annex, needs rehab.

Bldg. 1234
Property Number: 219120254
Fed Reg Date: 12/20/91
Fort Benning
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 16148 sq. ft.; 2 story, most recent use—officers club, needs rehab.

Bldg. 1684
Property Number: 219120255
Fed Reg Date: 12/20/91
Fort Benning
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2671 sq. ft.; 1 story, needs rehab, most recent use—administration/general purpose.

Bldg. 1724
Property Number: 219120256
Fed Reg Date: 12/20/91
Fort Benning
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 943 sq. ft.; 1 story, needs rehab, most recent use—general purpose warehouse.

Bldg. 1827
Property Number: 219120257
Fed Reg Date: 12/20/91
Fort Benning
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 943 sq. ft.; 1 story, needs rehab, most recent use—administration/general purpose.

Bldg. 2150
Property Number: 219120258
Fed Reg Date: 12/20/91
Fort Benning
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 3909 sq. ft.; 1 story, needs rehab, most recent use—general inst. bldg.

Bldg. 2212
Property Number: 219120259
Fed Reg Date: 12/20/91
Fort Benning
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 4720 sq. ft.; 2 story, needs rehab, most recent use—drug abuse center.

Bldg. 2213
Property Number: 219120260
Fed Reg Date: 12/20/91
Fort Benning
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 4720 sq. ft.; 2 story, needs rehab, most recent use—drug abuse center.

Bldg. 2214
Property Number: 219120261
Fed Reg Date: 12/20/91
Fort Benning
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2253 sq. ft.; 1 story, needs rehab, most recent use—enlisted persons dining room.

Bldg. 2215
Property Number: 219120262
Fed Reg Date: 12/20/91
Fort Benning
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 1844 sq. ft.; 1 story, needs rehab, most recent use—day room.

Bldg. 2409
Property Number: 219120263
Fed Reg Date: 12/20/91
Fort Benning
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 9348 sq. ft.; 1 story, needs rehab, most recent use—general purpose warehouse.

Bldg. 2548
Property Number: 219120264
Fed Reg Date: 12/20/91
Fort Benning
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 2337 sq. ft.; 1 story, needs rehab, most recent use—clinic w/o beds.

Bldg. 2590
Property Number: 219120265
Fed Reg Date: 12/20/91
Fort Benning
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 3132 sq. ft.; 1 story, needs rehab, most recent use—vehicle maintenance shop.

Bldg. 3828
Property Number: 219120266
Fed Reg Date: 12/20/91
Fort Benning
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 628 sq. ft.; 1 story, needs rehab, most recent use—general storehouse.

Bldg. 5284
Property Number: 219120267
Fed Reg Date: 12/20/91
Fort Benning
Ft. Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Comment: 5310 sq. ft.; 2 story needs rehab, most recent use—trainee barracks.

Illinois

Land

Arlington USAR Center
Property Number: 219013921
Fed Reg Date: 12/20/91
Project Name: Arlington USAR Center
1515 W. Central Road
Arlington Height, IL, Co: Cook, Zip: 60005–
Status: Underutilized
Comment: 6 acres; access subject to negotiation.

Indiana

Buildings

Bldg. 719–1
Property Number: 219013578
Fed Reg Date: 12/20/91
Project Name: Indiana Army Ammo. Plant
Indiana Army Ammunition Plant
Charlestown, IN, Co: Clark, Zip:
Status: Underutilized
Comment: 5000 sq. ft.; 1 story brick frame; secured area with alternate access; most recent use—administration.

Bldg. 703–1C
Property Number: 219013761
Fed Reg Date: 12/20/91
Project Name: Indiana Army Ammo. Plant
Indiana Army Ammunition Plant
Charlestown, IN, Co: Clark, Zip:
Location: Gate 22 off Highway 22
Status: Underutilized
Comment: 4000 sq. ft.; 2 story brick frame; possible asbestos; most recent use—exercise area.

Bldg. 1011 (Portion of)
Property Number: 219013762
Fed Reg Date: 12/20/91
Project Name: Indiana Army Ammo. Plant
Indiana Army Ammunition Plant
End of 3rd Street
Charlestown, IN, Co: Clark, Zip:
Location: East of State Highway 62 at Gate 3
Status: Underutilized
Comment: 4040 sq. ft.; 1 story concrete block frame; possible asbestos; secured area with alternate access; most recent use—office.

Bldg. 1001 (Portion of)
Property Number: 219013763
Fed Reg Date: 12/20/91
Project Name: Indiana Army Ammo. Plant
Indiana Army Ammunition Plant
Charlestown, IN, Co: Clark, Zip:
Location: South end of 3rd Street, East of Highway 62 at entrance gate
Status: Underutilized

Comment: 55630 sq. ft.; 1 story concrete block; possible asbestos; secured area with alternate access; most recent use—cloth bag manufacturing.

Bldg. 720
Property Number: 219013765
Fed Reg Date: 12/20/91
Project Name: Indiana Army Ammo. Plant
Indiana Army Ammunition Plant
Charlestown, IN, Co: Clark, Zip:
Status: Underutilized
Comment: 5000 sq. ft.; 2 story brick frame; possible asbestos; secured area with alternate access; most recent use—administrative.

Kansas

Land

Parcel 1
Property Number: 219012333
Fed Reg Date: 12/20/91
Project Name: Fort Leavenworth
Fort Leavenworth
Combined Arms Center
Fort Leavenworth, KS, Co: Leavenworth, Zip: 66027-5020
Status: Underutilized
Comment: 14.4+ acres.

Parcel 3
Property Number: 219012336
Fed Reg Date: 12/20/91
Project Name: Fort Leavenworth
Fort Leavenworth
Combined Arms Center
Fort Leavenworth, KS, Co: Leavenworth, Zip: 66027-5020
Status: Underutilized
Comment: 261+ acres; heavily forrested; no access to a public right-of-way; selected periods are reserved for military/training exercises.

Parcel 4
Property Number: 219012339
Fed Reg Date: 12/20/91
Project Name: Fort Leavenworth
Fort Leavenworth
Combined Arms Center
Fort Leavenworth, KS, Co: Leavenworth, Zip: 66027-5020
Status: Underutilized
Comment: 24.1+ acres; selected periods are reserved for military/training exercises; steep/wooded area.

Parcel 6
Property Number: 219012340
Fed Reg Date: 12/20/91
Project Name: Fort Leavenworth
Fort Leavenworth
Combined Arms Center
Fort Leavenworth, KS, Co: Leavenworth, Zip: 66027-5020
Location: Extreme north east corner of installation in Flood Plain of the Missouri River
Status: Underutilized
Comment: 1280 acres; selected periods are reserved for military/training exercises.

Parcel F
Property Number: 219012552
Fed Reg Date: 12/20/91
Project Name: Fort Leavenworth
Fort Leavenworth
Combined Arms Center
Fort Leavenworth, KS, Co: Leavenworth, Zip: 66027-5020
Status: Unutilized
Comment: 33.4 acres; area is land locked; heavily wooded; periodic flooding.

Buildings

Bldg. T-1363
Property Number: 219013774
Fed Reg Date: 12/20/91
Project Name: Fort Riley
Fort Riley
Fort Riley, KS, Co: Geary, Zip: 66442–
Status: Unutilized
Comment: 3864 sq. ft.; 2 story wood frame; possible asbestos; most recent use—open-bay trainee barracks with gang latrine.

Bldg. T-2000
Property Number: 219013775
Fed Reg Date: 12/20/91
Project Name: Fort Riley
Fort Riley
Fort Riley, KS, Co: Geary, Zip: 66442–
Status: Unutilized
Comment: 3852 sq. ft.; 2 story wood frame; possible asbestos; most recent use—open-bay trainee barracks with gang latrine.

Bldg. T-2324
Property Number: 219013777
Fed Reg Date: 12/20/91
Project Name: Fort Riley
Fort Riley
Fort Riley, KS, Co: Geary, Zip: 66442–
Status: Unutilized
Comment: 3422 sq. ft.; 2 story wood frame; possible asbestos; most recent use—open-bay trainee barracks with gang latrines.

Bldg. T-629
Property Number: 219110148
Fed Reg Date: 12/20/91
Project Name: Fort Leavenworth
Fort Leavenworth—NCO Club Building
Combined Arms Command
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 17549 gross sq. ft.; 2 story wood frame; needs rehab; termite infested; possible asbestos; scheduled to be vacated Summer 1991; off-site use only.

Bldg. 1358, Fort Leavenworth
Property Number: 219140105
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1075 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing

Bldg. 1359, Fort Leavenworth
Property Number: 219140106
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1075 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing

Bldg. 1360, Fort Leavenworth
Property Number: 219140107
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1075 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing

Bldg. 1361, Fort Leavenworth
Property Number: 219140108
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 863 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing

Bldg. 1362, Fort Leavenworth
Property Number: 219140109
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 863 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing

Bldg. 1363, Fort Leavenworth
Property Number: 219140110
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1075 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing

Bldg. 1364, Fort Leavenworth
Property Number: 219140111
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1075 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing

Bldg. 1365, Fort Leavenworth
Property Number: 219140112
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1025 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing

Bldg. 1366, Fort Leavenworth
Property Number: 219140113
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 863 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing

Bldg. 1367, Fort Leavenworth
Property Number: 219140114
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 863 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing

Bldg. 1439, Fort Leavenworth

Property Number: 219140115
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1075 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing
Bldg. 1440, Fort Leavenworth
Property Number: 219140116
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 863 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing
Bldg. 1441, Fort Leavenworth
Property Number: 219140117
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1075 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing
Bldg. 1442, Fort Leavenworth
Property Number: 219140118
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1075 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing
Bldg. 1443, Fort Leavenworth
Property Number: 219140119
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1025 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing
Bldg. 1444, Fort Leavenworth
Property Number: 219140120
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1025 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing
Bldg. 1445, Fort Leavenworth
Property Number: 219140121
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1075 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing
Bldg. 1446, Fort Leavenworth
Property Number: 219140122
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1025 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing
Bldg. 1447, Fort Leavenworth
Property Number: 219140123
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1025 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing
Bldg. 1448, Fort Leavenworth
Property Number: 219140124
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1025 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing
Bldg. 1449, Fort Leavenworth
Property Number: 219140125
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1025 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing
Bldg. 1453, Fort Leavenworth
Property Number: 219140126
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 863 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing.
Bldg. 1454, Fort Leavenworth
Property Number: 219140127
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1075 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing.
Bldg. 1455, Fort Leavenworth
Property Number: 219140128
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1075 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing.
Bldg. 1456, Fort Leavenworth
Property Number: 219140129
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 863 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing.
Bldg. 1457, Fort Leavenworth
Property Number: 219140130
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 863 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing.
Bldg. 1458, Fort Leavenworth
Property Number: 219140131
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 863 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing.
Bldg. 1460, Fort Leavenworth
Property Number: 219140132
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 863 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing.
Bldg. 1461, Fort Leavenworth
Property Number: 219140133
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1075 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing.
Bldg. 1462, Fort Leavenworth
Property Number: 219140134
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 863 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing.
Bldg. 1463, Fort Leavenworth
Property Number: 219140135
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1025 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing.
Bldg. 1464, Fort Leavenworth
Property Number: 219140136
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 863 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing.
Bldg. 1465, Fort Leavenworth
Property Number: 219140137
Fed Reg Date: 12/27/91
Pershing Park

Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1025 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing.

Bldg. 1466A, Fort Leavenworth
Property Number: 219140138
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1538 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—detached garage.

Bldg. 1467, Fort Leavenworth
Property Number: 219140139
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 584 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—office scout bldg.

Bldg. 1357, Fort Leavenworth
Property Number: 219140140
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1512 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—detached garage.

Bldg. 1392, Fort Leavenworth
Property Number: 219140141
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1075 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing.

Bldg. 1393, Fort Leavenworth
Property Number: 219140142
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1008 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—detached garage.

Bldg. 1394, Fort Leavenworth
Property Number: 219140143
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1008 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—detached garage.

Bldg. 1395, Fort Leavenworth
Property Number: 219140144
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 863 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing.

Bldg. 1396, Fort Leavenworth
Property Number: 219140145
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 863 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing.

Bldg. 1397, Fort Leavenworth
Property Number: 219140146
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1075 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing.

Bldg. 1398, Fort Leavenworth
Property Number: 219140147
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1075 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing.

Bldg. 1399, Fort Leavenworth
Property Number: 219140148
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1075 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing.

Bldg. 1400, Fort Leavenworth
Property Number: 219140149
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1776 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—detached garage.

Bldg. 1401, Fort Leavenworth
Property Number: 219140150
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1025 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing.

Bldg. 1402, Fort Leavenworth
Property Number: 219140151
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 863 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing.

Bldg. 1403, Fort Leavenworth
Property Number: 219140152
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1075 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing.

Bldg. 1404, Fort Leavenworth
Property Number: 219140153
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 863 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing.

Bldg. 1405, Fort Leavenworth
Property Number: 219140154
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1075 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing.

Bldg. 1406, Fort Leavenworth
Property Number: 219140155
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 863 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing.

Bldg. 1407, Fort Leavenworth
Property Number: 219140156
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1075 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing.

Bldg. 1408, Fort Leavenworth
Property Number: 219140157
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1008 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—detached garage.

Bldg. 1409, Fort Leavenworth
Property Number: 219140158
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 863 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing.

Bldg. 1410, Fort Leavenworth
Property Number: 219140159
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1075 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing.

Bldg. 1411, Fort Leavenworth
Property Number: 219140160
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1075 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing.

Bldg. 1413, Fort Leavenworth
Property Number: 219140161
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1008 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—detached garage.

Bldg. 1450, Fort Leavenworth
Property Number: 219140162
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1776 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—detached garage.

Bldg. 1451, Fort Leavenworth
Property Number: 219140163
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1776 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—detached garage.

Bldg. 1452, Fort Leavenworth
Property Number: 219140164
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1008 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—detached garage.

Bldg. 1459, Fort Leavenworth
Property Number: 219140165
Fed Reg Date: 12/27/91
Pershing Park
Leavenworth, KS, Co: Leavenworth, Zip: 66027–
Status: Unutilized
Comment: 1272 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—detached garage.

Kentucky

Buildings

Bldg. 104
Property Number: 219010937
Fed Reg Date: 12/20/91
Project Name: Ft. Campbell
Fort Campbell
Fort Campbell, KY, Co: Christian, Zip: 42223–
Status: Underutilized
Comment: 15066 sq. ft.; two story; possible asbestos; most recent use—barracks.

Bldg. 126
Property Number: 219010938
Fed Reg Date: 12/20/91
Project Name: Ft. Campbell
Fort Campbell
Fort Campbell, KY, Co: Christian, Zip: 42223–
Status: Underutilized
Comment: 12576 sq. ft.; two story; possible asbestos; most recent use—storage.

Bldg. 122
Property Number: 219010939
Fed Reg Date: 12/20/91
Project Name: Ft. Campbell
Fort Campbell
Fort Campbell, KY, Co: Christian, Zip: 42223–
Status: Underutilized
Comment: 1488 sq. ft.; two story; possible asbestos; most recent use—storage and administration.

Bldg. 141
Property Number: 219010940
Fed Reg Date: 12/20/91
Project Name: Ft. Campbell
Fort Campbell
Fort Campbell, KY, Co: Christian, Zip: 42223–
Status: Underutilized
Comment: 12576 sq. ft.; two story; possible asbestos; most recent use—administration.

Bldg. 147
Property Number: 219010941
Fed Reg Date: 12/20/91
Project Name: Ft. Campbell
Fort Campbell
Fort Campbell, KY, Co: Christian, Zip: 42223–
Status: Underutilized
Comment: 12576 sq. ft.; two story; possible asbestos; most recent use—storage.

Bldg. 149
Property Number: 219010942
Fed Reg Date: 12/20/91
Project Name: Ft. Campbell
Fort Campbell
Fort Campbell, KY, Co: Christian, Zip: 42223–
Status: Underutilized
Comment: 12576 sq. ft.; two story; possible asbestos; most recent use—storage.

Bldg. 161
Property Number: 219010943
Fed Reg Date: 12/20/91
Project Name: Ft. Campbell
Fort Campbell
Fort Campbell, KY, Co: Christian, Zip: 42223–
Status: Unutilized
Comment: 12576 sq. ft.; two story; possible asbestos; most recent use—Elementary School.

Bldg. 165
Property Number: 219010944
Fed Reg Date: 12/20/91
Project Name: Ft. Campbell
Fort Campbell
Fort Campbell, KY, Co: Christian, Zip: 42223–
Status: Underutilized
Comment: 12576 sq. ft.; two story; possible asbestos; most recent use—storage.

Bldg. 167
Property Number: 219010945
Fed Reg Date: 12/20/91
Project Name: Ft. Campbell
Fort Campbell
Fort Campbell, KY, Co: Christian, Zip: 42223–
Status: Underutilized
Comment: 12576 sq. ft.; two story; possible asbestos; most recent use—storage.

Bldg. 169
Property Number: 219010946
Fed Reg Date: 12/20/91
Project Name: Ft. Campbell
Fort Campbell
Fort Campbell, KY, Co: Christian, Zip: 42223–
Status: Underutilized
Comment: 12576 sq. ft.; two story; possible asbestos; most recent use—storage and administration.

Bldg. 2244
Property Number: 219010948
Fed Reg Date: 12/20/91
Project Name: Ft. Campbell
Fort Campbell
Fort Campbell, KY, Co: Christian, Zip: 42223–
Status: Underutilized
Comment: 4248 sq. ft.; possible asbestos; two story; most recent use—storage.

Bldg. 3110
Property Number: 219010950
Fed Reg Date: 12/20/91
Project Name: Ft. Campbell
Fort Campbell
Fort Campbell, KY, Co: Christian, Zip: 42223–
Status: Unutilized
Comment: 1000 sq. ft.; one story; possible asbestos; most recent use—administration.

Bldg. 5954
Property Number: 219010953
Fed Reg Date: 12/20/91
Project Name: Ft. Campbell
Fort Campbell
Fort Campbell, KY, Co: Christian, Zip: 42223–
Status: Unutilized
Comment: 2179 sq. ft.; one story; possible asbestos; most recent use—Military Vehicle Maintenance Shop, Organizational.

Bldg. 5956
Property Number: 219010956
Fed Reg Date: 12/20/91
Project Name: Ft. Campbell
Fort Campbell
Fort Campbell, KY, Co: Christian, Zip: 42223–
Status: Unutilized
Comment: 2179 sq. ft.; one story; possible asbestos; most recent use—Military Vehicle Maintenance Shop; Organizational.

Bldg. 5958
Property Number: 219010958
Fed Reg Date: 12/20/91
Project Name: Ft. Campbell
Fort Campbell
Fort Campbell, KY, Co: Christian, Zip: 42223–
Status: Unutilized
Comment: 2179 sq. ft.; one story; possible asbestos; most recent use—Military Maintenance Shop, Organizational.

Bldg. 5960
Property Number: 219010961
Fed Reg Date: 12/20/91
Project Name: Ft. Campbell
Fort Campbell

Fort Campbell, KY, Co: Christian, Zip: 42223–
Status: Unutilized
Comment: 2179 sq. ft.; one story; possible asbestos; most recent use—Military Vehicle Maintenance Shop, Organizational.

Bldg. 6605
Property Number: 219010968
Fed Reg Date: 12/20/91
Project Name: Ft. Campbell
Fort Campbell
Fort Campbell, KY, Co: Christian, Zip: 42223–
Status: Unutilized
Comment: 1968 sq. ft.; one story; most recent use—storage.

Bldg. 143
Property Number: 219013139
Fed Reg Date: 12/20/91
Project Name: Ft. Campbell
Fort Campbell
Fort Campbell, KY, Co: Christian, Zip: 42223–
Status: Unutilized
Comment: 12578 sq. ft.; 2 story; possible asbestos; most recent use—child care and administration.

Bldg. 3148
Property Number: 219013223
Fed Reg Date: 12/20/91
Project Name: Ft. Campbell
Fort Campbell
Fort Campbell, KY, Co: Christian, Zip: 42223–
Status: Underutilized
Comment: 2200 sq. ft.; 1 story; possible asbestos; selected periods used for military/training exercises.

Bldg. 6301
Property Number: 219140015
Fed Reg Date: 12/27/91
Fort Knox
Ft. Knox, KY, Co: Hardin, Zip: 40121–
Status: Unutilized
Comment: 3774 sq. ft., 1 story wood frame, needs rehab, presence of asbestos, most recent use—office.

Bldg. 6302
Property Number: 219140016
Fed Reg Date: 12/27/91
Fort Knox
Ft. Knox, KY, Co: Hardin, Zip: 40121–
Status: Unutilized
Comment: 1487 sq. ft., 1 story wood frame, needs rehab, presence of asbestos, most recent use—office.

Bldg. 6303
Property Number: 219140017
Fed Reg Date: 12/27/91
Fort Knox
Ft. Knox, KY, Co: Hardin, Zip: 40121–
Status: Unutilized
Comment: 1254 sq. ft., 1 story wood frame, needs rehab, presence of asbestos, most recent use—storage.

Bldg. 6304
Property Number: 219140018
Fed Reg Date: 12/27/91
Fort Knox
Ft. Knox, KY, Co: Hardin, Zip: 40121–
Status: Unutilized
Comment: 1062 sq. ft., 1 story wood frame, needs rehab, presence of asbestos, most recent use—storage.

Bldg. 6305
Property Number: 219140019
Fed Reg Date: 12/27/91
Fort Knox
Ft. Knox, KY, Co: Hardin, Zip: 40121–
Status: Unutilized
Comment: 2257 sq. ft., 1 story wood frame, needs rehab, presence of asbestos, most recent use—storage.

Bldg. 6306
Property Number: 219140020
Fed Reg Date: 12/27/91
Fort Knox
Ft. Knox, KY, Co: Hardin, Zip: 40121–
Status: Unutilized
Comment: 1941 sq. ft., 1 story wood frame, needs rehab, presence of asbestos, most recent use—office.

Bldg. 6307
Property Number: 219140021
Fed Reg Date: 12/27/91
Fort Knox
Ft. Knox, KY, Co: Hardin, Zip: 40121–
Status: Unutilized
Comment: 1811 sq. ft., 1 story wood frame, needs rehab, presence of asbestos, most recent use—office.

Bldg. 6308
Property Number: 219140022
Fed Reg Date: 12/27/91
Fort Knox
Ft. Knox, KY, Co: Hardin, Zip: 40121–
Status: Unutilized
Comment: 3113 sq. ft., 1 story wood frame, needs rehab, presence of asbestos, most recent use—classroom.

Louisiana

Buildings

Bldg. 417
Property Number: 219012682
Fed Reg Date: 12/20/91
Project Name: Fort Polk
8th Street
Fort Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 7670 sq. ft.; 2 story temporary wood frame; possible asbestos; most recent use—BOQ.

Bldg. 7124
Property Number: 219012688
Fed Reg Date: 12/20/91
Project Name: Fort Polk
Reserve Road
Fort Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 2500 sq. ft.; 1 story temporary wood frame; most recent use—recreation room.

Bldg. 7129
Property Number: 219012689
Fed Reg Date: 12/20/91
Project Name: Fort Polk
Reserve Road
Fort Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 4957 sq. ft.; 2 story temporary wood frame; possible asbestos; most recent use—barracks.

Bldg. 7130
Property Number: 219012690
Fed Reg Date: 12/20/91
Project Name: Fort Polk
Reserve Road
Fort Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 4957 sq. ft.; 2 story temporary wood frame; possible asbestos; most recent use—barracks.

Bldg. 7131
Property Number: 219012691
Fed Reg Date: 12/20/91
Project Name: Fort Polk
Reserve Road
Fort Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 4957 sq. ft.; 2 story temporary wood frame; possible asbestos; most recent use—barracks.

Bldg. 7132
Property Number: 219012692
Fed Reg Date: 12/20/91
Project Name: Fort Polk
Reserve Road
Fort Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 4957 sq. ft.; 2 story temporary wood frame; possible asbestos; most recent use—barracks.

Bldg. 7134
Property Number: 219012694
Fed Reg Date: 12/20/91
Project Name: Fort Polk
Reserve Road
Fort Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 4957 sq. ft.; 2 story temporary wood frame; possible asbestos; most recent use—barracks.

Bldg. 7135
Property Number: 219012695
Fed Reg Date: 12/20/91
Project Name: Fort Polk
Reserve Road
Fort Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 4957 sq. ft.; 2 story temporary wood frame; possible asbestos; most recent use—barracks.

Bldg. 7143
Property Number: 219012696
Fed Reg Date: 12/20/91
Project Name: Fort Polk
"D" Avenue
Fort Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 2250 sq. ft.; 1 story temporary wood frame; possible asbestos; most recent use—dining facility.

Bldg. T–7157
Property Number: 219012698
Fed Reg Date: 12/20/91
Project Name: Fort Polk
Guard Road
Fort Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 4357 sq. ft.; 2 story; possible asbestos; most recent use—barracks.

Bldg. 7161
Property Number: 219012699
Fed Reg Date: 12/20/91
Project Name: Fort Polk
"D" Avenue
Fort Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 4957 sq. ft.; 2 story temporary wood frame; possible asbestos; most recent use—barracks.

Bldg. 7162
Property Number: 219012700
Fed Reg Date: 12/20/91
Project Name: Fort Polk
"D" Avenue

Fort Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 4957 sq. ft.; 2 story temporary wood frame; possible asbestos; most recent use—barracks.

Bldg. 7163
Property Number: 219012701
Fed Reg Date: 12/20/91
Project Name: Fort Polk
"D" Avenue
Fort Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 4957 sq. ft.; 2 story temporary wood frame; possible asbestos; most recent use—barracks.

Bldg. 7166
Property Number: 219012702
Fed Reg Date: 12/20/91
Project Name: Fort Polk
"D" Avenue
Fort Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 4957 sq. ft.; 2 story temporary wood frame; possible asbestos; most recent use—barracks.

Bldg. 7167
Property Number: 219012703
Fed Reg Date: 12/20/91
Project Name: Fort Polk
"D" Avenue
Fort Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 4957 sq. ft.; 2 story temporary wood frame; possible asbestos; most recent use—barracks.

Bldg. 7168
Property Number: 219012704
Fed Reg Date: 12/20/91
Project Name: Fort Polk
"D" Avenue
Fort Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 4957 sq. ft.; 2 story temporary wood frame; possible asbestos; most recent use—barracks.

Bldg. 7183
Property Number: 219012705
Fed Reg Date: 12/20/91
Project Name: Fort Polk
"D" Avenue
Fort Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 2630 sq. ft.; 1 story temporary wood frame; possible asbestos; most recent use—dining facility.

Bldg. 7184
Property Number: 219012706
Fed Reg Date: 12/20/91
Project Name: Fort Polk
"D" Avenue
Fort Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 2630 sq. ft.; 1 story temporary wood frame; possible asbestos; most recent use—dining facility.

Bldg. 7187
Property Number: 219012707
Fed Reg Date: 12/20/91
Project Name: Fort Polk
"D" Avenue
Fort Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 2250 sq. ft.; 1 story temporary wood frame; possible asbestos; most recent use—dining facility.

Bldg. 7304
Property Number: 219012712
Fed Reg Date: 12/20/91
Project Name: Fort Polk
Armored Road
Fort Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 6103 sq. ft.; 2 story temporary wood frame; most recent use—storage.

Bldg. 7430
Property Number: 219012715
Fed Reg Date: 12/20/91
Project Name: Fort Polk
1st Street
Fort Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 4987 sq. ft.; 2 story temporary frame; most recent use—storage.

Bldg. 8026
Property Number: 219012724
Fed Reg Date: 12/20/91
Project Name: Fort Polk
10th Street
Fort Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Underutilized
Comment: 2580 sq. ft.; 1 story temporary wood frame; most recent use—storage.

Bldg. 8226
Property Number: 219012729
Fed Reg Date: 12/20/91
Project Name: Fort Polk
12th Street
Fort Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 2050 sq. ft.; 1 story temporary wood frame; possible asbestos; most recent use—dining facility.

Bldg. 7175
Property Number: 219013770
Fed Reg Date: 12/20/91
Project Name: Fort Polk
Fort Polk
3rd Street
Fort Polk, LA, Co: Vernon, Zip: 71459–
Status: Excess
Comment: 7527 sq. ft.; temporary wood structure; scheduled for demolition; seriously deteriorated.

Bldg. T–4701
Property Number: 219140045
Fed Reg Date: 12/27/91
Fort Polk
Ft. Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 1000 sq. ft., 1 story, most recent use—office.

Bldg. T–4701B
Property Number: 219140046
Fed Reg Date: 12/27/91
Fort Polk
Ft. Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 660 sq. ft., 1 story, most recent use—storage.

Bldg. T–4702
Property Number: 219140047
Fed Reg Date: 12/27/91
Fort Polk
Ft. Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 5913 sq. ft., 2 story, most recent use—storage.

Bldg. T–4703
Property Number: 219140048
Fed Reg Date: 12/27/91
Ft. Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 5913 sq. ft., 2 story most recent use—storage.

Bldg. T–4704
Property Number: 219140049
Fed Reg Date: 12/27/91
Fort Polk
Ft. Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 3040 sq. ft., 1 story, most recent use—storage.

Bldg. T–4705
Property Number: 219140050
Fed Reg Date: 12/27/91
Fort Polk
Ft. Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 5913 sq. ft., 2 story, most recent use—storage.

Bldg. T–4706
Property Number: 219140051
Fed Reg Date: 12/27/91
Fort Polk
Ft. Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 5913 sq. ft., 2 story. most recent use—storage.

Bldg. T–4707
Property Number: 219140052
Fed Reg Date: 12/27/91
Fort Polk
Ft. Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 1045 sq. ft., 1 story, most recent use—office.

Bldg. T–4708
Property Number: 219140053
Fed Reg Date: 12/27/91
Fort Polk
Ft. Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 2184 sq. ft., 1 story, most recent use—office.

Bldg. T–4709
Property Number: 219140054
Fed Reg Date: 12/27/91
Fort Polk
Ft. Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment. 3587 sq. ft., 1 story, most recent use—storage.

Bldg. T–4716
Property Number: 219140055
Fed Reg Date: 12/27/91
Fort Polk
Ft Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 4357 sq. ft., 2 story, most recent use—barracks (storage).

Bldg T–4717
Property Number: 219140056
Fed Reg Date: 12/27/91
Fort Polk
Ft. Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 4357 sq. ft., 2 story, most recent use—barracks (storage).

Bldg. T–4718
Property Number: 219140057
Fed Reg Date: 12/27/91
Fort Polk

Ft. Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 4357 sq. ft., 2 story, most recent use—barracks (storage).

Bldg. T–4719
Property Number: 219140058
Fed Reg Date: 12/27/91
Fort Polk
Ft. Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 4357 sq. ft., 2 story, most recent use—barracks (storage).

Bldg. T–4720
Property Number: 219140059
Fed Reg Date: 12/27/91
Fort Polk
Ft. Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 4357 sq. ft., 2 story, most recent use—barracks (storage).

Bldg. T–4721
Property Number: 219140060
Fed Reg Date: 12/27/91
Fort Polk
Ft. Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 4357 sq. ft., 2 story, most recent use—barracks (storage).

Bldg. T–4722
Property Number: 219140061
Fed Reg Date: 12/27/91
Fort Polk
Ft. Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 4357 sq. ft., 2 story, most recent use—barracks (storage).

Bldg. T–4723
Property Number: 219140062
Fed Reg Date: 12/27/91
Fort Polk
Ft. Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 4357 sq. ft., 2 story, most recent use—barracks (storage).

Bldg. T–4724
Property Number: 219140063
Fed Reg Date: 12/27/91
Fort Polk
Ft. Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 4357 sq. ft., 2 story, most recent use—barracks (storage).

Bldg. T–4725
Property Number: 219140064
Fed Reg Date: 12/27/91
Fort Polk
Ft. Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 3044 sq. ft., 1 story, most recent use—library.

Bldg. T–4726
Property Number: 219140065
Fed Reg Date: 12/27/91
Fort Polk
Ft. Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 4357 sq. ft., 2 story, most recent use—barracks (storage)

Bldg. T–4727
Property Number: 219140066
Fed Reg Date: 12/27/91
Fort Polk
Ft. Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 4357 sq. ft., 2 story, most recent use—barracks (storage)

Bldg. T–4728
Property Number: 219140067
Fed Reg Date: 12/27/91
Fort Polk
Ft. Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 4357 sq. ft., 2 story, most recent use—barracks (storage)

Bldg. T–4729
Property Number: 219140068
Fed Reg Date: 12/27/91
Fort Polk
Ft. Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 4357 sq. ft., 2 story, most recent use—barracks (storage)

Bldg. T–4730
Property Number: 219140069
Fed Reg Date: 12/27/91
Fort Polk
Ft. Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 4357 sq. ft., 2 story, most recent use—barracks (storage)

Bldg. T–4731
Property Number: 219140070
Fed Reg Date: 12/27/91
Fort Polk
Ft. Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 4357 sq. ft., 2 story, most recent use—barracks (storage)

Bldg. T–4732
Property Number: 219140071
Fed Reg Date: 12/27/91
Fort Polk
Ft. Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 4357 sq. ft., 2 story, most recent use—barracks (storage)

Bldg. T–4733
Property Number: 219140072
Fed Reg Date: 12/27/91
Fort Polk
Ft. Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 4357 sq. ft., 2 story, most recent use—barracks (storage)

Bldg. T–4734
Property Number: 219140073
Fed Reg Date: 12/27/91
Fort Polk
Ft. Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Unutilized
Comment: 4357 sq. ft., 2 story, most recent use—barracks (storage)

Massachusetts

Buildings

Bldg. T–2732
Property Number: 219012343
Fed Reg Date: 12/20/91
Project Name: Fort Devens
Fort Devens
Fort Devens, MA, Co: Middlesex/Worcester, Zip: 01433–
Status: Unutilized
Comment: 6351 sq. ft., wood, two stories, most recent use—housing.

Bldg. T–2281
Property Number: 219012344
Fed Reg Date: 12/20/91
Project Name: Fort Devens
Fort Devens
Fort Devens, MA, Co: Middlesex/Worcester, Zip: 01433–
Status: Unutilized
Comment: 6351 sq. ft., wood structure, 2 floors, most recent use—housing.

Bldg. T–201
Property Number: 219012363
Fed Reg Date: 12/20/91
Project Name: Fort Devens
Fort Devens
Fort Devens, MA, Co: Middlesex/Worcester, Zip: 01433–
Status: Unutilized
Comment: 1000 sq ft., wood structure—needs rehab, no sanitary facilities, most recent use—company admin/supply.

Bldg. KB–0021
Property Number: 219140027
Fed Reg Date: 12/27/91
Fort Devens
Ft. Rodman, MA, Zip: 02744–
Status: Unutilized
Comment: 4928 sq. ft., 1 story wood, presence of asbestos, most recent use—storage.

Bldg. KB–0100
Property Number: 219140028
Fed Reg Date: 12/27/91
Fort Devens
Ft. Rodman, MA, Zip: 02744–
Status: Unutilized
Comment: 9100 sq. ft., 1 story insulated monopanel, most recent use—reserve center.

Bldg. KB–0102
Property Number: 219140029
Fed Reg Date: 12/27/91
Fort Devens
Ft. Rodman, MA, Zip: 02744–
Status: Unutilized
Comment: 15480 sq. ft., 1 story concrete block, most recent use—reserve center.

Bldg. T–0208
Property Number: 219140030
Fed Reg Date: 12/27/91
Fort Devens
Ft. Devens, MA, Co: Middlesex/Worcester, Zip: 01433–
Status: Unutilized
Comment: 4720 sq. ft., 2 story wood, presence of asbestos, needs rehab.

Bldg. T–0209
Property Number: 219140031
Fed Reg Date: 12/27/91
Fort Devens
Ft. Devens, MA, Co: Middlesex/Worcester, Zip: 01433–
Status: Unutilized
Comment: 4720 sq. ft., 2 story wood, presence of asbestos, needs rahab.

Bldg. T–0236
Property Number: 219140032
Fed Reg Date: 12/27/91
Fort Devens
Ft. Devens, MA, Co: Middlesex/Worcester, Zip: 01433–
Status: Unutilized
Comment: 4613 sq. ft., 1 story wood, presence of asbestos, needs rehab.

Bldg. T–2676
Property Number: 219140033
Fed Reg Date: 12/27/91
Fort Devens

Ft. Devens, MA, Co: Middlesex/Worcester, Zip: 01433–
Status: Unutilized
Comment: 1176 sq. ft., 1 story wood, presence of asbestos, needs rehab.

Maryland

Buildings

Bldg 2030
Property Number: 219011418
Fed Reg Date: 12/20/91
Project Name: Aberdeen Proving Ground
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford, Zip: 21005–5001
Status: Unutilized
Comment: 3302 sq. ft., one story, possible asbestos.

Bldg. 2174
Property Number: 219011419
Fed Reg Date: 12/20/91
Project Name: Aberdeen Proving Ground
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford, Zip: 21005–5001
Status: Unutilized
Comment: 3540 sq. ft.; poor condition; utilities disconnected; one story, possible asbestos.

Bldg. T–3243
Property Number: 219011420
Fed Reg Date: 12/20/91
Project Name: Aberdeen Proving Ground
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford, Zip: 21005–5001
Status: Unutilized
Comment: 11800 sq. ft., possible asbestos, two story, potential utilities.

Bldg. T–3244
Property Number: 219011421
Fed Reg Date: 12/20/91
Project Name: Aberdeen Proving Ground
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford, Zip: 21005–5001
Status: Unutilized
Comment: 3302 sq. ft., one story, possible asbestos, potential utilities.

Bldg. 3621
Property Number: 219011422
Fed Reg Date: 12/20/91
Project Name: Aberdeen Proving Ground
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford, Zip: 21005–5001
Status: Unutilized
Comment: 4720 sq. ft., two story, possible asbestos, poor condition, utilities disconnected.

Bldg. 3622
Property Number: 219011423
Fed Reg Date: 12/20/91
Project Name: Aberdeen Proving Ground
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford, Zip: 21005–5001
Status: Unutilized
Comment: 4720 sq. ft., two story, possible asbestos, poor condition, utilities disconnected.

Bldg. 3623
Property Number: 219011424
Fed Reg Date: 12/20/91
Project Name: Aberdeen Proving Ground
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford, Zip: 21005–5001
Status: Unutilized
Comment: 4720 sq. ft., two story, possible asbestos, poor condition, utilities disconnected.

Bldg. 3624
Property Number: 219011425
Fed Reg Date: 12/20/91
Project Name: Aberdeen Proving Ground
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford, Zip: 21005–5001
Status: Unutilized
Comment: 4720 sq. ft., two story, possible asbestos, poor condition, utilities disconnected.

Bldg. 3625
Property Number: 219011426
Fed Reg Date: 12/20/91
Project Name: Aberdeen Proving Ground
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford, Zip: 21005–5001
Status: Unutilized
Comment: 2031 sq. ft., one story, utilities disconnected, poor condition, possible asbestos.

Bldg. 3626
Property Number: 219011427
Fed Reg Date: 12/20/91
Project Name: Aberdeen Proving Ground
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford, Zip: 21005–5001
Status: Unutilized
Comment: 4720 sq. ft., two story, possible asbestos, utilities disconnected.

Bldg. 3627
Property Number: 219011428
Fed Reg Date: 12/20/91
Project Name: Aberdeen Proving Ground
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford, Zip: 21005–5001
Status: Unutilized
Comment: 4720 sq. ft., two story, utilities disconnected, poor condition, possible asbestos.

Bldg. 3628
Property Number: 219011429
Fed Reg Date: 12/20/91
Project Name: Aberdeen Proving Ground
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford, Zip: 21005–5001
Status: Unutilized
Comment: 4720 sq. ft., two story, possible asbestos, utilities disconnected, poor condition.

Bldg. 3629
Property Number: 219011430
Fed Reg Date: 12/20/91
Project Name: Aberdeen Proving Ground
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford, Zip: 21005–5001
Status: Unutilized
Comment: 4720 sq. ft., two story, utilities disconnected, possible asbestos, poor condition.

Bldg. 3630
Property Number: 219011431
Fed Reg Date: 12/20/91
Project Name: Aberdeen Proving Ground
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford, Zip: 21005–5001
Status: Unutilized
Comment: 1750 sq. ft., one story, possible asbestos, poor condition, utilities disconnected.

Bldg. 3631
Property Number: 219011432
Fed Reg Date: 12/20/91
Project Name: Aberdeen Proving Ground
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford, Zip: 21005–5001
Status: Unutilized
Comment: 1513 sq. ft., oen story, possible asbestos, poor condition, utilities disconnected.

Bldg. 3632
Property Number: 219011433
Fed Reg Date: 12/20/91
Project Name: Aberdeen Proving Ground
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford, Zip: 21005–5001
Status: Unutilized
Comment: 1513 sq. ft., one story, utilities disconnected, possible asbestos, poor condition.

Bldg. 3633
Property Number: 219011434
Fed Reg Date: 12/20/91
Project Name: Aberdeen Proving Ground
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford, Zip: 21005–5001
Status: Unutilized
Comment: 1754 sq. ft., one story, utilities disconnected, possible asbestos, poor condition.

Bldg. 3634
Property Number: 219011435
Fed Reg Date: 12/20/91
Project Name: Aberdeen Proving Ground
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford, Zip: 21005–5001
Status: Unutilized
Comment: 4720 sq. ft., two story, utilities disconnected, possible asbestos, poor condition.

Bldg. 3635
Property Number: 219011436
Fed Reg Date: 12/20/91
Project Name: Aberdeen Proving Ground
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford, Zip: 21005–5001
Status: Unutilized
Comment: 4720 sq. ft., two story, utilities disconnected, possible asbestos, poor condition.

Bldg. 3637
Property Number: 219011437
Fed Reg Date: 12/20/91
Project Name: Aberdeen Proving Ground
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford, Zip: 21005–5001
Status: Unutilized
Comment: 4720 sq. ft., two story, utilities disconnected, possible asbestos, poor condition.

Bldg. 3638
Property Number: 219011438
Fed Reg Date: 12/20/91
Project Name: Aberdeen Proving Ground
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford, Zip: 21005-5001
Status: Unutilized
Comment: 18880 sq. ft., one story, utilities disconnected, possible asbestos, poor condition.

Bldg. 3639
Property Number: 219011439
Fed Reg Date: 12/20/91
Project Name: Aberdeen Proving Ground
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford, Zip: 21005-5001
Status: Unutilized
Comment: 4720 sq. ft., two story, utilities disconnected, possible asbestos, poor condition.

Bldg. 3640
Property Number: 219011440
Fed Reg Date: 12/20/91
Project Name: Aberdeen Proving Ground
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford, Zip: 21005-5001
Status: Unutilized
Comment: 4720 sq. ft., two story, utilities disconnected, possible asbestos, poor condition.

Bldg. 3641
Property Number: 219011441
Fed Reg Date: 12/20/91
Project Name: Aberdeen Proving Ground
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford, Zip: 21005-5001
Status: Unutilized
Comment: possible asbestos, poor condition.

Bldg. 3642
Property Number: 219011442
Fed Reg Date: 12/20/91
Project Name: Aberdeen Proving Ground
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford, Zip: 21005-5001
Status: Unutilized
Comment: 4720 sq. ft., two story, utilities disconnected, possible asbestos, poor condition.

Bldg. 3643
Property Number: 219011443
Fed Reg Date: 12/20/91
Project Name: Aberdeen Proving Ground
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford, Zip: 21005-5001
Status: Unutilized
Comment: 1750 sq. ft.; one story, utilities disconnected, possible asbestos, poor condition.

Bldg. 3644
Property Number: 219011444
Fed Reg Date: 12/20/91
Project Name: Aberdeen Proving Ground
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford, Zip: 21005-5001
Status: Unutilized
Comment: 1541 sq. ft.; one story, utilities disconnected, possible asbestos, poor condition.

Bldg. 3645
Property Number: 219011445
Fed Reg Date: 12/20/91
Project Name: Aberdeen Proving Ground
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford, Zip: 21005-5001
Status: Unutilized
Comment: 1541 sq. ft.; one story, utilities disconnected, possible asbestos, poor condition.

Bldg. 3646
Property Number: 219011446
Fed Reg Date: 12/20/91
Project Name: Aberdeen Proving Ground
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford, Zip: 21005-5001
Status: Unutilized
Comment: 1750 sq. ft.; one story, utilities disconnected, possible asbestos, poor condition.

Bldg. E4736
Property Number: 219012621
Fed Reg Date: 12/20/91
Project Name: Aberdeen Proving Ground
Aberdeen Proving Ground
Edgewood Area
Aberdeen City, MD, Co: Harford, Zip: 21010-5425
Status: Unutilized
Comment: possible contamination—under study; potential utilities.

Bldg. 4723
Property Number: 219012643
Fed Reg Date: 12/20/91
Project Name: Aberdeen Proving Ground
Aberdeen Proving Ground
Edgewood Area
Aberdeen City, MD, Co: Harford, Zip: 21010-5425
Status: Unutilized
Comment: 3250 sq. ft.; potential utilities; poor condition; possible asbestos.

Bldg. 5104
Property Number: 219012644
Fed Reg Date: 12/20/91
Project Name: Aberdeen Proving Ground
Aberdeen Proving Ground
Edgewood Area
Aberdeen City, MD, Co: Harford, Zip: 21010-5425
Status: Unutilized
Comment: 624 sq. ft.; trailer; potential utilities; poor condition.

Bldg. E5878
Property Number: 219012652
Fed Reg Date: 12/20/91
Project Name: Aberdeen Proving Ground
Aberdeen Proving Ground
Edgewood Area
Aberdeen City, MD, Co: Harford, Zip: 21010-5425
Status: Unutilized
Comment: 213 sq. ft.; structural deficiencies; possible asbestos; and contamination.

Bldg. E5879
Property Number: 219012653
Fed Reg Date: 12/20/91
Project Name: Aberdeen Proving Ground
Aberdeen Proving Ground
Edgewood Area
Aberdeen City, MD, Co: Harford, Zip: 21010-5425
Status: Unutilized
Comment: 213 sq. ft.; possible asbestos and contamination; no utilities; most recent use—igloo storage.

Bldg. E5974
Property Number: 219012654
Fed Reg Date: 12/20/91
Project Name: Aberdeen Proving Ground
Aberdeen Proving Ground
Edgewood Area
Aberdeen City, MD, Co: Harford, Zip: 21010-5425
Status: Unutilized
Comment: 272 sq. ft.; possible asbestos and contamination; most recent use—headquarters building.

Bldg. 10302
Property Number: 219012666
Fed Reg Date: 12/20/91
Project Name: Aberdeen Proving Ground
Aberdeen Proving Ground
Edgewood Area
Aberdeen City, MD, Co: Harford, Zip: 21010-5425
Status: Unutilized
Comment: 42 sq. ft.; possible asbestos; most recent use—pumping station.

Bldg. E5976
Property Number: 219012667
Fed Reg Date: 12/20/91
Project Name: Aberdeen Proving Ground
Aberdeen Proving Ground
Edgewood Area
Aberdeen City, MD, Co: Harford, Zip: 21010-5425
Status: Unutilized
Comment: 256 sq. ft.; 1 story; structural deficiencies; possible asbestos and contamination; most recent use—general storehouse.

Bldg. E5975
Property Number: 219012677
Fed Reg Date: 12/20/91
Project Name: Aberdeen Proving Ground
Aberdeen Proving Ground
Edgewood Area
Aberdeen City, MD, Co: Harford, Zip: 21010-5425
Status: Unutilized
Comment: 650 sq. ft.; possible contamination; structural deficiencies most recent use—training exercises/chemicals and explosives; potential use—storage.

Bldg. 6926
Property Number: 219013605
Fed Reg Date: 12/20/91
Project Name: Fort Meade
Taylor Avenue
Fort Meade, MD, Co: Anne Arundel, Zip: 21061-
Status: Unutilized
Comment: 1275 sq. ft.; 1 story frame with basement (216 sq. ft.); possible asbestos; termite damage.

Bldg. 832
Property Number: 219013606
Fed Reg Date: 12/20/91
Fort Meade
15th Street
Fort Meade, MD, Co: Anne Arundel, Zip: 21061-
Status: Unutilized
Comment: 2208 sq. ft.; 1 story wood frame; possible asbestos; needs major rehab.

Bldg. 841

Property Number: 219013610
Fed Reg Date: 12/20/91
Project Name: Fort Meade
15th Street
Fort Meade, MD, Co: Anne Arundel, Zip: 21061–
Status: Unutilized
Comment: 3537 sq. ft.; 1 story with balcony; possible asbestos; no furnace; needs major rehab.

Bldg. 2173
Property Number: 219013772
Fed Reg Date: 12/20/91
Project Name: Aberdeen Proving Ground
Aberdeen Proving Ground
Aberdeen City, MD, Co: Harford, Zip: 21005–5001
Status: Unutilized
Comment: 3540 sq. ft.; 1 story temporary frame; possible asbestos; most recent use—barracks.

Bldg. 197
Property Number: 219014848
Fed Reg Date: 12/20/91
Project Name: Fort George G. Meade
1st and Chisholm Streets
Fort Meade, MD, Co: Anne Arundel, Zip: 20755–
Status: Unutilized
Comment: 7670 sq. ft.; 2 story wood frame; needs rehab; secured area with alternate access; possible asbestos.

Bldg. 6599
Property Number: 219014852
Fed Reg Date: 12/20/91
Project Name: Fort George G. Meade
Zimborski Road
Fort Meade, MD, Co: Anne Arundel, Zip: 20755–
Status: Unutilized
Comment: 4173 sq. ft.; 1 story wood frame; needs rehab; secured area with alternate access.

Bldg. 378
Property Number: 219014853
Fed Reg Date: 12/20/91
Project Name: Fort George G. Meade
Fort George G. Meade
Behind Bldg. 368 on 5½ Street
Fort Meade, MD, Co: Anne Arundel, Zip: 20755–
Status: Underutilized
Comment: 1144 sq. ft.; 1 story wood frame; secured area with alternate access; possible asbestos; most recent use—storage.

Bldg. 373
Property Number: 219014854
Fed Reg Date: 12/20/91
Project Name: Fort George G. Meade
Fort George G. Meade
Behind Bldg. 372 on Chamberlain Street
Fort Meade, MD, Co: Anne Arundel, Zip: 20755–
Status: Underutilized
Comment: 1144 sq. ft.; 1 story wood frame; secured area with alternate access; possible asbestos; most recent use—storage.

Bldg. 2815
Property Number: 219014855
Fed Reg Date: 12/20/91
Project Name: Fort George G. Meade
Fort George G. Meade
Chisholm Street
Fort Meade, MD, Co: Anne Arundel, Zip: 20755–
Status: Unutilized
Comment: 2208 sq. ft.; 1 story wood frame; needs rehab; secured area with alternate access; possible asbestos.

Bldg. 2816
Property Number: 219014860
Fed Reg Date: 12/20/91
Project Name: Fort George G. Meade
Fort George G. Meade
Chisholm Street
Fort Meade, MD, Co: Anne Arundel, Zip: 20755–
Status: Unutilized
Comment: 1676 sq. ft.; 1 story wood frame; secured area with alternate access; possible asbestos; most recent use—storage.

Bldg. 649
Property Number: 219014864
Fed Reg Date: 12/20/91
Project Name: Fort George G. Meade
Fort George G. Meade
Chamberlain Avenue
Fort Meade, MD, Co: Anne Arundel, Zip: 20755–
Status: Underutilized
Comment: 2594 sq. ft.; 1 story wood frame; possible asbestos; secured area with alternate access; needs rehab; most recent use—storage.

Bldg. 543
Property Number: 219014866
Fed Reg Date: 12/20/91
Project Name: Fort George G. Meade
Fort George G. Meade
Chamberlain Avenue
Fort Meade, MD, Co: Anne Arundel, Zip: 20755–
Status: Unutilized
Comment: 4720 sq. ft.; 2 story wood frame; possible asbestos; needs rehab; secured area with alternate access.

Bldg. 357
Property Number: 219014871
Fed Reg Date: 12/20/91
Project Name: Fort George G. Meade
Fort George G. Meade
5½ Street
Fort Meade, MD, Co: Anne Arundel, Zip: 20755–
Status: Unutilized
Comment: 4720 sq. ft.; 2 story wood frame; needs rehab; secured area with alternate access; possible asbestos; most recent use—storage.

Bldg. 269
Property Number: 219014873
Fed Reg Date: 12/20/91
Project Name: Fort George G. Meade
Fort George G. Meade
Chisholm Street
Fort Meade, MD, Co: Anne Arundel, Zip: 20755–
Status: Underutilized
Comment: 3537 sq. ft.; 1 story wood frame; possible asbestos; needs rehab; secured area with alternate access; most recent use—storage.

Bldg. 2413
Property Number: 219014875
Fed Reg Date: 12/20/91
Project Name: Fort George G. Meade
Fort George G. Meade
Behind Bldg. 2423—Earnie Pyle Street
Fort Meade, MD, Co: Anne Arundel, Zip: 20755–
Status: Unutilized
Comment: 4720 sq. ft.; 2 story wood frame; needs rehab; secured area with alternate access; possible asbestos.

Bldg. 2419
Property Number: 219014878
Fed Reg Date: 12/20/91
Project Name: Fort George G. Meade
Fort George G. Meade
Behind Bldg. 2427—Earnie Pyle Street
Fort Meade, MD, Co: Anne Arundel, Zip: 20755–
Status: Underutilized
Comment: 2441 sq. ft.; 1 story wood frame; needs rehab; possible asbestos; secured area with alternate access; most recent use—arms room.

Bldg. 2426
Property Number: 219014880
Fed Reg Date: 12/20/91
Project Name: Fort George G. Meade
Fort George G. Meade
Earnie Pyle Street
Fort Meade, MD, Co: Anne Arundel, Zip: 20755–
Status: Unutilized
Comment: 7670 sq. ft.; 1 story wood frame; needs rehab; secured area with alternate access; possible asbestos.

Bldg. 2847
Property Number: 219014883
Fed Reg Date: 12/20/91
Project Name: Fort George G. Meade
Fort George G. Meade
Earnie Pyle Street
Fort Meade, MD, Co: Anne Arundel, Zip: 20755–
Status: Unutilized
Comment: 3663 sq. ft.; 1 story wood frame; possible asbestos; secured area with alternate access; most recent use—gym.

Bldg. 533
Property Number: 219040001
Fed Reg Date: 12/20/91
Project Name: Fort George G. Meade
Fort George Meade
Fort Meade, MD, Co: Anne Arundel, Zip: 20755–
Status: Unutilized
Comment: 6525 sq. ft.; one story; wood frame; possible asbestos; needs major rehab; secured area w/alternate access.

Bldg. 523
Property Number: 219040002
Fed Reg Date: 12/20/91
Project Name: Fort George G. Meade
Fort George Meade
Fort Meade, MD, Co: Anne Arundel, Zip: 20755–5115
Status: Unutilized
Comment: 4307 sq. ft.; one story; wood frame; possible asbestos; needs major rehab; secured area w/alternate access.

Minnesota

Land
Property Number: 219120269
Fed Reg Date: 12/20/91
Twin Cities Army Ammunition Plant
New Brighton, MN, Co: Ramsey, Zip: 55112–
Status: Underutilized

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Comment: Approx. 25 acres, possible contamination, secured area with alternate access.

Buildings

Le Sueur USAR Center
Property Number: 219013558
Fed Reg Date: 12/20/91
Project Name: Le Sueur USAR Center
620 Turill Street
Le Sueur, MN, Co: Le Sueur, Zip: 56058–
Status: Underutilized
Comment: 4316/1325 sq. ft.; 1 story; most recent use—storage.

Missouri

Buildings

Bldg. T375
Property Number: 219140040
Fed Reg Date: 12/27/91
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–5000
Status: Underutilized
Comment: 4720 sq. ft., 2 story wood frame, presence of asbestos, not handicapped accessible, to be vacant Feb. 1992.

Bldg. T376
Property Number: 219140041
Fed Reg Date: 12/27/91
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–5000
Status: Underutilized
Comment: 4720 sq. ft., 2 story wood frame, presence of asbestos; not handicapped accessible, to be vacant Feb. 1992.

Bldg. T385
Property Number: 219140042
Fed Reg Date: 12/27/91
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–5000
Status: Underutilized
Comment: 4720 sq. ft., 2 story wood frame, presence of asbestos, not handicapped accessible, to be vacant Feb. 1992.

Bldg. 384
Property Number: 219140043
Fed Reg Date: 12/27/91
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–5000
Status: Underutilized
Comment: 1292 sq. ft., 1 story wood frame, presence of asbestos, not handicapped accessible, to be vacant Feb. 1992.

Bldg. T6818
Property Number: 219140044
Fed Reg Date: 12/27/91
Fort Leonard Wood
Ft. Leonard Wood, MO, Co: Pulaski, Zip: 65473–5000
Status: Underutilized
Comment: 10092 sq. ft., 1 story concrete/block frame, presence of asbestos, not handicapped accessible, limited utilities.

Nevada

Land

Parcel A
Property Number: 219012049
Fed Reg Date: 12/20/91
Project Name: Hawthorne Army Ammo. Plant
Hawthorne Army Ammunition Plant
Hawthorne, NV, Co: Mineral, Zip: 89415–
Location: At foot of Eastern slope of Mount Grant in Wassuk Range & S.W. edge of Walker Lane.
Status: Unutilized
Comment: 160 acres, road and utility easements, no utility hookup, possible flooding problem.

Parcel B
Property Number: 219012056
Fed Reg Date: 12/20/91
Project Name: Hawthorne Army Ammo. Plant
Hawthorne Army Ammunition Plant
Hawthorne, NV, Co: Mineral, Zip: 89415–
Location: At foot of Eastern slope of Mount Grant in Wassuk Range & S.W. edge of Walker Lane.
Status: Unutilized
Comment: 1920 acres; road and utility easements; no utility hookup; possible flooding problem.

Parcel C
Property Number: 219012057
Fed Reg Date: 12/20/91
Project Name: Hawthorne Army Ammo. Plant
Hawthorne Army Ammunition Plant
Hawthorne, NV, Co: Mineral, Zip: 89415–
Location: South-southwest of Hawthorne along HWAAP's South Magazine Area at Western edge of State Route 359.
Status: Unutilized
Comment: 85 acres; road & utility easements; no utility hookup.

Parcel D
Property Number: 219012058
Fed Reg Date: 12/20/91
Project Name: Hawthorne Army Ammo. Plant
Hawthorne Army Ammunition Plant
Hawthorne, NV, Co: Mineral, Zip: 89415–
Location: South-southwest of Hawthorne along HWAAP's South Magazine Area at Western edge of State Route 359.
Status: Unutilized
Comment: 955 acres; road & utility easements; no utility hookup.

Buildings

Bldg. 00425
Property Number: 219011946
Fed Reg Date: 12/20/91
Project Name: Hawthorne Army Ammo. Plant
Hawthorne Army Ammunition Plant
Hawthorne, NV, Co: Mineral, Zip: 89415–
Location: Schweer Drive
Status: Unutilized
Comment: 1310–1640 sq. ft., one floor residential, semi/wood construction, good condition.

Bldg. 00426
Property Number: 219011947
Fed Reg Date: 12/20/91
Project Name: Hawthorne Army Ammo. Plant
Hawthorne Army Ammunition Plant
Hawthorne, NV, Co: Mineral, Zip: 89415–
Location: Schweer Drive
Status: Unutilized
Comment: 1310–1640 sq. ft., one floor residential, semi/wood construction, good condition.

Bldg. 00427
Property Number: 219011948
Fed Reg Date: 12/20/91
Project Name: Hawthorne Army Ammo. Plant
Hawthorne Army Ammunition Plant
Hawthorne, NV, Co: Mineral, Zip: 89415–
Location: Schweer Drive
Status: Unutilized
Comment: 1310–1640 sq. ft., one floor residential, semi/wood construction, good condition.

Bldg. 00428
Property Number: 219011949
Fed Reg Date: 12/20/91
Project Name: Hawthorne Army Ammo. Plant
Hawthorne Army Ammunition Plant
Hawthorne, NV, Co: Mineral, Zip: 89415–
Location: Schweer Drive
Status: Unutilized
Comment: 1310–1640 sq. ft., one floor residential, semi/wood construction, good condition.

Bldg. 00429
Property Number: 219011950
Fed Reg Date: 12/20/91
Project Name: Hawthorne Army Ammo. Plant
Hawthorne Army Ammunition Plant
Hawthorne, NV, Co: Mineral, Zip: 89415–
Location: Schweer Drive
Status: Unutilized
Comment: 1310–1640 sq. ft., one floor residential, semi/wood construction, good condition.

Bldg. 00430
Property Number: 219011951
Fed Reg Date: 12/20/91
Project Name: Hawthorne Army Ammo. Plant
Hawthorne Army Ammunition Plant
Hawthorne, NV, Co: Mineral, Zip: 89415–
Location: Schweer Drive
Status: Unutilized
Comment: 1310–1640 sq. ft., one floor residential, semi/wood construction, good condition.

Bldg. 00431
Property Number: 219011952
Fed Reg Date: 12/20/91
Project Name: Hawthorne Army Ammo. Plant
Hawthorne Army Ammunition Plant
Hawthorne, NV, Co: Mineral, Zip: 89415–
Location: Schweer Drive
Status: Unutilized
Comment: 1310–1640 sq. ft., one floor residential, semi/wood construction, good condition.

Bldg. 00432
Property Number: 219011954
Fed Reg Date: 12/20/91
Project Name: Hawthorne Army Ammo. Plant
Hawthorne Army Ammunition Plant
Hawthorne, NV, Co: Mineral, Zip: 89415–
Location: Schweer Drive
Status: Unutilized
Comment: 1310–1640 sq. ft., one floor residential, semi/wood construction, good condition.

Bldg. 00433
Property Number: 219011956
Fed Reg Date: 12/20/91
Project Name: Hawthorne Army Ammo. Plant
Hawthorne Army Ammunition Plant
Hawthorne, NV, Co: Mineral, Zip: 89415–
Location: Schweer Drive
Status: Unutilized
Comment: 1310–1640 sq. ft., one floor residential, semi/wood construction, good condition.

Bldg. 00434
Property Number: 219011959
Fed Reg Date: 12/20/91

Project Name: Hawthorne Army Ammo. Plant
Hawthorne Army Ammunition Plant
Schweer Drive Housing Area
Hawthorne, NV, Co: Mineral, Zip: 89415–
Location: Schweer Drive
Status: Unutilized
Comment: 1310–1640 sq ft., one floor residential, semi/wood construction, good condition.

Bldg. 00435
Property Number: 219011961
Fed Reg Date: 12/20/91
Project Name: Hawthorne Army Ammo. Plant
Hawthorne Army Ammunition Plant
Schweer Drive Housing Area
Hawthorne, NV, Co: Mineral, Zip: 89415–
Location: Schweer Drive
Status: Unutilized
Comment: 1310–1640 sq ft., one floor residential, semi/wood construction, good condition.

Bldg. 00436
Property Number: 219011964
Fed Reg Date: 12/20/91
Project Name: Hawthorne Army Ammo. Plant
Hawthorne Army Ammunition Plant
Schweer Drive Housing Area
Hawthorne, NV, Co: Mineral, Zip: 89415–
Location: Schweer Drive
Status: Unutilized
Comment: 1310–1640 sq ft., one floor residential, semi/wood construction, good condition.

Bldg. 00437
Property Number: 219011968
Fed Reg Date: 12/20/91
Project Name: Hawthorne Army Ammo. Plant
Hawthorne Army Ammunition Plant
Schweer Drive Housing Area
Hawthorne, NV, Co: Mineral, Zip: 89415–
Location: Schweer Drive
Status: Unutilized
Comment: 1310–1640 sq ft., one floor residential, semi/wood construction, good condition.

Bldg. 00438
Property Number: 219011970
Fed Reg Date: 12/20/91
Project Name: Hawthorne Army Ammo. Plant
Hawthorne Army Ammunition Plant
Schweer Drive Housing Area
Hawthorne, NV, Co: Mineral, Zip: 89415–
Location: Schweer Drive
Status: Unutilized
Comment: 1310–1640 sq ft., one floor residential, semi/wood construction, good condition.

Bldg. 00439
Property Number: 219011974
Fed Reg Date: 12/20/91
Project Name: Hawthorne Army Ammo. Plant
Hawthorne Army Ammunition Plant
Schweer Drive Housing Area
Hawthorne, NV, Co: Mineral, Zip: 89415–
Location: Schweer Drive
Status: Unutilized
Comment: 1310–1640 sq ft., one floor residential, semi/wood construction, good condition.

Bldg. 00440
Property Number: 219011976
Fed Reg Date: 12/20/91
Project Name: Hawthorne Army Ammo. Plant
Hawthorne Army Ammunition Plant
Schweer Drive Housing Area
Hawthorne, NV, Co: Mineral, Zip: 89415–
Location: Schweer Drive
Status: Unutilized
Comment: 1310–1640 sq ft., one floor residential, semi/wood construction, good condition.

Bldg. 00441
Property Number: 219011977
Fed Reg Date: 12/20/91
Project Name: Hawthorne Army Ammo. Plant
Hawthorne Army Ammunition Plant
Schweer Drive Housing Area
Hawthorne, NV, Co: Mineral, Zip: 89415–
Location: Schweer Drive
Status: Unutilized
Comment: 1310–1640 sq ft., one floor residential, semi/wood construction, good condition.

Bldg. 00442
Property Number: 219011978
Fed Reg Date: 12/20/91
Project Name: Hawthorne Army Ammo. Plant
Hawthorne Army Ammunition Plant
Schweer Drive Housing Area
Hawthorne, NV, Co: Mineral, Zip: 89415–
Location: Schweer Drive
Status: Unutilized
Comment: 1310–1640 sq ft., one floor residential, semi/wood construction, good condition.

Bldg. 00443
Property Number: 219011980
Fed Reg Date: 12/20/91
Project Name: Hawthorne Army Ammo. Plant
Hawthorne Army Ammunition Plant
Schweer Drive Housing Area
Hawthorne, NV, Co: Mineral, Zip: 89415–
Location: Schweer Drive
Status: Unutilized
Comment: 1310–1640 sq ft., one floor residential, semi/wood construction, good condition.

Bldg. 00444
Property Number: 219011982
Fed Reg Date: 12/20/91
Project Name: Hawthorne Army Ammo. Plant
Hawthorne Army Ammunition Plant
Schweer Drive Housing Area
Hawthorne, NV, Co: Mineral, Zip: 89415–
Location: Schweer Drive
Status: Unutilized
Comment: 1310–1640 sq ft., one floor residential, semi/wood construction, good condition.

Bldg. 00445
Property Number: 219011984
Fed Reg Date: 12/20/91
Project Name: Hawthorne Army Ammo. Plant
Hawthorne Army Ammunition Plant
Schweer Drive Housing Area
Hawthorne, NV, Co: Mineral, Zip: 89415–
Location: Schweer Drive
Status: Unutilized
Comment: 1310–1640 sq ft., one floor residential, semi/wood construction, good condition.

Bldg. 00446
Property Number: 219011987
Fed Reg Date: 12/20/91
Project Name: Hawthorne Army Ammo. Plant
Hawthorne Army Ammunition Plant
Schweer Drive Housing Area
Hawthorne, NV, Co: Mineral, Zip: 89415–
Location: Schweer Drive
Status: Unutilized
Comment: 1310–1640 sq ft., one floor residential, semi/wood construction, good condition.

Bldg. 00447
Property Number: 219011990
Fed Reg Date: 12/20/91
Project Name: Hawthorne Army Ammo. Plant
Hawthorne Army Ammunition Plant
Schweer Drive Housing Area
Hawthorne, NV, Co: Mineral, Zip: 89415–
Location: Schweer Drive
Status: Unutilized
Comment: 1310–1640 sq ft., one floor residential, semi/wood construction, good condition.

Bldg. 00448
Property Number: 219011994
Fed Reg Date: 12/20/91
Project Name: Hawthorne Army Ammo. Plant
Hawthorne Army Ammunition Plant
Schweer Drive Housing Area
Hawthorne, NV, Co: Mineral, Zip: 89415–
Location: Schweer Drive
Status: Unutilized
Comment: 1310–1640 sq ft., one floor residential, semi/wood construction, good condition.

Bldg. 00449
Property Number: 219011996
Fed Reg Date: 12/20/91
Project Name: Hawthorne Army Ammo. Plant
Hawthorne Army Ammunition Plant
Schweer Drive Housing Area
Hawthorne, NV, Co: Mineral, Zip: 89415–
Location: Schweer Drive
Status: Unutilized
Comment: 1310–1640 sq ft., one floor residential, semi/wood construction, good condition.

New York

Buildings

Bldg. 503
Property Number: 219012564
Fed Reg Date: 12/20/91
Project Name: Fort Totten
Fort Totten
Ordnance Road
Bayside, NY, Co: Queens, Zip: 11357–
Status: Unutilized
Comment: 510 sq ft., 1 floor, most recent use-storage, needs major rehab/no utilities.

Bldg. 323
Property Number: 219012567
Fed Reg Date: 12/20/91
Project Name: Fort Totten
Fort Totten
Story Avenue
Bayside, NY, Co: Queens, Zip: 11359–
Status: Unutilized
Comment: 30000 sq ft., 3 floors, most recent use-barracks & mess facility, needs major rehab.

Bldg. 304
Property Number: 219012570
Fed Reg Date: 12/20/91
Project Name: Fort Totten
Fort Totten
Shore Road
Bayside, NY, Co: Queens, Zip: 11359–
Status: Unutilized
Comment: 9610 sq ft., 3 floors, most recent use-hospital, needs major rehab/utilities disconnected.

Bldg. 211
Property Number: 219012573
Fed Reg Date: 12/20/91
Project Name: Fort Totten
Fort Totten
211 Totten Avenue
Bayside, NY, Co: Queens, Zip: 11359–
Status: Unutilized
Comment: 6329 sq ft., 3 floors, most recent use-family housing, needs major rehab, utilities disconnected.

Bldg. 332
Property Number: 219012578
Fed Reg Date: 12/20/91
Project Name: Fort Totten
Fort Totten
Theater Road
Bayside, NY, Co: Queens, Zip: 11359–
Status: Unutilized
Comment: 6288 sq ft., 1 floor, most recent use-theater w/stage, needs major rehab, utilities disconnected.

Bldg. 504
Property Number: 219012580
Fed Reg Date: 12/20/91
Project Name: Fort Totten
Fort Totten
Ordnance Road
Bayside, NY, Co: Queens, Zip: 11359–
Status: Unutilized
Comment: 490 sq ft., 1 floor, most recent use-storage, no utilities, needs major rehab.

Bldg. 322
Property Number: 219012583
Fed Reg Date: 12/20/91
Project Name: Fort Totten
Fort Totten
322 Story Avenue
Bayside, NY, Co: Queens, Zip: 11359–
Status: Unutilized
Comment: 30900 sq ft., 3 floors, most recent use-barracks, mess & administration, utilities disconnected, needs rehab.

Bldg. 326
Property Number: 219012586
Fed Reg Date: 12/20/91
Project Name: Fort Totten
Fort Totten
326 Pratt Avenue
Bayside, NY, Co: Queens, Zip: 11359–
Status: Unutilized
Comment: 6000 sq ft., 2 floors, most recent use-storage, offices & residential, utilities disconnected/needs rehab.

Bldg. 627
Property Number: 219030185
Fed Reg Date: 12/20/91
Project Name: West Point
U.S. Military Academy—West Point
Pitcher Road, North Dock
Highland, NY, Co: Orange, Zip: 10996–1592
Status: Unutilized
Comment: 23185 sq. ft.; 1 story wood frame; needs rehab; presence of asbestos; most recent use—storage warehouse; scheduled to be vacant 9/1/90.

Oklahoma

Buildings

Bldg. T–2531
Property Number: 219011248
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
2531 Sheridan Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 1990 sq. ft.; structurally unsound; asbestos; wood frame, 2 floors, WWII Bldg.

Bldg. T–2545
Property Number: 219011255
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
2545 Sheridan Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 1994 sq. ft.; asbestos; wood frame; 2 floors; No operating sanitary facilities; most recent use—enl. barracks basic.

Bldg. T–2546
Property Number: 219011257
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
2546 Sheridan Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 1994 sq. ft.; asbestos; wood frame; 2 floors; no operating sanitary facililties, most recent use—enl. barracks basic.

Bldg. T–2548
Property Number: 219011260
Fed Reg Date: 12/20/91
Project Name: Fort Silll
Fort Sill
2548 Sheridan Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 1994 sq. ft.; asbestos; wood frame; 2 floors; no operating sanitary facilities; most recent use—enl. barracks basic.

Bldg. T–2564
Property Number: 219011264
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
2564 Currie Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 1165 sq. ft.; asbestos; wood frame; 1 floor; most recent use—administrative/supply.

Bldg. T–2565
Property Number: 219011266
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
2565 Currie Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 1196 sq. ft.; asbestos; wood frame; 1 floor; most recent use—administrative/supply.

Bldg. T–2566
Property Number: 219011267
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
2566 Currie Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 1179 sq. ft.; asbestos; wood frame; 1 floor; most recent use—administrative/supply.

Bldg. T–2601
Property Number: 219011272
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
2601 Ringold Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 1600 sq. ft.; 2 story wood frame; possible asbestos; possible structure deficiencies.

Bldg. T–2606
Property Number: 219011273
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
2606 Currie Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 2722 sq. ft.; possible asbestos, one floor wood frame; most recent use—Headquarters Bldg.

Bldg. T–2613
Property Number: 219011276
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
2613 Ringold Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 4800 sq. ft.; possible asbestos, wood frame, 2 floors; most recent use—barracks.

Bldg. T–2614
Property Number: 219011278
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
2614 Ringold Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 3778 sq. ft.; possible asbestos; wood frame; two floors; most recent use—barracks.

Bldg. T–2615
Property Number: 219011279
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
2615 Ringold Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 3778 sq. ft.; possible asbestos; wood frame; 2 floors; most recent use—barracks.

Bldg. T–2620
Property Number: 219011281
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
2620 Ringold Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 2370 sq. ft.; 2 story wood frame; possible asbestos; possible structure deficiencies.

Bldg. T–2623
Property Number: 219011287
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
2623 Ringold Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 2400 sq. ft.; 2 story wood frame; asbestos; possible structure deficiencies.

Bldg. T–2624
Property Number: 219011288
Fed Reg Date: 12/20/91

Project Name: Fort Sill
Fort Sill
2624 Miner Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 3738 sq. ft.; possible asbestos, wood frame; 2 floors; most recent use—day room.

Bldg. T–2625
Property Number: 219011289
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
2625 Ringold Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 3664 sq. ft.; wood frame; 2 floors: possible asbestos; most recent use—barracks.

Bldg. T–2628
Property Number: 219011294
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
2628 Ringold Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 3664 sq. ft.; possible asbestos, wood frame; 2 floors; most recent use—barracks.

Bldg. T–2629
Property Number: 219011296
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
2629 Ringold Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 3664 sq. ft.; wood frame; 2 floors; possible asbestos, most recent use—barracks.

Bldg. T–2630
Property Number: 219011298
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
230 Ringold Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 3664 sq. ft.; possible asbestos; 2 floors; wood frame; most recent use—barracks.

Bldg. T–2631
Property Number: 219011299
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
2631 Ringold Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 3664 sq. ft.; possible asbestos; wood frame; 2 floors; most recent use—barracks.

Bldg. T–2650
Property Number: 219011301
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
250 Ringold Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 4021 sq. ft.; 2 story; possible asbestos; possible structure deficiencies.

Bldg. T–2931
Property Number: 219011313
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
2931 Currie Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 435 sq. ft.; structurally unsound: asbestos; wood frame; 1 floor.

Bldg. T–3507
Property Number: 219011315
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
3507 Sheridan Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 2904 sq. ft.; possible asbestos; potential heavy metal contamination; wood frame; most recent use—chapel.

Bldg. T–3508
Property Number: 219011316
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
3508 Sheridan Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 1964 sq. ft.; structurally unsound; asbestos; wood frame; 1 floor, WWII Bldg.

Bldg. T–3514
Property Number: 219011322
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
3514 Sheridan Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 1917 sq. ft.; possible asbestos; wood frame; most recent use—administrative.

Bldg. T–3516
Property Number: 219011324
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
3516 Packard Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 1495 sq. ft.; possible asbestos; wood frame; most recent use—administrative.

Bldg. T–3562
Property Number: 219011334
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
3562 Packard Street
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 1027 sq. ft.; possible asbestos; wood frame; most recent use—storage.

Bldg. T–3638
Property Number: 219011336
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
3638 Scott Street
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 1618 sq. ft.; 2 story wood frame; possible asbestos; possible structured deficiencies.

Bldg. T–3767
Property Number: 219011339
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
3767 Hartell Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 2469 sq. ft.; structurally unsound: possible asbestos; one story wood frame.

Bldg. T–3779
Property Number: 219011343
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
3779 Currie Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 4720 sq. ft.; possible asbestos, wood frame, 2 floors, most recent use—barracks.

Bldg. T–3780
Property Number: 219011344
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
3780 Hartell Blvd.
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 4720 sq. ft.; wood frame; possible asbestos, most recent use—barracks.

Bldg. T–4363
Property Number: 219011348
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
4363 McKee Street
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 1947 sq. ft.; some utilities; possible structural deficiencies; possible asbestos.

Bldg. T–4521
Property Number: 219011352
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
4521 Wilson Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 3833 sq. ft., 1 floor, wood frame, asbestos, most recent use—classroom.

Bldg. T–4375
Property Number: 219011356
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
4375 Bragg Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 1102 sq. ft.; structurally unsound: possible asbestos.

Bldg. T–4525
Property Number: 219011363
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
4524 Wilson Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 1636 sq. ft., 1 floor, asbestos, wood frame, most recent use—Exchange Service Outlet.

Bldg. T–4526
Property Number: 219011366
Fed Reg Date: 12/20/91
Project Name: Fort Sill
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4526 Wilson Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 3833 sq. ft., 1 floor, asbestos, wood frame, most recent use—recreation building.

Bldg. T–4387
Property Number: 219011367
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
4387 Bragg Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 1968 sq. ft.; no sanitary facilities; structurally unsound; possible asbestos; two story wood frame.

Bldg. T–4502
Property Number: 219011376
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
4502 Wilson Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 2812 sq. ft.; structurally unsound; possible asbestos; one story wood frame.

Bldg. T–4535
Property Number: 219011384
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
4535 Hartell Blvd.
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 2816 sq. ft., 1 story wood frame, possible asbestos, possible structural deficiencies.

Bldg. T–4510
Property Number: 219011386
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
4510 Wilson Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 3006 sq. ft.; asbestos; wood frame; 1 floor; most recent use—medical storage.

Bldg. T–4513
Property Number: 219011389
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
4513 Wilson Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 3842 sq. ft.; asbestos; wood frame; 1 floor; most recent use—classroom.

Bldg. T–4556
Property Number: 219011401
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
4556 Hartell Blvd.
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 2308 sq. ft.; possible asbestos; possible structural deficiencies; one story wood frame

Bldg. T–4720
Property Number: 219011405
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
4720 Hartell Blvd.
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 13225 sq. ft.; visual asbestos; wood frame; 2 floors; most recent use—recreation bldg.

Bldg. T–4550
Property Number: 219013795
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
4550 Hartell Blvd.
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 2750 sq. ft.; 1 story wood frame; possible asbestos; most recent use—headquarters bldg.

Bldg. T–836
Property Number: 219014328
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
Corner of Macomb Road and Burrell Road
Lawton, OK, Co: Comanche, Zip: 73503–
Status: Unutilized
Comment: 1341 sq. ft.; 1 story wood frame; most recent use—storage; possible asbestos.

Bldg. T–4919
Property Number: 219014842
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
4919 Post Road
Lawton, OK, Co: Comanche, Zip: 73503–
Status: Unutilized
Comment: 603 sq. ft.; 1 story mobile home trailer; possible asbestos; needs rehab.

Bldg. T–4523
Property Number: 219014933
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
4523 Wilson Road
Lawton, OK, Co: Comanche, Zip: 73503–
Status: Unutilized
Comment: 1639 sq. ft.; 1 story wood frame; needs rehab; possible asbestos; most recent use—storage.

Bldg. T–4541
Property Number: 219014935
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
4541 Hartell Blvd.
Lawton, OK, Co: Comanche, Zip: 73503–
Status: Unutilized
Comment: 2340 sq. ft.; 1 story wood frame; needs rehab; possible asbestos; most recent use—administration.

Bldg. S–701
Property Number: 219030183
Fed Reg Date: 12/20/91
Project Name: Fort Sill
Fort Sill
701 Randolph Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 19903 sq. ft.; steel/wood frame; 1 story; needs rehab; possible asbestos; most recent use—general instruction building.

Bldg. S–2643, Fort Sill
Property Number: 219130069
Fed Reg Date: 12/27/91
2643 Tacy Street
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 82 sq. ft., metal frame shed, off-site use only.

Bldg. S–2644, Fort Sill
Property Number: 219130070
Fed Reg Date: 12/27/91
2644 Tacy Street
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 77 sq. ft., metal frame shed, off-site use only.

Bldg. 226, Fort Sill
Property Number: 219130071
Fed Reg Date: 12/27/91
226 Corral Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 11116 sq. ft., one story wood frame, most recent use—administration, off-site use only, possible asbestos.

Bldg. T–255, Fort Sill
Property Number: 219130072
Fed Reg Date: 12/27/91
255 Corral Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 2619 sq. ft., one story wood frame. off-site use only, possible asbestos.

Bldg. 932, Fort Sill
Property Number: 219130073
Fed Reg Date: 12/27/91
932 Ft. Sill Blvd.
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 2134 sq. ft., one story wood stucco, off-site use only, possible asbestos, most recent use—exchange branch.

Bldg. 1667, Fort Sill
Property Number: 219130074
Fed Reg Date: 12/27/91
1667 Gruber Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 3615 sq. ft., one story wood & stucco, off-site use only, possible asbestos, most recent use—administration.

Bldg. T–2609, Fort Sill
Property Number: 219130075
Fed Reg Date: 12/27/91
2609 Currie Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 4545 sq. ft., one story wood frame, off-site use only, possible asbestos, most recent use—administration.

Bldg. T–2612, Fort Sill
Property Number: 219130076
Fed Reg Date: 12/27/91
2612 Miner Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 2144 sq. ft.; two story wood frame, off-site use only, possible asbestos, most recent use—administration.

Bldg. T–2616, Fort Sill
Property Number: 219130077
Fed Reg Date: 12/27/91
2616 Ringold Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 3702 sq. ft., two story wood frame, most recent use—barracks, off-site use only, possible asbestos.

Bldg. T-2617, Fort Sill
Property Number: 219130078
Fed Reg Date: 12/27/91
2617 Ringold Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 3778 sq. ft., two story wood frame, most recent use—administration, off-site use only, possible asbestos.

Bldg. T-2755, Fort Sill
Property Number: 219130079
Fed Reg Date: 12/27/91
2755 Miner Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 5090 sq. ft., two story wood frame, most recent use—barracks w/o dining, off-site use only, possible asbestos.

Bldg. T–3033, Fort Sill
Property Number: 219130080
Fed Reg Date: 12/27/91
3033 Hoskins Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 2022 sq. ft., one story wood frame, most recent use—storage, off-site use only, possible asbestos.

Bldg. T–3034, Fort Sill
Property Number: 219130081
Fed Reg Date: 12/27/91
3034 Hoskins Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 4751 sq. ft., one story wood frame, most recent use—storage, off-site use only, possible asbestos.

Bldg. T–3158, Fort Sill
Property Number: 219130082
Fed Reg Date: 12/27/91
3158 Harvey Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 1612 sq. ft., wood frame, most recent use—storehouse, off-site use only, possible asbestos.

Bldg. T–3159, Fort Sill
Property Number: 219130083
Fed Reg Date: 12/27/91
3159 Harvey Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 2071 sq. ft., one story wood frame, most recent use—storehouse, off-site use only, possible asbestos.

Bldg. T–3538, Fort Sill
Property Number: 219130084
Fed Reg Date: 12/27/91
3538 Tacy Street
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 2762 sq. ft.; one story wood frame; most recent use—administration, off-site use only, possible asbestos.

Bldg. T–3547, Fort Sill
Property Number: 219130085
Fed Reg Date: 12/27/91
3547 Walker Street
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 1154 sq. ft.; one story wood frame; most recent use—administration, off-site use only, possible asbestos.

Bldg. T–3556, Fort Sill
Property Number: 219130086
Fed Reg Date: 12/27/91
3556 Tacy Street
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 3142 sq. ft.; one story wood frame; most recent use—storage, off-site use only, possible asbestos.

Bldg. T–3557, Fort Sill
Property Number: 219130087
Fed Reg Date: 12/27/91
3557 Tacy Street
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 3876 sq. ft.; one story wood frame; most recent use—gen. construction bldg., off-site use only, possible asbestos.

Bldg. T–3628, Fort Sill
Property Number: 219130088
Fed Reg Date: 12/27/91
3628 Tacy Street
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 2084 sq. ft.; one story wood frame; most recent use—administration, off-site use only, possible asbestos.

Bldg. T–3637, Fort Sill
Property Number: 219130089
Fed Reg Date: 12/27/91
3637 Scott Street
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 2766 sq. ft.; one story wood frame; most recent use—classroom, off-site use only, possible asbestos.

Bldg. T–3688, Fort Sill
Property Number: 219130090
Fed Reg Date: 12/27/91
3688 Tacy Street
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 2760 sq. ft.; one story wood frame; most recent use—storehouse, off-site use only, possible asbestos.

Bldg. T–3702, Fort Sill
Property Number: 219130091
Fed Reg Date: 12/27/91
3702 Walker Street
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 2749 sq. ft.; one story wood frame; most recent use—barracks, off-site use only, possible asbestos.

Bldg. T–4215, Fort Sill
Property Number: 219130092
Fed Reg Date: 12/27/91
4215 Thomas Street
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 1311 sq. ft.; one story wood frame; most recent use—storage, off-site use only, possible asbestos.

Bldg. T–4216, Fort Sill
Property Number: 219130093
Fed Reg Date: 12/27/91
4216 Thomas Street
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 1297 sq. ft.; one story wood frame; most recent use—storage, off-site use only, possible asbestos.

Bldg. T–5612, Fort Sill
Property Number: 219130094
Fed Reg Date: 12/27/91
5612 Pratt Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 149 sq. ft.; one story metal; most recent use—gas station, off-site use only, possible asbestos.

Bldg. T–5620, Fort Sill
Property Number: 219130095
Fed Reg Date: 12/27/91
5620 Pratt Road
Lawton, OK, Co: Comanche, Zip: 73503–5100
Status: Unutilized
Comment: 1552 sq. ft.; one story wood frame; most recent use—administration, off-site use only, possible asbestos.

South Carolina

Buildings

Bldg. 5405
Property Number: 219012563
Fed Reg Date: 12/20/91
Project Name: Fort Jackson
Fort Jackson
Jackson Blvd.
Fort Jackson, SC, Co: Richland, Zip: 29207–
Status: Unutilized
Comment: 4764 sq. ft.; 1 floor; wood frame; needs rehab; to be vacated mid 1990.

Bldg. 2438
Property Number: 219140003
Fed Reg Date: 12/27/91
Fort Jackson
Fort Jackson, SC, Co: Richland, Zip: 29207–
Status: Unutilized
Comment: 3779 sq. ft.; 1 story wood frame; off-site removal only, needs rehab, most recent use—storage.

Bldg. 8562
Property Number: 219140004
Fed Reg Date: 12/27/91
Fort Jackson
Fort Jackson, SC, Co: Richland, Zip: 29207–
Status: Unutilized
Comment: 992 sq. ft.; 1 story wood frame; off-site removal only, needs rehab, most recent use—administrative.

Bldg. 8564
Property Number: 219140005
Fed Reg Date: 12/27/91
Fort Jackson
Fort Jackson, SC, Co: Richland, Zip: 29207–
Status: Underutilized
Comment: 4720 sq. ft.; 2 story wood frame; off-site removal only, needs rehab, most recent use—troop billets.

Bldg. 8568
Property Number: 219140006
Fed Reg Date: 12/27/91
Fort Jackson
Fort Jackson, SC, Co: Richland, Zip: 29207–
Status: Underutilized
Comment: 4720 sq. ft.; 2 story wood frame; off-site removal only, needs rehab, most recent use—travel office.

Bldg. 8571
Property Number: 219140007
Fed Reg Date: 12/27/91
Fort Jackson
Fort Jackson, SC, Co: Richland, Zip: 29207–
Status: Underutilized
Comment: 3196 sq. ft.; 1 story wood frame; off-site removal only, needs rehab, most recent use—storage.

Bldg. 8572

Property Number: 219140008
Fed Reg Date: 12/27/91
Fort Jackson
Fort Jackson, SC, Co: Richland, Zip: 29207–
Status: Underutilized
Comment: 2284 sq. ft.; 1 story wood frame; off-site removal only, needs rehab, most recent use—administrative.

Bldg. 8573
Property Number: 219140009
Fed Reg Date: 12/27/91
Fort Jackson
Fort Jackson, SC, Co: Richland, Zip: 29207–
Status: Unutilized
Comment: 720 sq. ft.; 1 story wood frame; off-site removal only, needs rehab, most recent use—open sided waiting shelter.

Bldg. 8575
Property Number: 219140010
Fed Reg Date: 12/27/91
Fort Jackson
Fort Jackson, SC, Co: Richland, Zip: 29207–
Status: Unutilized
Comment: 1029 sq. ft.; 1 story wood frame; off-site removal only, needs rehab, most recent use—open sided waiting shelter.

Bldg. 8576
Property Number: 219140011
Fed Reg Date: 12/27/91
Fort Jackson
Fort Jackson, SC, Co: Richland, Zip: 29207–
Status: Unutilized
Comment: 3888 sq. ft.; 1 story wood frame; off-site removal only, needs rehab, most recent use—open sided waiting shelter.

Bldg. 9530
Property Number: 219140012
Fed Reg Date: 12/27/91
Fort Jackson
Fort Jackson, SC, Co: Richland, Zip: 29207–
Status: Underutilized
Comment: 5782 sq. ft.; 1 story wood frame; off-site removal only, needs rehab, most recent use—administrative.

Bldg. 9618
Property Number: 219140013
Fed Reg Date: 12/27/91
Fort Jackson
Ft. Jackson, SC, Co: Richland, Zip: 29207–
Status: Underutilized
Comment: 4720 sq. ft.; 2 story wood frame; off-site removal only, needs rehab; most recent use—billets/storage.

Bldg. 9636
Property Number: 219140014
Fed Reg Date: 12/27/91
Fort Jackson
Ft. Jackson, SC, Co: Richland, Zip: 29207–
Status: Underutilized
Comment: 1170 sq. ft.; 1 story wood frame; off-site removal only, needs rehab; most recent use—storage.

Tennessee

Land

Milan Army Ammunition Plant
Property Number: 219010547
Fed Reg Date: 12/20/91
Project Name: Milan Army Ammunition Plant
Milan, TN, Co: Carroll, Zip: 38358–
Location: Plant boundary in the northeast corner of the plant & housing area
Status: Excess
Comment: 17.2 acres; right of entry legal constraint.

Holston Army Ammunition Plant
Property Number: 219012338
Fed Reg Date: 12/20/91
Project Name: Holston Army Ammunition Plant
Kingsport, TN, Co: Hawkins, Zip: 61299–6000
Status: Unutilized
Comment: 8 acres; unimproved; could provide access; 2 acres unusable; near explosives.

Buildings

Milan Army Ammunition Plant
Property Number: 219010559
Fed Reg Date: 12/20/91
Project Name: Milan Army Ammunition Plant
Area Q—Housing Area Q–27
Milan, TN, Co: Carroll, Zip: 38358–
Status: Underutilized
Comment: Two story; wood frame; temporarily empty due to personnel rotation.

Milan Army Ammunition Plant
Property Number: 219010605
Fed Reg Date: 12/20/91
Project Name: Milan Army Ammunition Plant
Area Q—Housing Area Q–7
Milan, TN, Co: Carroll, Zip: 38358–
Status: Underutilized
Comment: Two story; wood frame; temporarily empty due to personnel rotation.

Milan Army Ammunition Plant
Property Number: 219010609
Fed Reg Date: 12/20/91
Project Name: Milan Army Ammunition Plant 12
Area Q—Housing Area—Q–12
Milan, TN, Co: Carroll, Zip: 38358–
Status: Underutilized
Comment: Two story; wood frame; temporarily empty due to personnel rotation.

Robert Joel Ridings
Property Number: 219011667
Fed Reg Date: 12/20/91
Project Name: U.S. Army Reserve Center
US Army Reserve Center
920 Cherokee Avenue
Nashville, TN, Co: Davidson, Zip: 37207–
Status: Excess
Comment: 40,000 sq. ft.; 3.67 acres; concrete block; utilities disconnected; site vandallized.

Area Q—Housing Area—Q20
Property Number: 219014790
Fed Reg Date: 12/20/91
Project Name: Milan Army Ammunition Plant
Milan Army Ammunition Plant
Milan, TN, Co: Carroll, Zip: 38358–
Status: Underutilized
Comment: 2506 sq. ft., 2 story wood frame residence.

Area Q—Housing Area—Q21
Property Number: 219110032
Fed Reg Date: 12/20/91
Project Name: Milan Army Ammunition Plant
Milan Army Ammunition Plant
Milan, TN, Co: Carroll, Zip: 38358–
Status: Underutilized
Comment: 2506 sq. ft., 2 story wood frame residence.

Area G—Housing Area—Q–26
Property Number: 219110033
Fed Reg Date: 12/20/91
Project Name: Milan Army Ammunition Plant
Milan Army Ammunition Plant
Milan, TN, Co: Carroll, Zip: 38358–
Status: Underutilized
Comment: 2506 sq. ft; 2 story wood frame residence.

Area Q—Housing Area—Q–28
Property Number: 219110034
Fed Reg Date: 12/20/91
Project Name: Milan Army Ammunition Plant
Milan Army Ammunition Plant
Milan, TN, Co: Carroll, Zip: 38358–
Status: Underutilized
Comment: 2024 sq. ft.; 2 story frame residence.

Area Q—Housing Area—Q–9
Property Number: 219110102
Fed Reg Date: 12/20/91
Project Name: Milan Army Ammunition Plant
Milan Army Ammunition Plant
Milan, TN, Co: Carroll, Zip: 38358–
Status: Underutilized
Comment: 2024 sq. ft.; two story residence.

Area Q—Housing Area—Q–4
Property Number: 219120272
Fed Reg Date: 12/20/91
Milan Army Ammunition Plant
Milan, TN, Co: Carroll, Zip: 38358–
Status: Underutilized
Comment: 2024 sq. ft.; 2 story wood frame, most recent use—residence, intermittently used during selected periods.

Area Q—Housing Area—Q–15
Property Number: 219120273
Fed Reg Date: 12/20/91
Milan Army Ammunition Plant
Milan, TN, Co: Carroll, Zip: 38358–
Status: Underutilized
Comment: 2024 sq. ft.; 2 story wood frame, most recent use—residence, intermittently used during selected periods.

Area Q—Housing Area—Q–19
Property Number: 219120274
Fed Reg Date: 12/20/91
Milan Army Ammunition Plant
Milan, TN, Co: Carroll, Zip: 38358–
Status: Underutilized
Comment: 2024 sq. ft.; 2 story wood frame, most recent use—residence, intermittently used during selected periods.

Texas

Land

Land Saginaw Army Aircraft Plt
Property Number: 219014814
Fed Reg Date: 12/20/91
Project Name: Saginaw Army Aircraft Plant
Saginaw, TX, Co: Tarrant, Zip: 76070–
Status: Unutilized
Comment: 154.3 acres; includes buildings/structures/parking and air strip.

Buildings

Bldg. T–227
Property Number: 219014275
Fed Reg Date: 12/20/91
Project Name: Fort Sam Houston
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–
Status: Excess
Comment: 2987 sq. ft.; 1 story wood structure, major rehab needed.

Bldg. 1189
Property Number: 219014276
Fed Reg Date: 12/20/91

Project Name: Fort Sam Houston
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–
Status: Excess
Comment: 9190 sq. ft.; 1 story wood structure; needs major rehabilitation.

Bldg. 1192
Property Number: 219014277
Fed Reg Date: 12/20/91
Project Name: Fort Sam Houston
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–
Status: Excess
Comment: 9190 sq. ft.; 1 story wood structure; needs major rehab.

Bldg. T–4001
Property Number: 219014278
Fed Reg Date: 12/20/91
Project Name: Fort Sam Houston
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–
Status: Underutilized
Comment: 48000 sq. ft.; 2 story wood frame building with metal siding; needs rehab; possible asbestos.

Bldg. T–4004
Property Number: 219014279
Fed Reg Date: 12/20/91
Project Name: Fort Sam Houston
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–
Status: Underutilized
Comment: 48000 sq. ft.; 1 story wood frame with metal siding; needs rehab; possible asbestos.

Bldg. T–1193
Property Number: 219014280
Fed Reg Date: 12/20/91
Project Name: Fort Sam Houston
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–
Status: Underutilized
Comment: 9190 sq. ft.; 1 story wood frame structure; needs major rehab.

Bldg. 2
Property Number: 219014815
Fed Reg Date: 12/20/91
Project Name: Saginaw Army Aircraft Plant
Saginaw Army Aircraft Plant
Saginaw, TX, Co: Tarrant, Zip: 76070–
Status: Unutilized
Comment: 94606 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 4
Property Number: 219014816
Fed Reg Date: 12/20/91
Project Name: Saginaw Army Aircraft Plant
Saginaw Army Aircraft Plant
Saginaw, TX, Co: Tarrant, Zip: 76070–
Status: Unutilized
Comment: 1350 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 17
Property Number: 219014817
Fed Reg Date: 12/20/91
Project Name: Saginaw Army Aircraft Plant
Saginaw Army Aircraft Plant
Saginaw, TX, Co: Tarrant, Zip: 76070–
Status: Unutilized
Comment: 68 sq. ft.; wood and metal frame; subject to sewer pipeline easement; needs rehab; most recent use—guard house.

Bldg. 29
Property Number: 219014818
Fed Reg Date: 12/20/91
Project Name: Saginaw Army Aircraft Plant
Saginaw Army Aircraft Plant
Saginaw, TX, Co: Tarrant, Zip: 76070–
Status: Unutilized
Comment: 5028 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 30
Property Number: 219014819
Fed Reg Date: 12/20/91
Project Name: Saginaw Army Aircraft Plant
Saginaw Army Aircraft Plant
Saginaw, TX, Co: Tarrant, Zip: 76070–
Status: Unutilized
Comment: 5323 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 18
Property Number: 219014820
Fed Reg Date: 12/20/91
Project Name: Saginaw Army Aircraft Plant
Saginaw Army Aircraft Plant
Saginaw, TX, Co: Tarrant, Zip: 76070–
Status: Unutilized
Comment: 9580 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 6
Property Number: 219014821
Fed Reg Date: 12/20/91
Project Name: Saginaw Army Aircraft Plant
Saginaw Army Aircraft Plant
Saginaw, TX, Co: Tarrant, Zip: 76070–
Status: Unutilized
Comment: 1258 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 7
Property Number: 219014822
Fed Reg Date: 12/20/91
Project Name: Saginaw Army Aircraft Plant
Saginaw Army Aircraft Plant
Saginaw, TX, Co: Tarrant, Zip: 76070–
Status: Unutilized
Comment: 508 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 8
Property Number: 219014824
Fed Reg Date: 12/20/91
Project Name: Saginaw Army Aircraft Plant
Saginaw Army Aircraft Plant
Saginaw, TX, Co: Tarrant, Zip: 76070–
Status: Unutilized
Comment: 171 sq. ft.; 2 story wood and metal frame; subject to sewer pipeline easement; needs rehab; most recent use—watch tower.

Bldg. 16
Property Number: 219014825
Fed Reg Date: 12/20/91
Project Name: Saginaw Army Aircraft Plant
Saginaw Army Aircraft Plant
Saginaw, TX, Co: Tarrant, Zip: 76070–
Status: Unutilized
Comment: 17263 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 19
Property Number: 219014826
Fed Reg Date: 12/20/91
Project Name: Saginaw Army Aircraft Plant
Saginaw Army Aircraft Plant
Saginaw, TX, Co: Tarrant, Zip: 76070–
Status: Unutilized
Comment: 25399 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 31
Property Number: 219014827
Fed Reg Date: 12/20/91
Project Name: Saginaw Army Aircraft Plant
Saginaw Army Aircraft Plant
Saginaw, TX, Co: Tarrant, Zip: 76070–
Status: Unutilized
Comment: 1392 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 9
Property Number: 219014828
Fed Reg Date: 12/20/91
Project Name: Saginaw Army Aircraft Plant
Saginaw Army Aircraft Plant
Saginaw, TX, Co: Tarrant, Zip: 76070–
Status: Unutilized
Comment: 244 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 25
Property Number: 219014829
Fed Reg Date: 12/20/91
Project Name: Saginaw Army Aircraft Plant
Saginaw Army Aircraft Plant
Saginaw, TX, Co: Tarrant, Zip: 76070–
Status: Unutilized
Comment: 1320 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab; most recent use—fire house.

Bldg. 10
Property Number: 219014830
Fed Reg Date: 12/20/91
Project Name: Saginaw Army Aircraft Plant
Saginaw Army Aircraft Plant
Saginaw, TX, Co: Tarrant, Zip: 76070–
Status: Unutilized
Comment: 354 sq. ft.; 2 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 26
Property Number: 219014831
Fed Reg Date: 12/20/91
Project Name: Saginaw Army Aircraft Plant
Saginaw Army Aircraft Plant
Saginaw, TX, Co: Tarrant, Zip: 76070–
Status: Unutilized
Comment: 3518 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 21
Property Number: 219014832
Fed Reg Date: 12/20/91
Project Name: Saginaw Army Aircraft Plant
Saginaw Army Aircraft Plant
Saginaw, TX, Co: Tarrant, Zip: 76070–
Status: Unutilized
Comment: 65 sq. ft.; wood and metal frame; subject to sewer pipeline easement; needs rehab; most recent use—guard house.

Bldg. 22
Property Number: 219014833
Fed Reg Date: 12/20/91
Project Name: Saginaw Army Aircraft Plant
Saginaw Army Aircraft Plant
Saginaw, TX, Co: Tarrant, Zip: 76070–
Status: Unutilized

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Comment: 50581 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 27
Property Number: 219014834
Fed Reg Date: 12/20/91
Project Name: Saginaw Army Aircraft Plant
Saginaw Army Aircraft Plant
Saginaw, TX, Co: Tarrant, Zip: 76070–
Status: Unutilized
Comment: 228 sq. ft.; 2 story wood and metal frame; subject to sewer pipeline easement; needs rehab; most recent use—control tower.

Bldg. 32
Property Number: 219014835
Fed Reg Date: 12/20/91
Project Name: Saginaw Army Aircraft Plant
Saginaw Army Aircraft Plant
Saginaw, TX, Co: Tarrant, Zip: 76070–
Status: Unutilized
Comment: 19546 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

T–4013
Property Number: 219030001
Fed Reg Date: 12/20/91
Project Name: Fort Sam Houston
Fort Sam Houston
San Antonio, TX, Co: Bexar, Zip: 78234–
Status: Underutilized
Comment: 64067 sq. ft.; 1 story wood frame; needs rehab; limited utilities. .

Bldg. 856
Property Number: 219030186
Fed Reg Date: 12/20/91
Project Name: Fort Bliss
Fort Bliss
856 Lufberry Road
El Paso, TX, Co: El Paso, Zip: 79916–
Status: Unutilized
Comment: 1770 net sq. ft.; 1 story wood frame; no utilities; needs major rehab; off-site use only.

Bldg. 4203
Property Number: 219110037
Fed Reg Date: 12/20/91
Project Name: Fort Bliss
Fort Bliss
4203 Ellerthrope Avenue
El Paso, TX, Co: El Paso, Zip: 79916–
Status: Unutilized
Comment: 4200 net sq. ft.; one story wood frame; off-site use only; most recent use—bowling center.

Bldg. 4769
Property Number: 219110038
Fed Reg Date: 12/20/91
Project Name: Fort Bliss
Fort Bliss
4769 Burgin Street, Logan Heights
El Paso, TX, Co: El Paso, Zip: 79916–
Status: Unutilized
Comment: 873 net sq. ft.; one story wood frame; off-site use only; most recent use—headquarters building.

Bldg. 4308—Fort Bliss, Tex.
Property Number: 219120121
Fed Reg Date: 12/20/91
4308 Link Road
El Pasó, TX, Co: El Paso, Zip: 79916–
Status: Unutilized
Comment: 4106 sq. ft., one story wood frame; needs rehab: most recent use—Skill Development Center; off-site use only.

Bldg. 4348—Fort Bliss, Tex.
Property Number: 219120122
Fed Reg Date: 12/20/91
4348 Leo Drive
El Paso, TX, Co: El Paso, Zip: 79916–
Status: Unutilized
Comment: 1829 sq. ft., one story wood frame; most recent use—vehicle maintenance shop; off-site use only.

Bldg. 4349—Fort Bliss, Tex.
Property Number: 219120123
Fed Reg Date: 12/20/91
4349 Leo Drive
El Paso, TX, Co: El Paso, Zip: 79916–
Status: Unutilized
Comment: 1829 sq. ft., one story wood frame, most recent use—vehicle maintenance shop; off-site use only.

Bldg. 4820—Fort Bliss, Tex.
Property Number: 219120133
Fed Reg Date: 12/20/91
4820 Hohenthal Avenue
Logan Heights
El Paso, TX, Co: El Paso, Zip: 79916–
Status: Unutilized
Comment: 873 sq. ft., one story wood frame; possible asbestos; most recent use—Day room; off-site use only.

Bldg. 4867—Fort Bliss,Tex.
Property Number: 219120139
Fed Reg Date: 12/20/91
4867 Burgin Street
El Paso, TX, Co: El Paso, Zip: 79916–
Status: Unutilized
Comment: 2169 sq. ft.; one story wood frame; presence of friable asbestos in boiler room; most recent use—instruction bldg.; off-site use only.

Bldg. 4868—Fort Bliss, Tex.
Property Number: 219120140
Fed Reg Date: 12/20/91
4868 Burgin Street
El Paso, TX, Co: El Paso, Zip: 79916–
Status: Unutilized
Comment: 873 sq. ft., one story wood frame; most recent use—Day room; off-site use only.

Bldg. 4875—Fort Bliss, Tex.
Property Number: 219120141
Fed Reg Date: 12/20/91
4875 Burgin Street
El Paso, TX, Co: El Paso, Zip; 79916–
Status: Unutilized
Comment: 2169 sq. ft., one story wood frame; presence of friable asbestos; most recent use—storage; off-site use only.

Bldg. 4877—Fort Bliss, Tex.
Property Number: 219120142
Fed Reg Date: 12/20/91
4877 Burgin Street
El Paso, TX, Co: El Paso, Zip: 79916–
Status: Unutilized
Comment: 873 sq. ft., one story wood frame; possible friable asbestos; most recent use—Day room; off-site use only.

Bldg. 4921—Fort Bliss, Tex.
Property Number: 219120143
Fed Reg Date: 12/20/91
4921 Ketcham Avenue
El Paso, TX, Co: El Paso, Zip: 79916–
Status: Unutilized
Comment: 1381 sq. ft.; one story wood frame; possible friable asbestos; most recent use—Day room; off-site use only.

Bldg. 4925—Fort Bliss, Tex.
Property Number: 219120144
Fed Reg Date: 12/20/91
4925 Ketcham Avenue
El Paso, TX, Co: El Paso, Zip: 79916–
Status: Unutilized
Comment: 2169 sq. ft., one story wood frame; limited utilities; possible friable asbestos; most recent use—storage; off-site use only.

Bldg. 4938—Fort Bliss, Tex.
Property Number: 219120145
Fed Reg Date: 12/20/91
4938 Burgin Street
El Paso, TX, Co: El Paso, Zip: 79916–
Status: Unutilized
Comment: 1770 sq. ft., one story wood frame; possible friable asbestos; most recent use—storage; off-site use only; limited utilities.

Bldg. 4940—Fort Bliss, Tex.
Property Number: 219120146
Fed Reg Date: 12/20/91
4940 Burgin Street
El Paso, TX, Co: El Paso, Zip: 79916–
Status: Unutilized
Comment: 1792 sq. ft., one story wood frame; possible friable asbestos; most recent use—storage; off-site use only; limited utilities.

Bldg. 11190—Fort Bliss, Tex.
Property Number: 219120147
Fed Reg Date: 12/20/91
11190 SGT E. Churchill Street
El Paso, TX, Co: El Paso, Zip: 79916–
Status: Unutilized
Comment: 600 sq. ft., one story wood frame; limited utilities; needs rehab; most recent use—storage; off-site use only.

Bldg. 11191—Fort Bliss, Tex.
Property Number: 219120148
Fed Reg Date: 12/20/91
11191 SGT E. Churchill Street
El Paso, TX, Co: El Paso, Zip: 79916–
Status: Unutilized
Comment: 1140 sq. ft., one story wood frame; limited utilities; most recent use—storage; off-site use only.

Harlingen USARC
Property Number: 219120304
Fed Reg Date: 12/20/91
1920 East Washington
Harlingen, TX, Co: Cameron, Zip: 78550–
Status: Excess
Comment: 19440 sq. ft., 1 story brick, needs rehab, with approx. 6 acres including parking areas, most recent use—Army Reserve Training Center.

Bldg. 666
Property Number: 219130020
Fed Reg Date: 12/27/91
Fort Bliss
666 Pleasonton Road
El Paso, TX, Co: El Paso, Zip: 79916–
Status: Unutilized
Comment: 972 sq. ft., one story wood frame, needs rehab, off-site use only, most recent use—general storehouse.

Bldg. 668
Property Number: 219130021
Fed Reg Date: 12/27/91
Fort Bliss
668 Pleasonton Road
El Paso, TX, Co: El Paso, Zip: 79916–
Status: Unutilized
Comment: 1770 sq. ft., one story wood frame, needs painting, most recent use—general storehouse, off-site use only.

Bldg. 839
Property Number: 219130022
Fed Reg Date: 12/27/91
Fort Bliss
839 Lufberry Road
El Paso, TX, Co: El Paso, Zip: 79916–
Status: Unutilized
Comment: 3540 sq. ft., two story wood frame, needs painting, most recent use—instructional bldg., off-site use only.

Bldg. 4746
Property Number: 219130023
Fed Reg Date: 12/27/91
Fort Bliss
4746 Grinder Avenue
El Paso, TX, Co: El Paso, Zip: 79916–
Status: Unutilized
Comment: 873 sq. ft., one story wood frame, needs painting, most recent use—day room, off-site use only.

Bldg. 4750
Property Number: 219130024
Fed Reg Date: 12/27/91
Fort Bliss
4750 Gatchell Avenue
El Paso, TX, Co: El Paso, Zip: 79916–
Status: Unutilized
Comment: 858 sq. ft., one story wood frame, needs painting, most recent use—general storehouse, off-site use only.

Bldg. 4759
Property Number: 219130025
Fed Reg Date: 12/27/91
Fort Bliss
4759 Grinder Avenue
El Paso, TX, Co: El Paso, Zip: 79916–
Status: Unutilized
Comment: 915 sq. ft., one story wood frame, needs painting, most recent use—general storehouse, off-site use only.

Bldg. 4760
Property Number: 219130026
Fed Reg Date: 12/27/91
Fort Bliss
4760 Gatchell Avenue
El Paso, TX, Co: El Paso, Zip: 79916–
Status: Unutilized
Comment: 915 sq. ft., one story wood frame, possible asbestos, most recent use—day room, off-site use only.

Bldg. 4767
Property Number: 219130027
Fed Reg Date: 12/27/91
Fort Bliss
4767 Burgin Street
El Paso, TX, Co: El Paso, Zip: 79916–
Status: Unutilized
Comment: 2169 sq. ft., one story wood frame, most recent use—general storehouse, presence of asbestos in boiler room, off-site use only.

Bldg. 4768
Property Number: 219130028
Fed Reg Date: 12/27/91
Fort Bliss
4768 Burgin Street
El Paso, TX, Co: El Paso, Zip: 79916–
Status: Unutilized
Comment: 873 sq. ft., one story wood frame, most recent use—administrative, presence of asbestos in boiler room, off-site use only.

Bldg. 4822
Property Number: 219130029
Fed Reg Date: 12/27/91
Fort Bliss
4822 Gatchell Avenue
El Paso, TX, Co: El Paso, Zip: 79916–
Status: Unutilized
Comment: 1770 sq. ft., one story wood frame, most recent use—general storehouse, off-site use only.

Bldg. 4831
Property Number: 219130030
Fed Reg Date: 12/27/91
Fort Bliss
4831 Hohenthal Avenue
El Paso, TX, Co: El Paso, Zip: 79916–
Status: Unutilized
Comment: 915 sq. ft., one story wood frame, most recent use—day room, off-site use only.

Bldg. 4840
Property Number: 219130031
Fed Reg Date: 12/27/91
Fort Bliss
4840 Burgin Street
El Paso, TX, Co: El Paso, Zip: 79916–
Status: Unutilized
Comment: 1770 sq. ft., one story wood frame, most recent use—instructional bldg., presence of asbestos in boiler room, off-site use only.

Bldg. 4852
Property Number: 219130032
Fed Reg Date: 12/27/91
Fort Bliss
4852 Hohenthal Avenue
El Paso, TX, Co: El Paso, Zip: 79916–
Status: Unutilized
Comment: 2169 sq. ft., one story wood frame, most recent use—instructional bldg., presence of asbestos in boiler room, off-site use only.

Bldg. 11254
Property Number: 219130033
Fed Reg Date: 12/27/91
Fort Bliss
11254 Sgt. F. Markle Street
El Paso, TX, Co: El Paso, Zip: 79916–
Status: Unutilized
Comment: 1312 sq. ft., one story wood frame, most recent use—administrative, needs painting, off-site use only.

Bldg. 509
Property Number: 219140001
Fed Reg Date: 12/27/91
Fort Hood
Old Battalion Avenue
Ft. Hood, TX, Co: Bell, Zip: 76544–
Status: Unutilized
Comment: 2880 sq. ft., 2 story wooden structure, needs rehab, most recent use—storage.

Bldg. 510
Property Number: 219140002
Fed Reg Date: 12/27/91
Fort Hood
Old Battalion Avenue
Ft. Hood, TX, Co: Bell, Zip: 76544–
Status: Unutilized
Comment: 2880 sq. ft., 2 story wood structure, needs rehab, most recent use—youth center.

Bldg. 912
Property Number: 219140035
Fed Reg Date: 12/27/91
Fort Hood
Central Drive
Ft. Hood, TX, Co: Bell, Zip: 76544–
Status: Unutilized
Comment: 2763 sq. ft., 1 story, needs rehab, most recent use—storage.

Bldg. 913
Property Number: 219140036
Fed Reg Date: 12/27/91
Fort Hood
Central Drive
Ft. Hood, TX, Co: Bell, Zip: 76544–
Status: Unutilized
Comment: 1215 sq. ft., 1 story, needs rehab, most recent use—storage.

Bldg. 944
Property Number: 219140037
Fed Reg Date: 12/27/91
Fort Hood
Old Park Avenue
Ft. Hood, TX, Co: Bell, Zip: 76544–
Status: Unutilized
Comment: 1098 sq. ft., 1 story, needs rehab, most recent use—storage.

Bldg. 1035
Property Number: 219140038
Fed Reg Date: 12/27/91
Fort Hood
Battalion Avenue
Ft. Hood, TX, Co: Bell, Zip: 76544–
Status: Unutilized
Comment: 23211 sq. ft., 1 story, needs rehab, most recent use—storage.

Bldg. 1057
Property Number: 219140039
Fed Reg Date: 12/27/91
Fort Hood
Battalion Avenue
Ft. Hood, TX, Co: Bell, Zip: 76544–
Status: Unutilized
Comment: 17100 sq. ft.; 1 story, needs rehab, most recent use—storage.

Virginia

Buildings

Bldg. T413
Property Number: 219010006
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T414
Property Number: 219010007
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T415
Property Number: 219010008
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T418
Property Number: 219010009
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–

Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.
Bldg. T421
Property Number: 219010010
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.
Bldg. T422
Property Number: 219010011
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.
Bldg. T423
Property Number: 219010012
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.
Bldg. T426
Property Number: 219010013
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.
Bldg. T427
Property Number: 219010014
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.
Bldg. T428
Property Number: 219010015
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.
Bldg. T431
Property Number: 219010016
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.
Bldg. T432
Property Number: 219010017
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.
Bldg. T433
Property Number: 219010018
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.
Bldg. T441
Property Number: 219010019
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.
Bldg. T442
Property Number: 219010020
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.
Bldg. T443
Property Number: 219010021
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.
Bldg. T446
Property Number: 219010022
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.
Bldg. T447
Property Number: 219010023
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.
Bldg. T448
Property Number: 219010024
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.
Bldg. T1724
Property Number: 219010025
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.
Bldg. T1726
Property Number: 219010026
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.
Bldg. T1727
Property Number: 219010027
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.
Bldg. 1876
Property Number: 219010028
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.
Bldg. T1877
Property Number: 219010029
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.
Bldg. T2213
Property Number: 219010030
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.
Bldg. T2413
Property Number: 219010031
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.
Bldg. T2414
Property Number: 219010032
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.
Bldg. 2415
Property Number: 219010033
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.
Bldg. 2418
Property Number: 219010034
Fed Reg Date: 12/20/91
Project Name: Fort Pickett

Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. 2419
Property Number: 219010035
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2420
Property Number: 219010036
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2421
Property Number: 219010037
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2422
Property Number: 219010038
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2423
Property Number: 219010039
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2424
Property Number: 219010040
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2427
Property Number: 219010041
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2428
Property Number: 219010042
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2429
Property Number: 219010043
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2430
Property Number: 219010044
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2437
Property Number: 219010045
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2438
Property Number: 219010046
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2439
Property Number: 219010047
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2442
Property Number: 219010048
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2443
Property Number: 219010049
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2444
Property Number: 219010050
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2445
Property Number: 219010051
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2446
Property Number: 219010052
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2447
Property Number: 219010053
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2448
Property Number: 219010054
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2451
Property Number: 219010055
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2452
Property Number: 219010056
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2453
Property Number: 219010057
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2615
Property Number: 219010058
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2616
Property Number: 219010059

Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T1363
Property Number: 219010060
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T1364
Property Number: 219010061
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2208
Property Number: 219010062
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2209
Property Number: 219010063
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T1349
Property Number: 219010064
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T1350
Property Number: 219010065
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T1351
Property Number: 219010066
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T1354
Property Number: 219010067
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T1355
Property Number: 219010068
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T3042
Property Number: 219010069
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T3043
Property Number: 219010070
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T3044
Property Number: 219010071
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T3045
Property Number: 219010072
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T3046
Property Number: 219010073
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T3047
Property Number: 219010074
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T3048
Property Number: 219010075
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T3051
Property Number: 219010076
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T3052
Property Number: 219010077
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T3053
Property Number: 219010078
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T3054
Property Number: 219010079
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T435
Property Number: 219010080
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 2900 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T436
Property Number: 219010081
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 2900 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T437
Property Number: 219010082
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 2900 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T438
Property Number: 219010083
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized

Comment: 2900 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T440
Property Number: 219010084
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 2900 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T1718
Property Number: 219010085
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 2900 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2226
Property Number: 219010086
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 2900 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T1662
Property Number: 219010087
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 2900 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2411
Property Number: 219010088
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 2900 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2412
Property Number: 219010089
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 2900 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2431
Property Number: 219010090
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 2900 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2433
Property Number: 219010091
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 2900 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2434
Property Number: 219010092
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 2900 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2455
Property Number: 219010093
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 2900 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2456
Property Number: 219010094
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 2900 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2457
Property Number: 219010095
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 2900 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2612
Property Number: 219010096
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 2900 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2613
Property Number: 219010097
Fed Reg Date; 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 2900 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2614
Property Number: 219010098
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 2900 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2633
Property Number: 219010099
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 2900 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2635
Property Number: 219010100
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 2900 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2636
Property Number: 219010101
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 2900 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2638
Property Number: 219010102
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 2900 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2657
Property Number: 219010103
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 2900 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. T2659
Property Number: 219010104
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Unutilized
Comment: 2900 sq. ft.; selected periods are reserved for military/training exercises.

Bldg. 1676
Property Number: 219010971
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23930–
Status: Underutilized
Comment: 3300 sq. ft.; selected periods are reserved for military/training exercises; most recent use—Hdqts. Bldg.

Bldg. 1663
Property Number: 219010972
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises, most recent use—barracks.

Bldg. 1677
Property Number: 219010973
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23930–
Status: Underutilized
Comment: 3300 sq. sq. ft.; selected periods reserved for military/training exercises; most recent use—Hdqts. Bldg.

Bldg. 1666

Property Number: 219010974
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 1300 sq. sq. ft.; selected periods are reserved for military/training exericses; most recent use—Hdqts. Bldg.

Bldg. 1687
Property Number: 219010975
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 1300 sq. ft.; selected periods are reserved for military/training exercises; most recent use—Hdqts. Bldg.

Bldg. 1664
Property Number: 219010976
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises; most recent use—barracks.

Bldg. 1696
Property Number: 219010977
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23930–
Status: Underutilized.
Comment: 1300 sq. ft.; selected periods are reserved for military/training exercises; most recent use—Hdqts. Bldg.

Bldg. 1667
Property Number: 219010978
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23930–
Status: Underutilized
Comment: 11000 sq. ft.; most recent use—mess hall; selected periods are reserved for military/training exercises.

Bldg. T2617
Property Number: 219010979
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises; most recent use—barracks.

Bldg. 1686
Property Number: 219010980
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 11000 sq. ft.; most recent use—mess hall; selected periods are reserved for military/training exercises.

Bldg. 1690
Property Number: 219010981
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2300 sq. ft.; selected periods are reserved for military/training exercises; most recent use—storage.

Bldg. T2620
Property Number: 219010982
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises; most recent use—barracks.

Bldg. 2810
Property Number: 219010983
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 3500 sq. ft.; most recent use—recreation; selected periods are reserved for military/training exercises.

Bldg. T2621
Property Number: 219010984
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises; most recent use—barracks.

Bldg. 2809
Property Number: 219010985
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 1200 sq. ft.; most recent use—recreation; selected periods are reserved for military/training exercises.

Bldg. 2801
Property Number: 219010986
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 1200 sq. ft.; most recent use—recreation; selected periods are reserved for military/training exercises.

Bldg. T2622
Property Number: 219010987
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises; most recent use—barracks.

Bldg. 2802
Property Number: 219010988
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2200 sq. ft.; most recent use—Recreation Bldg; selected periods are reserved for military/training exercises.

Bldg. 2808
Property Number: 219010989
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2200 sq. ft.; most recent use—Recreation Bldg; selected periods are reserved for military/training exercises.

Bldg. T2623
Property Number: 219010990
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises; most recent use—barracks.

Bldg. 1315
Property Number: 219010991
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23930–
Status: Underutilized
Comment: 4038 sq. ft.; most recent use—housing; selected periods are reserved for military/training exercises.

Bldg. 1316
Property Number: 219010992
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23930–
Status: Underutilized
Comment: 4038 sq. ft.; most recent use—housing; selected periods are reserved for military/training exercises.

Bldg. T2624
Property Number: 219010993
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises; most recent use—barracks.

Bldg. T1348
Property Number: 219010994
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2256 sq. ft.; most recent use—housing; selected periods are reserved for military/training exercises.

Bldg. T2625
Property Number: 219010995
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises; most recent use—barracks.

Bldg. T1365
Property Number: 219010996
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett

Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2256 sq. ft.; most recent use—housing; selected periods are reserved for military/training exercises.

Bldg. 1309
Property Number: 219010997
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2256 sq. ft.; most recent use—housing; selected periods are reserved for military/training exercises.

Bldg. T2626
Property Number: 219010998
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 4292 selected periods are reserved for military/training exercises; most recent use—barracks.

Bldg. 2610
Property Number: 219010999
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2256 sq. ft.; most recent use—housing; selected periods are reserved for military/training exercises.

Bldg. T2629
Property Number: 219011000
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises; most recent use—barracks.

Bldg. T3055
Property Number: 219011001
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2307 sq. ft.; most recent use—recreation facility; selected periods are reserved for military/training exercises.

Bldg. T1367
Property Number: 219011002
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; selected priods reserved for military/training exercises; most recent use—recreation/adm.

Bldg. T2630
Property Number: 219011003
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises; most recent use—barracks.

Bldg. T1886
Property Number: 219011004
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; selected periods reserved for military/training exercises; most recent use—recreation/adm.

Bldg. 1887
Property Number: 219011005
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; selected periods reserved for military/training exercises; most recent use—recreation/adm.

Bldg. 2205
Property Number: 219011006
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; selected periods reserved for military/training exercises; most recent use—recreation/adm.

Bldg. 2207
Property Number: 219011007
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; selected periods reserved for military/training exercises; most recent use—recreation/adm.

Bldg. 2227
Property Number: 219011008
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; selected periods reserved for military/training exercises; most recent use—recreation/adm.

Bldg. 2228
Property Number: 219011009
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; selected periods reserved for military/training exercises; most recent use—recreation/adm.

Bldg. T2631
Property Number: 219011010
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 4292 sq. ft.; selected periods reserved for military/training exercises; most recent use—barracks.

Bldg. 2811
Property Number: 219011011
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; selected periods reserved for military/training exercises; most recent use—recreation/adm.

Bldg. T2832
Property Number: 219011012
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 4292 sq. ft.; selected periods reserved for military/training exercises; most recent use—barracks.

Bldg. 2832
Property Number: 219011013
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; selected periods reserved for military/training exercises; most recent use—recreation/adm.

Bldg. 2639
Property Number: 219011014
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 4292 sq. ft.; selected periods reserved for military/training exercises; most recent use—barracks.

Bldg. 2834
Property Number: 219011015
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; selected periods reserved for military/training exercises; most recent use—recreation/adm.

Bldg. 2835
Property Number: 219011016
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; selected periods reserved for military/training exercises; most recent use—recreation/adm.

Bldg. T2640
Property Number: 219011017
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 4292 sq. ft; selected periods are reserved for military/training exercises; most recent use—barracks.

Bldg. 2837
Property Number: 219011018
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized

Comment: 2900 sq. ft; selected periods are reserved for military/training exercise; most recent use—recreation/adm.

Bldg. 2858
Property Number: 219011019
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft; selected periods are reserved for military/training exercises most recent use—recreation/adm.

Bldg. T2641
Property Number: 219011020
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 4292 sq. ft; selected periods are reserved for military/training exercises; most recent use—barracks.

Bldg. 3016
Property Number: 219011021
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft; selected periods are reserved for military/training exercises; most recent use—recreation/adm.

Bldg. 3017
Property Number: 219011022
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft; selected periods are reserved for military/training exercises; most recent use—recreation/adm.

Bldg. 2644
Property Number: 219011023
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 4292 sq. ft; selected periods are reserved for military/training exercises; most recent use—barracks.

Bldg. 3031
Property Number: 219011024
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft; selected periods are reserved for military/training exercises; most recent use—recreation/adm.

Bldg. 3032
Property Number: 219011025
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft; selected periods are reserved for military/training exercises; most recent use—recreation/adm.

Bldg. 3033
Property Number: 219011026
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft; selected periods are reserved for military/training exercises; most recent use—recreation/adm.

Bldg. 2645
Property Number: 219011027
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 4292 sq. ft; selected periods are reserved for military/training exercises; most recent use—barracks.

Bldg. 3034
Property Number: 219011028
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft; selected periods are reserved for military/training exercises; most recent use—recreation/adm.

Bldg. 3035
Property Number: 219011029
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft; selected periods are reserved for military/training exercises; most recent use—recreation/adm.

Bldg. 3036
Property Number: 219011030
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft; selected periods are reserved for military/training exercises; most recent use—recreation/adm.

Bldg. 3037
Property Number: 219011031
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft; selected periods are reserved for military/training exercises; most recent use—recreation/adm.

Bldg. 2646
Property Number: 219011032
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 4292 sq. ft; selected periods are reserved for military/training exercises; most recent use—barracks.

Bldg. 2647
Property Number: 219011033
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 4292 sq. ft; selected periods are reserved for military/training exercises; most recent use—barracks.

Bldg. 2648
Property Number: 219011034
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 4292 sq. ft; selected periods are reserved for military/training exercises; most recent use—barracks.

Bldg. 2650
Property Number: 219011035
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 4292 sq. ft; selected periods are reserved for military/training exercises; most recent use—barracks.

Bldg. 2814
Property Number: 219011036
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 4292 sq. ft; selected periods are reserved for military/training exercises; most recent use—barracks.

Bldg. 1662
Property Number: 219011037
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2500 sq. ft; selected periods are reserved for military/training exercises; most recent use—Hdqts. Bldg.

Bldg. 2815
Property Number: 219011038
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 4292 sq. ft.; selected periods are reserved for military training exercises; most recent use—barracks.

Bldg. 1665
Property Number: 219011039
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2500 sq. ft.; selected periods reserved for military/training exercises; most recent use—Hdqts Bldg.

Bldg. T2852
Property Number: 219011040
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 4292 sq. ft.; selected periods are reserved for military training exercises; most recent use—barracks.

Bldg. 1688
Property Number: 219011041
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2500 sq. ft.; selected periods reserved for military/training exercises; most recent use—Hdqts Bldg.

Bldg. 1689
Property Number: 219011042
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2500 sq. ft.; selected periods reserved for military/training exercises; most recent use—Hdqts Bldg.

Bldg. T2853
Property Number: 219011043
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 4292 sq. ft.; selected periods are reserved for military training exercises; most recent use—barracks.

Bldg. 1691
Property Number: 219011044
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2500 sq. ft.; selected periods reserved for military/training exercises; most recent use—Hdqts Bldg.

Bldg. 2402
Property Number: 219011045
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 1176 sq. ft.; selected periods of time reserved for military training exercises; most recent use—Hdqts Bldg.

Bldg. T2854
Property Number: 219011046
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 4292 sq. ft.; selected periods are reserved for military training exercises; most recent use—barracks.

Bldg. T2855
Property Number: 219011047
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 4292 sq. ft.; selected periods are reserved for military training exercises; most recent use—barracks.

Bldg. 2869
Property Number: 219011048
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23930–
Status: Underutilized
Comment: 1176 sq. ft.; selected periods of time reserved for military/training exercises; most recent use—Hdqts Bldg.

Bldg. T2410
Property Number: 219011049
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23930–
Status: Underutilized
Comment: 1176 sq. ft.; selected periods of time reserved for military/training exercises; most recent use—Hdqts Bldg.

Bldg. 1897
Property Number: 219011050
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2761 sq. ft.; most recent use—veh. maint. shop; selected periods are reserved for military/training exercises.

Bldg. 3002
Property Number: 219011051
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23930–
Status: Underutilized
Comment: 1176 sq. ft.; selected periods of time reserved for military/training exercises; most recent use—Hdqts Bldg.

Bldg. 3005
Property Number: 219011052
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23930–
Status: Underutilized
Comment: 1176 sq. ft.; selected periods of time reserved for military/training exercises; most recent use—Hdqts Bldg.

Bldg. 2229
Property Number: 219011053
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2761 sq. ft.; most recent use—veh. maint. shop; selected periods are for military/training exercises.

Bldg. 2238
Property Number: 219011054
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2761 sq. ft.; most recent use—veh. maint. shop; selected periods are reserved for military/training exercises.

Bldg. 2239
Property Number: 219011055
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2761 sq. ft.; most recent use—veh. maint. shop; selected periods are reserved for military/training exercises.

Bldg. 2373
Property Number: 219011056
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2761 sq. ft.; most recent use—veh. maint. shop; selected periods are reserved for military/training exercises.

Bldg. 2462
Property Number: 219011057
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2761 sq. ft.; most recent use—veh. maint. shop; selected periods are reserved for military/training exercises.

Bldg. 2463
Property Number: 219011058
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2761 sq. ft.; most recent use—veh. maint. shop; selected periods are reserved for military/training exercises.

Bldg. 2671
Property Number: 219011059
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2761 sq. ft.; most recent use—veh. maint. shop; selected periods are reserved for military/training exercises.

Bldg. T412
Property Number: 219011060
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; most recent use—dining facility; selected periods are reserved for military/training exercises.

Bldg. 2672
Property Number: 219011061
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2761 sq. ft.; most recent use—veh. maint. shop; selected periods are reserved for military/training exercises.

Bldg. 2673
Property Number: 219011062
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2761 sq. ft.; most recent use—veh. maint. shop; selected periods are reserved for military/training exercises.

Bldg. 2864
Property Number: 219011063
Fed Reg Date: 12/20/91
Project Name: Fort Pickett

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Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2761 sq. ft.; most recent use—veh. maint. shop; selected periods are reserved for military/training exercises.

Bldg. T424
Property Number: 219011064
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; most recent use—dining facility; selected periods are reserved for military/training exercises.

Bldg. T425
Property Number: 219011065
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; most recent use—dining facility; selected periods are reserved for military/training exercises.

Bldg. 2865
Property Number: 219011066
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2761 sq. ft.; most recent use—veh. maint. shop; selected periods are reserved for military/training exercises.

Bldg. T434
Property Number: 219011067
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; most recent use—dining facility; selected periods are reserved for military/training exercises.

Bldg. T444
Property Number: 219011068
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; most recent use—dining facility; selected periods are reserved for military/training exercises.

Bldg. 3061
Property Number: 219011069
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2761 sq. ft.; most recent use—veh. maint. shop; selected periods are reserved for military/training exercises.

Bldg. T445
Property Number: 219011070
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; most recent use—dining facility; selected periods are reserved for military/training exercises.

Bldg. T1860
Property Number: 219011071
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; most recent use—dining facility; selected periods are reserved for military/training exercises.

Bldg. 3062
Property Number: 219011072
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2761 sq. ft.; most recent use—veh. maint. shop; selected periods are reserved for military/training exercises.

Bldg. 2416
Property Number: 219011073
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; most recent use—dining facility; selected periods are reserved for military/training exercises.

Bldg. T2425
Property Number: 219011074
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; most recent use—dining facility; selected periods are reserved for military/training exercises.

Bldg. 3063
Property Number: 219011075
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2761 sq. ft.; most recent use—veh. maint. shop; selected periods are reserved for military/training exercises.

Bldg. T2426
Property Number: 219011076
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; most recent use—dining facility; selected periods are reserved for military/training exercises.

Bldg. 2440
Property Number: 219011077
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; most recent use—dining facility; selected periods are reserved for military/training exercises.

Bldg. 1725
Property Number: 219011078
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2300 sq. ft.; most recent use—dining fac; selected periods are reserved for military/training exercises.

Bldg. 2441
Property Number: 219011079
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; most recent use—dining facility; selected periods are reserved for military/training exercises.

Bldg. 2449
Property Number: 219011080
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; most recent use—dining facility; selected periods are reserved for military/training exercises.

Bldg. 2450
Property Number: 219011081
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; most recent use—dining facility; selected periods are reserved for military/training exercises.

Bldg. 2608
Property Number: 219011082
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2300 sq. ft.; most recent use—dining fac; selected periods are reserved for military/training exercises.

Bldg. 2618
Property Number: 219011083
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; most recent use—dining facility; selected periods are reserved for military/training exercises.

Bldg. 2651
Property Number: 219011084
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2300 sq. ft.; most recent use—dining fac; selected periods are reserved for military/training exercises.

Bldg. 2619
Property Number: 219011085
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett

Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; most recent use—dining facility; selected periods are reserved for military/training exercises.

Bldg. 2627
Property Number: 219011086
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; most recent use—dining facility; selected periods are reserved for military/training exercises.

Bldg. 2803
Property Number: 219011087
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2300 sq. ft.; most recent use—dining fac; selected periods are reserved for military/training exercises.

Bldg. 2628
Property Number: 219011088
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; most recent use—dining facility; selected periods are reserved for military/training exercises.

Bldg. 2642
Property Number: 219011089
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; most recent use—dining facility; selected periods are reserved for military/training exercises.

Bldg. 2817
Property Number: 219011090
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2300 sq. ft.; most recent use—dining fac; selected periods are reserved for military/training exercises.

Bldg. 2643
Property Number: 219011091
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; most recent use—dining facility; selected periods are reserved for military/training exercises.

Bldg. 1352
Property Number: 219011092
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 3500 sq. ft.; most recent—dining fac; selected periods are reserved for military/training exercises.

Bldg. 2652
Property Number: 219011093
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; most recent use—dining facility; selected periods are reserved for military/training exercises.

Bldg. 3026
Property Number: 219011095
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 3500 sq. ft.; most recent use—dining fac; selected periods are reserved for military/training exercises.

Bldg. 1357
Property Number: 219011096
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; most recent use—dining fac; selected periods are reserved for military/training exercises.

Bldg. 1358
Property Number: 219011097
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; most recent use—dining fac; selected periods are reserved for military/training exercises.

Bldg. 2211
Property Number: 219011098
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; most recent use—dining fac; selected periods are reserved for military/training exercises.

Bldg. 2220
Property Number: 219011099
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; most recent use—dining fac; selected periods are reserved for military/training exercises.

Bldg. 2221
Property Number: 219011100
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; most recent use—dining fac; selected periods are reserved for military/training exercises.

Bldg. 2826
Property Number: 219011101
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; most recent use—dining fac; selected periods are reserved for military/training exercises.

Bldg. 2827
Property Number: 219011102
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; most recent use—dining fac; selected periods are reserved for military/training exercises.

Bldg. 2841
Property Number: 219011103
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; most recent use—dining fac; selected periods are reserved for military/training exercises.

Bldg. 2842
Property Number: 219011105
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; most recent use—dining fac; selected periods are reserved for military/training exercises.

Bldg. 2850
Property Number: 219011107
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; most recent use—dining fac; selected periods are reserved for military/training exercises.

Bldg. 2851
Property Number: 219011114
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; most recent use—dining fac; selected periods are reserved for military/training exercises.

Bldg. 3010
Property Number: 219011118
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; most recent use—dining fac; selected periods are reserved for military/training exercises.

Bldg. 3012
Property Number: 219011121
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized

Comment: 2900 sq. ft.; most recent use—dining fac; selected periods are reserved for military/training exercises.

Bldg. 3025
Property Number: 219011140
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; most recent use—dining fac; selected periods are reserved for military/training exercises.

Bldg. 3040
Property Number: 219011143
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; most recent use—dining fac; selected periods are reserved for military/training exercises.

Bldg. 3041
Property Number: 219011145
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; most recent use—dining fac; selected periods are reserved for military/training exercises.

Bldg. 3049
Property Number: 219011146
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; most recent use—dining fac; selected periods are reserved for military/training exercises.

Bldg. 3050
Property Number: 219011147
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; most recent use—dining fac; selected periods are reserved for military/training exercises.

Bldg. 1932
Property Number: 219012310
Fed Reg Date: 12/20/91
Project Name: Fort Belvoir
Fort Belvoir
Goethals Road
Fort Belvoir, VA, Co: Fairfax, Zip: 22060–
Status: Unutilized
Comment: 13780 sq. ft.; 2 floors; most recent use—storage; All utilities have been removed; needs rehab.

Bldg. 2222
Property Number: 219012315
Fed Reg Date: 12/20/91
Project Name: Fort Belvoir
Fort Belvoir
Fort Belvoir, VA, Co: Fairfax, Zip: 22060–
Location: West of Foster Road
Status: Unutilized
Comment: 3800 sq. ft. per floor; 2 floors; concrete foundation/frame building; no utilities.

Bldg. 1932
Property Number: 219012316
Fed Reg Date: 12/20/91
Project Name: Fort Belvoir
Fort Belvoir
Goethals Road
Fort Belvoir, VA, Co: Fairfax, Zip: 22060–
Status: Unutilized
Comment: 6890 sq. ft. per floor; two floors; frame on concrete foundation; possible asbestos; utilities disconnected; quarters.

Bldg. T–6015
Property Number: 219012376
Fed Reg Date: 12/20/91
Project Name: U.S. Army Logistics Center
U.S. Army Logistics Center and Fort Lee
Shop Road
Fort Lee, VA, Co: Prince George, Zip: 23801–
Status: Unutilized
Comment: 2124 sq. ft.; 2 story; most recent use—barracks; poor condition; needs major rehab.

Bldg. T–6018
Property Number: 219012396
Fed Reg Date: 12/20/91
Project Name: U.S. Army Logistics Center
U.S. Army Logistics Center and Fort Lee
Shop Road
Fort Lee, VA, Co: Prince George, Zip: 23801–
Status: Unutilized
Comment: 1575 sq. ft., 1 floor, no utilities, possible asbestos, needs rehab, off site use only.

Bldg. 227
Property Number: 219012555
Fed Reg Date: 12/20/91
Project Name: Fort Belvoir
Fort Belvoir
OPS General Purpose
Fort Belvoir, VA, Co: Fairfax, Zip: 22060–
Location: Off Middleton Road
Status: Unutilized
Comment: 900 sq. ft., 1 floor, most recent use—administration, needs major construction/rehab.

Bldg. T2050
Property Number: 219012797
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Comment: 2900 sq. ft.; 1 story; selected periods are reserved for military/training exercises.

Bldg. 2232
Property Number: 219013767
Fed Reg Date: 12/20/91
Project Name: Fort Belvoir Military Res.
Fort Belvoir Military Reservation
West of Foster Road
Fort Belvoir, VA, Co: Fairfax, Zip: 22060–
Status: Unutilized
Comment: 3800 sq. ft.; 2 story concrete and wood; possible asbestos; most recent use—storage.

Bldg. T–12054
Property Number: 219030328
Fed Reg Date: 12/20/91
Project Name: U.S. Army Logistics Center
U.S. Army Logistics Center and Fort Lee
Logistics Circle
Fort Lee, VA, Co: Prince George, Zip: 23801–
Status: Unutilized
Comment: 4095 sq. ft.; 1 story sheet metal; needs rehab; presence of asbestos; off-site use only.

Bldg. #43-Admin. Gen Purp Bldg.
Property Number: 219120100
Fed Reg Date: 12/20/91
Fort Myer
Washington Avenue
Fort Myer, VA, Co: Arlington, Zip: 22211–
Status: Unutilized
Comment: 1341 sq. ft., two story, brick/wood siding, needs major rehab, possible asbestos, off-site use only.

Bldg. 97
Property Number: 219130005
Fed Reg Date: 12/27/91
Fort Monroe
Fort Monroe, VA, Zip: 23651–
Status: Unutilized
Comment: 2220 sq. ft., one story, most recent use—photo lab, needs major rehab, on National Register of Historic Landmarks.

Bldg. 45
Property Number: 219140034
Fed Reg Date: 12/27/91
Fort Myer
Washington Avenue
Ft. Myer, VA, Co: Arlington, Zip: 22211–
Status: Unutilized
Comment: 2034 sq. ft., 2 story brick/wood residence, needs rehab, presence of asbestos, off-site use only.

Bldg. 442, Warehouse Bldg.
Property Number: 219140074
Fed Reg Date: 12/27/91
Fort Myer
Pershing Drive
Ft. Myer, VA, Co: Arlington, Zip: 22211–
Status: Unutilized
Comment: 6088 sq. ft., 1 story, concrete floor contaminated with trichloroethane and perchloroethylene, presence of lead-based paint, off-site use only.

Bldg. 442A, Warehouse Bldg.
Property Number: 219140075
Fed Reg Date: 12/27/91
Fort Myer
Pershing Drive
Ft. Myer, VA, Co: Arlington, Zip: 22211–
Status: Unutilized
Comment: 6088 sq. ft., 1 story, concrete floor contaminated with trichloroethane and perchloroethylene, presence of lead-based paint, off-site use only.

Bldg. 443, Dry Cleaning Plant
Property Number: 219140076
Fed Reg Date: 12/27/91
Fort Myer
Pershing Drive
Ft. Myer, VA, Co: Arlington, Zip: 22211–
Status: Unutilized
Comment: 3650 sq. ft., 1 story brick masonry, contaminated with trichloroethane, perchloroethylene and lead-based paint, off-site use only.

Washington

Buildings

Bldg. 875
Property Number: 219011616
Fed Reg Date: 12/20/91
Project Name: East 10th Street & Cabell Road
East 10th Street & Cabell Road
Vancouver Barracks

Vancouver, WA, Co: Clark, Zip: 98661–3896
Status: Excess
Comment: 13,695 sq. ft., 2 story wood frame, extensive fire damage, Historic property.

Bldg. 701
Property Number: 219011628
Fed Reg Date: 12/20/91
Project Name: SE Corner, McClelland & McLoug
SE Corner, McClelland & McLoughlin Road
Vancouver Barracks
Vancouver, WA, Co: Clark, Zip: 98661–3896
Status: Unutilized
Comment: 1 story wood frame, needs extensive repairs, Historic property.

Wisconsin

Buildings

Bldg. T–1058
Property Number: 219013435
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 4829 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–10122
Property Number: 219013436
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 1900 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–10123
Property Number: 219013437
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 2405 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–10135
Property Number: 219013438
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 97 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings; most recent use—power plant.

Bldg. T–10136
Property Number: 219013439
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 96 sq. ft.; 1 story frame; possible asbestos; hospital/patient ward buildings; most recent use—power plant.

Bldg. T–10127
Property Number: 219013440
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 1148 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. P–10119
Property Number: 219013441
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 215 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. P–10137
Property Number: 219013442
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 192 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings; most recent use—power plant.

Bldg. T–01088
Property Number: 219013444
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 5295 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01089
Property Number: 219013445
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 5295 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01090
Property Number: 219013446
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 5295 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01091
Property Number: 219013447
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 5295 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01092
Property Number: 219013448
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 5295 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01093
Property Number: 219013449
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 5295 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–10118
Property Number: 219013450
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 1250 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–10120
Property Number: 219013451
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 1250 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01094
Property Number: 219013452
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 5295 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01095
Property Number: 219013453
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 5295 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01096
Property Number: 219013454
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized

Comment: 5295 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01097
Property Number: 219013455
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 5295 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–10113
Property Number: 219013456
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 2393 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01014
Property Number: 219013457
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 5295 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–10121
Property Number: 219013458
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 506 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–10100
Property Number: 219013459
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 3944 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–10101
Property Number: 219013460
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 3944 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–10102
Property Number: 219013461
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 3944 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–10103
Property Number: 219013462
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 3944 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–10105
Property Number: 219013463
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 3944 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–10106
Property Number: 219013464
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 4105 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–10107
Property Number: 219013465
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 3944 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–10108
Property Number: 219013466
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 3944 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–10124
Property Number: 219013467
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 3115 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–10125
Property Number: 219013468
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 3590 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–10126
Property Number: 219013469
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 3590 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–10110
Property Number: 219013470
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 2548 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings; most recent use—vehicle storage.

Bldg. T–01027
Property Number: 219013471
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 4829 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01028
Property Number: 219013472
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 4829 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01029
Property Number: 219013473
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 4829 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01030
Property Number: 219013474
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 4829 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01035
Property Number: 219013475
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4829 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01036
Property Number: 219013476
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4829 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01037
Property Number: 219013477
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4829 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01038
Property Number: 219013478
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4829 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01039
Property Number: 219013479
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4829 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01040
Property Number: 219013480
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4829 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01042
Property Number: 219013481
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4686 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01043
Property Number: 219013482
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4686 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01044
Property Number: 219013483
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4829 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01045
Property Number: 219013484
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4686 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01046
Property Number: 219013485
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4829 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01047
Property Number: 219013486
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4829 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01048
Property Number: 219013487
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4829 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01049
Property Number: 219013488
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4829 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01050
Property Number: 219013489
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4829 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01051
Property Number: 219013490
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4829 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01052
Property Number: 219013491
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4829 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01053
Property Number: 219013492
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4829 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01059
Property Number: 219013493
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4829 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01060
Property Number: 219013494
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4686 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01061
Property Number: 219013495
Fed Reg Date: 12/20/91

Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4686 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01062
Property Number: 219013496
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4686 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01063
Property Number: 219013497
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4829 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01065
Property Number: 219013498
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4793 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01066
Property Number: 219013499
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4793 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01067
Property Number: 219013500
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4793 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01068
Property Number: 219013501
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4848 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01069
Property Number: 219013502
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4829 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01032
Property Number: 219013503
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 5588 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01034
Property Number: 219013504
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4829 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01041
Property Number: 219013505
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4829 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01054
Property Number: 219013506
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4184 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01033
Property Number: 219013507
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 5241 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-10112
Property Number: 219013508
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 1273 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings; most recent use—morgue.

Bldg. T-01031
Property Number: 219013509
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4813 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01002
Property Number: 219013510
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 2573 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01010
Property Number: 219013511
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 8799 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-10109
Property Number: 219013512
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 2000 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01098
Property Number: 219013513
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 7133 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01099
Property Number: 219013514
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 3294 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01022
Property Number: 219013515
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized

Comment: 4686 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01023
Property Number: 219013516
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4686 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01024
Property Number: 219013517
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4686 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01025
Property Number: 219013518
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4686 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01057
Property Number: 219013519
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4829 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01064
Property Number: 219013520
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4686 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01071
Property Number: 219013521
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4829 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01072
Property Number: 219013522
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4829 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01073
Property Number: 219013523
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4829 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01074
Property Number: 219013524
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4829 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01075
Property Number: 219013525
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4829 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01076
Property Number: 219013526
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4829 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01077
Property Number: 219013527
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4829 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01078
Property Number: 219013528
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4829 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01079
Property Number: 219013529
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4829 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01080
Property Number: 219013530
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4829 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01082
Property Number: 219013531
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4829 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01083
Property Number: 219013532
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4829 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01084
Property Number: 219013533
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4829 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01085
Property Number: 219013534
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4686 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01086
Property Number: 219013535
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656-5000
Status: Unutilized
Comment: 4686 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01003

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Property Number: 219013536
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 3386 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01001
Property Number: 219013537
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 3350 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01005
Property Number: 219013538
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 3253 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01020
Property Number: 219013539
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 4150 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01070
Property Number: 219013540
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 7133 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01061
Property Number: 219013541
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 7133 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01006
Property Number: 219013542
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 5295 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01007
Property Number: 219013543
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 5295 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01009
Property Number: 219013544
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 5295 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01011
Property Number: 219013545
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 4236 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01012
Property Number: 219013546
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 5295 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01013
Property Number: 219013547
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 5295 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01015
Property Number: 219013548
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 5295 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01016
Property Number: 219013549
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 5295 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01017
Property Number: 219013550
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 5295 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01018
Property Number: 219013551
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 5295 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01021
Property Number: 219013552
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 4236 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01004
Property Number: 219013553
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 2815 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01019
Property Number: 219013554
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 2815 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01056
Property Number: 219013555
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 15657 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T–01000
Property Number: 219013556
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy

Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 3378 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings; most recent use—fire station.

Bldg. T–01055
Property Number: 219013557
Fed Reg Date: 12/20/91
Project Name: Fort McCoy
Fort McCoy
Army Hospital Complex
Sparta, WI, Co: Monroe, Zip: 54656–5000
Status: Unutilized
Comment: 5471 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Summary of Properties for Army

Buildings = 1,262
Land = 16
Total Suitable and Available by agency = 1,278

COE

Alabama

Buildings

Bldg. TU–43
Property Number: 319011549
Fed Reg Date: 12/06/91
Project Name: Millers Ferry Lock and Dam
Millers Ferry Lock and Dam
Route 1, Box 102
Camden, AL, Co: Wilcox, Zip: 36726–
Status: Unutilized
Comment: 1000 sq. ft.; 1 story frame residence; needs minor repair; most recent use—lock tender's dwelling.

Bldg. TU–22
Property Number: 319011551
Fed Reg Date: 12/06/91
Project Name: Selden Lock and Dam
Selden Lock and Dam
Route 1
Sawyerville, AL, Co: Hale, Zip: 36776–
Status: Unutilized
Comment: 1080 sq. ft., 1 story frame residence; needs minor repair; most recent use—lock tender's dwelling.

Bldg. TU–21
Property Number: 319011552
Fed Reg Date: 12/06/91
Project Name: Selden Lock and Dam
Selden Lock and Dam
Route 1
Sawyerville, AL, Co: Hale, Zip: 36776–
Status: Unutilized
Comment: 1080 sq. ft., 1 story frame residence; needs minor repair; most recent use—lock tender's dwelling.

Bldg. TU–23
Property Number: 319011553
Fed Reg Date: 12/06/91
Project Name: Selden Lock and Dam
Selden Lock and Dam
Route 1
Sawyerville, AL, Co: Hale, Zip: 36776–
Status: Unutilized
Comment: 1080 sq. ft., 1 story frame residence; needs minor repair; most recent use—lock tender's dwelling.

Bldg. TU–24
Property Number: 319011554
Fed Reg Date: 12/06/91
Project Name: Selden Lock and Dam
Selden Lock and Damm
Route 1
Sawyerville, AL, Co: Hale, Zip: 36776–
Status: Unutilized
Comment: 1080 sq. ft., 1 story frame residence; needs minor repair; most recent use—lock tender's dwelling.

Bldg. TU–15
Property Number: 319011550
Fed Reg Date: 12/06/91
Project Name: Coffeeville Lock and Dam
Coffeeville Lock and Dam
Star Route Box 77
Blandon Springs, AL, Co: Choctaw, Zip: 36919–
Status: Unutilized
Comment: 1547 sq. ft.; 1 story frame residence; most recent use—lock tender's dwelling.

Arkansas

Land

Parcel 01
Property Number: 319010071
Fed Reg Date: 12/06/91
Project Name: DeGray Lake
DeGray Lake
Section 12
Arkadelphia, AR, Co: Clark, Zip: 71923–9361
Status: Unutilized
Comment: 77.6 acres.

Parcel 02
Property Number: 319010072
Fed Reg Date: 12/06/91
Project Name: DeGray Lake
DeGray Lake
Section 13
Arkadelphia, AR, Co: Clark, Zip: 71923–9361
Status: Unutilized
Comment: 198.5 acres.

Parcel 03
Property Number: 319010073
Fed Reg Date: 12/06/91
Project Name: DeGray Lake
DeGray Lake
Section 18
Arkadelphia, AR, Co: Clark, Zip: 71923–9361
Status: Unutilized
Comment: 50.46 acres.

Parcel 04
Property Number: 319010074
Fed Reg Date: 12/06/91
Project Name: DeGray Lake
DeGray Lake
Section 24, 25, 30 and 31
Arkadelphia, AR, Co: Clark, Zip: 71923–9361
Status: Unutilized
Comment: 236.37 acres.

Parcel 05
Property Number: 319010075
Fed Reg Date: 12/06/91
Project Name: DeGray Lake
DeGray Lake
Section 16
Arkadelphia, AR, Co: Clark, Zip: 71923–9361
Status: Unutilized
Comment: 187.30 acres.

Parcel 06
Property Number: 319010076
Fed Reg Date: 12/06/91
Project Name: DeGray Lake
DeGray Lake
Section 13
Arkadelphia, AR, Co: Clark, Zip: 71923–9361
Status: Unutilized
Comment: 13.0 acres

Parcel 07
Property Number: 319010077
Fed Reg Date: 12/06/91
Project Name: DeGray Lake
DeGray Lake
Section 34
Arkadelphia, AR, Co: Hot Springs, Zip: 71923–9361
Status: Unutilized
Comment: 0.27 acres.

Parcel 08
Property Number: 319010078
Fed Reg Date: 12/06/91
Project Name: DeGray Lake
DeGray Lake
Section 13
Arkadelphia, AR, Co: Clark, Zip: 71923–9361
Status: Unutilized
Comment: 14.6 acres.

Parcel 09
Property Number: 319010079
Fed Reg Date: 12/06/91
Project Name: DeGray Lake
DeGray Lake
Section 12
Arkadelphia, AR, Co: Hot Springs, Zip: 71923–9361
Status: Unutilized
Comment: 6.60 acres.

Parcel 10
Property Number: 319010080
Fed Reg Date: 12/06/91
Project Name: DeGray Lake
DeGray Lake
Section 12
Arkadelphia, AR, Co: Hot Springs, Zip: 71923–9361
Status: Unutilized
Comment: 4.5 acres.

Parcel 11
Property Number: 319010081
Fed Reg Date: 12/06/91
Project Name: DeGray Lake
DeGray Lake
Section 19
Arkadelphia, AR, Co: Hot Springs, Zip: 71923–9361
Status: Unutilized
Comment: 19.50 acres.

Lake Greeson
Property Number: 319010083
Fed Reg Date: 12/06/91
Project Name: Lake Greeson
Section 7, 8, and 18
Murfreesboro, AR, Co: Pike, Zip: 71958–9720
Status: Unutilized
Comment: 46 acres.

California

Land

Lake Mendocino
Property Number: 319011015
Fed Reg Date: 12/06/91
Project Name: Lake Mendocino
1160 Lake Mendocino Drive
Ukiah, CA, Co: Mendocino, Zip: 95482–9404
Status: Unutilized
Comment: 20 acres; steep, dense brush; potential utilities.

New Hogan Lake
Property Number: 319011017

Fed Reg Date: 12/06/91
Project Name: New Hogan Lake
2713 Hogan Dam Road
Valley Springs, CA, Co: Calaveras, Zip: 95252-0128
Status: Unutilized
Comment: 3.08 acres; potential utilities; brush covered.

Buildings

Santa Fe Flood Control Basin
Property Number: 319011298
Fed Reg Date: 12/06/91
Project Name: Sante Fe Flood Control Basin
Irwindale, CA, Co: Los Angeles, Zip: 91706-
Status: Unutilized
Comment: 1400 sq. ft.; 1 story stucco; needs rehab; termite damage; secured area with alternate access.

Florida

Buildings

Bldg. CN-3
Property Number: 319130006
Fed Reg Date: 12/06/91
1651 S. Franklin Lock Road
Alva, FL, Co: Lee, Zip 33920-
Status: Unutilized
Comment: 1500 sq. ft., 1 story concrete block residence, off-site use only.

Idaho

Buildings

Bldg.
Property Number: 319110028
Fed Reg Date: 12/06/91
Project Name: Albeni Falls Dam
Albeni Falls Dam
U.S. Highway 2, Priest River
Bonner, ID, Co: Bonner, Zip: 83856-
Location: 3½ miles west of Priest River.
Status: Unutilized
Comment: 2989 sq. ft.; 3 story log construction with wood frame; off-site removal only; needs rehab.

Kansas

Land

Parcel 1
Property Number: 319010064
Fed Reg Date: 12/06/91
Project Name: El Dorado Lake
El Dorado Lake
Section 13, 24, and 18
(See County), KS, Co: Butler, Zip:
Status: Unutilized
Comment: 61 acres; most recent use—recreation.

Kentucky

Land

Tract 2625
Property Number: 319010025
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Cadiz, KY, Co: Trigg, Zip: 42211-
Location: Adjoining the village of Rockcastle.
Status: Excess
Comment: 2.57 acres; rolling and wooded.

Tract 2709-10 and 2710-2
Property Number: 319010026
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Cadiz, KY, Co: Trigg, Zip: 42211-
Location: 2½ miles in a southerly direction from the village of Rockcastle.
Status: Excess
Comment: 2.00 acres; steep and wooded.

Tract 2708-1 and 2709-1
Property Number: 319010027
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Cadiz, KY, Co: Trigg, Zip: 42211-
Location: 2½ miles in a southerly direction from the village of Rockcastle.
Status: Excess
Comment: 3.59 acres; rolling and wooded; no utilities.

Tract 2800
Property Number: 319010028
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Cadiz, KY, Co: Trigg, Zip: 42211-
Location: 4½ miles in a southeasterly direction from the village of Rockcastle.
Status: Excess
Comment: 5.44 acres; steep and wooded.

Tract 2915
Property Number: 319010029
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Cadiz, KY, Co: Trigg, Zip: 42211-
Location: 6½ miles west of Cadiz.
Status: Excess
Comment: 5.76 acres; steep and wooded; no utilities.

Tract 2702
Property Number: 319010031
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Cadiz, KY, Co: Trigg, Zip: 42211-
Location: 1 mile in a southerly direction from the village of Rockcastle.
Status: Excess
Comment: 4.90 acres; wooded; no utilities.

Tract 4318
Property Number: 319010032
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Canton, KY, Co: Trigg, Zip: 42212-
Location: Trigg Co. adjoining the city of Canton, KY on the waters of Hopson Creek.
Status: Excess
Comment: 8.24 acres; steep and wooded.

Tract 4502
Property Number: 319010033
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Canton, KY, Co: Trigg, Zip: 42212-
Location: 3½ miles in a southerly direction from Canton, KY.
Status: Excess
Comment: 4.26 acres; steep and wooded.

Tract 4611
Property Number: 319010034
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Canton, KY, Co: Trigg, Zip: 42212-
Location: 5 miles south of Canton, KY.
Status: Excess
Comment: 10.51 acres; steep and wooded; no utilities.

Tract 4619
Property Number: 319010035
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Canton, KY, Co: Trigg, Zip: 42212-
Location: 4½ miles south from Canton, KY.
Status: Excess
Comment: 2.02 acres; steep and wooded; no utilities.

Tract 4617
Property Number: 319010036
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Canton, KY, Co: Trigg, Zip: 42212-
Location: 6½ miles south of Canton, KY.
Status: Excess
Comment: 1.75 acres; wooded.

Tract 1217
Property Number: 319010042
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Eddyville, KY, Co: Lyon, Zip: 42030-
Location: On the north side of the Illinois Central Railroad.
Status: Excess
Comment: 5.80 acres; steep and wooded.

Tract 1906
Property Number: 319010044
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Eddyville, KY, Co: Lyon, Zip: 42030-
Location: Approximately 4 miles east of Eddyville, KY.
Status: Excess
Comment: 25.86 acres; rolling steep and partially wooded; no utilities.

Tract 1907
Property Number: 319010045
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Eddyville, KY, Co: Lyon, Zip: 42030-
Location: On the waters of Pilfen Creek, 4 miles east of Eddyville, KY.
Status: Excess
Comment: 8.71 acres; rolling steep and wooded; no utilities.

Tract 2001 #1
Property Number: 319010046
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Eddyville, KY, Co: Lyon, Zip: 42030-
Location: Approximately 4½ miles east of Eddyville, KY.
Status: Excess
Comment: 47.42 acres; steep and wooded; no utilities.

Tract 2001 #2
Property Number: 319010047
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Eddyville, KY, Co: Lyon, Zip: 42030-
Location: Approximately 4½ miles east of Eddyville, KY.
Status: Excess

Comment: 8.64 acres; steep and wooded; no utilities.

Tract 2005
Property Number: 319010048
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Eddyville, KY, Co: Lyon, Zip: 42030–
Location: Approximately 5½ miles east of Eddyville, KY.
Status: Excess
Comment: 4.62 acres; steep and wooded; no utilities.

Tract 2307
Property Number: 319010049
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Eddyville, KY, Co: Lyon, Zip: 42030–
Location: Approximately 7½ miles southeasterly of Eddyville, KY.
Status: Excess
Comment: 11.43 acres; steep; rolling and wooded; no utilities.

Tract 2403
Property Number: 319010050
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Eddyville, KY, Co: Lyon, Zip: 42030–
Location: 7 miles southeasterly of Eddyville, KY.
Status: Excess
Comment: 1.56 acres; steep and wooded; no utilities.

Tract 2504
Property Number: 319010051
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Eddyville, KY, Co: Lyon, Zip: 42030–
Location: 9 miles southeasterly of Eddyville, KY.
Status: Excess
Comment: 24.46 acres; steep and wooded; no utilities.

Tract 214
Property Number: 319010052
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Grand Rivers, KY, Co: Lyon, Zip: 42045–
Location: South of the Illinois Central Railroad, 1 mile east of the Cumberland River.
Status: Excess
Comment: 5.5 acres; wooded; no utilities.

Tract 215
Property Number: 319010053
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Grand Rivers, KY, Co: Lyon, Zip: 42045–
Location: 5 miles southwest of Kuttawa.
Status: Excess
Comment: 1.40 acres; wooded; no utilities.

Tract 241
Property Number: 319010054
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Grand Rivers, KY, Co: Lyon, Zip: 42045–
Location: Old Henson Ferry Road, 6 miles west of Kuttawa, KY.
Status: Excess
Comment: 1.26 acres; steep and wooded; no utilities.

Tracts 306, 311, 315 and 325
Property Number: 319010055
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Grand Rivers, KY, Co: Lyon, Zip: 42045–
Location: 2.5 miles southwest of Kuttawa, KY on the waters of Cypress Creek.
Status: Excess
Comment: 38.77 acres; steep and wooded; no utilities.

Tracts 2305, 2306, and 2400–1
Property Number: 319010056
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Eddyville, KY, Co: Lyon, Zip: 42030–
Location: 6½ miles southeasterly of Eddyville, KY.
Status: Excess
Comment: 97.66 acres; steep rolling and wooded; no utilities.

Tract 500–2
Property Number: 319010057
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Kuttawa, KY, Co: Lyon, Zip: 42055–
Location: Situated on the waters of Poplar Creek, approximately 1 mile southwest of Kuttawa, KY.
Status: Excess
Comment: 3.58 acres; hillside ridgeland and wooded; no utilities.

Tracts 5203 and 5204
Property Number: 319010058
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Linton, KY, Co: Trigg, Zip: 42212–
Location: Village of Linton, KY state highway 1254.
Status: Excess
Comment: 0.93 acres; rolling, partially wooded; no utilities.

Tract 5240
Property Number: 319010059
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Linton, KY, Co: Trigg, Zip: 42212–
Location: 1 mile northwest of Linton, KY.
Status: Excess
Comment: 2.28 acres; steep and wooded; no utilities.

Tract 4628
Property Number: 319011621
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Canton, KY, Co: Trigg, Zip: 42212–
Location: 4½ miles south from Canton, KY.
Status: Excess
Comment: 3.71 acres; steep and wooded; subject to utility easements.

Tract 4619–B
Property Number: 319011622
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Canton, KY, Co: Trigg, Zip: 42212–
Location: 4½ miles south from Canton, KY.
Status: Excess
Comment: 1.73 acres; steep and wooded; subject to utility easements.

Tract 2403–B
Property Number: 319011623
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Eddyville, KY, Co: Lyon, Zip: 42038–
Location: 7 miles southeasterly from Eddyville, KY.
Status: Unutilized
Comment: 0.70 acres; wooded; subject to utility easements.

Tract 241–B
Property Number: 319011624
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Grand Rivers, KY, Co: Lyon, Zip: 42045–
Location: South of Old Henson Ferry Road, 6 miles west of Kuttawa, KY.
Status: Excess
Comment: 11.16 acres; steep and wooded; subject to utility easements.

Tracts 212 and 237
Property Number: 319011625
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Grand Rivers, KY, Co: Lyon, Zip: 42045–
Location: Old Henson Ferry Road, 6 miles west of Kuttawa, KY.
Status: Excess
Comment: 2.44 acres; steep and wooded; subject to utility easements.

Tract 215–B
Property Number: 319011626
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Grand Rivers, KY, Co: Lyon, Zip: 42045–
Location: 5 miles southwest of Kuttawa
Status: Excess
Comment: 1.00 acres; wooded; subject to utility easements.

Tract 233
Property Number: 319011627
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake, Kentucky and Tennessee
Grand Rivers, KY, Co: Lyon, Zip: 42045–
Location: 5 miles southwest of Kuttawa
Status: Excess
Comment: 1.00 acres; wooded; subject to utility easements.

Buildings

Green River Lock & Dam #3
Property Number: 319010022
Fed Reg Date: 12/06/91
Project Name: Green River Lock & Dam #3
Rochester, KY, Co: Butler, Zip: 42273–
Location: SR 70 west from Morgantown, KY., approximately 7 miles to site.
Status: Unutilized
Comment: 980 sq. ft.; 2 story wood frame; two story residence; potential utilities; needs major rehab.

Louisana

Land

Wallace Lake Dam and Reservoir
Property Number: 319011009
Fed Reg Date: 12/06/91

Project Name: Wallace Lake Dam and Reservoir
Shreveport, LA, Co: Caddo, Zip: 71103–
Status: Unutilized
Comment: 11 acres; wildlife/forestry; no utilities.

Bayou Bodcau Dam and Reservoir
Property Number: 319011010
Fed Reg Date: 12/06/91
Project Name: Bayou Bodcau Dam and Reservoir
Haughton, LA, Co: Caddo, Zip: 71037–9707
Location: 35 miles Northeast of Shreveport, La.
Status: Unutilized
Comment: 203 acres; wildlife/forestry; no utilities.

Minnesota

Land

Parcel D
Property Number: 319011038
Fed Reg Date: 12/06/91
Project Name: Pine River
Pine River
Cross Lake, MN, Co: Crow Wing, Zip: 56442–
Location: 3 miles from city of Cross Lake, between highways 6 and 371.
Status: Excess
Comment: 17 acres; no utilities.

Tract 92
Property Number: 319011040
Fed Reg Date: 12/06/91
Project Name: Sandy Lake
Sandy Lake
McGregor, MN, Co: Aitkins, Zip: 55760–
Location: 4 miles west of highway 65, 15 miles from city of McGregor.
Status: Excess
Comment: 4 acres; no utilities.

Tract 98
Property Number: 319011041
Fed Reg Date: 12/06/91
Project Name: Leech Lake
Leech Lake
Benedict, MN, Co: Hubbard, Zip: 56641–
Location: 1 mile from city of Federal Dam, Mn.
Status: Excess
Comment: 7.3 acres; no utilities.

Buildings

Orwell Dam Reservoir
Property Number: 319011039
Fed Reg Date: 12/06/91
Project Name: Orwell Dam Reservoir
RFD #4, Box 100
Fergus Falls, MN, Co: Ottertail, Zip: 56537–
Location: Off highway 210, 12 miles from Fergus Falls.
Status: Unutilized
Comment: 1040 sq. ft.; frame house; possible asbestos; potential utilities.

Missouri

Land

Harry S Truman Dam & Reservoir
Property Number: 319030014
Fed Reg Date: 12/06/91
Project Name: Harry S Truman Dam & Reservoir
Warsaw, MO, Co: Benton, Zip: 65355–
Location: Triangular shaped parcel southwest of access road "B", part of Bledsoe Ferry Park Tract 150.
Status: Underutilized
Comment: 1.7 acres; potential utilities.

Mississippi

Land

Parcel 7
Property Number: 319011019
Fed Reg Date: 12/06/91
Project Name: Grenada Lake
Grenada Lake
Sections 22, 23, T24N
Grenada, MS, Co: Yalobusha, Zip: 38901–0903
Status: Underutilized
Comment: 100 acres; no utilities; intermittently used under lease—expires 1994.

Parcel 8
Property Number: 319011020
Fed Reg Date: 12/06/91
Project Name: Grenada Lake
Grenada Lake
Section 20, T24N
Grenada, MS, Co: Yalobusha, Zip: 38901–0903
Status: Underutilized
Comment: 30 acres; no utilities; intermittently used under lease—expires 1994.

Parcel 9
Property Number: 319011021
Fed Reg Date: 12/06/91
Project Name: Grenada Lake
Grenada Lake
Section 20, T24N, R7E
Grenada, MS, Co: Yalobusha, Zip: 38901–0903
Status: Underutilized
Comment: 23 acres; no utilities; intermittently used under lease—expires 1994.

Parcel 10
Property Number: 319011022
Fed Reg Date: 12/06/91
Project Name: Grenada Lake
Grenada Lake
Sections 16, 17, 18, T24N, R6E
Grenada, MS, Co: Calhoun, Zip: 38901–0903
Status: Underutilized
Comment: 490 acres; no utilities; intermittently used under lease—expires 1994.

Parcel 2
Property Number: 319011023
Fed Reg Date: 12/06/91
Project Name: Grenada Lake
Grenada Lake
Sections 20 and T23N, R5E
Grenada, MS, Co: Grenada, Zip: 38901–0903
Status: Underutilized
Comment: 60 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 3
Property Number: 319011024
Fed Reg Date: 12/06/91
Project Name: Grenada Lake
Grenada Lake
Sections 4, T23N, R5E
Grenada, MS, Co: Yalobusha, Zip: 38901–0903
Status: Underutilized
Comment: 120 acres; no utilities; most recent use—wildlife and forestry management; (13.5 acres/agriculture lease).

Parcel 4
Property Number: 319011025
Fed Reg Date: 12/06/91
Project Name: Grenada Lake
Grenada Lake
Section 2 and 3, T23N, R5E
Grenada, MS, Co: Yalobusha, Zip: 38901–0903
Status: Underutilized
Comment: 60 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 5
Property Number: 319011026
Fed Reg Date: 12/06/91
Project Name: Grenada Lake
Grenada Lake
Section 7, T24N, R6E
Grenada, MS, Co: Yalobusha, Zip: 38901–0903
Status: Underutilized
Comment: 20 acres; no utilities; most recent use—wildlife and forestry management; (14 acres/agriculture lease).

Parcel 6
Property Number: 319011027
Fed Reg Date: 12/06/91
Project Name: Grenada Lake
Grenada Lake
Section 9, T24N, R6E
Grenada, MS, Co: Yalobusha, Zip: 38903–0903
Status: Underutilized
Comment: 80 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 11
Property Number: 319011028
Fed Reg Date: 12/06/91
Project Name: Grenada Lake
Grenada Lake
Section 20, T24N, R6E
Grenada, MS, Co: Calhoun, Zip: 38901–0903
Status: Underutilized
Comment: 30 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 12
Property Number: 319011029
Fed Reg Date: 12/06/91
Project Name: Grenada Lake
Grenada Lake
Section 25, T24N, R7E
Grenada, MS, Co: Yalobusha, Zip: 38390–0903
Status: Underutilized
Comment: 30 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 13
Property Number: 319011030
Fed Reg Date: 12/06/91
Project Name: Grenada Lake
Grenada Lake
Section 34, T24N, R7E
Grenada, MS, Co: Yalobusha, Zip: 38903–0903
Status: Underutilized
Comment: 35 acres; no utilities; most recent use—wildlife and forestry management; (11 acres/agriculture lease).

Parcel 14
Property Number: 319011031
Fed Reg Date: 12/06/91
Project Name: Grenada Lake
Grenada Lake
Section 3, T23N, R6E
Grenada, MS, Co: Yalobusha, Zip: 38901–0903
Status: Underutilized
Comment: 15 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 15
Property Number: 319011032
Fed Reg Date: 12/06/91
Project Name: Grenada Lake
Grenada Lake
Section 4, T24N, R6E
Grenada, MS, Co: Yalobusha, Zip: 38901–0903
Status: Underutilized

Comment: 40 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 16
Property Number: 319011033
Fed Reg Date: 12/06/91
Project Name: Grenada Lake
Grenada Lake
Section 9, T23N, R6E
Grenada, MS, Co: Yalobusha, Zip: 38901–0903
Status: Underutilized
Comment: 70 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 17
Property Number: 319011034
Fed Reg Date: 12/06/91
Project Name: Grenada Lake
Grenada Lake
Section 17, T23N, R7E
Grenada, MS, Co: GrenadaYalobusha, Zip: 28901–0903
Status: Underutilized
Comment: 35 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 18
Property Number: 319011035
Fed Reg Date: 12/06/91
Project Name: Grenada Lake
Grenada Lake
Section 22, T23N, R7E
Grenada, MS, Co: Grenada, Zip: 28901–0903
Status: Underutilized
Comment: 10 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 19
Property Number: 319011036
Fed Reg Date: 12/06/91
Project Name: Grenada Lake
Grenada Lake
Section 9, T22N, R7E
Grenada, MS, Co: Grenada, Zip: 38901–0903
Status: Underutilized
Comment: 20 acres; no utilities; most recent use—wildlife and forestry management.

New Mexico

Buildings

Bldg. 3W
Property Number: 319011507
Fed Reg Date: 12/06/91
Project Name: Conchas Lake Project
Conchas Lake Project
(See County), NM, Co: San Miquel, Zip: 88416–
Status: Underutilized
Comment: 1000 sq. ft.; 1 story adobe residence; intermittently occupied.

Ohio

Land

Hannibal Locks and Dam
Property Number: 319010015
Fed Reg Date: 12/06/91
Project Name: Hannibal Locks and Dam
Ohio River
P.O. Box 8
Hannibal, OH, Co: Monroe, Zip: 43931–0008
Location: Adjacent to the new Martinsville Bridge.
Status: Underutilized
Comment: 22 acres; river bank.

Buildings

Barker Historic House
Property Number: 319120018
Fed Reg Date: 12/06/91
Willow Island Locks and Dam
Newport, OH, Co: Washington, Zip: 45768–9801
Location: Located at lock site, downstream of lock and dam structure
Status: Unutilized
Comment: 1600 sq. ft. bldg. with one-half acre of land, 2 story brick frame, needs rehab, on Natl Register of Historic Places, no utilities, off-site use only.

Oklahoma

Land

Pine Creek Lake
Property Number: 319010923
Fed Reg Date: 12/06/91
Project Name: Pine Creek Lake
Section 27
(See County), OK, Co: McCurtain, Zip:
Status: Unutilized
Comment: 3 acres; no utilities; subject to right of way for Oklahoma State Highway 3.

Pennsylvania

Land

Mahoning Creek Lake
Property Number: 319010018
Fed Reg Date: 12/06/91
Project Name: Mahoning Creek Lake
New Bethlehem, PA, Co: Armstrong, Zip: 16242–9603
Location: Route 28 north to Belknap, Road #4
Status: Excess
Comment: 2.58 acres; steep and densely wooded.

Tracts 610, 611, 612
Property Number: 319011001
Fed Reg Date: 12/06/91
Project Name: Shenango River Lake
Shenango River Lake
Sharpsville, PA, Co: Mercer, Zip: 16150–
Location: I–79 North, I–80 West, Exit Sharon. R18 North 4 miles, left on R518, right on Mercer Avenue.
Status: Excess
Comment: 24.09 acres; subject to flowage easement.

Tracts L24, L26
Property Number: 319011011
Fed Reg Date: 12/06/91
Project Name: Crooked Creek Lake
Crooked Creek Lake
(See County), PA, Co: Armstrong, Zip: 03051–
Location: Left bank—55 miles downstream of dam.
Status: Unutilized
Comment: 7.89 acres; potential for utilities.

South Carolina

Buildings

Bldg. 1
Property Number: 319011544
Fed Reg Date: 12/06/91
Project Name: J.S. Thurmond Dam & Reservoir
J.S. Thurmond Dam and Reservoir
Clarks Hill, SC, Co: McCormick, Zip: 29821–
Location: ½ mile east of Resource Managers Office.
Status: Excess
Comment: 1900 sq. ft.; 1 story masonry frame; possible asbestos; most recent use—storage.

Bldg. 2
Property Number: 319011545
Fed Reg Date: 12/06/91
Project Name: J.S. Thurmond Dam & Reservoir
J.S. Thurmond Dam and Reservoir
Clarks Hill, SC, Co: McCormick, Zip: 29821–
Location: ½ mile east of Resource Managers Office.
Status: Excess
Comment: 1900 sq. ft.; 1 story masonry frame; possible asbestos; most recent use—storage.

Bldg. 3
Property Number: 319011546
Fed Reg Date: 12/06/91
Project Name: J.S. Thurmond Dam & Reservoir
J.S. Thurmond Dam and Reservoir
Clarks Hill, SC, Co: McCormick, Zip: 29821–
Location: ½ mile east of Resource Managers Office.
Status: Excess
Comment: 1900 sq. ft.; 1 story masonry frame; possible asbestos; most recent use—storage.

Bldg. 4
Property Number: 319011547
Fed Reg Date: 12/06/91
Project Name: J.S. Thurmond Dam & Reservoir
J.S. Thurmond Dam and Reservoir
Clarks Hill, SC, Co: McCormick, Zip: 29821–
Location: ½ mile east of Resource Managers Office.
Status: Excess
Comment: 1900 sq. ft.; 1 story masonry frame; possible asbestos; most recent use—storage.

Bldg. 5
Property Number: 319011548
Fed Reg Date: 12/06/91
Project Name: J.S. Thurmond Dam & Reservoir
J.S. Thurmond Dam and Reservoir
Clarks Hill, SC, Co: McCormick, Zip:
Location: ½ miles east of Resource Managers Office.
Status: Excess
Comment: 1900 sq. ft.; 1 story masonry frame; possible asbestos; most recent use—storage.

Tennessee

Land

Tract 6827
Property Number: 319010927
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake
Dover, TN, Co: Stewart, Zip: 37058–
Location: 2½ miles west of Dover, TN.
Status: Excess
Comment: .57 acres; subject to existing easements.

Tracts 6002–2 and 6010
Property Number: 319010928
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake
Dover, TN, Co: Stewart, Zip: 37058–
Location: 3½ miles south of village of Tabaccoport.
Status: Excess
Comment: 100.86 acres; subject to existing easements.

Tract 11516
Property Number: 319010929
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake
Ashland City, TN, Co: Dickson, Zip: 37015–
Location: ½ mile downstream from Cheatham Dam.
Status: Excess
Comment: 26.25 acres; subject to existing easements.

Tract 2319
Property Number: 319010930
Fed Reg Date: 12/06/91
Project Name: J. Percy Priest Dam
J. Percy Priest Dam and Reservoir
Murfreesboro, TN, Co: Rutherford, Zip: 37130–
Location: West of Buckeye Bottom Road.
Status: Excess
Comment: 14.48 acres; subject to existing easements.

Tract 2227
Property Number: 319010931
Fed Reg Date: 12/06/91
Project Name: J. Percy Priest Dam
J. Percy Priest Dam
Murfreesboro, TN, Co: Rutherford, Zip: 37130–
Location: Old Jefferson Pike.
Status: Excess
Comment: 2.27 acres; subject to existing easements

Tract 2107
Property Number: 319010932
Fed Reg Date: 12/06/91
Project Name: J. Percy Priest Dam
J. Percy Priest Dam and Reservoir
Murfreesboro, TN, Co: Rutherford, Zip: 37130–
Location: Across Fall Creek near Fall Creek camping area.
Status: Excess
Comment: 14.85 acres; subject to existing easements.

Tracts 2601, 2602, 2603, 2604
Property Number: 319010933
Fed Reg Date: 12/06/91
Project Name: Cordell Hull Lake & Dam Pro.
Cordell Lake and Dam Project
Doe Row Creek
Gainesboro, TN, Co: Jackson, Zip: 38562–
Location: TN Highway 56.
Status: Unutilized
Comment: 11 acres; subject to existing easements.

Tract 1911
Property Number: 319010934
Fed Reg Date: 12/06/91
Project Name: J. Percy Priest Dam
J. Percy Priest Dam and Reservoir
Murfreesboro, TN, Co: Rutherford, Zip: 37130–
Location: East of Lamar Road.
Status: Excess
Comment: 15.31 acres; subject to existing easements.

Tract 2321
Property Number: 319010935
Fed Reg Date: 12/06/91
Project Name: J. Percy Priest Dam
J. Percy Priest Dam and Reservoir
Murfreesboro, TN, Co: Rutherford, Zip: 37130–
Location: South of Old Jefferson Pike.
Status: Excess
Comment: 12 acres; subject to existing easements.

Tract 7206
Property Number: 319010936
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake
Dover, TN, Co: Stewart, Zip: 37058–
Location: 2½ miles SE of Dover, TN.
Status: Excess
Comment: 10.15 acres; subject to existing easements.

Tracts 8813, 8814
Property Number: 319010937
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake
Cumberland, TN, Co: Stewart, Zip: 37050–
Location: 1½ miles East of Cumberland City.
Status: Excess
Comment: 96 acres; subject to existing easements.

Tract 8911
Property Number: 319010938
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake
Cumberland City, TN, Co: Montgomery, Zip: 37050–
Location: 4 miles east of Cumberland City.
Status: Excess
Comment: 7.7 acres; subject to existing easements.

Tract 11503
Property Number: 319010939
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake
Ashland City, TN, Co: Cheatham, Zip: 37015–
Location: 2 miles downstream from Cheatham Dam.
Status: Excess
Comment: 1.1 acres; subject to existing easements.

Tracts 11523, 11524
Property Number: 319010940
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake
Ashland City, TN, Co: Cheatham, Zip: 37015–
Location: 2½ miles downstream from Cheatham Dam.
Status: Excess
Comment: 19.5 acres; subject to existing easements.

Tract 6410
Property Number: 319010941
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake
Bumpus Mills, TN, Co: Stewart, Zip: 37028–
Location: 4½ miles SW. of Bumpus Mills.
Status: Excess
Comment: 17 acres; subject to existing easements.

Tract 9707
Property Number: 319010943
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake
Palmyra, TN, Co: Montgomery, Zip: 37142–
Location: 3 miles NE of Palmyra, TN. Highway 149.
Status: Excess
Comment: 8.6 acres; subject to existing easements.

Tract 6949
Property Number: 319010944
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake
Dover, TN, Co: Stewart, Zip: 37058–
Location: 1½ miles SE of Dover, TN.
Status: Excess
Comment: 29.67 acres; subject to existing easements.

Tracts 6005 and 6017
Property Number: 319011173
Fed Reg Date: 12/06/91
Project Name: Barkley Lake
Barkley Lake
Dover, TN, Co: Montgomery, Zip: 37058–
Location: 3 miles south of Village of Tobaccoport.
Status: Excess
Comment: 5 acres; subject to existing easements.

Tracts K–1191, K–1135
Property Number: 319130007
Fed Reg Date: 12/06/91
Old Hickory Lock and Dam
Hartsville, TN, Co: Trousdale, Zip: 37074–
Status: Underutilized
Comment: 92 acres (32 acres in floodway), most recent use—recreation.

Texas

Land

Parcel Number: 222
Property Number: 319010421
Fed Reg Date: 12/06/91
Project Name: Lake Texoma
Lake Texoma
(See County), TX, Co: Grayson, Zip:
Location: C. Meyerheim survey A–829
J. Hamilton survey A–529
Status: Excess
Comment: 52.80 acres; most recent use—recreation.

Wisconsin

Buildings

Former Lockmaster's Dwelling
Property Number: 319011524
Fed Reg Date: 12/06/91
Project Name: Former Lockmaster's Dwelling
Cedar Locks
4527 East Wisconsin Road
Appleton, WI, Co: Outagamie, Zip: 54911–
Status: Unutilized
Comment: 1224 sq. ft.; 2 story brick/wood frame residence; needs rehab; secured area with alternate access.

Former Lockmaster's Dwelling
Property Number: 319011525
Fed Reg Date: 12/06/91
Project Name: Former Lockmaster's Dwelling
Appleton 4th Lock
905 South Lowe Street
Appleton, WI, Co: Outagamie, Zip: 54911–
Status: Unutilized
Comment: 908 sq. ft.; 2 story wood frame residence; needs rehab.

Former Lockmaster's Dwelling
Property Number: 319011527
Fed Reg Date: 12/06/91
Project Name: Former Lockmaster's Dwelling
Kaukauna 1st Lock

301 Canal Street
Kaukauna, WI, Co: Outagamie, Zip: 54131–
Status: Unutilized
Comment: 1290 sq. ft.; 2 story wood frame residence; needs rehab; secured area with alternate access.

Former Lockmaster's Dwelling
Property Number: 319011531
Fed Reg Date: 12/06/91
Project Name: Former Lockmaster's Dwelling
Appleton 1st Lock
905 South Oneida Street
Appleton, WI, Co: Outagamie, Zip: 54911–
Status: Unutilized
Comment: 1300 sq. ft.; potential utilities; 2 story wood frame residence; needs rehab; secured area with alternate access.

Former Lockmaster's Dwelling
Property Number: 319011533
Fed Reg Date: 12/06/91
Project Name: Former Lockmaster's Dwelling
Rapid Croche Lock
Lock Road
Wrightstown, WI, Co: Outagamie, Zip: 54180–
Location: 3 miles southwest of intersection State Highway 96 and Canal Road.
Status: Unutilized
Comment: 1952 sq. ft.; 2 story wood frame residence; potential utilities; needs rehab.

Former Lockmaster's Dwelling
Property Number: 319011535
Fed Reg Date: 12/06/91
Project Name: Former Lockmaster's Dwelling
Little KauKauna Lock
Little KauKauna
Lawrence, WI, Co: Brown, Zip: 54130–
Location: 2 miles southeasterly from intersection of Lost Dauphin Road (County Trunk Highway "D") and River Street.
Status: Unutilized
Comment: 1224 sq. ft.; 2 story brick/wood frame residence; needs rehab.

Former Lockmaster's Dwelling
Property Number: 319011536
Fed Reg Date: 12/06/91
Project Name: Former Lockmaster's Dwelling
Little Chute, 2nd Lock
214 Mill Street
Little Chute, WI, Co: Outagamie, Zip: 54140–
Status: Unutilized
Comment: 1224 sq. ft.; 2 story brick/wood frame residence; potential utilities; needs rehab; secured area with alternate access.

Summary of Properties For COE

Buildings=25
Land=99
Total Suitable and Available by agency=124

COE–BC

Connecticut

Buildings

Portland CT 36
Property Number: 319011218
Fed Reg Date: 12/06/91
Project Name: Family Housing, Base Closure
Family Housing
1 Freedom Street
Portland, CT, Co: Middlesex, Zip: 06484–
Status: Excess
Comment: 1300 sq. ft., 1 story wood frame residence.

Portland CT 36
Property Number: 319011219
Fed Reg Date: 12/06/91
Project Name: Family Housing, Base Closure
Family Housing
2 Freedom Street
Portland, CT, Co: Middlesex, Zip: 06484–
Status: Excess
Comment: 1300 sq. ft., 1 story wood frame residence.

Portland CT 36
Property Number: 319011220
Fed Reg Date: 12/06/91
Project Name: Family Housing, Base Closure
Family Housing
3 Freedom Street
Portland, CT, Co: Middlesex, Zip: 06484–
Status: Excess
Comment: 1100 sq. ft., 1 story wood frame residence.

Portland CT 36
Property Number: 319011221
Fed Reg Date: 12/06/91
Project Name: Family Housing, Base Closure
Family Housing
4 Freedom Street
Portland, CT, Co: Middlesex, Zip: 06484–
Status: Excess
Comment: 1000 sq. ft., 1 story wood frame residence.

Portland CT 36
Property Number: 319011222
Fed Reg Date: 12/06/91
Project Name: Family Housing, Base Closure
Family Housing
5 Freedom Street
Portland, CT, Co: Middlesex, Zip: 06484–
Status: Excess
Comment: 1000 sq. ft., 1 story wood frame residence.

Portland CT 36
Property Number: 319011223
Fed Reg Date: 12/06/91
Project Name: Family Housing, Base Closure
Family Housing
6 Freedom Street
Portland, CT, Co: Middlesex, Zip: 06484–
Status: Excess
Comment: 1000 sq. ft., 1 story wood frame residence.

Portland CT 36
Property Number: 319011224
Fed Reg Date: 12/06/91
Project Name: Family Housing, Base Closure
Family Housing
7 Freedom Street
Portland, CT, Co: Middlesex, Zip: 06484–
Status: Excess
Comment: 1000 sq. ft., 1 story wood frame residence.

Portland CT 36
Property Number: 319011225
Fed Reg Date: 12/06/91
Project Name: Family Housing, Base Closure
Family Housing
8 Freedom Street
Portland, CT, Co: Middlesex, Zip: 06484–
Status: Excess
Comment: 1000 sq. ft., 1 story wood frame residence.

Portland CT 36
Property Number: 319011226
Fed Reg Date: 12/06/91
Project Name: Family Housing, Base Closure
Family Housing
9 Freedom Street
Portland, CT, Co: Middlesex, Zip: 06484–
Status: Excess
Comment: 1000 sq. ft., 1 story wood frame residence.

Portland CT 36
Property Number: 319011227
Fed Reg Date: 12/06/91
Project Name: Family Housing, Base Closure
Family Housing
10 Freedom Street
Portland, CT, Co: Middlesex, Zip: 06484–
Status: Excess
Comment: 1000 sq. ft., 1 story wood frame residence.

Portland CT 36
Property Number: 319011228
Fed Reg Date: 12/06/91
Project Name: Family Housing, Base Closure
Family Housing
11 Freedom Street
Portland, CT, Co: Middlesex, Zip: 06484–
Status: Excess
Comment: 1000 sq. ft., 1 story wood frame residence.

Portland CT 36
Property Number: 319011229
Fed Reg Date: 12/06/91
Project Name: Family Housing, Base Closure
Family Housing
13 Freedom Street
Portland, CT, Co: Middlesex, Zip: 06484–
Status: Excess
Comment: 1000 sq. ft., 1 story wood frame residence.

Portland CT 36
Property Number: 319011230
Fed Reg Date: 12/06/91
Project Name: Family Housing, Base Closure
Family Housing
14 Freedom Street
Portland, CT, Co: Middlesex, Zip: 06484–
Status: Excess
Comment: 1000 sq. ft., 1 story wood frame residence.

Portland CT 36
Property Number: 319011231
Fed Reg Date: 12/06/91
Project Name: Family Housing, Base Closure
Family Housing
15 Freedom Street
Portland, CT, Co: Middlesex, Zip: 06484–
Status: Excess
Comment: 1000 sq. ft., 1 story wood frame residence.

Portland CT 36
Property Number: 319011232
Fed Reg Date: 12/06/91
Project Name: Family Housing, Base Closure
Family Housing
16 Freedom Street
Portland, CT, Co: Middlesex, Zip: 06484–
Status: Excess
Comment: 1000 sq. ft., 1 story wood frame residence.

New Jersey

Buildings

Bldg. 0201
Property Number: 319010734
Fed Reg Date: 12/06/91
Project Name: Franklin Lakes Family Housing, Base Closure
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah, NJ, Co: Bergen, Zip: 07430–

Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence.
Bldg. 0202
Property Number: 319010735
Fed Reg Date: 12/06/91
Project Name: Franklin Lakes Family Housing, Base Closure
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah, NJ, Co: Bergen, Zip: 07430–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence.
Bldg. 0203
Property Number: 319010736
Fed Reg Date: 12/06/91
Project Name: Franklin Lakes Family Housing, Base Closure
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah, NJ, Co: Bergen, Zip: 07430–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence.
Bldg. 0204
Property Number: 319010737
Fed Reg Date: 12/06/91
Project Name: Franklin Lakes Family Housing, Base Closure
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah, NJ, Co: Bergen, Zip: 07430–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence.
Bldg. 0205
Property Number: 319010738
Fed Reg Date: 12/06/91
Project Name: Franklin Lakes Family Housing, Base Closure
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah, NJ, Co: Bergen, Zip: 07430–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence.
Bldg. 0206
Property Number: 319010739
Fed Reg Date: 12/06/91
Project Name: Franklin Lakes Family Housing, Base Closure
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah, NJ, Co: Bergen, Zip: 07430–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence.
Bldg. 0207
Property Number: 319010740
Fed Reg Date: 12/06/91
Project Name: Franklin Lakes Family Housing, Base Closure
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah, NJ, Co: Bergen, Zip: 07430–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence.
Bldg. 0208
Property Number: 319010741
Fed Reg Date: 12/06/91
Project Name: Franklin Lakes Family Housing, Base Closure
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah, NJ, Co: Bergen, Zip: 07430–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence.
Bldg. 0209
Property Number: 319010742
Fed Reg Date: 12/06/91
Project Name: Franklin Lakes Family Housing, Base Closure
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah, NJ, Co: Bergen, Zip: 07430–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence.
Bldg. 0210
Property Number: 319010743
Fed Reg Date: 12/06/91
Project Name: Franklin Lakes Family Housing, Base Closure
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah, NJ, Co: Bergen, Zip: 07430–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence.
Bldg. 0211
Property Number: 319010744
Fed Reg Date: 12/06/91
Project Name: Franklin Lakes Family Housing, Base Closure
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah, NJ, Co: Bergen, Zip: 07430–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence.
Bldg. 0212
Property Number: 319010745
Fed Reg Date: 12/06/91
Project Name: Franklin Lakes Family Housing, Base Closure
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah, NJ, Co: Bergen, Zip: 07430–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence.
Bldg. 0213
Property Number: 319010746
Fed Reg Date: 12/06/91
Project Name: Franklin Lakes Family Housing, Base Closure
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah, NJ, Co: Bergen, Zip: 07430–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence.
Bldg. 0214
Property Number: 319010747
Fed Reg Date: 12/06/91
Project Name: Franklin Lakes Family Housing, Base Closure
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah, NJ, Co: Bergen, Zip: 07430–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence.
Bldg. 0215
Property Number: 319010748
Fed Reg Date: 12/06/91
Project Name: Franklin Lakes Family Housing, Base Closure
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah, NJ, Co: Bergen, Zip: 07430–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence.
Bldg. 0216
Property Number: 319010749
Fed Reg Date: 12/06/91
Project Name: Franklin Lakes Family Housing, Base Closure
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah, NJ, Co: Bergen, Zip: 07430–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence.
Bldg. 0217
Property Number: 319010750
Fed Reg Date: 12/06/91
Project Name: Franklin Lakes Family Housing, Base Closure
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah, NJ, Co: Bergen, Zip: 07430–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence.
Bldg. 0218
Property Number: 319010751
Fed Reg Date: 12/06/91
Project Name: Franklin Lakes Family Housing, Base Closure
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah, NJ, Co: Bergen, Zip: 07430–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence.
Bldg. 0219
Property Number: 319010752
Fed Reg Date: 12/06/91
Project Name: Franklin Lakes Family Housing, Base Closure
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah, NJ, Co: Bergen, Zip: 07430–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence.
Bldg. 0220
Property Number: 319010753
Fed Reg Date: 12/06/91
Project Name: Franklin Lakes Family Housing, Base Closure
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah, NJ, Co: Bergen, Zip: 07430–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence.
Bldg. 0221
Property Number: 319010754
Fed Reg Date: 12/06/91
Project Name: Franklin Lakes Family Housing, Base Closure
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah, NJ, Co: Bergen, Zip: 07430–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence.

Bldg. 0222
Property Number: 319010755
Fed Reg Date: 12/06/91
Project Name: Franklin Lakes Family Housing, Base Closure
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah, NJ, Co: Bergen, Zip: 07430–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence.

Bldg. 0223
Property Number: 319010756
Fed Reg Date: 12/06/91
Project Name: Franklin Lakes Family Housing, Base Closure
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah, NJ, Co: Bergen, Zip: 07430–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence.

Bldg. 0224
Property Number: 319010757
Fed Reg Date: 12/06/91
Project Name: Franklin Lakes Family Housing, Base Closure
Franklin Lakes Family Housing
Patrick Brems Court
Mahwah, NJ, Co: Bergen, Zip: 07430–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence.

Bldg. 0201
Property Number: 319010758
Fed Reg Date: 12/06/91
Project Name: Livingston Family Housing, Base Closure
Livingston Family Housing
Harmony Court
East Hanover, NJ, Co: Morris, Zip: 07936–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0202
Property Number: 319010759
Fed Reg Date: 12/06/91, Base Closure
Project Name: Livingston Family Housing
Livingston Family Housing
Hornung Court
East Hanover, NJ, Co: Morris, Zip: 07936–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0203
Property Number: 319010760
Fed Reg Date: 12/06/91, Base Closure
Project Name: Livingston Family Housing
Livingston Family Housing
Hornung Court
East Hanover, NJ, Co: Morris, Zip: 07936–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0204
Property Number: 319010761
Fed Reg Date: 12/06/91, Base Closure
Project Name: Livingston Family Housing
Livingston Family Housing
Hornung Court
East Hanover, NJ, Co: Morris, Zip: 07936–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0205
Property Number: 319010762
Fed Reg Date: 12/06/91, Base Closure
Project Name: Livingston Family Housing
Livingston Family Housing
Hornung Court
East Hanover, NJ, Co: Morris, Zip: 07936–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0206
Property Number: 319010763
Fed Reg Date: 12/06/91, Base Closure
Project Name: Livingston Family Housing
Livingston Family Housing
Hornung Court
East Hanover, NJ, Co: Morris, Zip: 07936–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0207
Property Number: 319010764
Fed Reg Date: 12/06/91, Base Closure
Project Name: Livingston Family Housing
Livingston Family Housing
Hornung Court
East Hanover, NJ, Co: Morris, Zip: 07936–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0208
Property Number: 319010765
Fed Reg Date: 12/06/91, Base Closure
Project Name: Livingston Family Housing
Livingston Family Housing
Hornung Court
East Hanover, NJ, Co: Morris, Zip: 07936–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0209
Property Number: 319010766
Fed Reg Date: 12/06/91, Base Closure
Project Name: Livingston Family Housing
Livingston Family Housing
Hornung Court
East Hanover, NJ, Co: Morris, Zip: 07936–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0210
Property Number: 319010767
Fed Reg Date: 12/06/91, Base Closure
Project Name: Livingston Family Housing
Livingston Family Housing
Hornung Court
East Hanover, NJ, Co: Morris, Zip: 07936–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0211
Property Number: 319010768
Fed Reg Date: 12/06/91, Base Closure
Project Name: Livingston Family Housing
Livingston Family Housing
Hornung Court
East Hanover, NJ, Co: Morris, Zip: 07936–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0212
Property Number: 319010769
Fed Reg Date: 12/06/91, Base Closure
Project Name: Livingston Family Housing
Livingston Family Housing
Hornung Court
East Hanover, NJ, Co: Morris, Zip: 07936–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0213
Property Number: 319010770
Fed Reg Date: 12/06/91, Base Closure
Project Name: Livingston Family Housing
Livingston Family Housing
Hornung Court
East Hanover, NJ, Co: Morris, Zip: 07936–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0214
Property Number: 319010771
Fed Reg Date: 12/06/91, Base Closure
Project Name: Livingston Family Housing
Livingston Family Housing
Hornung Court
East Hanover, NJ, Co: Morris, Zip: 07936–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0215
Property Number: 319010772
Fed Reg Date: 12/06/91, Base Closure
Project Name: Livingston Family Housing
Livingston Family Housing
Hornung Court
East Hanover, NJ, Co: Morris, Zip: 07936–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0216
Property Number: 319010773
Fed Reg Date: 12/06/91, Base Closure
Project Name: Livingston Family Housing
Livingston Family Housing
Hornung Court
East Hanover, NJ, Co: Morris, Zip: 07936–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0217
Property Number: 319010774
Fed Reg Date: 12/06/91, Base Closure
Project Name: Livingston Family Housing
Livingston Family Housing
Hornung Court
East Hanover, NJ, Co: Morris, Zip: 07936–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0218
Property Number: 319010775
Fed Reg Date: 12/06/91, Base Closure
Project Name: Livingston Family Housing
Livingston Family Housing
Hornung Court
East Hanover, NJ, Co: Morris, Zip: 07936–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0219
Property Number: 319010776
Fed Reg Date: 12/06/91, Base Closure
Project Name: Livingston Family Housing
Livingston Family Housing
Hornung Court
East Hanover, NJ, Co: Morris, Zip: 07936–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0220
Property Number: 319010777
Fed Reg Date: 12/06/91, Base Closure
Project Name: Livingston Family Housing
Livingston Family Housing
Hornung Court
East Hanover, NJ, Co: Morris, Zip: 07936–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0221
Property Number: 319010778
Fed Reg Date: 12/06/91, Base Closure
Project Name: Livingston Family Housing
Livingston Family Housing
Hornung Court
East Hanover, NJ, Co: Morris, Zip: 07936–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence. possible asbestos in floor tiles.

Bldg. 0222
Property Number: 319010779
Fed Reg Date: 12/06/91, Base Closure
Project Name: Livingston Family Housing
Livingston Family Housing
Hornung Court
East Hanover, NJ, Co: Morris, Zip: 07936–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0223
Property Number: 319010780
Fed Reg Date: 12/06/91, Base Closure
Project Name: Livingston Family Housing
Livingston Family Housing
Hornung Court
East Hanover, NJ, Co: Morris, Zip: 07936–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0224
Property Number: 319010781
Fed Reg Date: 12/06/91, Base Closure
Project Name: Livingston Family Housing
Livingston Family Housing
Hornung Court
East Hanover, NJ, Co: Morris, Zip: 07936–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0225
Property Number: 319010782
Fed Reg Date: 12/06/91, Base Closure
Project Name: Livingston Family Housing
Livingston Family Housing
Hornung Court
East Hanover, NJ, Co: Morris, Zip: 07936–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0226
Property Number: 319010783
Fed Reg Date: 12/06/91, Base Closure
Project Name: Livingston Family Housing
Livingston Family Housing
Hornung Court
East Hanover, NJ, Co: Morris, Zip: 07936–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0227
Property Number: 319010784
Fed Reg Date: 12/06/91, Base Closure
Project Name: Livingston Family Housing
Livingston Family Housing
Hornung Court
East Hanover, NJ, Co: Morris, Zip: 07936–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0228
Property Number: 319010785
Fed Reg Date: 12/06/91, Base Closure
Project Name: Livingston Family Housing
Livingston Family Housing
Hornung Court
East Hanover, NJ, Co: Morris, Zip: 07936–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0230
Property Number: 319010786
Fed Reg Date: 12/06/91, Base Closure
Project Name: Livingston Family Housing
Livingston Family Housing
Hornung Court
East Hanover, NJ, Co: Morris, Zip: 07936–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0231
Property Number: 319010787
Fed Reg Date: 12/06/91, Base Closure
Project Name: Livingston Family Housing
Livingston Family Housing
Hornung Court
East Hanover, NJ, Co: Morris, Zip: 07936–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0232
Property Number: 319010788
Fed Reg Date: 12/06/91, Base Closure
Project Name: Livingston Family Housing
Livingston Family Housing
Hornung Court
East Hanover, NJ, Co: Morris, Zip: 07936–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

Bldg. 0229
Property Number: 319010789
Fed Reg Date: 12/06/91, Base Closure
Project Name: Livingston Family Housing
Livingston Family Housing
Hornung Court
East Hanover, NJ, Co: Morris, Zip: 07936–
Status: Excess
Comment: 1196 sq. ft., 1 story wood frame residence, possible asbestos in floor tiles.

New York

Buildings

Bldg. P–232
Property Number: 319030015
Fed Reg Date: 12/06/91, Base Closure
Project Name: Dry Hill Family Housing
Dry Hill Family Housing
Route 3, Box 232
Watertown, NY, Co: Jefferson, Zip: 13601–
Status: Excess
Comment: 1022 sq. ft., 1 story wood frame residence.

Bldg. P–233
Property Number: 319030016
Fed Reg Date: 12/06/91, Base Closure
Project Name: Dry Hill Family Housing
Dry Hill Family Housing
Route 3, Box 233
Watertown, NY, Co: Jefferson, Zip: 13601–
Status: Excess
Comment: 816 sq. ft., 1 story wood frame residence.

Bldg. P–234
Property Number: 319030017
Fed Reg Date: 12/06/91, Base Closure
Project Name: Dry Hill Family Housing
Dry Hill Family Housing
Route 3, Box 234
Watertown, NY, Co: Jefferson, Zip: 13601–
Status: Excess
Comment: 1022 sq. ft., 1 story wood frame residence.

Bldg. P–235
Property Number: 319030018
Fed Reg Date: 12/06/91, Base Closure
Project Name: Dry Hill Family Housing
Dry Hill Family Housing
Route 3, Box 235
Watertown, NY, Co: Jefferson, Zip: 13601–
Status: Excess
Comment: 1235 sq. ft., 1 story wood frame residence.

Bldg. P–236
Property Number: 319030019
Fed Reg Date: 12/06/91, Base Closure
Project Name: Dry Hill Family Housing
Dry Hill Family Housing
Route 3, Box 236
Watertown, NY, Co: Jefferson, Zip: 13601–
Status: Excess
Comment: 1235 sq. ft., 1 story wood frame residence.

Bldg. P–237
Property Number: 319030020
Fed Reg Date: 12/06/91
Project Name: Dry Hill Family Housing, Base Closure
Dry Hill Family Housing
Route 3, Box 237
Watertown, NY, Co: Jefferson, Zip: 13601–
Status: Excess
Comment: 1235 sq. ft., 1 story wood frame residence.

Bldg. P–238
Property Number: 319030021
Fed Reg Date: 12/06/91
Project Name: Dry Hill Family Housing, Base Closure
Dry Hill Family Housing
Route 3, Box 238
Watertown, NY, Co: Jefferson, Zip: 13601–
Status: Excess
Comment: 1235 sq. ft., 1 story wood frame residence.

Bldg. P–239
Property Number: 319030022
Fed Reg Date: 12/06/91
Project Name: Dry Hill Family Housing, Base Closure
Dry Hill Family Housing
Route 3, Box 239
Watertown, NY, Co: Jefferson, Zip: 13601–
Status: Excess
Comment: 1300 sq. ft., 1 story wood frame residence.

Bldg. P–240
Property Number: 319030023
Fed Reg Date: 12/06/91
Project Name: Dry Hill Family Housing, Base Closure
Dry Hill Family Housing
Route 3, Box 240

Watertown, NY, Co: Jefferson, Zip: 13601–
Status: Excess
Comment: 1300 sq. ft., 1 story wood frame residence.

Bldg. P–241
Property Number: 319030024
Fed Reg Date: 12/06/91
Project Name: Dry Hill Family Housing, Base Closure
Dry Hill Family Housing
Route 3, Box 241
Watertown, NY, Co: Jefferson, Zip: 13601–
Status: Excess
Comment: 1300 sq. ft., 1 story wood frame residence.

Bldg. P–242
Property Number: 319030025
Fed Reg Date: 12/06/91
Project Name: Dry Hill Family Housing, Base Closure
Dry Hill Family Housing
Route 3, Box 242
Watertown, NY, Co: Jefferson, Zip: 13601–
Status: Excess
Comment: 1235 sq. ft., 1 story wood frame residence.

Bldg. P–243
Property Number: 319030026
Fed Reg Date: 12/06/91
Project Name: Dry Hill Family Housing, Base Closure
Dry Hill Family Housing
Route 3, Box 243
Watertown, NY, Co: Jefferson, Zip: 13601–
Status: Excess
Comment: 1235 sq. ft., 1 story wood frame residence.

Bldg. P–244
Property Number: 319030027
Fed Reg Date: 12/06/91
Project Name: Dry Hill Family Housing, Base Closure
Dry Hill Family Housing
Route 3, Box 244
Watertown, NY, Co: Jefferson, Zip: 13601–
Status: Excess
Comment: 1235 sq. ft., 1 story wood frame residence.

Bldg. P–245
Property Number: 319030028
Fed Reg Date: 12/06/91
Project Name: Dry Hill Family Housing, Base Closure
Dry Hill Family Housing
Route 3, Box 245
Watertown, NY, Co: Jefferson, Zip: 13601–
Status: Excess
Comment: 1300 sq. ft., 1 story wood frame residence.

Bldg. P–246
Property Number: 319030029
Fed Reg Date: 12/06/91
Project Name: Dry Hill Family Housing, Base Closure
Dry Hill Family Housing
Route 3, Box 246
Watertown, NY, Co: Jefferson, Zip: 13601–
Status: Excess
Comment: 1235 sq. ft., 1 story wood frame residence.

Bldg. P–247
Property Number: 319030030
Fed Reg Date: 12/06/91
Project Name: Dry Hill Family Housing, Base Closure
Dry Hill Family Housing
Route 3, Box 247
Watertown, NY, Co: Jefferson, Zip: 13601–
Status: Excess
Comment: 1500 sq. ft., 1 story wood frame residence.

Bldg. P–248
Property Number: 319030031
Fed Reg Date: 12/06/91
Project Name: Dry Hill Family Housing, Base Closure
Dry Hill Family Housing
Route 3, Box 248
Watertown, NY, Co: Jefferson, Zip: 13601–
Status: Excess
Comment: 1300 sq. ft., 1 story wood frame residence.

Bldg. P–249
Property Number: 319030032
Fed Reg Date: 12/06/91
Project Name: Dry Hill Family Housing, Base Closure
Dry Hill Family Housing
Route 3, Box 249
Watertown, NY, Co: Jefferson, Zip: 13601–
Status: Excess
Comment: 1235 sq. ft., 1 story wood frame residence.

Bldg. P–250
Property Number: 319030033
Fed Reg Date: 12/06/91
Project Name: Dry Hill Family Housing, Base Closure
Dry Hill Family Housing
Route 3, Box 250
Watertown, NY, Co: Jefferson, Zip: 13601–
Status: Excess
Comment: 1235 sq. ft., 1 story wood frame residence.

Bldg. P–251
Property Number: 319030034
Fed Reg Date: 12/06/91
Project Name: Dry Hill Family Housing, Base Closure
Dry Hill Family Housing
Route 3, Box 251
Watertown, NY, Co: Jefferson, Zip: 13601–
Status: Excess
Comment: 1235 sq. ft., 1 story wood frame residence.

Bldg. P–252
Property Number: 319030035
Fed Reg Date: 12/06/91
Project Name: Dry Hill Family Housing, Base Closure
Dry Hill Family Housing
Route 3, Box 252
Watertown, NY, Co: Jefferson, Zip: 13601–
Status: Excess
Comment: 1235 sq. ft., 1 story wood frame residence.

Bldg. P–253
Property Number: 319030036
Fed Reg Date: 12/06/91
Project Name: Dry Hill Family Housing, Base Closure
Dry Hill Family Housing
Route 3, Box 253
Watertown, NY, Co: Jefferson, Zip: 13601–
Status: Excess
Comment: 1022 sq. ft., 1 story wood frame residence.

Bldg. P–254
Property Number: 319030037
Fed Reg Date: 12/06/91
Project Name: Dry Hill Family Housing, Base Closure
Dry Hill Family Housing
Route 3, Box 254
Watertown, NY, Co: Jefferson, Zip: 13601–
Status: Excess
Comment: 816 sq. ft., 1 story wood frame residence.

Bldg. P–255
Property Number: 319030038
Fed Reg Date: 12/06/91
Project Name: Dry Hill Family Housing, Base Closure
Dry Hill Family Housing
Route 3, Box 255
Watertown, NY, Co: Jefferson, Zip: 13601–
Status: Excess
Comment: 816 sq. ft., 1 story wood frame residence.

Bldg. P–256
Property Number: 319030039
Fed Reg Date: 12/06/91
Project Name: Dry Hill Family Housing, Base Closure
Dry Hill Family Housing
Route 3, Box 256
Watertown, NY, Co: Jefferson, Zip: 13601–
Status: Excess
Comment: 1022 sq. ft., 1 story wood frame residence.

Bldg. P–257
Property Number: 319030040
Fed Reg Date: 12/06/91
Project Name: Dry Hill Family Housing, Base Closure
Dry Hill Family Housing
Route 3, Box 257
Watertown, NY, Co: Jefferson, Zip: 13601–
Status: Excess
Comment: 1022 sq. ft., 1 story wood frame residence.

Bldg. P–258
Property Number: 319030041
Fed Reg Date: 12/06/91
Project Name: Dry Hill Family Housing, Base Closure
Dry Hill Family Housing
Route 3, Box 258
Watertown, NY, Co: Jefferson, Zip: 13601–
Status: Excess
Comment: 816 sq. ft., 1 story wood frame residence.

Pennsylvania

Land

C.E. Kelly Support Facility
Property Number: 319011406
Fed Reg Date: 12/06/91
Project Name: C.E. Kelly Support Facility, Base Closure
Finley Area Site 52, Land
Private Road
Finleyville, PA, Co: Washington, Zip: 15332–
Location: Route 88 to Mineral Beach and turn left.
Status: Excess
Comment: 11.63 acres, potential utilities, most recent use—playground area.

Buildings

C.E. Kelly Support Facility
Property Number: 319011407
Fed Reg Date: 12/06/91
Project Name: C.E. Kelly Support Facility, Base Closure

Finleyville Area Site 52, S-101-Q
Private Road
Finleyville, PA, Co: Washington, Zip: 15332-
Location: Route 88 to Mineral Beach and turn left.
Status: Excess
Comment: 1307 sq. ft., 1 story frame residence, possible asbestos.

C.E. Kelly Support Facility
Property Number: 319011409
Fed Reg Date: 12/06/91
Project Name: C.E. Kelly Support Facility, Base Closure
Finleyville Area Site 52, S-102-Q
Private Road
Finleyville, PA, Co: Washington, Zip: 15332-
Location: Route 88 to Mineral Beach and turn left.
Status: Excess
Comment: 1121 sq. ft., 1 story frame residence, possible asbestos.

C.E. Kelly Support Facility
Property Number: 319011410
Fed Reg Date: 12/06/91
Project Name: C.E. Kelly Support Facility, Base Closure
Finleyville Area Site 52, S-103-Q
Private Road
Finleyville, PA, Co: Washington, Zip: 15332-
Location: Route 88 to Mineral Beach and turn left.
Status: Excess
Comment: 1121 sq. ft., 1 story frame residence, possible asbestos.

C.E. Kelly Support Facility
Property Number: 319011411
Fed Reg Date: 12/06/91
Project Name: C.E. Kelly Support Facility, Base Closure
Finleyville Area Site 52, S-104-Q
Private Road
Finleyville, PA, Co: Washington, Zip: 15332-
Location: Route 88 to Mineral Beach and turn left.
Status: Excess
Comment: 1117 sq. ft., 1 story frame residence, possible asbestos.

C.E. Kelly Support Facility
Property Number: 319011412
Fed Reg Date: 12/06/91
Project Name: C.E. Kelly Support Facility, Base Closure
Finleyville Area Site 52, S-105-Q
Private Road
Finleyville, PA, Co: Washington, Zip: 15332-
Location: Route 88 to Mineral Beach and turn left.
Status: Excess
Comment: 1117 sq. ft., 1 story frame residence, possible asbestos.

C.E. Kelly Support Facility
Property Number: 319011413
Fed Reg Date: 12/06/91
Project Name: C.E. Kelly Support Facility, Base Closure
Finleyville Area Site 52, S-106-Q
Private Road
Finleyville, PA, Co: Washington, Zip: 15332-
Location: Route 88 to Mineral Beach and turn left.
Status: Excess
Comment: 1013 sq. ft., 1 story frame residence, possible asbestos.

C.E. Kelly Support Facility
Property Number: 319011414
Fed Reg Date: 12/06/91
Project Name: C.E. Kelly Support Facility, Base Closure
Finleyville Area Site 52, S-107-Q
Private Road
Finleyville, PA, Co: Washington, Zip: 15332-
Location: Route 88 to Mineral Beach and turn left.
Status: Excess
Comment: 1013 sq. ft., 1 story frame residence, possible asbestos.

C.E. Kelly Support Facility
Property Number: 319011415
Fed Reg Date: 12/06/91
Project Name: C.E. Kelly Support Facility, Base Closure
Finleyville Area Site 52, S-108-Q
Private Road
Finleyville, PA, Co: Washington, Zip: 15332-
Location: Route 88 to Mineral Beach and turn left.
Status: Excess
Comment: 1013 sq. ft., 1 story frame residence, possible asbestos.

C.E. Kelly Support Facility
Property Number: 319011416
Fed Reg Date: 12/06/91
Project Name: C.E. Kelly Support Facility, Base Closure
Finleyville Area Site 52, S-109-Q
Private Road
Finleyville, PA, Co: Washington, Zip: 15332-
Location: Route 88 to Mineral Beach and turn left.
Status: Excess
Comment: 1117 sq. ft., 1 story frame residence, possible asbestos.

C.E. Kelly Support Facility
Property Number: 319011417
Fed Reg Date: 12/06/91
Project Name: C.E. Kelly Support Facility, Base Closure
Finleyville Area Site 52, S-110-Q
Private Road
Finleyville, PA, Co: Washington, Zip: 15332-
Location: Route 88 to Mineral Beach and turn left.
Status: Excess
Comment: 1117 sq. ft., 1 story frame residence, possible asbestos.

C.E. Kelly Support Facility
Property Number: 319011418
Fed Reg Date: 12/06/91
Project Name: C.E. Kelly Support Facility, Base Closure
Finleyville Area Site 52, S-111-Q
Private Road
Finleyville, PA, Co: Washington, Zip: 15332-
Location: Route 88 to Mineral Beach and turn left.
Status: Excess
Comment: 1117 sq. ft., 1 story frame residence, possible asbestos.

C.E. Kelly Support Facility
Property Number: 319011419
Fed Reg Date: 12/06/91
Project Name: C.E. Kelly Support Facility, Base Closure
Finleyville Area Site 52, S-112-Q
Private Road
Finleyville, PA, Co: Washington, Zip: 15332-
Location: Route 88 to Mineral Beach and turn left.
Status: Excess
Comment: 1117 sq. ft., 1 story frame residence, possible asbestos.

S-29-Q
Property Number: 319030051
Fed Reg Date: 12/06/91
Project Name: Monroeville Area Site 25, Base Closure
Monroeville Area Site 25
C.E. Kelly Support Fac.; Lindsey Lane R.D. #2
Monroeville, PA, Co: Allegheny, Zip: 15239-
Status: Excess
Comment: 1307 sq. ft., 1 story frame residence with playground area, possible asbestos.

S-30-Q
Property Number: 319030052
Fed Reg Date: 12/06/91
Project Name: Monroeville Area Site 25, Base Closure
Monroeville Area Site 25
C.E. Kelly Support Fac.; Lindsey Lane R.D. #2
Monroeville, PA, Co: Allegheny, Zip: 15239-
Status: Excess
Comment: 1121 sq. ft., 1 story frame residence with playground area, possible asbestos.

S-31-Q
Property Number: 319030053
Fed Reg Date: 12/06/91
Project Name: Monroeville Area Site 25, Base Closure
Monroeville Area Site 25
C.E. Kelly Support Fac.; Lindsey Lane R.D. #2
Monroeville, PA, Co: Allegheny, Zip: 15239-
Status: Excess
Comment: 1121 sq. ft., 1 story frame residence with playground area, possible asbestos.

S-32-Q
Property Number: 319030054
Fed Reg Date: 12/06/91
Project Name: Monroeville Area 25, Base Closure
Monroeville Area Site 25
C.E. Kelly Support Fac.; Lindsey Lane R.D. #2
Monroeville, PA, Co: Allegheny, Zip: 15239-
Status: Excess
Comment: 1013 sq. ft.; 1 story frame residence with playground area, possible asbestos.

S-33-Q
Property Number: 319030055
Fed Reg Date: 12/06/91
Project Name: Monroeville Area 25, Base Closure
Monroeville Area Site 25
C.E. Kelly Support Fac.; Lindsey Lane R.D. #2
Monroeville, PA, Co: Allegheny, Zip: 15239-
Status: Excess
Comment: 1013 sq. ft.; 1 story frame residence with playground area, possible asbestos.

S-34-Q
Property Number: 319030056
Fed Reg Date: 12/06/91
Project Name: Monroeville Area 25, Base Closure
Monroeville Area Site 25
C.E. Kelly Support Fac.; Lindsey Lane R.D. #2
Monroeville, PA, Co: Allegheny, Zip: 15239-
Status: Excess
Comment: 1013 sq. ft.; 1 story frame residence with playground area, possible asbestos.

S-35-Q
Property Number: 319030057
Fed Reg Date: 12/06/91
Project Name: Monroeville Area 25, Base Closure
Monroeville Area Site 25
C.E. Kelly Support Fac.; Lindsey Lane R.D. #2
Monroeville, PA, Co: Allegheny, Zip: 15239-

Status: Excess
Comment: 1117 sq. ft.; 1 story frame residence with playground area, possible asbestos.

S–36–Q
Property Number: 319030058
Fed Reg Date: 12/06/91
Project Name: Monroeville Area 25, Base Closure
Monroeville Area Site 25
C.E. Kelly Support Fac.; Lindsey Lane R.D. #2
Monroeville, PA, Co: Allegheny, Zip: 15239–
Status: Excess
Comment: 1117 sq. ft.; 1 story frame residence with playground area, possible asbestos.

S–37–Q
Property Number: 319030059
Fed Reg Date: 12/06/91
Project Name: Monroeville Area 25, Base Closure
Monroeville Area Site 25
C.E. Kelly Support Fac.; Lindsey Lane R.D. #2
Monroeville, PA, Co: Allegheny, Zip: 15239–
Status: Excess
Comment: 1117 sq. ft.; 1 story frame residence with playground area, possible asbestos.

S–38–Q
Property Number: 319030060
Fed Reg Date: 12/06/91
Project Name: Monroeville Area 25, Base Closure
Monroeville Area Site 25
C.E. Kelly Support Fac.; Lindsey Lane R.D. #2
Monroeville, PA, Co: Allegheny, Zip: 15239–
Status: Excess
Comment: 1117 sq. ft.; 1 story frame residence with playground area, possible asbestos.

S–39–Q
Property Number: 319030061
Fed Reg Date: 12/06/91
Project Name: Monroeville Area 25, Base Closure
Monroeville Area Site 25
C.E. Kelly Support Fac.; Lindsey Lane R.D. #2
Monroeville, PA, Co: Allegheny, Zip: 15239–
Status: Excess
Comment: 1117 sq. ft.; 1 story frame residence with playground area, possible asbestos.

S–40–Q
Property Number: 319030062
Fed Reg Date: 12/06/91
Project Name: Monroeville Area 25, Base Closure
Monroeville Area Site 25
C.E. Kelly Support Fac.; Lindsey Lane R.D. #2
Monroeville, PA, Co: Allegheny, Zip: 15239–
Status: Excess
Comment: 1117 sq. ft.; 1 story frame residence with playground area, possible asbestos.

Summary of Properties for COE—BC

Buildings =122
Land=1
Total Suitable and Available by agency =123

DOT

Alaska

Land

Wrangell Narrows Reservation
Property Number: 879010006
Fed Reg Date: 11/22/91
Project Name: Wrangell Narrows Reservation
Wrangell, AK, Co: Wrangell, Zip:
Location: Approximately 6 miles south of Petersburgh, Alaska along Mitkof highway.
Status: Excess
Comment: 42.15 acres.

North Carolina

Land

USCG Station—Land
Property Number: 879120087
Fed Reg Date: 11/22/91
Oregon Inlet Coast Guard Station
Rodanthe, NC, Co: Dare, Zip: 27968–
Status: Unutilized
Comment: 10 acres, potential utilities.

Buildings

Dwelling 1
Property Number: 879120083
Fed Reg Date: 11/22/91
USCG Coinjock Housing
Coinjock, NC, Co: Currituck, Zip: 27923–
Status: Unutilized
Comment: one story wood residence, periodic flooding in garage and utility room occurs in heavy rainfall.

Dwelling 2
Property Number: 879120084
Fed Reg Date: 11/22/91
USCG Coinjock Housing
Coinjock, NC, Co: Currituck, Zip: 27923–
Status: Unutilized
Comment: one story wood residence, periodic flooding in garage and utility room occurs in heavy rainfall.

Dwelling 3
Property Number: 879120085
Fed Reg Date: 11/22/91
USCG Coinjock Housing
Coinjock, NC, Co: Currituck, Zip: 27923–
Status: Unutilized
Comment: one story wood residence, periodic flooding in garage and utility room occurs in heavy rainfall.

USCG Station—Building
Property Number: 879120086
Fed Reg Date: 11/22/91
Oregon Inlet Coast Guard Station
Rodanthe, NC, Co: Dare, Zip: 27968–
Status: Unutilized
Comment: 1207 sq. ft., two story wood frame, most recent use—office, storage, shops, communications, dining, etc.

USCG Station—Building
Property Number: 879120088
Fed Reg Date: 11/22/91
Oregon Inlet Coast Guard Station
Rodanthe, NC, Co: Dare, Zip: 27968–
Status: Unutilized
Comment: 1521 sq. ft., two story lightweight steel frame, most recent use—office, shops, communications, storage, berthing, dining, etc.

USCG Station—Garage
Property Number: 879120089
Fed Reg Date: 11/22/91
Oregon Inlet Coast Guard Station
Rodanthe, NC, Co: Dare, Zip: 27968–
Status: Unutilized
Comment: 1920 sq. ft., one story steel frame, most recent use—garage/storage.

USCG Station—Building
Property Number: 879120090
Fed Reg Date: 11/22/91
Oregon Inlet Coast Guard Station
Rodanthe, NC, Co: Dare, Zip: 27968–
Status: Unutilized
Comment: 320 sq. ft., one story wood frame, most recent use—storage.

Oregon

Land

Port Orford Radio Station
Property Number: 879010007
Fed Reg Date: 11/22/91
Project Name: Port Orford Radio Station
Port Orford, OR, Co: Curry, Zip: 97465–
Status: Excess
Comment: 5.17 acres, radio station.

Virginia

Buildings

Housing
Property Number: 879120082
Fed Reg Date: 11/22/91
Rt. 637—Gwynnville Road
Gwynn Island, VA, Co: Mathews, Zip: 23066–
Status: Unutilized
Comment: 929 sq. ft., one story residence.

Summary of Properties For DOT

Buildings=8
Land=3
Total Suitable and Available by agency=11

Energy

Colorado

Buildings

Otis Repeater Building
Property Number: 419130001
Fed Reg Date: 11/22/91
Otis, CO, Co: Washington, Zip: 80743–
Status: Excess
Comment: 144 sq. ft., one story metal structure, most recent use—communication equipment storage, off-site use only.

Limon Repeater Station
Property Number: 419130002
Fed Reg Date: 11/22/91
Limon, CO, Co: Lincoln, Zip: 80828–
Status: Excess
Comment: 144 sq. ft., one story metal structure, most recent use—communication equipment storage, off-site use only.

Idaho

Buildings

Storage and Training Facility
Property Number: 419040001
Fed Reg Date: 11/22/91
Project Name: Storage and Training Facility
INEL DOE-ID
Idaho Falls, ID, Co: Bonneville, Zip:
Status: Excess
Comment: 2072 sq. ft., 1 story wood frame, needs major rehab, off-site use only.

Utah

Buildings

100 KW Solar Photovoltaic Sys.
Property Number: 419140001
Fed Reg Date: 12/27/91
Natl. Bridges National Monument
P.O. Box 1
Lake Powell, UT, Co: San Juan, Zip: 84533–
Status: Excess
Comment: solar panels, off-site use only, current use—generate electrical power.

Wyoming

Land

Wind Site A
Property Number: 419030010

VOL 57
ISS 31
FE 14
1992
UMI

Fed Reg Date: 08/23/91
Project Name: Wind Site A
Medicine Bow, WY, Co: Carbon, Zip: 82329–
Location: 3 miles south and 2 miles west of Medicine Bow
Status: Excess
Comment: 46.75 acres, limitation—easement restrictions.

Summary of Properties for Energy

Buildings = 4
Land = 1 Total Suitable and Available by Agency = 5

GSA

Alaska

Land

Portion, Dyke Range
Property Number: 549130018
Fed Reg Date: 12/06/91
Old Richardson Hwy.
North Pole, AK, Co: Fairbanks, Zip: 00805–
Status: Excess
Comment: 0.73 acre—75% of land encroached upon by private residence.
GSA No.: 9–D–AK–727

California

Land

Receiver Site
Property Number: 549010042
Fed Reg Date: 12/06/91
Project Name: Dixon Relay Station
Dixon Relay Station
7514 Radio Station Road
Dixon, CA, Zip: 95620–9653
Location: Approximately .16 miles southeast of Dixon, CA.
Status: Excess
Comment: 80 acres, 1560 sq. ft., radio receiver bldg. on site, subject to grazing lease, limited utilities.
CSA No.: 9–2–CA–1162–A

Receiver Site
Property Number: 549010044
Fed Reg Date: 12/06/91
Project Name: Delano Relay Station
Delano Relay Station
Route 1, Box 1350
Delano, CA, Co: Tulare, Zip: 93215–
Location: 5 miles west of Pixley, 17 miles north of Delano.
Status: Excess
Comment: 81 acres, 1560 sq. ft.—radio receiver bldg on site, subject to grazing lease, potential utilities.
GSA No.: 9–2–CA–1308

Colorado

Land

Railroad Spur and Right-of-Way
Property Number: 549120007
Fed Reg Date: 12/06/91
Denver Federal Center
Lakewood, CO, Co: Jefferson, Zip: 80215–
Status: Excess
Comment: 1.5 miles long (width varies 35 to 200 ft.), limited access, right-of-way restrictions.
GSA No.: 7–G–CO–441–Q

Georgia

Land

Lake Sidney Lanier
Property Number: 549140003
Fed Reg Date: 12/27/91
Riverside Dr.
Gainesville, GA, Co: Hall, Zip:
Status: Excess
Comment: 8.22 acres, leased to City for construction of an alum sludge dewatering and wash water handling facility
GSA No.: 4–D–GA–731

Kansas

Land

Titan II Missile Site 8
Property Number: 549130010
Fed Reg Date: 11/01/91
McConnell AFB
4.8 miles east of Winfield on State Rd. 15
Winfield, KS, Co: Cowley, Zip: 67156–
Status: Excess
Comment: Approx. 25.44 acres, most recent use—missile site complex
GSA No.: 7–D–KS–477–N

McConnell AF Facility S–15
Property Number: 549130013
Fed Reg Date: 12/06/91
McConnell Air Force Base
KS, Co: Kingman, Zip: 67201–
Location: Two miles south of Rago on State road 14
Status: Excess
Comment: 16.69 fee acres and 2.73 paved easement, potential utilities
GSA No.: 7–D–KS–477–P

Titan II Missile Site No. 9
Property Number: 549130014
Fed Reg Date: 12/06/91
McConnell Air Force Base
KS, Co: Sumner, Zip: 67201–
Status: Excess
Comment: 6.43 fee acres and 2.96 acres easement, subject to utility rights by third parties, most recent use—missile site.
GSA No.: 7–D–KS–0477–0

Maryland

Buildings

Chesapeake Bay Hydraulic Model
Property Number: 549040007
Fed Reg Date: 12/06/91
Project Name: Chesapeake Bay Hydraulic Model
Matapeake, MD, Co: Queen Annes, Zip: 21666–
Status: Excess
Comment: 617280 sq. ft., 1 story metal bldg., ceiling height over 40 ft., lease restriction, Corps will maintain an antenna on property.
GSA No.: 4–D–MD–578

Michigan

Land

Facility 93359
Property Number: 189010058
Fed Reg Date: 03/15/91
Project Name: Bayshore RBS
Bayshore RBS
Det 6, 1st Combat Evaluation Group
Bay Shore, MI, Co: Emmet, Zip: 49711–
Status: Excess
Comment: 2.52 acres; utilities & sanitary facilities.
GSA No.: 2–D–MI–751

Facility 93361
Property Number: 189010061
Fed Reg Date: 03/15/91
Project Name: Bayshore RBS
Bayshore RBS
Det 6, 1st Combat Evaluation Group
Bay Shore, MI, Co: Emmet, Zip: 49711–
Status: Excess
Comment: 0.14 acres, access gained through Air Force controlled property.

Buildings

Bldg. 7348
Property Number: 189010044
Fed Reg Date: 03/15/91
Project Name: Bayshore RBS
Bayshore RBS
Det 6, 1st Combat Evaluation Group
Bay Shore, MI, Co: Emmet, Zip: 49711–
Status: Excess
Comment: 225 sq ft., 1 story wood frame, needs rehab, most recent use—storage.
GSA No.: 2–D–MI–751

Bldg. 7352
Property Number: 189010046
Fed Reg Date: 03/15/91
Project Name: Bayshore RBS
Bayshore RBS
Det 6, 1st Combat Evaluation Group
Bay Shore, MI, Co: Emmet, Zip: 49711–
Status: Excess
Comment: 25 sq ft., 1 story wood, most recent use—storage.
GSA No.: 2–D–MI–751

Bldg. 7354
Property Number: 189010049
Fed Reg Date: 03/15/91
Project Name: Bayshore RBS
Bayshore RBS
Det 6, 1st Combat Evaluation Group
Bay Shore, MI, Co: Emmet, Zip: 49711–
Status: Excess
Comment: 25 sq ft., 1 story wood, most recent use—storage.
GSA No.: 2–D–MI–751

Bldg. 7357
Property Number: 189010051
Fed Reg Date: 03/15/91
Project Name: Bayshore RBS
Bayshore RBS
Det 6, 1st Combat Evaluation Group
Bayshore, MI, Co: Emmet, Zip: 49711–
Status: Excess
Comment: 1,080 sq. ft., 1 story wood/frame/block, most recent use—hobby shop/recreation center.
GSA No.: 2–D–MI–751

Bldg. 7358
Property Number: 189010055
Fed Reg Date: 03/15/91
Project Name: Bayshore RBS
Bayshore RBS
Det 6, 1st Combat Evaluation Group
Bayshore, MI, Co: Emmet, Zip: 49711–
Status: Excess
Comment: 96 sq. ft., 1 story wood frame/concrete, most recent use—hazard storage.
GSA No.: 2–D–MI–751

Bldg. 5043
Property Number: 189010065
Fed Reg Date: 03/15/91
Project Name: Bayshore RBS
Bayshore RBS
Det 6, 1st Combat Evaluation Group
Bayshore, MI, Co: Emmet, Zip: 49711–
Status: Excess

Comment: 894 sq. ft., 1 story concrete/block. 134 sq. ft.; latrine with separate entrance.
GSA No.: 2-D-MI-751

North Dakota

Land

Valley City Radio Tower Site

Property Number: 549130016
Fed Reg Date: 12/06/91
1 mile south and 1 mile east of Valley City, North Dakota
Valley City, ND, Co: Barnes, Zip: 58072–
Status: Excess
Comment: 5.74 acres w/one story metal equipment storage bldg. 12′ × 10′8″, potential utilities.
GSA No.: 7-B-ND-490

Tappen Radio Relay Tower Site
Property Number: 549180017
Fed Reg Date: 12/06/91
2 miles east and 1.5 miles north of Tappen
Tappen, ND, Co: Kidder, Zip: 58487–
Status: Excess
Comment: 5.74 fee acres and 0.59 acre easement w/100′ guyed communication tower, potential utilities.
GSA No.: 7-B-ND-491

Buildings

Calhoon Radio Relay Tower Site
Property Number: 549130015
Fed Reg Date: 12/06/91
5 miles north and 1 mile west of Hannover, North Dakota
ND, Co: Oliver, Zip: 58563–
Status: Excess
Comment: One story 12′ × 10′8″ communication tower on concrete slab w/ 5.74 acres and 0.66 acre easement, potential utilities, needs rehab.
GSA No.: 7-B-ND-489

New York

Buildings

Bldg. 1
Property Number: 549120006
Fed Reg Date: 12/06/91
Naval Station New York
207 Flushing Avenue
Brooklyn, NY, Co: Kings, Zip: 11251–
Status: Excess
Comment: 31519 sq. ft., 7 story brick frame, presence of asbestos on pipe insulation, scheduled to be vacated Oct. 1992.
GSA No.: 2-N-NY-797

Bldg. 311
Property Number: 549120017
Fed Reg Date: 12/06/91
Naval Station New York
207 Flushing Avenue
Brooklyn, NY, Co: Kings, Zip: 11251–
Status: Excess
Comment: 9720 sq. ft., 2 story, brick frame, needs heating system repairs, needs rehab, presence of asbestos on pipe insulat., most recent use—ofc/storage, sched. to be vacated Oct. 1992.
GSA No.: 2-N-NY-797

Ohio

Buildings

Parcel 2
Property Number: 549110010
Fed Reg Date: 02/08/91
Project Name: Lock and Dam #16
Lock and Dam #16
Washington, OH, Co: Washington, Zip:
Location: On the Ohio River; 4 miles downstream from New MataMoras, Grandview Township.
Status: Excess
Comment: 2 story brick frame; subject to periodic flooding; possible asbestos on pipes; most recent use—office space.
GSA No.: 2-GR(1)-OH-730

Parcel 1
Property Number: 549110011
Fed Reg Date: 02/08/91
Project Name: Lock and Dam #16
Lock and Dam #16
Washington, OH, Co: Washington, Zip:
Location: On the Ohio River, 4 miles downstream from New MataMorus, Grandview Township.
Status: Excess
Comment: 2.5 story brick frame; subject to periodic flooding; possible asbestos on pipes; most recent use—storage.
GSA No.: 2-GR(1)-OH-730

U.S. Naval Reserve Center
Property Number: 779010075
Fed Reg Date: 11/01/91
170 Ashland Road
Mansfield, OH, Co: Richland, Zip: 44902–
Status: Excess
Comment: 29000 sq. ft., 1 story quonset hut structure, most recent use—office, recreation and storage, needs rehab, land leased from City through September 1992.
GSA No.: 2-N-OH-783

Oregon

Land

Tonque Point Job Corps Center
Property Number: 549010027
Fed Reg Date: 12/06/91
Project Name: Tonque Point Job Corps Center (Portion of)
Astoria, OR, Co: Clotsop, Zip: 97103–
Location: On the east by highway 30; on the west by city of Astoria's sewage treatment plant.
Status: Excess
Comment: 22.77 acres, land slopes, some soil erosion, potential utilities.
GSA No.: 9-L-OR-508M

Sewer and Road Easements
Property Number: 549110012
Fed Reg Date: 02/22/91
Project Name: Camp White
Camp White
Medford, OR, Co: Jackson, Zip:
Location: Table Rock Road and Avenue A and Kirtland Road and Newland Road.
Status: Excess
Comment: 10 acres; potential utilities; most recent use—road and sewerline easements.
GSA No.: 9-G-OR-36

Land
Property Number: 549120006
Fed Reg Date: 12/06/91
Portland, OR, Co: Multnomah, Zip: 97217–
Location: Near SE corner of North Union Ave. and North Marine Dr.
Status: Excess
Comment: 63,000 sq. ft. (140×450) land, most recent use—part of highway right-of-way, access is restricted.

Washington

Land

Seaplane Base
Property Number: 549130007
Fed Reg Date: 11/01/91
Naval Air Station—Whidbey Island
Oak Harbor, WA, Co: Island, Zip: 98278–
Status: Excess
Comment: 5.472 acres, most recent use—roadway and outside boat storage, easement restrictions.
GSA No.: 9-N-WA-585M

Summary of Properties for GSA

Buildings—13
Land—16
Total Suitable and Available by agency—29

Interior

California

Buildings

Yunker House (07-108)
Property Number: 619140004
Fed Fed Date: 11/22/91
Redwood National Park
Hiouchi, CA, Co: Del Norte, Zip: 95531–
Status: Unutilized
Comment: 900 sq. ft., 1 story frame residence, off-site use only.

Idaho

Buildings

Bldg. 705, Ditchrider House
Property Number: 619120010
Fed Reg Date: 08/28/91
Boise Project
Notus, ID, Co: Cayon, Zip: 83656–
Location: T5N, R3W, Sec 2, SE¼, SW¼, SW¼
Status: Unutilized
Comment: 588 sq. ft., one story residence, needs major repair, off-site use only.

Bldg. 508—Warehouse
Property Number: 619120011
Fed Reg Date: 08/28/91
Black Canyon Dam
Emmett, ID, Co: Gem, Zip: 83611–
Status: Unutilized
Comment: 4625 sq. ft., needs major rehab, most recent use—storage, off-site use only.

Bldg. 510—Carpenter Shop
Property Number: 619120012
Fed Reg Date: 08/28/91
Black Canyon Dam
Emmett, ID, Co: Gem, Zip: 83611–
Status: Unutilized
Comment: 4625 sq. ft., needs major rehab, most recent use—storage, off-site use only.

New Mexico

Buildings

Old Helium Plant
Property Number: 619010002
Fed Reg Date: 11/22/91
Project Name: Old Helium Plant
Gallup, NM, Co: McKinley, Zip: 87301–
Location: ¼ mile north of Gallup, adjacent to Old US Highway 666.
Status: Excess
Comment: 7853 sq. ft., 1 story office and warehouse space, possible asbestos, on 4.85 acres, secured area with alternate access.

Oregon

Buildings

Bldg. #3 (Ranger Residence)
Property Number: 619130004
Fed Reg Date: 11/22/91
1900 Caves Highway
Cave Junction, OR, Co: Josephine, Zip: 97523–
Status: Excess
Comment: 732 sq. ft., one story cabin, off-site use only.

Texas

Buildings

Administration Bldg.
Property Number: 619130005
Fed Reg Date: 11/22/91
Guadalupe Mountains National Park
Pine Springs, TX, Co: Culberson, Zip: 79847–
Status: Excess
Comment: 2016 sq. ft., one story frame structure, most recent use—office, off-site use only.

Washington

Buildings

Thompson Boathouse
Property Number: 619030011
Fed Reg Date: 05/15/91
Project Name: Lake Crescent Ranger Station
Lake Crescent Ranger Station
HC 62, Box 10
Port Angeles, WA, Zip: 98362–
Status: Unutilized
Comment: 693 sq. ft., 1 story boathouse; no utilities; needs rehab; off-site use only.

Spracklen Utility Shed
Property Number: 619030012
Fed Reg Date: 11/22/91
Project Name: Quinault Ranger Station
Quinault Ranger Station
Route 2, Box 76
Amanda Park, WA, Zip: 98526–
Status: Unutilized
Comment: 150 sq. ft., frame utility shed, limited utilities, off-site use only.

Summary of Properties for Interior

Buildings = 9
Land = 0
Total Suitable and Available by agency = 9

Navy

Georgia

Land

Naval Submarine Base
Property Number: 779010229
Fed Reg Date: 11/22/91
Project Name: Naval Submarine Base
Grid R–2 to R–3 to V–4 to V–1
Kings Bay, GA, Co: Camden, Zip: 31547–
Status: Underutilized
Comment: 111.57 acres; areas may be environmentally protected; secured area with alternate access.

Maryland

Land

White Oak Lab
Property Number: 779010066
Fed Reg Date: 11/22/91
Project Name: Navy Surface Warfare Center
Navy Surface Warfare Center
10901 New Hampshire Avenue
Silver Spring, MD, Co: Prince Georges, Zip: 20903–
Status: Fully Used
Comment: 16.5 acres; most recent use—buffer; secure area—access can be provided by relocation of fences.

Maine

Land

Naval Air Station
Property Number: 779010111
Fed Reg Date: 11/22/91
Project Name: Transmitter Site
Transmitter Site
Old Bath Road
Brunswick, ME, Co: Cumberland, Zip: 04053–
Status: Underutilized
Comment: 66.13 acres, most recent use—transmitter station.

Buildings

Naval Air Station
Property Number: 779010110
Fed Reg Date: 11/22/91
Project Name: Transmitter Site
Transmitter Site
Old Bath Road
Brunswick, ME, Co: Cumberland, Zip: 04053–
Status: Underutilized
Comment: 7,270 sq. ft., 1 story bldg, most recent use—storage, structural deficiencies,

Parcel No. 3
Property Number: 779120001
Fed Reg Date: 11/22/91
Naval Air Station Topsham Annex
Topsham, ME, Co: Sagadahoc, Zip: 04086–
Status: Demolished
Comment: 1900 sq. ft., abandoned storage facility, poor condition on 4.31 acres.

Texas

Land

Peary Point #2
Property Number: 779030001
Fed Reg Date: 11/22/91
Project Name: Naval Air Station
Naval Air Station
Corpus Christi, TX, Co: Nueces, Zip: 78419–5000
Status: Excess
Comment: 43.48 acres; 60% of land under lease until 8/93.
GSA No.: 7–N–TX–402–V

Summary of Properties for Navy

Buildings=2
Land=4
Total Suitable and Available by agency=6

VA

Alabama

Land

VA Medical Center
Property Number: 979010053
Fed Reg Date: 12/27/91
Project Name: VA Medical Center
VAMC
Tuskegee, AL, Co: Macon, Zip: 36083–
Status: Underutilized
Comment: 40 acres, buffer to VA Medical Center, potential utilities, undeveloped.

California

Buildings

Bldg. 116
Property Number: 979110009
Fed Reg Date: 12/27/91
Project Name: VA Medical Center
VA Medical Center
Wilshire and Sawtelle Blvds.
Los Angeles, CA, Co: Los Angeles, Zip: 90073–
Status: Underutilized
Comment: 60309 sq. ft., 3 story brick frame, seismic reinforcement defics., underutil. port of bldg. used intermitly., needs rehab, poss. asbestos in pipes/floor tiles, site access lim.

Bldg. 263
Property Number: 979110010
Fed Reg Date: 12/27/91
Project Name: VA Medical Center
VA Medical Center
Wilshire and Sawtelle Blvds.
Los Angeles, CA, Co: Los Angeles, Zip: 90073–
Status: Unutilized
Comment: 1600 sq. ft., 1 story wood frame w/ stucco exterior, needs rehab, poss. asbestos on pipes/floor tiles, site access limitations, no operating utilities.

Louisiana

Land

Land—8.27 acres
Property Number: 979010009
Fed Reg Date: 12/27/91
Project Name: VA Medical Center
VA Medical Center
2501 Shreveport Highway
Alexandria, LA, Co: Rapides, Zip: 71301–
Status: Unutilized
Comment: 8.27 acres, heavily wood with natural drainage ravine across property, most recent use—recreation/buffer area.

Maryland

Land

VA Medical Center
Property Number: 979010020
Fed Reg Date: 12/27/91
Project Name: VA Medical Center
9500 North Point Road
Fort Howard, MD, Co: Baltimore, Zip: 21052–
Status: Underutilized
Comment: Approx. 10 acres, wetland and periodically floods, most recent use—dump site for leaves.

Minnesota

Land

Land around Bldg. 240–249, 253
Property Number: 979010007
Fed Reg Date: 12/27/91
Project Name: VA Medical Center
VA Medical Center
Fort Snelling
St. Paul, MN, Co: Hennepin, Zip: 55111–
Status: Unutilized
Comment: 3.76 acres, potential utilities.

Texas

Land

Land
Property Number: 979010079
Fed Reg Date: 12/27/91
Project Name: Olin E. Teague Veterans Center
Olin E. Teague Veterans Center
1901 South 1st Street
Temple, TX, Co: Bell, Zip: 76504–

Status: Underutilized
Comment: 13 acres, portion formerly landfill, portion near flammable materials, railroad crosses property, potential utilities.

VA Medical Center
Property Number: 979010081
Fed Reg Date: 12/27/91
Project Name: VA Medical Center
4800 Memorial Drive
Waco, TX, Co: McLennan, Zip: 76711–
Status: Underutilized
Comment: 2.3 acres, leased to Owens-Illinois Glass Plant, expiration date 10/31/91, most recent use—parking lot.

Wisconsin

Land

VA Medical Center
Property Number: 979010054
Fed Reg Date: 12/27/91
Project Name: VA Medical Center
County Highway E
Tomah, WI, Co: Monroe, Zip: 54660–
Status: Underutilized
Comment: 12.4 acres, serves as buffer between center and private property, no utilities.

Buildings

Bldg. 2
Property Number: 979010055
Fed Reg Date: 12/27/91
Project Name: VA Medical Center
VA Medical Center
County Highway E
Tomah, WI, Co: Monroe, Zip: 54660–
Status: Underutilized
Comment: 18000 sq. ft., 3 story masonry, needs rehab, possible asbestos, potential utilities.

Bldg. 8
Property Number: 979010056
Fed Reg Date: 12/27/91
Project Name: VA Medical Center
VA Medical Center
County Highway E
Tomah, WI, Co: Monroe, Zip: 54660–
Status: Underutilized
Comment: 2200 sq. ft., 2 story wood frame, possible asbestos, potential utilities, structural deficiencies, needs rehab.

Summary of Properties for VA

Buildings=4
Land=7
Total Suitable and Available by agency=11

Summary of Properties for 91

Buildings=3,175
Land=164
Total Suitable and Available for 91=3,339

Air Force

California

Land

Camp Kohler Annex
Property Number: 189010045
Fed Reg Date: 11/15/91
Project Name: McClellan AFB
McClellan AFB
Sacramento, CA, Co: Sacramento, Zip: 95652–5000
Status: Unutilized
Reason: Change in AF mission.

Norton Com. Facility Annex
Property Number: 189010194
Fed Reg Date: 11/15/91
Project Name: Norton Com. Facility Annex
Norton AFB
Sixth and Central Streets
Highland, CA, Co: San Bernadino, Zip: 92409–5045
Status: Excess
Reason: Leased until 12/31/92 by "Baseline Little League".

Buildings

Bldg. 540
Property Number: 189010581
Fed Reg Date: 11/15/91
Project Name: Vandenberg Air Force Base
Vandenburg Air Force Base
Off Coast Road
Vandenberg AFB, CA, Co: Santa Barbara, Zip: 93437–
Status: Unutilized
Reason: Too near missile range.

Florida

Land

Elgin AFB
Property Number: 189010134
Fed Reg Date: 11/15/91
Project Name: Eglin Air Force Base
Mossy Head, FL, Co: Walton, Zip: 32533–
Status: Excess
Reason: Existing law directs transfer to U.S. forest service.

Eglin AFB
Property Number: 189010135
Fed Reg Date: 11/15/91
Project Name: Eglin Air Force Base
Mossy Head, FL, Co: Walton, Zip: 32533–
Status: Excess
Reason: Existing law directs transfer to U.S. forest service.

Eglin AFB
Property Number: 189010136
Fed Reg Date: 11/15/91
Project Name: Eglin Air Force Base
Mossy Head, FL, Co: Walton, Zip: 32533–
Status: Excess
Reason: Existing law directs transfer to U.S. forest service.

Buildings

Bldg. 166
Property Number: 189110154
Fed Reg Date: 11/15/91
Project Name: Patrick Air Force Base
Patrick Air Force Base
North Highway A1A
Cocoa Beach, FL, Co: Brevard, Zip: 32925–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 168
Property Number: 189110155
Fed Reg Date: 11/15/91
Project Name: Patrick Air Force Base
Patrick Air Force Base
North Highway A1A
Cocoa Beach, FL, Co: Brevard, Zip: 32925–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 170
Property Number: 189110156
Fed Reg Date: 11/15/91
Project Name: Patrick Air Force Base
Patrick Air Force Base
North Highway A1A
Cocoa Beach, FL, Co: Brevard, Zip: 32925–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 172
Property Number: 189110157
Fed Reg Date: 11/15/91
Project Name: Patrick Air Force Base
Patrick Air Force Base
North Highway A1A
Cocoa Beach, FL, Co: Brevard, Zip: 32925–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 174
Property Number: 189110158
Fed Reg Date: 11/15/91
Project Name: Patrick Air Force Base
Patrick Air Force Base
North Highway A1A
Cocoa Beach, FL, Co: Brevard, Zip: 32925–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 176
Property Number: 189110159
Fed Reg Date: 11/15/91
Project Name: Patrick Air Force Base
Patrick Air Force Base
North Highway A1A
Cocoa Beach, FL, Co: Brevard, Zip: 32925–
Status: Unutilized
Reason: Area programmed for future use.

Illinois

Buildings

Bldg. 1380
Property Number: 189010232
Fed Reg Date: 11/15/91
Project Name: Chanute Air Force Base
Chanute Air Force Base
Rantoul, IL, Co: Champaign, Zip: 61868–
Status: Unutilized
Reason: Chemicals (GAS) present.

Bldg. 106
Property Number: 189010255
Fed Reg Date: 11/15/91
Project Name: Chanute Air Force Base
Chanute Air Force Base
Rantoul, IL, Co: Champaign, Zip: 61868–
Status: Unutilized
Reason: Unsafe for any use.

Bldg. 1220
Property Number: 189010250
Fed Reg Date: 11/15/91
Project Name: Chanute Air Force Base
Chanute Air Force Base
Rantoul, IL, Co: Champaign, Zip: 61868–
Status: Unutilized
Reason: Unsafe for any use.

Bldg. 1221
Property Number: 189010280
Fed Reg Date: 11/15/91
Project Name: Chanute Air Force Base
Chanute Air Force Base
Rantoul, IL, Co: Champaign, Zip: 61868–
Status: Unutilized
Reason: Unsafe for any use.

Michigan

Buildings

Bldg. 20
Property Number: 1890101775
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–

Status: Excess
Reason: Building on leased land.

Bldg. 28
Property Number: 189010778
Fed Reg Date: 11/15/91
Project Name: Calumet Air Force Station
Calumet Air Force Station
Calumet, MI, Co: Keweenaw, Zip: 49913–
Status: Excess
Reason: Building on leased land.

Missouri

Buildings

Jefferson Barracks ANG Base
Property Number: 189010081
Fed Reg Date: 11/15/91
Project Name: Missouri National Guard
Missouri National Guard
1 Grant Road
St. Louis, MO, Co: St. Louis, Zip: 63125–4118
Status: Underutilized
Reason: Vehicle fuel stations/fuel storage, Flooded area.

New Mexico

Buildings

Bldg. 13 1606 ABW/DE
Property Number: 189010072
Fed Reg Date: 11/15/91
Project Name: Kirtland AFB
Kirtland AFB
Wyoming Avenue
Kirtland, NM, Co: Bernalillo, Zip: 87117–5498
Status: Unutilized
Reason: Now is in use.

South Dakota

Buildings

Bldg. 8810B
Property Number: 189010343
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
226 Barrentine
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.

Bldg. 8614C
Property Number: 189010344
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
228 Clark
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.

Bldg. 8728D
Property Number: 189010345
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
264 Lee
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.

Bldg. 8732D
Property Number: 189010346
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
280 Lee
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.

Bldg. 8816C
Property Number: 189010347
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
252 Barrentine
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.

Bldg. 8727C
Property Number: 189010348
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
259 Lee
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.

Bldg. 8513A
Property Number: 189010349
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
119 Brett
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.

Bldg. 8548D
Property Number: 189010350
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
270 Brett
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.

Bldg. 8540B
Property Number: 189010351
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
242 Brett
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.

Bldg. 8719
Property Number: 189010352
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
235 Lee
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.

Bldg. 8726B
Property Number: 189010353
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
252 Lee
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.

Bldg. 8546B
Property Number: 189010354
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
258 Brett
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.

Bldg. 8528D
Property Number: 189010355
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
142 Brett
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.

Bldg. 8425C
Property Number: 189010356
Fed Reg Date: 11/15/91
Project Name: Skyway
Skyway
438 Billy Mitchell
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.

Bldg. 8406D
Property Number: 189010358
Fed Reg Date: 11/15/91
Project Name: Skyway
Skyway
556 Billy Mitchell
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.

Bldg. 8438C
Property Number: 189010359
Fed Reg Date: 11/15/91
Project Name: Skyway
Skyway
246 Billy Mitchell
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.

Bldg. 8421A
Property Number: 189010360
Fed Reg Date: 11/15/91
Project Name: Skyway
Skyway
490 Billy Mitchell
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized

Reason: Not turn-key houses; requires $25,000+ rehabilitation.
Bldg. 8433D
Property Number: 189010361
Fed Reg Date: 11/15/91
Project Name: Skyway
Skyway
300 Billy Mitchell
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.
Bldg. 8412F
Property Number: 189010362
Fed Reg Date: 11/15/91
Project Name: Skyway
Skyway
625 Arnold Lane
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.
Bldg. 8440E
Property Number: 189010363
Fed Reg Date: 11/15/91
Project Name: Skyway
Skyway
228 Billy Mitchell
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.
Bldg. 8401C
Property Number: 189010364
Fed Reg Date: 11/15/91
Project Name: Skyway
Skyway
98 Front St.
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.
Bldg. 8477B
Property Number: 189010365
Fed Reg Date: 11/15/91
Project Name: Skyway
Skyway
72 Front St.
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.
Bldg. 8488E
Property Number: 189010366
Fed Reg Date: 11/15/91
Project Name: Skyway
Skyway
11 Front St.
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.
Bldg. 8452B
Property Number: 189010367
Fed Reg Date: 11/15/91
Project Name: Skyway
Skyway
281 Billy Mitchell
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.
Bldg. 8425B
Property Number: 189010368
Fed Reg Date: 11/15/91
Project Name: Skyway
Skyway
440 Billy Mitchell
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.
Bldg. 8412C
Property Number: 189010369
Fed Reg Date: 11/15/91
Project Name: Skyway
Skyway
619 Arnold Lane
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.
Bldg. 8457E
Property Number: 189010370
Fed Reg Date: 11/15/91
Project Name: Skyway
Skyway
409 Billy Mitchell
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.
Bldg. 8414B
Property Number: 189010371
Fed Reg Date: 11/15/91
Project Name: Skyway
Skyway
618 Arnold Lane
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.
Bldg. 8423B
Property Number: 189010372
Fed Reg Date: 11/15/91
Project Name: Skyway
Skyway
464 Billy Mitchell
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.
Bldg. 8486A
Property Number: 189010373
Fed Reg Date: 11/15/91
Project Name: Skyway
Skyway
32 Front St.
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.
Bldg. 8448D
Property Number: 189010374
Fed Reg Date: 11/15/91
Project Name: Skyway
Skyway
225 Billy Mitchell
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.
Bldg. 8448A
Property Number: 189010375
Fed Reg Date: 11/15/91
Project Name: Skyway
Skyway
219 Billy Mitchell
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.
Bldg. 8448E
Property Number: 189010376
Fed Reg Date: 11/15/91
Project Name: Skyway
Skyway
227 Billy Mitchell
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.
Bldg. 8474C
Property Number: 189010377
Fed Reg Date: 11/15/91
Project Name: Skyway
Skyway
83 Front St.
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.
Bldg. 8412H
Property Number: 189010378
Fed Reg Date: 11/15/91
Project Name: Skyway
Skyway
629 Arnold Lane
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.
Bldg. 8435E
Property Number: 189010379
Fed Reg Date: 11/15/91
Project Name: Skyway
Skyway
270 Billy Mitchell
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.
Bldg. 8438E
Property Number: 189010380
Fed Reg Date: 11/15/91
Project Name: Skyway
Skyway
242 Billy Mitchell
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.
Bldg. 8413A

Property Number: 189010381
Fed Reg Date: 11/15/91
Project Name: Skyway
Skyway
632 Arnold Lane
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.

Bldg. 8466B
Property Number: 189010382
Fed Reg Date: 11/15/91
Project Name: Skyway
Skyway
30 Front St.
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.

Bldg. 8471A
Property Number: 189010383
Fed Reg Date: 11/15/91
Project Name: Skyway
Skyway
579 Billy Mitchell
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses, requires $25,000+ rehabilitation.

Bldg. 8438D
Property Number: 189010384
Fed Reg Date: 11/15/91
Project Name: Skyway
Skyway
244 Billy Mitchell
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses, requires $25,000+ rehabilitation.

Bldg. 8809A
Property Number: 189010386
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
217 Barrentine Way
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses, requires $25,000+ rehabilitation.

Bldg. 8814C
Property Number: 189010387
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
244 Barrentine Way
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses, requires $25,000+ rehabilitation.

Bldg. 8808A
Property Number: 189010388
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
220 Barrentine Way
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses, requires $25,000+ rehabilitation.

Bldg. 9122B
Property Number: 189010389
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
234 Frank Avenue
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses, requires $25,000+ rehabilitation.

Bldg. 8814A
Property Number: 189010390
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
224 Clark Avenue
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses, requires $25,000+ rehabilitation.

Bldg. 8816A
Property Number: 189010391
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
235 Barrentine Way
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses, requires $25,000+ rehabilitation.

Bldg. 8724A
Property Number: 189010392
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
242 Lee Drive
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses, requires $25,000+ rehabilitation.

Bldg. 8590B
Property Number: 189010393
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
424 Brett Road
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses, requires $25,000+ rehabilitation.

Bldg. 8501
Property Number: 189010394
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
101 Brett Road
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses, requires $25,000+ rehabilitation.

Bldg. 8532D
Property Number: 189010395
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
214 Brett Road
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses, requires $25,000+ rehabilitation.

Bldg. 8816D
Property Number: 189010396
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
254 Barrentine Way
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses, requires $25,000+ rehabilitation.

Bldg. 8590A
Property Number: 189010397
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
422 Brett Road
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses, requires $25,000+ rehabilitation.

Bldg. 8932
Property Number: 189010398
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
232 Polifka
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses, requires $25,000+ rehabilitation.

Bldg. 8723A
Property Number: 189010399
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
247 Lee Drive
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses, requires $25,000+ rehabilitation.

Bldg. 8546C
Property Number: 189010400
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
260 Brett Road
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses, requires $25,000+ rehabilitation.

Bldg. 9111B
Property Number: 189010401
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
211 Frank
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses, requires $25,000+ rehabilitation.

Bldg. 9119
Property Number: 189010402
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
225 Frank

Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses, requires $25,000+ rehabilitation.
Bldg. 8623D
Property Number: 189010403
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
251 Clark Street
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses, requires $25,000+ rehabilitation.
Bldg. 8601B
Property Number: 189010404
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
201 Clark Street
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.
Bldg. 8507
Property Number: 189010405
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
111 Brett Road
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.
Bldg. 8566C
Property Number: 189010406
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
336 Brett Road
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.
Bldg. 8930
Property Number: 189010407
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
203 Polifka Drive
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.
Bldg. 8618
Property Number: 189010408
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
240 Clark Street
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.
Bldg. 8816A
Property Number: 189010409
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
248 Barrentine Way
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.
Bldg. 8921A
Property Number: 189010410
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
243 Polifka Avenue
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.
Bldg. 8534B
Property Number: 189010411
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
218 Brett Road
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.
Bldg. 8729A
Property Number: 189010412
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
271 Lee Drive
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.
Bldg. 8724B
Property Number: 189010413
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
244 Lee Drive
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.
Bldg. 8556B
Property Number: 189010414
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
304 Brett Road
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.
Bldg. 9105
Property Number: 189010415
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
205 Frank Street
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.
Bldg. 8566D
Property Number: 189010416
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
338 Brett Road
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.
Bldg. 8817B
Property Number: 189010417
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
237 Barrentine Way
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.
Bldg. 8568B
Property Number: 189010418
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
344 Brett Road
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.
Bldg. 8531C
Property Number: 189010419
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
211 Brett Road
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.
Bldg. 8577A
Property Number: 189010420
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
387 Brett Road
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.
Bldg. 8725A
Property Number: 189010421
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
255 Lee Drive
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.
Bldg. 8537B
Property Number: 189010422
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
237 Brett Road
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized

Reason: Not turn-key houses; requires $25,000+ rehabilitation.

Bldg. 8709A
Property Number: 189010423
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
217 Lee Drive
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.

Bldg. 8535C
Property Number: 189010424
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
227 Brett Road
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.

Bldg. 8534A
Property Number: 189010425
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
216 Brett Road
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.

Bldg. 8726A
Property Number: 189010426
Fed Reg Date: 11/15/91
Project Name: Renel Heights
Renel Heights
250 Lee Drive
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Not turn-key houses; requires $25,000+ rehabilitation.

Bldg. 1108
Property Number: 189010439
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
1108 Center Drive
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Unsafe for any use.

Bldg. 1109
Property Number: 189010440
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
1109 Center Drive
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Unsafe for any use.

Bldg. 1113
Property Number: 189010441
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
1113 Center Drive
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Unsafe for any use.

Bldg. 1114
Property Number: 189010442
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
1114 Center Drive
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Unsafe for any use.

Bldg. 8479E, Skyway Housing
Property Number: 189010760
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
56 Front Street
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Struct. deteriorated, has asbestos/ located in secured area.

Bldg. 8475H, Skyway Housing
Property Number: 189010761
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
74 Front Street
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Struct. deteriorated, has asbestos/ located in secured area.

Bldg. 8475D, Skyway Housing
Property Number: 189010762
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
78 Front Street
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Struct. deteriorated, has asbestos/ located in secured area.

Bldg. 8433C, Skyway Housing
Property Number: 189010763
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
302 Billy Mitchell
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Struct. deteriorated, has asbestos/ located in secured area.

Bldg. 8440F, Skyway Housing
Property Number: 189010764
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
226 Billy Mitchell
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Struct. deteriorated, has asbestos/ located in secured area.

Bldg. 8475F, Skyway Housing
Property Number: 189010765
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
76 Front Street
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Struct. deteriorated, has asbestos/ located in secured area.

Bldg. 8448C, Skyway Housing
Property Number: 189010766
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
223 Billy Mitchell
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Struct. deteriorated, has asbestos/ located in secured area.

Bldg. 8454A, Skyway Housing
Property Number: 189010767
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
299 Billy Mitchell
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Struct. deteriorated, has asbestos/ located in secured area.

Bldg. 8474D, Skyway Housing
Property Number: 189010768
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
82 Front Street
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Struct. deteriorated, has asbestos/ located in secured area.

Bldg. 8481A, Skyway Housing
Property Number: 189010769
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
52 Front Street
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Struct. deteriorated, has asbestos/ located in secured area.

Bldg. 8451C, Skyway Housing
Property Number: 189010770
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
275 Billy Mitchell
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Struct. deteriorated, has asbestos/ located in secured area.

Bldg. 8454C, Skyway Housing
Property Number: 189010771
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
303 Billy Mitchell
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Struct. deteriorated, has asbestos/ located in secured area.

Bldg. 8475B, Skyway Housing
Property Number: 189010772
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
80 Front Street

Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Struct. deteriorated, has asbestos/ located in secured area.

Bldg. 8478D, Skyway Housing
Property Number: 189010773
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
61 Front Street
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Struct. deteriorated, has asbestos/ located in secured area.

Bldg. 8477D, Skyway Housing
Property Number: 189010774
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
70 Front Street
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Struct. deteriorated, has asbestos/ located in secured area.

Bldg. 8475A
Property Number: 189030008
Fed Reg Date: 11/15/91
Project Name: Skyway Housing
Skyway Housing, Ellsworth Air Force Base
81 Front Street
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Reconstruction costs exceed $25,000 and tests show asbestos.

Bldg. 8452A
Property Number: 189030009
Fed Reg Date: 11/15/91
Project Name: Skyway Housing
Skyway Housing, Ellsworth Air Force Base
279 Billy Mitchell
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason; Reconstruction costs exceed $25,000 and tests show asbestos.

Bldg. 8472B
Property Number: 189030010
Fed Reg Date: 11/15/91
Project Name: Skyway Housing
Skyway Housing, Ellsworth Air Force Base
96 Front Street
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Reconstruction costs exceed $25,000 and test shows asbestos.

Bldg. 8437D
Property Number: 189030011
Fed Reg Date: 11/15/91
Project Name: Skyway Housing
Skyway Housing, Ellsworth Air Force Base
256 Billy Mitchell
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Reconstruction costs exceed $25,000 and test shows asbestos.

Bldg. 8448B
Property Number: 189030012
Fed Reg Date: 11/15/91
Project Name: Skyway Housing
Skyway Housing, Ellsworth Air Force Base
221 Billy Mitchell
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Reconstruction costs exceed $25,000 and test shows asbestos.

Bldg. 8472C
Property Number: 189030013
Fed Reg Date: 11/15/91
Project Name: Skyway Housing
Skyway Housing, Ellsworth Air Force Base
94 Front Street
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Reconstruction costs exceed $25,000 and test shows asbestos.

Bldg. 8459D
Property Number: 189030014
Fed Reg Date: 11/15/91
Project Name: Skyway Housing
Skyway Housing, Ellsworth Air Force Base
427 Billy Mitchell
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Reconstruction costs exceed $25,000 and test shows asbestos.

Bldg. 8477C
Property Number: 189030015
Fed Reg Date: 11/15/91
Project Name: Skyway Housing
Skyway Housing, Ellsworth Air Force Base
71 Front Street
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Reconstruction costs exceed $25,000 and test shows asbestos.

Bldg. 8471B; Skyway Housing
Property Number: 189040003
Fed Reg Date: 11/15/91
Project Name: Skyway Housing
Ellsworth Air Force Base
581 Billy Mitchell
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Will be demolished.

Bldg. 8457A; Skyway Housing
Property Number: 189040004
Fed Reg Date: 11/15/91
Project Name: Skyway Housing
Ellsworth Air Force Base
401 Billy Mitchell
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Will be demolished.

Bldg. 8457B; Skyway Housing
Property Number: 189040005
Fed Reg Date: 11/15/91
Project Name: Skyway Housing
Ellsworth Air Force Base
403 Billy Mitchell
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Will be demolished.

Bldg. 8474B; Skyway Housing
Property Number: 189040006
Fed Reg Date: 11/15/91
Project Name: Skyway Housing
Ellsworth Air Force Base
84 Front Street
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Will be demolished.

Bldg. 8482B; Skyway Housing
Property Number: 189040007
Fed Reg Date: 11/15/91
Project Name: Skyway Housing
Ellsworth Air Force Base
43 Front Street
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Will be demolished.

Bldg. 8425D; Skyway Housing
Property Number: 189040008
Fed Reg Date: 11/15/91
Project Name: Skyway Housing
Ellsworth Air Force Base
436 Billy Mitchell
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Will be demolished.

Bldg. 8473C; Skyway Housing
Property Number: 189040009
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
258 Billy Mitchell
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Will be demolished.

Bldg. 8438F; Skyway Housing
Property Number: 189040010
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
240 Billy Mitchell
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Will be demolished.

Bldg. 8416B; Skyway Housing
Property Number: 189040011
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
600 Arnold Lane
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Will be demolished.

Bldg. 8486A; Skyway Housing
Property Number: 189040012
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
16 Front Street
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Will be demolished.

Bldg. 8415D; Skyway Housing
Property Number: 189040013
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
610 Arnold Lane
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized

Reason: Will be demolished.
Bldg. 8450F; Skyway Housing
Property Number: 189040014
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
249 Billy Mitchell
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Will be demolished.

Bldg. 8488B; Skyway Housing
Property Number: 189040015
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellwsorth Air Force Base
14 Front Street
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Will be demolished.

Bldg. 8487C; Skyway Housing
Property Number: 189040016
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
18 Front Street
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Will be demolished.

Bldg. 8427E; Skyway Housing
Property Number: 189040017
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
418 Billy Mitchell
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Will be demolished.

Bldg. 8447A; Skyway Housing
Property Number: 189040018
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
211 Billy Mitchell
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Will be demolished.

Bldg. 8489A; Skyway Housing
Property Number: 189040019
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
4 Front Street
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Will be demolished.

Bldg. 8468B; Skyway Housing
Property Number: 189040020
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
531 Billy Mitchell
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Will be demolished.

Bldg. 8475C; Skyway Housing
Property Number: 189040021
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
79 Front Street
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Will be demolished.

Bldg. 8475E; Skyway Housing
Property Number: 189040022
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
77 Front Street
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Will be demolished.

Bldg. 8466D; Skyway Housing
Property Number: 189040023
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
509 Billy Mitchell
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Will be demolished.

Bldg. 8442C; Skyway Housing
Property Number: 189040024
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
220 Billy Mitchell
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Will be demolished.

Bldg. 8468C; Skyway Housing
Property Number: 189040025
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
533 Billy Mitchell
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Will be demolished.

Bldg. 8418A; Skyway Housing
Property Number: 189040026
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
522 Billy Mitchell
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Will be demolished.

Bldg. 8434C
Property Number: 189110033
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
286 Billy Mitchell, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8433G
Property Number: 189110034
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
294 Billy Mitchell, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8432E
Property Number: 189110035
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
310 Billy Mitchell, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8470A
Property Number: 189110036
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
563 Billy Mitchell, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8438A
Property Number: 189110037
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
250 Billy Mitchell, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8435C
Property Number: 189110038
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
274 Billy Mitchell, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8461D
Property Number: 189110039
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
449 Billy Mitchell, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8437B
Property Number: 189110040
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
260 Billy Mitchell, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8423A
Property Number: 189110041
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
466 Billy Mitchell, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8432D
Property Number: 189110042

Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
312 Billy Mitchell, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8429B
Property Number: 189110043
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
400 Billy Mitchell, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8435A
Property Number: 189110044
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
278 Billy Mitchell, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8440D
Property Number: 189110045
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
230 Billy Mitchell, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8453D
Property Number: 189110046
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
297 Billy Mitchell, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8417B
Property Number: 189110047
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
532 Billy Mitchell, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8461E
Property Number: 189110048
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
451 Billy Mitchell, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8443A
Property Number: 189110049
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
216 Billy Mitchell, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8443B
Property Number: 189110050
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
214 Billy Mitchell, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8429A
Property Number: 189110051
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
402 Billy Mitchell, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8458B
Property Number: 189110052
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
415 Billy Mitchell, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8428A
Property Number: 189110053
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
410 Billy Mitchell, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status; Unutilized
Reason: Area programmed for future use.

Bldg. 8437E
Property Number: 189110054
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
254 Billy Mitchell, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8468D
Property Number: 189110055
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
535 Billy Mitchell, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8462A
Property Number: 189110056
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
455 Billy Mitchell, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8420A
Property Number: 189110057
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
498 Billy Mitchell
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8432B
Property Number: 189110058
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
316 Billy Mitchell, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8436A
Property Number: 189110059
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
266 Billy Mitchell, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8463B
Property Number: 189110060
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
465 Billy Mitchell, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use:

Bldg. 8457F
Property Number: 189110061
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
411 Billy Mitchell, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8434E
Property Number: 189110062
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
282 Billy Mitchell, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip. 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8447D
Property Number: 189110063
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
217 Billy Mitchell, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8461F
Property Number: 189110064
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base

453 Billy Mitchell, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8437A
Property Number: 189110065
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
282 Billy Mitchell, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8433H
Property Number: 189110066
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
292 Billy Mitchell, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8459A
Property Number: 189110067
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
421 Billy Mitchell, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8453C
Property Number: 189110068
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
295 Billy Mitchell, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8488E
Property Number: 189110069
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
11 Front Street, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8488F
Property Number: 189110070
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
10 Front Street, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8479G
Property Number: 189110071
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
54 Front Street, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8483D
Property Number: 189110072
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
37 Front Street, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8486C
Property Number: 189110073
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
29 Front Street, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8479C
Property Number: 189110074
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
91 Front Street, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8489D
Property Number: 189110075
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
1 Front Street, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8483E
Property Number: 189110076
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
36 Front Street, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8489B
Property Number: 189110077
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
3 Front Street, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8412E
Property Number: 189110078
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
623 Arnold Lane, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8413E
Property Number: 189110079
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
624 Arnold Lane
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Bldg. 8415E
Property Number: 189110080
Fed Reg Date: 11/15/91
Project Name: Ellsworth Air Force Base
Ellsworth Air Force Base
608 Arnold Lane, Skyway Housing
Ellsworth AFB, SD, Co: Pennington, Zip: 57706–
Status: Unutilized
Reason: Area programmed for future use.

Texas

Buildings

Bldg. 89
Property Number: 189010180
Fed Reg Date: 11/15/91
Project Name: Laughlin Air Force Base
Laughlin Air Force Base
Val Verde Co., TX, Co: Val Verde, Zip: 78843–5000
Status: Demolished
Reason: 25% available, storage.

Bldg. 605
Property Number: 189110090
Fed Reg Date: 11/15/91
Project Name: Brooks Air Force Base
Brooks Air Force Base
San Antonio, TX, Co: Bexar, Zip: 78235–
Status: Unutilized
Reason: Change in agency mission.

Bldg. 696
Property Number: 189110091
Fed Reg Date: 11/15/91
Project Name: Brooks Air Force Base
Brooks Air Force Base
San Antonio, TX, Co: Bexar, Zip: 78235–
Status: Unutilized
Reason: Change in agency mission.

Bldg. 697
Property Number: 189110092
Fed Reg Date: 11/15/91
Project Name: Brooks Air Force Base
Brooks Air Force Base
San Antonio, TX, Co: Bexar, Zip: 78235–
Status: Unutilized
Reason: Change in agency mission.

Bldg. 698
Property Number: 189110093
Fed Reg Date: 11/15/91
Project Name: Brooks Air Force Base
Brooks Air Force Base
San Antonio, TX, Co: Bexar, Zip: 78235–
Status: Unutilized
Reason: Change in agency mission.

Bldg. 699
Property Number: 189110094
Fed Reg Date: 11/15/91
Project Name: Brooks Air Force Base
Brooks Air Force Base
San Antonio, TX, Co: Bexar, Zip: 78235–
Status: Unutilized
Reason: Change in agency mission

Facility 237—Carswell AFB
Property Number: 189120235
Fed Reg Date: 11/15/91
301 Roaring Springs Road
Fort Worth, TX, Co: Tarrant Zip: 76127–
Status: Unutilized

Reason: Programmed for demolition.

Summary of Properties Appearing for Air Force

Buildings=203
Land=5
Total Suitable and Unavailable=208

Air Force–BC

California

Buildings

Bldg. 344
Property Number: 199120468
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Reason: Demolition is planned.

Bldg. 414
Property Number: 199120469
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Reason: Demolition is planned.

Bldg. 411
Property Number: 199120484
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Reason: Demolition is planned.

Bldg. 457
Property Number: 199120509
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Reason: Demolition is planned.

Bldg. 458
Property Number: 199120510
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Reason: Demolition is planned.

Bldg. 335
Property Number: 199120521
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Reason: Demolition is planned.

Bldg. 336
Property Number: 199120522
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Reason: Demolition is planned.

Bldg. 412
Property Number: 199120523
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Reason: Demolition is planned.

Bldg. 413
Property Number: 199120524
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Reason: Demolition is planned.

Bldg. 416
Property Number: 199120525
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Reason: Demolition is planned.

Bldg. 417
Property Number: 199120526
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Reason: Demolition is planned.

Bldg. 96
Property Number: 199120598
Fed Reg Date: 11/29/91
George Air Force Base
George AFB, CA, Co: San Bernardino, Zip: 92394–5000
Status: Excess
Reason: Demolition is planned.

Summary of Properties Appearing for Air Force–BC

Buildings=12
Land=0
Total Suitable and Unavailable=12

Army

California

Buildings

Bldg. 226
Property Number: 219013010
Fed Reg Date: 12/20/91
Project Name: Parks Res. Forces Trng. Area
Parks Reserve Forces Training Area
Dublin, CA, Co: Alameda, Zip: 94129–
Status: Unutilized
Reason: Building contaminated.

Georgia

Buildings

Bldg. 5325
Property Number: 219010140
Fed Reg Date: 12/20/91
Project Name: Fort Benning
Fort Benning, GA, Co: Muscogee, Zip: 31905–
Status: Unutilized
Reason: To be demolished.

Kentucky

Buildings

Bldg. 2945
Property Number: 219012543
Fed Reg Date: 12/20/91
Project Name: Ft. Campbell
Fort Campbell
Fort Campbell, KY, Co: Christian, Zip: 42223–
Status: Underutilized
Reason: Building contaminated.

Bldg. 144
Property Number: 219013140
Fed Reg Date: 12/20/91
Project Name: Ft. Campbell
Ft. Campbell
Ft. Campbell, KY, Co: Christian, Zip: 42223–
Status: Underutilized
Reason: Building contaminated.

Bldg. 145
Property Number: 219013141
Fed Reg Date: 12/20/91
Project Name: Ft. Campbell
Ft. Campbell
Ft. Campbell, KY, Co: Christian, Zip: 42223–
Status: Underutilized
Reason: Building contaminated.

Louisiana

Buildings

Bldg. 8323
Property Number: 219012730
Fed Reg Date: 12/20/91
Project Name: Fort Polk
12th Street
Fort Polk, LA, Co: Vernon, Zip: 71459–5000
Status: Underutilized
Reason: Building dilapidated and recommended for disposal.

Massachusetts

Buildings

Bldg. T–206
Property Number: 219012345
Fed Reg Date: 12/20/91
Project Name: Fort Devens
Fort Devens
Fort Devens, MA, Co: Middlesex/Worcester, Zip: 01433–
Status: Underutilized
Reason: Utilized for military missions.

Bldg. T–209
Property Number: 219030265
Fed Reg Date: 12/20/91
Project Name: Fort Devens
Fort Devens
Fort Devens, MA, Co: Middlesex/Worcester, Zip: 01433–
Status: Underutilized
Reason: Facilities used for National Guard and Army Reserve Training.

New Jersey

Buildings

Bldg. 3315–B
Property Number: 219030194
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Harty Road
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: Declared dilapidated and unsafe; to be demolished.

Bldg. 3315–C
Property Number: 219030195
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Harty Road
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: Declared dilapidated and unsafe; to be demolished.

Bldg. 3316–A
Property Number: 219030196
Fed Reg Date: 12/20/91

Project Name: Nelson Family Housing
Nelson Family Housing
Singer Road
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: Declared dilapidated and unsafe; to be demolished.

Bldg. 3316–B
Property Number: 219030197
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Singer Road
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: Declared dilapidated and unsafe; to be demolished.

Bldg. 3316–C
Property Number: 219030198
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Singer Road
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: Declared dilapidated and unsafe; to be demolished.

Bldg. 3317–A
Property Number: 219030199
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Singer Road
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: Declared dilapidated and unsafe; to be demolished.

Bldg. 3318–A
Property Number: 219030200
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Singer Road
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: Declared dilapidated and unsafe; to be demolished.

Bldg. 3322–C
Property Number: 219030201
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Singer Road
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: Declared dilapidated and unsafe; to be demolished.

Bldg. 3319–C
Property Number: 219030202
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Singer Road
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: Declared dilapidated and unsafe; to be demolished.

Bldg. 3323–A
Property Number: 219030203
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Singer Road
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: Declared dilapidated and unsafe; to be demolished.

Bldg. 3323–B
Property Number: 219030204
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Singer Road
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: Declared dilapidated and unsafe; to be demolished.

Bldg. 3325–A
Property Number: 219030205
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Singer Road
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: Declared dilapidated and unsafe; to be demolished.

Bldg. 3329–C
Property Number: 219030206
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Flint Road
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: Declared dilapidated and unsafe; to be demolished.

Bldg. 3329–E
Property Number: 219030207
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Flint Road
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: Declared dilapidated and unsafe; to be demolished.

Bldg. 3332–A
Property Number: 219030208
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Burgin Road
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: Declared dilapidated and unsafe; to be demolished.

Bldg. 3332–B
Property Number: 219030209
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Burgin Road
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: Declared dilapidated and unsafe; to be demolished.

Bldg. 3333–E
Property Number: 219030210
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Burgin Road
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: Declared dilapidated and unsafe; to be demolished.

Bldg. 3336–F
Property Number: 219030211
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Burgin Road
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: Declared dilapidated and unsafe; to be demolished.

Bldg. 3336–E
Property Number: 219030212
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Burgin Road
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: Declared dilapidated and unsafe; to be demolished.

Bldg. 3338–B
Property Number: 219030213
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Burgin Road
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: Declared dilapidated and unsafe; to be demolished.

Bldg. 3339–A
Property Number: 219030214
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Burgin Road
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: Declared dilapidated and unsafe; to be demolished.

Bldg. 3340–A
Property Number: 219030215
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Flint Road
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: Declared dilapidated and unsafe; to be demolished.

Bldg. 3342–A
Property Number: 219030216
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Flint Road
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: Declared dilapidated and unsafe; to be demolished.

Bldg. 3342B
Property Number: 219030217
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Flint Road
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: Declared dilapidated and unsafe; to be demolished.

Bldg. 3342–C
Property Number: 219030218
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Flint Road

Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: Declared dilapidated and unsafe; to be demolished.
Bldg. 3342–D
Property Number: 219030219
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Flint Road
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: Declared dilapidated and unsafe; to be demolished.
Bldg. 3342–E
Property Number: 219030220
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Flint Road
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: Declared dilapidated and unsafe; to be demolished.
Bldg. 3344–B
Property Number: 219030221
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Flint Road
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: Declared dilapidated and unsafe; to be demolished.
Bldg. 3345–A
Property Number: 219030222
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Flint Road
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: Declared dilapidated and unsafe; to be demolished.
Bldg. 3346–C
Property Number: 219030223
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Flint Road
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: Declared dilapidated and unsafe; to be demolished.
Bldg. 3348–A
Property Number: 219030224
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Flint Road
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: Declared dilapidated and unsafe; to be demolished.
Bldg. 3348–B
Property Number: 219030225
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Flint Road, NJ, Co: Fort Dix, Zip: 08640–
Status: Unutilized
Reason: declared dilapidated and unsafe; to be demolished.
Bldg. 3348–C
Property Number: 219030226
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Flint Road
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: declared dilapidated and unsafe; to be demolished.
Bldg. 3349–B
Property Number: 219030227
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Flint Road
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: declared dilapidated and unsafe; to be demolished.
Bldg. 3349–C
Property Number: 219030228
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Flint Road
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: declared dilapidated and unsafe; to be demolished.
Bldg. 3349–E
Property Number: 219030229
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Flint Road
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: declared dilapidated and unsafe; to be demolished.
Bldg. 3350–B
Property Number: 219030230
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Lexington Avenue
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: declared dilapidated and unsafe; to be demolished.
Bldg. 3350–E
Property Number: 219030231
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Lexington Avenue
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: declared dilapidated and unsafe; to be demolished.
Bldg. 3350–G
Property Number: 219030232
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Lexington Avenue
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: declared dilapidated and unsafe; to be demolished.
Bldg. 3351–C
Property Number: 219030233
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Lexington Avenue
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: declared dilapidated and unsafe; to be demolished.
Bldg. 3351–D
Property Number: 219030234
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Lexington Avenue
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: declared dilapidated and unsafe; to be demolished.
Bldg. 3356–A
Property Number: 219030235
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Lexington Avenue
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: declared dilapidated and unsafe; to be demolished.
Bldg. 3356–B
Property Number: 219030236
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Lexington Avenue
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: declared dilapidated and unsafe; to be demolished.
Bldg. 3356–C
Property Number: 219030237
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Lexington Avenue
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: declared dilapidated and unsafe; to be demolished.
Bldg. 3356–D
Property Number: 219030238
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Lexington Avenue
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: declared dilapidated and unsafe; to be demolished.
Bldg. 3356–E
Property Number: 219030239
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Lexington Avenue
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: declared dilapidated and unsafe; to be demolished.
Bldg. 3357–C
Property Number: 219030240
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Lexington Avenue
Fort Dix, NJ, Co: Burlington, Zip: 08640–
Status: Unutilized
Reason: declared dilapidated and unsafe; to be demolished.

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Bldg. 3357-D
Property Number: 219030241
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Lexington Avenue
Fort Dix, NJ, Co: Burlington, Zip: 08640-
Status: Unutilized
Reason: declared dilapidated and unsafe; to be demolished.

Bldg. 3357-E
Property Number: 219030242
Fed Reg Date: 12/20/91
Project Name: Nelson Family Housing
Nelson Family Housing
Lexington Avenue
Fort Dix, NJ, Co: Burlington, Zip: 08640-
Status: Unutilized
Reason: declared dilapidated and unsafe; to be demolished.

Virginia

Buildings

Bldg. 2809
Property Number: 219030271
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824-
Status: Underutilized
Reason: Facilities used for National Guard and Army Reserve Training.

Bldg. 2649
Property Number: 219030272
Fed Reg Date: 12/20/91
Project Name: Fort Picket
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824-
Status: Underutilized
Reason: Facilities used for National Guard and Army Reserve Training.

Bldg. 2212
Property Number: 219030279
Fed Reg Date: 12/20/91
Project Name: Fort Picket
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824-
Status: Underutilized
Reason: Facilities used for National Guard and Army Reserve Training.

Bldg. 2417
Property Number: 219030280
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824-
Status: Underutilized
Reason: Facilities used for National Guard and Army Reserve Training.

Bldg. 1693
Property Number: 219030281
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824-
Status: Underutilized
Reason: Facility used for National Guard and Army Reserve Training.

Bldg. 1694
Property Number: 219030282
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824-
Status: Underutilized
Reason: Facility used for National Guard and Army Reserve Training.

Bldg. 1695
Property Number: 219030283
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824-
Status: Underutilized
Reason: Facility used for National Guard and Army Reserve Training.

Bldg. T-3029
Property Number: 219030284
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824-
Status: Underutilized
Reason: Facility used for National Guard and Army Reserve Training.

Bldg. 3030
Property Number: 219030285
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824-
Status: Underutilized
Reason: Facility used for National Guard and Army Reserve Training.

Bldg. T-3037
Property Number: 219030286
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824-
Status: Underutilized
Reason: Facility used for National Guard and Army Reserve Training.

Bldg. T-3038
Property Number: 219030287
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824-
Status: Underutilized
Reason: Facility used for National Guard and Army Reserve Training.

Bldg. T-3039
Property Number: 219030288
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824-
Status: Underutilized
Reason: Facility used for National Guard and Army Reserve Training.

Bldg. 1356
Property Number: 219030295
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824-
Status: Underutilized
Reason: Facility used for National Guard and Army Reserve Training.

Bldg. 1360
Property Number: 219030296
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824-
Status: Underutilized
Reason: Facility used for National Guard and Army Reserve Training.

Bldg. 1361
Property Number: 219030297
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824-
Status: Underutilized
Reason: Facility used for National Guard and Army Reserve Training.

Bldg. 1362
Property Number: 219030298
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824-
Status: Underutilized
Reason: Facility used for National Guard and Army Reserve Training.

Bldg. 1668
Property Number: 219030299
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824-
Status: Underutilized
Reason: Facility used for National Guard and Army Reserve Training.

Bldg. 1669
Property Number: 219030300
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824-
Status: Underutilized
Reason: Facility used for National Guard and Army Reserve Training.

Bldg. 1670
Property Number: 219030301
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824-
Status: Underutilized
Reason: Facility used for National Guard and Army Reserve Training.

Bldg. 1671
Property Number: 219030302
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824-
Status: Underutilized
Reason: Facility used for National Guard and Army Reserve Training.

Bldg. 1672
Property Number: 219030303
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824-
Status: Underutilized
Reason: Facility used for National Guard and Army Reserve Training.

Bldg. 1673
Property Number: 219030304
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824-
Status: Underutilized
Reason: Facility used for National Guard and Army Reserve Training.

Bldg. 1674
Property Number: 219030305

Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Facility used for National Guard and Army Reserve Training.

Bldg. 1675
Property Number: 219030306
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Facility used for National Guard and Army Reserve Training.

Bldg. 1678
Property Number: 219030307
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Facility used for National Guard and Army Reserve Training.

Bldg. 1679
Property Number: 219030308
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Facility used for National Guard and Army Reserve Training.

Bldg. 1680
Property Number: 219030309
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Facility used for National Guard and Army Reserve Training.

Bldg. 1681
Property Number: 219030310
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Facility used for National Guard and Army Reserve Training.

Bldg. 1682
Property Number: 219030311
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Facility used for National Guard and Army Reserve Training.

Bldg. 1683
Property Number: 219030312
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Facility used for National Guard and Army Reserve Training.

Bldg. 1684
Property Number: 219030313
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Facility used for National Guard and Army Reserve Training.

Bldg. 1685
Property Number: 219030314
Fed Reg Date: 12/20/91
Project Name: Fort Pickett
Fort Pickett
Blackstone, VA, Co: Nottoway, Zip: 23824–
Status: Underutilized
Reason: Facility used for National Guard and Army Reserve Training.

Summary of Properties Appearing for Army

Buildings=89
Land=0
Total Suitable and Unavailable=89

COE

Colorado

Buildings

John Martin Reservoir
Property Number: 319010014
Fed Reg Date: 12/06/91
Project Name: John Martin Reservoir
Project Office
Star Route
Hasty, CO, Co: Bent, Zip: 81044–
Status: Underutilized
Reason: Occupied by project personnel.

Florida

Buildings

Bldg. CN7
Property Number: 319010012
Fed Reg Date: 12/06/91
Project Name: Ortona Lock Reservation
Ortona Lock Reservation, Okeechobee Waterway
Ortona, FL, Co: Glades, Zip: 33471–
Status: Unutilized
Reason: Disposal actions have been initiated.

Bldg. CN8
Property Number: 319010013
Fed Reg Date: 12/06/91
Project Name: Ortona Lock Reservation
Ortona Lock Reservation, Okeechobee Waterway
Ortona, FL, Co: Glades, Zip: 33471–
Status: Unutilized
Reason: Disposal actions have been initiated.

Bldg. CN–19
Property Number: 319011666
Fed Reg Date: 12/06/91
Project Name: Moore Haven Lock
Moore Haven Lock
Okeechobee Waterway
Moore Haven, FL, Co: Glades, Zip 33471–
Status: Unutilized
Reason: Disposal actions have been initiated.

Georgia

Land

E.O. Tract A
Property Number: 319011516
Fed Reg Date: 12/06/91
Project Name: J. Strom Thurmond Dam & Res.
J. Strom Thurmond Dam and Reservoir
(See County), GA, Co: Columbia, Zip:
Status: Unutilized
Reason: Property excess to project & will be reported to GSA.

E.O. Tract B
Property Number: 319011517
Fed Reg Date: 12/06/91
Project Name: J. Strom Thurmond Dam & Res.
J. Strom Thurmond Dam and Reservoir
(See County), GA, Co: Columbia, Zip:
Status: Unutilized
Reason: Property excess to project & will be reported to GSA.

E.O. Tract F
Property Number: 319011519
Fed Reg Date: 12/06/91
Project Name: J. Strom Thurmond Dam & Res.
J. Strom Thurmond Dam and Reservoir
(See County), GA, Co: Columbia, Zip:
Status: Unutilized
Reason: Property excess to project & will be reported to GSA.

E.O. Tract E
Property Number: 319011520
Fed Reg Date: 12/06/91
Project Name: J. Strom Thurmond Dam & Res.
J. Strom Thurmond Dam and Reservoir
(See County), GA, Co: Columbia, Zip:
Status: Unutilized
Reason: Property excess to project & will be reported to GSA.

E.O. Tract G
Property Number: 319011521
Fed Reg Date: 12/06/91
Project Name: J. Strom Thurmond Dam & Res.
J. Strom Thurmond Dam and Reservoir
(See County), GA, Co: Columbia, Zip:
Status: Unutilized
Reason: Property excess to project & will be reported to GSA.

E.O. Tract I
Property Number: 319011523
Fed Reg Date: 12/06/91
Project Name: J. Strom Thurmond Dam & Res.
J. Strom Thurmond Dam and Reservoir
(See County), GA, Co: Columbia, Zip:
Status: Unutilized
Reason: Property excess to project & will be reported to GSA.

Buildings

Lot 3
Property Number: 319110026
Fed Reg Date: 12/06/91
Project Name: Lake Forrest Subdivision
Lake Forrest Subdivision
Woodframe House
Hartwell, GA, Co: Hartwell, Zip:
Status: Excess
Reason: Disposal actions have been initiated.

Illinois

Buildings

Bldg. 7
Property Number: 319010001
Fed Reg Date: 12/06/91
Project Name: Ohio River Locks & Dam No. 53
Ohio River Locks & Dam No. 53
Grand Chain, IL, Co: Pulaski, Zip: 62941–9801
Status: Unutilized
Reason: Under construction phase.

Bldg. 6
Property Number: 319010002
Fed Reg Date: 12/06/91
Project Name: Ohio River Locks & Dam No. 53
Ohio River Locks & Dam No. 53

Grand Chain, IL, Co: Pulaski, Zip: 62941–9801
Status: Unutilized
Reason: Under construction phase.

Bldg. 5
Property Number: 319010003
Fed Reg Date: 12/06/91
Project Name: Ohio River Locks & Dam No. 53
Ohio River Locks & Dam No. 53
Grand Chain, IL, Co: Pulaski, Zip: 62941–9801
Status: Unutilized
Reason: Under construction phase.

Bldg. 4
Property Number: 319010004
Fed Reg Date: 12/06/91
Project Name: Ohio River Locks & Dam No. 53
Ohio River Locks & Dam No. 53
Grand Chain, IL, Co: Pulaski, Zip: 62941–9801
Status: Unutilized
Reason: Under construction phase.

Bldg. 3
Property Number: 319010005
Fed Reg Date: 12/06/91
Project Name: Ohio River Locks & Dam No. 53
Ohio River Locks & Dam No. 53
Grand Chain, IL, Co: Pulaski, Zip: 62941–9801
Status: Unutilized
Reason: Under construction phase.

Bldg. 2
Property Number: 319010006
Fed Reg Date: 12/06/91
Project Name: Ohio River Locks & Dam No. 53
Ohio River Locks & Dam No. 53
Grand Chain, IL, Co: Pulaski, Zip: 62941–9801
Status: Unutilized
Reason: Under construction phase.

Bldg. 1
Property Number: 319010007
Fed Reg Date: 12/06/91
Project Name: Ohio River Locks & Dam No. 53
Ohio River Locks & Dam No. 53
Grand Chain, IL, Co: Pulaski, Zip: 62941–9801
Status: Unutilized
Reason: Under construction phase.

Indiana

Buildings

Cagles Mill Lake
Property Number: 319011046
Fed Reg Date: 12/06/91
Project Name: Cagles Mill Lake
Cagles Mill Lake Dam
Poland, IN, Co: Putnam, Zip: 47868–
Status: Unutilized
Reason: Disposal actions have been initiated.

Dwelling #2
Property Number: 319011686
Fed Reg Date: 12/06/91
Project Name: Cagles Mill Lake
Cagles Mill Lake
Poland, IN, Co: Putnam, Zip: 47868–
Status: Unutilized
Reason: Disposal actions have been initiated.

Kansas

Land

Paradise Point
Property Number: 319011540
Fed Reg Date: 12/06/91
Project Name: Public Use Area (Perry Lake)
Public Use Area (Perry Lake)
Perry, KS, Co: Jefferson, Zip: 66073–
Status: Underutilized
Reason: Utilized for wildlife and recreation purposes.

Grasshopper Point
Property Number: 319011541
Fed Reg Date: 12/06/91
Project Name: Public Use Area (Perry Lake)
Public Use Area (Perry Lake)
Perry, KS, Co: Jefferson, Zip: 66073–
Status: Underutilized
Reason: Utilized for wildlife and recreation purposes.

Sunset Ridge
Property Number: 319011542
Fed Reg Date: 12/06/91
Project Name: Public Use Area (Perry Lake)
Public Use Area (Perry Lake)
Perry, KS, Co: Jefferson, Zip: 66073–
Status: Underutilized
Reason: Utilized for wildlife and recreation purposes.

Dragoon Access Area
Property Number: 319011543
Fed Reg Date: 12/06/91
Project Name: Pomona Lake
Pomona Lake
Vassar, KS, Co: Osage, Zip: 66543–
Status: Underutilized
Reason: Utilized for wildlife and recreation purposes.

Kentucky

Buildings

Kentucky River Lock and Dam 3
Property Number: 319010060
Fed Reg Date: 12/06/91
Project Name: Kentucky River Lock and Dam 3
Pleasureville, KY, Co: Henry, Zip: 40057–
Status: Unutilized
Reason: Involved in litigation with the State.

Kentucky River Lock and Dam 3
Property Number: 319010061
Fed Reg Date: 12/06/91
Project Name: Kentucky River Lock and Dam 3
Pleasureville, KY, Co: Henry, Zip: 40057–
Status: Unutilized
Reason: Involved in litigation with the State.

Bldg. 1
Property Number: 319011628
Fed Reg Date: 12/06/91
Project Name: Kentucky River Lock and Dam
Kentucky River Lock and Dam
Carrollton, KY, Co: Carroll, Zip: 41008–
Status: Unutilized
Reason: Building required for work and storage area for project.

Bldg. 2
Property Number: 319011629
Fed Reg Date: 12/06/91
Project Name: Kentucky River Lock and Dam
Kentucky River Lock and Dam
Carrollton, KY, Co: Carroll, Zip: 41008–
Status: Unutilized
Reason: Safety considerations; close to operational facilities.

Minnesota

Buildings

Former Yardmaster's Dwelling
Property Number: 319011042
Fed Reg Date: 12/06/91
Project Name: Duluth Vessel Yard
Duluth Vessel Yard
900 Minnesota Avenue
Duluth, MN, Co: St. Louis, Zip: 55802–
Status: Unutilized
Reason: Lease negotiation in process.

New Mexico

Buildings

Bldg. 1E
Property Number: 319011536
Fed Reg Date: 12/06/91
Project Name: Conchas Lake Project Office
Conchas Lake Project Office
(See County), NM, Co: San Miguel, Zip: 88416–
Status: Underutilized
Reason: Currently occupied by project personnel.

Pennsylvania

Land

Loyalhanne Lake
Property Number: 319011002
Fed Reg Date: 12/06/91
Project Name: Loyalhanne Lake
RD 2
Saltsburg, PA, Co: Westmoreland, Zip:
Status: Underutilized
Reason: Antenna Site

East Branch Clarion River Lake
Property Number: 319011012
Fed Reg Date: 12/06/91
Project Name: East Branch Clarion River Lake
Wilcox, PA, Co: Elk, Zip:
Status: Underutilized
Reason: Location near damsite.

Buildings

Conemaugh River Lake
Property Number: 319010019
Fed Reg Date: 12/06/91
Project Name: Conemaugh River Lake
Road #1, Box 702
Saltsburg, PA, Co: Indiana, Zip: 15681–
Status: Unutilized
Reason: Reason by project personnel.

Bldg.—Cowanesque Lake
Property Number: 319120003
Fed Reg Date: 12/06/91
Tioga, PA, Co: Tioga, Zip: 16946–
Status: Excess
Reason: Currently used for equipment and display storage.

South Carolina

Land

E.O. Tract J
Property Number: 319011514
Fed Reg Date: 12/06/91
Project Name: J. Strom Thurmond Dam & Res.
J. Strom Thurmond Dam and Reservoir
(See County), SC, Co: McCormick, Zip:
Status: Unutilized
Reason: Property excess to project and will be reported to GSA.

E.O. Tract C
Property Number: 319011515
Fed Reg Date: 12/06/91
Project Name: J. Strom Thurmond Dam & Res.
J. Strom Thurmond Dam and Reservoir
(See County), SC, Co: McCormick, Zip:

Status: Unutilized
Reason: Property excess to project and will be reported to GSA.

Texas

Land

Part of Tract A–10
Property Number: 319010390
Fed Reg Date: 12/06/91
Project Name: Part of Tract A–10
(See County), TX, Co: Tarrant, Zip:
Status: Excess
Reason: Encroachment by an adjoining landowner.

Part of Tract 340
Property Number: 319010400
Fed Reg Date: 12/06/91
Project Name: Joe Pool Lake
Joe Pool Lake
(See County), TX, Co: Dallas, Zip:
Status: Unutilized
Reason: Incorporated into a park lease.

Buildings

Bldg. 6–B
Property Number: 319110030
Fed Reg Date: 12/06/91
Project Name: Brazos River Floodgates
Brazos River Floodgates
Freeport, TX, Co: Brazoria, Zip: 77541–
Status: Unutilized
Reason: Needed for project purpose.

Bldg. 6–C
Property Number: 319110031
Fed Reg Date: 12/06/91
Project Name: Colorado River Locks
Colorado River Locks
109 Colorado River Locks
Matagorda, TX, Co: Matagorda, Zip: 77547–
Status: Unutilized
Reason: Needed for project purpose.

Virginia

Buildings

Tract HH 3331–E
Property Number: 319110027
Fed Reg Date: 12/06/91
Project Name: John H. Kerr Reservoir
John H. Kerr Reservoir
Woodframe House
South Boston, VA, Co: Halifax, Zip:
Status: Excess
Reason: Disposal actions have been initiated.

Wisconsin

Buildings

Former Lockmaster's Dwelling
Property Number: 319011526
Fed Reg Date: 12/06/91
Project Name: Former Lockmaster's Dwelling
DePere Lock
100 James Street
De Pere, WI, Co: Brown, Zip: 54115–
Status: Unutilized
Reason: In negotiation for transfer to the State.

SUMMARY OF PROPERTIES APPEARING FOR COE

Buildings=26
Land=16
Total Suitable and Unavailable=42

COE—BC

New York

Buildings

Nike
Property Number: 319011049
Fed Reg Date: 12/06/91
Project Name: New York 01 Housing
New York 01 Housing
402 Lafayette Street
Tappan, NY, Co: Rockland, Zip:
Status: Excess
Reason: lease negotiations are in progress.

Nike
Property Number: 319011070
Fed Reg Date: 12/06/91
Project Name: New York 01 Housing
New York 01 Housing
424 Bogart Place
Tappan, NY, Co: Rockland, Zip: 10983–
Status: Excess
Reason: lease negotiations are in progress.

Nike
Property Number: 319011071
Fed Reg Date: 12/06/91
Project Name: New York 01 Housing
New York 01 Housing
423 Bogart Place
Tappan, NY, Co: Rockland, Zip: 10983–
Status: Excess
Reason: lease negotiations are in progress.

Nike
Property Number: 319011072
Fed Reg Date: 12/06/91
Project Name: New York 01 Housing
New York 01 Housing
422 Western Highway
Tappan, NY, Co: Rockland, Zip: 10983–
Status: Excess
Reason: lease negotiations are in progress.

Nike
Property Number: 319011073
Fed Reg Date: 12/06/91
Project Name: New York 01 Housing
New York 01 Housing
421 Western Highway
Tappan, NY, Co: Rockland, Zip: 10983–
Status: Excess
Reason: lease negotiations are in progress.

Nike
Property Number: 319011074
Fed Reg Date: 12/06/91
Project Name: New York 01 Housing
New York 01 Housing
420 Western Highway
Tappan, NY, Co: Rockland, Zip: 10983–
Status: Excess
Reason: lease negotiations are in progress.

Nike
Property Number: 319011075
Fed Reg Date: 12/06/91
Project Name: New York 01 Housing
New York 01 Housing
419 Western Highway
Tappan, NY, Co: Rockland, Zip: 10983–
Status: Excess
Reason: lease negotiations are in progress.

Nike
Property Number: 319011076
Fed Reg Date: 12/06/91
Project Name: New York 01 Housing
New York 01 Housing
418 Western Highway
Tappan, NY, Co: Rockland, Zip: 10983–
Status: Excess
Reason: lease negotiations are in progress.

Nike
Property Number: 319011077
Fed Reg Date: 12/06/91
Project Name: New York 01 Housing
New York 01 Housing
430 Greenbush Road
Tappan, NY, Co: Rockland, Zip: 10983–
Status: Excess
Reason: lease negotiations are in progress.

Nike
Property Number: 319011078
Fed Reg Date: 12/06/91
Project Name: New York 01 Housing
New York 01 Housing
429 Greenbush Road
Tappan, NY, Co: Rockland, Zip: 10983–
Status: Excess
Reason: lease negotiations are in progress.

Nike
Property Number: 319011079
Fed Reg Date: 12/06/91
Project Name: New York 01 Housing
New York 01 Housing
428 Greenbush Road
Tappan, NY, Co: Rockland, Zip: 10983–
Status: Excess
Reason: lease negotiations are in progress.

Nike
Property Number: 319011080
Fed Reg Date: 12/06/91
Project Name: New York 01 Housing
New York 01 Housing
436 Lafayette Street
Tappan, NY, Co: Rockland, Zip: 10983–
Status: Excess
Reason: lease negotiations are in progress.

Nike
Property Number: 319011081
Fed Reg Date: 12/06/91
Project Name: New York 01 Housing
New York 01 Housing
435 Lafayette Street
Tappan, NY, Co: Rockland, Zip: 10983–
Status: Excess
Reason: lease negotiations are in progress.

Nike
Property Number: 319011082
Fed Reg Date: 12/06/91
Project Name: New York 01 Housing
New York 01 Housing
434 Lafayette Street
Tappan, NY, Co: Rockland, Zip: 10983–
Status: Excess
Reason: lease negotiations are in progress.

Nike
Property Number: 319011083
Fed Reg Date: 12/06/91
Project Name: New York 01 Housing
New York 01 Housing
433 Lafayette Street
Tappan, NY, Co: Rockland, Zip: 10983–
Status: Excess
Reason: lease negotiations are in progress.

Nike
Property Number: 319011084
Fed Reg Date: 12/06/91
Project Name: New York 01 Housing
New York 01 Housing
432 Lafayette Street
Tappan, NY, Co: Rockland, Zip: 10983–
Status: Excess
Reason: lease negotiations are in progress.

Nike
Property Number: 319011085
Fed Reg Date: 12/06/91
Project Name: New York 01 Housing
New York 01 Housing
431 Lafayette Street
Tappan, NY, Co: Rockland, Zip: 10983–
Status: Excess
Reason: lease negotiations are in progress.
Nike
Property Number: 319011086
Fed Reg Date: 12/06/91
Project Name: New York 01 Housing
New York 01 Housing
427 Lafayette Street
Tappan, NY, Co: Rockland, Zip: 10983–
Status: Excess
Reason: lease negotiations are in progress.
Nike
Property Number: 319011087
Fed Reg Date: 12/06/91
Project Name: New York 01 Housing
New York 01 Housing
426 Lafayette Street
Tappan, NY, Co: Rockland, Zip: 10983–
Status: Excess
Reason: lease negotiations are in progress.
Nike
Property Number: 319011088
Fed Reg Date: 12/06/91
Project Name: New York 01 Housing
New York 01 Housing
425 Lafayette Street
Tappan, NY, Co: Rockland, Zip: 10983–
Status: Excess
Reason: lease negotiations are in progress.
Nike
Property Number: 319011089
Fed Reg Date: 12/06/91
Project Name: New York 01 Housing
New York 01 Housing
417 Lafayette Street
Tappan, NY, Co: Rockland, Zip: 10983–
Status: Excess
Reason: lease negotiations are in progress.
Nike
Property Number: 319011090
Fed Reg Date: 12/06/91
Project Name: New York 01 Housing
New York 01 Housing
416 Lafayette Street
Tappan, NY, Co: Rockland, Zip: 10983–
Status: Excess
Reason: lease negotiations are in progress.
Nike
Property Number: 319011091
Fed Reg Date: 12/06/91
Project Name: New York 01 Housing
New York 01 Housing
415 Lafayette Street
Tappan, NY, Co: Rockland, Zip: 10983–
Status: Excess
Reason: lease negotiations are in progress.
Nike
Property Number: 319011092
Fed Reg Date: 12/06/91
Project Name: New York 01 Housing
New York 01 Housing
414 Lafayette Street
Tappan, NY, Co: Rockland, Zip: 10983–
Status: Excess
Reason: lease negotiations are in progress.
Nike
Property Number: 319011093
Fed Reg Date: 12/06/91
Project Name: New York 01 Housing
New York 01 Housing
413 Lafayette Street
Tappan, NY, Co: Rockland, Zip: 10983–
Status: Excess
Reason: lease negotiations are in progress.
Nike
Property Number: 319011094
Fed Reg Date: 12/06/91
Project Name: New York 01 Housing
New York 01 Housing
412 Lafayette Street
Tappan, NY, Co: Rockland, Zip: 10983–
Status: Excess
Reason: lease negotiations are in progress.
Nike
Property Number: 319011095
Fed Reg Date: 12/06/91
Project Name: New York 01 Housing
New York 01 Housing
411 Lafayette Street
Tappan, NY, Co: Rockland, Zip: 10983–
Status: Excess
Reason: lease negotiations are in progress.
Nike
Property Number: 319011096
Fed Reg Date: 12/06/91
Project Name: New York 01 Housing
New York 01 Housing
410 Lafayette Street
Tappan, NY, Co: Rockland, Zip: 10983–
Status: Excess
Reason: lease negotiations are in progress.
Nike
Property Number: 319011097
Fed Reg Date: 12/06/91
Project Name: New York 01 Housing
New York 01 Housing
409 Lafayette Street
Tappan, NY, Co: Rockland, Zip: 10983–
Status: Excess
Reason: lease negotiations are in progress.
Nike
Property Number: 319011098
Fed Reg Date: 12/06/91
Project Name: New York 01 Housing
New York 01 Housing
408 Lafayette Street
Tappan, NY, Co: Rockland, Zip: 10983–
Status: Excess
Reason: lease negotiations are in progress.
Nike
Property Number: 319011099
Fed Reg Date: 12/06/91
Project Name: New York 01 Housing
New York 01 Housing
407 Lafayette Street
Tappan, NY, Co: Rockland, Zip: 10983–
Status: Excess
Reason: lease negotiations are in progress.
Nike
Property Number: 319011100
Fed Reg Date: 12/06/91
Project Name: New York 01 Housing
New York 01 Housing
404 Lafayette Street
Tappan, NY, Co: Rockland, Zip: 10983–
Status: Excess
Reason: lease negotiations are in progress.
Nike
Property Number: 319011101
Fed Reg Date: 12/06/91
Project Name: New York 01 Housing
New York 01 Housing
406 Lafayette Street
Tappan, NY, Co: Rockland, Zip: 10983–
Status: Excess
Reason: lease negotiations are in progress.
Nike
Property Number: 319011102
Fed Reg Date: 12/06/91
Project Name: New York 01 Housing
New York 01 Housing
405 Lafayette Street
Tappan, NY, Co: Rockland, Zip: 10983–
Status: Excess
Reason: lease negotiations are in progress.
Nike
Property Number: 319011103
Fed Reg Date: 12/06/91
Project Name: New York 01 Housing
New York 01 Housing
402 Lafayette Street
Tappan, NY, Co: Rockland, Zip: 10983–
Status: Excess
Reason: lease negotiations are in progress.
Nike
Property Number: 319011104
Fed Reg Date: 12/06/91
Project Name: New York 01 Housing
New York 01 Housing
403 Lafayette Street
Tappan, NY, Co: Rockland, Zip: 10983–
Status: Excess
Reason: lease negotiations are in progress.
Nike
Property Number: 319011105
Fed Reg Date: 12/06/91
Project Name: New York 01 Housing
New York 01 Housing
401 Lafayette Street
Tappan, NY, Co: Rockland, Zip: 10983–
Status: Excess
Reason: lease negotiations are in progress.

Summary of Properties Appearing for COE—BC

Buildings=37
Land=0
Total Suitable and Unavailable=37

DOT

California

Land

Remote Transmitter
Property Number: 879010010
Fed Reg Date: 11/22/91
Project Name: Remote Transmitter
Section 35
Red Bluff, CA, Co: Tehema, Zip: 96080–
Status: Unutilized
Reason: No public access, water, electric or sewage facilities.

Buildings

Bldg. 8, Coast Guard Island
Property Number: 879130005
Fed Reg Date: 11/22/91
USCG Support Center, Alameda
Alameda, CA, Co: Alameda, Zip: 94501–
Status: Underutilized
Reason: Demolition is planned.
Bldg. 9, Coast Guard Island
Property Number: 879130006
Fed Reg Date: 11/22/91
USCG Support Center, Alameda
Alameda, CA, Co: Alameda, Zip: 94501–

Status: Unutilized
Reason: Demolition is planned.

Florida

Land

Parcel A & B
Property Number: 879010009
Fed Reg Date: 11/22/91
Project Name: U.S. Coast Guard Light Station
U.S. Coast Guard Light Station
Lots 1, 8 & 11, Section 31
Jupiter Inlet, FL, Co: Palm Beach, Zip 33420–
Status: Unutilized
Reason: Awaiting response from Bureau of Land Mgmt. for disbursement.

Puerto Rico

Buildings

USCG Officer/Charge Quarters
Property Number: 879110001
Fed Reg Date: 06/07/91
Project Name: USCG Office/Charge Quarters
Cape San Juan Light
Fajardo, PR, Co: Fajardo, Zip:
Status: Demolished
Reasons: Engineering study shows removal infeasible.

Texas

Buildings

Brownsville Urban System
Property Number: 879010003
Fed Reg Date: 11/22/91
Project Name: Brownsville Urban System (Grantee)
700 South Iowa Avenue
Brownsville, TX, Co: Cameron, Zip: 78520–
Status: Unutilized
Reason: City of Brownsville needs the property.

Summary of Properties Appearing for DOT

Buildings=4
Land=2
Total Suitable and Unavailable=6

Energy

Arizona

Land

Liberty Substation
Property Number: 419030001
Fed Reg Date: 11/22/91
Project Name: Liberty Substation
Buckeye, AZ, Co: Maricopa, Zip: 85326–
Status: Underutilized
Reason: Easements held by adjoining property owner.

Iowa

Land

Sioux City Substation
Property Number: 419030003
Fed Reg Date: 11/22/91
Project Name: Sioux City Substation
Hinton, IA, Co: Plymouth, Zip: 51024–
Status: Underutilized
Reason: Security req. preclude DOE from making prop. available.

Montana

Land

Miles City Substation
Property Number: 419030004
Fed Reg Date: 11/22/91
Project Name: Miles City Substation
Miles City, MT, Co: Custer, Zip: 59301–
Status: Underutilized
Reason: Under 5 year grazing lease.

Custer Substation
Property Number: 419030006
Fed Reg Date: 11/22/91
Project Name: Custer Substation
Custer, MT, Co: Yellowstone, Zip: 59024–
Status: Underutilized
Reason: Under water most of the year.

North Dakota

Land

Fargo Substation
Property Number: 419030005
Fed Reg Date: 11/22/91
Project Name: Fargo Substation
Fargo, ND, Co: Cass, Zip: 58102–
Status: Underutilized
Reason: Under 5 year grazing lease.

Nebraska

Land

Grand Island Substation
Property Number: 419030002
Fed Reg Date: 11/22/91
Project Name: Grand Island Substation
Phillips, NE, Co: Merrick, Zip: 68865–
Status: Underutilized
Reason: Controlled by easements held by Nebraska Public Power.

Washington

Land

Raver Substation
Property Number: 419030012
Fed Reg Date: 11/22/91
Project Name: Raver Substation
(See County), WA, Co: King, Zip:
Status: Unutilized
Reason: Used for substation expansion.

Summary of Properties Appearing for Energy

Buildings=0
Land=7
Total Suitable and Unavailable=7

GSA

Florida

Buildings

Naval Reserve Center
Property Number: 549120062
Fed Reg Date: 12/06/91
2610 Tigertail Avenue
Miami, FL, Co: Dade, Zip: 33133–
Status: Excess
GSA No.: FL–P–192
Reason: Homeless application

Illinois

Land

Portion, JAAP
Property Number: 549130019
Fed Reg Date: 12/06/91
Joliet Army Ammunition Plant
IL, Co: Will, Zip: 60436–
Status: Excess
GSA No.: 2–GR(1)–IL–450–FF
Reason: Advertising for public sale.

Kentucky

Land

Portion of Tract 409–2
Property Number: 549130008
Fed Reg Date: 11/01/91
Upper Cumberland River Basin
Pineville, KY, Co: Bell, Zip: 40977–
Status: Excess
GSA No.: 4–D–KY–0588
Reason: Advertising for public sale

Louisiana

Buildings

Federal Building
Property Number: 549040005
Fed Reg Date: 12/06/91
Project Name: Federal Building
Mississippi and Vienna Streets
Ruston, LA, Co: Lincoln Parish, Zip: 71273–
Status: Excess
GSA No.: 7–G–LA–0541
Reason: State and local interest

Massachusetts

Land

Por. of Former Navy Ammo. Plt.
Property Number: 549030017
Fed Reg Date: 12/06/91
Project Name: Fort Hill
Fort Hill Street
Hingham, MA, Co: Plymouth, Zip: 02043–
Status: Excess
GSA No.: 2–GR–MA–591B
Reason: Up for public sale.

Missouri

Buildings

Bldg. 208–C
Property Number: 549120047
Fed Reg Date: 12/06/91
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis, MO, Co: St. Louis, Zip: 63120–
Status: Excess
GSA No.: 7–D–MO–460–F
Reason: Federal need.

Bldg. 208–D
Property Number: 549120048
Fed Reg Date: 12/06/91
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis, MO, Co: St. Louis, Zip: 63120–
Status: Excess
GSA No.: 7–D–MO–460–F
Reason: Federal need.

Bldg. 222
Property Number: 549120049
Fed Reg Date: 12/06/91
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis, MO, Co: St. Louis, Zip: 63120–
Status: Excess
GSA No.: 7–D–MO–460–F
Reason: Federal need.

Bldg. 223–A
Property Number: 549120050
Fed Reg Date: 12/06/91
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis, MO Co: St. Louis, Zip: 63120–
Status: Excess
GSA No.: 7–D–MO–460–F
Reason: Federal need.

Bldg. 223–B
Property Number: 549120051
Fed Reg Date: 12/06/91
6400 Stratford Avenue

Portion U.S. Army Reserve Center No. 4
St. Louis, MO, Co: St. Louis, Zip: 63120–
Status: Excess
GSA No.: 7–D–MO–460–F
Reason: Federal need.

Bldg. 230
Property Number: 549120052
Fed Reg Date: 12/06/91
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis, MO, Co: St. Louis, Zip: 63120–
Status: Excess
GSA No.: 7–D–MO–460–F
Reason: Federal need.

Bldg. 230–A
Property Number: 549120053
Fed Reg Date: 12/06/91
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis, MO, Co: St. Louis, Zip: 63120–
Status: Excess
GSA No.: 7–D–MO–460–F
Reason: Federal need.

Bldg. 232–A–H
Property Number: 549120054
Fed Reg Date: 12/06/91
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis, MO, Co: St. Louis, Zip: 63120–
Status: Excess
GSA No.: 7–D–MO–460–F
Reason: Federal need.

Bldg. 234
Property Number: 549120055
Fed Reg Date: 12/06/91
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis, MO, Co: St. Louis, Zip: 63120–
Status: Excess
GSA No.: 7–D–MO–460–F
Reason: Federal need.

Bldg. 237
Property Number: 549120056
Fed Reg Date: 12/06/91
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis, MO, Co: St. Louis, Zip: 63120–
Status: Excess
GSA No.: 7–D–MO–460–F
Reason: Federal need.

Bldg. 244
Property Number: 549120057
Fed Reg Date: 12/06/91
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis, MO, Co: St. Louis, Zip: 63120–
Status: Excess
GSA No.: 7–D–MO–460–F
Reason: Federal need.

Bldg. 223C
Property Number: 549120058
Fed Reg Date: 12/06/91
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis, MO, Co: St. Louis, Zip: 63120–
Status: Excess
GSA No.: 7–D–MO–460–F
Reason: Federal need.

Bldg. 224B
Property Number: 549120059
Fed Reg Date: 12/06/91
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis, MO, Co: St. Louis, Zip: 63120–
Status: Excess
GSA No.: 7–D–MO–460–F
Reason: Federal need.

Bldg. 233A
Property Number: 549120060
Fed Reg Date: 12/06/91
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis, MO, Co: St. Louis, Zip: 63120–
Status: Excess
GSA No.: 7–D–MO–460–F
Reason: Federal need.

Bldg. 233B
Property Number: 549120061
Fed Reg Date: 12/06/91
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis, MO, Co: St. Louis, Zip: 63120–
Status: Excess
GSA No.: 7–D–MO–460–F
Reason: Federal need.

New York

Land

Land 671
Property Number: 549120022
Fed Reg Date: 12/06/91
Naval Station New York
207 Flushing Avenue
Brooklyn, NY, Co: Kings, Zip: 11251–
Status: Excess
GSA No.: 2–N–NY–797
Reason: Homeless application.

Playing Field—675
Property Number: 549120024
Fed Reg Date: 12/06/91
Naval Station New York
207 Flushing Avenue
Brooklyn, NY, Co: Kings, Zip: 11251–
Status: Excess
GSA No.: 2–N–NY–797
Reason: Homeless application.

Land R464/R474
Property Number: 549120043
Fed Reg Date: 12/06/91
Naval Station New York
207 Flushing Avenue
Brooklyn, NY, Co: Kings, Zip: 11251–
Status: Excess
GSA No.: 2–N–NY–797
Reason: Homeless application.

Buildings

Bldg. 2
Property Number: 549120009
Fed Reg Date: 12/06/91
Naval Station New York
207 Flushing Avenue
Brooklyn, NY, Co: Kings, Zip: 11251–
Status: Excess
GSA No.: 2–N–NY–797
Reason: Homeless application.

Bldg. 3
Property Number: 549120010
Fed Reg Date: 12/06/91
Naval Station New York
207 Flushing Avenue
Brooklyn, NY, Co: Kings, Zip: 11251–
Status: Excess
GSA No.: 2–N–NY–797
Reason: Homeless application.

Bldg. 4
Property Number: 549120011
Fed Reg Date: 12/06/91
Naval Station New York
207 Flushing Avenue
Brooklyn, NY, Co: Kings, Zip: 11251–
Status: Excess
GSA No.: 2–N–NY–797
Reason: Federal need.

Bldg. 5
Property Number: 549120012
Fed Reg Date: 12/06/91
Naval Station New York
207 Flushing Avenue
Brooklyn, NY, Co: Kings, Zip: 11251–
Status: Excess
GSA No.: 2–N–NY–797
Reason: Homeless application.

Bldg. 10
Property Number: 549120015
Fed Reg Date: 12/06/91
Naval Station New York
207 Flushing Avenue
Brooklyn, NY, Co: Kings, Zip: 11251–
Status: Excess
GSA No.: 2–N–NY–797
Reason:

Bldg. 306
Property Number: 549120016
Fed Reg Date: 12/06/91
Naval Station New York
207 Flushing Avenue
Brooklyn, NY, Co: Kings, Zip: 11251–
Status: Excess
GSA No.: 2–N–NY–797
Reason: Homeless application.

Bldg. 316
Property Number: 549120019
Fed Reg Date: 12/06/91
Naval Station New York
207 Flushing Avenue
Brooklyn, NY, Co: Kings, Zip: 11251–
Status: Excess
GSA No.: 2–N–NY–797
Reason: Homeless application.

Bldg. 353
Property Number: 549120020
Fed Reg Date: 12/06/91
Naval Station New York
207 Flushing Avenue
Brooklyn, NY, Co: Kings, Zip: 11251–
Status: Excess
GSA No.: 2–N–NY–797
Reason: Homeless application.

Bldg. 670
Property Number: 549120021
Fed Reg Date: 12/06/91
Naval Station New York
207 Flushing Avenue
Brooklyn, NY, Co: Kings, Zip: 11251–
Status: Excess
GSA No.: 2–N–NY–797
Reason: Homeless application.

Bldg. 672
Property Number: 549120023
Fed Reg Date: 12/06/91
Naval Station New York
207 Flushing Avenue
Brooklyn, NY, Co: Kings, Zip: 11251–
Status: Excess
GSA No.: 2–N–NY–797
Reason: Homeless application.

Bldg. R1
Property Number: 549120025
Fed Reg Date: 12/06/91
Naval Station New York
207 Flushing Avenue
Brooklyn, NY, Co: Kings, Zip: 11251–

Status: Excess
GSA No.: 2–N–NY–797
Reason: Homeless application.

Bldg. R2
Property Number: 549120026
Fed Reg Date: 12/06/91
Naval Station New York
207 Flushing Avenue
Brooklyn, NY, Co: Kings, Zip: 11251–
Status: Excess
GSA No.: 2–N–NY–797
Reason: Homeless application.

Bldg. R3
Property Number: 549120027
Fed Reg Date: 12/06/91
Naval Station New York
207 Flushing Avenue
Brooklyn, NY, Co: Kings, Zip: 11251–
Status: Excess
GSA No.: 2–N–NY–797
Reason: Homeless application.

Bldg. R4
Property Number: 549120028
Fed Reg Date: 12/06/91
Naval Station New York
207 Flushing Avenue
Brooklyn, NY, Co: Kings, Zip: 11251–
Status: Excess
GSA No.: 2–N–NY–797
Reason: Homeless application.

Bldg. R5
Property Number: 549120029
Fed Reg Date: 12/06/91
Naval Station New York
207 Flushing Avenue
Brooklyn, NY, Co: Kings, Zip: 11251–
Status: Excess
GSA No.: 2–N–NY–797
Reason: Homeless application.

Bldg. R6
Property Number: 549120030
Fed Reg Date: 12/06/91
Naval Station New York
207 Flushing Avenue
Brooklyn, NY, Co: Kings, Zip: 11251–
Status: Excess
GSA No.: 2–N–NY–797
Reason: Homeless application.

Bldg. R7
Property Number: 549120031
Fed Reg Date: 12/06/91
Naval Station New York
207 Flushing Avenue
Brooklyn, NY, Co: Kings, Zip: 11251–
Status: Excess
GSA No.: 2–N–NY–797
Reason: Homeless application.

Bldg. R103
Property Number: 549120032
Fed Reg Date: 12/06/91
Naval Station New York
207 Flushing Avenue
Brooklyn, NY, Co: Kings, Zip: 11251–
Status: Excess
GSA No.: 2–N–NY–797
Reason: Homeless application.

Bldg. R103A
Property Number: 549120033
Fed Reg Date: 12/06/91
Naval Station New York
207 Flushing Avenue
Brooklyn, NY, Co: Kings, Zip: 11251–
Status: Excess
GSA No.: 2–N–NY–797
Reason: Homeless application.

Bldg. R104
Property Number: 549120034
Fed Reg Date: 12/06/91
Naval Station New York
207 Flushing Avenue
Brooklyn, NY, Co: Kings, Zip: 11251–
Status: Excess
GSA No.: 2–N–NY–797
Reason: Homeless application.

Bldg. R109
Property Number: 549120035
Fed Reg Date: 12/06/91
Naval Station New York
207 Flushing Avenue
Brooklyn, NY, Co: Kings, Zip: 11251–
Status: Excess
GSA No.: 2–N–NY–797
Reason: Homeless application.

Bldg. R426
Property Number: 549120036
Fed Reg Date: 12/06/91
Naval Station New York
207 Flushing Avenue
Brooklyn, NY, Co: Kings, Zip: 11251–
Status: Excess
GSA No.: 2–N–NY–797
Reason: Homeless application.

Bldg. R448
Property Number: 549120037
Fed Reg Date: 12/06/91
Naval Station New York
207 Flushing Avenue
Brooklyn, NY, Co: Kings, Zip: 11251–
Status: Excess
GSA No.: 2–N–NY–797
Reason: Homeless application.

Bldg. R475
Property Number: 549120039
Fed Reg Date: 12/06/91
Naval Station New York
207 Flushing Avenue
Brooklyn, NY, Co: Kings, Zip: 11251–
Status: Excess
GSA No.: 2–N–NY–797
Reason: Homeless application.

Bldg. R476
Property Number: 549120040
Fed Reg Date: 12/06/91
Naval Station New York
207 Flushing Avenue
Brooklyn, NY, Co: Kings, Zip: 11251–
Status: Excess
GSA No.: 2–N–NY–797
Reason: Homeless application.

Bldg. RG
Property Number: 549120041
Fed Reg Date: 12/06/91
Naval Station New York
207 Flushing Avenue
Brooklyn, NY, Co: Kings, Zip: 11251–
Status: Excess
GSA No.: 2–N–NY–797
Reason: Homeless application.

Bldg. R8R9
Property Number: 549120042
Fed Reg Date: 12/06/91
Naval Station New York
207 Flushing Avenue
Brooklyn, NY, Co: Kings, Zip: 11251–
Status: Excess
GSA No.: 2–N–NY–797
Reason: Homeless application.

Bldg. R95
Property Number: 779010256
Fed Reg Date: 12/06/91
Project Name: Naval Station
Naval Station
207 Flushing Avenue
Brooklyn, NY, Co: Kings, Zip: 11251–
Status: Excess
GSA No.: 2–N–NY–797
Reason: Homeless application.

Bldg. RD
Property Number: 779010257
Fed Reg Date: 12/06/91
Project Name: Naval Station
Naval Station
207 Flushing Avenue
Brooklyn, NY, Co: Kings, 11251–
Status: Excess
GSA No.: 2–N–NY–797
Reason: Homeless application.

Bldg. 305
Property Number: 779010258
Fed Reg Date: 12/06/91
Project Name: Naval Station
Naval Station
207 Flushing Avenue
Brooklyn, NY, Co: Kings, Zip: 11251–
Status: Excess
GSA No.: 2–N–NY–797
Reason: Homeless application.

South Carolina

Land

Georgetown Wayside Park
Property Number: 549130011
Fed Reg Date: 11/01/91
U.S. 701
Approx. 9–10 mi north of Georgetown
Georgetown, SC, Co: Georgetown, Zip: 29440–
Status: Excess
GSA No.: 4–GR–SC–521
Reason: 24 acres advertised for public sale/7 acres HHS req. assign.

South Dakota

Land

Por. of Pactola Dist. Ad. Site
Property Number: 159130003
Fed Reg Date: 12/06/91
803 Soo San Drive
Rapid City, SD, Co: Pennington, Zip: 57702–
Status: Excess
GSA No.: 7–A–SD–511
Reason: Interest expressed by Dept of Interior and COE.

Texas

Buildings

Peary Place #1
Property Number: 77903002
Fed Reg Date: 03/15/91
Project Name: Naval Air Station
Naval Air Station
Corpus Christi, TX, Co: Nueces, Zip: 78419–5000
Status: Excess
GSA No.: 7–N–PX–402–V
Reason: Offer to purchase.

Virginia

Land

St. Helena Annex (former portion)
Property Number: 549120005
Fed Reg Date: 12/06/91
Treadwell and South Main Streets

VOL 57
ISS 31
FE 14
1992
UMI

Norfolk, VA, Co: Norfolk, Zip: 23523–
Status: Excess
GSA No.: 4–GR(2)–VA525AA
Reason: Advertisement for public sale.

Washington

Buildings

Mica Peak Radio Station
Property Number: 549120065
Fed Reg Date: 12/06/91
Approx. 15 miles SE of Spokane
Spokane, WA, Co: Spokane, Zip: 99210–
Status: Excess
GSA No.: 9–B–WA–895
Reason: Federal need.

Summary of Properties Appearing for GSA

Buildings=49
Land=9
Total Suitable and Unavailable=58

Interior

Washington

Buildings

Thompson Main Residence
Property Number: 619030001
Fed Reg Date: 11/22/91
Project Name: Lake Crescent Ranger Station
Lake Crescent Ranger Station
HC 62, Box 10
Port Angeles, WA, Zip: 98362–
Status: Unutilized
Reason: In disposal process.

Thompson Older Residence
Property Number: 619030002
Fed Reg Date: 11/22/91
Project Name: Lake Crescent Ranger Station
Lake Crescent Ranger Station
HC 62, Box 10
Port Angeles, WA, Zip: 98362–
Status: Unutilized
Reason: In disposal process.

Thompson Garage
Property Number: 619030003
Fed Reg Date: 11/22/91
Project Name: Lake Crescent Ranger Station
Lake Crescent Ranger Station
HC 62, Box 10
Port Angeles, WA, Zip: 98362–
Status: Unutilized
Reason: In disposal process.

Thompson Shop
Property Number: 619030009
Fed Reg Date: 11/22/91
Project Name: Lake Crescent Ranger Station
Lake Crescent Ranger Station
HC 62, Box 10
Port Angeles, WA, Zip: 98362–
Status: Unutilized
Reason: In disposal process.

Thompson Powerhouse
Property Number: 619030010
Fed Reg Date: 11/22/91
Project Name: Lake Crescent Ranger Station
Lake Crescent Ranger Station
HC 62, Box 10
Port Angeles, WA, Zip: 98362–
Status: Unutilized
Reason: In disposal process.

Dahinden Storage Building
Property Number: 619030013
Fed Reg Date: 11/22/91
Project Name: Quinault Ranger Station
Quinault Ranger Station
Route 2, Box 76
Amanda Park, WA, Zip: 98526–
Status: Unutilized
Reason: In disposal process.

Bldg. 1185
Property Number: 619030016
Fed Reg Date: 11/22/91
Project Name: Lake Crescent Ranger Station
Lake Crescent Ranger Station HC 62, Box 10
Carter Storage Building
Port Angeles, WA, Zip: 98362–
Status: Unutilized
Reason: In disposal process.

Haas Barn
Property Number: 619040001
Fed Reg Date: 11/22/91
Project Name: Haas Barn
% Quinault Ranger Station
Route 2, Box 76
Amanda Park, WA, Co: Grays Harbor, Zip: 98526–
Status: Excess
Reason: In disposal process.

Haas Shed
Property Number: 619040002
Fed Reg Date: 11/22/91
Project Name: Haas Shed
% Quinault Ranger Station
Route 2, Box 76
Amanda Park, WA, Co: Grays Harbor, Zip: 98526–
Status: Excess
Reason: In disposal process.

Haas Shed
Property Number: 619040003
Fed Reg Date: 11/22/91
Project Name: Haas Shed
% Quinault Ranger Station
Route 2, Box 76
Amanda Park, WA, Co: Grays Harbor, Zip: 98526–
Status: Excess
Reason: In disposal process.

Haas Residence
Property Number: 619040006
Fed Reg Date: 11/22/91
Project Name: Haas Residence
% Quinault Ranger Station
Route 2, Box 76
Amanda Park, WA, Co: Grays Harbor, Zip: 98526–
Status: Excess
Reason: In disposal process.

Bldg. 13[illegible]3
Property Number: 619040007
Fed Reg Date: 11/22/91
Project Name: Jensen Barn
Jensen Barn
% Quinault Ranger Station, Route 2, Box 76
Amanda Park, WA, Co: Grays Harbor, Zip: 98526–
Status: Excess
Reason: In disposal process.

Wyoming

Buildings

Administration Bldg.
Property Number: 619030017
Fed Reg Date: 11/22/91
Project Name: Fontenelle Camp
Fontenelle Camp
Fontenelle, WY, Co: Lincoln, Zip:
Status: Excess
Reason: In disposal process.

Summary of Properties Appearing For Interior

Buildings=13
Land=0
Total Suitable and Unavailable=13

Navy

Florida

Land

Naval Public Works Center
Property Number: 779010157
Fed Reg Date: 11/22/91
Project Name: Naval Base
Naval Air Station
Pensacola, FL, Co: Escambia, Zip: 32508–
Status: Unutilized
Reason: Property reverts to grantor when no longer needed by military.

Georgia

Land

Naval Submarine Base
Property Number: 779010255
Fed Reg Date: 11/22/91
Project Name: Naval Submarine Base
Grid AA–1 to AA–4 to EE–7 to FF–2
Kings Bay, GA, Co: Camden, Zip: 31547–
Status: Underutilized
Reason: Buffer area for an explosive safety arc.

New York

Buildings

Naval Reserve Center
Property Number: 779010041
Fed Reg Date: 11/22/91
Project Name: Naval Reserve Center
112 Hanse Avenue
Freeport, NY, Co: Nassau, Zip: 11550–
Status: Excess
Reason: Government leased.

Texas

Buildings

Bldg. 2435
Property Number: 779010161
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2436
Property Number: 779010162
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2460
Property Number: 779010163
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2462
Property Number: 779010164

Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2464
Property Number: 779010165
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2466
Property Number: 779010166
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2467
Property Number: 779010167
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2468
Property Number: 779010168
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2472
Property Number: 779010169
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2476
Property Number: 779010170
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2482
Property Number: 779010171
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2495
Property Number: 779010172
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2514
Property Number: 779010173
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2518
Property Number: 779010174
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason:

Bldg. 2520
Property Number: 779010175
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2522
Property Number: 779010176
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2526
Property Number: 779010177
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2423
Property Number: 779010178
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2427
Property Number: 779010179
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2431
Property Number: 779010180
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2424
Property Number: 779010181
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2433
Property Number: 779010182
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2428
Property Number: 779010183
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2429
Property Number: 779010184
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2454
Property Number: 779010185
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2477
Property Number: 779010186
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2485
Property Number: 779010187
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2499
Property Number: 779010188
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized

VOL
57
ISS
31
FE
14
992
UMI

Reason: Area programmed for future use.

Bldg. 2503
Property Number: 779101189
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2507
Property Number: 779010190
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2513
Property Number: 779010191
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2521
Property Number: 779010192
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2451
Property Number: 779010193
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2458
Property Number: 779010194
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2461
Property Number: 779010195
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2473
Property Number: 779010196
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2478
Property Number: 779010197
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2480
Property Number: 779010198
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2484
Property Number: 779010199
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2486
Property Number: 779010200
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2487
Property Number: 779010201
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2488
Property Number: 779010202
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2494
Property Number: 779010203
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2500
Property Number: 779010204
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2502
Property Number: 779010205
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2506
Property Number: 779010206
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2508
Property Number: 779010207
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2525
Property Number: 779010208
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2452
Property Number: 779010209
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2475
Property Number: 779010210
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2479
Property Number: 779010211
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2497
Property Number: 779010212
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2501
Property Number: 779010213
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area

NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2505
Property Number: 779010214
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2515
Property Number: 779010215
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2517
Property Number: 779010216
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2519
Property Number: 779010217
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2523
Property Number: 779010218
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2465
Property Number: 779010219
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2493
Property Number: 779010220
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2510
Property Number: 779010221
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2474
Property Number: 779010222
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2481
Property Number: 779010223
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2509
Property Number: 779010224
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2511
Property Number: 779010225
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2512
Property Number: 779010226
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Bldg. 2527
Property Number: 779010227
Fed Reg Date: 11/22/91
Project Name: Laguna Housing Area
Laguna Housing Area
NAS Corpus Christi
Corpus Christi, TX, Co: Nueces, Zip: 78419–
Status: Underutilized
Reason: Area programmed for future use.

Virginia

Land

Naval Base
Property Number: 779010156
Fed Reg Date: 11/22/91
Project Name: Naval Base
Norfolk, VA, Co: Norfolk, Zip: 23508–
Status: Unutilized
Reason: Identified for use in developing admin. office space.

Buildings

Naval Medical Clinic
Property Number: 779010109
Fed Reg Date: 11/22/91
Project Name: Naval Medical Clinic
6500 Hampton Blvd.
Norfolk, VA, Co: Norfolk, Zip: 23508–
Status: Unutilized
Reason: Planned for expansion space.

Washington

Buildings

Naval Station Puget Sound
Property Number: 779120002
Fed Reg Date: 11/22/91
7500 Sand Point Way, NE
Seattle, WA, Co: King, Zip: 98115–
Status: Excess
Reason: Pending finalization of the realignment.

West Virginia

Buildings

Naval & Marine Corps Res. Ctr.
Property Number: 779010077
Fed Reg Date: 11/22/91
Project Name: Naval & Marine Corps Res. Ctr.
N. 13th St & Ohio River
Wheeling, WV, Co: Ohio, Zip: 26003–
Status: Excess
Reason: Government leased.

Summary of Properties Appearing For Navy

Buildings=71
Land=3
Total Suitable and Unavailable=74

VA

California

Land

Land
Property Number: 979010077
Fed Reg Date: 12/27/91
Project Name: VA Medical Center
VA Medical Center
Wilshire and Sawtelle Boulevards
Los Angeles, CA, Co: Los Angeles, Zip: 90073–
Status: Underutilized
Reason: Restoration project underway.

Illinois

Land

VA Medical Center
Property Number: 979010082
Fed Reg Date: 12/27/91
Project Name: VA Medical Center
3001 Green Bay Road
North Chicago, IL, Co: Lake, Zip: 60064–
Status: Underutilized
Reason: Fully used as staging area for major construction project.

Maryland

Buildings

Bldg. 8A
Property Number: 979010047
Fed Reg Date: 12/27/91
Project Name: DVA Medical Center
DVA Medical Center
Perry Point
Perry Point, MD, Co: Cecil, Zip: 21902–
Status: Underutilized
Reason: Holds costly equipment.

Michigan

Land

VA Medical Center
Property Number: 979010015
Fed Reg Date: 12/27/91

Project Name: VA Medical Center
5500 Armstrong Road
Battle Creek, MI, Co: Calhoun, Zip: 49016–
Status: Underutilized
Reason: Being used for patient and program activities.

Minnesota

Land

Bldg. 43 Land Site
Property Number: 979010005
Fed Reg Date: 12/27/91
Project Name: VA Medical Center
VA Medical Center
54th Street & 48th Avenue South
Minneapolis, MN, Co: Hennepin, Zip: 55417–
Status: Underutilized
Reason: Used as parking areas for employees of the medical center.

Bldg. 227–229 Land
Property Number: 979010006
Fed Reg Date: 12/27/91
Project Name: VA Medical Center
VA Medical Center
Fort Snelling
St. Paul, MN, Co: Hennepin, Zip: 55111–
Status: Underutilized
Reason: Used for recreation and parking for occupants of bldg.

VA Medical Center
Property Number: 979010024
Fed Reg Date: 12/27/91
Project Name: VA Medical Center
Near 5629 Minnehaha Avenue
Minneapolis, MN, Co: Hennepin, Zip: 55417–
Status: Underutilized
Reason: Used as parking for employees working in buildings on-site.

Land—12 acres
Property Number: 979010031
Fed Reg Date: 12/27/91
Project Name: VAMC
VAMC
Near 5629 Minnehaha Avenue
Minneapolis, MN, Co: Hennepin, Zip: 55417–
Status: Unutilized
Reason: Licensed to Minnesota Dept. of Natural Resources.

Buildings

Bldg. 15
Property Number 979010025
Fed Reg Date: 12/27/91
Project Name: VA Medical Center
VA Medical Center
Near 5629 Minnehaha Avenue
Minneapolis, MN, Co: Hennepin, Zip: 55417–
Status: Underutilized
Reason: Contains main steam lines & utility systems for area.

Bldg. 16
Property Number: 979010026
Fed Reg Date: 12/27/91
Project Name: VA Medical Center
VA Medical Center
Near 5629 Minnehaha Avenue
Minneapolis, MN, Co: Hennepin, Zip: 55417–
Status: Underutilized
Reason: Contains bldgs. service equipment critical to operations.

Bldg. 21
Property Number: 979010027
Fed Reg Date: 12/27/91
Project Name: VA Medical Center
VA Medical Center
Near 5629 Minnehaha Avenue
Minneapolis, MN, Co: Hennepin, Zip: 55417–
Status: Underutilized
Reason: Residential garage.

Bldg. 46
Property Number: 979010028
Fed Reg Date: 12/27/91
Project Name: VA Medical Center
VA Medical Center
Near 5629 Minnehaha Avenue
Minneapolis, MN, Co: Hennepin, Zip: 55417–
Status: Underutilized
Reason: Garage to repair heavy equipment.

Bldg. 64
Property Number: 979010029
Fed Reg Date: 12/27/91
Project Name: VA Medical Center
VA Medical Center
Near 5629 Minnehaha Avenue
Minneapolis, MN, Co: Hennepin, Zip: 55417–
Status: Unutilized
Reason: Holds freezers containing research specimens.

Bldg. T–10
Property Number: 979010030
Fed Reg Date: 12/27/91
Project Name: VA Medical Center
VA Medical Center
Near 5629 Minnehaha Avenue
Minneapolis, MN, Co: Hennepin, Zip: 55417–
Status: Unutilized
Reason: Cold storage of engineering parts and ground materials.

Bldg. 43
Property Number: 979010032
Fed Reg Date: 12/27/91
Project Name: VA Medical Center
VA Medical Center
Minneapolis, MN, Co: Hennepin, Zip: 55441–7
Status: Underutilized
Reason: Consideration for enhanced use.

Bldg. 227
Property Number: 979010033
Fed Reg Date: 12/27/91
Project Name: VA Medical Center
VA Medical Center
Fort Snelling
St. Paul, MN, Co: Hennepin, Zip: 55111–
Status: Unutilized
Reason: Plans to use for housing medical center staff.

New York

Land

VA Medical Center
Property Number: 979010017
Fed Reg Date: 12/27/91
Project Name: VA Medical Center
Fort Hill Avenue
Canandaigua, NY, Co: Ontario, Zip. 14424–
Status: Underutilized
Reason: 13 acres/Canandaigua School Dist., 14.5 acres landlocked.

Buildings

Bldg. 5
Property Number: 979030001
Fed Reg Date: 12/27/91
Project Name: VA Medical Center
V.A. Medical Center
Redfield Parkway
Batavia, NY, Co: Genesee, Zip: 14020–
Status: Underutilized
Reason: Bldg. will be used for ADHC (Child Care) program.

Pennsylvania

Land

VA Medical Center
Property Number: 979010016
Fed Reg Date: 12/27/91
Project Name: VA Medical Center
New Castle Road
Butler, PA, Co: Butler, Zip: 16001–
Status: Underutilized
Reason: Used as natural drainage for facility property.

Land No. 645
Property Number: 979010080
Fed Reg Date: 12/27/91
Project Name: VA Medical Center
VA Medical Center
Highland Drive
Pittsburgh, PA, Co: Allegheny: Zip: 15206–
Status: Unutilized
Reason: Property is essential to security and safety of patients.

West Virginia

Land

VA Medical Center
Property Number: 979010022
Fed Reg Date: 12/27/91
Project Name: VA Medical Center
1540 Spring Valley Drive
Huntington, WV, Co: Wayne, Zip: 25704–
Status: Unutilized
Reason: Declared unsuitable in HUD's letter dated 2/14/90.

Wyoming

Buildings

Bldg. 13
Property Number: 979110001
Fed Reg Date: 12/27/91
Project Name: Medical Center
Medical Center
N.W. of town at the end of Fort Road
Sheridan, WY, Co: Sheridan, Zip: 82801–
Status: Unutilized
Reason: Planned for future use—currently used for storage.

Bldg. 79
Property Number: 979110003
Fed Reg Date: 12/27/91
Project Name: Medical Center
Medical Center
N.W. of town at the end of Fort Road
Sheridan, WY, Co: Sheridan, Zip: 82801–
Status: Unutilized
Reason: VA uses as a filtration plant.

Summary of Properties Appearing for VA

Buildings=12
Land=11
Total Suitable and Unavailable=23

Summary of Properties Appearing in the Federal Register for 91

Buildings=516
Land=53
Total Suitable and Unavailable=569

[FR Doc. 92–3347 Filed 2–13–92; 8:45 am]

BILLING CODE 4210-29-M

federal register

Friday
February 14, 1992

Part IV

Postal Service

39 CFR Part 111

Domestic Mail Manual: ZIP+4 and ZIP+4 Barcoded Rate Presort Requirements; Final Rule

POSTAL SERVICE

39 CFR Part 111

Second-Class ZIP+4 and ZIP+4 Barcoded Rate Presort Requirements

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule modifies some existing requirements for preparing letter-size second-class automation rate mailings described in Domestic Mail Manual (DMM) chapter 5, adds a new option for preparing letter-size second-class mail to DMM chapter 5, and amends portions of DMM chapter 4 that pertain to the rates applicable to mailings prepared under the optional sortation to automated sites.

EFFECTIVE DATE: February 14, 1992. See Supplementary Information for further information about compliance dates.

FOR FURTHER INFORMATION CONTACT: Mrs. Lynn Martin, (202) 268–5176; or Mr. Richard Arvonio, (202) 268–5164.

SUPPLEMENTARY INFORMATION: On June 25, 1991, the Postal Service published a proposed rule in the **Federal Register** to amend the regulations of the Postal Service governing the physical requirements and the presort requirements for letter-size mail to qualify for ZIP+4 and ZIP+4 Barcoded rates (56 FR 29072).

The portion of the proposed rule amending the physical requirements for First-, second-, and third-class ZIP+4 and ZIP+4 Barcoded rate mail was addressed in a final rule published on October 16, 1991, 56 FR 51836. The portion of the proposed rule amending the presort requirements for First- and third-class mail was addressed in a final rule published on November 13, 1991, 56 FR 57724. This final rule extends to second-class mail, with some revisions, the presort options for First- and third-class mail that were set forth in the November 13 final rule.

Compliance Dates

Second-class mailers may use the presort preparation options in DMM 562.2, 563.2 and 564, as modified by this final rule, immediately. The options for tray-based preparation of ZIP+4 and ZIP+4 Barcoded rate mail set forth in DMM 562.1 and 562.2 may be used only until March 15, 1992, when these options will be phased out for all classes of mail (see 56 FR 57724). Accordingly, effective March 15, 1992, the second-class presort requirements set forth in DMM 562.2 and 563.2, as amended by this final rule, will become mandatory for second-class mailers wishing to prepare tray-based mailings under DMM chapter 5. The revisions to DMM 424.543b, 424.643c, and 447.325 may be used by mailers immediately, and will be mandatory for automation rate mailings prepared under DMM Chapter 4 effective March 15, 1992.

Evaluation of Comments Received

Comments concerning the proposed rule that did not pertain specifically to second-class presortation issues were addressed in the final rules published October 16, and November 13, 1991.

Five comments were received specifically concerning second-class presort requirements.

One commenter recommended that second-class mailers not be required to meet the same qualification levels as First- and third-class mailers. Another commenter stated that the increase from a minimum of 6 pieces per 3-digit package to 50 pieces per 3-digit package to qualify for 3-digit ZIP+4 Barcoded rates under the package-based option in DMM 564 will result in a net loss of barcoding discounts to second-class mailers which in turn will limit second-class participation in automated mail programs. One commenter stated that the proposed increase from 6 pieces to 10 pieces (for 5-digit packages) and to 50 pieces (for 3-digit packages) will adversely affect service performance. Two commenters indicated that studies conducted by mailers show over 80 percent of newspaper delivery problems stem from papers in 3-digit bundles that must be broken and handled by General Mail Facilities (GMFs). One of these commenters stated that increasing the minimum bundle will increase the number of "3-digit monsters" for second-class mailers. Another commenter stated that he can see the value of the new minimum package requirements for second-class letter mail, but that flat-size mail is handled differently and a lower minimum sortation requirement should be retained for second-class flats.

With respect to DMM chapter 4, one commenter recommended changing the requirement in DMM 452.532 from a minimum of four six-piece packages to each sack destination to a minimum of 24 pieces per sack when preparing automation rate second-class mailings. Three commenters requested that the Postal Service clarify that DMM 452.532 applies only to letter-size second-class mail. One of these commenters stated that there is a lot of confusion over the minimum package requirements and a better definition is needed.

The Postal Service has decided to adopt the minimum presortation levels of 10 pieces per 5-digit area and 50 pieces per 3-digit area in the package-based ZIP+4 Barcoded rate preparation requirements for letter-size second-class mail in DMM 564 in order to make the same package-based sortation option available to First-, second- and third-class mailers, with the exception that within the 3-digit presort tier for second-class mailings, 50 or more pieces for the same optional city may be grouped together in optional city 3-digit, and SCF trays to obtain Level B rates. Regardless of the class of mail in which it is entered, automation-compatible mail needs to be "compatible" with the Postal Service's automated mail processing equipment and needs to be presented to the Postal Service in a manner that aids automated processing to justify automation-based presortation discounts. In addition, as indicated in the proposed rule (56 FR 29076), the Postal Service needs to reduce the complex array of sortation requirements for the ZIP+4 and ZIP+4 Barcoded rates among the various classes. Accordingly, the Postal Service believes it is appropriate for all classes of mail to have the same basic automation-based preparation requirements.

The Postal Service adopted the basic provisions that apply to First-Class Mail (at least 10 pieces to a 5-digit area and 50 pieces to a 3-digit area) for all ZIP+4 Barcoded rate categories for several reasons. First, these rules currently apply to by far the largest volume of automation rate mail. Second, the First-Class rules were designed to apply primarily to letter-size mail which is the type of mail to which the DMM Chapter 5 preparation requirements apply. The sack preparation rules for second- and third-class mail were designed for a much more diverse mail base that was not predominately letter-size. Third, the at least 50-piece per 3-digit area requirement is needed to provide the minimum number of pieces to a destination to justify presorted automation rate discounts.

The rate eligibility criteria set forth in this final rule differ some what from the rate eligibility criteria set forth in the proposed rule. Rate Schedules 200, 202, and 203 of the Domestic Mail Classification Schedule (DMCS), established by the Governors of the Postal Service pursuant to the requirements of 39 U.S.C. 3621 *et seq.* (see 56 FR 3616, January 30, 1991), limit Level B/H/J3/J5 rates to pieces presorted to "3-digit city/5-digit" destinations and specifically prescribe that mail sorted to "3-digit (other than 3-digit cities)" and SCFs is only eligible for Level A/G/J1 rates. Accordingly, Level B/H/J3/J5 rates cannot be extended to second-class mail sorted to

3-digit areas that are neither unique 3-digit ZIP Code cities nor one of the multi-coded cities listed in DMM Exhibit 122.63a. For the same reason, those rates cannot be extended to second-class mail sorted to SCF destinations.

The tray-based sortation options in DMM chapter 5 require pieces to be placed in full trays without packaging (with some exceptions). Rate qualification is based upon the level of sortation of the tray into which the pieces are sorted. In keeping with the requirements of the Rate Schedules, this final rule permits only pieces within 5-digit trays, unique 3-digit trays, and optional city trays to qualify for second-class Level B/H/J3/J5 rates in tray-based ZIP+4 and ZIP+4 Barcoded rate mailings made under DMM 562.2 and 563.2. New sections 562.233, 563.233, and 564.433 have been added to provide for preparation of optional city trays for second-class mailings. (Optional city trays are not permitted for First- and third-class mailings.)

Under the DMM chapter 5 package-based option (DMM 564), rate eligibility is based upon packaging or grouping requirements instead of the level of tray in which the pieces are placed. For the package-based option, the final rule permits only pieces within a group of 10 or more pieces to a 5-digit ZIP Code area, within a group of 50 or more pieces for a unique 3-digit ZIP Code area, or within a group of 50 or more pieces for an optional city to qualify for Level B/H/J3/J5 rates. Pieces for non-unique 3-digit areas that are not part of a group of 50 or more pieces for an optional city will be subject to Level A/G/J1 rates, whether prepared as a group of 50 or more pieces for the 3-digit area within the 3-digit presort tier, or as part of the residual portion of the mailing.

The rate eligibility requirements for optional automated site mailings in DMM 424.543b and 424.643c are also amended to specifically provide that SCF packages and sacks or trays only qualify for Level A/G/J1 rates.

Those commenters who expressed concern that the DMM chapter 5 presortation rules will require a greater quantity of mail to qualify for Level B/H/J3/J5 automation discounts should note that it is possible that more pieces in a second-class mailing could qualify for the 5-digit ZIP+4 Barcoded rates under the new DMM chapter 5 package-based sortation requirements (see DMM 564) than under the current DMM chapter 4 sortation requirements. This is because a single package of 10 or more ZIP+4 Barcoded pieces to a 5-digit ZIP Code area may qualify for 5-digit ZIP+4 Barcoded rates (Levels B5/H5/J5 ZIP+4 Barcoded rates) under the package-based regulations in DMM 564 without needing additional packages to meet minimum sacking requirements. Depending upon the mailing, this could offset any loss of discounts from reduced qualification for the 3-digit ZIP+4 Barcoded rates (Level B3/H3/J3 ZIP+4 Barcoded rates).

The Postal Service does not agree that requiring 50-piece packages at the 3-digit ZIP Code level will adversely affect service performance for automation compatible second-class mail. The service performance tests cited by the commenter were based on flat-size pieces that were sacked. Because letter-size automation-compatible mail will be handled differently from flat-size pieces, any adverse impact shown in those tests should not apply to letter-size pieces that are trayed and barcoded.

With respect to the suggestion that the Postal Service change the requirement in DMM chapter 4 for four six-piece packages per sack, these DMM chapter 4 regulations were not addressed in the proposed rule. Because such a change could have an adverse impact on some mailers it would need to be addressed in a separate proposed rule. Since, as indicated in the proposed rule, the Postal Service's future plans will move all automation rate mail out of sacks and into trays, there is no basis to consider such a revision to the sacking requirements for second-class automation rate mail.

With respect to the comment requesting that the sortation requirements for flats not be changed, the Postal Service has no plans at the current time to change the sortation requirements for non-automation rate second-class mailings that are sacked. The proposed flat-size automation discounts are currently pending before the Postal Rate Commission; eligibility requirements for those discounts will be addressed separately from this rulemaking.

List of Subjects in 39 CFR Part 111

Postal Service.

In view of the considerations discussed above, the Postal Service hereby adopts the following amendments to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations (see 39 CFR 11.1).

PART 111—[AMENDED]

1. The authority citation for part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 5001.

2. In chapter 4 of the Domestic Mail Manual make the following revisions:

CHAPTER 4—SECOND-CLASS MAIL

* * * * *

424.5 ZIP+4 Rates

* * * * *

424.543 Rate Eligibility

* * * * *

b. Optional Sortation to Automated Sites.

[Change the last sentence in this section to read:]

"Pieces in SCF, AADC, and mixed AADC packages and sacks, or packages and trays, are not eligible for the level B3/H3/J3 rates and must be claimed at the level A/G/J1 rates."

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424.6 ZIP+4 Barcoded Rates

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424.643 Rate Eligibility

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c. Optional Sortation to Automated Sites.

[Change the last sentence in this section to read as follows:]

"Pieces in SCF, AADC, and mixed AADC packages and sacks, or packages and trays, are not eligible for the level B3/H3/J3 rates and must be claimed at the level A/G/J1 rates."

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447 SPECIAL PREPARATION REQUIREMENTS FOR ZIP+4 AND ZIP+4 BARCODED MAILINGS

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447.3 Trays

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447.325 Optional Sortation to Automated Sites.

[Change the last sentence in this section to read as follows:]

"Pieces in SCF, AADC, and mixed AADC packages and sacks, or packages and trays, are not eligible for level B3/H3/J3 rates and must be claimed at the level A/G/J1 rates."

* * * * *

3. In chapter 5 of the Domestic Mail Manual, make the following revisions:

CHAPTER 5—AUTOMATION-COMPATIBLE MAIL

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560 Presort Requirements

561 General

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561.22 General Requirements for Labeling and Securing Packages

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561.222 Labeling Packages

[Replace the last two sentences in this section with the following:]

"For second-class mailings where optional city packages, if prepared, are required to be labeled, the lower left corner of the top piece in each package must bear a yellow "C" pressure-sensitive package label. Pressure-sensitive labels are provided by the Postal Service. Alternatively, the applicable 5-digit or 3-digit (or, for second-class, optional city) optional endorsement package label line may be used as specified in 369, 441.232, or 642.3."

* * * * *

561.442 When Overflow Trays Permitted. Overflow trays are permitted in all tray levels (5-digit, optional city (for second-class mailings only), 3-digit, and SCF trays) in mailings prepared under 562.1, 562.2, 563.1, and 563.2.

561.443 Requirements for Preparation of Overflow Trays. Mailers must distribute the volume among trays when more than one tray is prepared for the same destination to ensure that the maximum number of full (as defined in 561.43) 5-digit, optional city (second-class mailings only), 3-digit, and SCF trays are prepared. After this step, the remaining pieces for a 5-digit, optional city (second-class mailings only), 3-digit, or SCF destination may be placed in an overflow tray that is less than full, provided the pieces in the overflow tray are packaged. In tray-based option 2 ZIP+4 and ZIP+4 Barcoded rate mailings (see 562.2 and 563.2), packages in overflow trays must also be labeled as 5-digit packages (in 5-digit trays), optional city packages (in second-class optional city trays), or 3-digit packages (in 3-digit and SCF trays). See 561.222 for labeling requirements. Only one overflow tray for a particular 5-digit, optional city (second-class mailings only), 3-digit, or SCF destination may be prepared in a mailing. To allow accurate verification of the mailing by postal acceptance personnel, the mailer must provide a listing of all overflow trays (except for overflow SCF trays prepared under 562.2 and 564) in addition to the other documentation required for the preparation option used.

Note: [*Insert existing note.*]

* * * * *

562 PRESORTED ZIP+4 MAIL

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562.2 Option 2 (Required March 15, 1992, Optional Until Then)

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562.22 Rate Eligibility

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562.222 Second-Class Mail

a. 5-Digit Trays. ZIP+4 coded pieces in 5-digit trays may qualify for the level B5/H5/J5 ZIP+4 rates. Other pieces in 5-digit trays may qualify for the level B5/H5/J5 rates. These trays must be full trays (see 561.43) or overflow trays (see 561.44).

b. Optional City Trays. ZIP+4 coded pieces in optional city trays for a city listed in Exhibit 122.63a may qualify for the level B3/H3/J3 ZIP+4 rates. Other pieces in optional city trays may qualify for the level B3/H3/J3 rates. These trays must be full trays (see 561.43) or overflow trays (see 561.44).

c. 3-Digit Trays.

(1) Unique 3-Digit Trays. ZIP+4 coded pieces in 3-digit trays of a unique 3-digit ZIP Code listed in Exhibit 122.63b may qualify for the level B3/H3/J3 ZIP+4 rates. Other pieces in unique 3-digit trays may qualify for the level B3/H3/J3 rates. These trays must be full trays (see 561.43) or overflow trays (see 561.44).

(2) Non-Unique 3-Digit Trays. ZIP+4 coded pieces in non-unique 3-digit trays may qualify for the level A/G/J1 ZIP+4 rates. Other pieces may qualify for the level A/G/J1 rates. These trays must be full trays (see 561.43) or overflow trays (see 561.44).

d. SCF Trays. ZIP+4 coded pieces in SCF trays may qualify for the level A/G/J1 ZIP+4 rates. Other pieces in SCF trays may qualify for the level A/G/J1 rates. There is no minimum quantity for SCF trays. All pieces in second-class ZIP+4 mailings must be sorted to a least the SCF level.

Note: Even though a less than full SCF tray that contains mail for only one 3-digit area must be labeled as a 3-digit tray (or may be labeled as an optional city tray if the tray contains mail for only one optional city) in accordance with 562.232b(2), 562.232b(3), and 562.233, such a tray is considered an SCF tray for rate purposes. A less than full SCF tray is different from an optional city or a 3-digit overflow tray. An optional city overflow tray contains mail left over after filling at least one other tray for that optional city. A 3-digit overflow tray contains mail left over after filling at least one other tray for that 3-digit destination. Overflow optional city trays and overflow 3-digit trays are subject to the rates for optional city and 3-digit trays described in 562.222b and 562.222c. These overflow trays must be separately documented as required in 561.44.

e. Residual Trays. There are no residual trays in second-class mailings.

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562.23 Sortation Requirements

562.231 ZIP Code Grouping and Packaging Requirements

a. Grouping and Packaging in 5-Digit and 3-Digit Trays

(1) Full Trays. There are no ZIP Code grouping requirements for 5-digit, optional city (for second-class mail only), and 3-digit trays. Packaging is not permitted in full 5-digit, optional city (second-class only), and 3-digit trays when pieces do not exceed the width of trays. Packaging is permitted for pieces that exceed the width of trays when used to maintain the orientation of the pieces within the trays as described in 561.422. Package labels are not required for this packaging.

Note: 5-digit and 3-digit trays, as well as second-class optional city trays, are required to be full (see 562.232b(1), 562.232b(2), 562.223, and 561.43) except that less than full overflow trays are permitted as described in 561.44.

* * * * *

(2) Overflow Trays. The pieces in overflow trays to 5-digit and 3-digit destinations, as well as pieces in overflow trays to second-class optional city destinations, must be packaged to maintain their orientation. (Overflow trays are less than full by definition (see 561.44).) All packages in overflow trays must be labeled as 5-digit packages, 3-digit packages, or (within second-class mailings only) optional city packages, as appropriate. See 561.22 for other requirements on securing and labeling packages.

b. Grouping and Packaging in SCF Trays

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(2) Second- and Third-Class Mailings.

[Insert existing section 562.231b(2). Revise the first sentence to read as follows:]

"There is no minimum quantity of pieces required in SCF trays of second and third-class mail."

[Revise the next to last sentence of 562.231b(2) to read as follows:]

"Each package in a less than full SCF tray must contain mail for only one 3-digit ZIP Code area and must be labeled as a 3-digit package, except that in second-class mailings the package may be labeled as an optional city package if each piece in the package is for one of the optional cities listed in Exhibit 122.63a."

[Add a note to the end of this section as follows:]

"**Note**: Even though a less than full SCF tray that contains mail for only one 3-digit area must be labeled as a 3-digit tray (or for second-class mail may be labeled as an optional city tray if the tray contains mail for only one optional city) in accordance with 562.232b(2), 562.232b(3), and 562.233, such a tray is considered an SCF tray for rate purposes. A less than full SCF tray is different from an optional city or a 3-digit overflow tray. An optional city overflow tray contains mail left over after filling at least one other tray for that optional city. A 3-digit overflow tray contains mail left over after filling at least one other tray for that 3-digit destination. Overflow optional city trays (second-class mail only) and overflow 3-digit trays are subject to the rates for optional city and 3-digit trays described in 562.222b, 562.222c, 562.223b, and 562.223c, as appropriate for the class of mail. These overflow trays must be separately documented as required in 561.44."

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562.232 Traying Requirements

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b. Required Tray Sortation

(1) 5-Digit Trays.

[Insert existing 562.232b(1). Change the information to be placed in Line 2 of the tray label as follows:]

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "ZIP+4 PRESORT"

* * * * *

Exception: [In the second sentence change the phrase "third-class" to "second- and third-class". Add the following as the last line of the exception to 562.232b(1):]

"Optional city trays are not permitted in second-class mailings prepared according to this optional automated site preparation option."

(2) 3-Digit Trays.

[Insert existing section 562.232b(2). Insert the following after the third sentence:]

"In second-class mailings the mailer may elect to prepare optional city trays to obtain the level B3/H3/J3 ZIP+4 rates (see 562.233); if so, optional city trays must be prepared before preparing 3-digit trays."

[In both 562.232b(2)(a) and 562.232b(2)(b) change the information to be placed in Line 2 of the tray label as follows:]

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "ZIP+4 PRESORT"

* * * * *

(3) SCF Trays

(a) Trays for SCFs Serving a Single 3-Digit Area. If, after preparing all possible full 5-digit trays, full optional city trays (if applicable—see 562.233), and full 3-digit trays (and, at the mailer's option, overflow trays to those destinations), there are pieces remaining for a single 3-digit SCF listed in Exhibit 122.63c that are not sufficient to fill a tray, they must be placed in a single 3-digit SCF tray. The pieces in the tray must be rubber-banded or otherwise secured into packages and labeled as described in 562.231b and 561.22. There is no minimum quantity for single 3-digit SCF trays, except for those in First-Class mailings, which must contain at least 50 pieces for each 3-digit ZIP Code area. (See also the note in 562.231a(1) for instructions concerning First-Class mailings where fewer than 50 pieces fill a tray.) If a second-class single 3-digit SCF tray contains pieces for only one optional city listed in Exhibit 122.63a, the tray may be labeled as an optional city tray under 562.233. Other trays containing mail for an SCF serving a single 3-digit area must be labeled as follows:

Line 1: Name of SCF, two-letter state abbreviation, followed by 3-digit ZIP Code prefix of pieces in tray (see Exhibit 122.63c)

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "ZIP+4 PRESORT"

Line 3: Name of mailer and city and two-letter state abbreviation of mailer's location

Example

* * * * *

(b) Trays for SCFs Serving Multiple 3-Digit Areas. If, after preparing all possible full 5-digit trays, full optional city trays (if applicable—see 562.233), and full 3-digit trays (and, at the mailer's option, overflow trays to those destinations), there are pieces remaining for one of the SCFs that serve more than one 3-digit area (listed in Exhibit 122.63d), an SCF tray must be prepared. There is no minimum quantity for these SCF trays, except for those in First-Class mailings, which must contain at least 50 pieces for each 3-digit ZIP Code area contained in the tray. (See also the note in 562.231b(1) for instructions concerning First-Class mailings where a full tray may contain less than 50 pieces for a 3-digit ZIP Code area.) For all classes of mail, pieces must be grouped by 3-digit area within the tray. When there is less than a full tray, the pieces in the tray must be packaged and labeled as described in 562.231b and 561.22. Packages must contain mail for only one 3-digit ZIP Code area. If the tray contains pieces for only one 3-digit ZIP Code area served by the SCF the tray must be labeled as a 3-digit tray under 562.232b(2), except that if a second-class SCF tray contains pieces for only one optional city listed in Exhibit 122.63a, the tray may be labeled as an optional city tray under 562.233. Trays containing pieces for multiple 3-digit areas must be labeled as follows:

Line 1: Letters "SCF" followed by name of SCF, two-letter state abbreviation of SCF, and 3-digit SCF code shown in Exhibit 122.63d

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "ZIP+4 PRESORT"

Line 3: Name of mailer and city and two-letter state abbreviation of mailer's location

Example

* * * * *

Exception: [Add the following sentence to the end of the exception:]

"For second-class mailings prepared under this automated site option, optional city trays are not permitted."

562.233 Optional Tray Sortation for Second-Class Mailings Only

a. General. The requirements in 561.4 must be met.

b. Second-Class Optional City Trays. After preparing all possible full 5-digit trays (and, at the mailer's option, overflow 5-digit trays), and before preparing 3-digit trays, second-class mailers may prepare optional city trays for the multi-ZIP Coded cities listed in Exhibit 122.63a. Trays that are not full are prohibited, except that one overflow tray per optional city is permitted as provided in 561.44. Trays must be labeled as follows:

Line 1: Name of optional city in Exhibit 122.63a, two-letter state abbreviation, and lowest 5-digit ZIP Code served by city

Line 2: Contents (2C or NEWS) followed by "ZIP+4 PRESORT" and directly under ZIP Code on Line 1 "CITY"

Line 3: Name of mailer and city and two-letter state abbreviation of mailer's location

Example

LA JOLLA CA 92037
NEWS ZIP+4 PRESORT CITY
DUCE MAILING CO BIGFOOT TX

Note: For mailings prepared under the automated site option (see exception to 562.232b(3)(b), preparation of optional city trays is not permitted.

562.24 Residual Mail

562.241 General

[Revise the first sentence of this section to read as follows:]

"There is no residual mail for second- and third-class mailings."

* * * * *

562.26 Documentation

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562.252 Information Required

a. Tray Label Option

(1) Sequence.

[Revise the first two sentences to read as follows:]

"The documentation must be sequenced by level of sortation (5-digit, second-class optional city if applicable, 3-digit, and SCF) and must show, for each tray in each group, a unique tray number or the exact top line of the tray label. In the 5-digit portion and second-class optional city portion, the contents of each tray must be detailed by 5-digit ZIP Code."

(2) Information.

[Revised the second sentence to read as follows:]

"For optional city (second-class only), 3-digit, and SCF trays (and for First-Class residual trays prepared under 562.242a), the documentation must show a subtotal for the number of pieces at each rate category, the number of pieces with a correct ZIP+4 code, and the total number of pieces in the tray."

* * * * *

b. ZIP Code Option

(1) Sequence.

[Revise the first two sentences to read as follows:]

"The documentation must be sequenced by level of sortation (5-digit, second-class optional city if applicable, 3-digit, and SCF). In the 5-digit portion and second-class optional city portion, the entries must be listed by 5-digit ZIP Code."

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563 PRESORTED ZIP+4 BARCODED MAIL TRAY-BASED PREPARATION REQUIREMENTS

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563.2 Option 2 (Required March 15, 1992, Optional Until Then)

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563.22 Rate Eligibility

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563.222 Second-Class Mail

a. 5-Digit Trays

(1) 5-Digit Trays Meeting the 100% ZIP+4 or Delivery Point Barcoded Requirement. In 5-digit trays, each piece may qualify for the level B5/H5/J5 ZIP+4 Barcoded rates. All 5-digit trays must be full trays (see 561.43) or overflow trays (see 561.44) and must be 100% ZIP+4 barcoded or delivery point barcoded.

(2) 5-Digit Trays Submitted Under the Limited Exception in 563.213. Pieces that bear the correct ZIP+4 barcode or correct delivery point barcode may qualify for the level B5/H5/J5 ZIP+4 Barcoded rate. Pieces without a ZIP+4 barcode or delivery point barcode may qualify for the level B5/H5/J5/ ZIP+4 rate if they bear the correct numeric ZIP+4 code in the address and meet the requirements of 540. Other pieces qualify for the level B5/H5/J5 presort rates. All 5-digit trays must be full trays (see 561.43) or overflow trays (see 561.44).

b. Optional City Trays. Pieces that bear the correct ZIP+4 barcode or correct delivery point barcode in trays for an optional city listed in Exhibit 122.63a may qualify for the level B3/H3/J3 ZIP+4 Barcoded rates. Pieces without a ZIP+4 barcode or delivery point barcode may qualify for the level B3/H3/J3 ZIP+4 rates if they bear the correct numeric ZIP+4 code in the address and meet the requirements of 540. Other pieces qualify for the level B3/H3/J3 presort rates. Optional city trays must be full trays (see 561.43) or overflow trays (see 561.44).

c. 3-Digit Trays

(1) Unique 3-Digit Trays. Pieces that bear the correct ZIP+4 barcode or correct delivery point barcode in unique 3-digit trays may qualify for the level B3/H3/J3 ZIP+4 Barcoded rates. Pieces without a ZIP+4 barcode or delivery point barcode may qualify for the level B3/H3/J3 ZIP+4 rates if they bear the correct numeric ZIP+4 code in the address and meet the requirements of 540. Other pieces qualify for the level B3/H3/J3 presort rates. Unique 3-digit trays must be full trays (see 561.43) or overflow trays (see 561.44).

(2) Non-Unique 3-Digit Trays. Pieces that bear the correct ZIP+4 barcode or correct delivery point barcode in non-unique 3-digit trays may qualify for the level A/G/J1 ZIP+4 Barcoded rates. Pieces without a ZIP+4 or delivery point barcode may qualify for the level A/G/J1 ZIP+4 rates if they bear a correct numeric ZIP+4 code in the address and meet the requirements of 540. Other pieces qualify for the level A/G/J1 presort rates. All 3-digit trays must be full trays (see 561.43) or overflow trays (see 561.44).

c. SCF Trays. Pieces that bear the correct ZIP+4 barcode or correct delivery point barcode in SCF trays may qualify for the level A/G/J1 ZIP+4 Barcoded rates. Pieces without a ZIP+4 barcode or delivery point barcode may qualify for the level A/G/J1 ZIP+4 rates if they bear a correct numeric ZIP+4 code in the address and meet the requirements of 540. Other pieces qualify for the level A/G/J1 presort rates. All SCF trays must be full trays (see 561.43) or overflow trays (see 561.44).

d. Residual Trays. Pieces that bear the correct ZIP+4 barcode or correct delivery point barcode in residual trays may qualify for the level A/G/J1 ZIP+4 Barcoded rates. Residual pieces without a ZIP+4 barcode or delivery point barcode may qualify for the level A/G/J1 ZIP+4 rates if they bear a correct numeric ZIP+4 code in the address and meet the requirements of 540. Other pieces qualify for the level A/G/J1 presort rates.

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563.23 Sortation Requirements

563.231 ZIP Code Grouping and Packaging

a. Grouping/Packaging in 5-Digit and 3-Digit Trays

(1) Full Trays. There are no ZIP Code grouping requirements for 5-digit, optional city (second-class only), and 3-digit trays. Packaging is not permitted in full 5-digit, optional city (second-class mail only), and 3-digit trays containing only pieces that do not exceed the width of trays. Packaging is permitted within trays containing pieces that exceed the width of trays when packaging is required to maintain the orientation of the pieces within the trays as described in 561.422. Package labels are not required for this packaging.

Note: 5-digit and 3-digit trays, as well as second-class optional city trays, are required to be full (see 563.232b(1), 563.232b(2) and 563.233) except that less than full overflow trays are permitted as provided in 561.44. For First-Class mailings, there must be at least 50 pieces for each 3-digit ZIP Code area. If less than 50 pieces fill a 3-digit tray (pieces exceeding the height and width of trays) the remaining pieces to that 3-digit ZIP Code area must be placed in another full 3-digit tray if possible, a 3-digit overflow tray, or an SCF tray.

(2) Overflow Trays. The pieces in overflow trays to 5-digit and 3-digit destinations, as well as pieces in overflow trays to second-class optional city destinations, must be packaged to maintain their orientation. (Overflow trays are less than full by definition (see 561.44).) All packages in overflow trays must be labeled as 5-digit, 3-digit, or (within second-class mailings only) optional city packages as appropriate. See 561.22 for other requirements on securing and labeling packages.

* * * * *

b. Grouping/Packaging in SCF Trays

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(2) Second- and Third-Class Mailings

(a) Full Trays. [Revise the first sentence of this section to read as follows:

"There is no minimum quantity requirement for individual 3-digit ZIP Code areas in SCF trays of second- and third-class mail."]

(b) Overflow Trays. The pieces in second- and third-class SCF overflow trays (which are less than full by definition) must be packaged to maintain their orientation in the tray. Each package must contain mail for only one 3-digit ZIP Code area and must be labeled as a 3-digit package, except that in second-class mailings the package may be labeled as an optional city package if each piece in the package is for one of the optional cities listed in Exhibit 122.63a.

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563.232 Traying Requirements

a. General. The requirements in 561.2 must be met.

b. Required Tray Sortation—Qualifying Pieces

(1) 5-Digit Trays. If there are enough pieces to the same 5-digit destination to fill a tray, a 5-digit tray may be prepared for that destination. Preparation of 5-digit trays is required only if the First- or third-class 5-digit ZIP+4 Barcoded rates or second-class level B5/H5/J5 ZIP+4 Barcoded rates are claimed. Trays that are not full are prohibited, except for overflow trays as provided in 561.44. All 5-digit trays must be labeled as follows:

Line 1: City, two-letter state abbreviation, and 5-digit ZIP Code

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "Z+4 BARCODED" or "Z+4 B/C"

Line 3: Name of mailer and city and two-letter state abbreviation of mailer's location

Example

* * * * *

(2) 3-Digit Trays. If there are enough pieces to fill a tray for a 3-digit ZIP Code area, a 3-digit tray must be prepared for that destination. For First-Class Mail, there must be at least 50 pieces for each 3-digit ZIP Code area. For all classes of mail, 3-digit trays that are not full are prohibited, except for overflow trays as provided in 561.44. (See also the note in 563.231a(1) for instructions concerning First-Class mailings where a full tray may contain less than 50 pieces.) Within mailings in which the First- or third-class 5-digit ZIP+4 Barcoded rates or second-class level B5/H5/J5 rates are claimed, 3-digit trays may be prepared only after all possible 5-digit trays have been prepared. In second-class mailings the mailer may elect to prepare optional city trays to obtain the level B3/H3/J3 ZIP+4 Barcoded rates (see 563.233); if so, optional city trays must be prepared before preparing 3-digit trays. 3-digit trays must be labeled as follows:

(a) Unique 3-Digit ZIP Code Prefixes

* * * * *

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "Z+4 BARCODED" or "Z+4 B/C"

* * * * *

(b) Other 3-digit ZIP Code Prefixes

* * * * *

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "Z+4 BARCODED" or "Z+4 B/C"

* * * * *

Example

NORTHERN VIRGINIA VA 221
NEWS Z+4 BARCODED
ABC MAILING CO ROCHESTER NY

(3) SCF Trays. After traying mail to 5-digit areas under 563.232b(1) (if applicable), to optional cities under 563.233 (if applicable for second-class mailings), and to 3-digit areas under 563.232b(2), if there are enough pieces to fill a tray for one of the SCF areas listed in Exhibit 122.63d, an SCF tray must be prepared for that destination. For First-Class Mail, there must be at least 50 pieces for each 3-digit ZIP Code area. For all classes of mail, pieces for the same 3-digit area must be grouped together within the tray. SCF trays that are not full are prohibited, except for overflow trays as provided in 561.44. (See also the note in 563.231b(1) for instructions concerning First-Class mailings where a full tray may contain less than 50 pieces for a 3-digit area.) SCF trays must be labeled as follows:

* * * * *

Line 2: Appropriate class or contents designational (FCM, 2C, NEWS, or 3C) followed by "Z+4 BARCODED" or "Z+4 B/C"

* * * * *

Note: An overflow SCF tray that contains pieces for only one 3-digit ZIP Code area must be labeled as a 3-digit tray as described in 563.232b(2), except that an SCF tray in a second-class mailing which contains pieces for only one optional city listed in Exhibit 122.63a may be labeled as an optional city tray as described in 563.233.

c. Tray Sortation—Residual Pieces.

* * * * *

(1) Option 1: ZIP Code Sequencing and Listing.

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C LTRS as appropriate) followed by "ZIP+4 BARCODED"

* * * * *

(2) Option 2: Physical Separation.

* * * * *

(a) Trays containing ZIP+4 or Delivery Point Barcoded Mail

* * * * *

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C LTRS as appropriate) followed by "ZIP+4 BARCODED"

* * * * *

(b) Trays Containing Pieces Not ZIP+4 or Delivery Point Barcoded that Bear a Correct Numeric ZIP+4 Code in the Address and Meet the Requirements of 540.

* * * * *

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, OR 3C LTRS) followed by "ZIP+4"

* * * * *

(c) Trays Containing Other Pieces.

* * * * *

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C LTRS)

* * * * *

563.233 Optional Tray Sortation for Second-Class Mailings Only

a. General. The requirements in 561.4 must be met.

b. Second-Class Optional City Trays. Before preparing 3-digit trays, second-class mailers may prepare optional city trays for the multi-ZIP Coded cities listed in Exhibit 122.63a. If the mailer chooses to prepare 5-digit trays, optional city trays may only be prepared after preparing all possible full 5-digit trays. Optional city trays that are not full are prohibited, except that one overflow tray per optional city is permitted as provided in 561.44. Trays must be labeled as follows:

Line 1: Name of optional city in Exhibit 122.63a, two-letter state abbreviation, and lowest 5-digit ZIP Code served by city

Line 2: Contents (2C or NEWS) followed by "ZIP+4 BARCODED" OR "ZIP+4 BARCODED" and directly under ZIP Code on Line 1 "CITY"

Line 3: Name of mailer and city and two-letter state abbreviation of mailer's location

Example

LA JOLLA CA 92037
NEWS ZIP+4 BARCODED CITY
DEUCE MAILING CO BIGFOOT TX

563.24 Documentation

* * * * *

563.242 Information Required

a. Tray Label Option

(1) Sequence.

[Revise the first two sentences to read as follows:]

"The documentation must be sequenced by level of sortation (5-digit, second-class optional city if applicable, 3-digit, and SCF) and must show, for each tray in each group, a unique tray number or the exact top line of the tray label. For the 5-digit portion and second-class optional city portion, the contents of each tray must be detailed by 5-digit ZIP Code."

(2) Information.

[Revise the second sentence to read as follows:]

"For 3-digit and SCF trays, and second-class optional city trays (if applicable), the documentation must show a subtotal for the number of pieces at each rate category, the number of pieces with a correct ZIP+4 barcode or delivery point barcode, and the total number of pieces in the tray."

b. ZIP Code Option

(1) Sequence.

[Revise the first two sentences to read as follows:]

"The documentation must be sequenced by level of sortation (5-digit, second-class optional city if applicable, 3-digit, and SCF). For the 5-digit portion and second-class optional city portion, the entries must be listed by 5-digit ZIP Code."

* * * * *

564 PACKAGE-BASED PREPARATION REQUIREMENTS—ZIP+4 BARCODED RATE MAILINGS

* * * * *

564.2 Rate Eligibility

* * * * *

564.22 Second-Class Mailings

564.221 Five-Digit Presort Tier (Groups of 10 or More Pieces Per 5-Digit Area in 5-Digit, 3-Digit, and SCF trays). All pieces within the 5-digit presort tier prepared in accordance with 564.3 may qualify for the level B5/H5/J5 ZIP+4 Barcoded rates. Only pieces bearing a correct ZIP+4 barcode or delivery point barcode may be included in this presort tier.

564.222 Three-Digit Presort Tier (Groups of 50 or More Pieces Per 3-Digit Area or per Optional City in Optional City, 3-Digit, and SCF Trays)

a. Unique 3-Digit Packages and Optional City Packages. Within the 3-digit presort tier, groups of 50 or more pieces for a unique 3-digit ZIP Code area listed in Exhibit 122.63b and groups of 50 or more pieces for a multi-coded city listed in Exhibit 122.63a can qualify for rates as follows: (1) Pieces that bear the correct ZIP+4 barcode or delivery point barcode and meet the requirements of 550 can qualify for the level B3/H3/J3 ZIP+4 Barcoded rates; (2) pieces that do not bear a ZIP+4 barcode or delivery point barcode that bear the correct numeric ZIP+4 code in the address and meet the requirements of 540 can qualify for the level B3/H3/J3 ZIP+4 rates; (3) other pieces qualify for the level B3/H3/J3 presort rates.

b. Non-Unique 3-Digit Packages. Within the 3-digit presort tier, groups of 50 or more pieces to a non-unique 3-digit ZIP Code area that are not part of a group of 50 or more pieces for an optional city listed in Exhibit 122.63a will qualify for rates as follows: (1) Pieces that bear the correct ZIP+4 barcode or correct delivery point barcode can qualify for the level A/G/J1 ZIP+4 Barcoded rates; (2) pieces without a ZIP+4 barcode or delivery point barcode can qualify for the level A/G/J1 ZIP+4 rates if they bear a correct numeric ZIP+4 code in the address and meet the requirements of 540; (3) other pieces qualify for the level A/G/J1 presort rates.

Note: The 3-digit presort tier can contain pieces at both Level B3/H3/J3 and A/G/J1 rates. The documentation must properly reflect the applicable rates as described in 564.62.

564.223 Residual Presort Tier. Within the residual presort tier prepared under 564.5, pieces that bear the correct ZIP+4 barcode or correct delivery point barcode can qualify for the level A/G/J1 ZIP+4 Barcoded rates; pieces without a ZIP+4 barcode or delivery point barcode can qualify for the level A/G/J1 ZIP+4 rates if they bear a correct numeric ZIP+4 code in the address and meet the requirements of 540; and other pieces qualify for the level A/G/J1 presort rates.

* * * * *

564.3 Sortation Requirements—5-Digit Presort Tier

* * * * *

564.33 Traying Requirements—5-Digit Presort Tier

* * * * *

564.332 Tray Sortation

a. 5-Digit Trays.

* * * * *

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "5DG Z+4 BARCODED" or "5DG Z+4 B/C"

* * * * *

b. 3-Digit Trays.

* * * * *

(1) Unique 3-Digit ZIP Code Prefixes

* * * * *

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "5DG Z+4 BARCODED" or "5DG Z+4 B/C"

* * * * *

(2) Other 3-Digit ZIP Code Prefixes

* * * * *

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "5DG Z+4 BARCODED" or "5DG Z+4 B/C"

* * * * *

Example

NORTHERN VIRGINIA VA 221
NEWS 5DG Z+4 BARCODED
ABC MAILING CO ROCHESTER NY

c. SCF Trays

(1) Trays for SCFs Serving Single 3-Digit Areas.

* * * * *

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "5DG Z+4 BARCODED" or "5DG Z+4 B/C"

* * * * *

Example

MID-FLORIDA FL 327
2C 5DG Z+4 BARCODED
BAKERSFIELD CA

(2) Trays for SCFs Serving Multiple 3-Digit Areas.

* * * * *

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "5DG Z+4 BARCODED" or "5DG Z+4 B/C"

* * * * *

564.4 Sortation Requirements—3-Digit Presort Tier

564.41 Minimum Quantity Per 3-Digit Area. [Add the following as the second sentence of this section: "For second-class mailings, groups of 50 or more pieces for an optional city in Exhibit 122.63a may be prepared before preparing groups of 50 or more pieces for the same 3-digit ZIP Code area."]

564.42 Grouping and Packaging Requirements

[Renumber 564.421 and 564.422 as 564.422a and 564.423. Insert new 564.421, new 564.422b, and revise 564.423 as follows:]

564.421 Grouping/Packaging in Optional City Trays (Second-Class Mailings Only). Second-class mailers may choose to prepare groups of 50 or more pieces for the optional cities listed in Exhibit 122.63a to obtain the Level B3/H3/J3 rates as described in 564.222a, before going on to prepare groups of 50 or more pieces for 3-digit ZIP Code areas. If mailers choose to claim the level B3/H3/J3/ rates for optional cities in this manner, and there is a full tray of this mail for the same optional city, an optional city tray must be prepared as described in 564.433. There are no grouping or packaging requirements for optional city trays except for pieces that exceed the width of trays where packaging is used as the method to maintain the orientation of the pieces within the trays as provided in 561.422. It is recommended that mail in optional city trays not be packaged (except as in 561.422). However mailers are permitted to package pieces in optional city trays as provided in 561.22. If pieces are packaged, package levels are not required.

Note: All optional city trays must be full (see 564.433 and 561.43) and there must be at least 50 pieces for each optional city (see 564.41). If, due to the size of the mailpieces, a full tray holds less than 50 pieces and it is not possible for all the pieces for the same optional city to be placed in the same tray, the remaining pieces must be placed in another full optional city tray if possible. In all instances where it is not possible to fill another optional city tray with the pieces remaining from a full optional city tray, the remaining pieces must be placed in a 3-digit tray if possible, or an SCF tray.

564.422 Grouping/Packaging in 3-Digit Trays

a. First- and Third-Class Mailings. [Insert former section 564.421.]

b. Second-Class Mailings. There are no grouping or packaging requirements for 3-digit trays except when mailers choose to perform optional city sortations as described in 564.421 and 564.433 in order to claim level B3/H3/J3 rates under 564.222a. When optional city sortations are made, groups of 50 or more pieces for an optional city must be grouped together within 3-digit trays. Any remaining group of 50 or more pieces for the 3-digit ZIP Code area that is not related to an optional city must be grouped together in the tray.

Note: All 3-digit trays must be full (see 564.432a and 561.43) and there must be at least 50 pieces for each optional city or 3-digit ZIP Code area (see 564.41). If, due to the size of the mailpieces, a full tray holds less than 50 pieces and it is not possible for all the pieces for the same 3-digit ZIP Code area to be placed in the same tray, the remaining pieces must be placed in another full 3-digit tray if possible. In all instances where it is not possible to fill another 3-digit tray with the pieces remaining from a full 3-digit tray (either groups for optional cities or groups for 3-digit areas), the remaining pieces must be placed in an SCF tray.

564.423 Grouping/Packaging in SCF Trays

a. Full SCF Trays. [Add the following as the second sentence of this section:]

"For second-class mailings in which level B3/H3/J3 rates are claimed for groups of 50 or more pieces for the same optional city (see 564.222a and 564.421), the pieces for each optional city must be grouped together separate from other groups of 50 or more pieces for the 3-digit area."

* * * * *

b. Less than Full SCF Trays. [Add the following as the third and fourth sentences of this section:]

"Within second-class mailings where mailers have opted to claim the level B3/H3/J3 rates for groups of 50 or more pieces for the same optional city (see 564.222a and 564.421), the pieces for each optional city within the tray for which level B3/H3/J3 rates are claimed must be secured together into packages and labeled as optional city packages as described in 561.222. Each optional city package must contain only mail for single optional city."

564.43 Traying Requirements

* * * * *

564.432 Required Tray Sortation

a. 3-Digit Trays

* * * * *

(1) Unique 3-Digit ZIP Code Prefixes.

* * * * *

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, OR 3C) followed by "3DG Z+4 BARCODED" or "3DG Z+4 B/C"

* * * * *

(2) Other 3-Digit ZIP Code Prefixes.

* * * * *

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "3DG Z+4 BARCODED" or "3DG Z+4 B/C"

* * * * *

Example

NORTHERN VIRGINIA VA 221
NEWS 3DG Z+4 BARCODED
ABC MAILING CO ROCHESTER NY

b. SCF Trays

(1) SCF Trays for SCFs Serving Single 3-Digit Areas.

[Revise the last two sentences before Line 1 information to read as follows:]

"The pieces in the tray must be secured into 3-digit packages and labeled as described in 564.222 and 561.22, except that, in second-class mailings where the mailer elects to prepare optional city packages, groups of pieces for the same optional city may be prepared and labeled as optional city packages as described in 564.222 and 561.22. Single 3-digit SCF trays must be labeled as follows:"

* * * * *

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "3DG Z+4 BARCODED" or "3DG Z+4 B/C"

* * * * *

(2) SCF Trays for SCFs Serving Multiple 3-Digit Areas.

[Revise the last two sentences before Line 1 information to read as follows:]

"The pieces in less than full SCF trays must be appropriately packaged and labeled as described in 564.423b. If the tray contains pieces for only one 3-digit ZIP Code area served by the SCF, the tray must be labeled as if it were a 3-digit tray as specified in 564.432a. If a less than full tray in a second-class mailing contains pieces for only one optional city served by the SCF, and the level B3/H3/J3 rates are claimed for those pieces as described in 564.222a and 564.421, the tray must be labeled as an optional city tray as specified in 564.433. Trays containing pieces for multiple 3-digits area served by the SCF must be labeled as follows:"

* * * * *

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "3DG Z+4 BARCODED" or "3DG Z+4 B/C"

* * * * *

Example

SCF SAN ANTONIO TX 780
2C 3DG Z+4 BARCODED
NBT CO BAKERSFIELD CA

564.433 Optional Tray Sortation for Second-Class Mailings Only

a. General. The requirements in 561.4 must be met.

b. Second-Class Optional City Trays. Before preparing 3-digit trays, second-class mailers may prepare optional city trays for the multi-ZIP Coded cities listed in Exhibit 122.63a. If mailers choose to prepare groups of 50 or more pieces for optional cities as described in 564.421, and there is a full tray of this mail for the same optional city, an optional city tray must be prepared. Optional city trays that are not full are prohibited, except that one overflow tray per optional city is permitted as provided in 561.44. Trays must be labeled as follows:

Line 1: Name of optional city in Exhibit 122.63a, two-letter state abbreviation, and lowest 5-digit ZIP Code served by city

Line 2: Contents (2C or NEWS) followed by "ZIP+4 BARCODED" or

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"Z+4 BARCODED" and directly under ZIP Code on Line 1 "CITY"

Line 3: Name of mailer and city and two-letter state abbreviation of mailer's location

Example

LA JOLLA CA 92037
NEWS ZIP+4 BARCODED CITY
DEUCE MAILING CO BIGFOOT TX

564.5 Sortation Requirements—Residual/Basic Presort Tier

* * * * *

564.521 Option 1: ZIP Code Sequencing and Listing.

* * * * *

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C LTRS as appropriate) followed by "ZIP+4 BARCODED"

* * * * *

564.523 Option 3: Physical Separation by Rate Qualification.

* * * * *

a. Trays Containing ZIP+4 or Delivery Point Barcoded Mail

* * * * *

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C LTRS as appropriate) followed by "ZIP+4 BARCODED"

* * * * *

b. Trays Containing Pieces Not ZIP+4 or Delivery Point Barcoded But Bearing Correct Numeric ZIP+4 Code in Address and Meeting the Requirements of 540

* * * * *

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, OR 3C LTRS) followed by "ZIP+4"

* * * * *

c. Trays Containing Pieces Not ZIP+4 or Delivery Point Barcoded and Not Qualifying for ZIP+4 Rates

* * * * *

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C LTRS)

* * * * *

564.6 Documentation Requirements

* * * * *

564.62 When Documentation Required

* * * * *

564.622 Information Required for 5-Digit Presort Tier Sorted as in 564.3

a. Listing

[In 564.622a(1) change the phrase "(First-Class 5-digit ZIP+4 Barcoded rate, or third-class 5-digit ZIP+4 Barcoded rate)." to "(First-Class 5-digit ZIP+4 Barcoded rate, the second-class level B5/H5/J5 ZIP+4 Barcoded rate, or the third-class 5-digit ZIP+4 Barcoded rate)."]

* * * * *

564.623 Information Required for 3-Digit Presort Tier Sorted in Accordance with 564.4

a. Listing. For each group of 50 or more pieces per 3-digit area list the following by 3-digit ZIP Code, and if optional city groups were prepared for second-class mail, list for each group of 50 or more pieces per optional city the following by lowest 5-digit ZIP Code served by the city.

(1) Number of ZIP+4 Barcoded or Delivery Point Barcoded Pieces. These must be listed under a column heading (or column headings for second-class mail) that indicate(s) the rate for which they qualify based upon the class of mail submitted (First-Class 3-digit ZIP+4 Barcoded rate, second-class level B3/H3/J3 ZIP+4 Barcoded rate if for a unique 3-digit ZIP Code or an optional city, second-class level A/G/J1 ZIP+4 Barcoded rate, or third-class 3-digit ZIP+4 Barcoded rate).

(2) Number of Pieces Without a ZIP+4 Barcode or Delivery Point Barcode Bearing a Correct Numeric ZIP+4 Code and Meeting the Requirements of 540. These must be listed under a column heading (or column headings for second-class mail) that indicate(s) the rate for which they qualify based upon the class of mail submitted (First-Class ZIP+4 Presort rate, second-class level B3/H3/J3 ZIP+4 rate if for an unique 3-digit ZIP Code or an optional city, second-class level A/G/J1 ZIP+4 rate, or third-class 3/5 ZIP+4 rate).

(3) Number of Pieces Without ZIP+4 Barcode or Delivery Point Barcode Not Qualifying for ZIP+4 Rates. These must be listed under a column heading (or column headings for second-class mail) that indicate(s) the rate for which they qualify based upon the class of mail submitted (Presorted First-Class rate, second-class level B3/H3/J3 presort rate if a unique 3-digit ZIP Code or an optional city, second-class level A/G/J1 presort rate, or third-class 3/5 presort rate).

Note:

* * * * *

564.624 Information Required for the Residual/Basic Presort Tier Sorted as in 564.5

a. Pieces Sorted Under Option 1: ZIP Code Sequencing and Listing

[In 564.624a(1)(a), change the phrase "(First-Class Nonpresorted Barcoded rate if qualified for the card rate, or First-Class Nonpresorted ZIP+4 rates if other than a card, or third-class basic ZIP+4 Barcoded rate)" to "(First-Class Nonpresorted Barcoded rate if qualified for the card rate, or First-Class Nonpresorted ZIP+4 rate if other than a card, second-class level A/G/J1 ZIP+4 Barcoded rate; or third-class basic ZIP+4 Barcoded rate."]

[In 564.624a(1)(b), change the phrase "(First-Class Nonpresorted ZIP+4 rates or third-class basic ZIP+4 rate)" to "(First-Class Nonpresorted ZIP+4 rate, second-class level A/G/J1 ZIP+4 rate, or third-class basic ZIP+4 rate)."]

[In 564.624a(1)(c), change the phrase "(First-Class single-piece rate or third-class basic presort rate)" to "(First-Class single-piece rate, second-class A/G/J1 presort rate, or third-class basic presort rate)."]

* * * * *

564.625 Summary

a. Second-Class Mailings and Permit Imprint Mailings

(1) Rate Summary.

[Revise the last sentence in this section to read as follows:]

"This grand total shows the amount of postage to be deducted from the second-class account or the permit imprint account."

* * * * *

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. Notice of issuance will be published in the **Federal Register** as provided by 39 CFR 111.3.

Stanley F. Mires,

Assistant General Counsel, Legislative Division.

[FR Doc. 92-3588 Filed 2-13-92; 8:45 am]

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Briefing on How To Use the Federal Register
For information on a briefing in Washington, DC, see announcement on the inside cover of this issue.

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FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
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4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: February 28, at 9:00 a.m.
WHERE: Office of the Federal Register,
First Floor Conference Room,
1100 L Street NW., Washington, DC.
RESERVATIONS: 202–523–5240.
DIRECTIONS: North on 11th Street from
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Presidential Documents

Title 3—

The President

Presidential Determination No. 92-11 of January 28, 1992

Presidential Determination Under Subsection 2(b)(2)(D)(i) of the Export-Import Bank Act of 1945, as Amended—Latvia, Lithuania, and Estonia

Memorandum for the Secretary of State

Pursuant to subsection 2(b)(2)(D)(i) of the Export-Import Bank Act of 1945, as amended (12 U.S.C. 635(b)(2)(D)(i)), I determine that it is in the national interest for the Export-Import Bank of the United States to guarantee, insure, extend credit, and participate in the extension of credit in connection with the purchase or lease of any product by, for use in, or for sale or lease to Latvia, Lithuania, and Estonia.

You are authorized and directed to report this determination to the Congress and to publish it in the **Federal Register**.

THE WHITE HOUSE,
Washington, January 28, 1992.

[FR Doc. 92-3868
Filed 2-13-92; 2:35 pm]
Billing code 3195-01-M

Editorial note: For the President's letter to Congressional leaders and the proclamation on the beneficiary trade status for Estonia, Latvia, and Lithuania, see the *Weekly Compilation of Presidential Documents* (vol. 28, pp. 216 and 217).

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Presidential Documents

Presidential Determination No. 92-13 of February 4, 1992

Emergency Funding for OAS Mission to Haiti

Memorandum for the Secretary of State

Pursuant to the authority vested in me by section 614(a)(1) of the Foreign Assistance Act of 1961, as amended, I hereby determine that it is important to the security interests of the United States to furnish assistance to the Organization of American States (OAS) for its activities in Haiti notwithstanding section 513 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513) and any other provision of law within the scope of section 614, and authorize the furnishing of up to $2 million of funds made available to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 for that purpose.

You are authorized and directed to transmit this determination to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate and to arrange for its publication in the **Federal Register**.

Bush

THE WHITE HOUSE,
Washington, February 4, 1992.

[FR Doc. 92-3861
Filed 2-13-92; 2:23 pm]
Billing code 3195-01-M

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

RIN 3150-AD97

Policy and Procedure for Enforcement Actions; Policy Statement

AGENCY: Nuclear Regulatory Commission.

ACTION: Policy statement: Revision.

SUMMARY: The Nuclear Regulatory Commission (NRC) is revising its General Statement of Policy and Procedure for Enforcement Actions (Enforcement Policy). This notice informs licensees, vendors, and the public of the considerations relevant to various enforcement actions. The purpose of this action is to update and clarify the Enforcement Policy so that it is easier to use and understand. The policy is codified as appendix C to 10 CFR part 2 to provide widespread dissemination of the Commission's Enforcement Policy. However, this is a policy statement and not a regulation.

DATES: This revised statement of policy is effective on February 18, 1992 while comments on the changes are being received. Submit comments on or before April 3, 1992. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date. Comments may be considered in future revisions of the statement of policy.

ADDRESSES: Send comments to: The Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555. ATTN: Docketing and Service Branch.

Hand deliver comments to: One White Flint North, 11555 Rockville Pike, Rockville, MD between 7:45 a.m. to 4:15 p.m., Federal workdays.

Copies of comments may be examined at the NRC Public Document Room, 2120 L Street, NW. (Lower-Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (301-504-2741).

SUPPLEMENTARY INFORMATION:

Background

The Commission first published a proposed general statement of policy on enforcement on October 7, 1980 (45 FR 66754). The Commission published a final version of the policy on March 9, 1982 (57 FR 9987). Since that time, the General Statement of Policy and Procedure for NRC Enforcement Actions (Enforcement Policy) has been revised on a number of occasions. The last major revision of the Enforcement Policy was published on October 13, 1988 (53 FR 40019). Based on additional experience, the Commission has determined that it is appropriate to make additional changes to the Enforcement Policy.

Revisions to the Enforcement Policy

The more significant modifications and changes to the policy are described in the following paragraphs, including those changes to (1) reorganize and expand the existing organizational structure (including the incorporation of an index of the new organizational structure); (2) reflect the enforcement functions of two Deputy Executive Directors for Operation and clarify the enforcement functions of the Office of Enforcement and of all offices conducting inspection activities; (3) provide additional guidance and expand existing guidance regarding severity level categorization; (4) propose base civil penalties for violations meeting the civil penalty criteria at Severity Level IV and eliminate civil penalties for violations at Severity Level V; (5) reflect modifications to the civil penalty adjustment factors used in developing civil penalties including additional guidance on when such factors need not be considered; (6) establish minimum civil penalties for certain overexposures, loss of licensed material and release of licensed material; (7) provide for expanded use of discretion to either increase or decrease the amount of a proposed civil penalty arrived at after application of the normal guidance, i.e., civil penalty adjustment factors, to ensure that the proposed penalty reflects the appropriate level of concern and conveys the appropriate message; (8) provide for expanded use of discretion to encourage licensee identification and correction of violations including certain Severity Level II violations and willful violations committed by low level employees, as well as not issuing enforcement actions for certain licensee identified and corrected violations involving old design, engineering, or installation failures; (9) provide additional examples in Supplement I—Reactor Operations, Supplement VI—Fuel Cycle and Materials Operations, and Supplement VIII—Emergency Preparedness; (10) substantially revise the examples in Supplement III—Safeguards, to better focus on safety significance; and (11) reflect editorial and other minor changes.

Only the sections to which text changes were made (versus mere section re-numbering), are discussed. The numbering of the sections tracks the modified section numbers in the policy. In an effort to make the policy easier to use, an outline of the policy's revised organizational structure has been included.

Appendix C—General Statement of Policy and Procedure for NRC Enforcement Actions

Preface

The introductory paragraph of the previous policy has been modified so that it is now titled as the "Preface," and it no longer refers to the Atomic Safety and Licensing Appeal Board because of the Board's abolition, effective July 31, 1991.

III. Responsibilities

This section (previously Section VIII), has been modified to reflect that two deputies in the Office of the Executive Director for Operations are responsible for portions of the Enforcement Program. The Deputy Executive Director for Nuclear Material Safety, Safeguards, and Operations Support (DEDS) is responsible to the Executive Director for Operations (EDO) for the oversight of the Enforcement Program and for non-reactor enforcement issues. The Deputy

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Executive Director for Nuclear Reactor Regulation, Regional Operations and Research (DEDR) is responsible for reactor enforcement matters. Therefore, the previous references to the Deputy Executive Director for Regional Operations, a position that has been abolished, has been replaced with references to the "appropriate Deputy Executive Director."

This section also clarifies that the Office of Enforcement (OE) exercises oversight of and implements the NRC enforcement programs and coordinates escalated enforcement actions and that the Director, OE, acts for the two Deputy Directors in their absence or as delegated. In addition, this section has been modified to reflect that subject to the oversight and direction of OE, and with the approval of the appropriate Deputy Executive Director, where necessary, the regional offices normally issue Notices of Violation and proposed civil penalties. This section also clarifies that, subject to the same oversight as the regional offices, the Office of Nuclear Reactor Regulation (NRR) issues Notices of Violation and proposed civil penalties to vendors and suppliers and the Office of Nuclear Material Safety and Safeguards (NMSS) issues Notices of Violation and proposed civil penalties to certificate holders and to fuel cycle facilities for violations involving material control and accounting.

The policy now provides that with the approval of the appropriate Deputy Executive Director and consultation with the EDO as warranted, the NRC staff has the discretion to depart from the policy in the public's interest, unless prior consultation or notice to the Commission is required. A new requirement for Commission consultation has been added to reflect those cases where the NRC staff proposes to exercise discretion for matters meeting the criteria of section VII.A.1 of appendix C. Finally, this section incorporates the definition of the term "escalated enforcement action."

IV. Severity of Violation

This section (previously section III), has been expanded by including four new sub-sections that provide additional guidance regarding those circumstances where the severity level categorization may warrant adjustment.

A. Aggregation of Violations

This section addresses when it may be appropriate to aggregate violations to a single Severity Level I, II, or III problem.

B. Repetitive Violations

This section discusses when it may be appropriate to escalate a Severity Level V or IV violation to a Severity Level IV or III violation respectively. This section also includes the definition of "repetitive violation," that is based, for the most part, on the definition of "similar," that was contained in the previous policy's Section V.B.

C. Willful Violations

This section is based on the discussion previously contained in Section III regarding willful violations and emphasizes the importance of preventing willful violations. This section also includes a revised definition of "licensee official," (previously contained in Section VI, "Inaccurate and Incomplete Information"), that deletes the reference to "person listed on a license," since authorized users are sometimes not listed on a license because the license provides the licensee with the authority to designate authorized users such as radiographers, portable gauge users, well loggers, researchers, or physicians. The reference to negligence has been deleted from this discussion since negligent conduct is not willful. The policy provides in this section that willful severity level V violations are to be categorized at least at a level IV.

D. Violations of Reporting Requirements

This section is based on the discussion previously addressed in the last paragraph of Section III.

VI. Enforcement Actions

This section (previously Section V), has been modified to include letters of reprimand and Demands for Information as additional administrative mechanisms and to delete the references to Bulletins, Information Notices, and Generic Letters as administrative mechanisms because they do not have direct enforcement connotations.

A. Notice of Violation

This section (previously Section V.A), has been changed by modifying the response to a Notice of Violation (Notice) to be consistent with the current standard format for a Notice. This section has also been changed by moving the previous discussion regarding the exercise of discretion for isolated Severity Level V violations to the new Section VII.B.1.

B. Civil Penalty

This section (previously Section V.B), has been revised to state that civil penalties are proposed (absent mitigating circumstances) for Severity Level III violations (versus previously being considered) and that civil penalties may be proposed for repetitive Severity Level IV violations. Civil penalties will continue to be normally considered for any willful violation of the Commission's requirements to reflect the significance that the Commission places on such violations. While no violation is acceptable, willful violations are of particular concern and merit civil penalty consideration because integrity and credibility of licensees and their contractors, employees and agents go to the foundation of the Commission's regulatory program.

Civil penalties have been reconsidered for Severity Level V violations. The issuance of a civil penalty for a Severity Level V violation would not be consistent with the definition of a Severity Level V violation, i.e., a minor safety or environmental concern. Therefore, the Severity Level V base penalty has been deleted from Table 1B. However, if a Severity Level V violation recurs or is willful, thus increasing its significance, the violation would be categorized at least a Severity Level IV and a civil penalty may be assessed at that Severity Level.

The discussion of the remedial purpose of civil penalties has been expanded to recognize the deterrent effect of the enforcement action on both the involved licensee and other licensees that may be conducting similar activities. Thus, it may be appropriate in some cases to issue a civil penalty to a licensee who is terminating licensed activities for a particularly significant violation to deter future violations by other licensees. Finally, this section has been modified so that the subsequent guidance is divided in two new subsections.

1. Base Civil Penalty

This new subsection includes guidance previously addressed in Section V.B and also includes the provision that the NRC will consider payments over time (including interest) for those licensees that can demonstrate financial hardship. However, the policy provides that if the licensee claims financial hardship, the licensee will normally need to address why it nevertheless has sufficient resources to safely conduct licensed activities and pay all appropriate fees.

2. Civil Penalty Adjustment Factors

Although substantially condensed, this new subsection reflects the concepts of the guidance previously addressed in Section V.B regarding the purpose of adjusting the amount of a proposed civil penalty, i.e., to encourage good licensee performance, deter poor licensee performance, and emphasize violations of particular regulatory concern. This subsection also includes the provision that civil penalties proposed for Severity Level IV violations are normally proposed at the base values without assessing the civil penalty adjustment factors because (1) the decision to utilize a civil penalty at Severity Level IV is discretionary and normally considers most of the factors and (2) the relatively small amount of the base penalty does not provide for flexibility to apply the factors in a meaningful way. The civil penalty adjustment factors have been modified as discussed below for the reasons as stated, including the desire to minimize overlap between the factors.

(a) *Identification.* This factor (previously titled, "Identification and Reporting"), has been renamed to reflect the elimination of reporting as a consideration under this factor. Therefore, notwithstanding an incomplete or untimely required report, mitigation would be appropriate under this factor if the licensee identified the violation. In this case, however, it is expected that a separate enforcement action would be issued for the violation of reporting requirements. The guidance for this civil penalty adjustment factor has also been revised to emphasize the importance of licensees identifying violations by providing greater incentives for licensee identification. In order to encourage the identification of violations, mitigation of up to 50% may be appropriate for licensee identification even if the licensee could have identified the violation sooner. The failure to respond to the prior opportunities to identify the violation will be addressed under the "Prior Opportunity to Identify" factor. Furthermore, this factor now specifically addresses that up to 25% mitigation may be appropriate when a licensee identifies a violation resulting from a self-disclosing event where the licensee demonstrated initiative in identifying the root cause of the violation. Initially, the NRC Enforcement Policy provided no mitigation for violations associated with self-disclosing events (47 FR 9987). In the 1984 revision (49 FR 8583), that was changed to allow mitigation as appropriate. This change reflects current practice and the view that incentives for identification of violations and their root causes may be appropriate even for some self-disclosing events, since the violations and their root causes may not be self-disclosing from the event itself. For example, mitigation may be appropriate in a case involving a reactor trip (a self-disclosing event) where the licensee determined that the root cause of the event was the licensee's failure to perform an adequate procedure change review. The discussion for this factor also includes a definition of "self-disclosing event." Finally, in keeping with the intent to provide greater incentives for licensee identification, this factor also provides that mitigation may be considered if the licensee identifies the violation as a result of a generic notification. This factor has been further clarified to emphasize escalation for NRC identification of a violation. If the NRC can perform inspections on an audit basis and identify violations of significant regulatory concern, including identifying lesser violations that collectively represent a breakdown of significant regulatory concern, licensees should be able to identify similar violations. Finally, because this factor focuses on identification, the issue of immediate corrective action previously considered in this factor is now being addressed under the "Corrective Action" civil penalty adjustment factor. Under that factor, the licensee's failure to take immediate corrective action upon identification of a violation may result in escalation of the civil penalty.

(b) *Corrective action.* This factor (previously titled, "Corrective Action to Prevent Recurrence"), has been renamed to reflect that this factor now considers both immediate and long term corrective action. Further, the long term corrective action must not only be sufficient to prevent "recurrence," it must be comprehensive enough to prevent "occurrence" of similar violations. This factor also recognizes that the appropriate level of comprehensiveness will be a function of the significance and complexity of the violation. It also considers the adequacy of the licensee's root cause analysis and the promptness with which the licensee develops and implements its schedule for long term corrective action. Notwithstanding comprehensive corrective action, if immediate action was not taken to restore safety and compliance once the violation was identified, mitigation based on this factor would not normally be considered and escalation may be considered to address the licensee's failure.

(c) *Licensee performance.* This factor (previously titled, "Past Performance"), has been renamed to reflect the purpose of this factor, i.e., to recognize good or improving performance and to deter poor or declining performance. Under this factor, the current violation is viewed in light of the licensee's prior performance and provides for mitigation if the current violation is an isolated occurrence that is inconsistent with a licensee's good prior performance and escalation if the current violation is a reflection of a licensee's poor prior performance. Prior cases where the NRC exercised discretion and refrained from issuing enforcement actions will also be considered, as appropriate, when evaluating the licensee's prior enforcement history for purposes of assessing the licensee's prior performance. In addition, notwithstanding good prior performance, mitigation will not normally be considered if the current violation represents a substantial decline in performance since the last NRC inspection, such as in cases that demonstrate either current management failure to take charge of their licensed activities or degradation of the program over time. Finally, the guidance for this factor has been revised to reflect that it is not applicable for those licensees who have not been in existence long enough to have developed a prior performance history or where the area of concern has not been previously inspected, unless overall performance is clearly outstandingly good.

(d) *Prior opportunity to identify.* This factor (previously titled, "Prior Notice"), has been renamed to reflect broadly on the issues of prior opportunity to identify violations. Previously, this factor only considered the regulatory concern associated with a licensee not acting on "prior notice," as in information addressed in an NRC or industry notification. This factor will now also consider the prior opportunities that a licensee had to identify a violation through its routine activities such as surveillances, audits, or other findings or observations of its employees or contractors, but failed to do so. This factor has also been clarified to emphasize that the existence of prior notification does not automatically justify an increase in the civil penalty. If a licensee can demonstrate that it acted reasonably in response to a prior notification, escalation is normally not warranted. In assessing this factor, consideration will be given to the prior opportunity (or opportunities) available to discover the violation, the ease of discovery, the specificity and applicability of the notification to the licensee's operation, the age of the notification, the reasonableness of the licensee's actions in light of the potential safety consequences, and the

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level of management review that the notification received (or should have received).

(e) *Multiple occurrences.* This factor has been clarified so that escalation should normally only be considered for Severity Level I, II, or III violations with the same root cause. Where warranted, this factor need not be applied and separate civil penalties may be assessed for each violation.

(f) *Duration.* This factor has been broadened to include not only the violation that continues for more than one day, but also the single violation whose impact continues for more than one day. This factor should be applied in those cases where it would be appropriate to emphasize a particularly significant violation or where a strong regulatory message is intended. For example, it would be appropriate to utilize this factor in addition to the "Prior Opportunity to Identify" factor where a safety system remains degraded or inoperable for more than one day and the licensee should have identified and corrected it sooner through surveillances, audits, or quality assurance activities.

Notwithstanding the application of the civil penalty adjustment factors, the policy has been modified to provide for minimum civil penalties for significant overexposures and releases or losses of radioactive material. Penalties will normally be mandated in these cases to provide deterrence to avoid these violations because they represent the very failure the regulatory program is designed to prevent. Normally, mitigation will only be permitted for actions in response to the violations, i.e., identification and corrective actions. In addition, the policy has been modified to emphasize the original intent to allow necessary flexibility in assessing civil penalties, so that discretion may be exercised in adjusting the amount of the civil penalty, notwithstanding the application of the civil penalty adjustment factors, to ensure that the proposed penalty reflects the appropriate level of NRC concern and conveys the appropriate message to the licensee.

Finally, footnote 6 of Table 1A has been amended to add a relatively new type of licensee, mobile nuclear services, which presents the same type of hazards as a medical licensee and the percentage of the base civil penalty for a Severity Level V violation has been removed from Table 1B consistent with the deletion of civil penalties for Severity Level V violations.

D. Related Administrative Actions

This section (previously Section V.H), has been modified by including letters of reprimand and Demands for Information as additional administrative mechanisms and by deleting the references to Bulletins, Information Notices, and Generic Letters as administrative mechanisms because they do not have direct enforcement connotations.

VII. Exercise of Discretion

This section basically combines the guidance previously addressed in Section V.D, "Escalation of Enforcement Sanctions," and Section V.G, "Exercise of Discretion," to reflect that it may be appropriate to exercise discretion by either escalating or mitigating enforcement sanctions beyond the normal bounds of the policy to ensure that the appropriate sanction is applied. Therefore, the guidance in this section is subsequently divided into two subsections based on this concept.

A. Escalation of Enforcement Sanctions

This section basically combines the previous discussion from Section V.D (now addressed as VII.A.2), with two new subsections.

(1) Civil Penalties

This subsection provides added flexibility to adjust the amount of a civil penalty notwithstanding the outcome of the normal civil penalty assessment process (i.e., base civil penalty adjusted based on application of the civil penalty adjustment factors). Exercise of this discretion would require prior approval by the appropriate Deputy EDO with appropriate consultation with the EDO and would require Commission consultation if the deviation in the amount of the proposed penalty under this discretion from the normal process is more than two times the base civil penalty for the violation's severity level in the tables. In other words, Commission consultation would be required in a case involving a Severity Level III violation in the area of reactor operations where the staff chooses to exercise discretion and propose a civil penalty in the amount of $200,000 where assessment using the civil penalty adjustment factors would result in a civil penalty in the amount of $75,000.

(2) Orders

As stated above, this section includes the guidance previously addressed in Section V.D. In addition, Table 2 has been modified to reflect that civil penalties are proposed for Severity Level III violations, absent mitigating circumstances. Item c in Table 2 has also been modified to state that the NRC may use a Demand for Information to obtain information to determine whether to issue an order for modification, suspension, or revocation of the license.

(3) Daily Civil Penalties

This subsection clarifies that the NRC may exercise discretion and assess a separate violation and attendant civil penalty up to the statutory limit of $100,000 for each day a particularly significant violation continues.

B. Mitigation of Enforcement Sanctions

This section is based, for the most part, on guidance previously addressed in Section V.G. The former example addressed in Section V.G.3 has been deleted because the same discretion can be achieved by mitigation based on application of the civil penalty adjustment factors. In addition, the discussion in this section also states that the NRC may exercise discretion for violations meeting the required criteria for discretion where the licensee failed to make a required report to the NRC concerning the violation at issue. However, the policy states that a separate enforcement action would be issued for the licensee's failure to make the required report.

(1) Severity Level V Violations

This subsection is based on the previous guidance addressed in Section V.A and has been clarified to allow for not issuing a Notice of Violation for isolated Severity Level V violations provided the licensee has committed to specific corrective actions by the end of the inspection. Previously, the requirement was that the corrective action had to have been initiated by the end of the inspection. While this is the normal case, the change will provide flexibility to allow commitments for corrective action, provided the schedule is acceptable to the staff. This approach is consistent with the treatment of licensee identified Severity Level IV violations.

(2) Licensee Identified Severity Level IV and V Violations

This subsection has been expanded to address willful violations of low safety significance committed by relatively low level individuals. Discretion is appropriate where the licensee identifies and corrects these violations, provided the factors addressed in the policy are met. This discretion recognizes licensees who are acting responsibly by providing incentive for licensees to identify and properly respond to these violations.

(3) Violations Identified During Extended Shutdowns or Work Stoppages

This subsection has been changed to allow discretion to be exercised by refraining from proposing a civil penalty for Severity Level II violations, where the previous discretion was only applicable for violations up to Severity Level III. Clearly, it is in the public's interest for a licensee to identify Severity Level II violations before safety systems are called upon to operate.

(4) Violations Involving Old Design Issues

This subsection has been changed to allow discretion to be exercised for Severity Level II violations, where the previous discretion was only applicable for violations up to Severity Level III. It also clarifies that broad corrective action is expected. In addition, this subsection has been changed to allow discretion to not issue a Notice of Violation where licensees identify violations that are not likely to be otherwise identified through routine efforts, and do not reflect on current performance. This change is intended to place a premium on identifying design, engineering, and installation violations before affected systems are called upon to work. These issues will be included in inspection reports, and enforcement conferences may be held to be sure NRC has a record of the issue and a full understanding of the root cause and corrective actions before making a decision to exercise this discretion.

(5) Violations Identified Due to Previous Escalated Enforcement Action

This subsection has been changed to allow discretion to be exercised by refraining from proposing a civil penalty for Severity Level II violations, where the previous discretion was only applicable for violations up to Severity Level III.

(6) Violations Involving Special Circumstances

This subsection is based in part, on the guidance previously addressed in the sixth paragraph of Section V.G and also addresses the discretion to reduce the amount of a proposed civil penalty, notwithstanding the outcome of the normal assessment process, to ensure that the penalty reflects the NRC's concern and conveys the appropriate message. This discretion has also been expanded to include Severity Level II violations to provide the needed flexibility in the enforcement program.

VIII. Enforcement Actions Involving Individuals

This section (previously Section V.E), has been clarified by noting that violations involving willful conduct not amounting to deliberate action by an unlicensed individual may result in enforcement action against a licensee that may impact an individual. This section also previously stated that the NRC would normally only issue a Notice of Violation for a licensed operator's first confirmed positive test in the absence of aggravating circumstances such as errors in performance. This discussion has been clarified by including evidence of prolonged use as an additional aggravating circumstance.

X. Enforcement Action Against Nonlicensees

This section (previously Section IX), has been modified to delete the reference to enforcement action against licensees for failure to ensure their vendors have programs to meet 10 CFR part 21 because the Commission does not require licensees to provide that assurance.

XII. Public Disclosure of Enforcement Actions

This section (previously Section VII), has been modified to reflect that press releases may also be issued in those cases where a proposed civil penalty is withdrawn or mitigated by some amount.

Supplement I—Reactor Operations

Examples A.4, B.2, and C.5 and footnote eight have been deleted from this supplement. The deletion is appropriate based on the fact that (1) effluent release criteria in Supplement I were no longer comparable to those in Supplement IV, and (2) effluent release criteria in Supplement IV adequately cover power reactor scenarios commensurate with their safety significance.

Example C.2 has been expanded to include systems designed to prevent or mitigate a serious safety event being degraded to the extent that a detailed evaluation is required to determine operability. This example has been added to reflect the significance associated with a degraded system that is not intuitively operable, even if, based on after the fact analysis, the system is operable. In both the licensing and operation of the plant, safety systems are expected to be installed and operated as designed. Therefore, a departure from the design document and the FSAR where the licensee did not have assurance, while the system was degraded, that the safety systems would perform as intended, represents a significant regulatory concern.

Example C.3 has been modified so that the previous example of a violation involving "dereliction of duty" on the part of personnel involved in licensed duty has been deleted to provide the necessary flexibility in dealing with these types of violations. Specifically, given the broad range of possible circumstances with respect to the level of intent and the level of the individual involved, a violation could possibly be categorized at Severity Level I, II, III, or IV. Instead, the example of a Severity Level III violation has been modified so that it now involves "inattentiveness to duty" on the part of a licensed individual.

Supplement III—Safeguards

Revisions to the safeguards enforcement supplement are the result of a reassessment of the safeguards program in response to the Regulatory Impact Survey (NUREG–1395) and to incorporate lessons learned from the Regulatory Effectiveness Review (RER) program. The revisions more properly reflect the relative significance of reactor safeguards with respect to reactor safety enforcement issues. Severity Level I safeguards examples have been modified to reflect radiological sabotage simply as one possible cause of plant conditions listed as Severity Level I examples in the reactor operations supplement. This better reflects the risk to public health and safety which could result from radiological sabotage.

Entry of an unauthorized individual, who represents a threat, from outside the protected area into a vital area has been changed from Severity Level I to Severity Level II assuming sabotage did not occur. The loss of public safety margin resulting from such unauthorized entry, without radiological sabotage, more closely parallels the loss of safety margin in Severity Level II reactor operations violations.

Violations involving weaknesses in safeguards systems, components, and procedures have been reclassified among Severity Level III, IV, and V according to the significance of the resulting degradation of overall safeguards capabilities and are expressed in terms of loss or weakening of performance capability. In protecting against an external adversary, it is essential that detection and assessment occur at the perimeter of the protected area to assure the ability to protect against a determined violent assault. Violations related to the secondary vital area barriers involve significantly less degradation of overall safeguards capability than violations related to perimeter safeguards. The most significant violations related to control of access from the owner controlled area into the protected area remain as Severity Level III. Violations related to control of access from the protected area into a vital area have been reduced from Severity Level III to Severity Level IV. With respect to an insider, a majority of people authorized access to the protected area also are authorized access to vital areas at most sites. Further, all employees granted unescorted access to protected areas are subjected to employee reliability measures. Thus, violations involving only access from the protected area into a vital area related to personnel who have also been judged to be trustworthy, most of whom are authorized access into vital areas anyway are therefore less significant.

Severity Level III violations involving control of safeguards information have been revised to focus on compromise of the information, as opposed to failure to secure the information. In addition, the weighing of other factors, such as location and duration of the violation, are more explicit. This increase in the threshold level for a Security Level III violation is appropriate because failure to secure information, in itself, does not significantly decrease overall safeguards capability, especially within the protected area where individuals who have unescorted access have been judged trustworthy through the access clearance program.

Supplement IV—Health Physics (10 CFR Part 20)

Examples C.4 and E.8 addressing violations with a substantial potential for a release or exposure in excess of the limits in 10 CFR part 20 have been modified to remove the explanatory examples. As written, the examples were too limiting. It is a significant regulatory concern if an event or circumstance presents a substantial potential for an exposure or release in excess of part 20 when it is only fortuitous that an exposure or release does not exceed part 20 limits. Therefore, these examples do not address the potential amount of the excessive release or exposure, but rather focus on the lack of adequate controls that were not exercised except for a minor alteration of circumstances, e.g., time or distance, a violation of part 20 limits would have occurred.

Examples F.1, F.3, G.1, G.3, H.1, and H.4 have been modified to more appropriately reflect their safety significance so that they are now expressed in terms of radiation exposures occurring during any year versus previously being expressed in terms of single radiation exposures. Similarly, examples F.2, G.2, and H.2 have been modified so that they are now expressed in terms of radiation exposures occurring during the gestation period versus previously being expressed in terms of single radiation exposures.

Example F.4 has been modified to reflect the current views regarding the safety significance of exposures to the public so that the example now references 1.0 rem total effective dose equivalent versus previously referencing 2.5 rems total effective dose equivalent.

The example of a Severity Level III violation concerning a radiation exposure to an embryo/fetus (H.2) has also been modified by including a reference to the additional provisions of § 20.1208 (d) that provide for additional dose over the standard embryo/fetus dose limit of 0.5 rem total effective dose equivalent in § 20.1208 (a).

Supplement V—Transportation

Examples A.1 and B.1 have been modified to reflect the potential for significant exposure to a member of the public caused by transportation failures. Specific radiation limits have not been provided for the examples because once there has been a transportation incident with the loss of control of radioactive material where there is a clear potential for a significant radiation exposure, the actual exposure is a function of the knowledge of the member of the public, and the time and distance from the source. The purpose of transportation requirements is to prevent unshielded radioactive material from getting into the public domain. When that happens, there is a clear potential for a very significant exposure and, therefore, it is considered a violation of very significant regulatory concern. The Severity Level I example (A.1), addresses actual exposure to a member of the public caused by the violation. The Severity Level II violation does not require actual exposure.

Supplement VI—Fuel Cycle and Materials Operation

Two new examples (C.9 and C.10) have been added to this supplement to address a licensee's failure to submit an NRC Form 241 in the case of individuals licensed under an Agreement State, and the failure to receive prior NRC approval before making a significant change in licensed activities. These examples have been included because it is important for the NRC to be aware of significant changes associated with licensed activities, such as a change in the location of activities, a change in personnel, or a change in the quantity or type of radioactive material being processed or used, because these changes may have a significant impact on how licensed activities are carried out or how they affect the NRC's ability to appropriately regulate, such as its responsibility to inspect licensed activities. A licensee's failure to submit an NRC Form 241 results in the NRC not being aware of licensed activities being conducted in NRC jurisdiction. Therefore, the NRC will not be in a position to inspect the activity and address the public health and safety issues. The NRC also recognizes that some licensees may decide not to file an NRC form 241 because of its associated license fee. For these reasons, civil penalties will be considered for these failures.

Supplement VIII—Emergency Preparedness

Introductory discussion has been added to this supplement consistent with past practice to emphasize that citations are not normally made based on observations during exercises. This is because NRC desires that licensees broadly exercise their staffs with realistic scenarios. If the licensees do not have this exception, it may result in licensees using only experienced individuals and conservative scenarios to avoid potential enforcement action. However, enforcement action may be appropriate where exercises reveal training, procedural, or repetitive failures for which corrective actions have not been taken, overall concern regarding the effectiveness of the licensee's emergency planning, or poor self-critiques of exercises.

Currently the examples in this supplement address only assessment and notification violations for other than actual emergencies. Accordingly, an example of violations demonstrating a breakdown in control of licensed activities has been added to the supplement consistent with other supplements. This will give the staff better flexibility to deal with significant violations to emphasize the need to provide assurance of emergency preparedness before actual emergencies occur.

Paperwork Reduction Act Statement

This policy statement contains no information collection requirements and therefore is not subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

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List of Subjects in 10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalty, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552, the NRC is adopting the following statement of policy as appendix C to 10 CFR part 2.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

1. The authority citation for part 2 is revised to read as follows:

Authority: Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552.

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Sat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 114(f), Pub. L. 97–425, 96 Stat. 2213, as amended (42 U.S.C. 10134(f)); sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200–2.206 also issued under secs. 186, 234, 68 Stat. 955, 83 Stat. 444, as amended (42 U.S.C. 2236, 2282); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Sections 2.600–2.606 also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 as amended (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770, 2.780 also issued under 5 U.S.C. 557. Section 2.764 and Table 1A of Appendix C also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553 and sec. 29, Pub. L. 85–256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Subpart L also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Appendix A also issued under sec. 6, Pub. L. 91–560, 84 Stat. 1473 (42 U.S.C. 2135). Appendix B also issued under sec. 10, Pub. L. 99–240, 99 Stat. 1842 (42 U.S.C. 2021b et seq.).

2. Appendix C to part 2 is revised to read as follows:

Appendix C—General Statement of Policy and Procedure for NRC Enforcement Actions

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Preface

The following statement of general policy and procedure explains the enforcement policy and procedures of the U.S. Nuclear Regulatory Commission and its staff in initiating enforcement actions, and of the presiding officers and the Commission in reviewing these actions. This statement is applicable to enforcement in matters involving the public health and safety, the common defense and security, and the environment.[1] This statement of general policy and procedure is published in the Code of Federal Regulations to provide widespread dissemination of the Commission's Enforcement Policy. However, this is a policy statement and not a regulation. The Commission may deviate from this statement of policy and procedure as appropriate under the circumstances of a particular case.

I. Introduction and Purpose

The purpose of the NRC enforcement program is to promote and protect the radiological health and safety of the public, including employees' health and safety, the common defense and security, and the environment by:

- Ensuring compliance with NRC regulations and license conditions;
- Obtaining prompt correction of violations and adverse quality conditions which may affect safety;
- Deterring future violations and occurrences of conditions adverse to quality; and
- Encouraging improvement of licensee and vendor[2] performance, and by example, that of industry, including the prompt identification and reporting of potential safety problems.

Consistent with the purpose of this program, prompt and vigorous enforcement action will be taken when dealing with licensees, vendors, contractors, and employees of any of them, who do not achieve the necessary meticulous attention to detail and the high standard of compliance which the NRC expects.[3] Each enforcement action is dependent on the circumstances of the case and requires the exercise of discretion after consideration of these policies and procedures. In no case, however, will licensees who cannot achieve and maintain adequate levels of protection be permitted to conduct licensed activities.

II. Statutory Authority and Procedural Framework

A. Statutory Authority

The NRC's enforcement jurisdiction is drawn from the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act (ERA) of 1974, as amended.

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[1] Antitrust enforcement matters will be dealt with on a case-by-case basis.

[2] The term "vendor" as used in this policy means a supplier of products or services to be used in an NRC-licensed facility or activity.

[3] This policy primarily addresses the activities of NRC licensees. Therefore, the term "licensee" is used throughout the policy. However, in those cases where the NRC determines that it is appropriate to take enforcement action against a non-licensee or individual, the guidance in this policy will be used, as applicable. Specific guidance regarding enforcement action against individuals and non-licensees is addressed in Sections VIII and X respectively.

Section 161 of the Atomic Energy Act authorizes NRC to conduct inspections and investigations and to issue orders as may be necessary or desirable to promote the common defense and security or to protect health or to minimize danger to life or property. Section 186 authorizes NRC to revoke licenses under certain circumstances (e.g., for material false statements, in response to conditions that would have warranted refusal of a license on an original application, for a licensee's failure to build or operate a facility in accordance with the terms of the permit or license, and for violation of an NRC regulation). Section 234 authorizes NRC to impose civil penalties not to exceed $100,000 per violation per day for the violation of certain specified licensing provisions of the Act, rules, orders, and license terms implementing these provisions, and for violations for which licenses can be revoked. In addition to the enumerated provisions in section 234, sections 84 and 147 authorize the imposition of civil penalties for violations of regulations implementing those provisions. Section 232 authorizes NRC to seek injunctive or other equitable relief for violation of regulatory requirements.

Section 206 of the Energy Reorganization Act authorizes NRC to impose civil penalties for knowing and conscious failures to provide certain safety information to the NRC.

Chapter 18 of the Atomic Energy Act provides for varying levels of criminal penalties (i.e., monetary fines and imprisonment) for willful violations of the Act and regulations or orders issued under sections 65, 161(b), 161(i), or 161(o) of the Act. Section 223 provides that criminal penalties may be imposed on certain individuals employed by firms constructing or supplying basic components of any utilization facility if the individual knowingly and willfully violates NRC requirements such that a basic component could be significantly impaired. Section 235 provides that criminal penalties may be imposed on persons who interfere with inspectors. Section 236 provides that criminal penalties may be imposed on persons who attempt to or cause sabotage at a nuclear facility or to nuclear fuel. Alleged or suspected criminal violations of the Atomic Energy Act are referred to the Department of Justice for appropriate action.

B. Procedural Framework

Subpart B of 10 CFR part 2 of NRC's regulations sets forth the procedures the NRC uses in exercising its enforcement authority. 10 CFR 2.201 sets forth the procedures for issuing notices of violation.

The procedure to be used in assessing civil penalties is set forth in 10 CFR 2.205. This regulation provides that the civil penalty process is initiated by issuing a Notice of Violation and Proposed Imposition of a Civil Penalty. The licensee or other person is provided an opportunity to contest in writing the proposed imposition of a civil penalty. After evaluation of the response, the civil penalty may be mitigated, remitted, or imposed. An opportunity is provided for a hearing if a civil penalty is imposed. If a civil penalty is not paid following a hearing or if a hearing is not requested, the matter may be referred to the U.S. Department of Justice to institute a civil action in District Court.

The procedure for issuing an order to institute a proceeding to modify, suspend, or revoke a license or to take other action against a licensee or other person subject to the jurisdiction of the Commission is set forth in 10 CFR 2.202. The licensee or any other person adversely affected by the order may request a hearing. The NRC is authorized to make orders immediately effective if required to protect the public health, safety, or interest, or if the violation is willful. Section 2.204 sets out the procedures for issuing a Demand for Information (Demand) to a licensee or other person subject to the Commissioner's jurisdiction for the purpose of determining whether an order or other enforcement action should be issued. The Demand does not provide hearing rights, as only information is being sought. A licensee must answer a Demand. An unlicensed person may answer a Demand by either providing the requested information or explaining why the Demand should not have been issued.

III. Responsibilities

The Executive Director for Operations (EDO) and the principal enforcement officers of the NRC, the Deputy Executive Director for Nuclear Material Safety Safeguards and Operations Support (DEDS) and the Deputy Executive Director for Nuclear Reactor Regulation, Regional Operations, and Research (DEDR), have been delegated the authority to approve or issue all escalated enforcement actions.[4] The DEDS is responsible to the EDO for the NRC enforcement programs. The Office of Enforcement (OE) exercises oversight of and implements the NRC enforcement programs. The Director, OE, acts for the Deputy Executive Directors in enforcement matters in their absence or as delegated. Subject to the oversight and direction of OE, and with the approval of the appropriate Deputy Executive Director, where necessary, the regional offices normally issue Notices of Violation and proposed civil penalties. However, subject to the same oversight as the regional offices, the Office of Nuclear Reactor Regulation (NRR) issues Notices of Violation and proposed civil penalties to vendors and suppliers and the Office of Nuclear Material Safety and Safeguards (NMSS) issues Notices of Violation and proposed civil penalties to certificate holders and to fuel cycle facilities for violations involving material control and accounting. Escalated enforcement actions are normally coordinated with the appropriate offices by the OE. Enforcement orders are normally issued by a Deputy Executive Director or the Director, OE. However, orders may also be issued by the EDO, especially those involving the more significant matters. The Directors of NRR and NMSS have also been delegated authority to issue orders, but it is expected that normal use of this authority by NRR and NMSS will be confined to actions not associated with compliance issues. The Director, Office of the Controller, has been delegated the authority to issue orders where licensees violate Commission regulations by nonpayment of license and inspection fees.

In recognition that the regulation of nuclear activities in many cases does not lend itself to a mechanistic treatment, judgment and discretion must be exercised in determining the severity levels of the violations and the appropriate enforcement sanctions, including the decision to issue a Notice of Violation, or to propose or impose a civil penalty and the amount of this penalty, after considering the general principles of this statement of policy and the technical significance of the violations and the surrounding circumstances.

Unless Commission consultation or notification is required by this policy, the staff may depart, where warranted in the public's interest, from this policy with the approval of the appropriate Deputy Executive Director and consultation with the EDO as warranted. (See also Section VII, "Exercise of Discretion.")

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[4] The term "escalated enforcement action" as used in this policy means a Notice of Violation for any Severity Level I, II, or III violation; a civil penalty for any Severity Level I, II, III, or IV violation and any order based upon a violation.

The Commission will be provided written notification of all enforcement actions involving civil penalties or orders. The Commission will also be provided notice in those cases where discretion is exercised and discussed in Section VII.B.6. In addition, the Commission will be consulted prior to taking action in the following situations (unless the urgency of the situation dictates immediate action):

(1) An action affecting a licensee's operation that requires balancing the public health and safety or common defense and security implications of not operating with the potential radiological or other hazards associated with continued operation;

(2) Proposals to impose civil penalties in amounts greater than 3 times the Severity Level I values shown in Table 1A;

(3) Any proposed enforcement action that involves a Severity Level I violation;

(4) Any enforcement action that involves a finding of a material false statement;

(5) Exercising discretion for matters meeting the criteria of Section VII.A.1 for Commission consultation;

(6) Refraining from taking enforcement action for matters meeting the criteria of Section VII.B.3;

(7) Any proposed enforcement action that involves the issuance of a civil penalty or order to an unlicensed individual or a civil penalty to a licensed reactor operator;

(8) Any action the EDO believes warrants Commission involvement;

(9) Any enforcement case involving an Office of Investigation (OI) report where NRC staff (other than OI staff) does not arrive at the same conclusions as those in the OI report concerning issues of intent.

(10) Any proposed enforcement action on which the Commission asks to be consulted.

IV. Severity of Violations

Regulatory requirements [5] have varying degrees of safety, safeguards, or environmental significance. Therefore, the relative importance of each violation, including both the technical significance and the regulatory significance is evaluated as the first step in the enforcement process.

Consequently, violations are normally categorized in terms of five levels of severity to show their relative importance within each of the following eight activity areas:

I. Reactor Operations;
II. Facility Construction;
III. Safeguards;
IV. Health Physics;
V. Transportation;
VI. Fuel Cycle and Materials Operations;
VII. Miscellaneous Matters; and
VIII. Emergency Preparedness.

Licensed activities will be placed in the activity area most suitable in light of the particular violation involved including activities not directly covered by one of the above listed areas, e.g., export license activities. Within each activity area, Severity Level I has been assigned to violations that are the most significant and Severity Level V violations are the least significant. Severity Level I and II violations are of very significant regulatory concern. In general, violations that are included in these severity categories involve actual or high potential impact on the public. Severity Level III violations are cause for significant regulatory concern. Severity Level IV violations are less serious but are of more than minor concern; i.e., if left uncorrected, they could lead to a more serious concern. Severity Level V violations are of minor safety or environmental concern.

Comparisons of significance between activity areas are inappropriate. For example, the immediacy of any hazard to the public associated with Severity Level I violations in Reactor Operations is not directly comparable to that associated with Severity Level I violations in Facility Construction.

Supplements I through VIII provide examples and serve as guidance in determining the appropriate severity level for violations in each of the eight activity areas. However, the examples are neither exhaustive nor controlling. In addition, these examples do not create new requirements. Each is designed to illustrate the significance that the NRC places on a particular type of violation of NRC requirements. Each of the examples in the supplements is predicated on a violation of a regulatory requirement.

The NRC reviews each case being considered for enforcement action on its own merits to ensure that the severity of a violation is characterized at the level best suited to the significance of the particular violation. In some cases, special circumstances may warrant an adjustment to the severity level categorization.

A. Aggregation of Violations

A group of violations may be evaluated in the aggregate and assigned a single, increased severity level, thereby resulting in a Severity Level III problem, if the violations have the same underlying cause or programmatic deficiencies, or the violations contributed to or were unavoidable consequences of the underlying problem. Normally, Severity Level I and II violations are not aggregated into a higher severity level.

The purpose of aggregating violations is to focus the licensee's attention on the fundamental underlying causes for which enforcement action appears warranted and to reflect the fact that several violations with a common cause may be more significant collectively than individually and may therefore, warrant a more substantial enforcement action. In addition, a civil penalty for multiple occurrences of a violation with the same root cause may be subject to escalation of the base civil penalty. (See Section VI.B.2.(e))

B. Repetitive Violations

The severity level of a Severity Level V or IV violation may be increased to Severity Level IV or III respectively, if the violation can be considered a repetitive violation.[6] The purpose of escalating the severity level of a repetitive violation is to acknowledge the added significance of the situation based on the licensee's failure to implement effective corrective action for the previous violation. The decision to escalate the severity level of a repetitive violation will depend on the circumstances, such as, but not limited to, the number of times the violation has occurred, the similarity of the violations and their root causes, the adequacy of previous corrective actions, the period of time between the violations, and the significance of the violations. (Civil penalties may also be proposed for repetitive Severity Level IV violations as discussed in Section VI.B.)

C. Willful Violations

Willful violations are by definition of particular concern to the Commission because its regulatory program is based on licensees and their contractors, employees, and agents acting with integrity and communicating with candor. Willful violations cannot be tolerated by either the Commission or a licensee. Licensees are expected to take significant remedial action in responding

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[5] The term "requirement" as used in this policy means a legally binding requirement such as a statute, regulation, license condition, technical specification, or order.

[6] The term "repetitive violation" or "similar violation" as used in this policy statement means a violation that reasonably could have been prevented by a licensee's corrective action for a previous violation normally occurring (1) within the past two years of the inspection at issue, or (2) the period within the last two inspections, whichever is longer.

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to willful violations commensurate with the circumstances such that it demonstrates the seriousness of the violation thereby creating a deterrent effect within the licensee's organization. While removal of the person is not necessarily required, substantial disciplinary action is expected.

Therefore, the severity level of a violation may be increased if the circumstances surrounding the matter involve careless disregard of requirements, deception, or other indications of willfulness. The term "willfulness" as used in this policy embraces a spectrum of violations ranging from deliberate intent to violate or falsify to and including careless disregard for requirements. Willfulness does not include acts which do not rise to the level of careless disregard, e.g., inadvertent clerical errors in a document submitted to the NRC. In determining the specific severity level of a violation involving willfulness, consideration will be given to such factors as the position and responsibilities of the person involved in the violation (e.g., licensee official [7] or non-supervisory employee), the significance of any underlying violation, the intent of the violator (i.e., careless disregard or deliberateness), and the economic or other advantage, if any, gained as a result of the violation. The relative weight given to each of these factors in arriving at the appropriate severity level will be dependent on the circumstances of the violation. However, the severity level of a willful severity level V violation will be increased to at least a severity level IV.

Violations of Reporting Requirements

The NRC expects licensees to provide complete, accurate, and timely information and reports. Accordingly, unless otherwise categorized in the Supplements, the severity level of a violation involving the failure to make a required report to the NRC will be based upon the significance of and the circumstances surrounding the matter that should have been reported. However, the severity level of an untimely report, in contrast to no report, may be reduced depending on the circumstances surrounding the matter. A licensee will not normally be cited for a failure to report a condition or event unless the licensee was actually aware of the condition or event that it failed to report. A licensee will, on the other hand, normally be cited for a failure to report a condition or event if the licensee knew of the information to be reported, but did not recognize that it was required to make a report.

V. Enforcement Conferences

Whenever the NRC has learned of the existence of a potential violation for which escalated enforcement action may be warranted, or recurring nonconformance on the part of a vendor, the NRC will normally provide an opportunity for an enforcement conference with the licensee, vendor, or other person prior to taking enforcement action. Although enforcement conferences are not normally held for Severity Level IV violations, they may be scheduled if increased management attention is warranted e.g., if the violations are repetitive. The purpose of the enforcement conference is to (1) discuss the violations or nonconformances, their significance, the reason for their occurrence, including the apparent root causes, and the licensee's or vendor's corrective actions, (2) determine whether there were any aggravating or mitigating circumstances, and (3) obtain other information that will help the NRC determine the appropriate enforcement action.

During the enforcement conference, the licensee, vendor, or other person will be given an opportunity to provide information consistent with the purpose of the conference, including an explanation to the NRC of the immediate corrective actions (if any) that were taken following identification of the potential violation or nonconformance and the long term comprehensive actions that were taken or will be taken to prevent recurrence. Licensees, vendors, or other persons will be told when a meeting is an enforcement conference. Enforcement conferences will not normally be open to the public.

When needed to protect the public health and safety or common defense and security, escalated enforcement action, such as the issuance of an immediately effective order modifying, suspending, or revoking a license, will be taken prior to the enforcement conference. In these cases, an enforcement conference may be held after the escalated enforcement action is taken.

VI. Enforcement Actions

This section describes the enforcement sanctions available to the NRC and specifies the conditions under which each may be used. The basic sanctions are Notices of Violation, civil penalties, and orders of various types. As discussed further in Section VI.D, related administrative mechanisms such as Notices of Nonconformance, Notices of Deviation, Confirmatory Action Letters, letters of reprimand, and Demands for Information are used to supplement the enforcement program. In selecting the enforcement sanctions to be applied, the NRC will consider enforcement actions taken by other Federal or State regulatory bodies having concurrent jurisdiction, such as in transportation matters. Usually, whenever a violation of NRC requirements is identified, enforcement action is taken. The nature and extent of the enforcement action is intended to reflect the seriousness of the violation involved. For the vast majority of violations, a Notice of Violation or a Notice of Nonconformance is the normal enforcement action.

A. Notice of Violation

A Notice of Violation is a written notice setting forth one or more violations of a legally binding requirement. The Notice of Violation normally requires the recipient to provide a written statement describing (1) the reasons for the violation or, if contested, the basis for disputing the violation; (2) corrective steps that have been taken and the results achieved; (3) corrective steps that will be taken to prevent recurrence; and (4) the date when full compliance will be achieved. The NRC may require responses to Notices of Violation to be under oath. Normally, responses under oath will be required only in connection with civil penalties and orders.

The NRC uses the Notice of Violation as the usual method for formalizing the existence of a violation. Issuance of a Notice of Violation is normally the only enforcement action taken, except in cases where the criteria for issuance of civil penalties and orders, as set forth in Sections VI.B and VI.C, respectively, are met. However, special circumstances regarding the violation findings may warrant discretion being exercised such that the NRC refrains from issuing a Notice of Violation. (See Section VII.B, "Mitigation of Enforcement Sanctions.") In addition, licensees are not ordinarily cited for violations resulting from matters not within their control, such as equipment failures that were not avoidable by reasonable licensee quality assurance measures or management controls. Generally, however, licensees are held responsible for the acts of their employees. Accordingly, this policy should not be construed to excuse personnel errors.

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[7] The term "licensee official" as used in this policy statement means a first-line supervisor or above, a licensed individual, a radiation safety officer, or an authorized user of licensed material whether or not listed on a license. Notwithstanding an individual's job title, severity level categorization for willful acts involving individuals who can be considered licensee officials will consider several factors, including the position of the individual relative to the licensee's organizational structure and the individual's responsibilities relative to the oversight of licensed activities and to the use of licensed material.

B. Civil Penalty

A civil penalty is a monetary penalty that may be imposed for violation of (1) certain specified licensing provisions of the Atomic Energy Act or supplementary NRC rules or orders; (2) any requirement for which a license may be revoked; or (3) reporting requirements under section 206 of the Energy Reorganization Act. Civil penalties are designed to emphasize the need for lasting remedial action and to deter future violations both by the involved licensee as well as by other licensees conducting similar activities.

Civil penalties are proposed (absent mitigating circumstances) for Severity Level I, II, and III violations, and may be proposed for repetitive Severity Level IV violations or for any willful violation. In addition, civil penalties will normally be assessed for knowing and conscious violations of the reporting requirements of section 206 of the Energy Reorganization Act.

1. Base Civil Penalty

The NRC imposes different levels of penalties for different severity level violations and different classes of licensees, vendors, and other persons. Tables 1A and 1B show the base civil penalties for various reactor, fuel cycle, materials, and vendor programs. (Civil penalties issued to individuals are determined on a case-by-case basis.) The structure of these tables generally takes into account the gravity of the violation as a primary consideration and the ability to pay as a secondary consideration. Generally, operations involving greater nuclear material inventories and greater potential consequences to the public and licensee employees receive higher civil penalties. Regarding the secondary factor of ability of various classes of licensees to pay the civil penalties, it is not the NRC's intention that the economic impact of a civil penalty be so severe that it puts a licensee out of business (orders, rather than civil penalties, are used when the intent is to suspend or terminate licensed activities) or adversely affects a licensee's ability to safely conduct licensed activities. The deterrent effect of civil penalties is best served when the amounts of the penalties take into account a licensee's "ability to pay." In determining the amount of civil penalties for licensees for whom the tables do not reflect the ability to pay, the NRC will consider as necessary an increase or decrease on a case-by-case basis. Normally, if a licensee can demonstrate financial hardship, the NRC will consider payments over time, including interest, rather than reducing the amount of the civil penalty. However, where a licensee claims financial hardship, the licensee will normally be required to address why it has sufficient resources to safely conduct licensed activities and pay license and inspection fees.

2. Civil Penalty Adjustment Factors

In an effort to recognize and encourage good performance, deter poor performance, and emphasize violations of particular regulatory concern, the NRC reviews each proposed civil penalty on its own merits and, after considering all relevant circumstances, may adjust the base civil penalities shown in Table 1A and 1B for Severity Level I, II, and III violations based on an assessment of the following civil penalty adjustment factors. Civil penalties for Severity Level IV violations are normally proposed at the base values identified in the tables without assessing the civil penalty adjustment factors.

While management involvement, direct or indirect, in a violation may lead to an increase in the civil penalty, the lack of management involvement may not be used to mitigate a civil penalty. Allowing mitigation in the latter case could encourage lack of managment involvement in licensed activities and a decrease in protection of the public health and safety.

(a) *Identification.* The purposes of this factor is to encourage licensees to monitor, supervise, and audit activities in order to assure safety and compliance. Therefore, the base civil penalty shown in Tables 1A and 1B may be mitigated up to 50% when a licensee identifies a violation and escalated up to 50% if the NRC identifies a violation. The base civil penalty may also be mitigated up to 25% when a licensee identifies a violation resulting from a self-disclosing event [8] where the licensee demonstrates initiative in identifying the root cause of the violation. In addition, the base civil penalty may also be mitigated where warranted if a licensee identifies a violation as a result of its review of a generic notification. While mitigation under this factor is appropriate for a licensee identified violation that was not reported to the NRC, a separate enforcement action will normally be issued for the licensee's failure to make the required report.

(b) *Corrective action.* The purposes of this factor is to encourage licensees to (1) take the immediate actions necessary upon discovery of a violation that will restore safety and compliance with the license, regulation(s), or other requirement(s); and (2) devleop and implement (in a timely manner) the lasting actions that will not only prevent recurrence of the violation at issue, but will be appropriately comprehensive, given the significance and complexity of the violation, to prevent occurrence of similar violations. Therefore, the base civil penalty shown in Tables 1A and 1B may be either mitigated or escalated by as much as 50% depending on the promptness and extensiveness of the licensee's corrective action. In assessing this factor, consideration will be given to, among other things, the timeliness of the corrective action (including the promptness in developing the schedule for long term corrective action), the degree of licensee initiative (i.e., whether NRC involvement was required before acceptable action was taken), the adequacy of the licensee's root cause analysis for the violation, and, given the significance and complexity of the issue, the comprehensiveness of the corrective action (i.e., whether the action is focused narrowly to the specific violation or broadly to the general area of concern). Notwithstanding good comprehensive corrective action, if immediate corrective action was not taken to restore safety and compliance once the violation was identified, mitigation of the civil penalty based on this factor will not normally be considered and escalation may be considered to address the licensee's failure.

(c) *Licensee performance.* The purpose of this factor is to recognize and encourage good or improving licensee performance and to recognize and deter poor or declining performance. Therefore, the base civil penalty shown in Tables 1A and 1B may be mitigated by as much as 100% if the current violation is an isolated failure that is inconsistent with a licensee's outstandingly good prior performance. The base civil penalty may also be escalated by as much as 100% if the current violation is reflective of the licensee's poor or declining prior performance. Neither mitigation nor escalation may be appropriate based on this factor where a licensee's poor prior performance appears to clearly be improving. Prior performance, as used in this policy statement, refers to the licensee's performance normally (1) within the last two years of the inspection at issue, or (2) the period within the last two inspections, whichever is longer. In assessing the licensee's prior performance, consideration will be given to, among other things, the effectiveness of previous corrective action for similar problems, overall performance such as Systematic Assessment of Licensee Performance (SALP) evaluations for power reactors, and the licensee's prior enforcement history overall and in the area of concern, including escalated and non-escalated enforcement actions and any enforcement actions that the NRC exercised discretion and refrained from issuing in accordance with Section VII.B. Notwithstanding good prior performance, mitigation of the civil penalty based on this factor is not normally warranted where the current violation reflects a substantial decline in performance that has occurred over the time since the last NRC inspection. In addition, this factor should not be applied for those cases where the licensee has not been in existence long enough to establish a prior performance or inspection history. Similarly, mitigation based on this factor is not normally appropriate where the area of concern has not been previously inspected, unless overall performance is good.

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[8] The term "self-disclosing event" as used in this policy statement means an event that is readily obvious by human observation or mechanical instrumentation such as a spill of liquid, an open door (required to be closed), an overexposure documented in a dosimetry report, an annunciator alarm, or a reactor trip.

(d) *Prior opportunity to identify*. The purpose of this factor is to encourage licensees to take effective action in response to opportunities to identify or prevent problems or violations. Therefore, the base civil penalty shown in Tables 1A and 1B may be escalated by as much as 100% for cases where the licensee should have identified the violation sooner as a result of prior opportunities, such as (1) through normal surveillances, audits, or quality assurance (QA) activities; (2) through prior notice i.e., specific NRC or industry notification; or (3) through other reasonable indication of a potential problem or violation, such as observations of employees and contractors, and had failed to take effective corrective steps. Prior notification may include findings of the NRC, the licensee, or industry made at other facilities operated by the licensee where it is reasonable to expect the licensee to take action to identify or prevent similar problems at the facility subject to the enforcement action at issue. In assessing this factor, consideration will be given to, among other things, the opportunities available to discover the violation, the ease of discovery, the similarity between the violation and the notification, the period of time between when the violation occurred and when the notification was issued, the action taken (or planned) by the licensee in response to the notification, and the level of management review that the notification received (or should have received). Escalation of the civil penalty based solely on prior notification is normally not warranted where the licensee appropriately reviewed the notification for application to its activities and reasonable action was either taken or planned to be taken within a reasonable time.

(e) *Multiple occurrences*. The purpose of this factor is to reflect the added significance resulting from multiple occurrences of the violation. Therefore, the base civil penalty shown in Tables 1A and 1B may be escalated by as much as 100% where multiple examples of a particular violation are identified during the inspection period. Escalation of the civil penalty based on this factor will normally be considered only when there are multiple examples of Severity Level I, II, or III violations with the same root causes. Alternatively, separate civil penalties may be imposed for each violation.

(f) *Duration*. The purpose of this factor is to recognize the added significance associated with those violations (or the impact of those violations) that continue or remain uncorrected for more than one day. Therefore, whether or not a licensee is aware or clearly should have been aware of a violation, the base civil penalty shown in Tables 1A and 1B may be escalated by as much as 100% to reflect the added technical and/or regulatory significance resulting from the violation or the impact of it remaining uncorrected for more than one day. This factor should normally be applied in cases involving particularly safety significant violations or where a significant regulatory message is warranted. In lieu of escalating the civil penalty based on this factor, the NRC may impose daily civil penalties for violations that continue for more than one day. (See Section VII.A.3, "Daily Civil Penalties.")

The civil penalty adjustment factors presented in paragraphs (a) through (f) are additive. However, in no instance will a civil penalty for any one violation exceed $100,000 per day.

Notwithstanding the application of the civil penalty adjustment factors, a civil penalty will normally be proposed in an amount of at least 50% of the base value in Tables 1A and 1B for Severity Level I and II violations involving overexposures, release of radioactive material, or loss of radioactive material to emphasize to the licensee the seriousness with which the NRC views these events and the importance of conducting licensed activities in a manner to avoid these violations. In considering mitigation for these cases, normally the only adjustment factors that will be considered to lower a base civil penalty will be identification and corrective action factors. In addition, as provided in Section VII, "Exercise of Discretion," discretion may be exercised by either escalating or mitigating the amount of the civil penalty arrived at after applying the civil penalty adjustment factors to ensure that the proposed civil penalty reflects the NRC's concern regarding the violation at issue and that it conveys the appropriate message to the licensee.

TABLE 1A—BASE CIVIL PENALTIES

	Plant operations, construction, health physics and EP	Safeguards	Transportation	
			Greater than Type A quantity ¹	Type A quantity or less ²
a. Power reactors	$100,000	$100,000	$100,000	$5,000
b. Test reactors	10,000	10,000	10,000	2,000
c. Research reactors and critical facilities	5,000	5,000	5,000	1,000
d. Fuel fabricators and industrial processors ³	25,000	100,000	25,000	5,000
e. Mills and Uranium conversion facilities	10,000		5,000	2,000
f. Industrial users of materials ⁵, and contractors and vendors	10,000	—	5,000	2,000
g. Waste disposal licensees	10,000	—	5,000	2,000
h. Academic or medical institutions ⁶	5,000	—	2,500	1,000

TABLE 1A—BASE CIVIL PENALTIES—Continued

	Plant operations, construction, health physics and EP	Safeguards	Transportation	
			Greater than Type A quantity [1]	Type A quantity or less [2]
i. Independent spent fuel and monitored retrievable storage installations	25,000	100,000	25,000	5,000
j. Other material licensees	1,000	—	2,500	1,000

[1] Includes irradiated fuel, high level waste, unirradiated fissile material, and any other quantities requiring Type B packaging.

[2] Includes low specific activity waste (LSA), low level waste, Type A packages, and excepted quantities and articles.

[3] Large firms engaged in manufacturing or distribution of byproduct, source, or special nuclear material.

[4] This amount refers to Category 1 licensees (as defined in 10 CFR 73.2). Licensed fuel fabricators not authorized to possess Category 1 material have a base penalty amount of $50,000.

[5] Includes industrial radiographers, nuclear pharmacies, and other industrial users.

[6] This applies to nonprofit institutions not otherwise categorized under sections "a" through "g" in this table and mobile nuclear services.

TABLE 1 B—BASE CIVIL PENALTIES

Severity Level	Base Civil Penalty Amount (Percent of amount listed in Table 1A)
I	100
II	80
III	50
IV	15

C. Orders

An order is a written NRC directive to modify, suspend, or revoke a license; to cease and desist from a given practice or activity; or to take such other action as may be proper (see 10 CFR 2.202). Orders may also be issued in lieu of, or in addition to, civil penalties, as appropriate for Severity Level I, II, or III violations. Orders may be issued as follows:

(1) License Modification orders are issued when some change in licensee equipment, procedures, personnel, or management controls is necessary.

(2) Suspension Orders may be used:

(a) To remove a threat to the public health and safety, common defense and security, or the environment;

(b) To stop facility construction when,

(i) Further work could preclude or significantly hinder the identification or correction of an improperly constructed safety-related system or component; or

(ii) The licensee's quality assurance program implementation is not adequate to provide confidence that construction activities are being properly carried out;

(c) When the licensee has not responded adequately to other enforcement action;

(d) When the licensee interferes with the conduct of an inspection or investigation; or

(e) For any reason not mentioned above for which license revocation is legally authorized.

Suspensions may apply to all or part of the licensed activity. Ordinarily, a licensed activity is not suspended (nor is a suspension prolonged) for failure to comply with requirements where such failure is not willful and adequate corrective action has been taken.

(3) Revocation Orders may be used:

(a) When a licensee is unable or unwilling to comply with NRC requirements;

(b) When a licensee refuses to correct a violation;

(c) When licensee does not respond to a Notice of Violation where a response was required;

(d) When a licensee refuses to pay an applicable fee under the Commission's regulations; or

(e) For any other reason for which revocation is authorized under section 186 of the Atomic Energy Act (e.g., any condition which would warrant refusal of a license on an original application).

(4) Cease and Desist Orders may be used to stop an unauthorized activity that has continued after notification by NRC that the activity is unauthorized.

(5) Orders to unlicensed persons, including vendors and contractors, and employees of any of them, are used when the NRC has identified deliberate misconduct that may cause a licensee to be in violation of an NRC requirement or where incomplete or inaccurate information is deliberately submitted or where the NRC loses its reasonable assurance that the licensee will meet NRC requirements with that person involved in licensed activities.

Unless a separate response is warranted pursuant to 10 CFR 2.201, a Notice of Violation need not be issued where an order is based on violations described in the order. The violations described in an order need not be categorized by severity level.

Orders are made effective immediately, without prior opportunity for hearing, whenever it is determined that the public health, interest, or safety so requires, or when the order is responding to a violation involving willfulness. Otherwise, a prior opportunity for a hearing on the order is afforded. For cases in which the NRC believes a basis could reasonably exist for not taking the action as proposed, the licensee will ordinarily be afforded an opportunity to show why the order should not be issued in the proposed manner by way of a Demand for Information. (See 10 CFR 2.204)

D. Related Administrative Actions

In addition to the formal enforcement mechanisms of Notices of Violation, civil penalties, and orders, the NRC also uses administrative mechanisms, such as Notices of Deviation, Notices of Nonconformance, Confirmatory Action Letters, letters of reprimand, and Demands for Information to supplement its enforcement program. The NRC expects licensees and vendors to adhere to any obligations and commitments resulting from these processes and will not hesitate to issue appropriate orders to ensure that these obligations and commitments are met.

(1) Notices of Deviation are written notices describing a licensee's failure to satisfy a commitment where the commitment involved has not been made a legally binding requirement. A Notice of Deviation requests a licensee to provide a written explanation or statement describing corrective steps taken (or planned), the results achieved, and the date when corrective action will be completed.

(2) Notices of Nonconformance are written notices describing vendor's failures to meet commitments which have not been made legally binding requirements by NRC. An example is a commitment made in a procurement contract with a licensee as required by 10 CFR part 50, appendix B. Notices of Nonconformances request non-licensees to provide written explanations or statements describing corrective steps (taken or planned), the results achieved, the dates when corrective actions will be completed, and measures taken to preclude recurrence.

(3) Confirmatory Action Letters (CALs) are letters confirming a licensee's or vendor's agreement to take

certain actions to remove significant concerns about health and safety, safeguards, or the environment.

(4) Letters of reprimand are letters addressed to individuals subject to Commission jurisdiction identifying a significant deficiency in their performance of licensed activities.

(5) Demands for Information are demands for information from licensees or other persons for the purpose of enabling NRC to determine whether an order or other enforcement action should be issued.

VII. Exercise of Discretion

Notwithstanding the normal guidance contained in this policy, the NRC may choose to exercise discretion and either escalate or mitigate enforcement sanctions within the Commission's statutory authority to ensure that the resulting enforcement action appropriately reflects the level of NRC concern regarding the violation at issue and conveys the appropriate message to the licensee.

A. Escalation of Enforcement Sanctions

The NRC considers violations categorized at Severity Level I, II, or III to be of significant regulatory concern. If the application of the normal guidance in this policy does not provide an appropriate sanction, or if particularly serious violations occur, such as in cases involving willfulness, repeated poor performance in an area of concern, or serious breakdowns in management controls, the NRC may apply its full enforcement authority where the action is warranted. NRC action may include (1) escalating civil penalties, (2) issuing appropriate orders, and (3) assessing civil penalties for continuing violations on a per day basis, up to the statutory limit of $100,000 per violation, per day.

(1) *Civil penalties.* Notwithstanding the outcome of the normal civil penalty assessment process (i.e., base civil penalty adjusted based on application of the civil penalty adjustment factors addressed in Section VI.B), with the approval of the appropriate Deputy Executive Director and consultation with the EDO as warranted, the NRC may exercise discretion by either proposing a civil penalty where application of the factors would otherwise result in zero penalty or by further escalating the amount of the adjusted civil penalty to ensure that the proposed civil penalty reflects the NRC's concern regarding the violation at issue and that it conveys the appropriate message to the licensee. In addition to the approval of the appropriate Deputy Executive Director, consultation with the Commission is required if the deviation in the amount of the civil penalty proposed under this discretion from the amount of the civil penalty assessed under the normal process is more than two times the base civil penalty shown in Tables 1A and 1B.

(2) *Orders.* The NRC will, where necessary issues orders in conjunction with civil penalties to achieve or formalize corrective actions and to deter further recurrence of serious violations. Examples of enforcement actions that could be taken for similar Severity Level I, II, or III violations are set forth in Table 2. The actual progression to be used in a particular case will depend on the circumstances. Enforcement sanctions will normally escalate for recurring similar violations.

TABLE 2.—EXAMPLES OF PROGRESSION OF ESCALATED ENFORCEMENT ACTIONS FOR SIMILAR VIOLATIONS IN THE SAME ACTIVITY AREA UNDER THE SAME LICENSE

Severity of Violation	Number of similar violations from the date of the last inspection or within the previous two years (whichever period is greater)		
	1st	2nd	3rd
I	a+c	a+b+c	d
II	a	a+b+c	a+b+c
III	a	a+c	a+b

Notes:
a. Civil penalty.
b. Suspension of affected operations until the Office Director is satisfied that there is reasonable assurance that the licensee can operate in compliance with the applicable requirements, or modification of the license, as appropriate.
c. Consider issuing an order for modification, suspension, or revocation of the license, as appropriate, through use of a Demand for Information.
d. Further action, as appropriate.

(3) *Daily civil penalties.* In order to recognize the added technical safety significance or regulatory significance for those cases where a very strong message is warranted for a significant violation that continues for more than one day, the NRC may exercise discretion and assess a separate violation and attendant civil penalty up to the statutory limit of $100,000 for each day the violation continues. The NRC may exercise this discretion if a licensee was aware or clearly should have been aware of a violation, or if the licensee had an opportunity to identify and correct the violation but failed to do so.

B. Mitigation of Enforcement Sanctions

Because the NRC wants to encourage and support licensee initiative for self identification and correction of problems, the NRC may exercise discretion and refrain from issuing a civil penalty and/or issuing a Notice of Violation under certain circumstances. In addition, while the NRC may exercise this discretion for violations meeting the required criteria where the licensee failed to make a required report to the NRC, a separate enforcement action will normally be issued for the licensee's failure to make a required report. The circumstances under which this discretion may be exercised are as follows:

(1) Severity Level V Violations. The NRC may refrain from issuing a Notice of Violation for a Severity Level V violation that is documented in an inspection report (or official field notes for some material cases) provided that the inspection report includes a brief description of the corrective action and that the violation meets all of the following criteria:

(a) It was not a violation that could reasonably be expected to have been prevented by the licensee's corrective action for a previous violation or a previous licensee finding that occurred within the past two years of the inspection at issue, or the period within the last two inspections, whichever is longer;

(b) It was or will be corrected within a reasonable time, by specific corrective action committed to by the licensee by the end of the inspection, including immediate corrective action and comprehensive corrective action to prevent recurrence;

(c) It was not a willful violation.

(2) Licensee-Identified Severity Level IV and V Violations. The NRC may refrain from issuing a Notice of Violation for a Severity Level IV or V violation that is documented in an inspection report (or official field notes for some material cases) provided that the inspection report includes a brief description of the corrective action and that the violation meets all of the following criteria:

(a) It was identified by the licensee, including as a result of a self-disclosing event;

(b) It was not a violation that could reasonably be expected to have been prevented by the licensee's corrective action for a previous violation or a previous licensee finding that occurred within the past two years of the inspection at issue, or the period within the last two inspections, whichever is longer;

(c) It was or will be corrected within a reasonable time, by specific corrective action committed to by the licensee by the end of the inspection, including immediate corrective action and comprehensive corrective action to prevent recurrence;

(d) It was not a willful violation or if it was a willful violation;

(i) The information concerning the violation, if not required to be reported, was promptly provided to appropriate NRC personnel, such as a resident inspector or regional section or branch chief;

(ii) The violation involved the acts of a low level individual (and not a licensee official as defined in section IV.C);

(iii) The violation appears to be the isolated action of the employee without management involvement and the violation was not caused by lack of management oversight as evidenced by either a history of isolated willful violations or a lack of adequate audits or supervision of employees; and

(iv) Significant remedial action commensurate with the circumstances was taken by the licensee such that it demonstrated the seriousness of the violation to other employees and contractors, thereby creating a deterrent effect within the licensee's organization. While removal of the employee from licensed activities is not necessarily required, substantial disciplinary action is expected.

(3) Violations Identified During Extended Shutdowns or Work Stoppages. The NRC may refrain from issuing a Notice of Violation or a proposed civil penalty for a violation that is identified after (i) the NRC has taken significant enforcement action based upon a major safety event contributing to an extended shutdown of an operating reactor or a material licensee (or a work stoppage at a construction site), or (ii) the licensee enters an extended shutdown or work stoppage related to generally poor performance over a long period of time, provided that the violation is documented in an inspection report (or official field notes for some material cases) and that it meets all of the following criteria:

(a) It was either licensee identified as a result of a comprehensive program for problem identification and correction that was developed in response to the shutdown or identified as a result of an employee allegation to the licensee; (If the NRC identifies the violation and all of the other criteria are met, the NRC should determine whether enforcement action is necessary to achieve remedial action, or if discretion may still be appropriate.)

(b) It is based upon activities of the licensee prior to the events leading to the shutdown;

(c) It would not be categorized at a severity level higher than Severity Level II;

(d) It was not willful; and

(e) The licensee's decision to restart the plant requires NRC concurrence.

(4) Violations Involving Old Design Issues. The NRC may refrain from proposing a civil penalty for a Severity Level II or III violation involving a past problem, such as in engineering, design, or installation, provided that the violation is documented in an inspection report (or official field notes for some material cases) that includes a description of the corrective action and that it meets all of the following criteria:

(a) It was a licensee identified as a result of a licensee's voluntary formal initiative, such as a Safety System Functional Inspection, Design Reconstitution Program, or other program that has a defined scope and timetable and is being aggressively implemented;

(b) It was or will be corrected, including immediate corrective action and long term comprehensive corrective action to prevent recurrence, within a reasonable time following identification (this action should involve expanding the initiative, as necessary, to identify other failures caused by similar root causes); and

(c) It was not likely to be identified (after the violation occurred) by routine licensee efforts such as normal surveillance or quality assurance (QA) activities.

In addition, the NRC may refrain from issuing a Notice of Violation for cases that meet the above criteria provided the violation was caused by conduct that is not reasonably linked to present performance (normally, violations that are at least three years old or violations occurring during plant construction) and there had not been prior notice so that the licensee should have reasonably identified the violation earlier. This exercise of discretion is to place a premium on licensees initiating efforts to identify and correct subtle violations that are not likely to be identified by routine efforts before degraded safety systems are called upon to work.

(5) Violations Identified Due to Previous Escalated Enforcement Action. The NRC may refrain from issuing a Notice of Violation or a proposed civil penalty for a violation that is identified after the NRC has taken escalated enforcement action for a Severity Level II or III violation, provided that the violation is documented in an inspection report (or official field notes for some material cases) that includes a description of the corrective action and that it meets all of the following criteria:

(a) It was a licensee identified as part of the corrective action for the previous escalated enforcement action;

(b) It has the same or similar root cause as the violation for which escalated enforcement action was issued;

(c) It does not substantially change the safety significance or the character of the regulatory concern arising out of the initial violation; and

(d) It was or will be corrected, including immediate corrective action and long term comprehensive corrective action to prevent recurrence, within a reasonable time following identification.

(6) Violations Involving Special Circumstances. Notwithstanding the outcome of the normal civil penalty assessment process (i.e., base civil penalty adjusted based on application of the civil penalty adjustment factors addressed in Section VI.B), as provided in Section III, "Responsibilities," the appropriate Deputy Executive Director may reduce or refrain from issuing a civil penalty or a Notice of Violation for a Severity Level II or III violation based on the merits of the case after considering the guidance in this statement of policy and such factors as the age of the violation, the safety significance of the violation, the overall

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performance of the licensee, and other relevant circumstances, including any that may have changed since the violation, provided prior notice has been given the Commission. This discretion is expected to be exercised only where application of the normal guidance in the policy is unwarranted.

VIII. Enforcement Actions Involving Individuals

Enforcement actions involving individuals, including licensed operators, are significant personnel actions, which will be closely controlled and judiciously applied. An enforcement action involving an individual will normally be taken only when the NRC is satisfied that the individual fully understood, or should have understood, his or her responsibility; knew, or should have known, the required actions; and knowingly, or with careless disregard (i.e., with more than mere negligence) failed to take required actions which have actual or potential safety significance. Most transgressions of individuals at the level of Severity Level III, IV, or V violations will be handled by citing only the facility licensee.

More serious violations, including those involving the integrity of an individual (e.g., lying to the NRC) concerning matters within the scope of the individual's responsibilities, will be considered for enforcement action against the individual as well as against the facility licensee. Action against the individual, however, will not be taken if the improper action by the individual was caused by management failures. The following examples of situations illustrate this concept:

- Inadvertant individual mistakes resulting from inadequate training or guidance provided by the facility licensee.
- Inadvertently missing an insignificant procedural requirement when the action is routine, fairly uncomplicated, and there is no unusual circumstance indicating that the procedures should be referred to and followed step-by-step.
- Compliance with an express direction of management, such as the Shift Supervisor or Plant Manager, resulted in a violation unless the individual did not express his or her concern or objection to the direction.
- Individual error directly resulting from following the technical advice of an expert unless the advise was clearly unreasonable and the licensed individual should have recognized it as such.
- Violations resulting from inadequate procedures unless the individual used a faulty procedure knowing it was faulty and had not attempted to get the procedure corrected.

Listed below are examples of situations which could result in enforcement actions involving individuals, licensed or unlicensed. If the actions described in these examples are taken by a licensed operator or taken deliberately by an unlicensed individual, enforcement action may be taken directly against the individual. However, violations involving willful conduct not amounting to deliberate action by an unlicensed individual in these situations may result in enforcement action against a licensee that may impact an individual. The situations include, but are not limited to, violations that involve:

- Willfully causing a licensee to be in violation of NRC requirements.
- Willfully taking action that would have caused a licensee to be in violation of NRC requirements but the action did not do so because it was detected and corrective action was taken.
- Recognizing a violation of procedural requirements and willfully not taking corrective action.
- Willfully defeating alarms which have safety significance.
- Unauthorized abandoning of reactor controls.
- Dereliction of duty.
- Falsifying records required by NRC regulations or by the facility license.
- Willfully providing, or causing a licensee to provide, an NRC inspector or investigator with inaccurate or incomplete information on a matter material to the NRC.
- Willfully withholding safety significant information rather than making such information known to appropriate supervisory or technical personnel in the licensee's organization.
- Submitting false information and as a result gaining unescorted access to a nuclear power plant.
- Willfully providing false data to a licensee by a contractor or other person who provides test or other services, when the data affects the licensee's compliance with 10 CFR part 50, appendix B, or other regulatory requirement.
- Willfully providing false certification that components meet the requirements of their intended use, such as ASME Code.
- Willfully supplying, by vendors of equipment for transportation of radioactive material, casks that do not comply with their certificates of compliance.
- Willfully performing unauthorized bypassing of required reactor or other facility safety systems.
- Willfully taking actions that violate Technical Specification Limiting Conditions for Operation (enforcement action for a willful violation will not be taken if the operator meets the requirements of 10 CFR 50.54(x), i.e., unless the operator acted unreasonably considering all the relevant circumstances surrounding the emergency.)

In deciding whether to issue an enforcement action to an unlicensed person rather than to the licensee, the NRC recognizes that judgments will have to be made on a case by case basis. In making these decisions, the NRC will consider factors such as the following:

1. The level of the individual within the organization.
2. The individual's training and experience as well as knowledge of the potential consequences of the wrongdoing.
3. The safety consequences of the misconduct.
4. The benefit to the wrongdoer, e.g., personal or corporate gain.
5. The degree of supervision of the individual, i.e., how closely is the individual monitored or audited, and the likelihood of detection (such as a radiographer working independently in the field as contrasted with a team activity at a power plant).
6. The employer's response, e.g., disciplinary action taken.
7. The attitude of the wrongdoer, e.g., admission of wrongdoing, acceptance of responsibility.
8. The degree of management responsibility or culpability.
9. Who identified the misconduct.

Any proposed enforcement action involving individuals must be issued with the concurrence of the appropriate Deputy Executive Director. The Commission will be consulted prior to issuing a civil penalty or order to an unlicensed individual or a civil penalty to a licensed reactor operator. Prior notice will be given to the Commission on Notices of Violation without civil penalties that are issued to unlicensed individuals and enforcement actions taken against other unlicensed persons, such as corporations or partnerships. The particular sanction to be used should be determined on a case-by-case basis.[8]

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[8] Except for individuals subject to civil penalties under section 206 of the Energy Reorganization Act of 1974, as amended, NRC will not normally impose a civil penalty against an individual. However, section 234 of the Atomic Energy Act (AEA) gives the Commission authority to impose civil penalties on "any person." "Person" is broadly defined in

Continued

Examples of sanctions that may be appropriate against individuals are:

- Issuance of a letter of reprimand,
- Issuance of a Notice of Violation, and
- Issuance of Orders.

Orders to NRC-licensed reactor operators may involve suspension for a specified period, modification, or revocation of their individual licenses. Orders to unlicensed individuals might include provisions that would:

- Prohibit involvement in NRC licensed activities for a specified period of time (normally the period of suspension would not exceed five years) or until certain conditions are satisfied, e.g., completing specified training or meeting certain qualifications.
- Require notification to the NRC before resuming work in licensed activities.
- Require the person to tell a prospective employer or customer engaged in licensed activities that the person has been subject to an NRC order.

In the case of a licensed operator's failure to meet applicable fitness-for-duty requirements (10 CFR 55.53(j)), the NRC may issue a Notice of Violation or a civil penalty to the Part 55 licensee, or an order to suspend, modify, or revoke the Part 55 license. These actions may be taken the first time a licensed operator fails a drug or alcohol test, that is, receives a confirmed positive test that exceeds the cutoff levels of 10 CFR part 26 or the facility licensee's cutoff levels, if lower. However, normally only a Notice of Violation will be issued for the first confirmed positive test in the absence of aggravating circumstances such as errors in the performance of licensed duties or evidence of prolonged use. In addition, the NRC intends to issue an order to suspend the Part 55 license for up to three years the second time a licensed operator exceeds those cutoff levels. In the event there are less than three years remaining in the term of the individual's license, the NRC may consider not renewing the individual's license or not issuing a new license after the three year period is completed. The NRC intends to issue an order to revoke the Part 55 license the third time a licensed operator exceeds those cutoff levels. A licensed operator or applicant who refuses to participate in the drug and alcohol testing programs established by the facility licensee or who is involved in the sale, use, or possession of an illegal drug is also subject to license suspension, revocation, or denial.

In addition, the NRC may take enforcement action against a licensee that may impact an individual, where the conduct of the individual places in question the NRC's reasonable assurance that licensed activities will be properly conducted. The NRC may take enforcement action for reasons that would warrant refusal to issue a license on an original application. Accordingly, appropriate enforcement actions may be taken regarding matters that raise issues of integrity, competence, fitness for duty, or other matters that may not necessarily be a violation of specific Commission requirements.

In the case of an unlicensed person, whether a firm or an individual, an order modifying the facility license may be issued to require (1) the removal of the person from all licensed activities for a specified period of time or indefinitely, (2) prior notice to the NRC before utilizing the person in licensed activities, or (3) the licensee to provide notice of the issuance of such an order to other persons involved in licensed activities making reference inquiries. In addition, orders to employers might require retraining, additional oversight, or independent verification of activities performed by the person, if the person is to be involved in licensed activities.

IX. Inaccurate and Incomplete Information

A violation of the regulations involving submittal of incomplete and/or inaccurate information, whether or not considered a material false statement, can result in the full range of enforcement sanctions. The labeling of a communication failure as a material false statement will be made on a case-by-case basis and will be reserved for egregious violations. Violations involving inaccurate or incomplete information or the failure to provide significant information identified by a licensee normally will be categorized based on the guidance herein, in Section IV "Severity of Violations," and in Supplement VII.

The Commission recognizes that oral information may in some situations be inherently less reliable than written submittals because of the absence of an opportunity for reflection and management review. However, the Commission must be able to rely on oral communications from licensee officials concerning significant information. Therefore, in determining whether to take enforcement action for an oral statement, consideration may be given to such factors as (1) the degree of knowledge that the communicator should have had, regarding the matter, in view of his or her position, training, and experience, (2) the opportunity and time available prior to the communication to assure the accuracy or completeness of the information, (3) the degree of intent or negligence, if any, involved, (4) the formality of the communication, (5) the reasonableness of NRC reliance on the information, (6) the importance of the information which was wrong or not provided, and (7) the reasonableness of the explanation for not providing complete and accurate information.

Absent at least careless disregard, an incomplete or inaccurate unsworn oral statement normally will not be subject to enforcement action unless it involves significant information provided by a licensee official. However, enforcement action may be taken for an unintentionally incomplete or inaccurate oral statement provided to the NRC by a licensee official or others on behalf of a licensee, if a record was made of the oral information and provided to the licensee thereby permitting an opportunity to correct the oral information, such as if a transcript of the communication or meeting summary containing the error was made available to the licensee and was not subsequently corrected in a timely manner.

When a licensee has corrected inaccurate or incomplete information, the decision to issue a Notice of Violation for the initial inaccurate or incomplete information normally will be dependent on the circumstances, including the ease of detection of the error, the timeliness of the correction, whether the NRC or the licensee identified the problem with the communication, and whether the NRC relied on the information prior to the correction. Generally, if the matter was promptly identified and corrected by the licensee prior to reliance by the NRC, or before the NRC raised a question about the information, no enforcement action will be taken for the initial inaccurate or incomplete information. On the other hand, if the misinformation is identified after the NRC relies on it, or after some question is raised regarding the accuracy of the information, then some enforcement action normally will be taken even if it is in fact corrected. However, if the initial submittal was accurate when made but later turns out to be erroneous because of newly discovered information or advance in technology, a citation normally would not be appropriate if, when the new

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Section 11s of the AEA to include individuals, a variety of organizations, and any representatives or agents. This gives the Commission authority to impose civil penalties on employees of licensees or on separate entities when a violation of a requirement directly imposed on them is committed.

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information became available or the advancement in technology was made, the initial submittal was corrected.

The failure to correct inaccurate or incomplete information which the licensee does not identify as significant normally will not constitute a separate violation. However, the circumstances surrounding the failure to correct may be considered relevant to the determination of enforcement action for the initial inaccurate or incomplete statement. For example, an unintentionally inaccurate or incomplete submission may be treated as a more severe matter if the licensee later determines that the initial submittal was in error and does not correct it or if there were clear opportunities to identify the error. If information not corrected was recognized by a licensee as significant, a separate citation may be made for the failure to provide significant information. In any event, in serious cases where the licensee's actions in not correcting or providing information raise questions about its commitment to safety or its fundamental trustworthiness, the Commission may exercise its authority to issue orders modifying, suspending, or revoking the license. The Commission recognizes that enforcement determinations must be made on a case-by-case basis, taking into consideration the issues described in this section.

X. Enforcement Action Against Non-Licensees

The Commission's enforcement policy is also applicable to non-licensees, including employees of licensees, to contractors and subcontractors, and to employees of contractors and subcontractors, who knowingly provide components, equipment, or other goods or services that relate to a licensee's activities subject to NRC regulation. The prohibitions and sanctions for any of these persons who engage in deliberate misconduct or submission of incomplete or inaccurate information are provided in the rule on deliberate misconduct, e.g., 10 CFR 30.10 and 50.5.

Vendors of products or services provided for use in nuclear activities are subject to certain requirements designed to ensure that the products or services supplied that could affect safety are of high quality. Through procurement contracts with reactor licensees, vendors may be required to have quality assurance programs that meet applicable requirements including 10 CFR part 50, appendix B, and 10 CFR part 71, subpart H. Vendors supplying products or services to reactor, materials, and 10 CFR part 71 licensees are subject to the requirements of 10 CFR part 21 regarding reporting of defects in basic components.

When inspections determine that violations of NRC requirements have occurred, or that vendors have failed to fulfill contractual commitments (e.g., 10 CFR part 50, appendix B) that could adversely affect the quality of a safety significant product or service, enforcement action will be taken. Notices of Violation and civil penalties will be used, as appropriate, for licensee failures to ensure that their vendors have programs that meet applicable requirements. Notices of Violation will be issued for vendors that violate 10 CFR part 21. Civil penalties will be imposed against individual directors or responsible officers of a vendor organization who knowingly and consciously fail to provide the notice required by 10 CFR 21.21(b)(1). Notices of Nonconformance will be used for vendors which fail to meet commitments related to NRC activities.

XI. Referrals to the Department of Justice

Alleged or suspected criminal violations of the Atomic Energy Act (and of other relevant Federal laws) are referred to the Department of Justice (DOJ) for investigation. Referral to the DOJ does not preclude the NRC from taking other enforcement action under this policy. However, enforcement actions will be coordinated with the DOJ in accordance with the Memorandum of Understanding between the NRC and the DOJ, 53 FR 50317 (December 14, 1988).

XII. Public Disclosure of Enforcement Actions

Enforcement actions and licensees' responses, in accordance with 10 CFR 2.790, are publicly available for inspection. In addition, press releases are generally issued for orders and civil penalties and are issued at the same time the order or proposed imposition of the civil penalty is issued. In addition, press releases are usually issued when a proposed civil penalty is withdrawn or substantially mitigated by some amount. Press releases are not normally issued for Notices of Violation that are not accompanied by orders or proposed civil penalties.

XIII. Reopening Closed Enforcement Actions

If significant new information is received or obtained by NRC which indicates that an enforcement sanction was incorrectly applied, consideration may be given, dependent on the circumstances, to reopening a closed enforcement action to increase or decrease the severity of a sanction or to correct the record. Reopening decisions will be made on a case-by-case basis, are expected to occur rarely, and require the specific approval of the appropriate Deputy Executive Director.

Supplement I—Reactor Operations

This supplement provides examples of violations in each of the five severity levels as guidance in determining the appropriate severity level for violations in the area of reactor operations.

A. Severity Level I—Violations involving for example:

1. A Safety Limit, as defined in 10 CFR 50.36 and the Technical Specifications being exceeded;

2. A system [9] designed to prevent or mitigate a serious safety event not being able to perform its intended safety function [10] when actually called upon to work;

3. An accidental criticality; or

4. A licensed operator at the controls of a nuclear reactor, or a senior operator, directing licensed activities, involved in procedural errors which result in, or exacerbate the consequences of, an alert or higher level emergency and who, as a result of subsequent testing, receives a confirmed positive test result for drugs or alcohol.

B. Severity Level II—Violations involving for example:

1. A system designed to prevent or mitigate serious safety events not being able to perform its intended safety function;

2. A licensed operator involved in the use, sale, or possession of illegal drugs or the consumption of alcoholic beverages, within the protected area; or

3. A licensed operator at the control of a nuclear reactor, or a senior operator directing licensed activities, involved in procedural errors and who, as a result of subsequent testing, receives a confirmed positive test result for drugs or alcohol.

C. Severity Level III—Violations involving for example:

1. A significant failure to comply with the Action Statement for a Technical Specification Limiting Condition for Operation where the appropriate action was not taken within the required time, such as:

(a) In a pressurized water reactor, in the applicable modes, having one high-pressure safety injection pump inoperable for a period in excess of that allowed by the action statement; or

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[9] The term "system" as used in these supplements, includes administrative and managerial control systems, as well as physical systems.

[10] "Intended safety function" means the total safety function, and is not directed toward a loss of redundancy. A loss of one subsystem does not defeat the intended safety function as long as the other subsystem is operable.

(b) In a boiling water reactor, one primary containment isolation valve inoperable for a period in excess of that allowed by the action statement.

2. A system designed to prevent or mitigate a serious safety event:

(a) Not being able to perform its intended function under certain conditions (e.g., safety system not operable unless offsite power is available; materials or components not environmentally qualified); or

(b) Being degraded to the extent that a detailed evaluation would be required to determine its operability (e.g., component parameters outside approved limits such as pump flow rates, heat exchanger transfer characteristics, safety valve lift setpoints, or valve stroke times);

3. Inattentiveness to duty on the part of licensed personnel;

4. Changes in reactor parameters that cause unanticipated reductions in margins of safety;

5. A significant failure to meet the requirements of 10 CFR 50.59, including a failure such that a required license amendment was not sought;

6. A licensee failure to conduct adequate oversight of vendors resulting in the use of products or services that are of defective or indeterminate quality and that have safety significance;

7. A breakdown in the control of licensed activities involving a number of violations that are related (or, if isolated, that are recurring violations) that collectively represent a potentially significant lack of attention or carelessness toward licensed responsibilities; or

8. A licensed operator's confirmed positive test for drugs or alcohol that does not result in a Severity Level I or II violation.

9. Equipment failures caused by inadequate or improper maintenance that substantially complicates recovery from a plant transient.

D. Severity Level IV—Violations involving for example:

1. A less significant failure to comply with the Action Statement for a Technical Specification Limiting Condition for Operation where the appropriate action was not taken within the required time, such as:

(a) In a pressurized water reactor, a 5% deficiency in the required volume of the condensate storage tank; or

(b) In a boiling water reactor, one subsystem of the two independent MSIV leakage control subsystems inoperable;

2. A failure to meet the requirements of 10 CFR 50.59 that does not result in a Severity Level I, II, or III violation;

3. A failure to meet regulatory requirements that have more than minor safety or environmental significance; or

4. A failure to make a required Licensee Event Report.

E. Severity Level V—Violations that have minor safety or environmental significance.

Supplement II—Part 50 Facility Construction

This supplement provides examples of violations in each of the five severity levels as guidance in determining the appropriate severity level for violations in the area of part 50 facility construction.

A. Severity Level I—Violations involving structures or systems that are completed [11] in such a manner that they would not have satisfied their intended safety related purpose.

B. Severity Level II—Violations involving for example:

1. A breakdown in the Quality Assurance (QA) program as exemplified by deficiencies in construction QA related to more than one work activity (e.g., structural, piping, electrical, foundations). These deficiencies normally involve the licensee's failure to conduct adequate audits or to take prompt corrective action on the basis of such audits and normally involve multiple examples of deficient construction or construction of unknown quality due to inadequate program implementation; or

2. A structure or system that is completed in such a manner that it could have an adverse effect on the safety of operations.

C. Severity Level III—Violations involving for example:

1. A deficiency in a licensee QA program for construction related to a single work activity (e.g., structural, piping, electrical or foundations). This significant deficiency normally involves the licensee's failure to conduct adequate audits or to take prompt corrective action on the basis of such audits, and normally involves multiple examples of deficient construction or construction of unknown quality due to inadequate program implementation;

2. A failure to confirm the design safety requirements of a structure or system as a result of inadequate preoperational test program implementation; or

3. A failure to make a required 10 CFR 50.55(e) report.

D. Severity Level IV—Violations involving failure to meet regulatory requirements including one or more Quality Assurance Criterion not amounting to Severity Level I, II, or III violations that have more than minor safety or environmental significance.

E. Severity Level V—Violations that have minor safety or environmental significance.

Supplement III—Safeguards

This supplement provides examples of violations in each of the five severity levels as guidance in determining the appropriate severity level for violations in the area of safeguards.

A. Severity Level I—Violations involving for example:

1. An act of radiological sabotage in which the security system did not function as required and, as a result of the failure, there was a significant event, such as:

(a) A Safety Limit, as defined in 10 CFR 50.36 and the Technical Specifications, was exceeded;

(b) A system designed to prevent or mitigate a serious safety event was not able to perform its intended safety function when actually called upon to work; or

(c) An accidental criticality occurred;

2. The theft, loss, or diversion of a formula quantity [12] of special nuclear material (SNM); or

3. Actual unauthorized production of a formula quantity of SNM

B. Severity Level II—Violations involving for example:

1. The entry of an unauthorized individual [13] who represents a threat into a vital area [14] from outside the protected area; or

2. The theft, loss or diversion of SNM of moderate strategic significance [15] in which the security system did not function as required; or

3. Actual unauthorized production of SNM.

C. Severity Level III—Violations involving for example:

1. A failure or inability to control access through established systems or procedures, such that an unauthorized individual (i.e., not authorized

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[11] The term "completed" as used in this supplement means completion of construction including review and acceptance by the construction QA organization.

[12] See 10 CFR 73.2 for the definition of "formula quantity."

[13] The term "unauthorized individual" as used in this supplement means someone who was not authorized for entrance into the area in question, or not authorized to enter in the manner entered.

[14] The phrase "vital area" as used in this supplement includes vital areas and material access areas.

[15] See 10 CFR 73.2 for the definition of "special nuclear material of moderate strategic significance."

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unescorted access to protected area) could easily gain undetected access[16] into a vital area from outside the protected area;

2. A failure to conduct any search at the access control point or conducting an inadequate search that resulted in the introduction to the protected area of firearms, explosives, or incendiary devices and reasonable facsimiles thereof that could significantly assist radiological sabotage or theft of strategic SNM;

3. A failure, degradation, or other deficiency of the protected area intrusion detection or alarm assessment systems such that an unauthorized individual who represents a threat could predictably circumvent the system or defeat a specific zone with a high degree of confidence without insider knowledge, or other significant degradation of overall system capability;

4. A significant failure of the safeguards systems designed or used to prevent or detect the theft, loss, or diversion of strategic SNM;

5. A failure to protect or control classified or safeguards information considered to be significant while the information is outside the protected area and accessible to those not authorized access to the protected area;

6. A significant failure to respond to an event either in sufficient time to provide protection to vital equipment or strategic SNM, or with an adeqpate response force;

7. A failure to perform an appropriate evaluation or background investigation so that information relevant to the access determination was not obtained or considered and as a result a person, who would likely not have been granted access by the licensee, if the required investigation or evaluation had been performed, was granted access; or

8. A breakdown in the security program involving a number of violations that are related (or, if isolated, that are recurring violations) that collectively reflect a potentially significant lack of attention or carelessness toward licensed responsibilities.

D. Severity Level IV—Violations involving for example:

1. A failure or inability to control access such that an unauthorized individual (i.e., authorized to protected area but not to vital area) could easily gain undetected access into a vital area from inside the protected area or into a controlled access area;

2. A failure to respond to a suspected event in either a timely manner or with an adequate response force;

3. A failure to implement 10 CFR parts 25 and 95 with respect to the information addressed under section 142 of the Act, and the NRC approved security plan relevant to those parts;

4. A failure to make, maintain, or provide log entries in accordance with 10 CFR 73.71 (c) and (d), where the omitted information (i) is not otherwise available in easily retrievable records, and (ii) significantly contributes to the ability of either the NRC or the licensee to identify a programmatic breakdown;

5. A failure to conduct a proper search at the access control point;

6. A failure to properly secure or protect classified or safeguards information inside the protected area which could assist an individual in an act of radiological sabotage or theft of strategic SNM where the information was not removed from the protected area;

7. A failure to control access such that an opportunity exists that could allow unauthorized and undetected access into the protected area but which was neither easily or likely to be exploitable;

8. A failure to conduct an adequate search at the exit from a material access area;

9. A theft or loss of SNM of low strategic significance that was not detected within the time period specified in the security plan, other relevant document, or regulation; or

10. Other violations that have more than minor safeguards significance.

E. Severity Level V—Violations that have minor safeguards significance.

Supplement IV—Health Physics (10 CFR Part 20)

This supplement provides examples of violations in each of the five severity levels as guidance in deteming the appropriate severity level for violations in the area of health physics, 10 CFR part 20[17]. Examples A through E are provided to accompany §§ 20.1–20.601. Examples F through J are provided to accompany §§ 20.1001–20.2401.

Sections 20.1–20.601

A. Severity Level I—Violations involving for example:

1. A single exposure of a worker in excess of 25 rems of radiation to the whole body, 150 rads to the skin of the whole body, or 375 rads to the feet, ankles, hands, or forearms;

2. An annual whole body exposure of a member of the public in excess of 2.5 rems of radiation;

3. A release of radioactive material to an unrestricted area in excess of ten times the limits of 10 CFR 20.106[18];

4. Disposal of licensed material in quantities or concentrations in excess of ten times the limits of 10 CFR 20.303; or

5. An exposure of a worker in restricted areas of ten times the limits of 10 CFR 20.103.

B. Severity Level II—Violations involving for example:

1. A single exposure of a worker in excess of 5 rems of radiation to the whole body, 30 rems to the skin of the whole body, or 75 rems to the feet, ankles, hands or forearms;

2. An annual whole body exposure of a member of the public in excess of 0.5 rems of radiation;

3. A release of radioactive material to an unrestricted area in excess of five times the limits of 10 CFR 20.106;

4. A failure to make an immediate notification as required by 10 CFR 20.403 (a)(1) and (a)(2);

5. A disposal of licensed material in quantities or concentrations in excess of five times the limits of 10 CFR 20.303; or

6. An exposure of a worker in restricted areas in excess of five times the limits of 10 CFR 20.103.

C. Severity Level III—Violations involving for example:

1. A single exposure of a worker in excess of 3 rems of radiation to the whole body, 7.5 rems to the skin of the whole body, or 18.75 rems to the feet, ankles, hands or forearms;

2. A radiation level in an unrestricted area such that an individual could receive greater than 100 millirem in a one hour period or 500 millirem in any seven consecutive days;

3. A failure to make a 24-hour notification as required by 10 CFR 20.403(b), or an immediate notification required by 10 CFR 20.402(a);

4. A substantial potential for an exposure or release in excess of 10 CFR part 20 whether or not such exposure or release occurs;

5. A release of radioactive material to an unrestricted area in excess of the limits of 10 CFR 20.106;

6. An improper disposal of licensed material not covered in Severity Levels I or II;

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[16] In determining whether access can be easily gained, factors such as predictability, identifiability, and ease of passage should be considered.

[17] Personnel overexposures and associated violations incurred during a life-saving or other emergency response effort will be treated on a case-by-case basis.

[18] The reference to the limits of 10 CFR 20.106 as used in this supplement (Items A.3, B.3, and C.5) does not apply to the EPA generally applicable environmental radiation standards mentioned in § 20.106(g).

7. An exposure of a worker in restricted areas in excess of the limits of 10 CFR 20.103;

8. A release for unrestricted use of contaminated or radioactive material or equipment that poses a realistic potential for significant exposure to members of the public, or that reflects a programmatic (rather than isolated) weakness in the radiation control program;

9. A cumulative worker exposure above regulatory limits when such cumulative exposure reflects a programmatic, rather than an isolated weakness in radiation protection;

10. Conduct of licensee activities by a technically unqualified person;

11. A significant failure to control licensed material; or

12. A breakdown in the radiation safety program involving a number of violations that are related (or, if isolated, that are recurring) that collectively represent a potentially significant lack of attention or carelessness toward licensed responsibilities.

D. Severity Level IV—Violations involving for example:

1. Exposures in excess of the limits of 10 CFR 20.101 not constituting Severity Level I, II, or III violations;

2. A radiation level in an unrestricted area such that an individual could receive greater than 2 millirem in a one-hour period or 100 millirem in any seven consecutive days;

3. A failure to make a 30-day notification required by 10 CFR 20.405;

4. A failure to make a follow-up written report as required by 10 CFR 20.402(b), 20.408, and 20.409; or

5. Any other matter that has more than minor safety or environmental significance.

E. Severity Level V—Violations that have minor safety or environmental significance.

Sections 20.1001—20.2401

F. Severity Level I—Violations involving for example:

1. A radiation exposure during any year of a worker in excess of 25 rems total effective dose equivalent, 75 rems to the lens of the eye, or 250 rads to the skin of the whole body, or to the feet, ankles, hands or forearms, or to any other organ or tissue;

2. A radiation exposure over the gestation period of the embryo/fetus of a declared pregnant woman in excess of 2.5 rems total effective dose equivalent;

3. A radiation exposure during any year of a minor in excess of 2.5 rems total effective dose equivalent, 7.5 rems to the lens of the eye, or 25 rems to the skin of the whole body, or to the feet, ankles, hands or forearms, or to any other organ or tissue;

4. An annual exposure of a member of the public in excess of 1.0 rem total effective dose equivalent;

5. A release of radioactive material to an unrestricted area at concentrations in excess of 50 times the limits for members of the public as described in 10 CFR 20.1302(b)(2)(i); or

6. Disposal of licensed material in quantities or concentrations in excess of 10 times the limits of 10 CFR 20.2003.

G. Severity Level II—Violations involving for example:

1. A radiation exposure during any year of a worker in excess of 10 rems total effective dose equivalent, 30 rems to the lens of the eye, or 100 rems to the skin of the whole body, or to the feet, ankles, hands or forearms, or to any other organ or tissue;

2. A radiation exposure over the gestation period of the embryo/fetus of a declared pregnant woman in excess of 1.0 rem total effective dose equivalent;

3. A radiation exposure during any year of a minor in excess of 1 rem total effective dose equivalent; 3.0 rems to the lens of the eye, or 10 rems to the skin of the whole body, or to the feet, ankles, hands or forearms, or to any other organ or tissue;

4. An annual exposure of a member of the public in excess of 0.5 rem total effective dose equivalent;

5. A release of radioactive material to an unrestricted area at concentrations in excess of 10 times the limits for members of the public as described in 10 CFR 20.1302(b)(2)(i) (except when operation up to 0.5 rem a year has been approved by the Commission under § 20.1301(c));

6. Disposal of licensed material in quantities or concentrations in excess of five times the limits of 10 CFR 20.2003; or

7. A failure to make an immediate notification as required by 10 CFR 20.2202 (a)(1) or (a)(2).

H. Severity Level III—Violations involving for example:

1. A radiation exposure during any year of a worker in excess of 5 rems total effective dose equivalent, 15 rems to the lens of the eye, or 50 rems to the skin of the whole body or to the feet, ankles, hands or forearms, or to any other organ or tissue;

2. A radiation exposure over the gestation period of the embryo/fetus of a declared pregnant woman in excess of 0.5 rem total effective dose equivalent (except when doses are in accordance with the provisions of § 20.1208(d));

3. A radiation exposure during any year of a minor in excess of 0.5 rem total effective dose equivalent; 1.5 rems to the lens of the eye, or 5 rems to the skin of the whole body, or to the feet, ankles, hands or forearms, or to any other organ or tissue;

4. A worker exposure above regulatory limits when such exposure reflects a programmatic (rather than an isolated) weakness in the radiation control program;

5. An annual exposure of a member of the public in excess of 0.1 rem total effective dose equivalent (except when operation up to 0.5 rem a year has been approved by the Commission under § 20.1301(c));

6. A release of radioactive material to an unrestricted area at concentrations in excess of two times the effluent concentration limits referenced in 10 CFR 20.1302(b)(2)(i) (except when operation up to 0.5 rem a year has been approved by the Commission under § 20.1301(c));

7. A failure to make a 24-hour notification required by 10 CFR 20.2202(b) or an immediate notification required by 10 CFR 20.2201(a)(1)(i);

8. A substantial potential for exposures or releases in excess of the applicable limits in 10 CFR part 20 §§ 20.1001–20.2401 whether or not an exposure or release occurs;

9. Disposal of licensed material not covered in Severity Levels I or II;

10. A release for unrestricted use of contaminated or radioactive material or equipment that poses a realistic potential for exposure of the public to levels or doses exceeding the annual dose limits for members of the public, or that reflects a programmatic (rather than an isolated) weakness in the radiation control program;

11. Conduct of licensee activities by a technically unqualified person;

12. A significant failure to control licensed material; or

13. A breakdown in the radiation safety program involving a number of violations that are related (or, if isolated, that are recurring) that collectively represent a potentially significant lack of attention or carelessness toward licensed responsibilities.

I. Severity Level IV—Violations involving for example:

1. Exposures in excess of the limits of 10 CFR 20.1201, 20.1207, or 20.1208 not constituting Severity Level I, II, or III violations;

2. A release of radioactive material to an unrestricted area at concentrations in excess of the limits for members of the public as referenced in 10 CFR 20.1302(b)(2)(i) (except when operation up to 0.5 rem a year has been approved by the Commission under § 20.1301(c));

3. A radiation dose rate in an unrestricted or controlled area in excess of 0.002 rem in any 1 hour (2 millirem/hour) or 50 millirems in a year;

4. Failure to maintain and implement radiation programs to keep radiation exposures as low as is reasonably achievable;

5. Doses to a member of the public in excess of any EPA generally applicable environmental radiation standards, such as 40 CFR part 190;

6. A failure to make the 30-day notification required by 10 CFR 20.2201(a)(1)(ii) or 20.2203(a);

7. A failure to make a timely written report as required by 10 CFR 20.2201(b), 20.2204, or 20.2206; or

8. Any other matter that has more than a minor safety, health, or environmental significance.

J. Severity Level V—Violations that are of a minor safety, health, or environmental significance.

Supplement V—Transportation

This supplement provides examples of violations in each of the five severity levels as guidance in determining the appropriate severity level for violations in the area of NRC transportation requirements [19].

A. Severity Level I—Violations involving for example:

1. Failure to meet transportation requirements that resulted in loss of control of radioactive material with a breach in package integrity such that the material caused a radiation exposure to a member of the public and there was clear potential for the public to receive more than .1 rem to the whole body;

2. Surface contamination in excess of 50 times the NRC limit; or

3. External radiation levels in excess of 10 times the NRC limit.

B. Severity Level II—Violations involving for example:

1. Failure to meet transportation requirements that resulted in loss of control of radioactive material with a breach in package integrity such that there was a clear potential for the member of the public to receive more than .1 rem to the whole body;

2. Surface contamination in excess of 10, but not more than 50 times the NRC limit;

3. External radiation levels in excess of five, but not more than 10 times the NRC limit; or

4. A failure to make required initial notifications associated with Severity Level I or II violations.

C. Severity Level III—Violations involving for example:

1. Surface contamination in excess of five but not more than 10 times the NRC limit;

2. External radiation in excess of one but not more than five times the NRC limit;

3. Any noncompliance with labeling, placarding, shipping paper, packaging, loading, or other requirements that could reasonably result in the following:

(a) A significant failure to identify the type, quantity, or form of material;

(b) A failure of the carrier or recipient to exercise adequate controls; or

(c) A substantial potential for either personnel exposure or contamination above regulatory limits or improper transfer of material;

4. A failure to make required initial notification associated with Severity Level III violations; or

5. A breakdown in the licensee's program for the transportation of licensed material involving a number of violations that are related (or, if isolated, that are recurring violations) that collectively reflect a potentially significant lack of attention or carelessness toward licensed responsibilities.

D. Severity Level IV—Violations involving for example:

1. A breach of package integrity without external radiation levels exceeding the NRC limit or without contamination levels exceeding five times the NRC limits;

2. Surface contamination in excess of but not more than five times the NRC limit;

3. A failure to register as an authorized user of an NRC-Certified Transport package;

4. A noncompliance with shipping papers, marking, labeling, placarding packaging or loading not amounting to a Severity Level I, II, or III violation;

5. A failure to demonstrate that packages for special form radioactive material meets applicable regulatory requirements;

6. A failure to demonstrate that packages meet DOT Specifications for 7A Type A packages; or

7. Other violations that have more than minor safety or environmental significance.

E. Severity Level V—Violations that have minor safety or environmental significance.

Supplement VI—Fuel Cycle and Materials Operations

This supplement provides examples of violations in each of the five severity levels as guidance in determining the appropriate severity level for violations in the area of fuel cycle and materials operations.

A. Severity Level I—Violations involving for example:

1. Radiation levels, contamination levels, or releases that exceed 10 times the limits specified in the license;

2. A system designed to prevent or mitigate a serious safety event not being operable when actually required to perform its design function;

3. A nuclear criticality accident; or

4. A failure to follow the procedures of the quality management program, required by § 35.32, that results in a death or serious injury (e.g., substantial organ impairment) to a patient.

B. Severity Level II—Violations involving for example:

1. Radiation levels, contamination levels, or releases that exceed five times the limits specified in the license;

2. A system designed to prevent or mitigate a serious safety event being inoperable; or

3. A failure to follow the procedures of the quality management program, required by § 35.32, that results in substantial overexposure (e.g., 50% greater than the prescribed dose) to a patient.

C. Severity Level III—Violations involving for example:

1. A failure to control access to licensed materials for radiation purposes as specified by NRC requirements;

2. Possession or use of unauthorized equipment or materials in the conduct of licensee activities which degrades safety;

3. Use of radioactive material on humans where such use is not authorized;

4. Conduct of licensed activities by a technically unqualified person;

5. Radiation levels, contamination levels, or releases that exceed the limits specified in the license;

6. A substantial failure to implement the quality management program as required by § 35.32; failure to follow the procedures of the quality management program that results in a misadministration or failure to report a misadministration;

7. A breakdown in the control of licensed activities involving a number of violations that are related (or, if isolated, that are recurring violations) that collectively represent a potentially

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[19] Some transportation requirements are applied to more than one licensee involved in the same activity such as a shipper and a carrier. When a violation of such a requirement occurs, enforcement action will be directed against the responsible licensee which, under the circumstances of the case, may be one or more of the licensees involved.

significant lack of attention or carelessness toward licensed responsibilities;

8. A failure, during radiographic operations, to have present or to use radiographic equipment, radiation survey instruments, and/or personnel monitoring devices as required by 10 CFR part 34;

9. A failure to submit an NRC Form 241 in accordance with the requirements in § 150.20 of 10 CFR part 150; or

10. A failure to receive required NRC approval prior to the implementation of a change in licensed activities that has radiological or programmatic significance, such as, a change in ownership; lack of an RSO or replacement of an RSO with an unqualified individual; a change in the location where licensed activities are being conducted, or where licensed material is being stored where the new facilities do not meet safety guidelines; or a change in the quantity or type of radioactive material being processed or used that has radiological significance.

D. Severity Level IV—Violations involving for example:

1. A failure to maintain patients hospitalized who have cobalt-60, cesium-137, or iridium-192 implants or to conduct required leakage or contamination tests, or to use properly calibrated equipment;

2. Other violations that have more than minor safety or environmental significance; or

3. A failure to follow the procedures of the quality management program, or failure to conduct the annual review or failure to take corrective actions as required by § 35.32; or

4. A failure to keep the records required by §§ 35.32 or 35.33.

E. Severity Level V—Violations that have minor safety or environmental significance.

Supplement VII—Miscellaneous Matters

This supplement provides examples of violations in each of the five severity levels as guidance in determining the appropriate severity level for violations involving miscellaneous matters.

A. Severity Level I—Violations involving for example:

1. Inaccurate or incomplete information [20] that is provided to the NRC (a) deliberately with the knowledge of a licensee official that the information is incomplete or inaccurate, or (b) if the information, had it been complete and accurate at the time provided, likely would have resulted in regulatory action such as an immediate order required by the public health and safety.

2. Incomplete or inaccurate information that the NRC requires be kept by a licensee that is (a) incomplete or inaccurate because of falsification by or with the knowledge of a licensee official, or (b) if the information, had it been complete and accurate when reviewed by the NRC, likely would have resulted in regulatory action such as an immediate order required by public health and safety considerations;

3. Information that the licensee has identified as having significant implications for public health and safety or the common defense and security ("significant information identified by a licensee") and is deliberately withheld from the Commission;

4. Action by senior corporate management in violation of 10 CFR 50.7 or similar regulations against an employee;

5. A knowing and intentional failure to provide the notice required by 10 CFR part 21; or

6. A failure to substantially implement the required fitness-for-duty program.[21]

B. Severity Level II—Violations involving for example:

1. Inaccurate or incomplete information that is provided to the NRC (a) by a licensee official because of careless disregard for the completeness or accuracy of the information, or (b) if the information, had it been complete and accurate at the time provided, likely would have resulted in regulatory action such as a show cause order or a different regulatory position;

2. Incomplete or inaccurate information that the NRC requires be kept by a licensee which is (a) incomplete or inaccurate because of careless disregard for the accuracy of the information on the part of a licensee official, or (b) if the information, had it been complete and accurate when reviewed by the NRC, likely would have resulted in regulatory action such as a show cause order or a different regulatory position;

3. "Significant information identified by a licensee" and not provided to the Commission because of careless disregard on the part of a licensee official;

4. An action by plant management above first-line supervision in violation of 10 CFR 50.7 or similar regulations against an employee;

5. A failure to provide the notice required by 10 CFR part 21;

6. A failure to remove an individual from unescorted access who has been involved in the sale, use, or possession of illegal drugs within the protected area or take action for on duty misuse of alcohol, prescription drugs, or over-the-counter drugs;

7. A failure to take reasonable action when observed behavior within the protected area or credible information concerning activities within the protected area indicates possible unfitness for duty based on drug or alcohol use; or

8. A deliberate failure of the licensee's Employee Assistance Program (EAP) to notify licensee's management when EAP's staff is aware that an individual's condition may adversely affect safety related activities.

C. Severity Level III—Violations involving for example:

1. Incomplete or inaccurate information that is provided to the NRC (a) because of inadequate actions on the part of licensee officials but not amounting to a Severity Level I or II violation, or (b) if the information, had it been complete and accurate at the time provided, likely would have resulted in a reconsideration of a regulatory position or substantial further inquiry such as an additional inspection or a formal request for information;

2. Incomplete or inaccurate information that the NRC requires be kept by a licensee that is (a) incomplete or inaccurate because of inadequate actions on the part of licensee officials but not amounting to a Severity Level I or II violation, or (b) if the information, had it been complete and accurate when reviewed by the NRC, likely would have resulted in a reconsideration of a regulatory position or substantial further inquiry such as an additional inspection or a formal request for information;

3. A failure to provide "significant information identified by a licensee" to the Commission and not amounting to a Severity Level I or II violation;

4. An action by first-line supervision in violation of 10 CFR 50.7 or similar regulations against an employee;

5. An inadequate review or failure to review such that, if an appropriate review had been made as required, a 10 CFR part 21 report would have been made;

6. A failure to complete a suitable inquiry on the basis of 10 CFR part 26, keep records concerning the denial of

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[20] In applying the examples in this supplement regarding inaccurate or incomplete information and records, reference should also be made to the guidance in Section IX, "Inaccurate and Incomplete Information," and to the definition of "licensee official" contained in Section IV.C.

[21] The example for violations for fitness-for-duty relate to violations of 10 CFR part 26.

access, or respond to inquiries concerning denials of access so that, as a result of the failure, a person previously denied access for fitness-for-duty reasons was improperly granted access;

7. A failure to take the required action for a person confirmed to have been tested positive for illegal drug use or take action for onsite alcohol use; not amounting to a Severity Level II violation;

8. A failure to assure, as required, that contractors or vendors have an effective fitness-for-duty program; or

9. A breakdown in the fitness-for-duty program involving a number of violations of the basic elements of the fitness-for-duty program that collectively reflect a significant lack of attention or carelessness towards meeting the objectives of 10 CFR 26.10.

D. Severity Level IV—Violations involving for example:

1. Incomplete or inaccurate information of more than minor significance that is provided to the NRC but not amounting to a Severity Level I, II, or III violation;

2. Information that the NRC requires be kept by a licensee and that is incomplete or inaccurate and of more than minor significance but not amounting to a Severity Level I, II, or III violation;

3. An inadequate review or failure to review under 10 CFR part 21 or other procedural violations associated with 10 CFR part 21 with more than minor safety significance;

4. Isolated failures to meet basic elements of the fitness-for-duty program not involving a Severity Level I, II, or III violation; or

5. A failure to report acts of licensed operators or supervisors pursuant to 10 CFR 26.73.

E. Severity Level V—Violations involving for example:

1. Incomplete or inaccurate information that is provided to the Commission and the incompleteness or inaccuracy is of minor significance;

2. Information that the NRC requires be kept by a licensee that is incomplete or inaccurate and the incompleteness or inaccuracy is of minor significance;

3. Minor procedural requirements of 10 CFR part 21; or

4. Minor violations of fitness-for-duty requirements.

Supplement VIII—Emergency Preparedness

This supplement provides examples of violations in each of the five severity levels as guidance in determining the appropriate severity level for violations in the area of emergency preparedness. It should be noted that citations are not normally made for violations involving emergency preparedness occurring during emergency exercises. However, where exercises reveal (i) training, procedural, or repetitive failures for which corrective actions have not been taken, (ii) an overall concern regarding the licensee's ability to implement its plan in a manner that adequately protects public health and safety, or (iii) poor self critiques of the licensee's exercises, enforcement action may be appropriate.

A. Severity Level I—Violations involving for example:

In a general emergency, licensee failure to promptly (1) correctly classify the event, (2) make required notifications to responsible Federal, State, and local agencies, or (3) respond to the event (e.g., assess actual or potential offsite consequences, activate emergency response facilities, and augment shift staff.)

B. Severity Level II—Violations involving for example:

In a site emergency, licensee failure to promptly (1) correctly classify the event, (2) make required notifications to responsible Federal, State, and local agencies, or (3) respond to the event (e.g., assess actual or potential offsite consequences, activate emergency response facilities, and augment shift staff); or

2. A licensee failure to meet or implement one emergency planning standard involving assessment or notification; or

B. Severity Level III—Violations involving for example:

In an alert, licensee failure to promptly (1) correctly classify the event, (2) make required notifications to responsible Federal, State, and local agencies, or (3) respond to the event (e.g., assess actual or potential offsite consequences, activate emergency response facilities, and augment shift staff);

2. A licensee failure to meet or implement more than one emergency planning standard involving assessment or notification.

3. A breakdown in the control of licensed activities involving a number of violations that are related (or, if isolated, that are recurring violations) that collectively represent a potentially significant lack of attention or carelessness toward licensed responsibilities.

D. Severity Level IV—Violations involving for example:

A licensee failure to meet or implement any emergency planning standard or requirement not directly related to assessment and notification.

E. Severity Level V—Violations that have minor safety or environmental significance.

Dated at Rockville, MD., this 6th day of February, 1992.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 92-3604 Filed 2-14-92; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 303

RIN 3064-AA82

Applications, Requests, Submittals, Delegations of Authority, and Acquisition of Control

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Final rule.

SUMMARY: The FDIC is amending its procedural regulations respecting applications, requests, submittals, delegations of authority, and notices of acquisition of control (12 CFR part 303) to reflect a change necessitated by section 501 of the Federal Deposit Insurance Corporation Improvement Act of 1991 ("FDICIA"). The amendments delegate to the Director of the Division of Supervision or his designee the authority to approve transactions under section 5(d)(3) of the Federal Deposit Insurance Act (commonly referred to as "Oakar" transactions), and specify the manner in which such approval should be sought.

EFFECTIVE DATE: February 18, 1992.

FOR FURTHER INFORMATION CONTACT: Karl R. Krichbaum, Division of Supervision, (202) 898-6758, or Laura M. Jones, Attorney, Legal Division, (202) 898-7270, FDIC, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

Reason for Adoption Without Prior Notice and Comment

The amendments are being published in final form without opportunity for public comment under the authority of 5 U.S.C. 553(b)(A) (Administrative Procedure Act) which exempts from required publication for comment interpretive rules, general statements of policy, and rules of agency practice and procedure. Immediate adoption of this final rule is further necessary to facilitate the prompt approval of pending and expected applications for section 5(d)(3) transactions. The amendments are being made immediately effective since the requirement found in 5 U.S.C. 553(d) that substantive rules be published not less than 30 days prior to their effective date is inapplicable. Because the amendments concern the FDIC's delegations of authority and application process, the amendments pertain solely to the FDIC's internal policies and procedures. Further, the amendments are not substantive rules. The requirements, therefore, of publication for comment, and that substantive rules be published not less than 30 days prior to their effective date are inapplicable.

Background

As amended by FDICIA, section 5(d)(3) of the Federal Deposit Insurance Act permits Bank Insurance Fund ("BIF") member institutions to consolidate or merge with or acquire the assets or liabilities of Savings Association Insurance Fund ("SAIF") member institutions, and permits SAIF-member institutions to consolidate or merge with, or acquire the assets or liabilities of BIF-member institutions. These transactions are commonly referred to as "Oakar" transactions. As a requirement for participation in an Oakar transaction, section 5(d)(3) requires the approval of the primary regulator of the acquiring, assuming, or resulting institution.

As there are applications for approval of Oakar transactions pending, and more applications are expected, the Board finds it advisable to delegate its authority to approve such transactions to the Director of the Division of Supervision or his designee. By so delegating its authority, the Board generally parallels the process already in place for approvals required under the Bank Merger Act. The Board finds it is prudent to designate the same individual to approve applications required under both section 5(d)(3) and under the Bank Merger Act.

Additionally, the Board finds that requests for such approval should be submitted in a uniform manner. To that end, the Board finds that such requests for approval should be submitted by attaching a transmittal letter to the merger application stating that the transaction falls under section 5(d)(3) and the transaction will not result in the transfer of insurance for any deposits from one deposit insurance fund to the other.

Regulatory Flexibility Analysis

Because no notice of proposed rulemaking is required under section 553 of the Administrative Procedure Act or any other law, the Regulatory Flexibility Act (5 U.S.C. 601–602) does not apply.

List of Subjects in 12 CFR Part 303

Administrative practice and procedure, Authority delegations, Bank deposit insurance, Banks/banking, Reporting and recordkeeping requirements, Savings associations.

For the reasons set out in the preamble, title 12, part 303 of the Code of Federal Regulations is amended as follows:

PART 303—APPLICATIONS, REQUESTS, SUBMITTALS, DELEGATIONS OF AUTHORITY, AND NOTICES OF ACQUISITION OF CONTROL

1. The authority citation for part 303 continues to read as follows:

Authority: 12 U.S.C. 378, 1813, 1815, 1816, 1817(j), 1818, 1819 ("Seventh" and "Tenth"), 1828, 1831(e); 15 U.S.C. 1607.

2. Section 303.3(d) is redesignated as paragraph (e) and a new paragraph (d) is added to read as follows:

§ 303.3 Application for conversion, merger, consolidation, assumption and sale of asset transactions.

* * * * *

(d) *Applications for approval of transactions under section 5(d)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)(3)).* Application by an insured state nonmember bank for consent of the Corporation to enter into a transaction under section 5(d)(3) of the Federal Deposit Insurance Act shall be made by submitting a letter accompanying the merger application certifying:

(1) That the application for approval is for a transaction under section 5(d)(3), and

(2) That the transaction will not result in the transfer of any insured depository institution's Federal deposit insurance from one federal deposit insurance fund to the other federal deposit insurance fund.

3. Section 303.7(f)(5) is redesignated as 303.7(f)(6) and a new paragraph (f)(5) is added to read as follows:

§ 303.7 Delegation of Authority to the Director of the Division of Supervision and to the associate directors, regional directors and deputy regional directors to act on certain applications, requests, and notices of acquisition of control.

* * * * *

(f) * * *

(5) Authority is delegated to the Director and, where confirmed in writing by the Director, to an associate director, or to the appropriate regional director or deputy regional director to:

(i) Determine whether applicants requesting approval under section 5(d)(3)(A)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)(3)(A)(i)) meet all minimum capital requirements contained in 12 CFR part 325;

(ii) Approve applications where the applicant satisfies the requirements specified in paragraph (f)(5)(i) of this section and the requirements of section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)); and

(iii) Deny such applications if the requirements specified in paragraph (f)(5)(i) of this section are not met.

* * * * *

By order of the Board of Directors.

Dated at Washington, DC, this 10th day of February, 1992.

Federal Deposit Insurance Corporation.
Hoyle L. Robinson.
Executive Secretary.

[FR Doc. 92-3677 Filed 2-14-92; 8:45 am]

BILLING CODE 6714-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 250

[Docket No. RM87-5-009]

Inquiry Into Alleged Anticompetitive Practices Related to Marketing Affiliates of Interstate Pipelines; Order Denying Rehearing

Issued February 10, 1992.

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Final rule; order denying rehearing.

SUMMARY: On December 20, 1991, the Commission issued Order No. 497–C (III FERC Stats. and Regs. ¶ 30,934, 57 FR 9 (January 2, 1992)) which extended Order No. 497's reporting requirements for an additional year, from December 31, 1991, to December 31, 1992, and amended the final rule to reduce the number of paper printouts of the FERC Form No. 592 information that pipelines are required to file. Requests for rehearing of Order No. 497–C were filed by the Enron Interstate Pipeline Companies and the Affiliated Marketers Group on January 10, 1992, and January 21, 1992, respectively. This order denies their requests for rehearing.

FOR FURTHER INFORMATION CONTACT: David Faerberg, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 208–1275.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397. To access CIPS, set your communications software to use 300, 1200 or 2400 baud, full duplex, no parity, 8 data bits and 1 stop bit. The full text of this order will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's contractor, La Dorn Systems Corporation, also located in room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

Before Commissioners: Martin L. Allday, Chairman; Charles A. Trabandt, Elizabeth Anne Moler, Jerry J. Langdon and Branko Terzic.

On December 20, 1991, the Commission issued Order No. 497–C [1] which extended Order No. 497's reporting requirements for an additional year, from December 31, 1991, to December 31, 1992, and amended the final rule to reduce the number of paper printouts of the FERC Form No. 592 information that pipelines are required to file. On January 10, 1992, the Enron Interstate Pipeline Companies (Enron) filed a request for rehearing of Order No. 497–C. On January 21, 1992, the Affiliated Marketers Group (Affiliated Marketers) [2] filed a request for rehearing of Order No. 497–C. For the reasons discussed below, the Commission will deny Enron's and the Affiliated Marketers' requests.

Background

On December 20, 1991, the Commission issued Order No. 497–C with extended Order No. 497's reporting requirements for an additional year, from December 31, 1991, to December 31, 1992, and amended the final rule to reduce the number of paper printouts of the FERC Form No. 592 information that pipelines are required to file.

The Commission stated that it was extending Order No. 497's reporting requirements for an additional year because certain issues regarding Order Nos. 497 and 497–A were still pending and a new issue had arisen. The issues still pending are the applicability of the standards of conduct to discount sales programs and the appeal of Order No. 497 to the U.S. Court of Appeals for the District of Columbia Circuit. The new issue is the proposal in the Notice of Proposed Rulemaking (NOPR) in Docket No. RM91–11–000 [3] to require pipelines to comply with Order No. 497's standards of conduct and reporting requirements by considering their unbundled sales operating employees as an operational unit which is the functional equivalent of a marketing affiliate. The Commission concluded that with these issues before the Commission, it would be premature to let the reporting requirements lapse at the end of 1991.

The Commission also stated its continued belief that the potential for discriminatory behavior by pipelines in favor of their marketing affiliates continues to exist, that reporting has a deterrent effect because participants in a transaction are aware that at some time in the future the Commission may call upon them to explain how the transaction complies with the standards of conduct, and that reporting is an important enforcement tool when deterrence is not successful because data regarding transactions is one of the various sources of information that is needed to verify whether a particular prohibited practice has occurred. The Commission then concluded that allowing the reporting requirements to lapse would hamper the Commission's ability to enforce those standards and that their continuation would assist the public and the Commission staff in monitoring potential abuses.

Enron's and Affiliated Marketers' Rehearing Requests

Enron and Affiliated Marketers claim that Order No. 497–C is not the product of reasoned decisionmaking. They argue that the fact that Order No. 497 is currently pending on appeal is no basis to extend the reporting requirements, nor is the fact that the Commission has sought comments on the possible expansion of the Order No. 497 requirements in the NOPR in Docket No. RM91–11–000.

Enron and Affiliated Marketers argue further that the Commission's assertion regarding the potential for discriminatory behavior is vague and not sufficient to justify the extension of the reporting requirements. Enron points out that in Order No. 497 the Commission noted the decline in the number of complaints with regard to marketing affiliate favoritism,[4] and it asserts that in Order No. 497–A the Commission clearly found that the data submitted by the pipelines showed no affiliate favoritism in discounting, queue positioning, processing time for transportation requests, take-or-pay or the disposition of requests.[5] Enron and Affiliated Marketers argue the Commission did not have any facts to justify its actions in Order No. 497–B, and, further, that the Commission's determination in Order No. 497–C is not supported by substantial evidence. Enron and Affiliated Marketers maintain that the reference to the potential for discriminatory conduct, the belief that reporting has a deterrent effect, and the belief that reporting is an important enforcement tool certainly do not constitute substantial evidence.

In addition, Affiliated Marketers assert that Order No. 497's requirement that a pipeline immediately report its transactions with its marketing affiliate puts marketing affiliates at a competitive disadvantage because the reports contain commercially sensitive information. Accordingly, Affiliated Marketers request that the Commission eliminate the requirement for commercially sensitive information and allow pipelines to report affiliate transactions on a monthly rather than daily basis.

Discussion

The reasons given by the Commission for extending the sunset date are valid. Enron's and Affiliated Marketers' arguments in opposition are based simply on their opinion that Order No. 497–C is not the product of reasoned decisionmaking and is not supported by substantial evidence. This of course is in keeping with Enron's and affiliated marketers' individual [6] positions throughout the Order No. 497 proceedings that the Order No. 497 rule is unnecessary, is overly burdensome, and would force pipelines to release confidential data that would put affiliated marketers at a competitive disadvantage.[7] Enron and Affiliated Marketers have raised nothing that the Commission has not considered and discussed in its prior orders. Accordingly, Enron's and Affiliated Marketers' requests for rehearing are denied.

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[1] 57 FERC ¶ 61,356 (1991).

[2] This group consists of CNG Trading Company, Equitable Resources Marketing Company, Sonat Marketing Company, Tenngasco Corporation, and Midcon Marketing Corporation.

[3] In Re Pipeline Service Obligations and Revisions to Regulations Concerning Self-Implementing Transportation, IV FERC Stats. and Regs. ¶ 32,480 (1991).

[4] *Citing*, Order No. 497, FERC Stats. and Regs., Regulations Preambles 1986–1990, ¶ 30,820 at 31,128–29 (1988).

[5] *Citing*, Order No. 497–A, FERC Stats. and Regs., Regulations Preambles 1986–1990, ¶ 30,868 at 31,590 (1989).

[6] In earlier proceedings certain affiliated marketers submitted filings separately rather than as the Affiliated Marketers Group.

The fact that the Commission is considering expanding the scope of Order No. 497 in the NOPR in Docket No. RM91-11-000 is certainly reason enough for extending the sunset date. As emphasized by the Independent Gas Marketers Coalition (IGMC) in its November 27, 1991 petition seeking to extend Order No. 497's reporting requirements, "[t]he Commission's recognition [in the NOPR in Docket No. RM91-11-000] of the continuing *and growing* importance of the Standards of Conduct and reporting requirements cannot be reconciled with the termination of those requirements." [Emphasis in original.] [8] It certainly would not be reasoned decisionmaking if the Commission on the one hand were to propose the expansion of Order No. 497 in the NOPR in Docket No. RM91-11-000 and then on the other hand a few months later terminate the exact requirements that it was proposing to expand.

In its rehearing request, Enron cited both Order No. 497 and Order No. 497-A in support of its argument that there has been a decline in favoritism towards marketing affiliates. However, in doing so Enron has taken the Commission's statements out of context. In Order No. 497, the Commission stated:

> [W]hile there has been a decline in recent months in the number of complaints of prohibited affiliate practices, this fact does not argue for dropping the rule. The Commission has no way of knowing whether the decline in complaints signals that the problem is a short-term one that will disappear by itself or whether unlawful practices have decreased because of the attention the Commission has focused on the issue through the NOPR and the Enforcement Task Force. For all these reasons, and the fact that pipelines continue to have economic incentives to show undue preference toward their marketing affiliates, the Commission concludes that a rule is needed.[9]

In Order No. 497-A, the Commission spoke in connection with its conclusion that Order No. 497 did not need to be strengthened at that time:

> The Commission has concluded that stronger action, such as divestment, divorcement, or organizational separation is not supported by the record presently before the Commission. Nor does the Commission believe it necessary to require a pipeline to have a blanket certificate under subpart G of part 284 in order to conduct transportation transactions with its affiliate. [Footnote omitted] This conclusion is confirmed by our analysis of the data submitted by pipelines in response to the rule's reporting requirements. The data do not reveal any pattern of affiliate favoritism in areas such as discounts, queue positioning, processing time for transportation requests, take-or-pay, or the disposition of requests. The Commission will continue to monitor the information submitted to determine if stronger generic action is necessary and will continue to act on a case-by-case basis to prevent affiliate abuse where such action is appropriate. [Footnote omitted] [10]

Enron points only to portions of the above statements in Order Nos. 497 and 497-A as support for its conclusion that the Commission has only a vague evidentiary basis for extending Order No. 497's reporting requirements. However, as can be seen from the complete text quoted above, the Commission has had a deep and continuing concern about the potential for affiliate favoritism and the need for a regulatory mechanism to deter such discriminatory behavior.

The Commission Orders: Enron's and Affiliated Marketers' requests for rehearing of Order No. 497-C are denied.

By the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3678 Filed 2-14-92; 8:45 am]

BILLING CODE 6717-01-M

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[7] See, Order No. 497-A, FERC Stats. and Regs., Regulations Preambles 1986-1990, ¶ 30,868 at 31,589 (1989).

[8] IGMC Petition at 3.

[9] FERC Stats. and Regs., Regulations Preambles 1986-1990, ¶ 30,820 at 31,128-29 (1988).

[10] FERC Stats. and Regs., Regulations Preambles 1986-1990, ¶ 30,868 at 31,590 (1989).

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1302

Labeling and Packaging Requirements for Controlled Substances: Anabolic Steroid Products

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Notice of extension of labeling deadlines.

SUMMARY: Notice is hereby given that the Drug Enforcement Administration (DEA) has granted to Solvay Pharmaceuticals (formerly Reid-Rowell), Steris Laboratories Inc., and Wyeth-Ayerst Laboratories a second 180 day extension of the effective dates for compliance with the labeling requirements associated with Schedule III of the Controlled Substances Act (CSA) for the following pharmaceutical products: Estratest, Estratest HS, Premarin with Methyltestosterone, Testosterone Enanthate and Estradiol Valerate Injection, and Testosterone Enanthate and Estradiol Cypionate Injection.

DATES: The action is effective as of February 23, 1992.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug and Chemical Evaluation Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 307-7183.

SUPPLEMENTARY INFORMATION: By rule published on February 13, 1991 (56 FR 5753), the DEA promulgated regulations which implemented the Anabolic Steroids Control Act of 1990 (title XIX of Pub. L. 101-647). The February 13, 1991 rule announced, among other things, that "All labels and labeling for commercial containers of anabolic steroids, packaged on or after August 27, 1991, shall comply with the requirements of 21 CFR 1302.03-1302.05. Any commercial containers of anabolic steroids packaged prior to August 27, 1991 and not meeting the requirements specified in 21 CFR 1302.03-1302.05 shall not be distributed on or after November 27, 1991." The February 13, 1991 notice also announced that regulations would be published on how one could apply for an exemption for a product which, because of its concentration, preparation, mixture or delivery system, has no significant potential for abuse.

The procedure for the application for and granting of an exemption was published on August 30, 1991 (56 FR 42935). This date did not allow time for the processing of the applications before the August 27, 1991 deadline for compliance with the Schedule III labeling requirements. Three manufacturers, Reid-Rowell (now Solvay Pharmaceuticals), Steris Laboratories Inc., and Wyeth-Ayerst Laboratories applied for exemptions for commercial products: Reid-Rowell for the products Estratest and Estratest HS; Steris Laboratories Inc. for Testosterone Enanthate and Estradiol Valerate Injection and Testosterone Cypionate and Estradiol Cypionate Injection, and Wyeth-Ayerst Laboratories for Premarin with Methyltestosterone. An extension

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of the labeling and packaging deadlines was granted for the products for which applications for exemptions had been submitted. Four companies submitted applications for products which are not marketed, therefore, the labeling of commercial containers was not an issue.

Because the applications for exemptions have not yet been acted upon, as applied to the products listed above, the date for labeling compliance is extended to August 21, 1992 and the date for sale of non-conforming products is extended to November 19, 1992. The extension applies to the labeling requirements only. In all other respects these manufacturers must comply with the regulations which were published on February 13, 1991 (56 FR 5753). This means that all who are required to conform with the requirements of the CSA must continue to handle these products in a manner consistent with all other regulations applicable to Schedule III products.

(Authority: 21 U.S.C. 821, 825, 871(b), 958(e))

Dated: February 11, 1992.

Anthony J. Senneca,

Deputy Director, Office of Diversion Control.

[FR Doc. 92–3721 Filed 2–14–92; 8:45 am]

BILLING CODE 4410-09-M

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21 CFR Part 1308

Exempt Chemical Preparations

AGENCY: Drug Enforcement Administration (DEA), Department of Justice.

ACTION: Interim rule and request for comments.

SUMMARY: This interim rule amends § 1308.24 of title 21 of the Code of Federal Regulations. The attached list of chemical preparations and mixtures which contain controlled substances replaces the list of exempt chemical preparations set forth in § 1308.24(i). This action is in response to DEA's periodic review of the exempt chemical preparation list and of new applications for exemptions filed with DEA. Preparations included in the list are exempted from the application of specific provisions of the Comprehensive Drug Abuse Prevention and Control Act of 1970, and from certain Drug Enforcement Administration Regulations.

DATES: *Effective Date:* February 18, 1992. Comments must be submitted on or before March 19, 1992.

ADDRESSES: Comments should be submitted to Administrator, Drug Enforcement Administration, Washington, DC 20537. Attn: Federal Register Representative.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug & Chemical Evaluation Section, Telephone (202) 307–7183.

SUPPLEMENTARY INFORMATION: The Controlled Substances Act, as amended by the Dangerous Drug Diversion Control Act of 1984, authorizes the Attorney General, in accordance with 21 U.S.C. 811(g)(3)(B), to exempt from specific provisions of the Act, a compound, mixture, or preparation which contains any controlled substance which is not for administration to a human being or animal and which is packaged in such form or concentration or with adulterants or denaturants, so that, as packaged, it does not present any significant potential for abuse.

The Deputy Assistant Administrator, Drug Enforcement Administration, Office of Diversion Control, has received applications pursuant to § 1308.23 of title 21 of the Code of Federal Regulations requesting approval of exempt status provided for in 21 CFR 1308.24. The Deputy Assistant Administrator hereby finds that each of the following preparations and mixtures is intended for laboratory, industrial, educational, or special research purposes, is not intended for general administration to man or animal, and either (a) contains no narcotic controlled substances and is packaged in such a form or concentration that the packaged quantity does not present any significant potential for abuse, (b) contains either a narcotic or non-narcotic controlled substance and one or more adulterating or denaturing agents in such a manner, combination, quantity, proportion, or concentration that the preparation or mixture does not present any significant potential for abuse, or (c) the formulation of such preparation or mixture incorporates methods of denaturing or other means so that the controlled substance cannot in practice be removed, and therefore the preparation or mixture does not present any significant potential for abuse. The Deputy Assistant Administrator further finds that exemption of the following chemical preparations and mixtures is consistent with public health and safety as well as the needs of researchers, chemical analysts, and suppliers of these products.

The Deputy Assistant Administrator for the Office of Diversion Control hereby certifies that these matters will have no significant impact upon small businesses or other entities within the meaning and intent of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. The addition of preparations to the list of exempt chemical preparations has the effect of exempting them from certain sections of the Controlled Substances Act of 1970 and its regulations.

It has been determined that these changes are internal matters which do not require formal Office of Management and Budget review.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

Dated: February 4, 1992.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

Under the authority vested in the Attorney General by section 202(d) of the Act (21 U.S.C. 811(g)(3)(B)) and delegated to the Administrator of the Drug Enforcement Administration by regulations of the Department of Justice (28 CFR part 0.100), and redelegated to the Deputy Assistant Administrator of the Drug Enforcement Administration, Office of Diversion Control, pursuant to 47 FR 43370, the Deputy Assistant Administrator of the Office of Diversion Control hereby amends 21 CFR part 1308 as set forth below.

PART 1308—SCHEDULE OF CONTROLLED SUBSTANCES

1. Authority citation for part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b).

2. In section 1308.24(i), the table is revised to read as follows:

§ 1308.24 Exempt chemical preparations.

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(i) * * *

EXEMPT CHEMICAL PREPARATIONS

Supplier	Product name	Form	Date
Aalto Scientific, LTD	Therapeutic Drug Monitoring Control Level I, II, III Freeze Dried	Vial: 5ml	4/09/91
Abbott Laboratories	125I Cholylglycyltyrosine Reagent Solution, No. 7816	Plastic Bottle: 20ml	4/07/78

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Abbott Laboratories	ADx Benzoylecgonine Fluorescein Tracer Solution	Bottle: 3.2 ml	12/02/86
Abbott Laboratories	ADx Cannabinoids Fluorescein Tracer Solution	Bottle: 3.2ml	12/02/86
Abbott Laboratories	ADx Cannabinoids Reagent Pack (No. 9671-55)	Reagent Pack: 50 tests	12/02/86
Abbott Laboratories	ADx Cocaine Metabolite Fluorescein Tracer Solution, No. 9670-T, No. 9670T0013.	Vial: 3.2ml, Kit: 100 vials	4/18/89
Abbott Laboratories	ADx Cocaine Metabolite Reagent Pack, No. 9670-55	50 Test Unit	4/18/89
Abbott Laboratories	ADx Opiates Fluorescein Tracer Solution No. 9673-T, No. 9673T0013.	Vial: 3.2ml, Kit: 100 vials	4/18/89
Abbott Laboratories	ADx Opiates Reagent Pack, No. 9673-55	50 Test Unit	4/18/89
Abbott Laboratories	ADx Propoxyphene Fluorescein Tracer Solutions Item No. 9675T0011.	Box: 100 bottles or less	11/30/90
Abbott Laboratories	ADx Propoxyphene Reagent Pack Item No.9675-55	Kit: 50 test	11/30/90
Abbott Laboratories	Amphetamine Bulk Calibrators, B-F	Carboy: 20L, 10L, Flask: 6L, 4L, 2L, 1L, 250ml, 200ml.	10/09/85
Abbott Laboratories	Amphetamine Bulk Controls, L and H	Flask: 2 liter	12/09/85
Abbott Laboratories	Amphetamine Class Bulk Calibrator B-F	Carboy: 10 liters; Flask: 6 liters, 2 liters, 1 liter, 250 ml, 200 ml.	3/01/88
Abbott Laboratories	Amphetamine Class Bulk Control L and H	Carboy: 10 liters; Flask. 6 liters, 2 liters, 1 liter, 250 ml, 200 ml.	3/01/88
Abbott Laboratories	Amphetamine Class Bulk Tracer: No. 94699	Carboy: 10 liters; Flask: 6 liters, 2 liters	3/01/88
Abbott Laboratories	Amphetamine Class QC Primary B-F,L,M,H No. 9667 (B-F,L,M,H) QC.	Carboy: 10L Flask: 4L, 2L, 1L, 500 ml, 250 ml, 200 ml, 100 ml Bottle: 5ml.	11/22/88
Abbott Laboratories	Amphetamine Class Stock Tracer: No. 94700	Bottle: 30 ml	3/01/88
Abbott Laboratories	Amphetamine Stock Standard No. 97072, 97072 A-B	Carboy: 20L, 10L Flask: 4L, 2L, 1L, 500 ml, 250 ml, 200 ml, 100 ml Bottle: 950ml, 500ml, 100ml, 5ml.	11/22/88
Abbott Laboratories	Amphetamine Stock Standard, No. 97072	Bottle: 125ml	9/30/85
Abbott Laboratories	Amphetamine/ Metamphetamine QC Primary Bulk Control M, No. 9668-M.	Flasks: 1 liter, 250 ml, and 200 ml	11/10/87
Abbott Laboratories	Amphetamine/ Methamphetamine (II) QC Primary B-F,L,M,H No. 1A99 (B-F,L,M,H) QC.	Carboy: 10L Flask: 4L, 2L, 1L, 500 ml, 250 ml, 200 ml, 100 ml Bottle: 5ml.	11/22/88
Abbott Laboratories	Amphetamine/ Methamphetamine II Bulk Calibrators B-F Code No. 1A99 (B-F).	20 L, 10 L Carboy; 6 L 2 L, 1 L, 250 ml, 200 ml Flask.	8/26/88
Abbott Laboratories	Amphetamine/ Methamphetamine II Bulk Controls (L,M,H) Code No. 1A99 (L,M,H).	20 L, 10 L Carboy; 6 L, 2 L, 1 L, 250 ml, 200 ml Flask.	8/26/88
Abbott Laboratories	Amphetamine/ Methamphetamine II Calibrators B-F No. 1A99 B-F.	5 ml Vial	8/26/88
Abbott Laboratories	Amphetamine/ Methamphetamine II Calibrators No. 1A99-01	Kit: 6 Vials	8/26/88
Abbott Laboratories	Amphetamine/ Methamphetamine II Controls (L,M,H) No. 1A99-L,M,H.	5 ML Vial	8/26/88
Abbott Laboratories	Amphetamine/ Methamphetamine II Controls No. 1A99-10	Kit: 3 Vials	8/26/88
Abbott Laboratories	Amphetamine/ Methamphetamine QC Primary B-F,L,M,H No. 9668 (B-F,L,M,H) QC.	Carboy: 10L Flask: 4L, 2L, 1L, 500 ml, 250 ml, 200 ml, 100 ml Bottle: 5ml.	11/22/88
Abbott Laboratories	Amphetamine/ Methamphetamine QC Primary Standard Control M, No. 9668-M.	Bottle: 5 ml	11/10/87
Abbott Laboratories	Amphetamine/Methamphetamine II Bulk Controls, No. 1A99X,Y,Z.	Carboy: 20L, 10L, Flask: 6L, 2L, 1L, 250ml, 200ml.	1/19/89
Abbott Laboratories	Amphetamine/Methamphetamine II Control X,Y,Z; NO. 1A99-02,03,04.	Kit: 100 vials	1/19/89
Abbott Laboratories	Amphetamine/Methamphetamine II Control X,Y,Z; No. 1A99X,Y,Z.	Vial: 5ml	1/19/89
Abbott Laboratories	Amphetamine/Methamphetamine II QC Primary 2-6 QT, NG, CO, PS No. 1A99 2-6 QT-QC & NG/CO/PS-QC.	Carboy: 20, 10L; Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml; Bottle: 950,500,100,50,5ml; Ampule: 20, 10, 5, 2ml.	2/20/91
Abbott Laboratories	Amphetamine/Methamphetamine II QC Primary 8QT NO. 1A998QT-QC.	Carboy: 20L, 10L; Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml; Bottle: 950,500,100,50,5ml; Ampule: 20,10,5,2ml.	10/25/91
Abbott Laboratories	Amphetamine/Methamphetamine II bulk Calibrator B,C,D,E,F; No. 01A99-B,C,D,E,F.	Carboy: 20L, 10L, 6L, 2L, 1L, 250ml, 200ml	7/14/89
Abbott Laboratories	Amphetamine/Methamphetamine II bulk Control L,M,H,; No. 01A99-L,M,H.	Carboy: 20L, 10L, Flask: 6L, 2L, 1L, 250ml, 200ml.	7/14/89
Abbott Laboratories	Barbital Buffer, 0.06 M Reagent Solution No. 7824	Plastic Bottle: 2.5ml	4/07/78
Abbott Laboratories	Barbiturate II U Control L,M,H; No. 9669 L,M,H-11	Bottle: 5 ml	10/17/89
Abbott Laboratories	Barbiturates Bulk Calibrator B-F No. 9669 B-F	Carboy: 9.5 19 L	7/01/88
Abbott Laboratories	Barbiturates Bulk Control L,H No. 9669 L,H	Carboy: 9.5, 19 L	7/01/88
Abbott Laboratories	Barbiturates Bulk Controls, No. 9669X,Y,Z	Carboy: 20L, 10L, Flask: 6L, 2L, 1L, 250ml, 200ml.	1/19/89
Abbott Laboratories	Barbiturates Control X,Y,Z; No. 9669X,Y,Z	Vial: 5ml	1/19/89
Abbott Laboratories	Barbiturates II QC Primary NG, CO, PS No. 9669 NG/CO/PS-11-QC.	Carboy: 20, 10L; Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml; Bottle: 950,500;100,50,5ml; Ampule: 20,10,5,2ml.	2/20/91
Abbott Laboratories	Barbiturates II U Bulk Calibrators B-F; No. 9669 B-F-05	Carboy: 20L, 19L, 10L, 9.5L, 6L, 4L, 2L, 1L, Flask: 250ml, 200ml.	10/17/89
Abbott Laboratories	Barbiturates II U Bulk Controls L,M,H; No. 9669 L,M,H—11	Carboy: 20L, 19L, 10L, 9.5L, 6L, 4L, 2L, 1L, Flask: 250ml, 200ml.	10/17/89
Abbott Laboratories	Barbiturates II U Calibrators B-F; No. 9669 B-F-05	Bottle: 5 ml	10/17/89
Abbott Laboratories	Barbiturates II U Calibrators B-F; No. 9669-05	Kit: 6 vials	10/17/89
Abbott Laboratories	Barbiturates II U Controls L,M,H; No. 9661-11	Kit: 3 vials	10/17/89

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Abbott Laboratories	Barbiturates II U QC Primary B-F No. 9669 B-F-05 QC	Carboy: 10L, Flask: 4L, 2L, 1L, 500ml, 250ml, 200ml, 100ml, Bottle: 950ml, 500ml, 100ml, 5ml.	10/17/89
Abbott Laboratories	Barbiturates II U QC Primary L,M,H No. 9669 L,M,H-11 QC	Carboy: 10L, Flask: 4L, 2L, 1L, 500ml, 250ml, 200ml, 100ml, Bottle: 950ml, 500ml, 100ml, 5ml.	10/17/89
Abbott Laboratories	Barbiturates QC Primary B-F,L,M,H No. 9669 (B-F,L,M,H) QC	Carboy: 10L Flask: 4L, 2L, 1L, 500 ml, 250 ml, 200 ml, 100 ml Bottle: 5 ml.	11/22/88
Abbott Laboratories	Barbiturates QC Primary Bulk Control M, No. 9669-M	Flasks: 1 liter, 250 ml, and 200 ml	11/10/87
Abbott Laboratories	Barbiturates QC Primary Standard Control M, No. 9669-M	Bottle: 5 ml	11/10/87
Abbott Laboratories	Barbiturates QC Primary X, No. 9669X-QC	Carboy: 10L, Flask: 4L, 2L, 1L, 500ml, 250ml, 200ml, 100ml, Bottle: 5ml.	6/05/89
Abbott Laboratories	Barbiturates Serum Bulk Calibrator B-F, No. 9679 B-F	Carboy: 20L, 10L, Flask: 6L, 2L, 1L, 250ml, 200ml.	1/03/89
Abbott Laboratories	Barbiturates Serum Bulk Control L,M,H No. 9676 L,M,H	Carboy: 20L, 10L, Flask: 6L, 2L, 1L, 250ml, 200ml.	1/03/89
Abbott Laboratories	Barbiturates Serum Calibrators B-F, No. 9679-01	Kit: 5 vials	1/03/89
Abbott Laboratories	Barbiturates Serum Calibrators B/F, No. 9679 B/F	Bottle: 5ml	1/03/89
Abbott Laboratories	Barbiturates Serum Controls L,M,H No. 9679 L,M,H	Bottle: 5ml	1/03/89
Abbott Laboratories	Barbiturates Serum Controls L,M,H No. 9679-10	Kit: 3 vials	1/03/89
Abbott Laboratories	Barbiturates Serum QC Primary B-F,L,M,H No. 9679 (B-F,L,M,H)-QC.	Carboy: 10L, Flask: 4L, 2L, 1L, 500ml, 250ml, 200ml, 100ml, Bottle: 5ml.	1/03/89
Abbott Laboratories	Benzodiazepine Serum QC Primary B-F,L,M,H No. 9682 (B-F,L,M,H)-QC.	Carboy: 10L Flask: 4L, 2L, 1L, 500 ml, 250 ml, 200 ml, 100 ml Bottle: 5 ml.	11/22/88
Abbott Laboratories	Benzodiazepines Bulk Calibrator No. 9674 B-F	Carboy: 9.5, 19 L	7/18/88
Abbott Laboratories	Benzodiazepines Bulk Calibrators, B-F No. 9674	Carboy: 20L, 10L, Flask: 6L, 4L, 2L, 1L, 250ml, 200ml.	4/21/86
Abbott Laboratories	Benzodiazepines Bulk Control L,H No. 9674 L,H	Carboy: 9.5, 19 L	7/18/88
Abbott Laboratories	Benzodiazepines Bulk Controls, L and H No. 9674	Carboy: 20L, 10L, Flask: 6L, 4L, 2L, 1L, 250ml, 200ml.	4/21/86
Abbott Laboratories	Benzodiazepines QC Primary Bulk Control M, No. 9674-M	Flasks: 1 liter, 250 ml, and 200 ml	11/10/87
Abbott Laboratories	Benzodiazepines QC Primary Bulk Control M, No. 9674-M	Flasks: 1 liter, 250 ml, and 200 ml	11/10/87
Abbott Laboratories	Benzodiazepines QC Primary NG, CO, PS No. 9674NG/CO/PS-QC.	Carboy: 20, 10L; Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml; Bottle: 950, 500, 100, 50, 5ml; Ampule: 20, 10, 5, 2ml.	2/20/91
Abbott Laboratories	Benzodiazepines QC Primary, B-F,L,M,H No. 9674 (B-F,L,M,H) QC.	Carboy: 10L Flask: 4L, 2L, 1L, 500 ml, 250 ml, 200 ml, 100 ml Bottle: 5ml.	11/22/88
Abbott Laboratories	Benzodiazepines Serum Bulk Calibrators B-F: Code No. 9682 B-F.	Carboy: 10 liter Flask: 6 liter, 2 liter	12/07/87
Abbott Laboratories	Benzodiazepines Serum Bulk Calibrators: No. 9682 B-F	Carboy: 20 liters, 10 liters Flask: 6 liters, 2 liters, 1 liter.	5/02/88
Abbott Laboratories	Benzodiazepines Serum Bulk Controls L,M, & H: Code No. 9682 L,M, & H.	Carboy: 10 liter Flask: 6 liter, 2 liter	12/07/88
Abbott Laboratories	Benzodiazepines Serum Bulk Controls: No. 9682 L, M, H	Carboy: 20 liters, 10 liters Flask: 6 liters, 2 liters, 1 liter, 250 ml, 200 ml.	5/02/88
Abbott Laboratories	Benzoylecgonine Stock Standard No. 97182, 97182 A-B	Carboy: 20L, 10L Flask: 4L, 2L, 1L, 500 ml, 250 ml, 200 ml, 100 ml, Bottle: 950ml, 500ml, 100ml, 5ml.	11/23/88
Abbott Laboratories	Benzoylecgonine Stock Standard, No. 97182	Bottle: 125ml	11/21/85
Abbott Laboratories	CG RIA Diagnostic Kit No. 7815	Kit: 100 tests	4/07/78
Abbott Laboratories	Cannabinoids—GS Bulk Controls, No. 3897 X,Y,Z	Carboy: 20L, 10L, Flask: 6L, 2L, 1L, 250ml, 200ml.	1/19/89
Abbott Laboratories	Cannabinoids—GS Control X,Y,Z No. 3897—02,03,04	Kit: 100 vials	1/19/89
Abbott Laboratories	Cannabinoids—GS Control X,Y,Z No. 3897 X,Y,Z	Vial: 5ml	1/19/89
Abbott Laboratories	Cannabinoids Bulk Calibrators B-F	Carboy: 20L, 10L, Flask: 6L, 4L, 2L, 1L, 250ml, 200ml.	10/24/86
Abbott Laboratories	Cannabinoids Bulk Controls L,M,H	Carboy: 20L, 10L, Flask: 6L, 4L, 2L, 1L, 250ml, 200ml.	10/24/86
Abbott Laboratories	Cannabinoids Bulk Tracer (No. 94192)	Carboy: 50L, 20L, 10L, Flask: 6L, 4L, 2L, 1L	10/27/86
Abbott Laboratories	Cannabinoids QC Primary 2-6 QT, NG, CO, PS No. 9671-11 2-6 QT-QC & NG/CO/PS-QC.	Carboy: 20, 10L Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml Bottle: 950, 500, 100, 50, 5ml Ampule: 20, 10, 5, 2ml.	2/20/91
Abbott Laboratories	Cannabinoids QC Primary 8QT No. 9671-11 8QT-QC	Carboy: 20, 10L Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml Bottle: 950, 500, 100, 50, 5ml Ampule: 20, 10, 5, 2ml.	10/25/91
Abbott Laboratories	Cannabinoids QC Primary NBS, B-F, L,M,H No. 9671-02[NBS,B-F]-QC; No. 9671-11[L,M,H]-QC.	Carboy: 10L, Flask: 4L, 2L, 500ml, 250ml, 100ml, 200ml, Bottle: 5ml.	12/27/88
Abbott Laboratories	Cannabinoids QC Primary NBS, B-F,L,M,H No. 9671 (NBS, B-F,L,M,H)-QC.	Carboy: 10L, Flask: 4L, 2L, 1L, 500ml, 250ml, 200ml, 100ml, Bottle: 5ml.	12/27/88
Abbott Laboratories	Cannabinoids Stock Standard (94568)	Bottle: 125 ml	6/19/87
Abbott Laboratories	Cannabinoids Stock Standard (No. 94193)	Bottle:125 ml	10/24/86
Abbott Laboratories	Cannabinoids Stock Standard 10mcg/ml-No. 94568, 5mcg/ml-No. 94568A, 1mcg/ml-No. 94568B.	Carboy: 20L, 10L, Flask: 4L, 2L, 1L, 500ml, 250ml, 200ml, 100ml, bottle: 950ml, 500ml, 100ml, 5ml.	12/27/89
Abbott Laboratories	Cannabinoids Stock Standard 10mcg/ml-No. 94193, 5mcg/ml-No. 94193A, 1mcg/ml-No. 94193B.	Carboy: 20L, 10L, Flask: 4L, 2L, 1L, 500ml, 250ml, 200ml, 100ml, bottle: 950ml, 500ml, 100ml, 5ml.	12/27/88
Abbott Laboratories	Cannabinoids Stock Tracer (No. 94194)	Flask: 5 ml	10/27/86
Abbott Laboratories	Cannabinoids-GS Bulk Calibrators B-F No. 3897 B-F	20 L, 10 L Carboy 6 L, 2 L, 1 L, 250 ml, 200 ml Flask.	7/20/88

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Abbott Laboratories	Cannabinoids-GS Bulk Controls (L,M,H) Code No. 3897 (L,M,H).	20 L, 10 L Carboy 6 L, 2 L, 1 L, 250 ml, 200 ml Flask.	7/28/88
Abbott Laboratories	Cannabinoids-GS Bulk Tracer Code No. 95826	10 L Carboy 6 L, 2 L Flask	7/28/88
Abbott Laboratories	Cannabinoids-GS Calibrators B–F No. 3897 B–F	5 ml Vial	7/28/88
Abbott Laboratories	Cannabinoids-GS Calibrators No. 3897–01	Kit: 6 Vials	7/28/88
Abbott Laboratories	Cannabinoids-GS Controls (L,M,H) No. 3897–L,M,H	5 ml Vial	7/28/88
Abbott Laboratories	Cannabinoids-GS Controls No. 3897–10	Kit: 3 Vials	7/28/88
Abbott Laboratories	Cannabinoids-GS QC Primary NBS, B–F, L,M,H; No. 3897 (NBS, B–F, L,M,H)–QC.	Carboy: 10L, Flask: 4L, 2L, 1L, 500ml, 250ml, 200ml, 100ml, Bottle: 5ml.	12/27/88
Abbott Laboratories	Cannabinoids-GS Reagent Pack 100 Test No. 3897–20	Kit: 100 Tests	7/28/88
Abbott Laboratories	Cannabinoids-GS Reagent Pack 100 Test No. 3897–19	Kit: 100 Tests	9/22/89
Abbott Laboratories	Cannabinoids-GS Tracer Code No. 3897–T	5 ml Vial	7/28/88
Abbott Laboratories	Cholylglycine Antiserum (Rabbit) Reagent Solution No. 7817	Plastic Bottle: 20ml	4/07/76
Abbott Laboratories	Cocaine Metabolite Bulk Calibrator B–F No. 9670 B–F	Carboy: 9.5, 19 L	7/07/88
Abbott Laboratories	Cocaine Metabolite Bulk Calibrator, B–F No. 9670	Carboy: 20L, 10L, Flask: 6L, 4L, 2L, 1L, 250ml, 200ml.	10/28/85
Abbott Laboratories	Cocaine Metabolite Bulk Controls L,H No. 9670–L,H	Carboy: 9.5, 19 L	7/07/88
Abbott Laboratories	Cocaine Metabolite Bulk Controls, L and H No. 9670	Carboy: 20L, 10L, Flask: 6L, 4L, 2L, 1L, 250ml, 200ml.	10/28/85
Abbott Laboratories	Cocaine Metabolite Bulk Controls, No. 9670X,Y,Z	Carboy: 20L, 10L, Flask: 6L, 2L, 1L, 250ml, 200ml.	1/19/89
Abbott Laboratories	Cocaine Metabolite Bulk Tracer; No. 9670	Carboy: 50L, 20L, 10L, Flask: 6L, 4L, 2L, 1L	10/29/85
Abbott Laboratories	Cocaine Metabolite Control X,Y,Z; No. 9670X,Y,Z	Vial: 5ml	1/19/89
Abbott Laboratories	Cocaine Metabolite QC Primary 2–6 QT, NG, CO, PS No. 9670 2–6 QT–QC & NG/CO/PS–QC.	Carboy: 20, 10L; Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml; Bottle: 950, 500, 100, 50, 5ml; Ampule: 20, 10, 5, 2ml.	2/20/91
Abbott Laboratories	Cocaine Metabolite QC Primary 2–6 QT–C, 8QT–C No. 9670 2–6 QTC–QC, 9670 8QTC–QC.	Carboy: 20, 10L; Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml; Bottle: 950, 500, 100, 50, 5ml; Ampule: 20, 10, 5, 2ml.	10/28/91
Abbott Laboratories	Cocaine Metabolite QC Primary 8QT No. 9670 8QT–QC	Carboy: 20, 10L; Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml; bottle: 950, 500, 100, 50, 5ml; Ampule: 20, 10, 5, 2ml.	10/25/91
Abbott Laboratories	Cocaine Metabolite QC Primary B–F, L, M. H, No. 9670 (B–F, L, M, H)–QC.	Carboy: 10L Flask: 4L, 2L, 1L, 500 ml, 250 ml, 200 ml, 100 ml; Bottle: 5 ml.	11/23/88
Abbott Laboratories	Cocaine Metabolite QC Primary Bulk Control M, No. 9670–M	Flasks: 1 liter, 250 ml, and 200 ml	11/10/87
Abbott Laboratories	Cocaine Metabolite QC Primary Standard Control M, No. 9670–M.	Bottle: 5 ml	11/10/87
Abbott Laboratories	Cocaine Metabolite QC Primary X, No. 9670X–QC; Primary Z, No. 9670Z–QC.	Carboy: 10L, Flask: 4L, 2L, 1L, 500ml, 250ml, 200ml, 100ml; Bottle: 5ml.	6/05/89
Abbott Laboratories	Cocaine Metabolite Stock Tracer, No. 9670	Vial: 5ml	10/29/85
Abbott Laboratories	High Multiconstituent (9) Stock Standard Cat. No. 92622	Carboy: 50, 20, 10L; Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml; Bottle: 950, 500, 100, 50, 5ml; Ampule: 20, 10, 5, 2ml.	7/02/91
Abbott Laboratories	Low Multiconstituent (9) Stock Standard Cat. No. 92620	Carboy: 50, 20, 10L; Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml; Bottle: 950, 500, 100, 50, 5ml; Ampule: 20, 10, 5, 2ml.	7/02/91
Abbott Laboratories	Low, Medium, High Multiconstituent Stock Standards, No. 90967, 90968, 90969.	Carboy: 10, 20L; Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml; Bottle: 950, 500, 100, 50, 5ml; Ampule: 20, 10, 5, 2ml.	10/06/89
Abbott Laboratories	Medium Multiconstituent (9) Stock Standard Cat. No. 92621	Carboy: 50, 20, 10L; Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml; Bottle: 950, 500, 100, 50, 5ml; Ampule: 20, 10, 5, 2ml.	7/02/91
Abbott Laboratories	Methadone Bulk Calibrators (B–F) Code No. 9676 (B–F)	20 L, 10 L Carboy; 6 L, 2 L, 1 L, 250 ml, 200 ml Flask.	9/02/88
Abbott Laboratories	Methadone Bulk Calibrators (L,M,H) Code No. 9676 (L,M,H)	20 L, 10 L Carboy; 6 L, 2 L, 1 L, 250 ml, 200 ml Flask.	9/02/88
Abbott Laboratories	Methadone Bulk Stock Standard Code No. 95952	10 L Carboy; 6 L, 2 L, 1 L Flask	9/02/88
Abbott Laboratories	Methadone Calibrators No. 9676–01	Kit: 6 Vials	9/02/88
Abbott Laboratories	Methadone Calibrators B–F No. 9676 B–F	5 ml Vial	9/02/88
Abbott Laboratories	Methadone Controls L,M,H No. 9676–L,M,H	5 ml Vial	9/02/88
Abbott Laboratories	Methadone Controls No. 9676–10	Kit: 3 Vials	9/02/88
Abbott Laboratories	Methadone QC Primary NG, CO, PS No. 9676 NG/CO/PS–QC	Carboy: 20, 10L; Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml; Bottle: 950, 500, 100, 50, 5ml; Ampule: 20, 10, 5, 2ml.	2/20/91
Abbott Laboratories	Methadone Stock Standard Code No. 95720	1 L, 500 ml, 100 ml; Bottle	9/02/88
Abbott Laboratories	Morphine Stock Standard, No. 97291	Vial: 125ml	10/16/85
Abbott Laboratories	Morphine Stock Standard, No. 97291 A–B	Carboy: 20L, 10L Flask: 4L, 2L, 1L, 500 ml, 250 ml, 200 ml, 100 ml; Bottle: 950ml, 500ml, 100ml, 5ml.	11/22/88
Abbott Laboratories	Multiconstituent (9) QC Control H Cat. No. 92625	Carboy: 50, 20, 10L; Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml; Bottle: 950, 500, 100, 50, 5ml; Ampule: 20, 10, 5, 2ml.	7/02/91
Abbott Laboratories	Multiconstituent (9) QC Control L Cat. No. 92623	Carboy: 50, 20, 10L; Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml; Bottle: 950, 500, 100, 50, 5ml; Ampule: 20, 10, 5, 2ml.	7/02/91
Abbott Laboratories	Multiconstituent (9) QC Control M Cat. No. 92624	Carboy: 50, 20, 10L Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml Bottle: 950, 500, 100, 50, 5ml Ampule: 20, 10, 5, 2ml.	07/02/91
Abbott Laboratories	Multiconstituent Bulk Controls L,M,H (No. 9687–L,M,H)	Carboy: 20L, 10L, Flask: 10L, 6L, 4L, 2L, 1L, 250ml, 200ml.	09/03/87

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Abbott Laboratories	Multiconstituent Control for Abused Drug Assays Bulk L,M,H; No. 9687–L,M,H.	Carboy: 20L, 10L, 19L, 9.5L, 6L, 4L, 1L, Flask: 250ml, 200ml.	10/06/89
Abbott Laboratories	Multiconstituent Control for Abused Drug Assays L,M,H; No. 9687–L,M,H.	Vial: 5 ml	10/06/89
Abbott Laboratories	Multiconstituent Control for Abused Drug Assays QC Primaries L,M,H; No. 9687–L,H,H–QC	Carboy: 10L, Flask: 4L, 2L, 1L, 500ml, 250ml, 200ml, 100ml, Bottle: 950ml, 500ml, 100ml, 5ml.	10/06/89
Abbott Laboratories	Multiconstituent Controls for Abused Drug Assays, No. 9687–10.	Kit: 6 vials	10/06/89
Abbott Laboratories	Nordiazepam Serum Bulk Stock Standard No. 94941	Carboy: 10 liters Flask: 6 liters, 2 liters, 1 liter	05/02/86
Abbott Laboratories	Nordiazepam Serum Bulk Stock Standard: Code No.94941	Carboy: 10 liter Flask: 6 liter, 2 liter	12/07/87
Abbott Laboratories	Nordiazepam Serum Stock Standard No. 94941, 94941 A,B	Carboy: 20L, 10L Flask: 4L, 2L, 1L, 500 ml, 250 ml, 200 ml, 100 ml Bottle: 950 ml, 500 ml, 100 ml, 5 ml.	11/22/88
Abbott Laboratories	Nordiazepam Serum Stock Standard: Code No. 94941	Bottle: 125 ml	12/07/87
Abbott Laboratories	Nordiazepam Serum Stock Standard: No. 94941	Bottle: 125 ml	05/02/86
Abbott Laboratories	Nordiazepam Stock Standard No. 97757, 97757 A,B	Carboy: 20L, 10L Flask: 4L, 2L, 1L, 500 ml, 250 ml, 200 ml, 100 ml Bottle: 950ml, 500ml, 100ml, 5ml.	11/22/88
Abbott Laboratories	Nordiazepam Stock Standard, No. 97757	Bottle: 125ml	04/21/86
Abbott Laboratories	Opiate Bulk Calibrators, B–F No. 9673	Carboy: 20L, 10L, Flask: 6L, 4L, 2L, 1L, 250ml, 200ml.	05/07/86
Abbott Laboratories	Opiate Bulk Controls, L and H No. 9673	Carboy: 20L, 10L, Flask: 6L, 4L, 2L, 1L, 250ml, 200ml.	05/07/86
Abbott Laboratories	Opiates Bulk Controls, No. 9673X,Y,Z	Carboy: 20L, 10L, Flask: 6L, 2L, 1L, 250ml, 200ml.	01/19/89
Abbott Laboratories	Opiates Bulk Tracer, No. 97458	Carboy: 50L, 20L, 10L, Flask: 6L, 4L, 2L, 1L	05/07/86
Abbott Laboratories	Opiates Control X,Y,Z; No. 9673X,Y,Z	Vial: 5ml	01/19/89
Abbott Laboratories	Opiates QC Primary (B–F,L,M,H) QC No. 9673 (B–F,L,M,H) QC	Carboy: 10L Flask: 4L, 2L, 1L, 500 ml, 250 ml, 200 ml, 100 ml Bottle: 5ml.	11/22/88
Abbott Laboratories	Opiates QC Primary 2–6 QT, NG, CO, PS No. 9673 2–6 QT–QC & NG/CO/PS–QC.	Carboy: 20, 10L Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml Bottle: 950, 500, 100, 50, 5ml Ampule: 20, 10, 5, 2ml.	02/20/91
Abbott Laboratories	Opiates QC Primary 8QT No. 9673 8QT–QC	Carboy: 20, 10L Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml Bottle: 950, 500, 100, 50, 5ml Ampule: 20, 10, 5, 2ml.	10/25/91
Abbott Laboratories	Opiates QC Primary Bulk Control M, No. 9673–M	Flasks: 1 liter, 250 ml, and 200 ml	11/10/87
Abbott Laboratories	Opiates QC Primary Standard Control M, No. 9673–M	Bottle: 5 ml	11/10/87
Abbott Laboratories	Opiates QC Primary X, No. 9673X–QC Primary Y, No. 9673Y–QC; PrimaryZ, No. 9673Z–QC.	Carboy: 10L, Flask: 4L, 2L, 1L, 500ml, 250ml, 200ml, 100ml, Bottle: 5ml.	06/05/89
Abbott Laboratories	Opiates Stock Tracer, No. 96718	Bottle: 30ml	05/07/86
Abbott Laboratories	Phencyclidine Bulk Calibrator, B–F No. 9672	Carboy: 20L, 10L, Flask: 6L, 4L, 2L, 1L, 250ml, 200ml.	03/21/86
Abbott Laboratories	Phencyclidine Bulk Control M, No. 9672	Carboy: 20L, 10L, Flask: 6L, 4L, 2L, 1L, 250ml, 200ml.	09/20/85
Abbott Laboratories	Phencyclidine Bulk Controls, L and H No. 9672	Carboy: 20L, 10L, Flask: 6L, 4L, 2L, 1L, 250ml, 200ml.	03/21/86
Abbott Laboratories	Phencyclidine Bulk Controls, No. 9672X,Y,Z	Carboy: 20L, 10L, Flask: 6L, 2L, 1L, 250ml, 200ml.	01/19/89
Abbott Laboratories	Phencyclidine Control X,Y,Z; No. 9672X,Y,Z	Vial: 5ml	01/19/89
Abbott Laboratories	Phencyclidine QC Primary (B–F,L,M,H) QC No. 9672 (B–F,L,M,H) QC.	Carboy: 10L Flask: 4L, 2L, 1L, 500 ml, 250 ml, 200 ml, 100 ml Bottle: 5ml.	11/22/88
Abbott Laboratories	Phencyclidine QC Primary 2–6 QT NG, CO, PS No. 9672 2–6 QT–QC & NG/CO/PS–QC	Carboy: 20,10L Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml Bottle: 950, 500, 100, 50, 5ml Ampule: 20, 10, 5, 2ml.	02/20/91
Abbott Laboratories	Phencyclidine QC Primary 8QT No. 9672 8QT–QC	Carboy: 20, 10L Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml Bottle: 950, 500, 100, 50, 5ml Ampule: 20, 10, 5, 2ml.	10/25/91
Abbott Laboratories	Phencyclidine QC Primary X, No. 9672X–QC; Primary Z, No. 9672Z–QC.	Carboy: 10L, Flask: 4L, 2L, 1L, 500ml, 250ml, 200ml, 100ml, Bottle: 5ml.	06/05/89
Abbott Laboratories	Phencyclidine Stock Standard No. 97158, 97158 A–B	Carboy: 20L, 10L Flask: 4L, 2L, 1L, 500 ml, 250 ml, 200 ml, 100 ml Bottle: 950ml, 500ml, 100ml, 5ml.	11/22/88
Abbott Laboratories	Phencyclidine Stock Standard, No. 95356	Flask: 100ml, 200ml, 250ml, 500ml, 1L, 2L, 4L, Bottle: 5ml, 100ml, 500ml, 950 ml, Carboys: 10L, 20L.	04/18/89
Abbott Laboratories	Phencyclidine Stock Standard, No. 97158	Bottle: 125ml	11/21/85
Abbott Laboratories	Phenobarbital Enzyme Inhibitor Stock	Vial: 2ml	01/20/84
Abbott Laboratories	Phenobarbital QC Primary B–F,L,M,H Item No. 9500B–F,L,M,H	Carboy: 20, 10L Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml Bottles: 950, 500, 100, 50, 5ml Ampules: 20, 10, 5, 2ml.	01/04/91
Abbott Laboratories	Phenobarbital Stock Solution 1 mg/ml Code No. 94312	Plastic Bottle: 125 ml	03/23/87
Abbott Laboratories	Phenobarbital Stock Solution 10 mg/ml Code No. 94313	Plastic Bottle: 125 ml	03/23/87
Abbott Laboratories	Phenobarbital Stock Standard 500 ug/ml Item No. 99259	Carboy: 20, 10L Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml Bottles: 950, 500, 100, 50, 5ml Ampules: 20, 10, 5, 2ml.	01/04/91
Abbott Laboratories	Phenobarbital Stock Standard Solution,	Bottle: 1 liter	8/12/82
Abbott Laboratories	Polyethylene Glycol 8000, 16% Solution in 0.09 M Barbital Buffer, No 7541.	Plastic Bottle: 300 ml, 150 ml.	09/21/77

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Abbott Laboratories	Polyethylene Glycol 8000, 18% Solution in 0.09M Barbital Buffer: No. 07602.	Stainless Steel Tank: 1000 liters	03/09/88
Abbott Laboratories	Propoxyphene Bulk Calibrator B–F Item No. 9675(B–F)	Carboys or Flasks: 20L,19L,10L,9.5L,6L,4L,2L,1L,250ml,200ml.	11/30/90
Abbott Laboratories	Propoxyphene Bulk Control L,M,H List No. 9675(L,M,H)	Carboys or Flasks: 20L,19L,10L,9.5L,6L,4L,2L,1L,250ml,200ml.	11/30/90
Abbott Laboratories	Propoxyphene Bulk Tracer Item No. 92003	Carboys or Flasks: 20L,19L,10L,9.5L,6L,4L,2L,1L,250ml,200ml.	11/30/90
Abbott Laboratories	Propoxyphene Calibrators Item No. 9675–01	Kit: 5 vials	11/30/90
Abbott Laboratories	Propoxyphene Calibrators Item No. 9675B–F	Vial: 5ml	11/30/90
Abbott Laboratories	Propoxyphene Controls Item No. 9675–10	Kit: 3 vials	11/30/90
Abbott Laboratories	Propoxyphene Controls Item No. 9675L,M,H	Vial: 5ml	11/30/90
Abbott Laboratories	Propoxyphene QC Primary B–F,L,M,H,Z Item No. 9675(B–F,L,M,H,Z)–QC.	Carboy: 20,10L Flasks: 6,4,2,1L,500,250,200,100ml Bottles: 950,500,100,50,5ml Ampules: 20,10,5,2ml.	11/30/90
Abbott Laboratories	Propoxyphene QC Primary NG, CO, PS No. 9675 NG/CO/PS–QC.	Carboy: 20,10L; Flask: 6,4,2,1L,500,250,200,100ml; Bottle: 950ml,500,100,50,5ml Ampule: 20,10,5,2ml.	2/20/91
Abbott Laboratories	Propoxyphene Stock Standard, 100 mcg/ml Item No. 92005	Carboys: 20,10L Flasks: 6,4,2,1L,500,250,200,100ml Bottles: 950,500,100,50,5ml Ampules: 20,10,5,2ml.	11/30/90
Abbott Laboratories	Propoxyphene Stock Tracer Item No. 92001	Bottle: 12ml	11/30/90
Abbott Laboratories	Propoxyphene Tracer Item No. 9675–T	Bottles: 3.2ml, 5ml	11/30/90
Abbott Laboratories	Secobarbital Bulk Calibrator, B–F No. 9669	Carboy: 20L, 10L, Flask: 6L, 4L, 2L, 1L, 250ml, 200ml.	3/21/86
Abbott Laboratories	Secobarbital Bulk Controls, L and H No. 9669	Carboy: 20L, 10L, Flask: 6L, 4L, 2L, 1L, 250ml, 200ml.	3/21/86
Abbott Laboratories	Secobarbital Stock Standard 1000mcg/ml–No. 90107, 500mcg/ml–No. 90107A, 200mcg/ml–No. 90107B,.	Carboy: 20L, 10L, Flask: 4L, 2L, 1L, 500ml, 250ml, 200ml, 100ml, Bottle: 950ml, 500ml, 100ml, 5ml.	1/03/89
Abbott Laboratories	Secobarbital Stock Standard No. 97171, 97171 A,B	Carboy: 20L,10L Flask: 4L, 2L, 1L, 500 ml, 250 ml, 200 ml, 100 ml Bottle: 950 ml, 500 ml, 100 ml, 5 ml.	11/22/88
Abbott Laboratories	Secobarbital Stock Standard, No. 97171	Bottle: 125ml	11/21/85
Abbott Laboratories	Spectrum Phenobarbital Calibrator II–VI, Nos. 9755, 9757, 9759, 9761, 9763.	Bottle: 4ml	10/03/85
Abbott Laboratories	Spectrum Phenobarbital Control, Nos. 9676, 9678, 9680. (L,M,H).	Bottle: 4ml	10/03/85
Abbott Laboratories	TDx Amphetamine Class Calibrators 9667–01	Kit containing 6 vials	3/01/88
Abbott Laboratories	TDx Amphetamine Class Calibrators B–F	Bottle: 5 ml	3/01/88
Abbott Laboratories	TDx Amphetamine Class Control L and H	Bottle: 5 ml	3/01/88
Abbott Laboratories	TDx Amphetamine Class Controls 9667–10	Kit containing 2 vials	03/01/88
Abbott Laboratories	TDx Amphetamine Class Tracer Solution, No. 9667T	Vial: 5ml, 3.2ml	3/01/88
Abbott Laboratories	TDx Amphetamine/Methamphetamine Calibrator, No. 9668–01	Bottles: 4ml	8/23/85
Abbott Laboratories	TDx Amphetamine/Methamphetamine Controls, No. 9668–10	Bottles: 4ml	8/23/85
Abbott Laboratories	TDx Barbiturates Calibrators No. 9669 B–F	5 ml Vial	7/01/88
Abbott Laboratories	TDx Barbiturates Calibrators No. 9669–01	Kit: 5 Vials, 5 ml each	7/01/88
Abbott Laboratories	TDx Barbiturates Calibrators, B–F No. 9669	Bottle: 4 ml	10/08/85
Abbott Laboratories	TDx Barbiturates Control L,H No. 9669 L,H	5 ml Vial	07/01/88
Abbott Laboratories	TDx Barbiturates Control, L and H No. 9669	Bottle: 4ml	10/08/85
Abbott Laboratories	TDx Barbiturates Controls No. 9669–10	Kit: 2 Vials, 5 ml each	7/01/88
Abbott Laboratories	TDx Benzodiazepines Calibrator No. 9674 B–F	5 ml Vial	7/18/88
Abbott Laboratories	TDx Benzodiazepines Calibrators No. 9674–01	Kit: 5 Vials, 5 ml each	7/18/88
Abbott Laboratories	TDx Benzodiazepines Calibrators, No. 9674–01	Bottles: 4ml	4/21/86
Abbott Laboratories	TDx Benzodiazepines Controls L,H No. 9674 L,H	5 ml Vial	7/18/88
Abbott Laboratories	TDx Benzodiazepines Controls L,H No. 9674–10	Kit: 2 Vials, 5 ml each	7/18/88
Abbott Laboratories	TDx Benzodiazepines Controls, No. 9674–10	Bottles: 4ml	4/21/86
Abbott Laboratories	TDx Benzodiazepines Serum Calibrator No. 9682 B–F	Bottle: 4 ml	5/02/88
Abbott Laboratories	TDx Benzodiazepines Serum Calibrators B–F: Code No. 9682 B–F.	Bottle: 4 ml	12/07/88
Abbott Laboratories	TDx Benzodiazepines Serum Calibrators: Code No. 9682–01	Kit	12/07/88
Abbott Laboratories	TDx Benzodiazepines Serum Calibrators: No. 9682–01	Kit containing 6 vials	5/02/88
Abbott Laboratories	TDx Benzodiazepines Serum Controls L,M, & H: No. 9682 L,M,H.	Bottle: 4 ml	12/07/87
Abbott Laboratories	TDx Benzodiazepines Serum Controls L,M,H: No. 9682 L,M,H	Bottle: 4 ml	5/02/88
Abbott Laboratories	TDx Benzodiazepines Serum Controls: Code No. 9682–10	Kit	12/07/88
Abbott Laboratories	TDx Benzodiazepines Serum Controls: No. 9682–10	Kit containing 3 vials	5/02/88
Abbott Laboratories	TDx Cannabinoids Calibrators B–F (9671–02)	Bottle: 5 ml	6/19/87
Abbott Laboratories	TDx Cannabinoids Calibrators B–F (No. 9671–01)	Bottles: 5 ml	10/24/86
Abbott Laboratories	TDx Cannabinoids Controls L,M, and H (9671–11)	Bottle: 5 ml	06/19/87
Abbott Laboratories	TDx Cannabinoids Controls L,M,H (No. 9671–10)	Bottles: 5 ml	10/24/86
Abbott Laboratories	TDx Cannabinoids Fluorescein Tracer Solution (No. 9671–T)	Bottle: 5 ml	10/27/86
Abbott Laboratories	TDx Cannabinoids Reagent Pack (No. 9671–20)	100 tests	10/27/86
Abbott Laboratories	TDx Cocaine Metabolite Calibrator B–F No. 9670 B–F	5 ml Vial	7/07/88
Abbott Laboratories	TDx Cocaine Metabolite Calibrator, B–F No. 9670	Bottle: 4ml	10/02/85
Abbott Laboratories	TDx Cocaine Metabolite Calibrators No. 9670–01	Kit: 5 Vials, 5 ml each	7/07/88
Abbott Laboratories	TDx Cocaine Metabolite Control L,H No. 9670 L,H	5 ml Vial	7/07/88
Abbott Laboratories	TDx Cocaine Metabolite Control, L and H No. 9669	Bottle: 4ml	10/02/85
Abbott Laboratories	TDx Cocaine Metabolite Controls No. 9670–10	Kit: 2 Vials, 5 ml each	7/07/88

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Abbott Laboratories	TDx Cocaine Metabolite Fluorescein Tracer Solution No. 9670 T0001.	Kit: 100 Vials, 5 ml Each	7/07/88
Abbott Laboratories	TDx Cocaine Metabolite Fluorescein Tracer Solution No. 9670–T.	Box: 5 ml Vial	7/07/88
Abbott Laboratories	TDx Cocaine Metabolite Reagent Pack	Reagent well: 5ml	10/02/85
Abbott Laboratories	TDx Cocaine Metabolite Reagent Pack No. 9670–20	Kit: 100 Tests	7/07/88
Abbott Laboratories	TDx Multiconstituent Controls L,M,H (No. 9687–L,M,H)	Bottle: 5 ml	9/03/87
Abbott Laboratories	TDx Opiates Calibrators B–F No. 9673–01	Vial: 4 ml	2/29/88
Abbott Laboratories	TDx Opiates Calibrators B–F No. 9673,	5 ml Vial,	5/07/86
Abbott Laboratories	TDx Opiates Controls L and H: No. 9673 L,H	Vial: 4 ml	2/29/88
Abbott Laboratories	TDx Opiates Controls L and H No. 9673	Vials: 5ml	5/07/86
Abbott Laboratories	TDx Opiates Fluorescein Tracer Solution No. 9673 T0001	Box: 10 Vials, 5 ml each	7/08/88
Abbott Laboratories	TDx Opiates Fluorescein Tracer Solution: No. 9673–T	Reagent Well: 5 ml	2/29/88
Abbott Laboratories	TDx Opiates Reagent, Pack No. 9673–20, 100 tests	Reagent Well: 5ml, 100 tests,	5/07/86
Abbott Laboratories	TDx Phencyclidine Bulk Calibrator B–F No. 9672 B–F	5 ml Vial	7/18/88
Abbott Laboratories	TDx Phencyclidine Bulk Calibrator B–F No. 9672 B–F	Carboy: 9.5, 19 L	7/18/88
Abbott Laboratories	TDx Phencyclidine Bulk Control L,M,H No. 9672 L,M,H	Carboy: 9.5, 19 L	7/18/88
Abbott Laboratories	TDx Phencyclidine Calibrators B–F No. 9672–01	Kit: 5 Vials, 5 ml each	7/18/88
Abbott Laboratories	TDx Phencyclidine Calibrators, B–F No. 9672	Bottle: 4ml	10/09/85
Abbott Laboratories	TDx Phencyclidine Control M No. 9672	Bottle: 4ml	9/26/86
Abbott Laboratories	TDx Phencyclidine Controls L,M,H No. 9672 L,M,H	5 ml Vial	7/18/88
Abbott Laboratories	TDx Phencyclidine Controls No. 9672–10	Kit: 3 Vials, 5 ml each	7/18/88
Abbott Laboratories	TDx Phencyclidine Controls, L and H No. 9672	Bottle: 4ml	10/09/85
Abbott Laboratories	TDx Phenobarbital Bulk Calibrators No. 9500 B–F	Carboy: 10 L, 20 L	6/16/88
Abbott Laboratories	TDx Phenobarbital Bulk Calibrators No. 9500 L,M,H	Carboy: 10 L, 20 L	6/16/88
Abbott Laboratories	TDx Phenobarbital Calibrator–0.0, 5.0, 10.0, 20.0, 40.0, and 80.0 mcg/ml.	Kit ctg: 6 vials	8/31/81
Abbott Laboratories	TDx Phenobarbital Calibrators B–F No. 9500 B–F	5 ml Vial	6/16/88
Abbott Laboratories	TDx Phenobarbital Calibrators No. 9500–01	5 Vials, 5 ml each	6/16/88
Abbott Laboratories	TDx Phenobarbital Controls No. 9500 L,M,H	5 ml Vial	6/16/88
Abbott Laboratories	TDx Phenobarbital Controls No. 9500–10	Kit: 3 Vials, 5 ml each	6/16/88
Abbott Laboratories	TDx Phenobarbital Controls– 15.0, 30.0, 50.0 mcg/ml	Kit ctg: 3 vials	8/31/81
Abbott Laboratories	TDx Propoxyphene Reagent Pack Item No. 9675–20	Kit: 100 tests	11/30/90
Abbott Laboratories	TDx Systems Multiconstituent Controls for Abused Drug (No. 9687–10).	Kit: 6 Bottles	9/03/87
Abbott Laboratories	TDx or TDx/TDxFLx Propoxyphene Fluorescein Tracer Solution Item No. 9675T0001.	Box: 100 bottles or less	11/30/90
Abbott Laboratories	TDx, ADx Amphetamine Class Reagent Pack, No.9667–20, No. 9667–55.	Kit: 100 tests	3/01/88
Abbott Laboratories	TDx/TDxFLx Propoxyphene Reagent Pack Item No. 9675–60	Kit: 100 tests	11/30/90
Abbott Laboratories	Thyroxine Binding Globulin, Thyroxine I 125	Glass Bottle: 13ml. Plastic Bottle: 250ml	4/22/76
Abbott Laboratories	TrakPak Five Drug Control 2–6 QT Nos. 92212-92216	Carboy: 20, 10L Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml Bottle: 950,500,100,50,5ml Ampule: 20,10,5,2ml.	10/19/90
Abbott Laboratories	TrakPak Five Drug Control 6QT No. 93349	Carboy: 20, 10l; FlaskL: 6, 4, 2, 1L, 500, 250, 200, 100ml; Bottle: 950,500,100,50,5ml; Ampule: 20,10,5,2ml.	10/25/91
Abbott Laboratories	TrakPak Five Drug Control Stock No. 92210	Carboy: 20, 10L Flask: 6, 4, 2, 1L, 500, 250, 200, 100ml Bottle: 950,500,100,50,5ml Ampule: 20,10,5,2ml.	10/19/90
Abbott Laboratories	TrakPak Card w/Cover Code #01249	Box: 2000 cards w/cover	3/08/91
Abbott Laboratories	TrakPak Card w/Tracers Code #01248	Box: 2000 cards	3/08/91
Abbott Laboratories	TrakPak Cocaine Tracer Code #92199	Flasks: 6,4,2,1L,500,250,200,100ml Bottles: 950,500,100,50,5ml Ampules: 20,10,5,2ml.	3/08/91
Abbott Laboratories	TrakPak Drug of Abuse Screening System (40 test kit) Code #04A74.	Kit: 40 cartridges	3/08/91
Abbott Laboratories	TrakPak Negative Control Code #04A74C	Vial: 5ml	3/08/91
Abbott Laboratories	TrakPak Opiates Tracer Code #92198	Flasks: 6,4,2,1L,500,250,200,100ml Bottles: 950,5,00,100,50,5ml Ampules: 20,10,5,2ml.	3/08/91
Abbott Laboratories	TrakPak Reaction Cartridge Code #04A74B	Cartridge: 1 card	3/08/91
Abbott Laboratories	TrakPak THC Tracer Code #92200	Flasks: ,6,4,2,1L,500,250,200,100ml; Bottles: 950,500,100,50,5ml; Ampules: 20,10,5,2ml.	3/08/91
Abbott Laboratories	X Systems Amphetamine/Methamphetamine II Calibrator B,C,D,E,F No. 01A99–B,C,D,E,F.	Vial: 5 ml	7/14/89
Abbott Laboratories	X Systems Amphetamine/Methamphetamine II Calibrators, No. 01A99–01.	Kit: 6 vials	7/14/89
Abbott Laboratories,	X Systems Amphetamine/Methamphetamine II Control L,M,H; No. 01A99–L,M,H,.	Vial: 5 ml,	7/14/89
Abbott Laboratories,	X Systems Amphetamine/Methamphetamine II Controls, No. 01A99–10,.	Kit: 3 vials,	7/14/89
Abbott Laboratories	d–Amphetamine (II) Bulk Stock Standard Code No. 95947	10 L Carboy; 6 L, 2 L, 1 L Flask	8/29/88
Abbott Laboratories	d–Amphetamine (II) Stock Standard Code No. 95934	1 L, 500 ml, 100 ml Bottle	8/26/88
Abbott Laboratories	d–Amphetamine (II) Stock Standard No. 95934, 95934 A–B	Carboy: 20L, 10L Flask: 4L, 2L, 1L, 500 ml, 250 ml, 200 ml, 100 ml Bottle: 950ml, 500ml, 100ml,5ml.	11/22/88
Adn/Technam	3-0rtho-Carboxymethylmorphine	Screw Cap Vial	5/03/73
Adn/Technam	5–Ethyl–5–(1–Carboxy–n–propyl) Barbituric Acid	Screw Cap Vial	5/03/73
Adn/Technam	5–Ethyl–5–(1–Carboxy–n–propyl) Barbituric Acid–Bovine Serum Albumin.	Vaccine Vial: 10ml	5/03/73

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Adri/Technam	5-Ethyl-5-(1-Carboxy-n-propyl) Barbituric Acid-Rabbit Serum Albumin.	Vaccine Vial: 10ml	5/03/73
Adri/Technam	Barbiturate Standard	Screw-cap vial: 10ml	7/17/76
Adri/Technam	Barbituric Acid Sensitized Red Blood Cells	Vaccine Vial: 50ml	5/03/73
Adri/Technam	Benzoyl Ecgonine	Screw-cap vial: 10ml	4/18/74
Adri/Technam	Benzoyl Ecgonine Sensitized Red Blood Cells	Vaccine Vial: 50ml	5/03/73
Adri/Technam	Benzoyl Ecgonine Standard	Screw-cap vial: 10ml	7/17/76
Adri/Technam	Benzoyl Ecgonine-BSA	Vaccine Vial	7/21/75
Adri/Technam	Benzoyl Ecgonine-RSA	Vaccine Vial	7/21/75
Adri/Technam	CMM-BSA and CMM-RSA (Carboxymethylmorphine Bovine Serum Albumin or Carboxymethylmorphine Rabbit Serum Albumin).	Vaccine Vial: 10ml	5/03/73
Adri/Technam	Cannabuse Cannabidiol Standard	Disks: 25/package	5/03/85
Adri/Technam	Cannabuse Delta 8 THC Carboxylic Acid Standard	Disks: 257package	9/19/84
Adri/Technam	Cannabuse Delta 8 THC Carboxylic Acid Standard	Vial: 6 ml	9/19/84
Adri/Technam	Cannabuse Delta 9 THC Carboxylic Acid Standard	Vial: 6 ml	9/19/84
Adri/Technam	Cannabuse Delta 9 THC Carboxylic Acid Standard	Disks: 25/package	9/19/84
Adri/Technam	Cannabuse Delta 9 THC Standard	Vial: 6 ml	9/19/84
Adri/Technam	Cannabuse Delta 9 THC Standard	Disks: 25/package	9/19/84
Adri/Technam	Drug Standards, Acid/ Neutral Mixture A and B	Disks: 25/package	11/15/85
Adri/Technam	Drug Standards, Basic Mixture A and B	Disks: 25/package	11/15/85
Adri/Technam	Methadone Standard	Screw-cap vial: 10ml	7/17/76
Adri/Technam	Morphine Sensitized Red Blood Cells	Vaccine Vial: 50ml	5/03/73
Adri/Technam	Morphine Standard (in distilled water)	Screw-cap vial: 10ml	7/17/77
Adri/Technam	Tropinecarboxylic Acid (ecgonine)	Screw-cap Bottle: 10ml	5/03/73
Alltech-Applied Science	4-Methylaminorex	Vial: 1 ml	6/16/89
Alltech-Applied Science	6-Acetylcodeine	Vial: 1 ml	6/16/89
Alltech-Applied Science	Benzoylecgonine Tetrahydrate 7.5ug, 50ug, 250ug	Amber Ampoule: 1ml	2/16/90
Alltech-Applied Science	Bromazepam	Vial: 1 ml	6/16/89
Alltech-Applied Science	Cyclopentobarbital	Vial: 1 ml	6/16/89
Alltech-Applied Science	GC/MS Benzoylecgonine Calibration Standards Kit	Kit: 3 vials	2/16/90
Alltech-Applied Science	L-Amphetamine HCl	Vial: 1 ml	6/16/89
Alltech-Applied Science	MDE HCl	Vial: 1 ml	6/16/89
Alltech-Applied Science	Medazepam	Vial: 1 ml	6/16/89
Alltech-Applied Science	Metharbital	Vial: 1 ml	6/16/89
Alltech-Applied Science	N-Ethylamphetamine	Amber Ampoule: 1ml	2/16/90
Alltech-Applied Science	N-Hydroxy-MDA	Amber Ampoule: 1ml	2/16/90
Alltech-Applied Science	Normeperidine HCl	Vial: 1 ml	6/16/89
Alltech-Applied Science	Phenmetrazine HCl	Amber Ampoule: 1ml	2/16/90
Alltech-Applied Science	Talbutal	Vial: 1 ml	6/16/89
Alltech-Applied Science	Thiopental	Vial: 1 ml	6/16/89
Alltech-Applied Science	d3-Benzoylecgonine Tetrahydrate	Amber Ampoule: 5ml	2/16/90
Alltech-Applied Science	l-Methamphetamine HCl	Vial: 1 ml	6/16/89
American Biological Technologies, Inc., Dade Urine Chemistry Control, Level I & II.	Glass Vial: 15ml	4/08/91	
American Monitor Corporation	Qualify I	Glass Vial: 10ml	10/09/75
American Monitor Corporation	Qualify II	Glass Vial: 10ml	10/09/75
Amersham Corporation	5 Alpha-Dihydro[1,2,4,5,6,7-3H]Testosterone Cat. No. TRK.443.	Vial: 6ml	4/02/91
Amersham Corporation	5 alpha-Dihydro[1 alpha, 2 alpha(n)-3H] Testosterone Cat. No. TRK.395.	Vial: 6ml	4/02/91
Amersham Corporation	5 alpha-dihydro[1,2,4,5,6,7-3H] Testosterone Reagent 4 T/DHT RIA Kit.	Vial: 1ml	4/11/91
Amersham Corporation	Amerlex T-3 RIA Kit, IM 2000, IM 2001, IM 2004	Kit: 50 tests, 100 tests, 400 tests	2/18/80
Amersham Corporation	Amerlex T-4 RIA Kit, IM 2010, IM 2011, IM 2014	Kit: 50 tests, 100 tests, 400 tests	[illegible]
Amersham Corporation	Amerlex-M B-hCG Radioimmunoassay Kit IM 3091,IM 3094	Kit: 100 tests, 400 tests	6/19/85
Amersham Corporation	Amerlex-M T3 RIA Kit, 1M.3001, 1M.3004	Kit: 100 Tests 400 Tests	8/27/86
Amersham Corporation	Amerlex-M T4 RIA Kit, 1M.3011, 1M.3014	Kit: 100 Tests 400 Tests	8/27/86
Amersham Corporation	Amerlite FSH Assay, Cat. Code LAN.0077, Cat. Code LAN.2077.	Glass vial: 5.8ml, 38.1ml, 240 tests, 144 tests	5/30/89
Amersham Corporation	Amerlite Rubella Antibody Assay, Cat. Code LAN.0200, Cat. Code LAN.2200.	Glass vial: 5.8ml, 38.1ml, 240 tests, 144 tests	5/30/89
Amersham Corporation	Amerlite TSH Assay, Cat. Code LAN.0001, Cat. Code LAN.2001.	Glass vial: 5.8ml, 240 tests, 144 tests	5/30/89
Amersham Corporation	Amerlite TT3 Assay: Catalog Code Lan. 0003, Lan. 1003, and Lan.2003.	Kit: 144 tests, 240 tests, 480 tests	11/24/87
Amersham Corporation	Amerlite TT4 Assay: Catalog Code Lan. 0002, Lan. 1002, Lan. 2002.	Kit: 144 tests, 240 tests, 480 tests	11/24/87
Amersham Corporation	Codeine (N-methyl-C14) Hydrochloride	Custom Preparation	3/27/72
Amersham Corporation	Dihydrotestosterone Standard Reagnet 3 T/DHT RIA Kit	Vial: 5.5ml	4/11/91
Amersham Corporation	Morphine (N-methyl-C14) Hydrocloride No. CFA-363	Vial: 0.32 to 1.89mg	3/27/72
Amersham Corporation	Pheno [2-14C] barbital Catalog No. CFA 537	Vial: 0.39 to 5.85mg	11/05/74
Amersham Corporation	Prolactin RIA Kit, IM 1060, 1061	Kit: 50 tests, 100 tests	3/28/80
Amersham Corporation	T-3 Uptake (MAA) Kit-IM 1020, IM 1021, IM 1024	Kit: 50 tests, 100 tests, 400 tests	2/05/79
Amersham Corporation	Testosterone Standard Reagent 2 T/DHT RIA Kit	Vial: 5.5ml	4/11/91
Amersham Corporation	Testosterone-3-(0-carboxymethyl)oximino-(2-[125I] iodohistamine)10uCi, 25uCi Cat. No. IM.128.	Vial: 1.2ml	4/02/91
Amersham Corporation	Testosterone/dihydrotestosterone [3H] assay system Cat. No. TRK-600.	Kit: 200 assays	4/11/91

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Amersham Corporation	[1(N)-3H] Hydromorphone TRQ 4729	Vial: 47.5–95 micrograms	7/31/87
Amersham Corporation	[1(n)-3H] Codeine, No. TRK 448	Ampule: 0.002mg to 0.015mg	2/26/74
Amersham Corporation	[1(n)-3H]Morphine, No. TRK-447	Vial: 0.002 mg to 0.015 mg	2/26/74
Amersham Corporation	[1,2,6,7-3H] Testosterone Cat. No. TRK.402	Vial: 6ml	4/02/91
Amersham Corporation	[1,7,8(n)-3H]Dihydromorphine, No. TRK-450	Vial: 0.0008 mg to 0.008 mg	2/26/74
Amersham Corporation	[15, 16(n)-3H] Etorphine, Catalog No. TRK 476	Vial: 3.45 to 6.9 micrograms	11/19/74
Amersham Corporation	[15,16(n)-3H] Etorphine Catalog No. TRK 476	Vial: 13.8 to 27.6 micrograms	2/17/75
Amersham Corporation	[17 alpha-methyl-3H] Mibolerone Cat. No. TRK.764	Vial: 6ml	4/02/91
Amersham Corporation	[2(n)-3H] Lysergic Acid Diethylamide, No. TRK. 461	Vial: 0.003mg to 0.04mg	5/22/74
Amersham Corporation	[2-14C] Diazepam Catalog No. CFA.591, Multidose	Glass Vial: 56mm x 25mm	9/28/77
ersham Corporation	[3H]11-Ketotestosterone Cat. No. TRQ.5919	Vial: 5.7ml	6/13/91
Amersham Corporation	[4-14C] Testosterone 50uCi, 250uCi Cat. No. CFA.129	Vial: 6ml	4/02/91
Amersham Corporation	[N-methyl-3H] Diazepam Catalog Code: TRK.572	Multidose Glass Vial: 56mm x 25mm	9/28/77
Analytical Control Systems, Inc.	Accumark I TDM Control 1L, 2M, 3H	Plastic Vial: 6ml; Bag: 1–120 vials	10/02/91
Applied Science Laboratories	6-Monoacetylmorphine HCl	Vial: 1 ml	3/30/88
Applied Science Laboratories	Allylisobutylbarbituric Acid	Vial: 1ml	1/24/73
Applied Science Laboratories	Alphaprodine HCL	Vial: 1ml	4/16/85
Applied Science Laboratories	Alphenal	Vial: 1ml	1/24/73
Applied Science Laboratories	Alprazolam	Vial: 1ml	4/16/85
Applied Science Laboratories	Amobarbital	Vial: 1ml	1/24/73
Applied Science Laboratories	Amphetamine HCL	Vial: 1ml	1/24/73
Applied Science Laboratories	Aprobarbital	Vial: 1ml	1/24/73
Applied Science Laboratories	Barbital	Vial: 1ml	1/24/73
Applied Science Laboratories	Barbiturates, Mixture 4	Vial: 10ml	10/04/72
Applied Science Laboratories	Benzoylecgonine Tetrahydrate	Vial: 1ml	4/16/85
Applied Science Laboratories	Benzphetamine HCL	Vial: 1ml	4/16/85
Applied Science Laboratories	Butabarbital	Vial: 1ml	1/24/73
Applied Science Laboratories	Butethal	Vial: 1ml	1/24/73
Applied Science Laboratories	Cannabidiol	Vial: 1ml	3/30/88
Applied Science Laboratories	Cannabinol	Vial: 1ml	3/30/88
Applied Science Laboratories	Chloral Hydrate	Vial: 1ml	4/16/85
Applied Science Laboratories	Chlordiazepoxide HCL	Vial: 1ml	4/16/85
Applied Science Laboratories	Clonazepam	Vial: 1ml	4/16/85
Applied Science Laboratories	Clorazepate Dipotassium	Vial: 1ml	4/16/85
Applied Science Laboratories	Cocaine	Vial: 1ml	1/24/73
Applied Science Laboratories	Codeine	Vial: 1ml	1/24/73
Applied Science Laboratories	Delta-8-Tetrahydro-cannabinol	Vial: 1 ml	3/30/88
Applied Science Laboratories	Delta-9-Tetrahydrocannabinol	Vial: 1ml	4/16/85
Applied Science Laboratories	Depressants, Mixture 3	Vial: 10ml	10/04/72
Applied Science Laboratories	Dextropropoxyphene HCL	Vial: 1ml	4/16/85
Applied Science Laboratories	Diacetylmorphine HCL	Vial: 1ml	4/16/85
Applied Science Laboratories	Diallybarbituric acid	Vial: 1ml	1/24/73
Applied Science Laboratories	Diazepam	Vial: 1ml	4/16/85
Applied Science Laboratories	Diethylpropion HCL	Vial: 1ml	4/16/85
Applied Science Laboratories	Dihydrocodeine	Vial: 1ml	4/16/85
Applied Science Laboratories	Dimethyltryptamine	Vial: 1ml	4/16/85
Applied Science Laboratories	Drug Mix Four	Ampoule: 1ml	11/03/86
Applied Science Laboratories	Drug Mix One	Ampoule: 1ml	10/21/86
Applied Science Laboratories	Drug Mix Three	Ampoule: 1ml	11/03/86
Applied Science Laboratories	Drug Mix Two	Ampoule: 1ml	10/21/86
Applied Science Laboratories	Ecgonine HCL	Vial: 1ml	4/16/85
Applied Science Laboratories	Ecgonine Methyl Ester HCl	Vial: 1ml	3/30/88
Applied Science Laboratories	Ethchlorvynol	Vial: 1ml	1/24/73
Applied Science Laboratories	Ethinamate	Vial: 1ml	1/24/73
Applied Science Laboratories	Ethylmorphine HCL	Vial: 1ml	1/24/73
Applied Science Laboratories	Fenfluramine HCL	Vial: 1ml	4/16/85
Applied Science Laboratories	Fentanyl	Vial: 1ml	4/16/85
Applied Science Laboratories	Flurazepam HCL	Vial: 1ml	4/16/85
Applied Science Laboratories	Glutethimide	Vial: 1ml	1/24/73
Applied Science Laboratories	Halazepam	Vial: 1ml	4/16/85
Applied Science Laboratories	Hexobarbital	Vial: 1ml	1/24/73
Applied Science Laboratories	Hydrocodone Bitartrate	Vial: 1ml	1/24/73
Applied Science Laboratories	Hydromorphone HCL	Vial: 1ml	4/16/85
Applied Science Laboratories	Levorphanol Tartrate	Vial: 1ml	4/16/85
Applied Science Laboratories	Lorazepam	Vial: 1ml	4/16/85
Applied Science Laboratories	Lysergic Acid	Vial: 1ml	4/16/85
Applied Science Laboratories	Lysergic Acid N-(methylpropyl) amide	Vial: 1ml	4/16/85
Applied Science Laboratories	Lysergic Acid diethylamide	Vial: 1ml	4/16/85
Applied Science Laboratories	MDA HCl	Vial: 1ml	3/30/88
Applied Science Laboratories	MDMA HCl	Vial: 1ml	3/30/88
Applied Science Laboratories	Meperidine HCL	Vial: 1ml	1/24/73
Applied Science Laboratories	Mephobarbital	Vial: 1ml	1/24/73
Applied Science Laboratories	Meprobamate	Vial: 1ml	1/24/73
Applied Science Laboratories	Mescaline	Vial: 1ml	1/24/73
Applied Science Laboratories	Methadone HCL	Vial: 1ml	1/24/73
Applied Science Laboratories	Methamphetamine HCL	Vial: 1ml	1/24/73
Applied Science Laboratories	Methaqualone HCL	Vial: 1ml	4/16/85
Applied Science Laboratories	Methohexital	Vial: 1ml	4/16/85
Applied Science Laboratories	Methylphenidate	Vial: 1ml	1/24/73
Applied Science Laboratories	Methyprylon	Vial: 1ml	4/16/85

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Applied Science Laboratories	Mixture 1–Opiates	Vial: 1ml	10/04/72
Applied Science Laboratories	Mixture 2–Stimulants	Vial: 1ml	10/04/72
Applied Science Laboratories	Mixture 3–Depressants	Vial: 1ml	10/04/72
Applied Science Laboratories	Mixture 4–Barbiturates	Vial: 1ml	10/04/72
Applied Science Laboratories	Mixture 5–Kit of Representatives	Vial: 1ml	10/04/72
Applied Science Laboratories	Morphine	Vial: 1ml	1/24/73
Applied Science Laboratories	Nalorphine	Vial: 1ml	1/24/73
Applied Science Laboratories	Nitrazepam	Vial: 1ml	3/30/88
Applied Science Laboratories	Norcodeine HCL	Vial: 1ml	4/16/85
Applied Science Laboratories	Nordiazepam	Vial: 1ml	3/30/88
Applied Science Laboratories	Normorphine	Vial: 1ml	4/16/85
Applied Science Laboratories	Opiates, Mixture 1	Vial: 10ml	10/04/72
Applied Science Laboratories	Oxazepam	Vial: 1ml	4/16/85
Applied Science Laboratories	Oxycodone HCL	Vial: 1ml	4/16/85
Applied Science Laboratories	Oxymorphone HCL	Vial: 1ml	4/16/85
Applied Science Laboratories	Paraldehyde	Vial: 1ml	4/16/85
Applied Science Laboratories	Pemoline	Vial: 1ml	4/16/85
Applied Science Laboratories	Pentazocine	Vial: 1ml	4/16/85
Applied Science Laboratories	Pentazocine HBr	Vial: 1ml	1/24/73
Applied Science Laboratories	Pentobarbital	Vial: 1ml	1/24/73
Applied Science Laboratories	Phencyclidine HCL	Vial: 1ml	1/24/73
Applied Science Laboratories	Phendimetrazine Bitartrate	Vial: 1ml	4/16/85
Applied Science Laboratories	Phenobarbital	Vial: 1ml	1/24/73
Applied Science Laboratories	Phentermine	Vial: 1ml	4/16/85
Applied Science Laboratories	Prazepam	Vial: 1ml	4/16/85
Applied Science Laboratories	Propylbenzoyl–ecgonine	Vial: 1ml	3/30/88
Applied Science Laboratories	Psilocybin	Vial: 1ml	4/16/85
Applied Science Laboratories	Psilocyn	Vial: 1ml	11/06/87
Applied Science Laboratories	Secobarbital	Vial: 1ml	1/24/73
Applied Science Laboratories	Stimulants, Mixture 2	Vial: 10ml	10/04/72
Applied Science Laboratories	Temazepam	Vial: 1ml	4/16/85
Applied Science Laboratories	Thebaine	Vial: 1ml	1/24/73
Applied Science Laboratories	Thiamylal	Vial: 1ml	1/24/73
Applied Science Laboratories	Toxi Clean Test Mix	Vial: 1ml	3/30/88
Applied Science Laboratories	Triazolam	Vial: 1ml	4/16/85
Armed Forces Institute of Pathology	11-nor-9-carboxy–delta 8-THC in Ethanol Ampules	Glass Ampoule: 1mg/ml, 1ml, 5ml, 10ml	11/25/82
Astral Medical Systems	Barbital Buffer	Plastic bag: 12.2g/bag	5/01/85
Astral Medical Systems	Barbital Lactate Buffer	Plastic bag: 18g/bag	5/01/85
Astral Medical Systems	Isoenzyme Buffer	Plastic bag: 14g/bag	5/01/85
Astral Medical Systems	Tris-Barbital Sodium Barbital Buffer	Plastic bag: 18g/bag	5/01/85
Atochem North America, Inc	M&T NiproTeq SB Additive	Polypropylene Containers: 5 gallons, 55 gallons	3/10/88
BHP Diagnostix, Inc	Kallestad TDM Multi-Calibrator-Pilot Lot B-G	Kit: 7–3 ml Vials; 3 ml Vial	8/18/88
BHP Diagnostix, Inc	Kallestad TDM Multi-Calibrator-Pilot-Lot Phenobarbital	3ml, 6ml, 10ml, 30ml, 50ml Vial	8/18/88
BHP Diagnostix, Inc	Kodak Ektachem-DT Calibrator	Bottle: 6ml	1/05/85
Baxter Diagnostics Inc, Dade Division.	(125I) Human TSH Tracer (Lyophilized), Catalog No. CA–2691	Glass Vial: 10ml	9/09/86
Baxter Diagnostics Inc, Dade Division.	(125I) Human TSH Tracer, Cat. No. CA–2611	Vial: 15ml	12/07/89
Baxter Diagnostics Inc, Dade Division.	(125I) Human TSH Tracer, Cat. No. CA–2623	Vial: 15ml	12/07/89
Baxter Diagnostics Inc, Dade Division.	Absorbed Plasma and Serum Reagents Kit B4233–2	Glass Vial: 5ml (Lyophilized Material)	8/16/71
Baxter Diagnostics Inc, Dade Division.	Anticonvulsant Drug Controls, Levels I and II, Catalog No. CA–2419 and CA–2420.	Glass Vial: 3.5ml	9/09/86
Baxter Diagnostics Inc, Dade Division.	Assay Buffer Cat. No. CA–2742	Plastic Bottle: 150ml	9/09/86
Baxter Diagnostics Inc, Dade Division.	Bovine Chemistry Control I.X Special Order Request B5107–55XX.	Bottle: 18ml (Lyophilized Material)	1/29/86
Baxter Diagnostics Inc, Dade Division.	Bovine Chemistry Control II.X Special Order Request B5107–65XX.	Bottle: 18ml (Lyophilized Material)	1/29/86
Baxter Diagnostics Inc, Dade Division.	Buffered Thrombin (Bovine) Catalog No. B4233–40	Bottle: 5ml (Lyophilized Material)	1/24/86
Baxter Diagnostics Inc, Dade Division.	Clinical Assays GammaCoat (125I) Phenobarbital Radioimmunoassay Kits Catalog No. CA–2545, CA–2565.	Kit: 50 Assays, 500 Assays	9/09/86
Baxter Diagnostics Inc, Dade Division.	Clinical Assays GammaCoat (125I) Phenytoin Radioimmunoassay Kit Catalog No. CA–2537 CA–2557.	Kit: 50 Assays, 500 Assays	9/09/86
Baxter Diagnostics Inc, Dade Division.	Clinical Assays GammaCoat (125I) T3 Uptake Radioimmunoassay Kit Catalog No. CA–2539, CA–2539J, CA–2559, CA–2559J.	Kit: 100 Assays, 100 Assays, 500 Assays, 500 Assays.	9/09/86
Baxter Diagnostics Inc, Dade Division.	Clinical Assays GammaDab (125I) HS–hTSH Radioimmunoassay Kit Catalog No. CA–1573.	Kit: 125 Assays, Vial: 15ml	9/09/86
Baxter Diagnostics Inc, Dade Division.	Clinical Assays GammaDab (125I) hTSH Radioimmunoassay Kit Catalog No. CA–591.	Kit: 125 Assays, Vial: 15ml	9/09/86
Baxter Diagnostics Inc, Dade Division.	Dade IAC.X Comprehensive Immuno-Assay Control, Tri-Level Unassayed.	Kit: 6 bottles	8/27/91
Baxter Diagnostics Inc, Dade Division.	Dade Immunoassay Control, Level I–Low	Bottle: 9ml (Lyophilized Material)	4/25/86
Baxter Diagnostics Inc, Dade Division.	Dade Immunoassay Control, Level II–Intermediate.	Bottle: 9ml (Lyophilized Material)	4/25/86

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Baxter Diagnostics Inc, Dade Division.	Dade Immunoassay Control, Level III–High	Bottle: 9ml (Lyophilized Material)	4/25/86
Baxter Diagnostics Inc, Dade Division.	Dade Immunoassay Controls, Tri–Level	Kit: 3 bottles	4/25/86
Baxter Diagnostics Inc, Dade Division.	Dade TDM Control Level I–Low B5700–2	Glass Vial: 9ml (Lyophilized Material)	1/21/82
Baxter Diagnostics Inc, Dade Division.	Dade TDM Control Level II–Intermediate B5700–3	Glass Vial: 9ml (Lyophilized Material)	1/21/82
Baxter Diagnostics Inc, Dade Division.	Dade TDM Control Level III–High B5700–4	Glass Vial: 9ml (Lyophilized Material)	1/21/82
Baxter Diagnostics Inc, Dade Division.	Dade Therapeutic Drug Monitoring (TDM) Controls (Catalog No. B5700–1).	Kit: 9 Vials	3/10/87
Baxter Diagnostics Inc, Dade Division.	Dade Urine Chemistry Control Level I, II Kit: 10 Bottles	Bottle: 18ml	8/02/91
Baxter Diagnostics Inc., Dade Division.	Data–Fi Euglobulin Lysis Set Cat. No. B4233–40	Kit: 70 Tests	9/09/86
Baxter Diagnostics Inc., Dade Division.	Data–Fi Fibrin Monomer Control Catalog Nos. B4233–30 & B4233–38.	Glass Vial: 5ml (Lyophilized Material)	1/24/86
Baxter Diagnostics Inc., Dade Division.	Data–Fi Fibrinogen Determination Reagents Cat. No. B4233–15.	Kit: 50 tests	9/09/86
Baxter Diagnostics Inc., Dade Division.	Data–Fi Protamine Sulfate Reagents Kit (Catalog No. B4233–30).	Kit:10 Vials	3/10/87
Baxter Diagnostics Inc., Dade Division.	Data–Fi Thrombin Reagent	Bottle: 5ml (Lyophilized Material) Vial: 9ml Carton: 10 vials Cat. No. 28 10 09.	5/18/81
Baxter Diagnostics Inc., Dade Division.	Data–Fi Thrombin Reagent	Bottle:9 ml (Lyophilized Material)	7/20/83
Baxter Diagnostics Inc., Dade Division.	HTSH Non–Specific Binding Reagent, Catalog No. CA–2752	Glass Vial:3.5 ml	9/09/86
Baxter Diagnostics Inc., Dade Division.	HTSH Non–Specific Binding Reagent, Catalog No. CA–2780	Glass Vial:3.5 ml	9/09/86
Baxter Diagnostics Inc., Dade Division.	Human TSH Controls Levels I and II, Catalog No. CA–2452 and CA–2453.	Glass Vial:3.5 ml	9/09/86
Baxter Diagnostics Inc., Dade Division.	Human TSH Standards (2,5,10,20 & 50 uIU/ml) Cat. No. CA–(2886–2890).	Glass Bottle: 3.5ml	9/09/86
Baxter Diagnostics Inc., Dade Division.	Human hTSH Blank, Cat. No. CA–2885	Vial: 15ml	12/07/89
Baxter Diagnostics Inc., Dade Division.	Immunoassay Control Level I–III Unassayed	Bottle: 9ml	8/27/91
Baxter Diagnostics Inc., Dade Division.	Moni–Trol Level I Chemistry Control, Assayed, Special Order Request. B5103–XXX.	Bottle:9ml (Lyophilzed Material)	1/20/84
Baxter Diagnostics Inc., Dade Division.	Moni–Trol Level I.X Special Order Request B5106–5X	Bottle: 18ml (Lyophilized Material)	6/30/83
Baxter Diagnostics Inc., Dade Division.	Moni–Trol Level II Chemistry Control, Assayed, Special Order Request. B5103–XXX, B5113–XXX.	Bottle: 9ml (Lyophilized Material)	1/20/84
Baxter Diagnostics Inc., Dade Division.	Moni–Trol Level II.X Special Order Request B5106–6X	Bottle: 18ml (Lyophilized Material)	6/30/83
Baxter Diagnostics Inc., Dade Division.	Moni–Trol. ES Level I Chemistry Control, Assayed	Bottles: 9ml, 6.7ml (Lyophilized Material)	7/15/83
Baxter Diagnostics Inc., Dade Division.	Moni–Trol. ES Level I.X Special Order Request Catalog No. B5106–75AAA Catalog No. B5106–1XAAA.	Bottle: 18ml, 9ml (Lyophilized Material)	6/27/86
Baxter Diagnostics Inc., Dade Division.	Moni–Trol. ES Level II Chemistry Control, Assayed	Bottle:9ml, 6.7ml (Lyophilized Material)	7/15/83
Baxter Diagnostics Inc., Dade Division.	Moni–Trol. ES Level II.X Special Order Request Catalog No. B5106–85AAA Catalog No. B5106–2XAAA.	Bottle: 18ml, 9ml (Lyophilized Material)	6/27/86
Baxter Diagnostics Inc., Dade Division.	Owren's Veronal Buffer	Bottle: 18ml	8/16/71
Baxter Diagnostics Inc., Dade Division.	Phenobarbital Serum Standards (1,3,10,30 & 100 ug/ml) Cat. No. CA–2380–2384.	Glass Bottle: 3.5ml	9/09/86
Baxter Diagnostics Inc., Dade Division.	Rabbit Anti–Human TSH Serum, Cat. No. CA–2145	Vial: 15ml	12/07/89
Baxter Diagnostics Inc., Dade Division.	Rabbit Anti–Human TSH Serum, Catalog No. CA–2109	Glass Vial:20 ml	9/09/86
Baxter Diagnostics Inc., Dade Division.	Stratus Phenobarbital Calibrators B, C, D, E, & F	Glass Vial: 3ml	6/27/83
Baxter Diagnostics Inc., Dade Division.	Stratus Phenobarbital Conjugate	Glass Vial: 6ml	1/25/82
Baxter Diagnostics Inc., Dade Division.	Stratus Phenobarbital Fluorometric Enzyme Immunoassay Kit (Catalog No. B5700–22).	Kit:120 tests	3/10/87
Baxter Diagnostics Inc., Dade Division.	Thrombin Reagent (Bovine)	Bottle: 5ml (Lyophilized Material) Vial: 5ml Carton: 10 vials, Cat.No. 28 10 12.	8/16/71
Beckman Instruments, Inc.	Beckman B–1 Buffer	Plastic Vial: 15 g.	5/22/79
Beckman Instruments, Inc.	Beckman Buffer B–2	Packet: 18.16 g.	4/24/71
Beckman Instruments, Inc.	Beckman ICS Drug Calibrators A, B, C, D, and E.	Vials: 5ml	10/29/80
Beckman Instruments, Inc.	Beckman ICS Drug Control Sera	Kit containing: 6–1ml bottles.	11/11/80
Beckman Instruments, Inc.	Beckman ICS Phenobarbital Conjugate	Vial: 5ml	10/29/80
Beckman Instruments, Inc.	Beckman LD Buffer	Bottle: 14.3 grams	7/31/86
Beckman Instruments, Inc.	Beckman LD Buffer	Bottle: 14.3 grams	7/31/86
Beckman Instruments, Inc.	Paragon Electrophoresis System: Alkaline Phosphatase Isoenzyme Electrophoresis (Isopal) Kit.	Plastic Tray: 3.5ml, Box: 10 trays, Kit: 10 trays	5/19/89

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Beckman Instruments, Inc.	Paragon Electrophoresis System: High Resolution Electrophoresis (HRE) Kit.	Plastic Tray: 3.5ml, Box: 10 trays, Kit: 10 trays	5/19/89
Beckman Instruments, Inc.	Paragon Electrophoresis System: Immunoelectrophoresis (IEP) Kit.	Plastic Tray: 3.5ml, Box: 10 trays, Kit: 10 trays	5/19/89
Beckman Instruments, Inc.	Paragon Electrophoresis System: Immunofixation Electrophoresis (IFE) Kit.	Plastic Tray: 3.5ml	7/31/86
Beckman Instruments, Inc.	Paragon Electrophoresis System: Lactate Dehydrogenase Isoenzyme Electrophoresis (LD) Kit.	Plastic Tray: 3.5ml	7/31/86
Beckman Instruments, Inc.	Paragon Electrophoresis System: Lipoprotein Electrophoresis (LIPO) Kit.	Plastic Tray: 3.5 ml, Box: 10 trays, Kit: 10 trays	5/19/89
Beckman Instruments, Inc.	Paragon Electrophoresis System: Protein Electrophoresis (SPE–II) Kit.	Plastic Tray: 3.5ml	7/31/86
Beckman Instruments, Inc.	Paragon Electrophoresis System: Serum Protein Electrophoresis (SPE) Kit.	Plastic Tray: 3.5ml, Box: 10 trays, Kit: 10 trays	5/19/89
Beckman Instruments, Inc.	Synchron Control: Multilevel Comprehensive Chemistry Control Serum Levels I, II, III.	Plastic Bottle: 20ml; Kit: 6 bottles	5/13/91
Beckman Instruments, Inc.	Triad LINK Comprehensive Custom Unassayed Chemistry Control Serum Levels I, II, III.	Plastic Bottle: 20ml; Box: 20 Bottles	5/13/91
Beckman Instruments, Inc.	Triad NYSPATH Comprehensive Custom Unassayed Chemistry Control Serum Levels I, II, III.	Plastic Bottle: 20ml; Box 20 Bottles	5/13/91
Beckman Instruments, Inc.	Vigil PRx Multilevel Protein/Drug Control Serum Levels I, II, III	Plastic Bottle: 10ml; Kit: 6 Bottles	5/13/91
Becton Dickinson & Company	Barbital Buffer Solution, Catalog No. 246514	Bottle: 1 ounce	8/01/84
Becton Dickinson & Company	Human Thyroid Stimulating Hormone (hTSH) Radioimmunoassay Kit (125I)Catalog No. 258423.	Kit: 250 tubes	8/01/84
Becton Dickinson & Company	IQ Immunochemistry System	Thyroid Stimulating Hormone Catalog No. 3010, Kit: 25 tests.	6/30/87
Becton Dickinson & Company	Neonatal T4 Tracer Cat. No. 264016	Bottle: 500ml	4/02/90
Becton Dickinson & Company	Neonatal TSH Antiserum, Catalog No. 244716	Vial: 50 ml	8/01/84
Becton Dickinson & Company	Precipitating Antiserum, Catalog No. 247618	Vial: 50 ml	8/01/84
Becton Dickinson & Company	Simul Trac Free T4/TSH Antiserum, No. 262641	Vial: 1 oz	2/21/86
Becton Dickinson & Company	Simul Trac Free T4[57 Co]/TSH[125I] Radioimmunoassay Kit, No. 262625.	Kit: 200 tubes	2/21/86
Becton Dickinson & Company	T3 Tracer Solution Catalog No. 237728	Bottle: 125ml	9/27/78
Becton Dickinson & Company	T4 Tracer Solution Catalog No. 232611	White NALGENE Polypropylene Bottle: 125 ml	2/13/78
Becton Dickinson & Company	TSH (125I) Tracer, Catalog No. 243621	Vial: 50 ml	8/01/84
Becton Dickinson & Company	TSH Antiserum Catalog No. 263001	Clear Vial: 10ml	9/04/86
Becton Dickinson & Company	TSH Antiserum, Catalog No. 258431	Vial: 50 ml	8/01/84
Becton Dickinson & Company	TSH [125I] Tracer, Catalog No. 259624	Clear vial: 10ml	9/04/86
Behring Diagnostics	IEP Buffer, 793001 pH 8.2	Foil Pouch: 6.5 g.	9/17/79
Behring Diagnostics	Immuno-tec II Agarose Plate, 839013, 850013	Foil Pouch: "5.35" × "5.25"	9/17/79
Bio-Rad Laboratories	Benzodiazepines/Tricyclic Antidepressants by HPLC	Kit: 100 tests	2/08/90
Bio-Rad Laboratories	Dade Urine Chemistry Control Levels I AND II	Vial: 20 ml, 50 ml	1/05/88
Bio-Rad Laboratories	Dade Urine Toxiology Control	Vial: 50 ml	1/05/88
Bio-Rad Laboratories	Internal Standard	Amber vial: 30ml Flask: 200ml–2000ml	2/08/90
Bio-Rad Laboratories	Lyphochek Therapeutic Drug Monitoring Control (TDM), Levels I, II, III.	Vial: 10ml	8/20/84
Bio-Rad Laboratories	Lypochek Immunoassay Control Levels I, II, III	Vial: 10 ml	9/24/87
Bio-Rad Laboratories	Lypochek Quantitative Urine Control Levels I and II	Vial: 20 ml, 50 ml	9/24/87
Bio-Rad Laboratories	Lypochek Unassayed Chemistry Control (Bovine) Levels I, II	Vial: 20ml	9/24/87
Bio-Rad Laboratories	Lypochek Unassayed Chemistry Control (Human) Levels I, II	Vial: 20ml	9/24/87
Bio-Rad Laboratories	Methadone/Methadone Metabolite Reagent Kit	400 tests	9/17/90
Bio-Rad Laboratories	Quantaphase Thyroxine RIA-125I Tracer/Dissociating Reagent	Plastic bottle: 60ml, 260ml	5/06/81
Bio-Rad Laboratories	Quantaphase Thyroxine RIA-Thyroxine Immunobeads	Plastic bottle: 60ml 260ml	5/06/81
Bio-Rad Laboratories	Quantimune Barbital Buffer	Plastic Bottle: 1000ml, 250ml, 200ml	5/31/78
Bio-Rad Laboratories	Quantimune Radioimmunoassay T-4 Tracer Iodine-125	Vial: 10ml	7/21/76
Bio-Rad Laboratories	Quantimune T-3 RIA Barbital Buffer	Bottle: 220ml	9/24/82
Bio-Rad Laboratories	Quantimune T-3 RIA Test Kit	Kit: 500 tests, 100 tests	5/31/78
Bio-Rad Laboratories	Quantimune T-4 RIA Kit	Kit: 500 tests	7/01/77
Bio-Rad Laboratories	Quantimune T-4 RIA Test Kit	Kit: 5000 tests, 100 tests	5/31/78
Bio-Rad Laboratories	Quantimune Thyroxine Radioimmunoassay Barbital Buffer	Plastic Bottle with Screw cap: 1 liter	7/01/77
Bio-Rad Laboratories	Quantimune Thyroxine Radioimmunoassay T-4 125I Tracer/Dissociating Agent.	Glass Serum Vial: 10ml	7/01/77
Bio-Rad Laboratories	REMEDI DPS Check Mix	Vial: 20ml, Flask: 1L–10L	9/17/90
Bio-Rad Laboratories	REMEDI DPS Internal Standard Combination	Vial: 20ml, Flask: 250ml–6000ml	9/17/90
Bio-Rad Laboratories	REMEDI DPS Internal Standard One	Vial: 20ml, Flask: 250ml–2500ml	9/17/90
Bio-Rad Laboratories	REMEDI DPS Internal Standard Two	Vial: 20ml, Flask: 250ml–5000ml	9/17/90
Bio-Rad Laboratories	REMEDI DPS Urine Calibrator	Vial: 20ml, Flask: 1L–10L	9/17/90
Bio-Rad Laboratories	Serum Calibrator 1	Amber vial: 20ml Polypropylene container: 20L	2/08/90
Bio-Rad Laboratories	Serum Calibrator 2	Amber vial: 20ml Polypropylene container: 20L	2/08/90
Bio-Rad Laboratories	Serum Calibrator for Benzodiazepines/Tricyclics, Contains 2	Box: 2 vials	2/08/90
Bio-Rad Laboratories	T-4 Competitive Binding Reagent, Iodine-125	Bottle: 385ml	7/21/76
Bio-Rad Laboratories	Urine Toxicology Control No. C-470-25	Amber Vial: 50ml	9/19/79
Bio-Rad Laboratories, (Chemical Division).	Barbital Buffer	Vial: 10ml	7/21/76
Bio-Rad Laboratories, (Chemical Division).	Barbital Buffer Powder	Plastic bottle: 250ml	9/09/77
Bio-Rad Laboratories, (Chemical Division).	Barbital Buffer Powder	Plastic bottle: 250ml	7/21/76
Bio-Rad Laboratories, (Chemical Division).	Barbital Buffer-Dry Pack	Packages: 9.11 g., 18.21 g., 12.14 g	5/09/74

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Bio-Rad Laboratories, (Chemical Division).	Bio-Rad Electrophoresis Buffer	Bottle: 500ml	12/14/72
Bio-Rad Laboratories, (Chemical Division).	Electrophoresis Buffer, Dry-Pack	Package: 6.15 g	12/14/72
Bio-Rad Laboratories, (Chemical Division).	Immunoelectrophoresis Barbital Buffer I, pH 8.6	Dry-pack: 25.6 g	8/06/75
Bio-Rad Laboratories, (Chemical Division).	Immunoelectrophoresis Barbital Buffer II, pH 8.6	Dry-pack: 15.61 g	8/06/75
Bio-Rad Laboratories, (Chemical Division).	Immunoelectrophoresis Barbital Buffer III, pH 8.6	Dry-pack: 6.82 g	1/22/76
Bio-Rad Laboratories, (Chemical Division).	Immunoelectrophoresis Barbital Buffer III-a, pH 8.8	Dry-pack: 15.07 g	8/06/75
Bio-Rad Laboratories, (Chemical Division).	Reagent No. 3	Bottle: 165ml	12/14/72
Bio-Rad Laboratories, (Clinical Division).	Benzodiazepines/Tricyclics/Plasma Catecholamines (BZ/TCA/pCats) Serum Calibrators Bulk Preparations.	Polypropylene Container: 15L-100L	3/28/91
Bio-Rad Laboratories, (Clinical Division).	Plasma Catecholamines by HPLC, 100 Test	Kit: 100 Test	3/28/91
Bio-Rad Laboratories, (Clinical Division).	Plasma Catecholamines by HPLC, Serum Calibrator Set, 1x6 vials.	Vial: 20ml; Set: 6 vials	3/28/91
Bio-Rad Laboratories, (ECS Division).	Benzo/TCA Control Levels I & II	Vial: 10ml; Box: 6 vials	3/20/91
Bio-Rad Laboratories, (ECS Division).	Blind Performance Specimen Set Cat. #610	Kit: 5 bottles	9/14/90
Bio-Rad Laboratories, (ECS Division).	LYPHOCHEK Assayed Chemistry Control Serum (Human) Levels I and II.	Vials: 10ml. each	4/13/88
Bio-Rad Laboratories, (ECS Division).	LYPHOCHEK Immunoassay Plus Control Serum Levels 1-3	Vial: 10ml; Kit: 12 vials	9/14/90
Bio-Rad Laboratories, (ECS Division).	LYPHOCHEK Urine Toxicology Control-Confirm	Box: 10 vials; Vial: 50ml	9/14/91
Bio-Rad Laboratories, (ECS Division).	LYPHOCHEK Urine Toxicology Control-Law	Vials: 20ml. each	4/13/88
Bio-Rad Laboratories, (ECS Division).	LYPHOCHEK Urine Toxicology Control-Screen	Box: 10 vials; Vial: 20ml	9/14/90
Bio-Rad Laboratories, (ECS Division).	Positive for Amphetamines	Bottle: 90ml	9/14/90
Bio-Rad Laboratories, (ECS Division).	Positive for Cocaine	Bottle: 90ml	9/14/90
Bio-Rad Laboratories, (ECS Division).	Positive for Marihuana	Bottle: 90ml	9/14/90
Bio-Rad Laboratories, (ECS Division).	Positive for Opiates	Bottle: 90ml	9/14/90
Bio-Rad Laboratories, (ECS Division).	Positive for Phencyclidine	Bottle: 90ml	9/14/90
Biodiagnostic International	Liqui-Ura Toxic Control	Vial: 5ml	3/11/85
Bioscientific Corp.	ECA Buffer, Catalog No. ECA 05805	Plastic Packet: 18.0 g., 10 packets per box	7/14/77
Bioscientific Corp/ECA	Agarose Barbital Buffer CSB 470182	Vial: 7 drams	11/15/90
Bioscientific Corp/ECA	Agarose Barbital Buffer ECA 470182	Vial: 12 drams; Box: 3 vials	11/15/90
Bioscientific Corp/ECA	Agarose Barbital-EDTA Buffer ECA 470180	Vial: 12 drams, Box: 3 vials	11/15/90
Bioscientific Corp/ECA	ECA Buffer ECA 0320024	Vial: 12 drams, Box: 12 vials	11/15/90
Bioscientific Corp/ECA	General Procedure Agarose Film #ECA 470100	Plastic Tray 4.5"×5", Kit: 10 trays	9/10/90
Bioscientific Corp/ECA	LD Agarose Gel #CSB 102	Plastic Tray: 3"×5", Kit: 10 trays	9/10/90
Bioscientific Corp/ECA	Protein Agarose Gel #PSB 103	Plastic Tray 3"×5", Kit: 10 trays	9/10/90
Biosite Diagnostics	Amphetamine Enzyme Conjugate 31111, Bulk Formulation	Vial: 100ml, 1.5ml	10/24/90
Biosite Diagnostics	Amphetamine QC Control	Vial: 5ml	10/29/91
Biosite Diagnostics	Amphetamine QC Control (Bulk)	Bottle: 0.5L-10L	10/29/91
Biosite Diagnostics	Barbiturate Conjugate	Plastic Bottles: 2ml-60 ml	11/30/90
Biosite Diagnostics	Barbiturate Derivative	Vial: 8,16,32ml	11/30/90
Biosite Diagnostics	Barbiturate Enzyme Conjugate 31110, Bulk Formulation	Vial: 100ml, 1.5ml	10/24/90
Biosite Diagnostics	Barbiturate QC Control	Vial: 5ml	10/29/91
Biosite Diagnostics	Barbiturate QC Control (Bulk)	Bottle: 5L-10L	10/29/91
Biosite Diagnostics	Benzodiazepine Controls, 1-6 31088-31093, 7-11 31098-31102, Bulk Formulation.	Vial: 50ml, 1.5ml	10/24/91
Biosite Diagnostics	Benzodiazepine QC Control 3	Vial: 5ml	10/29/91
Biosite Diagnostics	Benzodiazepines QC Control 1	Vial: 5ml	10/29/91
Biosite Diagnostics	Benzodiazepines QC Control 1 (Bulk)	Bottle: 0.5L-10L	10/29/91
Biosite Diagnostics	Benzodiazepines QC Control 2	Vial: 5ml	10/29/91
Biosite Diagnostics	Benzodiazepines QC Control 2 (Bulk)	Bottle: 0.5L-10L	10/29/91
Biosite Diagnostics	Benzodiazepines QC Control 3 (Bulk)	Bottle: 0.5L-10L	10/29/91
Biosite Diagnostics	Benzoylecgonine Conjugate	Plastic Bottles: 2ml-60ml	11/30/90
Biosite Diagnostics	Benzoylecgonine Conjugate II, III, IV, & V	Vial: 1.5ml	3/14/91
Biosite Diagnostics	Benzoylecgonine Conjugate II, III, IV, & V Bulk	Bottle: 5, 15, 30 & 60ml	3/14/91
Biosite Diagnostics	Benzoylecgonine Controls, 1-5 31041-31045, Bulk Formulation	Vial: 50ml, 1.5ml	10/24/90
Biosite Diagnostics	Benzoylecgonine Enzyme Conjugate 31105, Bulk Formulation	Vial: 100ml, 1.5ml	10/24/90
Biosite Diagnostics	Benzoylecgonine Enzyme Conjugate II	Vial: 1.5ml	3/14/91
Biosite Diagnostics	Benzoylecgonine Standards, 1-6 31035-31040, Bulk Formulation.	Vial: 50ml, 1.5ml	10/24/90
Biosite Diagnostics	Cocaine QC Control	Vial: 5ml	10/29/91
Biosite Diagnostics	Cocaine QC Control (Bulk)	Bottle: 0.5L-10L	10/29/91
Biosite Diagnostics	Conjugate Beads (Bulk)	Bottles: 250ml-1L	11/30/90

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Biosite Diagnostics	Flurazepam Enzyme Conjugate 31109, Bulk Formulation	Vial: 100ml, 1.5ml	10/24/90
Biosite Diagnostics	Flurazepam Standards, 1-7 31081-31087, Bulk Formulation	Vial: 50ml, 1.5ml	10/24/90
Biosite Diagnostics	Labeled Conjugate Mixture 4	Bottles: 10ml-1L	10/29/91
Biosite Diagnostics	Labeled Conjugate Mixture 5	Bottles: 10ml-1L	10/29/91
Biosite Diagnostics	Labelled Barbiturate Conjugate	Plastic Bottles: 0.5, 1, 2 & 5L	11/30/90
Biosite Diagnostics	Labelled Benzoylecgonine Conjugate	Plastic Bottles: 0.5, 1, 2 & 5L	11/30/90
Biosite Diagnostics	Labelled Conjugate Mixture 1	Plastic Bottles: 10ml-1L	11/30/90
Biosite Diagnostics	Labelled Conjugate Mixture 2	Plastic Bottles:10ml-1L	11/30/90
Biosite Diagnostics	Labelled Morphine Conjugate	Plastic Bottles: 0.5, 1, 2 & 5L	11/30/90
Biosite Diagnostics	Labelled THC Conjugate	Plastic Bottles: 10ml-1L	11/30/90
Biosite Diagnostics	Lorazepam Enzyme Conjugate 31108, Bulk Formulation	Vial: 100ml, 1.5ml	10/24/90
Biosite Diagnostics	Lorazepam Standards, 1-4 31094-31097, Bulk Formulation	Vial: 50ml, 1.5ml	10/24/90
Biosite Diagnostics	Methamphetamine Enzyme Conjugate 31104, Bulk Formulation	Vial: 100ml, 1.5ml	10/24/90
Biosite Diagnostics	Methamphetamine QC Control	Vial: 5ml	10/29/91
Biosite Diagnostics	Methamphetamine QC Control (Bulk)	Bottle: 5L-10L	10/29/91
Biosite Diagnostics	Morphine Conjugate	Plastic Bottles: 2ml-60 ml	11/30/90
Biosite Diagnostics	Morphine Controls, 1-5 31076-31080, Bulk Formulation	Vial: 50ml, 1.5ml	10/24/90
Biosite Diagnostics	Morphine Enzyme Conjugate 31107, Bulk Formulation	Vial: 100ml, 1.5ml	10/24/90
Biosite Diagnostics	Morphine Standard 6, 31220 Bulk Formulation	Vial: 1.5ml, 5-20ml; Flask: 20-50ml	3/14/91
Biosite Diagnostics	Morphine Standards, 1-5 31071-31075, Bulk Formulation	Vial: 50ml, 1.5ml	10/24/90
Biosite Diagnostics	Opiate QC Control	Vial: 5ml	10/29/91
Biosite Diagnostics	Opiate QC Control (Bulk)	Bottle: 05.L-10L	10/29/91
Biosite Diagnostics	PCP QC Control	Vial: 5ml	10/29/91
Biosite Diagnostics	PCP QC Control (Bulk)	Bottle: 0.5L-10L	10/29/91
Biosite Diagnostics	Phencyclidine Controls 5-6, 31255-31256 Bulk Formulation	Vial: 1.5ml, 5-20ml; Flask: 20-50ml	3/14/91
Biosite Diagnostics	Phencyclidine Controls, 1-4 31010-31013, Bulk Formulation	Vial: 50ml, 1.5ml	10/24/90
Biosite Diagnostics	Phencyclidine Enzyme Conjugate 31103, Bulk Formulation	Vial: 100ml, 1.5ml	10/24/90
Biosite Diagnostics	Phencyclidine Standards 1-4 31006-31009 Bulk Formulation	Vial: 50ml, 1.5ml	10/24/90
Biosite Diagnostics	Phencyclidine Standards 5-6, 31253-31254 Bulk Formulation	Vial: 1.5ml, 5-20 ml; Flask: 20-50ml	3/14/91
Biosite Diagnostics	Phenobarbital Controls, 1-8 31063-31070, Bulk Formulation	Vial: 50ml, 1.5ml	10/24/90
Biosite Diagnostics	Phenobarbital Standards, 1-8 31055-31062, Bulk Formulation	Vial: 50ml, 1.5ml	10/24/90
Biosite Diagnostics	THC Conjugate	Plastic Bottles: 2ml-60 ml	11/30/90
Biosite Diagnostics	THC Controls, 1-3 31052-31054, Bulk Formulation	Vial: 50ml, 1.5ml	10/24/90
Biosite Diagnostics	THC Enzyme Conjugate 31106, Bulk Formulation	Vial: 100ml, 1.5ml	10/24/90
Biosite Diagnostics	THC QC Control	Vial: 5ml	10/29/91
Biosite Diagnostics	THC QC Control (Bulk)	Bottle: 0.5L-10L	10/29/91
Biosite Diagnostics	THC Standards, 1-6 31046-31051, Bulk Formulation	Vial: 50ml, 1.5ml	10/24/90
Biosite Diagnostics	Threshold Control A & B	Vial: 5ml	10/29/91
Biosite Diagnostics	Threshold Control A & B (Bulk)	Bottle: 1L-20L	10/29/91
Biosite Diagnostics	Triage DOA Demo Control	Vial: 5ml	10/29/91
Biosite Diagnostics	Triage DOA Demo Control (Bulk)	Bottle: 0.5L-10L	10/29/91
Biosite Diagnostics	Triage DOA Test Kit	Box: 25 pouches	11/30/90
Biosite Diagnostics	Triage Drug Screen Control	Vial: 5ml	10/29/91
Biosite Diagnostics	Triage Drug Screen Control (Bulk)	Bottle: 0.5-20L	10/29/91
Biosite Diagnostics	Triage Test Device	Metallic Pouch: 1 each	11/30/90
Biosite Diagnostics	d-Amphetamine Controls, 1-5 31030-31034, Bulk Formulation	Vial: 50ml, 1.5ml	10/24/90
Biosite Diagnostics	d-Amphetamine Standards, 1-6 31024-31029, Bulk Formulation.	Vial: 50ml, 1.5ml	10/24/90
Biosite Diagnostics	d-Methamphetamine Controls 5-6, 31020, 31257 Bulk Formulation.	Vial: 1.5ml, 20-50ml; Flask: 20-50ml	3/14/91
Biosite Diagnostics	d-Methamphetamine Controls, 1-4 31020-31023, Bulk Formulation.	Vial: 50ml, 1.5ml	10/24/90
Biosite Diagnostics	d-Methamphetamine Standards, 1-6 31014-31019, Bulk Formulation.	Vial: 50ml, 1.5ml	10/24/90
California Bionuclear Corporation	Amobarbital-2-C-14, Catalog No. 72077	Screw Cap Vial: 50 microcuries, 0.1, 0.5, and 1.0 millicuries.	1/08/75
California Bionuclear Corporation	Cocaine (methoxy-C-14) Catalog No. 72182	Screw Cap Vial: 50 microcuries, 0.1, 0.5, and 1.0 millicuries.	1/08/75
California Bionuclear Corporation	D-Amphetamine (propyl-1-C-14) Sulfate, Catalog No. 72078	Screw Cap Vial: 50 microcuries, 0.1, 0.5, and 1.0 millicuries.	1/08/75
California Bionuclear Corporation	DL-Amphetamine (propyl-1-C-14) Sulfate, Catalog No. 72079	Screw Cap Vial: 50 microcuries, 0.1, 0.5, and 1.0 millicuries.	1/08/75
California Bionuclear Corporation	Meperidine (N-methyl-C-14) Hydrochloride, Catalog No. 72508	Screw Cap Vial: 50 microcuries, 0.1, 0.5, 1.0 millicuries.	1/08/75
California Bionuclear Corporation	Mescaline (aminomethylene-C-14) Hydrochloride, Catalog No. 72512.	Screw Cap Vial: 50 microcuries, 0.1, 0.5, 1.0 millicuries.	1/08/75
California Bionuclear Corporation	Methadone (heptanone-2-C-14) Hydrochloride, Catalog No. 72516.	Screw Cap Vial: 50 microcuries 0.1, 0.5, 1.0 millicuries.	1/08/75
California Bionuclear Corporation	Methamphetamine (propyl-1-C-14) Sulfate, Catalog No. 72517	Screw Cap Vial: 50 microcuries, 0.1, 0.5, 1.0 millicuries.	1/08/75
California Bionuclear Corporation	Methylphenidate (carbonyl-C-14) Hydrochloride, Catalog No. 72550.	Screw Cap Vial: 50 microcuries, 0.1, 0.5, 1.0 millicuries.	1/08/75
California Bionuclear Corporation	Morphine (n-methyl-C-14) Hydrochloride, Catalog No. 72560	Screw Cap Vial: 50 microcuries, 0.1, 0.5, 1.0 millicuries.	1/08/75
California Bionuclear Corporation	Pentobarbital-2-C-14, Catalog No. 72618	Screw Cap Vial: 50 microcuries, 0.1, 0.5, 1.0 millicuries.	1/08/75
California Bionuclear Corporation	Secobarbital-2-C-14, Catalog No. 72675	Ampule: 50 microcuries, 0.1, 0.5, and 1.0 millicuries.	1/08/75
Cambridge Medical Diagnostics Incorporated.	125I Human Parathyroid Hormone 44-68	Vial: 5ml	3/29/85

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Cambridge Medical Diagnostics Incorporated.	125I-Tetraiodothyronine	Vial: 11ml	3/29/85
Cambridge Medical Diagnostics Incorporated.	125I-Triiodothyronine	Vial: 11ml	3/29/85
Cambridge Medical Diagnostics Incorporated.	Donkey Anti Goat Gamma Globulin	Vial: 5ml	3/29/85
Cambridge Medical Diagnostics Incorporated.	Parathyroid Hormone (Human 1-84) Standard	6 Vials: 5ml each	3/29/85
Cambridge Medical Diagnostics Incorporated.	Parathyroid Hormone Assay Buffer	Vial: 10ml	3/29/85
Cambridge Medical Diagnostics Incorporated.	T3 AntiSerum (Rabbit)	Vial: 11ml	3/29/85
Cambridge Medical Diagnostics Incorporated.	T3 Standard	Vial: 1ml	3/29/85
Cambridge Medical Diagnostics Incorporated.	T4 Antiserum (Rabbit)	Vial: 11ml	3/29/85
Cambridge Medical Diagnostics Incorporated.	T4 Standard	Vial: 1ml	3/29/85
Casco Standards	1-(1-Phenylcyclohexyl)pyrrolidine Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	1-Phenylcyclohexylamine Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/23/90
Casco Standards	1-[1-(2-thienyl)-cyclohexyl]-piperdine Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/23/90
Casco Standards	1-[1-2(2-thienyl)-cyclohexyl]-pyrrolidine Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 Plastic Cup: 125ml.	3/23/90
Casco Standards	11-OH-delta-8-THC Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	11-OH-delta-9-THC Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic cup: 125ml.	3/21/90
Casco Standards	11-nor-delta-8-THC-9-carboxilic acid Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	11-nor-delta-9-THC-9-carboxilic acid Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials	3/21/90
Casco Standards	8-B-11-diOH-delta-9-THC Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	8-B-OH-delta-9-THC Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Allobarbital Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Alphenal Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50 75 vials Plastic cup: 125ml.	3/21/90
Casco Standards	Alprazolam Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Amobarbital Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Aprobarbital Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Barbital Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Benzoylecgonine Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Benzphetamine Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Bromazepam Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Butabarbital Cross-Reactant	Cryo-vial: 1.1ml Box: 25, 50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Butalbital Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50, 75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Butethal Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Cannabidiol Cross-Reactant	Cryo-Vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Cannabinol Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Chlordiazepoxide Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Clonazepam Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Cocaine Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Cyclopentobarbital Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Diazepam Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Ecgonine HCl Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Ecgonine-methyl ester HCl hydrate Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Casco Standards	Fenfluramine Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Flunitrazepam Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Flurazepam Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Halazepam Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Hexobarbital Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Lorazepam Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	MDA Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	MDE Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	MDMA Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Medazepam Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Midazolam Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Nitrazepam Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 3/21/90.	3/21/90
Casco Standards	Nordiazepam Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Oxazepam Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Pentobarbital Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Phencyclidine Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/23/90
Casco Standards	Phenmetrazine Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Phenobarbital Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Phentermine Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Pinazepam Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Prazepam Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Propylhexedrine Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Secobarbital Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Talbutal Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Temazepam Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	Triazolam Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	d-Amphetamine Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	d-Methamphetamine Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	l-Amphetamine Cross-Reactant	Cryo-vial: 1.1ml Box: 25,50,75 vials Plastic Cup: 125ml.	3/21/90
Casco Standards	p-HO-Amphetamine Cross-Reactant	Cryo-vial: 1.1ml Box: 25.50,75 vials Plastic Cup: 125ml.	3/21/90
Ciba Corning Diagnostics Corp.	AACC Tox	Glass Vial: 30ml	1/20/86
Ciba Corning Diagnostics Corp.	ACS FT4	Kit: 50 Test 300 Test	3/26/91
Ciba Corning Diagnostics Corp.	ACS FT4 Lite Reagent	Vial: 7ml	3/26/91
Ciba Corning Diagnostics Corp	ACS FT4 Lite Reagent	Vial: 7ml	3/26/91
Ciba Corning Diagnostics Corp.	ACS FT4 Solid Phase	Vial: 26ml	3/26/91
Ciba Corning Diagnostics Corp.	ACS Ferritin Lite Reagent	Vial: 7ml; Kit: 50 Tests 300 Tests	4/15/91
Ciba Corning Diagnostics Corp.	ACS Ferritin Solid Phase	Vial: 26ml; Kit: 50 Tests 300 Tests	4/15/91
Ciba Corning Diagnostics Corp.	ACS HCG Solid Phase	Vial: 26ml; Kit: 50 Tests 300 Tests	4/18/91
Ciba Corning Diagnostics Corp.	ACS Magnetic Check	Plastic Vial: 26ml	6/18/91
Ciba Corning Diagnostics Corp.	ACS Magnetic Check II	Plastic Vial: 26ml	6/18/91
Ciba Corning Diagnostics Corp.	ACS Performance Verification Test Kit	Kit: 6 Vials	6/18/91
Ciba Corning Diagnostics Corp.	ACS T3 300 Test Kit	Kit: 300 Tests	7/22/91
Ciba Corning Diagnostics Corp.	ACS T3 50 Test Kit	Kit: 50 Tests	7/22/91
Ciba Corning Diagnostics Corp.	ACS T3 Lite Reagent	Plastic Vial: 7ml	7/22/91
Ciba Corning Diagnostics Corp.	ACS T3 Solid Phase	Plastic Vial: 26ml	7/22/91
Ciba Corning Diagnostics Corp.	ACS T4	Kit: 50 Test 300 Test	3/26/91
Ciba Corning Diagnostics Corp.	ACS T4 Lite Reagent	Vial: 7ml	3/26/91
Ciba Corning Diagnostics Corp.	ACS T4 Solid Phase	Vial: 26ml	3/26/91
Ciba Corning Diagnostics Corp.	ACS Wash Check Solid Phase	Plastic Vial: 26ml	6/18/91
Ciba Corning Diagnostics Corp.	ALP Buffer Concentrate Cat. No. 470244	Plastic Bottle: 175ml	10/28/91

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Ciba Corning Diagnostics Corp.	ALP Gel/12 Cat. No. 470246	2 Plates: 24 Tests	10/28/91
Ciba Corning Diagnostics Corp.	ALP Gel/8 Cat. No. 470243	2 Plates: 16 Tests	10/28/91
Ciba Corning Diagnostics Corp.	ALP Gel/8 and Buffer Cat. No. 470240	Kit: 10 Plates; Plastic Bottle: 175ml	10/28/91
Ciba Corning Diagnostics Corp.	Alkaline Hemoglobin Buffer Cat. No. 470580	Plastic Vial: 25 Drams	10/28/91
Ciba Corning Diagnostics Corp.	Alkaline Hemoglobin Kit/8 Cat. No. 470678	Kit: 10 Plates; Plastic Vial: 25 Drams	10/28/91
Ciba Corning Diagnostics Corp.	Ciba Corning ANTICONV/ASTH I, II	Kit Contains: 10ml vial 5 Vials each level	10/22/85
Ciba Corning Diagnostics Corp.	Ciba Corning TDM I	Vial: 5ml 10 vials	10/22/85
Ciba Corning Diagnostics Corp.	Ciba Corning TDM I, II & III	Kit Contains: 5 Vials each level	10/22/85
Ciba Corning Diagnostics Corp.	Ciba Corning TDM II	Vial: 5ml, 10 vials	10/22/85
Ciba Corning Diagnostics Corp.	Ciba Corning TDM III	Vial: 5ml, 10 vials	10/22/85
Ciba Corning Diagnostics Corp.	Ciba Corning TOX I,II	Kit: Contains: 10ml vial 5 Vials each level	12/16/85
Ciba Corning Diagnostics Corp.	Ciba Corning Urine II	Vial:30ml	5/22/85
Ciba Corning Diagnostics Corp.	DAU I No. 9076	Glass vial: 25ml Box: 10 vials	5/23/89
Ciba Corning Diagnostics Corp.	DAU II No. 9077	Glass Vial: 25ml Box: 10 vials	5/23/89
Ciba Corning Diagnostics Corp.	DAU III No. 9078	Glass Vial: 25ml Box: 10 Vials	5/23/89
Ciba Corning Diagnostics Corp.	DAU IV No. 9079	Glass Vial: 25ml Box: 10 Vials	5/23/89
Ciba Corning Diagnostics Corp.	DAU V No. 9085	Glass Vial: 25ml; Box: 10 vials	5/10/91
Ciba Corning Diagnostics Corp.	Double Four-Track Gel Cat. No. 470179	Plate: 8 Tests; Kit: 12 Plates	10/28/91
Ciba Corning Diagnostics Corp.	HDL Cholesterol Gel/8 and Buffer Cat. No. 470618	Kit: 10 Plates; Plastic Vial: 25 Drams	10/28/91
Ciba Corning Diagnostics Corp	High Resolution Protein Gel/8 Cat. No. 470201	Kit: 12 Plates; 2 Plates: 16 Tests	10/28/91
Ciba Corning Diagnostics Corp	High Resolution Protein Kit/8 Cat. No. 470682	Kit: 10 Plates; Plastic Vial: 25 Drams	10/28/91
Ciba Corning Diagnostics Corp	Immophase Ferritin Controls	Glass Vial: 3ml	1/19/87
Ciba Corning Diagnostics Corp	Immophase Ferritin Standards	Glass Vial: 5ml	9/16/86
Ciba Corning Diagnostics Corp	Immunoelectrophoresis Gel/10 Cat. No. 470090	Kit: 12 Plates; 2 Plates: 20 Tests	10/28/91
Ciba Corning Diagnostics Corp	Immunoelectrophoresis Kit/8 Cat. No. 470684	Kit: 10 Plates; Plastic Vial: 25 Drams	10/28/91
Ciba Corning Diagnostics Corp	L-TDM I	Glass Vial: 5ml, Box: 15 Vials	5/23/89
Ciba Corning Diagnostics Corp	L-TDM I, II, III Kit	Kit: 15 Vials	5/23/89
Ciba Corning Diagnostics Corp	L-TDM II	Glass Vial: 5ml, Box: 15 Vials	5/23/89
Ciba Corning Diagnostics Corp	L-TDM III	Glass Vial: 5ml, Box: 15 Vials	5/23/89
Ciba Corning Diagnostics Corp	LD Isoenzyme Gel/8 and Buffer Cat. No. 470620	Kit: 10 Plates; Plastic Vial: 25 Drams	10/28/91
Ciba Corning Diagnostics Corp	LVM HI-CHEM DIL	Vial: 10ml	6/21/90
Ciba Corning Diagnostics Corp	LVM, Product Code - 9774	Carton: 12 vials	6/21/90
Ciba Corning Diagnostics Corp	Lipoprotein Kit/8 Cat. No. 470694	Kit: 10 Plates; Plastic Vial: 25 Drams	10/28/91
Ciba Corning Diagnostics Corp	MULTIQUAL ABN UNASY	Vial: 3ml, 10ml, Carton: 15 vials, 10 vials	4/09/89
Ciba Corning Diagnostics Corp	MULTIQUAL NOR UNASY	Vial: 3ml, 10ml, Carton: 15 vials, 10 vials	4/09/89
Ciba Corning Diagnostics Corp	Magic Ferritin 2000 Standard	Plastic Vial: 1ml	1/19/87
Ciba Corning Diagnostics Corp	Magic Ferritin Controls	Plastic Vial: 5ml	1/19/87
Ciba Corning Diagnostics Corp	Magic Ferritin Standards	Polypropylene Vial: 3ml	9/16/86
Ciba Corning Diagnostics Corp	Magic Ferritin Zero Standard	Plastic Vial: 50ml	1/19/87
Ciba Corning Diagnostics Corp	Magic Lite Ferritin Bulk Lite Reageant	Plastic Vial: 50ml	2/16/88
Ciba Corning Diagnostics Corp	Magic Lite Ferritin Bulk Solid Phase	Plastic Vial: 200ml	2/16/88
Ciba Corning Diagnostics Corp	Magic Lite Ferritin Solid Phase	Plastic Vial: 50ml	2/16/88
Ciba Corning Diagnostics Corp	Magic Lite T3 Bulk Solid Phase	Plastic Vial: 200ml	2/16/88
Ciba Corning Diagnostics Corp	Magic Lite T3 Kit	Kit: 100 Tests	6/27/91
Ciba Corning Diagnostics Corp	Magic Lite T3 Lite Reagent	Plastic Vial: 30ml	6/27/91
Ciba Corning Diagnostics Corp	Magic Lite T3 Solid Phase	Plastic Vial: 75ml	6/27/91
Ciba Corning Diagnostics Corp	Magic T4 Antibody	Vial: 50ml, 200ml	11/01/90
Ciba Corning Diagnostics Corp	Magic T4 Antibody	Plastic Vial: 50ml and 200ml	2/16/88
Ciba Corning Diagnostics Corp	Multi-LD Gel Cat. No. 470221	Kit: 12 Plates; 2 Plates: 32 Tests	10/28/91
Ciba Corning Diagnostics Corp	Multi-SPE Gel Cat. No. 470252	Kit: 12 Plates; 2 Plates: 32 Tests	10/28/91
Ciba Corning Diagnostics Corp	Multitrac ALP Gel/12 and Buffer Cat. No. 470240	Kit: 10 Plates; Plastic Bottle: 175ml	10/28/91
Ciba Corning Diagnostics Corp	Multitrac Immunofixation Kit/12 Cat. No. 470685	Kit: 10 Plates; Plastic Vial: 25 Drams	10/28/91
Ciba Corning Diagnostics Corp	Multitrac LD Isoenzyme Gel/12 and Buffer Cat. No. 470622	Kit: 10 Plates; Plastic vial: 25 Drams	10/28/91
Ciba Corning Diagnostics Corp	Multitrac LD Isoenzyme Gel/16 and Buffer Cat. No. 470625	Kit: 10 Plates; Plastic Vial: 25 Drams	10/28/91
Ciba Corning Diagnostics Corp	Multitrac Lipoprotein Kit/12 Cat. No. 470695	Kit: 10 Plates; Plastic Vial: 25 Drams	10/28/91
Ciba Corning Diagnostics Corp	Multitrac Serum Protein Kit/12 Cat. No. 470697	Kit: 10 Plates; Plastic vial: 25 Drams	10/28/91
Ciba Corning Diagnostics Corp	QCS ABN ASY	Vial: 5ml Kit: 5 vials	1/21/89
Ciba Corning Diagnostics Corp	QCS ABN ASY No. 9705/9705A	Box: 10 vials, Vial: 5ml	12/15/89
Ciba Corning Diagnostics Corp	QCS ABN ASY No. 9707/9707A	Box: 10 vials, Vial: 5ml	12/15/89
Ciba Corning Diagnostics Corp	QCS ABN UNASY No. 9691/9691A	Box: 40 vials, Vial: 25ml	12/15/89
Ciba Corning Diagnostics Corp	QCS-ABN UNASY No. 9717/9717A	Box: 10 vials, Vial: 10ml	12/15/89
Ciba Corning Diagnostics Corp	QCS NOR ASY	Vial: 5ml Kit: 5 vials	1/21/89
Ciba Corning Diagnostics Corp	QCS NOR ASY No. 9702/9702A	Box: 10 vials, Vial: 5ml	12/15/89
Ciba Corning Diagnostics Corp	QCS NOR ASY No. 9704/9704A	Box: 10 vials, Vial: 5ml	12/15/89
Ciba Corning Diagnostics Corp	QCS NOR UNASY No. 9681/9681A	Box: 40 vials, Vial: 25ml	12/15/89
Ciba Corning Diagnostics Corp	QCS NOR UNASY No. 9716/9716A	Box: 10 vials, Vial 10ml	12/15/89
Ciba Corning Diagnostics Corp	Reagent A- Alt 14	Vial: 15ml	3/24/79
Ciba Corning Diagnostics Corp	Reagent A- Alt 7	Vial: 15ml	3/24/79
Ciba Corning Diagnostics Corp	Reagent A-Ammonia 10	Vial: 10ml	3/24/79
Ciba Corning Diagnostics Corp	Serum Protein Kit/8 Cat. No. 470696	Kit: 10 Plates; Plastic Vial: 25 Drams	10/28/91
Ciba Corning Diagnostics Corp	Special Barbital Buffer Set, Catalog No. 470182	Vial: 3 per kit	4/17/79
Ciba Corning Diagnostics Corp	Univeral II Gel/8 Cat. No. 470261	Kit: 12 Plates; 2 Plates: 16 Tests	10/28/91
Ciba Corning Diagnostics Corp	Universal Buffer Cat. No. 470686	Plastic Vial: 25 Drams	10/28/91
Ciba Corning Diagnostics Corp	Universal Electrophoresis Film Agarose, Catalog No. 470100	Plates: 12 per kit	4/17/79
Ciba Corning Diagnostics Corp	Universal Gel/12 Cat. No. 470554	Kit: 12 Plates; 2 Plates: 24 Tests	10/28/91
Ciba Corning Diagnostics Corp	Universal Gel/16 or Multi-SPE Gel Cat. No. 470066	Kit: 12 Plates; 2 Plates: 32 Tests	10/28/91
Ciba Corning Diagnostics Corp	Universal IEP Gel Cat. No. 470222	Kit: 12 Plates; 2 Plates: 16 Tests	10/28/91
Ciba Corning Diagnostics Corp	Universal II Gel/12 Cat. No. 470262	Kit: 12 Plates; 2 Plates: 24 Tests	10/28/91
Ciba Corning Diagnostics Corp	Universal II Gel/16 Cat. No. 470268	Kit: 12 Plates; 2 Plates: 32 Tests	10/28/91

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Ciba Corning Diagnostics Corp	Universal PHAB Buffer Set Catalog No. 470180	Kit: 3 vials per kit	9/26/79
Ciba Corning Diagnostics corp	Magic Lite HCG Solid Phase	Plastic vial: 50ml Kit: 100 tests	12/09/88
Ciba–Corning Diagnostics Corp	Linearity Reference Material LNM–A, LNM–B, LNM–C	Vial: 10ml; Kit: 2 vials	2/12/91
Ciba–Corning Diagnostics Corp	Linearity Survey LN3–A, LN3–B, LN3–C	Vial: 10ml; Kit: 2 vials	2/12/91
Ciba–Corning Diagnostics Corp	Linearity Survey LN4–A, LN4–B, LN4–C	Vial: 25ml; Kit: 2 vials	2/12/91
Cone Biotech, Inc	American Association of Bioanalysts, Urine Toxicology Survey	Vial: 20ml Kit: 2 vials	5/30/90
Cone Biotech, Inc	CAP/Cocaine Reference Material Levels II, III, and IV	Vial: 20ml	3/07/88
Cone Biotech, Inc	College of American Pathologists (CAP) Reference Material for Cocaine in Urine.	Vial: 15ml Kit: 4 vials	5/30/90
Cone Biotech, Inc	College of American Pathologists Forensic Urine Drug Testing Survey Material (AACC/CAP).	Vial: 100ml	5/30/90
Cone Biotech, Inc	College of American Pathologists Toxicology Survey (CAP)	Vial: 50ml	5/30/90
Cone Biotech, Inc	College of American Pathologists Urine Toxicology Survey (CAP).	Vial: 50ml	5/30/90
Cone Biotech, Inc	QCM–UTI	Vial: 20ml	3/07/85
Cone Biotech, Inc	RIATRAC–Three Level Ligand Assay Controls	Vials: 8ml	2/27/84
Cone Biotech, Inc	UDM–CAP/AACC Forensic Urine Drug Testing Survey (Initial Phase).	Bottle: 60ml	8/31/87
Cone Biotech, Inc	UDS and UDC CAP/AACC Forensic Urine Drug Testing	Vial: 30ml	1/06/88
Diagnostic Products Corporation	125–I Barbiturate Isotope: Cat. No. TBA2, TBAY2	Vial: 110ml, 550ml	3/01/88
Diagnostic Products Corporation	125–I Benzoylecgonine Isotope: Cat. No. TCN2, TCNY2	Vial: 100ml, 550ml	3/01/88
Diagnostic Products Corporation	125–I Benzoylecgonine Isotope (DA): Cat. No. CND2, YCND2	Vial: 10ml, 100ml, 675ml	3/01/88
Diagnostic Products Corporation	125–I Fentanyl Isotope: Cat. No. TFN2	Vial: 500ml	3/01/88
Diagnostic Products Corporation	125–I Methadone Isotope: Cat. No. TMD2	Vial: 100ml	3/01/88
Diagnostic Products Corporation	125–I Methaqualone Isotope: Cat. No. TMQ2	Vial: 100ml	3/01/88
Diagnostic Products Corporation	125–I Morphine Isotope: Cat. No. TMP2, TMPY2	Vial: 110ml, 550ml	3/01/88
Diagnostic Products Corporation	125–I PCP Isotope: Cat. No. TPC2, TPCY2	Vial: 110ml, 550ml	3/01/88
Diagnostic Products Corporation	125–I Serum Morphine Isotope: Cat. No. TSM2	Vial: 110ml	3/01/88
Diagnostic Products Corporation	125–I THC Isotope: Cat. No. THD2, YTHD2	Vial: 20ml, 110ml, 550ml	3/01/88
Diagnostic Products Corporation	Amphetamine Calibrators B–F: Cat. No. APD4–8	Vial: 3.5ml	3/01/88
Diagnostic Products Corporation	Amphetamine Calibrators Cat. No. MAP 4–8	Vial: 5ml	7/05/90
Diagnostic Products Corporation	Amphetamine Controls, Cat. No. ACO1, ACO2	Vial: 5ml	3/20/89
Diagnostic Products Corporation	Amphetamine Controls: Cat. No. 5AC01, 5ACO2	Vial: 100ml	3/01/88
Diagnostic Products Corporation	Amphetamine Isotope: Cat. No. APD2, 5APD2, YAPD2	Vial: 20ml, 100ml, 550ml	3/01/88
Diagnostic Products Corporation	Amphetamine Reference Preparation: Cat. No. 5YAP7	Vial: 120ml	3/01/88
Diagnostic Products Corporation	Amphetamine Reference Preparations, Cat. No. APD5, APD9	Vial: 5ml	3/20/89
Diagnostic Products Corporation	Barbiturate Calibrators B–G: Cat. No. BAC4–9	Vial: 3.5ml	3/01/88
Diagnostic Products Corporation	Barbiturate Reference Preparations: Cat. No. 5YBA5	Vial: 120ml	3/01/88
Diagnostic Products Corporation	Benzoylecgonine Calibrators (CAC) B–F: Cat. No. COC4–8	Vial: 3.5ml	3/01/88
Diagnostic Products Corporation	Benzoylecgonine Calibrators (DA) B–F: Cat. No. CND4–8	Vial: 3.5ml	3/01/88
Diagnostic Products Corporation	Benzoylecgonine Calibrators (DA): Cat. No. CNC4–8	Vial: 3.5ml	3/01/88
Diagnostic Products Corporation	Benzoylecgonine Reference Preparation (DA): Cat. No. 5YCN5	Vial: 120ml	3/01/88
Diagnostic Products Corporation	Benzoylecgonine Reference Preparation: Cat. No. 5YCN5	Vial: 120 ml	3/01/88
Diagnostic Products Corporation	C-Terminal PTH Antiserum: Cat. No. PCD1	Vial: 10 ml	3/01/88
Diagnostic Products Corporation	CON6 Immunoassay Tri–level Control Cat. No. CON6	Kit: 6 vials	3/25/91
Diagnostic Products Corporation	Canine T3 Isotope: Cat. No. TC32	Vial: 120 ml	3/01/88
Diagnostic Products Corporation	Coat–A–Count Barbiturates In Urine: Cat. No. TKBA1,TKBA5	Kit: 100 tests, 500 tests	3/01/88
Diagnostic Products Corporation	Coat–A–Count Barbiturates Qualitative Determination In Urine: Cat. No. TKBAY.	Kit: 2500 tests	3/01/88
Diagnostic Products Corporation	Coat–A–Count Canine T3: Cat. No. TKC31, TKC35	Kit: 100 tests, 500 tests	3/01/88
Diagnostic Products Corporation	Coat–A–Count Cocaine Metabolite: Cat. No. TKCN1, TKCN5	Kit: 100 tests, 500 tests	3/01/88
Diagnostic Products Corporation	Coat–A–Count Fentanyl: Cat. No. TKFN1	Kit: 100 tests	3/01/88
Diagnostic Products Corporation	Coat–A–Count Free Testosterone Cat. No. TKTF 1,2	Kit: 100, 200 Tests	3/25/91
Diagnostic Products Corporation	Coat–A–Count LSD 100, 500, Cat. No. TKLS1, TKLS5	Kit: 8 vials, 19 vials	3/20/89
Diagnostic Products Corporation	Coat–A–Count LSD Qualitative Determination in Urine, Cat. No. TKLSY.	Kit: 8 vials	3/20/89
Diagnostic Products Corporation	Coat–A–Count Metabolite Qualitative Determinants In Urine: Cat. No. TKCNY.	Kit: 2500 tests	3/01/88
Diagnostic Products Corporation	Coat–A–Count Methadone: Cat. No. TKMD1	Kit: 100 tests	3/01/88
Diagnostic Products Corporation	Coat–A–Count Methaqualone: Cat. No. TKMQ1	Kit: 100 tests	3/01/88
Diagnostic Products Corporation	Coat–A–Count Morphine Qualitative Determinations In Urine: Cat. No. TKMPY.	Kit: 2500 tests	3/01/88
Diagnostic Products Corporation	Coat–A–Count Morphine: Cat. No. TKMP1, TKMP5, TKMPX	Kit: 100 tests, 500 tests, 1000 tests	3/01/88
Diagnostic Products Corporation	Coat–A–Count Opiates Screen Qualitative Determinations In Urine: Cat. No. TKOSY.	Kit: 2500 tests	3/01/88
Diagnostic Products Corporation	Coat–A–Count Opiates Screen: Cat. No. TK0S1, TKOS5	Kit: 100 tests, 500 tests	3/01/88
Diagnostic Products Corporation	Coat–A–Count PCP (Phencyclidine) In Urine: Cat. No. TKCY1	Kit: 100 tests	3/01/88
Diagnostic Products Corporation	Coat–A–Count PCP (Phencyclidine) Qaulitatives Determinations In Urine: Cat. No. TKPCY	Kit: 2500 tests	3/01/88
Diagnostic Products Corporation	Coat–A–Count Serum Morphine: Cat. No. TKSM1	Kit: 100 tests	3/01/88
Diagnostic Products Corporation	Coat–A–Count Total Testosterone Cat. No. TKTT 1,2,5	Kit: 100, 200, 500 tests	3/25/91
Diagnostic Products Corporation	Donkey Anti–Goat Gamma Globulin (PTH–Ultra): Cat. No. PTDG.	Vial: 10 ml	3/01/88
Diagnostic Products Corporation	Double Antibody Amphetamine, Cat. No. KAPD1, KAPD5	Kit: 6 vials	3/20/89
Diagnostic Products Corporation	Double Antibody Amphetamine, Qualitative Determinations In Urine: Cat. No. KAPDY.	Kit: 2500 tests	3/01/88
Diagnostic Products Corporation	Double Antibody Amphetamine. Cat. No. KAPD1, KAPD5	Kit: 100 tests, 500 tests	3/01/88
Diagnostic Products Corporation	Double Antibody Cannabinoids (THC) In Urine: Cat. No. KTHD1, KTHD5.	Kit: 100 tests, 500 tests	3/01/88

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Diagnostic Products Corporation	Double Antibody Cannabinoids (THC) Quantitative Determinations In Urine: Cat. No. KTHDY.	Kit: 2500 tests	3/01/88
Diagnostic Products Corporation	Double Antibody Cocaine Metabolite Qualitive Determination In Urine: Cat. No. KCNDY.	Kit: 2500 tests	3/01/88
Diagnostic Products Corporation	Double Antibody Cocaine Metabolite: Cat. No. KCND1, KCND5	Kit: 100 tests, 500 tests	3/01/88
Diagnostic Products Corporation	Double Antibody PTH-C: KPCD1, KPCD2	Kit: 70 tests, 140 tests	3/01/88
Diagnostic Products Corporation	Double Antibody PTH-M: Cat. No. KPMD1	Kit: 70 tests	3/01/88
Diagnostic Products Corporation	Double Antibody Testosterone Cat. No. KTTD1,2	Kit: 100, 200 tests	3/25/91
Diagnostic Products Corporation	Double Antibody Ultra-PTH Cat. No. KPTD1, KPTD2	Kit: 70 tests, 140 tests	3/01/88
Diagnostic Products Corporation	Enzyme-Labeled Amphetamine Cat. No. MEAP2, 5MEAP2	Vial: 20ml, 60ml	7/05/90
Diagnostic Products Corporation	Enzyme-Labeled Cocaine Metabolite Cat. No. MECC2, 5MECC2.	Glass Vial: 11ml, 60ml	1/25/91
Diagnostic Products Corporation	Enzyme-Labeled Methamphetamine Cat. No. MEMA2, 5MEMA2.	Vial: 11ml, 60ml	9/28/90
Diagnostic Products Corporation	Enzyme-Labeled Opiates Cat. No. MEOP2, 5MEOP2	Vial: 20ml, 60ml	7/05/90
Diagnostic Products Corporation	Enzyme-Labeled PCP Cat. No. MEPC2, 5MEPC2	Vial: 20ml, 60ml	7/05/90
Diagnostic Products Corporation	Enzyme-Labeled THC Cat. No. METH 2, 5METH2	Vial: 20ml, 60ml	7/05/90
Diagnostic Products Corporation	EquiCON-DOA Drugs of Abuse Equine Urine Controls Cat. No. EDAC.	Kit: 2 Vials	3/25/91
Diagnostic Products Corporation	EquiCon-DOA Level 2,3 Cat. No. EDAC 2,3	Vial: 30ml	3/25/91
Diagnostic Products Corporation	Fentanyl Calibrators: Cat. No. FNC4–9	Vial: 3.5 ml	3/01/88
Diagnostic Products Corporation	Free Testosterone Calibrators Cat. No. TFC4–8	Vial: 3.5ml	3/25/91
Diagnostic Products Corporation	Goat Anti-Rabbit Gamma Globulin/4% PEG Saline: Cat. No. 5N6.	Vial: 110 ml, 320 ml	3/01/88
Diagnostic Products Corporation	LSD Calibrators B–F, Cat. No. LSCH–8	Vial: 5 ml	3/20/89
Diagnostic Products Corporation	LSD Controls, Cat. No. 5LCO1, 5LCO2, LSCO1, LSCO2	Vial: 120ml, 5ml	3/20/89
Diagnostic Products Corporation	LSD Isotope, Cat. No. TLSY2, TLS2	Vial: 105 ml, 550 ml	3/20/89
Diagnostic Products Corporation	LSD Reference Preparation, Cat. No. 5YLS6	Vial: 120ml	3/20/89
Diagnostic Products Corporation	Low and High Barbiturate Urinary Controls: Cat. No. 5BCO1, 5BCO2.	Vial: 100 ml	3/01/88
Diagnostic Products Corporation	Low and High Benzoylecgonine Urinary Controls (DA): Cat. No. 5COO1, 5COO2, CNC02, CNCO3.	Vial: 3.5 ml, 100 ml	3/01/88
Diagnostic Products Corporation	Low and High Cannabinoid Urinary Controls: Cat. No. 5TC01, 5TCO2.	Vial: 100 ml	3/01/88
Diagnostic Products Corporation	Low and High Morphine Urinary Controls: Cat. No. 5MCO1, 5MCO2.	Vial: 100 ml	3/01/88
Diagnostic Products Corporation	Low and High Opiate Urinary Controls: Cat. No. 5OCO1, 5OCO2.	Vial: 100 ml	3/01/88
Diagnostic Products Corporation	Low and High PCP Urinary Controls: Cat. No. 5PCO1, 5PCO2	Vial: 100 ml	3/01/88
Diagnostic Products Corporation	Methadone Calibrators: Cat. No. MDC4–8	Vial: 3.5 ml	3/01/88
Diagnostic Products Corporation	Methamphetamine Calibrators Cat. No. MMA–8	Vial: 5ml	9/28/90
Diagnostic Products Corporation	Methamphetamine Cartridges Cat. No. VMADC	Cartridge: 5ml	1/25/91
Diagnostic Products Corporation	Methamphetamine Positive Reference Cat. No. VMAPC	Vial: 3ml	1/25/91
Diagnostic Products Corporation	Methaqualone Calibrators: Cat. No. MQC4–8	Vial: 3.5 ml	3/01/88
Diagnostic Products Corporation	Mid-Molecule PTH Antiserum: Cat. No. PMD1	Vial: 10 ml	3/01/88
Diagnostic Products Corporation	Milenia Amphetamine Cat. No. MKAP1, MKAP5	Kit: 7 vials, 96 tests, 480 tests	7/05/90
Diagnostic Products Corporation	Milenia Cannabinoids Cat. No. MK TH1, MKTH5	Kit: 6 vials, 96 Tests, 480 Tests	7/05/90
Diagnostic Products Corporation	Milenia Cocaine Metabolite Cat. No. MKCC1, MKCC5	Kit: 96 Tests, 480 Tests	1/25/91
Diagnostic Products Corporation	Milenia Cocaine References and Glass Controls Cat. No. MC3,6 MCCC1,2.	Vial: 5ml	1/25/91
Diagnostic Products Corporation	Milenia Methamphetamine Cat. No. MKMA1, MKMA5	Kit: 96 wells, 480 wells	9/28/90
Diagnostic Products Corporation	Milenia Opiates Cat. No. MKOP1, MKOP5	Kit: 6 vials, 96 Tests, 480 Tests	7/05/90
Diagnostic Products Corporation	Milenia PCP Cat. No. MKPC1 MKPC5	Kit: 6 vials, 96 tests, 480 tests	7/05/90
Diagnostic Products Corporation	Morphine Calibrators: Cat. No. MPC4–8	Vial: 3.5 ml, 10 ml	3/01/88
Diagnostic Products Corporation	Morphine Reference Preparation: Cat. No. 5YMPY7	Vial: 120 ml	3/01/88
Diagnostic Products Corporation	Opiate Calibrators: Cat. No. OSC4–8	Vial: 3.5 ml	3/01/88
Diagnostic Products Corporation	Opiate Cartridges Cat. No. VOSDC	Cartridge: 5ml	7/05/90
Diagnostic Products Corporation	Opiates Calibrators Cat. No. MOP 4–7	Vial: 5ml	7/05/90
Diagnostic Products Corporation	Opiates Positive Reference Cat. No. VOSPC	Vial: 1ml	07/05/90
Diagnostic Products Corporation	Opiates Reference Preparation: Cat. No. 5YOS7	Vial: 120 ml	03/01/88
Diagnostic Products Corporation	PCP Calibrators Cat. No. MPC 3–7	Vial: 5ml	07/05/90
Diagnostic Products Corporation	PCP Calibrators: Cat. No. PGC4–8	Vial: 3.5 ml	03/01/88
Diagnostic Products Corporation	PCP Reference Preparation: Cat: No. 5YPC6	Vial: 120 ml	03/01/88
Diagnostic Products Corporation	PTH (C–Terminal) Isotope: Cat. No. PCD2	Vial: 10 ml	03/01/88
Diagnostic Products Corporation	PTH (Ultra) Antiserum: Cat. No. PTD1	Vial: 5 ml	03/01/88
Diagnostic Products Corporation	PTH (Ultra) Isotope: Cat. No. PTD2	Vial 5 ml	03/01/88
Diagnostic Products Corporation	PTH–M Isotope: Cat. No. PMD2	Vial: 10 ml	03/01/88
Diagnostic Products Corporation	RIA Controls Level 4,5,6 Cat. NO. CON4, CON5, CON6	Vial: 10ml	03/25/91
Diagnostic Products Corporation	Serum Morphine Calibrators: Cat No. SMC4–8	Vial: 3.5 ml	03/01/88
Diagnostic Products Corporation	Serum Morphine Controls: Cat. No. SMCO2, SMCO3	Vail: 3.5 ml	03/01/88
Diagnostic Products Corporation	THC Calibrators B–F: Cat. No. THD4–8	Vial: 3.5 ml	03/01/88
Diagnostic Products Corporation	THC Calibrators Cat. No. MTH 4–7	Vial: 5ml	07/05/90
Diagnostic Products Corporation	THC Reference Preparation: Cat. No. 5YTH7	Vial: 120 ml	03/01/88
Diagnostic Products Corporation	Ten One Methamphetamine Cat. No. VKMA1, VKMA4	Kit: 12 Tests, 48 Tests	01/25/91
Diagnostic Products Corporation	Ten One Opiates Cat. No. VKSO1, VKSO4	Kit: 1 vial 12 & 48 5ml cartridges	07/05/90
Diagnostic Products Corporation	Testosterone Calibrators Cat. No. TTD3–8	Vial: 3.5ml	03/25/91
Diagnostic Products Corporation	Total Testosterone Calibrators Cat. No. TTC4–8	Vial: 3.5ml	03/25/91
Diagnostic Products Corporation	Triiodothyronine (T3) Isotope: Cat. No. TT32	Vial: 120 ml	03/01/88
Diagnostic Products Corporation	[125I] Free Testosterone Cat. No. TTF2	Vial: 105ml	03/25/91
Diagnostic Products Corporation	[125I] Testosterone Cat. No. TTD2	Vial: 10ml	03/25/91

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Supplier	Product name	Form	Date
Diagnostic Products Corporation	[125I] Total Testosterone Cat. No. TTT 2	Vial: 105ml	03/25/91
Diamedix Corporation	Barbital-Acetate Buffer, Powder 709-317	Package: 20 envelopes-10.65 g. per envelope	07/27/72
Diamedix Corporation	CEP Plate-Amebiasis Testing 40 Test No. 730-274	Plate: 40mm x 80mm x 2.5mm	08/09/73
Diamedix Corporation	CEP VI No. 709-339	Plate: 40mm x 80mm x 2.5mm	08/09/73
Diamedix Corporation	Counterelectrophoresis (CEP) Plates for Trichinosis Testing	Plastic plates: 40mm x 80mm x 2.5mm	06/16/75
Diamedix Corporation	EDTA (0.014M)-GVB Buffer, 753-034	Bottle: 5ml	08/09/73
Diamedix Corporation	EDTA (0.01M)-GVB Buffer, 753-031	Bottle: 5ml	08/09/73
Diamedix Corporation	GVB(3+) Buffer 753-037	Bottle: 50ml	08/09/73
Diamedix Corporation	Glucose-GVB 1 Buffer, 753-036	Bottle: 50ml	08/09/73
Duo Research, Inc.	Drug Testing Assessment Program Quality Control Samples	Kit: 25 bottles	12/26/86
Duo Research, Inc.	Drug Testing Assessment Program-Quality Control Sample	Bottle: 65ml	02/27/86
Duo Research, Inc.	Drug Testing Assessment Program-Quality Control Sample Kit	Kit: 5-65ml bottles	02/27/86
E.I. duPont de Nemours & Co., Inc.	(1) PREP Sample Preparation and Analysis Kit	Kit containing following:	09/25/78
E.I. duPont de Nemours & Co., Inc.	(2) PREP Buffer/Internal Standard and Liquid Chromatography Verifier.	Box containing following:	09/25/78
E.I. duPont de Nemours & Co., Inc.	(2a) PREP Liquid Chromatography Verifier	Vial: 10ml (1 vial/box)	09/25/78
E.I. duPont de Nemours & Co., Inc.	(2b) PREP Buffer/Internal Standard	Vial: 100ml (3 vials/box)	09/25/78
E.I. duPont de Nemours & Co., Inc.	(3) PREP Calibrators	Box containing following:	09/25/78
E.I. duPont de Nemours & Co. Inc.	(3a) PREP Calibrator-Level 1	Vial: 10ml (1 vial/box)	09/25/78
E.I. duPont de Nemours & Co. Inc.	(3b) PREP Calibrator-Level 2	Vial: 10ml (1 vial/box)	09/25/78
E.I. duPont de Nemours & Co. Inc.	(3c) PREP Calibrator-Level 3	Vial: 10ml (1 vial/box)	09/25/78
E.I. duPont de Nemours & Co. Inc.	(3d) PREP Calibrator-Level 4	Vial: 10ml (1 vial/box)	09/25/78
E.I. duPont de Nemours & Co. Inc.	(4) PREP Controls	Box containing following:	09/25/78
E.I. duPont de Nemours & Co. Inc.	(4a) PREP Control-Low Level	Vial: 10ml (2 vials/box)	09/25/78
E.I. duPont de Nemours & Co. Inc.	(4b) PREP Control-High Level	Vial: 10ml (2 vials/box)	09/25/78
E.I. duPont de Nemours & Co. Inc.	DM/TU Saturating Reagent	Plastic Bottle: 1L, 10L, 20L	02/22/89
E.I. duPont de Nemours & Co. Inc.	DuPont Drug Calibrator-A (levels 1-5)	Vial: 6ml, Box: 10 vials	05/25/90
E.I. duPont de Nemours & Co. Inc.	DuPont Drug Calibrators- Levels 1 through 5	Vial: 6ml (1 vial and 2 vials/box)	04/04/86
E.I. duPont de Nemours & Co. Inc.	DuPont Phenobarbital Assay	Vial:6 ml	10/13/86
E.I. duPont de Nemours & Co. Inc.	DuPont U Amp Enzyme Pack Reagent	Bottle:1 liter	10/19/87
E.I. duPont de Nemours & Co. Inc.	DuPont U Barb Enzyme Pack Reagent	Bottle:1 liter	10/19/87
E.I. duPont de Nemours & Co. Inc.	DuPont U Benz Enzyme Pack Reagent	Bottle:1 liter	10/19/87
E.I. duPont de Nemours & Co. Inc.	DuPont U COC Enzyme Pack Reagent	Bottle:1 liter	10/19/87
E.I. duPont de Nemours & Co. Inc.	DuPont U OPI Enzyme Pack Reagent	Bottle:1 liter	08/26/87
E.I. duPont de Nemours & Co. Inc.	DuPont U THC Enzyme Pack Reagent	Bottle: 1 Liter	01/04/88
E.I. duPont de Nemours & Co. Inc.	DuPont Urine Drugs-of-Abuse Calibrator (Levels 0,1,2)	Box:6, Vials,6ml, Vial	07/27/87
E.I. duPont de Nemours & Co. Inc.	DuPont Urine Drugs-of-Abuse Control	Vial:6 ml	08/03/87
E.I. duPont de Nemours & Co. Inc.	DuPont aca Barbiturate Screen Analytical Test Pack	Plastic Packs: 25 tests	12/23/84
E.I. duPont de Nemours & Co. Inc.	DuPont aca Barbiturate Screen/Benzodiazepine Screen Calibrator	6 Vials: 3ml	02/23/84
E.I. duPont de Nemours & Co. Inc.	DuPont aca Benzodiazepine Screen Analytical Test Pack	Plastic Packs: 25 tests	02/23/84
E.I. duPont de Nemours & Co. Inc.	Phenobarbital Calibrator- Level 1	Vial: 6ml (1 vial/box)	04/02/86
E.I. duPont de Nemours & Co. Inc.	Phenobarbital Calibrator- Level 2	Vial: 6ml (1 vial/box)	04/02/86
E.I. duPont de Nemours & Co. Inc.	Phenobarbital Calibrator- Level 3	Vial: 6ml (1 vial/box)	04/02/86
E.I. duPont de Nemours & Co. Inc.	Phenobarbital Calibrator- Level 4	Vial: 6ml (1 vial/box)	04/02/86
E.I. duPont de Nemours & Co. Inc.	Phenobarbital Calibrator- Level 5	Vial: 6ml (1 vial/box)	04/02/86
E.I. duPont de Nemours & Co. Inc.	Theophylline Calibrator Levels 1, 2 and 3	Vial: 6 ml. Box contains 2 vials each level	09/21/88
E.I. duPont de Nemours & Co. Inc.	Thyroid Rotor	Foil Pouch: 1, Rotor Shelf Carton: 10 Rotors Box: 5 Shelf Cartons(50 Rotors).	10/25/88
E.I. duPont de Nemours & Co. Inc.	Thyronine (TU) Uptake Flex	32 Test Cartridge, Carton: 7 cartridges	03/29/88
E.I. duPont de Nemours & Co. Inc.	Thyronine (TU) Uptake Flex(tm) Reagent Cartridge	Plastic container: 2.3ml (20 tests)	04/25/86
E.I. duPont de Nemours & Co. Inc.	Urine Amphetamine (U Amp) Test Pack	Carton:50 tests	08/27/87
E.I. duPont de Nemours & Co. Inc.	Urine Barbiturate (U Barb) Test Pack	Carton:50 tests	08/27/87
E.I. duPont de Nemours & Co. Inc.	Urine Benzodiazepine (U Benz) Test Pack	Carton:50 tests	08/27/87
E.I. duPont de Nemours & Co. Inc.	Urine Cannabinoid (U THC) Test Pack	Carton: 50 tests	11/09/87
E.I. duPont de Nemours & Co. Inc.	Urine Cocaine (U COC) Test Pack	Carton:50 tests	08/27/87
E.I. duPont de Nemours & Co. Inc.	Urine Opiate (U OPI) Test Pack	Carton:50 tests	07/08/87
E.I. duPont de Nemours & Co. Inc.	aca PHNO Analytical Test Pack	Carton: 40 tests packs	08/25/77
E.I. duPont de Nemours & Co. Inc.	aca Thryonine Uptake Analytical Test Pack	Plastic Pack: 1 test	08/25/83
E.I. duPont de Nemours & Co. Inc., Medical Products.	5-Cyclohexenyl-3,5,-Dimethyl barbituric Acid (3H(G)), Catalog No. NET-426.	Combi-Vial:250 microcuries, millicurie, and 5 millicuries.	01/04/77
E.I. duPont de Nemours & Co. Inc., Medical Products.	Acetaldehyde (1,2-14C) as Paraldehyde, Catalog No. NEC-158.	Pyrex Glass Breakseal Tube: 250 microcuries, millicurie.	01/04/77
E.I. duPont de Nemours & Co. Inc., Medical Products.	Cocaine, Levo-[Benzoyl] [3.4-3H(N)] Catalog No. NET-510	Combi-Vial: 100 microcuries, 250 microcuries	01/04/77
E.I. duPont de Nemours & Co. Inc., Medical Products.	Diazepam [Methyl-3H] Catalog No. NET-564	Combi-Vial: 0.250 millicuries, 1.0 millicurie	09/06/79
E.I. duPont de Nemours & Co. Inc., Medical Products.	Dihydromorphine [7,8-3H(N)]	Combi- Vial: 250 microcuries, 1 millicurie	01/04/77
E.I. duPont de Nemours & Co. Inc., Medical Products.	Dihydromorphine[N-Methyl-3H] NET-658	Combi- Vial: 0.250 millicuries, 1.0 millicurie	02/29/80
E.I. duPont de Nemours & Co. Inc., Medical Products.	Dihydrotestosterone, [1,2,4,5,6,7,16,17-3H(N)]	NENSURE Vial: 0.8ml, 6.2ml	11/01/91
E.I. duPont de Nemours & Co., Inc., Medical Products.	Dihydrotestosterone, [1,2,4,5,6,7-3H(N)]-	NENSURE Vial: 0.8ml, 6.2ml	11/01/91
E.I. duPont de Nemours & Co., Inc., Medical Products.	Dihydrotestosterone, [1,2-3H(N)]	NENSURE Vial: 0.8ml, 6.2ml	11/01/91
E.I. duPont de Nemours & Co., Inc., Medical Products.	Dihydrotestosterone, [4-14C]-	NENSURE Vial: 0.8ml, 6.2ml	11/01/91

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Supplier	Product name	Form	Date
E.I. duPont de Nemours & Co., Inc., Medical Products.	Drug Discovery Kit, No. NED-002, NED-002A	Kit: 100 tests, 500 tests	08/08/89
E.I. duPont de Nemours & Co., Inc., Medical Products.	Flunitrazepam (Methyl-3H)	Combi-Vial: 5 microcuries, 14 microcuries	08/08/89
E.I. duPont de Nemours & Co., Inc., Medical Products.	Flunitrazepam 2.5 Micro M	Combi-Vial: 2.0 ml	08/08/89
E.I. duPont de Nemours & Co., Inc., Medical Products.	Flunitrazepam [Methyl-3H] NET 567	Combi-Vial: 0.250 millicuries, 1.0 millicurie	04/29/87
E.I. duPont de Nemours & Co., Inc., Medical Products.	LSD [N-Methyl-3H] NET-638	Combi-Vial: 0.250 millicuries, 1.0 millicurie	11/06/79
E.I. duPont de Nemours & Co., Inc., Medical Products.	Mazindol (4'-3H) Catalog No.NET-816	Combi-Vial: 0.250 millicuries, 1.0 millicurie	05/17/84
E.I. duPont de Nemours & Co., Inc., Medical Products.	Methylenedioxymethamphetamine, (+)3,4-[N-methyl-3H] NET 957.	Combi-Vial: 0.0250 millicuries, 0.25 millicuries, 1.0 millicuries.	08/25/75
E.I. duPont de Nemours & Co., Inc., Medical Products.	Methylphenidate, +/- threo[methyl-3H]NET-857	Combi-Vial: 0.250 millicuries, 1.0 millicurie	06/11/84
E.I. duPont de Nemours & Co., Inc., Medical Products.	Mibolerone	Glass Vial: 5ml	11/01/91
E.I. duPont de Nemours & Co., Inc., Medical Products.	Mibolerone, [17Alpha-methyl-3H]-	NENSURE Vial: 0.8ml, 6.2ml	11/01/91
E.I. duPont de Nemours & Co., Inc., Medical Products.	Morphine [N-methyl-3H] NET-653	Combi-Vial: 0.250 millicuries, 1.0 millicurie	02/29/80
E.I. duPont de Nemours & Co., Inc., Medical Products.	N-[1-(2-Thienyl) Cyclohexyl]-3,4-Piperidine (Piperidyl-3,4-3H) NET-886.	Combi-Vial: 0.250 millicuries, 1.0 millicurie	06/11/84
E.I. duPont de Nemours & Co., Inc., Medical Products.	Phencyclidine [Piperidyl-3,4-3H(N)], Catalog No.NET-630	Combi-Vial: 0.250 millicurie, 1.0 millicurie	09/06/79
E.I. duPont de Nemours & Co., Inc., Medical Products.	Testosterone, [1,2,6,7,16,17-3H(N)]	NENSURE Vial: 0.8ml, 6.2ml	11/01/91
E.I. duPont de Nemours & Co., Inc., Medical Products.	Testosterone, [1,2,6,7-3H(N)]-	NENSURE Vial: 0.8ml, 6.2ml	11/01/91
E.I. duPont de Nemours & Co., Inc., Medical Products.	Testosterone, [1Alpha, 2Alpha, -3H(N)]-	NENSURE Vial: 0.8ml, 6.2ml	11/01/91
E.I. duPont de Nemours & Co., Inc., Medical Products.	Testosterone, [1Beta, 2Beta,-3H(N)]-	NENSURE Vial: 0.8ml, 6.2ml	11/01/91
E.I. duPont de Nemours & Co., Inc., Medical Products.	Testosterone, [4-14C]-	NENSURE Vial: 0.8ml, 6.2ml; Glass Vial: 10ml	11/01/91
E.I. duPont de Nemours & Co., Inc., Medical Products.	Testosterone, [7-3H(N)]-	NENSURE Vial: 0.8ml, 6.2ml	11/01/91
E.I. duPont de Nemours & Co., Inc., Medical Products.	d-Amphetamine Sulfate (3H(G)), Catalog No. NET-140	Combi-Vial: 250 microcuries, 1 millicurie, and 5 millicuries.	01/04/77
EM Diagnostic Systems, Inc	EMDS Antiepileptic Drug Calibrator Item No. 67630/95	Box: 3 Vials, 5 ml each	06/11/86
EM Diagnostic Systems, Inc	EMDS Test Packs, Phenobarbital (PHENO) Item No. 67677/95	Carton:48 Test Packs	09/09/86
EM Diagnostic Systems, Inc	Easytest Phenobarbital Assay Item No. 67534/93	Cuvette:1.8ml (40 cuvettes /carton)	06/11/86
Eastman Kodak Company	KODATROL Control I Control and Diluent Set	1 Set: 2 amber glass vials ea. 6 ml 1 Box: 12 sets.	07/21/88
Eastman Kodak Company	KODATROL Control II Control and Diluent Set	1 Set: 2 amber glass vials ea. 6 ml 1 Box: 12 sets.	07/21/88
Eastman Kodak Company	Kodak EKTACHEM Specialty Calibrator	Vial: 3ml	09/13/85
Eastman Kodak Company	Kodak EKTACHEM Specialty Control I	Vial: 3ml	09/13/85
Eastman Kodak Company	Kodak Ektachem Specialty Control II	Glass Vial: 6 ml	11/10/87
Electro-Nucleonics Laboratories, Incorporated.	VIRGO IPA Immuno-Precipitation Assay for Phenobarbital	Kit	11/30/82
Endocrine Metabolic Center	0.1% Lysozyme-Barbital Buffer, 0.05M	Glass Bottle: 2 liter	05/28/87
Endocrine Metabolic Center	1% Lysozyme-Barbital Buffer, 0.05M	Glass Bottle: 2 liter	05/28/87
Endocrine Metabolic Center	Barbital Buffer, 0.05M	Plastic Bottle: 3000 ml	05/28/87
Endocrine Metabolic Center	Barbital Buffer, 0.1M	Plastic Bottle: 3000 ml	05/28/87
Endocrine Metabolic Center	Tracer Diluent	Glass Bottle: 1 or 2 liter	05/28/87
Environmental Diagnostics, Inc	EZ-Screen: Cannabinoid Enzyme Conjugate	Ampule: 1 ml	02/03/87
Environmental Diagnostics, Inc	EZ-Screen: Cannabinoid Kit Catalog No. 216-2BP	Kit: 1 test	02/03/87
Environmental Diagnostics, Inc	EZ-Screen: Cannabinoid Positive Control	Ampule: 1 ml	02/03/87
Environmental Diagnostics, Inc	EZ-Screen: Cannabinoid/Cocaine-Enzyme Conjugate	Polyethylene Tube: containing ampule with 1 tablet Kit: 1 test.	12/20/88
Environmental Diagnostics, Inc	EZ-Screen: Cannabinoid/Cocaine-Positive Control	Polyethylene Tube: 2.2ml Kit: 1 test	12/20/89
Fisher Diagnostics	TheraChem Anticonvulsants/Theophylline, Level I, II	Kit: 9 vials, vial: 5ml	03/03/81
Fisher Scientific	Electrophoretic Buffer No. 1 pH 8.60, Ionic Strength 0.05, Catalog No. E-1.	Packet: 12.14 g	10/27/72
Fisher Scientific	Electrophoretic Buffer No. 2, pH 8.60, Ionic Strength 0.075, Catalog No. E-2.	Packet: 18.16 g	10/27/72
Fisher Scientific	IL-Test Phenobarbital	Kit: contains 2 plastic containers of reagent 2	03/15/88
Fisher Scientific	IL-Test Phenobarbital Conjugate, Reagent 2	Plastic Container: 16 ml	03/15/88
Fisher Scientific	Owren's Veronal Buffer, CS1094-34	Vial: 10 ml	8/18/86
Fisher Scientific	Owren's Veronal Buffer, CS1094-38	Vial: 25 ml	8/18/86
Fisher Scientific	SeraChem Abnormal Clinical Chemistry Control Serum (Human) Unassayed No. 2906.	Vial: 5ml, 10ml	4/16/82
Fisher Scientific	SeraChem Abnormal Clinical Chemistry Control Serum (Human), Assayed No. 2905.	Vial: 5ml	4/16/82
Fisher Scientific	SeraChem Normal Clinical Chemistry Control Serum (Human), Assayed No.2907.	Vial: 5ml	4/16/82
Fisher Scientific	Serachem Normal Clinical Chemistry Control Serum (Human), Unassayed No. 2908.	Vial: 5ml, 10ml	4/16/82

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Fisher Scientific	TDM Cal	Kit: 7 Vials	11/26/86
Fisher Scientific	TDM Cal (B–F)	Vials: 5 ml	11/26/86
Fisher Scientific	Thera Chem TDC Therapeutic Drug Controls, Low and High Levels, 2840–58.	Kit: 6 vials	1/12/84
Fisher Scientific	TheraChem-Plus TDC Therapeutic Drug Controls, Tri-Level, No. 2845–94.	Kit: 9 vials	3/19/86
Fisher Scientific	Therapeutic Drug Control, High Level III, No. 2848–31	Vial: 5ml	3/19/86
Fisher Scientific	Therapeutic Drug Control, High Level, 2842–31	Vial: 5ml	1/12/84
Fisher Scientific	Therapeutic Drug Control, Low Level I, No. 2846–31	Vial: 5ml	3/19/86
Fisher Scientific	Therapeutic Drug Control, Low Level, 2841–31	Vial: 5ml	1/12/84
Fisher Scientific	Therapeutic Drug Control, Mid-Range Level II, No. 2847–31	Vial: 5ml	3/19/86
Fisher Scientific	Urine Chemistry Control (Human) Level II, No. 2935–80	Vial: 25ml	4/06/78
Fisher Scientific	Urine Toxicology Control No. 2950–81	Vial: 25ml	4/06/78
Fisher Scientific Group	SeraChem Plus Clinical Chemistry Control Sera Unassayed (Bovine) Level I.	Vial: 10ml, Box: 50 vials, Carton: 4 boxes	7/25/89
Fisher Scientific Group	SeraChem Plus Clinical Chemistry Control Sera Unassayed (Bovine) Level II.	Vial: 10 ml, Box: 50 vials, Carton: 4 boxes	7/25/89
Flow Laboratories	DGV No. 28–010	Bottle: 125 ml	4/16/73
Flow Laboratories	Human "O" DGV (Dextrose Gelatin Veronal Buffer) No. 28–080.	Glass Vial: 100 ml	10/14/76
GIBCO Laboratories	Complement Fixation Buffer Solution, pH 7.3–7.4, NDC 0118115–0247–1.	Bottle: 1 liter	1/28/74
GIBCO Laboratories	Complement Fixation Buffer Solution, pH 7.3–7.4, NDC 011815–0247–2.	Bottle:500 ml	4/05/77
GIBCO Laboratories	Dextrose-Gelatin-Veronal Buffer Solution NDC No.815–0566–1 and No.815–0566–2.	Bottle: 100 and 500 ml	7/05/73
GIBCO Laboratories	Electrophoresis Buffer Solution, pH 8.6, NDC 011815–0245–1	Bottle: 1 liter	1/28/74
GIBCO Laboratories	I.E.P. Buffer Solution pH 8.2 NDC 011815–0246–1	Bottle: 1 liter	01/28/74
Gelman Sciences, Inc	Drug Control Set No. 51911	Set: 3 vials of 50 ml each	04/06/72
Gelman Sciences, Inc	Drug Standard Set, No. 51910	Set: 3 vials of 2 ml each	04/06/72
Gelman Sciences, Inc	Hi-Phore Buffer	Glass Vial: 15 g	2/11/82
Gelman Sciences, Inc	High Resolution Buffer-Tris Barbital Buffer No. 51104	Vial: 10 dr	12/22/71
Gumm Chem. Co	Niflow Initial Additive	Drums: 5 Gallons	9/30/85
Gumm Chem. Co	Niflow Maintenace Additive	Drums:5 Gallons	9/30/85
Hach Chemical Co	pH 8.3 Buffer Powder Pillows. No.898–98	Pillow: 1 g. each	11/30/71
Helena Laboratories	CK-LD Buffer Catalog No. 5808	Packet: 18.332 g. 10 packets/box	3/26/86
Helena Laboratories	Electra B1 Buffer Catalog No.5016	Packet: 13.1g. 10 packets/box	12/28/73
Helena Laboratories	Electra B2 Buffer Catalog No. 5017	Packet: 18.2 g. 10 packets/box	12/28/73
Helena Laboratories	Electra HR Buffer Catalog No. 5805	Packet: 18.1 g. 10 packets/box	12/28/73
Helena Laboratories	HDL Electrophoresis Buffer	Packet: 36 g.	12/18/85
Helena Laboratories	Isoamylase Cathode Buffer	Packet: 9.7 g.	12/18/85
Helena Laboratories	Isoamylase Kit Catalog No. 5925	Kit: 2 Packets Cathode Buffer	1/24/86
Helena Laboratories	Owren's Veronal Buffer Cat. No. 5375	Plastic Bottle: 125 ml	9/15/88
Helena Laboratories	REP CK Isoforms-15	Plate: 5.8″×5.5″	3/09/88
Helena Laboratories	REP CK Isoforms-15 Kit: Cat. No. 3081	Kit: 10 plates	3/09/88
Helena Laboratories	REP CK-12	Plate: 5.8″×2.18″	3/09/88
Helena Laboratories	REP CK-12 Isoenzyme Kit: Cat. No. 3071	Kit: 10 plates	3/09/88
Helena Laboratories	REP CK-2 STAT Kit Cat. No. 3074	Kit: 10 plates (5.8″×0.6″)	3/30/89
Helena Laboratories	REP CK-30	Plate: 5.8″×5.5″	3/09/88
Helena Laboratories	REP CK-30 Isoenzyme Kit	Kit: 10 plates	3/09/88
Helena Laboratories	REP CK-6	Plate: 5.8″×1.25″	3/09/88
Helena Laboratories	REP CK-6 Isoenzyme Kit: Cat. No. 3072	Kit: 10 plates	3/09/88
Helena Laboratories	REP LD	Plates: 5.8″×5.5″ 5.8″×2.18″ D5.8″×1.25″	3/09/88
Helena Laboratories	REP SPE Hi Res-15 Kit Cat. No. 3176	Kit: 10 plates (5.8″×5.5″)	3/30/89
Helena Laboratories	REP-HDL-12 Isoenzyme Kit Cat. No. 3187	Kit: 10 Plates (5.8″×2.18″)	9/15/88
Helena Laboratories	REP-HDL-30 Isoenzyme Kit Cat. No. 3186	Kit: 10 Plates (5.8″×5.5″)	9/15/88
Helena Laboratories	REP-HDL-6 Isoenzyme Kit Cat. No. 3188	Kit: 10 Plates (5.8″×1.25″)	9/15/88
Helena Laboratories	REP-Lipo-12 Kit Cat. No. 3181	Kit: 10 Plates (5.8″×2.18″)	9/15/88
Helena Laboratories	REP-Lipo-30 Kit Cat. No. 3180	Kit: 10 Plates (5.8″×5.5″)	9/15/88
Helena Laboratories	REP-Lipo-6 Kit Cat. No. 3182	Kit: 10 Plates (5.8″×1.25″)	9/15/88
Helena Laboratories	REP-SP-12 Isoenzyme Kit Cat. No. 3171	Kit: 10 Plates (5.8″×2.18″)	9/15/88
Helena Laboratories	REP-SP-30 Isoenzyme Kit Cat. No. 3170	Kit: 10 Plates (5.8″×5.5″)	9/15/88
Helena Laboratories	REP-SP-6 Isoenzyme Kit Cat. No. 3172	Kit: 10 Plates (5.8″×1.25″)	9/15/88
Helena Laboratories	Super Z-12XHDL Cholesterol Supply Kit Catalog No. 5470)	Kit: 3 Packages buffer 36 g.	1/24/86
Helena Laboratories	TITAN GEL Alkaline Phosphatase (HR) Kit, Cat. No. 3058	Kit: 1 bag	6/19/89
Helena Laboratories	TITAN GEL Alkaline Phosphatase Buffer	Plastic Bag: 13.1g	6/19/89
Helena Laboratories	Titan Gel High Resolution Protein Buffer	Packet: 25.9 g.	4/12/83
Helena Laboratories	Titan Gel High Resolution Protein Kit Catalog No. 3040	Kit: 10 Plates (90mm×75mm) 2 Packages Buffer.	3/03/86
Helena Laboratories	Titan Gel High Resolution Protein Plate	Plate: (90mm×75mm)	3/03/86
Helena Laboratories	Titan Gel IFE Buffer	Packet: 25.9 g.	12/18/85
Helena Laboratories	Titan Gel IFE Plate	Plate: (90mm×75mm)	3/05/86
Helena Laboratories	Titan Gel Immuno Fix Kit Catalog No.3046	Kit: 10 Plates (90mm×75mm) 2 Packets IFE Buffer.	1/24/86
Helena Laboratories	Titan Gel Iso Dot LDH Buffer	Packet: 19.6 g.	1/07/86
Helena Laboratories	Titan Gel Iso Dot LDH Isoenzyme Plate	Plate: (90mm×75mm)	12/18/85
Helena Laboratories	Titan Gel Iso Dot LDH Kit Catalog No.3062	Kit: 10 Plates (90mm×75mm), 1 Packet Iso Dot LDH Buffer.	1/24/86
Helena Laboratories	Titan Gel LD Buffer	Packet: 21.5 g.	11/26/86
Helena Laboratories	Titan Gel LD Isoenzyme Diluent	Bottle: 10 ml	11/26/86

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Helena Laboratories	Titan Gel LDH Isoenzyme Buffer	Packet: 22.7 g.	9/07/83
Helena Laboratories	Titan Gel LDH Isoenzyme Plate	Plate: (90mm×75mm)	12/18/85
Helena Laboratories	Titan Gel LDH Isoenzyme Reagent	Vial: 2ml 10 vials/box	1/07/86
Helena Laboratories	Titan Gel Lipoprotein Buffer	Packet: 17.3 g.	12/18/85
Helena Laboratories	Titan Gel Lipoprotein Kit Catalog No.3045	Kit: 1 Packet Buffer	1/24/86
Helena Laboratories	Titan Gel Lipoprotein Plate	Plate: (90×75 mm)	1/09/87
Helena Laboratories	Titan Gel Multi-Slot Lipo-17 Kit Catalog No. 3095	Kit: 10 plates (81×143 mm) 1 packet buffer (21.6 g).	1/09/87
Helena Laboratories	Titan Gel Multi-Slot Lipo-17 Plate	Plate: (81×143 mm)	1/09/87
Helena Laboratories	Titan Gel Multi-Slot SP-17 Kit Catalog No. 3091	Kit: 10 plates (81×143 mm) 1 packet buffer (29.1 g).	1/09/87
Helena Laboratories	Titan Gel Multi-Slot SP-17 Plate	Plate: 81×143 mm.	1/09/87
Helena Laboratories	Titan Gel Serum Protein Buffer	Packet: 29.1 g.	4/12/83
Helena Laboratories	Titan Gel Serum Protein Kit Catalog No. 3041	Kit: 10 Plates (90mm×75mm) 1 Packet Buffer	1/24/86
Helena Laboratories	Titan Gel Serum Protein Plate	Plate: (90mm×75mm)	12/18/85
Helena Laboratories	Titan Gel Silver Stain Buffer	Packet: 25.9g	12/18/85
Helena Laboratories	Titan Gel Silver Stain Kit Catalog No.3035	Kit: 10 Plates (90mm×75mm), 2 Packets Buffer.	1/24/86
Helena Laboratories	Titan Gel Silver Stain Plate	Plate: (90mm×75mm)	3/03/86
Helena Laboratories	Titan Gel–PC LDH Isoenzyme Kit Catalog No. 3053	Kit: 10 Plates (90mm×75mm), 1 Packet LDH Buffer, 1 Box LDH Reagent.	1/24/86
Helena Laboratories	Titan Gel–PC LDH Isoenzyme Plate	Plate: (90mm×75mm)	12/18/85
Helena Laboratories	Titan III Agar Catalog No. 5023	Packet: 5 g. (5 Packets/box)	12/28/73
Helena Laboratories	Titan IV IE Plate (large)	Package: plates, 3 by 4 in.	12/28/73
Helena Laboratories	Titan IV IE Plate (small)	Package: plates, 1 by 3 in.	12/28/73
Helena Laboratories	Titan IV IE Plate Kit	Kit: 12 small (1 by 3 in.) IE plates, 1 box B1 Buffer.	12/28/73
Helena Laboratories	Titan IV IE Plate Kit	Kit: 10 large (3 by 4 in.) IE Plates, 1 box B1 Buffer.	12/28/73
Hycor Biomedical, Inc	Hycor AccuPINCH Cocaine Test	Bottle: 3ml Kit: 50 tests	8/21/90
Hycor Biomedical, Inc	Hycor AccuPINCH Morphine Test	Bottle: 3ml Kit: 50 tests	8/21/90
Hycor Biomedical, Inc	Hycor AccuPINCH Phencyclidine Test	Bottle: 3ml Kit: 50 tests	8/21/90
Hycor Biomedical, Inc	Hycor Accupinch Methamphetamine Test	Bottle: 3ml; Kit: 50 Tests	10/29/91
Hycor Biomedical, Inc	Hycor Accupinch THC Test	Bottle: 3ml; Kit: 50 Tests	10/29/91
Hycor Biomedical, Inc	Sentry Drugs of Abuse Urine Calibrator BARBITURATES Urine Calibrator—4 levels.	Bottle: 10ml Kit: 4 bottles, 12 bottles	8/24/90
Hycor Biomedical, Inc	Sentry Drugs of Abuse Urine Calibrator DELTA-9-THCC Urine Calibrator—4 levels.	Bottle: 10ml Kit: 4 bottles, 12 bottles	8/24/90
Hycor Biomedical, Inc	Sentry Drugs of Abuse Urine Calibrator NORDIAZEPAM Urine Calibrator—3 levels.	Bottle: 10ml Kit: 4 bottles, 12 bottles	8/24/90
Hycor Biomedical, Inc	Sentry Drugs of Abuse Urine Calibrator OPIATES Urine Calibrator—4 levels.	Bottle: 10ml Kit: 4 bottles, 12 bottles	8/24/90
Hycor Biomedical, Inc	Sentry Drugs of Abuse Urine Calibrator PHENCYCLIDINE Urine Calibrator—4 levels.	Bottle: 10ml Kit: 4 bottles, 12 bottles	8/24/90
Hycor Biomedical, Inc	Sentry Drugs of Abuse Urine Calibrator, Amphetamine Urine Calibrator—4 level.	Vial: 10ml Kit: 12 vials, Kit: 4 vials	3/29/89
Hycor Biomedical, Inc	Sentry Drugs of Abuse Urine Calibrator, Benzoylecgonine Urine Calibrator—4 level.	Vial: 10ml, Kit: 12 vials, Kit: 4 vials	3/29/89
Hycor Biomedical, Inc	Sentry Ligand/Combo Control High Level	Vial: 10ml Box: 15 vials	3/01/90
Hycor Biomedical, Inc	Sentry Ligand/Combo Control Low Level	Vial: 10ml Box: 15 vials	3/01/90
Hycor Biomedical, Inc	Sentry Ligand/Combo Control Mid Level	Vial: 10ml Box: 15 vials	3/01/90
Hycor Biomedical, Inc	Sentry Ligand/Combo Control Multi-Pack	Kit: 15 vials	3/01/90
Hycor/ICL Scientific	Drugs of Abuse Comprehensive Urine Control, HIGH POSITIVE	Bottle: 30ml	2/24/89
Hycor/ICL Scientific	Drugs of Abuse Comprehensive Urine Control, LOWER THRESHOLD.	Bottle: 30ml	2/24/89
Hycor/ICL Scientific	Drugs of Abuse Comprehensive Urine Control, UPPER THRESHOLD.	Bottle: 30ml	2/24/89
Hycor/ICL Scientific	Drugs of Abuse Urine Control, CONFIRMATION	Box: 4–100 ml Bottles	10/21/88
Hycor/ICL Scientific	Drugs of Abuse Urine Control, SCREEN	Box: 4–30 ml Bottles	10/21/88
ICL Scientific	Therapeutic Drug Control I, TDC I (High Level)	Glass Vial: 10ml	8/14/85
ICL Scientific	Therapeutic Drug Control I, II, III, Tri-Level TDC Multipack	Glass Vials (12): 10ml	8/14/85
ICL Scientific	Therapeutic Drug Control II, TDC II (Mid-Level)	Glass Vial: 10ml	8/14/85
ICL Scientific	Therapeutic Drug Control III, TDC III (Low Level)	Glass Vial: 10ml	8/14/85
ICN Micromedic Systems, Inc.	Immunogen: BZ–A	Plastic Vial: 1.5 ml	2/29/88
ICN Micromedic Systems, Inc.	Immunogen: BZ–B	Plastic Vial: 1.5 ml	2/29/88
ICN Micromedic Systems, Inc.	Immunogen: CD–A	Plastic Vial: 1.5 ml	2/29/88
ICN Micromedic Systems, Inc.	Immunogen: M–A	Plastic Vial: 1.5 ml	2/29/88
ICN Micromedic Systems, Inc.	Immunogen: M–B	Plastic Vial: 1.5 ml	2/29/88
ICN Micromedic Systems, Inc.	Immunogen: TF–A	Plastic Vial: 1.5 ml	2/29/88
ICN Micromedic Systems, Inc.	Micromedic Combostat THC/Cocaine STANDARDS–2, 3, and 4.	Amber Glass Vial: 2 ml Plastic Bottle: 100 ml	2/24/88
ICN Micromedic Systems, Inc.	Micromedic CrackPot 57Co/125I Tracer Solution	Plastic Bottle: 25 ml, 1000 ml	2/24/88
ICN Micromedic Systems, Inc.	Micromedic Morphine 125I Tracer Solution	Bottle: 50 ml, 1000 ml	2/29/88
ICN Micromedic Systems, Inc	Micromedic Morphine Standards 2, 3 and 4	Bottle: 5 ml, 100 ml	2/29/88
INCSTAR Corporation	(125I) Human TSH Tracer Cat. No. CA–2623	Vial: 15ml	3/08/91
INCSTAR Corporation	Anticonvulsant Drug Controls Levels I and II Cat. Nos. CA–2419, CA–2420.	Vial: 3.5ml	3/08/91
INCSTAR Corporation	Assay Buffer Cat. No. CA–2742	Bottle: 150ml	3/08/91
INCSTAR Corporation	Clinical Assays Gamma Coat (125I) Phenobarbital Radioimmunoassay Kits Cat. Nos. CA–2545, CA–2565.	Kit: 50, 500 assays.	3/08/91

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
INCSTAR Corporation	Clinical Assays Gamma Coat (125I) Phenytoin Radioimmunoassay Kits Cat. Nos. CA-2537, CA-2557.	Kit: 50, 500 assays.	3/08/91
INCSTAR Corporation	Clinical Assays Gamma Coat (125I) T3 Uptake Radioimmunoassay Kit Catalog Nos. CA-2539, CA-2539J, CA-2559, CA-2559J.	Kit: 100, 500 assays	3/08/91
INCSTAR Corporation	Clinical Assays Gamma Dab (125I) hTSH Radioimmunoassay Kit Cat. No. CA-1591.	Kit: 125 assays Vial: 15ml	3/08/91
INCSTAR Corporation	HTSH Non-Specific Binding Reagent Cat. No. CA-2752	Vial: 3.5ml	3/08/91
INCSTAR Corporation	Human TSH Controls Levels I & II Cat. Nos. CA-2452, CA-2453.	Vial: 3.5ml	3/08/91
INCSTAR Corporation	Human hTSH Blank Cat. No. CA-2885	Vial: 15ml	3/08/91
INCSTAR Corporation	Phenobarbital Standards: 1,3,10,30,100 ug/ml Cat. Nos. CA-2380-2384.	Bottle: 3.5ml	3/08/91
INCSTAR Corporation	Rabbit Anti-Human TSH Serum Cat. No. CA-2145	Vial: 15ml	3/08/91
INCSTAR Corporation	htsH Standards: 2,5,10,20,50 uIU/ml Cat. Nos. CA-2886-2890	Bottle: 3.5ml	3/08/91
Immunotech Corp	Amphetamine Enzyme Conjugate	Bottle: 10.5ml	9/28/89
Immunotech Corp	Amphetamine Positive Urine Calibrator	Bottle: 1ml	9/28/89
Immunotech Corp	Amphetamine-ALK Phos Cat. No. 612 50 units, 300 units	Bottle: 10ml	3/12/90
Immunotech Corp	Amphetamine-HRP Cat. No. 613; 50 units	Bottle: 10ml	3/12/90
Immunotech Corp	Benzoylecgonine-Alk Phos Cat. 602 50 units, 300 units	Bottle: 10ml	3/12/90
Immunotech Corp	Benzoylecgonine-HRP Cat. No. 604 50 units, 300 units	Bottle: 10ml	3/12/90
Immunotech Corp	Cocaine Conjugate No. 0364-SIG	Bottle: 75ml	6/13/91
Immunotech Corp	Cocaine Metabolite Enzyme Conjugate	Vial: 10.5ml	9/28/89
Immunotech Corp	Cocaine Metabolite Positive Urine Calibrator	Vial: 2ml	9/26/90
Immunotech Corp	Delta-8-tetrahydrocannabinol-ALK Phos Cat. No. 616 50 units, 300 units.	Bottle: 10ml	3/12/90
Immunotech Corp	Delta-8-tetrahydrocannabinol-HRP Cat. No. 618 50 units	Bottle: 10ml	3/12/90
Immunotech Corp	ENDAB Phenobarbital Kit, Cat. No. 119	Kit: 100 tests, 4 Bottles: 1 ml ea.	9/28/89
Immunotech Corp	Methamphetamine-ALK Phos Cat. No. 614 50 units	Bottle: 10ml	3/12/90
Immunotech Corp	Methamphetamine-HRP Cat. No. 615 50 units	Bottle: 10 ml	3/12/90
Immunotech Corp	Micro Dau Amphetamine Enzyme Immunoassay Test Kit	Kit: 96 tests, Bottle: 10.5 ml, 2 ml	9/28/89
Immunotech Corp	Micro Dau Benzodiazepine Enzyme Immunoassay Test Kit	Kit: 96 tests, Bottle: 10.5 ml 2 ml	9/28/89
Immunotech Corp	Micro Dau Cocaine Metabolite Enzyme Immunoassay Test Kit	Kit: 96 tests, Bottle: 10.5 ml, 2 ml	9/28/89
Immunotech Corp	Micro Dau Opiates Enzyme Immunoassay Test Kit	Kit: 96 tests	12/19/89
Immunotech Corp	Micro Dau PCP Enzyme Immunoassay Kit Cat. No. 175	Kit: 96 tests	7/11/90
Immunotech Corp	Micro Dau THC Enzyme Immunoassay Test Kit Cat. No. 173	Kit: 96 tests	7/11/90
Immunotech Corp	Morphine Positive Urine Calibrator	Vial: 3.5 ml	12/19/89
Immunotech Corp	Morphine-ALK Phos Cat. No. 610; 50 units, 300 units	Bottle: 10ml	3/12/90
Immunotech Corp	Morphine-HRP Cat. No. 611; 50 units, 300 units	Bottle: 10ml	3/12/90
Immunotech Corp	Opiates Enzyme Conjugate	Vial: 10 ml	12/19/89
Immunotech Corp	Oxazepam Enzyme Conjugate	Bottle: 10.5ml	9/28/89
Immunotech Corp	Oxazepam Positive Urine Calibrator	Bottle: 2ml	9/28/89
Immunotech Corp	Oxazepam-ALK Phos Cat. No. 606; 50 units	Bottle: 10ml	3/12/90
Immunotech Corp	Oxazepam-HRP Cat No. 608; 50 units	Bottle: 10ml	3/12/90
Immunotech Corp	PCP Enzyme Conjugate Cat. No. 375	Vial: 20ml	7/11/90
Immunotech Corp	PCP Positive Urine Calibrator Cat. No. 418	Vial: 3ml	7/11/90
Immunotech Corp	Phenobarbital Enzyme Conjugate	Bottle: 10.0ml	9/28/89
Immunotech Corp	Phenobarbital Serum Standard: 3ug/ml, 10ug/ml, 30ug/ml, 80ug/ml.	4 Bottles: 1ml each	9/28/89
Immunotech Corp	THC Enzyme Conjugate Cat. No. 373	Vial: 20ml	7/11/90
Immunotech Corp	THC Positive Urine Calibrator Cat No. 416 50ng/ml, 417 100ng/ml.	Vial: 3ml	7/11/90
Industrial Analytical Laboratory, Inc	11-Nor-Carboxy-Delta-9-Tetrahydrocannabinol	Ampule: 1ml	9/04/85
Industrial Analytical Laboratory, Inc	11-hydroxy-delta-9-tetrahydrocannabinol	Ampule: 1 ml	2/18/87
Industrial Optical	Opti-Kleen	Bottle: 5 gallon	6/24/81
International BioClinical, Inc	Innofluor Phenobarbital Calibrators 0.0, 3.0, 8.0, 20.0, 40.0, and 80.0 mcg/ml.	Bottle: 3 ml	7/09/87
International BioClinical, Inc	Phenobarbital Stock Tracer	Vial: 5 ml	9/23/87
International Technidyne Corp	Hemochron Control Plasma Quality Control Test Kit	Kit: 18 Tests; Test tube: 9ml; Vial: 5ml	3/11/91
Janssen Pharmaceutica, Inc	3H Alfentanil	Vial: 0.5 ml	2/01/87
Janssen Pharmaceutica, Inc	3H Fentanyl	Vial: 0.5 ml	2/01/87
Janssen Pharmaceutica, Inc	3H Sufentanil	Vial: 0.5 ml	2/01/87
Janssen Pharmaceutica, Inc	Alfentanil Radioimmunoassay Kit	Kit: 200 tests	5/13/85
Janssen Pharmaceutica, Inc	Fentanyl Radioimmunoassay Kit	Kit: 200 tests	5/13/85
Janssen Pharmaceutica, Inc	Sufentanil Radioimmunoassay Kit	Kit: 500 tests	5/13/85
Kallestad Diagnostics	Barbital Buffer 901	Vial	5/19/81
Kallestad Diagnostics	IEP Buffer No. 900	Vial: 7 Dram	12/26/78
Kallestad Diagnostics	Immunoelectrofilm Catalog No. 910	1 Film Sealed in Cardboard Container	3/11/80
Kallestad Diagnostics	Immunoelectrofilms, Catalog No. 1013	Styrofoam Container: 25 film	6/22/87
Kallestad Diagnostics	Immunoelectrophoresis Reagent Kit, Catalog No. 1012	Kit: 3 Vials	6/22/87
Kallestad Diagnostics	Quanticoat 125I-T3 Uptake Kit Catalog No. 823	Kit: 400 Determinations	12/16/85
Kallestad Diagnostics	Quanticoat 125I-T3 Uptake Kit, Catalog No. 833	Kit: 100 tests.	6/24/81
Kallestad Diagnostics	Quanticoat 125I-T3 Uptake Reagent Catalog No. 785	Bottle: 500ml	12/16/85
Kallestad Diagnostics	Quanticoat 125I-T3 Uptake Reagent No. 834	2 Glass Bottles: 110ml	6/24/81
LKB Instruments, Inc	Tris-barbiturate Buffer pH 8.6	Packet: each 6.788 g. 20 packets/box	5/15/78
Lemmon Company	Etorphine Standard Solution	Plastic Carboy: 1 Liter	10/31/83
MCI Biomedical	IEP Buffer, pH 8.2, 0.04 Ionic Strength	Package: 6.510 grams	8/28/72
Materials & Technology Systems	5-Ethyl-5-(1-Carboxy-N-Propyl) Barbituric Acid	Screw Cap Vial: 8ml	5/03/73
Materials & Technology Systems	5-Ethyl-5-(1-Carboxy-N-Propyl)Barbituric Acid Bovine Serum Albumin or Rabbit Serum Albumin.	Vaccine Vial: 8ml	5/03/73

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Materials & Technology Systems	5-Ethyl-5-(1-Carboxy-N-Propyl)Barbituric Acid Sensitized RBC	Vaccine Vial: 8ml	5/03/73
Materials & Technology Systems	Barbiturate Standard	Screwcap Vial: 10ml	9/17/76
Materials & Technology Systems	Benzoyl Ecgonine	Screwcap Vial: 25mg and 100 mg	4/18/74
Materials & Technology Systems	Benzoylecgonine Standard	Screwcap Vial: 10ml	9/17/76
Materials & Technology Systems	Carboxymethyl-Morphine	Screwcap Vial: 8ml	5/03/73
Materials & Technology Systems	Carboxymethyl-Morphine Bovine Serum Albumin or Rabbit Serum Albumin.	Vaccine Vial: 8ml	5/03/73
Materials & Technology systems	Carboxymethylmorpine Sensitized RBC	Vaccine Vial: 50ml	5/03/73
Materials & Technology Systems	Ecgonine Bovine Serum Albumin or Rabbit Serum Albumin	Vaccine Vial: 8ml	5/03/73
Materials & Technology systems	Ecgonine Sensitized RBC	Vaccine Vial: 50ml	5/03/73
Materials & Technology Systems	Methadone Standard	Screwcap Vial: 10ml	9/17/76
Materials & Technology Systems	Morphine Standard	Screw Cap Vial: 10ml	7/17/73
Materials & Technology Systems	Tropinecarboxylic Acid	Screw Cap Vial: 8ml, 10ml	5/03/73
Medi-Chem, Inc	Barbiturate Test Set (Sodium Secobarbital Standard 10mg % w/v) Catalog No.250.	Bottle: 120ml	2/22/74
Medical Analysis Systems, Inc	ACE II Calibrator for the DuPont aca Level 1	Glass Vial: 22 X 38mm, 5ml	6/07/86
Medical Analysis Systems, Inc	ACE II Calibrator for the DuPont aca Level 2	Glass Vial: 22 X 38mm, 5ml	6/07/86
Medical Analysis Systems, Inc	ACE II Calibrator for the DuPont aca Level 3	Glass Vial: 22 X 38mm, 5ml	6/07/86
Medical Analysis Systems, Inc	CHALLENGE Liquid Therapeutic Drug Linearity Controls	Kit: 10 Bottles	1/24/91
Medical Analysis Systems, Inc	CHALLENGE Liquid Therapeutic Drug Linearity Controls TD1 A-E; TD2 A-E.	Glass Bottles: 5ml; 1 Set: 5 Bottles	1/24/91
Medical Analysis Systems, Inc	ChemTrak Liquid Unassayed	Vial: 15ml	4/30/85
Medical Analysis Systems, Inc	Chemistry Control Assayed, Level 1, 2,& 3	Vial: 15ml	4/30/85
Medical Analysis Systems, Inc	Chemistry Control, Level 1, 2,& 3	Vial: 15ml	4/30/85
Medical Analysis Systems, Inc	DOA Liquid Drugs of Abuse Controls Level 2,3,4	Vial: 5ml, 18ml; Box: 6-8ml vials; Box: 8-5ml vials.	10/12/90
Medical Analysis Systems, Inc	Liquid Urine Control Level 1	Vial: 5 ml	4/03/87
Medical Analysis Systems, Inc	TDM Plus.XL Level I, II or III Unassayed Enhanced Liquid Drug Control.	Bottle: 5ml, Box: 6 bottles	9/05/90
Medical Analysis Systems, Inc	Tri-Point LiquImmune Ligand Control, Levels 1, 2 and 3	Glass Bottle: 5ml; Kit: 6 Bottles	10/23/91
Medical Analysis Systems, Inc	Tri-Point LiquImmune Ligand Control, Levels 1, 2 and 3	Glass Bottle: 5ml; Kit: 6 bottles	10/23/91
Medical Analysis Systems, Inc	chemTRAK Liquid Unassayed Therapeutic Drug Control Level 2.	Kit: 6 x 5ml Vials	10/06/86
Medical Analysis Systems, Inc	chemTRAK Liquid Unassayed Therapeutic Drug Control Level 3.	Kit: 6 x 5ml Vials	10/06/86
Medical Analysis Systems, Inc	chemTRAK Liquid Unassayed Therapeutic Drug Control Level I	Kit: 6 x 5ml Vials	10/06/86
Meloy Labs, Inc	Counterelectrophoresis Plates G-301	Plates: 10 determinations	9/05/73
Meloy Labs, Inc	Immunoelectrophoresis Plates, G-201	Plates: 6 / unit	9/05/73
Merck and Co., Inc	Amphetamine - d6 HCl, Cat. No. MD-3892	Ampule: 2 or 5 ml	8/30/89
Merck and Co., Inc	Cocaine - d3 HCl Catalog #MD-3677	Ampule: 2 or 5 ml	6/13/88
Merck and Co., Inc	Codeine - d3 H2O (N-methyl-d3) No. MD-3776	2 ml, 5ml ampule Carton: 5 ampules	9/06/88
Merck and Co., Inc	Codeine-d3 Catalog #MD-3678	Ampule: 2 or 5 ml	6/13/88
Merck and Co., Inc	DL-1 Phenyl-2-aminopropane 1,1,2,3,3,3,-d6 (Amphetamine-d6) Catalog #MD-3682.	Ampule: 2 or 5 ml	6/13/88
Merck and Co., Inc	DL-1 Phenyl-2-methylam-inopropane-1,1,2,3,3,3-d6 HCl (Methamphetamine d6) Catalog #MD-3683.	Ampule: 2 or 5 ml	6/13/88
Marck and Co., Inc	DL-1-Phenyl-2-aminopropane-1,1,2,3,3,3-d6 HCL No. MD-3778.	2 ml, 5 ml amber ampule Carton: 5 ampules	9/06/88
Merck and Co., Inc	Ecgonine - d3 Methyl Ester HCl Catalog #MD3679	Ampule: 2 or 5 ml	6/13/88
Merck and Co., Inc	Methamphetamine - d9 HCl, Cat. No. MD-3853	Ampule: 2 or 5 ml	8/30/89
Merck and Co., Inc	Morphine - d3 HCl 3H20 (N-methyl-d3) No. MD-3777	2 ml, 5 ml ampule Carton: 5 ampules	9/06/88
Merck and Co., Inc	Morphine - d3 HCl Catalog #MD-3680	Ampule: 2 or 5 ml	6/13/88
Merck and Co., Inc	O-Benzoylecgonine-d3 Catalog #MD-3676	Ampule: 2 or 5 ml	6/13/88
Merck and Co., Inc	Phen-d5-cyclidine HCl Catalog #MD-3681	Ampule: 2 or 5 ml	6/13/88
Microgenics Corporation	Bulk Calibrator Solution 80ug/ml, 40ug/ml	Carboy: 10L	11/13/90
Microgenics Corporation	In-house Phenobarbital Bulk Primary Standard 40ug/ml, 80ug/ml.	Bottle: 2L	11/13/90
Microgenics Corporation	In-house Phenobarbital Primary Standard 40ug/ml, 80ug/ml	Micro tube: 1.5ml; Box: 100 tubes	11/13/90
Microgenics Corporation	In-house manufacturing Bulk Calibrator 10ug/ml, 20ug/ml, 40 ug/ml,60ug/ml, 80ug/ml, 90ug/ml Phenobarbital.	Bottle: 2L	11/13/90
Microgenics Corporation	In-house manufacturing Calibrator 10ug/ml, 20ug/ml, 40ug/ml, 60ug/ml80ug/ml, 90ug/ml Phenobaribtal.	Vial: 3.5ml	11/13/90
Microgenics Corporation	Microgenics CEDIA Phenobarbital Assay 40ug/ml, 80ug/ml	Vial: 3.5ml; Kit: 2 vials	11/13/90
Microgenics Corporation	Phenobarbital Stock Solution	Flask: 100ml	11/13/90
Micromedic Systems	Micromedic Neonatal T4 125I Tracer Solution	Nalgene Bottle: 4 oz.	6/25/87
Micromedic Systems	Micromedic Neonatal T4 Elution Solution	Nalgene Bottle: 2 oz.	6/25/87
Micromedic Systems	Neonatal T4 125I Tracer Solution	Vial: 30ml	5/21/80
Micromedic Systems	Neonatal T4 Buffer Solution	Bottle: 8ounce	5/21/80
Micromedic Systems	T3 RIA 125I Tracer Solution	Vial: 30ml	12/14/76
Micromedic Systems	T3 RIA Buffer Solution	High Density Polyethylene Bottle: 8 ounce	12/14/76
Micromedic Systems	T3 Uptake 125I Tracer Solution	Vial: 30ml	12/14/76
Micromedic Systems	T3 Uptake Buffer Solution	High Density Polyethylene Bottle: 8 ounce	12/14/76
Micromedic Systems	T4 RIA 125I Tracer Solution	Vial: 30ml	12/14/76
Micromedic Systems	T4 RIA Buffer Solution	High Density Polyethylene Bottle: 8 ounce	12/14/76
Miles Laboratories, Inc	Ames Phenobarbital Assay,Kit Contains: Phenobarbital Standards; 10, 20, 40,& 60mcg/ml.	6.1 ml Vials	3/01/79
Miles Laboratories, Inc	Ames Phenobarbital Controls, 15mcg/ml, 30mcg/ml, 50mcg/ml.	Vial: 6.1ml	5/21/80
Miles Laboratories, Inc	Clinirin T-3 Uptake Test,Kit Contains: (1)125I T-3 Uptake Reagent & (2) Separating Reagent.	200ml Bottles	11/10/78

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Miles Laboratories, Inc	Clinistat Calibrator Nos. 1 and 2	Vial: 1ml	12/19/80
Miles Laboratories, Inc	Clinistat Control B,C,D.and E	Vial: 1ml	12/19/80
Miles Laboratories, Inc	Seralute Total T-4 (RIA) 125I Reagent Kit, No.3304, No.3305	Kit: 20 columns, 100 columns	3/28/77
Miles Laboratories, Inc	Seralyzer ARIS Drug Assay Control	Vial: 1ml	1/17/84
Miles Laboratories, Inc	Seralyzer ARIS Drug Assay High Calibrator	Vial. 0.5ml	1/17/84
Miles Laboratories, Inc	Seralyzer ARIS Drug Assay Low Calibrator	Vial: 0.5ml	1/17/84
Miles Laboratories, Inc	Seralyzer ARIS Phenytoin Reagent Strips	Bottle Containing 25 and 50 Strips	5/28/86
Miles Laboratories, Inc	T-4 Buffer	Glass Screwtop Vial: 3/4 ounce	3/28/77
Miles Laboratories, Inc	TDA Cross-Reactivity Cocktails	Glass Vial: 1ml	2/01/83
Miles Laboratories, Inc	TEK-CHEK Special Urine Control (supplemental)	Vial 25ml	5/01/70
Miles Laboratories, Inc	Tetralute	Bottle: 4.9 g	7/29/70
Miles Laboratories, Inc	Thyrolute I125, Reagent Kit, No.5250	Kit: 20 columns	12/02/74
Miles Laboratories, Inc	Thyrolute I125, Reagent Kit, No.5252	Kit: 100 columns	12/02/74
Monobind, Inc	Monobind T3 Antibody Reagent	Test Tube w/Cap: 70ml	11/08/77
Monobind, Inc	Monobind T3 Tracer Reagent	Wheaton Glass Container: 55ml	11/08/77
Monobind,Inc	Monobind T4 Antibody Reagent	Test Tube w/Cap: 70ml	11/08/77
Monobind Inc	Monobind T4 Tracer Reagent	Wheaton Glass Container 55ml	11/08/77
Monobind Inc	Monobind TSH Antibody Reagent	Test Tube w/Cap: 10.5ml	11/08/77
Monobind Inc	Monobind TSH Non-Specific Buffer	Wheaton Glass: 1.05ml	11/08/77
Monobind Inc	Monobind TSH Precipitating Reagent	Plastic Container w/Cap : 105ml	11/08/77
Monobind Inc	Monobind TSH Tracer Reagent	Wheaton Glass Container 10.5ml	11/08/77
Monobind Inc	T3 Adsorbent Reagent	Glass Bottle: 110ml, 50ml Plastic Bottle: 260ml	5/15/78
Monobind Inc	T3 Uptake Tracer Reagent	Glass Bottle: 55ml, 30ml Plastic Bottle: 125ml	5/15/78
Monobind Inc	TSH Radioimmunoassay Test System	Kit. 100 Tests	11/08/77
Monobind Inc	Thyroxine Radioimmunoassay Test System	Kit: 100 Tests	11/08/77
Monobind Inc	Triiodothyronine Radioimmunoassay Test System	Kit: 100 tests	11/08/77
Monoclonal Antibodies, Inc	Test Kit for Cocaine Metabolites in Urine	Kit. 50 tests	10/17/86
Monoclonal Antibodies, Inc	Test Kit for Opiates in Urine	Kit: 50 tests	10/17/86
Monoclonal Antibodies, Inc	Test Kit for Tetrahydrocannabinol (THC) in Urine	Kit: 50 tests	10/17/86
NSI Technology Services Corp.	Alpha, alpha-dimethyl-phenethylamine	Amber Ampoule: 2ml	3/02/89
Nuclear Diagnostics Inc	MAAT T3 Uptake Reagent	Bottle: 105ml, 210ml; Kit: 1 bottle 210ml	11/16/90
Nuclear Diagnostics Inc.	SPINSEP-TBG Reagent Catalog No. 17100	Polypropylene Bottle: 105ml	12/15/77
Nuclear Diagnostics, Inc.	TETRIA P.E.G. Antiserum Catalog No. 16100A	Polypropylene Bottle: 55ml	03/10/78
Nuclear Diagnostics, Inc.	TETRIA P.E.G. Reagent Catalog No. 16100	Polypropylene Bottle: 105ml	07/08/77
Nuclear Diagnostics, Inc.	TETRIA P.E.G. Reagent Catalog No. 16100R	Polypropylene Bottle: 55ml	03/10/78
Nuclear Diagnostics, Inc.	TRIA-P.E.G. Antiserum Catalog No. 12100A	Polypropylene Bottle: 55ml	03/10/78
Nuclear Diagnostics, Inc.	TRIA-P.E.G. Reagent Catalog No.12100R	Polypropylene Bottle. 55ml	03/10/78
OMI International Corporation	Compound N Solution	Steel Drum: 55 gallon	10/01/75
Organon Teknika Corp	ASSURE, Levels I & II	Vial: 10 ml	06/27/80
Organon Teknika Corp	Barbital Buffered Saline with Azide	Plastic Bottle: 1L	01/05/90
Organon Teknika Corp	Bovine QAS Clinical Study	6 Vials/Kit (10ml/vial)	04/28/80
Organon Teknika Corp	Liothyronine T3 125I	Boston Round Amber Bottle: 4 ounce	02/18/79
Organon Teknika Corp	Liothyronine T3 125I	Boston Round Amber Bottle: 16 ounce	01/20/76
Organon Teknika Corp	Midwest/ Illinois/ New Jersey Quality Control Program, Level I & II.	Vial: 10 ml, 10 vials / kit	04/16/81
Organon Teknika Corp	Modified Barbital Buffer	Plastic Bottle: 1L	01/05/90
Organon Teknika Corp	Owren's Veronal Buffer for FIBRIQUIK	Bottle: 37 ml	05/07/80
Organon Teknika Corp	PACP I & II	Kit: 36 vials/kit	03/07/80
Organon Teknika Corp	PROFILE Anticonvulsant Levels I & II	Vial. 10 ml	11/28/80
Organon Teknika Corp	Platelin	Vial: 7.3ml	03/13/72
Organon Teknika Corp	Platelin Plus Activator	Vial: 7.3ml	03/13/72
Organon Teknika Corp	Profile General Set	Kit Ctg: 6 vials	02/22/82
Organon Teknika Corp	Profile General-Levels I & II	Vial: 5 ml	02/22/82
Organon Teknika Corp	Quality Assurance Serum Level I	Vial: 16.5 ml, 6 vials/ kit	08/17/78
Organon Teknika Corp	Quality Assurance Serum Level II	Vial: 16.5 ml, 6 vials/ kit	08/17/78
Organon Teknika Corp	Russell's Viper Venom Reagent	Vial: 7.3ml containing 48 mg of powder	07/08/74
Organon Teknika Corp	Simplastin	Vial: 4.7ml, 7.3ml, and 16.5ml	03/13/72
Organon Teknika Corp	Simplastin-A	Vial: 7.3ml	03/13/72
Organon Teknika Corp	T-4 125I Reagent	Boston Round Bottle: 2 ounce, amber bottle, 7 dr.	01/20/76
Organon Teknika Corp	T-4 Antiserum (rabbit)	Boston Round Bottle: 4 ounce, clear bottle, 7 dr.	01/20/76
Organon Teknika Corp	TETRA-TAB-RIA T4 Diagnostic Kit	Kit. 40 tests, 200 tests	01/20/76
Organon Teknika Corp	TETRA-TUBE RIA T4 Diagnostic Kit	Kit: 100 tests, 500 tests	06/03/83
Organon Teknika Corp	TGTR Set	Package: 4 Tests per set	03/13/72
Organon Teknika Corp	TRI-TAB T3 Uptake Diagnostic Kit	Kit: 200 Tests	01/20/76
Organon Teknika Corp	TRI-TAB T3 Uptake Diagnostic Kit	Kit: 40 tests	02/18/79
Organon Teknika Corp	TRIS/Barbital Buffer	Plastic Bottle: 1L	01/05/90
Organon Teknika Corp	Unassayed Chemistry Serum Control, Levels I & II	Vial: 25 ml	06/27/80
Ortho Diagnostic Systems, Inc.	Activated ThromboFAX No 721000	Bottle. 3.2ml	09/21/71
Ortho Diagnostic Systems, Inc.	Ortho Activated PTT Reagent	Glass Vial: 30 determination size, 100	05/23/83
Ortho Diagnostic Systems, Inc.	Ortho Plasma Coagulation Control Level I	Glass Vial: 5ml	10/25/83
Ortho Diagnostic Systems, Inc.	Ortho Plasma Coagulation Control Level II	Glass Vial: 5ml	10/25/83
Ortho Diagnostic Systems, Inc.	ORTHO Owren's Buffer	Kit: 6-20 ml vials	[illegible]
PB Diagnostic Systems, Inc.	OPUS Phenobarbital Calibrators: 5,10,20,40,80ug/ml	Vial: 2.5ml Carton: 5 vials	08/07/90
PB Diagnostic Systems, Inc.	OPUS Phenobarbital Test Modules	Plastic Test Module, Tray: 5 modules, Carton: 50 modules.	08/07/90
Pacific Hemostasis	Barbital Buffered Saline	Vial: 100ml	05/24/84
Pacific Hemostasis	Barbital Buffered Saline with Heparin	Vial: 90ml	05/24/84
Pacific Hemostasis	Diluting Fluid	Vial: 20ml	05/24/84

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Pantex	Immuno T3 Kit: (1)L-Triiodothyronine 125I (2)1st Antiserum (3)2nd Antiserum (4)Diluent (5)Standards.	Kit Containing Bottles: (1)10ml (2)10ml (3)50ml (4)5ml (5)3ml.	01/04/79
Pantex	Immuno-Digoxin Kit Containing: (1)Digoxin 125I (2)1st Antiserum (3) 2nd Antiserum (4)Diluent.	Kit Containing Bottles: (1)10ml (2)20ml (3)50ml (4)5ml.	01/04/79
Pantex	Immuno-Estriol 125I Kit: 2nd Antiserum	Bottle: 50ml	01/04/79
Pantex	Immuno-Estriol Kit: (1)Estriol 3H RIA (2)Estriol 3H Recovery (3)1st Antiserum (4)2nd Antiserum (5)Diluent (6)Buffer (7)Standards.	Kit Containing Bottles: (1)10ml (2)5ml (3)10ml (4)20ml (5)100ml (6)50ml (7)5ml.	01/04/79
Pantex	Immuno-T4 Kit: (1)Thyroxine 125I (2)1st Antiserum (3)2nd Antiserum (4)Diluent (5)Standards.	Kit Containing Bottles: (1)100ml,1000ml (2)50ml (3)100ml (4)5ml (5)3ml.	01/04/79
Pantex	Immuno-Testosterone 125I Kit: (1)Testosterone 125I (2)1st Antiserum (3)2nd Antiserum (4)Diluent (5)Standards.	Kit Containing Bottles: (1)10ml (2)10ml (3)50ml (4)100ml (5)5ml.	01/04/79
Pantex	T3 Uptake Kit: L-Triiodothyronine 125I	Bottle: 100ml, 1000ml	01/04/79
Perkin-Elmer Corporation	Amphetamine Polarization Fluoroimmunoassay Kit	Kit: 100 tests	12/18/86
Perkin-Elmer Corporation	Barbiturates Polarization Fluoroimmunoassay Kit	Kit: 100 tests	12/18/86
Perkin-Elmer Corporation	Cocaine Polarization Fluoroimmunoassay Kit	Kit: 100 tests	12/18/86
Perkin-Elmer Corporation	Methadone Polarization Fluoroimmunoassay Kit	Kit: 100 tests	12/18/86
Perkin-Elmer Corporation	Morphine Polarization Fluoroimmunoassay Kit	Kit: 100 tests	12/18/86
Perkin-Elmer Corporation	Opiates Polarization Fluoroimmunoassay Kit	Kit: 100 tests	12/18/86
Princeton Separations, Inc.	Panagel 16	Pouch: 1 slide	06/29/87
Princeton Separations, Inc.	Panagel 8	Pouch: 1 slide	06/29/87
Princeton Separations, Inc.	Panagel Electrobuffer	Fiber Drum: 25 kg	06/29/87
Princeton Separations, Inc.	Panagel Electrode Buffer	Pouch: 18.3 gms	06/29/87
Princeton Separations, Inc.	Panagel LD Isoenzyme Electrode Buffer	Pouch: 11.85 gms	06/29/87
Princeton Separations, Inc.	Panagel LD Isoenzyme Slide	Pouch: 1 slide	06/29/87
Quality Assurance Service Corp	Q.A. Toxicology Blood Controls	Vial: 6ml,12ml Plastic Bottle: 60ml,90ml,250ml,625ml Glass Bottle: 6ml-100ml.	01/23/90
Quality Assurance Service Corp	Q.A. Toxicology Serum Controls	Vial: 6ml,12ml Plastic Bottle: 60ml,90ml,250ml,625ml Glass Bottle: 6ml-100ml.	01/23/90
Quality Assurance Service Corp	Q.A. Toxicology Urine Controls	Vial: 6ml,12ml Plastic Bottle: 60ml,90ml,250ml,625ml Glass Bottle: 6ml-100ml.	01/23/90
Quantimetrix	Quantimetrix Anticonvulsant Serum Drug Control, Liquid Level II Control No. 17-0303-2.	Polyethylene Dropper Bottle: 15ml	04/16/86
Quantimetrix	Quantimetrix Antidepressant Serum Drug Control, Liquid Level I Control No. 17-0303-1.	Polyethylene Dropper Bottle: 15ml	04/16/86
Quantimetrix	Quantimetrix Antidepressant Serum Drug Control, Liquid Level I Control No. 17-0305-1.	Polyethylene Dropper Bottle: 15ml	04/16/86
Quantimetrix	Quantimetrix Antidepressant Serum Drug Control, Liquid Level II Control No. 17-0305-2.	Polyethylene Dropper Bottle: 15ml	04/16/86
Quantimetrix	Urine Drugs of Abuse Control Catalog No. 12-2411-1	Dropper Bottle: 15 ml	02/23/87
Quin-Tec, Inc	Additive SB-1	Drum: 55 gals	05/11/87
Quin-Tec, Inc	Quin-Tec Brightener 402	Plastic Pail: 5 gallons, Plastic Drum: 55 gallons	10/13/81
Quin-Tec, Inc	Quin-Tec Brightener 404	Plastic Pail: 5 gallons, Plastic Drum: 55 gallons	10/13/81
Radian Corporation	(+/-) 11-Nor-9-Carboxy-delta 9-THC-D9 0.1 mg/ml, 1.0 mg/ml.	Vial: 2ml	06/12/91
Radian Corporation	3,4-Methylenedioxy-amphetamine-D5 0.1 mg/ml	2 ml amber ampule	10/19/88
Radian Corporation	3,4-Methylenedioxy-amphetamine-D5 1.0 mg/ml	2 ml amber ampule	10/19/88
Radian Corporation	3,4-Methylenedioxy-methamphetamine-D5 0.1 mg/ml	2 ml amber ampule	10/19/88
Radian Corporation	3,4-Methylenedioxy-methamphetamine-D5 1.0 mg/ml	2 ml amber ampule	10/19/88
Radian Corporation	3,4-Methylenedioxyamphetamine 0.1, 1.0 mg/ml	Amber glass ampule: 2ml	01/12/89
Radian Corporation	3,4-Methylenedioxymethamphetamine 0.1, 1.0 mg/ml	Amber glass ampule: 2ml	01/12/89
Radian Corporation	6-Acetylmorphine	Ampule: 2 ml	12/04/87
Radian Corporation	6-Acetylmorphine-D3	Ampule: 2 ml	12/04/87
Radian Corporation	9-Carboxy-11-nor-Delta-9-Tetrahydrocannabinol-D3	Ampule: 2 ml	12/04/87
Radian Corporation	9-Carboxy-11-nor-delta-9-THC 0.1, 1.0 mg/ml	Amber glass ampule: 2ml	01/12/89
Radian Corporation	Alpha-Hydroxyalprazolam 0.1 mg/ml, 1.0 mg/ml	Vial: 2ml	06/12/91
Radian Corporation	Alpha-Hydroxyalprazolam-D5 0.1 mg/ml, 1.0 mg/ml	Vial: 2ml	06/12/91
Radian Corporation	Alprazolam 0.1mg/ml, 1.0mg/ml	Ampule: 2ml	11/05/90
Radian Corporation	Alprazolam-D5 0.1mg/ml, 1.0mg/ml	Ampule: 2ml	11/05/90
Radian Corporation	Amphetamine 0.1, 1.0 mg/ml	Amber glass ampule: 2ml	01/12/89
Radian Corporation	Amphetamine-D3	Ampule: 2 ml	12/04/87
Radian Corporation	Amphetamine-D5	Ampule: 2 ml	12/04/87
Radian Corporation	Benzoylecgonine	Ampule: 2ml	12/04/87
Radian Corporation	Benzoylecgonine-D3	Ampule: 2ml	12/04/87
Radian Corporation	Buprenorphine 0.1	Ampule: 2ml	2/01/91
Radian Corporation	Buprenorphine-D4 0.1 mg/ml	Ampule: 2ml	2/01/91
Radian Corporation	Cocaethylene 0.1mg/ml, 1.0mg/ml	Ampule: 2ml	12/13/90
Radian Corporation	Cocaethylene-D3	Ampule: 2ml	12/13/90
Radian Corporation	Cocaine 0.1, 1.0 mg/ml	Amber glass ampule: 2ml	1/12/89
Radian Corporation	Cocaine-D3	Ampule: 2 ml	12/04/87
Radian Corporation	Codeine	Ampule: 2 ml	3/09/88
Radian Corporation	Codeine-D3	Ampule: 2 ml	12/04/87
Radian Corporation	D-Amphetamine 0.1 mg/ml, 1.0 mg/ml	Vial: 2ml	6/12/91
Radian Corporation	D-Methamphetamine 0.1 mg/ml, 1.0 mg/ml	Vial: 2ml	6/12/91
Radian Corporation	Delta-9-Tetrahydro-cannabinol-D3	Ampule: 2 ml	12/04/87
Radian Corporation	Delta-9-Tetrahydrocannabinol 0.1, 1.0 mg/ml	Amber glass ampule: 2ml	1/12/89
Radian Corporation	Diazepam 0.1, 1.0 mg/ml	Amber glass ampule: 2ml	1/12/89

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Radian Corporation	Diazepam-D5 0.1 mg/ml	2 ml amber ampule	10/19/88
Radian Corporation	Diazepam-D5 1.0 mg/ml	2 ml amber ampule	10/19/88
Radian Corporation	Ecgonine 0.1 mg/ml, 1.0 mg/ml	Vial: 2ml	6/12/91
Radian Corporation	Ecgonine Methyl Ester 0.1, 1.0 mg/ml	Amber glass ampule: 2ml	1/12/89
Radian Corporation	Ecgonine Methyl Ester-D3 0.1 mg/ml	2 ml amber ampule	10/19/88
Radian Corporation	Ecgonine Methyl Ester-D3 1.0 mg/ml	2 ml amber ampule	10/19/88
Radian Corporation	Ecgonine-D3 0.1 mg/ml, 1.0 mg/ml	Vial: 2ml	6/12/91
Radian Corporation	Fentanyl	Ampule: 2ml	1/02/91
Radian Corporation	Fentanyl-D5	Ampule: 2ml	1/02/91
Radian Corporation	Hydrocodone—D3 0.1 mg/ml	2 ml amber ampule	10/19/88
Radian Corporation	Hydrocodone—D3 1.0 mg/ml	2 ml amber ampule	10/19/88
Radian Corporation	Hydrocodone 0.1, 1.0 mg/ml	Amber glass ampule: 2ml	1/12/89
Radian Corporation	Hydromorphone—D3 0.1 mg/ml	2 ml amber ampule	10/19/88
Radian Corporation	Hydromorphone—D3 1.0 mg/ml	2 ml amber ampule	10/19/88
Radian Corporation	Hydromorphone 0.1, 1.0 mg/ml	Amber glass ampule: 2ml	1/12/89
Radian Corporation	Methadone—D5 0.1 mg/ml	2 ml amber ampule	10/19/88
Radian Corporation	Methadone—D5 1.0 mg/ml	2 ml amber ampule	10/19/88
Radian Corporation	Methadone 0.1, 1.0 mg/ml	Amber glass ampule: 2ml	1/12/89
Radian Corporation	Methamphetamine 0.1, 1.0 mg/ml	Amber glass ampule: 2ml	1/12/89
Radian Corporation	Methamphetamine-D5	Ampule: 2 ml	12/04/87
Radian Corporation	Methaqualone—D4 0.1 mg/ml	2 ml amber ampule	10/19/88
Radian Corporation	Methaqualone—D4 1.0 mg/ml	2 ml amber ampule	10/19/88
Radian Corporation	Methaqualone 0.1, 1.0 mg/ml	Amber glass ampule: 2ml	1/12/89
Radian Corporation	Morphine	Ampule: 2 ml	3/09/88
Radian Corporation	Morphine-3-Beta-D-glucuronide 0.1, 1.0mg/ml	Ampule: 2ml	2/01/91
Radian Corporation	Morphine-3-Beta-D-glucuronide-D3 0.1, 1.0mg/ml	Ampule: 2ml	2/01/91
Radian Corporation	Morphine-D3	Ampule: 2 ml	12/04/87
Radian Corporation	Nitrazepam 0.1 mg/ml, 1.0 mg/ml	Ampule: 2ml	9/17/90
Radian Corporation	Nitrazepam-D5 0.1 mg/ml, 1.0 mg/ml	Ampule: 2ml	9/17/90
Radian Corporation	Norcocaine 0.1 mg/ml, 1.0 mg/ml	Vial: 2ml	6/12/91
Radian Corporation	Nordiazepam—D5 0.1 mg/ml	2 ml amber ampule	10/19/88
Radian Corporation	Nordiazepam—D5 1.0 mg/ml	2 ml amber ampule	10/19/88
Radian Corporation	Nordiazepam 0.1, 1.0 mg/ml	Amber glass ampule: 2ml	1/12/89
Radian Corporation	Oxazepam—D5 0.1 mg/ml	2 ml amber ampule	10/19/88
Radian Corporation	Oxazepam—D5 1.0 mg/ml	2 ml amber ampule	10/19/88
Radian Corporation	Oxazepam 0.1, 1.0 mg/ml	Amber glass ampule: 2ml	1/12/89
Radian Corporation	Pentobarbital 0.1mg/ml, 1.0mg/ml	Ampule: 2ml	9/24/90
Radian Corporation	Pentobarbital-D5 0.1mg/ml, 1.0mg/ml	Ampule: 2ml	9/24/90
Radian Corporation	Phencyclidine 0.1, 1.0 mg/ml	Amber glass ampule: 2ml	1/12/89
Radian Corporation	Phencyclidine-D5	Ampule: 2 ml	12/04/87
Radian Corporation	Phenobarbital 0.1, 1.0 mg/ml	Amber glass ampule: 2ml	1/12/89
Radian Corporation	Phenobarbital-D5	Ampule: 2 ml	12/04/87
Radian Corporation	Propoxyphene—D5 0.1 mg/ml	2 ml amber ampule	10/19/88
Radian Corporation	Propoxyphene—D5 1.0 mg/ml	2 ml amber ampule	10/19/88
Radian Corporation	Propoxyphene 0.1, 1.0 mg/ml	Amber glass ampule: 2ml	1/12/89
Radian Corporation	Temazepam 0.1 mg/ml, 1.0 mg/ml	Ampule: 2ml	9/17/90
Radian Corporation	Temazepam-D5 0.1 mg/ml, 1.0 mg/ml	Ampule: 2ml	9/17/90
Research Diagnostics	3H Alfentanil	Vial: 0.5 ml	6/15/89
Research Diagnostics	3H Fentanyl	Vial: 0.5 ml	6/15/89
Research Diagnostics	3H Sufentanil	Vial: 0.5 ml	6/15/89
Research Diagnostics	Alfentanil Radioimmunoassay	Kit: 200 tests	6/15/89
Research Diagnostics	Fentanyl Analogs Reference Standards for Drug Analysis	Amber Ampule: 1 ml, Plastic Shell: 5 ampules, Kit: 2 shells (10 ampules).	10/17/89
Research Diagnostics	Fentanyl Radioimmunoassay	Kit: 200 tests	6/15/89
Research Diagnostics	Sufentanil Radioimmunoassay	Kit: 200 tests	6/15/89
Research Triangle Institute	11-Nor-9-carboxy-delta-9 THC Blood Standards Kit	Kit Containing: 18-21ml Ampuls; 1-5ml Ampul	10/26/81
Research Triangle Institute	11-Nor-9-carboxy-delta-9 THC Plasma Standards Kit	Kit Containing: 18-21ml Ampuls; 1-5ml Ampul	10/26/81
Research Triangle Institute	Delta-9 THC Blood Standards Kit	Kit Containing: 16-2ml Ampuls; 1-5ml Ampul	10/26/81
Research Triangle Institute	Delta-9 THC Plasma Standards Kit	Kit Containing: 16-2ml Ampuls; 1-5ml Ampul	11/02/81
Research Triangle Institute	Iodine Kit for Radioimmunoassay of 11-Nor-9-carboxy-delta-9 THC in Blood.	Kit Containing: 26-1ml Ampuls; 2-20ml Vials; 2-250ml Bottles.	10/26/81
Research Triangle Institute	Iodine Kit for Radioimmunoassay of 11-Nor-9-carboxy-delta-9 THC in Plasma.	Kit Containing: 24-1ml Ampuls; 2-20ml Vials; 2-250ml Bottles.	10/26/81
Research Triangle Institute	Iodine Kit for Radioimmunoassay of Delta-9 THC	Kit Containing: 20-1ml Ampules; 2-20ml Vials; 2-250ml Bottles.	10/20/80
Research Triangle Institute	Iodine Kit for Radioimmunoassay of Delta-9 THC in Blood	Kit Containing: 22-1ml Ampules; 2-20ml Vials; 2-250ml Bottles.	7/10/81
Research Triangle Institute	Tritium Kit for Radioimmunoassay of Delta-9 THC	Kit Containing: 20-1ml Ampules; 2-20ml Vials; 2-250ml Bottles.	6/27/80
Roche Diagnostic Systems, Inc.	125I T3 (for T3 Uptake Radioassay)	Vial: 15ml	7/22/81
Roche Diagnostic Systems, Inc.	ABUSCREEN 125 I-Methamphetamine Reagent	Vial: 500ml 30ml	3/01/89
Roche Diagnostic Systems, Inc.	ABUSCREEN FP Cocaine Metabolite 75, 150, 300 or 600 ng/ml Benzoylecgonine Standard.	Vial: 4ml	3/23/89
Roche Diagnostic Systems, Inc.	ABUSCREEN FP Cocaine Metabolite Positive Control	Vial: 4ml	3/23/89
Roche Diagnostic Systems, Inc.	ABUSCREEN FP for Amphetamine	Kit: 1000 tests	3/23/89
Roche Diagnostic Systems, Inc.	ABUSCREEN FP for Amphetamine 250, 500, 1000 or 2000 ng/ml d-Amphetamine Standard.	Vial: 4ml	3/23/89
Roche Diagnostic Systems, Inc.	ABUSCREEN FP for Amphetamine Positive Control	Vial: 4ml	3/23/89
Roche Diagnostic Systems, Inc.	ABUSCREEN FP for Amphetamine Tracer Reagent	Vial: 12ml	3/23/89
Roche Diagnostic Systems, Inc.	ABUSCREEN FP for Barbiturates	Kit: 1000 tests	3/23/89

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Roche Diagnostic Systems, Inc.	ABUSCREEN FP for Barbiturates 50, 100, 200 or 400 ng/ml Secobarbital Standard.	Vial: 4ml	3/23/89
Roche Diagnostic Systems, Inc.	ABUSCREEN FP for Barbiturates Positive Control	Vial: 4ml	3/23/89
Roche Diagnostic Systems, Inc.	ABUSCREEN FP for Barbiturates Tracer Reagent	Vial: 12 ml	3/23/89
Roche Diagnostic Systems, Inc.	ABUSCREEN FP for Benzodiazepines	Kit: 1000 tests	5/11/89
Roche Diagnostic Systems, Inc.	ABUSCREEN FP for Cannabinoids	Kit: 1000 tests	3/23/89
Roche Diagnostic Systems, Inc.	ABUSCREEN FP for Cannabinoids 25, 50, 100 or 200 ng/ml Cannabinoid Standard.	Vial: 4ml	3/23/89
Roche Diagnostic Systems, Inc.	ABUSCREEN FP for Cannabinoids Positive Control	Vial: 4ml	3/23/89
Roche Diagnostic Systems, Inc.	ABUSCREEN FP for Cannabinoids Tracer Reagent	Vial: 12ml	3/23/89
Roche Diagnostic Systems, Inc.	ABUSCREEN FP for Cocaine Metabolite	Kit: 1000 tests	3/23/89
Roche Diagnostic Systems, Inc.	ABUSCREEN FP for Cocaine Metabolite Tracer Reagent	Vial: 12ml	3/23/89
Roche Diagnostic Systems, Inc.	ABUSCREEN FP for Methamphetamine	Kit: 1000 tests	3/09/90
Roche Diagnostic Systems, Inc.	ABUSCREEN FP for Methamphetamine 250,500,1000 or 2000ng/ml d-Methamphetamine Calibrator.	Vial: 4ml	3/09/90
Roche Diagnostic Systems, Inc.	ABUSCREEN FP for Methamphetamine Cut-off Control	Vial: 4ml	3/09/90
Roche Diagnostic Systems, Inc.	ABUSCREEN FP for Methamphetamine Positive Control	Vial: 4ml	3/09/90
Roche Diagnostic Systems, Inc.	ABUSCREEN FP for Methamphetamine Tracer Reagent	Vial: 12ml	3/09/90
Roche Diagnostic Systems, Inc.	ABUSCREEN FP for Morphine	Kit: 1000 tests	3/23/89
Roche Diagnostic Systems, Inc.	ABUSCREEN FP for Morphine 75, 150, 300 or 600 ng/ml Morphine Standard.	Vial: 4ml	3/23/89
Roche Diagnostic Systems, Inc.	ABUSCREEN FP for Morphine Positive Control	Vial: 4ml	3/23/89
Roche Diagnostic Systems, Inc.	ABUSCREEN FP for Morphine Tracer Reagent	Vial: 12ml	3/23/89
Roche Diagnostic Systems, Inc	ABUSCREEN FP for Phencyclidine	Kit: 1000 tests	3/23/89
Roche Diagnostic Systems, Inc	ABUSCREEN FP for Phencyclidine 5, 10, 25 or 50 ng/ml Phencyclidine Standard.	Vial: 4ml	3/23/89
Roche Diagnostic Systems, Inc	ABUSCREEN FP for Phencyclidine Positive Control	Vial: 4ml	3/23/89
Roche Diagnostic Systems, Inc	ABUSCREEN FP for Phencyclidine Tracer Reagent	Vial: 12ml	3/23/89
Roche Diagnostic Systems, Inc	ABUSCREEN High Control (Methamphetamine)	Vial: 2 oz.	3/01/89
Roche Diagnostic Systems, Inc	ABUSCREEN Low Control (Methamphetamine)	Vial: 2 oz.	3/01/89
Roche Diagnostic Systems, Inc	ABUSCREEN Positive Reference Control (Methamphetamine)	Vial: 100ml, 6.6ml	3/01/89
Roche Diagnostic Systems, Inc	ABUSCREEN Radioimmunoassay for Methamphetamine High Specificity.	Kit: 100 tests, 2500 tests	3/01/89
Roche Diagnostic Systems, Inc	Abuscreen 125I Amphetamine Reagent	Vial: 30ml, 500ml	2/15/83
Roche Diagnostic Systems, Inc	Abuscreen 125I Benzoylecgonine Reagent	Vial: 30ml, 500ml	2/15/83
Roche Diagnostic Systems, Inc	Abuscreen 125I Methaqualone Reagent	Vial: 30ml, 500ml	2/15/83
Roche Diagnostic Systems, Inc	Abuscreen 125I Morphine Reagent	Vial: 30ml, 500ml	2/15/83
Roche Diagnostic Systems, Inc	Abuscreen 125I Oxazepam Reagent	Vial: 30ml, 500ml	3/06/87
Roche Diagnostic Systems, Inc	Abuscreen 125I Phencyclidine Reagent	Vial: 30ml, 500ml	2/15/83
Roche Diagnostic Systems, Inc	Abuscreen 125I Secobarbital Reagent	Vial: 30ml, 500ml	2/15/83
Roche Diagnostic Systems, Inc	Abuscreen 125I Tetrahydrocannabinol Reagent	Vial: 500ml, 30ml	8/14/81
Roche Diagnostic Systems, Inc	Abuscreen 125I–LSD Reagent	Vial: 500ml, 30ml	1/28/86
Roche Diagnostic Systems, Inc	Abuscreen EIA Amphetamine	Kit: 100 tests	1/18/88
Roche Diagnostic Systems, Inc	Abuscreen EIA Amphetamine Conjugate Reagent	Vial: 30ml	1/18/88
Roche Diagnostic Systems, Inc	Abuscreen EIA Amphetamine Negative Control	Vial: 4ml	1/18/88
Roche Diagnostic Systems, Inc	Abuscreen EIA Amphetamine Positive Calibrator	Vial: 4ml	1/18/88
Roche Diagnostic Systems, Inc	Abuscreen EIA Amphetamine Positive Control	Vial: 4ml	1/18/88
Roche Diagnostic Systems, Inc	Abuscreen EIA Barbiturate Conjugate Reagent	Vial: 30ml	10/02/86
Roche Diagnostic Systems, Inc	Abuscreen EIA Barbiturate Enzyme Immunoassay Test Kit for Barbiturate Metabolites.	Kit: 100 Tests	10/02/86
Roche Diagnostic Systems, Inc	Abuscreen EIA Barbiturate Negative Control	Vial: 4ml	4/15/87
Roche Diagnostic Systems, Inc	Abuscreen EIA Barbiturate Positive Calibrator 50–1200 (in increments of 50) ng/ml.	Vial: 4ml, 10/02/86	
Roche Diagnostic Systems, Inc	Abuscreen EIA Barbiturate Positive Control	Vial: 4ml	4/15/87
Roche Diagnostic Systems, Inc	Abuscreen EIA Cannabinoid Positive Calibrator 50–1200 (in increments of 50) ng of THC derivative/ml.	Vial: 4ml	8/28/86
Roche Diagnostic Systems, Inc	Abuscreen EIA Cannabinoid THC Conjugate Reagent	Vial: 30ml	8/28/86
Roche Diagnostic Systems, Inc	Abuscreen EIA Cannabinoids Enzyme Immunoassay Test Kit for Cannabinoids.	Kit: 100 Tests	8/28/86
Roche Diagnostic Systems, Inc	Abuscreen EIA Cannabinoids Negative Control	Vial: 4ml	4/15/87
Roche Diagnostic Systems, Inc	Abuscreen EIA Cannabinoids Positive Control	Vial: 4ml	4/15/87
Roche Diagnostic Systems, Inc	Abuscreen EIA Cocaine Metabolite Benzoylecgonine Conjugate Reagent.	Vial: 30ml	5/28/86
Roche Diagnostic Systems, Inc	Abuscreen EIA Cocaine Metabolite Benzoylecgonine Positive Calibrator 50–1200 (in increments of 50) ng/ml.	Vial: 4ml	5/28/86
Roche Diagnostic Systems, Inc	Abuscreen EIA Cocaine Metabolite Enzyme Immunoassay Test Kit for Benzoylecgonine.	Kit: 100 tests	5/28/86
Roche Diagnostic Systems, Inc	Abuscreen EIA Cocaine Metabolite Negative Control	Vial: 4ml	4/15/87
Roche Diagnostic Systems, Inc	Abuscreen EIA Cocaine Metabolite Positive Control	Vial: 4ml	4/15/87
Roche Diagnostic Systems, Inc	Abuscreen EIA Morphine Conjugate Reagent	Vial: 30ml	5/28/86
Roche Diagnostic Systems, Inc	Abuscreen EIA Morphine Enzyme Immunoassay Test Kit for Morphine and Morphine Metabolites.	Kit: 100 tests	5/28/86
Roche Diagnostic Systems, Inc	Abuscreen EIA Morphine Negative Control	Vial: 4ml	4/15/87
Roche Diagnostic Systems, Inc	Abuscreen EIA Morphine Positive Calibrator 50–1200 (in increments of 50) ng/ml.	Vial: 4ml	5/28/86
Roche Diagnostic Systems, Inc	Abuscreen EIA Morphine Positive Control	Vial: 4ml	4/15/87
Roche Diagnostic Systems, Inc	Abuscreen FP for Benzodiazepines–25, 50, 100 or 200 ng/ml Benzodiazepines Standard.	Vial: 4ml	5/11/89
Roche Diagnostic Systems, Inc	Abuscreen FP for Benzodiazepines–Positive Control	Vial: 4ml	5/11/89
Roche Diagnostic Systems, Inc	Abuscreen FP for Benzodiazepines–Tracer Reagent	Vial: 12ml	5/11/89

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Roche Diagnostic Systems, Inc	Abuscreen ONLINE Calibrator Level 3	Vial: 5ml; Kit: 6 vials	2/21/91
Roche Diagnostic Systems, Inc	Abuscreen ONLINE Calibrator Levels 2,4	Vial: 3ml; Kit: 6 vials	2/21/91
Roche Diagnostic Systems, Inc	Abuscreen ONLINE Cocaine Metabolite Calibrator Level 2, 3, 4	Vial: 7ml	9/11/91
Roche Diagnostic Systems, Inc	Abuscreen ONLINE Opiate Calibrator Level 2, 3, 4	Vial: 7ml	9/11/91
Roche Diagnostic Systems, Inc	Abuscreen ONLINE Positive Control	Vial: 3ml; Kit: 6 vials	2/21/91
Roche Diagnostic Systems, Inc	Abuscreen ONLINE THC Calibrator Level 2, 3, 4, 5	Vial: 7ml	9/11/91
Roche Diagnostic Systems, Inc	Abuscreen ONLINE for Cocaine Metabolite	Kit: 100 Test, 1000 Test	3/19/91
Roche Diagnostic Systems, Inc	Abuscreen ONLINE for Opiates	Kit: 100 Test, 1000 Test	3/19/91
Roche Diagnostic Systems, Inc	Abuscreen ONLINE for THC	Vial: 100 Test, 1000 Test	3/19/91
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK "THC"	Kit: 40 tests, 100 tests	3/14/88
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK "THC" Negative Control	Vial: 4ml	3/14/88
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK "THC" Positive Control	Vial: 4 ML	3/14/88
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK "THC" Reagent C-Latex Reagent	Vial: 7ml	3/14/88
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK Amphetamine	Kit: 40 tests, 100 tests	3/14/88
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK Amphetamine (500ng/ml)	Kit: 40 Tests, 100 Tests	5/03/91
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK Amphetamine (500ng/ml) Negative Control.	Vial: 4ml	5/03/91
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK Amphetamine (500ng/ml) Reagent C—Latex Reagent.	Vial: 7ml	5/03/91
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK Amphetamine Negative Control	Vial: 4ml	3/14/88
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK Amphetamine Positive Control	Vial: 4ml	3/14/88
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK Amphetamine Reagent C-Latex Reagent	Vial: 7ml	3/14/88
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK Barbiturate	Kit: 40 tests, 100 tests	3/14/88
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK Barbiturate Reagent C-Latex Reagent	Vial: 7ml	3/14/88
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK Barbiturates Negative Control	Vial: 4ml	3/14/88
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK Barbiturates Positive Control	Vial: 4ml	3/14/88
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK Benzodiazepines	Kit: 40 Tests, 100 Tests	5/03/91
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK Benzodiazepines Negative Control	Vial: 4ml	5/03/91
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK Benzodiazepines Reagent C—Latex Reagent.	Vial: 7ml	5/03/91
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK Cocaine (200ng/ml)	Kit: 40 Tests, 100 Tests	5/03/91
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK Cocaine (200ng/ml) Negative Control	Vial: 4ml	5/03/91
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK Cocaine (200ng/ml) Reagent C—Latex Reagent.	Vial: 7ml	5/03/91
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK Cocaine Metabolite	Kit: 40 tests, 100 tests	3/14/88
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK Cocaine Metabolite Benzoylecgonine Reagent C-Latex Reagent.	Vial: 7ml	3/14/88
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK Cocaine Metabolite Negative Control	Vial: 4ml	3/14/88
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK Cocaine Metabolite Positive Control	Vial: 4ml	3/14/88
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK Methamphetamine	Kit: 40 Tests, 100 Tests	5/03/91
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK Methamphetamine Negative Control	Vial: 4ml	5/03/91
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK Methamphetamine Reagent C-Latex Reagent.	Vial: 7ml	5/03/91
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK Morphine	Kits: 40 tests, 100 tests	3/14/88
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK Morphine Negative Control	Vial: 4 ml	3/14/88
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK Morphine Positive Control	Vial: 4 ml	3/14/88
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK Morphine Reagent C-Latex Reagent	Vial: 7 ml	3/14/88
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK THC (50ng/ml)	Kit: 40 Tests, 100 Tests	5/03/91
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK THC (50ng/ml) Negative Control	Vial: 4ml	5/03/91
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK THC (50ng/ml) Reagent C-Latex Reagent	Vial: 7ml	5/03/91
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK phencyclidine (PCP)	Kit: 40 tests, 100 tests	11/22/89
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK phencyclidine (PCP) Negative Control	Vial: 7 ml	11/22/89
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK phencyclidine (PCP) Positive Control	Vial: 7 ml	11/22/89
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK phencyclidine (PCP) Reagent A-Antibody Reagent.	Vial: 7 ml	11/22/89
Roche Diagnostic Systems, Inc	Abuscreen ONTRAK phencyclidine (PCP) Reagent C-Latex Reagent.	Vial: 7 ml	11/22/89
Roche Diagnostic Systems, Inc	Abuscreen Positive Ref. Control (Benzodiazepines) 25, 50, 75, 100 ng/ml or 150–1000 (in increments of 50) ng/ml.	Vial: 5ml, 100ml	3/06/87
Roche Diagnostic Systems, Inc	Abuscreen Positive Ref. Control (LSD) 0.1, 0.2, 0.25, 0.3, 0.4, 0.5, 0.6, 0.7, 0.75, 0.8, 0.9, 1.0, 1.25, 1.5, 1.75, 2.0, 2.5, 5.0 or 10.0 ng/ml.	Vial: 5ml, 100ml	1/28/86
Roche Diagnostic Systems, Inc	Abuscreen Positive Reference Control (Amphetamine) 100, 500, 750, 1000, 1500, or 2000 ng/ml.	Vial: 6.6ml, 100 ml	2/15/83
Roche Diagnostic Systems, Inc	Abuscreen Positive Reference Control (Barbiturate) 50, 100, 200, 300, 400, 500, 750, 1000, or 2000 ng/ml.	Vial: 6.6ml 100 ml	2/15/83
Roche Diagnostic Systems, Inc	Abuscreen Positive Reference Control (Benzoylecgonine) 100, 150, 200, 300, 400, 500, 600, 750, 1000, or 2000 ng/ml.	Vial: 6.6ml, 100 ml	2/15/83
Roche Diagnostic Systems, Inc	Abuscreen Positive Reference Control (Methaqualone) 100, 300, 500, 750, 1000, or 2000 ng/ml.	Vial: 6.6ml, 100 ml	2/15/83
Roche Diagnostic Systems, Inc	Abuscreen Positive Reference Control (Morphine) 40, 50, 100, 150, 200, 300, 500, 600, or 1000 ng/ml.	Vial: 6.6ml, 120ml	2/15/83
Roche Diagnostic Systems, Inc	Abuscreen Positive Reference Control (Phencyclidine) 10, 12.5, 25, 50, 75, 100, 200, or 500 ng/ml.	Vial: 6.6ml 120ml	2/15/83
Roche Diagnostic Systems, Inc	Abuscreen Positive Reference Control Cannabinoid 20, 25, 50, 100, 150, 200, 300, 400, or 500 ng/ml.	Vial: 6.6ml, 100 ml	2/20/84
Roche Diagnostic Systems, Inc	Abuscreen Positive Reference Controls for Amphetamine (Single Level).	Kit: 2 Vials	10/12/87
Roche Diagnostic Systems, Inc	Abuscreen Radioimmunoassay for Amphetamine	Kit: 100 tests, 2500 tests	2/15/83

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Roche Diagnostic Systems, Inc	Abuscreen Radioimmunoassay for Amphetamine High Specificity.	Kit: 100 tests, 2500 tests	9/13/85
Roche Diagnostic Systems, Inc	Abuscreen Radioimmunoassay for Barbiturates	Kit: 100 tests, 2500 tests	2/15/83
Roche Diagnostic Systems, Inc	Abuscreen Radioimmunoassay for Benzodiazepines	Kit: 100 tests, 2500 tests	3/06/87
Roche Diagnostic Systems, Inc	Abuscreen Radioimmunoassay for Cannabinoids	Kit: 100 Tests 2500 Tests	8/14/81
Roche Diagnostic Systems, Inc	Abuscreen Radioimmunoassay for Cocaine Metabolite	Kit: 100 Tests, 2500 Tests	2/15/83
Roche Diagnostic Systems, Inc	Abuscreen Radioimmunoassay for LSD (Lysergic Acid Diethylamide).	Kit: 100 tests, 2500 tests	1/28/86
Roche Diagnostic Systems, Inc	Abuscreen Radioimmunoassay for Methaqualone	Kit: 100 tests, 2500 tests	2/15/83
Roche Diagnostic Systems, Inc	Abuscreen Radioimmunoassay for Morphine	Kit: 100 tests, 2500 tests	2/15/83
Roche Diagnostic Systems, Inc	Abuscreen Radioimmunoassay for Phencyclidine (PCP)	Kit: 100 tests, 2500 tests	2/15/83
Roche Diagnostic Systems, Inc	Abuscreen Reference Controls for Amphetamine (Multi-Level)	Kit: 3 Vials	10/12/87
Roche Diagnostic Systems, Inc	Abuscreen Reference Controls for Barbiturate (Multi-Level)	Kit: 3 Vials	10/12/87
Roche Diagnostic Systems, Inc	Abuscreen Reference Controls for Barbiturate (Single-Level)	Kit: 2 Vials	10/12/87
Roche Diagnostic Systems, Inc	Abuscreen Reference Controls for Benzodiazepines (Single-Level).	Kit: 2 Vials	10/12/87
Roche Diagnostic Systems, Inc	Abuscreen Reference Controls for Cannabinoids (Multi-Level)	Kit: 3 Vials	10/12/87
Roche Diagnostic Systems, Inc	Abuscreen Reference Controls for Cannabinoids (Single-Level)	Kit: 2 Vials	10/12/87
Roche Diagnostic Systems, Inc	Abuscreen Reference Controls for Cocaine Metabolite (Multi-Level).	Kit: 3 Vials	10/12/87
Roche Diagnostic Systems, Inc	Abuscreen Reference Controls for Cocaine Metabolite (Single-Level).	Kit: 2 Vials	10/12/87
Roche Diagnostic Systems, Inc	Abuscreen Reference Controls for LSD (Lysergic Acid Diethylamide) (Multi-Level).	Kit: 3 Vials	10/12/87
Roche Diagnostic Systems, Inc	Abuscreen Reference Controls for LSD (Lysergic Acid Diethylamide) (Single-Level).	Kit: 2 Vials	10/12/87
Roche Diagnostic Systems, Inc	Abuscreen Reference Controls for Methaqualone (Single-Level).	Kit: 2 Vials	10/12/87
Roche Diagnostic Systems, Inc	Abuscreen Reference Controls for Morphine (Multi-Level)	Kit: 3 Vials	10/12/87
Roche Diagnostic Systems, Inc	Abuscreen Reference Controls for Morphine (Single-Level)	Kit: 2 Vials	10/12/87
Roche Diagnostic Systems, Inc	Abuscreen Reference Controls for Phencyclidine (PCP) (Multi-Level).	Kit: 3 Vials	10/12/87
Roche Diagnostic Systems, Inc	Abuscreen Reference Controls for Phencyclidine (PCP) (Single-Level).	Kit: 2 Vials	10/12/87
Roche Diagnostic Systems, Inc	Agglutex Amphetamine Latex Reagent	Vial: 2ml	6/27/83
Roche Diagnostic Systems, Inc	Agglutex Amphetamine Positive Human Urine Control	Vial: 5ml	6/27/83
Roche Diagnostic Systems, Inc	Agglutex Amphetamine Test Kit	Kit: 20 tests, 100 tests	2/15/83
Roche Diagnostic Systems, Inc	Agglutex Barbiturate Latex Reagent	Vial: 2ml	6/27/83
Roche Diagnostic Systems, Inc	Agglutex Barbiturate Positive Human Urine Control	Vial: 5ml	6/27/83
Roche Diagnostic Systems, Inc	Agglutex Barbiturate Test Kit	Kit: 20 tests, 100 tests	6/27/83
Roche Diagnostic Systems, Inc	Agglutex Methaqualone Latex Reagent	Vial: 2ml	6/27/83
Roche Diagnostic Systems, Inc	Agglutex Methaqualone Positive Human Urine Control	Vial: 5ml	6/27/83
Roche Diagnostic Systems, Inc	Agglutex Methaqualone Test Kit	Kit: 20 tests, 100 tests	6/27/83
Roche Diagnostic Systems, Inc	Agglutex Morphine Latex Reagent	Vial: 2ml	6/27/83
Roche Diagnostic Systems, Inc	Agglutex Morphine Positive Human Urine Control	Vial: 5ml	6/27/83
Roche Diagnostic Systems, Inc	Agglutex Morphine Test Kit	Kit: 20 tests, 100 tests	6/27/83
Roche Diagnostic Systems, Inc	Agglutex Phencyclidine (PCP) Test Kit	Kit: 20 tests, 100 tests	6/27/83
Roche Diagnostic Systems, Inc	Agglutex Phencyclidine Latex Reagent	Vial: 2ml	6/27/83
Roche Diagnostic Systems, Inc	Agglutex Phencyclidine Positive Human Urine Control	Vial: 5ml	6/27/83
Roche Diagnostic Systems, Inc	Amerifluor Florescent Immunoassay -Phenobarbital	Kit: 100 tests	4/30/82
Roche Diagnostic Systems, Inc	Anti-T3 Reagent 125I T3 (for T3 Radioimmunoassay)	Vial: 15ml	7/22/81
Roche Diagnostic Systems, Inc	Anti-T4 Reagent 125I T4 (for T4 Radioimmunoassay)	Vial: 15ml	7/22/81
Roche Diagnostic Systems, Inc	CAL PACK Abuscreen ONLINE Cocaine Metabolite Calibration Kit.	Kit: 6 vials	9/11/91
Roche Diagnostic Systems, Inc	CAL PACK Abuscreen ONLINE Opiate Calibration Kit	Kit: 6 vials	9/11/91
Roche Diagnostic Systems, Inc	CAL PACK Abuscreen ONLINE THC Calibration Kit	Kit: 4 vials	9/11/91
Roche Diagnostic Systems, Inc	COBAS FP Phenobarbital Calibrators	Kit: 6 Vials	11/13/84
Roche Diagnostic Systems, Inc	COBAS FP Phenobarbital Calibrators B through F	Vials: 5ml	11/13/84
Roche Diagnostic Systems, Inc	COBAS FP Phenobarbital Tracer Reagent	Vial: 5ml	11/13/84
Roche Diagnostic Systems, Inc	COBAS FP Reagents for Phenobarbital	Kit: 100 tests	11/13/84
Roche Diagnostic Systems, Inc	COBAS FP TDM Controls	Kit: 6 Vials	11/13/84
Roche Diagnostic Systems, Inc	CUTOFF CAL PACK Abuscreen ONLINE Cocaine Metabolite Calibration Kit.	Kit: 6 vials	9/11/91
Roche Diagnostic Systems, Inc	CUTOFF CAL PACK Abuscreen ONLINE Opiate Calibration Kit	Kit: 6 vials	9/11/91
Roche Diagnostic Systems, Inc	Immunizing Preparation No. 1, 2, 3, 4, 5, 6, 7, or 8.	Vial: 10, 20, 50, or 100ml	1/25/83
Roche Diagnostic Systems, Inc	Immunizing Preparation No. 9	Vial: 10ml, 20ml, 50ml, or 100ml	7/24/84
Roche Diagnostic Systems, Inc	Immunizing Preparation No. 9A	Vial: 10ml, 20ml, 50ml, or 100ml	7/24/84
Roche Diagnostic Systems, Inc	Immunizing Preparation No.10	Vial: 10ml, 20ml, 50ml, or 100ml	4/02/86
Roche Diagnostic Systems, Inc	Immunizing Preparation No.10A	Vial: 10ml, 20ml, 50ml, or 100ml	4/02/86
Roche Diagnostic Systems, Inc	Immunizing Preparations No. 1A, 2A, 3A, 4A, 5A, 6A, 7A,& 8A	Vial: 10ml, 20ml, 50ml, or 100ml	7/12/83
Roche Diagnostic Systems, Inc	NSB Reagent	Vial: 2ml	7/22/81
Roche Diagnostic Systems, Inc	TDM Controls, Levels I through III	Vials: 5ml	11/13/84
Rowley Biochemical Institute, Inc	Aldehyde Fuchsin Solution	Bottle: Pint, Quart, Gallon	2/02/84
Rowley Biochemical Institute, Inc	Aldehyde Thionin Solution	Bottle: Pint, Quart, Gallon	2/02/84
Rowley Biochemical Institute, Inc	Mayer's Hematoxylin Solution	Bottle: Pint, Quart, Gallon	2/02/84
Schering Corp	Hepaquik	Vial: 9 Dram and Plate	7/16/72
Serex Inc.	Benzoylecgonine Positive Control	Bottle: 1 ml	12/16/89
Serex Inc.	Benzoylecgonine Standards	Bottle: 1 ml	12/16/89
Serex Inc.	CoMA EIA for Cocaine Metabolite	Kit: 96 tests, 2 Bottles: 5 ml ea., Assay Plate: 96 wells.	10/17/89

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Serex Inc.	Cocaine Metabolite Standards and Controls Kit	Kit: 3 bottles - 100 Assays	12/16/89
Serono Diagnostics, Inc	rT3 Barbital Buffer	Glass Vial: 120ml	10/26/84
Serono Diagnostics, Inc	rT3-125I	Glass Vial: 13ml	10/26/84
Serono Diagnostics, Inc	rT3-Antiserum	Glass Vial: 13ml	10/26/84
Sherwood Medical Company	Lancer Fibrinogen Determination, Reagent Kit Catalog No. B889-007608.	Kit	4/17/75
Sigma Chemical Co	(+)Deoxyephedrine-d5 HCl #D-5914	Ampule: 2ml	8/28/90
Sigma Chemical Co	(+/-) 2,5-Dimethoxy-4-bromo-amphetamine Hydrobromide, D-7633.	Ampule: 2ml	9/25/91
Sigma Chemical Co	(+/-) 2,5-Dimethoxy-4-methyl-amphetamine HCl, D-7883	Ampule: 2ml	9/25/91
Sigma Chemical Co	(+/-) Deoxyephedrine HCl, D-7508	Ampule: 2ml	9/25/91
Sigma Chemical Co	(-) Deoxyephedrine, D-7258	Ampule: 2ml	9/25/91
Sigma Chemical Co	1-Tetrahydrocannabinol, Product No. T-4764	Sealed Ampule: 1ml	6/30/77
Sigma Chemical Co	1-Tetrahydrocannabinol, Product No. T-4764,	Vial: 1ml	5/11/81
Sigma Chemical Co	11-Hydroxy-delta 9 Tetrahydrocannabinol Cat. No. H3879	Ampule: 2ml	11/06/91
Sigma Chemical Co	11-nor-delta9-Tetrahyrocannabinol, 9-carboxylic .05 mg/ml acid, No. N-5642.	Glass Ampule: 2 ml	6/29/89
Sigma Chemical Co	11-nor-delta9THC-9-Carboxylic Acid #N-6893	Ampule: 2ml	8/28/90
Sigma Chemical Co	3,4 Methylenedioxymethamphetamine 1 mg/ml, No. M-5029	Glass Ampule: 2 ml	6/29/89
Sigma Chemical Co	3,4-Methylenedioxyamphetamine, No. M-3272	Glass Ampule: 2ml	6/06/89
Sigma Chemical Co	3-Methylfentanyl HCl, M-6255	Ampule: 2ml	9/25/91
Sigma Chemical Co	5,5-Diallylbarbituric Acid, Product No. D-6013	Sealed Ampule: 1ml	6/30/77
Sigma Chemical Co	6-Tetrahydrocannabinol, Product No. T-4889	Vial: 1ml	5/11/81
Sigma Chemical Co	ALT Reagent A, Stock No.57-10	Vial: 30ml	6/27/79
Sigma Chemical Co	ALT Reagent A, Stock No.57-2	Vial: 10ml	6/27/79
Sigma Chemical Co	AST Reagent A, Stock No.56-10	Vial: 30ml	6/27/79
Sigma Chemical Co	AST Reagent A, Stock No.56-2	Vial: 10ml	6/27/79
Sigma Chemical Co	Acid Hematoxylin Solution, No.285-2	Bottle: 25ml 100ml	8/06/73
Sigma Chemical Co	Adenosine Phosphate Substrate, Product No. 675-1	Bottle: 4 ounce	7/25/83
Sigma Chemical Co	Allylcyclopentylbarbituric Acid (A-7787)	Sealed Ampule: 1ml	4/10/85
Sigma Chemical Co	Allylisobutylbarbituric Acid (A-1038)	Sealed Ampule: 1ml	4/10/85
Sigma Chemical Co	Alphaprodine Hydrochloride (A-1537)	Ampule: 1ml	8/27/84
Sigma Chemical Co	Alphenal (A-1163)	Ampule: 1ml	4/10/85
Sigma Chemical Co	Alprazolam .25 mg/ml, No. A-5052	Glass Ampule: 2 ml	6/29/89
Sigma Chemical Co	Alprazolam-d5 #A-7055	Ampule: 2ml	8/28/90
Sigma Chemical Co	Ammonia Reagent, Stock No. 170-10	Vial: 10ml	2/17/77
Sigma Chemical Co	Ammonia Reagent Kit: Stock No. 170-10	Kit: 10 Vials	2/17/77
Sigma Chemical Co	Ammonia Reagent Stock No. 170-10	Vial: 30ml	12/13/77
Sigma Chemical Co	Ammonia in Plasma Kit	Kit: 100 tests 30 tests	12/13/77
Sigma Chemical Co	Amobarbital, Product No. A-5142	Sealed Ampule: 1ml	6/30/77
Sigma Chemical Co	Antibody Sensitized Sheep Erythrocytes (EA7S)	Vials: 2ml and 5X 2ml	4/02/86
Sigma Chemical Co	Aprobarbital, Product No. A-7023	Sealed Ampule: 1ml	6/30/77
Sigma Chemical Co	Barbital Buffer, Product No. B-6632	Polyethylene Vial: 30ml	5/11/77
Sigma Chemical Co	Barbital Buffer 5X Concentrate Electrophoresis Reagent Cat. No. B-3506.	Bottle: 200ml	11/14/91
Sigma Chemical Co	Barbital Buffer with Albumin Stock No. 880-3	Vial: 20ml	7/11/80
Sigma Chemical Co	Barbital, Product No. B-8632	Sealed Ampule: 1ml	6/30/77
Sigma Chemical Co	Benzoylecgonine 1 mg/ml, No. B-8900	Glass Ampule: 2 ml	6/29/89
Sigma Chemical Co	Benzoylecgonine-d3 #B-3277	Ampule: 2ml	8/28/90
Sigma Chemical Co	Benzphetamine Hydrochloride, Product No. B-8765	Sealed Ampule: 1ml	6/08/84
Sigma Chemical Co	Bromazepam #B-5402	Ampule: 2ml	8/28/90
Sigma Chemical Co	Bufotenine Monooxalate, Product No. B-8757	Sealed Ampule: 1ml	6/30/77
Sigma Chemical Co	Butabarbital, Product No. B-8882	Sealed Ampule: 1ml	6/30/77
Sigma Chemical Co	Butalbital, Product No. B-5514	Sealed Ampule: 1ml	9/19/83
Sigma Chemical Co	Butethal (B-7516)	Ampule: 1ml	9/05/85
Sigma Chemical Co	Cannabidiol, Product No. C-6395	Sealed Ampule: 1ml	8/29/79
Sigma Chemical Co	Cannabidiol, Product No. C-6395	Vial: 1ml	5/11/81
Sigma Chemical Co	Cannabinol, Product No. C-6520	Vial: 1ml	5/11/81
Sigma Chemical Co	Cannabinol, Product No. C-6520	Sealed Ampule:1ml	8/29/79
Sigma Chemical Co	Chloral Hydrate, Product No. C-6516	Sealed Ampule:1ml	6/30/77
Sigma Chemical Co	Chlorazepam Dipotassium Salt (C-9531)	Ampule:1ml	5/24/85
Sigma Chemical Co	Chlordiazepoxide (C-4782)	Ampule:1ml	9/05/85
Sigma Chemical Co	Chlordiazepoxide Hydrochloride Acetonitrile Drug Standard ιC-9547.	Ampule: 2ml	6/26/90
Sigma Chemical Co	Chlordiazepoxide-d5 ιC-5047	Ampule: 2ml	8/28/90
Sigma Chemical Co	Clobazam, No. C-6667	Glass Ampule: 2ml	6/06/89
Sigma Chemical Co	Clonazepam, Product No. C-4404	Sealed Ampule:1ml	6/08/84
Sigma Chemical Co	Cocaine Hydrochloride Product No. C-1528	Sealed Ampule:1ml	9/19/83
Sigma Chemical Co	Cocaine-d3 ιC-3547	Ampule: 2ml	8/28/90
Sigma Chemical Co	Codeine-d3 HCl ιC-3672	Ampule: 2ml	8/28/90
Sigma Chemical Co	Codeine.Product No. C-1653	Sealed Ampule:1ml	9/19/83
Sigma Chemical Co	D-Amphetamine Sulfate, Product No. A-3278	Vial: 1ml	5/11/81
Sigma Chemical Co	DL-Amphetamine HCL, Product No. A-5017	Sealed Ampule:1ml	6/30/77
Sigma Chemical Co	Delorazepam ιD-5789	Ampule: 2ml	8/28/90
Sigma Chemical Co	Desmethyldiazepam 1 mg/ml, No. D-3162	Glass Ampule: 2 ml	6/29/89
Sigma Chemical Co	Desmethyldiazepam-d5 ιD-6039	Ampule: 2ml	8/28/90
Sigma Chemical Co	Dextropropoxyphene Hydrochloride (D-8901)	Ampule:1ml	9/27/84
Sigma Chemical Co	Diazepam, Product No. D-9900	Sealed Ampule:1ml	6/08/84
Sigma Chemical Co	Diazepam-d5 ιD-5664	Ampule: 2ml	8/28/90
Sigma Chemical Co	Diethylpropion Hydrochloride, Product No. D-7274	Sealed Ampule:1ml	9/19/83

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Sigma Chemical Co	Diphenoxylate (D-0780)	Ampule:1ml	9/05/85
Sigma Chemical Co	Drug Standard Mix 1, D-3155	Ampule:2ml	4/18/86
Sigma Chemical Co	Drug Standard Mix 2, D-3030	Ampule:2ml	4/18/86
Sigma Chemical Co	Ecgonine Hydrochloride 1 mg/ml, No. E-9762	Glass Ampule: 2 ml	6/29/89
Sigma Chemical Co	Ecgonine-d3 HCl ıE-2014	Ampule: 2ml	8/28/90
Sigma Chemical Co	Ecgonine-d3 Methyl Ester HCl ıE-2139	Ampule: 2ml	8/29/90
Sigma Chemical Co	Estazolam ıE-1139	Ampule: 2ml	8/28/90
Sigma Chemical Co	Ethinamate (E-8508)	Ampule:1ml	4/10/85
Sigma Chemical Co	Ethylmorphine, E-3377	Ampule: 2ml	9/25/91
Sigma Chemical Co	Fenfluramine Hydrochloride, Product No. F-1884	Sealed Ampule:1ml	9/19/83
Sigma Chemical Co	Fenproporex Hydrochloride, No. F-7261	Glass Ampule: 2ml	6/06/89
Sigma Chemical Co	Fentanyl Citrate, No. F-5886	Glass Ampule: 2 ml	6/06/89
Sigma Chemical Co	Fentanyl-d5 Citrate ıF-2520	Ampule: 2ml	8/28/90
Sigma Chemical Co	Flunitrazepam No. F-8763	Vial:1 ml	6/30/87
Sigma Chemical Co	Flurazepam Dihydrochloride Methanol Drug Standard, No. F-9134.	Ampule: 2 ml	10/20/89
Sigma Chemical Co	Flurazepam Dihydrochloride, Product No. F-9134	Sealed Ampule:1ml	6/08/84
Sigma Chemical Co	Gelatin Veronal Buffer (GVB2+) No. G-6514	Vial:50 ml,250ml	9/15/86
Sigma Chemical Co	Glutethimide, Product No. G-3134	Sealed Ampule:1ml	6/30/77
Sigma Chemical Co	Glycerophosphate Substrate, Product No. 675-2	Bottle:4 ounce	7/25/83
Sigma Chemical Co	Glycerophosphate Substrate, Product No. 704-1	Bottle:4 ounce	7/25/83
Sigma Chemical Co	Heroin Hydrochloride .1 mg/ml, No. H-5144	Glass Ampule: 2 ml	6/29/89
Sigma Chemical Co	Hexobarbital, Product No. H-2007	Sealed Ampule:1ml	6/30/77
Sigma Chemical Co	Hydrocodone Bitartrate, No. H-2269	Glass Ampule: 2ml	6/06/89
Sigma Chemical Co	Hydromorphone Hydrochloride No. H-7141	Vial:1 ml	6/30/87
Sigma Chemical Co	Ibogaine HCL, Product No. I-4630	Sealed Ampule:1ml	6/30/77
Sigma Chemical Co	LDH Electrophoresis Buffer, Stock No. 705-1	Amber Jar:30ml	1/04/77
Sigma Chemical Co	LDH-P Reagent No. 125-10	Vial:30ml	5/29/73
Sigma Chemical Co	LDH-P Reagent No. 125-100	Vial:100ml	5/29/73
Sigma Chemical Co	Levorphanol Tartrate 1 mg/ml No. L-0896	Glass Ampule: 2 ml	6/29/89
Sigma Chemical Co	Lorazepam (L-0140)	Ampule:1ml	5/24/85
Sigma Chemical Co	Lormetazepam, No. 8145	Glass Ampule: 2ml	6/06/89
Sigma Chemical Co	Lysergic Acid, Product No. L-6881	Sealed Ampule:1ml	6/30/77
Sigma Chemical Co	Lysergic Acid Diethylamide ıL-8147	Ampule: 2ml	8/28/90
Sigma Chemical Co	Mayer's Hematoxylin Solution, No. MHS-1	Bottle:25ml 100ml	8/06/73
Sigma Chemical Co	Mebutamate (M-3772)	Ampule:1ml	9/05/85
Sigma Chemical Co	Medazepam (M-7646)	Ampule:1ml	5/24/85
Sigma Chemical Co	Meperidine Hydrochloride (M-1020)	Ampule:1ml	8/27/84
Sigma Chemical Co	Mephobarbital, Product No. M-3514	Vial: 1ml	5/11/81
Sigma Chemical Co	Meprobamate (M-0271)	Ampule:1ml	5/24/85
Sigma Chemical Co	Mescaline HC1, Product No. M-5153	Sealed Ampule:1ml	6/30/77
Sigma Chemical Co	Methadone Hydrochloride, Product No. M-3268	Sealed Ampule:1ml	9/19/83
Sigma Chemical Co	Methadone-d3 ıM-4781	Ampule: 2ml	8/28/90
Sigma Chemical Co	Methamphetamine HC1, Product No. M-5260	Sealed Ampule:1ml	6/30/77
Sigma Chemical Co	Methaqualone Hydrochloride, Product No. M-3393	Sealed Ampule:1ml	9/19/83
Sigma Chemical Co	Methaqualone-d4 ıM-5406	Ampule: 2ml	8/28/90
Sigma Chemical Co	Methylphenidate Hydrochloride (M-1145)	Ampule:1ml	10/31/84
Sigma Chemical Co	Methyprylon, Product No. M-1769	Sealed Ampule:1ml	6/08/84
Sigma Chemical Co	Morphine Sulfate, No. M-9524	Glass Ampule: 2ml	6/05/89
Sigma Chemical Co	Morphine-3-B-D Glucuronide, Product No. M-4266	Ampule: 1ml	10/21/82
Sigma Chemical Co	Morphine-d3 HCl, M-6380	Ampule: 2ml	9/25/91
Sigma Chemical Co	N,N-Diethyltryptamine, Product No. D-0392	Vial: 1ml	5/11/81
Sigma Chemical Co	N,N-Dimethyltryptamine, Product No. D-6263	Sealed Ampule:1ml	6/30/77
Sigma Chemical Co	Nalorphine Hydrochloride	Ampule:1ml	8/27/84
Sigma Chemical Co	Norcodeine Hydrochloride, No. N-3017	Glass Ampule: 2ml	6/06/89
Sigma Chemical Co	Normorphine HCl ıN-7393	Ampule: 2ml	8/28/90
Sigma Chemical Co	Noroxymorphone ıN-7018	Ampule: 2ml	8/28/90
Sigma Chemical Co	Oxazepam, No. O-1755	Vial:1 ml	6/30/87
Sigma Chemical Co	Oxazepam-d5 ıO-1381	Ampule: 2ml	8/28/90
Sigma Chemical Co	Oxazolam, No. O-8005	Glass Ampule: 2ml	6/06/89
Sigma Chemical Co	Oxycodone Hydrochloride, Product No. O-2628	Sealed Ampule:1ml	9/19/83
Sigma Chemical Co	Paraldehyde, Product No. D-3778	Ampule: 1ml	10/21/82
Sigma Chemical Co	Pemoline, Product No. P-3518	Sealed Ampule:1ml	6/30/77
Sigma Chemical Co	Pentazocine Hydrochloride, Product No. P-7530	Sealed Ampule:1ml	9/19/83
Sigma Chemical Co	Pentobarbital, Product No. P-3393	Sealed Ampule:1ml	6/30/77
Sigma Chemical Co	Phencyclidine, No. P-7043	Vial:1 ml	6/30/87
Sigma Chemical Co	Phencyclidine-d5 HCl ıP-6054	Ampule: 2ml	8/28/90
Sigma Chemical Co	Phendimetrazine, Product No. P-3524	Vial: 1ml	5/11/81
Sigma Chemical Co	Phenobarbital FPIA Calibrator Set Cat. No. P9051	Kit: 6 vials	11/21/89
Sigma Chemical Co	Phenobarbital FPIA Calibrator: A-No.P8301, B-No.P8426 C-No.P8551, D-No.P8676, E-No.P8801, F-NO.P8926.	Vial: 2.5 ml	11/21/89
Sigma Chemical Co	Phenobarbital Primary Stock Solution No. Z-5419	Bottle: 10, 5, 1L, 500, 100ml	2/01/91
Sigma Chemical Co	Phenobarbital Prod. No.P-3643	Sealed Ampule:1ml	6/30/77
Sigma Chemical Co	Phentermine Hydrochloride, Product No. P-7655	Sealed Ampule:1ml	9/19/83
Sigma Chemical Co	Phenylacetone, Product No. P-2024	Vial: 1ml	5/11/81
Sigma Chemical Co	Prazepam, No. P-7168	Vial:1 ml	6/30/87
Sigma Chemical Co	Psilocin ıP-4054	Ampule: 2ml	8/28/90
Sigma Chemical Co	SGOT 10 Assay Vial No. 55-10	Vial:30ml	5/29/73
Sigma Chemical Co	SGOT Reagent No. 155-10	Vial:30ml	5/29/73
Sigma Chemical Co	SGOT Reagent No. 155-100	Vial:100ml	5/29/73

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Sigma Chemical Co	SGOT Single Assay Vial No. 55-1	Vial:3ml	5/29/73
Sigma Chemical Co	SGOT Single Assay Vial No. 55-5	Vial:15ml	5/29/73
Sigma Chemical Co	SGPT 10 Assay Vial No. 55-10P	Vial:30ml	5/29/73
Sigma Chemical Co	SGPT Assay Vial No. 55-5P	Vial:15ml	5/29/73
Sigma Chemical Co	SGPT Reagent No. 155-100P	Vial:100ml	5/29/73
Sigma Chemical Co	SGPT Reagent No. 155-10P	Vial:30ml	5/29/73
Sigma Chemical Co	SGPT Single Assay Vial No. 55-1P	Vial:3ml	5/29/73
Sigma Chemical Co	SIA Cocaine Metabolites	Kit: 96 Tests	7/11/91
Sigma Chemical Co	SIA Conjugate Cocaine Metabolites	Bottle: 75ml	7/11/91
Sigma Chemical Co	SIA Positive Reference Cocaine Metabolites	Vial: 1ml	7/11/91
Sigma Chemical Co	Secobarbital, Product No. S-4006	Sealed Ampule:1ml	6/30/77
Sigma Chemical Co	Secobarbital-d5, S-4628	Ampule: 2ml	9/25/91
Sigma Chemical Co	Temazepam, No. T-4903	Vial: 1 ml	6/30/87
Sigma Chemical Co	Tenocyclidine HCl, T-3507	Ampule: 2ml	9/25/91
Sigma Chemical Co	Thebaine, Product No. T-5270	Sealed Ampule: 1ml	9/19/83
Sigma Chemical Co	Thiamylal Sodium, Product No. T-6896	Sealed Ampule: 1ml	6/08/84
Sigma Chemical Co	Thiopental (T-1022)	Ampule: 1ml	8/27/84
Sigma Chemical Co	Triazolam #T-7658	Ampule: 2ml	8/28/90
Sigma Chemical Co	Trizma-Barbital Buffer, Stock No. 710-1	Amber Jar: 30ml	1/04/77
Sigma Chemical Co	Tropacocaine, Product No. T-4516	Vial: 1ml	5/11/81
Sigma Chemical Co	Z9999, Field Test Sample PSEUDOnarcotics Marihuana Formulation.	Vial: 400ml	3/14/91
Sigma Chemical Co	d-Amphetamine-d3 Sulfate #A-7180	Ampule: 2ml	8/28/90
Sigma Chemical Co	d-Lysergic Acid Cat. No. L-9752	Ampule: 2ml	11/06/91
Sigma Chemical Co	d-Propoxyphene-d7 HCl #P-4179	Ampule: 2ml	8/28/90
Sigma Chemical Co	d-Propoxyphene-d7 HCl #P-4179	Ampule: 2ml	8/28/90
Sigma Chemical Co	delta-9-tetrahydrocannabinol-d3 #T-8783	Ampule: 2ml	8/28/90
Sigma Chemical Co	dl-Amphetamine, A-2262	Ampule: 2ml	9/25/91
Sigma Chemical Co	l-Amphetamine, A-9136	Ampule: 2ml	9/25/91
Sigma Chemical Co	p-Methoxyamphetamine HCl #M-4656	Ampule: 2ml	8/28/90
Smart Chemical Co	Regal 180XL	Plastic Drum: 55 gallon	6/12/86
SolarCare Technology Control	LSD EIA	Kit: 3 vials	6/05/90
SolarCare Technology Corporation	Benzoylecgonine Cutoff Calibrator	Vial: 4ml	6/05/90
SolarCare Technology Corporation	Benzoylecgonine Negative Control	Vial: 4ml	6/05/90
SolarCare Technology Corporation	Benzoylecgonine Positive Control	Vial: 4ml	6/05/90
SolarCare Technology Corporation	Cocaine Cutoff Calibrator	Vial: 4ml	6/05/90
SolarCare Technology Corporation	Cocaine EIA	Kit: 3 vials	6/05/90
SolarCare Technology Corporation	Cocaine Metabolite EIA	Kit: 30 vials	6/05/90
SolarCare Technology Corporation	Cocaine Negative Control	Vial: 4ml	6/05/90
SolarCare Technology Corporation	Cocaine Positive Control	Vial: 4ml	6/05/90
SolarCare Technology Corporation	LSD Cutoff Calibrator	Vial: 4ml	6/05/90
SolarCare Technology Corporation	LSD Negative Control	Vial: 4ml	6/05/90
SolarCare Technology Corporation	LSD Positive Control	Vial: 4ml	6/05/90
SolarCare Technology Corporation	Low Level Benzodiazepine (Triazolam) EIA	Kit: 3 vials	6/05/90
SolarCare Technology Corporation	Triazolam Cutoff Control	Vial: 4ml	6/05/90
SolarCare Technology Corporation	Triazolam Negative Control	Vial: 4ml	6/05/90
SolarCare Technology Corporation	Triazolam Positive Control	Vial: 4ml	6/05/90
Supelco,Inc	Alk Mix No. 04-9210	Vial: 1ml	8/28/73
Supelco,Inc	Amobarbital, No.04-9170	Ampule: 1ml	12/22/72
Supelco,Inc	Amph. Mix Catalog No. 4-9205	Glass Ampule: 2ml	6/09/86
Supelco,Inc	Amphetamine No.04-9165	Ampule: 1ml	12/22/72
Supelco,Inc	Anticonvulsant Mixture No.1; No. 04-9202	Glass Serum Bottle: 50ml	6/16/77
Supelco,Inc	Antiepileptic Calibration Standard Kit, No.4-9259	Kit: 3 Ampules	5/21/80
Supelco,Inc	Antiepileptic Calibration Standards, Nos.4-9256, 4-9257, 4-9258	Glass Ampule: 5ml	5/21/80
Supelco,Inc	Aprobarbital No.04-9171	Ampule: 1ml	12/22/72
Supelco,Inc	Barb. Mix 1,Catalog No. 4-9200	Glass Ampule: 2ml	6/09/86
Supelco,Inc	Barb. Mix 2,Catalog No. 4-9201	Glass Ampule: 2ml	6/09/86
Supelco,Inc	Barbital,Catalog No. 4-9279	Glass Ampule: 10ml	6/09/86
Supelco,Inc	Barbiturates Test Mix Catalog No. 4-9295	Ampule: 2 ml	2/25/87
Supelco,Inc	Cannabidiol, No.04-9221	Ampule: 1ml	11/27/74
Supelco,Inc	Cannabinol, No.04-9235	Ampule: 1ml	11/27/74
Supelco,Inc	Cocaine, No.04-9188	1000 mcg /Glass Ampule	6/05/75
Supelco,Inc	Codeine No.04-9161	Ampule: 1ml	12/22/72
Supelco,Inc	Cyclobarbital No.04-9175	Ampule: 1ml	12/22/72
Supelco,Inc	Delta-1 THC, No.04-9237	Ampule: 1ml	11/27/74
Supelco,Inc	Delta-6 THC, No.04-9238	Ampule: 1ml	11/27/74
Supelco,Inc	Dextroamphetamine, No.4-9185	Glass Ampule: 1ml	5/21/80
Supelco,Inc	Glutethimide No.04-9173	Ampule: 1ml	12/22/72
Supelco,Inc	Heroin No.04-9162	Ampule: 1ml	12/22/72
Supelco,Inc	Hexobarbital No.04-9177	Ampule: 1ml	12/22/72
Supelco,Inc	Mephobarbital No.04-9178	Ampule: 1ml	12/22/72
Supelco,Inc	Meprobamate, No.4-9184	Glass Ampule: 1ml	5/21/80
Supelco,Inc	Methadone No.04-9163	Ampule: 1ml	12/22/72
Supelco,Inc	Methamphetamine No.04-9168	Ampule: 1ml	12/22/72
Supelco,Inc	Methaqualone, No.04-9183	1000 mcg /Glass Ampule	6/05/75
Supelco,Inc	Morphine No. 04-9160	Glass Ampule: 1000mcg	3/08/78
Supelco,Inc	Pentobarbital No. 04-9179	Glass Ampule: 1000mcg	3/08/78
Supelco,Inc	Phenobarbital No. 04-9181	Glass Ampule: 1000mcg	3/08/78
Supelco,Inc	Psilocybin, No.04-9191	1000 mcg /Glass Ampule	6/05/75

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Supelco,Inc	Secobarbital No. 04-9180	Glass Ampule: 1000mcg	3/08/78
Sure-Tech Diagnostic Associates, Inc.	Drugs of Abuse Urine Control (Blind Sample) Positive Amphetamine Kit No. ST 904, Vial No. 904–P.	Vial: 4ml Kit: 1 vial	5/11/90
Sure-Tech Diagnostic Associates, Inc.	Drugs of Abuse Urine Control (Blind Sample) Positive Cocaine & Marijuana Kit No. ST 903.	Kit: 2 vials	5/11/90
Sure-Tech Diagnostic Associates, Inc.	Drugs of Abuse Urine Control (Blind Sample) Positive Cocaine, Kit No. ST 901, Vial No. 901–P.	Vial: 4ml Kit: 1 vial	5/11/90
Sure-Tech Diagnostic Associates, Inc.	Drugs of Abuse Urine Control (Blind Sample) Positive Marijuana Kit No. ST 902, Vial No. 902–P.	Vial: 4ml Kit: 1 vial	5/11/90
Sure-Tech Diagnostic Associates, Inc.	Drugs of Abuse Urine Control (Blind Sample) Positive Opiates Kit No. ST 905, Vial No. 905–P.	Vial: 4ml Kit: 1 vial	5/11/90
Sure-Tech Diagnostic Associates, Inc.	Drugs of Abuse Urine Control (Blind Sample) Positive Phencyclidine Kit No. ST 906, Vial No. 906–P.	Vial: 4ml Kit: 1 vial	5/11/90
Sure-Tech Diagnostic Associates, Inc.	Drugs of Abuse: Urine Controls (Blind Samples) positive Codeine No. 907–P.	Vial: 20ml; Box: 1 vial	9/13/90
Sure-Tech Diagnostic Associates, Inc.	Drugs of Abuse: Urine Controls (Blind Samples) positive Methadone NNo. 908–P.	Vial: 20ml; Box: 1 vial	9/13/90
Sure-Tech Diagnostic Associates, Inc.	Drugs of Abuse: Urine Controls (Blind Samples) positive Methamphetamine No. 909–P.	Vial: 20ml; Box: 1 vial	9/13/90
Sure-Tech Diagnostic Associates, Inc.	Drugs of Abuse: Urine Controls (Blind Samples) positive Methaqualone No. 913–P.	Vial: 20ml, Box: 1 vial	9/13/90
Sure-Tech Diagnostic Associates, Inc.	Drugs of Abuse: Urine Controls (Blind Samples) positive Oxazepam No. 910–P.	Vial: 20ml, Box: 1 vial	9/13/90
Sure-Tech Diagnostic Associates, Inc.	Drugs of Abuse: Urine Controls (Blind Samples) positive Propoxyphene No. 911–P.	Vial: 20ml, Box: 1 vial	9/13/90
Sure-Tech Diagnostic Associates, Inc.	Drugs of Abuse: Urine Controls (Blind Samples) positive Secobarbital No. 912–P.	Vial: 20ml, Box: 1 vial	9/13/90
Syva Co	AccuLevel Phenobarbital Test Control Stock Solution	Flask: 50ml	10/31/85
Syva Co	AccuLevel Phenobarbital Test Kit (Catalog No.10C019) Contains: (1)AccuLevel Phenobarbital Control (2)AccuLevel Reagent I, (1)Glass Vial: 6ml; (2)Glass Vial: 9ml.	12 Vials per test kit	1/24/86
Syva Co	Advance T–3 Uptake Assay	Kit: 100 tests	5/11/82
Syva Co	Advance Thyroxin Assay	Kit: 100 tests	5/11/82
Syva Co	Antiepileptic Drug Control	Vial: 10ml, Lyophilized	8/27/74
Syva Co	EMIT Thyroxine Assay, Cat. No. 6J909	Glass Bottle: 4oz., Kit: 500 Assays	1/23/89
Syva Co	Emit 2000 Phenobarbital Assay (Convenience Pack)	Kit: 1 cassette; Cassette: 11ml	8/05/91
Syva Co	Emit 2000 Phenobarbital Assay; Enzyme Reagent 2	Kit: 1 bottle; Bottle: 15ml	8/05/91
Syva Co	Emit 2000 Phenobarbital Calibrators (5,10,20,40,80)	Kit: 5 vials	8/05/91
Syva Co	Emit 700 Amphetamine Assay Catalog No. 3C919	Bottle: 180ml	10/12/84
Syva Co	Emit 700 Barbiturate Assay Catalog No.3D919	Bottle: 180ml	10/12/84
Syva Co	Emit 700 Benzodiazepine Assay Reagent 2	Glass Bottle: 180ml, Kit: 2 bottles	2/21/89
Syva Co	Emit 700 Calibrator A Catalog No. 3A919	Bottle: 3ml	10/05/84
Syva Co	Emit 700 Calibrator B Catalog No. 3A969	Bottle: 3ml	10/05/84
Syva Co	Emit 700 Cannabinoid (100) Assay Catalog No. 3M919	Bottle: 180ml	10/12/84
Syva Co	Emit 700 Cannabinoid (100) Calibrator Catalog No. 3M969	Bottle: 3ml	10/09/84
Syva Co	Emit 700 Cannabinoid (20) Assay, Catalog No. 3M959	Plastic Bottle: 180ml	9/15/86
Syva Co	Emit 700 Cannabinoid 100ng Assay, Positive Control	Bottle: 3ml	7/31/89
Syva Co	Emit 700 Cannabinoid 20ng Assay Calibrator	Glass Bottle: 5ml, Kit: 2 bottles	2/21/89
Syva Co	Emit 700 Cannabinoid 20ng Assay Control Set, Positive Control.	Glass Bottle: 5ml, Kit: 2 bottles	2/21/89
Syva Co	Emit 700 Cannabinoid Control Set Catalog No. 3M989	2 Bottles: 3ml	10/09/84
Syva Co	Emit 700 Cocaine Metabolite Assay Catalog No. 3H919	Bottle: 180ml	10/12/84
Syva Co	Emit 700 Control Set A Catalog No. 3A939	2 Bottles: 3ml	10/09/84
Syva Co	Emit 700 Control Set B Catalog No. 3A989	2 Bottles: 3ml	10/09/84
Syva Co	Emit 700-Methaqualone Assay Catalog No. 3Q919	Bottle: 180ml	10/19/84
Syva Co	Emit 700 Opiate Assay Catalog No. 3B919	Bottle: 180ml	10/12/84
Syva Co	Emit 700 Phencyclidine Assay Catalog No. 3J919	Bottle: 180ml	10/12/84
Syva Co	Emit AED–No. 1 Calibrator	Vial: 3ml, Lyophilized	8/27/74
Syva Co	Emit AED–No. 2 Calibrator	Vial: 3ml, Lyophilized	8/27/74
Syva Co	Emit AED–No. 3 Calibrator	Vial: 3ml, Lyophilized	8/27/74
Syva Co	Emit AED–No. 4 Calibrator	Vial: 3ml, Lyophilized	8/27/74
Syva Co	Emit AED–No. 5 Calibrator	Vial: 3ml, Lyophilized	8/27/74
Syva Co	Emit Amphetamine Bulk Powder Reagent 2	Bottle: 1000ml	10/04/89
Syva Co	Emit Amphetamine Bulk Powder Reagent 2 Satellite	Bottle: 4 oz.	4/20/90
Syva Co	Emit Amphetamine Bulk Reagent B	Glass bottle: 1000ml	12/05/90
Syva Co	Emit Barbiturate Bulk Powder Reagent 2	Bottle: 1000ml	10/04/89
Syva Co	Emit Barbiturate Bulk Powder Reagent 2 Satellite	Bottle: 4 oz.	4/20/90
Syva Co	Emit Barbiturate Bulk Reagent B	Glass Bottle: 1000ml	12/05/90
Syva Co	Emit Benzodiazepine Bulk Powder Reagent 2	Bottle: 1000ml	10/04/89
Syva Co	Emit Benzodiazepine Bulk Powder Reagent 2 Satellite	Bottle: 4 oz.	4/20/90
Syva Co	Emit Calibrator B Level 1 (cutoff)	Vial: 5ml, 25ml	6/19/91
Syva Co	Emit Calibrator B Level 2 (high)	Vial: 5ml, 25ml	6/19/91
Syva Co	Emit Cannabinoid (100) Bulk Powder Reagent 2	Bottle: 1000ml	10/04/89
Syva Co	Emit Cannabinoid (100) Bulk Powder Reagent 2 Satellite	Bottle: 4 oz.	4/20/90
Syva Co	Emit Cannabinoid Bulk Reagent B	Glass bottle: 1000ml	12/05/90
Syva Co	Emit Cocaine Metabolite Bulk Powder Reagent 2	Bottle: 1000ml	10/04/89
Syva Co	Emit Cocaine Metabolite Bulk Powder Reagent 2 Satellite	Bottle: 4 oz.	4/20/90
Syva Co	Emit Cocaine Metabolite Bulk Reagent B	Glass Bottle: 1000ml	12/05/90
Syva Co	Emit Convenience Pack Phenobarbital Assay: Catalog No. 5D005.	Plastic Cassette: 100 tests	11/23/87

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Syva Co	Emit Convenience Pack: T-Uptake Assay (Thyroid Hormone Binding Ratio).	Kit: 100 Tests Ea. Kit-Plastic Cassette: 16ml	5/09/88
Syva Co	Emit Convenience Pack: Thyroxine Assay Enzyme Reagent B	Plastic Cassette: 8ml Kit: 100 Assays	2/22/89
Syva Co	Emit Delta 9 Cannabinoid 100 ng/ml Calibrator/Control	Vial: 3ml	8/22/89
Syva Co	Emit Delta 9 Cannabinoid 20 ng/ml Calibrator/Control	Vial: 3ml	8/22/89
Syva Co	Emit Delta 9 Cannabinoid 400 ng/ml Calibrator/Control	Vial: 3ml	8/22/89
Syva Co	Emit Delta 9 Cannabinoid 50 ng/ml Calibrator/Control	Vial: 3ml	8/22/89
Syva Co	Emit HVA Amphetamine Assay Catalog No. 3C619	Kit: 2500 Assays	6/30/88
Syva Co	Emit HVA Barbiturate Assay Catalog No. 3D619	Kit: 2500 Assays	6/30/88
Syva Co	Emit HVA Calibrator Kit Catalog No. 3A619	Kit: 500 Tests Each Kit—2 Glass Bottles 100ml	5/10/88
Syva Co	Emit HVA Cannabinoid 100 ng Assay Control Kit, Catalog No. 3M739.	Kit: 2 Bottles, 50ml. ea.	7/15/88
Syva Co	Emit HVA Cannabinoid 100 ng. Assay Calibrator Kit, Catalog No. 3M729.	Kit: 3 Bottles 50ml. ea.	7/15/88
Syva Co	Emit HVA Cannabinoid 100 ng. Assay Kit, Catalog No. 3M719	Kit: 2500 Assays	7/15/88
Syva Co	Emit HVA Cocaine Metabolite Assay Catalog No. 3H619	Bottle: 125ml	5/10/88
Syva Co	Emit HVA Control Kit Catalog No. 3A629	Kit: 500 Tests Each Kit-2 Glass Bottles—100ml.	5/10/88
Syva Co	Emit HVA Opiate Assay Catalog No. 3B619	Bottle: 125ml	5/10/88
Syva Co	Emit HVA Phencyclidine Assay Catalog No. 3J619	Bottle: 125ml	5/19/88
Syva Co	Emit II Barbiturate Assay	Kit: 100ml, 500ml Bottle: 4oz, 500ml	6/29/90
Syva Co	Emit II Calibrator A Level 1 (Cutoff)	Vial: 10ml, 50ml	6/29/90
Syva Co	Emit II Calibrator A Level 2 (high)	Vial: 10ml, 50ml	6/29/90
Syva Co	Emit II Cannabinoid 20ng, 50ng, 100ng Assay	Bottle: 4oz, 500ml; Kit: 100ml, 500ml	10/12/90
Syva Co	Emit II Cocaine Metabolite Assay	Kit: 100ml, 500ml Bottle: 4oz, 500ml	6/29/90
Syva Co	Emit II Delta 9 Cannabinoid 20ng/ml, 50ng/ml, 100ng/ml, 200ng/ml, Calibrator/Control.	Vial: 10ml, 50ml	10/12/90
Syva Co	Emit II Opiate Assay	Kit: 100ml, 500ml Bottle: 4oz, 500ml	6/29/90
Syva Co	Emit II Phencyclidine Assay	Bottle: 4oz, 500ml; Kit: 100ml, 500ml	10/26/90
Syva Co	Emit Methadone Bulk Powder Reagent 2	Bottle: 1000ml	10/04/89
Syva Co	Emit Methadone Bulk Powder Reagent 2 Satellite	Bottle: 4 oz.	4/20/90
Syva Co	Emit Methaqualone Bulk Powder Reagent 2	Bottle: 1000ml	10/04/89
Syva Co	Emit Methaqualone Bulk Powder Reagent 2 Satellite	Bottle: 4 oz.	4/20/90
Syva Co	Emit Opiate Bulk Powder Reagent 2	Bottle: 1000ml	10/04/89
Syva Co	Emit Opiate Bulk Powder Reagent 2 Satellite	Bottle: 4 oz.	4/20/90
Syva Co	Emit Opiate Bulk Reagent B	Glass bottle: 1000ml	12/05/90
Syva Co	Emit Phencyclidine Bulk Powder Reagent 2	Bottle: 1000ml	10/04/89
Syva Co	Emit Phencyclidine Bulk Powder Reagent 2 Satellite	Bottle: 4 oz.	4/20/90
Syva Co	Emit Phencyclidine Bulk Reagent B	Glass Bottle: 1000ml	12/05/90
Syva Co	Emit Phenobarbital Bulk Powder Reagent B	Bottle: 1000ml	10/04/89
Syva Co	Emit Phenobarbital Bulk Powder Reagent B Satellite	Bottle: 4 oz.	4/20/90
Syva Co	Emit Phenobarbital Enzyme Reagent B	Vial: 6ml , Lyophilized	8/27/74
Syva Co	Emit Qst Phenobarbital Bulk Powder Reagent	Steel Drum: 7 gallon	5/05/86
Syva Co	Emit Qst Primidone Assay Catalog No. 60819	Glass Vial: 6ml, 50 Vials/Kit	11/12/85
Syva Co	Emit Serum Barbiturate-Enzyme Reagent B	Bottle: 3ml	5/22/79
Syva Co	Emit T-Uptake Assay	Bottle: 4 oz., 1L Kit: 500 tests, 5000 tests	5/25/89
Syva Co	Emit T-Uptake Assay (Thyroid Hormone Binding Ratio) Catalog No. 6J519.	Polyethylene Bottle: 4 oz.	2/29/88
Syva Co	Emit T-Uptake Bulk Powder Reagent A	Bottle: 1000ml	10/04/89
Syva Co	Emit T-Uptake Bulk Powder Reagent A Satellite	Bottle: 4 oz.	4/20/90
Syva Co	Emit Thyroxine Assay	Glass Bottle: 8 oz., 1L Kit: 1300 tests, 5000 tests.	5/25/89
Syva Co	Emit Thyroxine Bulk Powder Reagent B	Bottle: 1000ml	10/04/89
Syva Co	Emit Thyroxine Bulk Powder Reagent B Satellite	Bottle: 4 oz.	4/20/90
Syva Co	Emit Tox Serum Benzodiazepine Assay Kit Containing: Emit Enzyme Reagent B.	Bottle: 3ml	2/01/79
Syva Co	Emit d.a.u. Amphetamine Assay Catalog Nos. 3C019, 3C119	Kit: 100 tests, 1000 tests	9/27/84
Syva Co	Emit d.a.u. Amphetamine Class Low Calibrator, Cat. No. 3C179	Glass Vial: 5ml	1/30/89
Syva Co	Emit d.a.u. Amphetamine Class Medium Calibrator, Cat. No. 3C189.	Glass Vial: 5ml	1/30/89
Syva Co	Emit d.a.u. Benzodiazepine Assay Catalog Nos. 3F019, 3F119	Kit: 100 tests, 1000 tests	9/27/84
Syva Co	Emit d.a.u. Cannabinoid 100 ng Assay, Catalog No. 3M113	Kit: 1000 tests	9/12/86
Syva Co	Emit d.a.u. Cannabinoid 100ng Assay Calibrator	Kit: 3 vials	7/31/89
Syva Co	Emit d.a.u. Cannabinoid 100ng Assay Low Calibrator	Vial: 3ml	7/31/89
Syva Co	Emit d.a.u. Cannabinoid 100ng Assay Medium Calibrator	Vial: 3ml	7/31/89
Syva Co	Emit d.a.u. Cannabinoid 20ng Assay Catalog No. 3M619	Kit: 100 tests	2/10/86
Syva Co	Emit d.a.u. Cannabinoid 20ng Enzyme Reagent B	Vial: 10ml Lyophilized Powder	2/10/86
Syva Co	Emit d.a.u. Cannabinoid 50 ng Assay Calibrators, Low And Medium: Cat. No. 3M509.	Vial: 5 ml	6/01/88
Syva Co	Emit d.a.u. Cannabinoid 50 ng Assay: Cat. No. 3M519	Kit: 100 tests	6/01/88
Syva Co	Emit d.a.u. Cannabinoid Assay Catalog No. 3M019	Kit: 100 tests	9/24/84
Syva Co	Emit d.a.u. Cannabinoid Urine Calibrator Set	Kit: 3 Vials 3ml Each	1/03/80
Syva Co	Emit d.a.u. Cocaine Metabolite Assay Catalog Nos. 3H019, 3H119.	Kit: 100 tests, 1000 tests	9/27/84
Syva Co	Emit d.a.u. Low Calibrator A	Bottle: 5ml	7/20/84
Syva Co	Emit d.a.u. Low Calibrator A	Vial: 5 ml	6/30/89
Syva Co	Emit d.a.u. Low Calibrator A, Catalog No. 3C579	5 ml vial	10/06/88
Syva Co	Emit d.a.u. Medium Calibrator A	Vial: 5 ml	6/30/89
Syva Co	Emit d.a.u. Medium Calibrator A, Catalog No. 3C569	5 ml vial	10/06/88
Syva Co	Emit d.a.u. Medium Calibrator B	Bottle: 5ml	8/03/84

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Syva Co	Emit d.a.u. Methadone Assay Catalog Nos. 3E019, 3E119	Kit: 100 tests, 1000 tests	10/05/84
Syva Co	Emit d.a.u. Monoclonal Amphetamine/Methamphetamine Assay Catalog No3C549 100 tests 3C559 1000 tests.	Kit: 100 tests, 1000 tests	10/06/88
Syva Co	Emit d.a.u. Opiate Assay Catalog Nos. 3B019, 3B119	Kit: 100 tests, 1000 tests	9/27/84
Syva Co	Emit d.a.u. Phencyclidine Assay Kit Containing: (1)Emit Phencyclidine Enzyme Reagent B.	Bottle: 6ml	2/01/79
Syva Co	Emit d.a.u.Barbiturate Assay Catalog Nos. 3D019, 3D119	Kit: 100 tests, 1000 tests	9/27/84
Syva Co	Emit d.a.u.Low Calibrator B	Bottle: 5ml	8/03/84
Syva Co	Emit d.a.u.Medium Calibrator A	Bottle: 5ml	7/20/84
Syva Co	Emit- Tox Serum Barbiturate Assay	Kit: 50 tests	5/22/79
Syva Co	Emit-Qst Phenobarbital Assay, Catalog Number 6D819	Kit: 50 Vials	1/18/84
Syva Co	Emit-Tox Serum Calibrators;Low and Medium	Bottle: 3ml	2/01/79
Syva Co	Emit-d.a.u. Methaqualone Assay	Kit: 100 tests	4/27/82
Syva Co	Emit-st Amphetamine Assay	Vial: 3ml, 80 vials/kit	10/03/80
Syva Co	Emit-st Barbiturate Assay	Vial: 3ml, 80 vials/kit	10/03/80
Syva Co	Emit-st Benzodiazepine Assay	Vial: 3ml, 80 vials/kit	10/03/80
Syva Co	Emit-st Cannabinoid Assay Catalog No. 3M319	Vial: 6ml, 80 Vials/Kit	9/27/84
Syva Co	Emit-st Cannabinoid Calibrator	Vial: 3ml, 2 vials/kit	7/10/81
Syva Co	Emit-st Cannabinoid Controls	Vial: 3ml, 2 vials/kit	7/10/81
Syva Co	Emit-st Opiate Assay	Kit: 3ml, 80 vials/kit	10/03/80
Syva Co	Emit-st Phencyclidine Assay	Vial: 3ml, 80 vials/kit	1/07/81
Syva Co	Emit-st Serum Barbiturate Assay	Vial: 3ml, 80 vials/kit	2/16/81
Syva Co	Emit-st Serum Benzodiazepine Assay	Vial: 3ml, 80 vials/kit	2/16/81
Syva Co	Emit-st Serum Calibrator	Vial: 3ml	2/16/81
Syva Co	Emit-st Serum Controls	Vial: 3ml, 2 vials/kit	2/16/81
Syva Co	Emit-st Serum Phencyclidine Assay	Vial: 3ml, 80 vials/kit	2/16/81
Syva Co	Emit-st Urine Calibrator A	Vial: 1ml, 3 vials/kit	10/03/80
Syva Co	Emit-st Urine Cocaine Metabolite Assay	Vial: 3 ml, 80 Vials/Kit	3/16/82
Syva Co	Emit-st Urine Controls A	Vial: 1ml, 6 vials/kit	10/03/80
Syva Co	Emit-st Urine Methadone Assay	Vial: 3ml, 80 vials/kit	3/22/82
Syva Co	Emit-st Urine Methaqualone Assay	Kit: 80 Vials	4/27/82
Syva Co	Emit-st Urine Methaqualone Calibrator	Vial: 3ml	4/27/82
Syva Co	Emit-st Urine Methaqualone Controls	Vial: 3ml	4/27/82
Syva Co	IL test AED Calibrator 1	Vial: 5 ml	4/06/90
Syva Co	IL test AED Calibrator 2	Vial: 5ml	4/06/90
Syva Co	IL test AED Calibrator 3	Vial: 5ml	4/06/90
Syva Co	IL test AED Calibrator 4	Vial: 5ml	4/06/90
Syva Co	IL test AED Calibrator 5	Vial: 5ml	4/06/90
Syva Co	IL test Cannabinoid 100ng 400ng calibrator	Vial: 5ml	4/06/90
Syva Co	IL test set A calibrator	Vial: 5ml	4/06/90
Syva Co	IL test set A control	Vial: 5ml	4/06/90
Syva Co	IL test set B calibrator	Vial: 5ml	4/06/90
Syva Co	IL test set B control	Vial: 5ml	4/06/90
Syva Laboratories	Emit Benzodiazepine Bulk Reagent B	Glass Bottle: 1000ml	12/05/90
Technicon Instruments Corporation	Immuno-1 Setpoint TDM Calibrators Kit No. T03-2864 Component No. T13-2864(02-06).	Glass Bottles: 5ml; Kit: 5 Bottles	1/03/91
Technicon Instruments Corporation	Technicon RA Systems Set Point	Vial: 5ml; Kit: 5 vials	7/20/90
Technicon Instruments Corporation	Technicon Testpoint Ligand Controls Kit No. T03-3229-01 Level I: No. T13-3230 Level II: No. T13-3231, Level III: No. T13-3232.	Glass vial: 5ml; Kit: 6 vials	1/16/91
Tempil Division. Big Three Industries, Inc.	Tempilaq Striped Mylar	Plastic Sheet: 6 by 12 in. 50 sheets per envelope.	9/22/76
The Binding Site, Inc	I.F.E. Buffer	Plastic Bottle: 125ml	12/05/91
The Binding Site, Inc	Immunofixation Kit	Kit: 125ml, Plastic Bottle	12/05/91
The Theta Corp	Allobarbital No.FP305	Vial: 2ml	4/10/73
The Theta Corp	Amobarbital No. FP313	Vial: 2ml	4/10/73
The Theta Corp	Amphetamine No. FP604	Vial: 2ml	4/10/73
The Theta Corp	Anileridine No. FP203	Vial: 2ml	4/10/73
The Theta Corp	Aprobarbital No. FP306	Vial: 2ml	4/10/73
The Theta Corp	Barbital No.FP314	Vial: 2ml	4/10/73
The Theta Corp	Benzoylecgonine FP-1001	Vial: 2 ml	1/24/87
The Theta Corp	Butabarbital No. FP315	Vial: 2ml	4/10/73
The Theta Corp	Butalbital No. FP307	Vial: 2ml	4/10/73
The Theta Corp	Chloral Betaine No. FP502	Vial: 2ml	4/10/73
The Theta Corp	Chloral Hydrate No. FP501	Vial: 2ml	4/10/73
The Theta Corp	Cocaine No. FP601	Vial: 2ml	4/10/73
The Theta Corp	Codeine No. FP102	Vial: 2ml	4/10/73
The Theta Corp	Cyclobarbital No. FP308	Vial: 2ml	4/10/73
The Theta Corp	Dihydrocodeine No. FP108	Vial: 2ml	4/10/73
The Theta Corp	Diphenoxylate No. FP205	Vial: 2ml	4/10/73
The Theta Corp	Ethchlorvynol No. FP508	Vial: 2ml	4/10/73
The Theta Corp	Ethylmorphine No. FP106	Vial: 2ml	4/10/73
The Theta Corp	FP207	Vial: 2ml	9/04/80
The Theta Corp	FP210	Vial: 2ml	5/15/84
The Theta Corp	FP214	Vial: 2ml	4/10/84
The Theta Corp	FP327	Vial: 2ml	4/10/84
The Theta Corp	FP405	Vial: 2ml	3/08/79
The Theta Corp	FP411	Vial: 2ml	5/15/84
The Theta Corp	FP412	Vial: 2ml	5/15/84
The Theta Corp	FP416	Vial: 2ml	5/15/84

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
The Theta Corp	FP512	Vial: 2ml	3/08/79
The Theta Corp	FP513	Vial: 2ml	3/08/79
The Theta Corp	FP514	Vial: 2ml	5/15/84
The Theta Corp	FP515	Vial: 2ml	3/08/79
The Theta Corp	FP556	Vial: 2ml	4/10/84
The Theta Corp	FP601A	Vial: 2ml	5/15/84
The Theta Corp	FP607	Vial: 2ml	5/15/84
The Theta Corp	FP609	Vial: 2ml	5/15/84
The Theta Corp	Fentanyl No. FP211	Vial: 2ml	4/10/73
The Theta Corp	Glutethimide No. FP404	Vial: 2ml	4/10/73
The Theta Corp	Heptabarbital No. FP309	Vial: 2ml	4/10/73
The Theta Corp	Hexabarbital No. FP303	Vial: 2ml	4/10/73
The Theta Corp	Hydrocodone No. FP107	Vial: 2ml	4/10/73
The Theta Corp	Hydromorphone No. FP103	Vial: 2ml	4/10/73
The Theta Corp	Levorphanol No. FP208	Vial: 2ml	4/10/73
The Theta Corp	Marker Mixture No. FPM-104	Vial: 2ml	4/10/73
The Theta Corp	Marker Mixture No. FPM-201	Vial: 2ml	4/10/73
The Theta Corp	Meperidine No.FP201	Vial: 2ml	4/10/73
The Theta Corp	Mephobarbital No. FP301	Vial: 2ml	4/10/73
The Theta Corp	Meprobamate No. FP402	Vial: 2ml	4/10/73
The Theta Corp	Methadone No. FP206	Vial: 2ml	4/10/73
The Theta Corp	Methamphetamine No. FP603	Vial: 2ml	4/10/73
The Theta Corp	Metharbital No. FP302	Vial: 2ml	4/10/73
The Theta Corp	Methohexital No. FP304	Vial: 2ml	4/10/73
The Theta Corp	Methylphenidate No. FP605	Vial: 2ml	4/10/73
The Theta Corp	Monthly Urine Test No. FPM-103	Vial: 2ml	4/10/73
The Theta Corp	Morphine No. FP101	Vial: 2ml	4/10/73
The Theta Corp	Oxycodone No. FP109	Vial: 2ml	4/10/73
The Theta Corp	Oxymorphone No. FP104	Vial: 2ml	4/10/73
The Theta Corp	Paraldehyde No.FP506	Vial: 2ml	4/10/73
The Theta Corp	Pentobarbital No. FP318	Vial: 2ml	4/10/73
The Theta Corp	Phenazocine No. FP213	Vial: 2ml	4/10/73
The Theta Corp	Phenmetrazine No. FP606	Vial: 2ml	4/10/73
The Theta Corp	Phenobarbital No. FP320	Vial: 2ml	4/10/73
The Theta Corp	Piminodine No. FP202	Vial: 2ml	4/10/73
The Theta Corp	Probarbital No. FP319	Vial: 2ml	4/10/73
The Theta Corp	Secobarbital No. FP310	Vial: 2ml	4/10/73
The Theta Corp.	Talbutal No. FP311	Vial: 2ml	4/10/73
The Theta Corp.	Test Mixture SM No. 1	Vial: 2ml	6/19/74
The Theta Corp.	Test Mixture SM No. 2	Vial: 2ml	6/19/74
The Theta Corp.	Test Mixture SM No. 3	Vial: 2ml	6/19/74
The Theta Corp.	Test Mixture SM No. 4	Vial: 2ml	6/19/74
The Theta Corp.	Test Mixture SP No. 1	Vial: 2ml	6/19/74
The Theta Corp.	Test Mixture SP No. 2	Vial: 2ml	6/19/74
The Theta Corp.	Test Mixture SP No. 3	Vial: 2ml	6/19/74
The Theta Corp.	Test Mixture SP No. 4	Vial: 2ml	6/19/74
The Theta Corp.	Test Mixture TM No. 1	Vial: 2ml	6/19/74
The Theta Corp.	Test Mixture TM No. 2	Vial: 2ml	6/19/74
The Theta Corp.	Thiamylal No. FP322	Vial: 2ml	4/10/73
The Theta Corp.	Thiopental No. FP321	Vial: 2ml	4/10/73
The Theta Corp.	Vinbarbital No. FP312	Vial: 2ml	4/10/73
The Theta Corp.	Weekly Urine Test (FDA) No. FPM-101	Vial: 2ml	4/10/73
The Theta Corp.	Weekly Urine Test (States) No. FPM-102	Vial: 2ml	4/10/73
Toxi-Lab, Inc.	Proficiency Sample	Plastic Bottle Containing 40 ml	6/22/82
Toxi-Lab, Inc.	Special Toxi-Discs	Plastic Vial or Bottle Containing 50 Standard Discs	3/30/77
Toxi-Lab, Inc.	Supplemental Standard Toxi-Discs No. SD-4 Catalog No. 234	Plastic Vial Containing 50 Standard Discs	6/15/88
Toxi-Lab, Inc.	Supplemental Standard Toxi-Discs No. SD-5 Catalog No. 235	Plastic vial containing 50 standard discs	6/15/88
Toxi-Lab, Inc.	Supplemental Standard Toxi-Discs No. SD-6 Catalog No. 236	Plastic vial containing 50 standard discs	6/15/88
Toxi-Lab, Inc.	Toxi-Control	Plastic Bottle Containing 50 ml	3/30/77
Toxi-Lab, Inc.	Toxi-Control THC	Plastic Bottle Containing 50 ml	10/05/83
Toxi-Lab, Inc.	Toxi-Disc A Series	Plastic Vial Containing 50 Standard Discs	5/06/75
Toxi-Lab, Inc.	Toxi-Disc B Series	Plastic Vial Containing 50 Standard Discs	5/06/75
Toxi-Lab, Inc.	Toxi-Discs Library II, No 3 Catalog No. 131C	Plastic vial containing 50 standard discs	6/15/88
Toxi-Lab, Inc.	Toxi-Discs Library II, No. 1 Catalog No. 131A	Plastic vial containing 50 standard discs	6/15/88
Toxi-Lab, Inc.	Toxi-Discs Library II, No. 10 Catalog No. 131K	Plastic vial containing 50 standard discs	6/15/88
Toxi-Lab, Inc.	Toxi-Discs Library II, No. 11 Catalog No. 131L	Plastic visal containing 50 standard discs	6/15/88
Toxi-Lab, Inc.	Toxi-Discs Library II, No. 12 Catalog No. 131M	plastic vial containing 50 standard discs	6/15/88
Toxi-Lab, Inc.	Toxi-Discs Library II, No. 2 Catalog No. 131B	Plastic vial containing 50 standard discs	6/15/88
Toxi-Lab, Inc.	Toxi-Discs Library II, No. 5 Catalog No. 131E	Plastic via containing 50 standard discs	6/15/88
Toxi-Lab, Inc.	Toxi-Discs Library II, No. 8 Catalog No. 131H	Plastic vial containing 50 standard discs	6/15/88
Toxi-Lab, Inc.	Toxi-Discs THC	Plastic Vial Containing 50 Standard Discs	10/05/83
Toxi-Lab, Inc.	Toxi-Grams	Glass Jar Containing 50 or 100 Chromatograms.	9/24/80
Toxi-Lab, Inc.	Toxi-Lab Cannabinoid (THC) Screen	Kit: 50 tests	10/05/83
Tudor Laboratories, Inc.	FPIA Phenobarbital Kit - Cat. No. 105	Kit: 100 tests	11/27/89
Tudor Laboratories, Inc.	Phenobarbital Calibrator Kit Cat. No. 205	Kit: 6 vials	11/27/89
Tudor Laboratories, Inc.	Phenobarbital Calibrators B,C,D,E,F	Vial: 4.0 ml	11/27/89
Universal Reagents, Inc.	Drug Monitoring & Toxicology No. DM 90-5, DM-62	Bottle: 10ml	10/09/90
Utak Laboratories	Toxicology Control-High Range Anticonvulsants No. 71910	Bottle: 10ml	4/14/80

EXEMPT CHEMICAL PREPARATIONS—Continued

Supplier	Product name	Form	Date
Utak Laboratories	Toxicology Control–High Range Barbiturates No. 71916	Bottle: 10ml	4/14/80
Utak Laboratories	Toxicology Control–High Range Hypnotic Plus Acetaminophem, No. 71918.	Bottle: 10ml	4/14/80
Utak Laboratories	Toxicology Control–High Range Hypnotic Plus Salicylate, No. 71920.	Bottle: 10ml	4/14/80
Utak Laboratories	Toxicology Control–Mid Range Anticonvulsants No. 71911	Bottle: 10ml	4/14/80
Utak Laboratories	Toxicology Control–Mid Range Barbiturates No. 71917	Bottle: 10ml	4/14/80
Utak Laboratories	Toxicology Control–Mid Range Hypnotic Plus Acetaminophem, No. 71919.	Bottle: 10ml	4/14/80
Utak Laboratories	Toxicology Control–Mid Range Hypnotic Plus Salicylate, No. 71921.	Bottle: 10ml	4/14/80
Utak Laboratories	Toxicology Serum Control Dried #88112	Bottle: 10ml	7/29/82
Utak Laboratories	Toxicology Serum Control Dried #88113	Bottle: 10ml	7/29/82
Utak Laboratories	Toxicology Serum Control Dried #88120	Bottle: 10ml	7/29/82
Utak Laboratories	Toxicology Serum Control–Dried Catalog Nos. 44610, 44612, 44632, 44635, 44636, 44637, 44642, 44645, 44646, 44647, 44658..	In Bottles	5/24/76
Utak Laboratories	Toxicology Urine Control Dried #88100	Bottle: 20ml	7/29/82
Utak Laboratories	Toxicology Urine Control Dried #88121	Bottle: 10ml	7/29/82
Utak Laboratories	Toxicology Urine Control–Dried Catalog Nos. 44650, 44651, 44652, 44653.	Bottle: 1 oz.	5/24/76
Ventrex Laboratories, Inc.	PTH Antiserum	Vial: 5ml	4/12/90
Ventrex Laboratories, Inc.	PTH Assay Buffer	Vial: 10ml	4/12/90
Ventrex Laboratories, Inc.	PTH Omega Radioimmunoassay Kit	Kit: 60 tests	4/12/90
Ventrex Laboratories, Inc.	PTH Second Antibody	Vial: 10ml	4/12/90
Ventrex Laboratories, Inc.	PTH Tracer Buffer	Vial: 5 ml	4/12/90
Wien Laboratories, Inc.	3H Dihydrotestosterone Cat. No. D–1916	Vial: 5.5ml	2/21/91
Wien Laboratories, Inc.	3H Epi–Testosterone Cat. No. T–1028	Vial: 5.5ml	2/21/91
Wien Laboratories, Inc.	3H Testosterone Cat. No. T–3027	Vial: 5.5ml	2/21/91
Wien Laboratories, Inc.	ANS Buffer pH 8.6 Catalog No. T–5144	Plastic Bottle: 100ml	5/14/75
Wien Laboratories, Inc.	Buffer Reagent pH 8.6 Catalog No. T–5065	Bottle: 4oz.	12/22/72
Wien Laboratories, Inc.	Coated Charcoal Suspension No. T–5077	Bottle: 4oz.	12/22/72
Wien Laboratories, Inc.	Dihydrotestosterone Standard 1ng/ml Cat. No. D–1928	Vial: 5.5ml	2/21/91
Wien Laboratories, Inc.	Epi–Testosterone Standard, 10ng/ml Cat. No. T–1016	Vial: 5.5ml	2/21/91
Wien Laboratories, Inc.	Epi–Testosterone Test Set Cat. No. TS–1010	Kit: 2 Bottles	2/21/91
Wien Laboratories, Inc.	Methamphetamine: HRP EIA Conjugate	Vial: 5ml, 10ml	6/25/90
Wien Laboratories, Inc.	T3 Buffer Reagent Catalog No. T–5156	Plastic Vial: 20ml	9/13/78
Wien Laboratories, Inc.	Testosterone Standard, 10ng/ml Cat. No. T–3039	Vial: 5.5ml	2/21/91
Wien Laboratories, Inc.	Testosterone Test Set Cat. No. TS–333	Kit: 2 Bottles	2/21/91
Windsor Laboratories, Inc.	Calibrators FPR Phenobarbital	Kit: 6 Vials	10/30/86
Windsor Laboratories, Inc.	Phenobarbital Fluorescence Polarization Immunoassay Kit	Kit: 100 tests	11/20/86

[FR Doc. 92–3722 Filed 2–14–92; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Judge Advocate General of the Navy has determined that USS ASHLAND (LSD 48) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special functions as a naval dock landing ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: January 30, 1992.

FOR FURTHER INFORMATION CONTACT: Captain R.R. Rossi, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332–2400, Telephone number: (703) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This amendment provides notice that the Judge Advocate General of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS ASHLAND (LSD 48) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Annex 1, section 3(a), pertaining to the placement of the after masthead light and the horizontal distance between the forward and after masthead lights, without interfering with its special functions as a Navy vessel. The Judge Advocate General of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements..

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and vessels.

PART 706—[Amended]

Accordingly, 32 CFR part 706 is amended as follows:

1. The authority citation for 32 CFR part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [AMENDED]

2. Table Five of Section 706.2 is amended by adding the following vessel:

TABLE FIVE

Vessel	Number	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. (3)(a)	Percentage horizontal separation attained
USS ASHLAND	LSD 48			X	64.1

Dated: January 30, 1992.

J.E. Gordon,

Rear Admiral, JAGC, U.S. Navy, Judge Advocate General.

[FR Doc. 92-3685 Filed 2-14-92; 8:45 am]

BILLING CODE 3810-01-M

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32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Judge Advocate General of the Navy has determined Large Harbor Tug YTB 833 to be a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special functions as a naval vessel. The intended effect of this rule is to war mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: January 30, 1992.

FOR FURTHER INFORMATION CONTACT: Captain R.R. ROSSI, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, telephone number: (703) 325-7944.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This amendment provides notice that the Judge Advocate General of the Navy, under authority delegated by the Secretary of the Navy, has certified that Large Harbor Tug YTB 833 is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21(c), pertaining to the location of the sternlight; rule 24(c), pertaining to the towing lights displayed by power driven vessels when pushing ahead or towing alongside; rule 27(b)(1), pertaining to the lights displayed by vessels restricted in their ability to maneuver; Annex I, Section 2(a)(i), pertaining to the height above the hull of the masthead light; and Annex I, section 3(b), pertaining to the placement of the sidelights, without interfering with its special function as a naval vessel. YTB 833 is a tug of special construction and functions. It performs towing services for naval vessels. The mast of this tug is hinged and is lowered only when actually engaged in towing alongside or pushing ships having radically flared bows or sponsoned sides and sterns. When the mast is in the lowered position, the masthead lights, and task lights mounted on this mast, cannot be displayed. During such operations only the pilot house top-mounted auxiliary masthead light, sidelights, and sternlight will be exhibited. The Judge Advocate General of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine Safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR part 706 is amended as follows:

1. The Authority citation for 32 CFR part 706 continues to read.

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

2. Table Three of § 706.2 is amended by adding the following vessel:

TABLE THREE

Vessel	Number	Masthead light arc of visibility rule 21(A)	Side lights arc of visibility rule 21(B)	Stem lights arc of visibility rule 21(C)	Side lights distance inboard of ship sides in meters annex I section 3(b)	Stem lights distance forward of stem in meters rule 21(C)	Forward anchor lights height above hull in meters annex I section 2(k)	Anchor lights relationship of aft light to forward light in meters annex I sec. 2(k)
SHABONEE	YTB 833				2.77	13.94		

3. Paragraph 14, Table Four of § 706.2 is amended by adding the following vessel:

Vessel No.	Distance in meters of Aux. masthead light below minimum required height; Annex 1 section 2(a) (i).
YTB 833	3.58

Dated: January 30, 1992.

J.E. Gordon,

Rear Admiral, JAGC, U.S. Navy, Judge Advocate General.

[FR Doc. 92-3703 Filed 2-14-92; 8:45 am]

BILLING CODE 3810-01-M

POSTAL SERVICE

39 CFR Part 111

Implementation of 125-Piece Walk-Sequence Discount for Third-Class Non-Letter Mail

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule revises Domestic Mail Manual (DMM) Chapter 6 to provide for the implementation of a 125-piece walk-sequence discount for third-class non-letter mail.

EFFECTIVE DATE: March 15, 1992.

FOR FURTHER INFORMATION CONTACT: Cheryl Beller, (202) 268-5166.

SUPPLEMENTARY INFORMATION: In a decision adopted January 6, 1992, the Governors of the United States Postal Service approved a Recommended Decision of the Postal Rate Commission recommending the establishment of rate categories and discounts for non-letter third-class mail prepared in walk sequence order and presented in quantities of at least 125 pieces per delivery route. The Board of Governors of the Postal Service ordered that these changes in rates and mail classification become effective at 12:01 a.m. on March 15, 1992. The text and procedural history of these amendments to the Domestic Mail Classification Schedule and accompanying Rate Schedules are published elsewhere in this issue.

This final rule sets forth the regulations to be published in the Domestic Mail Manual (DMM) implementing the 125-piece walk-sequence discount for third-class non-letter mail. The requirements established for this discount are the same as those previously established for the corresponding discount for 125-piece walk-sequenced second-class mail, with some minor adjustments necessitated by the differences between the two classes. The regulations set forth in this final rule will be included in DMM issue 42, effective March 15, 1992.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 5001.

2. Chapter 6 of the Domestic Mail Manual (DMM) is amended by making the following revisions:

CHAPTER 6—THIRD-CLASS MAIL

610 Rates and Fees

611 RATES

* * * * *

611.2 Bulk Rates

* * * * *

Exhibit 611.2a Summary of Third-Class Rates and Discounts. [Exhibit 611.2a is revised by the addition of a new line of text after "Carrier Route," under the heading "Discounts" and the subheading "Presort." This new line consists of the following entries, from left to right, in the seven columns of the Exhibit:]

125pc.W/S——$0.096 $0.096——$0.047 $0.047

* * * * *

611.22 Rate Structure

* * * * *

611.222 Postage Discounts and Reductions. * * *

a. Presort. * * *

* * * * *

(3) Saturation walk-sequencing (see 624.8), for saturation quantities of mail per carrier route prepared in delivery sequence.

(4) 125-piece walk-sequencing (see 624.8), for quantities of at least 125 pieces of other-than-letter category mail per carrier route prepared in delivery sequence.

* * * * *

620 Classification

* * * * *

624 CONDITIONS FOR SPECIFIC BULK RATE PREPARATION LEVELS

* * * * *

624.8 Walk-Sequence Discounts

624.81 General Eligibility Requirements

624.811 Eligibility

[The first sentence of current 624.811. is replaced with the following:] The saturation walk-sequence discount (available for both letter and other-than-letter category mail) and the 125-piece walk-sequence discount (available only for other-than-letter category mail) are available to mail sorted to carrier routes (see 641.4), arranged within each route in delivery sequence, and prepared to meet the specific requirements of 624.82 through 624.88 that apply to the particular discount claimed.

* * * * *

624.83 Addressing

624.831 Saturation Walk-Sequence Discount

Pieces for which the saturation walk-sequence discount is claimed must be addressed as follows:

[Text of existing 624.83a-c.]

624.832 125-Piece Walk-Sequence Discount

Each piece for which the 125-piece walk-sequence discount is claimed must bear either a complete delivery address or an alternative form of address as provided by 122.42 or 122.43.

624.84 Density

* * * * *

624.843 Per Carrier Route—125-Piece Walk-Sequence Discount

At least 125-piece walk-sequenced addressed pieces must be prepared for each carrier route receiving mail for which the 125-piece walk-sequence discount is claimed. Mail for carrier routes have 124 or fewer possible deliveries may qualify for the 125-piece walk-sequence discount if a piece is addressed to every possible delivery on the corresponding route, or for the saturation walk-sequence discount if the requirement in 624.844 are met. The term "carrier route" is explained in 624.811.

624.844 Per Carrier Route—Saturation Walk-Sequence Discount

a. Except as provided in 624.844b, pieces for which the saturation walk-sequence discount is claimed must be addressed to either 90% or more of the active residential addresses or 75% or more of the total number of active possible delivery addresses, whichever is less, on each carrier route receiving saturation walk-sequence discount mail. The term "carrier route" is explained in 624.811.

b. [Text of existing 624.843b]

624.845 Multiple Copies or Pieces per Address

[Replace "624.843" with "either 624.843 or 624.844, as applicable."]

624.846 Pieces Per Sack

Sacks containing fewer than 125 pieces and less than 15 pounds of pieces may be prepared to a carrier route when a walk-sequence discount is claimed for contents and the applicable density requirements of 624.843 or 624.844 are met.

* * * * *

624.88 Documentation

624.881 General

Mailers who prepare mailings for which a walk-sequence discount is claimed must provide documentation in accordance with 624.882 through 624.885 to substantiate compliance with the applicable eligibility requirements for the walk-sequence discount. The required documentation required by 624.882 through 624.884 must be submitted with each mailing at the time of mailing.

[Existing 624.882–624.884 is renumbered as 624.883–624.885, and revised to read as follows:]

624.882 Density—125-Piece Walk-Sequence Discount

For each carrier route receiving pieces for which the 125-piece walk-sequence discount is claimed, the mailer must provide documentation to indicate the total number of delivery stops to which mailpieces in the mailing are addressed.

624.883 Density Requirement—Saturation Walk-Sequence Discount

a. Mailers must be able to document compliance with 624.844 for each carrier route receiving mail for which the saturation walk-sequence discount is claimed. (The term "carrier route" is explained in 624.811.) This documentation must show either the total number of active possible residential deliveries and the number and percentage to which mailpieces in the mailing are addressed, or the total number of active possible deliveries and the number and percentage to which mailpieces in the mailing are addressed, depending on whether qualification is based on the 90% or 75% criterion, respectively. The documentation must be listed by 5-digit ZIP Code and, within each, by carrier route (see Exhibit 624.883).

b. [Text of exiting 624.882b.]

[Exhibit 624.882 is redesignated as Exhibit 624.883.]

624.884 Combination Rate Mailings

a. Both Walk-Sequence Discounts. If a mailing contains pieces for which the 125-piece walk-sequence discount is claimed and other pieces for which the saturation walk-sequence discount is claimed, the documentation required by 624.882 and 624.883 can be combined. Entries for pieces for which the 125-piece walk-sequence discount is claimed must be annoted on the documentation. For the entire mailing, a summary of the total number of pieces for which each walk-sequence discount is claimed must be provided.

b. Carrier Route Presort Rate. [The first sentence of current 624.883 is replaced with the following:] If a mailing contains pieces for which a walk-sequence discount is claimed and other pieces for which the carrier route presort rate is claimed, in addition to the documentation required for the walk-sequence discount mail (by 624.882, 624.883, and 624.884a, if applicable), the documentation for the carrier route presort rate mail must show the total number of addressed pieces for each carrier route that qualifies for the carrier route presort rate and the number qualifying for the walk-sequence discount. (The term "carrier route" is explained in 624.811.)

624.885 Documentation of Accurate Sequencing or Delivery Statistics

[Text of existing 624.884.]

Stanley F. Mires,

Assistant General Counsel, Legislative Division.

[FR Doc. 92–3754 Filed 2–14–92; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 4103–4]

40 CFR Parts 264 and 265

Wood Preserving; Standards and Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

AGENCY: Environmental Protection Agency.

ACTION: Administrative stay.

SUMMARY: The Environmental Protection Agency is today announcing an administrative stay of the requirements for drip pad coatings, sealers, or covers for existing drip pads at wood preserving plants. The effect of the stay is to extend the effective date of coating, sealer, or cover requirements for existing drip pads until October 30, 1992.

EFFECTIVE DATE: February 6, 1992.

ADDRESSES: The official record for this administrative stay is identified as Docket Number F–92–DPAS–FFFFF and is located in the EPA RCRA Docket, room M2427, 401 M Street, SW., Washington, DC 20460. The public must make an appointment in order to review docket materials by calling (202) 260–9327. The docket is available for inspection from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. The public may copy material from any regulatory docket at a cost of $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information contact the RCRA Hotline, toll free at (800) 424–9346, or at (202) 382–3000. For technical information concerning this notice, contact David J. Carver, Office of Solid Waste (OS–333), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260–6775.

SUPPLEMENTARY INFORMATION: The contents of today's notice are listed in the following outline:

I. Background
II. Appropriate Effective Date For Drip Pad Surface Standards
III. Agency Action
IV. Effects On State Authorization
V. Paperwork Reduction Act

I. Background

On December 6, 1990, EPA promulgated regulations listing as hazardous various wastes generated from wood preserving processes that use chlorophenolic, creosote, and/or inorganic (arsenical and chromium) preservatives (55 FR 50450 (Dec. 6, 1990), adding hazardous wastes F032, F034, and F035 to the lists of hazardous wastes in 40 CFR 261.31).

In addition, and of particular relevance for the present notice, the Agency promulgated standards for drip pads, a new type of waste management unit (55 FR 50484–89, adding a new subpart W to parts 264 and 265 of the regulations). Drip pads receive drippage from treated wood immediately after the wood is removed from the treatment vessel. The standards vary somewhat for new and existing drip pads.

Because the December 6, 1990 rule was promulgated partially pursuant to the Hazardous and Solid Waste Amendments of 1984 (HSWA) and partially pursuant to preexisting authorities, the requirements take effect at different times in different states. As a HSWA rule, the F032 listing of various residues from wood preserving processes using, or that previously used, chlorophenolic formulations took effect on June 6, 1991 in authorized and unauthorized States (55 FR 59469–70 and RCRA section 3001 (e)). Drip pads used in connection with F032 wastes were likewise subject to the subpart W standards on June 6, 1991 in all States

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(*Id.* at 50470). The F034 and F035 listings and related management standards do not take effect immediately in authorized states since they were not adopted pursuant to HSWA (*Id.*).

On June 13, 1991, the Agency published a conditional administrative stay of the F032, F034, and F035 listings in the **Federal Register** (see 56 FR at 27332). Elements of the final rule which are subject to that stay are the following:

- Effective Date of June 6, 1991 in the rule;
- F032, F034, and F035 listing in the process area until a new effective date is established;
- Requirement for impermeably sealed or coated surfaces for new drip pads until further administrative action is taken;
- Applicability of F032 to previous users of pentachlorophenol provided that they are regulated as F034 or F035 until further administrative action is taken;
- Applicability of F032, F034, and F035 wastewaters that do not contact listed process wastes until further administrative action is taken.

With regard to the June 13, 1991 stay, the **Federal Register** (56 FR 27333) stated that a facility must adhere to the following conditions in order to comply with the stay:

(1) By August 6, 1991, a facility must notify proper authorities of its intent to either install or upgrade a drip pad, or cease operations by August 6, 1991. If a facility intends to cease operations, then it is required to do so by August 7, 1991.

(2) By November 6, 1991, a facility must provide evidence of *bona fide* efforts to comply with its earlier stated intent;

(3) Complete any upgrades to existing pads by February 6, 1992; and

(4) Complete installation of new pads by May 6, 1992.

Subsequently, the Agency published a notice in the **Federal Register** on December 5, 1991, that proposed to modify, among other items, the standards for existing drip pad coatings, sealers, or covers (see 56 FR at 63851).

II. Appropriate Effective Date for Drip Pad Surface Standards

The only issue addressed in the present notice concerns the appropriate effective date for drip pad coating, sealer, or cover standards for existing drip pads. Because the Agency does not anticipate promulgating final modified standards for existing drip pad coatings, sealer, or covers before the February 6, 1992 deadline for compliance with the existing drip pad standards, the Agency believes that it is not practicable to maintain the previous requirement that existing drip pads have impermeable surfaces.

The Agency recognized in the December 5, 1991, proposed rulemaking that the requirements for "impermeable" surfaces for drip pads were impracticable and proposed at that time to modify those standards (see 56 at 63851). The February 6, 1992, deadline for compliance with existing drip pad standards would, therefore, require compliance with impracticable surface coating, sealer, or cover standards prior to final Agency action on the December 5, 1991 proposed rule.

III. Agency Action

A. EPA has determined to issue an administrative stay of the "impermeability" requirement for drip pad surfaces (§ 264.573(a)(4) and § 265.443(a)(4)) until October 30, 1992. The requirements that drip pads be installed and their surfaces be maintained crack-free are not changed by this stay. Thus, substantial containment of drippage from treated wood will continue.

B. EPA is issuing this administrative stay pursuant to 5 U.S.C. 705 which provides that an agency may postpone the effective date of action taken by it when justice so requires, pending judicial review.[1] Today's action is particularly appropriate in light of the proposed amendments to these specific drip pad standards in the pending December 5, 1991 proposed rule. The Agency consequently finds that issuing this stay is in the interests of justice.[2]

IV. Effects on State Authorization

The effects of this administrative stay depend largely on whether the facility is managing a wood preserving waste identified by a HSWA-based listing (i.e., the F032 wastes), as opposed to the newly listed wastes (F034 and F035) for which the listing determinations were based on pre-HSWA authority.

As explained earlier, EPA considers that both the F032 listing and the new subpart W drip pad standards (when applied to the management of F032 wastes) are based on HSWA authority. As EPA explained in the December 6, 1990 notice (see 55 FR 50469), the HSWA-based F032 listing and related subpart W facility standards take effect simultaneously in all States, regardless of their authorization status. With respect to these HSWA-based requirements, the effect of this administrative stay is to defer in all States EPA's implementation and enforcement of the impermeability requirement for existing drip pads beyond October 30, 1992. However, the listings and other subpart W requirements will be in effect for existing pads on February 6, 1992 and new drip pad requirements will be in effect on May 6, 1992. According to the schedule for state program revisions contained in 40 CFR 271.21(e), the December 6, 1990 Wood Preserving Rule is subject to a July 1, 1992 deadline (July 1, 1993 if a statutory change is required) for States to modify their hazardous waste programs and thereafter seek approval from EPA for the program revision. Since this administrative stay would not extend any effective date beyond October 30, 1992, EPA considers it unlikely that any State will have received approval from EPA to implement the December 6, 1990 regulation under RCRA authority with earlier or more stringent effective dates than those set out in this stay or in previous actions. Nevertheless, States may modify their hazardous waste programs to adopt the Wood Preserving Rule in the interim. While EPA encourages States to follow the deferred effective date announced in this stay, states may elect to implement the Rule with effective dates earlier than that imposed under this stay, as a matter of State law.

In the case of facilities managing F034 and F035 wastes, the effect of the stay depends on whether the facility is located in an authorized or unauthorized State. The F034 and F035 listing determinations were promulgated pursuant to pre-HSWA authority, and EPA considers the subpart W drip pad standards that govern the management of F034 and F035 wood preserving wastes to also be based on pre-HSWA authority. According to the December 6, 1990 Rule notice, these waste listings and facility standards would have been effective on June 6, 1991 only in those states that are not authorized for any part of RCRA. EPA implements the RCRA program in unauthorized States, and the effect of this stay will be to defer EPA's implementation and enforcement of the impermeability requirement for existing drip pads at facilities managing F034 or F035 wastes until October 30, 1992.

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[1] The American Wood Preservers Institute (AWPI) has filed a petition for review of the December 6 rule.

[2] Although the Agency does not regard today's action as a rule, were it to be viewed as a rule the Agency believes that there is good cause for issuing it without prior notice and opportunity for comment and for making it immediately effective. This is borne out by the pending compliance date, the pending proposal to amend the impermeability requirement for existing drip pads, and the infeasibility of compliance for a substantial number of facilities.

In authorized States, the pre-HSWA basis for the F034 and F035 listings (and related subpart W drip ad standards) means that these requirements cannot be implemented as RCRA requirements until the State has adopted the necessary program modifications and obtained approval for the necessary program modifications and obtained approval for the revisions from EPA. The modification schedule in 40 CFR 271.20(e) requires that States modify their programs by July 1, 1992 (July 1, 1993 if a statutory change is required) to adopt this regulation and thereafter seek approval of the revisions from EPA. Since the stay does not extend any effective date beyond October 30, 1992, it is unlikely that States will become authorized for the F034 and F035 listings and facility standards before the deferred effective date in this stay have passed. However, facilities in both authorized states and unauthorized states should understand that states may adopt and implement wood preserving regulations as a matter of state law, prior to obtaining EPA approval. While EPA strongly encourages States to follow the deferred effective dates announced in this stay, States may elect to adopt wood preserving waste regulations with more stringent (e.g., earlier) effective dates than those announced in this administrative stay.

V. Paperwork Reduction Act

There are no information collection requirements associated with this action.

List of Subjects in 40 CFR parts 264 and 265

Hazardous waste, Packaging and Containers, and Reporting and recordkeeping requirements.

Dated: February 6, 1992.

Henry F. Habicht II,

Acting Administrator.

For the reasons set out in the preamble title 40 of the Code of Federal Regulations is amended as follows:

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

1. The authority citation for part 264 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, and 6925.

2. Section 264.573 is amended by revising paragraph (a)(4) to read as follows:

§ 264.573 Design and operating requirements.

(a) * * *

(4) Be impermeable, e.g., concrete pads must be sealed, coated, or covered with an impermeable material such that the entire surface where drippage occurs or may run across is capable of containing such drippage and mixtures of drippage and precipitation, materials, or other wastes while being routed to an associated collection system.

Note: The requirement that existing drip pads be impermeable, e.g., that drip pads be sealed, coated, or covered, with an impermeable material is administratively stayed. The stay will remain in effect until October 30, 1992.

* * * * *

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

3. The authority citation for part 265 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, 6925 and 6935.

4. Section 265.443 is amended by revising paragraph (a)(4) to read as follows:

§ 265.443 Design and operating requirements.

(a) * * *

(4) Be impermeable, e.g., concrete pads must be sealed, coated, or covered with an impermeable material such that the entire surface where drippage occurs or may run across is capable of containing such drippage and mixtures of drippage and precipitation, materials, or other wastes while being routed to an associated collection system.

Note: The requirement that existing drip pads be impermeable, e.g., that drip pads be sealed, coated, or covered with an impermeable material is administratively stayed. The stay will remain in effect until October 30, 1992.

Note: The requirement that new drip pads be impermeable, e.g., that new drip pads be sealed, coated, or covered with an impermeable material is administratively stayed. The stay will remain in effect until further administrative action is taken.

* * * * *

[FR Doc. 92-3504 Filed 2-14-92; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 91-128; RM-7694]

Radio Broadcasting Services; Holbrook, AZ

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 221C1 for Channel 221A at Holbrook, Arizona, and modifies the permit for Station KZUA(FM) to specify operation on the higher powered channel, as requested by Navajo Broadcasting Company, Incorporated. See 56 FR 21465, May 9, 1991. Coordinates for Channel 221C1 at Holbrook are 34-54-12 and 110-09-48. With this action, the proceeding is terminated.

EFFECTIVE DATE: March 27, 1992.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 91-128, adopted February 3, 1992, and released February 11, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by removing Channel 221A and adding Channel 221C1 at Holbrook.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-3747 Filed 2-14-92; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-402; RM-6903, RM-7012]

Radio Broadcasting Services; Virginia City, NE, and South Lake Tahoe, Sutter Creek and Quincy, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Emerald Broadcasting Company, substitutes Channel 275C for Channel 275C2 at South Lake Tahoe, California, modifies the license of Station KZFF (formerly KTHO-FM) to specify the higher class channel, substitutes Channel 240A for Channel 276A at Quincy, California, and modifies Station KNLF's construction permit to specify the alternate Class A channel (RM-7012). See 54 FR 39210, September 25, 1989. Channel 275C can be allotted to South Lake Tahoe in compliance with the Commission's minimum distance separation requirements with a site restriction of 24.9 kilometers (15.5 miles) north to accommodate Emerald's desired transmitter site, at coordinates 39-09-15 and 119-52-55. Channel 240A can be allotted to Quincy at the coordinates specified in Station KNLF's outstanding construction permit, which are 39-58-03 and 120-53-34. The request of Denise Neubauer to allot Channel 273C3 to Virginia City, Nevada, is denied because the allotment could not provide the community with the required 70 dBu city-grade signal (RM-6903). With this action, this proceeding is terminated.

EFFECTIVE DATE: March 27, 1992.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-402, adopted January 27, 1992, and released February 11, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under California, is amended by removing Channel 276A and adding Channel 240A at Quincy, and removing Channel 275C2 and adding Channel 275C at South Lake Tahoe.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-3748 Filed 2-14-92; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 91-132; RM-7692 and RM-7764]

Radio Broadcasting Services; Birnamwood and Neenah-Menasha, WI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 232C3 for Channel 232A at Neenah-Menasha, Wisconsin, and modifies the license for Station WROE to specify operation on the higher class channel in response to a petition filed by Fox Valley Broadcasting, Inc. See 56 FR 21651, May 10, 1991. The coordinates for Channel 232C3 are 44-19-00 and 88-33-00. In response to a counterproposal filed by Birnamwood Broadcasting Company, we shall allot Channel 225A to Birnamwood, Wisconsin, as that community's first local service. Channel 225A is site restricted 7.6 kilometers (4.7 miles) northwest of Birnamwood at coordinates 44-59-11 and 89-15-30. With this action, this proceeding is terminated.

EFFECTIVE DATE: March 27, 1992. The window period for filing applications for Channel 225A, Birnamwood, Wisconsin, will open on March 30, 1992, and close on April 29, 1992.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 91-132, adopted February 3, 1992, and released February 11, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1714 21st Street, NW., Washington, DC 20036, (202) 452-1422.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Wisconsin, is amended by removing Channel 232A and adding Channel 232C3 at Neenah-Menasha, and by adding Channel 225A, Birnamwood.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-3749 Filed 2-14-92; 8:45 am]

BILLING CODE 6712-01-M

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 515 and 538

[Acquisition Circular AC-92-1]

General Services Administration Acquisition Regulation; Pilot Test Under Multiple Award Schedule Program

AGENCY: Office of Acquisition Policy, General Services Administration (GSA).

ACTION: Temporary rule.

SUMMARY: The General Services Administration Acquisiton Regulation (GSAR) is temporarily amended to provide for a test of a revised Discount Schedule and Marketing Data (DSMD) format and restated price negotiation objectives in up to five solicitations under the Multiple Award Schedule (MAS) Program. For purposes of evaluating the revised documents, the GSAR provides for the use of questionnaires, to be completed by offerors under the test.

DATES: Effective Date: February 18, 1992; Expiration Date: February 17, 1993.

FOR FURTHER INFORMATION CONTACT: Les Davison, Office of GSA Acquisiton Policy, (202) 501-4768.

SUPPLEMENTARY INFORMATION:

A. Public Comments

A notice of proposed rulemaking was pubished in the **Federal Register** on November 7, 1991 (56 FR 56956). Public comments were received from 12 entities, including industry associations and MAS contractors. Comments received were fully considered and, where appropriate, incorporated in this temporary rule. The following significant changes were made in response to comments received on the proposed rule:

1. The statement of negotiation objectives was restated to make it clear that while the Government will negotiate for an offeror's best discounts, it recognizes that there are circumstances, such as, where the contractual relationships are not comparable, when the best discounts may not be achieved.

2. Firms which do not offer the Government their best discount will not be required to disclose all discounts which are better than those offered to the Government. Rather, such offerors must identify all customers or categories of customers that receives discounts equal to or greater than the discount offered to the Government. Offerors must disclose the best discount given to each customer or category of customer identifed.

3. For purposes of disclosing sales information, the term "published discount" has been expanded to include "established discounts".

4. To improve the validity of the test results, offerors will be asked to complete questionnaires evaluating the DSMD twice; once when they submit their initial offer and again after final disposition of the offer.

B. Executive Order 12291

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The exemption applies to this final rule.

C. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the GSA certifies that the rule will not have a significant impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis has not been prepared. GSA did not receive any comments from small entities in response to the notice of proposed rulemaking.

D. Paperwork Reduction Act

The DSMD and offeror questionnaires are information collections which have been approved by OMB under section 3504(h) of the Paperwork Reduction Act and have been assigned OMB Control Number 3090–0253. The title of the information collection is "Pilot test of revised DSMD format used in MAS program." The DSMD require disclosure of certain sales information on a sampling of items which have an established catalog price, and pricing information on all items offered to the Government in response to an MAS soliciation. Information required to be submitted on the DSMD includes sales to Government and non-Government customers; the highest discounts for various commercial customers or categories of customers; and information on an offeror's marketing practices. Under the MAS program, offerors responding to a MAS solicitation are requested to provide DSMD in a specific format. The DSMD is used to determine whether to grant an exemption from cost or pricing data based on catalog price, to establish the Government's negotiation objectives, and to determine price reasonableness.

GSA will conduct a limited test usage of the revised DSMD. The test should uncover unforeseen problems arising from use of the revised DSMD, evaluate whether offers received are accurate and complete and whether offerors' data disclosure requirements are actually lessened. The test will involve no more than five MAS solicitations, which are not expected to produce more than 300 offers. In addition to incorporating the revised DSMD into the solicitations, the test will include questionnaires to be completed by offerors. The responses to the questionnaires will be used to evaluate the impact and efficacy of the revised DSMD. The estimated annual burden for the DSMD is 3,900 hours. This is based on an estimated average burden per response of 13 hours, a frequency of one response per respondent, and an estimated number of likely respondents of 300. The estimated annual burden for the questionnaire is 600 hours. This is based on an estimated average burden per response of 1 hour, a frequency of two responses per respondent, and an estimated number of likely respndents of 300.

Any comments concerning the accuracy of this burden may be directed to the Director, Office of GSA Acquisition Policy (VP), 18th & F Streets, NW., room 4026, Washington, DC and to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Washington, DC 20503.

List of Subjects in 48 CFR Parts 515 and 538

Government procurement.

PARTS 515 AND 538—[AMENDED]

Accordingly, 48 CFR parts 515 and 538 are amended as follows:

1. The authority citation for 48 CFR parts 515 and 538 continues to read as follows:

Authority: 40 U.S.C. 486(c).

2. 48 CFR parts 515 and 538 are amended by the following Acquisition Circular:

GENERAL SERVICES ADMINISTRATION
Washington, DC 20405

General Services Administration Acquisition Regulation Acquisition Circular (AC–92–1)

To: All GSA contracting activities.
Subject: Pilot test of revised Discount Schedule and Marketing Data (DSMD) format used in Multiple Award Schedule (MAS) Program

1. *Purpose.* This Acquisition Circular temporarily amends the General Services Administration Acquisition Regulation (GSAR) chapter 5 (APD 2800.12A) to pilot test a revised Discount Schedule and Marketing Data (DSMD) format in a maximum of five solicitations under the Multiple Award Schedule Program. This Circular also provides for a questionnaire to be completed by offerors which participate in the test. GSA will use the questionnaire responses in evaluating the results of the pilot test.

2. *Background.* a. Under the MAS program, GSA collects discount, pricing and sales information from offerors as currently prescribed in the Multiple Award Schedule Policy Statement of October 1, 1982 (47 FR 50242, November 5, 1982). The policy statement requires an offeror, when responding to a MAS solicitation, to provide the information in a specific format known as DSMD. The DSMD is used by the contracting officer to determine whether to grant an exemption from cost or pricing data based on catalog price, to establish the Government's negotiation objectives, and to determine price reasonableness.

b. As a part of the MAS Improvement Project, GSA drafted a restatement of MAS price negotiation objectives and revised the DSMD. These documents will be tested in several MAS solicitations. The following portions of the 1982 MAS policy statement will *not* apply to the test solicitations:

(1) Section II, Policy Statement on Multiple Award Schedule.

(2) Paragraph D, Section IV, MAS Pricing Guide.

(3) Discount Schedule and Marketing Data Sheets.

Those portions of the 1982 MAS Policy Statement not cited above remain in effect for test solicitations.

c. The following policies apply to test solicitations:

(1) The Government will seek to obtain an offeror's best discounts recognizing, however, that there are circumstances, such as where the contractual relationships are not comparable, when the best discount may not be achieved.

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(2) The contracting officer is solely responsible for establishing negotiation objectives.

(3) The contracting officer will establish negotiation objectives based on a review of all relevant data, including information provided by the offeror and other information reasonably available to the Government.

(4) The contracting officer will consider the terms and conditions of the offeror's written and oral agreements with customers, other than the Federal Government, in establishing negotiation objectives.

(5) The contracting officer will not award a contract for a discount which is less than the best discount the offeror extends to any non-Federal customer purchasing under circumstances comparable to the Government, unless he/she makes a written determination that (a) the prices offered to the Government are fair and reasonable, even though comparable discounts were not negotiated, and (b) award of a contract is otherwise in the best interest of the Government.

(6) To determine whether a customer's procurement circumstances are comparable to those of the Government, the contracting officer will consider the terms and conditions of the offeror's written and/or oral agreements with customers, other than GSA, which agreements are for the delivery, over a period of time, of items whose estimated quantity/value approximates that of the potential contract under the GSA solicitation. In analyzing the agreements, the contracting officer will consider whether any ancillary services (e.g. training, maintenance, etc.) which the offeror must perform for the non-GSA customer are similar to those it must perform under the MAS contract, and whether the terms and conditions of the non-GSA customer agreement are significantly different from those of the MAS contract.

(7) Unless the requirement is waived, or unless an individual or class exemption is authorized, the contracting officer will request cost or pricing data, in accordance with FAR Subpart 15.8 and the terms of the solicitation, from offerors which do not qualify for the statutory exemption from submission of cost or pricing data. The contracting officer will evaluate all cost and/or pricing data received and negotiate a fair and reasonable price based on that evaluation and her/his price analysis.

(8) Before awarding any MAS contract, the contracting officer will determine that prices are fair and reasonable in accordance with FAR Subparts 15.8 and 15.9.

d. GSA revised the DSMD to ensure that MAS offers received contain accurate and complete information and that offerors submit the minimum amount of data necessary for contracting officers to fully evaluate MAS offers. GSA focused on clarifying and simplifying the data submission requirements, and decreasing the amount of data required from offerors. The MAS Program Coordinator will designate the solicitations to be used in the test. GSA will use the results of the pilot test to decide whether to adopt the revised DSMD for systemwide use in the MAS program.

3. *Effective date.* February 18, 1992.

4. *Expiration date.* February 17, 1993.

5. *Reference to regulation.* 48 CFR chapter 5.

6. *Explanation of changes.*

a. Section 515.804–3 is amended to add paragraph (c) to read as follows:

515.804–3 Exemption from or waiver of submission of certified cost or pricing data.

* * * * *

(c) The Discount Schedule and Marketing Data (DSMD) format at GSAR 515.804–70 shall be used in lieu of the Standard Form 1412, Claim for Exemption from Submission of Certified Cost or Pricing Data, in Multiple Award Schedule solicitations identified by the GSA MAS Program Coordinator for inclusion in the pilot test of the revised DSMD. Each solicitation will require that DSMD's be completed for each special item number in the solicitation and be submitted as a part of the offeror's proposal.

b. Section 515.804–70 is added to read as follows:

515.804–70 Format for Discount Schedule and Marketing Data (DSMD).

(a) As prescribed in GSAR 515.804–3(c), the contracting officer shall insert the following format for collecting the Discount Schedule and Marketing Data and the Guide for Submission of Discount Schedule and Marketing Data at Table 515–70 below, in MAS solicitations identified by the GSA MAS Program Coordinator for inclusion in the pilot test of the revised DSMD format:

Discount Schedule and Marketing Data Format

Instructions necessary to complete the Discount Schedule and Marketing Data format are contained in Table 515–70 Guide For Submission of Discount Schedule and Marketing Data (DSMD) of the General Services Administration Acquisition Regulation (GSAR). The Guide is included in this solicitation for your convenience.

The Government will treat all information which the offeror submits on the DSMD as proprietary.

The Government may reject your offer if you fail to disclose accurate, complete and current data in the DSMD. If the Government discovers subsequent to contract award that information in the DSMD was not accurate, complete or current, the Government may seek refunds and other relief pursuant to the defective pricing provisions of the contract.

Contents

Part A. Offer to the Government

Part A. Sections I and II, ask for specific information about the terms of your offer to the Government.

Part B. Discount and Marketing Practices

Part B. Sections I and II, ask for information about the offeror's discount and marketing practices to all customers (other than Federal agencies) acquiring the same products or services offered under this solicitation.

Part C. Sales Information

Part C, Sections I through III, ask for information about the offeror's sales volume to Government and non-Government customers, respectively.

Part D. Certification

Part D requires the offeror to certify to the accuracy, currency and completeness of information submitted in Parts A–C.

Name of Offeror ______________________________

SIN ______________________________

Part A—Offer to the Government

(See Guide for Submission of DSMD, Section III)

Section I

1. Is the Government offered concessions in this offer which are not granted to other customers? Yes_____ No_____ (If "Yes", provide details below.)

a. Extended warranty? Yes_____ No_____

(See GSAR clause 552.246–17). Attach a copy of your standard commercial warranty or specify where it is found in your catalog or price list included with this offer.

b. Return/Exchange goods policy? Yes_____ No_____

c. Enhanced or additional services? Yes_____ No_____

d. Any other concession? Yes_____ No_____

Provide details about concessions offered above.

____

____

____

2. Respond if the offeror is a dealer or distributor. Will the offeror, if awarded a contract pursuant to this solicitation:

a. Operate a Warehouse in which items covered by this solicitation are stocked? Yes_____ No_____

b. Process purchase orders? Yes_____ No_____

c. Provide training? Yes_____ No_____

d. Provide Installation? Yes_____ No_____

3. Respond if the offeror will use participating dealers to perform any aspect of a contract awarded pursuant to this solicitation. Will the participating dealers perform any function listed below?

a. Operate a warehouse in which terms covered by the contract are stocked? Yes_____ No_____

b. Process Purchase Orders? Yes _____ No _____

c. Provide Training? Yes_____ No_____

d. Provide Installation?Yes_____ No_____

e. Other? (Please specify) Yes _____ No _____

____

____

____

4. Do you offer any items identical to those contained in this offer to GSA under any other schedule contract? Yes _____ No _____ (If "Yes" identify the item, contract, and schedule if applicable.)

____

____

____

5. What are the total estimated sales under a GSA contract under this schedule (if one is awarded) for all models/types or catalog numbers offered under this SIN?
$______

Section II

(All discounts which you offer the Government must be based on delivery FOB [contracting officer fill in blank].

1. Identify the price list from which discounts are offered. Specify the type or title and date of the price list; attach a copy of the price list.

2. What is (are) the discount(s) offered to the government under this solicitation?

3. Are any of the following other discounts offered? Yes ______ No ______. If "yes", enter the amount in the appropriate blanks. These discounts will be taken by the Government, in addition to the discounts offered in response to Question 2.

a. Prompt Payment Discount? (See GSAR Provision 552.232–8 and FAR clause 52.232–25)

b. Quantity/dollar volume discounts?

(i) Can models/products be combined within this SIN in order to earn these discounts? Yes ______ No ______. If "yes", provide details:

(ii) Can SIN's be combined in order to earn the quantity discounts? Yes ______ No ______. If "Yes", provide details.

c. Blanket purchase agreements discounts?

d. Purchase option credits?

e. Other discounts?

Part B—Discount and Marketing Practices

Part B seeks information about the offeror's discount and marketing practices to customers (other than Federal agencies) acquiring the same items offered under this solicitation. All offerors must complete Sections I and II.

Section I

1. Are the discounts which you offer the Government equal to or better than your best discount to any customer, regardless of quantity? Yes ______ No ______.

a. If "Yes," provide information on your best discount and the customer receiving that discount in the chart below. (Disregard question 2, below.)

b. If "No," continue on to question 2, below.

2. Complete the chart below for all customers or categories of customers (1) to which you sell at a discount which equals or exceeds the discounts offered to the Government or (2) with which you have an agreement to sell at a discount which equals or exceeds the discounts offered to the Government.

a. Column 1—Identify the applicable customer or category of customer. (Use a separate line for each customer or category of customer.)

b. Column 2—Indicate the best discount at which you sell, regardless of quantity, to the customer or category of customer identified in Column 1.

c. Column 3—Insert the quantity or sales volume which the identified customer must purchase/order to earn the discount.

d. Column 4—Indicate the FOB delivery term for each identified customer. (See FAR Subpart 47.3 for an explanation of FOB delivery terms.)

3. Discount chart (See Guide for Submission of DSMD, section IV)

Column 1 customer	Column 2 discount	Column 3 quantity/volume	Column 4 FOB term

4. Identify the price lists which are the basis for the discounts given to the customers identified in the chart above. Specify the type or title and date of each price list.

5. If the discounts extended to the Government in this offer are less than the discounts shown above, explain the reasons for any differences.

Note: The contracting officer may require submission of copies of some or all of the contracts/agreements with the customers identified above.

Section II—Additional Discounts and Concessions

1. Do you offer any customer identified in part B, section I, a discount which would further reduce their price, and which has not previously been disclosed? Yes ______ No ______. If "Yes," in the space below, disclose the circumstances under which these discounts are given and the range of discounts given. (See Guide for Submission of DSMD, IV, 5)

2. Do you grant any customer identified in part B, section I, any concessions which are not herein offered to the government? Yes ______ No ______. (If "Yes," indicate the type of concessions below and provide details.)

a. Extended warranty? Yes ______ No ______.

b. Return/Exchange goods policy? Yes ______ No ______.

c. Bonus Goods? Yes ______ No ______.

d. Free or additional training, installation, or other services? Yes ______ No ______.

e. Any other concessions? Yes ______ No ______.

Part C—Sales Information

(See Guide for Submission of DSMD, Section V)

The contracting officer will use the information in this part C to determine whether the items offered qualify for an exemption from the requirement to submit cost or pricing data. Items which have an "established catalog price," as defined by FAR 15.804–3 (c) and (f), will be exempted from the requirement to submit cost or pricing data. Items which meet the FAR definition are regarded as commercial items.

Sales information below is given for the period ______ through ______, inclusive (insert dates).

Sales Information (Total SIN)

1. Total sales to the U.S. Government for all models/types or catalog numbers offered under this SIN were $______.

2. Total sales to all entities (including the Government) with whom you did business for all models/types or catalog numbers offered under this SIN were: $______.

3. Line is 1 ______ percent (%) of line 2.

4. List below all models/types or catalog numbers offered under this SIN which do not have an "established catalog price" as defined by FAR 15.804–3 (c) and (f), and which do have total sales to the U.S. Government of $100,000 or more:

5. List below the [contracting officer fill in the blank] models/types or catalog numbers offered under this SIN with the largest dollar volume sales to the U.S. Government. Do not include any models listed in response to question 4, above.

6. Complete the chart below for each model listed in question 5:

Column O—Model Type or Catalog Number.

Column A—Total Sales to the U.S. Government.

Column B—Total Sales to non-Government customers at catalog price (minus any published or established discounts).

Column C—Total sales to non-Government customers at other than catalog price.

Column D—Total sales (D=A+B+C).

Column E—Percentage of sales to non-Government customers at other than catalog price (minus any published discounts).

$$E=\frac{C}{(B+C)}$$

Column F—Percentage of total sales to the U.S. Government.

$$F = \frac{A}{D}$$

SALES INFORMATION (COMMERCIAL ITEMS)

Column O	Column A	Column B	Column C	Column D	Column E	Column F
Model #	U.S. Gov't sales	Non Gov't sales (catalog)	Non-Gov't sales (other than catalog)	Total sales	% other than catalog sales	% gov't sales
(1)						
(2)						
(3)						
(4)						
(5)						
(6)						
(7)						
(8)						
(9)						
(10)						

7. Current MAS contractors—Total Sales *under your current GSA contract for this schedule* for all models/types or catalog numbers offered under this SIN were $______.

Part D—Certification

(See Guide for Submission of DSMD, Section VI)

The offeror certifies that, to the best of its knowledge and belief:

(1) All of the data (including sales data submitted with this offer) are accurate, complete, and current representations of actual transactions, either (mark one):

______ As of the date of submission of the offer;

______ As of the date when negotiations are concluded.

(2) Substantial quantities of all items offered have been sold to the general public.

(3) Except for models identified in Part C, Paragraph 4, the price(s) quoted in this offer is (are) based on "established catalog prices", as defined in FAR 15-804-3(c), of commercial items sold in substantial quantities to the general public.

Name and Title of Person Authorized to Sign on Behalf of the Offeror. (Type or Print).

Name: ____________________
Title: ____________________
Signature: ____________________
Offeror: ____________________
Date of Execution: ____________________

(End of DSMD format)

(b) Contract pricing proposals for MAS solicitations submitted on the DSMD format in paragraph (a) above must be prepared in accordance with the instructions in Table 515-70.

Table 515-70 Guide for Submission of Discount Schedule and Marketing Data

This Guide contains instructions and information needed to complete and submit the Discount Schedule and Marketing Data (DSMD) portion of Multiple Award Schedule (MAS) solicitations.

I. Explanations

Terms included in this section have the meanings set forth below when used in the DSMD. The explanations are in addition to any definitions and/or guidance contained in the Federal Acquisition Regulation (FAR) or elsewhere in the General Services Administration Acquisition Regulation (GSAR).

1. Customer. A "customer" is any entity, except the Federal Government, which acquires goods or services from the offeror. The term customer includes but is not limited to, original equipment manufacturers, value added resellers, state and local governments, distributors, educational institutions, dealers, and national accounts. In any instance where the offeror is asked to disclose information for a "customer", you may disclose information by category of customer, if the offeror's discount policies are the same for all customers in the category. Disclosure of a range of discounts for customer categories is acceptable.

2. Concession. A "concession" is a benefit, enhancement or privilege (other than a discount) which either reduces the overall cost of a customer's acquisition or encourages a customer to consummate a purchase. Concessions include, but are not limited to, free training, free installation, and bonus goods.

3. Discount.

(a) A "discount" is a reduction to catalog prices (published or unpublished) applicable to any customer. Discounts include, but are not limited to, rebates, quantity discounts, purchase option credits, trade-in allowances, and any other terms or conditions which reduce the amount of money a customer ultimately pays for goods or services ordered or received.

(b) Best Discounts—If your best price is a combination of discounts, identify each type of discount used. (For example, 1 to 99—20% regular discount; 100+—25% quantity discount; 2% aggregate discount on sales exceeding $50,000.)

4. Educational institution. An "educational institution" is an elementary, junior high, or degree granting school which maintains a regular faculty, an established curriculum and an organized body of students. Offerors shall disclose discounts given to educational institutions when required by Part C. Discounts to educational institutions will not serve as a negotiation objective unless the offeror has no other significant category of customer. The Government will, however, negotiate for such discounts for use by comparable Federal educational institutions. Examples of Federal educational institutions include: the Service Academies, Department of Defense dependent schools, and Bureau of Indian Affairs Schools.

5. Item. An "item" is a product or service which is separately priced and offered to a customer for sale, lease or rental.

6. U.S. Government sales. U.S. Government sales include all Government sales, regardless of whether the orders were placed against a GSA Schedule contract.

II. General Instructions

1. The DSMD is composed of four Parts, A through D, which solicit information about the offeror's discount and marketing practices and its offer to the Government.

2. Complete Parts A through C for each Special Item Number (SIN) included in your offer. Respond to each question. You may make a single submission of each Part, covering more than one SIN, if the information disclosed is the same for all products under each SIN. Complete Part D once for the entire offer.

3. The Government will use information which the offeror discloses to establish negotiation goals, to determine if the prices offered are fair and reasonable, and to determine whether the items offered qualify for an exemption from the Federal Acquisition Regulation requirement to submit cost or pricing data.

4. If an offeror does not disclose accurate, complete and current data, the Government may reject the offer or, if a contract has been

awarded, seek refunds and other relief pursuant to the defective pricing clause in the MAS solicitation and resulting contract.

5. The Government will treat all information which the offeror submits on the DSMD as proprietary. The information will be withheld from disclosure in accordance with section 27 of the Office of Federal Procurement Policy Act, as amended (41 U.S.C. 423) and the Freedom of Information Act. The identity of items actually awarded and contract prices, however, are public information which will be disclosed by the Government.

6. Offerors may reproduce the DSMD as necessary. If any section of the DSMD does not provide adequate space for a complete answer, the offeror may continue its response by attaching pages. Attached pages should clearly reference the section of the DSMD to which they are applicable.

7. Contracting officers may request documentation in addition to that specified on the DSMD if such documentation is necessary to determine that discounts, terms, and conditions offered the Government result in fair and reasonable prices.

III. Instructions for Completing Part A

Section I asks for general information about the offer. Section II asks for information concerning discounts which you offer the Government.

1. If you do not offer a discount specified in Part A, enter zero.

2. You may offer discounts and concessions which vary by model or product line. If you offer varying discounts, you must either: (a) annotate the price list to show discounts applicable to each model or product line, or (b) complete a supplemental sheet in the format shown at the end of this Guide.

IV. Instructions for Completing Part B

1. If the offeror's discount practices vary by model or product line, give discount information by model or product line.

2. Disclose discounts (a) at which you sell, (b) discounts contained in agreements which are in effect on the date your offer is submitted and (c) discounts which are published or contained in agreements, with an effective date during the MAS contract period. You must also disclose any changes to discounts and discounts policies which occur after the offer is submitted, but prior to the close of negotiations.

3. Disclose discounts to current customers without regard to the terms and conditions of the agreements under which the discounts are given, and without regard to whether such agreements are written or verbal.

4. If the prices given to any customer are not (a) a discount from the price list which is the basis for your offer to GSA, or (b) a discount from a price list, you should convert the prices into discounts from the price list which is the proposed basis for your agreement with GSA.

5. Section I, question 5. The explanation should include a description of any special circumstances which the offeror believes justifies offering GSA a discount less than that offered to any customer identified in the Discount Chart.

V. Instructions for Completing Part C

1. Complete a separate Part C for each Special Item Number (SIN) for which you submit an offer. Fill in all blank spaces.

2. Complete the chart entitled "Sales Information (Commercial Items)" for each model listed in response to question 5.

3. *Applicable to questions 1 through 6.* Submit all requested sales information for a consecutive 12 month period. The offeror may choose any 12 month period for which it has reliable sales information, provided that the period may not begin prior to the beginning of your most recently completed fiscal or tax year.

4. Established or published discounts are discounts which are regularly given in the normal course of business.

VI. Instructions for Completing Part D

Offerors must certify, at the time their initial proposals are submitted that sales, discount and marketing data included with those proposals is current as of the date the proposal is submitted. At the conclusion of negotiations, offerors must again certify that all information, including any additional information provided to the Government during the negotiation process, is accurate, complete and current.

Supplemental Sheet
(Ref. Guide, III, 2, ii)

Column 1	Column 2	Column 3
Model #..........	Discount from price list.	Price list and date.

(End of Guide)

c. Section 538.203–70 is added to read as follows:

538.203–70 Submission of discount schedule and marketing data.

The contracting officer shall insert the Discount Schedule and Marketing Data (DSMD) format at GSAR 515.804–70 in Multiple Award Schedule (MAS) solicitations identified by the GSA MAS Program Coordinator for inclusion in the test of the revised DSMD format.

7. *Questionnaire.* Two questionnaires for the Revised DSMD Test Evaluation are illustrated as attachments to this Circular. Offerors responding to MAS solicitations under the test program will be asked to complete Questionnaire I and return it with their offer. The contracting officer will ask all offerors to complete Questionnaire II after final disposition of their offer.

Dated: February 12, 1992.

Richard H. Hopf III,

Associate Administrator for Acquisition Policy.

Note: This attachment will not appear in the Code of Federal Regulations.

Attachment to AC–92–1

Questionnaire I—Revised DSMD Test Evaluation

(Please complete and submit with your offer)

This questionnaire is a nonmandatory survey: response is optional. The survey seeks offeror/contractor comments on the revised DSMD requirements included in solicitation [*Contracting officer fill in the blank*]. Comments received will be considered in determining whether to adopt the revised DSMD for the entire GSA Multiple Award Schedule (MAS) Program. Responses will be used for no other purpose. Note that firms/persons may provide anonymous comments. Your response is encouraged.

1. Solicitation Number ______________
2. Schedule ______________
3. Product Types Offered ______________
4. Offeror Name (Optional) ______________
5a. Small Business ______ 5b. Large Business ______ (check one)
6a. Number of SIN's offered ______________
6b. Estimated Value of Offer ______________

7. How many times has your company submitted an offer on a GSA Multiple Award Schedule solicitation to GSA prior to this solicitation? Check appropriate space.
(a) 0 ______ (b) 1 to 3 ______ (c) 4 to 6 ______ (d) 7 + ______

8. The Discount and Schedule Marketing Data Sheets (DSMD) are intended to solicit sufficient information to allow the Contracting Officer to evaluate and negotiate fair and reasonable prices for GSA. Are the data submission requirements of the revised DSMD consistent with that purpose?
Yes ______ No ______ Don't know ______

9. If you responded "No," to #8, do the revised DSMD require submission of:
(a) Too much data ________
(b) Too little data ________
(c) Irrelevant data ________
What should be changed? ______________

10. Based on your experience preparing the offer for this solicitation and negotiating the terms of the offer, did you find the DSMD used in this solicitation to be:

	Yes	No
(a) Clear		
(b) Confusing		
(c) Concise		
(d) Too lengthy		
(e) Too brief		
(f) Logical		
(g) Too inflexible		
(h) Appropriate		

Please explain. (Attach additional sheets as necessary.) ______________

11. The new "Guide for Submission of Discount Schedule and Marketing Data" was included with the revised DSMD. I found the Guide to be:

	Yes	No
(a) Very helpful		
(b) Helpful		
(c) Not helpful		
(d) Clear		
(e) Concise		

	Yes	No
(f) Confusing		

Please explain. ____________

12. These questions compare the revised DSMD and the previous DSMD. If you have not submitted previous DSMD, indicate "N/A."

Which one:

	Revised	Previous	No difference
(a) Had more easily understandable instructions			
(b) Required more information to be submitted with the original offer			
(c) Required more time to read and complete			
(d) Required more time to collect data necessary to complete the DSMD			
(e) Resulted in your lowest priced initial offer to GSA			
(f) Resulted in the quickest agreement			

Regarding (c) and (d), please indicate specific areas that required significantly more or less time.

---

13. Please estimate the total number of hours expended to collect data necessary to complete the DSMD portion of this solicitation for a single Special Item Number (SIN). Hours per SIN ____.

14. Please estimate the total number of hours expended to read and complete the DSMD portion of this solicitation. The estimate excludes the time required to collect data needed to complete the DSMD. Hours per SIN ____.

15. Please highlight, from your experience, the strengths and weaknesses of the revised DSMD? (Please be as specific as possible.)

---

16. Which do you prefer?

Previous DSMD ____ Revised DSMD ____

No preference ____

Please explain. ____________

17. Do you recommend using the revised DSMD in other GSA multiple award schedule solicitations?

Yes ____ No ____ No opinion ____

Please explain. ____________

18. Do you think the revised DSMD represent an improvement over the DSMD used in previous MAS solicitations?

Yes ____ No ____ No opinion ____

Please explain. ____________

19. Did you offer the Government your best discount in your initial offer?

Yes ____ No ____

20. Please provide any other comments on the revised DSMD you would like to share?

---

21. Do you expect to submit offers on future GSA Multiple Award Schedule solicitations, for this Schedule or any other?

Yes ____ No ____

If "no," please explain. ____________

Questionnaire II—Revised DSMD Evaluation

(Please complete and submit to the Contracting Officer after final disposition of your offer.)

This questionnaire is a nonmandatory survey: response is optional. The survey seeks offeror/contractor comments on the revised DSMD requirements included in solicitation [*Contracting officer fill in the blank*]. Comments received will be considered in determining whether to adopt the revised DSMD for the entire GSA MAS Program. Responses will be used for no other purpose. Note that firms/persons may provide anonymous comments. Your response is encouraged.

Did you return questionnaire I to the contracting officer? Yes ____ No ____

1. Solicitation Number ____________
2. Schedule ____________
3. Product Types Offered ____________
4. Offeror Name (Optional) ____________

5a. Small Business ____ 5b. Large Business ____ (check one)

6a. Number of SIN's awarded ____________

6b. Estimated Value of Contract ____________

7. How many times has your company submitted an offer on a GSA Multiple Award Schedule solicitation to GSA prior to this solicitation? Check appropriate space.

(a) 0 ____ (b) 1 to 3 ____ (c) 4 to 6 ____ (d) 7 + ____

8. The Discount Schedule and Marketing Data Sheets (DSMD) are intended to solicit sufficient information to allow the Contracting Officer to evaluate and negotiate fair and reasonable prices for GSA. Are the data submission requirements of the revised DSMD consistent with that purpose?

Yes ____ No ____ Don't know ____

9. If you responded "no," to #8, do the revised DSMD require submission of:

(a) Too much data ____
(b) Too little data ____
(c) Irrelevant data ____

What should be changed? ____________

10. Based on my experience preparing the offer for this solicitation and negotiating the terms of the offer, I found the Discount Schedule and Marketing Data Sheets (DSMD) used in this solicitation to be:

	Yes	No
(a) Clear		
(b) Confusing		
(c) Concise		
(d) Too lengthy		
(e) Too brief		
(f) Logical		
(g) Too inflexible		
(h) Appropriate		

Please explain. (Attach additional sheets as necessary.)

---

11. The new "Guide for Submission of Discount Schedule and Marketing Data" was included with the revised DSMD. Did you find the Guide to be:

	Yes	No
(a) Very helpful		
(b) Helpful		
(c) Not helpful		
(d) Clear		
(e) Concise		
(f) Confusing		

Please explain. ____________

12. These questions compare the revised DSMD and the previous DSMD. If you have not previously submitted DSMD, indicate "N/A."

Which one:

	Revised	Previous	No difference
(a) Had more easily understandable instructions			
(b) Required more information to be submitted—			
(i) with your original offer			
(ii) during evaluation process			
(c) Required more time to read and complete the DSMD			
(d) Required more time to collect data necessary to complete the DSMD			
(e) Resulted in your lowest priced initial offer to GSA			
(f) Resulted in the quickest agreement			

Regarding (c) and (d), please indicate specific areas that required significantly more or less time.

---

13. Please estimate the total number of hours expended to collect data necessary to complete the DSMD portion of this solicitation for a single Special Item Number (SIN). Hours per SIN ____.

14. Please estimate the total number of hours expended to read and complete the DSMD portion of this solicitation. The estimate excludes the time required to collect data needed to complete the DSMD. Hours per SIN ____.

15. Please highlight, from your experience, the strengths and weaknesses of the revised DSMD? (Please be as specific as possible.)

---

16. Which do you prefer?

Previous DSMD ______ Revised DSMD ______
No preference ______
Please explain. ______________________

17. Do you recommend using the revised DSMD in other GSA multiple award schedule solicitations? Yes ______ No ______ No opinion ______
Please explain. ______________________

18. Do you think the revised DSMD represent an improvement over the DSMD used in previous MAS solicitations? Yes ______ No ______ No opinion ______
Please explain. ______________________

19a. Did you offer the Government your best discount in your initial offer? Yes ______ No ______

19b. Did your offer on this solicitation result in a contract award? Yes ______ No ______

19c. If you were awarded a contract, does the Government receive equal to or better than your best discount? Yes ______ No ______

20. Were you asked to submit additional information after the initial submission of your offer? Yes ______ No ______

21. If you responded "Yes", to #20, check all appropriate blanks. The additional information requested was:

(a) Responses to DSMD questions unanswered in the initial offer ______

(b) Explanations/justifications of DSMD information originally disclosed ______

(c) Additional or supplemental information ______

(d) Copies of agreements/pricelist ______

(e) Other (please explain) ______________________

22. How many times did the contracting officer ask for additional information? ______

23. Please provide any other comments on the revised DSMD you would like to share? ______________________

24. Do you expect to submit offers on future GSA Multiple Award Schedule solicitations, for this Schedule or any other? Yes ______ No ______

If "no," please explain. ______________________

[FR Doc. 92-3771 Filed 2-14-92; 8:45 am]

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Proposed Rules

Federal Register
Vol. 57, No. 32
Tuesday, February 18, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 92-20, RM-7645]

Radio Broadcasting Services; Shingle Springs & Quincy, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed on behalf of Lobster Communications Corporation, licensee of Station KLIQ(FM), Channel 270B1, Shingle Springs, California, seeking the substitution of Channel 270B for Channel 270B1 and modification of the license for Station KLIQ(FM) accordingly. In order to accommodate its request, petitioner also seeks the substitution of Channel 271A for Channel 271C2 at Quincy, California, and modification of the license for Station KQNC(FM). Coordinates used for Channel 270B at Shingle Springs are 38–53–31 and 120–57–53, and for Channel 271A at Quincy, 40–03–36 and 120–54–46.

DATES: Comments must be filed on or before April 3, 1992, and reply comments on or before February 11, 1992.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Richard A. Helmick, Esq., Cohn and Marks, 1333 New Hampshire Avenue, NW., suite 600, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 92-20, adopted February 3, 1992, and released __________, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452–1422, 1714 21st St., NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92–3750 Filed 2–14–92; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR part 73

[MM Docket No. 89-288; RM-6608, RM-7005, and RM-7006]

Radio Broadcasting Services; South Lake Tahoe, CA; Minden and Reno, NV

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal of proposal.

SUMMARY: This document dismisses a petition for rule making filed by Daniel S. Tankersley proposing the allotment of Channel 268A at South Lake Tahoe, California, for failure to file a continuing expression of interest in the proposed allotment. See 54 FR 27039, June 27, 1989. This document also accepts a withdrawal by Kidd Communications of a counterproposal requesting the allotment of Channel 268A to Minden, Nevada, and grants a motion, filed by Lobster Communications Corporation, to dismiss a counterproposal to substitute Channel 269C2 for Channel 269A at Reno, Nevada. With this action, this proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Belford V. Lawson, III, Mass Media Bureau, (202) 632–6302.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–288, adopted February 3, 1992, and released February 11, 1992. The full text of this Commission decision is available for inspection during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1714 21st Street, NW., Washington, DC 20036, (202) 452–1422.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Andrew J. Rhodes,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92–3751 Filed 2–14–92; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 92-19; RM-7882]

Radio Broadcasting Services; Memphis, MO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule

SUMMARY: The Commission requests comments on a petition by Boyer Broadcasting Company, Inc., seeking the substitution of Channel 263C3 for Channel 263A at Memphis, Missouri, and the modification of its license for Station KMEM(FM) accordingly. Channel 263C3 can be allotted to Memphis in compliance with the Commission's minimum distance separation requirements at the petitioner's present transmitter site without the imposition of a site restriction. The coordinates for Channel 263C3 at Memphis are North Latitude 40–29–59 and West Longitude 92–09–58. In accordance with § 1.420(g) of the Commission's Rules, we will not accept competing expressions of interest in the use of Channel 263C3 at Memphis or require the petitioner to demonstrate the availability of an additional equivalent channel.

DATES: Comments must be filed on or before April 3, 1992, and reply comments on or before April 20, 1992.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Eugene T. Smith, Esq., 715 G Street, SE., Washington, DC 20003 (Counsel for Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 92-19, adopted January 31, 1992, and released February 11, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-3752 Filed 2-14-92; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Public Hearing and Reopening of Comment Period on Proposed Endangered Status for Isoetes louisianensis

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of public hearing and reopening of comment period.

SUMMARY: The Service gives notice that a public hearing will be held on the proposed determination of endangered status for *Isoetes louisianensis,* the Louisiana quillwort, and that the comment period on the proposal is reopened. The proposal was published in the **Federal Register** on October 21, 1991 (56 FR 52500). This small plant is only known to exist in two parishes of southeastern Louisiana. The hearing and the reopening of the comment period will allow additional comments on this proposal to be submitted from all interested parties.

DATES: The comment period on the proposal is reopened February 18, 1992. The public hearing will be held from 7 p.m. to 10 p.m. on Wednesday, March 11, 1992, in Baton Rouge, Louisiana. The comment period, which originally closed on December 20, 1991, now closes on March 23, 1992.

ADDRESSES: The public hearing will be held in the Louisiana Room of the Louisiana Department of Wildlife and Fisheries Building, 2000 Quail Drive, Baton Rouge, Louisiana. Written comments and materials should be sent to Complex Field Supervisor, U.S. Fish and Wildlife Service, 6578 Dogwood View Parkway, Jackson, Mississippi 39213. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Paul Hartfield at the above address or telephone (601/965-4900 or FTS 490-4900).

SUPPLEMENTARY INFORMATION:

Background

The Service proposed to determine *Isoetes louisianensis,* the Louisiana quillwort, to be an endangered species on October 21, 1991 (56 FR 52500). When this proposal was published, *Isoetes louisianensis* was only known from a localized portion of the Mill Creek drainage, and a single site in Miller Creek, Washington Parish, Louisiana. These two populations are threatened by timber harvest, gravel mining, or any other activity that would affect the hydrology or stability of the streams in which the plant occurs. Since publication of the proposed rule, a new population consisting of approximately 350 plants of *Isoetes louisianensis* has been discovered in the Little Bogue Falaya drainage of St. Tammany Parish, Louisiana, by the Louisiana Department of Wildlife and Fisheries' Natural Heritage Program. The primary threat to this population is harvest of streamside timber.

Section 4(b)(5)(E) of the Endangered Species Act requires that a public hearing be held on a proposed listing if requested within 45 days of publication in the **Federal Register**. A public hearing request was received during the allotted time period from John M. McNeal, Franklinton, Louisiana. The comment period on the proposal originally closed December 20, 1991. In order to accommodate the hearing, the Service reopens the public comment period. Written comments may now be submitted until March 23, 1992, to the Service office in the **ADDRESSES** section.

Author

The primary author of this notice is Paul Hartfield (see **ADDRESSES** section).

Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1531-1544).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Dated: February 4, 1992.

James W. Pulliam, Jr.,

Regional Director, Atlanta, Georgia.

[FR Doc. 92-3704 Filed 2-14-92; 8:45 am]

BILLING CODE 4310-55-M

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Notices

Federal Register
Vol. 57, No. 32
Tuesday, February 18, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

International Trade Administration

Management-Labor Textile Advisory Committee; Partially Closed Meeting

A meeting of the Management-Labor Textile Advisory Committee will be held on Monday, March 9, 1992, Herbert C. Hoover Building, room H3407, 14th Street and Constitution Avenue, NW., Washington, DC 20230. (The Committee was established by the Secretary of Commerce on October 18, 1961 to advise officials of problems and conditions in the textile and apparel industry.)

General Session: 1:30 p.m. Review of import trends, report on conditions in the domestic market, and other business.

Executive Session: 2 p.m. Discussion of matters properly classified under Executive Order 12356 (3 CFR, 1982 Comp. p. 166) and listed in 5 U.S.C. 552b(c)(1).

The general session will be open to the public with a limited number of seats available. A Notice of Determination to close meetings or portions of meetings to the public on the basis of 5 U.S.C. 552b(c)(1) has been approved in accordance with the Federal Advisory Committee Act. A copy of the notice is available for public inspection and copying in the Central Facility Room H6628, U.S. Department of Commerce, (202) 377-3031.

For further information or copies of the minutes, contact Theresa Stuart (202) 377-3737.

Dated: February 11, 1992.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92-3714 Filed 2-14-92; 8:45 am]

BILLING CODE 3510-DR-F

National Institute of Standards and Technology

Computer System Security and Privacy Advisory Board; Meeting

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App., notice is herby given that the Computer System Security and Privacy Advisory Board will meet Tuesday, March 17, 1992, and Wednesday, March 18, 1992, from 9 a.m. to 5 p.m. The Advisory Board was established by the Computer Security Act of 1987 (Pub. L. 100-235) to advise the Secretary of Commerce and the Director of NIST on security and privacy issues pertaining to Federal computer systems. All sessions will be open to the public.

DATES: The meeting will be held on March 17 and 18, 1992, from 9 a.m. to 5 p.m.

ADDRESSES: The meeting will take palce at the Sheraton Inner Harbor Hotel, 300 South Charles Street, Baltimore, MD 21201. Please contact the individual in the "for further information" section to obtain specific building and conference room assignment. Inquiries regarding the Board meeting should not be directed to the conference facility.

Agenda

—Welcome
—Ethics Refresher & Update
—E-Mail Privacy Briefing
—Digital Signature Update & Discussion
—Citizen Access to Government Electronic Record I
—Vulnerability Reporting Program
—Secure Workstation Briefing
—Public Participation
—Wrap-up

PUBLIC PARTICIPATION: The Board agenda will include a period of time, not to exceed thiry minutes, for oral comments and questions from the public. Each speaker will be limited to five minutes. Members of the public who are interested in speaking are asked to contact the Board Secretariat at the telephone number indicated below. In addition, written statements are invited and may be submitted to the Board at any time. Written statements should be directed to the Computer System Security and Privacy Advisory Board, Computer Systems Laboratory, Building 225, room B154, National Institute of Standards and Technology, Gaithersburg, MD 20899. It would be appreciated if fifteen copies of written material could be submitted for distribution to the Board by March 5, 1992. Approximately fifteen seats will be available for the public, including three seats reserved for the media. Seats will be available on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Mr. Lynn McNulty, Associate Director for Computer Security, Computer Systems Laboratory, National Institute of Standards and Technology, Building 225, room B154, Gaithersburg, MD 20899, telephone: (301) 975-3240.

Dated: February 11, 1992.

John W. Lyons,

Director.

[FR Doc. 92-3756 Filed 2-14-92; 8:45 am]

BILLING CODE 3510-CN-M

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council; Public Hearing

AGENCY: National Marine Fisheries Service, (NMFS), NOAA, Commerce.

ACTION: Notice of a public hearing; request for comments.

SUMMARY: The Gulf of Mexico Fishery Management Council will hold a public hearing to obtain public testimony on methods to extend the period for harvesting the 1993 commercial red snapper quota with emphasis on those methods that will prevent a market glut, resulting in higher prices to the fishermen.

DATES: The hearing will be held from 6:30 p.m. to 9:30 p.m., local time, Monday, March 9, 1992.

ADDRESSES: The hearing will be held at the Stouffer Riverview Plaza Hotel; 64 Water Street; Mobile, AL 36602, telephone (205) 438-4000.

FOR FURTHER INFORMATION CONTACT: Wayne E. Swingle, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, suite 331, Tampa, FL 33609-2486; telephone (813) 228-2815.

Dated: February 11, 1992.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92-3727 Filed 2-14-92; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The salmon management advisory entities of the Pacific Fishery Management Council (Council) will hold an initial ocean salmon fishing season assessment meeting on February 27, 1992, beginning at 10 a.m., at the Red Lion Inn-Columbia River, 1401 North Hayden Island Drive, Portland, OR. The meeting will include the Salmon Advisory Subpanel (SAS), the Salmon Technical Team (STT), the Salmon Subcommittee of the Scientific and Statistical Committee (SSC) and policy representatives from the state, tribal and federal fishery management entities.

On February 28, 1992, the STT and Salmon Subcommittee of the SSC will meet, beginning at 8:30 a.m., to review "the north of Cape Falcon" chinook harvest impact model, methods of estimating harvest impacts on Snake River fall chinook, and overfishing status reports on Oregon coastal natural coho and several Puget Sound natural coho and chinook stocks.

The meeting on February 27 is intended to provide the SAS members with an initial assessment of salmon stock abundance, and management entity concerns and recommendations for the 1992 ocean salmon fishing season. The SAS members need this information to assist them in drafting proposed fishing season options for presentation to the Council on March 10 in Seattle, Washington.

Oral or written statements from the public pertaining to salmon abundance projections and planning for the 1992 ocean salmon season will be accepted at appropriate times during the meeting sessions.

FOR MORE INFORMATION CONTACT: John Coon, Staff Officer (salmon), Pacific Fishery Management Council, suite 420, 2000 SW. First Avenue, Portland, OR 97201; telephone: (503) 326-6352.

Dated: February 11, 1992.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92-3697 Filed 2-14-92; 8:45 am]

BILLING CODE 3510-22-M

Western Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council's Select Committee for the Resolution of Gear Conflict and Longline Area Closure Hardships will hold a public meeting on February 19, 1992, beginning at 1:30 p.m. The meeting will be held in the Boardroom of the Department of Land and Natural Resources (DLNR), Hawaii DLNR, 1151 Punchbowl Street, Honolulu, Hawaii.

The Committee's meeting agenda is as follows: (1) Review updated catch and effort data of the National Marine Fisheries Service and the Hawaii Division of Aquatic Resources, related to fishing patterns within closure areas; (2) hear presentations by committee members on results of discussions held with their respective user groups; (3) develop possible modifications to longline area closures; and (4) discuss other business.

FOR MORE INFORMATION CONTACT: Kitty M. Simonds, Executive Director, 1164 Bishop Street, suite 1405, Honolulu, HI 96813; telephone: (808) 526-0824.

Dated: February 11, 1992.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92-3698 Filed 2-14-92; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products and Silk Blend and Other Vegetable Fiber Apparel Produced or Manufactured in Sri Lanka

February 11, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: February 19, 1992.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343-6580. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for carryover, swing and carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 56 FR 60101, published on November 27, 1991). Also see 56 FR 29232, published on June 26, 1991.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

February 11, 1992.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on June 21, 1991, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products and silk blend and other vegetable apparel, produced or manufactured in Sri Lanka and exported during the twelve-month period which began on July 1, 1991 and extends through June 30, 1992.

Effective on February 19, 1992, you are directed to amend the directive dated June 21, 1991 to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and the Democratic Socialist Republic of Sri Lanka:

Category	Adjusted twelve-month limit [1]
237	207,691 dozen.
331/631	1,994,713 dozen pairs.
333/633	26,060 dozen.
334	297,457 dozen.
335/635	229,926 dozen.
336	100,474 dozen.

Category	Adjusted twelve-month limit [1]
338/339	946,858 dozen of which not more than 746,913 dozen shall be in Categories 338-S/339-S [2].
340	752,690 dozen of which not more than 260,324 dozen shall be in Category 340-Y [3].
341	779,996 dozen of which not more than 330,507 dozen shall be in Category 341-Y [4].
342/642/842	515,591 dozen.
345/845	133,525 dozen.
347/348/847	976,249 dozen of which not more than 557,395 dozen shall be in Categories 347-T/348-T/847-T [5].
350/650	97,544 dozen.
351/651	208,355 dozen.
352/652	1,057,622 dozen.
359-C/659-C [6]	848,170 kilograms.
363	6,850,066 numbers.
369-D [7]	604,096 kilograms.
369-S [8]	561,302 kilograms.
434	3,431 dozen.
435	7,434 dozen.
442	15,642 dozen.
445/446	41,668 dozen.
448	6,862 dozen.
634	189,371 dozen.
635	277,745 dozen.
636/836	184,548 dozen.
638/639/838	670,451 dozen.
640	165,253 dozen.
641	744,861 dozen.
644	298,256 numbers.
645/646	158,643 dozen.
647/648	782,736 dozen.

[1] The limits have not been adjusted fo account for any imports exported after June 30, 1991.

[2] Category 338-S: only HTS numbers 6103.22.0050, 6105.10.0010, 6105.10.0030, 6105.90.3010, 6109.10.0027, 6110.20.1025, 6110.20.2040, 6110.20.2065, 6110.90.0068, 6112.11.0030 and 6114.20.0005; Category 339-S: only HTS numbers 6104.22.0060, 6104.29.2049, 6106.10.0010, 6106.10.0030, 6106.90.2010, 6106.90.3010, 6109.10.0070, 6110.20.1030, 6110.20.2045, 6110.20.2075, 6110.90.0070, 6112.11.0040, 6114.20.0010 and 6117.90.0022.

[3] Category 340-Y: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2046, 6205.20.2050 and 6205.20.2060.

[4] Category 341-Y: only HTS numbers 6204.22.3060, 6206.30.3010 and 6206.30.3030.

[5] Category 347-T: only HTS numbers 6103.19.2015, 6103.19.4020, 6103.22.0030, 6103.42.1020, 6103.42.1040, 6103.49.3010, 6112.11.0050, 6113.00.0038, 6203.19.1020, 6203.19.4020, 6203.22.3020, 6203.42.4005, 6203.42.4010, 6203.42.4015, 6203.42.4025 6203.42.4035, 6203.42.4045, 6203.49.3020 6210.40 2035, 6211.20.1520, 6211.20.3010 and 6211.32.0040; Category 348-T: only HTS numbers 6104.12.0030, 6104.19.2030, 6104.22.0040 6104.29.2034, 6104.62.2010, 6104.62.2025. 6104 69.3022, 6112.11.0060, 6113.00.0042 6117.90.0042, 6204.12.0030, 6204.19.3030 6204.22.3040, 6204.29.4034, 6204.62.3000 6204.62.4005, 6204.62.4010, 6204.62.4020 6204.62.4030, 6204.62.4040, 6204.62.4050 6204.69.3010, 6204.69.9010, 6210.50.2035 6211.20.1550, 6211.20.6010, 6211.42.0030 and 6217.90.0050; Category 847-T: only HTS numbers 6103.29.2044, 6103.49.3017, 6103.49.3024, 6104.29.2041, 6104.29.2045, 6104.69.3034, 6104.69.3038, 6112.19.2080, 6112.19.2090, 6117.90.0051, 6203.29.3046, 6203.49.3040, 6203.49.3045, 6204.29.4041, 6204.29.4047, 6204.69.3052, 6204.69.9044, 6211.20.3040, 6211.20.6040, 6211.39.0040, 6211.49.0040 and 6217.90.0070.

[6] Category 359-C: only HTS numbers 6103.42.2025, 6103.49.3034, 6104.62.1020, 6104.69.3010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659-C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.3038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.3014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.4015, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[7] Category 369-D: only HTS numbers 6302.60.0010, 6302.91.0005 and 6302.91.0045.

[8] Category 369-S: only HTS number 6307.10.2005.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92–3715 Filed 2–14–92; 8:45 am]

BILLING CODE 3510-DR-F

COMMODITY FUTURES TRADING COMMISSION

Chicago Board of Trade; Proposed Amendments Relating to Quality Standards and Delivery Locations and Associated quality and Locational Price Differentials and the Performance Requirements for Warehouses Eligible for Delivery on the Corn, Soybean, Wheat, and Oats Futures Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule change.

SUMMARY: The Chicago Board of Trade (CBT) has submitted proposed amendments to its corn, soybean, wheat, and oats futures contracts.[1] The proposed amendments will modify the quality standards and quality price differentials for the corn and soybean futures contracts. The proposed amendments also will add St. Louis, Missouri, as a delivery point on the soybean and wheat futures contracts, with soybean and wheat deliveries at this location receiving a premium of eight cents per bushel. In addition, the proposed amendments will change the existing four-cent-per-bushel discount for corn deliveries at St. Louis to a premium of seven cents per bushel and reduce to three from four cents per bushel the discount for deliveries at Toledo on the corn futures contract. Finally, the proposed amendments will increase delivery load-in and load-out performance requirements for warehouses eligible for delivery on the corn, soybean, wheat, and oats futures contracts.

In accordance with section 5a(12) of the Commodity Exchange Act and acting pursuant to the authority delegated by Commission Regulation 140.96, the Director of the Division of Economic Analysis (Division) of the Commodity Futures Trading Commission (Commission) has determined, on behalf of the Commission, that the proposed amendments are of major economic significance. On behalf of the Commission, the Division is requesting comment on this proposal.

DATES: Comments must be received on or before March 19, 1992.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Reference should be made to the proposed changes in quality standards, delivery points, associated quality and locational price differentials, and loading performance requirements of the CBT corn, soybean, wheat, and oats futures contracts.[2]

FOR FURTHER INFORMATION CONTACT: Frederick V. Linse, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, telephone (202) 254–7303.

SUPPLEMENTARY INFORMATION: A description of the primary proposed amendments and the CBT's justification in support of these changes is provided below.

Quality Standards and Differentials

Corn Futures Contract

The CBT proposes the following changes affecting the quality standards and related price differentials: increase the maximum moisture standard for U.S. grade No. 1 yellow corn from 14 percent to 15 percent; decrease the maximum moisture standard for U.S. grades No. 2 and No. 3 yellow corn from 15½ percent to 15 percent; and increase to one and one-half cents from one-half cent per bushel the premium for delivery of U.S. grade No. 1 yellow corn. The proposals will leave unchanged the contract's existing terms providing for delivery of U.S. grade No. 2 yellow corn at par and U.S. grade No. 3 yellow corn at a

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[1] Substantially identical proposed amendments were submitted by the MidAmerica Commodity Exchange for its corn, soybean, wheat and oats futures contracts.

[2] Persons interested in providing comments in regard to the MidAmerica Commodity Exchange's proposal to adopt these same amendments for its corn, soybean, wheat and oats futures contracts should submit such comments to the above address by the above specified date.

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discount of one and one-half cents per bushel.

In support of its proposals, the CBT submits that the proposed amendments reflect cash market practices. Specifically, the CBT states that the maximum moisture content for all deliverable grades of corn should be changed to 15 percent because this is the preponderant corn moisture standard in U.S. export and domestic cash markets. In addition, the proposed increase in the premium for grade No. 1 yellow corn is expected to reflect better the actual premium for such yellow corn in the cash market.

Soybean Futures Contract

The CBT proposes the following changes affecting the quality standards and related price differentials: increase to 6 cents from 3 cents per bushel the premium for U.S. grade No. 1 yellow soybeans; increase to 6 cents from 4 cents per bushel the discount for U.S. grade No. 3 yellow soybeans that meet the standards for U.S. grade No. 2 soybeans for all factors except foreign material; and disallow delivery of any U.S. grade No. 3 yellow soybeans that meet the standards for that grade on the basis of grade determining factors other than foreign material. The proposal will leave unchanged the contract's par delivery grade of U.S. grade No. 2 yellow soybeans and the maximum moisture standards for deliverable soybeans.

In support of the quality standard changes, the CBT submits that the deletion of certain grade No. 3 soybeans from the list of deliverable qualities will not reduce significantly the available supplies of soybeans for delivery on the futures contract. In addition, the CBT states that the proposed increased premium for grade No. 1 yellow soybeans and the proposed increased discount for deliverable grade No. 3 yellow soybeans will approximate actual cash market differentials for grades No. 1 and No. 3 yellow soybeans.

Delivery Locations and Differentials

Corn Futures Contract

The proposed amendments will modify the contract's locational price differentials for the delivery of corn at St. Louis and at Toledo. The St. Louis price differential will be changed to a premium of 7 cents per bushel from the existing discount of 4 cents per bushel. The discount for delivery at Toledo will be reduced to 3 cents from 4 cents per bushel. Under the proposals, corn will continue to be deliverable in Chicago at par. The Exchange indicated that the proposed locational price differentials fall within the current range of normal commercial price relationships between the contract's delivery points.

Soybean and Wheat Futures Contracts

The CBT proposes to add St. Louis, Missouri (including East St. Louis and Alton, Illinois) as a delivery location for its soybean futures contract and for its wheat futures contract. Under the proposals, delivery on the wheat futures contract at St. Louis will be limited to soft red winter wheat only. Delivery at St. Louis will be allowed at a premium of 8 cents per bushel for soybeans and for wheat. The proposals will leave unchanged the contracts' current par delivery location of Chicago and the existing discounts for delivery at Toledo, Ohio, of 8 cents per bushel for soybeans, and 2 cents per bushel for wheat.

In support of its proposal to add St. Louis as a delivery point on the soybean and wheat futures contracts, the Exchange states that St. Louis is an important terminal market for these commodities. Specifically, the CBT notes that St. Louis is located in the center of the major soybean and soft red wheat production regions of the U.S. and offers convenient access to export markets via both rail and barge transportation. In this respect, the CBT indicates that the St. Louis, East St. Louis, and Alton rail switching districts have 12.4 million bushels of storage capacity in elevators with rail and barge handling capabilities which could be eligible delivery facilities for the soybean and wheat futures contracts.[3] The CBT also noted that limiting St. Louis deliveries to only soft red winter wheat will preserve the current pricing aspects of the CBT wheat futures for soft red winter wheat and avoid market disruptions.

The CBT also submits that St. Louis is similar to the contracts' other existing delivery points at Chicago and Toledo in that it is a large terminal market where soybeans and wheat are sold in sufficient volume and under conditions that reflect the general value of the commodity. In addition, the Exchange notes that, because St. Louis, Chicago, and Toledo are all located on interconnected water transportation systems, cash prices for soybeans and wheat at these locations are related.

With regard to the proposed premium of 8 cents per bushel for futures delivery of soybeans or wheat at St. Louis, the Exchange indicates that the proposed premium reflects commercial price relationships between St. Louis and Chicago.

Warehouse Regularity Requirements

The Exchange proposes to increase the minimum daily rate at which regular warehouses for the corn, soybean, wheat and oats futures contracts must load barges and vessels out of their facilities. The daily load-out rate for corn, soybeans, and wheat will increase to 300,000 bushels from 200,000 bushels for vessels and to 3 barges from 2 barges. For oats, the daily rate for loading out oats will increase to 180,000 bushels from 120,000 bushels for vessels and to 2 barges from 1 barge.

The proposed amendments also will modify the minimum daily load-out rates for rail cars. Under the proposals, when the warehouse receipt holder requests (in writing) weights and grades in batches of five rail cars, the daily load-out rate will increase to 35 from 25 hopper rail cars per day for corn, soybeans and wheat.[4] For oats, in cases where weights and grades have been requested in five-rail-car lots, the minimum daily load-out rate will increase to 20 from 15 hopper rail cars. Under the proposals, the minimum daily load-out rates for all of the above grains and soybeans would remain at the above-noted existing levels in cases where a warehouse receipt holder requests that the weight and grades for delivery grain or soybeans be determined on an individual rail car basis.

The Exchange also is establishing a maximum storage rate for corn, soybeans, and wheat of 15/100 of one cent per bushel per day. For oats, the maximum storage charge shall be 13/100 of one cent per bushel per day. In addition, the proposed amendments will require regular warehouse operators to acquire and pay for insurance which protects grain and soybeans covered by warehouse receipts tendered for delivery against contingencies provided in a standard "all risk" policy.

The proposed amendments also will delete existing provisions of the corn, wheat, soybean and oats futures contracts that permit interior off-water warehouses in Chicago to become regular for delivery if the operators of such warehouses make delivery grain and soybeans available at a regular warehouse with barge and vessel loading capabilities within ten days following the buyer's request. In addition, the proposed amendments will delete similar existing provisions of the corn futures contract which provide for delivery in off-water interior warehouses at that contract's St. Louis delivery point. Under the proposals, delivery on the corn, soybean and wheat futures contracts in Chicago and St. Louis will be permitted only in regular warehouses that have barge and/or vessel loading capability.

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[3] Currently, the CBT has approved two elevators in St. Louis as regular delivery facilities for the corn futures contract.

[4] The proposed amendments state that a batch weight and grade shall refer to a buyer's request in writing for 1 weight and 1 grade per 5 rail cars.

As amended, the corn, soybean and wheat futures contracts will continue to provide for delivery in off-water warehouses at the contracts' Toledo delivery point. However, the proposed amendments will reduce to five from ten calendar days the period of time within which operators of off-water regular warehouses at the Toledo delivery point must make the delivery corn, wheat or soybeans available at a warehouse facility with vessel loading facilities following receipt of the buyer's request. The proposed amendments also will require that operators of Toledo off-water regular warehouses must notify buyers within one business day after receiving warehouse receipts and loading orders of the water location at which the delivery corn, wheat or soybeans will be made available for loading.

The amended oats futures contract will continue to provide for delivery at off-water regular warehouses at that contract's Minneapolis/St. Paul delivery point, but will reduce to seven from fifteen calendar days the period of time within which the operators of such warehouses must make the delivery oats available at a barge-loading location. In addition, the proposed amendments will reduce to one business day from five calendar days the period of time within which the operators of off-water Minneapolis/St. Paul regular warehouses must notify the buyer of the barge-loading location at which the delivery oats will be made available for loading after receiving warehouse receipts and loading orders.

The Exchange states that the proposals regarding load-out requirements reflect existing commercial standards that can be met by almost all existing delivery facilities. The Exchange notes that the proposals concerning the maximum storage rate and the responsibility of regular warehouse operators to insure grain and soybeans underlying CBT-registered warehouse receipts will ensure fairness between regular warehousemen and warehouse receipt holders. The CBT also indicates that its proposed changes affecting the delivery of grain and soybeans in off-water warehouses are intended to equalize delivery values between off-water and on-water warehouse receipts, and reduce the potential for an off-water warehouse operator to prolong the delivery process. In addition, the CBT submits that the elimination of off-water deliveries in Chicago and St. Louis will not affect regular deliverable capacity at these two cities. In this respect, the CBT notes that all currently regular warehouses in these two cities are located on-water.

The CBT intends to make the proposed amendments effective commencing with the December 1993 corn contract month, the November 1993 soybean contract month, the July 1993 wheat contract month, and the September 1993 oats contract month.

The Commission is seeking comment on the proposed amendments noted above. In particular, the Commission is requesting comments on the following matters:

(1) The extent to which the proposed locational and quality price differentials fall within the range of commonly observed commercial price differences;

(2) The extent to which the CBT's proposed new standards for regular warehouses regarding increased minimum daily load out requirements, a maximum limit on storage fees, and the operator's responsibility for insuring grain delivered on futures contracts reflect commercial practices in the cash markets at the contracts' delivery points and the extent to which these amendments would affect the delivery capacity available for the CBT's grain and soybean futures contracts;

(3) The desirability or appropriateness of the CBT's proposal to eliminate the possibility of delivery in off-water warehouses in Chicago and St. Louis and the proposed changes affecting delivery in off-water regular warehouses in Toledo and Minneapolis/St. Paul; and

(4) The overall impact of the proposed amendments upon the levels of economically deliverable supplies available for the futures contracts.

Copies of the proposed amendments will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, at the above address. Copies of the amended terms and conditions can be obtained through the Office of the Secretariat by mail at the same address or by telephone at (202) 254–6314.

The materials submitted by the CBT in support of the proposed amendments may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (1987)). Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the above address in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed amendments should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, at the above address by the specified date.

Issued in Washington, DC on February 11, 1992.

Gerald Gay,

Director.

[FR Doc. 92–3657 Filed 2–14–92; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board Meeting

The USAF Scientific Advisory Board of the Space and C³I Panel of 1992 Summer Study on Global Reach/Global Power will meet on 4–5 Mar. 1992 from 8 a.m. to 5 p.m. at the Pentagon, Washington, DC.

The purpose of this meeting is to receive briefing and hold discussions on projects related to Space C³I in support of Global Reach/Global Power. This meeting will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 92–3824 Filed 2–14–92; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF ENERGY

Washington State University; Noncompetitive Financial Assistance Award

AGENCY: Richland Field Office, Department of Energy.

ACTION: Notice of noncompetitive financial assistance award.

SUMMARY: The Department of Energy, Richland Field Office, announces that pursuant to 10 CFR 600.7(b)(2)(i)(A), it intends to issue a noncompetitive grant award to Washington State University, acting on behalf of the Northwest

College and University Association for Science (NORCUS). The award is planned for a five (5) year project cycle, including five (5) separately funded one (1) year budget periods. The initial budget period is estimated at $4M, with increases of approximately $500K per year, for a total of approximately $25M over the five (5) year period.

GRANT AWARD NUMBER: DE-FG06-92RL12451.

SCOPE OF PROJECT: The proposed financial assistance award is a grant to Washington State University (WSU) acting on behalf of NORCUS, a consortium of 52 colleges and universities in the Pacific Northwest, in support of the University/DOE Laboratory Coop Program. The grant will provide funds for the University-DOE Laboratory Cooperative Program, including the Science and Engineering Research Semester Program under which university students and faculty may be appointed to research opportunities in DOE laboratories. WSU is currently the recipient of a grant funded by the DOE Office of University and Science Education Programs. The proposed new grant will provide an additional vehicle for continuing and extending DOE's support for this educational program. The additional vehicle will provide a means for adding DOE program funds other than those provided by University and Science Education, in order to increase the number of students and teachers who can participate. Competition would have a significant adverse effect on the continuity of this activity.

FOR FURTHER INFORMATION CONTACT: Melanie P. Fletcher, U.S. Department of Energy, Richland Field Office, P.O. Box 550, Richland, Washington 99352, telephone (509) 376-4828.

Dated: February 7 1992.

Robert D. Larson,

Director, Procurement Division, Richland Field Office.

[FR Doc. 92-3740 Filed 2-14-92; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER92-291-000, *et al.*]

PSI Energy, Inc., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

February 5, 1992.

Take notice that the following filings have been made with the Commission:

1. PSI Energy, Inc.

[Docket No. ER92-291-000]

Take notice that PSI Energy, Inc. (PSI), formerly named Public Service Company of Indiana, Inc. on January 27, 1992, tendered for filing a supplement to Service Schedule D—Supplemental Power and Energy of the Power Coordination Agreement, dated August 27, 1982, as amended, between PSI and the Indiana Municipal Power Agency (IMPA), in order to provide certain Economic Development incentives under Section 5 of said Service Schedule.

Such Economic Development incentives are for an expanded processing facility at Marburger Foods in Peru, Indiana. Utility Service Board, City of Peru is a member of IMPA. The Economic Development incentives are limited to one megawatt, the expected load of the expansion project.

PSI has requested waiver of the Commission's applicable requirements of part 35 of its Regulation not complied with, including any notice requirements of § 35.3. The requested effective date for such Economic Developments incentives applicable to Marburger Foods is November 1, 1991.

Copies of the filing were served on the Utility Service Board, City of Peru, the Indiana Municipal Power Agency and the Indiana Utility Regulatory Commission.

Comment date: February 19, 1992, in accordance with Standard Paragraph E at the end of this notice.

2. Central Louisiana Electric Company

[Docket No. ER92-97-000]

Take notice that on January 23, 1992, Central Louisiana Electric Company (CLECO) tendered for filing Amendment No. 2 to its October 7, 1991 filing in this docket.

Comment date: February 19, 1992, in accordance with Standard Paragraph E at the end of this notice.

3. Central Maine Power Company

[Docket No. ER92-47-000]

Take notice that on January 30, 1991, Central Maine Power Company (CMP) tendered an amended filing in the above-referenced docket with respect to the following:

Maine Satellite Agreement Bangor Hydro-Electric Company and Central Maine Power Company, dated as of February 1, 1983.

CMP's amended filing provides additional Cost Support in response to verbal notice received from the Commission Staff.

CMP has served copies of the amended filing on the affected customer and on the Maine Public Utilities Commission.

Comment date: February 19, 1992, in accordance with Standard Paragraph E at the end of this notice

4. Florida Power Corporation

[Docket No. ER92-281-000]

Take notice that on January 21, 1992, Florida Power Corporation (Florida Power) filed a revised sheet to Exhibit B of Florida Power's Agreement with Seminole Electric Cooperative In. (SECI) for supplemental resale service, transmission service and load following service (Supplemental Resale Agreement). Appendix B contains the General Terms and Conditions applicable to the services. The provision changed by this filing is Article 7, Payment of Bills. The filing increases the amount of a deposit held by Florida Power to reflect the current level of its monthly bills to SECI.

Florida Power has informed Seminole that Florida Power intended to file a change in Article 7 to incorporate an increased amount, and Seminole has expressed no objection. Florida Power requests that the change be allowed to become effective on April 1, 1992.

Comment date: February 19, 1992, in accordance with Standard Paragraph E end of this notice.

5. Ohio Edison Company

[Docket No. ER92-297-000]

Take notice that on January 21, 1992, pursuant to the Commission's December 20, 1991 Order on Complaint in Docket No. EL91-48-000, Ohio Edison Company has filed a Temporary Service Agreement (TSA) under which Ohio Edison has constructed or is constructing facilities necessary to replace Cuyahoga Falls' 23 kV delivery point with permanent service at 138 kV in return for contributions in aid of construction.

Ohio Edison requests that the TSA be permitted to become effective as of February 1, 1989, and that the replacement of Cuyahoga Falls' 23 kV delivery point with a permanent 138 kV delivery point be made effective to coincide with the actual use of those facilities, i.e., the addition of the permanent 138 kV delivery point effective June 1, 1991, and the termination of the 23 kV delivery point effective January 1, 1992.

Copies of this filing have been served on Cuyahoga Falls, Ohio, American Municipal Power-Ohio, Inc., and the Public Utilities Commission of Ohio.

Comment date. February 19, 1992, in accordance with Standard Paragraph E at the end of this notice.

6. Montana Power Company

[Docket No. ER92–293–000]

Take notice that on January 29, 1992, Montana Power Company (Montana) tendered for filing Amendment No. 1 to Rate Schedule FERC No. 179, a "Firm Capacity and Energy Purchase Agreement between Montana and Black Hills Power and Light Company.

Comment date: February 19, 1992, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92–3679 Filed 2–14–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP92–319–000]

Eastern Shore Natural Gas Co.; Request Under Blanket Authorization

February 5, 1992.

Take notice that on January 27, 1992, Eastern Shore Natural Gas Company (Eastern Shore), Post Office Box 615, Dover, Delaware 19903, filed a prior notice request, as supplemented January 30, 1992, with the Commission in Docket No. CP92–319–000 pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to construct and operate a new sales tap, lateral, and metering facilities to service Texaco Refining and Marketing (Texaco), an existing customer, under its blanket certificate issued in Docket No. CP83–40–000, pursuant to section 7 of the NGA, all as more fully set forth in the request which is open to public inspection.

Eastern Shore proposes to construct and operate a sales tap, an 1,800-foot lateral of ten-inch pipe, and appurtenant metering facilities in New Castle County, Delaware, in order to effect daily interruptible direct sales of up to 35,000 MMBtu of natural gas and 7,500,000 MMBtu annually to Texaco, successor of Getty Refining and Marketing Company. The Commission authorized Eastern Shore's current daily service level of 60,000 MMBtu in Docket No. CP85–89–000, *et al.* (32 FERC ¶61,098).[1] Eastern Shore states that it currently sells Texaco 15,000 MMBtu per day and would be within its currently authorized service level upon approval of this proposal. Eastern Shore states that it would sell gas to Texaco, a non-jurisdictional industrial customer, at a negotiated rate rather than under an existing rate schedule.

Eastern Shore states that its tariff does not prohibit the addition of delivery points on its system by current customers.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, file pursuant to rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, the proposed activity shall be deemed to be authorized effective the date after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Lois D. Cashell,

Secretary.

[FR Doc. 92–3680 Filed 2–14–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP91–143–000]

Great Lakes Gas Transmission Limited Partnership; Informal Settlement Conference

February 10, 1992.

Take notice that an informal settlement conference will be convened in this proceeding commencing on Tuesday, March 10, 1992, at 10 a.m., and continuing through Wednesday, March 11, 1992. The conference will be held at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC, for the purpose of exploring the possible settlement of all issues raised in the above-referenced dockets.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact J. Carmen Gastilo at (202) 208–2182 or John P. Roddy at (202) 208–1176.

Lois D. Cashell,

Secretary.

[FR Doc. 92–3681 Filed 2–14–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP92–325–000]

K N Energy, Inc.; Application

February 6, 1992.

Take notice that on January 31, 1992, K N Energy, Inc. (KN), Post Office Box 281304, Lakewood, Colorado 80228–8304, filed in Docket No. CP92–325–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities and the sale of natural gas for resale to the City of Winona, Kansas (Winona), all as more fully set forth in the application on file with the Commission and open to public inspection.

KN proposes to sell up to 314 Mcf of natural gas per day and up to 25,969 Mcf of natural gas per year to Winona under KN's Rate Schedule CD–1 at a new point of delivery located in Logan County, Kansas. In order to deliver the gas to Winona, KN proposes to install a tap and a town border station on its existing 2-inch Monument lateral in Logan County, Kansas.

KN states that Winona, a community of 120 homes and commercial establishments located in northwestern Kansas, and Page City, Kansas (Page), a small community of 21 homes, located between Winona and KN's transmission system currently relies on propane as their primary fuel supply. KN indicates that Winona proposes to construct and operate a natural gas distribution system consisting of 4-inch and smaller pipelines and a measuring and regulating station at the edge of the distribution system for each community to serve Winona and Page with natural gas purchased from KN. Winona also proposes to construct approximately 12 miles of 4-inch pipeline from an interconnect with KN near Monument, Kansas to the town border station at Page and at Winona, it is indicated. KN states that Winona has requested that

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[1] The Commission originally authorized Eastern Shore to serve Texaco by the order issued June 10, 1980, in Docket No. CP80–145 (11 FERC ¶61,275).

KN construct the proposed facilities and make the sale of natural gas for resale to Winona Winona states that the difference in the cost between propane and natural gas is sufficient to finance construction of the proposed natural gas system to serve Winona and Page, it is indicated. KN states that it has sufficient gas reserves and deliverability to make the proposed sale to Winona without adversely affecting KN's ability to serve its existing customers. KN states that the estimated cost of its facilities is $23,400. KN proposes to finance this project out of internally generated funds, or interim bank loans, which at a later date may be funded through a security issue.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 27, 1992, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for KN to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary

[FR Doc. 92-3682 Filed 2-14-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TC92-6-002]

South Georgia Natural Gas Co.; Proposed Changes to FERC Gas Tariff

February 10, 1992.

Take notice that on February 6, 1992, South Georgia Natural Gas Company (South Georgia), Post Office Box 2563, Birmingham, Alabama 35202-2563, tendered for filing the following tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1, to be effective January 15, 1992:

First Substitute Tenth Revised Sheet No. 44
First Revised Sheet No. 44A
First Substitute First Revised Sheet No. 44A
First Substitute Eleventh Revised Sheet No. 45
First Substitute Eighth Revised Sheet No. 46
First Revised Sheet No. 46A
First Substitute First Revised Sheet No. 46A
First Substitute Ninth Revised Sheet No. 47

South Georgia states that the foregoing tariff sheets are submitted in compliance with the Federal Energy Regulatory Commission's (Commission) order dated January 15, 1992, in Docket No. TC92-6-000 (January 15 Order) which directed South Georgia to remove the cities of Americus, Bainbridge, Cairo, Dawson, Fitzgerald, Moultrie, Quitman, and Thomasville, Georgia, and the City of Quincy, Florida (municipalities), from South Georgia's Index of Requirements (Index) because they had converted to firm transportation service from South Georgia and will obtain their gas supplies from other suppliers. In addition, South Georgia asserts that Georgia-Pacific Corporation's and Florida Power Corporation's requirements have also been removed from its Index pursuant to the authorizations granted in Docket Nos. CP91-3088-000 and CP91-3089-000 to abandon the transportation of natural gas for direct sales to these two (2) customers. Finally, South Georgia states that First Revised Sheet Nos. 44A and 46A supercede Original Sheet No. 44A and 46A which were submitted on December 16, 1991, in Docket No. TC92-6-000, and reflect a correction in pagination only.

South Georgia states that copies of the filing will be served upon all of its jurisdictional purchasers, shippers and interested state commissions as well as all parties of record in Docket No. TC92-6-000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before February 19, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3683 Filed 2-14-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. FA90-68-000]

Williams Natural Gas Co.; Order Establishing Hearing Procedures; Pipeline Rates: Hearing, Accounting

February 11, 1992.

On December 16, 1991, the Chief Accountant issued a contested audit report [1] under the delegated authority noting Williams Natural Gas Company's (Williams) disagreement with certain recommendations of the Division of Audits as described in the report. Williams was requested to advise whether it would agree to the disposition of the contested matters under the shortened procedures provided for by part 158 of the Commission's Regulations. 18 CFR 158.1, *et seq*

On January 15, 1992, Williams responded that it did not consent to the shortened procedures. Section 158.7 of the Commission's Regulations provides that in case consent to the shortened procedures is not given, the proceeding will be assigned for hearing. Accordingly, the Secretary, under authority delegated by the Commission, will set these matters for hearing.

Any interested person seeking to participate in this docket shall file a protest or a motion to intervene pursuant to rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) no later than 15 days after the date of publication of this order in the **Federal Register**.

It is Ordered:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act, the provisions of the Natural Gas Act, particularly sections 4, 5 and 6 thereof, and pursuant to the Commission's Rules of Practice and Procedure (18 CFR chapter I), a public hearing shall be held concerning the appropriateness of Williams' accounting practices as discussed in the audit report.

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[1] 57 FERC ¶ 62,263

(B) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge, shall convene a prehearing conference in this proceeding, to be held within 45 days of the date of this order, in a hearing room of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426. The Presiding Judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(C) This order shall be promptly published in the **Federal Register**.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3684 Filed 2-14-92; 8:45 am]

BILLING CODE 6717-01-M

Office of Arms Control and Nonproliferation Technology Support

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of Canada concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following retransfer: RTD/CA(EU)–19, for the transfer of 185.2 kilograms of uranium metal, enriched to 19.95 percent in the isotope uranium-235, from the Federal Republic of Germany to Canada, for fabrication of fuel elements, for the NRU research reactor.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice

Issued in Washington, DC, on February 12, 1992.

Salvador N. Ceja,

Acting Director, Office of Nuclear Nonproliferation Policy.

[FR Doc. 92–3741 Filed 2–14–92; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Sweden Concerning Peaceful Uses of Nuclear Energy, and the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following retransfer: RTD/EU(SW)–82, for the transfer from Sweden to France of 8.056 kilograms or uranium, enriched to 19.84 percent in the isotope uranium-235 contained in fuel assemblies for repair and subsequent return to Sweden.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Issued in Washington, DC, on February 12, 1992.

Salvador N. Ceja,

Acting Director Office of Nuclear Nonproliferation Policy

[FR Doc. 92–3742 Filed 2–14–92; 8:45 am]

BILLING CODE 6450-01-M

Office of Conservation and Renewable Energy

[Case No. F–043]

Energy Conservation Program for Consumer Products; Application for Interim Waiver and Petition for Waiver of Furnace Test Procedures From Rheem Manufacturing Co.

AGENCY: Office of Conservation and Renewable Energy, Department of Energy.

SUMMARY: Today's notice publishes a letter granting an Interim Waiver to Rheem Manufacturing Company (Rheem) from the existing Department of Energy (DOE) test procedures for furnaces regarding blower time delay for the company's GED and GKC condensing furnaces.

Today's notice also publishes a "Petition for Waiver" from Rheem. Rheem's Petition for Waiver requests DOE to grant relief from the DOE test procedures relating to the blower time delay specification. Rheem seeks to test using a blower delay time of 30 seconds for its GED and GKC condensing furnaces instead of the specified 1.5-minute delay between burner on-time and blower on-time. DOE is soliciting comments, data, and information respecting the Petition for Waiver.

DATES: DOE will accept comments, data, and information not later than March 19, 1992.

ADDRESSES: Written comments and statements shall be sent to: Department of Energy, Office of Conservation and Renewable Energy, Case No. F–043, Mail Stop CE–90, room 6B–025, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–3012.

FOR FURTHER INFORMATION CONTACT:

Cyrus H. Nasseri, U.S. Department of Energy, Office of Conservation and Renewable Energy, Mail Station CE–43, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9127.

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–41, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9507.

SUPPLEMENTARY INFORMATION: The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act (EPCA), Public Law 94–163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act (NECPA), Public Law 95–619, 92 Stat. 3266, the National Appliance Energy Conservation Act of 1987 (NAECA), Public Law 100–12, and the National Appliance Energy Conservation Amendments of 1988 (NAECA 1988), Public Law 100–357, which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR part 430, subpart B.

DOE amended the prescribed test procedures by adding 10 CFR 430.27 on September 26, 1980, creating the waiver process. 45 FR 64108. Thereafter DOE further amended the appliance test procedure waiver process to allow the Assistant Secretary for Conservation and Renewable Energy (Assistant Secretary) to grant an Interim Waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 51 FR 42823, November 26, 1986.

The waiver process allows the Assistant Secretary to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

The Interim Waiver provisions added by the 1986 amendment allow the Assistant Secretary to grant an Interim Waiver when it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied, if it appears likely that the Petition for Waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the Petition for Waiver. An Interim Waiver remains in effect for a period of 180 days or until DOE issues its determination on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180 days, if necessary.

On December 4, 1991, Rheem filed an Application for an Interim Waiver regarding blower time delay. Rheem's Application seeks an Interim Waiver from the DOE test provisions that require a 1.5-minute time delay between the ignition of the burner and starting of the circulating air blower. Instead, Rheem requests the allowance to test using a 30-second blower time delay when testing its GED and GKC condensing furnaces. Rheem states that the 30-second delay is indicative of how these furnaces actually operate. Such a delay results in an energy savings of approximately 2.0 percent. Since current DOE test procedures do not address this variable blower time delay, Rheem asks that the Interim Waiver be granted.

Previous waivers for this type of timed blower delay control have been granted by DOE to Coleman Company, 50 FR 2710, January 18, 1985; Magic Chef Company, 50 FR 41553, October 11, 1985; Rheem Manufacturing Company, 53 FR 48574, December 1, 1988, 55 FR 3253, January 31, 1990, 55 FR 37521, September 12, 1990, and 56 FR 63946, December 6, 1991; Trane Company, 54 FR 19226, May 4, 1989, and 55 FR 41589, October 12, 1990, and 56 FR 64609, December 11, 1991; Lennox Industries, 54 FR 50525, December 7, 1989; DMO Industries, 55 FR 4004, February 6, 1990; Heil-Quaker Corporation, 55 FR 13184, April 9, 1990; Carrier Corporation, 55 FR 13182, April 9, 1990; Inter-City Products Corporation, 55 FR 31099, July 31, 1990, and 56 FR 27959, June 18, 1991; Amana Refrigeration Inc., 56 FR 853, January 9, 1991, and 56 FR 29957, July 1, 1991; Armstrong Air Conditioning, Inc., 56 FR 10553, March 13, 1991, 56 FR 34200, July 26, 1991, and 56 FR 63941, December 6, 1991; Snyder General Corporation, 56 FR 14511, April 10, 1991; Goodman Manufacturing Corporation, 56 FR 20421, May 3, 1991; Thermo Products, Inc., 56 FR 32205, July 15, 1991; and the Ducane Company, 56 FR 45958, September 9, 1991, and 56 FR 64510, December 10, 1991. Thus, it appears likely that the Petition for Waiver will be granted for blower time delay.

In those instances where the likely success of the Petition for Waiver has been demonstrated based upon DOE having granted a waiver for a similar product design, it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis.

Therefore, based on the above, DOE is granting Rheem an Interim Waiver for its GED and GKC condensing furnaces. Pursuant to paragraph (e) of § 430.27 of the Code of Federal Regulations, the following letter granting the Application for Interim Waiver to Rheem was issued.

Pursuant to paragraph (b) of 10 CFR 430.27, DOE is hereby publishing the "Petition for Waiver" in its entirety. The petition contains no confidential information. DOE solicits comments, data, and information respecting the petition.

Issued in Washington, DC, February 7, 1992.

J. Michael Davis,
Assistant Secretary, Conservation and Renewable Energy.

February 7, 1992.

Mr. Daniel J. Canclini,
Vice President-Product Development and Research Engineering, Rheem Manufacturing Company, P.O. Box 17010, Fort Smith, AR 72917-7010.

Dear Mr. Canclini: This is in response to your December 4, 1991, Application for Interim Waiver and Petition for Waiver from the Department of Energy (DOE) test procedures for furnaces regarding blower time delay for Rheem Manufacturing Company (Rheem) GED and GKC condensing furnaces.

Previous waivers for this type of timed blower delay control have been granted by DOE to Coleman Company, 50 FR 2710, January 18, 1985; Magic Chef Company, 50 FR 41553, October 11, 1985; Rheem Manufacturing Company, 53 FR 48574, December 1, 1988, 55 FR 3253, January 31, 1990, and 55 FR 37521, September 12, 1990, and 56 FR 63946, December 6, 1991; Trane Company, 54 FR 19226, May 4, 1989, 55 FR 41589, October 12, 1990, and 56 FR 64609, December 11, 1991; Lennox Industries, 54 FR 50525, December 7, 1989; DMO Industries, 55 FR 4004, February 6, 1990; Heil-Quaker Corporation, 55 FR 13184, April 9, 1990; Carrier Corporation, 55 FR 13182, April 9, 1990; Inter-City Products Corporation, 55 FR 31099, July 31, 1990, and 56 FR 27959, June 18, 1991; Amana Refrigeration Inc., 56 FR 853, January 9, 1991, and 56 FR 29957, July 1, 1991; Armstrong Air Conditioning, Inc., 56 FR 10553, March 13, 1991, 56 FR 34200, July 26, 1991, and 56 FR 63941, December 6, 1991; Snyder General Corporation, 56 FR 14511, April 10, 1991; Goodman Manufacturing Corporation, 56 FR 20421, May 3, 1991; Thermo Products, Inc., 56 FR 32205, July 15, 1991; and The Ducane Company, Inc., 56 FR 45958, September 9, 1991, and 56 FR 64510, December 10, 1991.

Rheem's Application for Interim Waiver does not provide sufficient information to evaluate what, if any, economic impact or competitive disadvantage Rheem will likely experience absent a favorable determination on its application. However, in those instances where the likely success of the Petition for Waiver has been demonstrated, based upon DOE having granted a waiver for a similar product design, it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis.

Therefore, Rheem's Application for an Interim Waiver from the DOE test procedures for its GED and GKC condensing furnaces regarding blower time delay is granted.

Rheem shall be permitted to test its line of GED and GKC condensing furnaces on the basis of the test procedures specified in 10 CFR part 430, subpart B, appendix N, with the modification set forth below.

(i) Section 3.0 in appendix N is deleted and replaced with the following paragraph:

3.0 Test Procedure. Testing and measurements shall be as specified in section 9 in ANSI/ASHRAE 103-82 with the exception of sections 9.2.2, 9.3.1, and 9.3.2, and the inclusion of the following additional procedures:

(ii) Add a new paragraph 3.10 in appendix N as follows:

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3.10 Gas- and Oil-Fueled Central Furnaces. After equilibrium conditions are achieved following the cool-down test and the required measurements performed, turn on the furnace and measure the flue gas temperature, using the thermocouple grid described above, at 0.5 and 2.5 minutes after the main burner(s) comes on. After the burner start-up, delay the blower start-up by 1.5 minutes (t-), unless: (1) The furnace employs a single motor to drive the power burner and the indoor air circulation blower, in which case the burner and blower shall be started together; or (2) the furnace is designed to operate using an unvarying delay time that is other than 1.5 minutes, in which case the fan control shall be permitted to start the blower; or (3) the delay time results in the activation of a temperature safety device which shuts off the burner, in which case the fan control shall be permitted to start the blower. In the latter case, if the fan control is adjustable, set it to start the blower at the highest temperature. If the fan control is permitted to start the blower, measure time delay, (t-), using a stopwatch. Record the measured temperatures. During the heat-up test for oil-fueled furnaces, maintain the draft in the flue pipe within ± 0.01 inch of water column of the manufacturer's recommended on-period draft.

This Interim Waiver is based upon the presumed validity of statements and all allegations submitted by the company. This Interim Waiver may be revoked or modified at any time upon a determination that the factual basis underlying the application is incorrect.

The Interim Waiver shall remain in effect for a period of 180 days or until DOE acts on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180-day period, if necessary.

Sincerely,

J. Michael Davis, P.E.,

Assistant Secretary, Conservation and Renewable Energy.

December 4, 1991.

Assistant Secretary,
Conservation and Renewable Energy,
United States Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

Gentlemen: This is a petition for waiver and petition for interim waiver submitted pursuant to Title 10 CFR 430.27. Waiver is requested from the furnace test procedure found at Appendix N to subpart B of part 430. The test procedure requires a 1.5 minute delay between burner on and blower on. Rheem is requesting authorization to use a 30 second delay instead of 1.5 minutes. Rheem will be manufacturing a series of condensing furnaces which include the (-)GED upflow models and (-)GKC downflow models with an electronic blower control that controls blower operation on a timing sequence as opposed to temperature. Maximum energy efficiency is achieved by the fixed timing controls installed in these models that activate the circulating air blower 30 seconds after the burner is on. Under the Appendix N procedures, the stack temperature is allowed to climb at a faster rate than it would with a 30 second blower on time, allowing energy to be lost out the vent system. This waste of energy would not occur in actual operation. If this petition is granted, the true blower on time delay would be used in the calculations. Proposed ANSI/ASHRAE 103–1988, paragraph 9.6.1 specifically addresses the use of timed blower operation.

The current test procedures prevent Rheem from taking up to 2% in AFUE for the above models. Rheem is of the opinion that 2% increase is a worthwhile energy savings.

Current prescribed test procedures prohibit Rheem from taking credit for the saved energy, thus providing inaccurate comparative data.

Rheem has been granted a waiver permitting the 30 second blower on time to be used in the efficiency calculations for our similar (-)GEC and (-)GKB series condensing furnaces. Several other manufacturers of condensing furnaces have also been granted a waiver to permit calculations based on timed blower operation.

Confidential comparative test data is available to you upon your request, confirming the above energy savings.

Manufacturers that domestically market similar products are being sent a copy of this petition for waiver and petition for interim waiver.

Sincerely,

Daniel J. Canclini,

Vice President—Product Development and Research Engineering.

[FR Doc. 92–3739 Filed 2–14–92; 8:45 am]

BILLING CODE 6450-01-M

Office of Fossil Energy

[FE Docket No. 91–89NG]

Aectra Refining and Marketing, Inc.; Order Granting Blanket Authorization To Export Natural Gas to Mexico

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of an order granting blanket authorization to export natural gas to Mexico.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Aectra Refining and Marketing, Inc., blanket authorization to export to Mexico up to 146 Bcf of natural gas over a two-year period beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, U.S. Department of Energy, 1000 Independent Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, January 24, 1992.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs Office of Fossil Energy.

[FR Doc. 91–3737 Filed 2–14–91; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders During the Week of January 13 Through January 17, 1992

During the week of January 13 through January 17, 1992, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

James L. Schwab, 1/17/92, LFA–0175

James L. Schwab (Schwab) filed an Appeal from a determination issued to him by the Department of Energy Field Office, Albuquerque (DOE/AL) on a request for information under the Freedom of Information Act (FOIA). Schwab, a former employee of a DOE contractor, had requested all documents relating to the investigation of Schwab's dismissal conducted by DOE/AL's Personnel and Industrial Relations Division (PIRD). Schwab claimed that his request was only partially fulfilled by DOE/AL's determination, and that none of the released documents related to PIRD's investigation into his case. In considering the Appeal, the DOE determined that searches for responsive documents were conducted at PIRD as well as DOE/AL's Safety Programs Division, Environmental Protection Division, Health Protection Division, Office of the Chief Counsel, and Kirtland Area Office. The DOE found that regardless of the Appellant's expectation that other responsive material exists and should have been found, any responsibe material relating to Schwab's FOIA request should have been uncovered by the parameters of that search. Consequently, the DOE found that DOE/AL's search was reasonably calculated to uncover all materials sought by the Appellant, and was clearly adequate under the FOIA. Accordingly, the Appeal filed by Schwab was denied.

Roy P. Lessy, Jr. and Bradley W. Jones, 1/17/92, LFA–0172

Roy P. Lessy, Jr. and Bradley W. Jones of the law firm of Akin, Gump, Hauer & Feld, filed an Appeal from a determination issued to them by the Department of Energy Field Office, Richland (Richland) on a request for information under the Freedom of Information Act (FOIA). The Appellants' request for information concerned the DOE's lease of radioactive cesium capsules to several commercial firms. Richland determined that a draft version of a DOE report entitled "Cesium Chloride Analyses: Report #1" was exempt from mandatory disclosure pursuant exemption 5. In considering the Appeal, the DOE found that draft documents, by their very nature, are predecisional and deliberative and determined that the document was not a statement of final agency policy, but rather the predecisional deliberations of its author. Thus, the draft report was properly withheld under exemption 5. The DOE also found that the disclosure of factual information from a draft document raises the possibility that the deliberative process will be exposed and consequently, that the draft report contained no segregable factual information which can be released without compromising the deliberative process. Finally, the DOE determined that any public interest in the contents of the final DOE report did not extend to the preliminary draft withheld. Accordingly, the Appeal was denied.

Refund Applications

Bono Brothers, Et al., 1/15/92, RF272-78400, et al.

The DOE issued a Decision and Order granting a refund from the crude oil overcharge funds to 44 farmers. The DOE determined that the USDA formula of 23.8 gallons/acre excluded home heating oil and other energy purchased by farmers for personal use. The total of the refunds granted in this Decision is $4,423.

Exxon Corporation/Hurlbutt's Exxon Et al., 1/14/92, RF307-9408 et al.

The DOE issued a consolidated Decision and Order concerning seven Applications for Refund filed by indirect purchasers of Exxon motor gasoline. The claimants sought a portion of the settlement fund obtained by the DOE as a result of a consent order entered into by Exxon Corporation. Since the allocable share of each of the Seven applicants was less than $5,000, their refund claims were granted without a detailed demonstration of injury. Applying the criteria established for the Exxon refund proceeding, the DOE granted refunds in this proceeding which total $3,473 ($2,406 principal and $1,067 interest).

Westinghouse Hanford Co., 1/15/92, RF272-69039

The DOE issued a Decision and Order denying an Application for Refund in the supart V crude oil overcharge refund proceeding submitted by Westinghouse Hanford Co. (WHC), a private contractor for the DOE. Through a cost-plus contract with the DOE during the refund period, WHC was reimbursed for all petroleum purchases that it made in operating the DOE's Hanford Site. The DOE determined that WHC was not the proper recipient of the refund.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Atlantic Richfield Company/Bernie Cullen's Arco.	RF304-4567	01/14/92
Atlantic Richfield Company/Coulterville Service Center et al.	RF304-3408	01/15/92
Atlantic Richfield Company/General Equities, Inc.	RR304-22	01/15/92
Atlantic Richfield Company/GNB Products.	RF304-11684	01/14/92
Empire Gas Corporation/Barney Foster *et al.*	RF335-39	01/17/92
Empire Gas Corporation/Odessa L.P G. Transport, Inc.	RF335-33	01/15/92
Gulf Oil Corporation/Saady Service Station.	RF300-12559	01/17/92
Kennedy's Gulf	RF300-12640	
Garrander Bros	RF300-12641	
Leo R. Geyman	RC272-153	01/14/92
Shell Oil Company/Airway Heights Shell *et al.*	RF315-63	01/17/92
Shell Oil Company/System Fuels, Incorporated.	RF315-9678	01/15/92
Texaco Inc./Baker's Texaco Station *et al.*	RF321-60	01/17/92
Texaco Inc./Bob's Texaco *et al.*	RF321-7164	01/17/92
Texaco Inc./C&J Oil Co., Inc. *et al.*	RF321-13186	01/14/92
Texaco Inc./Holgate Service.	RF321-1044	01/17/92
Smokes Auto Repair Shop.	RF321-18146	
Texaco Inc./Raymond's Texaco.	RR321-90	01/17/92
Tuscaloosa Board of Education *et al.*	RF272-75858	01/14/92
United Refining Company/Petroleum Electronics, Inc.	RF333-25	01/14/92
Jobbers Buying Group.	RF333-26	
Crago & Cook Enterprises.	RF333-27	
Everdyke Oil Co	RF333-28	

Dismissals

The following submissions were dismissed:

Name	Case No.
American Coastal & Foreign Shipping Company, Inc.	RF272-25046
Belden Wire & Cable Corp	RF304-4467
Berkely Gulf Service	RR300-93
Conner's Gulf Station	RR300-90
D & G Oil Co	RF304-9085
Deloach Texaco	RF321-9647
Delta County Road Commission	RF272-52082
Edmiston Texaco	RF321-15891
Farm Stores, Inc	RD272-22920
Flower Street Limited	RF304-3591
Fran's Texaco Service	RF321-16440
Gilbert Seiler	RF272-52128
Hamm Oil Company	RF272-52258
Hawaiian Eileen Corporation	RF272-28044
Hawaiian Eugenia Corporation	RF272-28047
J. Walter Young Texaco Products, Inc.	RF321-17511
Livingston Oil Co. Inc	RF321-17949
Manchester City Schools	RF272-78879
Michael P. Dailey	LFA-174
Milliken, Tomlinson Co., Inc	RF321-17492
Monument Oil Co	RF304-4566
Moreau Fuel Co	RF321-13537
Porter Farms	RF321-17500
Rich's Texaco	RF321-12034
Shreve Island Texaco	RF321-10268
St. Casimir Church	RF272-75875

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except Federal holidays. They are also available in "Energy Management: Federal Energy Guidelines," a commercially published loose leaf reporter system.

Dated: February 11, 1992.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 92–3738 Filed 2–14–92; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Public Law 89–777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Kloster Cruise Limited (d/b/a Royal Viking Line), 95 Merrick Way, Coral Gables, FL 33134.

Vessel: ROYAL VIKING QUEEN

Dated: February 11, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 92–3658 Filed 2–14–92; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Eduardo Nelson Rojas, 2644 W. Pico Blvd., Los Angeles, CA 90006, Sole Proprietor.

World Asia Freight System Inc., 1065 Sneath Lane, San Bruno, CA 94066, Officer: Hae Duck Park, President.

Fujiwarq American Incorporated, 801 2nd Ave., Norton Bldg. #617, Seattle, WA 98104, Officers: Motomu Euchidani, President, Yasuhito Araki, Vice President, Yasushi Iwasaka, Treasurer.

Rocky Mountain Overseas, Inc., 2323 South Troy St., #201, Aurora, Colorado 80014, Officers: Ainslie M. Bell, Pres./Dir./Treas./Stockh., James R. Stewart, V. President/Director/Stockh., Sheryl Jung, Secretary.

Sorenna Inc., 1401 W. Artesia Blvd., Compton, CA 90220, Officers: Marion Braunshausen, President/Director, Alois Lamprecht, C.F.O./Director.

Cavalier International Air Freight, Inc., 93 Albert Avenue, Newark, N.J. 07105, Officers: Gregory T. Rineer, President, Jay J. Bartolotta, Vice President.

Isewan U.S.A. Inc. 3838 Carson St., Suite 307, Torrance, CA 90503, Officers: Kazuo Takashima, Chairman/Director, Katsuyaki Mizuno, President, Kiyoshi Isono, Vice President/Chief Exec. Officer.

Thomas Luther Griffin, 2154 Bradford Street, Unit 202, Clearwater, FL 34620, Sole Proprietor.

Nexus International Express, Inc., 2016 E. University Drive, Compton, CA 90220, Officers: Capt. Benjamin N.K. Ho, Director, Adam Yeh, Director, Alex Y. Lee, Director, Leo Shun Wan Fong, President, Goang-Yih Chang, Vice President, Yen L. Lee, Secretary.

Patricia Ann Meyer, 16 Oakdale Place, Charleston, SC 29407, Sole Proprietor.

Houston Becnel, Inc., 15700 Export Plaza, Suite X, Houston, TX 77032, Officer: Albert E. Garcia, Jr. Pres./Sec./Treas.

W. F. Whelan Company, 6850 Middlebelt, Romulus, MI 48174, Officer: William F. Whelan, President.

By the Federal Maritime Commission.

Dated: February 11, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 92–3659 Filed 2–14–92; 8:45 am]

Billing Code 6730-01-M

[Docket No. 90–23]

Inquiry on Ocean Freight Tariffs in Foreign and Domestic Offshore Commerce; Automated Tariff Filing and Information System, "ATFI"

The General Services Administration ("GSA") has notified the Federal Maritime Commission ("Commission") that it will be moving from its present location at 1100 L Street, NW., Washington, DC. The Commission is working with GSA to effectuate the move in the most reasonable fashion. This Notice is being issued so that the tariff filing and retrieval industry is notified as quickly as possible about the impact on the Commission generally, and the ATFI system specifically, and can plan accordingly.

The consequences of the move upon the implementation of the Automated Tariff Filing and Information System ("ATFI") have been carefully considered by the Commission. If the move were to take place during the ATFI implementation period now scheduled for April through December 1992, serious problems could result. Among other move-related, disruptive scenarios, the review of new tariff filings could be delayed and new tariff data being filed could be inadequately screened by the Commission's Bureau of Tariffs, Certification and Licensing before it becomes official.

Accordingly, the Commission determines that the phased-in implementation, as originally described in the Fourth Report in this proceeding, be postponed to begin no more than 90, but no less than 30, days after the move is completed. To the extent possible to foresee at this time, it would appear that the first implementation window under the schedule which is being postponed as a result of the move, could now begin no earlier than August 1992, rather than in April 1992. Other subsequent implementation "windows," as described in the Fourth Report, will also be similarly postponed. A more detailed schedule of the deferred implementation will be issued when the Commission is more certain about the timing of the move.

The Commission regrets this delay so close to the end of the ATFI implementation road. However, since GSA has unequivocally advised the Commission that it must relocate its offices, the delay is indispensable to the integrity of the ATFI project. To the extent that the tariff filing industry can advantageously use the extra time to convert its tariffs to electronic form and/or perfect its batch filing capability, it is strongly urged to do so rather than wait until the last minute. Voluntary testing of tariffs on the system will not be interrupted, and the additional time should provide an optimum opportunity for the system to be further tested.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 92–3660 Filed 2–14–92; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

American Chartered Bancorp II, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 13, 1992.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. American Chartered Bancorp II, Inc., Lake Zurich, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of American Chartered Bank of Lake Zurich, Lake Zurich, Illinois.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Wall Street Holding Company, Hamilton, North Dakota; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Hamilton, Hamilton, North Dakota.

C. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Green Top, Inc., Central City, Nebraska; to acquire 5.3 percent of the voting shares of Central Grain, Inc., Central City, Nebraska, and thereby indirectly acquire The Farmers National Bank of Central City, Central City, Nebraska. In connection with this application, Green Top, Inc. and Central Grain, Inc. have applied to acquire at least 80 percent of State Bank, Palmer, Nebraska.

Board of Governors of the Federal Reserve System, February 11, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92–3710 Filed 2–14–92; 8:45 am]

BILLING CODE 6210-01-F

Michael J. Clementz and Patricia C. Clementz; Change in Bank Control Notice

Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than March 10, 1992.

A. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Michael J. Clementz and Patricia C. Clementz, Indianola, Washington; to acquire an additional 3.59 percent of the voting shares of Liberty Bay Financial Corporation, Poulsbo, Washington, and thereby indirectly acquire North Sound Bank, Poulsbo, Washington.

Board of Governors of the Federal Reserve System, February 11, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92–3711 Filed 2–14–92; 8:45 am]

BILLING CODE 6210-01-F

Comerica Incorporated, et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies; and Acquisitions of Nonbanking Companies

The companies listed in this notice have applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed companies have also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The applications are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 10, 1992.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Comerica Incorporated, Detroit, Michigan; to acquire Manufacturers National Corporation, Detroit, Michigan, and thereby indirectly acquire Manufacturers Bank, National Association, Detroit, Michigan, and Manufacturers National Bank of Ann Arbor, Ann Arbor, Michigan; and Affiliated Banc Group, Inc., Morton Grove, Illinois, and thereby indirectly acquire Affiliated Bank, Franklin Park, Illinois, and Stanford State Bank, Stanford, Illinois.

In connection with this application, Applicant also proposes to acquire Manucor Insurance Corporation, Detroit, Michigan, and thereby engage in credit related underwriting insurance activities pursuant to § 225.25(b)(8)(i); Manucor Agency, Inc., Detroit, Michigan, and thereby engage in credit related underwriting insurance activities pursuant to § 225.25(b)(8)(i); Manufacturers Bank and Trust of Florida, National Association, Palm Beach Gardens, Florida, and thereby engage in trust company activities pursuant to § 225.25(b)(3); Manufacturers, Federal Savings Bank, Palm Beach Gardens, Florida (in formation), and thereby engage in operating a savings and loan association pursuant to § 225.25(b)(9); Manufacturers Bank-Wilmington, Newark, Delaware, and thereby engage

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in operating a credit card bank pursuant to 225.25(b)(1); Manufacturers Affiliated Trust Company, Chicago, Illinois, and thereby engage in trust company activities pursuant to § 225.25(b)(3); Wilson, Kemp & Associations, Inc., Detroit, Michigan, and thereby engage in providing investment and financial advice pursuant to § 225.25(b)(4); Affiliated Asset-Based Lending Services, Inc., Morton Grove, Illinois, and thereby engage in lending activities pursuant to § 225.25(b)(1); NSCC Leasing Corp., Morton Grove, Illinois, and thereby engage in leasing activities pursuant to § 225.25(b)(5); ML, Inc., Dearborn, Michigan, and thereby engage in data processing activities pursuant to § 225.25(b)(7) ofthe Board's Regulation Y.

In connection with the application, Manufacturers National Corporation, Detroit, Michigan, has applied for prior approval to acquire 16.6 percent of Comerica Incorporated's common stock pursuant to the terms of an option agreement.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. First Bank System, Inc., Minneapolis, Minnesota; to merge with Siouxland Bank Holding Company, Scottsdale, Arizona, Dakota Bankshares, Inc., Scottsdale, Arizona, and thereby indirectly acquire Dakota Bank and Trust Company of Fargo, Fargo, North Dakota; and Hettinger Holding Company, Scottsdale, Arizona, and thereby indirectly acquire First National Bank, Hettinger, North Dakota.

In connection with this application, Applicant also proposes to acquire Dakota First Trust Co., Fargo, North Dakota, and thereby engage in trust company activities pursuant to § 225.25(b)(3) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 10, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-3666 Filed 2-14-92; 8:45 am]

BILLING CODE 6210-01-F

Credit Populaire D'Algerie, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 10, 1992.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. Credit Populaire D'Algerie, Algiers, Algeria; to become a bank holding company by acquiring 44.06 percent of the voting shares of UBAF Arab American Bank, New York, New York.

B. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. Meridian Bancorp, Inc., Reading, Pennsylvania; to acquire 8.33 percent of the voting shares of United Bank of Philadelphia, Philadelphia, Pennsylvania, a *de novo* bank.

C. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Ohio Bancorp, Youngstown, Ohio; to acquire at least 5 percent but not more than 10 percent of the voting shares of Cortland Bancorp, Cortland, Ohio, and thereby indirectly acquire Cortland Savings & Banking Company, Cortland, Ohio.

D. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. City Holding Company, Charleston, West Virginia; to merge with Home Bancorp, Inc., Sutton, West Virginia, and thereby indirectly acquire The Home National Bank of Sutton, Sutton, West Virginia.

2. Glen Burnie Bancorp, Glen Burnie, Maryland; to become a bank holding company by acquiring 100 percent of the voting shares of The Bank of Glen Burnie, Glen Burnie, Maryland.

E. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Commercial Financial Corp., Storm Lake, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of The Commercial Trust & Savings Bank, Storm Lake, Iowa.

F. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Grupo FEMSA, S.A., de C.V., Colonia Lomas de San Francisco, Monterrey, Nuevo Leon, Mexico; to become a bank holding company by acquiring at least 51 percent of the voting shares of Bancomer, S.A., Mexico City, Distrito Federal, Mexico, and thereby indirectly acquire Grossmont Bank, La Mesa, California.

Board of Governors of the Federal Reserve System, February 10, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-3667 Filed 2-14-92; 8:45 am]

BILLING CODE 6210-01-F

Ann Laure Johnson Harper; Change in Bank Control Notice; Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than March 6, 1992.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. Ann Laure Johnson Harper, Monroeville, Alabama; to acquire an additional 1.33 percent of the voting shares of First Camden Bancshares, Inc., Camden, Alabama, for a total of 13.22 percent, and thereby indirectly acquire The Camden National Bank, Camden, Alabama.

Board of Governors of the Federal Reserve System, February 10, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-3668 Filed 2-14-92; 8:45 am]

BILLING CODE 6210-01-F

Irwin Financial Corporation; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 10, 1992.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Irwin Financial Corporation*, Columbus, Indiana; to acquire PriMed Financial Services, Inc., Chesapeake, Virginia, and thereby engage in servicing extensions of credit and acting as agent for servicing and collecting receivables and acquiring consumer credit receivables pursuant to § 225.25(b)(1); and collecting and servicing delinquent accounts receivables pursuant to § 225.25(b)(23) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 10, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-3669 Filed 2-14-92; 8:45 am]

BILLING CODE 6210-01-F

National City Corporation, Cleveland, Ohio, Correction

This notice corrects a previous **Federal Register** Notice (FR Doc. 91-29676), published at page 64792 of the issue for Thursday, December 12, 1991.

The notice for National City Corporation is revised to read as follows:

National City Corporation and its wholly-owned subsidiary, National City Venture Capital Corporation, both of Cleveland, Ohio ("Applicants"), have applied pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8))("BHC Act") and section 225.23(a) of the Board's Regulation Y (12 CFR 225.23(a)), for prior approval to engage in a joint venture by acquiring a limited partnership interest in Reserve Capital Group Limited Partnership, Cleveland, Ohio ("Partnership"), and thereby engage, on a domestic basis, in the following securities-related activities:

(1) the private placement, as agent, of all types of securities;

(2) providing financial and transaction advice to financial and nonfinancial institutions, including

(i) advice regarding the structuring of, and arranging for, loan syndications, interest rate "swaps," "caps," and similar transactions; (ii) advice in connection with financing and other corporate transactions; (iii) valuation services; (iv) advice in connection with merger, acquisition and divestiture considerations; (v) fairness opinions in connection with merger, acquisition and similar transactions; and (vi) conducting feasibility studies for companies;

(3) providing portfolio investment advice pursuant to section 225.25(b)(4)(iii) of the Board's Regulation Y;

(4) arranging commercial real estate equity financing pursuant to section 225.25(b)(14) of Regulation Y;

(5) real estate and personal property appraising pursuant to section 225.25(b)(13) of Regulation Y; and

(6) providing management consulting to depository institutions pursuant to section 225.25(b)(11) of Regulation Y.

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with Board approval, engage in any activity "which the Board, after due notice and opportunity for hearing, has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto."

A particular activity may be found to meet the "closely related to banking" test if it is demonstrated that banks have generally provided the proposed activity; that banks generally provide services that are operationally or functionally so similar to the proposed activity so as to equip them particularly well to provide the proposed activity; or that banks generally provide services that are so integrally related to the proposed activity as to require their provision in a specialized form. *National Courier Ass'n v. Board of Governors*, 516 F.2d 1229, 1337 (DC Cir. 1975)("*National Courier*"). In addition, the Board may consider any other basis that may demonstrate that the activity has a reasonable or close relationship to banking or managing or controlling banks. Board Statement Regarding Regulation Y, 49 FR 806 (1984).

In determining whether an activity meets the second, or proper incident to banking, test of section 4(c)(8), the Board must consider whether the performance of the activity by an affiliate of a holding company "can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." 12 U.S.C. § 1843(c)(8).

The Applicants will conduct the proposed portfolio advisory activities subject to the conditions of section 225.25(b)(4)(iii) of Regulation Y (12 CFR 225.25(b)(4)(iii)); the proposed commercial real estate equity financing activities pursuant to the conditions of § 225.25(b)(14) of Regulation Y (12 CFR 225.25(b)(14)); the proposed real estate and personal property appraisal activities pursuant to the conditions of section 225.25(b)(13) of Regulation Y (12 CFR 225.25(b)(13); and the proposed management consulting activities pursuant to section 225.25(b)(11) of Regulation Y (12 CFR 225.25(b)(11)).

The Board has previously determined by order that the proposed financial advisory services are closely related to banking for purposes of section 4(c)(8) of the BHC Act, and the Applicants have committed to conduct these activities in accordance with the conditions set forth in these Orders. *See SunTrust Banks, Inc.*, 74 Federal Reserve Bulletin 256 (1988); *Signet Banking Corporation*, 73 Federal Reserve Bulletin 59 (1987). In addition, the Board has previously determined by order that acting as agent in the private placement of all types of securities is closely related and a proper incident to banking. *Bankers Trust New York Corporation*, 75 Federal Reserve Bulletin 829 (1989)("*Bankers Trust*"); *J.P. Morgan & Company Incorporated*, 76 Federal Reserve Bulletin 26 (1990)("*J.P. Morgan*"). The Applicants have proposed to act as agent in the private placement of all types of securities subject to the prudential limitations set forth in the *Bankers Trust* and *J.P. Morgan* Orders.

The Applicants state that the proposed activities will benefit the public, and that they will promote competition and provide gains in efficiency and added convenience to customers. Moreover, the Applicants believe that the proposed activities will not result in any unsound banking practices. Accordingly, the Applicants believe that the public benefits of this proposal outweigh adverse effects and the activities are therefore a proper incident to banking for purposes of Section 4 of the BHC Act.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than March 2, 1992. Any request for a hearing on this application must, as required by section 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Cleveland.

Board of Governors of the Federal Reserve System, February 11, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-3712 Filed 2-14-92; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

[Dkt. C-3365]

Nestle Food Company; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, the California-based marketer of Carnation Coffee-mate Liquid from misrepresenting the amount of total fat, saturated fat, or cholesterol in Coffee-mate Liquid or any other milk product or non-dairy substitute, relative to the serving size depicted in its advertisements or promotional materials.

DATES: Complaint and Order issued January 21, 1992.[1]

FOR FURTHER INFORMATION CONTACT: Anne Maher, FTC/S-4002, Washington, DC 20580 (202) 326-2987.

SUPPLEMENTARY INFORMATION: On Thursday, November 7, 1991, there was published in the **Federal Register**, 56 FR 57006, a proposed consent agreement with analysis in the Matter of Nestle Food Company, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52)

Donald S. Clark,

Secretary.

[FR Doc. 92-3730 Filed 2-14-92; 8:45 am]

BILLING CODE 6750-01-M

[Dkt. C-3366]

St. Ives Laboratories, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, a California company from representing that its skin cream or any other non-prescription skin cream is, contains, or has the wrinkle-removing effect as the prescription drug tretinoin or from representing that its cosmetic products are, contain, or have the same effect as another manufacturer's prescription drug. Respondent also is prohibited from representing that its skin product is new or that it helps reduce the visible signs of aging. In addition, respondent is required to pay $100,000 to be deposited into the United States Treasury.

DATES: Complaint and Order issued January 24, 1992.[1]

FOR FURTHER INFORMATION CONTACT: Pamela Wood, Boston Regional Office, Federal Trade Commission, 10 Causeway St., room 1184, Boston, MA 02222-1073, (617) 565-7240.

SUPPLEMENTARY INFORMATION: On Thursday, November 7, 1991, there was published in the **Federal Register**, 56 FR 57011, a proposed consent agreement with analysis In the Matter of St. Ives Laboratories, Inc., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of the order.

No comments have been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52)

Donald S. Clark,

Secretary.

[FR Doc. 92-3731 Filed 2-14-92; 8:45 am]

BILLING CODE 6750-01-M

GENERAL ACCOUNTING OFFICE

Transmittal of Compliance Report to the President and the Congress

Pursuant to the Omnibus Budget Reconciliation Act of 1990, section

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[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

254(b), the United States General Accounting Office hereby reports that it has submitted its Compliance Report covering reports and Presidential orders issued during the session of Congress ending on January 3, 1992 to the President of the United States, the President of the Senate, and the Speaker of the House of Representatives.

James L. Kirkman,

Director, Budget Issues, Accounting and Financial Management Division.

[FR Doc. 92-3744 Filed 2-14-92; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Clinical Training Grants for Faculty Development in Alcohol and Other Drug Abuse

AGENCY: National Institute on Alcohol Abuse and Alcoholism, National Institute on Drug Abuse, Office For Substance Abuse Prevention, HHS.

ACTION: Notice of request for applications.

Introduction

The National Institute on Alcohol Abuse and Alcoholism (NIAAA), the National Institute on Drug Abuse (NIDA), and the Office for Substance Abuse Prevention (OSAP) recognize the importance of training health professionals to effectively recognize, intervene, treat and/or refer alcohol and other drug abuse problems. It is especially important that those health professionals who exercise a leadership role in providing services in the primary health care and mental health care services systems develop expertise in early identification and intervention of alcohol and other drug abuse problems. For this reason, the Institutes and OSAP support clinical training and curriculum development programs which address alcohol and drug abuse training needs.

NIAA, NIDA, and OSAP seek to improve the scope and quality of alcohol and drug abuse clinical teaching in health professions schools through support of a program of faculty development in alcohol and other drug abuse. This program is targeted to faculty in schools of medicine, osteopathy, nursing, and social work as well as university-affiliated departments of psychology. These professions are identified because they bear a major responsibility for provision of primary care and mental health services to partients with alcohol and drug abuse problems. Through this program of faculty training, we seek to develop a cadre of academically based faculty, who will guide the training of a broad range of health professionals who are entering the health services field.

As a first step in addressing health professions faculty training needs, NIAA, NIDA, and OSAP have supported the development of alcohol and other drug abuse curricula for undergraduate and graduate training in schools of medicine, nursing and social work. Information on these curricula and other resource materials are available through the National Clearinghouse on Alcohol and are available through the National Clearinghouse on Alcohol and Drug Information (NCADI). These publications are listed on the NCADI Publications Order Form, which is attached.

In Fiscal Year (FY) 1992, NIAAA, in consultation with NIDA and OSAP, will make clinical training grant awards for "Faculty Development in Alcohol and Other Drug Abuse." This is an updating of a Request for Applications (RFA) issued in February 1990 entitled "Clinical Training Grants for Faculty Development in Alcohol and Other Drug Abuse." Currently 30 Schools of Medicine, Nursing and Social Work are supported to conduct Faculty Development Program grants. A listing of the current grantees is attached, for your information.

It is anticipated that up to $700,000 will be available in FY 1992 to support an estimated 4-6 new grants. In FY 1993, it is anticipated that an additional $1.0 million will be available to support 7-9 new grants. Each of these grants will provide support to 3-5 academically based faculty fellows within a single institution to develop their expertise in alcohol and other drug abuse, and to implement alcohol and drug abuse teaching as part of the ongoing clinical curriculum of their specialty. These grants will include two phases of activity: Faculty training and curriculum implementation efforts (years 1-3), and assessment of impact of training and curriculum activities (years 4 and 5).

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. This RFA is related to the priority area of alcohol and other drug abuse reduction. Potential aplicants may obtain free of charge a copy of Health People 2000 (Full Report: Stock No. 017-001-00474-0, or Summary Report: Stock No. 017-001-00473-1) through the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402-9325 (telephone: (202) 783-3238).

Purpose

The purpose of this program is to develop a cadre of academically based health professions faculty who will provide leadership within their clinical specialties/departments in alcohol and other drug abuse clinical training. It is expected that faculty fellows will develop expertise in the early prevention, screening and assessment, case management and/or referral of patients with alcohol and drug abuse problems; and will incorporate alcohol and drug abuse instruction as part of their ongoing clinical training responsibilities within their departments. In addition, faculty fellows at the awardee institution will work together, under the supervision of a sponsor, to assess curriculum needs and implement curricula in alcohol and drug abuse in their departments. Through this program, faculty fellows will develop expertise in the following areas:

- State-of-the-art prevention, screening and assessment, case management, and referral methods in alcohol and drug abuse;
- Current alcohol and drug abuse research methodologies and findings, and the application of these findings to clinical teaching and clinical practice;
- Application of state-of-the-art instructional materials and methodologies to clinical teaching;
- Implementing alcohol and drug abuse instruction as part of the onging clinical training of the faculty fellows' departments.

NIAAA and NIDA have separate program announcements addressing support for advanced training for careers in research. This information may be obtained by contacting individuals listed under Further Information on Research Training Opportunities.

Eligibility

NIAAA and NIDA are limiting potential applicants under this Request for Applications to schools of medicine, osteopathy, nursing, social work, and university affiliated departments of psychology. This is because alcohol and drug abuse curriculum guidelines and materials, which were developed through the NIAAA/NIDA Curriculum Models Program, can be readily adapted for use by these health professions training programs. A major objective of the current program is to promote the implementation of these model curricula by medical, nursing, social work, and psychology/faculty. These health professions exercise a critical role in the prevention, early recognition, treatment and/or referral of patients with alcohol and other drug abuse problems.

Applications may be submitted by the following health professions schools and institutional units:

- An accredited school of medicine.
- An accredited school of osteopathy.
- An accredited college or university school of nursing offering graduate education.
- School or department of social work offering accredited master's/doctoral programs.
- A university-based department or school of psychology with appropriate accreditation for doctoral-level training in clinical and/or counseling psychology.

Each eligible health profession listed above must submit a separate grant application. Different health professions schools or units within an academic institution must submit separate grant applications. Joint applications across different health professions schools may not be submitted under this program.

Faculty fellow candidates must meet the following criteria:

- Be credentialed for clinical practice in his/her respective profession, and hold appropriate graduate degrees required to pursue tenure track positions in their teaching institutions;
- Be a U.S. citizen or permanent resident;
- Hold a current full-time academic appointment at the clinical instructor level or higher. Clinical instructors must hold appointments which require a minimum level of 50 percent effort for academic responsibilities and demonstrate their commitment to pursuing an academic career in their profession;
- Be in a position to serve as a clinical role model for other faculty and students;
- Provide a commitment of 20–30 percent level of effort each year throughout the 3-year training program.

Individuals who have previously completed training (i.e., through the provision of salary support) under NIAAA/NIDA faculty development programs (e.g., the Career Teacher, Faculty Development or Curriculum Models Programs) are not eligible for support as faculty fellows. Such individuals are eligible for support as program directors.

Institutions are particularly encouraged to invite and foster participation of minority faculty candidates and to incorporate the teaching of ethnic and cultural diversity issues as an integral part of their program.

Mechanism of Support

Support may be requested through an application for a graduate training program (T01). Grant support is for 5 years as described in the section on Allowable Costs, Terms, and Conditions of Support.

Special Application Characteristics

- Applications must be complete and contain all information needed for review. No addenda will be accepted later than the application receipt date unless specifically requested by the scientific review administrator of the review committee.
- The narrative section should be written in a manner that is self-explanatory to outside reviewers who are unfamiliar with prior related activities of the applicant. It should be succinct and well organized, must not exceed 20 single-spaced pages, and must contain all information necessary for reviewers to understand the project. Applications exceeding the 20-page limit (on the narrative section) will not be accepted for review. Appendices may be attached for technical or specialized materials, but may not be used merely to extend the narrative.

Description of Training Program: Application Narrative

The proposed training program should be described using the five headings which follow, and this format should be used instead of that provided for the research plan in the general instructions for the Form PHS 398 Section 2, A–D.

1. Faculty Fellow Candidates

The applicant institution should identify a minimum of three and a maximum of five faculty candidates, who meet the following eligibility criteria:

- Faculty fellow candidates hold current full time appointments in the applicant institution;
- Within schools of medicine, nursing and social work, candidates should represent at least three different departments or institutional divisions/tracks;
- Within departments of psychology, candidates should represent at least three different clinical concentrations;
- The first three faculty fellow candidates must be credentialed for clinical practice in the profession of the applicant institution and represent three different departments/institutional divisions; if fourth and fifth faculty fellow candidates are identified, they may be credentialed for clinical practice in any of the health professions eligible under this RFA, e.g., a clinical psychology or social work faculty member with a full time appointment in a Department of Family Medicine is eligible to fill the fourth or fifth fellow position in a school of medicine;
- Specification from the department chair/institutional division director of an assurance that faculty fellows will be allocated their designated level of effort to this program.

The applicant institution should provide a brief summary of the qualifications and expertise of their faculty fellow candidates. This summary should include, for each faculty fellow candidate: (a) A description of his/her current clinical teaching responsibilities; (b) clinical and/or research objectives; and (c) prior alcohol and other drug abuse training and/or experience.

In addition, the applicant institution should identify the methods utilized to recruit and select faculty fellow candidates. The applicant should provide assurance that each faculty fellow will participate in one professional development meeting of program directors and fellows designed to enhance alcohol and drug abuse teaching. Individual fellow proposed training plans and biographical sketches are to be provided in the section entitled "Description of Consultants/Collaborators".

2. Program Director/Faculty Fellow Sponsor

The overall supervision and sponsorship of the faculty fellows will be the responsibility of the program director. The program director must ensure that faculty fellows have access to needed resources and expertise within their departments, and establish appropriate linkages with research and treatment facilities as well as with other academic institutions. The applicant institution should provide a description of the role of the program director in overseeing the faculty development program, including the program director's role regarding the following: (1) Directing the group instruction component of the program; (2) overseeing individual faculty fellow training, curriculum implementation and evaluation efforts; (3) ensuring access to and appropriate utilization of mentors and research resources; and (4) implementing program evaluation.

The program director should indicate a minimum of 10 percent level of effort per year to the faculty training phase of the project (years 1–3). The applicant must document that the program director has demonstrated leadership in alcohol and drug abuse clinical training, and expertise in the conduct and/or utilization of alcohol and drug abuse research. The application should include a statement of intent from the program director to participate in designated grant-related meetings. This includes one professional development meeting with fellows designed to enhance alcohol and drug abuse teaching during years 01–03, and one collaborative meeting of Faculty Development Program Directors and Evaluators during each year of the grant.

3. Program Plan

The applicant institution should describe the proposed faculty development program and include the following information:

(1) A description of the goals of the proposed program and an assessment of institutional training needs;

(2) A plan for conducting a structured program of faculty fellow training during each of the first 3 years, to include regularly scheduled seminars, workshops and/or other related instructional activities. This training program should utilize learner centered instructional methodologies and should include on and off site training activities. The program plan should address the following:

- Development of faculty fellow expertise in the four areas outlined in page 3 of this FRA;
- Experiences to promote collaboration among fellows;
- Methods to identify and utilize mentors to assist fellows in achieving career development objectives;
- Utilization of institutional and community-based alcohol/drug treatment programs;
- Utilization of institutional and other research resources.

(3) a plan for implementing changes in current clinical teaching programs in targeted departments, to include:

- A brief summary of the existing alcohol and drug abuse curriculum in the fellows' departments or institutional divisions/tracks.
- A summary assessment of how existing curricula and systems of field placement and clinical service delivery will be modified to incorporate alcohol and other drug abuse clinical teaching.
- Strategies for addressing training needs of other faculty, including clinical faculty, house staff and/or field supervisors.
- An appropriate balance of alcohol and other drug abuse instructional content.

A summary of the system to be utilized to monitor (1) individual faculty fellow on and off site training activities, (2) institutional and mentor support to fellows, and (3) curriculum implementation and evaluation activities;

(5) As an optional component of the program plan, a description of a proposed program of ancillary eductional activities during years 02 through 05, which are designed to increase alcohol and other drug abuse knowledge and skills, disseminate innovative instructional and ealuation methodologies and/or develop systems of networking and resource sharing. These activities may target a diverse range of professional audiences outside of the faculty fellow pool, e.g., other health professions faculty in the institution, faculty and/or practitioners in the community, state, regional or national professional levels. Ancillary educational activities should be consistent with the objectives of the overall Faculty Development Program, and should involve faculty fellows in planning, implementation and evaluation. Support for ancillary educational activities may be reflected in years 02 through 05 of the project period, and may not exceed $10,000 per year.

4. Evaluation and Related Research Activities

Each application will include an evaluation component. The proposal should include an evaluation plan, comprised of the following: (a) An individual project process evaluation; and (b) an outcome evaluation of the impact of the training program on faculty trainees, on the training programs of the targeted departments, and on the overall institution.

Applicants should include a description of the activities that will be undertaken in the process evaluation to document: (a) Faculty fellows' activities, (b) educational settings in which these activities take place, (c) the institutional environment, and (d) the interventions that are undertaken during each phase of the project.

The application should also describe the outcome evaluation that will be performed, including: (a) The goals of the project that will be measured, (b) the data collection activities that will be used to measure the goals, and (c) the analysis techniques that will be utilized to assess whether goals were attained. It is expected that the outcome evaluation will address changes in the following areas:

- Alcohol and drug abuse knowledge, clinical skills, practice behaviors and perceptions of competence of fellows and their trainees;
- The institution, e.g., curriculum offerings, clinical teaching programs, service delivery systems, education and service policies;
- Career development outcomes of fellows.

It is expected that fellows will conduct selected evaluation outcome studies which assess the impact of educational interventions on their trainees. The evaluation plan should describe the role of fellow in designing and implementing evaluation outcome studies.

Whenever feasible, particular emphasis in the outcome evaluation should be placed on the impact of the curriculum implementation phase on clinical practice behavior, i.e., changes in practices related to patient screening and assessment, health counseling, diagnosis, intervention, case management, and referral in clinical settings, including ambulatory care settings. The applicant should include a brief description of the proposed experimental or quasi experimental designs that will be utilized in such an evaluation.

The applicant will identify an evaluator at a minimum of 10 percent level of effort to oversee evaluation activities throughout years 1–3 of the grant period and at a level commensurate with project needs during years 04 and 05. The role of the evaluator should be described for each year of the project. The applicant should provide assurance that the evaluator will participate in one collaborative meeting of program directors and evaluators each year of the grant.

During years 04 and 05 of the proposed faculty development program, the applicant may request up to $50,000 each year to support evaluation and related research activities. During this phase of the project, it is expected that the Program Director will encourage the conduct of studies to assess the impact of teaching interventions on clinical practice behavior.

Evaluation funds in years 04 and 05 can be utilized to continue to support faculty fellow evaluation and related research skill development, travel to professional meetings to present evaluation findings, use of evaluation consultants, research assistant and other support services. The applicant should provide a separate budget page for proposed evaluation and related research activities, during years 04 and 05.

5. Applicant Institution

The application should provide a concise description of the applicant institution, including its current educational, service, and research programs, emphasizing those in alcohol and drug abuse. The availability of established faculty as potential academic role models for the faculty fellows at the applicant and other institutions should be described. Additional resources such as established clinical, academic, and/or research centers or unique clinical service programs directed to special populations in need of alcohol and drug abuse services should be included.

The head or chair of each targeted department should provide evidence of commitment to the faculty fellow candidate and to the candidate's plan for implementation of an alcohol and drug abuse curriculum. This should include assurances that sufficient time will be made available to the faculty candidate to undertake the training plan proposed. The dean of the sponsoring institution should also provide evidence of support for the faculty development program. Documentation should be provided regarding the continued commitment of the institution to the faculty fellows beyond the period of the grant award. Letters of support are to be submitted as appendices to the training program description.

Description of Consultants/Collaborators (Faculty Fellows)

Each faculty fellow candidate should submit a biographical sketch and a proposed plan for professional development, as part of a description of participation on the training program (section 2G of the PHS 398 grant application form). This training plan description should not exceed three pages in length and include the following elements:

(1) Discussion of candidate's interest in participating in the faculty development program and how this interest relates to his/her long term career goals.

(2) A description of the candidate's career goals and specific outcomes to be achieved, as a result of this training program.

(3) Assessment of individual training needs with respect to (1) alcohol and drug abuse knowledge and clinical skills, (2) instructional technologies and pedagogical skills, and (3) knowledge of current alcohol and drug abuse research methodologies and findings.

(4) Proposed professional development activities, for years 01 through 03, to include on- and off-site training experiences. Faculty training may include short-term training courses and experiences at other academic institutions. Use of local alcohol/drug treatment facilities should be an integral part of the training plan.

(5) Proposed objectives for implementing alcohol and drug abuse instruction within the fellow's department or institutional division/track, during years 02 through 05 of the grant, including targeted courses, consultation services, field placements and/or clinical teaching sites. Faculty fellow candidates who supervise students or clinical faculty in field placement or clinical teaching sites must target one or more of these sites in their curriculum implementation plan. Assurance should be provided that curriculum implementation activities will incorporate an appropriate balance of alcohol and other drug abuse content.

(6) Statement of proposed short (years 02 and 03) and long-term (years 04 and 05) evaluation and related research interests.

(7) Statement of intent to participate in one off-site professional development meeting per year, designed to enchance alcohol and other drug abuse teaching within his/her profession.

Allowable Costs, Terms, and Conditions of Support

Grants funded under this RFA are awarded directly to the institution. The maximum period of support is 5 years. Plans for each year of the award, including detailed budgets, should be fully presented in the application and should reflect the change in program scope during years 4 and 5 of the project, i.e., funds are directed to the support of evaluation and ancillary educational program activies. Support beyond the first year is contingent upon the availability of funds and the receipt of an annual continuation application.

During the first 3 years of the grant, a maximum of $15,000 per year of grant funds (exclusive of fringe benefits) may be used to support the salary of each faculty fellow and the program director. In addition to salary support, funds may be requested for tuition and travel expenses incurred for the training of fellows and for instructional materials. Expenses to support professional development activities of fellows (i.e., tuition, fees, travel and per diem) must be detailed for each year of the program. The travel budget should indicate specifically the costs of travel designated for the grantee and professional meetings which are specified in these guidelines. Examples of other allowable direct cost expenses include limited amounts for administrative, research and technical support services, consultants, equipment, supplies, and travel. The applicant should clearly identify those budget items which are allocated for ancillary educational program.

The budget justification should include separate budget pages for the following: (a) Proposed ancillary education activites during years 02 through 05 (request not to exceed $10,000) and (b) evaluation and related research activities during years 04 and 05 (request not to exceed $50,000). Evaluation funds in years 04 and 05 can be utilized to support project staff, faculty fellow evaluation and related research skill development, travel to professional meetings, use of evaluation consultants, research assistant and other support services. It is expect that each active faculty fellow will continue to be supported for one professional meeting per year during the evaluation phase of the project.

All budget items must be fully justified at the level requested. All grants will be reimbursed at 8 percent of total allowable direct costs or actual indirect costs, whichever is less.

Grants described in this RFA are awarded directly to eligible schools. Funds may be used only for those expenses which are directly related and necessary to carry out the project, and may be expended in conformance with DHHS cost principles, the Public Health Service Grants Policy Statement, and conditions set forth in this document. Funds made available under this grant may not be used to supplant currently existing grant funds or other support for such training. The Public Health Service Grants Policy Statement (Rev. October 1990) should be available from your office of sponsored research.

As a condition of the award, the applicant will submit an annual continuation application which provides a summary of progress to date, an appraisal of each faculty fellow's progress and plans for the next year. The applicant will provide information on specific areas of program activity, as requested by the Institute in supplemental instructions to the continuation application.

Consultation and Further Information

For questions of eligibility and for assistance in developing applications, prospective applicants shoudl consult:

Frances Cotter, M.A., M.P.H., Chief, Health Professions Education Program, Division of Clinical and Prevention Research, NIAAA, 5600 Fishers Lane, room 14C–20, Rockville, Maryland 20857, (301) 443–1207.

Dorynne Czechowicz, M.D., Associate Director for Medical and Professional Affairs, Division of Clinical Research, Medical Affairs Branch, NIDA, 5600 Fishers Lane, room 10A–12, Rockville, Maryland 20857, (301) 443–4877.

Direct inquiries related to fiscal matters to: Elsie Fleming, Grants Management Branch, NIAAA, 5600 Fishers Lane, room 16–86, Rockville, Maryland 20857, (301) 443–4703.

Application Procedures

Applications (PHS 398, Rev. 10/88) must be complete and contain all information needed for initial and National Advisory Council Review. The number and title of this RFA AA–92–02 "Clinical Training Grants for Faculty Development in Alcohol and Other Drug Abuse" should be typed in item number 2 on the face page of the application form. No addenda will be accepted after the application receipt date of May 18, 1992, unless specifically requested by the executive secretary of the review committee. No site visits will be made.

When using the PHS 398 application form to respond to an RFA, applicants should staple the RFA label (printed in the application kit) to the botton of the face page. Failure to use this label could result in delayed processing of the application, such that it may not reach the reveiw committee in time for review.

Application kits containing the necessary forms and instructions may be obtained from business offices or offices of sponsored research at most universities, colleges, medical schools, and other major research facilities. If such a source is not available, the following office may be contacted for the necessary application material: Division of Clinical and Prevention Research, NIAAA, 5600 Fishers Lane, room 14C–20, Rockville, Maryland 20857, (301) 443–1207.

The original and four permanent, legible copies of the completed application should be submitted by May 18, 1992, to: Division of Research Grants, National Institutes of Health, Westwood Building, room 240, 5333 Westbard Avenue, Bethesda, Maryland 20892.[*]

Due to the short time available for review, applicants are requested to send two additional copies of the application directly to: Office of Scientific Affairs, NIAAA, Faculty Development Grants, Attn: Dr. Mark Green, 5600 Fishers Lane, room 16C–20, Rockville, Maryland 20857.

Letter of Intent

Prospective applicants are asked to submit, by April 15, 1992, a letter of intent that includes a descriptive title of the proposed training proposal, the name and address of the program director, the participating institution, and the number and title of this RFA.

Although a letter of intent is not required, is not binding, and does not enter into the review of subsequent applications, it is requested in order to provide an indication of the number and scope of applications to be reviewed.

The letter of intent should be sent to NIAAA Program Director: Frances Cotter, M.A., M.P.H., Chief, Health Professions Education Program, Division of Clinical and Prevention Research, National Institute on Alcohol Abuse and Alcoholism, 5600 Fishers Lane, room 14C–20, Rockville, Maryland 20857, (301) 443–1207.

Review Procedures

The Division of Research Grants, NIH, serves as a central point for receipt of applications for most discretionary PHS grant programs. Applications received under this RFA will be assigned to a special review committee (SRC). The SRC, consisting primarily of non-Federal technical experts, will review the applications for technical merit. Notification of the review recommendations will be sent to the applicant after the initial review. Applications will receive a second-level review by the National Advisory Council on Alcohol Abuse and Alcoholism whose review may be based on policy considerations as well as technical merit. Only applications recommended for consideration by the Council will be considered for funding.

Review Criteria

Each grant application will be evaluated on its own merits. The following basic criteria will be used:

• Institutional Environment and Support. The applicant institution must show evidence of:

—Commitment of the dean and department/division chairs to the career development of the potential faculty fellows,
—Commitment to implement curriculum in alcohol and other drug abuse,
—Existence of suitable and adequate research, and clinical and academic facilities/resources to address faculty fellow training needs,
—Assurances that faculty fellows will have sufficient release time for grant-related activities.

• Qualifications of Program Director:

—Suitability and quality of academic, clinical and/or research background and experience, and appropriateness as role model,
—Ability to advise and assist fellows in effecting curriculum changes.

• Qualifications and Potential of Faculty Fellow Candidates.

—Appropriate faculty status,
—Ability to provide faculty leadership upon termination of grant,
—Demonstrate commitment to integrating training in alcohol and other drug abuse into his/her department's ongoing teaching program,
—Compatibility among individual career goals, grant intent, and institutional goals,
—Suitability and quality of academic, clinical, and/or research background and experience as related to the grant proposal,
—Background and potential as clinical role model.

• Quality of Program Plan:

—Clearly delineated objectives of the program and need for faculty training,
—Appropriately addresses all major program components, including group instructional activities, individual faculty training plans, evaluation and curriculum implementation activities, and the relationship of these components to program goals,
—Identifies appropriate mentors and research resources as an integral part of the proposed training program,
—Demonstrates an appropriate balance of alcohol and drug abuse content as part of the fellows' training program,
—Plan for conducting ancillary educational programs, is clearly outlined and has reasonable potential for accomplishment,
—Reasonable potential for accomplishment of program goals.

• Quality of Individual Faculty Training Plans:

—Appropriately addresses candidate's individual training needs,
—Reflects an appropriate balance of didactic and clinical training experiences, and incorporates alcohol and drug abuse treatment facilities as an integral component of training,
—Plan for implementing alcohol and drug abuse instruction is clearly outlined and has reasonable potential for accomplishment.

• Adequacy of proposed evaluation plan and capability of proposed evaluator.

• Appropriateness of proposed budget and other resources identified to carry out project activities.

Application Receipt and Review Schedule

Special receipt date	Initial review	Advisory council review	Earliest start date
May 18, 1992.	July 1992	Sept. 1992	Sept. 1992.

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[*] If an overnight carrier or Express Mail is used the ZIP Code is 20816.

Subject to the availability of funds, it is anticipated that another RFA with a new receipt date will be issued in FY 1993. Applications received after the deadline specified above will be considered ineligible for FY 1992 funding and will be returned to the applicant without review.

Award Criteria

The responsibility for award decisions on applications recommended for consideration by the National Advisory Council on Alcohol Abuse and Alcoholism lies solely with authorized program staff. NIAAA and NIDA program staff will use the following criteria in making funding decisions on applications recommended for consideration:

- Technical merit of the proposed project, as determined during the review process.
- Appropriate balance across various health professions.
- Availability of funds.

Further Information on Research Training Opportunities

Information on ADAMHA program announcements directed exclusively to alcohol and other drug abuse research training can be obtained from the following sources:

National Institute on Alcohol Abuse and Alcoholism

Richard Fuller, M.D., Director, Divison of Clinical and Prevention Research, NIAAA, 5600 Fishers Lane, room 14C-10, Rockville, Maryland 20857, (301) 443-1206.

William E.M. Lands, Ph.D., Director, Divison of Basic Research, NIAAA, 5600 Fishers Lane, room 16C-06, Rockville, Maryland 20857, (301) 433-2530.

Mary Dufour, M.D., M.P.H., Chief, Epidemiology Branch, Division of Biometry and Epidemiology, NIAAA, 5600 Fishers Lane, room 14C-26, Rockville, Maryland 20857, (301) 443-4897.

National Institute on Drug Abuse

Harold Jones, Ph.D., Director, Research Training, Office of Science Policy, Education and Legislation, NIDA, 5600 Fishers Lane, room 10A-55, Rockville, Maryland 20857, (301) 443-6701.

Johnson W. Spencer, Ph.D., Research Training Coordinator, Division of Clinical Research, NIDA, 5600 Fishers Lane, room 10A-20, Rockville, Maryland 20857, (301) 443-1263.

Louise R. White, Ph.D., Associate Director, Special Populations Research Program, NIDA, Room 10-05 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-0441.

Authority and Regulations

This program is described in the Catalog of Federal Domestic Assistance, No. 93.274. Awards are made under the authority of section 508(b)(11) of the Public Health Service Act, as amended (42 U.S.C. 290aa-6).

Federal regulations at title 45 CFR parts 74 and 92, generic requirements concerning the administration of grants, are applicable to these awards. This program is not subject to the intergovernmental review requirements of Executive Order 12372 or Health Systems Agency review.

NCADI

Publications Order Form

January 1992

Name ______________________________

Title ______________________________

Organization ________________________

Address ____________________________

City __________ State ______

ZIP ______

Telephone Number ____________________

National Clearing House for Alcohol and Drug Information
P.O. Box 2345
Rockville, MD 20852
(301) 468-2600

Health Professions Education Resource Materials

_____ PHS310 Selected Curriculum Materials in Alcohol and Other Drug Abuse for Health Professionals

_____ RPO778 Evaluating Faculty Development and Clinical Training Programs in Substance Abuse: A Guide Book (1990)

_____ EN9400 Alcohol and Other Drug Resources for Health Professionals

_____ PH309 Directory of Projects: Faculty Development Program in Alcohol and Other Drug Abuse (1991)

_____ RPO737 Minimum Knowledge and Skills Objectives for Alcohol and Other Drug Abuse Teaching

_____ EN8400 NCADI Publications Catalog

NIAA/NIDA Faculty Development Program in Alcohol and Other Drug Abuse; Listing of Grantees

School of Medicine

Boston University School of Medicine
Laurence H. Miller, M.D., Director, Division of Psychiatry, Boston City Hospital, 818 Harrison Avenue, Boston, MA 02118, (617) 534-4230.
Bowman Gray School of Medicine
Loretta Y. Silvia, Ph.D., Assistant Professor, Dept. of Psychiatry and Human Behavior, 300 S. Hawthorne Road, Winston-Salem, NC 27103, (919) 748-4558.
Brown University
David C. Lewis, M.D., Director, Center for Alcohol and Addiction Studies, Box G, Providence, RI 02912, (401) 863-1109.
Case Western University
Antonnette Graham, Ph.D., Assistant Professor, Dept. of Family Medicine, 2078 Abington Road, Cleveland, OH 44106, (216) 844-3791.
Johns Hopkins University
Hoover Adger, Jr., M.D., Assistant Professor, School of Medicine and Affiliated Institutions, 600 North Wolfe Street, Baltimore, MD 21205, (301) 955-2910.
University of Massachusetts Medical Center
Michael R. Liepman, M.D., Director, CD Services—Psychiatry OPD-2, 119 Belmont Street, Worcester, MA 01605, (508) 793-6170.
University of Nevada
John N. Chappel, M.D., Professor of Psychiatry, School of Medicine, Reno, NV 89557-0046, (702) 747-1353.
University of North Carolina School of Medicine
David S. Janowsky, M.D., Director for Alcohol Studies, University of North Carolina at Chapel Hill, CB#7160, Medical School Wing B, Chapel Hill, NC 27599-7160, (919) 966-4473.
University of Southern California School of Medicine
Dale C. Garell, M.D., Professor, Dept. of Family Medicine, 1420 San Paulo Street, PMB-B 205, Los Angeles, CA 90033, (213) 224-7031.
University of Texas Health Science Center at San Antonio
J. Paul Seale, M.D., Assistant Professor, Dept. of Family Practice, 7703 Floyd Curl Drive, San Antonio, TX 78284, (512) 270-3911.
Vanderbilt University
Peter R. Martin, M.D., Associate Professor, Dept. of Psychiatry and Pharmacology, A-2205 MCN, 21st Avenue S., Nashville, TN 37232, (615) 322-3527.
University of Virginia
Randolph J. Canterbury II, M.D., Program Director, Health Science Center, BRH, Drawer D, Charlottesville, VA 22901, (804) 924-5457.
Wayne State University
Eugene P. Schoener, Ph.D., Associate Professor, Dept. of Pharmacology and Community Medicine, 540 E. Canfield Avenue, Rm. 1368, Detroit, MI 48201, (313) 557-1288.
University of Wisconsin Medical School
Michael F. Fleming, M.D., M.P.H., Assistant Professor, Dept. of Family Medicine and Practice, 777 S. Mills Street, Madison, WI 53715, (608) 263-9953.

School of Nursing

University of Cincinnati
Janice M. Dyehouse, Ph.D., R.N., Associate Professor, College of Nursing and Health, Cincinnati, OH 45221-0038, (513) 558-5269.
University of Connecticut
Olga M. Church, Ph.D., R.N., Professor, School of Nursing, U-59, 175 Auditorium Road, Storrs, CT 06269-3059, (203) 486-0516.
University of Illinois at Chicago, College of Nursing
Laina M. Gerace, Ph.D., R.N., Assistant Professor of Nursing, Dept. of Psychiatric Nursing, 845 South Damen Avenue, Chicago, IL 60612, (312) 996-8009.

University of Kansas Medical Center, School of Nursing
Eleanor J. Sullivan, Ph.D., R.N., Dean and Professor, School of Nursing, 39th and Rainbow Blvd., Kansas City, KS 66103, (913) 588–1601.
Lehman College, CUNY
Kem B. Louie, Ph.D., R.N., Assistant Professor, Division of Nursing, 250 Belford Park Blvd, West, Bronx, NY 10468, (212) 960–8213.
New York University, Division of Nursing
Madeline A. Naegle, Ph.D., R.N., Associate Professor, School of Education Health, Nursing and the Arts Profession, 50 West 4th Street, New York, NY 10003, (212) 998–5321.
Ohio State University
Elizabeth Burns, R.S.M., R.N., Ph.D., Professor, Nursing Psychiatry and Neuroscience, College of Nursing, 1585 Neil Avenue, Columbus, OH 43210, (614) 292–4740.
University of South Florida
Ona Z. Riggin, Ed.D., R.N., Professor and Chairperson, PMHN, College of Nursing, Box 22, 12901 Bruce B Downs Blvd., Tampa, FL 33612–4799, (813) 974–2191.
University of Texas-Houston, Health Science Center
Marianne T. Marcus, Ed.D., R.N., Chair, Dept. of Nursing System and Technology, School of Nursing, 1100 Holcombe Blvd, Houston, TX 77030, (713) 792–7893.
University of Washington School of Nursing
Shirley A. Murphy, Ph.D., R.N., FAAN, Professor, Psychosocial Nursing, SC–76, University of Washington, Seattle, WS 98195, (206) 543–6079.

School of Social Work

Boston University
Maryann Amodeo, Ph.D., Director, Alcohol and Drug Institute for Policy, Training and Research, School of Social Work, One University Road, Boston, MA 02215, (617) 353–3763 or 353–5668.
Case Western Reserve University
Lenore A. Kola, Ph.D., Associate Professor, Mandel School of Applied Social Sciences, 2035 Abington Road, Cleveland, OH 44106, (216) 368–2326/2290.
University of Denver
William A. Cloud, Ph.D., Assistant Professor, University Park, Denver, CO 80208, (303) 871–2921.
University of Maryland at Baltimore
Dale Masi, D.S.W., Professor, School of Social Work, 525 West Redwood Street, Baltimore, MD 21201, (301) 326–3616,

or

2301 E Street, Suite A209, Washington, DC 20037, (202) 223–2399.
Rutgers, The State University
Eileen M. Corrigan, D.S.W., Professor, School of Social Work, New Brunswick, NJ 08903, (201) 932–7194.
Virginia Commonwealth University
Sanford Schwartz, Ph.D., Assistant Professor, School of Social Work, 1001 West Franklin Street, Box 2027, Richmond, VA 23284–2027, (804) 367–0753.

NIAAA/NIDA Program Staff

Frances Cotter, M.P.H., Chief, Health Professions Education Program, Parklawn Building, 5600 Fishers Lane, Room 14C–20, Rockville, Maryland 20857, (301) 443–1207, FAX: (301) 443–6076.
Dorynne Czechowicz, M.D., Assistant Director of Medical and Professional Affairs, Parklawn Building, 5600 Fishers Lane, Room 10A–53, Rockville, Maryland 20857, (301) 443–4877, FAX: (301) 443–7397.
Donna English, R.N., M.P.H., Public Health Advisor, Parklawn Building, 5600 Fishers Lane, Room 14C–20, Rockville, Maryland 20857, (301) 443–1207, FAX: (301) 443–6076.
Ellen Gerrity, Ph.D., Evaluation Director, Parklawn Building, 5600 Fishers Lane, Room 14C–20, Rockville, Maryland 20857, (301) 443–1207, FAX: (301) 443–6076.

Joseph R. Leone,

Associate Administrator for Management, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 92–3651 Filed 2–14–92; 8:45 am]

BILLING CODE 4160–20–M

Food and Drug Administration

[Docket No. 92M–0047]

Chiron Ophthalmics, Inc.; Premarket Approval of Chiroflex™ II Model 32–C20SX/XX Silicone Posterior Chamber Intraocular Lenses

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Chiron Ophthalmics, Inc., Irvine, CA, for premarket approval, under section 515 of the Federal Food, Drug, and Cosmetic Act (the act), of Chiroflex™ II Models 32–C20SX/XX, 32–C21SX/XX, 32–C22SX/XX, 32–C23SX/XX, and 32–C24SX/XX silicone posterior chamber intraocular lenses. The devices are to be manufactured under an agreeement with Softlensco, Inc., Los Angeles, CA, which has authorized Chiron Ophthalmics to incorporate information contained in its approved premarket approval application for the Chiroflex™ II models listed above. FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter on January 17, 1992, of the approval of the application.

DATES: Petitions for administrative review by March 19, 1992.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, room 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Donna L. Rogers, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301–427–1050.

SUPPLEMENTARY INFORMATION: On September 18, 1991, Chiron Ophthalmics, Inc., 9342 Jeronimo Rd., Irvine, CA 92718–1903, submitted to CDRH an application for premarket approval of the Chiroflex™ II Models 32–C20SX/XX, 32–C21SX/XX, 32–C22SX/XX, 32–C23SX/XX, and 32C24SX/XX silicone posterior chamber intraocular lenses. These posterior chamber intraocular lenses are indicated for primary implantation for the visual correction of aphakia in persons 60 years of age or older in whom a cataractous lens has been removed by extracapsular cataract extraction. These devices are intended to be placed in the ciliary sulcus or capsular bag. The application includes authorization from Softlensco, Inc., Los Angeles, CA 90071, to incorporate information contained in its approved premarket approval application for Chiroflex™ II Models 32–C20SX/XX, 32–C21SX/XX, 32–C22SX/XX, 32–C23SX/XX, and 32–C24SX/XX silicone posterior chamber intraocular lenses.

In accordance with the provisions of section 515(f)(2) of the act as amended by the Safe Medical Devices Act of 1990, this PMA was not referred to the Ophthalmic Devices Panel of the Medical Devices Advisory Committee, an FDA advisory committee, for review and recommendation because the information in the PMA substantially duplicates information previously reviewed by this panel. On January 17, 1992, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by

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an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before March 19, 1992, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: February 7, 1992.

Elizabeth D. Jacobson,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 92–3708 Filed 2–14–92; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 92M–0046]

Chiron Ophthalmics, Inc.; Premarket Approval of Chiroflex™ Model 32-C10XX Silicone Posterior Chamber Intraocular Lens

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the applica[illegible] by Chiron Ophthalmics, Inc., Irvine, CA, for premarket approval, under section 515 of the Federal Food, Drug, and Cosmetic Act (the act), of Chiroflex™ Model 32-C10XX silicone posterior chamber intraocular lens. The device is to be manufactured under an agreement with Softlensco, Inc., Los Angeles, CA, which has authorized Chiron Ophthalmics, Inc., to incorporate information contained in Softlensco's premarket approval application for the Chiroflex™ Model 32-C10XX silicone posterior chamber intraocular lens. FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of January 17, 1992, of the approval of the application.

DATES: Petitions for administrative review by March 19, 1992.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, room 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Donna L. Rogers, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301–427–1330.

SUPPLEMENTARY INFORMATION: On September 23, 1991, Chiron Ophthalmics, Inc., Irvine, CA 92718, submitted to CDRH an application for premarket approval of Chiroflex™ Model 32-C10XX silicone posterior chamber intraocular lens. The device is an intraocular lens and is indicated for primary implantation for the visual correction of aphakia in persons 60 years of age or older in whom the cataractous lens has been removed by phacoemulsification extracapsular cataract extraction. The device is intended to be placed only in the capsular bag following successful circular tear anterior capsulotomy with a verified absence of radial tears. The application includes authorization from Softlensco, Inc., Los Angeles, CA 90071, to incorporate information contained in Softlensco's approved premarket approval application for Chiroflex™ Model 32-C10XX silicone posterior chamber intraocular lens.

In accordance with the provisions of section 515(f)(2) of the act as amended by the Safe Medical Devices Act of 1990, this PMA was not referred to the Ophthalmic Devices Panel, an FDA advisory panel, for review and recommendation because the information in the PMA substantially duplicates information previously reviewed by this panel. On January 17, 1992, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before March 19, 1992, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: February 7, 1992.

Elizabeth D. Jacobson,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 92–3709 Filed 2–14–92; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

Office of Research on Women's Health; Amended Notice of Meeting

Notice is hereby given to amend the notice of the Office of Research on Women's Health on the public hearing which was published in the **Federal Register** on February 4, 1992 (57 FR 4213).

Letters of intent to present oral testimony from interested individuals and representatives of organizations were to have been received by Ms. Margaret Pickeral, of Prospect Associates, 1801 Rockville Pike, suite 500, Rockville, Maryland 20852, by no later than 5 p.m. (EST) on February 17, 1992. Presenters were to submit three (3) written copies of their testimony to the address above, no later than 5 p.m. (EST) on February 24, 1992. Organizations wishing to provide only written statements were to send three (3) copies of their statements to the address above, no later than 5 p.m. (EST) on February 24, 1992. The deadline for submission of letters of intent to present testimony and copies of all written testimony is extended to 5 p.m. on February 26, 1992.

For additional information, please contact Ms. Margaret Pickerel of Prospect Associates, 1801 Rockville Pike, suite 500, Rockville, Maryland 20852, 301-468-6555, 301-770-5164 (FAX).

Dated: February 12, 1992.

Bernadine Healy,

Director, NIH.

[FR Doc. 92-3855 Filed 2-14-92; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Community Planning and Development

[Docket No. N-92-3390]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708-0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35). It is also requested that OMB complete its review within seven days.

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: February 3, 1992.

Anna Kondratas,

Assistant Secretary, Community Planning and Development.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Section 8 Moderate Rehabilitation Single Room Occupancy Program Application.

Office: Community Planning and Development.

Description of the Need for the Information and its Proposed Use: The information requested will assist the Department in selecting applicants which meet program requirements and demonstrate the greatest need for the Moderate Rehabilitation Single-Room Occupancy (SRO) Program funds. The purpose of this program is to provide rental assistance for homeless individuals in rehabilitated SRO housing. The assistance will be in the form of rental assistance under the Section 8 Housing Assistance Payments Program.

Form Number: HUD-52515B.

Respondents: State or Local Governments.

Frequency of Submission: On occasion.

Reporting Burden:

	No. of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
Application	150		1		25.5		3,825

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Total Estimated Burden Hours: 3,825.

Status: Revision.

Contact: David Pollack, HUD, (202) 708–1234, Jennifer Main, OMB, (202) 395–6880.

Dated: February 3, 1992.

Supporting Statement

Section 8 Moderate Rehabilitation—Single Room Occupancy Program

A. Justification

1. The section 8 Moderate Rehabilitation Program for Single Room Occupancy (SRO) Dwelling for Homeless Individuals is to provide rental assistance for homeless individuals in rehabilitated SRO housing. This program is authorized by section 441 of the Stewart B. McKinney Homeless Assistance Act (Pub. L. 100–77, approved July 22, 1987). Under this program, HUD will fund applications from public housing agencies (PHAs) which best demonstrate a need for the assistance and the ability to undertake and carry out the program. HUD will conduct a national competition to select PHAs to participate.

To be considered for assistance the applicant shall submit to the Department a written proposal containing the following:

(1) A Description of the size and characteristics of the homeless individuals within the applicant's jurisdiction that would occupy single room occupancy dwellings;

(2) Supportive services available for homeless who will occupy units;

(3) A description of the interest that has been expressed by builders, developers, and other (including profit and nonprofit organizations) in participating in the program;

(4) A preliminary feasibility analysis for each structure identified which demonstrates that a preliminary estimate of the gross rents for the structure indicates that the project is feasible within the fair market rent limitation; and

(5) A description of the applicant's experience in working with homeless people.

2. HUD headquarters staff will use the information that is submitted to select PHAs to administer the Moderate Rehabilitation Program for SRO units for homeless individuals. PHAs will be evaluated on the basis of:

a. Previous experience in administering the Moderate Rehabilitation Program;

b. Past performance in placing units under Agreement; and

c. Overall administrative capability.

These evaluations are necessary to allow HUD to determine the relative merits of each proposal, rank them against each other, and ultimately select applications for funding. HUD would be unable to assure that it met the statutory requirements for selecting recipients for assistance under this program if it did not collect the requested information.

The changes from the previous application are noted on the attached draft. The majority of changes are format changes to simplify the application and to clarify what is being requested.

The reference to consistency with local plan has been changed from CHAP to CHAS, which is the document required for all localities receiving assistance from HUD.

The maximum rehabilitation limitation has been increased to reflect current cost data.

3. The use of improved information technology to reduce burden was not considered because of the minimum time necessary for program implementation.

4. We have been unable to identify any requests for information which duplicate the burden for this documentation.

5. No similar information is available from any source.

6. We have examined the information requested to make sure that it is the minimum amount necessary to select the applicants in accordance with the statutory directives.

7. Depending upon future Congressional appropriations, this may be a one time application to participate in the single room occupancy program.

8. There are no known circumstances that require that the collection of information be inconsistent with the guidelines of 5 CFR 1320.6.

9. Senior HUD program officials addressed many individuals and organizations throughout the country briefing them on the Stewart B. McKinney Homeless Assistance Act. Valuable information was collected at these meetings and used as this program was developed.

10. This information collection would not contain personal information that would require an assurance of confidentiality.

11. The proposed guidelines do not contain requests for information of a sensitive nature.

12. The cost to the Federal Government will consist primarily of personnel costs involved in Headquarters review of the applications in order to select recipients of the Moderate Rehabilitation—Single Room Occupany Program. Headquarters review should take about 8 hours for each application, with a total review time for the estimated 150 applications of 1200 hours. Cost estimated to be: GS–12 at $15.60/hour × 1200 hours = $18,720.

13. The dollar cost to the PHA in developing the application is approximately $49,725. This is based on 150 applications. Developing estimate for a single application is $331.50. This is based on the PHA needing 25.5 hours to prepare the application by a staff person at a GS–11 level ($13 hourly salary).

14. This information will not be published for statistical use.

b. Not applicable.

Public Reporting Burden for this collection of information is estimated to average 25.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Information Policies and Systems, AII, U.S. Department of Housing and Urban Development, Washington, DC 20410–3600; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

BILLING CODE 4210-29-M

Application For Section 8 Moderate Rehabilitation Single Room Occupancy Program

U.S. Department of Housing and Urban Development
Office of Community Planning & Development

OMB Approval No. 2506-xxxx(Exp.)

Public Reporting Burden for this collection of information is estimated to average 24 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (2506-xxxx), Washington, D.C. 20503.

HUD will prosecute false claims & statements. Conviction may result in criminal and/or civil penalties (18 U.S.C. Sections 1001, 1010, 1012; 31 U.S.C. Sections 3729, 3802).

Full Name and Address of Public Housing Agency (PHA)	Name and telephone number of contact person:	Number of Single Room Occupancy (SRO) Projects for which applying.

Certifications, Signatures, Legislation

Section 213

Please attach a copy of the Section 213 Letter to this application. Section 213 of the Housing and Community Development Act of 1974 requires HUD to provide the chief executive officer of the unit of general local government an opportunity to comment on the application. (See 24 CFR Part 791 for specific requirements.)

CHAS

The Single Room Occupancy (SRO) Dwellings for Homeless Individuals activities proposed here are consistent with the current, HUD-approved Comprehensive Housing Affordability Strategy (CHAS). Further, these activities will complement and enhance this plan.

Name, Title, Signature & Date of Public Official Responsible for CHAS: X

PHA Qualification

This Agency qualifies as a Public Housing Agency and is legally qualified and authorized to carry out this proposed project.24 CFR 882.803(a)

Drug-Free Workplace

This agency adheres to the Drug-Free Workplace Act of 1988. Illegal manufacture, distribution, possession of drugs is prohibited. Employees are informed about the dangers to the health, safety, and welfare of all persons in the workplace. The agency provides confidential and appropriate assistance to any employee who requests it. Penalties, including termination of employment, may be imposed upon employees for drug abuse violations.

Lobbying

The language of the certification regarding lobbying is included in all appropriate documents (including this one, if necessary) according to 31 USC, Section 1352. Standard Form LLL "Disclosure Form to Report Lobbying" is available, and all who must complete it will be notified (Civil penalties of $10,000 to $100,000 for failure).

Site Standards

The proposed site meets HUD's site and neighborhood standards; the proposed properties meet the regulatory definition of Single Room Occupancy ; and the rehabilitation costs are within the per-unit minimum limitation of $3,000 and maximum limitation of $15,500.

Date, Name, Title, & Signature, of PHA officer authorized to sign this application: X

Legislation

If the applicant already has an ACC for a Section 8 Existing Housing or Moderate Rehabilitation Program, the appropriate boxes indicating that relevant documents have been previously submitted should be checked. If the PHA already has an ACC for an Existing Housing project but is not administering a Moderate Rehabilitation project, a statement from the public housing counsel must be submitted stating that the PHA is qualified to participate based on the documentation previously submitted for the Existing Housing Program. Check appropriate box below.

	Submitted With This Application	Previously Submitted
Relevant enabling legislation	☐	☐
Present or planned regulations governing PHA operations	☐	☐
Supporting opinion from the PHA Counsel	☐	☐

Application Continues

This application must be complete before HUD can begin evaluating it. Follow the instructions on each of the next sections.

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1. Administrative Capability and Experience of the PHA

Attach no more than two typed, double spaced pages describing:

- the PHA's administrative capability experience in administering assisted housing programs.
- the PHA's experience in working with homeless people.

2. Rehabilitation Experience of the PHA

Attach no more than two typed, double spaced pages describing:

The PHA's experience with a previous Section 8 Moderate Rehabilitation Program or other program, such as CIAP, Rental Rehabilitation Program. If your PHA has not administered a Section 8 Mod Rehab Program, explain one of the following: (1) experience with programs which can be useful in administering a viable SRO Program; (2) plans for contracting with a qualified agency or entity for assistance in operating the Program; (3) plans for developing the capability to operate it; or (4) plans for hiring an appropriately skilled person (s) to carry out the day-to-day requirements of the Program.

3. Completion Schedule

Enter the number of calendar days in the spaces below. Use the date of Annual Contribution Contract (ACC) execution as the starting point.

Inspection of units and final feasibility analysis, detailed work write-ups and cost estimates:	Determination of initial base & contract rents:	Firm commitments of financing and loan closing:
Execution of Agreement to enter into a Housing Assistance Payments Contract (AHAP):	Start of Rehabilitation Activities:	Completion of Rehabilitation Activities:
Execution of HAP Contract (not to exceed 365 days after ACC execution):		

4. Need: Homeless Population Description

Attach no more than two typed, double spaced pages for each project.

Describe the number and characteristics of homeless individuals in the community to be served by the project(s).

If this project is intended to serve a specific population of homeless persons, such as substance abusers or chronically mentally ill individuals, include the specific information for that group in this statement.

Be sure to list the source of your information for this(these) description(s).

5. Supportive Service Elements If applying for more than one site, use a separate sheet for each.

A. List the organizations that have made a written commitment to provide the supportive services to the homeless individuals that will reside in the projectidentified below.

Attach a copy of the written commitment.

Examples of the entries in the Type of Service column below are: Counseling, Chemical Dependency Treatment, Mental Health Treatment, Meals, Job Training, Placement, etc.

Type of Service	Source—Full Name & Address	Money Source	Amount of Money Available	Number of Years Available	Check Here If On—site Services

B. Where services are not to be provided on site, describe how they will be made available to the residents:

Attach no more than two typed, double spaced pages describing each of the following:

C. Describe how the residents will be evaluated to determine the appropriate supportive services:

D. State the method that will be used to deliver the service (Examples are case management, group therapy, or referral):

E. Describe how the residents' use of this service will be monitored and evaluated:

6. Site Information If more than one project is included, use a separate sheet for each

Owner — Full name & address	Structure — Full name & address:	
Telephone number:	Priority number:	Site's Congressional District:

A. Site Control

Place an "x" in the box beside the response that describes the owner's form of site control. **Attach a copy of the supporting document to this page.**

☐ Deed

☐ Executed Contract of Sale

☐ Prelease Agreement

☐ Executed Lease Agreement Long-term leases must be at least as long as the 10 year term of the HAP Contract.

☐ Executed Option to Purchase An option is sufficient as far as the submission of a proposal is concerned, but title to the property or other control of the property (such as a long-term lease) for the term of the HAP Contract is required before an AHAP can be executed.

An option will be considered current if it remains enforceable through December 30th of the funding year.

B. Number of Units in Structure

SRO Units ______

Vacant SRO Units ______

Total SRO Units to be Assisted ______

0 Bedroom Units ______

1 Bedroom Units ______

2 Bedroom Units ______

3 Bedroom Units ______

4 Or More Bedroom Units ______

C. Attach a letter signed by the owner of the structure indicating the owner's interest in participating in the program.

7. Financing If more than one project is included, use a separate sheet for each.

A. Address of Site:

B. Source of Funds		C. Use of Funds	
Total Amount of Loans	________	Acquisition Costs	________
Total Amount of Grants	________	Costs of Rehabilitation	________
Total Amount of Owner's Capital	________		
Total Amount of Partner's Capital	________		
Total All Sources	________	**Total All Uses**	________

D. Sources of Financing: Identify all sources of financing, including loans, grants and owner / partner capital.

Source—Full Name & Address	Amount	Interest Rate	Term

E. Attach copies of written statements or commitments of financing from lenders and all other funding sources.

~~DRAFT~~

8. Proposed Rehabilitation If more than one site is included, use a separate sheet for each.

For each site:

- Identify the proposed rehabilitation to be carried out in each unit and in the common areas of the structure.
- Provide a cost estimate for the work. In this estimate, identify rehabilitation, if any, which will not be included in the rent calculation for the SRO Program.

9. Feasibility Analysis

Please complete the attached Appendix 31 to Handbook 7420.3. If more than one (1) project is proposed, submit complete Appendix 31 for each site.

10. Subsidy Layering

As required by Public Law 101-235, Section 102(b) of the HUD Reform Act, describe type and amount of other government assistance, including low income housing tax credits, and list the name of all parties with a pecuniary interest in this proposal. (Type here or on separate sheet.)

[FR Doc. 92-3726 Filed 2-14-92; 8:45 am]

BILLING CODE 4210-29-C

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-948-6310-11-241A]

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's Clearance Office at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau Clearance Officer and to the Office of Management and Budget, Paperwork Reduction Project (Not yet assigned), Washington, DC 20503, telephone number 202-395-7340.

Title: Report of Road Use.

OMB Approval Number: (Not yet assigned).

Abstract: The regulations in 43 CFR part 2812 provide permits to private land owners for rights-of-way over Oregon and California lands. Monitoring of this road use is required by the Inspector General of the United States.

Bureau Form Number: OR-2812-6.

Frequency: Quarterly.

Description of respondents: Road Use Permittees operating under 43 CFR 2812 Reciprocal Logging Road Right-of-way Agreements.

Estimate Completion Time: 2 hours.

Annual Responses: 1000.

Annual Burden Hours: 2,000.

Bureau Clearance Officer (Alternate): Gerri Jenkins 202-653-6105.

Dated: December 23, 1991.

Mat Millenbach,

Acting Assistant Director, Land and Renewable Resources.

[FR Doc. 92-3686 Filed 2-14-92; 8:45 am]

BILLING CODE 4310-84-M

[WY-060-02-4120-14]

Powder River Coal Co.; Draft Environmental Assessment

AGENCY: Bureau of Land Management, Interior, Wyoming.

ACTION: Notice of availability of the draft environmental assessment (EA) for the North Antelope/Rochelle coal lease application (WYW119554) and notice of public hearing.

SUMMARY: This Notice announces the availability of the Draft Environmental Assessment for the Powder River Coal Company application for a coal lease for an estimated 370 million tons of federal coal reserves under 3,064 acres located adjacent to their existing North Antelope and Rochelle mines, Campbell County, Wyoming. The EA was prepared to assist the BLM in making a decision on the proposed lease. A public hearing to receive comments on the EA, the fair market value (FMV), and the maximum economic recovery (MER) has been scheduled for March 16, 1992, at the Holiday Inn in Douglas, Wyoming, starting at 7 p.m. Prior to the meeting, an open house is scheduled from 3 to 5 p.m. that same day at the same location.

DATES: Comments on the EA must be received at the address below no later than c.o.b. April 3, 1992.

ADDRESSES: Comments should be sent to: Attn: Suzanne Mehlhoff, Casper District Office, 1701 East "E" Street, Casper, Wyoming 82601.

FOR FURTHER INFORMATION CONTACT: For more information or to obtain a copy of the EA, contact Suzanne Mehlhoff at the office identified above or by phone at (307) 261-7600.

SUPPLEMENTARY INFORMATION: Powder River Coal Company (PRCC) filed two applications on March 2, 1990, with the BLM, for coal leases adjacent to their existing North Antelope and Rochelle mines. In December 1991, the BLM, under the authority of 43 CFR 3425.1-9, combined the two applications into a single lease application for the following subject lands:

Sixth Principal Meridian

T. 41 N., R. 70 W.
  Sec. 1: lots 8, 9, and 16;
  Sec. 2: lots 5 through 16;
  Sec. 3: lots 5 through 16;
  Sec. 4: lots 5 through 15, SWNE;
  Sec. 5: lots 5 through 18;
  Sec. 6: lots 8, 9, 14 through 17, 22, and 23;
  Sec. 7: lots 5, 12, 13, and 20;
  Sec. 8: lots 4, 10, 11, and SWNW;
  Sec. 17: lots 3 through 6, and 11 through 14.

These lands contain 3,064 acres, more or less. The application(s) were filed as lease-by-application (LBA) for the purpose of extending the producing life of the existing mines. The EA will be available for review and comment on or before February 21, 1992.

The Office of Surface Mining (OSM) and the U.S. Forest Service (FS) have been identified as cooperating agencies in the preparation of the EA. All comments received will be considered in preparation of the final EA.

Dated: February 11, 1992.

Ray Brubaker,

State Director.

[FR Doc. 92-3701 Filed 2-14-92; 8:45 am]

BILLING CODE 4310-22-M

[ID-050-4320-14]

Shoshone District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda for a meeting of the Shoshone District Grazing Advisory Board.

DATES: Wednesday, March 11, 1992, at 9 a.m.

ADDRESSES: Shoshone District BLM Office, 400 West F Street, Shoshone, Idaho.

FOR FURTHER INFORMATION CONTACT: Shoshone District Manager Mary Gaylord, P O Box 2-B, Shoshone ID 83352, telephone (208) 886-2206 or FTS 554-6100.

SUPPLEMENTARY INFORMATION: The proposed agenda for the meeting includes: (1) Drought, (2) Animal Damage Control (ADC) program, (3) Idaho field enhancement, (4) Stream Segments of Concern, (5) funding availability letter, and (6) disbursement of Advisory Board funds.

Operation and administration of the Board will be in accordance with the Federal Advisory Committee Act of 1972 (Pub. L. 92-463; 5 U.S.C. app. 1) and Department of Interior regulations including 43 CFR part 1984.

The meeting will be open to the public. Anyone may present an oral statement between 11 a.m. and 12 noon or may file a written statement regarding matters on the agenda. Oral statements will be limited to ten minutes. Anyone wishing to make an oral statement should notify the Shoshone District Manager by Monday, March 9, 1992. Records of the meeting will be available in the Shoshone District Office for public inspection or copying within 30 days after the meeting.

Dated: February 7, 1992.

Janis L. VanWyhe,

Associate District Manager.

[FR Doc. 92-3706 Filed 2-14-92; 8:45 am]

BILLING CODE 4310-GG-M

[NV-930-02-4212-13; N-55433]

Realty Action; Conveyance of Mineral Interest Application; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of receipt of conveyance of mineral interest application.

SUMMARY: Notice is hereby given that pursuant to section 209 of the Act of October 21, 1976, 90 Stat. 2757, The Heguy Brothers, a general partnership, has applied for conveyance of the Federal mineral estate described as follows:

Mount Diablo Meridian, Nevada

T. 42 N., R. 57 E.,
  Sec. 5, Lots, 1, 3, 4, S½NE¼, SE¼NW¼, NE¼SW¼, N½SE¼;
  Sec. 6, Lot 1;
  Sec. 9, S½SW¼,
  Sec. 16, N½N½, SE¼NE¼, SW¼NW¼, S½.
T. 43 N., R. 57 E.,
  Sec. 31, Lots 2–4, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
  Sec. 32, SW¼, W½SE¼.

Containing approximately 1749.83 acres, more or less.

Additional information concerning this application may be obtained from the Area Manager, Elko Resource Area, Elko District Office, 3900 E. Idaho St., Elko, NV 89801.

Upon publication of this notice in the **Federal Register**, the mineral interests described above will be segregated to the extent that they will not be open to appropriation under the public land laws, including the mining laws. The segregative effect of the application shall terminate upon issuance of a patent or other document of conveyance of such mineral interests, upon final rejection of the application, or two years from the date of filing of the application, January 31, 1994, whichever occurs first.

Dated: February 3, 1992.

Rodney Harris,

Elko District Manager.

[FR Doc. 92-3662 Filed 2-14-92; 8:45 am]

BILLING CODE 4310-HC-M

[WY-031-4212-14; WYW 125203]

Realty Action; Proposed Direct Sale of Public Land Parcel in Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action; proposed direct sale of public land parcel in Fremont County, Wyoming.

SUMMARY: The Bureau of Land Management has received a proposed to sell the following described public lands, surface and mineral estates, excepting oil and gas, to American Nuclear Corporation (ANC) pursuant to sections 203 and 209 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713, 1719:

Sixth Principal Meridian

T. 33 N., R. 90 W.,
  Sec. 32, E½, E½NW¼, NE¼SW¼;
  Sec. 33, NW¼NW¼.

The above lands aggregate 480 acres.

The American Nuclear Corporation wishes to acquire lands to be used for the construction and operation of a fully licensed disposal facility for materials similar in radiological and physical characteristics to uranium mill tailings. More specifically, these would be radioactive materials classified as 11e.(21) by-product material by the Atomic Energy Act of 1954, as amended, and naturally occurring radioactive materials (NORM). These materials would be permanently disposed of in separate disposal cells located adjacent to each other. The facility would be licensed by the Nuclear Regulatory Commission (NRC), Environmental Protection Agency (EPA), and the Wyoming Department of Environmental Quality (DEQ), depending upon the material being handled. The facility would be designed, constructed and operated in accordance with applicable federal, state, and local laws and regulations.

The facility would help meet the NRC's stated policy objective to limit the proliferation of small disposal sites associated with uranium and thorium mining operations. It would also provide a disposal option for NORM materials generated by mineral resources development such as phosphate mining, oil and gas production, and rare earth extraction. The source of the material would be present and future uranium, thorium, phosphogypsum and other rare earth mining, milling and production facilities; present and future oil and gas exploration, development and production facilities; and reclamation and remediation materials from operations conducted in the past where stabilization in place is not a viable option. These sources are located within the State of Wyoming and various locations within the continental United States.

The proposed direct sale to ANC would be made at fair market value. Additionally, ANC would be required to submit a nonrefundable application fee of $50.00 in accordance with 43 CFR subpart 2720 for conveyance of all unreserved mineral interests in the lands.

An environmental document covering the proposal would be prepared by appropriate agencies and made available for review at a later date and prior to a final decision. The proposed sale for the disposal facilities would be held following the environmental review and permitting required by the Wyoming Department of Environmental Quality, the Nuclear Regulatory Commission and the U.S. Environmental Agency.

Conveyance of the land would be subject to the following:

1. Reservation of a right-of-way for ditches or canals pursuant to the Act of August 30, 1890, 43 U.S.C. 945.

2. Reservation of oil and gas to the United States with the right to prospect, explore, and develop the same in accordance with the provisions of the federal mineral laws in force at the time of disposal.

3. BLM oil and gas lease serial number WYW-121606.

4. Any other valid existing rights including rights-of-way that are identified during the evaluation process.

5. All unpatented mill site and lode mining claims encumbering the lands and held by ANC would be relinquished by ANC prior to conveyance of the surface estate and locatable mineral estate, if there are no known mineral values. If the land is determined to contain valuable locatable mineral resources, conveyance of the surface estate would be issued subject to the reservation of all mineral resources to the U.S. Any unpatented mill site or lode mining claims located within the above described lands not held entirely by ANC will preclude sale of that applicable tract and the segregation effected by this notice shall be allowed to terminate.

The public lands involved are permitted for grazing by Philp Sheep Company, c/o John Philp, in Allotment No. 1508. There would not be a cancellation of grazing preference because there is available forage in the allotment to accommodate the present grazing preference. John Philp is being served a 2-year notice prior to cancellation of his grazing permit on the proposed public sale parcel and that notification is being sent with a copy of this Notice of Realty Action.

The public lands described above shall be segregated from all forms of appropriation under the public land laws, including the mining laws upon publication of this notice in the **Federal Register.** The segregative effect will end 270 days from the date of the publication, upon issuance of a patent, or upon publication in the **Federal**

Register of a termination of the segregation, whichever occurs first.

FOR FURTHER INFORMATION CONTACT: Jack Kelly, Area Manager, Lander Resource Area, 125 Sunflower, P.O. Box 589, Lander, Wyoming 82520, (307) 332-7822.

SUPPLEMENTARY INFORMATION: For a period of forty-five (45) days from the date of publication of this notice, interested parties may submit comments to the Area Manager, Bureau of Land Management, Lander Resource Area, P.O. Box 589, Lander, Wyoming 82520. Any comments will be evaluated by the BLM Wyoming State Director, who may sustain, vacate, or modify this proposed realty action.

The subsequent environmental analysis process would provide an opportunity for additional public involvement.

Dated: February 3, 1992.

Jack Kelly,

Area Manager.

[FR Doc. 92-3663 Filed 2-14-92; 8:45 am]

BILLING CODE 4310-22-M

[AZ-930-4214-10; AZA-26437]

Proposed Withdrawal and Opportunity for a Public Meeting; AZ

February 6, 1992.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, has filed application AZA-26437, to withdraw 160.00 acres of National Forest System land from location and entry under the United States mining laws for the purpose of protecting the Sears-Kay Ruin Interpretive Site. At this time the Forest Service is in the process of developing plans for the stabilization and construction of improvements on the Site. The estimated value of the planned improvements is approximately $250,000.

This application is in compliance with the regulations found in 43 CFR 2310.1-2 and the Tonto National Forest Plan. Publication of this notice closes the land for up to 2 years from location and entry under the United States mining laws only, the land will remain open to all other uses applicable to National Forest System lands.

DATES: Comments and requests for a meeting should be received on or before May 18, 1992.

ADDRESSES: Comments and meeting requests should be sent to the Arizona State Director, Bureau of Land Management (BLM), 3707 North 7th Street, Phoenix, Arizona 85014, or P.O. Box 16563, Phoenix, Arizona 85011-6563.

FOR FURTHER INFORMATION CONTACT: John Mezes, BLM, Arizona State Office, (602) 640-5509.

SUPPLEMENTARY INFORMATION: On January 23, 1992, the U.S. Department of Agricuture, Forest Service, filed application AZA-26437 to withdraw the following described National Forest land from location and entry under the United States mining laws, subject to valid existing rights.

Gila and Salt River Meridian

Tonto National Forest

T.6 N., R. 5 E.,
  Sec. 2. E½SW¼, E½NW¼SW¼, E½SW¼SW¼;
  Sec. 11, NE¼NW¼.

The area described contains approximately 160.00 acres in Maricopa County.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the undersigned officer within 90 days from the date of publication of this notice. Upon a determination by the authorized officer that a public meeting will be held, a notice of time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with regulations as set forth in 43 CFR part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is denied or cancelled or the withdrawal is approved prior to that date. The temporary uses which will be permitted during this segregative period are all those applicable to U.S. Forest Service administered lands except those under the mining laws.

The temporary segregation on the land in conjunction with this application shall not affect the administrative jurisdiction over it.

John Mezes,

Acting Deputy State Director, Lands and Renewable Resources.

[FR Doc. 92-3707 Filed 2-14-92; 8:45 am]

BILLING CODE 4310-32-M

[ID-943-4214-11; IDI-15518, et al.]

Proposed Continuation of Withdrawals; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation proposes that the withdrawals for 13,836.05 acres of public land for the Minidoka Reclamation Project continue for an additional 15 years. The lands are now being used for Reclamation project purposes. The land would remain closed to surface entry and mining, but have been and would remain open to mineral leasing.

DATES: Comments should be received by May 18, 1992.

FOR FURTHER INFORMATION CONTACT: William E. Ireland, Idaho State Office, BLM, 3380 Americana Terrace, Boise, Idaho 83706, 208-384-3162.

The Bureau of Reclamation proposes that the existing land withdrawals made by the secretarial orders shown below be continued for a period of 15 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714. The lands are described as follows:

Boise Meridian

(S.O. dated August 12, 1912)

T. 10 S., R. 25 E.,
  Sec. 30, S½S½SW¼NE¼NW¼.

(S.O. dated February 18, 1910)

T. 9 S., R. 25 E.,
  Sec. 12, E½SW¼ and SE¼.
(S.O. September 29, 1919)
T. 9 S., R. 20 E.,
  Sec. 25, SW¼NE¼, N½SW¼ and SW¼SW¼;
  Sec. 26, SE¼SE¼;
  Sec. 35, N½NE¼ and SW¼NE¼.
T. 9 S., R. 21 E.,
  Sec. 32, lots 1 and 2, SE¼NE¼, NE¼NE¼NW¼, NE¼NW¼NE¼NW¼, SE¼SW¼NE¼NW¼, SE¼NE¼NW¼, S½NE¼SW¼NW¼, SE¼SW¼NW¼, S½SW¼SW¼NW¼, NE¼NE¼SE¼ and E½NW¼NE¼SE¼.
  Sec. 33, SW¼NW¼, W½SW¼ and SE¼;
  Sec. 34, S½N½ and S½.

Sec. 35, tracts E, F and G, N½NE¼, N½
SW¼NE¼ and NW¼.
T. 10 S., R. 21 E.,
Sec. 1, tracts D and E;
Sec. 23, a metes & bounds description within S½;
Sec. 24, lot 3;
Sec. 25, lot 5;
Sec. 26, lot 1.

(S.O. September 17, 1909)

T. 9 S., R. 29E.,
Sec. 15, lots 11, 12 and 14.

(S.O. March 18, 1908)

T. 8 S., R. 21 E.,
Sec. 34, tract E.
T. 9 S., R. 21 E.,
Sec. 1, lot 1 and tract E.;
Sec. 2, tract F;
Sec. 3, tract H;
Sec. 7, E½E½;
Sec. 8;
Sec. 9, tracts C, H, K, L and M;
Sec. 10, tracts A and B, E½ and S½SW¼;
Secs. 11 and 12;
Sec. 15, SW¼;
Sec. 17, SW¼SW¼, NW¼NE¼ and N½NW¼;
Sec. 18, lot 4, SE¼SE¼, and NE¼NE¼;
Sec. 19, lot 1, N½NE¼, SE¼NE¼, NE¼NW¼ and SE¼;
Sec. 20, W½NE¼, NW¼ and W½ and SW¼;
Sec. 21, N½ and N½S½;
Sec. 22, W½NE¼, NW¼ and N½SW¼;
Sec. 26, S½S½;
Sec. 29, W½NE¼, N½NW¼, SE¼NW¼, NE¼NE¼SW¼, S½NE¼SW¼, N½SE¼SW¼, E½SW¼SE¼SW¼ and SE¼SE¼SW¼.
T. 10 S., R. 21 E.,
Sec. 1, tracts F and J;
Sec. 13, tracts F, G and H;
Sec. 14, tract H;
Sec. 22, Portion of S½S½ adjoining Snake River;
Sec. 23, lot 1, SE¼SE¼, tract C and a metes & bounds description within the S½;
Sec. 24, lots 2 and 3, N½ and NW¼SW¼;
Sec. 29, lots 10, 11 and 12, W½SE¼NW¼ and SW¼NW¼;
Sec. 30, lots 5 and 6 and NE¼NE¼.
T. 8 S., R. 22 E.,
Sec. 24, SE¼;
Sec. 25;
T. 9 S., R. 22 E.,
Sec. 1, tract E;
Sec. 8, tract E;
Sec. 12, tract K and M and SW¼SW¼;
Sec. 14, tracts B,C,D,E and J;
Sec. 15, lots 1 to 10, inclusive, NW¼NE¼, N½NW¼, SW¼NW¼ and S½SE¼;
Sec. 21, lots 1,4,5,6,8 and 10, E½NE¼, N½S½ and NE¼SE¼SE¼;
Sec. 22, lots 1 to 9, inclusive, W½W½, SE¼SW¼, S½NE¼SE¼ and S½SE¼;
Sec. 23, W½NE¼, NW¼ and N½SW¼;
Sec. 28, tract C;
Sec. 29, tracts C,L,M and N;
Sec. 31, lot 4 and tracts E and J;
Sec. 33, tract D.
T. 10 S., R. 22 E.,
Sec. 3, tract L;
Sec. 4, tract F;
Sec. 6, lots 1 and 6, tracts B and J;
Sec. 17, tract G.
T. 8 S., R. 23 E.,
Sec. 5, tract C;
Sec. 9, tract G;
Sec. 12, tract G;
Sec. 20, tract A;
Sec. 24, tract A;
Sec. 25, tract H;
Sec. 30, tract C;
Sec. 31, tract A;
T. 9 S., R. 23 E.,
Sec. 3, S½SE¼;
Sec. 4, tract B, S½NW¼, and N½SW¼;
Sec. 5, lot 1, tract D, SE¼NE¼, N½SW¼SW¼, SE¼SW¼, S½SE¼ and NE¼SE¼.
T. 7 S., R. 24 E.,
Sec. 15, SE¼;
Sec. 22, tracts E and G;
Sec. 27, tract J;
Sec. 33, tract H;
Sec. 34, tract K.
T. 8 S., R. 24 E.,
Sec. 5, tract K;
Sec. 12, tract G;
Sec. 14, tract J;
Sec. 20, tract H;
Sec. 21, tract M,N and P;
Sec. 25, tract H;
Sec. 27, tracts B,D and H, NE¼SW¼, S½SW¼ and W½NW¼SE¼;
Sec. 32, tracts A,E,F, SE¼NE¼ and W½NE¼SE¼;
Sec. 33, NE¼ N½NW¼, N½SW¼NW¼, N½S½SW¼NW¼ and SE¼NW¼;
Sec. 34, NW¼SW¼, S½SE¼;
Sec. 35, W½SW¼.
T. 7 S., R. 25 E.,
Sec. 19, NE¼NE¼NW¼;
Sec. 31, tract H;
Sec. 32, tract H;
Sec. 34, tract F;
T. 8 S., R. 25 E.,
Sec. 6, tract D;
Sec. 9, tract D and SW¼;
Sec. 10, tract K;
Sec. 17, tract G;
Sec. 24, tract A;
Sec. 26, N½N½;
Sec. 27, N½NE¼;
Sec. 28, metes & Bounds (right-of-way traversing center of section);
Sec. 29, tracts B,E and L (right-of-way traversing center of section);
Sec. 30, lots 1, 2, 3 and 4, SW¼NE¼, NW¼SE¼NE¼, S½SE¼NE¼, E½NW¼, E½SW¼, N½SE¼ and SW¼SE¼.
T. 9 S., R. 25 E.,
Sec. 12, N½ and W½SW¼;
Sec. 31, S½NE¼.

The areas described aggregate 13,836.05 acres.

The withdrawals are essential for protection of irrigation and water storage facilities in the Minidoka Reclamation project. The withdrawals closed the lands to surface entry and mining, but not to mineral leasing. No changes in the segregative effect or use of the land is proposed by this action.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuations may present their views in writing to the Idaho State Director at the above address.

The authorized officer of the Bureau of Land Management will undertake such invsetigations as necessary to determine the existing and potential demand for the lands and their resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawals will be published in the **Federal Register**. The existing withdrawals will continue until such final determination is made.

Dated: February 6, 1992.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 92-3664 Filed 2-14-92; 8:45 am]

BILLING CODE 4310-GG-M

National Park Service

De Soto Trail Commission; Nomination Solicitation

AGENCY: National Park Service, Department of the Interior.

ACTION: De Soto Expedition Trail Commission, Nomination Solicitation.

SUMMARY: The De Soto Expedition Trail Commission was established by Public Law 101-607, November 16, 1990.

The purpose of the Commission is to encourage and direct research, and to coordinate the distribution of interpretive materials to the public, regarding the De Soto Expedition, the native societies they encountered, and the effects of that contact.

DATES: All nominations should be received on or before March 19, 1992.

ADDRESSES: Nominations should be sent to the Secretary, U.S. Department of the Interior, 18th and C Streets, NW., Washington, DC 20240.

Nominations should include a brief biographical outline with home and business addresses and telephone numbers on each individual recommended.

FOR FURTHER INFORMATION CONTACT: Victoria Barrios (202) 208-4644, Office of the Secretary, U.S. Department of the Interior, Washington, DC 20240. A copy of the charter for this Commission is available upon request.

SUPPLEMENTARY INFORMATION: The Commission membership as set forth in Public Law 101-607, November 16, 1990, is to be composed of 19 members appointed by the Secretary of the Interior as follows:

1. Ten members knowledgeable in the history of Spanish-Native American contact, including the history of the De Soto expedition appointed from recommendations submitted by the Governors of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee and Texas, of which one will represent each State; and

2. Four members with expertise in the history of the De Soto Expedition;

3. Two members with knowledge of the Native American societies encountered by the De Soto Expedition.

4. Two members, one of which shall hold the position of Superintendent, De Soto National Memorial, the other of which shall have knowledge of the history of Spanish colonization of the southeastern United States; and

5. One member appointed from recommendations submitted by the Smithsonian Institution.

Through this notice, the Secretary, U.S. Department of the Interior is soliciting nominations from universities, Native American organizations, Hispanic groups, and other interested organizations or individuals for the following 7 appointments:

1. Four members with expertise in the history of the De Soto Expedition;

2. Two members with knowledge of the Native American societies encountered by the De Soto Expedition;

3. One member with knowledge of the history of Spanish colonization of the southeastern United States.

Dated: February 7, 1992.

Manuel Lujan, Jr.,

Secretary of the Interior.

[FR Doc. 92-3736 Filed 2-14-92; 8:45 am]

BILLING CODE 4310-70-M

Acadia National Park Advisory Commission; Bar Harbor, ME; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92-463 86 Stat. 770, 5 U.S.C. app. 1, sec. 10), that the Acadia National Park Advisory Commission will hold a meeting on Monday, March 9, 1992.

The Commission was established pursuant to Public Law 99-420, section 103. The purpose of the Commission is to consult with the Secretary of the Interior, or his designee, on matters relating to the management and development of the Park, including but not limited to the acquisition of lands and interests in lands (including conservation easements on islands) and termination of rights of use and occupancy.

The meeting will convene at Acadia National Park Headquarters, Route 233, McFarland Hill, at 1 p.m. to consider the following agenda:

1. Review and approval of minutes from the meeting held November 25, 1991.

2. Report of the Conservation Easement Subcommittee.

3. Report of the Acquisition Easement Subcommittee.

4. Report of the General Management Planning Subcommittee.

5. Proposed agenda and date of the next Commission meeting.

The meeting is open to the public. Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the Superintendent at least seven days prior to the meeting.

Further information concerning these meetings may be obtained from the Superintendent, Acadia National Park, P.O. Box 177, Bar Harbor, Maine 04609, telephone: 207) 288-5456.

Dated: February 6, 1992.

Steven H. Lewis,

Acting Regional Director.

[FR Doc. 92-3718 Filed 2-14-92; 8:45 am]

BILLING CODE 4310-70-M

Delta Region Preservation Commission, Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Delta Region Preservation Commission will be held at 7 p.m., on Wednesday, March 11, 1992, in the Gold and White Room in the Student Center of Xavier University, 7325 Palmetto, New Orleans, Louisiana.

The Delta Region Preservation Commission was established pursuant to section 907 of Public Law 95-625 (16 U.S.C. 230f), as amended, to advise the Secretary of the Interior in the selection of sites for inclusion in Jean Lafitte National Historical Park and Preserve, and in the implementation and development of a general management plan and of a comprehensive interpretive program of the natural, historic, and cultural resources of the Region.

The matters to be discussed at this meeting include:

—Superintendent's Report on all Units
—Update on Atchafalaya and Jazz Studies
—Discussion of Barataria Marsh Management
—Old Business
—New Business

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come-first-served basis. Any member of the public may file a written statement concerning the matters to be discussed with the Superintendent, Jean Lafitte National Historical Park and Preserve.

Persons wishing further information concerning this meeting, or who wish to submit written statements may contact Robert Belous, Superintendent, Jean Lafitte National Historical Park and Preserve, U.S. Customs House, 423 Canal Street, room 210, New Orleans, Louisiana 70130-2341, Telephone 504/589-3882. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of Jean Lafitte National Historical Park and Preserve.

Dated: February 7, 1992.

Philip A. Francis,

Acting Regional Director, Southwest Region.

[FR Doc. 92-3719 Filed 2-14-92; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before February 8, 1992. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013-7127. Written comments should be submitted by March 4, 1992.

Carol D. Shull,

Chief of Registration, National Register.

ARKANSAS

Cross County

Grace Episcopal Church, 614 E. Poplar St., Wynne, 92000108

Pulaski County

McKenzie House, 4011 AR 161, Scott, 92000105

GEORGIA

Ware County

Downtown Waycross Historic District, Roughly bounded by the Seaboard Coast Line RR tracks and Albany, Isabella, Remshart and Nicholls Sts., Waycross, 92000125

IOWA

Lee County

Atchison, Topeka and Santa Fe Passenger and Freight Complex Historic District (Advent & Development of Railroads in Iowa MPS), 902 Ave. H, Fort Madison, 92000100

MISSISSIPPI

Walthall County

Collins, George H., House, 615 Union Rd., Tylertown, 92000102

MONTANA

Custer County

Ursuline Convent of the Sacred Heart, 1411 Leighton Blvd., Miles City, 92000115

Lewis and Clark County

Silver King Ranch, Roughly 15 mi. NE of Lincoln in Helena NF, Lincoln vicinity, 92000114

NEVADA

Clark County

Goodsprings Schoolhouse (Historic School Buildings in the Evolution of the Fifth Supervision School District MPS), San Pedro Ave. E. of jct. with Esmeralda St., Goodsprings, 92000121

Mesquite High School Gymnasium (Historic School Buildings in the Evolution of the Fifth Supervision School District MPS), 144 E. North 1st St., Mesquite, 92000119

Overton Gymnasium (Historic School Buildings in the Evolution of the Fifth Supervision School District MPS), N. West Thomas St. W. of jct. with S. Anderson St., Overton, 92000118

Washington School (Historic School Buildings in the Evolution of the Fifth Supervision School District MPS), 1901 N. White St., North Las Vegas, 92000120

Douglas County

Douglas County High School (DeLongchamps, Frederick J., Architecture TR), 1477 US 395, Gardnerville, 92000117

WASHOE COUNTY

Washoe County Library—Sparks Branch (DeLongchamps, Frederick J., Architecture TR), 814 Victorian St., Sparks, 92000116

OKLAHOMA

Oklahoma County

Oklahoma County Courthouse (County Courthouses of Oklahoma MPS), 321 Park Ave., Oklahoma City, 92000126

OREGON

Clackamas County

Latourette, DeWitt Clinton, House, 914 Madison St., Oregon City, 92000127

Clatsop County

Goodwin—Wilkinson Farmhouse, US 26/101 W of Cullaby Lake, Warrenton vicinity, 92000128

Jackson County

Merritt, John W., House and Store, 117 E. Pine St., Central Point, 92000129

Josephine County

Rogue River Valley Grange No. 469, 2064 Upper River Rd., Grants Pass vicinity, 92000130

Linn County

Wigle, Jacob and Maranda K., Farmhouse, 1119 Kirk Ave., Brownsville, 92000131

Malheur County

First Bank of Vale, 148 Main St. S., Vale, 92000132

Marion County

Paulus, Christopher, Building, 355, 357 and 363 Court St. NE., Salem, 92000133

Multnomah County

Graham, Thomas, Building, 6031 SE. Stark St., Portland, 92000134

Turner, Frederick, Fourplex, 1430 NE. Twentysecond Ave., Portland, 92000135

Yamhill County

Chambers, Joseph and Virginia, Farmstead, 30295 N. OR 99W, Newberg vicinity, 92000136

TENNESSEE

Warren County

Faulkner, Clay, House, Jct. of Faulkner Springs and Flood Rds., Faulkner Springs, 92000137

UTAH

Utah County

American Fork Second Ward Meetinghouse, 130 West 100 South, American Fork, 92000101

WISCONSIN

Columbia County

Columbus Downtown Historic District, Roughly bounded by Mill, Water and Harrison Sts. and Dickason Blvd., Columbus, 92000113

Society Hill Historic District, Roughly bounded by W. Wisconsin, Cass and W. Emmett Sts. and MacFarlane Rd., Portage, 92000112

Door County

LOUISIANA (Shipwreck) (Great Lakes Shipwrecks of Wisconsin MPS), Address Restricted, Washington vicinity, 92000104

Pilot Island NW Site (Great Lakes Shipwrecks of Wisconsin MPS), Address Restricted, Washington vicinity, 92000103

Fond Du Lac County

Hotel Calumet, 170 Forest Ave., Fond du Lac, 92000111

Congregation Beth Israel Synagogue, 2432 N. Teutonia Ave., Milwaukee, 92000107

Milwaukee—Western Fuel Company Building, 2150 N. Prospect Ave., Milwaukee, 92000108

Washington County

Barton Historic District, Roughly bounded by Harrison and Jefferson St., Barton Ave., Salisbury Rd., Monroe St. and the Milwaukee R., West Ben, 92000109

Winnebago County

Jennings, Ellis, House, 711 E. Forest Ave., Neenah, 92000110

WYOMING

Albany County

Richardson's Overland Trail Ranch, 111 Hart Rd., Laramie, 92000122

Washakie County

Worland Ranch, Jct. of US 20 and Wy 433, Worland, 92000123

[FR Doc. 92–3716 Filed 2–14–92; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before February 1, 1992. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013–7127. Written comments should be submitted by March 4, 1992.

Carol D. Shull,

Chief of Registration, National Register.

ARKANSAS

Washington County

Bariola Farm, 329 Ardemagni Rd., Tontitown, 92000096

FLORIDA

Lake County

Mount Dora A.C.L. Railroad Station, Old, 341 Alexander St., Mount Dora, 92000099

MARYLAND

Frederick County

Emmitsburg of Historic District, Roughly, Main St. E of Mountain View Cemetery Rd. and Seton Ave. adjacent to Main, Emmitsburg, 92000076

Kent County

White House Farm, MD 213 SW of jct. with MD 292, Chestertown vicinity, 92000080

MASSACHUSETTS

Hampden County

Upper Worthington Historic District (Boundary Increase), 443–472 Taylor St., Springfield, 92000075

Hampshire County

South Hadley Canal Historic District, Address Restricted, South Hadley vicinity, 92000077

MISSOURI

St. Louis Independent City

Loretto Academy, Address Restricted, St. Louis (Independent City) vicinity, 92000079

NEW JERSEY

Salem County

Broadway Historic District, Broadway from Front to Yorke Sts., Salem, 92000098

NEW YORK

Nassau County

Sands Family Cemetery, Off Sands Point Rd. just S of jct. with Middle Neck Rd., Sands Point, 92000092

Westchester County

Wickers Creek Site, Address Restricted, Dobbs Ferry, 92000093

NORTH CAROLINA

Tyrrell County

Scuppernong River Bridge, US 64 Bus. across the Scuppernong R., Columbia, 92000078

OREGON

Clackamas County

Dana, Marshall, House, 15725 SE. Dana Ave., Milwaukee vicinity, 92000083
Ertz, Charles W., House, 1650 North Shore Rd., Lake Oswego, 92000081
Petzold, Richard B., Building, 714 Main St., Oregon City, 92000084
Weinstein, Clara and Samuel B., House, 16847 SW. Greenbriar Rd., Lake Oswego, 92000082

Multnomah County

Autzen, Thomas J., House, 2425 NE. Alameda, Portland, 92000088
Lauer Apartment Building, 323–337 NW. Seventeenth Ave., Portland, 92000089
Nichols, Dr. A.S., House, 1961 SW. Vista Ave., Portland, 92000090
Pacific Building, 520 SW. Yamhill St., Portland, 92000091
Parkview Apartments, 1760 NE. Irving St., Portland, 92000085
Ricen, Dr. Leo, House, 2624 NW. Overton St., Portland, 92000086
Roome-Stearns House, 2146 NE. Twelfth Ave., Portland, 92000087

TEXAS

Tarrant County

Grapevine Commercial Historic District, 404–432 S. Main St., Grapevine, 92000097

Taylor County

Sayles Boulevard Historic District (Abilene MPS), Roughly bounded by S. Fifth, Meander and S. Tenth Sts. and Highland Ave., Abilene, 92000095

VERMONT

Orange County

Hayward and Kibby Mill, Spring Rd. at First Branch, White R., Tunbridge, 92000094

[FR Doc. 92–3717 Filed 2–14–92; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–55 (Sub-No. 412X)]

CSX Transportation, Inc.—Abandonment Exemption—in Bell County, KY

Applicant has filed a notice of exemption under 49 CFR 1152 subpart F—Exempt Abandonments to abandon its 0.99-mile line of railroad between milepost SH–207.90, near Heyburn, and the end of the branch line at milepost SH–208.89, in Bell County, KY.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use this exemption, any employee affected by the abandonment shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on March 19, 1992 (unless stayed). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by February 28, 1992.[3] Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by March 9, 1992, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Charles M. Rosenberger, CSX Transportation, Inc., 500 Water Street J150, Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio.*

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by February 21, 1992. Interested persons may obtain a copy of the EA from SEE by writing to it (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 927–6248. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: February 5, 1992.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,
Secretary.

[FR Doc. 92–3733 Filed 2–14–92; 8:45 am]

BILLING CODE 7035-01-M

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[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.,* 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use statement as long as it retains jurisdiction to do so.

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to Resource Conservation and Recovery Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on January 31, 1992, a proposed Consent Decree in *United States* v. *Indiana Woodtreating, Inc.,* No. IP 86–253–C, was lodged with the United States District Court for the Southern District of Indiana. The United States' Complaint in this case alleged violations of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6901 *et seq.,* from defendant's operation of a woodtreating plant in Bloomington, Indiana. The four-count complaint alleged a failure by defendant to notify the United States Environmental Protection Agency of hazardous waste activities, failure to obtain a permit or interim status, violations of State and Federal RCRA regulations, and also a release of hazardous waste into the environment requiring corrective action.

The proposed Consent Decree requires that defendant, which has ceased operations, use funds from the winding up of its business to implement a closure plan approved by the Indiana Department of Environmental

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Management and take corrective action at the facility.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Indiana Woodtreating, Inc.*, DOJ Ref. No. 90–7–1–305.

The proposed Consent Decree and separate stipulation may be examined at the Offices of the United States Attorney for the Southern District of Indiana, U.S. Courthouse, Fifth Floor, 46 East Ohio Street, Indianapolis, Indiana 46204, at the Office of Regional Counsel, United States Environmental Protection Agency, Region V, 111 West Jackson Street, Chicago, Illinois 60604, and at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004, (202) 347–2072. A copy of the proposed Consent Decree may be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of $61.25 (25 cents per page reproduction costs) payable to "Consent Decree Library."

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 92–3687 Filed 2–14–92; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Targeted Training Grants

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of grant program.

SUMMARY: The Occupational Safety and Health Administration (OSHA) has a grant program, Targeted Training, which awards funds to nonprofit organizations to address unmet needs for safety and health training and education in the workplace. This notice announces Targeted Training grant availability for training workers in the logging industry. The grant availability applies to all types of logging, including pulpwood harvesting and the logging of saw logs, bolts and other forest products. The notice describes the scope of the grant program and provides information on how to obtain a grant application. Applications should not be submitted without first obtaining the detailed grant application package mentioned later in the notice.

Authority for this program may be found in section 21(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 670).

DATES: Applications must be received by April 17, 1992.

ADDRESSES: Grant applications must be submitted to the OSHA Office of Training and Education, Division of Training and Educational Programs, 1555 Times Drive, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Ronald Mouw, Chief, or Helen Beall, Training Specialist, Division of Training and Educational Programs, Office of Training and Education, Occupational Safety and Health Administration, U.S. Department of Labor, 1555 Times Drive, Des Plaines, Illinois 60018, telephone (708) 297–4810.

SUPPLEMENTARY INFORMATION:

Background

Section 21(c) of the Occupational Safety and Health Act provides for the education and training of employers and workers in the recognition, avoidance, and prevention of unsafe or unhealthful working conditions. OSHA has used a variety of approaches over the years to fulfill its responsibilities under this section, one of which is the awarding of grants to nonprofit organizations to provide training and education to workers and employers.

The Targeted Training Program is OSHA's current grant program for training and education of workers and employers. Its goals include educating small businesses, training in new OSHA standards, and training in areas of special emphasis or recognized high hazard areas. Organizations awarded grants under this program will be expected to develop training and/or educational programs which address a target named by OSHA, reach out to workers and employers for whom the program is appropriate, and provide them with the training and/or educational program. Success is measured by the number of individuals participating in the program and evidence of their increased hazard recognition and abatement or compliance with the standards.

Scope

The purpose of this notice is to announce the availability of funds for grants which address worker safety in the logging industry, including pulpwood harvesting and the logging of saw logs, bolts and other forest products. Training programs should be carried out in close cooperation with people in the logging industry. It is expected that training will be conducted at logging sites by technical experts who are knowledgeable about safe work practices and who are responsive to changes in safety equipment and to the needs of the logging workforce. Grantees will be expected to incorporate OSHA's new logging standards into their training at such time as the standards are issued.

Among the activities which may be supported under these grants are: conducting training, conducting other educational activities designed to reach and inform workers, and developing educational materials for use in the training and/or educational activities.

Eligible Applicants

Any nonprofit organization which is not an agency of a State or local government is eligible to apply. For purposes of eligibility for this grant program, agencies of State and local governments do not include State or local government supported institutions of higher education. State or local government supported institutions of higher education are eligible to apply.

Nonsupportable Activities

Statutory and regulatory limitation, as well as the objectives of the grant program, prevent reimbursement for certain activities under these grants. These limitations include the following.

1. Any activities inconsistent with the goals and objectives of the Occupational Safety and Health Act of 1970.
2. Activities involving workplaces largely precluded from enforcement action under section 4(b)(1) of the Occupational Safety and Health Act.
3. Activities for the benefit of State, county or municipal employees.
4. Production, publication or reproduction of training and educational materials, including programs of instruction, which have not been approved by OSHA.
5. Lobbying.
6. Training and other educational activities that primarily address issues other than recognition, avoidance, and prevention of unsafe or unhealthful working conditions. Examples include activities concerning workers' compensation, first aid, and publication of materials prejudicial to labor or management.
7. Activities which promote logging production methods or equipment.
8. Activities which provide assistance to workers in arbitration cases or other

actions against employers, or which provide assistance to employers and/or workers in the prosecution of claims against Federal, State or local governments.

9. Activities which directly duplicate services offered by OSHA, a State under a State Plan, or consultation programs provided by State designated agencies under sections 7(c)(1) of the Act.

10. Activities directly or indirectly intended to generate membership in the grant recipient's organization.

Administrative Requirements

Grant recipients that develop curriculums and/or educational materials with grant funds will provide copies of the curriculums and/or educational materials to OSHA by the end of the grant period. The curriculums and materials will be in the public domain.

The grant program will be administered in compliance with 41 CFR Part 29-70 and OMB Circulars A-110, A-133 and A-21 or A-122. All applicants will be required to certify to a drug-free workplace in accordance with 20 CFR part 98 and to comply with the New Restrictions on Lobbying published at 29 CFR Part 93.

The program is subject to matching share requirements. Grant recipients will be expected to provide a minimum of 20% of the total grant budget. For example, if the Federal share of the grant is $80,000 (80% of the grant), then the matching share will be $20,000 (20% of the grant), for a total grant of $100,000. The matching share may exceed 20%.

Evaluation Process and Criteria

Applications for grants solicited in this notice will be evaluated on a competitive basis by the Assistant Secretary for Occupational Safety and Health with assistance and advice from OSHA staff.

The following factors, which are not ranked in order of importance, will be considered in evaluating grant applications.

1. Program Design

a. The plan to develop and implement a training and education program which addresses logging safety for workers.

b. The number of workers to be reached by the program.

c. The appropriateness of the planned activities for providing on-site safety training for loggers.

d. The plan for selecting training sites and recruiting trainees.

e. The plan for evaluating the program's effectiveness in achieving its objectives.

f. The feasibility and soundness of the proposed work plan in achieving the program objectives effectively.

2. Program Experience

a. Prior occupational safety and health experience of the organization.

b. Previous and current training or education programs conducted by the organization.

c. Technical and professional expertise of present or proposed project staff in logging and in occupational safety and health.

3. Administrative Capability

a. Managerial expertise of the applicant as evidenced by the variety and complexity of current and/or recent programs it has administered.

b. Financial management capability of the applicant as evidenced by a recent report from an independent audit firm or a recent report from another independent organization qualified to render judgment concerning the soundness of the applicant's financial practices.

c. Evidence of the applicant's nonprofit status, preferably from the IRS.

d. The completeness of the application, including forms, budget detail, narrative and workplan, and required attachments.

4. Budget

a. The reasonableness of the budget in relation to the proposed program activities.

b. The proposed non-Federal share is at least 20% of the total budget.

c. The compliance of the budget with applicable Federal cost principles and with OSHA requirements contained in the grant application instructions.

In addition to the preceding factors, the Assistant Secretary will consider other factors such as the overall geographical distribution and coverage of populations at risk.

Availability of Funds

There is approximately $340,000 available for this program. It is anticipated that the average Federal award will be $100,000. Grants will be awarded for a twelve-month period.

Application Procedures

Those organizations that meet the eligibility requirements described above and are interested in conducting project activities as described may request a grant application package from the OSHA Office of Training and Education, Division of Training and Educational Programs, 1555 Times Drive, Des Plaines, Illinois 60018.

All applications must be received by the OSHA Office of Training and Education no later than 4:30 p.m. local time, April 17, 1992.

Notification of Selection

Following review and evaluation, those organizations selected as potential grant recipients will be notified by a representative of the Assistant Secretary. An applicant whose proposal is not selected will also be notified in writing to that effect. Notice of selection as a potential grant recipient will not constitute approval of the grant application as submitted. Prior to the actual grant award, representatives of the potential grant recipient and OSHA will enter into negotiations concerning such items as program components, funding levels, and administrative systems. If negotiations do not result in an acceptable submittal, the Assistant Secretary reserves the right to terminate the negotiation and decline to fund the proposal.

Signed at Washington, DC, this 10th day of February 1992.

Dorothy L. Strunk,

Acting Assistant Secretary of Labor.

Addendum

To assist potential applicants, OSHA has assembled the following questions and answers.

Q. Can we get an extension of the deadline?

A. No. Waivers for individual applications cannot be granted, regardless of the circumstances. A closing date may be changed only under extraordinary circumstances. Any change must be announced in the **Federal Register** and must apply to all applications.

Q. Will you help us prepare our application?

A. No. We will answer specific questions about application requirements and evaluation criteria and any other subjects which will help potential applicants understand the application package.

Q. How long should an application narrative be?

A. There is no specified length. Generally 10 to 15 pages is sufficient. However, the most important thing to remember when completing the narrative is to address all items requested in the application package and to provide enough description of proposed program activities so that reviewers have a thorough understanding of the proposal.

Q. How many copies of the application should I submit?

A. Submit one original and three copies. Please do not bind them.

Q. When will I find out if I am going to be funded?

A. You can expect to receive notification two to three months after the application closing date.

Q. Can I obtain copies of the reviewers' comments?

A. Copies of reviewers' comments on their applications will be mailed to unsuccessful applicants upon written request.

Q. Can we budget for the lost time wages of employees participating in the educational program?

A. No. OSHA does not fund lost time wages in its grant programs.

Q. You request a copy of a recent audit but our organization has not had an audit. What do I submit?

A. Explain in the narrative when you expect an audit to be conducted. Submit a copy of your most recent IRS tax return for a nonprofit organization instead.

[FR Doc. 92–3723 Filed 2–14–92; 8:45 am]

BILLING CODE 4510-26-M

NATIONAL COMMISSION ON SEVERELY DISTRESSED PUBLIC HOUSING

Meetings/Public Hearings Announcement

AGENCY: National Commission on Severely Distressed Public Housing.

ACTION: Notice of meeting.

SUMMARY: In according with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Commission on Severely Distressed Public Housing announces a forthcoming meeting of the Commission.

DATES: Thursday, February 27, 1992, Public Hearing, 2:30 p.m.–9 p.m.

ADDRESSES: General Services Administration, 26 Federal Plaza, room 305 A B & C, New York, NY 10278.

*Notice: Use the Dwayne Street Entrance.

DATES: Friday, February 28, 1992, Full Commission Meeting, Marriott Marquis, 1535 Broadway, New York, NY 10036.

FOR FURTHER INFORMATION CONTACT: Carmelita Pratt, Administrative Officer, The National Commission on Severely Distressed Public Housing, 1100 L Street, NW., #7121, Washington, DC 20005 (202) 275–6933.

TYPE OF MEETING: Open.

Due to scheduling difficulties, this notice could not be published 15 days prior to this meeting as required by Federal Advisory Committee Act.

Carmelita R. Pratt,

Administrative Officer.

[FR Doc. 92–3735 Filed 2–14–92; 8:45 am]

BILLING CODE 6820-07-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Visual Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Art in Public Places/Visual Artists Forums Section) to the National Council on the Arts will be held on March 2, 1992 from 10:30 a.m. to 7 p.m., March 3–5 from 9 a.m. to 7 p.m. and March 6 from 9 a.m. to 5 p.m. in room 730 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on March 6 from 2 p.m. to 5 p.m. The topics will be policy discussion and guidelines review.

The remaining portions of this meeting on March 2 from 10:30 a.m. to 7 p.m., March 3–5 from 9 a.m. to 7 p.m. and March 6 from 9 a.m. to 2 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: February 11, 1992.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 92–3671 Filed 2–14–92; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Astronomical Sciences Subcommittee for Long-Range Planning and Priorities; Meeting

In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Astronomical Sciences.

Date & Time: February 27 and 28, 1992, 9 a.m.–5 p.m.

Place: National Science Foundation, room 536.

Type of Meeting: Open.

Contact Person: Dr. Julie H. Lutz, Director, Division of Astronomical Sciences, room 615, National Science Foundation, Washington, DC 20550 (202/357–9488).

Summary Minutes: May be obtained from the contact person at the above address.

Purpose of Meeting: To provide advice and recommendations concerning long-range plans in astronomy, including a recommendation of relative priorities.

Agenda: Thursday and Friday, February 27 and 28, 1992: Discussions concerning long-range plans and priorities in astronomy.

Reason for Late Notice: This meeting was originally scheduled for March but dates had to be change at the last minute to accomodate committee members' schedules.

Dated: February 12, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92–3734 Filed 2–14–92; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-213]

Connecticut Yankee Atomic Power Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–61, issued to Connecticut Yankee Atomic Power Company (CYAPCO, the licensee), for operation of the Haddam Neck Plant, located in Middlesex County, Connecticut.

Environmental Assessment

Identification of the Proposed Action

The proposed amendment will modify the Technical Specifications (TS) to reflect plant modifications to the auxiliary feedwater automatic initiation system. These modifications will restore the Haddam Neck auxiliary feedwater (AFW) system to a condition in which it will start automatically and achieve full design basis flow without any operator action or reliance on the control air system. The proposed action is in accordance with the licensee's amendment request dated August 30, 1991 with supplemental information provided by letter dated December 24, 1991 and February 4, 1992.

The Need for the Proposed Action

Testing performed at the end of the Cycle 15 refueling outage identified two problems with the AFW automatic initiation system. First, following automatic AFW initiation operator action at the main control board is necessary to manually adjust flow to the value required by the safety analysis. Second, if there were a failure of the non-QA control air system, the AFW pump Terry turbines would automatically start and then may trip out on overspeed. In a letter dated August 30, 1990, CYAPCO submitted to the NRC staff, proposed changes to the TS that, for Cycle 16 only, would define operability of the automatic AFW "as crediting operator action to adjust AFW to full flow following automatic initiation and reliance on the control air system to ensure successful automatic AFW initiation." Within that submittal, CYAPCO committed to perform plant modifications prior to or during Cycle 16 refueling outage that would correct the two problems. CYAPCO is replacing the existing AFW pump turbines' steam admission and governor control systems. The steam admission valve pneumatic actuators and the mechanical governor actuators will be replaced with hydraulic actuators. These valves will be controlled remotely from the control room and the remote indication panel via a microprocessor based control system.

CYAPCO performed a safety evaluation of these modifications and determined that they involve an unreviewed safety question and therefore in accordance with 10 CFR 50.59 requested NRC approval prior to implementation via this proposed TS change. CYAPCO has proposed this license amendment with the appropriate changes to TS to reflect the modifications being implemented to resolve AFW automatic initiation system problems.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revision to the TS. The impact of the above change is to provide TSs to add channel operability and surveillance requirements for the automatic start of the new DC powered hydraulic pump which will require a minimum of 1 channel/pump to be operable during modes 1, 2, and 3, channel calibration and trip actuating device operational testing. These requirements ensure that the AFW automatic initiation system performs as intended. In addition the change will remove the statement defining Cycle 16 AFW automatic initiation as including operator action and reliance on control air. The TS change, which reflects a change to a digital control system, will slightly increase the probability of failure of the AFW system, however, the consequences of the accidents will not increase, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with this proposed TS amendment.

With regard to potential nonradiological impacts, the proposed amendment does involve features located entirely within the restricted area as defined in10 CFR part 20. It does not affect nonradiological plant effluents and has no other environmental impact, Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed amendment.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed amendment, any alternatives with equal or greater environmental impact need not be evaluated. The principal alternative to the amendment would be to deny the amendment request. Such action would not enhance the protection of the environment.

Alternative Use of Resources

This action does not involve the use of resources not considered previously in the Final Environmental Statement for Haddam Neck.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed amendment.

For further details with respect to this proposed action, see the licensee's letters dated August 30, 1991, as supplemented December 2, 1991, and February 4, 1992. These letters are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Russell Library, 123 Broad Street, Middletown, Connecticut 06547.

Dated at Rockville, Maryland, this 11th day of February 1992.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate I-4 Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 92-3728 Filed 2-14-92; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Request for Expedited OMB Clearance of Form RI 25-47

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a request for clearance of an information collection survey. Form RI 25-47, Survey of Continuing Full-time School Attendance, is used to verify that students who certified they would be enrolled full time are still so enrolled.

Approximately 11,000 RI 25-47 forms will be completed per year. The form requires 5 minutes to fill out. The annual burden is 917 hours.

A copy of this proposal is appended to this notice.

DATES: Comments on this proposal should be received by February 25, 1992. OMB is being requested to take action by February 28, 1992.

ADDRESSES: Send or deliver comments to—

Mary Beth Smith-Toomey, Chief, Administrative Management Branch, U.S. Office of Personnel Management, 1900 E. Street, NW., rm. SBH22, Washington, DC 20415,

and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., room 3002, Washington, DC 20503, Telephone: (202) 395–7316.

FOR FURTHER INFORMATION CONTACT: Mary Beth Smith-Toomey (202) 606–0623.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

United States Office of Personnel Management,
Retirement Programs,
PO Box 7174, Washington, DC 20044.

Dear Annuitant: Last year you certified that the student named above would be attending school full time through the end of the spring term. We are continuing to pay you benefits based upon your certification of the student's full-time attendance at an accredited school.

We are now requesting information to determine if the student's full-time attendance has changed since your last certification. Please answer the questions on the reverse of this form and return the completed questionnaire to us in the enclosed envelope to the above address. To ensure continued eligibility for payments, please return the questionnaire to us within 30 days. We appreciate your continued cooperation.

Retirement Inspection Branch

Privacy Act and Public Burden Statements

The Office of Personnel Management (OPM) administers the Civil Service Retirement System (chapter 83, of title 5, U.S. Code) and the Federal Employees Retirement System (chapter 84, title 5, U.S. Code.) The information requested on the enclosed form is needed to document a retirement benefit or claim. The information may be shared and is subject to verification, via paper, electronic media, or through the use of computer matching programs, with national, state, local or other charitable or social security administrative agencies in order to determine benefits under their programs, to obtain information necessary for determination or continuation of benefits from OPM, or to report income for tax purposes. It may also be shared and verified, as noted above, with law enforcement agencies when they are investigating a violation or potential violation of civil or criminal law. Provision of the information is voluntary; however, failure to supply all the requested information may delay or cause suspension of your payments. Intentionally false statements and/or suspected illegal activities are reportable by us to the appropriate law enforcement agencies.

We think this form takes an average 5 minutes per response to complete, including the time for reviewing instructions, getting the needed data, and reviewing the completed form. Send comments regarding our estimate of any other aspect of this form, including suggestions for reducing completion time, to the Office of Management and Budget, Paperwork Reduction Project (3206-XXXX), Washington, D.C. 20503.

Survey of Continuing Full-time School Attendance

Did the student named on the reverse stop full-time school attendance at any time since your last certification?

☐ Yes

1. What date did the student stop full-time attendance?

____

2. Did the student begin full-time attendance again?

☐ No

☐ Yes → If yes, show date:

____

3. Did the student stop full-time attendance after the date in 2 above?

☐ No

☐ Yes → If yes, show date:

____

☐ No

1. How many credit hours is the student taking?

If college or equivalent show credit hours per term:

____

If high school or equivalent, show weekly clock hours:

____

If high school work study program, show clock hours at:

work _____ + school _____ = total

____

2. Show date the student is expected to end full-time attendance for this school term:

____

I certify that the information given in regard to the school enrollment of the student named on the reverse side is true and correct to the best of my knowledge and belief. OPM may further verify the information provided.

Signature ______________________________

Date ______________________________

Telephone number ( ) ______________________________

[FR Doc. 92–3578 Filed 2–14–92; 8:45 am]

BILLING CODE 6325-01-M

Request for Clearance of Form RI 25–37

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a request for clearance of an information collection. Form RI 25–37, Evidence to Prove Dependency of a Child, is designed to collect sufficient information for the Retirement and Insurance Group to be able to determine whether the surviving child of a deceased Federal employee or annuitant is eligible to receive benefits as a dependent child.

Approximately 250 dependency determinations are made annually. It requires about one (1) hour to assemble the needed documentation. The annual burden is 250 hours.

For copies of this proposal, contact C. Ronald Trueworthy, on (703) 908–8550.

ADDRESSES: Send or deliver comments to—

Mary Beth Smith-Toomey, Program Officer, U.S. Office of Personnel Management, 1900 E. Street, NW, SBH22, Washington, DC 20415,

and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., room 3002, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mary Beth Smith-Toomey, (202) 606–0623.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 92–3574 Filed 2–14–92; 8:45 am]

BILLING CODE 6325-01-M

Request for Approval of Comprehensive Medical Plans Submitted to OMB for Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a renewal of an existing information collection and recordkeeping requirement from the public. Comprehensive Medical Plans—Application to Participate in Federal Employees Health Benefits Program (FEHBP) and Contractor Records Retention are required under the authority of title 5, U.S. Code, chapter 89, and Federal Acquisition Regulation (FAR) 9.1. Comprehensive medical plans applying for participation in the FEHBP must complete an application form so OPM can determine if the plans are "responsible prospective contractors" as defined under FAR 9.1. Once approval is obtained, the comprehensive medical plans are required to keep administrative, financial and claim records, which are subject to an audit. Annual use (the number of plans expected to apply) is estimated at 25

applications during the next contract year from January 1, 1992 through December 31, 1992. The total annual information and recordkeeping burden is 7,050 hours.

For copies of this proposal, contact C. Ronald Trueworthy, on (703) 908-8550.

DATES: Comments on this proposal should be received by March 19, 1992.

ADDRESSES: Send or deliver comments to—

Reginald M. Jones, Jr., Assistant Director, Office of Insurance Programs, U.S. Office of Personnel Management, 1900 E Street, NW, room 3415, Washington, DC 20415,

and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., room 3002, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mary Beth Smith-Toomey, (202) 606-0623.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc 92-3580 Filed 2-14-92; 8:45 am]

BILLING CODE 6325-01-M

POSTAL SERVICE

Changes in Certain Postal Rates and Mail Classification

AGENCY: Postal Service.

ACTION: Change in postal rates and mail classification for third-class 125-piece walk-sequenced non-letters.

SUMMARY: Pursuant to its authority under 39 U.S.C. 3625, the Postal Service is implementing the changes indicated below in domestic postage rates and mail classification for third-class 125-piece walk-sequenced non-letters.

EFFECTIVE DATE: March 15, 1992.

FOR FURTHER INFORMATION CONTACT: David Rubin, (202) 268-2986.

SUPPLEMENTARY INFORMATION: On August 22, 1991, the Postal Service filed, pursuant to chapter 36, title 39, United States Code, a request with the Postal Rate Commission for a recommended decision on the establishment of rate categories and discounts for non-letter third-class mail prepared in walk-sequence order and presented in quantities of at least 125 pieces per route. An explanation of the Postal Service's proposal and an invitation to participate in Commission Docket No. MC91-2 was published in the **Federal Register** by the Postal Rate Commission on September 3, 1991 (56 FR 43636).

On November 6, 1991, the Postal Service filed with the Postal Rate Commission a Stipulation and Agreement, signed by 13 of the 17 participants in the Docket, and not opposed by the 4 other participants, supporting the rate and classification changes proposed by the Postal Service. On November 22, 1991, the Postal Rate Commission issued its Opinion and Recommended Decision adopting this Stipulation and Agreement as the basis for its recommendation of the rate and classification changes proposed by the Postal Service.

In a decision adopted on January 6, 1992, the Governors of the Postal Service approved this Recommended Decision. The Board of Governors of the Postal Service ordered that the changes in rates and mail classification become effective at 12:01 a.m. on March 15, 1992.

In accordance with these actions by the Governors and the Board of Governors, the Postal Service hereby gives notice that the rate and classification changes listed below will become effective at 12:01 a.m. on March 15, 1992. Implementing regulations are published elsewhere in this issue.

Authority: 39 U.S.C. 101(d), 401, 403, 404, 3621, 3625, 3626.

Stanley F. Mires,

Assistant General Counsel, Legislative Division.

Classification Schedule 300 is amended to add a new section 300.02310 to read as follows:

300.02310 125-Piece Walk Sequence Mail

Bulk third-class mail presented in a carrier-route mailing which is walk sequenced and contains a minimum of 125 pieces per carrier route, and which meets the preparation requirements prescribed by the Postal Service, is eligible for the applicable discounts set forth in Rate Schedules 301 and 302.

Rate Schedules 301 and 302 are amended to read as follows:

RATE SCHEDULE 301

[Third-Class Mail: Regular Bulk [1]]

	Piece rates (cents)	Pound rates (cents)
Letter Size:		
Piece Rate	19.8	
Discounts (per piece):		
Destination Entry:		
BMC	1.2	
SCF	1.7	
Delivery Office [2]	2.2	
Presort Level:		
3/5 Digit	3.3	
Carrier Route	6.7	
Saturation	7.4	
Automation: [3]		
ZIP + 4: [4]		
Basic	0.9	
3/5 Digit [5]	0.4	
Barcode: [4]		
Basic	1.9	
3-Digit [5]	1.1	
5-Digit [5]	1.9	
Non-Letter Size:		
Piece Rate [6]	23.3	
Discounts (per piece):		
Destination Entry:		
BMC	1.2	
SCF	1.7	
Delivery Office [2]	2.2	
Presort Level:		
3/5 Digit	4.6	
Carrier Route	9.1	
125-Piece Walk Sequence	9.6	
Saturation	10.6	
Pound Rate: [6]		
Pound Rate plus Per Piece Rate	10.9	60.0
Discounts:		
Destination Entry (per pound):		
BMC		5.8
SCF		8.1
Delivery Office [2]		10.4
Presort Level (per piece):		
3/5 Digit	4.6	
Carrier Route	9.1	
125-Piece Walk Sequence	9.6	
Saturation	10.6	

[1] A fee of $75.00 must be paid once each 12-month period for each bulk mailing permit.

[2] Applies only to carrier route presort, 125-piece walk sequence and saturation mail.

[3] For letter size pieces meeting applicable Postal Service regulations.

[4] Among AIP + 4 and barcode discounts, only one discount may be applied.

[5] Deducted from otherwise applicable 3/5-digit rate.

[6] Mailer pays either the piece or the pound rate, whichever is higher.

RATE SCHEDULE 302

[Third-Class: Nonprofit-Bulk Mail [1]]

	Piece rates (cents)	Pound rates (cents)
Letter Size:		
Piece Rate	11.1	
Discounts (per piece):		
Destination Entry:		
BMC	1.2	
SCF	1.7	
Delivery Office [2]	2.2	
Presort Level:		
3/5 Digit	1.3	
Carrier Route	3.7	
Saturation	4.0	
Automation [3]		
ZIP + 4 [4]		
Basic	0.7	
3/5 Digit [5]	0.4	
Barcode: [4]		
Basic	1.7	
3-Digit [5]	1.0	
5-Digit [5]	1.7	

RATE SCHEDULE 302—Continued

[Third-Class: Nonprofit-Bulk Mail [1]]

	Piece rates (cents)	Pound rates (cents)
Non-Letter Size:		
Piece Rate [4]	14.6	
Discounts (per piece):		
Destination Entry:		
BMC	1.2	
SCF	1.7	
Delivery Office [2]	2.2	
Presort Level:		
3/5 Digit	1.4	
Carrier Route	4.5	
125-Piece Walk Sequence	4.7	
Saturation	5.2	
Pound Rate: [6]		
Pound Rate plus Per Piece Rate	6.3	39.8
Discounts:		
Destination Entry (per pound):		
BMC		5.8
SCF		8.1
Delivery Office [3]		10.4
Presort Level (per piece):		
3/5 Digit	1.4	
Carrier Route	4.5	
125-Piece Walk Sequence	4.7	
Saturation	5.2	

[1] A fee of $75.00 must be paid once each 12-month period for each bulk mailing permit.

[2] Applies only to carrier route presort, 125-piece walk sequence and saturation mail.

[3] For letter size pieces meeting applicable Postal Service regulations.

[4] Among ZIP + 4 and barcode discounts, only one discount may be applied.

[5] Deducted from otherwise applicable 3/5-digit rate.

[6] Mailer pays either the piece or the pound rate, whichever is higher.

[FR Doc. 92–3755 Filed 2–14–92; 8:45 am]

BILLING CODE 7710-12-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–30353; File No. SR-CSE-92-01]

Self-Regulatory Organizations; Notice of and Order Granting Accelerated Approval to Proposed Rule Change by the Cincinnati Stock Exchange Relating to the Extension of a Pilot Program for Preferencing of Public Agency Market and Marketable Limit Orders by Approved Dealers and Other Proprietary Members

February 7, 1992.

I. Introduction

On January 21, 1992, the Cincinnati Stock Exchange, Inc. ("CSE" or "Exchange") submitted a proposed rule change to the Securities and Exchange Commission ("Commission") pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), and rule 19b–4 thereunder. The CSE requested accelerated approval of a proposed rule change to extend for another six months paragraphs (u), (l) and (m) of Exchange Rule 11.9, which modify the Exchange's time priority rules. The CSE originally received approval for a six-month pilot to study the new preferencing rule.[1] The pilot was subsequently extended for another six months on August 5, 1991,[2] and amended on October 30, 1992.[3]

The preferencing rule modifies the Exchange's time priority rules to permit a market maker to act as Dealer of the Day and have priority over same-priced market maker or professional agency interest entered prior in time to his bid or offer when the market maker is interacting with public agency market and marketable limit orders that he or she represents as agent. The CSE intends the rule to provide market makers with the ability to retain and execute their internal order flow at the best bid or offer, provided the public limit orders on the book have been executed at that price. The time priority rule was designed to create incentives for a market maker/dealer to direct his or her own retail orders to the Exchange, permitting the market maker/dealer to preference itself over other professionals with respect to order flow that the market maker/dealer is directing to the Exchange.

Originally, as a condition of Commission approval of the preferencing rule, the CSE agreed to propose the rule on a six-month pilot basis and amend the proposal to address Commission concerns regarding: (1) Short-sale arbitrage programs; (2) payment for order flow; (3) the number of issues that a Designated Dealer could preference during the period of the pilot; and (4) length of service as a Designated Dealer. To prevent the use of preferencing to facilitate program trading, the CSE agreed to limit to 60 the number of issues that a Designated Dealer could preference.

To conduct a more extensive pilot, provide the dealers with flexibility to experiment with different issue mixes and improve the Exchange's ability to attract market makers to the National Securities Trading System, the CSE requested that rule 11.9 be amended to increase from 60 to 125 the number of stocks that a Designated Dealer could preference to itself.[4] As a condition of Commission approval, the CSE agreed to provide the Commission with the following information during the extension of the pilot to aid the Commission in evaluating the effect of lifting the sixty-issue cap: (1) A list indicating how many Designated Dealers are preferencing in more than sixty issues; (2) a list identifying, in each such case, the issues being preferenced; and (3) reports indicating the volume of preferenced trades in each issue. Further, the CSE agree that, if the Commission requests it, it would provide available information relating to specific intervals of time. Finally, the CSE agreed that the dealer preferencing program would not be used for index arbitrage purposes until permitted by the Commission.[5]

II. Description of the Proposal and Exchange Rationale

The purpose of the proposed rule change is to extent for another six months the pilot for CSE's preferencing rule, as amended. Although preferencing has increased since its introduction in April, 1991, the CSE states that the overwhelming majority of the Exchange's share volume continued, as of December 1991, to be non-preferenced trading. Thus, the CSE is requesting another extension of the preferencing pilot, as amended, so that the Exchange and the Commission might continue to evaluate the impact of preferencing on the national market system.

III. Discussion

The Commission finds that the extension of the pilot, as amended, is consistent with the Act and the rules and regulations thereunder applicable to the Exchange. Specifically, the proposal is consistent with section 6(b)(5) because it is designed to promote just and equitable principles of trade, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. The Commission believes that the proposal, as amended, addresses the CSE's legitimate desire to attract additional business to the exchange. Approval, however, is contingent upon the CSE continuing to abide by the conditions set out above and to provide the information described above. Approval also is conditioned upon the CSE providing, for each month of the pilot program, the Commission with information on the total preferenced share and transaction volume and what percentage of total CSE share and transaction volume the preferenced volume represents.

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[1] *See* Securities Exchange Act Release No. 28866 (February 7, 1991), 56 FR 5854.

[2] *See* Securities Exchange Act Release No. 29524 (August 5, 1991); 56 FR 38160.

[3] Securities Exchange Act Release 29885 (October 30, 1991) 56 FR 56676.

[4] *See* Securities Exchange Act Release No. 29885 (October 30, 1991), 56 FR 56676.

[5] *Id.*

The Commission finds good cause for approving the extension of the pilot, as amended, for an additional six months effective upon termination of the extension of the original pilot on February 7, 1992, which is prior to the thirtieth day after the date of publication of the notice of filing. The Commission believes that accelerated approval will help the CSE continue its preferencing program without interruption to participating dealers.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the principal office of the above-referenced self-regulatory organization. All submissions should refer to the file number in the caption above and be submitted by March 10, 1992.

V. Conclusion

Based on the foregoing, the Commission has concluded that the extension of the pilot, as amended on October 30, 1991, is consistent with the requirements of the Act and that it is appropriate to approve the proposal.

It is Therefore Ordered, Pursuant to section 19(b)(2) of the Act, that the extension of the pilot for an additional six-month period, commencing upon termination of the extension of the original pilot, as amended, on February 7, 1992, be, and hereby is, approved until August 7, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. 17 CFR 200.30-3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-3672 Filed 2-14-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30352; File No. SR-OCC-91-10]

Self-Regulatory Organization; The Options Clearing Corp.; Order Approving a Proposed Rule Change Relating to Rules on Financial Requirements

February 7, 1992.

On May 24, 1991, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (SR-OCC-91-10) pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act").[1] The purpose of the proposed rule change is to amend OCC's financial responsibility rules to provide for greater symmetry between those rules and rule 15c3-1 of the Act.[2] Notice of the proposed rule change appeared in the **Federal Register** on July 17, 1991.[3] OCC filed amendments to the proposal on November 8, 1991, and on January 17, 1992.[4] No comments were received regarding the proposed rule change. The Commission is approving the proposed rule change as amended.

I. Description of the Proposed Rule Change

The proposed rule change amends OCC's financial responsibility rules to require a clearing member to notify OCC if the clearing member has provided the Commission notice as required by rule 15c3-1(e)(1) of the Act and to provide OCC a copy of any such notice. Generally, rule 15c3-1(e)(1) of the Act prohibits the withdrawal of a broker's or dealer's equity capital by a stockholder or partner and prohibits the making of any unsecured advance or loan or payment of a dividend or similar distribution to a stockholder, partner, sole proprietor, employee, or affiliate if such withdrawal, advance, or loan exceeds certain percentages of the broker's or dealer's excess net capital unless the broker or dealer provides notice to the Commission and its examining authority.[5]

The proposed rule change also amends paragraph .04 of the Interpretations and Policies ("Interpretations") under OCC Rule 305. OCC rule 305 authorizes OCC to impose restrictions on a clearing member's positions if the financial or operational condition of that clearing member makes it necessary or advisable for the protection of OCC, its other clearing members, or the general public. The Interpretations under rule 305 set forth nonexclusive situations in which OCC may take action under rule 305. Under the proposed amendment to Interpretations .04, OCC may impose restrictions on a member's positions if the member's net worth becomes less than the greater of either the member's largest one-month pretax loss (exclusive of extraordinary items) as reported over the most recent twelve-month period or $75,000.

The proposed rule change also makes a technical amendment to OCC's pledge program concerning allocation of exercises and sales among pledge accounts. Under the proposal, rule 614(f)(2)[6] is amended to provide that in calculating the allocation of exercises and sales of options among pledge accounts pursuant to rule 614(f)(2), any allocation of a fraction of an option that was exercised or sold shall be disregarded and any remaining exercised or sold options that were not initially allocated because of the disregarding of fractions shall be allocated to the pledge account with the lowest numerical designation which has a long position in the particular options series after giving effect to all previous allocations.

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[1] 15 U.S.C. 78s(b).

[2] 17 CFR 240.15c3-1 (Uniform Net Capital Rule).

[3] Securities Exchange Act Release No. 29429 (July 10, 1991), 56 FR 32597.

[4] In November, OCC amended the proposal to clarify that a clearing member must notify OCC if that clearing member has provided any notice as required by paragraph (e)(1) of rule 15c3-1. Previously, OCC's proposal referenced paragraph (e)(1)(iv) of rule 15c3-1. Letter from Jean M. Cawley, Staff Counsel, OCC, to Jerry W. Carpenter, Branch Chief, Division of Market Regulation ("Division"), Commission (November 7, 1991).

In January, OCC filed an amendment to make a technical change to rule 614, which governs OCC's pledge program. The amendment will conform the relevant portion of OCC's pledge reallocation process to changes in its pledgee priority status recently approved by the Commission in Securities Exchange Act Release No. 30110 (December 20, 1991), 56 FR 67346. Letter from Jean Cawley, Staff Counsel, OCC, to Anthony Bosch, Staff Attorney, Division, Commission (January 17, 1992).

[5] Rule 15c3-1(e)(1) imposes several limitations on the withdrawal of equity capital from a broker or dealer. Among other limitations, the rule includes:

(i) A broker or dealer must notify, in writing, the Commission and certain other described persons two business days before making withdrawals of equity capital directly or indirectly to benefit certain described affiliated persons related to the broker or dealer if those withdrawals would exceed in any thirty day period, thirty percent of the broker's or dealer's excess net capital; and

(ii) A broker or dealer must notify the Commission within two business days after any withdrawal, advance, or loan as described above that would exceed in any thirty day period twenty percent of the broker's or dealer's excess net capital.

[6] Rule 614(f)(2) sets forth the allocation procedure in situations where OCC fails to receive an Overpledged Value Amount from a clearing member.

II. Discussion

The Commission believes that OCC's proposed rule change is consistent with section 17A of the Act and specifically with sections 17A(b)(3) (A) and (F).[7] Sections 17A(b)(3) (A) and (F) of the Act require a clearing agency be organized and its rules be designed to facilitate the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible. The Commission believes that the proposed rule change is consistent with these requirements.

The Commission recently amended the uniform net capital rule, rule 15c3–1 under the Act, to establish revised limitations on withdrawal of equity capital from a broker or dealer.[8] The amendments were a response to the Commission's concerns that significant amounts of equity capital could be withdrawn from a broker or dealer between reporting periods without notification to the Commission or the broker's or dealer's examining authority if the withdrawal did not cause the broker's or dealer's net capital to decline below certain levels established under the rule.

Generally, the amendments to rule 15c3–1(e)(1) of the Act prohibit the withdrawal of a broker's or dealer's equity capital by a stockholder or partner and the making of any unsecured advance or loan to a stockholder, partner, sole proprietor, employee, or affiliate if such withdrawal, advance, or loan exceeds certain percentages of the broker's or dealer's excess net capital unless the broker or dealer provides notice to the Commission and its examining authority. The notice provisions are designed to prevent a broker or dealer from favoring owners of the firm to the detriment of its customers or other creditors by placing restrictions on the withdrawal of equity capital. The provisions are also intended to alert regulatory authorities that a broker or dealer may be experiencing financial difficulty.

OCC's proposed rule change will require members to inform OCC of any such notification to the Commission and will require members to furnish a copy of such notice to OCC. This will serve to alert OCC that a broker or dealer may be experiencing financial difficulty and, thus, should help ensure the safeguarding of securities and funds in OCC's custody or control or for which it is responsible.

OCC's proposal also will amend Interpretations .04 to OCC rule 305 to enable OCC to impose restrictions on a member's positions if the member's net worth becomes less than the member's largest pretax monthly loss (exclusive of extraordinary items) as reported over the most recent twelve-month period or if the member's net worth becomes less than $75,000. The proposal's standard is based upon a member's decline in net worth. Presently, OCC compares the total subordinated debt of a clearing member to the clearing member's total capital regardless of whether or not the subordinated debt qualifies as equity under rule 15c3–1. This may restrict brokers and dealers from increasing capital positions through borrowings of equity subordinated debt. The proposed rule change should provide OCC with sufficient notice of deterioration in a clearing member's net worth without restricting the use of equity subordinated debt to strengthen member capital positions.

III. Conclusion

For the reasons discussed above, the Commission finds that the proposal is consistent with the requirements of the Act, particularly with section 17A of the Act, and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–OCC–91–10) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuent to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–3673 Filed 2–14–92; 8:45 am]

BILLING CODE 8010-01-M

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[7] 15 U.S.C. 78q–1(b)(3) (A) and (F).

[8] Securities Exchange Act Release No. 28927 (February 28, 1991), 56 FR 9124.

[Release No. 34-30354; File No. SR-PSE-92-1]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the Pacific Stock Exchange, Inc. Relating to the Adoption of Listing Requirements for U-7 Securities

February 10, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 14, 1992, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE proposes to provide for the listing of U–7 securities on the Exchange. U–7 securities are securities that are issued pursuant to Form U–7 of the North American Securities Administrators Association ("NASAA") and rule 504 under regulation D of the Securities Act of 1933. Specifically, this filing sets forth listing requirements for common stock, bonds, and debenture U–7 securities.[1]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

This filing provides for the listing of U–7 securities on the Exchange. U–7 securities are securities that are issued pursuant to form U–7 of the NASAA and rule 504 under regulation D of the Securities Act of 1933. Because U–7 securities are not currently listed or traded on a national securities exchange, the PSE believes that the listing of these securities on the Exchange should provide public investors with a much-needed regulated market place to trade these securities.

In the following paragraphs the Exchange will describe U–7 securities and their current status as a capital-raising tool for lower capitalized companies. Also, the Exchange will justify the proposed listing requirements for both common stock and bond and debenture U–7 securities.

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[1] The exact text of the proposed rule change was attached to the rule filing as exhibit A and is available at the PSE and the Commission at the address noted in Item IV below.

The Commission exempts issuers from certain registration and reporting requirements for offering pursuant to regulation D under the Securities Act of 1933. Various state securities regulators also provide such exemptions, which are commonly called uniform limited offering registrations.

These exemptions are designed to allow small companies to raise capital on a limited basis; offerings are generally limited to $1,000,000 or less. Such exemptions also allow small companies to market an offering directly to a limited population of shareholders by bypassing both the venture capital and small underwriting houses.

Specifically, under the exceptions, an issuer may publicly offer securities in amounts of up to $1,000,000 in a twelve month period. Such limited offerings must qualify under state blue sky laws that require delivery of a prospectus offering circular or disclosure documents to all purchasers prior to sale. Form U–7, which is used by companies to register these offerings, has been approved by the American Bar Association and the NASAA.

As of 1990, the following States have adopted regulations governing the registration of small offerings (U–7 securities):

Alaska
Arizona
Idaho
Iowa
Kansas
Maine
Massachusetts
Mississippi
Montana
Nebraska
Nevada
North Dakota
South Dakota
Texas
Washington
Wisconsin
Wyoming

The following States have adopted regulations providing for the limited registration of small offerings:

California
Colorado
Connecticut
Illinois
New York
North Carolina

It appears that these small U–7 offerings are growing in numbers as a result of a decrease in underwriting activity by regional brokerage houses. Further, a number of authorities believe that this form of small offering will become the most common public issuance within the next several years. Consequently, the PSE believes that an exchange market in these securities is essential for the protection of public investors.

The Exchange has developed a set of listing requirements that are designed to ensure a minimum level of performance by issuers of U–7 securities. In the case of common stock U–7 securities, the offering must constitute at least 200,000 shares resulting in at least 200,000 shares issued and outstanding and a market value of at least $1,000,000. The offering price must be at least $5.00 and a minimum of 250 beneficial holders are required. Stockholder approval must be obtained for options or remuneration plans that substantially affect the rights of shareholders, transactions to which the company is a party that results in a change of control of the company, and acquisitions by the issuer.

With regard to bond and debenture U–7 securities, the offering must have a value of at least $1,000,000, which results in a principal amount outstanding of at least $1,000,000. At least 200 beneficial holders are required and the aggregate market value of the securities must be at least $1,000,000.

An issuer with a class of equity traded on another national securities exchange will be required to list such class of equity on the Exchange as a condition of listing bonds or debentures.

The purposed rule change is consistent with section 6(b) of the Act in general and furthers the objectives of section 6(b)(5) in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market, and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Person making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR–PSE–92–1 and should be submitted by March 10, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–3674 Filed 2–14–92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34–30362; File No. SR–Philadep–90–04]

Self-Regulatory Organizations; Philadelphia Depository Trust Company; Order Temporarily Approving a Proposed Rule Change Concerning Telecommunications System

February 10, 1992.

On September 14, 1990, pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act").[1] Philadelphia Depository Trust Company ("Philadep") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–Philadep–90–04) that would enhance Philadep's telecommunications system.[2] Notice of proposal was published in the **Federal Register** on March 25, 1991.[3] No

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[1] 15 U.S.C. 78s(b).

[2] The Commission previously has approved substantially the same proposed rule change. *See* Securities Exchange Act Release Nos. 20519 (December 30, 1983), 49 FR 966 (approving Philadep's telecommunications system on a pilot basis); 27491 (November 30, 1989), 54 FR 50556 (approving the proposal on a temporary basis); 27863 (March 28, 1990), 55 FR 12762 (extending the temporary approval of the proposal); and 28172 (July 3, 1990), 55 FR 28493 (further extending the temporary approval period.)

[3] Securities Exchange Act Release No. 28964 (March 18, 1991), 56 FR 12405.

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comments were received. On November 20, 1991, Philadep filed a proposed rule change (File No. SR–Philadep–91–02) that it subsequently requested be treated as an amendment to the proposal.[4] This order approves the amended proposal on a temporary basis until February 28, 1993.

I. Description

The proposed rule change would allow Philadep participants to access additional telecommunications services through PHILANET, a terminal network system that provides Philadep participants on-line access to information about their accounts.[5] In addition, the proposal would increase protection against unauthorized access to participant account information. Participants may gain access to PHILANET through a dial-up connection (*i.e.*, by dialing a telephone number assigned to a port allocated for that participant's use) or through a dedicated line connection (*i.e.*, by engaging the participant's telephone line having restricted access to established entry points).[6] To access PHILANET a participant may use a dumb terminal or personal computer ("PC") with an on-line computer-to-computer hook-up.[7]

The enhancements to Philadep's system include a data checkpoint whereby PHILANET will examine data in "critical fields" and count the number of records and transactions in each data transmission to determine whether the transmission falls within established parameters for the user.[8] If the transmission does not pass the checkpoint, it will not be processed.

Philadep requires users to identify themselves with passwords in order to access the system. Philadep will investigate attempts to gain unauthorized access to the system.[9] Periodically, PHILANET will require users to change passwords. Philadep must approve all requests for changes in computer access privileges.

As a part of its disaster recovery procedures, Philadep maintains a back-up processing power grid. Philadep's data processing system can be switched to the back-up grid in the event of a power failure.[10]

II. Discussion

The Commission believes that the proposed rule change is consistent with section 17A of the Act and in particular sections 17A(b)(3) (A) and (F).[11] These Sections require that a clearing agency is organized and its rules are designed to promote the prompt and accurate clearance and settlement of securities transactions for which it is responsible and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency.

The Commission believes that Philadep's proposal will facilitate the prompt and accurate clearance and settlement of securities transactions by encouraging the use of automation techniques. The proposal should significantly speed up securities processing, reduce paper processing, and reduce the need to use tape transmissions, thus reducing the risk of data loss and delays in receiving data.

Dial-up access should provide an economical alternative to the use of dedicated telephone lines and should increase the number of participants, particularly smaller-volume participants, who have access to the efficiencies of automated communication systems. While the Commission recognizes that no safeguarding system can provide complete protection from the risk of unauthorized access, the Commission believes that clearing agencies' automated processing systems, and in particular, systems that provide dial-up access, should contain a significantly high level of safeguarding mechanisms adequately designed to minimize the risk of unauthorized system access.[12]

Philadep has operated its telecommunications system for eight years without experiencing any instances of unauthorized system access.[13] Philadep plans to upgrade its telecommunications system in the near future and Philadep has represented that the enhancements, among other things, will increase the security of the system. The Commission encourages Philadep to continue to monitor the adequacy of dial-up safeguards and to implement additional safeguards as necessary to minimize the risk of unauthorized access. The Commission expects Philadep to file the proposed rule change concerning enhancements to its system during the second quarter of 1992.[14]

In light of the significance of system access controls in the clearance and settlement of securities transactions, the Commission is approving the proposed rule change for a temporary period of one year. During that time the Commission expects Philadep to provide quarterly reports regarding the number of participants using dial-up access and dedicated lines, the number of lines available (dedicated and dial-up), any security breaches to the system, any significant operational difficulties that have occurred, and capacity projections for six months following the date of the report.

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[4] *See* File No. SR–Philadep–91–02, and *see* letter from Daniel B. Soffin, Law Clerk, Office of the General Counsel, Philadep, to Sonia Burnett, Attorney, Division of Market Regulation, Commission (November 20, 1991) requesting that the Commission withdraw File No. SR–Philadep–91–02 and consider it as an amendment to File No. SR–Philadep–90–04.

[5] Participants may input instructions for institutional deliveries, file updates and inquiries, and request printed activity reports. PHILANET offers participants the ability to reprint "receive" or "delivery" tickets at the participants' terminal printers, access information on preliminary or final money settlement, monitor all valued book-entry deliveries and receives that pass through their account, print a three-day history of reorganization notices at the participant's terminal printer, inquire into daily reorganization settlements, inquire into daily dividend and interest settlement information including a three-day history of such information, inquire into daily dividend and interest announcement information affecting their accounts, obtain notice of pending deliveries into their accounts through the recycling of the intent to deliver notice for up to thirty days, initiate customer transfers on-line, and view a listing of voluntary offers, including a last warning one day prior to Philadep's cutoff date.

[6] Currently, Philadep has 17 participants using dial-up access and one dedicated line user. The telephone number assigned to a participant using dial-up access is one in a group of telephone connections called a "hunt group." If the line is already in use, PHILANET will route the call to another port and continue to re-route the call until it reaches an available line

[7] A "dumb" terminal is similar to a PC but has little or no memory and no processing capacity. The central processing unit ("CPU") contained within the mainframe of the computer typically has a large memory and is capable of processing one or more sets of data simultaneously. The CPU is the "brain" of the computer.

[8] Critical fields contain essential information such as the "Customer Number" and the "CUSIP." ("CUSIP" is the acronym for the Committee on Uniform Securities Identification Procedures. The CUSIP numbering system was developed by a committee of the American Bankers Association and was created to identify specific securities issues in automated recordkeeping systems.)

[9] Philadep distributes to new participants instructions for using PHILANET and provides a demonstration of PHILANET's features.

[10] The data system would be switched to the second grid by way of a "fast switch." However, because it takes a few seconds to store data already received by the system, the information most recently received would be lost.

[11] 15 U.S.C. 78q–1(b)(3) (A) and (F).

[12] Passwords are the most common method of controlling access to automated systems. However just like anything known to one person, passwords may become known to another person. See U.S Department of Commerce/National Bureau of Standards, Federal Information Processing Standards No. 48 ("FIPS PUB 48") (April 1977). For this reason, password access, especially from remote terminals, should be supplemented by another safeguarding mechanism such as mandatory on-line hook-ups or a dial-back feature While the Commission recognizes the need for flexibility in the design and implementation of security systems, each system must be so designed as to provide the Commission a sound basis on which to make a finding consist with the provisions of the Act. See 17 CFR 240.17A(a)(1)(C).

[13] See File No. SR–Philadep–90–04.

[14] Letter from William W Uchimoto, General Counsel, Philadep, to Ester Saverson, Branch Chief, Division, Commission (August 6, 1991).

III. Conclusion

On the basis of the foregoing, the Commission preliminarily finds that Philadep's proposed rule change is consistent with the Act and in particular with section 17A of the Act).

It is Therefore ordered, Pursuant to section 19(b)(2) of the Act,[15] that the proposed rule change (File No. SR–Philadep–90–04) be, and hereby is, approved on a temporary basis until February 28, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

[FR Doc. 92–3675 Filed 2-14–92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC–18544; 811–5566]

MFS Multimarket Total Return Trust; Deregistration

February 10, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: MFS Multimarket Total Return Trust ("MFT").

RELEVENT 1940 ACT SECTIONS: Section 8(f) and rule 8f–1 thereunder.

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on December 24, 1991 and supplemented by a letter dated February 7, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 9, 1992, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington DC 20549. Applicant, 500 Boylston Street, Boston, Massachusetts 02116.

FOR FURTHER INFORMATION CONTACT: Marc Duffy, Staff Attorney, (202) 272–2511, or Max Berueffy, Branch Chief, (202) 272–3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations:

1. MFT is a Massachusetts business trust and closed-end non-diversified management company. On May 23, 1988, MFT registered under the Act by filing a Notification of Registration on Form N–8A pursuant to section 8(a) of the Act. On May 23, 1988, June 10, 1988, and July 21, 1988, MFT registered a total of 18,400,000 shares of beneficial interest on Form N-2 under the Securities Act of 1933. MFT's registration statement became effective and its initial public offering commenced on July 21, 1988.

2. On September 17, 1991, the Board of Trustees of MFT approved an Agreement and Plan of Reorganization (the "Reorganization") between MFT and Massachusetts Financial Bond Fund ("MFB") (File No. 811–2464), an investment company that is an affiliated parson of MFT by virtue of having a common investment adviser. MFT believes the Reorganization was exempt from the provisions of section 17(a) because, in accordance with rule 17a–8 under the Act, MFT's Board of Trustees found that (a) participation in the Reorganization was in the best interests of MFT and (b) the interest of existing shareholders of MFT would not be diluted.

3. On September 20, 1991, MFB filed with the SEC a registration statement containing proxy materials soliciting approval of the Reorganization by MFT's shareholders to MFT's shareholders of record as of October 21, 1991. At a meeting on December 18, 1991, a majority of MFT's shareholders approved the Reorganization.

4. As of December 23, 1991, MFT had 14,870,489.456 shares outstanding representing an aggregate net asset value of $143,092,688.97 and a net asset value per share of $9.62. On this same date, MFT, pursuant to the Reorganization, transferred all of it assets and liabilities to MFB in exchange for 10,309,271.540 shares issued by MFB with a net asset value per share of $13.88 Immediately thereafter, MFT distributed the MFB shares received in connection with the Reorganization to MFT's shareholders in complete liquidation of their accounts.

5. MFT and MFB each assumed its own expenses in connection with the Reorganization. MFT bore legal, accounting and other expenses relating to the Reorganization of approximately $18,587, $4,500, and $73.424, respectively. In a letter dated February 7, 1992, MFT stated that the "other expenses" of $73,424 were as follows: printing of proxy materials—$31,000; solicitation of proxies—$18,200; and transfer agency fees—$24,224.

6. At the time of filing of the application, MFT had no shareholders, assets or liabilities. MFT is not a party to any litigation or administrative proceedings. MFT is not engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs. MFT intends to file a Termination of Trust with the Secretary of State of The Commonwealth of Massachusetts on the date of filing of this application.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–3676 Filed 2–14–92; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Shortage of Operating Funds for a Disaster in Idaho

As a result of the Secretary of Agriculture's disaster designation S–559 for counties in the State of Idaho and contiguous counties in the State of Oregon, the Small Business Administration (SBA) is accepting economic injury disaster loan applications from eligible nonfarm small business concerns. However, due to SBA's present severe shortage of operating funds for the disaster program for the current fiscal year (through September 30, 1992), SBA cannot provide assurance of its ability to continue to accept or process disaster loan applications or make disbursements on disaster loans until additional funds are available.

Dated: February 3, 1992.

Alfred E. Judd,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 92–3691 Filed 2–14–92; 8:45 am]

BILLING CODE 8025-01-M

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[15] 15 U.S.C. 78s(b)(2)

[16] 17 CFR 200.30–3(a)(12).

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Shortage of Operating Funds for a Disaster in Maine

As a result of the Secretary of Agriculture's disaster designation S–558 for counties in the State of Maine and counties in the State of New Hampshire, the Small Business Administration (SBA) is accepting economic injury disaster loan applications from eligible nonfarm small business concerns. However, due to SBA's present severe shortage of operating funds for the disaster program for the current fiscal year (through September 30, 1992), SBA cannot provide assurance of its ability to continue to accept or process disaster loan applications or make disbursements on disaster loans until additional funds are available.

Dated: February 3, 1992.

Alfred E. Judd,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 92–3692 Filed 2–14–92; 8:45 am]

BILLING CODE 8025-01-M

Shortage of Operating Funds for a Disaster in Michigan

As a result of the Secretary of Agriculture's disaster designation S–563 for counties in the State of Michigan and contiguous counties in the States of Ohio and Indiana, the Small Business Administration (SBA) is accepting economic injury disaster loan applications from eligible nonfarm small business concerns. However, due to SBA's present severe shortage of operating funds for the disaster program for the current fiscal year (through September 30, 1992), SBA cannot provide assurance of its ability to continue to accept or process disaster loan applications or make disbursements on disaster loans until additional funds are available.

Dated: February 3, 1992.

Alfred E. Judd,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 92–3693 Filed 2–14–92; 8:45 am]

BILLING CODE 8025-01-M

Shortage of Operating Funds for a Disaster in Nebraska

As a result of the Secretary of Agriculture's disaster designation S–562 for counties in the State of Nebraska and contiguous counties in the States of Colorado, Iowa, Kansas, and South Dakota, the Small Business Administration (SBA) is accepting economic injury disaster loan applications from eligible nonfarm small business concerns. However, due to SBA's present severe shortage of operating funds for the disaster program for the current fiscal year (through September 30, 1992), SBA cannot provide assurance of its ability to continue to accept or process disaster loan applications or make disbursements on disaster loans until additional funds are available.

Dated: February 3, 1992.

Alfred E. Judd,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 92–3294 Filed 2–14–92; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2550]

Commonwealth of Puerto Rico; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on January 22, 1992, I find that the municipalities of Adjuntas, Aquas Buenas, Aibonito, Arroyo, Barceloneta, Barranquitas, Caguas, Canovanas, Cayey, Cidra, Coamo, Comerio, Dorado, Fajardo, Guayama, Humacao, Jayuya, Juana Diaz, Lajas, Loiza, Luquillo, Maunabo, Naguabo, Naranjito, Orocovis, Patillas, Ponce, Salinas, San Lorenzo, Santa Isabel, Toa Baja, Utuado, Villalba, and Yabucoa in the Commonwealth of Puerto Rico constitute a disaster area as a result of damages caused by severe storms and flooding which occurred January 5–6, 1992. Applications for loans for physical damage may be filed until the close of business on March 23, 1992, and for loans for economic injury until the close of business on October 22, 1992, at the address listed below:

U.S. Small Business Administration
Disaster Area 1 Office
360 Rainbow Blvd., South, 3rd Fl.
Niagara Falls, NY 14303

or other locally announced locations. In addition, applications for economic injury loans from small businesses located in the contiguous municipalities of Arecibo, Bayamon, Cabo Rojo, Carolina, Catano, Ceiba, Ciales, Corozal, Florida, Guanica, Guayanilla, Guaynabo, Gurabo, Hatillo, Juncos, Lares, Las Piedras, Manati, Maricao, Morovis, Penuelas, Rio Grande, Sabana Grande, San German, San Juan, Toa Alta, Trujillo Alto, Vega Alta, and Yauco in the Commonwealth of Puerto Rico may be filed until the specified date at the above location.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.500
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	8.500
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 255006 and for economic injury the number is 753100.

Notice: Due to SBA's present shortage of operating funds for the current fiscal year (through September 30, 1992), SBA cannot provide assurance of our ability to continue to accept or process disaster loan applications or make disbursements on loans until additional funds are available.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: January 24, 1992.

Alfred E. Judd,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 92–3690 Filed 2–14–92; 8:45 am]

BILLING CODE 8025-01-M

Shortage of Operating Funds for a Disaster in Texas

As a result of the Secretary of Agriculture's disaster designation S–561 for counties in the State of Texas and contiguous counties in the State of Louisiana, the Small Business Administration (SBA) is accepting economic injury disaster loan applications from eligible nonfarm small business concerns. However, due to SBA's present severe shortage of operating funds for the disaster program for the current fiscal year (through September 30, 1992), SBA cannot provide assurance of its ability to continue to accept or process disaster loan applications or make disbursements on disaster loans until additional funds are available.

Dated: February 3, 1992.

Alfred E. Judd,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 92–3695 Filed 2–14–92; 8:45 am]

BILLING CODE 8025-01-M

Shortage of Operating Funds for a Disaster in Texas

As a result of the Secretary of Agriculture's disaster designation S–560 for counties in the State of Texas and contiguous counties in the State of New Mexico, the Small Business Administration (SBA) is accepting economic injury disaster loan applications from eligible nonfarm small business concerns. However, due to SBA's present severe shortage of operating funds for the disaster program for the current fiscal year (through September 30, 1992), SBA cannot provide assurance of its ability to continue to accept or process disaster loan applications or make disbursements on disaster loans until additional funds are available.

Dated: February 3, 1992.

Alfred E. Judd,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 92–3696 Filed 2–14–92; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 1572]

Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Study Group C Meeting

The Department of State announces that Study Group C of U.S. organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on Friday, March 6, 1992 at the Newark Airport Marriott Hotel, Newark International Airport, Newark, NJ 07114. The room will be posted in the lobby. The meeting will begin at 9:30 a.m.–4 p.m.

The agenda for the March 6 meeting will include consideration of Optical Fiber and Optical Fiber System issues in preparation of the May CCITT SGXV meeting in Geneva, Switzerland, including review and approval of U.S. Contributions, and any other matters within the purview of Study Group C.

Members of the general public may attend the meeting and join in the discussions subject to the instructions of the Chairman. Attendance of public members will be limited to the seating available. Prior to the meeting, persons who plan to attend should so advise Madeleine Widuch at 908–234–8624.

Dated: February 6, 1992.

Earl S. Barbely,

Director, Telecommunications and Information Standards, Chairman, U.S. CCITT National Committee.

[FR Doc. 92–3698 Filed 2–14–92; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice 1575]

Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea Working Group on Bulk Chemicals; Meeting

The Working Group on Bulk Chemicals of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting at 9:30 a.m. on March 2, 1992, in room 2415, at U.S. Coast Guard Headquarters, 2100 2nd Street, SW., Washington, DC 20593–0001. The purpose of the meeting is to review bulk chemical activities at the International Maritime Organization's (IMO) twenty-first meeting of its Subcommittee on Bulk Chemicals (BCH) and to provide a preview of the agenda items to be addressed at the twenty-second session of BCH scheduled for September 7–11, 1992 at the IMO Headquarters in London.

Among other things, the items of particular interest are:

a. Amendments and interpretation of the Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (BCH Code) and the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (IBC Code).

b. Amendments and interpretation of the provisions of Annex II of the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78).

c. Amendments and interpretation of the provisions of the Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk (GC Code) and the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk (IGC Code).

d. Guidelines for technical assessment for intervention under the 1973 Intervention Protocol.

e. Vapor emission control systems.

f. Transboundary movement of wastes by sea.

g. Role of the human element in maritime casualties.

h. Air pollution from ships.

i. Existing ships' standards.

j. Draft Hazardous and Noxious Substances convention.

k. International Convention on Oil Pollution Preparedness, Response and Cooperation.

Members of the public may attend this meeting up to the seating capacity of the room. Interested persons may seek information by writing: Commander K. J. Eldridge, U.S. Coast Guard (G–MTH–1), 2100 Second Street, SW., Washington, DC 20593–0001 or by calling (202) 267–1217.

Dated: February 11, 1992.

Geoffrey Ogden,

Chairman, Shipping Coordinating Committee.

[FR Doc. 92–3743 Filed 2–14–92; 8:45 am]

BILLING CODE 4710-07-M

Office of the Secretary

[Public Notice 1574]

Extension of the Restriction on the Use of United States Passport for Travel To, in, or Through Lebanon

On January 26, 1987, pursuant to the authority of 22 U.S.C. 211a and Executive Order 11295 (31 FR 10603), and in accordance with 22 CFR 51.73(a)(3), all United States passports, with the exception of passports of immediate family members of hostages in Lebanon, were declared invalid for travel to, in, or through Lebanon unless specifically validated for such travel. This action was taken because the situation in Lebanon was so chaotic that American citizens there could not be considered safe from terrorist acts.

Although there has been some improvement in the security situation and the remaining U.S. hostages in Lebanon have been released, review of the situation there has led me to conclude that Lebanon continues to be an area "* * * where there is imminent danger to the public health or the physical safety of United States travelers" within the meaning of 22 U.S.C. 211(a) and 22 CFR 51.73(a)(3). In view of the release of the American hostages, it is unnecessary to continue the previous exception for hostage family members.

Accordingly, all United States passports shall remain invalid for travel to, in, or through Lebanon unless specifically validated for such travel under the authority of the Secretary of State.

This Public Notice shall be effective upon publication in the Federal Register and shall expire at the end of one year unless extended or sooner revoked by Public Notice.

Dated: February 10, 1992.

Lawrence S. Eagleburger,

Acting Secretary of State.

[FR Doc. 92–3661 Filed 2–14–92; 8:45 am]

BILLING CODE 4710-06-M

DEPARTMENT OF TRANSPORTATION

Order Adjusting International Cargo Rate Flexibility Level

Policy Statement PS–109, implemented by Regulation ER–1322 of the Civil Aeronautics Board and adopted by the Department, established geographic zones of cargo pricing flexibility within which certain cargo rate tariffs filed by carriers would be subject to suspension only in extraordinary circumstances.

The Standard Foreign Rate Level (SFRL) for a particular market is the rate in effect on April 1, 1982, adjusted for the cost experience of the carriers in the applicable ratemaking entity. The first adjustment was effective April 1 1983. By Order 92–1–32, the Department established the currently effective SFRL adjustments.

In establishing the SFRL for the two-month period beginning February 1, 1992, we have projected non-fuel costs based on the year ended September 30, 1991 data, and have determined fuel prices on the basis of the latest available experienced monthly fuel cost levels as reported to the Department.

By Order 92–2–11 cargo rates may be adjusted by the following adjustment factors over the April 1, 1982 level:

Atlantic	1.3746
Western Hemisphere	1.1568
Pacific	1.5227

For further information contact: Keith A. Shangraw (202) 366–2439.

By the Department of Transportation: February 10, 1992.

Patrick V. Murphy,

Deputy Assistant Secretary for Policy and International Affairs.

[FR Doc. 92–3700 Filed 2–14–92; 8:45 am]

BILLING CODE 4910-62-M

[Docket 37554]

Order Adjusting the Standard Foreign Fare Level Index

The International Air Transportation Competition Act (IATCA), Public Law 96–192, requires that the Department, as successor to the Civil Aeronautics Board, establish a Standard Foreign Fare Level (SFFL) by adjusting the SFFL base periodically by percentage changes in actual operating costs per available seat-mile (ASM). Order 80–2–69 established the first interim SFFL, and Order 92–1–31 established the currently effective two-month SFFL applicable through January 31, 1992.

In establishing the SFFL for the two-month period beginning February 1, 1992, we have projected non-fuel costs based on the year ended September 30, 1991 data, and have determined fuel prices on the basis of the latest available experienced monthly fuel cost levels as reported to the Department.

By Order 92–2–10 fares may be increased by the following adjustment factors over the October 1979 level:

Atlantic	1.6841
Latin America	1.4232
Pacific	2.0514
Canada	1.5060

For further information contact: Keith A. Shangraw (202) 366–2439.

By the Department of Transportation: February 10, 1992.

Patrick V. Murphy,

Deputy Assistant Secretary for Policy and International Affairs.

[FR Doc. 92–3699 Filed 2–14–92; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

Aviation Rulemaking Advisory Committee, General Aviation Operations Subcommittee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration General Aviation Operations Subcommittee of the Aviation Rulemaking Advisory Committee.

DATES: The meeting will be held on March 10, 1992, at 10 a.m.

ADDRESSES: The meeting will be held at the National Business Aircraft Association, 1200 18th Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Ron Myres, Executive Director, General Aviation Operations Subcommittee, Flight Standards Service (AFS–850), 800 Independence Avenue, SW., Washington, DC 20591, Telephone: (202) 267–8150; FAX: (202) 267–5230.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app. II), notice is hereby given of a meeting of the General Aviation Operations Subcommittee to be held on March 10, 1992, at the National Business Aircraft Association, 1200 18th Street, NW., Washington, DC. The agenda for this meeting will include progress reports from the IFR Fuel Reserve, Definition of Emergencies, Operations over the High Seas, Minimum Safe Operating Altitude, and Experimental/Restricted Category Operations Working Groups. In addition, the FAA will present a briefing on minimum equipment list (MEL) for general aviation aircraft.

Attendance is open to the interested public but may be limited to the space available. The public must make arrangements in advance to present oral statements at the meeting or may present written statements to the committee at any time. Arrangements may be made by contacting the person listed under the heading "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Washington, DC, on February 10, 1992.

Ron Myres,

Executive Director, General Aviation Operations Subcommittee, Aviation Rulemaking Advisory Committee.

[FR Doc. 92–3713 Filed 2–14–92; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

[Number: 15–55]

Delegation of Authority to Director of U.S. Secret Service

February 7, 1992.

Subject: Delegation of Seizure, Forfeiture, and Related Authority to the Director, United States Secret Service, Relating to Violations Involving Federally Insured Financial Institutions, the Federal Deposit Insurance Corporation (FDIC) and the Resolution Trust Corporation (RTC).

1. *Purpose.* This directive delegates to the Director, United States Secret Service, seizure, forfeiture, and related authority of the Secretary pursuant to 18 U.S.C. 981 relating to violations within the investigatory jurisdiction of the United States Secret Service involving federally insured financial institutions, the FDIC and the RTC.

2. *Delegation.* By virtue of the authority vested in the Secretary of the Treasury by 18 U.S.C. 981 and the authority delegated to the Assistant Secretary (Enforcement) by Treasury Order 101–05, there is hereby delegated to the Director, United States Secret Service: seizure, forfeiture, and related authority of the Secretary pursuant to 18 U.S.C. 981 relating to violations set forth in 18 U.S.C. 981(a)(1)(C) within the investigatory jurisdiction of the United States Secret Service pursuant to section 528 of Public Law 101–509, dated

November 5, 1990, 28 U.S.C. 509 note, and 18 U.S.C. 3056.

3. *Forfeiture Remission.* The Director, United States Secret Service, is authorized to remit or mitigate forfeitures of property valued at not more than $500,000 seized pursuant to paragraph 2.

4. *Redelegation.* The authority delegated by this directive may be redelegated.

5. *Office of Primary Interest.* Office of the Assistant Secretary (Enforcement).

Peter K. Nunez,

Assistant Secretary (Enforcement).

[FR Doc. 92-3720 Filed 2-14-92; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 32
Tuesday, February 18, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL ENERGY REGULATORY COMMISSION

Notice

February 5, 1992.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552b:

DATE AND TIME: February 12, 1992, 10:00 a.m.

PLACE: 825 North Capitol Street, N.E., Room 9306, Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 208–0400. For a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference and Information Center.

Consent Agenda—Hydro, 952nd Meeting—February 12, 1992, Regular Meeting (10:00 a.m.)

CAH–1.
Project No. 2731–002, Central Vermont Public Service Corporation

CAH–2.
Project No. 10866–001, Phoenix Hydro Corporation

CAH–3.
Project No. 6632–006, John N. Webster

CAH–4.
Project No. 7860, 014, Ammonoosuc River Hydroelectric Corporation

CAH–5.
Docket No. 10497–001, Tulsa Metropolitan Utility Authority

CAH–6.
Project No. 4636–008, Fourth Branch Associates

CAH–7.
Project No. 1835–062, Nebraska Public Power District

Consent Agenda—Electric

CAE–1.
Docket No. ER92–113–000, New England Power Company

CAE–2.
Docket Nos. ER92–236–000, and EL92–13–000, Delmarva Power & Light Company

CAE–3.
Docket No. ER92–242–000, Allegheny Generating Company
Docket No. EL92–10–000, Consumer Advocate Division of the Public Service Commission of West Virginia, Maryland People's Counsel and Pennsylvania Office of Consumer Advocate v. Allegheny Generating Company

CAE–4.
Docket No. ER92–183–000, Florida Power Corporation

CAE–5.
Docket No. ER92–198–001, Consumers Power Company

CAE–6.
Docket No. ER91–195–004, Western Systems Power Pool

CAE–7.
Docket No. EC88–2–008, Utah Power & Light Company, PacifiCorp and PC/UP&L Merging Corporation

CAE–8.
Docket No. EL91–48–000, American Municipal Power-Ohio, Inc. and the City of Cuyahoga Falls, Ohio v. Ohio Edison Company

CAE–9.
Docket No. EL91–36–001, Massachusetts Municipal Wholesale Electric Company v. Northeast Utilities Service Company

CAE–10.
Docket No. EL89–53–003, Blue Ridge Power Agency, Central Virginia Electric Cooperative, Inc., and Craig-Botetourt Electric Cooperative, Inc. v. Appalachian Power Company
Docket Nos. ER90–132–002 and ER90–133–002, Appalachian Power Company

CAE–11.
Docket No. FA85–71–006, Central Illinois Public Service Company

CAE–12.
Docket Nos. ER90–388–000 and ER90–522–000, Metropolitan Edison Company

CAE–13.
Docket No. EC92–2–000, Fitchburg Gas and Electric Light Company

CAE–14.
Docket No. EC92–4–001, Holyoke Power and Electric Company

CAE–15.
Docket No. AI92–1–001, Accounting Release No. AR–14

Consent Agenda—Oil and Gas

CAG–1.
Omitted

CAG–2.
Docket No. RP92–77–000, Texas Eastern Transmission Corporation

CAG–3.
Docket No. RP91–203–004, Tennessee Gas Pipeline Company

CAG–4.
Docket No. RP91–210–004, Tennessee Gas Pipeline Company

CAG–5.
Docket Nos. RP91–188–004, 006 and 007, El Paso Natural Gas Company

CAG–6.
Docket Nos. RP92–1–003, TA92–1–59–000 and TM92–2–59–000, Northern Natural Gas Company, Division of Enron Corporation

CAG–7.
Omitted

CAG–8.
Docket No. TM91–7–29–000, Transcontinental Gas Pipe Line Corporation

CAG–9.
Docket Nos. TA91–1–21–002, TM91–8–21–002 and RP90–108–011, Columbia Gas Transmission Corporation

CAG–10.
Docket No. RP91–181–002, Northern Natural Gas Company

CAG–11.
Docket No. IS90–11–000, *et al.*, Amerada Hess Pipeline Corporation, *et al.*

CAG–12.
Docket Nos. CP88–391–009, RP88–167–004, RP73–3–012, RP82–55–051, RP85–148–012, CP72–255–004, CP89–759–010, CP90–2228–003, CP90–2229–003, RP87–7–075, CP90–2230–004, CP89–728–003, CP89–790–003, CP88–273–002, CP88–328–007, CP89–1916–004, RP90–8–009, RP90–51–002, CP90–499–002, CP84–336–007, G–12503–002, G–12059–002, RP82–55–051 and CP91–2819–001, Transcontinental Gas Pipe Line Corporation

CAG–13.
Docket Nos. RP86–119–018, RP88–191–027, RP89–30–003, RP90–122–006, RP91–29–010, RP91–167–003, RP88–228–033, RP89–29–003, RP89–149–005, RP89–242–004, CP87–115–005, CP89–470–003, TA84–2–9–019, TA85–1–9–011, TA89–1–9–001, TA90–1–9–005, TA91–1–9–003, RP88–249–006, CP87–103–008, RP91–16–002 and CP91–3135–001, Tennessee Gas Pipeline Company

CAG–14.
Docket Nos. CP89–629–015 and CP90–639–008, Tennessee Gas Pipeline Company

CAG–15.
Docket No. RP91–210–005, Tennessee Gas Pipeline Company

CAG–16.
Docket No. RP91–210–003, Tennessee Gas Pipeline Company

CAG–17.
Docket No. RP91–181–003, Northern Natural Gas Company

CAG–18.
Docket Nos. RP92–1–001 and CP92–71–004, Northern Natural Gas Company

CAG–19.
Docket Nos. RP86–10–013 and 014, Williston Basin Interstate Pipeline Company

CAG–20.

Docket No. RP81-85-005, Trunkline LNG Company
CAG-21.
Docket Nos. RP91-100-001, RP91-101-001 and RP91-102-001, Texas Gas Transmission Corporation
CAG-22.
Omitted
CAG-23.
Omitted
CAG-24.
Omitted
CAG-25.
Omitted
CAG-26.
Docket No. RP91-136-004, Centra Pipelines Minnesota, Inc.
CAG-27.
Docket Nos. RP90-109-000, RP87-62-000 and RP86-148-000, Pacific Gas Transmission Company
CAG-28.
Docket Nos. RP91-149-000, 001, TQ90-4-49-000, 003, 004 and RP90-113-003, Williston Basin Interstate Pipeline Company
CAG-29.
Docket No. FA89-37-000, Texas Eastern Transmission Corporation
CAG-30.
Docket Nos. ST88-2859-000, ST88-3395-000 and ST88-3860-000, Sandy Hook Pipeline, Inc.
CAG-31.
Docket Nos. ST82-296-000, 001 and ST86-2660-000, Shreveport Intrastate Gas Transmission Ltd.
CAG-32.
Docket No. PR91-20-000, Prairie Producing Company v. Louisiana Intrastate
CAG-33.
Docket No. IS90-30-000, Amoco Pipeline Company
CAG-34.
Docket No. GP92-5-000, Wyoming Oil and Gas Conservation Commission and U.S. Department of the Interior, Bureau of Land Management, Tight Formation Determination-Wyoming 23, FERC No. JD92-00603T
CAG-35.
Docket No. GP90-11-000, NICOR Exploration Company v. Scarth Oil and Gas Company
CAG-36.
Docket No. CP92-240-001, Mojave Pipeline Company
Docket No. CP92-241-001, Kern River Gas Transmission Company
CAG-37.
Docket No. CP91-1964-001, Tennessee Gas Pipeline Company
CAG-38.
Docket No. CP89-634-012, Iroquois Gas Transmission System, L.P.
Docket No. CP89-629-011, Tennessee Gas Pipeline Company
CAG-39.
Docket No. CP91-2315-001, Boston Gas Company
CAG-40.
Docket No. CP92-260-000, Transcontinental Gas Pipe Line Corporation
CAG-41.
Docket No. CP92-132-000, Tennessee Gas Pipeline Company
CAG-42.
Docket No. CP91-2949-000, Northwest Pipeline Corporation
CAG-43.
Docket No. CP91-3220-000, Colorado Interstate Gas Company
CAG-44.
Docket No. CP91-2358-000, MIGC, Inc.
CAG-45.
Docket No. CP89-1195-000, National Fuel Gas Supply Corporation
CAG-46.
Docket No. CP91-1040-000, Transwestern Pipeline Company
CAG-47.
Docket No. CP91-2527-000, Air Products and Chemicals, Inc.
CAG-48.
Docket Nos. IS90-11-000, *et al.*, IS90-11-003 and IS91-6-001, Amerada Hess Pipeline Corporation
Docket Nos. IS90-12-003 and IS91-7-001, ARCO Pipe Line Company
Docket Nos. IS90-13-003 and IS91-6-001, BP Pipelines (Alaska) Inc.
Docket Nos. IS90-14-003 and IS91-9-001, Exxon Pipeline Company
Docket Nos. IS90-15-003 and IS91-10-001, Mobil Alaska Pipeline Company
Docket Nos. IS90-16-003 and IS91-11-001, Phillips Alaska Pipeline Corporation
Docket Nos. IS90-17-003 and IS91-12-001, Unocal Pipeline Company
CAG-49.
Docket No. CP88-185-007, Algonquin Gas Transmission Corporation
CAG-50.
Docket Nos. CP88-391-006, 007 and 008, Transcontinental Gas Pipe Line Corporation
CAG-51.
Docket Nos. CP91-2677-002 and CP89-634-016, Iroquois Gas Transmission System, L.P.
Docket Nos. CP89-629-013 and CP90-639-007, Tennessee Gas Pipeline Company
Docket No. CP89-661-014, Algonquin Gas Transmission Company

Hydro Agenda

H-1.
Omitted
H-2.
Omitted

Electric Agenda

E-1.
Reserved

Oil and Gas Agenda

I. Pipeline Rate Matters

PR-1.
Reserved

II. Producer Matters

PF-1.
Reserved

III. Pipleline Certificate Matters

PC-1.
Reserved

Lois D. Cashell,
Secretary.

[FR doc. 92-3777 Filed 2-12-92; 4:36 pm]

BILLING CODE 6717-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (4 U.S.C. 552b), notice is hereby given that at 10:03 a.m. on Wednesday, February 12, 1992, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following:

Matters relating to the probable failure of a certain insured bank.

Matters relating to the Corporation's corporate activities.

Memorandum regarding selection of servicer to manage, liquidate and collect the asset pool from the failed banks involved in the New Hampshire Plan.

Recommendations concerning administrative enforcement proceedings.

Recommendations regarding the liquidation of depository institutions' assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 47,780—
Vernon Savings and Loan Association, Dallas, Texas
and
Sunbelt Savings, Dallas, Texas
and
FirstSouth, FA, Pine Bluff, Arkansas

Reports of the Office of Inspector General:

Audit Report re:
Orlando Consolidated Office, Cost Center—208 (Memo dated December 17, 1991)
Audit Report re:
Midland Consolidated Office, Cost Center—402 (Memo dated January 9, 1992)
Audit Report re:
Equity Bank for Savings, F.A., Oklahoma City, Oklahoma, Assistance Agreement, Case Number SW-012/026c (Memo dated December 3, 1991)
Audit Report re:
EurekaBank, a Federal Savings Bank, Foster City, California, Assistance Agreement, Case Number C-334c (Memo dated November 27, 1991)
Audit Report re:
American Bank & Trust Company, Baton Rouge, Louisiana (4254) (Memo dated November 25, 1991)
Audit Report re:
Eliot Savings Bank, Boston, Massachusetts (4242) (Memo dated December 31, 1991)
Audit Report re:
Home National Bank of Milford, Milford, Massachusetts (4211) (Memo dated December 27, 1991)
Audit Report re:
Inventory Closing Procedures, O'Hare Consolidated Office (201) (Memo dated November 25, 1991)
Audit Report re:
Information Systems Audit Report, Oklahoma City Consolidated Office,

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Cost Center 401 (Memo dated November 26, 1991)

Audit Report re:
Audit Report on the Travel Management System (Memo dated December 23, 1991)

Audit Report re:
Audit of the Personnel Action Request System Development Project, System Design Phase (Memo dated December 31, 1991)

Audit Report re:
Audit Report on the Management and Operations of the Terrace Park Apartments by Picerne Development Corporation (Memo dated November 29, 1991)

Audit Report re:
Audit Report on the Management and Operations of the Briarwood Townhomes by Kistenmacher & Company, Inc. (Memo dated January 3, 1992)

Audit Report re:
Audit Report on the Management and Operations of the Plaza Twelve Apartments by Michael T. Martin Company (Memo dated January 6, 1992)

Audit Report re:
Audit Report on the Management and Operations of the Sunrise Towers by Gulfstream Property Management, Inc. (Memo dated January 7, 1992)

Audit Report re:
Audit on Travel Voucher Processing Within the Division of Supervision, San Francisco Regional Office (Memo dated December 19, 1991)

Audit Report re:
Audit on Travel Voucher Processing Within the Division of Liquidation, San Francisco Regional Office (Memo dated December 24, 1991)

Audit Report re:
Audit of Relocation Payments and Policies (Memo dated January 10, 1992)

(Overview of the Office of Inspector General (Memo dated January 9, 1992)).

Application of Northeast Savings, F.A., Hartford, Connecticut, for consent to purchase certain assets and acquire certain liabilities of Columbian Credit Union, Cranston, Rhode Island, Greater Providence Deposit Corp., Providence, Rhode Island, and East Providence Credit Union, East Providence, Rhode Island, and Providence Teachers Credit Union, Providence, Rhode Island, and for consent to establish branches in Cranston, East Providence, North Providence, Riverside, Rumford, and Warwick, Rhode Island.

Memorandum regarding discounted retirement of preferred stock in the matter of Northeast Federal Corp., Hartford, Connecticut.

Personnel matter.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Vice Chairman Andrew C. Hove, Jr., concurred in by Director T. Timothy Ryan, Jr. (Office of Thrift Supervision), Ms. Susan Krause, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), and Chairman William Taylor, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Dated: February 12, 1992.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 92-3797 Filed 2-13-92; 9:12 am]

BILLING CODE 6714-01-M

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1445]

TIME AND DATE: 10 a.m. (CST), February 19, 1992.

PLACE: Poindexter Hall, Mississippi College for Women, Columbus, Mississippi.

STATUS: Open.

AGENDA:

Approval of minutes of meeting held on November 20, 1991.

DISCUSSION ITEM:

1. Economic Update.

ACTION ITEMS:

New Business

C—Power

C1. Arrangements with East Kentucky Power Cooperative (EKPC) Providing for Interruptible Wheeling by TVA and for Transmission Service by EKPC.

C2. Arrangements with Big Rivers Electric Corporation Providing for Wheeling by TVA.

C3. Arrangements with Arkansas Electric Cooperative Corporation (AECC) Providing for TVA Purchases from AECC.

E—Real Property Transactions

E1. Deed Modification and Sale of Permanent Easement Affecting Approximately 0.46 Acre of Watts Bar Reservoir Land in Rhea County, Tennessee

E2. Land Exchange by the United States Department of Agriculture Affecting 34.46 Acres of Former TVA Land on Hiwassee Reservoir in Cherokee County, North Carolina.

F—Unclassified

F1. New Investment Management Agreement Between the TVA Retirement System and J.P. Morgan Investment Management Inc.

F2. Supplement to Personal Services Contract No. TV-79561T with the Hartford Steam Boiler Inspection and Insurance Company.

F3. Supplement to the Fuel Reload Contracts as Part of the Partners in Performance Commercial Arrangement with General Electric.

F4. Contract for Nuclear Steam Supply System and Turbine Generator System Materials and Services with General Electric Company.

F5. Authorization of Designated Representative and Alternate Designated Representative Under Title IV of the Clean Air Act Amendments of 1990.

F6. Delegation to Senior Vice President, National Fertilizer and Environmental Research Center, of Authority to Execute Supplements to Personal Services Contracts for Standby Environmental Support.

INFORMATION ITEMS:

1. Recommendations resulting from the 56th Annual Wage Conference 1991–Annual Trades and Labor Employees.

2. Recommendations resulting from the 56th Annual Wage Conference 1991–Construction Project Agreement Wage Rates.

3. Amendment to Rules and Regulations of the TVA Retirement System Relating to the Medical Insurance Contribution.

4. Amendment to Rules and Regulations of the TVA Retirement System Relating to Retirement Benefits.

5. Appointment of Frank D. Robinson as TVA's Director of Small and Disadvantaged Business Utilization.

6. Filing of Condemnation Items.

CONTACT PERSON FOR MORE INFORMATION: Alan Carmichael, Manager, Media Relations, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 479-4412.

Dated: February 12, 1992.

Edward S. Christenbury,

General Counsel and Secretary.

[FR Doc. 92-3803 Filed 2-13-92; 9:56 am]

BILLING CODE 8120-08-M

Corrections

Federal Register
Vol. 57, No. 32
Tuesday, February 18, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 91-157]

Contagious Equine Metritis

Correction

In rule document 91-30342 beginning on page 66780 in the issue of Thursday, December 26, 1991, make the following corrections:

§ 92.301 [Corrected]

On page 66781:

1. In the second column, in amendatory instruction 6 to § 92.301, in the second line, "(c)(2)(iv)(B)" should read "(c)(2)(vi)(B)".
2. In the third column, in amendatory instruction 12 to § 92.301, in the second line, remove the quotation marks after "(G)".
3. In the same column, in amendatory instruction 13 to § 92.301(c)(2)(viii)(G), in the second and fourth lines, remove the quotation marks after "(G)" and "(*2*)" respectively; and in the seventh line, "(c)(2)(viii)(B)(*6*)" should read "(c)(2)(vii)(B)(*6*)".
4. In the same column, in amendatory instruction 14 to § 92.301(c)(2)(viii)(G), in the fourth line, "(c)(2)(viii)(H)" should read "(c)(2)(vii)(H)".
5. In the same column, in amendatory instruction 15 to § 92.301, in the second line, "(c)(2)(viii)(B)" should read "(c)(2)(vii)(B)"; and in the fourth line, "(c)(2)(vii)(B)" should read "(c)(2)(viii)(B)".

BILLING CODE 1505-01-D

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1710

RIN 0572-AA13

Borrower Eligibility for Different Types of Loans

Correction

In rule document 92-1513 beginning on page 2831 in the issue of Friday, January 24, 1992, make the following correction:

On page 2831, in the third column, in the second full paragraph, in the third line, the phrase "REA Act of" should read "RE Act for".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 156

[T.D. 8379]

RIN 1545-AL47

Excise Tax Relating to Gain or Other Income Realized By Any Person on Receipt of Greenmail

Correction

In rule document 91-30069, beginning on page 65684 in the issue of Wednesday, December 18, 1991, make the following corrections:

§ 156.6001-1 [Corrected]

1. On page 65685, in the third column, in § 156.6001-1(c), in the fourth line, "offices" should read "officers".

§ 156.6091-1 [Corrected]

2. On page 65686, in the second column, in § 156.6091-1(a), in the seventh line, "them" should read "the".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[T.D. 8392]

RIN 1545-AM75

Civil Cause of Action for Unauthorized Collection Actions

Correction

In rule document 92-2024, beginning on page 3535, in the issue of Thursday, January 30, 1992, make the following corrections:

§ 301.7433-1 [Corrected]

1. On page 3536, in the third column, in § 301.7433-1(a)(2), the first line should end after "action.", as it appears the first time. Then, a new flush paragraph should begin with "An action for * * *".
2. On page 3537, in the first column, in § 301.7433-1(c)(1), "marshall;" was misspelled.

BILLING CODE 1505-01-D

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Part II

Department of Health and Human Services

Office of Community Services

State and Indian Tribal Grants for Family Violence Prevention and Services; Availability of Fiscal Year 1992 Funds; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Community Services

Notice of the Availability of Fiscal Year (FY) 1992 Funds for State and Indian Tribal Grants for Family Violence Prevention and Services

AGENCY: Administration for Children and Families (ACF), DHHS.

ACTION: Notice of the availability of fiscal year (FY) 1992 funds for State and Indian Tribal grants for family violence prevention and services.

SUMMARY: FY 1992 funds are available for grants to States (including Territories and Insular Areas) and Indian Tribes and Tribal organizations to assist in establishing, maintaining, and expanding programs and projects to prevent family violence and to provide immediate shelter and related assistance for victims of family violence and their dependents. This Notice sets forth the application process and requirements for these grants.

DATES: Applications must be received by April 20, 1992.

ADDRESSES: Address applications to: Office of Community Services, Administration for Children and Families, Attn: William D. Riley, room 312-F, Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: William D. Riley (202) 245-2892.

SUPPLEMENTARY INFORMATION:

A. Background

Title III of the Child Abuse Amendments of 1984 (Pub. L. 98-457, 42 U.S.C. 10401 *et seq.*) is entitled the "Family Violence Prevention and Services Act" (the Act). It was first implemented in FY 1986 and was reauthorized by Congress in April 1988 by Public Law 100-294.

The purposes of this legislation are to assist States in their efforts to prevent family violence and provide immediate shelter and related assistance for victims of family violence and their dependents; and to carry out coordination, research, training, technical assistance, documentation, and evaluation activities. Also, the Secretary may make demonstration grants directly to Indian Tribes and Tribal organizations to prevent family violence and to provide immediate shelter and related assistance.

During FY 1991, 128 grants under the Act were made to States, Territories, and Indian Tribes. Grants to the States are based on population, with a minimum of $50,000 specified in the Act. In FY 1991, State grants ranged from $50,000 to $1 million. Family violence grants to eligible Indian Tribes are based on tribal population and were either $7,902 or $21,074, with the exception of the Navajo Nation which received $63,265.

Both State and Indian Tribal grantees are required to use not less than 60 percent of these funds for immediate shelter and related assistance (section 303(g)). States and Indian Tribes have met this requirement with the majority of the States and Tribes exceeding the 60 percent minimum.

The Department also funds the operation of the Clearinghouse on Family Violence Information; supports research activities, and regionally based training and technical assistance for State and local law enforcement personnel through the Department of Justice; and makes grants for technical assistance and training for State and local agencies administering this program.

During FY 1991, through the Coordinated Discretionary Funds Program (CDP) announcement, the Department made grant awards that enhanced public information and community awareness strategies and activities. These awards also served as models for the prevention of family violence and provided information on resources, facilities, and alternatives, to family violence victims and their dependents, community organizations, local school districts, and individuals seeking assistance.

B. Reporting Requirements

Program and Fiscal Reports

Current State and Indian Tribal grantees are reminded that annual program activity reports and a Financial Status Report, Standard Form (SF-269) are due by December 31, 1992. An SF-269 is due on an annual basis for each fiscal year award and must be submitted within 90 days after the end of each fiscal year.

C. Expenditure Period

These FY 1992 funds will be available for expenditure by States beginning October 1, 1991, through September 30, 1994.

D. Funds Available

Public Law 102-170, the Departments of Labor, Health and Human Services, and Education, Appropriation Act for FY 1992 made $20 million available for distribution to States and Tribes in FY 1992. (A total of $10.735 million was available in FY 1991.)

Of this amount the Department will make $17 million (85 percent of total funds) available for grants to States (section 310(b) of the Act). Estimates of State allocations are listed at the end of this Notice and have been computed based on the formula in section 304.

We estimate that approximately $1 million may be available for direct grants to Indian Tribes or Tribal organizations. The remaining funds will be used to carry out the research, evaluation, coordination, training and technical assistance, clearinghouse, and documentation activities required by the Act.

E. Eligibility: States

"States" as defined in section 309(6) of the Act are eligible to apply for funds. The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the remaining eligible entity previously a part of the Trust Territory of the Pacific Islands—the Republic of Palau. In the past, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands have applied for these funds as a part of their Consolidated Grant under the Social Services Block Grant.

F. Eligibility: Indian Tribes and Tribal Organizations

In FY 1986, the first year of this program, Indian tribal eligibility was limited to those Federally recognized Tribes that had established social services programs as evidenced by receipt of "638" contracts for social services with the Bureau of Indian Affairs (BIA).

In FY 1987, we expanded eligibility to include Indian Tribes and Tribal organizations which had received FY 1986 grants under the Indian Child Welfare Act from the BIA.

We limited Indian tribal eligibility in FY 1988 to those Indian Tribes and Tribal organizations which had received FY 1987 family violence grants. We again limited eligibility in FY 1989, because of funding limitations, to those Indian Tribes and Tribal organizations who received grants in FY 1987.

In FY 1990, we expanded the eligibility to solicit applications from those Indian Tribes and Tribal organizations that were FY 1989 grantees under Title IV-B, Child Welfare Services, of the Social Security Act, as well as the Indian Tribes and Tribal organizations who received family violence prevention grants in FY 1987. The Title IV-B tribal grantees were included because their recent grant awards indicated an operational social services infrastructure and delivery system.

In FY 1991, we invited applications for family violence prevention grants from all previously funded grantees irrespective of the award year, and from those Tribes that were listed as eligible for family violence prevention grants in the **Federal Register** of May 6, 1987.

For FY 1992, we again are inviting all previously funded grantees and those tribes that were listed as eligible as of May 6, 1987 to apply. As in previous years, Indian Tribes may apply singly or as a consortium. A list of the eligible Indian Tribes and Tribal organizations is found at the end of this Notice. (Please note that the eligible Tribes and Tribal organizations are the same as those published in the **Federal Register** of January 18, 1991.)

Any Tribe or Tribal organization that believes it has met the eligibility criteria and should be included in the list of eligible Tribes should provide supportive documentation and a request for inclusion addressed to the contact person at the above address.

Because section 304(a) specifies a minimum base amount for State allocations, we have set a base amount for Indian Tribal allotments. Since FY 1986, we have found in practice, that the establishment of such an allocation, based on population, has facilitated our efforts to make a fair and equitable distribution of limited grant funds.

Tribes which meet the application requirements and whose reservation and surrounding tribal trust lands population is less than 3,000 will receive a minimum of $3,000; Tribes which meet the application requirements and whose reservation and surrounding tribal trust lands population exceeds 3,000 will receive a minimum of $8,000, except for the Navajo Tribe which will receive a minimum of $24,000 because of its population. We have used these population and grant award figures since the beginning of the program.

In computing Indian Tribal allocations, we will use the best available population figures from the Census Bureau. Where Census Bureau data are unavailable, we will use figures from the BIA Indian Population and Labor Force Report.

If not all eligible Tribes apply, the available funds will be divided proportionally among the Tribes which apply and meet the requirements.

G. State Application Requirements

We have cited each requirement to the specific section of the law.

Please note the new paragraph (3) that requires the State to describe how it plans to use the grant funds to prevent incidents of family violence and to provide immediate shelter and related assistance to family violence victims.

The assurance in paragraph (4)(e) below continues to limit the funds an entity may receive from the State in any one fiscal year to $50,000 and provides that no entity will receive more than a total of $150,000 under this Act (section 303(c)).

Please note also that in order to apply for these FY 1992 funds, a State must have or have under consideration a procedure for the eviction of an abusing spouse from a shared residence. (See the assurance in paragraph (3)(1) below.)

The Secretary will approve any application that meets the requirements of the Act and this Notice, and will not disapprove an application unless the State has been given reasonable notice of the Department's intention to disapprove and an opportunity to correct any deficiencies (section 303(a)(3)).

All applications must meet the following requirements:

The State's application must be signed by the Chief Executive of the State or the Chief Program Official designated as responsible for the administration of the Act.

The application must contain the following information:

(1) The name of the State agency, and the name of the Chief Program Official designated as responsible for the administration of State programs and activities related to family violence carried out under the Act, and the name of a contact person if different from the Chief Program Official (section 303(a)(2)(D)).

(2) The procedures designed to involve knowledgeable individuals and interested organizations and assure an equitable distribution of grants and grant funds within the State and between rural and urban areas in the State (section 303(a)(2)(C)). (For example, knowledgeable individuals and interested organizations may include but are not limited to: State Advisory Committees on Family Violence, law enforcement officials, or Coalitions of Directors of Family Violence Shelters.)

(3) A brief description of how the State plans to use the grant funds to prevent incidents of family violence and to provide immediate shelter and related assistance to victims of family violence and their dependents (section 303(a)(2)(G)).

(4) The application must contain the following assurances:

(a) That funds under the Act will be distributed as demonstration grants to local public agencies and non-profit private organizations for programs and projects within the State to prevent incidents of family violence and to provide immediate shelter and related assistance for victims and their dependents (section 303(a)(2)(A)).

(b) That not less than 60 percent of the funds distributed shall be used for immediate shelter and related assistance (section 303(g)).

(c) That not more than 5 percent of the funds will be used for State administrative costs (section 303(a)(2)(B)(i)).

(d) That in distributing the funds, the States will give special emphasis to the support of community-based projects of demonstrated effectiveness carried out by non-profit private organizations (particularly those projects the primary purpose of which is to operate shelters for victims of family violence and their dependents and those which provide counseling, alcohol and drug abuse treatment, and self-help services to abusers and victims) (section 303(a)(2)(B)(ii)).

(e) That no entity funded by the State will receive more than $50,000 in any one fiscal year, and no entity will receive more than a total of $150,000 under this Act (section 303(c)).

(f) That demonstration grants funded by the State will meet the matching requirements in section 303(f), i.e., 35 percent of the total funds provided under this title in the first year, 55 percent in the second year, and 65 percent in the third or subsequent year(s); that except in the case of a public entity, not less than 50 percent of the local matching share shall be raised from private sources; that the local share may be cash or in-kind; and that the local share may not include any Federal funds provided under any authority other than this title (section 303(f)).

(g) That demonstration grants funded by the State may not be used as direct payment to any victim or dependent of a victim of family violence (section 303(d)).

(h) That no income eligibility standard will be imposed on individuals receiving assistance or services supported with funds appropriated to carry out the Act (section 303(e)).

(i) That procedures will be developed to assure the confidentiality of records pertaining to persons receiving assistance or services from any program assisted under the Act as specified in section 303(a)(2)(E).

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(j) That the address or location of any shelter-facility assisted under the Act will not be made public, except with written authorization of the person or persons responsible for the operation of such shelter (section 303(a)(2)(E)).

(k) That all demonstration grants made by the State under the Act must prohibit discrimination on the basis of age, handicap, sex, race, color, national origin or religion (section 307).

(l) That the State has, or has under consideration, a procedure for the eviction of an abusing spouse from a shared residence (section 303(a)(2)(F)).

(m) That States will comply with Departmental recordkeeping and reporting requirements and general requirements for the administration of grants under 45 CFR part 92.

H. Indian Tribe and Tribal Organization Application Requirements

We have cited each requirement to the specific section of the law.

The Secretary will approve any application that meets the requirements of the Act and this Notice, and will not disapprove an application unless the Indian Tribe or Tribal organization has been given reasonable notice of the Department's intention to disapprove and an opportunity to correct any deficiencies (section 303(a)(3)).

The application from the Indian Tribe or Tribal organization must be signed by the Chief Executive Officer of the Indian Tribe or Tribal organization and must contain the following information:

(1) The name of the organization or agency designated as responsible for the administration of this program (section 303(a)(D)), and the name of a contact person in the designated organization or agency.

(2) A copy of a current resolution stating that the designated organization or agency has the authority to submit an application on behalf of the Indian individuals in the Tribe(s) (section 303(a)(2)(G)).

(3) A description of the procedures designed to involve knowledgeable individuals and interested organizations in providing services under the Act (section 303(a)(2)(C)). (For example, knowledgeable individuals and interested organizations may include: Tribal officials or social services staff involved in child abuse or family violence prevention, Tribal law enforcement officials, State Coalitions Against Domestic Violence, and Directors of Family Violence Shelters.)

(4) A brief description of how the Indian Tribe or Tribal organization plans to use the grant funds to prevent incidents of family violence and to provide immediate shelter and related assistance to victims of family violence and their dependents (section 303(a)(2)(G)).

(5) Each application must contain the following assurances:

(a) That not less than 60 percent of the funds shall be used for immediate shelter and related assistance (section 303(g)).

(b) That no funds under the Act will be used as direct payment to any victim or dependent of a victim of family violence (section 303(d)).

(c) That no income eligibility standard will be applied to individuals receiving assistance or services supported with funds appropriated to carry out the Act (section 303(e)).

(d) That procedures will be developed to assure the confidentiality of records pertaining to persons receiving assistance or services from any program assisted under the Act as specified in section 303(a)(2)(E).

(e) That the address or location of any shelter-facility assisted under the Act will not be made public, except with written authorization of the person or persons responsible for the operation of such shelter (section 303(a)(2)(E)).

(f) That Indian grantees under this Act will prohibit discrimination on the basis of age, handicaps, sex, race, color, national origin, or religion.

(g) That Indian grantees will comply with Departmental recordkeeping and reporting requirements and general grant administration requirements of 45 CFR part 92.

I. Notification Under Executive Order 12372

For States, this program is covered under Executive Order 12372, "Intergovernmental Review of Federal Programs" for State plan consolidation and simplification only—45 CFR 100.12. The review and comment provisions of the Executive Order and Part 100 do not apply. Federally-recognized Indian Tribes are exempt from all provisions and requirements of E.O. 12372.

J. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the application requirements contained in this notice have been approved by the Office of Management and Budget under control number 0980–0175.

K. Certifications

Applicants must comply with the required certifications found at appendix C, regarding Drug Free Workplace, Debarment, and Lobbying which are self-explanatory. Please note that the certification regarding Lobbying must be signed and returned with your application.

(Catalog of Federal Domestic Assistance number 93.671, Family Violence Prevention and Services)

Dated: February 7, 1992.

Eunice S. Thomas,

Director, Office of Community Services.

Appendix A

Appropriation available—$20,000,000

Total appropriation—States and Territories—$17,000,000

Grantee		
Alabama	$263,752	$263,752
Alaska	85,000	85,000
American Samoa	21,250	21,250
Arizona	239,211	239,211
Arkansas	153,447	153,447
California	1,942,429	1,942,429
Colorado	214,996	214,996
Connecticut	214,539	214,539
Delaware	85,000	85,000
District of Columbia	85,000	85,000
Florida	844,451	844,451
Georgia	422,813	422,813
Guam	21,250	21,250
Hawaii	85,000	85,000
Idaho	85,000	85,000
Illinois	746,091	746,090
Indiana	381,851	381,851
Iowa	181,252	181,252
Kansas	181,736	181,736
Kentucky	240,516	240,516
Louisiana	275,435	275,435
Maine	85,000	85,000
Maryland	312,051	312,061
Massachusetts	392,559	392,559
Michigan	606,676	606,676
Minnesota	285,552	285,552
Mississippi	167,937	167,937
Missouri	333,982	333,982
Montana	85,000	85,000
Nebraska	102,994	102,994
Nevada	85,000	85,000
New Hampshire	85,000	85,000
New Jersey	504,530	504,530
New Mexico	98,882	98,882
New York	1,174,191	1,174,181
North Carolina	432,568	432,568
North Dakota	85,000	85,000
Northern Mariana Islands	21,250	21,250
Ohio	707,974	707,974
Oklahoma	205,336	205,336
Oregon	185,484	185,484
Palau	21,250	21,250
Pennsylvania	775,527	775,527
Puerto Rico	229,877	229,877
Rhode Island	85,000	85,000
South Carolina	227,593	227,593
South Dakota	85,000	85,000
Tennessee	318,317	318,317
Texas	1,108,726	1,108,726
Utah	112,459	112,459
Vermont	85,000	85,000
Virgin Islands	21,250	21,250
Virginia	403,820	403,830
Washington	317,654	317,654
West Virginia	117,027	117,027
Wisconsin	319,296	319,296
Wyoming	85,000	85,000
Total	17,000,000	17,000,000

Appendix B

Indian Tribal Eligibility

Below is the list of Indian Tribes which are eligible for fiscal year 1991 Family Violence Prevention and Services grants. Tribes are listed by BIA Area Office based on Census Bureau population data or, where that is not available, BIA data.

Tribes Under 3,000 Population

Eastern Area Office

- Houlton Band of Maliseet Indians of Maine
- Indian Township Passamaquoddy Reservation of Maine
- Miccosukee Tribe of Indians of Florida
- Narragansett Indian Tribe of Rhode Island
- Penobscot Tribe of Maine
- Pleasant Point Passamaquoddy Reservation of Maine
- Seminole Tribe of Florida

Aberdeen Area Office

- Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota
- Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota
- Devil's Lake Sioux Tribe of the Devil's Lake Sioux Reservation, North Dakota
- Lower Brule Sioux Tribe of the Lower Brule Reservation, South Dakota
- Yankton Sioux Tribe of South Dakota Winnebago Reservation of Nebraska
- Winnebago Reservation of Nebraska

Minneapolis Area Office

- Grand Traverse Bank of Ottawa and Chippewa Indians of Michigan
- Lac Vieux Desert Band of Chippewa Indians
- Menominee Indian Tribe of Wisconsin
- Michigan Inter-Tribal Council on behalf of: Bay Mills Indian Community, Hannahville Indian Community, Keweenah Bay Indian Community
- Saginaw Chippewa Indian Tribe of Isabella Reservation, Michigan
- Sault Saint Marie Tribe of Chippewa Indians of Michigan
- Prairie Island Community of Minnesota
- Onieda Tribe of Indians of Wisconsin
- Forest County Potawatomi of Wisconsin
- Lac du Flambeau Reservation of Wisconsin
- Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin
- Bad River Tribal Council, Wisconsin
- Lower Sioux Tribe of Minnesota
- Upper Sioux Tribe of Minnesota
- Shakopee Community of Minnesota
- Minnesota Chippewa: Nett Lake Reservation (Bois Fort), Fond du Lac Reservation, Grand Portage Reservation, Mille Lac Reservation, St. Croix Chippewa, Wisconsin

Anadarko Area Office

- Apache Tribe of Oklahoma
- Cheyenne-Arapaho Tribes of Oklahoma
- Comanche Indian Tribe of Oklahoma
- Four Tribes of Kansas: Iowa Tribe of Kansas and Nebraska, Kickapoo Tribe of Kansas, Sac and Fox Tribe of Kansas and Nebraska, Prairie Band of Potawatomi of Kansas
- Absentee Shawnee Tribe of Oklahoma
- Sac and Fox Tribe of Oklahoma
- Pawnee Tribe of Oklahoma
- Kiowa Indian Tribe of Oklahoma
- Kickapoo Tribe of Oklahoma
- Otoe-Missouria Tribes Oklahoma
- Citizen Band of Potawatomi of Oklahoma
- Fort Sill Apache Tribe of Oklahoma
- Tonkawa Tribe of Oklahoma
- Wichita Indian Tribe of Oklahoma

Billings Area Office

- Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana
- Fort Belknap Indian Tribe of Montana

Phoenix Area Office

- Cocopah Tribe of Arizona
- Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California
- Duckwater Shoshone Tribe of the Duckwater Reservation, Nevada
- Elko Band Council
- Ft. McDermitt Paiute and Shoshone Tribes of the Ft. McDermitt Indian Reservation, Nevada
- Ft. McDowell Mohave-Apache Indian Community, Arizona
- Ft. Mojave Indian Tribe of Arizona
- Hualapai Tribe of the Hualapai Reservation, Arizona
- Kaibab Band of the Paiute Indians of the Kaibab Indian Reservation, Arizona
- Las Vegas Tribe of the Paiute Indians of the Las Vegas Indian Colony, Nevada
- Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada
- Paiute Indian Tribe of Utah
- Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada
- Pasqua Yaqui Tribe of Arizona
- Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada
- Quechan Tribe of the Ft. Yuma Indian Reservation, California
- Reno-Sparks Indian Colony, Nevada
- Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona
- Shoshone Paiute Tribes of the Duck Valley Reservation, Nevada
- Te-Moak Bands of the Western Shoshone Indians, Nevada
- Havasupai Tribe of Arizona
- Ute Indian Tribe of the Unitah and Ouray Reservation, Utah
- Yavapai-Prescott Tribe, Arizona
- Yavapai-Apache Indian Community of the Camp Verde Reservation, Arizona
- Yerington Paiute Tribe of the Yerington Colony and Campbell Rancy, Nevada
- Walker River Paiute Tribe of the Walker River Reservation, Nevada
- Washoe Tribe of Nevada and California

Albuquerque Area Office

- Jicarilla Apache Tribe, New Mexico
- Pueblo of Acoma, New Mexico
- Pueblo of Isleta, New Mexico
- Pueblo of Jemez, New Mexico
- Pueblo of Picuris, New Mexico
- Pueblo of San Felipe, New Mexico
- Pueblo of San Juan, New Mexico
- Pueblo of Santa Clara, New Mexico
- Pueblo of Santo Domingo, New Mexico
- Pueblo of Taos, New Mexico
- Pueblo of Zia, New Mexico
- Pueblo of San Ildefonso, New Mexico
- Pueblo of Tesuque, New Mexico
- Ramah Navajo Community
- Southern Ute Indian Tribe of the Southern Ute Indian Reservation, Colorado
- Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico and Utah

Portland Area Office

- Burns Paiute Indian Colony, Oregon
- Confederated Tribes of the Siletz Reservation, Oregon
- Confederated Tribes of the Warm Springs Reservation, Oregon
- Confederated Tribes of the Grand Ronde, Oregon
- Confederated Tribes of the Umatilla Reservation, Oregon
- Klamath Tribes
- Hootenai Tribe of Idaho
- Makah Tribe of Washington
- Metlakatla Indian Community, Alaska
- Muckleshoot Tribe of Washington
- Nez Perce Tribe of Idaho
- Nooksak Tribe of Washington
- Nisqually Tribe of Washington
- Puyallup Tribe of Washington
- Quileute Tribe of Washington
- Quinault Tribe of the Quinault Reservation, Washington
- Sauk-Suiattle Tribe of Washington
- Skokomish Tribe of Washington
- Squaxin Island Tribe of Washington
- Stillquamish Tribe of Washington
- Swinomish Tribe of Washington
- Suquamish Tribe of Washington
- Tulalip Tribes of Washington
- Upper Skagit Indian Tribes of Washington

Juneau Area Office

- Aleutian Pribiloff Islands, Alaska
- Copper River Association, Alaska
- Orutsaramuit Native Council, Alaska
- Kawerak, Inc., Alaska

Ketchikan Indian Corporation, Alaska
Kenaitze Inc., Alaska
Kotezbue Native Association, Alaska
Kuskokwim Native Association, Alaska
Kodiak Native Association, Alaska
Northern Pacific Rim Association, Alaska
Sitka Community Association, Alaska
Tanana Indian Reorganization Act Council
Tyonek, Alaska
United Crow Band, Alaska

Sacramento Area Office

Big Lagoon Rancheria, California
Cahuilla Band of Mission Indians
Coastal Indian Community of the Resighina Rancheria
La Jolla Indian Band of Mission Indians
Jamul Indian Village
Morongo Band of Cahuilla Mission Indians
Soboba Band of Mission Indians
Trinidad Rancheria
Torres Martinez Band of Mission Indians

Tribes Over 3,000 Population

Eastern Area Office

Eastern Band of Cherokee Indians of North Carolina
Mississippi Band of Choctaw Indians, Mississippi

Aberdeen Area Office

Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota
Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota
Standing Rock Sioux Tribe of the Standing Rock Reservation, North and South Dakota
Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Reservation, South Dakota
Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota
Turtle Mountain Bank of Chippewa Indians
Turtle Mountain Indian Reservation North Dakota

Billings Area Office

North Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana
Shoshone-Arapaho Tribes of Wyoming (Wind River Reservation)

Phoenix Area Office

Gila River Pima-Maricopa Indian Community of the Gila River Reservation, Arizona
Hopi Tribe of Arizona
Papago Tribe of the Sells, Gila Bend, and San Xavier Reservations, Arizona
San Carlos Apache Tribe of the San Carlos Reservation, Arizona
Tohono O'Odham Nation, Arizona
White Mountain Apache Tribe of the Fort Apache Indian Reservation, Arizona

Navajo Area Office

Navajo Tribe of Arizona, New Mexico and Utah

Albuquerque Area Office

Pueblo of Laguna, New Mexico
Zuni Tribe of the Zuni Reservation, New Mexico

Portland Area Office

Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana
Confederated Tribes of the Colville Reservation, Washington
Shoshone Bannok Tribes of the Fort Hall Reservation, Idaho
Yakima Indian Nation, Washington

Juneau Area Office

Cook Inlet Corporation, Alaska
Association of Village Council Presidents, Alaska
Central Council of the Tlingit and Haida Indians of Alaska
Tanana Chiefs Conference, Alaska
Sitka Community Association, Alaska
Bristol Bay Native Association of Alaska
Fairbanks Native Association, Alaska

Muskogee Area Office

Cherokee Nation of Oklahoma
Choctaw Nation of Oklahoma
Muskogee Creek Nation of Oklahoma

Minneapolis Area Office

Minnesota Chippewa: Leech Lake Reservation, White Earth Reservation

Appendix C—Certifications

Certification Regarding Lobbying

Certification For Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Organization

Authorized Signature

Title Date

Note: If Disclosure Forms are required, please contact: Director for Formula, Entitlement, and Block Grants, Office of Financial Management, Administration for Children and Families, 470 L'Enfant Promenade, SW., 6th Floor, Washington, DC 20447.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR part 76, certifies to the best of its knowledge and believe that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

(b) Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or

State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transaction" provided below without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

(To Be Supplied to Lower Tier Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal Department or agency.

(b) Where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions," without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

U.S. Department of Health and Human Services

Certification Regarding Drug-Free Workplace Requirements

Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR part 76, subpart F. The regulations, published in the May 25, 1990 **Federal Register**, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the Department of Health and Human Services (HHS) determines to award the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HHS, in addition to any other remedies available to the Federal Government, may taken action authorized under the Drug-Free Workplace Act. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment.

Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplace at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all knows workplaces constitutes a violation of the grantee's drug-free workplace requirements.

Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios.)

If the workplace identified to HHS changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see above).

Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"Controlled substance" means a controlled substance is schedules I through V of the Controlled Substances Act (21 USC 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15).

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes:

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing use, or possession of any controlled substance;

"Employee" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces.)

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace; (2) The grantee's policy of maintaining a drug-free workplace; (3) Any available drug counseling rehabilitation, and employee assistance programs; and, (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and, (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the

requirements of the Rehabilitation Act of 1973, as amended; or, (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant (use attachments, if needed):

Place of Performance (Street address, City, County, State, ZIP Code) ______

Check ______ if there are workplaces on file that are not identified here.

Sections 76.630(c) and (d)(2) and 76.635(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central receipt point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, room 517-D, 200 Independence Avenue, SW., Washington, DC 20201.

Signature ______
Date ______
Title ______
Organization ______

DGMO Form #2 Revised May 1990

[FR Doc. 92-3519 Filed 2-14-92; 8:45 am]

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federal register

Tuesday
February 18, 1992

Part III

Department of Labor

Employment Standards Administration
Wage and Hour Division

29 CFR Part 500
Migrant and Seasonal Agricultural Worker Protection; Final Rule

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DEPARTMENT OF LABOR

Employment Standards Administration; Wage and Hour Division

29 CFR Part 500

Migrant and Seasonal Agricultural Worker Protection

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: The purpose of this document is to change the address listed in § 500.212 of Regulations 29 CFR part 500, which is used for administrative hearing requests. This revision is being made in order to streamline the process by which hearing requests are acknowledged by consolidating all aspects of processing hearing requests into the operations of the office which issued the administrative determination upon which the request for a hearing is based.

EFFECTIVE DATE: This rule is effective February 18, 1992.

FOR FURTHER INFORMATION CONTACT: Solomon Sugarman, Chief, Branch of Farm Labor Programs, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor. Telephone 1-800-800-0235. This is a toll-free number.

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act

This rule imposes no reporting or recordkeeping requirements on the public.

II. Background

Section 500.212 of the regulations requires that any person desiring to request an administrative hearing on a notice of determination issued by the Department of Labor (assessing civil money penalties, and/or revoking or denying a Farm Labor Contractor Certificate of Registration), must do so in writing within thirty (30) days after the date of issuance of the notice. Additionally, § 500.212 specifies that the written hearing request shall be made to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

This revision is being made in order to streamline the process by which hearing requests are acknowledged by consolidating all aspects of processing hearing requests into the operations of the office which issued the administrative determination upon which the request for a hearing is based. Accordingly, all such hearing requests are now to be made to the Wage and Hour official that issued the determination in care of the address of the official that originated the determination.

III. Summary of Rule

Section 500.212 of Regulations, 29 CFR part 500, is amended to provide for a new address for purposes of requesting administrative hearings. Hearing requests are now directed to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Under the amended regulation, these requests will be directed to the Wage and Hour Division official who issued the determination, at the address appearing on the determination notice.

Executive Order 12291

This rule is not classified as a "major rule" under Executive Order 12291 on Federal Regulations, because it will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, no regulatory impact analysis is required.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for the rule under 5 U.S.C. 553(b), the requirements of the Regulatory Flexibility Act, Public Law 96-354, 94 Stat. 1165, 5 U.S.C. 601 *et seq.* pertaining to regulatory flexibility analysis, do not apply to this rule. See 5 U.S.C. 601(2). In any event, the rule will not have a significant economic impact on a substantial number of small entities.

Administrative Procedure Act

The Secretary has determined that the public interest requires the immediate issuance of these regulations in final form, without prior notice and comment, in order to reflect the address to which hearing requests are now to be sent. The amendment to the existing regulations is a minor clarifying revision, changing the address sent out in § 500.212 used for requesting administrative hearings under § 500.212 of Regulations, 29 CFR part 500.

Accordingly, the Secretary, for good cause, finds pursuant to 5 U.S.C. 553(b)(3)(A) and (B), that prior notice and public comment are unnecessary, impracticable, and contrary to the public interest.

The Secretary also for good cause finds, pursuant to 5 U.S.C. 553(d)(3), that this rule is merely a technical procedural change which does not effect any substantive rights.

Document Preparation

This document was prepared under the direction and control of John R. Fraser, Acting Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

List of Subjects in 29 CFR Part 500

Administrative practice and procedure, Agricultural, Aliens, Carpools, Farmer, Farm labor contractor, Housing standards, Immigration, Insurance, Investigation, Labor, Manpower training programs, Migrant labor, Motor carriers, Motor vehicle safety, Occupational safety and health, Penalties, Reporting requirements, Safety, Seasonal agricultural workers, Transportation, Wages.

For the reasons set forth above, 29 CFR part 500 is amended as set forth below.

Signed at Washington, DC, on this 7th day of February, 1992.

John R. Fraser,

Acting Administrator, Wage and Hour Division.

PART 500—MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION

1. The authority citation for part 500 continues to read as follows:

Authority: Pub. L. 97-470, 96 Stat. 2583 (29 U.S.C. 1801-1872); Secretary's Order No. 6-84, 49 FR 32473; Sec. 210A(f), Pub. L. 99-603, 100 Stat. 3359 (8 U.S.C. 1161 (f)).

2. Paragraphs (a) and (b) of § 500.212 are revised to read as follows:

§ 500.212 Request for hearing.

(a) Any person desiring to request an administrative hearing on a determination referred to in § 500.212 shall make such request in writing to the official who issued the determination, at the Wage and Hour Division address appearing on the determination notice. Such request must be made no later than thirty (30) days after the date of issuance of the notice referred to in § 500.210.

(b) The request for such hearing shall be delivered in person or by mail to the Wage and Hour Division office at the address appearing on the determination notice upon which the request for a hearing is based, within the time set forth in paragraph (a) of this section. For the affected person's protection, if the request is by mail, it should be by certified mail.

* * * * *

[FR Doc. 92–3564 Filed 2–14–92; 8:45 am]

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federal register

Tuesday
February 18, 1992

Part IV

Department of the Interior

Bureau of Indian Affairs

Crow Irrigation Project; Operation and Maintenance Charges; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Crow Irrigation Project

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final notice.

SUMMARY: The Bureau of Indian Affairs published in the **Federal Register** on December 26, 1991 (56 FR 66871), a proposed $1 increase to the Crow Irrigation Project's Operation and Maintenance (O&M) rate for the 1992 irrigation season. No adverse comments were received during the 30 day comment period. The Crow Irrigation Project's O&M assessment rate will be $11.60 per assessable acre until further notice.

The Crow Irrigation Project's annual O&M assessment rate is based on the estimated normal operating cost of the project for one Fiscal Year. A copy of the project's budget for Fiscal Year 1992 may be obtained by forwarding a stamped, self-addressed manila envelope to the Bureau of Indian Affairs, Crow Agency Superintendent, Crow Agency, Montana 59002.

The due date for all O&M charges will be May 1 of each calendar year.

This notice will be published and posted at the following locations:

U.S. Post Offices
Crow Agency, Montana 59022
Hardin, Montana 59034

Newspaper
Big Horn County News
Hardin, Montana 59034

Bureau of Indian Affairs
Crow Agency
Crow Agency, Montana 59022

DATES: Effective February 18, 1992.

APPEAL PROCESS: Chapter 25, part 2 of the Code of Federal Regulations outlines the appeal process for this administrative action. Appeals must be received by the Bureau of Indian Affairs, Billings Area Director, 316 North 26th Street, Billings, Montana 59101 within 30 days after publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Crow Agency Superintendent, Bureau of Indian Affairs, Crow Agency, Montana 59022, at (406) 638-2672.

Authority: The authority to issue this notice is vested in the Secretary of the Interior by 5 U.S.C. 301 and the Act of August 14, 1914 (38 Stat. 583, 25 U.S.C. 385).

This notice of O&M rates and related information is published under the authority delegated to the Assistant Secretary—Indian Affairs by the Secretary of the Interior in 209 DM 8 and re-delegated by the Assistant Secretary—Indian Affairs to the Area Director IM 230 DM.

SUPPLEMENTARY INFORMATION: This notice is issued pursuant to the Code of Federal Regulations, title 25, chapter II, part 171 and under the authority delegated to the Area Director, by the Assistant Secretary of Indian Affairs and the Deputy Assistant Secretary of the Interior (Departmental Manual, chapter 3, part 230, (3.1 & 3.2)).

Carol Bacon,
Billings Area Director.

[FR Doc. 92-3705 Filed 2-14-92; 8:45 am]

BILLING CODE 4310-02-M

federal register

Tuesday,
February 18, 1992

Part V

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

Operating Assistance and Capital Improvement Loan Components Under the Flexible Subsidy Program; Fund Availability for Fiscal Year; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-92-3339; FR-3136-N-01]

NOFA for the Operating Assistance and Capital Improvement Loan Components Under the Flexible Subsidy Program

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of fund availability for Fiscal Year 1992.

SUMMARY: This notice announces HUD's funding for the Operating Assistance and Capital Improvement Loan components of the Flexible Subsidy Program for Fiscal Year 1992. This document includes information concerning the following:

(a) The purpose of the NOFA and information regarding eligibility, available amounts, and selection criteria;

(b) Application processing, including how to apply and how selections will be made; and

(c) A checklist of steps and exhibits involved in the application process.

DATES: The due date for submission of applications by project owners in response to this Notice of Fund Availability is April 3, 1991. Application kits may be obtained from the local HUD Field Office. Applications must be physically received by the local HUD Field Office Loan Management Branch by the Field Office's close of business on the due date. Applicants should consult with the appropriate local Field Office regarding the time that the office closes. Please see the Application Process section of this NOFA (section II) for further information on what constitutes proper submission of an application.

FOR FURTHER INFORMATION CONTACT: Questions concerning this NOFA should be directed to the Program Support Branch, Office of Multifamily Housing Management, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 708-2654 (voice) or (202) 708-3938 (TDD for hearing-impaired). (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Statement

The Office of Management and Budget has approved the use of the Flexible Subsidy forms under OMB control number 2502-0395, through September 30, 1992.

I. Purpose and Substantive Description

A. Statutory Background and Authority

Section 201 of the Housing and Community Development Amendments (HCDA) of 1978 created the Flexible Subsidy Program to provide Operating Assistance to eligible projects experiencing financial difficulty. Operating Assistance is provided in the form of a deferred loan and, in conjunction with other resources, is designed to restore or maintain the physical and financial soundness of eligible projects. The 1983 amendments to section 201 of the HCDA expanded the universe of eligible projects and clarified that a project need not have an FHA-insured mortgage to be eligible for Flexible Subsidy assistance (e.g., a non-insured section 236 project is eligible).

The 1987 amendments to section 201 of HCDA created a new category of assistance to be provided under the Flexible Subsidy Program for projects that needed capital improvements to achieve physical soundness that cannot be funded from project reserve funds without jeopardizing other major repairs or replacements that are reasonably expected to be required in the near future.

The 1987 amendments to the Flexible Subsidy statute (sections 185 and 186 of the Housing and Community Development Act of 1987) also recognized the need to coordinate assistance under the Flexible Subsidy Program with the preservation of low- and moderate-income housing initiative enacted in sections 221 through 235 of that Act. (In its comprehensive revision of the 1987 Act, section 601 of the Cranston-Gonzalez National Affordable Housing Act, at the new section 219, repeated the listing of incentives the Secretary could agree to provide an owner as part of a plan of action to prevent prepayment of a mortgage on a project serving low- and moderate-income tenants.) Section 219.330 of the rule governing the Capital Improvement Loan portion of the program contains a set-aside provision to assure maximum support for such preservation activities.

This notice assures support of preservation efforts by providing for a set-aside of $15 million for Flexible Subsidy Capital Improvement funding to projects that are eligible to receive incentives in exchange for extending the low- to moderate-income use of the projects under plans of action approved in accordance with 24 CFR part 248. The remainder of the Flexible Subsidy Fund is available for award to all eligible projects, in accordance with the priorities specified in this Notice.

B. Allocation Amounts

The Flexible Subsidy Fund is comprised of excess rental receipts paid to HUD from owners of section 236 projects, interest earned on the fund, repayment of Operating Assistance loans made by the Department in past fiscal years, and amounts appropriated by Congress, if any, to carry out the purposes of the Flexible Subsidy Program.

Funds are allocated separately for two types of projects: State-agency financed non-insured projects and all others, including projects with FHA-insured and HUD-held mortgages. Section 219.115 of the HUD regulations requires that the State Agency allocation be based on the number of units in potentially eligible non-insured projects as a percentage of the total number of units in all potentially eligible projects. In accordance with that section, the Department has determined that 9.3 percent of the available funding for Fiscal Year 1992 will be earmarked for eligible State Agency projects.

In addition, the Capital Improvement Loan portion of the program is required by statute to be funded at a minimum level of $30 million or 40 percent of the amount in the Flexible Subsidy fund, whichever is less. Any of that amount not used for loans under that program before the last 60 days of a fiscal year shall become available for Operating Assistance loans. This year, $30 million is less than 40 percent of the fund, and, therefore is the amount designated for Capital Improvement Loan.

Funding availability for Fiscal Year 1992 is estimated as follows:

Fiscal Year 1992 appropriation	$50,000,000
Plus: Estimated transfers for the Flexible Subsidy Fund through May 1992	48,000,000
Estimated available funds—Fiscal Year 1992	98,000,000
Less: Set-aside for capital improvements for projects with incentives under part 248 (estimated)	15,000,000
Net available funds to be allocated under NOFA	83,000,000
Net available funds—State agency projects (9.3%)	7,719,000
Net available funds—All other eligible (90.7%)	75,281,000

Amount of available funds segregated for the Capital Improvement Loan component	30,000,000
State agency share (9.3%)	2,790,000
All other eligible projects (90.7%)	27,210,000
Amount of available funds set aside for the operating assistance component	53,000,000
State agency share (9.3%	4,929,000
All other eligible projects (90.7%)	48,071,000

The $15 million estimated set aside for capital improvement incentives under a plan of action may be increased or decreased during the fiscal year, as appropriate. Any adjustment to the estimate will affect the Net Available Funds shown above.

C. Eligibility

1. *Types of Projects.* The following types of rental or cooperative housing are eligible for Flexible Subsidy assistance:

a. A project assisted under the section 236 interest reduction program, including State Agency non-insured projects, the section 221(d)(5) program (commonly known as the 221(d)(3) Below Market Interest Rate Program), or the Rent Supplement Program.

b. A project that was constructed more than 15 years before assistance is to be provided under the Flexible Subsidy Program with a direct loan under the section 202 Program for Housing for the Elderly or Handicapped.

c. A project assisted under section 23 of the United States Housing Act of 1937 as in effect immediately before January 1, 1975, that is ineligible for assistance under the modernization program operated under the 1937 Act.

d. A project assisted under the Section 8 Housing Assistance Payments Program after conversion from assistance under the section 236 Rental Assistance Payments Program or the Rent Supplement Program.

e. A project that met the criteria in item a or b above before acquisition by the Secretary of HUD and that has been sold by the Secretary subject to a mortgage insured or held by the Secretary and subject to an agreement which provides that the low- and moderate-income character of the project will be maintained. An application for Flexible Subsidy assistance for a project in this category must be received by HUD within three years of the date of the sale of the project by the Secretary.

2. *Conditions.* Flexible Subsidy assistance will be made available, in accordance with 24 CFR 219.110, only if the following conditions are determined to exist

a. The assistance is necessary, when considered with other resources available to the project; it will restore or maintain the financial or physical soundness of the project; and it will preserve the low- and moderate-income character of the project.

b. The owner has agreed to maintain the low- and moderate-income character of the project for a period at least equal to the remaining term of the project mortgage.

c. The assistance will be less costly to the Federal Government over the useful life of the project than other reasonable alternatives of preserving the occupancy character of the project.

d. The project owner, and any mortgagee of a project that does not have an FHA-insured mortgage, has provided or agreed to provide the required owner contribution.

e. The project is or can reasonably be made structurally sound, as determined in accordance with an on-site inspection.

f. The project is operated competently, as determined by HUD in a management review.

g. Project management is in accordance with any management improvement and operating plan approved by HUD for the project.

h. In the case of an application for a Capital Improvement Loan, the owner must have funded the reserve for replacements in accordance with HUD requirements, and yet the reserve (and any other project funds available to fund the reserve) is insufficient to finance both the capital improvements for which assistance is being requested and other capital improvements that are reasonably expected to be required within the next 24 months. (See 24 CFR 219.305.)

3. *Owner Contribution*—a. *Limited dividend and profit-motivated.* These types of owners who seek Operating Assistance must make a minimum financial contribution of 25 percent of the amount needed to render the project financially sound. If seeking a Capital Improvement Loan, they must contribute 25 percent of the total estimated cost of the capital improvements involved. In addition, a profit-motivated owner or an owner of a limited-dividend project seeking Operating Assistance under the Flexible Subsidy Program must agree to waive its right to accrue and pay distributions while any portion of the Operating Assistance loan is outstanding.

b. *Non-profit.* The owner or sponsor of a non-profit project or cooperative project seeking Operating Assistance must make a contribution toward the total amount needed. However, if HUD determines that neither the owner (mortgagor) nor the sponsor has the financial capacity to make a cash contribution, HUD may permit the non-profit owner to contribute to the project in the form of services. If seeking a capital improvement loan, a non-profit owner is exempt from providing a contribution.

c. *Source of contribution.* This owner contribution may not be taken from project income but may be made from distributions of surplus cash as defined in and permitted under the Regulatory Agreement. Cash that already has been agreed to be contributed as a condition for approval of purchase of the project (TPA) may NOT be considered for this purpose. Cash contributions made by the owner within 24 months before the Flexible Subsidy application, from sources other than project income, may be considered. In addition to the required owner contribution, other possible sources of funding, such as assistance from State or local governments, should be pursued aggressively.

4. *Special Eligibility Limits.* A project owner *may* request and receive Operating Assistance more than once during the term of the mortgage. However, § 219.205(a)(1) of the regulation permits a repair or replacement item to be eligible for Operating Assistance *only if* no previous payment of HUD-related assistance has been made (e.g., previous Operating Assistance, Housing Development Grant or Community Development Block Grant) for that particular repair or replacement item.

A repair or replacement included as an action item in the management improvement and operating (MIO) plan and made by the owner on an emergency basis before execution of the Flexible Subsidy contract may be funded with Operating Assistance only if the owner received advance approval from the HUD Field Office to proceed with the emergency repair.

D. *Selection Criteria and Ranking Factors.* Each application for Operating Assistance and/or a Capital Improvement Loan will be reviewed by the HUD Field Office having jurisdiction over the project in question. Field Offices will recommend applications for funding to HUD Headquarters.

To implement the priorities for funding specified in §§ 219.230 and 219.330 and to support efforts to preserve housing for low- and moderate-income use, in accordance with section 224 of the Housing and Community Development Act of 1987 and subtitle A of title VI of the Cranston-Gonzalez National Affordable Housing Act (104 Stat. 4249–4278), funding will be awarded within each project type (State Agency financed non-insured and other) and within each component of the Flexible Subsidy Program (Operating Assistance and Capital Improvement Loans) to applications in the following category order:

Category 1. Projects designated as troubled by the HUD Field Office for which half or more of the MIO dollar amount (for Operating Assistance) or Capital Improvement amount is designated for emergency health and safety problems. This category applies to projects with insured, non-insured, or HUD-held mortgages that are current under the terms of the mortgage at the time of the application for assistance, but is limited to those projects with emergency problems that are of such a magnitude that:

(a) They could not be mitigated at a cost that could be in any way absorbed within the operating budget; and

(b) Their continuation could potentially result in tenant displacement.

Accounts payable included in the MIO plan for operating assistance may be considered "emergency" only to the extent that they directly relate to vital services provided to the project (e.g., utility payables). (Examples of emergency health and safety problems involving possible capital improvements that may be included in this category are broken heating systems, leaking gas stoves and falling balconies.)

Category 2. Insured, non-insured and HUD-held projects designated by the HUD Field Office as troubled that are current under the terms of the mortgage at the time of the application for assistance, with serious financial and physical problems, whose sponsors do not have the necessary funds available to cure the immediate problems and whose income stream cannot be sufficiently improved to meet the project's expenses without first correcting its physical problems.

Category 3. Projects designated by the HUD Field Office as troubled or potentially troubled that are delinquent under the terms of the HUD-insured or State Agency mortgage at the time of the application for assistance and State Agency-owned projects meeting programmatic eligibility requirements.

The above categories represent the order of priority to which HUD will fund eligible projects seeking assistance under the Operating Assistance and Capital Improvement Loan components of the Flexible Subsidy Program, e.g., eligible Category 1 projects will be funded before eligible Category 2 projects. (See example below).

Example

Assume total available funds equals $90. Total of applications for categories equals:

Category 1 Projects: $60
Category 2 Projects: $40
Category 3 Projects: $45
Total All Categories $145

In this example, HUD would fund all projects determined to be eligible for Category 1 funding. Projects that were not eligible for Category 1 funding would be moved to Category 2. Projects in Category 2 would be scored, ranked, and selected, to the extent funds were available (or $30 in this case) in descending order of funding score. Category 3 projects would not be funded.

The financial distress of a project will be assessed to determine which projects within each funding category are most in need. The severity of a project's financial condition and its ability to meet short term operating needs and obligations, including debt service payments will be measured by HUD, using financial data contained in the project's most recently audited balance sheet and statement of profit and loss.

In assessing financial distress, HUD will use the following ratios, awarding a maximum of 15 points for each ratio. Projects with poor financial ratios (e.g., income/expense ratios with a negative value) will be assigned higher point scores than projects with break-even or positive income/expense ratios from operations.

1. Income/Expense Ratio defined as follows:

$$\frac{\text{Net Income/Loss before depreciation LESS annual debt service and reserve payments}}{\text{Total annual cost of operating the project}}$$

2. Mortgage Coverage Payment Ratio defined as follows:

$$\frac{\text{Current Assets LESS Current Liabilities}}{\text{Total monthly mortgage payment}}$$

Up to an additional 15 points per project will be assigned for applicants submitting evidence in the form of a contract, or other written commitment, to transfer title to the property to a resident organization, cooperative association, nonprofit entity, public body including an instrumentality thereof, public housing agency or Indian Housing Authority, for the purpose of resident ownership of the project.

E. Other Capital Improvement Loan Terms and Conditions

Capital improvements include any major repair or replacement of building components or other on-site improvements included in allowable costs when the project was built, e.g., sewer laterals, roof structures, ceilings, wall or floor structures, foundations, plumbing, heating, cooling, electrical systems and major equipment, as well as any major repair or replacement of any short-lived building equipment or componet before the expiration of its useful life.

Capital improvements may also include limited supplements or enhancements to mechanical equipment TO THE EXTENT THEY ARE NEEDED FOR THE HEALTH AND SAFETY OF THE RESIDENTS (e.g., air conditioning, heating equipment, and building sprinkler systems) where they do not exist. They may also include improvements necessary to comply with HUD's standards in 24 CFR part 8 for accessibility to individuals with handicaps. Capital improvements do not include maintenance of any building components or equipment.

Capital Improvement assistance, if provided, must be provided in the form of an amortizing loan. The interest rate on the loan may not be less than 3 percent (unless HUD determines that a lower rate is necessary to maintain reasonable rental rates) nor more than 6 percent. HUD will determine the rate when considering the project's ability to absorb the rent increase and the percentage of the tenants receiving rental assistance. Interest on the Capital Improvement Loan starts to accrue and the loan amortization period begins when the loan proceeds have been disbursed.

II. Application and Funding Award Process

A. Obtaining and Preparing Applications

Applicants may obtain application kits from the local HUD Field Office.

An owner must indicate in the application whether it is seeking Operating Assistance or a Capital Improvement Loan. An owner may apply for both simultaneously, but each application will be treated separately under the selection criteria and ranking factors cited in the Notice. In addition, if a limited-dividend project is selected for Operating Assistance, the owner must agree to waive its right to accrue and pay distributions so long as the Operating Assistance loan is outstanding.

The owner of any project eligible for Flexible Subsidy assistance must apply for assistance by submitting an application (through the State Agency in the case of an uninsured State Agency project) to the Loan Management Branch in the HUD Field Office that has jurisdiction over the project for which assistance is requested, no later than the deadline date specified in this notice. The Field Office will be available to provide technical assistance on the preparation of applications during the application period.

Any application for a capital improvement loan also must address the means by which all physical, management, and financial deficiencies noted by HUD will be corrected.

B. Submitting Applications

Items must be physically *received* by the HUD Field Office Loan Management Branch by the local close of business on the due date; it is not enough for an application to bear a postmark date within the submission time period. The HUD Field Office will date-stamp incoming applications to evidence (timely or late) receipt, and, on request, provide the applicant with an acknowledgement of receipt.

Applications received after the due date will be considered for funding in Fiscal Year 1992 only if the Secretary determines that assistance is needed immediately in response to emergency circumstances and only to the extent that contract authority is available to satisfy the request for assistance.

After HUD receives the application, it will perform a physical inspection to assure that the MIO plan addresses in a comprehensive fashion all the financial and physical deficiencies. HUD also will conduct a comprehensive management review to assure that all management issues are addressed as part of the MIO plan.

C. Funding Award Process: Compliance With HUD Reform Act

1. *Section 103*. In accordance with the requirements of section 103 of the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act) and HUD's implementing regulations at 24 CFR part 4, no selection information will be made available to applicants or other persons not authorized to receive this information during the period of HUD review and evaluation of the applications. However, applicants that are declared ineligibile or late will be notified of their ineligibility at the time such determination is made.

The disclosure prohibition of section 103 applies to HUD assistance programs that entail a competition for the distribution of the assistance. Under the Flexible Subsidy Program, if HUD determines that competition is not necessary for the distribution of Category 1 funds, because there are sufficient funds to award all projects eligible for Category 1 assistance, then HUD will begin the process of awarding funds to each eligible project.

Noncompetitive individual funding allocations and announcements under Category 1 will be made, as funding determinations are completed, through the HUD Regional or Field Offices after notification to the Congressional delegation. No information regarding any unfunded application or any competition in any other category will be made available to the public. All awards will be disclosed publicly at the conclusion of the entire selection process.

2. *Section 102*. Section 102 contains a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. The following requirements concerning documentation and public access, disclosures, and subsidy layering determinations are applicable to assistance awarded under this NOFA.

a. *Documentation and public access*. HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its quarterly **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14(a) and 12.16(b), and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these requirements.)

b. *Disclosures*. HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period generally less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. (See 24 CFR subpart C, and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these disclosure requirements.)

c. *Subsidy-layering determinations*. 24 CFR 12.52 requires HUD to certify that the amount of HUD assistance is not more than is necessary to make the assisted activity feasible after taking account of other government assistance. HUD will make the decision with respect to each certification available to the public free of charge, for a three-year period. (See the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942) for further information on requesting these decisions.) Additional information about applications, HUD certifications, and assistance adjustments, both before assistance is provided or subsequently, are to be made under the Freedom of Information Act (24 CFR part 15).

III. Checklist of Application Submission Requirements:

A. Operating Assistance Under the Flexible Subsidy Program

1. Form HUD-9385, Management Improvement and Operating (MIO) plan. The MIO plan must be signed by both the owner and the management agent. The MIO plan must include documentation of eligibility and fully address ALL financial, management, and physical deficiencies of the project. To be included in every MIO plan are a detailed maintenance schedule; a schedule for correcting past deficiencies in maintenance, repairs, and replacements; a plan to upgrade the project to meet cost-efficiency energy efficiency standards approved by HUD; a plan to improve financial and management control systems; an updated annual operating budget if the last budget was submitted more than 90 days before; and a description of cost controls, procedures and savings.

Action Items on the MIO plan must be written in a manner which specifically describes the scope of the work and an estimate of the cost of the work to be performed. For example, if gutters and downspouts are to be replaced, the description of the Action Item must detail the number of linear feet, the type and quality of guttering and the cost per foot, and the total cost, including labor.

The MIO plan must clearly identify all emergency repair Action Items and provide a full and detailed justification as to the reasons the repair should be

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considered "emergency" in nature, including supporting documentation as appropriate, e.g., fire or building code violations or inspections from local government authorities.

2. All documentation required by Notice H 90–17, Combining Low-Income Housing Tax Credits (LIHTC) with HUD Programs, and by the Notice of Administrative Guidelines to be applied to assistance programs of the Office of Housing, published on April 9, 1991 (56 FR 14436).

3. All documentation required by Notice H 90–27, OMB's Guidance on new Government-wide Restrictions on Lobbying, and 24 CFR part 87.

4. Form HUD–2530, Previous Participation Certificate, for all principals requiring clearance under these procedures.

5. Certification of compliance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601–4655), and its implementing regulations at 49 CFR part 24.

6. A written certification of compliance with the Fair Housing Act, Executive Order 11063, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and all regulations issued in accordance with these authorities.

7. Form HUD–2880, Applicant/Recipient Disclosure/Update Report, as required under subpart C of 24 CFR part 12, Accountability in the Provision of HUD Assistance.

B. Capital Improvement Loan Program

1. A work write-up and cost estimates listing the major project components that have failed, or are likely to fail or seriously deteriorate within the next 24 months; capital items that can be upgraded to meet cost-effective energy efficiency standards approved by HUD; supplements or enhancements to mechanical equipment and the extent they are needed for health or safety reasons; and amounts needed to comply with the Department's standards as set forth in 24 CFR part 8, dealing with accessibility to individuals with handicaps.

2. All documentation required by Notice H 90–17, Combining Low-Income Housing Tax Credits (LIHTC) with HUD Programs, and by the Notice of Administrative Guidelines to be applied to assistance programs of the Office of Housing, published on April 9, 1991 (56 FR 14436).

3. All documentation required by Notice 90–27, OMB's Guidance on New Government-wide Restrictions on Lobbying, and 24 CFR part 87.

4. A Comprehensive Technical Energy Audit, including an audit of all capital improvements for which assistance is requested, and related capital items whose improvement or upgrading will result in cost-effective energy efficiency improvements. The results of the audit will be a list of specified improvements, their costs and evidence of their cost effectiveness. An energy audit that is provided by a local utility company and that contains a measure of cost-effectiveness information may be acceptable in meeting this requirement.

5. A MIO plan.

6. A statement outlining the owner's contributions.

7. Form HUD–2530, Previous Participation Certificate, for all principals requiring clearance under these procedures.

8. Certification of compliance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601–4655), and its implementing regulations at 49 CFR part 24.

9. A written certification of compliance with the Fair Housing Act, Executive Order 11063, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and all regulations issued in accordance with these authorities.

10. Form HUD–2880, Applicant/Recipient Disclosure/Update Report, as required under subpart C of 24 CFR part 12, Accountability in the Provision of HUD Assistance.

IV. Corrections to Deficient Applications

HUD will notify an applicant, in writing, shortly after the expiration of the NOFA response deadline of any technical deficiencies in the application. In order to receive further consideration for assistance, the applicant must submit corrections to the Loan Management Branch within 14 calendar days from the postmark date of HUD's letter notifying the applicant of any such deficiencies. Corrections to technical deficiencies will be accepted within the 14 day time limit, but substantive changes or supplements to the application will not be accepted.

Applicants will only be permitted to correct those deficiencies determined to be technical, i.e., those that do not change the substance of the application, e.g., a missing certification, or missing signature. Applicants will be required to cure any such deficiency within 14 days from the date of HUD's written notice to the applicant of the problem(s). Deficiencies determined to be substantive may not be corrected.

V. Other Matters

Prohibition Against Lobbying Activities

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients, and subrecipients of assistance exceeding $100,000 must certify that no Federal funds have been or will be spent on lobbying activities in connection with the assistance.

Prohibition Against Lobbying of HUD Personnel

Section 13 of the Department of Housing and Urban Development Act (42 U.S.C. 3537b) contains two provisions dealing with efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence the award of assistance or the taking of a management action by the Department *and* those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance.

Section 13 was implemented by final rule published in the **Federal Register** on May 17, 1991 (56 FR 29912). If readers are involved in any efforts to influence the Department of these ways, they are urged to read the final rule, particularly the examples contained in appendix A of the rule.

Any questions concerning the rule should be directed to Arnold J. Haiman, Director, Office of Ethics, room 2158, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–3000. Telephone: (202) 708–3815 or 708–1112 (TDD). (These are not toll-free numbers.) Forms necessary for compliance with the rule may be obtained from the local HUD office.

Prohibition Against Advance Information on Funding Decisions

Section 103 of the Reform Act proscribes the communication of certain information by HUD employees to persons not authorized to receive that information during the selection process for the award of assistance that entails a competition for its distribution. HUD's regulations implementing section 103 are codified at 24 CFR part 4 (see 56 FR 22088, May 13, 1991). (See also Section II.C. of this NOFA.) In accordance with the requirements of section 103, HUD employees involved in the review of applications and in the making of funding decisions under a competitive funding process are restrained by 24 CFR part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted by 24 CFR part 4. Applicants who have questions should contact the HUD Office of Ethics (202) 708–3815. (This is not a toll-free number.)

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection during business hours in the Office of the Rules Docket Clerk, Office of General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

Federalism Executive Order

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that this Notice of Fund Availability will not have substantial, direct effects on States, on their political subdivisions, or on their relationship with the Federal Government, or on the distribution of power and responsibilities between them and other levels of government.

Family Executive Order

The General Counsel, as the Designated Official under Executive Order 12606, the Family, has determined that this Notice of Fund Availability will not have a significant impact on family formation, maintenance or well being, and therefore, is not subject to review under the order. The NOFA, insofar as it funds emergency repairs to multifamily housing projects will assist in preserving decent housing stock for families residing there.

Catalog

The Catalog of Federal Domestic Assistance Program number is 14.164.

Authority: Sec. 201, Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z–1a); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: February 4, 1992.

Arthur J. Hill,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 92–3724 Filed 2–14–92; 8:45 am]

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federal register

Tuesday
February 18, 1992

Part VI

Department of Agriculture

Food Safety and Inspection Service

9 CFR Parts 317, 320, and 381

Supplemental to the Preliminary Regulatory Impact Analysis of Proposed Regulations for Nutrition Labeling of Meat and Poultry Products; Proposed Rule

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 317, 320, and 381

[Docket No. 91-006P]

RIN 0583-AB34

Supplemental to the Preliminary Regulatory Impact Analysis of Proposed Regulations for Nutrition Labeling of Meat and Poultry Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule; supplement to the preliminary regulatory impact analysis.

SUMMARY: This document gives notice and seeks comments on the Supplemental to the Preliminary Regulatory Impact Analysis of Proposed Regulations for Nutrition Labeling of Meat and Poultry Products. On November 27, 1991, the Food Safety and Inspection Service (FSIS) published a proposed rulemaking docket entitled, "Nutrition Labeling of Meat and Poultry Products" (56 FR 60302-60364). In that proposed rule, there was an appendix to the preamble which provided a Preliminary Regulatory Impact Analysis (PRIA). That preliminary analysis stated that the Agency would publish a supplement to the PRIA.

DATES: Comments must be received by February 25, 1992.

ADDRESSES: Written comments to: Policy Office, ATTN: Linda Carey, FSIS Hearing Clerk, room 3171, South Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250. Oral comments as provided by the Poultry Products Inspection Act should be directed to Mr. Charles Edwards at (202) 205-0080. (See also "Comments" under "**SUPPLEMENTARY INFORMATION.**")

FOR FURTHER INFORMATION CONTACT: Mr. Charles Edwards, Director, Product Assessment Division, Regulatory Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 205-0080.

SUPPLEMENTARY INFORMATION:

Comments

Interested persons are invited to submit written comments concerning this Supplemental to the Preliminary Regulatory Impact Analysis of Proposed Regulations for Nutrition Labeling of Meat and Poultry Products.

Written comments should be sent to the Policy Office at the address shown above and should refer to Docket Number 91-006N. Any person desiring an opportunity for an oral presentation of views as provided by the Poultry Products Inspection Act should make such request to Mr. Edwards so that arrangements can be made for such views to be presented. A transcript will be available for public inspection in the Policy Office from 9 a.m. to 12:30 p.m., and from 1:30 p.m. to 4 p.m., Monday through Friday.

Background

On November 27, 1991, the Food Safety and Inspection Service (FSIS) published a proposed rulemaking docket entitled, "Nutrition Labeling of Meat and Poultry Products" (56 FR 60302-60364). In that proposed rule, there was an appendix to the preamble which provided a Preliminary Regulatory Impact Analysis (PRIA). That preliminary analysis stated that the Agency would publish a supplement to the PRIA. The attached Supplemental to the Preliminary Regulatory Impact Analysis of Proposed Regulations for Nutrition Labeling of Meat and Poultry Products expands the PRIA by taking into consideration additional information provided during the comment period and developed by FSIS. The issues analyzed are: (a) The participation rates to be expected under a voluntary option, taking into consideration changed requirements on laboratory testing for the nutrient content of products and also taking into consideration the possibility of replacing laboratory analysis with recipe analysis, (b) the value of voluntary nutrition labeling by manufacturers as a signal of product quality to consumers, and (c) the costs of prior label approval.

Dated: February 4, 1992.

Ronald J. Prucha,

Acting Administrator.

Supplemental to the Preliminary Regulatory Impact Analysis of Proposed Regulations for Nutrition Labeling of Meat and Poultry Products

I. Introduction

This supplemental to the preliminary regulatory impact analysis (PRIA) published November 27, 1991 (FR 56, No. 229, 60349) expands the PRIA by taking into consideration additional information provided during the comment period and developed by the Food Safety and Inspection Service (FSIS). The following issues are analyzed: (A) The participation rates to be expected under a voluntary option, taking into consideration changed requirements on laboratory testing for the nutrient content of products and also taking into consideration the possibility of replacing laboratory analysis with recipe analysis, (B) the value of voluntary nutrition labeling by manufacturers as a signal of product quality to consumers, and (C) the costs of prior label approval.

A. Participation Under Voluntary Labeling

To evaluate the participation rates under a voluntary program, FSIS focused on the costs of laboratory testing because fewer tests per product should be necessary under the proposed rule than under current procedures. FSIS examined a sample of labels submitted for approval late in 1991. Two-thirds of the labels currently submitted use an abbreviated label format, listing fewer nutrients than required by the longer version that is proposed. For those manufacturers now using an abbreviated label, the cost of testing for additional nutrients offsets the fewer number of tests per product under the proposed regulations. For a manufacturer considering entering the labeling program voluntarily, the cost of the current abbreviated label and the proposed longer, FDA-consistent label would be about the same. Thus, the reduced number of laboratory tests under the proposed rule probably would not have a significant effect on participation under a voluntary labeling program.

With respect to recipe analysis, which is comparison of ingredients in a product with a data base listing nutrient content of the ingredients, it is clear that costs would be considerably reduced compared with laboratory testing. USDA is continuing to review the potential for supporting nutrition labels with recipe analysis. The key question is the reliability of the procedure, and the resultant public health risk, rather than the cost. FSIS proposes to use laboratory testing to determine whether labels are consistent with the nutrient content of foods. Maintaining consistency with FDA's standards of compliance would require a 95 percent probability that products contain at least 80 percent of some nutrients and not more than 120 percent of others. It is uncertain whether recipe analysis can assure manufacturers of meeting these compliance standards. However, if data bases are constructed using multiple tests of nutrients and entries meet FDA compliance standards, recipe analysis might be feasible. USDA invites comments on these questions and will continue to consider recipe analysis.

B. The Value of Voluntary Nutrition Labeling as a Signal of Product Quality to Consumers

The issue analyzed is whether the existence of a nutrition label provides consumers with a signal of product quality, apart from the specific information on the label. USDA considered three questions with respect to this issue: (1) Are labeled versions of a product lower in nutrients—such as fat, calories, cholesterol, and sodium—that the consumers may want to avoid? (2) If so, are consumers aware of this difference, and is this signal likely to be useful to a high-risk population? (3) Is the signal likely to be useful to the rest of the population? USDA reviewed available research and surveys bearing on these questions and found that the evidence indicates: (1) Although there is some uncertainty whether labeled versions of products are lower in nutrients consumers want to avoid, consumers seem to believe labeled versions are "better," (2) The lower-income, less-educated "high-risk" population is unlikely to benefit from this signal, and (3) The average consumer is also unlikely to benefit from this signal. Lack of motivation prevents high-risk consumers from benefiting. Survey data indicate that 44 percent of consumers always read labels the first time they purchase a product; another 37 percent of consumers sometimes read labels. These purchases are heavily influenced by nutrition information. Twelve percent of consumers rarely read labels and only 7 percent of consumers never read labels when first purchasing a product. Presumably, consumers who rarely or never read labels the first time they purchase products and are influenced by nutrition information would be the beneficiaries of the signal under voluntary labeling. They are estimated to be less than 10 percent of the population.

C. Prior Label Approval

The cost of prior label approval consists of the costs of applying for label approval, administrative costs, and costs of delays while products cannot be produced until labels are approved. Approximately 85 percent of labels are handled by expediters. Administrative costs were incorporated in the estimates that were included in the preliminary analysis. Some additional trade association data is supplied.

The costs of prior label approval are attributable to the proposed nutrition labeling rule only to the extent that the proposal would increase the number of label applications. This analysis considers the cost of prior labor approval as a separate issue, but one which could be combined with the proposed rule. The issue would exist even if the rule had not been proposed and USDA is considering alternative methods of improving the labeling process.

Trade association data indicates that the time from the decision to market a new or modified product until actual market placement averages over 28 weeks for FSIS-regulated processed foods, but only 18 weeks for FDA-regulated processed foods. If total consumer expenditures on processed meat and poultry remain the same, delays redistribute revenues among firms. This creates a market inefficiency because market shares are not as closely aligned with consumer demand as they could be. Therefore, FSIS invites further comments on all aspects of prior label approval, but particularly on the costs of delay to individual manufacturers.

II. The Value of Voluntary Nutrition Labeling as a Signal of Product Quality to Consumers

It has been suggested that consumers may use the mere presence of a nutrition label as a signal of "quality" when determining which brand of a product to purchase. Because much research has found that consumers use labels largely to limit consumption of such nutrients as fat, calories, cholesterol, and sodium, "quality" would mean that labeled brands would contain less of these nutrients than unlabeled brands.

There is some concern that if all products were to contain nutrition labels, this signaling effect might be lost. There is further concern that this loss might be particularly important for low-income, less-educated consumers, considered high-risk because they have higher rates of disease and death than the general population.

These hypotheses and concerns lead to several questions: (1) Are labeled versions of a product lower in nutrients consumers want to avoid? (2) If so, are consumers aware of this difference, and is this signal likely to be useful to a high-risk population? (3) Is the signal likely to be useful to the rest of the population?

At the moment, it is not known whether labeled versions of a product are lower in nutrients consumers want to avoid. Public Voice recently surveyed meat and poultry products in 10 supermarkets in the Washington, DC area, and concluded that products lower in fat were more likely to have a nutrition label (Morris, 1991). However, there are some problems with this conclusion. First, although it may be true within narrow product definitions, the conclusion does not hold across product classes. For example, 90% of poultry and turkey franks were found to have nutrition labels, compared to only 30% of beef hot dogs. But among frozen multi-serving entrees, 25% of the meat/poultry entrees had nutrition labels, compared to 3.5% of pizzas, and none of the pasta entrees. Are we to conclude from this that frozen multi-serving pasta entrees are higher in fat than meat/poultry entrees? And is the difference in fat significant?

Second, the study compared only the fat content of labeled and unlabeled products. Yet consumers are interested in limiting their intake of other nutrients, also. It is not known whether a labeled product, lower in fat than an unlabeled product, is also lower in cholesterol, calories, and sodium. If so, are the differences significant?

The hypothesis that unlabeled products are higher in nutrients consumers wish to avoid does not seem to hold for sodium. Results from the 1986 FDA Food Label and Packaging Survey (FLAPS) (DSC, 1987) indicate that the average value for all sampled products declaring sodium increased from 1978 to 1982, as sodium labeling began to appear in relatively high sodium-containing categories such as cereals, baking mixes, prepared foods, soups, sandwich spreads, and meat extenders.

There is also some evidence that nutrition labeling decisions are being made on a corporate-wide basis and not on a product-by-product basis. Corporate-wide decision making would tend to reduce any value of a signal.

Thus, it is uncertain whether the mere presence of a label represents an appropriate signal regarding the nutrition quality of a product. However, if we accept for the sake of discussion that the absence of a label for a narrowly defined product may signal higher content of certain nutrients consumers wish to avoid, the next question to be addressed is whether consumers are aware of this potential signal, and is this signal likely to be used by high-risk groups? We address the question by considering evidence on the behavior and attitudes of this group.

It seems likely that high-risk consumers have difficulties processing nutrition label information. The Department of Education estimates that nearly 13 percent of American adults were functionally illiterate in 1982, defined as unable to match key words and phrases with fixed-choice alternatives on more than 20 of 26 questions of the Measure of Adult English Proficiency. Approximately a third of the functionally illiterate spoke another language at home (Department of Education, 1986).

An FDA study (FDA, 1991b) on consumers' ability to use labels found that 9.5 percent of a sample selected were disqualified from the study by a literacy test. This supports the view that many high-risk consumers may not be able to process nutrition label information. Even among the literate, respondents with less education had lower accuracy, took longer to compare labels, and made more false positives (found differences between products where none existed).

Even if consumers with less education cannot process nutrition label information, and thus can only note a label's presence or absence, it is not certain that the presence of a nutrition label on a food product constitutes a useful signal of nutrition quality to them. Effective use of the signal would require the unsophisticated consumer to (i) be aware of the diet/health link, (ii) take action designed to improve health through diet.

Information on the characteristics of this high-risk population, however, raises doubt about the usefulness of the label signal in their purchasing decisions. Although consumers with less education more frequently report being told they have high or borderline cholesterol levels and high blood pressure, they are also less aware of and less knowledgeable about diet-disease relationships than other consumers. They are more likely to agree with the statement "What I eat won't make that much difference in my chances of getting heart disease" (FDA, 1991a), probably because they feel chronic diseases result from heredity and fate, and thus, are outside their personal control (DHHS, in press). Individuals with lower educational levels and lower incomes are less likely to follow practices to improve their health. Blacks report fewer habits intended to improve health than whites (DHHS, in press).

These findings suggest that the label/no-label signal is not likely to be a major benefit to the lower income, less educated consumers.

What about the value of the label as a signal to the average consumer? Focus group discussions conducted for FSIS by the Research Triangle Institute indicate that consumers think the labeled product is nutritionally "better." The question remains of whether the existence of the label is used as a signal to purchase. The only known study—conducted over 20 years ago—that has addressed this question directly attempted to determine the effect of the presence of a nutrition label on brand market shares (Yankelovitch, 1971). The result of this experiment indicated the existence of two "quality" signals—the leading brand and the presence of a nutrition label. When the leading brand was unlabeled, it maintained its market share in competition with a labeled brand. On the other hand, when unlabeled second or third ranking brands competed with a labeled leading brand, and the former lost market share. Thus, the experiment suggests that factors other than nutrition labels are important, and that reliance on the label signaling effect might lead to mixed results. It should be noted, however, that the study was a simulation of a shopping situation, not an actual market test, and that consumers might behave differently in a real shopping trip, when faced with both a budget and a time constraint.

In real shopping situations, unless consumers are actively seeking comparative nutrition information, they may simply ignore it because they do not consider the necessary proceeding effort worthwhile (Chaffee and McLeod, 1973 and Haines, 1974, as cited in Muller, 1985). Further, because of habitual buying and brand loyalty, consumers are not likely to change their purchasing behavior (i.e., use the label signal effect) unless they are convinced that the labeled brand is significantly better than the unlabeled brand (Muller, 1985).

Balanced against the potential benefits of the signal effect, if it exists, are the benefits consumers might derive from mandatory nutrition labels on all processed meat and poultry products. In a study conducted by Opinion Research Corporation for the National Food Processors Association (1990), over 80 percent of the consumers surveyed reported reading the nutrition information on the first purchase of a product, and were heavily influenced in their purchase decisions by nutrition information. These would be the primary beneficiaries of mandatory nutrition labeling.

In addition to the direct benefits to the consumers who use the information on the nutrition labels, there are likely to be indirect benefits to society as a group. These indirect benefits result from the reformulation which is likely to occur when manufacturers have to actually list on the label the nutrition composition of their products (Padberg and Caswell, 1990). Only a small proportion of consumers—or a consumer advocacy group—need be aware of the nutrition profiles of these foods to exert pressure on manufacturers to improve their products. Thus, under mandatory nutrition labeling, even unaware consumers will benefit from the improved, reformulated products.

Contrast the potential beneficiaries of mandatory nutrition labeling with the potential beneficiaries of the signal effect. This latter group would be primarily those who rarely or never read labels when first purchasing a product but who are influenced in their purchase decisions by nutrition information. This group is estimated to be less than 10 percent of consumers (calculated from Opinion Research Corporation, 1990, page 9).

III. Extent of Nutrition Labeling Under Voluntary Alternatives

A. Introduction

In the original PRIA, FSIS requested early comment on the expected percent of meat and poultry products with nutrition labeling under different voluntary labeling alternatives. Presumably, there are many factors that determine the current level of voluntary nutrition labeling. Many factors would affect the level of nutrition labeling if USDA implemented a voluntary program in which the labeling format was consistent with regulations that FDA has proposed to implement the Nutrition Labeling and Education Act (NLEA), the second option from the preliminary analysis. For example, it has been suggested that voluntary participation will increase because firms that produce both USDA and FDA-regulated products will add nutrition labeling to all their products when the FDA rules become final.

This analysis focuses on required analytical costs, which are an important, if not the only, determinant of the level of voluntary labeling. This section addresses the issue of how required nutrient analyses either have or would affect the level of voluntary nutrition labeling.

The preliminary analysis estimated that there are approximately 520,000 labels for processed meat and poultry products and that approximately 40 percent (208,000 labels) currently have some level of nutrition labeling. The 520,000 labels are used on an estimated 338,000 products. Assuming that 40 percent of the products have nutrition labeling, an estimated 135,200 products are currently analyzed for their nutrient content. (USDA is aware that firms also analyze non-labeled products and make such nutrient information available to consumers upon request.)

The preliminary analysis was based on estimates of the number of products (unique formulations) and labels that apply to retail sales of consumer-sized packages. The proposed rule would not require modification of labels on products intended for hotels, restaurants, and institutions (HRI), but would require that nutrition information accompany the product. In cases where an HRI product has a retail counterpart, the nutrition information would already be available and incremental costs for institutional products would be minimal. In cases where an institutional product is a unique or special formulation there would be separate analytical costs to generate nutrition information for these products. The preliminary cost estimates did not include such costs. On the other hand, the cost estimates assumed that all establishments that conduct processing operations produce an "average" number of processed products for retail sale. FSIS knows there are establishments that produce only institutional products, fresh products or products for further processing in other establishments. Building preliminary cost estimates on the total number of establishments has, therefore, overestimated costs. But excluding testing for unique institutional products underestimated costs. FSIS believes that these two factors tend to balance each other.

The following analysis examines the 20-year costs of nutrient analysis for 135,200 products under the current system and under a voluntary program of labels required to be consistent with the FDA proposal. The analysis concludes that analytical costs are not expected to be substantially lower even after current testing requirements are removed.

B. Current Analytical Costs

Under existing procedures, nutrition labels are approved in conjunction with the Nutrition Labeling Verification (NLV) program. Under the current program, to obtain approval of a nutrition label, firms must submit the results from three separate analyses. After approval they must analyze the product each quarter during the first year and annually thereafter, assuming that all test results are consistent with the approved nutrient content. Thus, over a 20-year period, a product remaining in compliance would be analyzed 26 times (three plus four plus nineteen).

Under the current program firms have two options for format and style. They can use the format and style provided by FDA regulations (21 CFR 101.9) or they can use an abbreviated format that includes the number of calories and the number of grams of protein, carbohydrates, and fat in a specified serving of the product. Analytical costs are substantially lower for the abbreviated format.

To estimate current analytical costs, FSIS examined a sample of nutrition labels presented for approval in late 1991. The findings, presented in Table 1 show that approximately two-thirds of the sampled labels used the abbreviated format and that many firms now add cholesterol and/or sodium to the abbreviated format.

TABLE 1.—CONTENT OF EXISTING NUTRITION LABELS

Type of format	Nutritional information on labels	
	(labels w/ info)	(percent)
Abbreviated Format:		
Fat, Protein, Carbohydrates and Calories	148	100.0
Cholesterol	63	42.6
Sodium	74	50.0
Subtotal Abbrev. Format	148	100.0/67/6
Full Format:		
Vitamin A and C	71	100.0
Cholesterol	56	78.9
Saturated Fat and Calories From Fat	32	45.1
Sodium, Iron, Calcium	28	39.04
Niacin, Thiamine and Riboflavin	28	39.4
Dietary Fiber	8	11.3
Subtotal, Full Format	71	100.0/32.4
Total, All Formats	219	N/A/100.0

A weighted average analytical cost of $167 for the abbreviated format was estimated using the following cost estimates and frequencies from Table 1.

TABLE 2.—ESTIMATED TESTING COSTS: ABBREVIATED FORMAT

	Cost per test	Proportion of labels w/info	Weight cost of test
Fat, Protein, Carbohydrates and Calories	$119	1.0	$119
Cholesterol	86	0.426	37
Sodium	22	0.5	11
Total Cost, Abbrev. Format	N/A	N/A	167

Using the average cost estimate of $167, the current 20-year, not discounted costs for a product using an abbreviated format would be $4,342 ($167 times 26).

A weighted average cost for the current full format was estimated using the following average costs and frequencies from Table 1.

TABLE 3.—ESTIMATED TESTING COSTS: FULL FORMAT

Test	Cost per test	Proportion of labels w/info	Weighted cost of test
Fat, protein, carbohydrates and calories	$119	1.0	$119
Cholesterol	86	0.789	68
Saturated Fat and Calories from Fat	82	0.451	37
Vitamin A and Vitamin C	110	1.0	110
Dietary Fiber	92	0.113	10
Thiamin, Riboflavin and Niacin (FDA, 1991C)	135	0.394	53
Sodium, Iron and Calcium	55	0.394	22
Total Cost Full Format	N/A	N/A	419

Using frequencies from Table 1 with the above costs results in an estimated weighted average cost of $419 per sample. Thus, 26 analyses for an average full format product would cost almost $11,000. The estimated current not discounted cost of 26 analyses for 135,200 products would be $874 million using an average weighted cost of $249 per analysis ($167 (.676) + $419 (.324)).

The above estimates could be viewed as the analytical costs associated with the NLV program. These costs raise two questions for comment. First, would firms test less if the NLV requirements were removed? Second, would removing the existing requirements lead to an increase in nutrition labeling, i.e., are the existing costs the reason that some firms do not particpate in the existing voluntary program?

C. Impact of a Revised Voluntary Program

The proposed rule does not specify any minimum testing requirement. The preliminary analysis was based on an assumption of one intial test for each product and 10 additional tests over a 20-year period. Thus, each product would be tested 11 times at an average cost of $368. The total costs, not discounted to present value, would be $4,048 per product. Thus, the projected 20-year costs under the 11 test assumption would be approximately the same as the existing NLV costs for the abbreviated format. If one accepts the 11 test scenario as a reasonable minimum amount of testing, then it would be difficult to argue that there would be any change in participation under a voluntary program with the proposed new format. Firms now using the full format would be able to reduce

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their costs considerably, but the threshold cost of entering the program would remain about the same.

USDA does not have any information to answer the question of whether there would be more nutrition labeling today if the NLV program had not existed. Analytical costs are not the only issue. Comments received prior to the proposal indicate that some firms believe that their customers have little or no desire for nutrition information on their labels, especially if it is going to result in higher retail prices.

D. Comments on Preliminary Analysis

Some early comments received since publication of the proposed rule and PRIA on November 27, 1991 have suggested the USDA's estimates for laboratory analysis costs are extremely low. The analytical costs (except for thiamin, riboflavin and niacin) used for the above estimates are based on data the Research Triangle Institute collected from seven independent laboratories. It is recognized that these cost estimates are averages and the costs incurred by individual companies may vary widely. The averages are, however, consistent with other sources. For example, the cost estimates are consistent with data used in FDA's regulatory analysis which was based on pricing schedules from five independent testing laboratories. The FDA analysis used $595 for a complete analysis (including sugars). The preliminary FSIS analysis used $506 as a cost for the 13 nutrients/components most likely to be found in meat and poultry products (cost of sugar analysis not included).

E. Assessment of Recipe Analysis

The cost analysis and discussion thus far has been based on an assumption that nutrition labels will have to be supported by the results from laboratory analysis of product samples. Nutrient profiles can also be determined by "recipe analysis". Recipe analyses are accomplished by comparing a list of ingredients (formulation) with existing data bases that contain data on the nutrient content of the various ingredients.

USDA is continuing to review the potential for supporting nutrition labels with recipe analyses. Since the nutrient content of all products will vary from sample to sample, the key question is how a recipe analysis compares with the average result from two or three laboratory analyses as an estimate for average nutrient content. If recipe analyses can replace laboratory analyses for many products, then the overall costs of supporting nutrition labels can be dramatically reduced. A recipe analysis is a one-time expense that may be repeated over time as data bases are improved and methodology changes.

IV. Costs Associated With Prior Label Approval

A. Introduction

In the PRIA, FSIS also asked for early comments on the costs associated with the prior label approval process. Specifically, FSIS asked whether data exist on the length of time it takes to bring a product to market relative to a system where prior approval is not required.

As indicated in the preliminary analysis, an estimated 520,000 labels would have to be revised in order to comply with the proposed rule. This estimate assumes that all existing labels would be revised and all existing products would be continued. The Agency currently has established 12 positions at headquarters to review and approve labels. Under current procedures, this staff has been able to handle approximately 140,000 to 150,000 applications per year. The proposal thus raises an obvious question of how FSIS intends to handle the process of approving nutrition labels under the proposed rule. Since the proposal was published in November 1991, FSIS has issued a background publication on efforts to modernize the label review process. That publication is included as appendix A to this supplemental analysis.

Another change that simplifies the approval process is the decision not to request support data as part of the label application. This analysis includes a summary of existing cost data related to the approval process and a discussion of the broader regulatory policy issue raised by the presence of the prior label approval process.

B. Cost Data

The label approval process begins with an application that includes a sketch or final label, a completed form requesting approval, and any supplementary information included to support the accuracy of claims made by the label. The applications can be mailed to FSIS or hand carried by employees of independent firms referred to as expediters. Today, an estimated 85 percent of label applications are handled by expediters. Although fees are up to the discretion of each firm, the average fee for a label which is approved with no delay is $10. This covers an estimated 80 percent of the labels.

When labels require additional inquiry or additional time, expediters generally charge an estimated $50 per hour. Assuming that 20 percent of the labels average one hour each, the expediter costs for 520,000 labels would be $4.16 million for 80 percent at $10 each and $5.2 million for 20 percent at $50 each. There would also be some cost associated with forwarding and retrieving the label application.

The second type of cost is company time required to prepare and review the application. Since meat and poultry firms have incorporated obtaining label approval as part of normal operating procedures, the label appliation costs would presumably be incorporated in the estimates for administrative costs that were included in the preliminary analysis. The preliminary analysis estimated the following average administrative costs of bringing labels into compliance under the proposed rule, assuming a one-year period between promulgation of a final rule and the effective date:

Small Companies	$9,293
Medium Companies	$4.554
Large Companies	$86,333

Although not quantified, interviewed companies maintained that administrative costs would be higher for shorter compliance periods.

One trade association has provided some preliminary survey data that separates the prior label approval costs from other administrative costs. A small sample of processors estimate they devote 29.0 person hours per product per year to the prior label approval process. Larger companies require fewer person hours per product, while smaller companies require more time. The same processors estimate their direct costs per product to complete the USDA prior label approval process are nearly $1,000. This figure includes costs for alternate label designs, fees to label expediters, travel expenses, etc. Clearly, the costs attributable to the proposed rule on nutrition labeling should be much lower than this. More complete data will be submitted to FSIS with further comments on nutrition labeling of meat and poultry products.

The third type of cost is related to any delay caused by the process. Because the process takes time, there could be a delay in getting a new product on the market. The companies responding to the trade association survey estimated that the time from the decision to market a new or modified product until actual market placement, for a company's FSIS regulated processed foods, averages over 28 weeks. The reported time from the decision to market a new or modified product until actual market placement, for a company's FDA-regulated processed foods, averages nearly 18 weeks. The reported time differential factor for FSIS-regulated processed foods is 1.6. This factor largely reflects the additional time required for USDA's prior label approval system. The marketing practices for processed foods regulated by the two agencies are in most cases identical, except for prior label approval.

At the present time, the Department does not have sufficient data to estimate an accurate overall cost or benefit attributable to the prior label approval system. The Department has initiated a study of the costs and benefits of alternative options. There are factors that would affect the costs and benefits of different options, such as necessary changes in inspection activities. There are also benefits of the existing system in that some firms may now avoid the costs of maintaining their own expertise on labeling policies and regulations.

C. Broader Policy Implications

When a label application raises a complex or controversial labeling policy issue, it may take weeks to obtain an approval. In these cases, however, the delay is related to regulatory policy decision making and rarely to the fact that a prior approval process exists. Firms establishing new products in controversial areas may want an advanced regulatory review, with or without a label approval process.

Prior label approval is one of several Federal regulatory actions that tend to minimize decision making risk or limit liability for the private sector. There are similarities to the issuance of safety standards for consumer products and similarities to pre-market clearance for drugs. To the extent that the process improves compliance the process also provides public health benefits.

In the case of consumer products, firms may believe that compliance with a Federal safety standard is insurance against potential product liability lawsuits. The pre-market clearance for drugs is similar in that Federal approval would appear to limit private liability. The regulatory actions help assure a strategy of minimizing maximum regret. For labels, the maximum regret would be to develop a new product, invest in label and advertising and then have the product removed from the market because of something wrong with the formulation or the label. Prior label approval is not just a clearance for the label, it is also an assurance that the product complies with any applicable standards of identity, standards of composition, minimum meat content requirements and a variety of labeling policy decisions.

Requests for label approval may include a request for a new process or a new procedure and may involve the approval of a new piece of equipment. FSIS functions of label approval, equipment or blueprint approval, and processing regulations are all separate but interrelated extensions of the inplant inspection process. If label approval is contingent on another type of approval, delays in marketing a new product should not be attributed to the prior label approval process. Further comments should recognize that the term prior label approval is frequently used to include requests that involve new processes and new technology and to raise regulatory issues related to existing process requirements and product standards.

V. Other Impact Issues Raised

A. Introduction

This section addresses concerns expressed in some of the initial comments on the preliminary regulatory impact analysis. The purpose is to provide clarification and focus issues for additional comment. This discussion is not a comprehensive discussion of all comments received to date.

B. Impact on Small Business

Several commenters have mentioned the impact that nutrition labeling rules will have on small firms, especially those firms that produce relatively small quantities of many different products. The preliminary analysis provided estimates on the increased cost of production per pound to help illustrate the economic situation that small firms will face. Estimating impacts such as business closure was beyond the scope of the PRIA.

This is not an area where there is disagreement. The proposed rule would create difficulties for small businesses. USDA has been requesting comments on how to address or solve the problem. USDA has not provided a small business exemption. Without an exemption, USDA will continue to examine the issues of data bases, recipe analysis and implementation time as options for easing the burden on small business.

Two trade associations are collecting economic data on small businesses from their members. These findings support the assumption in the PRIA that the 3,376 State-inspected plants would be the smallest companies. One effort has assembled responses on annual sales from 49 State-inspected plants. Forty-eight of these plants had annual sales less than $5 million. Over 60 percent had annual sales below one million dollars. The 49 State plants averaged 40 products per plant. The PRIA was based on estimates of 43 active labels and 39 products per small plant. Fourteen State plants reported production of less than 20,000 pounds of their best selling product.

The early comments tend to support the analysis but suggest that many small companies would go out of business given the cost assumptions used in the PRIA. This is a serious issue. The final regulatory impact statement will reassess the cost estimates. It will also include analysis of alternative regulatory options including the possibility of small business exemptions.

C. Loss of Brand Names

A trade association pointed out that the PRIA failed to consider the loss of market share when a well established brand name is no longer permitted to be used. Such costs redistribute revenue among firms, if consumer expenditures on processed meat and poultry products are unchanged. Thus, they would not affect this aggregate analysis. Nevertheless, USDA recognizes that the costs could impose a burden on individual firms, a burden that should not be imposed capriciously.

USDA is aware that some of the descriptors defined by the proposal are currently part of product names. For each case there are three potential outcomes. These are:

(1) The product meets the descriptor definition and the product name can continue to be used without change.

(2) The product can be reformulated so that the product name meets the proposed definition.

(3) The product is unchanged but the name must be changed.

The overall impact will vary on a case-by-case basis. Some reformulated products will result in increases in market share, but other products will have less. However, consistent terminology serves the consumer and should bring market share more in line with consumer demands.

D. Market Changes

The PRIA requested comments on expected shifts in consumption patterns and changes in market shares of different foods. USDA has not received sufficient information to address these issues, although some firms will drop products such as specialty items to reduce costs. Another comment suggested that firms will discontinue

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product lines that will no longer be allowed to bear descriptors about moderate reductions in unwanted nutrients.

E. Benefits Methodology

Comments have questioned the overall methodology used to estimate benefits. As is true for other health and safety regulations, it is usually easier to quantify costs than benefits. The benefits analysis is less objective and does depend on assumptions with greater uncertainty. Regulatory decisions always include a level of uncertainty. USDA believes that including the analysis will help stimulate more meaningful comments and thus facilitate the decision making process.

Some commenters have incorrectly concluded that the benefit estimates are based on a totally arbitrary assumption that there is a relationship between label changes and dietary modification. The benefits are based on extrapolations from measured dietary changes that resulted from shelf labeling conducted during the FDA-sponsored Special Dietary Alert program.

VI. Summary of Costs and Benefits

FSIS has proposed mandatory nutrition labeling for processed meat and poultry products, and voluntary nutrition labeling for raw, single-ingredient meat and poultry products. This analysis also considers the consequences, costs, and benefits that might be associated with a voluntary program for nutrition labeling, consistent with FDA's proposed regulations, under two sets of conditions. These alternatives are compared with the proposed rule.

FSIS proposes to use laboratory testing to determine whether labels are consistent with the nutrient content of foods. Such testing might be an incentive for manufacturers to conduct laboratory analyses on their products. The alternative is referred to as "voluntary program with laboratory tests". This is equivalent to option 2 in the original regulatory impact analysis (voluntary program consistent with FDA), and is presented here with additional explanations and clarifications.

The second set of conditions assumes manufacturers base their nutrition labeling on "recipe analysis", using approved data bases. This alternative is referred to as "voluntary program with recipe analysis".

In addition, this section analyzes an alternative of mandatory nutrition labeling for processed meat and poultry products, with a voluntary program for raw, single-ingredient, meat and poultry products, assuming use of recipe analysis for support of the nutrition data presented on the label. This alternative is referred to as "mandatory/voluntary program with recipe analysis."

Lastly, this section introduces a new option, the proposed voluntary/mandatory option without prior label approval. The issue of regulatory and/or statutory changes that could be necessary to modify existing prior label approval procedures is not addressed.

A summary of the expected advantages and disadvantages of each alternative follows, and benefits and costs are compared to the proposed voluntary/mandatory option.

1. Voluntary Program With Laboratory Tests

In the original PRIA, it was assumed that compliance with the new nutrition label requirements (which basically requires information on a larger number of nutrients) would increase costs to firms. This was expected to reduce the proportion of products exhibiting nutrition labeling on a voluntary basis to below the estimated current 40 percent.

The original assumption and the accompanying analysis changes little. As described above, it is estimated that approximately two-thirds of the meat and poultry products which currently provide voluntary nutrition labeling use the abbreviated format, which requires information only on calories, fat, carbohydrates, and protein. Some also included information on cholesterol and/or sodium to the abbreviated format. Average analytical costs are estimated to be $167 per test per product. Considering current requirements under the Nutrition Labeling Verification (NLV) program, which requires 26 analyses over a period of 20 years, it is estimated that the costs, not discounted, for each product using an abbreviated format would be $4,342. For products using the full format, the estimated cost, not discounted, of 26 analyses over 20 years would be close to $11,000 per product.

Under the voluntary program with laboratory tests, there are no specified number of analyses that must be completed. Rather, manufacturers of processed meat and poultry products are required only to maintain records and make them available upon request. It is assumed that, in order to maintain appropriate records, manufacturers will conduct one initial analytical test for each product, and update the analysis once every two years. Under this conservation assumption, each product would be tested on average of 11 times over a period of 20 years. However, the conditions permitting use of the abbreviated format would be more stringent, and nearly all labels would have to provide information for at least the following ten nutrient/components: calories, fat, carbohydrates, protein, sodium, saturated fat, cholesterol, iron, calcium, and calories from fat. Some products would also have to be tested for one or more of the following: Vitamin A, Vitamin C, and fiber. Using a weighted-average cost of $368 as estimated in the PRIA, the estimated cost, not discounted, of 11 analyses over 20 years would be $4,048.

If one accepts the 11 test scenario as a reasonable minimum amount of testing, products now using the full format would see their analytical costs considerably reduced under the proposed new format. However, nearly two-thirds of products currently carrying voluntary nutrition labeling are estimated to use the abbreviated format. For these products, the difference in analytical costs is smaller, and may not even be significant. Moreover, these comparisons are based on the assumption that manufacturers will conduct only one initial test, and will retest only once every two years. Should manufacturers feel it is necessary to conduct even one more additional analysis, estimated analytical costs under the proposed new program would become greater than for the abreviated format under the current program.

We conclude that the threshold cost of entering the program would remain about the same. If analytical costs were the only factor in the manufacturer's decision of whether to use a voluntary nutrition label, this analysis suggests that there would be few new entrants into the program. These would be unlikely to significantly exceed the current 40 percent of products carrying voluntary nutrition labeling.

Total costs under a voluntary labeling program, with laboratory tests, with an expected 40 percent of products participating in the program, include administrative costs, market testing costs, printing costs, and inventory transition costs, in addition to analytical costs. Since no increase in the proportion of products participating in the program from the current 40 percent is expected, total costs are estimated to be approximately 40 percent of the total cost estimated under the voluntary/mandatory program.

Benefits are expected to be minimal, since no increase in the proportion of labeled products is expected. Benefits would be associated only with the increase in nutrition information made available on the labels of labeled products. These benefits are estimated to represent 10 percent of the total benefits under the voluntary/mandatory program.

PRO

- Products would carry consistent nutrition information, regardless of whether they are regulated by USDA or FDA, thereby reinforcing information received by consumers and improving ability to compare.
- More nutrition information would be available to consumers on those products that continue to be labeled.
- Firms, including small businesses, would have the option to avoid labeling costs by choosing not to label their products.

CON

- Under this voluntary program, many meat and poultry products would remain unlabeled. It seems unlikely that more than 40 percent of meat and poultry products would carry voluntary nutrition labeling. With incomplete information, consumers will continue to make choices they might not make under full information.
- Consumers could lose confidence in USDA's interest in providing nutrition information.
- Estimated quantifiable benefits are smaller than the costs of this option.

2. Voluntary Program With Recipe Analysis

Under this alternative, manufacturers would support the nutrition content on their labels by recipe analysis. Such an approach depends on the adequacy of existing data bases of the nutrient contents of foods, such as the National Nutrient Data Bank maintained by the Human Nutrition Information Service of USDA. Current data bases are not complete so much depends on how quickly adequate data bases become available.

If recipe analysis can replace laboratory analyses for many products, the overall costs of supporting nutrition labels can be dramatically reduced. One example of such an approach is available; the National Restaurant Association provides a computerized analysis of recipes to members at $10 a recipe (National Academy of Science, 1990, p. 147).

A potential problem with recipe analysis is the wide variation in the nutrient content of foods due to two types of variations. First, variations in production conditions, such as soils, weather, etc. for crops and feed, breed, etc. for animal products, are known to be responsible for wide variations in the nutrient content of foods. Nutrient content in data bases likely reflect averages of a large number of samples. Second, the variation in the amounts of ingredients in a recipe may also lead to wide variations in the nutrient content of the particular food product. However, these problems may be manageable if manufacturers are cautious in their estimated nutrient content on the label, and if data bases constructed to account for variability become available. Without further information, USDA must continue to assume that there will be some reduction in benefits resulting from the use of recipe analysis.

Unfortunately, there are no estimates available on the proportion of products that would use recipe analysis to support their nutrition label. Some manufacturers might still choose to perform analytical tests on their products for their own protection and liability. Others might decide to conduct analytical tests since it is often difficult to determine the exact effect that processing will have on the raw ingredients. No estimates are available from FDA-regulated food products, either, since FDA has traditionally emphasized that they would check for compliance using analytical methods. It is assumed that smaller companies are more likely to opt for recipe analysis, whereas larger companies will continue to conduct analytical tests.

Since recipe analysis is expected to be so much cheaper than analytical testing, one would expect to see new products entering the labeling program. However, once again, it should be emphasized that analytical costs are not the only factor involved in a manufacturer's decision of whether to include nutrition information on a product's label. Therefore under a voluntary program with recipe analysis, more than the current 40 percent but less than 100 percent of all processed meat and poultry products will have nutrition labeling. For this analysis, we assume that between 50 and 70 percent of the products will have voluntary nutrition labeling. We further assume that all of the new entrants will use recipe analysis, whereas products already in the program will continue to use analytical tests to determine the nutrient composition of the food product.

Total costs of labeling will include administrative costs, market testing costs, printing costs, and inventory transition costs, in addition to analytical costs. Analytical costs represent close to half of total manufacturers' costs in the analysis detailed in the PRIA. Therefore the analysis assumes that, for the products using recipe analysis, total costs are reduced to one-half of the total costs using analytical tests.

If each 10-percentage-point increase in the proportion of labeled products above the current 40 percent is associated with a health benefit of $0.3 billion, benefits from a voluntary program using recipe analysis would range from $0.5 to $1.1 billion. However, this may overestimate the benefits. If recipe analyses prove less accurate, there could be a reduction in benefits.

PRO

- The proportion of products providing voluntary nutrition labeling is expected to be greater than the current 40 percent.
- Products would carry consistent nutrition information, regardless of whether they are regulated by USDA or FDA, thereby reinforcing information received by consumers and improving ability to compare.
- More nutrition information would be available to consumers on those products that continue to be labeled.
- Firms, including small businesses, would have the option to avoid labeling costs by choosing not to label their product.
- Firms would face lower costs under recipe analysis compared with laboratory tests.

CON

- Under this voluntary program, not all processed meat and poultry products are likely to provide nutrition labeling on a voluntary basis. A number of meat and poultry products will remain unlabeled.
- It is possible that products containing large amounts of nutrients consumers wish to avoid will not provide nutrition labeling, leading consumers to make choices they might not make under a complete labeling program.
- Consumers could lose confidence in USDA's interest in providing nutrition information.
- There would be initial costs to establish reliable data bases.
- Estimated quantifiable benefits would be reduced, compared with laboratory testing, since recipe analyses are probably less accurate than laboratory testing.

3. Voluntary/Mandatory Program With Receipe Analysis

Costs of compliance are expected to be much lower using recipe analysis than using analytical tests. If feasible, this would present less of a financial burden for smaller businesses.

Since the program would remain voluntary for raw, single-ingredient meat and poultry products, and mandatory for all processed meat and poultry products, 100 percent of all processed meat and poultry products would provide nutrition labeling, and the benefits would remain the same as under the proposed voluntary/mandatory program.

Costs incurred by the manufacturers, however, should be greatly reduced, due to the lower cost of using recipe analysis compared to doing analytical tests for nutrient composition. Once again, however, it is difficult to estimate costs, since there are no estimates as to what proportion of the products bearing nutrition labeling would use recipe analysis. Some manufacturers might still choose to use analytical tests on their products to support the nutrition information on the product's label, either for their own protection and liability, or because it is sometimes difficult to determine the exact effect that processing will have on the raw ingredients. It does not seem reasonable, under a mandatory nutrition labeling program, that all new entrants will choose to use recipe analysis. Therefore, for this option, it is assumed that half of the new entrants will use recipe analysis to support their nutrition label, and that total costs for these products are then half of the costs incurred by products supported by analytical tests. The remaining half of new entrants will choose to use analytical tests.

PRO

- Consumers would face uniform labels on all processed food products. Widespread, uniform labels would allow motivated consumers to reduce excess consumption of nutrients associated with coronary heart disease, high blood pressure, and several forms of cancer, and consequently avoid early deaths from these diseases.
- Mandatory labeling would probably lead to product reformulation, with additional benefits even among consumers who might not read labels.
- Lower costs to manufacturers, compared with laboratory testing, would reduce the financial burden imposed on manufacturers, and reduce the costs that might be passed on to consumers.
- Estimated quantifiable benefits exceed costs.

CON

- All manufacturers would face the costs of relabeling their products.
- The large number of new labels required under this option would make prior label approval severely restraining, unless it were significantly streamlined.
- There would be initial costs to establish reliable data bases.
- Benefits would be reduced, compared with laboratory testing, because recipe analysis may be less accurate.

4. Voluntary/Mandatory Labeling Without Prior Approval

This option analyzes a voluntary/mandatory labeling program with laboratory testing, as proposed. However, in order to reduce manufacturers' compliance costs, prior label approval is eliminated. Removal of prior label approval would reduce the Department's administrative costs of maintaining a full staff (currently of 12 people) for approving all labels, although this would be offset by higher verification and analytical costs related to the Department's compliance program.

Prior label approval may represent a bottleneck at the beginning of the program, when in excess of 500,000 labels for all processed meat and poultry products would be coming in at the same time. However, these costs need to be compared with the costs involved under the alternative option of no prior approval. For those labels found to be in non-compliance, manufacturers would face the loss of costs involved in label and advertising, plus removal of the product from the market, and perhaps loss of consumer confidence.

PRO

- Removal of prior label approval would remove the bottleneck at the beginning of the program, when a large number of labels will be changing at once.
- Removal of prior label approval reduces manufacturers' administrative costs.
- Removal of prior label approval gives manufacturers more flexibility in deciding how to comply with labeling regulations.

CON

- Removal of prior label approval eliminates the assurance that the product complies with all applicable standards of identity, standards of composition, minimum meat content requirements, and a variety of labeling policy decisions. FSIS statutes may require some change in inspection activities at the plant level to replace the prior label approval system.
- Removal of prior label approval places manufacturers at risk of significant loss if labels are found in non-compliance.
- Removal of prior label approval might affect the level of compliance. Inaccurate labels could reduce health benefits.

The final discussion of benefits and costs is based on information summarized in the following table:

BENEFITS AND COSTS OF ALTERNATIVE OPTIONS

	Voluntary labeling		Voluntary/mandatory labeling		
	Laboratory testing	Recipe analysis	Recipe analysis	No Prior approval [1]	Proposed regulation
Percent of Processed Products Labeled on Final Implementation Date	40	50–70	100	100	100
Manufacturers' Costs (billion dollars)	[2] .5	[3] .6–.7	[4] 1.1		1.3
Data base development costs for recipe analysis (billion dollars)		.1–.2	.1–.2		
Health Benefits (billion dollars)	[5] .2	[6] .47–1.0	[7] 1.8		2.0
Benefit/Cost Ratio	.40	.59–1.25	1.38–1.50		1.54

[1] No adjustment has been made at this time in costs and benefits of this option compared with the proposed regulation because the Department has initiated a study of the costs and benefits of prior label approval.

[2] (.40*1.3)

[3] [(.40*1.3)+(.10*.65)], [(.40*1.3)+(.30*.65)] (assumes 10–30 percent of these products use recipe analysis).

[4] (.40*1.3)+(.30*1.3)+(.30*.65) (assumes 30 percent of these products use recipe analysis).

[5] (.10*2.0) (assumes minimal health benefits equal 10 percent of estimated benefits from proposed rule).

[6] 0.2+[(1.0*0.3)−(.10*0.3)], 0.2+[(3.0*0.3)−(.10*0.9)] (assumes health benefits are reduced due to higher inaccuracy of labels using recipe analysis).

[7] [2.0−(.1*2.0)] (assumes health benefits under recipe analysis are 10 percent lower than estimates under proposed rule due to higher inaccuracy of labels using recipe analysis).

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[FR Doc. 92–3656 Filed 2–14–92; 8:45 am]

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federal register

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Part VII

Office of Management and Budget

Budget Rescissions and Deferrals; Cumulative Report; Notice

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

February 1, 1992.

This report is submitted in fulfillment of the requirement of section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) requires a monthly report listing all budget authority for this fiscal year for which, as of the first day of the month, a special message has been transmitted to Congress.

This report gives the status, as of February 1, 1992, of 10 deferrals contained in the two special messages for FY 1992. These messages were transmitted to Congress on September 30, and December 19, 1991.

Rescissions

As of the date of this report, no rescission proposals are pending before the Congress. However, a rescission proposal for the Department of Housing and Urban Development is included in the President's Budget. This rescission proposal is part of the Third Special Message, which will be transmitted later this month.

Deferrals (Table A and Attachment A)

As of February 1, 1992, $2,481.2 million in budget authority was being deferred from obligation. Attachment A shows the history and status of each deferral reported during FY 1992.

Information from Special Messages

The special messages containing information on deferrals that are covered by this cumulative report are printed in the **Federal Registers** cited below:

56 FR 50620, Monday, October 7, 1991.

56 FR 67402, Monday, December 30, 1991.

Richard Darman,

Director.

BILLING CODE 3110-01-M

TABLE A

STATUS OF FY 1992 DEFERRALS

	Amounts (In millions of dollars)
Deferrals proposed by the President................	5,487.1
Routine Executive releases through February 1, 1992.	-3,005.9
Overturned by the Congress........................	---
Currently before the Congress.....................	2,481.2

Attachments

ATTACHMENT A

Status of FY 1992 Deferrals – As of February 1, 1992
(Amounts in thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amounts Transmitted		Date of Message	Releases(-)		Congressional Action	Cumulative Adjustments (+)	Amount Deferred as of 2-1-92
		Original Request	Subsequent Change (+)		Cumulative OMB/Agency	Congressionally Required			
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Economic support fund	D92-1	244,777		09-30-91					
	D92-1A		1,623,312	12-19-91	1,075,773				792,316
Foreign military financing	D92-8	1,908,000		12-19-91	777,300				1,130,700
Agency for International Development									
International disaster assistance, Executive	D92-2	40,704		09-30-91					40,704
Demobilization and transition fund	D92-9	13,000		12-19-91					13,000
DEPARTMENT OF AGRICULTURE									
Forest Service									
Cooperative work	D92-3	482,378		09-30-91	135,434				346,944
Expenses, brush disposal	D92-10	101,006		12-19-91					101,006
DEPARTMENT OF DEFENSE – CIVIL									
Wildlife Conservation, Military Reservations									
Wildlife conservation, Defense	D92-4	1,416		09-30-91					1,416

ATTACHMENT A

Status of FY 1992 Deferrals – As of February 1, 1992

(Amounts in thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amounts Transmitted		Date of Message	Releases(-)		Congressional Action	Cumulative Adjustments (+)	Amount Deferred as of 2-1-92
		Original Request	Subsequent Change (+)		Cumulative OMB/ Agency	Congressionally Required			
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Social Security Administration									
Limitation on administrative expenses	D92-5	7,317		09-30-91					7,317
DEPARTMENT OF STATE									
Bureau for Refugee Programs									
United States emergency refugee and migration assistance fund, executive....	D92-6	30,053		09-30-91					
	D92-6A		24,750	12-19-91	7,000				47,803
DEPARTMENT OF TRANSPORTATION									
Federal Aviation Administration									
Facilities and equipment (Airport and airway trust fund).............................	D92-7	1,010,375		09-30-91	1,010,375				0
TOTAL, DEFERRALS...........................		3,839,026	1,648,062		3,005,882	0		0	2,481,206

[FR Doc. 92-3670 Filed 2-14-92; 8:45 am]

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LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List February 12, 1992

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

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Title	Stock Number	Price	Revision Date
*1, 2 (2 Reserved)	(869-017-00001-9)	$13.00	Jan. 1, 1992
3 (1990 Compilation and Parts 100 and 101)	(869-013-00002-1)	14.00	Jan. 1, 1991
4	(869-013-00003-0)	15.00	Jan. 1, 1991
5 Parts:			
1-699	(869-013-00004-8)	17.00	Jan. 1, 1991
700-1199	(869-013-00005-6)	13.00	Jan. 1, 1991
1200-End, 6 (6 Reserved)	(869-013-00006-4)	18.00	Jan. 1, 1991
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300-399	(869-013-00013-7)	12.00	Jan. 1, 1991
400-699	(869-013-00014-5)	20.00	Jan. 1, 1991
700-899	(869-013-00015-3)	19.00	Jan. 1, 1991
900-999	(869-013-00016-1)	26.00	Jan. 1, 1991
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[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing these parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing these chapters.

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Briefing on How To Use the Federal Register
For information on a briefing in Washington, DC, see announcement on the inside cover of this issue.

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2	5993
50 CFR	
17	5988
Proposed Rules:	
641	5994

Federal Register
Vol. 57, No. 33
Wednesday, February 19, 1992

Presidential Documents

Title 3—

The President

Proclamation 6403 of February 14, 1992

American Heart Month, 1992

By the President of the United States of America

A Proclamation

Since our first annual observance of American Heart Month just over 25 years ago, our Nation has made substantial progress in the fight against cardiovascular disease. According to the American Heart Association, a not-for-profit volunteer health agency, age-adjusted death rates from heart attack declined by almost 51 percent between 1963 and 1988. During the same period, the death rate from stroke dropped even further, by close to 61 percent. Advances in both the prevention and the treatment of cardiovascular disease have saved lives.

Despite the success of related research and nationwide public awareness campaigns, diseases of the heart and blood vessels continue to claim the lives of nearly 1 million Americans each year. In fact, heart attack, stroke, and other forms of cardiovascular disease remain our Nation's number one killer.

The American Heart Association reports that more than 69 million Americans currently suffer from one or more forms of cardiovascular disease, including high blood pressure, coronary heart disease, rheumatic heart disease, and stroke. While many people mistakenly assume that heart disease occurs primarily in old age, studies show that 5 percent of all heart attacks occur in people younger than age 40, and more than 45 percent occur in people younger than age 65.

Cardiovascular disease can affect people of any age, race, or walk of life, and women as well as men. Its toll in terms of individual pain and suffering is incalculable. Its cost to our Nation, in terms of health care expenses and lost productivity, totals in the billions of dollars.

Today concerned organizations in both the public and private sectors are working to save lives and to help alleviate the wider impact of cardiovascular disease. Through the National Heart, Lung, and Blood Institute, the Federal Government has spent millions of dollars on educational programs and on research into cardiovascular disease. The American Heart Association estimates that it has invested nearly 1 billion dollars in research since it became a national voluntary health organization in the late 1940s. That investment has been made possible by the generosity of the American public and by the dedicated efforts of the Association's 3.5 million volunteers.

Thanks, in large part, to ongoing support from the Federal Government and from the American Heart Association, physicians and scientists have been able to make many important advances in cardiovascular health care. Public and private funding has also led to the development of effective educational programs, which have enabled more and more Americans to learn what they can do to avoid heart attack and stroke.

Today, for example, we know how important it is to avoid the use of tobacco products, in particular, smoking. We are especially aware of the dangers of smoking among young people. We also know that controlling one's blood pressure, maintaining a diet low in fat and cholesterol, and exercising regularly are all prudent ways of reducing the risk of cardiovascular disease.

Encouraged by the progress that we have made thus far, and recognizing the need for continued education and research, let us pause this month to strengthen and renew our commitment to the fight against cardiovascular disease. After all, the many programs and activities that are conducted during American Heart Month offers lessons for life.

The Congress, by Joint Resolution approved December 30, 1963 (77 Stat. 843; 36 U.S.C. 169b), has requested that the President issue an annual proclamation designating February as "American Heart Month."

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the month of February 1992 as American Heart Month. I urge all Americans to join in observing this month with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 14 day of February, in the year of our Lord nineteen hundred and ninety-two, and of the Independence of the United States of America the two hundred and sixteenth.

G Bush

[FR Doc. 92-3965
Filed 2-14-92; 2:01 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 57, No. 33
Wednesday, February 19, 1992

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

Navel Oranges Grown in Arizona and Designated Part of California; Termination of Weekly Levels of Volume Regulation for the 1991–92 Season

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule terminates Navel Orange Regulation 733 (57 FR 4961), which established weekly levels of volume regulation for California-Arizona navel oranges for the 1991–92 season. This action is needed because the Department has concluded that at this time, regulation is not necessary to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937.

EFFECTIVE DATE: February 14, 1992.

FOR FURTHER INFORMATION CONTACT: Christian D. Nissen, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, room 2522–S P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–1754.

SUPPLEMENTARY INFORMATION: This action is issued under Marketing Order No. 907 (7 CFR part 907), as amended, regulating the handling of navel oranges grown in Arizona and a designated part of California, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, (7 U.S.C. 601–674), hereinafter referred to as the "Act."

This final rule has been reviewed by the U.S. Department of Agriculture (Department) in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 130 handlers of navel oranges who are subject to regulation under the marketing order and approximately 4,070 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (SBA) (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of producers and handlers of California-Arizona navel oranges may be classified as small entities.

The declaration of policy in the Act includes a provision concerning establishing and maintaining such orderly marketing conditions as will provide, in the interest of producers and consumers, an orderly flow of the supply of a commodity throughout the normal marketing season to avoid unreasonable fluctuations in supplies and prices. Limiting the quantity of California-Arizona navel oranges that each handler may handle on a weekly basis was expected to contribute to the Act's objectives of orderly marketing and improving producers' returns.

A proposed rule regarding the implementation of volume regulation and a proposed shipping schedule for California-Arizona navel oranges for the 1991–92 season was published in the September 30, 1991, issue of the Federal Register (56 FR 49432). That rule provided interested persons the opportunity to comment until October 30, 1991, on the need for regulation during the 1991–92 season, the proposed shipping schedule, and other factors relevant to the implementation of such regulations. A final rule (navel orange Regulation 733) concerning this action was published in the Federal Register on February 7, 1992, (57 FR 4691), implementing the shipping schedule, as revised, for the season.

The Navel Orange Administrative Committee (Committee) met on February 11, 1992, in Newhall, California, with 11 members or alternates present, to consider an amendment to navel orange Regulation 733, and recommended, with six members in favor, four opposing, and one abstaining, decreasing the total allotment for all districts from 1,750,000 cartons to 1,300,000 cartons for the week ending on February 20, 1992. The Committee recommended an allotment of 1,300,000 cartons for District 1 for that week and open movement for District 2. Districts 3 and 4 are not regulated since approximately 89 percent of District 3's crop, and 100 percent of District 4's crop to date have been utilized, and handlers would not be able to utilize their allotments.

The Department has reviewed the Committee's recommendation in light of its projections set forth in its 1991–92 marketing policy, information provided at the meeting, and as previously established in Navel Orange Regulation 733. Based on this review, the Department has concluded that at this time, regulation is not necessary to effectuate the declared policy of the Act. Thus, this action terminates Navel Orange Regulation 733. The Department will continue to monitor crop and market conditions for the remainder of the season.

Based on considerations of supply and market conditions, and the evaluation of alternatives to the continued implementation of Navel Orange Regulation 733, the Administrator of the AMS has determined that this final rule will not have a significant economic impact on a substantial number of small entities and that this action will tend to effectuate the declared policy of the Act.

Moreover, pursuant to 5 U.S.C. 553, it is found and determined that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice on this action, engage in further public procedure with respect

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to this amendment and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register**. This is because this action relieves volume restrictions on handlers for the remainder of the 1991-92 season.

In addition, information needed for the formulation of the basis for this action was not available until February 12, 1992. Further, interested persons were given an opportunity to submit information and views on this action at an open meeting, and handlers were apprised of its provisions and effective time. It is necessary, therefore, in order to effectuate the declared purposes of the Act, to make this action effective as specified.

List of Subjects in 7 CFR Part 907

Marketing agreements, Oranges, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 907 is amended as follows:

PART 907—[AMENDED]

1. The authority citation for 7 CFR part 907 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

§ 907.1033 [Removed]

2. Section 907.1033 (Navel Orange Regulation 733) is removed.

Dated: February 13, 1992.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92-3903 Filed 2-14-92; 10:44 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91-NM-168-AD; Amendment 39-8149; AD 92-02-13]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, which requires installation of a decompression panel and flapper valve in the aft lower lobe at station 1920. This amendment is prompted by one operator's report that the decompression panel and flapper valve were not installed on some of its airplanes. This condition, if not corrected, could result in an uncontrollable fire in the aft lower lobe, if a fire breaks out in that compartment.

DATES: Effective March 25, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 25, 1992.

ADDRESSES: The service information referenced on this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth W. Frey, Seattle Aircraft Certification Office, Systems and Equipment Branch, ANM-130S; telephone (206) 227-2673. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue S.W., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to certain Boeing Model 747 series airplanes, was published in the **Federal Register** on September 30, 1991 (56 FR 49438). That action proposed to require installation of a decompression panel and flapper valve in the aft lower lobe at station 1920.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the two comments received.

Both commenters supported the proposed AD.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 14 Model 747 series airplanes of the affected design in the worldwide fleet. It is estimated that 4 airplanes of U.S. registry will be affected by this AD, that it will take approximately 8 work hours per airplane to accomplish the required actions, and that the average labor cost will be $55 per work hour. The estimated cost of required parts is $346 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $3,144.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

92-02-13. Boeing: Amendment 39-8149. Docket No. 91-NM-168-AD.

Applicability: Model 747 series airplanes; as listed in Boeing Alert Service Bulletin 747-21A2312, and in Boeing Service Bulletin 747-21-2317, both dated May 30, 1991, certificated in any category.

Compliance: Required within the next 60 days after the effective date of this AD, unless previously accomplished.

To reduce the potential for an uncontrollable fire in the aft lower lobe compartment, accomplish the following:

(a) Install a decompression panel and flapper valve in accordance with Boeing Alert Service Bulletin 747-21A2312 or Boeing Service Bulletin 747-21-2317, both dated May 30, 1991, as applicable.

(b) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

(d) The installation required by this AD shall be done in accordance with Boeing Alert Service Bulletin 747–21A2312, dated May 30, 1991; or Boeing Service Bulletin 747–21–2317, dated May 30, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. Copies may be inspected at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

(e) This amendment (39–8149), AD 92–02–13, becomes effective March 25, 1992.

Issued in Renton, Washington, on December 30, 1991.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–3859 Filed 2–18–92; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 91

Notification of Approval of Reporting Requirement

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notification of OMB approval of reporting requirement and assignment of OMB control number for 14 CFR 91.875.

SUMMARY: This document serves as notification of OMB approval of the reporting requirements of 14 CFR 91.875 and assignment of an OMB control number.

EFFECTIVE DATE: November 6, 1991.

FOR FURTHER INFORMATION CONTACT: Ms. Laurette Fisher, Policy and Regulatory Division (AEE–300), Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–3561.

SUPPLEMENTARY INFORMATION: On September 25, 1991, the Federal Aviation Administration amended part 91 of the Federal Aviation Regulations to add the rules governing the transition to an all Stage 3 fleet operating in the 48 contiguous United States and the District of Columbia (56 FR 48628, September 25, 1991). Section 91.875, adopted in that amendment, contains a reporting requirement that required the approval of the Office of Management and Budget (OMB).

The reporting requirements of § 91.875 were approved by OMB on November 6, 1991, and have been assigned OMB Control Number 2120–0553.

Issued in Washington, DC, on February 13, 1992.

Donald P. Byrne,

Assistant Chief Counsel for Regulations and Enforcement.

[FR Doc. 92–3857 Filed 2–13–92; 2:41 pm]

BILLING CODE 4910–13–M

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14 CFR Part 97

[Docket No. 26761; Amdt. No. 1477]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: Effective: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the Federal Register expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The Provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been cancelled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPs criteria were applied to only these specific conditions existing at the affected airports.

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the US Standard for Terminal Instrument Approach Procedures (TERPs). Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (Air), Standard instrument approaches, Weather.

Issued in Washington, DC on January 31, 1992.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. app. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

NFDC TRANSMITTAL LETTER

Effective	State	City	Airport	FDC No.	SIAP
01/06/92	AR	West Memphis	West Memphis	FDC 2/0369	NDB Rwy 17 Amdt 8A.
01/15/92	SC	Charleston	Charleston Executive	FDC 2/0244	RNAV Rwy 9, Amdt 5.
01/16/92	TN	McMinnville	Warren County Memorial	FDC 2/0267	NDB Rwy 23 Orig.
01/16/92	TN	McMinnville	Warren County Memorial	FDC 2/0274	LOC Rwy 23 Orig.
01/21/92	PA	Coatesville	Chester County G.O. Carlson	FDC 2/0332	ILS Rwy 29 Amdt 5.
01/21/92	TN	Memphis	Memphis International	FDC 2/0343	ILS Rwy 27 Amdt 1.
01/21/92	TN	Memphis	Memphis International	FDC 2/0344	ILS Rwy 18L Amdt 7.
01/21/92	TN	Memphis	Memphis International	FDC 2/0346	VOR Rwy 27 Amdt 1.
01/22/92	AR	Batesville	Batesville Regional	FDC 2/0371	NDB Rwy 7 Amdt 5.
01/22/92	AR	Carlisle	Carlisle Muni	FDC 2/0376	VOR/DME Rwy 9 Orig.
01/22/92	AR	Crossett	Crossett Muni	FDC 2/0364	NDB 23 Amdt 4.
01/22/92	AR	Crossett	Crossett Muni	FDC 2/0368	RNAV Rwy 23 Amdt 4.
01/22/92	AR	Crossett	Crossett Muni	FDC 2/0373	VOR/DME–A Orig.
01/22/92	AR	Fayetteville	Drake Field	FDC 2/0363	LOC Rwy 16 Amdt 14.
01/22/92	AR	Jonesboro	Jonesboro Muni	FDC 2/0387	VOR Rwy 23 Amdt 7A.
01/22/92	AR	Mena	Mena Intermountain Muni	FDC 2/0366	NDB–B Amdt 5.
01/22/92	AR	Mena	Mena Intermountain Muni	FDC 2/0374	VOR/DME–A Amdt 7.
01/22/92	AR	Siloam Springs	Smith Field	FDC 2/0372	RNAV Rwy 18 Orig.
01/22/92	TN	Memphis	Memphis Intl	FDC 2/0357	NDB Rwy 9 Amdt 25.
01/22/92	TN	Memphis	Memphis Intl	FDC 2/0358	ILS Rwy 9 Amdt 24.
01/27/92	AR	Paragould	Kirk Field	FDC 2/0457	NDB Rwy 04 Amdt 3.
01/28/92	IA	Chariton	Chariton Muni	FDC 2/0501	VOR Rwy 17 Orig.
01/28/92	IA	Forest City	Forest City Muni	FDC 2/0503	VOR/DME–A Amdt 2A.
01/28/92	IA	Spencer	Spencer Muni	FDC 2/0500	NDB Rwy 30 Amdt 7.
01/28/92	NY	Palmyra	Palmyra	FDC 2/0495	VOR–A Orig.
01/29/92	IA	Chariton	Chariton Muni	FDC 2/0502	NDB Rwy 17 Amdt 2.
01/29/92	IA	Forest City	Forest City Muni	FDC 2/0504	NDB Rwy 33 Orig. A.
01/29/92	IA	Forest City	Forest City Muni	FDC 2/0505	RNAV Rwy 33 Orig.
12/06/91	MN	International Falls	Falls Intl	FDC 1/6112	VOR/DME Or TACAN Rwy 31 Amdt 3. *This corrects NOTAM IN TL 91-1*
12/17/91	TN	Humboldt	Humboldt Muni	FDC 1/6320	VOR/DME–A Amdt 4.

NFDC TRANSMITTER LETTER—Continued

Effective	State	City	Airport	FDC No.	SIAP
12/26/91	AR	Paragould	Kirk Field	FDC 1/6441	VOR Rwy 4 Amdt 2. *This corrects TL 92-2.*

NFDC Transmittal Letter Attachment

Paragould

Kirkfield
Arkansas
VOR RWY 4 AMDT 2. . .
Effective: 12/26/91
This Corrects TL 92–2

FDS 1/6441/PGR/FI/P Kirk Field, Paragould, AR. VOR RWY 4 AMDT 2. . . Change Feeder Route from ARG vortac to JBR VOR/DME—Course and distance 124/22.7 NM, ALT 2500 FT. This becomes VOR RWY 4 AMDT 2A.

Fayetteville

Drake Field
Arkansas
LOC RWY 16 AMDT 14. . .
Effective: 01/22/92

FDC 2/0363/FYV/FI/P Drake Field, Fayetteville, AR. LOC RWY 16 AMDT 14 . . . S1–16 VIS 1 MI CATS A/B. INOP table does not apply cats A/B/C. This becomes LOC RWY 16 AMDT 14 A.

Crossett

Crossett Muni
Arkansas
NDB RWY 23 AMDT 4. . .
Effective: 01/22/92

FDC 2/0364/CRT/FI/P Crossett Muni, Crossett, AR. NDB RWY 23 AMDT 4. . . MSA CRT 270–180 2500, 180–270 3200. This becomes NDB RWY 23 AMDT 4 A.

Mena

Mena Intermountain Muni
Arkansas
NDB–B AMDT 5. . .
Effective: 01/22/92

FDC 2/0366/M39 FI/P Mena Intermountain Muni, Mena, AR. NDB–B AMDT 5. . . Change note to read "If LCL ALSTG not received use Fort Smith ALSTG". This becomes NDB–B AMDT 5 A.

Crossett

Crossett Muni
Arkansas
RNAV RWY 23 ORIG. . .
Effective: 01/22/92

FDC 2/0368/CRT/FI/P Crossett Muni, Crossett, AR. RNAV RWY 23 ORIG. . . SI/circling MDA/HAT(HAA) all cats 800/617(617), VIS CAT C 1 3/4. This becomes RNAV RWY 23 ORIG A.

West Memphis

West Memphis Muni
Arkansas
NDB RWY 17 AMDT 8A. . .
Effective: 01/06/92

FDC 2/0369/AWM/ FI/P West Memphis Muni, West Memphis, AR. NDB RWY 17 AMDT 8A. . . SI–17/circling MDA/HAT(HAA) all cats 760/548(548). This becomes NDB RWY 17 AMDT 8B.

Batesville

Batesville Regional
Arkansas
NDB RWY 7 AMDT 5. . .
Effective: 01/22/92

FDC 2/0371/BVX/ FI/P Batesville Regional, Batesville, AR. NDB RWY 7 AMDT 5. . . Change note to read "if LCL ALSTG not received, use Little Rock ALSTG and increase all MDAS 300 ft, and for BAIKS FM MINS, increase vis 1 mi all cats. INOP table does not apply. Circling NA NW of RWYS 7/25". Baiks FM stepdown alt 1660 ft, 1960 when using Little Rock ALSTG. SI–7/circling all cats MDA/HAT(HAA) 1660/1197/(1196). BIAKS FM MIN SI–7 ALL CATS MDA/HAT 1000/537, VIS CAT C 1 1/2, D 1 3/4. Circling MDA/HAA cats A/B/C 1000/536 vis 1 ½, D 1020/556 2. This becomes NDB RWY 7 AMDT 5A.

Siloam Springs

Smith Field
Arkansas
RNAV RWY 18 ORIG. . .
Effective: 01/22/92

FDC 2/0372/SLG/ FI/P Smith Field, Siloam Springs, AR. RNAV RWY 18 ORIG. . . Change note to read "if LCL ALSTG not received, use Fayetteville ALSTG" This becomes RNAV RWY 18 ORIG A.

Crossett

Crossett Muni
Arkansas
VOR/DME–A ORIG...
Effective: 01/22/92

FDC 2/0373/CRT/FI/P Crossett Muni, Crossett, AR. VOR/DME–A ORIG...MDA/HAT all cats 800/617, cat C VIS 1 ¾. This becomes VOR/DME–A ORIG A.

Mena

Mena Intermountain Muni
Arkansas
VOR/DME–A AMDT 7...
Effective: 01/22/92

FDC 2/0374/M39/FI/P Mena Intermountain Muni, Mena, AR. VOR/DME–A AMDT 7...Change note to read "if LCL ALSTG not received use Fort Smith ALSTG". This becomes VOR/DME–A AMDT 7 A.

Carlisle

Carlisle Muni
Arkansas
VOR/DME RWY 9 ORIG...
Effective: 01/22/92

FDC 2/0376/4M3/FI/P Carlisle Muni, Carlisle, AR. VOR/DME RWY 9 ORIG... SI/circling MDA/HAT (HAA) cats A/B 1100/859(860). This becomes VOR/DME RWY 9 ORIG A.

Jonesboro

JONESBORO MUNI
Arkansas
VOR/RWY 23 AMDT 7A...
Effective: 01/22/92

FDC 2/0387/JBR/FI/P Jonesboro Muni, Jonesboro, AR. VOR RWY 23 AMDT 7A... SI–23 MDA/HAT all cats 680/422. This becomes VOR/RWY 23 AMDT 7B.

Paragould

Kirk Field
Arkansas
NDB/RWY 04 AMDT 3...
Effective: 01/27/92

FDC 2/0457/PGR/FI/P Kirk Field, Paragould, AR. NDB RWY 04 AMDT 3...Change PROC TURN ALT to 2500. Change Missed apch to read... Climb to 2500 then LT direct PZX NDB and hold. Change feeder ALT from ARG VORTAC/JBR VOR/DME TO PZX NDB... ALT 2500. This becomes NDB/RWY 4 AMDT 3A.

Spencer

Spencer Muni
Iowa
NDB/RWY 30 AMDT 7...
Effective: 01/28/92

FDC 2/0500/SPW/FI/P Spencer Muni, Spencer, IA. NDB RWY 30 AMDT 7... Little Sioux/LTU NDB MIN ALT 2300. Delete note... Obtain LCL ALSTG... THRU...CTAF. Add note... Obtain LCL ALSTG on CTAF; when not received, except for operators with approved weather reporting service, use Fort Dodge ALSTG. If neither received proc NA. This becomes NDB/RWY 30 AMDT 7A.

Chariton

Chariton Muni
Iowa
VOR/RWY 17 ORIG...
Effective: 01/28/92

FDC 2/0501/CNC/FI/P Chariton Muni, Chariton, IA. VOR RWY 17 ORIG... MSA from DSM VORTAC 090–270 2800. Cancel TRML RTES DSM R–079, R–189 17 DME ARC to JAMIS. Delete note... Activate MIRL RWY 17/35 CTAF. This becomes VOR/RWY 17 ORIG–A.

Chariton

Chariton Muni
Iowa
NDB/RWY 17 AMDT 2...
Effective: 01/29/92

FDC 2/0502/CNC/FI/P Chariton Muni, Chariton, IA. NDB RWY 17 AMDT 2... MSA from CNC NDB 2800. Delete note... Activate MIRL RWY 17/35 CTAF. This becomes NDB/RWY 17 AMDT 2A.

Forest City

Forest City Muni
Iowa
VOR/DME–A AMDT 2A...
Effective: 01/28/92

FDC 2/0503/FXY/FI/P Forest City Muni, Forest City, IA. VOR/DME–A AMDT 2A...Add note... Circling to RWY 27 NA at night. This becomes VOR/DME–A AMDT 2B.

Forest City

Forest City Muni
Iowa
NDB/RWY 33 ORIG A...
Effective: 01/29/92

FDC 2/0504/FXY/FI/P Forest City Muni, Forest City, IA. NDB RWY 33 ORIG A...Add note... Circling to RWY 27 NA at night. This becomes NDB/RWY 33 ORIG B.

Forest City

Forest City Muni
Iowa
RNAV/RWY 33 ORIG...
Effective: 01/29/92

FDC 2/0505/FXY/FI/P Forest City Muni, Forest City, IA. RNAV RWY 33 ORIG ...Add note... Circling to RWY 27 NA at night. Delete note...Activate MIRL...Thru...CTAF. This becomes RNAV/RWY 33 ORIG A.

International Falls

Falls Intl
Minnesota
VOR/DME OR TACAN RWY 31 AMDT 3...
Effective: 12/06/91
This corrects NOTAM IN TL 91–1...

FDC 1/6112/INL/FI/P Falls Intl, International Falls, MN. VOR/DME or TACAN RWY 31 AMDT 3...Delete notes. "Contact HIB FSS 123.6 for MALSR RWY 31. Activate HIRL RWY 13–31 and REIL RWY 13–122.8." This is VOR/DME or TACAN RWY 31 AMDT 3A.

Palmyra

Palmyra
New York
VOR–A ORIG...
Effective: 01/28/92

FDC 2/0495/6G3/ FI/P Palmyra, Palmyra, NY. VOR–A ORIG...Delete GEE 26.3 at map. This becomes VOR–A ORIG A.

Coatesville

Chester County G.O. Carlson
Pennsylvania
ILS RWY 29 AMDT 5...
Effective: 01/21/92

FDC 2/0332/40N/ FI/P Chester County G.O. Carlson, Coatesville, PA. ILS RWY 29 AMDT 5...Delete MM and DSTC MM to THR. This becomes ILS RWY 29 AMDT 5A.

Charleston

Charleston Executive
South Carolina
RNAV RWY 9, AMDT 5...
Effective: 01/15/92

FDC 2/0244/JZI/ FI/P Charleston Executive, Charleston, SC. RNAV RWY 9, AMDT 5...Min alt at 2 NM from map WPT 600. This becomes RNAV RWY 9 AMDT 5A.

Humboldt

Humboldt Muni
Tennessee
VOR/DME–A AMDT 4...
Effective: 12/17/91

FDC 1/6320/M52/ FI/P Humboldt Muni, Humboldt, TN. VOR/DME–A AMDT 4...Increase MSA to 2500 ft. This becomes VOR/DME–A AMDT 4A.

McMinnville

Warren County Memorial
Tennessee
NDB RWY 23 ORIG...
Effective: 01/16/92

FDC 2/0267/RNC/ FI/P Warren County Memorial, McMinnville TN. NDB RWY 23 ORIG...Delete LCL ALSTG MINS. Change note to read, "use Crossville ALSTG." This becomes NDB RWY 23 ORIG A.

McMinnville

Warren County Memorial
Tennessee
LOC RWY 23 ORIG...
Effective: 01/16/92

FDC 2/0274/RNC/ FI/P Warren County Memorial, McMinnville, TN. LOC RWY 23 ORIG...Delete LCL ALSTG MINS. Change note to read, "use Crossville ALSTG." ADF required. This becomes LOC RWY 23 ORIG A.

Memphis

Memphis International
Tennessee
ILS RWY 27 AMDT 1...
Effective: 01/21/92

FDC 2/0343/MEM/ FI/P Memphis International, Memphis, TN. ILS RWY 27 AMDT 1...MSA MEM VORTAC 315–135 2500...135–315 2000. This becomes ILS RWY 27 AMDT 1A.

Memphis

Memphis International
Tennessee
ILS RWY 18L AMDT 7...
Effective: 01/21/92

FDC 2/0344/MEM/ FI/P Memphis International, Memphis, TN. ILS RWY 18L AMDT 7...MSA MEM VORTAC 315–135 2500...135–315 2000. This becomes ILS RWY 18L AMDT 7A.

Memphis

Memphis International
Tennessee
VOR RWY 27 AMDT 1...
Effective: 01/21/92

FDC 2/0346/MEM/ FI/P Memphis International, Memphis Int'l, Memphis, TN. VOR RWY 27 AMDT 1...MSA MEM VORTAC 315–135 2500...135–315 2000. This becomes VOR RWY 27 AMDT 1A.

Memphis

Memphis Intl
Tennessee
NDB RWY 9 AMDT 25...
Effective: 01/22/92

FDC 2/0357/MEM/ FI/P Memphis Int'l, Memphis, TN. NDB RWY 9 AMDT 25...MSA ME LOM 315–135 2500...135–315 2000. This becomes NDB RWY 9 AMDT 25A.

Memphis

Memphis Intl
Tennessee
ILS RWY 9 AMDT 24...
Effective: 01/22/92

FDC 2/0358/MEM/ FI/P Memphis International, Memphis, TN. ILS RWY 9 AMDT 24...MSA ME LOM 315–135 2500...135–315 2000. This becomes ILS RWY 9 AMDT 24A.

[FR Doc. 92-3810 Filed 2-18-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 97

[Docket No. 26762; Amdt. No. 1478]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS-420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (Air), Standard instrument approaches, Weather.

Issued in Washington, DC on January 31, 1992.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. app. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

* * * *Effective April 30, 1992*

Springdale, AR—Springdale Muni, VOR RWY 18, Amdt. 12

Springdale, AR—Springdale Muni, VOR/DME RWY 36, Amdt. 6

Springdale, AR—Springdale Muni, ILS RWY 18, Amdt. 3
Camarillo, CA—Camarillo, VOR RWY 26, Amdt. 3
Belleville, KS—Belleville Muni, VOR/DME–, Amdt. 2
Belleville, KS—Belleville Muni, NDB RWY 18, Amdt. 4
Belleville, KS—Belleville Muni, NDB RWY 36, Amdt. 4
Russellville, KY—Russellville-Logan County, VOR/DME RWY 24, Amdt. 5
Hammond, LA—Hammond Muni, VOR RWY 18 Amdt. 2
Hammond, LA—Hammond Muni, VOR RWY 31, Amdt. 3
Hammond, LA—Hammond Muni, NDB RWY 18, Amdt. 2
Hammond, LA—Hammond Muni, ILS RWY 18, Amdt. 2
Marksville, LA—Marksville Municipal, VOR/DME–A, Amdt. 2
Easton, MD—Easton Muni, NDB RWY 22, Amdt. 8
Kaiser/Lake Ozark, MO—Lee C. Fine Memorial, LOC/DME RWY 21, Amdt. 1
Nevada, MO—Nevada Muni, VOR/DME–A, Amdt. 1
Nevada, MO—Nevada Muni, NDB RWY 20, Amdt. 2
Nevada, MO—Nevada Muni, VOR/DME RNAV RWY 20, Amdt. 1
Anaconda, MT—Anaconda, VOR/DME–A, Amdt. 1
Omaha, NE—Millard, VOR/DME RNAV RWY 12, Amdt. 6
Watonga, OK—Watonga, VOR/DME–A, Amdt. 2
Watonga, OK—Watonga, NDB RWY 17, Orig.
Coleman, TX—Coleman Muni, NDB RWY 15, Amdt. 1
Clarksburg, WV—Benedum, VOR RWY 3, Amdt. 14
Clarksburg, WV—Benedum, ILS RWY 21, Amdt. 12

* * * *Effective March 5, 1992*

Emmonak, AK—Emmonak, VOR RWY 16, Orig.
Emmonak, AK—Emmonak, VOR RWY 34, Orig.
Nome, AK—Nome, VOR/DME RWY 9, Amdt. 4, CANCELLED
Nome, AK—Nome, VOR RWY 27, Amdt. 11, CANCELLED
Nome, AK—Nome, NDB RWY 27, Amdt. 3, CANCELLED
Angola, IN—Tri-State Steuben County, NDB RWY 5, Amdt. 6
Fort Wayne, IN—Fort Wayne Muni (Baer Field), NDB RWY 32, Amdt. 24
Fort Wayne, IN—Fort Wayne Muni (Baer Field), ILS RWY 32, Amdt. 27
Goshen, IN—Goshen Muni, VOR RWY 27, Amdt. 5
Goshen, IN—Goshen Muni, ILS/DME RWY 27, Amdt. 1
Huntingburg, IN—Huntingburg, VOR RWY 9, Amdt. 2
Huntingburg, IN—Huntingburg, VOR RWY 27, Amdt. 2
Huntingburg, IN—Huntingburg, NDB RWY 27, Amdt. 2
Seymour, IN—Freeman Muni, LOC RWY 5, Amdt. 2
Seymour, IN—Freeman Muni, NDB RWY 5, Amdt. 2
Terre Haute, IN—Hulman Regional, VOR RWY 23, Amdt. 19
Terre Haute, IN—Hulman Regional, VOR/DME RWY 5, Amdt. 16
Terre Haute, IN—Hulman Regional, LOC BC RWY 23, Amdt. 18
Terre Haute, IN—Hulman Regional, NDB RWY 5, Amdt. 18
Terre Haute, IN—Hulman Regional, ILS RWY 5, Amdt. 22
Terre Haute, IN—Hulman Regional, RADAR-1 Amdt. 3
Estherville, IA—Estherville Muni, VOR RWY 16, Amdt. 4
Estherville, IA—Estherville Muni, VOR RWY 34, Amdt. 6
Eureka, KS—Eureka Muni, VOR/DME RWY 18, Amdt. 1
Lake Charles, LA—Lake Charles Regional, VOR–A, Amdt. 13
Bellaire, MI—Antrim County, VOR RWY 2, Amdt. 2
Bellaire, MI—Antrim County, NDB RWY 2, Amdt. 2
Benton Harbor, MI—Ross Field-Twin Cities, VOR RWY 27, Amdt. 18
Charlotte, MI—Fitch H. Beach, VOR RWY 20, Amdt. 9
Harbor Springs, MI—Harbor Springs, VOR–A, Amdt. 1
Sparta, MI—Sparta, VOR/DME RNAV RWY 24, Amdt. 2
Ramsey, MN—Gateway North Industrial, VOR RWY 34, Orig., CANCELLED
Two Harbors, MN—Two Harbors Municipal, NDB RWY 24, Orig.
Warroad, MN—Warroad Intl-Swede Carlson Field, NDB RWY 31, Amdt. 6
Warroad, MN—Warroad Intl-Swede Carlson Field, VOR/DME RNAV RWY 31, Amdt. 2
Wapakoneta, OH—Neil Armstong, VOR–A, Amdt. 5
Wapakoneta, OH—Neil Armstrong, VOR/DME RNAV RWY 26, Amdt. 3
Pierre, SD—Pierre Muni, VOR/DME or TACAN RWY 7, Amdt. 4
Pierre, SD—Pierre Muni, VOR/DME or TACAN RWY 25, Amdt. 16
Pierre, SD—Pierre Muni, ILS RWY 31, Amdt. 9
Laredo, TX—Laredo Intl, VOR or TACAN RWY 32, Amdt. 9
Sturgeon Bay, WI—Door County Cherryland, SDF RWY 1, Amdt. 5
Sturgeon Bay, WI—Door County Cherryland, NDB RWY 1, Amdt. 9

* * * *Effective January 28, 1992*

Port Clinton, OH—Carl R Keller Field, NDB RWY 27, Amdt. 9

[FR Doc. 92–3811 Filed 2–18–92; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8389]

RIN 1545–AP72

Taxation of Fringe Benefits and Exclusions From Gross Income of Certain Fringe Benefits; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to the final regulations (T.D. 8389), which were published Thursday, January 16, 1992, (57 FR 1868). The regulations contain final amendments of two provisions of the fringe benefit regulations concerning the taxation and valuation of fringe benefits and exclusion from gross income for certain fringe benefits.

EFFECTIVE DATE: January 16, 1992.

FOR FURTHER INFORMATION CONTACT: Marianna Dyson at 202–377–9372, not a toll free call).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections contain final amendments to the fringe benefit regulations under sections 61 and 132 of the Internal Revenue Code of 1986 (Code).

Need for Correction

As published, the final regulations contain errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the final regulations (T.D. 8389), which was the subject of FR Doc. 91–1116, is corrected as follows:

Paragraph 1. On page 1869, column 1, fifth line from bottom of the second full paragraph, the language "employees earning $121,070, or more. For" is corrected to read "employee earning $121,070, or more. For".

Par. 2. On page 1869, column 3, under the heading "Alternative Transportation: Walking or Using Public Transportation", third paragraph, line 15, the language "alternative mode of transportation" is corrected to read "alternative modes of transportation."

Par. 3. On page 1872, column 1, in § 1.132–6, paragraph (d)(1), line 1, the language "similar instruments that is exchangeable" is corrected to read "similar instrument that is exchangeable".

Cynthia E. Grigsby,

Alternate Federal Register Liaison Officer. Assistant Chief Counsel (Corporate).

[FR Doc. 92-3766 Filed 2-18-92; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 943

Texas Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of proposed amendment.

SUMMARY: OSM is announcing its decision to approve a proposed amendment to the Texas permanent regulatory program (hereinafter, the "Texas program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment pertains to Texas' self-bonding regulations. The amendment is intended to provide additional safeguards and improve operational efficiency.

EFFECTIVE DATE: February 19, 1992.

FOR FURTHER INFORMATION CONTACT: James H. Moncrief, Telephone (918) 581-6430.

SUPPLEMENTARY INFORMATION:

I. Background on the Texas Program

On February 16, 1980, the Secretary of the Interior conditionally approved the Texas program. General background information on the Texas program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Texas program, can be found in the February 27, 1980, Federal Register (45 FR 12998). Subsequent actions concerning the Texas program and program amendments are codified at 30 CFR 943.15 and 943.16.

II. Proposed Amendment

By letter dated June 24, 1991 (Administrative Record No. TX-493), Texas submitted a proposed amendment to its program under SMCRA. Texas submitted the proposed amendment on its own initiative. Texas proposed to amend Texas Coal Mining Regulation (TCMR) 806.309(j), concerning self-bonding.

OSM announced receipt of the proposed amendment in the July 9, 1991, Federal Register (56 FR 31094) and in the same notice opened the public comment period and offered to hold a public hearing on the adequacy of the proposed amendment (Administrative Record No. TX-498). Mr. Hayward Rigano, a representative of Titus County Citizens An Endangered Species, Inc., requested an opportunity to testify at a public hearing. Because there was only one request, OSM held a public meeting rather than a hearing in Austin, Texas, on August 5, 1991. OSM entered a summary of the public meeting into the administrative record (Administrative Record Nos. TX-502 and TX-521). The public comment period closed on August 8, 1991.

During its review of the amendment, OSM identified concerns relating to TCMR 806.309(j)(1)(H), definition of "SIC code"; TCMR 806.309(j)(2), requirements for business and governmental entities; and TCMR 806.309(j)(2)(C), financial information requirements. OSM notified Texas of the concerns by letter dated September 16, 1991 (Administrative Record No. TX-506). Texas responded in a letter dated October 8, 1991, by submitting a revised amendment (Administrative Record No. TX-505). The regulations that Texas proposed to revise were TCMR 806.309(j)(1)(H), definition of "SIC code"; TCMR 806.309(j)(2), requirements for business and governmental entities; and TCMR 806.309(j)(3)(C), financial information requirements.

OSM published a notice in the October 29, 1991, Federal Register (56 FR 55643) reopening the comment period on the proposed amendment. OSM did so to provide the public the opportunity to reconsider the adequacy of the proposed amendment (Administrative Record No. TX-509). The reopened comment period ended on November 13, 1991.

III. Director's Findings

After a thorough review, pursuant to SMCRA, 30 U.S.C. 1201-1328, and the Federal regulations at 30 CFR 732.15 and 732.17, the Director finds that the proposed amendment as submitted by Texas on June 24, 1991, and as revised by it on October 8, 1991, is no less stringent than SMCRA and no less effective than the corresponding Federal regulations.

1. Substantive Revisions to Texas' Program That Are Substantively Identical to the Corresponding Federal Regulations

Texas proposed revisions to the following regulations that are substantive in nature and contain language that is substantively identical to the corresponding Federal regulations (listed in parentheses):

TCMR 806.309(j)(1)(I) (30 CFR 800.23(a)), definition of "tangible net worth;" TCMR 806.309(j)(2)(C)(iii) (30 CFR 800.23(b)(3)(iii)), financial criteria; TCMR 806.309(j)(7) (30 CFR 800.23(f)), current financial information; and TCMR 806.309(j)(8) (30 CFR 800.23(g)), substitute bonding.

Because the proposed revisions to these Texas regulations are substantively identical to the corresponding Federal regulations, the Director finds that these proposed Texas regulations are no less effective than the corresponding Federal regulations. Therefore, the Director approves these proposed regulations.

2. TCMR 806.309(j)(1)(H). Definition of "SIC Code"

Texas proposed at TCMR 806.309(j)(1)(H) to define "SIC code" to mean:

> The standard industrial classification used by Dun and Bradstreet Corporation to identify various industry groups such as electric utility companies. Data identified by SIC code is to be the current data for the last annual period compiled and reported by Dun and Bradstreet Corporation.

The SIC code is an index devised to categorize and identify businesses according to the specific lines of business activity being conducted. Texas uses "SIC code" at proposed TCMR 806(j)(2)(C)(iv) to identify specific financial information that a self-bonding applicant must provide to the Railroad Commission of Texas (the Commission).

The Federal regulations at 30 CFR chapter VII, including the corresponding Federal self-bonding regulations at 30 CFR 800.23, do not define or use the term "SIC code." The Director finds that Texas' proposed definition of "SIC code" at TCMR 806.309(j)(1)(H) is not inconsistent with the Federal self-bonding regulations at 30 CFR part 800 or with Section 509(c) of SMCRA. Therefore, the Director approves this definition.

3. TCMR 806.309(j)(2) and (j)(2)(B). Requirements for Business and Governmental Entities

Texas proposed to revise existing TCMR 806.309(j)(2) by (1) adding the words "or governmental," so that the regulation reads "(t)he Commission may accept a self-bond from an applicant that is a business *or governmental entity* if all the following conditions are met * * *" (emphasis added), and (2) deleting the references to "business entity" from existing TCMR 806.309(j)(2)(B) and (B)(ii). The proposed revisions would then require any self-bonding applicant, whether a business entity or a governmental entity, to meet all of the regulatory requirements for eligibility to self-bond found at TCMR 806.309(j)(2), including the continuous operation requirements at TCMR 806.309(j)(2)(B).

The Federal regulations at 30 CFR 800.23 provide that the regulatory authority may accept a self-bond from an applicant for a permit to conduct surface coal mining and reclamation operations if the applicant meets all of the conditions specified at 30 CFR 800.23(b)(1) through (4). The Federal regulations refer only to an "applicant" and do not specify, as Texas proposes, that an applicant is a governmental or business entity. Because all applicants, whether they are governmental or business entities, must meet the specified conditions which are substantively identical to the Federal requirements at 30 CFR 800.23(b) and (b)(2), the Director finds that Texas' proposed regulations at TCMR 806.309(j)(2) and (j)(2)(B) are no less effective than the corresponding Federal regulations at 30 CFR 800.23(b) and (b)(2) and approves them.

4. TCMR 806.309(j)(2)(C)(iv), Alternate Eligibility Criteria

The Texas regulations at TCMR 806.309(j)(2) set forth four conditions that an applicant must meet in order to be eligible to self-bond. The condition at TCMR 806.309(j)(2)(C) requires an applicant to submit information that demonstrates the applicant's financial strength and solvency. Texas proposed, at TCMR 806.309(j)(2)(C)(iv), an additional criterion which an applicant could meet to satisfy this condition. The proposed criterion consists of four parts and requires that the applicant submit financial information in sufficient detail to show that:

(I) (t)he applicant has an investment-grade rating for its most recent bond issuance of "Baa" or higher from Moody's Investor Service and "BBB-" or higher from Standard and Poor's Corporation; and
(II) (t)he applicant has a tangible net worth of at least $10 million and fixed assets in the United States totalling at least $20 million; and
(III) (t)he applicant has a ratio of total liabilities to net worth that is equal to or less than the industry median reported by Dun and Bradstreet Corporation for the applicant's primary SIC code; and
(IV) (t)he applicant has a ratio of current assets to current liabilities that is equal to or greater than the industry median reported by Dun and Bradstreet Corporation for the applicant's primary SIC code; or the applicant has a current credit rating of '4A2' or higher from Dun and Bradstreet Corporation.

In order to be eligible to self-bond under proposed TCMR 806.309(j)(2)(C), the applicant would be required to satisfy one or more of the three existing criteria at TCMR 806.309(j)(2)(C)(i), (ii), and (iii), which are substantively identical to the corresponding Federal regulations at 30 CFR 800.23(b)(3)(i), (ii), and (iii), or all four parts of the additional proposed criterion at TCMR 806.309(j)(2)(C)(iv). Each of the four parts is discussed separately below. The Director finds that the combined requirements of the four parts within Texas' proposed alternative self-bonding eligibility criterion at TCMR 806.309(j)(2)(C)(iv) provide the necessary safeguards for the bonding provisions of the Texas program. The Director finds that Texas' proposed regulations at TCMR 806.309(j)(2)(C)(iv) are no less effective than the corresponding Federal regulations at 30 CFR 800.23(b)(3).

(a) Bond rating criterion. Texas' proposed TCMR 806.309(j)(2)(C)(iv)(I) would require an applicant to have a "rating for its most recent bond issuance of 'Baa' or higher from Moody's Investor Service and 'BBB–' or higher from Standard and Poor's Corporation." Bonds carrying these ratings are considered to be investment-grade bonds. As a matter of clarification, Standard and Poor's Corporation uses plus (+) and minus (–) designations for its bond ratings to indicate the relative standing among bond issuances of the same letter designation (e.g., A+, A, and A–).

Existing TCMR 806.309(j)(2)(C)(i) and the Federal regulations at 30 CFR 800.23(b)(3)(i) require the applicant to have a current rating for its most recent bond issuance of "A" or higher as issued by either Moody's Investor Service or Standard and Poor's Corporations. In the preamble to its proposed rule, OSM discussed at length its rationale for this bond rating criterion. OSM cited a 1981 study of financial tests for owners or operators of hazardous waste facilities, prepared by the Environmental Protection Agency (EPA) (Environmental Protection Agency, 1981, Background Document for the Financial Test and Municipal Revenue Test for Financial Assurance for Closure and Post-Closure Care, EPA), which found that firms receiving any of the four highest ratings from Moody's (Aaa, Aa, A, Baa) or Standard and Poor's (AAA, AA, A, BBB) bond rating services show financial strength equal to that of firms qualifying under certain other financial ratio tests (47 FR 36570, 36572, August 20, 1982). "Partly as a result of this study, EPA adopted rules (47 FR 15032, April 7, 1982) which require that an applicant for financial assurance tests have $10 million of tangible net worth and certain other financial criteria, in addition to the appropriate bond rating" (47 FR 36570, 36572, August 20, 1982).

The preamble explained that "(s)ince OSM would not be requiring the double proof of solvency—the $10 million tangible net worth in conjunction with the bond rating criterion—the bond rating would have to be in the top three ratings from Moody's (Aaa, Aa, A) or Standard and Poor's (AAA, AA, A)," instead of the top four. In doing so, OSM did not discuss whether a lower bond rating criterion could constitute an adequate test for financial strength, if combined with additional financial tests.

Although Texas' proposed regulation would allow Texas to accept bonds with lower ratings than existing TCMR 806.309(j)(2)(C)(i) and the Federal regulation at 30 CFR 800.23(b)(3)(i), proposed TCMR 806.309(j)(2)(C)(iv), unlike its Federal counterpart, would require an adequate rating by both specified rating services rather than just one (proposed TCMR 806.309(j)(2)(C)(iv)(I)). It would also require the applicant to meet a tangible net worth test and a fixed assets in the United States test (proposed TCMR 806.309(j)(2)(C)(iv)(I)), a total liabilities to net worth test (proposed TCMR 806.309(j)(2)(C)(iv)(III)), and either a ratio of current assets to current liabilities test (current ratio) or a credit rating test (proposed TCMR 806.309(j)(2)(C)(iv)(IV)).

(b) Tangible net worth and fixed assets in the United States criteria. Texas' proposed TCMR 806.309(j)(2)(C)(iv)(II) would require an applicant to have a tangible net worth of at least $10 million, and fixed assets in the United States of at least $20 million. Existing TCMR 806.309(j)(2)(C)(ii) and (iii) and the Federal regulations at 30 CFR 800.23(b)(3)(ii) and (iii) include identical amounts for tangible net worth and fixed assets in the United States.

c. Ratio of total liabilities to net worth and ratio of current assets to current liabilities criteria. Texas' proposed TCMR 806.309(j)(2)(C)(iv)(III) would require an applicant to have a ratio of total liabilities to net worth that is equal to or less than the industry median reported by Dun and Bradstreet Corporation for the applicant's primary SIC code. Texas' proposed TCMR 806.309(j)(2)(C)(iv)(IV) would require an applicant to have (1) a current ratio that is equal to or greater than the industry median reported by Dun and Bradstreet for the applicant's primary SIC code or (2) a composite credit rating of "4A2" or higher from Dun and Bradstreet.

Existing TCMR 806.309(j)(2)(C)(ii) and (iii) and the Federal regulations at 30 CFR 800.23(b)(3)(ii) and (iii) require that the applicant have a ratio of total liabilities to net worth of 2.5 times or less, and a current ratio of 1.2 times or greater.

OSM's decision to include these financial ratio requirements in its self-bonding regulations was based largely on the requirements in EPA's financial assurance rules for closure and post-closure of hazardous waste facilities and the background documents supporting those rules. However, OSM modified the qualifying ratio values from those established by EPA to reflect industry ratio values for the coal industry which were supplied by Dun and Bradstreet because such ratio values "better reflect industry norms for coal mining companies" (48 FR 36418, 36423, August 10, 1983). Thus, the coal industry median values reported by Dun and Bradstreet Corporation at the time the Federal requirements were established were the source of OSM's qualifying value of 2.5 or less for the ratio of total liabilities to net worth and its qualifying value of 1.2 or higher for the current ratio.

Texas' proposed requirements would differ from the existing Texas regulations at TCMR 806.309(j)(2)(C) (ii) and (iii) and the Federal requirements at 30 CFR 800.23(b)(3) (ii) and (iii) in two important ways: (1) The qualifying ratio values would be keyed to industry median ratios for the specific industry identified by the applicant's primary SIC code, rather than to the coal industry alone, and (2) the qualifying ratio values would not be static values, but would be at any given time equal to the appropriate industry median ratio values.

The effect of Texas' proposed qualifying values for the ratio of total liabilities to net worth and the current ratio would be to ensure that a self-bonding applicant is performing favorably in comparison to the rest of its industry with respect to these ratios, and to ensure that the qualifying ratio values reflect current industry conditions. Reliance on financial information that is specific to the applicant's primary industry is consistent with OSM's use of coal industry medians to establish its qualifying values for the ratio of total liabilities to net worth and the current ratio.

Although the use of qualifying ratio values that are keyed to corresponding industry median values would usually provide more a stringent test than the current Federal ratio values, current industry median values may impose less stringent requirements than the Federal regulations under some economic circumstances. However, under proposed TCMR 806.309(j)(2)(C)(iv), a self-bonding applicant would be required at TCMR 806.309(j)(2)(C)(iv) (I) and (II) to meet other financial strength and solvency tests in addition to meeting the total liabilities to net worth and current ratio tests. Further, existing TCMR 806.309(j)(2) provides that the Commission may accept a self-bond from an applicant if the applicant meets the specified conditions. Because TCMR 806.309(j)(2) does not require the Commission to accept the self-bond of every applicant that meets the requirements of TCMR 806.309(j), the Commission has discretion to refuse a self-bond if, for some reason, it determines that those financial tests do not provide an accurate assessment of the applicant's financial strength and solvency.

(d) Current credit rating as an alternative criterion. Texas proposed at TCMR 806.309(j)(2)(C)(iv)(IV) that an applicant could use, as an alternative to satisfying the current ratio test, "a current credit rating of '4A2' or higher from Dun and Bradstreet Corporation." The "current credit rating" is called the D&B Rating System in the literature and reports of Dun and Bradstreet Corporation.

Dun and Bradstreet Corporation's rating system uses a two-part code to represent a company's financial strength and credit appraisal. The financial strength is expressed as tangible net worth in 14 classes ranging from less than $5,000 to greater than $50 million. The "4A" in Texas' proposed "4A2" qualifying rating indicates a tangible net worth of $10 million to $49.99 million (Dun & Bradstreet Reference Book of American Business, November-December, 1991). This range is consistent with Texas' existing TCMR 806.309(j)(2)(C)(ii) and the Federal regulation at 30 CFR 800.23(b)(3) (ii), which require a tangible net worth of at least $10 million.

The credit appraisal portion of Dun and Bradstreet's rating system code (the "2" of Texas' proposed "4A2" qualifying rating) is a numerical rating from "1" to "4" with "1" being the highest or most favorable rating. Dun and Bradstreet's credit appraisal is based on the evaluation of a number of factors. The main factor considered is the company's financial condition. This evaluation utilizes "industry norm" data, financial ratios including current ratio and ratio of total liabilities to net worth, trend information, operating numbers, and cash flow. Other factors considered include banking relationships, lawsuits, liens, judgments, background of the company, and the experience level of the management. Because the credit appraisal is based on a comprehensive analysis of the company, including consideration of the company's current ratio, Texas' proposed "2" rating provides a level of assurance that is equal or better than that provided by the current ratio alone.

5. TCMR 806.309(j)(3), Requirements for a Governmental Entity

Texas proposed to delete TCMR 806.309(j)(3), which provides separate eligibility criteria for governmental entities applying to self-bond. Texas originally proposed TCMR 806.309(j)(3) on August 29, 1988, revised it on March 21, 1989, and promulgated it on September 18, 1989. OSM subsequently found the regulation to be less effective than the Federal regulations at 30 CFR 800.23(b)(3) (ii) and (iii), and 800.23(d), and did not approve it (54 FR 50750, 50752, December 11, 1989).

Because OSM previously found TCMR 806.309(j)(3) to be less effective than the Federal regulations at 30 CFR 800.23(a)(ii) and (iii), and (d), and did not approve it, the Director finds that Texas' proposed deletion of this provision would make this part of the Texas program consistent with the Federal regulations. Therefore, the Director approves the proposed deletion of TCMR 806.309(j)(3).

6. TCMR 806.309(j)(9), Applicability

On August 29, 1988, Texas proposed to add at TCMR 806.309(j)(9) provisions by which the Commission could waive the proposed self-bonding requirements at TCMR 806.309(j)(2)(C) and (j)(4). On March 21, 1989, Texas proposed to revise TCMR 806.309(j)(9) to provide that the proposed requirements at TCMR 806.309(j)(2)(C), (j)(3)(E), and (j)(5) would apply only to new self-bonding applicants. Existing self-bonded permittees would be allowed to increase their self-bonds without meeting the financial eligibility criteria of the proposed regulations. On September 18, 1989, Texas promulgated the proposed revisions at TCMR 806.309(j)(9). OSM subsequently found the regulation to be less effective than the Federal regulations at 30 CFR 800.23, and did not approve it (54 FR 50750, 50752, December 11, 1989).

In this amendment, Texas proposed to delete TCMR 806.309(j)(9). However, the language Texas proposed to delete differs from the language that OSM did not approve on December 11, 1989, in that it provides, in part, that the requirements at TCMR 806.309(j)(2)(C),

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(j)(3)(E), and (j)(5) would apply to modifications of existing self-bonds.

The Federal regulations at 30 CFR 800.23(g) require that any time the financial conditions of the permittee change so that the financial criteria to self-bond are not met, the permittee must notify the regulatory authority and post an alternate form of bond. Existing TCMR 806.309(j)(8) has the same requirements. Therefore, even though Texas removes language from its program that requires the provisions of TCMR 806.309(j)(2)(C), (j)(3)(E), and (j)(5) to be applied to modifications of existing self-bonds, the Texas program retains these requirements at TCMR 806.309(j)(8). The Director approves Texas' proposed deletion of TCMR 806.309(j)(9).

IV. Public and Agency Comments

Following are summaries of all substantive oral and written comments on the proposed amendment that were received by OSM and the Director's responses to them.

Public Comments

Two commenters provided written support for the proposed amendment (Administrative Record Nos. TX–499 and TX–501).

Two persons testified at the public meeting held in Austin, Texas, on August 5, 1991. One stated that existing State and Federal self-bonding requirements are appropriate for coal mining companies but not for electric power utilities. This person presented a document entitled "Comparisons of Bond Rating and Current Ratios" (Administrative Record No. TX–502) and referred to it in support of his statement that there is no clear relationship between a high bond rating and meeting the financial ratios in the current regulations. The commenter also stated that bond ratings were better indicators than financial ratios of a company's financial health. This commenter said that the proposed rules fairly assess a company's financial health and that the commenter supported the proposed amendment. By letter dated August 27, 1991, this commenter submitted to OSM a document entitled "Comparison of Electric Utility Company Bond Ratings and Current Ratios" (Administrative Record No. TX–503) stating that this was a revised version of the document presented at the public meeting. The Director acknowledges these comments in support of the proposed amendment.

The other commenter said that a cash bond should be required to cover all probable effects of mining and that self-bonding should not be allowed because the Texas mining companies were potentially at risk far beyond their ability to pay. The commenter said that large companies can go bankrupt and that the proposed rule should not be approved.

The Director acknowledges these concerns. However, the concerns are not within the scope of this rulemaking. Rather than addressing whether or not Texas should accept self-bonds from mining companies, or the required bond amount, the amendment proposes an additional criterion under which the Commission may accept a self-bond from an applicant. Section 25(c) of Texas Surface Coal Mining and Reclamation Act (TSCMRA) already provides that the Commission may accept an applicant's self-bond when the applicant adequately demonstrates the existence of a history of financial solvency and continuous operation. Also, Texas' approved regulations at TCMR 806.308(a) prescribe a self-bond as a valid form of the required performance bond. These provisions provide the Commission with the discretion to allow or disapprove self-bond applications on a case-by-case basis (48 FR 36418, 36428, August 10, 1983) and are consistent with the provisions of Section 509(c) of SMCRA and Federal regulations at 30 CFR 800.12.

The same commenter also questioned the wisdom of allowing particular Texas companies to self-bond and cited specific financial difficulties such companies were, or could potentially be, facing. For example, the commenter was concerned that a proposed fly ash disposal and reclamation plan at a specific mine may potentially result in severe environmental damage that would require remedies, thereby exposing the Texas mining companies to future high financial liability. The commenter said that health risks present another area of financial exposure to the mining companies and cited a soon-to-be-published research study that the commenter said will show significant environmental effects to Titus County citizens. The commenter also was concerned that power plant construction costs may seriously deplete mining company resources, and referred to a newspaper article about the high cost of constructing the Comanche Creek power plant. Another concern was that the artificial maintenance of reclaimed lands would be so costly that the companies would not be required to do it.

The Director acknowledges these concerns. However, the present rulemaking is not the proper forum, for determining whether any particular Texas company should be allowed to self-bond. Once a particular company meets all of the prerequisites for self-bonding at 806.309(j)(2), the determination of whether the company should be allowed to self-bond is a matter within the Commission's discretion. The Commission can refuse to allow a company to self-bond, despite the fact that the company satisfies the criteria of 806.309(j)(2), if the Commission determines that those financial tests do not provide an accurate assessment of the applicant's financial strength and solvency.

Further, Texas' regulations at TCMR 805.304 prescribe the requirements for determining the bond amount. The bond amount is determined by the Commission on the basis of, among other things, the probable difficulty of reclamation considering such factors as the topography, geology, and hydrology of the site and its revegetation potential. OSM believes that these existing provisions in the Texas program provide adequate requirements and safeguards for evaluating an individual applicant's financial capacity to self-bond and determining bond amounts.

This same commenter also felt that the proposed regulations should specify the accounting methods to be used because a company's stated financial condition may vary depending on the accounting method used. On August 10, 1983, the Director published a final rule **Federal Register** notice promulgating Federal regulations at 30 CFR 800.23 pertaining to self-bonding (48 FR 36418). These regulations were subsequently revised on January 14, 1988 (53 FR 994). The Federal regulations do not require that financial information submitted by an applicant conform to specific accounting methods. In this proposed amendment, Texas has incorporated requirements in its regulations that are no less effective than the corresponding Federal regulations concerning the integrity of financial information and financial statements submitted. Therefore, the Director is not requiring Texas to revise its regulations in response to this comment.

Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), OSM solicited comments from the Administrator of the Environmental Protection Agency (EPA), and various other Federal agencies with an actual or potential interest in the Texas program.

The Bureau of Mines, U.S. Soil Conservation Service, and Bureau of Land Management responded that they had no specific comments, questions or recommended changes on the proposed amendment (Administrative Record

Nos. TX-495, TX-500 and TX-511, TX-508).

The U.S. Army Corps of Engineers responded that it found the proposed amendment satisfactory (Administrative Record No. TX-512).

Environmental Protection Agency (EPA) Concurrence

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the Administrator of the EPA with the respect to any provisions of a State program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*)

None of the changes that Texas proposed to its rules pertain to air or water quality standards. Nevertheless, OSM requested EPA's concurrence on the proposed amendment (Administrative Record No. TX-497). On January 21, 1992, EPA gave written concurrence (Administrative Record No. TX-519).

State Historic Preservation Officer (SHPO) and Advisory Council on Historic Preservation (ACHP) Comments

Pursuant to 30 CFR 732.17(h)(4), OSM is required to solicit comments from the SHPO and ACHP for all amendments that may have an effect on historic properties. The Director solicited comments from these offices. The SHPO responded that there were no specific concerns or issues to present at this time (Administrative Record No. TX-510). ACHP did not respond.

V. Director's Decision

Based on the above findings, the Director approves the proposed amendment as submitted by Texas on June 24, 1991, and revised by it on October 8, 1991. The Director approves the rules with the provision that they be fully promulgated in identical form to the rules submitted to and reviewed by OSM and the public.

The Federal regulations at 30 CFR part 943 codifying decisions concerning the Texas program are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

National Environmental Policy Act

Pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

Executive Order 12291 and the Regulatory Flexibility Act

On July 12, 1984, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Accordingly, for this section OSM is exempt from the requirement to prepare a regulatory impact analysis, and this action does not require a regulatory review by OMB. The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by OMB under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 943

Intergovernmental relations, Surface mining, Underground mining.

Dated: February 4, 1992.

Raymond L. Lowrie,

Assistant Director, Western Support Center.

For the reasons set out in the preamble, title 30, chapter VII, subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 943—TEXAS

1. The authority citation for part 943 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

4. Section 943.15 is amended by adding a new paragraph (e) as follows:

§ 943.15 Approval of regulatory program amendments.

* * * * *

(e) The revisions to the following Coal Mining Regulations of the Railroad Commission of Texas as submitted on June 24, 1991, and revised on October 8, 1991, are approved effective February 19, 1992:

Definitions of "SIC code" and "tangible net worth".	806.309(j)(1) (H) and (I).
Business and governmental entities.	806.309(j)(2), (j)(2)(B), (j)(2)(C)(iii) and (ix).
Governmental entities (deleted and reserved).	806.309(j)(3).
Current financial information.	806.309(j)(7).
Substitute bonding.......	806.309(j)(8).
Applicability (deleted).	806.309(j)(9).

[FR Doc. 92-3827 Filed 2-18-92; 8:45 am]

BILLING CODE 4310-05-M

Bureau of Land Management

43 CFR Public Land Order 6923

[AZ-930-4214-10; AZAR-05059]

Partial Revocation of Public Land Order No. 1176; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a public land order insofar as it affects 103.75 acres of National Forest System land withdrawn for use as the Lakeside Administrative Site. A portion of the site is no longer needed for this purpose, and the revocation is needed to permit disposal of the land through land exchange under the General Exchange Act of 1922. This action will open the land to such forms of disposition as may by law be made of National Forest System land. The land remains temporarily closed to mining by a Forest Service exchange proposal. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: March 20, 1992.

FOR FURTHER INFORMATION CONTACT: John Mezes, BLM Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011, 602-640-5509.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Public Land Order No. 1176, which withdrew National Forest System land for use as the Lakeside Administrative Site, is hereby revoked insofar as it affects the following described land:

Gila and Salt River Meridian

Apache-Sitgreaves National Forest

T. 9 N., R. 22 E.,

sec. 23, NE¼NE¼, E½E½W½NW¼NE¼, E½NW¼NE¼, NE¼NE¼NW¼SW¼ NE¼, N½N½NE¼SW¼NE¼, NW¼ NW¼NW¼SE¼NE¼, E½W½W½SE¼ NE¼, E½W½SE¼NE¼, and E½SE¼ NE¼.

The area described contains 103.75 acres more or less in Navajo County.

2. At 10 a.m. on March 20, 1992, the land shall be opened to such forms of disposition as may by law be made of National Forest System land, subject to valid existing rights, the provision of existing withdrawals, other segregations of record, and the requirements of applicable law.

Dated: February 11, 1992.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 92–3845 Filed 2–18–92; 8:45 am]

BILLING CODE 4310–32–M

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB

Endangered and Threatened Wildlife and Plants; Emergency Rule To Establish Additional Manatee Sanctuaries in Kings Bay, Crystal River, FL

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Emergency rule.

SUMMARY: This emergency rule establishes four additional manatee (*Trichechus manatus*) sanctuaries in Kings Bay, Crystal River, Florida, and prohibits all waterborne activities in these sanctuaries for a period of 120 days. This emergency action will prevent the taking of manatees by harassment resulting from waterborne activities during upcoming winter months. This increases the number of sanctuaries in Kings Bay from three to seven to accommodate the increase in the number of manatees using the area each winter, and to offset the harassment from increasing public use. The emergency rule will provide interim protection for the manatees during which time a proposed rule to implement permanent sanctuaries will be published in the **Federal Register.** A proposed rule, which will be published in the future, will provide opportunity for public comment. This action is taken under the authority of the Endangered Species Act of 1973, as amended, and the Marine Mammal Protection Act of 1972.

EFFECTIVE DATE: This emergency rule is effective on November 15, 1991. A legal notice announcing an effective date of November 15, 1991, was published in the "Citrus County Chronicle" on November 13, 1991, in accordance with 50 CFR 17.108.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Jacksonville Field Office, U.S. Fish and Wildlife Service, 3100 University Blvd. South, Suite 120, Jacksonville, Florida 32216.

FOR FURTHER INFORMATION CONTACT: Robert O. Turner at above address (904/791–2580, FTS 946–2580) or Vance Eaddy, Senior Resident Agent, U.S. Fish and Wildlife Service, 9721 Executive Center Dr., suite 206, St. Petersburg, Florida 33702, 813/893–3651.

SUPPLEMENTARY INFORMATION: Crystal River is a short tidal river on the west coast of Florida. Forming the headwaters of Crystal River is Kings Bay, a lake-like body of water fed by many freshwater springs. These springs, because of their year-round temperature of over 74° F, provide an essential warm-water wintering area for West Indian manatees (*Trichechus manatus*), a federally listed endangered species.

During cold weather, many of the manatees wintering in Kings Bay aggregate in an area known as the main spring or Kings Spring, located just south of Banana Island. This location is also a favorite site for skin and scuba divers, who come to Kings Bay for the clear, calm conditions favorable for learning diving techniques, coupled with the opportunity to "swim with the manatees". Diver use of this area is especially heavy during the cold winter months when diving is impractical through most of the northern states, and when the opportunity for manatee encounters is greatest.

The concurrent use of the main spring area by divers and manatees during cold weather creates a problem for manatees. Manatees are shy, harmless creatures that are easily driven away from warm springs by human activity (Buckingham 1990).

A limited number of manatees (about 15) used the springs in the 1970's prior to the establishment of the Banana Island Sanctuary. They seemed to tolerate and even enjoy some human contact. These "tame" manatees readily approached divers and allowed themselves to be petted and lightly scratched (Hartman 1979, Powell and Rathbun 1984). By 1980, when the first permanent manatee sanctuaries were established, the number of manatees wintering in the bay had increased to just over 100. This increase was greater than could be accounted for by reproduction, so it was apparent that some manatees were immigrating from other areas (Powell and Rathbun 1984). The number of manatees that chose to interact with the public increased only slightly.

Manatee use of Kings Bay now exceeds 240 animals (FWS unpublished data). A majority of manatees currently using the spring do not tolerate close human contact, and leave the warmer spring waters when humans approach too closely. They disproportionately spend their time in the existing sanctuaries regardless of weather conditions, in direct relationship to the number of boats present (Buckingham 1990).

Efforts have been made to make divers, snorkelers, and boaters aware of the manatee harassment problem. Visitors have been instructed through posters, brochures, and dive shop personnel that they should not aggressively pursue manatees or drive them from the springs. As a group, most people have been very cooperative in this regard. Though most conscientiously try to avoid harassing manatees, they seek the animals out and approach them to observe them and a few consistently pet them. Although a few manatees tolerate and occasionally invite attention, most manatees appear to find the situation intolerable and they alter their behavior accordingly. At times, the sheer number of humans concentrated in a relatively confined area forces all the manatees to seek less disturbing conditions.

The largest numbers of manatees are found at the spring at night or during the early morning. After sunrise, when the divers begin arriving at the spring, those manatees least able to tolerate human crowding begin leaving the spring. As greater numbers of divers arrive, more manatees leave (FWS unpublished data). On days when the temperatures of the surrounding waters are not excessively cold, this may not be critical, although it still modifies the manatee's natural behavior. On days when surrounding water temperatures are below 68° F, manatees may begin to show some signs of cold water stress such as reduced metabolic rate and cessation of feeding. If cold stress continues long enough, manatees will die.

Research shows that the presence of waterborne users causes manatees to leave the spring heads in favor of the protected sanctuaries regardless of weather conditions. On days when there is low diver turnout, a greater proportion of manatees remain in the springs (Buckingham 1990). Observations of other wintering areas, such as Blue

Spring State Park, show that, left to their own devices, most manatees will remain in warm water throughout the day during cold weather periods. Activities that cause manatees to leave can, therefore, be considered "harassment," which interferes with normal "sheltering" habits of the animal. Harassment is a violation of both the Endangered Species Act and the Marine Mammal Protection Act.

Currently, manatees are able to move away from divers by moving into three sanctuaries, Banana Island, Sunset Shores, and Magnolia Springs, established in 1980. The Banana Island sanctuary is located near the main spring, Kings Spring, and is relatively warm in relation to surrounding waters. Sunset Shores sanctuary is still within the southern part of the bay and provides a feeding and resting area in fairly warm water. The Magnolia Springs sanctuary is located in a canal development adjacent to Kings Bay and contains a smaller spring. The number of manatees using Kings Bay has increased from 100 in 1980 to 246 in 1990. Although it might appear from the increasing numbers of manatees that additional protection is not needed, this is not the case. Manatees are losing habitat elsewhere, and Kings Bay is becoming more and more essential as one of the last natural warm water areas with abundant food resources. Additional sanctuaries are essential to insure adequate undisturbed natural areas in Kings Bay where manatees may meet most of their needs, including warm water, food, and areas for resting and socializing.

The economic importance of Kings Bay, and especially the main spring, to Crystal River and Citrus County centers around the sports of SCUBA diving and snorkeling. The area is internationally known as a desirable location for winter diving. The presence of manatees creates a special attraction which dive shop owners exploit by advertising their facilities as a place where one can "swim with the manatees". The tourism industry created by divers coming to Crystal River is significant and total sales at five dive shops and three motels more than doubled between 1980 and 1986, with the "manatee season" accounting for 28 to 53 percent of their sales for the entire year (Milon in prep). Due in part to national publicity manatees have recently received, the number of divers visiting Kings Bay has increased to about 60,000–80,000 in the winter of 1990–91, double the number in 1980 (FWS unpublished data). This rapid increase in popularity is likely to continue, significantly affecting manatees.

The Service intends to provide manatees needed winter protection without adversely affecting diving and other waterborne activities so important to Crystal River. Aerial survey data available on manatee distribution within Kings Bay suggest that strategically placed manatee sanctuaries could provide manatees warm water refugia and feeding and resting areas free from harassment without causing a major disruption of current recreational patterns (Kochman et al. 1985, Buckingham 1990).

Therefore, the Service is creating additional sanctuaries in Kings Bay to provide manatees relatively undisturbed habitat during the cold weather months. These sanctuaries will exclude all waterborne activities by humans from November 15 through March 31. The chosen sanctuary areas have been carefully selected to avoid excluding divers from their favorite sites. The Service believes that, given these added refugia, manatees will not be forced to leave the warm water necessary for their survival and will be able to feed, rest, and socialize without being harassed.

Reasons for Emergency Determination

In deciding to implement this rule, the Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species. Based on this evaluation, the preferred action is to implement additional sanctuaries in Kings Bay, Crystal River, Florida on an emergency basis. With the number of manatees having more than doubled in the last 10 years along with the large increase in the number of visitors, the existing sanctuaries are insufficient to shelter the current manatee population. Without sufficient space, food, rest, and freedom from harassment, a significant proportion of the remaining population of Florida manatees could be at considerable risk should upcoming cold temperatures confine them to Kings Bay for any length of time. There is currently insufficient time to complete preparations for implementing permanent sanctuaries before cold weather arrives. Therefore, the Service is establishing additional manatee sanctuaries on an emergency basis to provide maximum protection for manatees until the permanent sanctuaries are in effect.

The authority to establish emergency manatee protection areas is provided by the Endangered Species Act of 1973, as amended, and the Marine Mammal Protection Act, and is codified at 50 CFR, subchapter B, part 17, subpart J. Under subpart J, § 17.106, the Director may establish, by regulation, manatee protection areas whenever he determines there is substantial evidence that there is imminent danger of a taking (including harassment) of one or more manatees, and that such establishment is necessary to prevent such a taking.

The sanctuary addition at Magnolia Springs (see map reference (4)) will create a 1.5-acre addition to the current Magnolia Springs Sanctuary. This short, horseshoe-shaped section of canal joins Kings Bay and is fed by auxiliary springs. The sanctuary will provide good protection for a small number of manatees that currently use the area for giving birth, resting, and as a warm water refuge.

The sanctuary on the north and east sides of Buzzard Island (see map reference (5)) will create a 20.9-acre sanctuary along the northwestern edge and down the length of the east side of Buzzard Island. This sanctuary is primarily used by manatees as a feeding area, since it has limited warm water input but contains abundant vegetation.

The sanctuary at Tarpon Springs (see map reference (6)) create a 4.7-acre sanctuary along the northwestern side of Banana Island. It contains a small spring and is used as a warm water, feeding, and resting area.

The 4.9-acre sanctuary on the north side of Warden Key (see map reference (7)) is used primarily as a feeding area.

A standard survey of the sanctuary areas will be performed and legal descriptions will be published in the final rule to designate permanent sanctuaries. The protected areas will be delineated with buoys, as are existing sanctuaries.

Public Comments Solicited

The Service intends that any final action be as effective as possible. Therefore, the opportunity for the public, other concerned governmental agencies, the scientific community, industry, or any other interested party to provide comments or suggestions concerning the rule will be solicited when the proposed rule is published.

Final promulgation of the rule will take into consideration all comments and any additional information received by the Service.

References Cited

Buckingham, C.A. 1990. Manatee response to boating activity in a thermal refuge. MS Thesis. University of Florida, Gainesville, Fla.

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Hartman, D.S. 1979. Ecology and behavior of the Manatee (*Trichechus manatus*) in Florida. Am. Soc. Mamm. Special Publ. No. 5. 153 pp.

Milon W. In prep. Economic activity associated with recreational diving in Kings Bay, Crystal River, Florida.

Powell, J.A. and G.B. Rathbun. 1984. Distribution and abundance of manatees along the northern coast of the Gulf of Mexico. Northeast Gulf Sci. 7:1–28.

National Environmental Policy Act

An Environmental Assessment has been prepared in conjunction with this rule. It is on file in the Service's Jacksonville Field Office, 3100 University Blvd. South, suite 120, Jacksonville, Florida 32216 and may be examined by appointment during regular business hours. This assessment forms the basis for a decision that this is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

Author

The primary author of this emergency rule is Robert O. Turner, Manatee Coordinator (see Addresses section above).

Authority

The authority to establish manatee protection areas is provided by the Endangered Species Act of 1973, as amended (16 U.S.C. 1533 *et seq.*, and the Marine Mammal Protection Act (16 U.S.C. 1361–1407).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and transportation.

Regulation Promulgation

Subpart J of part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation of Part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Section 17.108 is amended by adding paragraphs (a) (4), (5), (6) and (7) and revising the map at the end of this section to read as follows:

§ 17.108 List of designated manatee protection areas.

(a) * * *

(4) That part of Kings Bay, Crystal River, at Magnolia Springs defined by a line drawn approximately from the intersection of lots 6 and 7 of Paradise Isle development at the canal bulkhead, 107° to the opposite bulkhead at lot 22, then following the bulkhead to the Paradise Isle Bridge, then following the center line of the bridge, and following the bulkhead of Paradise Isle back to the original point.

(5) That part of Kings Bay, Crystal River on the north and east sides of Buzzard Island defined approximately by a line drawn 336° from a point near the westermost projection of Buzzard Island for a distance of 313 ft, then 4° from this point for a distance of 750 ft, then 90° from this point for a distance of 525 ft, then 128° from this point for a distance of 900 ft, then 177° from this point for a distance of 1260 ft, to a point near the southeast end of Buzzard Island, then following the mean high water line of the island to the original point.

(6) That part of Kings Bay, Crystal River, at Tarpon Springs defined approximately by a line drawn 0° true from the western most point of Banana Island for a distance of 160 ft, 53° from this point for a distance of 320 ft, 140° from this point for a distance of 420 ft, joining Banana Island at its northeastern corner, then following the mean high water line along the shoreline of Banana Island back to the original point.

(7) That part of Kings Bay, Crystal River, on the north side of Warden Key defined approximately by a line drawn 324° from a point on the northwest shore of Warden Key for a distance of 170 ft, 52° from this point for a distance of 900 feet, 144° from this point for a distance of 310 ft, joining the northeast corner of Warden Key, then following the mean high water line of Warden Key back to the starting point.

* * * * *

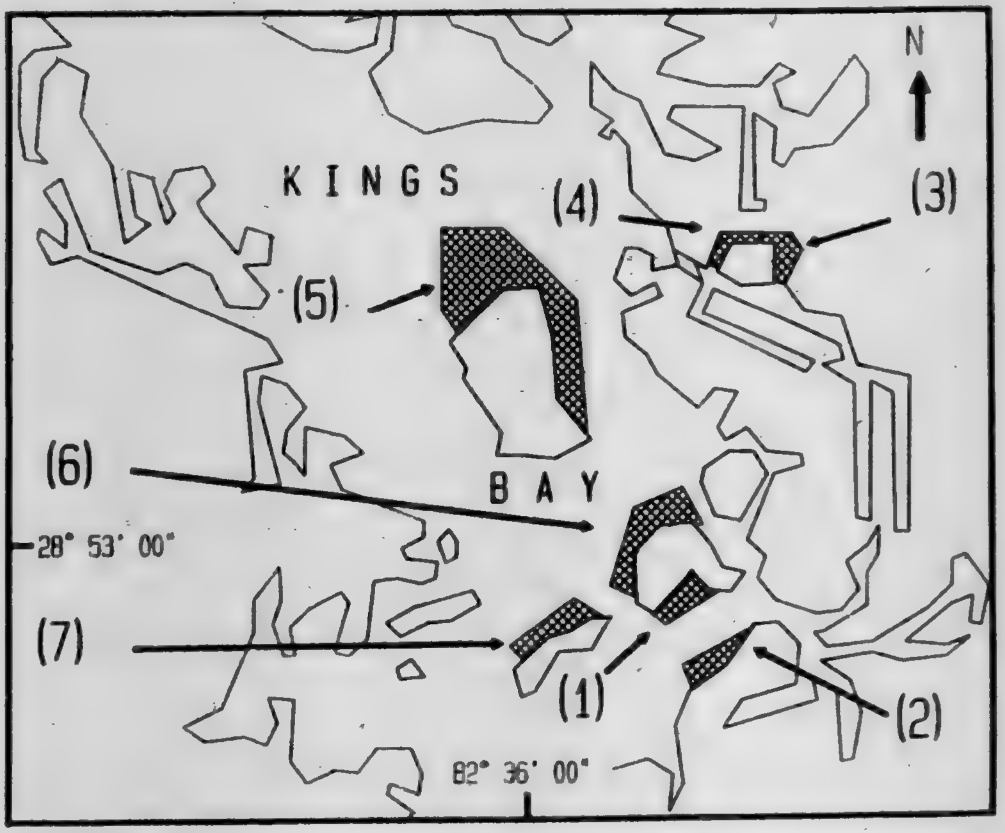
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Dated: December 30, 1991.

Richard N. Smith,

Director, Fish and Wildlife Service.

[FR Doc. 92-3650 Filed 2-18-92; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register

Vol. 57, No. 33

Wednesday, February 19, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[INTL-106-89]

RIN 1545-AP71

Certain Payments Made Pursuant to a Securities Lending Transaction; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to notice of public hearing on proposed regulations.

SUMMARY: This document contains corrections to the notice of public hearing on proposed regulations (INTL-106-89), which was published on Thursday, January 9, 1992, (57 FR 859). The proposed Income Tax Regulations relate to the taxation of certain payments made pursuant to cross-border transfer of securities subject to section 1058 of the Internal Revenue Code.

EFFECTIVE DATE: January 9, 1992.

FOR FURTHER INFORMATION CONTACT: Bob Boyer of the Regulations Unit, Assistant Chief Counsel (Corporate), 202-377-9231, (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The subject of the notice of correction of public hearing is proposed regulations proposing amendments to the Income Tax Regulations (26 CFR part 1) under sections 861, 871, 881, 894, and 1441 of the Internal Revenue Code of 1986.

Need for Correction

As published, the notice of public hearing contains errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the notice of public hearing (INTL-106-89), which was the subject of FR Doc. 92-414, is corrected as follows:

Par. 1. On page 859, column three, in the heading, the subject following the RIN number is corrected to read as follows:

Certain Payments Made Pursuant to a Securities Lending Transaction; Hearing

Par. 2. On page 860, column one under the heading "Supplementary Information", line 5, the language "part 1) under section 861 of the Internal" is corrected to read "part 1) under sections 861, 871, 881, 894, and 1441 of the Internal".

Cynthia E. Grigsby,

Alternate Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 92-3768 Filed 2-18-92; 8:45 am]

BILLING CODE 4830-01-M

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26 CFR Parts 1 and 301

[PS-56-89]

RIN 1545-AN92

Certain Publicly Traded Partnerships Treated as Corporations—Transition Provisions; Hearing Cancellation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Cancellation of notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed Income Tax Regulations relating to a description of when a publicly traded partnership adds a "substantial new line of business," thus forfeiting the partnership status preserved for "existing partnerships" by the transition rule applicable of section 7704 of the Internal Revenue Code of 1986.

DATES: The public hearing originally scheduled for Monday, February 24, 1992, beginning at 10 a.m. is cancelled.

FOR FURTHER INFORMATION CONTACT: Carol Savage of the Regulations Unit, Assistant Chief Councel (Corporate), 202-377-9236 or 202-566-3935 (not toll-free numbers).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 7704 of the Internal Revenue Code. A notice appearing in the **Federal Register** for Tuesday, December 31, 1991 (54 FR 67557), and a correction notice appearing in the **Federal Register** for Wednesday, January 8, 1992 (57 FR 658), announced that the public hearing on the proposed regulations would be held on Monday, February 24, 1992, beginning at 10 a.m in the Commissioner's Conference Room, room 3313, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC.

The public hearing scheduled for Monday, February 24, 1992, has been cancelled.

Cynthia E. Grigsby,

Alternate Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 91-3767 Filed 2-18-92; 8:45 am]

BILLING CODE 4830-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[ET Docket No. 92-9; FCC 92-20]

Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Rules amending the Table of Frequency Allocations to provide spectrum for new emerging technologies are being proposed. The Commission currently has pending before it a number of petitions and proceedings addressing requests for allocation of spectrum to operate new services that would utilize innovative technologies. There is not sufficient spectrum available that is suitable to accommodate these requests. The proposed new emerging technology bands would make spectrum available that could be used for at least some of the new services being requested.

DATES: Comments are due by April 21, 1992. Reply comments are due by May 21, 1992.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Fred Lee Thomas, Office of Engineering and Technology, Frequency Allocation Branch, (202) 653-8204.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of

Proposed Rule Making adopted January 16, 1992, and released February 7, 1992. The full text of Commission decisions are available for inspection and copying during regular business hours in the FCC Dockets Branch (room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's duplication contractor, Downtown Copy Center, (202) 452–1422, 1114 21st Street, NW., Washington, DC 20036.

Summary of Notice of Proposed Rule Making

1. The notice proposes to allocate the 1850–1990, 2110–2150, and 2160–2200 MHz bands for emerging technologies. It proposes that the fixed microwave operations currently using these bands be reaccommodated on higher frequency common carrier and private operational fixed microwave bands or on alternative media. To minimize the cost to the existing fixed microwave users and to promote the implementation of new services, the notice proposes: (1) To allow existing facilities to remain co-primary with new services for some fixed period of time (10 or 15 years) or, alternatively, to adopt a phased approach in which specific blocks of spectrum would be made available for new services over time; (2) to allow parties seeking to operate new services to negotiate financial agreements with existing users for access to these frequencies during a transition period; (3) to allow existing facilities to continue to operate on their frequencies after the end of the transition, but only on a secondary basis; and (4) to continue indefinitely the authority of state and local government licensees to operate their existing fixed microwave facilities on a primary basis. For all licensees, during the transition, new fixed microwave operations would be authorized on the subject frequencies only on a secondary basis. The notice also solicits comments on whether tax certificates can and should be granted to fixed microwave licensees who receive financial compensation as part of an agreement to surrender their license and use other, non-radio alternative media.

2. Regulatory Flexibility Analysis. Pursuant to the Regulatory Flexibility Act of 1980, the Commission finds as follows:

A. Reason for Action

This rule making proceeding is initiated to obtain comment regarding the development of emerging technologies bands around 2 GHz to provide spectrum for new innovative technologies and services.

B. Objective

The objective of this proposal is to provide adequate spectrum in a reasonable time frame for the development and implementation of new innovative technologies and services to the American public.

C. Legal Basis

The proposed action is authorized by sections 4(i), 303(c), 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(c), 303(f), 303(g), and 303(r). These provisions authorize the Commission to make such rules and regulations as may be necessary to encourage more effective use of radio as is in the public interest.

D. Description, Potential Impact, and Number of Small Entities Affected

This proposal would require many existing private and common carrier fixed microwave operators in the 1850–2200 MHz band, some of which are small entities, to reaccommodate their operations into higher bands or change to alternative technologies. This proposal may provide new opportunities for radio manufacturers and supplier of radio equipment, some of which may be small businesses, to develop and sell new equipment. Further, it may provide many new telecommunication services that may greatly impact the abilities of small entities to conduct business. Because this proposal concerns only the allocation of spectrum, and not the licensing of systems or stations, we are unable to quantify other potential effects on small entities. We invite specific comments on this point by interested parties.

E. Reporting, Record Keeping and Other Compliance Requirements

None.

F. Federal Rules With Overlap, Duplicate or Conflict With This Rule

None.

G. Significant Alternatives

If promulgated this proposal will provide spectrum for the development of new innovative technologies in the immediate future. We are unaware of other alternatives which would provide such spectrum flexibility in the immediate future. We solicit comments on this point.

3. This is a non-restrictive notice and comment rule making proceeding. See 1.1231 of the Commission's rules, 47 CFR 1.1231, for the governing permissible ex parte contacts.

List of Subjects in 47 CFR Part 2

Frequency allocations and radio treaty matters; General rules and regulations, Radio.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92–3819 Filed 2–18–92; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 641

[Docket No. 920126–2026]

Reef Fish Fishery of the Gulf of Mexico

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule.

SUMMARY: The Secretary of Commerce (Secretary) issues a preliminary notice of change for 1992 in the commercial quota for shallow-water groupers in the Gulf of Mexico reef fish fishery in accordance with the framework procedure of the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). This notice proposes an increase in the annual commercial quota for shallow-water groupers for 1992 from 8.2 to 9.8 million pounds (3.7 to 4.4 million kilograms). Also, both the shallow-water and deep-water grouper quotas are recalculated using a revised conversion factor for landings. The intended effect is to make shallow-water groupers available to the fishery in an amount supported by the red grouper stock assessment. It is expected that this action will reduce fishing pressure on the deep-water grouper resource and thereby reduce the threat of overfishing.

DATES: Written comments must be received on or before March 4, 1992.

ADDRESSES: Comments on the proposed rule should be sent to Robert A. Sadler, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702. Copies of documents supporting this action may be obtained from the Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, suite 331, Tampa, FL 33609.

FOR FURTHER INFORMATION CONTACT: Robert A. Sadler, 813–893–3161.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the FMP prepared and amended by the Gulf of Mexico Fishery

Management Council (Council), and its implementing regulations at 50 CFR part 641, under the authority of the Magnuson Fishery Conservation and Management Act.

Annual commercial quotas are established under current regulations (1) for yellowedge, misty, warsaw, and snowy groupers, and speckled hind (deep-water groupers), combined, of 1.8 million pounds (0.8 million kilograms); and (2) for all other groupers, excluding jewfish (shallow-water groupers), combined, of 9.2 million pounds (4.2 million kilograms). (For 1991, the quota for shallow-water groupers was increased to 9.9 million pounds (4.5 million kilograms)). The grouper quotas are expressed in terms of whole weight, historically calculated by converting the gutted weight of grouper to whole weight by multiplying the gutted weight by 1.18. Recent studies of landings indicate that a conversion factor of 1.05 is more appropriate. Using the revised conversion factor, the established quotas for deep-water groupers and shallow-water groupers are 1.6 and 8.2 million pounds (0.7 and 3.7b million kilograms), respectively. All quotas discussed in the **SUMMARY** and hereinafter are based on the revised conversion factor.

In accordance with the framework procedure of the FMP, the Council reviewed the 1991 stock assessments for various reef fish species and groups. The stock assessment for red grouper, a grouper that constitutes the majority of the commercial harvest of shallow-water grouper and for which data are most complete, indicated a 36 percent spawning potential ratio, well above the 20 percent goal established in the FMP. Accordingly, the Council has recommended an increase in the annual quota for shallow-water groupers of 1.6 million pounds (0.7 million kilograms) to 9.8 million pounds (4.4 million kilograms) commencing in 1992.

Fishermen have reported large numbers of red grouper that are slightly under the 20-inch minimum size limit, particularly in nearshore areas readily available to the recreational sector. Because of a rapid growth rate, a substantial quantity of red grouper should recruit to the fishery in 1992 and subsequent years, thereby greatly increasing the shallow-water grouper catch. The increased catches should benefit both the commercial and the recreational fisheries. Because the commercial harvest is controlled by an annual quota and closed once the quota is met, the recreational fishery, which remains open all year, should greatly benefit. The Council therefore recommended an increase in the commercial quota, recognizing that the recreational sector would benefit from the increased recruitment of legal-sized fish to nearshore waters.

The Council believes the recommended increase is warranted by the stock assessment and should decrease the probability of a closure of the shallow-water grouper fishery during the fishing year. Keeping the shallow-water grouper fishery open throughout the year would allow a continuous supply of shallow-water grouper filets to the market and would avoid increased fishing pressure on the deep-water groupers, as reportedly occurred in 1990 when the shallow-water grouper fishery was closed for approximately 8 weeks.

NMFS believes that an increased harvest of shallow-water groupers other than red grouper, which would be the proximate result of the proposed increased commercial quota for shallow-water groupers, would be in proportion to the abundance of such other groupers and would not be likely to result in overfishing of those other groupers.

For the reasons discussed above, the Secretary proposes to increase the annual commercial quota for shallow-water groupers to 9.8 million pounds (4.4 million kilograms), and recalculates, in accordance with the revised conversion factor, the existing annual commercial quota for deep-water groupers to 1.6 million pounds (0.7 million kilograms).

Other Matters

This action is authorized by the FMP and complies with E.O. 12291.

List of Subjects in 50 CFR Part 641

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: February 12, 1992.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 641 is proposed to be amended as follows:

PART 641—REEF FISH FISHERY OF THE GULF OF MEXICO

1. The authority citation for part 641 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 641.25, paragraphs (b) and (c) are revised to read as follows:

§ 641.25 Commercial quotas.

* * * * *

(b) Yellowedge grouper, misty grouper, warsaw grouper, snowy grouper, and speckled hind (deep-water groupers), combined—1.6 million pounds (0.7 million kilograms).

(c) All other groupers, excluding jewfish (shallow-water groupers), combined—9.8 million pounds (4.4 million kilograms).

* * * * *

[FR Doc. 92–3796 Filed 2–18–92; 8:45 am]

BILLING CODE 3510-22-M

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Notices

Federal Register
Vol. 57, No. 33
Wednesday, February 19, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Lost Silver Timber Sale, Flathead National Forest, Hungry Horse Ranger District, Flathead County, MT

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare supplement to Lost Silver Timber Sale Final Environmental Impact Statement.

SUMMARY: The Forest Service will prepare a supplement to the Lost Silver Timber Sale final environmental impact statement, which the Forest Service issued on June 28, 1991, along with a record of decision issued on September 13, 1991. The supplement is being prepared to allow full public comment on additional information regarding potential impacts of the proposed action and alternatives on water quality, and threatened and endangered species. The Forest Service has withdrawn the September 13, 1991 record of decision for the Lost Silver Timber Sale.

DATES: The supplement should be ready for distribution in late February, 1992. Comments concerning the supplement should be received in writing within 45 days of the date the notice of availability appears in the Federal Register.

ADDRESSES: Send written comments to Allen Christophersen, District Ranger, Hungry Horse Ranger District, P.O. Box 340 Hungry Horse, MT 59919.

FOR FURTHER INFORMATION CONTACT: Heidi Trechsel, Interdisciplinary Team Leader, or Allen Christophersen, District Ranger, at (406) 387-5243.

SUPPLEMENTARY INFORMATION: The Forest Service issued a draft environmental impact statement for the proposed Lost Silver Timber Sale on January 11, 1991. The final environmental impact statement was issued on June 28, 1991, and record of decision for this proposal issued on September 13, 1991. After issuance of the record of decision, additional information arose regarding the proposal's effects on water quality and threatened and endangered species. As a result, the Forest Service has withdrawn the original record of decision. The Forest Service will prepare a supplement to the Lost Silver final environmental impact statement to ensure adequate public review and comment on the additional information prior to committing to a particular course of action regarding the proposed timber harvest.

The Forest Service is seeking information and comments from Federal, State, Local agencies and other individuals or organizations who may be interested in or affected by the additional information. To be most helpful, comments should focus on the information present in the supplement

The responsible official will consider the comments and responses to the Supplement; environmental consequences discussed in the original FEIS; and applicable laws, regulations, and policies in making a decision regarding the Lost Silver timber sale proposal. The responsible official will document the decision and reasons for the decision in a record of decision. The decision will be subject to administrative appeal under applicable Forest Service Regulations.

Dated: February 12, 1992.

Robert G. Hensler,

Acting Forest Supervisor.

[FR Doc. 91-3804 Filed 2-18-92; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 558]

Resolution and Order Approving With Limitations the Application of the City of Klamath Falls Dock Commission for a Foreign-Trade Zone in the Klamath Falls, Oregon, Area

Proceedings of the Foreign-Trade Zones Board, Washington, DC.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the City of Klamath Falls Dock Commission, filed with the Foreign-Trade Zones (FTZ) Board on March 12, 1991, requesting a grant of authority to establish a general-purpose foreign-trade zone in Klamath County, Oregon, The Board, finding that the requirements of the FTZ Act, as amended, and the Board's regulations are satisfied and that the proposal, in regard to the "priority sites," is in the public interest, approves that part of the application involving the "priority sites" subject to the activation limits of 150 acres at the airport site (Site 1) and 50 acres at the Williamson site (Site 3).

The approval is subject to the FTZ Act and the FTZ Board's regulations (as revised, 56 FR 40790-50808, 10/8/91), including section 400.28. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant of Authority; Establishment of a Foreign-Trade Zone, Klamath Falls, Oregon, Area

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, The City of Klamath Falls Dock Commission (the Grantee) has made application (filed 3/12/91, FTZ Docket 14-91, 56 FR 12507, 3/26/91) to the Board, requesting the establishment of a foreign-trade zone in the Klamath Falls, Oregon, area, adjacent to the Customs user fee port facility at the Klamath Falls International Airport;

Whereas, notice of said application has been published in the Federal Register and public comment has been invited; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations are satisfied;

Now, Therefore, the Board hereby grants to the Grantee the privilege of establishing a foreign-trade zone, designated at Foreign-Trade Zone No.

184, at the priority sites described in the application record, subject to the limitations described in the resolution accompanying this action, and subject to the Act and the Board's regulations (as revised, 56 FR 50790–50808, 10/8/91), including § 400.28.

Signed at Washington, DC., this 10th day of February, 1992.

Foreign-Trade Zones Board.

R.A. Schnabel,

Acting Secretary of Commerce, Chairman and Executive Officer.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

FR Doc. 92–3807 Filed 2–18–92; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-351-809, A-580-809, A-201-805, A-485-802, A-583-814, A-307-805]

Notice of Postponement of Preliminary Determinations: Circular Welded Non-Alloy Steel Pipe From Brazil, the Republic of Korea, Mexico, Romania, Taiwan and Venezuela

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

EFFECTIVE DATE: February 19, 1992.

FOR FURTHER INFORMATION CONTACT: Louis Apple or Steve Alley, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230 telephone (202) 377-1769 or (202) 377-5288, respectively.

NOTICE OF POSTPONEMENT: On February 4, 1992, petitioners in the above-referenced investigations requested that the Department postpone the preliminary determinations for a period of 50 days, pursuant to 19 CFR 353.15(c) (1991).

The Petitioners are requesting these postponements in order to ensure that the Department has adequate time to investigate and analyze the information presented by respondents.

Accordingly, we are extending the date of the preliminary determinations until not later than April 21, 1992.

This notice is published pursuant to section 733(c) of the Tariff Act of 1930, as amended, and 19 CFR 353.15(c) (1991).

Dated: February 10, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92–3805 Filed 2–18–92; 8:45 am]

BILLING CODE 3510-DS-M

[C-201-003]

Ceramic Tile From Mexico; Preliminary Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration; Department of Commerce.

ACTION: Notice of preliminary results of countervailing duty administrative review.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on ceramic tile from Mexico. We preliminarily determine the total bounty or grant to be 1.74 percent *ad valorem* for Ceramica Regiomontana, 0.07 percent *ad valorem* for Industrias Intercontinental, 0.01 percent *ad valorem* for Barros Tlaquepaque, and zero for fifty-five companies for the period Janaury 1, 1990 through December 31, 1990. In accordance with 19 CFR 355.7, any rate less than 0.5 percent *ad valorem* is *de minimis.* We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: February 19, 1992.

FOR FURTHER INFORMATION CONTACT: Gayle Longest or Michael D. Rollin, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On May 21, 1991, the Department of Commerce (the Department) published a notice of "Opportunity to Request Administrative Review" (56 FR 23271) for the countervailing duty order on ceramic tile from Mexico. We received requests for review from the Government of Mexico, and Ceramica Regiomontana, S.A. and Industrias Intercontinental, S.A., two Mexican exporters of the subject merchandise. We initiated the review, covering the period January 1, 1990 through December 31, 1990, on June 18, 1991 (56 FR 27943). The Department has now conducted this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act). The final results of the last administrative review of this order were published in the **Federal Register** on June 14, 1991 (56 FR 27496).

Scope of Review

Imports covered by this review are shipments of Mexican ceramic tile, including non-mosaic, glazed, and unglazed ceramic floor and wall tile. During the review period, such merchandise was classifiable under the *Harmonized Tariff Schedule* (HTS) item numbers 6907.10.0000, 6907.90.0000, 6908.10.0000 and 6908.90.0000. The review covers the period January 1, 1990 through December 31, 1990, fifty-eight companies, and ten programs.

Calculation Methodology for Assessment and Cash Deposit Purposes

In Calculating the benefits received during the review period, we followed the methodology described in the preamble to 19 CFR 355.20(d)(53 FR 52325; December 27, 1988). First, we calculated a country-wide average rate, weight-averaging the benefits received by the fifty-eight companies subject to review to determine the overall subisidy from all countervailing programs benefitting exports of the subject merchandise to the United States. Because the country-wide average rate was above *de minimis,* as defined by 19 CFR 355.7, we proceeded to the next step in our analysis and examined the *ad valorem* rate we had calculated for each company for all countervailing programs combined, to determine whether individual company rates differed significantly from the weighted-average country-wide rate. Fifty-severn companies received aggregate benefits which were zero or *de minimis* (significantly different within the meaning of 19 CFR 355.22(d)(3)(ii)). Therefore, these companies must be treated separately for assessment and cash deposit purposes.

The remaining company, Ceramica Regiomontana, received aggregate benefits from all countervailing programs combined which was not significantly different from the weighted-average country-wide rate. Since this company was the only company receiving subsidies greater than *de minimis,* its rate was calculated based on the unweighted aggregate benefits the company received from all countervailing programs.

Analysis of Programs

(1) FOMEX

Until it was eliminated by decree on December 30, 1989, the Fund for the Promotion of Exports of Mexican Manufactured Products (FOMEX) was a trust of the Mexican Treasury

Department, with the National Bank of Foreign Trade acting as trustee for the program. In this capacity, the National Bank of Foreign Trade, through other financial institutions, made FOMEX loans available, both in U.S. dollars and Mexican pesos, at preferential rates to Mexican manufacturers and exporters for pre-export and export financing. We consider the benefit from preferential loans to occur at the time the interest is paid. On FOMEX pre-export loans, interest is payable at maturity; on FOMEX export loans, interest is prepaid. Although the Government of Mexico eliminated this program prior to this review period, there were outstanding FOMEX pre-export loans that matured during the review period.

We determine the benefit to be the difference between the interest that the companies would have paid on these loans at the benchmark interest rate and the interest that they actually paid.

Peso-denominated FOMEX pre-export loans under review were granted at annual interest rates ranging from 37.80 percent to 39.50 percent.

As the basis for our benchmark for these loans, we have relied in part on the effective rates for the years 1981 through 1984, as published monthly in the Banco de Mexico's *Indicadores Economicos y Monedo* (i.e.), because the Banco de Mexico stopped publishing data on nominal and effective commercial lending rates in Mexico after 1984. We calculated the average difference between the I.E. effective interest rates and the Costo Porcentual Promedio (CPP) rates, the average cost of short-term funds to banks, for the years 1981 through 1984. We added this average difference to the 1990 average annual CPP rates. For peso-denominated loans on which interest was due during 1990, we calculated an annual benchmark of 66.87 percent.

We found that the annual interest rates that financial institutions charged borrowers for FOMEX pre-export loans outstanding during the review period were lower than commercial rates. We therefore consider pre-export loans granted under the FOMEX program to confer countervailable subsidies because they were granted only to exporters and the amount of interest paid on FOMEX loans is less than would be paid on comparable commercially-obtained financing.

One exporter of the subject merchandise had FOMEX pre-export loans on which interest was paid during the review period. Because we found that the exporter was able to tie its FOMEX loans to exports of subject merchandise to specific countries, we measured the benefit only from FOMEX loans tied to shipments of ceramic tile products to the United States. For this company, we divided the FOMEX benefit received by the value of its total exports of the subject merchandise to the United States during the review period. We then weight-averaged the resulting benefits by the firm's proportion of exports of the subject merchandise to the United States during the review period. On this basis, we preliminarily determine the benefit from FOMEX pre-export loans to be 0.13 percent *ad valorem* for Ceramica Regiomontana and zero for all other companies.

(2) BANCOMEXT Financing for Exporters

Effective January 1, 1990, the Mexican Treasury Department eliminated the FOMEX loan program and transferred the FOMEX trust to the Banco Nacional de Comercio Exterior, S.N.C. (BANCOMEXT). BANCOMEXT offers short-term financing to producers or trading companies engaged in export activities; any company generating foreign currency through exports is eligible for financing under this program. The BANCOMEXT program operates much like its predecessor, FOMEX. BANCOMEXT provides two types of financing, both in U.S. dollars and in Mexican pesos, to exporters: working capital loans (pre-export loans), and loans for export sales (export loans). In addition, BANCOMEXT may provide financing to foreign buyers of Mexican goods and services. In March of 1990 BANCOMEXT discontinued peso-denominated financing. Since the availability of this loan program is restricted to exporters, we consider it countervailable to the extent that the interest rates are preferential.

We found that the annual interest rate that BANCOMEXT charged to borrowers for loans on which interest payments were due during the review period were lower than commercial rates. The BANCOMEXT dollar-denominated loans under review were granted at annual interest rates ranging from 9.1 percent to 9.9 percent. To determine the effective interest rate benchmark for BANCOMEXT pre-export and export dollar-denominated loans granted in 1990, we used the average of the quarterly weighted-average effective interest rates published in the Federal Reserve Bulletin, which resulted in an annual average benchmark of 10.88 percent in 1990.

Peso-denominated BANCOMEXT pre-export and export loans under review were granted at annual interest rates ranging from 39.9 percent to 44.0 percent. As the basis for our benchmark for these loans, we added the average difference between CPP, the average cost of short-term funds to banks, and the I.E. effective rates for the period 1981 through 1984 to the 1990 average annual CPP rate. In this way, we calculated an annual average benchmark of 55.30 percent for BANCOMEXT peso-denominated export loans obtained in 1990.

Based on these benchmarks, we find that the interest rates on BANCOMEXT loans are preferential and, as such, these loans are countervailable.

We consider the benefits from preferential loans to occur at the time the interest is paid. Because interest on BANCOMEXT pre-export loans is paid at maturity, we calculated benefits based on loans that matured during the review period; these were obtained between January and February, 1990. Interest on BANCOMEXT export loans is paid in advance; we therefore calculated benefits based on BANCOMEXT loans received during the review period.

Two exporters of ceramic tile products used BANCOMEXT pre-export and export sales financing. Because we found that the exporters were able to tie their BANCOMEXT loans to specific sales, we measured the benefit only from the BANCOMEXT loans tied to sales of the subject merchandise to the United States. To determine the benefit for each exporter, we calculated the difference between the interest rate charged to exporters for these loans and the benchmark interest rate, and multiplied this interest differential by the outstanding principal. We then divided each company's BANCOMEXT benefit by the value of the company's total exports of subject merchandise to the United States during the review period and then weight-averaged the resulting benefits by the company's proportion of total exports to the United States. On this basis, we preliminarily determine the benefit from this program to be 0.07 percent *ad valorem* for Industrias Intercontinental, 0.02 percent *ad valorem* for Ceramica Regiomontana, and zero for all other companies.

(3) FOGAIN

The Guarantee and Development Fund for Medium and Small Industries (FOGAIN) is a program that provides long-term loans to small- and medium-sized companies in Mexico. Although FOGAIN loans are available to all small- and medium-sized companies in Mexico, the interest rates available under the program vary depending upon whether a company has been granted priority status, and whether a company is located in a zone targeted for industrial growth. As a result, some companies' loans are granted at lower interest rates than others. Therefore to the extent that this program provides financing at rates below the lowest non-specific rate available under FOGAIN, we consider it countervailable. See, *e.g.*, Final Final Affirmative Countervailing Duty Determination and Countervailing Duty Order; Certain Textile Mill Products from Mexico (50 FR 10824; March 18, 1985).

During the review period, one company had a long-term variable-rate FOGAIN loan on which interest payments were due. Because the annual interest rate varied monthly, we treated the loan as a series of short-term loans.

After making three monthly loan and interest payments, the company paid the remaining portion of the outstanding loan balance before it was due. To calculate the benefit on the loan for the three payments on which interest was paid, we used as our benchmark the lowest non-specific interest rate in effect for each FOGAIN loan payment and compared it to the FOGAIN preferential rate for the loan payments made during the review period. We divided the benefit from the loans by the company's total sales to all markets and then weight-averaged the resulting benefit by the company's proportion of total exports of subject merchandise to the United States during the review period. On this basis, we preliminarily determine the benefit from this program to be 0.01 percent *ad valorem* for Barros Tlaquepaque and zero for all other companies.

(4) PITEX

The Program for Temporary Importation of Products used in the Production of Exports (PITEX) was established by a decree published in the *Diario Oficial* on May 9, 1985, and amended in the *Diario Oficial* on September 19, 1986, and May 3, 1990. The program is jointly administered by the Ministry of Commerce and Industrial Development (SECOFI) and the Customs Administration. Under PITEX, exporters with a proven export record may receive authorization to temporarily import products to be used in the production of exports for up to five years without having to pay the import duties normally imposed on those imports. PITEX allows for the exemption of import duties for the following categories of merchandise used in export production: raw materials, packing materials, fuels and lubricants, machinery used to manufacture products for export, and spare parts and other machinery. The importer must post a bond or other security to guarantee the reexportation of the temporary imports. Because it is only available to exporters, we preliminarily determine that PITEX provides countervailable benefits to the extent that it provides duty exemptions on temporary imports of merchandise not physically incorporated into exported products.

During the review period, one company used the PITEX program for temporary imports of machinery and spare parts which are not physically incorporated into exported products. To calculate the benefit from the program, we first calculated the duties that should have been paid on the non-physically incorporated items that were imported under the PITEX program during the review period. We then divided that amount by the company's total exports. We then weight-averaged the resulting benefit by the company's proportion of total exports of subject merchandise to the United States during the review period. On this basis, we preliminarily determine the benefit from this program to be 1.59 percent *ad valorem* for Ceramica Regiomontana and zero for all other companies.

(5) Other Programs

We also examined the following programs and preliminarily determine that exporters of the subject merchandise did not use them during the review period:

(A) Other BANCOMEXT preferential financing;

(B) Fiscal Promotion Certificates (CEPROFI);

(C) Import duty reductions and exemptions;

(D) State tax incentives;

(E) NAFINSA FONEI-type financing; and

(F) NAFINSA FOGAIN-type financing.

Preliminary Results of Review

As a result of our review, we preliminarily determine the total bounty or grant to be 1.74 percent *ad valorem* for Ceramica Regiomontana, 0.07 percent *ad valorem* for Industrias Intercontinental, 0.01 percent *ad valorem* for Barros Tlaquepaque, and zero for all other companies during the period January 1, 1990 through December 31, 1990. In accordance with 19 CFR 355.7, any rate less than 0.5 percent *ad valorem* is *de minimis*.

Upon completion of this review, the Department intends to instruct the Customs Service to assess countervailing duties of 1.74 percent of the f.o.b. invoice price on all shipments of this merchandise exported by Ceramica Regiomontana, and to liquidate, without regard to countervailing duties, shipments of this merchandise from Mexico exported by all other companies on or after January 1, 1990 and on or before December 31, 1990.

The termination of the FOMEX program reduces the total estimated bounty or grant to 1.61 percent *ad valorem* for Ceramica Regiomontana. Therefore, the Department intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 1.61 percent of the f.o.b. invoice price on shipments of this merchandise for Ceramica Regiomontana and to waive cash deposits of estimated countervailing duties, as provided by section 751(a)(1) of the Act, on all other shipments of this merchandise from Mexico entered, or withdrawn from warehouse for consumption, on or after the date of publication of the final results of this administrative review.

Parties to the proceeding may request disclosure of the calculation methodology and interested parties may request a hearing not later than 10 days after the date of publication of this notice. Interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted seven days after the time limit for filing the case brief. Any hearing, if requested, will be held seven days after the scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 355.38(e).

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under 19 CFR 355.38(c), are due.

The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: February 11, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-3806 Filed 2-18-92; 8:45 am]

BILLING CODE 3510-DS-M

VOL 57 ISS 33 FE 19 1992 UMI

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with subsections 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC.

Docket Number: 91–203. University of California, Santa Barbara, Marine Science Institute, Santa Barbara, CA 93106. *Instrument:* Pulsed Amplitude Modulated Fluorometer, Model PAM–101. *Manufacturer:* Heinz Walz, GmbH, Germany. *Intended Use:* The instrument will be used for studies of the fluorescence yield of the reaction center from (an)oxygenic bacteria, or the fluorescence yield of photosystem II from all other phototrophic organisms (including bacteria, prochlorophytes, cyanobacteria, all genera of eukaryotic algae and higher plants). Experiments will be conducted to determine the following:

(1) Relation between oxygen production and fluorescence quenching,
(2) heterogeneity of photosystem II,
(3) quantum yield of photosystem II,
(4) electron transport capacity.

Application Received by Commissioner of Customs: January 15, 1992.

Docket Number: 92–003. *Applicant:* University of California, Los Alamos National Laboratory, P.O. Box 990, Los Alamos, NM 87545. *Instrument:* Electron Microprobe, Model SX–50. *Manufacturer:* Cameca, France. *Intended Use:* The instrument will be used for investigating the elemental concentrations of geologic rocks and minerals to determine primary elemental contents of geologic materials and diagenetic alterations occurring to those materials. *Application Received by Commissioner of Customs:* January 15, 1992.

Docket Number: 92–004. *Applicant:* Vanderbilt University, Clinical Pharmacology, Mass Spectrometry Center, 23rd Avenue South Pierce, 804 Medical Research Building, Nashville, TN 37232–6602. *Instrument:* Mass Spectrometer, CONCEPT 4H. *Manufacturer:* Kratos Instruments, United Kingdom. *Intended Use:* The instrument will be used for studies concerned with the structural characterization of high molecular weight proteins, peptides, DNA adducts, oligonucleotides and with lower molecular weight phospholipids, palladium complexes, platinum complexes and hypervalent compounds. The major user group will employ LSIMS with an array detector in structural identifications in a diverse number of areas including: (1) Structural characterization of Na^+/H^+ antiporter, the prostacyclin receptor and cardiac K^+ channels, (2) studies on cytlchrome P–450 structure and in the characterization of ethylene dibromide-DNA adducts and modified oligonucleotides, (3) characterization of DNA-carcinogen adducts, and (4) characterization of structure of prostaglandin synthase using photoaffinity labelling techniques. *Application Received by Commissioner of Customs:* January 17, 1992.

Docket Number: 92–005. *Applicant:* Rutgers University, Busch Campus, Piscataway, NJ 08855–1059. *Instrument:* (4) Micromanipulators and Micro Electrode Fabrication. *Manufacturer:* Narishige Scientific Instrument Lab, Japan. *Intended Use:* The instrument will be used to characterize the electrophysiological properties of nerve cells in tissue culture. Both the whole-cell and single-channel configurations of the patch-clamp techniques will be used. *Application Received by Commissioner of Customs:* January 17, 1992.

Docket Number: 92–006. *Applicant:* Research Foundation of SUNY at Albany, 1400 Washington Avenue, Albany, NY 12222. *Instrument:* Infrared Neon Gas Laser. *Manufacturer:* MPB Technologies Inc., Canada *Intended Use:* The instrument will be used in work involving the development of fixed frequency infrared gas lasers which will be used in conjunction with the powerful methods of FM spectroscopy. The research consists of the following activities:

(1) Development of the laser light source and determination of the appropriate H_2O_2 absorption line for atmospheric measurement.

(2) Development and optimization of a research quality laser absorption spectrometer for the measurement of H_2O_2 in the laboratory.

(3) Testing of this instrument with atmospheric air.

(4) Building and testing a prototype field instrument for the measurement of hydrogen peroxide.

(5) Repeating steps (2) through (4) for methane.

Application Received by Commissioner of Customs: January 17, 1992.

Docket Number: 92–007. *Applicant:* Virginia Polytechnic and State University, Materials Engineering Department, 213 Holden Hall, Blacksburg, VA 24061. *Instrument:* Plasma Etcher, Model CSE–2120L. *Manufacturer:* ULVAC, Japan. *Intended Use:* The instrument will be used for research which deals with a new DRAM cell of unique structure, in which the SiO_2 storage insulator is replaced by a ferroelectric material lead-zirconate-titanate (PZT). The objective of this research is to identify the most desirable film characteristics for DRAM applications which include: Composition, type and concentration of the dopant, microstructure and crystal structure. In addition, identification of a material for contact metallization that does not react with the ferroelectric and act as a barrier for Si diffusion during fabrication of the integrated circuit and over the lifetime of the part, is essentially important. Another objective is developing dry etching technology for anisotropically etching PZT films if needed for fine geometries. The instrument will also be used for instructional purposes in the courses MSE 5994 Research and Thesis and 7994 Research and Dissertation.

Application Received by Commissioner of Customs: January 17, 1992.

Docket Number: 92–008. *Applicant:* Washington University, Department of Anesthesiology Research, 494 Parkview Place, St. Louis, MO 63110. *Instrument:* Rapid Mixing Device, Model SFA–12M. *Manufacturer:* Hi-Tech Scientific, United Kingdom. *Intended Use:* The instrument will be used to assay the enzyme firefly luciferase for luminescence activity. The assay will be used to purify luciferase and to study the effects of anesthetics on its activity. The ultimate purpose of these experiments is to correlate anesthetic inhibition of luciferase activity with anesthetic binding to luciferase. *Application Received by Commissioner of Customs:* January 17, 1992.

Docket Number: 92–009. *Applicant:* The University of Montana, Missoula, MT 59812. *Instrument:* Electron Microscope, Model H–7100. *Manufacturer:* Hitachi Scientific Instruments, Japan. *Intended Use:* The instrument will be used for the following research projects:

(1) Electron microscopy analysis of schistosome-snail interactions.

(2) Investigations of the surface of *Neisseria gonorrhoeae.*

(3) Inactivation of a feline AIDS virus in AZT-treated cells.

(4) Understanding of the functioning structures of influenza virus ribonucleoprotein complexes.

In addition, the instrument will be used for educational purposes in the courses MICB/ZOOL/BOT 414 and 416. *Application Received by Commissioner of Customs:* January 21, 1992.

Docket Numbers: 92-010 and 92-011. *Applicant:* Federal Highway Administration, Pavements Division, HNR-20, 6300 Georgetown Pike, McLean, VA 22101-2296. *Instruments:* Two (2) Large Capacity Thermoregulated Mixers, Model A271 and a Plate Compactor, Model A284. *Manufacturer:* MAP, France. *Intended Use:* The instruments will be used to prepare asphaltic paving mixtures that will be tested using a Pavement Rut Tester in an ongoing research project. These mixtures are primarily composed of asphalt, aggregate and possibly certain modifiers such as polymers. *Applications Received by Commissioner of Customs:* January 22, 1992.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 92-3808 Filed 2-18-92; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The New England Fishery Management Council will hold a public meeting on February 26-27, 1992, at the King's Grant Inn, Route 128 at Trask Lane, Danvers, MA., telephone: 508-774-6800. The Council will begin its meeting at 10 a.m. on February 26. The meeting will reconvene on February 27 at 9 a.m.

The first day will be devoted to Council review, discussion and approval of measures for inclusion in the public hearing document now being prepared for Amendment #5 to the Northeast Multispecies Plan. This process may continue through Thursday morning if necessary. After the completion of the groundfish management agenda items, there will be a report on the bycatch workshop recently convened in Oregon. Herring, Scallop and Large Pelagics Oversight Committee reports will follow.

On the second day, the meeting will conclude with reports from the Council Chairman; the Council Executive Director; the National Marine Fisheries Service Regional Director; the Northeast Fisheries Science Center liaison; the Mid-Atlantic Council liaison; and representatives from the Department of State, Coast Guard, Fish and Wildlife Service and Atlantic States Marine Fisheries Commission.

For more information contact Douglas G. Marshall, Executive Director, New England Fishery Management Council, 5 Broadway, Saugus, MA 01906; telephone: (617) 231-0422.

Dated: February 13, 1992.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92-3841 Filed 2-18-92; 8:45 am]

BILLING CODE 3510-22-M

COMMODITY FUTURES TRADING COMMISSION

Chicago Board of Trade Proposed Project A Automated Trading System

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed rules and rule amendments to implement the Project A automated trading system.

SUMMARY: The Chicago Board of Trade ("CBT") has submitted to the Commission, pursuant to section 5a(12) of the Commodity Exchange Act ("Act") and Commission Regulation 1.41(b), proposed new rules and rule amendments which would establish a Project A automated trading system for the trading of futures contracts, options on futures contracts and other financial products.[1] Acting pursuant to the authority delegated by Commission Regulation 140.96, the Division of Trading and Markets ("Division") has determined to publish the CBT's proposal for public comment. The Division believes that publication of the proposal is in the public interest and will assist the Commission in considering the views of interested persons.

DATE: Comments must be received on or before March 20, 1992.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Telephone: (202) 254-6314.

FOR FURTHER INFORMATION CONTACT: David P. Van Wagner, Special Counsel, or Lois J. Gregory, Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington DC 20581. Telephone: (202) 254-8955.

SUPPLEMENTARY INFORMATION:

I. Description

By letters dated December 13, 1991 through January 29, 1992, the CBT submitted to the Commission, pursuant to section 5a(12) of the Act and Commission Regulation 1.41(b), proposed new rules and rule amendments which would establish the Project A trading system. Project A would have two principal components: An automated order entry and matching system and an automated bulletin board system.

Project A's order entry and matching system would match orders on a pre-established price/time priority basis and would be used for trading CBT's futures contracts and options on futures contracts where price and quantity would be the only negotiable terms. CBT has indicated that the order matching system would be used as a trading forum for low-volume contracts and as an "incubator" for new contracts which were expected to have substantial growth in the future. Such contracts would trade exclusively over the Project A system during conventional CBT trading hours. The Project A order matching system would use a local area network connecting interactive terminal screens located in participant members' offices throughout the CBT's building. Orders would be matched at the CBT's mainframe computer and trade confirmations would be sent back to the member terminals, to the appropriate clearing member and to the Board of Trade Clearing Corporation ("BOTCC").

Project A's automated bulletin board would allow the CBT to use the same local area network to provide transaction services for various financial products. For example, the system would permit a participating member to post offers to buy or sell customized financial instruments with terms being negotiated through the interactive terminal screens. The CBT and BOTCC also could use Project A's automated bulletin board to provide services to participating members such as trade confirmation, mark-to-market and pay-and-collect information.

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[1] The CBT proposal includes proposed new Rules XX.01 through XX.22; proposed amendments to Rules 300.00, 310.00, 333.00, 928.00, 942.00, 943.00, and 1007.00; proposed amendments to Regulations 180.01, 301.12, 320.02, 320.19, 331.01A, 331.02, 336.01, 465.01, and 1006.01; and certain proposed new definitions to Chapter 9 of CBT's rulebook.

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II. Request for Comments

Acting pursuant to the authority delegated by Commission Regulation 140.96, the Division of Trading and Markets, with the concurrence of the General Counsel, has determined, on behalf of the Commission, that publication of the proposed rules and rule amendments is in the public interest and will assist the Commission in considering the views of interested persons. Accordingly, the Division, on behalf of the Commission, is publishing the proposed rules and rule amendments for public comment. The Commission requests comments on any aspect of the CBT's proposed new rules and rule amendments that members of the public believe may raise issues under the Act or the Commission's regulations.

Copies of the proposed rules and rule amendments and related materials are available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Stret, NW., Washington, DC 20581. Copies may also be obtained through the Office of the Secretariat at the above address or by telephoning (202) 254–6314. Some materials may be subject to petitions for confidential treatment pursuant to 17 CFR 145.5 or 145.9.

Any person interested in submitting written data, views or arguments regarding the CBT's proposed Project A automated trading system should send such comments to Jean A. Webb, Secretary, Washington, DC 20581, by the specified date.

Issued in Washington, DC, on February 11, 1992.

Alan L. Seifert,

Deputy Director.

[FR Doc. 92–3769 Filed 2–18–92; 8:45 am]

BILLING CODE 6351-01-M

New York Mercantile Exchange Proposal To Implement the NYMEX ACCESS Electronic Trading System

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of Proposed Rules and Rule Amendments to implement the NYMEX ACCESS electronic trading system.

SUMMARY: The New York Mercantile Exchange ("NYMEX" or "Exchange") has submitted proposed new rules and rule amendments pursuant to section 5a(12) of the Commodity Exchange Act ("Act") and Commission Regulation 1.41(b) to implement the American Computerized Commodity Exchange System and Services ("NYMEX ACCESS"), the Exchange's proposed electronic trading system. Acting pursuant to the authority delegated by Commission Regulation 140.96, the Division of Trading and Markets has determined to publish NYMEX's proposal for public comment. The Division believes that publication of NYMEX's proposal is in the public interest and will assist the Commission in considering the views of interested persons.

DATE: Comments must be received on or before March 20, 1992.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Patterson, Special Counsel, or Christopher K. Bowen, Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION:

I. Description of Proposed Rules and Rule Amendments

By letter dated January 23, 1992, NYMEX submitted, pursuant to section 5a(12) of the Act and Commission Regulation 1.41(b), proposed new rules and rule amendments to implement NYMEX ACCESS at the Exchange. NYMEX ACCESS is an electronic order matching system for trading in futures and options contracts. Under the proposal, Exchange-qualified NYMEX ACCESS traders could enter limit orders into the system. In general, the system would match these limit orders through an algorithm employing price-time priority.

NYMEX ACCESS is designed to permit any NYMEX futures or options contract to trade on the system. Initially, the Exchange anticipates that light sweet crude oil, heating oil, unleaded gasoline and platinum futures and options contracts would be listed for trading on the system.

Under the proposal, the NYMEX ACCESS trading session would commence at 5 p.m. in the evening and would continue until 8 a.m. the following morning. The trading day would begin with the commencement of the NYMEX ACCESS trading hours and would end with the close of the regular trading hours trading session. The trading week would begin on Sunday evening with the commencement of the NYMEX ACCESS trading session and would conclude on Friday afternoon with the conclusion of regular trading hours.

II. Request for Comments

Acting pursuant to the authority delegated by Commission Regulation 140.96, the Division of Trading and Markets, with the concurrence of the General Counsel, has determined, on behalf of the Commission, that publication of the proposed rules and rule amendments is in the public interest and will assist the Commission in considering the views of interested persons. Accordingly, the Division, on behalf of the Commission, is publishing the proposed rules and rule amendments for public comment. The Commission requests comment on any aspect of NYMEX's proposed new rules and rule amendments that members of the public believe may raise issues under the Act or Commission regulations.

Copies of the proposed rules and related materials are available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Copies may also be obtained through the Office of the Secretariat at the above address or by telephoning (202) 254–6314. Some materials may be subject to petitions for confidential treatment pursuant to 17 CFR 145.5 or 145.9.

Any person interested in submitting written data, views, or comments on the proposed rules or rule amendments should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, by the specified date.

Issued in Washington, DC, on February 11, 1992.

Alan L. Seifert,

Deputy Director.

[FR Doc. 92–3770 Filed 2–18–92; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0102; FAR Case 88–69]

OMB Clearance Request for Prompt Payment

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of a request for an extension to an existing OMB clearance (9000–0102).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office

of Management and Budget (OMB) a request for an extension of a currently approved information collection requirement concerning Prompt Payment.

DATES: Comments may be submitted on or before March 20, 1992.

ADDRESSES: Send comments to Mr. Peter Weiss, FAR Desk Officer, OMB, room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Beverly Fayson, Office of Federal Acquisition Policy, GSA (202) 501–4755.

SUPPLEMENTARY INFORMATION:

A. Purpose

The rule contains information collection requirements which require the approval of OMB under 44 U.S.C. 3501, et. seq.

Part 32 of the Federal Acquisition Regulation (FAR) and the clause at FAR 52.232–5, Payments Under Fixed-Price Construction Contracts, require that contractors under fixed-price construction contracts certify, for every progress payment request, that payments to subcontractors/suppliers have been made from previous payments received under the contract and timely payments will be made from the proceeds of the payment covered by the certification, and that this payment request does not include any amount which the contractor intends to withhold from a subcontractor/supplier. Part 32 of the FAR and the clause at 52.232–27, Prompt Payment for Construction Contracts, further require that contractors on construction contracts:

(a) Notify subcontractors/suppliers of any amounts to be withheld, and furnish a copy of the notification to the contracting officer;

(b) Pay interest to subcontractors/suppliers if payment is not made by 7 days after receipt of payment from the Government, or within 7 days after correction of previously identified deficiencies;

(c) Pay interest to the Government if amounts are withheld from subcontractors/suppliers after the Government has paid the contractor the amounts subsequently withheld, or if the Government has inadvertently paid the contractor for nonconforming performance; and

(d) Include a payment clause in each subcontract which obligates the contractor to pay the subcontractor for satisfactory performance under its subcontract not later than 7 days after such amounts are paid to the contractor, include an interest penalty clause which obligates the contractor to pay the subcontractor an interest penalty if payments are not made in a timely manner, and include a clause requiring each subcontractor to include these clauses in each of its subcontractors and to require each of its subcontractors to include similar clauses in their subcontracts.

These requirements are imposed by Public Law 100–496, the Prompt Payment Act Amendments of 1988.

Contracting officers will be notified if the contractor withholds amounts from subcontractors/supplies after the Government has already paid the contractor the amounts withheld. The contracting officer must then charge the contractor interest on the amounts withheld from subcontractors/suppliers. Federal agencies could not comply with the requirements of the law if this information were not collected.

B. Annual Reporting Burden

The annual reporting burden is estimated as follows: Respondents, *4,000*; responses per respondent, *3*; total annual responses, *12,000*; preparation hours per response, *33*; and total response burden hours, *4,000*.

C. Annual Recordkeeping Burden

The annual recordkeeping burden is estimated as follows: Recordkeepers, *20,000*; hours per recordkeeper, *18*; and total recordkeeping burden hours, *360,000*.

OBTAINING COPIES OF PROPOSALS: Requester may obtain copies of OMB applications or justifications from the General Services Administration, FAR Secretariat (VRS), room 4041, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0102, FAR case 88–69, Prompt Payment, in all correspondence.

Dated: February 11, 1992.

Laurie A. Frazier,

FAR Secretariat.

[FR Doc. 92–3844 Filed 2–18–92; 8:45 am]

BILLING CODE 6820-JC-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Policy Board Task Force on the Future of American Nuclear Forces

ACTION: Notice of task force meeting.

SUMMARY: The Defense Policy Board Task Force on the Future of American Nuclear Forces will meet in closed session on 3–4 March 1992 from 0800 to 1700 at the IDA Facility located at 1801 North Beauregard, Alexandria, VA 223311. The mission of the Task Force is to provide the Secretary of Defense, Deputy Secretary of Defense and the Under Secretary of Defense for Policy with independent, informed advice and opinion concerning matters relating to U.S. nuclear force policy. At the meeting the Task Force will hold classified discussions on national security matters.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended [5 U.S.C. App. II, (1982)], it has been determined that this Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1992), and that accordingly this meeting will be closed to the public.

Dated: February 13, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–3823 Filed 2–18–92; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

USAF Scientific Advisory Board Meeting

The USAF Scientific Advisory Board's Committee Global Reach-Global Power will meet on 5 March 1992, at the ANSER Corporation, Crystal Gateway 3, 1215 Jefferson Davis Highway, Arlington, VA, from 12 noon to 4 p.m.

The purpose of this meeting is to review preliminary findings.

The meeting will be closed to the public in accordance with section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–4811.

Grace T. Rowe,

Alternate Air Force Federal Register Liaison Officer.

[FR Doc. 92–3825 Filed 2–18–92; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

February 7, 1992.

The USAF Scientific Advisory Board Arnold Engineering Development Center (AEDC) Advisory Group will meet on March 23–24, 1992 from 8 a.m. to 4 p.m. Central Time at Arnold Air Force Base, Tennessee. This meeting was originally scheduled for March 16–17, 1992.

The purposes of this meeting will be to acquaint the new AEDC Advisory Group members with the mission and test facilities of AEDC and to receive feedback from the AEDC Advisory

Group on the planning process that is used to identify/select/fund/build AEDC's technical facilities. This meeting will be closed to the public, in accordance with section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4).

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 92–3759 Filed 2–18–92; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Aerial Cable Test Capability, White Sands Missile Range, New Mexico; Record of Decision

Introduction

Pursuant to Council on Environmental Quality regulations implementing the National Environmental Policy Act, this document records the U.S. Army decision to implement proposed actions for the Aerial Cable Test Capability (ACTC) at White Sands Missile Range, New Mexico.

Changing world environments and Congressionally mandated Department of Defense (DoD) budget restrictions have created a need for more efficient and less costly measures for completing critical DoD missions. As part of the Defense Central Test and Evaluation Investment Program (CTEIP), the Department of the Army has developed a program using reusable targets suspended from an aerial cable to provide greater threat realism for testing ground-to-air missiles and for testing a wide variety of active and passive electronic and optical measures. Cost savings associated with using this aerial cable system are estimated at discounted present worth of $151 million over the projected 25-year life of the facility. On an annual basis, the new aerial cable system will consume less than $2 million per year (excluding initial and recurring investments) for operational costs compared with an estimated $28.6 million per year using present techniques.

DoD agencies are engaged in ongoing development of weapons systems and countermeasures equipment. Testing of this class of material includes a large number of component and subsystem tests in addition to system level tests. Some tests require use of material dropped from airplanes; other tests require use of missiles launched against obsolete aircraft and drones. The aerial cable will replace such tests, thus eliminating the operating costs and risks involved in using aircraft.

A less expensive alternative for certain aerial testing is available through the use of an aerial cable and trolley/target system. In this approach, a single aerial cable is suspended between two mountain tops of different altitudes, and a trolley travels along the cable. This trolley can accelerate by gravity or by rocket assist. Aerial targets are suspended from the trolley, or test items are dropped from the trolley. This method of testing has proven to be less expensive than using aircraft. Other beneficial attributes include reusable targets and fast turnaround of tests.

Aerial cables were originally used by Sandia National Laboratories (SNL) to hoist sensitive weapons shipping containers to elevated positions for high velocity impacts tests. DoD has made extensive use of the aerial cable facility at SNL. The DoD components have found the facility to be an extremely useful and cost-effective method of performing developmental testing. The SNL facility was developed for different types of applications and has severe limitations for the range of test activities to be conducted at the new Aerial Cable Test Capability (ACTC). Furthermore, the controlling agency for SNL land use, Kirtland Air Force Base, has determined for safety reasons that live missile tests no longer can be conducted at the SNL aerial cable facility.

Construction of the new DoD ACTC will require a 15,000-foot-long cable, mobile targets and trolleys, and supporting facilities including construction of Upper and Lower Anchor, Support, Winch, and Explosive Storage sites. The cable will be stretched between the two anchor sites located on mountains. A rail-mounted device will be built underneath a portion of the cable to serve as a controlled path for a rocket-assisted special test fixture fastened by overhead restraints to the cable-borne trolley to increase the acceleration and resulting ground impact velocity for material dropped from the cable. An existing jeep trail affords access to the Upper Anchor site for one of the alternative sites, and an existing jeep trail will be improved to meet the requirements for a missile firing line. Areas will be cleared for access roads and building sites; buildings will be erected, and a sanitary waste disposal system will be installed. Electricity distribution systems will be extended to either alternative site from existing power distribution systems.

The ACTC will be used for engineering tests involving up to 80 live missile firings per year, and up to 320 other tests involving material dropped from the aerial cable or tests of electroptical and electronic sensors using cable-borne trolleys. Missiles launched at aerial targets will be inert; i.e., no live warheads will be used. Tests would involve a range of electronic and explosive ordnance material.

Alternatives

Originaly, 19 different locations within the continental United States were considered for this project. These locations were one each at China Lake, Nellis Air Force Base (AFB), Yuma Proving Grounds, Goldwater Bombing Range, Rattlesnake Ridge (Fort Bliss), Madera Canyon (Kirtland AFB), Eglin AFB, and eleven sites at White Sands Missile Range (WSMR). After site evaluations were completed, two candidate locations were selected for complete environmental analyses as reasonable alternatives. The sites deleted from consideration either were less suitable operationally than the reasonable alternatives, or created a potential for unacceptable levels of interference with other DoD programs.

Three alternatives were considered in the Final EIS. The first is to install the proposed ACTC at Jim Site at WSMR. The second is to install the proposed at ACTC at Fairview Mountain at WSMR.

The third is the no action alternative. The impacts associated with each of these three alternatives were analyzed in the Final EIS.

No Action Alternative

As noted above, the ACTC would supplant current DoD testing conducted through use of a combination of drone targets and manned aircraft flights. If the ACTC is not constructed (the no action alternative), current operations could continue. To duplicate the testing proposed for the ACTC facility, conventional range operations would have to be undertaken as follows:

- Up to 65 drone targets would be launched annually.
- Up to 33 of these would be destroyed.
- Up to 15 manned aircraft missions would be flown to test a short-range air-to-ground missile.
- Up to 335 manned aircraft sorties would be flown annually, including those needed to test the short-range missile.

Conventional range operations have environmental impacts. The environmental impact of those operations will continue if the ACTC facility is not constructed. Some of the more significant environmental consequences of current range operations that would not occur with the ACTC in place are summarized here.

Aircraft sorties are typically flown using combat aircraft. Under the no action alternative, three hundred and thirty-five sorties would be expected to consumer an estimated 335 tons of fuel annually. Using standard emission factors, the consumption of 335 tons of aircraft fuels would lead to the production of up to 120 tons per year of airborne gaseous contaminants. Drone aircraft typically consume 650 pounds of fuel per mission. Sixty-five missions would require an additional 21 tons of annual fuel consumption, and would represent an additional 75 tons of air contaminants.

Because live missile are fired and impact drones, some 33 drones would be destroyed annually. The destroyed drones would crash and spread debris on the range. Most of the residue from these crashes would be recovered, but some residual contamination would occur. Because drones are powered by jet engines, some of the residue would be hydrocarbon fuel and engine oil. A crash also represents a risk of igniting a range fire.

Conventional range operations consume significant quantities of scarce natural resources. The ACTC facility would reduce that consumption. Under the no action alternative, flight operations over the 25-year lifetime of the facility would consume over 8,900 tons of petroleum fuel and produce 3,200 tons of air contaminants. Up to 825 drone aircraft would be destroyed at an average cost of approximately $500,000 each depending on configuration and equipment aboard. Each drone contains significant quantities of scarce and strategic metals and other materials.

The no action alternative would preclude all adverse and beneficial ACTC environmental and economic impacts, but it would continue adverse environmental impacts of current operations.

Alternative Sites

The Final Environmental Impact Statements (EIS) for this project evaluates two alternative sites at WSMR:

Jim Site, the preferred alternative, is a combination of a high mountain peak and an adjacent lower hill. The cable would be suspended between the two hills.

Fairview Mountain, would be a combination of a high mountain peak and a man-made tower 600 to 1,000 feet high. The cable would be suspended between the mountain and the tower.

At both alternative sites, buildings would be constructed, a sanitary waste disposal system would be built, and electrical distribution lines would be constructed. Because the Fairview alternative would require construction of a new access road approximately 7.2 miles long to the top of Fairview Mountain, and because an expensive tower would have to be constructed, this alternative site would cost $20 million more than would the Jim Site alternative. In addition, because the tower would limit the operational flexibility of the site because of safety concerns for potential missile impacts on the tower, the Fairview alternative is less suitable than Jim Site from an operational perspective.

Impacts/Mitigation

Environmental analyses were made for candidate locations at Jim Site and Fairview Mountain. These analyses are used in the Final EIS to develop potential environmental consequences.

Based on records, reports, and visits to the prospective ACTC sites, qualified experts reviewed the potential environmental impacts within applicable expertise. Using an interdisciplinary approach, each of the potential environmental factors was evaluated to determine if an environmental effect would result from ACTC construction and operation. These potential impacts are summarized below.

Construction and operation of ACTC at Jim Site would have minimal consequences for most of the environmental categories. During construction of ACTC facilities, 910 acres would be temporarily disturbed and approximately 143 acres would be transformed to include removal of vegetation and soil disturbance. An additional 60 acres would be disturbed frequently by missile recovery operations in the nominal missile impact area. This habitat disruption effects only a tiny percentage of the suitable habitat for mule deer, pronghorn antelope, and oryx. Accordingly, no significant impact will result to these species. For the Fairview alternative, acreage for habitat disruption would be similar to Jim Site; however, the construction of the access road to the top of Fairview Mountain and construction of the tower would have more significant impact than construction activities at Jim Site.

Construction at Jim Site could cause loss of one individual plant of the New Mexico endangered long-stemmed talinum. The plant will be transplanted outside of construction area. Chances of survival are low; however, the loss of this individual plant does not threaten the species. Final construction siting will avoid this one plant. ACTC operations have an insignificant potential cumulative annual risk that these operations would cause the destruction of one individual plant on the federal or New Mexico threatened or endangered species lists. The area includes one federal Category 2 plant species (grama grass cactus), and three New Mexico endangered species (Wright's fishhook cactus, white-flowered visnagita, and long-stemmed talinum). The cumulative risk of loss indicates that less than one individual plant on the lists of threatened or endangered species would be destroyed in the 25-year expected life of the ACTC facility. The potential loss of one individual plant on this list does not represent a significant potential for permanent and irreversible harm to the survival of the species. For the Fairview alternative, the same plant species exist in greater density. Accordingly, the potential risk to sensitive plant species is greater at Fairview than at Jim Site.

An analysis has been completed of air emissions and fugitive dust from construction and operations. At Jim Site an estimated 30 tons of dust and 13 tons of gaseous atmospheric contaminants per year would be generated during construction. The gaseous contaminants represent an insignificant impact to the environment. Annual emission rate of dust would slightly exceed the New Mexico Standard for Significant Emission Rates; however, concentrations would not exceed the state and federal significant impairment levels. Moreover, naturally occurring dust levels are high enough that dust generation by ACTC construction at Jim Site does not represent a significant impact. For the Fairview alternative, between 77 and 164 tons of dust would be generated during construction depending upon the type of tower constructed. Annual emission rate of dust would greatly exceed the 25 tons per year allowed by the New Mexico Standard for Significant Emission Rates.

During operations at either alternative site, annual dust emissions of approximately 23.5 tons would be less than the New Mexico Standard for Significant Emission Rates. Mitigation measures will prevent the amount of lead released into the atmosphere from exceeding the New Mexico Standard for Significant Emission Rates.

Construction and operation of ACTC at Jim Site has the potential for significant impact to the federally and New Mexico protected raptors, Colorado chipmunks, Texas horned lizards, and Oscura Mountains land snails. Mitigation measures which are described in detail in the Final EIS will prove adequate to assure that potential impacts can be reduced to insignificance. Mitigation measures for the chipmunks, lizards and snails include avoidance, restrictions in construction and in access which will be enforced by clauses in the contract and by standard operating procedures (SOPs). Mitigations for raptors are described below. For the Fairview alternative, construction and operation has the potential for significant impact to raptors and Texas horned lizards. Mitigation measures are the same as those for Jim Site.

At either site, noise levels from the construction equipment and blasting could be up to 120 dB (at one meter distance) and less than 80 dB (100 meters away) at the building sites and along the roads. These noise levels have potentially significant impact on human health and nesting raptors. Construction operations at Fairview would involve twice as much heavy equipment and construction blasting; hence, elevated noise levels would be environmentally disturbing over a longer period than at Jim Site. Human health concerns will be mitigated to insignificance by imposing requirements for hearing protection for equipment operators and by imposing mandatory evacuation measures for other personnel who might be exposed to elevated levels of noise. These requirements and measures are already incorporated in WSMR SOPs. Concerning potentially significant impact to protected raptor species, two possible raptor nests were identified near the preferred Jim Site, and two raptor nests are located near the Fairview alternative site. None of these nests were occupied during raptor surveys. Depending on the results of a follow-on raptor survey after final site selection, a potential concern is that the noise from ACTC could disturb the mating and nesting cycle. Potential impact from construction noise will be mitigated by imposing limitations on explosive weight and by proper tamping of the explosive charges. If the presence of nesting raptors is confirmed by follow-on surveys, effects of operational noise from the cable-dropped munitions and booster rockets will be minimized by mitigation measures developed in consultation with the U.S. Fish and Wildlife Service. These measures will be implemented by National Range Operations Policy Letter or incorporated into the ACTC operations SOP.

Potential electromagnetic interference and radiation hazards from ACTC operations at either alternative site would consist of safe levels currently resulting from equipment now in service at WSMR. These levels meet current standards for human health and safety; the ACTC project would impose no unusual usage for these items. Specific equipment items will be determined for each ACTC test during test scheduling; coordination will be made with the DoD Area Frequency Coordinator to assure no interference would result.

At Jim Site, fourteen prehistoric sites were found within the area potentially affected by the ACTC project; careful siting of construction sites and mitigation will result in no adverse effects. For eight of these sites, effects will be mitigated by re-siting roads and facilities to avoid the prehistoric sites. Effects on four sites will be mitigated by a data retrieval program if testing for significance results in a finding of eligibility for inclusion in the National Register of Historic Places. Surveys found three earthen tanks; two of these tanks are not associated with structures or artifacts and are not considered to be eligible for inclusion on the National register of Historic Places. Two minor prehistoric sites contained historic components. South 10,000 Bunker (part of Trinity Site National Historic Landmark) is outside the nominal missile impact area; nevertheless, as a mitigation measure, this site was recorded. Askania Tower at Miller's Watch, of interest to early WSMR history, is within the nominal missile impact area. This site was recorded to mitigate potential effects. McDonald Ranch House (also part of Trinity Landmark) is located in the nominal missile impact area. Mitigation measures to protect this structure include limitations on missile launch azimuths and range to limit the risk of planned missile impacts within a distance of 0.5 km away from the structures. The Mitigation Plan contained in the Final EIS for this project includes the WSMR commitment to repair any unplanned damage that might occur to the McDonald Ranch House complex.

To minimize potential risks to cultural resources resulting from missile recovery operations, vehicular access will be tightly controlled, and limited to existing jeep trails which will be surveyed to assure absence of cultural resources. These controls will be implemented by application of existing WSMR Recovery SOPs. Final engineering design will include consultation with the New Mexico State Historic Preservation Officer (NMSHPO) to assure that new ACTC structures and new roads will not be visible from the Trinity Site National Historic Landmark. If determined to be visually objectionable, the aerial cable will be lowered to preclude visual impact, and the aircraft warning lights would be turned off during the twice-annual public access days. Application of proposed mitigation measures should reduce potential adverse effects. All mitigative actions will be conducted in consultation with the NMSHPO and in accordance with Section 106 of the National Historic Preservation Act. Mitigation measures developed will be implemented by incorporation in contract clauses (for construction and design measures) and by policy letter for measures concerning public access. Effectiveness will be monitored by the WSMR Environmental Services Archeologist.

For the Fairview alternative, the area contains a high density of prehistoric and historic resources. An estimated 1,350 prehistoric sites could exist in the area influenced by operations at the Fairview alternative. The area also contains three historic structures rich in cultural resources, and an additional historic structure area lies just outside the nominal ACTC missile impact area. These historic and prehistoric areas would be protected by mitigation measures including restrictions to missile launch azimuths and ranges, and by placing the sites off limits to all personnel. Nonetheless, the increased human presence in this area would cause potential for adverse effect. Effectiveness will be monitored by the WSMR Environmental Services archeologist.

Erection and operation of the 15,000-foot-long cable assemblage represents a potentially significant flight obstruction to presently scheduled military aircraft training operations. The presence of a 600 to 1,000 foot tower at Fairview causes this alternative to have greater potential for aircraft flight hazards than the Jim Site alternative. Aircraft force structure changes occurring in the next several years at Holloman AFB will reduce aircraft sortie rates in WSMR airspace by approximately 60 percent. Accordingly, many fewer aircraft potentially will be exposed to flight obstructions, and joint scheduling of ACTC and aircraft operations will minimize potential conflicts. WSMR's mission as a research and development support facility requires that training missions be given a lesser priority during the scheduling process. Additionally, the airspace scheduling process assures that pilots in the area are aware of local hazards to aviation. Mitigation measures including scheduling will minimize potential impact on aircraft flight safety.

Analyses were conducted to determine the impacts of ACTC construction and operation on energy resources. ACTC predicted peak electricity requirement of 1,664,000kWh per year represents a 2 percent increase over existing WSMR consumption. Existing distribution lines with adequate capacity are within 3 miles of Jim Site, and power distribution lines can be extended to Jim Site with insignificant environmental effects. These power distribution lines will be constructed to meet requirements for protection to raptors from entanglement and electrocution. For the Fairview alternative, the required new distribution lines would be almost 11 miles long and would represent greater disturbance during construction and a higher risk of raptor disturbance during operation than the Jim Site alternative.

The study of the environmental effects of installing and operating ACTC at either alternative site also included investigation of the effects of soil compaction and settling, waste control during construction and operation, impact of ACTC construction and operation on ground water supplies, and potential impact to human health from elevated noise levels. Socioeconomic concerns have been analyzed including economic base, employment, housing availability, schools, and community protective services. A positive impact could result on the economic base and employment rates at the nearest affected community, Carrizozo. Based on the factors considered in the Final EIS, potential impacts from sanitary waste discharge systems and hazardous and toxic wastes are insignificant. The cumulative effect of these categories is projected to result in an insignificant impact.

The potential for significant effect at Jim site will be mitigated to ensure environmental impacts are avoided, minimized, and properly mitigated where unavoidable. A summary of mitigation measures to be taken prior to initiation of construction and measures to control sensitive cultural resources are summarized as follows.

Potential impacts to threatened and endangered plant species will be mitigated by avoidance. Final facilities siting actions will be monitored by a qualified botanist to assure actions are taken to avoid identified and marked threatened and endangered plant species.

Potential impacts to nesting raptors will be mitigated by actions to be taken in consultation with the U.S. Fish and Wildlife Service and the New Mexico Game and Fish Department based on the results of a follow-on raptor survey to be completed after final site selection and before initiation of construction. Agreements reached through consultation will be implemented by policy letters or SOPs when the measures pertain to recurring operations. Potential visual impacts to Trinity Site National Historic Landmark will be mitigated by assuring that final site selection considers visual impact to Trinity Site National Historic Landmark, and by facilities siting to minimize visual contrast as viewed from Trinity Site. In addition, road construction corridors will be revegetated so that the road corridor blends with the natural terrain (revegetation will be a requirement included in the construction contract). Moreover, structures will be painted so as to blend with the natural terrain. Potential impacts to the historic McDonald Ranch House complex (part of Trinity Landmark) will be mitigated by using a 0.5-km radius buffer zone, created on McDonald Ranch House, in which no planned missile impacts will occur. The Advisory Council on Historic Preservation has reviewed the mitigation measures proposed in the Draft EIS and agrees that no adverse effects would result for McDonald Ranch House or Trinity Site National Historic Landmark. Potential impacts to human health from elevated noise levels will be mitigated by operational procedures designed to assure that hearing protection measures are employed, and that personnel will be evacuated from areas of high noise level during scheduled testing operations.

Decision

In considering the advantages of the ACTC project compared to the costly and environmentally significant impact resulting from current testing operations (the no-action alternative) I have decided that the Army will construct the ACTC project.

After considering all alternatives and based on the analyses and evaluation process completed for the Aerial Cable Test Capability, I have decided that the best location for this project is Jim Site at White Sands Missile Range, New Mexico. Construction of the project will begin in fiscal year (FY) 92. That location offers the greatest cost savings over the short- and long-term to meet Army and DoD objectives.

This decision is based on my review of the Final Environmental Impact Statement (FEIS) entitled "Aerial Cable Test Capability," dated October 10, 1991, which was filed with the Environmental Protection Agency on November 22, 1991. I have considered comments and suggestions which were offered by the public and governmental representatives. Jim Site is clearly the environmentally preferred alternative. Jim Site is also the Army's preferred alternative from technical and operational considerations, and is the less costly of the two alternative sites in initial and long-term costs.

A complete Mitigation Plan, including those measures which will be taken to reduce impacts to insignificance for other environmental categories, is included in the Final EIS, and that Mitigation Plan is incorporated into and adopted by this decision.

Monitoring/Enforcement

The extent and complexity of the mitigation which is part of this decision mandates a monitoring program. The program will ensure both enforcement and effectiveness of the stated mitigation measures to ensure compliance with environmental standards and controls applicable to the ACTC.

Commander, U.S. Army, White Sands Missile Range, New Mexico, will have overall responsibility for implementation of the mitigation plan, development of alternative standards, and for implementation of the monitoring program. The Army will provide all necessary resources to execute the mitigation plan.

Enforcement monitoring will include review of all efforts to be performed at the ACTC to include all proposed contracts involving test activities at the ACTC to ensure that those efforts contain appropriate contract provisions consistent with planned mitigation. Funding of planned activities will be made contingent on review and consistency with the mitigations outlined in the FEIS.

Effectiveness monitoring will include development of plans for relevant mitigation actions. Baseline data will be developed as the measure against which effectiveness will be judged. Monitoring results of relevant mitigation will be made available to commenting agencies and to the public upon request. Routine reporting on the status and results of mitigation actions will be accomplished annually through normal command channels.

Dated: December 30, 1991.

Walter W. Hollis,

Deputy Under Secretary of the Army (Operations Research).

[FR Doc. 92-3880 Filed 2-18-92; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Following Actions in the East Channel of the Mississippi River at Prairie due Chien, WI

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The St. Paul District, Corps of Engineers, has received a permit application from Prairie Sand and Gravel, Inc., to develop/expand port facilities in the East Channel of the Mississippi River at Prairie du Chien, Wisconsin, for the following activities: (1) Regulatory Permit Actions to Expand/Develop Commercial/Recreational Port Facilities; (2) Corps of Engineers Operation/Maintenance Activities; and (3) Other Federally-Authorized Commercial/Recreational Uses.

Nationally significant natural, cultural, and socioeconomic resources exist in the vicinity of Prairie due Chien. Development or expansion of port facilities and the expected associated increase in navigational activities could result in significant impacts to these resources. To achieve an environmentally sustainable permit decision, and EIS which evaluates the pending permit actions, and operation/maintenance of the Federally-authorized nine-foot channel, commercial harbor and small-boat harbor projects in the East Channel will be prepared.

FOR FURTHER INFORMATION CONTACT: Questions concerning the DEIS can be directed to: Colonel Richard W. Craig, District Engineer, St. Paul District, Corps of Engineers, Attn: Mr. Dave Ballman, 180 Kellogg Blvd. E., room 1421, St. Paul, Minnesota 55101-1479, (612) 220-0373.

SUPPLEMENTARY INFORMATION: An array of alternatives to port facility development/expansion and operation/maintenance of the Federal channel and harbor projects in the Prairie due Chien area will be evaluated, including, but not limited to: (1) Development/expansion at various sites with continued operation/maintenance of the East Channel, (2) development/expansion at various sites with limitations on navigation activities and operation/maintenance of the East Channel, (3) development/expansion at various sites with no further operation/maintenance of the East Channel and (4) no action (permit denial with continued operation/maintenance of the East Channel on an as needed basis).

Significant issues and resources to be analyzed in the DEIS will be identified through coordination with responsible Federal, State and local agencies, the general public, interested private organizations and parties, and affected Native Americans. Anyone who has an interest in participating in the development of the DEIS is invited to contact the St. Paul District, Corps of Engineers.

Significant issues identified to date for discussion in the DEIS are as follows:

1. Impacts on the Federally-listed endangered species *Lampsilis higginsi* and other mussel species,
2. Impacts on significant cultural resources in the Prairie du Chien area,
3. Impacts on Federally-authorized projects (Nine-foot Channel, commercial harbor, small-boat harbor),
4. Impacts on the Upper Mississippi River Wildlife and Fish Refuge.

Additional issues of significance will be identified through public and agency meetings. An initial public scoping meeting will be held at an as yet undetermined date, place and time. A notice will be published or aired in local media (newspapers and radio) once this initial meeting has been scheduled. Additional meetings will be held as deemed necessary.

Our environmental review and consultation will be conducted according to the requirements of the National Environmental Policy Act of 1969, National Historic Preservation Act of 1966, Council on Environmental Quality Regulation, Endangered Species Act of 1973, Clean Water Act, Rivers and Harbors Act of 1899, and applicable Corps and Engineers regulations and guidance.

We anticipate that the DEIS will be available to the public in June of 1993.

Dated: February 7, 1992.

Richard W. Craig,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 92-3843 Filed 2-18-92; 8:45 am]

BILLING CODE 3710-CY-M

DEPARTMENT OF EDUCATION

[CFDA No.: 84.235L]

Program of Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals With Severe Handicaps

Notice inviting applications for new awards for fiscal year (FY) 1992.

Purpose of Program: This program provides support through grants or cooperative agreements to State and other public and nonprofit agencies and organizations to expand or otherwise improve rehabilitation services for individuals with severe handicaps.

This program as well as the invitational priority supports AMERICA 2000, the President's strategy for moving the Nation toward the National Education Goals, by providing vocational rehabilitation, retraining, and placement for individuals with handicaps. These services will help to prepare participants for responsible citizenship, further learning, and productive employment as called for by the National Education Goals.

Awards under this competition are for one-time start-up costs for projects designed to initiate a system of regional (multi-State) comprehensive head injury rehabilitation and prevention centers.

Eligible Applicants: States and public and nonprofit agencies and organizations are eligible to apply for awards under this program.

Deadline for Transmittal of Applications: April 15, 1992.

Deadline for Intergovernmental Review: June 15, 1992.

Applications Available: February 21, 1992.

Available Funds: $6,000,000.

Estimated Range of Awards: $2,800,000-3,200,000.

Estimated Average Size of Awards: $3,000,000.

Estimated Number of Awards: 2.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 48 months. A grant under this competition will include funding for the entire project period. However, disbursement of grant funds will be made throughout the project period on the basis of grantee need and subject to accomplishment of project objectives.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 369 and 373.

Priority: Under 34 CFR 75.105(c)(1) and Public Law 102-170 the Secretary is particularly interested in applications that meet the following invitational priority. An application that meets this invitational priority does not receive competitive or absolute preference over other applications. However, by statute, all applications must be for projects designed to establish regional comprehensive head injury rehabilitation and prevention centers.

Model Centers that demonstrate improved systems of prevention, acute care, and rehabilitation directed at reducing the human and economic consequences of traumatic head or brain injury, with special emphasis on vocational rehabilitation, retraining, and placement. The activities of the centers may emphasize—(1) Prevention; (2) Outreach; (3) Identification and elimination of barriers to effective rehabilitation services; (4) Systemization of care (improving the organization of the spectrum of services required by people with traumatic head or brain injury); (5) Follow-up by families, schools, and rehabilitation providers; and (6) Close consultation with and participation of individuals with traumatic head or brain injury and their families in the design and conduct of the centers. The Secretary is especially interested in applications from States or regions in the country where the incidence of traumatic head or brain injury is high relative to the national average.

For Application or Information Contact: Bruce Rose, U.S. Department of Education, 400 Maryland Avenue, SW., room 3332, Switzer Building, Washington, DC 20202-2649. To request an application, call (202) 732-1347; to receive further information, call (202) 732-1325; deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1-800-877-8339 (in the Washington, DC 202 area code, telephone 708-9300) between 8 a.m. and 7 p.m., Eastern time.

Program Authority: 29 U.S.C. 777a(a)(1).

Dated: February 12, 1992.

Robert R. Davila,

Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 92-3776 Filed 2-18-92; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Financial Assistance Award; Intent To Award a Noncompetitive Cooperation Agreement

AGENCY: U.S. Department of Energy.

ACTION: Notice of noncompetitive award of cooperative agreement.

SUMMARY: The DOE announces that it plans to award a cooperative agreement to the Environmental Protection Division, Georgia Department of Natural Resources (GDNR), 205 Butler Street, SE, Floyd Towers East, Atlanta, GA 30334, for the conduct of an Investigation of Tritium in Aquifers in Burke County, Georgia. Term of the agreement is eighteen months (18) with DOE support of $800,000. Pursuant to § 600.7(b)(2)(i)(C) of the DOE Assistance Regulations (10 CFR part 600), DOE has determined that a noncompetitive award is appropriate since the applicant is a unit of government and the activity to be supported is related to performance of their function within the subject jurisdiction.

FOR FURTHER INFORMATION CONTACT: Elizabeth T. Martin, Contracts Management Branch, U.S. Department of Energy, Savannah River Field Office, P.O. Box A, Aiken, SC 29802, Telephone: (803) 725-2191.

SUPPLEMENTARY INFORMATION:

Procurement Request Number: 09-92SR18268-001.

Project Scope

Under this agreement, the GDNR will perform a hydrogeologic investigation of tritium in aquifers in Burke County. This agreement will enable the State of Georgia to establish a baseline for monitoring and evaluating the level of tritium contamination and identifying the source of contamination in the shallow aquifers of Burke County. The information will augment the U.S. Geological Survey's Regional Groundwater Study and attempt to characterize the direction of groundwater flow in the vicinity of the Savannah River Site (SRS).

The GDNR is the authorized and qualified state regulatory agency to perform the functions covered by this agreement. Existing agency personnel are familiar with the activities conducted at the SRS and are competent in the duties required to complete the study.

DOE has determined that this award to GDNR on a noncompetitive basis is appropriate.

Issued in Aiken, South Carolina on 10, 1992.

Peter M. Hekman, Jr.,

Manager, DOE Savannah River Field Office, Head of Contracting Activity.

[FR Doc. 92-3850 Filed 2-18-92; 8:45 am]

BILLING CODE 6450-01-M

Financial Assistance Award; Intent To Award a Noncompetitive Grant

AGENCY: U.S. Department of Energy.

ACTION: Notice of noncompetitive award of grant.

SUMMARY: The DOE announces that it plans to award a grant to the Lower Savannah Council of Governments (LSCOG), Aiken, South Carolina, to conduct a regional solid waste management feasibility study. The grant will be awarded for a one-year period with DOE support of $147,478. Pursuant to § 600.7(b)(2)(i)(B) of the DOE Assistance Regulations (10 CFR part 600), DOE has determined that a noncompetitive award is appropriate since the activity would be conducted by the applicant using its own resources or those donated or provided by third parties; however, DOE support of the activity would enhance the public benefits to be derived.

FOR FURTHER INFORMATION CONTACT: Elizabeth T. Martin, Contracts Management Branch, U.S. Department of Energy, Savannah River Field Office, P.O. Box A, Aiken, SC 29802, Telephone: (803) 725-2191.

SUPPLEMENTARY INFORMATION:

Procurement Request Number: 09-92SR18267.001.

Project Scope:

This study will be conducted to evaluate the technical and institutional options available to establish a cooperative solid sanitary waste management program, between the DOE's Savannah River Site (SRS) and the South Carolina Counties of Aiken, Barnwell, Allendale, Bamberg, Calhoun, Orangeburg, Edgefield, Saluda, and McCormick. LSCOG will perform the necessary waste characterization studies and analyses of alternatives for treatment and disposal and for construction and operation of a joint municipal solid waste management program. The treatment and disposal alternatives could range from landfill and public education programs for waste reduction innovations or recycling to a waste to energy facility. A regional concept could benefit the DOE as well as the counties by providing a cost efficient, environmentally sound method to handle municipal waste. In addition, DOE feels this program would protect two of the area's most valuable natural resources—land and groundwater.

The LSCOG was created by the General Assembly of the State of South Carolina for the purpose of coordinating and promoting cooperative programs and actions among its members, for providing technical assistance and to make recommendations on matters affecting the public health, safety, education, pollution control, utilities, planning, development and such other matters as the common interest of the participating governments may dictate. LSCOG is the appropriate entity to perform the functions covered under this grant; and DOE has determined that this award on a noncompetitive basis is appropriate.

Issued in Aiken, South Carolina on February 10, 1992.

Peter M. Hekman, Jr.,

Manager, DOE Savannah River Field Office, Head of Contracting Activity.

[FR Doc. 92-3851 Filed 2-18-92; 8:45 am]

BILLING CODE 6450-01-M

Financial Assistance Award; Intent To Award a Noncompetitive Grant

AGENCY: U.S. Department of Energy.

ACTION: Notice of noncompetitive award of grant.

SUMMARY: The DOE announces that it plans to award a grant to the South Carolina Department of Health and Environmental Control (SCDHEC), 2600 Bull Street, Columbia, SC 29201 for emergency response to radiological and hazardous materials at the DOE's Savannah River Site (SRS) near Aiken, SC. The grant will be awarded for a five-year period at an estimated cost of $2,330,668. Funds of $534,420 will be provided for the first year. Pursuant to § 600.7(b)(2)(i)(C) of the DOE Assistance Regulations (10 CFR part 600), DOE has determined that a noncompetitive award is appropriate since the applicant is a unit of government and the activity to be supported is related to performance of their function within the subject jurisdiction.

FOR FURTHER INFORMATION CONTACT: Elizabeth T. Martin, U.S. Department of Energy, Savannah River Field Office, Contracts Management Branch, P.O. Box A, Aiken, SC 29802, Telephone: (803) 725-2191.

SUPPLEMENTARY INFORMATION:

Procurement Request Number: 09-92SR18264.001.

Project Scope

SCDHEC shall develop and maintain effective State and local radiological and hazardous material emergency preparedness capabilities for responding to an emergency at the SRS. In addition, the grantee will coordinate State and local emergency plans and procedures development, training, and public awareness programs and emergency response exercise participation.

SCDHEC is the authorized and qualified State regulatory agency to perform the functions covered under this grant.

DOE has determined that this award to SCDHEC on a noncompetitive basis is appropriate.

Issued in Aiken, South Carolina on: February 10, 1992.

Peter M. Hekman, Jr.,

Manager, DOE Savannah River Field Office Head of Contracting Activity.

[FR Doc. 92-3852 Filed 2-18-92; 8:45 am]

BILLING CODE 6450-01-M

Bonneville Power Administration

Proposed Scope of Consideration for Potential 1993 Rate Adjustments

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Proposal to establish the scope of issues for consideration in BPA's 1993 rate case; opportunity for public review and comment.

SUMMARY: BPA has begun informal discussions that may result in an adjustment to its rates for power and transmission services on October 1, 1993. At a workshop in November 1991, BPA, its customers, and other interested parties began to identify and analyze issues that could be effectively addressed in 1993 or other future rate cases. Informal work groups were established to discuss potential issues.

During BPA's last rate proposal, completed in 1991, BPA considered developing new rate designs. BPA recognizes the continued interest of various parties in the region in alternative rate designs, and plans to address alternative rate designs within the next few years. However, because of the need to address a manageable number of issues for the prospective 1993 rate case, and to enable the analysis of alternative rate designs that comprehend and take advantage of the results of other processes now underway, BPA believes that to propose significant changes in current rate designs would be inappropriate for rates to be filed in 1993. This supports the desire of BPA's customers for rate stability and would avoid consideration of rate design changes at a time when significant uncertainty exists about the circumstances in which the 1993 rates would be applied. Instability could result from making design changes in 1993 that may require changing again in subsequent rate cases. BPA thus proposes that scope of the 1993 rate case would encompass rate case issues concerning revenue requirement (possibly including consideration of a Cost Recovery Adjustment Clause), transmission rate development, implementing the requirements of section 7(b)(2) of the Pacific Northwest Electric Power Planning and Conservation Act, allocation of costs that are new in this rate case, and contested issues raised by parties in the 1991 rate case but deferred by settlement of that case. The proposed scope would not include a redesign of any of the current rate structures.

BPA wishes to receive comments on its proposal to define the issues for consideration in the 1993 rate case. Comments received also will help to determine the scope of the environmental review that BPA performs consistent with the National Environmental Policy Act (NEPA) for decisions that will be made in the 1993 rate case.

BPA will hold a public meeting, in conjunction with the third rate issues workshop, at 9:30 a.m. on March 10, 1992, at the 6th Floor Ballroom, Execulodge-Convention Center, 1021 NE. Grand Avenue, Portland, Oregon 97232, to discuss this proposal to define the scope of the initial 1993 rate case proposal. Participation in this meeting is encouraged, even for those parties who wish to submit written comments. Further details on the substance and process of BPA's proposal appear below.

ADDRESSES: Written comments should be submitted by March 25, 1992, to the Public Involvement Manager—ALP, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT: Ms. Shirley Price at the above address or by telephone at 503-230-3478. Callers outside of Portland may call 800-622-4519. Information may also be obtained from:

Mr. George E. Bell, Lower Columbia Area Manager, suite 243, 1500 NE., Irving Street, Portland, Oregon 97232, 503-230-4551.

Mr. Robert N. Laffel, Eugene District Manager, room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503-465-6952.

Mr. Wayne R. Lee, Upper Columbia Area Manager, room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509-353-2518.

Ms. Carol S. Fleischman, Spokane District Manager, room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509-353-2907.

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406-329-3060.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, room 307, 301 Yakima Street, Wenatchee, Washington 98801, 509-662-4377, extension 379.

Mr. Terence G. Esvelt, Puget Sound Area Manager, P.O. Box C19030, suite 400, 201 Queen Anne Avenue North, Seattle, Washington 98109-1030, 206-553-4130.

Mr. Thomas V. Wagenhoffer, Snake River Area Manager, 101 West Poplar, Walla Walla, Washington 99362, 509-522-6225.

Mr. Richard Itami, Idaho Falls District Manager, 1527 Hollipark Drive, Idaho Falls, Idaho 83401, 208–523–9137.

Mr. Thomas H. Blankenship, Boise District Manager, room 450, 304 N. 8th Street, Boise, Idaho 83702, 208–334–9137.

SUPPLEMENTARY INFORMATION: The rate development process takes place in several steps that include months of analysis and numerous opportunities for public comment. There are also several processes preceding the rate-setting process that provide necessary information for setting rates. One of these processes is Programs in Perspective (PIP), in which BPA's program spending levels and financial goals are reviewed and discussed. PIP is a public consultation throughout BPA's service area in which BPA officials discuss agency strategy and financial information with interested persons. Topics alternate annually between specific program funding levels and general strategic issues. The 1992 PIP will engage the region in discussion of BPA's planned program levels for fiscal years 1994 and 1995 in the context of BPA's proposed 10-Year Financial Plan and projected effects on BPA's rates, with emphasis on the 1994–1995 period. Comments received from these discussions will aid BPA in determining its program spending plans and financial goals for the fiscal 1994–1995 period. Information from PIP will become part of the revenue requirement for the 1993 rate case.

In the last several rate cases, BPA and its customers have made a concerted effort to simplify and shorten the formal hearing process. This effort began after BPA's 1987 general rate case, and was prompted by concerns that the process was too long and costly, and unduly contentious and formalistic. Allowing time before the formal proceeding to raise and discuss issues in an attempt to resolve them, and doing this with realistic numbers, enables a shortening of the formal process. BPA's experience has been that reducing the contentiousness and time required for the formal hearings makes the rate-setting process more efficient and productive.

In anticipation of the next biennial BPA rate filing, informal issue work groups were formed at the rate issue workshop in November 1991 to analyze certain rate issues. A second workshop was held on January 8, 1992, to continue discussions and follow up on the progress of the work groups. At the third workshop, scheduled for March 10, 1992, participants will continue discussions from work groups and previous workshops and also will discuss this proposal to define the scope of BPA's initial proposal for the 1993 rate case. The comments received on this proposal will assist BPA in establishing the scope of BPA's environmental review consistent with NEPA for decisions regarding the 1993 rate case.

For a number of reasons, it appears prudent to consider rate design issues after the 1993 rate case. First, there is considerable uncertainty about hydrosystem operations, based on changes which may be adopted in response to the listings of certain salmon species under the Endangered Species Act (ESA) and the ongoing Columbia River System Operation Review (SOR) process. Rate design changes compatible with current operations could require modification to conform to possible changed operations in the future. Rate design changes to influence operations would take a significant period of time to affect operations, and by that time the ESA and SOR processes may dictate a different result. In addition, the results of marginal cost analyses in support of new rate designs could be subject to significant change until river operations are settled.

Second, BPA's business relationship with its customers will be analyzed in the process of negotiating replacement contracts for the current long-term firm power contracts with utilities and Direct-Service Industries. The result of this process may affect BPA's rate designs by changing the terms under which BPA provides firm requirements service. It would be imprudent to attempt to redesign BPA's rates until the general terms of these contracts are known. Once the general terms are known, the rate design can properly reflect the relationship defined by the contracts. Both the SOR and the negotiation of new contracts are scheduled for completion in 1994, not in time for the 1993 rate case.

Third, BPA and rate case participants must also focus on a multitude of important regional activities during this same time period, including resource acquisitions and power purchases to meet load growth, recovery plans for fish and wildlife in the region, and the development of BPA's 10-Year Financial Plan. Rapid developments in these areas will require close attention from all rate case parties.

Fourth, there are numerous unresolved issues which need to be addressed in the 1993 rate case. One area of concern is transmission rates, including a current need to increase transmission rates to reflect actual costs of service and pending Federal legislation that may affect transmission rates. Another area of concern is carryover issues from the 1991 rate case.

Fifth, although regional interest in a "tiered rate" design has stimulated discussion of this type of rate design, preliminary discussions have shown that further analysis is needed before a conclusion can be reached on tiered rates or before a rate proposal can be formulated.

Last, the potential that BPA's revenue requirement will increase substantially to pay for resource acquisitions and fish protection measures will require substantial attention from rate case participants without the added element of rate design.

The combination of uncertainty about future operations and numerous points of potential controversy, even without consideration of rate design alternatives, support analyzing rate designs in a later rate case.

BPA's customers have supported rate design stability to give them greater certainty in their own business planning, and BPA holds rate stability as one of its ratemaking goals. By directing the 1993 rate case toward rate levels, and addressing rate design when the results of the SOR, ESA, and power sales contracts processes are available, BPA will support rate stability over the near term, while allowing time for the completion of projects that will provide a foundation for future consideration of alternative rate designs.

As a consequence of all of the concerns outlined above, particularly the climate of uncertainty at present, BPA proposes to establish the scope of issues to be considered in the development of its initial proposal for the 1993 rate case. The proposed focus is on rate levels and carryover issues from the 1991 rate case, and not redesign of current rate structures.

Issued in Portland, Oregon, on February 7, 1992.

Steven G. Hickok,

Acting Administrator, Bonneville Power Administration.

[FR Doc. 92–3854 Filed 2–18–92; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project Nos. 2711-001, et al.]

Hydroelectric Applications (Northern States Power Co., et al.)

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

VOL 57 ISS 33 FE 19 992 UMI

1 a. *Type of Application:* License Subesequent.

b. *Project No.:* 2711-001.

c. *Date Filed:* March 27, 1991.

d. *Applicant:* Northern States Power Company.

e. *Name of Project:* Trego Hydro Project.

f. *Location:* On the Namekagan River, Washburn County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Anthony G. Schuster, Northern States Power Company, 100 North Barstow Street, P.O. Box 8, Eau Claire, WI 54702, (715) 839–2401.

i. *FERC Contact:* Mary C. Golato (202) 219–2804.

j. *Comment Date:* March 17, 1992.

k. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time—see attached paragraph D2.

l. *Description of Project:* The license project consists of the following facilities: (1) A northeastern earth embankment section 380 feet long and about 30 feet in maximum height; (2) a southwestern earth embankment section 110 feet long and about 25 feet in maximum height; (3) a reinforced concrete hollow gravity spillway structure of the Ambursen type, 92 feet long, 53 feet wide at the base, and 26 feet high, surmounted with 3 tainter gates, each 25.5 feet long and 10 feet high, and 6-foot wide trashgate and sluiceway; (4) a reservoir about 6 miles long, with a surface area of 470 acres and a storage capacity of 4,700 acre-feet; (5) a reinforced concrete, steel and brick powerhouse 59.5 feet long, 58 feet wide, and 74 feet high above the foundation, located adjacent to the southwest end of the spillway structure; (6) generating equipment consisting of two open flume, vertical-axis Francis turbiner-generator units, No. 1 rated 700 kilowatts (kw), and No. 2 rated 500 kw, for a total capacity of 1,200 kw; (7) a concrete stilling basin apron about 53 feet long and 150 feet wide; (8) transmission facilities; and (9) appurtenant facilities. The applicant proposes no new construction. The dam is owned by the Northern States Power Company. The average annual generation is 7,575,898 kilowatthours.

m. Pursuant to § 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merits, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days of the notice issuance date.

2 a. *Type of Application:* Amendment of License.

b. *Project No:* 2892–015.

c. *Date Filed:* January 8, 1992.

d. *Applicant:* Friant Power Authority.

e. *Name of Project:* Friant Power Project.

f. *Location:* On the San Joaquin River in Fresno and Madera Counties, California. The project is located at the U.S. Bureau of Reclamation's Friant Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. John Boudreau, Friant Power Authority, 24790 Avenue 95, Terra Bella, CA 93270, (209) 535–4414.

i. *FERC Contact:* Paul Shannon, (202) 219–2866.

j. *Comment Date:* March 16, 1992.

k. *Description of Amendment:* Friant Power Authority requests approval of an as-built exhibit A for the Friant Power Project. The exhibit A describes several as-built project features which are different than those specified in the license. The exhibit A states the generator for the Friant-Kern Powerhouse has an installed capacity of 16,560-kW which is 1,560-kW greater than the authorized capacity of the generator. The actual turbine hydraulic capacity for the Friant-Kern Powerhouse is 3,290 cfs which is 554 cfs greater than the licensed hydraulic capacity. The generator for the Madera Powerhouse has an installed capacity of 8,798-kW which is 798-kW greater than the authorized installed capacity. Also, the actual turbine hydraulic capacity for the River Outlet Powerhouse is 134.5 cfs which is 8.5 cfs greater than the licensed hydraulic capacity.

l. This notice also consists of the following standard paragraphs: B, C, and D2.

3 a. *Type of Application:* Amendment of Exemption.

b. *Project No: 8282–006.*

c. *Date Filed:* December 2, 1991.

d. *Applicant:* Alternative Energy Resources, Inc.

e. *Name of Project:* Steele's Mill Project.

f. *Location:* On Hitchcock Creek in Richmond County, North Carolina.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mike Allen, Alternative Energy Resources, Inc., 4053 Friendship Patterson Mill Road, Burlington, NC 27215, (919) 226–5896.

i. *FERC Contact:* Paul Shannon, (202) 219–2866.

j. *Comment Date:* March 13, 1992.

k. *Description of Amendment:* Alternative Energy Resources, Inc. proposes to install 4-foot-high flashboards to the crest of the Steele's Mill Pond Dam. The exemptee states that 4-foot-high flashboards were used at the dam prior to 1945. Also, the exemptee states he has received the rights to the use of all lands that will be flooded by the installation of the flashboards.

l. This notice also consists of the following standard paragraphs: B, C, and D2.

4. a. *Type of Application:* Major License (5MW or less).

b. *Project No.:* 10440–001.

c. *Date filed:* May 24, 1991.

d. *Applicant:* Alaska Power & Telephone Company.

e. *Name of Project:* Black Bear Lake Project.

f. On Black Bear Lake in the First Judicial District on Prince of Wales Island, Alaska, near the communities of Craig and Klawock. The project will be located on private lands and lands within the Tongass National Forest. Township 73 South, Range 82 East, sections 12 and 13; Township 73 South, Range 83 East, sections 7 and 18; Township 72 South, Range 81 East, sections 36, 25, 24, 14, 15, 16, 21, 28, 29, 32, and 31; Township 73 South, Range 81 East, sections 2, 3, and 10.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:*

Robert S. Grimm, President, Alaska Power & Telephone Co., P.O. Box 222, Port Townsend, WA 98368, (206) 385–1733.

Vernon Neitzer, Vice President, Engineering, Alaska Power & Telephone Co., P.O. Box 459, Skagway, AK 99840, (907) 983–2202.

i. *FERC Contact:* Ms. Deborah Frazier-Stutely (202) 219–2842.

j. *Comment Date:* March 27, 1992.

k. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time-see attached paragraph D3.

l. *Descrption of Project:* The proposed project would consist of: (1) the existing 215-acre Black Bear Lake reservoir with a storage capacity of 23,750-acre-feet at elevation 1,687 feet msl; (2) a submerged siphone intake consisting of a 300-inch-diameter, 150-foot-long steel pipe ending at a manifold with five 48-inch-diameter, 61-in-long steel wedge-wire cylindrical screens; (3) a cacuum pump house; (4) a 4-foot-square, 8-foot-high concrete valve containing a 30-inch-diameter butterfly valve, and 8-inch-diameter bypass and valve and an 8-inch vacum relief valve;

(5) a 24-inch-diameter bypass pipe, upstream of valve vault diverting flow into Black Bear Creek; (6) a 30-inch-diameter, 4,900-foot-long partially buried penstock, ending at the powerhouse with a bifurcation into two 20-inch-diameter branches; (7) a 44-foot-wide, 67-foot-long, 20-foot-high powerhouse containing two 3,175-horsepower twin jet, horizontal shaft Pelton turbines and associated 2,250-kW synchronous generators with a combined installed capacity of 4,500-kW; (8) a 100-foot-long tailrace channel discharging project flows into Black Bear Creek; (9) a switchyard; (10) a 34.5-kV, 14-mile-long transmission line typing into the existing Klawock substation; and (11) 1 mile of new access road.

The project would generate approximately 23,100 MWh of energy annually and cost $10,700,000 in 1990 dollars.

Project access will be via 4 miles of improved existing logging road from state highway.

m. *Purpose of Porject:* To generate renewable power and energy for use on Prince of Wales Island.

n. This notice also consists of the following standard paragraphs: A2, A9 B1, and D3.

o. A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Alaska Power & Telephone Company, P.O. Box 459, Skagway, AK 99840, (907) 983–2202, Alaska Power & Telephone Company, P.O. Box 39, Craig, AK 99921, and Craig Public Library, P.O. Box 26, Craig, AK 99921.

5 a. *Type of Application*: Major License.

b. *Project No.*: 10536–001.

c. *Date filed*: May 30, 1991.

d. *Applicant*: Public Utility District #1 of Okanogan County.

e. *Name of Project*: Enloe Dam.

f. *Location*: On lands administered by the Bureau of Land Management, on the Similkameen River, in Okanogan County, Washington; section 13, Township 40 N, Range 26 E.

g. *Filed Pursuant to*: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact*: Mr. Harlon Warner, PUD No. 1 of Okanogan County, P.O. Box 912, Okanogan, WA 98840, (509) 422–3310.

i. *FERC Contact*: Michael Spencer at (202) 219–2846.

j. *Status of Environmental Analysis*: This application is ready for environmental analysis at this time—see attached paragraph D9.

k. *Description of Project*: The proposed project would consist of: (1) The applicant's existing 54-foot-high concrete gravity dam; (2) the existing 50 surface acre, 400-acre-foot reservoir; (3) two 600-foot-long, 84-inch-diameter penstocks; (4) a powerhouse containing 2 generating units with a combined capacity of 4.10 MW and an estimated average annual generation of 26.8 GWh; (5) a 1,300-foot-long overhead transmission line to the applicant's existing 13.2 kV line; and (6) other appurtenances.

l. *Purpose of Project*: Project power would be used by the applicant.

m. This notice also consists of the following standard paragraphs: A4, and D9.

n. *Available locations of Application*: A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction with the applicant contact listed above.

6 a. *Type of Application*: Minor License.

b. *Project No.*: 11163–000.

c. *Date filed*: June 28, 1991.

d. *Applicant*: Consolidated Hydro Maine, Inc.

e. *Name of Project*: South Berwick Dam.

f. *Location*: On the Salmon Falls River in South Berwick Township, in York County, Maine, and Strafford County, New Hampshire.

g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact*: Wayne E. Nelson, RR 2, Box 690 H Industrial Ave., Sanford, ME 04073, (207) 490–1980.

i. *FERC Contact*: Ms. Julie Bernt, (202) 219–2814.

j. *Deadline Date*: April 15, 1992.

k. *Status of Environmental Analysis*: This application is not ready for environmental analysis at this time—see attached paragraph D8.

l. *Description of Project*: The proposed project would consist of: (1) An existing 18-foot-high concrete gravity dam owned by the applicant; (2) an existing reservoir with a surface area of 58 acres at surface elevation 24.95 feet m.s.l. and a storage capacity of 116 acre-feet; (3) an intake structure at the left east abutment of the dam; (4) an existing powerhouse containing three generating units with a total rated capacity of 1,200 kW; and (5) appurtenant facilities. The average annual energy generation is estimated to be 4,500 MWh. There is no new construction; therefore, there are no project costs.

m. *Purpose of Project*: Power produced would be sold to a local power company.

n. This notice also consists of the following standard paragraphs: A2, A9, B1, and D8.

o. *Available Locations of Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at the offices of Consolidated Hydro Maine, Inc., RR 2, Box 690 H Industrial Avenue, Sanford, ME 04073, or by calling (207) 490–1980.

7 a. *Type of Application:* Minor License.

b. *Project No.:* 11168–000.

c. *Date filed:* July 22, 1991.

d. *Applicant:* Summit Hydropower.

e. *Name of Project:* Dayville Pond.

f. *Location:* On the Five Mile River in the Village of Dayville in the Town of Killingly, in Windham County, Connecticut.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Duncan Broatch, 92 Rocky Hill Road, Woodstock, CT 06281, (203) 974–1620.

i. *FERC Contact:* Ms. Julie Bernt, (202) 219–2814.

j. *Deadline Date:* April 6, 1992.

k. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time—see attached paragraph D4.

l. *Description of Project:* The proposed project would consist of: (1) An existing 5-foot-high stone and concrete dam owned by William Prym, Inc.; (2) a 900-foot-long, 14-foot-wide intake canal which connects with; (3) a 4-pond reservoir system with a surface area of 31 acres at surface elevation 242.9 feet m.s.l. and a storage area of 93 acre-feet; (4) an existing concrete reservoir outlet structure; (5) an existing 42-foot-long, 6-foot-diameter steel penstock; (6) an existing powerhouse containing one generating unit rated at 100 kW; (7) an existing 63-foot-long, 14-foot-wide tailrace; (8) a new 400-foot-long transmission line; and (9) appurtenant facilities. The average annual energy generation is estimated to be 347,000 kWh and the estimated cost of renovation of these facilities is $275,000.

m. *Purpose of project:* Power produced would be sold to a local power company.

n. This notice also consists of the following standard paragraphs: A2, A9, B1, and D4.

0. *Available Locations of Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capital Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at the office of Summit Hydropower, 92 Rocky Hill Road, Woodstock, CT 06281 or by calling (203) 974–1620.

8 a. *Type of Application:* Minor License.

b. *Project No.:* 11169–000.

c. *Date Filed:* July 25, 1991.

d. *Applicant:* H&H Properties.

e. *Name of Project:* Avalon Dam.

f. *Location:* On the Mayo River, Rockingham County, North Carolina.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Tim Henderson, H&H Properties, 1240 Springwood Church Road, Gibsonville, NC 27249, (919) 449–5054.

i. *FERC Contact:* Mary C. Golato, (202) 219–2804.

j. *Deadline Date:* March 20, 1992.

k. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time—see attached D4.

l. *Description of Project:* The proposed Avalon Dam Hydroelectric Project consists of three new turbine-generator units, and their accessory control and transmission equipment, installed at an existing dam, power canal, penstock and powerhouse development.

In detail, the project would consist of: (1) An existing masonry gravity spillway dam about 360 feet long and 22 feet high maximum, to be crested with new 1-foot-high flashboards; (2) a left abutment masonry dam about 40 feet long and 33 feet high maximum; (3) a right abutment masonry headgate structure, about 56 feet long and 30 feet high; (4) a reservoir with a surface area of about 12.1 acres and gross storage of 126 acre-feet at a level of 625.5 mean sea level; (5) an existing power canal about 1,800 feet long, 20 to 26 feet wide, and 8 to 12 feet deep, connecting the headgate structure; (6) an existing masonry intake for a steel penstock 9 feet in diameter and 160 feet long; (7) an existing masonry powerhouse 24 feet wide, 70 feet long and 25 feet high; (8) new powerhouse equipment consisting of one single-runner Francis unit and generator rated at 200 kilowatts (kW), and a second double-runner Francis unit and generator rated at 580 kW, both units discharging into an existing tailrace; (9) a new instream flow turbine-generator unit rated 60 kW, located at the upstream end of the power canal, and discharging at the toe of the dam; (10) a 12.4-kilovolt transmission line about 1,280 feet long; and (11) appurtenant facilities.

m. *Purpose of Project:* Generated power would be used solely by Duke Power Company.

n. This notice also consists of the following standard paragraphs: A3, A9, B1, and D4.

o. *Available Locations of Applications:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Pubic Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Mr. Tim Henderson, H&H Properties, 1240 Springwood Church Road, Gibsonville, N.C. 27249, (919) 449–5054 and at May Memorial Library, 342 South Spring Street, Burlington, N.C. 27215.

9 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11199–000.

c. *Date filed:* October 15, 1991.

d. *Applicant:* Mead Energy Company.

e. *Name of Project:* Nevada Pumped Storage Project.

f. *Location:* On land administered by the National Park Service in Spring Canyon in Mohave County, Arizona. T30N, R18W.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Frank L. Mazzone, President, Mead Energy Company, 746 Fifth Street East, Sonoma, CA 95476, (707) 996–2573.

i. *FERC Contact:* Mr. Michael Strzelecki, (202) 219–2827.

j. *Comment Date:* March 27, 1992.

k. *Description of Project:* The proposed pumped storage project would utilize the existing Bureau of Reclamation's 660-foot-high Hoover dam and 144,900-acre Lake Mead as the lower reservoir and would consist of: (1) A 400-foot-high dam and 620-acre upper reservoir in Spring Canyon; (2) a 45-foot-diameter, 3,280-foot-long underground penstock connecting the upper reservoir with the powerhouse; (3) an underground powerhouse containing generating units with a maximum installed capacity of 1,000 MW; (4) two 35-foot-diameter, 940-foot-long underground penstocks connecting the powerhouse with the lower reservoir; (5) a transmission line of undetermined location whose possible length could range from 25 miles long to 75 miles long; and (6) appurtenant facilities.

No new access roads will be required to conduct the studies under the permit. The approximate cost of the studies would be $1,000,000.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

10 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11208–000.

c. *Date filed:* November 20, 1991.

d. *Applicant:* Baldwin Hydro Corporation.

e. *Name of Project:* Orofino Falls Hydro Power Project.

f. *Location:* On Orofino Creek, a tributary to the Clearwater River, in Clearwater County, Idaho, near the town of Orofino. Township 36 North, Range 2 East, sections 11, 14, and 13. Boise Meridian.

g. *Filed Pursuant to:* Federal Power Act, Section 30 16 U.S.C. 791(a)–825(r).

h. *Applicant Contacts:*

Daniel A. Baldwin, President, Box 211, Elk City, ID 83525, (208) 842–2382.

C.C. Warnick, P.E., Vice President, 3197 Lundquist Lane, Moscow, ID 83843, (208) 882–5619.

Jack Porter, Attorney, 609 South Washington, Moscow, ID 83843, (208) 882–6595.

i. *FERC Contact:* Ms. Deborah Frazier-Stutely (202) 219–2842.

j. *Comment Date:* April 6, 1992.

k. *Description of Project:* The proposed project would consist of: (1) A 15-foot-high diversion dam, at elevation 1,520 feet m.s.l.; (2) a 74-inch-diameter, 2,100-foot-long penstock; (3) a powerhouse containing two generating units with an installed capacity of 2,150 kW, generating an estimated 8,628 MWh of energy annually; (4) a tailrace; and (5) a 1,850 foot-long transmission line tying into an existing line.

The applicant estimates the cost of the studies to be conducted under the preliminary permit would be $10,000. No new roads will be needed for the purpose of conducting these studies.

l. *Purpose of Project:* Project power would be sold to a local utility.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, D2.

11 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11209–000.

c. *Date Filed:* November 25, 1991.

d. *Applicant:* John J. Hockberger, Sr.

e. *Name of Project:* Waterwheel West Hydroelectric Project.

f. *Location:* On the Mora Canal, a part of the Nampa-Meridian Irrigation System, in Canyon County, Idaho, near the towns of Caldwell and Nampa. T3N, R3W, section 30, Boise Meridian.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:*

David A. O'Day, P.E., c/o Power Engineers, Inc., P.O. Box 1066, Hailey, ID 83333, (208) 788–3456.

John J. Hockberger, Sr., President, Waterwheel West, Inc., 13957 Malt Road, Caldwell, ID 83605, (208) 459–9192.

i. *FERC Contact:* Ms. Deborah Frazier-Stutely, (202) 219–2842.

j. *Comment Date:* March 25, 1992.

k. *Description of Project:* The proposed project would consist of: (1) An intake structure in the Mora Canal; (2) a 36-inch-diameter, 850-foot-long penstock; (3) a powerhouse containing two generating units with a total installed capacity of 194 kilowatts, generating an estimated 523,300 kilowatthours of energy annually; (4) a tailrace discharging project flows into the existing Deer Flat High Line Canal; and (5) a 500-foot-long transmission line typing into an existing line.

The existing facilities are part of a Bureau of Reclamation (Bureau) Project and the Bureau has permanent easement for the entire canal system.

l. *Purpose of Project:* Project power will be sold to a local utility.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, D2.

12 a. *Type of Application*: Preliminary Permit.

b. *Project No.* 11210–000.

c. *Date filed*: November 25, 1991.

d. *Applicant*: John J. Hockberger, Sr.

e. *Name of Project*: Waterwheel East Hydroelectric Project.

f. *Location*: On the Mora Canal, a part of the Nampa-Meridian Irrigation System, in Canyon County, Idaho, near the towns of Caldwell and Nampa: T2N, R3W, section 12, Boise Meridian.

g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact*:

David A. O'Day, P.E., c/o Power Engineers, Inc., P.O. Box 1066, Hailey, ID 83333, (208) 788–3456.

John J. Hockberger, Sr., President, Waterwheel East, Inc., 13957 Malt Road, Caldwell, ID 83605, (208) 459–9192.

i. *FERC Contact*: Ms. Deborah Frazier-Stutely (202) 219–2842.

j. *Comment Date*: March 25, 1992.

k. *Description of Project*: The proposed project would consist of: (1) An intake structure in the Mora Canal; (2) a 30-inch-diameter, 1,750-foot-long buried penstock; (3) a powerhouse containing two generating units with a total installed capacity of 194 kilowatts, generating an estimated 609,600 kilowatthours of energy annually; (5) a tailrace discharging project flows into the existing Deer Flat High Line canal; and (6) a 600-foot-long transmission line tying into an existing line.

The existing facilities are part of a Bureau of Reclamation (Bureau) Project, and the Bureau has permanent easement for the entire canal system.

l. *Purpose of Project*: Project power will be sold to a local utility.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, D2.

13 a. *Type of Application*: Preliminary Permit.

b. *Project No.*: 11214–000.

c. *Date filed*: December 12, 1991.

d. *Applicant*: Southwestern Electric Cooperative, Inc.

e. *Name of Project:* Carlyle Dam.

f. *Location*: On the Kaskaskia River near the Town of Carlyle, Clinton County, Illinois.

g. *Filed Pursuant to*: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact*: Gary C. Wobler, South Elm Street and Route 40, Greenville, IL 62246, (618) 664–1025.

i. *FERC Contact*: Charles T. Raabe (202) 219–2811.

j. *Comment Date*: March 20, 1992.

k. *Description of Project*: The proposed project would utilize the existing U.S. Army Corps of Engineers' Carlyle Dam and would consist of: (1) Two 13-foot-diameter penstocks through the dam; (2) a powerhouse containing two generating units having a total installed capacity of 8,000-kW; (3) a 2-mile-long, 69-kV transmission line; and (4) appurtenant facilities.

Applicant estimates that the average annual generation would be 21,500,000 kWh and that the cost of the studies under the permit would be $25,000. Project energy would be sold to Applicant's member users.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C & D2.

14 a. *Type of Application:* Preliminary Permit.

b. *Project No.*: 11221–000.

c. *Date filed:* January 6, 1992.

d. *Applicant:* Peak Power Corporation.

e. *Name of Project:* Tropicana Modular Hydroelectric Pumped Storage Project.

f. *Location:* Predominantly on lands administered by the Bureau of Land Management near Las Vegas in Clark County Nevada. T21S, R59E in sections 25, 26, 27, 29, 30, 31, 32, 33, 34, and 35; T21S, R60E in sections 28, 29, and 30.

g. *Filed Pursuant to:* Federal Power Ace, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Rick S. Koebbe, Peak Power Corporation, 10 Lombard Street, suite 410, San Francisco, CA 94111, (415) 362–0887.

i. *FERC Contact:* Mr. Michael Strzelecki, (202) 219–2827.

j. *Comment Date:* April 10, 1992.

k. *Description of Project:* The proposed pumped storage project would consist of: (1) A 140-foot-high dam and 47-acre upper reservoir at the Blue Diamond Mine; (2) a 10-foot-diameter, 12,500-foot-long penstock connecting the upper reservoir with a lower reservoir; (3) a 60-foot-high dam and 54-acre lower reservoir in a naturally formed desert valley to the east of the upper reservoir; (4) a powerhouse containing two 50-MW generating units; (5) a 7-mile-long transmission line interconnecting with an existing Nevada Power Company transmission line; and (6) appurtenant facilities.

No new access roads will be needed to conduct the studies. The approximate cost of the studies would be $200,000.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

15 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11222–000.

c. *Date Filed:* January 8, 1992.

d. *Applicant:* Janet Shanak.

e. *Name of Project:* Nashua.

f. *Location:* On the Cedar River in the City of Nashua, Chickasaw and Floyd Counties, Iowa.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Janet Shanak, 1325 Churchill Street, Waupaca, WI 54981, (715) 258–7421.

i. *FERC Contact:* Charles T. Raabe (tag), (202) 219–2811.

j. *Comment Date:* April 23, 1992.

k. *Description of Project:* The proposed project would consist of: (1) An existing dam having a left earthen embankment, a 243-foot-long concrete gate section, and an 82-foot-long integral powerhouse; (2) a reservoir having a 700-acre surface area at normal water surface elevation 960 feet NGVD; (3) an existing powerhouse containing 4 proposed generating units having a total installed capacity of 700-kW operated at a 16-foot head; (4) a proposed 50-foot-long, 13.8-kV transmission line; and (5) appurtenant facilities.

The applicant estimates that the average annual generation would be 2,980 MWh and that the cost of the studies under the permit would be

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$120,000. Project energy would be sold to Iowa Public Service. The existing dam is owned by the City of Nashua, Iowa.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

Standard Paragraphs

A2. Development Application—Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified deadline date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified deadline date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

A3. Development Application—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

B1. Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

c. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, room 1027, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtain by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to § 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. (March 23, 1992 for Project No. 10440). All reply comments must be filed with the Commission within 105 days from the date of this notice. (May 7, 1992 for Project No. 10440).

Anyone may obtain an extension of time for these deadlines from the

Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "PROTEST", "MOTION TO INTERVENE", "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "COMMENTS," "REPLY COMMENTS," "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, room 1027, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

D4. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to § 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. (March 30, 1992 for Project No. 11168; March 16, 1992 for Project No. 11169). All reply comments must be filed with the Commission within 105 days from the date of this notice. (May 12, 1992 for Project No. 11168; April 28, 1992 for Project No. 11169).

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "PROTEST", "MOTION TO INTERVENE", "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "COMMENTS," "REPLY COMMENTS," "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS"; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, room 1027, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service listed prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

D8. Filing and Service of Responsive Documents—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must (1) bear in all capital letters the title "PROTEST" or "MOTION TO INTERVENE," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," or "COMPETING APPLICATION;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatrory Commission, room 1027, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application

D9. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time. and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. (April 7, 1992 for Project No. 10536). All reply comments must be filed with the Commission within 105 days from the date of this notice. (May 22, 1992 for Project No. 10536).

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstrances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "COMMENTS", "REPLY COMMENTS', "RECOMMENDATIONS," "TERMS AND CONDITIONS,"or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, room 1027, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

Dated: February 11, 1992, Washington, DC

Lois D. Cashell,

Secretary.

[FR Doc. 92-3781 Filed 2-18-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-14-20-000]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

February 11, 1992.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on February 6, 1992, tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1, as set forth in the following revised tariff sheets:

Proposed to be effective February 1, 1992

8 Rev Sheet No. 41
8 Rev Sheet No. 42

Algonquin states that the revised tariff sheets are being filed to flow through changes in Texas Eastern Transmission Corporation's Rate Schedules SS-2 and SS-3, which underlie Algonquin's Rate Schedules STB and SS-III. Pursuant to section 10 of Rate Schedule STB and section 9 of Rate Schedule SS-III in Algonquin's FERC Gas Tariff, Third Revised Volume No. 1, Algonquin is hereby filing the above sheets to track the latest changes filed by Texas Eastern on January 31, 1992 in Docket No. TF92-2-17-000 to be effective February 1, 1992.

Algonquin further states that the effect of the filed tariff sheets is to decrease the STB and SS-III space charges by 0.15¢ per MMBtu and to decrease the injection charges by 0.87¢ per MMBtu. Also, the STB withdrawal rate is decreased by 0.79¢ per MMBtu and the SS-III FDDQ and Non-FDDQ withdrawal rates are decreased by 0.80¢ and 1.35¢ per MMBtu, respectively.

Algonquin notes that copies of this filing were served upon each affected party and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before February 19, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3782 Filed 2-18-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2673-000]

William Balderston III; Filing

February 12, 1992.

Take notice that on February 10, 1992, William Balderston III ("Applicant") tendered for filing an application under section 305(b) of the Federal Power Act to hold the following positions:

Executive Vice President, The Chase Manhattan Corporation
Director and President, Chase Manhattan Banking Corporation
Director and Vice Chairman, Chase Lincoln First Bank, N.A.
Director, Rochester Gas & Electric Corporation

The Applicant requests Commission action no later than March 1, 1992.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before February 26, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3791 Filed 2-18-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-90-001]

Columbia Gulf Transmission Co.; Proposed Changes in FERC Gas Tariff

February 11, 1992.

Take notice that on January 30, 1992, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing two sheets to its FERC Gas Tariff, First Revised Volume No. 1, to be effective February 5, 1992. Those sheets include First Revised Sheet No. 211 and an update to Original Sheet No. 000 which was submitted to refer to the appropriate Vice President to whom communications concerning the tariff should be addressed. Pursuant to directive of Commission Staff, this sheet has not been paginated.

Columbia Gulf states that the purpose of this filing is to correct mistakes made in its filing of January 16, 1992, in which Columbia Gulf sought to comply with Order 537, but in which the tariff sheets were paginated incorrectly.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before February 19, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3783 Filed 2-18-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA92-1-2-002]

East Tennessee Natural Gas Co.; Compliance Filing

February 11, 1992.

Take notice that on January 10, 1992, East Tennessee Natural Gas Company (East Tennessee) pursuant to Commission's order dated December 27, 1991 in the above-referenced proceeding tendered for filing its explanation for the basis of the projection of its rates and purchases from producer and spot market suppliers.

East Tennessee states that copies of the letter have been mailed to all affected customers and state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211. All such protests should be filed on or before February 19, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3785 Filed 2-18-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-204-002]

East Tennessee Natural Gas Co.; Motion To Make Tariff Sheets Effective

February 11, 1992.

Take notice that on January 31, 1992, East Tennessee Natural Gas Company (East Tennessee) moved to place into effective on February 1, 1992, certain tariff sheets.

East Tennessee states that on August 1, 1991, East Tennessee filed revised tariff sheets to First Revised Volume No. 1 and Original Volume No. 1A of its FERC Gas Tariff. East Tennessee asserts that the revised tariff sheets, constituting a general rate increase pursuant to NGA section 4, were proposed to be effective September 1, 1991. East Tennessee states that by order issued on August 30, 1991, the Commission accepted the revised tariff sheets, with certain exceptions, and suspended them for five months to be efffective February 1, 1992, subject to refund. East Tennessee states that the Commission also ordered East Tennessee to refile its rates by February 1, 1992, to remove the costs associated with facilities which have been placed into service by the end of the test period.

East Tennessee states that it is filing certain revised tariff sheets which, in addition to reflecting the terms and conditions of the August 30 order, also (i) correct an error in East Tennessee's treatment of FASB 106 costs, (ii) restate East Tennessee's PGA rates, as set forth in Docket No. TA92-1-2 for the demand gas costs and Docket No. TF92-5-2 for commodity gas costs, and (iii) remove the proposed storage cost rate adjustment from Tariff Sheets Nos. 116-118 of First Revised Volume No. 1 and Sheet Nos. 132-134 of Original Volume No. 1A.

East Tennessee states that copies of its filing have been mailed to all affected customers and state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before February 19, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3786 Filed 2-18-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP92-233-001]

El Paso Natural Gas Co.; Tariff Filing

February 11, 1992.

Take notice that on January 30, 1992, El Paso Natural Gas Company ("El Paso") tendered for filing, pursuant to part 154 of the Federal Energy Regulatory Commission's ("Commission") Regulations Under the Natural Gas Act, Second Revised Sheet No. 118 contained in its FERC Gas Tariff, First Revised Volume No. 1-A. El Paso states that the filing reflects a reduction in the Billing Determinant for Southern California Gas Company ("SoCal") under Rate Schedule T-3. El Paso requests that the tariff sheet be accepted for filing and permitted to become effective March 1, 1992.

El Paso states that on December 12, 1991, at Docket No. CP92-233-000, El Paso filed, pursuant to section 7(b) of the Natural Gas Act, for permission and approval to abandon the firm transportation and delivery of 300,000 Mcf per day to SoCal. In its application, El Paso stated that on or about January 30, 1992, it would file a revised tariff sheet to reflect such reduction in billing determinant effective March 1, 1992.

El Paso states that the reduction in billing determinant was precipitated by SoCal's exercise of the option under its Transportation Service Agreement ("TSA") dated October 16, 1990 with El Paso to reduce its Transportation Contract Demand by providing written notice to El Paso of such election on or before March 1, 1991 (this date was later extended to April 1, 1991). The TSA provides for the firm transportation under El Paso's Rate Schedule T-3 of a Transportation Contract Demand of 1,750,000 Mcf per day. SoCal notified El Paso that it was exercising its option to reduce its Transportation Contract Demand by 300,000 Mcf per day effective March 1, 1992.

Accordingly, El Paso is tendering Second Revised Sheet No. 118 to reflect the reduction in SoCal's billing determinant in accordance with SoCal's election to reduce its Transportation Contract Demand by 300,000 Mcf per day, or the decatherm equivalent of from 1,802,500 dth to 1,493,500 dth per day.

El Paso states that such 300,000 Mcf per day of capacity at the Ehrenberg Delivery Point has been fully subscribed by other firm shippers on El Paso's firm transportation log. Such shippers and their respective Transportation Contract Demand quantities are: Southern California Edison Company, 200,000 Mcf; Meridian Oil Marketing Inc., 83,000 Mcf; San Diego Gas & Electric Company, 10,000 Mcf; and Mission Energy Fuel Company, 7,000 Mcf. El Paso states that each of these shippers shall pay a reservation charge calculated in accordance with Section 4 of Rate Schedule T-3 contained in El Paso's First Revised Volume No. 1-A Tariff. Thus, there will be no shift in costs to any other customer on El Paso's system.

El Paso has requested that the Commission accept the tendered tariff sheet for filing and permit it to become effective March 1, 1992 which is not less than thirty (30) days after the date of filing.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before February 19, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the

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Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3787 Filed 2-18-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-4-16-000]

National Fuel Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

February 11, 1992.

Take notice that on February 7, 1992, National Fuel Gas Supply Corporation ("National") tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, to be effective on March 10, 1992.

Fifth Revised Sheet Nos. 117-118
Fourth Revised Sheet No. 119
Fourth Revised Sheet No. 121
Second Revised Sheet No. 123

National states that the purpose of this filing is to update the amount of take-or-pay charges approved by the Federal Energy Regulatory Commission to be billed to National by its pipeline-suppliers and to be recovered by National by operation of section 20 of the General Terms and Conditions to National's FERC Gas Tariff, Second Revised Volume No. 1. National further states that its pipeline-suppliers which have received approval to bill revised take-or-pay charges, as reflected in National's filing herein, are: Columbia Gas Transmission Corporation, CNG Transmission Corporation, and Tennessee Gas Pipeline Company.

National states that copies of the filing have been served on National's jurisdictional customers and on the interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 or 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214 or 385.211. All such motions to intervene or protests should be filed on or before February 19, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3784 Filed 2-18-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-689-012]

Northeast Utilities Service Co.; Filing

February 12, 1992.

Take notice that on January 24, 1992, Northeast Utilities Service Company tendered for filing its compliance report in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before February 24, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3788 Filed 2-18-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-109-000]

Northern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

February 11, 1992.

Take notice that Northern Natural Gas Company (Northern) on February 7, 1992, tendered for filing to become part of Northern's FERC Gas Third Revised Volume No. 1, the following tariff sheets to be effective March 8, 1992:

Eighth Revised Sheet No. 52F.3
Fifth Revised Sheet No. 52F.3a
Third Revised Sheet No. 52F.12b

Northern states that such tariff sheets are being submitted to revise the procedure for both submitting a valid request for firm transportation and for maintaining an existing position on Northern's firm transportation request queue. Northern proposes to implement a fee requirement applicable to all requests for firm transportation.

Northern further states that copies of the filing have been mailed to each of its customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such petitions or protests must be filed on or before February 19, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3789 Filed 2-18-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-14-003]

Transwestern Pipeline Co.; Compliance Filing

February 11, 1992.

Take notice that Transwestern Pipeline Company ("Transwestern") on January 31, 1992 tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheet:

Effective February 26, 1992

2nd Revised Sheet No. 80A

Transwestern states that the tariff sheet referenced above with an effective date of February 26, 1992 is being filed to comply with the Commission's Letter Order ("Order") issued December 20, 1991 in Docket No. RP92-14-001. The Order required Transwestern to refile revised tariff sheets within fifteen (15) days to reflect an operator confirmation deadline twenty-four (24) hours after the shipper nomination deadline. On December 23, 1991, Transwestern filed a request for an extension of time to file compliance tariff sheets as required by the Order. The Commission granted the extension until and including January 31, 1992 in a notice issued January 3, 1992. Pursuant to the Commission's Order, Transwestern submitted the instant filing.

Transwestern has proposed to implement the following tariff changes for operator confirmations on its system as a result of a settlement reached with Indicated Shippers. The shippers on Transwestern's system would be required to cause the operator(s) of receipt and delivery points to confirm the nominations made by those shippers. The operator confirmations would be due after shipper nominations, but on the same day as shipper nominations. In addition, Transwestern states, it would allow a transition period until June 1992 production for shippers and operators to modify their systems. In the interim period, Transwestern would continue to schedule shipper nominations even if all operator confirmations are not received on a timely basis.

Transwestern requests waiver of any Commmission Regulation and its tariff provisions as may be required to allow the tariff sheet referenced above to become effective on February 26, 1992.

Transwestern states that copies of the filing were served on its jurisdictional customers, interested State commissions, and all parties to this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before February 19, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3790 Filed 2-18-92; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. 91-102-NG]

Tenaska Gas Co.; Application for Long-Term Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application for long-term authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy of the Department of Energy (DOE) gives notice of receipt of an application filed on November 22, 1991, by Tenaska Gas Co. (Tenaska) for authorization to import up to 13,000 MMBtu (approximately 13,000 Mcf) per day of Canadian natural gas from Husky Oil Operations Ltd. (Husky) beginning on the effective date of the requested authorization and extending through December 31, 2011. This imported gas would enter the U.S. at the international border near Sumas, Washington, and be delivered through the pipeline facilities of Cascade Natural Gas Corporation (Cascade) to a 245-megawatt combined cycle, gas-fired, cogeneration facility being developed by Tenaska Washington, Inc. (TWI) in Whatcom County, Washington. The TWI facility would use the imported gas as part of its fuel supply to produce electricity for sale to the Puget Sound Power and Light Company and steam for sale to an as yet unidentified company. Cascade would construct and operate facilities on the international border to transport the gas.

The application is filed under section 3 of the Natural Gas Act (NGA) and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time March 20, 1992.

ADDRESSES: Office of Fuels Programs, Fossil Energy U.S. Department of Energy, Forrestal Building, room 3F-056, FE-50, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478.

FOR FURTHER INFORMATION CONTACT:

Stanley C. Vass, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-094, FE-53, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9482.

Lot Cooke, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E-042, GC-14, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-0503.

SUPPLEMENTARY INFORMATION: Tenaska is a Nebraska Corporation with its principal office in Omaha, Nebraska. Tenaska has entered into a gas purchase agreement with Husky dated November 4, 1991, under which Husky would supply up to 13,000 MMBtu per day of natural gas to Tenaska on a firm basis for resale to TWI to meet part of the gas supply requirements for TWI's proposed cogeneration facility. The contract will be in effect until December 31 of the seventeenth (17th) year following the beginning of commercial operation of the cogeneration plant or December 31, 2011, whichever occurs earlier.

Construction of the new cogeneration facility is expected to be completed by October 1, 1993. When completed, the cogeneration facility would be operated by TWI as a "qualifying facility" under section 201 of the Public Utility Regulatory Policies Act of 1978 (PURPA).

Under the pricing terms of the Tenaska/Husky gas purchase agreement, Tenaska is required to pay Husky a demand charge equal to twenty percent of the contract price of the gas for the month and a commodity price equal to eighty percent of the contract price for the month. The contract price for the period January 1, 1993, through December 31, 1993, is $1.90 (U.S.) per MMBtu of natural gas. This price is escalated at the rate of five percent each year, beginning on January 1, 1994, and on January 1 of each year thereafter, over the remaining term of the contract.

Pursuant to the terms of the Tenaska/Husky gas purchase agreement, Tenaska must take or pay for eighty percent of the daily contract quantity of 13,000 MMBtu of natural gas. If Tenaska fails to take the prescribed minimum volume, then Tenaska must pay Husky a deficiency payment equal to the difference between the commodity charge for the gas and the "spot" price for the volumes not taken as required by the contract. The spot price is defined as the index value quoted for spot gas delivered into Northwest Pipeline Corporation's facilities at the Canadian border that appears each month in a table published in Inside F.E.R.C.'s Gas Market Report.

In support of the application, Tenaska asserts that the price of the imported gas would be competitive since it reflects the results of arms-length bargaining between Tenaska and Husky and it meets their expectation of the market price for gas over the term of the Tenaska/Husky gas purchase contract. Further, Tenaska is not responsible for any specific Canadian transportation costs for the gas but rather is only obligated to pay a demand charge equal to twenty percent of the contract price for the gas. In addition, Tenaska asserts that the impact of Tenaska's take-or-pay obligation is limited by the fact that Tenaska would have to pay only the difference between the commodity charge and Canadian spot gas prices for volumes not taken.

According to Tenaska, the gas is needed to provide part of the gas supply requirements of TWI's proposed cogeneration plant, which must have a

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secure, long-term supply of natural gas in order to obtain financing. Security of supply is assured by a contractual warranty under which Husky must deliver the daily contract quantity of gas or reimburse Tenaska for costs incurred in obtaining alternate supplies of fuel to replace the delivery shortfall. In addition, Tenaska states that Husky owns proven reserves equal to 1.5 Tcf of natural gas.

The decision on Tenaska's application for import authority will be made consistent with DOE's natural gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). In the case of a long-term arrangement such as this, other matters will be considered in making a public interest determination, including need for the natural gas and security of the long-term supply. Parties that may oppose this application should comment in their responses on the issues of competitiveness, need for the gas, and security of supply as set forth in the policy guidelines. Tenaska asserts that this import arrangement is in the public interest because it is needed, competitive, and its natural gas source will be secure. Parties opposing the proposed import arrangement bear the burden of overcoming these assertions.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C., 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. We note that Cascade requested from the Federal Energy Regulatory Commission (FERC) a Presidential Permit and authority under section 3 of the NGA to construct and operate natural gas facilities at the international border between the United States and Canada that would be used to import the volumes proposed by Tenaska. *See* FERC Docket No. CP91-2650-000. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have their written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulation in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Tenaska's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, February 7, 1992.

Anthony J. Como,

Director, Office of Coal and Electricity, Office of Fuels Programs, Fossil Energy.

[FR Doc. 92-3853 Filed 2-18-92; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4100-2]

Public Water Supply Supervision Program Revision for the State of New York

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Notice is hereby given that the State of New York is revising its approved Public Water Supply Supervision Primacy Program. New York has adopted drinking water regulations which satisfy the National Primary Drinking Water Regulations (NPDWR) for Synthetic Organic Chemicals; Monitoring for Unregulated Contaminants (VOC) promulgated by EPA on July 8, 1987 (52 FR 25690) with July 1, 1988 correction (53 FR 25108); and the revised NPDWR for Public Notification (PN) promulgated on October 28, 1987 (52 FR 41534) with April 17, 1989 correction; (54 FR 15185). New York submitted its revised Public Water Supply Supervision Primacy Program, including its adopted regulations for VOC and PN in May, 1989. Supplemental information was submitted by the State on March 15, 1991. The USEPA has determined that New York's VOC and PN regulations are no less stringent than the corresponding Federal regulations and that New York continues to meet all requirements for primary enforcement responsibility as specified in 40 CFR 142.10.

All interested parties, other than Federal Agencies, may request a public hearing. A request for a public hearing must be submitted to the USEPA Regional Administrator at the address shown below within thirty (30) days after the date of this **Federal Register** Notice. If a substantial request for a public hearing is made within the required thirty day time frame, a public hearing will be held and a notice will be given in the **Federal Register** and a newspaper of general circulation. Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. If no timely and appropriate request for a hearing is received and the Regional Administrator

does not elect to hold a hearing on his own motion, this determination shall become final and effective thrity (30) days after publication of this **Federal Register** Notice. Any request for a pulic hearing shall include the following information:

(1) The name, address and telephone number of the individual organization or other entity requesting a hearing;

(2) A brief statement of the requesting person's interest in the Regional Administrator's determination and a brief statement on information that the requesting person intends to submit at such hearing;

(3) The signature of the individual making the requests or, if the request is made in behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

ADDRESSES: Requests for Public Hearing shall be addressed to:

Regional Administrator, U.S.
Environmental Protection Agency—
Region II, Jacob K. Javits Federal
Building, 26 Federal Plaza, New York,
New York 10278.

All documents relating to this determination, including New York State's revision to it's Public Water Supply Supervision Program are available for inspection between the hours of 9 a.m. and 4:30 p.m., Monday through Friday, at the following offices:

New York State Department of Health,
Bureau of Public Water Supply
Protection room 406, 2 University
Plaza/Western Avenue, Albany, New
York 12203–3399, (518) 458–6731.

U.S. Environmental Protection Agency—
Region II, Public Water Supply
Section, Jacob K. Javits Federal
Building, 26 Federal Plaza, New York,
New York 10278, (212) 264–1800.

FOR FURTHER INFORMATION, YOU MAY CONTACT:

Walter E. Andrews, Chief, Drinking
Groundwater Protection Branch, U.S.
Environmental Protection Agency—
Region II, (212) 264–1800.

(Section 1413 of the Safe Drinking Water Act, as amended, and 40 CFR 142.10 of the National Primary Drinking Water Regulations)

Dated: December 26, 1991.

Constantine Sidamon-Eristoff,

Regional Administrator, EPA, Region II.

[FR Doc. 92–2663 Filed 2–18–92; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

February 11, 1992.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20036, (202) 452–1422. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632–7513. Persons wishing to comment on this information collection should contact Jonas Neihardt, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395–4814.

OMB Number: 3060–0136

Title: Temporary Permit to Operate a General Mobile Radio Service System.

Form Number: FCC Form 574–T

Action: Extension of a currently approved collection.

Respondents: Individuals or households.

Frequency of Response: Recordkeeping requirement.

Estimated Annual Burden: 1,500 recordkeepers; .10 hours average burden per recordkeeper; 150 hours total annual burden.

Needs and Uses: Commission rules state that eligible applicants for new or modified radio stations in the General Mobile Radio Service complete the FCC Form 574–T for immediate authorization to operate the radio station. The applicant retains this form during processing of application for license grant. Applicants eligible to hold a radio station authorization in the General Mobile Radio Service may use this form as a temporary permit to operate their radio station during processing of an application for license grant.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92–3818 Filed 2–18–92; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–933–DR]

Delaware; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Delaware (FEMA–933–DR), dated February 6, 1992, and related determinations.

DATES: February 6, 1992.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646–3606.

NOTICE: Notice is hereby given that, in a letter dated February 6, 1992, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq., Public Law 93–288, as amended by Public Law 100–707), as follows:

> I have determined that the damage in certain areas of the State of Delaware, resulting from a severe coastal storm and flooding on January 4–5, 1992, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Delaware.
>
> In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.
>
> You are authorized to provide Public Assistance in the designated areas. Consistent with the requirement that Federal assistance be supplemental, and Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Robert J. Adamcik of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Delaware to have been affected adversely by this declared major disaster:

The counties of Kent and Sussex for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Wallace E. Stickney,

Director, Federal Emergency Management Agency.

[FR Doc. 92-3834 Filed 2-18-92; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-928-DR]

Iowa; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Iowa (FEMA-928-DR), dated December 26, 1991, and related determinations.

DATES: February 7, 1992.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3606.

NOTICE: The notice of a major disaster for the State of Iowa, dated December 26, 1991, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of December 26, 1991:

The county of Plymouth for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Grant C. Peterson,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 92-3832 Filed 2-18-92; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-932-DR]

Republic of the Marshall Islands; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Republic of the Marshall Island (FEMA-932-DR), dated February 7, 1992, and related determinations.

DATES: February 7, 1992.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3606.

NOTICE: Notice is hereby given that, in a letter dated February 7, 1992, the President declared a major disaster under the authority of the Robert T. Stafford Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*, Public Law 93-288, as amended by Public Law 100-707), as follows:

> I have determined that the damage in certain areas of the Republic of the Marshall Islands, resulting from Tropical Storm Axel on January 6, 1992, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the Republic of the Marshall Islands.
>
> In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.
>
> You are authorized to provide Individual Assistance and Public Assistance in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Mr. Joseph G. Del Monte of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the Republic of the Marshall Islands to have been affected adversely by this declared major disaster:

The Island of Kili and the Atolls of Arno, Jaluit, Majuro, and Mili for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Wallace E. Stickney,

Director, Federal Emergency Management Agency.

[FR Doc. 92-3830 Filed 2-18-92; 8:45 am]

BILLING CODE 6718-02-M

Federated States of Micronesia; Major Disaster and Related Determinations

[FEMA-934-DR]

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Federated States of Micronesia (FEMA-934-DR), dated February 7, 1992, and related determinations.

DATES: February 7, 1992.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3606.

NOTICE: Notice is hereby given that, in a letter dated February 7, 1992, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq., Public Law 93-288, as amended by Public Law 100-707), as follows.

> I have determined that the damage in certain areas of the Federated States of Micronesia, resulting from Typhoon Axel on January 8, 1992, through and including January 10, 1992, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the Federated States of Micronesia.
>
> In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.
>
> You are authorized to provide Public Assistance in the designated areas. Supplemental food supplies may be provided at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, and Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of Section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Mangement Agency under Executive Order 12148, I hereby appoint Mr. Frank L. Kiston of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the Federated States of Micronesia to have been affected adversely by this declared major disaster:

The Island of Pohnpei, Kosrae State, Mwoakilloa Atoll, and Pingelap Atoll for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Wallace E. Stickney,

Director, Federal Emergency Mangement Agency.

[FR Doc. 92-3829 Filed 2-18-92; 8:5 am]

BILLING CODE 6718-02-M

[FEMA-931-DR]

Puerto Rico, Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Puerto Rico (FEMA-931-DR), dated January 22, 1992, and related determinations.

DATED: February 8, 1992.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3606.

NOTICE: The notice of a major disaster for the Commonwealth of Puerto Rico, dated January 22, 1992, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 22, 1992:

The municipality of Gurabo for Individual Assistance.

The municipality of Juana Diaz for Public Assistance (previously designated for Individual Assistance.)

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Grant C. Peterson,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 92-3833 Filed 2-18-92; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-930-DR]

Texas; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Texas (FEMA-930-DR), dated December 26, 1991, and related determination.

DATED: February 5, 1992.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3606.

NOTICE: The notice of major disaster for the State of Texas, dated December 26, 1991, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of December 26, 1991:

The counties of Comal, Gonzales, and Henderson for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Richard W. Krimm,

Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 92-3831 Filed 2-18-92; 8:45 am]

BILLING CODE 6718-02-M

Advisory Committee of the National Earthquake Hazards Reduction Program (NEHRP); Open Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App. section 10(a)(2)), announcement is made of the following committee meeting:

Name: National Earthquake Hazards Reduction Program (NEHRP) Advisory Committee.

Dates of Meeting: March 2-4, 1992.

Place: The Grand Hotel, 2350 M Street, NW., Washington, DC.

Time: March 2-9 a.m. to 5 p.m., March 3-9 a.m. to 5 p.m., March 4-9 a.m. to 12 noon.

Proposed Agenda: The Committee will provide comment and input to the NEHRP Program Agencies on specific activities which are mandated by the Earthquake Hazards Reduction Act of 1977, as amended.

The meeting will be open to the public with approximately ten seats available on a first-come, first-served basis. All members of the public interested in attending the meeting should contact Brian Cowan at 202-646-2821.

Minutes of the meeting will be prepared by the Committee and will be availabe for public viewing at the Federal Emergency Management Agency, Office of Earthquakes and Natural Hazards, 500 "C" Street, SW., room 625, Washington, DC. Copies of the minutes will be available upon request 45 days after the meeting.

Dated: February 12, 1992.

Wallace E. Stickney,

Director, Federal Emergency Management Agency.

[FR Doc. 92-3828 Filed 2-18-92; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL MARITIME COMMISSION

Georgia Ports Authority et al.; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-200416-004.

Title: Georgia Ports Authority/Jugolinija, Terminal Use Agreement.

Parties: Georgia Ports Authority, Jugolinija.

Synopsis: This Agreement, filed February 6, 1992, establishes wharfage, dockage and land lease per container on and off vessel charges, as well as charges for various other services.

Agreement No.: 224-200616.

Title: Port of Miami Terminal Operating Company Discussion Agreement.

Parties: Continental Stevedoring & Terminals Co., Florida Stevedoring, Inc., S.E.L. Maduro (Florida), Inc., Oceanic Stevedoring Company.

Synopsis: This Agreement, filed on February 5, 1992, permits the parties to meet, discuss and agree on how Port of Miami Terminal Operating Co., a company incorporated in the state of Florida owned by the parties to the Agreement, is to be organized to carry on activities as a marine terminal operating company.

Agreement No.: 203-011366.

Title: Maersk/Sea-Land ALFOR Cooperative Working Agreement.

Parties: A. P. Moller-Maersk Line ("Maersk"), Sea-Land Service, Inc. ("Sea-Land").

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Synopsis: The proposed Agreement would authorize Sea-Land to charter or make space available to Maersk on Sea-Land's vessels in the trade between ports and points in Alaska and ports and points in Asia and Europe.

By order of the Federal Maritime Commission.

Dated: February 12, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 92-3757 Filed 2-18-92; 8:45 am]

BILLING CODE 6730-01-M

Maryland Port Administration/Ceres Corp.; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-200165-005
Title: Maryland Port Administration/Ceres Corporation.
Parties: Maryland Port Administration, Ceres Corporation.
Synopsis: This Agreement, filed February 10, 1992, extends the term of the current lease agreement for an additional one-hundred and twenty (120) days, pending further negotiations of another long term lease between the Maryland Port Administration and Ceres Corporation.

Agreement No.: 224-003695-005
Title: Port Everglades Authority/Sea-Land Service, Inc. Preferential Berthing Agreement.
Parties: Port Everglades Authority, Sea-Land Service, Inc.
Synopsis: This Agreement, filed February 6, 1992, provides for changes in the preferential berthing days, the provision of cranes, the term of the agreement, and various charges including wharfage and crane rental. The new term of the Agreement is through December 31, 1994.

Agreement No.: 224-200618
Title: Port of Palm Beach Terminal Subleasing Agreement.
Parties: Port of Palm Beach District, Palm Beach Cruises, S.A., Grundstad Terminals, Overseas, Inc., Crown Cruise Lines of Florida, Inc., Crown Cruise Line, Inc., S.A., Grundstad Maritime Overseas, Inc.
Synopsis: This Agreement, filed February 11, 1992, provides limitations and conditions on the parties' subleasing rights, including berthing priority rights, terms of arbitration of disputes, terms for settlement of disputes by venue, and prohibitions on assignment or subleasing of rights.

By Order of the Federal Maritime Commission.

Dated: February 13, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 92-3817 Filed 2-18-92; 8:45 am]

BILLING CODE 6730-01-M

Palm Beach Cruise S.A. Berthing and Terminal Rights; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission pursuant to section 15 of the Shipping Act, 1916, and section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 560.6 and/or 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 224-200617.
Title: Palm Beach Cruise S.A. Berthing and Terminal Rights Agreement.
Parties: Palm Beach Cruises S.A. ("PBC") Commodore Cruise Line Limited ("CCL"), EJI Cruise Vessels N.V. ("EJICV"), Crown Cruise Line Incorporated S.A. ("CCLI").
Synopsis: This Agreement, filed February 10, 1992, sets forth terms and conditions pursuant to which Palm Beach Cruises S.A. and a number of its affiliates sublicense to CCL, EJICV, and CCLI certain of their pre-existing operating, berthing and calling rights at the Port of Palm Beach, Florida and leasehold rights to the passenger terminal facility located at the Port of Palm Beach. The Agreement also sets forth terms and conditions by which the said passenger terminal facility shall be used and operated by the parties.

By Order of the Federal Maritime Commission.

Dated: February 13, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 92-3816 Filed 2-18-92; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License Revocations

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR, part 510.

License Number: 2990
Name: Four Star International Shipping Company.
Address: 617 Fredricksburg Rd., Matthews, NC 28105.
Date: January 17, 1992.
Reason: Surrendered license voluntarily.

License Number: 2655
Name: All Oceans Cargo, Inc.
Address: 157 Yesler Way, Suite 304, Seattle WA 98104.
Date Revoked: February 5, 1992.
Reason: Surrendered license voluntarily.

Bryant L. VanBrakle,

Director, Bureau of Tariffs, Certification and Licensing.

[FR Doc. 92-3758 Filed 2-18-92; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF THE INTERIOR

Assistant Secretary—Indian Affairs

Tribal Self Governance Planning and Negotiation Grants

AGENCY: Office of Self Governance, Interior.

ACTION: Announcement of availability of competitive planning grants and negotiation grants for federally recognized tribes.

SUMMARY: The Office of Self Governance announces the availability of $620,000 in grant funds to continue the planning and negotiations process in FY 1992. The total amount identified is broken down as follows: (1) $120,000 for negotiation grants for tribes which are in the final stages of planning to enter negotiations. (2) $500,000 for tribes to enter or continue the project in the planning stage. This provision is to support the amendment, Public Law 102–184, which expands the number of tribes which can enter the demonstration project from 20 to 30.

The Tribal Self Governance Demonstration Project is designed to promote self-determination by allowing tribes to assume more control of BIA programs and services through agreements negotiated with the Department of the Interior. The planning grant allows a tribe to gather information to determine the current types and amounts of programs, services, and funding levels available within its service area and to plan for the types, amounts of programs, services and funding to be made available to the tribe under the agreement. Negotiation grants provide tribes with funds to help cover the expenses involved in preparing for and actually negotiating with the Department.

At the time of this announcement, seventeen compacts have been signed. Selection to fill the thirteen slots which remain will be based on the criteria and procedures outlined in this announcement. All tribes wishing to be considered for participation in the grant program for self governance, including those that have previously contacted the Office of Self Governance, must respond to this announcement.

DATE: Applications must be received by:

1. The closing date for submission of application for initial planning grants is April 6, 1992.

2. The closing date for submission of applications for negotiation grants is July 20, 1992; however, awards may be made prior to that deadline.

FOR FURTHER INFORMATION CONTACT: William Lavell, Director, Office of Self Governance, U.S. Department of the Interior, 1849 C Street NW., (MS 2253 MIB), Washington, DC 20240, (202) 219–0240.

SUPPLEMENTARY INFORMATION: The following announcement of procedures for the application for and awarding of planning and negotiation grants under the Indian Tribal Self Governance Demonstration Project is made as an exception to the policy of the Department of the Interior to do rule making for grant programs. See Public Participation in Rule Making, 36 FR 8336 (1971). This exception is made to that policy for the following reasons. The Self Governance Project was established by the Congress as a demonstration project. In authorizing the expansion of the project in Public Law 102–189 and requiring planning projects by tribes prior to negotiating a compact, Congress directed the Office of Self Governance to expedite the processing of these grants in the accompanying report language. Operational experience is needed to enable appropriate rule making for the program to be undertaken for future years. This announcement provides sufficient structure for FY 1992 planning and negotiations grant program as well as a fair and open process for tribal application and competition. Just as importantly, the flexibility which the announcement procedure provides will enable the Office of Self Governance to put into effect in 1992 all aspects of the planning and negotiation process as it was intended by Congress. Without this exception from the 1971 policy this result could not be accomplished. Accordingly, the grants for 1992 will be made on the bases stated in this announcement.

A. Purpose of Program

The purpose of the program is to provide grants which provide planning and negotiation resources to tribes interested in participating in the Tribal Self Governance Demonstration Project as authorized by Title III of Public Law 100–472. Public Law 102–184, which amends Title III, has increased the number of tribes which can participate from 20 to 30, and requires tribes which wish to enter the program to participate in a planning process.

The Office will entertain proposals to select up to ten additional tribes to enter the planning stage. These will be selected through a competitive process. Since there is a statutory cap of thirty tribes, it is possible that not all of those that are awarded planning grants will be able to enter the program in the demonstration phase. However, the opportunity to participate may be available later should the program become permanent, and the planning process itself should be valuable to a participating tribe. The requirement for a geographical representation of tribes in the Project will be a factor in the selection of tribes.

Planning grants will be awarded on a competitive basis to tribes meeting the eligibility criteria and other provisions contained in this announcement. Applications not meeting all provisions of this announcement will be considered unresponsive and will not be reviewed for funding. The applicant will be so notified and such determination by the Office of Self Governance regarding the non-responsiveness of any application received shall be final for the Department.

Based upon evidence of successful completion of initial planning activities and a decision by the tribal governing body to proceed with the program, a negotiation grant, not to exceed $20,000, may be awarded to a tribe upon submission of an appropriate application as specified in this announcement. Other tribes which have completed planning activities in previous years but which have not received a negotiation grant, may also be accepted for an award based on the discretionary decision of the Director, Office of Self Governance.

There may be other tribes which have previously received negotiations grants, but chose not to negotiate. These tribes may still be considered for one of the remaining slots in the program. Such tribes should submit a request for consideration to the Director, Office of the Self Governance, providing a recent request and planning report which follows the guidelines for negotiation grant applicants. Such tribes are not eligible for a second negotiation grant and will not be afforded any preference over other tribes for one of the remaining slots in the Project.

Every applicant should indicate at what point it anticipates being ready to negotiate a compact, assuming that a favorite decision is made to proceed. There is a limited demonstration period set for this program; therefore, preference for negotiation grants will be given to those tribes who would most likely be ready to negotiate an agreement commencing in FY 1993. Likewise preference will be given to planning grant applicants which anticipate a readiness to negotiate an agreement with an effective date of no later than FY 1994.

B. Eligibility Criteria

1. *Planning Grants:* To be considered for a planning grant under this announcement, an applicant must:

a. Be a federally recognized tribe as defined in Public Law 93–638, as amended.

b. Formally request, through a final governing body action, a planning grant for the purpose of participation in the Tribal Self Governance Demonstration Project.

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c. Have operated two or more mature contracts.

d. Furnish organization-wide single audit reports as prescribed by Public Law 98–502, the Single Audit Act of 1984 for the previous three years which contain no significant or material audit exceptions.

2. Negotiation Grants: To be considered eligible for a negotiation grant under this announcement, an applicant must:

a. Be a federally recognized tribe as defined in Public Law 93–638, as amended.

b. Formally request, through a final governing body action, a grant for the purpose of negotiating for a self governance compact for BIA programs and services.

c. Have successfully completed a planning project specifically relating to self governance or currently be engaged in such a planning activity. A report on such activities should accompany the application.

d. Have not previously received a grant for self governance negotiations.

C. Grant Period

Grants under this announcement shall be for a period of one year or less.

D. Fund Available

a. Planning Grants—A maximum of $500,000 is available to fund approximately ten planning grants at approximately $50,000 each.

b. Negotiation Grants—A maximum of $120,000 is available to fund approximately six negotiation grants at approximately $20,000 each.

E. Application Process

Applications under this announcement shall be on an SF–424 and shall contain a narrative description of proposed grant activities as well as a line item budget and budget justification. General guidelines for the grant applications are as follows:

1. Planning Grants. Applications should contain background information on the tribe and its circumstances. Applicants should not only provide a description of what they will accomplish under the grant but also discuss their expectations of and what they can contribute to the demonstration. A key component of the proposal should be to conduct activities which lead to greater understanding of BIA programs, services, and funding levels; and to explore programmatic alternatives which will better meet the needs of tribal members.

Prior planning activity for self governance shall be considered in the review process, but this consideration shall not guarantee selection.

2. Negotiation Grants. Applications should be brief and contain summary material of what was learned or is being learned during the planning project. The application should give a specific narrative of the direction of the tribe wishes to take in the project and proposed timeliness for negotiations. Where possible, tribes should note any unique and/or beneficial contributions which they can make to the program.

F. Other Conditions

The statute requires the Office of Self Governance to achieve geographical representation to include tribes in different areas of the country as well as tribes of different sizes and circumstances. Selection of the remaining thirteen slots will comply with the statutory requirement of geographical balance. It is further the intention of the Office to include in the Project those tribes with the greatest potential for success. Since this is a demonstration project, it is necessary to exercise a great deal of discretion in administration of the program to achieve the most valuable information possible from the involvement of a limited number of tribes.

G. Application Review and Approval Process

1. Planning Grants. Applications submitted under this announcement will be subject to a competitive review and evaluation.

The Office of Self Governance will review and rate the applications according to the criteria identified in this announcement and statutory requirements. Incomplete applications or applications which do not conform to the terms of this announcement will not be reviewed but will be returned to the sender as unresponsive. The Office will make its recommendations concerning awards to the Self Governance Demonstration Project Council which in turn will review the work of the Office and make its recommendations on selection to the Assistant Secretary-Indian Affairs. The Assistant Secretary will then make the final awards.

Tribes may elect to utilize planning grants also for negotiations and may indicate this intention in their applications. However, actual decisions from a grantee to move forward into the negotiations phase will not be accepted until at least two months after the grant award is made, in order to ensure compliance with the statutory requirement that a tribe must have participated in a planning process as a precondition to entering the program.

Applications will be reviewed according to the following criteria:

a. The goals/objectives of the grant are, wherever possible, measurable, consistent with the goal of the program and the terms of this announcement, and achievable as demonstrated by an implementation schedule. (25)

b. Grant objectives are fully and clearly described, reflect the needs of the tribal members, and can be accomplished with the resources available. (15)

c. There is evidence that the tribe has the capability to perform the tasks identified; i.e., the application includes resumes and position descriptions of key staff. (15)

d. The application includes substantial geographical information concerning the tribe and provides a discussion of the benefits which would accrue to the Demonstration Project as a result of including the tribe in the program. Geographical circumstances of the tribe which are not well-represented by other tribes in the program should be cited. (25)

e. A line-item budget is submitted with a detailed justification for all expenditures. All costs identified shall be reasonable and allowable in accordance with OMB Circular A–87, Cost Principles for State and Local Governments. (20)

In making final selections, the Assistant Secretary—Indian Affairs will consider the ranking factor along with the geographical factor.

2. Negotiation Grants:

Only a limited number of tribes are eligible to apply for negotiation grants. Successful completion of a planning project is a prerequisite to eligibility for a negotiation grant. There is no guarantee that awards will be made to tribes simply because they are eligible to apply. The requirement for geographical representation may preclude the selection of a tribe even though it has successfully completed a planning project. Additionally, an award of a negotiation grant does not guarantee that a compact will be entered into since an agreement may not be reached. However, the award of such a grant does signal a willingness of the Department to negotiate in good faith with the tribe.

The application of a tribe for a negotiation grant should include the following:

a. Reports on the planning activity which has occurred.

b. A request from the tribal governing body to enter into negotiations for a self governance agreement. Such a request shall be made through a final governing body action, and be taken within the six months immediately preceding the date of the tribe's application.

c. A brief narrative of the proposed activities under the grant and a budget which details the costs to be incurred.

d. A description of the benefits which would accrue to the Demonstration Project as a result of the tribe being selected and a statement of tribal expectations of the project.

H. Submission of Applications

1. The closing date for submission of applications for initial planning grants is April 6, 1992.
2. The closing date for submission of applications for negotiation grants is July 20, 1992; however, awards may be made prior to that deadline.
3. Applications may be mailed or hand-delivered.
4. Applications which are mailed must be postmarked no later than the deadline date.
5. Late applications will be regarded as unresponsive to this announcement.
6. The address to which applications must be mailed or hand-delivered is as follows:

Director, Office of Self Governance,
Department of the Interior, 1849 C
Street, NW., RM/MS-2253,
Washington, DC 20240

Dated: February 12, 1992.

William D. Bettenberg,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 92-3835 Filed 2-18-92; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[(AK-967-4230-15); AA-11727]

Alaska Native Claims Selection

In accordance with Departmental regulations 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(h)(1) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(h)(1), will be issued to Koniag, Inc. Regional Native Corporation for approximately 17.23 acres. The lands involved are in the vicinity of Kodiak, Alaska.

Seward Meridian
T. 33 S., R. 30 W

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the Kodiak Daily Mirror. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513-7599 ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until March 20, 1992, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal.

Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 34 CFR part 4, subpart E, shall be deemed to have waived their rights.

Terry R. Hassett,

Chief, Branch of KCS Adjudication.

[FR Doc. 92-3846 Filed 2-18-92; 8:45 am]

BILLING CODE 4310-JA-M

[WO-150-00-4830-11]

National Public lands Advisory Council; Meeting

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of meeting of the National Public Lands Advisory Council.

SUMMARY: Notice is hereby given that the National Public Lands Advisory Council will meet Thursday, March 19, 1992, at the Hyatt Regency Denver, 1750 Welton, Denver, Colorado 80202, Phone #303-295-1234. Meeting hours will be 8 a.m. to 5 p.m. on Thursday, March 19.

The proposed agenda for the meeting is:

Opening remarks by BLM Director Cy Jamison, National Public Lands Advisory Council Chairman Dr. James E. Bowns, and BLM Colorado State Director Bob Moore.

The Council has ongoing task force groups. The issues these groups have been working on include rangeland management, mining, recreation, and hazardous materials management. The appropriate Council member will provide an update on the status of these working groups.

There will be time allotted on the agenda for election of new 1992 Council Officers and on reorganizing the Council work groups to accommodate their six new members.

The BLM will provide a briefing to the Council members on the most recent Wild Horse and Burro Strategic Management Plan. A presentation will be given by Universal Entech, a Denver-based municipal solid waste management systems group.

All meetings of the Council are open to the public. Opportunity will be given for members of the public to make oral statements to the Council beginning at 1 p.m. on Thursday, March 19. Speakers should address specific national public lands issues and are encouraged to submit a copy of their written statements prior to oral delivery. Please send written comments by March 12 to the BLM's Colorado State Office at the address listed below. Depending on the number of people who wish to address the Council, it may be necessary to limit the length of oral presentations.

DATES: Thursday, March 19, 1992—National Public Lands Advisory Council Meeting.

ADDRESSES: Copies of Public Statements should be mailed by March 12 to: Ms. Marta Witt, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215-7076.

FOR FURTHER INFORMATION CONTACT: Nan Morrison, Washington, DC, office, BLM, telephone (202) 208-5101.

SUPPLEMENTARY INFORMATION: The Council advises the Secretary of the Interior through the Director, BLM, regarding policies and programs of a national scope related to public lands and resources under the jurisdiction of the BLM.

Dated: February 12, 1992.

Susan Lamson,

Director.

[FR Doc. 92-3858 Filed 2-18-92; 8:45 am]

BILLING CODE 4310-84-M

[NM-940-02-4730-12]

Filing of Plats of Survey; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey described below will be officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico on March 17, 1992.

New Mexico Principal Meridian, New Mexico

T. 23 S., R. 25 E., Accepted December 30, 1991, for Group 861 NM. Supplemental Plat:
T. 7 N., R. 2 E., Lot 84, Accepted December 26, 1991.
T. 7 N., R. 2 E., Lot 50, Accepted December 26, 1991.

The above-listed plats represent dependent resurveys, survey and subdivision.

These plats will be in the files of the New Mexico State Office, Bureau of Land Management, P.O. Box 27115, Santa Fe, New Mexico 87502-7115. Copies may be obtained from this office upon payment of $2.50 per sheet.

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Dated: February 7, 1992.

John P. Bennett,

Chief, Cadastral Survey.

[FR Doc. 92-3847 Filed 2-18-92; 8:45 am]

BILLING CODE 4310-FB-M

Fish and Wildlife Service

Availability of a Draft Environmental Impact Statement for the Chincoteague National Wildlife Refuge Master Plan

AGENCY: Fish and Wildlife Service, Interior.

ACTION: This notice advises the public that the Draft Environmental Impact Statement for the Chincoteague National Wildlife Refuge Master Plan, Chincoteague, Virginia is available for public review. Comments and suggestions are requested. Proposed is a series of managemental and developmental actions for Chincoteague National Wildlife Refuge (Refuge) to be implemented over the next ten to twenty years. This proposed action balances dual goals: (1) To protect and enhance the coastal barrier island habitats of two endangered and one threatened species, as well as other species of management concern, while continuing (2) to provide Refuge visitors with high quality educational and recreational experiences to the extent these activities are compatible with the purposes for which the Refuge was established. Chincoteague Refuge will continue to work in partnership with the National Park Service (NPS), Assateague Island National Seashore (AINS), seeking closer inter-agency coordination while maintaining a division of responsibilities. Four alternatives were considered in the planning process to meet the goals listed above.

DATES: Written comments are requested by May 1, 1992. Public meetings will be conducted on March 8, 1992 in Baltimore, MD and March 12, 1992 in Chincoteague, Virginia.

ADDRESSES: Comments should be addressed to: John Schroer, Refuge Manager, Chincoteague National Wildlife Refuge, P.O. Box 62, Chincoteague, VA 23336.

Planned public meetings include: March 8, 1992, 2 pm, The Church of the Redeemer, Parish Hall Street, 5603 North Charles Street, Baltimore, Maryland and March 12, 1992, 7 pm, Chincoteague Fire House, Main Street, Chincoteague, Virginia.

FOR FURTHER INFORMATION CONTACT: John D. Schroer, Refuge Manager, Chincoteague National Wildlife Refuge, P.O. Box 62, Chincoteague, VA 23336, 804/336-6122.

Individuals wishing copies of this EIS for review should immediately contact the above individual. Copies have been sent to all agencies and individuals who participated in the scoping process and to all others who have already requested copies.

SUPPLEMENTAL INFORMATION: John D. Schroer, Refuge Manager, Chincoteague National Wildlife Refuge is the primary author of this document. The Fish and Wildlife Service (FWS), Department of the Interior, has prepared a Draft EIS on its proposal to provide for management and development of the Chincoteague National Wildlife Refuge (Refuge) to be implemented over the next ten to twenty years. Management proposals regarding wildlife species and their habitat include: acquiring important wildlife habitat in the Refuge vicinity; managing Refuge forests to establish and maintain endangered Delmarva Peninsula fox squirrel habitat and habitat diversity; protecting nesting and feeding piping plovers, a threatened species, and other shorebirds by intensifying predator control and continuing/expanding closures; enhancing freshwater wetland habitat on the Refuge by improving water capabilities in the impoundments; maintaining existing biodiversity present on the Refuge; and maintaining better control of the Chincoteague ponies. The public use and facilities management actions include: emphasizing wildlife oriented recreational and educational opportunities; continuing the deer and waterfowl hunting programs; managing off-road vehicle access to protect the piping plover; retaining the current beach general recreation zone; establishing a maximum beach use capacity; continuing private vehicle beach access as long as beach parking areas remain; allowing NPS to maintain existing parking at the beach as long as the land base remains; coordinating with NPS and the Chincoteague community in identifying a suitable off-site parking area; implementing a system to eliminate traffic backups at the beach; and developing a FWS headquarters/visitor center on a geologically stable portion of the island.

This action is designed to give overall guidance for the protection, use, and development of Chincoteague National Wildlife Refuge (Refuge) during the next ten to twenty years. Chincoteague National Wildlife Refuge was established in 1943 for use as an inviolate sanctuary, or for any other management purpose, for migratory birds. At the time of the original acquisition, primary recognition was given to southern Assateague Island's value as important habitat for migrating and wintering greater snow geese. While the Refuge continues to provide important waterfowl habitat, the management emphasis has expanded over the years to address a variety of other wildlife needs. Today, Chincoteague Refuge supports breeding populations of the endangered Delmarva Peninsula fox squirrel and threatened piping plover. In addition, the Refuge has supported a resident pair of peregrine falcons, also an endangered species, since 1982, and hundreds of peregrine falcons stop on the Refuge during migration. The Refuge is also one of the top five shorebird migratory staging areas in the United States, east of the Rocky Mountains. However, the Refuge also provides an important educational and recreational resource for people attracted to the beautiful beach and excellent wildlife viewing opportunities. Visitation has increased sharply since construction of the bridge from Chincoteague Island in 1963 and inclusion of Refuge lands within Assateague Island National Seashore (AINS) in 1965. According to Refuge records, public use has grown from an estimated 100,000 visits in 1963 to more than 1.5 million visits in 1987, ascribing to Chincoteague Refuge the third highest number of visits of any national wildlife refuge in the country. The primary impetus for master planning of Chincoteague Refuge at this particular time comes from a growing need to balance high visitation with protection and enhancement of wildlife populations that depend on Refuge habitat. The situation must be viewed in the broad context of regional and national trends in loss of wildlife habitat and demand for recreational and economic opportunities.

This action will result in the following major beneficial consequences: improved wildlife habitat to encourage endangered and threatened species production; improved habitat for migrating and wintering waterfowl, shorebirds, and other wildlife; improved wildlife oriented recreational and educational opportunities; assured access to the Refuge beach, while maintaining a quality beach experience in keeping with wildlands recreational objectives; and improved FWS/NPS management, coordination and efficiency. Possible adverse impacts include: loss of tax revenue for the town or county; redirected or reduced public use in certain areas; loss of small amounts of wetlands; impaired viewing and photographing opportunities for visitors; create negative visual impact by constructing shelters at the beach; and loss of small amounts of habitat to proposed construction.

Besides the proposed action, the major alternatives under consideration that were analyzed and evaluated during planning include the following:

1. The No Action alternative describes current management activities, assuming that these will continue over the next ten to twenty years. A description of this course of no significant new action provides a reference point to compare and evaluate environmental consequences associated with the other alternative plans. Although significant steps are presently being undertaken to manage and protect wildlife, the overall, environmental effects of taking No Action may result in reduced wildlife habitat quality and reduced wildlife reproduction. Inadequate visitor facilities and public use regulation mechanisms will continue to compromise wildlife oriented experiences, and may degrade wildlife habitat or otherwise jeopardize wildlife production.

2. The Wildlife Management alternative emphasizes wildlife protection and gives full consideration to actively managing Refuge habitats and public uses for maximum wildlife benefit. Public use has lower priority, although programs that do not require a large outlay of funding or necessitate construction of nonwildlife oriented facilities on the Refuge are proposed. Habitat and wildlife production benefits from implementation of the natural resource management proposals in this alternative will exceed those described for the Proposed Action alternative, as certain public access is confined to seasonal shuttle access and habitat management programs and wildlife studies efforts are increased. Public use management consequences reflect reduced recreation opportunities, including less wildlife observation opportunities.

3. The Public Use alternative emphasizes visitor accommodation. The major objectives to protect and perpetuate the ecosystem and wildlife populations are met. Many proposed management efforts are directed towards educational, interpretive, and wildlife oriented public recreation programs. The intent is to promote public awareness and enjoyment of the Refuge. Improved interpretive and educational opportunities will increase the awareness of Refuge visitors about wildlife and habitat issues. However, habitat degradation and wildlife disturbance will result from increased public access to Toms Cove Hook, the White Hills, and northern Refuge areas, possibly reducing wildlife presence and reproduction. These actions may, in turn, reduce the quality of wildlife oriented public use experiences.

Other Government agencies and members of the general public contributed to the planning and evaluation of the proposal and to the preparation of this EIS. The notice of Intent to prepare this EIS was published in the March 2, 1985 **Federal Register**. Public involvement in the Chincoteague Refuge Master Planning process has taken many forms in an effort to obtain meaningful input from various interests, including the following major scoping initiatives:

Scoping letters issued to initiate or update the progress of the plan and to urge public participation sent to 1,000–1,300 individuals or groups, April and September, 1985.

Public scoping meeting, Chincoteague Fire Hall, June 4, 1985 with over 150 people attending.

Regular occurring meetings with the following attending most meetings: Congressman Bateman's Aide, Officials of both the Accomack County and Town of Chincoteague governments, officers and members of the Chincoteague Chamber of Commerce, Assateague Island National Seashore (AINS) Superintendent and Chincoteague Refuge Manager, 1988 through 1990.

Meeting with Chincoteague Refuge Manager and representatives of The Wilderness Society, Committee to Preserve Assateague Island, Inc., National Wildlife Refuge Association, National Audubon Society, Audubon Naturalist Society of the Mid-Atlantic States, Defenders of Wildlife, Sierra Club, Environmental Defense Fund, and National Parks and Conservation Association, October 1989.

Meetings with Chincoteague Refuge Manager, Seashore Superintendent, and representatives of Accomack County, Town of Chincoteague, Chincoteague Chamber of Commerce, The Wilderness Society, Committee to Preserve Assateague Island, Inc., National Wildlife Refuge Association, National Audubon Society, Audubon Naturalist Society of the Mid-Atlantic States, Defenders of Wildlife, Sierra Club, Environmental Defense Fund, National Parks and Conservation Association, and Izaak Walton League of America, December 1989 and April, May, July, and November 1990.

(**Note:** At the five meetings, various of the groups mentioned were represented).

Master Planning Bulletins/letters to present update on process and urge public participation sent to 200–300 individuals, groups and agencies, October 1990 and January, July, and November, 1991.

Public scoping meeting, Chincoteague Fire House, in attendance were over 60 people including Congressman Bateman's staff, members of the public and representatives of FWS, NPS, Town of Chincoteague, Assateague Island Mobile Sport Fisherman Association, Wicomico Environmental Trust, Wicomico Bird Club, Worcester Environmental Trust, AJ's Restaurant, Salisbury Zoo, Corner Book Store, and Eastern Shore of Virginia Angler's Club, November 27, 1990.

All agencies and individuals are urged to provide comments and suggestions for improving this EIS as soon as possible. All comments received by the dates given above will be considered in preparation of the final EIS for this proposed action.

The FWS has determined that this document does not contain a major proposal requiring preparation of an economic impact analysis under Executive Order E.O. 11821 as amended by E.O. 11949 and OMB Circular A–107.

Dated: February 7, 1992.

Ronald E. Lambertson,

Regional Director.

[FR Doc. 92–3760 Filed 2–18–92; 8:45am]

BILLING CODE 4310–55–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32014]

Dallas, Garland & Northeastern Railroad, Inc.—Lease and Operation Exemption—Missouri Pacific Railroad Co.

Dallas, Garland & Northeastern Railroad, Inc., (DGNO),[1] has filed a verified notice for an exemption to: (1) Lease and operate a Missouri Pacific Railroad Company (MP) line between milepost 713.6, at Greenville, TX, and milepost 750.749, near Garland, TX; and (2) operate an abandoned line that DGNO is purchasing from MP, between milepost 688.1, at Trenton, TX, and milepost 713.6.[2]

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[1] DGNO is a noncarrier subsidiary of RailTex, Inc., a holding company that controls other carriers Before consummation of the subject transactions, the stock of DGNO is to be transferred to a trustee, pursuant to an independent voting trust agreement under 49 CFR 1031.1

[2] The line was abandoned in 1987 by MP's predecessor. See Docket No. AB–102 (Sub-No 23X) Missouri-Kansas-Texas Railroad Company—Abandonment Exemption—In Fannin and Hunt Counties, TX.

DGNO will operate over the 62.6-miles of line, interchanging with MP at Garland and with the Texas Northeastern Division of Mid-Michigan Railroad at Trenton.[3] Interchanges with other carriers also may be established at Greenville. The transactions were expected to be consummated immediately after the February 7, 1992, effective date of the exemption.

Any comments must be filed with the Commission and served on Kelvin J. Dowd, Slover & Loftus, 1224 Seventeenth Street, NW., Washington, DC 20036.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: February 12, 1992.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-3814 Filed 2-18-92; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 32015]

Dallas, Garland & Northeastern Railroad, Inc.—Trackage Rights Exemption—Dallas Area Rapid Transit

Dallas Area Rapid Transit (DART) has agreed to grant local trackage rights to Dallas, Garland & Northeastern Railroad, Inc. (DGNO), over 4.451 miles of line between mileposts 750.749 and 755.2, near Garland, TX. The exemption became effective on February 7, 1992.

DGNO will use these trackage rights in connection with its lease and operation of lines that are the subject of a notice of exemption in Finance Docket No. 32014, Dallas, Garland & Northeastern Railroad, Inc.—Lease and Operation Exemption—Missouri Pacific Railroad Company.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on Kelvin J. Dowd, Slover & Loftus, 1224 Seventeenth Street, NW., Washington, DC 20036.

As a condition to the use of this exemption, any employees adversely affected by the trackage rights will be protected under Norfolk and Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified in Mendicino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980).

Dated: February 12, 1992.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-3815 Filed 2-18-92; 8:45]

BILLING CODE 7035-01-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 U.S.C. 3303a(a).

DATES: Request for copies must be received in writing on or before April 6, 1992. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESSES: Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in the parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending

1. Department of the Air Force (N1-461-91-1). United States Air Force Academy cadet personnel records.
2. Department of the Air Force (N1-AFU-91-44). Performance reporting and quality control forms.
3. Department of the Air Force (N1-AFU-91-46). Routine log books of search and rescue mission. (Narrative reports of missions and non-routine log books are proposed as permanent.)
4. Department of the Air Force (N1-AFU-92-14). Flight operations submission form.
5. Department of the Air Force (N1-AFU-92-16). Applications for Air Force Junior Reserve Officer Training Corps.
6. Department of the Air Force (N1-AFU-92-21). Personnel identification certificates.

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[3] In Finance Docket No. 32015, Dallas, Garland & Northeastern Railroad, Inc.—Trackage Rights Exemption—Dallas Area Rapid Transit, DGNO has filed a verified notice to exempt its acquisition of trackage rights over 4.451 miles of Dallas Area Rapid Transit line to facilitate interchange with MP at Garland.

7. Department of the Navy, Commander in Chief, U.S. Pacific Command (N1–181–92–1). Routine internal administrative and housekeeping correspondence.

8. Defense Logistics Agency (N1–361–92–2). Routine and facilitative records relating to reutilization and marketing.

9. Department of Agriculture, Farmers Home Administration (N1–96–92–1). County field office loan application files and operational files.

10. Department of Energy (N1–434–91–6). Grant case files relating to the development of new technology and application of existing technologies.

11. Farm Credit Administration (N1–103–92–2). Enforcement case files.

12. Federal Trade Commission (N1–122–92–1). Premerger notification and report files.

13. Department of Health and Human Services, Centers for Disease Control (N1–442–92–1). Contract files for vaccines.

14. United States Information Agency, Bureau of Educational and Cultural Affairs (N1–306–92–2). Routine and facilitative records relating to the donation of materials.

15. Peace Corps, Office of Training and Program Support (N1–490–92–1). Routine administrative records from the Women in Development Program.

16. Department of State, Bureau of Intelligence and Research (N1–59–91–18). Routine, facilitative, and duplicative records.

17. Department of State, Policy Planning Staff (N1–59–92–2). Routine, facilitative, and duplicative records.

18. Department of State, Bureau for Refugee Programs (N1–59–92–4). Files on cooperative agreements and contributions to international organizations.

19. Department of State, Bureau of Consular Affairs (N1–59–92–5). Visa case files.

20. Department of State, Foreign Service Posts (N1–84–92–2). Visa case files.

21. Tennessee Valley Authority (N1–142–91–8). Malaria epidemiological data.

22. Department of Veterans Affairs (N1–15–92–1). Background material for the reports to Congress required by the Privacy and Freedom of Information Acts.

Dated: February 11, 1992.

Don W. Wilson,

Archivist of the United States.

[FR Doc. 92–3761 Filed 2–18–92; 8:45 am]

BILLING CODE 7515–01–M

NATIONAL COMMISSION ON CHILDREN

Hearing

Background

The National Commission on Children was created by Public Law 100–203, December 22, 1987 as an amendment to the Social Security Act. The purpose of the law is to establish a nonpartisan Commission directed to study the problems of children in the areas of health, education, social services, income security, and tax policy.

The powers of the Commission are vested in Commissioners consisting of 36 voting members as follows:

1. Twelve members appointed by the President,
2. Twelve members appointed by the Speaker of the House of Representatives,
3. Twelve members appointed by the President pro tempore of the Senate.

This notice announces a Meeting of the National Commission on Children to be held in Airlie, Virginia.

Meeting

Time: 8:30 a.m.–4 p.m., Monday, February 24, 1992.

Place: Airlie Conference Center, Airlie, Virginia 22186.

Status: Open to the public.

Agenda: Commission Meeting.

Contact: Jeannine Atalay, (202) 254–3800.

John D. Rockefeller IV,

Chairman, National Commission on Children.

[FR Doc. 92–3820 Filed 2–18–92; 8:45 am]

BILLING CODE 6820–37–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular biweekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from January 27, 1992, through February 6, 1992. The last biweekly notice was published on February 5, 1992 (57 FR 4483).

Notice of Consideration of Issuance of Amendment To Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity For Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By March 20, 1992, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to **(Project Director)**: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room for the particular facility involved.

Arizona Public Service Company, et al., Docket No. STN 50-530, Palo Verde Nuclear Generating Station, Unit 3, Maricopa County, Arizona

Date of amendment request: December 20, 1991

Description of amendment request: The proposed amendment would allow the substitution of up to 80 fuel rods clad with advanced zirconium alloys other than Zircaloy-4 in two fuel assemblies for in-reactor performance evaluation during fuel cycles 4, 5, and 6.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensees have provided their analysis of the issue of no significant hazards consideration, which is presented below:

Standard 1—Would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment would allow for limited substitution of Zircaloy-4 clad fuel rods in the reactor core with fuel rods clad with advanced zirconium-based alloys. Specifically, the amendment allows for the substitution of up to 80 fuel rods with rods clad with zirconium-based alloys other than Zircaloy-4 in two fuel assemblies. The reactor core is composed of 241 fuel assemblies, each containing 236 fuel or burnable poison rods. Thus, less than 0.2% of the total number of rods in the core will be clad with the advanced zirconium-based alloys.

The fuel rods clad with the advanced zirconium-based alloys will be identical in design and dimension to the fuel rods clad with conventional Zircaloy-4. The advanced cladding materials used in the demonstration fuel assemblies were chosen based on the improved corrosion resistance exhibited in ex-reactor autoclave corrosion tests in both high-temperature water and steam environments. Fuel rods clad with similar types of advanced zirconium-based alloys have been successfully irradiated in high-temperature [pressurized water reactors] in Europe.

The mechanical properties of the clad made from the advanced zirconium-based alloys are comparable to Zircaloy-4. Specifically, the cladding material made from the advanced zirconium-based alloys meet all the mechanical requirements of the conventional Zircaloy-4 procurement specifications. Thus, the cladding and structural integrity of the fuel rods and fuel assemblies that have the advanced zirconium-based alloys will be maintained.

Additionally, the behavior of the new cladding material under normal operation, anticipated operational occurrences, and postulated accidents (including LOCA) was considered. Due to the similarity of the physical properties of the advanced zirconium-based alloys to Zircaloy-4, as discussed above, the advanced alloys are expected to result in clad and fuel performance similar to Zircaloy-4, such that the reload design and safety analysis limits will not be changed. Specifically, the 10 CFR 50.46 LOCA acceptance criteria will be satisfied for the advanced zirconium-based cladding.

Therefore, based on the similarity of the design and the expected performance of the fuel rods clad with the advanced zirconium-based alloys, the proposed amendment will not significantly increase the probability or the consequences of an accident previously evaluated.

Standard 2—Would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The limited substitution of fuel rods clad with advanced zirconium-based alloys other than Zircaloy-4 will not result in any alteration to plant equipment or procedures which would introduce any new or unique operational modes or accident initiators. Additionally, as noted in the response to Standard 1 above, the design and performance criteria for fuel clad will be met.

Thus, it is concluded that the limited substitution of fuel rods clad with zirconium-based alloys other than Zircaloy-4 will not create the possibility of a new or different kind of accident from any accident previously evaluated.

Standard 3—Would not involve a significant reduction in a margin of safety.

As noted in the response to Standard 1 above, the design and performance of the fuel rods clad with advanced zirconium-based alloys are expected to be within those observed for fuel rods clad with conventional Zircaloy-4. This expectation is based on autoclave and other material testing results and the material similarities. Additionally, the two fuel assemblies containing the fuel rods clad with the advanced zirconium-based alloys will be positioned in the core such that the rods will [neither experience the limiting burnup nor the highest power density.] Thus, due to this placement scheme and the similarity in performance to Zircaloy-4, the fuel rods clad with the advanced zirconium-based alloys will not [be "limiting" with respect to any safety acceptance criterion.]

Furthermore, the two demonstration fuel assemblies with the fuel rods clad with the advanced zirconium-based alloys will be visually examined and the thickness of the oxide layer will be measured at the end of each operating cycle to confirm satisfactory performance. In the unlikely event that unsatisfactory performance is indicated, the two demonstration fuel assemblies feature reconstitutable upper end fittings to allow for reconstitution of the fuel assembly.

As a result of the factors presented above, the limited substitution of fuel rods clad with zirconium-based alloys other than Zircaloy-4 will not significantly reduce a margin of safety.

The NRC staff has reviewed the licensees' analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Phoenix Public Library, 12 East McDowell Road, Phoenix, Arizona 85004

Attorney for licensees: Nancy C. Loftin, Esq., Corporate Secretary and Counsel, Arizona Public Service Company, P.O. Box 53999, Mail Station 9068, Phoenix, Arizona 85072-3999

NRC Project Director: Theodore R. Quay

Carolina Power & Light Company, et al., Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: December 16, 1991

Description of amendment request: The proposed amendment revises the calibration measurement instrumentation in Technical Specification (TS) 4.2.3.5 to change the allowable time period for calibration of instrumentation utilized in the performance of the reactor coolant system colorimetric flow measurement from 7 to 21 days.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below: This change does not involve a significant hazards consideration for the following reasons:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change only increases the maximum calibration period of the measurement instrumentation used for the precision heat balance measurement from 7 days to 21 days prior to the test. The 21 day interval is within the 30 day bounds assumed by Westinghouse in the error analysis for the precision heat balance measurement instrumentation. Further, an analysis of vendor transmitter test data shows that any increase in instrument drift between 7 days and 21 days is negligible. Therefore, there would be no significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The only logical mechanism for increasing the possibility of a new or different kind of accident by the proposed increase in the allowed calibration interval would be an adverse impact on the error analysis for the precision heat balance measurement. However, both the Westinghouse analysis and vendor test data show that an increase from 7 days to 21 days will have no significant impact on this analysis. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment does not involve a significant reduction in the margin of safety.

An increase in the allowable calibration time interval from 7 to 21 days has no effect on the RCS flow measurement uncertainty which forms the current basis for the Final Safety Analysis Report Chapter 15 accident analyses and the plant Technical Specifications. Additionally, the proposed change does not introduce new equipment or alter the way existing surveillance or testing are performed. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, P. O. Box 1551, Raleigh, North Carolina 27602

NRC Project Director: Elinor G. Adensam

Commonwealth Edison Company, Docket Nos. 50-254 and 50-265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendments: January 21, 1992

Description of amendments request: Commonwealth Edison Company, the licensee, submitted an application to amend the Technical Specifications for Quad Cities Nuclear Power Station, Units 1 and 2. The proposed amendments would change a specific action provision for the High Pressure Coolant Injection (HPCI) and Reactor Core Isolation Cooling (RCIC) systems. The current action provision requires shutdown to a reactor pressure below 150 psig upon failure of either the low pressure or high pressure flow tests of HPCI and RCIC. The proposed amendments would still require shutdown upon failure of the low pressure flow test but, upon failure of the high pressure flow test would allow 14 days before shutdown is required.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated because:

ITEM A

The proposed change would limit the action provisions of TS 3.5.C.2 to require entry into the Action Specification of TS 3.5.C.4 (24 hour shutdown and pressure reduction) only upon failure to meet the low reactor pressure flow rate testing provisions of TS 4.5.C.3.a for the HPCI system and not upon failure to meet the normal operating pressure flow rate test of TS 4.5.C.3.b. No accident initiator or precursors are changed by the proposed change, and by reducing the likelihood of plant transients and challenges to safety systems, the realistic probability of a Reactor Coolant Pressure Boundary failure accident as previously evaluated is not altered as a result of the proposed change to TS 3.5.C.2. Therefore, the proposed change would in no way significantly increase the probability of an accident previously evaluated.

The unavailability of the HPCI system during a design basis accident is within the design assumptions for ECCS component operation. The proposed change to TS 3.5.C.2 would not change or alter the design assumptions used in the limiting basis LOCA concurrent with the worst single failure. In the accident analysis, the HPCI single failure is bounded by the battery failure case which assumes two failures (i.e., battery and HPCI). The recirculation suction line break with battery failure is the limiting DBA break/failure combination satisfying the requirements of 10 CFR 50, Appendix K. The proposed change to TS 3.5.C.2 does not change the compensatory action provisions of current TS 3.5.C.3, which include that RCIC remain operable to perform a similar function; nor will the proposed amendment extend the Allowable Outage Time [sic] beyond the 14 days as previously approved. Therefore, the proposed amendment to change TS 3.5.C.2 would not significantly affect the consequences of an accident previously evaluated.

ITEM B

The proposed change to TS 3.5.E.2 would in the same way reduce the likelihood of plant transients and challenges to safety systems and therefore in no way alters the accident initiators or precursors that could result in a Reactor Coolant Pressure Boundary failure accident as previously evaluated. A unit shutdown and reduction in pressure to less than 150 psig would still be imposed should the low reactor pressure test of TS 4.5.E.3.a fail. The current remedial actions of TS 3.5.E.3 would apply should RCIC fail to meet the required flow rate at normal operating pressure. Therefore, deleting the requirement that would lead to unnecessary cycling would in no way significantly increase the probability of an accident previously evaluated.

RCIC system ability to provide makeup coolant to the reactor pressure vessel during an isolation accompanied by a loss of feedwater is used to evaluate plant response to transient events. However, the RCIC system is not an Emergency Core Cooling system and no credit is taken in the safety analysis for RCIC operation. Therefore, the proposed change to limit the action provision of TS 3.5.E.2 concurrent with the compensatory action of current TS 3.5.E.3, which requires that HPCI be operable to perform a similar function, cannot significantly affect the consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any previously evaluated because:

ITEM A

The proposed change to TS 3.5.C.2 does not change the design intent of the HPCI system nor are any physical plant changes proposed by the amendment request. ECCS performance without the availability of HPCI as a postulated failure has been previously evaluated and found to be acceptable. No new or different modes of operation, other than those already evaluated, are introduced by the proposed change to TS 3.5.C.2, therefore, there is no possibility of a new or different kind of accident from any previously evaluated.

ITEM B

The proposed change to TS 3.5.E.2 for the RCIC system does not result in any physical plant changes, nor does the proposed change to TS 3.5.E.2 involve any new or different operating modes of operation, therefore, there is no possibility of a new or different kind of accident from any previously evaluated.

3. Involve a significant reduction in the margin of safety because:

ITEM A

The proposed change to TS 3.5.C.2 makes no change to the accident or transient analysis of the plant. Plant operations and safety are improved by not imposing unnecessary shutdowns and challenges to plant safety systems. The current compensatory measures of TS 3.5.C.3 are not changed by the proposed amendment; nor is any established safety limit, operating limit or design assumption affected by the proposed amendment. Therefore, the proposed change does not involve a reduction in a margin of safety.

ITEM B

The proposed change to TS 3.5.E.2 makes no change to the accident or transient analysis of the plant nor are plant operations made less conservative. Plant operations and safety are improved by not imposing unnecessary shutdowns and challenges to plant safety systems. The compensatory measure which requires that HPCI remain operable will not be changed nor will the Allowable Outage Time be extended beyond the previously approved 14 days. No established safety limit, operating limit or design assumption is altered by the proposed amendment. Therefore, the proposed change does not involve a reduction in a margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. The staff, therefore, proposes to determine that the licensee's request does not involve a significant hazards consideration.

Local Public Document Room location: Dixon Public Library, 221 Hennipin Avenue, Dixon, Illinois 61021.

Attorney for licensee: Michael I. Miller, Esquire, Sidley and Austin, One First National Plaza, Chicago, Illinois 60690

NRC Project Director: Richard J. Barrett

Duquesne Light Company, et. al., Docket No. 50-334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of amendment request: January 13, 1992

Description of amendment request: The proposed amendment would revise Table 3.2-1 of Technical Specification 3.2.5, "DNB Parameters." Specifically, it would lower the value for the minimum required reactor coolant system (RCS) total flow rate from 274,800 gpm to 270,850 gpm and lower the flow measurement uncertainty value, specified in the footnote, from 3.5% to 2.0%.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below.

A. The change does not involve a significant increase in the probability or consequences of an accident previously evaluated (10 CFR 50.92(c)(1)) because the accident analyses are not affected by this proposed change. The RCS thermal design flow rate of 265,500 gpm remains unchanged, and it will continue to be monitored once per 12 hours in accordance with Surveillance Requirement 4.2.5.1.1. The change does not affect the operation or function of the RCS, does not involve any physical modification to the facility, and does not affect the manner in which the facility is operated.

B. The change does not create the possibility of a new or different kind of accident from any accident previously evaluated (10 CFR 50.92(c)(2)) because it does not change system configurations, plant equipment or the safety analyses performed for the facility. The proposed change merely changes the RCS flow uncertainty value to the latest value determined from a heat balance.

C. The change does not involve a significant reduction in a margin of safety (10 CFR 50.92(c)(3)) because it does not change the RCS thermal design flow rate of 265,500 gpm which is used in all accident analyses. Therefore, the proposed change does not involve a signficant reduction in the margin of safety.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: John F. Stolz

Entergy Operations, Inc., et al., Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: February 27, 1991

Description of amendment request: The amendment would replace the current License Condition 2.C(36) Attachment 1, Item (C)(4) which requires implementation of the requirements of Regulatory Guide 1.97 for flux monitoring prior to startup following the fifth refueling outage. The proposed new license condition would allow implementation of the Regulatory Guide 1.97 flux monitoring to be deferred until after the NRC staff completes their review of the BWR Owner's Group appeal of the NRC staff's Regulatory Guide 1.97 requirements.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. No significant increase in the probability or the consequences of an accident previously evaluated results from this proposed change because:

A change in the existing GGNS [Grand Gulf Nuclear Station] commitment to install an excore NFMS [Neutron Flux Monitoring System] before start-up from RF05 [fifth refueling outage] does not involve a significant increase in the probability of an accident previously evaluated since the previously proposed excore NFMS would not affect reactor operation and is not an initiator for any previously evaluated accidents. The previously proposed excore NFMS would provide post-accident indication of reactor power and would not have provided any signals to actuate engineered safety systems or to trip the reactor. Furthermore, reactor trip signals from the currently installed neutron monitoring system to the reactor protection system would not have been changed by the addition of the proposed excore NFMS.

The change in the existing GGNS commitment to install an excore NFMS before start-up from RF05 would not cause the consequences of an accident previously analyzed to increase significantly since:

a. The NRC Staff has recognized ... that an upgraded or new flux monitoring system would be of value primarily for currently undefined accidents which are outside the design basis.

b. The existing SRM/IRM [source range monitor/intermediate range monitor] system is expected to function during at least the initial phase of an accident (including a LOCA [loss-of-coolant accident]) to indicate subcritical reactor power. Long term post-LOCA monitoring is available through the APRM [average power range monitor] channels where operator action is required at the APRM downscale alarm. In addition, other measures and indications can provide the operator with reactor power information as discussed below:

i. The present control rod position indication system provides the reactor operator with information that all rods are inserted.

ii. Qualified instrumentation such as reactor pressure, suppression pool temperature, and safety relief valve (SRV) actuation provide the reactor operator with post-accident information for assessment of reactor power.

c. Under a potential event as considered in the NRC Safety Evaluation Report on NEDO-31558 ..., the GGNS symptom based Emergency Procedures (EPs) provide appropriate conservative actions if reactor power cannot be directly measured in a post-accident condition. The EPs contain action steps which mitigate the symptomatic effects of design basis events (such as LOCA) and beyond design basis events (such as ATWS [anticipated transient without scram]) along with potential degraded core events.

Therefore, the probability or the consequences of an accident previously evaluated will not be significantly increased by this change from the existing commitment to install an excore NFMS before start-up from RF05. GGNS implementation of RG 1.97 flux monitoring under the proposed change would be required as determined necessary by the final resolution of the issue, as reviewed and approved by the NRC Staff.

2. This proposed change will not create the possibility of a new or different kind of accident than any previously evaluated because:

The excore NFMS previously committed to would provide supplemental post-accident monitoring capability only, by providing additional operator information in order to perform possible mitigative actions during undefined, beyond-design-basis events. Its installation would not preclude or prevent any action. As such, the proposed change (which would allow GGNS implementation of RG [Regulatory Guide] 1.97 flux monitoring after the final determination of necessary BWR [boiling-water reactor] RG 1.97 flux monitoring requirements) will not create the possibility of a new or different kind of accident. During the evaluation period to determine the conclusive RG 1.97 flux monitoring requirements and any period necessary for implementation, the existing SRM/IRM neutron monitoring system will remain unchanged from the configuration that was previously evaluated in the FSAR [Final Safety Analysis Report].

Therefore, the possibility of a new or different kind of accident than any previously evaluated would not be changed by the proposed change from the existing commitment to install an excore NMS [neutron monitoring system] prior to start-up from RF05. GGNS implementation of RG 1.97 flux monitoring under the proposed change would be required as determined necessary by the final resolution of the issue, as reviewed and approved by the NRC Staff.

3. This proposed change does not involve a significant reduction in the margin of safety because:

The current GGNS margin of safety is established by the existing SRM/IRM neutron monitoring system and the shutdown margin of the control rod system. The design, function, and operation of the existing GGNS IRM/SRM neutron monitoring system will remain the same as that described in the UFSAR [Updated FSAR]. No additional reactor protection trip functions would be performed by the excore NFMS previously committed to for RF05 installation. EP actions are conservative with respect to the use of the existing neutron monitoring system for verification that the reactor is shutdown. Given that the excore NFMS previously committed to has not been determined to provide necessary information to operators for any defined accident scenario ..., GGNS operation with current procedures and the existing neutron monitoring system maintains the existing margin of safety.

Therefore, the margin of safety is not significantly reduced by the proposed change from the existing commitment to install an excore NFMS prior to start-up from RF05. GGNS implementation of RG 1.97 flux monitoring under the proposed change would be required as determined necessary by the final resolution of the issue, as reviewed and approved by the NRC Staff.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: Judge George W. Armstrong Library, Post Office Box 1406, S. Commerce at Washington, Natchez, Mississippi 39120

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, NW., 12th Floor, Washington, DC 20005-3502

NRC Project Director: John T. Larkins

Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit 2, Scriba, New York

Date of amendment request: January 17, 1992

Description of amendment request: The proposed amendment would revise License Conditions 2.c.(3)b and 2.c.(3) to increase the number of fuel assemblies in the spent fuel pool, allowed out of approved storage locations, from one to three. This allows rechanneling of fuel using both fuel preparation machines.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed license amendment increases the number of fuel assemblies in the spent fuel pool, allowed out of approved storage locations, from one to three. However, analyses have been performed demonstrating that no four assemblies in any configuration can be made critical, provided a 12 inch spacing between [the] assemblies [and all other fuel] is maintained. With a limit of three assemblies out of their storage locations at any one time a criticality event cannot occur. Administrative and procedural controls assure compliance with the license condition. Thus, this amendment does not affect the probability of criticality and/or a radiological event.

The proposed change of license condition 2.C.(3)c from "four" to "three" fuel assemblies merely reflects the proposed change in License Condition 2.C.(3)b and maintains consistency. This change is administrative in nature and does not affect the probability or consequences of any accident. Therefore, operation in accordance with the proposed amendment will not involve any increase in the probability or consequences of an accident previously evaluated.

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The Staff's Safety Evaluation dated November 27, 1985, issued in support of Special Nuclear Materials License No. SNM-1895 for NMP2 states, on page 6, that "Calculations have indicated that three assemblies out of storage cannot be made critical under any conditions." Other General Electric calculations have indicated that four assemblies out of storage cannot be made critical under any conditions [provided a 12 inch spacing between the assemblies and all other fuel is maintained]. Thus, increasing the number of fuel assemblies allowed out of their shipping containers or storage racks to three will not create a criticality concern.

The proposed change of license condition 2.C.(3)c from "four" to "three" fuel assemblies merely reflects the proposed change in License Condition 2.C.(3)b and maintains consistency. This change is administrative in nature and does not alter any fuel handling requirements. Therefore, operation in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety.

The proposed license amendment does not change any of the requirements contained in Technical Specification Limiting Conditions for Operation and Surveillance Requirements or affect any of their assumptions or bases. All fuel movement will still be in accordance with the Administrative Controls contained in the Technical Specifications, therefore assuring compliance with the proposed amendment. Calculations have demonstrated that up to four bundles in any configuration cannot be made critical, [provided a 12 inch spacing between the assemblies and all other fuel is maintained.] [T]herefore compliance with the proposed amendment provides adequate margin against an inadvertent criticality.

The proposed change of License Condition 2.C.(3)c from "four" to "three" fuel assemblies merely reflects the proposed change in License Condition 2.C.(3)b and maintains consistency. Therefore, operation of Nine Mile Point Unit 2, in addition with the proposed amendment, will not involve a significant reduction in a margin of safety

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005-3502

NRC Project Director: Robert A. Capra

Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit 2, Scriba, New York

Date of amendment request: January 29, 1992

Description of amendment request: The proposed amendment would revise Technical Specifications Sections 1.31, "Primary Containment Integrity;" 3/4.6.1, "Primary Containment;" 3/4.6.3 "Primary Containment Isolation Valves;" 3/4.8.4, "Electrical Equipment Protective Devices; and associated Tables 3.6.3-1, 3.8.4.1-1 and 3.8.4.3-1. These proposed changes remove the associated tables and all references contained in the Technical Specifications in accordance with Generic Letter 91-08. Removal of these limits permits administrative control of changes to these lists without processing a license amendment.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant increase in the probability or consequences of an accident previously evaluated.

Removal of the component lists and correction of the typographical error does not alter existing Technical Specification Operability or Surveillance Requirements or those components to which they apply. Therefore, the proposed changes do not increase the probability or consequences of any accident previously evaluated.

The operation of the Nine Mile Point Unit 2, in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any accident previously evaluated.

An appropriate description of the removed components has been incorporated in the associated Technical Specification requirements in lieu of the component lists or references thereto. The lists of components to which the Technical Specification requirements apply will be incorporated in plant procedures under the change control provisions in the Administrative Controls Section of the Technical Specifications. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety.

The Technical Specification Limiting Conditions For Operation or Surveillance Requirements for the removed components are not being altered. The component lists will be incorporated into plant procedures which are controlled by administrative procedures which require that all changes be evaluated in accordance with 10 CFR 50.59. The plant procedures will be under the change control provisions in the Administrative Controls Section of the Technical Specifications. Therefore, the proposed changes do not adversely affect a limiting Safety System Setting or involve a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005-3502

NRC Project Director: Robert A. Capra

Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of amendment request: December 20, 1991, as supplemented January 14, 1992.

Description of amendment request: The licensee requests an amendment to the Technical Specifications to revise Section 3.2 (Chemical and Volume Control System), Section 3.3.A (Safety Injection and Residual Heat Removal Systems), and Section 3.3.B (Containment Cooling and Iodine Removal Systems). These sections would be revised to provide for an increased boron concentration in the refueling water storage tank (RWST) and related changes. These changes are required to support the use of a higher enriched core which the licensee intends loading to support a 24-month operating cycle.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Consistent with the requirements of 10 CFR 50.92, the enclosed application is judged to involve no significant hazards based on the following information:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response:

No. The evaluation of the proposed changes to the IP3 [Indian Point Nuclear Generating Unit No. 3] technical specifications indicates that the proposed changes will not adversely affect the RWST [refueling water storage tank] material or any other stainless steel surface that may come into contact with the RWST fluid. The changes do not alter the design, material and construction standards of the RWST and other potentially affected Nuclear Steam Supply System (NSSS) components that were applicable prior to the technical specification changes. The changes will not affect the phenomenon of Primary Water Stress Corrosion Cracking (PWSCC).

Injection of refueling water and NaOH into the containment post-accident is a safety related function designed to mitigate the consequences of the accident. The availability of this equipment is unrelated to accident initiation.

The previously analyzed consequences or probabilities of potential corrosion events have not been increased. Therefore, the probability and consequences of these accidents are not affected by these changes.

The probability and consequences of the non-loss of coolant accidents (LOCA) previously evaluated do not change due to the fact that the RWST boron concentration is not used as an input in the current IP3 licensing basis non-LOCA transient analyses. Further, following a large break loss of coolant accident (LBLOCA) iodine removal from the containment atmosphere by sprays, iodine retention in the sump solution and the generation of hydrogen within the containment are not adversely affected by the changes.

With regard to the consequences of accidents previously evaluated, the small break loss of coolant accident (SBLOCA) and LBLOCA peak clad temperatures (PCT) will remain below the 2200° F limit. Since the PCT will remain below the limit, the radiological releases will not be adversely affected.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response:

No. The proposed changes will not cause the initiation of any accidents nor create any new credible single failure. The changes do not result in any event previously deemed as incredible being made credible. The changes do not alter the design, material and construction standards of the RWST and other potentially affected Nuclear Steam Supply System (NSSS) components that were applicable prior to the technical specification changes. No new modes of operation are proposed for any components or systems involved in the changes and these components will function exactly as currently described in the IP3 FSAR [Final Safety Analysis Report]. The changes will not create any new credible LOCA because RCS component boron concentrations are already modeled in LOCAs currently analyzed.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

Response:

No. The proposed changes will not significantly affect the operation of the RWST or related components. Therefore, the Technical Specification changes will not reduce the margin of safety.

The changes do not invalidate any of the IP3 non-LOCA safety analysis results or conclusions. All of the non-LOCA safety analysis acceptance criteria continue to be met.

Iodine retention in the post-LOCA sump solution is not adversely affected by the proposed changes. Therefore, the radiological consequences of the LOCA are not affected and remain within the 10 CFR 100 does acceptance criteria.

There is no adverse affect on containment post-LOCA hydrogen production and concentrations in containment will be maintain[ed] below the limit of 4.0 vol.%.

The proposed changes will not result in the SBLOCA or LBLOCA PCTs exceeding the acceptance limit of 2200° F, or in exceeding any other acceptance criterion defined in 10 CFR 100. [Though penalties associated with these evaluations have slightly increased the PCTs, considerable margins are still maintained to the 2200 ° F limit.] Therefore, the proposed changes will not result in a significant reduction in margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: Robert A. Capra

Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of amendment request: December 30, 1991

Description of amendment request: The licensee requests an amendment to the Technical Specifications to revise Section 6.0 (Administrative Controls). This section would be revised to reflect a management reorganization at the site. The management reorganization includes position title changes, the creation of two new senior level management positions on the same tier as the Superintendent of Power, the reassignment of position responsibilities, and the restructuring of the Plant Operating Review Committee (PORC). Additionally, Section 6.0 would be retyped in its entirety for format consistency and to correct typographical errors.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Consistent with the requirements of 10 CFR 50.92, the enclosed application is judged to involve no significant hazards based on the following information:

1. Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated? Response:

No, the proposed amendment does not involve an increase in the probability or consequences of a previously evaluated accident. None of the proposed changes affect assumptions contained in plant safety analyses, or the physical design or operation of the plant.

The reorganization of senior plant management does not compromise the safe operation of the plant since position qualifications have not been diminished. The reorganization will improve communication, responsiveness, and effectiveness of operations at the plant by creating specific functional lines of responsibility. Although the distribution of position responsibilities has changed, the responsibilities themselves have not been diminished. The changes do not alter the Power Authority's commitment to maintain a management structure that contributes to the safe operation and maintenance of the plant.

The proposed changes to the Plant Operating Review Committee (PORC or Committee) reflect the management reorganization, enhance the Committee's expertise and allow greater flexibility in achieving a quorum.

The level and quality of the PORC's review would not be adversely altered by the proposed changes. The PORC is currently composed of five members, a chairman, and a vice-chairman from the Indian Point 3 onsite operating organization at the Superintendent level or above. This composition is not diminished by the proposed changes. The new members would hold positions at or above the Superintendent level, and would meet or exceed the minimum qualifications of ANSI [American National Standards Institute] N18.1-1971 for comparable positions. The work experience/knowledge of the new members would enhance the Committee's expertise. Consistency is maintained from meeting to meeting by requiring that, at a minimum, a majority of the members be present.

The position title changes, the correction of inadvertent errors made by previous amendments, the correction of typographical errors, and the font and repagination changes are administrative in nature and, other than assuring the correctness and readability of technical specifications, are of no significance to the safe operation of the plant.

The proposed shifting of responsibility for Fire Brigade training from the Training Coordinator (Superintendent) to the Fire Protection and Safety Manager (FP&SM) is logical in that the FP&SM is cognizant of fire protection regulations and would, therefore, be better qualified to administer fire protection training requirements.

2. Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response:

No, the proposed amendment does not create the possibility of a new or different kind of accident from any previously evaluated. None of the proposed changes affect assumptions contained in plant safety analyses, or the physical design or operation of the plant.

The reorganization of senior plant management does not compromise the safe operation of the plant since position qualifications have not been diminished. The reorganization will improve communication, responsiveness, and effectiveness of operations at the plant by creating specific functional lines of responsibility. Although the distribution of position responsibilities has changed, the responsibilities themselves have not been diminished. The changes do not alter the Power Authority's commitment to maintain a management structure that contributes to the safe operation and maintenance of the plant.

The proposed changes to the Plant Operating Review Committee (PORC or Committee) reflect the management reorganization, enhance the Committee's expertise, and allow greater flexibility in achieving a quorum.

The level and quality of the PORC's review would not be adversely altered by the proposed changes. The PORC is currently composed of five members, a chairman, and a vice-chairman from the Indian Point 3 onsite operating organization at the Superintendent level or above. This composition is not diminished by the proposed changes. The new members would hold positions at or above the Superintendent level, and would meet or exceed the minimum qualifications of ANSI N18.1-1971 for comparable positions. The work experience/knowledge of the new members would enhance the Committee's expertise. Consistency is maintained from meeting to meeting by requiring that, at a minimum, a majority of the members be present.

The position title changes, the correction of inadvertent errors made by previous amendments, the correction of typographical errors, and the font and repagination changes are administrative in nature and, other than assuring the correctness and readability of technical specifications, are of no significance to the safe operation of the plant.

The proposed shifting of responsibility for Fire Brigade training from the Training Coordinator (Superintendent) to the Fire Protection and Safety Manager (FP&SM) is logical in that the FP&SM is cognizant of fire protection regulations and would, therefore, be better qualified to administer fire protection training requirements.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response:

No, the proposed amendment does not involve a significant reduction in a margin of safety. The proposed changes do not relate to or modify the safety margins defined in and maintained by the Technical Specifications.

The reorganization changes do not alter the Power Authority's commitment to maintain a management structure that contributes to the safe operation and maintenance of the plant.

The reorganization of senior plant management does not compromise the safe operation of the plant since position qualifications have not been diminished. The reorganization will improve communication, responsiveness, and effectiveness of operations at the plant by creating specific functional lines of responsibility. Although the distribution of position responsibilities has changed, the responsibilities themselves have not been diminished.

The level and quality of the PORC's review would not be adversely altered by the proposed changes. The PORC is currently composed of five members, a chairman, and a vice-chairman from the Indian Point 3 onsite operating organization at the Superintendent level or above. This composition is not diminished by the proposed changes. The new members would hold positions at or above the Superintendent level, and would meet or exceed the minimum qualifications of ANSI N18.1-1971 for comparable positions. The work experience/knowledge of the new members would enhance the Committee's expertise. Consistency is maintained from meeting to meeting by requiring that, at a minimum, a majority of the members be present.

The position title changes, the correction of inadvertent errors made by previous amendments, the correction of typographical errors, and the font and repagination changes are administrative in nature and do not affect plant safety.

Based on the discussion and evaluation above, the Power Authority has concluded that the proposed Technical Specification changes do not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: Robert A. Capra

Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of amendment request: January 8, 1992

Description of amendment request: The licensee requests an amendment to the Technical Specifications to revise Section 5.3 (Reactor) and Section 6.9 (Reporting Requirements). These sections would be revised to reflect the use of ZIRLO, as well as Zircaloy-4, fuel rod cladding (ZIRLO is a trademark of the Westinghouse Electric Corporation). The licensee intends loading fuel with ZIRLO cladding during the Cycle 8/9 refueling outage which is scheduled for April to June 1992. The amendment request also requests exemptions from several Code of Federal Regulations (CFR) requirements, specifically 10 CFR 50.44, 10 CFR 50.46, and Appendix K to 10 CFR Part 50, since these regulations make specific references to fuel pellets with Zircaloy cladding.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Consistent with the requirements of 10 CFR 50.92, the enclosed application is judged to involve no significant hazards based on the following information:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response:

The proposed amendment does not involve a significant increase in the probability or consequences of a previously-analyzed accident.

The VANTAGE 5 fuel assemblies containing ZIRLO™ clad fuel rods meet the same fuel assembly and fuel rod design bases as VANTAGE 5 fuel assemblies in other regions. The ZIRLO™ clad fuel rods meet the criteria of 10 CFR 50.46. Using ZIRLO™ clad fuel rods will not change the IP3 VANTAGE 5 reload design or safety analysis limits. The ZIRLO™ cladding is similar in chemical composition and has similar physical and mechanical properties as that of Zircaloy-4. Thus, the cladding and structural integrity are maintained. The ZIRLO™ cladding improves corrosion resistance and dimensional stability. The radiological consequences of accidents do not change because the dose rate predictions are not sensitive to cladding material changes.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response:

The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The fuel assemblies with ZIRLO™ cladding will satisfy the same design bases as the fuel assemblies in other fuel regions, so the ZIRLO™ clad rods will not initiate any new accident. Also, the use of ZIRLO™ clad fuel assemblies does not involve any alteration to the plant equipment or procedures.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

Response:

The proposed amendment does not involve a significant reduction in a margin of safety.

The use of ZIRLO™ clad fuel rods will not change the IP3 reload design or safety analysis limits (such as core physics peaking factors and average linear heat rate). In addition, the 10 CFR 50.46 criteria will be met for use of ZIRLO™ clad fuel rods. [Though peak clad temperature associated with the most limiting loss of coolant accident analysis has slightly increased, the increase is insignificant and considerable margin is still maintained to the 2200° F limit.]

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019

NRC Project Director: Robert A. Capra

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment request: January 22, 1992

Description of amendment request: The proposed changes to the Surry, Units 1 and 2 Technical Specifications (TS) will allow planned entries into the 7 day action statement of TS 3.23.C.2 with one inoperable air handling unit (AHU) in the main control room (MCR) and one inoperable AHU in the emergency switchgear room (ESGR) in each unit from the same chilled water train to permit installation of chilled water connections for the two additional 50% chillers to be installed in 1992.

The proposed TS changes, in the form of a footnote, establish a 7 day action statement for planned entries and will expire on June 30, 1992.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

[The proposed changes will not:]

1. Involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated. Replacement of the Units 1 and 2 Air Handling Units with larger capacity AHUs has restored [the] Units 1 and 2 Main Control Room (MCR) and Emergency Switchgear Room (ESGR) AC system to its original design capability of providing two 100% redundant trains of cooling in each space. Because the AHUs in each space have been returned to [the] original design (redundant 100% capacity), plant operation with two inoperable AHUs per unit, one in each space for the duration of the action statement does not increase in the probability or consequences of any previously evaluated accident.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated. Operation of the air conditioning syetem in this manner does not generate any new accident precursors because design base ventilation capability is maintained with operation of one AHU per cooled space per unit. Therefore, operation with an inoperable AHU in the MCR and ESGR for each unit for seven days to complete system modifications does not create a new or different accident from those previously evaluated.

3. Involve a significant reduction in a margin of safety. The larger capacity Units 1 and 2 AHUs have restored the Main Control Room and Emergency Switchgear Room AC system to original design capabilities. The proposed entries into the seven day action statement with one AHU inoperable per cooled space on each unit do not reduce the margin of safety since the remaining operable AHU per cooled space is capable of meeting

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design base ventilation requirements. Therefore, operation with one inoperable AHU in the MCR and ESGR for each unit for the duration of the existing seven day action statement does not reduce the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23213.

NRC Project Director: Herbert N. Berkow

Previously Published Notices of Consideration of Issuance of Amendments To Operating Licenses and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Virginia Electric and Power Company, Docket No. 50-338, North Anna Power Station, Unit No. 1, Louisa County, Virginia

Date of amendment request: January 8, 1992

Brief description of amendment request: The amendment would reduce the limit for reactor coolant system total flow rate for the remaining operating period until the North Anna Unit 1 steam generators are replaced.

Date of individual notice: January 21, 1992 (57 FR 2293); corrected January 28, 1992 (57 FR 3228)

Expiration date of individual notice: February 20, 1992

Local Public Document Room location: The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903-2498.

Notice of Issuance of Amendment To Facility Operating License

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, D.C., and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Baltimore Gas and Electric Company, Docket No. 50-317, Calvert Cliffs Nuclear Power Plant, Unit No. 1, Calvert County, Maryland

Date of application for amendment: December 31, 1991

Brief description of amendment: The amendment revises Technical Specification (TS) 4.5.1.a.2, Emergency Core Cooling System (ECCS) Safety Injection Tanks Surveillance Requirements. Specifically, a footnote is added effective from the date this amendment is issued to exempt motor operated valve, 1-MOV-644, from the requirement to verify at least once every 12 hours that it is in the open position. The footnote will expire prior to entering Mode 3 during the restart from refueling outage 10, which is currently scheduled for the spring of 1992. The verification is not need because 1-MOV-644 has been temporarily modified to remain open by welding the valve stem to the valve yoke until the valve can be repaired or replaced during the upcoming refueling outage.

Date of issuance: January 29, 1992

Effective date: January 29, 1992

Amendment No.: 167

Facility Operating License No. DPR-53: Amendment revised the Technical Specifications. Public comments requested as to proposed no significant hazards consideration: Yes (57 FR 938 dated January 9, 1992). That notice provided an opportunity to submit comments on the Commission's proposed no significant hazards consideration determination. No comments have been received. The notice published January 9, 1992, also provided for an opportunity to request a hearing by February 10, 1992, but indicated that if the Commission makes a final no significant hazards consideration determination, any such hearing would take place after issuance of the amendment. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 29, 1992.

No significant hazards consideration comments received: No

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: June 11, 1991

Brief description of amendment: Amendment revises thermal and pressurization limit curves and changes bases sections of the technical specifications.

Date of issuance: January 29, 1992

Effective date: January 29, 1992

Amendment No.: 140

Facility Operating License No. DPR-35: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 10, 1991 (56 FR 31429) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 29, 1992

No significant hazards consideration comments received: No

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of application for amendments: June 12, 1991

Brief description of amendments: This Technical Specification amendment revises the specific gravity requirements for the engineered safety feature (ESF) Division III 125 volt DC batteries.

Date of issuance: January 30, 1992

Effective date: January 30, 1992

Amendment Nos.: 82 and 66

Facility Operating License Nos. NPF-11 and NPF-18. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 10, 1991 (56 FR 31431) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 30, 1992.

No significant hazards consideration comments received: No

Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348

Commonwealth Edison Company, Docket Nos. 50-295 and 50-304, Zion Nuclear Power Station Units 1 and 2, Lake County, Illinois

Date of application for amendments: September 23, 1986, as supplemented December 14, 1987

Brief description of amendments: The amendments changed the expiration dates of Operating License No. DPR-39 from December 26, 2008 to April 6, 2013 for Zion Nuclear Power Station, Unit 1, and Operating License No. DPR-48 from December 26, 2008 to November 14, 2013 for Zion Nuclear Power Station, Unit 2.

Date of issuance: January 30, 1992

Effective date: January 30, 1992

Amendment Nos.: 132 and 121

Facility Operating License Nos. DPR-39 and DPR-48. The amendments revised the expiration date of the licenses.

Date of initial notice in **Federal Register:** November 19, 1986 (51 FR 41849) The December 14, 1987, submittal requested special handling and did not change the initial proposed no significant hazards consideration. The Commission's related evaluation of the amendments is contained in an Environmental Assessment dated November 19, 1991, and in a Safety Evaluation dated January 30, 1992.

No significant hazards consideration comments received: No

Local Public Document Room location: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of application for amendment: October 28, 1991

Brief description of amendment: This amendment revises the Palisades Technical Specifications (TS) to allow for the storage of fuel assemblies enriched to 4.20 weight percent uranium-235 in the new fuel racks, and fuel assemblies enriched to 4.40 weight percent in the Region I racks in the spent fuel pool. Specifically, changes are granted to TS Sections 5.4.1 and 5.4.2 to update the appropriate weight percent maximum enrichments, and descriptive wording, and delete the previously analyzed requirements and associated references.

Date of issuance: January 23, 1992

Effective date: January 23, 1992

Amendment No.: 140

Facility Operating License No. DPR-20. The amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** December 11, 1991 (56 FR 64652) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 23, 1992.

No significant hazards consideration comments received: No.

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of application for amendment: October 22, 1990

Brief description of amendment: This amendment revises the Palisades Plant Technical Specification 4.14 "Augumented Inservice Inspection Program for Steam Generators" to become consistent with the inspection program described in the Standard Technical Specifications.

Date of issuance: February 3, 1992

Effective date: February 3, 1992

Amendment No.: 141

Facility Operating License No. DPR-20. The amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** December 12, 1990 (55 FR 51177) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 3, 1992.

No significant hazards consideration comments received: No.

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Gulf States Utilities Company, Docket No. 50-458, River Bend Station, Unit 1 West Feliciana Parish, Louisiana

Date of amendment request: May 14, 1991, as supplemented December 2, 1991

Brief description of amendment: The amendment revises Technical Specification 4.8.1.1 to adjust the required starting time for the high pressure core spray (HPCS) diesel generator from 10 seconds to 13 seconds. The required speed that the HPCS diesel must achieve within 10 seconds of starting is changed from 900 revolutions per minute (rpm) to 882 rpm for the test which is run at 10-year intervals.

Date of issuance: January 13, 1992

Effective date: January 13, 1992, to be implemented within 60 days of issuance

Amendment No.: Amendment No. 63

Facility Operating License No. NPF-47. The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 21, 1991 (56 FR 41584) The December 2, 1991, submittal provided additional clarifying information and did not change the initial no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 13, 1992.

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803

Maine Yankee Atomic Power Company, Docket No. 50-309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of application for amendment: September 30, 1991

Brief description of amendment: The amendment revises the Technical Specification Basis and Figures 3.4.2 and 3.4.3 that describe and show how the Adjusted Reference Temperature (ART) of vessel material is determined.

Date of issuance: February 5, 1992

Effective date: February 5, 1992

Amendment No.: 128

Facility Operating License No. DPR-36: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 13, 1991 (56 FR 57698) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 5, 1992.

No significant hazards consideration comments received: No

Local Public Document Room location: Wiscasset Public Library, High Street, P.O. Box 367, Wiscasset, Maine 04578.

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of application for amendments: May 23, 1991 (Reference LAR 91-04)

Brief description of amendments: The amendments revised the combined Technical Specifications (TS) for the Diablo Canyon Power Plant (DCPP) Unit Nos. 1 and 2 to relocate the procedural details of the current Radiological Effluent Technical Specifications (RETS) to other PG&E controlled documents. Relocation of RETS to PG&E's Radiological Monitoring and Controls Program is consistent with the guidance in NRC Generic Letter 89-01, "Implementation of Programmatic Controls for Radiological Effluent Technical Specifications and the Relocation of Procedural Details of RETS to the Offsite Dose Calculation Manual or the Process Control Program." In addition, the amendments implement programmatic controls in the Administrative Controls sections of the DCPP TS to satisfy existing regulatory requirements for RETS.

Date of issuance: January 22, 1992

Effective date: January 22, 1992

Amendment Nos.: 67 and 66

Facility Operating License Nos. DPR-80 and DPR-82: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 24, 1991 (56 FR 33959) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 22, 1992.

No significant hazards consideration comments received: No.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407

Portland General Electric Company, et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of application for amendment: February 16, 1990

Brief description of amendment: This amendment revises Technical Specification 4.0.2. and its associated Bases in accordance with Generic Letter 89-14. This removes the 3.25 limit in Trojan Technical Specification 4.0.2.

Date of issuance: January 31, 1992

Effective date: January 31, 1992

Amendment No.: 174

Facility Operating License No. NPF-1: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 11, 1991 (56 FR 64660) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 31, 1992.

No significant hazards consideration comments received: No.

Local Public Document Room location: Branford Price Millar Library, Portland State University, 934 S.W. Harrison Street, P.O. Box 1151, Portland, Oregon 97207

Portland General Electric Company, et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of application for amendment: May 7, 1990

Brief description of amendment: This amendment revises Trojan Technical Specification 3.5.1, "Emergency Core Cooling Systems - Accumulators," to delete Surveillance Requirement 4.5.1.d, which required an 18 month surveillance interval for verifying the automatic opening for each accumulator isolation valve.

Date of issuance: January 31, 1992

Effective date: January 31, 1992

Amendment No.: 175

Facility Operating License No. NPF-1: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 26, 1991 (56 FR 66923) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 31, 1992.

No significant hazards consideration comments received: No.

Local Public Document Room location: Branford Price Millar Library, Portland State University, 934 S.W. Harrison Street, P.O. Box 1151, Portland, Oregon 97207

Portland General Electric Company, et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of application for amendment: October 17, 1991

Brief description of amendment: The amendment revises Trojan Technical Technical Specification 3/4.7.1, "Turbine Cycle - Safety Valves," and associated Bases. This amendment clarifies the actions required with inoperable safety valves, clarifies the surveillance testing requirements, and removes provisions for three loop operation.

Date of issuance: January 31, 1992

Effective date: January 31, 1992

Amendment No.: 176

Facility Operating License No. NPF-1: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 26, 1991 (56 FR 66926) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 31, 1992.

No significant hazards consideration comments received: No.

Local Public Document Room location: Branford Price Millar Library, Portland State University, 934 S.W. Harrison Street, P.O. Box 1151, Portland, Oregon 97207

Portland General Electric Company, et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of application for amendment: March 21, 1990 and May 7, 1990

Brief description of amendment: The amendment regarding LCA 195 modifies the TS definition Definition 1.25, "PHYSICS TESTS", and Section 5.0, "Design Features," to clarify references to the Final Safety Analysis Report. The amendment regarding LCA 197 modifies TS 3.1.3.4, "Shutdown Rod Insertion Limit," Figure 3.1-1, "Rod Bank Insertion Limits Versus Thermal Power - Four Loop Operation," and Figure 3.1-2 "Rod Bank Insertion Limits Versus Thermal Power - Three Loop Operation" to define fully withdrawn rods a greater than 223 steps.

Date of issuance: January 31, 1992

Effective date: January 31, 1992

Amendment No.: 177

Facility Operating License No. NPF-1: The amendment revised the Technical Specifications.

Dates of initial notices in **Federal Register:** December 26, 1991 (56 FR 66922) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 31, 1992.

No significant hazards consideration comments received: No.

Local Public Document Room location: Branford Price Millar Library, Portland State University, 934 S.W. Harrison Street, P.O. Box 1151, Portland, Oregon 97207

Portland General Electric Company, et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of application for amendment: December 15, 1991, as supplemented January 6, 1992, January 10, 1992, January 16, 1992, and January 30, 1992

Brief description of amendment: The amendment revised Trojan Technical Specification (TTS) 3.4.6.2.c, "Operational Leakages" and Bases 3/4.4.5, "Steam Generator," and 3/4.4.6.2, "Operational Leakages," to reduce the total allowable primary-to-secondary leakage for any one steam generator from 500 gallons per day to 130 gallons per day, and to reduce the total allowable primary-to-secondary leakage through all steam generators from one gallon per minute to 400 gallons per day. Additionally, the TTS Surveilllance Requirement 4.4.5.4.a.6, "Repair Limit," and associated Bases were modified to reflect the current tube plugging criteria used during the Cycle 13 refueling outage, which is based upon a methodology that more reliably assesses structural integrity. This change is only applicable for Cycle 14 operation.

Date of issuance: February 5, 1992

Effective date: February 5, 1992

Amendment No.: 178

Facility Operating License No. NPF-1: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 31, 1991 (56 FR 67638) Supplemental responses were at the request of the NRC and did not affect the proposed determination of no significant hazards consideration. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 5, 1992.

No significant hazards consideration comments received: No.

Local Public Document Room location: Branford Price Millar Library, Portland State University, 934 S.W. Harrison Street, P.O. Box 1151, Portland, Oregon 97207

Notice of Issuance of Amendment to Facility Operating License and Final Determination of No Significant Hazards Consideration and Opportunity for Hearing (Exigent or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for a Hearing. For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U. S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. By March 20, 1992, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the

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Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to **(Project Director)**: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Indiana Michigan Power Company, Docket No. 50-315 Donald C. Cook Nuclear Plant, Unit No. 1, Berrien County, Michigan

Date of application for amendment: January 22, 1992

Brief description of amendments: This amendment modifies Technical Specification (TS) 3.3.3.8 to allow the pressurizer safety valve position indicator acoustic monitor QR-107A (Instrument 14 in Table 3.3-11) to be exempt from the Table 3.3-11 requirements until the end of the current fuel cycle which is anticipated to end in June 1992. Currently, the TS allows the monitor to be inoperable for 30 days. The monitor was declared inoperable on January 6, 1992. This amendment is being treated as an emergency TS change in accordance with 10 CFR 50.91(a)(5).

Date of issuance: February 3, 1992

Effective date: February 3, 1992

Amendment No.: 141

Facility Operating License No. DPR-58. Amendments revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No. The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated February 3, 1992.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

NRC Project Director: L. B. Marsh

Dated at Rockville, Maryland, this 11th day of February 1992.

For the Nuclear Regulatory Commission

Jose A. Calvo,,

Acting Director, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation

[Doc. 92-3729 Filed 2-18-92; 8:45 am]

BILLING CODE 7590-01-D

[Docket No. 50-416]

Entergy Operations, Inc., Grand Gulf Nuclear Station, Unit 1; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of appendix J to 10 CFR part 50 in response to a request by Energy Operations, Inc., for the Grand Gulf Nuclear Station Unit 1, located in Clairborne County, Mississippi.

Environmental Assessment

Identification of Proposed Action

The proposed action would grant an exemption from a requirement of section III.D.1(a) of appendix J to 10 CFR part 50 that the third test in each set of three tests intended to measure the primary reactor containment overall integrated leakage rate (Type A tests) shall be conducted when the plant is shutdown for the 10-year plant inservice inspections (ISIs).

The proposed action is in accordance with the licensee's request for exemption dated June 25, 1991.

The Need for the Proposed Action

The proposed exemption is needed because the present requirement would force the licensee, at a significant cost but without any significant increase in public health and safety, to perform an additional integrated leak rate test (ILRT) during the forthcoming outage, currently scheduled to start in April 1992.

Environmental Impacts of the Proposed Action

The proposed exemption would not affect the integrity of the plant's primary containment with respect to potential radiological releases to the environment in the event of a severe transient or an accident up to and including the design basis accident (DBA). Under the assumed conditions of the DBA, the licensee must demonstrate that the calculated offsite radiological doses at the plant's exclusion boundary and low population zone outer boundary meet the guidelines in 10 CFR part 100. Part of the licensee's demonstration is accomplished by the periodic ILRTs conducted about every 40 months to verify that the primary containment leakage rate is equal to or less than the design basis leakage rate used in its calculations demonstrating compliance with the guidelines in 10 CFR part 100.

The licensee has successfully conducted a number of these ILRTs to date. The most recent ILRT was completed in April 1989, during the third refueling outage, and was the second of the required Type A tests. The next ILRT will most probably by conducted in October 1993. The 10-year ISI is scheduled to start during the Refueling Outage 7, presently scheduled to start in April 1995. As required by 10 CFR 50.55a, this schedule for the 10-year ISI is in compliance with the provisions of section XI of the ASME Boiler and Pressure Vessel Code and Addenda.

The proposed exemption request to decouple the schedule of the third Type A test (i.e., an ILRT) from that of the 10-year ISI will not in any way compromise the leak-tight integrity of the primary containment required by appendix J to 10 CFR part 50 since the leak-tightness of the containment will continue to be demonstrated by the periodic ILRTs. Additionally, the proposed exemption will not affect the existing requirement in section III.D.1.(a) of appendix J that three ILRTs be performed during each 10-year service period. Further, the proposed uncoupling does not affect the structural integrity of the structures, systems, and components subject to the requirements of 10 CFR 50.55a. Accordingly, there will be no increase in either the probability or the amount of radiological release from the Grand Gulf plant in the event of a severe transient or accident. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed exemption.

With regard to potential nonradiological impacts, the proposed exemption involves a change to surveillance and testing requirements. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradological environmental impacts associated with the proposed exemption.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental impacts associated with the proposed action, any alternatives have either no or greater environmental impact.

The principal alternative would be to deny the requested exemption. Denial would not reduce the environmental impacts attributed to the facility but would result in the expenditure of resources and increase radiation exposures without any compensating benefit.

Alternative use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Grand Gulf Nuclear Station, Unit 1, dated September 1981.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult any other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based on the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the request for exemption dated June 25, 1991, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC.

Dated at Rockville, Maryland, this 11th day of February, 1992.

For the Nuclear Regulatory Commission.

John T. Larkins,

Director, Project Directorate IV-I, Division of Reactor Projects—III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 92-3839 Filed 2-18-92; 8:45 am]

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Advisory Committee on Reactor Safeguards Subcommittee on Thermal Hydraulic Phenomena

Meeting

The ACRS Subcommittee on Thermal Hydraulic Phenomena will hold a meeting on March 3, 1992, in room P-110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will open to public attendance, with the exception of a portion that may be closed to discuss information deemed proprietary to the Westinghouse Electric Corporation pursuant to 5 U.S.C. 552b(c)(4).

The agenda for the subject meeting shall be as follows:

Tuesday, March 3, 1992—8:30 a.m. until the conclusion of business.

The Subcommittee will continue its review of the integral system testing requirements for the Westinghouse Electric Corporation's AP600 passive plant design.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, the Westinghouse Electric Corporation, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Official, Mr. Paul Boehnert (telephone 301/492-8558) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: February 11, 1992.

Sam Duraiswamy

Chief, Nuclear Reactors Branch.

[FR Doc. 92-3856 Filed 2-18-92; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-423A]

Northeast Nuclear Energy Co., et al.; Millstone Nuclear Power Station, Unit 3; Proposed Ownership Transfer; No Significant Antitrust Changes and Time for Filing Requests for Reevaluation

The Director of the Office of Nuclear Reactor Regulation has made a finding in accordance with section 105c(2) of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2135, that no significant (antitrust) changes in the licensees' activities or proposed activities have occurred as a result of the proposed change in ownership of Unit 3 of the Millstone Nuclear Power Station (Millstone 3) detailed in the licensee's amendment application dated January 23, 1991. The finding is as follows:

> Section 105c(2) of the Atomic Energy Act of 1954, as amended, provides that an application for a license to operate a utilization facility for which a construction permit was issued under section 103 shall not undergo an antitrust review unless the Commission determines that such review is advisable on the ground that significant changes in the licensee's activities or proposed activities have occurred subsequent to the previous antitrust review by the Attorney General of the Commission in connection with the construction permit for the facility. The Commission has delegated the authority to make the "significant change" determination to the Director, Office of Nuclear Reactor Regulation.
>
> By application dated January 23, 1991, the Northeast Nuclear Energy Company (NNECO or licensee), pursuant to 10 CFR 50.80, requested the transfer of the 2.8475 percent ownership interest of Public Service Company of New Hampshire (PSNH) in the Millstone Nuclear Power Station, Unit 3 (Millstone 3) to a newly formed wholly owned subsidiary of Northeast Utilities (NU). This newly formed subsidiary will also be called Public Service Company of New Hampshire (hereinafter, reorganized PSNH). Millstone 3 underwent antitrust review at the construction permit stage in 1973 and again in 1977 with the addition of new owners in the facility. The operating license antitrust review of Millstone 3 was completed in 1985. The staffs of the Policy Development and Technical Support Branch, Office of Nuclear Reactor Regulation and the Office of the General Counsel, hereinafter referred to as the "staff", have jointly concluded, after consultation with the Department of Justice, that the proposed change in ownership is not a significant change under the criteria discussed by the Commission in its Summer decisions (CLI-80-28 and CLI-81-14).
>
> On May 13, 1991, the staff published in the Federal Register (56 FR 22024) receipt of the licensee's request to transfer its 2.8475 percent ownership interest in Millstone 3 to reorganized PSNH. This amendment request is directly related to the proposed merger between Northeast Utilities and the Public Service Company of New Hampshire. The notice indicated the reason for the transfer, stated that there were no anticipated significant safety hazards as a result of the proposed transfer and provided an opportunity for public comment on any antitrust issues related to the proposed transfer. No comments were received.
>
> The staff reviewed the proposed transfer of PSNH's ownership in the Millstone 3 facility to a wholly owned subsidiary of NU for significant changes since the last antitrust review of Millstone 3, using the criteria discussed by the Commission in its Summer decisions (CLI-80-28 and CLI-81-14). The staff believes that the record developed to date in the proceeding at the Federal Energy Regulatory Commission (FERC) involving the proposed NU/PSNH merger adequately portrays the competitive situation(s) in the markets served by the Millstone 3 generating facility and that any anticompetitive aspects of the proposed changes have been adequately addressed in the FERC proceeding. Moreover, merger conditions designed to mitigate possible anticompetitive effects of the proposed merger have been developed in the FERC proceeding. The staff further believes that the FERC proceeding addressed the issue of adequately protecting the interests of competing power systems and the competitive process in the area served by the Millstone 3 facility such that the changes will not have implications that warrant a Commission remedy. In reaching this conclusion, the staff considered the structure of the electric utility industry in New England and adjacent areas and the events relevant to the Millstone 3 and Seabrook Nuclear Generating Station construction permit and operating license reviews. For these reasons, and after consultation with the Department of Justice, the staff recommends that a no affirmative "significant change" determination be made regarding the proposed change in ownership detailed in the licensee's amendment application dated January 23, 1991.
>
> Based upon the staff analysis, it is my finding that there have been no "significant changes" in the licensees' activities or proposed activities since the completion of the previous antitrust review.

Signed on February 9, 1992 by Thomas E. Murley, Director, of the Office of Nuclear Reactor Regulation.

Any person whose interest may be affected by this finding may file, with full particulars, a request for reevaluation with the Director of the Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555 within 30 days of the initial publication of this notice in the **Federal Register.**

Requests for reevaluation of the no significant change determination shall be accepted after the date when the Director's finding becomes final, but before the issuance of the operating license amendment, only if they contain new information, such as information about facts or events of antitrust significance that have occurred since that date, or information that could not reasonably have been submitted prior to that date.

Dated at Rockville, Maryland, this 11th day of February 1992.

For the Nuclear Regulatory Commission.

Anthony T. Gody,

Chief Policy Development and Technical Support Branch, Program Management, Policy Development and Analysis Staff, Office of Nuclear Reactor Regulation.

[FR Doc. 92-3837 Filed 2-18-92; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-443A]

Public Service Co. of New Hampshire, et al.; Seabrook Nuclear Station, Unit 1; Proposed Ownership Transfer; No Significant Antitrust Changes and Time for Filing Requests for Reevaluation

The Director of the Office of Nuclear Reactor Regulation has made a finding in accordance with section 105c(2) of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2135, that no significant (antitrust) changes in the licensees' activities or proposed activities have occurred as a result of the proposed change in ownership of Unit 1 of the Seabrook Nuclear Station (Seabrook) detailed in the licensee's amendment application dated November 13, 1991. The finding is as follows:

> Section 105c(2) of the Atomic Energy Act of 1954, as amended, provides that an

application for a license to operate a utilization facility for which a construction permit was issued under section 103 shall not undergo an antitrust review unless the Commission determines that such review is advisable on the ground that significant changes in the licensee's activities or proposed activities have occurred subsequent to the previous antitrust review by the Attorney General and the Commission in connection with the construction permit for the facility. The Commission has delegated the authority to make the "significant change" determination to the Director, Office of Nuclear Reactor Regulation.

By application dated November 13, 1991, the Public Service Company of New Hampshire (PSNH or licensee), through its New Hampshire Yankee division, pursuant to 10 CFR 50.90, requested the transfer of its 35.56942% ownership interest in the Seabrook Nuclear Power Station, Unit 1 (Seabrook) to a newly formed, wholly owned subsidiary of Northeast Utilities (NU). This newly formed subsidiary will be called the North Atlantic Energy Corporation (NAEC). The Seabrook construction permit antitrust review was completed in 1973 and the operating license antitrust review of Seabrook was completed in 1986. The staffs of the Policy Development and Technical Support Branch, Office of Nuclear Reactor Regulation and the Office of the General Counsel, hereinafter referred to as the "staff", have jointly concluded, after consultation with the Department of Justice, that the proposed change in ownership is not a significant change under the criteria discussed by the Commission in its *Summer* decisions (CLI–80–28 and CLI–81–14).

On February 28, 1991, the staff published in the **Federal Register** (56 FR 8373) receipt of the licensee's request to transfer its 35.56942% ownership interest in Seabrook to NAEC. This amendment request is directly related to the proposed merger between NU and PSNH. The notice indicated the reason for the transfer, stated that there were no anticipated significant safety hazards as a result of the proposed transfer and provided an opportunity for public comment on any antitrust issues related to the proposed transfer. The staff received comments from several interested parties—all of which have been considered and factored into this significant change finding.

The staff reviewed the proposed transfer of PSNH's ownership in the Seabrook facility to a wholly owned subsidiary of NU for significant changes since the last antitrust review of Seabrook, using the criteria discussed by the Commission in its *Summer* decisions (CLI–80–28 and CLI–81–14). The staff believes that the record developed to date in the proceeding at the Federal Energy Regulatory Commission (FERC) involving the proposed NU/PSNH merger adequately portrays the competitive situation(s) in the markets served by the Seabrook facility and that any anticompetitive aspects of the proposed changes have been adequately addressed in the FERC proceeding. Moreover, merger conditions designed to mitigate possible anticompetitive efforts of the proposed merger have been developed in the FERC proceeding. The staff further believes that the FERC proceeding addressed the issue of adequately protecting the interests of competing power systems and the competitive process in the area served by the Seabrook facility such that the changes will not have implications that warrant a Commission remedy. In reaching this conclusion, the staff considered the structure of the electric utility industry in New England and adjacent areas and the events relevant to the Seabrook Nuclear Power Station and Millstone Nuclear Power Station, Unit 3 construction permit and operating license reviews. For these reasons, and after consultation with the Department of Justice, the staff recommends that a no affirmative "signifcant change" determination be made regarding the proposed change in ownership detailed in the licensee's amendment application dated November 13, 1991.

Based upon the staff analysis, it is my finding that there have been no "significant changes" in the licensees' activities or proposed activities since the completion of the previous antitrust review.

Signed on February 9, 1992 by Thomas E. Murley, Director of the Office of Nuclear Reactor Regulation.

Any person whose interest may be affected by this finding may file, with full particulars, a request for reevaluation with the Director of the Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555 within 30 days of the initial publication of this notice in the **Federal Register**. Requests for reevaluation of the no significant change determination shall be accepted after the date when the Director's finding becomes final, but before the issuance of the operating license amendment, only if they contain new information, such as information about facts or events of antitrust significance that have occurred since that date, or information that could not reasonably have been submitted prior to that date.

Dated at Rockville, Maryland, this 11th day of February 1992.

For the Nuclear Regulatory Commission.

Anthony T. Gody,

Chief, Policy Development and Technical Support Branch, Program Management, Policy Development, and Analysis Staff, Office of Nuclear Reactor Regulation.

[FR Doc. 92–3838 Filed 2–18–92; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations: Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Pacific Stock Exchange, Incorporated

February 12, 1992.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Federated Department Stores, Inc.
  Common Stock, $.01 Par Value (File No. 7–7939)
Autozone, Inc.
  Common Stock, $.01 Par Value (File No. 7–7940)
Comerica, Inc.
  Common Stock, $5.00 Par Value (File No. 7–7941)
Diagnostek, Inc.
  Common Stock, $.01 Par Value (File No. 7–7942)
Enquirer/Star Group, Inc.
  Class A Common Stock, $.01 Par Value (File No. 7–7943)
Kent Electronics Corp.
  Common Stock, No Par Value (File No. 7–7944)
Latin America Equity Fund, Inc.
  Common Stock, $.001 Par Value (File No. 7–7945)
MagneTek, Inc.
  Common Stock, $.01 Par Value (File No. 7–7946)
PHH Corporation
  Common Stock, No Par Value (File No. 7–7947)
Smart & Final, Inc.
  Common Stock, $.01 Par Value (File No. 7–7948)
Vencor Incorporated
  Common Stock, $.25 Par Value (File No. 7–7949)
Vitro Sociedad Anonima
  American Depository Receipts (File No. 7–7950)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 5, 1992, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulations, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92–3773 Filed 2–18–92; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Incorporated

February 12, 1992.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f–1 thereunder for unlisted trading privileges in the following securities:

- Salomon, Inc.
  - Put Warrants on the Nikkei Stock Average Expiring 2/16/93; Call Warrants on the Nikkei Stock Average Expiring 4/6/93; Put Warrants on the Nikkei Stock Average Expiring 1/19/93 (File No. 7–7951)
- Paine Webber Group, Inc.
  - Put Warrants on the Nikkei Stock Average Expiring 4/8/93–07; Call Warrants on the Nikkei Stock Average Expiring 4/8/93 (File No. 7–7952)
- Bankers Trust of New York Corporation
  - Put Warrants on the Nikkei Stock Average Expiring 1/18/93 (File No. 7–7953)
- A/S Eksportfinans
  - Put Warrants on the Nikkei Stock Average Expiring 4/22/92 (File No. 7–7954)
- Kingdom of Denmark
  - Put Warrants on the Nikkei Stock Average Expiring 1/3/93 (File No. 7–7955)
- Chyenne Software, Inc.
  - Common Stock, $0.01 Par Value (File No. 7–7956)
- Electrocom Automation, Inc.
  - Common Stock, $0.01 Par Value (File No. 7–7957)
- Hemlo Gold Mines, Inc.
  - Common Stock, $.001 Par Value (File No. 7–7958)
- CTI Corporation
  - Common Stock, $0.04 Par Value (File No. 7–7959)
- KV Pharmaceutical Company
  - Class A Common Stock, $0.01 Par Value (File No. 7–7960)
- FAB Industries
  - Common Stock, $0.20 Par Value (File No. 7–7961)
- Federated Department Stores, Inc.
  - Common Stock, $.01 Par Value (File No. 7–7962)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 5, 1992, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92–3774 Filed 2–18–92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC–18548; File No. 812–7837]

Bankers National Series Trust et al.; Application for an Order

February 11, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Bankers National Series Trust ("Trust"), Bankers National Life Insurance Company ("Company"), Bankers National Variable Account B ("Account B") and Bankers National Variable Account C ("Account C", collectively with Account B, "Variable Account").

RELEVANT 1940 ACT SECTIONS: Order requested under section 17(b) for exemptions from section 17(a).

SUMMARY OF APPLICATION: Applicants seek an order exempting the merger of certain investment portfolios of the Trust and the consolidation of the corresponding sub-accounts of the Variable Accounts that invest in those portfolios from the prohibitions of section 17(a) of the Act.

FILING DATE: The application was filed on December 20, 1991 and amended on February 5, 1992.

HEARING OR NOTIFICATION OF HEARING: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on the application or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on March 6, 1992. Request a hearing in writing, giving the nature of your interest, the reason for your request, and the issues you contest. Serve Applicants with the request, either personally or by mail, and also send a copy to the Secretary of the SEC, along with proof of service by affidavit or, in case of an attorney-at-law, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, c/o Bankers National Series Trust, 11815 N. Pennsylvania Street, Carmel, Indiana 46032.

FOR FURTHER INFORMATION CONTACT: Thomas E. Bisset, Attorney, at (202) 272–2058, or Heidi Stam, Assistant Chief, at (202) 272–2060, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. The Trust was organized on November 15, 1982 as a Massachusetts business trust. The Trust is registered under the Act as an open-end, diversified management investment company. The Trust is a series investment company, comprised of seven investment portfolios: Money Market Portfolio, Common Stock Portfolio, Mortgage-Backed Securities Portfolio, High Yield Portfolio, Multiple Strategies Portfolio, Convertible Portfolio and Government Securities Portfolio.

2. To date, the Trust has sold shares only to the Variable Accounts. The Trust sells shares of each portfolio to a corresponding sub-account of the Variable Accounts to support assets for flexible premium variable life insurance policies and variable annuity contracts (collectively, the "Contracts") issued by the Company through the Variable Accounts.

3. The investment adviser to the Trust and each Portfolio is Conseco Capital Management, Inc. ("Adviser").

4. The investment objective of the Government Securities Portfolio is to seek safety of capital, liquidity and current income by investing in U.S. government securities. The investment objective of the Mortgage-Backed Securities Portfolio is to seek the highest possible level of current income, consistent with safety of capital and maintenance of liquidity, by investing in various mortgage related securities. The investment objective of the Multiple Strategies Portfolio is to seek a high

total return by investing in equity securities of domestic and foreign issuers, intermediate and long-term debt, money market instruments and securities of companies engage in mining, processing or dealing in precious metals. The Convertible Portfolio seeks both current income and capital appreciation as its primary investment objective, and conservation of capital as its secondary objective, by investing primarily in convertible bonds and convertible preferred stocks. The High Yield Portfolio seeks high current income as its primary investment objective by investing primarily in high-yielding, high risk, lower-rate fixed income securities; capital growth is secondary objective of the High Yield Portfolio when consistent with the objective of high current income.

5. The Company is a reserve stock life insurance company incorporated under the laws of the state of Texas. The Company offers a variety of life insurance and annuity products. Through the Variable Accounts, the Company owns 100% of the outstanding shares of the Trust and each Portfolio.

6. The Variable Accounts are each separate accounts registered as unit investment trusts under the Act. Account B offers variable annuity contracts issued by the Company and Account C offers flexible premium variable life insurance policies issued by the Company. The Variable Accounts each consist of seven sub-accounts, each of which invests in the shares of a particular Portfolio of the Trust.

7. The Board of Trustees of the Trust, including a majority of those trustees who are not "interested persons" of the Trust, adopted resolutions for two Plans and Reorganization (collectively, the "Plans"). Pursuant to one Plan, the Multiple Strategies Portfolio will acquire all of the assets and liabilities of the High Yield Portfolio and the Convertible Portfolio in exchange for shares of the Multiple Strategies Portfolio on the basis of the relative net asset value of those Portfolios on the closing date. Pursuant to the second Plan, the Government Securities Portfolio will acquire all the assets and liabilities of the Mortgage-Backed Securities Portfolio in exhange for shares of the Government Securities Portfolio on the basis of the relative net asset values of those Portfolios on the closing date. The Trust will register the shares of Multiple Strategies Portfolio to be issued to shareholders of the High Yield and Convertible Portfolios and the shares of the Government Securities Portfolio to be issued to shareholders of the Mortgage-Backed Securities Portfolio under the Securities Act of 1933 on Form N-14 (File No. 33-44573).

8. Applicants represent that, during the Notice Period, they will amend the application to include the following representations:

(a) Prior to the proposed reorganization, the high yield, high risk instruments held by the High Yield Portfolio will be sold and the proceeds used to purchase investment grade corporate debt securities, treasuries, other short-term investment grade investments, or will be maintained as cash or cash items;

(b) The term "investment grade" securities is intended to mean securities rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization; and

(c) The Adviser will pay all the direct and indirect costs associated with liquidating high yield, high risk securities held by the High Yield Portfolio.

9. The proposed reorganizations also entail the consolidation of the corresponding sub-accounts of the Variable Accounts. The Company will carry out this consolidation immediately after the completion of the acquisition of the acquiree Portfolios, by issuing units of interest in the sub-accounts corresponding to the acquiror Portfolios on a pro rata basis to owners of contracts who, prior to the reorganizations, owned units in the sub-accounts corresponding to the acquiree Portfolios. This exchange could be considered to involve the issue of new units of the Multiple Stategies and Government Securities sub-accounts in exchange for the assets of the High Yield, Convertible or Mortgage-Backed sub-accounts. The number of full and fractional units of interest of the Multiple Strategies sub-account to be issued will be determined by dividing the aggregate value of the Multiple Strategies shares issued to the Convertible and High Yield sub-accounts, by the unit value of the Multiple Strategies sub-account computed as of 4 p.m. New York time on the closing date using the valuation methods set fourth in the Variable Accounts' current prospectuses. The same procedures would be followed upon completion of the Government Securities Portfolio's acquisition of the Mortgage-Backed Securities Portfolio. The aggregate value of new units issued to each contact owner who had cash value invested in the High Yield, Convertible or Mortgage-Backed sub-accounts will equal exactly the aggregate value of units owned by each such owner immediately prior to the proposed reorganizations.

10. The Trust will submit the proposed Plans to the shareholders of the High Yield and Convertible Portfolios and the Mortgage-Backed Securities Portfolio for their approval at a meeting called for that purpose on February 24, 1992 (or such later date as may be determined by the Trustees). A majority of the outstanding shares of each of the High Yield and Convertible Portfolios must approve the acquisition of those Portfolios by the Multiple Strategies Portfolio and a majority of the outstanding shares of the Mortgage-Backed Securities Portfolio must approve the acquisition of that Portfolio by the Government Securities Portfolio. Although the Company and the Variable Accounts are the only shareholders of each of the Trust's Portfolios, contract owners are entitled to instruct the Company how to vote shares held in the Variable Accounts. The Company will vote shares based on the instructions received in proxies returned; all shares for which no instructions have been received will be voted in the same proportion as those for which proxies were returned. The Adviser will pay all the direct and indirect costs incurred in connection with the proposed transactions, including all costs associated with the proxy materials.

11. From the date the Trust's Form N-14 Prospectus/Proxy Statement is declared effective until any business day prior to March 10, 1992, contract owners indirectly invested in the Convertible Portfolio, High Yeild Portfolio, Multiple Strategies Portfolio, Mortgage-Backed Securities Portfolio or Government Securities Portfolio may transfer out of those Portfolios and into either the Money Market or Common Stock Portfolios. Transfer charges will be waived for transfers during this period.

12. Apart from the fact that the future cash value of Contracts that had been indirectly invested in an acquiree Portfolio will reflect the investment performance of an acquiror Portfolio, the proposed reorganizations will have no economic impact on such Contract values, fees or charges under these Contracts or the rights or interests of contract owners. The proposed reorganizations will have no economic impact on contract owners having cash values in the sub-accounts currently holding shares of either the Multiple Strategies Portfolio or the Government Securities Portfolio other than the effect on such Portfolios' investment performance and expenses resulting from an increase in the size of assets. The Trust will receive an opiton of tax counsel to the effect that each reorganization will not result in the recognition of any gain or loss to the Trust, the acquiree and acquiror

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Portfolios and contract owners having cash values invested in an acquiree or acquiror Portfolio.

Applicants' Legal Analysis

1. Applicants request that the SEC issue an order pursuant to section 17(b) of the Act exempting the proposed reorganizations from section 17(a) of the Act, to the extent necessary, to permit the acquiror Portfolios to acquire substantially all of the assets of the acquiree Portfolios in exchange for shares of the acquiror Portfolios. The Company and the Variable Accounts request that the SEC issue an order pursuant to section 17(b) of the Act exempting the proposed reorganizations from the provisions of section 17(a) of the Act, to the extent necessary to permit the Company to consolidate the corresponding sub-accounts of the Variable Accounts.[1]

2. Because the Company owns more than 5% of the outstanding voting securities of each acquiree and each acquiror Portfolio, if each of those Portfolios is treated as a separate entity, then each is an affiliated person of an affiliated person of the other. Additionally, because the Company organized the Trust to fund contracts issued by the Company, the Trust and each Portfolio is under the common control of the Company; therefore, the Portfolios are affiliated persons of one another. Moreover, the Company is an affiliated person of the Variable Accounts because it controls the Variable Accounts. If each sub-account of the Variable Accounts is treated as a separate entity, then each is an affiliated person of an affiliated person of the other.

3. The transfer of assets from the acquiree Portfolios to the acquiror Portfolios and the consolidation of the corresponding sub-accounts arguably entails the purchase or sale of securities or other property to these entities in contravention of section 17(a).

4. Rule 17a–8 under the Act exempts from the prohibitions of section 17(a), mergers, consolidations, or purchases or sales of substantially all of the assets involving registered investment companies which may be affilitated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors and/or common officers. The exemption provided by the rule is conditioned upon a determination by a majority of the directors of each such investment company, including a majority of the directors of each company who are not interested persons of the participating registered investment companies, that (a) participation in the transaction is in the best interests of that registered investment company, and (b) the interests of existing shareholders of that registered investment company will not be diluted as a result of the transaction. The Trust may not be able to rely on rule 17a–8 because the acquiree and acquiror Portfolios may be affiliated persons of each other by virtue of being under the common control of a single shareholder, the Company. Additionally, because the Company owns 100% of the shares of each Portfolio, it is a "5% affiliate" of each Portfolio and each Portfolio is an affiliate of an affiliate; this type of affiliation is also not covered by rule 17a–8. The Company and the Variable Accounts may not rely on rule 17a–8 because the Variable Accounts and its sub-accounts do not have a board of directors to make the determination required by rule 17a–8.

5. Applicants represent that the terms of the proposed reorganizations, as set forth in each Plan, including the consideration to be paid and received, are reasonable and fair and do not involve overreaching on the part of any person concerned. Applicants also represent that the proposed reorganizations are consistent with the policies of the acquiree and acquiror Portfolios as recited in the Trust's current registration statement and reports filed under the Act and with the general purposes of the Act.

6. The Board of Trustees of the Trust, including a majority of the disinterested trustees, has reviewed and approved the terms of the proposed reorganization as set forth in each Plan, including the consideration to be paid or received by all parties. They have also independently determined that the proposed reorganizations will be in the best interests of the shareholders of each affected Portfolio and of the contract owners indirectly invested in such Portfolios and that the consummation of the proposed reorganization will not result in the dilution of the current interests of any such shareholder or contract owner.

7. The proposed reorganizations will result in an increase in the asset size of the Multiple Strategies and Government Securities Portfolios. Applicants expect that, to the extent that certain expenses remain relatively fixed and do not vary with asset size, this increase in size will result in economics of scale to the benefit of each affected Portfolio. These economies of scale are expected to result in lower expenses and will enable the Adviser to maintain its present expense cap limitation. Thus, contract owners of the affected Portfolios may expect that there will be no increase in expenses if the reorganizations are approved. In addition, shareholders of the Convertible and High Yield Portfolios are expected to benefit from the Multiple Strategies Portfolio's broader and more diversified investment policy. The nature of the investment portfolios of the High Yield and Convertible Portfolios makes them more likely to experience a substantial decrease in net asset value than the Multiple Strategies Portfolio. Although the High Yield and Convertible Portfolio have had a somewhat higher yield than the Multiple Strategies Portfolio over the last 12 months, Applicants do not believe those Portfolios would continue to out-perform the Multiple Strategies Portfolio over an extended period of time.

8. Applicants also believe that shareholders of the Mortgage-Backed Securities Portfolio will benefit from the combination of that Portfolio with the Government Securities Portfolio. Both have similar investment objectives and policies and have had very similar investment performance. Applicants believe both Portfolios would benefit if their assets are combined.

9. Applicants do not believe that contract owners will be disadvantaged by virtue of having fewer Portfolios to which they may allocate their investments. The resulting Multiple Strategies Portfolio will have greater investment flexibility than either the Convertible Portfolio or the High Yield Portfolio, but will entail less market risk than either of those portfolios because it will be substantially more diversified. The resulting Government Securities Portfolio will have an expanded investment policy that will enable it to invest in all securities presently available to the Mortgage-Backed Securities Portfolio. Applicants believe that each reorganization will result in contract owners having "better" investment choices albeit fewer than would otherwise be the case.

10. Applicants believe the proposed reorganizations more closely resemble the situations covered by rule 17a–8 than it does other situations involving

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[1] The Commission staff has on several occasions taken "no-action" positions with regard to a life insurance company depositor of a unit investment trust separate account proceeding with a transaction substantially identical to the proposed reorganization with a section 26(b) order. *See, e.g.,* The Prudential Insurance Company of America (pub. avail. July 18, 1986); Connecticut General Life Insurance Company (pub. avail. Oct. 3, 1985). Applicants are relying on these letters and are not requesting the SEC to approve or disapprove their decision to proceed without an order pusuant to section 26(b).

common control or 5% shareholders which the Rule deliberately excludes because the Company, the "controlling" shareholder, does not have any voting control of any shares. The Company must vote all shares based on instructions it receives from contract owners. As a practical matter, the Company controls no voting securities of the Trust and therefore the proposed reorganizations are no more susceptible to overreaching than is any transaction covered by rule 17a–8.

11. Applicants submit that the share exchange phase of the proposed transaction will comply with all of the conditions that rule 17a–8 requires for the protection of investment companies and their shareholders and agrees to the grant of the order requested herein being specifically conditioned on the Trust's Board of Trustees having made the requisite determinations that the participation of the acquiree and acquiror Portfolios in the proposed reorganizations is in the best interests of each Portfolio and that such participation will not dilute the interests of shareholders or contract owners invested in those Portfolios. The Adviser will pay all of the direct and indirect expenses of the proposed reorganizations.

12. Applicants also submit that the proposed oreorganizations are consistent with the general purposes of the Act. The proposed reorganizations do not present any of the conditions or abuses that the Act was designed to mitigate or eliminate. In particular, section 1(b)(6) of the Act states that the national public interest and the interest of investors are adversely affected when investment companies are reorganized without the consent of their security holders. As described above, each Plan must receive the approval of a majority of the outstanding shares of each acquiree Portfolio (those shares being voted in proportion to the instructions received from contract owners having cash values indirectly invested therein). Contract owners will receive a notice of the special meeting of the Trust's shareholders and a proxy statement containing all material disclosures, including a description of all material aspects of each Plan and a copy thereof. The share exchange phase of the proposed reorganizations are therefore consistent with the general purposes of the Act.

13. Applicants represent that the terms of the proposed reorganizations (encompassing as they do, the consolidation of sub-accounts), including the consideration to be paid and received, are reasonable and fair and do not involve overreaching on the part of any person concerned. Applicants also represent that the proposed reorganizations will be consistent with the policies of the Variable Accounts as recited in the Variable Accounts' current registration statements and reports filed under the Act and with the general purposes of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–3772 Filed 2–18–92; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Shortage of Operating Funds for a Disaster in New York

As a result of the Secretary of Agriculture's disaster designation S-557 for counties in the State of New York and contiguous counties in the States of Connecticut, Massachusetts, Pennsylvania, and Vermont, the Small Business Administration (SBA) is accepting economic injury disaster loan applications from eligible nonfarm small business concerns. However, due to SBA's present severe shortage of operating funds for the disaster program for the current fiscal year (through September 30, 1992), SBA cannot provide assurance of its ability to continue to accept or process disaster loan applications or make disbursements on disaster loans until additional funds are available.

Dated: February 3, 1992.

Alfred E. Judd,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 92–3795 Filed 2–18–92; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 1571]

Study Group 7 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 7 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will hold an open meeting March 12, 1992 at NASA, 400 Maryland Avenue, SW., Washington, DC in room 5026 (5th Floor) commencing at 10 a.m.

Study Group 7 deals with matters relating to the space research systems and standard frequency and time systems. The purpose of the meeting is to review 1992 work plans for each of the Working Parties in Study Group 7 and to finalize plans for the Study Group 7 meeting, 7–9 April 1992 in Geneva.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Request for further information should be directed to Mr. Rodger Andrews, ARC Professional Services Group, Herndon, Virginia 22070, phone (703) 834–5600.

Dated: January 28, 1992.

Warren G. Richards,

Chairman, U.S. CCIR National Committee.

[FR Doc. 92–3780 Filed 2–18–92; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice 1573]

United States Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on March 11, 1992 at 9:30 a.m. in room 1912, and on May 28, 1992, room 1105, 9:30 a.m. at the Department of State, 2201 C Street NW., Washington, DC 20520.

The agenda for the meeting includes (1) preparatory activities for the upcoming Xth CCITT Plenary Assembly (Standardization Conference) scheduled for Espoo, Helsinki, Finland, March 1–12, 1993, (2) discussions of all CCITT Study Groups, and (3) during the meeting, the convening of the five working committees established at the February 4, 1992 U.S.N.C. meeting.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chair. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. Persons who plan to attend should so advise the Office of Earl Barbely, Department of State, (202) 647–0201, FAX (202) 647–7407. The above includes government and non-government attendees. Public visitors will be asked to provide their date of birth and Social Security number at the time they register their intention to attend and must carry a valid photo ID with them to the meeting in order to be admitted. All attendees must use the C Street entrance.

Please bring 60 copies of documents to be considered at this meeting. If the document has been mailed, bring only 10 copies.

Dated: February 7, 1992.

Earl Barbely,

Director, Telecommunications and Information Standards, Chairman, U.S. CCITT National Committee.

[FR Doc. 92-3848 Filed 2-18-92; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ended February 7, 1992

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 47975.
Date filed: February 3, 1992.
Parties: Members of the International Air Transport Association.
Subject:
TC3 Reso/P 0445 dated December 3, 1991 Within South Asian Subcontinent—R-1 To R-7.
TC3 Reso/P 0446 dated December 3, 1991 Within South East Asia—R-8 To R-16.
TC3 Reso/P 0447 dated December 3, 1991 Within South-West Pacific—R-17 To R-23.
TC3 Reso/P 0448 dated December 3, 1991 Within South Asian Subcontinent—R-24 To R-32.
TC3 Reso/P 0449 dated December 3, 1991 South Asian Subcontinent—R-33 To R-42.
TC3 Reso/P 0450 dated December 3, 1991 Southeast Asia-Southwest Pacific—R-43 To R-47.
TC3 Reso/P 0451 dated December 3, 1991 Japan-Korea—R-48 To R-58.
TC3 Reso/P 0452 dated December 3, 1991 Japan/Korea-Southeast Asia—R-59 To R-69.
TC3 Reso/P 0453 dated December 3, 1991 Japan/Korea-Southeast Asia—R-70 To R-91.
TC3 Reso/P 0454 dated December 3, 1991 Japan/Korea-South West Pacific—R-92 To R-102.
TC3 Reso/P 0455 dated December 3, 1991 Japan/Korea-Australia—R-103 To R-120.
TC3 Reso/P 0456 dated December 2, 1991 Japan/Korea-New Zealand—R-121 To R-136.
Proposed Effective Date: April 1, 1992.

Docket Number: 47976.
Date filed: February 3, 1992.
Parties: Members of the International Air Transport Association.
Subject: TC3 Reso/P 0444 dated December 3, 1991 Areawide Resolutions—R-1 To R-5.
Proposed Effective Date: April 1, 1992.

Docket Number: 47977.
Date filed: February 3, 1992.
Parties: Members of the International Air Transport Association.
Subject: Telex dated January 27, 1992 Mail Vote 535 (Europe-Middle East resolutions)—R-1—001Q; R-2—010w.
Proposed Effective Date: March 25/April 1, 1992.

Docket Number: 47979.
Date filed: February 5, 1992.
Parties: Members of the International Air Transport Association.
Subject: TC23 Reso/P 0484 dated November 22, 1991 Europe-Southwest Pacific Resos—R-1 To R-21.
Proposed Effective Date: April 1, 1992.

Docket Number: 47980.
Date filed: February 6, 1992.
Parties: Members of the International Air Transport Association.
Subject: Telex dated January 28, 1992 Mail Vote 536 (Japan-North America Reso 010X)
Proposed Effective Date: April 1, 1992.

Docket Number: 47981.
Date filed: February 6, 1992.
Parties: Members of the International Air Transport Association.
Subject: TC23 Reso/P 0477 dated November 20, 1992 TC23/TC123 Middle East—TC3 Resos—R-1 To R-28.
Proposed Effective Date: April 1, 1992.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 92-3793 Filed 2-18-92; 8:45 am]

BILLING CODE 4910-62-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended February 7, 1992

The following applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 47446.

Date filed: February 3, 1992.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 2, 1992.

Description: Amendment No. 1 to the Application of General Department Of International Air Services (Aeroflot Soviet Airlines) requests Amendment of its Foreign Air Carrier Permit for additional authority to operate between a point or points in the Union of Soviet Socialist Republics via intermediate points on a North Atlantic routing and Chicago.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 92-3794 Filed 2-18-92; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

Springfield Regional Airport, Springfield, MO; Noise Exposure Map Receipt of Noise Compatibility Program and Request for Review

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by Springfield, Missouri for the Springfield Regional Airport under the provisions to title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR part 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for the Springfield Regional Airport under part 150 in conjunction with the noise exposure map, and that this program will be approved or disapproved on or before July 28, 1992.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps and of the start of its review of the associated noise compatibility program is January 30, 1992. The public comment period ends March 30, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Ken Ornes, ACE-615, Federal Aviation Administration, Airports Division, 601 E. 12th St., Kansas City, Missouri 64106. Telephone No. (816) 426-6616. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for the Springfield Regional Airport are in compliance with applicable requirements of part 150, effective January 30, 1992. Further, FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before July 28, 1992. This notice also announces the availability of this program for public review and comment.

Under section 103 of title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) part 150, promulgated pursuant to title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The City of Springfield, Missouri submitted to the FAA on December 18, 1991, noise exposure maps, descriptions and other documentation which were produced during the FAR part 150 Noise Compatibility Study for the Springfield Regional Airport. It was requested that the FAA review this material as the noise exposure maps, as described in section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by Springfield, Missouri. The specific maps under consideration are identified as the "Existing Noise Exposure Map—1988" and the "Future Noise Exposure Map—1955" in the submission. The FAA has determined that these maps for the Springfield Regional Airport are in compliance with applicable requirements. This determination is effective on January 30, 1992. FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in appendix A of FAR part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under section 150.21 of FAR part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for the Springfield Regional Airport, also effective on January 30, 1992. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before July 28, 1992.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR part 150, § 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal or reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, 800 Independence Avenue, SW., room 617, Washington, DC 20591.

Federal Aviation Administration, Airports Division, 601 E. 12th St., Kansas City, Missouri 64106.

Springfield Regional Airport, Route 6, Box 384, Springfield, Missouri 65803.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Kansas City, Missouri, January 30, 1992.

George A. Hendon,

Manager, Airports Division, ACE-600.

[FR Doc. 92-3813 Filed 2-18-92; 8:45 am]

BILLING CODE 4910-13-M

Federal Aviation Administration, Radio Technical Commission for Aeronautics (RTCA)

GNSS Task Force Strategy and Initiative, Task Force 1, Working Group 4; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., Appendix I), notice is hereby given for the meeting of Task Force 1, Working Group 4 to be held March 3, 1992, in Meeting Room C of the Air Transport Association of America, 1709 New York Avenue, NW., Washington, DC 20006, commencing at 9 a.m.

The agenda for this meeting is as follows: (1) Working Group 1 and 2 activities; implications for Working Group 4; (2) improved definition of short-term (1992-1995), mid-term (1996-2000) and long-term issues; (3) identification of alternative institutional arrangements for acquisition, ownership and operation; (4) Working Group report outline; (5) other business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA

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Secretariat, 1140 Connecticut Avenue, NW., suite 1020, Washington, DC 20036; (202) 833–9339. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on February 11, 1992.

Joyce J. Gillen,

Designated Officer.

[FR Doc. 92–3809 Filed 2–18–92; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 92–21]

Extension of Unimar, Inc., International's Customs Approval To Include Accreditations To Perform Certain Laboratory Analysis

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of the extension of Unimar, Inc., International's Customs approval to include the accretitation of certain laboratory analyses to be performed for Customs purposes.

SUMMARY: Unimar Inc., International of Houston, Texas, a Customs approved gauger under § 151.13 of the Customs Regulations (19 CFR 151.13), has been given an extension of its Customs approval to include accreditations to perform the following laboratory analyses at its Houston, Texas facility: API Gravity, sediment and water, sediment by extraction.

SUPPLEMENTARY INFORMATION: Part 151 of the Customs Regulations provides for the acceptance at Customs Districts of laboratory analyses and gauging reports for certain products from Customs accredited commercial laboratories and approved gaugers. Unimar, Inc., International, a Customs-approved commercial gauger, has applied to Customs to extend its Customs approval to include the laboratory analyses named above. Review of Unimar, Inc., International's qualifications shows that the extention is warranted and, accordingly, has been granted.

EFFECTIVE DATE: February 3, 1992.

FOR FURTHER INFORMATION CONTACT: Ira S. Reese, Special Assistant for Commercial and Tariff Affairs, Office of Laboratories and Scientific Services, U.S. Customs Service, 1301 Constitution Ave. NW., Washington, DC 20229 (202–566–2446).

Dated: February 12, 1992.

John B. O'Loughlin,

Director, Office of Laboratories and Scientific Services.

[FR Doc. 92–3802 Filed 2–18–92; 8:45 am]

BILLING CODE 4820–02–M

[T.D. 92–14]

Recordation of Trade Name: "ALL-STATE WELDING PRODUCTS"

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of recordation.

SUMMARY: On August 20, 1991, a notice of application for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "ALL-STATE WELDING PRODUCTS," was published in the **Federal Register** (56 FR 41388). The notice advised that before final action was taken on the application, consideration would be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation and received not later than October 21, 1991. No responses were received in opposition to the notice. Accordingly, as provided in § 133.14, Customs Regulations (19 CFR 133.14), the name "ALL-STATE WELDING PRODUCTS," is recorded as the trade name used by All-State Welding Products Inc., a corporation organized under the laws of the State of Delaware, located at 5112 Allendale Lane, Taneytown, Maryland 21787.

The trade name is used in connection with welding electrodes, brazing, rods, solders, fluxes, powders, chemical aids and equipment for using the same for maintenance and repair applications. The following companies are authorized to use the above trade name: Hi-Tech Welding (PROROD) Ltd., dba All-State Welding Products Canada, located at 57 Galaxy Blvd., Unit 6, Rexdale, Ontario M9W 5P1 Canada, is authorized only in Canada and McNeil Holdings Pty., Ltd., dba All-State Welding Products Distributors, located at 6143 Dellamarta Road, Wangara, Washington, is authorized to use the trade name only in Australia.

EFFECTIVE DATE: February 19, 1992.

FOR FURTHER INFORMATION CONTACT: Delois P. Cooper, Intellectual Property Rights Branch, 1301 Constitution Avenue, NW., Washington DC 20229 (202 566–6956).

Dated: February 12, 1992.

John F. Atwood,

Chief, Intellectual Property Rights Branch.

[FR Doc. 92–3798 Filed 2–18–92; 8:45 am]

BILLING CODE 4820–02–M

[T.D. 92–19]

Recordation of Trade Name: "M.T.R. CONDIMENTS"

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of recordation.

SUMMARY: On December 2, 1991, a notice of application for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "M.T.R. CONDIMENTS," was published in the **Federal Register** (56 FR 61278). The notice advised that before final action was taken on the application, consideration would be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation and received not later than January 31, 1992. No responses were received in opposition to the notice. Accordingly, as provided in § 133.14, Customs Regulations (19 CFR 133.14), the name "M.T.R. CONDIMENTS," is recorded as the trade name used by MTR Imports, Inc., a corporation organized under the laws of the State of Illinois, located at 18 West 194 Holly Avenue, Westmont, Illinois 60559. The trade name is used in connection with various Indian food product mixes and powders. The merchandise is manufactured in India.

EFFECTIVE DATE: February 19, 1992.

FOR FURTHER INFORMATION CONTACT: Delois P. Cooper, Intellectual Property Rights Branch, 1301 Constitution Avenue, NW., Washington DC 20229 (202 566–6956).

Dated: February 12, 1992.

John F. Atwood,

Chief, Intellectual Property Rights Branch.

[FR Doc. 92–3801 Filed 2–18–92; 8:45 am]

BILLING CODE 4820–02–M

[T.D. 92–17]

Recordation of Trade Name: "M.T.R. DISTRIBUTORS (P) LTD"

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of recordation.

SUMMARY: On December 2, 1991, a notice of application for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "M.T.R. DISTRIBUTORS (P)

LTD," was published in the **Federal Register** (56 FR 61277). The notice advised that before final action was taken on the application, consideration would be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation and received not later than January 31, 1992. No responses were received in opposition to the notice. Accordingly, as provided in § 133.14, Customs Regulations (19 CFR 133.14), the name "M.T.R. DISTRIBUTORS (P) LTD," is recorded as the trade name used by MTR Imports, Inc., a corporation organized under the laws of the State of Illinois, located at 18 West 194 Holly Avenue, Westmont, Illinois 60559. The trade name is used in connection with various Indian food product mixes and powders. The merchandise is manufactured in India.

EFFECTIVE DATE: February 19, 1992.

FOR FURTHER INFORMATION CONTACT: Delois P. Cooper, Intellectual Property Rights Branch, 1301 Constitution Avenue, NW., Washington DC 20229 (202 566-6956).

Dated: February 12, 1992.

John F. Atwood,

Chief, Intellectual Property Rights Branch.

[FR Doc. 92-3800 Filed 2-18-92; 8:45 am]

BILLING CODE 4820-02-M

[T.D. 92-16]

Recordation of Trade Name: "M.T.R. FOOD PRODUCTS"

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of Recordation.

SUMMARY: On December 02, 1991, a notice of application for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "M.T.R. FOOD PRODUCTS," was published in the **Federal Register** (56 FR 61277). The notice advised that before final action was taken on the application, consideration would be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation and received in opposition to the notice. Accordingly, as provided in § 133.14, Customs Regulations (19 CFR 133.14), the name "M.T.R. FOOD PRODUCTS," is recorded as the trade name used by MTR Imports, Inc., a corporation organized under the laws of the State of Illinois, located at 18 West 194 Holly Avenue, Westmont, Illinois 60559.

The trade name is used in connection with various Indian food product mixes and powders. The merchandise is manufactured in India.

EFFECTIVE DATE: February 19, 1992.

FOR FURTHER INFORMATION CONTACT: Delois P. Cooper, Intellectual Property Rights Branch, 1301 Constitution Avenue, NW., Washington, DC 20229 (202 566-6956).

Dated: February 12, 1992.

John F. Atwood,

Chief, Intellectual Property Rights Branch.

[FR Doc. 92-3799 Filed 2-18-92; 8:45 am]

BILLING CODE 4820-02-M

Office of Thrift Supervision

Gate City Federal Savings and Loan Association; Ratification of Approval of Conversion

Notice is hereby given that, pursuant to the authority contained in 12 CFR part 563b, the Director of the Office of Thrift Supervision ("Office") duly ratified the approval of the conversion of Gate City Federal Savings and Loan Association ("Association"), Gate City, North Carolina, from mutual to stock form, rendered by the designee of the Office's Chief Counsel on June 18, 1991, and approved the Association's conversion as of that date *nunc pro tunc*, on February 3, 1992.

Dated: February 12, 1992.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92-3826 Filed 2-18-92; 8:45 am]

BILLING CODE 6720-01-M

Sunshine Act Meetings

Federal Register

Vol. 57, No. 33

Wednesday, February 19, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, Feb. 19, 1992.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED:

Section 15 Operations.

The staff will brief the Commission on compliance activities relating to enforcement of Section 15 of the Consumer Product Safety Act.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 (301) 504–0800.

Dated: February 12, 1992.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 92–3919 Filed 2–14–92; 11:14 am]

BILLING CODE 6355-01-M

CONSUMER PRODUCT SAFETY COMMISSION:

DATE: Thursday, Feb. 20, 1992.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS:

MATTERS TO BE CONSIDERED:

9:30 a.m.—Open to the Public

1. Pride in Public Service

The Commission will present the Pride in Public Service award to February's recipient.

2. Petition CP 90-2, Spas/Hot Tubs

The staff will brief the Commission on petition CP 90-2 from Dr. Edward Press requesting mandatory requirements for spas/hot tubs.

3. Garage Door Operators

The staff will brief the Commission on proposed rules specifying certification and recordkeeping requirements for automatic residential garage door operators.

2:00 p.m.—Closed to the Public

4. Section 15 Operations

The staff will brief the Commission on compliance activities relating to enforcement of Section 15 of the Consumer Product Safety Act.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 (301) 504–0800.

Dated: February 12, 1992.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 92–3920 Filed 2–14–92; 11:14 am]

BILLING CODE 6355-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 2:00 P.M. (Eastern Time) Tuesday, March 3, 1992.

PLACE: Conference Room on the Ninth Floor of the EEOC Office Building, 1801 "L" Street, NW., Washington, DC 20507.

STATUS: Part of the Meeting will be Open to the Public and Part will be Closed to the Public.

MATTERS TO BE CONSIDERED:

Open Session

1. Announcement of Notation Vote(s)
2. A Report on Commission Operations

Closed Session

1. Litigation Authorization: General Counsel Recommendations
2. Agency Adjudication and Determination on the Record of Federal Agency Discrimination Complaint Appeals

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 663–7100 (voice) and (202) 663–4494 (TTD) at any time for information on these meetings.)

CONTACT PERSON FOR MORE INFORMATION: Frances M. Hart, Executive Officer on (202) 663–7100.

Frances M. Hart,

Executive Officer, Executive Secretariat.

This Notice Issued February 13, 1992.

[FR Doc. 92–3954 Filed 2–14–92; 2:12 pm]

BILLING CODE 6750-06-M

UNITED STATES INTERNATIONAL TRADE COMMISSION

[USITC SE–92–04]

TIME AND DATE: March 3, 1992 at 2:30 p.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meetings
2. Minutes
3. Ratification List
4. Petitions and complaints
5. Inv. 731–TA–514 (Final) (Shop towels from Bangladesh)—briefing and vote
6. Any items left over from previous agenda

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 205–2000.

Dated: February 13, 1992.

Kenneth R. Mason,

Secretary.

[FR Doc. 92–3928 Filed 2–14–92; 11:36 am]

BILLING CODE 7020-02-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of February 17, 24, March 2, and 9, 1992.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of February 17

Friday, February 21

10:00 a.m.
IG Briefing on Review of NRC Programs (Closed—Ex. 2)

12:00 m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of February 24—Tentative

Tuesday, February 25

10:00 a.m.
Briefing on Design Basis Reconstitution Programs (Public Meeting)

Wednesday, February 26

2:30 p.m.
Briefing by Executive Branch (Closed—Ex. 1)

3:15 p.m
Classified Safeguards Briefing (Closed—Ex 1)

4:00 p.m.
Affirmation/Discussion and Vote (Public Meeting)

a. Commission Reconsideration of Standards Covering Combined License Hearing (Tentative)

Week of March 2—Tentative

Wednesday, March 4

10:00 a.m.

Briefing by NARUC on Economic Issues Associated with Nuclear Power Plant Operations and HLW Programs (Public Meeting)

Thursday, March 5

2:00 p.m.

Periodic Meeting with the Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting)

3:30 p.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of March 9—Tentative

Tuesday, March 10

2:00 p.m.

Briefing on Risk-Based Regulations Transition Strategy (Public Meeting)

Wednesday, March 11

1:30 p.m.

Briefing on Requirements for Integral System Testing of Westinghouse AP-600 (Public Meeting)

Thursday, March 12

2:00 p.m

Periodic Meeting with the Advisory Committee on Nuclear Waste (ACNW) (Public Meeting)

3:30 p.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

Note.—Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

TO VERIFY THE STATUS OF MEETING CALL (RECORDING): (301) 504–1292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 504–1661.

Dated: February 14, 1992.

William M. Hill, Jr.,

Office of the Secretary.

[FR Doc. 92–3987 Filed 2–14–92; 2:21 pm]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of February 17, 1992.

A closed meeting will be held on Tuesday, February 18, 1992, at 3:00 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Roberts, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Tuesday, February 18, 1992, at 3:00 p.m., will be:

Institution of injunctive actions.
Settlement of injunctive actions.
Settlement of administrative proceedings of an enforcement nature.
Institution of administrative proceedings of an enforcement nature.
Litigation matter.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Judy Gelber at (202) 272–2200.

Jonathan G. Katz,

Secretary.

February 12, 1992.

[FR Doc. 92–3935 Filed 2–14–92; 12:27 pm]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER CITATION" OF PREVIOUS ANNOUNCEMENT: [57 FR 4910 February 10, 1992].

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Wednesday, February 5, 1992.

CHANGE IN THE MEETING: Cancellation.

A closed meeting scheduled for Thursday, February 13, 1992, at 10:00 a.m., has been canceled.

Commissioner Roberts, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Stephen Luparello at (202) 272–2100.

Jonathan G. Katz,

Secretary.

February 12, 1992.

[FR Doc. 92–3936 Filed 2–14–92; 12:27 pm]

BILLING CODE 8010-01-M

Corrections

Federal Register
Vol. 57, No. 33
Tuesday, February 18, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[FI-42-90]

RIN 1545-A069

Bad Debt Reserves of Thrift Institutions

Correction

In proposed rule document 92-697, beginning on page 1232, in the issue of Monday, January 13, 1992, make the following corrections:

1. On page 1232, in the third column, under *Need for the Regulations*, in the second paragraph, in the fifth line, "953(a)(2)," should read "593(a)(2),".

2. On the same page, in the same column, under *Methods of Accounting for Bad Debts*, in the second paragraph, in the fourth line, "595(b)" should read "585(b)".

3. On page 1233, in the second column, under *Sections 585(c)(3) and 585(c)(4)*, in the second paragraph, in the fifth line, "Rule." should read Rul.", and in the sixth line, "71." should read 171.".

4. On page 1235, in the third column, in the seventh line, "year change" should read "year of change".

§ 1.593-12 [Corrected]

5. On page 1236, in the second column, in § 1.593-12(a)(2), in the seventh line, "§ 1.381(4)-1" should read "§ 1.381(c)(4)-1".

6. In the same column, in § 1.593-12(a)(3), in the ninth line, "requirements" was misspelled.

7. On page 1237, in the second column, in § 1.593-12(d), in *Example 2.*, in the fifth line, "§ 1.585-5(c)" should read "§ 1.585-5(c))".

8. In the same paragraph, in the 13th line, "exceed" was misspelled.

9. On the same page, in the third column, under *Example 3.*, in the seventh line, "asset" was misspelled.

§ 1.593-13 [Corrected]

10. On the same page, in the same column, in § 1.593-13(a)(2), in the 15th line, "procedure" was misspelled.

11. On page 1239, in the first column, in § 1.593-13(c)(5), in the example, in the fourth line, "§ 1593-12(b)(3)" should read "§ 1.593-12(b)(3)".

12. On the same page, in the third column, in § 1.593-13(d)(2), in the third line, "this" should read "its".

13. In the same column, in § 1.593-13(d)(3), in the last line, "of" should read "in".

§ 1.593-14 [Corrected]

14. On page 1241, in the third column, in § 1.593-14(d)(2)(ii)(B), in the fourth line "an" should read "any".

15. On page 1242, in the 1st column, in § 1.593-14(d)(4)(ii), in the 12th line, "of" should read "or".

16. On the same page, in the third column, in § 1.593-14(d)(6), in the first line, "6." should read "(6)".

17. On page 1243, in the first column, in § 1.593-14(d)(6), in *Example 2.(ii)*, in the tenth line, "adjustments" was misspelled, and in the 12th line, "4819a)" should "481(a)".

18. In the same column, in the same section, in *Example 3.(i)*, in the 13th line, after "481(a)", insert "adjustment under § 1.593-14(d)(3), and elects to net section 481(a)".

19. In the same example, in paragraph (ii), in the sixth line, after "under" insert "§ 1.593-13(c)(2)(ii) to be $500,000. Under".

BILLING CODE 1505-01-D

DEPARTMENT OF TREASURY

Internal Revenue Service

26 CFR Part 1

[FI-3-91]

RIN 1545-AQ14

Capitalization of Certain Policy Acquisition Expenses

Correction

In proposed rule document 91-27515, beginning on page 58003, in the issue of Friday, November 15, 1991, make the following corrections:

§ 1.848-2 [Corrected]

1. On page 58012, in the first column, in § 1.848-2(i), Example 3.(i), in the table, in the heading, in the second column, the word "Expense" should be removed.

§ 1.848-3 [Corrected]

2. On page 58013, in the second column, in § 1.848-3(c)(2), in the eighth line, "section 848(d)(1)(b)" should read "section 848(d)(1)(B)"

3. On the same page, in the third column, in § 1.848-3(a)(4), in the ninth line "848(b)(1)(8)" should read "848(b)(1)(B)".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8367]

RINS 1545-AL29, 1545-AM13, 1545-AN53

Transition Rules for Certain Qualified Business Units Using a Profit and Loss or a Net Worth Method of Accounting for Tax Years Beginning Before January 1, 1987 and the Definition of the Weighted Average Exchange Rate

Correction

In rule document 91-22856 beginning on page 48433, in the issue of Wednesday, September 25, 1991, make the following correction:

On page 48437, in the first column, in amendatory instruction 4., in the first line, "1.989(b)" should read "1.989(b)-1T".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[T.D. 8382]

RIN 1545-AO82

Penalty on Income Tax Return Preparers Who Understate Taxpayer's Liability on a Federal Income Tax Return or a Claim for Refund

Correction

In rule document 91-30709 beginning on page 67509, in the issue of Tuesday, December 31, 1991, make the following corrections:

1. On page 65712, in the first column, in the third paragraph, in the sixth line, "of" should read "or".

2. On the same page, in the 3rd column, in the 12th line, "to" should read "for".

§ 1.6694-1 [Corrected]

3. On page 67515, in the 3rd column, in § 1.6694-1(e)(2), in the 2nd full paragraph, in the 11th line, "not" should read "no".

§ 1.6694-2 [Corrected]

4. On page 67518, in the first column, in § 1.6694-2(d)(4), in the fourth line from the bottom, "or" should read "of".

5. On the same page, in the same column, in § 1.6694-2(d)(5), in the sixth line, after "good" insert "faith".

§ 1.6694-4 [Corrected]

6. On page 67520, in the first column, in § 1.6694-4(b)(2), in the third line, the phrase beginning with "the preparer***" and ending with "section." should have been set flush.

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[T.D. 8393]

RIN 1545-AM63

Civil Cause of Action for Failure to Release a Lien Under I.R.C. § 6325

Corrections

In rule document 92-2025 beginning on page 3537 in the issue of Thursday, January 30, 1992, make the following corrections:

1. On page 3539, in the first column, in the first full paragraph, in the fourth line, "earliers" should read "earlier".

§ 301.7432-1 [Corrected]

2. On the same page, in the third column, in § 301.7432-1(a)(2), in the first line beginning with "The amount***" should be set flush.

BILLING CODE 1505-01-D

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federal register

Wednesday
February 19, 1992

Part II

The President

Proclamation 6404—National Visiting Nurse Associations Week, 1992

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Federal Register
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Presidential Documents

Title 3—

The President

Proclamation 6404 of February 14, 1992

National Visiting Nurse Associations Week, 1992

By the President of the United States of America

A Proclamation

When Florence Nightingale and William Rathbone's concept of the visting nurse was brought to the United States in 1885, that event marked the beginning of a long and distinguished tradition of service to homebound Americans. Today the Department of Health and Human Services reports that more than 1,500,000 men, women, and children receive home health care and support services through visiting nurse associations. Such assistance is invaluable to persons who are terminally ill, to persons who are recovering from a temporary illness or injury, and to persons who are incapacitated by a chronic disease or disability—individuals who might otherwise be forced to seek care in an institutional setting. Visiting nurse associations enable these Americans to obtain needed services in the comfort and security of their own homes.

While it is inspired by the same spirit of compassion and volunteerism, the role of the visiting nurse has changed dramatically over the past 100 years. In addition to providing medical care, visiting nurse associations also offer social services, nutritional counseling and Meals-on-Wheels programs, as well as physical, speech, and occupational therapy. Today's visiting nurse associations also operate wellness clinics, hospices, and adult day care centers. Their efforts are a reminder that health care is made more accessible and more affordable by the hundreds of thousands of Americans who volunteer their time and service to others.

The Visiting Nurse Associations of America are independently operated community organizations that serve more than 500 urban and rural communities in 45 States. These organizations are committed to providing quality health care to all people, regardless of one's ability to pay, and this week, we gratefully salute the many hardworking professionals and volunteers who help to uphold their wonderful tradition of service.

The Congress, by Public Law 102-207, has designated the week beginning February 16, 1992, as "National Visiting Nurse Associations Week" and has authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week of February 16 through February 22, 1992, as National Visiting Nurse Associations Week. I invite all Americans to observe this week with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of February, in the year of our Lord nineteen hundred and ninety-two, and of the Independence of the United States of America the two hundred and sixteenth.

G Bush

[FR Doc. 92-4015
Filed 2-18-92; 10:20 am]
Billing code 3195-01-M

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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

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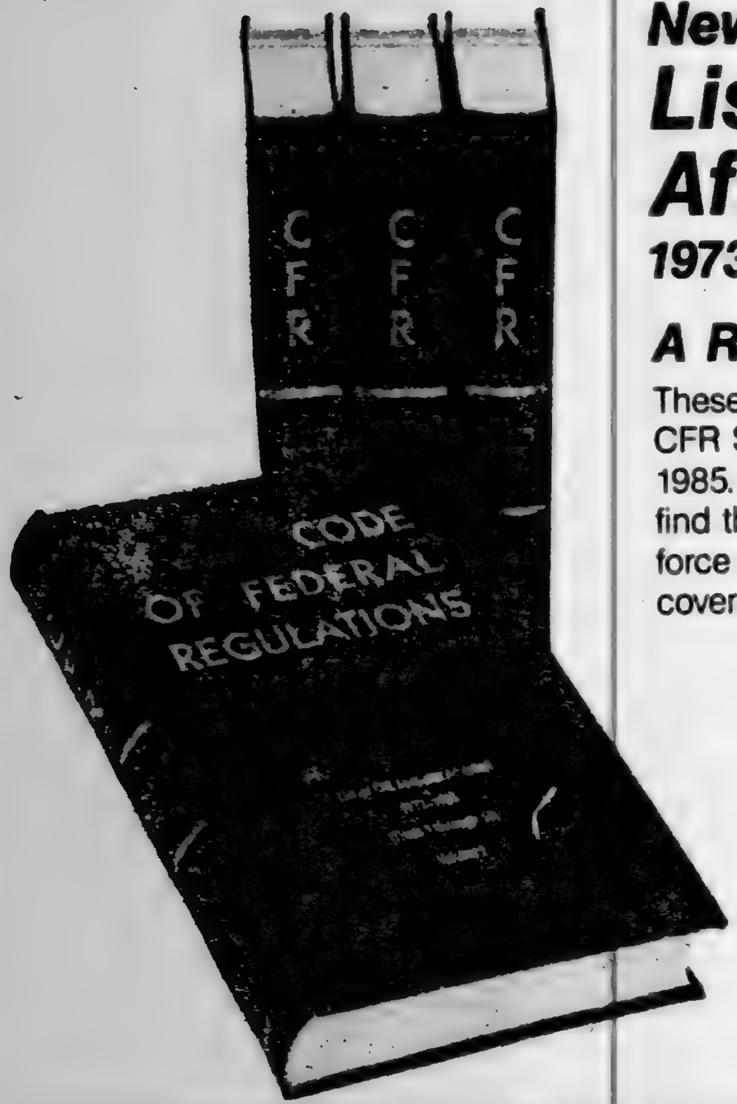

New Publication

List of CFR Sections Affected

1973-1985

A Research Guide

These four volumes contain a compilation of the "List of CFR Sections Affected (LSA)" for the years 1973 through 1985. Reference to these tables will enable the user to find the precise text of CFR provisions which were in force and effect on any given date during the period covered.

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Vol. 57 No. 34

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February 20, 1992

Briefing on How To Use the Federal Register
For information on a briefing in Washington, DC, see announcement on the inside cover of this issue.

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1980

Guaranteed Loans

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) is amending its regulation to allow Community and Business Programs guaranteed loans where guarantee authority is unavailable when the application is filed to be placed in a pending status rather than disapproved.

This action will enhance the application process and expand and clarify the requirement for eligible lenders for guaranteed loans due to amendments in the law and to allow additional lenders to participate in the guaranteed loan programs. The intended effect of the action will be to promote additional development in rural areas.

EFFECTIVE DATES: February 20, 1992.

FOR FURTHER INFORMATION CONTACT: Beverly I. Craver, Business and Industry Loan Specialist, Farmers Home Administration, USDA, room 6327, 14th and Independence Avenue, SW., Washington, DC. 20250, Telephone (202) 690–3805.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1, which implements Executive Order 12291 and has been determined to be non-major. The annual effect on the economy is less than $100 million and there will be no significant increase in costs or prices for consumers, individual industries, organizations, governmental agencies or geographic regions. There will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Intergovernmental Review

The programs impacted by this action are listed in the Catalog of Federal Domestic Assistance under number 10.422, Business and Industrial Loans; 10.423, Community Facilities Loans; and 10.418, Water and Waste Disposal Systems for Rural Communities Loans and are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials (7 CFR part 3015, subpart V, 48 FR 29112, June 24, 1983). FmHA conducts intergovernmental consultation in the manner delineated in FmHA Instruction 1901–H.

Environmental Impact Statement

The document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." FmHA has determined that this proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement is not required.

Background

FmHA is implementing Public Law 101–642 which requires application that would otherwise be disapproved due to lack of guarantee authority available to make the loan to be placed in a pending status. When funds become available, the pending applications will be either approved or disapproved within 60 days.

FmHA is revising its regulations to allow insurance companies to be regulated by a State or national insurance regulatory agency to be considered an eligible lender, and to include credit unions to participate as eligible lenders for the Business and Industry guaranteed loan programs if they are subject to credit examination and supervision by either the National Credit Union Association or a State agency.

The titles of two forms to be used with the Disaster Assistance for Rural Business Enterprises (DARBE) guaranteed loans are being corrected in an administrative provision in the regulations.

Discussion of Proposed Rule

The proposed rule published in the **Federal Register** on June 20, 1991 (56 FR 28351), provided for a 30-day comment period ending July 22, 1991.

One comment was received from within the Agency which suggested editorial changes be made in the eligible lender section of the regulation. The comment has been incorporated into the final rule. Other non-substantive editorial changes have been made from the proposed rule language for clarity.

Lists of Subjects in 7 CFR Part 1980

Loan programs—Agriculture, Business and industry, Community facilities, and Disaster assistance

Accordingly, part 1980, chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

PART 1980—GENERAL

1. The authority citation for part 1980 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; U.S.C. 301; 7 CFR 2.23 and 2.70

Subpart A—General

2. Section 1980.13 is amended by revising the introductory text of paragraph (b) to read as follows:

§ 1980.13 Eligible lenders.

* * * * *

(b) *An eligible lender is:* Any Federal or State chartered bank, Farm Credit Bank, other Farm Credit System institution with direct lending authority, Bank for Cooperatives, Savings and Loan Associations, Building and Loan Association, or mortgage company that is a part of a bank-holding company. These entities must be subject to credit examination and supervision by either an agency of the United States or a State. Eligible lenders may also include credit unions that are subject to credit examination and supervision by either the National Credit Union Administration or a State agency or an insurance company that is regulated by a State or National insurance regulatory agency. For Farmer Program loans an

Agricultural Credit Corporation which is a subsidiary of any Federal or State chartered bank is an eligible lender. Only those lenders listed in this paragraph are eligible to make and service guaranteed loans. The lenders must be in good standing with their licensing authority and have met licensing, loan making, loan servicing, and other requirements of the state in which the collateral will be located and the loan making and/or loan servicing office requirements in paragraph (b)(3) of this section. A lender must have the capability to adequately service the loan for which a guarantee is requested.

* * * * *

3. Section 1980.47 is amended by revising the section heading and introductory text and adding paragraph (d) as follows:

§ 1980.47 Time frame for processing applications for loan guarantees.

All guaranteed loan applications must be approved or disapproved, and the lender notified in writing, not later than 60 days after receipt of a completed application, except as noted in paragraph (d) of this section.

* * * * *

(d) Applications for Community and Business Programs guaranteed loans that would otherwise be disapproved due to the lack of guarantee authority to make the loans will be placed in a pending status. The applications will remain in a pending status until guarantee authority becomes available. Within 60 days after guaranteed authority becomes available, FmHA will notify the applicants of the approval or disapproval of the loan.

4. Section 1980.83(b) is amended by revising the entries for FmHA Form No. 1980-71 and 1980-72 to read as follows:

§ 1980.83 FmHA Forms.

* * * * *

(b) * * *

FmHA

Form No.	Title of form	Purpose and code
*	* *	* *
1980-71 ...	Lender's Agreement—Disaster Assistance for Rural Business Enterprise (DARBE) Guaranteed Loans	Used to establish contract between FmHA and lender on a DARBE guaranteed loan (2)
1980-72 ...	Loan Note Guarantee—Disaster Assistance for Rural Business Enterprises (DARBE) Guaranteed Loans.	Used to express terms of The guarantee of a DARBE guaranteed loan. (1)
*	* *	* *

[1] Code: (1) FmHA use only, (2) FmHA and lender use, * * *.

Dated: December 12, 1991.

La Verne Ausman,

Administrator, Farmers Home Administration.

[FR Doc. 92-3775 Filed 2-19-92; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91-NM-263-AD; Amendment 39-8177; AD 92-04-06]

Airworthiness Directives; Airbus Model A320 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Airbus A320 series airplanes. This action requires repetitive measurements of the deflection of the elevator trailing edge, inspections of the elevator servo controls and their attachments, and replacement of worn or damaged parts, if necessary. This amendment is prompted by reports of in-flight airframe vibrations, resulting from worn bolts and bushings on the elevator servo control attachments. This condition, if not corrected, could result in excessive backlash at the elevator trailing edge, resulting in in-flight airframe vibrations, which could lead to reduced controllability of the airplane.

DATES: Effective March 6, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 6, 1992.

Comments for inclusion in the Rules Docket must be received on or before April 20, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 91-NM-263-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

The service information referenced in this AD may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street, NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Standardization Branch, ANM-113, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2140; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION: The Direction Général de l'Aviation Civile (DGAC), which is the airworthiness authority of France, recently notified the FAA that an unsafe condition may exist on Airbus Model A320 series airplanes. The DGAC advises that cases have been reported of in-flight vibrations on airplanes that have accumulated between 150 and 6,240 flight hours. The vibration is the result of worn bolts and bushings on the elevator servo control attachments. This condition, if not corrected, could result in excessive backlash at the elevator trailing edge, resulting in in-flight airframe vibrations, which could lead to reduced controllability of the airplane.

Airbus Industrie has issued Service Bulletin, A320-27-1043, dated October 7, 1991, which describes procedures for measuring the amount of deflection of the elevator trailing edge; inspecting the elevator servo controls and their attachments to detect wear; and replacing damaged parts. The DGAC has classified this service bulletin as mandatory and has issued Airworthiness Directive 91-eaC-023(B), dated December 24, 1991, in order to assure the airworthiness of these airplanes in France.

This airplane model is manufactured in France and type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to a bilateral airworthiness agreement, the DGAC has kept the FAA totally informed of the above situation. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent excessive backlash at the elevator trailing edge, which could lead to reduced controllability of the airplane. This AD requires measurements of the deflection at each elevator trailing edge and, depending upon the amount of deflection detected, either repeated measurements at specified intervals or replacement parts. This AD also requires inspections to detect wear of the elevator servo controls and their attachments following the occurrence of any elevator-induced in-flight vibrations, and replacement of worn parts. The required actions are to be accomplished in accordance with the service bulletin previously described.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption "ADDRESSES." All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 91–NM–263–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

92–04–06. Airbus Industrie: Amendment 39–8177. Docket 91–NM–263–AD.

Applicability: Model A320 Series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent excessive backlash at the elevator, which could lead to reduced controllability of the airplane, accomplish the following:

(a) Within 30 days after the effective date of this AD, measure the deflection at each elevator trailing edge in accordance with paragraph 2.B.(1) of Airbus Service Bulletin A320–27–1043, dated October 7, 1991.

(1) If the measured elevator deflection is less than or equal to 4 mm, (0.16 inch), with zero play, repeat the elevator deflection inspections, in accordance with the following schedule:

(i) If the procedures in paragraphs 2.B.(2), 2.B.(3), 2.B.(4), and 2.B.(5) in the Service Bulletin have not been accomplished, repeat the inspection at intervals not to exceed 12,000 hours time in-service.

(ii) If the procedures in paragraphs 2.B.(2), 2.B.(3), 2.B.(4), and 2.B.(5) in the Service Bulletin have not been accomplished, repeat the inspection at intervals not to exceed 350 hours time in-service.

(2) If the measured elevator deflection is greater than 4 mm, (0.16 inch), and less than or equal to 10 mm (0.40 inch), repeat the elevator deflection inspections, in accordance with the following schedule:

(i) If the procedures in paragraphs 2.B.(2), 2.B.(3), 2.B.(4), and 2.B.(5) in the Service Bulletin have been accomplished, repeat the inspection at intervals not to exceed 3,000 hours time in-service.

(ii) If the procedures in paragraphs 2.B.(2), 2.B.(3), 2.B.(4), and 2.B.(5) in the Service Bulletin have not been accomplished, repeat the inspection at intervals not to exceed 7 calendar days.

(3) If the measured elevator deflection is greater than 10 mm (0.40 inch), and less than or equal to 15 mm (0.60 inch), accomplish the following:

(i) If the procedures in paragraphs 2.B.(2), 2.B.(3), 2.B.(4), and 2.B.(5) in the Service Bulletin have not been accomplished, repeat the elevator deflection inspections daily. Within 50 additional hours time in-service, accomplish the procedures of paragraphs 2.B.(2), 2.B.(3), 2.B.(4), and 2.B.(5) in the Service Bulletin. Prior to further flight, replace worn parts in accordance with the Service Bulletin.

(ii) If the procedures in paragraphs 2.B.(2), 2.B.(3), 2.B.(4), and 2.B.(5) in the Service Bulletin have been accomplished, prior to further flight, replace worn parts, in accordance with the Service Bulletin.

(4) If the measured elevator deflection is greater than 15 mm (0.60 inch), prior to further flight, replace worn parts and accomplish the procedures of paragraphs 2.B.(2), 2.B.(3), 2.B.(4), and 2.B.(5), in the Service Bulletin.

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(b) If worn or out-of-tolerance components of the elevator servo controls and attachments are replaced in accordance with Airbus Industrie Service Bulletin A320–27–1043, paragraphs 2.B.(2), 2.B.(3), 2.B.(4), and 2.B.(5), after such replacement, repeat the elevator deflection inspections at intervals specified in paragraph (a) of this AD.

(c) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM–113.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The inspections and replacements required by this AD shall be done in accordance with Airbus Service Bulletin A320–27–1043, dated October 7, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

(f) This amendment (39–8177), AD 92–04–06, becomes effective March 20, 1992.

Issued at Renton, Washington, on January 29, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–3904 Filed 2–19–92; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 91–NM–193–AD; Amendment 39–8176; AD 92–04–05]

Airworthiness Directive; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, which requires the installation of an Auxiliary Power Unit (APU) pneumatic duct restraint. This amendment is prompted by two reports of APU pneumatic duct ruptures adjacent to a coupling, which allowed a vertical section of the ducting to separate, pivot, and make contact with an elevator control rod. This condition, if not corrected, could result in damage to the elevator control rod or complete jamming of the elevator system, which could lead to reduced ability to control the pitch of the airplane.

DATES: Effective March 26, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 26, 1992.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Timothy J. Dulin, Seattle Aircraft Certification Office, Systems and Equipment Branch, ANM–130S, FAA, Northwest Mountain Region, Transport Airline Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2675; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain Boeing Model 747 series airplanes, was published in the **Federal Register** on October 21, 1991 (56 FR 52486). That action proposed to require the installation of an APU pneumatic duct restraint.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter supports the rule as proposed.

Two commenters request that the proposed compliance time be extended to at least 18 months after the effective date of the proposed rule, in lieu of the proposed 12 months. One of these commenters states that a 12-month compliance time would create operator scheduling problems, resulting in an expense to the operators that is considerably higher than the amount estimated in the cost impact analysis of the proposed rule. The FAA does not concur. The FAA has determined that 12 months is an ample amount of time to schedule a modification that requires only 26 work hours per airplane to accomplish. Also, the FAA considers that the proposed 12-month compliance time represents the maximum time allowable for affected airplanes to continue to operate without compromising safety, prior to installation of the required modification.

The second of these commenters believes that if the compliance time is extended, the impact on flight safety is small, since this commenter's operating manuals do not allow APU operation in flight and the APU in-flight start capability has been removed from its airplanes. Consequently, APU duct failure would be detected and corrected prior to flight. The FAA does not concur totally. Although this commenter's operation manuals do not allow APU operation during flight, all Boeing Model 747 series airplanes are certificated for APU operation in flight. However, the FAA would consider a request for an adjustment of the compliance time, in accordance with the provisions of paragraph (b) of this AD, provided that, for example, the operational constraints limiting APU operation to ground use only is assured until the modification is accomplished.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 854 Boeing Model 747 series airplanes of the affected design in the worldwide fleet. It is estimated that 232 airplanes of U.S. registry will be affected by this AD, that it will take approximately 26 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Required parts will cost approximately $439 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $433,608.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

92–04–05. **Boeing:** Amendment 39–8176. Docket 91–NM–193–AD.

Applicability: Model 747 series airplanes; line numbers 1 through 856 except line numbers 679 and 685; certificated in any category.

Compliance: Required within one year after the effective date of this AD, unless previously accomplished.

To prevent an Auxiliary Power Unit (APU) pneumatic duct from contacting the elevator control rod in the event of a duct rupture, which could damage the elevator control system and result in a reduced ability to control the pitch of the airplane, accomplish the following:

(a) Install an APU pneumatic duct restraint in accordance with Boeing Alert Service Bulletin 747–36A2087, dated June 6, 1991.

(b) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

(d) The installation shall be done in accordance with Boeing Alert Service Bulletin 747–36A2087, dated June 6, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

(e) This amendment (39–8176), AD 92–04–05, becomes effective March 26, 1992.

Issued in Renton, Washington, on January 28, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–3905 Filed 2–19–92; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 305

Rules for Using Energy Cost and Consumption Information Used in Labeling and Advertising of Consumer Appliances Under the Energy Policy and Conservation Act

AGENCY: Federal Trade Commission.

ACTION: Final rule revision.

SUMMARY: The Federal Trade Commission's Appliance Labeling Rule requires that Table 1, in § 305.9, which sets forth the representative average unit energy costs for five residential energy sources, be revised periodically on the basis of updated information provided by the Department of Energy ("DOE").

This document revises the table to incorporate the latest figures for average unit energy costs as published by DOE in the **Federal Register** on January 14, 1992.

DATES: Section 305.9(a) and the revised Table 1 is effective February 20, 1992. The mandatory dates for using these revised DOE cost figures are detailed in the Supplementary Information Section, below.

FOR FURTHER INFORMATION CONTACT: James Mills, Attorney, 202–326–3035 Division of Enforcement, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: On November 19, 1979, the Federal Trade Commission issued a final Appliance Labeling Rule (44 FR 66466) in response to a directive in section 324 of the Energy Policy and Conservation Act ("EPCA"), 42 U.S.C. 6201.[1] The rule requires the disclosure of energy efficiency of cost information on labels and in retail sales catalogs for eight categories of appliances, and mandates that these energy costs or energy efficiency ratings be based on standardized test procedures developed by DOE. The cost information obtained by following the test procedures is derived by using the representative average unit energy costs provided by DOE. Table 1 in § 305.9(a) of the rule sets forth the representative average unit energy costs to be used for all requirements of the rule. As stated in § 305.9(b), the Table is intended to be revised periodically on the basis of updated information provided by DOE.

On January 14, 1992, DOE published the most recent figures for representative average unit energy costs (57 FR 1461). Accordingly, Table 1 is revised to reflect these latest cost figures as set forth below.

The dates when use of the figures in revised Table 1 becomes mandatory in calculating cost disclosures for use in reporting, labeling and advertising products covered by the Commission's rule and/or EPCA are as follows:

For 1992 Submissions of Data Under § 305.8 of the Commission's Rule

The new cost figures must be used in all 1992 cost submissions.

For Labeling and Advertising of Products Covered by the Commission's Rule

Using 1992 submissions of estimated annual costs of operation based on the 1992 DOE cost figures, the staff will determine whether to publish new ranges. Any products for which new ranges are published must be labeled with estimated annual cost figures calculated using the 1992 DOE cost figures. If such new ranges are published, the effective date for labeling new products will be ninety days after publication of the ranges in the **Federal Register**. Products that have been labeled prior to the effective date of any range modification need not be relabeled. Advertising for such products will also have to be based on the new costs and ranges beginning ninety days after publication of the new ranges in the **Federal Register**.

Energy Usage Representations Respecting Products Covered by EPCA but Not by the Commission's Rule

Manufacturers of products covered by section 323(c) of EPCA, but not by the Appliance Labeling Rule (clothes dryers, television sets, kitchen ranges and ovens, humidifiers and dehumidifiers, pool heaters and space heaters) must use the 1992 representative average unit costs for energy in all representations beginning May 20, 1992.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling,

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[1] Since its promulgation, the rule has been amended twice to include new product categories—central air conditions (52 FR 46888, Dec. 10, 1987) and fluorescent lamp ballasts (54 FR 1182, Jan. 12, 1989).

Reporting and recordkeeping requirements.

PART 305—[AMENDED]

Accordingly, 16 CFR part 305 is amended as follows:

1. The authority citation for part 305 continues to read as follows:

Authority: Sec. 324 of the Energy Policy and Conservation Act (Pub. L. 94-163) (1975), as amended by the National Energy Conservation Policy Act (Pub. L. 95-619), (1978), the National Appliance Energy Conservation Act (Pub. L. 100-12) (1987), and the National Appliance Energy Conservation Amendments of 1988 (Pub. L. 100-357) 1988 42 U.S.C. 6294; section 553 of the Administrative Procedure Act, 5 U.S.C. 553.

2. Section 305.9(a) is revised to read as follows:

§ 305.9 Representative average unit energy costs.

(a) Table 1, below, contains the representative unit energy costs to be utilized for all requirements of this part.

TABLE 1.—REPRESENTATIVE AVERAGE UNIT COSTS OF ENERGY FOR FIVE RESIDENTIAL ENERGY SOURCES (1992)

Type of energy	In common terms	As required by DOE test procedure	Dollars per million Btu [1]
Electricity	8.25¢/kWh [2, 3]	$0.0825/kWh	$24.18
Natural Gas	58.00¢/therm [4] or $5.98/MCF [5, 6]	$0.00000580/Btu	5.80
No. 2 heating oil	$1.03/gallon [7]	$0.00000743/Btu	7.43
Propane	$0.74/gallon [8]	$0.00000810/Btu	8.10
Kerosene	$0.89/gallon [9]	$0.00000659/Btu	6.59

[1] Btu stands for British thermal unit.

[2] kWh stands for kilowatt hour.

[3] 1 kWh=3,412 Btu.

[4] 1 therm=100,000 Btu. Natural gas prices includes taxes.

[5] MCF stands for 1,000 cubic feet.

[6] For the purposes of this table, 1 cubic foot of natural gas has an energy equivalence of 1,031 Btu.

[7] For the purposes of this table, 1 gallon of No. 2 heating oil has an energy equivalence of 138,690 Btu.

[8] For the purposes of this table, 1 gallon of liquid propane has an energy equivalence of 91,333 Btu.

[9] For the purposes of this table, 1 gallon of kerosene has an energy equivalence of 135,000 Btu.

Donald S. Clark,
Secretary.
[FR Doc. 92-3732 Filed 2-19-92; 8:45 am]
BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR PART 558

New Animal Drugs for Use in Animal Feeds; Butynorate, Phenothiazine, Piperazine in Combination

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to remove the entry that reflects approval of two new animal drug applications (NADA's) held by Solvay Animal Health, Inc. The NADA's provide for use of Wormal Tablets and Wormal Granules (butynorate, phenothiazine, and piperazine in combination) as an anthelmintic in chicks and turkeys. In a notice published elsewhere in this issue of the **Federal Register**, FDA is withdrawing approval of the NADA's.

EFFECTIVE DATE: June 30, 1992.

FOR FURTHER INFORMATION CONTACT: Mohammad I. Sharar, Center for Veterinary Medicine (HFV-216), Food and Drug Administration, 7500 Standish Pl., Rockville, MD, 20855, 301-295-8749.

SUPPLEMENTARY INFORMATION: In a notice published elsewhere in this issue of the **Federal Register**, FDA is withdrawing approval of NADA's 10-335 and 10-447 held by Solvay Animal Health, Inc., 2000 Rockford Rd., Charles City, IA 50616-9989. NADA 10-335 provides for use of Wormal Tablets for individual bird treatment. NADA 10-447 provides for use of Wormal Granules Type A Medicated Article to make Type B and C medicated feeds. Both products contain butynorate, piperazine, phenothiazine, and piperazine in combination.

This final rule removes the entry in 21 CFR 558.4(d) which provides for medicated feed applications containing butynorate, piperazine, and phenothiazine.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR Part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

§ 558.4 [Amended]

2. Section 558.4 *Medicated feed applications* is amended in paragraph (d) in the Category II table for removing the entry for "Butynorate", and the indented entries for "Piperazine", and "Phenothiazine".

Dated: February 12, 1992.

Gerald B. Guest,
Director, Center for Veterinary Medicine.
[FR Doc. 92-3865 Filed 2-19-92; 8:45 am]
BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8385]

RIN 1545-AP75

Allocations Attributable to Partnership Nonrecourse Liabilities; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to Treasury Decision 8385, which was published in the **Federal Register** for Friday, December 27, 1991 (56 FR 66978). The final regulations relate to the allocation among partners of certain losses or deductions and certain income or gain attributable to partnership nonrecourse liabilities.

EFFECTIVE DATE: December 28, 1991.

FOR FURTHER INFORMATION CONTACT: Susan Pace Hamill, (202) 377-9470 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections adds new regulation § 1.704-2 to the Income Tax Regulations (26 CFR part 1) under section 704(b) of the Internal Revenue Code of 1986 and removes existing § 1.704-1(b)(4)(iv) and § 1.704-1T(b)(4)(iv).

Need for Correction

As published, T.D. 8385 contains errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of final regulations (T.D. 8385), which was the subject of FR Doc. 91-30843, is corrected as follows:

§ 1.704-1 [Corrected]

1. On page 66983, column 1, in § 1.704-1, in instructional "Par. 8.", line 1, the language "Par. 8. Section 1.704(b)(5) is amended" is corrected to read "Par 8. Section 1.704-1(b)(5) is amended".

§ 1.704-2 [Corrected]

2. On page 66984, column 1, in § 1.704-2(b)(4), line 6, the language "of § 1.1001-2, and a partner (or related" is corrected to read "of § 1.1001-2, and a partner or related".

3. On page 66984, column 1, in § 1.704-2(c), line 24, the language "necessary, by a pro rata portion of other" is corrected to read "necessary, a pro rata portion of other".

4. On page 66984, column 3, in § 1.704-2(e)(3), second line from the bottom of that paragraph, the language "chargeback requirements of paragraph" is corrected to read "chargeback requirement of paragraph".

5. On page 66985, column 2, in § 1.704-2(f)(5), first line, the language "*(5) Additional Exceptions.* The" is corrected to read "*(5) Additional exceptions.* The".

6. On page 66985, column 3, in § 1.704-2(f)(7), *Example 1*, third line from the bottom of that paragraph, the language "evidenced by the partner's contributions and" is corrected to read "evidenced by the partners' contributions and".

7. On page 66986, column 1, in § 1.704-2(g)(1)(i), line 6, the language "predecessors in interest) up to that time" is corrected to read "predecessors' in interest) up to that time."

8. On page 66987, column 2, in § 1.704-2(i)(4), third line from the bottom of that paragraph, the language "paragraph (f)(5), of this section. See" is corrected to read "paragraph (f)(6), of this section. See".

9. On page 66987, column 3, in § 1.704-2(j)(1)(iii), line 4, the language "deductions exceed the partnership's" is corrected to read "deductions exceeds the partnership's".

10. On page 66988, column 3, in § 1.704-2(k)(5), first line of column 3, the language "(k)(5) of this section apply to determine" is corrected to read "(k)(4) of this section apply to determine".

11. On page 66989, column 1, in § 1.704-2(l)(2)(ii), line 35, the language "beginning on or after December 28, 1991," is corrected to read "beginning on or after December 29, 1988 ".

12. On page 66989, column 1, in § 1.704-2(l)(2)(ii), last line of that paragraph, the language "28, 1986." is corrected to read "29, 1988."

13. On page 66993, column 2, in § 1.704-2(m), paragraph (ii)(b) of *Example 3*, line 25, the language "paragraph (g) of this section, A and B's" is corrected to read "paragraph (g) of this section, A's and B's".

14. On page 66993, column 2, in § 1.704-2(m), paragraph (iii) of *Example 3*, line 6, the language "$70,000, a depreciation deduction of $210,000," is corrected to read $70,000 a tax depreciation deduction of $210,000."

Cynthia E. Grigsby,

Alternate Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 92-3764 Filed 2-19-92; 8:45 am]

BILLING CODE 4830-01-M

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26 CFR Parts 1 and 301

[T.D. 8387]

RIN 1545-AM74

Abatements, Credits, and Refunds—Special Rules for Insolvent Financial Institution That Is or Was Member of Consolidated Group; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to temporary and final regulations.

SUMMARY: This document contains corrections to Treasury Decision 8387, which was published in the **Federal Register** for Tuesday, December 31, 1991 (56 FR 67487). The temporary regulations in part 301 provide for the payment of income tax refunds in certain situations to a statutory or court-appointed fiduciary of an insolvent financial institution that was a member of a consolidated group in the year to which the refund claim or application for tentative carryback adjustment relates (instead of payment to the common parent of the consolidated group). The final regulations would provide guidance for determining when a statutory or court-appointed fiduciary can receive payment of a refund from the Internal Revenue Service.

EFFECTIVE DATE: January 30, 1992.

FOR FURTHER INFORMATION CONTACT: Rose L. Williams, (202) 566-3231 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary and final regulations that are the subject of these corrections add regulations to part 301 and amend regulations in part 1 of title 26 of the Code of Federal Regulations, respectively, under sections 1502, 6402(i), and 6411(c) of the Internal Revenue Code.

Need for Correction

As published, T.D. 8387 contains errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of this regulation (T.D. 8387), which was the subject of FR Doc. 91-31015, is corrected as follows:

1. On page 67489, column 1, § 1.6411-4, is corrected to read:

§ 1.6411-4 Consolidated groups.

For further rules applicable to consolidated groups, see § 1.1502-78. For further rules applicable to consolidated groups that include insolvent financial institutions, see § 301.6402-7T of this chapter.

§ 301.6402-7T [Corrected]

2. On page 67490, column 2, in § 301.6402-7T(d)(2)(iii), line 6 from the top of the column, the language "Service as agent under of paragraph" is corrected to read "Service as agent under paragraph".

Cynthia E. Grigsby,

Alternate Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 92-3765 Filed 2-19-92; 8:45 am]

BILLING CODE 4830-01-M

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26 CFR Part 1

[T.D. 8384]

RIN 1545-AP82

Certification of Enhanced Oil Recovery Projects; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to temporary regulations.

SUMMARY: This document contains corrections to Treasury Decision 8384, which was published in the **Federal Register** for Monday, December 30, 1991 (56 FR 67176). The temporary regulations provide procedures whereby an operator or designated owner of an enhanced oil recovery project certifies to the Internal Revenue Service that a project satisfies the requirements of section 43(c) of the Internal Revenue Code.

EFFECTIVE DATE: December 30, 1991.

FOR FURTHER INFORMATION CONTACT: Brenda M. Stewart, (202) 566–4919 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections amend the Income Tax Regulations (26 CFR part 1) to provide procedures whereby an operator or designated owner of an enhanced oil recovery project certifies to the Internal Revenue Service that a project meets the definition of a qualified enhanced oil recovery project under section 43 of the Internal Revenue Code. The temporary regulations reflect the addition of section 43(c)(2)(B) to the Code by section 11511(A) of the Omnibus Budget Reconciliation Act of 1990, Public Law 101–508.

Need for Correction

As published, T.D. 8384 contains typographical errors that, if not corrected, might cause confusion to taxpayers and practitioners.

Correction of Publication

Accordingly, the publication of temporary regulations (T.D. 8384), which was the subject of FR Doc. 91–30873, is corrected as follows:

§ 1.43–3T Corrected.

1. On page 67177, column 3, §§ 1.43–3T(b)(3)(ii) and 1.43–3T(c)(3)(ii), line 2 of each paragraph, the language "project, including its geographical" is corrected to read "project including its geographic".

Cynthia E. Grigsby,

Alternate Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 92–3762 Filed 2–19–92; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Parts 287a, 295c, 316, and 320

Privacy Programs

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This makes administrative changes within Chapter I of title 32 of the Code of Federal Regulations for ease of use.

EFFECTIVE DATE: February 20, 1992.

FOR FURTHER INFORMATION CONTACT: L.M. Bynum, Correspondence and Directives Directorate, Washington Headquarters Services, Pentagon, Washington, DC 20301–1155, telephone 703–697–4111.

SUPPLEMENTARY INFORMATION: .

List of Subjects in 32 CFR Parts 287a, 295(c), 316, and 320

Privacy

Accordingly, under the authority of 10 U.S.C. 131, 32 CFR chapter I, is amended as follows:

1. 32 CFR part 287a is redesignated as part 316; 295c is redesignated as 320 and these newly redesignated parts are transferred into subchapter O.

PART 316—[REDESIGNATED FROM PART 287a AND AMENDED]

2. The authority citation for newly redesignated part 316 is revised to read as follows:

Authority: Pub. L. 93–579, 88 Stat 1986 (5 U.S.C. 552a)

§ 316.3 [Amended]

3. Newly redesignated § 316.3 is amended by revising "286a" to read "310"

§ 316.4 [Amended]

4. Newly redesignated § 316.4 is amended by revising "286a.6" to read "310.6"

§ 316.6 [Amended]

5. Newly redesignated § 316.3 is amended in paragraph (a) by revising "286a" to read "310"; paragraph (b) by revising "286a.5" to read "310.5"; paragraph (c)(1) by revising "286a.9" to read "310.9"; paragraph (c)(3)(xvi) by revising "286a" to read "310"; paragraph (d)(1) by revising "286a.8" to read "310.8"; paragraph (d)(2) by revising "286a.5" to read "310.5"; paragraph (e)(2) by revising "286a.9(b)" to read "310.9(b)"; paragraph (f)(2) by revising "286a.6" to read "310.6"

PART 320—[REDESIGNATED FROM PART 295c AND AMENDED]

6. The authority citation for newly redesignated part 320 is revised to read as follows:

Authority: Pub. L. 93–579, 88 Stat 1986 (5 U.S.C. 552a)

§ 320.3 [Amended]

7. Newly redesignated § 320.3 is amended in paragraph (a) by revising "§ 295c.2" to read "§ 320.2" and paragraph (c) by revising "§ 295c.3(e)" to read "§ 320.3(e)"

§ 320.4 [Amended]

8. Newly redesignated § 320.4 is amended in paragraphs (b)(1) and (b)(2) by revising "§ 295c.3(e)" to read "§ 320.3(e)" and paragraph (c)(1)(iii) by revising "§ 295c.9" to read "§ 320.9"

§ 320.6 [Amended]

9. Newly redesignated § 320.6(a) is amended by revising "§ 295c.7" to read "§ 320.7"

Dated: February 13, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–3821 Filed 2–19–92; 8:45 am]

BILLING CODE 3810-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89–379; RM–6618, RM–6657, RM–6793, RM–7159, RM–6670]

Radio Broadcasting Services; Atlantic, Audubon, Fairfield, Hudson, and Newton, IA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 243C1 to Audubon, Iowa, and Channel 241A to Hudson, Iowa. See 54 FR 37133, published September 7, 1989. This document also denies proposals for a Channel 243C2 allotment at Atlantic, Iowa, and a proposal for a Channel 241C2 upgrade at Newton, Iowa. Finally, this document dismisses a proposal for a Channel 240C2 upgrade at Fairfield, Iowa. The reference coordinates for the Channel 243C1 allotment at Audubon, Iowa, are 41–30–04 and 94–42–09. The reference coordinates for the Channel 241A allotment at Hudson, Iowa, are 42–24–20 and 92–35–30. With this action, this proceeding is terminated.

DATES: Effective Date: March 30, 1992. The window periods for filing applications for the Channel 243C1 allotment at Audubon, Iowa, and the Channel 241A allotment at Hudson, Iowa, will open on March 31, 1992, and close on April 30, 1992.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-379, adopted February 5, 1992, and released February 12, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1714 21st Street, NW., Washington, DC 20036, (202) 452-1422.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Iowa, is amended by adding Channel 243C1, Audubon, and by adding Channel 241A, Hudson.

Federal Communications Commission.

Andrew J. Rhodes,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-3872 Filed 2-19-92; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 91-268; RM-7790]

Radio Broadcasting Services; Fort Kent, ME

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel *293C3 to Fort Kent, Maine, and reserves the channel for noncommerical educational use in response to a petition filed by the University of Maine System. See 56 FR 47717, September 20, 1991. The coordinates for Channel *293C3 are 47-15-30 and 68-33-30. Canadian concurrence has been obtained for this channel as a specially negotiated short-spaced allotment. With this action, this proceeding is terminated.

EFFECTIVE DATE: March 30, 1992.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 91-268, adopted February 4, 1992, and released February 12, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1714 21st Street, NW., Washington, DC 20036, (202) 452-1422.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Maine, is amended by adding Channel *293C3, Fort Kent.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-3876 Filed 2-19-92; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90-494; RM-7473; RM-7571]

Radio Broadcasting Services; Cottage Grove and Brownsville, OR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Paul C. Bjornstad, allots Channel 263A to Cottage Grove, Oregon, as the community's second local FM service. At the request of Eads Broadcasting Corp., the Commission substitutes Channel 272C1 for Channel 272A at Brownsville, Oregon, and modifies Station KGAL-FM's construction permit to specify operation on the higher class channel. See 55 FR 46233, November 2, 1990. Channel 263A can be allotted to Cottage Grove in compliance with the Commission's minimum distance separation requirements with a site restriction of 6 kilometers (3.7 miles) south to avoid a short-spacing to Station KLCC, Channel 209C, Eugene, Oregon, at coordinates North Latitude 43-44-45 and and West Longitude 123-02-25. Channel 272C1 can be allotted to Brownsville, Oregon, at the transmitter site specified in Station KGAL-FM's construction permit, at coordinates 44-26-11 and 122-59-05. With this action, this proceeding is terminated.

DATES: Effective March 30, 1992. The window period for filing applications for Channel 263A at Cottage Grove, Oregon, will open on March 21, 1992, and close on April 30, 1992.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90-494, adopted February 4, 1992, and released February 12, 1992.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

1. Section 73.202(b), the Table of FM Allotments under Oregon, is amended by removing Channel 272A and adding Channel 272C1 at Brownsville, and adding Channel 263A at Cottage Grove.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-3873 Filed 2-19-92; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 91-275; RM-7786]

Radio Broadcasting Services; Franklin, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Franklin Community Broadcasting, premittee of Station KPXQ(FM), Channel 270A, Franklin, Texas, substitutes Channel 270C3 for Channel 270A at Franklin, Texas, and modifies KPXQ(FM)'s construction permit to specify operation on the higher powered channel. See 56 FR 50549, October 7, 1991. Channel 270C3 can be allotted to Franklin in compliance with the Commission's minimum distance separation requirements with a site restriction of 10.5 kilometers (6.5 miles) southeast to accommodate Franklin Community's desired site. The coordinates for Channel 270C3 at Franklin are North Latitude 30–56–34 and West Longitude 96–25–59. With this action, this proceeding is terminated.

EFFECTIVE DATE: March 30, 1992.

FOR FURTHER INFORMATION CONTACT: Pamela Blumenthal, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 91-275, adopted February 5, 1992, and released February 12, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452–1422, 1714 21st Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 270A and adding Channel 270C3 at Franklin.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92–3870 Filed 2–19–92; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF DEFENSE

Department of the Army

48 CFR Part 249

Acquisition Regulations: Default for Failure To Submit Revised Delivery Schedule

AGENCY: Department of the Army, DoD.

ACTION: Final rule, removal of interim rule.

SUMMARY: The Department of the Army is removing § 249.402–4, Default for failure to submit revised delivery schedule, published in error as an interim rule at 57 FR 533, January 7, 1992. The Department of the Army plans to publish a proposed rule in the Federal Register at a later date.

EFFECTIVE DATE: Upon publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Mr. James Scuro, U.S. Army Communications-Electronics Command, Fort Monmouth, NJ 07703–5010, (908) 532–1143.

List of Subjects in 48 CFR Part 249

Government procurement.

Therefore, 48 CFR 249 is amended as follows:

1. The authority citation for part 249 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, Defense FAR Supplement 201.301.

PART 249—TERMINATION OF CONTRACTS

§ 249.402–4 [Removed]

2. Section 249.402–4 is removed.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 92–3842 Filed 2–19–92; 8:45 am]

BILLING CODE 3710-08-M

Proposed Rules

Federal Register
Vol. 57, No. 34
Thursday, February 20, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR PARTS 30, 40, AND 70

Proposed Method for Regulating Major Materials Licensees; Availability of Nureg Report

AGENCY: Nuclear Regulatory Commission.

ACTION: Availability and request for comments.

SUMMARY: The Nuclear Regulatory Commission has published for availability and comment its report on "Proposed Method for Regulating Major Materials Licensees" (NUREG–1324). The report presents the findings by the Materials Review Task Force and proposes a revised method for regulating major materials licensees.

DATES: Comment period expires April 30, 1992. Comments received after this date will be considered if it is practical to do so, but NRC is able to assure consideration only for comments received on or before this date.

ADDRESSES: Mail comments to the Chief, Regulatory Publication Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. A copy of NUREG–1324 is available for inspection and copying for a fee at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC 20555. A copy of NUREG–1324 may be purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013–7082. Copies are also available for purchase from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

FOR FURTHER INFORMATION CONTACT: Charles J. Haughney, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 504–3328.

SUPPLEMENTARY INFORMATION: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment its report, "Proposed Method for Regulating Major Materials Licensees" (NUREG–1324). The Director, Office of Nuclear Material Safety and Safeguards, appointed a Materials Regulatory Review Task Force to conduct a broad-based review and critique of the Commission's current regulatory program for fuel cycle and large material plants. The task force defined the components and subcomponents of an ideal regulatory system for these types of plants and compared them to the components and subcomponents of the existing regulatory system to identify missing components that are important to safeguard operation. The report presents the findings and proposes recommendations based on the comparison.

In the report, the task force proposes a revised method for regulating major materials licensees. The method was developed from a completely fresh point of view. The task force was directed to propose an ideal method for regulating fuel cycle and material licensees, unfettered by an existing regulations or regulatory guidance, concerns about backfitting, or limitations on resources of the NRC or the licensees. Given this charter, the task force described a regulatory method that is admittedly highly idealistic.

The NRC has limited resources, however, and must establish priorities for any proposed actions to improve the existing regulatory method. Two NRC managers, who were not on the task force, independently analyzed this report and suggested a basis for assigning priorities to the recommendations in the report. Appendix A to this report includes the manager's analysis and their basis.

The task force is particularly interested in obtaining the following types of comments on the report and on appendix A of the report:

1. Which of the recommendations should, or should not, be adopted and why?
2. Which of the recommendations should be modified, and, if any should, how and why?
3. What priority should be assigned each recommendation to be implemented and why?

While the NRC has not made a decision to adopt any of the recommendations, the staff finds some of them important and would like to implement these recommendations if sufficient resources are available.

Dated at Rockville, Maryland, this 12th day of February, 1992.

For the Nuclear Regulatory Commission.

Charles J. Haughney,

Chief, Source Containment and Devices Branch, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 92–3924 Filed 2–19–92; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL RESERVE SYSTEM

12 CFR Parts 215 and 225

[Docket No. R-0747]

Regulation O—Loans to Executive Officers, Directors, and Principal Shareholders of Member Banks; Regulation Y—Bank Holding Companies and Change in Bank Control

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board is proposing to revise Regulations O and Y to conform the regulations to the amendments of section 22(h) of the Federal Reserve Act (12 U.S.C. 375b) made by section 306 of the Federal Deposit Insurance Corporation Improvement Act of 1991 ("FDICIA"). Section 22(h) restricts the amount and terms of extensions of credit from a bank to its executive officers, directors, and principal shareholders and to any company or political campaign controlled by a bank's executive officers, directors, or principal shareholders. The Board promulgated Regulation O to implement this statute.

The proposal would revise Regulation O to implement the amendments of section 22(h) made by the FDICIA and to make certain technical corrections. The proposal also would revise Regulation Y to implement a loan reporting requirement created by the FDICIA that applies to executive officers and directors of certain bank holding companies.

DATES: Comments must be received by March 23, 1992.

ADDRESSES: Comments, which should refer to Docket No. R-0747, may be mailed to the Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551, to the attention of Mr. William W. Wiles, Secretary; or delivered to the Board's Mail Room between 8:45 a.m. and 5:15 p.m., or to the Board's Security Control Room outside of those hours. Both the Mail Room and the Security Control Room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments may be inspected in room B-1122 between 9 a.m. and 5 p.m. weekdays, except as provided in § 261.8 of the Board's Rules Regarding Availability of Information, 12 CFR 261.8.

FOR FURTHER INFORMATION CONTACT: Andrew Karp, Attorney (202/452-3554), Legal Division; Stephen M. Lovette, Manager (202/452-3622), or William G. Spaniel (202/452-3469), Senior Financial Analyst, Division of Banking Supervision and Regulation. For the hearing impaired only, Telecommunications Device for the Deaf ("TDD"), Dorothea Thompson (202/452-3544).

SUPPLEMENTARY INFORMATION: On December 19, 1991, the President signed into law the Federal Deposit Insurance Corporation Improvement Act of 1991 ("FDICIA").[1] Section 306 of the FDICIA amends section 22(h) of the Federal Reserve Act (12 U.S.C. 375b).[2] Section 22(h) restricts the amount and terms of extensions of credit from a bank to its executive officers, directors, and principal shareholders (collectively, "insiders") and to any company or political campaign controlled by an insider ("related interests"). The Board promulgated Regulation O to implement this statute. In general, section 22(h):

1. Requires a bank's board of directors to approve any extension of credit to an insider or a related interest in excess of a threshold amount (generally the higher of $25,000 or five percent of the bank's capital and unimpaired surplus, up to $500,000);
2. Prohibits any extension of credit to an insider or a related interest on preferential terms;
3. Limits the amount a bank may lend to each of its executive officers and principal shareholders and their related interests; and
4. Prohibits overdrafts to executive officers and directors (but not to principal shareholders).

Section 306 of the FDICIA replaces the language of section 22(h) with the provisions of the Board's Regulation O without making substantial changes. Specifically, section 306 makes the following substantive modifications of and additions to section 22(h):

1. Requires that, when lending to an insider, a bank follow credit underwriting procedures that are "not less stringent than those applicable to comparable transactions by the bank with (persons outside the bank)."

2. Subjects directors (and their related interests) to the same aggregate lending limit currently applicable to executive officers and principal shareholders (and of their related interests) under section 22(h).[3]

Previously, section 22(h) did not limit the amount directors and their related interests could borrow from their banks.

3. Creates a new limitation on the total amount a bank may lend in the aggregate to its insiders and their related interests as a class. In general, this limit is equal to the bank's unimpaired capital and surplus.

4. Defines the term "member bank" to include any subsidiary of the member bank, clarifying that an extension of credit from a subsidiary of a member bank is subject to the same insider restrictions as an extension credit from the member bank itself.

5. Tightens the definition of principal shareholder for banks located in small communities. Currently, a principal shareholder is a person who owns or controls more than 10 percent of a class of the voting shares of a bank, except for banks located in communities with populations of less than 30,000, in which case the amount is 18 percent. The 10 percent definition now applies to all banks, regardless of the size of the community where the bank is located.

6. Covers all companies that owns banks, regardless of whether the company is technically a bank holding company.

7. Prohibits insiders from knowingly receiving (or knowingly permitting their related interests to receive) any extension of credit not authorized by section 22(h).

8. Defines the terms "company," "control," "executive officer," "extension of credit," "related interest," and "subsidiary." Each definition is consistent with the corresponding definitions in current Regulation O.

9. Requires executive officers and directors of member banks and bank holding companies without publicly traded stock to report to their institutions annually the outstanding amount of any loan that is secured by shares of the insider's institution.

The proposal would revise Regulation O to implement the amendments of section 22(h) made by the FDICIA and to make certain technical corrections. The proposal does not modify the present regulation where the statutory amendments track the present regulatory language.[4] The proposal also would revise Regulation Y to implement a loan reporting requirement created by the FDICIA that applies to executive officers and directors of certain bank holding companies.

The FDICIA provides that amendments made by the FDICIA do not affect the validity of any extension of credit or other transaction lawfully entered into on or before the effective date of the FDICIA amendments. The effective date of the amendments relating to Regulation O is the earlier of (i) the date on which the required revisions to Regulation O become effective or (ii) 150 days after the date of enactment of the FDICIA.

As noted above, the FDICIA amendments establish a new limit on the total amount a member bank may lend to its insiders as a class. The statute generally restricts that amount to an amount no greater than the bank's unimpaired capital and surplus, but authorizes the Board to (i) set a more stringent general limit and (ii) make an exception to the limit for banks with deposits of less than $100 million if the Board determines that the exception would be "important to avoid constricting the availability of credit in small communities or to attract directors to such banks." The statute provides that a limit implemented under the small bank exception may not exceed 200 percent of the bank's unimpaired capital and surplus.

The proposed total limit—100 percent of a bank's unimpaired capital and unimpaired surplus—is the same as provided in the statute. The Board requests comment regarding whether to provide an exception to the general limit for banks with deposits of less than $100 million. In particular, the Board requests comment on whether a 100 percent limit would inhibit unduly lending by small banks or limit the availability of directors for such banks, especially with respect to banks that may rely on certain exceptions to the National Bank Act's loans to one borrower rules (such as the exceptions for loans secured by bills of lading, warehouse receipts or similar documents covering marketable staples, or loans secured by livestock, or dairy cattle). In connection with these requests, the Board requests that commenters submit specific data as to the effect of the new aggregate limit.

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[1] Pub. L. No. 102-242, 105 Stat. 2236 (1991).

[2] The FDICIA requires the Board to promulgate regulations that implement the FDICIA amendments by April 17, 1992.

[3] This amount is 15 percent of the bank's unimpaired capital and unimpaired surplus in the case of loans that are not fully secured and an additional 10 percent of the bank's unimpaired capital and unimpaired surplus in the case of loans that are fully secured. In calculating this limit, all of the bank's loans to the insider and the insider's related interests are aggregated.

[4] Thus, for example, the existing regulatory definitions of "control," "executive officer," "extension of credit," "overdraft," "related interest," and "subsidiary" remain unchanged, as the new statutory definitions are fully consistent with the present regulatory definitions.

The proposal also contains several technical revisions to conform Regulation O with section 306 and to correct existing ambiguities. In this respect, the proposal would, for example:

1. Clarify that, where Regulation O provides more liberal limits on member bank extensions of credit to their executive officers to finance a residence, the residence must be the executive officer's primary residence.

2. Modify the requirement that member bank loans to executive officers be "made subject to the condition that the extension of credit will, at the option of the member bank, become due and payable" to clarify that the condition must be in writing.

3. Replace the term "bank" with the term "insured depository institution" where appropriate to reflect statutory usage.

4. Provide a dedicated definition of foreign bank that is the same as the existing definition that is provided in the definition of member bank.

5. Replace the term "capital stock" with "unimpaired capital" where appropriate to reflect statutory usage.

6. Add a date specification to the calculation of valuation reserves for purposes of determining a bank's unimpaired capital and unimpaired surplus under Regulation O.

7. Clarify the definition of extension of credit on which a party may be liable.

Section-by-Section Analysis

The following describes the proposed revisions to Regulation O.

Sections 215.2(a), 215.9: The proposed revision replaces the term "bank" with the term "depository institution" to reflect statutory usage.

Sections 215.2 (c), (d), and (k), 215.4(c): The proposed revision replaces the term "bank holding company" with the term "company" and removes the reference to the statutory definition of bank holding company.

Section 215.2(e): The proposed revision creates a new paragraph (e) that relocates the existing Regulation O definition of the term "foreign bank." The definition, which remains unchanged, was previously part of the Regulation O definition of "member bank."

Section 215.2(e) through (l): The proposed revision redesignates these paragraphs as § 215.2 (f) through (m) to accommodate new § 215.2(e).

Section 215.2(g): The proposed revision replaces the regulatory term "capital stock" with the statutory term "unimpaired capital" and adds a date specification to the definition of valuation reserves for purposes of calculating a bank's capital.

Section 215.2(h): The proposed revision clarifies that the term "member bank" includes any subsidiary of the member bank.

Section 215.2(k): The proposed revision replaces the phrase "an individual or company" with the term "person" to reflect statutory usage. The proposed revision also strikes the sentence that implemented the control standard for determining "principal shareholder" of banks located in communities with populations of less than 30,000 persons.

Section 215.2(l): The proposed revision adds the phrase "of a person" to the definition of "related interest" to reflect statutory usage.

Section 215.3(a)(4): The proposed revision replaces the term "person" with the phrase "an executive officer, director, or principal shareholder of the acquiring member bank" to clarify that the definition applies when the party liable is a bank insider.

Section 215.4(a)(1): The proposed revision adds to the existing qualitative requirements the new requirement that, in extending credit to an insider, a member bank follow credit underwriting procedures no less stringent than those prevailing for comparable transactions with non-insiders. The proposed revision also replaces the term "repayment" with the term "default" to characterize more accurately the risk described.

Section 215.4(b)(2): The proposed revision reorganizes section 215.4(b) by creating a new subparagraph (2) to contain the existing $500,000 limitation. The limitation provision is not modified substantively.

Section 215.4(b) (2) and (3): The proposed revision redesignates existing § 215.4(b) (2) and (3) as 215.4(b) (3) and (4) to accommodate new § 215.4(b)(2).

Section 215.4(c): The proposed revision adds the term "directors" to the list of persons subject to the aggregate lending limit. This reflects the FDICIA revision to section 22(h) that subjects directors to the section 22(h) aggregate lending limit.

Section 215.4(e): The proposed revision creates a new paragraph (e). This paragraph implements the new aggregate limit on extensions of credit to all insiders as a class mandated by the FDICIA.

Section 215.5(a), footnote 4: The proposed revision strikes the first sentence to reflect the FDICIA revisions that revise section 22(g) of the Federal Reserve Act to cover non-member insured banks.

Section 215.5(c)(3): The proposed revision adds the term "the primary" to clarify that the amount limit under this subparagraph applies to an executive officer's primary residence.

Section 215.5(d): The proposed revision adds the phase "in writing" after the term "condition" to clarify that the condition required by this subparagraph must be in writing. The proposed revision also adds the term "corresponding" before the phase "category of credit."

Section 215.6: The proposed revision creates a new § 215.6 that implements FDICIA revisions to section 22(h) that prohibit an insider from knowingly receiving (or knowingly permitting the insider's related interest from receiving) an extension of credit that is not authorized under Regulation O.

Section 215.5 through 215.9: The proposed revision redesignates these sections as §§ 215.7 through 215.10 to accommodate new § 215.6.

Section 215.9: The proposed revision adds the term "corresponding" before the phrase "category of credit."

Section 215.11: The proposed revision redesignates § 215.11 as § 215.12 and adds a new § 215.11 to implement the FDICIA requirement that executive officers and directors of certain member banks report certain credits to the board of directors of the executive officer's or director's member bank.

The following describes the proposed revision to Regulation Y.

Section 225.4(f): The proposed amendment adds a new paragraph (f) to implement the FDICIA requirement that executive officers and directors of certain bank holding companies report certain credits to the board of directors of the executive officer's or director's bank holding company.

Regulatory Flexibility Act Analysis

The Federal Reserve Board does not believe that adoption of the proposed amendments would have a significant economic impact on a substantial number of small business entities (in this case, small banking organizations).

List of Subjects

12 CFR Part 215

Credit, Federal Reserve System, Reporting and recordkeeping requirements, Security measures.

12 CFR Part 225

Administrative practice and procedure, Appraisals, Banks, Banking, Capital adequacy, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities, State member banks.

For the reasons set forth in this proposed rule, and pursuant to the Board's authority under sections 22(g) and 22(h) of the Federal Reserve Act (12 U.S.C. 375a and 375b), section 5(b) of the Bank Holding Company Act (12 U.S.C. 1844(b)), and section 306 of the Federal Deposit Insurance Corporation Improvement Act (Pub. L. No. 102–242, 105 Stat. 2236 (1991), the Board is proposing to amend 12 CFR part 215 subpart A and 12 CFR part 225 subpart A to read as follows:

PART 215—LOANS TO EXECUTIVE OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS OF MEMBER BANKS

Subpart A—Loans by Member Banks to Their Executive Offices, Directors, and Principal Shareholders

1. The authority citation for part 215 continues to read as follows:

Authority: Sections 11(i), 22(g) and 22(h) of the Federal Reserve Act (12 U.S.C. 248(i), 375a, and 375(b)) and 12 U.S.C. 1817(k)(3).

2. In part 215, the footnotes are redesignated as shown below:

Section and paragraph	Current No.	New No.
§§ 215.4(c)	3	([1]).
215.4(d)	4	3
215.5(a)	5	4
215.8	6	5
215.9	7	6
215.10	8	7

[1] Removed.

3. 12 CFR 215.2 is amended by revising paragraph (a), redesignating paragraphs (e) through (l) as paragraphs (f) through (m), adding a new paragraph (e), and revising redesignated paragraphs (g), (h), (k), and (l) to read as follows:

§ 215.2 Definitions.

* * * * *

(a) "*Company*" means any corporation, partnership, trust (business or otherwise), association, joint venture, pool syndicate, sole proprietorship, unincorporated organization, or any other form of business entity not specifically listed herein. However the term does not include (1) an insured depository institution (as defined in 12 U.S.C. 1813) or (2) a corporation the majority of the shares of which are owned by the United States or by any State.

* * * * *

(e) "Foreign bank" has the meaning given in 12 U.S.C. 3101(7).

* * * * *

(g) The "lending limit" for a member bank is an amount equal to the limit of loans to a single borrower established by section 5200 of the Revised Statutes,[2] 12 U.S.C. 84. This amount is 15 percent of the bank's unimpaired capital and unimpaired surplus in the case of loans that are not fully secured, and additional 10 percent of the bank's unimpaired capital and unimpaired surplus in the case of loans that are fully secured by readily marketable collateral having a market value, as determined by reliable and continuously available price quotations, at least equal to the amount of the loan. The lending limit also includes any higher amount that are permitted by section 5200 of the Revised Statues for the types of obligations listed therein as exceptions to the limit. A member bank's unimpaired capital and unimpaired surplus equals the sum of (1) the "total equity capital" of the member bank reported on its most recent consolidated report of condition filed under 12 U.S.C. 1817(a)(3), (2) any subordinated notes and debentures approved as an addition to the member bank's capital structure by the appropriate federal banking agency, and (3) any valuation reserves created by charges to the member bank's income as reported on its most recent consolidated report of condition filed under 12 U.S.C. 1817(a)(3).

(h) "Member bank" means any banking institution that is a member of the Federal Reserve System, including any subsidiary of a member bank. The term does not include any foreign bank that maintains a branch in the United States, whether or not the branch is insured (within the meaning of 12 U.S.C. 1813(s)) and regardless of the operation of 12 U.S.C. 1813(h) and 12 U.S.C. 1838(j)(2).

* * * * *

(k) "Principal shareholder" means a person (other than an insured bank) that directly or indirectly, or acting through or in concert with one or more persons, owns, controls, or has the power to vote more than 10 percent of any class of voting securities of a member bank or company. Shares owned or controlled by a member of an individual's immediate family are considered to be held by the individual. A principal shareholder of a member bank includes (1) a principal shareholder of a company of which the member bank is a subsidiary and (2) a principal shareholder of any other subsidiary of that company.

(l) "Related interest" of a person means (1) a company that is controlled by that person or (2) a political or campaign committee that is controlled by that person or the funds or services of which will benefit that person.

* * * * *

4. 12 CFR 215.3 is amended by revising paragraph (a)(4) to read as follows:

§ 215.3 Extension of credit.

(a) * * *

(4) An acquisition by discount, purchase, exchange, or otherwise of any note, draft, bill of exchange, or other evidence of indebtedness upon which an executive officer, director or principal shareholder of the acquiring member bank may be liable as maker, drawer, endorser, guarantor, or surety;

* * * * *

5. 12 CFR 215.4 is amended by revising paragraphs (a)(1) and (c), and adding paragraph (e) to read as follows:

§ 215.4 General prohibitions.

(a)* * *

(1) is made on substantially the same terms, (including interest rates and collateral) as, and following credit underwriting procedures that are not less stringent than, those prevailing at the time for comparable transactions by the bank with other persons that are not covered by this part and who are not employed by the bank, and (2) does not involve more than the normal risk of default or present other unfavorable features.

* * * * *

(c) *Aggregate lending limit.* No member bank may extend credit to any of its executive officers, directors, or principal shareholders or to any related interest of that person in an amount that, when aggregated with the amount of all other extensions of credit by the member bank to that person and to all related interests of that person, exceeds the lending limit of the member bank specified in § 215.2(g) of this part. This prohibition does not apply to an extension of credit by a member bank to a company of which the member bank is a subsidiary or to any other subsidiary of that company.

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[2] Where state law establishes a lending limit for a state member bank that is lower than the amount permitted in section 5200 of the Revised Statues, the lending limit established by applicable state laws shall be the lending limit for the state member bank.

* * * * *

(e) *Aggregate limit on extensions of credit to all executive officers, directors, and principal shareholders.* A member bank may extend credit to any executive officer, director or principal shareholder, or to any related interest of such a person, if the extension of credit is in an amount that, when aggregated with the amount of all outstanding extensions of credit by that bank to its executive officers, directors or principal shareholders and the related interests of those persons would not exceed the bank's unimpaired capital and unimpaired surplus (as defined at § 215.2(g)).

6. 12 CFR 215.5 is amended by revising redesignated footnote 4 in paragraph (a), and paragraph (c)(2) and (d) to read as follows:

215.5 Additional restrictions on loans to executive officers of member banks.

(a) * * *[4]

* * * * *

(c) * * *

(2) in any amount of finance the purchase, construction, maintenance, or improvement of the primary residence of the executive officer, if the extension of credit is secured by a first lien on the residence and the residence is owned (or expected to be owned after the extension of credit) by the executive officer; and

* * * * *

(d) Any extension of credit by a member bank to any of its executive officers shall be: (1) Promptly reported to the member bank's board of directors; (2) in compliance with the requirements of § 215.4(a) of this part; (3) preceded by the submission of a detailed current financial statement of the executive officer; and (4) made subject to the condition in writing that the extension of credit will, at the option of the member bank, become due an payable at any time that the officer is indebted to any bank or banks in an aggregate amount greater than the amount specified for a corresponding category of credit in paragraph (c) of this section.

7. 12 CFR 215.11 is redesignated as § 215.13, §§ 215.6 through 215.10 are redesignated as §§ 215.7 through 215.11, respectively, and a new § 215.6 is added to read as follows:

§ 215.6 Prohibition of knowingly receiving unauthorized extension of credit.

No executive officer, director, or principal shareholder of a member bank shall knowingly receive (or knowingly permit any of that person's related interests to receive) from a member bank, directly or indirectly, any extension of credit not authorized under this section.

8. Redesignated 12 CFR 215.9 is revised to read as follows:

§ 215.9 Reports by executive officers.

Each executive officer[5] of a member bank who becomes indebted to any other bank or banks in an aggregate amount greater than the amount specified for a corresponding category of credit in § 215.5(c) of this part, shall, within 10 days of the date the indebtedness reaches such a level, make a written report to the board of directors of the officer's bank. The report shall state the lender's name, the date and amount of each extension of credit, any security for it, and the purposes for which the proceeds have been or are to be used.

§ 215.11 [Added]

9. A new 12 CFR 215.11 is added to read as follows:

Each executive officer or director of a member bank the shares of which are not publicly traded shall report annually to the board of directors of the member bank the outstanding amount of any credit that was extended to the executive officer or director and that is secured by shares of the member bank.

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

Subpart A—General Provisions

1. The authority for part 225 continues to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818i, 1831(i), 1843(c)(8), 1844(b) 3106, 3108, 3907, 3909, 3310, and 3331–3351.

2. 12 CFR 225.4 is amended by adding paragraph (f) to read as follows:

§ 225.4 Corporate practices.

* * * * *

(f) *Loan reporting requirements.* Each executive officer or director of a bank holding company the shares of which are not publicly traded shall report annually to the board of directors of the bank holding company the outstanding amount of any credit that was extended to the executive officer or director and that is secured by shares of the bank holding company. For purposes of this paragraph, the terms "executive officer" and "director" shall have the meaning given in § 215.2 of Regulation O, 12 CFR 215.2

Board of Governors of the Federal Reserve System, February 13, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92–3879, Filed 2–19–92; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 10, 12, 16, 20, 500, 510, 511, and 514

[Docket No. 88N–0058]

RIN 0905–AA96

New Animal Drug Regulations; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending to May 18, 1992, the comment period for the proposed rule to revise its regulations governing the approval, disapproval, and withdrawal of approval for marketing of new animal drugs. The proposal was published in the **Federal Register** of December 17, 1991 (56 FR 65544). FDA is taking this action in response to several requests for an extension of the comment period.

DATES: Comments by May 18, 1992.

ADDRESSES: Submit written comments to Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20857, 301–295–8612.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 17, 1991 (56 FR 65544), FDA issued a proposed rule to revise the animal drug regulations governing the approval, disapproval, and withdrawal of approval for marketing of new animal drugs. Interested persons were given until February 18, 1992, to respond to the proposal. In response to the proposal, FDA received from trade associations several requests for an extension of the comment period for an additional 90 days because of the time required to solicit views from various members and to properly respond to the proposal. After careful consideration, FDA is granting the extension. Accordingly, the comment period is extended to May 18, 1992.

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[4] For the purposes §§ 215.5, 215.9 and 215.10 of this part, an executive officer of a member bank does not include an executive officer of a bank holding company of which the member bank is a subsidiary or any other subsidiary of that bank holding company.

[5] See footnote 4 to § 215.5(a).

Interested persons may submit to the Dockets Management Branch (address above) written comments regarding the proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 12, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-3864 Filed 2-19-92; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 226, 510, and 514

[Docket No. 88N-0038]

RIN 0905-AA96

Records and Reports Concerning Experience With New Animal Drugs for Which an Approved Application Is in Effect; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending to May 18, 1992, the comment period for the proposed rule to amend the regulations regarding the requirements for recordkeeping and reporting of adverse experiences and other information relating to approved new animal drugs and medicated feeds. The proposal was published in the Federal Register of December 17, 1991 (56 FR 65581). FDA is taking this action in response to several requests for an extension of the comment period.

DATES: Comments by May 18, 1992.

ADDRESSES: Submit written comments to Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Andrew J. Beaulieu, Center for Veterinary Medicine (HFV-210), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20857, 301-295-8722.

SUPPLEMENTARY INFORMATION: In the Federal Register of December 17, 1991 (56 FR 65581), FDA issued a proposed rule to amend the regulations regarding the requirements for recordkeeping and reporting of adverse experiences and other information relating to approved new animal drugs and medicated feeds. Interested persons were given until February 18, 1992, to respond to the proposal. In response to the proposal, FDA received from trade associations several requests for an extension of the comment period for an additional 90 days because of the time required to solicit views from various members and to properly respond to the proposal. After careful consideration, FDA is granting the extension. Accordingly, the comment period is extended to May 18, 1992.

Interested persons may submit to the Dockets Management Branch (address above) written comments regarding the proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 12, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-3863 Filed 2-19-92; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[PS-101-90]

RIN 1545-AP64

Enhanced Oil Recovery Credit; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document contains corrections to the notice of proposed rulemaking (PS-101-90), which was published on Monday, December 30, 1991, (56 FR 67256). The proposed regulations relate to the enhanced oil recovery credit for certain costs that are paid or incurred in connection with a qualified enhanced oil recovery project.

FOR FURTHER INFORMATION CONTACT: Brenda M. Stewart, (202-566-4919, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking that is the subject of these corrections implements section 43 of the Internal Revenue Code which was enacted by section 11511 of the Omnibus Reconciliation Act of 1990, Public Law 101-508.

Need for Correction

As published, the proposed regulations contain errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the proposed regulations (PS-101-90), which was the subject of FR Doc. 91-30875, is corrected as follows:

§ 1.43-0 Corrected.

Paragraph 1. On page 67259, column three, in § 1.43-0 "Table of Contents", the entry for § 1.43-4(b)(2), the language "Intangible drilling and developments" is corrected to read "Intangible drilling and development".

§ 1.43-1 Corrected.

Par. 2. On page 67260, column three, in § 1.43-1(g), in the ninth line of *Example 1,* the language "development costs under section 203(c). The" is corrected to read "development costs. The".

§ 1.43-2 Corrected.

Par. 3. On page 67261, column three, in § 1.43-2(d)(iii)(2), *Example 3,* line 15, the language "steam method. B begins cyclic steam" is corrected to read "steam method. B begins steam".

Par. 4. On page 67262, column two, in § 1.43-2(d)(iii)(2), *Example 7,* line 12, the language "recovery of crude from the property. F" is corrected to read "recovery of crude oil from the property. F".

§ 1.43-4 Corrected.

Par. 5. On page 67264, column one, in § 1.43-4(b)(4)(i), *Example 3,* line 9, the language "used directly in the tertiary recovery process" is corrected to read "used directly in the tertiary recovery method".

Par. 6. On page 67264, column two, in § 1.43-4(b)(4)(i), *Example 5,* line 5, the language "directly in the tertiary recovery process and" is corrected to read "directly in the tertiary recovery method and".

Par. 7. On page 67264, column three, in § 1.43-4(c)(6), *Example 2,* line 1, the language "Offshore drilling platform. I" is corrected to read "offshore drilling platform. J".

Par. 8. On page 67265, column two, in § 1.43–4(d)(ii)(2), line 9, the language "plan of development, or another similar" is corrected to read "plan of development or other similar".

Par. 9. On page 67265, column two, in § 1.43–4(d)(ii)(3), *Example 2*, line 7, the language "into account when K files the 1992 federal" is corrected to read "into account in determining the credit when K files the 1992 federal".

Cynthia E. Grigsby,

Alternate Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 92–3763 Filed 2–19–92; 8:45 am]

BILLING CODE 4830-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 92-22, RM-7898]

Radio Broadcasting Services; Dumas and Marianna, AR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Alan W. Eastham and Craig Eastham, d/b/a KXFE–FM, licensee of Station KXFE(FM), Channel 296A, Dumas, Arkansas, seeking the substitution of Channel 295C3 for Channel 296A at Dumas, and modification of the license for Station KXFE(FM) accordingly. In order to accommodate the request, petitioners seek the substitution of Channel 287A for vacant Channel 295A at Marianna, Arkansas. (A new application filing window will be opened for the channel at Marianna upon termination of this proceeding.) Coordinates used for Channel 295C3 at Dumas, Arkansas, are 33–55–34 and 91–38–04. Coordinates used for Channel 287A at Marianna, Arkansas, are 34–47–01 and 90–45–59. Petitioner's modification proposal complies with the provisions of § 1.420(g) of the Commission's Rules. Therefore, we will not accept competing expressions of interest in the use of Channel 295C3 at Dumas, or require the petitioner to demonstrate the availability of an additional equivalent class channel.

DATES: Comments must be filed on or before April 6, 1992, and reply comments on or before April 21, 1992.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners' counsel, as follows: Cary S. Tepper, Esq., Putbrese, Hunsaker & Ruddy, 6800 Fleetwood Road, P.O. Box 539, McLean, VA 22101.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 92–22, adopted February 4, 1992, and released February 12, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased form the Commission's copy contractors, Downtown Copy Center, (202) 452–1422, 1714 21st St., NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR 73:

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92–3874 Filed 2–19–92; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 92-21, RM-7796]

Radio Broadcasting Services; Cave City, Radcliff, KY, and Santa Claus, IN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by W&B Broadcasting, Inc., proposing the substitution of Channel 278C3 for Channel 278A at Radcliff, Kentucky, and modification of its construction permit (BPH–871110MU) to specify the higher class channel. Channel 278C3 can be allotted to Radcliff in compliance with the Commission's minimum distance separation requirements with a site restriction of 15.0 kilometers (9.3 miles) west of the community, in order to avoid a proposal to allot Channel 275C3 to Cannelton, Indiana, at coordinates North Latitude 37–50–34 and West Longitude 86–06–49. In order to accomplish the upgrade at Radcliff, petitioner also requests that the reference coordinates for Station WHHT(FM), Channel 279C3, Cave City, Kentucky, be modified to coordinates North Latitude 36–57–34 and West Longitude 86–00–08, and the reference coordinates for vacant but applied for Channel 277A at Santa Claus, Indiana, be modified to North Latitude 38–12–50 and West Longitude 87–00–50. In accordance with § 1.420(g) of the Commission's Rules, we shall not accept competing expressions of interest for the use of Channel 278C3 at Radcliff or require the petitioner to demonstrate the availability of an additional equivalent channel for use by interested parties.

DATES: Comments must be filed on or before April 6, 1992, and reply comments on or before April 21, 1992.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Jerrold Miller, Miller & Fields, P.C., P.O. Box 33003, Washington, DC 20033 (Attorney for W&B Broadcasting, Inc.).

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 92–21, adopted February 4, 1992, and released February 12, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452–1422, 1714 21st Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex* *parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-3875 Filed 2-19-92; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 92-23, RM-7900]

Radio Broadcasting Services; Hazard, Hyden and London, KY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Ethel Huff, permittee of Station WYGE(FM), Channel 223A, London, Kentucky, requesting the substitution of Channel 223C3 for Channel 223A at London, Kentucky, and modification of Station WYGE(FM)'s construction permit (BPH-880817MH) accordingly; the substitution of Channel 223A for Channel 284A at Hazard, Kentucky, and the modification of Station WJMD(FM)'s license accordingly; and the substitution of Channel 284A for Channel 222A at Hyden, Kentucky, and the modification of Station WZQQ(FM)'s license accordingly. The coordinates for Channel 222C3 at London are North Latitude 37-03-32 and West Longitude 84-03-02. The coordinates for Channel 223A at Hazard are North Latitude 37-1-36 and West Longitude 83-11-04. The coordinates for Channel 284A at Hyden are North Latitude 37-10-14 and West Longitude 83-22-49.

DATES: Comments must be filed on or before April 6, 1992, and reply comments on or before April 21, 1992.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: William P. Bernton, 2 Mill Lane, Yarmouth Port, MA 02675 (Attorney for petitioner).

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 92-23, adopted February 5, 1992, and released February 12, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-3871 Filed 2-19-92; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 57, No. 34
Thursday, February 20, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

February 14, 1992.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, room 404–W Admin. Bldg., Washington, DC 20250 (202) 690–2118.

Revision-Expedited

- Agricultural Stabilization and Conservation Service

7 CFR 777, 1477, and 1413-Disaster Payments and Disaster Assistance programs
ASCS–574, 574–1, 658; CCC–441, 441A, 441W, 441SU, 441WR, 440
On occasion
Farms; 15,318,003 responses; 3,829,501 hours
Charles Cox (202) 720–6688

- Agricultural Stabilization and Conservation Service

7 CFR part 1435, Regulations Governing Sugar and Crystlline Fructose Information Reporting Requirements
Recordkeeping; Monthly;
Businesses or other for-profit; 1,009 responses; 31,508 hours
Bob Barry

Revision

- Farmers Home Administration

7 CFR 1951–S, Farmers Programs Account Servicing Policies
FmHA 1951–39, –39A
On occasion
Individuals or households; State or local governments; Farms; Businesses or other for-profit; Small businesses or organizations; responses 103,982; hours 8,325
Jack Holston (202) 720–9736

- National Agricultural Statistics Service

Water Quality/Food Safety
On occasion
Farms; Businesses or other for-profit; 100 responses; 100 hours
Larry Gambrell (202) 720–7737

New Collection

- Agricultural Stabilization and Conservation Service

7 CFR part 703 Wetlands Reserve Program
ASCS–890, ASCS–891, ASCS–891 (Appendix), ASCS–897, ASCS–898, ASCS–899
On occasion
Individuals or households; Farms; 260,000 responses; 134,167 hours
Lois Hubbard (202) 720–9563

Donald E. Hulcher,
Deputy Departmental Clearance Officer.

[FR Doc. 92–3955 Filed 2–19–92; 8:45 am]

BILLING CODE 3410–01–M

Animal and Plant Health Inspection Service

[Docket No. 92–012]

Availability of Environmental Assessments and Findings of No Significant Impact Relative to Issuance of Permits to Field Test Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that two environmental assessments and findings of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the issuance of permits to allow the field testing of genetically engineered organisms. The assessments provide a basis for the conclusion that the field testing of these genetically engineered organisms will not present a risk of the introduction or dissemination of a plant pest and will not have a significant impact on the quality of the human environment. Based on these findings of no significant impact, the Animal and Plant Health Inspection Service has determined that environmental impact statements need not be prepared.

ADDRESSES: Copies of the environmental assessments and findings of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Mary Petrie, Program Specialist, Biotechnology Permits, Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD, 20782, (301) 436–7612. For copies of the environmental assessments and findings of no significant impact, write Clayton Givens at this same address. The documents should be requested under the permit numbers listed below.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340 regulate the introduction (importation, interstate movement, and release into the environment) of genetically engineered organisms and products that are plant pests or that there is reason to believe are plant pests (regulated articles). A permit must be obtained before a regulated article can be introduced into the United States. The regulations set forth procedures for obtaining a limited permit for the importation or interstate movement of a regulated article and for obtaining a permit for the release into the environment of a regulated article. The Animal and Plant Health Inspection Service (APHIS) has stated that it would prepare an environmental assessment and, when necessary, an environmental impact statement before issuing a permit for the release into the environment of a regulated article (see 52 FR 22906).

In the course of reviewing the permit applications, APHIS assessed the impact on the environment of releasing the organism under the conditions described in the permit applications. APHIS concluded that the issuance of the permits listed below will not present a risk of plant pest introduction or dissemination and will not have a significant impact on the quality of the human environment.

The environmental assessments and findings of no significant impact, which are based on data submitted by the applicants as well as a review of other relevant literature, provide the public with documentation of APHIS' review and analysis of the environmental impacts associated with conducting the field tests.

Environmental assessments and findings of no significant impact have been prepared by APHIS relative to the issuance of the following permits to allow the field testing of genetically engineered organisms:

Permit number	Permittee	Date issued	Organism	Field test location
91-333-02	Calgene, Incorporated	01-14-92	Cotton plants genetically engineered to express a nitrilase enzyme to confer tolerance to the herbicide bromoxynil..	Washington County, Mississippi.
91-253-01	University of Hawaii at Manoa	01-15-92	Papaya plants genetically engineered to express the coat protein gene of papaya ringspot virus (PRV)..	Oahu County, Hawaii.

The environmental assessments and findings of no significant impact have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR Parts 1500–1509), (3) USDA Regulations Implementing NEPA (7 CFR Part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381–50384, August 28, 1979, and 44 FR 51272–51274, August 31, 1979).

Done in Washington, DC, this 14th day of February 1992.

Robert Melland,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92–3957 Filed 219–92; 8:45 am]

BILLING CODE 3410-34-M

[Docket No. 92–011]

Receipt of Permit Applications for Release Into the Environment of Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that 13 applications for permits to release genetically engineered organisms into the environment are being reviewed by the Animal and Plant Health Inspection Service. The applications have been submitted in accordance with 7 CFR part 340, which regulates the introduction of certain genetically engineered organisms and products.

ADDRESSES: Copies of the applications referenced in this notice, with any confidential business information deleted, are available for public inspection in room 1141, South Building, United States Department of Agriculture, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. You may obtain a copy of these documents by writing to the person listed under **"FOR FURTHER INFORMATION CONTACT"**.

FOR FURTHER INFORMATION CONTACT: Mary Petrie, Program Specialist, Biotechnology, Biologics, and Environmental Protection, Biotechnology Permits, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7612.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340, "Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests," require a person to obtain a permit before introducing (importing, moving interstate, or releasing into the environment) into the United States certain genetically engineered organisms and products that are considered "regulated articles." The regulations set forth procedures for obtaining a permit for the release into the environment of a regulated article, and for obtaining a limited permit for the importation or interstate movement of a regulated article.

Pursuant to these regulations, the Animal and Plant Health Inspection Service has received and is reviewing the following applications for permits to release genetically engineered organisms into the environment:

Application number	Applicant	Date received	Organism	Field test location
92-010-01, renewal of permit 91-043-01, issued on 5-10-91.	Louisiana State University	1-10-92	Rice plants genetically engineered to contain a hygromycin marker along with one of the following genes: a rice storage protein gene, a bean storage protein gene, a pea storage protein gene, or a delta-endotoxin protein from *Bacillus thuringiensis* subsp. *sotto*.	East Baton Rouge Parish, Louisiana.
92-014-01	North Carolina State University	1-14-92	Tobacco plants genetically engineered to express a delta-endotoxin protein from *Bacillus thuringiensis* subsp. *kurstaki* strain HD1.	Johnston County, North Carolina.
92-015-01	Monsanto Agricultural Company	1-15-92	Soybean plants genetically engineered to express the enzyme 5-enolpyruvyl shikimate-3-phosphate synthase (EPSPS) and a metabolizing enzyme for tolerance to the herbicide glyphosate.	Arkansas County, Arkansas.

Application number	Applicant	Date received	Organism	Field test location
92-015-02	Monsanto Agricultural Company	1-15-92	Soybean plants genetically engineered to express the enzyme 5-enolpyruvyl shikimate-3-phosphate synthase (EPSPS) and a metabolizing enzyme for tolerance to the herbicide glyphosate.	Washington County, Iowa.
92-015-03	Monsanto Agricultural Company	1-15-92	Soybean plants genetically engineered to express the enzyme 5-enolpyruvyl shikimate-3-phosphate synthase (EPSPS) and a metabolizing enzyme for tolerance to the herbicide glyphosate.	Bolivar County, Mississippi.
92-015-04	Monsanto Agricultural Company	1-15-92	Soybean plants genetically engineered to express the enzyme 5-enolpyruvyl shikimate-3-phosphate synthase (EPSPS) and a metabolizing enzyme for tolerance to the herbicide glyphosate.	Story County, Iowa; White County, Indiana.
92-015-05	Monsanto Agricultural Company	1-15-92	Soybean plants genetically engineered to express the enzyme 5-enolpyruvyl shikimate-3-phosphate synthase (EPSPS) and a metabolizing enzyme for tolerance to the herbicide glyphosate.	Mclean County, Illinois
92-016-01	U.S. Department of Agriculture, Agricultural Research Service.	1-16-92	Potato plants genetically engineered to express a delta-endotoxin from *Bacillus thuringiensis* subsp. *thuringiensis* strain HD290 for resistance to the Colorado Potato Beetle.	Yakima County, Washington
92-017-01	InterMountain Canola Company	1-17-92	Rapeseed plants genetically engineered to express the phosphinothricin acetyltransferase (PAT) gene for tolerance to the herbicide glufosinate, and to express male sterile or male restored and hybrid lines.	Fremont County, Idaho
92-017-02	Northrup King Company	1-17-92	Corn plants genetically engineered to express a coat protein gene from the maize dwarf mosaic virus strain B (MDMV-B) for resistance to MDMV-B.	Champaign County, Illinois, Goodhue County, Minnesota.
92-017-03	Northrup King Company	1-17-92	Corn plants genetically engineered to express a delta-endotoxin protein from *Bacillus thuringiensis* subsp. *kurstaki* strain HD1 for resistance to European corn borer.	Champaign County, Illinois; Goodhue County, Minnesota.
92-017-04	Hoechst-Roussel Agri-Vet Company.	1-17-92	Corn plants genetically engineered to express the phosphinothricin N-acetyltransferase (PAT) gene, for tolerance to the herbicide glufosinate.	Henry County, Illinois; Johnson County, Indiana; Iowa and Louisa Counties, Iowa; Saunders County, Nebraska.
92-021-01	U.S. Department of Agriculture, Agricultural Research Service.	1-21-92	Potato plants genetically engineered to express a coat protein gene from potato leaf roll virus (PLRV) for resistance to PLRV.	Benton County, Washington.

Done in Washington, DC, this 14th day of February 1992.

Robert Melland,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92-3956 Filed 2-19-92; 8:45 am]

BILLING CODE 3410-34-M

Federal Crop Insurance Corporation

[Notice No. REI-92-1; Doc. No. 0120s]

Availability of Draft Copies of the 1993 Standard Reinsurance Agreement

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Notice of availability of documents.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) publishes this notice to advise all interested parties that it has released, for public comment, draft copies of the Standard Reinsurance Agreement for 1993; related appendices; and Manuals 13 and 14.

FCIC is soliciting comments on the draft agreement and related appendices. Anyone having an interest in reviewing these documents, in order to offer comment may obtain copies by writing or calling FCIC at the address in the **ADDRESSES** section.

DATES: Written comments, data, and opinions on this notice must be submitted not later than March 16, 1992, to be sure of consideration.

ADDRESSES: Written comments on this notice should be sent to the following address: Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, Attention: Heywood Baker, Director, Delivery System Services, Telephone (202) 254-8413.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC, 20250, telephone (703) 235-1168.

Done in Washington, DC, on January 31, 1992.

James E. Cason,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 92-3907 Filed 2-19-92; 8:45 am]

BILLING CODE 3410-08-M

Forest Service

Draft Supplement to a Final Environmental Impact Statement for the Grade/Dukes Timber Sale in the Cuddy Mountain Roadless Area, Payette National Forest, Valley and Idaho Counties, ID

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare a supplement to an environmental impact statement.

SUMMARY: The Department of Agriculture, Forest Service will prepare a Draft and Final Supplement to the Environmental Impact Statement previously prepared for the Grade/

Dukes Timber Sale (September 1990). The supplement will focus on specific issues involving old-growth fragmentation, biodiversity, pileated woodpecker, raptor surveys, sensitive plant and animal species, and cumulative effects from future timber sales.

The agency will accept written comments and suggestions on the scope of the analysis. However, because the Forest has been communicating with interested persons concerning the scope of the proposed project throughout the environmental analysis process, the agency urges that any comments be concise and specific to the focus of the supplement. Comments directed to the substance, rather than the scope of the proposed project, would be more appropriately submitted during the comment period following release of the Draft Supplement to the Final Environmental Impact Statement.

DATES: Comments on the scope of the analysis must be received by March 21, 1992.

ADDRESSES: Submit written comments and suggestions concerning the scope of the analysis to Forest Supervisor, Payette National Forest.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action should be directed to Dan Hormaechea, Forest Supervisor's Office, McCall, ID.

SUPPLEMENTARY INFORMATION: The Payette National Forest Supervisor released the Final Environmental Impact Statement for the Grade/Dukes Timber Sale on September 10, 1990. A decision was not made at that time. A public review and comment period on the Final Environmental Impact Statement was allowed. After reviewing the public comments and completing further public involvement, a Record of Decision for the project was signed on August 16, 1991, by Payette National Forest Supervisor Veto J. LaSalle. During August and September of 1991, seven appeals were filed on the Record of Decision and Final Environmental Impact Statement for the Grade/Dukes Timber Sale.

After reviewing the appeals, the Intermountain Regional Forester reversed the Forest Supervisor's decision on eight appeal points and affirmed the Forest Supervisor on all other appeal issues. The Regional Forester directed the Forest Supervisor on all other appeal issues. The Regional Forester directed the Forest Supervisor to supplement the Environmental Impact Statement with the following information;

1. Provide site-specific information and maps showing size and location of blocks of old growth and the percentage remaining after harvest.
2. Provide a more thorough analysis and discussion on the fragmentation of biological corridors and the viability of species affected by the fragmentation.
3. Expand the treatment of biodiversity to discuss the wildlife species that are dependent on the habitats affected by the project and how the action will affect the viability of those species.
4. Provide a more thorough discussion of the direct, indirect, and cumulative impacts on the pileated woodpecker, with clear detail on the status of monitoring activities.
5. Either complete a survey of raptor species or provide the documentation showing a survey of raptors, in addition to the flammulated owl, was conducted to meet the Forest Plan standards.
6. Complete biological evaluations (or document why biological evaluations need not be completed) on fisher, boreal owl, great gray owl, lynx, three-toed woodpecker, spotted bat, and western (Townsends's) big-eared bat.
7. Complete biological evaluations (or document why biological evaluations need not be completed) on *Calamagrostis tweedyi* and *Ceanothus prostratus*. Provide details on why biological evaluations were not conducted on *Allium validum*, *Allotropa virgata* and *Haploppapus radiatus*.
8. Review cumulative effects analysis for all resources to assure that the Woodsy, Inseid, and Heath Timber Sales are included in the analysis.

The Regional Forester also directed that the Forest Supervisor prepare the results as a supplement to the environmental impact statement and make the supplement available to the public for review and comment.

Scoping for the project was initiated in April 1988 when a notice of intent to prepare an environmental impact statement appeared in the **Federal Register**. A Draft Environmental Impact Statement was released in August 1989.

The Draft Supplement to the Final Environmental Impact Statement is expected to be filed with Environmental Protection Agency and be available for public review in June, 1992. At that time, the Environmental Protection Agency will publish a notice of availability of the Draft Supplement in the **Federal Register**.

The comment period on the Draft Supplement will be 45 days from the date the Environmental Protection Agency's notice of availability appears in the **Federal Register**. It is very important that those interested participate at that time. To be the most helpful, comments on the Draft Supplement should be as specific as possible and address the adequacy of the supplement.

Comments on the Draft Supplement will be analyzed and considered by the Forest Service in preparing the Final Supplement, which is scheduled to be completed in August 1992. The Forest Service is required to respond to the comments received (40 CFR 1503.4). After reviewing the supplement along with any public comments on the supplement, the Forest Supervisor will then determine if the original decision should be amended. If the original decision does not require amendment, the Forest Supervisor may proceed with the project without issuing a new Record of Decision. If the Forest Supervisor Determines that the decision should be amended, the decision and reasons supporting it will be documented in a new Record of Decision. That decision will be subject to appeal under 36 CFR 217.

Veto J. LaSalle, Forest Supervisor of the Payette National Forest, McCall, Idaho, is the responsible official for this action.

Dated: February 13, 1992.

Kurt Nelson,

Acting Forest Supervisor.

[FR Doc. 92-3934 Filed 2-19-92; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-428-810]

Notice of Preliminary Determination of Sales at Less Than Fair Value: High-Tenacity Rayon Filament Yarn From Germany

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: February 20, 1992.

FOR FURTHER INFORMATION CONTACT: Edward Easton, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-1777.

Preliminary Determination

We preliminarily determine that high-tenacity rayon filament yarn from Germany is being, or is likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the

"Suspension of Liquidation" section of this notice.

Case History

Since the publication of our notice of initiation on September 26, 1991 (56 FR 49878, October 2, 1991), the following events have occurred.

On October 21, 1991, the U.S. International Trade Commission (ITC) issued an affirmative preliminary injury determination in this case (56 FR 55930, October 30, 1991).

On November 1, 1991, the Department presented sections A, B, C, and D of the Department's questionnaire to Akzo Faser AG and Akzo Fibers, Inc. (hereafter jointly referred to as "Akzo"), both subsidiaries of Akzo N.V. As the entity which accounts for all exports of the subject merchandise to the United States, Akzo is the only respondent in this investigation.

We received Akzo's response to section A of the questionnaire on November 25, 1991. A deficiency letter for section A was issued on December 11, 1991. Akzo responded to the deficiency questionnaire on December 23, 1991.

On December 16, 1991, we received responses to sections B and C. Based on these responses, we issued a deficiency letter on January 24, 1992, to which the Akzo responded on February 7, 1992.

We received Akzo's response to section D of the questionnaire regarding cost of production (COP) on December 23, 1991. On January 22, 1992, a deficiency letter was issued with respect to the section D response. Akzo responded to the section D deficiency letter on February 7, 1992. We issued a second section D deficiency letter on February 11, 1992. The December 23, 1991, section D response was received in time to be analyzed and used for purposes of this preliminary determination; however, there was not sufficient time to use the February 7, 1992, response and the response to the deficiency letter issued February 11, 1992, in making this preliminary determination. Information contained in these responses that is verified will be used in making the final determination.

In the petition filed September 6, 1991, petitioner alleged the existence of critical circumstances. The Department requested information on shipments from Akzo in the November 1, 1991 questionnaire. See the "Critical Circumstances" section of this notice below.

Scope of the Investigation

The product covered by this investigation is high-tenacity rayon filament yarn. High-tenacity rayon filament yarn is a multifilament single yarn of viscose rayon with a twist of five turns or more per meter, having a denier of 1100 or greater, and a tenacity greater than 35 centinewtons per tex. This yarn is currently classifiable under item 5403.10.30.40 of the Harmonized Tariff Schedule ("HTS"). Although the HTS subheading is provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Period of Investigation

The period of investigation (POI) is April 1, 1991, through September 30, 1991.

Such or Similar Comparisons

We have determined that high-tenacity rayon filament yarn constitutes a single category of such or similar merchandise. Product comparisons were made between sales of identical merchandise; therefore, no adjustments for differences in merchandise were required.

Fair Value Comparisons

To determine whether sales of high-tenacity rayon filament yarn from Germany to the United States were made at less than fair value, we compared the United States price to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

We based United States price on both purchase price and exporter's sales price (ESP), in accordance with section 772 of the Act. We calculated purchase price and ESP based on packed, delivered prices.

Purchase Price

For purchase price, we made deductions for rebates, third party payments, foreign brokerage, foreign inland freight, foreign insurance, ocean freight, U.S. duty, U.S. brokerage, U.S. inland freight, and containerization. We used "best information available" (BIA) as provided for in section 776 of the Act for one sales transaction for which no U.S. inland freight was reported. For this transaction, the highest U.S. inland freight amount reported by Akzo was used. We made an addition to purchase price for uncollected value-added taxes as provided for in section 772(d)(1)(C) of the Act.

Exporter's Sales Price

For ESP, we made deductions for rebates, third party payments, foreign brokerage, foreign inland freight, foreign insurance, ocean freight, U.S. duty, U.S. brokerage, U.S. inland freight, and containerization, warranty expenses, and technical service expenses. In accordance with section 772(e) of the Act, we made additional deductions, where appropriate, for credit and indirect selling expenses. Indirect selling expenses included inventory carrying costs, product liability premiums, and indirect selling expenses. We made an addition to ESP for uncollected value-added taxes as provided for in section 772(d)(1)(C).

Foreign Market Value

Market Viability

In order to determine whether there were sufficient sales of high-tenacity rayon filament yarn in the home market to serve as a viable basis for calculating FMV, we compared the volume of home market sales of high-tenacity rayon filament yarn to the volume of third country sales of the same product in accordance with section 773(B)(1) of the Act. We found that the home market was viable for sales of high-tenacity rayon filament yarn.

Cost of Production

Petitioner submitted a sufficient company-specific allegation that Akzo's home market sales of high-tenacity rayon filament yarn were made at prices below COP. For purposes of calculating the COP of high-tenacity rayon filament yarn, we relied upon information supplied by Akzo in its submissions where such information was appropriately quantified or valued. We recalculated interest expense by dividing total financing charges from the consolidated financial statements by the total cost of goods sold for the nine months ended September 30, 1991, as reported by respondent. We then applied this percentage to the cost of manufacturing for each product.

We compared home market prices to the calculated COP. Since between 10 and 90 percent of Akzo's sales in the home market were made at prices above the COP of high-tenacity rayon filament yarn, we disregarded Akzo's below-cost sales for purposes of calculating FMV.

Foreign Market Value

We calculated FMV based on packed, delivered prices to unrelated customers in the home market. We made deductions, where appropriate, for rebates, third party payments, cash discounts, other discounts, inland freight, and insurance. We also deducted credit and added interest revenue. We deducted home market packing costs and added U.S. packing costs. We also deducted indirect selling expenses, including inventory carrying costs and product liability insurance premiums. We capped the deduction for home market indirect selling expenses by the amount of U.S. indirect selling expenses in accordance with 19 CFR 353.56(b).

Critical Circumstances

Petitioner alleges that "critical circumstances" exist with respect to imports of high-tenacity rayon filament yarn from Germany. Section 733(e)(1) of the Act provides that critical circumstances exist when we determine that there is a reasonable basis to believe or suspect that:

(A)(i) There is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of investigation at less than its fair value, and

(B) There have been massive imports of the merchandise which is the subject of the investigation over a relatively short period.

In general, if imports during the three-month period immediately following the filing of a petition increase by at least 15 percent over imports during the comparable period immediately preceding the filing of a petition, we consider them massive (19 CFR 353.16(f)). To determine whether imports subject to this investigation have been massive over a relatively short period, we based our analysis on respondents' shipment data for three-month periods immediately preceding and following the filing of the petition. Based on this analysis, we find that imports of the subject merchandise from Germany during the period subsequent to receipt of the petition have been massive.

In determining whether there is a history of dumping, we normally consider whether an outstanding antidumping order on the subject merchandise exists in the United States or elsewhere. There are currently no findings of dumping in the United States or elsewhere of the subject merchandise by manufacturers, producers, or exporters of the subject merchandise from Germany.

It is the Department's practice to impute knowledge of dumping under section 735(a)(3)(A) of the Act when the estimated margins in our determinations are of such a magnitude that the importer should have reasonably known that dumping exists with regard to the subject merchandise. Normally we consider estimated margins of 25 percent or greater on sales to unrelated parties and margins of 15 percent or greater on sales to related parties to be sufficient to impute knowledge (*see, Final Determination of Sales at Less Than Fair Value; Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from Italy* (52 FR 24196, June 29, 1987) and *Final Determination of Sales at Less Than Fair Value; Certain Internal-Combustion, Industrial Forklift Trucks from Japan* (53 FR 12552, April 15, 1988).

In this investigation, there were sales to both related and unrelated parties in the United States. Accordingly, we weight-averaged the 25 percent and 15 percent benchmarks by the volume of purchase price and ESP sales, respectively, to arrive at a weight-averaged benchmark percentage for imputing knowledge. Since the preliminary estimated weight-averaged dumping margin exceeds the weight-averaged benchmark, we found that importers either knew or should have known that Akzo was selling the subject merchandise at less than its fair value.

Therefore, based on the imputation of knowledge on behalf of importers of sales at less than fair value and massive imports, we preliminarily determine that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of high-tenacity rayon filament yarn from Germany.

Currency Conversion

When calculating foreign market value, we made currency conversions in accordance with 19 CFR 353.60 by using the exchange rates certified by the Federal Reserve Bank of New York.

Verification

As provided in section 776(b) of the Act, we will verify the information used in making our final determination.

Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directing the Customs Service to suspend liquidation of all entries of high-tenacity rayon filament yarn from Germany that are entered, or withdrawn from warehouse, for consumption on or after the date 90 days prior to the date of publication of this notice in the **Federal Register** for Akzo and on the date of publication for all others. The Customs Service shall require a cash deposit or posting of a bond equal to the estimated preliminary dumping margins, as shown below. This suspension of liquidation will remain in effect until further notice.

Producer/ Manufacturer/ exporter	Weighted-average margin percentage,	Critical circumstances
Akzo	20.47	Yes.
All others	20.47	No.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry before the later of 120 days after the date of this preliminary determination or 45 days after our final determination.

Public Comment

In accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than April 10, 1992, and for rebuttal briefs no later than April 14, 1992. In accordance with 19 CFR 353.38(b), we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on April 16, 1992, at 10:00 A.M. at the U.S. Department of Commerce, room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, room B-099, within ten days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. In accordance with 19 CFR 353.38(b), oral presentations will be limited to issues raised in the briefs.

This determination is published pursuant to section 733(f) of the Act and 19 CFR 353.15.

Alan M. Dunn,

Assistant Secretary for Import Administration.

Dated: February 13, 1992.

[FR Doc. 92-3961 Filed 2-19-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-421-802]

Notice of Preliminary Determination of Sales at Not Less Than Fair Value: High-Tenacity Rayon Filament Yarn From the Netherlands

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: February 20, 1992.

FOR FURTHER INFORMATION CONTACT: Cynthia Thirumalai, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-8498.

PRELIMINARY DETERMINATION

We preliminarily determine that high-tenacity rayon filament yarn from the Netherlands is not being, nor is it likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act).

Case History

Since the publication of our notice of initiation on September 26 1991, (56 FR 49878, October 2, 1991), the following events have occurred.

On October 21, 1991, the U.S. International Trade Commission (ITC) issued an affirmative preliminary injury determination in this case (56 FR 55930, October 30, 1991).

On November 1, 1991, the Department presented sections A, B, C, and D of the Department's questionnaire to Akzo Faser B.V. and Akzo Fibers, Inc. (hereafter jointly referred to as "Akzo"), both subsidiaries of Akzo N.V. As the only know producer of the subject merchandise in the Netherlands, Akzo is the only respondent in this investigation.

On November 8, 1991, Akzo made a submission in which it reported that it does not export the merchandise subject to this investigation from its facilities in the Netherlands. The Department then informed Akzo that it would be required to complete only relevant portions of section A of the Department's questionnaire.

We received Akzo's response to section A of the questionnaire on November 25, 1991. In this response, Akzo asserted that all of its exports classified under the Harmonized Tariff Schedule ("HTS") item 5403.30.10.40 (the subcategory under the subject merchandise is reported) were misclassified. Textile-quality rayon yarns (not the subject of this investigation) that should have been classified elsewhere had been consistently misclassified under HTS 5403.10.30.40. As a result of these misclassifications, the import statistics gave the appearance that there were imports of the subject merchandise from the Netherlands during 1989 and 1990.

We issued a deficiency questionnaire for section A on December 11, 1991. Akzo responded to the deficiency questionnaire on December 23, 1991. On January 17, 1992, we issued a second deficiency questionnaire to which Akzo responded on February 3, 1992.

In its petition filed September 6, 1991, petitioner alleged the existence of critical circumstances. The Department requested information on shipments from respondent in its November 1, 1991 questionnaire. See the "Critical Circumstances" section of this notice below.

Scope of the Investigation

The product covered by this investigation is high-tenacity rayon filament yarn. High-tenacity rayon filament yarn is a multifilament single yarn of viscose rayon with a twist of five turns or more per meter, having a denier of 1100 or greater, and a tenacity greater than 35 centinewtons per tex. This yarn is currently classifiable under HTS item 5403.10.30.40. Although the HTS subheading is provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

On November 27, 1991, petitioner requested that the Department include imports of high-tenacity rayon yarn from the Netherlands that had been entered under HTS 5403.30.0020. Akzo reported that this product is not a single yarn, but, rather, a multiple yarn that is not within the scope of the investigation. Petitioner has not requested a change in the scope of the investigation. (*See,* memorandum from Acting Director/OAI to DAS/I, February 10, 1991.)

Period of Investigation

The period of investigation (POI) is April 1, 1991, through September 30, 1991.

Fair Value Comparisons

In order to determine whether sales of subject merchandise to the United States by a respondent were made at less than fair value, the Department compares the United States price to the foreign market value (FMV). Akzo reported no sales of or offers to sell the subject merchandise during the POI. Accordingly, there are no United States prices with which to compare foreign market value.

Critical Circumstances

Petitioners allege that "critical circumstances" exist with respect to imports of high-tenacity rayon filament yarn from the Netherlands. Section 733(e)(1) of the Act provides that critical circumstances exist when we determine that there is a reasonable basis to believe or suspect the following:

"(A)(i) There is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of investigation at less than its fair value, and

(B) There have been massive imports of the merchandise which is the subject of the investigation over a relatively short period."

Since Akzo has reported that it did not sell or make offers to sell the merchandise under investigation, we find that there is no reasonable basis to believe or suspect that critical circumstances exist with respect to high-tenacity rayon filament yarn from the Netherlands.

Verification

As provided in section 776(b) of the Act, we will verify the information used in making our final determination.

Estimated Dumping Margins

Producer/manufacturer/exporter	Weighted-average margin percentage	Critical circumstances
Akzo	00.00	No.
All others	00.00	No.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine whether imports of the subject merchandise are materially injuring, or threaten material injury to, the U.S. industry before the later of 120 days after the date of this preliminary determination or 45 days after our final determination.

Public Comment

In accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than April 10, 1992, and for rebuttal briefs no later

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than April 14, 1992. In accordance with 19 CFR 353.38(b), we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on April 16, 1992, at 10 a.m. at the U.S. Department of Commerce, room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room B-099, within ten days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. In accordance with 19 CFR 353.38(b), oral presentations will be limited to issues raised in the briefs.

This determination is published pursuant to section 733(f) of the Act and 19 CFR 353.15.

Dated: February 13, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-3962 Filed 2-19-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-403-803]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Pure and Alloy Magnesium From Norway

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: February 20, 1992.

FOR FURTHER INFORMATION CONTACT: Stephanie L. Hager or Paulo F. Mendes, Office of Countervailing Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202)377-5055 or (202)377-5050, respectively.

PRELIMINARY DETERMINATION

We preliminarily determine that pure and alloy magnesium from Norway is being, or is likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended ("the Act") (19 U.S.C. 1673b). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the publication of the notice of initiation in the **Federal Register** (56 FR 49744, October 1, 1991), the following events have occurred.

On October 21, 1991, the U.S. International Trade Commission ("ITC") preliminarily determined that there is a reasonable indication that the magnesium industry in the United States is materially injured, or threatened with material injury, by reason of imports of pure and alloy magnesium from Norway.

On November 1, 1991, the Department presented its questionnaire to Norsk Hydro, a.s. ("Norsk Hydro"), whose sales comprised all imports of pure and alloy magnesium from Norway during the period of investigation ("POI"). On November 27, 1991, the Department received Norsk Hydro's response to Section A of the questionnaire and on December 23, 1991, the Department received Norsk Hydro's Sections B and C responses. January 20, 1992, Norsk Hydro received a supplemental/deficiency questionnaire from the Department. We received responses to the supplemental/deficiency questionnaire on January 30, 1992.

Scope of Investigation

On November 8, 1992, petitioner attempted to amend its petition to include granulated magnesium within the scope of the investigation. According to petitioner, the respondents under investigation may convert magnesium ingots and slabs into granules outside the United States in order to avoid potential antidumping duties.

Respondents in the current antidumping and countervailing duty investigations of pure and alloy magnesium from Canada have publicly commented on the many differences between granular and nongranular magnesium (see e.g., public version of Timminco Limited's October 18, 1991 submission in the antidumping and countervailing duty investigations of magnesium from Canada). The costs of manufacturing granular and nongranular magnesium are significantly different because of the additional manufacturing required for granular magnesium. Because of these cost differences, granular magnesium is sold at significantly higher prices than other magnesium forms. In addition, granular magnesium is used by a distinct group of customers which require specialized magnesium on a consistent quality basis in granular form.

"Circumvention" is the sole reason offered by the petitioner for including granular magnesium within the scope of the investigation. The comments provided by the respondents in these investigations, however, indicate that granular and nongranular magnesium are two distinct products appealing to completely different markets. Therefore, we are not including granular magnesium within the scope of the investigation.

Norsk Hydro argues that pure and alloy magnesium should be separated into two classes or kinds of merchandise. According to Norsk Hydro, its class or kind argument is supported by the factors typically considered by the Department when making a class or kind determination: (1) Physical appearance and characteristics, (2) ultimate use, (3) channels of distribution, and (4) customer perception. Petitioner, however, maintains that pure and alloy magnesium should remain one class or kind. Norsk Hydro also requests that the Department specifically confirm that magnesium alloy billet for extrusion purposes is outside the scope of the investigation. According to Norsk Hydro, alloy billets are clearly different products from the products under investigation because they are used exclusively for extrusion purposes, an end-use for which magnesium products in other forms cannot be used.

The Department is collecting additional factual and technical information and will decide these issues by its final determination.

The products covered by this investigation are pure and alloy magnesium from Norway. Pure unwrought magnesium contains at least 99.8 percent magnesium by weight and is sold in various slab and ingot forms and sizes. Magnesium alloys contain less than 99.8 percent magnesium by weight, with magnesium being the largest metallic element in the alloy by weight. Granular and secondary magnesium are excluded from the scope of this investigation. Pure and alloy magnesium are currently classified under subheadings 8104.11.0000 and 8104.19.0000, respectively, of the Harmonized Tariff Schedule ("HTS"). Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositve.

Standing

On November 19, 1991, Norsk Hydro challenged petitioner's standing to file the petition and requested that the Department dismiss the petition and terminate the investigation. They argue that this investigation is being conducted in violation of U.S. law since the petitioner is acting alone and not on behalf of the domestic industry. They state that the Court of International Trade in *Suramericana de Aleaciones Laminadas, C.A.* v. *United States*, 746 F. Supp. 139 (CIT 1990), appeal docketed, No. 91-1015 (Fed. Cir. Oct. 5, 1990) has held that an affirmative showing of support by the rest of the domestic industry is a necessary prerequisite for a petitioner to seek relief under U.S. trade laws.

We believe that the petitioner has standing since there is nothing in the statute, its legislative history, or the Department's regulations which requires that a petitioner establish affirmatively that it has the support of a majority of the domestic producers of the subject merchandise. In many cases, such a requirement would be so onerous as to preclude access to import relief under the countervailing duty and antidumping laws. This position has been recently upheld by the Court of International Trade in *Koyo Seiko* v. *United States*, Slip. Op. 91-52 (June 27, 1991). Furthermore, the Department has appealed *Suramerica* and is awaiting a decision on that case. We note that no member of the domestic industry has expressed opposition to the petition in this case. Therefore, we have no basis to conclude that the petitioner lacks standing.

Period of Investigation

The POI is April 1, 1991, through September 31, 1991.

Such or Similar Comparisons

For purposes of the preliminary determination, we have determined that pure and alloy magnesium comprise two categories of such or similar merchandise. For both pure and alloy magnesium, comparisons were made on the basis of: (1) Product type, (2) American Society for Testing and Materials ("ASTM") specification, (3) purity, (4) form, and (5) size.

We used home market and third country sales as the basis for foreign market value for sales of pure and alloy magnesium, as described in the "Foreign Market Value" section of this notice. Where there were no sales of identical merchandise in the home or third country markets to compare to sales of merchandise in the United States, sales of the most similar merchandise based on the characteristics described above were used. All comparisons to products sold in the home or third country markets had difference in merchandise adjustments which were less than 20 percent of the total cost of manufacturing for the U.S. merchandise.

Fair Value Comparisons

To determine whether sales of pure and alloy magnesium from Norway to the United States were made at less than fair value, we compared the United States price ("USP") to the foreign market ("FMV"), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

In calculating USP, the Department used purchase price, as defined in section 772(b) of the Act, for certain sales both because the subject merchandise was sold to unrelated purchasers in the United States prior to importation into the United States and because exporter's sales price ("ESP") methodology was not indicated by other circumstances. We also based USP on ESP, in accordance with section 772(c) of the Act, for those sales which were made to unrelated parties after importation into the United States.

We calculated purchase price based on prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, insurance, ocean freight, import duties, inland freight, and brokerage and handling in accordance with section 772(d)(2) of the Act. For the sales made during the period in which a value added tax ("VAT") was collected in Norway, we added to the net price the amount of VAT that was not collected by reason of exportation of the merchandise in accordance with section 772(d)(1)(c) of the Act.

Where USP was based on ESP, we calculated ESP based on prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, insurance, ocean freight, import duties, inland freight, and brokerage and handling in accordance with section 772(e) of the Act. We made further deductions, where appropriate, for credit, commissions and indirect selling expenses, including warehousing charges, inventory carrying charges, advertising, and non-U.S. indirect selling expenses in accordance with section 772(e) of the Act. For sales made during the period in which a VAT was collected in Norway, we added to the net unit price the amount of VAT that was not collected by reason of exportation of the merchandise in accordance with section 772(d)(1)(C) of the Act.

Foreign Market Value

In accordance with section 773(a) of the Act, we calculated FMV based on both home market and third country sales.

In order to determine whether there were sufficient sales of such or similar merchandise in the home market to serve as the basis for calculating FMV, we compared the volume of home market sales of the such or similar category to the aggregate volume of third country sales of the such or similar category, in accordance with section 773(a)(1) of the Act. For the such or similar category consisting of pure magnesium, the volume of home market sales exceeded five percent of the aggregate volume of third country sales.

For pure magnesium, we based FMV on prices to unrelated customers in Norway. We made deductions, where appropriate, for inland freight, insurance, rebates, and quality control. We deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(1)(B) of the Act.

Where USP was based on purchase price, we made adjustments to FMV for differences in circumstances of sale. We adjusted for differences in credit, warehouse handling, and VAT in accordance with 19 CFR 353.56.

For comparisons involving ESP transactions, we made adjustments to FMV for differences in circumstances of sale. We adjusted for differences in credit and VAT in accordance with 19 CFR 353.56. We made further deductions for home market indirect selling expenses, including advertising, inventory carrying costs, and indirect selling expenses, capped by the sum of commissions paid and indirect selling expenses incurred on ESP sales, in accordance with 19 CFR 353.56(b)(2).

For the such or similar category consisting of alloy magnesium, the volume of home market sales was less than five percent of the aggregate volume of third country sales. Because there were insufficient sales in the home market on which to base FMV for this such or similar category, we next determined if there was a third country market which could be used for comparison purposes.

In selecting the third country market to use for comparison purposes, we followed 19 CFR 353.49(b)(1). Accordingly, we determined that the volume of sales of alloy magnesium to Germany was adequate within the meaning of 19 CFR 353.49(b)(1) because the volume of sales of such or similar merchandise exceeded or was equal to five percent of the volume sold to the United States. Furthermore, Germany had the largest volume of sales to any third country market.

Norsk Hydro reported sales to both related and unrelated parties in Germany. However, Norsk Hydro was unable to demonstrate that related party sales involved arm's length transactions. Therefore, we calculated FMV based only on prices to unrelated customers in Germany. We made deductions, where appropriate, for inland freight incurred in Norway and Germany, insurance, brokerage and handling expenses, rebates, warehouse handling, and technical services. We deducted third country packing costs and added U.S. packing costs, in accordance with section 773(a)(1)(B) of the Act.

Where USP was based on purchase price, we made deductions to FMV for differences in circumstances of sale. We adjusted for differences in credit and warehouse handling in accordance with 19 CFR 353.56.

For third country comparisons involving ESP transactions, we made further deductions for third country indirect selling expenses, including advertising, inventory carrying costs, and indirect selling expenses, capped by the sum of indirect selling expenses incurred on ESP sales, in accordance with section 19 CFR 353.56(b)(2).

Norsk Hydro reported certain advertising expenses in both the home and third country markets as direct selling expenses. Because Norsk Hydro has not demonstrated that such expenses were directed at its customer's customer, we have reclassified these expenses as indirect selling expenses.

Norsk Hydro reported a difference in merchandise adjustment for one sale, requesting a downward adjustment to FMV. Because Norsk Hydro provided no cost information to support this difference in merchandise adjustment, as requested by the Department is its original questionnaire, we are not allowing the downward adjustment to FMV.

Currency Conversions

We made currency conversions in accordance with 19 CFR 353.60(a). All currency conversions were made at the rates certified by the Federal Reserve Bank.

Verification

As provided in section 776(b) of the Act, we will verify all information used in reaching the final determination in this investigation.

Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of pure and alloy magnesium, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The U.S. Customs Service shall require a cash deposit or posting of a bond equal to the estimated amounts by which the foreign market value of pure and alloy magnesium exceeds the United States price as shown below. This suspension of liquidation will remain in effect until further notice. The margins are as follows:

Manufacturer/producer/exporter	Weighted-average margin percentage
Norsk Hydro, a.s	8.26
All others	8.26

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine whether these imports are materially injuring or threaten material injury to a U.S. industry before the later of 120 days after the date of the preliminary determination or 45 days after our final determination.

Public Comment

In accordance with 19 CFR 353.38(c), case briefs or other written comments must be submitted to the Assistant Secretary for Import Administration no later than April 7, 1992, and rebuttal briefs no later than April 13, 1992. In accordance with 19 CFR 353.38(b), we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. The hearing will be held on April 16, 1992, at the U.S. Department of Commerce, room 3708, 14th Street and Constitution Avenue NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, room B-099, within ten days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. In accordance with 19 CFR 353.38(b), oral presentations will be limited to the issues raised in the briefs.

This determination is published pursuant to section 733(f) of the Act and 19 CFR 353.15.

Dated: February 12, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-3960 Filed 2-19-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-122-814]

Preliminary Determination of Sales at Less Than Fair Value: Pure and Alloy Magnesium From Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: February 20, 1992.

FOR FURTHER INFORMATION CONTACT: Rick Herring or Magd Zalok, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-3530 or 377-4162.

PRELIMINARY DETERMINATION: We preliminarily determine that pure and alloy magnesium from Canada is being, or is likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673b). The estimated margins are shown in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normally, we will make our final determination by April 27, 1992.

Case History

Since the publication of the notice of initiation in the **Federal Register** (56 FR 49743, October 1, 1991) the following events have occurred:

On October 21, 1991, the U.S. International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that the magnesium industry in the United States is materially injured, or threatened with material injury, by reason of imports of pure and alloy magnesium from Canada. On November 1, 1991, the Department presented sections A, B, and C of its questionnaire to Timminco Limited (Timminco) and sections A, B, C, and D to Norsk Hydro Canada Inc. (NHCI).

Timminco responded to section A of the questionnaire on November 27, 1991, and the responses to sections B and C were provided on December 23, 1991. A deficiency questionnaire was presented to Timminco for section A, B, and C on January 17, 1992. The response to that questionnaire was received on January 28, 1992. NHCI responded to section A of the Department's questionnaire, however, it failed to submit responses to sections B, C, and D.

Scope of Investigation

On November 8, 1991, petitioner attempted to amend its petition to include granulated magnesium within the scope of the investigation. According to petitioner, the respondents under investigation may convert magnesium ingots and slabs into granules outside the United States in order to avoid potential antidumping duties.

Respondents in the current antidumping and countervailing duty investigations of pure and alloy magnesium from Canada have publicly commented on the many differences between granular and nongranular magnesium (*see, e.g.,* public version of Timminco's October 18, 1991 submission to the Department.) The costs of manufacturing granular and nongranular magnesium are significantly different because of the additional manufacturing required for granular magnesium. Because of these cost differences, granular magnesium is sold at significantly higher prices than other magnesium forms. In addition, granular magnesium is used by a distinct group of customers which require specialized magnesium on a consistent quality basis in granular form.

"Circumvention" is the sole reason offered by the petitioner for including granular magnesium within the scope of the investigation. The comments provided by the respondents in these investigations, however, indicate that granular and nongranular magnesium are two distinct products appealing to completely different markets. Therefore, we are not including granular magnesium within the scope of the investigation.

Norsk Hydro argues that pure and alloy magnesium should be separated into two classes or kinds of merchandise. According to Norsk Hydro, its class or kind argument is supported by the factors typically considered by the Department when making a class or kind determination: (1) Physical appearance and characteristics, (2) ultimate use, (3) channels of distribution, and (4) customer perception. Petitioner, however, maintains that pure and alloy magnesium should remain one class or kind.

Norsk Hydro also requests that the Department specifically confirm that magnesium alloy billets for extrusion purposes are outside the scope of the investigation. According to Norsk Hydro, alloy billets are clearly different products from the products under investigation because they are used exclusively for extrusion purposes, an end-use for which magnesium products in other forms cannot be used.

The Department is collecting additional factual and technical information and will decide these issues by its final determination.

The products covered by this investigation are pure and alloy magnesium from Canada. Pure unwrought magnesium contains at least 99.8 percent magnesium by weight and is sold in various slab and ingot forms and sizes. Magnesium alloys contain less than 99.8 percent magnesium by weight, with magnesium being the largest metallic element in the alloy by weight. Granular and secondary magnesium are excluded from the scope of this investigation. Pure and alloy magnesium are currently classifiable under subheadings 8104.11.0000 and 8104.19.0000, respectively, of the Harmonized Tariff Schedule (HTS). Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Standing

On November 19, 1991, the Government of Canada, NHCI, and Timminco challenged petitioner's standing to file the petition and requested that the Department dismiss the petition and terminate the investigation. They argue that this investigation is being conducted in violation of U.S. law since the petitioner is acting alone and not on behalf of the domestic industry. They state that the Court of International Trade in *Suramericana de Aleaciones Laminadas, C.A.* v. *United States*, 746 F. Supp. 139 (CIT 1990), appeal docketed, No. 91-1015 (Fed. Cir. Oct. 5, 1990) has held that an affirmative showing of support by the rest of the domestic industry is a necessary prerequisite for a petitioner to seek relief under U.S. trade laws.

We believe that petitioner has standing since there is nothing in the statute, its legislative history, or the Department's regulations which requires that a petitioner establish affirmatively that it has the support of a majority of the domestic producers of the subject merchandise. In many such cases, such a requirement would be so onerous as to preclude access to import relief under the countervailing duty and antidumping laws. This has been recently upheld by the Court of International Trade in *Koyo Seiko* v. *United States*, Slip. Op. 91-52 (June 27, 1991). Furthermore, the Department has appealed *Suramerica* and is awaiting a decision on that case. We note that no members of the domestic industry have expressed opposition to the petition in this case. Therefore, we have no basis to conclude that the petitioner lacks standing.

Period of Investigation

The period of investigation is April 1, 1991 through September 30, 1991.

Best Information Available

We have determined, in accordance with section 776(c) of the Act, that the use of best information available is appropriate for NHCI. Section 776(c) requires the Department to use the best information available "whenever a party or any other person refuses or is unable to produce information requested in a timely manner and in the form required, or otherwise significantly impedes an investigation * * *" Given NHCI's failure to respond to sections B, C, and D of the Department's questionnaire, this section of the Act applies.

In deciding what to use as best information available, § 353.37(b) of the Department's regulations (19 CFR 353.37(b)) (1991) provides that the Department may take into account whether a party refuses to provide requested information. Thus, the Department determines on a case-by-case basis what is the best information available. For purpose of this preliminary determination, given NHCI's refusal to submit its responses to sections B, C, and D of the Department's questionnaire, we assigned it the highest margin in the petition, which is 32.74 percent, as best information available.

Such or Similar Comparisons

For purposes of the preliminary determination, we have determined that magnesium is comprised of two categories of such or similar merchandise: (1) Pure magnesium; (2) alloy magnesium. All of the comparisons were based on sales of identical merchandise.

Fair Value Comparisons

To determine whether sales of pure and alloy magnesium from Canada to the United States were made at less than fair value, we compared the United States price to the foreign market value, as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

All of Timminco's sales were made directly to unrelated U.S. customers prior to importation. Therefore, U.S. Price was based on purchase price in accordance with section 772(b) of the Act. Exporter's sales price methodology was not indicated by other circumstances.

We calculated purchase price based on packed prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, U.S. brokerage and handling expenses, U.S. duties, and U.S. inland freight, in accordance with section 772(d)(2) of the Act. We also made deductions, where appropriate, for discounts.

We recalculated credit expenses for U.S. sales since Timminco did not subject discounts from the invoice price before making this calculation.

Foreign Market Value

In order to determine whether Timminco had sales of magnesium in the home market to serve as a basis for calculating foreign market value (FMV), we compared the volume of home market sales of each such or similar category to the aggregate volume of third country sales, in accordance with 19 CFR 353.48(a). We have determined that home market sales within each applicable category of such or similar merchandise was less than five percent of the aggregate volume of third country sales. Therefore, FMV for sales of magnesium was based on third country sales.

We based our selection of the appropriate third-country on whether third country markets had "adequate" volumes of sales within the meaning of 19 CFR 353.49(b)(1). We selected Japan as the appropriate third country market because sales to that market were identical to sales in the United States and the volume of sales to Japan exceeded or were equal to five percent of the volume sold in the United States. Therefore, we based FMV on Timminco's sales to Japan.

We calculated FMV on the basis of prices to unrelated customers in Japan. We made deductions, where appropriate, for foreign inland freight, ocean freight, marine insurance, and packing expenses. We made a circumstance of sale adjustment, where appropriate, for differences in credit costs pursuant to 19 CFR 353.56(a). We added U.S. packing to FMV, in accordance to section 773(a)(1) of the Act.

Currency Conversion

We made currency conversion conversions in accordance with 19 CFR 353.60(a). All currency conversions were made at rates certified by the Federal Reserve Bank.

Verification

As provided in section 776(b) of the Act, we will verify the information used in making our final determination.

Suspension of Liquidation

In accordance with section 773(d)(1) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of pure and alloy magnesium from Canada, as defined in the "Scope of the Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The U.S. Customs Service shall require a cash deposit or posting of a bond equal to the estimated preliminary dumping margins, as shown below. This suspension of liquidation will remain in effect until further notice. The weighted-average dumping margins are as follows:

Manufacturer/producer/exporter	Margin percentage
Timminco Limited	00.00
Norsk Hydro Canada, Inc	32.74
All others	32.74

Since the estimated preliminary dumping margin for Timminco is zero, it will be excluded from the suspension of liquidation.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry before the later of 120 days after the date of this preliminary determination or 45 days after our final determination.

Public Comment

In accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than April 7, 1992, and rebuttal briefs no later than April 13, 1992. In accordance with 19 CFR 353.38(b), we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. The hearing will be held on April 16, 1992, at 1 p.m. at the U.S. Department of Commerce, room 3708, 14th Street and Constitution Avenue NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, room B-099, within ten days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reasons for attending; and (4) a list of the issues to be discussed. In accordance with 19 CFR 353.38(b), oral presentations will be limited to issues raised in the briefs.

This determination is published pursuant to section 733(f) of the Act and 19 CFR 353.15(a)(4).

Dated: February 12, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-3958 Filed 2-19-92; 8:45 am]

BILLING CODE 3510-DS-M

[C-122-815]

Alignment of the Final Countervailing Duty Determination With the Final Antidumping Duty Determination: Pure and Alloy Magnesium From Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: February 20, 1992.

FOR FURTHER INFORMATION CONTACT: Rick Herring or Magd Zalok, Office of Countervailing Investigations, Import Administration, U.S. Department of Commerce, room B099, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377-3530 or 377-4162, respectively.

Alignment of Antidumping and Countervailing Duty Cases

On December 6, 1991, we published a preliminary affirmative countervailing duty determination pertaining to pure and alloy magnesium from Canada (56 FR 63927). The notice stated that we would make our final countervailing duty determination by February 12, 1992.

On February 11, 1992, in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended (the "Act"), we received a request from petitioner to extend the due date for the final countervailing duty determination to coincide with the date of the final determination in the antidumping duty investigation of pure and alloy magnesium from Canada. Although a request for postponement was due 10 days prior to the date of the Department's final determination (February 3, 1992), the 10 day time limit is for the benefit of parties to the proceeding. In this case, we notified all parties of our intent to postpone the final determination and we received no objections. In addition, we have no objections to extending the final determination at this time because the purpose of postponement is to facilitate and simplify parallel investigations for the interested parties, as well as for the Department and the International Trade Commission. Accordingly, we are extending the final determination in this countervailing duty investigation to not later than April 27, 1992.

In accordance with section 705 of the Act, and 19 CFR 355.20(c)(ii), the Department will direct the U.S. Customs Service to terminate the suspension of liquidation in the countervailing duty proceeding as of April 4, 1992. No cash deposits or bonds for potential countervailing duties will be required for merchandise which enters the United States on or after April 4, 1992. This suspension of liquidation will not be resumed unless and until the Department publishes a countervailing duty order. We will also direct the U.S. Customs Service to maintain the suspension of any entries suspended between December 6, 1991 and April 3, 1992, until the conclusion of this investigation.

The U.S. International Trade Commission is being advised of this postponement. This notice is published pursuant to section 705(d) of the Act.

Dated: February 12, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-3959 Filed 2-19-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-028]

Roller Chain, Other Than Bicycle, From Japan; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request from the American Chain Association, the petitioner in this proceeding, the Department of Commerce has conducted an administrative review of the antidumping finding on roller chain, other than bicycle, from Japan. The review covers nine manufacturers/exporters of this merchandise to the United States and the period April 1, 1990 through March 31, 1991. The review indicates the existence of dumping margins.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: February 20, 1992.

FOR FURTHER INFORMATION CONTACT: Tom Prosser, Jay Camillo, or Robert Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On October 22, 1990, the Department of Commerce (the Department) published in the **Federal Register** (55 FR42606) the final results of its last administrative review of the antidumping finding on roller chain, other than bicycle, from Japan (38 FR 9226; April 12, 1973). In April, 1991, the petitioner, the American Chain Association, requested, in accordance with § 353.22(a)(1) of the Department's Regulations (19 CFR 353.22(a)(1)), that we conduct an administrative review of the period April 1,1990 through March 31, 1991. We published a notice of initiation of review on May 21, 1991 (56 FR 23271). The Department has now conducted this review in accordance with section 751 of the Tariff Act of 1930, as amended (the "Tariff Act").

Scope of the Review

Imports covered by the review are shipments of roller chain, other than bicycle, from Japan. The term "roller chain, other than bicycle," as used in this review includes chain, with or without attachments, whether or not plated or coated, and whether or not manufactured to American or British standards, which is used for power transmission and/or conveyance. Such chain consists of a series of alternately-assembled roller links and pin links in which the pins articulate inside the bushings and the rollers are free to turn on the bushings. Pins and bushings are press fit in their respective link plates. Chain may be single strand, having one row of roller links, or multiple strand, having more than one row of roller links. The center plates are located between the strands of roller links. Such chain may be either single or double pitch and may be used as power transmission or conveyer chain.

This review also covers leaf chain, which consists of a series of link plates alternately assembled with pins in such a way that the joint is free to articulate between adjoining pitches. This review further covers chain model numbers 25 and 35. Roller chain is currently classified under the *Harmonized Tariff Schedule* (HTS) subheadings 7315.11.00 through 7619.90.00. HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers Hitachi Metals Techno Ltd., Izumi, Pulton Chain, Pulton Chain/HIC, Pulton Chain/I & OC, Sugiyama/Hokoku, Sugiyama I & OC, Sugiyama/Harima Enterprises/San Fernando (Japan), and R.K. Excel (formerly Takasago), for the period April 1, 1990 through March 31, 1991. Daido Kogyo/Daido Corp. and Enuma/Daido Corp. are being reviewed separately, and their preliminary results will be published in a later notice.

United States Price

In calculating United States price (USP), the Department used both purchase price (PP) and exporter's sales price (ESP), both as defined in section 772 of the Tariff Act. For those sales made directly to unrelated parties prior to importation into the United States, we based USP on PP. PP was based on the packed, FOB Japanese port price, or CIF duty-paid, delivered prices to unrelated purchasers in the United States. Where applicable, we made deductions for brokerage and handling charges, foreign inland freight, ocean freight, marine insurance, discounts, U.S. import duties, and U.S. inland freight. No other adjustments were claimed or allowed.

Where sales to the first unrelated purchaser occurred after importation into the United States, we based USP on ESP. We calculated ESP based on the packed, CIF duty-paid, or delivered price to unrelated purchasers in the United States. Where applicable, we made deductions for brokerage and handling, foreign inland freight, ocean freight, marine insurance, discounts, U.S. import duties, U.S. inland freight, commissions, credit expenses, and indirect selling expenses. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value (FMV), the Department used home market price, as defined in section 773 of the Tariff Act, when sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. Where the home market was not viable, the Department used third-country sales as a basis for comparison, in accordance with section 773(a)(1)(B) of the Tariff Act, or constructed value (CV), in accordance with section 773(a)(2) of the Tariff Act.

Home market price was based on a packed, FOB or CIF, delivered price to unrelated purchasers in Japan or in the third country. Third country price was based on the packed, delivered price to purchasers in third countries. We calculated CV as the sum of materials, fabrication costs, general expenses, profit, and U.S. packing. We added statutory or actual amounts for the general expenses and profit components of CV, as appropriate.

For PP sales comparisons, where applicable, we made deductions from FMV for inland freight, insurance, brokerage and handling costs, and cash discounts. Where applicable, we made adjustments for differences in packing, credit expenses, advertising expenses, warranty expenses, technical services, and differences in merchandise. Where third country sales were used as the basis for FMV we also deducted ocean freight and marine insurance. For ESP comparisons, we deducted credit expenses, advertising expenses, and inland freight. Where applicable, we also deducted indirect selling expenses, limited to the amount of U.S. commissions and indirect selling expenses. No other adjustments were claimed or allowed.

For U.S. sales for which we could not find matching sales or derive constructed values, we used the best information available (BIA) as the basis for FMV. As BIA we used the highest calculated rate for a respondant in this review, the 12.68 percent rate calculated for Hitachi.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following weighted-average margins exist:

Manufacturer/exporter	Time period	Margin (percent)
Hitachi Metals Techno, Ltd.	04/01/90-03/31/91	12.68
Izumi	04/01/90-03/31/91	0.13
Pulton Chain	04/01/90-03/31/91	6.97
Pulton Chain/HIC	04/01/90-03/31/91	[1] 15.92
Pulton Chain/I & OC	04/01/90-03/31/91	0.10
Sugiyama/Hokoku	04/01/90-03/31/91	0.38
Sugiyama/I & OC	04/01/90-03/31/91	5.83
Sugiyama/Hanma Enterprs/San Fernando (Japan)	04/01/90-03/31/91	[1] 0.00
RK Excel (Takasago).	04/01/90-03/31/91	9.87

[1] No shipments during the period. Rate is from the last period in which there were shipments.

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication of this notice, or the first workday thereafter.

Case briefs and/or written comments from interested parties may be submitted not later than 30 days after the date of publication of this notice. Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed not later than 37 days after the date of publication. The Department will publish the final results of the administrative review, including the results of its analysis of issues raised in any such written comments or at a hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between USP and FMV may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of roller chain, other than bicycle, from Japan, entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed companies will be that established in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this review, but covered in previous reviews or the original less-than-fair-value investigation, the cash deposit rate will continue to be the company-specific rate published in the final determination covering the most recent previous review; (3) if the exporter is not a firm covered in this review, previous reviews, or the original investigation, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in the final results of the most recently completed review of the manufacturer; and (4) the cash deposit rate for any future entries from all other manufacturers or exporters who are not covered in this or prior administrative reviews, and who are unrelated to any firms listed above, or any previously reviewed firm, will be the "All Others" rate established in the final results of this administrative review. This rate represents the highest rate for any firm in this administrative review (whose shipments to the United States were reviewed), other than those firms receiving a rate based entirely on the best information available. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and section 353.22 of the Department's Regulations (19 CFR 353.22).

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-3963 Filed 2-19-92; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Marine Mammals

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Issuance of interim scientific research permit (P166D).

On December 2, 1991, notice was published in the **Federal Register** (56 FR 61232) that an application had been filed by Louis M. Herman, Ph.D., Kewalo Basin Marine Mammal Laboratory, University of Hawaii at Manoa, 1129 Ala Moana Boulevard, Honolulu, Hawaii 96814, for a Permit to harass annually, over a five-year period, up to 400 humpback whales (*Megaptera novaeangliae*) during observational/photo-identification/sound playback studies and aerial surveys throughout the year in humpback whale seasonal breeding and feeding habitats in the North Pacific (conduct of 1992 field research to be limited to the Kohala Coast of Hawaii and all coasts of Oahu).

During review of that application, the applicant was served with a Notice of Violation and Assessment (NOVA) with respect to alleged violations of a previous permit and Notice of Intent to Deny the Permit (NIDP) for which the applicant is currently applying. As a result of an administrative hearing on February 6/7, 1992, NMFS has issued an Interim Permit to Dr. Herman, with special conditions including the requirement to carry a NMFS enforcement agent on all research vessels and aircraft during operations. The Interim Permit will be effective only until NOAA renders a final decision on the NOVA and NIDP.

Notice is hereby given that on February 10, 1992, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the National Marine Fisheries Service issued an Interim Permit to the above applicant to take by approach and/or inadvertent harassment, as defined below, up to 400 humpback whales, subject to certain conditions set forth therein. "Take" shall be defined as all approaches to humpback whales closer than 100 yards and any and all incidents of harassment, as defined in 50 CFR 222.31(a)(4). All approaches and incidents of harassment shall be counted against the number of animals authorized to be taken under the Interim Permit.

Issuance of this Interim Permit, as required by the Endangered Species Act of 1973, is based on the finding that the Permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of the Permit; and (3) is consistent with the purposes and policies set forth in Section 2 of the Act. This Permit was also issued in accordance with and is subject to Parts 220–222 of Title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits.

The Interim Permit and associated documents are available for review in the following offices:

By appointment: Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Hwy., Silver Spring, Maryland 20910 (301/713–2289);

Coordinator, Pacific Area Office, Southwest Region, National Marine Fisheries Service, 2570 Dole Street, Honolulu, Hawaii 96822–2396 (808/955–8831); and

Director, Southwest Region, National Marine Fisheries Service, 501 W. Ocean Blvd., suite 4200, Long Beach, California 90802–4213–7415 (213/514–6196).

Dated: February 10, 1992.

Charles Karnella,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 92–3881 Filed 2–19–92; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Request for modification of permit (P245B).

Notice is hereby given that Pacific Whale Foundation, Kealia Beach Plaza, 101 N. Kihei Road, suite 212, Kihei, Maui, Hawaii 96753–8833 has requested a modification of Permit No. 565, issued on September 23, 1986 (51 FR 35386), under the authority of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), The Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531–1544), and the regulations governing endangered fish and wildlife permits (50 CFR parts 217–222).

Permit No. 565 authorizes the inadvertent harassment, over a five-year period, of humpback whales (*Megaptera novaeangliae*) in Hawaiian and Alaskan waters, during the conduct of observational/photo-identification studies.

The Permittee is requesting that the Permit be modified to extend its duration through April 30, 1992. Activities conducted under the proposed extension would be restricted to Hawaiian waters. The permittee is requesting authorization to inadvertently harass up to 1000 humpback whales during the course of observational/photo-identification studies which would be conducted in waters inside and adjacent to Maalaea Bay, and up to 1000 humpback whales during the course of aerial surveys which would be conducted throughout the major Hawaiian Islands area.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this modification request should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East-West Hwy., room 7324, Silver Spring, Maryland 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this modification request are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above modification request are available for review by interested persons in the following offices:

By appointment: Permit Division, Office of Protected Resources, National Marine Fisheries Service, NOAA, 1335 East-West Hwy., suite 7324, Silver Spring, Maryland 20901 (301/713–2289);

Director, Southwest Regional Office, National Marine Fisheries Service, NOAA, 501 W. Ocean Blvd., suite 4200, Long Beach, California 90731–7415 (213–514–6196); and

Coordinator, Pacific Area Office, Southwest Region, National Marine Fisheries Service, 2570 Dole Street, Honolulu, Hawaii 96822–2396 (808–955–8831).

Dated: February 13, 1992.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 92–3882 Filed 2–19–92; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment of an Import Limit for Certain Cotton Textile Products Produced or Manufactured in Panama

February 13, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a limit.

EFFECTIVE DATE: February 21, 1992.

FOR FURTHER INFORMATION CONTACT: Nicole Bivens Collinson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566–5810. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Government of the United States has agreed to increase the current designated consultation level for Categories 347/348 for the period April 1, 1991 through March 31, 1992.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see

Federal Register notice 56 FR 60101, published on November 27, 1991). Also see 56 FR 65045, published on December 13, 1991.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Memorandum of Understanding dated November 6, 1991, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

February 13, 1992.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 10, 1991, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of cotton textile products in Categories 347/348, produced or manufactured in Panama and exported during the twelve-month period which began on April 1, 1991 and extends through March 31, 1992.

Effective on February 21, 1992, you are directed to amend the December 10, 1991 directive to increase the limit for Categories 347/348 to 450,000 dozen [1].

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92-3906 Filed 2-19-92; 8:45 am]

BILLING CODE 3510-DR-F

DELAWARE RIVER BASIN COMMISSION

Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, February 26, 1992. The hearing will be part of the Commission's regular business meeting which is open to the public and scheduled to begin at 1 p.m. in the Goddard Conference Room of the Commission's offices at 25 State Police Drive, West Trenton, New Jersey.

An informal conference among the Commissioners and staff will be open for public observation at 10 a.m. at the same location and will include reports on the upper Delaware ice jam project, amendment of Compact section 15.1(b) to fund the F. E. Walter Reservoir project, Basin drought status and scheduling of hearings for the Scenic Rivers water quality protection proposal.

The subjects of the hearing will be as follows:

Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11 and/or Section 3.8 of the Compact

1. Village of Wurtsboro D-81-28 CP RENEWAL-2

An application for the renewal of a ground water withdrawal project to supply up to 17.3 million gallons (mg)/30 days of water to the applicant's distribution system from the Linton Lane Well. Commission approval on November 25, 1986 was limited to five years. The applicant requests that the total withdrawal from all wells remain limited to 17.3 mg/30 days. The project is located in the Village of Wurtsboro, Sullivan County, New York.

2 Meter Services Company D-85-35 CP RENEWAL

An application for the renewal of a ground water withdrawal project to supply up to 1.8 mg/30 days of water to the applicant's development (Village of Buckingham Springs) from Well Nos. 1 and 2. Commission approval on February 25, 1987 was limited to five years and will expire unless renewed. The applicant requests that the total withdrawal from all wells remain limited to 1.8 mg/30 days. The project is located in Buckingham Township, Bucks County, in the Southeastern Pennsylvania Ground Water Protected Area.

3. Oxford Textile, Inc. D-89-62

An application for approval of an industrial wastewater treatment plant (IWTP) upgrade and expansion project. The applicant operates a 1.5 million gallons per day (mgd) IWTP which serves its fabric desizing and dyeing mill. The applicant will upgrade the treatment facilities via the activated sludge treatment process. The treated process, sanitary, and cooling water effluent will continue to discharge to Cat Swamp, a tributary of Furnace Brook which flows to the Pequest River. The plant is located at One Wall Street in the Township of Oxford, Warren County, New Jersey.

4. North Penn Water Authority D-91-4 CP

An application for approval of a ground water withdrawal project to supply water to the applicant's distribution system from new Well No. NP-74, and existing Well Nos. NP-61, NP-68, and H-12 which have been subject to long-term testing; to approve Well No. NP-73 which has been subject to long-term testing; to approve Well No. NP-73 which has been operating under Protected Area Permit No. D-85-62 PA; to transfer Well Nos. T-42, T-43, and T-44 from the North Wales Water Authority; and to renew the approval of Well No. H-8. The applicant has requested an increase in allocation of Well No. NP-73 from 0.64 to 2.93 mg/30 days, and an increase to total allocation from all wells from 251.94 mg/30 days to 281.87 mg/30 days. The projects are located in Hatfield Borough and Hatfield Township, Montgomery County; and East Rockhill and New Britain Townships, Bucks County, in the Southeastern Pennsylvania Ground Water Protected Area.

5. Borough of Clayton D-91-21 CP

An application for approval of a ground water withdrawal project to supply up to 17.28 mg/30 days of water to the applicant's distribution system from new Well No. 5, and to limit the withdrawal from all wells to 27.7 mg/30 days. The project is located in Clayton Borough, Gloucester County, New Jersey.

6. Washington Township Municipal Utilities Authority D-91-25 CP

An application for approval of a ground water withdrawal project to supply up to 76 mg/30 days of water to the applicant's distribution system from Well Nos. 10, 11 and 16; 37.2 mg/30 days from Well Nos. 14 and 17; 109 mg/30 days from Well Nos. 1-6, 8, 9 and 15; and to increase the existing withdrawal limit of 172.3 mg/30 days from all wells to 203 mg/30 days. The project is located in Washington Township, Gloucester County, New Jersey.

7. Village of Delhi D-91-33 CP

A sewage treatment plant (STP) modification project to upgrade the applicant's existing 0.52 mgd STP, which is located in the Town of Delhi and serving the Village and Town of Delhi,

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[1] The limit has not been adjusted to account for any imports exported after March 31, 1991.

Delaware County, New York. The upgraded STP will continue to discharge to the West Branch Delaware River in Water Quality Zone W1.

8. The West County D–91–49 (D)

A wastewater treatment project to remove volatile organic compounds from contaminated ground water withdrawn as part of a ground water remediation program at the applicant's industrial plant site. Up to 0.087 mgd of contaminated water will be treated by an air stripper and discharged along with non-contact cooling water via an existing stormwater discharge pipe to French Creek. The plant site is located just off Bridge Street in the Borough of Phoenixville, Chester County, Pennsylvania.

9. Joseph Jackewicz, Sr., D–91–53

An application for approval of a ground water withdrawal project to serve the applicant's existing agricultural irrigation system. The applicant requests approval of three new wells, (Townsend 1, Townsend 2 and Ranch Well) and to increase the existing withdrawal limit from 151.2 mg/30 days to 170 mg/30 days for all wells. Two existing surface water withdrawals, also serving the applicant's irrigation system, are proposed to remain at the combined total surface water withdrawal of 49.8 mg/30 days. The project is located near the Town of Magnolia, Kent County, Delaware.

10. McGinley Mill, Inc. D–91–55

An application for approval of a ground water withdrawal project to supply up to 9.72 mg/30 days of cooling water to the applicant's air conditioning and compressors from new Well No. 2, and to limit the withdrawal from all wells to 13.4 mg/30 days. The project is located in the Town of Phillipsburg, Warren County, New Jersey.

11. Township of Pemberton D–91–70 CP

An application for approval of a ground water withdrawal project to supply up to 4.32 mg/30 days of water to the applicant's distribution system from new Well No. 8, and to retain the existing withdrawal limit from all wells of 38.75 mg/30 days. The project is located in Pemberton Township, Burlington County, New Jersey.

12. BP Oil Company D–91–78

A ground water remediation project which entails withdrawal of 0.072 mgd of petroleum product contaminated ground water for biological treatment via granulated activated carbon prior to discharge to an unnamed tributary of Cacoosing Creek. The proposed treatment facility will serve the BP Oil Company plant site located in the Borough of Sinking Spring, Berks County, Pennsylvania.

13. Upper Gwynedd Township D–91–88 CP

A sewage treatment plant (STP) upgrade and expansion project which will provide tertiary treatment for an average monthly flow increase from 2.5 mgd to 4.5 mgd. The expanded STP will continue to serve portions of Upper Gwynedd and Whitpain Townships and continue to discharge treated effluent to Wissahickon Creek near the STP plant site located off Township Road in Upper Gwynedd Township, Montgomery County, Pennsylvania.

14. Waste Management of Pennsylvania, Inc. D–91–90

An application for two surface water withdrawals to provide water mainly for dust control and various other miscellaneous non-portable water uses associated with the applicant's landfill operations. Up to 200,000 gallons per day (gpd) will be withdrawn from Manor Lake immediately south of the Tullytown Resource Recovery Facility landfill site located in the Borough of Tullytown, and up to 200,000 gpd from the Van Sciver Lake watershed adjacent to the GROWS landfill site located in Falls Township, all in Bucks County, Pennsylvania.

15. Pedricktown Cogeneration Limited Partnership D–91–98

An application for approval of a ground water withdrawal project to supply up to 5.6 mg/30 days of water to the applicant's cogeneration facility from new Well No. PW–2, and to increase the existing withdrawal limit from all wells of 8.6 mg/30 days to 14.26 mg/30 days. The project is located in Oldmans Township, Salem County, New Jersey.

Documents relating to these items may be examined at the Commission's offices. Preliminary docket are available in single copies upon request. Please contact George C. Elias concerning docket-related questions. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the hearing.

Dated: February 11, 1992.

Susan M. Weisman,

Secretary.

[FR Doc. 92–3908 Filed 2–19–92; 8:45 am]

BILLING CODE 6360–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP92–245–000]

Iroquois Gas Transmission System, L.P.; Intent to Prepare an Environmental Assessment for the Iroquois-Wright Compressor Station Project and Request for Comments on Its Scope

February 13, 1992.

Notice is hereby given that the staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) on the facilities proposed in the above-referenced docket pertaining to an expansion of the Iroquois Gas Transmission System, L.P. (Iroquois) known as the *Iroquois-Wright Compressor Station Project.*

Iroquois is seeking a certificate of public convenience and necessity under section 7(c) of the Natural Gas Act to:

- Construct and operate a new compressor station at approximately milepost 192 of its existing system in the town of Wright, New York;
- Construct and operate ancillary facilities at the proposed compressor station; and
- Transport increased volumes of Canadian natural gas to two customers in New York and Massachusetts.

Proposal

On December 16, 1991, Iroquois applied in Docket No. CP92–245–000 to the Commission for authorization to transport 65,200 Mcf/d (thousand cubic feet per day) of natural gas through its pipeline system to Niagara Mohawk Power Corporation (Niagara Mohawk) and Dartmouth Power Associates, Inc. (Dartmouth Power). Iroquois would transport up to 51,000 Mcf/d of gas for Niagara Mohawk to an existing interconnection with CNG Transmission Corporation (CNG) in the town of Canajoharie, Montgomery County, New York. CNG would redeliver the gas to Niagara Mohawk to existing delivery points.

Iroquois would also deliver up to 14,200 Mcf/d to Tennessee Gas Pipeline Company (Tennessee) at the existing Wright, New York interconnection for Dartmouth Power. Tennessee would redeliver the 14,200 Mcf/d of gas to Algonquin Gas Transmission Company for ultimate delivery to Dartmouth Power. This application is related to Docket Nos. CP91–2206–000 and CP89–661–005. The facilities required by Tennessee to transport the gas for

Dartmouth Power were analyzed along with other facilities in the Electric Generation Transportation Project EA, issued by the Commission on December 12, 1991. The facilities analyzed in this EA included approximately 50.2 miles of pipeline and 4,100 horsepower (hp) of compression.

The general location of the proposed Wright Compressor Station is identified in figure 1. Figure 2 shows a plot plan of the proposed 11,000-hp compressor station.[1] This compressor station would consist of two 5,500-HP Solar Centaur H turbo-compressor packages and ancillary facilities. Iroquois currently owns a 53.2-acre parcel of land on which the station would be sited. In order to construct the station, Iroquois would disturb and fence about 2.5 acres of its parcel.

The proposed compressor station would be constructed adjacent to the existing Wright Meter Station. Iroquois proposes to construct three buildings to house the compressor facilities. Two of the proposed buildings would house compressor units, while the third building would be constructed to house the control equipment for the station. Iroquois proposes to start construction in the spring of 1992, with operation of the compressor station to begin on November 1, 1992.

Construction Timing and Techniques

Construction of the Wright Compressor Station would require approximately 6 months and an average work force of 75 people. The first step in construction of the compressor station would involve grading of the site. This would be followed by installation of the foundations for the proposed compressors and buildings, erection of the buildings, installation of the compressors and associated piping and wiring, testing of the units, and final grading and landscaping.

The Wright Compressor Station would require the development of its own permanent water supply, septic system, and access roads. These activities would occur along with the construction of the compressor station.

Comment Procedures

Based on a preliminary analysis of the application for the Wright Compressor Station and the environmental information provided by the applicant, the staff has identified the following issues which will be discussed in the EA:

- Air and noise impacts associated with the construction of the Wright Compressor Station;
- Visual and aesthetic impacts associated with construction and operation of the Wright Compressor Station; and
- Alternatives to the proposed Wright Compressor Station to avoid impacts related to this new facility.

Comments are also solicited on any additional topics of environmental concern. Comments recommending that the FERC staff address specific environmental issues should be supported with a detailed explanation of the need to consider such issues.

A copy of this notice and request for comments on environmental issues has been sent to Federal, state and local environmental agencies, parties in this proceeding, and the public. *Comments on the scope of the EA should be filed as soon as possible but no later than March 1[illegible], 1992.* All written comments must reference the docket listed above and be addressed to: Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

A copy of the comments should also be sent to: Mr. Mark Jensen, Project Manager, Federal Energy Regulatory Commission, room 7312, 825 North Capitol Street, NE., Washington DC 20426.

The EA will be based on the staff's independent analysis of the proposal and, together with the comments received, will comprise part of the record to be considered by the Commission in this proceeding. The EA may be offered as evidentiary material if an evidentiary hearing is held in this proceeding. In the event that an evidentiary hearing is held, anyone not previously a party to this proceeding and wishing to present evidence on environmental or other matters must first file with the Commission a motion to intervene, pursuant to rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214).

Additional information about the proposal is available from Mr. Mark Jensen, telephone (202) 208–1121.

Lois D. Cashell,

Secretary.

[FR Doc. 92–3886 Filed 2–19–92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. EL85–19–118 and EL85–19–119]

Nooksack River Basin, Washington, Skagit River Basin, Washington; Intent To Prepare Separate Environmental Impact Statements and Conduct Scoping Meetings

February 13, 1992.

The staff of the Federal Energy Regulatory Commission (Commission) has determined that licensing 17 proposed hydroelectric power projects in the Nooksack and Skagit River Basins, listed below, would constitute a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969 and the Commission's regulations. Therefore, the staff will prepare separate environmental impact statements (EIS) for the Nooksack and Skagit River Basins.

Skagit River Basin Projects

Thunder Creek Project No. 3913
Rocky Creek Project No. 4378
Diobsud Creek Project No. 4437
Boulder Creek Project No. 6984
Jordan Creek Project No. 9787
Irene Creek Project No. 10100
Jackman Creek Project No. 10269
Rocky Creek Project No. 10311
Anderson Creek Project No. 10416

Nooksack River Basin Projects

Nooksack Falls Project No. 3721
Boulder Creek Project No. 4270
Deadhorse Creek Project No. 4282
Canyon Creek Project No. 4312
Wells Creek Project No. 4628
Glacier Creek Project No. 4738
Canyon Lake Project No. 9231
Clearwater Creek Project No. 10952

The staff's EIS's will objectively consider both site specific and cumulative environmental impacts of the projects and reasonable alternatives, and will include an economic, financial, and engineering analysis.

Scoping Meetings

The major issues to be evaluated in these EIS's will be discussed at two scoping meetings, both scheduled to be held on Wednesday, February 26, 1992. Prior to this date, a scoping document (Scoping Document I) will be mailed to all recipients of this notice; copies will also be available at the scoping meetings. Scoping Document I will be subsequently revised to reflect any new information provided at the scoping meetings (Scoping Document II), which will be mailed to all parties, interested agencies, Indian tribes, and individuals.

All interested individuals, organizations, Indian tribes, and agencies are invited to attend the scoping meetings and assist staff in identifying the scope of environmental issues that should be analyzed in the EIS's. Individuals presenting statements for the record will be asked to identify themselves and indicate the entity they represent.

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[1] The figures referred to in this notice are not being printed in the **Federal Register**, but have been included in the mailing to all those receiving this notice. Copies are also available from the Commission's Public Reference Branch, Room 3104, 941 Capitol Street, NE., Washington, DC 20426, telephone (202) 208–1371.

The first scoping meeting will be held from 9:30 a.m. to 12:30 p.m. at the Washington Department of Wildlife, Region 4 Office conference room, 16018 Mill Creek Boulevard, Mill Creek, Washington 98012. This meeting will focus on resource agency concerns. The second meeting will be held from 7 p.m. to 10 p.m. at the Skagit County Administration Building Hearing rooms B and C, 700 South Second Street, Mount Vernon, Washington 98273. This meeting is primarily designed for public input.

Objectives

At the scoping meetings, the staff will: (1) Present environmental issues that are identified for coverage in the EIS; (2) receive input from meeting participants on the issues presented; (3) clarify the significance of issues; (4) identify any additional issues that need treatment in the EIS; and (5) identify those issues that do not merit treatment in the EIS.

Procedures

Both scoping meetings will be recorded by a stenographer and all statements (oral and written) will become part of the Commission's public record for Docket No. EL85-19-118 and EL85-19-119. Interested persons who are unable to attend, or do not choose to speak at the scoping meetings, may submit written statements for inclusion in the public record. All written comments must be filed with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, until March 31, 1992.

All written correspondence should clearly show on the first page of each document one of the following captions: Nooksack River Basin Docket No. EL85-19-118 or the Skagit River Basin Docket No. EL85-19-119. If a single letter or other piece of correspondence includes information about both basins, the commentor should separate the information and identify the information by river basin.

Further, parties are reminded of the Commission's Rules of Practice and Procedure, requiring parties filing documents about specific project(s) with the Commission, to serve a copy of the document on each person whose name is on the official service list for that specific project(s).

For further information, please contact Tom Dean at (202) 219-2778 about projects located in the Nooksack River Basin, and Lee Emery at (202) 219-2779 about projects located in the Skagit River Basin.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3887 Filed 2-19-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP92-5-000; FERC No. JD92-00603T]

Wyoming Oil and Gas Conservation Commission, et al.; Preliminary Finding

February 12, 1992.

The Wyoming Oil and Gas Conservation Commission (Wyoming) and the United States Department of the Interior, Bureau of Land Management (BLM) determined that the Second Frontier Formation underlying approximately 69,000 acres in Sweetwater County qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978.

For the reasons discussed below, the Commission issues this notice preliminarily finding that the determination is not supported by substantial evidence.

Wyoming's determination and BLM's concurrence

On October 15, 1991, the Commission received Wyoming's notice determining that the Second Frontier Formation underlying approximately 69,000 acres in Sweetwater County qualifies as a tight formation. The Second Frontier Formation, which is approximately 200 feet thick, consists of the following four distinct sandstones:

(1) Upper Second Frontier "A" (upper F2A);
(2) Middle Second Frontier "A" (middle F2A);
(3) Lower Second Frontier "A" (lower F2A); and
(4) Second Frontier "B" (F2B).

The northern border of the recommended area abuts an area that was designated as a tight formation in 1982.[1] The closest Second Frontier well in the area designated as a tight formation in 1982 is about six miles north of the northern boundary of the recommended area.[2] The Southern border of the recommended area abuts the Marianne Field, where at least eight gas wells have been completed in the upper F2A sand, the principal pay sand, or commingled with the F2B sand and/or the Third Frontier sand. Marianne Field gas wells appear to exhibit good to excellent permeability and will produce naturally if air drilled. A Marianne well that is about 2 miles south of the recommended area has produced over 1.5 Bcf from the F2A and F2B sands since it was drilled in 1979.

Wyoming concluded that the Second Frontier Formation meets the Commission's 0.1 millidarcy (md) guideline for permeability based on log-derived permeability data from 19 of the 20 wells drilled within the recommended area. The record shows, however, that only two of these wells—the Burton Hawks' #36-1 (#36-1) and Amoco Chaplin #7-1 (#7-1)—were actually completed for production in the Second Frontier Formation; the other 18 holes are dryhole penetrations. Both wells that are completed for production in the Second Frontier Formation are located along the southern boundary of the recommended area.[3]

By letter dated December 31, 1991, BLM concurred with Wyoming's determination.

Staff's Tolling Letter

By letter dated November 27, 1991, staff requested Wyoming to explain which wells it used to determine the permeability characteristics of the formation and how it determined that a pay section existed in all of its data wells since 18 of the wells were dryholes. In light of the limited amount of relevant permeability and pre-stimulation flow rate data in the notice, staff also requested Wyoming to explain why the usable well data supports the designation of the entire recommended area.

Wyoming's Response

Wyoming's January 2, 1992 response asserts that using openhold log analyses of dry holes as data wells is appropriate because the wells "provide a point of control and their permeability can be analyzed using current technology."[4]

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[1] Wyoming Docket No. 113-81 and FERC Docket No. RM79-76 (Wyoming-9). This proceeding covered over 253,090 acres and designated the entire Frontier Formation, consisting of the First Frontier, Second Frontier, and Third Frontier Sands as a tight formation.

[2] The record for the Wyoming-9 area shows that the Woods Petroleum Steamboat Mtn. Unit #1 well was completed in the Second Frontier Formation but does not identify which of the four sands was perforated. The Second Frontier in this well is encountered at 11,850 feet, almost 5,000 feet deeper than the average depth to the top of the Second Frontier within the subject area.

[3] The #36-1 well is completed in the F2B sand and the #7-1 well is completed in the upper F2A sand.

[4] Under § 275.202(b), the 45-day review period commences when a response is received to a tolling letter.

Wyoming maintains that "this technology has proved that the average permeability within the application area is less than 0.1 md" and asserts that the log-derived permeabilities were verified by the mathematical simulator which is based on the reservoir characteristics of the upper F2A sand found in the Marianne Field. Wyoming's response does not explain how it determined that gas bearing pay sections exist in the data wells used to calculate Second Frontier permeability values.[5]

Wyoming also explained that the good performance of the #7–1 well, which produced 1,203 Mcfd before stimulation, was because it was air drilled.[6] Wyoming asserts that this type of drilling operation is extremely risky and, in the majority of cases, unsuccessful.

Discussion

The determination does not contain substantial evidence showing that the estimated average *in situ* permeability meets the Commission's guideline.

§ 271.703(c)(2) of the Commission's regulations establishes guidelines that a formation must meet to qualify as a tight formation. Among other things, the estimated average *in situ* gas permeability, throughout the pay section, must be expected to be 0.1 md or less.

The record shows that Wyoming and BLM used data from 18 dryholes in the Second Frontier Sand in determining that the estimated average *in situ* permeability meets the Commission's guideline. We find that Wyoming's and BLM's use of permeability data based on electric logs from dryholes is inappropriate. The regulations require the *in situ* permeability to be estimated throughout the pay section because they are focused on the actual portions of a formation that will produce gas.[7] The log analysis data shows that most of the Second Frontier Formation evaluated in the dryholes has very high water saturations and little or no space to hold gas. Therefore, the dryholes do not appear to provide data upon which one could base an estimate of the Second Frontier's *in situ* gas permeability in those portions of the formation that will produce gas.

We note that the permeability value for one of the wells completed in the Second Frontier Formation (the #36–1) is 0.003 md,[8] and that no log-derived permeability value is available for the other well (the #7–1 well).[9] We also note that the record also indicates that there is good permeability to gas in the sand in that area since the #7–1 well, produced substantial gas volumes from the upper F2A sand without stimulation

In view thereof, therefore, the Commission finds that the determination does not contain substantial evidence showing that the estimated average *in situ* permeability meets the Commission's guideline.

The determination does not contain substantial evidence showing that the expected stabilized pre-stimulation flow rate meets the Commission's guideline.

In order to qualify as a tight formation, the stabilized production rate, against atmospheric pressure, of wells completed for production in the formation must not be expected to exceed the maximum allowable in § 271.703(c)(2)(i)(B) of the commission's regulations. The applicable maximum allowable for the Second Frontier Formation is 251 Mcfd.

Wyoming based its conclusion that the expected stabilized pre-stimulation flow rate meets the Commission's guideline on a computer generated reservoir simulation of the characteristics of only the upper F2A sand. However, the record shows that the average pre-stimulation flow rate for the two wells completed for production in the Second Frontier Formation exceeds the guideline of 251 Mcfd. We find that it is inappropriate to use a model when actual flow rate data is available for wells completed in the recommended formation in the recommended area.[10]

Additionally, the data in the record appears to show that the area were the two wells are completed for production has more in common with the Mariane Field gas wells just outside the recommended area than with the area to the north which has already been designated as a tight formation. For example, less than one mile to the southwest, Burton Hawks' MADE X #12–1 well produced 802 Mcfd prior to stimulation and appears to exhibit good permeability to gas. Other Marianne Field wells adjacent to the recommended area also exhibit upper F2A sand characteristics that are similar to the #7–1 well (i.e., low water saturations and high pre-stimulation flow rates). The #7–1 is an air drilled Marianne Field upper F2A sand completion which initially produced 1,203 Mcfd without stimulation.

Therefore, we find that the record does not contain substantial evidence showing that the expected stabilized prestimulation flow rate meets the Commission's guidelines.

Under § 275.202(a) of the regulations, the Commission may make a preliminary finding, before any determination becomes final, that the determination is not supported by substantial evidence in the record. Based on the foregoing facts, the Commission hereby makes a preliminary finding that Wyoming's and BLM's determination is not supported by substantial evidence in the record upon which it was made. The jurisdictional agencies or the applicant may, within 30 days from the date of this preliminary finding, submit written comments and request an informal conference with the commission pursuant to § 275.202(f) of the regulations. A final Commission order will be issued within 120 days after the issuance of this preliminary finding.

By direction of the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 92–3888 Filed 2–19–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. OR92–4–000]

State of Alaska v. Endicott Pipeline Co.; Complaint

February 12, 1992.

Take notice that on January 31, 1992, The State of Alaska (Alaska), pursuant to sections 13 and 16 of the Interstate Commerce Act, 49 U.S.C. 13, 16 and Rules 206 and 207 of the Federal Energy Regulatory Commission's Rules of Practice, 18 CFR 385.206 and 385.207, tendered for filing a complaint for relief from the tariff rate charged by Endicott Pipeline Company (Endicott).

Alaska requests that the Commission institute an investigation of Endicott's rate during the period February 1, 1990 through the present, and urges the Commission to adopt a variable tariff methodology to reflect trends of increasing throughput and decreasing net property. However, Alaska requests that a hearing on its complaint not commence until after issuance of a Commission order on an initial decision on Endicott's rates issued in May 1991.

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[5] The response does not provide any new information regarding the permeability characteristics of all four sands of the Second Frontier Formation.

[6] Air drilling causes the least damage to the reservoir since water-laden muds are not used. Invasive water-laden muds reduce gas flow because they damage the face of the formation. As a result, data from an air-drilled well provides a more accurate indication of a reservoir's *in situ* permeability characteristics.

[7] The permeability to gas decreases as water saturation increases, therefore, gas permeabilities in predominately water saturated intervals are not generally an appropriate measure of *in situ* permeability in gas saturated pay sections within a formation.

[8] This permeability value only applies to one sand.

[9] A permeability value isn't available because a washout (i.e., good porosity) across the sand prevented accurate measurements by the downhole logging equipment.

[10] We note that no attempt was made to match the actual production of the #13–1 well, which is only 1.5 miles southwest of the #7-1 well, to the simulation model. The #13–1 well, which gauged 2,400 Mcfd during drilling, flowed 1,597 Mcfd without stimulation after being perforated in the upper F2A and F2B sands, a rate well in excess of the Commission's guideline.

Any person desiring to be heard or to protest said complaint should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214, 385.211. All such motions or protests should be filed on or before March 13, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. Answers to this complaint shall be due on or before March 13, 1992.

Lois D. Cashell,
Secretary.

[FR Doc. 92-3889 Filed 2-19-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-188-007]

El Paso Natural Gas Co., Amendment to Motion of El Paso Natural Gas Company to Place Tariff Sheets Into Effect

February 12, 1992.

Take notice that on January 30, 1992, El Paso Natural Gas Company ("El Paso"), pursuant to § 385.215 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("Commission"), submitted an amendment to its motion to place tariff sheets into effect on January 1, 1992 in the captioned proceeding. El Paso states that tendered 1st Sub First Revised Sheet No. 118 contained in its FERC Gas Tariff, First Revised Volume No. 1-A reflects a revised billing determinant for Citizens Utilities Company ("Citizens"). El Paso has requested that the tendered tariff sheet be substituted for its respective counterpart and permitted to become effective January 1, 1992.

El Paso states that on December 30, 1991 at Docket No. RP91-188-006, El Paso, pursuant to section 4(e) of the Natural Gas Act and § 154.67(a) of the Commission's Regulations Under the Natural Gas Act, filed a motion to place into effect on January 1, 1992 certain tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1-A which, among other things, included a billing determinant for Citizens. El Paso states that such billing determinant reflected succession by Citizens of Southern Union Gas Company's ("Southern Union") properties in northern Arizona and the consolidation with all of Citizens' southern Arizona properties. El Paso noted in the motion that, among other things, on December 27, 1991 at Docket No. RP92-69-000 (redocketed as Docket No. GT92-11-000), El Paso filed a revision to Rate Schedule T-3 to establish billing determinants applicable to Citizens and the removal of Southern Union billing determinants applicable to the State of Arizona.

El Paso states that subsequently El Paso and Citizens entered into a firm Transportation Service Agreement under Rate Schedule T-3 consolidating Citizens' distribution systems in southern Arizona with those properties recently acquired from Southern Union in northern Arizona. El Paso states that the Citizens' Nogales Electric Generating Power Plant Delivery Point, has been excluded from firm transportation service under Rate Schedule T-3. In connection with the firm Transportation Service Agreement, El Paso and Citizens have agreed to a restated billing determinant which relates solely to El Paso's proposal in Docket No. RP91-188-000 to implement new rates on its system, which proposal has been accepted by the Commission subject to refund. Therefore, El Paso is restating the billing determinants in Docket No. RP91-188-000 from 75,761 dth to 69,353 dth for Citizens southern and northern Arizona distribution system deliveries. El Paso states that the proposed revision establishes a billing determinant for Citizens effective January 1, 1992 and does not impact El Paso's remaining customers.

El Paso has requested that the Commission accept the amendment to the motion and, to the extent deemed necessary, moves that the tendered tariff sheet be substituted for its counterpart and be permitted to be placed into effect on January 1, 1992.

El Paso states that copies of the filing were served upon each person designated on the official service list compiled by the Secretary in Docket No. RP91-188-000, and otherwise, upon all interstate pipeline system transportation and sales customers of El Paso and interested state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedures, 18 CFR 385.211. All such protests should be filed on or before February 20, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 92-3890 Filed 2-19-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI92-23-000]

Equitable Resources Energy Co. (Successor-in-Interest to Maxus Exploration Co.); Application

Dated: February 12, 1992.

Take notice that on January 13, 1992, Equitable Resources Energy Company (EREC) of 420 Boulevard of the Allies, Pittsburgh, Pennsylvania 15219, filed an application pursuant to Section 7 of the Natural Gas Act and Parts 154 and 157 of the Federal Regulatory Commission's (Commission) regulations thereunder as successor-in-interest to Maxus Exploration Company (Maxus) for a certificate of public convenience and necessity to continue the sale previously made by Maxus under its certificate in Docket No. CI69-2 and related FERC Gas Rate Schedule No. 24, all as more fully set forth in the application which is on file with the commission and open for public inspection.

Effective July 1, 1991, Maxus assigned to EREC its interest in the production underlying a May 23, 1968 contract.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 2, 1992, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All protests filed with the commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for EREC to appear or to be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3891 Filed 2-19-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-111-000]

Florida Gas Transmission Co.; Petition for Limited Waiver of Tariff Provisions

February 12, 1992.

Take notice that on February 10, 1992, Florida Gas Transmission Company (FGT) hereby petitions the Commission for a limited waiver of Commission policy and FGT's FERC Gas Tariff in order to allow West Florida Natural Gas Company (West Florida) to add two delivery points to an existing firm transportation service agreement between FGT and West Florida while permitting West Florida to retain its existing priority in FGT's first-come, first-served queue.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before February 20, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3892 Filed 2-19-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-12-4-000]

Granite State Gas Transmission, Inc.; Proposed Changes in Rates

February 12, 1992.

Take notice that on February 10, 1992, Granite State Gas Transmission, Inc. (Granite State), 300 Friberg Parkway, Westborough, Massachusetts 01581 filed Fifth Revised Sheet No. 24A in its FERC Gas Tariff, Second Revised Volume No. 1, containing changes in rates for effectiveness on March 12, 1992.

According to Granite State, its filing flows through to its customer, Bay State Gas Company, revised take-or-pay buydown and buyout costs that will be directly billed to Granite State by Algonquin Gas Transmission Company (Algonquin). It is further stated that on January 30, 1992, Algonquin filed in Docket No. TM92-12-20-000 to passthrough to Granite State its share of take-or-pay costs allocated to Algonquin by CNG Transmission Corporation. Granite State further states that it has previously established in Docket No. RP91-122-000 the tariff procedures for flowing through the Algonquin take-or-pay costs and the instant filing is consistent with its approved tariff procedures.

Granite State further states that copies of its filing were served on its customers and the regulatory commissions of the states of Maine, Massachusetts and New Hampshire.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before February 20, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3893 Filed 2-19-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-112-000]

Northwest Pipeline Corporation; Petition of Northwest Pipeline Corporation for Declaratory Order to Remove Uncertainty

February 12, 1992.

Take notice that on February 10, 1992, Northwest Pipeline Corporation ("Northwest") submitted for filing a Petition for Declaratory Order pursuant to Rule 207 of the Commission's Rules of Practice and Procedure. Such Petition is for the purpose of resolving in the context of a Section 4 proceeding the uncertainty which currently exists regarding the appropriate rate treatment for the costs and revenues associated with new facilities (the "expansion facilities") to be constructed by Northwest pursuant to a certificate of public convenience and necessity which Northwest anticipates receiving in Docket No. CP91-780-000. Northwest is seeking a determination of the appropriate rate design of the costs and revenues associated with the expansion facilities. The specific rates will be determined in a general rate proceeding involving a showing of costs and revenues.

Northwest states that copies of the filing have been served on its jurisdictional customers and state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before February 20, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3894 Filed 2-19-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP92-7-000]

Pike County Citizens for Justice v. Ashland Exploration, Inc.; Complaint

February 12, 1992.

Take notice that on October 29, 1991, Pike County Citizens for Justice (Pike County) tendered for filing a complaint against Ashland Exploration, Inc., a subsidiary of Ashland Oil, Inc. (Ashland).

Pike County asserts that Ashland has indicated that they are taking action pursuant to KRS 278.485, or a lease or a right-of-way agreement. Pike County states that it has a correspondence from Ashland that they intend to charge $5.25 per thousand cubic feet (MCF), and stated that the rate is effective November 1, 1991. In the correspondence, Pike County asserts, Ashland further indicated that they reserve the right to unilaterally establish a new price from time to time, with fifteen days prior written notice and that, unless the customers and addressee return a letter indicating acceptance of the service, they intend to discontinue any existing service to the customer.

Pike County states that many of the individuals who are members of the Pike County Citizens for Justice, have specific contractual agreements with the predecessors in title to Ashland Exploration, Inc. and those agreements specifically set forth a rate to be charged for the natural gas and those rates are substantially below the $5.25 per thousand cubic feet (MCF) that Ashland attempts to mandate to the customers.

Pike County requests that the Commission conduct an investigation of the unilateral actions of Ashland and to hold any necessary hearing in order to address the grievance of the individuals comprising the Pike County Citizens for Justice.

Any person desiring to be heard or to protest said complaint should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE.,Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before March 13, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. As Ashland has informally submitted an explanation of the basis for its rate increase, any further answer to the complaint must be submitted on or before February 25, 1992.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3895 Filed 2-19-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. FA90-19-000, RP91-186-000]

Southern Energy Co.; Informal Settlement Conference

February 12, 1992.

Take notice that an informal settlement conference will be convened in this proceeding commencing on Wednesday, March 4, 1992, at 11 a.m., at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC, for the purpose of exploring the possible settlement of the above-referenced dockets.

Any party, as defined by 18 CFR 285.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations. (18 CFR 385.214)

For additional information, contact Betsy R. Carr at (202) 208-1240.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3896 Filed 2-19-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-11-001]

Southern Natural Gas Co.; Proposed Changes to FERC Gas Tariff

February 12, 1992.

Take notice that on January 30, 1992, Southern Natural Gas Company ("Southern") tendered for filing the following tariff sheets to its FERC Gas Tariff, Sixth Revised Volume No. 1, to be effective March 1, 1992:

First Revised Sheet No. 45.03
First Revised Sheet No. 45.04
First Revised Sheet No. 30Z.11

Southern states that the purpose of this filing is to implement certain tariff revisions agreed to by Southern and protesting parties as a result of the technical conference held in Docket No. RP92-11-000 on January 7, 1992. The provisions allow firm sales customers to choose between alternate delivery point allocation procedures on a monthly basis and provide that an IT shipper which is bumped by an FT shipper nominating at an alternate receipt point can continue to serve its market for the following day of service unless it is the first day of the month or a day of curtailment or force majeure. Southern has been authorized by the protesting parties to represent that this filing constitutes a settlement of the protests filed in this docket. Southern has requested that these sheets be made effective March 1, 1992.

Southern states that copies of the filing will be served upon its jurisdictional purchasers, shippers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before February 20, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3897 Filed 2-19-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP92-95-000 and CP90-1874-003]

U-T Offshore System; Compliance Filing and Proposed Changes in FERC Gas Tariff

February 12, 1992.

Take notice that on February 11, 1992, U-T Offshore System (U-TOS) filed revised tariff sheets in compliance with the Federal Energy Regulatory Commission's December 31, 1991 order in Docket Nos. RP92-47-000 and CP90-1874-000. In addition, U-TOS filed a revised tariff sheet to reflect a rate increase of 0.25¢ per Mcf in its demand charge. U-TOS proposes that these tariff sheets become effective January 1, 1992.

U-TOS states that in compliance with the Commission's December 31, 1991 order, U-TOS filed Substitute First Revised Sheet No. 72 and First Revised Sheet No. 72-A to its Second Revised Volume No. 1. U-TOS states that it has also paid the $34,550 filing fee for amendment of its certificate to continue its capacity brokering program as required by the Commission's December 31, 1991 order.

In addition, U-TOS claims that such filing fee substantially increases its regulatory expenses and is a known and measurable expense appropriate for inclusion it its cost of service. As a result, U-TOS submitted Supplemental Statement K which shows a recomputation of its demand charge to reflect the additional expense. U-TOS also filed Substitute Fourth Revised Sheet No. 5 to its Second Revised Volume No. 1 which reflects the resulting increase of 0.25¢ per Mcf in its demand charge.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before February 20, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3898 Filed 2-19-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-126-009]

United Gas Pipe Line Co.; Compliance Tariff Filing

February 12, 1992.

Take notice that on January 29, 1992, United Gas Pipe Line Company (United) tendered for filing, pursuant to part 154 of the Federal Energy Regulatory Commission's (Commission) Regulations Under the Natural Gas Act, the following tariff sheets:

Third Revised Volume No. 1

Substitute Original Sheet No. 1
First Revised Sheet No. 6
Second Substitute Original Sheet No. 25
First Revised Sheet No. 33
Second Substitute Original Sheet No. 40
First Revised Sheet No. 53
Second Substitute Original Sheet No. 80
Second Substitute Original Sheet No. 81
Second Substitute Original Sheet No. 82
Second Substitute Original Sheet No. 85
First Revised Sheet No. 110
Second Substitute Original Sheet No. 127
Original Sheet No. 127A
Original Sheet No. 127B
Original Sheet No. 127C
Original Sheet No. 127D
Original Sheet No. 127E
Original Sheet No. 127F
Original Sheet No. 127G
Original Sheet No. 127H
Original Sheet No. 128
Second Substitute Original Sheet No. 185
First Revised Sheet No. 186
First Revised Sheet No. 201
First Revised Sheet No. 205
First Revised Sheet No. 212
First Revised Sheet No. 217
First Revised Sheet No. 221
First Revised Sheet No. 226
First Revised Sheet No. 227

United states the tariff sheets serve to comply with the Commission's October 7, 1991 Order on Technical Conference and its December 30, 1991 Order Granting Rehearing in Part, Denying Rehearing in Part, and Granting Clarification in Docket No. RP91-126-003, *et al.*, to clarify certain language inconsistencies found in Third Revised Volume No. 1, and to include the terms of participation in High Island Offshore System's and U-T Offshore System's Experimental Capacity Brokering programs in United's Third Revised Volume No. 1.

Sheets Filed To Comply With The Commission's October 7, 1991 and December 30, 1991 Orders

In order to comply with the Commission's October 7, 1991 and December 30, 1991 orders, United filed Second Substitute Original Sheet No. 81 to permit firm shippers unlimited access to supplemental receipt points.

United also filed First Revised Sheet No. 110, section 19.1 of the General Terms and Conditions, modifying it to state that United must notify a customer in writing of an imbalance exceeding the stated tolerance level.

Sheets Filed To Clarify Tariff Language

United states it has filed several sheets to correct several minor language inconsistencies found after a review of its Third Revised Volume No. 1.

United states that the phrase "Equivalent Volume" was replaced with "Equivalent Quantities" on First Revised Sheet No. 53, Second Substitute Original Sheet No, 85, First Revised Sheet No. 201, and First Revised Sheet No. 217 to clarify reference to MMBtu, instead of Mcf. First Revised Sheet No. 53 has also been revised to eliminate an improper reference to "Transporter Receipt Points". The proper reference is to "Delivery Points".

Additionally, Second Substitute Original Sheet No. 82 has been revised to correct an improper section reference.

Second Substitute Original Sheet No. 185 and First Revised Sheet No. 226, Exhibit B for MRSDS and ITS respectively, have been revised to eliminate an improper reference to gas tendered by a customer for transportation. The correct reference is to delivery points for gas to be redelivered to customers.

Finally, First Revised Sheet No. 6, Second Substitute Original Sheet No. 25, First Revised Sheet No. 33, Second Substitute Original Sheet No. 40, and First Revised Sheet Nos. 186, 205, 212, 221, and 227 have been revised to eliminate references to Gas Research Institute charges. United states it resigned is GRI membership effective January 1, 1992. Authority for this change was granted by Commission Letter Order dated December 31, 1991 in Docket No. TM92-2-11-000.

Sheets Filed To Include Capacity Brokering Terms

United states it has filed Second Substitute Original Sheet No. 127 and Original Sheet Nos. 127A through 127H in order to include in Third Revised Vol. No. 1 the terms of its participation in the Experimental Capacity Brokering programs on High Island Offshore System and U-T Offshore System. These terms were approved by Letter Order dated August 15, 1991 and included in United's Second Revised Volume No. 1, but were inadvertently omitted during the creation of Third Revised Volume No. 1. United states that the terms contained in these tariff sheets are identical to those terms appearing in United's Second Revised Volume No. 1, except for section heading and numbering changes.

Additionally, United has filed Substitute Original Sheet No. 1, containing the Table of Contents, to reflect the inclusion of the Capacity Brokering terms in the General Terms and Conditions, Section 28.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before February 20, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3899 Filed 2-19-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GT92-9-000]

Valero Interstate Transmission Co.; Proposed Changes in FERC Gas Tariff

February 11, 1992.

Take notice that Valero Interstate Transmission Company (Vitco) on December 6, 1991, tendered for filing the following tariff sheets as required by Order 537 containing changes to its tariff language which require Shippers to provide appropriate certification including sufficient information to verify that each of its 311 transportation services qualifies under the Commission's regulations:

FERC Gas Tariff, First Revised Volume No. 1

1st Revised Sheet No. 51
Original Sheet No. 73
Original Sheet Nos. 74-75

Vitco states that this filing reflects changes in its tariff language to comply with the requirements of Order No. 537 issued September 20, 1991.

The proposed effective date of the above filing is January 6, 1992. Vitco request a waiver of any Commission order or regulations which would prohibit implementation by January 6, 1992.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before February 19, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3900 Filed 2-19-92; 8:45 am]

BILLING CODE 6717-01-M

Wisconsin Electric Power Co. Notice Soliciting Applications

[Project No. 2523—Wisconsin]

February 12, 1992.

On December 19, 1988, Wisconsin Electric Power Company, the existing licensee for the Oconto Falls Hydroelectric Project No. 2523, filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Public Law 99-495. The original license for Project No. 2523 was issued effective April 1, 1962, and expires December 31, 1993.

The project is located on the Oconto River in Oconto County, Wisconsin. The principal project works consist of: (a) A dam which includes a 175-foot-long earth dike, a 120-foot-long gravity dam, a spillway with three Taintor gates, a 110-foot-long gravity dam, and a 1,350-foot-long earth dike; (b) a reservoir of 240 acres; (c) a powerhouse with an installed capacity of 1,320 kW; (d) a transmission line connection; and (e) appurtenant facilities.

Pursuant to § 16.20 of the Commissions regulations, the deadline for filing an application for new license and any competing license applications was December 31, 1991. No applications for license for this project were filed. Therefore, pursuant to § 15.25 of the Commission's regulations, the Commission is soliciting applications from potential applicants other than the existing licensee.

Pursuant to § 16.19 of the Commissions regulations, the licensee is required to make available certain information described in § 16.7 of the Commission's regulations. Such information is available from the licensee at Real Estate Department, Public Service Building Room 452, 231 West Michigan Street, Milwaukee, WI 53201.

A potential applicant that files a notice of intent within 90 days from the date of issuance of this notice: (1) May apply for a license under part I of the Act and part 4 (except section 4.38) of the Commission's regulations within 18 months of the date on which it files its notice; and (2) must comply with the requirements of § 16.8 of the Commission's regulations.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3901 Filed 2-19-92; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4105-6]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before March 23, 1992.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 260-2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: New Source Performance Standard (NSPS) For Sewage Treatment Plant Incineration (Subpart O) (EPA No. 1063.05, OMB No. 2060-0035).

Abstract: This ICR is for an extension of an existing information collection in support of NSPS requirements as established by the Clean Air Act. Under the general NSPS requirements at 40 CFR 60.7-60.8 and the more specific requirements at 40 CFR part 61.7 and 40 CFR part 61.153-61.155, owners or operators of facilities subject to the NSPS must demonstrate compliance by fulfilling specific monitoring, reporting, and recordkeeping requirements. The information collected will be used by the EPA and State agencies for monitoring, inspection, and enforcement purposes.

Owners or operators of new plants must: (1) Notify the EPA of the facility's construction, (2) provide EPA with the anticipated and actual start-up dates of the facility, (3) perform an initial performance test and report the results to the EPA, and (4) notify the EPA of the continuous monitoring system demonstration.

Owners and operators of all subject facilities must: (1) Notify the EPA of any relevant physical or operational changes, (2) continuously monitor and record the pressure drop and the amount of oxygen in the incinerator exhaust gases upstream of the emission control device, (3) submit semiannually a report that includes the periods of 15 minutes or more during which the pressure of the wet scrubbing device fell below a specified level and the average oxygen content in the incinerator exhaust gas for each period of 1 hour or more that it exceeds a specified level.

In addition, owners and operators of incinerators with particulate emissions exceeding 0.38 grams/kilogram dry sludge input must: (1) Continuously monitor and record the temperature profile of the incinerator and sludge feed rate to the incinerator, (2) measure and record the fuel consumed for each 8-hour period of incinerator operation, and (3) record the moisture and volatile content of the sludge being incinerated daily. This additional information must be included in their semiannual report along with a record of the average scrubber pressure drop and average oxygen content of the incinerator exhaust over each one hour period.

Owners or operators of facilities with control devices other than wet scrubbers must seek EPA approval by submitting a plan for monitoring and recording incinerator and control device operation parameters and report semiannually on the measurements as described in the approved plan.

An estimated average of 80 facilities will be subject to the regulations with an average growth of 3 facilities per year over the next three years. The data collected by the monitoring and recordkeeping systems would be retained at the facility for a minimum of 2 years.

Burden Statement: Public reporting burden for this collection of information

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is estimated to average 27 hours per response including time for reviewing instructions, searching existing data sources, gathering and maintaining data, and completing and reviewing the collection of information. Public recordkeeping burden is estimated to average 137 hours, annually.

Respondents: Sewage treatment plant incinerators.

Estimated Number of Respondents: 80.

Estimated Number of Responses Per Respondent: 2.

Estimated Total Annual Burden on Respondents: 15,104 hours.

Frequency of Collection: Semiannually for existing facilities, on occasion for new facilities. Daily recordkeeping requirements.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM-223Y), 401 M Street, SW., Washington, DC 20460.

and

Troy Hillier, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th St., NW., Washington, DC 20503.

Dated: February 11, 1992.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 92-3950 Filed 2-19-92; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4105-5]

Technology Innovation and Economics Committee's Focus Group on Environmental Permitting of the National Advisory Council for Environmental Policy and Technology; Open Meeting

Under Public Law 92-463 (The Federal Advisory Committee Act), EPA gives notice of the next meeting of the Focus Group on Environmental Permitting of the Technology Innovation and Economics (TIE) Committee. The TIE Committee is a standing committee of the National Advisory Council for Environmental Policy and Technology (NACEPT), the external policy advisory committee to the Administrator of the EPA. The TIE Committee and NACEPT are seeking ways to enhance the effectiveness of the environmental management system in the United States. The meeting will convene March 11-12, 1992, at 9 a.m., at 1501 Wilson Boulevard, suite 1200, Arlington, VA 22209.

The purpose of the meeting is to continue the Focus Group's efforts to produce a second report and recommendations, this one addressing the relationship between permitting and compliance policy, and pollution prevention, and identifying associated opportunities under TSCA, FIFRA, and EPCRA. At least the following themes raised by the Focus Group will be discussed:

(1) Being effective with Agency resources
(2) Implementing pollution prevention throughout EPA
(3) Support, including improved training, technology transfer, and technical assistance, for industry and state and local government
(4) Multimedia permitting and compliance initiatives (e.g., the Model States program)
(5) Facility planning, in the context of pollution prevention permitting and compliance
(6) Pollution prevention-based compliance and enforcement initiatives
(7) Research, development, and demonstration (RD&D) permitting—flexibility for pollution prevention.

The Focus Group will discuss potential recommendations to be included in its second report and recommendations.

The March meeting will be open to the public. People wishing to deliver comments at the meeting should identify themselves to the individuals identified below at least 24 hours before the meeting. There may not, however, be an opportunity to make oral comments at the meeting. People wishing to make comments prior to or subsequent to the meeting are assured that all written comments received will be reviewed by the Focus Group. Comments may be provided to and additional information may be obtained from David R. Berg or Morris Altschuler at EPA (A 101-F6), 401 M Street SW., Washington, DC 20460, by calling 202-260-9153, or by written request sent by fax (202-260-6882).

Dated: February 6, 1992.

Abby J. Pirnie,

NACEPT Designated Federal Official.

[FR Doc. 92-3951 Filed 2-19-92; 8:45 am]

BILLING CODE 6560-50-M

[OPP-42069; FRL-3945-3]

South Dakota; Approval of Interim Program for Certification of Applicators of Compound 1080 Livestock Protection Collars and Intent to Approve the Permanent Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Regional Administrator, EPA Region VIII, has granted the South Dakota Department of Agriculture interim authority to certify applicators of compound 1080 livestock protection collars. This interim program began on June 3, 1991 and ended on August 31, 1991. The South Dakota Department of Agriculture has submitted an amendment to the existing South Dakota pesticide applicator certification plan to provide for a permanent program to certify applicators of compound 1080 livestock protection collars. Notice is given of the intention of the Regional Administrator, Region VIII, to approve this amendment. Interested persons are invited to comment.

DATES: Written comments must be submitted on or before March 23, 1992.

ADDRESSES: Address comments identified by the docket control number OPP-42069 to: Ronald Schiller, Environmental Protection Agency, Region VIII, Toxic Substances Branch, 999 18th St., suite 500, Denver, CO 80202-2405.

FOR FURTHER INFORMATION CONTACT: Ronald Schiller (303) 293-1733.

SUPPLEMENTARY INFORMATION: In accordance with section 11(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, and 40 CFR part 171, Jay Swisher, Secretary, South Dakota Department of Agriculture has submitted to EPA an amendment to the South Dakota State Plan to permit certification of private and commercial applicators of the compound 1080 livestock protection collar.

I. Summary of Plan

The South Dakota Plan sets up a special certification category for both private and commercial applicators. Commercial and private applicators will be certified in the livestock protection collar category. Competency will be determined through pass/fail written examinations after completion of the approved training course. Additionally, private applicators must meet the currently existing private applicator general certification competency standards. The State estimates that there will be 45 private and commercial applicators requesting certification to use the collar.

The written examination which the State will use to determine competency was attached to the Plan, but will not be available for public review in order to protect the integrity of the examination. EPA has reviewed the examination and determined that it satisfactorily measures the competency of the applicators.

Recertification must take place at least every 2 years. Recertification will be granted by retaking and passing the compound 1080 livestock protection collar written examination and maintaining the other required certification.

All private and commercial applicators will be required to complete a training course presented jointly by the South Dakota Department of Agriculture, South Dakota State University Cooperative Extension Service, South Dakota Department of Game, Fish and Parks, and USDA-APHIS. The training package has been reviewed by EPA and it has been determined that it satisfactorily fulfills the Agency's training requirements. The course will use a training package developed by Texas A&M University under a contract from EPA.

Compound 1080 livestock protection collars will only be available to applicators through the South Dakota Department of Game, Fish and Parks, Animal Damage Control Section.

Applicators who cannot read will not be certified. Reciprocity will only be granted to applicators holding a specific compound 1080 livestock protection collar certification from a program approved by EPA. Reciprocity will be further limited to those who own or lease land in South Dakota.

II. Public Comments

Copies of the plan amendment are available for review at the following locations during normal business hours:

1. South Dakota Department of Agriculture, 445 East Capitol, Pierre, SD 57501, Telephone: (605) 773-3724.
2. EPA Region VIII, 999 18th St., suite 500, Denver, CO 80202, Telephone: (303) 293-1733.

Dated: February 4, 1992.

Jack W. McGraw,

Acting Regional Administrator, Region VIII.

[FR Doc. 92-3942 Filed 2-19-92; 8:45 am]

BILLING CODE 6560-50-F

[OPP-100102; FRL-4046-2]

DPRA Incorporated, ABT Associates, ICF Incorporated, Cadmus Group Inc., Sobotka Company; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This is a notice to certain persons who have submitted information to EPA in connection with pesticide information requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). DPRA Incorporated and its subcontractors, ABT Associates, ICF Incorporated, Cadmus Group Inc., and Sobotka Company, hereinafter "DPRA Inc. and its subcontractors," have been awarded a contract to perform work for EPA's Office of Pesticide Programs, and will be provided access to certain information submitted to EPA under FIFRA and the FFDCA. Some of this information may have been claimed to be confidential business information (CBI) by submitters. This information will be transferred to DPRA Inc. and its subcontractors consistent with the requirements of 40 CFR 2.307(h)(3) and 40 CFR 2.308(h)(2). This transfer will enable DPRA Inc. and its subcontractors to fulfill their obligations under the contract, and serves to notify affected persons.

DATES: DPRA Inc. and its subcontractors will be given access to this information no sooner than February 24, 1992.

FOR FURTHER INFORMATION CONTACT: By mail: Clare Grubbs, Program Management and Support Division (H7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 212, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305-7460.

SUPPLEMENTARY INFORMATION: Under Contract No. 68-D1-0134, DPRA Inc. and its subcontractors will assist the Office of Pesticide Programs to develop regulatory impact analyses and benefits analyses in support of agency rulemaking and pesticide regulatory activities.

The Office of Pesticide Programs has determined that access by DPRA Inc. and its subcontractors to information on all pesticide chemicals is necessary for the performance of the contract.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of the FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(2), the contract with DPRA Inc. and its subcontractors prohibits use of the information for any purpose not specified in the contract; prohibits disclosure of the information in any form to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor or subcontractors sign an agreement to protect the information from unauthorized release and to handle it in accordance with the FIFRA Information Security Manual. In addition, DPRA Inc. and its subcontractors are required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to this contractor or its subcontractors until these requirements have been fully satisfied. Records of information provided to this contractor and its subcontractors will be maintained by the Project Officer for this contract in the EPA Office of Pesticide Programs. All information supplied to DPRA Inc. and its subcontractors by EPA for use in connection with this contract will be returned to EPA when DPRA Inc. and its subcontractors have completed their work.

Dated: February 5, 1992.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 92-3944 Filed 2-19-92; 8:45 am]

BILLING CODE 6560-50-F

[OPP-60027; FRL-4048-8]

Intent to Suspend Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of issuance of notices of intent to suspend.

SUMMARY: This notice, pursuant to section 6(f)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 et seq., announces that EPA has issued Notice(s) of Intent to Suspend pursuant to section 3(c)(2)(B) of FIFRA. The notice(s) were issued following issuance of Data Call-In Notice(s) by the Agency and the failure of registrant(s) subject to the Data Call-In Notice(s) to take appropriate steps to secure the data required to be submitted to the Agency. This notice includes the text of a Notice of Intent to Suspend, absent specific chemical, product, or factual information. Table A of this notice further identifies the registrant(s) to whom the Notice(s) of Intent to Suspend were issued, the date each Notice of Intent to Suspend was issued, the active ingredient(s) involved, and the EPA registration number(s) and name(s) of the registered product(s) which are affected by the Notice(s) of Intent to Suspend. Moreover, Table B of this notice identifies the basis upon which the Notice(s) of Intent to Suspend were issued. Finally, matters pertaining to the timing of requests for hearing are

specified in the Notice(s) of Intent to Suspend and are governed by the deadlines specified in section 3(c)(2)(B). As required by section 6(f)(2), the Notice(s) of Intent to Suspend were sent by certified mail, return receipt requested, to each affected registrant at its address of record.

FOR FURTHER INFORMATION CONTACT: Stephen L. Brozena, Office of Compliance Monitoring (EN-342), Laboratory Data Integrity Assurance Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (703) 308-8267.

SUPPLEMENTARY INFORMATION:

I. Text of a Notice of Intent to Suspend

The text of a Notice of Intent to Suspend, absent specific chemical, product, or factual information, follows:

United States Environmental Protection Agency

Office of Pesticides and Toxic Substances

Washington, DC 20460

Certified Mail

Return Receipt Requested

SUBJECT: Suspension of Registration of Pesticide Product(s) Containing __________ for Failure to Comply with the 3(c)(2)(B) Data Call-In Notice for __________ Dated __________.

Dear Sir/Madam:

This letter gives you notice that the pesticide product registration(s) listed in Attachment I will be suspended 30 days from your receipt of this letter unless you take steps within that time to prevent this Notice from automatically becoming a final and effective order of suspension. The Agency's authority for suspending the registration(s) of your product(s) is section 3(c)(2)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Upon becoming a final and effective order of suspension, any violation of the order will be an unlawful act under section 12(a)(2)(J) of FIFRA.

You are receiving this Notice of Intent to Suspend because you have failed to comply with the terms of the 3(c)(2)(B) Data Call-In Notice. The specific basis for issuance of this Notice is stated in the Explanatory Appendix (Attachment III) to this Notice. Affected product(s) and the requirement(s) which you failed to satisfy are listed and described in the following three attachments:

Attachment I Suspension Report - Product List

Attachment II Suspension Report - Requirement List

Attachment III Suspension Report - Explanatory Appendix

The suspension of the registration of each product listed in Attachment I will become final unless at least one of the following actions is completed.

1. You may avoid suspension under this Notice if you or another person adversely affected by this Notice properly request a hearing within 30 days of your receipt of this Notice. If you request a hearing, it will be conducted in accordance with the requirements of section 6(d) of FIFRA and the Agency's procedural regulations in 40 CFR part 164.

Section 3(c)(2)(B), however, provides that the only allowable issues which may be addressed at the hearing are whether you have failed to take the actions which are the bases of this Notice and whether the Agency's decision regarding the disposition of existing stocks is consistent with FIFRA. Therefore, no substantive allegation or legal argument concerning other issues, including but not limited to the Agency's original decision to require the submission of data or other information, the need for or utility of any of the required data or other information or deadlines imposed, and the risks and benefits associated with continued registration of the affected product, may be considered in the proceeding. The Administrative Law Judge shall by order dismiss any objections which have no bearing on the allowable issues which may be considered in the proceeding.

Section 3(c)(2)(B)(iv) of FIFRA provides that any hearing must be held and a determination issued within 75 days after receipt of a hearing request. This 75-day period may not be extended unless all parties in the proceeding stipulate to such an extension. If a hearing is properly requested, the Agency will issue a final order at the conclusion of the hearing governing the suspension of your product(s).

A request for a hearing pursuant to this Notice must (1) include specific objections which pertain to the allowable issues which may be heard at the hearing, (2) identify the registration(s) for which a hearing is requested, and (3) set forth all necessary supporting facts pertaining to any of the objections which you have identified in your request for a hearing. If a hearing is requested by any person other than the registrant, that person must also state specifically why he asserts that he would be adversely affected by the suspension action described in this Notice. Three copies of the request must be submitted to: Hearing Clerk, A-110, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, and an additional copy should be sent to the signatory listed below. The request must be *received* by the Hearing Clerk by the 30th day from your receipt of this Notice in order to be legally effective. The 30-day time limit is established by FIFRA and cannot be extended for any reason. Failure to meet the 30-day time limit will result in automatic suspension of your registration(s) by operation of law and, under such circumstances, the suspension of the registration for your affected product(s) will be final and effective at the close of business 30 days after your receipt of this Notice and will not be subject to further administrative review.

The Agency's Rules of Practice at 40 CFR 164.7 forbid anyone who may take part in deciding this case, at any stage of the proceeding, from discussing the merits of the proceeding *ex parte* with any party or with any person who has been connected with the preparation or presentation of the proceeding as an advocate or in any investigative or expert capacity, or with any of their representatives. Accordingly, the following EPA offices, and the staffs thereof, are designated as judicial staff to perform the judicial function of EPA in any administrative hearings on this Notice of Intent to Suspend: The Office of the Administrative Law Judges, the Office of the Judicial Officer, the Administrator, the Deputy Administrator, and the members of the staff in the immediate offices of the Administrator and Deputy Administrator. None of the persons designated as the judicial staff shall have any *ex parte* communication with trial staff or any other interested person not employed by EPA on the merits of any of the issues involved in this proceeding, without fully complying with the applicable regulations.

2. You may also avoid suspension if, within 30 days of your receipt of this Notice, the Agency determines that you have taken appropriate steps to comply with the section 3(c)(2)(B) Data Call-In Notice. In order to avoid suspension under this option, you must satisfactorily comply with Attachment II, Requirement List, for each product by submitting all required supporting data/information described in Attachment II and in the Explanatory Appendix (Attachment III) to the following address (preferably by certified mail):

Office of Compliance Monitoring (EN-342), Laboratory Data Integrity Assurance Division, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

For you to avoid automatic suspension under this Notice, the Agency must also determine within the applicable 30-day period that you have satisfied the requirement(s) that are the bases of this Notice and so notify you in writing. You should submit the necessary data/information as quickly as possible for there to be any chance the Agency will be able to make the necessary determination in time to avoid suspension of your product(s).

The suspension of the registration(s) of your company's product(s) pursuant to this Notice will be rescinded when the Agency determines you have complied fully with the requirements which were the bases of this Notice. Such compliance may only be achieved by submission of the data/information described in the attachments to the signatory below.

Your product will remain suspended, however, until the Agency determines you are in compliance with the requirements which are the bases of this Notice and so informs you in writing.

After the suspension becomes final and effective, the registrant subject to this Notice, including all supplemental registrants of product(s) listed in Attachment I, may not legally distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the product(s) listed in Attachment I.

Persons other than the registrant subject to this Notice, as defined in the preceding sentence, may continue to distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the product(s) listed in Attachment I.

Nothing in this Notice authorizes any person to distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the product(s) listed in Attachment I in any manner which would have been unlawful prior to the suspension.

If the registration(s) of your product(s) listed in Attachment I are currently suspended as a result of failure to comply with another section 3(c)(2)(B) Data Call-In Notice or Section 4 Data Requirement Notice, this Notice, when it becomes a final and effective order of suspension, will be in addition to any existing suspension, i.e., all requirements which are the bases of the suspension must be satisfied before the registration will be reinstated.

You are reminded that it is your responsibility as the basic registrant to notify all supplementary registered distributors of your basic registered product that this suspension action also applies to their supplementary registered product(s) and that you may be held liable for violations committed by your distributors.

If you have any questions about the requirements and procedures set forth in this suspension notice or in the subject 3(c)(2)(B) Data Call-In Notice, please contact Stephen L. Brozena at (703) 308-8267.

Sincerely yours,

Director, Office of Compliance Monitoring

Attachments:

Attachment I - Product List

Attachment II - Requirement List

Attachment III - Explanatory Appendix

II. Registrant(s) Receiving and Affected by Notice(s) of Intent to Suspend; Date of Issuance; Active Ingredient and Product(s) Affected

A letter of notification has been sent for the following product(s):

TABLE A.—PRODUCT LIST

Registrant Affected	EPA Registration Number	Active Ingredient	Name of Product	Date Issued
Drexel Chemical Company	01971300158	Linuron	Linuron Flake Technical	1/28/92

III. Basis for Issuance of Notice of Intent; Requirement List

The following registrant(s) failed to submit the following required data or information:

TABLE B.—REQUIREMENT LIST

Active Ingredient	Registrant Affected	Requirement Name	Guideline Reference No.	Original Due-Date
Linuron	Drexel Chemical Company	Preliminary Analysis of Product Samples	62-1	7/1/91
		Certification of Ingredient Limits	62-2	7/1/91
		Dissociation Constant	63-10	7/1/91

IV. Attachment III Suspension Report--Explanatory Appendix

A discussion of the basis for the Notice of Intent to Suspend follows: Linuron

In June 1984, EPA issued a Registration Standard which included a Data Call-In Notice pursuant to the authority of FIFRA section 3(c)(2)(B) which required registrants of products containing linuron used as an active ingredient to develop and submit data. These data were determined to be necessary to maintain the continued registration of affected products. Failure to comply with the data requirements of a Registration Standard is a basis for suspension under 3(c)(2)(B) of FIFRA.

In a subsequent letter dated November 15, 1990, EPA notified Drexel Chemical Company that certain product data gaps remained for certain product chemistry data requirements, which had been imposed by the 1984 Registration Standard/Data Call-In Notice. Those data submissions were required to be received by the Agency within 60 days of the registrant's receipt of the November 15, 1990 letter. The Agency received a response from you as a linuron registrant requesting a time extension until July 1, 1991, to undertake the required testing to meet the data

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requirements listed in Attachment II. The original deadline has passed as has also the due date requested in your time extension request and to date the Agency has not received data to satisfy these data requirements. Because you have failed to provide appropriate or adequate data submissions within the time provided for the data requirements listed on Attachment II, the Agency is issuing this Notice of Intent to Suspend.

V. Conclusions

EPA has issued Notice(s) of Intent to Suspend on the dates indicated. Any further information regarding the Notice(s) may be obtained from the contact person noted above.

Dated: February 6, 1992.

Michael M. Stahl,

Director, Office of Compliance Monitoring.

[FR Doc. 92-3945 Filed 2-19-92; 8:45 am]

BILLING CODE 6560-50-F

[OPP-240097; FRL-4045-1]

State Registration of Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received notices of registration of pesticides to meet special local needs under section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, from 20 States and Puerto Rico. A registration issued under this section of FIFRA shall not be effective for more than 90 days if the Administrator disapproves the registration or finds it to be invalid within that period. If the Administrator disapproves a registration or finds it to be invalid after 90 days, a notice giving that information will be published in the **Federal Register**. This document also contains notice of two disapproved section 24(c) registrations.

DATES: The last entry for each item is the date the State registration of that product became effective.

FOR FURTHER INFORMATION CONTACT: Edith Minor, Registration Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 716, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-5978.

SUPPLEMENTARY INFORMATION: This notice only lists the section 24(c) applications submitted to the Agency. The Agency has 90 days to approve or disapprove each application listed in this notice. Applications that are not approved are returned to the appropriate State for action. Most of the registrations listed below were received by the EPA in October through December of 1991. Receipts of State registrations will be published periodically. Of the following registrations, none involve a changed-use pattern (CUP). The term "changed-use pattern" is defined in 40 CFR 162.3(k) as a significant change from a use pattern approved in connection with the registration of a pesticide product. Examples of significant changes include, but are not limited to, changes from a nonfood to food use, outdoor to indoor use, ground to aerial application, terrestrial to aquatic use, and nondomestic to domestic use.

Arizona

EPA SLN No. AZ 91 0014. AgChem Division/Atochem North America. Registration is for Maneb 80 + Zinc F4 to be used on head lettuce and leaf lettuce to control downy mildew. November 13, 1991.

EPA SLN No. AZ 91 0015. Sandoz Crop Protection Corp. Registration is for Norflurazon to be used on asparagus to control nutsedge, broadleaves, and grasses. November 26, 1991.

EPA SLN No. AZ 91 0016. Sunland Chemical Co., Inc. Registration is for Benlate Fungicide to be used on onions to control fusarium and botrytis. November 19, 1991.

California

EPA SLN No. CA 91 0010. E. I. Du Pont DeNemours & Co., Inc. Registration is for Lannate to be used on greenhouse-grown cucumbers and melons to control aphids. October 31, 1991.

EPA SLN No. CA 91 0023. ICI Americas, Inc. Registration is for Paraquat Dichloride to be used in peach seed beds to control broadleaf weeds and grasses. November 14, 1991.

EPA SLN No. CA 91 0025. ICI Americas, Inc. Registration is for Paraquat Dichloride to be used on clover grown for seed to control weeds. November 13, 1991.

EPA SLN No. CA 91 0029. Mobay Corp. Registration is for Metasystox-R Spray to be used on broccoli raab to control aphids. October 1, 1991.

EPA SLN No. CA 91 0030. Valent U.S.A. Corp. Registration is for Petroleum Oil to be used in pistachio orchards to control lecanium soft scale. October 1, 1991.

EPA SLN No. CA 91 0031. ICI Americas, Inc. Registration is for Paraquat Dichloride to be used on strawberry beds to control grasses and weeds. November 13, 1991.

Connecticut

EPA SLN No. CT 91 0004. ICI Americas, Inc. Registration is for Paraquat Dichloride to be used on squash, eggplant, cucumbers, and melons to control weeds. November 5, 1991.

EPA SLN No. CT 91 0005. USDA/APHIS Science and Technology. Registration is for Compound DRC-1339 90% to be used on rooftops and in bait trays to control pigeons and starlings. December 12, 1991.

Florida

EPA SLN No. FL 91 0015. FMC Corp. Registration is for Bifenthrin to be used on ornamental trees, shrubs, plants, flowers, conifers, bushes, Christmas trees and nonbearing fruit and nut trees to control imported fire ants. November 5, 1991.

EPA SLN No. FL 91 0016. The Land, Epcot Center. Registration is for Sulfur to be used on food crops in greenhouses to control mites, powdery mildew, and rust. November 5, 1991.

EPA SLN No. FL 91 0017. Lee County Mosquito Control District. Registration is for Resmethrin to be used in parks, woodland, residential areas, and municipalities to control flies, midges, and mosquitos. November 5, 1991.

EPA SLN No. FL 91 0018. ISK Biotech Corp. Registration is for chlorothalonil to be used on passion fruit to control alternaria fruit and leaf spot. December 2, 1991.

Georgia

EPA SLN No. GA 91 0001. Platte Chemical Co. Registration is for Ethyl Parathion to be used on canola to control weevils. November 6, 1991.

Hawaii

EPA SLN No. HI 91 0009. Ciba-Geigy Corp. Registration is for Propiconazole to be used on bananas to control black sigatoka. November 14, 1991.

EPA SLN No. HI 91 0010. ICI Americas, Inc. Registration is for Paraquat Dichloride to be used on bell pepper plants to control weeds. November 7, 1991.

EPA SLN No. HI 91 0013. D. Paul Julstrom DEKALB Plant Genetics. Registration is for Poast Herbicide to be used on seed corn to control grasses and weeds. November 20, 1991.

Idaho

EPA SLN No. ID 91 0011. Platte Chemical Co. Registration is for Ethyl Parathion to be used on canola and rapeseed to control weevils. October 31, 1991.

Illinois

EPA SLN No. IL 92 0001. FMC Corp. Registration is for Clomazone to be used on soybeans to control weeds and grasses. December 9, 1991.

Louisiana

EPA SLN No. LA 91 0018. FMC Corp. Registration is for the use of Carbofuran to be used on sorghum and corn to control aphids and chinch bugs. October 9, 1991.

EPA SLN No. LA 91 0019. FMC Corp. Registration is for Carbofuran to be used on rice to control weevils and mosquitoes. October 9, 1991.

EPA SLN No. LA 91 0020. FMC Corp. Registration is for Carbofuran to be used on field corn to control southwestern corn/sugarcane borer. October 10, 1991.

EPA SLN No. LA 91 0021. FMC Corp. Registration is for Permethrin to be used on soybeans to control insects. October 9, 1991.

EPA SLN No. LA 91 0023. FMC Corp. Registration is for Permethrin-methyl Parathion to be used on soybeans to control insects. October 9, 1991.

EPA SLN No. LA 91 0024. Red Panther Chemical Co. Registration is for Imidan 5 Dust to be used on sweet potatoes to control sweet potato weevils. October 30, 1991.

Maine

EPA SLN No. ME 91 0008. Rohm & Haas Co. Registration is for Dicofol to be used on Christmas trees to control spider mites. November 21, 1991.

Michigan

EPA SLN No. MI 91 0008. Courtaulds Coatings, Inc. Registration is for Copper Thiocyanate to be used on aluminum, fiberglass, and wood boats to control algae, barnacles, and corrosion. October 24, 1991.

Nevada

EPA SLN No. NV 91 0002. ICI Americas, Inc. Registration is for Paraquat Dichloride to be used on alfalfa to control broadleaf weeds and grasses. October 10, 1991.

EPA SLN No. NV 91 0003. ICI Americas, Inc. Registration is for Gramoxone to be used on seeded onions to control annual weeds and grasses. October 3, 1991.

North Carolina

EPA SLN No. NC 91 0017. Platte Chemical Co. Registration is for Sclerban 75WDG to be used on sweet potatoes to control black rot. November 21, 1991.

North Dakota

EPA SLN No. ND 91 0001. E. I. Du Pont DeNemours & Co., Inc. Registration is for Nicosulfuron to be used on field corn to control annual and perennial grasses. November 8, 1991.

Oregon

EPA SLN No. OR 91 0005. Uniroyal Chemical Co., Inc. Registration is for Triflumizole to be used on ornamental trees to control cylindrocladium and petrol rot. November 26, 1991.

EPA SLN No. OR 91 0021. Atochem North America. Registration is for Ethoxquin to be used on pears to delay ripening. October 4, 1991.

EPA SLN No. OR 91 0023. ICI Americas, Inc. Registration is for Paraquat Dichloride to be used on wheat to control cheatgrass. October 9, 1991.

EPA SLN No. OR 91 0024. ICI Americas, Inc. Registration is for Paraquat Dichloride to be used on wheat/fallow to control wheat rotweeds. October 9, 1991.

EPA SLN No. OR 91 0025. ICI Americas, Inc. Registration is for Paraquat Dichloride to be used on alfalfa to control weeds. October 9, 1991.

EPA SLN No. OR 91 0026. Rohm & Haas Co. Registration is for Oxyfluorfen to be used on onions to control broadleaf and grass weeds. October 15, 1991.

EPA SLN No. OR 91 0027. Mobay Corp. Registration is for Disulfoton to be used on poplars to control cottonwood lear beetles and aphids. October 15, 1991.

EPA SLN No. OR 91 0028. AMVAC Chemical Corp. Registration is for Fruitone N to be used on bartlett pear trees as a growth regulator. November 15, 1991.

EPA SLN No. OR 91 0029. Platte Chemical Co. Registration is for Dimethoate to be used on cherries to control cherry fruitfly. November 22, 1991.

EPA SLN No. OR 91 0030. AMVAC Chemical Corp. Registration is for Potassium Salt to be used on apples and pears as a growth regulator. December 3, 1991.

EPA SLN No. OR 91 0031. AMVAC Chemical Corp. Registration is for Potassium Salt to be used on apples and pears as a growth regulator. December 3, 1991.

Pennsylvania

EPA SLN No. PA 91 0006. Ciba-Geigy Corp. Registration is for Metalaxyl and Mancozeb to be used on wheat, corn, barley, and oats to control blight. October 1, 1991.

Puerto Rico

EPA SLN No. PR 91 0005. Mobay Corp. Registration is for Nemacur 3 to be used on pineapple to control nematodes. October 10, 1991.

EPA SLN No. PR 91 0006. Mobay Corp. Registration is for Nemacur to be used on bananas and plaintains to control nematodes and banana root borer. October 22, 1991.

Tennessee

EPA SLN No. TN 91 0003. FMC Corp. Registration is for Permethrin to be used on collards and turnips to control insects and worms. December 16, 1991.

Washington

EPA SLN No. WA 91 0042. Mobay Corp. Registration is for Morestan 25% Powder Red to be used on raspberries to control spider mites and eggs. October 1, 1991.

EPA SLN No. WA 91 0043. Rohm & Haas Co. Registration is for Pronamide to be used on Christmas trees to control grasses and weeds. October 1, 1991.

EPA SLN No. WA 91 0044. ICI Americas, Inc. Registration is for Paraquat Dichloride to be used on winter wheat to control weeds. November 14, 1991.

EPA SLN No. WA 91 0045. ICI Americas, Inc. Registration is for Paraquat Dichloride to be used on alfalfa to control bluegrass and chickweed. November 14, 1991.

EPA SLN No. WA 91 0046. ICI Americas, Inc. Registration is for Paraquat Dichloride to be used on alfalfa to control herbit and chickweed. November 14, 1991.

EPA SLN No. WA 91 0047. ICI Americas, Inc. Registration is for Paraquat Dichloride to be used on alfalfa to control bluegrass and herbit. November 14, 1991.

EPA SLN No. WA 91 0048. ICI Americas, Inc. Registration is for Paraquat Dichloride to be used on mint to control weeds and grasses. November 14, 1991.

EPA SLN No. WA 91 0049. ICI Americas, Inc. Registration is for paraquat dichloride to be used on tulips, narcissus, and iris bulbs to control weeds and grasses. November 14, 1991.

EPA SLN No. WA 91 0050. AMVAC Chemical Corp. Registration is for potassium salt to be used on apples and pears as a growth regulator. December 16, 1991.

West Virginia

EPA SLN No. WV 91 0002. USDA/APHIS Science & Technology. Registration is for Compound DRC-1339 98% Concentrate to be used in staging areas, structural roost and dairy operations to control pigeons and blackbirds. November 15, 1991.

Disapprovals

The following State registrations of pesticides under section 24(c) of FIFRA were disapproved by the Administrator:

New Mexico

EPA SLN No. NM 91 0002. Griffin Corp. Registration is for mancozeb to be used on cotton to control rust. Disapproved December 4, 1991.

EPA SLN No. NM 91 0003. Griffin Corp. Registration is for maneb to be used on cotton to control rust. Disapproved December 4, 1991.

Authority: Section 24, as amended, 92 Stat. 835 (7 U.S.C. 136).

Dated: February 3, 1992.

Anne E. Lindsay,
Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 92–3943 Filed 2–19–92; 8:45 am]

BILLING CODE 6560-50-F

[FRL–4105–8]

Superfund Program; Settlement Policy on the Performance of Risk Assessments at Superfund Sites

AGENCY: Environmental Protection Agency.

ACTION: Notice of evaluation, request for comment.

SUMMARY: In June 1990, EPA announced a new settlement policy for Superfund sites under which the Agency would not enter into consent orders or decrees under which the potentially responsible parties (PRPs) would perform the risk assessment component of the Remedial Investigation/Feasibility Study (RI/FS). EPA has decided to undertake an evaluation of that policy, and of the Agency's experience to date in implementing that policy, in order to ensure that the policy best helps to effectuate prompt and protective cleanups under Superfund. As part of its evaluation, EPA invites public comment on the merits of the existing settlement policy, the merits of the former settlement policy (under which PRPs were generally offered the opportunity to perform the site risk assessment under EPA oversight), and the suggested elements for inclusion in the evaluation.

DATES: Any person wishing to submit comments on this notice must do so on or before March 23, 1992.

ADDRESSES: Written comments on the evaluation should be submitted in duplicate to Matthew Charsky, U.S. Environmental Protection Agency, Office of Waste Programs Enforcement, Guidance and Oversight Branch (OS–510), 401 M Street, SW., Washington, DC 20460. For ease of public review, the comments will be available at the Superfund public docket, located at EPA Headquarters at the above address in room M2427, and will be available for viewing from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Matthew Charsky at the above address, or at (202) 260–9805.

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory and Regulatory Provisions

Pursuant to section 104(a) of CERCLA, the President (or his delegate, EPA) is authorized to take response actions whenever (A) any hazardous substance is released or there is a substantial threat of such a release into the environment, or (B) there is a release or substantial threat of release into the environment of any pollutant or contaminant which may present an imminent and substantial danger to the public health or welfare. Included within the types of response actions which EPA is authorized to take are investigations and studies under CERCLA section 104(b). See CERCLA section 101(23). Where the Agency is evaluating the possibility of taking a remedial action under Superfund, a remedial investigation/feasibility study (RI/FS) is generally undertaken. As explained in the National Contingency Plan (NCP) regulations, developing and conducting an RI/FS generally involves a number of activities, including: Project scoping, data collection, risk assessment, treatability studies, and analysis of alternatives. 40 CFR 300.430(a)(2).

EPA may perform RI/FSs and other response actions using monies provided in the Superfund (the "Fund") (with the possibility of seeking cost recovery actions later from the PRPs), or the Agency has the discretion to allow a responsible party to perform such action under an enforceable order:

> When the President determines that such action will be done properly and promptly by the owner or operator of the facility or vessel or by any other responsible party, the President may allow such person to carry out the action, conduct the remedial investigation, or conduct the feasibility study in accordance with section 122. No remedial investigation/feasibility study (RI/FS) shall be authorized except on a determination by the President that the party is qualified to conduct the RI/FS and only if the President contracts with or arranges for a qualified person to assist the President in overseeing and reviewing the conduct of such RI/FS and if the responsible party agrees to reimburse the Fund for any cost incurred by the President under, or in connection with, the oversight contract or arrangement.

CERCLA section 104(a)(1) (emphasis added). The special conditions on when a PRP could be allowed to perform an RI/FS (e.g., assuring payment of oversight costs) reflect the special nature of the evaluation stage in the CERCLA process, and the importance of properly defining the risks and hazards at a site.

The mechanism for allowing PRPs to conduct RI/FSs is a settlement agreement, as set out in CERCLA section 122:

(a) Authority to Enter into Agreements. The President *in his discretion, may* enter into an agreement with any person (including the owner or operator of the facility from which a release or substantial threat of release emanates, or any other potentially responsible person), to perform any response action (including any *action described in section 104(b))* if the President determines that such action will be done properly by such person.

CERCLA section 122(a) (emphasis added).

B. Legislative History

In the 1980 version of CERCLA, section 104(a)(1) authorized the President to take any response actions necessary to protect the public health or welfare or the environment, "unless the President determines that such removal and remedial action will be done properly by the owner or operator of the vessel or facility from which the release or threat of release emanates, or by any other responsible party." Members of the PRP community had argued that this provision meant that EPA was *required* to allow PRPs to perform needed action where they could do so properly and promptly. This faulty interpretation prompted Congress to amend that section in the Superfund Amendments and Reauthorization Act of 1986 (SARA) to make clear that the decision of whether to have EPA perform the action itself, or to work out an order or settlement agreement under which the PRPs would perform the action, was a matter wholly within the discretion of the Agency:

> This is intended to clarify the authority of the Administrator to permit response actions to be carried out by [PRPs]. The intent is to encourage response actions by owners or operators where the Administrator of EPA determines that they can perform the actions properly and promptly. The amended language does not require EPA to permit

> response actions by responsible parties. It is designed to clarify EPA's discretion by deleting the requirement that EPA undertake a response action unless a determination is made that it can be done by others. Deletion of current CERCLA's 'unless' clause is intended to clarify current law and assure that responsible parties do not attempt to enjoin fund-financed cleanup on the ground that they should be entitled to do the work, regardless of EPA's desires on the matter.

H.R. Rep. No. 253, 99th Cong., 1st Sess., pt. 5, at 8 (1985). Similarly, the Senate Environment and Public Works Committee explained that under the 1980 CERCLA,

> this amendment clarifies that the Federal government may authorize [a PRP] to perform the response action if the President determines that such action will be done properly. This determination need not be made in every case. The President may undertake a response action without making such a determination. The Federal government is not precluded from conducting a response action, merely because responsible parties have indicated a willingness to take some form of response action.

S. Rep. No. 11, 99th Cong., 1st Sess. 16 (1985). Thus, Congress made clear in SARA that the decision of when PRPs should be allowed to conduct an RI/FS or other response action rests within the discretion of EPA.

C. History of the Settlement Policy on Risk Assessments

The issue of whether PRPs should be entrusted with the responsibility for evaluating the need for response action at sites where they may be financially liable for cleanup costs, has been a central issue under Superfund since the law's passage in 1980. The question turns on several issues: The PRPs' technical capability, the PRPs' possible bias, the Agency's ability to provide effective and efficient oversight, and the need to assure public confidence in a national cleanup program.

Prior to June 1990, EPA's policy was generally to negotiate with PRPs for the performance of the entire RI/FS, including the risk assessment component, and to rely on vigilant oversight as the means to ensure that remedies remain protective, and that the PRPs' interest in low cost remedies did not, in any way, compromise protection of human health and the environment.[1] It was the view of the Agency at the time that it might be more efficient to allow PRPs to spend their monies to study sites rather than draw on the limited resources of the Fund.

This policy of allowing PRPs to conduct the risk assessment component of the RI/FS was not without its critics. Some parties continued to express concern regarding the appropriate role of PRPs in defining site risks during the RI/FS stage of the process.

In May of 1989, the "Lautenberg-Durenberger Report on Superfund Implementation: Cleaning Up the Nation's Cleanup Program" was issued by the Senate Subcommittee on Superfund, Ocean and Water Protection. It found that remedies selected at sites proceeding under an enforcement lead (i.e., where the PRPs were allowed to perform the work) were "lagging significantly behind cleanup decisions that are part of the publicly funded side of the program in achieving the legally mandated goal of permanent treatment," and "use treatment remedies (those that destroy or alter contamination) less, and containment remedies more." (*Id.*, at p. 204–05.) The report recommended "isolating and explaining those factors that account for the difference." (Id., at 207.)

In "Coming Clean—Superfund Problems Can be Solved" (Office of Technology Assessment, U.S. Congress, Oct. 1989), a recommendation was made "that PRP's participation in response actions be limited to the implementation of remedies, citing concerns that [PRPs] often seek the least expensive, rather than best clean-up techniques * * *." ("Coming Clean", at p. 52.) Similarly, in "Tracking Superfund: Where the Program Stands," Environmental Defense Fund, Hazardous Waste Treatment Council, et al. (Feb. 1990), a finding was made that "risk assessments conducted by PRPs sometimes reach unscientific conclusions about the hazards posed by sites * * *." (Record Doc. 11, at p. 56–57).

The Agency responded to early concerns on this issue in June of 1989, where EPA Administrator William K. Reilly issued an overall report on the Superfund program. In a section on the "Oversight of Private Party RI/FS," the Administrator made the following finding:

> Some commenters have criticized the Agency's policy of allowing private parties to conduct RI/FSs, arguing that this practice results in cheaper, less protective remedies, and that citizen groups have little opportunity for effective involvement in development the RI/FSs. These critics have suggested that EPA return to earlier policies of discouraging or prohibiting private party RI/FS. There was broad consensus among EPA managers and staff that the Agency needs to put more effort and resources into oversight of RI/FS performed by PRPs.

"A Management Review of the Superfund Program" (EPA Administrator William K. Reilly, June 1989), at p. 2–19. EPA also began a study of cleanups performed by EPA as compared to those performed by the PRPs.

In June 1990, a report was issued comparing Fund-lead cleanups with PRP-lead cleanups (see "Comparative Analysis of Remedies Selected in the Superfund Program During FY87, FY88, and FY89, " OSWER Directive 9835.13 (June 20, 1990)). It revealed that overall, the end result of PRP-lead and EPA-lead cleanups were comparable, and both were protective:

> At both Fund-lead and Enforcement-lead sites the baseline risk was sufficient to require remedial action. There were some differences in how risks were developed * * *. No inappropriate influences by PRPs were detected * * *. Overall, * * * no significant difference * * * in terms of whether the remedies selection process and the remedies selected are consistent with expectations set forth in the [NCP].

However, the Agency found that PRP studies resulted in good remedy selections only after significant effort was spent on oversight. For instance, the report found that draft risk assessments prepared by PRPs tended to underestimate the risk at sites:

> the baseline risk assessments performed by EPA often used very conservative exposure assumptions and low toxicity values. Most of the PRP risk assessments used site data and exposure assumptions that were less conservative. (Comparative Analysis, at p. 3–8).
>
> PRPs do tend to draft risk assessments to show low risks at sites. (Comparative Analysis, at p. 3–14.)

In order to detect deficiencies (such as underestimates of risk) in draft risk assessments prepared by PRPs, the Agency was required to expend considerable resources on oversight:

> These risk assessments tend to need extensive modifications by the Regions, or variations occur. (Comparative Analysis, at p. 3–14.)

D. June 21, 1990 Settlement Policy for Risk Assessments

On June 21, 1990, in testimony before the Senate Subcommittee on Superfund, Ocean, and Water Protection of the Senate Committee on Environment and Public Works, EPA announced a new settlement policy for Superfund sites under which the Agency would not enter into consent orders or decrees under which the PRPs would perform the risk assessment component of the RI/FS; the Agency would, however, continue to discuss with PRPs the possibility of performing the other portions of the RI/FS. The decision to change the Agency's settlement policy was based on several factors, such as:

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[1] Note that even under this pre-June 1990 policy, some Regions declined to enter into consent orders or decrees under which the PRPs would perform the risk assessment function.

—"The [Comparative Analysis] study revealed that PRP risk assessments tended to need extensive modifications by the Regions . . . [Thus,] in the future EPA alone . . . would develop the risk assessment." (OSWER Directive 9835.15, 8/28/90.)

—"Generally, EPA's efforts to correct these deficiencies [in PRP risk assessments] take longer and are more labor intensive than if EPA had developed the risk assessment." (Diamond Memorandum, "Recommendations for Improvement of PRP-Lead RI/FS," 8/22/90.)

—"[S]ome PRP-drafted risk assessments tend to underestimate the risk posed by a site, in many cases requiring a redraft by the Region. Since there is extensive judgment in risk assessment development and since risk assessments serve as the basis for taking action and are a determinant in choosing treatment instead of containment, and potentially affect what cleanup levels are established, EPA will assume the development of all risk assessments in the future." (Report, Comparative Analysis of Remedies, 6/20/90.) [2]

—"Although the [Comparative Analysis] study did not demonstrate great differences in the remedies selected at Fund-lead and Enforcement-lead sites, to further strengthen the program, EPA intends to implement the following: 1. EPA . . . will develop all risk assessments in the future." (Report, Comparative Analysis of Remedies, 6/20/90.)

—PRP-lead RI/FSs were taking longer than EPA-lead ones, and often had to be re-done several times. For example, the Superfund Quarterly Management Reports (data as of June 30, 1990), p. IV–3, showed that significantly greater amounts of time had been required for PRP RI/FSs. At Fund-lead sites, the average RI/FS was completed in 10.8 quarters while at PRP-lead sites, the average RI/FS was completed in 12.9 quarters. In addition, the OERR Monthly Management Reports (data as of September 30, 1988), showed that for post-SARA, 4th quarter FY 88 RI/FSs, the average PRP-lead RI/FS took 9.5 quarters to complete, while the average Fund-lead RI/FS took 8.2 quarters to complete.

—Delays were also inherent in the need for EPA to take over many PRP RI/FSs.[3] For instance, in the Superfund Quarterly Management Reports (data as of June 30, 1990) on duration of Fund and PRP-lead sites, the data show 53 RI/FS takeovers versus 68 PRP RI/FS completions for the 3rd quarter of FY 1990 (p. IV–3).

The Agency concluded that by having EPA perform all baseline risk assessments, the delay caused by the sometimes lengthy process of review and revision of PRP risk assessments will be eliminated. RODs will be signed sooner and remedial activity can begin earlier. In addition, the Agency believed that the new policy would result in an increase in the consistency of risk assessments, and would help bolster public confidence in the quality and consistency of the cleanup program.

EPA did not view this change in its settlement policy as having a major substantive effect on PRPs. There is not likely to be—and there should not be—different substantive effects from a policy under which EPA oversees all PRP risk assessment work products and requires revisions to conform to Agency guidance (see OSWER Directive 9835.8, June 2, 1989, on deliverables to EPA), as compared to a policy under which EPA performs the risk assessment in the first instance. Moreover, the policy made clear that PRPs still can negotiate to perform (under EPA review) the other components of the RI/FS.

However, the June 21, 1990 announcement did result in vocal objections from several industry groups, and in response, the Agency indicated its willingness to review the policy after approximately one year, and to evaluate the pros and cons in light of actual results.[4] This notice announces that evaluation.

II. The Evaluation

By performing a mid-stream evaluation of its settlement policy with respect to RI/FSs (and the risk assessment component, in particular), EPA seeks to ensure that it has developed the best possible policy for the Superfund program. The Agency is not predisposed to any final outcome, but plans to objectively evaluate the available data, consider the views of the interested and affected public, and make a decision that is in the best interests of the program and the public. The Agency concluded in the summer of 1990 that the better course would be to have the Agency itself perform this sensitive element of the remedy evaluation process, in order to further consistency in risk assessments, speed up the RI/FS process overall, and assure public confidence in the process. If at the conclusion of the evaluation process, the Agency believes that another policy approach can better achieve these goals, then the Agency will revise its current policy. If there are significant coordination or other problems in having different parties conduct parts of the RI/FS, EPA may decide that only one party should conduct the risk assessment and the rest of the RI/FS. This may lead EPA to revert to the old policy, or indeed, to decide that EPA should perform the entire RI/FS including the risk assessment.

The evaluation will consist of a review of cases where EPA has performed the baseline risk assessment in the context of a PRP-lead RI/FS project. It will include, at a minimum, an analysis of (1) coordination issue associated with EPA's performance of the risk assessment and the PRPs' RI/FS work; (2) timing issues in order to determine, for example, if the policy of having EPA perform risk assessments in the context of PRP-lead RI/FSs has reduced or increased the time required to complete the RI/FS; [5] and (3) whether the present policy is having an effect on the Agency's ability to achieve settlements. The data base for the evaluation will include EPA risk assessments (at PRP-lead sites) that were carried out under the present policy, and those carried out by EPA under the former policy where EPA Regions chose to perform the risk assessment even though PRPs performed the rest of the RI/FS. The evaluation will also include a review of public comments on the benefits and drawbacks of allowing PRPs to conduct the risk assessment component of the RI/FS.

EPA will complete the evaluation approximately one year from the date of this **Federal Register** notice in order to allow EPA sufficient time to include a number of risk assessments conducted under the new policy. Shortly thereafter, EPA will publish in the **Federal Register** a notice of availability of the completed evaluation, along with an opportunity for public comment on the evaluation. The Agency is committed to issuing a final decision on whether to maintain or revise the current RI/FS settlement policy within four months after the close of this second public comment period (i.e., the comment period on the evaluation *report*).

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[2] See also Model Statement of Work for an RI/FS Conducted by a PRP, OSWER Directive 9835.8, June 2, 1989, at p. i: "Because the baseline risk assessment serves as a primary means for supporting enforcement decisions at most sites, the Regions may write a site-specific SOW providing for EPA preparation of the risk assessment or the exposure assumptions."

[3] According to EPA's "Interim Guidance on PRP Participation in RI/FSs," OSWER Directive 9835.1a (revised February 7, 1989), at p. A–11, deficiencies in PRP risk assessments are corrected through the use of one or more of the following activities: "(1) Identification of the deficiency; (2) demand for corrective measures; (3) use of dispute resolution mechanisms, where appropriate; (4) imposition of penalties; and if necessary, (5) *PRP RI/FS termination and project takeover* or judicial enforcement."

[4] Several industry groups also brought a challenge to the procedures by which the new settlement policy was issued. *Chemcial Manufacturers Association, et al.*, v. *U.S. EPA*, No. 90–1460 (D.C. Cir.). This evaluation, with opportunities for public comment, is expected to resolve that litigation as well.

[5] As noted in the recent "Superfund 30-Day Task Force Report: Accelerating Superfund Cleanups and Evaluating Risk at Superfund Sites" (Office of Solid Waste and Emergency Response, July 19, 1991), the removal of obstacles to expeditious cleanups is a high priority of the Superfund program.

The present RI/FS settlement policy will remain in effect during the pendency of this evaluation process, or until further notice.

III. Request for Public Comment

Some numbers of the public have argued that it is inefficient and unfair for EPA to perform a portion of the RI/FS while PRPs perform other aspects of it, given that PRPs may be allowed, under section 104 of CERCLA, to perform all RI/FS activities. They suggest that data may be lost during transfers of information between the Agency and the PRP contractors, and that increased inefficiencies and delays will result. They also argue that EPA risk assessments are too conservative, and will result in unrealistic and wastefully expensive cleanups with little real reductions in risk.[6]

Other sectors of the public believe that the assessment of risk is a critically sensitive element of the remedy selection process, and that EPA should always retain that function. In effect, they argue that public confidence cannot be assured where the PRPs assess the hazards at a site. In fact, some persons argue that the entire RI/FS process is very sensitive and should be performed only by EPA.

EPA invites members of the public to submit their views on whether or not EPA should enter into consent orders and decrees under which PRPs are allowed to perform the risk assessment component of the RI/FS, and why. Comments may also be submitted on the merits of the present settlement policy as compared to the former policy, on which approach has been more effective in securing prompt and protective cleanups, and whether a different approach from either of these might be best.

Finally, the Agency would be interested in the public's suggestions as to other issues which EPA should address in its evaluation.

Dated: February 10, 1992.

Don R. Clay,

Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 92-3949 Filed 2-19-92; 8:45 am]

BILLING CODE 6560-50-M

[OPPTS-59932; FRL 4050-1]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of 9 such PMN(s) and provides a summary of each.

DATES: Close of review periods:

Y 92-87, February 11, 1992.

Y 92-88, 92-89, 92-90, 92-91, 92-92, 92-93, 92-94, 92-95, February 17, 1992.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, rm. E-545, 401 M St., SW., Washington, DC, 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office, NE-G004 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

Y 92-87

Manufacturer. Confidential.

Chemical. (G) Vinyl acrylic emulsion.

Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

Y 92-88

Manufacturer. Essex Speciality Products.

Chemical. (G) Hydroxyl functional polycarbomoyl (polyalkylene oxide) oligomer.

Use/Production. (S) Polymer used in sealant manufacture. Prod. range: Confidential.

Y 92-89

Manufacturer The P. D. George Company.

Chemical. (S) Glycerine; polyethylene terephthalate scrap.

Use/Production. (S) Intermediate in urethane wire enamels. Prod. range: 90,909 kg/yr.

Y 92-90

Manufacturer. The P. D. George Company.

Chemical. (S) Glycerine; polyethylene terephthalate scrap.

Use/Production. (S) Intermediate in urethane wire enamels. Prod. range: 90,909 kg/yr.

Y 92-91

Manufacturer. The P. D. George Company.

Chemical. (S) Glycerine; polyethylene terephthalate scrap.

Use/Production. (S) Intermediate in urethane wire enamels. Prod. range: 90,909 kg/yr.

Y 92-92

Manufacturer. The P. D. George Company.

Chemical. (S) Glycerine; polyethylene terephthalate scrap.

Use/Production. (S) Intermediate in urethane wire enamels. Prod. range: 90,909 kg/yr.

Y 92-93

Manufacturer. The P. D. George Company.

Chemical. (S) Glycerine; polyethylene terephthalate scrap.

Use/Production. (S) Intermediate in urethane wire enamels. Prod. range: 90,909 kg/yr.

Y 92-94

Manufacturer. The P. D. George Company.

Chemical. (S) Glycerine; polyethylene terephthalate scrap.

Use/Production. (S) Intermediate in urethane wire enamels. Prod. range: 90,909 kg/yr.

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[6] As indicated above, to the extent that EPA is more conservative than the PRPs, the Agency will be so in oversight to the same degree as when the Agency performs the risk assessment in the first instance. As noted in the Comparative Analysis Report, acceptable remedial decisions resulted both from PRP-conducted risk assessments (after EPA oversight) and EPA-conducted risk assessments. (Note that the NCP directs EPA to use exposure assumptions that result in an overall exposure estimate that is "conservative but within a realistic range of exposure." 55 FR 8710, col. 2 (March 8, 1990).)

Y 92-93

Manufacturer. The P. D. George Company.

Chemical. (S) Glycerine; polyethylene terephthalate scrap.

Use/Production. (S) Intermediate in urethane wire enamels. Prod. range: 90,909 kg/yr.

Dated: February 11, 1992.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 92-3946 Filed 2-19-92; 8:45 am]

BILLING CODE 6560-50-F

[OPPTS-51787; FRL 4050-2]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of 6 such PMNs and provides a summary of each.

DATES: Close of review periods:

P 92-465, 92-466, 92-467, April 27, 1992.

P 92-468, 92-470, April 28, 1992.

P 92-471, April 29, 1992.

Written comments by:

P 92-465, 92-466, 92-467, March 28, 1992.

P 92-468, 92-470, March 29, 1992.

P 92-471, March 30, 1992.

ADDRESSES: Written comments, identified by the document control number "(OPPTS-51787)" and the specific PMN number should be sent to: Document Processing Center (TS-790), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., rm. L-100, Washington, DC, 20460, (202) 260-3532.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, rm. E-545, 401 M St., SW., Washington, DC 20460 (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office NE 09G004 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

P 92-465

Importer. Confidential.

Chemical. (G) Diphenylsulfone-diether.

Use/Import. (G) Visocsity controller in fiber production. Import range: Confidential.

Toxicity Data. Mutagenicity: negative.

P 92-466

Importer. Confidential.

Chemical. (G) Polyacrylate.

Use/Import. (G) Paint additive. Import range: Confidential.

P 92-467

Importer. Ciba-Geigy Corporation.

Chemical. (S) Aluminium, hydroxy[29H,31H-phthalocyanato(2-)-N29,N20, N32, N32]-, chloro sulfo derivs., sodium salts.

Use/Import. (S) Photo bleaching and blueing agent for powder detergents. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 5,581 mg/kg species (rat). Eye irritation: none species (rabbit). Skin irritation: negligible species (rabbit). Skin sensitization: negative species (guinea pig). Phototoxicity: negative species (guinea pig). Photoallergenicity: negative species (guinea pig).

P 92-468

Manufacturer. Siltech Inc.

Chemical. (G) Silicone phosphate.

Use/Import. (G) Open, nondispersive. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 5 g/kg species (rat). Eye irritation: none species (rabbit). Skin irritation: none species (rabbit).

P 92-470

Importer. Confidential.

Chemical. (G) Alkys resin.

Use/Import. (G) Open, nondispersive. Import range: Confidential.

P 92-471

Manufacturer. Shell Oil Company.

Chemical. (G) Epoxy resin.

Use/Production. (S) Other industrial uses. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Eye irritation: none species (rabbit). Skin irritation: mild species (rabbit). Skin sensitization: negative species (guinea pig).

Dated: February 11, 1992.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 92-3947 Filed 2-19-92; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to Office of Management and Budget for Review

February 7, 1992.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of these submissions may be purchased from the Commission's copy contractor, Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20036, (202) 452-1422. For further information on these submissions contact Judy Boley, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on these information collections should contact Jonas Neihardt, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395-4814.

OMB Number: 3060-0395.

Title: Automated Reporting and Management Information Systems (ARMIS) §§ 43.21 and 43.22.

Report Number: FCC Reports 43-01 through 43-05.

Action: Revised collection.

Respondents: Businesses or other for-profit.

Frequency of Response: Recordkeeping requirement, quarterly and annually.

Estimated Annual Burden: 993 responses, 374.5 hours average burden per response, 373,850 hours total annual burden; 50 recordkeepers, 2 hours average burden per recordkeeper, 100 hours total recordkeeping requirements.

Needs and Uses: This submission is made to solicit OMB review and approval of the attached FCC Report 43-03 as modified. FCC Report 43-02 is one of the several reporting requirements comprising the ARMIS approved by OMB under OMB control number 3060-0395. The FCC Report 43-02 contains companywide data for each account specified in the Uniform

System of Accounts (USOA). The Common Carrier Bureau, under delegated authority, has modified the report to incorporate several FCC Form M schedules. The public was invited to participate in the proceeding to modify the information collection requirement via an Order Inviting Comments released by the Bureau on 9/4/91. The Bureau believes that the revised FCC Report 43–03 improves the utility of the automated report without placing undue burden on respondents. The Bureau waived the April 1 filing date to allow the carriers sufficient time to prepare and submit the revised requirement. Carriers are to file the FCC Report 43–02 ninety days after publication of a summary of the Order in the **Federal Register**.

OMB Number: 3060–0099.

Title: FCC Form M—Annual Report Form M.

Form Number: FCC Form M.

Action: Revised collection.

Respondents: Businesses or other for-profit.

Frequency of Response: Annually.

Estimated Annual Burden: 52 responses; 1,400 hours average burden per response; 72,800 hours total annual burden.

Needs and Uses: The Commission delegated authority to the Common Carrier Bureau (CCB) to determine and revise the format and media for automated reporting requirements. The FCC also directed CCB to review the FCC Form M to determine, among other things, which schedules were suitable for mechanization and to incorporate them into the automated reporting system. An Order Inviting Comments was released 9/4/91 to give the public an opportunity to participate in the proceeding to automate twelve Form M schedules. Comments were requested on the proposed revision of four Form M schedules and to incorporate these four schedules and eight additional Form M schedules into the FCC's automated reporting system. The Bureau revised two of the statistical schedules, Schedules S–2 and S–3, by providing additional information about the technology and service characteristics of carrier access lines. (See the attached OMB request for approval of ARMIS Operating Data Report and Memorandum of Opinion & Order (MO&O). Automating and organizing data submitted to the Commission will facilitate the timely and efficient analyses of revenue requirements and rate of return, provide an improved basis for auditing and other oversight functions and enhance the FCC's ability to quantify the effects of policy proposals. Carriers are to file the revised FCC Form M report ninety days after publication of a summary of the Order in the **Federal Register**. The data are used by staff members in the regulation of the telephone industry and by the public in analyzing the industry.

OMB Number: None.

Title: ARMIS Operating Data Report.

Report Number: FCC Report 43–08.

Action: New collection.

Respondents: Businesses or other for-profit.

Frequency of Response: Annually.

Estimated Annual Burden: 50 responses; 160 hours average burden per response; 8,000 hours total annual burden.

Needs and Uses: The FCC Report 43–08 is one of several reporting requirements comprising the Automated Reporting and Management Information System (ARMIS). ARMIS was implemented to facilitate the timely and efficient analysis of revenue requirements and rates of return, to provide an improved basis for audits and other oversight functions, and to enhance the Commission's ability to quantify the effects of alternative policy. The FCC Report 43–08 consists of statistical schedules previously contained in FCC Form M which are needed by the FCC to monitor network growth, usage, and reliability. The Common Carrier Bureau believes that the new FCC Report 43–08 enhances the FCC's ability to process and analyze the data needed to administer its rules without placing undue burden on the respondents. Carriers are to file the FCC 43–08 report ninety days after publication of a summary of the Order in the **Federal Register**.

Federal Communications Commission

Donna R. Searcy,

Secretary.

[FR Doc. 92–3877 Filed 2–18–92; 8:45 am]

BILLING CODE 6712-01-M

Petitions for Reconsideration of Action in Lowest Unit Charge Requirement of Section 315(b)

January 30, 1992.

Petitions for reconsideration have been filed in connection with Declaratory Ruling, Exclusive Jurisdiction With Respect to Potential Violations of the Lowest Unit Charge Requirements of section 315(b) of the Communications Act of 1934, as amended adopted December 12, 1991 and released December 13, 1991. The full text of these documents are available for viewing and copying in room 616, 1919 M Street, NW., Washington, DC., or may be purchased from the Commission's copy contractor Downtown Copy Center (202) 452–1422.

The procedures and time limits set forth in section 1.429 of the Commission's rules will apply to the filing of any petitions for reconsideration of the Declaratory Ruling and any oppositions and replies thereto.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92–4020 Filed 2–18–92; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89–777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Kloster Cruise Limited (d/b/a Norwegian Cruise Line), 95 Merrick Way, Two Alhambra Plaza, Coral Gables, FL 33134

Vessels: Dreamward and Windward.

Dated: February 13, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 92–3889 Filed 2–19–92; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 92N–0001]

Solvay Animal Health, Inc.; Withdrawal of Approval of NADA's

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of two new animal drug applications (NADA's) held by Solvay Animal Health, Inc. The NADA's provide for use of Wormal Tablets and Wormal Granules (butynorate, phenothiazine, and piperazine in combination) as an anthelmintic in chickens and turkeys. The firm requested withdrawal of the approvals. In a final rule published elsewhere in this issue of the **Federal Register**, FDA is amending the regulations by removing the entry that reflects these approvals.

EFFECTIVE DATE: June 30, 1992.

FOR FURTHER INFORMATION CONTACT: Mohammad I. Sharar, Center for Veterinary Medicine (HFV-216), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-295-8749.

SUPPLEMENTARY INFORMATION: Solvay Animal Health, Inc., 2000 Rockford Rd., Charles City, IA 50616-9989, is the sponsor of NADA 10-335, which provides for use of Wormal Tablets for individual bird treatment and NADA 10-447, which provides for use of Wormal Granules Type A Medicated Article to make Type B and C medicated feeds. Both products contain butynorate, phenothiazine, and piperazine in combination. By letter dated November 26, 1991, Solvay Animal Health, Inc., requested that FDA withdraw approval of NADA's 10-335 and 10-447 and stated that it would cease marketing the products by June 30, 1992.

Therefore, under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 Withdrawal of approval of applications (21 CFR 514.115), notice is given that approval of NADA's 10-335 and 10-447 and all supplements and amendments thereto is hereby withdrawn, effective June 30, 1992. In its letter requesting withdrawal, the sponsor agreed to retrieve and dispose of in accordance with applicable environmental laws and regulations any unused product after that date.

In a final rule published elsewhere in this issue of the **Federal Register**, FDA is amending 21 CFR 558.4(d) to remove the entry for medicated feed applications containing butynorate, piperazine, and phenothiazine.

Dated: February 12, 1992.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 92-3866 Filed 2-19-92; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following district consumer exchange meeting: Minneapolis District Office, chaired by John Feldman, District Director. The topic to be discussed is food labeling reform.

DATES: Thursday, February 20, 1992, 10 a.m. to 11 a.m.

ADDRESSES: Esperanza Unida, 1329 West National Ave., Milwaukee, WI 53204.

FOR FURTHER INFORMATION CONTACT: Steve Davis, Public Affairs Specialist, Food and Drug Administration, U.S. Courthouse, 517 East Wisconsin Ave., rm. SB-06, Milwaukee, WI 53202, 414-297-3097.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's district offices, and to contribute to the agency's policymaking decision on vital issues.

Dated: February 12, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-3867 Filed 2-19-92; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Fiscal Year 1992 Bureau of Indian Affairs Community and Economic Development Grant Program (CEDGP) Announcement

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of grant availability for fiscal year 1992.

SUMMARY: The Bureau of Indian Affairs is publishing this notification to solicit Competitive Grant proposals for fiscal year 1992 financial assistance to American Indian tribes and Alaskan Native villages.

DATES: All applications for this program must be postmarked not later than April 20, 1992.

ADDRESSES: See address at end of **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT:

Patrick Hayes, (202) 208-5831, Bureau of Indian Affairs, Office of Trust and Economic Development, MS-4513, 1849 C Street, NW., Washington, DC 20240

William Sinclair, (202) 219-0240, Department of the Interior, Office of Self-Governance, MS-2253-MIB, 1849 C Street, NW., Washington, DC 20240

SUPPLEMENTARY INFORMATION: The following announcement of procedures for the application for and awarding of grants under the Community Economic Development Grant Program (CEDGP) is made as an exception to the policy of the Department of the Interior to do Rule Making, 36 FR 8336 (1971). This exception is made to that policy for the following reasons. CEDGP was justified to Congress and Congress appropriated funds for CEDGP as a new pilot program. Operational experience is needed to enable appropriate rule making for the program to be undertaken for future years. This announcement provides sufficient structure for FY 1992 pilot program as well as a fair and open process for tribal application and competition for the 1992 grant. Just as importantly, the flexibility which the announcement procedure provides will enable the Bureau of Indian Affairs to put into effect in 1992 all aspects of the demonstration program as it was justified to and intended by Congress. Without this exception from the 1971 policy that commitment could not be accomplished. Accordingly, the CEDGP grants for 1992 will be made on the bases stated in the following announcement.

A. Introduction and Purpose

In fiscal year 1992 the Bureau of Indian Affairs has budgeted 4.9 million dollars for a discretionary grant program, for Indian tribes and Alaska Native Villages as described in this announcement. The Community and Economic Development Grant Program (CEDGP) provides competitive grants to tribes for locally designed community and economic development grant projects. This notification is to provide the applicants the necessary information required to apply for the program. The Bureau of Indian Affairs believes that responsibility for achieving self-reliance rests with the governing bodies of Indian tribes and Alaska Native villages. Achievement of self-reliance is based on these governing bodies' abilities to develop a strategy and to plan, organize and direct resources in a comprehensive manner to achieve their long-range goals.

The program's goal is to provide a stable source of funding over a five year period to selected proposals from Indian Tribes and Alaska Native Villages for reservation development in accordance with local goals and objectives.

A wide variety of projects and activities will be considered provided they are linked to a set of economic development goals and objectives adopted by the tribe. Further, specific time frames will need to be identified so that the progress achieved can be monitored.

Funding for the first 12 month grant is competitive as described below. Funding after the first grant is noncompetitive and is contingent upon the grantee's satisfactory progress in achieving the objectives of its plan, the availability of Federal funds, and compliance with the applicable statutory, regulatory and grant requirements.

The purpose of the program is to foster the development of stable, diversified local economies and economic activities which will provide jobs, promote economic well-being and reduce dependence on public funds and social services. The program will be evaluated on an on-going basis.

B. Proposed Projects To Be Funded

Approximately $4.9 million of financial assistance is available under this program announcement.

Grants will be made available for any economic and community development purpose that is consistent with the tribal economic development plan or strategy including: (1) Reducing unemployment through job development activities; (2) Providing seed money to Indian entrepreneurs to establish reservation based enterprises; (3) Improving tribal basic physical and service infrastructures; (4) Developing and conserving natural resources belonging to the tribe; (5) Procuring technical assistance for developing marketing plans and conducting feasibility studies; (6) Conducting a community-wide inventory of all tribal and other public and private resources with the intent to coordinate development activities; and (7) other reservation development projects.

The Bureau of Indian Affairs encourages applicants to design projects to achieve their specific economic goals that use available human, natural, financial and physical resources to which the applicant has access. Non-BIA resources should be marshalled to strengthen and broaden the proposed project impact in the community. Project designs should explain the means through which those parts of the projects which the BIA does not fund will be financed from other sources.

In order to assure an equitable competition between the tribes of the total amount that is available, the following approximated fund distribution will be followed which allows some portion to administer the program:

	Million
Small tribes (population of 1,500 and less)	$0.75
Medium tribes (population of 1,500 to 10,000)	1.80
Large tribes (population of 10,000 or more)	1.70
Alaska	.45

In addition, in the selection of grants, an attempt will be made to achieve wide geographic representation.

C. Grant Amount

In preparing budgets for the BIA funding share of total project budget, the tribes cannot exceed the amount from the following formula: a core grant amount ($20,000) plus (+) $30 times (×) the reservation population as taken from the 1990 Census, plus (+) {$.25 times (×) the tribal trust acreage times (×) the weighted unit number}.

Grant amount = $20,000 + ($30 × 1990 Population) + ($.25 × Tribal trust acreage × weighted unit number)

Numbers for the weighted units range from 1 to 15 with the smallest trust land based tribes weighted by a factor of 15 and the remainder as follows:

	Weighted units
0 to 450 acres	15
450 to 1,000	14
1,001 to 3,000	13
3,001 to 5,000	12
5,001 to 7,000	11
7,001 to 9,000	10
9,001 to 20,000	9
20,001 to 40,000	8
40,001 to 60,000	7
60,001 to 80,000	6
80,001 to 100,000	5
100,001 to 200,000	4
200,001 to 400,000	3
400,001 to 600,000	2
600,001 and above	1

For the purpose of this pilot program, an award cap has been placed on grants so that no tribe may be awarded more than $1.5 million per year. This maximum amount has been set in order to provide opportunity for more varied projects during the pilot phase of the program. It is not anticipated that it would be continued depending on funding levels if the program is made permanent.

Proposals that total less than the formula allowance will be eligible. For first year funding only an allowance of up to 15% of the grant amount will be added by the BIA to cover the tribal start up costs.

D. Eligible Applicants

The governing body of any tribe, Native Alaska Village or duly authorized multi-tribal organization (e.g. a consortium of tribes banding together to meet basic population criteria) may apply for a grant under this announcement provided that each submits a timely application as described in section G.

The functioning tribal government must serve a population of at least 150 Indians/Native Alaskans. If a consortium organization is formed utilizing populations of less than 150 to meet this eligibility criteria, the total of all populations combined must meet or exceed the 150 person criteria.

E. Grant Period

The initial period of grant performance will be one year; i.e. twelve months, commencing from the date of award. Funding after the first grant is non-competitive and is contingent upon the grantee's satisfactory progress in achieving the objectives of its plan, and availability of Federal funds, and compliance with the applicable statutory, regulatory and grant requirements.

F. Multi-Year Projects

Applicants are encouraged to develop multi-year projects of up to 60 months duration. A multi-year project affords applicants the opportunity to deveelop more complex and in-depth projects than can be completed in one year.

A multi-year project is one that takes more than 12 months to complete and is a series of related projects or activities presented in chronological order over a period of as many as 5 years. Funding after the first 12 month grant is non-competitive as described above in the grant period section.

G. Contents of the Application and Ranking Factors

1. Contents of Application

Applications for a grant in response to this announcement shall follow the application requirements set forth in Office of Management and Budget Circular A–102, Uniform Requirements for Assistance to State and Local Governments, and attachments prescribed by such Circular. Under part A–102 6,C, 4 and 5, Program Narrative Statement, applicants shall provide the following:

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(a) A resolution passed by the tribal council stating the tribe's goals and objectives for the five years for the CEDGP funding;

(b) A characterization of the economic, social and demographic environments of the reservation;

(c) A broad outline of the anticipated five year program including a plan for the first year's activities;

(d) A discussion of the objective, quantifiable measures that will be used to assess the impact of the CEDGP funding and to present a clear picture of progress of the tribe's activities under the grant in meeting its goals and objectives;

(e) A five year plan of activities or a process description that will be used to develop a five year plan during the first year of operation. While the focus of this program is on projects that stimulate local economic development rather than develop comprehensive plans, a tribe may use a portion of its first years grant to develop a five year plan in more detail. The plan should contain goals, objectives and time frames against which accomplishments may be measured. (If a multi-year project is proposed as described below, then the plan surrounding such a project may be sufficient to meet this requirement.) The process to develop a plan should identify specific steps and approaches to be used by the tribe which will result in the presentation of a preliminary plan to the funding agency by the mid point of the proposed grant terms and final plan by year's end.

(f) A line item budget and narrative justification for each proposed expenditure.

(g) A description of key personnel required, if any, to carry out the activities described in the Program Narrative Statement which have been designed to meet tribal specific goals and objectives, including: (a) Position descriptions, if available; or (b) Descriptions of qualifications, education and experience of key personnel expected to be hired under the terms of the grant.

(h) Tribal grantees shall agree to submit for each grant year a semi-annual financial status and progress report and an annual assessment due by the end of the first quarter of the next succeeding year. The annual assessment report shall document the accomplishment of the proceeding year using the objective, quantifiable measure. By the beginning of the fourth quarter of each grant year, the grantee shall submit an activity plan that specifies how funds shall be used in the next grant period. The semi-annual reports and the activity plan will be used for determining progress in achieving the objectives of the grantee's plan and assessing the follow-on year grant.

2. Ranking Factors

Program applications will be evaluated on the basis of five ranking factors. These factors are used to evaluate the quality of a proposed project, and to determine the likelihood of its success. A proposed project should reflect the purposes of the policy and program goals described in the Introduction and Purpose section of this announcement and include all the contents described above as well as the criteria in 25 CFR part 276.15. The five factors are closely related to each other. They will be considered jointly in judging the overall quality of an application. Points will be given only to applications which are responsive to this announcement and these criteria. The five evaluation factors are:

(a) Long-Range Goals and Available Resources. (0–15 points).

The application presents specific long-range tribal goals related to the proposed project. It explains how the tribe will achieve these goals and clearly documents the involvement and support of the community in the planning process and implementation of the proposed project.

(b) Organizational Capabilities and Qualifications. (0–10 points).

(1) The management and administrative structure of the applicant is explained. Evidence of the applicant's desire and ability to operate as an independent and stable government will receive highest marks.

(2) Position descriptions or resumes of key personnel, including those of consultants, are presented. The position descriptions and resumes relate specifically to the staff proposed in the budget of the application. Resumes indicate that the proposed staff are qualified to carry out the project activities.

(c) Project Objective, Approach and Activities. (0–45 points).

The application proposes specific project objectives and activities related to the overall long-term goals. The Objective Work Plan in the application includes project objectives and activities for each budget period proposed and demonstrates that these objectives and activities are:

- clearly feasible in the context of the specific tribal application;
- measurable and/or quantifiable;
- based on a fully described and a locally determined strategy for economic development;
- clearly related to the community's long-range goals which the project addresses;
- accomplished with available or expected resources during the proposed project period;
- completed within clearly specified time periods.

(d) Results or Benefits Expected. (0–20 points).

The proposed project will result in specific, measurable outcomes for each objective that will clearly contribute to the completion of the project. The specific information provided in the application on expected results or benefits for each objective is the basis upon which the outcomes can be evaluated at the end of each budget year. Projects which can be expected to have a positive economic impact on the tribal community will receive the highest marks under this section.

(e) Budget. (0–10 points).

There is a detailed budget provided for each budget period requested. It justifies each line item of the budget.

H. Guidance to applicants

The following is provided to assist applicants to develop a competitive application:

(1) Program Guidance

(a) Grant funds will not be provided for projects for which other funding is available.

(b) Award of a grant does not relieve a grantee of the necessity of obtaining any Secretarial approvals needed for the grant program.

(c) Applications will be scrutinized to assure funds committed to this program are not spent on planning alone, i.e. close examination will be given to assure that plans have actual projects or accomplishments specified in them and the plan will be evaluated on the merits of those specific projects and accomplishments.

(d) Under this announcement the BIA will fund projects that present the strongest prospects for actual economic development and job creation. Projects which can reasonably anticipate inclusion of other funding sources in a coordinated effort will receive higher marks than those which do not.

(e) In discussing the problems being addressed in the application, sufficient background and/or history of the tribe concerning these problems and progress to date, as well as the size of the population to be served, should be included so that the appropriateness and potential of the proposed project in strengthening the self-sufficiency of a tribe in meeting long-range goals or plan will be better understood by reviewers.

(f) An application should demonstrate a clear linkage between the proposed project and the tribe's long-range goals or plan. Projects which demonstrate a strong commitment from the tribe, including matching funds, will receive highest marks.

(g) The project application must clearly identify, in measurable terms, the expected results, benefits or outcomes of the project, and the positive and continuing impact on the community.

(h) Supporting documentation, or other testimonies from concerned interests other than the applicant, should be included to provide support for the feasibility of the project.

(i) Commitments of outside resources toward the implementation of the project as well as tribal commitments to match funds will be positively regarded.

(j) Reviewers are better able to evaluate the feasibility and practicality of a proposed economic development project if the applicant includes a business plan to support the feasibility of the project.

(2) Technical Guidance

(a) For purposes of developing an application, applicants should plan for a project start date approximately 120 days after the closing date under which the application is submitted.

(b) The BIA will accept only one application from any one applicant. If an eligible applicant sends in two applications, the one with the earlier postmark will be accepted for review unless the applicant withdraws the earlier application.

(c) The application's Form 424 must be signed by the applicant's representative authorized to act with full authority on behalf of the applicant.

(d) It is BIA's suggestion that the pages of the application be numbered sequentially from the first page, and that a table of contents be provided. This allows for easy reference during the review process. Simple tabbing of the sections of the application is also helpful to the reviewers.

(e) The grantee may make subgrants or subcontracts under this part provided that such subgrant are for the purpose for which the grant was made and the grantee retains administrative and financial responsiblity over the activity.

(f) Monitoring responsibility for approved grants shall rest with Agency offices with guidance, support and assistance provided by Area office, or in the absence of an agency such monitoring responsibility will be provided by the Area office. The Central office shall have overall responsibility for the approval, administration, and evaluation of grants awarded under this part. Administrative requirements for all grants provided under this part shall be those prescribed in 25 CFR part 276, save for any which are appliable only to grants awarded under section 104 of the Indian Self-Determination and Education Assistance Act, 25 U.S.C. 450(h).

(3) Projects or Activities that generally will not meet the purposes of this announcement.

(a) Project goals which are not responsive to Economic and/or Community Development.

(b) Proposals from consortia of tribes that are not specific regarding support from, and roles of, member tribes. BIA expects an application from a consortium to have goals and objectives that will create a positive impact in the communities of its members.

(c) Projects originated and designed by consultants who are not members of the applicant organization, tribe or village who prepared the application and provide a major role for themselves in the proposed project.

I. Submission of Application

Applications submitted in response to this announcement must:

(1) Be postmarked not later than April 20, 1992.

(2) Be received in the Office of Trust and Economic Development no later than the close of business April 20, 1992.

(3) Consist of an original grant application and two (2) copies. Applications shall be mailed or hand delivered to: Department of the Interior, Bureau of Indian Affairs, Attention: Office of Trust and Economic Development, MS-4513-MIB, 1849 C Street, NW., Washington, DC 20240.

Dated: February 13, 1992.

William D. Bettenberg,

Acting Assistant Secretary, Indian Affairs.

[FR Doc. 92-3902 Filed 2-19-92; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management,

Susanville District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting of Susanville District Advisory Council.

SUMMARY: Notice is hereby given in accordance with Public Law 95–579 (FLPMA) that the Susanville District Advisory Council will hold a business meeting on Tuesday, March 31, 1992, from 10 a.m. to 4:30 p.m. in the Conference Room of the Bureau of Land Management's Susanville District Office, 705 Hall Street, Susanville, CA, 96130. Topics scheduled for discussion include the status of a proposed withdrawal by Sierra Army Depot, the current status of the District's application for California Off Highway Vehicle funds, progress on the development of a vegetation management plan for the East Lassen area, the status of California and Nevada wilderness packages, and the status of proposals to create a National Conservation Area in High Rock Canyon and parts of the Black Rock Desert. The Council will also discuss the Susanville District nomination for the California District Advisory Council Conservation Award.

The meeting is open to the public, and interested persons may make oral statements or file a written statement for the council's consideration. Those wishing to make oral statements must contact the District Manager, 705 Hall St., Susanville, CA 96130, by Monday, March 23, 1992. Depending on the number of persons wishing to speak, a time limit may be imposed.

For further information, contact: Jeff Fontana, (916) 257–5381.

John Bosworth,

Acting District Manager.

[FR Doc. 92–3910 Filed 2–19–92; 8:45 am]

BILLING CODE 4310-40-M

INTERNATIONAL TRADE COMMISSION

Agency Form Submitted for OMB Review

AGENCY: United States International Trade Commission.

ACTION: In accordance with the provision of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Commission has submitted a proposal for the collection of information to the Office of Management and Budget (OMB) for review.

Purpose of Information Collection: The proposed information collection is for use by the Commission in connection with investigation No. 332–320, Macadamia Nuts: Economic and Competitive Factors Affecting the U.S. Industry, instituted under the authority of section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332).

Summary of Proposal: (1) *Number of Forms Submitted:* Three.

(2) *Title of Form:* Macadamia Nuts: Economic and Competitive Factors

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Affecting the U.S. Industry—Questionnaires for U.S. (1) Growers, (2) Grower/Processors, and (3) Importers.

(3) *Type of Request:* New.

(4) *Frequency of Use:* Nonrecurring.

(5) *Description of Respondents:* Firms which grow, process, or import macadamia nuts and macadamia nut products.

(6) *Estimated Number of Respondents:* Growers: 131, based on an estimated response rate of 50 percent. Processors: 8, based on an estimated response rate of 80 percent. Importers: 16, based on an estimated response rate of 50 percent.

(7) *Estimated total number of hours to complete the forms:* The Commission estimates a response time of 30 hours per questionnaire for growers and importers and 40 hours per questionnaire for grower/processors.

(8) Information obtained from the form that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.

ADDITIONAL INFORMATION OR COMMENT: Copies of the proposed form and supporting documents may be obtained form David L. Ingersoll (USITC telephone no. (202)–205–3309). Comments about the proposal should be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Attention: Ms. Lin Liu, Desk Officer for U.S. International Trade Commission. Any comments should be specific, indicating which part of the questionnaire is objectionable, describing the problem in detail, and including specific suggested revisions or language changes.

SUBMISSION OF COMMENTS: Comments should be submitted to OMB within 2 weeks of the date this notice appears in the **Federal Register**. If you are unable to submit them promptly you should advise OMB within the 2 week period of your intent to comment on the proposal. Ms. Liu's telephone number is (202) 395–7340. Copies of any comments should be provided to Charles Ervin (United States International Trade Commission, 500 E Street SW., Washington, DC 20436).

Hearing impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 205–1810.

By order of the Commission.

Issued: February 10, 1992.

Kenneth R. Mason,
Secretary.

[FR Doc. 92–3929 Filed 2–19–92; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–335]

Certain Dynamic Sequential Gradient Compression Devices and Component Parts Thereof; Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337 and provisional acceptance of motion for temporary relief.

SUMMARY: Notice is hereby given that a complaint and a motion for temporary relief were filed with the U.S. International Trade Commission on January 17, 1992, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of The Kendall Company, 15 Hampshire Street, Mansfield, Massachusetts 02048. A supplement was filed on January 28, 1992.

The complaint alleges a violation of subsection (a)(1)(B)(i) of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain dynamic sequential gradient compression devices and component parts thereof by reason of alleged infringement of claims 1, 2, 5, 8, 9, 11–13, 17–20, 25 and 27 of U.S. Letters Patent 4,029,087, and that there exists an industry in the United States as required by subsection (a)(2) of section 337. The complaint alternatively alleges unfair methods of competition in the importation of certain dynamic sequential gradient compression devices and component parts thereof in violation of subsection (a)(1)(A) of section 337 by reason of infringement of U.S. Letters Patent 4,029,087, and other conduct. The complaint further alleges that the threat or effect of the asserted unfair methods of competition is to destroy or substantially injure the domestic industry. The complainant requests that the Commission institute an investigation and, after a full investigation, issue a permanent general exclusion order and permanent cease and desist orders.

The motion for temporary relief, which is limited to the alleged violation of subsection (a)(1)(B)(i) of section 337, requests that the Commission issue a temporary exclusion order and temporary cease and desist orders prohibiting the importation into and the sale within the United States after importation of infringing dynamic sequential gradient compression devices and component parts thereof, during the course of the Commission's investigation.

ADDRESSES: The complaint and the motion for temporary relief, except for any confidential information contained therein, are available for inspection during official businesses hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., room 112, Washington, DC 20436, telephone 202–205–1802. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

FOR FURTHER INFORMATION CONTACT: Linda C. Odom, Esq., Office of Unfair Important Investigations, U.S. International Trade Commission, telephone 202–205–2574.

Authority

The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in 210.12 of the Commission's Interim Rules of Practice and Procedure, 19 CFR 210.12. The authority for provisional acceptance of the motion for temporary relief is contained in 210.24(e) of the Commission's Interm Rules of Practice and Procedure, 19 CFR 210.24(e).

Scope of Investigation

Having considered the complaint and the motion for temporary relief, the U.S. International Trade Commission, on February 13, 1992, *Ordered That*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B)(i) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain dynamic sequential gradient compression devices and component parts thereof by reason of alleged infringement of claims 1, 2, 5, 8, 9, 11–13, 17–20, 25 or 27 of U.S. Letters Patent 4,029,087, and whether there exists an industry in the United States as required by subsection (a)(2) of section 337.

(2) Pursuant to rule 210.24(e)(8) of the Commission's Interim Rules of Practice and Procedure, the motion for temporary relief under subsection (e) of section 337 of the Tariff Act of 1930, which was filed with the complaint, be provisionally accepted and referred to an administrative law judge.

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served: (a) The complainant is—

The Kendall Company, 15 Hampshire Street, Mansfield, Massachusetts 02048

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint and motion for temporary relief are to be served:

Huntleigh Technology, Inc., 227 Route 33 East, Manalapna, New Jersey 07726
Huntleigh Technology PLC, 310–312 Dallow Road, Luton, Bedfordshire, England

(c) Linda C. Odom, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., room 401, Washington, DC 20436, who shall be the Commission investigative attorney, party to this investigation; and

(4) For the investigation and temporary relief proceedings so instituted, Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding administrative law judge.

Responses to the complaint, the motion for temporary relief and the notice of investigation must be submitted by the named respondents in accordance with §§ 210.21 and 210.24 of the Commission's Interim Rules of Practice and Procedure. Pursuant to §§ 201.16(d), 210.21(a) and 210.24(e)(9) of the Commission's Rules, such responses will be considered by the Commission if received not later than ten (10) days after the date of service by the Commission of the complaint, the motion for temporary relief and the notice of investigation. Extensions of time for submitting responses to the complaint, the motion for temporary relief and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint, in the motion for temporary relief, and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint, the motion for temporary relief, and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint, motion for temporary relief, and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a case and desist order or both directed against such respondent.

Issued: February 13, 1992.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 92-3862 Filed 2-19-92; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 701-TA-313 (Preliminary)]

Portable Seismographs from Canada

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of a preliminary countervailing duty investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary countervailing duty investigation No. 701–TA–313 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Canada of portable seismographs, provided for in subheading 9015.80.60 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the Government of Canada. The Commission must complete preliminary countervailing duty investigations in 45 days, or in this case by March 30, 1992.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: February 12, 1992.

FOR FURTHER INFORMATION CONTACT: Tedford Briggs (202–205–3181), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contracting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted in response to a petition filed on February 12, 1992, by GeoSonics Inc., Warrendale, PA.

Participation in the investigation and public service list.—Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven (7) days after publication of this notice in the **Federal Register**. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207 .7(a) of the Commission's rules, the Secretary will make BPI gathered in this preliminary investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than seven (7) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on March 4, 1992, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Tedford Briggs (202–205–3181) not later than February 28, 1992, to arrange for their appearance. Parties in support of the imposition of countervailing duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission' deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before March 9, 1992, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three (3) days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: February 13, 1992.

Kenneth R. Mason,

Secretary.

[FR Doc. 92-3927 Filed 2-19-92; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-26, 596]

Epson Portland, Inc., Hillsboro, OR; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at Epson Portland, Inc., Hillsboro, Oregon. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-26; 596; Epson Portland, Incorporated Hillsboro, Oregon (February 11, 1992)

Signed at Washington, DC, this 11th day of February, 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92-3932 Filed 2-17-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-26,153]

General Electric—Aerospace Defense Systems Department Pittsfield, MA; Negative Determination on Reconsideration

On November 6, 1991, the Department issued an Affirmative Determination Regarding Application for Reconsideration for workers and former workers of General Electric—Aerospace Defense Systems Department in Pittsfield, Massachusetts. This notice was published in the **Federal Register** on November 15, 1991 (56 FR 58092).

The company submitted new sales information to replace their initial submission which was based on a rising forecast for 1991. The new sales data shows actual first half 1991 and 1990 sales data by product group as requested by the Department.

New findings obtained on reconsideration show that Weapons Equipment sales increased in the first half of 1991 compared to the first half of 1990 while sales declines occurred in Fire Control, Guidance Systems, Shipboard Equipment, Phalanx, Vehicle Equipment and Advanced Programs for the same period. However, the findings also show that imported purchased components were either non existent or negligible for the above mentioned product lines in 1990 and 1991.

New findings obtained on reconsideration show that Weapons Equipment sales increased in the first half of 1991 compared to the first half of 1990 while sales declines occurred in Fire Control, Guidance Systems, Shipboard Equipment, Phalanx, Vehicle Equipment and Advanced Programs for the same period. However, the findings also show that imported purchased components were either non existent or negligible for the above mentioned product lines in 1990 and 1991. Other findings on reconsideration show that the imported purchased components were not produced at Pittsfield during the period relevant to the investigation.

Other findings on reconsideration show that the Aegis missile contract was not lost to an offshore supplier and was still with Pittsfield as of September, 1991. If worker separations occur as the result of the loss of the Aegis missile contract to a foreign supplier, the Department would entertain a new petition.

Officials with the company indicated that worker separations at Pittsfield during the period of the Department's investigation were the result of a corporate restructuring and the scaling down of defense purchases.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for adjustment assistance to workers and former workers of General Electric Aerospace Defense Systems Department, Pittsfield, Massachusetts.

Signed at Washington, DC, this 12th day of February 1992.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Services Unemployment Insurance Service.

[FR Doc. 92-3930 Filed 2-19-92; 8:45 am]

BILLING CODE 4510-30-M

Job Training Partnership Act: Native American Programs' Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, and section 401(h)(1) of the Job Training Partnership Act, as amended 29 U.S.C. 1671(h)(1)), notice is hereby given of a change in the time reserved for participation and presentations by members of the public during a meeting of the Job Training Partnership Act Native American Programs' Advisory Committee. In order to ensure maximum opportunity for public input, the time for such participation as previously published in the **Federal Register** on February 7, 1992 (52 FR 4776) has been changed.

Time and Date: The meeting will begin at 1:30 p.m. on March 5, 1992, and continue until close of business that day; and will reconvene at 9 a.m. on March 6, 1992, and adjourn at close of business that day. From 1:30 to 4:30 p.m. on March 5 will be reserved for participation and presentations by members of the public.

Place: Navajo Rooms A, B and C (March 5) and Hopi Rooms A & B (March 6). Omni Adams Hotel, 111 North Central Avenue, Phoenix, Arizona.

Status: The meeting will be open to the public.

Matters to be considered: The agenda will focus on a discussion of enhancing the quality of Indian and Native American programs, the Department's responses to the motions of the January 15-16, 1992 meeting, and any reports of the subcommittees.

Contact Person for More Information: Paul A. Mayrand, Director, Office of Special Targeted Programs, Employment and Training Administration, United States Department of Labor, room N-4641, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: 202-535-0500 (this is not a toll-free number).

Signed at Washington, DC, 14th day of February, 1992.

Roberts T. Jones,

Assistant Secretary of Labor.

[FR Doc. 92-3964 Filed 2-19-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-26, 553]

Sundor Brands, Weslaco, TX; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at Sundor Brands, Weslaco, Texas. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-26, 553; Sundor Brands
Weslaco, Texas (February 11, 1992)

Signed at Washington, DC, this 11th day of February, 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92-3933 Filed 2-19-92; 8:45 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

Alaska State Standards; Notice of Approval

1. Background

Part 1953 of title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR part 1902. On September 28, 1984, notice was published in the **Federal Register** (49 FR 38252) announcing final approval of the State's plan and amending subpart R of part 1952.

The Alaska plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. Section 1953.20 provides that where any alteration in the Federal program could have an adverse impact on the at least as effective status of the State program, a program change supplement to a State plan shall be required.

In response to Federal standards changes, the State has submitted by letters dated September 15, 1989, and September 15, 1990, from Tom Stuart, Director, to James W. Lake, Regional Administrator, and incorporated as part of the plan, State standard amendments comparable to 29 CFR 1910.1000, Air Contaminants, as published in the **Federal Register** (54 FR 2920) on January 19, 1989 and corrected (54 FR 28059) on July 5, 1989, and (54 FR 47513) on November 15, 1989. The State's Air Contaminants standard amendments, which are contained in AAC.04. of the Occupational Health and Environmental Code, were promulgated after notifications of the State's proposed amendments in the statewide media April 28 through May 5, 1989, and on December 29, 1989, and January 5, 1990; public hearings on the uncorrected rule were held May 31 through June 2, 1989; no hearings were requested for the corrections. The public comment period was open for thirty days by Jim Sampson, Commissioner, under authority vested by AS 18.60.020. The State's original standard amendments were adopted on June 23, 1989, with an effective date of August 23, 1989; the corrections were adopted on February 12, 1990, and became effective on August 6, 1990. The State incorporated editorial modifications, including using the State's numbering system; they also changed the word "shall" to "must", and elected to omit references to operations/industries not found in Alaska. Alaska also chose to retain a State-initiated provision at AAC .04.0101(f) adopted in May, 1976 which requires engineering controls to suppress drilling dust whenever percussion drilling is performed.

Also in response to Federal standards changes, the State has submitted by letter dated November 21, 1990, from Mr. Stuart to Mr. Lake and incorporated as part of the plan, a State standard comparable to 29 CFR 1910.1450, Hazardous Chemicals in Laboratories, as published in the **Federal Register** (55 FR 3300) on January 31, 1990, and corrected (55 FR 7967) on March 6, 1990. The State's Laboratory standard, which is contained in AAC .04. of the Occupational Health and Environmental Code, was promulgated after notifications of the State's proposed standard in the Statewide media, were made on April 4 and 11, 1990; public hearings were held May 8 through 10, 1990. The public comment period was open for thirty days by Jim Sampson, Commissioner, under authority vested by AS 18.60.020. The State's standard was adopted on July 15, 1990, with an effective date of September 30, 1990. The State incorporated editorial modifications, including use of the State's numbering system and changing the word "shall" to "must".

By letter dated November 14, 1978, from Edmund N. Orbeck, Commissioner, to James W. Lake, Regional Administrator, and incorporated as part of the plan, the State on its own initiative submitted a complete revision to its Explosives Codes which repeals the State's AAC 01.309, Explosives and Blasting Agents, in response to 29 CFR 1910.109 which was previously approved in the **Federal Register** (38 FR 21628) on August 10, 1973; and the State's AAC 05.210, Blasting and the Use of Explosives, in response to 29 CFR 1926, subpart U which was previously approved in the **Federal Register** (41 FR 53077) on December 3, 1976. The State's November 14, 1978 submission, AAC 09., a Unified Explosives Code, responds to both 29 CFR 1910.109 as appears in the **Federal Register** at Vol. 39, No. 125 dated June 27, 1974 and 29 CFR 1926, Subpart U as appears in the **Federal Register** at Vol. 39, No. 122 dated June 24, 1974. Regional review revealed discrepancies in the State's Explosives Code and returned it to the State on December 29, 1979 for corrections. On May 5, 1983, Alaska forwarded its first resubmission with a corrective amendment. On August 12, 1983, Region X returned the State's resubmission for further corrections. On December 7, 1984, Alaska forwarded its second resubmission with a corrective amendment. On March 27, 1985, the submission was forwarded to the OSHA National Office for review and on November 6, 1985, the National Office directed that additional corrections be made. On March 11, 1987, Alaska forwarded its third Explosives Code corrective amendment to Region X. On March 29, 1988, Alaska forwarded a minor State-initiated amendment to its Explosives Code that more clearly specifies who is required to have a certificate of fitness for certain tasks associated with explosives handling. In response to Federal standards changes, Alaska forwarded on June 20, 1988, an amendment to its Explosives Code at AAC 09.230(e)(5) comparable to 29 CFR 1926.903(e), Underground Transportation of Explosives, as amended and published in the **Federal Register** (52 FR 36382) on September 28, 1987.

The State's Unified Explosives Code, Subchapter AAC 09., was adopted on December 27, 1977, with an effective date of January 26, 1978 after public notification of the comment period was published in the statewide media on the following dates: July 16, 19, 23, 26, 27, 30,

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1976; December 7, 9, 14, 16, 20, 23, 1976; April 1, 2, 8, 9, 15, 18, 1977; August 26, 27, 31, 1977; September 2, 3, 9, 10, 14, 1977. A public hearing was held on October 10, 1977. Subsequently, the State's first corrective amendment was adopted on February 23, 1983, with an effective date of March 22, 1983, after public notification of the comment period, was published in the statewide media on December 28, 1981 and January 4, 11, 18, 1982. Public hearings were held on January 27, 28, and February 1, 1983. The State's second corrective amendment was adopted on May 17, 1984 with an effective date of June 16, 1984, after public notification of the comment period was published in the statewide media on November 4, 10, 1983. Public hearings were held on December 14, 15, 16, 1983. The State's third corrective amendment was adopted on December 19, 1986, with an effective date of January 18, 1987, after public notification of the comment period was published in the statewide media on September 17, 22, 1986. Public hearings were held on October 22, 23, 26, 1986. On March 29, 1988, Alaska submitted a State-initiated amendment to its Unified Explosives Code that was adopted on February 8, 1988 and was made effective on March 26, 1988, after public notification of the comment period was published in the statewide media on November 25, 1987 and December 2, 1987. The public comment period was open for thirty days by Jim Sampson, Commissioner, under authority vested by AS 19.60.020. No requests for a hearing were received. On June 20, 1988 Alaska submitted an amendment to its Unified Explosives Code in response to Federal standards changes that were adopted on March 25, 1988 with an effective date of May 22, 1988, after public notification of the comment period was published in the statewide media on January 13, 15, 20 and February 10, 1988. The public comment period was open for thirty days by Jim Sampson, Commissioner, under authority vested by AS 19.60.020.

The amended explosives standard contains the following differences which OSHA considers to be either minor or adopted in 1977: (1) The State has retained several of the OSHA revoked standards. The retention of the revoked standards received **Federal Register** approval (53 FR 20389) on June 3, 1988; (2) Due to the compelling local conditions of continuous darkness during the winter months in Alaska, the State since 1977 has permitted nighttime blasting operations, if additional safety requirements are met; (3) Since 1977 the State has required persons handling explosives to be supervised by holders of a certificate of fitness, or blaster's permit (the Federal standard allows only authorized and qualified persons to handle explosives). Since 1977 the State has also required all persons placing explosives for detonation, installing primers, etc., or detonating explosives to obtain a certificate of fitness. (4) The State in 1977 incorporated the more recent codes of the U.S. Department of Transportation; Bureau of Alcohol, Tobacco and Firearms; the American Table of Distances for Storage of Explosives; and the Institute of Makers of Explosives in order to be consistent with parallel State statute law addressing explosives, and the State has incorporated the provisions of OSHA Instruction STD 3–19.1. The State has also substituted the words "may not" and "must" in its code for the Federal terms "shall not" and "shall"; and editorial changes have been made to accommodate the State's codification and numbering system.

In response to Federal standards changes, the State has submitted by letter dated June 20, 1988 from Jim Sampson, Commissioner, to James W. Lake, Regional Administrator, and incorporated as part of the plan, State standards amendments comparable to 29 CFR 1926.550(b)(2) and 552(c)(15) as amended and published in the **Federal Register** (52 FR 36382) on September 28, 1987. The State's original standards were published in the **Federal Register** (41 FR 53077) on December 3, 1976. These State standards amendments, which are contained in AAC 05., Construction, correspond to Federal standards amendments as follows: AAC 05.140(a)(2)(B)/29 CFR 1926.550(b)(2), Cranes and Derricks; AAC 05.140(a)(3)(O)/29 CFR 1926.552(c)(15), Material Hoists, Personnel Hoists and Elevators. The State standards amendments were promulgated after public hearings were held on February 29, and March 1, and 2, 1988. Notifications of the hearings were published in the statewide media on January 13, 15, 20, and February 10, 1988. The public comment period was open for thirty days by Jim Sampson, Commissioner, under authority vested by AS 19.60.020. The State's standards amendments were adopted on March 25, 1988 with an effective date of May 22, 1988. The State incorporated editorial modifications consisting of using the State's numbering system and changing the word "shall" to "must".

On its own initiative, the State has submitted by letter dated August 22, 1985, from Jim Robison, Director, to James W. Lake, Regional Administrator, and incorporated as part of the plan, a corrective amendment to Alaska Subchapter 01, General Safety Code, comparable to OSHA standard 29 CFR 1910, General Industry. Five of the seven corrected rules address ladders comparable to 29 CFR 1910.25(c). The State's original standard received Federal **Federal Register** approval at 38 FR 21628 on August 10, 1973. One corrected rule, AAC 01–0809(c)(5) addressing Mechanical Power-Transmission Apparatus, is comparable to 29 CFR 1910.219(c)(5)(V), and is now identical to the Federal standard. The State's original standard received **Federal Register** approval at 38 FR 21628 on August 10, 1973. The remaining corrected rule, AAC 01.1002(a)(4)(C)(ii), addressing Welding, Cutting and Brazing, is comparable to 29 CFR 1910.252(a)(4)(iii)(b) and is now substantially identical to the Federal standard. The State's original standard received **Federal Register** approval at 40 FR 50582 on October 30, 1975. The State's standard amendment was promulgated after notifications were published in the statewide media on March 8 and 13, 1985. No request for a public hearing was received. The public comment period was open for thirty days by Jim Robison, Commissioner, under authority vested by AS 19.60.020. The State standard amendment was adopted on May 10, 1985, with an effective date of June 9, 1985. The State incorporated the State's numbering system.

By letter dated March 29, 1988, from Jim Sampson, Commissioner, to James W. Lake, Regional Administrator, and incorporated as part of the plan, the State on its own initiative submitted an amendment to AAC 07., Logging Code, Article 1. The Code was originally approved in the **Federal Register** (41 FR 5649) on December 28, 1976. The State standard amendment, which adds paragraph 07.140(a)(7), was adopted by the State on February 8, 1988, with an effective date of March 26, 1988, under authority vested in Jim Sampson, Commissioner, by AS 18.60.020, and after notice and opportunity for public comments under AS 44.62.190, 44.62.200, and 44.62.210. The State-initiated amendment was developed to address the hazards of employee exposure to saplings being bent over or broken by running lines being tensioned during logging operations. It requires rigging crews to move away from standing saplings before the lines are tensioned.

2. Decision

OSHA has determined that amendments for Hazardous Chemicals in Laboratories; Cranes and Derricks and Material Hoists, Personnel Hoists, and Elevators; General Safety Code, Corrective Amendments; and Logging Amendment are at least as effective as the comparable Federal standard amendments as required by section 18(c)(2) of the Act. OSHA has also determined that the differences between the State and Federal amendments are minimal and that the standards are thus substantially identical. OSHA has determined that the State's amendment to its Logging standards is a minor work practice amendment that is substantially identical to the general standards provisions that OSHA would enforce in a comparable enforcement situation. OSHA therefore approves these substantially identical standards; however, the right to reconsider this approval is reserved should substantial objections be submitted to the Assistant Secretary.

OSHA has determined that the State standard amendments for Explosives Code and Air Contaminants are at least as effective as the comparable Federal Standards as required by section 18(c)(2) of the Act. Having reviewed the State submissions in comparison with the Federal standards, it has been determined that Alaska's amended Explosives code contains some different provisions that have been in effect since 1977 and that the remaining differences in the State's Explosive's Code are minimal. OSHA has further determined that with the exception of Alaska's percussion drilling provision which has been in effect since May 1976 the differences between the State and Federal Air Contaminants standards are minimal. During this time OSHA has received no indication of significant objection to the State's different standards either as to their effectiveness in comparison to the Federal standard or to their conformance with the product clause requirements of section 18(c)(2) of the Act. (A different State standard applicable to a product which is distributed or used in interstate commerce must be required by compelling local conditions and not unduly burden interstate commerce.) OSHA, therefore, a approves these different standards. However, the right to reconsider this approval is reserved should substantial objections be submitted to the Assistant Secretary.

3. Location of Supplement for Inspection and Copying

A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the Occupational Safety and Health Administration, 1111 Third Avenue, suite 715, Seattle, Washington 98101-3212; State of Alaska, Department of Labor, Office of the Commissioner, Juneau, Alaska 99802; and the Office of State Programs, Occupational Safety and Health Administration, room N-3476, 200 Constitution Avenue, NW., Washington, DC 20210.

4. Public Participation.

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Alaska State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

a. The standard amendments were adopted in accordance with the procedural requirements of State law which included opportunity for public comments and further public participation would be repetitious.

This decision is effective February 20, 1992.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667)).

Signed at Seattle, Washington, this 14th day of August, 1991.

James W. Lake,

Regional Administrator.

[FR Doc. 92-3931 Filed 2-19-92; 8:45 am]

BILLING CODE 4510-26-M

OFFICE OF NATIONAL DRUG CONTROL POLICY

President's Drug Advisory Council; Meeting

AGENCY: President's Drug Advisory Council; Office of National Drug Control Policy.

ACTION: Notice of open meeting.

SUMMARY: Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. appendix), of a meeting of the President's Drug Advisory Council.

DATE AND TIME: March 11, 1992 from 1:30 to 3:30 p.m.

PLACE: The meeting will be held in room 476 of the Old Executive Office Building (OEOB), Washington, DC 20500.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Cavanagh, Confidential Assistant, President's Drug Advisory Council, Executive Office of the President, Washington, DC 20500, (202) 466-3100.

SUPPLEMENTARY INFORMATION: The President's Drug Advisory Council was created by Executive Order 12696 of November 13, 1989 (54 FR 47507, November 15, 1989), with the general purpose of advising the President and the Director of the Office of National Drug Control Policy on the development, dissemination, explanation and promotion of national drug policy.

At the session on March 11, the Council will receive an update from its Drug-Free Workplace Committee on the "Drugs Don't Work" program which the committee is developing. The Council will receive an update from its National Coalition Committee on the planning of the second National Leadership Forum. The Council will also discuss with the National Coalition Committee the progress made by the steering committee for a new group, to be known as CADCA (The Community Anti-Drug Coalitions of America).

Members of the public interested in attending the meeting should contact the President's Drug Advisory Council, (202) 466-3100, at least one day prior to the meeting. Callers should be prepared to give their birthdate and social security number over the telephone, in order to facilitate clearance into the Old Executive Office Building.

Terence J. Pell,

Chief of Staff, Office of National Drug Control Policy.

[FR Doc. 92-3593 Filed 2-19-92; 8:45 am]

BILLING CODE 3180-02-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Expansion Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Expansion Arts Advisory Panel (Theater Section) to the National Council on the Arts will be held on March 10, 1992 from 9:15 a.m.-6 p.m., March 11-12 from 9 a.m.-7 p.m. and March 13 from 9 a.m.-4:30 p.m. in room 730 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC. 20506.

Portions of this meeting will be open to the public on March 10 from 9:15 a.m.-10:30 a.m. and March 13 from 2 p.m.-4:30 p.m. The topics will be opening remarks, general program overview and policy discussion.

The remaining portions of this meeting on March 10 from 10:30 a.m.-6 p.m., March 11-12 from 9 a.m.-7 p.m. and March 13 from 9 a.m.-2 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendations on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: February 13, 1992.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 92-3915 Filed 2-19-92; 8:45 am]

BILLING CODE 7537-01-M

Folk Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Folk Arts Advisory Panel (National Heritage Fellowships Section) to the National Council on the Arts will be held on March 11-12, 1992 from 9 a.m.-6 p.m. and March 13 from 9 a.m.-4 p.m. in room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendations on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: February 13, 1992.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 92-3916 Filed 2-19-92; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee on Planning and Procedures

Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on March 4, 1992, room P-422, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, March 4, 1992—3 P.M. Until 5:30 P.M.

The Subcommittee will discuss proposed ACRS activities and related matters.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the Designated Federal Official, Mr. Raymond F. Fraley (telephone 301/492-4516) between 7:30 a.m. and 4:15 p.m., e.s.t. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: February 13, 1992.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 92-3922 Filed 2-19-92; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Joint Meeting of the Subcommittees on Computers in Nuclear Power Plant Operations, Instrumentation and Control Systems, and Human Factors

Meeting

The ACRS Subcommittees on Computers in Nuclear Power Plant Operations, Instrumentation and Control Systems, and Human Factors will hold a joint meeting on March 4, 1992, room P-110, 7920 Norfolk Avenue, Bethesda, MD with representatives of the ABB-Combustion Engineering (ABB-CE), Westinghouse Electric Corporation (*W*), Electric Power Research Institute (EPRI), and the NRC staff.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed to discuss privileged and proprietary information [5 U.S.C. 552b(c)(4)].

The agenda for the subject meeting shall be as follows:

Wednesday, March 4, 1992—8:30 a.m. Until the Conclusion of Business

The Subcommittees will discuss Control Room Designs, the Design Process and Associated Human Factors issues.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairmen; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittees, their consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff members named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittees, along with any of their consultants who may be present, may exchange preliminary views regarding matters to be

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considered during the balance of the meeting.

The Subcommittees will then hear presentations by and hold discussions with representatives of ABB-CE, *W*, EPRI, and the NRC staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Official, Mr. Herman Alderman (telephone 301/492-7750) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: February 13, 1992.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 92-3923 Filed 2-19-92; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-331]

Duane Arnold Energy Center; Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-49, issued to Iowa Electric Light and Power Company (the licensee), for operation of the Duane Arnold Energy Center, located in Linn County, Iowa.

The proposed amendment would revise the Technical Specifications by removing Rod Sequence Control System (RSCS) requirements and reducing the Low Power Setpoint for the Rod Worth Minimizer to 20% rated power. In addition, it would revise the control rod operability and surveillance requirements for greater clarity and consistency with the Standard Technical Specifications and make administrative changes to section 3.3.

The original July 6, 1990 application was amended by the August 30, 1991, submittal to include Rod Worth minimizer operability requirements in section 3.3.C, Reactivity Control Systems.

In a letter dated January 8, 1992, the licensee amended its revision request by deleting sections 3.2.C.2(a) and 4.2.C.2 from the TS. This change would eliminate (1) the Rod Block Monitor (RMB) requirements when a Limiting Control Rod Pattern exists; these requirements are already addressed in section 3.3.C.3; (2) delete the definition of a Limiting Control Rod Pattern; already contained in paragraph B.2.e. of the 3.3. and 4.3 BASES; and (3) delete the requirement to demonstrate both RBM channels operable prior to control rod withdrawal when a Limiting Control Rod Pattern exists because, instead of this requirement, part of the original amendment request was to change paragraph 4.3.C.3 to require an Instrument Functional Test of the operable RBM channel within 24 hours of rod withdrawal when a Limiting Control Rod Pattern exists and one RBM channel is inoperable.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the license has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change will not increase the probability of an accident because the RDA is dependent only on the control rod drive system and mechanisms themselves, and not on the RSCS or RWM systems. The changes to the TSs for these systems affect only the analysis of the RDA [rod drop accident].

The consequences of the RDA as evaluated in the FSAR will not be affected by this modification because an extensive probabilistic study was performed by the NRC staff which indicated that there was not a need for the RSCS. In addition, improvements in the RDA analysis methods indicated that the peak fuel enthalpies resulting from a RDA are significantly lower than previously determined by less refined methods.

The RSCS is redundant to the RWM. As long as the RWM is OPERABLE, control rod pattern errors are prevented and the RSCS is not needed. In the event the RWM is out of service, the TSs require that control rod movement and compliance with the prescribed control rod pattern be verified by a second licensed reactor operator. This verification process is controlled procedurally to ensure high quality, independent review of control rod movement. Therefore, elimination of RSCS requirements from the TSs will not increase the consequences of an accident previously evaluated in the FSAR [Final Safety Analysis Report].

There will also be no increase in the consequences of a RDA as evaluated in the FSAR due to lowering the RWM LPSP [low power setpoint] from 30% to 20%. The effects of a RDA are more severe at low power levels and are less severe as power level increases. Although the original calculations for the RDA were performed at 10% power, to ensure conservatism, the NRC required that the generic BWR TSs be written to require that the RWM operates at any power level below 20% power. However, GE continued to perform the RDA analyses at and below 10% power because these produced more conservative analytical results. Recently more refined calculations by BNL [Brookhaven National Laboratory] have shown that even with the maximum single control rod position error, and most multiple control rod error patterns, the peak fuel rod enthalpy reached during a RDA from these control rod patterns would not exceed the NRC limit of 280 cal/gm for RDAs above 10% power, confirming the original GE analyses. Therefore, lowering our RWM LPSP from 30% to 20% will not increase the consequences of an accident previously evaluated in the FSAR.

The control rod drive scram accumulators are part of the CRD [control rod drive] system and are provided to ensure adequate control rod scram under varying conditions. The scram accumulators are needed to scram the control rods when reactor vessel pressure is low. At higher reactor pressures, vessel pressure provides the primary energy to scram the control rods. If an accumulator is inoperable at normal operating pressures [greater than] 950 psig, the associated control rod may not meet all specified scram insertion times but reactor pressure will still ensure that a scram occurs. But, because of the large number of control rods available for scram and the assumed single failure of a control rod to scram in the safety analysis, a specified amount of time (8 hours) is allowed to restore the accumulator to OPERABLE status. The 8 hours is a conservatively short period of time and is the same time allowed by the Standard Technical Specifications for inoperable accumulators. Therefore, the changes to the inoperable accumulator LCO [limiting condition for operation] will not affect the probability or consequences of a previously evaluated accident.

The purpose of control rod position indication is to ensure that pre-established control rod patterns are being followed during operation. While control rod position cannot affect the probability of an accident previously evaluated, it can affect the consequences of a RDA. The new TSs for control rod position indication, however, only provide more information which better enables the reactor operator to determine control rod position. If a control rod's position cannot be determined by normal or alternate means, the rod is declared inoperable and the appropriate actions must be taken. Control rod patterns must still be followed and operation of the RWM is still required below the LPSP. Therefore, the changes to the control rod position requirements cannot affect the probability or consequences of the RDA or other previously evaluated accidents.

Demonstrating that all control rods are coupled reduces the probability that a RDA will occur and therefore provides protection against violation of fuel damage criteria during reactivity initiated accidents. Continued operation with an uncoupled control rod is not desirable and, therefore, recoupling must be accomplished within two hours. This period is in accordance with the Standard Technical Specifications' allowed outage times for uncoupled control rods. Coupling still must be demonstrated by the only valid indication of coupling, i.e., noting that the drive does not go to the overtravel position. The "full in" and "full out" indication was only required for operation of RSCS and does not adequately demonstrate control rod coupling. If a control rod cannot be coupled within the 2-hour period, it is declared inoperable and inserted to reduce the probability of a RDA. Therefore, the changes to the control rod coupling requirements will not affect the probability or consequences of an accident.

Although the TSs do not require that every control rod be operable, strict control over the number and distribution of inoperable rods is required to satisfy the assumptions of the safety analyses and to provide early indication of any potential generic problem in the CRD system. The organization of all inoperable rod requirements into one section better enables operators to ensure that these requirements are met. Inserting an inoperable control rod ensures that the shutdown and scram capabilities are not adversely affected. Elimination of the 5 × 5 array requirement and use of the 2 operable rod separation criteria meets the requirements of the banked position withdrawal sequence (BPWS) and therefore ensures that the control rod drop analysis remains valid. Therefore, the changes to the inoperable rod requirements will not significantly affect the probability or consequences of previously evaluated accident.

The capability to insert the control rods ensures that the assumptions for scram reactivity in the safety analyses are not violated. The changes to the stuck control rod TSs ensure that these assumptions are met by specifically requiring that SDM [shutdown margin] be verified and by clarifying existing requirements. Exercising control rods at least once every 24 hours after a stuck rod is detected is a valid means to identify a common mode failure in the CRD system. However, exercising rods because two or more are inoperable (but not stuck) is not technically warranted. Therefore, the requirement to exercise all withdrawn or partially withdrawn control rods at least once every 24 hours when two or more rods are inoperable has been deleted. The changes to the stuck rod requirements will not significantly increase the probability or consequences of an accident.

As stated previously, the RWM cannot cause or prevent a RDA but can only limit the consequences. Verification of the correct sequence input to the RWM assures that the RWM will control rod movement so that the drop of an in-sequence rod from the fully inserted position to the position of the control rod drive would not cause the reactor to sustain a power excursion resulting in a peak fuel enthalpy in excess of 280 cal/gm. The RNWP [reduced notch worth procedure] currently in use with the RWM is an extension of BPWS [banked position withdrawal sequence] which was originally used to limit the consequences of a RDA and is still a valid rod control sequence (ref. NRC SER to Amendment 17). Therefore, use of BPWS or its equivalent RNWP cannot increase the probability or consequences of an accident previously evaluated.

The RBM [rod block monitor] provides local protection of the core i.e., the prevention of boiling transition in a local region of the core, from a single rod withdrawal error from a Limiting Control Rod Pattern. Requiring the functional test to be performed (within 24 hours of rod movement) when one RBM channel is inoperable does not affect this safety function. The RBM is demonstrated by its monthly instrument functional tests to be operable and is considered operable until proven otherwise. This is no different from other DAEC systems. If, however, one channel is inoperable, the Bases of section 3.3 clearly indicate the need to test the remaining channel for operability. Therefore, the probability or consequences of a previously evaluated accident has not significantly increased.

Monitoring for reactivity anomalies guards against large, unexpected reactivity insertions which could have the potential for damaging the reactor. During normal plant operation, reactivity anomaly monitoring is relatively straight forward. Operation at off-rated conditions, however makes it possible to operate with rod patterns significantly different from target rod patterns. Therefore, the technical specification for reactivity anomalies has been revised to allow for an investigation of the apparent anomaly. This requirement is similar to what is required by Standard Technical Specifications. Therefore, these changes cannot significantly increase the probability or consequences of a previously evaluated accident.

The various administrative changes to section 3.3 (reorganization, renumbering, etc.) only serve to clarify and better define current requirements and do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The changes to the Bases of section 3.3 only reflect the above changes to LCO and Surveillance Requirements and do not involve any increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility for an accident different from any previously evaluated because operation of the RSCS and RWM cannot cause or prevent an accident. They function to minimize the consequences of a RDA. The RDA is already evaluated in the FSAR, and the effect of the proposed changes on this analysis is discussed in item 1 above. Elimination of the RSCS and lowering the RWM setpoint will have no impact on the operation of any other systems and cannot create the possibility for an accident to occur which has not already been evaluated.

The changes to the control rod position indication and coupling requirements cannot create a new or different kind of accident; the revised TSs will only provide more detailed information to the operators. Rod position information and coupling are still required. If these requirements cannot be met, the rods must be declared inoperable and the appropriate actions taken.

The changes to the scram accumulator requirements cannot cause a new kind of accident because the accumulators only serve to minimize the consequences of previously evaluated accidents. The function and design of the accumulators and control rods has not been changed.

The changes to the TS requirements applicable to inoperable and stuck control rod requirements cannot cause a new kind of accident; the actions required by these TSs only serve to minimize the consequences of accidents previously evaluated and assure that the assumptions of the safety analyses remain valid. No changes have been made which affect the operation of the control rods or any other system important to safety.

Use of the BPWS cannot create a new or different kind of accident because BPWS (and RNWP) only serve to limit the consequences of a RDA.

The RBM Surveillance Requirement cannot create the possibility of a different accident because the RBM system acts to prevent boiling transition in the core during single rod withdrawal errors with a Limiting Control Rod Pattern. This transient has been evaluated previously and the changes to the surveillance requirement do nothing to affect this analysis. No changes are being made which can affect other systems or create a new or different kind of accident.

The changes to the Reactivity Anomaly LCO and Surveillance Requirements cannot create a new and different kind of accident because no actual changes are being made to the plant and reactivity monitoring is still required at the specified intervals.

The various administrative changes to section 3.3 (reorganization, renumbering, etc.) only serve to clarify and better define current requirements and do not create any new or different kind of accidents.

The changes to the Bases of section 3.3 only reflect the changes to LCOs and Surveillance Requirements previously discussed and cannot create the possibility of an accident different from those previously evaluated.

3. The margin of safety will not be reduced by the elimination of RSCS. An extensive NRC study has determined that the possibility of a RDA resulting in unacceptable consequences is so low as to eliminate any need for the RSCS. The RSCS is redundant in function to the RWM; its

elimination does not affect the monitoring of control rod pattern by the RWM.

The NUMAC RWM is a state-of-the-art system and has exhibited high reliability and availability during its operating history. If, however, the RWM is out of service below 20% power, control rod movement and compliance with prescribed control rod patterns will be verified by a second licensed operator. The procedure specifically requires that a second licensed operator verify the first operator's actions while he performs rod movements. The rod movement sequences with their respective sign-off sheets are provided for verification by the second operator of each step and rod movement made by the first operator.

The margin of safety will not be reduced by lowering the RWM LPSP from 30% to 20% because calculations performed by GE and BNL have shown that even with the maximum single control rod position error and multiple error patterns, the peak fuel rod enthalpy during a RDA from these patterns would not exceed the NRC limit (280 cal/gm) above 10% power.

In summary, GE has provided technical justification for the proposed changes in Amendment 17 to GESTAR II and the NRC has reviewed and accepted the GE analysis in the SE to Amendment No. 17. Therefore, there is no significant reduction in the margin of safety.

The margin of safety will not be affected by the changes to the control operability technical specifications or bases because the majority of the changes only reorganize or clarify previous requirements. The TSs still ensure that all assumptions of the safety and accident analyses are met and verified.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 P.M. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By March 20, 1992, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at Cedar Rapids Public Library, 500 First Street, SE., Cedar Rapids, Iowa 52401. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an apropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change

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during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1 (800) 325-6000 (in Missouri 1 (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John N. Hannon: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Jack Newman, Esquire, Kathleen H. Shea, Esquire, Newman and Holtzinger, 1615 L Street NW., Washington, DC 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request, should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated July 6, 1990 as revised by letters dated August 30, 1991 and January 8, 1992, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room located at Cedar Rapids Public Library, 500 First Street, SE., Cedar Rapids, Iowa 52401.

Dated at Rockville, Maryland, this 12th day of February 1992.

For the Nuclear Regulatory Commission.

Leonard N. Olshan,

Acting Project Director, Project Directorate III–3, Division of Reactor Projects—III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 92–3925 Filed 2–19–92; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 030–05980 and 030–05982; License Nos. 37–00030–02 and 37–00030–08]

Order Establishing Criteria and Schedule for Decommissioning the Bloomsburg Site

In the matter of Safety Light Corporation, Lime Ridge Industries, Inc., Metreal, Inc., 4150–A Old Berwick Road, Bloomsburg, Pennsylvania 17815, United States Radium Corporation, USR Industries, Inc., USR Chemical Products, Inc.,USR Metals, Inc., USR Lighting, Inc., U.S. Natural Resources, Inc., 550 Post Oak Boulevard, Suite 550, Houston, Texas 77027.

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United States Radium Corporation (U.S. Radium), Safety Light Corporation (Safety Light), Lime Ridge Industries, Inc., Metreal, Inc., USR Industries, Inc., (USR Industries), USR Chemical Products, Inc., USR Metals, Inc., USR Lighting, Inc., and U.S. Natural Resources, Inc. (the Licensees),[1] as described below, hold several licenses issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR part 30.

One of these licenses is License No. 37–00030–02 (–02 License), which the Atomic Energy Commission (AEC), the predecessor to the NRC, issued to U.S. Radium on June 20, 1956, and the NRC last amended on January 30, 1983, as corrected on March 7, 1983. The –02 License authorizes the possession of unspecified quantities of byproduct material in the form of contaminated facilities and equipment for purposes of decontamination, cleanup, and disposal of facilities and equipment previously used for research and development under the –02 License. The –02 License was due to expire by its terms on February 29, 1984. Safety Light submitted an application (dated January 27, 1984) to renew the –02 License.

On August 5, 1969, the AEC issued a second license, License No. 37–00030–08 (–08 License), to U.S. Radium. The –08 License authorizes the Licensees to possess and use various radioactive materials, but principally tritium (H–3), for research and development, manufacture of various products containing H–3, and the distribution of those products to persons specifically licensed to possess them. The –08 License was last amended on January 8, 1987, and was due to expire by its terms on December 31, 1987. Safety Light submitted an application (dated November 23, 1987) to renew the –08 License.

Pursuant to 10 CFR 2.109 and 10 CFR 30.37, the renewal applications kept both the –02 and the –08 Licenses in effect until the Commission made a final determination with respect to each renewal application.

II

As of July 27, 1990, the Licensees were required to comply with 10 CFR 30.35 of the Commission's regulations, which requires a licensee authorized to possess certain quantities of licensed materials having certain characteristics to submit a decommissioning funding plan (DFP) or certification of financial assurance for decommissioning in the amount prescribed in 10 CFR 30.35 in accordance with criteria set forth in that section. The NRC Staff has not received the Licensees' decommissioning funding plans (DFPs) or certifications of financial assurance, as required by 10 CFR 30.35(c). Therefore, the Licensees are not in compliance with this requirement with respect to both their –02 and –08 Licenses.

The provisions of 10 CFR 30.35 are basic health and safety requirements. The NRC Staff finds that the Licensees have not demonstrated compliance with the requirements of 10 CFR 30.35, and have provided no information to assure the Staff that they will comply with these regulatory requirements in the foreseeable future. Consequently, in a separate letter issued today pursuant to 10 CFR 2.103, the Licensees' applications to renew their –02 and –08 Licenses were denied.

Although the Bloomsburg site has not been characterized completely, the record indicates that not only are buildings and equipment contaminated with strontium-90 (Sr-90), cesium-137 (Cs-137), and other radionuclides, but outdoor areas (e.g., soil, groundwater) are also contaminated at levels that render the site unsuitable for unrestricted release. Since 1982, Oak Ridge Associated Universities (ORAU),[2] Chem-Nuclear Systems, Inc. (CNSI),[3] and the Department of Energy's Radiological and Environmental Sciences Laboratory (RESL) [4] have conducted limited studies, analyzed soil and water samples from various locations on the site, or both. Most of the samples exhibit radioactive contamination, and the levels of contamination of many samples are higher than those the NRC considers acceptable for release for unrestricted use.[5] ORAU measured the highest concentrations found in individual samples from the site; ORAU measured 15.4 picocuries Sr-90 per gram of soil, 631 picocuries Cs-137 per gram of soil, and 62,000 picocuries Sr-90 per liter of groundwater, which are approximately 3, 42, and 7760 times the appropriate release criteria, respective.[6] Despite the limited number of samples and the limited nature of studies conducted to date, the ORAU, CNSI, and RESL data show that there is widespread contamination or site which must be remediated before the site can be released for unrestricted use.

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[1] U.S. Radium, Safety Light, and USR Industries and their subsidiaries and successors will be denoted as the Licensees throughout this order. In a separate enforcement proceeding, the Atomic Safety and Licensing Appeal Board has affirmed the NRC's jurisdiction over USR Industries. Safety Light Corporation (Bloomsburg Site Decontamination), ALAB–931, 31 NRC 350 (1990), aff'g in part LPB–90–7, 31 NRC 116 (1990).

Decommissioning of the site in accordance with the requirements of 10 CFR 30.36 and the criteria given in attachments 2 and 3 to the appendix to this order will assure that the public health and safety is adequately protected from radiological hazards. However, if the Licensees fail to restrict access to the site, the radionuclide contaminants described above have the potential for posing an immediate hazard to public health and safety. Given that the Licensees' applications to renew their licenses have been denied and their commercial operations must therefore cease, there is no basis to conclude that the Licensees will indefinitely restrict access to the site. Accordingly, the Bloomsburg site must be decommissioned, as required below, within a definite time in order to prevent the radionuclide contaminants on the site from becoming a threat to public health and safety.

The letter denying the applications to renew the –02 and –08 Licenses specifies that, if the Licensees do not request a hearing within 20 days of the date of the denial letter, the license denials become effective 50 days from the date of that letter. The denial letter further states, in part, that, on the effective date of the denials, the letter constitutes a final determination of the Commission that the –02 and –08 Licenses have expired and that the Licensees must initiate procedures, pursuant to 10 CFR 30.36 and in accordance with this order, to terminate their licenses. Until the determination is final, the Licenses continue to authorize possession and use of byproduct material at the Bloomsburg site. The Bloomsburg site is the authorized place of use under both the –02 and –08 Licenses. No other licenses issued to the Licensees authorize possession and use of NRC-licensed material at that site.[7] Thus, as a result of the denial of the applications to renew the –02 and –08 Licenses and as set forth above, the Licensees must decontaminate and decommission the Bloomsburg site. The public health, safety, and interest require that the Licensees decommission the Bloomsburg site such that it can be released for unrestricted use, using NRC's current criteria, and that decommissioning be completed expeditiously. Accordingly, I find that the public health, safety, and interest require that these requirements be made effective upon the effective date of the denial of the applications to renew the –02 and –08 Licenses.

III

In view of the foregoing and pursuant to sections 81, 161b, 161c, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2111, 2232 and 2236), and the Commission's regulations in 10 CFR 2.202 and 10 CFR part 30, *it is hereby ordered,* That:

> With regard to the Bloomsburg site (described in attachment 1 to this order), the Licensees, jointly and severally, shall, upon effectiveness of the denials of the –02 and –08 license renewal applications, be subject to the requirements of 10 CFR 30.36 and shall satisfy those requirements in accordance with the criteria set forth in attachments 2 and 3 to this Order and the schedule set forth in attachment 4 to this order.

The Director, Office of Nuclear Material Safety and Safeguards, or his designee, may relax or rescind the above conditions upon the Licensees' showing, in writing and under oath or affirmation, of good cause.

IV

The Licensees must, and any other person adversely affected by this order may, submit an answer to the order, and may request a hearing on this order, within 20 days of the date of this order. Unless the Licensees consent to this order, the answer shall specifically admit or deny each allegation or charge made in this order and shall set forth the matters of fact and law on which the Licensees or other person adversely affected relies and the reasons why this order should not have been issued. Any answer filed within 20 days of the date of this order may include a request for a hearing. Any answer or request for a hearing shall be submitted to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Attn: Document Control Desk, Washington, DC 20555. Copies also shall be sent to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, Region I, U.S. Nuclear Regulatory Commission, 475 Allendale Road, King of Prussia, Pennsylvania 19406, and to the Licensees if the answer or hearing request is by a person other than the Licensees. If a person other than the Licensees requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this order and should address the criteria set forth in 10 CFR 2.714(d).

If the Licensees or a person whose interest is adversely affected requests a hearing, the Commission will issue an order designating the time and place of any hearing. If a hearing his held, the issue to be considered at such a hearing is whether this order should be sustained.

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[2] "Environmental Survey of the Safety Light Corporation, Bloomsburg, Pennsylvania," J. D. Berger, Oak Ridge Associated Universities, dated July 1982.

[3] "Soil Core/Monitoring Well Installation program and Hydrogeological/ Radiological Evaluation of the Safety Light Facility, Bloomsburg, Pennsylvania," Chem-Nuclear Systems, Inc., dated October 11, 1990.

[4] "August 1990 NRC Samples Analyzed by DOE Radiological and Environmental Sciences Laboratory," attachment 4 to NRC Report on Inspection Conducted January 22–23, 1991 and transmitted by letter dated March 11, 1991.

[5] See attachments 2 and 3 to the appendix to this order.

[6] Although the NRC does not have regulatory authority over radium-226 (Ra-226) in this case, ORAU also identified Ra-226 contamination on the Bloomsburg site. ORAU measured maximum concentrations of 9.1 picocuries per liter of groundwater and 672 picocuries per gram of soil, values that are, respectively, about 1.8 and 130 times those the NRC considers acceptable for release for unrestricted use.

[7] The AEC issued three other licenses to U.S. Radium, including License No. 37–00030–10G (–10G License), issued on May 16, 1982; License No. 37–00030–07E (–07E License), issued on April 16, 1965, and terminated on October 10, 1991; and License No. 37–00030–09G (–09G License), issued on January 13, 1966. The –09G and –10G Licenses authorize distribution of specified products containing H–3 to persons generally licensed pursuant to 10 CFR 31.5 and 31.7, respectively, of NRC's regulations or equivalent provisions of the regulations of any Agreement State. the –07E License authorized distribution of specified products containing H–3 to persons exempt from licensing, pursuant to 10 CFR 30.15 or equivalent provisions of the regulations of any Agreement State. These three licensees do not authorize possession or use of licensed material; and the –08 License authorizes the possession and use of the products specified in the –07E, –09G, and –10G Licenses. Neither the denial of the renewal applications for the –02 and –08 Licenses nor this Order directly affects these other three licenses.

V

In the absence of any request for hearing, this order shall be final 20 days from the date of this order without further order or proceedings.

Dated at Rockville, Maryland this 7th day of February 1992.

For the Nuclear Regulatory Commission.

Robert M. Bernero,

Director, Office of Nuclear Material Safety and Safeguards.

Appendix

The Nuclear Regulatory Commission (NRC or Commission) Staff has denied the Licensees' applications to renew License Nos. 37-00030-02 and 37-00030-08. As required by 10 CFR 30.36, it is necessary for the Licensees to divest themselves of licensed material (e.g., by transfer to an authorized recipient); to decontaminate their equipment, facilities, and real property; and to submit a survey showing that their equipment, facilities, and real property are suitable for release for unrestricted use. A sketch showing pertinent features of the Licensees' authorized place of use, 4150-A Old Berwick Road, Bloomsburg, Pennsylvania (the Bloomsburg site), is found in attachment 1, which is Figure 14 of Chem-Nuclear Systems, Inc.'s (CNSI's) report entitled, "Soil Coring/Monitoring Well Installation Program and Hydrogeological/Radiological Evaluation of the Safety Light Facility, Bloomsburg, Pennsylvania," dated October 11, 1990.

Current limits for unrestricted use are found in attachments 2 and 3, "Guidelines for Decontamination of Facilities and Equipment Prior to Release for Unrestricted Use or Termination of Licenses for Byproduct, Source or Special Nuclear Material," dated July 1982, and "Current Guidelines on Acceptable Levels of Contamination in Soil and Groundwater on Property to be Released for Unrestricted Use," dated January 1992, respectively.

Attachment 4 is a schedule for compliance with the requirements in 10 CFR 30.36 and is intended to provide for prompt but orderly termination of the Licensees' licenses. The buildings referenced in the schedule are those shown in attachment 1. Certain specific categories of materials requiring disposal are listed in the schedule and are those described at Tab 3(c) of Safety Light Corporation's January 11, 1991, letter to NRC.

Note that section III of the attached Order provides a mechanism whereby, upon the Licensees' showing of good cause, the conditions of the order may be relaxed or rescinded.

Attachments:

1. Figure 14 from CNSI Report dtd 10/11/90;
2. Guidelines for Decontamination of Facilities;
3. Current Guidelines on Acceptable Levels of Contamination in Soil and Water;
4. Schedule for Compliance.

BILLING CODE 7590-01-M

FIGURE 14.
H-3 IN
RAINWATER
7-12-90

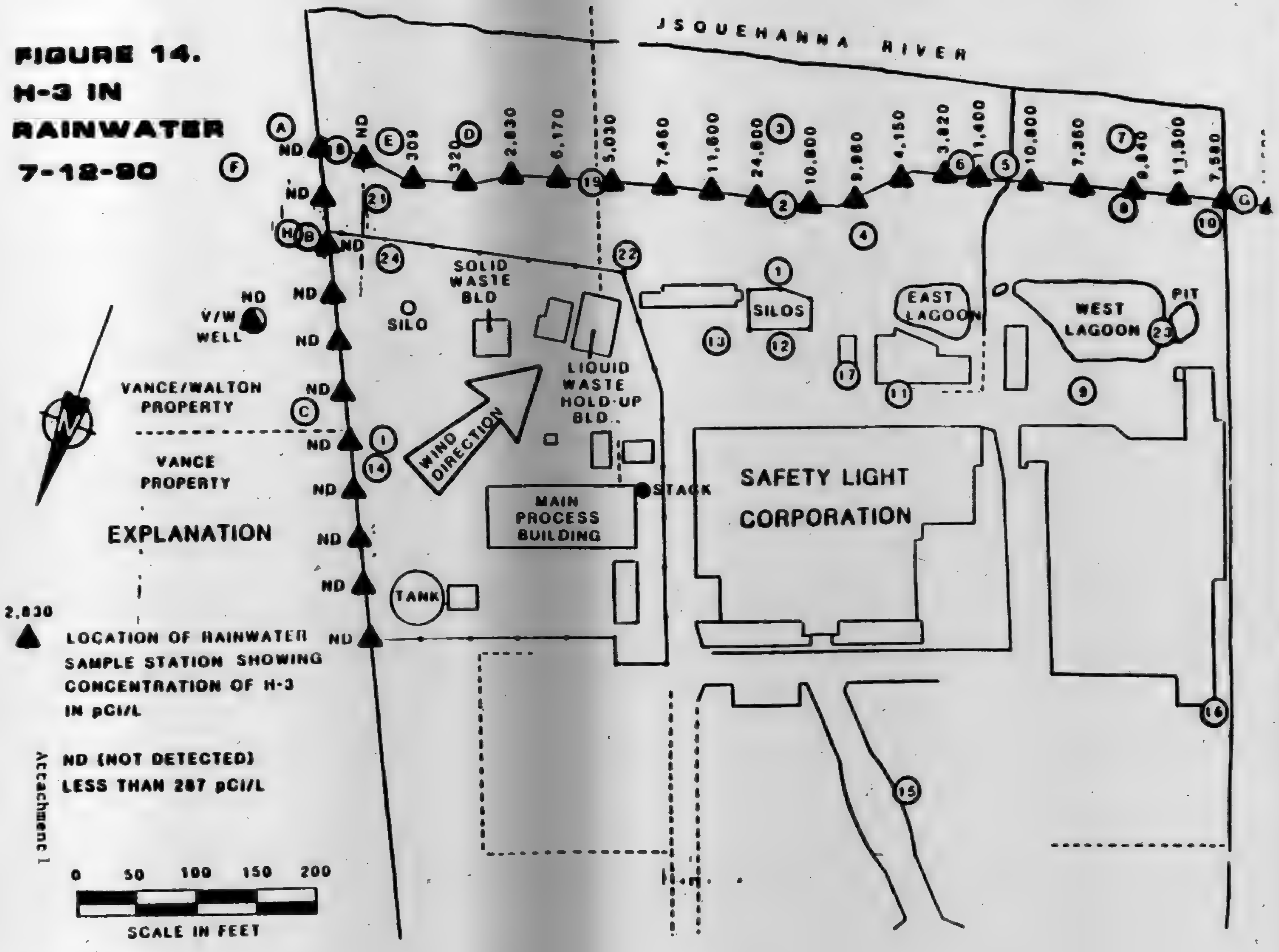
SUSQUEHANNA RIVER
A
B
C
D
E
F
G
H
ND
309
320
2,830
6,170
5,030
7,460
11,600
24,600
10,800
9,860
4,150
3,820
11,400
10,800
7,380
9,840
11,500
7,580
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
19
21
22
23
24
V/W WELL
VANCE/WALTON PROPERTY
VANCE PROPERTY
SILO
SOLID WASTE BLD
LIQUID WASTE HOLD-UP BLD.
WIND DIRECTION
STACK
MAIN PROCESS BUILDING
TANK
SILOS
EAST LAGOON
WEST LAGOON
PIT
SAFETY LIGHT CORPORATION
EXPLANATION
2,830
LOCATION OF RAINWATER SAMPLE STATION SHOWING CONCENTRATION OF H-3 IN pCi/L
ND (NOT DETECTED) LESS THAN 287 pCi/L
0
50
100
150
200
SCALE IN FEET
N
Attachment I

BILLING CODE 7590-01-C

Attachment 2—Guidelines for Decontamination of Facilities and Equipment Prior to Release for Unrestricted use or Termination of Licenses for Byproduct, Source, or Special Nuclear Material

U.S. Nuclear Regulatory Commission, Division of Fuel Cycle and Material Safety, Washington, DC 20555.

July 1982.

The instructions in this guide, in conjunction with Table 1, specify the radionuclides and radiation exposure rate limits which should be used in decontamination and survey of surfaces or premises and equipment prior to abandonment or release for unrestricted use. The limits in Table 1 do not apply to premises, equipment, or scrap containing induced radio-activity for which the radiological considerations pertinent to their use may be different. The release of such facilities or items from regulatory control is considered on a case-by-case basis.

1. The licensee shall make a reasonable effort to eliminate residual contamination.

2. Radioactivity on equipment or surfaces shall not be covered by paint, plating, or other covering material unless contamination levels, as determined by a survey and documented, are below the limits specified in Table 1 prior to the application of the covering. A reasonable effort must be made to minimize the contamination prior to use of any covering.

3. The radioactivity on the interior surfaces of pipes, drain lines, or ductwork shall be determined by making measurements at all traps, and other appropriate access points, provided that contamination at these locations is likely to be representative of contamination on the interior of the pipes, drain lines, or ductwork. Surfaces of premises, equipment, or scrap which are likely to be contaminated but are of such size, construction, or location as to make the surface inaccessible for purposes of measurement shall be presumed to be contaminated in excess of the limits.

4. Upon request, the Commission may authorize a licensee to relinquish possession or control of premises, equipment, or scrap having surfaces contaminated with materials in excess of the limits specified. This may include, but would not be limited to, special circumstances such as razing of buildings, transfer of premises to another organization continuing work with radioactive materials, or conversion of facilities to a long-term storage or standby status. Such requests must:

a. Provide detailed, specific information describing the premises, equipment or scrap, radioactive contaminants, and the nature, extent, and degree of residual surface contamination.

b. Provide a detailed health and safety analysis which reflects that the residual amounts of materials on surface areas, together with other considerations such as prospective use of the premises, equipment or scrap, are unlikely to result in an unreasonable risk to the health and safety of the public.

5. Prior to release of premises for unrestricted use, the licensee shall make a comprehensive radiation survey which establishes that contamination is within the limits specified in Table 1. A copy of the survey report shall be filed with the Division of Fuel Cycle and Material Safety, USNRC, Washington, D.C. 20555, and also the Administrator of the NRC Regional Office having jurisdiction. The report should be filed at least 30 days prior to the planned date of abandonment. The survey report shall:

a Identify the premises.

b. Show that reasonable effort has been made to eliminate residual contamination.

c. Describe the scope of the survey and general procedures followed.

d. State the findings of the survey in units specified in the instruction.

Following review of the report, the NRC will consider visiting the facilities to confirm the survey.

ACCEPTABLE SURFACE CONTAMINATION LEVELS

Nuclides[a]	Average[b c f]	Maximum[b d f]	Removable[b e f]
U-nat, U-235, U-230, and associated decay products.	5,000 dpm α/100 cm^2	15,000 dpm α/100 cm^2	1,000 dpm α/100 cm^2.
Transuranics, Ra-226, Ra-228, Th-230, Th-228, Pa-231, Ac-227, I-125, I-129.	100 dpm/100 cm^2	300 dpm/100 cm^2	20 dpm/100 cm^2.
Th-nat, Th-232, Sr-90, Ra-223, Ra-224, U-232, I-126, I-131, I-133.	1000 dpm/100 cm^2	3000 dpm/100 cm^2	200 dpm/100 cm^2.
Beta-gamma emitters (nuclides with decay modes other than alpha emission or spontaneous fission) except Sr-90 and others noted above.	5000 dpm $\beta\gamma$/100 cm/^{2}	15,000 dpm $\beta\gamma$/100 cm^2	1000 dpm $\beta\gamma$/100 cm^2.

[a] Where surface contamination by both alpha- and beta-gamma emitting nuclides exists, the limits established for alpha- and beta-gamma emitting nuclides should apply independently.

[b] As used in this table, dpm (disintegrations per minute) means the rate of emission by radioactive materials as determined by correcting the counts per minute observed by an appropriate detector for background, efficiency, and geometric factors associated with the instrumentation.

[c] Measurements of average contaminant should not be averaged over more than 1 square meter. For objects of less surface area, the average should be derived for each such object.

[d] The maximum contamination level applies to an area of not more than 100 cm^2.

[e] The amount of removable radioactive material per 100 cm^2 of surface area should be determined by wiping that area with dry filter or soft absorbent paper, applying moderate pressure, and assessing the amount of radioactive material on the wipe with an appropriate instrument known efficiency. When removable contamination on objects of less surface area is determined, the pertinent levels should be reduced proportionally and the entire surface should be wiped.

[f] The average and maximum radiation levels associated with surface contamination resulting from beta-gamma emitters should not exceed 0.2 mrad/hr at 1 cm and 1.0 mrad/hr at 1 cm, respectively, measured through not more than 7 milligrams per square centimeter of total absorber.

Attachment 3—Current Guidelines on Acceptable Levels of Contamination in Soil and Groundwater on Property To Be Released for Unrestricted Use

January 1992.

Attachment 2 specifies current criteria for decontamination of buildings and equipment before they are released for unrestricted use, but does not address limits for soil and groundwater contamination. On a case-by-case basis, the Staff has developed or provided such criteria for release of property whose soil, groundwater, or both show evidence of radioactive contamination. These criteria are listed below:

MAXIMUM SOIL CONCENTRATION [1]

(In picocuries per gram)

Radionuclide	Gram
Hydrogen-3	([2])
Cobalt-60	8
Strontium-90	5
Cesium-137	15
Plutonium-238, -239 (if found)	25
Americium-214 (if found)	30
Radium-226	5
Radium-228	5

[1] If only one radionuclide is present, then the maximum concentration is the value listed in the table. However, if more than one radionuclide is present, determine for each radionuclide the ratio between the measured concentration (e.g., in site soil or groundwater) and the concentration listed in the appropriate table above for the specific radionuclide when not in combination. The sum of such ratios may not exceed one (i.e., unity).

[2] There is no limit for tritium (H–3) in soil. The critical pathway is the leaching of H–3 in soil into the groundwater, which is used for drinking water. In this case, the appropriate criterion is 20,000 picocuries per liter. When H–3 use has ceased, the bulk of H–3 waste has been disposed of, and a decision must be made about release of the site for unrestricted use, and Licensees should estimate the total amount of H–3 remaining on the site.

MAXIMUM GROUNDWATER CONCENTRATION [1]

[In picocuries per liter]

Radionuclide	Liter
Hydrogen-3	20,000
Cobalt-60	100
Strontium-90	8
Cesium-137	200
Gross alpha including radium-226	15
Radium-226, 228	5

[1] If only one radionuclide is present, then the maximum concentration is the value listed in the table. However, if more than one radionclide is present, determine for each radionuclide the ratio between the measured concentration (e.g., in site soil or groundwater) and the concentration listed in the appropriate table above for the specific radionuclide when not in combintaion. The sum of such ratios may not exceed one (i.e., unity).

[2] U.S. Environmental Protection Agency, Office of Water Supply, "National Interim Primary Drinking Water Regulations," EPA-570/9-76-003 (1976).

ATTACHMENT 41.—SCHEDULE FOR COMPLIANCE

Provision	Regulation	Requirements for –02 license	Requirements for –08 license
Termination of use	10 CFR 30.36(c)(1)(i)	Not applicable (In 1968 US Radium Corp. discontinued use for purposes other than "decontamination, cleanup, and disposal"; current –02 license only authorizes "decontamination, clean-up, and disposal * * *.").	On the effective date of the denial of the –08 License, use is limited to actions related to: (1) Transfer of licensed material to authorized recipients (e.g., supplier, customers, waste broker, waste burial site) and (2) decommissioning. Receipt of licensed material is not authorized.
Decontamination	10 CFR 30.36(c)(1)(ii), (c)(2) and (c)(3).	Within 120 days of the effective date of the denial of the –02 License, submit decommissioning plan and implement decomissioning in accordance with (IAW) NRC-approved plan.	Within 120 days of the effective date of the denial of the –08 License, submit decomissioning plan and implement decomissioning IAW NRC-approved plan.
		With respect to the Main Process Building, complete decomissioning within 1 year of the effective date of the denial of the –02 License.	With respect to the Main Process Building, complete decomissioning within 1 year of the effective date of the denial of the –08 License.
		With respect to facilities and equipment in buildings other than the Main Process, Liquid Waste Hold-Up and Solid Waste Buildings, complete decomissioning within 2 years of the effective date of the denial of the –02 License.	
		With respect to the Liquid Waste Hold-Up and Solid Waste Buildings and to the real property on both the Safety Light site and the parcel known as the "Vance-Walton" property, complete decomissioning within 3 years of the effective date of the denial of the –02 License.	With respect to the Liquid Waste Hold-Up and Solid Waste Buildings, complete decomissioning within 3 years of the effective date of the denial of the –08 License.
Disposal	10 CFR 30.36(c)(1)(iii)	Within 180 days of the effective date of the denial of the –02 License, dispose of krypton-85 self-luminous reference sources, "aircraft items" made of depleted uranium, two cans marked "Sr-90" and cans of depleted uranium metal turnings.	Dispose of: (1) Inventory of tritium gas within 30 days of the effective date of the denial of the –08 License; (2) sealed sources, foils, targets, and markers within 60 days of the effective date of the denial of the –08 License Order; (3) returned aircraft signs within 180 days of the effective date of the denial of the –08 License; (4) "old reusable" signs and waste in Solid Waste Building within 1 year of the effective date of the denial of the –08 License.
		Within 3 years of the effective date of the denial of the –02 License, dispose of all reference sources and all wastes, including those generated during site decomissioning.	Within 3 years of the effective date of the denial of the –08 License, dispose of all waste, including that generated in the decomissioning of the Liquid Waste Hold-Up and Solid Waste Storage Buildings.
NRC Form-314	10 CFR 30.36(c)(1)(iv)	Within 3 years of the effective date of the denial of the –02 License, submit completed NRC Form-314.	Within 3 years of the effective date of the denial of the –08 License, submit completed NRC Form-314.
Survey	10 CFR 30.36(c)(1)(v) and 10 CFR 30.36(c)(3).	Within 3 years of the effective date of the denial of the –02 License, submit survey demonstrating premises are suitable for unrestricted use.	Within 3 years of the effective date of the denial of the –08 License, submit survey demonstrating premises are suitable for unrestricted use.

[FR Doc. 92–3492 Filed 2–19–92; 8:45 am]

BILLING CODE 7590-01-M

St. Joseph's Hospital and Medical Center Paterson, NJ; Confirmatory Order Modifying License (Effective Immediately)

[Docket No. 030-02526; License No. 29-10191-02; EA 92-013]

I

St. Joseph's Hospital and Medical Center (Licensee) is the holder of NRC Byproduct Material License No. 29-10191-02 (License) issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR part 30. The License authorizes the Licensee to use certain byproduct materials for certain diagnostic and therapeutic medical purposes, including for use in a Nucletron Corporation Microselectron-High Dose Rate (HDR) remote afterloading brachytheraphy unit for the treatment of humans. The License was issued on January 2, 1970, has been renewed on several occasions since that date, and had an expiration date of July 31, 1991. The License remains in effect, pursuant to 10 CFR 30.37(b), since the Licensee has submitted, prior to the expiration date, a timely request to renew the License.

II

On January 24, 25 and 28, 1991, and NRC inspection was conducted at the Licensee's facility in Paterson, New Jersey to review the Licensee's use of the HDR unit. On January 23, 1991, the day prior to the initiation of the NRC inspection, NRC Region I staff were involved in two telephone conversations with Thomas M. Herskovic, M.D. (Dr. Herskovic), the then Chairman of the Radiation Safety Committee (RSC), concerning possible movement and use of that HDR unit. Dr. Herskovic had been assigned additional duties as Acting Radiation Safety Officer (RSO) in December 1990 when the former RSO left the facility. As a result of concerns regarding the completeness and accuracy of the information provided by the Dr. Herskovic during those telephone conversations, an investigation was initiated by the NRC Office of Investigations to review this matter.

III

During the NRC inspection and investigation of this matter, several violations of NRC requirements were identified. The violations included, but were not limited to: (1) The unauthorized movement of the HDR unit from the cobalt room the the radium storage room on two occasions, and the unauthorized movement of the HDR unit to the linear accelerator room where the HDR unit was used to treat patients on 18 occasions, in careless disregard of NRC requirements; (2) the failure, while the unit was used in the linear accelerator room the treat patients, to have interlocks installed on the door to that new location, thereby creating the possibility that someone could enter the room with the source exposed and not retracting to its shielded position; and (3) the deliberate failure by the then Chairman of the RSC to provide complete and accurate information to the NRC during the two telephone conversations with the NRC on January 23, 1991 relative to the movement and use of the HDR unit.

As a result of those findings, a Notice of Violation and Proposed Imposition of Civil Penalties in the amount of $10,250 was issued to the Licensee on December 3, 1991. In addition, and Order Modifying License and a Demand for Information were also issued on that date which (1) modified License No. 29–10191–02 for a period of the three years from the date of that order such that Dr. Herskovic may not be appointed or act as the RSO or serve on the Radiation Safety Committee; and (2) required the Licensee to provide to the NRC is writing, under oath or affirmation, an explanation as to why Dr. Herskovic should not also be precluded from any involvement in NRC licensed activities for a period of three years, including acting as an authorized user or under the supervision of an authorized user.

IV

In a letter dated December 27, 1991, the Licensee responded to the Civil Penalty, Order, and Demand for Information referenced in Section III above. With respect to the civil penalty, the Licensee paid the penalty, described the cause of the violations, and provided its corrective actions.

With respect to the Order Modifying License, the Licensee indicated that Dr. Herskovic has been replaced as the RSO, has stepped down as the RSC Chairman, and is not longer a voting member of the RSC (although he will remain on the committee as an ex-officio member to ensure that he stays informed of all changes and developments pertinent to the safe use of licensed materials and the Licensee's commitment to the conditions of the License).

With respect to the Demand for Information, the Licensee provided numerous reasons why it believes that Dr. Herskovic should not be precluded from acting as an authorized user or under the supervision of an authorized user. These reasons included his having practiced as a Radiotherapist for 17 years without question of his skills, ability, and integrity; his recognition in the medical community as a dedicated, skilled physician, as evidenced by the continued high number of patient referrals to his service; that he is an essential component of the Licensee's oncology program; the fact that removal of Dr. Herskovic would have a significant impact on the Licensee's ability to serve its patient population, especially the poor, and would compromise a significant portion of the Licensee's cancer treatment program; and that a series of checks and balances have been put in place to prevent these problems from occurring again. In particular, the Licensee described several steps that in licensed activities to ensure full compliance. Specifically, the Licensee stated the following:

1. Dr. Herskovic has agreed to take a tutorial designed to prepare health professionals to meet regulatory requirements of the NRC, and use licensed materials safely. Dr. Herskovic wishes to improve his proficiency and acquire an adequate level of knowledge so as to reestablish his competency in the field of radiation safety.

2. Dr. Herskovic's role in the treatment of the patients will be limited to clinical activities. Dr. Herskovic will always be accompanied by a physicist staff member while he handles radioactive materials. In the event that the radioactive sources have to be transferred from the Radioactive Safety Room to the operating room or to a patient's room, the physicist staff will carry the sources and will assist in the loading, unloading and transfer of the radioactive sources. Dr. Herskovic will not load or unload the sources from a patient unless accompanied by a physicist staff member.

3. In case of emergency during the implant of radioactive materials in a patient, the nursing staff are informed and trained to contact the R.S.O. However, if there is a need for Dr. Herskovic to remove the sources from the patient, he will place the sources into the porta-pig radioactive source transfer cart that is left in the patient room during implant procedures. After the removal of the sources, Dr. Herskovic will contact the R.S.O. or his designee. The physicist staff will be called immediately for the completion of the survey, inventory of the sources and for the transfer of the sources to the safe.

4. Neither Dr. Herskovic nor any of the physicians will have the key to the Radioactive Safe Room. The key is issued only to the Physicist staff and to the chief technologist (for emergencies only). The hospital security has been instructed not to open the Radioactive Save Room for any personnel other than approved physicist staff and the Radiation Therapy Chief Technologist.

V

The NRC staff has reviewed the Licensee's submittal, dated December 27, 1991, and concluded that implementation of commitments described in the Licensee's submittal would provide enhanced assurance that licensed activities by Dr. Herskovic would be performed in accordance with requirements, and that any information provided to the NRC concerning those activities would be complete and accurate. The staff has also concluded that these commitments are sufficient to protect public health and safety so that it is not necessary to completely preclude Dr. Herskovic's involvement in licensed activities. As a result, I find that the Licensee's commitments set forth in its December 27, 1991 letter, as restated in Section IV of this Confirmatory Order, are acceptable and necessary, and conclude that with these commitments, the public health and safety are reasonably assured. In view of the foregoing, I have determined that the public health and safety require that the Licensee's commitments be confirmed by this Order. The Licensee has agreed to this action in a telephone call on February 5, 1992 between Dr. Ron Bellamy of Region I and Mr. Eugene Mortensen, the Chief Operating Officer. Pursuant to 10 CFR 2.202, I have also determined that the public health and safety require that this Order be immediately effective.

VI

Accordingly, pursuant to Sections 84, 161b, 161i, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR part 35, *It is hereby Ordered, Effective Immediately,* That license No. 29–10191–02 is modified, for a period of three years from the date of this order, as follows:

1. Dr. Herskovic will take a tutorial designed to prepare health professionals to meet regulatory requirements of the NRC and use licensed materials safely.
2. Dr. Herskovic's role in the treatment of patients will be limited to clinical activities. Dr. Herskovic will always be accompanied by a physicist staff member while handling radioactive materials. If the radioactive sources must be transferred from the Radioactive Safe Room to the operating room or to a patient's room, the physicist staff member will carry the sources and assist in the loading, unloading and transfer of the radioactive sources. Dr. Herskovic will not load or unload the sources from a patient unless accompanied by a physicist staff member.
3. In case of emergency during the implant of radioactive materials in a patient, the nursing staff will be informed and trained to contact the R.S.O. However, if there is a need for Dr. Herskovic to remove the sources from the patient, he will place the sources in the portapig radioactive source transfer cart that is to be left in the patient room during implant procedures. After the removal of the sources, Dr. Herskovic will contact the R.S.O. or his designee. The physicist staff will be called immediately for the completion of the survey, inventory of the sources, and for the transfer of the sources to the safe.
4. Neither Dr. Herskovic nor any of the physicians will have the key to the Radioactive Safe Room. The key will be issued only to the Physicist staff and to the chief technologist (for emergencies only). The hospital security will not open the Radioactive Safe Room for any personnel other than approved physicist staff and the Radiation Therapy Chief Technologist.

The Regional Administrator, Region I, may relax or rescind, in writing, any of the above conditions upon a showing by the Licensee of good cause.

VII

Dr. Herskovic and any person other than the Licensee adversely affected by this Confirmatory Order many request a hearing within 20 days of its issuance. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Service Section, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406, and to the Licensee. If such a person other than Dr. Herskovic requests a hearing, that person shall set forth with particularity the manner in which his or her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by Dr. Herskovic or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at the hearing shall be whether this Confirmatory Order should be sustained. In the absence of any request for hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings.

An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated at Rockville, Maryland this 10th day of February 1992.

Hugh L. Thompson, Jr.,

Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support.

[FR Doc. 92–3928 Filed 2–19–92; 8:45 am]

BILLING CODE 7590-01-M

RESOLUTION TRUST CORPORATION

Real Property Disposal; Statement of Policy on Sale of Real Estate Property and Establishing Prices in Auctions Sales

AGENCY: Resolution Trust Corporation.

ACTION: Policy statement.

SUMMARY: Notice is hereby given that on March 26, 1991, the Board of Directors of the Resolution Trust Corporation approved a general policy on the sale of real estate properties. The policy requires RTC to actively market all real estate property for sale. Marketing would be managed by qualified brokers, auction firms, or other qualified professionals to ensure adequate exposure takes place. Furthermore, the policy recognizes RTC's role as a seller of assets and given that clear mandate, believes that the market value of any real estate asset is best established by the highest price, adjusted in terms of cash, a buyer is willing to pay after a professionally managed marketing program has taken place.

Notice also is hereby given that on February 11, 1992, the Resolution Trust Corporation (RTC) ratified a policy statement for establishing prices in auction sales. The policy statement specifically allows the RTC to sell properties absolute at auctions if the property has an established market value less than $1,000,000 and if the property has been widely exposed to the market. All other properties may be sold at auctions with reserve prices as specified in the policy statement. While the policy statement for establishing prices in auction sales applies generally to properties sold by auction, the pricing flexibility allowed under the general policy on the sale of real estate may be used for auctions if necessary to set appropriate reserve prices below the minimum reserve prices allowed under the auction pricing policy. Thus, for auctions, the pricing policy that yields the greatest flexibility may be used.

The RTC is publishing this policy statement to help ensure public awareness and accurate understanding of this policy. This policy statement is designed for the RTC's internal operations and not for regulatory purposes.

EFFECTIVE DATES: The Policy on Sale of Real Estate Property was effective March 26, 1991. The Policy on Establishing Prices in Auction Sales was effective April 10, 1991.

FOR FURTHER INFORMATION CONTACT: David R. Wiley, Senior Asset Specialist, Asset Management, (202) 416–7136.

SUPPLEMENTARY INFORMATION: In May 1990, the RTC Board of Directors approved a statement of policy on determining market value of assets and establishing prices for auction sales for properties sold in auction. This policy statement was published in the June 1, 1990 edition of the **Federal Register** [55 FR 22423]. Included in this policy was the statement "[p]roperty in conservatorship which satisfies the eligibility requirements for RTC's Affordable Housing Program may not be sold at auction." This statement appeared in the context of properties with an established market value of $100,000 or less, and was intended by RTC to prevent disposing of conservatorship single family (i.e., 1-to-4 family residential) property in an absolute auction. The language, however, does not make it clear that its application is limited to that situation.

On March 26, 1991, the RTC's general real estate pricing policy was revised by the RTC Board of Directors, but was not published in the **Federal Register** at that time. That policy related primarily to the pricing and selling of real estate properties not in the context of auctions. Also in March 1991, the RTC Funding Act of 1991 was enacted, placing eligible single family properties held by conservatorships in the Affordable Housing Disposition Program, and permitting single family properties to be sold through the Program without regard to a minimum disposition price through the end of Fiscal Year 1991. Subsequently, the RTC issued Circular 10150.4, "Guidelines for Selling Single Family Properties Under the Affordable Housing Disposition Program," Dated April 10, 1991, and the Board of Directors approved temporary amendments to the Affordable Housing Regulations (12 CFR 1609) to reflect the statutory changes. Both documents made it clear that, consistent with the legislation, eligible single family conservatorship and receivership properties could be sold in auctions, including absolute auctions.

In August 1991, RTC Circular 10100.19, "Sale of Real Estate Policy," was issued. While the emphasis of this directive was to provide guidelines for the implementation of the March 26, 1991 real estate pricing and sales policy, a revised version of the RTC's auction policy appeared as Attachment B to that directive. In light of the legislative changes, reflected in Circular 10150.4 and the Board-approved temporary regulations, the statement quoted above concerning the prohibition on auctioning conservatorship properties was deleted from Attachment B. The modification was made because the sentence was not consistent with RTC's policy that conservatorship single family properties satisfying the eligibility requirements of the RTC's Affordable Housing Disposition Program may be sold in auction pursuant to the guidelines established in Circular 10150.4 (Also, some non-substantive language changes were made in the Attachment B policy statement to be consistent with the RTC's March 26, 1991 policy on pricing and selling real estate.) These changes to the May 1990 policy statement were not specifically presented to the RTC Board of Directors, not was the revised auction policy published in the **Federal Register**.

On February 11, 1992, the Executive Committee of the Resolution Trust Corporation ratified the changes made to the May 1990 auction policy in the form entitled "Establishing Prices in Auction Sales" that appears as Attachment B to RTC Circular 10100.19, "Sale of Real Estate Policy", dated August 13, 1991. The ratification makes it clear that the RTC's auction policy is consistent with RTC's guidelines for allowing conservatorship-owned single family properties to be sold through auctions. The ratification also makes it clear that conservatorship-owned multifamily property may be sold in auction outside of the Affordable Housing Disposition Program.

The text of the RTC's general policy on the sale of real estate property and establishing prices in auction sales follows:

Policy on Sale of Real Estate Property

It is the policy of the Resolution Trust Corporation to actively market for sale owned real estate property prior to accepting a purchase offer. In marketing the property, the RTC will rely upon established real estate brokers, auction firms, or otherwise qualified professionals to insure properties are adequately exposed to the marketplace and sold at market values. Methods of exposure to the marketplace will include advertising in local, regional, or national media, multiple listing services, RTC published inventory distribution vehicles, and/or similarly appropriate marketing techniques. To facilitate sales, RTC will finance transactions according to published underwriting guidelines as approved by the RTC Board of Directors.

Excepting as authorized by RTC's Board of Directors, all properties over $50,000 will be individually appraised to help determine market value. Because the appraisal process should not be regarded as the ultimate determinant of market value, particularly for those properties which are troubled, located in distressed markets or rapidly changing markets, the RTC will also draw upon the opinions of real estate brokers and/or other knowledgeable professionals in setting appropriate sales prices.

It is the policy of the RTC that the interests of the Corporation are best served by transferring and selling real estate assets to the private sector as expeditiously as possible. In so doing, it is the Corporation's belief that the market value of any real estate asset is best determined by the highest price, adjusted in terms of cash, a buyer is willing to pay after a professionally managed marketing program has taken place. Thus, by implementing an effective marketing campaign, RTC ensures market values are always obtained.

The Board of Directors of the Resolution Trust Corporation has delegated authority for the implementation of this policy to RTC staff, RTC Asset Managers, and conservatorship personnel.

Establishing Prices in Auction Sales

I. Introduction

Auctions offer an excellent method for effectively disposing of real estate properties, especially useful for an organization with the scale of disposition activity of the RTC. The theory behind auctions is that if marketed correctly, the properties will be exposed to many potential purchasers (far more than would be possible for each property when marketed individually) and that an early sale will enable the RTC to forego actual holding costs and opportunity costs. There are three general methods for conducting auctions:

- Selling properties absolute, that is, to the highest bidder without regard to a minimum price;
- Selling properties absolute with minimum bid absolute prices, that is, to the highest bidder as long as the final bid price is greater than a pre-determined price established for the asset; and
- Selling prices with the right of reserve to accept or reject any offer.

While the last method results in the greatest protection to the seller, it is a general belief that selling properties absolute will generate the greatest interest among potential investors, since they know that the seller is obligated to sell the properties, and hence result in attaining market value. Similarly, setting minimum prices high, rather than low, discourages participation and thus reduces actual bidding.

The RTC will explore conducting auctions on specified properties as an alternative to marketing properties through local, regional, or national brokers. Well conducted auctions can approximate the sales prices obtained by other methods of sales, in aggregate, if not on each property. Key characteristics of successful auctions are:

- Large scale, national or international marketing of the properties so that the auction brings even greater market exposure than would normally be attained through a normal listing arrangement;
- Accurate, sufficient information on each of the properties available to potential purchasers; and
- Ample time and opportunity for prospective bidders to inspect the property and property records.

Well conducted auctions with extensive marketing, and which enable the RTC to reduce its actual and opportunity costs of money, are consistent with the RTC's mandated objectives of: 1) maximizing the net present value return from the sale of assets; and 2) minimizing the impact of such transactions on local real estate and financial markets.

The pricing policies for auctions stated below are believed to maximize the net present value return for the RTC.

II. Policy

The following policy shall be followed by RTC staff and private sector contractors for establishing prices in auctions:

(1) Auctions will require extensive marketing efforts with large scale regional, national, and possibly international exposure. Minimum marketing efforts will include extensive advertising in newspapers and appropriate trade journals, publication and distribution of brochures, press releases and solicitations to prospects in RTC's data base of potential buyers.

(2) Properties may be sold absolute in auctions if (i) the property has an established market value below $100,000; and (ii) the property has been widely exposed to the market. The RTC will reserve the right to reject any and all offers which are made in the absence of a competitive bidding environment.

(3) All other properties may be sold at auctions with reserve prices set at levels to take into account the benefits of an expedited sale, including savings of holding costs, and marketing costs. Furthermore, to stimulate active bidding associated with the auction process, RTC may set reserve prices at less than the expected sale price excepting under no circumstances can reserve prices be set at less than 70 percent of the current appraised value, adjusted for any savings of sales expenses or costs as a result of an expedited sale.

III. Conclusion

The auction pricing policy outlined above gives the RTC reasonable flexibility when conducting auctions on real estate properties. If an auction exposes property to the market sufficiently and is otherwise properly conducted, disposition prices will establish the market value.

It is thus expected that, in aggregate, RTC will have as high a net present value return from auction sales as from individual sales under existing policy. The sale prices on individual properties may vary up or down from that standard. The 70 percent reserve price floor for the larger properties has been established to meet the needs of the expected properties which may sell below established appraised value. A higher reserve figure would discourage participation and probably reduce aggregate net present value yield

By order of the Executive Committee of the Resolution Trust Corporation.

Dated at Washington, DC, this 11th day of February, 1992.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 92–3918 Filed 2–19–92; 8:45 am]

BILLING CODE 6714-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IA-1299]

Notice of Intention To Cancel Registrations of Certain Investment Advisers

February 12, 1992.

Notice is given that the Securities and Exchange Commission (the "Commission") intends to issue an order, pursuant to section 203(h) of the Investment Advisers Act of 1940 (the "Act"), cancelling the registrations of those investment advisers identified in the attached appendix.

Section 203(h) of the Act provides, in pertinent part, that if the Commission finds that any person registered under section 203, or who has pending an application for registration filed under that section, is not engaged in business as an investment adviser, the Commission shall by order cancel the registration of such person. Subject to certain exceptions, section 202(a)(11) of the Act defines an investment adviser as any person who, for compensation, engages in the business of advising others as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, as part of a regular business, issues or promulgates analyses or reports concerning securities.

It has come to the Commission's attention that some persons and entities that are registered as investment advisers under section 203 of the Act are not actually engaged in business as investment advisers because they do not give advice about securities but instead manage real property for their clients and maintain custody of their clients' funds. Such persons and entities may have registered as investment advisers under section 203 of the Act solely to qualify as "investment managers" under the Employee Retirement Income Security Act of 1974 ("ERISA").[1] Accordingly, there are reasonable grounds to find that these registrants are not engaged in business as investment advisers.

Notice also is given that any interested person may, by March 16, 1992, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his or her interest, the reason for such request, and the issues, if any, of law or fact proposed to be controverted, and he or she may request to be notified if the Commission should order a hearing thereon. Any such communication should be addressed to Secretary, Securities and Exchange Commission, Washington, DC 20549.

At any time after March 16, 1992, the Commission may issue an order cancelling any or all of the investment adviser registration listed in the Appendix, upon the basis of the information stated above, unless an order for hearing on the cancellation shall be issued upon the request or upon the Commission's own motion. Persons who request a hearing, or who request to be advised as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For further information, contact Thomas G. Sheehan, Special Counsel, at

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[1] 29 U.S.C. section 1002(38) defines an investment manager as any fiduciary (other than a trustee or named fiduciary) (A) who has the power to manage, acquire, or dispose of any plan asset; (B) who is a bank (as defined in section 202(a)(2) of the Act), an insurance company qualified to do business in more than one state, or an investment adviser registered under section 203 of the Act; and (C) who has acknowledged in writing that he or she is a fiduciary with respect to the plan.

(202) 272-3033 or Douglas J. Scheidt, Assistant Director, at (202) 272-2090 (Division of Investment Management, Office of Enforcement Liaison).

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

APPENDIX

Adviser/address	File No. (801-)
Am Cal Advisors, Inc., 15217 Hortense Street, Studio City, CA 91604	29901
Am Cal Co., 15217 Hortense Street, Studio City, CA 91604	16990
Bedford Properties, Inc., P.O. Box 1267, Lafayette, CA 94549	19970
David Lee Bonuccelli, 818 University Avenue, Sacramento, CA 95825	40241
Brighton Pacific Realty Asset Management Co., 80 Grand Avenue, Suite 200, Oakland, CA 94612	36311
John Burnham & Co., P.O. Box 2910, San Diego, CA 92112	37936
Burton Associates, 8722 Burton Way #403, Los Angeles, CA 90048	30493
CB Commercial Realty, Realty Advisors, Inc., 533 S. Fremont Avenue, Los Angeles, CA 90071	19638
D.A. Management, Inc., 7777 Center Ave., Suite 500, Huntington Beach, CA 92647	32996
DW Multiemployer Plan Advisors, 1707 School House Circle, Thousand Oaks, CA 91362	40396
Grubb & Ellis Realty Advisers, Inc., One Montgomery St., Suite 3200, San Francisco, CA 94104	18252
Institutional Property Resources, 15301 Ventura Blvd. #424, Sherman Oaks, CA 91403	37601
IONE Real Estate, Inc., 615 N. Hillcrest Road, Beverly Hills, CA 90210	39576
Lowe Enterprises Investment Management, Inc., 11777 San Vicente Blvd. #900, Los Angeles, CA 90049	38351
L.J. Melody & Co., 18500 Von Karman Avenue #595, Irvine, CA 92715	32032
Meyer Real Estate Advisors, Inc., 222 S. Harbor Blvd. #700, Anaheim, CA 92805	33869
Pension Fund Real Estate Investment Co., 7445 N. Lafayette Avenue, Fresno, CA 92711	16155
PM Realty Advisors, Inc., 800 Newport Center Drive, Newport Beach, CA 92660	21706
Prudential Mortgage Bankers & Investment Corp., 2067 Mt. Diablo Blvd., Walnut Creek, CA 94596	10342
PSI Institutional Realty Advisors, Inc., 1015 Grandview Avenue, Glendale, CA 91201	32540
Public Storage Institutional Realty Advisors, 1015 Grandview Avenue, Glendale, CA 91201	35242
Regency West Real Estate Co., 260 California St., Ste 700, San Francisco, CA 94111	16955
Scudder Realty Advisors, 333 S. Hope Street, 37th Flr., Los Angeles, CA 90071	09633
Strategic Property Advisers, Inc., 225 Broadway, Suite 1210, San Diego, CA 92101	30985
Tishman West Management Corp., 10960 Wilshire Blvd., Los Angeles, CA 90024	26948
Westmark Real Estate Investment Services, 400 S. Hope Street, Los Angeles, CA 90071	31407

[FR Doc. 92-3883 Filed 2-19-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30372; File No. S7-2-92]

Joint Industry Plan; Order Extending Public Comment Period for Proposed Option Market Linkage Plan by the Chicago Board Options Exchange, and American, New York, and Pacific Stock Exchanges

February 13, 1992.

On December 4, 1990, pursuant to rule 11Aa3-2 under the Securities and Exchange Act of 1934 ("Act"), the Chicago Board Options Exchange, Inc. ("CBOE"), American Stock Exchange, Inc. ("Amex"), New York Stock Exchange, Inc. ("NYSE") and Pacific Stock Exchange, Inc. ("PSE") filed with the Securities Exchange Commission ("Commission" or "Sec") a proposed Joint Industry Plan ("Plan") providing for the creation and operation of an Options Intermarket Communications Linkage ("Linkage"). The filing was amended on April 29, 1991, when the signatories to the Plan submitted the Model Option Trade-Through Rule as Exhibit A to the Plan.[1] The Commission published and solicited comment on the proposed Linkage Plan by February 12, 1992.[2]

On January 30, 1992, the Commission received a request from the Committee on Options Proposals ("C.O.O.P.") to extent the comment period [3] and on February 3, 1992, the Commission received a similar request from the chairman of the Securities Industry Association's ("SIA") Options and Derivative Products Committee.[4] Both organizations requested additional time to poll their members and formulate their current positions.

The Commission believes that it is appropriate to extent the comment period on this proposal to give all interested parties time to respond to the comment solicitation in a complete and thorough manner.

It Is Hereby Ordered, That the period for public comment on the proposed plan is extended to March 13, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-3941 Filed 2-19-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30363; File No. SR-Amex-92-01]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange, Inc., Relating to Listing Options on the Amex Biotechnology Index

February 10, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that the American Stock Exchange, Inc. ("Amex"), on January 3, 1992, filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to trade options on the Biotechnology Index (the "Index"), a new stock index developed by the Amex based on biotechnology industry stocks or American depository receipts thereon ("ADRs") which are traded on the Amex, the New York Stock Exchange (the "NYSE"), or through the facilities of the National Association of Securities Dealers Automated Quotation system and are reported national market system securities ("SASDAQ-NMS"). The text of the proposed rule change is available at the Office of the Secretary, Amex and at the Commission.

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[1] See letter to Jonathan G. Katz, Secretary, SEC, from Edward L. Provost, First Vice President, Operation Planning Group, CBOE, dated April 29, 1991.

[2] See Securities Exchange Act Release No. 30187 (January 14, 1992) 57 FR 2812.

[3] See letter from Michael Schwartz, Chairman, C.O.O.P., to Jonathan G. Katz, Secretary, SEC, dated January 30, 1992. C.O.O.P. is an options industry organization comprised of 30 member firms, 5 options exchanges, and the Options Clearing Corporation.

[4] See letter from Thomas P. Hart, Corporate Vice President, PaineWebber, on behalf of the SIA Options and Derivative Products Committee, to Kathryn Natale, Assistant Director, SEC, dated January 28, 1992.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

General

The Amex has developed a new industry-specific index called the Biotechnology Index, based entirely on shares of widely held biotechnology industry stocks and ADRs which are exchange or NASDAQ/NMS listed. The Amex intends to trade option contracts on the newly developed Index.

The Index contains securities of highly-capitalized companies in the biotechnology industry. The biotechnology industry includes companies whose primary business involves the use of biological processes to develop products or to provide services. Such processes include, but are not limited to, recombinant DNA technology, molecular biology, genetic engineering, monoclonal antibody-based technology, and lipid/liposome technology.

Index Calculation

The Index is calculated using an "equal-dollar weighting" methodology designed to ensure that each of the component securities are represented in approximately "equal" dollar amounts in the Index. This method of calculation is important since even among the largest companies in the biotechnology industry there is a great disparity in size. For example, although the stocks included in the Index represent many of the most highly capitalized companies in the biotechnology industry, Amgen Inc. currently represents over 45% of the aggregate market value of the Index. In addition, while currently there is not as much disparity in the prices of the stocks included in the Index, a price-weighted method of calculating the Index's value is not the Exchange's preferred method for calculating an index based on biotechnology stocks since the prices of such stocks can fluctuate significantly as a result of a corporate action (e.g., a stock split or distribution) rather than as a result of stock performance, causing the relative weighting of a stock within the Index to fluctuate significantly.

The following is a description of how the "equal-dollar weighting" calculation method works. As of the market close on October 18, 1991, a portfolio of biotechnology stocks was established representing an investment of $10,000 in the stocks (to the nearest whole share) of each of the companies in the Index. The value of the Index equals the current market value (*i.e.*, based on U.S. primary market prices) of the sum of the assigned number of shares of each of the stocks in the Index portfolio divided by the current Index divisor. The Index divisor was initially calculated to yield the benchmark value of $200.00 at the close of trading on October 18, 1991. Each quarter thereafter, following the close of trading on the third Friday of January, April, July and October, the Index portfolio will be adjusted by changing the number of shares of each component stock so that each company is again represented in "equal" dollar amounts. If necessary, a divisor adjustment is made to ensure continuity of the Index's value. The newly adjusted portfolio becomes the basis for the Index's value on the first trading day following the quarterly adjustment.

The number of shares of each component stock in the Index portfolio will remain fixed between quarterly reviews except, however, in the event of certain types of corporate actions such as the payment of a dividend, other than an ordinary cash dividend, stock distribution, stock split, reverse stock split, rights offering, distribution, reorganization, recapitalization, or similar event with respect to the component stocks, or a merger, consolidation, dissolution or liquidation of an issuer of a component stock, in which case the number of shares of the security in the portfolio may be adjusted, to the nearest whole share, to maintain the component's relative weight in the Index at the level immediately prior to the corporate action. In the event of a stock replacement, the average dollar value of the remaining portfolio components will be calculated and that amount invested in the stock of a new component, to the nearest whole share. In both cases, the divisor will be adjusted, if necessary, to ensure Index continuity.

The Amex will calculate and maintain the Index, and, pursuant to Exchange rule 901C(b), may at any time or from time to time substitute stocks, or adjust the number of stocks included in the Index, based on changing conditions in the biotechnology industry. In selecting securities to be included in the Index, the Exchange will be guided by a number of factors including the market value of outstanding shares and trading activity. The eligibility standards for Index components are described below.

Similar to other stock index values published by the Exchange, the value of the Index will be calculated continuously and disseminated every 15 seconds over the Consolidated Tape Association's Network B.

Expiration and Settlement

The proposed options on the Index are European style (*i.e.*, exercises are permitted at expiration only), and cash settled. Standard options trading hours (9:30 a.m. to 4:10 p.m. New York time) will apply.

The options on the Index will expire on the Saturday following the third Friday of the expiration month ("Expiration Friday"). The last trading day in an option series will normally be the second to last business day preceding the Saturday following the third Friday of the expiration month (normally a Thursday). Trading in expiring options will cease at the close of trading on the last trading day.

The Index value for purposes of settling a specific Index option will be calculated based upon the regular way opening sale price for the component stocks in their primary market. In the case of securities trade through the NASDAQ system, the first reported sale price will be used. As trading begins in each of the Index's component securities, its opening sale price is captured for use in the calculation. Once all of the component stocks have opened, the value of the Index is determined and that value is uses as the settlement value for the option. If any of the component stocks do not open for trading on the last trading day before expiration, then the prior day's last sale price is used in the calculation.

Eligibility Standards for Index Components

Exchange rule 901C specifies criteria for inclusion of stocks in an index on which options will be traded on the Exchange. In choosing among biotechnology industry stocks that meet the minimum criteria set forth in rule 901C, the Exchange will focus only on stocks that are traded on either the NYSE, Amex (subject to the limitations of rule 901C) or NASDA/NMS. In addition, the Exchange intends to focus on stocks that (1) have a minimum

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market value (in U.S. dollars) of at least $75 million,[1] and (2) have an average monthly trading volume of not less than 500,00 shares (or ADRs) in the U.S. markets over the previous six-month period. Although the stocks currently selected for inclusion in the Index meet or surpass the above additional criteria, the Exchange intends the above criteria to be used as guidelines only and reserves the right to include stocks in the Index that may not meet these guidelines, but do, of course, meet the criteria of rule 901C.

Exchange Rules Applicable to Stock Index Options

Amex rules 900C through 980C will apply to the trading of option contracts based on the Index. These rules cover issues such as surveillance, exercise prices, and position limits. Surveillance procedures currently used to monitor trading in each of the Exchange's other index options will also be used to monitor trading in options on the Index. The Index is deemed to be a Stock Index Option under rule 901C(a) and a Stock Index Industry Group under rule 900C(b)(1). Under rule 903C, the Exchange intends to list up to three near-term calendar months and two additional calendar months in three month intervals in the January cycle. The Exchange expects that the review required by rule 904C(c) will result in a position limit of 8,000 contracts for the Index.

Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act, in general, and section 6(b)(5), in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by March 11, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[2]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–3884 Filed 2–19–92; 8:45 am]

BILLING CODE 8010-01-M

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[1] In the case of ADRs, this represents market value as measured by total world-wide shares outstanding.

[2] 17 CFR 200.30–3(a)(12) (1991).

[Release No. 34–30369; File No. SR–CBOE–91–25]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change Relating to the Establishment of a Minor Rule Violation Fine Plan

February 13, 1992.

I. Introduction

On June 17, 1991, the Chicago Board Options Exchange, Inc. ("CBOE") or Exchange"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] filed with the Securities and Exchange Commission ("Commission") a proposed rule change that would enable the Exchange to impose fines in an amount not to exceed $5,000 for minor violations of certain CBOE rules, in lieu of commencing a disciplinary proceeding for violations of these rules. This order approves the CBOE's proposed minor rule violation fine plan. The proposed rule change was noticed for comment in Securities Exchange Act Release No. 29497 (July 30, 1991), 56 FR 40946.[3] No comments were received on the proposed rule change.

On October 8, 1991, the CBOE submitted a fourth amendment to the proposal ("Amendment No. 4"). In Amendment No. 4, the Exchange amended its proposal[4] to include a

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1990).

[3] On June 1991, the Exchange amended its proposal to provide a more detailed description of the proposal. See letter from Robert P. Ackermann, Vice President, Legal Services, CBOE, to Thomas Gira, Branch Chief, Options Branch, Commission, dated June 28, 1991 ("Amendment No. 1"). On August 19, 1991, the Exchange amended the proposal to clarify the basis upon which fines are imposed upon market makers or floor brokers for submitting inaccurate or no transaction times for trades to the Exchange or failure to submit required information to the price reporter. See letter from Deborah Bleich Cogan, Attorney, CBOE, to Howard Kramer, Assistant Director, Commission dated August 19, 1991 ("Amendment No. 2"). On September 19, 1991, the Exchange amended the proposal to provide that a forum fee will only be assessed on a respondent after the respondent receives an adverse decision upon appeal of a fine to the CBOE's Business Conduct Committee ("BCC"). Previously, the CBOE proposal provided that a forum fee would be assessed whenever a respondent appealed a minor rule violation fine to the BCC. See letter from Deborah Bleich Cogan, Attorney CBOE, to Thomas Gira, Branch Chief, Options Branch, Commission, dated September 19, 1991 ("Amendment No. 3"). Because each of these amendments are technical in nature or clarify the proposal without affecting its substance, they have not been separately published for comment.

[4] See letter from Deborah Bleich Cogan, Attorney, CBOE, to Joseph B. McDonald, Jr., Attorney, options Branch, Commission, dated October 8, 1991. In addition to amending the proposal to include a minor rule violation reporting plan, Amendment No.

Continued

minor rule violation reporting plan under section 19(d)(1) of the Act [5] and Rule 19d–1(c)(2) thereunder [6] Rule 19d–1 which was adopted in 1977 pursuant to section 19(d)(1) of the Act,[7] requires self-regulatory organizations ("SROs") to report to the Commission notices of final disciplinary actions and prescribes the contest of such notices. Specifically, Rule 19d–1(c) requires any SRO that takes "any final disciplinary action" with respect to any person to file promptly a notice of the action with the Commission. In 1984, the Commission amended Rule 19d–1(c) to enable the SROs to adopt plans for the summary discipline and abbreviated reporting of minor violations of certain SRO rules by SRO members and member organizations.[8]

II. Description of the Proposal

The proposal adds new CBOE Rule 17.50, which authorizes the Exchange, in lieu of commencing a disciplinary proceeding for minor violations of certain CBOE rules, to impose a fine in an amount not to exceed $5,000.[9] The proposal, however, permits any person to contest the imposition of a fine through the submission of a written answer, at which time the matter will become a disciplinary proceeding subject to chapter XVII of the Exchange's Rules and, where applicable, the reporting provisions of Rule 19d–1(c)(1) of the Act.

Specifically, in any action taken by the Exchange pursuant to proposed Rule 17.50, the Exchange must serve the person against whom a fine is imposed with a written statement, setting forth: (1) The rule(s) allegedly violated; (2) the act or omission constituting each such violation; (3) the fine imposed for each such violation; and (4) the date by which such determination becomes final and such fine must be paid or contested, which date shall not be less than 30 days after the date of service of the written statement. A person contesting a fine under the plan must file a written answer with the Exchange within the time provided above and such answer must include a request for a hearing if a hearing is desired. A hearing or a review based on written submissions will be conducted by the BCC.[10] The BCC, if it determines that the person charged is guilty of the rule violation(s) alleged, may impose any one or more of the disciplinary sanctions authorized by the Exchange's Constitution and Rules and will impose a forum fee against the person charged of $100 if the determination was reached without a hearing or $300 if a hearing was conducted. Nothing in the proposal, however, requires the Exchange to impose a fine according to the plan. The Exchange may, in its discretion, determine that any particular violation is not minor in nature and commence a disciplinary proceeding under Rule 17.2 *et seq.*, rather than under the plan.

The Exchange proposes to incorporate violations of the following Exchange rules into its proposed plan: (1) Violations of position limit rules (Rules 4.11 and 24.4(a)); (2) failure to file FOCUS reports in a timely manner (Rule 15.5); (3) failure to respond in a timely manner to requests for the automated submission of trading data (Rule 15.7); (4) failure to submit accurate trade information (Rule 6.51A);[11] (5) failure to submit trade information to price reporters (Rule 6.51A); and (6) violations of the Exchange's trading conduct and decorum rules (Rule 6.20). For each rule violation, the proposal provides for a graduated fine schedule where the fine is increased depending on the severity and frequency of the rule violation. Under proposed Rule 17.50(e), however, the Exchange, if warranted under the circumstances in the view of the staff of the Exchange, may impose the maximum fine for a first or second offense.

For rule violations covered within the plan where the fine is less than $2,500, the Exchange would be relieved from the requirement imposed by section 19(d)(1) of the Act that the disciplinary action be reported immediately to the Commission. This is because such disciplinary actions would not be "final" disciplinary actions under Rule 19d–1(c)(2). Therefore, in accordance with Rule 19d–1(c)(2), the CBOE's proposed minor rule violation reporting plan provides that uncontested minor rule violations with sanctions not exceeding $2,500 will not be subject to the current reporting provisions of Rule 19d–1(c)(1), provided the Exchange gives notice of such violations to the Commission on a quarterly basis.[12]

The CBOE's minor rule violation reporting plan provides that such quarterly reports shall include: (1) The Exchange's internal file number for the case; (2) the Commission's file number; (3) the name of the individual or member organization; (4) the nature of the violation; (5) the specific rule provision violated; (6) the date of the violation; (7) the fine imposed; (8) an indication of whether the fine is joint and several; (9) the number of times the violation has occurred; (10) the date of disposition; and (11) any other information included by the Exchange.

Pursuant to proposed Rule 17.50(f), the Exchange will issue regulatory circulars to its membership from time to time listing the Exchange Constitution and rule provisions covered within the

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4 makes several other minor changes to the proposal. These amendments have not been separately published for comment because they are technical in nature or clarify the proposal. This includes that portion of the amendment regarding the creation of the minor rule violation reporting plan. Rule 19d–1(c)(2), which provides for the filing and approval of a minor rule violation reporting plan, states that the Commission must provide "appropriate notice of the terms of substance of the filing or a description of the subjects and issues involved and opportunity for interested persons to submit written comment. * * *" The Commission notes that the terms of substance of the plan were published for comment in Securities Exchange Act Release No. 29497. The only addition to the plan contained in Amendment No. 4 that was not previously published for comment regards the timing of the reporting of rule violations under the plan, that is, that rule violations would be reported on a quarterly basis. This change, as stated above, is minor in nature and has not been separately published for comment.

[5] 15 U.S.C. 78s(d)(1).

[6] 17 CFR 240.19d–1(c)(2).

[7] Securities Exchange Act Release No. 13726 (July 8, 1977), 42 FR 36410.

[8] See Securities Exchange Act Release No. 21013 (June 1, 1984), 49 FR 23828 (order approving amendments to paragraph (c)(2) of Rule 19d–1 under the Act.) Under paragraph (c)(2) of Rule 19d–1 as amended, any disciplinary action taken by an SRO for violation of the SRO's rules that has been designated a minor rule violation pursuant to the plan shall not be considered "final" for purposes of section 19(d)(1) of the Act if the sanction imposed consists of a fine not exceeding $2,500 and the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his or her administrative remedies. By deeming unadjudicated, minor violations as not final, the Commission permits SROs to report violations on a periodic basis rather than an immediate basis.

Rule 19d–1(c)(1) contains an exemption from the notice requirement for certain decorum violations that is separate from the plan described above. A disciplinary action which results in the imposition of a fine not exceeding $1,000 or suspension of floor privileges of a clerical employee for not more than five days for a violation of an exchange's decorum rules on a trading floor will not be considered "final" if the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his or her administrative remedies. Therefore, only those decorum violations in excess of $1,000 but not exceeding $2,500 may be included in the plan.

[9] Any fine imposed in excess of $2,500 will be subject to current rather than quarterly reporting to the Commission, in accordance with Rule 19d–1 under the Act. See *supra*, note 8.

[10] Appeals of fines imposed for violations of the Exchange's trading conduct and decorum rules that do not exceed $2,500, however, will be contested before the Appeals Committee, and the proceedings will be subject to the provisions of Chapter XIX of the CBOE's rules, Hearings and Review.

[11] Because the proposal incorporates the provisions of Rule 6.51A into both the new rules and the circulars to be disseminated to Exchange members, the Exchange proposes to delete Rule 6.51A upon approval of the present proposal.

[12] See supra note 8 for a discussion of the notice requirements for violations in excess of $2,500.

summary fine procedures.[13] Such list will indicate the specific dollar amount that may be imposed as a fine with respect to any violation of any rule under the plan.

Under proposed Rule 17.50(d), fines imposed pursuant to Rule 17.50 will be billed by means of the Exchange's integrated billing system to the clearing member designated by the person fined for the payment of his Exchange invoices. The fine will be an obligation payable to the Exchange by the clearing member regardless of whether the clearing member has collected the amount of the fine from the person fined unless: (1) The person fined does not have an active account with the billed clearing member or the equity in such person's account with that clearing member is less than the amount of the fine, and (2) the clearing member notifies the Exchange in writing within 15 days after the billing date of the above-mentioned condition. In that event, the Exchange will bill such person directly. In the event that the fined person contests the fine within the time period specified under Rule 17.50, but after the fine has been collected, the Exchange will promptly refund the amount collected to the applicable clearing member's account.

III. Discussion

The Commission finds that the proposed plan is consistent with the requirements of the Act and the rules and regulations thereunder, and, in particular, with the requirements of sections 6(b) (6) and (7) and section 19(d) of the Act.

Section 6(b)(6) of the Act requires that the rules of the Exchange provide that its members be appropriately disciplined for violations of the Act, the rules and regulations thereunder, and the Exchange's rules. The Commission believes that the violations of the rules contained in the plan are either objective or technical in nature, and easily verifiable, and therefore lend themselves to the use of a fine schedule. The fine schedules are graduated to account for repeat offenders, and provide for the Exchange to impose the maximum fine for a first or second violation if warranted. In addition, if the Exchange determines that a violation otherwise covered by the plan is not minor in nature, it may proceed instead with a disciplinary proceeding under Chapter XVII of its rules and impose other more serious sanctions. Accordingly, the Commission believes that the proposed fine schedules contained in the plan will result in appropriate discipline.

Section 6(b)(7) of the Act requires the rules of the Exchange to "provide a fair procedure for the disciplining of members and persons associated with members * * *." The Commission believes that the CBOE's proposed minor rule violation plan allows the Exchange to impose prompt , effective and appropriate discipline without compromising respondent's rights to "fair procedures" in CBOE disciplinary proceedings. In this regard, the Commission notes that the proposed plan only contains rules for which violations are easily verifiable or are very minor in nature. Therefore, the risk that a person may be erroneously fined for a rule violation in the expedited manner called for under the plan is minimized. In addition, the Commission notes that the plan provides procedural rights to persons who are fined (*i.e.*, notification of the rules allegedly violated, the act or omission constituting the violation and the fine imposed) and permits them to contest the Exchange's imposition of the fine and request a full disciplinary proceeding. Moreover, the Commission notes that proposed CBOE Rule 17.50(f) requires the CBOE to issue regulatory circulars to its membership from time to time listing the Exchange Constitution and rule provisions subject to the plan. By publicizing the rule violations covered by the plan as well as the likely sanctions for violations of these rules, the Commission believes the fairness to respondents afforded by the minor rule violation plan is enhanced.

The Commission also notes that the plan, by allowing minor rule violations to be processed in an expedited manner, permits more Exchange resources to be allocated to the more complex and serious alleged violations of Exchange rules and the federal securities laws, and, therefore, helps to ensure that appropriate and fair discipline is imposed in these cases. Finally, the Commission notes that the plan provides for a forum fee. The Commission believes it is reasonable to shift a portion of the costs associated with appeal proceedings to those members seeking review of a fine. The Commission believes that the imposition of the forum fee is reasonable because it is charged only on respondents who unsuccessfully appeal a fine and the fee serves as a vehicle to match Exchange costs in processing minor disciplinary matters. Moreover, the Commission does not believe that the forum fee deters respondents from appealing fines imposed pursuant to the plan. The Commission, therefore, believes that the proposal appropriately balances the Exchange's interest in the efficient administration of its review proceedings with a member's interest in the fair and equitable resolution of a fine on appeal.

Section 19(d)(1) of the Act, among other things, requires the Exchange to file prompt notice with the Commission of any final disciplinary action it imposes on any member. As described above,[14] however, Rule 19d–1(c)(2) permits SROs to establish minor rule violation plans whereby an SRO may designate rule violations as not "final" or minor and report these rule violations on a periodic, as opposed to an immediate, basis. The Commission has reviewed the CBOE's proposed minor rule violation plan and, for the reasons stated above, finds that it is consistent with the public interest and the protection of investors. Therefore, the Commission finds that the proposal is consistent with section 19(d)(1) of the Act and that unadjudicated, minor violations of rules under the plan may be reported on a quarterly, rather than immediate, basis.

It is Therefore Ordered, Pursuant to section 19(b)(2) of the Act and Rule 19d–1(c)(2) under the Act,[15] that the proposed rule change (File No. SR–CBOE–91–25) be, and hereby is, approved, and that the Exchange's minor rule violation reporting plan is declared effective.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–3937 Filed 2–19–92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34–30370; File No. SR–DTC–92–03]

Self-Regulatory Organizations; The Depository Trust Co.; Filing of a Proposed Rule Change Relating to Enhancement to the Collateral Loan Program

February 13, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 7, 1992, the Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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[13] The Commission notes that, pursuant to Section 19(b) of the Act, the Exchange must file such circulars with the Commission as a proposed rule change if new Exchange Constitution and rule provisions are added to the list. Such a rule change must be approved by the Commission before the CBOE can use the summary fine procedures for the newly added rules.

[14] See *supra*, note 8 and accompanying text.

[15] 15 U.S.C. 78s(b)(2) (1982) and 17 CFR 240.19d–1(c)(2) (1989).

[16] See 17 CFR 200.30–3(a)(12) (1989).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would apply to pledges made to Federal Reserve Banks ("FRB") that are pledgees in DTC's book-entry system. DTC would enable a participant pledging on behalf of a customer, rather than for its own account, to include in the pledge instruction a code indicating the non-participant depository institution for which it is pledging securities to any FRB. DTC would capture the code and include it in all reports to the FRB.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to encourage DTC book-entry pledging by depository institutions to FRBs. Depository institutions are required to pledge collateral to FRBs to secure advances ("discount"), to secure treasury tax and loan account balances, to secure deposits of public money, for other public purposes, and to secure intraday overdrafts ("daylight overdrafts") on the books of the FRB. Many depository institutions, including both direct and indirect participants, maintain securities acceptable for such pledges on deposit at DTC.

DTC first adapted its Collateral Loan program for use by FRBs in 1987.[1] At that time, only the FRB in New York was a DTC pledgee. Since that time, six other FRBs have become pledgees (Atlanta, Boston, Kansas City, Philadelphia, Richmond, and St. Louis). However, very few pledges are made to these other FRBs through DTC. When DTC investigated why other FRBs had not become pledgees and why so few pledges were made to the FRBs who are pledgees, representatives of the FRBs stated that, because non-participant pledgors are not identified on DTC's reports to the pledgee, they only accept pledges through DTC from pledgors who are direct participants of DTC. While DTC's procedures permit a non-participant pledgor to be identified on a hard copy pledge form or in the "comments" field of a pledge instruction over DTC's Participant Terminal System ("PTS"), DTC's computer readable data bases and standard reports to pledgees identify only the direct DTC participant.

Because FRBs currently pledges only from direct participants of DTC, non-participants who wish to pledge to an FRB securities held in DTC's book-entry system currently must withdraw them from the depository and redeliver the physical certificates to the FRB or to another custodian acceptable to the FRB. This proposed rule change would eliminate the need for such withdrawal. The proposed rule change is consistent with the requirements of section 17A of the Act, and the rules and regulations thereunder because it promotes the immobilization of securities certificates by eliminating the need for certain withdrawals.

B. Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

In August 1991 DTC received a letter from Mr. Thomas Hoenig, President of the FRB in Kansas City, who at that time was the Chairman of the Subcommittee on Discounts and Credits, requesting the Collateral Loan enhancement that is the subject of the proposed rule change. DTC's Participant Services and Systems and Computing Development staff worked with all twelve FRBs to ensure that the design is satisfactory to each of them.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to such period that the self-regulatory consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of DTC. All submissions should refer to file number SR-DTC-92-03 and should be submitted by March 12, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-3938 Filed 2-19-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30371; File No. SR-OCC-92-07]

Self-Regulatory Organizations; The Options Clearing Corp.; Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating to the Eligibility of Additional Instruments for the Cross-Margin Program with the Chicago Mercantile Exchange

February 13, 1992.

Pursuant to section 19(b)(1) of the

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[1] Securities Exchange Act Release No. 25211 (December 18, 1987), 52 FR 48893.

Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on February 12, 1992, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR–OCC–92–07) as described in Items I, II, and III below, which Items have been prepared by OCC. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to allow OCC to cross-margin options on the Standard and Poor's MidCap 400 Index ("MidCap 400") with Midcap 400 futures and with options on MidCap 400 futures. The proposed change also is to allow OCC to cross-margin options on the Financial Time Share Index ("FTSE 100") with FTSE 100 futures and with options on FTSE 100 futures. The Midcap 400 futures, options on MidCap 400 futures, FTSE 100 futures, and options on FTSE 100 futures are to be traded at the Chicago Mercantile Exchange ("CME").

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to allow OCC to cross-margin options on the MidCap 400, which are to be traded on the American Stock Exchange ("Amex"), with MidCap 400 futures and with options on the MidCap 400 futures, which are to be traded on the CME. The proposed rule change also would allow OCC to cross-margin options on the FTSE 100, which is to be traded on the Chicago Board Options Exchange ("CBOE"), with FTSE 100 futures and with options on the FSTE 100 futures, which are to be traded on the CME.

The options on the MidCap 400, the MidCap 400 futures, and the options on the MidCap 400 futures are all in the same class group since the underlying asset is the same index. Accordingly, OCC and CME have agreed to allow these contracts to be cross-margined with each other.[2] Since the OCC and CME also have agreed to place the MidCap 400 class group into the broad-based index product group, it will be cross-margined with all of the OCC/CME cross-margin eligible options and futures in the broad-based index product group.[3] Given that the correlations among the MidCap 400 and the other broad-based indexes range from 85% to 95%, the offset percentage, or haircut, within the broad-based index product group will remain at 10%. OCC will monitor closely the MidCap 400 correlations as trading commences in these new products.

Since the securities underlying the options on the FTSE 100, the FTSE 100 futures, and the options on the FTSE 100 futures are identical, OCC will place the options, the futures, and the options on the futures in the same class group. Accordingly, OCC and CME have agreed to allow these contracts to be cross-margined with each other. OCC anticipates, however, that the FTSE 100 class group will be in a separate product group by itself and, therefore, will not be cross-margined with the broad-based product group.[4]

The proposed rule change is consistent with the purposes and requirements of section 17A of the Act because it expands the list of contracts eligible for OCC/CME cross-margining thereby helping to make the national system for the clearance and settlement of securities transactions more efficient and cost-effective.

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change will have an impact on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

OCC has not solicited comments with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing of Commission Action

OCC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing in the **Federal Register**. Such accelerated approval would permit the OCC to coordinate its operations with the exchanges involved in this proposal.

The Commission believes OCC's proposed rule change to permit cross-margining of the above-named products is consistent with the Act, and particularly with section 17A of the Act.[5] Sections 17A(b)(3) (A) and (F) of the Act [6] require that a clearing agency be so organized and that its rules be designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds in the custody or control of clearing agencies. Additionally, section 17A(a)(1) of the Act [7] specifically encourages the use efficient, effective, and safe procedures for securities clearance and settlement. The Commission in recent years has dealt in a comprehensive manner with numerous proposals involving OCC and cross-margining.[8] For the reasons discussed in those orders as well as the reasons discussed above, the Commission believes that this proposal warrants approval in that it helps to further the perfection of the national system for the clearance and settlement of securities transactions.

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[1] 15 U.S.C. 78s(b)(1) (1988).

[2] For a description of the OCC/CME cross-margin program, refer to Securities Exchange Act Release Nos. 2729[illegible] (September 26, 1989), 54 FR 41195 [File No. SR–OCC–89–01] (order approving OCC/CME proprietary cross-margining) and 29991 (November 26, 1991), 56 FR 61458 [File No. SR–OCC–90–01] (order approving OCC/CME non-proprietary, market professional cross-margining).

[3] For a list of contracts eligible for OCC/CME cross-margining, refer to Securities Exchange Act Release No. 29991 (November 26, 1991), 56 FR 61458 [File No. SR–OCC–90–01] (order approving OCC/CME non-proprietary, market professional cross-margining) at note 13.

[4] Should OCC decide to include the FTSE 100 class group in the broad-based index product group so that FTSE 100 contracts can be cross-margined with all cross-margin eligible contracts in the broad-based index product group, OCC, prior to inclusion, will submit to the Commission for approval a section 19(b) proposed rule change filing prior to so including.

[5] 15 U.S.C. 78q–1 (1988).

[6] 15 U.S.C. 78q–1(b)(3) (A) and (F) (1988).

[7] 15 U.S.C. 78q–1(a)(1) (1988).

[8] *E.g.*, Securities Exchange Act Release Nos. 29991 (November 26, 1991), 56 FR 61458 [File No. SR–OCC–90–01] and 30041 (December 5, 1991), 56 FR 64824 [File No. SR–OCC–90–04].

The Commission also finds good cause for approving the proposed rule change prior to the thirtieth day after the publication of notice of filing. Accelerated approval of the proposal will allow OCC to coordinate with CME, Amex, and CBOE the cross-margining of the various options and futures on these indexes with the start of their trading. This should, consistent with Section 17A, help to make the national system for clearance and settlement more efficient and cost efficient.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to File No. SR–OCC–92–07 and should be submitted by March 12, 1992.

It is Therefore Ordered, Pursuant to section 19(b)(2) of the Act,[9] that the proposed rule change (File No. SR–OCC–92–07) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–3939 Filed 2–19–92; 8:45 am]

BILLING CODE 8010-01-M

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[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

[Release No. IC–18552; 812–7842]

American General Series Portfolio Company, et al.; Investment Company Act of 1940

February 13, 1992.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "Act").

APPLICANTS: American General Series Portfolio Company (the "Fund"), The Variable Annuity Life Insurance Company ("VALIC"), The Variable Annuity Life Insurance Company Separate Account A ("VALIC's Separate Account A"), American General Life Insurance Company ("AG Life"), successor in interest to California-Western States Life Insurance Company ("Cal-Western"), and American General Life Insurance Company Separate Account A ("AG Life's Separate Account A"), successor in interest to Cal-Western Separate Account A ("Cal-Western's Separate Account A").

RELEVANT ACT SECTIONS: Exemption requested under section 17(b), or alternatively section 6(c), of the Act from the provisions of sections 17(a)(1) and 17(a)(2) of the Act.

SUMMARY OF APPLICATION: Applicants seek an order exempting, from the prohibitions of section 17(a) of the Act, certain transactions in connection with the combination of two investment portfolios of the Fund and the combination of two divisions of VALIC's Separate Account A and the combination of two divisions of AG Life's Separate Account A.

FILING DATE: the application was filed on December 24, 1991.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 9, 1992, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549; the Fund and VALIC, c/o Cynthia A. Toles, Senior Associate General Counsel and Secretary, 2929 Allen Parkway, suite A5–01, Houston, TX 77019; AG Life, Steven A. Glover, Associate General Counsel, P.O. Box 4382, Houston, TX 77019.

FOR FURTHER INFORMATION CONTACT: Cindy Rose, Financial Analyst, at (202) 272–3027, or Heidi Stam, Assistant Chief, at (202) 272–2060, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. The Fund was incorporated under the laws of Maryland on December 7, 1984 and is registered under the Act as an open-end, diversified management investment company. The Fund is a series investment company, comprised of ten investment portfolios ("portfolios"), including the Stock Index Fund ("SIF") and the Quality Growth Fund ("QGF").

2. The Fund issues shares of SIF and QGF to corresponding divisions of VALIC's Separate Account A and AG Life's Separate Account A to support assets for variable annuity contracts (the "Contracts") issued by VALIC and AG Life.

3. The primary investment objective of QGF is to seek maximum total return over an extended period of time from both capital appreciation and investment income. Preservation of capital when financial, economic, and/or market conditions indicate that a defensive strategy may be appropriate is a secondary investment objective. QGF pursues its primary investment objective by investing principally in equity and equity-related securities.

The investment objective of SIF is to seek to provide long-term capital growth that corresponds to the composite price performance of the Standard & Poor's 500 Composite Price Index, through investment in common stocks traded on the New York Stock Exchange and the American Stock Exchange.

4. VALIC is a stock life insurance company organized under the laws of Texas as a successor to a life insurance company organized in 1955. VALIC is an indirect wholly-owned subsidiary of American General Corporation ("AGC"). VALIC is principally engaged in the offering and issuance of fixed and variable retirement annuity contracts and combination thereof.

5. VALIC is the depositor of VALIC's Separate Account A, which was established in 1979 in accordance with the Texas Insurance Code and is registered under the Act as a unit investment trust funding contracts issued by VALIC. The separate account consists of 15 divisions, each of which invests in the shares of a specific underlying series of the Fund. Divisions, Division 9A, Division 9B and Division 9C each invest in shares of QGF Division 10 invests in shares of SIF. VALIC, through VALIC Separate Account A, owned of record 93.24% and 99.99% of the outstanding voting securities of QGF and SIF, respectively.

6. AG Life is a stock life insurance company, organized under the laws of Texas and created by a merger effective on December 31, 1991.[1] AG Life is the successor in interest to Cal-Western.

7. AG Life's Separate Account A is a separate account created, in accordance with the Texas Insurance Code, as the result of the merger, referred to above, effective on December 31, 1991. The Separate Account is the successor in interest to Cal-Western Separate Account A. It is registered under the Act as a unit investment trust funding contracts issued by AG Life. The separate account consists of seven divisions, each of which invests in the shares of a particular series of the Fund. Division 36 and Division 37 AG Life's Separate Account A invest in QGF and SIF, respectively.

8. VALIC serves as the Fund's investment adviser pursuant to an investment advisory agreement approved by the Fund's shareholders on September 7, 1990. Pursuant to its Investment Advisory Agreement with the Fund, VALIC receives, with respect to QGF and SIF, a monthly fee based on each Fund's average monthly net asset value of the following annual rates: For QGF, .50% of the first $150 million, .45% on the next $100 million, .40% on the next $100 million, and .35% on the excess over $350 million and, for SIF, a flat rate of .35%.

9. On October 29, 1991, the Fund's Board of Directors, including a majority of those directors who are not "interested persons" (as defined in the Act) of the Fund or Applicants, approved in principle the proposed combination of QGF into SIF, which will take effect on or about April 30, 1992 (the "Closing Date"). The primary purpose of the proposed combination is to improve the investment performance of QGF, relative to the S&P 500 Index.

10. The Fund will effect the proposed combination accordance with its Articles of Incorporation and the provisions of the Maryland General Corporation Law ("Maryland Code"). Under the Maryland Code, the proposed combination of QGF into SIF will be treated as a reclassification of shares of the Fund (the "Plan").

11. In connection with the reclassification of shares, QGF will transfer after the close of regular trading of the New York Stock Exchange, currently 4 p.m. New York time (hereinafter the "Effective Time"), on the Closing Date all of its assets and liabilities to SIF, in exchange for which SIF will issue to QGF the number of SIF shares having an aggregate net assets of QGF acquired.

In accordance with section 22(c) of the Act and rule 22c-1 thereunder, the number of shares of SIF to be issued will be determined on the basis of the relative net asset values of QGF and SIF calculated as of the Effective Time on the Closing Date. The net asset values of each portfolio will be determined in accordance with the procedures set forth in the Fund's prospectus and statement of additional information.

QGF will then distribute such SIF shares to QGF Contract owners on a pro-rata basis. Thus, the QGF shares of each QGF Contract owner will be exchanged for the number of full and fractional shares of SIF which, when multiplied by the net asset value per share of SIF, will have an aggregate net asset value equal to the aggregate net asset value of that Contract owners' shares in QGF at the Effective Time on the Closing Date. The Fund will register the shares of QGF issued in the transaction under the Securities Act of 1933 on Form N-14.

12. In addition to the Fund transactions, VALIC and AG Life each intends to make conforming changes to certain Divisions of its respective Separate Account that invests in QGF and SIF.

Specifically, VALIC intends to combine Division 9C of VALIC Separate Account A, which currently invests in QGF, into Division 10, which currently invests in SIF. In addition, following the proposed combination, VALIC intends to rename Divisions 3, 9A and 9B, each of which currently invests in QGF, correspondingly Divisions 10D, 10A and 10B, each of which will invest in SIF.

AG Life intends to combine Division 37 of AG Life's Separate Account A, which currently invests in SIF, into Division 36, which currently invests in QGF but will invest in SIF following the proposed combination. Division 37 currently has only two Contract owners as compared to over 2300 Contract owners in Division 36. Therefore, AG Life will merge Division 37 into Division 36. Immediately after the proposed combination of QGF into SIF, Divisions 9C and 37 (the "disappearing divisions") will transfer their respective assets and liabilities to Divisions 10 and 36, respectively (the "surviving divisions"). In exchange therefore, each surviving division will issue to the corresponding disappearing division a number of units of interest having an aggregate unit value equal to the value of the aggregate net assets of the disappearing division acquired.

In accordance with section 22(c) of the Act rule 22c-1 thereunder, the number of full and fractional units of interest of the surviving divisions to be issued will be determined on the basis of the relative unit values of the surviving and disappearing divisions calculated immediately after the Effective Time on the Closing Date. The unit values of each Division will be determined in accordance with the procedures set forth in the VALIC or AG Life prospectuses and statements of additional information.

Each disappearing division will then allocate or attribute to its Contract owners units of interest in the corresponding surviving division in exchange for units of interest of the disappearing Division, on a pro-rata basis. Thus, the units of interest of each Contract owner in a disappearing division will be exchanged for the number of full and fractional units of interest of a surviving division which will have an aggregate unit value equal to the aggregate unit value of that Contract owner's units of interest in the disappearing division immediately after the Effective Time on the Closing Date.

13. On January 8, 1982, the Fund's Board of Directors met and adopted a resolution to submit the proposed combination for Contract owner approval at a meeting to be held on April 28, 1992.[2] Consistent with the Fund's Articles of Incorporation and the Maryland General Corporation Law, the proposed combination will not take effect unless the proposed amendment is approved by the affirmative vote of at least a majority of the outstanding shares of QGF. VALIC and its Separate Account A and AG Life and its Separate Account A each will vote the shares of QGF that it then holds in accordance with instructions solicited and received

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[1] Applicants represent that, during the Notice Period, the application will be amended to confirm that the merger occurred on December 31, 1991.

[2] Applicants represent that, during the Notice Period, the Application will be amended to confirm this representation.

from Contract owners. This will be true for both shares attributed and not attributed to Contracts. No Contract owner vote is required for the Separate Account changes.

14. VALIC will pay all expenses of the Fund attributable to the proposed combination. VALIC and AG Life each will bear its respective expenses with respect to the combinations involving their respective separate accounts, except that VALIC will bear the entire expense of the application.

15. The proposed combination will not in any way affect the net asset value of SIF shares or the VALIC and AG Life Contract values, unit values, or interests of Contract owners invested indirectly in SIF. The aggregate value of SIF shares attributable to Contract owners previously holding QGF shares will be the same immediately after the proposed combination as the aggregate value of QGF shares attributable to such Contract owners immediately before the proposed combination.

16. To the extent additional options are available under the VALIC and AG Life contracts, QGF Contract owners will have an opportunity to reallocate accumulated monies without charge, to any of the other portfolios or to any available fixed account alternative, prior to or after the consummation of the proposed combination.

17. In addition to Contract owner approval, the consummation of the combination is conditioned upon receipt from the Commission of the order requested herein and receipt by the Fund of an opinion of tax counsel to the effect that the combination will qualify as a tax-free reorganization under the Code, and not result in the recognition of any gain or loss to SIF or QGF, or to any Contract owner of the Fund.

Applicants' Legal Analysis and Conditions

1. The Fund requests that the Commission issue an order pursuant to section 17(b) or, alternatively section 6(c), of the Act exempting the proposed combination of QGF into SIF from the provisions of section 17(a)(1) and 17(a)(2) of the Act to the extent necessary to permit SIF to acquire substantially all of the assets of QGF in exchange for shares of SIF. VALIC and its Separate Account A and AG Life and its Separate Account A each requests that the Commission issue an order pursuant to section 17(b), or alternatively section 6(c), of the Act exempting its proposed combination from the provisions of sections 17(a)(1) and 17(a)(2) of the Act to the extent necessary to permit VALIC and AG Life each to combine SIF and QGF divisions.[3]

2. QGF and SIF, Divisions 9C and 10 of VALIC Separate Account A and Divisions 36 and 37 of AG Life's Separate Account A may be deemed to be separate investment companies for purposes of sections 17(a)(1) and 17(a)(2) of the Act.

3. VALIC, through its Separate Account A, and AG Life through its Separate Account A, each owns of record more than 5% of the outstanding voting securities of QGF. VALIC, through its Separate Account A owns of record more than 5% of the outstanding voting securities of SIF. In addition, VALIC, AG Life and other insurance companies owned by AGC own of record in the aggregate all of the outstanding voting securities of QGF and SIF. Accordingly, QGF and SIF may be deemed to be under common control of AGC and, therefore, an affiliated person of each other.

4. In addition, because VALIC is the investment adviser of QGF and SIF, and because VALIC, through its Separate Account A, owns more than 5% of the outstanding voting securities of QGF and of SIF, each Fund may be deemed to be an affiliated person of an affiliated person (i.e. VALIC) of the other.

5. VALIC owns all of the assets of its Separate Account A and is the depositor of the Separate Account. As a result of these relationships, Division 9C and 10 may each be deemed to be an affiliated person of the other or an affiliated person of an affiliate of the other. Similarly, AG Life owns all of the assets of its Separate Account A and is the Depositor for the Separate Account. As a result of these relationships, Divisions 36 and 37 may each be deemed to be an affiliated person of the other or an affiliated person of an affiliated person of the other.

6. Section 17(b) of the Act authorizes the Commission to issue an order exempting transactions prohibited by sections 17(a)(1) and 17(a)(2) of the Act, upon application, if the evidence establishes that:

(1) The terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned;

(2) The proposed transaction is consistent with the policy of each registered investment company concerned, as recited in its registration statement and reports filed under the Act; and

(3) The proposed transaction is consistent with the general purposes of the Act.

7. The Fund represents that the terms of the proposed combination, including the consideration to be paid and received, as described in this application, are reasonable and fair and do not involve overreaching on the part of any person concerned. The Fund also represents that the proposed combination is consistent with the policies of SIF and QGF, as recited in the Fund's current registration statement and reports filed under the Act, and with the general purposes of the Act.

8. Applicants believe that the exemption provided by rule 17a-8 may not be available to them to the extent that SIF and QGF, and the respective Separate Account A divisions are not affiliated with each other solely by the reasons specified in the Rule. Nevertheless, Applicants submit that the purposed combinations are each consistent with the standards and conditions of rule 17a-8, as applicable.

9. The Board of Directors of the Fund, including a majority of the disinterested trustees, has reviewed and approved in principle the terms of the proposed combination. The Board has also independently determined for SIF and QGF that the proposed combination will be in the best interests of Contract owners and that those interests will not be diluted as a result of effecting the proposed combination.

10. The Fund expects the proposed combination to result in certain benefits for QGF and SIF Contract owners. Since inception in 1987 and for a recent 12-month period, SIF's total investment return has been higher than that of QGF. The proposed combination will result in a substantial increase in the asset size of SIF. SIF, as of May 1, 1991, will have net assets of approximately $577 million after the proposed combination, as compared with net assets of approximately $84 million before the proposed combination. The Fund expects that, to the extent that certain expenses remain relatively fixed and do not vary with asset size, this increase in SIF's size may result in some economies

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[3] The Commission staff has on several occasions taken "no action" positions with regard to a life insurance company depositor of a unit investment trust separate account proceeding with a transaction substantially identical to the proposed reorganization without a Section 26(b) order. *See, e.g.*, The Prudential Insurance Company of American (pub. avail. July 18, 1986); Connecticut General Life Insurance Company (pub. avail. Oct. 3, 1985). Applicants are relying on these letters and are not requesting the Commission to approve or disapprove their decision to proceed without an order pursuant to Section 26(b).

of scale over those existing separately for either SIF or QGF. Thus, Contract owners of both funds may expect some decrease in relative expenses levels as a result of the proposed combination. The proposed combination will benefit QGF Contract owners by resulting in a lower investment advisory fee. Finally, the proposed combination will enable certain QGF Contract owners, who cannot do so under their existing contracts, to invest in SIF, an index fund.

11. The Fund believes that the investment objective of QGF Contract owners can be better achieved by participating in SIF, an index fund, rather than QGF, a managed fund. The Fund also believes that an index fund offers a more clearly defined investment policy and that it can be managed more efficiently than a managed fund.

Although not identical, the investment objectives of SIF and QGF are quite compatible, in that each has an investment objective of growth over an extended period of time and each invests principally in equity securities. QGF Contract owners will experience no substantial change in investment objective in becoming SIF Contract owners. To the extent QGF Contract owners will experience any such change, it will be subject to their prior approval. Any such change in investment objective that QGF Contract owners will experience will be clearly disclosed in a proxy statement to them. To the extent that any QGF portfolio asset is not consistent with SIF's investment objective upon effecting the combination, VALIC will bear the cost of SIF's liquidating such security.

12. The proposed combination will not in any way affect the net asset value of SIF shares or the Contract values, unit values, or interests of Contract owners invested indirectly in SIF. Under the Plan, the transfer or QGF's assets to SIF and the issuance of shares of SIF in exchange therefore will be made on the basis of the aggregate value of those shares on the exchange date in conformity with section 22(c) of the Act and rule 22c-1 thereunder. The aggregate value of SIF shares attributable to Contract owners previously holding QGF shares will be the same immediately after the proposed combination as the aggregate value of QGF shares attributable to such Contract owners immediately before the proposed combination. Furthermore, the Fund believes that the proposed combination will not give rise to any tax liability or to any adverse tax consequences to the Fund, QGF, SIF or Contract owners.

13. Finally, VALIC will bear all of the costs of the proposed combination. As a result of all of the above, the proposed combination will not dilute the interests of Contract owners invested in QGF or SIF at the Effective Time of the proposed combination.

14. The Fund's proposed combination is consistent with the general purposes of the Act as stated in the Findings and Declaration of Policy in section 1 of the Act. The proposed combination does not present any of the conditions or abuses that the Act was designed to mitigate or eliminate. In particular, section 1(b)(6) of the Act states that the national public interest and the interests of investors are adversely affected when investment companies are reorganized without the consent of their security holders. As described above, the proposed combination must receive the approval of a majority of the outstanding shares of QGF (those shares being voted in proportion to the instructions received from variable annuity contract interests in QGF). QGF Contract owners will receive a notice of the special meeting of the Fund's shareholders and a proxy statement containing all material disclosures, including a copy of the Plan. The proposed combination is therefore consistent with the general purposes of the Act.

15. VALIC and its Separate Account A and AG Life and its Separate Account A each represents that the terms of its proposed combination, including the consideration to be paid and received, as described in the application, and reasonable and fair, do not involve overreaching on the part of any person concerned, and will not dilute the interests of Contract owners. Each such applicant also represents that its proposed combination will be consistent with the policies of each division as recited in each Separate Account's current registration statement and reports filed under the Act and with the general purposes of the Act, the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Each such applicant further represents that the proposed combination will result in benefits to Contract owners and will be in their best interests.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-3940 Filed 2-19-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18550; 812-7755]

Short-Term Investments Co., et al.; Application

February 13, 1992.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for exemptive order under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Short-Term Investments Co., AIM Equity Funds, Inc., AIM Convertible Securities, Inc., AIM High Yield Securities, Inc., AIM Investment Securities Funds, Inc., AIM Summit Fund, Inc., all future series of the foregoing investment companies for which AIM Advisors, Inc. ("AIM Advisors") or AIM Capital Management, Inc. ("AIM Management") serves as investment adviser or sub-adviser (collectively, the "Funds"); all future investment companies and their series that in the future are managed or advised by AIM Advisors or AIM Management; and AIM Advisors and AIM Management, the investment adviser or subadviser to the Funds ("Advisers")

RELEVANT ACT SECTIONS: Exemptive order requested under section 17(d) of the Act and rule 17d-1 thereunder.

SUMMARY OF APPLICATION: Applicants seek an order that would permit the Funds to deposit uninvested cash balances into one or more joint trading accounts, the daily balances of which would be used to enter into repurchase agreements or commercial paper. Applicants seek to establish five joint accounts: (1) The Treasury Joint Account; (2) the Agency Joint Account; (3) the Stripped Government Obligations Joint Account; (4) the Mortgage-backed Obligations Joint Account; and (5) the Commercial Paper Joint Account.

FILING DATE: The application was filed on July 18, 1991 and amended on December 10, 1991 and February 3, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 9, 1992, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, AIM Advisors, Inc., Eleven Greenway Plaza, site 1919, Houston, Texas 77046. Attention: Carol F. Relihan, Esquire.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 272–3026, or Nancy M. Rappa, Branch Chief, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. Each of the Funds is a registered open-end management investment company. Several of the Funds consist of multiple investment portfolios ("Series"), each of which has separate investment objectives and segregated assets.

2. Each of the Funds and their Series (collectively, "Portfolios") may wish to deposit overnight cash balances and reserves into one or more of five joint trading accounts, the daily balances of which would be used to invest in commercial paper or one or more repurchase agreements with a bank (including a Fund's custodian bank), a non-bank government securities dealer or a major brokerage house, as the case may be. Currently, such overnight cash balances and reserves are separately invested daily in purchases of various overnight investment vehicles in order to earn additional income for each Portfolio.

3. Applicants seek to establish five joint accounts in order to tailor the investments of the different Portfolios to specific types of securities, consistent with their investment policies. To avoid the need to seek exemptive relief in the future, applicants seek to establish four separate repurchase agreement joint accounts (in addition to the commercial paper joint account), although only one, the Treasury Joint Account, will be used at the present. It is contemplated that the other repurchase agreement joint accounts will be used following the establishment of one or more future series of a Portfolio or of any future investment company that is managed or advised by the Advisers that may have investment policies permitting the participation in one of such other repurchase agreement joint accounts. Only the accounts described herein will be established pursuant to the exemptive order.

4. The joint accounts would not be distinguishable from any other account maintained by a Portfolio with its custodian bank or a designated sub-custodian except that monies from each Portfolio would be deposited in the custodian bank on a commingled basis. The accounts would not have any separate existence which would have indicia of a separate legal entity. The sole function of the accounts would be to provide a convenient way of aggregating what otherwise would be one or more individual daily transactions for the Portfolios necessary to manage their respective daily uninvested cash balances.

5. Each Portfolio is authorized by its investment policies and restrictions to invest in repurchase agreements and has established certain systems and standards that comply with the requirements regarding repurchase agreements set forth by the Commission in its published releases, guidelines, and interpretations.

6. Each of the Portfolios participating in a proposed joint account would participate in that account on the same basis as every other participating Portfolio, and in conformity with each Portfolio's fundamental investment objectives, policies, and restrictions. The Advisers would have no monetary participation in any joint account but would be responsible for investing monies in the accounts, establishing accounting and control procedures, ensuring the equal treatment of each Portfolio, and ensuring that the assets of the Portfolios would continue to be held under proper bank custodial procedures.

7. At the end of each trading day, applicants expect that most Portfolios would have uninvested cash balances in their accounts at their custodial banks that would not otherwise be invested in portfolio securities by the Advisers. Generally, such assets are invested in short-term liquid assets in order to provide liquidity and earn additional income for each Portfolio. Presently, the Advisers must purchase such instruments separately on behalf of each individual Portfolio, resulting in certain inefficiencies and increased costs and limiting the return which some or all of the Portfolios could otherwise achieve.

8. The joint accounts only would invest in short-term investments with an overnight, over-the-weekend, or over-the-holiday maturity. The Portfolios only would invest assets in the joint accounts that, in the absence of the joint accounts, would be invested in short-term liquid assets. A Portfolio's decision to use a joint account would be on the basis of the same factors as the Portfolio's decision to make any short-term liquid investment. These factors primarily would be the yield, creditworthiness, and liquidity of the contemplated investment.

9. A Portfolio's decision to participate in a joint account would be solely at the option of the Portfolio. A Portfolio would not be required to maintain a minimum balance in a joint account and would be permitted to withdraw all or any portion of its investment in a joint account at any time. Therefore, in the opinion of applicants, any Portfolio's investment in a joint account would not be subject to the claims of creditors, whether brought in bankruptcy, insolvency, or other legal proceeding, of any other participant Portfolio in a joint account. Moreover, each Portfolio's liability on any repurchase agreement or commercial paper, as the case may be, purchased by a joint account would be limited to its interest in such repurchase agreement or commercial paper.

10. The procedures set forth below describe current practices of the Portfolios of Short-Term Investments Co., which practices the Treasury Joint Account would follow in all material respects with respect to investments in repurchase agreements. Each morning the money market trading desk begins negotiating the interest rate for repurchase agreements for that day and agrees on the securities required as collateral. The estimated amount of the required collateral is based on preliminary information supplied by the Funds' accounting department indicating the amount of the current day's available cash. This projection may be adjusted during the day to reflect any additional amounts which become available. In the normal course, most purchases of repurchase agreements are complete by 9:30 a.m., with an occasional agreement being finalized later in the day.

11. Each repurchase agreement would be entered into by calling a U.S. bank, a non-bank primary U.S. government securities dealer, or a major brokerage house and indicating the rate of interest and size of the desired repurchase agreement. Particular securities to be held as collateral by a Portfolio would then be identified and the respective custodian would be notified. The securities either would be wired to the account of such custodian at the proper Federal Reserve Bank, transferred to a sub-custodian account of the Portfolios at another qualified bank, or redesignated and segregated on the records of the custodian if that custodian is already the record holder of

the collateral for the repurchase agreement. This procedure would occur on almost every trading day for each of the Portfolios that wishes to enter into repurchase agreements.

12. The Treasury Joint Account only would enter into repurchase agreements collateralized by U.S. Government obligations, *i.e.*, obligations guaranteed as to principal and interest by the government of the United States. The Agency Joint Account only would enter into repurchase agreements collateralized by obligations issued or guaranteed as to principal and interest or otherwise backed by any of the agencies or instrumentalities of the U.S. Government. The Stripped Government Obligations Joint Account only would enter into repurchase agreements collateralized by certain obligations of the U.S. Government in the form of separately traded principal and interest components of securities issued or guaranteed by the U.S. Treasury. The Mortgage-Backed Obligations Joint Account only would enter into repurchase agreements collateralized by certain U.S. government agency securities such as mortgage-backed certificates issued by the Government National Mortgage Association, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation, representing ownership interests in mortgage pools.

13. Any joint repurchase agreement transaction entered into through the proposed joint trading accounts would comply with the standards and guidelines set forth in Investment Company Act Release No. 13005 (Feb. 3, 1983) and with any other existing and future positions taken by the Commission or its staff by rule, release, letter, or otherwise relating the joint repurchase agreement transactions.

14. With respect to the four repurchase agreement joint accounts, applicants believe that the participating Portfolios would earn a higher return than in an individually maintained account because it is possible to negotiate a greater rate of return on a large repurchase agreements than on smaller repurchase agreements. Also, applicants assert that the participating Portfolios could collectively save approximately $97,000 in yearly transaction fees at present asset levels.

15. The Commercial Paper Joint Account only would invest in interest bearing or discounted commercial paper, including dollar denominated commercial paper of foreign issuers. All commercial paper purchased by the Commercial Paper Joint Account would be rated in the highest category by Standard & Poor's or Moody's or, if unrated, be of equivalent investment quality as determined by the Advisers under the supervision of the Boards of the applicable Funds. All such investments would satisfy the investment criteria of any participating Portfolio as to yield, quality, and liquidity.

16. All of the Portfolios, except the Treasury Portfolio, Treasury Tax Advantage Portfolio, and Limited Maturity Treasury Portfolio series of Short-Term Investments Co. are authorized by their investment policies and restrictions to invest in commercial paper.

17. Currently, each Portfolio that is permitted to invest in commercial paper follows the procedures below when investing in commercial paper. Except as noted, the Commercial Paper Joint Account would follow similar procedures. During the morning, the money market trading desk operated by the Advisers on behalf of the Portfolios contacts various dealers of commercial paper. Once the exact amount to be invested in commercial paper for each Portfolio is determined, purchases of commercial paper are made. Occasional purchases are made later in the day. The Commercial Paper Joint Account would purchase interest bearing or discounted commercial paper.

18. Overnight commercial paper matures and pays interest daily. Commercial paper generally pays a higher rate of interest than repurchase agreements secured by U.S. government obligations, although this higher yield is generally accompanied by a higher degree of risk. Applicants manage the higher risk by investing only in commercial paper rated in the highest category. The one-day maturity of the commercial paper that would be eligible for the Commercial Paper Joint Account also mitigates the credit risk of such investments. By investing only in commercial paper rated in the highest category, the existence of the Commercial Paper Joint Account would not increase the investment risk of any of the Portfolios inasmuch as all commercial paper in which the Commercial Paper Joint Account invested would be eligible for investment by such Portfolios.

19. Commercial paper transaction fees are payable on a per transaction basis. The fees are not related to the size of the transaction. The Commercial Paper Joint Account would permit participating Portfolios to enter into such transactions collectively and thus, by reducing the overall number of transactions entered into by each participating Portfolio, generate savings to each such Portfolio.

20. With respect to all of the Portfolios except the Treasury Portfolio, Treasury TaxAdvantage Portfolio, and Limited Maturity Treasury Portfolio of Short-Term Investments Co., the portfolio manager for each Portfolio would determine whether to invest the assets of the Portfolio designated for short-term liquid investments in repurchase agreements or commercial paper. This decision would be based on the yield and liquidity of the repurchase agreement and the creditworthiness of the issuer of the repurchase agreement in comparison to commercial paper. The decision to invest in commercial paper or repurchase agreements would determine whether the Commercial Paper Joint Account or the Treasury Joint Account (or such other repurchase agreement joint account as may be appropriate) are used. The existence of the joint accounts would not affect the decision of whether to invest in repurchase agreements or commercial paper except to the extent a joint account had available to it a repurchase agreement or commercial paper which was not otherwise available to a particular Portfolio and, on the basis of yield, creditworthiness and liquidity, offered a competitive investment.

Applicants' Legal Analysis

1. Each Portfolio, by participating in the proposed joint accounts, and the Advisers, by managing the proposed joint accounts, could be deemed to be "a joint participant" in a transaction within the meaning of section 17(d)(1) of the Act. In addition, the proposed account could be deemed to be a "joint enterprise or other joint arrangement" within the meaning of rule 17d–1 under the Act.

2. The joint accounts would save the Portfolios certain transaction fees, allow the Portfolios to negotiate higher rates of return, and reduce the possibility of error by reducing the number of trade tickets.

3. On the basis of the information considered by each Board, the trustees/directors of the Funds are satisfied that the proposed method of operating the joint accounts would not result in any conflicts of interest among the joint participants. The Boards have determined that the operation of the joint accounts would be free of any inherent bias favoring one Portfolio over another, and the anticipated benefits flowing to each Portfolio would fall within an acceptable range of fairness.

4. The Boards considered the fact that although the Advisers can gain some benefit through administrative convenience and some possible

reduction in clerical costs, the primary beneficiaries would be the participating Portfolios and their shareholders since the joint accounts may earn higher returns for the Portfolios and would be a more efficient means of administering daily investment transactions.

5. Future investment companies for which the Advisers serve as investment adviser or sub-adviser would be permitted to participate in a joint account only on the same terms and conditions as the existing Portfolios have set forth herein.

6. Applicants conclude that, for the reasons set forth in the application as summarized above, the granting of the requested order would be consistent with the provisions, policies and purposes of the Act, and that participation in the proposed joint trading accounts by each Portfolio would not be on a basis different from or less advantageous than that of any other Portfolio participants. Applicants also conclude that the participation by the Advisers would be ministerial only, so that the criteria for issuance of an order under section 17(d) of the Act and rule 17d-1 thereunder are met.

Applicants' Conditions

Applicants agree that the following conditions may be imposed in any order of the Commission granting the requested relief:

1. A separate custodial cash account would be established for each joint account at the applicable custodian bank into which each qualifying participating Portfolio would cause some or all of its uninvested net cash balances intended for short-term liquid investments to be deposited daily. Each Fund that has as custodian a bank other than the bank at which the proposed joint accounts would be maintained and that wished to participate in a joint account would appoint the latter bank as a sub-custodian for the limited purpose of receiving cash for deposit into the proposed joint account.

2. Cash in each joint account would be invested solely in repurchase agreements collateralized by the specific type of obligations permitted as collateral by the specific joint account, as described above, or commercial paper, as the case may be, and no Portfolio would be permitted to invest in any joint account unless the investments of such joint account satisfied the policies and guidelines of that Portfolio concerning repurchase agreements or commercial paper. Any such repurchase agreement or commercial paper would have, with rare exceptions, an overnight or over-the-weekend duration, and in no event would it have a duration of more than seven days.

3. All investments held by a joint account would be valued on an amortized cost basis.

4. Each participating Portfolio, subject to an exemptive order permitting valuation of its securities on the basis of amortized cost or relying upon rule 2a-7 under the Act for that purpose, would use the average maturity of the joint account for the purpose of computing that Portfolio's average portfolio maturity with respect to the portion of its assets held in such account on that day.

5. In order to assure that there would be no opportunity for one Portfolio to use any part of a balance of a joint account credited to another Portfolio, no Portfolio will be allowed to create a negative balance in the joint account for any reason, although it would be permitted to draw down its entire balance at any time. Each Portfolio's decision to invest in a joint trading account would be solely at its option, and no Portfolio will be obligated either to invest in an account or to maintain any minimum balance in an account. In addition, each Portfolio would retain the sole rights of ownership to any of its assets invested in the joint account, including interest payable on such assets invested in such account. Finally, each Portfolio's investment in a joint account will be documented daily on the books of the Portfolio as well as on the books of the Portfolio's respective custodian bank.

6. Each Portfolio would participate in the income earned or accrued in a joint account and all instruments held in the joint account (i.e., cash and U.S. government securities, or commercial paper, as the case may be) on the basis of the percentage of the total amount in the account on any day represented by its share of the account.

7. The Advisers would administer the investment of the cash balances in and operation of the joint accounts as part of their duties under the general terms of each Portfolio's existing or any future investment advisory contract or sub-advisory contract ("Advisory Contracts") and would not collect any additional or separate fees for the management of the joint accounts. The operation of the joint accounts is not provided for specifically under each Portfolio's Advisory Contract, but rather is covered under the general terms of each contract. The Advisers would collect their fees based upon the assets of each separate Portfolio as provided in each respective Advisory Contract.

8. The administration of the joint accounts would be within the fidelity bond coverage required by section 17(g) of the act and rule 17g-1 thereunder. The Portfolios currently are insured under a joint fidelity bond.

9. The Boards of each of the Funds and of any future investment companies and their series that in the future are managed or advised by AIM Advisors or AIM Management that are participating in any joint account would evaluate the joint account arrangements annually and would continue participation in the accounts only if they were to determine that there was a reasonable likelihood that the participating Portfolio and its shareholders would benefit from continued participation.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-3885 Filed 2-19-92; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Delaware County, PA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a park/ride lot proposed to facilitate transit and intermodal travel as part of Interstate 476 (the Mid-County Expressway), in Radnor Township, Delaware County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Philibert A. Ouellet, District Engineer, Federal Highway Administration, 228 Walnut Street, P.O. Box 1086, Harrisburg, Pennsylvania 17108-1086; Telephone (717) 782-3461 or Timothy O'Brien, Project Manager, Pennsylvania Department of Transportation, District 6-0, 200 Radnor-Chester Road, St. Davids, Pennsylvania 19087; Telephone (215) 964-6611.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Pennsylvania Department of Transportation, will prepare an Environmental Impact Statement (EIS) on a proposal for construction of a park/ride facility in Radnor, Pennsylvania. The site is at the confluence of: (1) Interstate 476; (2) AMTRAK rail line (which carries the R5 commuter rail line) operated by Southeastern Pennsylvania Transportation Authority (SEPTA), and

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(3) SEPTA's R100 High Speed Line. This location creates opportunities to accommodate and to facilitate mass transit and intermodal travel with the region's Interstate network. The proposed project includes study of construction alternatives for: New parking for transit users (from I–476 and from the local street system); interchanges for direct access between parking and I–476; and a rail station complex. The No Build alternative will also be studied.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies, and to private organizations and individuals who have previously expressed, or are known to have, an interest in the proposal.

An initial public meeting will be scheduled for early 1992. Additional public meetings will be held throughout the EIS development. A Public Hearing will be held after the Draft EIS has been completed, and concurrent with the period provided for agencies and the public to review this document. Notices will be provided for the dates, times and locations of these meetings and of the Public Hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: February 10, 1992.

George L. Hannon,

Assistant Division Administrator, Federal Highway Administration, Harrisburg, Pennsylvania.

[FR Doc. 92-3911 Filed 2-19-92; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; Pulaski and Saline Counties, AR

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will not be prepared for a proposed highway project in Pulaski and Saline Counties, Arkansas.

FOR FURTHER INFORMATION CONTACT: H.C. Wieland, Division Administrator, Federal Highway Administration, 3128 Federal Office Building, Little Rock, Arkansas, 72201, or Lynn Malbrough, Ecologist II, Environmental Division, Arkansas State Highway and Transportation Department, P.O. Box 2261, Little Rock, Arkansas 72203, Telephone: (501) 569-2281.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Arkansas State Highway and Transportation Department, had originally decided to prepare an environmental impact statement (EIS) on a proposal to widen Interstate 30 from four lanes to six lanes and to construct interchange and frontage road modifications on this controlled access facility. The project will serve central Arkansas, including Pulaski and Saline Counties, as well as interstate traffic utilizing Interstate 30. The Notice of Intent to prepare the EIS was published on August 7, 1991.

Alternatives to be considered are: (1) The "Do-Nothing" Alternative where roads are constructed according to the regional plan with the exception of the proposed facility; (2) the "Two-Way Frontage Road" Alternative which includes the Interstate 30 widening plus modification of the interchanges, ramps and frontage roads to eliminate the slip ramps between the main lanes and the two-way frontage roads; and (3) the "One-Way Frontage Road" Alternative which includes the Interstate 30 widening plus modification of the interchanges, ramps and frontage roads to provide one-way traffic movement on the frontage road. Various design schemes are being studied to accomplish the design goals associated with two-way or one-way frontage road traffic movements under these two basic alternatives.

Since the publication of the Notice of Intent, several public informational meetings have been held as part of the scoping and public involvement processes. As a result of these meetings and preliminary environmental studies, major impacts will be associated with the safety of the highway system, traffic capacity, relocation of businesses, and related economic disruption. The extent of impact on these resources or features is not considered to be significant. Therefore an EIS will not be prepared. If continuing environmental studies determine that a feature will be significantly impacted, an EIS will be prepared. The results of the environmental studies will be contained in an Environmental Assessment which will be available prior to a public hearing. Comments or questions concerning this decision should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of Federal programs and activities apply to this program.)

Issued on: January 30, 1992.

Carl Kraehmer,

Environmental and Design Specialist, Little Rock, Arkansas.

[FR Doc. 92-3912 Filed 2-19-92; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Granting of Relief, Federal Firearms Privileges

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF).

ACTION: Notice of granting of restoration of Federal firearms privileges.

SUMMARY: The persons named in this notice have been granted restoration of their Federal firearms privileges by the Director, Bureau of Alcohol, Tobacco and Firearms.

As a result, these persons may lawfully acquire, transfer, receive, ship, and possess firearms if they are in compliance with applicable laws of the jurisdiction in which they live.

FOR FURTHER INFORMATION CONTACT: Special Agent in Charge Karl Stankovic, Firearms Enforcement Branch, Firearms Division, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226 (202-927-7770).

SUPPLEMENTARY INFORMATION: In accordance with 18 U.S.C. 925(c), the persons named in this notice have been granted restoration of Federal firearms privileges with respect to the acquisition, transfer, receipt, shipment, or possession of firearms. These privileges were lost by reason of their convictions of crimes punishable by imprisonment for a term exceeding one year or because they otherwise fell within a category of persons prohibited by Federal law from acquiring, transferring, receiving, shipping or possessing firearms.

It has been established to the Director's satisfaction that the circumstances regarding the applicants' disabilities and each applicant's record and reputation are such that the applicants will not be likely to act in a manner dangerous to public safety, and that the granting of the restoration will not be contrary to the public interest.

The following persons have been granted restoration:

Bankston, Bobby Gene 105 Hollis Avenue, Newton, Alabama, convicted on September 9, 1980, in the Dale County Court, Ozark, Alabama.

Barthel, Timothy Michael W3884 Tunnel Road, Belleville, Wisconsin, convicted on November 12, 1982, in the Circuit Court of Kenosha County, Wisconsin.

Berryhill, Howard Douglas 417 Julia Street, Apartment 214, Huntsville, Alabama, convicted on February 17, 1976, in the United States District Court, Northern District of Alabama, Huntsville, Alabama.

Biram, Roy Gene Post Office Box 189, Campton, Kentucky, convicted on March 4, 1981, in the Clermont County Circuit Court, Batavia, Ohio.

Bolling, Lawrence Junior Route 3, Box 18, Wise, Virginia, convicted on December 30, 1986, in the United States District Court, Western District of Virginia, Roanoke, Virginia.

Brekhus, Henry Hartman 1046 G Avenue, Douglas, Arizona, convicted on October 16, 1987, in the United States District Court, Southeastern Division, Fargo, North Dakota.

Brooks, Alfred Senior 3011 West Philadelphia, Detroit, Michigan, convicted on January 11, 1973, in the United States District Court, Eastern Judicial District of Michigan, Detroit, Michigan.

Brooks, Thomas Norman Route 1, Box 70, Carthage, Leake County, Mississippi, convicted on August 22, 1985, in the Southern Judicial District Court of Mississippi, Jackson, Mississippi.

Bull, Dennis Wayne 1370 South Fork Road, Glasgow, Kentucky, convicted on November 16, 1987, in the United States District Court in Bowling Green, Kentucky.

Burnett, Richard Alan 3320 Yucaton Street, Lake Wales, Florida, convicted on December 20, 1971, in the Palk County Circuit Court, Bartow, Florida.

Bursaw, Jeffrey Wayne 424 Goldsmith Street, Chippewa Falls, Wisconsin, convicted on January 8, 1987, in the Circuit Court of Eau Claire County, Wisconsin.

Butteris, Scott Allan 502 South Iowa Street, Dodgeville, Wisconsin, convicted on December 22, 1981, in the Circuit Court, Branch IV, Rock County, Wisconsin.

Byrd, Houston Junior 921 Shady Lane, Oakdale, Louisiana, convicted on May 3, 1985, in the United States District Court, Western District of Louisiana.

Cardinale, Norman Alexander 42 Water Valley Road, Hope, Rhode Island, convicted on February 5, 1985, in the United States District Court, Winston-Salem, North Carolina.

Champion, Larry Brantley Route 3, Box 141, Smithland, Kentucky, convicted on August 24, 1985, August 1, 1986, and also on November 17, 1986, in the Livingston County Court, Smithland, Kentucky.

Chappell, Carlton Christopher 501 Chestnut Street, Boscobel, Wisconsin, convicted on September 28, 1984, in the Grant County Circuit Court, Boscobel, Wisconsin.

Churchwell, Billy Joe 1049 Farm to Market Road, Mt. Vernon, Washington, convicted on April 27, 1973, in the United States District Court, Western District of Seattle, Washington.

Dennison, Jasper Irvin Route 1, Box 2612, Santa Rosa Beach, Florida, convicted on October 20, 1981, in the United States District Court, Jacksonville, Florida.

Downs, Richard Gene 4112 Riedley Court, Louisville, Kentucky, convicted on October 27, 1983, in the Jefferson County Court, Louisville, Kentucky.

Dummer, Thomas John N6775 CTH XX, Holmen, Wisconsin, convicted on January 20, 1988, in the LaCrosse County Circuit Court, LaCrosse, Wisconsin.

Dvorak, Vernon Dale N998 Trout Road, Antigo, Wisconsin, convicted on August 29, 1985, in the Langlade County Circuit Court, Antigo, Wisconsin.

Ellison, Richard Dean Rural Route 2, Box 86, Norris City, Illinois, convicted on September 15, 1980, in the United States District Court of New Mexico, Albuquerque, New Mexico.

Esser, James Richard 8391 Veedum Street, Pittsville, Wisconsin, convicted on July 13, 1981, in the Circuit Court, Branch Two, Wood County, Wisconsin.

Falbo, John Michael 100 5th Avenue, Montgomery, West Virginia, convicted on August 21, 1986, in the United States District Court, Southern District of West Virginia, Charleston, West Virginia.

Fancher, David Timothy Route 2, Box 139–B, McCool, Mississippi, convicted on October 4, 1988, in the United States District Court, Northern District of Mississippi, Oxford, Mississippi.

Frederick, Danny Ray 7184 Ransdorp, Memphis, Tennessee, convicted on December 4, 1981, in the United States District Court, Western District of Tennessee.

Free, David Alan 514 Clark Street, Granton, Wisconsin, convicted on February 12, 1986, in the Clark County Circuit Court, Neillsville, Wisconsin.

Gardone, Frank Daniel 1037 Campbells Run Road, Carnegie, Pennsylvania, convicted on May 20, 1963, in the United States District Court, Washington, DC.

Garvey, John Lawrence 3022 Sheffield Drive, Norristown, Pennsylvania, convicted on September 26, 1988, in the United States District Court, Philadelphia, Pennsylvania.

Hamm, Randolph James N988 Hemlock Drive, Medford, Wisconsin, convicted on December 18, 1978, and also on December 30, 1985, in the Circuit Court of Taylor County, Wisconsin.

Hedrick, James Harold 2437 Hampton Place, Fort Mitchell, Kentucky, convicted on March 14, 1985, in the United States District Court, Middle Judicial District of Tennessee.

Hines, Finnie Durant 80 East 110th Street, New York City, New York, convicted on August 9, 1977, in the United States District Court, District of Maryland.

Hoskins, Gobel LaVerne 2127 Northwest Lake, Lawton, Oklahoma, convicted on May 11, 1988, in the United States District Court, Western District of Oklahoma.

Incorporated, L.A.R. Manufacturing 4133 West Farm Road, West Jordan, Utah, convicted on January 24, 1991, in the United States District Court, Central Division of the Judicial District of Utah, Salt Lake City, Utah.

Johnson, Paul David General Delivery, Fillmore, Kentucky, convicted on June 4, 1981, in the United States District Court, Eastern Judicial District, London, Kentucky.

Key, Terrance Scott Highway 89, Post Office Box 382, Darrien, Wisconsin, convicted on February 16, 1983, in the Circuit Court of Walworth County, Wisconsin.

Koberle, Tommy James 5205 Milwaukee Street, Madison, Wisconsin, convicted on May 14, 1984, in the Circuit Court of Dane County, Wisconsin.

Kraszewski, John Stanley 3916 Liberty Avenue, Pittsburgh, Pennsylvania, convicted on August 30, 1984, in the Court of Common Pleas, Allegheny County, Pittsburgh, Pennsylvania.

Lowrey, Mickey Sumner 1316 Springbrook, Mesquite, Texas, convicted on May 17, 1985, in the Two-hundredth and twenty-first Judicial District Court of Dallas County, Dallas, Texas.

Majors, Karen Lynn 11446 Southard Road, Cato, New York, convicted on May 4, 1987, in the United States

District Court, Northern District of New York.

McClung, Stephen Mark 4205 Augusta Drive, Garland, Texas, convicted on August 15, 1983, in the United States District Court, Denver, Colorado.

McCurdy, Robert Eugene Rural Delivery 2, Box 112B, Portersville, Pennsylvania, convicted on November 7, 1985, in the United States District Court, Western District of Pennsylvania, Pittsburgh, Pennsylvania.

Messenger, Gary Brian 6324 West Dana Street, Apartment 3, Milwaukee, Wisconsin, convicted on February 26, 1986, in the Circuit Court of Milwaukee County, Wisconsin.

Monk, Ronald Burl 14319 Johns Lake Road, Clermont, Florida, convicted on November 17, 1976, in the Circuit Court of Orange County, Florida.

Moore, Charles Louis Jr. 1902 Middle Street, Sullivans Island, South Carolina, convicted on October 16, 1980, in the United States District Court, State of Maryland.

Moore, Larry John Box 50A, Baker Road Extension, Ellenburg Depot, New York, convicted on February 24, 1988, in the United States District Court, Northern Judicial District of New York, Albany, New York.

Neider, John Gustave 1457 County C., Wausawkee, Wisconsin, convicted on May 7, 1977, in the Racine County Court, Branch IV, Racine, Wisconsin.

Nichols, Douglas Wayne Post Office Box 81, Ekron, Kentucky, convicted on March 3, 1977, in the Breckinridge Circuit Court, Hardinsburg, Kentucky.

Nollan, Randal James 816 South Shangri-La Shores, Coupeville, Washington, convicted on January 26, 1984, in the Pierce County Superior Court, Washington.

Oakley, Grady Lee Route 3, Box 382, North Wilkesboro, North Carolina, convicted on November 23, 1959, in the United States District court, Middle district of North Carolina, Wilkesboro, North Carolina.

Olivo, Richard Daniel Randall Road, Wading River, New York, convicted on October 15, 1986, in the New York Supreme Court, Hauppauge, New York.

Paul, Charles Edward 931 East 5th Street, Texarkana, Arkansas, convicted on September 22, 1982, in the United States District Court, Western District of Arkansas, Texarkana, Arkansas.

Perkins, Ronnie 510 West Pike Street, Vevay, Indiana, convicted on July 14, 1983, in the Owen Circuit Court, Owenton, Kentucky.

Plecker, Raymond M. 1475 South Michigan Avenue, Clearwater, Florida, convicted on December 5, 1974, in the Circuit Court of Sixth Judicial District, Pinellas County, Florida.

Ramsey, Shawn Ryan Route 1, Box 421, Detroit Lakes, Minnesota, convicted on August 27, 1987, in the Seventh Judicial District Court, Becker County, Minnesota.

Rehm, Corey Tyler 135 North Main Street, Dousman, Wisconsin, convicted on June 12, 1985, in the Circuit Court, Branch Two, Waukesha County, Wisconsin.

Reuman, Robert Everett RFD 5, 460 Marston Road, Waterville, Maine, convicted on February 16, 1949, in the United States District Court, Eastern District of Pennsylvania.

Shaw, James Bernard 1312 Parkway Boulevard, Two Rivers, Wisconsin, convicted on November 11, 1985, in the Manitowoc Circuit Court, Manitowoc, Wisconsin.

Sherretts, Harry Scott 3806 Lake Aire Drive, Nashville, Tennessee, convicted on January 6, 1987, in the Middle District of Nashville, Tennessee.

Socia, Gerald Thomas 362 Harvest Lane, Frankenmuth, Michigan, convicted on May 29, 1985, in the United States District Court, Eastern District of Michigan, Bay City, Michigan.

Sparks, William Lee 832 Ranch, Villa Ridge, Missouri, convicted on February 14, 1956, in the Circuit Court of Fayette County, Kentucky.

Stephens, Harold Edward Junior Route 1, Box 33, Greenup, Kentucky, convicted on July 18, 1983, in the Greenup Circuit Court, Greenup, Kentucky.

Thompson, Charles Edgar 712 Louray Drive, Baton Rouge, Louisiana, convicted on February 16, 1982, in the United States District Court, Middle District Court of Louisiana.

Turner, Walter Cerreck Senior 100 West Cleveland, Baytown, Texas, convicted on September 17, 1984, in the United States District Court, Southern Judicial District of Texas, Houston, Texas.

Watson, William Edward Senior 17290 Shaftsbury, Detroit, Michigan, convicted on September 11, 1956, in the District Court of Detroit, Michigan; and also on August 1, 1974, in the Thirty-sixth District Court, Detroit, Michigan.

White, William Howard Rural Delivery 1, Box 206B, Emlenton, Pennsylvania, convicted on February 5, 1965, in the Court of Common Pleas, Clarion County, Punxsutawney, Pennsylvania.

Williams, Kenneth 19603 Whitcomb, Detroit, Michigan, convicted on June 13, 1960, in the Recorder's Court for the City of Detroit, Detroit, Michigan.

Woller, Timothy John 926 Lincoln Avenue, Wausau, Wisconsin, convicted on October 19, 1982, in the Circuit Court of Marathon County, Wausau, Wisconsin.

Compliance with Executive Order 12291

It has been determined that this notice is not a "major rule" within the meaning of Executive Order 12291, because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in cost of prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Signed: February 3, 1992.

Stephen E. Higgins,

Director.

[FR Doc. 92-3878 Filed 2-19-92; 8:45 am]

BILLING CODE 4810-31-M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 34
Thursday, February 20, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FARM CREDIT ADMINISTRATION

Correction of Sunshine Act Meeting

SUMMARY: Pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), the Farm Credit Administration gave notice on February 12, 1992 (57 FR 5209) of the regular meeting of the Farm Credit Administration Board (Board) scheduled for February 13, 1992. This notice is to revise the agenda for that meeting to correct an item in the closed session.

FOR FURTHER INFORMATION CONTACT: Curtis M. Anderson, Secretary to the Farm Credit Administration Board, (703) 883–4003, TDD (703) 883–444.

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: Parts of the meeting of the Board were open to the public (limited space available), and parts of the meeting were closed to the public. The agenda for Thursday, February 13, is revised to correct the following items in the closed session:

***Closed Session**

A. New Business

1. Other Prior Approval

a. Bakersfield PCA and FLBA Financial Assistance to Facilitate Merger with Visalia PCA and FLCA.

Dated: February 14, 1992.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 92–4042 Filed 2–18–92; 11:22 am]

BILLING CODE 6705-01-M.

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:00 a.m. on Tuesday, February 18, 1992, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following:

Recommendations concerning administrative enforcement proceedings.

Matters relating to the probable failure of certain insured banks.

Matters relating to the Corporation's assistance agreement with an insured bank.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Vice Chairman Andrew C. Hove, Jr., Director T. Timothy Ryan, Jr. (Office of Thrift Supervision), and Chairman William Taylor, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550—7th Street, NW., Washington, DC.

Dated: February 18, 1992.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 92–4110 Filed 2–18–92; 4:06 pm]

BILLING CODE 6714-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Tuesday, February 25, 1992, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Reports of actions approved by the standing committees of the Corporation and by officers of the Corporation pursuant to authority delegated by the Board of Directors.

Memorandum re: Mid-Period Review of the Corporation's 1991/1922 Business Plan.

Memorandum and resolution re: Delegation of Authority to the Vice Chairman to Assert the Deliberative Process Privilege.

Memorandum and resolution re: Delegations of Authority to the Resolution Trust Corporation's Division of FSLIC Operations.

Discussion Agenda:

Memorandum and resolution re: Final amendments to Part 325 of the Corporation's rules and regulations, entitled "Capital Maintenance," which clarify that limitations on the inclusion of purchased mortgage servicing rights in calculating tangible capital, risk-based capital or the leverage limit apply only to insured institutions for which the Corporation is the appropriate Federal banking agency.

Memorandum and resolution re: Final amendments to Part 337 of the Corporation's rules and regulations, entitled "Unsafe and Unsound Banking Practices," which prescribe the amount of loans an insured nonmember bank may make to its executive officers for purposes other than education and home finance.

Memorandum and resolution re: Proposed amendments to Part 337 of the Corporation's rules and regulations, entitled "Unsafe and Unsound Banking Practices," which would allow an insured nonmember bank to make extensions of credit to its executive officers for any purpose other than education or to finance a residence if the aggregate outstanding balance on such loans to the executive officer do not exceed the higher of 2.5 percent of the banks's capital and unimpaired surplus or $25,000; provided that in no event may such extensions of credit exceed $100,000.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550–17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898–6757.

Dated: February 18, 1992.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 92–4111 Filed 2–18–92; 4:06 pm]

BILLING CODE 6714-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

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*Session closed to the public—exempt pursuant to 5 U.S.C. § 552b(c) (8) and (9).

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Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Tuesday, February 25, 1992, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b (c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured depository institutions or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of depository institutions authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

Matters relating to the possible closing of certain insured banks:

Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550–17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898–6757.

Dated: February 18, 1992.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 92–4112 Filed 2–18–92; 4:06 pm]

BILLING CODE 6714-01-M

FEDERAL ELECTION COMMISSION

* * * * *

DATE AND TIME: Tuesday, February 25, 1992, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personal rules and procedures or matters affecting a particular employee.

* * * * *

DATE AND TIME: Thursday, February 27, 1992, 10:00 a.m.

PLACE: 999 E. Street, NW., Washington, DC (ninth floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes

Title 26 Certification Matters: Eligibility of Lyndon H. LaRouche Jr. to Receive Public Financing—Final Determination

Advisory Opinion 1992–1: Mr. Roger Faulkner (continued from meeting of February 13, 1992).

Advisory Opinion 1992–4: Mr. John Michael Cortese (continued from meeting of February 13, 1992).

Advisory Opinion 1992–2: Ms. Carol Darr and Mr. Eric London on behalf of the Democratic National Committee (continued from meeting of February 13, 1992).

Advisory Opinion 1991–32: Mr. Michael G. Massey on behalf of CEC, Inc.

Draft Final Rule Amending the Allocation Rules, with Explanation and Justification

Administrative Matters

* * * * *

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Press Officer, Telephone: (202) 219–4155.

Delores Harris,

Administrative Assistant.

[FR Doc. 92–4086 Filed 2–18–92; 2:30 pm]

BILLING CODE 6715-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Monday, February 24, 1992.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: February 14, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board

[FR Doc. 92–3994 Filed 2–14–92; 4:25 pm]

BILLING CODE 6210-01-M

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Meeting

TIME AND DATE: 1:30 P.M., Wednesday, February 26, 1992.

PLACE: Filene Board Room, 7th Floor, 1776 G. Street, NW., Washington, DC 20456.

STATUS: open.

BOARD BRIEFINGS:

1. Economic Commentary.
2. Insurance Fund Report.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Open Meeting.
2. Central Liquidity Facility Report and Review of CLF Lending Rate.
3. Request by State of North Carolina for Exemption from Section 701.21(h), NCUA's Rules and Regulations, Member Business Loans.

FOR MORE INFORMATION CONTACT: Becky Baker, Secretary of the Board. Telephone (202) 682–9600.

Becky Baker,

Secretary of the Board.

[FR Doc. 92–4109 Filed 2–18–92; 4:05 pm]

BILLING CODE 7535-01-M

Corrections

Federal Register
Vol. 57, No. 34
Thursday, February 20, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4030-5]

Massachusetts Marine Sanitation Device Standard; Receipt of Petition

Correction

In notice document 91-27395 beginning on page 57891 in the issue of Thursday, November 14, 1991, make the following correction:

On page 57892, in the first column at the end of the document, the file line was omitted and should read as follows:

[FR Doc 91-27395 Filed 11-3-91; 8:45 am]

Billing Code 6560-50-M

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 91G-0495]

American Maize-Products Co. and Roquette Corp.; Filing of Petition for Affirmation of GRAS Status

Correction

In notice document 92-2395 appearing on page 4043 in the issue of Monday, February 3, 1992, "B-cyclodextrin" should read "β-cyclodextrin", each time it appears.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 88N-0003]

RIN 0905-AA06

Antacid and Acetaminophen Combination Drug Products in a Solid Dosage Form; Marketing Status for Over-the-Counter Human Use; Notice of Enforcement Policy

Correction

In notice document 92-2727 beginning on page 4456 in the issue of Wednesday, February 5, 1992, make the following correction:

On page 4457, in the first column, in the second full paragraph, in the next to last line, insert "different position that could require relabeling, recall, or" after "a".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8381]

RIN 1545-AO58

Accuracy-related Penalty

Correction

In rule document 91-30708, beginning on page 67492, in the issue of Tuesday, December 31, 1991, make the following corrections:

§ 1.6662-0 [Corrected]

1. On page 67497, in the table of contents, in the third column, in the first line, "or" should read "of".

2. In the same column, in the fourth line, "*of*" should read "*or*", and "*or*" should read "*of*".

§ 1.6662-4 [Corrected]

3. On page 67500, in the first column, in § 1.6662-4(b)(2)(ii), in the second paragraph, the last four lines should be flush.

4. In the same column, in § 1.6662-4(b)(4)(i), in the second line, "§ 1.664-2(c)(1)(i)" should read "§ 1.6664-2(c)(1)(i)", and in the fourth line, the "(C)" in the section cite should be lower case.

5. On the same page, in the second column, in § 1.6662-4(b)(6), in the fifth line, "§ 1.664-4:" should read "§ 1.6664-4:".

6. On page 67501, in the first column, in § 1.6662-4(c)(5), in *Example 1.*(i), in the table, in the last line of the second column, "4,757" should read "4,575".

7. In the same example, in paragraph (iv), the sixth line should be flush, and, "$" should preceed the numeric figures in the sixth and seventh lines.

8. In the same example, in paragraph (vi), in the second column, in the second line, insert "a" after "is", and in the fourth line, insert "the" after "of" the second time it appears.

9. On page 67502, in the first column, in § 1.6662-4(d)(3)(ii), in the sixth line, "type" was misspelled.

§ 1.6662-5 [Corrected]

10. On page 67504, in the second column, in § 1.6662-5(b), in the seventh line, "$10,000" should read "($10,000".

§ 1.6664-2 [Corrected]

11. On page 67506, in the second column, in § 1.6664-2(c)(1), in the second line, "paragraph (c)" should read "paragraph (a)".

12. On the same page, in the third column, in § 1.6664-2(d), in the ninth line, "6861" should read "6851", and in the tenth line, "6851" should read "6861".

13. On page 67507, in § 1.6664-2(g), in *Example 1.*, in the last two lines of the table, insert "$" in front of the numeric figures.

14. On the same page, in the same section, in the second column, make the above correction for the tables in the second and third examples also.

§ 1.6664-3 [Corrected]

15. On the same page, in the third column, in § 1.6664-3(d), in *Example 1.*, in the table, in the right-hand column, insert "$" in front of the 4th, 6th, 7th, 8th, and 11th numeric figures.

16. On page 67508, in the first column, in § 1.6664-3(d), in *Step 1*, of the same example, make the above correction for the third, fourth and sixth numeric figures.

17. In the same example, make the same correction for the table in *Step 2*, and in *Step 3*, make the same correction for the fourth and fifth numeric figures.

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§ 1.6664-4 [Corrected]

18. On the same page, in § 1.6664-4(b)(1), in the 3d column, in the 21st line, "indicated" should read "indicates".

19. In the same column, in the 32d line, "or" should read "of".

20. On page 67509, in the second column, in § 1.6664-4(e)(2)(ii), in the third line, "appraisal" was misspelled.

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[PS-78-91]

RIN 1545-AO07

Procedure for Monitoring Compliance with Low-Income Housing Credit Requirements

Correction

In proposed rule document 91-30710, beginning on page 67018 in the issue of Friday, December 27, 1991, make the following corrections:

1. On page 67018:

a. In the second column, under **SUMMARY:**, in the seventh line, "code" should read "Code".

b. In the third column, under **SUPPLEMENTARY INFORMATION:**, in the 2d paragraph, in the 12th line, "form" should read "Form".

2. On page 67019, in the first column, under **Background**, in the second paragraph, in the fourth line, "section 28" should read "section 38".

3. On page 67020:

a. In the first column, in the first full paragraph, in the seventh line, after "financed" insert "by".

b. In the first column, under 4. Auditing, in the third line, "as" should read "an".

c. In the second column, under 5. Notification, in the second paragraph, in the third line, after "supply" insert "a".

d. In the third column, under *Effective Date*, in the third line, after "1992" insert a comma.

§ 1.42-5 [Corrected]

4. On page 67021, in the second column, in § 1.42-5(b)(1)(vi), in the sixth line, "employees" should read "employers".

5. On page 67022:

a. In the first column, in § 1.42-5(c)(2)(ii), in the flush paragraph, in the eighth line, after "year" insert "will".

b. In the second column, in § 1.42-5(c)(4), in the last line, "underpenalty" should read "under penalty".

c. In the same column, in § 1.42-5(d), in the seventh line, "nay" should read "any".

d. In the same column, in § 1.42-5(e), in the seventh line, "low come" should read "low income".

BILLING CODE 1505-01-D

federal register

Thursday
February 20, 1992

Part II

Environmental Protection Agency

Ethyl Parathion, Correction of Cancellation Order; Notice

ENVIRONMENTAL PROTECTION AGENCY

[OPP-66157B; FRL 4049-2]

Ethyl Parathion; Correction to the Amended Cancellation Order

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of issuance of corrections of amended cancellation order.

SUMMARY: On January 29, 1991, EPA published a **Federal Register** notice [OPP-66157A; FRL 4044-9] which amended the ethyl parathion cancellation order published on December 13, 1991 [OPP 66157; FRL 4003-9]. EPA is now making corrections to the amended cancellation order.

DATES: The corrected amended cancellation order became effective on February 4, 1992.

FOR FURTHER INFORMATION CONTACT: Brian Steinwand, Special Review and Reregistration Division (H7508W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. WF32G5, Crystal Station #1, 2800 Crystal Drive, Arlington, VA, Telephone: 703-308-8174.

SUPPLEMENTARY INFORMATION:

On January 29, 1992, EPA issued an amendment to the December 13, 1991 cancellation order of ethyl parathion (parathion) pesticide products (57 FR 3500, January 29, 1992). The amended order extended the period for using existing stocks of certain canceled parathion products, specifically, non-emulsifiable concentrate products, until July 31, 1992. The amended order identified those specific products for which extended use of existing stocks is permitted (Tables 1 and 2 of the amended order), and those specific products for which extended use of existing stocks is not permitted (Tables 3 and 4 of the amended order).

The Agency has discovered that four products were mistakenly omitted from the tables listing products for which use has been extended until July 31, 1992. Specifically, Helena Chemical Company's products 5905-255 (Parathion 25WP) and 5905-406 (Parathion 8 Flowable), Gowan Chemical Company's product 10163-127 (Prokil Parathion 25WSB),and Drexel Chemical Company's product 19713-237 (Parathion Bait 2 percent). The Agency has also discovered in Table 2 that the first entry under "Wilbur-Ellis," reading "OR760021 (Niagara Phos Kil 25 Spray) should have been included with the products for the FMC Corporation only. The corrected tables are presented below. The Agency regrets any inconvenience caused by these omissions.

Corrected Table 1 read as follows:

TABLE 1.— PRODUCTS APPROVED FOR EXTENDED USE

Company Registration Number	Company Name	Company Address	Product Registration Number	Product Name
279	FMC Corporation, Agricultural Chemical Group	1735 Market Street, Philadelphia, PA 19103	279-336	Phoskil Spray
			279-447	Phoskil 25 Spray
			279-464	Phoskil 2 Dust Insecticide
			279-1251	Aqua Phoskil 6
			279-1957	Niagara Parathion 2 Coated Granules
			279-2069	Parathion 10 Granular
			279-2770	Malathion Parathion Wettable
769	Sureco	P.O. Box 938, Fort Valley, GA 31030	769-77	Parathion 15% Wettable
			769-110	Parathion-Sulphur 2 Peach Spray 6
			769-241	Parathion-Captan Peach Spray
			769-442	10% Parathion Granulated
			769-518	Sure-Kote P Parathion-Sulphur Flowable Peach Spray
			769-557	Parathion 25-W
2935	Wilbur-Ellis	191 W. Shaw Avenue, Suite 107, Fresno, CA 93704	2935-329	Wilbur-Ellis Parathion 8 Flowable
5481	AMVAC Chemical Corp.	4100 E. Washington Blvd., Los Angeles, CA 90023	5481-99	Durham Durathion Granules 2
			5481-127	Durham Durathion Granules 5
			5481-185	Parathion 25W
			5481-243	Royal Brand 1% Parathion
			5481-244	Ferbam Parathion Dust
			5481-246	3.75% Parathion & 70% Sulfur
			5481-252	Parathion 4-G
			5481-260	Thiodan 3 Parathion 1 Tobacco Dust
			5481-263	Parathion 25 DB
			5481-265	Polyram 3.5 Dust With Parathion-1.0
			5481-277	Captan Parathion 25-7.5 Wettable
			5481-281	Parathion 15-W
			5481-290	Apple Dust No. 3
			5481-295	2% Parathion Dust
			5481-297	Cyprex, Parathion, Sulphur 2-2-20 Dust
			5481-299	Sulphur-Parathion Fungicide Insecticide For Apples
			5481-329	Parathion-Zinc-Sulfur 2.7-12-55 WP
5905	Helena Chemical Company	Suite 500, 6075 Poplar Avenue, Memphis, TN 38119	5905-255	Parathion 25WP
			5905-284	Peach Spray
			5905-292	15% Parathion Wettable
			5905-406	Parathion 8 Flowable

TABLE 1.— PRODUCTS APPROVED FOR EXTENDED USE—Continued

Company Registration Number	Company Name	Company Address	Product Registration Number	Product Name
9779	Riverside/Terra Corporation	P.O. Box 171376, Memphis, TN 38187	9779-205	Riverside 10% Parathion Granules
10163	Gowan Company	P.O. Box 5569, Yuma, AZ 85366	10163-54	Prokil Parathion 8 Flowable
			10163-62	Prokil Parathion 25 WP
			10163-127	Prokil Parathion 25 WSB
11656	Western Farm Service	3705 W. Beechwood Ave., Suite 101, Fresno, CA 93711	11656-62	Parathion 25 Wettable
			11656-84	Parathion 25 Wettable
19713	Drexel Chemical Company	P.O. Box 9306, Memphis, TN 38109	19713-100	Drexel Parathion 10%G
			19713-237	Parathion Bait 2%
			19713-280	Ida, Inc. Parathion 10%G
34704	Platte Chemical Company	419 18th Street, P.O. Box 667, Greeley, CO 80632	34704-56	Clean Crop Parathion 25W
			34704-85	Clean Crop Parathion 8-F
			34704-90	Parathion 25W
			34704-327	Kolo Phos Kil 3 Spray
			34704-334	Sulfur 6 Phos Kil 2 Spray
			34704-385	Captan 25 Parathion 7.5 W.P.
			34704-460	Parawet 25W
51036	Micro-Flo Company	P.O. Box 5946, Lakeland, FL 33807	51036-21	Parathion 15 WP
			51036-32	Parathion 15 WP
			51036-43	Parathion 10G
			51036-46	Peach Spray S-P-Z 6-2-3
			51036-47	Peach Spray S-P 6-2
			51036-66	Parathion 25 WP
			51036-155	Parathion 2% Bait
			51036-160	Parathion 10 Granular

Corrected Table 2 read as follows:

TABLE 2.—PARATHION SECTION 24(C) (STATE) SPECIAL LOCAL NEED (SLN) REGISTRATIONS

Company Registration Number	Company Name	Company Address	Product Registration Number	Product Name
279	FMC Corporation, Agricultural Chemical Group	1735 Market Street, Philadelphia, PA 19103	CA760139	Niagara Phos Kil 25 Spray
			CA790064	Niagara Phos Kil 25 Spray
			CA800183	Niagara Phos Kil 25 Spray
			CA820064	Niagara Phos Kil 25 Spray
			OR760021	Niagara Phos Kil 25 Spray
2935	Wilbur-Ellis	191 W. Shaw Avenue, Suite 107, Fresno, CA 93704	ID770020	Red Top Parathion 8 Flowable
			ID860010	Red Top Parathion 8 Flowable
			WA820073	Red Top Parathion 8 Flowable
4581	Pennwalt	Three Parkway, Room 619, Philadelphia, PA19102	LA860005	Penncap-E Insecticide
			OK780015	Penncap-E

Table 3 continues to read as follows:

TABLE 3.—PRODUCTS NOT APPROVED FOR EXTENDED USE

Company Registration Number	Company Name	Company Address	Product Registration Number	Product Name
279	FMC Corporation, Agricultural Chemical Group	1735 Market Street, Philadelphia, PA 19103	279-1366	Parathion 4 Emulsifiable
			279-1611	Aqua 8 Parathion

TABLE 3.—PRODUCTS NOT APPROVED FOR EXTENDED USE—Continued

Company Registration Number	Company Name	Company Address	Product Registration Number	Product Name
			279-2089	Parathion 1 Thiodan 2 EC
			279-2128	Methyl Parathion 3 Parathion 6 EC
769	Sureco	P.O. Box 938, Fort Valley, GA 31030	769-291	Parathion-EC4
2935	Wilbur-Ellis	191 W. Shaw Avenue, Suite 107, Fresno, CA 93704	2935-138	Wilbur-Ellis Parathion 4 Spray
			2935-360	Wilbur-Ellis Ethyl-Methyl Parathion 6-3
4787	Cheminova Holding A/S	1455 Broad Street, Bloomfield, NJ 07003	4787-12	Sure-Death Brand Airpara--Miscible
			4787-13	Sure Death Brand 4LB. Parathion Emusifiable Concentrate
5481	AMVAC Chemical Corp.	4100 E. Washington Blvd., Los Angeles, CA 90023	5481-151	Parathion 8
			5481-152	Parathion-Methyl Parathion 6-3
			5481-261	Parathion 1 Thiodan 2 EC
			5481-266	Parathion 800
			5481-287	Parathion 400
5905	Helena Chemical Company	Suite 500, 6075 Poplar Avenue, Memphis, TN 38119	5905-82	Helena Brand Parathion 4E Emulsifiable Insecticide Concentrate
			5905-86	Helena Brand Parathion 8E Emulsifiable Insecticide Concentrate
			5905-109	2 LB. Ethyl Parathion F/Mosquito Control
			5905-187	Ethyl Parathion 8 LB.
			5905-214	3 LB. Ethyl Parathion
			5905-215	Ethyl Parathion 4
			5905-225	Parathion-Methyl Parathion 6-3 Insecticide
			5905-334	Parathion 4 E.C.
7401	Voluntary Purchasing Group, Inc.	P.O. Box 460, Bonham, TX 75418	7401-156	Hi-Yield Brand 4 LB Ethyl Parathion
			7401-203	Hi-Yield 6-Ethyl 3-Methyl
			7401-297	Hi-Yield Brand 8 LB. Ethyl Parathion
9779	Riverside/Terra Corporation	P.O. Box 171376, Memphis, TN 38187	9779-26	Riverside Parathion 4
			9779-125	Riverside Dithon
			9779-136	Riverside Parathion 8
10107	Cornbelt Chemical Company	P.O. Box 410, McCook, NE 69001	10107-24	Parathion E8
10163	Gowan Company	P.O. Box 5569, Yuma, AZ 85366	10163-1	Prokil Parathion 4LB
			10163-3	Prokil Ethyl-Methyl Parathion 6-3E
			10163-52	Prokil Parathion 8 EC
			10163-117	Gowan Parathion-Methyl Parathion 6-3E
11656	Western Farm Service	3705 W. Beechwood Ave., Suite 101, Fresno, CA 93711	11656-14	Parathion 8EC
			11656-15	Western Farm Service, Inc. Parathion 4
			116566-16	Western Farm Service, Inc. Ethyl-Methyl 6-3
19713	Drexel Chemical Company	P.O. Box 9306, Memphis, TN 38109	19713-38	Drexel Parathion 8
			19713-83	Drexel Seis-Tres 6-3
			19713-218	Parathion 4 Emulsifiable Concentrate
			19713-272	Ida. Inc. Seis-Tres 6-3
34704	Platte Chemical Company	419 18th Street, P.O. Box 667, Greeley, CO 80632	34704-2	Clean Crop Parathion 4-EC
			34704-9	Clean Crop Parathion 8-E
			34704-16	Clean Crop 6-3 Parathion-Methyl Parathion
			34704-88	Thionspray No. 84
			34704-455	Clean Crop Parathion 4EC
			34704-459	Parathion 8 Aquamul
			34704-570	Hopkins Parathion
42761	Red Panther Chemical Company	P.O. Box 550, Clarksdale, MS 38614	42761-10	Red Panther Parathion 8
			42761-44	Smith-Douglas Ethyl-Methyl 6-3 Emulsion Concentrate
			42761-65	Parathion 8 lb. E.C.
51036	Micro-Flo Company	P.O. Box 5948, Lakeland, FL 33807	51036-19	Ethyl-Methyl parathion 6-3 EC
			51036-22	Parathion 4 EC
			51036-35	Parathion Emulsion 4
			51036-38	Aqua 8 Parathion
			51036-59	Ethyl-Methyl 6-3 EC
			51036-74	Parathion 4EC
			51036-114	Parathion 8E
			51036-161	Parathion 8 Concentrate
			51036-162	Parathion 8E

Table 4 continues to read as follows:

TABLE 4.—PARATHION SECTION 24 (C)(STATE) SPECIAL LOCAL NEED (SLN) REGISTRATIONS

Company Registration Number	Company Name	Company Address	Product Registration Number	Product Name
279	FMC	1735 Market Street, Philadelphia PA 19103	ID770021	Niagara Aqua 8 Parathion Insecticide Code 701
			UT840006	Niagara Aqua 8 Parathion Insecticide Code 701
			WA790060	Niagara Aqua 8 Parathion Insecticide Code 701
5905	Helena Chemical Company	Suite 500, 6075 Poplar Avenue, Memphis, TN 38119	NC810037	Atlas Parathion 8–E An Emulsifiable Liquid
2935	Wilbur-Ellis	191 W. Shaw Avenue, Suite 107, Fresno, CA 93704	OR810023	Red-Top Parathion 4 Spray
			WA810039	Red-Top Parathion 4 Spray
34704	Platte Chemical Company	419 18th Street, P.O.Box 667, Greeley, CO 80632	GA910001	Clean Crop Parathion 8–E Emulsifiable Concentrate
			ID910011	Clean Crop Parathion 8–E Emulsifiable Concentrate
			MS910003	Clean Crop Parathion 8–E
			ND790010	Parathion 8–E Emulsifiable Concentrate
			TX760012	Clean Crop Parathion 8–E Emulsifiable Concentrate
			WA910030	Clean Crop Parathion 8–E Emulsifiable Concentrate

Dated:February 4, 1992.

Dan Borolo,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 92–3948 Filed 2–19–92; 8:45 am]

BILLING CODE 6560–50–F

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February 20, 1992

Part III

Department of Housing and Urban Development

Office of the Secretary

24 CFR Subtitle A and Chs. I-XX
Request for Public Comments as Part of HUD's Effort To Modify or Eliminate Burdensome Regulations; Proposed Rules

VOL 57
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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Subtitle A and Chs. I–XX

[Docket No. N-92-3390; FR-3251]

Request for Public Comments as Part of HUD's Effort To Modify or Eliminate Burdensome Regulations

AGENCY: Office of the Secretary, HUD.

ACTION: Request for public comment.

SUMMARY: On January 28, 1992, President Bush, in his State of the Union Address, asked major Cabinet departments and Federal agencies to "carry out a top-to-bottom review of all regulations, old and new, to stop the ones that will hurt (economic) growth and speed up those that will help (economic) growth."

In keeping with the President's directive, HUD plans to work with the public, other interested agencies, and the President's Council on Competitiveness to identify and eliminate rules that unnecessarily impose substantial costs or red-tape on the economy. The Department's review will occur over a 90-day period. It will culminate with the submission of a report to the President indicating changes or recommended changes to the Department's regulations.

This Notice provides the public with an opportunity to participate in the President's program as it relates to the regulatory activities of the U.S. Department of Housing and Urban Development.

DATES: Comments must be received by March 23, 1992.

ADDRESSES: Interested persons are invited to submit comments to the Office of the General Counsel, Rules Docket Clerk, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying during regular business hours (7:30 a.m. to 5:30 p.m. Eastern Time) at the above address.

Please see Section II of the Supplementary Information Section of this notice for suggested ways on how properly to identify and organize subject matter(s) discussed in the comments.

FOR FURTHER INFORMATION CONTACT: Grady J. Norris, Assistant General Counsel for Regulations, Office of the General Counsel, Department of Housing and Urban Development, room 10276, 451 Seventh Street, SW., Washington, DC 20410–0500, (telephone (voice) (202) 708–3055, (TDD) 708–3259. These are not toll-free numbers).

SUPPLEMENTARY INFORMATION:

I. Scope of Review

During the 90-day review period, HUD will be assessing both its existing rules (i.e., rules in effect), and pending rules (i.e., rules that are at a processing stage short of being published for effect). The purpose of this Notice is to solicit comment solely on rules that are already in effect. HUD has already received or will receive public agency comment on pending rules, each proposed rule containing its own record of public comments. On a separate track, the Department is pursuing the President's directive that, also during this 90-day period, no pending regulations will be published other than those that clearly promote economic growth, address imminent health and safety hazards, meet judicial and legislative deadlines, relate solely to agency organization, or are essential to a criminal law enforcement function.

II. Manner of Submitting Comments

We seek public cooperation, insofar as possible, in the manner that comments are submitted. This will enable HUD staff quickly to assimilate and react to comments which are similar.

Our objective is to encourage public comments that will help the Department to identify rules perceived as problems. Thus, it would be helpful if a commenter identified the program and specific regulatory provision perceived as problematic, as well as any supporting documentation the commenter may wish to furnish.

HUD's regulations are contained in title 24 of the Code of Federal Regulations. Title 24 is subdivided into two subtitles that contain regulations under the Office of the Secretary (subtitle A) and Regulations Relating to Housing and Urban Development (subtitle B), respectively. Subtitle B is further subdivided into chapters (generally describing activities of specific, major HUD program offices); subchapters; parts; and sections. In all, HUD regulations begin at 24 CFR 0.735–101 and end at 24 CFR 3500.14. In between are many hundreds of rule sections and subsections that govern the administration of the Department and its programs.

Given this large volume of rules, and the relatively short time frame within which we will seek to address issues raised, the Department requests that commenters try, if at all possible, to organize comments in the manner described below. These procedures are suggestions and not at all mandatory.

Initially, it would be helpful if each public comment contains a cover page that identifies the commenter and the rule(s) called into question. Each rule listed should have a section number and title.

> Example: (1) 24 CFR § xxx.20, Requirements governing * * *
> (2) 24 CFR § xxx.1, Submission requirements * * *

Second, please initiate the discussion of each rule section on a separate page. Thus, in the example above, separately headed pages would be employed for each of the two rules described on the cover sheet.

Third, please organize the substantive comment into two parts as follows: (1) A discussion of how the specific rule inhibits economic growth, and (2) how the rule could be modified in order to promote growth (or, if need be, why it should be eliminated). The commenter is welcome to provide cost data in support of arguments offered (i.e., estimates of the burdensome costs engendered by the existing regulation, and of savings that would be generated by a change in the regulation).

Finally, if at all possible, comments on each rule should be limited to a single page.

III. Evaluation Criteria

In his State of the Union Address, President Bush expressed concern that some Federal regulations inhibit rather than promote economic growth. The President emphasized the need for sound regulations that serve the public good, but stated that "regulatory overkill must be stopped." He cited a wealth of ideas and activities that Federal departments and agencies could and should be working to promote. These include, but are not limited to, the following:

1. The need to encourage investment, in new products, industries, and jobs;
2. The need to end the credit crunch;
3. The need to keep interest rates and inflation low;
4. The need to utilize tax incentives to encourage real estate construction and affordable housing;
5. The need to fight crime and drugs;
6. The need to spur work, education and job training; and
7. The need to eliminate wasteful Federal programs.

In carrying out its review of HUD's existing (as well as pending) rules, the Department will focus on the objectives set forth by the President. The above list is not meant to be all-inclusive. For example, HUD is anxious to eliminate unnecessary red-tape, and to streamline programs so that they most effectively meet its objective to correct any material weaknesses that could lead to abuse in HUD programs. These goals are listed in order to lend guidance to commenters on the general direction being pursued by HUD.

IV. Ongoing Activity

HUD's regulations do provide, at 24 CFR 10.20, petition for rule making, that any interested person may (at any time) petition the Secretary for the issuance, amendment, or repeal of a rule. The undertaking set forth in this Notice is not a substitute for, but rather an addition to, that process. The President's mandate allows the Department an opportunity, together with the public and other Federal agencies, to engage in a concentrated effort to weed out regulations that fail to serve the public well.

At the end of the review period, the Department will report its findings to the President. We anticipate that a number of regulations will be modified or eliminated as a result of this review. Once HUD has finally determined which rules require change or elimination, the Department will publish a **Federal Register** notice informing the public of its future plans for instituting public notice and comment rule makings to effect these changes in Departmental policy.

Dated: February 14, 1992.

Jack Kemp,

Secretary.

[FR Doc 92–4019 Filed 2–19–92; 8:45 am]

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federal register

Thursday
February 20, 1992

Part IV

Environmental Protection Agency

National Estuary Program; Nominations by State Governors; Notice

OL 57 SS 34 FE 20 992 UMI

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4106-3]

Nominations of Estuaries to the National Estuary Program

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is announcing its call for nominations of estuaries to the National Estuary Program (NEP). The Governor of any state may nominate an estuary located wholly or partly within the state to be included in the NEP. After evaluating the nominations received, the EPA will select up to three estuaries to be included in the NEP in Fiscal Year 1993.

DATES: Nominations must be submitted to the EPA on or before April 20, 1992.

ADDRESSES: Governors' nominations should be addressed to The Administrator, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. A copy of the nomination should also be sent to Mark Curran, Oceans and Coastal Protection Division (WH-556F), U.S. Environmental Protection Agency, Washington, DC 20460 and to the appropriate regional representative listed below.

FOR FURTHER INFORMATION CONTACT: Information concerning the NEP and the nomination process can be obtained by contacting the following individuals:

Ron Manfredonia, Water Quality Branch, US Environmental Protection Agency Region I, JFK Federal Building, One Congress Street, Boston, MA 02203, (617) 565-3531.

Mario Del Vicario, Marine & Wetlands Protection Branch, US Environmental Protection Agency Region II, Jacob K. Javitz Federal Building, 26 Federal Plaza, New York, NY 10278, (212) 264-5170.

Richard Pepino, Environmental Assessment Branch, US Environmental Protection Agency Region III, 841 Chestnut Building, Philadelphia, PA 19107, (215) 597-1181.

Stallings Howell, Wetlands, Oceans and Watersheds Branch, US Environmental Protection Agency Region IV, 345 Courtland Street, NE., Atlanta, GA 30365, (404) 347-1740.

Richard Hoppers, Water Quality Management Branch, US Environmental Protection Agency Region VI, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue 12th Floor Suite 1200, Dallas, TX 75202-2733, (214) 655-7135.

Loretta Barsamian, Wetlands, Oceans and Estuaries Branch, US Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744-1953.

Jack Gakstatter, Office of Coastal Waters, US Environmental Protection Agency Region X, 1200 Sixth Avenue, Seattle, WA 98101, (206) 442-0966.

Mark Curran, Oceans and Coastal Protection Division (WH-556F), Office of Water, US Environmental Protection Agency, Washington, DC 20460, (202) 260-6502.

SUPPLEMENTARY INFORMATION:

Background

The National Estuary Program (NEP) was established under sections 317 and 320 of the Clean Water Act (CWA), as amended by the Water Quality Act of 1987. The purpose of the NEP is to promote long-term planning and management in nationally significant estuaries threatened by pollution, development, or overuse. This goal is achieved through the preparation of a Comprehensive Conservation and Management Plan (CCMP) which documents the problems and recommends approaches for correcting and preventing problems for each estuary.

The NEP seeks to protect and improve water and sediment quality and to enhance living resources by helping to:

- Establish working partnerships among Federal, State, and local governments;
- Fully utilize scientific and management experience in development of CCMPs;
- Increase public awareness of pollution problems and ensure public participation in consensus building;
- Promote basinwide planning to control pollution and manage living resources; and
- Oversee development and implementation of pollution abatement and control programs.

There are currently 17 estuaries in the NEP. Three of the original estuary programs, Puget Sound, WA; Buzzards Bay, MA; and Narragansett Bay, RI, have completed or will soon complete their CCMPs. These programs will then begin to implement the actions recommended in their CCMPs. The remaining 14 programs are in various stages of CCMP development and are located in Casco Bay, ME; Massachusetts Bays, MA; Long Island Sound, NY and CT; NY-NJ Harbor, NY and NJ; Delaware Bay, DE, PA, and NJ; Delaware Inland Bays, DE; Albemarle-Pamlico Sounds, NC; Indian River Lagoon, FL; Tampa Bay, FL; Sarasota Bay, FL; Barataria-Terrebonne Estuarine Complex, LA; Galveston Bay, TX; Santa Monica Bay, CA; and San Francisco Bay, CA.

Under CWA section 320(a), the Governor of any state may nominate an estuary located wholly or partly within the state and request that the Administrator of EPA convene a management conference to develop a CCMP for the estuary. The CWA calls for the applicants to document the national significance of the estuary, the need for a management conference, and its likelihood of success. In response to a Governor's nomination or on his own initiative, the EPA Administrator is authorized to determine whether the attainment or maintenance of a desired level of water quality in an estuary requires additional pollution abatement and control programs to supplement existing controls. Based on this determination, the Administrator is authorized to convene management conferences for such estuaries.

EPA has determined that the addition of new estuaries to the NEP beyond the existing 17 is warranted. Based on this determination, the Administrator will convene up to three additional management conferences in Fiscal Year 1993.

Preparation of Nominations

Nominations should be prepared based on EPA's Final Guidance on the Contents of a Governor's Nomination. The EPA will provide an information kit upon request to assist interested states in preparing their nominations. This information kit includes background information and selection criteria on the NEP, a copy of section 320 of the CWA, and a copy of EPA's Final Guidance on the Contents of a Governor's Nomination. Requests for this information kit should be made to the US EPA Regional office that serves the interested state. Contact names, phone numbers and addresses are provided in the "**FOR FURTHER INFORMATION CONTACT**" section of this **Federal Register** notice.

Many of the elements of estuarine management employed in the NEP are being applied by public and private parties in estuaries that are not currently part of the National Estuary Program. Substantial progress towards meeting some NEP objectives has been realized in some of these estuaries.

Based on these factors, and experience gained from the existing 17 management conferences, EPA believes it will be possible to more quickly and economically develop CCMPs for estuaries to be designated in the future. Therefore, when considering management conferences to be convened in Fiscal Year 1993, EPA will give preference to nominations that describe actions underway to identify and characterize environmental problems and their causes, established partnerships among governmental and private groups with natural resource management and protection missions, and public involvement in developing and executing action strategies. The available information kit provides further details on the information which should be presented in the nomination to allow the Administrator to determine whether a candidate estuary should be selected for the NEP.

LaJuana S. Wilcher,

Assistant Administrator.

[FR Doc. 92-4076 Filed 2-19-92; 8:45 am]

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H.R. 1989/P.L. 102-245

American Technology Preeminence Act of 1991. (Feb. 14, 1992; 106 Stat. 7; 24 pages) Price: $1.00

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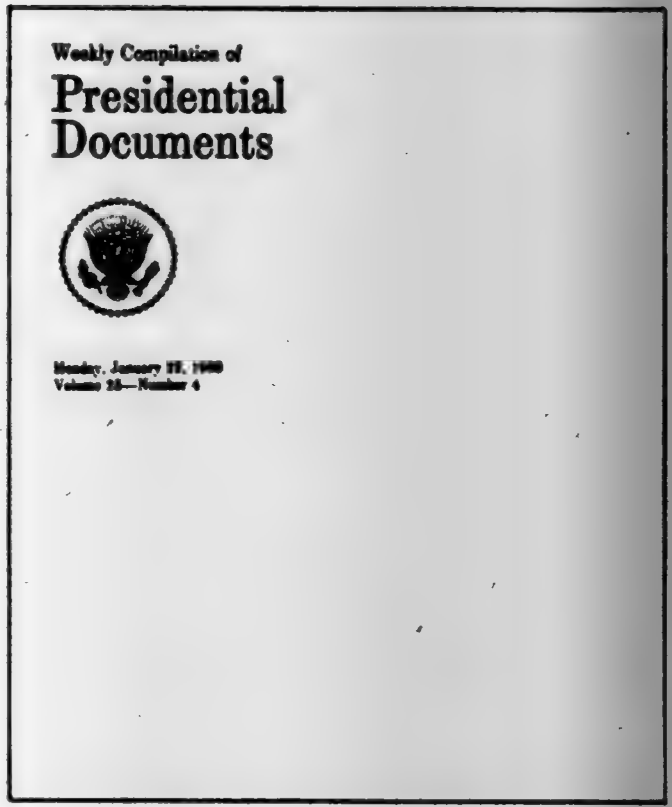

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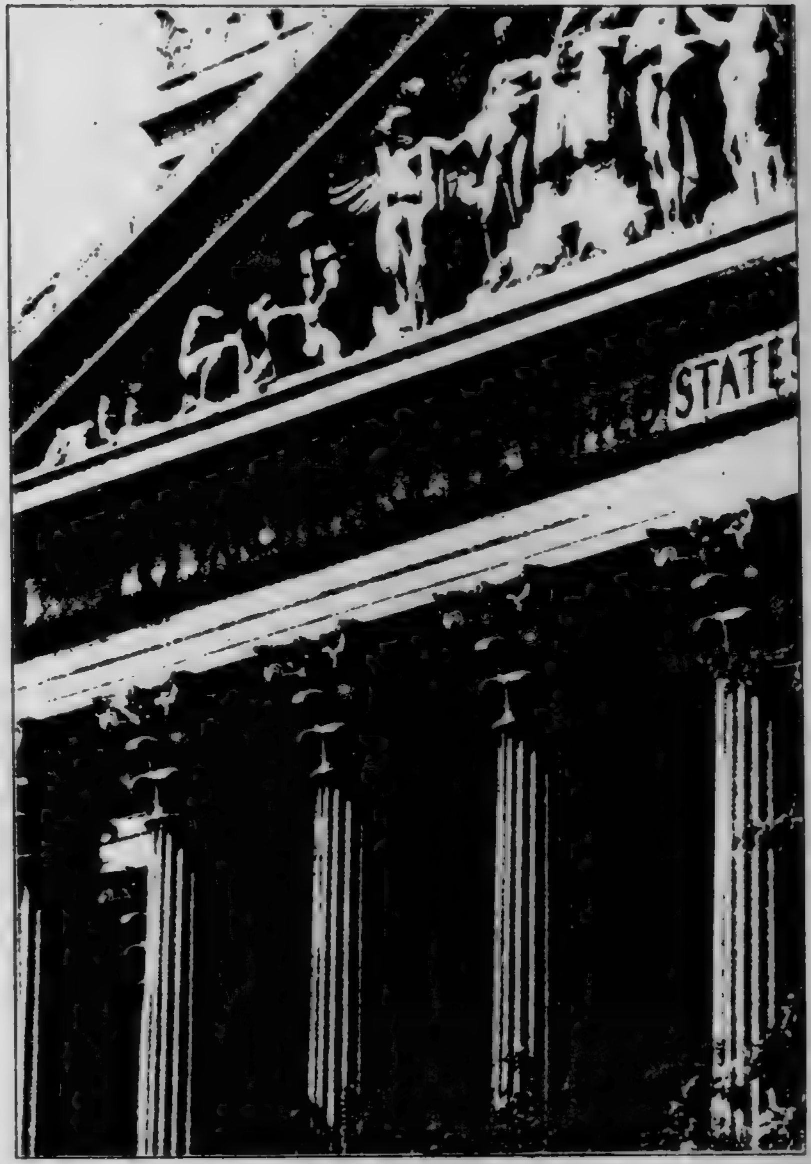

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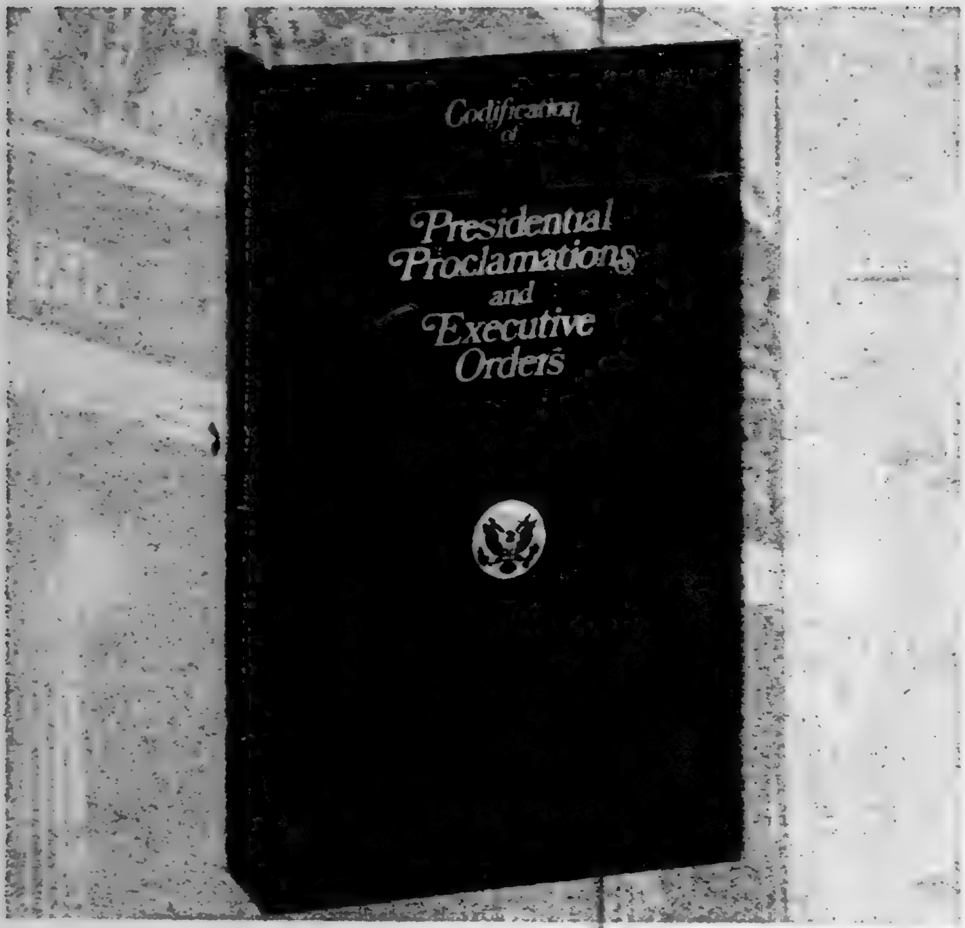

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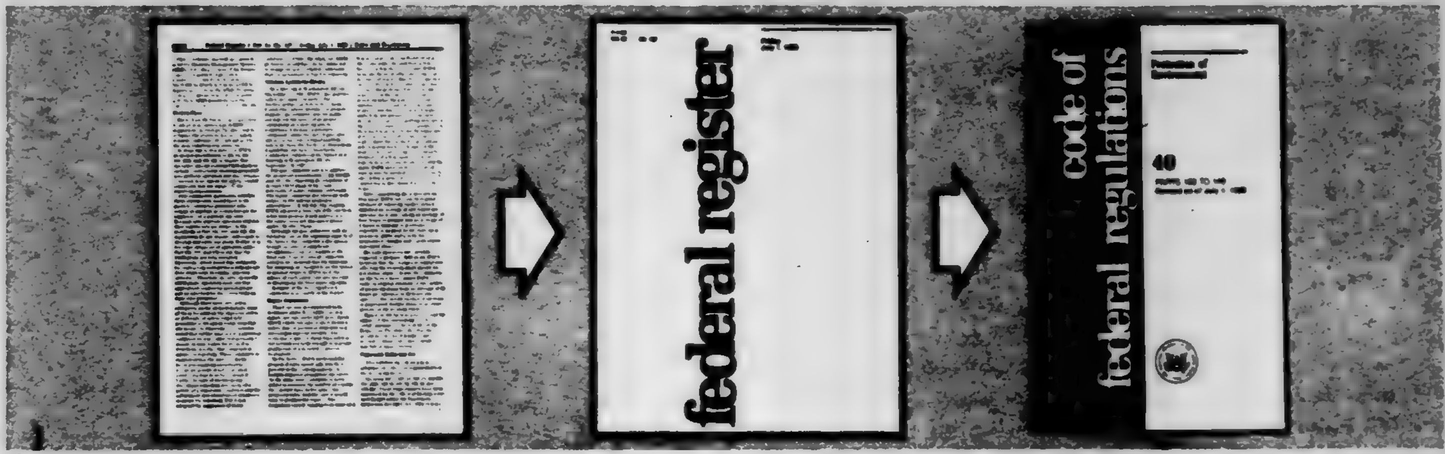

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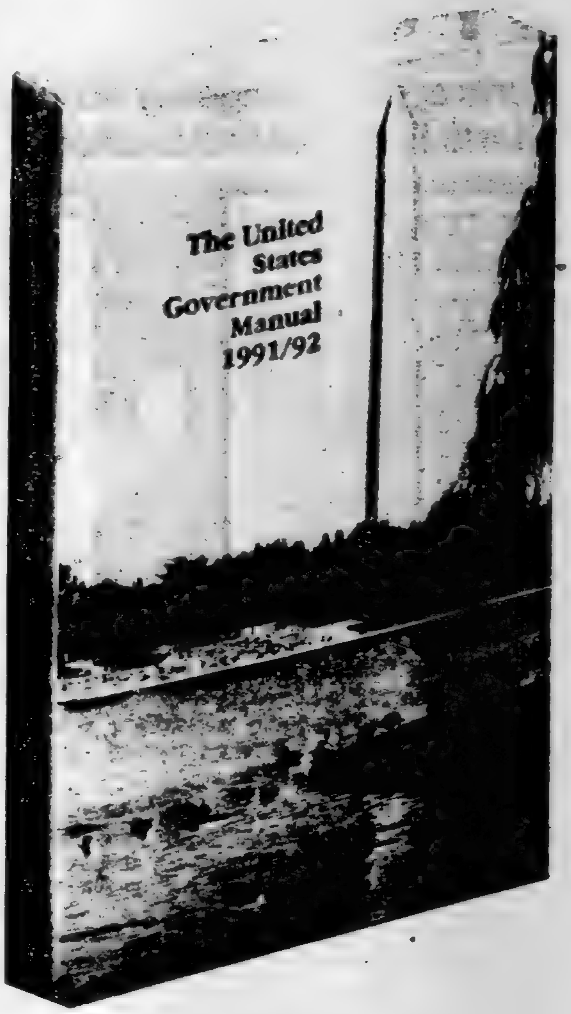

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Rules and Regulations

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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 103 and 299

[INS No. 1444-92]

RIN 1115-AC 99

Fees for New Processes Established by the Immigration Act of 1990, and Adjustments in Fees Due to Form Consolidation

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule amends the existing fee schedule for the Immigration and Naturalization Service (the Service) to recover costs associated with new application and petition processes created by the Immigration Act of 1990 (IMMACT). This rule also modifies the fee schedule for several applications and petitions which have been merged together, and updates the listing of forms. These changes are necessary to place the financial burden of providing special services and benefits which do not accrue to the general public on the recipients of these special services and benefits.

EFFECTIVE DATE: This rule is effective February 21, 1992.

FOR FURTHER INFORMATION CONTACT: Charles S. Thomason, Systems Accountant, Financial Policy and Special Projects Section, Immigration and Naturalization Service, 425 I Street, NW., room 6307, Washington, DC 20536, telephone (202) 376-2804.

SUPPLEMENTARY INFORMATION: In 1990, the Immigration and Naturalization Service began a comprehensive revision of the various application and petition forms used by the public to apply for immigration benefits. One of the principal objectives of the forms improvement project was to consolidate application forms where possible and revise the forms to ensure that only the minimum necessary information burden was imposed on the general public.

This project was expanded last fall to include the revisions necessary to implement the new immigration benefits and processes created by the Immigration Act of 1990.

As new and revised forms were developed, the Service published them in the **Federal Register**. This was done so the public could view, consider, and comment on the proposed major revisions and any related impacts. The Service also published a fee impact statement when the proposed restructuring or inclusion of new IMMACT processes affected the fee for a process. This explanation was published with the form so the public could consider the reasons for any new fee or any fee adjustment in the context of the new form and accompanying instructions.

The proposed fee adjustments were based upon a review by the Service of its policies and practices for user charges, a review of costs and fees, the principles of user charges prescribed by the Congress at 31 U.S.C. 9701, and the guidelines of the Office of Management and Budget as published at 5 CFR 1320.

The following forms were among those published in the **Federal Register** in this manner:

—On May 3, 1991, the Service published, at 56 FR 20447, the proposed revision of Form I-526, Immigrant Petition by Alien Entrepreneur, which was extensively revised to be used to apply for benefits pursuant to the new conditional immigrant investor program created by IMMACT.

—On August 19, 1991, the Service published, at 56 FR 41133, the proposed revision of Form I-360, Petition for Amerasian, Widow(er) or Special Immigrant, which was extensively revised to incorporate a number of new processes created by IMMACT.

—On October 4, 1991 the Service published, at 56 FR 50350, the new Form I-824, created to structure the process of requesting various actions on applications or petitions after they have already been approved. On that same date, the Service published the proposed revision to Form I-129, Petition for a Nonimmigrant Worker, which was extensively revised to be used to apply for several new nonimmigrant classifications based on employment which were created by IMMACT, as well as to integrate the extension of stay and change of status for nonimmigrant workers onto the petition.

—On October 8, 1991, at 56 FR 50929, the Service published the new Form I-539, which was extensively revised to combine the previous extension of stay and change of nonimmigrant status applications.

—On October 30, 1991, the Service published, at 56 FR 55931, the revised Form I-751, which merged the prior Forms I-751 and I-752 and also revised the form to reflect new conditional resident processes created by IMMACT.

The Service received a small number of comments on the layout of these forms and on some of the questions asked on the forms. Minor changes were made based on these comments, and these forms were subsequently approved by the Office of Management and Budget. As indicated when the proposed forms were released, the Service also revised the instructions about eligibility standards and initial evidence requirements on the forms to coincide with the final rules.

The Service also received a number of comments on several of the forms regarding the fee adjustments. The following is a discussion of these concerns and the changes that were made prior to approval by the Office of Management and Budget.

Form I-129

A number of commenters questioned the Service's imposition of a $10 fee for additional workers included in a Form I-129 petition for nonimmigrant workers outside the United States.

As indicated in the fee impact statement on the Form I-129, there are several reasons for the new, incidental per person charge. There are significant additional costs associated with the processing of petitions for more than one person. Information about each worker must be entered into the Service's case automated tracking and processing system. At the adjudicative stage, the qualifications of each worker must be reviewed, and in fact procedures allow for partial approvals so eligible workers are not denied merely because they have been included in a petition along with ineligible workers. As a result, the Service may issue an approval for certain workers and a denial for others in the same petition.

Most costs created by allowing multiple workers on a petition were reflected in the prior across-the-board fee. However, a number of changes warrant the new $10 fee for each additional worker.

First, the provisions of IMMACT require a more detailed review of the qualifications of each individual worker. In many previous cases, such as those involving entertainment groups, the Service was more concerned about a group's qualifications.

In addition, the Service is changing its processing systems to meet employer requests that it not require the original Form I-94, Nonimmigrant Arrival-Departure Record, for each employee who is in the United States. While this will significantly streamline the process from the employer's perspective, it will mean entering significantly more data about each worker into our computerized system, and later generating notices naming each approved worker.

Since most of the prior costs associated with reviewing petitions for multiple workers were packaged in the single fee, the Service proposed adding a fee of $10 per additional worker to be included in the petition. This additional fee will cover the additional review mandated as a result of IMMACT and the additional data entry and notice generation costs created by the processing changes discussed above, as well as other processing changes which are required to meet IMMACT-mandated processing timetables.

This additional charge is an incidental amount compared with the cost of transportation, salaries, and other costs associated with bringing large groups of workers into the U.S. from abroad. However, the Service, recognizing that this is a new additional cost, balanced the overall effect by significantly reducing the cost of extension applications for large groups of workers.

Form I-539

Several commenters questioned the change in process that would require that the dependents of a nonimmigrant worker file a separate Form I-539 application for extension of stay instead of being included in the worker's own application, and the resultant impact on filing fees.

As previously indicated, the Service merged the classification, extension of stay, and change of status processes for workers onto one petition (Form I-129) in order to streamline the process for employers. The Service also allows groups of workers to be included in a single petition. Procedurally, it would have been impossible to merge all these processes together and also continue to include dependents in the petition. Placing dependents onto a separate form also allows the Service to deal directly with the employer on the questions of employment, rather than dealing with the employer through the worker who filed the application.

The merger of these processes means the employer will now apply for any required extension of stay where status is based on employment. This is more appropriate since the employee's status is based on the offer of employment. This exchange allows the Service to deal directly with the employer, rather than having the employee act as an intermediary. The transmittal of information directly to the employer about extensions and changes of status also provides the employer with information necessary to ensure that it is complying with relevant laws relating to the employment of foreign workers. Otherwise, the process remains the same.

As a result, dependents will be required to file a Form I-539 to extend or change their nonimmigrant status. There is a distinct fee for this process. However, after further cost analysis, the Service has adjusted the co-applicant fee from $50 to $10. This equals the fee charged per additional worker on the new Form I-129.

One commenter also referred to the manner in which the Service was proposing to change its processes to require a separate Form I-529 application for a worker's family as a "back door fee increase" contrary to the Administrative Procedures Act.

The Service's proposal is not a "back door fee increase." The Service fully complied with the Administrative Procedures Act in terms of the sequence of notification. The Service published each of the new application and petition forms to give the public an opportunity to review and comment on the forms. Where a consolidation of various activities, or new IMMACT requirements, had a fee impact, the Service published a fee impact statement with the form that described the reasons for the change in detail. This was done to allow the public to view the proposed fee change in the context of the new form and instructions so they could consider the fee adjustment in the context of the proposed process, rather than merely reading about a proposed fee change out of context. The comments received about the fees illustrate that the process had the intended effect.

In accordance with 5 U.S.C. 605(b), the Commissioner of the Immigration and Naturalization Service certifies that this rule will not have a significant adverse economic impact on a substantial number of small entities. This rule is not considered to be a major rule within the meaning of section 1(b) of Executive Order 12291, nor does this rule have Federalism implications warranting the preparation of a Federal Assessment in accordance with Executive Order 12612.

The Service's implementation of this rule as a final rule is based on the "good cause" exception found at 5 U.S.C. 553(d). The reasons and necessity for immediate implementation of this final rule are as follows: The public has already had the opportunity to view and comment to the proposed forms and related fees when copies of the proposed forms, and related fee impact statements, were published in the **Federal Register**.

The information collection requirements contained in this rule have been cleared by the Office of Management and Budget under the provisions of the Paperwork Reduction Act.

List of Subjects

8 CFR Part 103

Administrative practice and procedures, Archives and records, Authority delegations (Government agencies), Fees, Forms, Freedom of information, Privacy, Reporting and recordkeeping requirements, Surety bonds.

8 CFR Part 299

Immigration, Reporting and recordkeeping requirements.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. The authority citation for part 103 continues to read as follows:

Authority: 5 U.S.C. 552, 552a; 8 U.S.C. 1101, 1103, 1201, 1304, 1356; 31 U.S.C. 9701; E.O. 12356, 47 FR 14874, 15557, 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

2. In § 103.7, paragraph (b)(1) is amended by revising the entries for Forms I-539 and I-751, and by adding in proper numerical sequence, Forms I-129,

I–360, I–526, and I–824 to the list of forms, to read as follows:

§ 103.7 Fees.

* * * * *

(b) * * *

(1) * * *

Form I–129. For filing a petition for a nonimmigrant worker—$70.00 plus:

—$10.00 per worker if you are requesting consulate or Port of Entry (POE) notification for visa issuance or admission; or

—$80.00 per worker if requesting a change of status; or

—$50.00 per worker if requesting an extension of stay.

* * * * *

Form I–360. For filing a petition for an Amerasian, Widow(er), or Special Immigrant—$75.00, except that there is no fee for a petition seeking classification as an Amerasian.

* * * * *

Form I–526. For filing a petition for an alien entrepreneur—$140.00.

* * * * *

Form I–539. For filing an application to extend or change nonimmigrant status—$70.00 plus $10.00 per co-applicant.

* * * * *

Form I–751. For filing an application to remove the conditions on residence which is based on marriage—$75.00.

* * * * *

Form I–824. For filing for action on an approved application or petition—$30.00.

* * * * *

PART 299—IMMIGRATION FORMS

4. The authority citation for part 299 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 8 CFR part 2.

5. Section 299.1 is amended by revising the entries for Forms I–90, I–102, I–129S, I–140, I–360, I–526, and I–539, and by adding Forms I–94W, I–129, I–751, and I–824 in the proper numerical sequence to the list of forms to read as follows:

§ 299.1 Prescribed forms.

* * * * *

I–90 (10–01–91)—Application to Replace Alien Registration Card.

* * * * *

I–94W (05–29–91)—Nonimmigrant Visa Waiver Arrival/Departure Form.

* * * * *

I–102 (10–01–91)—Application for Replacement/Initial Nonimmigrant Arrival–Departure Document.

* * * * *

I–129 (12–19–91)—Petition for a Nonimmigrant Worker.

* * * * *

I–129S (12–19–91)—Nonimmigrant Petition based on Blanket L Petition.

* * * * *

I–140 (12–02–91)—Immigrant Petition for Alien Worker.

* * * * *

I–360 (09–19–91)—Petition for Amerasian, Widow(er), or Special Immigrant.

* * * * *

I–526 (12–02–91)—Immigrant Petition by Alien Entrepreneur.

* * * * *

I–539 (12–02–91)—Application to Extend/Change Nonimmigrant Status.

* * * * *

I–751 (12–04–91)—Petition to Remove Conditions on Residence.

* * * * *

I–824 (10–01–91)—Application for Action on an Approved Application or Petition.

* * * * *

6. Section 299.5 is amended by revising the entries for Forms I–90, I–102, I–129S, I–360, I–526, I–539, and I–751 and by adding, in proper numerical sequence, Forms I–94W, I–129, and I–824 to the list of forms, to read as follows:

§ 299.5 Display of control numbers.

* * * * *

INS form No.	INS form title	Currently assigned OMB control No.
*	* * *	*
I–90	Application to Replace Alien Registration Card.	1115–0004
*	* * *	*
I–94W	Nonimmigrant Arrival—Departure Document for the Visa Waiver Program.	1115–0148
*	* * *	*
I–102	Application for Replacement/Initial Nonimmigrant Arrival—Departure Document.	1115–0079
*	* * *	*
I–129	Petition for a Nonimmigrant Worker.	1115–0168
*	* * *	*
I–129S	Nonimmigrant Petition based on Blanket L Petition.	1115–0128
*	* * *	*
I–360	Petition for Amerasian, Widow(er), or Special immigrant.	1115–0117
*	* * *	*
I–526	Immigrant Petition by Alien Entrepreneur	1115–0081
*	* * *	*
I–539	Application to Extend/Change Nonimmigrant Status.	1115–0093
*	* * *	*
I–751	Petition to Remove Conditions on Residence.	1115–0145
*	* * *	*
I–824	Application for Action on an Approved Application or Petition.	1115–0176
*	* * *	*

Dated: January 28, 1992.

Gene McNary,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 92–3974 Filed 2–20–92; 8:45 am]

BILLING CODE 4410–10–M

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8 CFR Parts 214, 251, and 258

[INS No. 1418–92]

RIN 1115–AC42

Denial of Crewman Status in the Case of Certain Labor Disputes and Specifications of Authorized Employment

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Reinstatement of interim rule.

SUMMARY: This rule is a reinstatement of the interim rule which was published on June 6, 1991 at 56 FR 26016. This rule implements sections 202 and 203 of the Immigration Act of 1990, by placing certain restrictions on the admission and employment of alien crewmen during strikes and in their performance of longshore work. This interim rule is necessary to clarify the circumstances under which a nonimmigrant crewman may be employed in the United States and to implement those new restrictions.

DATES: This rule is effective February 21, 1992, through March 31, 1992. The Immigration and Naturalization Service (INS) will issue a final rule or a second interim rule on or before the last effective date of this interim rule after a review of public and agency comments is completed.

FOR FURTHER INFORMATION CONTACT: Diane Hinckley, Assistant Chief Inspector, Immigration and Naturalization Service, 425 I Street, NW., room 7216, Washington, DC 20536, telephone number (202) 514–2725.

SUPPLEMENTARY INFORMATION: On June 6, 1991, the Immigration and Naturalization Service (the Service) published an interim rule in the **Federal Register** at 56 FR 26016, requesting comments by July 8, 1991. At the request of interested parties, the Service published a notice in the **Federal Register** at 56 FR 31305, extending the comment period to August 9, 1991. The interim rule stated that the Service would issue a final rule on or before December 31, 1991; this was not accomplished. Since the Service has not completed the reconciliation of public and agency comments and concerns, the interim rule was not extended prior to its expiration on December 31, 1991. The interim rule therefore must be reinstated and extended until a final rule or second interim rule incorporating comments can be published.

Section 202 of IMMACT 90 amends section 214 of the Act to deny crewman status under section 101(a)(15)(D) of the Act to an alien who intends to land for the purpose of performing service as a crewman on a United States carrier during a labor dispute where there is a strike or lockout in the bargaining unit of that employer. This restriction does not apply to a nonimmigrant crewman who has been an employee of the carrier for at least twelve months prior to the strike or lockout, has served as a crewman for that employer at least once during three different months in the year preceding the strike or lockout, and will continue to provide the same crewman services to the employer as previously.

Pursuant to the provisions of 8 CFR 214.2(d)(2), alien crewmen who are not former employees are to be refused admission to the United States upon determination that a strike or other labor dispute involving a work stoppage is in progress in the bargaining unit of the employer. During such a labor dispute nonimmigrant crewmen may not be paroled into the United States in lieu of being admitted unless the parole of such an alien is deemed to be necessary to protect the national security of the United States. Further, such alien crewmen shall not be considered to be bona fide crewmen under section 252(b) of the Act.

Section 203 of IMMACT 90 added section 258 to the Immigration and Nationality Act. This section redefines crewmen under section 101(a)(15)(D)(i) of the Act to exclude longshore work from the term "normal operation and service on board a vessel." In general, under only three exceptions may alien crewmen serving on board a vessel perform longshore work at a port in the United States. If alien crewmen engage in longshore work not covered by the exceptions, the crewmen are considered out of status and detained on board the vessel; and the owner of the vessel is subject to a fine.

This interim regulation will require that the master or agent of the vessel clearly indicate on the arrival manifest at the first port of entry if any alien crewmen will be engaged in longshore work and if so, under which exception such work is permitted. Masters of vessels or their agents are required to submit manifests containing information about the crew. This regulation will require additional information as permitted under section 251 of the Immigration and Nationality Act (Act). The inspecting immigration officer will indicate on the receipt given for the manifest whether any alien crewman will engage in longshore work at any port of call in the United States and will document compliance with section 258 of the Act. A negative response by the master or agent will also be noted on the receipt. Any violations of the reporting requirements of section 251 will result in the imposition of fines.

The Service's implementation of this rule as an interim rule is based upon the "good cause" exception found at 5 U.S.C. 553. The reason and the necessity for immediate implementation of this interim rule is that the denial of crewmen status during a strike was effective January 29, 1991.

In accordance with 5 U.S.C. 605(b), the Commissioner of the Immigration and Naturalization Service certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. This rule is not a major rule within the meaning of section 1(b) of E.O. 12291, nor does this rule have Federalism implications warranting the preparation of a Federal Assessment in accordance with E.O. 12612.

The information collection requirement contained in this rule has been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act. The OMB control number for this collection is contained in 8 CFR 299.5.

List of Subjects

8 CFR Part 214

Administrative practice and procedure, Aliens.

8 CFR Part 251

Air carriers, Airmen, Aliens, Maritime carriers, Reporting and recordkeeping requirements, Seamen.

8 CFR Part 258

Aliens, Longshore work, Maritime carriers, Reporting and recordkeeping requirements, Seamen.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 214—NONIMMIGRANT CLASSES

1. The authority citation for part 214 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1184, 1186a, 1187; and 8 CFR part 2.

2. In section 214.2, paragraph (d) is added to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(d) *Crewmen.* (1) The provisions of parts 251, 252, 253, and 258 of this chapter shall govern the landing of crewmen as nonimmigrants of the class defined in section 101(a)(15)(D) of the Act. An alien in this status may be employed only in a crewman capacity on the vessel or aircraft of arrival, or on a vessel or aircraft of the same transportation company, and may not be employed in connection with domestic flights or movements of a vessel or aircraft.

(2) *Denial of crewman status in the case of certain labor disputes (D nonimmigrants).* (i) An alien shall be denied D crewman status as described in section 101(a)(15)(D) of the Act if:

(A) The alien intends to land for the purpose of performing service on:

(1) A vessel of the United States (as defined in 46 U.S.C. 2101(46)) or

(2) An aircraft of an air carrier (as defined in section 101(3) of the Federal Aviation Act of 1958); and

(B) A labor dispute consisting of a strike or lockout exists in the bargaining unit of the employer in which the alien intends to perform such service; and

(C) The alien is not already an employee of the company (as described in paragraph (d)(2)(iv) of this section).

(ii) *Refusal to land.* (A) Any alien (except a previous employee as described in paragraph (d)(2)(iv) of this section) who the examining immigration officer determines intends to land for the purpose of performing service on board a vessel or an aircraft of the United States when a strike or lockout is in progress in the bargaining unit of the employer shall be refused a conditional landing permit under section 252 of the Act. The immigration officer shall detain any such alien crewman on board the vessel until the strike or lockout has ended or the vessel leaves the port. If this alien crewman is in possession of a Form I-184, Alien Crewman Landing Permit and Identification Card, the immigration officer shall lift the Form I-184 and deliver it to the master or agent of the vessel with instructions to return it to the alien after the vessel has departed from the port affected by the strike or lockout.

(B) Any alien (except a previous employee) who the examining immigration officer determines intends to land for the purpose of performing service on an aircraft or an air carrier of the United States when a strike or lockout is in progress in the bargaining unit of the employer shall be refused permission to land under section 252 of the Act and shall be returned to the point of embarkation on the next available flight.

(iii) *Ineligibility for parole.* An alien described in paragraph (d)(2)(i) of this section may not be paroled into the United States under section 212(d)(5) of the Act unless the Attorney General determines that the parole of such alien is necessary to protect the national security of the United States.

(iv) *Previous employees.* Paragraphs (d)(2)(i), (d)(2)(ii), and (d)(2)(iii) of this section do not apply to an alien who is already an employee of the owner or operator of the vessel or air carrier and that employer provides work records that satisfy the Attorney General that the alien:

(A) Has been an employee of such employer for a period of not less than one year preceding the date that a strike or lawful lockout commenced;

(B) Has served as a qualified crewman for such employer at least once in three different months during the 12-month period preceding the date that the strike or lockout commenced; and

(C) Shall continue to provide the same crewman services that he or she previously provided to the employer.

(v) *Strike or lockout determination.* These provisions will take effect if the Attorney General, through the Commissioner of the Immigration and Naturalization Service or his or her designee, after consultation with the Secretary of Labor, or his or her designee, determines that a strike, lockout, or labor dispute involving a work stoppage is in progress in the bargaining unit of the employer for whom the alien intends to perform such service.

* * * * *

PART 251—ARRIVAL MANIFESTS AND LISTS: SUPPORTING DOCUMENTS

3. The authority citation for part 251 is revised to read as follows:

Authority: 8 U.S.C. 1103, 1182, 1221, 1281, 1282.

4. In § 251.1, paragraphs (a) and (d) are added to read as follows:

§ 251.1 Arrival manifests and lists.

(a) *Vessels.* The master or agent of every vessel arriving in the United States from a foreign place or an outlying possession of the United States shall present to the immigration officer at the port where the immigration inspection is performed a manifest of all crewmen on board on Form I–418, Passenger List-Crew List, in accordance with the instructions contained thereon. In addition, the master of the vessel or his or her agent shall indicate in writing immediately below the name of the last alien listed on the form each port in the United States at which the vessel will call before it departs. Under each port of call the master or agent will note whether or not any alien crewmen intend to do longshore work at that port. If any crewmen intend to do longshore work, the master or agent shall note under which exception in 8 CFR 258.2 such longshore work is permitted. A manifest shall not be required for crewmen aboard a vessel of United States, Canadian, or British registry engaged solely in traffic on the Great Lakes, or the St. Lawrence River, and connecting waterways herein designated as a Great Lakes vessel, unless nonimmigrant crewmen intend to do longshore work at any port in the United States. If nonimmigrant crewmen will do longshore work, the master or agent of the vessel shall note on the manifest at which port the crewmen will perform longshore work and under which exception in 8 CFR 258.2 such work is permitted. A manifest shall be required for crewmen of other than United States, Canadian, or British citizenship and shall contain the same information regarding the vessel's ports of call, whether or not alien crewmen intend to do longshore work at any port, and if so, under which exception such work is permitted. After submission of a manifest on the first voyage of a calendar year, a manifest shall not be required on subsequent arrivals unless a nonimmigrant crewman of other than Canadian or British citizenship is employed on the vessel who was not aboard and listed on the last prior manifest, or unless nonimmigrant crewmen intend to do longshore work in the United States which was not noted on the last prior manifest together with the exception permitting it. The master or agent of a vessel that only bunkers at a United States port pursuant to 8 CFR 235.1(d)(7) must annotate Form I–418 to indicate the time, date, and place of bunkering.

* * * * *

(d) *Notations on arrival manifests.* Upon completion of the examination of each crewman listed on the Form I–418 presented by the master or agent of an arriving vessel, the examining immigration officer shall place one of the following symbols in column (5) of the Form I–418 opposite the name of the crewman: "USC" for a crewman admitted as a United States citizen; "RP" or "ARC" to indicate respectively the presentation of a reentry permit or an alien registration receipt card, Form I–151 or I–551, for a crewman admitted as a lawful permanent resident; "D–1" for an alien crewman granted a conditional landing permit under section 252(a)(1) of the Act; "D–2" for an alien crewman granted a conditional landing permit under section 252(a)(2) of the Act; "Parolee" for an alien crewman paroled pursuant to section 212(d)(5) of the Act; and "Refused" for a nonimmigrant crewman whose request for a landing permit has been refused. The examining immigration officer shall sign his or her name, title, and the date of the inspection following the last entry in column (5) of the Form I–418 when the examination of the crew is completed. The master of the vessel shall be furnished Form I–410 as a receipt for the Form I–418 arrival manifest, and the immigration officer shall list on that form the names of all crewmen who have been refused conditional landing permits. The immigration officer shall also list on such form the vessel's ports of call, whether or not nonimmigrant crewmen will perform longshore work at each port of call, and under which exception in 8 CFR 258.2 such longshore work is permitted. If nonimmigrant crewmen will perform longshore work, the examining immigration officer will also note what documentation accompanied the manifest to support the exception claimed to the general prohibition against nonimmigrant crewmen performing longshore work.

5. A new part 258 is added to read as follows:

PART 258—LIMITATION ON PERFORMANCE OF LONGSHORE WORK BY ALIEN CREWMEN

Sec.
258.1 Limitations—General.
258.2 Exceptions.
258.3 Action upon arrival.

Authority: 8 U.S.C. 1101, 1103, 1281; 8 CFR part 2.

§ 258.1 Limitations—General.

(a) *Longshore work defined.* Longshore work means any activity relating to the loading and unloading of cargo, the operation of cargo-related equipment [whether or not integral to the vessel], and the handling of mooring lines on the dock when the vessel is made fast or let go, in the United States or the coastal waters thereof.

(b) Longshore work is not in the term "normal" operation and service on board a vessel" for the purposes of section 101(a)(15)(D)(i) of the Act.

(c) A vessel that uses nonimmigrant crewmen to perform longshore work, other than the activities allowed in particular circumstances under paragraphs (b)(2), (c) or (d) of this section, shall be subject to a fine under section 251(d) of the Act.

§ 258.2 Exceptions.

Any master or agent who uses nonimmigrant crewmen to perform longshore work at any United States port under the exceptions provided for in paragraphs (b)(2), (c), or (d) of this section must so indicate on the crew manifest. The master or agent shall annotate the manifest to show all ports of call at which the vessel will land while in the United States, whether or not nonimmigrant crewmen will perform longshore work at any port, and if so, which nonimmigrant crewmen will perform the longshore work and under which exception such work will be performed.

(a) *Hazardous cargo.* (1) The term "longshore work" does not include the loading and unloading of any cargo for which the Secretary of Transportation has prescribed regulations under authority contained in chapter 37 of title 46, United States Code, section 311 of the Federal Water Pollution Control Act, section 4106 of the Oil Pollution Act of 1990, or section 105 or 106 of the Hazardous Materials Transportation Act which govern:

(i) The handling or stowage of such cargo,

(ii) The manning of vessels and the duties, qualifications, and training of the officers and crew of vessels carrying such cargo; and

(iii) The reduction or elimination of discharge during ballasting, tank cleaning, or handling of such cargo.

(2) In order to invoke this exception for safety and environmental protection, the master or agent shall annotate the manifest that the vessel carries hazardous cargo and shall cite the body of regulations issued by the Secretary of Transportation that govern the handling of the cargo.

(b) *Prevailing practice exception*—(1) *Nonimmigrant crewmen may perform longshore work under this exception if:*

(i) There is in effect in the local port one or more collective bargaining agreements, each covering at least 30 percent of the persons performing longshore work at the port, and each such agreement permits the longshore activity to be performed by the nonimmigrant crewmen, or

(ii) There is no collective bargaining agreement in effect in the local port covering at least 30 percent of the persons performing longshore work at the port, and the employer of the crewmen has filed an attestation with the Secretary of Labor that the Secretary of Labor has accepted.

(2) *Documentation to present under the prevailing practice exception.*

(i) If the master or agent states on the manifest, Form I-418, that nonimmigrant crewmen will perform longshore work at a port under the prevailing practice exception as permitted by all collective bargaining agreements covering 30 percent or more of the persons performing longshore work at the port, then a copy of such agreement must be presented to the examining immigration officer with the manifest.

(ii) Where there is no collective bargaining agreement in effect at a port covering at least 30 percent of the persons who do longshore work, and the master or agent states on the manifest that nonimmigrant crewmen will perform such under the prevailing practice exception, then the master or agent shall present a copy of the attestation submitted to the Secretary of Labor for that port together with notification received from the Secretary of Labor that the attestation has been accepted.

(iii) Section 258(c) allows the master or agent of a vessel to file an attestation with the Secretary of Labor up to the date on which crewmen perform longshore work, when an unanticipated emergency occurs. Therefore, at times the master or agent will not have the attestation to present at inspection, or not have a notice from the Secretary of Labor that the attestation has been accepted. At times an emergency will arise after the inspection of the vessel. In these circumstances when supporting documents are not ready to present at the time of inspection because of an unanticipated emergency, or the emergency arises after the inspection, then the documents required in paragraph (b)(2)(i) or (b)(2)(ii) of this section shall be submitted after inspection but no later than 14 days after the longshore work is performed. When documents are submitted after inspection, the master or agent shall also submit a notarized affidavit with the documents stating under oath the date and port at which the longshore work was performed, the crewmen who performed it, the exception that allowed it, and the reason that the documents were not submitted at inspection. If the reason that the documents were not presented at inspection involves an unanticipated emergency then a concise description of the emergency shall be included in the affidavit. If the master or agent presents incomplete documentation at the time of inspection that is not completed within 14 days of crewmen doing longshore work, then the vessel is subject to a fine under section 251(d) of the Act. If crewmen on a vessel perform longshore work at a port at which the manifest states they will not perform such work, and the change is not followed up within 14 days of the longshore work being done with complete documentation consisting of an attestation, notice of acceptance of the attestation from the Secretary of Labor, and an affidavit as described in this paragraph, then the vessel is subject to fine under section 251 of the Act. All documents submitted after inspection shall be sent to the Immigration and Naturalization Service seaport office that inspected the vessel.

(iv) Attestations are valid for one year from the date of filing and cover nonimmigrant crewmen landing during that period if the master or agent states in the manifest that the vessel's crew continue to comply with the conditions in the attestation. When the vessel's master or agent intends to use a previously accepted attestation that is still valid, the master or agent shall submit a copy with the manifest at each arrival in the United States.

(3) *Use of automated self-unloading conveyor belt or vacuum-actuated system on a vessel.* An automated self-unloading conveyor belt or a vacuum-actuated system may be operated by a nonimmigrant crewman under the prevailing practice exception when no collective bargaining agreement at the local port prevents it. The master or agent is not required to file an attestation for nonimmigrant crewmen to perform such activity in such a circumstance unless the Secretary of Labor has determined that such activity is not the prevailing practice at that port, and has publicized this finding. When invoking this exception, the master or agent of the vessel shall annotate the manifest that the longshore work consists of operating a self-unloading conveyor belt or a vacuum-actuated system on the vessel under the prevailing practice exception.

(4) *Notification by the Secretary of Labor regarding attestations.* If the Attorney General is notified by the Secretary of Labor that an entity has either misrepresented facts in the attestation or failed to meet a condition attested to, the Attorney General will take steps to impose the sanctions stated in section 258(c)(4)(E)(i) of the Act. First time violators of this section of the Act will not be subject to the maximum sanction stated in the section, which is the prohibiting of any vessel owned or chartered by the violating

entity from landing at any United States port for one year.

(c) *Reciprocity exception.* Nonimmigrant crewmen may perform longshore work in a United States port under this exception if:

(1) The particular activity to be performed is stated on the manifest;

(2) The vessel on which the crewmen serve is registered in a country that does not prohibit the particular activity by crewmen aboard United States vessels when such vessels land in that country, as determined by the Secretary of State; and

(3) The master or agent presents documentation that shows that a majority of the vessel's owners are nationals of a country or countries that do not prohibit such longshore activity by crewmen aboard United States vessels when they land in those countries.

§ 258.3 Action upon arrival.

(a) The master or agent of the vessel shall state on the manifest at the first port of entry:

(1) The ports of call in the United States at which the vessel will land before departing the United States;

(2) For each port of call, whether or not nonimmigrant crewmen will perform longshore work at that port;

(3) If any nonimmigrant crewmen will perform longshore work, who those crewmen are;

(4) If nonimmigrant crewmen will perform longshore work, under which exception in section 258 of the Act the work will be performed. The master or agent of the vessel shall also submit the supporting documents required by the exception claimed.

(5) The examining immigration officer shall give the master or agent a Receipt for Crew List, Form I-410, on which the officer shall note whether or not nonimmigrant crewmen will do longshore work at any port of call, and if so, under which exception. The officer shall also note which documentation supporting the exception claimed accompanied the manifest, and any lack of documentation that must be submitted by the master or agent subsequently.

(b) If an unanticipated emergency arises that precludes reporting the longshore work and submission of documents at the time of inspection, failure to report the change and submit any documentation required within 14 days of the longshore work being performed are subject to fine under section 251 of the Act.

(c) If some activity of longshore work is performed at a port in an emergency situation to prevent the imminent destruction of property or possible injury or death to a person, a report of the incident shall be made to the Immigration and Naturalization Service (INS) seaport office that performed the inspection. No further documentation is required whether or not the activity was covered by an exception listed in section 258 of the Act.

(d) Changes to statements on the manifest regarding longshore work shall be reported to the INS office that performed the inspection.

(e) Using a nonimmigrant crewman to perform longshore work not included in the normal operation and on board the vessel and not covered by an exception will result in fine proceedings against the owner, agent, consignee, master, or commanding officer under section 251 of the Act.

(f) Failure to deliver complete, true and correct information on the manifest will result in fine proceedings against the owner, agent, consignee, master, or commanding officer under section 251 of the Act.

Dated: January 29, 1992.

Gene McNary,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 92-3975 Filed 2-20-92; 8:45 am]

BILLING CODE 4410-10-M

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 932

[No. 92-68]

Dividends Paid on Federal Home Loan Bank Stock

AGENCY: Federal Housing Finance Board.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Board ("Finance Board") is amending part 932 of its regulations governing the payment of dividends to holders of Federal Home Loan Bank ("FHLBank") stock to compensate members that redeem such stock prior to the end of the dividend period for the FHLBanks' use of their funds during that dividend period. The revised rule ensures the continued equitable treatment of all owners of FHLBank stock by allowing shareholders that redeem stock during a quarter to receive a dividend for the portion of the quarter in which the shareholder had stock outstanding.

EFFECTIVE DATE: April 1, 1992.

FOR FURTHER INFORMATION CONTACT: Thomas D. Sheehan, (202) 408-2870, Assistant Director, District Banks Directorate, or Jon F. Boustany, (202) 408-2932, Attorney-Advisor, Office of General Counsel, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

A. Statutory and Regulatory Background

In order to become a member of the FHLBank System, an institution is required to subscribe for stock in the FHLBank in the district in which the member is located. See 12 U.S.C. 1422, 1424, and 1426. Once a member has subscribed for stock in the FHLBank, it is entitled to receive dividends made available on such stock without preference. See 12 U.S.C. 1426(g). Pursuant to 12 U.S.C. 1426(g), a regulation was promulgated at 12 CFR 932.3 to govern the payment of such dividends.

Prior to these amendments, § 932.3 of the Finance Board's regulations provided that "the board of directors of each Bank may, with the approval of the (Finance) Board, declare a dividend from net earnings, the dividend stabilization reserve, and undivided profits to stockholders of record * * * on the paid-in value of capital stock outstanding on the record date." See 12 CFR 932.3. Dividends on such stock were computed "only for the period such stock was outstanding during the interval between the record date and the immediately preceding record date." *Id.* Thus, under the previous rule, if stock was redeemed prior to the record date, the stockholder was not entitled to receive any dividends on such redeemed stock. The Finance Board commenced this rulemaking to develop a dividend payment rule to ensure equitable treatment of shareholders who hold stock for a portion of the dividend period but redeem their stock prior to the declaration date.

B. Comments Received In Response To Issuance Of Proposed Rules

On November 26, 1991, the Finance Board published a notice of proposed rulemaking to amend § 932.3 of its regulations on the payment of dividends. See 56 FR 59898. The Finance Board received ten comment letters in response to its proposed regulation. Comments were received from five FHLBanks, one trade association, three FHLBank members, and one Federal agency. All but two of the ten commenters expressed general support for the proposed rule.

One opposing commenter suggested an alternative method of compensating holders of stock redeemed prior to the declaration of a dividend. The other opposing commenter suggested that

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compensating holders of stock that was redeemed prior to the declaration of a dividend worked to the detriment of the remaining stockholders. The comment letters pointed out some of the difficulties in administering the proposed rule and cautioned against some potential abuses. One commenter who favored the rule requested that the rule be administered retroactively.

These comments are discussed in more detail below in the Analysis of the Final Rule.

C. Analysis of the Final Rule

1. Method of Calculating Dividend

Historically, FHLBank System membership and the members' capital stockholdings had been relatively stable. Recently, however, changes in the membership base, particularly due to the thrift resolution process, have led to greater fluctuation in System capital stock outstanding. As a result, the Finance Board determined that § 932.3 might no longer provide equitable treatment in the distribution of dividends to all FHLBank stockholders, since an institution that, for whatever reason, redeems its stock in a FHLBank prior to the record date, is denied compensation for the FHLBank's use of its funds prior to the redemption of such stock. The Finance Board is amending § 932.3 in order to eliminate such inequities in the distribution of dividends to FHLBank stockholders.

Specifically, the final rule eliminates the concept of a record date, and authorizes the payment of declared dividends without preference to stockholders on any stock held during the dividend period. Under the final rule, the dividends may be paid quarterly, semiannually, or annually for the period(s) ending on March 31, June 30, September 30, or December 31. A stockholder that holds stock at any time during the dividend period will receive a *pro rata* share of the dividend distribution without preference based on the period such stock was outstanding during the dividend period. Under this approach, a stockholder that redeems its stock was outstanding during the dividend period. Under this approach, a stockholder that redeems its stock at any time during the dividend period will be compensated at the end of the dividend period for the FHLBank's use of its funds prior to the stock redemption.

One commenter suggested that the proposed rule, which provides for the payment of dividends on stock redeemed prior to the declaration date, may violate the provisions of the Bank Act on dividends and stock redemption. In support of its position the commenter cites a legal opinion of the former Federal Home Loan Bank Board ("Bank Board"). The Finance Board disagrees with the commenter and believes that the Bank Act permits the payment of dividends on stock redeemed prior to the declaration date. Under the Bank Act, stockholders share in dividends distributed without preference, and are only entitled to their cash paid subscription upon redemption of their FHLBank stock. See 12 U.S.C. 1426. The opinion cited by the commenter does not conclude that the Bank Act prohibits the payment of a dividend on stock redeemed prior to the declaration of a dividend. Rather, the opinion relied on the language of old regulation 12 CFR 522.6 (redesignated as 12 CFR 932.3), which did not entitle stockholders to receive dividends on stock redeemed prior to the record date.

The final rule eliminates the use of a record date in determining entitlement to dividend distributions and provides for the payment of a dividend based on the time the stock was outstanding during the dividend period. This change does not constitute a preference, but actually provides more equitable treatment of all FHLBank stockholders. Furthermore, the final rule does not violate the Bank Act's requirements on stock redemption, since the stockholder continues to receive its cash paid subscription upon redemption of its stock.

One commenter expressed concern that the amendments to § 932.3 are not consistent with general corporate law on the rights of shareholders to earnings of a corporation. In support of its position, the commenter cited *Fahey* v. *O'Melveny & Myers*, 200 F.2d 420 (9th Cir. 1952), the leading case interpreting the rights of stockholders in the FHLBank System. The Finance Board agrees that the final rule takes a different approach than the usual method for distributing dividends prescribed by general corporate law principles. However, FHLBank stock is fundamentally different from the stock of private corporations. Under general corporate law, dividends are paid to holders of stock on the record date fixed by the corporation's board of directors. This concept of record date evolved out of necessity. Since corporate stock is constantly traded in public markets, it is necessary to establish that stockholders of record as of a certain date are entitled to receive dividends. The price at which the stock trades reflects the right to receive declared dividends. If stock in a private corporation is sold prior to the record date set for the payment of a dividend, the stockholder is not entitled to receive any dividend on such stock.

In contrast, FHLBank stock is not traded in the public markets since only member institutions are permitted by law to own FHLBank stock. See 12 U.S.C. 1426. FHLBank stock is purchased at par value and redeemed at par value. It does not have a market value different from its book value. Therefore, the reasons for identifying a dividend record date for most corporate stocks do not apply to FHLBank stock. In fact, the court in *Fahey* stressed this same point:

> Whatever the basis of this tenuous argument it lacks substance in law since it necessarily rests on the untenable concept and assumption that [FHLBanks] are in truth and in substance private corporations and that stock in these banks held by association members falls into the same "value" and "market" category as that of a purely private corporation whose stock is the subject of free barter and trade.

Fahey, supra at 469. Since the *Fahey* case recognizes the uniquely restricted market for FHLBank stocks, the Finance Board's decision to eliminate the use of a record date when declaring dividends on FHLBank stock does not contravene this case.

One commenter suggested that compensating holders of stock that was redeemed prior to the declaration of a dividend worked to the detriment of the remaining stockholders. The commenter listed three classes of shareholders that would potentially benefit from the final rule: (1) Those exiting the FHLBank System voluntarily; (2) those exiting the FHLBank System involuntarily (such as Resolution Trust Corporation resolutions); and (3) those continuing FHLBank shareholders redeeming excess stock prior to a dividend date. While it is true that those three classes of shareholders would benefit from this change by receiving dividends to which they are not now entitled, the Finance Board believes that this rule provides more equitable treatment of owners of FHLBank stock. Under the prior rule, a shareholder that, for whatever reason, redeems its stock in a FHLBank prior to the record date, is denied compensation for the FHLBank's use of its funds prior to the redemption of such stock. The final rule eliminates this inequity by allowing shareholders that redeem stock during a quarter to receive a dividend for the portion of the quarter in which the shareholder had stock outstanding. Therefore, all shareholders are compensated equally according to the amount of time the FHLBank used the shareholder's funds.

One commenter favoring the proposed rule requested that the final rule be applied retroactively so that members that redeemed their FHLBank stock prior to the declaration of a dividend in previous periods would receive a *pro rata* share of dividends declared in those dividend periods. The Finance Board believes a retroactive rule would run contrary to the general purpose of this proceeding which targets equitable treatment for all stockholders, because it would require a redistribution of all dividends in prior periods and would arbitrarily impose a forfeiture on certain stockholders. Additionally, if the final rule were applied retroactively, the Finance Board would have to either arbitrarily set a date from which the rule would be effective or fix the effective date at the inception of the FHLBank System in 1932. In either case, the filing of claims for unpaid dividends by any institution that redeemed FHLBank stock since the effective date would certainly place an economic burden on the FHLBank System. This burden would likely be carried in part, if not totally, by the current members of the FHLBank System, creating new and unexpected obligations accompanying membership.

Furthermore, the Finance Board lacks the authority to make this rule retroactive. In general, an administrative agency may not issue retroactive rules without an express authorization from Congress. *See Bowen* v. *Georgetown University Hospital*, 488 U.S. 204, 207; 109 S.Ct. 468, 471 (1988). In *Bowen*, the United States Supreme Court held that "a statutory grant of legislative rulemaking authority will not, as a general matter, be understood to encompass the power to promulgate retroactive rules unless that power is conveyed by Congress in express terms." *Id.* The Finance Board is conducting this rulemaking based on its general rulemaking authority, rather than because of a specific Congressional directive to adjust the FHLBank dividend distribution procedure. Accordingly, we are aware of no express authority that would permit this rule to be implemented retroactively.

One commenter on the proposed rule cautioned that the changes made by the rule may result in excess FHLBank stock becoming an alternative to other short-term investments, since the FHLBanks may currently redeem excess stock only at the request of the member. The commenter warned that some members may "take a large overnight loan, buy additional stock, pay off the loan the following day and hold the excess stock to reap the dividend." The commenter suggested that the final rule address this issue by providing the FHLBanks with the option of redeeming excess stock. Although the Finance Board acknowledges that the commenter raises a valid concern, the problem is not closely enough linked to the purpose of this rule to be included in the final rule. The Finance Board takes under advisement the possibility of addressing the issue of unilateral redemption of excess stockholdings in a separate rulemaking proceeding.

One commenter on the proposed rule expressed concern that it may adversely affect the ability of FHLBank members to accrue dividends declared by the FHLBank at the end of each calendar quarter. The Finance Board does not believe dividend accrual will pose a problem since dividend accrual is not a function of the record date. The final rule does not change the current method of declaring dividends or the certainty of dividend payments. Thus, the final rule will not have an adverse impact on a FHLBank member's ability to accrue dividend income.

One commenter on the proposed rule suggested as an alternative to the proposal "that a fairer way to resolve payment for use of the member's funds up to the date of withdrawl would be to pay a daily time rate on those funds." However, this recommendation may violate sections 6(b) and 6(e) of the Bank Act, since it would in substance constitute including an interest payment in the stock redemption price. Upon redemption of FHLBank stock, a stockholder is entitled only to its cash paid subscription. See 12 U.S.C. 1426(b) and 1426(e). Furthermore, since dividends must be declared without preference, it is difficult to consider this method of payment a dividend. It would require a declaration of a dividend every time a member redeems stock in the middle of the quarter. See 12 U.S.C. 1426(g).

One commenter expressed concern that the changes to § 932.3 may be administratively burdensome, since it might require program changes and changes in the FHLBanks' computer software that keeps track of ownership of FHLBank capital stock. However, under the current rule, the FHLBanks already make *pro rata* dividend distributions to stockholders on the record date who purchased that stock after the beginning of the dividend period. Therefore, program changes should be minimal. In addition, the proposed rule was published on November 26, 1991. The final rule will not be effective until April 1, 1992. The FHLBanks will, therefore, have ample time to make any necessary adjustments.

2. Terminology Change

Prior to these amendments, § 932.3 provided for the payment of dividends from net earnings, the dividend stabilization reserve, and undivided profits. The final rule amends § 932.3 by substituting in the place of the terms "dividend stabilization reserve" and "undivided profits," the term "previously retained earnings." The Finance Board is making this terminology change based on changes made to the Bank Act by the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Public Law 101-73, 103 Stat. 412 (August 9, 1989) ("FIRREA").

Until December 31, 1991, the FHLBanks' retained earnings were comprised of the legal reserve, the dividend and stabilization reserve, and undivided profits. Since the FHLBanks were prohibited from paying dividends from the legal reserve in section 16 of the Bank Act, § 932.3 could not generally provide for the payment of dividends from retained earnings. See 12 U.S.C. 1436. Rather, it specifically listed the two components of retained earnings from which dividends could be paid, namely the dividend stabilization reserve and undivided profits.

Effective January 1, 1992, section 724 of FIRREA amended the Bank Act by eliminating the legal reserve requirement in section 16 of the Bank Act. See FIRREA, *supra* at 103 Stat. 415. Since January 1, 1992, retained earnings have included only the dividend stabilization reserve and undivided profits. In recognition of the change made by FIRREA, the final rule amends § 932.3 by substituting the term "previously retained earnings" in the place of the terms "dividend stabilization reserve" and "undivided profits." The terminology change will have no effect on the payment of dividends, since retained earnings will be comprised exclusively of the dividend stabilization reserve and undivided profits.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 605(b) *et seq.*), it is certified that the final rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 12 CFR Part 932

Conflicts of interest, Federal home loan banks.

Accordingly, the Federal Housing Finance Board hereby proposes to amend title 12, chapter IX, subchapter B, part 932 of the Code of Federal Regulations as follows:

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

PART 932—ORGANIZATION OF THE BANKS

1. The authority citation for part 932 is revised to read as follows:

Authority: Secs. 2A, 2B, as added by sec. 702, 103 Stat. 413, 414 (12 U.S.C. 1422a, 1422b); secs. 6–7, 47 Stat. 727, 730, as amended by secs. 707, 710(b)(4), 103 Stat. 417, 418 (12 U.S.C. 1426–1427); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 207, 62 Stat. 692, as added by sec. 1a, 76 Stat. 1123, as amended (18 U.S.C. 207).

2. Section 932.3 is revised to read as follows:

§ 932.3 Dividends.

The board of directors of each Bank may, with the approval of the Board, declare and pay a dividend from net earnings, including previously retained earnings, on the paid-in value of capital stock held during the dividend period. The divided period may be quarterly, semiannually, or annually ending on March 31, June 30, September 30, or December 31. Dividends on such stock shall be computed without preference and only for the period such stock was outstanding during the dividend period. Dividends may be paid in cash or in the form of stock.

Dated: February 13, 1992.

By the Federal Housing Finance Board.

Daniel F. Evans, Jr.,

Chairman.

[FR Doc. 92–4073 Filed 2–20–92; 8:45 am]

BILLING CODE 6725–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91–NM–150–AD; Amendment 39–8140; AD 92–02–04]

Airworthiness Directives; McDonnell Douglas Model DC–9 Series Airplanes, Model DC–9–80 Series Airplanes, Model MD–88 Airplanes, and C–9 (Military) Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9 series, Model DC–9–80 series, Model MD–88, and C–9 (Military) series airplanes, which currently requires repetitive inspections of the rudder actuator for internal hydraulic fluid leakage, and replacement if necessary, to ensure that degraded actuators are removed from service. This amendment requires a one-time inspection of certain rudder actuators at a reduced interval and modification of the rudder actuators. This amendment is prompted by reports of rudder actuators with degraded performance. This condition, if not corrected, could result in reduced rudder authority and uncontrollable airplane sideslip, should an engine failure occur at takeoff.

DATES: Effective March 27, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 27, 1992.

ADDRESSES: The service information referenced in the AD may be obtained from McDonnell Douglas Corporation, Post Office Box 1771, Long Beach, California 90801; Attn: Business Unit Manager, Technical Publications & Technical Administrative Support, C1–L5B (54–60). This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Walter S. Eierman, Aerospace Engineer, ANM–130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California; telephone (213) 988–5336.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD 89–06–06, Amendment 39–6150 (54 FR 11170, March 17, 1989), with a new AD that is applicable to certain McDonnell Douglas Model DC–9 series, Model DC–9–80 series, Model MD–88, and C–9 (Military) series airplanes was published in the **Federal Register** on September 9, 1991 (56 FR 45904). That action proposed to require a one-time inspection of certain rudder actuators at a reduced interval, and a modification of the rudder actuator, which would constitute terminating action for the repetitive inspections.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter supported the rule as proposed.

Several commenters requested that the compliance time be increased from 6,000 flight hours, as proposed, to 10,000 flight hours, in order to eliminate difficulties in rotating all the actuators through overhaul shops. The FAA concurs with this recommendation, since the repetitive inspections will remain in effect to assure an acceptable level of safety in the interim. The final rule has been changed accordingly.

A commenter requested that the modification specified in McDonnell Douglas Service Bulletin 27–301, dated June 1, 1989, also be considered terminating action for the repetitive inspections. The FAA concurs. Although the proposal only referred to the latest revision of this bulletin (Revision 1, dated May 24, 1991), the modification described in both versions is the same; therefore, both can be identified as acceptable. The final rule has been changed accordingly.

One commenter requested that airplanes equipped with actuators manufactured by Parker Bertea be omitted from having to perform the proposed modification, and that the requirement apply only to airplanes with actuators manufactured by National Water Lift. The FAA does not concur. AD 89–06–06 requires special repetitive inspections for all actuators, and the FAA has determined that the actuator modifications specified in Service Bulletin 27–301 must be applied to all of the actuators in order to eliminate these special repetitive inspections.

The airplane manufacturer commented that the AD implied that all inspection requirements were terminated upon incorporation of the modifications required by proposed paragraph (e). The modification described in Service Bulletin 27–301 only eliminates the shortened repetitive inspection intervals as required by paragraphs (a), (b), and (c). The actuators should then return to the routine inspection leakage check intervals. The FAA concurs. The FAA never intended to imply that the routine inspection requirements (as specified in an operator's maintenance program) were changed with regard to incorporation of the modification. A note has been added to the final rule for clarification of this point.

The airplane manufacturer also pointed out that the applicability of the inspections referred to in Service Bulletin A27–318 (actuators which may have missing or incorrectly installed seals) is specified by actuator serial number rather than by airplane serial number. The manufacturer suggested that the proposed rule be clarified with regard to this distinction. The FAA concurs and paragraph (c) of the final rule has been changed accordingly.

One commenter proposed fewer hours between inspections, and that the time interval between inspections should not be increased when the actuators are modified. The FAA does not concur. Standard inspection procedures are utilized on many hydraulic components with satisfactory results. Once the rudder actuators are modified, there is no reason why any special shortened inspection requirements necessarily would be required.

One commenter suggested that the Model DC–9 series airplanes be required to be inspected more frequently, since these airplanes have accumulated more flight hours and the rudder actuator more likely would be fatigued. The FAA does not concur. The shortened inspections were the result of high seal wear, not a fatigue situation. There is no reason to address the older Model DC–9 actuators any differently from the Model DC–9–80 or MD–88 actuators.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 1,598 Model DC–9 series, DC–9–80 series, and MD–88 series airplanes of the affected design in the worldwide fleet. It is estimated that 926 airplanes of U.S. registry will be affected by this AD. It will take approximately 10 work hours per airplane to accomplish the inspection, and 22 manhours per airplane to accomplish the modification; the average labor cost is $55 per manhour. Required parts for the modification are estimated at $197 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $1,812,182, or $1,957 per airplane.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–6150 and by adding the following new airworthiness directive:

92–02–04. McDonnell Douglas: Amendment 39–8140. Docket No. 91–NM–150–AD. Supersedes AD 89–06–06, Amendment 39–6150.

Applicability: Model DC–9 series airplanes, Model DC–9–80 series airplanes, Model MD–88 airplanes, and C–9 (Military) series airplanes; serial numbers as listed in McDonnell Douglas DC–9 Service Bulletin A27–301, Revision 1, dated May 24, 1991; certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To prevent uncontrolled airplane sideslip due to an ineffective rudder actuator, accomplish the following:

(a) For Model DC–9–11, –12, –13, –14, –15, –15F, –21, and –87 series airplanes:

(1) Within 500 flight hours after April 12, 1989 (the effective date of AD–89–06–06, Amendment 39–6150), unless already accomplished within the last 1,000 flight hours, inspect the rudder actuator for internal hydraulic fluid leakage in accordance with McDonnell Douglas DC–9 Alert Service Bulletin A27–291, Revision 3, dated August 24, 1988.

(2) If the rudder actuator internal hydraulic fluid leakage is within the limits specified in that service bulletin, repeat the inspection at intervals not to exceed 1,500 flight hours.

(b) Except as provided in paragraph (c) of this AD, for Model DC–9–31, –32, –32F, –33, –34, –34F, –41, –51, –81, –82, –83, and MD–88 series airplanes:

(1) Within 1,500 flight hours after April 12, 1989 (the effective date of AD–89–06–06, Amendment 39–6150), unless already accomplished within the last 1,500 flight hours, inspect the rudder actuator for internal hydraulic fluid leakage in accordance with McDonnell Douglas DC–9 Alert Service Bulletin A27–291, Revision 3, dated August 24, 1988.

(2) If the rudder actuator internal hydraulic fluid leakage is within the limits specified in that service bulletin, repeat the inspection at intervals not to exceed 3,000 flight hours.

(c) For Model DC–9–82, –83, and MD–88 series airplanes, with rudder actuator assembly serial numbers listed in McDonnell Douglas MD–80 Alert Service Bulletin A27–318, dated June 10, 1991:

(1) Within 1,500 flight hours after April 12, 1989 (the effective date of AD 89–06–06, Amendment 39–6150), or within 500 flight hours after the effective date of this amendment, whichever occurs earlier, inspect the rudder actuator assembly for internal hydraulic fluid leakage, in accordance with the Accomplishment Instructions of McDonnell Douglas MD–80 Alert Service Bulletin A27–318, dated June 10, 1991.

(2) If the rudder actuator internal hydraulic fluid leakage is within the limits specified in that service bulletin, repeat the inspection at intervals not to exceed 1,500 flight hours.

(d) If any inspection required by paragraph (a), (b), or (c) of this AD reveals that the rudder actuator exceeds the internal hydraulic fluid leakage limit specified in McDonnell Douglas DC–9 Alert Service Bulletin A27–291, Revision 3, dated August 24, 1988, or McDonnell Douglas MD–80 Alert Service Bulletin A27–318, dated June 10, 1991, as applicable, prior to further flight, replace the rudder actuator with a rudder actuator that is within those limits.

(e) For Model DC–9 series, Model DC–9–80 series, Model MD–88, and C–9 (Military) series airplanes: Within 10,000 flight hours after the effective date of this AD, modify the rudder actuator in accordance with the Accomplishment Instructions of McDonnell Douglas DC–9 Service Bulletin 27–301, dated June 21, 1989, or Revision 1, dated May 24, 1991. This modification constitutes terminating action for the repetitive inspections required by this AD.

Note: This terminating action only eliminates the need for the special shortened interval repetitive inspections of this AD. The actuators should then return to the routine inspection leakage check intervals as specified in the operators maintenance program.

(f) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Los Angeles ACO.

(g) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

(h) The inspections required by this AD shall be done in accordance with McDonnell Douglas DC-9 Alert Service Bulletin A27-291, Revision 3, dated August 24, 1988, or in accordance with McDonnell Douglas MD-80 Alert Service Bulletin A27-318, dated June 10, 1991, as applicable. The modification required by this AD shall be done in accordance with McDonnell Douglas DC-9 Service Bulletin 27-301, dated June 21, 1989; or McDonnell Douglas DC-9 Service Bulletin 27-301, Revision 1, dated May 24, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from McDonnell Douglas Corporation, Post Office Box 1771, Long Beach, California 90801. Attn: Business Unit Manager, Technical Publications & Technical Administration Support, C1-L5B (54-60). Copies may be inspected at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

(i) This amendment (39-8140), AD 92-02-04, becomes effective March 27, 1992.

Issued in Renton, Washington, on December 23, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-3970 Filed 2-20-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 95

[Docket No. 26771; Amdt. No. 368]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: March 5, 1992.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS-420), Technical Programs Division, Flight Standards Service Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-8277.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in IFR flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are unnecessary, impracticable, and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Aircraft, Airspace.

Issued in Washington, DC, on February 7, 1992.

Thomas C. Accardi,

Director, Flight Standards Service

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC:

PART 95—IFR ALTITUDES

1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. app. 1348, 1354, and 1510; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.49(b)(2).

2. Part 95 is amended to read as follows:

BILLING CODE 4910-13-M

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES & CHANGEOVER POINTS

AMENDMENT 368 EFFECTIVE DATE, MARCH 05, 1992

§95.6003 VOR FEDERAL AIRWAY 3

IS AMENDED TO READ IN PART

FROM	TO	MEA
FLAT ROCK, VA VORTAC	GORDONSVILLE, VA VORTAC	2500

§95.6004 VOR FEDERAL AIRWAY 4

IS AMENDED TO READ IN PART

FROM	TO	MEA
PAYET, ID FIX *9400 - MRA	*EMETT, ID FIX	
	SE BND	5600
	NW BND	9000
EMETT, ID FIX	BOISE, ID VORTAC	5600

§95.6006 VOR FEDERAL AIRWAY 6

IS AMENDED TO READ IN PART

FROM	TO	MEA
SELINSGROVE, PA VORTAC	ALLENTOWN, PA VORTAC	13000
ALLENTOWN, PA VORTAC	SOLBERG, NJ VORTAC	4500

§95.6009 VOR FEDERAL AIRWAY 9

IS AMENDED TO READ IN PART

FROM	TO	MEA
MC COMB, MS VORTAC *4000 - MRA	*ROMAR, MS FIX	2100

§95.6020 VOR FEDERAL AIRWAY 20

IS AMENDED TO READ IN PART

FROM	TO	MEA
DONBE, LA FIX *1500 - MOCA	NEW ORLEANS, LA VORTAC	*3500

§95.6029 VOR FEDERAL AIRWAY 29

IS AMENDED TO READ IN PART

FROM	TO	MEA
EAST TEXAS, PA VORTAC *13000 - MRA	*SLATT, PA FIX	4000
SLATT, PA FIX	WILKES-BARRE, PA VORTAC	4000

§95.6031 VOR FEDERAL AIRWAY 31

IS AMENDED TO READ IN PART

FROM	TO	MEA
PATUXENT, MD VORTAC	NOTTINGHAM, MD VORTAC	2500

§95.6038 VOR FEDERAL AIRWAY 38

IS AMENDED TO READ IN PART

FROM	TO	MEA
ELKINS, WV VORTAC *9500 - MRA	*DEKAY, WV FIX	9000
DEKAY, WV FIX	CEROL, VA FIX	9000
GORDONSVILLE, VA VORTAC *2500 - MRA	*ROOKY, VA FIX	2500

§95.6039 VOR FEDERAL AIRWAY 39

IS AMENDED TO READ IN PART

FROM	TO	MEA
SHEPS, VA FIX	GORDONSVILLE, VA VORTAC	3000

§95.6047 VOR FEDERAL AIRWAY 47

IS AMENDED TO READ IN PART

FROM	TO	MEA
ROSEWOOD, OH VORTAC	FINDLAY, OH VORTAC	3000

§95.6093 VOR FEDERAL AIRWAY 93

IS AMENDED TO READ IN PART

FROM	TO	MEA
HAILS, PA FIX *13000 - MRA **3300 - MOCA	*SNOWY, PA FIX	**4000
SNOWY, PA FIX *3300 - MOCA	LYTEL, PA FIX	*4000

§95.6106 VOR FEDERAL AIRWAY 106

IS AMENDED TO READ IN PART

FROM	TO	MEA
GARDNER MA VORTAC	MANCHESTER, NH VORTAC	4000

§95.6123 VOR FEDERAL AIRWAY 123

IS AMENDED TO READ IN PART

FROM	TO	MEA
MITCH, MD FIX	SWANN, MD FIX	5500
SWANN, MD FIX	TACKS, MD FIX	7000

§95.6140 VOR FEDERAL AIRWAY 140

IS AMENDED TO READ IN PART

FROM	TO	MEA
MONTEBELLO, VA VOR/DME *12000 - MRA	*HOODE, VA FIX	5500
HOODE, VA FIX	CASANOVA, VA VORTAC	4000

§95.6147 VOR FEDERAL AIRWAY 147

IS AMENDED TO READ IN PART

FROM	TO	MEA
EAST TEXAS, PA VORTAC *13000 - MRA	*SLATT, PA FIX	4000
SLATT, PA FIX	WILKES-BARRE, PA VORTAC	4000

§95.6155 VOR FEDERAL AIRWAY 155

IS AMENDED TO READ IN PART

FROM	TO	MEA
BEYLO, GA FIX *2000 - MOCA	COLLIERS, SC VORTAC	*2500

§95.6166 VOR FEDERAL AIRWAY 166

IS AMENDED TO READ IN PART

FROM	TO	MEA
BRIEF, NJ FIX	SEA ISLE, NJ VORTAC	2500

§95.6174 VOR FEDERAL AIRWAY 174

IS AMENDED TO READ IN PART

FROM	TO	MEA
HENDERSON, WV VORTAC *2700 - MOCA	GAYED, WV FIX	*4000
GAYED WV FIX *5500 - MRA	*CARLA, WV FIX	5500
CARLA, WV FIX	ELKINS, WV VORTAC	5500

§95.6194 VOR FEDERAL AIRWAY 194

IS AMENDED TO READ IN PART

FROM	TO	MEA
SABINE PASS, TX VOR/DME *1600 - MOCA	GUSTI, LA FIX	*4000

§95.6223 VOR FEDERAL AIRWAY 223

IS AMENDED TO READ IN PART

FROM	TO	MEA
HANEY, VA FIX	FLUKY, VA FIX	12000

§95.6260 VOR FEDERAL AIRWAY 260

IS AMENDED TO READ IN PART

FROM	TO	MEA
CHARLESTON, WV VORTAC *7000 - MRA **3100 - MOCA	*MONTS, WV FIX	**4000

§95.6266 VOR FEDERAL AIRWAY 266

IS AMENDED TO READ IN PART

FROM	TO	MEA
FRANKLIN, VA VORTAC	SUNNS, NC FIX	8500

§95.6291 VOR FEDERAL AIRWAY 291

IS AMENDED TO READ IN PART

FROM	TO	MEA
WINSLOW, AZ VORTAC	FLAGSTAFF, AZ VOR/DME	9500

§95.6375 VOR FEDERAL AIRWAY 375

IS AMENDED TO READ IN PART

FROM	TO	MEA
GORDONSVILLE, VA VORTAC	HANEY, VA FIX	4500
HANEY, VA FIX	FLUKY, VA FIX	12000

§95.6376 VOR FEDERAL AIRWAY 376

IS AMENDED TO READ IN PART

FROM	TO	MEA
GRUBY, VA FIX *13500 - MRA	*SABBI, VA FIX	2500
SABBI, VA FIX	IRONS, MD FIX	2500

§95.6417 VOR FEDERAL AIRWAY 417

IS AMENDED TO READ IN PART

FROM	TO	MEA
JACKSON, MS VORTAC *3300 - MRA **2000 - MOCA	*FANEN, MS FIX	**3000

§95.6440 VOR FEDERAL AIRWAY 440

IS AMENDED TO READ IN PART

FROM	TO	MEA
*IVANN, AK FIX *5000 - MCA IVANN FIX, W BND **6000 - MOCA	FRIDA, AK FIX	**6500
*FRIDA, AK FIX *7000 - MCA FRIDA FIX, W BND **10000 - MRA ***9400 - MOCA	**PUNTI, AK FIX	#***10000

#MEA IS ESTABLISHED WITH A GAP IN NAVIGATION SIGNAL COVERAGE.

FROM	TO	MEA
PUNTI, AK FIX *8500 - MOCA	MIGAN, AK FIX	*10000

§95.6441 VOR FEDERAL AIRWAY 441

IS AMENDED TO READ IN PART

FROM	TO	MEA
GAINESVILLE, FL VORTAC *2000 - MOCA	MONIA, FL FIX	*4000
MONIA, FL FIX *2500 - MOCA	BRUNSWICK, GA VORTAC	*3000

§95.6444 VOR FEDERAL AIRWAY 444

IS AMENDED TO READ IN PART

FROM	TO	MEA
BOISE, ID VORTAC *9400 - MRA	*EMETT, ID FIX	5600
EMETT, ID FIX	PAYET, ID FIX	
	SE BND	5600
	NW BND	9000

§95.6445 VOR FEDERAL AIRWAY 445

IS AMENDED TO READ IN PART

FROM	TO	MEA
MITCH, MD FIX	SWANN, MD FIX	5500

§95.6453 VOR FEDERAL AIRWAY 453

IS AMENDED TO READ IN PART

FROM	TO	MEA
GORDONSVILLE, VA VORTAC	CASANOVA, VA VORTAC	4000

§95.6476 VOR FEDERAL AIRWAY 476

IS AMENDED TO READ IN PART

FROM	TO	MEA
LYNCHBURG, VA VORTAC	BENTE, VA FIX	3500
BENTE, VA FIX *9000 - MRA	*BRAIL, VA FIX	9000
BRAIL, VA FIX	GORDONSVILLE, VA VORTAC	9000

§95.6493 VOR FEDERAL AIRWAY 493

IS AMENDED TO READ IN PART

FROM	TO	MEA
YORK, KY VORTAC *2800 - MOCA	TARTO, OH FIX	*4000
TARTO, OH FIX	APPLETON, OH VORTAC	3000

§95.6495 VOR FEDERAL AIRWAY 495

IS AMENDED TO READ IN PART

FROM	TO	MEA
LOFAL, WA FIX *4300 - MOCA	U.S. CANADIAN BORDER	*5400

§95.6555 VOR FEDERAL AIRWAY 555

IS AMENDED TO READ IN PART

FROM	TO	MEA
MC COMB, MS VORTAC *3400 - MRA	*BANDO, MS FIX	2100

FROM	TO	MEA	MAA
§95.7061 JET ROUTE NO. 61			
	IS AMENDED TO READ IN PART—		
EDDYS, NC FIX	FORTS, VA FIX	31000	45000
FORTS, VA FIX	NOTTINGHAM, MD VORTAC	18000	

§95.8003 VOR FEDERAL AIRWAYS CHANGEOVER POINTS

AIRWAY SEGMENT		CHANGEOVER POINTS	
FROM	TO	DISTANCE	FROM
	V-510		
	IS AMENDED BY ADDING		
EMMONAK, AK VOR/DME	ANVIK, AK NDB/DME	50	EMMONAK

[FR Doc. 92-3812 Filed 2-20-92; 8:45 am]

BILLING CODE 4910-13-C

DEPARTMENT OF JUSTICE

28 CFR Part O

[Tax Division Directive No. 95]

Redelegation of Authority To Compromise and Close Civil Claims

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This directive increases the authority of the Attorney-in-Charge of the Dallas Field Office of the Tax Division in accepting offers in compromise. Under this new directive, the Attorney-in-Charge of the Dallas Field Office can accept offers in compromise in all civil cases in which the amount of the Government concession, exclusive of statutory interest, does not exceed $75,000. This directive also eliminates the redelegation to the Chief of the Office of Special Litigation. This directive supersedes Tax Division Directive No. 82.

EFFECTIVE DATE: February 21, 1992.

FOR FURTHER INFORMATION CONTACT: Milan Karlan, Tax Division, Department of Justice, Washington, DC 20530 (202) 307-6567.

SUPPLEMENTARY INFORMATION: This directive increases the authority of the Attorney-in-Charge of the Dallas Field Office of the Tax Division in accepting offers in compromise to further the efficient management of the Department of Justice. Under the new directive, the Attorney-in-Charge can accept offers in compromise in all civil cases in which the amount of the Government concession, exclusive of statutory interest, does not exceed $75,000. This directive also eliminates the redelegation to the Chief of the Office of Special Litigation because the Office of Special Litigation has been renamed the Civil Trial Section, Central Region. The existing redelegation to the Chiefs of the Civil Trial Sections is set forth in Sections 1 and 2 of this directive. This directive supercedes Tax Division Directive No. 82.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comments are not required, and this rule may be made effective less than 30 days after publication in the **Federal Register**. This regulation is not a major rule within the meaning of Executive 12291. Therefore, a regulatory impact analysis has not been prepared. Finally, this regulation does not have an impact on small entities and, therefore, is not subject to the Regulatory Flexibility Act.

List of Subjects in 28 CFR Part O

Authority delegations (Government Agencies), Government employees, Organization and functions (Government agencies).

PART O—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Accordingly, 28 CFR part O is amended as follows:

1. The authority citation for part O continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 515–19.

2. The Appendix to subpart Y of Part O is amended by removing Tax Division Directive No. 82.

3. The Appendix to Subpart Y of Part O is amended by adding Tax Division Directive No. 95 to read as follows:

Appendix to Subpart Y—Redelegations of Authority to Compromise and Close Civil Claims

* * * * *

Tax Division

* * * * *

[Directive No. 95]

By virtue of the authority vested in me by part O of title 28 of the Code of Federal Regulations, particularly sections 0.70, 0.160, 0.162, 0.164, 0.166, and 0.168, it is hereby ordered as follows:

Section 1. The Chiefs of the Civil Trial Sections, the Claims Court Section, and the Appellate Section, and the Attorney-in-Charge of Dallas Field Office are authorized to reject offers in compromise, regardless of amount, provided that such action is not opposed by the agency or agencies involved.

Section 2. Subject to the conditions and limitations set forth in Section 8 hereof, the Chiefs of the Civil Trial Sections and the Claims Court Section are authorized to:

(A) Accept offers in compromise in all civil cases in which the amount of the Government's concession, exclusive of statutory interest, does not exceed $200,000.

(B) Approve administrative settlements not exceeding $100,000, exclusive of statutory interest,

(C) Approve concessions (other than by compromise) of civil claims asserted by the Government in all cases in which the gross amount of the original claim does not exceed $100,000,

(D) Accept offers in compromise in injuction or declaratory judgment suits against the United States in which the principal amount of the related liability, if any, does not exceed $200,000, and

(E) Accept offers in compromise in all other nonmonetary cases,

provide that such action is not opposed by the agency or agencies involved, and provided further that the case is not subject to reference to the Joint Committee on Taxation.

Section 3. Subject to the conditions and limitations set forth in Section 8 hereof, the Chief of the Appellate Section is Authorized to:

(A) Accept offers in compromise with reference to litigating hazards of the issues on appeal in all civil cases in which the amount of the Government's concession, exclusive of statutory interest, does not exceed $200,000,

(B) Accept offers in compromise in declaratory judgment suits against the United States in which the principal amount of the related liability, if any, does not exceed $200,000, and

(C) Accept offers in compromise in all other nonmonetary cases which do not involve issues concerning collectibility,

provided that such action is not opposed by the agency or agencies involved or the chief of the section in which the case originated, and provided further that the case is not subject to reference to the Joint Committee on Taxation.

Section 4. Subject to the conditions and limitations set forth in Section 8 hereof, the Attorney-in-Charge of the Dallas Field Office is authorized to accept offers in compromise in all civil cases in which the amount of the Government's concession, exclusive of statutory interest, does not exceed $75,000, provided that such action is not opposed by the agency or agencies involved, and provided further that the case is not subject to reference to the Joint Committee on Taxation.

Section 5. Subject to the conditions and limitations set forth in Section 8 hereof, the Chief of the Office of Review is authorized to:

(A) Accept offers in compromise in all civil cases in which the amount of the Government's concession, exclusive of statutory interest, does not exceed $500,000,

(B) Approve administrative settlements not exceeding $500,000, exclusive of statutory interest,

(C) Approve concessions (other than by compromise) of civil claims asserted by the Government in all cases in which the gross amount of the original claim does not exceed $500,000,

(D) Accept offers in compromise in all nonmonetary cases, and

(E) Reject offers in compromise, or disapprove administrative settlements or concessions, regardless of amount,

provided that the action is not opposed by the agency or agencies involved or the chief of the section to which the case is assigned, and provided further that the case is not subject to reference to the Joint Committee on Taxation.

Section 6. Subject to the conditions and limitations set forth in Section 8 hereof, each of the Deputy Assistant Attorneys General is authorized to:

(A) Accept offers in compromise of claims against the Government in all cases in which the amount of the Government's concession, exclusive of statutory interest, does not exceed $750,000,

(B) Approve administrative settlements not exceeding $750,000, exclusive of statutory interest,

(C) Accept offers in compromise of claims on behalf of the Government in all cases in which the difference between the gross amount of the original claim and the proposed settlement does not exceed $750,000 or 10 percent of the original claim, whichever is greater,

(D) Approve concessions (other than by compromise) of civil claims asserted by the Government in all cases in which the gross amount of the original claim does not exceed $750,000,

(E) Accept offers in compromise in all nonmonetary cases, and

(F) Reject offers in compromise, or disapprove administrative settlements or concessions, regardless of amount,

provided that such action is not opposed by the agency or agencies involved, and provided further that the case is not subject to reference to the Joint Committee on Taxation.

Section 7. Subject to the conditions and limitations set forth in Section 8 hereof, United States Attorneys are authorized to:

(A) Reject offers in compromise of judgments in favor of the Government, regardless of amount,

(B) Accept offers in compromise of judgments in favor of the Government where the amount of the judgment does not exceed $200,000, and

(C) Terminate collection activity by that office as to judgments in favor of the Government which do not exceed $200,000 if the United States Attorney concludes that the judgment is uncollectible,

provided that such action has the concurrence in writing of the agency or agencies involved, and provided further that this authorization extends only to judgments which have been formally referred to the United States Attorney for collection.

Section 8. The authority redelegated herein shall be subject to the following conditions and limitations:

(A) When, for any reason, the compromise or administrative settlement or concession of a particular claim, as a practical matter, will control or adversely influence the disposition of other claims totalling more than the respective amounts designated in Sections 2, 3, 4, 5, 6, and 7 the case shall be forwarded for review at the appropriate level.

(B) When, because of the importance of a question of law or policy presented, the position taken by the agency or agencies or by the United States Attorney involved, or any other considerations, the person otherwise authorized herein to take final action (or the Chief of the Office of Review, in cases which have been considered by such office) is of the opinion that the proposed disposition should be reviewed at a higher level, the case shall be forwarded for such review.

(C) If the Department has previously submitted a case to the Joint Committee on Taxation leaving one or more issues unresolved, any subsequent compromise or concession in that case must be submitted to the Joint Committee, whether or not the overpayment exceeds the amount specified in Section 6405 of the Internal Revenue Code.

(D) Nothing in this Directive shall be construed as altering any provision of subpart Y of part O of title 28 of the Code of Federal Regulations requiring the submission of certain cases to the Attorney General, the Deputy Attorney General, or the Solicitor General.

(E) Authority to approve recommendations that the Government confess error, or make administrative settlements, in cases on appeal, is excepted from the foregoing redelegations.

(F) The Assistant Attorney General, at any time, may withdraw any authority delegated by this Directive as it relates to any particular case or category of cases, or to any part thereof.

Section 9. This Directive supersedes Tax Division Directive No. 82, effective June 5, 1990.

Section 10. This Directive shall become effective on the date of its publication in the **Federal Register.**

* * * * *

Dated: January 6, 1992.

Shirley D. Peterson,

Assistant Attorney General, Tax Division.

Dated: February 1, 1992.

Approved:

George J. Terwilliger, III,

Acting Deputy Attorney General.

[FR Doc. 92–4064 Filed 2–20–92; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Chapter I and Parts 25, 28, 33, 273, 278, 280, and 282

Department of Defense Grants Program

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This makes administrative changes within chapter 1 of title 32 of the Code of Federal Regulations for ease of use and to place the Department of Defense grants program documents under a designated subchapter.

EFFECTIVE DATE: February 21, 1992.

FOR FURTHER INFORMATION CONTACT: L.M. Bynum, Correspondence and Directives Directorate, Washington Headquarters Services, Pentagon, Washington, DC 20301–1155, telephone 703–697–4111.

SUPPLEMENTARY INFORMATION:

List of Subjects

32 CFR Parts 25 and 280

Administrative practice and procedure, Drug abuse, Grant programs, Loan programs, Reporting and recordkeeping requirements.

32 CFR Parts 28 and 282

Government contacts, Grant programs, Loan programs, Lobbying, Penalties, Reporting and recordkeeping requirements.

32 CFR Parts 33 and 278

Accounting, Grant programs, Indians, Intergovernmental relations, Reporting and recordkeeping requirements.

Accordingly, under the authority of 10 U.S.C. 131, 32 CFR chapter 1, is amended as follows:

PART 273—[REMOVED]

1. Part 273 is removed.

PARTS 1 THROUGH 20—[ADDED AND RESERVED]

2. Parts 1 through 20 are added to subchapter A and reserved.

3. Subchapters B through G are redesignated as subchapters C through H.

4. A new subchapter B heading is added to read as follows:

SUBCHAPTER B—DOD GRANTS REGULATIONS

PART 280—[REDESIGNATED AS PART 25]

PART 282—[REDESIGNATED AS PART 28]

PART 278—[REDESIGNATED AS PART 33]

5. 32 CFR part 280 is redesignated as part 25; part 282 is redesignated as part 28; part 278 is redesignated as part 33, and these newly redesignated parts are transferred into newly added subchapter B.

PART 25—[AMENDED]

6. The authority citation for part 25 continues to read as follows:

Authority: E.O. 12549; sec. 515–5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, title V, subtitle D; 41 U.S.C. 701 et seq.).

§ 25.100 [Amended]

7. Newly redesignated § 25.100(b)(3) is amended by revising "§ 280.105(i)" to read "§ 25.105(i)"

§ 25.110 [Amended]

8. Newly redesignated § 25.110(b) is amended by revising "§ 280.200" to read "§ 25.200", "§ 280.110(a)" to read "§ 25.110(a)", "§ 280.325" to read "§ 25.325", and "§ 280.420" to read "§ 25.420"

§ 25.200 [Amended]

9. Newly redesignated § 25.200 is amended in paragraph (a) by revising "§ 280.215" to read "§ 25.215" and in paragraph (b) by revising "§ 280.110(a)(1)(ii)" to read "§ 25.110(a)(1)(ii)"

§ 25.205 [Amended]

10. Newly redesignated § 25.205 is amended by revising "§ 280.105(i)" to read "§ 25.105(i)"

§ 25.210 [Amended]

11. Newly redesignated § 25.210 is amended by revising "§ 280.315" to read "§ 25.315"

§ 25.215 [Amended]

12. Newly redesignated § 25.215 is amended by revising "§ 280.200" to read "§ 25.200" and "§ 280.505(a)" to read "§ 25.505(a)"

§ 25.220 [Amended]

13. Newly redesignated § 25.220(b) is amended by revising "§ 280.215" to read § 25.215"

§ 25.225 [Amended]

14. Newly redesignated § 25.225 is amended by revising "§ 280.215" to read "§ 25.215" and "§ 280.220" to read "§ 25.220"

§ 25.300 [Amended]

15. Newly redesignated § 25.300 is amended by revising "§ 280.305" to read "§ 25.305" and "§§ 280.310 through 280.314" to read "§§ 25.310 through 25.314"

§ 25.305 [Amended]

16. Newly redesignated § 25.305, introductory text, is amended by revising "§§ 280.300 through 280.314" to read "§§ 25.300 through 25.314", paragraph (c)(2) by revising "§ 280.215" to read "§ 25.215" and "§ 280.220" to read "§ 25.220", paragraph (c)(4) by revising "§ 280.315" to read "§ 25.315", and paragraph (c)(5) by revising "§ 280.615" to read "§ 25.615"

§ 25.310 [Amended]

17. Newly redesignated § 25.310 is amended by revising "§§ 280.311 through 280.314" to read "§§ 25.311 through 25.314"

§ 25.312 [Amended]

18. Newly redesignated § 25.312 is amended in paragraph (c) by revising "§ 280.305" to read "§ 25.305" and paragraph (d) by revising § 280.311 through § 280.314" to read "§§ 25.311 through 25.314"

§ 25.314 [Amended]

19. Newly redesignated § 25.314(d)(1)(iv) is amended by revising "§ 280.215" to read "§ 25.215"

§ 25.320 [Amended]

20. Newly redesignated § 25.320 is amended in paragraph (a)(2) by revising "§ 280.305(c)(5)" to read "§ 25.305(c)(5)" and paragraph (b) by revising "§§ 280.311 through 280.314" to read "§§ 25.311 through 25.314"

§ 25.325 [Amended]

21. Newly redesignated § 25.325(a)(2) is amended by revising "§§ 280.311 through 280.314" to read "§§ 25.311 through 25.314"

§ 25.400 [Amended]

22. Newly redesignated § 25.400 is amended in paragraph (a) by revising "§ 280.405" to read "§ 25.405" and "§§ 280.410 through 280.413" to read "§§ 25.410 through 25.413", and paragraph (b)(1) by revising "§ 280.405" to read "§ 25.405"

§ 25.405 [Amended]

23. Newly redesignated § 25.405 is amended in paragraph (a) introductory text, by revising "§§ 280.400 through 280.413" to read "§§ 25.400 through 25.413", paragraph (a)(1) by revising "§ 280.305(a)" to read "§ 25.305(a)", and paragraph (a)(2) by revising "§ 280.305" to read "§ 25.305"

§ 25.410 [Amended]

24. Newly redesignated § 25.410(b) is amended by revising "§ 280.411 through § 280.413" to read "§§ 25.411 through 25.413"

§ 25.411 [Amended]

25. Newly redesignated § 25.411 is amended in paragraph (d) by revising "§ 280.405" to read "§ 25.405" and paragraph (f) by revising "§§ 280.411 through 280.413" to read "§§ 25.411 through 25.413"

§ 25.413 [Amended]

26. Newly redesignated § 25.413, introductory text, is amended by revising "§ 280.320(c)" to read "§ 25.320(c)"

§ 25.420 [Amended]

27. Newly redesignated § 25.420 is amended by revising "§ 280.325" to read "§ 25.325" and "§§ 280.410 through 280.413" to read "§§ 25.410 through 25.413"

§ 25.505 [Amended]

28. Newly redesignated § 25.505 is amended in paragraph (a) by revising "§ 280.215" to read "§ 25.215" and paragraph (b) by revising "§ 280.500(b)" to read "§ 25.500(b)" and "§ 280.215" to read "§ 25.215"

§ 25.605 [Amended]

29. Newly redesignated § 25.605(a) is amended by revising "§ 280.105" to read "§ 25.105"

§ 25.615 [Amended]

30. Newly redesignated § 25.615(a) is amended by revising "§ 280.630" to read "§ 25.630"

§ 25.620 [Amended]

31. Newly redesignated § 25.620 is amended in paragraph (a) introductory text by revising "§ 280.615" to read "§ 25.615" and paragraph (b) by revising "§ 280.320(a)(2)" to read "§ 25.320(a)(2)"

PART 28—[AMENDED]

32. The authority citation for part 33 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. 113.

§§ 28.200, 28.205, and 28.300 [Amended]

33. Newly redesignated § 28.200(a), § 28.205(a) and § 28.300(a) are amended by revising "§ 282.100(a)" to read "§ 28.100(a)" and newly redesignated § 28.300(b) by revising "§ 282.110 (a) and (b)" to read "§ 28.110 (a) and (b)"

PART 33—[AMENDED]

34. The authority citation for part 33 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. 113.

§ 33.4 [Amended]

35. Newly redesignated § 33.4 is amended in paragraph (a) by revising "§ 278.6" to read "§ 33.6" and paragraph (b) by revising § 278.4(a) (3) through (8)" to read § 33.4(a) (3) through (8)"

§ 33.5 [Amended]

36. Newly redesignated § 33.5 is amended by revising "§ 278.6" to read "§ 33.6"

§ 33.21 [Amended]

37. Newly redesignated § 33.21(g)(2) is amended by revising "§ 278.43(c)" to read "§ 33.43(c)"

§ 33.24 [Amended]

38. Newly redesignated § 33.24 is amended in paragraph (b)(4) by revising "§ 278.25" to read "§ 33.25" and "§ 278.25(g)" to read "§ 33.25(g)", and paragraph (e)(2)(ii) by revising "§ 278.22" to read "§ 33.22"

§ 33.25 [Amended]

39. Newly redesignated § 33.25 is amended in paragraph (e) by revising "§ 278.34" to read "§ 33.34" and paragraph (f) by revising "§ 278.31" to read "§ 33.31"

§ 33.26 [Amended]

40. Newly redesignated § 33.26(c) is amended by revising "§ 278.36" to read "§ 33.36"

§ 33.30 [Amended]

41. Newly redesignated § 33.30 is amended in paragraph (b) by revising "§ 278.22" to read "§ 33.22", paragraph (d)(4) by revising "§ 278.36" to read

"§ 33.36", and paragraph (f)(2) "§ 278.22" to read "§ 33.22"

§ 33.32 [Amended]

42. Newly redesignated § 33.32 is amended in paragraph (c)(3) by revising "§ 278.25(a)" to read "§ 33.25(a)" and paragraph (g)(2) by revising "§ 278.32(e)" to read "§ 33.32(e)"

§ 33.36 [Amended]

43. Newly redesignated § 33.36 is amended in paragraph (c)(1) introductory text, by revising "§ 278.36" to read "§ 33.36", paragraph (d)(2) introductory text, by revising "§ 278.36(d)(2)(i)" to read "§ 33.36(d)(2)(i)", and paragraph (f)(3) by revising "§ 278.22" to read "§ 33.22"

§ 33.37 [Amended]

44. Newly redesignated § 33.37 is amended in paragraph (a)(3) by revising "§ 278.42" to read "§ 33.42"; paragraph (c)(1) by revising "§ 278.10" to read "§ 33.10", paragraph (c)(2) by revising "§ 278.11" to read "§ 33.11", paragraph (c)(3) by revising "§ 278.21" to read "§ 33.21", and paragraph (c)(4) by revising "§ 278.50" to read "§ 33.50"

§ 33.41 [Amended]

45. Newly redesignated § 33.41 is amended in paragraph (b) introductory text, by revising "§ 278.41(e)(2)(iii)" to read "§ 33.41(e)(2)(iii)"; paragraph (d)(3) by revising "§ 278.41(b)(3)" to read "§ 33.41(b)(3)", paragraph (e)(1)(i) by revising "§ 278.41(d)" to read "§ 33.41(d)", paragraph (e)(1)(ii) by revising "§ 278.41(b)(3)" to read "§ 33.41(b)(3)", paragraph (e)(2)(i) by revising "§ 278.41(b)(3) and (4)" to read "§ 33.41(b)(3) and (4)", paragraph (e)(2)(ii) by revising "§ 278.41(d)" to read "§ 33.41(d)", paragraph (e)(2)(iii) by revising "§ 278.41(b)" to read "§ 33.41(b)"; and paragraph (e)(3) by revising "§ 278.41(b)(2)" to read "§ 33.41(b)(2)"

§ 33.42 [Amended]

46. Newly redesignated § 33.42(a)(2) is amended by revising "§ 278.36(i)(10)" to read "§ 33.36(i)(10)"

§ 33.43 [Amended]

47. Newly redesignated § 33.43(d) is amended by revising "§ 278.35" to read "§ 33.35"

§ 33.44 [Amended]

48. Newly redesignated § 33.44, introductory text and paragraph (b) are amended by revising "§ 278.43" to read "§ 33.43"

§ 33.50 [Amended]

49. Newly redesignated § 33.50(b)(5) is amended by revising "§ 278.32(f)" to read "§ 33.32(f)"

§ 33.51 [Amended]

50. Newly redesignated § 33.51 is amended in paragraph (c) by revising "§ 278.42" to read "§33.42"; paragraph (d) by revising "§§ 278.31 and 278.32" to read "§§ 33.31 and 33.32"; and paragraph (e) by revising "§ 278.26" to read "§ 33.26"

Dated: February 13, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–3822 Filed 2–20–92; 8:45 am]

BILLING CODE 3810-01-M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 202

[Docket No. RM 91–6]

Registrability of Computer Programs That Generate Typefaces

AGENCY: Library of Congress, Copyright Office.

ACTION: Final regulation.

SUMMARY: The purpose of this Final Regulation is to clarify the Copyright Office's practices regarding registration of claims to copyright in computer programs used in the generation of digitized representations of typeface designs. This regulation amends 37 CFR 202.1 to state the Office's existing practice in this respect. Pursuant to Congress's judgment in the 1976 Act [1] and case law,[2] the Copyright Office does not register claims to copyright in typeface designs as such, whether generated by a computer program, or represented in drawings, hard metal type, or any other form.

The Office does, however, register claims in original computer programs whether or not the end result or intended use of the computer program involves uncopyrightable elements or products. In the past, the Office has required a disclaimer for computer programs containing data depicting digitized representations of typeface designs. Due to changes in the industry and the administrative burden caused by correspondence, the Office will no longer require such disclaimers. Instead, in order to avoid any confusion about the scope of certificates of registration for computer programs used in the generation of digitized representations of typeface, the Office will not accept a nature of authorship statement of "entire work," "entire computer program," "entire text," or the like. Only descriptions such as "computer program" should be used. The scope of the copyright will be, as in the past, a matter for the courts to determine.

EFFECTIVE DATE: February 21, 1992.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, Copyright Office, Library of Congress, Washington, DC 20540. Telephone (202) 707–8380.

SUPPLEMENTARY INFORMATION: On September 29, 1988, the Copyright Office published a Notice of Policy Decision regarding registration practices for computer programs used in conjunction with digitized typeface, typefont, and letterforms. 53 FR 38110. That decision was the result of a Notice of Inquiry published on October 10, 1986. 51 FR 36410. The Policy Decision, based on the 1986 Notice of Inquiry, reiterated a number of previous registration decisions made by the Office. First, under existing law, typeface as such is not registrable. The Policy Decision then went on to state the Office's position that "data that merely represents an electronic depiction of a particular typeface or individual letterform" is also not registrable. Second, original computer programs are registrable, regardless of whether or not the functional result achieved is the generation of unregistrable typeface, typefonts, or letterforms. The Policy Decision concluded that, where a "master computer program includes data that fixes or depicts a particular typeface, typefont, or letterform, the registration application must disclaim copyright in that uncopyrightable data."

The Copyright Office has received a number of applications stating claims for computer programs used in conjunction with the generation or design of typeface, typefonts, or letterforms. In 1991, the Office became concerned that these claims indicated there had been a significant technological advance since the 1986 Notice of Inquiry. Of particular interest was the fact that some companies now license typeface in digitized form before they write a computer program permitting users to generate the typeface on low resolution and other printers.

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[1] See H.R. REP. NO. 94–1476, 94th Cong., 2d Sess. 55 (1976): "Congress has considered, but chosen to defer, the possibility of protecting the design of typefaces." Thus Congress could protect typeface designs under the Copyright Act if it chose.

[2] See *Eltra Corp.* v. *Ringer*, 579 F.2d 294 (4th Cir. 1978).

In order to gain information, the Copyright Office held a Public Hearing on October 4, 1991 and received 21 written submissions. The majority of those testifying and submitting comments favored abandoning the disclaimer requirement. After a careful review of the testimony and the written comments, the Copyright Office is persuaded that creating scalable typefonts using already-digitized typeface represents a significant change in the industry since our previous Policy Decision. We are also persuaded that computer programs designed for generating typeface in conjunction with low resolution and other printing devices may involve original computer instructions entitled to protection under the Copyright Act. For example, the creation of scalable font output programs to produce harmonious fonts consisting of hundreds of characters typically involves many decisions in drafting the instructions that drive the printer. The expression of these decisions is neither limited by the unprotectible shape of the letters nor functionally mandated. This expression, assuming it meets the usual standard of authorship, is thus registrable as a computer program.

The Office has also gained considerable administrative experience in the last three years with the use of disclaimers. A large amount of correspondence has been necessitated by the requirement of disclaimers. The public has also been confused about the effect, if any, of variants in the language of particular disclaimers. We are persuaded that the usefulness of disclaimers is outweighed by these drawbacks, and, thus, we will no longer require a disclaimer where the applicant does not state a claim in uncopyrightable material.

Final Regulation

In light of the heavy administrative burden imposed by disclaimers, the Copyright Office has concluded that the best course is to amend its regulations to state its opinion that digitized typeface as typeface is unregistrable, and to delete the disclaimer requirement. The term "typeface" is intended to encompass typefonts, letterforms, and the like. As part of the deletion of the disclaimer requirement, in order to avoid public confusion regarding the scope of certificates of registration issued for computer programs containing original instructions as well as digitized representations of typeface, applicants should not describe the nature of authorship as "entire work," "entire computer program," "entire text" or the like. Instead, descriptions such as "computer program" should be used. This preference regarding the nature of authorship statement will be included in Compendium II of Copyright Office Practices, but not in the Code of Federal Regulations. Because this regulation does not represent a substantive change in the rights of copyright claimants, claimants possessing already-issued certificates cannot submit a supplementary application for an already registered work for the purpose of removing the disclaimer.

With respect to the Regulatory Flexibility Act, the Copyright Office takes the position that this Act does not apply to Copyright Office rulemaking. The Copyright Office is a department of the Library of Congress and is a part of the legislative branch. Neither the Library of Congress nor the Copyright Office is an "agency" within the meaning of the Administrative Procedure Act of June 11, 1946, as amended (title 5, chapter 5 of the U.S. Code, subchapter II and chapter 7). The Regulatory Flexibility Act consequently does not apply to the Copyright Office since that Act affects only those entities of the Federal Government that are agencies as defined in the Administrative Procedure Act.

Alternatively, if it is later determined by a court of competent jurisdiction that the Copyright Office is an "agency" subject to the Regulatory Flexibility Act, the Register of Copyrights has determined and hereby certifies that this regulation will have no significant negative impact on small businesses.

List of Subjects in 37 CFR Part 202

Registration of claims to copyright, Claims to copyright, Copyright registration.

Final Regulations

In consideration of the foregoing, the Copyright Office is amending part 202 of 37 CFR, chapter II in the manner set forth below.

PART 202—REGISTRATION OF CLAIMS—[AMENDED]

1. The authority citation for part 202 continues to read as follows:

Authority: Section 702, 90 Stat. 2541; 17 U.S.C. 702.

§ 202.1 [Amended]

2. Section 202.1(e) is added to read as follows:

* * * * *

(e) Typeface as typeface.

Dated: February 4, 1992.

Ralph Oman,

Register of Copyrights.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 92–4006 Filed 2–20–92; 8:45 am]

BILLING CODE 1410–07–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89–592; RM–7078]

Radio Broadcasting Services; Cedar Falls, IA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Denise Neubauer, allots Channel 253C3 to Cedar Falls, Iowa, as the community's first local FM service. See 55 FR 881, January 10, 1990. Channel 253C3 can be allotted to Cedar Falls in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for Channel 253C3 are North Latitude 42–31–30 and West Longitude 92–27–06. With this action, this proceeding is terminated.

DATES: Effective April 3, 1992. The window period for filing applications will open on April 6, 1992, and close on May 6, 1992.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–592, adopted February 7, 1992, and released February 18, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452–1422, 1714 21st Street NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Iowa, is amended by adding Cedar Falls, Channel 253C3.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-4066 Filed 2-20-92; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 911172-2021]

Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: The Director, Alaska Region, NMFS (Regional Director), has determined that the first quarter's allowance of prohibited species catch (PSC) of Pacific halibut for the "Domestic Annual Processing (DAP) other fishery" has been reached. NMFS is prohibiting directed fishing in the Bering Sea and Aleutian Island management area (BSAI) for: (A) Pollock by vessels using other than pelagic trawl gear, and (B) Pacific cod by vessels using trawl gear. This action is necessary to prevent the first quarter allowance of Pacific halibut to the "DAP other fishery" from being exceeded. The intent of this action is to ensure optimum use of groundfish while conserving Pacific halibut stocks.

EFFECTIVE DATES: This closure is effective 12 noon, Alaska local time (A.l.t.), February 16, 1992, through midnight, A.l.t., March 29, 1992.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, Resource Management Specialist, NMFS, 907-586-7228.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Groundfish Fishery in the BSAI (FMP) governs the groundfish fishery in the exclusive economic zone within the BSAI under the Magnuson Fishery Conservation and Management Act. The FMP was prepared by the North Pacific Fishery Management Council and is implemented by regulations appearing at 50 CFR 611.93 and parts 620 and 675.

Regulations appearing at § 675.21(a)(5) establish the secondary PSC limit of Pacific halibut caught while conducting any domestic annual harvest trawl fishery for groundfish in the BSAI during any fishing year as an amount of Pacific halibut equivalent to 5,333 metric tons (mt). Further, § 675.21(b) provides that the PSC limit of Pacific halibut may be apportioned to fishery categories on a seasonal basis. Under § 675.21(b)(4), one such category is the "DAP other fishery." The final notice of initial specifications of BSAI groundfish for 1992 (57 FR 3952, February 3, 1992) established the 1992 first quarter Pacific halibut bycatch allowance in the "DAP other fishery" as 1,774 mt.

Under § 675.21(c)(2)(iv), the Regional Director has determined that U.S. fishing vessels using trawl gear have caught the 1992 first quarter PSC allowance of Pacific halibut in the BSAI while participating in the "DAP other fishery." NMFS is publishing this notice in the **Federal Register** closing the BSAI to directed fishing effective 12 noon, A.l.t. February 16, 1992, through midnight, A.l.t., March 29, 1992, for: (A) Pollock by trawl vessels using other than pelagic trawl gear, and (B) Pacific cod by vessels using trawl gear.

In accordance with § 675.20(h)(1), after this closure, operators of vessels using trawl gear other than pelagic trawl gear may not retain at any time during a trip an amount of pollock equal to or greater than 20 percent of the aggregate catch of the other fish retained at the same time during the same trip as measured in round weight equivalents. Vessels using trawl gear may not retain at any time during a trip an amount of Pacific cod equal to or greater than 20 percent of the aggregate catch of the other fish retained at the same time during the same trip as measured in round weight equivalents.

Classification

This action is taken under § 675.21 and complies with E.O. 12291.

List of Subjects in 50 CFR Part 675

Fish, Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 14, 1992.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92-3996 Filed 2-14-92; 5:05 pm]

BILLING CODE 3510-22-M

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50 CFR Part 675

[Docket No. 911172-2021]

Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: The Director, Alaska Region, NMFS (Regional Director), has determined that the 1992 annual allowance of the prohibited species catch (PSC) and *C. bairdi* Tanner crab for the "Domestic Annual Processing (DAP) other fishery" has been reached. NMFS is prohibiting directed fishing in bycatch limitation zone (Zone 1) in the Bering Sea and Aleutian Islands Area (BSAI) for pollock by vessels using trawl gear other than pelagic trawl gear and Pacific cod by vessels using trawl gear. This action is necessary to prevent the annual bycatch allowance of *C. bairdi* to the "DAP other fishery" from being exceeded. The intent of this action is to ensure optimum use of groundfish while conserving *C. bairdi* stocks.

EFFECTIVE DATES: This closure is effective 12 noon, Alaska local time (A.l.t.), February 15, 1992, through midnight, A.l.t., December 31, 1992.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, Resource Management Specialist, NMFS, 907-586-7228.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Groundfish Fishery in the BSAI (FMP) governs the groundfish fishery in the exclusive economic zone within the BSAI under the Magnuson Fishery Conservation and Management Act. The FMP was prepared by the North Pacific Fishery Management Council and is implemented by regulations appearing at 50 CFR 611.93 and parts 620 and 675.

Regulations appearing at § 675.21(a) establish PSC limits of red king crab and *C. bairdi* in specific zones of the Bering Sea subarea (BS). Under § 675.21(a)(2), the PSC limit of *C. bairdi* caught while conducting any domestic annual harvest trawl fishery for groundfish in Zone 1, as defined at 50 CFR 675.2, is 1 million animals. Further, § 675.21(b)(1) provides that the PSC limit of *C. bairdi* be further apportioned into bycatch allowances, one of which is assigned to the "DAP other fishery" under § 675.21(b)(4). Within the "DAP other fishery," the *C. bairdi* bycatch allowance may be further apportioned on a seasonal basis under § 675.21(b)(2). The final notice of initial specifications of BSAI groundfish for 1992 (57 FR 3952, February 3, 1992) established the 1992 Zone 1 *C. bairdi* Tanner crab allowance for the "DAP other fishery" at 200,000 animals.

Under § 675.21(c)(2)(i), the Regional Director has determined that U.S. fishing vessels using trawl gear have caught the 1992 PSC allowance of *C. bairdi* in the BSAI while participating in the "DAP other fishery." NMFS is publishing this notice in the **Federal Register** closing Zone 1 in the BSAI to directed fishing for the remainder of the year for: (A) Pollock by trawl vessels using other than pelagic trawl gear, and (B) Pacific cod by vessels using trawl gear, from 12 noon, A.l.t., February 15, 1992, through midnight A.l.t., December 31, 1992.

In accordance with § 675.20(h)(1), after this closure, operators of vessels using trawl gear other than pelagic trawl gear may not retain at any time during a trip an amount of pollock equal to or greater than 20 percent of the aggregate catch of the other fish retained at the same time during the same trip, as measured in round weight equivalents. Vessels using trawl gear may not retain at any time during a trip an amount of Pacific cod equal to or greater than 20 percent of the aggregate catch of the other fish retained at the same time during the same trip, as measured in round weight equivalents.

Classification

This action is taken under § 675.21 and complies with E.O. 12291.

List of Subjects in 50 CFR Part 675

Fish, Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 14, 1992.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92–3997 Filed 2–14–92; 5:05 pm]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 57, No. 35
Friday, February 21, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Chapter I

[Docket No. 92-1]

Federal Regulatory Review

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Request for comment.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is requesting comments on its regulations and regulatory programs to identify those that may hinder economic growth. On January 30, 1992, the President announced a 90-day regulatory review program as part of his plan to promote economic growth and reduce the burden of government regulation. In accordance with that plan, the heads of the major federal regulatory agencies have been asked to review regulations and programs that may hinder economic growth and to identify and accelerate action on initiatives that will reduce the burden of existing regulations or otherwise promote economic growth. The federal agencies, including the Office of the Comptroller of the Currency, have been asked to work with the public and other interested agencies to identify regulations and programs that impose a substantial cost on the economy and to determine whether each such regulation or program adheres to certain standards.

DATES: Comments must be received on or before March 10, 1992.

ADDRESSES: Comments should be sent to: Communications Division, Docket No. 92-1, 250 E Street, SW., Washington, DC 20219. Comments will be available for public inspection at the same address.

FOR FURTHER INFORMATION CONTACT: Nancy Chase, Senior Attorney, or Ford Barrett, Assistant Director, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: The President announced that all the major federal regulatory agencies shall undertake a comprehensive, 90-day review of federal regulations. During this time, the OCC will conduct a regulatory review to identify regulations and programs that significantly reduce jobs or otherwise impose a significant burden on the economy and to determine whether regulations and programs adhere to the following standards:

(1) The expected benefits to society of any regulation should clearly outweigh the expected costs it imposes on society.

(2) Regulations should be fashioned to maximize net benefits to society.

(3) To the maximum extent possible, regulatory agencies should set performance standards instead of prescriptive command-and-control requirements, thereby allowing the regulated community to achieve regulatory goals at the lowest possible cost.

(4) Regulations should incorporate market mechanisms to the maximum extent possible.

(5) Regulations should provide clarity and certainty to the regulated community and should be designed to avoid needless litigation.

As part of its regulatory review, the OCC is requesting public comment as to which of its regulations and programs impose substantial burdens on the economy. The OCC requests that commenters consider the standards listed earlier and identify, by citation to the Code of Federal Regulations, banking circular number, or similar citation, regulations and programs that might be improved in light of the standards listed above. The OCC further requests that commenters provide specific explanations as to why they believe an item can be improved and provide specific suggestions for methods to improve the regulation or program.

Dated: February 18, 1992.

Robert L. Clarke,

Comptroller of the Currency.

[FR Doc. 92-4196 Filed 2-20-92; 8:45 am]

BILLING CODE 4810-33-M

DEPARTMENT OF EDUCATION

Office of the Secretary

34 CFR Subtitle A and Subtitle B, Chapters I-VII Regulatory Review

AGENCY: Department of Education.

ACTION: Request for comments.

SUMMARY: In response to the President's announcement of a Federal regulatory review, this notice requests public comments on which Departmental regulations substantially impede economic growth, are no longer needed, or impose unnecessary costs or burdens.

DATES: Comments should be received no later than March 23, 1992. Because of the short time provided to complete the review, the Secretary would appreciate comments being filed earlier, if possible.

ADDRESSES: Comments should be submitted to David T. Kearns, Deputy Secretary, U.S. Department of Education, 400 Maryland Avenue SW., Washington, DC 20202-0500, Attention: "Regulatory Review."

FOR FURTHER INFORMATION CONTACT: Amy Comstock, Office of the General Counsel, U.S. Department of Education, room 4091, 400 Maryland Avenue, SW., Washington, DC 20202; (202) 401-2607. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1-800-877-8339 (in the Washington, DC 202 area code, telephone 708-9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: In the State of the Union address of January 28, 1992, President Bush announced a 90-day moratorium and review of regulations. In a memorandum to certain Department and agency heads that discussed the initiative in more detail the President noted that "[a] major part of this undertaking must be to weed out unnecessary and burdensome government regulations, which impose needless costs on consumers and substantially impede economic growth." The President asked the Department to work with the public, other interested agencies, the Office of Information and Regulatory Affairs in the Office of Management and Budget, the Council on Competitiveness to (i) identify each of the "agency's regulations and programs that impose a substantial cost on the economy and (ii) determine whether

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each such regulation or program adheres to the following standards:

(a) The expected benefits to society of any regulation should clearly outweigh the expected costs it imposes on society.

(b) Regulations should be fashioned to maximize net benefits to society.

(c) To the maximum extent possible, regulatory agencies should set performance standards instead of prescriptive command-and-control requirements, thereby allowing the regulated community to achieve regulatory goals at the lowest possible cost.

(d) Regulations should incorporate market mechanisms to the maximum extent possible.

(e) Regulations should provide clarity and certainty to the regulated community and should be designed to avoid needless litigation."

In connection with this review, the Department will propose appropriate regulatory changes to reduce any unnecessary burdens or costs caused by ED regulations.

This notice solicits public comment on the Department's current regulations. In particular, the Secretary would appreciate commenters identifying regulations that substantially impede economic growth, are no longer necessary, are unnecessarily burdensome, or impose needless costs. In addition, the Secretary would appreciate help in identifying areas in which there are overlapping, duplicative, inconsistent, or conflicting requirements with other Federal agencies, as well as in the Department's own regulations.

The Secretary is also interested in identifying statutory changes that are needed to reduce impediments to economic growth or to eliminate unnecessarily burdensome or costly requirements. Appropriate legislative changes can then be submitted to Congress.

Comments should include the information needed to identify the particular provision at issue, including the program name and a citation to the relevant statute or regulation. Commenters are requested to make their suggestions as specific as possible.

Dated: February 19, 1992.

Lamar Alexander,

Secretary of Education.

[FR Doc. 92-4180 Filed 2-20-92; 8:45 am]

BILLING CODE 4000-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 80 and 86

[AMS-FRL-4105-7]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines: Evaporative Emission Regulations for Gasoline and Methanol-Fueled Light Duty Vehicles and Light Duty Trucks and Heavy-Duty Vehicles

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of extension of comment period.

SUMMARY: This notice announces an extension of the comment period related to EPA's proposed evaporative emission control regulations (55 FR 1914, January 19, 1990) to March 2, 1992. EPA held a public workshop on January 28, 1992, with the comment period previously scheduled to close on February 11.

DATES: Comments will be accepted until March 2, 1992.

ADDRESSES: Interested parties may submit written comments (in duplicate if possible) to Public Docket No. A-89-18 at the following address: U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Alan Stout, Standards Development and Support Branch, Emission Control Technology Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan, 48105. Telephone: (313) 668-4272.

For copies of support documents contact: Ms. Margaret Borushko, (313) 668-4272.

SUPPLEMENTARY INFORMATION: For further information on this matter, please refer to EPA's December 17, 1991 **Federal Register** Notice of Workshop at 56 FR 65461 as changed at December 27, 1991, 56 FR 67038.

Dated: February 12, 1992.

Michael Shapiro,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 92-3952 Filed 2-20-92; 8:45 am]

BILLING CODE 6560-50-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

45 CFR Part 1155

Compliance With the National Environmental Policy Act

AGENCY: National Endowment for the Arts, National Foundation on the Arts and Humanities.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule will implement the provisions of the National Environmental Policy Act (the Act) for reviewing environmental impacts of grant projects funded by the agency.

DATES: Comments must be received on or before April 21, 1992.

ADDRESSES: Send comments to Karen L. Elias, Assistant General Counsel, National Endowment for the Arts, room 552, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Karen L. Elias, 202-682-5418.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act of 1980

Sections 1155.5 and 1155.6 contain information collection requirements. As required by the Paperwork Reduction Act of 1980, the National Endowment for the Arts will submit a copy of these sections to the Office of Management and Budget (OMB) for its review.

List of Subjects in 45 CFR Part 1155

Environmental impact statements.

Amy Sabrin,

General Counsel, National Endowment for the Arts.

For reasons set out in the preamble, title 45, part 1155 of the Code of Federal Regulations is added as set forth below.

PART 1155—COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT

Sec.
1155.1 Purpose.
1155.2 Definitions.
1155.3 General Counsel review.
1155.4 Actions requiring an environmental assessment and categorical exclusions.
1155.5 Responsibilities and procedures for the preparation of an environmental assessment.
1155.6 Responsibilities and procedures for preparation of an environmental impact statement.

Authority: NEPA (42 U.S.C. Section 4332, et seq.)

§ 1155.1 Purpose.

The purpose of this regulation is to adopt Endowment procedures to supplement regulations at 40 CFR parts 1500 through 1508 (hereafter referred to as "CEQ regulations").

§ 1155.2 Definitions.

(a) *Applicant* means any individual, organization, or entity which has submitted an application for a grant award from the National Endowment for the Arts (Endowment).

(b) *Categorical exclusion* means a category of actions which do not have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by the Endowment in implementing the CEQ regulations, and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. The Endowment may decide in its procedures otherwise to prepare environmental assessments for the reasons stated in subsection (c)(3) even though it is not required to do so. Any procedures under this section should provide for extraordinary circumstances in which a normally excluded action may have a significant environmental effect.

(c) *CEQ* means Council on Environmental Quality.

(d) *Chairperson* means the Chairperson of the National Endowment for the Arts.

(e) *Endowment* means the National Endowment for the Arts.

(f) *EPA* means Environmental Protection Agency.

(g) *General Counsel* means the General Counsel for the National Endowment for the Arts.

(h) *Grantee* means an individual, organization, or entity which has received an award from the Endowment.

(i) *NEPA* means National Environmental Policy Act.

§ 1155.3 General Counsel Review.

(a) All incoming correspondence from CEQ, EPA and other agencies concerning matters related to NEPA, including draft and final environmental impact statements, shall be brought to the attention of the General Counsel. The General Counsel will prepare or, at his or her discretion, coordinate replies to such correspondence.

(b) With respect to actions of Endowment, the General Counsel will:

(1) Maintain a list of actions for which environmental assessments and/or environmental impact statements are being prepared.

(2) Revise this list at regular intervals, and send revisions to EPA.

(3) Make the list available for public inspection or request.

(4) Maintain a list of environmental impact assessments.

(5) Maintain a file of draft and final environmental impact statements.

(c) The General Counsel will perform such additional functions as are set forth elsewhere in this part and in other Endowment issuances.

§ 1155.4 Actions requiring an environmental assessment and categorical exclusions.

(a) The types of actions to be classified as "major Federal actions" subject to NEPA procedures are discussed generally in the CEQ regulations. The Endowment General Counsel, in consultation with the appropriate Deputy Chairpersons, is responsible for identifying situations in which an environmental assessment or an EIS should be prepared even if not normally required by (b) of this subsection.

(b) Endowment grants to either organizations or individuals, other than for construction or ground-breaking projects are not "major Federal actions" significantly affecting the quality of the human environment so as to provide a sufficient basis for classifying the grant project as subject to NEPA (see 40 CFR 1508.18) and are categorically excluded from an environmental assessment.

(c) In some cases it will be evident at the outset or after the assessment process is begun that an EIS should be prepared. In such cases an assessment need not be completed, but the process of preparing an EIS (see, § 1155.5 of this part) should be started.

§ 1155.5 Responsibilities and procedures for preparation of an environmental assessment.

(a) The Deputy Chairman for Programs, and the General Counsel if necessary, after consultation with the appropriate Program Director, shall determine whether incoming applications contemplate construction or ground-breaking projects.

(b) After the Deputy Chairman for Programs has made his determination, he or she shall forward the application to the General Counsel for a final determination as to whether an environmental assessment is required.

(c) Should an environmental assessment be required, the General Counsel will request that the grant applicant provide information concerning all potentially significant environmental impacts of the applicant's proposed project. The General Counsel, in consultation with EPA and CEQ as appropriate, will review the information provided by the grant applicant. Though no specific format for an environmental assessment is prescribed, it shall be a separate document suitable for public review and in conformance with 40 CFR 1508.9. That document should include as appropriate the following.

(1) Description of the existing environment. For the delineated project area, the existing environmental conditions relevant to the analysis of alternatives, or to determining the environmental impacts of the proposed project, should be described.

(2) Description of the future environment without the project. The relevant future environmental conditions should be described. The no action alternative should be discussed.

(3) Documentation. Citations to information used to describe the existing environment and to assess future environmental impacts should be clearly referenced and documented. These sources should include, as appropriate but not limited to, local, tribal, regional, State, and federal agencies as well as public and private organizations and institutions.

(4) Analysis of alternatives. This should include a comparative analysis of feasible alternatives, including the no action alternative, throughout the proposed project area. The alternatives shall be screened with respect to capital and operating costs; direct, indirect, and cumulative environmental effects; physical, legal or institutional constraints; and compliance with regulatory requirements.

(5) Evaluating environmental consequences of proposed action. A full range of relevant impacts of the proposed action shall be discussed, including measures to mitigate adverse impacts, any irreversible or irretrievable commitments of resources to the proposed project.

(6) Minimizing adverse effects of the proposed action—

(i) Measures, directly or indirectly related to the proposed project, to mitigate or eliminate adverse effects on the human and natural environment, should be identified during the environmental review. Such measures include, but are not limited to, changes in proposed project design, size, location, staging facilities, monitoring and enforcement of environmental regulations, and local commitments to develop and enforce land use regulations.

(ii) The Endowment shall not award a grant if the applicant/grantee has not made, or agreed to make, changes in the project, in accordance with determinations made in a Finding of No

Significant Impact (FONSI). The Endowment may condition a grant, or seek other ways, to insure that the grantee will comply with such environmental review determinations.

(iii) Prior to a final grant award decision, a copy of the environmental assessment documentation shall be sent to the Chairperson, for consideration as part of the grant application.

(iv) If, on the basis of an environmental assessment, it is determined that an EIS is not required, a Finding of No Significant Impact (FONSI) as described in 40 CFR 1508.13 will be prepared. The FONSI will include the environmental assessment or a summary of it and be available to the public from the Endowment. If the proposed action is one that normally requires an EIS, is closely similar to an action normally requiring an EIS, or is without precedent, the FONSI shall be made available for a 30-day public review period before any action is taken.

§ 1155.6 Responsibilities and procedures for preparation of an Environmental Impact Statement (EIS).

(a) If initially or after an environmental assessment has been completed, it is determined that an environmental impact statement should be prepared, it and other related documentation will be prepared by the General Counsel in accordance with section 102(2)(c) of NEPA, this part, and the CEQ regulations. The General Counsel will be in close communication with the grant applicant which may be required to submit information for preparation of the EIS. Once a document is prepared, it shall be submitted to the Chairperson who shall transmit the document to the Environmental Protection Agency (EPA). If the Chairperson considers a document unsatisfactory, he or she shall return it to the General Counsel for revision or supplementation prior to a grant award decision.

Specifically, the following steps will be followed in preparing an EIS:

(1) A notice of intent to prepare a draft EIS will be published as described in 40 CFR 1501.7.

(2) Scoping, as described in 40 CFR 1501.7 will be conducted.

(3) The format and contents of the draft and final EIS shall be as discussed in 40 CFR part 1502.

(4) Comments on the draft EIS shall be invited as set forth in 40 CFR 1503.1. The minimum period to be afforded for comments on a draft EIS shall be 45 days, unless a lesser period is necessary to comply with other specific statutory requirements or in case of emergency circumstances, as described in 40 CFR 1506.11.

(5) The requirements of 40 CFR 1506.9 for filing of documents with the Environmental Protection Agency shall be followed.

(6) The General Counsel in consultation with EPA shall examine carefully the basis on which supportive studies have been conducted to assure that such studies are objective and comprehensive in scope and in depth.

(7) NEPA requires that the decision making involved "utilize a systematic, interdiscplinary approach that will insure the integrated use of the natural and social sciences and the environmental design arts." If such disciplines are not present on the Endowment staff, appropriate use should be made of personnel of Federal, State, and local agencies, universities, non-profit organizations, or private industry.

(8) A copy of the draft EIS or the final EIS (or a summary, if the size of the EIS does not make this practical) shall be included in and accompany the appropriate proposal throughout the Endowment's internal review and approval process.

(b)(1) 40 CFR 1506.1 describes the types of actions that should not be taken during the NEPA process. Such actions shall be avoided by Endowment personnel during the process of preparation of an EIS and for a period of 30 days after the final EIS is filed with the EPA, unless such actions are necessary to comply with other specific statutory requirements.

(2) 40 CFR 1506.10 also places certain limitations on the timing of agency decisions on taking "major Federal actions". A grant award shall not be made before the times set forth in 40 CFR 1506.10, unless such action is necessary to comply with other specific statutory requirements, or as exceptions are needed as provided in 40 CFR 1506.10, 1506.11, or 1507.03.

(c) In appropriate cases, if the action involves other agencies, the Endowment will consult with those agencies in order to designate a "lead agency" as provided in 40 CFR 1501.5 and 1501.6.

(d) A public record of decision stating what the decision was; identifying alternatives that were considered, including the environmentally preferable one(s); discussing any national considerations that entered into the decision; and summarizing a monitoring and enforcement program if applicable for mitigation, will be prepared. This record of decision will be prepared at the time the decision is made, or if appropriate, when the agency makes its recommendation for action to Congress (40 CFR 1505.2).

[FR Doc. 92-3079 Filed 2-20-92; 8:45 am]

BILLING CODE 7537-01-M

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45 CFR Part 1180

Institute of Museum Services; General Operating Support for Museums

AGENCY: Institute of Museum Services, NFAH.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Institute of Museum Services proposes to amend its regulations governing the duration of the grant period for General Operating Support awards. Section 1180.15 of the IMS regulations limits the grant period to one year. IMS proposes that the grant period be limited to two years and that a successful applicant to the General Operating Support program in one Federal fiscal year will not be eligible to apply for an additional general operating support award in the immediately following Federal fiscal year. IMS proposes that the maximum award amount for fiscal year 1993 and following years be set at 15 percent of the museum's prior year operating income or $112,500 whichever is less, but that a museum may receive a minimum award of $7,500, subject to statutory limitations. The award amount may be obligated by the grantee over a period of two years. The effect on the museum that receives a grant is that the amount of the award will be larger than currently and award money will be available over a longer period of time. The grantee will be relieved of the burden of applying in consecutive years.

DATES: Comments must be received on or before April 10, 1992.

ADDRESSES: Comments should be addressed to Susannah Simpson Kent, Institute of Museum Services, room 510, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Rebecca W. Danvers, Program Director; Telephone: 202/786-0539; Deaf and hearing impaired individuals may call 202/786-9136 for TDD services.

SUPPLEMENTARY INFORMATION:

General Background

The Museum Services Act ("the Act"), title II of the Arts, Humanities and Cultural Affairs Act of 1976, was enacted on October 8, 1976, and was amended in 1980, 1982, 1984, 1985, and 1990. The purpose of the Act as stated in section 202, is as follows:

> To encourage and assist museums in their educational rule . . .; to assist museums in

modernizing their methods and facilities so that they may be better able to conserve our cultural, historic, and scientific heritage; and to ease the financial burden borne by museums as a result of their increasing use by the public.

An award for General Operating Support may be used to carry out such activities.

The Need for the Amendment

The IMS regulations for General Operating Support contain provisions regarding the duration of the grant period and the amount of the award. Since 1978, the grant period has been limited to one year. Every applicant, whether successful or not in any given fiscal year, is required to reapply for General Operating Support in the following fiscal year. As a result, museums have only a one-year period in which to obligate the funds and cannot predict that funds will be available beyond that one-year period. IMS proposes that the grant period be extended to two years and that successful applicants in one Federal fiscal year not be eligible to apply in the following Federal fiscal year.

The annual General Operating Support awards are limited to 10 percent of the museum's prior year operating income up to a maximum established by the National Museum Services Board and published annually in the **Federal Register**, now $75,000. IMS proposes that an applicant may receive 15 percent of its most recently completed fiscal year operating income up to a maximum of $112,500, to be obligated over a period of two years.

Potential Benefits

The changes in the General Operating Support program proposed in this document grow out of a comprehensive 1990 study of that program commissioned by IMS. The study concluded that a concern that their chances for funding are limited is a significant reason that museums decline to participate in the program. To address these concerns, IMS proposes to award General Operating Support grants on a two-year basis with the provision that a successful museum will not be eligible to apply for a grant during the Federal fiscal year following the Federal fiscal year in which the museum receives an award. At the same time, the ceiling on General Operating Support grants would be increased to $112,500 or 15 percent of the museum's prior year operating income, whichever is less, to reflect the fact that a museum is receiving an award to cover a two-year period. (The minimum award will be increased from $5,000 to $7,500, subject to statutory limitations.) IMS anticipates a number of benefits from these proposed change in grant procedures:

(1) Museums that would receive awards in two succeeding Federal fiscal years are relieved of the burden of filing an application in the second year.

(2) These museums will have a longer period to plan the use of their funds.

(3) These museums will have a longer period to use their funds.

(4) For museums that are reluctant to apply because of the perception that the chances of funding are limited, the new procedures will eliminate from competition in the second year a number of museums that otherwise would have competed for grants, thus expanding funding opportunities for other museums.

(5) The new procedures may encourage underserved museums to participate in the General Operating Support program.

In proposing these changes in the grant procedures, IMS recognizes that, if adopted, they will result in a smaller number of GOS awards on an annual basis and that a limited number of museums that receive General Operating Support awards each year under the current procedures may obtain a smaller amount over the two-year grant period if they continue to be successful in obtaining awards. IMS believes that the substantial benefits of the proposed changes to the museum community as a whole far outweigh these effects.

Executive Order 12291

The amendment has been reviewed in accordance with Executive Order 12291. It is classified as non-major because it does not meet the criteria for major regulations established in the Order.

Regulatory Flexibility Act Certification

The Director certifies that the amendment will not have a significant economic impact on a substantial number of museums. The amendment will affect certain museums receiving Federal financial assistance under the Museum Services Act. However, it will not have significant economic impact on the entities affected, because it does not impose excessive regulatory burdens or require unnecessary Federal supervision.

Paperwork Reduction Act of 1980

This regulation does not contain any information collection requirements under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511)

Invitation to Comment

Interested parties are invited to submit comments and recommendations regarding these proposed regulations. All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in room 510, 1100 Pennsylvania Avenue NW., Washington DC, between the hours of 9 a.m. and 4 p.m., Monday through Friday of each week except Federal Holidays.

List of Subjects in 45 CFR Part 1180

Government contracts, Grant programs—education, Museums, National boards, Non-profit organizations, Recording and recordkeeping requirements, Sunshine Act.

Dated: February 11, 1992.

Susannah Simpson Kent,

Director.

Part 1180 of title 45 of the Code of Federal Regulations is amended as follows:

PART 1180—[AMENDED]

1. The authority citation for part 1180 is revised to read as follows:

Authority: 20 U.S.C. 961–969, unless otherwise noted.

2. A new § 1180.8 is added to read as follows:

§ 1180.8 Two-year grant period.

(a) IMS makes General Operating Support grants for a period of twenty-four months beginning with the first month of the grant period.

(b) A museum that receives a General Operating Support grant in a Federal fiscal year may not apply for an additional General Operating Support grant in the succeeding Federal fiscal year.

(c) The following example illustrates paragraph (b) of this section:

Example. A museum applies for a General Operating Support grant in Federal fiscal year 1993. The museum receives a grant that it may use during the applicable 24-month grant period. The museum may not apply for an additional General Operating Support grant in Federal fiscal year 1994.

3. Section 1180.9 is revised to read as follows:

§ 1180.9 Limitation on amount of General Operating Support grants.

(a) *General rule.* IMS makes General Operating Support grants in an amount not to exceed the lesser of:

(1) The ceiling amount established under paragraph (b) of this section; or

(2) (i) 15 percent of the applicant museum's non-Federal operating income

for its most recently completed fiscal year that is prior to the Federal fiscal year in which the application is filed; or

(ii) $7,500, if larger.

(b) *Ceiling amount.* The ceiling amount of a General Operating Support grant will be established through a notice published in the **Federal Register**.

(c) *Statutory requirement.* Under section 206(c) of the Act, IMS may not make a grant in excess of 50 percent of the annual cost of the program for which the grant is made. If the application of the $7,500 limitation in paragraph (a)(2) of this section causes a General Operating Support grant to exceed 50 percent of the museum's annual operating income for the grant period in question, IMS reduces the grant to that level in order to satisfy the statutory requirement.

(d) *Computation of non-Federal operating income.* For the purposes of this section, a museum may include in non-Federal operating income an amount reflecting the reasonable and conservative value of non-cash contributions to the museum in the applicable fiscal year.

(e) *Examples.* The application of this section is set forth in the following examples:

Example 1. In fiscal year 1993, a museum with calendar year 1991 operating income of $5,000,000 applies to IMS for a General Operating Support grant. Its application is approved. It may receive a grant of no more than $112,500, the lesser of $112,500 and $750,000 which is a 15 percent of the museum's non-Federal operating income.

Example 2. In fiscal year 1993, a museum with calendar 1991 operating income of $700,000 applies to IMS for a General Operating Support grant. Its application is approved. It may receive a grant of no more than $105,000 the lesser of $112,500 and 15 percent of the operating income which is $105,000.

Example 3. In fiscal year 1993, a museum with calendar 1991 operating income of $40,000 applies to IMS for a General Operating Support grant. Its application is approved. It may receive a grant of no more than $7,500, the larger of $7,500 or 15 percent of the museum's operating income which is $6,000. The grant satisfies the requirement of paragraph (c) of this section (and the statute) that it not exceed 50 percent of the museum's operating income for that year.

4. Section 1180.15 is revised to read as follows:

§ 1180.15 Duration of grants.

The grantee may use grant funds during the period specified in the grant document unless the grant is suspended or terminated. If the grantee needs additional time to complete the grant, the grantee may apply for an extension of the grant period without additional funds. The Director may approve this extension at his or her discretion.

5. Section 1180.16 is revised to read as follows:

§ 1180.16 Contributions, restricted accounts.

(a) For a particular fiscal year, and for one or more programs, the Board may determine that an amount equal to the amount to be awarded (or a percentage thereof) to an applicant under the Act must consist of non-Federal funds contributed to the museum in excess of the non-Federal funds contributed to the museum for its immediately preceding fiscal year.

(b) A museum shall maintain a restricted account for funds received under the Act.

6. Section 1180.20(b)(3) is revised to read as follows:

§ 1180.20 Guidelines and standards for conservation grants.

* * * * *

(b) * * *

(3) Section 1180.16(b), which provides for the maintenance of a restricted account, does apply to conservation grants.

* * * * *

[FR Doc. 92-3880 Filed 2-20-92; 8:45 am]

BILLING CODE 7036-01-M

FEDERAL MARITIME COMMISSION

46 CFR Part 586

Actions to Adjust or Meet Conditions Unfavorable to Shipping in the United States/Venezuela Trade

AGENCY: Federal Maritime Commission.

ACTION: Notice of intent to discontinue proceeding; enlargement of time to comment.

SUMMARY: The Federal Maritime Commission issued a Notice of Intent to Discontinue ("Notice") this proceeding (57 FR 2070; January 17, 1992), which was initiated pursuant to section 19 of the Merchant Marine Act, 1920, through publication of a Proposed Rule (56 FR 22685; May 16, 1991) concerning alleged conditions unfavorable to shipping in the foreign oceanborne trade between the United States and Venezuela. The proposed rule would adjust or meet the apparent unfavorable conditions by imposing a per voyage fee in the amount of $100,000 upon certain named Venezuela-flag carriers, with failure to pay the fee resulting in suspension of that carrier's tariffs, or denial of access to or clearance from U.S. ports. Total Ocean Marine Services, Inc. ("Total Ocean") has now requested a 31-day enlargement of time to comment on the Notice, citing among other things, difficulties associated with political unrest in Venezuela. The Commission has determined to grant an extension of 14 days.

DATES: Comments (original and 15 copies) due on or before February 28, 1992.

ADDRESSES: Send comments to: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573-0001, (202) 523-5725.

FOR FURTHER INFORMATION CONTACT: Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 1100 L Street, NW., Washington, DC. 20573-0001, (202) 523-5740.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 92-3993 Filed 2-20-92; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 92-25, RM-7905]

Radio Broadcasting Services; Fort Bragg, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by California Radio Partners, licensee of Station KOZT(FM), Channel 237A, Fort Bragg, California, seeking the substitution of Channel 237B1 for Channel 237A and modification of its license accordingly to specify operation on the higher powered channel. Coordinates for this proposal are 39-24-24 and 123-44-04.

Petitioner's modification proposal complies with the provisions of § 1.420(g) of the Commission's Rules. Therefore, we will not accept competing expressions of interest in the use of Channel 237B1 at Fort Bragg, or require the petitioner to demonstrate the availability of an additional equivalent class channel.

DATES: Comments must be filed on or before April 10, 1992; and reply comments on or before April 27, 1992.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: California Radio Partners, Radio Station KOTZ(FM), 124 East Laurel, Fort Bragg, CA 95437.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 92-25, adopted February 7, 1992, and released February 18, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1714 21st St., NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-4069 Filed 2-20-92; 8:45 am]

BILLING CODE 6712-01-M

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Notices

Federal Register
Vol. 57, No. 35
Friday, February 21, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

Proposed Posting of Stockyards

The Packers and Stockyards Administration, United States Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act (7 U.S.C. 202), and should be made subject to the provisions of the Packers and Stockyards Act 1921, as amended (7 U.S.C. 181 *et seq.*).

AR-168: I-40 Livestock Auction, Inc., Ozark, Arkansas
MS-165: T. Smith Livestock, Hattiesburg, Mississippi
MO-273: Sarcoxie Livestock Auction, Inc., Sarcoxie, Missouri
SC-150: M.L. Dopson Auction Co., Walterboro, South Carolina
UT-177: Dean H. Parker, Logan, Utah

Pursuant to the authority under section 302 of the Packers and Stockyards Act, notice is hereby tiven that it is proposed to designate the stockyards named above as posted stockyards subject to the provisions of said Act.

Any person who wishes to submit written data, views or arguments concerning the proposed designation may do so by filing them with the Director, Livestock Marketing Division, Packers and Stockyards Administration, room 3408-South Building, U.S. Department of Agriculture, Washington, DC 20250 by February 27, 1992.

All written submissions made pursuant to this notice will be made available for public inspection in the office of the Director of the Livestock Marketing Division during normal business hours.

Done at Washington, DC this 13th day of February.

Harold W. Davis,

Director, Livestock Marketing Division.

[FR Doc. 92-3995 Filed 2-20-92; 8:45 am]

BILLING CODE 3410-KD-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Annual Survey of Communication Services.

Form Number(s): B-516 through B-521.

Agency Approval Number: 0607-0706.

Type of Request: Reinstatement of a previously approved collection for which approval has expired.

Burden: 7,000 hours.

Number of Respondents: 1,780.

Avg Hours Per Response: 4 hours.

Needs and Uses: The Annual Survey of Communication Services is a vital component of a broad-based, multi-year program at the Census Bureau to expand coverage and improve statistics for service-related industries. This program is part of an interagency initiative to improve statistics in this sector of the economy. This survey will provide the only annual source of key measures of the communication sector, including the telephone, broadcasting and cable television industries. These data will serve as inputs into the national accounts calculated by the Bureau of Economic Analysis, the Bureau of Labor Statistics' consumer and producer price indices, and the Department of Commerce's publication, Industrial Outlook. In addition, the Census Bureau will use results of this survey in the planning and design stages of current and future economic census questionnaires by providing information on the ability of respondents to report accurate and timely data from existing records and by identifying areas of dynamic change in the communication sector.

Affected Public: Businesses or other for-profit organizations, non-profit institutions, and small businesses or organizations.

Frequency: Annually.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Maria Gonzalez, (202) 395-7313.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 377-3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: February 14, 1992.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 92-4013 Filed 2-20-92; 8:45 am]

BILLING CODE 3510-07-F

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: International Trade Administration (ITA).

Title: Export Trading Companies Contact Facilitation Service.

Form Number: ITA-4094P.

OMB Approval Number: 0625-0120.

Type of Request: Revision of a currently approved collection; so as to modify the form to use the Harmonize Code rather than the SIC Code to designate products listed.

Burden: 4,500 hours.

Number of Respondents: 9,000.

Avg Hours Per Response: 30 minutes.

Needs and Uses: The Export Trading Company Act of 1982 directs Commerce to provide a service to facilitate contact between producers of exportable goods and firms offering export trade services. ITA has established a clearinghouse for U.S. suppliers, banks, service organizations and export trading companies (ETCs). This helps U.S. producers identify and contact newly formed ETCs. ETCs may want to utilize this program to identify possible clients for their services. This collection seeks that information needed to provide the benefit to the user.

Affected Public: State or local governments; businesses or other for profit or non-profit institutions; small businesses or organizations.

Frequency: Annually.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Gary Waxman, (202) 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, room 5327, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Gary Waxman, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: February 14, 1992.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc 92-4014 Filed 2-20-92; 8:45 am]

BILLING CODE 3510-CW

Foreign-Trade Zones Board

[Order No. 556]

Resolution and Order Approving With Restriction the Application of the North Carolina Department of Economic and Community Development for Special-Purpose Subzone Status; Deere-Hitachi Construction Machinery Corporation Plant (Hydraulic Excavators); Kernersville, NC

Proceedings of the Foreign-Trade Zones Board, Washington, DC.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Resolution and Order:

The Board, having considered the matter, hereby orders:

> After consideration of the application of the North Carolina Department of Economic and Community Development (formerly the North Carolina Department of Commerce), grantee of FTZ 66, filed with the Foreign-Trade Zones Board (the Board) on June 18, 1990, requesting special-purpose subzone status for the excavator manufacturing plant of the Deere-Hitachi Construction Machinery Corporation in Kernersville, North Carolina, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the FTZ Board's regulations would be satisfied, and that the proposal would be in the public interest if approval were subject to the condition that no authority is granted for excavators made under zone procedures at the Kernersville plant to be converted by Deere-Hitachi or its affiliates into forestry equipment or other equipment, based on the terms of the plan and circumstances outlined in the application and case record, approves the application, subject to the foregoing condition. The operation shall be monitored accordingly.
>
> Approval is subject to the FTZ Act and the FTZ Board's regulations (as revised, 56 FR 50790-50808, 10/8/91), including § 400.28. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant of Authority for Subzone Status

Whereas, By an Act of Congress approved June 18, 1934, an Act "To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, The Board's regulations (15 CFR 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, The North Carolina Department of Economic and Community Development (formerly the North Carolina Department of Commerce), grantee of FTZ 66, has made application (filed 6-18-90, FTZ Docket 24-90, 55 FR 26720, 6-29-90) to the Board for authority to establish a special-purpose subzone at the hydraulic excavator manufacturing plant of the Deere-Hitachi Construction Machinery Corporation in Kernersville, North Carolina;

Whereas, Notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, The Board has found that the requirements of the Act and the Board's regulations would be satisfied and that the proposal would be in the public interest if approval were given subject to the condition in the resolution accompanying this action;

Now, Therefore, The Board hereby authorizes the establishment of a subzone at the Deere-Kitachi Construction Machinery Corporation plant in Kernersville, North Carolina, designated on the records of the Board as Foreign-Trade Subzone 66B, at the location described in the application, subject to the condition in the resolution accompanying this action, and to the Act and the Board's Regulations (as revised, 56 FR 50790-50808, 10/8/91), including § 400.28.

Signed at Washington, DC, this 12th day of February, 1992, pursuant to Order of the Board.

Alan, M. Dunn,

Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

[FR Doc. 92-4060 Filed 2-20-92; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[C-570-817]

Postponement of preliminary Countervailing Duty Determination: Chrome-Plated Lug Nuts and Wheel Locks From the People's Republic of China ("PRC")

AGENCY: Import Administration, International Trade Administration, Commerce.

EFFECTIVE DATE: February 21, 1992.

FOR FURTHER INFORMATION CONTACT: Stephanie L. Hager or Paulo F. Mendes, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-5055 or (202) 377-5050, respectively.

POSTPONEMENT: On January 2, 1992, the Department of Commerce ("the Department") initiated a countervailing duty investigation of chrome-plated lug nuts and wheel locks (collectively "lug nuts") from the PRC. The notice stated that we would issue our preliminary determination on or before March 6, 1992. (57 FR 877, January 9, 1992).

Pursuant to section 703(c)(1)(B) of the Tariff Act of 1930, as amended (the "Act"), the Department has determined that this investigation is "extraordinarily complicated" and has postponed the deadline for the preliminary determination until no later than May 11, 1992.

We determine that this case is extraordinarily complicated because it involves the issue of applying the countervailing duty law to a nonmarket economy. We have determined that the parties concerned are cooperating and that additional time is necessary to make a preliminary countervailing duty determination. For these reasons, we

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determine that this investigation is extraordinarily complicated in accordance with section 703(c)(1)(B)(i)(II) of the Act and that additional time is necessary to make the preliminary determination in accordance with section 703(c)(1)(B)(ii) of the Act.

This notice is published pursuant to section 703(c)(2) of the Act and 19 CFR 355.15(e).

Dated: February 14, 1992.

Marjorie A. Chorlins,
Acting Assistant Secretary for Import Administration.

[FR Doc. 92-4061 Filed 2-20-92; 8:45am]

BILLING CODE 3510-DS-M

Short-Supply Determination; Certain Standard Length Premium Curve Rails

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice of Short-Supply Determination on certain standard length premium curve rails.

SHORT-SUPPLY NUMBER: 64.

SUMMARY: The Secretary of Commerce ("Secretary") hereby denies a request for 13,000 net tons of certain standard length premium curve rails for the first quarter of 1992 under paragraph 8 of the Arrangement Between the Government of Japan and the Government of the United States Concerning Trade in Certain Steel Products (the "U.S.-Japan Steel Arrangement").

EFFECTIVE DATE: February 14, 1992.

FOR FURTHER INFORMATION CONTACT: James Rice or Kathy McNamara, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, room 7866, 14th St. and Constitution Avenue NW., Washington, DC 20230; (202) 377-3793.

SUPPLEMENTARY INFORMATION: On January 15, 1992, the Secretary received an adequate short-supply petition from Union Pacific Railroad ("UP") requesting a short-supply allowance for 13,000 net tons of certain premium curve rail for the first quarter of 1992 under paragraph 8 of the U.S.-Japan Steel Arrangement. UP requested short supply because it alleges that the requested product is not produced domestically and because its potential Japanese suppliers do not have sufficient export licenses available during this period. The Secretary conducted this short-supply review pursuant to section 4(b)(4)(a) of the Steel Trade Liberalization Program Implementation Act, Public Law No. 101-221, 103 Stat. 1886 (1989) ("the Act"), and § 357.102 of the Department of Commerce's Short-Supply Procedures, 19 CFR 357.102 ("Commerce's Short-Supply Procedures").

The requested product meets the following specifications:

Chemistry

Carbon—0.72-0.82 percent.
Manganese—0.80-1.20 percent.
Phosphorus—0.030 percent maximum.
Sulphur—0.025 percent maximum.
Silicon—0.50 percent maximum.
Chromium—0.25 percent maximum.
Molybdenum—0.25 percent maximum.
Minimum Tensile Strength: 171,000 psi.
Minimum Yield Strength: 114,000 psi.
Minimum Elongation: 10 percent.

Minimum Brinell Hardness of the head must be 322 at 0.4 inches from the surface. Average surface hardness must be a minimum of 380.

The rails must be free of shatter cracks through at least one of the following processes: Controlled cooling of rails or blooms; vacuum treatment; or other such process.

The rails must be ultrasonically tested for internal imperfections to detect a minimum of 3/32 inch diameter defect anywhere in the sound path of the head, a minimum of 1/16 inch diameter defect in the web and longitudinal imperfections exceeding ½ inch length and greater than 1/16 inch depth occurring in the base.

The rails must meet a figure of .001721 inch of gage face wear per million gross tons on the high rail, and a figure of .00296 inch of head height loss on the low rail, as measured by the American Association of Railroads.

ACTION: On January 15, 1992, the Secretary established an official record on this short-supply request (Case Number 64) in the Central Records Unit, room B-099, Import Administration, U.S. Department of Commerce at the above address. On January 28, 1992, the Department published a notice in the Federal Register (57-FR-3167) announcing a review of this request and soliciting comments from interested parties. Comments were required to be received no later than February 4, 1992, and interested parties were invited to file replies to any comments no later than February 9, 1992. In order to determine whether this product, or a viable alternative product, could be supplied in the U.S. market for the period of this review, the Secretary sent questionnaires to Bethlehem Steel Corp. ("Bethlehem"), and CF&I Steel Corp. ("CF&I"). The Secretary received adequate questionnaire responses from both companies. UP submitted comments in response to Bethlehem's and CF&I's questionnaire responses.

QUESTIONNAIRE RESPONSES: Bethlehem indicated that it cannot produce premium rails which completely meet UP's specifications. CF&I indicated that it could produce material meeting UP's specifications, although it could not be supplied in the time requested by UP.

ANALYSIS: Two issues are raised in UP's request: (1) Whether CF&I can meet UP's specifications, and (2) whether UP's requirement that the product be shipped in the first quarter of 1992 is reasonable.

Regarding CF&I's ability to supply this product, UP alleges in its comments that CF&I requires purchasers of its head hardened rail to purchase equal quantities of standard rail, so that CF&I can transform the best standard rail heats into head hardened rail. CF&I has stated that it no longer requires this "dual purchase." UP also expresses concern that CF&I must pass each head hardened rail through the roller straightener twice, which according to UP, "imparts residual stresses believed to be harmful to the rail and injurious to rail life." However, UP's own specifications indicate that a maximum of two passes is acceptable for rail straightening. Therefore, CF&I's rail meets UP's specifications in this respect. According to information on the record, the Secretary determines that the premium rail produced by CF&I meets UP's specificatons.

To address the issue of determining whether UP's requested shipment date is reasonable, the Secretary must consider the nature of the rail industry and its normal order-to-delivery schedule. To support its requested order-to-delivery time, UP cites the House Report of the Steel Trade Liberalization Implementation Act ("House Report"), which states that

> The petitioner must be able to obtain supply within the normal order-to-delivery period for that product. In considering whether a potential domestic supplier is a viable source of domestic supply to the petitioner, the Secretary shall take into account the ability of the domestic supplier to deliver the requested product within the time frame designated by the petitioner, provided that such time frame is reasonable in light of normal order-to-delivery periods. H.R. 263, 101st Cong., 1st Sess. 15 (1989).

The question of determining what is a normal order-to-delivery period for this product has been addressed by all parties to this review. All parties agree that a normal order-to-delivery period is approximately 6 months or longer for this product. UP's request requires shipment within a period of approximately 6–7 weeks. Because the House Report directs the Secretary to consider normal order-to-delivery periods, and UP's period is considerably shorter than the industry's normal period, the Secretary finds that UP's requirement is not reasonable.

CONCLUSION: A domestic supplier can produce the material meeting UP's specifications. UP's required order-to-delivery period does not offer the domestic producer an adequate opportunity to supply the material because it is not within the normal order-to-delivery period for this product. The Secretary hereby denies UP's short-supply request for 13,000 net tons of premium curve rail, pursuant to section 4(b)(4)(a) of the Act, and section 357.102 of Commerce's Short-Supply Procedures.

Dated: February 14, 1991.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92–4062 Filed 2–20–92; 8:45 am]

BILLING CODE 3510-DS-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped

ACTION: Addition to Procurement List.

SUMMARY: This action adds to the Procurement List services to be furnished by a nonprofit agency employing persons with severe disabilities.

EFFECTIVE DATE: March 23, 1992.

ADDRESSES: Committee for Purchase from the Blind an Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverely Milkman (703) 557–1145.

SUPPLEMENTARY INFORMATION: On December 13 and 20, 1991, the Committee for Purchase from the Blind and Other Severely Handicapped published notice (56 FR 65047 and 66019) of proposed additions to the Procurement List. After consideration of the material presented to it concerning the capability of a qualified nonprofit agency to provide the services at a fair market price and the impact of the addition on the current or most recent contractor, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and CFR 51–2.6.

I certify that the following action will not have a significant impact on a substantital number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will not have a severe economic impact on current contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Accordingly, the following services are hereby added to the Procurement List:

Janitorial/Custodial, U.S. Army Reserve Center, 2800 and 2808 Crestline Road, Forth Worth, Texas.
Janitorial/Custodial, U.S. Army Reserve Center #3, 400 Dry Hill Road, Beckley, West Virginia.

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 92–4043 Filed 2–20–92; 8:45 am]

BILLING CODE 6820-33-M

Procurement List Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List a commodity and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: March 23, 1992.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodity and services listed below from nonprofit agencies employing persons who are blind or have severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity and services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodity and services.

3. The action will result in authorizing small entities to furnish the commodity and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity and services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

It is proposed to add the following commodity and services to the Procurement List:

Commodity

Pallet Cover, Polyethylene, 3990–00–930–1480.

Services

Janitorial/Custodial, Pearl Harbor Commissary, Pearl Harbor, Hawaii.
Janitorial/Custodial, Barbers Point Commissary, Barbers Point, Hawaii.

Beverly L. Milkman,

Executive Director.

[FR Doc. 92–4044 Filed 2–20–92; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before March 23, 1992.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Wallace R. McPherson, Jr., Department of Education, 400 Maryland Avenue, SW., room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Wallace R. McPherson (202) 708–5174.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following:

(1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Wallace R. McPherson, Jr. at the address specified above.

Dated: February 14, 1992.

Wallace R. McPherson, Jr.,

Acting Director, Office of Information Resources Management.

Office of Elementary and Secondary Education

Type of Review: Extension.

Title: State Application (Chapter 2 Federal, State and Local Partnership for Educational Improvement).

Frequency: Annually.

Affected Public: State or local governments.

Reporting Burden:

Responses: 52.

Burden Hours: 1,560.

Recordkeeping Burden:

Recordkeepers: 0.

Burden Hours: 0.

Abstract: This form will be used by state educational agencies to apply for funding under the Chapter 2 Federal, State and Local Partnership for Educational Improvement Program. The Department will use this information to make grant awards.

Office of Elementary and Secondary Education

Type of Review: Revision.

Title: New and Continuation Application for Grants Under the Chapter 1 Migrant Education Coordination.

Frequency: Annually.

Affected Public: State or local governments.

Reporting Burden:

Responses: 24.

Burden Hours: 1,018.

Recordkeeping Burden:

Recordkeepers: 0.

Burden Hours: 0.

Abstract: This form will be used by state or local governments to apply for funding under the Chapter 1 Migrant Education Coordination Program. The Department uses the information to make grant awards.

Office of Policy and Planning

Type of Review: New.

Title: Survey of Chapter 1 Services for Nonpublic Sectarian School Participants.

Frequency: One-time.

Affected Public: State or local governments.

Reporting Burden:

Responses: 475.

Burden Hours: 638.

Recordkeeping Burden:

Recordkeepers: 0.

Burden Hours: 0.

Abstract: This survey will provide information on Chapter 1 services to students in nonpublic sectarian schools. The results of this survey will assist the Department to inform Congress about the implementation of Chapter 1 provisions for serving nonpublic sectarian school students.

Office of Policy and Planning

Type of Review: New.

Title: Evaluation of the Academic Excellence Program.

Frequency: One-time.

Affected Public: State or local governments.

Reporting Burden:

Responses: 66.

Burden Hours: 66.

Recordkeeping Burden:

Recordkeepers: 0.

Burden Hours: 0.

Abstract: This evaluation will investigate the dissemination and implementation process involved in exemplary bilingual education programs. The information will be used to impact the spread of exemplary bilingual education programs for limited English proficient students.

Office of Policy and Planning

Type of Review: Reinstatement.

Title: Income-Contingent Loan Program Demonstration Project.

Frequency: One-time.

Affected Public: Individuals or households.

Reporting Burden:

Responses: 2,700.

Burden Hours: 675.

Recordkeeping Burden:

Recordkeepers: 0.

Burden Hours: 0.

Abstract: This study will collect data from current and former borrowers of income contingent loans. The data collected will be used by the Department to meet the legislative requirements of examining the income contingent repayment method.

[FR Doc. 92-4002 Filed 2-20-92; 8:45 am]

BILLING CODE 4000-01-M

[CFDA. No.: 84.201]

School Dropout Demonstration Assistance Program

ACTION: Correction.

SUMMARY: On January 17, 1992, a notice inviting applications for new awards for fiscal year (FY) 1992 for the School Dropout Demonstration Assistance Program was published in the Federal Register (57 FR 2081).

The purpose of this correction notice is to extend the original deadlines for transmittal of applications and intergovernmental review as set forth in the January 17, 1992 notice, and to inform applicants of the new application availability date.

The deadline for transmittal of applications is changed from March 26, 1992 to April 3, 1992; the deadline for intergovernmental review is changed from May 25, 1992 to June 3, 1992; and the application availability date is changed from February 10, 1992 to February 18, 1992.

FOR APPLICATIONS OR INFORMATION CONTACT: John R. Fiegel, School Dropout Demonstration Assistance Program, U.S. Department of Education, 400 Maryland Avenue, SW., room 2049, Washington, DC 20202-6246. Telephone: (202) 401-1342. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1-800-877-8339 (in the Washington, DC 202 area code, telephone 708-9300) between 8 a.m. and 7 p.m., Eastern time.

Dated: February 14, 1992.

John T. MacDonald,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 92-4059 Filed 2-20-92; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Award of Grant Agreement Noncompetitive Financial Assistance

AGENCY: DOE Nevada Field Office.

ACTION: Notice of intent to award on a noncompetitive basis.

SUMMARY: Pursuant to 10 CFR 600.7(b)(2)(i)(B), DOE announces its intent to award a grant to the International Association of Geochemistry and Cosmochemistry (IAGC) for the purposes of supporting the conduct of an international symposium (7th Interntional Symposium on Water-Rock Interaction) to be held July 13-22, 1992, in Park City, Utah. The grant will enable DOE to be a "sponsor" of this international event. Many of the topics and theme sections of the symposium relate directly to site characterizations at Yucca Mountain, Nevada. Leading scientists from about 30 countries will be reporting on research results concerning water-rock interactions in unsaturated soil and rock as well as on new or extended methods and techniques of analysis. DOE support would be beneficial to both DOE and the affected scientific community. Fields of particular interest to DOE include mineral diagenesis, applications of stable and radioactive isotopes to hydrogeologic problems, and geochemical modeling. Proceeds from this grant will be used for logistical support and publishing and printing of conference proceedings.

The project period for the proposed grant is March 1, 1992 through September 30, 1992. The total estimated cost of this award is $10,000.

FOR FURTHER INFORMATION, CONTACT: U.S. Department of Energy, Yucca Mountain Site Characterization Project Office, Attention: Birdie Hamilton-Ray, P.O. Box 98608, Las Vegas, Nevada 89193-8608.

Issued in Las Vegas, Nevada, on February 10, 1992.

Nick C. Aquilina,

Manager, DOE Nevada Field Office.

[FR Doc. 92-4068 Filed 2-20-92; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER92-220-000, et al.]

Baltimore Gas & Electric Co., et al., Electric Rate, Small Power Production, and Interlocking Directorate Filings

February 11, 1992.

Take notice that the following filings have been made with the Commission:

1. Baltimore Gas & Electric Company

[Docket No. ER92-220-000]

Take notice that on January 28, 1992, Baltimore Gas & Electric Company tendered for filing an amendment to its December 11, 1991 filing in the above-referenced docket.

Comment date: February 25, 1992, in accordance with Standard Paragraph E at the end of this notice.

2. Consolidated Edison Company of New York, Inc.

[Docket No. ER92-41-000]

Take notice that on January 31, 1992, Consolidated Edison Company of New York, Inc. ("Con Edison"), in response to a deficiency letter herein, tendered for filing additional information relative to certain supplements to its Rate Schedule FERC No. 94, which provides for transmission service to Long Island Lighting Company ("LILCO").

Con Edison states that a copy of this filing has been served by mail upon LILCO.

Comment date: February 25, 1992, in accordance with Standard Paragraph E at the end of this notice.

3. Southwestern Electric Power Company

[Docket No. ER92-299-000]

Take notice that on January 31, 1992, Southwestern Electric Power Company ("SWEPCO"), tendered for filing a Letter Agreement dated December 19, 1991, between SWEPCO and the City of Bentonville, Arkansas ("City").

The Letter Agreement amends the Power Supply Agreement between SWEPCO and the City dated December 28, 1990. Section 10.7 of the Power Supply Agreement contemplated that by December 31, 1991, SWEPCO and the City would have completed negotiation of an amendment to the Power Supply Agreement that would have provided the City additional power supply planning flexibility and extended the primary term of the Power Supply Agreement. The Letter Agreement extends to February 29, 1992, the time in which the City and SWEPCO may complete negotiation of such and amendment.

Copies of the filing have been served upon the City and the Arkansas Public Service Commission.

Comment date: February 25, 1992, in accordance with Standard Paragraph E at the end of this notice.

4. Wisconsin Electric Power Company

[Docket No. ER92-310-000]

Take notice that Wisconsin Electric Power Company ("Wisconsin Electric") on February 3, 1992, tendered for filing an electric service agreement between itself and two wholesale customers, Oconto Falls Water and Light Commission and Oconto Electric Cooperative. The electric service agreement provides for the establishment of a second delivery point for service to Oconto Electric Cooperative.

Wisconsin Electric respectfully requests waiver of the Commission's notice requirements to allow an effective date of November 4, 1991, the actual in-service date of the second delivery point. Wisconsin Electric is authorized to state that the Oconto Falls Water and Light Commission and Oconto Electric Cooperative join in the requested effective date.

Copies of the filing have been served on Oconto Falls Water and Light Commission, Oconto Electric Cooperative, and the Public Service Commission of Wisconsin.

Comment date: February 25, 1992, in accordance with Standard Paragraph E at the end of this notice.

5. WestPlains Energy

[Docket No. ER92-193-000]

Take notice that on January 21, 1992, WestPlains Energy tendered for filing an amendment to its November 18, 1991 filing in the above-referenced docket.

Comment date: February 25, 1992, in accordance with Standard Paragraph E at the end of this notice.

6. Northern States Power Company (MN), Northern States Power Company (WI)

[Docket No. ER92-303-000]

Take notice that on January 31, 1992, Northern States Power Company ("NSP") tendered for filing the Western Interconnection and Interchange Agreement dated December 31, 1991, between Northern States Power Company (Minnesota) ("NSP-MIN"), Northern States Power Company (Wisconsin) ("NSP-WI") and the Wisconsin Public Power Incorporated System ("WPPI").

The Western Interconnection and Interchange Agreement ("Western Agreement") dated December 31, 1991, provides contractual points of interconnection between NSP and WPPI, and provides that NSP and WPPI may engage in transactions pursuant to future service schedules under the Western Agreement. WPPI was recently granted Participant Member status in MAPP for its generation and loads in the MAPP region. The Western Agreement relates to interconnections and services between NSP and that portion of WPPI which is a Participant Member in MAPP.

NSP requests that the Western Interconnection and Interchange Agreement be accepted for filing effective November 1, 1991, and requests waiver of Commission's notice requirements in order for the Agreement to be accepted for filing on that date.

Comment date: February 25, 1992, in accordance with Standard Paragraph E at the end of this notice.

7. Allegheny Power Service Corporation on Behalf of West Penn Power Company and Monongahela Power Company

[Docket No. ER92-298-000]

Take notice that on January 31, 1991, Allegheny Power Service Corporation on behalf of West Penn Power Company and Monongahela Power Company, filed Addendum V to the Operating Agreement dated June 1, 1971, among Appalachian Power Company, Ohio Power Company, Wheeling Electric Company, Monongahela Power Company and West Penn Power Company. Addendum V revises Schedules A, C, D and E of the Operating Agreement. The revisions propose to change rates charged by West Penn Power Company and Monongahela Power Company under the Operating Agreement's Schedules for Emergency Services, Short Term Power and Energy, Limited Term Power and Energy, and Interchange Power and Energy. The revisions also modernize and standardize the language and provide more flexible service conditions.

Copies of the filing were served upon the Pennsylvania Public Utility Commission, Public Utilities Commission of Ohio, and the West Virginia Public Service Commission.

Comment date: February 25, 1992, in accordance with Standard Paragraph E at the end of this notice.

8. Louisville Gas and Electric Company

[Docket No. ER92-301-000]

Take notice that Louisville Gas and Electric Company (Louisville), by letter dated January 31, 1992, tendered for filing as an initial Rate Schedule an Agreement dated January 31, 1992 between Louisville and Oglethorpe Power Corporation (Oglethorpe).

This new agreement establishes a coordinated Power Sales Agreement between Louisville and Oglethorpe upon which the sale of power and energy and the delivery of third party purchases shall be effected. The rates of Louisville contained in the Agreement are the same as those currently in effect in an interconnection agreement between Louisville and Indiana Michigan Power Company.

A copy of the filing was served upon the Kentucky Public Service Commission, this Commission, and Oglethorpe.

Comment date: February 25, 1992, in accordance with Standard Paragraph E at the end of this notice.

9. Cogeneration Michigan Associates Limited Partnership and Beaver Michigan Associates Limited Partnership

[Docket Nos. EC92-9-000 and ER92-296-000]

Take notice that on January 29, 1992, Cogeneration Michigan Associates Limited Partnership (CMA), a Michigan limited partnership, and Beaver Michigan Associates Limited Partnership (BMA), a Michigan limited partnership, tendered for filing, pursuant to 18 CFR 35.1 and 35.13, proposed Supplement No. 8 to FERC Rate Sechedule No. 1, applicable to sales of energy and capacity to Consumers Power Company (Consumers) from a biomass waste wood electric generating facility to be located in Cadillac, Michigan (the Facility). The Facility is a qualifying small power production facility within the meaning of sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978 and the regulations promulgated thereunder.

CMA's initial rate schedule was accepted for filing by the Commission on November 29, 1990 in Docket No. ER91-12-000. The Commission also waived certain of its regulations found to be not appropriate or applicable to qualfying facilities.

The proposed supplemental rate schedule is set forth in Amendment No. 4 to Power Purchase Agreement (the "Amended Agreement"), between CMA and Consumers. The Amended Agreement supersededs and restates the initial rate schedule contained in the Facility's prior Power Purchase Agreement with Consumers, but does not modify any of the rates or other charges set forth in the initial rate schedule as filed in Docket No. ER91-12-000.

The Applicants request waiver of the Commission's 120 day notice requirements so that the supplemental rate schedule may take effect as of the date of the Facility's initial delivery to Consumers. The Applicants also seek waiver of the Commission's requirements for filing changes in the Supplemental Rate Schedule in the event of any change in the rates calculated pursuant to the formulas set forth in the Amended Agreement.

The Applicants also request approval under section 203 of the Federal Power Act in connection with the transfer and assignment of the Amended Agreement from CMA to BMA.

Additionally, BMA seeks waiver of the Commission's regulations regarding cost-of-service documentation, accounting practices, reporting requirements, property dispositions and consolidations, securities issuances or assumptions of liability, the holding of interlocking positions and such other matters as the Commission deems appropriate. Such waivers were previously granted to CMA in Docket No. ER91-12-000.

Copies of the instant filing have been served upon Consumers and the Michigan Public Service Commission.

Comment date: February 25, 1992, in accordance with Standard Paragraph E at the end of this notice.

10. Maine Public Service Company

[Docket No. ER92-313-000

Take notice that on February 5, 1992, Maine Public Service Company (MPS) tendered for filing a proposed initial rate schedule with Alternative Energy, Inc. (AEI) covering transmission services by MPS for AEI's Beaver-Ashland generating facility to be constucted in Ashland, Maine. MPS has requested that the rate schedule become effective upon AEI securing financing for the construction of Beaver-Ashland, at which time certain initial charges commence. However, commencement of deliveries from Beaver-Ashland are currently projected to occur some time in late 1993.

Comment date: February 25, 1992, in accordance with Standard Paragraph E at the end of this notice.

11. Madison Gas and Electric Company

[Docket No. ER92-312-000]

Take notice that on February 5, 1992, Madison Gas and Electric Company (MGE) tendered for filing with the Federal Energy Regulatory Commission an Agreement between it and Wisconsin Public Power, Inc. SYSTEM (WPPI). MGE and WPPI request waiver of the notice requirements to permit the Agreement to become effective February 1, 1992.

MGE states that a copy of the filing has been provided to WPPI and also to the Public Service Commission of Wisconsin.

Comment date: Feburary 25, 1992, in accordance with Standard Paragraph E at the end of this notice.

12. Vermont Electric Power Company

[Docket No. ER92-284-000]

Take notice that on January 29, 1992, Vermont Electric Power Company tendered for filing an amendment to its January 23, 1992 filing in the above-referenced docket.

Comment date: February 25, 1992, in accordance with Standard Paragraph E end of this notice.

13. Central Illinois Public Service Company

[Docket No. ER92-304-000]

Take notice that on January 31, 1992, Central Illinois Public Service Company ("CIPS") tendered for filing a Power Supply and Transmission Services Agreement, dated January 9, 1992, between CIPS and Wabash Valley Power Association, Inc. ("Wabash Valley"). Under this agreement, CIPS will initially provide 50 MW of power and energy and related transmission services to Wabash Valley. Over the first three years, the sale of capacity will increase until, effective January 1, 1995 and thereafter, CIPS will provide 65 MW of power and energy to Wabash Valley. CIPS and Wabash Valley propose an effective date of August 1, 1992, and, therefore, request waiver of the Commission's notice requirements.

Copies of the filing have been served on Wabash Valley, the Illinois Commerce Commission and the Indiana Utility Regulatory Commission.

Comment date: February 25, 1992, in accordance with Standard Paragraph E at the end of this notice.

14. Wisconsin Public Service Corporation

[Docket No. ER92-307-000]

Take notice that on February 4, 1992, Wisconsin Public Service Corporation ("the Company") of Green Bay, Wisconsin, filed a proposed Supplement No. 3 to Supplement No. 3 to the Company's Service Agreement with WPPI which relates to WPPI peak shaving for the period January 1, 1994 through December 31, 1995.

WPPI is the only customer currently peak shaving under the Company's W-1 full requirements tariff. WPPI supports the filing and the proposed effective date of April 1, 1992.

The filing does not change the level of the Company's rates. The Company states that it has furnished copies of the filing to WPPI, its other customers who are served under the full requirements tariff, the Michigan Public Service Commission and the Public Service Commission of Wisconsin.

Comment date: February 25, 1992, in accordance with Standard Paragraph E at the end of this notice.

15. Consolidated Edison Company of New York, Inc.

[Docket No. ER92-52-000 and ER92-56-000]

Take notice that on January 31, 1992, Consolidated Edison Company of New York, Inc. ("Con Edison"), in response to a deficiency letter herein, tendered for filing additional information relative to certain agreements under which it provided transmission service to United Illuminating Company ("UI") and Green Mountain Power Corporation ("GMPC").

Con Edison states that copies of this filing have been served by mail upon UI and GMPC.

Comment date: February 25, 1992, in accordance with Standard Paragraph E at the end of this notice.

16. Wisconsin Power & Light Company, Wisconsin Public Service Corporation, and Madison Gas and Electric Company

[Docket No. ER92-311-000]

Take notice that on February 5, 1992, Wisconsin Power & Light Company, Wisconsin Public Service Corporation and Madison Gas and Electric Company tendered for filing with the Federal Energy Regulatory Commission Supplement No. 2 to the parties' July 26, 1973 Joint Power Supply Agreement. The Supplement Agreement has been entered into in settlement of certain matters that had been raised by Madison Gas and Electric Company in Docket No. EL91-46-000; the earlier docket was terminated by Commission order dated September 27, 1991. The parties to the Supplemental Agreement request that it become effective on February 4, 1992, in accordance with its terms. Therefore waiver of notice is requested.

Copies of the filing have been provided to each of the signatories and to the Wisconsin Public Service Commission.

Comment date: February 25, 1992, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 92-3904 Filed 2-20-92; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 11055-000 New Hampshire]

Wilton Hydroelectric Co., Inc., Availability of Environmental Assessment

February 13, 1992.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for minor license for the existing unlicensed Wilton Hydroelectric Project located on the Souhegan River in Hillsborough County, near the Village of Wilton, New Hampshire, and has prepared an Environmental Assessment (EA) for the existing project. In the EA, the Commission's staff analyzed the environmental impacts of the existing project and concluded that approval of the existing project, with appropriate enhancement measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, room 3308, of the Commission's offices at 941 North Capitol Street NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 92–3985 Filed 2–20–92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD92–03670T New Mexico–30]

State of New Mexico; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

February 13, 1991.

Take notice that on February 10, 1992, the Oil Conservation Division of the State of New Mexico (New Mexico), submitted the above-referenced notice of determination pursuant to 271.703(c)(3) of the Commission's regulations, that a portion of the Morrow Formation, Red Hills-Morrow Gas Pool, Pitchfork Ranch-Morrow Gas Pool and Vaca Draw-Morrow Gas Pool in Lea County, New Mexico, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The area of application includes approximately 29,120 acres (81% Federal, 16% State and 3% Fee) more particularly described as follows:

Township 25 South, Range 33 East, NMPM

Sections 1 through 14: All
Section 15: W/2
Sections 16 through 20: All
Section 21: N/2
Sections 22 through 36: All

Township 25 South, Range 34 East, NMPM

Sections 6 and 7: All
Section 8: S/2
Sections 17 through 20: All
Sections 29 through 32: All

The notice of determination also contains New Mexico's and the Bureau of Land Management's findings that the referenced portions of the Morrow Formation meet the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 92–3986 Filed 2–20–92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP92–6–000]

Charley Cain Gas Co.; Protest to Refund Demand and Billing Adjustment

February 13, 1992.

Take notice that on January 29, 1992 Charley Cain Gas Company (Cain) filed a protest pursuant to 18 CFR 270.101(e)(2)(ii) to the demand for refund and notice of billing adjustment issued to Cain by Columbia Gas Transmission Corporation (Columbia) dated November 11, 1991.

Cain states that on November 11, 1991 Columbia informed Cain that Columbia had paid Cain for gas purchased from the H. C. Cassady well, located in Martin County, Kentucky, at the Natural Gas Policy Act of 1978 (NGPA) section 108–1 rate during a period of time when that well's gas production had exceeded the 60 Mcf per day Stripper Well requirement. Cain states that Columbia alleged that it had overpaid Cain the difference between the NGPA section 108 and section 104 rates for the period April 1984 through March 1991. Cain states that Columbia demanded from Cain a refund in the amount of $300,352.10, plus interest at the rate of $71.68 per day up to the date of payment. Cain asserts that the subject well qualified as a Stripper Well at all relevant periods and, in the event it is held to have disqualified, asserts that the well requalified for all subsequent ninety day production periods.

Cain asserts that in order to examine the basis for Columbia's refund claim, Cain requires complete copies of Columbia's calculations supporting the refund claim.

Any person desiring to be heard or to protest said protest should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before February 21, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 92–3987 Filed 2–20–92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP91–187–000 and CP91–2448–000]

Florida Gas Transmission Co.; Reconvening Informal Settlement Conference

February 13, 1992.

Take notice that the informal settlement conference previously scheduled to be convened on February 18–19, 1992 (57 FR 2270; January 21, 1992), has been rescheduled to be held on March 18–19, 1992, at 10 a.m., on each day, at the offices of the Federal Energy Regulatory Commission, 810 First Street NE., Washington, DC, for the purpose of exploring the possible settlement of the issues in this proceeding.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Warren C. Wood at (202) 208–2091 or Donald Williams at (202) 208–0743.

Lois D. Cashell,

Secretary.

[FR Doc. 92–3988 Filed 2–20–92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92–48–000]

Viking Gas Transmission Co. Technical Conference

February 13, 1992.

A conference will be held on Tuesday March 24, 1992, at 10 a.m., pursuant to the December 31, 1991 order in the captioned docket.

The conference on March 24, 1992, will be held in a room to be designated at the offices of the Federal Energy Regulatory Commission, 810 First Street NE., Washington DC 20426.

All interested persons are permitted to attend.

Lois D. Cashell,

Secretary.

[FR Doc. 92–3989 Filed 2–20–92; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-4106-5]

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information (202) 206-5076 or (202) 260-5075.

Availability of Environmental Impact Statements Filed February 10, 1992 Through February 14, 1992 Pursuant to 40 CFR 1506.9.

EIS No. 920040, Draft EIS, AFS, MT, Smeads-Rice Timber Sale, Implementation, Kootenai National Forest, Cabinet Ranger District, Sanders County, MT, Due: April 21, 1992, Contact: Dave Wischer (406) 827-3534.

EIS No. 920041, Final EIS, FHW, SC, Cross Island Expressway Construction, US 278 to Palmetto Bay Road, Hilton Head Island, Funding and section 10 and 404 Permits, Beaufort County, SC, Due: March 23, 1992, Contact: Kenneth Myers (803) 253-3881.

EIS No. 920042, Draft EIS, FHW, NC, Hickory East Side Thoroughfare Transportation Improvement, US 127 to I-40 east of Hickory and continuing to US 70 in the vicinity of Startown Road, Funding, Section 404 Permit, City of Hickory, Catawba County, NC, Due: April 06, 1992, Contact: Nicholas L. Graf (919) 856-4346.

EIS No. 920043, Draft EIS, IBR, CA, Arvin-Edison/Metropolitan Water Storage and Exchange Program, Central Valley Project, Implementation and Funding, City of Arvin, Kern County, CA, Due: April 20, 1992, Contact: Robert Shaffer (916) 978-5487.

EIS No. 920044, Final EIS, COE, KY, Lower Cumberland and Tennessee Rivers Navigation Improvements, Kentucky Lock Addition, Implementation, Nashville District, Marshall and Livingston Counties, KY, Due: March 23, 1992, Contact: Richard Tippit (615) 736-2020.

EIS No. 920045, Draft EIS, AFS, ID, Emerald Creek Resource Unit Drainage/Timber Sales, Implementation, Idaho Panhandle National Forests, St. Maries Ranger District, Benewah, Latah and Shoshone Counties, ID, Due: April 06, 1992, Contact: Tracy Gravelle (208) 245-2531.

EIS No. 920046, Draft EIS, SFW, VA, MD, Chincoteague National Wildlife Refuge (NWR) Comprehensive Management and Development Plan, Implementation and Land Acquisition, Accomack Co, VA and Worcester Co., MD, Due: April 06, 1992, Contact: John D. Schoroer (804) 336-6122.

EIS No. 920047, Draft EIS, FAA, IN, Indianapolis International Airport Master Plan Development, Construction and Operation, Runway 5L/23R Parallel to existing Runway 14/32 and connecting to Runways 5R/23L and 5L/23R, Airport Layout Plan (ALP) Approval, Funding and section 404 Permit, Marion County, IN, Due: April 08, 1992, Contact: Melissa Wishy (312) 694-7524.

Amended Notices

EIS No. 920002, Final EIS, FAA, TX, Dallas/Fort Worth International Airport, Construction and Operation, Runway 16/34 East and Runway 16/34 West, Airport Layout Plan, Approval and Funding, Cities of Dallas and Fort Worth, TX, Due: March 19, 1992, Contact: Ms. Mo Keane (817) 624-5610. Published FR 01-17-92 - Review period extended.

Dated: February 18, 1992.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 92-4074 Filed 2-20-92; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-4106-7]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared February 03, 1992 Through February 07, 1992 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260-5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 05, 1991 (56 FR 14096).

Final EISs

ERP No. F-COE-L91008-00 1992 Columbia/Snake Rivers Salmon Flow Measures, Implementation, WA, OR and ID.

Summary: EPA has remaining concerns pertaining to the effects of the preferred alternative on water quality (i.e., water quality standards) and overall fish survival.

ERP No. F-UAF-L11015-ID Air Force in Idaho Proposal, Mountain Home AFB Composite Wing Establishment, Modification of Airspace to Accommodate Air Force and Air National Guard Flying Activities; and Air-to-Ground Training Range Establishment, Elmore County, ID.

Summary: EPA expressed concern about potential air quality impacts in the Jarbridge Wilderness area and suggested that the Air Force coordinate with EPA Region 9 on proposed activities.

ERP No. FS-UAF-J10003-00 Peacekeeper System Deployment (Minuteman III Missile Replacement) Additional Information, Near Warren AFB, Laramie, Goshen and Platte Counties, Wyoming and Scotts Bluff, Banner and Kimball Counties, Nebraska.

Summary: EPA has no objections to the proposed action.

ERP No. F1-SCS-J39013-00 Uintah Basin Unit Expansion Plan, Irrigation Improvement, Colorado River Salinity Control Program, Funding, Uinitah and Duchesne Cos., UT.

Summary: EPA believes that different approaches to protect wetlands should be considered in salinity control programs.

Dated: February 18, 1992.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 92-4075 Filed 2-20-92; 8:45 am]

BILLING CODE 6560-50-M

FARM CREDIT ADMINISTRATION

Privacy Act of 1974; Establishment of a New System of Records

AGENCY: Farm Credit Administration (FCA).

ACTION: Advance notice with request for comments; publication of proposed system notice for a new system of records.

SUMMARY: The FCA is establishing a new system of records under the Privacy Act to consist of the investigatory files of the FCA's Office of the Inspector General (OIG). The publication of this proposed system notice is one of the steps required to establish the new system. The new system of records facilitates the OIG's ability to collect, maintain, use, and disclose information pertaining to individuals, thus helping to ensure that the OIG may efficiently and effectively perform its investigations and other authorized duties and activities.

EFFECTIVE DATE: Comments must be received on or before March 22, 1992. Unless changes are made in response to comments received, this action is effective March 22, 1992.

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ADDRESSES: Comments may be mailed or delivered (in triplicate) to Jean Noonan, General Counsel, Office of General Counsel, Farm Credit Administration, McLean, Virginia 22102-5090. Copies of all communications will be available for examination by interested parties in the Office of General Counsel, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:

Elizabeth M. Dean, Counsel to the Inspector General, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090, (703) 883–4030,

or

Rebecca S. Orlich, Attorney, Regulatory and Legislative Law Branch, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION: As required by 5 U.S.C. 552a(e) (4) and (11), the FCA is notifying the public of the establishment of a new system of records in the FCA's Office of the Inspector General (OIG). This system is being established as part of the formal creation of an OIG by action dated January 22, 1989, and the appointing of the FCA's Inspector General on the same date, under the authority of the 1988 amendments to the Inspector General Act of 1978. *See* Pub. L. No. 100–504, amending Pub. L. No. 95–452; 5 U.S.C. app. 3. Among the OIG's statutory duties are the prevention and detection of fraud, waste, and abuse relating to the agency's programs and operations, through the conduct of audits and investigations and the preparation of reports to the agency's Chairman and to Congress.

The system of records being established consists of investigatory files compiled and maintained by the OIG. Due to the law enforcement nature of these records, the proposed system is exempt from certain provisions of the Privacy Act, including disclosure to individuals who are the subject of a record in the system. *See* 5 U.S.C. 552a (j)(2) and (k)(2). The exempt status of the system is the subject of a notice of proposed rulemaking to amend FCA regulation 12 CFR 603.355, which specifies the FCA systems of records that are exempt from certain provisions of the Privacy Act. That notice will be published in the Federal Register on or about March 16, 1992. Pursuant to 5 U.S.C. 552a(r) and Office of Management and Budget (OMB) Circular No. A–130, *supra*, the FCA has submitted its report on the proposed establishment of this system of records to both houses of Congress and to OMB.

Accordingly, the FCA proposes to establish the following system of records:

FCA–18

SYSTEM NAME:

Inspector General Investigative Files—FCA.

SECURITY CLASSIFICATION:

Not applicable.

SYSTEM LOCATION:

Office of the Inspector General (OIG), Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Subjects of OIG investigations relating to the programs and operations of the Farm Credit Administration. Subject individuals include, but are not limited to, current and former employees; current and former agents or employees of contractors or subcontractors, as well as current and former contractors and subcontractors in their personal capacity, where applicable; and other individuals whose actions affect the FCA, its programs or operations. Businesses, proprietorships, and corporations are not covered by this system.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence relating to the investigation; internal staff memoranda; copies of subpoenas issued during the investigation, affidavits, statements from witnesses, transcripts of testimony taken in the investigation, and accompanying exhibits; documents, records, or copies obtained during the investigation; interview notes, investigative notes, staff working papers, draft materials, and other documents and records relating to the investigation; opening reports, progress reports, and closing reports; and other investigatory information or data relating to alleged or suspected criminal, civil, or administrative violations or similar wrongdoing by subject individuals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Inspector General Act Amendments of 1988, Pub. L. No. 100–504, amending the Inspector General Act of 1978, Pub. L. No. 95–452, 5 U.S.C. app. 3.

PURPOSE(S):

To document the conduct and outcome of investigations; to report results of investigation to other components of the FCA or other agencies and authorities for their use in evaluating their programs and imposition of criminal, civil, or administrative sanctions; to report the results of investigations to other agencies or other regulatory bodies for an action deemed appropriate, and for retaining sufficient information to fulfill reporting requirements; and to maintain records related to the activities of the Office of the Inspector General.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to the disclosures generally permitted under 5 U.S.C. 552a(b), these records or information in these records either by itself or in combination with other information within the agency's possession, may specifically be disclosed pursuant to 5 U.S.C. 552a(b)(3) as follows, provided that no routine use specified herein shall be construed to limit or waive any other routine use specified herein:

(1) To other agencies, offices, establishments, and authorities, whethe Federal, state, local, foreign, or self-regulatory (including, but not limited to, organizations such as professional associations or licensing boards), authorized or with the responsibility to investigate, litigate, prosecute, enforce, or implement a statute, rule, regulation, or order, where the record or information, by itself or in connection with other records or information:

(a) Indicates a violation or potential violation of law, whether criminal, civil, administrative, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, or

(b) Indicates a violation or potential violation of a professional, licensing, or similar regulation, rule, or order, or otherwise reflects on the qualifications or fitness of an individual who is licensed or seeking to be licensed;

(2) To any source, private or governmental, to the extent necessary to secure from such source information relevant to and sought in furtherance of a legitimate investigation or audit;

(3) To agencies, offices, or establishments of the executive, legislative, or judicial branches of the Federal or state government:

(a) Where such agency, office or establishment has an interest in an individual for employment purposes, including a security clearance or determination as to access to classified information, and needs to evaluate the individual's qualifications, suitability, and loyalty to the United States Government, or

(b) Where such agency, office, or establishment conducts an investigation of the individual for purposes of granting a security clearance, or for making a determination of qualifications, suitability, or loyalty to the United States Government, or access to classified information or restricted areas, or

(c) Where the records or information in those records is relevant and necessary to a decision with regard to the hiring or retention of an employee or disciplinary or other administrative action concerning an employee, or

(d) Where disclosure is requested in connection with the award of a contract or other determination relating to a government procurement, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision on the matter, including, but not limited to, disclosure to any Federal agency responsible for considering suspension or debarment actions where such record would be germane to a determination of the propriety or necessity of such action, or disclosure to the United States General Accounting Office, the General Services Administration Board of Contract Appeals, or any other Federal contract board of appeals in cases relating to an agency procurement;

(4) To to Office of Personnel Management, the Office of Government Ethics, the Merit Systems Protection Board, the Office of the Special Counsel, or the Equal Employment Opportunity Commission, of records or portions thereof relevant and necessary to carrying out their authorized functions, such as, but not limited to, rendering advice requested by the OIG, investigations of alleged or prohibited personnel practices, appeals before official agencies, offices, panels or boards, and authorized studies or reviews of civil service or merit systems or affirmative action programs;

(5) To independent auditors or other private firms with which the Office of Inspector General has contracted to carry out an independent audit or investigation, or to analyze, collate, aggregate or otherwise refine data collected in the system of records, subject to the requirement that such contractors shall maintain Privacy Act safeguards with respect to such records;

(6) To any authorized agency component of the FCA, the Department of Justice, or other law enforcement authorities, and for disclosure by such parties:

(a) To the extent relevant and necessary in connection with litigation in proceedings before a court or other adjudicative body, where (i) the United States is a party to or has an interest in the litigation, including where the agency, or an agency component, or an agency official or employee in his or her official capacity, or an individual agency official or employee whom the Department of Justice has agreed to represent, is or may likely become a party, and (ii) the litigation is likely to affect the agency or any component thereof, or

(b) For purposes of obtaining advice, including advice concerning the accessibility of a record or information under the Privacy Act or the Freedom of Information Act;

(7) To the National Archives and Records Administration for records management inspections conducted under authority of 44 U.S.C. 2904 and 2906;

(8) To a Congressional office from the record of a subject individual in response to an inquiry from the Congressional office made at the request of that individual, but only to the extent that the record would be legally accessible to that individual;

(9) To any direct recipient of Federal funds, such as a contractor, where such record reflects serious inadequacies with a recipient's personnel and disclosure of the record is for purposes of permitting a recipient to take corrective action beneficial to the Government;

(10) To debt collection contractors for the purpose of collecting debts owed to the Government, as authorized under the Debt Collection Act of 1982, 31 U.S.C. 3718, and subject to applicable Privacy Act safeguards;

(11) To a grand jury agent pursuant either to a Federal or state grand jury subpoena, or to a prosecution request that such record be released for the purpose of its introduction to a grand jury, where such subpoena or request has been specifically approved by a court; or

(12) To the Office of Management and Budget (OMB) for the purpose of obtaining advice regarding agency obligations under the Privacy Act, or in connection with the review of private relief legislation pursuant to OMB Circular A-19.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The OIG Investigative Files consist of paper records maintained in file folders, cassette tapes of interviews and data maintained on computer diskettes. The folders, diskettes and cassette tapes are stored in file cabinets in the OIG.

RETRIEVABILITY:

The records are retrieved by the name of the subject of the investigation or by a unique control number assigned to each investigation.

SAFEGUARDS:

Records are maintained in lockable file cabinets in lockable rooms. Access is restricted to individuals whose duties require access to the records. File cabinets and rooms are locked during non-duty hours.

RETENTION AND DISPOSAL:

As prescribed in General Records Schedule 22, item 1b, OIG Investigative Files are destroyed 10 years after a case is closed. Cases that are unusually significant for documenting major violations of criminal law or ethical standards are offered to the National Archives for permanent retention.

SYSTEM MANAGER AND ADDRESS:

Inspector General, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090.

NOTIFICATION PROCEDURE:

By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Privacy Act Officer, Congressional and Public Affairs, Farm Credit Administration, 1501 Farm Credit Drive McLean, VA 22102-5090.

RECORD ACCESS PROCEDURE:

Same as above.

CONTESTING RECORD PROCEDURE:

Same as above.

RECORD SOURCE CATEGORIES:

Employees or other individuals on whom the record is maintained, non-target witnesses, FCA and non-FCA records, to the extent necessary to carry out OIG investigations authorized by 5 U.S.C. app. 3.

SYSTEM(S) EXEMPTED FROM CERTAIN PROVISIONS OF THE PRIVACY ACT:

Pursuant to 5 U.S.C. 552a(j)(2), records in this system are exempt from the provisions of 5 U.S.C. 552a except subsections (b), (c) (1) and (2), (e)(4) (A) through (F), (e) (6), (7), (9) (10), and (11), and (i), and corresponding provisions of 12 CFR 603.355, to the extent the system of records relates in any way to the enforcement of criminal laws.

Pursuant to 5 U.S.C. 552a(k)(2), the system is exempt from 5 U.S.C. 552a

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(c)(3), (d), (e)(1), and (e)(4) (G), (H), and (I) and (f), and the corresponding provisions of 12 CFR 603.355, to the extent the system of records consists of investigatory material complied for law enforcement purposes, other than material within the scope of the exemption at 5 U.S.C. 552a(j)(2). *See* FCA regulation, 12 CFR 603.355, as amended.

Dated: February 13, 1992

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 92-4041 Filed 2-20-92; 8:45 am]

BILLING CODE 6705-01-M

FEDERAL COMMUNICATIONS COMMISSION

[DA 92-99]

Revision of ARMIS USOA Report (FCC Report 43-02) and Adoption of ARMIS Operating Data Report (FCC Report 43-08)

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This order requires carriers to incorporate 12 Form M schedules into the Commission's Automated Reporting Management Information System (ARMIS). This action increases the Commission's ability to accumulate, check, analyze and publish data in a more timely and efficient manner.

EFFECTIVE DATE: May 21, 1992.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Ackerman, Federal Communications Commission, Accounting and Audits Division, Common Carrier Bureau, Washington, DC 20554, (202) 634-1861.

SUPPLEMENTARY INFORMATION: This is a summary of the Chief of Common Carrier Bureau's Memorandum Opinion and Order, DA 92-99, adopted January 21, 1992, and released January 31, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the public reference room of the Commission's Accounting and Audits Division, 2000 L Street, NW., room 812, Washington, DC. The full text of this decision may also be purchased from the Commission's contractor, Downtown Copy Center, (202) 452-1422, 1114 21st Street, NW., Washington, DC 20036.

Public reporting burdens for the collections of information are estimated as follows: FCC Report 43-02 (OMB Control No. 3060-0395) estimated average of 240 hours per estimated annual 50 responses; FCC Report 43-08 (OMB Control No. None) estimated average of 160 hours per estimated annual 50 responses; FCC Form M (OMB Control No. 3060-0099) estimated average of 1400 hours per response per estimated annual 52 responses. The recordkeeping requirement for FCC Report 43-02 (OMB Control No. 3060-0395) is estimated to average 2 hours per recordkeeper with an estimated number of 50 recordkeepers. Total annual burden for all respondents is 92,900. (This is a decrease of 1250 hours from previous years.) These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Send comments regarding these burden estimates or any other aspect of the collections of information, including suggestions for reducing the burden, to the Federal Communications Commission, Information and Records Branch, room 416, Paperwork Reduction Project, Washington, DC 20554 and to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503.

Summary of Memorandum Opinion and Order

1. The Chief, Common Carrier Bureau, revised ARMIS USOA Report (FCC Report 43-02) to include four revised Form M schedules and incorporate these four schedules and eight additional Form M schedules into the Commission's Automated Reporting Management Information System (ARMIS). The Chief, Common Carrier Bureau, decided to incorporate these schedules into ARMIS because automation would allow the Commission to accumulate, check, analyze, and publish the data in a more timely and efficient manner. After the analysis of the pleadings received in this proceeding, the Chief, Common Carrier Bureau, modified the proposals in the Order Inviting Comments and extended the due date for the 1991 submittal to 90 days after the publication of this summary in the **Federal Register.** The Chief, Common Carrier Bureau, also adopted a number of technical and clerical changes to correct and clarify certain aspects of the ARMIS schedules.

Ordering Clause

2. Accordingly, *It is ordered,* pursuant to sections 4(i), 4(j), 201-205, 215, 219, and 220 of the Communications Act of 1934, as amended, 47 U.S.C. sections 154(i), 154(j), 201-205, 215, 218, 219, and 220, that the ARMIS USOA Report (FCC Report 43-02) *is revised,* ARMIS Operating Data Report (FCC Report 43-08) *is adopted,* and Annual Report Form M *is amended,* effective 90 days from publication in the **Federal Register.**

Federal Communications Commission.

Gerald P. Vaughan,

Deputy Bureau Chief, Operations.

[FR Doc. 92-3971 Filed 2-20-92; 8:45 am]

BILLING CODE 6712-01-M

Advisory Committee on Advanced Television Service; Planning Subcommittee Meeting

A meeting of the Planning Subcommittee of the Advisory Committee on Advanced Television Service will be held on: March 11, 1992, 10 a.m., Commission Meeting Room (room 856), 1919 M Street NW., Washington, DC.

The purpose of this meeting is to receive the reports of the Subcommittee's working parties and to review Planning Subcommittee activities.

The agenda for the meeting is as follows:

1. Call to Order by the Chairman.
2. Adoption of the Minutes of the Eighth Meeting
3. Introductory Remarks
4. Status Reports by the Working Party and Advisory Group Chairs
5. Review of Remaining Activities
6. Other Business
7. Date and Location of the Next Subcommittee Meeting
8. Adjournment

This meeting is open to the public.

Parties may submit written statements prior to or at the time of the meeting. Oral statements and discussion will be permitted under the direction of the Subcommittee Chairman.

Any questions regarding this meeting should be directed to Joseph A. Flaherty at (212) 975-2213 or William Hassinger at (202) 632-6460.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92-4070 Filed 2-20-92; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1878]

Petitions for Reconsideration and Applications for Review of Actions in Rule Making Proceedings

February 18, 1992.

Petitions for reconsideration and applications for review have been filed in the Commission rule making proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in room 239, 1919 M Street, NW., Washington, DC, or may be purchased from the Commission's copy contractor Downtown Copy Center, (202) 452–1422. Oppositions to these petitions and applications must be filed March 9, 1992. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of § 73.202(b) Table of Allotments, FM Broadcast Stations. (Apalachicola, Florida and Carrabelle, Florida) (MM Docket No. 89–497, RM Nos. 6877 and 7289) Number of Petitions Filed: 1.

Subject: Amendment of § 73.202(b) Table of Allotments, FM Broadcast Stations, (Hannahs Mill, Milledgeville and Perry, Georgia) (MM Docket No. 89–547, RM Nos. 6899, 7021, 7100 and 7102) Number of Petitions Filed: 1.

Subject: Amendment of § 73.202(b) Table of Allotments, FM Broadcast Stations. (LaFayette, Georgia) (MM Docket No. 89–629, RM–7031) Number of Petitions Filed: 1.

Subject: Amendment of § 73.202(b) Table of Allotments, FM Broadcast Stations. (Columbia, California) (MM Docket No. 90–176, RM–7053) Number of Petitions Filed: 2.

Subject: Amendment of Part 1 and 90 of the Commission's Rules Concerning the Construction Licensing and Operation of Private Land Mobile Radio Stations. (PR Docket No. 90–481, RM–6910) Number of Petitions Filed: 4.

Subject: Amendment of § 73.202(b) Table of Allotments, FM Broadcast Stations. (Bald Knob and Clarendon, Arkansas) (MM Docket No. 90–651, RM–7544) Number of Petitions Filed: 1.

Subject: Amendment of § 73.202(b) Table of Allotments, FM Broadcast Stations. (Reserve, Louisiana) (MM Docket No. 91–76, RM–7647) Number of Petitions Filed: 1.

Application for Review

Subject: Amendment of § 73.606(b) Table of Assignments, Television Broadcast Stations. (Kenansville, Florida) (MM Docket No. 86–388, RM–5385) Number of Applications Filed: 1.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92–3971 Filed 2–20–92; 8:45 am]

BILLING CODE 6712-01-M

Correction to Report Nos. 1868 and 1875

February 14, 1992–G4.

Petitions for reconsideration have been filed in the Commission rule making proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in room 239, 1919 M Street, NW., Washington, DC, or may be purchased from the Commission's copy contractor Downtown Copy Center (202) 452–1422. Oppositions to these petitions must be filed March 9, 1992. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of parts 21, 43, 74, 78 and 94 of the Commission's Rules Governing Use of the Frequencies in the 2.1 and 2.5 GHz Bands Affecting: Private Operational-Fixed Microwave Service, Multipoint Distribution Service, Multichannel Multipoint Distribution Service, Multichannel Multipoint Distribution Service, Instructional Television Fixed Service, and Cable Television Relay Service. (Gen. Docket No. 90–54)

Filed by: Frederick M. Joyce and Christine McLaughlin, Attorneys for Ruralvision South & Ruralvision Central on 11/25/91. Paul J. Sinderbrand, Attorney for The Wireless Cable Association, Inc. on 12/13/91. Howard J. Braun, Attorney for Ross Communications Incorporated, Joseph J. Hemenway, James D. Larson and Michael F. Reed on 12/16/91.

The above list includes all petitions for reconsideration filed in Gen. Docket No. 90–54. On December 11, 1991, the Commission issued a public notice (Report No. 1868) which listed only one petition being filed. Because the deadline date for filing petitions for reconsideration in this proceeding had not ended when that public notice was issued, the filing dates for responses is modified to correspond with this public notice.

Subject: Review of the Technical Assignment Criteria for the AM Broadcast Service. (MM Docket No. 87–267)

Filed by: Edward A. Schober, PE on 12/3/91.

The above petition for reconsideration was inadvertently omitted from the Commission's public notice (Report No. 1875) issued on February 5, 1992. That Public notice has been published in the Federal Register (57 FR 4679, February 10, 1992). The response dates established in the Federal Register (Oppositions due February 25, 1992 and replies due March 6, 1992) will also apply to this petition.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92–3972 Filed 2–20–92; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Josiah and Valer Austin, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 13, 1992.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Josiah and Valer Austin*, Pearce, Arizona; to acquire up to 18.7 percent of the voting shares of Westport Bancorp, Inc., Westport, Connecticut, and thereby indirectly acquire Westport Bank and Trust Company, Westport, Connecticut.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *David Neal Walthall*, Plano, Texas; to acquire an additional 6.25 percent of the voting shares of Equitable Bankshares, Inc., Dallas, Texas, for a total of 15.37 percent, and thereby indirectly acquire Equitable Bank, Dallas, Texas, and Equitable Bank, N.A., Arlington, Texas.

Board of Governors of the Federal Reserve System, February 14, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92–4022 Filed 2–20–92; 8:45 am]

BILLING CODE 6210-01-F

Bayerische Landesbank Girozentrale, et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than March 17, 1992.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. Bayerische Landesbank Girozentrale, Munich, Germany; Commerzbank AG, Frankfurt am Main, Germany; Dresdner Bank AG, Frankfurt am Main, Germany; to acquire Mercedes-Benz Credit Corporation, Norwalk, Connecticut, and thereby engage in making, acquiring, or servicing loans or other extensions of credit pursuant to § 225.25(b)(1); leasing personal or real property or acting as agent, broker, or adviser in leasing such property pursuant to § 225.25(b)(5); and acting as principal, agent, or broker for credit life insurance pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 14, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-4023 Filed 2-20-92; 8:45 am]

BILLING CODE 6210-01-F

Command Credit Corporation; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 17, 1992.

A. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Command Credit Corporation, Rockville Centre, New York; to become a bank holding company by acquiring 100 percent of the voting shares of Republic National Bancorp, Inc., Phoenix, Arizona, and thereby indirectly acquire Republic National Bank of Arizona, Phoenix, Arizona.

In connection with this application, Applicant also proposes to engage *de novo* in making, acquiring, or servicing loans or other extensions of credit for the company's account or the account of others pursuant to § 225.25(b)(1); providing financial advice pursuant to § 225.25(b)(4)(iv); providing data processing services for institutions offering secured credit cards under contract with the Applicant pursuant to § 225.25(b)(7); management consulting to non-affiliated depository institutions pursuant to § 225.25(b)(11); and operating a collection agency pursuant to § 225.25(b)(23) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 14, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-4024 Filed 2-20-92; 8:45 am]

BILLING CODE 6210-01-F

Gloucester County Bankshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the

Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 17, 1992.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. Gloucester County Bankshares, Inc., Woodbury, New Jersey; to become a bank holding company by acquiring 100 percent of the voting shares of The Bank of Gloucester County, Woodbury, New Jersey.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. Peoples Preferred Bancshares, Inc., Colquitt, Georgia; to acquire 100 percent of the voting shares of Columbia Bancing Company, Inc., Columbia, Alabama, and thereby indirectly acquire Bank of Columbia, Columbia, Alabama.

C. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. B J Morgan Bancshares, Inc., Morgantown, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank, Morgantown, Indiana.

D. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Porter Bancshares, Inc., Porter, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Porter, Porter, Oklahoma.

Board of Governors of the Federal Reserve System, February 14, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-4025 Filed 2-20-92; 8:45 am]

BILLING CODE 6210-01-F

Peoples First Corporation; Formation of, Acquisition by, or Merger of Bank Holding Companies; Correction

This notice corrects a previous **Federal Register** Notice (FR Doc. 92-1985), published at page 3205 of the issue for Tuesday, January 28, 1992.

The entry for Peoples Financial Corporation is revised to read as follows:

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Peoples First Corporation, Paducah, Kentucky; to acquire 100 percent of the voting shares of Bank of Murray, Murray, Kentucky.

Comments on this application must be received by February 28, 1992.

Board of Governors of the Federal Reserve System, February 14, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-4021 Filed 2-20-92; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 92F-0030]

Hoechst Celanese Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Hoechst Celanese Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of acesulfame potassium as a nonnutritive sweetener available to the consumer in bulk package form.

FOR FURTHER INFORMATION CONTACT: Patricia A. Hansen, Center for Food Safety and Applied Nutrition (HFF-333), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-254-9523.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2A4309) has been filed by Hoechst Celanese Corp., Route 202-206 North, Somerville, NJ 08876. The petition proposes to amend the food additive regulations in § 172.800 *Acesulfame potassium* (21 CFR 172.800) to provide for the safe use of acesulfame potassium as a nonnutritive sweetener available to the consumer in bulk package form.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: February 12, 1992.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 92-4009 Filed 2-20-92; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 92N-0070]

Duramed Pharmaceuticals, Inc.; Withdrawal of Approval of Three Abbreviated New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of three abbreviated new drug applications (ANDA's) held by Duramed Pharmaceuticals, Inc., 5040 Lester Rd., Cincinnati, OH 45213 (Duramed). Duramed has agreed in writing to permit FDA to withdraw approval of the applications, and has waived its opportunity for a hearing. This action stems from the discovery of untrue statements, discrepancies, and omissions concerning information used to support approval of the applications.

EFFECTIVE DATE: February 21, 1992.

FOR FURTHER INFORMATION CONTACT: Richard S. Lev, Center for Drug Evaluation and Research (HFD-366), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-295-8041.

SUPPLEMENTARY INFORMATION: Recently, FDA became aware of untrue statements, discrepancies, and omissions that relate to batches of drug products used to support approval of the following ANDA's held by Duramed:

ANDA 89-484; Prochlorperazine Maleate Tablets, 5 milligrams (mg);

ANDA 89-485; Prochlorperazine Maleate Tablets, 10 mg; and

ANDA 89-486; Prochlorperazine Maleate Tablets, 25 mg.

After careful review of inspectional findings, Duramed's own internal audit results, and letters from the firm, the agency determined that there was sufficient justification to initiate proceedings to withdraw approval of the products listed above. Duramed was notified in writing of these determinations and, in accordance with 21 CFR 314.150(d), was offered an opportunity to permit FDA to withdraw the applications. Subsequently, in a letter dated January 28, 1992, Duramed requested withdrawal of these ANDA's thereby waiving its opportunity for a hearing.

Therefore, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), and under authority delegated to the Director of the Center for Drug Evaluation and Research (21 CFR 5.82), approval of the ANDA's listed above, and all amendments and supplements thereto, is withdrawn effective February 21, 1992. Distribution of these products in interestate commerce without an approved application is illegal and subject to regulatory action.

Dated: February 13, 1992.

Gerald F. Meyer,

Deputy Director, Center for Drug Evaluation and Research.

[FR Doc. 92-4010 Filed 2-20-92; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 92N-0071]

Quad Pharmaceuticals, Inc.; Withdrawal of Approval of 97 Abbreviated New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of 97 abbreviated new drug applications (ANDA's) held by Quad Pharmaceuticals, Inc., 6340 La Pas Trail, Indianapolis, IN 46268 (Quad). Quad notified the agency in writing that the drug products were no longer marketed and requested that the approval of the applications be withdrawn.

EFFECTIVE DATE: March 23, 1992.

FOR FURTHER INFORMATION CONTACT: Lola E. Batson, Center for Drug Evaluation and Research (HFD-360), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-295-8038.

SUPPLEMENTARY INFORMATION: Quad, the holder of the ANDA's listed in the table in this document, has informed FDA that these drug products are no longer marketed and has requested that FDA withdraw approval of the applications. The applicant has also, by its request, waived its opportunity for a hearing.

ANDA No.	Drug
62-642	Kanamycin Sulfate Injection, 75 milligrams (mg)/2 milliliters (mL), 500 mg/2 mL, and 1 gram (g)/3 mL.
62-643	Doxycycline Hyclate for Injection, 100 and 200 mg/vial.
62-660	Sterile Erythromycin Lactobionate, 500 and 1,000 mg/vial.
62-696	Bacitracin, 10,000 and 50,000 units/vial.
62-784	Lincomyucin Hydrochloride Injection, 300 mg/mL.
62-845	Sterile Vancomycin Hydrochloride, 500 and 1,000 mg/vial.
62-877	Clindamycin Phosphate Injection, 150 mg/mL.
70-671	Metoclopramide Hydrochloride Injection, 10 mg/2 mL.
70-672	Verapamil Hydrochloride Injection, 2.5 mg/mL.
70-678	Naloxone Hydrochloride Injection, 0.02 mg/mL.
70-679	Naloxone Hydrochloride Injection, 0.4 mg/mL.
70-680	Naloxone Hydrochloride Injection, 1 mg/mL.
70-692	Nalbuphine Hydrochloride Injection, 10 mg/mL.
70-693	Nalbuphine Hydrochloride Injection, 20 mg/mL.
70-694	Aminocaproic Acid Injection, 250 mg/mL.
70-701	Ritodrine Hydrochloride Injection, 15 mg/mL.
70-762	Fluphenazine Decanoate Injection, 25 mg/mL.
70-777	Vincristine Sulfate Injection, 1 mg/mL.
70-778	Vincristine Sulfate Injection, 1 mg/mL.
70-821	Dacarbazine for Injection, 100 mg/mL.
70-822	Dacarbazine for Injection, 200 mg/mL.
71-023	Glucagon for Injection, 10 mg base/vial.
71-024	Methyldopate Hydrochloride Injection, 50 mg/mL.
71-055	Sterile Floxuridine, 500 mg/vial.
71-082	Haloperidol Lactate Injection, 5 mg/mL.
71-094	Nitroglycerin Injection, 5 mg/mL.
71-095	Nitroglycerin Injection, 10 mg/mL.
71-181	Bretylium Tosylate Injection, 50 mg/mL.
71-222	Vincristine Sulfate for Injection, 1 mg/vial.
71-223	Vincristine Sulfate for Injection, 2 mg/vial.
71-248	Sterile Cytarabine for Injection, 100 mg/vial.
71-249	Sterile Cytarabine for Injection, 500 mg/vial.
71-341	Sulfamethoprim (Sulfamethoxazole, 80 mg/mL, and Trimethoprim, 16 mg/mL) Injection.
71-563	Dacarbazine for Injection, 500 mg/vial.
71-740	Acetylcysteine Solution, 10%.
71-741	Acetylcysteine Solution, 20%.
71-937	Vincristine Sulfate for Injection, 5 mg/vial.
71-942	Droperidol Injection, 2.5 mg/mL.
71-949	Ketamine Hydrochloride Injection, 10 mg/mL.
71-950	Ketamine Hydrochloride Injection, 50 mg/mL.
71-951	Ketamine Hydrochloride Injection, 100 mg/mL.
72-208	Pancuronium Bromide Injection, 2 mg/mL.
72-209	Pancuronium Bromide Injection, 1 mg/mL.
72-224	Sterile Pralidoxime Chloride, 1 g/vial.
89-248	Nandrolone Decanoate Injection, 50 mg/mL.
89-249	Nandrolone Decanoate Injection, 100 mg/mL.
89-250	Nandrolone Decanoate Injection, 200 mg/mL.
89-256	Procainamide Hydrochloride Injection, 100 mg/mL.
89-257	Procainamide Hydrochloride Injection, 500 mg/mL.
89-264	Methylprednisolone Sodium Succinate for Injection, 40 mg/vial.
89-265	Methylprednisolone Sodium Succinate for Injection, 125 mg/vial.
89-266	Methylprednisolone Sodium Succinate for Injection, 500 mg/vial.
89-267	Methylprednisolone Sodium Succinate for Injection, 1,000 mg/vial.
89-280	Dexamethasone Sodium Phosphate Injection, 4 mg Phosphate/mL.
89-281	Dexamethasone Sodium Phosphate Injection, 10 mg Phosphate/mL.
89-282	Dexamethasone Sodium Phosphate Injection, 20 mg Phosphate/mL.
89-283	Testosterone Propionate Injection, 100 mg/mL.
89-293	Methotrexate Sodium for Injection, 20 mg/vial.
89-294	Methotrexate Sodium for Injection, 50 mg/vial.
89-295	Methotrexate Sodium for Injection, 100 mg/vial.
89-296	Methotrexate Sodium for Injection, 250 mg/vial.
89-297	Nandrolone Phenpropionate Injection, 25 mg/mL.
89-298	Nandrolone Phenpropionate Injection, 50 mg/mL.
89-307	Protamine Sulfate for Injection, 50 mg/vial.
89-308	Methotrexate Sodium for Injection, 25 mg/mL.
89-309	Methotrexate Sodium for Injection, 25 mg/mL.
89-310	Estradiol Cypionate Injection, 5 mg/mL.
89-311	Vinblastine Sulfate Injection, 1 mg/mL.
89-312	Chorionic Gonadotropin for Injection, 5,000 units.
89-313	Chorionic Gonadotropin for Injection, 5,000 units.
89-314	Chorionic Gonadotropin for Injection, 10,000 units.
89-315	Chorionic Gonadotropin for Injection, 10,000 units.
89-316	Chorionic Gonadotropin for Injection, 20,000 units.
89-324	Testosterone Enanthate Injection, 100 mg/mL.
89-325	Testosterone Enanthate Injection, 200 mg/mL.
89-326	Testosterone Cypionate Injection, 100 mg/mL.
89-327	Testosterone Cypionate Injection, 200 mg/mL.
89-330	Hydroxyprogesterone Caproate Injection, 125 mg/mL.
89-331	Hydroxyprogesterone Caproate Injection, 250 mg/mL.
89-365	Sterile Vinblastine Sulfate for Injection, 10 mg/vial.
89-368	Fluorouracil Injection, 50 mg/mL.
89-372	Dexamethasone Sodium Phosphate Injection, 24 mg Phosphate/mL.
89-397	Glycopyrrolate Injection, 0.2 mg/mL.
89-443	Metocurine Iodide Injection, 2 mg/mL.
89-455	Fluorouracil Injection, 50 mg/mL.
89-496	Leucovorin Calcium for Injection, 50 mg/vial.
89-503	Leucovorin Calcium for Injection, 5 mg/mL.
89-504	Leucovorin Calcium for Injection, 5 mg/mL.
89-581	Hydrocortisone Sodium Phosphate Injection, 50 mg/mL.
89-636	Leucovorin Calcium for Injection, 100 mg/vial.
89-637	Prochlorperazine Edisylate Injection, 5 mg/mL.
89-638	Prochlorperazine Edisylate Injection, 5 mg/mL.
89-800	Fluphenazine Hydrochloride Injection, 2.5 mg/mL.

ANDA No.	Drug
89-815	Bethanechol Chloride Injection, 5 mg/mL.
89-816	Isoniazid Injection, 100 mg/mL.
89-821	Aminohippurate Sodium Injection, 20%.
89-893	Trifluoperazine Hydrochloride Injection, 2 mg/mL.

Therefore, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) and under authority delegated to the Director of the Center for Drug Evaluation and Research (21 CFR 5.82), approval of the abbreviated new drug applications listed above, and all supplements thereto, is hereby withdrawn, effective March 23, 1922.

Dated: February 13, 1992.

Gerald F. Meyer,

Deputy Director, Center for Drug Evaluation and Research.

[FR Doc. 92-4011 Filed 2-20-92; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 91E-0492]

Determination of Regulatory Review Period for Purposes of Patent Extension; Accupril®; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the **Federal Register** of February 4, 1992 (57 FR 4212) that determined the regulatory review period for purposes of patent extension for Accurpril®. The document was published with an error in the number of days that the applicant is seeking for the patent term extension. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

In FR Doc. 92-2633, appearing on page 4212, in the **Federal Register** of Tuesday, February 4, 1992, the following correction is made: On the same page, in the third column, in the last paragraph, in the second line from the bottom, "2,204 days" is corrected to read "2 years".

Dated: February 14, 1992.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 92-4080 Filed 2-20-92; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Final Funding Priorities for Cooperative Agreements for Area Health Education Center Programs

The Health Resources and Services Administration (HRSA) announces the final funding priorities for fiscal year 1992 Cooperative Agreements for the Area Health Education Centers (AHEC) Program under the authority of section 781(a)(1), title VII of the Public Health Service Act, as amended by the Health Professions Reauthorization Act of 1988, title VI of Public Law 110-607.

This authority expired on September 30, 1991. This program announcement is subject to the reauthorization of this legislative authority.

Approximately $17.3 million is available for this program in FY 1992. Of this amount $15,166,000 is committed to previously approved continuation awards. Approximately $2.1 is expected to be available to fund 3 competing awards averaging $700,000.

The period of Federal suppoort should not exceed 9 years for an area Health Education Center Program and 6 years for an Area Health Education Center. These numbers were inadvertently transposed in the proposed notice.

Final Funding Priority

Proposed Funding Priorities were published in the **Federal Register** dated Auguse 14, 1991, at 56 FR 40335. No comments were received during the 30-day comment period.

The proposed funding priorities will be retained as follows and priority will be given to:

1. Applications proposing centers that will serve Health Professional Shortage Areas with a greater proportion of American Indian/Alaskan Natives, Asian/Pacific Islanders, Blacks, and/or Hispanics than exists in the general population in the United States; and
2. Applications which are innovative in their health professions educational approaches in two or more of the following areas: infant mortality prevention, HIV/AIDS, substance abuse or geriatrics.

Questions regarding programmatic information should be directed to: Ms. Cherry Tsutsumida, Chief, Multidisciplinary Centers and Programs Branch, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, room 4C-05, Rockville, Maryland 20857, Telephone: (301) 443-6817.

This program is listed at 93.824 in the Catalog of Federal Domestic Assistance.

Dated: November 1, 1991.

Robert G. Harmon,

Administrator.

[FR Doc. 92-4081 Filed 2-20-92; 8:45 am]

BILLING CODE 4160-15-M

Final Funding Priority for Grants for Area Health Education Centers Special Initiatives

The Health Resources and Services Administration (HRSA) announces the final funding priority for fiscal year (FY) 1992 for Grants for Area Health Education Centers Special Initiatives under the authority of section 781(a)(2) title VII of the Public Health Service (PHS) Act, as amended by the Health Professions Reauthorization Act of 1988, title VI of Public Law 100-607.

This authority expired on September 30, 1991. This program announcement is subject to the reauthorization of this legislative authority.

Approximately $1.8 million is available for this program in FY 1992. Of this amount $950,000 is committed to previously approved continuation awards. Approximately 10 competing awards averaging $80,000 will be made.

Final Funding Priority for Fiscal Year 1992

In addition to previously established funding priorities, a proposed funding priority was published in the **Federal Register** dated June 25, 1991 at 56 FR 28919, for public comment. No comments were received during the 30-day comment period. Therefore, as proposed, the priority will be retained for applications which are innovative in their health professions educational approaches to infant mortality prevention, HIV/AIDS, substance abuse or geriatrics.

If additional programmatic information is needed, please contact: Ms. Cherry Tsutsumida, Chief, Multidisciplinary Centers and Programs Branch, Division of Medicine, Bureau of Health Professions Health Resources and Services Administration, 5600 Fishers Lane, room 4C-05, Rockville, Maryland 20857, Telephone: (301) 443-6817.

This program is listed at 93.824 in the Catalog of Federal Domestic Assistance. It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100).

Dated: October 11, 1991.

Robert G. Harmon,

Administrator.

[FR Doc. 92-4082 Filed 2-20-92; 8:45am]

BILLING CODE 4160-15-M

Pediatric Acquired Immune Deficiency Syndrome (AIDS); Health Care Demonstration Projects

AGENCY: Health Resources and Services Administration (HRSA), HHS.

ACTION: Pre-application technical assistance meeting.

SUMMARY: The Health Resources and Services Administration is conducting a pre-application technical assistance meeting concerning the funding available under Public Law 102-170 for Pediatric AIDS Health Care Demonstration Projects. One category of grants under this program will be awarded to public and nonprofit and for-profit private entities, including public or private hospitals, university medical centers, State or local health departments, health care and community organizations. Grantees will develop, organize, deliver, and arrange for comprehensive community-based, family-centered, coordinated services to children, youth, women, and families affected by the human immunodeficiency virus, incorporating prevention efforts to reduce perinatal transmission and the spread of the infection to vulnerable populations.

PURPOSE: The meetings will provide technical assistance and an overview of the requirements for funding under this Pediatric AIDS Health Care Demonstration funding category. The program guidance and application process will be discussed.

CONTACT: Anyone interested in attending the meeting should contact Ms. Beth Roy, Division of Services for Children with Special Health Needs, room 18A-19, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-9051. Costs of attending are to be borne by prospective applicants.

DATE AND TIME: March 13, 1992, 8:30 a.m. to 4 p.m.

PLACE: Crystal City Hyatt Hotel, Arlington, VA, 22202.

Dated: February 14, 1992.

Robert G. Harmon,

Administrator.

[FR Doc. 92-4083 Filed 2-20-92; 8:45 am]

BILLING CODE 4165-15-M

Indian Health Service

Availability of Funds for Loan Repayment Program for Health Professions Educational Loans

AGENCY: Indian Health Service (IHS), HHS.

ACTION: Notice.

SUMMARY: The Indian Health Service announces that approximately $5,000,000 in fiscal year (FY) 1992 funds are available for the repayment of health professions educational loans in return for full-time clinical service in Indian health programs. This program is authorized by section 108 of Public Law 100-713, "Indian Health Care Amendments of 1988," enacted on November 23, 1988. Through this notice, the IHS invites potential applicants to request an application for participation in the Loan Repayment Program. The IHS estimates that approximately 120 loan repayment awards may be made with this funding.

DATES: Applications for the FY 1992 cycle of this program will be accepted and evaluated during 3 evaluation and funding cycles. Applicants selected for participation in the FY 1992 program cycle will be expected to begin their service period no later than September 30, 1992. The following application deadlines and award dates are provided below:

Application deadline	Award date
March 20, 1992	April 17, 1992.
June 5, 1992	July 3, 1992.
August 28, 1992	September 30, 1992.

Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or

2. Sent on or before the deadline and received in time for submission to the review panel. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Applicants received after the announced closing date will be held for consideration in the next funding cycle.

FORM TO BE USED FOR APPLICATION: Applications will be accepted only if they are submitted on the form entitled "Application for the Indian Health Service Loan Repayment Program," identified with the Office of Management and Budget approval number of OMB #0912-0014.

ADDRESSES: Application materials may be obtained by calling or writing to the address below. In addition, completed applications should be returned to: IHS Loan Repayment Program, 12300 Twinbrook Parkway—suite 100, Rockville, Maryland 20852, PH: 800/962-2817 (toll-free) or 301/443-6197 (between 8 a.m. and 5 p.m. (EST) Monday through Friday, except Federal holidays).

FOR FURTHER INFORMATION CONTACT: Please address inquiries to Mr. Charles Yepa, LRP Coordinator, IHS Loan Repayment Program, Twinbrook Metro Plaza—suite 100, 12300 Twinbrook Parkway, Rockville, Maryland 20852, PH: 800/962-2817 (toll-free) or 301/443-6197 (between 8 a.m. and 5 p.m. (EST) Monday through Friday, except Federal holidays).

SUPPLEMENTARY INFORMATION: Section 108 of the Indian Health Care Improvement Act as amended by Public Law 100-713, enacted November 23, 1988, authorizes the IHS Loan Repayment Program and provides in pertinent part as follows:

> The Secretary, acting through the Service, shall establish a program to be known as the Indian Health Service Loan Repayment Program (hereinafter referred to as the "Loan Repayment Program") in order to assure an adequate supply of trained physicians, dentists, nurses, nurse practitioners, physician assistants, clinical and counseling psychologists, graduates of schools of public health, graduates of schools of social work, and other health professionals necessary to maintain accreditation of, and provide health care service to Indians through Indian health programs.

This program is designed to address problems the IHS is facing with regard to staffing shortages. Only individuals who are or will be in full-time clinical practice in an Indian health program may participate in this program. For the purposes of this program, the term "Indian health program" is defined in section 108(a)(2)(A), as follows:

> Any health program or facility funded, in whole or in part, by the IHS for the benefit of American Indians and Alaska Natives and administered:
>
> a. Directly by the service; or
>
> b. By any Indian tribe or tribal or Indian organization pursuant to a contract under:
>
> (1) The Indian Self-Determination Act; or

(2) Section 23 of the Act of April 30, 1908, (25 U.S.C. 47), popularly known as the Buy Indian Act; or

(3) By an urban Indian organization pursuant to Title V of Public Law 100–713.

Applicants may sign contractual agreements with the Secretary for (2) or (3) years. The IHS will repay all or a portion of the applicant's health professions educational loans for tuition expenses and reasonable educational and living expenses in amounts up to $25,000 per year for each year of contracted service.

Participants will be required to fulfill their contract service agreements through full-time clinical practice at a designated priority site. The IHS will designate these sites annually. In general, they are sites characterized by physical, cultural, and professional isolation, and have histories of frequent staff turnover. Sites may be located at IHS facilities or other Indian health program facilities as defined above.

A listing of the priority sites for each health profession will be found in the program application packet. Program participants may match to an appropriate priority site vacancy to complete their obligation.

Nurses, nurse practitioners, and the priority medical specialties all receive up to $25,000 per year, regardless of their tier site or the length of their contract. Other health professionals will receive up to $25,000 per year, if they serve at a Tier I site or sign a 3 year contract. Other health professionals who sign a 2 year contract and serve at a Tier II site receive up to $20,000 per year. Other health professionals who sign a 2 year contract and serve at a Tier III site receive up to $18,750 per year.

In addition to the above-mentioned payments, in any case where payments under the Loan Repayment Program result in an increase in Federal income tax liability, the IHS will pay up to 20 percent of the applicant's total eligible payment to the Internal Revenue Service on the applicant's behalf for all or part of the increased tax liability of the applicant.

Applicants must:

A. Meet one of the following requirements:

1. Be enrolled as a full-time student in the final year of a course of study or program leading to a degree in a health profession in an accredited school in a State. (The term "State" includes, in addition to the several States, only the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau); or

2. Be enrolled in an approved graduate training program in a health profession; or

3. Have a degree in medicine, osteopathy, dentistry, or other health profession; and have completed an approved graduate training program in medicine, osteopathy, dentistry, or other health profession in a State, and have a license to practice medicine, osteopathy, dentistry, or other health profession in a State, except that the Secretary may waive the requirement of graduate training for good cause shown; and

B. Be eligible for, or hold an appointment as a Commissioned Officer in the Regular or Reserve Corps of the Public Health Service, or meet the professional standards for civil service employment in the IHS or be employed in an Indian health program without service obligation; and

C. Submit an application to participate in the Loan Repayment Program; and

D. Sign and submit to the Secretary, at the time of the submission of such application, a written contract agreeing to accept repayment of educational loans and to serve for the applicable period of obligated service in a priority site as determined by the Secretary; and

E. Sign an affidavit attesting to the fact that they have been informed of the relative merits of the U.S. Public Health Service Commissioned Corps and the Civil Service as employment options.

Upon approval of the applicant for participation in the Loan Repayment Program, his/her application will be referred to appropriate recruiters to facilitate the applicant's locating an acceptable position.

The IHS has developed lists of Tier sites, which include all Indian Health programs, as defined in section 108(a)(2)(A). These sites have been separated into three tiers as a means of defining their relative need and priority. The tiers have the following meanings:

Tier I: The most difficult to recruit for sites and specialties. The sites are characterized by geographic, professional and cultural isolation and rapid staff turnover. Positions in the priority medical specialties are designated as Tier I, irrespective of location.

Tier II: Somewhat less difficult to recruit for sites. The isolation and turnover factors less severe than for Tier I sites.

Tier III: All sites not designated as Tier I or Tier II.

Funds will be available for both practicing physicians and medical residents. Medical residents, physicians, and other health professionals are subject to the following priorities.

Within each of the following priorities, after positions are ranked in each Indian Health Program for which there is a need or vacancy and those positions are ranked in order of priority, preference is given to American Indian and Alaska Native applicants and applicants recruited through the efforts of Indian tribes or tribal or Indian organizations.

- The first priority for funding is given to the physician practitioners/resident physicians of Priority Specialties who match to any tier site. Priority Specialties include: Anesthesiology, General Surgery, Otolaryngology/Otorhinolaryngology, Obstetrics/Gynecology, Ophthalmology, Orthopedic Surgery, Psychiatry and Radiology.
- After Priority Specialties are selected, physicians/resident physicians, nurses and other health professionals who match to tier I sites receive priority.
- Next in priority, after Priority Specialties and tier I physicians/resident physicians, nurses and other health professionals are selected, are physicians/resident physicians, nurses and other health professionals who agree to serve at tier II sites.
- Last in priority, after Priority Specialties and physicians, nurses and other health professionals who agree to serve at tier I and II sites, are physicians, nurses and other health professionals who agree to serve at tier III sites.

Other factors may be applied when determining which applicant is selected, within any of the above priorities applied to applicants. The following list of these factors are equal in weight when applied, and are applied when all other criteria are equal and a selection must be made between applicants. One or all of the following factors may be applicable to an applicant, and the applicant who has the most of these factors, all other criteria being equal, would be selected.

- An applicant's length of current employment in the IHS, tribal or urban program.
- An applicant's agreement to serve for 3 years under the IHS Loan Repayment Program contract, as opposed to 2 years.
- For physician applicants, board certification by the start of their service.
- An applicant who has been a former IHS, tribal or urban program employee, with experience in a tier I site.

- An applicant who has been a former National Health Service Corps (NHSC) or IHS Scholarship Program participant who has completed or will complete their service obligation with their respective agency before September 30 or the applicable fiscal year; and who has experience in an IHS, tribal or urban site.
- An applicant's experience in a post-residence practice in a primary care Health Professional Shortage Area (HPSA) or Health Professional Shortage Area Placement Opportunity List (HPOL) site.
- Availability for service earlier than other applicants (first come, first served); and
- The quality of references from persons having direct knowledge of the applicant's professional capability.

Any individual who enters this program and satisfactorily completes his/her obligated period of service may, if funds are available, apply to extend the contract on a year-by-year or multi-year basis, as determined by the IHS, at the up to $25,000 per year rate. The maximum amount to be funded in this manner may not exceed the total of the individual's outstanding qualified educational loans.

Any individual who owes an obligation for health professional service to the Federal Government or to a State or other entity under an agreement with such State or other entity is not eligible for the Loan Repayment Program unless such an obligation will be completely satisfied prior to the beginning of service under this program in the year that an application is made for this program.

This program is not subject to review under Executive Order 12372.

The Catalog of Federal Domestic Assistance number is 13.164.

Dated: November 28, 1991.

Everett R. Rhoades,

Assistant Surgeon General, Director.

[FR Doc. 92-4012 Filed 2-20-92; 8:45 am]

BILLING CODE 4160-16-M

National Institutes of Health

National Heart, Lung, and Blood Institute; Cancellation of Meeting

Notice is hereby given of the cancellation of the meeting of the Blood Diseases and Resources Advisory Committee, National Heart, Lung, and Blood Institute, February 27-28, 1992, Building 31C, Conference Room 10, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20814, which was published in the **Federal Register** on December 23, 1991, (56 FR 66449).

Dated: February 12, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-3998 Filed 2-20-92; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

National Toxicology Program; Availability of the Sixth Annual Report on Carcinogens

The HHS' National Toxicology Program (NTP) today announces the availability of the Sixth Annual Report on Carcinogens.

The Annual Report on Carcinogens, prepared by the National Toxicology Program (NTP), U.S. Public Health Service, is issued by the Secretary of the Department of Health and Human Service (DHHS) pursuant to an amendment to the Public Health Service Act (section 262, Pub. L. 95-622) which requires the Secretary to publish an annual report that contains "a list of all substances (i) which either are known to be carcinogens or which may reasonably be anticipated to be carcinogens and (ii) to which a significant number of persons residing in the United States are exposed * * *." The law also states that the reports should provide available information on the nature of exposures, the estimated numbers of persons exposed, and the extent to which the implementation of Federal regulations decreases the risk to public health from exposure to these chemicals.

For the purposes of the Report, "known" carcinogens are defined as those substances for which the evidence from human studies indicates that there is causal relationship between exposure to the substance and human cancer. Substances "which may reasonably be anticipated to be carcinogens" are defined as those for which there is limited evidence of carcinogenicity in humans or sufficient evidence of carcinogenicity in experimental animals.

Substances in the above categories, for which potential exposure of persons residing in the United States has been demonstrated, are included in the Report. The Sixth Annual Report does not contain all known carcinogens or substances reasonably anticipated to be carcinogens. Additional substances with identified carcinogenic properties as defined above will be included in subsequent Annual Reports.

New entries in the Sixth Annual Report were chosen from those designated by the agencies participating in the preparation of the Report, from those tested within the National Toxicology Program and the National Cancer Institute Carcinogenesis Bioassay Program, or from those evaluated by the International Agency for Research on Cancer (IARC), a component of the World Health Organization (WHO), located in Lyon, France.

The Sixth Annual Report on Carcinogens Summary does not contain specific information on regulations promulgated by regulatory health agencies. In most other respects, the information is the same as that in the full report. Copies will be sent automatically to those on the mailing list; others may request a single copy without charge by writing the NTP Public Information Office, MD B-2-04, P.O. Box 12233, Research Triangle Park, NC 27709.

Copies of the complete Report are available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. There is a $94.00 charge for the document plus a $3.00 per order shipping and handling charge. Ask for Report No. PB 92-120666 when ordering.

Comments on the Sixth Annual Report on Carcinogens are welcome. Corrections, suggestions, or any additional information should be addressed to Annual Reports on Carcinogens, NTP Public Information Office, MD B2-04, P.O. Box 12233, Research Triangle Park, NC 27709.

Dated: February 13, 1992.

Kenneth Olden,

Director, National Toxicology Program.

[FR Doc. 92-3999 Filed 2-20-92; 8:45 am]

BILLING CODE 4140-01-M

Social Security Administration

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Social Security Administration publishes a list of information collection packages that have been submitted to the Office of Management and Budget (OMB) for clearance in compliance with Public Law 96-511, The Paperwork Reduction Act. The following clearance packages have been submitted to OMB since the last list was published in the **Federal Register** on February 7, 1992.

(Call Reports Clearance Officer on (301) 965-4149 for copies of package)

1. Authorization For The Social Security Administration To Obtain Account Records From A Financial

Institution—0960–0293. The information collected on the form SSA–4641 is used to determine whether an applicant for supplemental security income (SSI) payments meets the resources eligibility requirement. The respondents are certain applicants for SSI payments.

Number of Respondents: 500,000.

Frequency of Response: 1.

Average Burden Per Response: 6 minutes.

Estimated Annual Burden: 50,000 hours.

2. Requests for Self-Employment Information, Employment Information and Employer Information—0960–XXXX. The information collected on the forms SSA–2765, SSA–3365 and SSA–4002 will be used to identify wages or income incorrectly reported. The respondents are certain employees, employers and self-employed individuals.

Number of Respondents: 3,000,000.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Annual Burden: 500,000 hours.

3. Disability Hearing Officer's Decision—0960–0441. The form SSA–1207 is used as an official document to record disability hearings officers decisions. The respondents are disability hearings officers in the State Disability Determination Services.

Number of Respondents: 10,854.

Frequency of Response: 1.

Average Burden Per Response: 45 minutes.

Estimated Annual Burden: 8,141 hours.

4. Statement of Household Expenses And Contributions—0960–0456. The information collected on the form SSA–8011 is used to determine the amount of in-kind support and maintenance received by an applicant for or recipient of supplemental security income (SSI) and to establish eligibility and payment amounts. The respondents are members of an SSI applicant's recipient's household.

Number of Respondents: 872,875.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 218,219.

OMB Desk Officer: Laura Oliven.

Written comments and recommendations regarding these information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, room 3208, Washington, DC 20503.

Dated: February 12, 1992.

Ron Compston,

Social Security Administration Reports Clearance Officer.

[FR Doc. 92–3921 Filed 2–20–92; 8:45 am]

BILLING CODE 4190–11–M

Statement of Organization, Functions and Delegations of Authority

Part S of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services covers the Social Security Administration. Notice is hereby given that sections S5B.10, the Office of Legislation and Congressional Affairs (OLCA) (Organization), and S5B.20, OLCA (Functions), are amended to reflect the abolishment of the Office of Policy Development. Amend the material as follows:

Section S5B.10 *The Office of Legislation and Congressional Affairs*—(Organization):

Delete:

H. The Office of Policy Development (S5BG).

Section S5B.20 *The Office of Legislation and Congressional Affairs*—(Functions):

Delete:

H. The Office of Policy Development (S5BG) in its entirety.

Dated: February 10, 1992.

Ruth A. Pierce,

Deputy Commissioner for Human Resources.

[FR Doc. 92–4026 Filed 2–20–92; 8:45 am]

BILLING CODE 4190–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–92–1917; FR–2934–N–66]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

ADDRESSES: For further information, contact James N. Forsberg, room 7262, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–4300; TDD number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance 56 FR 23789 (May 24, 1991) and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A–10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 56 FR 23789 (may 24, 1991).

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1-800-927-7588 for detailed instructions or write a letter to James N. Forsberg at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: U.S. Air Force: Bob Menke, USAF, Bolling AFB, SAF-MIIR, Washington, DC 20332-5000; (202) 767-6235; (This is not a toll-free number).

Dated: February 13, 1992.

Paul Roitman Bardack,

Deputy Assistant Secretary for Economic Development.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 02/21/92

Suitable/Available Properties

Buildings (by State)

California

Hawes Site (KHGM)
March AFB
Hinckley Co: San Bernardino CA 92402–
Landholding Agency: Air Force
Property Number: 189010084
Status: Unutilized
Comment: 9290 sq. ft., 2 story concrete, most recent use—radio relay station, possible asbestos, land belongs to Bureau of Land Management, potential utilities.

Bldgs. 604, 605, 612, 611, 613–618
Point Arena Air Force Station
Mendocino County, CA 95468–5000
Landholding Agency: Air Force
Property Numbers: 189010237–189010246
Status: Unutilized
Comment: 1232 sq ft. each, stucco-wood frame; most recent use—housing.

Bldg. 21180
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Location: Hwy 1, Hwy 246, Coast Rd., PT Sal Rd., Miguelito CYN
Landholding Agency: Air Force
Property Number: 189130384
Status: Unutilized
Comment: 7[illegible]87 sq ft., 1 story/wood shingle structure, most recent use—contracting administrative office, needs major rehab.

Guam

Anderson VOR
In the municipality of Dededo
Dededo Co: Guam GU 96912–
Location: Access is through Route 1 and Route 3, Marine Drive.
Landholding Agency: Air Force
Property Number: 189010267
Status: Unutilized
Comment: 5[illegible]0 sq. ft.; 1 story perm/concrete; on 226 acres.

Anderson Radio Beacon Annex
In the municipality of Dededo
Dededo Co: Guam GU 96912–
Location: Approximately 7.2 miles southwest of Anderson AFB proper; access is from Route 3, Marine Drive.
Landholding Agency: Air Force
Property Number: 189010268
Status: Unutilized
Comment: 4[illegible]0 sq. ft.; 1 story perm/concrete; on 25 acres; most recent use—radio beacon facility.

Annex No. [illegible]
Anderson Family Housing
Municipality of Dededo
Dededo Co: Guam GU 96912–
Location: Access is through Route 1, Marine Drive.
Landholding Agency: Air Force
Property Number: 189010545
Status: Underutilized
Comment: various sq. ft.; 1 story frame/modified quonset; on 376 acres; portions of building and land leased to Government of Guam.

Harmon VORsite (Portion) (AJKZ)
Municipality of Dededo
Dededo Co: Guam GU 96912–
Location: Approx. 12 miles southwest of Anderson AFB proper.
Landholding Agency: Air Force
Property Number: 189120234
Status: Unutilized
Comment: [illegible]50 sq. ft.; needs rehab on 82 acres.

Idaho

Bldg. 121
Mountain Home Air Force Base
Main Avenue
Elmore County, ID 83648–
Landholding Agency: Air Force
Property Number: 189030007
Status: Excess
Comment: [illegible]375 sq. ft.; 1 story wood frame; potential utilities; needs rehab; presence of asbestos; building is set on piers; most recent use—medical administration, veterinary services.

Louisiana

Barksdale Radio Beacon Annex
Barksdale Radio Beacon Annex
Curtis Co: Bossier LA 71111–
Location: 7 miles south of Bossier City on highway 71 south; left 1¼ miles on highway C1552.
Landholding Agency: Air Force
Property Number: 189010269
Status: Unutilized
Comment: 360 sq. ft.; 1 story wood/concrete; on 11.25 acres.

Michigan

Bldg. 21
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010776
Status: Excess
Comment: 2146 sq. ft.; 1 floor; concrete block; potential utilities; possible asbestos; most recent use—storage.

Bldg. 22
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010777
Status: Excess
Comment: 1546 sq. ft.; 1 floor; concrete block; potential utilities; possible asbestos; most recent use—administrative facility.

Bldg. 30
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010779
Status: Excess
Comment: 2593 sq. ft.; 1 floor; concrete block; possible asbestos; potential utilities; most recent use—communications transmitter building.

Bldg. 40
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010780
Status: Excess
Comment: 2069 sq. ft.; 2 floors; concrete block; possible asbestos; potential utilities; most recent use—administrative facility.

Bldg. 41
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010781
Status: Excess
Comment: 2069 sq. ft.; 1 floor; concrete block; potential utilities; possible asbestos; most recent use—dormitory.

Bldg. 42
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010782
Status: Excess
Comment: 4017 sq. ft.; 1 floor; concrete block; potential utilities; possible asbestos; most recent use—dining hall.

Bldg. 43
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010783

Status: Excess
Comment: 3674 sq. ft.; 2 story; concrete block; potential utilities; possible asbestos; most recent use—dormitory.

Bldg. 44
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010784
Status: Excess
Comment: 7216 sq. ft.; 2 story; concrete block; possible asbestos; potential utilities; most recent use—dormitory.

Bldg. 45
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010785
Status: Excess
Comment: 6070 sq. ft.; 2 story; concrete block; potential utilities; possible asbestos; most recent use—administrative facility.

Bldg. 46
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010786
Status: Excess
Comment: 5898 sq. ft.; 2 story; concrete block; potential utilities; possible asbestos; most recent use—visting personnel housing.

Bldg. 47
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010787
Status: Excess
Comment: 83 sq. ft.; 1 story; concrete block; potential utilities; most recent use—storage.

Bldg. 48
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010788
Status: Excess
Comment: 96 sq. ft.; 1 story; concrete block; potential utilities; most recent use—storage.

Bldg. 49
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010789
Status: Excess
Comment: 1944 sq. ft.; 1 story; concrete block; potential utilities; most recent use—dormitory.

Bldg. 50
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010790
Status: Excess
Comment: 6171 sq. ft.; 1 story; concrete block; potential utilities; possible asbestos; most recent use—Fire Department vehicle parking building.

Bldgs. 51–62
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Numbers: 189010791–189010802
Status: Excess
Comment: 1134 sq. ft. each; 1 story wood frame residence with garages; possible asbestos.

Bldgs. 63–67
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Numbers: 189010803–189010807
Status: Excess
Comment: 1306 sq. ft. each; 1 story wood frame residence with garages; possible asbestos.

Bldg. 68
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010808
Status: Excess
Comment: 1478 sq. ft.; 1 story wood frame residence with garage; possible asbestos.

Bldg. 70
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010809
Status: Excess
Comment: 1394 sq. ft.; 1 story concrete block; possible asbestos; most recent use—youth center.

Bldgs. 72–89
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Numbers: 189010811–189010828
Status: Excess
Comment: 1168 sq. ft. each; 1 story wood frame residence; potential utilities; possible asbestos.

Bldg. 97
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010829
Status: Excess
Comment: 171 sq. ft.; 1 floor; potential utilities; most recent use—pump house.

Bldg. 98
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010830
Status: Excess
Comment: 114 sq. ft.; 1 floor; potential utilities; most recent use—pump house.

Bldg. 14
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010833
Status: Excess
Comment: 6751 sq. ft.; 1 floor concrete block; possible asbestos; most recent use—gymnasium.

Bldg. 16
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010834
Status: Excess
Comment: 3000 sq. ft.; 1 floor concrete block; most recent use—commissary facility.

Bldgs. 9–13
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Numbers: 189010835–189010839
Status: Excess
Comment: 1056 sq. ft. each; 1 story wood frame residences.

Bldgs. 5–8
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Numbers: 189010840–189010843
Status: Excess
Comment: 864 sq. ft. each; 1 story wood frame residences; possible asbestos.

Bldg. 4
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010844
Status: Excess
Comment: 2340 sq. ft.; 1 floor concrete block; most recent use—heating facility.

Bldg. 3
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010845
Status: Excess
Comment: 5314 sq. ft.; 1 floor concrete block; possible asbestos; most recent use—maintenance shop and office.

Bldg. 1
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010846
Status: Excess
Comment: 4528 sq. ft.; 1 floor concrete block; possible asbestos; most recent use—office.

Bldgs. 216–224, 212, 214
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Numbers: 189010847–189010855, 189010859, 189010861
Status: Excess
Comment: 780 sq. ft. each; 1 story wood frame housing garages.

Bldg. 215
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010856
Status: Excess
Comment: 390 sq. ft.; 1 story wood frame housing garage.

Bldg. 158
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010857
Status: Excess
Comment: 3603 sq. ft.; 1 story concrete/steel; possible asbestos; most recent use—electrical power station.

Bldg. 15
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010864
Status: Excess
Comment: 538 sq. ft.; 1 floor, concrete/wood structure; potential utilities; most recent use—gymnasium facility.

Bldg. 23
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010865
Status: Excess
Comment: 44 sq. ft.; 1 story; metal frame; prior use—storage of fire hoses.

Bldg. 24
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010866
Status: Excess
Comment: 44 sq. ft.; 1 story; metal frame; prior use—storage of fire hoses.

Bldgs. 31–35
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Numbers: 189010867–189010871
Status: Excess
Comment: 36 sq. ft.; 1 story; metal frame; prior use—storage of fire hoses.

Bldgs. 36–37, 39, 201–207
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Numbers: 189010872–189010874, 189010879–189010885
Status: Excess
Comment: 25 sq. ft.; 1 story; metal frame; prior use—storage of fire hoses.

Bldg. 153
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010886
Status: Excess
Comment: 4314 sq. ft.; 2 story concrete block facility; (radar tower bldg.) potential use—storage.

Bldg. 154
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010887
Status: Excess
Comment: 8960 sq. ft.; 4 story concrete block facility; (radar tower bldg.) potential use—storage.

Bldg. 157
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010888
Status: Excess
Comment: 3744 sq. ft.; 1 story concrete/steel facility; (radar tower bldg.); potential use—storage.

North Dakota

Bldg. 101
Fortuna Air Force Station
Fortuna Co: Divide, ND 58844–
Location: Located on North Dakota State Highway 5, 4 miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85.
Landholding Agency: Air Force
Property Number: 189110095
Status: Excess
Comment: 768 sq. ft.; 2 bedroom single family housing unit; needs rehab; off-site use only.

Bldgs. 102–106
Fortuna Air Force Station
Fortuna Co: Divide, ND 58844–
Landholding Agency: Air Force
Property Numbers: 189110096–189110100
Status: Excess
Comment: 988 sq. ft. each; 3 bedroom single family housing units; needs rehab; off-site use only.

Bldgs. 107, 110–111
Fortuna Air Force Station
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Numbers: 189110101–189110103
Status: Excess
Comment: 768 sq. ft.; 2 bedroom single family housing units; needs rehab; off-site use only.

Bldgs. 112–116, 123–129
Fortuna Air Force Station
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Numbers: 189110104–189110108, 189110115–189110121
Status: Excess
Comment: 1610 sq. ft.; 3 bedroom single family housing units with attached garage; needs rehab; off-site use only.

Bldgs. 117, 119–122
Fortuna Air Force Station
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Numbers: 189110109, 189110111–189110114
Status: Excess
Comment: 1695 sq. ft.; 3 bedroom single family housing units with attached garages; needs rehab; off-site use only.

Bldg. 118
Fortuna Air Force Station
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189110110
Status: Excess
Comment: 2295 sq. ft.; 4 bedroom single family housing unit; needs rehab; off-site use only.

Bldg. 141
Fortuna Air Force Station
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189110122
Status: Excess
Comment: 364 sq. ft.; 1 stall vehicle garage; needs rehab; off-site use only.

Bldgs. 142–145
Fortuna Air Force Base
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Numbers: 189110123–189110126
Status: Excess
Comment: 624 sq. ft. each; 2 stall vehicle garages; needs rehab; off-site use only.

Bldgs. 201–218
Fortuna Air Force Base
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Numbers: 189110127–189110144
Status: Excess
Comment: 1203 sq. ft. each; 3-bedroom single family relocatable housing units; needs rehab; off-site use only.

Bldgs. 221–229
Fortuna Air Force Base
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Numbers: 189110145–189110153
Status: Excess
Comment: 672 sq. ft. each; 2 stall vehicle garages; needs rehab; off-site use only.

Nevada

Bldgs. 300–302
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force
Property Numbers: 189120001–189120003
Status: Unutilized
Comment: 1573 sq. ft. each, one story family, easement restrictions, potential utilities, off-site removal only.

Bldgs. 303–306
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force
Property Numbers: 189120004–189120007
Status: Unutilized
Comment: 2750 sq. ft. each, one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldgs. 307–310, 318, 320–322
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force
Property Numbers: 189120008–189120011, 189120019, 189120021–189120023
Status: Unutilized
Comment: 2170 sq. ft. each, one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldgs. 311–317, 319, 324–326
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force
Property Numbers: 189120012–189120020, 189120025–189120027
Status: Unutilized
Comment: 2424 sq. ft. each, one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 323
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force
Property Number: 189120024
Status: Unutilized
Comment: 1233 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldgs. 331–341, 343, 345–346, 348–353
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force
Property Numbers: 189120028–189120047
Status: Unutilized
Comment: 1170 sq. ft. each, one story family housing, easement restrictions, potential utilities, off-site removal only.

Bldg. 400
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force

Property Number: 189120048
Status: Unutilized
Comment: 2464 sq. ft., most recent use-maintenance shop, easement restrictions, potential utilities, off-site removal only.

Bldg. 402
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force
Property Number: 189120049
Status: Unutilized
Comment: 2570 sq. ft., one story, most recent use—Chapel, easement restrictions, potential utilities, off-site removal only.

Bldg. 404
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force
Property Number: 189120050
Status: Unutilized
Comment: 2376 sq. ft., most recent use—religious education facility, easement restrictions, potential utilities, off-site removal only.

Bldg. 406
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force
Property Number: 189120051
Status: Unutilized
Comment: 2605 sq. ft., one story, most recent use—child care facility, easement restrictions, potential utilities, off-site removal only.

Bldgs. 3027, 3029–3040
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force
Property Numbers: 189120052, 189120054–189120065
Status: Unutilized
Comment: 120 sq. ft. each. one story, most recent use—storage, easement restrictions, potential utilities, off-site removal only.

Bldg. 3028
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force
Property Number: 189120053
Status: Unutilized
Comment: 60 sq. ft., one story, most recent use—storage, easement restrictions, potential utilities, off-site removal only.

Land (by State)

California

60 ARG/DE
Travis ILS Outer Marker Annex
Rio-Dixon Road
Travis AFB, Co: Solano, CA 94535–5496
Location: State Highway 113
Landholding Agency: Air Force
Property Number: 189010189
Status: Excess.
Comment: .13 acres; most recent use—location for instrument landing systems equipment.

Guam

Annex 1
Andersen Communication
Dededo, Co: Guam, GU 96912–
Location: In the municipality of Dededo.
Landholding Agency: Air Force
Property Number: 189010427
Status: Underutilized.
Comment: 862 acres; subject to utilities easements.

Annex 2, (Partial)
Andersen Petroleum Storage
Dededo, Co: Guam, GU 96912–
Location: In the municipality of Dededo.
Landholding Agency: Air Force
Property Number: 189010428
Status: Underutilized.
Comment: 35 acres; subject to utilities easements.

Michigan

Calumet Air Force Station
Section 1, T57N, R31W
Houghton Township
Calumet, Co: Keweenaw, MI 49913–
Landholding Agency: Air Force
Property Number: 189010862
Status: Excess.
Comment: 34 acres; potential utilities.

Calumet Air Force Station
Section 31, T58N, R30W
Houghton Township
Calumet, Co: Keweenaw, MI 49913–
Landholding Agency: Air Force
Property Number: 189010863
Status: Excess.
Comment: 3.78 acres; potential utilities.

Suitable/Unavailable Properties

Buildings (by State)

California

Bldg. 540
Vandenberg Air Force Base
Off Coast Road
Vandenberg AFB, Co: Santa Barbara, CA 93437–
Location: Highway 1, Highway 246, Coast Road, Pt Sal Road, Miquelito Cyn.
Landholding Agency: Air Force
Property Number: 189010581
Status: Unutilized.
Comment: 384 sq. ft.; 1 story concrete/sheet metal; needs rehab; most recent use—locomotive maintenance/supply building; potential use—storage.

Florida

Bldg. 166, 168, 170, 172, 174, 176
Patrick Air Force Base
North Highway A1A
Cocoa Beach, Co: Brevard, FL 32925–
Landholding Agency: Air Force
Property Number: 189110154–189110159
Status: Unutilized.
Comment: 2100 sq. ft.; 1 story concrete block residence; needs major repair; presence of asbestos.

Bldgs. 12, 14, 16, 111, 113, 115, 117
Patrick Air Force Base
Patrick AFB, Co: Brevard, FL 32925–
Landholding Agency: Air Force
Property Numbers: 189140030–189140036
Status: Underutilized.
Comment: 2100 sq. ft. each; 1 story concrete block, needs rehab, presence of asbestos.

Illinois

Bldg. 1380
Chanute Air Force Base
Rantoul, Co: Champaign, IL 61868–
Landholding Agency: Air Force
Property Number: 189010232
Status: Unutilized.
Comment: 350 sq. ft.; one story wood frame; no utilities; structural deficiencies; used for training exercises (chemicals and explosives).

Bldg. 106
Chanute Air Force Base
Rantoul, Co: Champaign, IL 61868–
Landholding Agency: Air Force
Property Number: 189010255
Status: Unutilized.
Comment: 2360 sq. ft.; 2 story wood; possible asbestos; most recent use—jail.

Bldg. 1220
Chanute Air Force Base
Rantoul, Co: Champaign, IL 61868–
Landholding Agency: Air Force
Property Number: 189010259
Status: Unutilized.
Comment: 589 sq. ft.; 1 story concrete block; water pump house for swimming pool; potential utilities.

Bldg. 1221
Chanute Air Force Base
Rantoul, Co: Champaign, IL 61868–
Landholding Agency: Air Force
Property Number: 189010260
Status: Unutilized.
Comment: 2893 sq. ft.; 1 story concrete; bath house for swimming pool; limited utilities; possible asbestos.

Michigan

Bldg. 20
Calumet, Air Force Station
Calumet Co: Keweenaw, MI 49913–
Landholding Agency: Air Force
Property Number: 189010775
Status: Excess.
Comment: 13404 sq. ft.; 1 floor; concrete block; potential utilities; possible asbestos; most recent use—warehouse/supply facility.

Bldg. 28
Calumet, Air Force Station
Calumet Co: Keweenaw, MI 49913–
Landholding Agency: Air Force
Property Number: 189010778
Status: Excess.
Comment: 1000 sq. ft.; 1 floor; possible asbestos; potential utilities; most recent use—maintenance facility.

Missouri

Jefferson Barracks ANG Base
Missouri National Guard
1 Grant Road
St. Louis, Co: St. Louis, MO 63125–4118
Landholding Agency: Air Force
Property Number: 189010081
Status: Underutilized.
Comment: 20 acres; portion near flammable materials; portion on archaeological site; special fencing required.

New Mexico

Bldg. 13 1606 ABW/DE
Kirtland AFB

Wyoming Avenue
Kirtland, Co: Bernalillo, NM 87117-5498
Landholding Agency: Air Force
Property Number: 189010072
Status: Unutilized.
Comment: 520 sq. ft., 1 story portable building, off-site use only.

South Dakota

54 Bldgs.—Renel Heights
Ellsworth AFB, Co: Pennington, SD 57706–
Location: Across from main gate turn off.
Landholding Agency: Air Force
Property Numbers: 189010343–189010355, 189010386–189010425
Status: Unutilized.
Comment: 852 sq. ft. to 1652 sq. ft. each; 1 story concrete masonry block residences; secured area with alternate access; unstable foundation; utilities disconnected; possible asbestos.
124 Bldgs.—Skyway
Ellsworth AFB, Co: Pennington, SD 57706–
Location: Between main gate turn off and school gate.
Landholding Agency: Air Force
Property Numbers: 189010356–189010384, 189010760–189010774, 189010008–189030015, 189040003–189040028, 189110033–189110080
Status: Unutilized.
Comment: 481 sq. ft. to 1256 sq. ft. each, 1 and 2 story wood frame residences; structurally deteriorated; possible asbestos; secured area with alternate access; potential utilities.
Bldg. 1108, 1109, 1113, 1114
Ellsworth Air Force Base
Center Drive
Ellsworth AFB, Co: Pennington, SD 57706–
Landholding Agency: Air Force
Property Number: 189010439–189010442
Status: Unutilized.
Comment: 10303 sq. ft.; 2 story wood frame with basement; possible asbestos; secure facility with alternate access; potential utilities.

Texas

Facility 237—Carswell AFB
301 Roaring Springs Road
Fort Worth, Co: Tarrant, TX 76127–
Landholding Agency: Air Force
Property Number: 189120235
Status: Unutilized.
Comment: 1285 sq. ft., wood shingles, one story, most recent use—residential, needs rehab.
Bldg. 697
Brooks Air Force Base
San Antonio, Co: Bexar, TX 78235
Landholding Agency: Air Force
Property Number: 189110092
Status: Unutilized.
Comment: 770 sq. ft., possible asbestos, most recent use—supply store, needs rehab.
Bldg. 698
Brooks Air Force Base
San Antonio, Co: Bexar, TX 78235
Landholding Agency: Air Force
Property Number: 189110093
Status: Unutilized.
Comment: 5815 sq. ft., 1 story corrugated iron, possible asbestos, needs rehab, most recent use—recreation, workshop.
Bldg. 605
Brooks Air Force Base
San Antonio, Co: Bexar, TX 78235–
Landholding Agency: Air Force
Property Number: 189110090
Status: Unutilized.
Comment: 392 sq. ft.; 1 story sheet metal building; most recent use—storage; possible asbestos; needs rehab.
Bldg. 698
Brooks Air Force Base
San Antonio, Co: Bexar, TX 78235–
Landholding Agency: Air Force
Property Number: 189110091
Status: Unutilized.
Comment: 1344 sq. ft.; possible asbestos; most recent use—auto hobby shop; needs rehab.
Bldg. 699
Brooks Air Force Base
San Antonio, Co: Bexar, TX 78235–
Landholding Agency: Air Force
Property Number: 189110094
Status: Unutilized.
Comment: 2659 sq. ft.; 1 story; possible asbestos; most recent use—arts and crafts center.

Land (by State)

California

Norton Com. Facility Annex
Norton AFB
Sixth and Central Streets
Highland, Co: San Bernadino, CA 92409–5045
Landholding Agency: Air Force
Property Number: 189010194
Status: Excess.
Comment: 30.3 acres; most recent use—recreational area; portion subject to easements.
Camp Kohler Annex
McClellan AFB
Sacramento, Co: Sacramento, CA 95652–5000
Landholding Agency: Air Force
Property Number: 189010045
Status: Unutilized.
Comment: 35.30 acres +.11 acres easement; 30+ acres undeveloped; potential utilities; secured area; alternate access.

Florida

Eglin AFB
Mossy Head, Co: Walton, FL 32533–
Location: NW quadrant of Florida Highway 285 and I–10. Bounded on the North by Louisville RR near Mossy Head, Florida.
Landholding Agency: Air Force
Property Number: 189010134
Status: Excess
Comment: 50 acres; Parcel 9; previous buffer zone; potential utilities.
Eglin AFB
Mossy Head, Co: Walton, FL 32533–
Location: NE quadrant of Florida Highway 285, I–10 intersection. Bounded on the North by Louisville and Nashville RR near Mossy Head, Florida.
Landholding Agency: Air Force
Property Number: 189010135
Status: Excess.
Comment: 265 acres; Parcel 10; previous buffer zone; potential utilities.
Eglin AFB
Mossy Head, Co: Walton, FL 32533–
Location: Approximately 1 mile east of Florida Highway 285 and US Highway 90 on north side.
Landholding Agency; Air Force
Property Number: 189010136
Status: Excess.
Comment: 47 acres; Parcel 11; previous buffer zone; potential utilities.

Unsuitable Properties

Buildings (by State)

Alaska

Bldg. 203, 113
Tin City Air Force Station
21 CSG/DEER
Elmendorf AFB, Co: Anchorage, AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010296–189010297
Status: Unutilized.
Reason:
  Secured Area
  Isolated area
  Not accessible by road
  Contamination
Bldg. 165, 150, 130
Sparrevohn Air Force Station
21 CSG/DEER
Elmendorf AFB, Co: Anchorage, AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010298–189010300
Status: Unutilized.
Reason:
  Secured Area
  Isolated area
  Not accessible by road
  Contamination
Bldg. 306
King Salmon Airport
21 CSG/DEER
Elmendorf AFB, Co: Anchorage, AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010301
Status: Unutilized.
Reason:
  Secured Area
  Isolated area
  Not accessible by road
  Contamination
Bldg. 1401
Galena Airport
21 CSG/DEER
Elmendorf AFB, Co: Anchorage, AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010302
Status: Unutilized.
Reason:
  Secured Area
  Isolated area
  Not accessible by road
  Contamination
Bldg. 11–230, 21–116, 34–616, 43–010, 63–320, 63–325
Elmendorf Air Force Base
21 CSG/DEER
Elmendorf AFB, Co: Anchorage, AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010303–189010308
Status: Unutilized.
Reason:
  Secured Area
  Isolated area

Not accessible by road
Contamination

Bldg. 103, 110, 112–115, 118, 1001, 1018, 1025, 1055
Ft. Yukon Air Force Station
21 CSG/DEER
Elmendorf AFB, Co: Anchorage, AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010309–189010319
Status: Unutilized.
Reason:
Secured Area
Isolated area
Not accessible by road
Contamination

Bldg. 107, 115, 113, 150, 152, 301, 1001, 1003, 1055, 1056
Cape Lisburne Air Force Station
21 CSG/DEER
Elmendorf AFB, Co: Anchorage, AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010320–189010329
Status: Unutilized.
Reason:
Secured Area
Isolated Area
Not accessible by road
Contamination

Bldg. 103–105, 110, 114, 202, 204–205, 1001, 1015
Kotzebue Air Force Station
21 CSG/DEER
Elmendorf AFB, Co: Anchorage, AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010330–189010339
Status: Unutilized.
Reason:
Secured Area
Isolated area
Not accessible by road
Contamination

Bldg. 50
Cold Bay Air Force Station
21 CSG/DEER
Elmendorf AFB, Co: Anchorage, AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010433
Status: Unutilized.
Reason:
Other
Isolated area
Not accessible by road
Comment: Isolated and remote; Arctic environment.

Alabama

28 Bldgs.
Maxwell AFB
Montgomery, Co: Montgomery, AL 36112–
Landholding Agency: Air Force
Property Number: 189010002–189010005, 189110165–189110167, 189120231–189120232, 189130335–189130336, 189130370–189130381, 189140010–189140014
Status: Unutilized.
Reason:
Secured Area

22 Bldgs.
Gunter AFB
Montgomery, Co: Montgomery, AL 36114–
Landholding Agency: Air Force
Property Number: 189010011–189010013, 189010015–189010016, 189010019–189010020, 189010022, 189040853–189040855, 189130349, 189140001–189140009, 189140021
Status: Underutilized.
Reason:
Secured Area

Bldg. 1435–1436, 1440–1441
Maxwell Air Force Base
Mimosa Road
Montgomery, Co: Montgomery, AL 36112–
Landholding Agency: Air Force
Property Number: 189030220–189030223
Status: Unutilized.
Reason:
Floodway
Secured Area

Bldg. 1004
Reserves Forces Training Facility
Maxwell Air Force Base
Montgomery, Co: Montgomery, AL 36112–
Location: 1004 Maxwell Blvd. & Kelly Street
Landholding Agency: Air Force
Property Number: 189130369
Status: Unutilized.
Reason:
Secured Area
Within airport runway clear zone

Arizona

Dormitory Building 632
Williams Air Force Base
Corner of 4th and D Street
Williams AFB, Co: Maricopa, AZ 85240–5000
Landholding Agency: Air Force
Property Number: 189040856
Status: Unutilized.
Reason:
Secured Area

California

Bldg. 4052
March AFB
Ice House in West March
Riverside, Co: Riverside, CA 92518–
Landholding Agency: Air Force
Property Number: 189010082
Status: Unutilized.
Reason:
Within airport runway clear zone

Bldg. 392 60 ABG/DE
Travis Air Force Base
Hospital Drive
Travis AFB, Co: Solano, CA 94535–5496
Landholding Agency: Air Force
Property Number: 189010187
Status: Underutilized.
Reason:
Within 2000 ft. of flammable or explosive material
Secured Area

Bldg. 1182 60 ABG/DE
Travis Air Force Base
Perimeter Road
Travis AFB, Co: Solano, CA 94535–5496
Landholding Agency: Air Force
Property Number: 189010188
Status: Unutilized.
Reason:
Within airport runway clear zone
Secured Area

Bldg. 152, 159, 344 60ABG/DE
Travis Air Force Base
Broadway Street
Travis AFB, Co: Solano, CA 94535–5496
Landholding Agency: Air Force
Property Number: 189010190–189010192
Status: Unutilized.
Reason:
Within 2000 ft. of flammable or explosive material
Secured Area

Bldg. 707, 502, 23 63 ABG/DE
Norton Air Force Base
Norton, Co: San Bernadino, CA 92409–5045
Landholding Agency: Air Force
Property Number: 189010193, 189010196–189010197
Status: Excess.
Reason:
Within 2000 ft. of flammable or explosive material
Secured Area

Bldg. 575 63 ABG/DE
Norton Air Force Base
Norton, Co: San Bernadino, CA 92409–5045
Landholding Agency: Air Force
Property Number: 189010195
Status: Excess.
Reason:
Within 2000 ft. of flammable or explosive material

Bldg. 100–101, 116, 202
Point Arena Air Force Station
Co: Mendocino, CA 95468–5000
Landholding Agency: Air Force
Property Number: 189010233–189010236
Status: Unutilized.
Reason:
Secured Area

Bldg. 201–204
Vandenberg Air Force Base
Point Arguello
Vandenberg AFB, Co: Santa Barbara, CA 93437–
Location: Highway 1, Highway 246, Coast Road, Pt Sal Road, Miguelito Cyn.
Landholding Agency: Air Force
Property Number: 189010546–189010549
Status: Unutilized.
Reason:
Secured Area

Bldg. 1001–1010, 1015, 1022–1024
Vandenberg Air Force Base
Off Tangair Road
Vandenberg AFB, Co: Santa Barbara, CA 93437–
Landholding Agency: Air Force
Property Number: 189010550–189010563
Status: Unutilized.
Reason:
Within 2000 ft. of flammable or explosive material
Secured Area

Bldg. 8006–8010
Vandenberg Air Force Base
Off California on Lompoc Avenue
Vandenberg AFB, Co: Santa Barbara, CA 93437–
Landholding Agency: Air Force
Property Number: 189010564–189010566
Status: Unutilized.
Reason:
Secured Area

Bldgs. 1100–1101, 1103–1107, 1110, 1108
Vandenberg Air Force Base
Off Terra Road
Vandenberg AFB, Co: Santa Barbara, CA 93437–

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Landholding Agency: Air Force
Property Number: 189010567–189010574, 189010579–189010580
Status: Unutilized.
Reason:
  Within 2000 ft. of flammable or explosive material
  Secured Area

Bldg. 13423–13424, 13511–13512
Vandenberg Air Force Base
K Street off Kansas
Vandenberg AFB, Co: Santa Barbara, CA 93437–
Landholding Agency: Air Force
Property Number: 189010575–189010578
Status: Unutilized.
Reason:
  Secured Area

Bldg. 23102
Vandenberg Air Force Base
Vandenberg AFB, Co: Santa Barbara, CA 93437–
Location: Highway 1 and Highway 246; Coast Road, Pt. Sal Rd; Miguelito Cyn
Landholding Agency: Air Force
Property Number: 189110082
Status: Unutilized.
Reason:
  Secured Area

Bldg. 1011–1014, 1016–1021, 1823
Vandenberg Air Force Base
Vandenberg AFB, Co: Santa Barbara, CA 93437–
Location: Hwy 1, Hwy 246, Coast Road, PT Sal Rd., Miguelito CYN
Landholding Agency: Air Force
Property Number: 189130350–189130360
Status: Unutilized.
Reason:
  Secured Area
  Within 2000 ft. of flammable or explosive material

Bldg. 5015
Vandenberg Air Force Base
Vandenberg AFB, Co: Santa Barbara, CA 93437–
Location: Hwy 1, Hwy 246, Coast Road, PT Sal Rd., Miguelito CYN
Landholding Agency: Air Force
Property Number: 189130361
Status: Excess.
Reason:
  Secured Area
  Within 2000 ft. of flammable or explosive material
  Within airport runway clear zone

Bldgs. 8006, 5001, 8011, 11443, 1011–1014, 1016–1021, 1027, 1031, 6105, 8111, 8118–8119, 8140–8141, 9341, 10312, 10314, 10503
Vandenberg Air Force Base
Vandenberg AFB, Co: Santa Barbara, CA 93437–
Location: Hwy 1, Hwy 246, Coast Road, PT Sal Rd., Miguelito CYN
Landholding Agency: Air Force
Property Number: 189130362, 189140025, 189140028–189140029, 189210007–189210028
Status: Unutilized.
Reason:
  Secured Area

Bldg. 10748
Vandenberg Air Force Base
Vandenberg AFB, Co: Santa Barbara, CA 93437–
Landholding Agency: Air Force
Property Number: 189210029
Status: Unutilized.
Reason:
  Other
Comment: Extensive deterioration.

Colorado

Bldg. 24
Buckley Air Nat'l Guard Base
Aurora, Co: Arapahoe, CO 80011–9599
Location: Demolished 7 Dec. 90.
Landholding Agency: Air Force
Property Number: 1890101249
Status: Unutilized.
Reason:
  Secured Area

Bldg. 291
Lowry Air Force Base
Denver, Co: Denver, CO 80230–5000
Location: South of 6th Avenue and east of Rosemary Court.
Landholding Agency: Air Force
Property Number: 189010250
Status: Excess.
Reason:
  Secured Area

Delaware

Bldg. 1310, 230
Dover Air Force Base
436 ABG/DE
Dover AFB, Co: Kent, DE 19902–
Landholding Agency: Air Force
Property Number: 189010727, 189140017
Status: Unutilized.
Reason:
  Secured Area

Bldg. 1900, 1304
436 CSG Dover AFB
Dover, Co: Kent, DE 19902–5516
Landholding Agency: Air Force
Property Number: 189120230, 189140018
Status: Unutilized.
Reason:
  Within airport runway clear zone
  Secured Area

Florida

Bldgs. 42, 6058–6059
Eglin Air Force Base
Eglin AFB, Co: Okaloosa, FL 32542–5000
Landholding Agency: Air Force
Property Number: 189110001–189110003
Status: Unutilized.
Reason:
  Secured Area

Bldg. 8501, 8505, 8507
Eglin Air Force Base
Site A–5
Eglin AFB, Co: Okaloosa, FL 32542–5000
Landholding Agency: Air Force
Property Number: 189110005–189110006, 189110008
Status: Unutilized.
Reason:
  Floodway
  Secured Area

Bldg. 576
Patrick Air Force Base
6th Street and South Patrick Drive
Cocoa Beach, Co: Brevard, FL 32925–
Landholding Agency: Air Force
Property Number: 189110160
Status: Unutilized.
Reason:
  Floodway

Bldg. 1635
Patrick Air Force Base
River Picnic Area/Skeet Range
Cocoa Beach, Co: Brevard, FL 32925–
Landholding Agency: Air Force
Property Number: 189110161
Status: Unutilized.
Reason:
  Secured Area

Bldg. 902
Tyndall Air Force Base
Panama City, Co: Bay, FL 32403–5000
Landholding Agency: Air Force
Property Number: 189130348
Status: Underutilized.
Reason:
  Secured Area

Bldg. 566, 568–569, 571–572, 574
Patrick Air Force Base
Cocoa Beach, Co: Brevard, FL 32925–
Location: A Street
Landholding Agency: Air Force
Property Number: 189130363–189130368
Status: Excess.
Reason:
  Secured Area
  Within airport runway clear zone

Idaho

Bldgs. 1012, 923, 604
Mountain Home Air Force Base
Co: Elmore, ID 83648–
Landholding Agency: Air Force
Property Number: 189030004–189030006
Status: Excess.
Reason:
  Within 2000 ft. of flammable or explosive material

Bldg. 229
Mt. Home Air Force Base
1st Avenue and A Street
Mt. Home AFB, Co: Elmore, ID 83648–
Landholding Agency: Air Force
Property Number: 189040857
Status: Unutilized.
Reason:
  Within 2000 ft. of flammable or explosive material
  Within airport runway clear zone

Illinois

Bldg. 550
Chanute Air Force Base
Rantoul Co: Champaign IL 61868–
Landholding Agency: Air Force
Property Number: 189010227
Status: Unutilized.
Reason: Other environmental.
Comment: Water treatment sewage building.

Bldgs. 551–552
Chanute Air Force Base
Rantoul Co: Champaign IL 61868–
Landholding Agency: Air Force
Property Numbers: 189010228–189010229
Status: Unutilized.
Reason: Other environmental.
Comment: Waste treatment plant.

Bldg. 556
Chanute Air Force Base
Rantoul Co: Champaign IL 61868–
Landholding Agency: Air Force
Property Number: 189010230
Status: Unutilized.
Reason: Other environmental.

Comment: Sewage treatment building with pumps.

Bldg. 964
Chanute Air Force Base
Rantoul Co: Champaign IL 61868–
Landholding Agency: Air Force
Property Number: 189010231
Status: Unutilized.
Reason: Other environmental.
Comment: Waste treatment pump station.

Bldg. 3191
Scott Air Force Base
East Drive 375/ABG/DE
Scott ABF Co: St. Clair IL 62225–5001
Landholding Agency: Air Force
Property Number: 189010247
Status: Unutilized.
Reason:
Within airport runway clear zone.
Secured Area.

Bldgs. 3670, 503, 351, 869, 1401–1410, 865
Scott Air Force Base
Scott AFB Co: St. Clair IL 62225–5001
Landholding Agency: Air Force
Property Numbers: 189010248, 189010725, 189110086–189110087, 189130337–189130347
Status: Unutilized.
Reason: Secured Area.

Indiana

Bldgs. 520, 309, 301
Grissom Air Force Base
Grissom Co: Miami IN 46971–
Landholding Agency: Air Force
Property Numbers: 189010183–189010184, 189010186
Status: Underutilized.
Reason: Secured Area.

Bldgs. 219, 307
Grissom Air Force Base
Grissom AFB Co: Miami IN 46971–5000
Landholding Agency: Air Force
Property Numbers: 189110084–189110085
Status: Underutilized.
Reason:
Within 2000 ft. of flammable or explosive material.
Secured Area.

Bldg. 707
Parallel to NE–SW runway & alternate runway
Grissom AFB Co: Miami IN 46971–
Landholding Agency: Air Force
Property Number: 189130334
Status: Unutilized.
Reason:
Within airport runway clear zone.
Secured Area.

Louisiana

Bldg. 3477
Barksdale Air Force Base
Davis Avenue
Barksdale AFB Co: Bossier LA 71110–5000
Landholding Agency: Air Force
Property Number: 189140015
Status: Unutilized.
Reason: Secured Area.

Massachusetts

Bldgs. 1900, 1833
Westover Air Force Base
Chicopee Co: Hampden MA 01022–
Landholding Agency: Air Force
Property Numbers: 189010438, 189040002
Status: Unutilized.
Reason: Secured Area.

Maryland

Bldgs. 4–5
Brandywine Storage Annex
1776 ABW/DE Brandywine Road, Route 381
Andrews AFB Co: Prince Georges MD 20613–
Landholding Agency: Air Force
Property Numbers: 189010261, 189010264
Status: Unutilized.
Reason: Secured Area.

Bldg. 3427
Andrews Air Force Base
3427 Pennsylvania Avenue
Andrews AFB Co: Prince George's MD 20335–
Landholding Agency: Air Force
Property Number: 189140016
Status: Unutilized.
Reason: Secured Area.

Maine

Bldg. 5200, 6200, 6100
Loring Air Force Base
Limestone Co: Aroostook ME 04750–
Landholding Agency: Air Force
Property Number: 189010541–189010543
Status: Unutilized.
Reason: Secured Area.

Michigan

Bldg. 560, 5658, 580, 856, 1005, 1012, 1041, 1412, 1434, 1688, 1689, 5670
Selfridge Air National Guard Base
Selfridge Co: Macomb MI 48045–
Landholding Agency: Air Force
Property Number: 189010522–189010533
Status: Unutilized.
Reason: Secured Area.

Bldg. 71
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010810
Status: Excess.
Reason: Other.
Comment: Sewage treatment and disposal facility.

Bldg. 99–100
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010831–189010832
Status: Excess.
Reason: Other.
Comment: Water well.

Bldg. 118, 120, 168
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010675–189010676, 189010678
Status: Excess.
Reason: Other.
Comment: Gasoline Station.

Bldg. 166
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010677
Status: Excess.
Reason: Other.
Comment: Pump lift station.

Bldg. 69
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010689
Status: Excess.
Reason: Other.
Comment: Sewer pump facility.

Bldg. 2
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010690
Status: Excess.
Reason: Other.
Comment: Water pump station.

Missouri

Bldg. 42, 45–47, 61
Jefferson Barracks ANG Base
1 Grant Road, Missouri National Guard
St. Louis Co: St. Louis MO 63125–
Landholding Agency: Air Force
Property Number: 189010726, 189010728–189010731
Status: Unutilized.
Reason: Secured Area.

Montana

Bldg. 140
Malmstrom AFB
Between Goddard Avenue & 2nd Street
Malmstrom Co: Cascade MT 59402–
Landholding Agency: Air Force
Property Number: 189010076
Status: Unutilized.
Reason:
Within 2000 ft. of flammable or explosive material.
Secured Area.
Other environmental.

Bldg. 280
Malmstrom AFB
Flightline & Avenue G
Malmstrom Co: Cascade MT 59402–
Landholding Agency: Air Force
Property Number: 189010077
Status: Underutilized.
Reason:
Within 2000 ft. of flammable or explosive material.
Within airport runway clear zone.
Secured Area.
Other environmental.

Bldg. 621
Malmstrom AFB
1st Street & Avenue I
Malmstrom Co: Cascade MT 59402–
Landholding Agency: Air Force
Property Number: 189010078
Status: Unutilized.
Reason:
Other environmental
Secured Area.
Comment: Friable asbestos.

Bldg. 1500, 1502
Malmstrom AFB
Perimeter Road
Malmstrom Co: Cascade MT 59402–
Landholding Agency: Air Force
Property Number: 189010079–189010080
Status: Unutilized.
Reason:
Within 2000 ft. of flammable or explosive material.
Secured Area.
Other environmental.

Bldg. 627, 677
Malmstrom Air Force Base
Great Falls Co: Cascade MT 59402–
Landholding Agency: Air Force
Property Number: 189010722–189010723
Status: Unutilized.
Reason:
  Secured Area.
  Other environmental.

Bldg. 1991
Malmstrom Air Force Base
Between Avenue G and H
Malmstrom Co: Cascade MT 59405–
Landholding Agency: Air Force
Property Number: 189040057
Status: Underutilized.
Reason:
  Secured Area.
  Other environmental.

Nebraska

Offutt Communications Annex–#3
Offutt Air Force Base
Scribner Co: Dodge NE 68031–
Landholding Agency: Air Force
Status: Unutilized.
Reason: Other.
Comment: former sewage lagoon.

North Carolina

Bldg. 187
Pope Air Force Base
317 CSG/DE Reilly Road
Pope AFB Co: Cumberland NC 28308–5045
Landholding Agency: Air Force
Property Number: 189010262
Status: Unutilized.
Reason: Secured Area.

Bldg. 4230—Youth Center
Cannon Ave.
Goldsboro Co: Wayne NC 27531–5005
Landholding Agency: Air Force
Property Number: 189120233
Status: Underutilized.
Reason: Secured Area.

Bldg. N. 459
Pope Air Force Base
Armistead Street
Pope AFB Co: Cumberland NC 28308–5045
Landholding Agency: Air Force
Property Number: 189140019
Status: Unutilized.
Reason: Secured Area.

North Dakota

Bldg. 422
Minot Air Force Base
Minot Co: Ward ND 58705–
Landholding Agency: Air Force
Property Number: 189010724
Status: Underutilized.
Reason: Secured Area.

New Hampshire

Bldg. 132, 317, 343, 439
Pease Air Force Base
Pease AFB Co: Rockingham NH 03803–
Landholding Agency: Air Force
Property Number: 189010536–189010539
Status: Excess.
Reason: Within 2000 ft. of flammable or explosive material.

New Mexico

Bldg. 20330
Kirtland Air Force Base
1606 ABW/DEEVR
Kirtland AFB Co: Bernalillo NM 87117–5496
Landholding Agency: Air Force
Property Number: 189110083
Status: Unutilized.
Reason: Secured Area.

Bldg. 881
833 CSG/DEER
Holloman AFB Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 189130333
Status: Unutilized.
Reason: Secured Area.

Bldg. 48013
Kirtland Air Force Base
Kirtland AFB Co: Bernalillo NM 87117–5496
Landholding Agency: Air Force
Property Number: 189140020
Status: Unutilized.
Reason: Secured Area.

New York

Bldg. 626 (Pin: RVKQ)
Niagara Falls International Airport
914th Tactical Airlift Group
Niagara Falls Co: Niagara NY 14303–5000
Landholding Agency: Air Force
Property Number: 189010075
Status: Unutilized.
Reason:
  Within 2000 ft. of flammable or explosive material.
  Secured Area.

Bldgs. 272, 898
Griffiss Air Force Base
Rome Co: Oneida NY 13441–
Landholding Agency: Air Force
Property Number: 189140022–189140023
Status: Excess.
Reason: Secured Area.

Ohio

Facility 30205
Wright-Patterson Air Force Base
Greene Co: Greene OH 45433–
Landholding Agency: Air Force
Property Number: 189010434
Status: Unutilized.
Reason: Secured Area.

910 TAG
Base Sewage Treatment Plant
Vienna Co: Trumbull OH 44473–5000
Location: West of the 910 TAG Base on Ridge Road. Youngstown Municipal Airport
Landholding Agency: Air Force
Property Number: 189110081
Status: Excess.
Reason: Other.
Comment: Sewage treatment plant.

Oklahoma

Bldg. 604
Vance Air Force Base
Enid Co: Garfield OK 73705–5000
Landholding Agency: Air Force
Property Number: 189010204
Status: Unutilized.
Reason:
  Secured Area.
  Within 2,000 ft. of flammable or explosive material.

Puerto Rico

Bldg. 10
Punta Salinas Radar Site
Toa Baja Co: Toa Baja PR 00759–
Landholding Agency: Air Force
Property Number: 189010544
Status: Underutilized.
Reason: Secured Area.

South Dakota

176 Bldgs., Renel Heights
Ellsworth Air Force Base
Ellsworth AFB Co: Pennington SD 57706–
Location: Across from main gate turn off.
Landholding Agency: Air Force
Property Number: 189010443–189010521, 189010732–189010759, 189030016–189030032, 189040027–189040055, 189040058, 189110011–189110032
Status: Unutilized.
Reason: Other.
Comment: Earth movement/shifting, cracked exterior and interior walls with separations several inches wide; earth shift severed sewer lines.

101 Bldgs., Skyway
Ellswothin Air Force Base
Ellsworth Co: Pennington SD 57706–
Landholding Agency: Air Force
Property Number: 189120066–189120166
Status: Unutilized.
Reason: Other.
Comment: Extensive deterioration.

220 Bldgs., Renel Heights
Ellsworth Air Force Base
Ellsworth Co: Pennington SD 57706–
Landholding Agency: Air Force
Property Number: 189120167–189120229, 189130001, 189130003–189130157, 189130382
Status: Unutilized.
Reason: Other.
Comment: Extensive deterioration.

175 Bldgs., Skyway
Ellsworth AFB Co: Pennington SD 57706–
Landholding Agency: Air Force
Property Number: 189130158–189130331, 189130383
Status: Unutilized.
Reason: Other.
Comment: Extensive deterioration.

Bldg. 8904
Maintenance Work Center Unit
204 Harrison Terrace
Ellsworth AFB Co: Pennington SD 57706–
Landholding Agency: Air Force
Property Number: 189130332
Status: Unutilized.
Reason: Other.
Comment: Extensive deterioration.

Bldgs. 88513, 88501
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706
Landholding Agency: Air Force
Property Number: 189210001–189210002
Status: Unutilized.
Reason: Extensive deterioration.

Texas

Bldg. 400
Laughlin Air Force Base
Val Verde Co. Co: Val Verde TX 78843–5000
Location: Six miles on Highway 90 east of Del Rio, Texas.
Landholding Agency: Air Force
Property Number: 189010173
Status: Unutilized.

Reason:
Within 2000 ft. of flammable or explosive material.
Within airport runway clear zone.

Bldg. 645
Reese Air Force Base
Lubbock Co: Lubbock TX 79489–
Location: West of Lubbock
Landholding Agency: Air Force
Property Number: 189010210
Status: Excess.
Reason: Secured Area.

174 Bldgs.
Carswell Air Force Base
Fort Worth Co: Tarrant TX 76114–
Landholding Agency: Air Force
Property Number: 189030043–189030142, 189030144–189030173, 189030175–189030218
Status: Unutilized.
Reason: Other.
Comment: Extensive deterioration.

Bldg. 02106
Reese Air Force Base
Lubbock Co: Lubbock TX
Landholding Agency: Air Force
Property Number: 189210005
Status: Unutilized.
Reason: Secured Area.

Utah

11 Bldgs.
Hill Air Force Base
Co: Davis UT 84056–
Landholding Agency: Air Force
Property Number: 189010275, 189010277, 189010279, 189010281, 189010283, 189010285, 189010287, 189010289, 189010291, 189010293, 189010295.
Status: Unutilized.
Reason: Secured Area.

Bldg. 788–790
Hill Air Force Base
Co: Davis UT 84056–
Landholding Agency: Air Force
Property Number: 189040858–189040860
Status: Unutilized.
Reason:
Within airport runway clear zone.
Secured Area.

Washington

21 Bldgs.
Fairchild AFB
Fairchild Co: Spokane WA 99011–
Landholding Agency: Air Force
Property Number: 189010139–189010159
Status: Unutilized.
Reason: Secured Area.

Bldg. 100, Geiger Heights
Grove and Hallet Streets
Fairchild AFB Co: Spokane WA 99204–
Landholding Agency: Air Force
Property Number: 189210004
Status: Unutilized.
Reason: Other.
Comment: Extensive deterioration.

Wyoming

Bldg. 31, 34, 37, 284, 385, 803
F. E. Warren Air Force Base
Cheyenne Co: Laramie WY 82005–
Landholding Agency: Air Force
Property Number: 189010198–189010203
Status: Unutilized.
Reason: Secured Area.

Land (by State)

Alaska

Campion Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010430
Status: Unutilized.
Reason:
Other.
Isolated area.
Not accessible by road.
Comment: isolated and remote area; Arctic environment.

Lake Louise Recreation
21 CSG–DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010431
Status: Unutilized.
Reason:
Other.
Isolated area.
Not accessible by road.
Comment: Isolated and remote area; Arctic coast.

Nikolski Radio Relay Site
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010432
Status: Unutilized.
Reason:
Other.
Isolated area.
Not accessible by road.
Comment: Isolated and remote area; Arctic coast.

Florida

Land
MacDill Air Force Base
8601 S. Manhattan Avenue
Tampa Co: Hillsborough FL 33608–
Landholding Agency: Air Force
Property Number: 189030003
Status: Excess.
Reason: Floodway.

Maryland

Land
Brandywine Storage Annex
1776 ABW/DE Brandywine Road, Route 381
Andrews AFB Co: Prince Georges MD 20613–
Landholding Agency: Air Force
Property Number: 189010263
Status: Unutilized.
Reason: Secured Area.

South Dakota

Bandlands Bomb Rnage
60 miles southeast of Rapid City, SD
1½ miles south of Highway 44
Co: Shannon SD
Landholding Agency: Air Force
Property Number: 189210003
Status: Untilized.
Reason: Secured Area.

Virginia

Parcel 1 (Byrd Field)
Richmond IAP
5680 Beulah Road
Richmond Co: Henrico VA 23150–
Landholding Agency: Air Force
Property Number: 189010435
Status: Unutilized.
Reason: Floodway.

Parcel 3, (Byrd Field)
Richmond IAP
5680 Beulah Road
Richmond Co: Henrico VA 23150–
Landholding Agency: Air Force
Property Number: 189010436
Status: Unutilized.
Reason: Within 2000 ft. of flammable or explosive material.

Parcel 2, (Byrd Field)
Richmond IAP
5680 Beulah Road
Richmond Co: Henrico VA 23150–
Landholding Agency: Air Force
Property Number: 189010437
Status: Unutilized.
Reason: Within 2000 Ft. of flammable or explosive material.
Secured Area.

ANG Site
Camp Pendleton
Virginia Air National Guard
Virginia Beach Co: (See County) VA 23451–
Landholding Agency: Air Force
Property Number: 189010589
Status: Unutilized.
Reason: Secured Area.

Washington

Fairchild AFB
SE corner of base
Fairchild AFB Co: Spokane WA 99011–
Landholding Agency: Air Force
Property Number: 189010137
Status: Unutilized.
Reason: Secured Area.

Fairchild AFB
Fairchild AFB Co: Spokane WA 99011–
Location: NW corner of base
Landholding Agency: Air Force
Property Number: 189010138
Status: Unutilized.
Reason: Secured Area.

[FR Doc. 92–3840 Filed 2–20–92; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–050–4830–12]

Canon City District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given in accordance with Public law 94–579 that Canon City District Advisory Council (DAC) Meeting will be held Thursday, March 12, 1992, 10 a.m. to 4:30 p.m. at the Canon City District Office, 3170 East Main, Canon City, Colorado.

The meeting agenda will include:

1. Discussion on the Garden Park Environmental Analysis.
2. Briefing on the Gold Belt Pre-Plan.
3. Tour of the Garden Park Fossil Area.
4. Public presentations to the council (open invitation). The meeting is open to the public. Persons interested may make oral presentations to the council at 11:30 a.m., or they may file written statements for the council's consideration. The District Manager may limit the length of oral presentations depending on the number of people wishing to speak.

ADDRESS: Anyone wishing to make oral or written presentation to the council should notify the District Manager, Bureau of Land Management, P.O. Box 2200, 3170 East Main, Canon City, Colorado 81215-1100, by March 11, 1992.

FOR FURTHER INFORMATION CONTACT: Ken Smith (719) 275-0631.

SUPPLEMENTARY INFORMATION: Summary of minutes of the meeting will be available for public inspection and reproduction during regular working hours at the District Office approximately 30 days following the meeting.

Donnie R. Sparks,

District Manager.

[FR Doc. 92-4039 Filed 2-20-92; 8:45 am]

BILLING CODE 4310-JB-M

[UT-040-02-4320-12]

Cedar City District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting of the Cedar City District Grazing Advisory Board.

SUMMARY: Notice is hereby given in accordance with Public Law 92-463 of a meeting of the Cedar City District Grazing Advisory Board. Meeting agenda items will include updates on the Resource Management Plans and resource area boundaries, predator control, range maintenance policy, vegetative treatment status and ranking of proposed advisory board projects.

DATE: March 26, 1992. The meeting will begin at 9 a.m. in the Cedar City District Office, 176 East D.L. Sargent Drive, Cedar City, Utah.

FOR FURTHER INFORMATION CONTACT: Gordon R. Staker, District Manager, Cedar City District, 176 D.L. Sargent Drive, Cedar City, Utah 84720. Telephone: 801 586-2401.

SUPPLEMENTARY INFORMATION: Grazing Advisory Board meetings are open to the public. Interested persons may make oral statements or file written statements for the Board's consideration. Anyone wishing to make a statement notify the District Manager by Friday March 13, 1992. A time limit may be established by the District Manager.

Dated: February 11, 1992.

Gordon R. Staker,

District Manager.

[FR Doc. 92-4040 Filed 2-20-92; 8:45 am]

BILLING CODE 4310-JB-M

[CO-070-4320-12-241A]

Grand Junction District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of meeting of Grand Junction District Advisory Board.

SUMMARY: Notice is hereby given that a meeting of the Grand Junction District Grazing Advisory Board will be held on Thursday, March 12, 1992. The meeting will convene in the conference room at the Bureau of Land Management, 764 Horizon Drive, Grand Junction, Colorado at 9:00 a.m.

SUPPLEMENTARY INFORMATION: The agenda for the meeting will include: (1) Introduction; (2) Minutes of the previous meeting; (3) Colorado Range Update; (4) Payment of Grazing Fees; (5) Integrated Activity Plans; (6) Cost of Prescribed Fire; (7) Status of Current Range Projects; (8) Advisory Board Project Proposals; (9) Public Presentations; (10) Arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the Board between 3 p.m. and 3:30 p.m. or file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 764 Horizon Drive, Grand Junction, Colorado 816506 by March 11, 1992. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Minutes of the Board Meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) after thirty (30) days following the meeting.

Further information on the meeting may be otained at the above address, or by calling (303) 243-6552.

Lynda Boody,

Acting District Manager.

[FR Doc. 92-3968 Filed 2-20-92; 8:45 am]

BILLING CODE 4310-JB-M

Fish and Wildlife Service

Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT 678845

Applicant: Mesa Garden Nursery, Belen, NM.

The applicant requests a permit to sell artificially propagated San Rafael cacti *(Pediocactus despainii)* in interstate and foreign commerce for the purpose of enhancement of propagation. Specimens grown from seed. Parental stock started from seeds collected in Utah and now producing third generation seedlings.

PRT 765142

Applicant: University of Louisville, Louisville, KY.

The applicant requests a permit to import blood samples taken from the following captive and captive-hatched crocodylians held at the Madras Crocodile Bank, Tamil, India, for DNA extraction that will clarify phylogenetic relationships: Crocodylus moreletii, C. niloticus, C. palustris, C. porosus, C. siamensis, Giavialis gangeticus, Melanosuchus niger, Osteolaemus tetraspis and Tomistome schlegelii.

PRT 717614

Applicant: Gary Johnson, Perris, CA.

The applicant requests a permit for multiple exports and reimports of Asian elephants *(Elephas maximus)* for exhibition purposes to provide conservation education.

PRT 697819

Applicant: USFWS, Regional Director, Region 4, Atlanta, GA.

The applicant requests amendment and renewal of their current permit to include take of Tennessee yellow-eyed grass *(Xyris tennesseensis)*, Guthrie's ground-plum *(Astragalus bibullatus)*, white irisette *(Sisyrrinchium dichotomum)*, and Gulf sturgeon *(Acipenser oxyrhynchu desotoi)* for the purpose of scientific research and enhancement of propagation or survival of the species as prescribed by Service recovery documents. Their current permit includes take of various fish, plants, mammals, birds, reptiles, amphibians, mussels, insects and snails.

PRT 765601

Applicant: Lincoln Park Zoological Gardens, Chicago, IL.

PRT 765605

Chicago Zoological Society (Brookfield Zoo), Brookfield, IL.

PRT 765606

St. Louis Zoo, St. Louis, MO.

The above zoos belonging to the Zoo Midwest Ornithological Association request a permit to purchase up to thirty captive-hatched northern bald (Waldrapp) ibis *(Geronticus eremita)* in interstate commerce for enhancement of propagation and public display. The ibis would be purchased in foreign commerce and imported from the Tel Aviv University, Tel Aviv, Israel, by the Milwaukee County Zoo.

Notice of an application from Milwaukee County Zoo to purchase the ibis in foreign commerce and import them for breeding and display by Milwaukee County Zoo and the Zoo Midwest Ornithological Association, PRT-761565, was published in the **Federal Register** December 12, 1991.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to, or by appointment during normal business hours (7:45–4:15) in, the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: February 14, 1992.

R.K. Robinson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 92–3966 Filed 2–20–92; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Environmental Document Prepared for Pipeline Repair and Conversion and Gas Production on the Pacific Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service (MMS), U.S. Department of the Interior.

ACTION: Notice of the Availability of Environmental Document Prepared for the Platform Gina Development and Production Plan Revision on the Pacific OCS.

SUMMARY: The MMS, in accordance with Federal Regulations (40 CFR 1501.4 and 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of a NEPA-related Environmental Assessment (EA) and Finding of No Significant Impact (FONSI), prepared by the MMS for the following Platform Gina Development and Production Plan Revision.

PARTY: UNOCAL COMPANY, U.S.A.

Activity	Location	Date
Repair of produced water return pipeline and conversion to gas service.	East Santa Barbara Channel, Point Hueneme Unit, Lease OCS-P 0202.	2/92 to 3/92.
Installation of temporary H_2S sweetening facilities, testing and production evaluation of existing exploratory well.		3/92 thru 8/93.
Added production drilling operations and installation of permanent H_2S sweetening facilities.		9/93 thru 1997.

Persons interested in reviewing the environmental document for the proposal listed above or obtaining information about EA's and FONSI's prepared for activities on the Pacific OCS are encouraged to contact the MMS office in the Pacific OCS Region.

FOR FURTHER INFORMATION CONTACT: Regional Supervisor, Office of Leasing and Environment, Pacific OCS Region, Minerals Management Service, 770 Paseo Camarillo, Mail Stop 7300, Camarillo, California 93010, telephone (805) 389–7801.

SUPPLEMENTARY INFORMATION: The MMS prepares EA's and FONSI's for proposals which relate to exploration and development of mineral resources on the Pacific OCS. The EA's examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. The EA is used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA 102(2)(C). A FONSI is prepared in those instances where the MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This notice constitutes the public notice of availability of environmental documents required under the NEPA regulations.

Dated: February 13, 1992.

J. Lisle Reed,

Regional Director, Pacific OCS Region.

[FR Doc. 92–4038 Filed 2–20–92; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 701–TA–308 (Final)]

Bulk Ibuprofen From India

AGENCY: United States International Trade Commission.

ACTION: Cancellation of hearing and brief dates currently scheduled for the subject investigation.

SUMMARY: Pursuant to a request from petitioner under section 705(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1671d(a)(1)), the Department of Commerce has extended the date for its final subsidy determination in the countervailing duty investigation on bulk ibuprofen from India to coincide with that to be made in the ongoing antidumping investigation on the same product. Accordingly, the Commission hereby gives notice of the cancellation of the hearing and brief dates currently scheduled for investigation No. 701–TA–308 (final), which was instituted on December 23, 1991 (57 FR 693, January 8, 1992). The Commission will establish a new schedule for the conduct of the investigation when Commerce makes its preliminary determination in the antidumping investigation (currently scheduled for February 26, 1992).

EFFECTIVE DATE: February 11, 1992.

FOR FURTHER INFORMATION CONTACT: Diane J. Mazur (202–205–3184), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

Issued: February 14, 1992.

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By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 92-4007 Filed 2-20-92; 8:45 am]

BILLING CODE 7035-01-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-6 (Sub-No. 338X)]

Burlington Northern Railroad Co.—Abandonment Exemption—in Collingsworth and Childress Counties, TX

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Commission exempts from the prior approval requirements of 49 U.S.C. 10903-10904 the abandonment by Burlington Northern Railroad Company of 30.81 miles of rail line between milepost 221.91, near Childress, and milepost 252.72, near Wellington, in Collingsworth and Childress Counties, TX, subject to standard labor protective conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on March 22, 1992. Formal expressions of intent to file an offer [1] of financial assistance under 49 CFR 1152.27(c)(2) and requests for a public use condition must be filed by March 2, 1992; petitions to stay must be filed by March 9, 1992, and petitions for reopening must be filed by March 17, 1992.

ADDRESSES: Send pleadings referring to Docket No. AB-6 (Sub-No. 338X) to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

Petitioner's representative: Sarah J. Whitley, Burlington Northern Railroad Company, 3800 Continental Plaza, 777 Main Street, Forth Worth, TX 76102.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar (202) 927-5660 [TDD for hearing impaired: (202) 927-5721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. [Assistance for the hearing impaired is avaialble through TDD service (202) 927-5721.]

Decided: February 6, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillips, and Emmett.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-4017 Filed 2-20-92; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research Notification; Bell Communications Research, Inc.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Bell Communications Research, Inc. ("Bellcore") on January 13, 1992, filed a written notification on behalf of Bellcore and Fujitsu Limited and Fujitsu Laboratories Ltd. ("FJ") simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the venture and (2) the nature and objective of the venture. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the venture, and its general areas of planned activities, are given below.

Bellcore is a Delaware corporation with its principal place of business in Livingston, New Jersey.

Fujitsu Limited and Fujitsu Laboratories Ltd. are Japanese corporations with their principal place of business in Kanagawa-ken, Japan.

Bellcore and FJ entered into an agreement effective as of October 30, 1991 to cooperate in experimenting with and validating future telecommunications network architectures and concepts in support of exchange and exchange access telecommunications services, and specifically in establishing and participating in Information Networking Architecture (INA) field experiments.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 92-4037 Filed 2-20-92; 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Notification; Project Bluebonnet

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Bluebonnet—The Texas Network Education and Research Corporation ("Project Bluebonnet") on August 9, 1991, filed a written notification on behalf of Project Bluebonnet and its members and Telemedical Interactive Consultative Services, Inc. ("TICS") simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the venture and (2) the nature and objectives of the venture. The notification was filed for the purpose of invoking the protections of section 4 of the Act, which limit the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to section 6(b) of the Act, the parties to this venture and its general areas of planned activity are given below.

Project Bluebonnet is a Texas corporation with its principal place of business in Austin, Texas. Project Bluebonnet's members include Arthur Anderson & Co.; Association of Community & Research Services; ATC Long Distance; AT&T; Austin Community College; Baylor College of Medicine; Bickerstaff, Heath & Smiley; Compression Labs, Inc.; Dallas-Forth Worth Teleport; DSC Communications Corporation; GTE Southwest Incorporated; Holt, Rinehart & Winston, Inc.; Infomart; INNOVA, MCC Corporation; MCI Telecommunications Corp.; Northern Telecom; OTM Engineering, Inc.; Richland College; Rockwell International; Ross, Howison, Clapp & Korn; San Marcos Telephone Company; SPIDERNET: Southern Methodist University; STARLINK; Technical Concepts Corp.; TICS; Texas A&M University; Texas Association of School Boards; Texas Cable TV Association; Texas Computer Industry Council; Texas Department of Information Resources; Texas Department of Health; Texas Department of Highways; Texas Higher Education Coordinating Board; Texas Hospital Education & Research; Texas Instruments, Inc.; Texas Public Utility Commission; Texas State Purchasing & GSC; Texas State Technical Institute; Texas Tech Health Science Center; Texas Telephone Association; Texas Innovative Information Network System; TRC Engineering Services, Inc.; University of North Texas; University of Texas, Arlington; University of Texas, Austin; University of Texas, Dallas; and Video Telecom Corporation.

ATC Long Distance is a Delaware corporation with its principal place of business in Austin, Texas.

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[1] See Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

GTE Southwest Incorporated is a Delaware corporation with its principal place of business in Irving, Texas.

Video Telecom Corporation is a Delaware corporation with its principal place of business in Austin, Texas.

Microelectronics and Computer Technology Corporation is a Delaware corporation having a principal place of business in Austin, Texas.

Texas Instruments, Inc. is a Delaware corporation with its principal place of business in Austin, Texas.

TICS is a Texas corporation with its principal place of business in Austin, Texas.

Southwestern Bell is a Missouri corporation with its principal place of business in Dallas, Texas.

On May 15, 1991, Project Bluebonnet (on behalf of its participating members identified directly above) and TICS and Microelectronics and Computer Technology Corporation and Southwestern Bell entered into an agreement to conduct a joint demonstration, cost feasibility research project to investigate the delivery of medical and mental health care to the community of Giddings, Texas using interactive video services. The project, named the Texas Telemedicine Project, will be conducted over a fourteen month period. Participating Project Bluebonnet members will provide telecommunications equipment, facilities and services to conduct the trial and TICS will serve as project director and will coordinate with the physicians and health care providers as well as the health care facilities involved in the project. The telecommunications network used in the Project will connect the Lee County Memorial Hospital, the Regional Dialysis Clinic, and the Texas Youth Commission—Giddings Unit (all in Giddings, Texas) with the Texas Department of Mental Health & Mental Retardation at the Austin State Hospital, the Texas Youth Commission—State Headquarters, and the Austin Diagnostic Clinic, all in Austin, Texas.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 92-4030 Filed 2-20-92; 8:45 am]

BILLING CODE 4410-01-M

National Cooperative Research Notification; Gas Utilization Research Forum

Notice is hereby given that pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Gas Utilization Research Forum ("GURF") filed written notifications simultaneously with the Attorney General and the Federal Trade Commission on January 2, 1992, concerning the identities of additional members of GURF. The written notifications were filed for the purpose of extending the protections of section 4 of the Act limiting the recovery of antitrust plantiffs to actual damages under specified circumstances.

The following are additional parties which have become members of GURF:

University of Bath, School of Materials Science, Bath, United Kingdom.

Southern California Gas Company, Los Angeles, California.

No other changes have been made in either the membership or planned activity of GURF.

On December 19, 1990, GURF filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published notices in the **Federal Register** pursuant to section 6(b) of the Act on January 16, 1991, 56 FR 1655, on April 24, 1991, 56 FR 18837, and on June 13, 1991, 56 FR 27272.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 92-4031 Filed 2-20-92; 8:45 am]

BILLING CODE 4410-01-M

The National Cooperative Research Notification; Adsorbed Natural Gas Tankering Phase 1 Study

Notice is hereby given that, on January 9, 1992, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301, *et seq.* ("the Act"), Gas Utilization Research Forum ("GURF") filed written notifications simultaneously with the Attorney General and the Federal Trade Commission of a project entitled "Adsorbed Natural Gas Tankering Phase 1 Study". The notification discloses (1) the identities of the parties to the project and (2) the nature and objective of the project. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the project and its general areas of planned activities are given below:

Amoco Corporation, Alternative Feedstock Development Dept., Naperville, Illinois, USA;

Atlanta Gas Light Adsorbent Research Group, Atlanta Gas Light Company, Atlanta, Georgia, USA;

British Gas plc, Engineering Research Station, Newcastle-Upon-Tyne, UK;

Chevron Research & Technology Company, San Ramon, California, USA;

Mobil Research & Development Corporation, Paulsboro Research Laboratory, Paulsboro, New Jersey, USA; and

BHP Research—Melbourne Laboratories, Mulgrave Vic 3170, Australia.

The nature and objectives of this project and the area of planned activity in this venture are: (i) To develop preliminary concepts and cost estimates for the large scale transport of natural gas as adsorbed natural gas (ANG); and (ii) to compare the economics of transporting natural gas as ANG relative to compressed natural gas and liquefied natural gas at a prefeasibility study level of accuracy.

Membership in this group research project remains open, and the parties intend to file additional written notification disclosing all changes in membership of this project. Information regarding participation in this project may be obtained from BHP Engineering Pty Ltd., Petroleum Services Division, P.O. Box 1237, North Sydney NSW 2059, Australia.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 92-4033 Filed 2-20-92; 8:45 am]

BILLING CODE 4410-01-M

National Cooperative Research Notification; Industrial Macromolecular Crystallography Association

Notice is hereby given that, on January 16, 1992, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), the Industrial Macromolecular Crystallography Association ("IMCA") filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notification was filed for the purpose of invoking the protections of the Act limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

The following parties have been added to IMCA:

Miles, Inc., an Indiana corporation, having a principal place of business at 400 Morgan Lane, West Haven, Connecticut 06516; and

Sterling Drug, Inc., a Delaware corporation, having a principal place of business at 90 Park Avenue, New York, New York 10016.

No other changes have been made in either the membership, objectives, or planned activities of IMCA.

On October 23, 1990, IMCA filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on December 3, 1990 (55 FR 49952–53). IMCA has filed additional notifications on June 10, 1991, and August 28, 1991, notices of which the Department published in the **Federal Register** on July 5, 1991 (56 FR 30771), and October 10, 1991 (56 FR 51240–41), respectively.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 92–4035 Filed 2–20–92; 8:45 am]

BILLING CODE 4410-01-M

National Cooperative Research Notification;—Malathion Reregistration Coalition

Notice is hereby given that, on January 17, 1992, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), the Malathion Reregistration Coalition ("Coalition") has filed written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the Coalition and (2) the Coalition's nature and objectives. The notification was filed for the purpose of invoking the Act's provisions limiting the potential recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the Coalition and its general area of planned activities are given below.

The current members to the Coalition are: Bonide Products, Yorkville, New York; Chevron Chemical Company, Richmond, California; Cornbelt Chemical Company, McCook, Nebraska; Dexol Industries, Torrance, California; Dragon Chemical Corp., Roanoke, Virginia; Ford's Chemical Co., Pasadena, Texas; Prentiss Incorporated, Floral Park, New York; Purina Mills, Incorporated, Earth City, Missouri; Rockland Corporation, West Caldwell, New Jersey; Southern Agricultural Insecticides, Inc., Palmetto, Florida; Southern Mill Creek Products Co., Inc., Tampa, Florida; Voluntary Purchasing Groups, Inc., Bonham, Texas; and Wilbur-Ellis Company, Buckner, Kentucky.

The objectives of the Coalition are to acquire, sponsor and conduct research to develop data on the pesticide active ingredient malathion and certain formulations in connection with certain uses thereof, to share in the costs of acquiring or developing such data and to acquire ownership rights in such data. The results of the research will be submitted to the U.S. Environmental Protection Agency ("EPA") in connection with current and future reregistration requirements and Data Call-In Notices of pesticides containing malathion as an active ingredient. The parties intend to file additional written notification disclosing all changes in membership of this project.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 92–4034 Filed 2–20–92; 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research Notification; Clean Heavy-Duty Diesel Engine Development

Notice is hereby given that, on January 9, 1992, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Southwest Research Institute ("SwRI") filed written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing the addition of a party to its group research project regarding "Clean Heavy-Duty Diesel Engine Development." The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, SwRI advised that Detroit Diesel Corporation, 1300 West Outer Drive, Detroit, MI 48239–4001 has become a party to the group research project.

No other changes have been made in either the membership or the planned activity of the group research project.

On November 4, 1991, SwRI filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on December 9, 1991 (56 FR 64275).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 92–4032 Filed 2–20–92; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Labor Advisory Committee for Trade Negotiations and Trade Policy

Meeting Notice

Pursuant to the provisions of the Federal Advisory Committee Act (P.L. 92–463 as amended), notice is hereby given of a meeting of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: March 11, 1992, 10 am–12 noon, rm. N–3437 C&D, Department of Labor Building, 200 Constitution Ave., NW, Washington, DC 20210.

Purpose: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. section 552(c)(1). The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

For further information, contact: Fernand Lavallee, Director, Trade Advisory Group, Phone: (202) 523–2752

Signed at Washington, DC, this 17th day of February, 1992.

Shellyn G. McCaffrey,

Deputy Under Secretary, International Affairs.

[FR Doc. 92–4057 Filed 2–20–92; 8:45 am]

BILLING CODE 4510-28-M

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. chapter 35), considers comments on the reporting/recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review: As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in. Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and/or Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Kenneth A. Mills ([202] 523–5095). Comments and questions about the items on this list should be directed to Mr. Mills, Office of Information Resources Management Policy, U.S. Department of Labor, 200 Constitution Avenue, NW., room N–1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, room 3001, Washington, DC 20503 ([202] 395–6880).

Any member of the public who wants to comment on recordkeeping/reporting requirements which have been submitted to OMB should advise Mr. Mills of this intent at the earliest possible date.

Extension

Employment Standards Administration

Housing Occupancy Certificate
1215–0158
WH–520
Annually
Individuals or households; Farms; Businesses or other for profit; Small businesses or organizations
260 respondents; 17 total hours; 1/20 hr. per response
1 form
Section 203(b)(1) of the Migrant and Seasonal Agricultural Worker Protection Act requires any person owning or controlling any facility or real property to be occupied by migrant agricultural workers to obtain a certificate of occupancy. Form WH 520 is the form used when DOL's Wage and Hour Division inspects and approves such housing.

Survivor's Claim for Benefits under the Black Lung Benefits Act
1215–0069
CM–912
On death of miner
Individuals or households
1,200 respondents; 500 total hours; 25 min. per response
1 form
A survivor of a coal miner must file a claim for benefits under the Black Lung Benefits Act, as amended, in order to receive benefits. The claim and supporting documentation are reviewed by DCMWC claims examiners to determine the survivor's eligibility for benefits.

Signed at Washington, DC, this 12th day of February 1992.

Kenneth A. Mills,
Departmental Clearance Officer.

[FR Doc. 92–4056 Filed 2–20–92; 8:45 am]

BILLING CODE 4510–27–M

Employment Standards Administration Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon and Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Admininstration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., room S–3014, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Alabama:
  AL91–22 (Feb. 22, 1991) .... p. 43, p. 44
Maryland:

MD91-6 (Feb. 22, 1991)	p. all
MD91-8 (Feb. 22, 1991)	p. all
New York:	
NY91-12 (Feb. 22, 1991)	p. 893, p. 895
NY91-20 (Feb. 22, 1991)	p. 949, pp. 950-952
Virginia.	
VA91-19 (Feb. 22, 1991)	p. all
VA91-65 (Feb. 22, 1991)	p. all
VA91-68 (Feb. 22, 1991)	p. all
West Virginia:	
WV91-2 (Feb. 22, 1991)	p. 1421, pp. 1422–1433
Volume II	
Iowa:	
IA91-14 (Feb. 21, 1991)	p. all
Kansas:	
KS91-8 (Feb. 22, 1991)	p. all
Wisconsin:	
WI91-18 (Feb. 22, 1991)	p. all
Volume III	
Alaska:	
AK91-1 (Feb. 22, 1991)	p. all
California.	
CA91-1 (Feb. 22, 1991)	p. all
CA91-2 (Feb. 22, 1991)	p. all
Washington:	
WA91-1 (Feb. 22, 1991)	p. 451, p. 453

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from:

> Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January (1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC. This 14th Day of February 1992.

Alan L. Moss,

Director, Division of Wage Determination.

[FR Doc. 92–3973 Filed 2–20–92; 8:45 am]

BILLING CODE 4510-27-M

Employment and Training Administration

Targeted Jobs Tax Credit Program

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of the extension of the Targeted Jobs Tax Credit program.

SUMMARY: The Targeted Jobs Tax Credit (TJTC) program offers employers a credit against their tax liability for hiring individuals from nine target groups who have traditionally had difficulty in obtaining and holding jobs.

The present TJTC program authorization, the result of a one-year extension under the Omnibus Reconciliation Act of 1990 (P.L. 101–508), expired on December 31, 1991. The program has been extended an additional six (6) months through June 30, 1992, by the Tax Extension Act of 1991 (P.L. 102–227, December 11, 1991). Eligible employees starting to work after December 31, 1991, may be certified provided the requirement for a timely request for certification is met and all other appropriate information is provided.

FOR FURTHER INFORMATION CONTACT: Mr. Clayton J Cottrell, Chief, Division of Planning and Operations, U.S. Employment Service, U.S. Department of Labor/ETA, room N–4470, 200 Constitution Ave., NW., Washington, DC 20210. Telephone (202)–535–0192. For general TJTC program information contact: Individual State Employment Security Agencies (SESAs), listed in most telephone directories under State government.

SUPPLEMENTARY INFORMATION: The Tax Extension Act of 1991 (Pub. L. 102–227, December 11, 1991), extends the TJTC program for an additional six (6) months through June 30, 1992. The target groups served under the program have not changed, nor have other provisions of the TJTC program under the present authorization. Procedural guidance in the form of an Employment Service Program Letter (ESPL) is being issued by the U.S. Department of Labor/Employment and Training Administration, to State Employment Security Agencies.

This change and others identified by SESAs, Department of Labor Regional Offices, and other participants in the program, will be incorporated, if appropriate, in forthcoming changes to ET Handbook No. 377, 5th Edition, August 1991, "Targeted Jobs Tax Credit Program".

Signed at Washington, D.C., this 13th day of February 1992.

Roberts T. Jones,

Assistant Secretary of Labor.

[FR Doc. 92–4058 Filed 2–20–92; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Arts.

ACTION: Notice.

SUMMARY: The National Endowment for the Arts (NEA) has sent to the Office of Management and Budget (OMB) a request for expedited clearance, by March 14, 1992, of the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Comments on this information collection must be submitted by March 12, 1992.

ADDRESSES: Send comments to Mr. Dan Chenok, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., room 3002, Washington, DC 20503; (202–395–7316). In addition, copies of such comments may be sent to Ms. Judith E. O'Brien, National Endowment for the Arts, Administrative Services Division, room 203, 1100 Pennsylvania Avenue, NW., Washington, DC 20506; (202–682–5401).

FOR FURTHER INFORMATION CONTACT: Ms. Judith E. O'Brien, National Endowment for the Arts, Administrative Services Division, room 203, 1100 Pennsylvania Avenue, NW., Washington, DC 20506; (202–682–5401).

SUPPLEMENTARY INFORMATION: The Endowment requests the review of a revision of a currently approved collection of information. This entry is issued by the Endowment and contains the following information:

(1) The title of the form; (2) how often the required information must be reported; (3) who will be required or asked to report; (4) what the form will be used for; (5) an estimate of the number of responses; (6) the average burden hours per response; (7) an estimate of the total number of hours needed to prepare this form. This entry is not subject to 44 U.S.C. 3504(h).

Title: FY 93 Arts Administration Fellows Application Guidelines.

Frequency of Collection: Possible three times a year.

VOL 57 SS 35 FE 21 992 UMI

Respondents: Individuals.

Use: Guideline instructions and applications elicit relevant information from arts administrators, individuals, and graduate students who apply for the Arts Administration Fellows Program. This information is necessary for the accurate, fair and thorough consideration of competing proposals in the review process.

Estimated Number of Respondents: 350.

Average Burden Hours Per Response: 3.857.

Total Estimated Burden: 1,350.

Judith E. O'Brien,

Management Analyst, Administrative Services Division, National Endowment for the Arts.

[FR Doc. 92-3981 Filed 2-20-92; 8:45 am]

BILLING CODE 7537-01-M

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Arts.

ACTION: Notice.

SUMMARY: The National Endowment for the Arts (NEA) has sent to the Office of Management and Budget (OMB) a request for clearance of the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Comments on this information collection must be submitted by March 23, 1992.

ADDRESSES: Send comments to Mr. Dan Chenok, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., room 3002, Washington, DC 20503; (202-395-7316). In addition, copies of such comments may be sent to Ms. Judith E. O'Brien, National Endowment for the Arts, Administrative Services Division, room 203, 1100 Pennsylvania Avenue, NW., Washington, DC 20506; (202-682-5401).

FOR FURTHER INFORMATION CONTACT: Ms. Judith E. O'Brien, National Endowment for the Arts, Administrative Services Division, room 203, 1100 Pennsylvania Avenue, NW., Washington, DC 20506; (202-682-5401).

SUPPLEMENTARY INFORMATION: The Endowment requests the review of a revision of a currently approved collection of information. This entry is issued by the Endowment and contains the following information:

(1) The title of the form; (2) how often the required information must be reported; (3) who will be required or asked to report; (4) what the form will be used for; (5) an estimate of the number of responses; (6) the average burden hours per response; (7) an estimate of the total number of hours needed to prepare the form. This entry is not subject to 44 U.S.C. 3504(h).

Title: FY 93 Folk Arts Guidelines Application Guidelines.

Frequency of Collection: One time.

Respondents: Individuals; State or local governments; Non-profit institutions.

Use: Guideline instructions and applications elicit relevant information from individuals, non-profit organizations and state or local arts agencies that apply for funding under specific Folk Arts categories. This information is necessary for the accurate, fair and thorough consideration of competing proposals in the peer review process.

Estimated Number of Respondents: 390.

Average Burden Hours per Response: 18.33.

Total Estimated Burden: 7,906.

Judith E. O'Brien,

Management Analyst, Administrative Services Division, National Endowment for the Arts.

[FR Doc. 92-3982 Filed 2-20-92; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Chemical and Thermal Systems; Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following two meetings:

Name: Special Emphasis Panel in Chemical and Thermal Systems.

Date and Time: March 6, 1992, 8:30 a.m. to 5 p.m.

Place: Rm. 1133, National Science Foundation, 1800 G Street, NW., Washington, DC.

Contact Person: Maria Burka of Farley Fisher, Program Directors, Chemical Reaction Processes, room 1115, National Science Foundation, Washington, DC 20550. Telephone: (202) 357-9606.

Date and Time: April 6, 1992; 8:30 a.m. to 5 p.m.

Place: Rm. 540B, National Science Foundation, 1800 G Street, NW., Washington, DC.

Contact Person: M. C. Roco or Steven Traugott, Program Directors, Fluid, Particulate and Hydraulic Systems, room 1115, National Science Foundation, Washington, DC 20550. Telephone: (202) 357-9606.

Type of Meetings: Closed.

Purpose of Meetings: To provide advice and recommendations concerning support for research in Chemical and Thermal Systems.

Agenda: To review and evaluate Material Synthesis and Processes proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: February 18, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-4018 Filed 2-20-92; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Proposed Availability of FY92 Funds for Financial Assistance (Cooperative Agreements) to Support Research at Historically Black Colleges and Universities and the Exchange of Information

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice.

SUMMARY: The Nuclear Regulatory Commission (NRC), Office of Small and Disadvantaged Business Utilization and Civil Rights, announces proposed availability of Fiscal Year (FY) 92 funds to initiate a financial assistance program for Historically Black Colleges and Universities (HBCUs). The FY92 ceiling for the program is $150,000 which will be administered in accordance with the Federal Grant and Cooperative Agreement Act of 1977. Because of the limited sum, HBCUs should restrict proposed research cooperative agreement budgets to no more than $50,000 per year, with total project funding not exceeding $100,000 over a two-year period. Proposals for FY92 research cooperative agreements should be submitted between the date of this notice and April 20, 1992. Proposals received after April 20, 1992, may or may not be considered for funding in FY92, which ends September 30, 1992.

ADDRESSES: Attention: Grants Officer, Division of Contracts and Property Management, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Ms. Leslie Mills, (301) 492-7054.

SUPPLEMENTARY INFORMATION:

Background

On May 2, 1989, the Executive Office of the President published in the **Federal Register** (54 FR 18869) Executive Order 12677 of April 28, 1989, informing each Executive Department and those Executive agencies designated by the Secretary of Education to establish an annual plan to increase the ability of HBCUs to participate in federally sponsored programs. On September 1, 1989, the NRC FY90 Federal Plan for Assistance was submitted to the Executive Director of the White House initiative on Historically Black Colleges and Universities, U.S. Department of Education. On October 27, 1989, the White House Initiative approved the financial assistance to HBCUs as part of the NRC Federal Plan which described specific strategies for involving HBCUs in NRC research activities.

Scope and Purpose of This Announcement

Pursuant to Executive Order 12677 of April 28, 1989, and the NRC Federal Plan, the NRC Office of Small and Disadvantaged Business Utilization and Civil Rights has a limited amount of funds (FY92 ceiling of $150,000) to support research cooperative agreements to HBCUs.

The proposed HBCU research cooperative agreement program is part of a larger NRC effort to increase university involvement in nuclear safety research, and in direct response to Executive Order 12677, directing Federal agencies to find ways to increase participation of HBCUs in the programs of the Federal Government. In addition, the proposed research program takes advantage of the strong interest of HBCU institutions in increasing student involvement in research activities.

The purpose of this program is to stimulate research at HBCUs in the area of nuclear safety using cooperative agreements to reduce the financial and personnel burden to the institutions of initiating the research activity. Each research cooperative agreement should contain elements which will potentially benefit the undergraduate and graduate research programs of the institution, as well as show creativity in attracting support from the private sector to extend or expand the research activity.

The results of this program will—

a. Broaden public understanding relating to nuclear safety;

b. Pool the funds of theoretical and practical knowledge and technical information;

c. Enhance protection of the public health and safety;

d. Advance the development of human potential;

e. Strengthen the capacity to provide quality education; and

f. Ensure the long-term viability of HBCU institutions.

The NRC encourages HBCUs to submit research cooperative agreement proposals in the following areas:

1. Development of steady state and transient pump models for estimate code applications.

2. Advantages and disadvantages of cooling water addition to a degraded core.

3. Behavior of hot hydrogen while exiting a break in the primary pressure boundary.

4. Modeling and experimentation on two-phase flow, interfacial relations, and heat transfer in nuclear reactor coolant systems.

5. Evaluation of severe accident phenomena including: High temperature chemistry of fission product and reactor fuel and structural materials, advanced modeling of the behavior of fluids, combustible gases and molten core materials in reactor primary systems during severe accidents.

6. Advanced demographic models or statistical methods to predict population density and distribution around future power reactor sites.

7. Interaction of reactor materials at very high temperature (e.g., core/concrete, core debris/vessel component interactions).

8. Evaluation of the risk reduction effectiveness of human factors requirements in nuclear power plant operations and maintenance.

9. Methods for applying the growing pool of human performance data to nuclear power plant safety requirements.

10. Development of methods for Risk and Reliability Analysis of closed loop control systems, including advanced digital based control systems.

11. Develop and codify pragmatic, statistically valid, methods for updating severe accident frequency and consequence analysis to reflect results of new operational, experimental, and calculation data.

12. Develop merit of methods and procedures for establishing the degree to which Probabilistic Risk Assessment (PRA) results converge with operational data.

13. Development of methods to analyze and understand the aging effects, including irradiation damage effects, improved examination and testing methods for determining the condition of structures and components and methods to assess residual lifetime of structures and components.

14. Development of nondestructive testing methods for in-situ evaluation of material properties and property degradation due to aging, such as fracture toughness and fatigue.

15. Development of methods for assuring components structural reliability and realistic methods to define the probabilities of radioactive release due to earthquakes.

16. Development of methods for assuring integrity of the primary system, i.e., pressure vessels, piping, steam generator tubing, such as advanced nondestructive testing techniques, continuous monitoring techniques and fracture analysis procedures.

17. Development of methods to establish and validate decommissioning criteria and effects of water chemistry on the primary system integrity.

18. Development and/or validation of models to explain the tectonics of the Central and Eastern United States (east of 106 degrees W).

19. Development and/or validation of models to predict the propagation of seismic ground motions in the Central and Eastern States or in a shallow soil column.

20. Investigation/studies including field observations of the paleoseismicity of the Central and Eastern United States.

21. Development of rapid bioassay analysis techniques for application to accidental internal exposure situation.

22. Natural analog studies of long-term stability of waste forms for low-and high-level nuclear waste.

23. Studies of volcanism in the Basin and Range.

24. Simplified modeling of thermohydrologic phenomena in high-level waste geological repositories.

25. Investigations of coupled tectonic-hydrological processes.

26. Development of a continuum approach for modeling unsaturated fractured rock.

27. Development of improved instrumentation or techniques for measuring activities, radiation dose rates, especially from small radioactive particles.

28. Development of methods for contamination prevention, measurement, and control; and improved radiological air sampling methodology.

29. Investigation of the types, sensitivity, and linearity of various biological effects of radiation that could be used as biological dosimeters.

30. Research on the metabolism of radionuclides and their compounds relative to the calculation of internal dose.

31. Investigation of the efficacy of agents to protect against radioactivity.

Eligible Applicants

Historical Black Colleges and Universities are eligible to apply for a cooperative agreement under this announcement.

Factors Generally Indicating Support Through Cooperative Agreements

The NRC's benefit from the results of Cooperative Agreements should be no greater than for other interested parties, i.e., the public must be the primary beneficiary of work performed. Surveys, studies, or research which provide specific information or data necessary for the NRC to exercise its regulatory or research mission responsibilities will not be funded by a Cooperative Agreement. Applicants requesting support for work which has a direct regulatory application should submit their requests as an unsolicited proposal for consideration as a contract rather than a Cooperative Agreement.

1. The primary purposes of NRC Cooperative Agreements is to support the development of knowledge or understanding of the subject or phenomena under study.

2. The exact course of the work and its outcome are usually not defined precisely, and specific points in time for achievement of significant results do not need to be specified.

3. The NRC desires that the nature of the proposed investigation be such that the recipient will bear prime responsibility for the conduct of the research and exercise judgement and original thought toward attaining the scientific goals within broad parameters of the proposed research areas and the resources provided.

4. Meaningful technical reports (as distinguished from Semi-Annual Status Reports) may be prepared only as new findings are made, rather than on a predetermined time schedule.

5. Simplicity and economy in execution and administration are mutually desirable.

Proposal Format

Proposals should be concise and provide a thorough understanding of the proposed project. Neither unduly elaborate applications nor voluminous supporting documentation is desired.

HBCUs shall submit proposals utilizing the standard forms stipulated in OMB Circular A-110, (Attachment M).

The format used for project proposals should give a clear presentation of the proposed project and its relation to the specific objectives contained in this notice. Each proposal should follow the format outlined below unless the NRC specifically authorizes exception.

1. Cover Page. The Cover Page should be typed to the following format (submit separate cover pages if the proposal is multi-institutional):

Title of Proposal—To include the term "research," "study," or other similar designation to assist in the identification of the project;
Names of Principal Researchers or Participants;
Total Cost of Proposal: (Identify Cost by Fiscal Year)
Period of Proposal;
Organization or Institution and Department;
Required Signatures;
Principal Participants:
Name:
Address:
Telephone No.:
Required Organization Approval:
Name:
Date:
Address:
Telephone No.:

Organization Financial Officer:
Name:
Date:
Address:
Telephone No.:

2. Project Description. Each proposal shall provide, in ten pages or less, a complete and accurate description of the proposed project. This section should provide the basic information to be used in evaluating the proposal to determine its priority for funding. Applicants must identify other possible sources of financial support for a particular project, and list those sources from which financial support has been or will be requested.

The information provided in this section must be brief and specific. Detailed background information may be included as supporting documentation to the proposal.

The following format shall be used for project description:

(a) Project Goals and Objectives

The project's objectives must be clearly and unambiguously stated. The proposal should justify the project including the problems it intends to clarify and the development it may stimulate.

(b) Project Outline

The proposal should show the project format and agenda, including a list of principal areas or topics to be addressed.

(c) Project Benefits

The proposal should indicate the direct and indirect benefits that the project seeks to achieve and to whom these benefits will accrue.

(d) Project Participants and Facilities

The proposal should describe the physical facilities required for the conduct of the project. Further, the proposal should include brief biographical sketches of individual's responsible for planning the project.

(e) Project Cost

As education institutions, HBCUs shall adhere to the cost principles set forth in OMB Circular A-21.

The proposal must provide a detailed schedule of projects costs, identifying in particular—

(1) Salaries—in proportion to the time of effort directly related to the project;

(2) Equipment (rental only);

(3) Travel and Per Diem/Subsistence in relation to the project;

(4) Publication Costs;

(5) Other Direct Costs (specify)—e.g., supplies or registration fees; (Note: Dues to organizations, federations or societies, exclusive or registration fees, are not allowed as a charge.)

(6) Indirect Costs (attach negotiated agreement/cost allocation plan); and

(7) Supporting Documentation. The supporting documentation should contain any additional information that will strengthen the proposal.

Proposal Submission and Deadline

The notice is valid for part of the Federal Government Fiscal Year 92 (March 30, 1992 to September 30, 1992). Potential cooperators are advised that due to the limited funding available, proposals received after April 20, 1992, may or may not be considered for funding in Fiscal Year 92. Mail the original and three copies.

FY92 Funds

For Fiscal Year 92, the U.S. Nuclear Regulatory Commission, Office of Small and Disadvantaged Business Utilization and Civil Rights, anticipates making a total $150,000 available for funding research Cooperative Agreements to HBCU institutions. Because of the limited funds proposed Cooperative Agreements budgets should be restricted to no more than about $50,000 per year, with total project funding not exceeding $100,000 over a period of two years.

Evaluation Process

All proposals received as a result of this announcement will be evaluated by an NRC review panel.

Evaluation Criteria

The award of NRC Cooperative Agreements is discretionary. Generally, projects are supported in order of merit

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to the extent permitted by available funds.

Evaluation of proposals for research projects will employ the following criteria. No level of importance is implied by the order in which these criteria are listed.

1. Adequacy of the research design.
2. Scientific significance of proposal.
3. Technical adequacy of the investigators and their institutional base.
4. Relevance to a research area(s) described above.
5. Reasonableness of estimated cost in relation to the work to be performed and anticipated result.
6. Potential benefit of the project to the overall benefit of the institution's undergraduate and graduate research program.

Disposition of Proposals

Notification of award will be made by the Grants (Cooperative Agreement) Officer and organizations whose proposals are unsuccessful will be so advised.

Proposal Instructions and Forms

Questions concerning the preceding information, copies of application forms, and applicable regulations shall be obtained from or submitted to U.S. Nuclear Regulatory Commission, Attn: Grants Officer, Division of Contracts and Property Management, Mail Stop P-841, Office of Administration, Washington, DC 20555.

Note: Cooperative Agreement Application packages. Standard Form 424 must be requested in writing.)

The address for hand-carried applications is: U.S. Nuclear Regulatory Commission, Attn: Grants Office, Division of Contracts and Property Management, Office of Administration, Mail Stop P-841, 7920 Norfolk Avenue, Bethesda, MD 20814.

Note: Upon delivery of the application to the NRC guard desk (at the above address), the guard should be requested to telephone the Division of Contracts and Property Management (Extension 27054) for a pick-up of the application.

Nothing in this solicitation should be construed a committing the NRC to dividing available funds among all qualified applicants.

Dated at Bethesda, MD this 13th day of February 1992.

For the U.S. Nuclear Regulatory Commission.

Ronald D. Thompson,

Grants Officer Property, Procurement and Grants Branch, Division of Contracts and Property Management.

[FR Doc. 92-4077 Filed 2-20-92; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on Advanced Reactor Designs; Meeting

The ACRS Subcommittee on Advanced Reactor Designs will hold a meeting on February 26-27, 1992, at the Holiday Inn, 420 South Illinois Avenue, Oak Ridge, TN.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, February 26, 1992—8:30 a.m.-1 p.m.

Thursday, February 27, 1992—8:30 a.m. until the conclusion of business.

The Subcommittee will discuss the testing program for the MHTGR design and related issues.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of NRC staff and their consultants, Department of Energy and their contractors, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Official, Dr. Medhat El-Zeftawy (telephone 301/492-9901) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: February 14, 1992.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 92-4078 Filed 2-20-92; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Form Under Review by the Office of Management and Budget

The Office of Management and Budget (OMB) has under review for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act, section 3504(h) (44 U.S.C. chapter 35). Notice of OMB review and a request for comments concerning this proposed collection of information was previously published by the Appalachian Regional Commission on December 26, 1991, (56 FR 66829).

Agency: Office of Management and Budget.

Title: President's Council on Integrity and Efficiency (PCIE) Survey on How to Improve the Single Audit Process.

Type of Request: Initial collection of information.

Burden: 425 respondents; 850 reporting hours.

Average Time Per Response: 2 hours.

Needs and Uses: This survey collects information on the Single Audit process and potential areas for improving the efficiency and effectiveness of audits of Federal financial assistance provided to State and local governments.

Affected Public: State and local governmental units, State auditors, and independent public accountants.

Frequency: One time.

Respondents Obligation: Voluntary.

Copies of the above information collection proposal can be obtained by calling or writing Palmer Marcantonio, Office of Management and Budget, Washington, DC 20503, (202) 395-3993.

Written comments and recommendations concerning the proposed information collection should be sent to Office of Information and Regulatory Affairs of OMB, Attention: Edward C. Springer, Office of

Management and Budget, Washington, DC 20503.

Darrell A. Johnson,

Assistant Director for Administration.

[FR Doc. 89-3983 Filed 2-20-89; 8:45 am]

BILLING CODE 3110-01-M

PEACE CORPS OF THE UNITED STATES

Information Collection Request Under OMB Review

AGENCY: Peace Corps of the United States.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) this notice announces that the information collection request abstracted below has been forwarded to the Office of Management and Budget for review and is available for public review and comment. A copy of the information collection may be obtained from Mr. Michael Berning, Office of Recruitment Resources and Marketing, Peace Corps of the U.S., 1990 K Street, NW., Washington, DC 20526. Mr. Berning may be called at 202-606-3780. Comments on this form should be addressed to Ms. Francine Picoult, Desk Officer, Office of Management and Budget, Washington, DC 20503.

Information Collection Abstract

(1) *Title:* Follow-up and Program Evaluation Guide.

(2) *Need for and Use of the Information.*

(3) *Respondents:* Citizens who requested and were sent information and an application for Peace Corps service.

(4) *Burden on the public:*

a. *Annual reporting burden:* 1,137.4 hours.

b. *Annual recordkeeping burden:* 0 hours.

c. *Estimated average burden hours per response:* .0517 hours.

d. *Frequency of response:* on occasion.

e. *Estimated number of likely respondents:* 22,000.

Collins Reynolds,

Associate Director for Management.

[FR Doc. 92-4054 Filed 2-20-92; 8:45 am]

BILLING CODE 6051-01-M

Information Collection Request Under OMB Review

AGENCY: Peace Corps of the United States.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3502 et seq), this notice announces that the information collection request abstracted below has been forwarded to the Office of Management and Budget for review and is available for public review and comment. A copy of the information collection may be obtained from Mr. Guy Branch, Office of Recruitment at the Peace Corps of the United States, 1990 K St., NW., Washington, DC 20526. Mr. Branch may be called at 202-606-3387. Comments on this information collection should be addressed to Mr. Marshall Mills, Desk Officer, Office of Management and Budget, Washington, DC 20503.

Information Collection Abstract

Title: Survey of Potential Volunteers; Withdrawals, and Defactos.

Need for and use of the information: Peace Corps needs this information in order to evaluate the effectiveness of its recruitment techniques and make adjustments as necessary.

Respondents: Potential Peace Corps Volunteers, Withdrawals (those who have applied and withdrawn their application), and Defactos (those who have applied and do not follow through with requirements).

Collins Reynolds,

Associate Director for Management.

[FR Doc. 92-4055 Filed 2-20-92; 8:45 am]

BILLING CODE 6051-01-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) *Collection title:* Certification Regarding Rights to Unemployment Benefits.

(2) *Form(s) submitted:* UI-45, UI-32.

(3) *OMB Number:* 3220-0079.

(4) *Expiration date of current OMB clearance:* Three years from date of OMB approval.

(5) *Type of request:* Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

(6) *Frequency of response:* On occasion.

(7) *Respondents:* Individuals or households, Businesses or other for-profit.

(8) *Estimated annual number of respondents:* 2,800.

(9) *Total annual responses:* 7,000.

(10) *Average time per response:* .1545 hours.

(11) *Total annual reporting hours:* 1,082.

(12) *Collection description:* In administering the disqualification for the voluntary leaving work provision of section 4 of the Railroad Unemployment Insurance Act, the Railroad Retirement Board investigates an unemployment claim indicating the claimant left work voluntarily. The certification obtains information needed to determine whether the leaving was with good cause.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed forms and supporting documents can be obtained from Dennis Eagan, the agency clearance officer (312-751-4693). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Laura Oliven (202-395-7316), Office of Management and Budget, room 3002, New Executive Office Building, Washington, DC 20503.

Dennis Eagan,

Clearance Officer.

[FR Doc. 92-3969 Filed 2-20-92; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-18554; 812-7744]

Lifetime Gold & Precious Metals Trust, et al.; Application

February 14, 1992.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: Lifetime Gold & Precious Metals Trust, Lifetime Intermediate Income Trust, Lifetime Money Market Trust, Lifetime Managed Municipal Bond Trust, Lifetime Government Income Plus Trust, Lifetime High Income Trust, Lifetime Capital Growth Trust, Lifetime Emerging Growth Trust, Lifetime Managed Sectors Trust, Lifetime Global Equity Trust, Lifetime Quality Bond Trust, Lifetime Total

Return Trust (the "Trusts"), and MFS Financial Services, Inc. ("FSI").

RELEVANT 1940 ACT SECTIONS: Exemption requested under section 6(c) from sections 2(a)(32), 2(a)(35), 22(c), and 22(d), and from rule 22c–1.

SUMMARY OF APPLICATION: Existing Commission orders permit applicants to assess a contingent deferred sales charge ("CDSC") on certain share redemptions, and to waive the CDSC with respect to certain other types of redemptions. Applicants seek an amended order permitting them to waive the CDSC for additional types of share redemptions, and to provide a credit for any CDSC paid by a shareholder who redeems shares of a Trust and then reinvests the proceeds in shares of a Trust within a specified period of time. The requested order would apply to the Trusts and to any other investment company advised by Lifetime Advisers, Inc. ("LAI").

FILING DATES: The application was filed on June 25, 1991, and amended on October 31, 1991, November 13, 1991, November 27, 1991, and February 5, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing Interested persons may request a hearing by writing to the SEC's Secretary and serving the applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 10, 1992, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing request should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, c/o Stepthen E. Cavan, Esq., Massachusetts Financial Services Company, 500 Boylston Street, Boston, Massachusetts 02116.

FOR FURTHER INFORMATION CONTACT: C. Christopher Sprague, Senior Staff Attorney, at (202) 272–3035, or Max Berueffy, Branch Chief at (202) 272–3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Each Trust is registered under the 1940 Act as an open-end management investment company, and operates as a business trust under the laws of the Commonwealth of Massachusetts. LAI and FSI serve as investment adviser and distributor, respectively, to each Trust. LAI and FSI are subsidiaries of Massachusetts Financial Services Company ("MFS"), which is a subsidiary of Sun Life Assurance Company of Canada (U.S.). MFS serves as investment adviser to each fund in the MFS family of funds.

2. In accordance with Investment Company Act Release Nos. 15555 (Jan. 28, 1987) and 16529 (Aug. 17, 1988) (the "Prior Orders"), applicants currently assess a CDSC upon shares of the Trusts redeemed within six years of purchase. The amount of the CDSC is determined by how long the shares being redeemed have been held. A CDSC of 6% of the net asset value of the shares at the time of purchase is imposed when such shares are redeemed within one year. For each additional year that the shares are held, the CDSC is reduced by 1%. Thus, no CDSC is imposed if shares held longer than six years are redeemed. The Prior Orders also permit the Trusts to waive the CDSC under a variety of circumstances.

3. If the requested relief is granted, the Trusts would continue to impose and waive the CDSC as described in the Prior Orders. The Trusts also would waive the CDSC under the following additional circumstances: (a) Distributions from a trust upon the death of a beneficiary; (b) distributions to a beneficiary from a retirement plan qualified under section 403(b) of the Internal Revenue Code of 1986, as amended, due to death, disability, or attainment of age 70½; (c) distributions to a beneficiary from any type of retirement plan due to death, disability, or attainment of age 70½ of a plan participant; (d) redemptions of shares of a Trust acquired as the result of a reinvestment of the proceeds of a redemption of shares of a fund in the MFS family of funds (an "MFS Fund") (except funds offered without the imposition of a front-end sales charge, presently Municipal Working Capital Trust and Massachusetts Cash Management Trust, and MFS Fund shares purchased subject to a CDSC) [1] where such reinvestment occurred within such number of days of the redemption of such shares of the MFS Fund as may be specified from time to time, in the applicable MFS Fund prospectus (currently thirty days and in no event fewer than thirty days); and (e) redemption of shares acquired as the result of the investment of distributions from one Trust into shares of another Trust.

4. Applicants also propose to amend the Prior Orders to permit them to provide a credit for any CDSC paid by a shareholder who redeems Trust shares, and then reinvests the proceeds in any Trust within such number of days as may be specified, from time to time, in each Trust's prospectus (which shall not be fewer than thirty days). The credit would be paid by FSI, the Trusts' distributor.

Applicants' Legal Analysis

1. The Prior Orders granted an exemption from the definition of redeemable security in section 2(a)(32) of the 1940 Act, the definition of sales load in section 2(a)(35), and the pricing provisions of section 22(c) and rule 22c–1 so that applicants could impose a CDSC.

2. The Prior Orders also granted an exemption from section 22(d) of the 1940 Act to permit certain waivers of the CDSC. Section 22(d) requires a registered investment company, principal underwriter or dealer in redeemable securities to sell those securities only at a current public offering price described in the company's prospectus. Subject to certain conditions, rule 22d–1 provides an exemption from section 22(d) allowing investment companies to charge different front-end sales loads to different classes of investors. Applicants now request an amendment extending the Prior Orders so that the Trusts may offer the CDSC waivers and CDSC credit in the circumstances described above. As in the Prior Orders, applicants will comply with rule 22d–1 as if the CDSC were a front-end sales load.

3. Applicants assert that the proposed waiver of the CDSC under the additional circumstances described above would be consistent with the protection of investors and the purposes fairly

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[1] Under a Commission order, certain of the MFS Funds impose a CDSC in lieu of a front-end sales load for purchases of $1 million or more. Because the proceeds from a redemption of such MFS Fund shares may be reduced by the CDSC, the acquisition of Trust shares with the proceeds of such a redemption would not always be at relative net asset value. Section 11(a) of the 1940 Act requires that offers of exchange at other than relative net asset value be approved by order or permitted by rule. Therefore, purchases of Trust shares with the proceeds of a redemption of MFS Fund shares subject to a CDSC are excluded from waiver category (d), which would apply only to transactions effected at the relative net asset value of the shares of the MFS Fund and the Trust.

intended by the policy and provisions of the 1940 Act. Applicants also believe that the exemptive relief sought would not harm the Trusts or their shareholders relief sought would not harm the Trusts or their shareholders, and would not discriminate unfairly among shareholders or purchasers.

4. The Prior Orders were granted prior to the proposal of rule 6c–10 under the 1940 Act, (see 53 FR 45275, Nov. 9, 1988), which would allow mutual funds to impose deferred sales loads, and would specify the manner of calculating such loads. If the requested order is granted, any imposition, waiver, or crediting of a CDSC by applicants would be done only in accordance with proposed rule 6c–10.

5. Applicants further submit that the proposed credit of the CDSC is in the interest of shareholders. This reinvestment privilege allows investors who erroneously redeemed or otherwise had second thoughts about having redeemed their shares to reinvest the proceeds without reincurring the sales charge. Any variation in the reinvestment period for the CDSC credit or a CDSC waiver will comply with paragraph (a)(7) of proposed rule 6c–10, in that applicant will not shorten the reinvestment period for any outstanding shares. In addition, a shareholder will be entitled to the CDSC credit if he or she reinvests within the reinvestment period in effect at the time of redemption.

Applicants' Condition

If the requested order is granted, applicants will comply with the following condition:

1. Applicants will comply with the provisions of proposed rule 6c–10 under the 1940 Act, as it currently exists and as it may be reproposed or adopted in the future.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–4046 Filed 2–20–92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC–18553; 811–4737]

ProvidentMutual Tax-Free Moneyfund, Inc.; Notice of Application

February 14, 1992.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: ProvidentMutual Tax-Free Moneyfund, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATES: The application on Form N–8F was filed on November 22, 1991, and amended on February 14, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving the applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 10, 1992 and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, Christiana Executive Campus, 220 Continental Drive, 4th Floor, Newark, DE 19713.

FOR FURTHER INFORMATION CONTACT: C. Christopher Sprague, Senior Staff Attorney, at (202) 272–3035, or Nancy M. Rappa, Branch Chief, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

APPLICANT'S REPRESENTATIONS: 1. Applicant is an open-end, diversified management investment company organized as a Maryland corporation. On July 3, 1986, applicant registered under the Act, and registered an indefinite number of its common shares under the Securities Act of 1933. The registration statement was declared effective on September 26, 1986, and applicant began the initial public offering of its shares on October 13, 1986.

2. On December 14, 1990, applicant's board of directors, by unanimous vote, approved a Plan of Liquidation and Dissolution (the "Plan") providing for: (a) the cessation of applicant's operations as an investment company; (b) the liquidation of applicant's assets; (c) the distribution of applicant's assets to its stockholders after paying any liabilities; and (d) the deregistration of applicant under the Act, after provision for expenses of $2,072.72. The board voted to liquidate applicant based on its belief that applicant's asset base was too small in relation to its normal operating expenses to serve as a cost-effective investment for shareholders.

3. On January 17, 1991, applicant filed the definitive form of proxy materials concerning the Plan with the Commission. At a special meeting of shareholders on February 28, 1991, 1,566,609.84 out of the 1,896,924 shares outstanding on the record date voted in favor of the Plan.

4. As of the close of business on February 28, 1991, immediately preceding implementation of the Plan, applicant had 700,152.080 Class A common shares outstanding, having an aggregate net asset value of $700,151.14, and a per share net asset value of $1.00.

5. ProvidentMutual Management Co., Inc., applicant's investment adviser, or Sigma American Corporation, the adviser's parent, assumed all expenses associated with implementing the Plan.

6. Applicant filed Articles of Dissolution with the Maryland Department of Assessments and Taxation on September 25, 1991, and has been dissolved under Maryland law.

7. Applicant has no assets, debts, or liabilities, nor any securityholders. There are no securityholders of applicant to whom a distribution in complete liquidation of their interests has not been made.

8. Applicant has not, within the last 18 months, transferred any of its assets to a separate trust, the beneficiaries of which were or are securityholders of applicant.

9. Applicant is not a party to any litigation or administrative proceeding.

10. Applicant is not now engaged, and does not propose to engage, in any business activity other than that needed to windup its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–4047 Filed 2–20–92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35–25476]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

February 14, 1992.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested person wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by March 9, 1992 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

OLS Energy—Berkeley (70–7939)

OLS Energy-Berkeley ("Berkeley"), located at One Gatehall Drive, 3rd Floor, Parsippany, New Jersey 07054, an indirect subsidiary company of General Public Utilities Corporation ("GPU"), a registered holding company, has filed a post-effective amendment to its declaration under sections 6(a) and 7 of the Act.

By order dated August 1, 1989 (HCAR No. 24931), the Commission, among other things, authorized Energy Initiatives, Incorporated, a wholly owned indirect subsidiary company of GPU, to acquire through a newly formed, wholly owned subsidiary, Camchino Energy Corporation, general and limited partnership interests, aggregating a 50% interest in OLS Power Limited Partnership ("Partnership"). The Partnership was authorized to acquire, directly or indirectly, all of the outstanding common stock of, among other companies, Berkeley.

Berkeley is the lessee of a qualifying cogeneration facility ("Facility") located in California. Prior to the acquisition, Berkeley entered into a revolving credit agreement ("Credit Agreement") with General Electric Capital Corporation ("GECC"), the owner of the Facilities, to provide for the short-term working capital requirements of the Facility.

By orders dated February 9, 1990, December 26, 1990 and July 12, 1991 (HCAR Nos. 25038, 25230 and 25348, respectively), the Commission authorized Berkeley to enter into amendments to its Credit Agreement to, among other things: (a) Increase the aggregate amount of the notes which may be outstanding thereunder; (b) extend the time during which notes may be outstanding thereunder; and (c) reduce the rate of interest payable on any notes outstanding. Berkeley issued a secured promissory note (the "Note") to GECC evidencing its borrowings under the Credit Agreement.

Berkeley now seeks authorization to borrow under its Credit Agreement and the Note issued thereunder, as amended, until December 31, 1992. Berkeley would use the proceeds from such borrowings for working capital and general corporate purposes.

Northeast Utilities (70–7954)

Northeast Utilities ("NU"), 174 Brush Hill Avenue, West Springfield, Massachusetts 01089, a registered holding company, has filed an application-declaration under sections 6(a), 7, 9(a), 10, and 12(c) of the Act and rules 12 and 50(a)(5) thereunder.

By order dated March 12, 1991 (HCAR No. 25271), the Commission authorized NU, pursuant to rule 62(d) of the Act, to solicit proxies from the holders of NU common shares for authority to issue up to 11 million additional common shares to an employee stock ownership plan ("ESOP") proposed to be established. At the annual meeting of shareholders held on May 21, 1991, the NU shareholders authorized the issuance of up to 11 million common shares to an ESOP. On December 3, 1991, pursuant to the Commission's order dated November 18, 1991 (HCAR No. 25411), NU sold approximately 7.6 million common shares to an ESOP established as part of an existing 401(k) employee benefit plan.

NU now proposes issuing up to the remainder of the 11 million common shares authorized for issuance by its shareholders to another ESOP ("ESOP II") established in connection with two existing defined contribution employee benefit plans ("Plans"). In this regard, NU seeks Commission authority, from time-to-time through December 31, 1992, to: (1) Issue and sell up to 3,391,305 additional common shares ("Additional Shares") to the ESOP II; (2) issue and sell long-term notes to institutions and/or to the public in an aggregate principal amount of up to $75 million to provide loans to the ESOP II to fund the acquisition of the Additional Shares; (3) acquire notes in connection with loans to the ESOP II in an aggregate principal amount of up to $75 million to fund the acquisition of the Additional Shares; and (4) provide any guarantees that may be required in connection with borrowings directly obtained by the ESOP II to acquire such Additional Shares.

The Additional Shares will be acquired and held by the trustee for the ESOP II ("Trustee") directly from NU at a price not exceeding the fair market value of NU common shares at the time of purchase. To fund the acquisition of the Additional Shares, the Trustee will either borrow funds from NU and/or obtain independent debt financing in aggregate principal amounts not exceeding $75 million. To the extent that NU provides loans to the ESOP II, it proposes to issue long-term notes in connection with borrowing such amounts from institutional lenders and/or to issue and sell long-term notes in the public markets pursuant to an indenture. In the same manner, and in the event that the Trustee obtains its own financing, it will also borrow from institutional lenders or in the public markets, and NU may be called upon to guarantee such borrowings in either circumstance.

Borrowings by NU or the Trustee would be within the following general parameters. The length of maturity would be no longer than 20 years, and the interest rate would be fixed based on the equivalent long-term U.S. Treasury Bond rate, plus no more than 250 basis points. The exact rate would be a function of the source, the length of maturity, the size of the ESOP II, the quality rating of the debt, prevailing market conditions and certain other non-financial terms and conditions. Based on current market conditions, it is anticipated that the interest rate on the debt would be 8 percent to 8.25 percent per annum.

Any lending from NU directly to the ESOP II would be under a loan agreement requiring NU to lend funds in one or more installments over a 12-month period, and for the Trustee to borrow such funds, in principal amounts not exceeding $75 million. Borrowings from NU would be evidenced by notes issued by the Trustee, which will have maturities that generally reflect the maturities on the notes issued by NU as evidence of its debt, but not maturing in more than 20 years, and would be paid in one or more installments at an interest rate(s) that reflects the market rate obtained by NU at the time of the borrowing. The interest and principal payment provisions would comply with the Employee Retirement Income Security Act of 1974 and Internal Revenue Code provisions applicable to the ESOP II. The principal amount of the loan or loans and the interest thereon would be repaid by the Trustee using cash dividends paid on the NU common shares held in participants' accounts under the plan and on the Additional Shares acquired by the ESOP II and, to the extent necessary, by periodic contributions to the ESOP II by NU subsidiaries that participate in the plan. Payments of principal and interest on the notes would permit the allocation of Additional Shares to participants' accounts under the Plans. The Trustee would pledge and grant to NU a security interest in all unallocated NU shares held by the Trustee as security for the debt obligation.

NU requests that the issuance and sale of the Additional Shares to the ESOP II, any issuance of notes by NU, and any guarantee by NU of the debt incurred by the ESOP II be excepted from the competitive bidding requirements of rule 50 pursuant to subsection (a)(5) thereunder, so that it may negotiate the terms and conditions of the transactions. This request is granted.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-4045 Filed 2-20-92; 8:45 am]

BILLING CODE 8010-01-M

TENNESSEE VALLEY AUTHORITY

Tennessee Valley Authority Act of 1933 and Public Utility Regulatory Policies Act of 1978; Modifications in Guidelines on Dispersed Power Production

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Notice of modifications in TVA's Dispersed Power Production Guidelines.

SUMMARY: On April 20, 1981, TVA initially adopted a policy to encourage dispersed power production in the Tennessee Valley region and an interim program and guidelines to assist TVA and the distributors of TVA power in implementation of the policy. Subsequently, from time to time revisions in the guidelines have been made. The guidelines encompass cogeneration and small power production facilities included under sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978 (Pub. L. 95-617). In light of changing power supply considerations, modifications have been made in these guidelines to, among other things, provide more flexibility in contract and pricing arrangements for dispersed power production. Information about the proposed guideline modifications under consideration was printed in the **Federal Register** on May 16, 1991 (56 FR 22750). Public comment was invited and considered by the TVA Board in its adoption of the modified guidelines as had been proposed.

EFFECTIVE DATE: The effective date of the modified guidelines was September 10, 1991.

FOR FURTHER INFORMATION CONTACT: Sidney D. Reynolds, Tennessee Valley Authority, 1101 Market Street, SP 5E, Chattanooga, Tennessee 37402, (615) 751-7611.

SUPPLEMENTARY INFORMATION: The modifications reflect experience gained by TVA over several years with the administration of TVA's Dispersed Power Production Guidelines. They were necessary to provide TVA and the distributors of TVA power the flexibility to contract for dispersed power under terms that would be the most compatible with the TVA power system's needs.

TVA makes available a standard price schedule CSPP for purchases of output from qualified cogeneration and small power production facilities. This schedule as provided under the guidelines may be adjusted, modified, changed, or replaced by TVA from time to time. A copy of Dispersed Power Price—Schedule CSPP which reflects current avoided costs and became effective November 1991 is included as an attachment to the guidelines.

The CSPP Schedule currently reflects avoided energy costs but no avoided capacity costs since the generating units scheduled to come on line will cover our capacity needs into the next decade. In the future, TVA's capacity needs and the best available options to meet those needs will be determined through the TVA's integrated resource planning efforts.

Integrated resource planning entails an in-depth assessment of a broad range of alternatives and is used by TVA to carry out its responsibilities for assuring an ample supply of electric power for the region at the lowest feasible cost. This includes traditional supply-side options, demand-side management options such as conservation and dispersed power projects.

Those proposing projects that are ultimately selected as the most satisfactory for meeting capacity needs will have an opportunity to enter into contracts reflecting avoided capacity, as well as energy costs for the TVA system. TVA will continue to enter into purchase arrangements reflecting TVA's avoided energy costs for energy from facilities not being utilized to supply capacity needs.

In addition to the existing standby power (SP) rate, which is a firm type of backup power, TVA is offering a new more flexible type of standby power which is available under Interruptible Standby Schedule ISP. This new type of standby power is priced similar to the power available under the Economy Surplus Power (ESP) arrangements and will be for use by small power producers and cogenerators as backup for their generators to the extent it is used internally.

The modified TVA Dispersed Power Production Guidelines appear in the appendix to this document.

Dated: February 9, 1992.

Mary Sharpe Hayes,

President, Customer Group.

Appendix—Dispersed Power Production Guidelines

These guidelines are intended to assist TVA and the distributors of TVA power in developing arrangements for the effective utilization of dispersed power production in the Tennessee Valley. TVA develops and administers these guidelines which are applicable for purchases by TVA and by distributors of TVA power from dispersed power production facilities and for utilization of dispersed power production on the region's power system. The guidelines may be modified by TVA from time to time as it deems appropriate.

A. Definitions
B. Generation From Qualified Facilities
  1. Disposition of Power from Qualified Facilities
  2. Purchase Price for Power from Qualified Facilities
  3. Security Requirements for Qualified Facilities
  4. Purchase of Power by TVA
  5. Purchase of Power by Distributor
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C. Generation From Authorized Facilities
  1. Development of Authorized Facilities and Related Activities
  2. Disposition of Power from Authorized Facilities
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  5. Contract Requirements for Distributors
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D. General Provisions Applicable for Arrangements Involving any Qualified or Authorized Facility
  1. Temporary Curtailments
  2. Responsibility for Interconnection, Transmission, and Metering Costs
  3. Parallel Operation

4. Compliance with Safety, System Protection, and System Operating Guidelines
Attachment A—Dispersed Power Price—Schedule CSPP
Attachment B—Standby Power Rate—Schedule SP
Attachment C—Wholesale Standby Power Rate—Schedule WSP
Attachment D—Supplemental Safety, System Protection, and System Operating Guidelines Applicable to Owners of Qualified or Authorized Facilities

A. Definitions

For purposes of these guidelines, the following terms (whether in the singular or plural) shall have the following meanings:

1. *Qualified Facility* shall be either a cogeneration or small power production facility which meets the qualifications set out in Federal Energy Regulatory Commission (FERC) Rules (18 CFR 292).

2. *Qualified Producer* shall be any entity, other than a Distributor as herinbelow defined, who owns and operates a Qualified Facility and meets the qualifications set out in FERC Rules (18 CFR 292).

3. *Distributor* shall be an electric cooperative or municipal electric system or department that purchases and distributes electric power and energy to consumers pursuant to a wholesale power contract with TVA.

4. *Authorized Facility* shall be either a cogeneration or small power production facility which (a) is owned by a Distributor and (b) meets the qualifications set out in FERC Rules (18 CFR 292), with the exception of criteria set out in such rules limiting electric system participation in facility ownership.

5. *TVA Area* shall be the area within which TVA or the Distributors are a source of power supply under the provisions of the TVA Act.

6. *Standard Purchase Price Schedule* shall be the attached Dispersed Power Price—Schedule CSPP (Attachment A), as it may be adjusted, modified, changed, or replaced by TVA from time to time.

7. *Alternative Purchase Prices* shall be any purchase prices agreed upon by TVA for purchases by TVA (and as agreed upon by TVA and a Distributor for Distributor's purchase) as alternative prices to those set forth in the Standard Purchase Price Schedule. In developing Alternative Purchase Prices, consideration will be given to such factors as TVA's current and projected avoided energy costs and any projected capacity costs, dispatchability, maintenance scheduling, administrative and billing requirements, variations in line losses, curtailment rights during periods when deliveries would increase operating costs on the TVA system, and reliability of output from the power production facility during TVA onpeak load periods. Alternative Purchase Prices may include prices (or components of prices) that are fixed for all or some portion of the contract term.

B. Generation From Qualified Facilities

1. Disposition of Power from Qualified Facilities

A Qualified Producer may either (a) use all of the output of its Qualified Facility to supply its own requirements, (b) use a portion of said output to supply its own requirements and sell the surplus to the local Distributor or TVA, or (c) sell the entire output of the Qualified Facility to the local Distributor or TVA.

2. Purchase Price for Power From Qualified Facilities

a. Qualified Producers with Qualified Facilities located within the TVA Area and those Qualified Producers with Qualified Facilities located outside the TVA Area that make arrangements with connecting utility systems (or are otherwise able to deliver their output to the power system of TVA or a Distributor) may make arrangements to sell their output to TVA or a Distributor (i) under the then-available Standard Purchase Price Schedule, or (ii) for those Qualified Producers with Qualified Facilities who contract to provide 500 kW or more of capacity from a production facility, under Alternative Purchase Prices.

b. The amounts payable under the Standard Purchase Price Schedule or under Alternative Purchase Prices may be modified, as appropriate, to reflect costs incurred by TVA or the Distributor in connection with the purchase, which costs may include, but are not limited to, administrative costs, metering costs, and the costs of transmission line losses.

3. Security Requirements for Qualified Facilities

In recognition that TVA systemwide avoided costs are utilized to determine the purchase price for the output from Qualified Facilities and that there is a risk of loss to the TVA power system if the Qualified Producer fails to deliver the power and energy provided for under contract, contractual arrangements with the Qualified Producer shall include appropriate provisions to minimize such risks. Such provisions may include payment of damages, return by the Qualified Producer of a portion of the payment amounts it has received from TVA or Distributor, setoffs against amounts to be paid to the Qualified Producer, and the establishment of security to be provided by the Qualified Producer. Such security may be a performance bond, a bank letter of credit, or other measures of security in such form, or combination of forms, and amount as deemed sufficient by TVA (and the local Distributor in situations where it is to purchase the output). In such situations, the contractual arrangements will also provide that the security will be for the benefit of TVA and that amounts to be repaid which reflect the electric system loss due to a Qualified Producer's deficiencies in delivering its output, as compared with contract terms and requirements, will be paid to TVA.

4. Purchase of Power by TVA

a. Arrangements for sale to TVA of any of the output of a Qualified Facility will be subject to the provisions of a purchase contract between the Qualified Producer and TVA and shall be subject to all applicable provisions of these guidelines.

b. If a Qualified Facility is to be connected to a Distributor's system but the Qualified Producer has elected to sell the output to TVA, it shall be the Qualified Producer's responsibility to make appropriate arrangements with the Distributor for use of the Distributor's system for transmitting such output to TVA. Under such an arrangement, the Qualified Producer will reimburse the Distributor for any additional transmission, distribution, and administrative costs that the Distributor incurs as a result of such purchases by TVA from the Qualified Producer. The amount of any such payments by the Qualified Producer will be determined by the Distributor in consultation with TVA taking into consideration such factors as operation and maintenance of the Distributor's facilities, changes in the Distributor's transmission and distribution losses, and meter reading and billing costs.

5. Purchase of Power by Distributor

a. If the Qualified Producer elects to sell all or a portion of the output of its Qualified Facility to a Distributor, arrangements for the sale will be subject to the provisions of a purchase contract between the Qualified Producer and the Distributor and shall be subject to all applicable provisions of these guidelines. The purchase contract plus all supplements and amendments thereto shall be subject to the approval of TVA before becoming effective.

b. For purchases made by a Distributor from a Qualified Producer, appropriate adjustments will be made by TVA (unless it is not economically and administratively feasible) in the Distributor's wholesale power bill so that the Distributor pays to TVA for power and energy taken from TVA and the Qualified Producer, as if all such power and energy had been supplied by TVA under the wholesale power contract. The Distributor will receive a credit on such wholesale power bill equal to the actual payments made by the Distributor to the Qualified Producer for power and energy.

c. In the event that a Distributor's contract with a Qualified Producer includes provisions for the availability of standby power to the Qualified Producer, the contractual arrangements between TVA and the Distributor making such power available will include provisions for appropriate adjustments in the Distributor's wholesale power bill reflecting the additional costs imposed on the TVA power system resulting from the provision of standby power.

6. Availability of Power to Qualified Facility Within the TVA Area

a. If requested by the Qualified Producer, contractual arrangements involving a Qualified Facility within the TVA Area shall include the availability to the Qualified Producer of maintenance and emergency standby power at the applicable standby power charges, which power is currently provided under the provisions of the Standby Power Rate—Schedule SP (Attachment B), as adjusted, modified, changed, or replaced from time to time by TVA as it deems appropriate to reflect changes in the costs of providing such power. (A form of interruptible standby power, or ISP, is also available for internal use by a Qualified Producer.) The Qualified Producer will be required to bear the costs of any additional facilities necessary to provide such standby power.

b. Contractual arrangements involving a Qualified Facility within the TVA Area may also include the supply to the Qualified Producer of such of its power requirements as it may request under applicable terms and conditions, including power rates, as power is supplied to electric power customers in the area for the same customer classification as the Qualified Facility.

c. It shall be clearly understood (i) that it shall be the responsibility of the Qualified Producer to contract for its maximum expected power requirements, (ii) that neither TVA nor any of the Distributors will be obligated to supply power in greater amounts than the amount contracted, and (iii) that neither TVA nor any of the Distributors will contract or otherwise become obligated to sell power to any Qualified Producer not located within the TVA Area.

7. Additional Requirements

All Qualified Producers with Qualified Facilities must comply with the additional applicable requirements set out in Section D.

C. Generation From Authorized Facilities

1. Development of Authorized Facilities and Related Activities

a. Distributors will be permitted to develop, own, and operate facilities that meet the criteria for an Authorized Facility except that, without prior approval from TVA, Distributors will not undertake the construction or acquisition of a production facility that either:

i. Has design production capacity exceeding 80 MW for any individual facility or any amount of capacity that would cause the aggregate production capacity of all production facilities owned by the Distributor to exeeed 10 percent of the Distributor's peak capacity requirements projected for the year in which the proposed facility is to become operational; or

ii. Has ongoing annual revenue requirements which, in the event of facility failure, will cause the projected ongoing annual revenue requirements for all Authorized Facilites of the Distributor to exceed 10 percent of the Distributor's projected annual net revenues from its electric operations (resale electric revenue less total power supply cost) during any year after the proposed facility is to become operational.

b. Distributors are permitted to use up to 2 percent of their annual net revenues (resale electric revenue less wholesale power cost) for research and demostration activities, including the evaluation of proposed production facilities. Activities requiring aggregate expenditures above this amount are subject to prior review and approval by TVA.

c. In seeking TVA's prior approval of any proposed project or research and demonstration activity that exceeds the limitations in subsections C.1.a. and C.1.b. above, it will be the responsibility of the Distributor to notify TVA in writing of the proposed undertaking and to provide TVA with such data and information as TVA might reasonably request for the purpose of evaluating the technical and financial feasibility of the proposed project or activity. TVA will endeavor to respond within 90 days from the date that the Distributor submits such notice and information to TVA.

d. Distributors will provide TVA with reasonable advance notice of all power production facilities that either the Distributors or their customers plan to acquire and operate and will coordinate with TVA the development of any necessary power supply and operating arrangements. Additionally, after such facilities commence operations, the Distributors will be responsible for notifying TVA promptly of any anticipated change in the capability of such production facilities to continue to supply power.

2. Disposition of Power From Authorized Facilities

A Distributor owning and operating an Authorized Facility may either (a) use all of the output thereof to supply a portion of its power system requirements, (b) use of portion of said output to supply a portion of its power system requirements and sell the surplus to TVA, or (c) sell the entire output of the Authorized Facility to TVA.

3. Purchase Price for Power From Authorized Facilities

a. A Distributor may elect either to sell TVA the output of the Authorized Facility (i) under the then-available Standard Purchase Price Schedule, or (ii) if the Authorized Facility will be used to supply at least 500 kilowatts of capacity to TVA, under Alternative Purchase Prices.

The amounts payable to a Distributor under the Standard Purchase Price Schedule or under Alternative Purchase Prices may be modified, as appropriate, to reflect costs incurred by TVA in connection with the purchase, which costs may include, but are not limited to, administrative costs, metering costs, and the costs of transmission line losses.

4. Security Requirements for Authorized Facilities

In recognition that there is a risk of loss to the TVA power system if the Distributor failes to deliver power and energy provided for under contract, the contractual arrangements with the Distributor shall include appropriate provisions to minimize such risks. Such provisions may include payment of damages, return by the Distributor of a portion of the payment amounts it has received from TVA, setoffs against amounts to be paid to the Distributor, and the establishment of security to be provided by the Distributor. Such security may be a performance bond, a bank letter of credit, or other measures of security in such form, or combination of forms, and amount as deemed sufficient by TVA.

5. Contract Requirements for Distributors

Arrangements for the sale to TVA of any of the output of an Authorized Facility will be subject to the provisions of a purchase contract between the Distributor and TVA and shall be subject to all applicable provisions of these guidelines.

6. Purchases of Power From TVA

a. A Distributor providing a portion of its power system requirements from an Authorized Facility, or through purchases from one or more Qualified Producers pursuant to these guidelines, shall obtain the remainder of its power system requirements from TVA in accordance with the provisions of its wholesale power contract with TVA, including the wholesale rates provided for therein.

b. A Distributor owning an Authorized Facility and using the output there of to provide a portion of its power system requirements shall purchase standby power from TVA at the applicable standby power charges, which power is currently provided under the provisions of Wholesale Standby Power Rate—Schedule WSP (Attachment C), as adjusted, modified, changed, or replaced from time to time by TVA as it deems appropriate to reflect changes in the costs of providing such power. The Distributor will also be required to bear the costs of any additional facilities necessary to provide such standby power.

7. Additional Requirements

All Distributors with Authorized Facilities must comply with the additional applicable requirements set out in Section D.

D. General Provisions Applicable for Arrangements Involving any Qualified or Authorized Facility

1. Temporary Curtailments

The Qualified Producer's right to sell power to the Distributor or TVA, or in the case of an Authorized Facility, the Distributor's right to sell power to TVA, may be subject to temporary curtailments during system emergencies and when, as a result of operational circumstances, the delivery of such power will interfere with the safe operation of TVA's and/or Distributor's respective power systems.

2. Responsibility for Interconnection, Transmission, and Metering Costs

a. A Qualified Producer with a Qualified Facility will be required to pay TVA and the local Distributor for any additional transmission or distribution costs (including the costs of metering, system protection, safety equipment, administrative costs, and transmission line losses) to the extent that any such costs are in excess of those that TVA and the local Distributor would have incurred if the Qualified Facility had not been installed. In the case of an Authorized Facility, the owning Distributor will be responsible for any such costs to TVA. If a Qualified or Authorized Facility is capable of producting in excess of 15,000 kW, the Qualified Producer or Distributor owner, as the case may be, may be required to provide telemetering facilities to supply information on the power output of its facility to the purchasing electric system (and to TVA when a Distributor is the purchasing electric system).

b. Existing customers of a Distributor or TVA that subsequently install Qualified Facilities may also be required to compensate the Distributor and TVA for the unamortized costs less salvage value of any existing transmission or distribution facilities that are rendered surplus by changes in the customer's supply requirements. When such surplus facilities are severable from the electric systems, the Qualified Producer will have the option of taking possession of the severable facilities in lieu of receiving any credit for salvage value.

c. A Distributor that operates an Authorized Facility may be required to compensate TVA for the unamortized costs less salvage value of any existing transmission or distribution facilities owned by TVA that are rendered surplus by any reduction in the Distributor's supply requirements from TVA. When such surplus facilities are severable from TVA's system, the Distributor will have the option of taking possession of the severable facilities in lieu of receiving any credit for salvage value.

d. The Qualified Producer or Distributor owner, as the case may be, at its expense, shall be responsible for installing, owning, operating, and maintaining all electrical equipment associated with its facility and necessary for the protection of such equipment up to the point of connection with the connecting electric system to which the proposed facility's output will be delivered, including furnishing the equipment necessary to connect the facility to the electric system lines. The connecting electric system shall make the connection and the reimbursement for this cost shall be made by the Qualified Producer or Distributor owner of the facility.

3. Parallel Operation

All Qualified Producers and Distributors (that operate Authorized Facilities) that desire to operate their production facilities in parallel with the connecting electric system of TVA or a Distributor, as the case may be, will be required to execute contractual agreements with the connecting electric system.

4. Compliance With Safety, System Protection, and System Operating Guidelines

All Qualified Producers and Distributors with Authorized Facilities will be required to comply with the applicable safety, system protection, and system operating guidelines set out in Attachment D, as they may be modified or revised by TVA from time to time.

Attachment A—Dispersed Power Price Schedule CSPP

November 1, 1991.

Availability

This schedule shall apply to purchases by TVA, or by distributors of TVA power, from cogeneration and small power production facilities which are qualified, operated, and maintained in accordance with the guidelines for TVA's Dispersed Power Production Program.

Character of Purchased Power

Alternating current, single, or three-phase, 60 hertz. Power will be purchased at the highest voltage available in the vicinity or other voltage agreed to by the purchasing electric system.

Standard Prices

Part A

Price for power and energy when no time-differentiated metering is utilized.

All kilowatthours per month at 1.740 cents per kWh.

Part B

Price for power and energy when time-differentiated metering is utilized.

All onpeak kilowatthours per month at 1.880 cents per kWh.

All offpeak kilowatthours per month at 1.660 cents per kWh.

Revisions

All of the above prices are subject to revision by TVA annually to reflect, as TVA deems appropriate, TVA's then current projections of avoided energy costs and avoided capacity costs, if any, for the next annual period in which the power and energy is to be supplied.

Determination of Onpeak and Offpeak Hours

Except for Saturdays and Sundays and the weekdays that are observed as Federal holidays for New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, onpeak hours for each day shall be 10 a.m. to 10 p.m. during calendar months of May through September and from 6 a.m. to 12 noon and from 4 p.m. to 10 p.m. during all other calendar months. All other hours of each day and all hours of such excepted days shall be offpeak hours. Such times shall be Central Standard Time or Central Daylingt Time, whichever is then in efect. The onpeak and offpeak hours under this price schedule are subject to change by TVA. In the event TVA determines that such changed onpeak and offpeak hours are appropriate, it shall so notify producers supplying power to TVA hereunder and distributors at least 12 months prior to the effective date of such changed hours, and the distributors shall promptly notify producers supplying power to them hereunder.

Contract Requirement

Contracts are required for purchases hereunder. For purchases under Part A and Part B above, contracts shall extend for a term of not less than one year, provided however that they may be cancelled by the producer upon not less than 90 days' advance written notice to the purchasing electric system.

Payment

Representatives of TVA or distributor shall on a monthly basis read the meters at the point of delivery and provide the owner of the qualified facility with a detailed accounting of the amount of power and energy supplied (including, as appropriate, metered amounts during onpeak and offpeak periods) as determined by TVA or distributor. From these readings, calculations will be made to determine the amount to be paid for power and energy supplied by the qualified facility, and payment will be rendered promptly to the owner of the qualified facility in accordance with the terms of the contract.

Attachment B—Standby Power Rate—Schedule SP

September 10, 1991.

Availability

Available for small power producers and cogenerators within the TVA Area that qualify under TVA's Dispersed Power Production Program and that elect to purchase standby service for scheduled maintenance and emergency standby power supply. Service is subject to notice and scheduling requirements set out in the contract.

Character of Standby Service

Alternating current, single or three-phase, 60 hertz. Power supplied shall be delivered at the highest voltage available in the vicinity, unless at the customer's request a lower standard voltage is agreed upon.

Standby Power Charges

Reservation Charges:

$1.20 per month per kilowatt of customer's standby contract demand, plus

$0.48 per month per kilowatt of aggregate production capacity of customer's facilities.

Demand Use Charges:

$2.41 per week per kilowatt of maintenance standby power prescheduled by customer, plus

$4.82 per week per kilowatt of emergency standby power used by customer.

Standby demand use charges will be prorated on a daily basis for periods of less than one week. All energy deemed to be taken with standby power will be billed as firm energy at the charges applicable under the standard general power rate schedule available for service to the customer. (For customers for whom firm power is also being made available, the amounts of standby power scheduled or taken will be subtracted from the customer's measured demand during such periods for purposes of determining the customer's billing demand for firm power.)

The above reservation and demand use charges may be increased or decreased by TVA, effective with the effective date of any Adjustment Addendum published by TVA or any rate change, to reflect changes in the cost of standby service.

Facilities Rental

There shall be no facilities rental charge under this rate schedule for delivery at bulk transmission voltage levels of 161 kV or higher. For delivery at less than 161 kV, there shall be added to the customer's bill a facilities rental charge. This charge shall be 36 cents per kW per month except for delivery at voltages below 46 kV, in which case the charge shall be 93 cents per kW per month for the first 10,000 kW and 73 cents per kW per month for the excess over 10,000 kW. Such charge shall be applied to the customer's then-effective standby contract demand except that, for a customer for whom firm power is also being made available, and whose firm power takings are also subject to facilities rental charges under the provisions of the standard general power rate schedule, calculations for determining the facilities rental charges for firm power and for standby power shall be made as follows. The standby contract demand will be added to the higher of (1) the highest billing demand for firm power established during the latest 12-consecutive-month period or (2) the customer's then-effective firm contract demand, and the amounts in cents per kW set out above shall be applied to the total. The facilities rental charge shall be in addition to all other charges under this rate schedule. Such amounts in cents per kW may be increased or decreased by TVA, effective with the effective date of an Adjustment Addendum published by TVA or any rate change, to reflect changes in the costs of providing for delivery at voltage levels below 161 kV.

Contract Requirement

Customers to whom this rate schedule is applicable shall be required to execute contracts, and such contracts shall be for a term not to exceed 10 years.

Payment

Bills under this rate schedule will be rendered monthly. Any amount of bill unpaid after due date specified on bill may be subject to additional charges under Distributor's standard policy.

Single Point Delivery

The charges under this rate schedule are based upon the supply of standby service through a single delivery and metering point, and at a single voltage. If service is supplied to the same customer through more than one point of delivery or at different voltages, the supply of service at each delivery and metering point and at each different voltage shall be separately metered and billed under this rate schedule.

Service is subject to Rules and Regulations of the Distributor and to guidelines applicable under TVA's Dispersed Power Production Program.

Attachment C—Wholesale Standby Power Rate—Schedule WSP

September 10, 1991.

This schedule is applicable to distributors of TVA power which elect, in accordance with TVA's Dispersed Power Production Guidelines, to use the output of their own authorized production facilities (herinafter called "Units") to reduce their power supply requirements from TVA. All charges under this schedule are in addition to the charges provided for under the wholesale power rate schedule, and the provisions of said wholesale power rate schedule are in no way affected by this schedule.

Standby Power Reservation Charge

For each month, whether or not standby power is taken, Distributor shall pay a monthly standby power reservation charge calculated as provided below.

$8.86 (100 percent—CF) (Capacity—Standby Power Use) per month, where

CF=Capacity factor (expressed as a percentage) for all Units which is determined by TVA by dividing the expected annual energy generation for all Units by the maximum annual energy generation (equal to 8,760 hours times the Capacity) for all Units; and

Capacity=The aggregate production capacity in kW of all Units; and

Standby Power Use=The kW amount by which Distributor's billing demand (as determined under the wholesale power rate schedule) exceeds its firm demand. Distributor's firm demand shall be the kW amount by which its maximum system requirement in a month exceeds the aggregate production capacity of all Units. Distributor's system requirement shall be determined on a simultaneous basis. For any 60-consecutive-minute period of the month, the system requirements shall be the sum of (a) the average demands measured in kW in such period for all delivery points to Distributor and (b) the average generation measured in kW in such period for all Units, and the highest such system requirement for any month shall be the maximum system requirement for the month.

Adjustments and Changes

The above standby reservation charge may be increased or decreased by TVA, effective with the effective date of any Adjustment Addendum published by TVA or any rate change, to reflect changes in the cost of providing standby power.

Attachment D—Supplemental Safety, System Protection, and System Operating Guidelines Applicable to Owners of Qualified or Authorized Facilities

These requirements shall be applicable to assure system safety and reliability of interconnected operations. The adequacy of safety and system protection facilities for interconnection with producers as provided herein will be determined by TVA and, as appropriate, by the Distributors but only insofar as necessary to determine the compatibility of such facilities with the connecting electric system. TVA and the Distributors will apply such other safety and system protection requirements as may be determined to be appropriate.

It is recommended that the connecting electric system, TVA or the Distributor, emphasize to prospective producers the importance of discussing plans with the connecting electric system before purchasing or installing equipment.

1. Fault Protection

a. Adequate protection facilities shall be provided by the owner to protect the connecting electric system from fault currents originating from the production facility. The owner will provide adequate fault current interrruption capability with secondary relaying and control circuits.

b. It shall be the responsibility of the owner to provide adequate protection for its production facility from fault currents originating on the connecting electric system because of a fault in the production facility.

2. Overvoltage and Undervoltage

a. It shall be the responsibility of the owner to provide adequate protection or safeguards to prevent damage to the connecting electric system caused by overvoltage originating from the operation of the production facility.

b. It shall be the responsibility of the owner to provide adequate protection of its production facility from overvoltages originating on the connecting electric system.

c. It shall be the responsibility of the owner to provide facilities adequate to prevent the production facility from being damaged by undervoltage conditions on the connecting electric system.

3. Synchronization and Isolation

a. The owner shall provide adequate facilities for the proper synchronization of its production facility with the connecting electric system such that synchronism is accomplished, either manually or by automatic means, without causing undesirable currents or voltages (including current surges and voltage fluctuations) on the connecting electric system.

b. The owner shall provide means for properly disconnecting the production facility from the connecting electric system for system line interruptions, for occasions when the connecting electric system becomes isolated from its source of generation, and for the proper resynchronization of the production facility after such interruptions or isolation. Rapid restoration of service following a temporary interruption using automatic circuit breaker reclosing is a standard utility practice.

c. To provide assurance that the connecting electric system cannot be energized from the production facility during outages on the connecting electric system, the owner of the production facility must provide equipment for manually disconnecting and isolating the production facility. This will help provide safety for the connecting electric system's employees performing emergency repairs or routine maintenance to its lines. Such equipment must be capable of preventing the production facility from energizing the system's lines and must include a device (or devices) which can be locked so as to visually show isolation of the production facility to prevent all means of backfeed into the connecting electric system.

d. The owner may install generating facilities to supply a portion of its load without operating its generating facilities in parallel with the electric system. In these instances, the owner must verify to the electric system that the switches used for transferring the load from the electric system lines to the onsite generation facilities will meet the electric system's requirements for nonparallel operation. Also, the owner must verify there is no possibility of backfeed to the electric system's lines. If it is found that the generating facilities can backfeed, the facilities must meet the requirements for parallel operation.

4. Grounding

The facilities (generator, connecting transformer, etc.) that connect to the electric system must be grounded in such a way that coordination is maintained with the relay protection system in use by the connecting electric system, and the connected facilities will be protected from deleterious voltages during fault conditions.

5. Harmonics

a. Adequate design precautions must be taken by the owner to prevent excessive and deleterious harmonic voltages or currents caused by the production facility from occurring on the connecting electric system.

b. The production facility must be designed to operate with normal harmonic voltages and currents that originate from the connecting electric system.

6. Reactive Power

The production facility shall be operated to supply appropriate amounts (as hereinafter described) of reactive power during onpeak hours and to supply no reactive power, or to consume appropriate amounts (as hereinafter described) of reactive power during offpeak hours. The specific reactive power requirements to be met by the production facility will be determined by the connecting electric system, taking into consideration such factors as production facility size and equipment design limitations, electric system voltage levels, and other conditions on the electric system. If the production facility is unable to meet such requirements due to equipment design or other such limitations for which reasonable corrective measures cannot be taken by the producer, the connecting electric system, as it deems necessary, may provide the required reactive power at the expense of the owner of the production facility.

The connecting electric system reserves the right to install metering equipment or to make periodic tests to determine the reactive power flows to or from the owner's production facility and to mutually agree with the owner of the production facility to requirements differing from those described in the above paragraph. The onpeak hours and offpeak hours referred to above are the same as those provided in the then-effective standard price schedule.

7. Voltage Regulation

The owner shall provide necessary voltage regulation equipment to prevent the production facility from causing excessive voltage variation on the connecting electric system. The voltage variation caused by the production facility must be within ranges capable of being handled by the voltage regulation facilities used by the connecting electric system.

8. Voltage Flicker

The voltage surges caused by the operation, synchronization, or isolation of the production facility shall be within the standards of frequency of occurrence and magnitude established by the connecting electric system.

9. Voltage Balance

a. The voltage produced by the production facility must be balanced if it is a 3-phase installation. The waveform must be sinusoidal and compatible with the operation of the connecting electric system.

b. The owner will be responsible for protecting its production facility from inadvertent phase unbalance or single phasing in the connecting electric system's voltage.

10. Operational Oversight

a. The owner will be responsible for operating its production facility in a manner that will not cause undesirable or harmful effects to the connecting electric system or its other customers.

b. The owner will not begin initial operation of the production facility until it has received written approval from the connecting electric system. This approval shall not be construed as confirming or endorsing the design or as any warranty of safety, durability, or reliability of the production facility equipment.

c. The owner shall supply the connecting electric system with diagrams and specifications describing the production facility and related interconnection, operation and protective equipment and any proposed changes to the aforesaid facilities. These diagrams and specifications shall be consistent with good engineering practice and shall specify the equipment to be used (relays, breakers, transformers, generators, etc.) by manufacturer, model, type, size, impedance, and other pertinent information.

For any production facility with output greater than 1,000 kw, the control and protective equipment used by the owner shall be utility class and shall conform to the latest revision of ANSI/IEEE C37.90, IEEE Standard Relays and Relay Systems Associated with Electric Power Apparatus. Specifications and/or instruction manuals for such control and protective equipment shall be made available by the owner upon request by the connecting electric system.

d. The connecting electric system shall have the right at any time to inspect and test the operation of any control and protective equipment owned and maintained by the owner.

e. If, subsequent to initial operation, a production facility is unable to comply with the provisions for safety, system protection, and production facility operation contained in this Attachment D, or is otherwise operated in an unsafe manner, the production facility may be disconnected from the connecting electric system until the problem has been corrected.

11. Metering

The type of metering and associated equipment shall be determined by the connecting electric system (and purchasing electric system, if different). Selection of metering arrangements will be based upon the lowest cost for equipment and arrangements that will also meet the electric systems' reasonable data requirements. Operation, maintenance, and testing of the metering equipment may be required from time to time by the electric systems. When tests are requested by the owner of a production facility, such tests shall be at the owner's expense.

12. Dc Current Injection

Adequate design precautions must be taken by the owner of the production facility to prevent injecting direct current into the connecting electric system. Where dc current injection is a possibility, methods such as isolation transformers, monitoring devices, or other decoupling devices should be utilized by the owner of the production facility to prevent dc current injection.

13. Single-Phase Generators

Single-phase generators larger than 100 kW will be permitted to be connected to distribution facilities (26 kV and below) only after a determination by the connecting electric system that such connection will not interfere with the operation of the distribution circuit. Single-phase generators will not normally be permitted to be connected to subtransmission and transmission (46 kV and above) facilities.

14. Indemnification

The owner of the production facility will release, indemnify, and save harmless the connecting electric system, and the purchasing electric system if different, and their respective agents and employees from all liability, claims, demands, causes of action, costs, or losses for personal injuries,, property damage, or loss of life or property, sustained by the owner, its agents and employees, or third parties rising out of or in any way connected with the installation, operation, maintenance, repair, defect, or failure of the production facility and associated equipment and facilities.

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15. Insurance

The owner of the production facility will carry general liability insurance (in such minimum amounts as may be determined appropriate by the connecting and purchasing electric systems) to provide protection against liability, claims, demands, causes of action, costs, or losses as described in section 14 above (including losses sustained by the connecting electric system and the purchasing electric system and their respective agents and employees). The owner of the production facility, at the request of the electric systems, will provide the electric systems with evidence of the continuing effectiveness of such insurance during the production facility's construction and operation. The owner of the production facility, at the request of the electric systems, will name the electric systems, and their respective agents and employees, as additional insureds.

[FR Doc. 92-3849 Filed 2-20-92; 8:45 am]

BILLING CODE [illegible]

THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD

Hearing on Early Resolutions/Assisted Mergers

AGENCY: Thrift Depositor Protection Oversight Board.

ACTION: Notice of hearing and request for comments.

SUMMARY: The Thrift Depositor Protection Oversight Board (Oversight Board) will hold a public hearing and seek written comment on the issues raised by early resolutions and assisted mergers of troubled thrift institutions. The hearing will begin at 10 a.m. on March 25, 1992, in the amphitheater of the Resolution Trust Corporation building at 801 17th Street, NW., Washington, DC.

The topic of early thrift resolutions has been highlighted by Congress's recent enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA), Public Law 102-242, 105 Stat. 2236 (1991). FDICIA sets forth a "Sense of the Congress" declaration that Federal banking agencies should facilitate early resolution of troubled insured depository institutions whenever feasible, in accordance with certain general principles described in the declaration, if early resolution would have the least possible long-term cost to the deposit insurance fund. FDICIA also reaffirms and expands the ability of the bank regulatory agencies to provide open bank and open thrift assistance, which may be required in the early resolution of an institution.

Because of the significance, difficulty, and complexity of the issues, and in light of the Oversight Board's responsibility to ensure the efficient use of taxpayer funds, the Oversight Board, in cooperation with the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, and the Office of Thrift Supervision, has decided to seek comment on the topics discussed in **SUPPLEMENTARY INFORMATION**. The Oversight Board strongly encourages all interested parties to submit comments for the record. Those individuals and organizations interested in testifying at the hearing should submit their written requests to be heard with their written comments. Witnesses for the hearing will be chosen only from those submitting written comments. Those chosen to testify will also be expected to submit a separate written statement for the hearing record.

DATES: Comments must be received on or before March 20, 1992.

The hearing will be held on March 25, 1992, at 10 a.m.

ADDRESSES: Interested parties are requested to submit ten copies of their written views regarding any or all of the topics discussed below or otherwise relevant to the hearing. Copies will be distributed to the participating agencies and will be used to create a public file to be maintained by the Oversight Board.

Such copies may be sent to:

Comments on Early Resolutions/
Assisted Mergers, Thrift Depositor Protection Oversight Board, 1777 F Street, NW., Washington, DC 20232

Individuals who would like to review the submitted comments may do so at the Office of Thrift Supervision Reading Room at 1776 G Street, NW., Washington, DC.

The hearing will be held in the amphitheater of the Resolution Trust Corporation building at 801 17th Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: For further information, please contact: Richard Farina, General Counsel, Thrift Depositor Protection Oversight Board, telephone (202) 786-9681; Lawrence Hayes, Deputy General Counsel, Thrift Depositor Protection Oversight Board, telephone (202) 786-9681; Harrison Young, Director of Resolutions, Federal Deposit Insurance Corporation, telephone (202) 898-6834; Gail Patelunas, Assistant Director, Federal Deposit Insurance Corporation, telephone (202) 898-6779; William Roelle, Senior Vice President/Chief Financial Officer, Institution Operations and Sales, Resolution Trust Corporation, telephone (202) 416-7579; Elizabeth Specter, Director of Early Resolutions and Accelerated Resolutions Programs, Resolution Trust Corporation, telephone (202) 416-7558; David Kelso, Associate Director, Office of Thrift Supervision, telephone (202) 906-7206; or Mark Hurley, Director of Resolutions, Office of Thrift Supervision, telephone (202) 906-7027.

SUPPLEMENTARY INFORMATION:

Background

The Thrift Depositor Protection Oversight Board is a corporate instrumentality of the United States, established as the "Oversight Board" by section 21A(a)(1) of the Federal Home Loan Bank Act, 12 U.S.C. 1441a(a)(1), as added by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). The Oversight Board was redesignated as the Thrift Depositor Protection Oversight Board by the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991, Public Law No. 102-233, sec. 302(a), 105 Stat. 1761, 1767. The Oversight Board's principal duty is to oversee the Resolution Trust Corporation (RTC), also established under FIRREA, whose principal duty is to manage and resolve cases involving failing and failed thrift institutions formerly insured by the Federal Savings and Loan Insurance Corporation.

Solicitation of Comments

The Oversight Board solicits comments on all aspects of the issues surrounding early resolutions and assisted mergers. The "Sense of the Congress" provision set forth in section 143 of FDICIA encourages the Federal banking agencies to pursue early resolution strategies if early resolution would have the least possible long-term cost to the deposit insurance fund and if the transactions can be structured in accordance with certain general principles. These general principles include the following:

1. *Competitive Negotiation*—The transaction should be negotiated competitively, taking into account the value of expediting the process.

2. *Resulting Institution Adequately Capitalized*—Any insured depository institution created or assisted in the transaction (hereafter the "resulting institution") and any institution acquiring the troubled institution should meet all applicable minimum capital standards.

3. *Substantial Private Investment*—The transaction should involve substantial private investment.

4. *Concessions*—Preexisting owners and debtholders of any troubled institution or its holding company should make substantial concessions.

5. *Qualified Management*—Directors and senior management of the resulting institution should be qualified to perform their duties, and should not include individuals substantially responsible for the troubled institution's problems.

6. *FDIC's Participation*—The transaction should give the Federal Deposit Insurance Corporation an opportunity to participate in the success of the resulting institution.

7. *Structure of Transaction*—The transaction should, insofar as practical, be structured so that—

(A) The Federal Deposit Insurance Corportation—

(i) Does not acquire a significant proportion of the troubled institution's problem assets;

(ii) Succeeds to the interest of the troubled institution's preexisting owners and debtholders in proportion to the assistance the Corporation provides; and

(iii) Limits the Corporation's assistance in term and amount; and

(B) New investors share risk with the Corporation.

The Oversight Board is interested in comments concerning any aspect of these general principles. Commenters may wish to focus their discussion on several specific issues raised by these general principles, including the following:

Selection Criteria—What should be the relevant criteria for determining the eligibility of a troubled institution for participation in an early resolution? The Sense of the Congress includes one important criterion, *i.e.*, that the transaction should involve substantial private investment rather than rely on government funds alone. Are other selection criteria important, such as a limitation to particular classes of institutions that can clearly demonstrate franchise value or long-term viability with limited government assistance?

Stakeholder claims—As a practical matter, stakeholders of a weak but technically solvent institution in the past have typically tried to delay or block an early resolution effort. The earlier the resolution effort, the greater the ability that such stakeholders may have to block or delay the action. As a result, unlike a closed-institution transaction where the interests of stakeholders are typically eliminated, early resolutions in the past have sometimes allowed stakeholders to maintain an interest in the surviving institution as an inducement to avoid costly delays.

The Sense of the Congress recognizes this situation by permitting existing stakeholders to maintain ongoing interests in a resolved institution, but only after substantial concessions. What should be the nature and amount of any ongoing stakeholders interest? Can such interest, or should it, be totally subordinated to the government's interest? Should potential stakeholder interests be reduced if a transaction cannot be structured in a reasonable amount of time?

Government Ownership Interest—Early resolutions could also involve the government acquiring equity stakes in surviving institutions, both as a way to recoup amounts paid in assistance and as an incentive for additional private capital to flow into troubled institutions. What issues do such equity stakes raise with respect to market discipline and potential conflicts of interest?

Liquidation of Performing Assets—When banks and thrifts fail in large numbers, the government is forced to acquire and liquidate large amounts of performing but illiquid assets, which can cause serious disruptions to local real estate and financial markets. One duty of the Resolution Trust Corporation is to conduct its operations so as to minimize the impact of its transactions on such markets. If adopted, how can an early resolution strategy be structured to help minimize market disruption?

Dated: February 19, 1992.

Peter H. Monroe,

President.

[FR Doc. 92-4202 Filed 2-20-92; 8:45 am]

BILLING CODE 2222-01-M

DEPARTMENT OF TRANSPORTATION

[Show Cause Order 92-2-27, Docket 47677]

U.S.-Brazil All-Cargo Service Case

AGENCY: Department of Transportation.

ACTION: Show cause order.

SUMMARY: The Department has tentatively decided to award Challenge Air Cargo, Inc. primary authority to engage in scheduled all-cargo air transportation between the coterminal points Miami/Los Angeles via intermediate points in Colombia, Ecuador, and the Republic of Panama, to Manaus, Brasilia, Rio de Janeiro, Sao Paulo, Recife, Porto Alegre, Belem, Belo Horizonte, and Salvador, Brazil, with the right to integrate this authority with existing route authority for a period of five years; and to award backup authority to World Airways, Inc. to conduct scheduled all-cargo services between Miami and Sao Paulo and Manaus, Brazil and beyond to Santiago, Chile in the event Challenge fails to start service by the specified startup date.

DATES: Objections to the issuance of a final order are due February 24, 1992 and replies are due February 27, 1992.

ADDRESSES: Objections to the issuance of a final order should be filed in Docket 47677, addressed to the Docket Section, Documentary Services Division, U.S. Department of Transportation, 400 Seventh Street, SW., room 4107, Washington, DC 20590, and should be served on all parties in Docket 47677.

Dated: February 14, 1992.

Patrick V. Murphy, Jr.

Deputy Assistant Secretary for Policy and International Affairs.

[FR Doc. 92-3990 Filed 2-20-92; 8:45 am]

BILLING CODE 4910-62-M

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements: Submittals to OMB on February 13, 1992

AGENCY: Office of the Secretary, Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements imposed upon the public which were transmitted by the Department of Transportation on February 13, 1992, to the Office of Management and Budget (OMB) for its approval in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35).

FOR FURTHER INFORMATION CONTACT: John Chandler, Annette Wilson or Susan Pickrel, Information Requirements Division, M-34, Office of the Secretary of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-4735, or Edward Clarke, Office of Management and Budget, New Executive Office Building, room 3208, Washington, DC 20503, (202) 395-7340.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to the Office of Management and Budget (OMB) for initial, approval, or for renewal under that Act. OMB reviews and approves agency submittals in accordance with

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criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements. OMB approval of an information collection requirement must be renewed at least once every three years.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the "FOR FURTHER INFORMATION CONTACT" paragraph set forth above. Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the "FOR FURTHER INFORMATION CONTACT" paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 10 days from the date of publication are needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB on February 13, 1992.

DOT No.: 3573.

OMB No.: 2127–0039.

Administration: National Highway Traffic Safety Administration.

Title: 49 CFR part 557, Petitions for Hearings on Notifications and Remedy on Defects.

Need for Information: Gives individuals the opportunity to petition the manufacturers who have been deficient in notifying the public of a safety-related defect or noncompliance.

Proposed Use of Information: This regulation establishes procedures for any person to petition the agency for a hearing to determine whether a manufacturer has met its obligation to notify vehicle owners of a defect or noncompliance and whether the remedy has been satisfactory.

Frequency: On Occasion.

Burden Estimate: 21 hours.

Respondents: Individuals.

Form(s): None.

Average Burden Hours Per Respondent: 60 minutes.

DOT No.: 3574.

OMB No.: 2133–0010.

Administration: Maritime Administration.

Title: U.S. Merchant Marine Academy Application for Admission and Pre-Candidate Questionnaire.

Need for Information: Required to obtain a benefit.

Proposed Use of Information: To assist in making selections for admission to the U.S. Merchant Marine Academy.

Frequency: One Time.

Burden Estimate: 15,000 hours.

Respondents: Individuals.

Form(s): KP 2–65, KP 3–4.

Average Burden Hours Per Respondent: 5 hours.

DOT No.: 3575.

OMB No.: New.

Administration: U.S. Coast Guard.

Title: Offshore Supply Vessels, 46 Subchapter L (CGD 82–004); Reporting, Recordkeeping and Marking Requirements.

Need for Information: This information is needed by the Coast Guard to conduct inspections of offshore supply vessels and to ensure that the safety of individuals and property on board are secured. Reporting and posting requirements are needed for safe operation, to prevent emergencies and to ensure proper action is taken in the event of an emergency.

Proposed Use of Information: This information will be used to ensure that plans for significant modification of offshore supply vessels are submitted to the Coast Guard for technical review and approval. Recordkeeping and posting requirements will inform the crew, offshore workers, boarding officers and inspectors that the vessel is currently in compliance with various regulations and treaties. Markings and placards provide instructions to those on board of the actions to be taken to prevent or respond to an emergency.

Frequency: On Occasion, Weekly, Monthly, Quarterly, Annually and Biennially.

Burden Estimate: 2,051 hours.

Respondents: Owners of Offshore Supply Vessels.

Form(s): None.

Average Burden Hours Per Respondent: 15 minutes.

DOT No.: 3576.

OMB No.: 2115–0582.

Administration: U.S. Coast Guard.

Title: Commercial Fishing Industry Vessels Safety Regulations.

Need for Information: This information is needed by the Coast Guard to establish safety standards for commercial fishing industry vessels. Regulations were mandated by Congress and developed by Coast Guard to reduce the high level of fatalities and accidents in the Commercial fishing industry.

Proposed Use of Information: Coast Guard will use this information to verify that compliance with the Commercial Fishing Industry Vessel Safety Act of 1988 is met. Collecting and posting of information on board commercial fishing vessels will ensure the safety of these vessels.

Frequency: On Occasion.

Burden Estimate: 91,920 hours.

Respondents: Insurers, Vessels Owners, Agents and Individuals in Charge of Commercial Fishing Vessels.

Form(s): None.

Average Burden Hours Per Respondent: 1 hour and 8 minutes.

DOT No: 3577

OMB No: New.

Administration: Research and Special Programs Administration.

Title: Hazardous Materials Public Sector Planning and Training Grants.

Need for Information: Implementation of a reimbursable grant program to enhance existing State and local emergency response programs.

Proposed Use of Information: The purpose of the grant program is to increase State and Indian tribal effectiveness in handling accidents and incidents involving the transportation of hazardous materials.

Frequency: 3 years from the date grantee submits last expenditure request.

Burden Estimate: 4,082 hours.

Respondents: State and Local Governments (Indian Tribes).

Form(s): None.

Average Burden Hours Per Respondent: 68 hours.

DOT No: 3578.

OMB No: 2133–0503.

Administration: Maritime Administration.

Title: Inventory of American Intermodal Equipment.

Need for Information: It provides aggregated data that are essential to both the government and the transportation industry in planning for the most efficient use of our Nation's intermodal equipment.

Proposed Use of Information: Provides data for planning the shipment of intermodal military cargoes.

Frequency: Annually.

Burden Estimate: 66 hours.

Respondents: Businesses.

Form(s): None.

Average Burden Hours Per Response: 3 hours.

DOT No: 3579.

OMB No: 2115–0054.

Administration: U.S. Coast Guard.

Title: Welding and Hot Work Permit.

Need for Information: This information is needed by the Coast Guard to ensure that safety regulations are met when using welding or hot works equipment at waterfront facilities.

Proposed Use of Information: This information will be used by the Coast

Guard to issue permits to facilities engaging in welding, cutting or other hot works activities.

Frequency: On Occasion.

Burden Estimate: 2,340 hours.

Respondents: Owners/Operators of Vessels and Waterfront Facilities.

Form(s): CG-4201, CG-4260.

Average Burden Hours Per Respondent: 30 minutes.

DOT No: 3580.

OMB No: 2133-0007.

Administration: Maritime Administration.

Title: Maintenance and Repair Cumulative Summary (Form MA-140).

Need for Information: Required to obtain or retain a benefit.

Proposed Use of Information: To assure applicant qualifies for benefit under the statute.

Frequency: Quarterly.

Burden Estimate: 3,900 hours.

Respondents: Ship Operators, Businesses.

Form(s): MA-140.

Average Burden Hours Per Respondent: 12 hours.

DOT No: 3581.

OMB No; 2138-0023

Administration: Research and Special Programs Administration.

Title: Part 291 Domestic Cargo Transportation.

Need for Information: Information data base for all-cargo air carriers.

Proposed Use of Information: The data from Form 291-A is used to monitor the domestic all-cargo industry and the individual carriers continuing fitness.

Frequency: Annual.

Burden Estiamte: 48 hours.

Respondents: Domestic All-Cargo Air Carriers.

Form(s): 291-A.

Average Burden Hours Per Respondent: 4 hours.

DOT No: 3582.

OMB No: 2115-0056.

Administration: U.S. Coast Guard.

Title: Various International Agreement Safety Certificates.

Need for Information: This recordkeeping requirement is needed as evidence that vessels engaged in international voyages are in compliance with the "International Convention for the Safety of Life at Sea, 1974."

Proposed Use of Information: This information will be used by the Coast Guard to issue appropriate certificates to be posted on U.S.-flag merchant vessels entering foreign ports. Without these certificates being posted, American-flag ships could be detained and/or harassed as being unsafe.

Frequency: Annually or Biennially.

Burden Estimate: 1,074 hours.

Respondents: Owners of U.S.-flag Ships Engaged in International Voyages.

Form(s): CG-3347, 3347A, 4359, 4359A, 4761, 969, 969A, 968, 967.

Average Burden Hours Per Respondent: 2 hours.

DOT No: 3583.

OMB No: 2133-0515.

Administration: Maritime Administration.

Title: Determination of Fair and Reasonable Rates for the Carriage of Dry Bulk Preference Cargoes in Less Than Full Shipload Lots on U.S.-flag Commercial Liner Vessels (46 CFR part 383).

Need for Information: Required to obtain or retain a benefit.

Proposed Use of Information: To assure applicant qualifies for requested benefit under the statute.

Frequency: On Occasion.

Burden Estimate: 66 hours.

Respondents: Businesses.

Form(s): None.

Average Burden Hours Per Respondent: 5 hours and 30 minutes.

DOT No: 3584.

OMB No: 2125-0030.

Administration: Federal Highway Administration.

Title: Outdoor Advertising and Junkyard Report.

Need for Information: For the State highway agencies to provide the FHWA with annual information on the status of the highway beautification program.

Proposed Use of Information: For FHWA to administer and monitor the control of outdoor advertising and junkyards as implemented by the State and mandated by Congress.

Frequency: Annually.

Burden Estimate: 6,526 hours.

Respondents: State Highway Agencies.

Form(s): FHWA 1424.

Average Burden Hours Per Respondent: 30 minutes.

DOT No: 3585.

OMB No: 2120-0020.

Administration: Federal Aviation Administration.

Title: Maintenance, Preventive Maintenance, Rebuilding and Alteration—FAR 43.

Need for Information: FAR 43 prescribes rules governing maintenance, rebuilding, and alteration of aircraft, aircraft components, and is necessary to ensure this work is performed by qualified persons, and at proper intervals.

Proposed Use of Information: The information is used to determine compliance with FAR 43.

Frequency: On Occasion.

Burden Estimate: 7,854,125 hours.

Respondents: Individuals and Businesses.

Form(s): FAA Form 337.

Average Burden Hours Per Respondent: 30 minutes for reporting and 25 hours for recordkeeping.

DOT No: 3586.

OMB No: 2125-0549.

Administration: Federal Highway Administration.

Title: Random Controlled Substance Testing.

Need for Information: For FHWA to determine the extent of controlled substances by drivers of commercial motor vehicles in interstate operations.

Proposed Use of Information: To assist FHWA in justifying its controlled testing ruling.

Frequency: One Time.

Burden Estimate: 1,150 hours.

Respondents: Motor Carriers.

Form(s): None.

Average Burden Hours Per Respondent: 30 minutes.

DOT No: 3587.

OMB No: 2127-0003.

Administration: National Highway Traffic Safety Administration.

Title: Federal-Aid Agreement and Cost Summary Forms for Highway Safety Plan.

Need for Information: To serve as a basis for the execution for a Federal-Aid Agreement.

Proposed Use of Information: The Highway Safety Plan identifies a State's traffic safety problem and describes the programs and projects to address those problems. It serves as the basis for the execution for a Federal-Aid Agreement.

Frequency: Annually.

Burden Estimate: 95,304 hours.

Respondents: States.

Form(s): HS-62 and 217.

Average Burden Hours Per Respondent: 60 minutes.

DOT No: 3588.

OMB No: 2127-0541.

Administration: National Highway Traffic Safety Administration.

Title: Owner's Manual Requirements—Motor Vehicle and Motor Vehicle Equipment, 49 CFR 571.108, 126, 205, 208, 210, 575.105.

Need for Information: To inform vehicle owners and passengers about the proper use of the vehicle or equipment.

Proposed Use of Information: Certain safety information which could benefit the vehicle owner or operator by reducing the risk of harm must be included in the vehicle owner's manual to provide for safe operation by users.

Frequency: On Occasion.

Burden Estimate: 1,095 hours.

Respondents: Businesses/Small Businesses.

Form(s): None.

Average Burden Hours Per Respondent: 2 hours and 1 minute.

DOT No: 3589.

OMB No: 2120–0085.

Administration: Federal Aviation Administration.

Title: Certification and Operation—FAR 125.

Need for Information: A letter of application and related documents which set forth an applicant's ability to conduct operation in compliance with the provisions of FAR part 125 are submitted to the appropriate Flight Standards District Office (FSDO). The information is needed to determine compliance with the provisions of FAR part 125.

Proposed Use of Information: Inspectors in FAA FSDO's will use the information to determine certificate eligibility.

Frequency: On Occasion.

Burden Estimate: 29,445 reporting/recordkeeping hours.

Respondents: Businesses.

Form(s): None.

Average Burden Hours Per Respondent: The burden per respondent ranges from 12 minutes for a flight plan, to 80 hours for a manual. The recordkeeping burden ranges from 6 minutes to 12 hours per respondent.

DOT No: 3590.

OMB No: New.

Administration: National Highway Traffic Safety Administration.

Title: Labeling of Reflective Material for Trailer Conspicuity.

Need for Information: Identification of reflective material as conforming to safety requirements.

Proposed Use of Information: Routine trailer inspection by Federal Highway Administration.

Frequency: On Occasion.

Burden Estimate: 200 hours.

Respondents: Businesses.

Form(s): None.

Average Burden Hours Per Respondent: 2 minutes.

DOT No: 3591.

OMB No: 2120–0045.

Administration: Federal Aviation Administration.

Title: Bird Strike Incident/Ingestion Report.

Need for Information: Bird strike data are collected to develop standards and monitor hazards to aviation.

Proposed Use of Information: The data collection is used by the FAA and the International Civil Aviation Organization to develop standards to cope with bird hazards to aircraft, injury to personnel, and for bird habitat control methods on or adjacent to airports.

Frequency: On Occasion.

Burden Estimate: 120 hours.

Respondents: Pilots and Individuals.

Form(s): FAA Form 5200–7.

Average Burden Hours Per Respondent: 5 minutes.

DOT No: 3592.

OMB No: 2125–0037.

Administration: Federal Highway Administration.

Title: Inspection, Repair and Maintenance.

Need for Information: To meet the requirements of 49 CFR 396 for motor carriers to identify defects likely to affect safety operation and to record inspection, repair and maintenance activities.

Proposed Use of Information: For FHWA to determine a motor carrier's overall safety compliance status when conducting audits of motor carrier operations.

Frequency: Recordkeeping (1 year retention).

Burden Estimate: 11,717,218 hours.

Respondents: Motor Carriers.

Form(s): None.

Average Burden Hours Per Respondent: 2 minutes for commercial motor vehicle maintenance records; 2 minutes for intercity bus maintenance records; 9 hours and 44 minutes for driver vehicle inspection report; 5 seconds for driver vehicle inspection report review; 2 minutes for driver vehicle inspection review filing; 2 minutes for annual inspection report; 10 minutes for annual inspector qualification records; and 10 minutes for brake inspector qualification records.

DOT No: 3593.

OMB No: 2125–0016.

Administration: Federal Highway Administration.

Title: Driver's Record of Duty Status.

Need for Information: For motor carriers to meet the requirements of 49 CFR 395.8.

Proposed Use of Information: For FHWA to determine a motor carrier's compliance status and driver compliance with the maximum time limitations as required by 49 CFR 395.3.

Frequency: Recordkeeping (6 months retention).

Burden Estimate: 11,720,681 hours.

Respondents: Motor Carriers.

Form(s): None.

Average Burden Hours Per Respondent: 5 minutes reporting burden for the drivers log; 3 minutes reporting burden for the trip report; and 1 minute daily recordkeeping burden.

DOT No: 3594.

OMB No: 2125–0531.

Administration: Federal Highway Administration.

Title: Alternate Procedures for Processing Utility or Railroad Adjustments.

Need for Information: For FHWA to meet its statutory obligations to process and approve State highway agencies' applications for alternate procedures for processing utility or railroad adjustments.

Proposed Use of Information: For FHWA to determine the State highway agencies' policies and procedures for handling utility or railroad adjustments.

Frequency: On Occasion.

Burden Estimate: 80 hours.

Respondents: State Highway Agencies.

Form(s): None.

Average Burden Hours Per Respondent: 40 hours.

DOT No: 3595.

OMB No: 2120–0557.

Administration: Federal Aviation Administration.

Title: Passenger Facility Charge Program.

Purpose of Request: This collection of information was cleared in July 1991 and assigned OMB control number 2120–0557. Since that time the FAA has received requests from the public for an application form. A draft form has been developed and is being submitted to OMB for review through this request for clearance. No other changes have been made in the information collection activity.

Need for Information: The information is needed in order to implement the statute and carry out a passenger facility charge program as required by Section 9110 of the Aviation Safety and Capacity Expansion Act of 1990.

Proposed Use of Information: DOT/FAA will use any information submitted in response to this program to carry out the intent of section 9110 of the Aviation Safety and Capacity Expansion Act of 1990.

Frequency: Annually.

Burden Estimate: 50,942 hours.

Respondents: State and Local Governments, and Businesses.

Form(s): Passenger Facility Charge Application.

Average Burden Hours Per Respondent: 100 hours.

DOT No: 3596.

OMB No: New.

Administration: U.S. Coast Guard.

Title: Security for Passenger Vessels and Passenger Terminals.

Need for Information: This information collection is needed by the Coast Guard tro establish security standards for passenger vessels and passenger terminals making voyages on the high seas of 24 hours or more. The proposed security standards are necessary to deter or mitigate the results of terrorism and other unlawful acts against passenger vessels and passenger terminals.

Proposed Use of Information: This information will be used by the Coast Guard to ensure that operators of passenger vessels and passenger terminals develop a security plan to deter unlawful acts and to respond to such incidents should they occur. The security plan and its various components are critical to the Coast Guard's passenger vessel security strategy. Each security plan will contain a security survey, a security bill, security standard operating procedures and identification procedures. The security plan sets out the means by which the passenger vessel or passenger terminal would deter and respond to unlawful acts.

Frequency: On Occasion.

Burden Estimate: 42,408 hours.

Respondents: Vessel Operators, Passengers, Individuals.

Form(s): None.

Average Burden Hours Per Respondent: 10 ½ minutes.

DOT No: 3597.

OMB No: 2115–0106.

Administration: U.S. Coast Guard.

Title: Plan Approval and Records for Foreign Vessels Carrying Oil in Bulk.

Need for Information: This information collection requirement will be used by the Coast Guard to ensure that foreign tank vessels carrying oil in bulk, comply with minimum applicable standards prior to issuing the Certificate of Compliance. 46 U.S.C. 3703a will require new tank vessels carrying oil in bulk to be fitted with double hulls and that existing tank vessels be retrofitted with double hulls or be retired by the year 2015.

Proposed Use of Information: This information collection will be used by the Coast Guard to ensure that: (1) Foreign tank vessels carrying oil in bulk are in compliance with standards prior to issuing the Certificate of Compliance; (2) a vessel's construction, arrangement and equipment meet the applicable standards as promulgated by the regulations; and (3) sufficient information is available to personnel operating these vessels and equipment in compliance with the standards.

Frequency: On Occasion.

Burden Estimate: 249 hours.

Respondents: Owners and Operators of Foreign Tank Vessels.

Form(s): None.

Average Burden Hours Per Respondent: 11 hours and 18 minutes.

DOT No: 3598.

OMB No: 2115–0012.

Administration: U.S. Coast Guard.

Title: Application for Appointment as Cadet, USCG.

Need for Information: This information is needed by the Coast Guard to ensure that qualified individuals from the public have an opportunity to compete for a cadet appointment in the U.S. Coast Guard.

Proposed Use of Information: This information will be used by the Coast Guard Academy to screen and review applicants' qualifications to determine their eligibility.

Frequency: One Time.

Burden Estimate: 8,600 hours.

Respondents: Individuals (18–22 years old).

Form(s): CG–4151, CGAD–618A&B, CGAD–634A(2x), CGAD–635, CGAD–634B.

Average Burden Hours Per Respondent: Average burden hours vary per form:

CGAD–4151	15 minutes
CGAD–618A	24 minutes
CGAD–618B	36 minutes
CGAD634A(2x)	15 minutes
CGAD634B	15 minutes
CGAD635	12 minutes
Further doc	60 minutes

DOT No: 3599.

OMB NO: 2115–0110.

Administration: U.S. Coast Guard.

Title: Documentation of Vessels; Recording of Instruments.

Need for Information: This information is needed by the Coast Guard to establish a vessel's: (a) Nationality; (b) eligibility to engage in a particular employment; and (c) eligibility to become the object of a preferred ship mortgage.

Proposed Use of Information: The Coast Guard will use this information to determine the eligibility of a vessel to: (a) Be documented as a "vessel of the United States"; (b) engage in a particular trade; and/or (c) become subject to a preferred ship mortgage. The Internal Revenue Service also relies on this information to determine the eligibility of investment tax credits and the like.

Frequency: On Occasion.

Burden Estimate: 50,553 hours.

Respondents: Owners and Builders of Yachts and Commercial Vessels.

Form(s): CG–1258, CG–1261, CG–1270, CG–1340, CG–1356, CG–4593, CG–5542, CG–1280 and MA–899.

Average Burden Hours Per Respondent: 12 minutes.

DOT No: 3600.

OMB No: 2120–0018.

Administration: Federal Aviation Administration.

Title: Certification Procedures for Products and Parts, FAR 21.

Need for Information: The information is needed to determine compliance and applicant eligibility with the applicable sections of FAR Part 21.

Proposed Use of Information: 14 CFR part 21 prescribes certification procedures for aircraft, aircraft engines, propellers, products and parts. The information is used to determine compliance.

Frequency: On Occasion.

Burden Estimate: 44,101 hours.

Respondents: Businesses.

Form(s): FAA Forms 8110–12, 8130–1, 8130–6, 8130–9, 8130–12.

Average Burden Hours Per Respondent: Average reporting burden hours vary per form:

FAA Form 8110–12—Depending on Use:
- —To apply for type certificate—48 minutes
- —To amend type certificate—30 minutes
- —To apply for annual new production certificate—180 hours
- —To amend a production certificate—4 hours

FAA Form 8130–1—12 minutes

FAA Form 8130–6—Depending on Use:
- —To apply for airworthiness certificate—12 minutes
- —To apply for a provisional airworthiness certificate—42 minutes

FAA Form 8130–9—48 minutes

FAA Form 8130–12—15 minutes

To prepare a manual as required by section 21.123—80 hours; Recordkeeping averages 5 minutes.

DOT No: 3601.

OMB No: 2120–0517.

Administration: Federal Aviation Administration.

Title. FAR Part 150—Airport Noise Compatibility Planning.

Need for Information: The voluntarily submitted information, e.g., airport exposure maps and airport noise compatibility programs, or the required revisions thereof, will be used by the FAA in conducting its reviews of the submissions as required by the Aviation Safety and Noise Abatement Act of 1979.

Proposed Use of Information: The FAA approval of these voluntarily submitted noise exposure maps and noise compatibility programs makes these projects eligible for a 10 percent set-aside of discretionary grant funds under the FAA Airport Improvement Program.

Frequency: On Occasion.

Burden Estimate: 54,900 hours.

Respondents: Airport Operators.

Form(s): None.

Average Burden Hours Per Respondent: 1,615 hours.

DOT No: 3602.

OMB No: 2115–0503.

Administration: U.S. Coast Guard.

Title: Plan Approval and Records for U.S. Vessels Carrying Oil in Bulk.

Need for Information: This information is needed by the Coast Guard to ensure that U.S. vessels carrying oil in bulk meet the minimum standards promulgated by 46 U.S.C. 3703. Coast Guard has the authority to regulate the design, construction, alteration, repair, maintenance, operation and equipping of U.S. vessels carrying oil in bulk. 46 U.S.C. 3703a requires new tank vessels to be fitted with double hulls and that existing tank vessels be retrofitted with double hulls or retired by the year 2015. Each U.S. vessel that is in compliance with these regulations will be issued a Certificate of Inspection.

Proposed Use of Information: This information will be used by the Coast Guard to determine that the construction, arrangement and/or equipment of U.S. tank vessels meet the applicable standards as promulgated by the regulations. All plans and documentation of tank vessels are to be submitted to the Coast Guard to ensure that the design and construction standards are met.

Frequency: On Occasion.

Burden Estimate: 205 hours.

Respondents: Vessel Owners.

Form(s): None.

Average Burden Hours Per Respondent: 1 hour and 25½ minutes.

DOT No: 3603.

OMB No: New.

Administration: Federal Aviation Administration.

Title: Unescorted Access Privilege—Parts 107 and 108 of the Federal Aviation Regulations.

Need for Information: The information is needed to record employment, reference and criminal history record checks as required by Public Law 101–604.

Proposed Use of Information: The information will be used to determine eligibility for unescorted access.

Frequency: Recordkeeping.

Burden Estimate: 49,500 hours.

Respondents: Airport Operators and Air Carriers.

Form(s): None.

Average Burden Hours Per Respondent: 86 hours.

DOT No: 3604.

OMB No: 2120–0057.

Administration: Federal Aviation Administration.

Title: Safety Improvement Report/Accident Prevention Counselor Activity Report.

Need for Information: The informaiton reported on FAA Form 8740–5, Safety Improvement Report, is needed by the Accident Prevention Program Manager to know where the unsafe conditions in the district exist so that he/she can initiate resolution. The information reported on FAA Form 8740–6, Accident Prevention Counselor Activity Report, is needed for planning, implementing and evaluating the Accident Prevention Program and projecting resource allocation.

Proposed Use of Information: FAA Form 8740–5, Safety Improvement Report, is used by airmen to report conditions that may affect the safety of aircraft operating in the national airspace system. FAA Form 8740–6, Accident Prevention Counselor Activity Report, provides information used to document and support the activities of the volunteer Accident Prevention Counselors who constitute a major resource of the Accident Prevention Program.

Frequency: On Occasion (FAA Form 8740–5); Monthly (FAA Form 8740–6).

Burden Estimate: 4,614 hours.

Respondents: Safety Counselors and Individuals.

Form(s): FAA Forms 8740–5 and 8740–6.

Average Burden Hours Per Respondent: 9 minutes (FAA Form 8740–5); 6 minutes (FAA Form 8740–6).

DOT No: 3605.

OMB No: 2106–0030.

Administration: Office of the Secretary.

Title: Aviation Economic Rules.

Need for Information: An air carrier may not be issued or continue to hold air carrier authority unless it has filed evidence of liability insurance for air carriers.

Proposed Use of Information: The certificates of insurance are kept on file as evidence that air carriers are in compliance with the liability insurance requirement in the Federal Aviation Act of 1958.

Frequency: On Occasion.

Burden Estimate: 2,809 hours.

Respondents: Businesses.

Form(s): New OST Forms 4610 and 4611 will replace current OST Forms 4520 and 4521.

Average Burden Hours Per Respondent: 30 minutes.

Issued in Washington, DC, on February 13, 1992.

Cynthia C. Rand,

Director of Information Resource Management.

[FR Doc. 92–3992 Filed 2–20–92; 8:45 am]

BILLING CODE 4910–62–M

Coast Guard

[CGD 92–004]

The Boat Safety Account of the Aquatic Resources Trust Fund; Availability of Fiscal Year 1992 Financial Assistance

AGENCY: Coast Guard, DOT.

ACTION: Notice of availability.

SUMMARY: Pursuant to title 46 United States Code, section 13103(c), the Coast Guard is seeking to enter into financial assistance agreements with national nonprofit public service organizations for national boating safety activities. The Coast Guard has fiscal year 1992 funds available to subsidize selected national boating safety activities. This announcement seeks proposals for all types of projects that will promote boating safety on a national level.

DATES: Proposals must be submitted by April 10, 1992.

ADDRESSES: Specific information on organization eligibility, proposal requirements, award procedures, financial administration procedures and application packages may be obtained from Commandant (G–NAB–5), U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593–0001.

FOR FURTHER INFORMATION CONTACT: Mr. Ladd Hakes by telephone at (202) 267–0954 or at U.S. Coast Guard Headquarters (G–NAB–5), 2100 Second Street SW., Washington, DC 20593–0001.

SUPPLEMENTARY INFORMATION: Title 26, United States Code, section 9504 establishes the Boat Safety Account of the Aquatic Resources Trust Fund. The Coast Guard may award annually up to 5 percent of the available funds to national nonprofit public service organizations for national boating safety activities. Up to $1,750,000 is available for the fiscal year ending September 30, 1992. Nineteen awards totaling $1,750,000 were made in fiscal year 1991; awards ranged from $10,600 to $188,000. Nothing in this announcement should be construed as committing the Coast Guard to dividing available funds among all qualified applicants or awarding any specified amount.

It is anticipated that several awards will be made by the Chief, Office of

Navigation Safety and Waterway Services, U.S. Coast Guard. Applicants must be responsible, nongovernmental, nonprofit public service organizations and must establish that their activities are, in fact, national in scope.

Some general areas of particular interest include:

- Boating accident studies and analyses.
- Projects to research, design and develop training aids for boating education programs, including films, tapes, books, classroom materials and other items.
- Projects to design and develop boating safety education media and materials (films, tapes, books) for use by the boating public, including the boater, marine enforcement personnel, and the boating industry.
- Projects to support national boating safety media efforts, e.g. National Safe Boating Week, education seminars and public service announcements.
- Technical or engineering projects to research suspected safety problems on specific boat or associated equipment types.
- Evaluation studies of the effectiveness of selected boating education safety materials.

This list should not constrain submission of proposals addressing other boating safety concerns. Innovative approaches are welcome. This fiscal year, discussions of specific projects of interest to the Coast Guard will be included in the information package discussed in ADDRESSES, above.

The Boating Safety Financial Assistance Program is listed in section 20.005 of the Federal Domestic Assistance Catalog.

Dated: February 14, 1992.

W.J. Ecker,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 92-4005 Filed 2-20-92; 8:45 am]

BILLING CODE 4910-14-M

Coast Guard

[CGD 92-008]

National Offshore Safety Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Request for applications.

SUMMARY: The U.S. Coast Guard is seeking applicants for appointment to membership on the National Offshore Safety Advisory Committe (NOSAC). This Committee advises the Secretary of Transportation on rulemaking matters related to the offshore mineral and energy industries. The Committee charter calls for the membership to represent particular segments of the offshore industry. Five (5) members will be appointed for terms commencing in January 1993, representing the following segments of the industry: Offshore Supply Vessels, Offshore Drilling, Production of Petroleum, Construction of Offshore and Recovery Facilities, and Offshore Operations.

To achieve the balance of membership required by the Federal Advisory Committee Act, the Coast Guard is especially interested in receiving applications from minorities and women. The Committee will meet at least once a year in Washington, DC or another location selected by the Coast Guard. The Committee Charter calls for members to serve without compensation (neither travel nor per diem) from the Federal Government.

DATES: Applications should be received no later than 31 May 1992. Application forms may be obtained by contacting the Executive Director at the address below.

ADDRESSES: Persons interested in applying should write to Commandant (G-MVI-4), room 1405, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, DC 20593-0001.

FOR FURTHER INFORMATION CONTACT: CDR M. M. Ashdown, Executive Director, National Offshore Safety Advisory Committee (NOSAC), room 1405, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, DC 20593-0001, (202) 267-2307.

A. E. Henn,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 92-4006 Filed 2-20-92; 8:45 am]

BILLING CODE 4910-14-M

[CGD 92-009]

Towing Safety Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Request for applications.

SUMMARY: The U.S. Coast Guard is seeking applicants for appointment to membership on the Towing Safety Advisory Committee (TSAC). This committee advises the Secretary of Transportation on rulemaking matters related to shallow-draft inland and coastal waterway navigation and towing safety.

Seven members will be appointed as follows: Three members from the barge and towing industry, reflecting a geographical balance; one member from port districts, authorities or terminal operators; one member from maritime labor; and two members from the shipping industry.

To achieve the balance of membership required by the Federal Advisory Committee Act, the Coast Guard is especially interested in receiving applications from minorities and women. The committee will meet at least once a year in Washington, DC or another location selected by the Coast Guard.

DATES: Requests for applications should be received no later than May 15, 1992.

ADDRESSES: Persons interested in applying should write to Commandant (G-MTH-2), room 1300, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, DC 20593-0001.

FOR FURTHER INFORMATION CONTACT: CDR Robert Letourneau, Executive Director, Towing Safety Advisory Committee (G-MTH-2), room 1300, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, DC 20593-0001, (202) 267-2206.

Dated: February 7, 1992.

D.H. Whitten,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 92-4004 Filed 2-20-92; 8:45 am]

BILLING CODE 4910-14-M

[CGD2-92-02]

Second Coast Guard District Industry Day

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: On 3 March 1992, the Commander, Second Coast Guard District will sponsor an Industry Day program to provide an open exchange of information, ideas, and opinions on matters of mutual interest or concern to the inland marine community and the Coast Guard. Industry day activities will be held at the Adam's Mark Hotel, Fourth and Chestnut Streets, St. Louis, Missouri as follows:

Monday, 2 March

5-7 p.m. Registration for early arrivals.

Tuesday, 3 March

7 a.m. Registration continues.

8:30 a.m. General Session: Opening comments, Industry Day Program—Selected Presentations.

11:30 a.m. Banquet-style luncheon.

1 p.m. Panel Discussions: Three separate small group panels focusing on

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Towing Industry, Shoreside Facilities and Small Passenger Vessel Industry.

4:30 p.m. Industry Day concludes.

Advance registration and payment of the $25.00 conference and luncheon fee is required. Registration forms or additional information on the Industry Day activities and events scheduled by other groups to coincide with Industry Day may be obtained from one of the officers named below. Written recommendations for agenda discussion topics are encouraged and should be mailed to one of the officers named below. Registration forms should be mailed directly to the Adam's Mark Hotel, Attn: Credit Department, Fourth and Chestnut, St. Louis, Missouri 63102 and must be received by February 18, 1992.

FOR FURTHER INFORMATION CONTACT: Commander Jonathan S. Glantz or Lieutenant Charles L. McAllister, Commander (mpb), Second Coast Guard District, 1222 Spruce Street, room 2.102G, St. Louis, Missouri 63103–2832. The telephone numbers are: Commercial (314) 539–2655 and FTS 262–2655.

Dated: January 29, 1992.

Norman T. Saunders,

Rear Admiral (Lower Half), United States Coast Guard, Commander, Second Coast Guard District.

[FR Doc. 92–4003 Filed 2–20–92; 8:45 am]

BILLING CODE 4910-14-M

Federal Highway Administration

Draft Notice of Intent for Segment I–2 in Harris and Chambers Counties, TX

AGENCY: Federal Highway Administration (FHWA) DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Harris and Chambers Counties, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. John E. Inabinet, Federal Highway Administration, Texas Division, 300 E. 8th Street, Austin, Texas 78701, (512) 482–5519.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Texas Department of Transportation and the grand Parkway Association, is considering an upgrade to the existing road network in Harris and Chambers Counties. Under this proposed action, a limited access freeway (SH 99) will be constructed between SH 146 at Goose Creek and IH 10(e). Ultimate construction will produce a six-lane facility with overpasses at major thoroughfares and direct connection ramps at IH 10(e). The highway will be constructed on primarily donated right-of-way. The proposed action will occur within a 13 mile corridor in Harris and Chambers Counties near Galveston Bay. The majority of this corridor crosses relatively undeveloped properties in eastern Chambers County. Cities and towns in the region include Baytown, Mont Belvieu, Cove, and Beach City.

The FHWA proposes to build SH 99 to provide improved transportation characteristics in the region, including improvement to the evacuation routes from coastal areas in Harris, Galveston, and Chambers Counties. Construction of Phase I of the freeway is proposed to begin in FY 1994.

Several potential alignments of SH 99 will be discussed in the DEIS, including the no action alternative. Alignment alternatives through and near urban areas as well as alignments through farmland will be evaluated in the DEIS.

Impacts caused by the construction and operation of SH 99 will vary according to the alternative alignment utilized. Generally, impacts would include the following: transportation impacts (construction detours, construction traffic, mobility improvement and evacuation route improvement), air and noise impacts from construction equipment and operation of the roadway, water impacts from construction areas and roadway stormwater runoff, impacts to waters of the United States including wetlands from right-of-way encroachment, and impacts to residents and businesses based on potential relocations.

Letters describing the proposed action soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. A public scoping meeting will be held at 7 p.m. on March 25, 1992 at Sterling High School in Baytown, Texas. Public comments on the proposed action and alternatives will be requested. A public hearing will be held at a later time, with copies of the draft EIS available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: February 11, 1992.

John E. Inabinet,

District Engineer Austin, Texas.

[FR Doc. 92–4029 Filed 2–20–92; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; Hillsborough and Rockingham Counties, NH

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared for a proposed highway project in Hillsborough and Rockingham Counties, New Hampshire.

FOR FURTHER INFORMATION CONTACT: Mr. William F. O'Donnell, P.E., Area Engineer, Federal Highway Administration, 279 Pleasant Street, room 204, Concord, New Hampshire 03301, Telephone: (603) 225–1608, or Mr. William R. Hauser, Supervisor, Environmental Services Section, New Hampshire Department of Transportation, P.O. Box 483, John O. Morton Building, Concord, New Hampshire 03302–0483, Telephone: (603) 271–3226.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the New Hampshire Department of Transportation (NHDOT), will prepare an environmental impact statement (EIS) for a proposal to construct a new highway facility that would provide new and/or improved access to the Manchester Airport and it's surrounding environs.

The proposed action would relieve traffic congestion, reduce travel time, improve safety and accommodate projected increases in traffic demand in areas surrounding the airport facility.

Alternatives to be considered include (1) taking no action; (2) applying transportation systems management (TSM) improvements to selected locations on existing roads; (3) upgrading existing routes to add capacity, reduce travel time and/or improve safety; (4) constructing a new highway, approximately 5 miles in length, on new location between the F. E. Everett Turnpike and Interstate Route

93; and (5) combinations of these alternatives. Various designs of grade, alignment, geometry and access will be evaluated.

An Advisory Task Force will be established with representation from the New Hampshire General Court, state and local officials, business and industry and local citizens.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, state and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. Public information, community and Advisory Task Force meetings will be held in the study area as the project progresses in order to include public input in the planning process. A public hearing will be held following distribution of the Draft Environmental Impact Statement (DEIS). Public notice will be given regarding the time and location of this hearing. The DEIS will be available for review and comment by the public and interested agencies prior to the public hearing.

A formal scoping meeting will be held at 9:30 a.m. in April 2, 1992, in room 3 of the John O. Morton Building in Concord, New Hampshire to (1) confirm the limits of the project study area; (2) help to establish the study framework and the impacts to be analyzed; and (3) help to define a reasonable range of alternatives to be considered.

Agencies to be invited to be cooperating agencies are the U.S. Army Corps of Engineers (ACOE), the U.S. Environmental Protection Agency (EPA), the U.S. Fish and Wildlife Service (F&W), the Federal Aviation Administration (FAA), the New Hampshire State Historic Preservation Office (SHPO) and the New Hampshire Wetlands Board.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposal and the EIS should be directed to the FHWA or the NHDOT at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on federal programs and activities apply to this program.)

Issued on: February 14, 1992.

Gerald L. Eller,

Division Administrator, Concord, New Hampshire.

[FR Doc. 92-4028 Filed 2-20-92; 8:45 am]

BILLING CODE 4910-22-M

Maritime Administration

[Docket S-888]

American President Lines, Ltd.; Application for a Waiver of Section 804(a) of the Merchant Marine Act, 1936, as amended, to Permit Certain Foreign-Flag Operations

American President Lines, Ltd. (APL), by application dated February 12, 1992, requests waiver of the provisions of section 804(a) of the Merchant Marine Act, 1936, as amended (Act), for foreign-flag operations of APL under the terms of Operating-Differential Subsidy Agreement (ODSA), Contract MA/MSB-417, in order to renew the waiver previously granted APL to own or charter and operate four foreign-flag vessels of approximately 350 FEU capacity, said vessels to be operated on approximately weekly service between a foreign port on Line A or Line B as described in Appendix A of the ODSA including Singapore, and Manila and Thailand, or alternatively two approximately 700 FEU vessels operated fortnightly, for an additional period to the termination of APL's operating subsidy contract—until December 31, 1997. Current authority expires on May 22, 1992.

APL's Existing Services

APL now performs four subsidized containership services. Its two transpacific services cover the range of former Trade Route 29 to/from California (Line A) and to/from Oregon-Washington (Line B). APL's two extension services add authority to serve the ports of Southeast and South Asia, including Singapore, and the Persian Gulf and Red Sea.

This application may be inspected in the Office of the Secretary, Maritime Administration. Any person, firm, or corporation having any interest in such request within the meaning of section 804 of the Act and desiring to submit comments concerning the application must file written comments in triplicate with the Secretary, Maritime Administration, room 7300, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Comments must be received no later than 5 p.m. on March 6, 1992. This notice is published as a matter of discretion and publication should in no way be considered a favorable or unfavorable decision on the application, as filed or as may be amended. The Maritime Administrator will consider any comments submitted and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.804 (Operating-Differential Subsidies)).

By Order of the Maritime Administrator.

Date: February 18, 1992.

James E. Saari,

Secretary, Maritime Administration.

[FR Doc. 92-4027 Filed 2-20-92; 8:45 am]

BILLING CODE 4910-81-M

Research and Special Programs Administration

Meetings of Pipeline Safety Advisory Committees

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. app.1) notice is hereby given of the following meetings of the Technical Hazardous Liquid Pipeline Safety Standards Committee and the Technical Pipeline Safety Standards Committee. Each Committee meeting as well as a joint session of the two Committees will be held in room 2201 of the Department of Transportation Building, 400 Seventh Street, SW., Washington, DC.

On March 10, 1992, at 9 a.m., the Technical Hazardous Liquid Pipeline Safety Standards Committee (THLPSSC) will meet and be briefed on the Research and Special Program Administration's (RSPA) review to identify unnecessary and burdensome regulations, following the President's State of the Union address. THLPSSC guidance will be sought on reducing hazardous liquid regulations. The agenda will also include a review of environmental requirements in pending pipeline safety reauthorization legislation, a status report on two research and development (R&D) projects (environmentally sensitive areas and supervisory control and data acquisition systems), and a discussion of the impact of environmental requirements on pipeline operations by THLPSSC industry members.

At 1:30 p.m., the THLPSSC will be joined by members of the Technical Pipeline Safety Standards Committee (TPSSC) for a joint session which will include:

1. RSPA Administrator's Overview.
2. Status Reports on Various Pipeline Safety Program Issues (budget, reauthorization legislation, work redesign, drug and alcohol testing, offshore R&D project).
3. Presentation on One-Call Notification Systems.

On March 11, 1992, at 9 a.m., the joint THLPSSC-TPSSC session will continue with presentations on a proposed pipeline industry model for prioritizing pipeline safety issues, data requirements and model analysis, and the OPS strategic planning process. These presentations will culminate in a group discussion/brainstorming session focusing on setting pipeline safety priorities.

At 1:30 p.m., the TPSSC will meet and be briefed on RSPA's efforts to identify unnecessary and burdensome regulations. TPSSC guidance will be sought on reducing natural gas regulations.

The TPSSC will also discuss and vote on the technical feasibility, reasonableness, and practicability of proposed rules regarding:

1. Transportation of Hydrogen Sulfide by Pipeline (NPRM issued on March 18, 1991; 56 FR 11490).

2. Leakage Surveys on Distribution Lines Located Outside Business Districts (NPRM issued on October 23, 1991; 56 FR 54816).

Each meeting will be open to the public, but attendance will be limited to the space available. Please note that attendance will particularly be limited during the joint session of the two committees because of space constraints. Members of the public may present oral statements on the topics. Due to the limited time available, each person who wants to make an oral statement must notify Rebecca Key, room 8417, Department of Transportation Building, 400 Seventh Street, SW., Washington, DC 20590, telephone (202) 366-1640, not later than Tuesday, March 3, 1992, of the topic to be addressed and the time requested to address each topic. The presiding officer may limit the time of any oral presentation. Members of the public may present written statements to the Committees before or after any meeting.

Dated: February 14, 1992.

Cesar De Leon,

Executive Director, THLPSSC and TPSSC.

[FR Doc. 92-3991 Filed 2-20-92; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

February 13, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171, Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0927.
Form Number: 8390.
Type of Review: Extension.
Title: Information Return for Determination of Life Insurance Company Earnings Rate Under Section 809.

Description: Life insurance companies are required to provide data so the Secretary of the Treasury can compute the: (1) Stock earnings rate of the 50 largest stock companies; and (2) average mutual earnings rate. These factors are used to compute the differential earnings rate which will determine the tax liability for mutual life insurance companies.

Respondents: Businesses or other for-profit.

Estimated Number of Respondents: 400.

Estimated Burden Hours Per Response/Recordkeeping:

Recordkeeping, 57 hours, 52 minutes.
Learning about the form, 3 hours, 35 minutes.
Preparing and sending the form to IRS, 4 hours, 41 minutes.

Frequency of Response: Annually.

Estimated Total Recordkeeping/Reporting Burden: 26,448 hours.

Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 92-3976 Filed 2-20-92; 8:45 am]

BILLING CODE 4830-01-M

Public Information Collection Requirements Submitted to OMB for Review

February 13, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171, Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0143.
Form Number: 2290.
Type of Review: Extension.
Title: Heavy Vehicle Use Tax Return.

Description: Form 2290 is used to compute and report the tax imposed by section 4481 on the highway use of certain motor vehicles. The information is used to determined whether the taxpayer has paid the correct amount of tax.

Respondents: Individuals or households, Farms, Businesses or other for-profit institutions, Non-profit institutions, Small businesses or organizations.

Estimated Number of Respondents: 486,000.

Estimated Burden Hours Per Response/Recordkeeping:

Recordkeeping, 35 hours, 10 minutes.
Learning about the form, 12 minutes.
Preparing and sending the form to IRS, 47 minutes.

Frequency of Response: Annually.

Estimated Total Recordkeeping/Reporting Burden: 17,559,180 hours.

Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 92-3977 Filed 2-20-92; 8:45 am]

BILLING CODE 4830-01-M

Public Information Collection Requirements Submitted to OMB for Review

February 14, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department

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Clearance Officer, Department of the Treasury, room 3171, Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0906.

Form Number: 8362.

Type of Review: Extension.

Title: Currency Transaction Report by Casinos.

Description: Casinos have to report currency transactions of more than $10,000 within 15 days of the transaction. A casino is defined as one licensed by a State or local government having gross annual gaming revenue in excess of $1,000,000.

Respondents: Businesses or other for-profit.

Estimated Number of Respondents: 200.

Estimated Burden Hours Per Response: 38 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 19,063 hours.

Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 92-3978 Filed 2-20-92; 8:45 am]

BILLING CODE 4830-01-M

Federal Law Enforcement Training Center

AGENCY: Advisory Committee to the National Center for State and Local Law Enforcement Training.

ACTION: Notice of meeting.

SUMMARY: The agenda for this meeting includes: opening remarks by the Director of the Federal Law Enforcement Training Center and Committee Co-chairs; historical overview of the National Center for State and Local Law Enforcement Training and the Advisory Committee; training program development updates on Hate/Bias Crimes, Advanced Cause and Origin, Law Enforcement and Private Security Executive Training; and status of initiatives—OAMO/OSL, Operation Alliance, Project North Star Training Committee.

DATES: February 26, 1992.

ADDRESSES: FLETC Marana Facility, Building 18, Classroom 4, Marana, Arizona 85653.

FOR FURTHER INFORMATION CONTACT: Hobart M. Henson, Director, Office of State and Local Training, Federal Law Enforcement Training Center, Glynco, Georgia 31524.

Hobart M. Henson,

Director, Office of State and Local Training.

[FR Doc. 92-4106 Filed 2-20-92; 8:45 am]

BILLING CODE 4810-32-M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 35
Friday, February 21, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 57 FR 6056 Wednesday, February 19, 1992.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:00 p.m. (Eastern Time) Tuesday, March 3, 1992.

PLACE: Conference Room on the Ninth Floor of the EEOC, Office Building, 1801 "L" Street, N.W., Washington, D.C. 20507.

CHANGE IN THE MEETING:

Open Session

The item listed below has been added to the agenda:

Proposed Final Rule, 29 C.F.R. Part 1614—Federal Sector Equal Employment Opportunity.

CONTACT PERSON FOR MORE INFORMATION: Frances M. Hart, Executive Officer on (202) 663-7100.

Dated: February 19, 1992.

Susan M. Daniel,

Deputy Executive Officer, Executive Secretariat.

[FR Doc. 92-4195 Filed 2-19-92; 3:05 pm]

BILLING CODE 6750-06-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

February 20, 1992.

TIME AND DATE: 10:00 a.m., Thursday, February 20, 1992.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument of the following:

1. *Asarco, Inc.*, Docket No. SE 89-24-RM, etc. (Issues include whether the judge erred in finding that Asarco violated 30 C.F.R §§ 57.3200 & 57.3401 and that the violations were the result of Asarco's high negligence.)

Any person attending this hearing who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR § 2706.150(a)(3) and § 2706.160(e).

TIME AND DATE: Immediately following oral argument.

STATUS: Closed [Pursuant to 5 U.S.C. § 552b(c)(10)].

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Asarco, Inc., Docket No. SE 89-24-RM, etc. (See Oral Argument listing).

It was determined by a unanimous vote of Commissioners that this meeting be held in closed session.

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 653-5629/(202) 708-9300 for TDD Relay 1-800-877-8339 for toll free.

Jean Ellen,

Agenda Clerk.

[FR Doc. 92-4115 Filed 2-19-92; 8:46 am]

BILLING CODE 6735-01-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, February 26, 1992.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, DC 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Publication for comment of proposed amendments to Regulation B (Equal Credit Opportunity) to implement amendments to the Equal Credit Opportunity Act in the Federal Deposit Insurance Corporation Improvement Act of 1991, regarding enforcement and appraisal reports.
2. Proposed survey to evaluate the disposition of mortgage loan applications.
3. Any items carried forward from a previously announced meeting.

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to:

Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, DC 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: February 19, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-4125 Filed 2-19-92; 10:19 am]

BILLING CODE 6210-01-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 11:00 a.m., Wednesday, February 26, 1992, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: February 19, 1992.

Jennifer J. Johnson,

Associate Secretary of Board.

[FR Doc. 92-4126 Filed 2-19-92; 10:19 am]

BILLING CODE 6210-01-M

DEPARTMENT OF JUSTICE

UNITED STATES PAROLE COMMISSION

Record of Vote of Meeting Closure

(Public Law 94-409)
(5 U.S.C. Sec. 552b)

I, Carol Pavilack Getty, Chairman of the United States Parole Commission, presided at a meeting of said Commission which started at nine o'clock a.m. on Tuesday, February 11, 1992 at the Commission's Central Office, 5550 Friendship Boulevard, Chevy Chase, Maryland, 20815. The meeting ended at or about 11:30 a.m. The purpose of the meeting was to decide approximately 5 appeals from National Commissioners' decisions pursuant to 28 C.F.R. Sec. 2.27. Four Commissioners were present, constituting a quorum when the vote to close the meeting was submitted.

Public announcements further describing the subject matter of the meeting and certifications of General Counsel that this meeting may be closed by vote of the Commissioners present were submitted to the Commissioners prior to the conduct of any other business. Upon motion duly made, seconded, and carried, the following Commissioners voted that the meeting be closed: Carol Pavilack Getty, Jasper Clay, Jr., Vincent Fechtel, Jr., and Victor M.F. Reyes.

IN WITNESS WHEREOF, I make this official record of the vote taken to close this meeting and authorize this record to be made available to the public.

Dated: February 11, 1992.

Carol Pavilack Getty,

Chairman, U.S. Parole Commission.

[FR Doc. 92-4201 Filed 2-19-92; 3:56 pm]

BILLING CODE 4410-01-M

Corrections

Federal Register
Vol. 57, No. 35
Friday, February 21, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

International Trade Administration

[A-549-807; A-570-814]

Postponement of Final Antidumping Duty Determinations and Rescheduling of Public Hearings: Certain Carbon Steel Butt-Weld Pipe Fittings From the People's Republic of China

Correction

In notice document 92-794 appearing on page 1253 in the issue of Monday, January 13, 1992, make the following corrections:

1. In the first column, the heading of the document was printed incorrectly and should appear as set forth above.
2. In the same column, under **POSTPONEMENT OF FINAL DETERMINATION:**, in the 12th line, "9PRC)" should read "(PRC)".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 90N-0208]

Chelsea Laboratories, Inc.; Withdrawal of Approval of Nine Abbreviated New Drug Applications

Correction

In notice document 92-2232 beginning on page 3632, in the issue of Thursday, January 30, 1992, make the following correction:

On page 3633, in the first column, in the second full paragraph, in the fifth line from the bottom, "drug" should read "drugs".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 92N-0035]

Chelsea Laboratories, Inc.; Withdrawal of Approval of Nine Abbreviated New Drug Applications

Correction

In notice document 92-2231 appearing on page 3633, in the issue of Thursday, January 30, 1992, make the following correction:

On page 3633, in the third column, in the table, in the "Drug" column, in the fourth entry, "Hydrocholoride" should read "Hydrochloride".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 92N-0036]

Superpharm Corp., et al.; Withdrawal of Approval of 18 Abbreviated New Drug Applications

Correction

In notice document 92-2230 appearing on page 3634, in the issue of Thursday, January 30, 1992, make the following correction:

On page 3634, in the first column, in the table, in the "Drug" column, in the second entry, "Metronidzaole" should read "Metronidazole".

BILLING CODE 1505-01-D

federal register

Friday
February 21, 1992

Part II

Department of Education

Office of Indian Education: Planning, Pilot, and Demonstration Projects for Indian Children; and Educational Personnel Development; Notice

DEPARTMENT OF EDUCATION

Office of Indian Education: Planning, Pilot, and Demonstration Projects for Indian Children; and Educational Personnel Development

AGENCY: Department of Education.

ACTION: Notice of final priorities for Fiscal Year (FY) 1992.

SUMMARY: The Secretary announces absolute priorities for fiscal year (FY) 1992 grant competitions under the following Indian education programs: Planning, Pilot, and Demonstration Projects for Indian Children; and Educational Personnel Development. The Secretary takes this action to focus Federal financial assistance on identified national needs. These priorities will: (1) increase the availability and effectiveness of services for children by providing them in an integrated fashion; and (2) provide on-site development of teachers and other educational personnel on reservations or rural areas.

These priorities constitute a step in the direction of implementing the President's strategy for reaching the National Education Goals, AMERICA 2000. The priorities will strengthen the ability of these programs to improve learning opportunities and outcomes for Indian students, an essential element of the President's strategy for ensuring that all students reach the high levels of intellectual performance envisioned by the National Education Goals.

EFFECTIVE DATE: These priorities take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of these priorities, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Cathie Martin, U.S. Department of Education, 400 Maryland Avenue SW., room 2177, Washington, DC 20202–6335. Telephone (202) 401–1902. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: This notice contains priorities under the following programs:

Planning, Pilot, and Demonstration Projects for Indian Children.

Educational Personnel Development.

The purpose of each program is stated separately under the title of that program.

On August 29, 1991, the Secretary published a notice of proposed priorities for these programs in the **Federal Register** (56 FR 42722).

Note: This notice of final priorities *does not* solicit applications. A notice inviting applications under these competitions is published in a separate notice in this issue of the **Federal Register**.

Analysis of Comments and Changes

In response to the Secretary's invitation in the notice of proposed priorities, five parties submitted comments. An analysis of the comments and of the changes in the priorities since publication of the notice of proposed priorities follows. Suggested changes the Secretary is not legally authorized to make under the applicable statutory authority are also listed. Technical and other minor changes are not addressed.

Planning, Pilot, and Demonstration Projects

Comments: One commenter identified and recommended specific social, medical, and educational programs that should be included in the implementation phase of the integration of service delivery in Planning, Pilot, and Demonstration projects.

Discussion: The priority for this program requires the applicant to coordinate educational activities and to integrate those activities with health, social, or other family services provided. Because the particular services will vary considerably from location to location, the Secretary believes that it would be inappropriate and overly prescriptive to include a more detailed list that would apply to every situation and applicant.

Changes: None.

Educational Personnel Development

Absolute Priority

Comments: One commenter stated that the requirement that training lead to a bachelor's degree or above within five years or less, or meet requirements for teacher certification, or both, was not a realistic time frame for the following reasons: distance from the college or university to a reservation or rural community would preclude offering participants a full-time program; some States require students to pass a competency test as a prerequisite to entering a professional teacher preparation program and students are often required to take additional courses to pass the competency test; and many courses taken by teacher aides do not result in credit hours that contribute to a degree. The commenter suggested the requirement for completion of training within five years be eliminated.

Two additional commenters suggested that school boards be included in the list of participants to receive training.

Discussion: The suggestion regarding the time period for completion of training has been considered and accepted. It was not the intent of the Department to require a college or university to offer a full-time training program to a remote reservation or rural community. The Department agrees that participants in these training programs *may not* be able to obtain a bachelor's degree or above within a five-year period.

With regard to the comments suggesting school boards be included as training participants, the authorizing statute limits training to prepare individuals to serve as teachers, administrators, teacher aides, social workers, and ancillary educational personnel.

Changes: The requirement that training lead to a bachelor's degree or above within five years has been deleted.

Planning, Pilot, and Demonstration Projects for Indian Children

Purpose of Program: The Planning, Pilot, and Demonstration Projects for Indian Children program provides financial assistance for projects to design, test, and demonstrate the effectiveness of programs for improving educational opportunities for Indian children. The absolute priority applies to each of the three separate competitions (Planning projects, Pilot projects, and Demonstration projects) conducted under this program.

Background: The absolute priority for this program requires coordination among agencies that provide educational and health, social, or other family services through service integration. For the purposes of the priority, service integration is defined as an approach to improving the lives of at-risk Indian children by bringing together education, health, and social services in a comprehensive system for child and family assessment, service delivery, and follow-up monitoring and evaluation. Because the needed services may originate in many agencies, service integration requires collaboration, information sharing, and a possible relocation of services to ensure that the services are convenient and accessible.

A recent study of integrated services for at-risk children conducted for the Departments of Education and Health and Human Services suggests that access to integrated services can be very beneficial to disadvantaged children and their families, especially those who live in communities characterized by extreme poverty, family dissolution, and lack of reasonable access to services. Programs offering comprehensive integration of services have found that highly disadvantaged children often have difficulties with important developmental characteristics of the middle childhood years, primarily between the ages of four and twelve. Because many Indian children fall into the disadvantaged category, the Secretary has established an absolute priority to demonstrate the effectiveness of projects offering integrated services for Indian children and their families.

Absolute Priority: Under 34 CFR 75.105(c)(3), the Secretary gives an absolute preference to Planning, Pilot, and Demonstration Projects that meet the following priority. The Secretary funds under the competition for each program only projects that meet this absolute priority:

Service Integration

Projects that are designed to achieve all of the following objectives:

(1) Coordination of educational activities with other entities, such as local educational agencies, Indian tribes, State educational agencies, or institutions of higher education;

(2) Integration of Indian Education Act activities with educational activities supported by State, local, tribal, or other federal funds; and

(3) Integration of school activities with health, social or other family services.

Within this absolute priority, each planning, pilot, or demonstration project must also address one or more of the following areas:

(1) Innovative approaches to keeping students in school until they successfully graduate (e.g., targeting dropout and attendance concerns);

(2) Early childhood and family education; or

(3) Strengthening instruction in the five core curriculum areas of English, mathematics, science, history, and geography, through strategies that include the development of curriculum and materials that incorporate appropriate aspects of the culture of the Indian children to be served. Projects must address the basis for determining how the materials to be developed relate to the Indian culture.

Applicable Program Regulations: 34 CFR part 254.

Program Authority: 25 U.S.C. 2621 (a)(1), (b).

Educational Personnel Development

Purpose of Program: The Educational Personnel Development program includes two programs supporting projects for: (1) Preparing persons to serve Indian students as teachers, administrators, teacher aides, social workers, and ancillary educational personnel; and (2) improving the qualifications of persons serving Indian students in these capacities.

Background: Reservations and rural areas in which Indian students reside have traditionally had a difficult time recruiting and retraining qualified teachers. The absolute priority for the two Educational Personnel Development programs addresses this problem by supporting projects that provide on-site training for persons who already reside on reservations or in rural areas and who are likely to remain in their communities once their training has been completed.

Absolute Priority: Under 34 CFR 75.105(c)(3), the Secretary gives an absolute preference to Educational Personnel Development projects that meet the following priority. The Secretary reserves a portion of the funds available under each of the two separate competitions for this program only for projects that meet this absolute priority:

"On-site" Training To Prepare Teachers of Indian Children

The training must: (1) Lead to a bachelor's degree or above, or meet requirements for teacher certification or both; (2) be offered in a reservation or rural community, at least during the school year, in which the participants, and the schools in which they are likely to be employed, are located; and (3) involve coordination of activities with other entities, such as institutions of higher education, local educational agencies, tribal colleges, or Indian tribes.

Applicable Program Regulations: 34 CFR part 256.

Program Authority: 25 U.S.C. 2621(d), 2622.

Intergovernmental Review

These programs are subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for these programs.

Dated: November 25, 1991.

(Catalog of Federal Domestic Assistance Number 84.061 Parts C, D, and E, Planning, Pilot and Demonstration Projects for Indian Children; and 84.061F, Educational Personnel Development)

Lamar Alexander,
Secretary of Education.

[FR Doc. 92–4007 Filed 2–20–92; 8:45 am]

BILLING CODE 4000-01-M

[CFDA Nos.: 84.061C, 84.061D, 84.061E, 84.061F]

Planning, Pilot, and Demonstration Projects for Indian Children; Educational Personnel Development; Indian Education Act of 1988, Subpart 2; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1992

Purposes of Programs

Planning, Pilot, and Demonstration Projects for Indian Children. This program, authorized by section 5321 (a)(1) and (b) of the Indian Education Act of 1988, provides financial assistance for projects designed to create, test, and demonstrate the effectiveness of programs for improving educational opportunities for Indian children.

Educational Personnel Development. Educational Personnel Development includes two programs supporting projects designed to prepare persons to serve Indian students as teachers, administrators, teacher aides, social workers, and ancillary educational personnel and to improve the qualifications of persons serving Indian students in these capacities. The two programs, authorized by sections 5321(d) and 5322 of the Indian Education Act of 1988, are referred to respectively as the section 5321(d) program and the section 5322 program.

Eligible Applicants

For grants under the Planning, Pilot, and Demonstration Projects: State educational agencies (SEAs), local educational agencies (LEAs), Indian tribes, Indian organizations, Indian institutions, and Federally supported elementary and secondary schools for Indian children.

For Educational Personnel Development grants under the section 5321(d) program: institutions of higher education, and SEAs or LEAs in combination with institutions of higher education.

For Educational Personnel Development grants under the section 5322 program: institutions of higher education, Indian tribes, and Indian organizations.

Deadline for Transmittal of Applications: May 1, 1992.

Deadline for Intergovernmental Review: June 30, 1992.

Applications Available: March 16, 1992.

The following chart contains fiscal and programmatic information about each of the programs announced in this notice.

CFDA No. and name	Estimated range of awards	Estimated avg. size of awards	Estimated No. of awards
84.061C Planning projects	$27,000–130,000	$74,000	1
84.061D Pilot projects	70,000–186,000	112,000	3
84.061E Demonstration projects	70,000–186,000	126,000	3
84.061F Educational personnel development	46,200–280,000	167,400	13

NOTE: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months, except for Planning Projects which are limited to 12 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, 86; and (b) the Indian Education—General Provisions regulations for these programs in 34 CFR parts 250, 254, and 256; and (c) the applicable program regulations in 34 CFR part 254 (Planning, Pilot, and Demonstration Projects for Indian Children) and 34 CFR part 256 (Educational Personnel Development).

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Priorities: The priorities in the notice of final priority for these programs, as published elsewhere in this issue of the **Federal Register**, apply to this competition.

Under 34 CFR 75.105(c)(3), the Secretary gives an absolute preference to Planning, Pilot, and Demonstration Projects that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

Service Integration

Projects that are designed to achieve all of the following objectives:

(1) Coordination of educational activities with other entities, such as local educational agencies, Indian tribes, State educational agencies, or institutions of higher education;

(2) Integration of Indian Education Act activities with educational activities supported by State, local, tribal, or other Federal funds; and

(3) Integration of school activities with health, social or other family services.

Within this absolute priority, each planning, pilot, or demonstration project must also address one or more of the following areas:

(1) Innovative approaches to keeping students in school until they successfully graduate (e.g., targeting dropout and attendance concerns);

(2) Early childhood and family education; or

(3) Strengthening instruction in the five core curriculum areas of English, mathematics, science, history, and geography, through strategies that include the development of curriculum and materials that incorporate appropriate aspects of the culture of the Indian children to be served. Projects must address the basis for determining how the materials to be developed relate to the Indian culture.

Under 34 CFR 75.105(c)(3), the Secretary gives an absolute preference to Educational Personnel Development projects that meet the following priority. The Secretary reserves a portion of the funds available under each of the two separate competitions for this program only for projects that meet this absolute priority:

"On-site" Training To Prepare Teachers of Indian Children

The training must: (1) lead to a bachelor's degree or above, or meet the requirements for teacher certification or both; (2) be offered in a reservation or rural community, at least during the school year, in which the participants, and the schools in which they are likely to be employed, are located; and (3) involve coordination of activities with other entities, such as institutions of higher education, local educational agencies, tribal colleges, or Indian tribes.

For Applications or Information Contact: Cathie Martin, U.S. Department of Education, 400 Maryland Avenue, SW., room 2177, Washington, DC 20202–6335. Telephone: (202) 401–1902. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

Program Authority: 25 U.S.C. 2621 (a)(1), (b), (d), 2622.

Dated: December 2, 1991.

John T. MacDonald,

Assistant Secretary, Elementary and Secondary Education.

[FR Doc. 92–4000 Filed 2–20–92; 8:45 am]

BILLING CODE 4000-01-M

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–2470).

S. 1415/P.L. 102–246

To provide for additional membership on the Library of Congress Trust Fund Board, and for other purposes. (Feb. 18, 1992; 106 Stat. 31; 2 pages) Price: $1.00

Last List February 20, 1992

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102d Congress, 2nd Session, 1992

Pamphlet prints of public laws, often referred to as slip laws, are the initial publication of Federal laws upon enactment and are printed as soon as possible after approval by the President. Legislative history references appear on each law. Subscription service includes all public laws, issued irregularly upon enactment, for the 102d Congress, 2nd Session, 1992.

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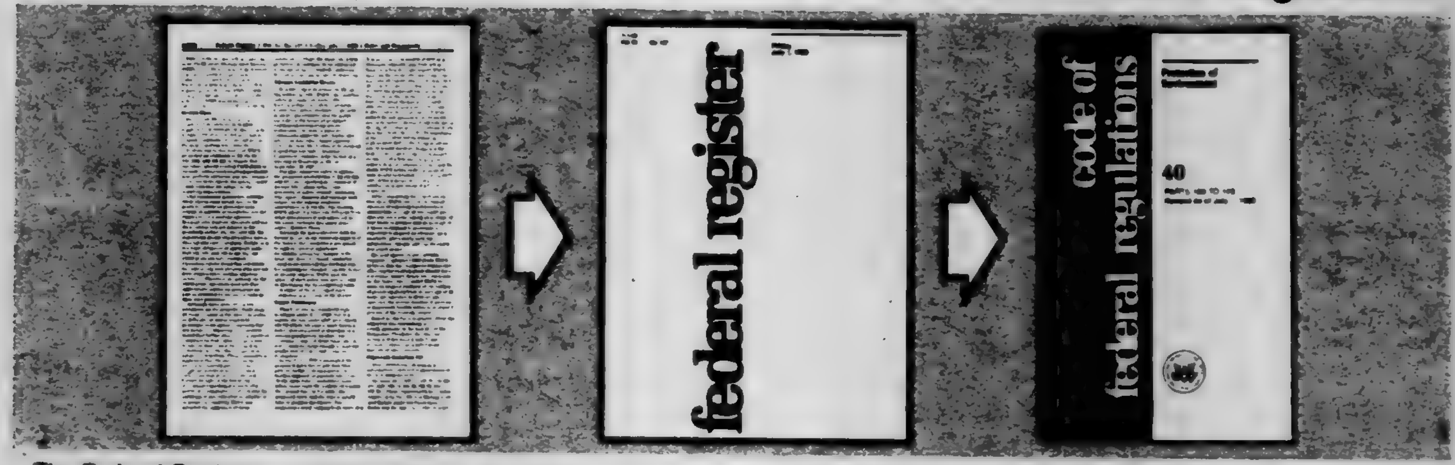

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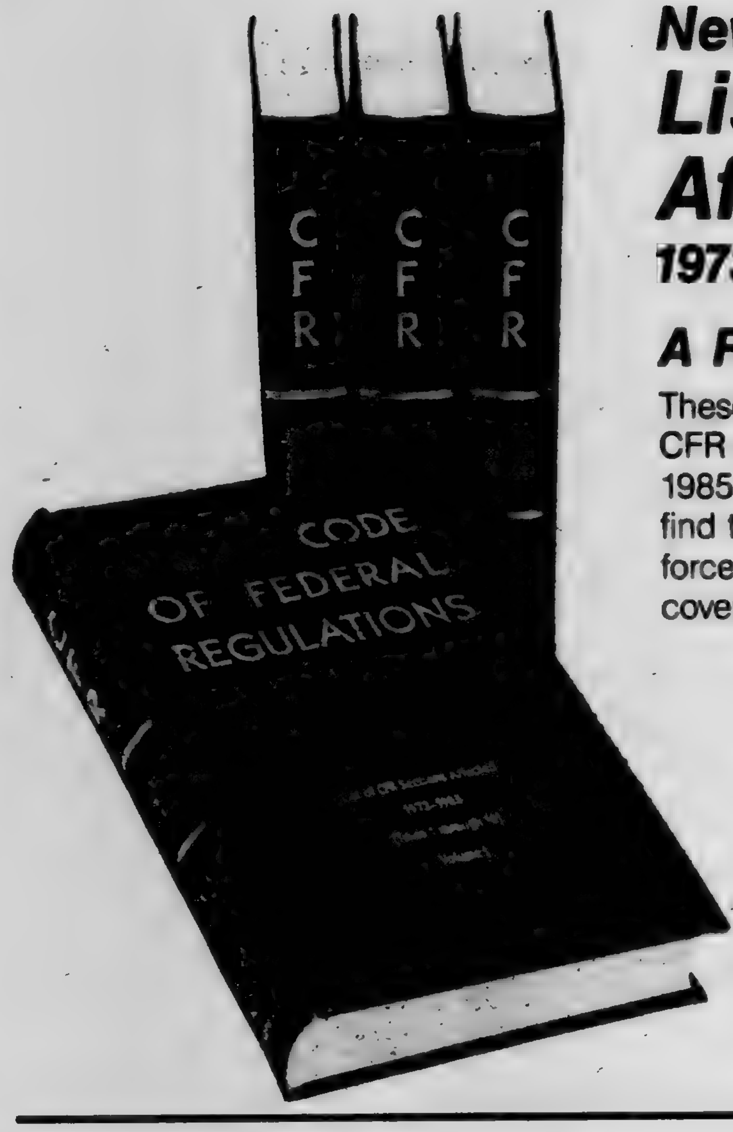

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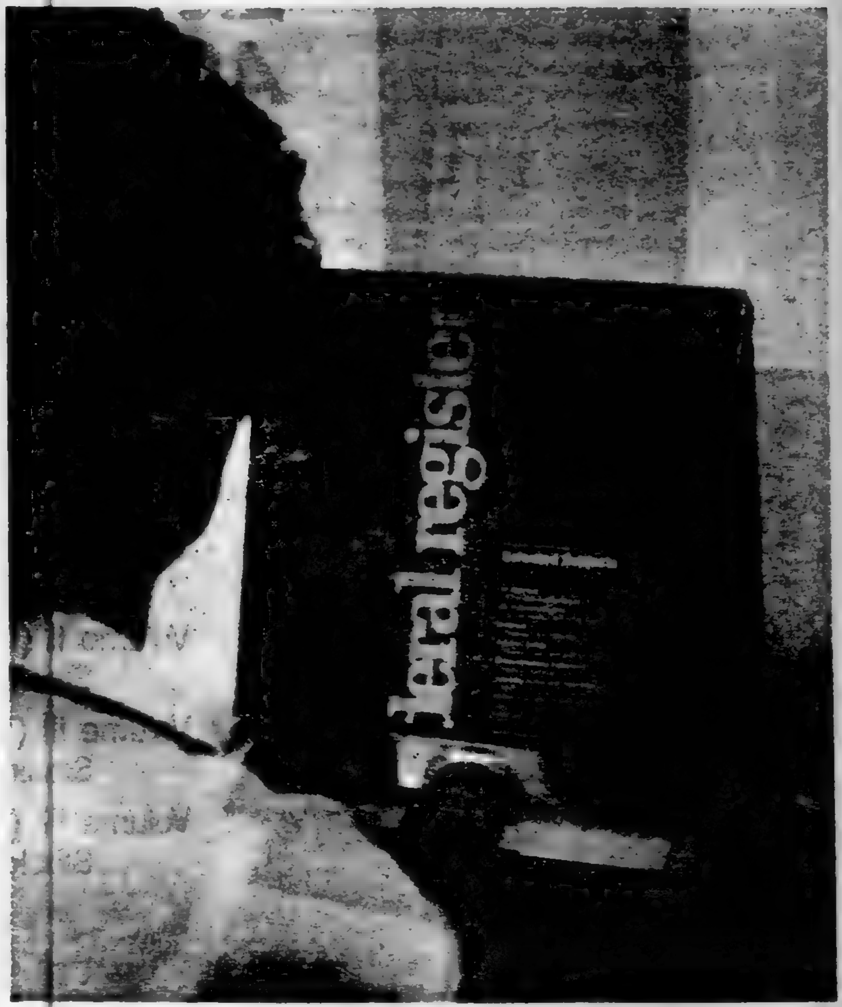

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Federal Register
Vol. 57, No. 36
Monday, February 24, 1992

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
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DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1700

General Information

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: The Rural Electrification Administration (REA) hereby amends 7 CFR chapter XVII of the Code of Federal Regulations by revising part 1700, General Information, to describe and reflect several changes in REA organizational structure and functions. These changes are rules of Agency organization.

EFFECTIVE DATE: This rule is effective February 24, 1992.

FOR FURTHER INFORMATION CONTACT: Fred L. Henson, Personnel Management Division, Rural Electrification Administration, room 4031, South Building, U.S. Department of Agriculture, 14th and Independence Avenue, SW., Washington, DC 20250–1500, Telephone: (202) 720–1384.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512–1. This action has been classified as "nonmajor" because it does not meet the criteria for a major regulation as established by the Order.

Regulatory Flexibility Act Certification

The Administrator of REA has determined that this final rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Most borrowers of REA loans do not meet the requirements for small entities.

National Environmental Policy Act Certification

The Administrator of REA has determined that this final rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The programs described by this final rule are listed in the 1991 Catalog of Federal Domestic Assistance Programs under No. 10.850, Rural Electrification Loans and Loan Guarantees; No. 10.851, Rural Telephone Loans and Loan Guarantees; No. 10.852, Rural Telephone Bank Loans; and No. 10.854, Rural Economic Development Loans and Grants. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC 20402.

Executive Order 12372

This final rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultant. A Notice of Final rule entitled Department Programs and Activities Excluded from Executive Order 12372 (50 FR 47034) exempts REA electric loans and loan guarantees from coverage under this Order.

Information Collection and Recordkeeping Requirements

This final rule contains no information collection or recordkeeping provisions requiring Office of Management and Budget approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

This amendment revises and reflects the current organizational structure of REA and certain internal administrative functions. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and comment and other public procedures are impractical and contrary to public interest.

List of Subjects in 7 CFR Part 1700

Electric power, Freedom of information, Loan programs—communication, Loan programs—energy, Organization and functions (Government agencies), Rural areas, Telephone.

Therefore, REA amends part 1700 of 7 CFR chapter XVII as follows:

PART 1700—GENERAL INFORMATION

1. The authority citation for 7 CFR part 1700 is revised to read as follows:

Authority: 7 U.S.C. 901 et seq.; Delegation of Authority by the Secretary of Agriculture, 7 CFR 2.23; Delegation of Authority by the Under Secretary of Agriculture for Small Community and Rural Development, 7 CFR 2.72; 7 U.S.C. 1921 et seq.; 5 U.S.C. 301, 552; 7 CFR 1.1–1.16.

2. Subpart A of part 1700 is revised to read as follows:

Subpart A—Organization and Functions

1700.1 General.
1700.2 Office of the Administrator.
1700.3 Office of the Deputy Administrator—Program Operations.
1700.4 Rural electric program.
1700.5 Rural telephone program.
1700.6 Economic development and technical services.
1700.7 Office of the Deputy Administrator—Management and Policy Support.
1700.8 Office of Assistant Administrator—Management.
1700.9 Information, legislation, policy and management analysis.
1700.10 1700.19—[Reserved]

Subpart A—Organization and Functions

§ 1700.1 General.

(a) The Rural Electrification Administration (REA) was established by Executive Order No. 7037, signed by the President on May 11, 1935. Statutory authority was provided by the Rural Electrification Act of 1936 (RE Act) (49 Stat. 1363; 7 U.S.C. 901). The RE Act established REA as a lending agency with responsibility for developing a program for rural electrification.

(b) On October 28, 1949, an amendment to the RE Act authorized REA to make loans to improve and extend telephone service in rural areas. The Rural Telephone Bank (RTB or the Bank), an Agency of the United States, was established by another amendment to the RE Act, approved May 7, 1971. The Administrator of REA serves as the Bank's chief executive with the title of Governor. On May 11, 1973, the RE Act was further amended to establish a revolving fund and to provide authority for REA to guarantee loans made by other legally organized lenders. The RE Act was amended further on December 21, 1987, to established a Rural Economic Development Subaccount, and to authorize funds from this subaccount to provide zero-interest loans and grants to REA borrowers to promote rural economic development and job creation. The RE Act was also amended on November 5, 1990, to add a new section 314, which authorizes REA to guarantee 90 percent of the principal and interest of loans made for electric and telephone facilities by legally organized lenders. It was further amended on November 28, 1990, to establish an Assistant Administrator for Economic Development and a rural development technical assistance unit; to expand the authorities and responsibilities of REA in rural economic development; and to establish a Rural Business Incubator Fund for making grants and reduced interest loans to electric and telephone borrowers to promote business incubator projects. At the same time, the Administrator was also granted authority for financial assistance for distance learning and medical link programs.

(c) The offices of REA are located in the South Building of the United States Department of Agriculture at 14th and Independence Avenue, SW., Washington, DC 20250–1500. The Electric and Telephone Programs are administered by regional offices located at this same address. There is a Northern and a Southern Regional Office, along with a Power Supply Division, for the electric program, and an Eastern and a Western Regional Office for the telephone program. (See § 1700.4(b) and 1700.5(b).)

§ 1700.2 Office of the Administrator.

(a) The Administrator (who also serves as Governor of the RTB) is appointed by the President, with the advice and consent of the Senate, for a term of 10 years. The Administrator functions as the chief executive of the Agency under the general supervision and direction of the Under Secretary for Small Community and Rural Development. The Administrator is aided directly by two Deputy Administrators and by Assistant Administrators for the Electric Program, the Telephone Program, for Economic Development and Technical Services, and for Management. The Financial Services Staff and the Equal Opportunity and Civil Rights Staff also report directly to the Administrator. The work of the Agency is carried out through the offices and divisions described in this part.

(b) The Financial Services Staff performs the following functions:

(1) Evaluates financial conditions of financially troubled borrowers;

(2) Negotiates settlements and "work-outs" of financially troubled borrowers who have or may have delinquent loans in order to satisfy the government's interests, keeping abreast of financial and legal factors that may affect the negotiations;

(3) Coordinates the Agency's efforts to identify and develop strategies for potentially financially troubled borrowers;

(4) Develops techniques and criteria for evaluating the financial and operating performance of certain rural electric and telephone borrowers;

(5) Develops certain standards, policies, and procedures in connection with loan requirements and processing for the electric and telephone programs;

(6) Analyzes and evaluates certain loan requests and transactions to determine whether the documentation justifies the request;

(7) Serves as staff to the Senior Loan Committee;

(8) Keeps other government organizations advised concerning activities of the staff; and

(9) Serves as REA liaison to the capital markets.

(c) The Equal Opportunity and Civil Rights Staff administers the program for equal opportunity in the delivery of services and benefits by REA borrowers and in the employment practices in the Agency. The staff:

(1) Formulates and coordinates plans, policies and procedures for a nationwide program of nondiscrimination on the part of REA borrowers in carrying out borrower programs subject to the provisions of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000a–2000h–6); section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.); the Age Discrimination Act of 1975 (42 U.S.C. 6101–6107); the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.); and Executive Order 11246 (3 CFR, 1964–1965 Comp., p. 339), as amended by Executive Orders 11375 (3 CFR, 1966–1970 Comp., p. 684) and 12086 (3 CFR, 1978 Comp., p. 230).

(2) Develops and monitors plans, policies and programs designed to promote equal employment opportunity for REA personnel under title VII of the Civil Rights Act of 1964; the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621–634); the Equal Employment Opportunity Act of 1972 (42 U.S.C. 2000e et seq.); section 501 of the Rehabilitation Act of 1973; pertinent provisions of the Civil Service Reform Act of 1978 (5 U.S.C. 1101 et seq.); and applicable rules, regulations and other equal employment, nondiscrimination statutes.

§ 1700.3 Office of the Deputy Administrator—Program Operations.

The Deputy Administrator—Program Operations directs and coordinates the electric, telephone and rural economic development programs, technical services, and borrower accounting activities; reviews Agency policies in these areas and, as necessary, implement changes; and participates with the Administrator and other officials in planning and formulating the programs and activities of the Agency.

§ 1700.4 Rural electric program.

(a) The Assistant Administrator—Electric directs and coordinates the rural electrification program of the Agency, participating with the Administrator and Deputy Administrator—Program Operations and others in planning and formulating the programs and activities of the Agency.

(b) *Regional Offices.* (1) The two regional offices are the primary points of contact between REA and electric distribution system borrowers. Each office administers the rural electric program for an assigned geographical area with assistance of field representatives located in areas assigned to them. The regional offices are composed of the following states and territories:

(i) *Northern Region.* Alaska, Connecticut, Delaware, Hawaii, Idaho, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, and present and former Pacific Trust Territories; and

(ii) *Southern Region.* Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Kansas, Louisiana, Mississippi, Missouri, Nebraska, Nevada, New Mexico, North Carolina, Oklahoma, Puerto Rico, South Carolina, Tennessee, Texas, Utah, and the Virgin Islands.

(2) The regional offices perform the following functions with respect to loan feasibility and security and accomplishment of the purposes of the RE Act:

(i) Administer the rural electrification program for distribution borrowers in the region, serving as the single point of contact for distribution borrowers;

(ii) Provide guidance to borrowers on Agency loan policies and procedures, and receives, evaluates, and processes insured and guaranteed loan applications and other requests for financing assistance;

(iii) If delegated the authority by the Administrator, Regional Directors may approve certain loans, lien accommodations and other actions;

(iv) Assure that distribution and transmission systems and facilities are designed and constructed in accordance with the terms of the loan and proper engineering practices and specifications;

(v) Maintain oversight of borrower rate actions;

(vi) Provide guidance to borrowers on supplemental power resources; load and energy management; and the environmental aspect of the design, construction and operation of their systems;

(vii) Maintain necessary oversight of borrowers' financial management and technical operations and practices to assure the security of the government's loans. Institute operations and management studies or other forms of corrective action as necessary;

(viii) Works to ensure accountability of loan and other financial transactions; and

(ix) Supplements efforts of the Equal Opportunity and Civil Rights Staff to ensure borrower compliance with civil rights requirements.

(c) *Power Supply Division.*—The Division performs the following functions:

(1) Administers rural electrification program responsibilities that relate to power supply borrowers, and serves as the primary point of contact between REA and all such borrowers;

(2) Receives, evaluates, and processes insured and guaranteed loan applications and other requests for financial assistance from power supply borrowers;

(3) Develops and administers engineering and construction functions related to planning, design, construction, operation, and maintenance for power supply borrowers;

(4) Maintains a continuing financial and management overview of power supply borrowers to ensure that their operations are consistent with sound fiscal policies and procedures, loan security, and with REA loan contracts, mortgages and regulatory requirements. Initiates operations and management studies or other forms of corrective action as necessary;

(5) Provide guidance to borrowers on supplemental power resources; load and energy management; and the environmental aspects of the design, construction and operations of their systems;

(6) Works to ensure accountability of loan and other financial transactions; and

(7) Supplements efforts of the Equal Opportunity and Civil Rights Staff to ensure borrower compliance with civil rights requirements.

(d) *Electric Staff Division.* This division administers certain engineering and operating activities relating to the rural electric program. The division:

(1) Is responsible for engineering aspects of REA's standards, specifications and other requirements with respect to design, construction, and technical operation and maintenance of power-plant, distribution, and transmission systems and facilities, including load management, energy conservation and communications;

(2) Develops engineering practices, policies, standards, and guidelines for the Agency relating to electric borrowers' systems; conducts analysis and provides guidance on matters relating to fuels for electric generating stations; analyzes the effects of environmental laws and regulations on REA-financed electric systems; and develops related policies and procedures for the Agency;

(3) Develops criteria, procedures and analyses for improvement of the operating performance of electric borrowers;

(4) Develops procedures, criteria and techniques for forecasting borrowers' power requirements; and develops and maintains expertise in matters relating to retail and wholesale rates;

(5) Develops policies and procedures for adherence to environmental laws and regulations, and reviews borrowers' environmental studies;

(6) Maintains and publishes a continuing updated list of materials compatible with current REA standards;

(7) From time to time provides consultation with borrowers regarding engineering matters;

(8) Provides assistance to the other electric offices and, as appropriate, to borrowers; and

(9) Maintains liaison with other Government agencies, utilities, industry officials and professional organizations on the above matters.

§ 1700.5 Rural telephone program.

(a) The Assistant Administrator—Telephone directs and coordinates the rural telephone program of the Agency, participating with the Administrator and Deputy Administrator—Program Operations and other officials in planning and formulating the programs and activities of the Agency.

(b) *Regional Offices.* (1) The two regional offices are the primary points of contact between REA and all telephone system borrowers. Each office administers the rural telephone program for an assigned geographical area with assistance of field representatives located in areas assigned to them.

(2) The regional offices are composed of the following states and territories:

(i) *Eastern Region.* Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, Virgin Islands, West Virginia, and Wisconsin; and

(ii) *Western Region.* Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wyoming and present and former Pacific Trust Territories along with the Northern Mariana Islands and Guam.

(3) The regional offices have the following responsibilities with respect to loan feasibility and security and accomplishment of the purposes of the RE Act:

(i) Provide guidance to applicants and borrowers on Agency and Rural Telephone Bank loan policies and procedures, and make recommendations to the Administrator on applications for loans or guarantees. If delegated the authority by the Administrator, Area Directors may approve certain loans, lien accommodations and other actions;

(ii) Review and analyze borrowers' toll revenue settlements and local service rates for adequacy to meet loan service payments and other expenses;

(iii) Assure that telephone systems and facilities are designed and constructed in accordance with the terms of the loan and the Agency's regulations. They review, analyze and approve borrowers' engineering plans and specifications; engineering, equipment and construction contracts; and borrowers' payments to engineers and contractors. They work with the borrowers to assure that completed construction meets REA standards for quality of service and loan security; and

(iv) Provide information to borrowers regarding management and technical operations and practices with respect to the feasibility and security of the

Government's loans and achievement of RE Act purposes.

(c) *Telecommunications Standards Division.* This division administers engineering staff activities related to the design, construction, and technical operation and maintenance of rural telephone systems and facilities. The division:

(1) Develops Agency engineering practices, policies, guidelines and technical data relating to telephone borrowers' systems;

(2) Evaluates the application of new communications network technology to rural telephone systems;

(3) Develops standards, policies, and procedures in connection with construction activities financed by the rural telephone program;

(4) Provides advice and assistance to the regional offices and, as requested, to borrowers on the above functions and responsibilities; and

(5) Maintains liaison with other government agencies, utilities, industry officials, and professional organizations on the above matters.

(d) *Rural Telephone Bank Management Staff.* This staff performs the following functions:

(1) Prepares analyses and makes recommendations to the Assistant Governor of the RTB on RTB issues;

(2) Performs the calculations needed to determine the cost of money rate to RTB borrowers;

(3) Prepares the minutes of RTB board meetings;

(4) Develops practices and procedures for determining toll forecasts for the telephone regional offices, and develops the toll forecasts for borrowers with complicated settlement arrangements; and

(5) Maintains liaison with other government agencies, utilities, industry officials, and professional organizations on the above matters.

§ 1700.6 Economic development and technical services.

(a) The Assistant Administrator—Economic Development and Technical Services directs and coordinates the rural economic development and technical services programs of the Agency, participating with the Administrator and Deputy Administrator—Program Operations and other officials in planning and formulating the programs and activities of the Agency. Two staffs and one division report to this Assistant Administrator.

(b) *Rural Development Assistance Staff.* This staff performs the following functions:

(1) Administers the Agency's rural economic development and job creation programs;

(2) Formulates and develops regulations, procedures, directives, and bulletins concerning the execution of Agency rural economic development activities;

(3) In coordination with Agency personnel, provides guidance to borrowers on Agency rural economic development policies and procedures, and makes recommendations to the Administrator on borrowers' applications for rural economic development financial assistance;

(4) Provides economic and community development technical assistance to borrowers; and

(5) Advises Agency personnel on rural economic development matters.

(c) *Program Support Staff.* This staff has the following responsibilities:

(1) Prepares special and ongoing analyses regarding the operations of the Agency's loan, loan-guarantee, and grant programs, and supervises special projects as assigned;

(2) Develops and maintains Agency regulations and bulletins on pre-and post-loan policies and procedures, and provides advice and assistance to Agency staff and others regarding the achievement of program policies;

(3) Coordinates with corresponding program staffs regarding the implementation of program-wide policies;

(4) Coordinates joint program initiatives;

(5) Provides coordination and assistance on management development of REA and borrower personnel, as assigned; and collaborates with borrowers' organizations and professional groups in management development;

(6) Develops and maintains a variety of loan fund control ledgers for electric and telephone program lending authorities; and

(7) Keeps abreast of external developments by state, local and Federal regulatory and legislative bodies relating to REA programs.

(d) *Borrower Accounting Division.* This division ensures that accounting policies, systems and procedures with respect to borrowers' accounting operations meet regulatory, U.S. Department of Agriculture, General Accounting Office, Office of Management and Budget and Treasury Department requirements. The division:

(1) Provides recommendations and assistance in solving special program and administrative problems involving accounting interpretations and analysis, including the development and presentation of data to agency staff, regulatory bodies, and other agencies;

(2) Examines borrowers' records and operations and reviews expenditures of loan and other funds deposited in the REA Construction Fund Account to determine that funds are expended in conformity with the RE Act. Reviews borrowers' plant accounting system and procedures to determine compliance with REA regulations;

(3) Approves Certified Public Accountants to perform audits for borrowers and reviews their reports to determine conformance with acceptable accounting practices, procedures and standards;

(4) Develops proposed standards and procedures for Agency examination programs and evaluates adequacy and effectiveness of the review procedures; and

(5) Evaluates borrowers' accounting systems and procedures and recommends changes, as necessary, to provide for more complete and accurate reporting of borrowers' operations. Provides advice and assistance to borrowers concerning the installation and operation of accounting systems;

(e) *Area Offices.* The division is organized into four geographic area offices each of which has several field accountants located throughout the area.

§ 1700.7 Office of the Deputy Administrator—Management and Policy Support.

The Deputy Administrator—Management and Policy Support directs and coordinates the legislative, public information, administrative and budget activities of the Agency and participates with the Administrator and other officials in planning and formulating the programs, policies and other functions of the Agency. Activities are carried out by an Assistant Administrator—Management and others who report directly to the Deputy Administrator.

§ 1700.8 Office of Assistant Administrator—Management.

The Assistant Administrator—Management directs and coordinates the general administrative activities of the agency, participates with the Administrator and Deputy Administrators and other officials in planning and formulating the programs and activities of the agency. The Office of Budget and four other divisions are directed and coordinated by the Assistant Administrator—Management.

(a) The Office of Budget administers the budgetary and financial management program of the Agency. The office:

(1) Determines the annual funding needs for current and multi-year forecasts, participating with the Administrator in presenting and supporting the Agency's budget and program plans; and

(2) Administers budget execution, apportionment, allotment and use and control of all Agency funds.

(b) The Personnel Management Division administers the personnel program of the Agency, covering both headquarters and field personnel. The division.

(1) Administers the provisions of the Classification Act, to achieve uniform application of position classification principles and standards to all REA positions; conducts organization studies and develops recommendations for changes; develops and administers the Agency's personnel management evaluation activities;

(2) Administers the employment program for the Agency, including staffing, recruitment, placement and separation; administers the Agency's merit promotion program; maintains liaison with the National Finance Center on personnel data processing activities including payroll;

(3) Administers Agency responsibilities for employee relations including: grievances and appeals, performance appraisals, performance recognition system, conflict of interest, awards, benefits, and leave;

(4) Directs, coordinates, and evaluates a program of employee training to achieve the maximum utilization of skills and abilities of personnel; conducts training sessions; plans and directs conferences; prepares training budget; approves training requests; and coordinates an information program for foreign visitors;

(5) Provides advice and assistance to Agency officials and employees to ensure sound and effective administration of the Agency's personnel program;

(6) Maintains working relations and liaison on personnel management matters with the staff and other agencies of the Department and other government agencies; and

(7) Participates with the Administrator, in conjunction with the Equal Opportunity and Civil Rights Staff, in the implementation and enforcement of USDA equal employment opportunity programs (see § 1700.2(c) (2)); coordinates equal employment opportunity complaint system with the Department; develops and administers the Agency's Federal Equal Opportunity Recruitment Program.

(c) The Administrative Services Division administers a wide array of management services. The division administers:

(1) General services involving contracting and procurement, space management, property and supplies management, records management and communications;

(2) The Agency's rulemaking and regulatory review activities, coordinating with the Office of the Federal Register, the Office of the General Counsel, and the Office of Management and Budget; and

(3) The Agency's publications issuance system and the forms and report program.

(d) The Automated Information Systems Division analyzes the application of data processing to REA program activities, including feasibility studies of the costs and benefits of automated data processing. The division:

(1) Establishes standards and procedures for developing, maintaining and using the Agency's major automated systems covering borrower information, loan accounting and special management programs; performs systems analyses, development, and programming; and ensures data security;

(2) Operates the data processing equipment of the Agency, including the conversion of data from source documents and the preparation of statements, reports, analyses, and other information, and provides training and assistance to users; and

(3) Collects and analyzes financial, operating, and other statistical data obtained from borrowers and other sources, and prepares reports on the progress and status of the programs of REA and the RTB.

(e) The Financial Operations Division administers the fiscal accounting program of the agency and the RTB. The division:

(1) Develops, recommends and implements accounting policies, systems, and procedures regarding the Agency's and RTB's operations;

(2) Maintains accounts to provide control over and accountability for all funds, assets, liabilities, income and expenses of the Agency and the RTB; and prepares reports required by REA, RTB, the U.S. Department of Agriculture, and other government agencies;

(3) Examines and certifies for payment, vouchers and invoices covering administrative expenses and loan fund advances of the Agency and the RTB;

(4) Reviews, examines and processes monthly billings and debt service payments for REA and RTB loans;

(5) Reviews, examines and processes loan fund advances, billings, debt service payments and all other accounting related activities connected with Federal Financial Bank loans to REA borrowers; and

(6) Maintains custody of the original copies of notes and mortgages and certain loan collateral.

§ 1700.9 Information, legislation, policy and management analyses.

The Deputy Administrator—Management and Policy Support, directs two separate staffs of the Agency dealing with public information and legislation, and policy and management analysis.

(a) The Legislative and Public Affairs Staff performs the following functions:

(1) Analyzes the policy, programs and procedural implications of Federal and State legislation affecting REA programs; prepares special reports for the Administrator on legislative affairs; and responds to inquiries from Congress and others concerning REA programs;

(2) Maintains liaison with the Department's legislative staff and with congressional offices;

(3) Manages the information activities of the Agency to provide borrowers and the public with timely information concerning the operations, status, progress and accomplishments of the rural electrification, rural telephone and rural development programs;

(4) Evaluates the public information activities of the Agency and advises on actions that will improve public understanding and acceptance of Agency functions; and

(5) Administers the public information provisions of 5 U.S.C. 551 *et seq.*, the Administrative Procedure Act.

(b) The Policy and Management Analysis Staff performs the following functions:

(1) Coordinates the development and monitors the implementation of the Agency's long-term program and management plans, ensuring that these plans are up to date at all times;

(2) Ensures that these long-term plans include quality-improvement, efficiency, and cost saving initiatives;

(3) Ensures that audit resolutions are incorporated in the Agency's strategic planning and other processes for establishing goals and objectives; and

(4) Initiates and coordinates management productivity programs of the Agency.

§§ 1700.10—1700.19 [Reserved]

3. Section 1700.24 is revised to read as follows:

§ 1700.24 Loans and grants pursuant to section 313 of the RE Act.

These zero-interest loans and grants are made to borrowers under the RE Act for the purpose of promoting rural economic development and rural job creation projects. Selection and approval of applications for zero-interest loans and grants rests solely within the discretion of the Administrator. (See 7 CFR part 1703.)

4. Section 1700.25 is revised to read as follows:

§ 1700.25 Other loan authorities.

(a) The Administrator has authority under section 314 of the RE Act to guarantee 90 percent of the principal and interest of loans made by qualified private lenders to finance electric and telephone facilities in rural areas. (See 7 CFR parts 1712 and 1739.) The Administrator also has authority under section 502 of the RE Act to make grants and reduced interest loans to promote business incubator programs or for the creation or operation of business incubators in rural areas. Authority is also granted to the Administrator by the Rural Economic Development Act of 1990 (7 U.S.C. 950aaa *et seq.*) to provide financial assistance for distance learning and medical link programs.

(b) The Administrator has authority under section 5 of the RE Act to make loans to electric borrowers for the purpose of financing the wiring of the premises of persons in rural areas and for the purchase and installation of electrical and plumbing appliances and equipment, including machinery. The Administrator also has authority under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 *et seq.*) to finance community antenna television (CATV) services and facilities. Funds have not been appropriated for these purposes since 1969 in the case of section 5 loans and not since 1981 in the case of CATV loans.

Dated: February 3, 1992.

Michael M.F. Liu,

Acting Administrator.

[FR Doc. 92–3105 Filed 2–21–92; 8:45 am]

BILLING CODE 3410–15–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Regulations; Waiver of the Nonmanufacturer Rule

AGENCY: Small Business Administration.

ACTION: Notice to waive the "Nonmanufacturer Rule" for multiple products.

SUMMARY: This notice advises the public that the Small Business Administration (SBA) is establishing a waiver of the "Nonmanufacturer Rule" for the classes of products listed in the **SUPPLEMENTARY INFORMATION** section. Waivers are being granted for these classes of products because no small business manufacturer or processor is available to participate in the Federal procurement market. The effect of a waiver is to allow an otherwise qualified small business regular dealer to supply the product of any domestic manufacturer or processor on a Federal supply contract set aside for small business or awarded through the SBA 8(a) program.

EFFECTIVE DATE: February 24, 1992.

FOR FURTHER INFORMATION CONTACT: James Fairbairn, Industrial Specialist, phone (202) 205–6465.

SUPPLEMENTARY INFORMATION: SBA is establishing a waiver of the "Nonmanufacturer Rule" for the following classes of products:

SIC [1]	PSC [2]	Classes of products granted waivers
3537	2320	Four wheel utility trucks.
3711	2420	Wheeled tractors.
3621	6105	Electric motors.
3699	6135	Nuclear batteries.
2819	6810	Calcium nitrate.
xxxx	6810	Hydrocarbon diluent.
2819	6810	Boric acid.
2873	6810	Nitric acid.
2819	6810	N-dodecane.
2819	6810	Hydrofluoric acid.
2869	6810	Methyl isobutyl ketone.
2812	6810	Sodium hydroxide.

[1] Standard Industrial Code.

[2] Products and Service code.

On November 15, 1988, Public Law 100–656 incorporated into the Small Business Act the existing SBA policy that recipients of contracts set aside for small business or the SBA 8(a) Program shall provide the products of small business manufacturers or processors. This requirement is commonly known as the "Nonmanufacturer Rule". The SBA regulations imposing this requirement are found in 13 CFR 121.906(b) and 121.1106(b). Section 303(h) of the law also provided for waiver of this requirement by SBA for any "class of products" for which there are no small business manufacturers or processors in the Federal market. Section 210 of Public Law 101–574 subsequently amended the language to allow for waivers of classes of products where there are no small business manufacturers or processors "*available to participate in the Federal procurement market.*" (emphasis added). A class of products is considered to be a particular Product and Service Code (PSC) under the Federal Procurement Data System or an SBA recognized product line within a PSC. To be considered available to participate in the Federal procurement market, a small business must have been awarded a contract by the Federal government to supply that particular class of products, either directly or through a dealer, or offered on a solicitation within the past two years from the date of request for waiver. SBA has been requested to issue a waiver for each of the classes of products listed above because of an apparent lack of any small business manufacturers or processors available to participate in the Federal procurement market. SBA searched its Procurement Automated Source System (PASS) for small business manufacturers or processors. None were identified as available to participate in the Federal procurement market. We then published a notice to the public in the **Federal Register** on October 29, 1991 (56 FR 55637) stating our intention to grant waivers for these classes of products unless sources were found. The notice described the legal provisions for a waiver, how SBA defines "available to participate in the Federal procurement market", and requested information on small business manufacturers or processors for these classes of products.

Due to administrative error, the PSC of four wheel drive utility trucks was incorrectly listed in the notice of intent to waive the Rule on October 29, 1991. That error was corrected by notice to the public in the **Federal Register** on November 26, 1991 (FR 56 59902). The proper PSC is 2320.

We received only one comment letter in response to the notice of proposed intent to issue waivers. The General Services Administration (GSA) recommended that a waiver not be granted for passenger automobiles. The issues raised by GSA are complex and require further study. The final disposition of passenger automobiles will, therefore, be the subject of separate action. All other classes of products identified in the notice of proposed intent are included in this notice of final waiver. These waivers are thus granted pursuant to statutory authority under section 210 of Public Law 101–574. A waiver is for an indefinite period, but is subject to an annual review or upon receipt of information indicating that the conditions justifying a waiver no longer exist. If SBA determines that the conditions justifying a waiver no longer exist, the waiver will be terminated. That termination will be published in the **Federal Register**.

Dated: February 4, 1992.

Robert J. Moffitt,

Chairman, Size Policy Board.

[FR Doc. 92-3689 Filed 2-21-92; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[T.D. 8396]

RIN 1545-AP69

Conclusive Presumption of Worthlessness of Debts Held by Banks

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to a bank's determination of worthlessness of a debt. These regulations provide greater certainty in the treatment of bank bad debts, by providing for a conclusive presumption of worthlessness of debts based on the application of a single set of standards for both regulatory and tax accounting purposes.

EFFECTIVE DATE: These regulations are effective for taxable years ending on or after December 31, 1991.

FOR FURTHER INFORMATION CONTACT: Bernita L. Thigpen, telephone 202-566-3516 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)) under control number 1545-1254. The estimated average annual burden per respondent to complete form 3115 is 26.96 hours.

These estimates are an approximation of the average time expected to be necessary for a collection of information. They are based on such information as is available to the Internal Revenue Service. Individual respondents may require greater or less time, depending or their particular circumstances.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, T:FP, Washington DC, 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC, 20503.

Background

On May 29, 1991, the Internal Revenue Service published proposed regulations under section 166 of the Internal Revenue Code of 1986 in the **Federal Register** (56 FR 24154). Written comments on those proposed regulations were received from the public. On August 9, 1991, a public hearing was held concerning the regulations. After consideration of all of the written comments received and the statements made at the public hearing, the proposed regulations are adopted as modified by this Treasury Decision.

Explanation of Provisions

Section 166 of the Internal Revenue Code and the regulations thereunder allow a deduction for a business debt that becomes wholly or partially worthless within the taxable year, if certain requirements are met. All pertinent evidence, including the value of any collateral securing the debt and the financial condition of the debtor, generally is taken into account in determining worthlessness. See § 1.166-2(a).

The existing regulations provide a special rule (the "existing presumption") for banks (and certain other regulated corporations), under which a debt charged off in a taxable year is conclusively presumed to have become worthless in that year if the charge-off is in obedience to a specific order of the bank's supervisory authority, or in accordance with regulatory policy provided that the supervisory authority confirms in writing upon its first audit subsequent to the charge-off that the charge-off would have been ordered had the bank been audited on the date of the charge-off. See § 1.166-2(d)(1).

Sections 1.166-2(d)(3) and (4) were proposed to provide new special rules permitting a supervised bank (including a thrift institution) to elect a method of accounting under which it may conform its tax accounting for bad debts to its regulatory accounting, provided certain conditions are satisfied. Under these rules, debts that are charged off pursuant to specific orders of the bank's supervisory authority or that are classified by the bank as loss assets under applicable regulatory standards are conclusively presumed to have become worthless in the taxable year of the charge-offs (the "conformity presumption"). The extent to which the proposed regulations have been modified in response to comments received is described below.

Comments on Specific Provisions

Prop. Reg. § 1.166-2(d)(3)(i): Conformity Election

Under the proposed regulations, the conformity election is available only to banks, as defined in proposed § 1.166-2(d)(4)(i). Several commentators suggested that the election also be made available to non-bank affiliates of a bank, including a bank's subsidiaries and its holding company, because these non-bank affiliates are subject to supervision by the bank's supervisory authority. The commentators argued that these regulated non-banks should be eligible for the conformity presumption because they are eligible for the existing presumption under § 1.166-2(d)(1), which applies more generally to banks and certain other regulated corporations.

The Treasury Department's study on the appropriate criteria to be used in determining whether a debt is worthless for Federal income tax purposes concludes that the regulatory criteria governing the charge-off of debts by banks are sufficiently similar to the criteria for worthlessness under section 166 to make regulatory criteria and examination by the regulatory authorities an acceptable surrogate for an independent investigation by the Internal Revenue Service. See Report to the Congress on the Tax Treatment of Bad Debts by Financial Institutions at 19-24 (Treasury Department, September 1991). The same degree of acceptability has not been demonstrated overall with respect to regulated corporations other than banks, nor is there any appropriate basis for attempting to distinguish among the various non-banks based on the level of regulatory scrutiny. Moreover, the existing presumption remains available to regulated corporations that are not banks and, thus, do not qualify for the new conformity election. Accordingly, the final regulations retain the rule of the proposed regulations.

Prop. Reg. § 1.166-2(d)(3)(ii): Conclusive Presumption

a. Loss classification. The proposed regulations generally provide that a debt charged off by a bank, in whole or in part, for regulatory purposes is conclusively presumed to have become worthless for tax purposes in the year it is charged off, provided the charge-off results from a specific order of the bank's supervisory authority or corresponds to the bank's classification

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of that debt as a loss asset for regulatory purposes. Commentators requested that the conformity presumption also be applied to assets that are treated as debts for tax purposes, even if the assets are not so treated for regulatory purposes and, therefore, are not subject to regulatory loss classification standards. In particular, commentators requested that the conformity presumption apply to loans accounted for on a cost recovery basis, interest accrual reversals, and in-substance foreclosures. Other commentators argued that the conformity presumption should be extended to charge-offs of debts that are classified as substandard or doubtful, rather than loss, or to debts that are classified as doubtful when charged off, but that become loss assets by year-end.

The final regulations do not adopt these comments. The regulations limit the conformity presumption to debts classified as loss assets for regulatory purposes because the regulatory standards for classification of debts as loss assets are similar to the tax standards for determining worthlessness. See Report to the Congress on the Tax Treatment of Bad Debts by Financial Institutions, *supra*. If there were no requirement that a debt be classified as a loss asset for regulatory purposes, there would be no assurance that the charge-off was based on criteria that were consistent with Federal income tax principals and the bad debt deduction could be premature or excessive.

b. Debts charged off in wrong year. Commentators also asked for guidance on the tax treatment of a debt that is charged off in one year, when a bank's supervisory authority subsequently determines it should have been charged off in an earlier year. The commentators suggested that the debt should be presumed worthless for tax purposes in the year of the charge-off rather than in the earlier year, despite the after-the-fact determination by the supervisory authority.

It is consistent with the concept of a conclusive presumption that a bank be permitted to claim a tax deduction for a debt charge-off for a year in which the bank satisfies the requirements of the presumption, notwithstanding that its regulator subsequently determines that the charge-off should have been made in an earlier year. Accordingly, the final regulations provide that a charge-off qualifies for the presumption in the year of the charge-off, provided the requirements of the regulations are otherwise satisfied. A pattern of charge-offs in the wrong year, however, may result in revocation of the bank's election.

Prop. Reg. § 1.166–2(d)(3(iii): Requirements

a. Express determination. The proposed regulations provide that a bank qualifies for the conformity presumption only of its supervisory authority expressly determines, in connection with its most recent examination involving the bank's loan review process, that the bank maintains and applies loan review and loss classification standards that are consistent with those of the supervisory authority. Commentators requested guidance as to the form of the express determination and suggested that it be a standardized document that is separate from the confidential bank examination report. Commentators also asked that the regulations clarify which of a bank's supervisory authorities is required to provide the express determination in the case of a bank that is regulated by more than one supervisory authority. In addition, commentators suggested that relief be provided if the supervisory authority inadvertently fails to provide the determination.

In response to these comments, the Internal Revenue Service is releasing concurrently with these regulations a revenue procedure (Rev. Proc. 92–18, to be published in Internal Revenue Bulletin No. 1992–10, (March 9, 1992) that sets forth the form and content of the express determination required by these regulations. Pursuant to Rev. Proc. 92–18, the determination is to be in the form of a letter, signed by the examiner-in-charge, that is not part of a bank's confidential examination report. In addition, the final regulations clarify that the express determination is to be provided by the supervisory authority that is the "appropriate Federal banking agency" as that term is defined in 12 U.S.C. 1813(q). (The supervisory authority is the Farm Credit Administration in the case of a bank that is an institution in the Farm Credit System. *See* the discussion under subheading "Definition of 'bank" in this preamble, below.) The regulations, however, do not provide relief for an inadvertent failure of the supervisory authority to issue an express determination letter. Service examiners generally will not know whether the failure to issue the letter was intentional or inadvertent.

b. Deduction required. Commentators objected to the requirement that banks claim a deduction for all debts that qualify for the conformity presumption in the year the debts are charged off. More specifically, they requested that this requirement not apply in the case of partially worthless debts because, under existing rules, a bank may claim a deduction for a partially worthless debt in the year it charges off the debt or in a letter year until the debt becomes totally worthless.

The conformity presumption provides greater certainty and consistency in the tax treatment of bank bad debts by permitting a bank to elect to conform its tax accounting for bad debts to its regulatory accounting. Permitting a bank to claim a bad debt deduction for a year subsequent to the year in which a debt is charged off as worthless for regulatory purposes is inconsistent with tax-book conformity. The final regulations, therefore, continue the rule of the proposed regulations on this point.

In addition, the final regulations provide that, if a conformity election is in effect, a bad debt deduction for a debt that is subject to regulatory loss classification standards is allowed for a taxable year only to the extent that the debt is conclusively presumed to have become worthless under the presumption during that year. Only debt charge-offs that are outside the scope of the conclusive presumption because the debts are not subject to regulatory loss classification standards may be accounted for under the general rules of section 166. The proposed regulations cited reporting standards proposed by the Federal Financial Institutions Examination Council as an example of a situation in which debts would be outside the scope of the conclusive presumption. These proposed standards, however, have been withdrawn. See 56 FR 37214 (8–5–91). Most debts are subject to regulatory loss classification standards. Therefore, if a bank makes the conformity election, deductions will be allowed for such debts only for the year in which the debts are conclusively presumed to become worthless under these regulations.

Prop. Reg. § 1.166–2(d)(3)(iv): Election

a. Effective date. The conformity election was proposed to be available for taxable years ending after finalization of the regulations. Commentators requested that the regulations be effective retroactively for taxable years beginning after December 31, 1986. These commentators stated that the repeal of the section 585(b) reserve method of accounting for large banks for taxable years beginning after 1986 placed more of an emphasis on a bank's deductions for specific debts and increased the need for a conclusive presumption of worthlessness. In addition, they argued that the Office of the Comptroller of the Currency (the "OCC") changed its practice during those years and did not provide written letters confirming voluntary charge-offs of specific debts.

The final regulations are effective for taxable years ending on or after December 31, 1991. Prior to the publication of the regulations, banks presumably did not precisely conform their bad debt deductions and their classification of debts as loss assets. Moreover, their supervisory authorities were not making express determinations that the banks maintained and applied loan review and loss classification standards that were consistent with those of the supervisory authorities. This is an essential element of the regulations and precludes their retroactive application.

b. Election requirements. Under the proposed regulations, a bank elects the conformity presumption for a taxable year (and all succeeding taxable years) by attaching a written statement to its return in which it declares that certain requirements of the regulations are satisfied and will continue to be satisfied until the election is revoked. Some commentators objected to the "future compliance" portion of the declaration. Others requested that banks be permitted to make the conformity election on a bank-by-bank basis, rather than on a group basis.

In response to these comments, the final regulations do not require a bank to represent its future intent when making an election. They do require, however, that the bank represent at the time the election is made that the express determination requirement is met. In addition, the final regulations clarify that the election is to be made on a bank-by-bank basis, rather than on a group basis. This is the approach taken when banks adopt the reserve or specific charge-off method of accounting for bad debts and when large banks that are required to change from the reserve method of accounting pursuant to section 585(c) make elections with respect to that change.

c. Method of accounting. Under the proposed regulations, the making or revoking of the conformity election is a change in the bank's method of accounting. Commentators suggested that the making of the conformity election is not a method change but a change in the manner in which the Service audits bad debts.

The making or revoking of the conformity election affects the treatment of a material item in that it changes the timing of a bank's bad debt deduction. Accordingly, the final regulations continue to treat the making or revoking of the election as a change in method of accounting. Therefore, the regulations require that the bank file a Form 3115 (Application for change in Accounting Method) when it makes or revokes the election. When making the election, the bank must provide a declaration that it currently satisfies the express determination requirement in the space provided on the form for "Other changes in method of accounting" (Schedule D, Part V of Form 3115, as revised in July of 1991). The form for the initial election must be attached to the bank's income tax return for the year of the election, and the Commissioner's consent will be granted automatically. The final regulations also provide similar rules for a new bank that adopts this method of accounting when it adopts its overall method of accounting for bad debts. To make a conformity election after a previous election has been revoked or to voluntarily revoke the election, the bank must obtain the advance consent of the Commissioner by filing a Form 3115 with the National Office pursuant to section 446(e) and § 1.446–1(e) (including any applicable procedure prescribed thereunder).

The change in method of accounting that results from making or revoking the conformity election is implemented under a cut-off approach and no adjustment under section 481(a) is required or permitted. The final regulations provide a special rule for the situation in which the book and tax bases of a debt are not equal as a result of there having been a partial charge-off for regulatory purposes for which no tax deduction was claimed by the time of the conformity election. Under this rule, the deduction reflecting the partial charge-off must be claimed in the first post-election year in which there is any further charge-off of the debt for regulatory purposes.

d. Transition period. The proposed regulations provide a transition rule that permits a bank to make the conformity election prior to receiving its first express determination from its supervisory authority. The proposed rules require a bank to represent that its internal loan review and loss classification process was not criticized by its supervisory authority on its most recent regulatory examination. Many commentators stated that few banks, for various reasons, would be able to make this representation. In response to this comment, the final regulations replace the "no criticism" representation with a requirement that the bank represent that it maintains and applies loan review and loss classification standards that are consistent with those of its supervisory authority, *i.e.*, its appropriate Federal banking agency.

Prop. Reg. § 1.166–2(d)(3)(v): Revocation by Commissioner

The proposed regulations authorize the Commissioner to revoke a conformity election, but only if the bank fails to satisfy the conformity requirements for any taxable year or if it has claimed deductions that exceed those warranted by the exercise of reasonable business judgment in applying the regulatory standards. Commentators argued that the Commissioner should not be authorized to revoke a conformity election if a bank substantially complies with the election's requirements. Commentators also requested clarification as to whether a bank's failure to satisfy the conformity requirements or a bank's claiming of excessive deductions automatically revoked the election or were merely grounds for revocation by the Commissioner.

A supervisory authority's express determination, as described in Rev. Proc. 92–18, permits some flexibility in the application of a bank's loan review and loss classification standards, in that immaterial deviations from regulatory standards in the case of individual loans do not preclude the issuance of an express determination. In view of this flexibility, the final regulations do not adopt a substantial compliance standard.

The final regulations clarify that a bank's claiming of excessive charge-offs and deductions under the conformity election is merely grounds for revocation of that election by the Commissioner and does not result in automatic revocation. The final regulations also clarify that the Commissioner may revoke a conformity election if a bank fails to follow the method of accounting dictated by the election.

The final regulations do provide, however, that an election is revoked automatically if a bank fails to obtain the requisite express determination. The revocation generally is effective as of the beginning of the taxable year that includes the date as of which the bank's loans were examined. If the bank relied on the transition rule for making the conformity election prior to its first opportunity to obtain an express determination, the revocation is effective as of the beginning of the taxable year of the bank's conformity election or, if later, the earliest taxable year for which tax may be assessed.

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Prop. Reg. § 1.166–2(d)(4): Definitions

a. Definition of "bank". The proposed regulations define a "bank" with reference to section 581 and, therefore, the term does not include foreign banks. Commentators asked that the definition be broadened to include banks incorporated outside the United States that carry on a banking business effectively connected with the United States, and institutions in the Farm Credit System regulated by the Farm Credit Administration. In response to these comments, the final regulations expand the definition of "bank" to include banks described in section 585(a)(2)(B). Accordingly, foreign banks may qualify for the conformity presumption with respect to loans the interest on which is effectively connected with the conduct of a banking business within the United States. In addition, the final regulations treat institutions in the Farm Credit System as banks for purposes of the conformity election.

b. Definition of "charge-off". A "charge-off" is defined by the proposed regulations to include, for banks regulated by the Office of Thrift Supervision (the "OTS"), the establishment of specific allowances for loan losses in the amount of 100 percent of the portion of the debt classified as loss. Commentators stated that this definition should be expanded to cover specific reserves established by banks that are not regulated by the OTS. Commentators also requested that the definition of charge-off be expanded to cover allocated transfer risk reserves ("ATRRs").

Because OTS is the only supervisory authority that requires the establishment of specific reserves in lieu of actual write-downs of loans, it is not appropriate that these regulations broaden the definition of charge-off in the manner requested. Revenue Ruling 84–94, 1984–1 C.B. 34, provides that banks that are directed by the Federal banking agencies to establish ATRRs are treated as having been specifically ordered to charge off amounts in the ATRRs for purposes of the existing conclusive presumption under § 1.166–2(d)(1). Because this revenue ruling was issued prior to adoption of the conformity election, the Service is revising and republishing the ruling concurrently with the issuance of these final regulations to extend the holding to banks that make the conformity election. See Rev. Rul. 92–14, released concurrently with these regulations, to be published in Internal Revenue Bulletin 1992–10, (March 9, 1992).

Interest on Nonperforming Loans

Several commentators requested that the conformity presumption be extended to the nonaccrual of interest on nonperforming loans. This issue is beyond the scope of these regulations. For an in-depth analysis of the appropriateness of applying a tax-book conformity standard to interest accruals on nonperforming loans, see Report to the Congress on the Tax Treatment of Bad Debts by Financial Institutions, *supra.*

Special Analyses

It has been determined that these rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations and, therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking for these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Bernita L. Thigpen, Office of the Assistant Chief Counsel (Financial Institutions and Products), Internal Revenue Service. However, personnel from other offices of the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR 1.161–1 Through 1.194–4

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, title 26, chapter I, parts 1 and 602 of the Code of Federal Regulations are amended as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. The authority for part 1 continues to read in part:

Authority: Sec. 7805, 68A Stat. 917 (26 U.S.C. 7805) * * *

Par. 2. Section 1.166–2 is amended by adding new paragraphs (d)(3) and (d)(4) to read as follows:

§ 1.166–2 Evidence of worthlessness.

* * * * *

(d) * * *

(3) *Conformity election*—(i) *Eligibility for election.* In lieu of applying paragraphs (d)(1) and (2) of this section, a bank (as defined in paragraph (d)(4)(i) of this section) that is subject to supervision by Federal authorities, or by state authorities maintaining substantially equivalent standards, may elect under this paragraph (d)(3) to use a method of accounting that establishes a conclusive presumption of worthlessness for debts, provided that the bank meets the express determination requirement of paragraph (d)(3)(iii)(D) of this section for the taxable year of the election.

(ii) *Conclusive presumption*—(A) *In general.* If a bank satisfies the express determination requirement of paragraph (d)(3)(iii)(D) of this section and elects to use the method of accounting under this paragraph (d)(3)—

(*1*) Debts charged off, in whole or in part, for regulatory purposes during a taxable year are conclusively presumed to have become worthless, or worthless only in part, as the case may be, during that year, but only if the charge-off results from a specific order of the bank's supervisory authority or corresponds to the bank's classification of the debt, in whole or in part, as a loss asset, as described in paragraph (d)(3)(ii)(C) of this section; and

(*2*) a bad debt deduction for a debt that is subject to regulatory loss classification standards is allowed for a taxable year only to the extent that the debt is conclusively presumed to have become worthless under paragraph (d)(3)(ii)(A)(*1*) of this section during that year.

(B) *Charge-off should have been made in earlier year.* The conclusive presumption that a debt is worthless in the year that it is charged off for regulatory purposes applies even if the bank's supervisory authority determines in a subsequent year that the charge-off should have been made in an earlier year. A pattern of charge-offs in the wrong year, however, may result in revocation of the bank's election by the Commissioner pursuant to paragraph (d)(3)(iv)(D) of this section.

(C) *Loss asset defined.* A debt is classified as a loss asset by a bank if the bank assigns the debt to a class that corresponds to a loss asset classification under the standards set forth in the "Uniform Agreement on the

Classification of Assets and Securities Held by Banks" (See Attachment to Comptroller of the Currency Banking Circular No. 127, Rev. 4-26-91, Comptroller of the Currency, Communications Department, Washington, DC 20219) or similar guidance issued by the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve, or the Farm Credit Administration; or for institutions under the supervision of the Office of Thrift Supervision, 12 CFR 563.160(b)(3).

(iii) *Election*—(A) *In general.* An election under this paragraph (d)(3) is to be made on bank-by-bank basis and constitutes either the adoption of or a change in method of accounting, depending on the particular bank's facts. A change in method of accounting that results from the making of an election under this paragraph (d)(3) has the effects described in paragraph (d)(3)(iii)(B) of this section.

(B) *Effect of change in method of accounting.* A change in method of accounting resulting from an election under this paragraph (d)(3) does not require or permit an adjustment under section 481(a). Under this cut-off approach—

(*1*) There is no change in the § 1.1011-1 adjusted basis of the bank's existing debts (as determined under the bank's former method of accounting for bad debts) as a result of the change in method of accounting;

(*2*) With respect to debts that are subject to regulatory loss classification standards and are held by the bank at the beginning of the year of change (to the extent that they have not been charged off for regulatory purposes), and with respect to debts subject to regulatory loss classification standards that are originated or acquired subsequent to the beginning of the year of change, bad debt deductions in the year of change and thereafter are determined under the method of accounting for bad debts prescribed by this paragraph (d)(3);

(*3*) With respect to debts that are not subject to regulatory loss classification standards or that have been totally charged off prior to the year of change, bad debt deductions are determined under the general rules of section 166; and

(*4*) If there was any partial charge-off of a debt in a prechange year, any portion of which was not claimed as a deduction, the deduction reflecting that partial charge-off must be taken in the first year in which there is any further charge-off of the debt for regulatory purposes.

(C) *Procedures*—(*1*) *In general.* A new bank adopts the method of accounting under this paragraph (d)(3) for any taxable year ending on or after December 31, 1991 (and for all subsequent taxable years) when it adopts its overall method of accounting for bad debts, by attaching a statement to this effect to its income tax return for that year. Any other bank makes an election for any taxable year ending on or after December 31, 1991 (and for all subsequent taxable years) by filing a completed Form 3115 (Application for Change in Accounting Method) in accordance with the rules of paragraph (d)(3)(iii)(C)(*2*) or (*3*) of this section. The statement or Form 3115 must include the name, address, and taxpayer identification number of the electing bank and contain a declaration that the express determination requirement of paragraph (d)(3)(iii)(D) of this section is satisfied for the taxable year of the election. When a Form 3115 is used, the declaration must be made in the space provided on the form for "Other changes in method of accounting." The words "ELECTION UNDER § 1.166-2(d)(3)" must be typed or legibly printed at the top of the statement or page 1 of the Form 3115.

(*2*) *First election.* The first time a bank makes this election, the statement or Form 3115 must be attached to the bank's timely filed return (taking into account extensions of time to file) for the first taxable year covered by the election. The consent of the Commissioner to make a change in method of accounting under this paragraph (d)(3) is granted, pursuant to section 446(e), to any bank that makes the election in accordance with this paragraph (d)(3)(iii)(C), provided the bank has not made a prior election under this paragraph (d)(3).

(*3*) *Subsequent elections.* The advance consent of the Commissioner is required to make any election under this paragraph (d)(3) after a previous election has been revoked pursuant to paragraph (d)(3)(iv) of this section. This consent must be requested under the procedures, terms, and conditions prescribed under the authority of section 446(e) and § 1.446-1(e) for requesting a change in method of accounting.

(D) *Express determination requirement.* In connection with its most recent examination involving the bank's loan review process, the bank's supervisory authority must have made an express determination (in accordance with any applicable administrative procedure prescribed hereunder) that the bank maintains and applies loan review and loss classification standards that are consistent with the regulatory standards of that supervisory authority. For purposes of this paragraph (d)(3)(iii)(D), the supervisory authority of a bank is the "appropriate Federal banking agency" for the bank, as that term is defined in 12 U.S.C. 1813(q) or, in the case of an institution in the Farm Credit System, the Farm Credit Administration.

(E) *Transition period election.* For taxable years ending before completion of the first examination of the bank by its supervisory authority (as defined in paragraph (d)(3)(iii)(D) of this section) that is after December 31, 1991, and that involves the bank's loan review process, the statement or Form 3115 filed by the bank must include a declaration that the bank maintains and applies loan review and loss classification standards that are consistent with the regulatory standards of that supervisory authority. A bank that makes this declaration is deemed to satisfy the express determination requirement of paragraph (d)(3)(iii)(D) of this section for those years, even though an express determination has not yet been made.

(iv) *Revocation of Election*—(A) *In general.* Revocation of an election under this paragraph (d)(3) constitutes a change in method of accounting that has the effects described in paragraph (d)(3)(iv)(B) of this section. If an election under this paragraph (d)(3) has been revoked, a bank may make a subsequent election only under the provisions of paragraph (d)(3)(iii)(C)(*3*) of this section.

(B) *Effect of change in method of accounting.* A change in method of accounting resulting from revocation of an election under this paragraph (d)(3) does not require or permit an adjustment under section 481(a). Under this cut-off approach—

(*1*) There is no change in the § 1.1011-1 adjusted basis of the bank's existing debts (as determined under this paragraph (d)(3) method or any other former method of accounting used by the bank with respect to its bad debts) as a result of the change in method of accounting; and

(*2*) Bad debt deductions in the year of change and thereafter with respect to all debts held by the bank, whether in existence at the beginning of the year of change or subsequently originated or acquired, are determined under the new method of accounting.

(C) *Automatic revocation*—(*1*) *In general.*—A bank's election under this paragraph (d)(3) is revoked automatically if, in connection with any examination involving the bank's loan review process by the bank's supervisory authority as defined in paragraph (d)(3)(iii)(D) of this section, the bank does not obtain the express determination required by that paragraph.

(*2*) *Year of revocation.* If a bank makes the conformity election under the transition rules of paragraph (d)(3)(iii)(E) of this section and does not obtain the express determination in connection with the first examination involving the bank's loan review process that is after December 31, 1991, the election is revoked as of the beginning of the taxable year of the election or, if later, the earliest taxable year for which tax may be assessed. In other cases in which a bank does not obtain an express determination in connection with an examination of its loan review process, the election is revoked as of the beginning of the taxable year that includes the date as of which the supervisory authority conducts the examination, even if the examination is completed in the following taxable year.

(*3*) *Consent granted.* Under the Commissioner's authority in section 446(e) and § 1.446–1(e), the bank is directed to and is granted consent to change from this paragraph (3)(1) method as of the year of revocation (year of change) prescribed by paragraph (d)(3)(iv)(C)(*2*) of this section.

(*4*) *Requirements.* A bank changing its method of accounting under the automatic revocation rules of this paragraph (d)(3)(iv)(C) must attach a completed Form 3115 to its income tax return for the year of revocation prescribed by paragraph (d)(3)(iv)(C)(*2*) of this section. The words "REVOCATION OF § 1.166–2(d)(3) ELECTION" must be typed or legibly printed at the top of page 1 of the Form 3115. If the year of revocation is a year for which the bank has already filed its income tax return, the bank must file an amended return for that year reflecting its change in method of accounting and must attach the completed Form 3115 to that amended return. The bank also must file amended returns reflecting the new method of accounting for all subsequent taxable years for which returns have been filed and tax may be assessed.

(D) *Revocation by Commissioner.* An election under this paragraph (d)(3) may be revoked by the Commissioner as of the beginning of any taxable year for which a bank fails to follow the method of accounting prescribed by this paragraph. In addition, the Commissioner may revoke an election as of the beginning of any taxable year for which the Commissioner determines that a bank has taken charge-offs and deductions that, under all facts and circumstances existing at the time, were substantially in excess of those warranted by the exercise of reasonable business judgment in applying the regulatory standards of the bank's supervisory authority as defined in paragraph (d)(3)(III)(D) of this section.

(E) *Voluntary revocation.* A bank may apply for revocation of its election made under this paragraph (d)(3) by timely filing a completed Form 3115 for the appropriate year and obtaining the consent of the Commissioner in accordance with section 446(e) and § 1.446–1(e) (including any applicable administrative procedures prescribed thereunder). The words "REVOCATION OF § 1.166–2(d)(3) ELECTION" must be typed or legibly printed at the top of page 1 of the Form 3115. If any bank has had its election automatically revoked pursuant to paragraph (d)(3)(iv)(C) of this section and has not changed its method of accounting in accordance with the requirements of that paragraph, the Commissioner will require that any voluntary change in method of accounting under this paragraph (d)(3)(iv)(E) be implemented retroactively pursuant to the same amended return terms and conditions as are prescribed by paragraph (d)(3)(iv)(C) of this section.

(4) *Definitions.* For purposes of this paragraph (d)—

(i) *Bank.* The term "bank" has the meaning assigned to it by section 581. The term "bank" also includes any corporation that would be a bank within the meaning of section 581 except for the fact that it is a foreign corporation, but this paragraph (d) applies only with respect to loans the interest on which is effectively connected with the conduct of a banking business within the United States. In addition, the term "bank" includes a Farm Credit System institution that is subject to supervision by the Farm Credit Administration.

(ii) *Charge-off.* For banks regulated by the Office of Thrift Supervision, the term "charge-off" includes the establishment of specific allowances for loan losses in the amount of 100 percent of the portion of the debt classified as loss.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 3. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 4. Section 602.101(c) is amended by adding the following entry to the table, "1.166–2 . . . 1545–1254".

Michael J. Murphy,
Acting Commissioner of Internal Revenue.

Approved: January 15, 1992.

Kenneth W. Gideon,
Assistant Secretary of the Treasury.

[FR Doc. 92–4088 Filed 2–21–92; 8:45 am]

BILLING CODE 4830-01-M

Office of Foreign Assets Control

31 CFR Parts 500, 515, 520, 535, and 575

Foreign Assets Control Regulations, Cuban Assets Control Regulations, Foreign Funds Control Regulations, Iranian Assets Control Regulations, and Iraqi Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Final rule, amendments.

SUMMARY: This rule amends the Foreign Assets Control Regulations, 31 CFR part 500, the Cuban Assets Control Regulations, 31 CFR part 515, the Foreign Funds Control Regulations, 31 CFR part 520, the Iranian Assets Control Regulations, 31 CFR part 535, and the Iraqi Sanctions Regulations, 31 CFR part 575 (collectively, the "Regulations"), to publish the authorization number assigned by the Office of Management and Budget to the information collection requirements contained in the Regulations.

EFFECTIVE DATE: December 19, 1991.

FOR FURTHER INFORMATION: William B. Hoffman, Chief Counsel (tel.: 202/535–6020), or Steven I. Pinter, Chief of Licensing (tel.: 202/535–9449), Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

SUPPLEMENTARY INFORMATION: Pursuant to the requirements of the Paperwork Reduction Act, 44 U.S.C. 3501, the Office of Foreign Assets has sought and received approval from the Office of Management and Budget for the information collection requirements of the Regulations. The authorization number reflecting this approval is being inserted into the Regulations.

Because the Regulations involve a foreign affairs function, Executive Order 12291 and the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, does not apply.

List of subjects in 31 CFR Parts 500, 515, 520, 535 and 575

Administrative practice and procedure.

For the reasons set forth in the preamble, 31 CFR Parts 500, 515, 520, 535 and 575 are amended as follows:

PART 500—FOREIGN ASSETS CONTROL REGULATIONS

1. The authority citation for part 500 continues to read as follows:

Authority: 50 U.S.C. App. 5, as amended; E.O. 9193, 7 FR 5205, 3 CFR 1938–1943 Cum. Supp., p. 1174; E.O. 9989, 13 FR 4891, 3 CFR, 1943–1948 Comp., p. 748.

Subpart H—Miscellaneous Provisions

§ 500.901 Paperwork Reduction Act notice.

2. In § 500.901, remove control number "1505–0075" and add control number "1505–0096" in its place.

PART 515—CUBAN ASSETS CONTROL REGULATIONS

1. The authority citation for part 515 continues to read as follows:

Authority: 50 U.S.C. App. 5, as amended; 22 U.S.C. 2370(a); Proc. 3447, 27 FR 1085, 3 CFR, 1959–1963 Comp.; E.O. 9193, 7 FR 5205, 3 CFR 1938–1943 Cum. Supp., p. 1174; E.O. 9989, 13 FR 4891, 3 CFR, 1943–1948 Comp., p. 748.

Subpart I—Miscellaneous Provisions

2. Section 515.901 is revised to read as follows:

§ 515.901 Paperwork Reduction Act notice.

The information collection requirements in §§ 515.527(c), 515.542(c), 515.543, 515.544(a) and (b), 515.545(a)(1) and (2), 515.545(b), 515.546, 515.547, 515.548, 515.549(a) and (b), 515.550, 515.551(a)(1), (2), and (3), 515.552(a)(1), (2), and (3), 515.553, 515.554, 515.555, 515.556, 515.557, 515.558, 515.559, 515.560(i), 515.563(d), 515.565, and 515.801 have been approved by the Office of Management and Budget under the Paperwork Reduction Act and assigned control number 1505–0096. Collection of information on TDF 90–22.39, "Declaration, Travel to Cuba," has been approved by the Office of Management and Budget under the Paperwork Reduction Act and assigned control number 1505–0118.

PART 520—FOREIGN FUNDS CONTROL REGULATIONS

1. The authority citation for part 520 is revised to read as follows:

Authority: 50 U.S.C. App. 5, as amended; E.O. 8389, 5 FR 1400, as amended by E.O. 8785, 6 FR 2897, E.O. 8832, 6 FR 3715, E.O. 8963, 6 FR 2897, E.O. 8832, 6 FR 3715, E.O. 8963, 6 FR 6348, E.O. 8998, 6 FR 6785, E.O. 9193, 7 FR 5205; 3 CFR, 1938–1943 Cum. Supp., p. 1174; E.O. 10348, 17 FR 3769, 3 CFR, 1949–1953 Comp., p. 871; E.O. 11281, 31 FR 7215, 3 CFR, 1966–1970 Comp., p. 546.

Subpart I—Miscellaneous Provisions

§ 520.901 Paperwork Reduction Act notice.

2. In § 520.901, remove control number "1505–0075" and add control number "1505–0096" in its place.

PART 535—IRANIAN ASSETS CONTROL REGULATIONS

1. The authority citation for part 535 continues to read as follows:

Authority: Secs. 201–207, 91 Stat. 1626; 50 U.S.C. 1701–1706; E.O. 12170, 44 FR 65729; E.O. 12205, 45 FR 24099; E.O. 12211, 45 FR 26685;

Subpart I—Miscellaneous Provisions

§ 535.905 Paperwork Reduction Act notice.

2. Remove control number "1505–0075" and add in its place control number "1505–0096."

PART 575—THE IRAQI SANCTIONS REGULATIONS

1. The Authority citation for part 575 continues to read as follows:

Authority: 50 U.S.C. *et seq.*; 50 U.S.C. 1601 *et seq.*; 22 U.S.C. 287c; Public Law 101–513, 104 Stat. 2047–55 (Nov. 5, 1990); 3 U.S.C. 301; E.O. 12722, 55 FR 31803 (August 3, 1990); E.O. 12724, 55 FR 33089 (August 13, 1990).

Subpart I—Paperwork Reduction Act

2. Section 575.901 is added to read as follows:

§ 575.901 Paperwork Reduction Act notice.

The information collection requirements in §§ 575.202(d), 575.503, 575.506, 575.509–575.511, 575.517, 575.518, 575.520, 575.521, 575.601, 575.602, 575.603, 575.703, and 575.801 have been approved by the Office of Management and Budget and assigned control number 1505–0130. The information collection requirements of § 575.604 and the use of agency form TDF 90–22.40 have been approved by the Office of Management and Budget and assigned control number 1505–0128. The information collection requirements of § 575.605 and the use of agency form 90–22.41 have been approved by the Office of Management and Budget and assigned control number 1505–0129.

Dated: January 23, 1992.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: January 27, 1992.

Peter K. Nunez,

Assistant Secretary (Enforcement).

[FR Doc. 92–4114 Filed 2–19–92; 10:21 am]

BILLING CODE 4810-25-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 625

[Docket No. 911194-1294]

Summer Flounder Fishery; Correction

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Emergency interim rule; correction.

SUMMARY: This document corrects errors in the emergency interim rule for the Fishery Management Plan for the Summer Flounder Fishery, which was published December 5, 1991 (56 FR 63685).

EFFECTIVE DATE: December 2, 1991 through March 5, 1992.

FOR FURTHER INFORMATION CONTACT: Richard G. Seamans, Jr., Senior Resource Policy Analyst, 508/281–9244, or Phil Williams, NMFS, National Sea Turtle Coordinator, 301/713–2322.

In rule document 91–29179 beginning on page 63685, in the issue of Thursday, December 5, 1991, make the following corrections to the **SUPPLEMENTARY INFORMATION** section:

1. On page 63686, under the heading "Sea Turtle Conservation," in the third column, on the 21st line from the bottom, remove the words "Street, 1987"; and on the third line from the bottom, remove "; Ross, *et al.*, 1990; Ross, 1991".

2. On page 63687, in the first column, on the seventh line from the top of the page, insert "(Ross *et al.*, 1990; Ross, 1991)" after the words "turtle increases".

3. On page 63687, in the first column, replace the paragraph beginning on the eighth line from the top of the page, with the following paragraph: "In November and December, 1982, 144 sea turtles stranded on North Carolina beaches, including five Kemp's ridleys (Crouse, 1985). The National Academy of Sciences report, *The Decline of Sea Turtle: Causes and Prevention*, analyzed

sea turtle stranding data from 1980–1986 from North Carolina ocean beaches and concluded that winter mortality of sea turtles in this area might be caused by groundfish trawling or cold stunning north of Cape Hatteras."

4. On page 63688, under the heading "Sea Turtle Conservation Measures," in the second column, on the 31st line from the bottom, insert the words "and Virginia in the EEZ" after the words "North Carolina".

Dated: February 18, 1992.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 92–4176 Filed 2–21–92; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 57, No. 36
Monday, February 24, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Chapter 1

Issuance of Quarterly Report on the Regulatory Agenda

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of regulatory agenda.

SUMMARY: The Nuclear Regulatory Commission (NRC) has issued the NRC Regulatory Agenda for the fourth quarter, October through December, of 1991. The agenda is issued to provide the public with information about NRC's rulemaking activities. The Regulatory Agenda is a quarterly compilation of all rules on which the NRC has recently completed action, or has proposed action, or is considering action, and of all petitions for rulemaking that the NRC has received that are pending disposition.

ADDRESSES: A copy of this report, designated NRC Regulatory Agenda (NUREG–0936) Vol. 10, No. 4, is available for inspection, and copying for a fee, at the Nuclear Regulatory Commission's Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC.

In addition, the U.S. Government Printing Office (GPO) sells the NRC Regulatory Agenda. To purchase it, a customer may call (202) 512–2303 or (202) 512–2249 or write to the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013–7082.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Chief, Rules Review Section; Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492–7758, toll-free number (800) 368–5642.

Dated at Bethesda, Maryland, this 13th day of February 1992.

For the Nuclear Regulatory Commission.

Donnie H. Grimsley,

Director, Division of Freedom of Information and Publications Services, Office of Administration.

[FR Doc. 92–4174 Filed 2–21–92; 8:45 am]

BILLING CODE 7590-01-M

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10 CFR Chapter I

Special Review of NRC Regulations

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for comments.

SUMMARY: The Nuclear Regulatory Commission (NRC) is seeking public comment in connection with a special review of NRC regulations to determine whether regulatory burdens can be reduced without in any way reducing the protection for public health and safety and the common defense and security. The special review was directed by the Commission in a memorandum issued to the NRC staff on February 7, 1992. The review will be conducted by the NRC Committee to Review Generic Requirements (CRGR). The CRGR review effort is to be completed by April 10, 1992.

This request for comments is related to an earlier request for comments published in the **Federal Register** on February 4, 1992 (57 FR 4166), on the results of NRC's continuing, long term program to identify and eliminate regulatory requirements of marginal safety importance. Interested parties may wish to consider the information in the February 4, 1992 notice in developing a response to this request. The special review by CRGR will draw upon the results of that program (and any other relevant prior reviews identified).

DATES: Comment period expires March 6, 1992. To assure timely consideration in the context of the special review of regulations by CRGR, comments submitted in response to this notice must be received by close-of-business (COB), on March 6, 1992. (Because of the short response time, comments submitted in response to this notice that are received after COB on March 6, 1992, will receive consideration as comments in response to the February 4 notice, if applicable, and if received before expiration of the comment period specified in the February 4 notice.)

ADDRESSES: Mail comments to: David L. Meyer, Chief, Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Comments may be hand-delivered to: Room P–223, 7920 Norfolk Avenue, Bethesda, Maryland, between 7:30 am. and 4:15 pm., Federal workdays.

FOR FURTHER INFORMATION CONTACT: James Conran or Dennis Allison, Office for Analysis and Evaluation of Operational Data, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 492–9855 or (301) 492–4148.

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission (NRC) has directed that existing NRC regulations be reviewed to determine whether regulatory burdens can be reduced without in any way reducing the protection for public health and safety and the common defense and security. Guidance on how the NRC staff is to proceed in undertaking this effort was provided in a memorandum to the staff issued by the Commission on February 7, 1992. The Commission's memorandum noted:

> On January 28, 1992, President Bush issued two memoranda relating to regulatory reviews. In the first memorandum, the President requested the Commission and other energy and environmental agencies to work together to streamline duplicative or inconsistent regulatory requirements. In the second memorandum, the President requested all Federal agencies to set aside a 90 day period to evaluate existing regulations and programs and to identify and accelerate action on initiatives that will eliminate any unnecessary regulatory burden or otherwise promote economic growth. New regulations are not to be issued in proposed or final form during this review period unless certain specified criteria are met.
>
> While it is not clear that a response by an independent regulatory agency is mandatory, the Commission nevertheless believes that it can address many aspects and the spirit of the memoranda without violating our basic statutory responsibilities. This memorandum provides guidance on how this will be done.

The Commission's memorandum directed the NRC Committee on Review of Generic Requirements (CRGR) to conduct a review of existing NRC regulations to determine whether regulatory burdens can be reduced without in any way reducing the protection of public health and safety and the common defense and security.

The NRC Committee to Review Generic Requirements (CRGR) was created in 1981 by the Commission to examine proposed new generic requirements and proposed changes to existing requirements for operating power reactors, to help assure that NRC actions do not impose unnecessary regulatory burdens. Because the CRGR and the Commission have carefully scrutinized generic regulatory requirements promulgated since that time, the primary focus of the special review to be conducted by CRGR will be on those NRC regulations promulgated prior to the creation of the CRGR, particularly those set forth in 10 CFR part 50.

In conducting this special review, the CRGR will use appropriate input from the public (including the industry and environmental groups), the NRC staff, and other Federal agencies. This special review by CRGR will also draw upon any relevant prior reviews, e.g., the NRC program to identify and eliminate requirements marginal to safety. The results of the NRC program to identify and eliminate requirements marginal to safety were described in an earlier notice published on February 4, 1992. Individuals who intend to submit comments regarding the special review of regulations by CRGR should be aware of the information in the February 4 notice, and should take into account that information in developing comments for the special review.

As a part of the special review by CRGR, a public meeting will be held in the Washington, DC area; that meeting is tentatively scheduled for March 27, 1992. Further details regarding this public meeting (i.e., exact meeting date, location, agenda, etc.) will be published in a subsequent notice prior to the meeting, as those details become available.

Interested parties are requested to provide comment on any consideration that bears significantly on the stated objectives of the special CRGR review. In doing so, commenters are requested to address the following questions (in addition to the specific questions posed for comment in the February 4, 1992, notice, as appropriate, and to the extend possible at this time):

1. Is it feasible for the NRC to consider early reduction or elimination of any existing requirements?

2. Are there likely candidates for early reduction or elimination identified in the earlier NRC staff study referred to in the February 4, 1992 notice? If so, what should be the priority (sequence and schedule) for their treatment?

3. Are there likely candidates for early reduction or elimination that were not identified in the earlier NRC staff study referred to in the February 4, 1992 notice?

4. Have adequate evaluations of safety importance and regulatory burden been completed for any identified potential candidates, including those identified by the NRC staff in the February 4, 1992 notice, or any new or different candidates identified by commenters in response to this notice?

Dated at Bethesda, Maryland, this 20th day of February, 1992.

For The Nuclear Regulatory Commission.

Edward L. Jordan,

Director, Office for Analysis and Evaluation of Operational Data.

[FR Doc. 92-4246 Filed 2-21-92; 8:45 am]

BILLING CODE 7590-01-M

TENNESSEE VALLEY AUTHORITY

18 CFR Part 1301

Freedom of Information Act

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Proposed rule.

SUMMARY: The Tennessee Valley Authority is proposing to amend its regulations to provide procedures for requesting a waiver or reduction of fees for records requested through the Freedom of Information Act.

DATES: Comments must be received by March 25, 1992.

ADDRESSES: Comments should be sent to Linda E. Blevins, Tennessee Valley Authority, 1101 Market Street (EB 4B), Chattanooga, TN 37402-2801. As a convenience to commenters, TVA will accept public comments transmitted by facsimile ("FAX") machine. The telephone number of the FAX receiver is (615) 751-3010. Receipt of FAX transmittals will not be acknowledged.

FOR FURTHER INFORMATION CONTACT: Linda E. Blevins, (615) 751-2524.

SUPPLEMENTARY INFORMATION:

List of Subjects in 18 CFR Part 1301

Administrative practice and procedure, Freedom of Information Privacy Act, Sunshine Act.

For the reasons set forth in the preamble, title 18, chapter XIII of the Code of Federal Regulations is proposed to be amended as follows:

PART 1301—PROCEDURES

1. The authority citation for part 1301, subpart A, continues to read as follows:

Authority: 16 U.S.C. 831-831dd, 5 U.S.C. 552.

2. Section 1301.3 is added to read as follows:

§ 1301.3 Waiver or reduction of fees.

(a) Records responsive to a request under 5 U.S.C. 552 shall be furnished without charge or at a charge reduced below that established under section 1301.2 where TVA determines, based upon information provided by a requester in support of a fee waiver request or otherwise made known to TVA, that disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester. Requests for a waiver or reduction of fees, which shall be made at the same time as the requests for records, shall be considered on a case-by-case basis.

(b) In order to determine whether the first fee waiver requirement is met—i.e., that disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government—TVA shall consider the following four factors in sequence:

(1) The subject of the request: Whether the subject of the requested records concerns "the operations or activities of the government." The subject matter of the requested records, in the context of the request, must specifically concern identifiable operations or activities of the Federal Government—with a connection that is direct and clear, not remote or attenuated. Furthermore, the records must be sought for their informative value with respect to those government operations or activities; a request for access to records for their intrinsic informational content alone will not satisfy this threshold consideration.

(2) The informational value of the information to be disclosed: Whether the disclosure is "likely to contribute" to an understanding of government operations or activities. The disclosable portions of the requested records must be meaningfully informative on specific government operations or activities in order to hold potential for contributing to increased public understanding of those operations and activities. The disclosure of information that already is in the public domain, in either a

duplicative or a substantially identical form, would not be likely to contribute to such understanding, as nothing new would be added to the public record.

(3) The contribution to an understanding of the subject by the public likely to result from disclosure: Whether disclosure of the requested information will contribute to "public understanding."

The disclosure must contribute to the understanding of the public at large, as opposed to the individual understanding of the requester or a narrow segment of interested persons. A requester's identity and qualification—e.g., expertise in the subject area and ability and intention to effectively convey information to the general public—should be considered. It reasonably may be presumed that a representative of the news media (as defined in paragraph 1301.2(b)(7)) who has access to the means of public dissemination readily will be able to satisfy this consideration. Requests from libraries or other record repositories (or requesters who intend merely to disseminate information to such institutions) shall be analyzed, like those of other requesters, to identify a particular person who represents that he actually will use the requested information in scholarly or other analytic work and then disseminate it to the general public.

(4) The significance of the contribution to public understanding: Whether the disclosure is likely to contribute "significantly" to public understanding of government operations or activities. The public's understanding of the subject matter in question, as compared to the level of public understanding existing prior to the disclosure, must be likely to be enhanced by the disclosure to a significant extent. TVA shall not make separate value judgments as to whether information, even though it in fact would contribute significantly to public understanding of the operations or activities of the government, is "important" enough to be made public.

(c) In order to determine whether the second fee waiver requirement is met—i.e., that disclosure of the requested information is not primarily in the commercial interest of the requester—TVA shall consider the following two factors in sequence:

(1) The existence and magnitude of a commercial interest: Whether the requester has a commercial interest that would be furthered by the requested disclosure. TVA shall consider all commercial interests of the requester (with reference to the definition of "commercial use" in paragraph 1301.2(b)(4)), or any person on whose behalf the requester may be acting, but shall consider only those interests which would be furthered by the requested disclosure. In assessing the magnitude of identified commercial interests, consideration shall be given to the role that such FOIA-disclosed information plays with respect to those commercial interests, as well as to the extent to which FOIA disclosures serve those interests overall. Requesters shall be given a reasonable opportunity in the administrative process to provide information bearing upon this consideration.

(2) The primary interest in disclosure: Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is "primarily in the commercial interest of the requester." A fee waiver or reduction is warranted only where, once the "public interest" standard set out in paragraph (b) of this section is satisfied, that public interest can fairly be regarded as greater in magnitude than that of the requester's commercial interest in disclosure. TVA shall ordinarily presume that, where a news media requester has satisfied the "public interest" standard, that will be the interest primarily served by disclosure to that requester. Disclosure to data brokers or others who compile and market government information for direct economic return shall not be presumed to primarily serve the "public interest."

(d) Where only a portion of the requested records satisfies both of the requirements for a waiver or reduction of fees under this paragraph, a waiver or reduction shall be granted only as to that portion.

(e) Requests for the waiver or reduction of fees shall address each of the factors listed in paragraphs (b) and (c) of this section, as they apply to each record request.

(f) A denial of a request for reduced fees or of a request for waiver of fees, in whole or in part, will be made in writing, will state the reasons for the denial, and will notify the requester of the right to appeal the denial. The appeal process for denial of a fee waiver or reduction of fees shall be identical to the appeal process for denial of a requested record and shall be subject to the procedures detailed in section 1301.1(c)(2).

Louis S. Grande,

Vice President, Information Services.

[FR Doc. 91-4107 Filed 2-21-92; 8:45 am]

BILLING CODE 8120-08-M

DEPARTMENT OF LABOR

Office of the Secretary

20 CFR Chs. I, IV, V, VI, VII, and IX

29 CFR Subtitle A and Chs. II, IV, V, XVII, and XXV

30 CFR Ch. I

41 CFR Ch. 50, Ch. 60, and Ch. 61

48 CFR Ch. 29

Federal Regulatory Review

AGENCY: Office of the Secretary, Labor.

ACTION: Request for comments on Department of Labor Regulations.

SUMMARY: The President has directed that the Department and other federal agencies use the ninety day period beginning January 28, 1992,

> . . . to evaluate existing regulations and programs and to identify and accelerate action on initiatives that will eliminate any unnecessary regulatory burden or otherwise promote economic growth.

A part of this effort, the President also has directed that the Department should work with the public and other interested parties to try to identify those regulations and programs, both under consideration and currently in place, that impose substantial costs on the economy relative to the benefits achieved or otherwise impose detrimental burdens on the economy and on economic growth.

As part of this review effort, the Department is seeking comments and suggestions from the public on current regulations and those under consideration in terms of the burdens placed on the economy, inhibitions to growth, and benefits achieved.

DATES: Comments are due by March 20, 1992.

ADDRESSES: Send comments to Roland G. Droitsch, Deputy Assistant Secretary for Policy, U.S. Department of Labor, room S-2312, Frances Perkins Building, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Roland G. Droitsch, Deputy Assistant Secretary for Policy, U.S. Department of Labor. Telephone (202) 523-9058.

SUPPLEMENTARY INFORMATION: Excessive regulation and red tape can impose an enormous burden on our economy—a hidden tax on American households in the form of higher prices for goods and services. At the same time, regulations may facilitate the better working of labor and other markets, may promote both jobs and growth, and improve worker safety and health. The President has imposed a ninety-day moratorium on the issuance of any proposed or final rules that do not meet one of exemptions listed in his January 28, 1992 Memorandum on Reducing the burden of Government Regulation, which are also discussed in the January 30, 1992 White House Fact Sheet, to all the Department of Labor and other federal agencies the time to get in the process of wedding out unnecessary and burdensome government regulations—those that impose needles costs on consumer and substantially impede economic growth and the competitiveness of American industry. Moreover, new technologies and markets can quickly make existing regulations obsolete and burdensome, even those that were fully justified when they were adopted. At the same time, existing regulations can impose unnecessary constraints on emerging technologies and markets that could not have been foreseen at the time the regulations were promulgated.

With this in mind, the President has directed that the Department

(i) identify each of your agency's regulations and programs that impose a substantial cost on the economy, and

(ii) determine whether each such regulation or program adheres to the following standards:

(a) The expected benefits to society of any regulation should clearly outweigh the expected costs it imposes on society.

(b) Regulations should be fashioned to maximize net benefits to society.

(c) To the maximum extent possible, regulatory agencies should set performance standards instead of prescriptive command-and-control requirements, thereby allowing the regulated community to achieve regulatory goals at the lowest possible cost.

(d) Regulations should incorporate market mechanisms to the maximum extent possible.

(e) Regulations should provide clarity and certainty to the regulated community and should be designed to avoid needless litigation.

The Department's review of its regulations and programs will proceed in accordance with all applicable legal requirements and established regulatory review procedures, including all applicable requirements of the Administrative Procedure Act. Our review will also be guided by the purposes of objectives of the enabling statutes for the regulations and programs being reviewed.

Public comments concerning specific Department of Labor regulations are encouraged. Public comments may also be made on regulations of the Pension Benefit Guaranty Corporation. Commenters should address those regulations that appear to impose substantial costs on the economy, impose unnecessary constraints on emerging technologies and markets, substantially impede economic growth, or fail to achieve the benefits intended. Comments should include supporting examples or data on how economic growth was impeded, and should detail any evidence of excessive costs borne or new technologies that are being impeded in their adoption. Comments should also address ways that the Department's regulations and programs can be modified to better adhere to the standards set by the President above.

Most of the possible significant regulatory actions currently being considered by the Department of Labor are described in some detail in the document entitled the "Regulatory Program of the United States Government—April 1, 1991—March 31, 1992." This is available from the Superintendent of Documents (Stock Number 041–001–00362–2). Most of the Department's other regulations are listed in the semi-annual regulatory agenda (56 FR 53558).

Signed at Washington, DC, this 19th day of February, 1992.

Lynn Martin,

Secretary of Labor.

[FR Doc. 92–4252 Filed 2–21–92; 8:45 am]

BILLING CODE 4510-23-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 281

[FRL-4107-4]

Maine, Approval of State Underground Storage Tank Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of Tentative Determination on Application of Maine for Final Approval, Public Hearing and Public Comment Period.

SUMMARY: The purpose of this notice is to announce that: The Environmental Protection Agency (EPA) has received a complete application from the State of Maine requesting final approval of its Underground Storage Tank (UST) program under subtitle I of the Resource Conservation and Recovery Act (RCRA); EPA has reviewed Maine's application and has made the tentative decision that Maine's UST program satisfies all of the requirements necessary to qualify for final approval; Maine's application for final approval is now available for public review and copying; public comments are requested; and a public hearing will be held to solicit comments on the application, if there is significant interest.

DATES: A public hearing is scheduled for March 25, 1992. The State of Maine will participate in the public hearing held by EPA. The hearing will begin at 9 a.m. and will continue until the end of the testimony or 12 p.m., whichever comes first. Requests to present oral testimony must be filed by March 18, 1992. Written comments must be received by March 25, 1992. EPA reserves the right to cancel the hearing should there be no significant public interest. Those informing EPA of their intention to testify will be notified of the cancellation.

ADDRESSES: Comments and requests to testify should be mailed to: Rhona Julien, Underground Storage Tank Program, HPU CAN-7, U.S. EPA, Region I, JFK Federal Building, Boston, MA 02203.

Copies of Maine's final application for program approval are available 8 a.m.–4 p.m., Monday through Friday, at the following locations for review: Maine, Department of Environmental Protection, Bureau of Oil and Hazardous Materials Control, State House Station #17, Augusta, Maine 04333, Phone: (207) 289–6951; U.S. EPA Headquarters, Library, room 211A, 401 M Street, Washington, DC 20460, Phone: (202) 382–5926; U.S. EPA, Region I Library, 1 Congress Street, 11th Floor, Boston, MA 02203, Phone: (617) 565–3300.

EPA and Maine will hold the public hearing on March 25, 1992, in the Meeting Room of the Comfort Inn, 281 Civic Center Drive, Augusta, Maine. The hearing will begin at 9 a.m. and will continue until the end of testimony or 12 p.m., whichever comes first.

FOR FURTHER INFORMATION CONTACT: Rhona Julien, HPU CAN-7, Underground Storage Tank Program, U.S. EPA, Region I, JFK Federal Building, Boston, MA 02203, Phone: (617) 573–9655. Comments should also be sent to this address.

SUPPLEMENTARY INFORMATION:

A. Background

Section 9004 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6991c, enables EPA to authorize states to implement their own UST programs in lieu of the Federal UST program. Two types of approval may be granted. The first type, known as "interim approval" is a temporary approval which is granted if EPA determines that the state UST program is "no less stringent" than the Federal program (Section 9004(b) of RCRA, 42 U.S.C. 6991c(b)) in the following elements: corrective action, financial responsibility, notification requirements, and new tank standards. While operating under interim approval, the State may complete the development of "no less stringent" standards for the following elements: release detection, release detection record keeping, reporting of releases and corrective actions taken, and tank closure.

The second type is a "final approval" that is granted if EPA determines that the State program: (1) Is "no less stringent" than the Federal UST program in all of the following elements: corrective action, financial responsibility, new tank standards, release detection, release detection record keeping, release reporting, tank closure, and notification requirements of section 9004(a)(8) of RCRA, 42 U.S.C. 6991c(a)(8); and (2) provides for adequate enforcement of compliance with UST standards (Section 9004(a), 42 U.S.C. 6991c(a)).

B. Maine

On August 1, 1991, the State of Maine submitted a Draft application to EPA for program approval. Prior to this, the State, working with EPA, amended their UST rules, in order to meet the "no less stringent" federal requirements. Maine provided an opportunity for public comment on January 23, 1991, requesting comments on the amended regulations. A public hearing was held on April 25, 1991, and the regulations became effective on September 16, 1991.

In accordance with the requirements of 40 CFR 281.50(b), Maine provided an opportunity for public comment on June 20 and 21, 1991, requesting comments on Maine's intention to seek state UST program authorization. On December 20, 1991, EPA received a Final Application for program approval. Based on the review of the Maine state program, EPA has made a tentative determination that it meets all the requirements necessary to qualify for final approval. Consequently, EPA intends to grant final approval to the State of Maine to implement its UST program.

In accordance with section 9004(d) of RCRA, 42 U.S.C. 6991c(d) and 40 CFR 281.50(e), the Agency will hold a public hearing on its tentative determination on March 25, 1992, in Augusta, Maine from 9 a.m.–12 p.m. All written comments on EPA's tentative determination must be submitted by March 25, 1992. Copies of Maine's application are available for inspection and copying at the locations indicated in the "**ADDRESSES**" section of this notice.

The Maine Department of Environmental Protection, through the Bureau of Hazardous Materials Control is charged with the responsibility to develop standards and criteria for the design, installation, operation, maintenance, and monitoring of underground storage tanks to prevent UST related ground and surface water contamination, under the authority of 38 M.R.S.A. 561, *et seq.*, Maine's Underground Storage Tank Law, as amended. The statute includes provisions for the following:

(1) Authority to promulgate UST regulations for controlling underground storage facilities containing petroleum and related sludge, and chemical substances.

(2) Authority to impose administrative fines for violations of any provision of the statute.

(3) Authority to conduct compliance monitoring inspections and other enforcement activities.

(4) Notification requirements for owners of underground storage tanks including heating oil tanks.

(5) Establishment of petroleum clean-up fund. This is financed through licensing fees and tank assessment fees, and helps pay for cleanup and restoration of contaminated soil and groundwater caused by petroleum releases from USTs, and for third party damages.

EPA will consider all public comments on its tentative determination received during the public comment period or at the hearing. Issues raised by those comments may be the basis for a decision to deny final approval to Maine. EPA expects to make a final decision on whether or not to approve Maine's program within sixty (60) days after the date of the public hearing and will give notice of it in the **Federal Register**. The notice will include a summary of the reasons for the final determination and a response to all major comments.

Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirement of Section 3 of the Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to 5 U.S.C. 605(b), I hereby certify that this approval will not have a significant economic impact on a substantial number of small entities. This is due to the fact that approval of Maine's UST program effectively suspends the applicability of the Federal UST regulations, thereby eliminating duplicative requirements for owners and operators of underground storage tanks in Maine. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 281

Administrative practice and procedure, Hazardous substances, Insurance, Intergovernmental relations, Oil pollution, Reporting and recordkeeping requirements, Surety bonds, Water pollution control, Water supply.

Authority: This notice is issued under the authority of section 9004 of RCRA as amended, 42 U.S.C. 6991c.

Dated: February 18, 1992.

Julie Belaga,

Regional Administrator.

[FR Doc. 92-4257 Filed 2-21-92; 8:45 am]

BILLING CODE 6560-50-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

45 CFR Part 1150

Claims Collection

AGENCY: National Endowment for the Arts.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule will implement the Debt Collection Act of 1982 (the Act) and it will replace the existing National Endowment for the Arts, "Collection of Claims Under the Federal Claims Collection Act of 1966," published at title 45 of Code of Federal Regulations part 1150. The Act requires changes in the way the National Endowment for the Arts (Endowment) collects money owed it. This proposed rule will implement the provisions of the Act for reporting a debtor to a consumer reporting agency, provides authority to contract for private collection services, as well as identify procedures for administrative offset and salary offset. Each of these procedures contains safeguards for the debtor, while enhancing the Endowment's ability to collect money owed it.

DATES: Comments must be received on or before April 24, 1992.

ADDRESSES: Interested persons should submit comments to Amy R. Sabrin General Counsel, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506. Comments will be available for inspection at the above address from 9 a.m. to 5:30 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Karen L. Elias, 202-682-5418.

SUPPLEMENTARY INFORMATION: The Debt Collection Act of 1982 (Pub. L. 97-365, 96 Stat. 1749, applicable sections codified at 31 U.S.C. 3701, 3711, 3716, 3717, 3718, and 5 U.S.C. 5514) (the Act) makes several changes in the way Executive and legislative agencies collect debts owed the Government. The purpose of the Act is to improve the ability of the Government to collect money owed it, while adding certain notice requirements and other protections applicable to the Government's relationship to the debtor. This proposed rule would implement the provisions of the Act.

Generally, the Act enhances the Government's ability to collect money owed it. First, by allowing the Government to disclose to a consumer reporting agency information from a system of records to the effect that an individual or organization is responsible for a claim under the Act. The Act also allows the head of an agency to make contracts for private collection services to recover indebtedness owed the United States. And, the Act establishes new provisions relating to the use of administrative and salary offset as a means of collecting money owed the Government.

The Act provides additional protection to the consumer by requiring that a debtor be provided notice of a debt and the opportunity to review the record and enter into a written repayment agreement before the Government releases the name of the debtor to a consumer reporting agency, or before the money is collected by administrative offset.

The Act requires agencies to issue regulations implementing various provisions of the new law which are consistent with uniform standards issued jointly by the Department of Justice and the General Accounting Office (DOJ/GAO). DOJ/GAO issued final standards on March 9, 1984 (see 49 FR 8889). In addition, the Endowment's regulations on salary offset must be consistent with offset regulations issued by the Office of Personnel Management (OPM). OPM issued final rules on July 3, 1984 (see 49 FR 27470). The provisions of the Act which are being implemented in this rulemaking are summarized below:

Disclosure to Consumer Reporting Agency

Section 3 of the Debt Collection Act (codified at 31 U.S.C. 3711(f)) authorizes agencies to report delinquent debtors to a consumer reporting agency. The Act requires that several procedural protections be provided to debtors before the release of any information concerning the overdue payment. In addition, the Act requires that the agency report any significant change in circumstances (for example, payment of the debt) to the consumer reporting agency.

Section 1150.12 of this proposed rule provides for disclosure to a consumer reporting agency. Under this section, the Endowment will release information only after there has been a determination that the debt is valid and overdue and that a written notice has been sent to the debtor. This written notice will state that the debtor's payment of a debt is overdue, and that the Endowment will disclose this information to a consumer reporting agency is not less than 60 days from the date of the notice.

The debtor has a right to a full explanation of the debt, which includes a review of applicable Endowment records on the debt. In addition, the debtor may avoid the reporting of the claim to a consumer reporting agency by entering into an agreement to repay the debt under terms agreed to by the Endowment.

Contracts for Collection Services

Section 13 of the Debt Collection Act (codified at 31 U.S.C. 3718) authorizes the head of an agency to enter into a contract with a person for collection services to recover debts owed the United States. The Act requires that certain provisions be contained in any contract that the agency enters into for collection services. Section 1150.13 codifies the minimum provisions of the contract required by the Act, which include:

(1) The Endowment retains the authority to resolve a dispute, which includes terminating a collection action or referring the matter to the Attorney General for civil remedies; and

(2) The person contracted with is subject to the Privacy Act of 1974, as it applies to private contractor, as well as subject to State and Federal laws governing debt collection practices, such as the Debt Collection Practices Act.

Administrative Offset

The procedures authorized for administrative offset are contained in Section 10 of the Debt Collection Act (codified at 31 U.S.C. 3716) and will be implemented in conjunction with other authority of the Endowment to offset. As with the provision for reporting to a consumer reporting agency, the Act requires that notice procedures be observed by the agency before any offset takes place. In addition, administrative offset authorized by the Act is limited, because the Act states that these offset provisions do not apply to an agency of the United States government, of a State government or of a unit of general local government.

Section 1150.20 through 1150.37 contain the administrative offset provisions adopted by the Endowment. These regulations cover such aspects of offset as coordinating collection with another Federal agency, notice that will be provided to a debtor before the offset begins the opportunity to inspect the Endowment's records related to the particular debt, the opportunity to enter into a repayment agreement with the Chairman, and time periods in which the debtor must notify the Endowment of his or her election of any of these procedures.

Review of the record includes a review by the Endowment of the written record pertaining to the debt, and, in some situations, a hearing. The conditions for these two procedures are outlined in the proposed rule.

Section 1150.35 sets out specific procedures for offset against amounts payable from the Civil Service Retirement and Disability Fund.

Salary Offset

Section 5 of the Debt Collection Act (codified at 5 U.S.C. 5514) establishes new procedures to be used when an agency wishes to collect money owed it by offsetting the current salary of a Federal employee. Like administrative offset, agencies must cooperate with one another when one agency is owed the debt, but the debtor is the employee of another agency. The salary offset provisions contained in the Debt Collection Act contain similar, although somewhat greater, opportunities for an employee to review the determination of indebtedness before an offset is implemented by an agency. In addition, each agency's regulations must be consistent with the Office of Personnel Management's regulations.

The Endowment's regulations on salary offset are contained in §§ 1150.40 through 1150.57 of this proposed rule. The procedures for salary offset are similar to those for administrative offset. In the salary offset procedure, however, an employee against whom an offset is sought is entitled to a hearing to review the Chairman's determination of the debt, the amount of the debt, or percentage of disposable pay to be deducted each pay period. Similar to the administrative offset procedures, the employee must give notice of intent to take advantage of any of these procedures in the time period prescribed in the regulations.

Other Matters

This proposed rule was listed as item numbers 3889 and 3894 in the Endowment's Semiannual Agenda of Regulations published on April 22, 1991, FR Vol. 56, No. 77, page 18120–18121 under Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 45 CFR Part 1150

Administrative claims.

Amy R. Sabrin,

General Counsel, National Endowment for the Arts.

For the reasons set out in this preamble, the National Endowment for the Arts proposes to revise title 45, Code of Federal Regulations, part 1150 to read as follows:

PART 1150—CLAIMS COLLECTION

Subpart A—General Provisions

Sec.
1150.1 Scope and definitions.
1150.2 Incorporation of joint standards by reference.
1150.3 Subdivision and joining of claims.
1150.4 Referral of claims to the General Counsel.
1150.5 Accounting control.
1150.6 Record retention.
1150.7 Suspension or revocation of eligibility.
1150.8 Standards for collection of claims.
1150.9 Standards for compromise of claims.
1150.10 Standards for suspension or termination of collection action.
1150.11 Referral to GAO or Justice Department.
1150.12 Disclosure to a Consumer Reporting Agency.
1150.13 Contracts for collection services.
1150.14 Miscellaneous provisions: Correspondence with the Endowment.
1150.15–1150.19 [Reserved]

Subpart B—Administrative Offset Provisions

1150.20 Scope.
1150.21 Coordinating administrative offset with another Federal agency.
1150.22 Notice requirements before offset.
1150.23 Exceptions to notice requirements.
1150.24 Review within the Endowment of a determination of indebtedness.
1150.25 Review of Endowment records related to the debt.
1150.26 Written agreement to repay debt as alternative to administrative offset.
1150.27 Stay of offset.
1150.28 Type of review.
1150.29 Review procedures.
1150.30 Determination of indebtedness and appeal from determination.
1150.31 Procedures for administrative offset: Single debt.
1150.32 Procedures for administrative offset: Multiple debts.
1150.33 Procedures for administrative offset: Interagency cooperation.
1150.34 Procedures for administrative offset: Statute of limitations.
1150.35 Procedures for administrative offset: Offset against amounts payable from Civil Service Retirement and Disability Fund.
1150.36 Procedures for administrative offset: Offset of debtor's judgment against the United States.
1150.37 Procedures for administrative offset: Imposition of interest.

Subpart C—Salary Offset Provisions

1150.40 Scope.
1150.41 Definitions.
1150.42 Coordinating salary offset with another Federal agency.
1150.43 Determination of indebtedness.
1150.44 Notice requirements before offset.
1150.45 Request for a hearing.
1150.46 Result if employee fails to meet deadlines.
1150.47 Conduct of hearing.
1150.48 Written decision following a hearing.
1150.49 Review of Endowment records related to the debt.
1150.50 Written agreement to repay debt as alternative to salary offset.
1150.51 Procedures for salary offset: When deductions may begin.
1150.52 Procedures for salary offset: Types of collection.
1150.53 Procedures for salary offset: Methods of collection.
1150.54 Procedures for salary offset: Imposition of interest.
1150.55 Non-waiver of rights.
1150.56 Refunds.
1150.57 Statute of limitations.

Authority: 31 U.S.C. 3711, 31 U.S.C. 3716 to 3718, 5 U.S.C. 5514, 5 U.S.C. 552a.

Subpart A—General Provisions

§ 1150.1 Scope and definitions.

(a) Scope. This subpart sets forth the regulations of the National Endowment for the Arts, implementing the Federal Claims Collection Act of 1966 as amended by the Debt Collection Act of 1982. This subpart conforms with the standards jointly promulgated by the Attorney General and the Comptroller General in 4 CFR parts 101 through 105 and the Salary Offset Regulations published by Office of Personal Management in 5 CFR part 550 subpart K. The Act as amended:

(1) requires the head of an agency or designee to attempt collection of all claims of the United States for money or property arising out of the activities of the agency; and

(2) authorizes the head of an agency or designee to compromise such claims that do not exceed $20,000 exclusive of interest, or to suspend or terminate collection action where it appears that no person liable on such claims has the present or prospective financial ability to pay any significant sum thereon or that the cost of collecting such claim is likely to exceed the amount of recovery.

(b) Definitions. The following definitions apply to these regulations:

(1) *Administrative costs* means costs that result from the additional actions required because a debt has become delinquent.

(2) *Agency* means an Executive department as defined at 5 U.S.C. 105 including the U.S. Postal Service, the U.S. Postal Commission, a military department as defined at 5 U.S.C. 102, an agency or court in the judicial branch, an agency of the legislative branch including the U.S. Senate and House of Representatives and other independent establishments that are entities of the Federal government.

(3) *Debt* means an amount owed to the United States from sources which include loans insured or guaranteed by the United States and all other amounts due the United States from fees, leases, rents, royalties, services, sales of real or personal property, overpayments, penalties, damages, interests, fines, forfeitures, (except those arising under the Uniform Code of Military Justice) and all other similar sources.

(4) *Delinquent* means that the debt has not been paid by the date specified by the Endowment in its initial written notification or contractual agreement, unless other satisfactory payment arrangements have been made by that date, or if, at any time thereafter, the debtor fails to satisfy obligations under a payment agreement with the Endowment.

(5) *Disposable pay* means the amount that remains from an employee's federal pay after required deductions for social security, federal, state or local income tax, health insurance premiums, retirement contributions, life insurance premiums, federal employment taxes, and any other deductions that are required to be withheld by law.

(6) *Endowment* means the National Endowment for the Arts.

(7) *Endowment official* means an official of the National Endowment for the Arts, designated by the Chairperson, and having authority to decide administrative offset and salary offset matters and to issue the agency's reply to an employee's request for a hearing as described in these regulations.

(8) *General Counsel* means the General Counsel of the National Endowment for the Arts.

(9) *Hearing official* means an individual responsible for conducting any hearing with respect to the existence or amount of a debt claimed, and who renders a decision on the basis of such hearing. A hearing official may not be under the supervision or control

of the Chairperson of the National Endowment for the Arts.

§ 1150.2. Incorporation of joint standards by reference.

All administrative actions to collect claims arising out of the activities of the Endowment shall be performed in accordance with the applicable standards prescribed in 4 CFR parts 101 through 105, and 5 CFR part 550 subpart K which are incorporated by reference and supplemented in this subpart.

§ 1150.3. Subdivision and joining of claims.

(a) A debtor's liability arising from a particular transaction or contract shall be considered as a single claim in determining whether the claim is one not exceeding $20,000 exclusive of interest for the purpose of compromise or termination of collection action. Such a claim may not be subdivided to avoid the monetary ceiling established by the Act.

(b) Joining of two or more single claims in a demand upon a particular debtor for payment totaling more than $20,000 does not preclude compromise or termination of collection action with respect to any one of such claims that does not exceed $20,000 exclusive of interest.

§ 1150.4. Referral of claims to the General Counsel.

(a) Authority of the General Counsel. The General Counsel shall exercise the powers and perform the duties of the Chairman to compromise or to suspend or terminate collection action on all claims not exceeding $20,000 exclusive of interest. Claims shall be referred to the General Counsel well within the applicable statute of limitations (28 U.S.C. 2415 and 2416), but in no event more than 2 years after the claims accrued.

(b) Exclusions. There shall be no compromise or terminated collection action with respect to any claim:

(1) As to which there is an indication of fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any other party having an interest in the claim;

(2) based in whole or in part on conduct in violation of the antitrust laws;

(3) based on tax statutes; or

(4) arising from an exception made by the General Accounting Office (GAO) in the account of an accountable officer. Such claims shall be promptly referred to the Justice Department or GAO, as appropriate.

§ 1150.5 Accounting control.

The General Counsel shall process all claims collections through the National Endowment for the Arts accounting office and report the collection, compromise, suspension and termination of all claims to the appropriate accounting office for recording.

§ 1150.6 Record retention.

The file of each claim on which administrative collection action has been completed shall be retained by the appropriate Endowment office or the General Counsel for not less than 1 year after the applicable statute of limitations has run.

§ 1150.7 Suspension or revocation of eligibility.

(a) In the event a contractor, grantee, or other participant in programs sponsored by the Endowment fails to pay his debts to the Endowment within a reasonable time after demand the fact shall be reported by the Grants, Audit, or other appropriate office to the General Counsel, who shall place such defaulting participants name on the Endowment's list of debarred, suspended and ineligible contractors and grantees and the participant will be advised.

(b) The failure of any surety to honor its obligations in accordance with 31 U.S.C. 3905 is to be reported at once to the General Counsel who shall so advise the Treasury Department. The Treasury Department will notify the Endowment when a surety's certificate of authority to do business with the Government has been revoked or forfeited.

§ 1150.8 Standards for collection of claims.

(a) Demand for payment. Appropriate written demands shall be upon the debtor which shall include information relating to the consequences of his failure to cooperate.

(b) Collection by offset. Collection by offset will be administratively undertaken on claims which are liquidated or certain in amount in every instance where this is feasible. For specific procedures on administrative offset see §§ 1150.20–1150.37. For specific procedures on salary offset see §§ 1150.40–1150.57.

(c) Liquidation of collateral. When the Endowment holds security or collateral that may be liquidated and the proceeds applied to debts due it through the exercise of a power of sale in the security instrument or a nonjudicial foreclosure, such procedures should be followed if the debtor fails to pay his debt within a reasonable time after demand, unless the cost of disposing of the collateral will be disproportionate to its value or special circumstances require judicial foreclosure.

(d) Collection in installments. Claims with accrued interest should be collected in full or one lump sum whenever this is possible. However, if the debtor is financially unable to pay the indebtedness in one lump sum, payment may be accepted in regular installments.

(e) Interest, penalties and administrative costs. The Endowment shall assess interest, penalties, and administrative costs on debts owed to the Endowment pursuant to 31 U.S.C. 3717 as outlined below.

(1) Interest shall accrue from the date on which the notice of debt and the Endowment's interest requirements is first mailed or hand-delivered to the debtor using the most current address available to the Endowment.

(2) Interest shall be assessed at the rate of the current value of funds to the United States Treasury (i.e., the Treasury tax and loan account rate), as prescribed and published by the Secretary of the Treasury in the **Federal Register** and the Treasury Fiscal Requirements Manual Bulletins annually or quarterly, in accordance with 31 U.S.C. 3717.

(3) Interest may be charged at a higher rate if the Endowment reasonably determines that it is necessary to protect the interests of the United States.

(4) The rate of interest, as initially assessed, shall remain fixed for the duration of the indebtedness, except that where a debtor has defaulted on repayment agreement and seeks to enter into a new agreement, the Endowment may set a new interest rate which reflects the current value of funds to the Treasury at the time the new agreement is executed.

(5) Interest shall not be assessed on interest, penalties, or administrative costs required by this section. However, if the debtor defaults on a previous repayment agreement, charges which accrued but were not collected under the defaulted agreement shall be added to the principal to be paid under a new repayment agreement.

(6) Administrative costs incurred as a result of a delinquent debt shall be assessed against a debtor to cover the additional costs incurred in processing and handling the debt because it became delinquent.

(7) Penalty charges shall be assessed, not to exceed 6 percent a year, on any portion of a debt that is delinquent for more than 90 days. This charge need not be calculated until the 91st day of delinquency, but shall accrue from the date that the debt became delinquent.

(8) Partial or installment payments received by the Endowment shall be applied first to outstanding penalty and administrative cost charges, second to accrued interest, and third to outstanding principal.

(9) Waiver of interest requirements on the debt or any portion of the debt shall occur

when the debt or portion thereof is paid within 30 days after the date on which interest began to accrue. The Endowment may extend this 30-day period, on a case-by-case basis, if it reasonably determines that such action is appropriate. Also, the Endowment may waive, in whole or in part, the collection of interest, penalties, and/or administrative costs assessed under this section under the criteria specified in § 1150.9 relating to the compromise of claims (without regard to the amount of the debt), of if the Endowment determines that collection of these charges would be against equity and good conscience or not in the best interests of the United States Government.

(10) Interest and related charges may not be assessed for those periods during which collection action must be suspended pursuant to a mandatory waiver or review statute until either:

(i) The Endowment has considered the request for waiver/review or

(ii) The applicable time limit for making the waiver/review request, as prescribed in these regulations, has expired and the debtor, upon proper notice, has not made such a request.

(11) Exemption: The provisions of 31 U.S.C. 3717 do not apply:

(i) To debts owed by any State or local government;

(ii) To debts arising under contracts which were executed prior to, and were in effect on (i.e., were not completed as of), October 25, 1982;

(iii) To debts where an applicable statute, regulation required by statute, loan agreement, or contract either prohibits such charges or explicitly fixes the charges that apply to the debt involved; or

(iv) To debts arising under the Social Security Act, the Internal Revenue Code of 1954 or the tariff laws of the United States.

(12) The Endowment may assess interest and related charges on debts which are not subject to 31 U.S.C. 3717 to the extent authorized under the common law or other applicable statutory authority.

(f) Omission not a defense. Failure to comply with any standard prescribed in 4 CFR chapter II or in this subpart shall not be available as a defense to any debtor.

§ 1150.9 Standards for compromise of claims.

(a) Compromise offer. An offer to compromise may be accepted:

(1) If there is real doubt concerning the National Endowment for the Arts' ability to prove its case in court for the full amount claimed;

(2) If the cost of collecting the claim does not justify the enforced collection of the full amount;

(3) If in connection with statutory penalties or forfeitures established as an aid to enforcement and to compel compliance, the Endowment's enforcement policy will be adequately served by acceptance of the sum to be agreed upon; or

(4) For other reasons deemed valid by the General Counsel and made a part of the claim record.

(b) Documentary evidence of compromise. No compromise of a claim shall be final or binding on the Endowment unless it is in writing and signed by the General Counsel who has authority to compromise the claim pursuant to this subpart.

1150.10 Standards for suspension or termination of collection action.

(a) Suspension of collection action. Collection action shall be suspended temporarily on a claim when the debtor cannot be located after diligent effort, but there is reason to believe that future collection action may be sufficiently productive to justify periodic review and action on the claim, given consideration to its size and the amount which may be realized. Collection action may be suspended temporarily on a claim when the debtor owns no substantial equity in realty and is presently unable to make payment on the Endowment's claim or effect a compromise, but his future prospects justify retention of the claim for periodic review and action and

(1) The applicable statute of limitations has been tolled or started a new or

(2) Future collection can be effected by offset notwithstanding the statute of limitations. Suspension as to a particular debtor should not defer the early liquidation of security for the debt.

(b) Termination of collection action. Collection action may be terminated and the Endowment file closed for the following reasons:

(1) No substantial amount can be collected;

(2) The debtor cannot be located;.

(3) The cost will exceed recovery;

(4) The claim is legally without merit; or

(5) The claim cannot be substantiated by evidence.

§ 1150.11 Referral to GAO or Justice Department.

(a) Claims referred. Claims which cannot be collected, compromised, or terminated in accordance with 4 CFR parts 101 to 105 shall be referred to the GAO in accordance with 31 U.S.C. 3711 or to the Department of Justice if the Endowment has been granted an exception from referrals to the GAO. If there is doubt as to whether collection action should be suspended or terminated on a claim, the claim may be referred to the GAO for advice. When recovery of a judgment is prerequisite to imposition of administrative sanctions, the claim may be referred to the Justice Department for litigation even though termination of collection activity might otherwise be considered.

(b) Prompt referral. Such referrals shall be made as early as possible to be consistent with aggressive collection action and in any event, well within the statute of limitations for bringing suit against the debtor.

§ 1150.12 Disclosure to a Consumer Reporting Agency.

(a) Conditions for disclosure. The Endowment may disclose to a Consumer Reporting Agency information from a system of records to the effect that an individual is responsible for a debt. Before doing so, the Endowment Official shall ensure that:

(1) The notice for the system of records required by the Privacy Act of 1974 (5 U.S.C. 552(e)(4)) indicates that the information in the system may be disclosed to a Consumer Reporting Agency;

(2) There has been Endowment review of the debt and a determination that the debt is valid and overdue;

(3) There has been written notice sent to the individual informing the individual:

(i) That payment of the debt is overdue;

(ii) That the Endowment intends to disclose to Consumer Reporting Agency, within not less than 60 days after sending the notice, that the individual is responsible for the debt;

(iii) Of the specific information intended to be disclosed to the Consumer Reporting Agency; and

(iv) Of the rights of the individual to a full explanation of the debt, to dispute any information in the records of the Endowment concerning debt, as determined by the Endowment Official, and to administrative appeal or review with respect to the debt; and

(4) The individual has neither repaid or agreed to repay the debt under a written repayment plan signed by the individual and agreed to by the Endowment official nor has filed for review of the claim under appropriate sections of this regulation.

(b) Limitations on disclosure. The Endowment Official shall not disclose information to a Consumer Reporting Agency unless the Endowment has: (1) Obtained satisfactory assurances from each Consumer Reporting Agency that it complies with the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) and any other Federal laws governing the provision of consumer credit information;

(2) Provided, upon request by the individual alleged to be responsible for the claim, the opportunity to review the claim, including an opportunity for reconsideration of the initial decision on the claim; and

(3) Taken reasonable action to locate an individual for whom the Endowment Official does not have a current address to send a notice under paragraph (a)(3) of this section.

(c) Additional responsibilities of the Endowment. In providing information to a Consumer Reporting Agency, the Endowment shall only disclose:

(1) Information necessary to establish the identify of the individual, including name, address and taxpayer identification number;

(2) The amount, status, and history of the claim; and

(3) The program under which the claim arose.

(d) In all cases, the Endowment shall notify each Consumer Reporting Agency to which the original disclosure was made of any substantial change in the condition or amount of the claim. This includes promptly correcting or verifying information about the claim requested by the Consumer Reporting Agency.

§ 1150.13 Contracts for collection services.

(a) The Chairperson may enter into a contract or contracts for collection services to recover indebtedness owed the Endowment. Any such contract will include the following provisions:

(1) The Endowment retains the authority to resolve a dispute, compromise a claim, end collection action or refer a matter to the Department of Justice or the General Accounting Office;

(2) The person contracted with by the Chairperson is subject to the Privacy Act of 1974, as amended, to the extent provided for in 5 U.S.C. 522a(m), the section on government contractors;

(3) The person contracted with by the Chairperson is subject to State and Federal laws governing debt collection practices, such as the Debt Collection Practices Act, 15 U.S.C. 1692; and

(b) The person contracted with agrees to provide to the Endowment, if asked to return the file to the Agency so that the Endowment may refer the account to the Department of Justice for litigation, any data contained in the files relating to actions previously taken to collect the debt, the current address of the debtor, as well as the current credit data of the debtor or any current other information requested and available.

§ 1150.14 Miscellaneous provisions: Correspondence with the Endowment.

All correspondence from the debtor to the Endowment shall be addressed to the Assistant Director of Administration, National Endowment for the Arts, Washington, DC. 20506.

§§ 1150.15–1150.19 [Reserved]

Subpart B—Administrative Offset Provisions

§ 1150.20 Scope.

(a) The standards set forth in §§ 1150.20 through 1150.37 are the Endowment's procedures for the collection of money, owed to the government, by means of administrative offset. These procedures apply to the collection of debts as authorized by common law, by 31 U.S.C. 3716, or under other statutory authority. These procedures shall not be used when a statute, provides its own collection procedure, when explicitly prohibited by statute, or when the United States has a judgment against the debtor. Unless otherwise provided for by statute, these procedures do not apply to a debt owed by an agency of the United States, a State government, or unit of general local government. In addition, these procedures do not apply to debts arising under the Internal Revenue Code of 1986 (26 U.S.C. 1–9602), the Social Security Act (42 U.S.C. 301–13978f), or the tariff laws of the United States.

(b) The Endowment shall use administrative offset to collect claims which are certain in amount in every instance in which such collection is determined to be feasible and not prohibited by laws. The Endowment shall determine feasibility on a case-by-case basis, exercising sound discretion. In determining feasibility, the Endowment shall consider:

(1) The debtor's financial condition;

(2) Whether offset would substantially interfere with or defeat the purposes of the program authorizing the payments against which offset is contemplated; and

(3) Whether offset best serves to further and protect all of the interests of the United States.

§ 1150.21 Coordinating administrative offset with another Federal Agency.

(a) When the Endowment is owed the debt, but another Federal agency is responsible for making payment to the debtor against which administrative offset is sought, the other Federal agency shall not initiate the requested administrative offset until the Endowment provides the other Federal agency with a written certification that the debtor owes the Endowment the debt (including the amount and basis of the debt and the due date of the payment) and that the Endowment has complied with all requirements of 45 CFR part 1150.

(b) When another Federal agency is owed the debt, the Endowment may administratively offset money it owes to a debtor who is indebted to another Federal agency if requested to do so by that Federal agency. Such a request must be accompanied by a certification by the requesting Federal agency that the debtor owes the debt (including the amount) and that the debtor has been given the procedural rights required by 31 U.S.C. 3716 and 4 CFR part 102.

§ 1150.22 Notice requirements before offset.

Except as provided in § 1150.23, deductions shall be made only after the Endowment makes a determination that an amount is owed and past due and provides the debtor with a minimum of 30 calendar days written notice. This Notice of Intent of Collect by Administrative Offset (Notice of Intent) shall state:

(a) The nature and amount of the debt;

(b) That the Endowment intends to collect the debt by administrative offset until the debt and all accumulated interest and other charges are paid in full;

(c) That the debtor has a right to obtain review within the Endowment of the Endowment's initial determination of indebtedness;

(d) That the debtor has a right to inspect and copy Endowment records related to the debt, as determined by the Endowment Official, and shall be informed as to where and when the inspection and copying can be done after the Endowment receives notice from the debtor that inspection and copying are requested; and

(e) That the debtor may enter into a written agreement with the Endowment to repay the debt, so long as the terms of the repayment agreement proposed by the debtor are agreeable to the Endowment.

§ 1150.23 Exceptions to notice requirements.

(a) In cases where the notice requirements specified in § 1150.22 already have been provided to the debtor in connection with the same debt under some other proceeding, the Endowment is not required to duplicate those requirements before effecting administrative offset.

(b) The Endowment may effect administrative offset against a payment to be made to a debtor before completion of the procedures required by § 1150.22 if:

(1) Failure to make the offset would substantially prejudice the Government's ability to collect the debt, and

(2) The time before the payment is to be made does not reasonably permit the completion of those procedures. Such prior offset must be followed promptly by the completion of those procedures. Amounts recovered by offset but later found to be not owed to the Endowment shall be refunded promptly.

§ 1150.24 Review within the Endowment of a determination of indebtedness.

(a) Notification of debtor. A debtor who receives a Notice of Intent has the right to request Endowment review of the determination of indebtedness. To exercise this right, the debtor must send a letter requesting review to the Endowment. The letter must explain why the debtor seeks review and must be received by the Endowment within 20 calendar days of the date of the Endowment's Notice of Intent.

(b) Endowment's response. In response to a timely request for review of the initial determination of indebtedness, the Endowment Official shall notify the debtor whether review will be by review of the record or by hearing. The notice to the debtor shall include the procedures used for reviewing the record or will include information on the date, location and procedures to be used if review is by a hearing.

§ 1150.25 Review of Endowment records related to the debt.

(a) Notification by debtor. A debtor who intends to inspect or copy Endowment records related to the debt as determined by the Endowment must send a letter to the Endowment stating his or her intention. The letter must be received by the Endowment within 20 calendar days of the date of the Endowment's Notice of Intent.

(b) Endowment's response. In response to timely notification by the debtor as described in paragraph (a) of this section, the Endowment Official shall notify the debtor of the location and time when the debtor may inspect or copy Endowment records related to the debt.

§ 1150.26 Written agreement to repay debt as alternative to administrative offset.

(a) Notification by debtor. The debtor may, in response to a Notice of Intent, propose a written agreement to repay the debt as an alternative to administrative offset. Any debtor who wishes to do this must submit a proposed written agreement to repay the debt. This proposed written agreement must be received by the Endowment within 20 calendar days of the date of the Endowment's Notice of Intent.

(b) Endowment's response. In response to timely notification by the debtor as described in paragraph (a) of this section, the Endowment Official shall notify the debtor whether the debtor's proposed written agreement for repayment is acceptable. It is within the Endowment's discretion to accept a repayment agreement instead of proceeding by offset. In making this determination the Endowment Official will balance the Endowment's interest in collecting the debt against hardship to the debtor. If the debt is delinquent and the debtor has not disputed its existence or amount, the Endowment will accept a repayment agreement instead of offset only if the debtor is able to establish that offset would result in undue financial hardship or would be against equity and good conscience.

§ 1150.27 Stay of offset.

If the debtor timely notifies the Endowment that he or she is exercising a right described in § 1150.24 or § 1150.26, the offset shall be stayed until an Endowment Official either makes a determination concerning the debtor's proposal to repay the debt or issues a written decision following review of the record or, when appropriate, a hearing. However, interest continues to run during any stay.

§ 1150.28 Type of review.

(a) Hearing. The Endowment shall provide the debtor with a reasonable opportunity for hearing if:

(1) An applicable statute authorizes or requires the Endowment Official to consider waiver of the indebtedness and the waiver determination turns on credibility or veracity; or

(2) The debtor requests reconsideration of the debt and the Endowment Official determines that the question of the indebtedness cannot be resolved by review of the documentary evidence.

(b) Review of the record. Unless the Endowment Official determines that a hearing is required (see paragraph (a) of this section), the Endowment Official will provide for a review of the record (a review of the documentary evidence).

§ 1150.29 Review procedures.

(a) Hearings. (1) The Hearing Official for Administrative Offset (Hearing Official) conducts the hearing. The Hearing Official shall take steps necessary to ensure that the hearing is conducted in a fair and expeditious manner. If necessary, the Hearing Official may administer oaths of affirmation.

(2) The Hearing Official does not use the formal rules of evidence with regard to admissibility of evidence or the use of evidence once admitted. However, parties may object to clearly irrelevant material.

(3) The Hearing Official records all significant matters discussed at the hearing. There is no "official" record or transcript provided for these hearings.

(b) Review of the record. The Hearing Official shall review all material related to the debt which is in the possession of the Endowment. The Hearing Official makes a determination based upon a review of this written record, which may include a request for reconsideration of the determination of indebtedness, or such other relevant material submitted by the debtor.

§ 1150.30 Determination of indebtedness and appeal from determination.

(a) Following the hearing or the review of the record, the Hearing Official shall issue a written decision which includes the supporting rationale for the decision. The decision of the Hearing Official is the final Endowment action with regard to the particular administrative offset.

(b) Copies of the Hearing Official's decision shall be distributed within the Endowment to appropriate offices and divisions and to the debtor and the debtor's attorney or other representative, if applicable.

§ 1150.31 Procedures for administrative offset: Single debt.

(a) Offset will commence 31 days after the debtor receives the Notice of Intent, unless the debtor has requested a hearing (see § 1150.24) or has entered into a repayment agreement (see § 1150.26).

(b) When there is a review of the debt within the Endowment, offset will begin after the determination has been issued under § 1150.30 and a copy of the determination is received by the Endowment's Finance Division.

§ 1150.32 Procedures for administrative offset: Multiple debts.

The Endowment shall use the procedures identified in § 1150.31 for the offset of multiple debts. However, when collecting multiple debts the Endowment shall apply the recovered amounts to those debts in accordance with the best interests of the United States, as determined by the facts and circumstances of the particular case, paying special attention to applicable statutes of limitations.

§ 1150.33 Procedures for administrative offset: Interagency cooperation.

The Endowment will make use of all possible methods of cooperating with other Federal agencies in effecting collections by offset.

§ 1150.34 Procedures for administrative offset: Statute of limitations.

(a) The Endowment may not initiate administrative offset to collect a debt under 31 U.S.C. 3716 more than 10 years after the Endowment's right to collect the debt first accrued, unless facts material to the Endowment's right to collect the debt were not known and could not reasonably have been known by the officials of the Endowment who were responsible for discovering and collecting such debts.

(b) When the debt first accrued is determined according to existing law regarding the accrual of debts. (See, for example 28 U.S.C. 2415.)

§ 1150.35 Procedures for administrative offset: Offset against amounts payable from Civil Service Retirement and Disability Fund.

(a) Unless otherwise prohibited by law, the Endowment Official may request that monies which are due and payable to a debtor from the Civil Service Retirement and Disability Fund be administratively offset in one or more payments to collect debts owed to the Endowment by the debtor. The Endowment Official submits the request to the appropriate officials of the Office of Personnel Management (OPM) in accordance with OPM regulations and procedures.

(b) To request administrative offset under paragraph (a) of this section, the Endowment Official shall provide a written certification that:

(1) The debtor owes the Endowment a debt, including the amount of the debt;

(2) The Endowment has complied with the applicable statutes, regulations, and procedures of the Office of Personnel Management; and

(3) The Endowment Official has complied with the Endowment's regulations.

(c) Once the decision is made to request administrative offset under paragraph (a) of this section, the Endowment Official will make the request as soon as practical after completion of the applicable procedures necessary for the Office of Personnel Management to identify the debtor's account and to add a notation in the debtor's file in anticipation of the time when the debtor requests or becomes eligible to receive payments from the Fund. (This notation shall satisfy any requirement that offset be initiated before the applicable statute of limitations expires.)

(d) If, at the time the debtor makes a claim for payments from the Fund, at least one year has elapsed since the offset was originally made, the debtor may offer a satisfactory repayment plan instead of offset upon establishing that changed financial circumstances would render the offset unjust.

(e) If the Endowment collects part or all of the debt by other means before deductions are made or completed under paragraph (a) of this section, the Endowment Official shall act promptly to modify or terminate the Endowment's request for offset under paragraph (a) of this section.

§ 1150.36 Procedures for administrative offset: Offset of debtor's judgment against the United States.

Collection by offset against a judgment obtained by a debtor against the United States will be accomplished in accordance with 31 U.S.C. 3728.

§ 1150.37 Procedures for administrative offset: Imposition of interest.

Interest will be charged in accordance with § 1150.8(e).

Subpart C—Salary Offset Provisions

§ 1150.40 Scope.

(a) The provisions set forth in §§ 1150.41 through 1150.57 govern the collection by salary offset of a Federal employee's pay to satisfy certain debts owed the government.

(b) These regulations apply to collections by the Endowment from:

(1) Current employees of the Endowment and other Federal agencies who owe debts to the Endowment; and

(2) Current employees of the Endowment who owe debts to other Federal agencies.

(c) These regulations do not apply to debts or claims arising under the Internal Revenue Code of 1986 as amended (26 U.S.C. 1 et seq.); the Social Security Act (42 U.S.C. 301 et seq.); the tariff laws of the United States; or to any case where collection of a debt by salary offset is explicitly provided for or prohibited by another statute.

(d) These regulations identify the types of salary offset available to the Endowment, as well as certain rights provided to the employee, which include a written notice before deductions begin, the opportunity to petition for a hearing and to receive a written decision if a hearing is granted. These employee rights do not apply to any adjustment to pay arising out of coverage under a Federal benefit program requiring periodic deductions from pay, if the amount to be recovered was accumulated over four pay periods or less.

(e) Nothing in these regulations precludes the compromise, suspension, waiver or termination of collection actions where appropriate under the Endowment's regulations contained elsewhere in this subpart.

(f) Matters not addressed in these regulations should be reviewed in accordance with the Federal Claims Collection Standards at 4 CFR part 101 et seq.

§ 1150.41 Definitions.

For the purposes of this part the following definitions will apply:

Agency means an executive agency as is defined at 5 U.S.C. 105 including the U.S. Postal Service, the U.S. Postal Commission, a military department as defined at 5 U.S.C. 102, an agency or court in the judicial branch, an agency of the legislative branch including the U.S. Senate and House of Representatives and other independent establishments that are entities of the Federal government.

Chairperson means the Chairperson of the National endowment for the Arts or the Chairperson's designee.

Creditor agency means the agency to which the debt is owned.

Debt means an amount owed to the United States from sources which include loans insured or guaranteed by the United States and all other amounts due the United States from fees, leases, rents, royalties, services, sales or real or personal property, overpayments, penalties, damages, interests, fines, forfeitures (except those arising under the Uniform Code of Military Justice), and all other similar sources.

Disposable pay means the amount that remains from an employee's federal pay after required deductions for social security, federal, state or local income tax, health insurance premiums, retirement contributions, life insurance premiums, federal employment taxes, and any other deductions that are required to be withheld by law.

Endowment official means an official of the National Endowment for the Arts, designated by the Chairperson, and having authority to decide salary offset matters and to issue the agency's reply to an employee's request for a hearing as described in these regulations.

Hearing official means an individual responsible for conducting any hearing with respect to the existence or amount of a debt claimed, and who renders a decision on the basis of such hearing. A hearing official may not be under the supervision or control of the Chairperson of the National Endowment for the Arts.

"Paying Agency" means the agency that employs the individual who owes the debt and authorizes the payment of his/her current pay.

Salary offset means an administrative offset to collect a debt pursuant to 5 U.S.C. 5514 by deduction(s) at one or more officially established pay intervals from the current pay account of an employee without his/her consent.

§ 1150.42 Coordinating salary offset with another Federal agency.

(a)(1) When the Endowment is owed the debt. When the Endowment is owed a debt by an employee of another Federal agency, the Endowment shall provide the other Federal agency with a written certification that the employee owes the Endowment a debt (including the amount and basis of the debt and the due date of the payment) and that the Endowment has complied with these regulations.

(2) If the employee is in the process of separating, the Endowment must submit its debt claim to the paying agency as provided in this part. The paying agency must certify any amounts already collected, notify the employee, and send a copy of the certification and notice of the employee's separation to the Endowment. If the paying agency is aware that the employee is entitled to Civil Service Retirement and Disability Fund or similar payments, it must certify to the agency responsible for making such payments the amount of the debt and that the provisionals of this part have been followed; and

(3) If the employee has already separated and all payments due from the paying agency have been paid, the Chairperson may request unless otherwise prohibited, that money payable to the employee from the Civil Service Retirement and Disability Fund or other similar funds be collected by administrative offset.

(b)(1) When another Federal agency is owed the debt. The Endowment may use salary offset against one of its employees who is indebted to another Federal agency if requested to do so by that Federal agency. Such a request must be accompanied by a certification by the requesting Federal agency that the person owes the debt (including the amount) and that the employee has been given the procedural rights required by 5 U.S.C. 5514 and 5 CFR part 550, subpart K.

(2) If the employee transfers to another agency after the creditor agency has submitted its debt claim to the Endowment and before the debt is collected completely, the National Endowment for the Arts must certify the total amount collected. Copies of the certification must be furnished to the employee, and to the creditor agency with notices of the employee's transfer.

§ 1150.43 Determination of indebtedness.

In determining that an employee is indebted, the Endowment Official shall review the debt to make sure that it is valid and past due.

§ 1150.44 Notice requirements before offset.

Except as provided in § 1150.40(d), deductions shall not be made unless the Endowment Official first provides the employee with a minimum of 30 calendar days written notice. This Notice of Intent to Offset Salary (Notice of Intent) shall state:

(a) That the Endowment Official has reviewed the records relating to the claim and has determined that a debt is owed, the amount of the debt, and the facts giving rise to the debt.

(b) The Endowment's intention to collect the debt by means of deduction from the employee's current disposable pay account until the debt and all accumulated interest are paid in full;

(c) The amount, frequency, approximate beginning date, and duration of the intended deduction;

(d) An explanation of the Endowment's requirement concerning interest, penalties, and administrative costs unless such payments are excused in accordance with § 1150.8(e);

(e) The employee's right to inspect, request and receive records relating to the debt;

(f) The employee's right to enter into a written agreement with the Endowment for a voluntary repayment schedule in lieu of offset differing from that proposed by the Endowment, so long as the terms of the repayment schedule proposed by the employee are agreeable to the Endowment;

(g) The right to a hearing, conducted by an impartial hearing official, on the Endowment's determination of the debt, the amount of the debt, or percentage of disposable pay to be deducted each pay period, so long as a petition is filed by the employee as prescribed by the Endowment.

(h) That the timely filing of a petition for hearing shall stay the collection proceedings; (see § 1150.44).

(i) The method and time period for requesting a hearing;

(j) That a final decision on the hearing (if one is requested) will be issued at the earliest practical date, but not later than 60 calendar days after the filing of the petition requesting the hearing, unless the employee requests and the hearing official grants a delay in the proceedings;

(k) That any knowingly false or frivolous statements, representations, or evidence may subject the employee to:

(1) Disciplinary procedures appropriate under 5 U.S.C. Ch. 75, 5 CFR Part 752, or any other applicable statutes or regulations;

(2) Penalties under the False Claims Act, 31 U.S.C. 3729–3731, or any other applicable statutory authority; or

(3) Criminal penalties under 18 U.S.C. 286, 287, 1001, and 1002 or any other applicable statutory authority.

(l) Any other rights and remedies available to the employee under statutes or regulations governing the program for which the collection is being made;

(m) Unless there are applicable contractual or statutory provisions to the contrary, that amounts paid on or deducted for the debt which are later waived or found not owed to the United States shall be promptly refunded to the employee.

§ 1150.45 Request for a hearing.

(a) Except as provided in paragraph (d) of this section, if an employee wants a hearing concerning:

(1) The existence or amount of the debt; or

(2) The Endowment Official's proposed offset schedule, the employee must file a petition for a hearing that is received by the Endowment Official not later than 20 calendar days from the date of the Endowment's notice described in 1150.44.

(b) The petition must be signed by the employee and should admit or deny the existence of or the amount of the debt, or any part of the debt, briefly setting forth any basis for a denial. If the employee objects to the percentage of disposable pay to be deducted from each check, the petition should state the objection and the reason for it. The petition should identify and explain with reasonable specificity and brevity the facts, evidence and witnesses which the employee believes support his or her position.

(c) Upon receipt of the petition, the Endowment shall send the employee a copy of these regulations §§ 1150.40 through 1150.57 and the National Endowment for the Arts' Implementing Chapter for Salary Offset.

(d) If the employee files a petition for hearing later than the 20 calendar days as described in paragraph (a) of this section, the Endowment Official may accept the request if the employee can show that the delay was because of circumstances beyond his or her control or because of failure to receive notice of the filing deadline.

§ 1150.46 Result if employee fails to meet deadlines.

An employee waives the right to a hearing, and will have his or her disposable pay offset in accordance with the Endowment's offset schedule, if the employee:

(a) fails to file a petition for a hearing as prescribed in 1150.45; or

(b) is scheduled to appear and fails to appear at the hearing.

§ 1150.47 Conduct of hearing.

The Hearing Official for Salary Offset (Hearing Official) shall conduct the hearings in accordance with these regulations and the National Endowment for the Arts' Implementing Chapter for Salary Offset. The burden shall be on the employee to demonstrate that the existence or the amount of the debt is in error.

§ 1150.48 Written decision following a hearing.

The Hearing Official shall issue a written opinion no later than 60 days after the hearing. Written decisions provided after a request for a hearing shall include:

(a) A statement of the facts presented to support the nature and origin of the alleged debt;

(b) The Hearing Official's analysis, findings and conclusions, in light of the hearing, concerning the employee's and/or the Endowment's grounds;

(c) The amount and validity of the alleged debt; and

(d) The repayment schedule, if applicable.

§ 1150.49 Review of Endowment records related to the debt.

(a) Notification by employee. An employee who intends to inspect or copy Endowment records related to the debt must send a letter to the Endowment Official stating his or her intention. The letter must be received by the Endowment Official within 20 calendar days of the date of the Notice of Intent.

(b) Endowment Official's response. In response to timely notice submitted by the debtor as described in paragraph (a) of this section, the Endowment Official shall notify the employee of the location and time when the employee may inspect and copy Endowment records related to the debt.

§ 1150.50 Written agreement to repay debt as alternative to salary offset.

(a) Notification by employee. The employee may propose, in response to a Notice of Intent, a written agreement to repay the debt as an alternative to salary offset. Any employee who wishes to do this must submit a proposed written agreement to repay the debt which is received by the Endowment Official within 20 calendar days of the date of the Notice of Intent (see § 1150.44)(f).

(b) Endowment's response. In response to timely notice by the debtor as described in paragraph (a) of this section, the Endowment Official shall notify the employee whether the employee's proposed written agreement for repayment is acceptable. It is within the Endowment Officials discretion to accept a repayment agreement instead of proceeding by offset. In making this determination, the Endowment Official will balance the Endowment's interest in collecting the debt against hardship to the employee. If the debt is delinquent and the employee has not disputed its existence or amount, the Endowment Official will accept a repayment agreement instead of offset only if the employee is able to establish that offset would result in undue financial hardship or would be against equity and good conscience.

§ 1150.51 Procedures for salary offset: When deductions may begin.

(a) Deductions to liquidate an employee's debt shall be by the method and in the amount stated in the Endowment's Notice of Intent to collect from the employee's current pay.

(b) If the employee filed a petition for hearing with the Endowment Official before the expiration of the period provided for in § 1150.45, then deductions will not begin until the Endowment has provided the employee with a hearing and the final written decision is in favor of the Endowment.

(c) If an employee dies, retires, or resigns before collection of the amount of the indebtedness is complete, the remaining indebtedness shall be collected according by the procedures for administrative offset (see §§ 1150.20–1150.37).

§ 1150.52 Procedures for salary offset: Types of collection.

A debt shall be collected in a lump-sum or in installments. Collections will be by lump-sum collection unless the employee is financially unable to pay in one lump-sum, or if the amount of the debt exceeds 15 percent of disposable pay. In these cases, deductions shall be by installments.

§ 1150.53 Procedures for salary offset: Methods of collection.

(a) General. A debt shall be collected by deductions at officially-established pay intervals from an employee's current pay account, unless the employee and the Endowment Official agree to alternate arrangements for repayment. The alternative arrangement must be in writing and be signed by both the employee and the Endowment Official.

(b) Installment deductions. Installment deductions shall be made over a period not greater than the anticipated period of employment. The size and frequency of installment deductions will hear a reasonable relation to the size of the debt and the employee's ability to pay. However, the amount deducted for any period shall not exceed 15 percent of the disposable pay from which the deduction is made, unless the employee has agreed in writing to the deduction of a great amount. If possible, the installment payment will be sufficient in size and frequency to liquidate the debt in three years or less. Installment payments of less than $25 per pay period or $50 a month shall be accepted only in the most unusual circumstances.

(c) Sources of deductions. The Endowment will make deductions only from basic pay, special pay, incentive pay, retired pay, retainer pay, or in the case of an employee not entitled to basic pay, other authorized pay.

§ 1150.54 Procedures for salary offset: Imposition of interest.

Interest will be charged in accordance with § 1150.8(e).

§ 1150.55 Non-waiver of rights.

So long as there are no statutory or contractual provisions to the contrary, no employee involuntary payment (of all or a portion of a debt) collected under these regulations shall be interpreted as a waiver of any rights that the employee may have under 5 U.S.C. 5514.

§ 1150.56 Refunds.

(a) The Endowment shall refund promptly to the appropriate individual amounts offset under these regulations when a debt is waived or otherwise found not owing the United States (unless expressly prohibited by statute or regulation) or when the Endowment is directed by an administrative or judicial order to refund amounts deducted from the employee's current pay.

(b) The creditor agency will promptly return any amounts deducted by the Endowment to satisfy debts owed to the creditor agency when the debt is waived, found not owed, or when directed by an administrative or judicial order.

(c) Unless required by law, refunds under this subsection shall not bear interest.

§ 1150.57 Statute of limitations.

If a debt has been outstanding for more than 10 years after the agency's right to collect the debt first accrued, the agency may not collect by salary offset unless facts material to the

Government's right to collect were not known and could not reasonably have been known by the official or officials who were charged with the responsibility for discovery and collection of such debts.

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Notices

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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the North Carolina Advisory Committee

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the North Carolina Advisory Committee to the Commission will convene at 2 p.m. and adjourn at 5 p.m. on Friday, March 13, 1992, at the Sheraton Resort, Salter Path Road, Atlantic Beach, North Carolina 28512. The purpose of this meeting is: (1) To discuss the status of the Commission; (2) to hear reports on civil rights progress and/or problems in the State; and (3) to discuss the current project for FY 1992.

Persons desiring additional information, or planning a presentation to the Committee should contact North Carolina Chairperson, Joseph DiBona at 919/684–3924 or Bobby D. Doctor, Regional Director, Southern Regional Office of the U.S. Commission on Civil Rights at (404/730–2476, TDD 404/730–2481). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Southern Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, February 18, 1992.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 92–4134 Filed 2–21–92; 8:45 am]

BILLING CODE 6335-01-M

Agenda and Public Meeting of the Tennessee Advisory Committee

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Tennessee Advisory Committee to the Commission will convene at 1 p.m. and adjourn at 5 p.m. on Tuesday, March 17, 1992, at the Residence Inn by Marriott, 2300 Elm Hill Pike, Nashville, Tennessee 37210. The purpose of the meeting is: (1) To discuss the status of the Commission; (2) to discuss and update current projects; and (3) to receive information from community leaders on racial tensions in Nashville.

Persons desiring additional information, or planning a presentation to the committee should contact Bobby D. Doctor, Regional Director, Southern Regional Office of the U.S. Commission on Civil Rights at (404/730–2476, TDD 404/730–2481). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Southern Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, February 18, 1992.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 92–4733 Filed 2–21–91; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 82-91]

Foreign-Trade Zone 125—South Bend, IN; Application for Subzone, Fairmont/Gulfstream Modular Housing Recreational Vehicle Plants, Elkhart County; Extension of Public Comment Period

The comment period for the above case, requesting authority for special-purpose subzone status for the modular housing and recreational vehicle plants of Fairmont Homes, Inc., and its subsidiary, Gulf Stream, Inc., located in Elkhart County, Indiana (57 FR 40, 1/2/92), is extended to March 30, 1992, to allow interested parties additional time in which to comment on the proposal.

Comments in writing are invited during this period. Submissions should include 5 copies. Material submitted will be available at: Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, room 3716, 14th and Pennsylvania Avenue NW., Washington, DC 20230.

Dated: February 18, 1992.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 92–4178 Filed 2–21–92; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews and various antidumping and countervailing duty orders, findings and suspension agreements with January anniversary dates In accordance with the Commerce Regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: February 24, 1992.

FOR FURTHER INFORMATION CONTACT: Roland L. MacDonald, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone (202) 377–2104.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce ("the Department") has received timely requests, in accordance with § 353.22(a)(1) of the Department's regulations, for administrative reviews of various antidumping and countervailing duty orders, findings, and suspension agreements, with January anniversary dates.

Initiation of Reviews

In accordance with §§ 353.22(c) and 355.22(c) of the Department's regulations, we are initiating administrative reviews of the following antidumping and countervailing duty orders, findings, and suspension agreements. We intend to issue the final results of these reviews not later than January 31, 1993.

Antidumping duty proceedings and firms	Periods to be reviewed
France:	
Anhydrous sodium metasilicate	
A-427-098	
Rhone-Poulenc	1/1/91-12/31/91
Korea:	
Stainless steel cooking ware	
A-580-601	
Namil Metal Co	1/1/91-12/31/91
Dae Lim Trading Co	
Photo albums and filler pages	
A-580-501	
Four Star Trading Co	12/1/90-11/30/91
Peoples Republic of China:	
Potassium permanganate	
A-570-001	
China National Chemicals Import and Export Corporation	1/1/91-12/31/91
Tongji Chemical Plant	
Jinan Huaiyin Chemical General Factory	
Tianjin Haiyang Chemical Plant	
Changsha Organic Chemical Plant	
Beijing Dayu Chemical Plant	
Zunyi Chemical Plant	
Chongqing Jialing Chemical Plant	
Jinan Tailu Chemical Industry Products Co., Ltd	
China Export Bases Development Corp.	
Guangdong Foreign Economics Development Co., Ltd	
Guangdong Foreign Trading Development	
Guangdong Foreign Economic Relations &	
Guangxi Import & Export Trading Corporation	
Guilin Native Produce & Animal	
China Native Produce and Animal By-Products I/E Corporation	
Shenzhan Metals Materials Co.	
Hunan Chemicals & Medicines	
Guangxi Zhuang Autonomous Region	
Chemical Spa	
Guangzhou Chemicals	
China National Foreign Trade	
Guangxi Guillin Prefecture	
Hei Long Jiang Machinery Imports Exports	
Strong Guide	
Guangzhou Chemicals	
Sinchart	
Tin Sing Chemical Engineers, Ltd	
K L & Company	
Yue Pak Co., Ltd	
Sam Wing International, Ltd	
Far Ocean Trading Co	
Landyet Company, Ltd	
Go Up Company	
Hip Fung Trading Company	
AEL Asia Express (HK) Ltd	
Anduk Industry Supply Co. Ltd	
Asia Express Company	
Asia Express Packages	
Chemproha Chemical Distributors Ltd	
Mayer Shipping Ltd	
Newesdean Trading Co. Ltd	
Pan Air & Sea Forwarders (HK) Ltd	
Power Shipping Co	
Progressive Resources Ltd	
Reimer Martens	
Santex Import & Export Co	
Seagull Container Line	
Continental Freight Forwarders	
Devoted Cargo Services (HK) Ltd	
Dynamic Freight Services Ltd	
Far Ocean Trading Co	
He-Ro Chemicals Ltd	
ICD Group (HK) Ltd	
International Merona Ltd	
J. A. Moeller (HK) Ltd	
Kenwa Shipping Co. Ltd	
Sidneyson Ltd	
Vincent Shipping Co	
Meikien Trading Co. Ltd	
AVA INTL	
BBT	
PRO CHEMIE	
Countervailing duty proceedings	
Thailand:	
Butt-Weld Pipe Fittings	1/1/91-12/31/91
C-549-804	
Suspended investigations	
Colombia:	
Roses and other fresh cut flowers	1/1/91-12/31/91
C-301-003	
Miniature carnations	1/1/91-12/31/91
C-301-601	
Costa Rica:	
Certain fresh cut flowers	1/1/91-12/31/91
C-223-601	
Hungary:	
Truck trailer axles and brake assemblies	
A-437-001	
RABA	1/1/91-12/31/91

Interested parties must submit applications for administrative protective orders in accordance with §§ 353.34(b) and 355.34(b) of the Department's regulations.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675(a)) and 19 CFR 353.22(c) and 355.22(c) (1989).

Dated: February 18, 1992.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 92-4179 Filed 2-21-92; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Marine Mammals; Receipt of Application for Permit

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Receipt of application for permit (P494).

Notice is hereby given that Mr. Paul D. Jobsis, Scripps Institution of Oceanography, University of California, San Diego, La Jolla, CA 92093-0204, has applied for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

The applicant requests authority to obtain up to 15 harbor seals (*Phoca vitulina*) from local strandings, rehabilitated or captive born stocks at Sea World of California. The purpose of the study is to better understand how seals utilize their hemoglobin and myoglobin oxygen stores during diving, and to better understand the differences in restrained dives and unrestrained dives. Activities will be conducted at Scripps Institute of Oceanography.

The arrangements and facilities for transporting and maintaining the marine mammals requested in this application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East-West Hwy., room 7324, Silver Spring, Maryland 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the

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Assistant Administrator for Fisheries. All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices:

By appointment: Office of Protected Resources, National Marine Fisheries Service, NOAA, 1335 East-West Hwy., Suite 7324, Silver Spring, Maryland 20910; and

Director, Southwest Region, National Marine Fisheries Service, 501 West Ocean Blvd., Long Beach, California 90802–4213 (310/980–4015).

Dated: February 12, 1992.

Charles Karnella,

Acting Director, Office of Protected Resources.

[FR Doc. 92–4113 Filed 2–21–92; 8:45 am]

BILLING CODE 3510–22–M

Western Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council's Pelagic Plan Team (PPT) will hold a public meeting on February 27–28, 1992, at the Honolulu Laboratory Conference Room, 2570 Dole Street, Honolulu, HI.

The PPT meeting will begin at 9 a.m. The agenda follows: (1) Develop recommendations for the Council on any proposals which may be prepared regarding changes to longline area closures; (2) discuss preparation of the 1991 annual report; (3) begin 5th year evaluation on Pelagic Fishery Management Plan (FMP); (4) review information on the status of the Hawaii ika-shibi fishery and prepare a recommendation regarding the need for limited access. (5) review the longline fishery logbook and discuss whether any revisions are needed; (6) discuss the status of amendment #6, which is to include tuna under the Pelagic FMP; (7) review preliminary results of pilot creel survey (Oahu ports), (8) develop a report on the progress of data and analysis tasks described under the 3 year moritorium data plan; and (9) discuss other business.

For further information contact Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, suite 1405, Honolulu, HI 96813; telephone (808) 523–1368.

Dated: February 18, 1992.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92–4099 Filed 2–21–92; 8:45 am]

BILLING CODE 3510–22–M

COMMODITY FUTURES TRADING COMMISSION

Financial Products Advisory Committee

This is to give notice, pursuant to section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 2 section 10(a) and 41 CFR 101–6.1015(b), that the Commodity Futures Trading Commission's Financial Products Advisory Committee will conduct a public meeting in the Lower Level Hearing Room (B–1) at the Commission's Washington, DC headquarters located at 2033 K Street, NW., Washington, DC 20581, on March 12, 1992, beginning at 1:30 p.m. and lasting until 5 p.m. The agenda will consist of:

Agenda

1. Effect of the Supreme Court's decision in *Arkansas Best Corp.* v. *Commissioner*, 485 U.S. 212 (1988), on hedging in the futures markets.
2. Review of recommendations made in the Committee's 1987 study on the CFTC's definition of hedging. Discussion of need to update study or to explore related areas.
3. Report from Division of Trading and Markets on proposed rules creating an accredited investor exemption to some commodity pool regulations and permitting bifurcated risk disclosure. Discussion of applicability of regulatory approach of these proposals to other Commission regulations.
4. Block trading—APS, LOX, other systems. Discussion of other approaches to permitting block trading.
5. International issues update—foreign stock index futures, proposed relief to permit FCMs to offer and sell foreign-exchange traded options to non-U.S. persons, global settlement. Discussion of other possible areas of relief.
6. Development of agenda items for future meetings.
7. Other items of Committee consideration; timing of next meeting; other Committee business.

The purpose of this meeting is to solicit the views of the Committee on these agenda matters. The Advisory Committee was created by the Commodity Futures Trading Commission for the purpose of advising the Commission on the assessment of issues concerning individuals and industries interested in or affected by financial markets regulated by the Commission. The purposes and objectives of the Advisory Committee are more fully set forth in the April 25, 1991 Charter of the Advisory Committee.

The meeting is open to the public. The Chairman of the Advisory Committee, CFTC Commissioner Sheila C. Bair, is empowered to conduct the meeting in a fashion that will, in her judgement, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Advisory Committee should mail a copy of the statement to the attention of: the Commodity Futures Trading Commission Financial Products Advisory Committee, c/o Susan Milligan, 2033 K Street NW., Washington, DC 20581, before the meeting. Members of the public who wish to make oral statements should also inform Ms. Milligan in writing at the foregoing address at least three business days before the meeting. Reasonable provision will be made, if time permits, for an oral presentation of no more than five minutes each in duration.

Issued by the Commission in Washington, DC, on February 19, 1992.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 92–4181 Filed 2–21–92; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Renewal of the Department of Defense Cholorfluorocarbons Advisory Committee

ACTION: Notice.

SUMMARY: The Department of Defense Chlorofluorocarbons (CFC's) Advisory Committee was renewed for a two-year period, effective February 16, 1992, in accordance with the provisions of Public Law 92–463, the "Federal Advisory Committee Act." The CFC's Committee was originally established pursuant to Public Law 101–189, the "National Defense Authorization Act for Fiscal Years 1990 and 1991."

The CFC's Committee provides timely and expert advice to the Secretary of Defense and other DoD officials on the formulation of policy with respect to the uses of CFC's within the Department of Defense and the consideration of substitute technologies. The CFC's committee will determine the feasibility

and cost estimation of chemical substitutes and alternative technologies and will assist in technology transfer. Membership on the CFC's Committee is well-balanced in terms of the specialized missions to be accomplished and the diverse interest groups represented. Members are drawn from among senior DoD and Environmental Protection Agency officials, private industry representatives, and state government legislators.

For further information on the CFC's Committee, contact: Mr. William Goins office of the Deputy Assistant Secretary of Defense (Environment) (703) 695–8360.

Dated: February 18, 1992.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–4102 Filed 2–21–92; 8:45 am]

BILLING CODE 3810-01-M

The Joint Staff; Joint Strategic Target Planning Staff Strategic Advisory Group: Closed Meeting

AGENCY: Joint Strategic Target Planning Staff, Department of Defense.

ACTION: Notice of closed meeting.

SUMMARY: The Director of Strategic Target Planning has scheduled a closed meeting of the Strategic Advisory Group.

DATES: The meeting will be held from 1 to 3 April 1992.

ADDRESSES: The meeting will be held at Offutt AFB, Nebraska.

FOR FURTHER INFORMATION CONTACT: The Joint Strategic Target Planning Staff, Strategic Advisory Group, Offutt AFB, Nebraska 68113.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to discuss strategic issues that relate to the development of the Single Integrated Operational Plan (SIOP). Full development of the topics will require discussion of information classified TOP SECRET in accordance with Executive Order 12356, 2 April 1982. Access to this information must be strictly limited to personnel having requisite security clearances and specific need-to-know. Unauthorized disclosure of the information to be discussed at the SAG meeting could have exceptionally grave impact upon national defense. Accordingly, the meeting will be closed in accordance with 5 U.S.C. app II Para 10(d) (1976), as amended.

Dated: February 14, 1991.

Linda M. Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–4101 Filed 2–21–92; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER92-309-000, et al.]

Electric Rate, Small Power Production, and Interlocking Directorate Filings; Florida Power & Light Company, et al.

February 13, 1992.

Take notice that the following filings have been made with the Commission:

1. Florida Power & Light Company

[Docket No. ER92–309–000]

Take notice that Florida Power & Light Company (FPL) on February 4, 1992, tendered for filing an agreement entitled "Agreement for Connection of Facilities Among Florida Power & Light Company and Seminole Electric Cooperative, Inc. and Lee County Electric Cooperative, Inc." FPL requests that the agreement be made effective December 31, 1991.

Comment date: February 27, 1992, in accordance with Standard Paragraph E at the end of this notice.

2. Northern States Power Company (MN), Northern States Power Company (WI)

[Docket No. ER92–302–000]

Take notice that on January 31, 1992, Northern States Power Company (NSP) tendered for filing the Eastern Interconnection and Interchange Agreement dated December 31, 1991, between Northern States Power Company (Minnesota) (NSP–MN), Northern States Power Company (Wisconsin) (NSP–WI) and the Wisconsin Public Incorporated System (WPPI).

The Eastern Interconnection and Interchange Agreement (Eastern Agreement) provides for certain sales of power and/or energy between NSP and WPPI pursuant to service schedules attached to the Eastern Agreement, including the terms and conditions of such services. NSP services pursuant to the Eastern Agreement will be provided to WPPI on behalf of member cities in eastern Wisconsin not located in the Mid-Continent Area Power Pool (MAPP) region and not subject to the MAPP Agreement.

NSP requests that the Eastern Interconnection and Interchange Agreement be accepted for filing effective November 1, 1991, and requests waiver of Commission's notice requirements in order for the Agreement to be accepted for filing on that date.

Comment date: February 27, 1992, in accordance with Standard Paragraph E at the end of this notice.

3. Chicago Energy Exchange of Chicago, Inc.

[Docket Nos. ER90–225–006 and EL90–17–001]

Take notice that on October 25, 1991 and January 30, 1992, Chicago Energy Exchange of Chicago, Inc. (Energy Exchange) filed certain information as required by Ordering Paragraph (L) of the Commission's April 19, 1990 order in this proceeding. 50 FERC ¶ 61,054 (1990). Copies of Energy Exchange informational filing are on file with the Commission and are available for public inspection.

4. PacifiCorp Electric Operations

[Docket No. ER91–553–000]

Take notice that PacifiCorp Electric Operations (PacifiCorp) on February 4, 1992 tendered for filing, in accordance with the Commission's staff's request, an amended filing of the Electric Supply Agreement (Agreement) between PacifiCorp and Brigham City Corporation (Brigham).

The Amendment provides additional information relating to the charges for capacity and energy and the escalator used to establish future energy prices.

PacifiCorp respectfully re-news its request for a waiver of prior notice and that an effective date of October 1, 1989 be assigned by the Commission.

Copies of this filing have been supplied to Brigham and the Utah Public Service Commission.

Comment date: February 27, 1992, in accordance with Standard Paragraph E at the end of this notice.

5. Scranton Energy Partners

[Docket No. QF92–12–000]

On February 10, 1992, Scranton Energy Partners, tendered for filing an amendment to its filing in this docket. No determination has been made that the submittal constitutes a complete filing.

The amendment provides additional information pertaining to ownership structure, use of fossil fuel and transmission line connecting to the facility.

Comment date: March 3, 1992, in accordance with Standard Paragraph E at the end of this notice.

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6. James River II, Inc.

[Docket No. QF91–209–000]

On February 3, 1992, James River II, Inc. tendered for filing an amendment to its filing in this docket. No determination has been made that the submittal constitutes a complete filing.

The amendment provides additional information pertaining primarily to the technical data and the ownership structure of the small power production facility.

Comment date: February 26, 1992, in accordance with Standard Paragraph E at the end of this notice.

7. Montaup Electric Company

[Docket No. ER92–315–000]

Take notice that on February 6, 1992, Montaup Electric Company (Montaup) filed a letter under Section 205 of the Federal Power Act of a credit of $4,776,089 under its Purchased Capacity Adjustment Clause (PCAC) to true up the amounts billed in 1991 under a forecast billing rate to conform with actual purchased capacity costs. The credit will appear in bills for January 1992 service rendered for all requirement service to Montaup's affiliates Eastern Edison Company in Massachusetts and Blackstone Valley Electric Company in Rhode Island, and for contract demand service to one affiliate, Newport Electric Corporation, and two non-affiliates: Pascoag Fire District in Rhode Island and the Town of Middleborough in Massachusetts.

Comment date: February 27, 1992, in accordance with Standard Paragraph E at the end of this notice.

8. National Electric Associates Limited Partnership

[Docket No. ER90–168–007]

Take notice that on January 23, 1992, National Electric Associates Limited Partnership (NEA) filed certain information as required by Ordering Paragraph (L) of the Commission's March 20, 1990 order in this proceeding. 50 FERC ¶ 61,378 (1990). Copies of NEA's informational filing are on file with the Commission and are available for public inspection.

9. Northern Indiana Public Service Company

[Docket No. ER92–314–000]

Take notice that on February 6, 1992, Northern Indiana Public Service Company (NIPSCO) tendered for filing as a change in rate schedules, Addendum 1 to the rates for service provided by NIPSCO in the individual interconnection agreements with Central Illinois Public Service Company (CIPS), Commonwealth Edison Company/Detroit Edison Company (CPR), Indiana Michigan Power Company (I&M), Indiana Municipal Power Agency (IMPA), PSI Energy, Inc. (PSI), and Wabash Valley Power Association (WVPA).

Copies of this filing have been served upon all of the parties and the Indiana Utility Regulatory Commission.

Comment date: February 27, 1992, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph:

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92–413[illegible] Filed 2–21–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP92–329–000, et al.]

Panhandle Eastern Pipe Line Company, et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Panhandle Eastern Pipe Line Company

[Docket No. CP92–329–000]

February 10, 1992.

Take notice that on February 4, 1992, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP92–329–000 a request pursuant to §§ 157.205 and 284.211 of the Commission's Regulations for authorization to construct and operate two 2" taps and associated piping located in Christian County, Illinois, under Panhandle's blanket certificate issued in Docket No. CP83–83–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

It is asserted that these taps would enable Panhandle to provide transportation service to Archer Daniel Midland Company, pursuant to § 284.223(a). It is stated that construction would begin upon expiration of the 45-day notice period and the facilities would cost approximately $116,500.

Comment date: March 26, 1992, in accordance with Standard Paragraph G at the end of this notice.

2. Northern Natural Gas Company

[Docket No. CP92–334–000]

February 10, 1992.

Take notice that on February 6, 1992, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed in Docket No. CP90–2165–000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate two small volume measuring stations and appurtenant facilities as delivery points to provide natural gas deliveries to Peoples Natural Gas Company, a Division of UtiliCorp United Inc. (Peoples) under the authorization issued in Docket No. CP82–401–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northern requests this authority to provide natural gas service to Peoples, under Northern's Argus Rate Schedule to serve Sy Huelskamp, an end-user located in Finney County, Kansas, and under Northern's Rate Schedule CD–1 to serve the U.S. Fish and Wildlife Services, a commercial end-user in Jackson County, Minnesota. It is stated that the additional natural gas volumes will be used by Mr. Huelskamp as fuel for an irrigation engine and by the U.S. Fish and Wildlife Services as heating for their offices. It is anticipated that the proposed peak day and annual volumes to be delivered by Peoples at the affected delivery points and the end use of such volumes are as follows:

Delivery point	Proposed peak day (Mcf)	Annual
Huelskamp	72	9,730
U.S. Fish and Wildlife	4	826

Northern states that the proposed deliveries to Peoples will be within the currently effective entitlements for Peoples. Northern states that the proposed volumes will be served from the total firm entitlements currently assigned to Rural Tap Sales—Other Mainline. Northern avers that there will not be any firm entitlements assigned to Sy Huelskamp or the U.S. Fish and Wildlife Services.

Northern states that installation of the proposed facilities will be financed in accordance with the General Terms and Conditions of Northern's FERC Gas Tariff, Third Revised Volume No. 1. Northern estimates the total cost to install the proposed delivery points at $2,965, which cost Peoples will be required to reimburse Northern.

Northern states that the total volumes of gas to be delivered to he customer after request do not exceed the total volumes authorized prior to the request. Northern further states that the proposal is not prohibited by its existing tariff and that it has sufficient capacity to accomplish the changes proposed without detriment or disadvantage to its other customers.

Comment date: March 26, 1992, in accordance with Standard Paragraph G at the end of this notice.

3. Kern River Gas Transmission Company

[Docket No. CP92-337-000]

February 12, 1992.

Take notice that on February 6, 1992, Kern River Gas Transmission Company (Kern River), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP92-337-000 a request pursuant to §§ 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to construct and operate certain tap and meter facilities under Kern River's blanket certificate issued in Docket No. CP89-2048-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Kern River proposes to construct and operate a 3-inch tap and metering facilities, including buildings and ancillary equipment, required to deliver gas to Amoco Energy Trading Corporation (Amoco) at a point on Kern River's system in Utah. It is stated that pursuant to a transportation service agreement between Kern River and Amoco, Kern River would deliver gas to Amoco at, *inter alia*, milepost 345.8 on Kern River's mainline facilities at Section 32, Township 34 South, Range 14 West in Iron County, Utah. Kern River also states that the maximum delivery volume at this point would be 8,000 Mcf per day.

Kern River states that it would provide the related service to Amoco under authority of its blanket transportation certificate issued in Docket No. CP89-2047-000 and pursuant to the terms of Kern River's KRF-1 firm transportation rate schedule. Additionally, Kern River states that deliveries to Amoco would not impact Kern River's ability to render service to other firm shippers within their firm contract MDQ's.

Comment date: March 30, 1992, in accordance with Standard Paragraph G at the end of this notice.

4. Mobil Natural Gas Inc., et al.

[Docket No. CI88-307-003, *et al.*] [1]

February 13, 1992.

Take notice that each Applicant listed on the Appendix hereto filed an application pursuant to sections 4 and 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder for extension of its blanket limited-term certificate with pregranted abandonment authorizing sales for resale in interstate commerce previously issued by the Commission for a term expiring March 31, 1992, all as more fully set forth in the applications which are on file with the Commission and open for public inspection.

Comment date: March 3, 1992, in accordance with Standard Paragraph J at the end of this notice.

APPENDIX

Docket No.	Dated filed	Applicant
CI88-307-003	2-6-92	Mobil Natural Gas Inc., 12450 Greenspoint Drive, Houston, Texas 77060-1991.
CI88-346-006 [2]	2-6-92	Anthem Energy Company, L.P., (formerly Anthem Energy Company), 333 Clay Street, suite 2000, Houston, Texas 77002.
CI91-77-001	2-3-92	Gulf States Gas Corporation, 1000 Louisiana, suite 4960, Houston, Texas 77002.
CI91-78-003 [3]	2-3-92	Gulf States Pipeline Corporation, 1324 N. Hearne Avenue, suite 300, Shreveport, Louisiana 71107.

[2] Applicant also requests amendment of its certificate (1) to reflect Anthem Energy Company, L.P. as the certificate holder and (2) to include authorization for sales for resale in interstate commerce of imported natural gas, including liquifed natural gas, and natural gas purchased from non-first sellers, including interstate pipelines, intrastate pipelines and local distribution companies.

[3] Applicant is an intrastate pipeline company.

5. Tennessee Gas Pipeline Company

[Docket No. CP92-338-000]

February 13, 1992.

Take notice that on February 7, 1992, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP92-338-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate a new delivery point for Tenngasco Corporation (Tenngasco) under Tennessee's blanket certificate issued in Docket No. CP82-413-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Tennessee states that it has entered into an amendment dated February 6, 1992, to a gas transportation agreement with Tenngasco to deliver up to 1,000 dt of natural gas per day to HUBCO Exploration, Inc. (HUBCO), for Tenngasco's account. The gas would be used for gas lift purposes, it is stated.

In order to deliver the natural gas to HUBCO, Tennessee requests authorization to construct and operate an additional delivery point, consisting of two 1-inch hot taps and 1-inch high pressure tubing, in Plaquemines Parish, Louisiana. Tennessee states that it would be reimbursed for the cost of the facilities.

Tennessee further states that the total quantities of natural gas to be delivered to Tenngasco would not exceed presently authorized quantities and the change is not prohibited by Tennessee's existing tariff. Tennessee asserts that it has sufficient capacity in its system to accomplish the deliveries of gas at the new delivery point without detriment or disadvantage to its other customers.

Comment date: March 30, 1992, in accordance with Standard Paragraph G at the end of this notice.

6. Marathon Oil Company

[Docket No. CI82-78-001]

February 13, 1992.

Take notice that on December 23, 1991, as supplemented on January 27, 1992, Marathon Oil Company (Marathon) of P.O. Box 3128, Houston, Texas 77253, filed an application pursuant to section 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder for a blanket certificate to authorize jurisdictional sales of gas under contracts to which Marathon is or becomes a successor-in-interest prior to the effective date of total decontrol under the Natural Gas Wellhead Decontrol Act of 1989, all as more fully set forth in the application which is on file with the Commission and open for public inspection. Marathon also requests that the Commission waive its regulations regarding the establishment of rate schedules.

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[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Comment date: March 5, 1992, in accordance with Standard Paragraph J at the end of this notice.

7. El Paso Natural Gas Company

[Docket No. CP92–341–000]

February 13, 1992.

Take notice that on February 10, 1992, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas 79978, filed in Docket No. CP92–341–000 a request pursuant to §§ 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216) for authorization to abandon 21 miscellaneous tap facilities and the services rendered through those facilities, under its blanket certificate issued in Docket No. CP82–435–000, pursuant to section 7(b) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

El Paso states it periodically reviews the operating status of its facilities. It is stated that the review, along with the customers' advisements, indicates that there are twenty-one miscellaneous tap and/or meter facilities eligible for abandonment, consisting of eighteen taps and three meter stations. El Paso indicates that eighteen of the facilities were used to serve Southwest Gas Corporation and that the other three facilities were used to serve Duncan Rural Services Inc., Citizens Utilities Company, and City of McLean, Texas. Accordingly, El Paso proposes to abandon the twenty-one facilities, with associated appurtenances, and the natural gas services rendered through these facilities.

El Paso states that it was authorized to construct and operate the facilities and provide the related services under specific certificates or as permitted under § 2.55(c) of the Commission's Rules of Practice and Procedure. It is indicated that the facilities were required to facilitate, generally, the delivery and/or measurement and sale of natural gas from its interstate transmission pipeline system to certain customers for resale for residential, commercial or agricultural uses.

El Paso has submitted agreements with the customers consenting to the facility and service abandonment. It is indicated that the abandonments would not result in or cause any interruption, reduction or termination of natural gas service presently rendered by El Paso to any of its customers. El Paso also states that it would remove and place into stock the salvable materials and scrap the nonsalvable items, without change in its average cost of service.

Comment date: March 30, 1992, in accordance with Standard Paragraph G at the end of this notice.

8. Columbia Gas Transmission Corporation

[Docket No. CP92–339–000]

February 13, 1992.

Take notice that on February 7, 1992, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia, 25314, filed in Docket No. CP92–339–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to establish an additional delivery point for service to South Jersey Gas Company (South Jersey), an existing wholesale customer, under Columbia's blanket certificate issued in Docket No. CP83–76–000 pursuant to section 7 of the NGA, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Columbia states that South Jersey has requested the additional delivery point in order to supplement its existing markets. It is stated that Columbia would utilize the delivery point for sales to South Jersey pursuant to Columbia's Rate Schedule CDS of up to 35,000 dt equivalent of natural gas per day and 3,650,000 dt equivalent on an annual basis for redelivery through South Jersey's distribution system in Gloucester County, New Jersey. Columbia explains that the end uses of the gas would be residential, commercial and industrial. It is asserted that these sales would be within South Jersey's currently authorized peak day entitlement from Columbia and that there would be no impact on Columbia's other customers. It is further asserted that no construction would be required to place the delivery point in service.

Comment date: March 30, 1992, in accordance with Standard Paragraph G at the end of this notice.

9. MidCon Marketing Corp., et al.

[Docket No. CI87–307–007, *et al.*[4]

February 13, 1992.

Take notice that each Applicant listed on the Appendix hereto filed an application pursuant to sections 4 and 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder for extension of its blanket limited-term certificate with pregranted abandonment authorizing sales for resale in interstate commerce previously issued by the Commission for a term expiring March 31, 1992, all as more fully set forth in the applications which are on file with the Commission and open for public inspection.

Comment date: March 5, 1992, in accordance with Standard Paragraph J at the end of the notice.

APPENDIX

Docket No.	Date filed	Applicant
CI87–307–007 [5]	2–11–92	MidCon Marketing Corp., 701 East 22nd Street, Lombard, Illinois 60148
CI89–483–002 [6]	2–7–92	Citrus Industrial Sales Company, Inc., P.O. Box 1188, Houston, Texas 77251–11188.
CI90–71–002 [6]	2–7–92	Citrus Trading Corp., P.O. Box 1188, Houston, Texas 77251–1188
CI90–149–002 [6]	2–7–92	Citrus Marketing, Inc., P.O. Box 1188, Houston, Texas 77251–1188.

[5] Applicant also requests amendment of its certificate to remove the rate restriction on sales of gas purchased from its affiliated interstate pipeline under the interruptible sales service (ISS) program

[6] Applicant also requests amendment of its certificate to remove the condition that the certificate is subject to the outcome of Docket No. RM87–5 and remove the rate restriction applicable to sales of ISS gas purchased from its affiliated pipeline.

10. Transcontinental Gas Pipe Line Corporation

[Docket No. CP92–348–000]

February 14, 1992.

Take notice that on February 12, 1992, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP92–348–000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain services to Tennessee Gas Pipeline Company (Tennessee) which are being performed under

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[4] This notice does not provide for consolidation for hearing of the several matters covered herein.

Transco's Rate Schedules X–181 and X–259, all as more fully set forth in the application on file with the Commission and open to public inspection.

Transco requests authorization to abandon an exchange and transportation arrangement (Rate Schedule X–181; agreement dated June 2, 1978) with Tennessee which was authorized by Commission order issued November 22, 1978, in CP78–422–000 (5 FERC ¶ 61,165), by which Transco transports up to 25,000 Mcf per day of natural gas available to Tennessee in High Island Block A–330.

Additionally, Transco requests authorization to abandon an interruptible transportation service (Rate Schedule X–259; agreement dated February 5, 1985) to Tennessee which was certificated in Docket No. CP86–220–000 on February 3, 1986 (34 FERC ¶ 62,293), and by which up to 150,000 Mcf of natural gas produced in Brazos Area Blocks A–16, A–17, A–22, A–28, Mustang Island Block A–65, and Galveston Area Blocks 391 and 393 is transported.

Transco explains that, although the terms of the agreements have not expired, Transco and Tennessee have agreed to the early abandonment of the services to be effective on the date the Commission grants the requested authorization.

Transco advises that no facilities would be abandoned.

Comment date: March 6, 1992, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Standard Paragraph

J. Any person desiring to be heard or make any protest with reference to said filings should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426 a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 92–4155 Filed 2–21–92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD92-03686T Wyoming-20 Addition 1]

State of Wyoming; NGPA Determination by Jurisdictional Agency Designating Tight Formation

February 18, 1992.

Take notice that on February 10, 1992, the Oil and Gas Conservation Commission of the State of Wyoming (Wyoming), submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Baxter Formation within the Birch Creek Unit, Sublette County, Wyoming, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978 (NGPA). The area of application is federally (BLM) supervised and consists of the following sections within Township 27 North, Range 113 West: Sections 1, 2, and 3: Lots 1, 2, 3 and 4, S/2N/2, S/2; Section 4: Lot 1, SE/4NE/4, E/2SE/4; Section 9: E/2E/2; Sections 10 through 15: All; Section 22: N/2, N/2S/2, S/2SE/4, SE/4SW/4; Sections 23 through 26: All.

The notice of determination also contains Wyoming's findings and BLM's concurrence that the reference portion of the Baxter Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 92–4156 Filed 2–21–92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP92–340–000]

Chattanooga Gas Co.; Motion Requesting Waiver

February 18, 1992.

Take notice that on February 7, 1992, Chattanooga Gas Company (Chattanooga), 811 Broad Street, Chattanooga, Tennessee 37402, filed a motion with the Commission requesting a waiver of the Commission's reporting and accounting requirements and all other rules and regulations under the Natural Gas Act (NGA) and Natural Gas Policy Act of 1978 (NGPA) that may be applicable to Chattanooga as a natural gas company all as more fully set forth in the motion which is open to public inspection.

Chattanooga states that it is a local distribution company engaged in the purchase, distribution, and retail sale of natural gas in Tennessee pursuant to authorization granted by the Tennessee Public Service Commission. The Commission authorized Chattanooga on November 21, 1990, to provide East Tennessee Natural Gas Company (East Tennessee), its only current jurisdictional customer, with liquefied natural gas (LNG) service.[1] Chattanooga is authorized to provide East Tennessee with firm LNG sales of up to 200,000 Mcf annually and maximum daily withdrawal quantities of up to 13,000 Mcf. If East Tennessee were to purchase the maximum firm volumes under the certificated service, such revenues would comprise only 1.3 percent of Chattanooga's total revenue. Chattanooga states that its compliance with such reporting and accounting requirements is unnecessary since Chattanooga is essentially a non-jurisdictional entity with *de minimal* jurisdictional revenues.

Any person desiring to be heard or to make any protest with reference to said motion requesting waiver should on or before March 10, 1992, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 384.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Secretary.

[FR Doc. 92-4161 Filed 2-21-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-143-010]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

February 18, 1992.

Take notice that CNG Transmission Corporation (CNG) on February 13, 1992, tendered for filing revised tariff sheets listed on the Appendix attached to the filing. The proposed effective date is March 1, 1992.

CNG states that the purpose of the filing is to implement the Stipulation and Agreement that was approved by the Commission in Docket No. RP90-143-006 on February 6, 1992.

CNG states that copies of the filing were served upon CNG's customers as well as interested parties.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211. All such protests should be filed on or before February 25, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-4160 Filed 2-21-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-113-000]

El Paso Natural Gas Co.; Tariff Filing

February 18, 1992.

Take notice that on February 13, 1992, El Paso Natural Gas Company ("El Paso") tendered for filing, pursuant to Part 154 of the Federal Energy Regulatory Commission's ("Commission") Regulations Under the Natural Gas Act, Second Revised Sheet No. 117 contained in its FERC Gas Tariff, First Revised Volume No. 1-A. El Paso states that the filing reflects a reduction in the billing determinant for Westar Transmission Company ("Westar") and the addition of a billing determinant for West Texas Gas, Inc. ("West Texas Gas") under Rate Schedule T-3. El Paso requests that the tariff sheet be accepted for filing and permitted to become effective January 1, 1992.

El Paso states that by orders issued March 20, 1991 and August 14, 1991 at Docket No. RP88-44-000, *et al.*, the Commission approved El Paso's Stipulation and Agreement ("Settlement") which became effective August 31, 1991 and provides, *inter alia*, that all sales customers must convert firm sales entitlements to firm transportation pursuant to Rate Schedules T-3 or FTS-S, as applicable, contained in El Paso's Volume No. 1-A Tariff. All conversions were to be completed no later than January 1, 1992. El Paso states that, accordingly, Westar and West Texas Gas each entered into a Transportation Service Agreement ("TSA") with El Paso dated, respectively, December 31, 1991 and October 22, 1991, to be effective January 1, 1992, under Rate Schedule T-3 contained El Paso's Volume No. 1-A Tariff. El Paso states that neither party elected to convert 100% of their firm sales entitlements to firm transportation. Rather, each elected a Transportation Contract Demand.

El Paso states that in its Section 4 rate filing at Docket No. RP91-188-000, filed July 1, 1991, El Paso included a billing determinant for Westar which was based on the conversion to firm transportation of Westar's full requirements under Rate Schedule T-3. El Paso states that in subsequent negotiation of its TSA, Westar agreed to covert its firm sales entitlements to firm transportation under Rate Schedule T-3 with a Transportation Contract Demand of 30,000 Mcf per day instead of full requirements. Accordingly, El Paso tendered Second Revised Sheet No. 117 to reflect the reduction in Westar's billing determinant to 30,900 dth per day, which is the dekatherm equivalent of 30,000 Mcf per day.

In addition, El Paso states that tendered Second Revised Sheet No. 117 reflects the addition of a billing determinant for West Texas Gas. West Texas Gas elected to convert its firm sales entitlements to firm transportation under Rate Schedule T-3 with a Transportation Contract Demand of 1,000 Mcf per day rather than full requirements. Accordingly, Second Revised Sheet No. 117 also reflects the addition of a billing determinant of 1,030 dth per day (dekatherm equivalent of 1,000 Mcf per day) for West Texas Gas pursuant to such election.

El Paso requests that, pursuant to Section 154.51 of the Commission's Regulations, waiver of the notice requirements of Section 154.22 of the Commission's Regulations be granted so as to permit the tendered tariff sheet to become effective January 1, 1992, the effective date of Westar's and West Texas Gas' TSA and the date the applicable reservation charges under Rate Schedule T-3 commenced.

El Paso states that copies of the filing were served upon all interstate pipeline system transportation customers of El Paso and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before February 25, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

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[1] *See* East Tennessee Natural Gas Company, Docket No. CP90-1922-000 and Chattanooga Gas Company, Docket No. CP90-2060-000 (53 FERC ¶ 61,225).

Lois D. Cashell,
Secretary.

[FR Doc. 92-4163 Filed 2-21-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA92-1-53-001]

K N Energy, Inc.; Proposed Changes in FERC Gas Tariff

February 18, 1992.

Take notice that K N Energy, Inc. ("K N") on February 13, 1992 tendered for filing proposed changes in its FERC Gas Tariff to correct a typographic error contained on one of the tariff sheets filed on January 30, 1992, with its regularly scheduled quarterly PGA.

K N states that copies of the filing were served upon K N's jurisdictional sales customers and interested public bodies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedures, 18 CFR 385.211. All such protests should be filed on or before February 25, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 92-4158 Filed 2-21-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-189-003]

Midwestern Gas Transmission Co; Notice to Move Rates Into Effect

February 18, 1992.

Take notice that on January 31, 1992, Midwestern Gas Transmission Company (Midwestern) seeks to supplement its December 31, 1991 Motion to Move Rates Into Effect in the above referenced proceeding.

Midwestern states that in its December 31 motion, Midwestern did not specifically reference to the following tariff sheets:

Third Revised Sheet No. 1
Twenty-third Revised Sheet No. 6
Third Revised Sheet No. 10
Third Revised Sheet No. 11
Third Revised Sheet No. 20
Second Revised Sheet Nos. 23 through 29
Third Revised Sheet No. 30
Fifth Revised Sheet No. 45
Fifth Revised Sheet No. 54
Second Revised Sheet Nos. 94 through 109

Midwestern hereby supplements its December 31 motion to reference the tariff sheets and to thereby move the tariff sheets into effect.

Midwestern states that it is also filing Third Revised Tariff Sheet Nos. 69 through 74. Midwestern also states that it has amended Third Revised Sheet No. 70 to remove the paragraph pertaining to the flowthrough of upstream supplier GIC charges.

Midwestern states that copies of the filing have been served upon each person designated on the official service list.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before February 25, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 92-4165 Filed 2-21-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP92-1-000 and CP92-71-000]

Northern Natural Gas Company; Informal Settlement Conference

February 18, 1992.

Take notice that an informal settlement conference will be convened in the above-captioned proceeding at 9 a.m. on February 26, 1992, at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC, for the purpose of exploring the possible settlement of the above-referenced dockets.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information please contact Michael D. Cotleur, (202) 208-1076, or John J. Keating, (202) 208-0762.

Lois D. Cashell,
Secretary.

[FR Doc. 92-4167 Filed 2-21-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP92-328-000]

Panhandle Eastern Pipe Line Co.; Request for Clarification or Abbreviated Application for Abandonment

February 18, 1992.

Take notice that on February 4, 1992, Panhandle Eastern Pipe Line Company (Panhandle) P.O. Box 1642, Houston, Texas, 77251-1642, filed in Docket No. CP92-328-000 a request for clarification of the certificate authority issued to Panhandle in Northwest Alaskan Pipeline Co., et al., 11 FERC ¶ 61,302 (1980), or in the alternative, an application pursuant to section 7(b) of the Natural Gas Act (NGA), as amended, and §§ 157.7 and 157.18 of the Federal Energy Regulatory Commission's (Commission) Regulations (18 CFR 157.7, 157.18 (1991)), for an order permitting and approving abandonment of any service obligation found to exist under the certificate issued in that docket to Northern Natural Gas Company (Northern Natural), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Panhandle requests that the Commission clarify that it has no service obligation under the certificate issued in Docket No. CP79-403-000 for which abandonment authorized is required to effectuate the termination of its June 26, 1979 "Transportation Agreement" with Northern Natural. In the alternative, Panhandle requests that the Commission permit and approve its abbreviated application for abandonment of any service obligation found to exist to Northern Natural. Panhandle states that no customer of Panhandle would have its service terminated or adversely affected as a result of Panhandle's abandonment of such a service obligation.

Any request person desiring to be heard or to protest to said filing should file a motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before March 10, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 92-4164 Filed 2-21-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA92-2-18-002 and TF92-4-18-001]

Texas Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

February 18, 1992.

Take notice that Texas Gas Transmission Corporation (Texas Gas), on February 10, 1992, tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

TA92-2-18-001

Substitute Forty-ninth Revised Sheet No. 10
Substitute Forty-ninth Revised Sheet No. 10A
Substitute Thirtieth Revised Sheet No. 11
Substitute Twentieth Revised Sheet No. 11A
Substitute Twentieth Revised Sheet No. 11B

TF92-4-18-001

Substitute Fiftieth Revised Sheet No. 10
Substitute Fiftieth Revised Sheet No. 10A
Substitute Thirty-first Revised Sheet No. 11
Substitute Twenty-first Revised Sheet No 11A
Substitute Twenty-first Revised Sheet No. 11B

TA92-2-18-001:

Texas Gas states that these tariff sheets are being filed to comply with the Commission's "Order Accepting and Suspending Tariff Sheets Subject to Refund and Conditions" issued January 31, 1992, in Docket No. TA92-2-18-000, filed December 10, 1991.

The proposed tariff sheets reflect a commodity rate decrease of $(.2972) per MMBtu from those rates reflected in the Annual PGA filing of December 10, 1991, and a commodity rate decrease of $(.1684) per MMBtu from the rates reflected in the last scheduled Quarterly PGA in Docket No. TQ92-1-18. No changes are being proposed for the demand rates or SGN standby charges.

Texas Gas states that these tariff sheets are being filed to reflect the revised current adjustment and pagination due to the compliance filing in TA92-2-18-001. The effective rates reflected in the proposed sheets are the same as those accepted by Commission Letter Order dated January 31, 1992, in Texas Gas' interim PGA filing of January 28, 1992 (Docket No. TF92-4-18-000).

Texas Gas states that copies of the filing were served upon Texas Gas' jurisdictional sales customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedures, 18 CFR 385.211. All such protests should be filed on or before February 25, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-4162 Filed 2-21-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GT92-14-000]

Trunkline Gas Co.; Proposed Changes in FERC Gas Tariff

February 18, 1992.

Take notice that Trunkline Gas Company (Trunkline) on January 28, 1992, tendered for filing the following revised tariff sheet to its FERC Gas Tariff, Original Volume No. 1:

Twenty-Second Revised Sheet No. 35

Trunkline proposes that this sheet become effective September 1, 1991.

Trunkline states that this proposed tariff sheet is being filed pursuant to section 154 of the Commission's Regulations and in compliance with § 284.10(d)(1) of the Commission's Regulations which granted permission and approval of the partial abandonment of natural gas sales service to Northern Indiana Public Service Company (NIPSCO).

This revised tariff sheet reflects changes pursuant to a new Service Agreement dated September 1, 1991 with NIPSCO, a jurisdictional sales customer served by Trunkline pursuant to Rate Schedule P-2 of its FERC Gas Tariff, Original Volume No. 1. This new Service Agreement reflects NIPSCO's election pursuant to § 284.10(c) of the Commission's Regulations to reduce its sales contract demand volumes.

Trunkline states that a copy of this letter and enclosures were served on all affected sales customers subject to the tariff sheet and applicable state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before February 25 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 92-4157 Filed 2-21-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-114-000]

Williams Natural Gas Co.; Proposed Changes in FERC Gas Tariff

February 18, 1992.

Take notice that Williams Natural Gas Company (WNG) on February 13, 1992 tendered for filing the following tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1:

Third Revised Sheet Nos. 119, 120, and 246
First Revised Sheet No. 247

The proposed effective date of these tariff sheets is March 15, 1992.

WNG states that Third Revised Sheet Nos. 119 and 120 are being filed to clarify that both the Reservation Charge and the Overrun Charge under Rate Schedule FTS are applicable within each zone. This is to prevent a shipper designating its delivery points for purposes of the Reservation Charge to be in Zone 1, but requesting that most deliveries under the contract be made in Zone 2 on an authorized overrun basis.

WNG states that Third Revised Sheet No. 246 is being filed to clarify that authorized overrun service under both Rate Schedules FTS and ITS will be treated equally, especially for curtailment purposes, with service under Rate Schedule ITS in all respects. First Revised Sheet No. 247 is included for pagination purposes only.

WNG states that copies of its filing were served on all jurisdictional purchasers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before February 25, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 91–4159 Filed 2–21–91; 8:45 am]

BILLING CODE 6717–01–M

Office of Fossil Energy

[FE Docket No. 92–06–NG]

Sergeant Oil & Gas Co., Inc., Application for Blanket Authorization To Export Natural Gas

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of application for blanket authorization to export natural gas to Mexico.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on January 27, 1992, of an application filed by Sergeant Oil & Gas Co., Inc. (SOG), requesting blanket authorization to export to Mexico up to 40,000 Mcf per day of natural gas over a two-year term beginning on the date of first delivery. Export sales of natural gas would not exceed 30 Bcf during the two-year period. The proposed exports would take place at any point on the international border where existing pipeline facilities are located.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m. Eastern time, March 25, 1992.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Peter Lagiovane, Office of Fuels Programs, Forrestal Building, room 3F–056, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–8116.

Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: SOG is a Texas corporation with its principal place of business in Houston, Texas. It is a marketer of natural gas and liquid petroleum products operating primarily in the Gulf Coast area of the United States. SOG states that the gas would be exported, either for SOG's own account or on behalf of others, to Pemex for local distribution by Pemex to its customers, or to customers, including end-users and electric utilities, under direct sales. The specific details of each export transaction would be filed by SOG in conformity with DOE's quarterly reporting requirement. SOG anticipates all sales would result from arms-length negotiations and the prices would be determined by market conditions.

This export application will be reviewed under section 3 of the NGA and the authority contained in DOE Delegation Order Nos. 0204–111 and 0204–127. In deciding whether the proposed export of natural gas is in the public interest, domestic need for the gas will be considered, and any other issue determined to be appropriate, including whether the arrangement is consistent with the DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment on these matters as they relate to the requested export authority

SOG states that due to the current gas supply surplus in the U.S., domestic producers and the states where the domestic gas is produced would benefit from the sales resulting from this export authorization. Further, SOG contends that the proposed exports would lower the overall U.S. trade deficit and enhance the integration of U.S.-Mexico gas markets. SOG asserts there is no current regional or national need for the domestic gas that would be exported under the proposed arrangement, and, if the availability of gas in the U.S. were to become a problem, the exported gas could be reallocated within a reasonable time to domestic needs because of the short-term nature of the authorization. Parties opposing the arrangement bear the burden of overcoming these assertions.

All parties should be aware that if DOE approves this requested blanket export authorization, it may designate a total authorized volume of 30 Bcf for the two-year term in order to maximize the applicant's flexibility of operation.

NEPA Compliance. The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures. In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have their written comments considered as the basis for any decision of the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of SOG's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-4175 Filed 2-21-92; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Public Law 89-777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended: Starlite Cruises, Inc., 1007 North American Way, Miami, Florida 33132.

Vessel: RAINBOW.

Dated: February 18, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 92-4153 Filed 2-21-92; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of December 17, 1991

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on December 17, 1991.[1] The Directive was issued to the Federal Reserve Bank of New York as follows:

The information reviewed at this meeting continues to portray a sluggish economy and a depressed state of business and consumer confidence. Total nonfarm payroll employment fell sharply in November; however, the average workweek in the private nonfarm sector edged up and the civilian unemployment rate remained at 6.8 percent. Industrial production fell in November, partly reflecting a sizable drop in motor vehicle assemblies. Consumer spending has been soft on balance in recent months. Real outlays for business equipment appear to be rising slowly, and nonresidential construction has continued to decline. Housing starts were appreciably higher on average in October and November than in the third quarter. The nominal U.S. merchandise trade deficit widened slightly further in September; the deficit in the third quarter was substantially larger than in the second quarter. Wage and price increases have continued to trend downward.

Interest rates have declined appreciably since the Committee meeting on November 5. The Board of Governors approved a reduction in the discount rate from 5 to 4-1/2 percent on November 6. In foreign exchange markets, the trade-weighted value of the dollar in terms of the other G-10 currencies declined further over the intermeeting period; the dollar depreciated primarily against the mark and other European currencies.

Expansion in M2 and M3 edged up in November from a slow pace in October; the slightly faster growth reflected a strengthening in the most liquid components of the aggregates. For the year through November, expansion of both M2 and M3 is estimated to have been at the lower ends of the Committee's ranges.

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability and promote sustainable growth in output. In furtherance of these objectives, the Committee at its meeting in July reaffirmed the ranges it had established in February for growth of M2 and M3 of 2-1/2 to 6-1/2 percent and 1 to 5 percent, respectively, measured from the fourth quarter of 1990 to the fourth quarter of 1991. The monitoring range for growth of total domestic nonfinancial debt also was maintained at 4-1/2 to 8-1/2 percent for the year. For 1992, on a tentative basis, the Committee agreed in July to use the same ranges as in 1991 for growth in each of the monetary aggregates and debt, measured from the fourth quarter of 1991 to the fourth quarter of 1992. With regard to M3, the Committee anticipated that the ongoing restructuring of thrift depository institutions would continue to depress the growth of this aggregate relative to spending and total credit. The behavior of the monetary aggregates will continue to be evaluated in the light of progress toward price level stability, movements in their velocities, and developments in the economy and financial markets.

In the implementation of policy for the immediate future, the Committee seeks to maintain the existing degree of pressure on reserve positions. In the context of the Committee's long-run objectives for price stability and sustainable economic growth, and giving careful consideration to economic, financial, and monetary developments, slightly greater reserve restraint might or somewhat lesser reserve restraint would be acceptable in the intermeeting period. The contemplated reserve conditions are expected to be consistent with growth of M2 and M3 over the period from November through March at annual rates of about 3 and 1-1/2 percent, respectively.

By order of the Federal Open Market Committee, February 14, 1992.

Normand Bernard,

Deputy Secretary, Federal Open Market Committee.

[FR Doc. 92-4128 Filed 2-21-92; 8:45 am]

BILLING CODE 6210-01-F

FirstBancorp, Inc., et al.; Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

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[1] Copies of the Record of policy actions of the Committee for the meeting of December 17, 1991, are available upon request to The Board of Governors of the Federal Reserve System, Washington, DC 20551.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 20, 1992.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. FirstBancorp, Inc., Marathon, Florida; to engage *de novo* in extending first mortgage loans to officers and employees of its subsidiary bank, First National Bank of the Florida Keys, Marathon, Florida, pursuant to § 225.25(b)(1) of the Board's Regulation Y. These activities will be conducted throughout Monroe County and Dade County, Florida.

B. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Landmark Bancorp, La Habra, California; to engage *de novo* through a wholly owned subsidiary, in the making and servicing of loans pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 18, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-4129 Filed 2-21-92; 8:45 am]

BILLING CODE 6210-01-F

Montfort Bancorporation, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 20, 1992.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Montfort Bancorporation, Inc., Platteville, Wisconsin, and its wholly owned subsidiary, Clare Bancorporation, Inc., Platteville, Wisconsin, to acquire First Federal Savings and Loan Association of Platteville, Platteville, Wisconsin, and thereby engage in operating a savings association pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 18, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-4130 Filed 2-21-92; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

[Dkt. C-3368]

Scali, McCabe, Sloves, Inc.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent Order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, the New York advertising agency of Volvo North America Corporation to pay $150,000 to the U.S. Treasury as disgorgement, and prohibits respondent from misrepresenting the strength, structural integrity, or crashworthiness of any automobile or auto part, or the safety of a vehicle occupant in a collision.

DATES: Complaint and Order issued January 28, 1992.[1]

FOR FURTHER INFORMATION CONTACT: Joel Winston or Lisa Hellerman, FTC/S-4002, Washington, DC 20580. (202) 326-3153 or 326-3139.

SUPPLEMENTARY INFORMATION: On Wednesday, September 4, 1991, there was published in the **Federal Register**, 56 FR 43780, a proposed consent agreement with analysis In the Matter of Scali, McCabe, Sloves, Inc., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

A comment was filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

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[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

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(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Donald S. Clark,

Secretary.

[FR Doc. 92–4147 Filed 2–21–92; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3367]

Volvo North America Corporation, et al.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent Order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, the automobile corporation to pay $150,000 to the U.S. Treasury as disgorgement, and prohibits respondents from misrepresenting the strength, structural integrity, or crashworthiness of any automobile or auto part, or the safety of a vehicle occupant in a collision.

DATES: Complaint and Order issued January 28, 1992.[1]

FOR FURTHER INFORMATION CONTACT: Lisa Hellerman, FTC/S–4002, Washington, DC 20580. (202) 326–3139.

SUPPLEMENTARY INFORMATION: On Wednesday, September 4, 1991, there was published in the **Federal Register,** 56 FR 43780, a proposed consent agreement with analysis In the Matter of Volvo North America Corporation, et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Donald S. Clark,

Secretary.

[FR Doc. 92–4148 Filed 2–21–92; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Meeting

The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control (CDC) announces the following meeting.

Name: Work Schedule Factors Related to Upper Extremity Fatigue.

Time and Date: 12:30–4:30 p.m., March 25, 1992.

Place: Robert A. Taft Laboratories, Auditorium, NIOSH, CDC, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

Status: Open to the public, limited only by the space available.

Purpose: To conduct an open meeting for the review of a research protocol to study the fatiguing effects of 8- and 12-hour work shifts on worker capacity to perform manual work involving the upper extremities.

Contact Person for Additional Information: Roger R. Rosa, Ph.D., NIOSH, CDC, 4676 Columbia Parkway, Mailstop C–24, Cincinnati, Ohio 45226, telephone 513/533–8291 or FTS 684–8291.

Dated: February 18, 1992.

Robert L. Foster,

Assistant Director for Special Projects, Office of Program Support, Centers for Disease Control.

[FR Doc. 92–4120 Filed 2–21–92; 8:45 am]

BILLING CODE 4160–19–M

Food and Drug Administration

[Docket No. 92M–0054]

Telectronics Pacing Systems, Inc.; Premarket Approval of META™ DDDR Pacing System

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Telectronics Pacing Systems, Inc., Englewood, CO, for premarket approval, under section 515 of the Federal Food, Drug, and Cosmetic Act (the act), of the META™ DDDR Pacing System, including Model 1250H Pulse Generator, Models 5600D, 5603, and 9600 Programmers with version V4.26, V5.43UE, and V3.66UE software, Model 5702 Printer, Model 5302 External Programming Coil, Model 5500 Interface Module, and Model 030–570 IPG Test Cable Adaptor. After reviewing the recommendation of the Circulatory System Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of January 30, 1992, of the approval of the application.

DATES: Petitions for administrative review by March 25, 1992.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mitchell J. Shein, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301–427–1018.

SUPPLEMENTARY INFORMATION: On November 29, 1990, Telectronics Pacing Systems, Inc., 7400 South Tucson Way, Englewood, CO 80112, submitted to CDRH an application for premarket approval of the META™ DDDR Pacing System, including Model 1250H Pulse Generator, Models 5600D, 5603, and 9600 Programmers with version V4.26, V5.43UE, and V3.66UE software, Model 5702 Printer, Model 5302 External Programming Coil, Model 5500 Interface Module, and Model 030–570 IPG Test Cable Adaptor. The dual chamber pacing modes of the META™ DDDR Model 1250H Pulse Generator (hereinafter referred to as the META™ DDDR) is indicated where maintenance of atrio-ventricular synchrony is required. This requirement is associated with the generally accepted indications for permanent cardiac pacing which include, but are not limited to: (1) Sick sinus node syndrome; (2) symptomatic bradycardia; (3) symptomatic A–V block; (4) recurrent Stokes-Adams syndrome; (5) carotid sinus syncope; and (6) suppression of tachycardia. The rate responsive pacing modes of the META™ DDDR are indicated for those patients who can benefit from an increase in pacing rate, atrial and/or ventricular, in response to a physiologic need for increased cardiac output. The dual chamber rate responsive pacing modes are of specific benefit to patients with chronotropic incompetence. Chronotropic incompetence is the inability to achieve an intrinsic maximal heart rate greater than 60 percent of the patient's age predicted maximal heart rate (i.e., 220 − age). During the clinical study of the META™ DDDR a subset of chronotropically incompetent patients were evaluated and demonstrated that the minute ventilation rate responsive modes eliminate chronotropic incompetence in a physiologic manner as measured by minute ventilation and oxygen uptake, in that the DDDR mode provides statistically significant improvements in oxygen uptake, work rate, and exercise time at the anaerobic threshold as compared to the DDDR mode. Patients with intact sinus response may benefit from the ability of the device to overcome limitations of dual chamber upper rate behavior and/or to prevent ventricular pacing in response to nonphysiologic atrial tachycardias.

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[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

On June 3, 1991, the Circulatory System Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On January 30, 1992, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before March 25, 1992, file with the Dockets Management Branch (address above) two copies each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), (21 U.S.C. 360e(d), 360j(h)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: February 14, 1992.

Elizabeth D. Jacobson,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 92–4118 Filed 2–21–92; 8:45 am]

BILLING CODE 4160-01-M

Public Health Service

Centers for Disease Control Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HC (Centers for Disease Control) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–67776, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 57 FR 412, dated January 6, 1992) is amended to reflect the establishment of the Division of Cancer Prevention and Control, National Center for Chronic Disease Prevention and Health Promotion.

Section HC–B, Organization and Functions, is hereby amended as follows:

After the functional statement for the *Office on Smoking and Health (HCL7),* insert the following:

Division of Cancer Prevention and Control (HCL8). (1) Plans, directs, and supports prevention, early detection, and control programs for cancer, based upon policy, research, and public health practice; (2) directs, monitors, and reports on activities associated with the implementation of Public Law 101–354: "The Breast and Cervical Cancer Mortality Prevention Act of 1990"; (3) plans, directs, and supports activities for monitoring the distribution and the determinants of cancer morbidity, survival, and mortality; (4) plans and conducts epidemiologic studies and evaluations to identity the feasibility and effectiveness of cancer prevention and control strategies; (5) develops public health strategies and guidelines to form the basis for community interventions in cancer prevention and control; (6) provides technical consultation, assistance, and training to state and local public health agencies in all components of early detection and control programs for cancer; (7) provides technical assistance and consultation to health care provider organizations related to the improved education, training, and skills in the prevention, detection and control of selected cancers; (8) identifies problems, needs, and opportunities related to modifiable behavioral and other risk factors, and recommends priorities for health education, health promotion, and cancer risk reduction activities; (9) plans, develops and maintains surveillance systems in collaboration with states, the Office of Surveillance and Analysis, and other Center components, and (10) coordinates activities as appropriate with other CDC organizations, PHS agencies, and related voluntary, international, and professional health organizations.

Office of the Director (HCL81). (1) Establishes and interprets policies and determines program priorities; (2) provides leadership and guidance in program planning and development, program management, program evaluation, budget development, and Division operations; (3) monitors progress toward achieving Division objectives and assessing the impact of programs; (4) insures that Division activities are coordinated with other components of CDC both within and outside the Center; with Federal, state and local agencies; and related voluntary and professional organizations; (5) coordinates Division responses to requests for technical assistance or information on primary and secondary cancer prevention practices, behaviors and policies, including Division activities and programs; (6) provides administrative and logistic support for Division field staff; and (7) develops and produces communications tools and public affairs strategies to meet the needs of Division programs and mission.

Effective Date: February 12, 1992.

William L. Roper,

Director, Centers for Disease Control.

[FR Doc. 92–4119 Filed 2–21–92; 8:45 am]

BILLING CODE 4160–18–M

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT-060-02-4352-08]

Emergency Closure and Restriction on Public Land in the Wedge Portion of the Middle San Rafael River Area of Critical Environmental Concern (ACEC)

February 12, 1992.

AGENCY: Moab District, San Rafael Resource Area, Utah, Bureau of Land Management, Interior.

ACTION: Notice of Closure and Restriction on Public Land for the Protection of Endangered Plant and Wildlife Resources.

SUMMARY: Pursuant to the regulations contained in 43 CFR 8364.1 the Bureau of Land Management is limiting motorized vehicle and mountain bike travel to designated roads and trails, and camping to designated campsites. The restrictions will be in effect on approximately 10,200 acres of public land on and around the Wedge Overlook. These limitations are located within and surrounding the Middle San Rafael Canyon ACEC, and includes all lands and roads not marked with an open sign. These restrictions are in keeping with the designation for this area as described in the San Rafael Resource Management Plan of 1991. A map of the area described above may be viewed in the Resource Area office. The limitation is necessary to prevent further deterioration of the area's endangered plant and wildlife resources. Personnel that are exempt from the area limitation include any Federal, State, or local officer, or member of any organized rescue or fire-fighting force in the performance of an official duty, or any person authorized by the Bureau.

DATES: This limitation is effective March 28, 1992, and shall remain in effect until rescinded by the authorized officer.

PENALTIES: Violators are subject to fines not to exceed $1,000 and/or imprisonment not to exceed 12 months.

FOR FURTHER INFORMATION CONTACT: Penelope Smalley, San Rafael Resource Area Manager, 900 North 700 East, Price, UT 84501 or phone (801) 637-4584.

Roger Zortman,

District Manager.

[FR Doc. 92-4103 Filed 2-21-92; 8:45 am]

BILLING CODE 4310-DQ-M

[ID-050-4351-08]

Meeting of the Shoshone District Advisory Council and the District Grazing Board

AGENCY: Bureau of Land Management (BLM); Interior.

ACTION: Notice of meetings.

SUMMARY: This notice sets forth the schedule and proposed topics for a meeting of the Shoshone (Idaho) District Advisory Council and District Grazing Board.

DATES: The District Advisory Council will meet Wednesday, March 25, 1992 and the District Grazing Board will meet Thursday, March 26, 1992.

ADDRESSES: Shoshone District BLM Office, 400 West F Street, Shoshone, Idaho.

FOR FURTHER INFORMATION CONTACT: District Manager Mary Gaylord, P.O. Box 2-B, 400 West F Street, Shoshone, ID 83352, Telephone (208) 886-2206 or FTS 554-6100.

SUPPLEMENTARY INFORMATION: The proposed topics for both of the meetings include the following items:

1. Adjourn December meeting which was continued until a later date (Advisory Council).
2. Introduce new members/elect new chairman (Advisory Council).
3. Presentation on the Blaine County Recreation Plan (Advisory Council).
4. Review alternatives and proposed decisions for the Bennett Hills Resource Management Plan (both Advisory Council and Advisory Board).
5. Other topics as needed.

The Shoshone District Advisory Council is established under section 309 of the Federal Land Policy and Management Act of 1976 (Pub. L. 94-579; U.S.C. 1701 et seq.) as amended. Operation and administration of the Council will be in accordance with the Federal Advisory Committee Act of 1972 (Pub. L. 92-463; 5 U.S.C. Appendix 1) and Department of Interior regulations, including 43 CFR part 1784. Operation and administration of the Grazing Advisory Board will be in accordance with the Federal Advisory Council Committee Act of 1972 (Pub. L. 92-463; U.S.C., Appendix 1) and Department of Interior regulations, including 43 CFR part 1984.

The meetings are open to the public. Anyone may present oral statements or may file a written statement with the District Manager regarding matters on the agenda. Oral statements will be limited to ten minutes.

Anyone wishing to make an oral statement should notify the District Manager by March 23, 1992. Records of the meetings will be available in the Shoshone District Office for public inspection or copying within 30 days after the meetings.

Dated: February 12, 1992.

Janis L. VanWyhe,

Associate District Manager.

[FR Doc. 92-4104 Filed 2-21-92; 8:45 am]

BILLING CODE 4310-GG-M

Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting, Ukiah, California, District Advisory Council.

SUMMARY: Pursuant to Public Law 94-579 and 43 CFR part 1780, the Ukiah District Advisory Council will meet in Clearlake, California, March 25-26, 1992. Agenda items will include a tour and briefing on a draft management plan for public lands in the Knoxville Recreation Area, a briefing on a partial record of decision for the Arcata Resource Management Plan, a briefing on the final visitor services plan and visitor survey for the King Range National Conservation Area, as well as miscellaneous items of interest. A complete agenda is available from the Ukiah BLM Office.

DATES: March 25, 10 a.m. to 5 p.m., and March 26, 8 a.m. to 3 p.m.

ADDRESSES: March 25, Field Tour, Knoxville Recreation Area, March 26, Best Western El Grande Inn, 15135 Lakeshore Drive, Clearlake, California.

FOR FURTHER INFORMATION CONTACT: Barbara Taglio, Ukiah District Office, Bureau of Land Management, 555 Leslie Street, Ukiah, California 95482, (707) 462-3873.

SUPPLEMENTARY INFORMATION: All meetings of the Ukiah District Advisory Council are open to the public. Individuals may submit oral or written comments for the Council's consideration. Opportunity for oral comments will be provided at 1 p.m., Thursday, March 26. Summary minutes of the meeting will be maintained by the Ukiah District Office and will be available for inspection and reproduction within 30 days of the meeting.

Dated: February 13, 1992.

Lynda Roush,

Acting District Manager.

[FR Doc. 92–4135 Filed 2–21–92; 8:45 am]

BILLING CODE 4310-40-M

[CO-920-92-4111-15; COC45229]

Colorado; Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Public Law 97–451, a petition for reinstatement of oil and gas lease COC45229, Rio Blanco County, Colorado, was timely filed and was accompanied by all required rentals and royalties accruing from September 1, 1991, the date of termination.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $5 per acre and 16–2/3 percent, respectively. The lessee has paid the required $500 administrative fee for the lease and has reimbursed the Bureau of Land Management for the cost of this **Federal Register** notice.

Having met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920, as amended, 30 U.S.C. 188 (d) and (e), the Bureau of Land Management is proposing to reinstate the lease effective September 1, 1991, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Questions concerning this notice may be directed to Joan Gilbert of the Colorado State Office at (303) 239–3783.

Dated: February 11, 1992.

Janet M. Budzilek,

Chief, Fluid Minerals Adjudication Section.

[FR Doc. 92–4100 Filed 2–21–92; 8:45 am]

BILLING CODE 4310-JB-M

[CA-050-09-4212-14; CACA 26636, CACA 7337 WR]

Partial Termination of Small Tract Classification No. 506, Opening of Lands; Trinity County; CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice partially terminates Small Tract Classification No. 506 dated January 4, 1957, which classified public land for disposition pursuant to the Small Tract Act of 1938. A portion of the land classified for small tract under classification No. 506 has been found suitable for direct sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713) as published in the **Federal Register** as a notice of realty action on August 15, 1991 (Vol. 56, No. 158).

EFFECTIVE DATE: March 25, 1992.

FOR FURTHER INFORMATION CONTACT: Patricia Cook, Realty Specialist, Redding Resource Area, 355 Hemsted Drive, Redding, California 96002.

1. The Bureau of Land Management Order of Classification Small Tract No. 506 is hereby terminated insofar as it affects the following described land:

Mount Diablo Meridian

T. 33 N., R. 9 W.,
  Sec. 5, lots 52, 53, 56 through 61, S½NE¼, SE¼, and E½SE¼SW¼.
  Sec. 8, lot 1.

The area described contains approximately 521.53 acres in Trinity County.

2. At 10 a.m. on March 25, 1992 the land described in paragraph 1 will be open to the operation of the public land laws generally, and to location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, and classifications, and the requirements of applicable law.

Kathleen A. Simmons,

Acting District Manager.

[FR Doc. 92–4136 Filed 2–21–92; 8:45 am]

BILLING CODE 4310-40-M

[OR-943-4214-10; GP2-130; OR-45401]

Opening of Public Lands; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice

SUMMARY: This action will terminate the temporary segregative effect as to 523.18 acres of public lands included in an application for withdrawal involving the New River area of Critical Environmental Concern.

EFFECTIVE DATE: March 29, 1992.

FOR FURTHER INFORMATION CONTACT: Linda Sullivan, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, 503–280–7171.

SUPPLEMENTARY INFORMATION: Pursuant to the regulations contained in 43 CFR 2310.2–1(d), at 8:30 a.m., on March 29, 1992, the following described lands will be relieved of the temporary segregative effect of withdrawal application OR–45401. The withdrawal application will continue to be processed unless it is cancelled or denied:

Willamette Meridian

T. 30 S., R. 15 W.,
  Sec. 3, lots 3 and 4;
  Sec. 10, lots 1, 2, 3, and 4, and SW¼SE¼;
  Sec. 15, lots 1, 2, 3, and 4, and NW¼NE¼;
  Sec. 21, lot 2;
  Sec. 22, lots 1 and 2, and NW¼SW¼;
  Sec. 32, lot 1;
  Sec. 33, lot 2.

The areas described aggregate 523.18 acres in Coos and Curry Counties.

Dated: February 10, 1992.

Robert E. Mollohan,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 92–4098 Filed 2–21–92; 8:45 am]

BILLING CODE 4310-33-M

[AZ-020-02-4212-13; AZA-26445]

Notice of Realty Action, Exchange of Public Lands; Mohave County, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action exchange.

SUMMARY: The Bureau of Land Management proposes to exchange public land in order to achieve more efficient management of the public land through consolidation of ownership and the acquisition of unique natural resource lands. All or part of the following described federal lands are being considered for disposal via exchange, subject to valid existing rights, pursuant to Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716. The final determination on disposal will be made upon completion of the environmental assessment.

Gila and Salt River Base and Meridian, Mohave County, Arizona

Township 22 N., Range 18 W.
  Sec. 5, Lots 1–4, S½N½, S½;
  Sec. 6, Lots 1–7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
  Sec. 7, Lots 1–4, E½, E½W½;
  Sec. 8, All;
  Sec. 9, All;
  Sec. 11, All;
  Sec. 14, All;
  Sec. 15, All;
  Sec. 16, All;
  Sec. 17, All;
  Sec. 18, Lots 1–4, E½, E½W½;
  Sec. 19, Lots 1–4, E½, E½W½;
  Sec. 20, All;
  Sec. 21, All;
  Sec. 22, All;
  Sec. 23, All;
  Sec. 25, Lots 1–7, W½, W½SE¼;
  Sec. 26, All;
  Sec. 27, All;
  Sec. 28, All;
  Sec. 29, All;
  Sec. 30, Lots 1–4, E½, E½W½;
  Sec. 31, Lots 1–4, E½, E½W½;
  Sec. 32, All;
  Sec. 33, All;

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Sec. 34, All;
Sec. 35, All.

Comprising 17401.15 acres, more or less.

Township 21 N., Range 19 W.

Sec. 4, Lots 1–4, S½N½, S½;
Sec. 5, Lots 1–4, S½N½, S½;
Sec. 8, All;
Sec. 9, All;
Sec. 16, All;
Sec. 17, All;
Sec. 20, All.

Comprising 4481.76 acres, more or less.

Township 17 N., Range 21 W.

Sec. 4, Lots 1–4, S½N½, S½;
Sec. 5, Lots 1–4, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 9, All.

Comprising 1796.20 acres, more or less.

Township 18 N., Range 21 W.

Sec. 4, Lots 1–4, S½N½, S½;
Sec. 6, S½N½SW¼SE¼, S½SW¼SE¼, SE¼SE¼;
Sec. 7, E½;
Sec. 8, All;
Sec. 9, All;
Sec. 16, All;
Sec. 17, All;
Sec. 18, E½;
Sec. 19, NE¼, E½SE¼;
Sec. 20, All;
Sec. 21, All;
Sec. 28, All;
Sec. 29, All;
Sec. 33, All.

Comprising 7348.96 acres, more or less.

Township 19 N., Range 21 W.

Sec. 4, Lots 1–4, S½N½, S½;
Sec. 5, Lots 1–4, S½N½, S½;
Sec. 6, Lots 1–7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7, Lots 1–3, E½, E½NW¼, NE¼SW¼;
Sec. 8, All;
Sec. 9, All;
Sec. 20, SW¼SW¼NW¼NW¼, W½NE¼SW¼NW¼, SE¼NE¼S W¼NW¼, W½SW¼NW¼, SE¼SW¼NW¼, SW¼SE¼NW¼, S½SE¼SE¼NW¼, NE¼NE¼SW¼, N½NW¼NE¼SW¼, NE¼SE¼N E¼SW¼, NW¼NW¼SE¼, NW¼SW¼NW¼SE¼;
Sec. 28, N½NE¼;
Sec. 29, S½N½, S½.

Comprising 4414.95 acres, more or less.

The total acreage of all the above described lands is 35,443.02 acres.

In accordance with the regulations of 43 CFR 2201.1, publication of this notice will segregate the affected public land from appropriation under the public land laws, except exchange pursuant to Section 206 of the Federal Land Policy and Management Act of 1976. The segregative effect shall also exclude appropriation of the subject public land under the mining laws, subject to valid existing rights.

The segregation of the above-described land shall terminate upon issuance of a document conveying title to such lands or upon publication in the **Federal Register** of a notice of termination of the segregation; or the expiration of two years from the date of publication, whichever occurs first.

For a period of forty-five (45) days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Phoenix District, 2015 West Deer Valley Road, Phoenix, Arizona 85027. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Dated: February 14, 1992.

Henri R. Bisson,

District Manager.

[FR Doc. 92–4105 Filed 2–21–92; 8:45 am]

BILLING CODE 4310-32-M

[AZ 020-02-4212-12 (AZA 26463)]

Realty Action: Exchange of Public Land, Yavapai County, AZ

BLM proposes to exchange public lands and minerals for patented lands in order to achieve more efficient management of the public land through consolidation of ownership.

All public lands and minerals in the following sections are being considered for disposal by exchange pursuant to section 206 of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1716.

Gila and Salt River Meridian, Arizona

T. 9 N., R. 2 E.,
Secs. 15, 16, 21, 22.

Containing 2,500 acres, more or less.

Final determination on disposal will await completion of an environmental assessment.

In accordance with the regulations of 43 CFR 2201.1(b), publication of this notice will segregate the affected public lands and minerals from appropriation under the public land laws and the mining laws, but not the mineral leasing laws or Geothermal Steam Act.

The segregation of the above-described lands shall terminate upon issuance of a document conveying such lands or upon publication in the **Federal Register** of a notice of termination of the segregation; or the expiration of two years from the date of publication, whichever occurs first.

For a period of forty-five (45) days from the date of publication of this Notice in the **Federal Register**, interested parties may submit comments to the District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

Dated: February 14, 1992.

Henri R. Bisson,

District Manager.

[FR Doc. 92–4106 Filed 2–21–92; 8:45 am]

BILLING CODE 4310-32-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-315]

Certain Plastic Encapsulated Integrated Circuits; Issuance of Limited Exclusion Order and Cease and Desist Orders

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Commission has issued a limited exclusion order and cease and desist orders in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Andrea C. Casson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–3105.

SUPPLEMENTARY INFORMATION: The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in § 210.58 of the Commission's Interim Rules of Practice and Procedure (19 CFR 210.58).

On July 9, 1990, Texas Instruments Incorporated (TI) filed a complaint under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) alleging that respondents Analog Devices, Inc. (Analog), Integrated Device Technology, Inc. (IDT) LSI Logic Corporation (LSI), VLSI Technology, Inc. (VLSI), and Cypress Semiconductor Corporation (Cypress), had imported and sold within the United States certain plastic encapsulated integrated circuits manufactured by a process covered by certain claims of U.S. Letters Patent 4,043,027 (the '027 patent). The Commission instituted an investigation of the complaint and issued a notice of investigation that was published in the **Federal Register** on August 15, 1990 (55 FR 33388).

On October 15, 1991, the presiding administrative law judge (ALJ) issued a final initial determination (ID) finding a violation of section 337 on the ground that certain of respondents' imported plastic encapsulated integrated circuits were manufactured by a process covered by claims 12 and 14 of the '027 patent. The ALJ found that the processes used for manufacturing these products was not covered by claims 1 and 17 of the '027 patent. In addition, he found that certain other plastic encapsulated integrated circuits imported by respondents (those encapsulated using a process called "same-side" gating) were not covered by claims 1, 12, 14, or 17 of the '027 patent.

On December 12, 1991, the Commission determined to review the issues of (1) claim construction and infringement of claim 17 of the '027 patent and (2) whether the claims in controversy of the '027 patent are invalid as obvious under 35 U.S.C. 103. The Commission determined not to review the remainder of the ID. The Commission solicited comments from the parties, interested government agencies, and other persons concerning the issues under review and the issues of remedy, the public interest, and bonding.

Complainant, all respondents, and the Commission investigative attorneys filed briefs addressing the issues under review and the issues of remedy, the public interest, and bonding. No comments were filed by interested government agencies or other persons.

After review, the Commission affirmed the ALJ's determination that all respondents had violated section 337 of in the importation of opposite-side gated plastic encapsulated integrated circuits manufactured by a process covered by claims 12 and 14 of the '027 patent. In addition, the Commission determined that respondents Analog and VLSI had violated section 337 in the importation of opposite-side gated plastic encapsulated integrated circuits manufactured by a process covered by claim 17 of the '027 patent.

Having determined that there is a violation of section 337, the Commission considered the questions of the appropriate remedy, whether the statutory public interest factors preclude the issuance of a remedy, and bonding during the Presidential review period. The Commission determined that the appropriate form of relief is a limited exclusion order prohibiting all respondents from importing plastic encapsulated integrated circuits manufactured abroad by a process covered by claims 12 and 14 of the '027 patent, and additionally prohibiting respondents Analog and VLSI from importing plastic encapsulated integrated circuits manufactured abroad by a process covered by claim 17 of the '027 patent. The Commission further determined to issue cease and desist orders directed to each respondent. The Commission also determined that the public interest factors enumerated in 19 U.S.C. 1337(d) do not preclude the issuance of the aforementioned relief, and that the bond during the Presidential review period covering infringing products imported or sold by respondents Cypress, IDT, LSI, and VLSI shall be in the amount of 2.5 percent of the entered value of the imported articles concerned, not to exceed $0.50 per plastic encapsulated integrated circuit. The Commission further determined that respondent Analog will not be required during the Presidential review period to post a bond for products imported or sold.

Copies of the Commission's orders and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202-205-2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

Issued: February 18, 1992.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 92-4123 Filed 2-21-92; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-366X]

Tylerdale Connecting Railroad Company—Abandonment Exemption—in Washington County, PA; Exemption

Applicant has filed a notice of exemption under 49 CFR 1152 subpart F—Exempt Abandonments to abandon its 0.54-mile line of railroad between mileposts BOA-0.83 and BOA-1.37, near Tylerdale, in Washington County, PA.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on March 25, 1992 (unless stayed). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by March 5, 1992.[3] Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by March 16, 1992, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Charles M. Rosenberger, CSX Transportation, Inc., 500 Water Street J150, Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio.*

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by February 28, 1992. Interested persons may obtain a copy of the EA from SEE by writing to it (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 927-6248. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

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[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See* Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] See Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use statement as long as it retains jurisdiction to do so.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: February 14, 1992.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-4145 Filed 2-21-92; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;
(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;
(3) How often the form must be filled out or the information is collected;
(4) Who will be asked or required to respond, as well as a brief abstract;
(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;
(6) An estimate of the total public burden (in hours) associated with the collection; and
(7) An indication as to whether section 3504(h) of Public Law 96-511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Ms. Lin Liu on (202) 395-7340 and to the Department of Justice's Clearance Officer, Mr. Lewis Arnold, on (202) 514-4305. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the DOJ Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Lewis Arnold, DOJ Clearance Officer, SPS/JMD/5031 CAB, Department of Justice, Washington, DC 20530.

Extension of the Expiration Date of a Currently Approved Collection Without Any Change in the Substance or in the Method of Collection

(1) *Registration for Classification as Refugee.*

(2) I-590. Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households. This form provides a uniform method for applicants to apply for refugee status and contains the information needed in order to adjudicate such application.

(5) 150,000 annual responses at .583 hours per response.

(6) 87,450 annual burden hours.

(7) Not applicable under 3504(h).

(1) *Drug Use Forecasting Program.*

(2) None. National Institute of Justice.

(3) Quarterly.

(4) State or local governments. The DUF program monitors the extent and types of drug use by arrestees in 24 cities. Data is collected every three months in each city from new samples of arrestees. Participation is voluntary and anonymous; data collection includes interviews and collection of urine specimens.

(5) 35,000 annual responses at .25 hours per response.

(6) 8,750 annual burden hours.

(7) Not applicable under 3504(h).

Public comment on these items is encouraged.

Dated: February 18, 1992.

Lewis Arnold,

Department Clearance Officer, Department of Justice.

[FR Doc. 92-4085 Filed 2-21-92; 8:45 am]

BILLING CODE 4410-10-M

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984 Clean Heavy-Duty Diesel Engine Development; Correction

In notice document 91-29302 in the issue of Monday, December 9, 1991 (56 FR 64276), in the first column, in item 10 in **Engine Manufacturer Participants**, in the first line, "Goteborg" should read "Goteburg."

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 92-4030 Filed 2-21-92; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address show below, not later than March 5, 1992.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 5, 1992.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 10th day of February 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Amerada Hess Corp (Co)	Houston, TX	2/10/92	1/20/92	26,827	Crude Oil, Natural Gas.
American Fabrics Co. (UTWU)	Bridgeport, CT	2/10/92	2/13/92	26,828	Raschel Lace, Luny Lace.
AMF-Reece, Inc. (Co)	Gorham, ME	2/10/92	1/23/92	26,829	Industrial Sewing Machines.
Cold Spring Granite Co. (Wkrs)	Cold Spring, MN	2/10/92	1/29/92	26,830	Granite.
Computalog Wireline Services, Inc. (Wkrs)	Williston, ND	2/10/92	1/25/92	26,831	Oil Well Services.
County Forest Products (Wkrs)	Patten, ME	2/10/92	1/27/92	26,832	Lumber Products.
De Ja Vu Apparel (Wkrs)	Forest City, PA	2/10/92	1/30/92	26,833	Ladies' Dresses.
Dexter Shoe Co. (Wkrs)	Milo, ME	2/10/92	1/14/92	26,834	Boots and Shoes.
Drilling and Service, Inc. (Co)	Casper, WY	2/10/92	1/26/92	26,835	Crude Oil.
Dunlop Slazenger Corp. (Co)	Hartwell, SC	2/10/92	1/27/92	26,836	Tennis Balls.
Eby Co. (Wkrs)	Philadelphia, PA	2/10/92	1/26/92	26,837	Computer Components.
Ford Motor Co, Cleveland Sales (Wkrs)	Brecksville, OH	2/10/92	2/03/92	26,838	Ford Dealership.
Honeywell, Inc. (IUE)	Fort Washington, PA	2/10/92	1/24/92	26,839	Process Control Instruments.
Jerilyn, Inc. (Wkrs)	Jermyn, PA	2/10/92	2/04/92	26,840	Women's dresses and Sportswear.
Jodi Lynn Apparel Co., Inc. ILGWU	Nazareth, PA	2/10/92	1/28/92	26,841	Nightwear.
L and M Sportswear Co. ILGWU	Reseto, PA	2/10/92	1/31/92	26,842	Women's Blouses.
PPG Industries (Wkrs)	Cleveland, OH	2/10/92	1/29/92	26,843	Automobile Paint.
Somerset Technologies (Wkrs)	Somerset, NJ	2/10/92	1/28/92	26,844	Blow Molding Machines and Extruders.
Torrington Co. (Co)	Torrington, CT	2/10/92	1/16/92	26,845	Ball Bearing and Anti-friction Devices.
Valerie Fashions, Inc. ILGWU	Wind Gap, PA	2/10/92	1/30/92	26,846	Women's Blouses.
Van Port Industries, Inc. ILGWU	Vancouver, WA	2/10/92	1/29/92	26,847	Prefinish Paneling, Door Skins.
Walker Forge (Wkrs)	Racine, WI	2/10/92	2/28/92	26,848	Connecting Rods.

[FR Doc. 92-4141 Filed 2-21-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-26,277 Sidney, OH; TA-W-26,277A Cincinnati, OH; and Sales Offices in TA-W-26,277B Hartford, CT; TA-W-26,277C Cincinnati, OH; TA-W-26,277D Henderson, NV]

The Monarch Machine Tool Co., Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 4, 1991, applicable to all workers of The Monarch Machine Tool Company, Sidney, Ohio. The Notice was published in the **Federal Register** on December 27, 1991 (56 FR 67104). The certification was amended on January 30, 1992 to include the engineering facility in Cincinnati, Ohio. That notice was published in the **Federal Register** on February 6, 1992 (57 FR 4648).

The Department is amending the certification to include the above mentioned sales locations of Monarch Machine Tool Company. Monarch Machine Tool experienced substantial sales declines in 1991 for metalworking lathes.

The intent of the Department's certification is to include all workers of Monarch Machine Tool who were adversely affected by increased imports of metalworking lathes.

The amended notice applicable to TA-W-26,277 is hereby issued as follows:

All workers of The Monarch Machine Tool Company, Monarch Sidney Division, Sidney, Ohio; Cincinnati, Ohio and in the Monarch Sidney Division Sales Offices in Hartford, Connecticut; Cincinnati, Ohio and Henderson, Nevada who became totally or partially separated from employment on or after September 3, 1990 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 14th day of February 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92-4140 Filed 2-21-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-26,427]

Digital Equipment Corp. Colorado Springs, CO; Affirmative Determination Regarding Application for Reconsideration

On January 16, 1992 and on January 26, 1992, the petitioners requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for workers at the subject firm. The Department's Negative Determination was issued on December 13, 1991 and published in the **Federal Register** on December 27, 1991 (56 FR 67104).

The petitioners claim, among other things, that some production was transferred overseas and that workers at several other disc companies have been certified eligible for trade adjustment assistance benefits.

Conclusion

After careful review of the application, I conclude that the claims are of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 14th day of February 1992.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Services, Unemployment Insurance Service.

[FR Doc. 92-4143 Filed 2-21-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-26,760]

Unisys Corp. Flemington, NJ; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on January 21, 1992, in response to a worker petition which was filed on January 21, 1992, on behalf of workers at Unisys Corporation, Flemington, New Jersey.

A negative determination applicable to the petitioning group of workers was issued on October 31, 1991 (TA-W-26,116). No new information is evident which would result in a reversal of the Department's previous determination. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated. Workers may refile for adjustment assistance eligibility at a later time as circumstances change.

Signed at Washington, DC, this 14th day of February, 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92-4144 Filed 2-21-92; 8:45 am]

BILLING CODE 4510-30-M

Job Training Partnership Act: Announcement of Proposed Noncompetitive Grant Award

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of intent to award a noncompetitive grant.

SUMMARY: The Employment and Training Administration (ETA) announces its intent to award a noncompetitive grant to Council of Jewish Organizations of Boro Park of Brooklyn, New York, for the provision of specialized services under the authority of the Job Training Partnership Act (JTPA).

DATES: It is anticipated that this grant award will be executed by March 23, 1992, and will be funded for eighteen months. Submit comments by 4:45 p.m. (Eastern Time), on March 10, 1992.

ADDRESSES: Submit comments regarding this proposed assistance award to: U.S. Department of Labor, Employment and Training Administration, room C-4305, 2000 Constitution Avenue, NW., Washington, DC 20210, Attention: Willie Harris; Reference FR-DAA-001.

SUPPLEMENTARY INFORMATION: The Employment and Training Administration (ETA) announces its intent to award a noncompetitive grant to the Council of Jewish Organizations of Boro Park of Brooklyn, New York. The Council of Jewish Organizations of Boro Park will test the integration of occupationally related adult basic skills into employment and training programs in collaboration with the New York City Department of Employment, Performance Plus Learning Consultants, local employers and JTPA training providers. Funds for this activity are authorized by the Job Training Partnership Act, as amended, Title IV—Federally Administered Programs. The proposed funding is approximately $350,000 for eighteen months.

Signed at Washington, DC on February 12, 1992.

Robert D. Parker,

ETA Grant Officer.

[FR Doc. 92-4139 Filed 2-21-92; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Studies, Evaluation, and Dissemination: Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Foundation announces the following meeting.

Name: Advisory Panel for Studies, Evaluation and Dissemination.

Date and Time: March 5th and 6th, 1992, 9 a.m. to 5 p.m.

Place: Hotel Washington, 15th & Pennsylvania Avenue NW., Washington, DC 20004.

Type of Meeting: Open.

Contact Person: Dr. Kenneth J. Travers, Office Head, Office of Studies, Evaluation and Dissemination, Directorate for Education and Human Resources, National Science Foundation, Washington, DC 20550, telephone (202) 357-7425.

Minutes: May be obtained from the contact person above.

Purpose of Meeting: United States participation in the Third International Mathematics and Science Study.

Agenda: Advise director of study on where the United States should participate in study. Discuss test items and changes in U.S. policy relating to study and participation. Measure science literacy.

Reason for Late Notice: Administrative oversight.

Dated: February 18, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-4168 Filed 2-21-92; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-458]

Gulf States Utilities Co.; Environmental Assessment and Finding of No Significant Impact

The Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 26.29(b) regarding the protection of personal information associated with fitness for duty programs to Gulf States Utilities Company (the licensee) for the River Bend Station, Unit 1 located in West Feliciana Parish, Louisiana.

Environmental Assessment

Identification of Proposed Action

The proposed action would grant an exemption from the requirements of 10 CFR 26.29(b) regarding the protection of personal information associated with fitness for duty programs. By letter dated January 28, 1992, the licensee requested an exemption from 10 CFR 26.29(b) to allow the licensee to provide, in a confidential manner, information concerning a former employee's drug test results to the Louisiana Office of Employment Security.

The Need for the Proposed Action

Section 26.29(b) of title 10 of the Code of Federal Regulations restricts the disclosure of personal information associated with fitness for duty programs. The licensee has requested a one-time exemption in order to provide information to the Louisiana Office of Employment Security. The Louisiana Office of Employment Security has informed the licensee that the personal information associated with the fitness for duty program must be provided in order to contest an earlier finding.

Therefore, an exemption is needed to allow the licensee to effectively participate in the appeals process before the Louisiana Office of Employment Security.

Environmental Impacts of the Proposed Action

The proposed exemption affects only the restrictions associated with the release of personal information related to the licensee's fitness for duty program. Therefore, the Commission concludes that there are no measurable radiological or non-radiological environmental impacts associated with the proposed exemption.

Alternative to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed exemption, any alternatives will have either no environmental impact or will have a greater environmental impact. The principal alternative to the exemption would be to prohibit the release of the personal information to the Louisiana Office of Employment Security. Such an action would not affect the protection of the environment and would result in preventing the licensee's effective participation in the appeals process.

Alternative Use of Resources

This action does not involve the use of resources not considered previously in the Final Environmental Statement for River Bend Station, Unit 1, dated January 1985.

Agencies and Persons Contacted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption. Based upon the environmental assessment, the NRC staff concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this proposed action, see the licensee's letter dated January 28, 1992. The letter is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803.

Dated at Rockville, Maryland, this 19th day of February 1992.

For the Nuclear Regulatory Commission.

Suzanne C. Black,

Director, Project Directorate IV-2, Division of Reactor Projects III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 92-4170 Filed 2-21-92; 8:45 am]

BILLING CODE 7590-01-M

Aging Research Information Conference; Meeting

The study of nuclear power plant aging is an important part of the NRC's current research program for understanding aging degradation of structures, components, and systems in order to assure continued safe operation of nuclear power plants for 40 years or more. The nuclear community worldwide has entered a period when such information on age-related degradation in nuclear power plants is bound to play a vital role in decisions involving plant modifications, shutdown or continued safe and viable operation. The NRC Aging Research Information Conference will provide a forum for exchanging information on age-related degradation of components, systems, and structures.

The keynote address on the first day of the conference will be delivered by NRC Chairman Ivan Selin. During the conference, principal addresses will be made by NRC Commissioner Kenneth C. Rogers on March 25, 1992, and by NRC Commissioner James R. Curtiss on March 26, 1992. The conference will conclude with a panel discussion led by NRC Commissioner Forrest J. Remick and James H. Sniezek, NRC Deputy Executive Director for Nuclear Reactor Regulation, Regional Operations and Research.

Among others who have confirmed participation are: Eugene Fitzpatrick, Vice President, American Electric Power Service Corporation; James J. Howard, Chairman of the Board and CEO, Northern States Power Company; Bryon Lee, Jr., President and CEO, NUMARC; Harold B. Ray, Senior Vice President, Southern California Edison Company; Hal B. Tucker, Senior Vice President, Duke Power Company; and Robert A. Watson, Senior Vice President, Carolina Power & Light Company. In addition, participation by NRC senior management and international nuclear experts is expected.

The conference is comprised of presentations of approximately 50 technical papers, as well as a panel discussion on a wide spectrum of plant aging issues. The program will include exhibits and software demonstrations. A copy of the proposed program for the conference will be available in the NRC Public Document Room after February 24, 1992.

DATES AND TIME: March 24–26, 1992, 8 a.m. to 5 p.m. daily; and March 27, 1992, 8 a.m. to 1 p.m.

ADDRESSES: Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, MD.

ADMISSION: Prior registration is required, and a registration fee of $125.00 is being charged to defray the cost of the meeting. The registration fee is not refundable and not transferable. Only the first 500 registrants are assured participation. To register, contact Dr. Mano Subudhi, Brookhaven National Laboratory, Building 130, Upton, New York 11973. Phone No. 516–282–2429; FAX 516–282–3957.

FOR FURTHER INFORMATION CONTACT: Mr. Satish K. Aggarwal, General Chairman, Aging Research Information Conference, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Phone 301–492–3823. FAX 301–492–3696.

(5 U.S.C. 552(A))

Dated at Rockville, Maryland, this 18th day of February 1992.

For the Nuclear Regulatory Commission.

Eric S. Beckjord,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 92-4172 Filed 2-21-92; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Working Group on Safety Goal Implementation; Meeting

The ACRS Working Group on Safety Goal Implementation will hold a meeting on February 28, 1992, at the Stapleton Plaza Hotel, Denver, CO.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows: *Friday, February 28, 1992—8:30 a.m. until the conclusion of business.*

The Working Group will meet to develop a proposed report on safety goal implementation for consideration by the ACRS full Committee at a future meeting.

During the meeting, the members of the Working Group may exchange views regarding this meeting.

During the meeting, the members of the Working Group may exchange views regarding this matter.

Further information regarding this meeting such as, whether the meeting has been cancelled or rescheduled, can be obtained by a prepaid telephone call to the cognizant ACRS staff engineer, Mr. Dean Houston (telephone 301/492–9521) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: February 18, 1992.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 92-4169 Filed 2-21-92; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards (ACRS) and Advisory Committee on Nuclear Waste (ACNW); Proposed Meetings

In order to provide advance information regarding proposed public meetings of the ACRS Subcommittees and meetings of the ACRS full Committee, of the ACNW, and the ACNW Working Groups the following preliminary schedule is published to reflect the current situation, taking into account additional meetings that have been scheduled and meetings that have been postponed or cancelled since the last list of proposed meetings was published January 23, 1992 (57 FR 2793). Those meetings that are firmly scheduled have had, or will have, an individual notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting. It is expected that sessions of ACRS full Committee and ACNW meetings designated by an asterisk (*) will be closed in whole or in part to the public. ACRS full Committee and ACNW meetings begin at 8:30 a.m. and ACRS Subcommittee and ACNW Working Group meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during ACRS

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full Committee and ACNW meetings, and when ACRS Subcommittee and ACNW Working Group meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the March 1992 ACRS and ACNW full Committee meetings can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committees (telephone: 301/492–4600 (recording) or 301/492–7288, Attn: Barbara Jo White) between 7:30 a.m. and 4:15 p.m., Eastern Time.

ACRS Subcommittee Meetings

Advanced Reactor Designs, February 26–27, 1992, Oak Ridge, TN. The Subcommittee will discuss the testing program for the MHTGR design and related issues.

Ad Hoc Working Group, February 28, 1992, Denver, CO. The Working Group will meet to develop a proposed alternative plan for implementation of the Safety Goals Policy for future consideration by the ACRS.

Thermal Hydraulic Phenomena, March 3, 1992, Bethesda, MD. The Subcommittee will continue its review of the integral systems testing requirements for the Westinghouse Electric Corporation's AP600 passive plant design.

Joint Computers in Nuclear Power Plant Operations, Instrumentation and Control Systems, and Human Factors, March 4, 1992, Bethesda, MD. The Subcommittees will discuss Control Room Designs and Testing, and Associated Human Factors Issues.

Planning and Procedures, March 4, 1992, Bethesda, MD, 3 p.m.–5:30 p.m. The Subcommittee will discuss proposed ACRS activities and related matters.

Thermal Hydraulic Phenomena, March 26, 1992, Bethesda, MD. The Subcommittee will review the GE generic program supporting power level increases for operating GE BWR nuclear power plants.

Plant Operations, April 1, 1992, Bethesda, MD. The Subcommittee will review the Draft NUREG–1449, addressing the staff's evaluation of risk from shutdown and low-power operations at U.S. commercial nuclear power plants.

Planning and Procedures, April 1, 1992, Bethesda, MD, 3 p.m.–5:30 p.m. The Subcommittee will discuss proposed ACRS activities and related matters.

Regional Programs, May 20, 1992, NRC Region V Office, Walnut Creek, CA. The Subcommittee will discuss the activities of the NRC Region V Office.

Joint Individual Plant Examinations/ Severe Accidents, Date to be determined (March/April), Bethesda, MD. The Subcommittees will discuss the status of the IPE program and the development of Severe Accident Management Guidelines.

Joint Computers in Nuclear Power Plant Operations/Instrumentation and Control Systems, Date to be determined (April), Bethesda, MD. The Subcommittees will discuss digital I&C system designs and practices at foreign plants and the international computer activities.

Advanced Pressurized Water Reactors, Date to be determined (April), Bethesda, MD. The Subcommittee will continue its review of the ABB CE System 80+ CESSAR Design Certification. Subject material being proposed for discussion includes Engineered Safety Feature Systems and USIs/GSIs.

Thermal Hydraulic Phenomena, Date to be determined (April/May), Bethesda, MD. The Subcommittee will continue its review of the NRC staff program to address the issue of interfacing systems LOCAs.

Joint Thermal Hydraulic Phenomena/ Core Performance, Date to be determined (June/July, tentative), Bethesda, MD. The Subcommittees will continue the review of the issues pertaining to BWR core power stability.

Decay Heat Removal Systems, Date to be determined (July, tentative), Bethesda, MD. The Subcommittee will review the proposed final resolution of Generic Safety Issue 23, "Reactor Coolant Pump Seal Failures."

Thermal Hydraulic Phenomena, Date to be determined, Bethesda, MD. The Subcommittee will review the status of the application of the Code Scaling, Applicability, and Uncertainty (CSAU) Evaluation Methodology to a small-break LOCA calculation for a B&W plant.

ACRS Full Committee Meetings

383rd ACRS Meeting, March 5–7, 1992, Bethesda, MD. Items are tentatively scheduled.

*A. *GE Advanced Boiling Water Reactor*—Review and report on the draft Safety Evaluation Reports for this standardized nuclear reactor design.

B. *Policy Issues for the Certification of Passive Plants*—Discuss and develop a plan for ACRS review of policy issues associated with the certification of passive nuclear power plant designs.

*C. *Integral Systems Testing for the Westinghouse AP600 Nuclear Power Plant*—Review and report on the proposed integral systems testing program requirements for the Westinghouse AP600 passive nuclear plant.

D. *Prioritization of Generic Issues*—Review and comment on NRC staff-proposed priority rankings for various generic issues.

E. *Meeting with NRC Commissioners*—Meeting with NRC Commissioners to discuss items of mutual interest.

F. *Pilgrim Nuclear Power Station*—Briefing by and discussion with representatives of the NRC staff regarding the Emergency Response Plan demonstration for this facility.

*G. *NRC Safety Research Program*—Briefing by representatives of the NRC staff, as appropriate, and discussion regarding a proposed report to the Commission on the NRC safety research program.

H. *Implementation of NRC Quantitative Safety Goals*—Discuss proposed ACRS activities regarding development of a proposed plan for implementation for the NRC quantitative safety goals

I. *ACRS Subcommittee Activities*—Reports and discussion regarding the status of assigned subcommittee activities, including matters related to experimental testing facilities for advanced (non-water) reactors.

J. *Future ACRS Activities*—Discuss items proposed for consideration by the full Committee and related NRC activities, including updating of NRC regulations.

K. *Miscellansous*—Discuss topics related to the conduct of ACRS activities and specific issues that were not completed during previous meetings as time and availability of information permit.

*L. *Appointment of New Members*—Discuss qualifications of candidates proposed for appointment to the Committee.

384th ACRS Meeting, April 2–4, 1992, Bethesda, MD—Agenda to be announced.

385th ACRS Meeting, May 7–9, 1992, Bethesda, MD—Agenda to be announced.

ACNW Full Committee and Working Group Meetings

41st ACNW Meeting, March 12–13, 1992, Bethesda, MD. Items are tentatively scheduled.

A. Continue deliberations to investigate the feasibility of applying a systems approach to the analysis of the overall high-level waste program.

B. Periodic meeting with NRC Commissioners to discuss items of mutual interest.

C. Presentation by representatives of the NRC's Office of Nuclear Regulatory Research on the High-Level Radioactive Waste Program Plan.

D. Consider lessons learned from the pathfinder decommissioning (tentative).

E. Discuss anticipated and proposed Committee activities, future meeting agenda, administrative, and organizational matters, as appropriate. Also, discuss matters and specific issues that were not completed during previous meetings as time and availability of information permit.

42nd ACNW Meeting, April 23–24, 1992, Bethesda, MD—Agenda to be announced.

ACNW Working Group on the Impact of Long-Range Climate Change in the Area of the Southern Basin and Range, May 27, 1992, Bethesda, MD. The Working Group will discuss the historical evidence and the potential for climate changes in the southern Basin and Range and the impact of climate changes on the performance of the proposed high-level waste repository at Yucca Mountain.

43rd ACNW Meeting, May 28–29, 1992, Bethesda, MD—Agenda to be announced.

ACNW Working Group on Methods for Assessing Natural Resources at a Proposed High-Level Waste Repository Site, July 29, 1992, Bethesda, MD. The Working Group will discuss methodologies for the assessment of the potential for natural resources at the proposed high-level waste repository site at Yucca Mountain. The relationship between such resources and the potential for human intrusion will be emphasized.

Dated: February 14, 1992.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 92-4079 Filed 2-21-92; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-47]

U.S. Army Materials Technology Laboratory; Proposed Issuance of Orders Authorizing Disposition of Component Parts and Terminating Facility License

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of Orders authorizing the U.S. Army Materials Technology Laboratory (the licensee) to dismantle the pool-type nuclear reactor facility and dispose of the component parts, and termination of Facility License No. R-65, in accordance with the licensee's application dated October 8, 1991.

The first of these Orders would be issued following the Commission's review and approval of the licensee's detailed plan for decontamination of the facility and disposal of the radioactive components, or some alternate disposition plan for the facility. This Order would authorize implementation of the approved plan. Following completion of the authorized activities and verification by the Commission that acceptable radioactive contamination levels have been achieved, the Commission would issue a second Order terminating the facility license and any further NRC jurisdiction over the facility. Prior to issuance of each Order, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

By March 25, 1992, the licensee may file a request for a hearing with respect to issuance of the subject Orders and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules and Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board Panel, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board Panel will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the orders under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch: or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the

Commission by toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Seymour H. Weiss: Petitioner's name and telephone number; date petition was mailed; U.S. Army Materials Technology Laboratory; and publication date and page of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Mr. James Savage, U.S. Army Materials Technology Laboratory, Attention: SLCMT-DL, 405 Arsenal Street, Watertown, Massachusetts 02172-0001, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, presiding officer or the Atomic Safety and Licensing Board Panel that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the licensee's application dated October 8, 1991. This document is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555.

Dated at Rockville, Maryland, this 14th day of February 1992.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

Director, Non-Power Reactors, Decommissioning and Environmental Project Directorate, Division of Advanced Reactors and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 92-4171 Filed 2-21-92; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 446A]

Texas Utilities Electric Co.; Commanche Peak Electric Station, Unit 2; Receipt of Antitrust Information and Time for Public Comment

Texas Utilities Electric Company has filed antitrust information in conjunction with it's application for an operating license for the Comanche Peak Stream Electric Station, Unit 2 located in Somervell County, Texas, approximately 40 miles southwest of Fort Worth, Texas. The data submitted contain antitrust information for review, pursuant to NRC Regulatory Guide 9.3, necessary to determine whether there have been any significant changes since the antitrust operating license review of Comanche Peak Unit 1, which was completed in August 1989.

On completion of a staff antitrust review, the Director of the Office of Nuclear Reactor Regulation will issue an initial finding as to whether there have been "significant changes" under section 105c(2) of the Atomic Energy Act, as amended. A copy of this finding will be published in the **Federal Register** and will be sent to the Washington, D.C. and local public document rooms and to those persons providing comments or information in response to this notice. If the initial finding concludes that there have not been any significant changes, a request for reevaluation of the finding may be submitted within 30 days of the date of this **Federal Register** notice. The results of any reevaluation that are requested will also be published in the **Federal Register** and copies sent to the Washington, DC, and local public document rooms.

A copy of the general information portion of the application for an operating license and the antitrust information submitted is available for public examination and copying for a fee at the Commission's Public Document Room, 2120 L Street NW., Washington, DC, and in the local public document room at the Somervell County Library, On the Square, P.O. Box 417, Glen Rose, Texas 76403.

Any person who desires additional information regarding the matter covered by this notice or who wishes to have views considered with respect to significant changes related to antitrust matters which occurred since the previous antitrust review, should submit such requests for information or views to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Chief, Policy Development and Technical Support Branch, Office of Nuclear Reactor Regulation, within 30 days of the date of this notice.

Dated at Rockville, Maryland, this 14th day of February 1992.

For the Nuclear Regulatory Commission.

Anthony T. Gody,

Chief, Policy Development and Technical Support Branch, Program Management, Policy Development and Analysis Staff, Office of Nuclear Reactor Regulation.

[FR Doc. 92-4173 Filed 2-21-92; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Open Committee; Open Committee Meeting

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on—

Thursday, March 12, 1992
Thursday, March 26, 1992
Thursday, April 16, 1992
Thursday, April 30, 1992

The meetings will start at 10:45 a.m. and will be held in room 5A06A, Office of Personnel Management Building, 1900 E Street NW., Washington, DC.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives from five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives from five Federal agencies. Entitlement to membership on the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establish prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management.

These scheduled meetings will start in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would unacceptably impair the ability of the Committee to reach a consensus on the matters being considered and would disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public because of a determination made by the Director of the Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations, and related activities. These reports are available to the public, upon written request to the Committee's Secretary.

The public is invited to submit material in writing to the Chairman on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on these meetings may be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, room 1340, 1900 E Street NW., Washington, DC 20415 (202) 606-1500.

Dated: February 14, 1992.

Anthody F. Ingrassia,

Chairman, Federal Prevailing Rate Advisory Committee.

[FR Doc. 92-4048 Filed 2-21-92; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

February 18, 1992.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f-1 thereunder for unlisted trading privileges in the following securities:

First City Bancorp, Inc.
  Common Stock, No Par Value (File No. 7-7982)
General Motors Corporation
  Series C Depositary Shares (each representing 1/10 of a share of Series C Convertible Preference Stock) (File No. 7-7983)
Hemlo Gold Mines, Inc.
  Common Stock, Without Par Value (File No. 7-7984)
Integon Corporation
  Common Stock, $.01 Par Value (File No. 7-7985)
North Carolina Natural Gas Corporation
  Common Stock, $.01 Par Value (File No. 7-7986)
Preferred Income Opportunity Fund, Inc.
  Common Stock, $.01 Par Value (File No. 7-7987)
Arm Financial Corporation
  Common Stock, $.002 Par Value (File No. 7-7988)

These securities are listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 10, 1992, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-4151 Filed 2-21-92; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

February 18, 1992.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Carolina Financial Corporation
  Common Stock, $.01 Par Value (File No. 7-7989)
Identix, Inc.
  Common Stock, No Par Value (File No. 7-7990)
US Alcohol Testing of America
  Common Stock, $.01 Par Value (File No. 7-7991)
Integon Corporation
  Common Stock, $.01 Par Value (File No. 7-7992)
Preferred Income Opportunity Fund, Inc.
  Common Stock, $.01 Par Value (File No. 7-7993)
Olsten Corporation
  Common Stock, $0.01 Par Value (File No. 7-7994)
Aydin Corporation
  Common Stock, $1 Par Value (File No. 7-7995)
First Republic Bancorp
  Common Stock, $0.01 Par Value (File No. 7-7996)
Bay State Gas Company
  Common Stock, $3.33⅓ Par Value (File No. 7-7997)
North Carolina Natural Gas Corp.
  Common Stock, $.01 Par Value (File No. 7-7998)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 10, 1992, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-4150 Filed 2-21-92; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Economic Injury Disaster Loan Areas #7556, #7557, & #7558]

New York, et al.; Declaration of Disaster Loan Area

Westchester County and the contiguous counties of Bronx, Orange, Putnam, and Rockland in the State of New York; Bergen County in the State of New Jersey; and Fairfield County in the State of Connecticut constitute an Economic Injury Disaster Loan Area due to damages caused by a fire which occurred on December 30, 1991 at the intersection of North Avenue and Main Street in the City of New Rochelle. Eligible small businesses without credit available elsewhere and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance until the close of business on November 12, 1992 at the address listed below: U.S. Small Business Administration, Disaster Area 1 Office, 350 Rainbow Blvd., South, 3rd Fl., Niagara Falls, NY 14303, or other locally announced locations. The interest rate for eligible small businesses and small agricultural cooperatives is 4 percent.

Notice: Due to SBA's present shortage of operating funds for the current fiscal year (through September 30, 1992), SBA cannot provide assurance of our ability to continue to accept or process disaster loan applications or make disbursements on loans until additional funds are available.

(Catalog of Federal Domestic Assistance Program No. 59002)

Dated: February 12, 1992.

Patricia Saiki,

Administrator.

[FR Doc. 92–4092 Filed 2–21–92; 8:45 am]

BILLING CODE 8025-01-M

Shortage of Operating Funds for a Disaster in Idaho

As a result of the Secretary of Agriculture's disaster designation S–568 for counties in the State of Idaho and contiguous counties in the State of Oregon, the Small Business Administration (SBA) is accepting economic injury disaster loan applications from eligible nonfarm small business concerns. However, due to SBA's present severe shortage of operating funds for the disaster program for the current fiscal year (through September 30, 1992), SBA cannot provide assurance of its ability to continue to accept or process disaster loan applications or make disbursements on disaster loans until additional funds are available.

Dated: February 12, 1992

Alfred E. Judd,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 92–4097 Filed 2–21–92; 8:45 am]

BILLING CODE 8025-01-M

Shortage of Operating Funds for a Disaster in Kentucky

As a result of the Secretary of Agriculture's disaster designation S–564 for counties in the State of Kentucky and contiguous counties in the State of Ohio, the Small Business Administration (SBA) is accepting economic injury disaster loan applications from eligible nonfarm small business concerns. However, due to SBA's present severe shortage of operating funds for the disaster program for the current fiscal year (through September 30, 1992), SBA cannot provide assurance of its ability to continue to accept or process disaster loan applications or make disbursements on disaster loans until additional funds are available.

Dated: February 5, 1992.

Alfred E. Judd,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 92–4096 Filed 2–21–92; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2551]

Declaration of Disaster Loan Area; NJ

Cape May County and the contiguous counties of Atlantic and Cumberland in the State New Jersey constitute a disaster area as a result of damages caused by a major coastal storm which occurred January 4–5, 1992. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on April 6, 1992 and for economic injury until the close of business on Nov. 6, 1992 at the address listed below: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South, 3rd Fl., Niagara Falls, NY 14303, or other locally announced locations.

The interest rates are:

	Percent
For physical damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	6.500
Businesses and non-profit organizations without credit available elsewhere	4.000
Other (including non-profit organizations) with credit available elsewhere	8.500
For economic injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 255111 and for economic injury the number is 754600.

Notice: Due to SBA's present shortage of operating funds for the current fiscal year (through September 30, 1992), SBA cannot provide assurance of our ability to continue to accept or process disaster loan applications or make disbursements on loans until additional funds are available.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: February 6, 1992.

Paul H. Cooksey,

Acting Administrator.

[FR Doc. 92–4089 Filed 2–21–92; 8:45 am]

BILLING CODE 8025-01-M

Notice of Shortage of Operating Funds for a Disaster in Oklahoma

As a result of the Secretary of Agriculture's disaster designation S–565 for counties in the State of Oklahoma and contiguous counties in the State of Colorado, Kansas, Missouri, and Texas, the Small Business Administration (SBA) is accepting economic injury disaster loan applications from eligible nonfarm small business concerns. However, due to SBA's present severe shortage of operating funds for the disaster program for the current fiscal year (through September 30, 1992), SBA cannot provide assurance of its ability to continue to accept or process disaster loan applications or make disbursements on disaster loans until additional funds are available.

Dated: February 5, 1992.

Alfred E. Judd,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 92–4093 Filed 2–21–92; 8:45 am]

BILLING CODE 8025-01-M

Notice of Shortage of Operating Funds for a Disaster in Oregon

As a result of the Secretary of Agriculture's disaster designation S–567 for counties in the State of Oregon and contiguous counties in the State of Washington, the Small Business Administration (SBA) is accepting economic injury disaster loan applications from eligible nonfarm small business concerns. However, due to SBA's present severe shortage of operating funds for the disaster program for the current fiscal year (through September 30, 1992), SBA cannot provide assurance of its ability to continue to accept or process disaster loan applications or make disbursements on disaster loans until additional funds are available.

Dated: February 12, 1992.

Alfred E. Judd,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 92–4094 Filed 2–21–92; 8:45 am]

BILLING CODE 8025-01-M

Shortage of Operating Funds for a Disaster in Washington

As a result of the Secretary of Agriculture's disaster designation S–568 for counties in the State of Washington and contiguous counties in the State of Oregon, and Small Business Administration (SBA) is accepting economic injury disaster loan applications from eligible nonfarm small business concerns. However, due to SBA's present severe shortage of operating funds for the disaster program for the current fiscal year (through

September 30, 1992), SBA cannot provide assurance of its ability to continue to accept or process disaster loan applications or make disbursements on disaster loans until additional funds are available.

Dated: February 12, 1992.

Alfred E. Judd,

Acting Assistant Administrator of Disaster Assistance.

[FR Doc. 92-4095 Filed 2-21-92; 8:45 am]

BILLING CODE 8025-01-M

Capital Corporation of America (License No. 003/03-0040); License Surrender

Notice is hereby given that Capital Corporation of America ("CCA"), 225 So. 15th Street, Philadelphia, PA 19102, has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended ("the Act"). CCA was licensed by the Small Business Administration on March 27, 1969.

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender of the license was accepted on February 10, 1992, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 13, 1992.

Wayne S. Foren,

Associate Administrator for Investment.

[FR Doc. 92-4091 Filed 2-21-92; 8:45 am]

BILLING CODE 8025-01-M

[License No. 07/07-0006]

MorAmerica Capital Corporation

Notice is hereby given that MorAmerica Capital Corporation (MCC), 101 Second Street, SE., suite 800, Cedar Rapids, Iowa 52401 a Federal Licensee under the Small Business Investment Act of 1958, as amended (Act), has filed an application with the Small Business Administration (SBA) pursuant to section 312 of the Act and covered by § 107.903 of SBA Rules and Regulations, for approval of a conflict of interest transaction falling within the scope of the Act and Regulations. Subject to such approval, MCC proposes to invest $350,000 in Clean Duds, Inc. (CDI), 3000 Justin Drive, Suite G, Des Moines, Iowa 50322.

The proposed financing is brought within the purview of § 107.903 of the Regulations because a majority of CDI's outstanding common stock is owned by the Iowa Venture Capital Fund (Iowa Fund) which is advised by the same entity, Investamerica Venture Group, Inc. that serves as advisor to MCC. Additionally, certain officers and directors of MCC are also officers and directors of CDI. Based on these relationships the Iowa Fund and CDI are considered associates of MCC as defined by § 107.3 of the Regulations.

As a condition to the proposed financing, the Iowa Fund will convert its present CDI voting securities into non-voting securities, will place only one director on CDI's board of directors (which will have no fewer than five members), and will not exert economic control over CDI through its investments.

Notice is hereby given that any interested person may, but not later than fifteen (15) days from the date of publication of this Notice, submit written comments on the proposed transaction to the Associate Administrator for Investment, Small Business Administration, 409 3rd Street, SW., Washington, DC 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 10, 1992.

Wayne S. Foren,

Associate Administrator for Investment.

[FR Doc. 92-4090 Filed 2-21-92; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended February 14, 1992

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 47984.

Date filed: February 12, 1992.

Due Date for Answers, Conforming Application, or Motion to Modify Scope: March 11, 1992.

Description: Application of Aero Postal De Mexico S.A. De C.V., pursuant to Section 402 of the Act and Subpart Q of the Regulations, applies for a foreign air carrier permit for authority to provide charter foreign air transportation of property and mail between any point in Mexico and any point in the United States and between any point in the Untied States and any point in Mexico.

Phyllis T. Kaylor,

Chief, Documentary Services Division

[FR Doc. 92-4177 Filed 2-21-92; 8:45 am]

BILLING CODE 4910-62-M

Coast Guard

[CGD 92-012]

Commercial Fishing Industry Vessel Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Request for applications.

SUMMARY: The U.S. Coast Guard is seeking applicants for appointment to membership on the Commercial Fishing Industry Vessel Advisory Committee (CFIVAC) established by the Coast Guard as required by the Commercial Fishing Industry Vessel Safety Act of 1988. The Committee acts in an advisory capacity to the Secretary of Transportation and the Commandant of the Coast Guard on matters related to the safety of commercial fishing vessels.

The Applications will be considered for five (5) expiring terms. The Committee consists of 17 members as follows: Ten (10) members from the commercial fishing industry who reflect a regional and representational balance and have experience in the operation of vessels to which chapter 45 of title 46, United States Code applies, or as a crew member or processing line worker on an uninspected fish processing vessel; one (1) member representing naval architects or marine surveyors; one (1) member representing manufacturers of equipment for vessels to which chapter 45 applies; one (1) member representing education or training professionals related to fishing vessel, fish processing vessel, or fish tender vessel safety, or personnel qualifications; one (1) member representing underwriters that insure vessels to which chapter 45 applies; and three (3) members representing the general public, including whenever possible, an independent expert or consultant in maritime safety and a member of a national organization composed of persons representing owners of vessels to which chapter 45 applies and persons representing the

marine insurance industry. Terms are expiring in the following categories: (a) Fishing Industry (three positions); (b) General Public (one position); and (c) Equipment Manufacturers (one position). The membership term is three years. A limited portion of the membership may serve consecutive terms. Those persons that have submitted applications in the past must reapply. No applications received prior to this solicitation will be considered.

To achieve the balance of membership required by the Federal Advisory Committee Act, the Coast Guard is especially interested in receiving applications from minorities and women. The members of the Committee serve without compensation from the Federal Government, although travel reimbursement and per diem is provided. The Committee normally meets in Washington, DC, with subcommittee meetings for specific problems on an as-required basis.

DATES: Applications should be received no later than 31 May 1992. Application forms may be obtained by contacting the Executive Director at the address below.

ADDRESSES: Persons interested in applying should write to Commandant (G-MVI-4), room 1405, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, DC 20593-0001.

FOR FURTHER INFORMATION CONTACT: LCDR Ed McCauley, Executive Director, Commercial Fishing Industry Vessel Advisory Committee (CFIVAC), room 1405, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, DC, 20593-0001, (202) 267-2307.

Dated: February 13, 1992.

R. C. North,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 92-4131 Filed 2-21-92; 8:45 am]

BILLING CODE 4910-14-M

[CGD-92-011]

Public Hearing; Florida Avenue Bridge Across the Inner Harbor Navigation Canal in New Orleans, LA

AGENCY: Coast Guard, DOT.

ACTION: Notice of public hearing.

SUMMARY: Notice is hereby given that the Commandant has authorized a public hearing to be held by the Commander, Eighth Coast Guard District, at New Orleans, Louisiana. The purpose for the hearing is to provide an opportunity to all interested persons to present data, views and comments orally or in writing concerning the alteration of the highway/railroad bridge across the Inner Harbor Navigation Canal in New Orleans, Louisiana.

DATES: March 25, 1992, commencing at 7 p.m., until all speakers in attendance wishing to comment have been heard.

ADDRESSES: The hearing will be held at the Versailles Room, Hilton Hotel, Third Floor, Two Poydras Street at the Mississippi River, New Orleans, Louisiana.

FOR FURTHER INFORMATION CONTACT: Mr. Perry Haynes, Eighth Coast Guard District, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, Louisiana 70130-3396, (504) 589-2965.

SUPPLEMENTARY INFORMATION: The information presented will be used by the Coast Guard to determine if the Florida Avenue Bridge constitutes an unreasonable obstruction to navigation, eligible for Federal participating funds for alterations under the Truman-Hobbs Act (act of June 21, 1940, as amended; Stat. 497; 33 U.S.C. 511 *et seq.*) and if so, what alterations are needed to render navigation through the bridge relatively free and unobstructed. All interested parties shall have full opportunity to be heard and to present evidence as to what alterations are needed; giving due consideration to the necessities of rail traffic and environmental concerns. Of particular concern are the effects that a low-level, vertical lift span bridge with a vertical clearance of 156 feet above mean high tide in the raised position, and a horizontal clearance of 300 feet, would have on existing and prospective navigation using the Inner Harbor Navigation Canal.

Any person may appear and be heard at this public hearing. Persons planning to appear and be heard are requested to notify the Commander, Eighth Coast Guard District, Bridge Administration Branch, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, Louisiana 70130-3396, (504) 589-2965, any time prior to the hearing indicating the amount of time needed. Depending upon the number of scheduled statements, it may be necessary to limit the amount of time allocated to each person. Any limitation of time allocated will be announced at the beginning of the hearing. Written statements and exhibits may be submitted in place of, or in addition to, oral statements. Written statements and exhibits will be made part of the hearing record. Written statements and exhibits may be delivered at the hearing or mailed in advance to the Commander, Eighth Coast Guard District, at the above address. Transcripts of the hearing may be ordered for purchase upon request to the court reporting service at the conclusion of the hearing.

(33 U.S.C. 513; 33 CFR 116.20)

W.J. Ecker,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 92-4132 Filed 2-21-92; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Research, Engineering, and Development Advisory Committee

Pursuant to section 10(A)(2) of the Federal Advisory Committee Act (public law 92-362; 5 U.S.C. app. I), notice is hereby given of a meeting of the Federal Aviation Administration (FAA) Research, Engineering, and Development (R, E&D) Advisory Committee to be held Monday, March 16, at 10 a.m. The meeting will take place at the Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC, in the MacCracken Room on the tenth floor.

The agenda for this meeting will include a report on the findings of the Runway Incursion Working Group to the full committee. In addition, the committee will receive an overview of the recently established RTCA GNSS Task Force effort, and be provided an update on the status of the current R, E&D Plan and Budget activities.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements, obtain information, or plan to access the building to attend the meeting should contact Ms. Jan Peters, Special Assistant to the Executive Director of the R, E&D Advisory Committee, ASD-6, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-3096.

Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, DC, on February 18, 1992.

Martin T. Pozesky,

Executive Director, Research, Engineering, and Development Advisory Committee.

[FR Doc. 92-4122 Filed 2-21-92; 8:45 am]

BILLING CODE 4910-14-M

Memphis International Airport, Memphis, TN; Intent To Rule on Application

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent to rule on application to impose a passenger facility charge (PFC) at Memphis International Airport, Memphis, Tennessee.

SUMMARY: The Federal Aviation Administration (FAA) proposes to rule and invites public comment on the application to impose a PFC at Memphis International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and 14 CFR part 158.

On February 11, 1992, the FAA determined that the application to impose a PFC submitted by Memphis-Shelby County Airport Authority was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than May 27, 1992.

DATES: Comments must be received on or before March 25, 1992.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Memphis Airports District Office; 2851 Directors Cove, Suite #3; Memphis, Tennessee 38131–0301

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Jerry L. McMichael, Executive Vice President, Finance and Administration of the Memphis-Shelby County Airport Authority at the following address: Memphis International Airport, P.O. Box 30168, Memphis, Tennessee 38130–0168.

Comments from air carriers and foreign air carriers may be in the same form as provided to the Memphis-Shelby County Airport Authority under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry O. Bowers, Planner, Memphis Airport District Office; 2851 Directors Cove, Suite #3; Memphis, Tennessee 38131–0301; Telephone: (901) 544–3495. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The following is a brief overview of the application.

Level of the proposed PFC: $3.00

Proposed charge effective date: November 1, 1992

Proposed charge expiration date: May 1, 1996

Total estimated PFC revenue: $62,700,000

Brief description of proposed project(s):

(1) Land Acquisition, Roadways, and Utilities

(2) Construct A Third Parallel Runway (18E–36E)

(3) Reconstruct and Extend Runway 18L–36R

(4) Construct Extension of Taxiway "A" and Other Projects

AVAILABILITY OF APPLICATION: Any person may inspect the application in person at the FAA office listed above. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Memphis-Shelby County Airport Authority.

Issued in Atlanta, Georgia on February 11, 1992.

Dell Jernigan,

Acting Manager, Airports Division Southern Region.

[FR Doc. 92–4141 Filed 2–21–92; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement: Davis and Weber Counties, Utah

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Revised notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public of an expansion to the study area for an environmental impact statement (EIS) which is being prepared for a proposed highway project in Davis and Weber Counties, Utah.

FOR FURTHER INFORMATION CONTACT: Tom Allen, U.S. Department of Transportation, Federal Highway Administration, 2520 West 4700 South, suite 9A, Salt Lake City, Utah, 84118, Telephone: (801) 524–5143; R. James Naegle, Utah Department of Transportation, 4501 South 2700 West, Salt Lake City, Utah, 84119, Telephone (801) 965–4160; or Lynn Zollinger, Utah Department of Transportation, District One Office, P.O. Box 12580, 169 Wall Avenue, Ogden, Utah, 84404, Telephone (801) 399–5921.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with Utah Department of Transportation, will prepare an EIS on a proposal to improve the US–89 Highway from I–15 Interchange to the I–84 Interchange with an extension to Harrison Boulevard for a total distance of approximately 12.9 miles.

Improvements to the corridor are considered necessary to provide for the existing and projected traffic demand, and increased safety measures. Alternatives under consideration include: (1) A "No Action" alternative, (2) A low-cost Transportation System Management alternative (intersection improvements, traffic signal installation and coordination, etc.), (3) Mass transit, (4) Signalized expressway, (5) Limited access expressway, (6) Freeway, (7) A combination of alternatives. Incorporated into and studied with the build alternatives will be alignment and grade variations which would provide for mitigation in sensitive areas.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have an interest in this proposal. A series of informational public meetings will be held as necessary during the project development process. A formal scoping meeting and an official public hearing will also be held. Public notice of the time and place of the meetings and hearing will be given. The draft EIS will be available for public and agency review and comment prior to the public hearing.

To ensure that full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: February 12, 1992.

Donald P. Steinke,

Division Administrator, Salt Lake City, Utah.

[FR Doc. 92–4138 Filed 2–21–92; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement: Ketchikan Gateway Borough, AK

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project

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in the Ketchikan Gateway Borough, Alaska.

FOR FURTHER INFORMATION CONTACT: Steve Moreno, Field Operations Engineer, Federal Highway Administration, Alaska Division, P.O. Box 21648, Juneau, Alaska, 99802-1648. Telephone: (907) 586-7428, or: Andy Hughes, Transportation Planner, Alaska Department of Transportation and Public Facilities, SE. Region Planning, 6860 Glacier Highway, Juneau, Alaska, 99801-7999. Telephone: (907) 789-6230.

SUPPLEMENTARY INFORMATION: The Alaska Department of Transportation and Public Facilities, using professional consultant services, will prepare an environmental impact statement (EIS) on a proposal to bridge the Tongass Narrows to connect Ketchikan to the Ketchikan International Airport located on Gravina Island. The proposed improvement would involve constructing two major bridge structures and approximately 4.5 miles of new highway connecting Revillagigedo, Pennock, and Gravina Islands to provide a highway between Ketchikan and its airport. Tongass Narrows is a deep water shipping channel.

The proposed improvements are considered necessary to provide adequate access between Ketchikan and its airport. Current access is provided by an airport shuttle ferry. The ferry carries passengers, luggage, freight, and vehicles. The ferry periodically reaches capacity and occasionally is out of service due to vessel and shore facility break-downs of equipment. The airport shuttle ferry system presents both an inconvenience to the traveling public and an economic deterrent to development of the airport and development of lands on Pennock and Gravina Islands. Alternatives under consideration include (1) taking no action, (2) improving the ferry system, (3) constructing a bridge in one of several alternate locations along the Tongass Narrows with or without a connection to Pennock Island, and (4) constructing a tube under the channel in one of several locations.

A scoping newsletter and letters describing the proposed action and soliciting comments will be sent to appropriate federal, state, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. A scoping meeting with state and federal resource agencies in Juneau, Alaska and a public scoping workshop/meeting in Ketchikan, Alaska will be held in March 1992. The scoping process is intended to insure that the full range of issues related to this proposed action are identified and addressed. Comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the addressed provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of Federal programs and activities apply to this program.)

Issued on: February 7, 1992.

Robert E. Ruby,

Division Administrator, Alaska Division.

[FR Doc. 92-4116 Filed 2-21-92; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement: Weber County, UT

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Revised notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement (EIS) will not be prepared for the proposed highway project in Weber County, Utah.

FOR FURTHER INFORMATION CONTACT: Tom Allen, U.S. Department of Transportation, Federal Highway Administration, 2520 West 4700 South, suite 9A, Salt Lake City, Utah 84118, Telephone: (801) 524-5143; R. James Naegle, Utah Department of Transportation, 4501 South 2700 West, Salt Lake City, Utah 84119, Telephone (801) 965-4160; or Lynn Zollinger, Utah Department of Transportation, District One Office, P.O. Box 12580, 169 Wall Avenue, Ogden, Utah 84404, Telephone (801) 399-5921.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with Utah Department of Transportation, have determined that an EIS will not be prepared for the proposed project to improve 36th Street from Wall Avenue to Harrison Boulevard for a distance of approximately 1.61 miles.

Improvements being considered will not have significant impacts on the environment. The original concept to provide a four lane section and remove residences and businesses along one side of the street is no longer being considered. An environmental assessment is currently being prepared to evaluate the project impacts.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: February 12, 1991.

Donald P. Steinke,

Division Administrator, Salt Lake City, Utah.

[FR Doc. 92-4137 Filed 2-21-92; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: February 18, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0043.
Form Number: IRS Form 972.
Type of Review: Extension.
Title: Consent of Shareholder to Include Specific Amount in Gross Income.
Description: Form 972 is filed by shareholders of corporations to elect to include an amount in gross income as a dividend. IRS uses Form 972 as check to see if an amended return is filed to include the amount in income and to determine if the corporation claimed the correct amount.
Respondents: Individuals or households, Businesses or other for-profit.
Estimated Number of Respondents/Recordkeepers: 400.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—13 minutes
Learning about the law or the form—3 minutes
Preparing the form—14 minutes
Copying, assembling, and sending the form to IRS—31 minutes
Frequency of Response: On occasion.
Estimated Total Reporting/Recordkeeping Burden: 408 hours.

OMB Number: 1545-0991.
Form Number: IRS Form 8633.
Type of Review: Revision.
Title: Application to Participate in the Electronic Filing Program.

Description: Form 8633 will be used by tax preparers, electronic return collectors, software firms, and electronic transmitters, as an application to participate in the electronic filing program covering individual income tax returns.
Respondents: Businesses or other for-profit, Non-profit institutions.
Estimated Number of Respondents: 30,000.
Estimated Burden Hours Per Respondent: 45 minutes.
Frequency of Response: Annually.
Estimated Total Reporting Burden: 22,500 hours.

OMB Number: 1545–1151.
Form Number: IRS Form 8818.
Type of Review: Extension.
Title: Optional Form to Record Redemption of College Savings Bonds.
Description: If an individual redeems U.S. Savings Bonds issued after 1989 and pays qualified higher education expenses during the year, the interest on the bonds is excludable from income. The form can be used by the individual to keep a record of the bonds cashed so that he or she can claim the proper interest exclusion.
Respondents: Individuals or households.
Estimated Number of Respondents/Recordkeepers: 50,000.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—7 minutes
Learning about the law or the form—3 minutes
Preparing the form—17 minutes
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 21,500 hours.
Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 92–4146 Filed 2–21–92; 8:45 am]

BILLING CODE 4830-01-M

United States Customs Service

[T.D. 92–15]

Extension of Comsource American, Inc.'s Customs Approval and Accreditations to Include a New Facility

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of the extension of Comsource American, Inc.'s Customs approval and accreditations to include gauging and laboratory testing performed at a new facility.

SUMMARY: Comsource American, Inc., of Pasadena, Texas, a Customs accredited commercial laboratory and approved gauger under § 151.13 of the Customs Regulations (19 CFR 151.13), has been given an extension of its approval and accreditations at its new Kenilworth, New Jersey facility to include the gauging of petroleum and petroleum products, organic chemicals in bulk and in liquid form and vegetable oils; and the performance of the following analyses: API Gravity, sediment and water, antiknock index, distillation characteristics, Reid Vapor Pressure, Saybolt Universal Viscosity, sediment by extraction, percent by weight sulfur in petroleum products, percent by weight lead in gasoline, identity of organic compounds using common or IUPAC nomenclature and composition giving percent by weight of each component.

SUPPLEMENTARY INFORMATION: Part 151 of the Customs Regulations provides for the acceptance at Customs Districts of Laboratory analyses and gauging reports for certain products from Customs accredited commercial laboratories and approved gaugers. Comsource American, Inc., which holds Customs accreditation in certain laboratory analyses and Customs approval to gauge certain products, has applied to Customs to extend its laboratory accreditation and gauging approval in the manner described above. Review of Comsource American, Inc.'s qualifications shows that the extension is warranted and, accordingly, has been granted.

EFFECTIVE DATE: February 12, 1992.

FOR FURTHER INFORMATION CONTACT: Ira S. Reese, Special Assistant for Commercial and Tariff Affairs, Office of Laboratories and Scientific Services, U.S. Customs Service, 1301 Constitutional Ave. NW., Washington, DC 20229 (202–566–2446).

Dated: February 18, 1992.

John B. O'Loughlin,

Director, Office of Laboratories and Scientific Services.

[FR Doc. 92–4154 Filed 2–21–92; 8:45 am]

BILLING CODE 4820-02-M

[T.D. 92–18]

Recordation of Trade Name: "Grand Tea Company"

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of recordation.

SUMMARY: On December 2, 1991, a notice of application for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "Grand Tea Company," was published in the **Federal Register** (56 FR 61278). The notice advised that before final action was taken on the application, consideration would be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation and received not later than January 31, 1992. No responses were received in opposition to the notice. Accordingly, as provided in § 133.14, Customs Regulations (19 CFR 133.14), the name "Grand Tea Company," is recorded as the trade name used by Thomas Li Ka Cheung, a citizen of Hong Kong with an address at 363 Queen's Road Central, Hong Kong.

The trade name is used in connection with tea. The merchandise is manufactured in Hong Kong.

EFFECTIVE DATE: February 24, 1992.

FOR FURTHER INFORMATION CONTACT: Robert L. Knapp, Intellectual Property Rights Branch, 1301 Constitution Avenue, NW., Washington, DC 20229 (202 266–6956).

Dated: February 18, 1992.

John F. Atwood,

Chief, Intellectual Property Rights Branch.

[FR Doc. 92–4124 Filed 2–21–92; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Patti Viers, Records Management Service (723), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-3172.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395-7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer by March 25, 1992.

Dated: February 14, 1992.

By direction of the Secretary.

Frank E. Lalley,

Associate Deputy, Assistant Secretary for Information Resources Policies and Oversight.

Extension

1. Application for Standard Government Monument, VA Form 40-1330.
2. The form is used to apply for a Government provided headstone or marker for unmarked graves of eligible deceased veterans and their dependents. The information is used to evaluate an applicant's claim for the benefit.
3. Individuals or households.
4. 80,000 hours.
5. 15 minutes.
6. On occasion.
7. 320,000 respondents.

[FR Doc. 92-2. 4117 Filed 2-21-92; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 36
Monday, February 24, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR COMMISSION

Correction of Meeting Notice.

Notice is hereby given in accordance with Section 552b of Title 5, United States Code, that a meeting of the Blackstone River Valley National Heritage Corridor Commission will be held on Monday, March 2, 1992 to be held at 4 p.m. rather than the earlier announced time of 7 p.m. at the North Smithfield Congregational Church, On The Common, North Smithfield, RI rather than at the N. Smithfield Public Library as posted earlier.

The Commission was established pursuant to Public Law 99-647. The purpose of the Commission is to assist federal, state and local authorities in the development and implementation of an integrated resource management plan for those lands and waters within the Corridor.

The meeting will convene at 4:00 p.m. at the North Smithfield Congregational Church, on the Common, North Smithfield, RI for the following reasons:

1. To Review and Approve Demonstration Projects

This meeting was changed to a different location and time to accommodate the interest of a larger number of the general public than originally anticipated. It is anticipated that about fifty people will be able to attend the session in addition to the Commission members.

Interested persons may make oral or written presentations to the Commission or file written statements. Such requests should be made prior to the meeting to: James Pepper, Executive Director, Blackstone River Valley National Heritage Corridor Commission, P.O. Box 34, Uxbridge, MA 01569. Telephone: (508) 278-9400.

Further information concerning this meeting may be obtained from James Pepper, Executive Director of the Commission at the address below.

Nancy L. Brittain,

Acting Director, Blackstone River Valley National Heritage Corridor Commission.

[FR Doc. 92-4286 Filed 2-20-92; 3:17 pm]

BILLING CODE 4310-70-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, March 4, 1992.

PLACE: 2033 K St., NW., Washington, DC, Lower Lobby Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Application for designation as a contract market in Natural Gas Options/New York Mercantile Exchange

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 92-4294 Filed 2-20-92; 3:49 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:30 a.m., Wednesday, March 4, 1992.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 92-4295 Filed 2-20-92; 3:49 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, March 6, 1992.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 92-4296 Filed 2-20-92; 3:49 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, March 13, 1992.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 92-4297 Filed 2-20-92; 3:49 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRAINING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, March 20, 1992.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 92-4298 Filed 2-20-92; 3:49 pm]

BILLING CODE 6351-01-M

COMMODITY FUTURES TRAINING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, March 27, 1992.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 92-4299 Filed 2-20-92; 3:49 pm]

BILLING CODE 6351-01-M

COMMISSION ON CIVIL RIGHTS

February 20, 1992.

DATE AND TIME: Friday, February 28, 1992.

PLACE: 26 Federal Plaza, Room 305C, New York, New York.

STATUS: Open to the Public.

February 28, 1992

I. Approval of Agenda
II. Approval of Minutes of January Meeting and February Telephonic Meeting
III. Announcements
IV. Determination of Next Hearing Site

V. Staff Director's Report
Presentation and Review of Hearing Manual
VI. Review of 1992 Commission Meeting Dates
VII. Future Agenda Items

CONTACT PERSON FOR MORE INFORMATION: Barbara Brooks, Press and Communications, (202) 376-8312.

Emma Monroig,

Solicitor.

[FR Doc. 92-4293 Filed 2-20-92; 3:37 pm]

BILLING CODE 6335-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 1:47 p.m. on Wednesday, February 19, 1992, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the probable failure of certain insured banks.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director T. Timothy Ryan, Jr. (Office of Thrift Supervision), concurred in by Vice Chairman Andrew C. Hove, Jr., and Chairman William Taylor, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: February 19, 1992.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 92-4208 Filed 2-19-92; 4:54 pm]

BILLING CODE 6714-0-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

February 19, 1992.

TIME AND DATE: 10:00 a.m., Wednesday, February 26, 1992.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Ten-A-Coal Company,* Docket No. WEVA 89-274. (Issues include whether the judge erred in holding that the Secretary of Labor could not modify a citation issued under § 104(a) of the Mine Act, 30 U.S.C. § 814(a), to a § 104(d)(1) order of withdrawal after the citation has been terminated.)
2. *Wyoming Fuel Company,* Docket No. WEST 90-112-R, etc. (Issues include whether the judge erred by (a) granting Wyoming Fuel's motion for an expedited hearing, (b) holding that the Secretary of Labor could not modify two citations after they had been terminated, and (c) vacating two imminent danger orders issued under § 107(a) of the Mine Act, 30 U.S.C. § 817(a).)

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR § 2706.150(a)(3) and § 2706.160(d).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653-5629/(202) 708-9300 for TDD Relay, 1-800-877-8339 (Toll Free).

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 92-4275 Filed 2-20-92; 3:15 pm]

BILLING CODE 6735-01-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

February 19, 1992.

TIME AND DATE: 10:00 a.m., Thursday, February 27, 1992.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument on the following:

1. *Consolidation Coal Company,* Docket No. WEVA 89-234-R, etc. (Issues include whether the judge erred in concluding that (i) 30 CFR § 50.30-1(g)(3) is a valid, enforceable regulation; (ii) Consolidation violated the regulation; and (iii) civil penalties may be assessed for the violations.)

Any person attending this hearing who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR § 2706.150(a)(3) and § 2706.160(e).

TIME AND DATE: Immediately following oral argument.

STATUS: Closed [Pursuant to 5 U.S.C. § 552b(c)(10)].

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Consolidation Coal Company,* Docket No. WEVA 89-234-R, etc. (See Oral Argument listing)

It was determined by a unanimous vote of Commissioners that this meeting be held in closed session.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653-5629/(202) 708-9300 for TDD Relay, 1-800-877-8339 for toll free.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 92-4276 Filed 2-20-92; 3:15 pm]

BILLING CODE 6735-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Notice to be published in the **Federal Register** on Friday, February 21, 1992.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Wednesday, February 26, 1992.

CHANGES IN THE MEETING: The open meeting has been canceled.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: February 20, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-4261 Filed 2-20-92; 1:28 pm]

BILLING CODE 6210-01-M

LEGAL SERVICES CORPORATION BOARD OF DIRECTORS REAUTHORIZATION COMMITTEE MEETING OF MARCH 9, 1992

Notice.

TIME AND DATE: A meeting of the Board of Directors Reauthorization Committee will be held on March 9, 1992. The meeting will commence at 8:30 a.m.

PLACE: The Washington Marriott Hotel, 1221 22nd Street, NW., The Dupont Ballroom, Washington, DC 20037, (202) 872-1500.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Agenda.
2. Approval of Minutes of February 17, 1992 Meeting.
3. Public Comment Regarding Inspector General's February 17, 1992 Comments On Proposed Reauthorization Legislation for the Corporation.
4. Staff Comment Regarding Proposed Reauthorization Legislation for the Corporation.
5. Consideration of Comments of the Inspector General Regarding Proposed Reauthorization Legislation for the Corporation.
6. Consideration of Proposed Reauthorization Legislation for the Legal Services Corporation.

CONTACT PERSON FOR INFORMATION: Members of the public wishing to comment on the above-referenced matter are asked to contact Patricia Batie at (202) 863-1839 not later than February 28, 1992.

Date Issued: February 20, 1992.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 92-4285 Filed 2-20-92; 3:16 pm]

BILLING CODE 7050-01-M

NATIONAL LABOR RELATIONS BOARD

Notice of Meeting.

TIME AND DATE: 9:30 a.m., Thursday, February 20, 1992.

PLACE: Board Conference Room, Sixth Floor, 1717 Pennsylvania Avenue, NW., Washington, DC 20570.

STATUS: Closed to public observation pursuant to 5 U.S.C. Section 552b(c)(2) (internal personnel rules and practices) and c(10) (adjudicatory matters).

MATTERS CONSIDERED:

Personnel Matters

CONTACT PERSON FOR MORE INFORMATION: John C. Truesdale, Executive Secretary, National Labor Relations Board, Washington, DC 20570, Telephone: (202) 254-9430.

Dated, Washington, DC, February 18, 1992.

By direction of the Board:

John C. Truesdale,

Executive Secretary, National Labor Relations Board.

[FR Doc. 92-4207 Filed 2-19-92; 4:53 pm]

BILLING CODE 7445-01-M

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Corrections

Federal Register
Vol. 57, No. 36
Monday, February 24, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 106

[Docket No. 87N-0402]

Infant Formula Record and Record Retention Requirements

Correction

In rule document 91-30716 beginning on page 66566 in the issue of Tuesday, December 24, 1991, make the following corrections:

1. On page 66566, in the third column, in the **SUMMARY**, in the next to last line, "wholesale," should read "wholesome,".

2. On page 66569, in the third column, in the third line, "regulatory" should read "regularly".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Prednisolone Tablets

Correction

In rule document 92-2985 beginning on page 4718 in the issue of Friday, February 7, 1992, make the following correction:

PART 520—[CORRECTED]

On page 4718, in the third column, under PART 520, in the Authority:, in the second line, "(21 U.S.C. 36b)." should read "(21 U.S.C. 360b)."

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 340

[Docket No. 75N-244U]

RIN 0905-AA06

Stimulant Drug Products for Over-the-Counter Human Use; Proposed Amendment to the Monograph

Correction

In proposed rule document 91-30426 beginning on page 66758 in the issue of Tuesday, December 24, 1991, make the following corrections:

1. On page 66758, in the first column, under **DATES**:, in the seventh line, "February 24, 1992." should read "February 24, 1993."–

§ 340.20 [Corrected]

2. On page 66760, in the third column, in § 340.60(d)(2), in the next to last line, "establish" should read "established".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 357

[Docket No. 82N-0166]

RIN 0905-AA06

Orally Administered Drug Products for Relief of Symptoms Associated With Overindulgence in Food and Drink for Over-the-Counter Human Use; Tenative Final Monograph

Correction

In proposed rule document 91-30427 beginning on page 66742 in the issue of Tuesday, December 24, 1991, make the following corrections:

1. On page 66742, in the second column, in the first full paragraph, in the first line, "§ 330,10(a)(10)," should read "§ 330.10(a)(10),".

2. On page 66744, in the 1st column, under paragraph 2., in the 22nd line, "of" should read "by".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 91N-0498]

Superharm Corp., et al.; Withdrawal of Approval of Abbreviated New Drug Applications

Correction

In the issue of Tuesday, February 11, 1992, on page 5048, in the second column, in the correction of notice document 91-30095, in the first paragraph, in the third line, the date "December 17," should read "December 17, 1991".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8387]

RIN 1545-AM74

Abatements, Credits, and Refunds—Special Rules for an Insolvent Financial Institution That is or Was a Member of a Consolidated Group

Correction

In rule document 91-31015, beginning on page 67487, in the issue of Tuesday, December 31, 1991, make the following corrections:

1. On page 67487, in the second column, the subject heading was printed incorrectly, and should read as set forth above.

2. On page 67488, in the second column, in the first full paragraph, in the first line, insert a comma after "example".

PART 1—[CORRECTED]

3. On page 67489, in the first column, in the authority citation, in the fourth line, insert "* * *" after "6402(i)".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8384]

RIN 1545-AP82

Certification of Enhanced Oil Recovery Projects

Correction

In rule document 91-30873, beginning on page 67176 in the issue of Monday, December 30, 1991, make the following corrections:

§ 1.43-3T

1. On page 67177, in the second column, in § 1.43-3T(a)(3)(i)(D)(*2*), the third line should read "estimates of production after implementation".

2. On the same page, in the same column, in § 1.43-3T(a)(3)(ii), in the second line, "*expended*" should read "*expanded*".

3. On the same page, in the third column, in § 1.43-3T(c)(2), in the ninth line, "data" should read "date".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8390]

RIN 1545-AP37

Tax Treatment of Salvage and Reinsurance

Correction

In rule document 92-1942 beginning on page 3130, in the issue of Tuesday, January 28, 1992, make the following correction:

§ 1.832-4 [Corrected]

On page 3132, in the third column, in § 1.832-4(d)(2)(i), in the seventh line, the paragraph designated "(a)" should read "(A)".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[CO-98-88]

RIN 1545-AP57

Abatements, Credits, and Refunds—Special Rules for an Insolvent Financial Institution That is or Was a Member of a Consolidated Group

Correction

In proposed rule document 91-31016, beginning on page 67553, in the issue of Tuesday, December 31, 1991, make the following corrections:

1. On page 67553, in the first column, the subject heading was printed incorrectly, and should read as set forth above.

2. On the same page, in the same column, under **FOR FURTHER INFORMATION CONTACT:**, in the third line, insert "the" after "concerning".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service
26 CFR Parts 1 and 301

[CO-98-88]

RIN 1545-AP57

Abatements , Credits, and Refunds—Special Rules for an Insolvent Financial Institution That Is or Was a Member of a Consolidated Group; Hearing

Correction

In proposed rule document 91-31017, appearing on page 67554, in the issue of Tuesday, December 31, 1991, in the 1st column, under **ADDRESSES:**, in the 11th line, "Washington, D" should read "Washington, DC".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 734]

RIN 1512-AA07

Realignment of the Northern Boundary of the Alexander Valley Viticultrual Area (89F751P)

Correction

In proposed rule document 92-3329 beginning on page 4942 in the issue of Tuesday, February 11, 1992, make the following correction:

1. On page 4943, in the second column, under the heading *Comments Received in Response to Notice No. 719*, in the third line, after "were" insert "received after the closing date. These comments were".

2. On the same page, in the third column, in the file line at the end of the document, "FR Doc. 91-3329 Filed 2-10-91;" should read "FR Doc. 92-3329 Filed 2-10-92;".

BILLING CODE 1505-01-D

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federal register

Monday
February 24, 1992

Part II

Department of Labor

Occupational Safety and Health Administration

29 CFR Part 1910

Process Safety Management of Highly Hazardous Chemicals; Explosives and Blasting Agents; Final Rule

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

RIN 1218–AB20

Process Safety Management of Highly Hazardous Chemicals; Explosives and Blasting Agents

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Final rule.

SUMMARY: This final rule contains requirements for the management of hazards associated with processes using highly hazardous chemicals. It establishes procedures for process safety management that will protect employees by preventing or minimizing the consequences of chemical accidents involving highly hazardous chemicals. Employees have been and continue to be exposed to the hazards of toxicity, fires, and explosions from catastrophic releases of highly hazardous chemicals in their workplaces. The requirements in this standard are intended to eliminate or mitigate the consequences of such releases. This rule is being referenced in OSHA's Explosives and Blasting Agents standard, 29 CFR 1910.109.

DATES: This final rule will become effective on May 26, 1992.

ADDRESSES: In compliance with 28 U.S.C. 2112(a), the Agency designates for receipt of petitions for review of the standard, the Associate Solicitor for Occupational Safety and Health, Office of the Solicitor, room S4004, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, U.S. Department of Labor, Occupational Safety and Health Administration, Office of Information, room N3647, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 523–8151.

SUPPLEMENTARY INFORMATION: In this preamble, OSHA identifies sources of information submitted to the record by an exhibit number (Ex. 3). When applicable, comment numbers follow the exhibit in which they are contained (Ex. 3: 1). If more than one comment within an exhibit is cited, the comment numbers are separated by commas (Ex. 3: 1, 2, 3). For quoted material, page numbers are cited if other than page one (p.2). The transcript of the hearing is cited by the page number (Tr. 321). Transcript pages are separated by commas. Exhibits and transcripts are separated by semicolons (Ex. 1; Tr. 50).

I. Background

Releases of toxic, reactive or flammable liquids and gases in processes involving highly hazardous chemicals have been reported for many years. Incidents continue to occur in a variety of industries which use a variety of highly hazardous chemicals which may be toxic, reactive, flammable, or explosive or exhibit a combination of these attributes. (See for example, Ex. 2: 2, 4, 12, 13; Ex. 11: 2, 5, 6, 22, 28, 30, 31, 33, 41, 50, 83, 84, 94, 99, 120–136, 163; Ex. 15B, C; Ex. 53A; Ex. 114; Ex. 118; Tr. 2070, 2230, 2441–42, 2451, 2502.)

Regardless of the industry that uses these highly hazardous chemicals, there exists a potential for an accidental release if a highly hazardous chemical is not properly controlled. This in turn presents the potential for a devastating incident. Recent major incidents include the 1984 Bhopal incident resulting in more than 2,000 deaths; the October 1989 Phillips 66 Chemical Plant incident resulting in 24 deaths and 132 injuries; the July 1990 Arco Chemical incident resulting in 17 deaths; the July 1990 BASF incident resulting in 2 deaths and 41 injuries; and the May 1991 IMC incident resulting in 8 deaths and 128 injuries. While these major incidents involving highly hazardous chemicals have drawn national attention to the potential for major catastrophes, the record is replete with information concerning many other releases of highly hazardous chemicals (as referenced above). These releases continue to pose a significant threat to employees. The continuing occurrence of incidents has provided impetus, internationally and nationally, for authorities to develop or consider the development of legislation and regulations directed toward eliminating or minimizing the potential for such events.

International efforts include the development of the Seveso Directive by the European Economic Community after several large scale incidents occurred in the 1970's, including Flixborough and Seveso. The Directive addresses the major accident hazards of certain industrial activities, lists the hazardous materials of concern and is directed toward controlling those activities that could give rise to major accidents in an effort to protect the environment and the safety and health of persons (Ex. 11–53).

Subsequent international efforts include the development of guidelines for identifying, analyzing and controlling major hazard installations in developing countries and a hazards assessment manual which provides measures to control major hazard accidents developed by the World Bank (Ex. 2: 2); the development of the Code of Practice on the Prevention of Major Accident Hazards by the International Labour Organization (Ex. 11: 154); and the special conferences held by the Organization of Economic and Cooperative Development (Ex. 11: 153) to consider the catastrophic potential of accidents involving hazardous substances and the means to prevent their occurrence and mitigate their impact.

In the United States, Congress, Federal agencies, State governments, industry, unions and other interested groups have become actively concerned and involved with protecting employees, the public and the environment from major chemical accidents involving highly hazardous chemicals.

In 1985, the Environmental Protection Agency (EPA) in response to the potential for catastrophic releases initiated a program to encourage community planning and preparation relative to serious hazardous materials releases (Ex. 2: 5). In 1986, Congress passed the framework for emergency planning efforts through Title III of the Superfund Amendments and Reauthorization Act (SARA), also known as the Emergency Planning and Community Right-to-Know Act (42 U.S.C. 11001 *et seq.*). SARA encourages and supports states and local communities in efforts to address the problems of chemical releases. Under section 302 of SARA, 42 U.S.C. 11002, EPA was required to publish a list of extremely hazardous substances with threshold planning quantities which would trigger planning in states and local communities (52 FR 13378).

After the 1984 Bhopal, India incident involving an accidental release of methyl isocyanate which resulted in more than 2000 deaths, OSHA determined that it was necessary to immediately investigate U.S. producers and users of methyl isocyanate. This investigation indicated that while the chemical industry is subject to OSHA's general industry standards, these standards do not presently contain specific coverage for chemical industry process hazards, nor do they specifically address employee protection from large releases of hazardous chemicals.

OSHA standards do exist for employee exposure to certain specific toxic substances (see subpart Z of part 1910), and hazardous chemicals are covered generally by other OSHA standards such as the Hazard Communication Standard, § 1910.1200. While these standards do address hazardous chemicals, they focus on routine or daily exposures and while in many cases they also address emergencies such as spills, OSHA believes that they do not address the precautions necessary to prevent large accidental releases that could result in catastrophes.

Additionally, OSHA has certain standards contained in subpart H of 29 CFR part 1910, Hazardous Materials, concerning flammable liquids, compressed and liquified petroleum gases, explosives and fireworks. The flammable liquids and compressed and liquified petroleum gas standards emphasize equipment specification and the flammability of materials and do not thoroughly address other hazards of materials such as toxicity, and the standard concerning explosives and fireworks does not address the hazards involved during their manufacture. Beyond these standards, OSHA must depend on section 5(a)(1) of the Occupational Safety and Health Act, the general duty clause, to protect employees from other hazardous situations arising from the use of highly hazardous chemicals in certain industrial processes and must use national consensus standards and industry standards to support these general duty clause citations.

The need to focus on safety and health in the chemical industry was reinforced in August 1985. A serious release of highly hazardous chemicals (aldicarb oxime and methyl chloride) occurred at a plant in Institute, West Virginia. While no deaths occurred, 135 persons were injured (Ex. 2: 7). The experience of investigating this release indicated to OSHA that there was a need to look beyond existing standards and led OSHA to develop a demonstration program of special inspections in a small segment of the chemical industry (Ex. 2: 7). The purpose of the program was to examine industry practices for the prevention of disastrous releases and the mitigation of the effects of releases that do occur, and to consider ways in which OSHA could best protect employees in the industry from these hazards. Based on the results of the program, OSHA determined that chemical plant inspections need a comprehensive inspection approach which includes plant physical conditions and management systems.

Since this program was initiated, OSHA has issued a series of inspection directives, updated by growing experience and knowledge, that address system safety evaluations of operations with catastrophic potential. One important change in the successive directives was the expansion of the scope of facilities to be inspected. Inspections were to be conducted in industries beyond chemical manufacturing because potentially hazardous chemical releases are not limited to chemical manufacturing and similar precautions should be implemented in operations in which hazardous chemicals are used, mixed, stored or otherwise handled (Ex. 2: 8).

Several states have developed legislation intended to prevent catastrophic events in their communities by requiring employers to take steps to control the highly hazardous chemicals in the workplace (e.g., Delaware, California, New Jersey (Ex. 2: 9)).

Industry has also taken measures aimed at improving the protection of public health and safety by improving chemical process safety to prevent releases. The Chemical Manufacturers Association (CMA) developed the Chemical Awareness and Emergency Response Program to foster cooperation, knowledge and response within communities (Ex. 11: 23, 24; Ex. 3: 48). Additionally CMA produced a report on process safety management, "Process Safety Management, (Control of Acute Hazards)," in order to increase knowledge among CMA members about systematic approaches to process safety analysis (Ex. 11: 25).

In 1985 a professional organization involved with process safety and loss control, the American Institute of Chemical Engineers, formed a separate branch, the Center for Chemical Process Safety (the Center). The Center's charter is to develop and disseminate technical information to be used in the prevention of major chemical accidents (Ex. 11: 16, 17, 18). The Center has become well known for its process safety management guidance publications (see appendix D).

Also an industry consulting group, the Organization Resources Counselors (ORC), and an industry trade association, the American Petroleum Institute (API), have developed recommended practices to address the protection of employees and the public through the prevention or mitigation of the effects of dangerous chemical releases. The ORC recommended practices (Ex. 2: 10) are discussed later in this notice. In 1990 API published its Recommended Practice 750, Management of Process Hazards (Ex. 2: 11), "to provide a more structured and formal approach to existing practices and to ensure a comprehensive approach to process safety" (Ex. 3: 106).

Unions representing employees immediately exposed to danger from processes using highly hazardous chemicals have demonstrated a great deal of interest and activity in controlling major chemical accidents. For example, the International Confederation of Free Trade Unions and the International Federation of Chemical, Energy and General Workers' Unions issued a special report on the Bhopal, India accident (Ex. 2: 12). Additionally the United Steelworkers of America investigated and issued a special report on the 1988 PEPCON plant oxidizer accident in Henderson, Nevada (ammonium perchlorate explosion, two deaths and 350 injuries (Ex. 2: 13)). Further, unions including the United Steelworkers of America, the International Chemical Workers, and the Oil, Chemical and Atomic Workers, have undertaken large-scale efforts to train and educate their members who work in the petrochemical industry (e.g., Ex. 11: 2, Tr. 2262–63, 2265).

OSHA believed that available evidence supported the need for a standard and that adequate data and information existed upon which a standard could be based. Accordingly, on July 17, 1990, OSHA published in the **Federal Register** (55 FR 29150) a proposed standard containing requirements for the management of hazards associated with processes using highly hazardous chemicals in order to help assure that workers have a safe and healthful workplace.

OSHA's proposed rule emphasized the management of hazards associated with highly hazardous chemicals. The application of management controls to processes involving highly hazardous chemicals was recommended to OSHA by the Organization Resources Counselors (ORC). ORC (Ex. 2: 14) observed:

> [W]hen OSHA issued its final report on the Special Emphasis Program for the Chemical Industry (Chem SEP), among its findings were that "specification standards * * * will not * * * ensure safety in the chemical industry * * * [because such standards] tend to freeze technology and may minimize rather than maximize employers safety efforts." The Chem SEP report recommended a new approach to the identification and prevention of potentially catastrophic situations. This approach would involve "performance-oriented standards * * * to address the overall management of chemical production and handling systems."

Further regarding the recommended standard, ORC noted (p.1–2) that:

> The recommendations it contains are a systematic approach to chemical process hazards management which, when implemented, will ensure that the means for preventing catastrophic release, fire and explosion are understood, and that the

necessary preventive measures and lines of defense are installed and maintained.

The application of mangement controls to processes involving highly hazardous chemicals was also supported by other interested groups (Ex. 2: 11; Ex. 11: 23, 24).

The OSHA proposed standard established a comprehensive management program; a holistic approach that integrated technologies, procedures, and management practices. The proposal contains provisions addressing process safety information, process hazard analysis, operating procedures, training, contractors, pre-startup safety reviews, mechanical integrity, hot work permits, management of change, incident investigations, emergency planning and response, and compliance safety audits (Ex. 1).

The notice of proposed rulemaking invited comment on any aspect of the proposed standard for process safety management of highly hazardous chemicals. Additionally comment was invited on a series of issues concerning the requirements and appendices contained in the proposed standard which OSHA believed needed special emphasis. Specific questions were raised on the application of the standard; process hazard analyses; phase-in periods; team composition; training; contractors; critical equipment; drills; and notification. Finally, the notice annnounced the scheduling of a hearing to begin on November 27, 1990, in Washington, DC.

The Oil, Chemical and Atomic Workers Union requested that OSHA hold a regional hearing in Houston, Texas (Ex. 3: 13). OSHA agreed that the second hearing would be useful and on November 1, 1990, OSHA published a **Federal Register** notice (55 FR 46074) scheduling a second hearing to begin on February 26, 1991, in Houston, Texas; enumerating additional issues; and extending the written comment period until January 22, 1991. The additional issues in the hearing notice concerned a broader permit system; aggregation of threshold quantities of covered chemicals; workplace fuel consumption; and flammable liquid storage.

The hearings on the proposed standard for process safety management were held in Washington, DC, from November 27 through December 4, 1990, and in Houston, Texas from February 26 through March 7, 1991. The Administrative Law Judge presiding at the hearings allowed participants to submit post-hearing comments by May 6, 1991, and post-hearing briefs by June 5, 1991.

Approximately four months after the publication of OSHA's proposed standard for process safety management of highly hazardous chemicals, the Clean Air Act Amendments (CAAA) were enacted into law (November 15, 1990). The CAAA requires in section 304 that the Secretary of Labor, in coordination with the Administrator of the Environmental Protection Agency, promulgate, pursuant to the Occupational Safety and Health Act of 1970, a chemical process safety standard to prevent accidental releases of chemicals which could pose a threat to employees. The CAAA require that the standard include the development of a list of highly hazardous chemicals which include toxic, flammable, highly reactive and explosive substances. The CAAA specified the minimum elements which must be covered by the standard. The OSHA standard must require employers to:

(1) Develop and maintain written safety information identifying workplace chemical and process hazards, equipment used in the processes, and technology used in the processes;

(2) Perform a workplace hazard assessment, including, as appropriate, identification of potential sources of accidental releases, an identification of any previous release within the facility which had a likely potential for catastrophic consequences in the workplace, estimation of workplace effects of a range of releases, estimation of the health and safety effects of such range on employees;

(3) Consult with employees and their representatives on the development and conduct of hazard assessments and the development of chemical accident prevention plans and provide access to these and other records required under the standard;

(4) Establish a system to respond to the workplace hazard assessment findings, which shall address prevention, mitigation, and emergency responses;

(5) Periodically review the workplace hazard assessment and response system;

(6) Develop and implement written operating procedures for the chemical process including procedures for each operating phase, operating limitations, and safety and health considerations;

(7) Provide written safety and operating information to employees and train employees in operating procedures, emphasizing hazards and safe practices;

(8) Ensure contractors and contract employees are provided appropriate information and training;

(9) Train and educate employees and contractors in emergency response in a manner as comprehensive and effective as that required by the regulation promulgated pursuant to section 126(d) of the Superfund Amendments and Reauthorization Act;

(10) Establish a quality assurance program to ensure that initial process related equipment, maintenance materials, and spare parts are fabricated and installed consistent with design specifications;

(11) Establish maintenance systems for critical process related equipment including written procedures, employee training, appropriate inspections, and testing of such equipment to ensure ongoing mechanical integrity;

(12) Conduct pre-start-up safety reviews of all newly installed or modified equipment;

(13) Establish and implement written procedures to manage change to process chemicals, technology, equipment and facilities; and

(14) Investigate every incident which results in or could have resulted in a major accident in the workplace, with any findings to be reviewed by operating personnel and modifications made if appropriate.

Also under the CAAA, the Environmental Protection Agency has specified duties relative to the prevention of accidental releases (see section 301(r)). Generally EPA is required to develop a list of chemicals and a Risk Management Plan.

OSHA received more than 175 comments in response to the notice of proposed rulemaking. In addition to these comments, the hearings resulted in almost 4000 pages of testimony and almost 60 post-hearing comments and briefs.

Shortly after the catastrophic Phillips 66 Company's Houston Chemical Complex incident, OSHA asked the John Gray Institute of Lamar University to conduct a study of safety and health issues as they relate to contract work in the petrochemical industry. The issue of the role of contractors in the petrochemical industry surfaced since a contractor had been working in the vicinity of the Phillips' release. Additionally, OSHA's experience indicated that a significant number of companies were using contractors to perform work at their plants. The Agency determined additional information was needed on contractors since it wanted to assure that safety issues surrounding contractor employees who are exposed or may expose site employees to potentially catastrophic events are thoroughly addressed in the process safety management standard. Upon the completion of the report, OSHA decided to give interested persons an opportunity to comment on the report and, therefore, reopened the record to receive public comment on the report and to reexamine the provisions concerning contractors. On September 24, 1991, OSHA published a notice in the **Federal Register** announcing the availability of the John Gray report and requesting public comment (56 FR 48133). OSHA received more than 300 requests for the John Gray Institute report. The comment period ended on October 24, 1991, and OSHA received 37 comments in response to the notice. The Administrative Law Judge certified the public record for the proposed rule to the Assistant Secretary of Labor for Occupational Safety and Health on November 29, 1991.

The record for this rulemaking is extensive and OSHA appreciates the time and effort expended by interested parties to ensure that as much information as possible was available to the Agency for purposes of making decisions on the final standard. In analyzing the record and preparing this final document, OSHA has carefully reviewed all of the information received, and has considered the concerns expressed by the parties participating in this rulemaking and has carefully examined the requirements of the Clean Air Act Amendments in order to assure that the final standard reflects its intent.

II. Agency Action

OSHA believes that processes involving highly hazardous chemicals present the potential for accidents, such as spills or other uncontrolled releases that could have catastrophic results. Information available to OSHA indicates that accidents have occurred in workplaces with processes involving highly hazardous chemicals for many years and that they continue to occur. Reports of incidents clearly show that there is a significant risk to employees in industries covered by this rule and that mandatory standards are reasonably necessary and appropriate and will reduce deaths and injuries due to accidental releases of highly hazardous chemicals which expose employees to the hazards of toxicity, fires and explosions. OSHA believes that this final rule will significantly reduce deaths and injuries associated with accidental releases of highly hazardous chemicals.

In conclusion, OSHA has determined that employees in industries with processes involving highly hazardous chemicals have been for many years exposed to the hazards of releases of highly hazardous chemicals which may be toxic, reactive, flammable, or explosive; that employees continue to be exposed to the hazards of releases of toxic, reactive, flammable, or explosive chemicals; that incident information and other relevant data demonstrate that these hazards pose a significant risk to employees; that this standard is reasonably necessary and appropriate; and that feasible control measures are available that will reduce the risk of employees in these industries being injured or killed. The final standard reflects OSHA's determination that a standard is reasonably necessary and appropriate to provide safe and healthful employment and places of employment for employees in industries which have processes involving highly hazardous chemicals. Additionally, OSHA is convinced that compliance with the final standard provisions will mitigate many of the hazards present in processes involving highly hazardous chemicals. As a result, OSHA believes the risk of death or injury to employees exposed will be significantly reduced.

Finally, the Clean Air Act Amendments of 1990 clearly require OSHA to develop a chemical process safety standard containing certain minimum requirements to prevent accidental releases of chemicals which could pose a threat to employees (section 304(a)). The standard must contain clearly defined minimum requirements. Thus, in addition to being convinced that a process safety management standard is necessary and appropriate, OSHA is fulfilling its obligation under the Clean Air Act Amendments to develop this final standard. This final rule is consistent with the mandate of the CAAA.

III. Summary and Explanation of the Final Rule

This section contains an analysis of the record evidence and policy decisions pertaining to the various provisions of the standard.

The Occupational Safety and Health Act (OSH Act) defines an occupational safety and health standard as a standard which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment.

Under section 6(b) of the OSH Act, the Secretary (of Labor) may by rule promulgate, modify or revoke any occupational safety and health standard in a prescribed manner. The Act directs the Secretary of Labor to consider in promulgating standards, national consensus standards. In this instance, there is no existing consensus standard that addresses process safety management of highly hazardous chemicals.

The proposed process safety management standard contained the following paragraphs:

Purpose: Paragraph (a)
Application: Paragraph (b)
Definitions: Paragraph (c)
Process safety information: Paragraph (d)
Process hazard analysis: Paragraph (e)
Operating procedures: Paragraph (f)
Training: Paragraph (g)
Contractors: Paragraph (h)
Pre-startup safety review: Paragraph (i)
Mechanical integrity: Paragraph (j)
Hot work permits: Paragraph (k)
Management of change: Paragraph (l)
Incident investigations: Paragraph (m)
Emergency planning: Paragraph (n)
Compliance safety audits: Paragraph (o)

In the final standard, OSHA has added two additional paragraphs: employee participation and trade secrets. OSHA determined that the logical placement of the paragraph regarding employee participation should be at the beginning of the rule since the provisions require that employers consult with employees and their representatives on the general development of a process safety management program, as well as on the process hazards analyses. In order to accommodate the placement of the provisions concerning employee participation in the beginning of the final standard but also to minimize any unnecessary redesignation of paragraphs, OSHA has decided to remove the letter designation "(a)" from the "purpose" paragraph. This results in the following changes:

Purpose
Application: Paragraph (a)
Definitions: Paragraph (b)
Employee participation: Paragraph (c)

The paragraph on trade secrets has been added to the end of the standard and becomes new paragraph (p). Therefore, the paragraphs in the final rule are designated in the following manner:

Purpose
Application: Paragraph (a)
Definitions: Paragraph (b)
Employee participation: Paragraph (c)
Process safety information: Paragraph (d)
Process hazards analysis: Paragraph (e)
Operating procedures: Paragraph (f)
Training: Paragraph (g)
Contractors: Paragraph (h)
Pre-startup safety review: Paragraph (i)
Mechanical integrity: Paragraph (j)
Hot work permit: Paragraph (k)
Management of change: Paragraph (l)
Incident investigation: Paragraph (m)
Emergency planning and response: Paragraph (n)
Compliance safety audit: Paragraph (o)
Trade secrets: Paragraph (p)

A significant number of commenters and hearing participants supported the proposed standard and its purpose (e.g., Ex. 3: 10, 17, 18, 22, 25, 26, 28, 29–32, 38, 39, 40, 42, 45, 46, 53, 59, 69, 70, 71, 72, 76, 77, 79, 80, 82, 83, 86, 87, 91, 95, 96, 97, 101,

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103, 104, 106, 107, 108, 113, 117, 120, 121, 127, 129, 134, 143, 146, 152, 153, 158, 162, 164, 168, 171; Ex. 89; Ex. 91; Ex. 112; Ex. 138; Tr. 730, 779, 1204, 1594, 1614, 1802, 1998–99, 2155, 2172, 2245, 2506, 2570, 2652, 2768, 3115, 3157, 3236, 3345, 3404, 3442, 3461, 3604, 3753). A participant from The Upjohn Company (Ex. 3: 22) stated:

> We are pleased at this proposed rule (1910.119) which will require all employers to implement programs to ensure the safety and health of those employees working with and around processes which involve highly hazardous chemicals. In addition, we are encouraged that the effort to establish this standard included cooperation from business and government to propose a standard that is both beneficial and workable.

The Food and Allied Services Trades, of the AFL–CIO, (Ex. 3: 25, p. 3) remarked:

> The proposed rule is well-intended and there is little question that such regulation is needed. Recent events * * * underscore this need. These events include not only the catastrophic explosions that occurred at Phillips Petroleum and Arco Chemical in the Houston area, but hundreds of smaller explosions and disasters that were not as widely reported by the press.

BP Oil Company (Tr. 1802) stated:

> We are here today to comment on a proposed regulation which we regard as of major importance to our industry. We strongly support the Occupational Safety and Health Administration's approach to protecting workers and the public from industrial operation hazards.

Finally, the United Steelworkers of America (Tr. 2231) observed:

> But the real problem is that OSHA has no standard requiring process hazard analysis, written operating procedures, adequate training in process safety, periodic safety reviews, quality assurance for critical equipment or the investigation of near-miss accidents.
>
> Had such a standard been in place at Neville Chemical, Jim Thompson would be alive today. So might all the other chemical workers killed by accidental releases of hazardous chemicals in the past several years including the 40 in Pasadena and Channelview. Clearly, it is time to give OSHA inspectors the tools they need to prevent catastrophic accidents.
>
> It is also time to give workers the tools they need to protect themselves and their communities.

Participants in the rulemaking also supported OSHA's development of a performance-oriented standard (e.g., Ex. 3: 27, 33, 39, 45, 46, 48, 69, 76, 134, 146, 161, 162, 171; Ex. 91; Ex. 133; Ex. 138; Tr. 1009, 1999, 2284, 3726). The Chemical Manufacturers Association (Ex. 3: 48), remarked:

> Initially CMA would like to commend OSHA on its efforts to craft a comprehensive performance based standard addressing process safety management of highly hazardous chemicals. As CMA has commented in past rulemakings, performance language capitalizes on industry's ingenuity and capability to effectively reduce hazards as they may be uniquely applied to a particular safety concern.

Ashland Petroleum Company (Ex. 3: 80) stated:

> Ashland * * * is generally supportive of the efforts of the Secretary and of the Occupational Safety and Health Administration with respect to this proposed regulation. While our internal commentors had divided between a desire for specificity and the obvious value of the non-detailed performance approach, ultimately we believe the "performance standard" approach is the best way to regulate a wide variety of situations for which a common end is desired.

The American Society of Safety Engineers (Ex. 3: 146, p. 2) noted:

> The Society commends OSHA's use of a performance standard rather than a specification rule, believing this is the better means to help ensure each affected facility address its individual situation.

Many participants in the rulemaking acknowledged their belief that a process safety management standard is the most effective approach available in the prevention of catastrophic releases and others acknowledged their belief that the standard will improve the safety and health of employees (e.g., Ex. 3: 71, 72, 91, 94, 95, 96, 101, 106, 113, 120, 121, 127, 129, 158; Ex. 131; Tr. 1998, 3719). For example, Amoco (Ex. 3: 95) found that:

> In general, we are very favorably impressed with the regulation as written. This standard is comprehensive, and when properly applied, should be effective in reducing loss of life, serious injury, and damage to property.

The American Petroleum Institute (API) (Ex. 3: 106) indicated:

> API member companies support OSHA's effort to develop an effective process safety management rule. API believes process safety management is the most effective approach available in the prevention of catastrophic releases, a goal which we share with OSHA completely.

Finally, Oryx Energy Company (TR. 3719) testified:

> I think the proposed rule and 750 [API RP 750]—you know, they are similar—they will both accomplish the mission of making a safer workplace. I think—I know of no other system that is better than the system that is proposed by OSHA.

Before discussing the provisions of the final standard, OSHA would like to address several issues that were brought up during the rulemaking. First, many participants asserted that OSHA should permit required information to be stored electronically or on computers. Electronic storage or computerized storage of records and information required by this standard is permissible, as long as it is readily accessible and easily understood.

Second, in Issue 10 of the proposal (55 FR 29159) OSHA asked whether provisions should be delayed or phased-in (timeframes for conducting process hazard analyses were discussed in a separate issue, Issue 3 at 29158). Participants suggested a variety of schedules (e.g., Ex. 3: 41, 45, 48, 53, 69, 81, 96, 101, 106, 113, 127, 134; Ex. 138; Tr. 735, 1616, 3241). However, OSHA has decided that, with the exception of allowing a phase-in period for paragraph (d), process safety information, and paragraph (e), process hazards analysis, no other phase-in period is necessary or warranted. OSHA realizes, as it does with any other newly promulgated standard, that employers will be working toward implementation of the provisions contained in the standard as quickly as possible. The standard will become effective in 90 days, thereby giving employers a brief period to familiarize themselves with the provisions of the standard and begin its implementation. OSHA believes this schedule is practical and feasible.

Third, also in Issue 10, OSHA asked whether it is necessary for all of the covered industries to meet all of the proposed provisions. OSHA was concerned about the potential impact on small businesses. Most of the participants who addressed this issue believed that small facilities should not be exempted if they have the threshold quantity of chemicals in their processes since the potential for a catastrophe is based on the amount of chemical present rather than on the size of facility (e.g., Ex. 3: 9, 20, 38, 47, 59, 69, 95, 103, 138; Tr. 2010–1, 2176, 3421). Several of these participants suggested that OSHA provide special assistance to small employers. OSHA agrees with participants that plants should be covered based on whether they have the threshold quantity of a covered highly hazardous chemical. OSHA also agrees with the recommendation suggesting that OSHA provide special assistance to small businesses and is considering this issue at this time. As an immediate step, OSHA has developed nonmandatory appendices which will assist in providing small businesses with guidance on complying with the process safety management standard and sources of further information and assistance (appendix C and appendix D respectively). Additionally, the Agency is developing a compliance assistance "outreach" program to assist small businesses.

Finally, in Issue 11 (55 FR 29159) of the proposal, OSHA asked whether employers, when they have a threshold quantity of a highly hazardous chemical as specified by the standard, should be required to notify the OSHA Area Office of their location. Other entities which regulate potentially catastrophic workplaces require notification of the regulating authority.

Numerous participants addressed this issue. Some participants believed that notification should be required (e.g., Ex. 3: 20, 25, 71, 86, 99, 115; Ex. 101, Tr. 2253). Other participants indicated that while they did not see a benefit to notification, they would not object if a notification requirement was kept simple (e.g., Ex. 3: 26, 28, 26, 28, 69, 113, 120; Tr. 3279, 3376). Still others objected to notification as an unnecessary burden, and in some cases observed that EPA already requires notification or that perhaps OSHA should access the information already required to be submitted to EPA (e.g., Ex. 3: 30, 38, 64, 80, 109, 113, 120, 122, 127, 134, 141, 146; Ex. 103, Tr. 1025). For example, Organization Resources Counselors (Ex. 131, p.11) indicated that:

> Before OSHA inserts such a requirement into the standard, it should determine what use it will make of such notification and whether or not the information is already available from other resources.

OSHA has decided not to require notification in the final standard. OSHA believes requiring such information would be redundant with requirements that already exist under SARA and under the Clean Air Act Amendments which require reporting. Since similar information is already required to be reported, OSHA will work with EPA to obtain needed plant location information, instead of placing a redundant burden on employers.

On September 19, 1990, the Office of Management and Budget (OMB) filed comments on the process safety management proposal (Ex. 3: 14). OMB raised several concerns about the proposal. OMB observed that:

(1) OSHA failed to consider alternative regulatory options;

(2) The effectiveness of OSHA's approach is uncertain;

(3) The costs of the standard may be higher than estimated and may adversely affect profitability;

(4) The standard may have high costs and few benefits for small employers and, therefore, could be anticompetitive; and

(5) OSHA should consider a sunset provision in the final rule that would cause the rule to expire after five years if it does not have the intended effect of providing significant reductions in the number of workplace accidents associated with hazardous chemicals.

OSHA has carefully evaluated the OMB comment and believes that the modifications to the proposed rule and the issues discussed below are responsive to the OMB concerns. The major concerns are addressed below.

(1) OMB stated that OSHA had failed to consider alternative regulatory options that might protect workers equally well at lower cost (Ex. 3: 14, p.1–3). OSHA believes that its latitude to consider regulatory options such as those contemplated by OMB is somewhat limited by the Clean Air Act Amendments (CAAA). For example, in section 304 of the CAAA, OSHA was directed to enact a chemical process safety standard containing certain minimum elements within one year. The Clean Air Act Amendments specified 14 elements which OSHA must include in the process safety standard. OSHA has included these elements in its final process safety management standard. OMB suggested that OSHA consider an alternative regulatory approach that allows firms to use the results of the hazard analysis to determine which of the other safety requirements are appropriate. The Congressional mandate does not allow OSHA this flexibility. In addition, participants addressed this issue (Ex. 131; Tr. 307, 818) and the consensus was that the provisions of the standard were inextricably intertwined and they could not be considered separately without adversely affecting the contemplated effectiveness of the rule. For example, the Organization Resources Counselors (ORC) stated that its member companies "indicate that most, if not all, process related incidents involve a breakdown of one or more of OSHA's Process Safety Management elements" (Ex. 131, p.9). American Cyanamid Company (Ex. 3: 127) observed:

> We concur with the concept of a comprehensive management system which addresses technology, equipment, procedures, training and management oversight. Deficiencies in any one of these areas can lead to a breakdown in process safety and increase the potential for a serious accident.

In addition, OMB suggested that OSHA should look more closely at the potential for accidents from various types of hazardous chemicals (Ex. 3: 14, p.2). In establishing the list of substances to be regulated under the process safety management rule, OSHA carefully considered the potential for catastrophic events posed by a large number of chemicals. In order to select chemicals with catastrophic potential, OSHA consulted the lists developed by the Environmental Protection Agency and Department of Transportation and various states with regulatory experience in this area; namely Delaware and New Jersey. In developing the list of covered substances, OSHA also reviewed materials on this subject developed by the World Bank, the European Economic Community (the Seveso Directive), the National Fire Protection Association and ORC. While it is true that all chemicals on the list do not have equal catastrophic potential, OSHA addressed this issue in two ways. It developed appropriate thresholds for each of these chemicals by consulting with the sources above and relying on its own expertise, and it developed the flexible performance-oriented approach of the standard by mandating a process hazard analysis which will itself indicate the necessary safety precautions to take according to the incidence of use in a particular industrial setting.

(2) OMB claimed that the effectiveness of OSHA's approach is uncertain (Ex. 3: 14, p.3–4). In its preliminary regulatory impact analysis (PRIA, Ex. 4), OSHA claimed that after the standard had been in effect for 5 years, injuries and illnesses resulting from potentially catastrophic incidents would be reduced by at least 80% (Chapter V–14). This effectiveness rate is consistent with that used in other OSHA Regulatory Impact Analyses such as Electrical Safety-Related Work Practices (Final Rule, 55 FR at 32011, August 6, 1990, Regulatory Impact Assessment); Control of Hazardous Energy Source (Lockout/Tagout) (85 percent, Final Rule, 54 FR at 36685, September 1, 1990, Regulatory Impact Analysis); Permit Required Confined Spaces; Notice of Proposed Rulemaking (54 FR at 24097, June 5, 1989, Benefits); and Hearing Conservation (Final Regulatory Analysis of the Hearing Conservation Amendment, U.S. Department of Labor, January 1981, Chapter III–27; benefits of 85% at equilibrium from the hearing conservation amendment)..

Participants also acknowledged their belief that the process safety management standard will be substantially effective in improving safety. For example, Arco Chemical (Ex. 3: 71) stated:

> ARCO Chemical Company strongly endorses OSHA's proposed rulemaking * * * ACC's President and Chief Executive Officer, stated that ACC shares "* * * the Congress' desire to further improve process safety management in the chemical industry," and

> that ACC believes that OSHA's proposed rules "—as minimum standards—will substantially improve safety across the entire U.S. process industry."

American Cyanamid Company (Ex. 3: 127) remarked:

> American Cyanamid believes that the proposed standard, if implemented, will substantially reduce the risk of accidental releases, fires and explosions from processes involving highly hazardous substances.

Additionally, the Organization Resources Counselors (Ex. 131, p.9–10) stated:

> Given effective implementation and compliance with the provisions of the proposed standard, we agree with OSHA's estimate of at least 80% reduction in serious process incidents.

Quantitative evidence from Air Products and Chemicals, Inc., suggests that instituting a comprehensive process safety program which includes a hazard analysis could result in an even more significant reduction in accident and injury rates (97.5%; RIA, Chapter V–11–12). Moreover, empirical data from a senior safety consultant showed that in dealing with 500 companies of all sizes (over a 15 year period) "those committed to the development of a long-term program" similar to that described in the process safety management standard, achieve median improvement in their safety programs after the third year of implementation of nearly 75% (RIA, Chapter V–13).

Although one of the studies cited by OMB (the St. John's River Power Plant project) only accomplished a 56% decrease in accidents, it is important to note that the potential hazards faced by the plant studied were significantly lower than those posed by the use and handling of the threshold amounts of chemicals covered by the process safety management rule; and the program studied was not as comprehensive as that contemplated in the PSM standard. It is not unreasonable to assume that where, as here, highly hazardous chemicals are being used in potentially catastrophic amounts and there is a comprehensive standard in effect that has the force and effect of law, that an additional 25% effectiveness could be accomplished. While one cannot predict benefits absolutely it would seem that the 80% estimate assumed by the RIA is reasonable and supported by substantial evidence in the record as a whole.

(3) OMB also indicated that the costs may be higher than estimated and may adversely affect profitability (Ex. 3: 14, p. 4–6). The PRIA predicted that compliance with the proposed standard would cost $638 million in direct annualized gross costs (estimated per year for a ten year period). These estimates were based in large part on the Kearney/Centaur Report, "Proposed OSHA Rule for the Process Hazards Management of Highly Hazardous Chemicals: An Industry Profile, Cost Assessment and Benefits Analysis" (Ex. 5). A number of commenters believed that the PRIA had underestimated the costs of complying with the proposed standard (e.g., 3: 45, 69, 95, 106, 109, 150, 153). In response to comments in the record, OSHA updated and refined the Kearney/Centaur industry profile, its estimates of current industry compliance with the proposed process safety management standard, and the estimate of the number of processes per establishment that would be covered by the standard (RIA, Chapter V). This resulted in the calculation of increased costs of compliance with the process safety management standard. The final RIA predicts gross costs of $863.5 million/year during the first 5 years that the standard is in effect (as opposed to the $638 million estimated by the PRIA) (RIA, Chapter IV–11) and $390.1 million/year during the next 5 years. In order to better understand the true costs associated with the process safety management rule, the gross cost of compliance must then be adjusted downward to account for the many benefits of the standard, such as increased productivity, decreased property damage, and decreased fatalities and injuries. When these offsets are taken into account, OSHA predicts that the standard will cost approximately $143.5 million per year for the first 5 years. Cost savings are expected to exceed direct costs for most industry groups in years 6 through 10.

OSHA also looked at the effect of the costs of compliance on the profitability of the affected industries and found that, assuming that the affected companies would not pass on any of the costs of compliance to customers (a worst case assumption), in the first five years compliance with the process safety management rule might decrease profits anywhere from .09 percent to 15.7 percent depending on the industry group. Worst-case profit impacts would average 1.1 percent for large establishments and 3.2 percent for small establishments. Therefore the final figures show that the standard is not only economically feasible, but it will not unreasonably affect the profitability of the affected industries and is well within the mandates of the CAAA, the Occupational Safety and Health Act and Executive Order 12291.

(4) OMB also believed that the process safety management rule might have high costs and few benefits for small employers and, therefore, could be anticompetitive (Ex. 3: 14, p. 6–7). As stated above, the final RIA indicates the gross costs of complying with the process safety management standard will be $863.5 million/year during the first 5 years that the standard is in effect and $390.1 million/year during the next 5 years for all industry. Of this total gross cost of compliance, small business will bear approximately $88.9 million/year during the first 5 years that the standard is in effect and $33.0 million/year during the next 5 years. While accounting for approximately 10 percent of costs, small firms will realize considerable benefits from compliance; 21 percent of fatalities avoided and 9 percent of lost-workday injuries avoided will occur in small establishments.

OSHA's estimates for small-firm costs declined in the final impact analysis after incorporating the ideas of inventory reduction and a learning-curve effect during compliance. A small business might reduce the potential hazard by purposely controlling its on-site inventory of highly hazardous chemicals by ordering more frequent, smaller shipments so that they do not exceed the threshold for coverage set forth in the rule. Also, they may segregate their inventory by dispersing the storage around the worksite so that the release of a highly hazardous chemical from one storage area would not cause the release of the other inventory stored on site. This remote storage approach would also be a feasible alternative. Moreover, small employers who use batch processes may be able to use a generic approach to the required process hazards analysis which would help to further reduce the estimated cost of compliance. For example, a generic process hazard analysis of a representative batch might be used where there are only small changes in the process chemistry and this is documented for the range of batch processes (see appendix C).

Also, as a general rule, small employers have greater flexibility within their workplaces than do large employers. Employees may be trained to do more than one job and have a greater understanding of the interrelationship of the different factors that can adversely affect the process and produce a potentially catastrophic incident.

Some participants believe that there will be long-term benefits to full implementation of process safety management (e.g., Ex. 11: 87; Ex. 99; Ex. 131; Tr. 1050–52, 3052). For example, evidence in the record from a manager of a small plant which had recently undergone the experience of implementing process safety management practices and techniques indicates that the benefits of the standard can be substantial and realizable (Ex. 131, Attachment III, p. 5–6). For example, he wrote:

> The benefits of a comprehensive process safety program are substantial, but are often difficult to quantify. This is particularly true if one tries to develop a traditional "return on investment."
>
> Perhaps the biggest benefit is in the alteration of thinking that is inherent to the system. It became apparent that there was a subtle shifting of approach to problems by plant staff * * * Our small organization was quietly infused with a rebirth of innovative thinking. Process technology that was more than 35 years old was routinely being questioned and inspected for safer ways to do the task at hand. This quickly led to the same questioning being applied to process improvement * * *.
>
> The net result has been not only that safety performance has been enhanced, and the process operational risks materially reduced, but the resultant attitude and approach to daily tasks have resulted in material gains in directly accountable issues such as process yields. Ultimately, I believe that this thoroughness and rigorous training approach will result in cost savings to a small plant site on the order of 4 to 7 percent of an operating budget * * *.

(5) OMB also felt that OSHA should consider a sunset provision in the final rule that would cause the rule to expire after five years if it does not have the intended effect of providing significant reductions in the number of workplace accidents associated with hazardous chemicals (Ex. 3: 14, p. 3). In its proposal, OSHA did not propose a specific timeframe for compliance. The final OSHA rule, because of feasibility considerations, does not become fully effective for five years and if the comment is read literally, the rule might "set" before it was fully implemented. Therefore, the 5-year "sunset" timeframe would not be compatible with the process safety management regulatory framework. The process safety management standard is based on the Occupational Safety and Health Act and the Clean Air Act Amendments of 1990 (CAAA). The CAAA does not contemplate a "sunset" provision and this is probably because we know that the chemicals which this standard regulates are intrinsically hazardous and the hazard will not go away as long as these chemicals are being used in industrial processes. Even if the OMB comment were read to mean that OSHA should consider a sunset provision 5 years after the rule becomes effective, there is nothing in the present record that would support the inclusion of a sunset provision in the final rule. The Agency believes that this final rule will be highly effective and will significantly reduce workplace accidents and injuries. This view is supported by substantial evidence in the record as a whole. Therefore it would be arbitrary and contrary to the record evidence for the Agency to include a sunset provision in the final rule. Moreover, it is questionable whether this approach (i.e., a sunset provision) is consistent with the procedural framework of the Occupational Safety and Health Act, which directs the Secretary to use specified procedures to amend or revoke a standard adopted under the Act. These procedures include public notice and an opportunity for the public to file comments and objections and to request a public hearing on the proposed amendments or revocation (29 U.S.C. 655).

It is, of course, possible that after the process safety management rule has been in effect for a while, however, facts may emerge to indicate that there is a need to change the regulation (e.g., safety prevention provisions, highly hazardous chemical lists, etc.). If such facts emerge, either based on safety experience under the rule or on an OSHA retrospective study of the costs and benefits of the rule, the Agency might then consider amending the regulation to make it more effective. This would, of course, be done under section 6 of the Occupational Safety and Health Act, perhaps with the assistance of other potentially relevant statutes such as the Alternative Dispute Resolution Act (Pub. L. 101–552) and the Negotiated Rulemaking Act (Pub. L. 101–648). Under any of these vehicles, however, interested persons would be given a chance to comment and present evidence on all relevant issues, a safeguard that might be missing if a sunset provision were used.

Purpose

It was pointed out to OSHA by several commenters (e.g., 3: 12, 48, 53) that in the proposed paragraph concerning the purpose of the standard (proposal paragraph (a)), OSHA did not correctly state the types of chemicals covered by the proposal since in addition to "toxic, flammable or explosive chemicals," OSHA was also covering reactive chemicals. This intent was stated in other locations in the proposal including the description of the highly hazardous chemicals covered by appendix A of the proposal. In response, OSHA has added "reactive" to the purpose paragraph and it now states that the section contains requirements for preventing or minimizing the consequences of "toxic, reactive, flammable, or explosive chemicals." Additionally, OSHA has added that the standard is intended to address the hazards to employees from toxicity, fire or explosion.

Application: Paragraph (a)

The application section in proposed paragraph (b) specified those types of highly hazardous chemicals covered by the proposal. The application section also included processes involving certain specified highly hazardous chemicals at or above a stated threshold which was listed in appendix A; processes involving flammable liquids or gases on site in one location in quantities of 10,000 pounds or greater (with two exceptions discussed later in this preamble); the manufacture of explosives and pyrotechnics; and processes involving chemicals developed after the promulgation of the final standard which meet certain criteria contained in proposed mandatory appendix B (Substance Hazard Index). Additionally, OSHA proposed to exclude retail facilities, oil and gas well drilling and servicing operations and normally unmanned remote facilities from the standard.

The application paragraph was addressed by the vast majority of rulemaking participants. OSHA received a great deal of support concerning its general approach to covering highly hazardous chemicals but also received numerous recommendations for clarifications; criticisms regarding the toxic and reactive list (appendix A); the inclusion of 10,000 pounds of flammable liquids rather than the use of a vaporizable amount (5 tons of vapor); and recommendations for additional exemptions for certain processes or industries. OSHA has carefully evaluated participants' comments and information concerning the appropriate scope and application of the standard in order to assure that the standard is clearly and properly focused to achieve its goal of eliminating the occurrence of releases or mitigating the consequences of releases that occur.

Before discussing the proposed application provisions in detail, OSHA would like to address and clarify OSHA's use of the plural word "processes" in the application paragraph of the proposal. This use resulted in commenters (e.g., Ex. 3: 104, 109, 112, 119, 125, 126) questioning whether the use of the word "processes" meant that the amount of highly hazardous chemical used at a plant must be aggregated to meet the threshold for coverage even though the amount of highly hazardous chemicals used at any one location might be less than the

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threshold amount or the amount of highly hazardous chemical in use might be divided among remote processes. Also, participants asked whether the proposal required that the highly hazardous chemical threshold quantity be aggregated over a period of time or whether it must be present at one point in time to be covered by the proposal. OSHA addressed this concern in its November 1, 1990, **Federal Register** notice in Issue 2 (55 FR 46075).

OSHA's view at that time was that if a plant exceeded the threshold quantity of a listed chemical but the chemical was used in smaller quantities around the plant and was not concentrated in one process or in one area, then OSHA believed that a catastrophic release of the threshold quantity would be remote due to the reduced availability of a concentrated amount of the chemical in one location. However, OSHA requested comment on the point at which a chemical should be considered in its aggregate due to the proximity of the sites at which it was being used in a plant.

While a few participants indicated that the amounts of a highly hazardous chemical used at various sites around the plant should all be counted toward the threshold amount for coverage (e.g., Ex. 3: 12, 18, 41; Ex. 153), most participants who discussed this issue noted that the threshold quantity should not be aggregated (e.g., Ex. 163; Ex. 164; Tr. 2591, 3192). They agreed that highly hazardous chemicals in less than threshold quantities distributed in several processes would not present as great a risk of catastrophe as the threshold quantity in a single process.

OSHA continues to believe that the potential hazard of a catastrophic release exists when the highly hazardous chemical is concentrated in a process and therefore agrees with these commenters. OSHA has clarified the language contained in the application paragraph to reflect its intent that coverage is triggered by a specified threshold quantity of an appendix A substance being used in a single process. This revision also clarifies the fact that the presence of a threshold quantity of a highly hazardous chemical in a process is to be at one point in time; not aggregated over a period of time.

In the application section (paragraph (b)(1)(i)) of the proposal, a process would be covered if it involved a toxic or reactive highly hazardous chemical listed in appendix A, at or above a specified threshold quantity. Appendix A was a compilation of highly hazardous chemicals that could cause a serious chemical accident, by toxicity or reactivity, and a consequent potential danger to employees in a workplace.

The appendix A list has been drawn from a variety of relevant sources which include: The New Jersey "Toxic Catastrophe Prevention Act," the State of Delaware's "Extremely Hazardous Substances Risk Management Act," the World Bank's "Manual of Industrial Hazard Assessment Techniques," the Environmental Protection Agency's "Extremely Hazardous Substance List," the European Communities Directive on major accident hazards of certain industrial activities (82/501/EEC, sometimes called the Seveso Directive), the United Kingdom's "A Guide to the Control of Industrial Major Accident Hazards Regulations 1984," the American Petroleum Institute's RP 750, "Management of Process Hazards," the National Fire Protection Association's NFPA 49, "Hazardous Chemicals Data," and the Organization Resources Counselors, Inc.'s "Recommendations for Process Hazards Management of Substances with Catastrophic Potential."

Every chemical listed in appendix A is on at least one list compiled by these agencies and organizations as warranting a high degree of management control due to its extremely hazardous nature. Most of the chemicals are on several lists. Not every list contains the same chemicals or quantities. Based on a review of these sources, OSHA has sought to include those toxic and reactive chemicals it believes are most significant in potentially becoming a catastrophic event. OSHA has also sought to develop a reasonable listing of threshold quantities which, when used in a process, would invoke coverage of the standard.

Those appendix A highly hazardous chemicals which are highly reactive or explosive-type chemicals have been drawn from chemicals listed in the National Fire Protection Association (NFPA) document, NFPA 49, "Hazardous Chemicals Data" and cross-referenced with other sources mentioned above. The Agency decided to include substances with the two highest or most dangerous reactivity ratings from NFPA 49 because these chemicals present the most severe exposure potential to workers. These substances, which are rated 3 or 4 by NFPA 49, are those which are capable of undergoing detonation or explosive decomposition. These are the substances which can generate the most severe blast or shock wave, and can cause fragmentation of piping, vessels and containers, as well as causing serious damage to buildings and structures.

The minimum threshold quantities for the highly reactive chemicals covered by the standard have been determined by calculating the amount of material needed to propagate a blast wave that creates an overpressure of 2.3 psi (15.85 kPa) to a flat surface perpendicular to the direction of the blast wave at a distance of 100 meters from the point of origin. This approach is similar to that used by the State of Delaware.

The toxic chemicals contained in appendix A were drawn from the various resource documents discussed above. Most of the toxic chemicals listed in appendix A are on a majority of the lists produced by these resource documents.

In determining threshold quantities for toxic chemicals, OSHA used the Turner described Gaussian dispersion model. This approach, again, is similar to that used by the State of Delaware. Both OSHA and Delaware made the following assumptions: Average conditions of 4.3 m/sec. wind speed and D stability with urban dispersion coefficients; continuous steady-state release for one hour; no liquid pools; all released chemicals in vapor or gaseous state; chemical release is at ambient temperature and at ground level; chemical gas or vapor cloud is neutrally buoyant; and no design features prevent downwind dispersion. The calculated threshold quantities were rounded by OSHA to further simplify the standard.

The lowest threshold quantity that the Agency has used is 100 pounds (45.4 kg) for the most hazardous of the chemicals listed. The OSHA threshold quantities are the same or somewhat greater than the Delaware "sufficient quantity level" (threshold quantity) due to the rounding up by the Agency for the vast majority of the toxic chemicals listed. This has been done to simplify the application of this final rule and also in recognition that the Agency has other standards which address the hazards of lower quantities of toxic materials in the workplace.

OSHA specifically solicited comments on the sufficiency of the list and threshold quantities in appendix A (55 FR at 29158). Appendix A generated a significant amount of discussion during this rulemaking.

Some commenters (e.g., Ex. 3: 18, 35, 89, 152) asked why OSHA's resulting list was different than the Environmental Protection Agency's (EPA) Extremely Hazardous Substance (EHS) list and some suggested further expansion of the list. For example the Consumer Policy Institute (Ex. 3: 152, p.2) stated:

> CPI recommends that the highly hazardous substance list be expanded to include all substances on the EPA SARA Title III list of extremely hazardous substances, all substances found to be involved in incidents at facilities and all substances listed by the European Economic Community under the Seveso directive.

The Shipbuilders Council of America (3: 18, p.4) indicated:

> [I]t is recommended that the two agencies [OSHA and EPA] publish one consistent list of chemicals which both would consider "extremely" or "highly" hazardous. Employers would then be required to deal with one list of chemicals for reporting purposes under SARA regulations and for safely managing processes that use these chemicals under the OSHA regulations.

Under section 302 of the Superfund Amendments and Reauthorization Act (SARA) also known as the Emergency Planning and Community Right-to-Know Act (42 U.S.C. 11001 *et seq.*), EPA was required to publish a list of extremely hazardous substances with threshold planning quantities which would trigger planning in states and local communities (52 FR 13378). EPA's EHS list is quite extensive (more than 300 hazardous substances) and serves as an emergency response planning list directed toward addressing hazards to the public and the environment.

Section 304 of the Clean Air Act Amendments (CAAA), paragraph (b), List of Highly Hazardous Chemicals, mandates that:

> The Secretary [of Labor] shall include as part of such standard [Chemical Process Safety Standard] *a list of highly hazardous chemicals, which include toxic, flammable, highly reactive and explosive substances* (Emphasis added).

The paragraph further indicates that the Secretary may include those chemicals listed by the Environmental Protection Agency under section 302 of the Emergency Planning and Community Right to Know Act of 1986.

Further the CAAA did not anticipate that even EPA would adopt the whole EHS list for the purpose of prevention of accidental chemical releases. Section 301(r) indicated that EPA's first list must contain no less than 100 substances which *may* be from the EHS list. EPA's 301(r) list is not a planning tool but rather a list that requires covered plants to develop comprehensive Risk Management Plans.

While OSHA considered this list, it does not consider all of the substances on the EHS list to present a potential catastrophic situation for employees in workplaces within its jurisdiction. Therefore, OSHA believes it has acted reasonably and appropriately in evaluating a variety of chemical lists including the EHS list in order to identify those highly hazardous chemicals which present a potential catastrophic threat to employees. These events typically include toxic releases, fires and explosions as opposed to potential environmental threats such as spillage of a pesticide.

Several participants in the rulemaking (e.g., Ex. 3: 6, 45, 51, 150; Ex. 141) advised OSHA that certain chemicals which appeared in appendix A, including dimethyl sulfide, isopropyl formate, and methyl disulfide had been deleted from EPA's EHS list based on a reconsideration of the data and a determination that the data did not support the inclusion of the chemicals on the EHS list. OSHA agrees that it is appropriate to delete these chemicals from its list since a redetermination had been made that data and information available did not support their inclusion on the EPA list. OSHA has therefore removed these chemicals from its appendix. Other changes to OSHA's appendix A list include: (1) A change in the amount of anhydrous ammonia from 5,000 to 10,000 pounds to better reflect its hazards; (2) a change in the stated threshold quantity of ammonia solutions from 10,000 to 15,000 pounds to better reflect its dilution by water and its consequent decreased flammability and potential adverse health affects; (3) a change in the amount of 3-bromopropyne (also listed as propargyl bromide) from 7,500 pounds to 100 pounds to reflect its toxic characteristics rather than its reactive characteristics; (4) elimination of the erroneous description of formaldehyde, in "concentrations greater than 90%," since no such concentration exists, and the addition of formalin in the description to assure that no doubt exists that formalin is covered under the formaldehyde entry; (5) an editorial change to peracetic acid (also called peroxyacetic acid) which inadvertently did not include the description "concentration >60%" which was correctly included in the subsequent entry of peroxyacetic acid; (6) the elimination of the word "liquid" from the description of sulfur dioxide since it may also be a gas and the health hazards are the same regardless of its state; (7) and changes based on a reevaluation of available information, in the threshold amounts of allylamine from 1500 pounds to 1000 pounds, peracetic acid (also called peroxyacetic acid, concentration >60%) from 5000 pounds to 1000 pounds, and tetramethyl lead from 7500 pounds to 1000 pounds to better reflect their toxic hazards.

Some participants expressed their general support for the list contained in appendix A (e.g., Ex. 3: 17, 45, 59, 62, 82, 88, 95, 127, 134; Tr. 1999–2000). Allied-Signal Inc. (Ex. 3: 17, p.15) observed:

> Appendix A is a credible compilation of chemicals that are sufficiently toxic and volatile that their release could result in a catastrophic event. We applaud OSHA's use of list of toxic and reactive/unstable chemicals developed by other Federal and State agencies to develop appendix A.

The American Paper Institute (Ex. 3: 45, p.10) indicated:

> The approach of tying process safety management requirements to the presence or absence of listed chemicals is an imperfect one. While the list-based approach may mean that the rule is both over and under inclusive, we have devised no approach that more closely tailors the process safety management requirements to real process safety hazards.
>
> In general, appendix A appears to be a sufficient compilation of chemicals.

BP America Inc. (Ex. 3: 59A) noted:

> BP America has reviewed the list of Appendix A chemicals and believes that the current compilation of chemicals is acceptable.

Amoco Corporation (Ex. 3: 95) stated:

> We think that the list of highly hazardous chemicals in appendix A is sufficiently comprehensive in nature and reasonable with regard to threshold quantity to adequately cover the most toxic and hazardous chemicals in current use.

American Cyanamid Company (Ex. 3: 127, p.2) indicated:

> Mandatory appendix A is a sufficient compilation of chemicals for the initial coverage of this proposed standard. We could find no major omissions from appendix A. Its completeness is undoubtedly attributable to careful research on OSHA's part and the experience factor derived from review of similar lists * * *.

Lubrizol Petroleum Chemicals Company (Ex. 3: 134) stated:

> The Houston plants agree with OSHA's belief that appendix A represents a reasonable and appropriate listing of chemicals and threshold quantities.

Finally, OSHA's expert witness, who worked for 37 years with Monsanto Company, the last 9 as corporate safety director (worldwide responsibilities) (Tr. 1999–2000) testified:

> In my opinion, the list of chemicals with the stated threshold quantities in the appendix is reasonable and provides the focus for preventing catastrophic releases of hazardous materials in the processing industry.

OSHA based its list on information drawn from a variety of sources, including other federal and state agencies, national consensus standards and the United Kingdom Health and Safety Commission.

> While any listing of hazardous chemicals is subject to revision, I support the listing of the chemicals in the appendix as appropriate.
>
> It encompasses, in my experience, the vast majority of chemicals likely to cause catastrophic release and its consequences.

However, a number of participants felt OSHA should provide a technical basis for the appendix A list and its threshold quantities (e.g., Ex. 3: 26, 46, 48, 53, 97, 101, 129; Ex. 131; Tr. 66, 1015). Some participants noted that if no published technical basis existed then it would be difficult to add chemicals at a later time (e.g., Ex. 3: 46, 48; Ex. 131; Tr. 1016). OSHA believes that its review of available literature for the development of its list of highly hazardous chemicals and its technical approach (discussed previously) is an appropriate method to determine which toxic chemicals should be included on its list. OSHA also believes that it is reasonable to defer to groups that have already published their lists and which have withstood public scrutiny. OSHA is convinced that it has taken a correct and reasonable approach.

Additionally OSHA believes that additional consideration would be required to fully evaluate a "technical basis" other than that used by the Agency (e.g., a formula). The Organization Resources Counselors (ORC) recommended the use of a technical basis throughout the rulemaking. In its post-hearing comment (Ex. 131, Table A-1), ORC reassessed the OSHA appendix A list based on its suggested technical basis (a formula, similar to the Substance Hazard Index proposed by OSHA). The outcome resulted in significant differences in the threshold quantities for many chemicals. For example, OSHA lists the threshold quantity of acrylyl chloride at 250 pounds and arsine at 100 pounds; ORC lists the threshold quantity of acrylyl chloride at 200 pounds and arsine at 450 pounds. While the ORC approach is an interesting one, OSHA believes that its approach is also correct, and has decided to retain it in the final rule.

As noted, some participants indicated that without a technical basis for appendix A it would be difficult for OSHA to readily update its list in the future. OSHA believes that a means for adding highly hazardous chemicals to appendix A in the future can be considered at such time as the need arises. As discussed, OSHA has explained its technical basis for appendix A highly hazardous chemicals. OSHA does not believe that it should modify the approach it used in the development of the appendix A list especially in light of the many changes that would be necessitated through the incorporation of other suggested approaches. In addition, with the exception of a few corrections and clarifications, there were no objections raised as to the appropriateness of the threshold quantities proposed, but as stated, general support for the list and threshold quantities.

As discussed, the application section (proposed paragraph (b)(1)(i)) triggering coverage of those processes using chemicals in quantities listed in appendix A, has been clarified to lessen confusion concerning the aggregation of chemicals by changing the term "processes" to "a process." No other changes have been made to the text of the paragraph but it has been redesignated as paragraph (a) and thus becomes paragraph (a)(1)(i).

The application section (paragraph (b)(1)(ii)) proposed to include processes involving flammable liquids or gases in quantities of 10,000 pounds or more. It has been suggested that OSHA cover flammable gases and liquids with a potential release of five tons of gas or vapor (Ex. 2: 10, 11).

The American Petroleum Institute's (API) Recommended Practice 750 (RP 750), Management of Process Hazards, uses the potential release of gas or vapor approach. The stated purpose of RP 750 is to help prevent the occurrence, or minimize the consequences of, catastrophic releases of toxic or explosive materials (Ex. 2: 11). Additionally in the application statement of RP 750 it is stated that the recommended practice is intended for facilities that use, produce, process, or store:

> Flammable or explosive substances that are present in such quantity and condition that a sudden, catastrophic release of more than 5 tons of gas or vapor can occur over a matter of minutes, based on credible failure scenarios and the properties of the materials involved.

Appendices A and B to RP 750 provide information and guidance on the application of this paragraph.

However, OSHA believed that assessing the variables and assumptions inherent in determining whether five tons of gas or vapor could be released (temperature, pressure, rate of release, etc.) using undefined "credible release scenarios," would be an unnecessary burden on employers and compliance personnel. More importantly, depending on these variables, substances might sometimes be covered and sometimes not be covered, a potentially confusing situation. Therefore, OSHA decided to use a worst case approach and assume that the entire five ton quantity of a highly hazardous chemical could be released into gas or vapor.

In Issue 1 in the notice of proposed rulemaking (55 FR at 29158) OSHA requested comments on other ways in which flammable liquids and gases might be covered. A variety of commenters supported the 10,000 pound threshold amount for coverage of flammable liquids and gases which OSHA proposed (e.g., Ex. 3: 45, 59, 81, 95, 99). BP America (Ex. 3: 59A) remarked:

> BP America also believes that a five ton release of vapor as explained in the API Recommended Practice (RP) 750 is most appropriate. However, BP understands the administrative difficulties relating to enforcement of this provision and, therefore, supports the five ton flammable liquids and gases criterion as defined in the standard.

Goodyear Tire & Rubber Company (Ex. 3: 81) noted:

> The threshold quantity of 10,000 pounds for flammable liquids and gases is appropriate for the standard.

Other participants (e.g., Ex. 3: 20, 26, 69, 71, 80, 91, 106, 108, 127, 129, 173; Tr. 1513, 2583, 3193) recommended that OSHA address only the amount of flammable liquid or gas that could result in the release of 5 tons of vapor using worst case release conditions in conjunction with appropriate flash calculations instead of credible release scenarios. For example, API (Ex. 3: 106A, p. 4) asserted:

> As you know, API's Recommended Practice 750 applies to flammable liquids provided 10,000 pounds (5 tons) of gas or vapor can be released over a matter of minutes during credible release scenarios. We understand OSHA has rejected this approach . . . due to regulatory difficulties in defining credible release scenarios. Although API prefers the API RP 750 approach, we can accept the 10,000 pounds of inventory criteria as being simpler. However, API remains convinced that only the vaporizable portion of the flammable liquid should be included in the inventory.
>
> Our concern stems from the fact that oil and gas operations handle complex substances which often will invalidate the appropriateness of the 10,000-pounds-of-inventory approach. For example, a release of 10,000 pounds of crude oil constitutes only a small fraction of the hazards of a release of 10,000 pounds of the C2–C6 hydrocarbon series. This is because only a small part of a crude oil release will immediately vaporize, and it is only the vaporizable portion that could potentially constitute a catastrophic hazard.
>
> For these reasons, we propose . . . "Processes which involve flammable liquids or gases (as defined in 1910.1200(c) of this part) onsite in one location, in quantities that will vaporize 10,000 pounds or more under worst-case release conditions * * *."

> While this approach requires a routine flash calculation, it does remove the judgement regarding credible release scenarios that is currently provided by the RP–750 approach.

However, OSHA believes that the modified API recommendation calls for the use of yet another judgement by its use of the undefined "worst case release conditions." Further, OSHA believes that RP 750 does not directly address the hazards to employees of fires which might occur rather than explosions. For example, in appendix A of RP 750, the general discussion on the probability of ignition and explosion of vapor clouds (Ex. 2: 11, p. 11) reads:

> When a hydrocarbon vapor cloud forms, the cloud may dissipate harmlessly, be consumed by a flash fire without causing significant blast overpressures, or explode * * *.
>
> Although vapor cloud explosions have occurred after release as small as 1 ton, most of these explosions have occurred as a result of release of more than 5 tons * * *.

OSHA's proposed process safety management standard was directed toward the hazards of fires as well as the hazards of explosions.

For these reasons, OSHA continues to believe that the use of a 10,000 pound threshold for flammable liquids or gases is a reasonable approach and the provision has been retained in the final standard. This final provision becomes paragraph (a)(1)(ii).

In the proposed application section (paragraph (b)(1)(ii)(A)) OSHA proposed to exempt from coverage hydrocarbon fuels used solely for workplace consumption as a fuel (e.g., propane or oil used for comfort heating). OSHA believed that this type of use did not have the same catastrophic potential as those which were proposed. The exemption would exclude fuels used in general heating systems and refueling systems (for fleets) throughout the country. Such uses would still be regulated by other existing specific OSHA standards (such as § 1910.106, flammable and combustible liquids, and § 1910.110, liquefied petroluem gases) which adequately address these uncomplicated uses.

Additionally, in Issue 3 of the hearing notice (55 FR at 46075) OSHA indicated that some confusion existed regarding this proposed exemption. For example, some participants asked if this exemption included furnaces used in a process. Therefore OSHA solicited comments on this issue. Organization Resources Counselors (ORC, Ex. 131, p. 3–4) commented:

> A number of persons testifying during the public hearings indicated concern and confusion over the wording of the proposed exemption for hydrocarbon fuels that are present in quantities greater than 10,000 pounds, but are not part of a process. Examples of these would be propane or oil used for comfort heating and gasoline or diesel fuel for use in industrial vehicles. To remedy this confusion, ORC recommends that subparagraph (b)(1)(ii)(A) be amended to read:
>
> Hydrocarbon fuels used solely as a fuel at a facility which is not otherwise covered by this rule.
>
> This change will ensure that facilities which use hydrocarbon fuels in a processing step are not excluded from coverage under the standard, but that this subparagraph of the final rule properly continues to exclude facilities at which processing aberrations are absent * * *

Further the American Petroleum Institute (Ex. 137, p. 12–13) observed:

> It is our understanding that OSHA's intention in providing exemption (b)(1)(ii)(A) was to exclude the enormous number of small business locations across the nation which would not be covered by the proposed rule, except for their on-site storage of hydrocarbon fuels for low-risk applications such as heating, drying, and the like. Such activities are not the subject of this rule, and this exclusion is entirely appropriate.
>
> On the other hand, interpreting this exclusion to apply to hydrocarbon fuels used for process-related applications such as furnaces, process heaters, and the like at facilities covered by the rule was not intended.

OSHA agrees with these participants and has changed the final provision to clarify its intent not to exclude from coverage hydrocarbon fuels used for process related applications such as furnaces, heat exchangers and the like at facilities covered by this rule. It becomes final paragraph (a)(1)(ii)(A) and exempts from coverage:

> Hydrocarbon fuels used solely for workplace consumption as a fuel (e.g., propane used for comfort heating or gasoline used for vehicle fueling), if such fuels are not a part of a process containing another highly hazardous chemical covered by this standard.

The second proposed exemption concerned flammable liquids stored or transferred which are kept below their atmospheric boiling point without benefit of chilling or refrigeration and was proposed paragraph (b)(1)(ii)(B). Again, OSHA did not believe that the flammable liquids as described in the exemption have the same potential for a catastrophe as those proposed. Again an OSHA standard already regulates the treatment of the exempted flammable liquids (§ 1910.106, flammable and combustible liquids).

While many participants supported the exemption concerning flammable liquids stored or transferred which are kept below their atmospheric boiling point without benefit of chilling or refrigeration, they recommended that OSHA clarify the exemption (e.g., Ex. 3: 48, 71, 106, 108, 119, 120; Ex. 93; Ex. 119; Tr. 2012) by using established language from its standard concerning flammable and combustible liquids. For example, the American Petroleum Institute (Ex. 3: 106A, p. 4–5) concluded:

> OSHA's phrase "atmospheric boiling point" introduces unnecessary problems in applying this important exemption to various complex substances such as crude oil which do not have precise boiling points. OSHA has previously resolved this problem by providing definitions for "atmospheric tank" and "boiling point" in subpart H—1910.106(a)(2) and (a)(5).

OSHA agrees with this suggestion concerning the use of existing definitions; this does not change the intent of the exemption and merely clarifies the exemption. Therefore, proposed paragraph (b)(1)(ii)(B) becomes final paragraph (a)(1)(ii)(B) and has been clarified by adding existing language from OSHA's standard for flammable and combustible liquids, § 1910.106, "atmospheric tank" and "boiling point," and providing a definition for these terms in lieu of the proposal's term "atmospheric boiling point." OSHA believes that this exemption is reasonable and appropriate.

In the proposal paragraph (b)(1)(iii) proposed to cover the manufacture of explosives as defined in paragraph (a)(3) of § 1910.109, "Explosives and blasting agents." Additionally, proposed paragraph (b)(1)(iv) covered the manufacture of pyrotechnics (as defined in paragraph (a)(10) of § 1910.109), including fireworks and flares.

Although there is an existing OSHA standard for explosives and pyrotechnics (§1910.109), that standard does not address the hazards associated with their manufacture. OSHA believed that the requirements contained in the proposed process safety management standard should be applied to the explosive and pyrotechnic manufacturing process because of their potential for producing a major accident during manufacture. Therefore the proposal addressed a gap that exists in the Agency's current standard for explosives and pyrotechnics.

Some rulemaking participants (e.g., Ex. 3: 40, 52, 60; Tr. 3011–21) asserted that the manufacture of explosives and pyrotechnics should not be covered by proposed § 1910.119, because the hazards associated with these substances are already adequately covered by § 1910.109 of the OSHA standards, as well as requirements of

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other regulatory agencies. For example, a commenter from the Society of Explosives Engineers (S.E.E. Ex. 3: 40, p.1–2) stated:

> Because explosives are currently regulated by so many Federal, state, and local agencies, it is highly questionable that they could result in a catastrophic event typical of those described by OSHA in the background discussion.
>
> S.E.E. believes that uniform, workable regulations are a key factor in the promotion and maintenance of explosive safety. We further believe that the use, storage, handling and transportation of explosives are already adequately covered by regulations in 29 CFR (OSHA), 30 CFR (MSHA and OSM), 49 CFR (DOT) and the regulations of state and local regulatory agencies and there is no need for OSHA to include the manufacture of explosives in 29 CFR 1910.119.

With respect to the manufacture of fireworks, a hearing participant from the American Pyrotechnics Association (APA, Tr. 3011) testified:

> The APA endorses the concept of federal standards designed to adequately prevent or minimize the consequences of chemical accidents involving highly-hazardous chemicals. However, the APA believes that the statements cited by the Agency are incorrect.
>
> The inclusion of fireworks manufacturing processes is unwarranted and could be interpreted to require protective measures which could impose substantial burdens on the fireworks industry without making a significant contribution toward work place safety.

In its comment (Ex. 3: 52), the APA further asserted that a gap does not exist in the OSHA standards with respect to the manufacture of fireworks. APA stated that the Bureau of Alcohol, Tobacco and Firearms (BATF) currently regulates the quantity of explosive and pyrotechnic materials which may be used at one time, and the distances between process and storage buildings. The APA contended that the BATF requirements and the requirements contained in § 1910.109 of the OSHA standards, together with OSHA enforcement of provisions contained in the National Fire Protection Association (NFPA) standard, "Manufacture, Transportation, and Storage of Fireworks" (NFPA–1124), adequately regulates the manufacture of fireworks.

Other rulemaking participants, however, strongly supported the inclusion of the manufacture of explosives and pyrotechnics within the scope of this proposed standard, and objected to excluding these activities. For example, a commenter from the Oil, Chemical & Atomic Workers (OCAW, Ex. 114, p.1–2) said:

> [A]s far as the inclusion of the explosives industry in the standard coverage, OCAW feels there is no room for debate. These industries are no different from the industries that fall within the scope of the proposed 1910.119. Further, the fact that there is already an explosives standard 1910.109 does not justify their exclusion from 1910.119 as 1910.109 does not address process safety in any manner.

OCAW buttressed their position (Ex. 114) concerning the inclusion of explosives manufacturing within the scope of this proposed standard by elaborating on the similarity of the explosives industry to other chemical industries that are proposed to be covered by § 1910.119.

In its post-hearing comment, the United Steelworkers of America (USWA, Ex. 118) asserted:

> In the proposed Process Safety Management of Highly Hazardous Chemicals standard, paragraphs (b)(1) (iii) and (iv) proposed to include the manufacture of explosives and pyrotechnics. The United Steelworkers of America supports this inclusion. It is unthinkable that OSHA would even consider to exempt this industry, given the products that it manufactures and its accident history. How anyone could argue that the strategies for effective process safety management outlined in the proposed standard could not, or would not, enhance the overall safety of this industry and aid in the prevention and mitigation of major accidents is beyond reason.

Also in their comment, USWA described several incidents that occurred in the explosives industry, and with respect to one particular plant (Ex. 118, p.2), remarked:

> In the past 50 years, 60 workers lost their lives at the plant. Of the six major accidents at the facility, not inclusive of the most recent incident, five of these were directly related to process safety hazards that are not covered by § 1910.109 or any other existing OSHA standard. Even though OSHA was able to cite the company for specific violations of existing standards, it has been repeatedly forced to rely on the general duty clause to address major concerns because of the absence of a process safety management standard.

One rulemaking participant (Ex. 3: 23) disagreed that § 1910.119 should apply to the manufacture of explosives and pyrotechnics and suggested, instead, that § 1910.109 be revised to include safety provisions for these manufacturing activities. Other rulemaking participants (e.g., Ex. 3: 62, 100, 116) believed that proposed § 1910.119 provided a technically sound, realistic methodology to improve explosive manufacture safety. They suggested, however, that the provisions of § 1910.119 be incorporated into § 1910.109 of the OSHA standards, so that all requirements pertaining to explosives will be contained in one standard.

For example, a hearing participant from the Institute of Makers of Explosives (IME, Tr. 1244) testified:

> IME supports OSHA's proposed regulation for process safety management as a technically sound, logical, and realistic way to offer a methodology to improve explosive manufacture safety. However, IME recommends that OSHA delete the manufacture of explosives from § 1910.119(b)(1)(iii) and incorporate these safety regulations for the manufacture of explosives into 29 CFR 1910.109 Explosives and Blasting Agents at (b)(2).

It was contended (Ex. 130) that this approach would continue OSHA's 20-year history of maintaining a vertical regulation for commercial explosives; eliminate the alleged ambiguity that exists in the proposed rulemaking by including the manufacture of explosives in the application of the standard; and, would recognize the unique conditions under which explosives are manufactured.

In subsequent post-hearing comments, however, both Hercules and the IME (Ex. 125; Ex. 130) submitted draft regulations for the manufacture of commercial explosives. They suggested that the manufacture of commercial explosives be removed from the scope of § 1910.119, and that these draft regulations be included in a revision to § 1910.109 as an appropriate code to regulate the manufacture of commercial explosives.

OSHA appreciates the time and effort involved in developing these draft regulations, and believes that they constitute an excellent source document that the Agency can utilize when it revises the standards contained in § 1910.109. However, OSHA will not incorporate these draft regulations into § 1910.109 as a part of this rulemaking process since they did not receive the type of public comment and evaluation contemplated by section 6(b) of the Occupational Safety and Health Act.

After a thorough analysis of all of the information contained in this rulemaking record, OSHA remains convinced that the hazards associated with the manufacture of explosives and pyrotechnics have the potential of resulting in a catastrophic incident, and pose a significant risk to employees and that the manufacture of explosives and pyrotechnics should be covered by the provisions of the final process safety management rule.

However, the Agency has been persuaded by those participants who suggested that OSHA delete the manufacture of explosives and pyrotechnics from proposed § 1910.119, and incorporate the provisions of the process safety management standard into 29 CFR 1910.109, "Explosives and Blasting Agents." This will have the effect of referencing in one place, the specific and significant OSHA requirements pertaining to explosives and blasting agents.

Accordingly, proposed paragraph (b)(1)(iii) has not been retained in the final rule for § 1910.119. Rather, § 1910.109 has been revised to add a new paragraph, (k)(2), that requires the manufacture of explosives to comply with the provisions contained in § 1910.119, process safety management of highly hazardous chemicals.

Similarly, proposed paragraph (b)(1)(iv) has not been retained in the final rule for § 1910.119. Again, § 1910.109 has been revised to add another new paragraph, (k)(3), that requires the manufacture of pyrotechnics, including fireworks and flares, to comply with the provisions contained in § 1910.119, process safety management of highly hazardous chemicals.

During this rulemaking process, some concern was expressed that this standard could be interpreted, inappropriately, to apply to all explosive and pyrotechnic manufacturing operations, even those operations of the manufacturing process where explosives or pyrotechnics are not present (e.g., Ex. 3: 62; Ex. 125; Ex. 130). This is not the intent of OSHA. The Agency wants to make it clear that the provisions contained in this final rule apply to explosives and pyrotechnics manufacturing operations only when such substances or other chemicals covered by the standard or in appendix A are present.

Finally, in paragraph (b)(1)(v) OSHA proposed a means for assuring that newly developed toxic chemicals which were not listed in appendix A but were introduced into a process would be evaluated for their degree of hazard and be included in the standard's coverage. A formula, the Substance Hazard Index (SHI), was contained in appendix B of the proposal. The formula relied on the availability of information concerning a chemical's level of hazard as established by the American Industrial Hygiene Association (AIHA) in its Emergency Response Planning Guidelines (ERPGs). The purpose of the SHI was to establish, using certain data, a relative ranking of toxic chemicals.

OSHA acknowledged in the proposal in Issue 2 (55 FR at 29150) that there might be some shortcomings in the use of the SHI. As noted, an important part of the SHI formula relied on the availability of the AIHA computation of ERPGs for individual chemicals. Only a few ERPGs are presently available.

Generally participants objected (e.g., Ex. 3: 2, 12, 17, 33, 45, 46, 47, 48, 50, 59, 60, 64, 69, 71, 82, 86, 95, 101, 112, 122, 127, 132, 137, 152, 162, 171; Ex. 148; Tr. 968, 1017, 2177, 2654) to using the SHI and cited several reasons for not using it. They observed that OSHA is deferring rulemaking to a private entity; there is no reason to believe that ERPG development can or will be accelerated in order to be responsive to the standard; the 500 pound threshold quantity is arbitrary; and OSHA already has a sound mechanism for adding chemicals to appendix A, the rulemaking process.

OSHA has been convinced by participants in the rulemaking not to use the SHI formula to add additional toxic chemicals to the appendix A list at this time. While OSHA believes a formula would be a worthwhile approach to including new toxic chemicals under the standard, it has been persuaded by commenters that it should use section 6(b) rulemaking procedures until such time as a better formula can be developed by OSHA. Therefore this paragraph has been deleted from the final rule and OSHA will either try to develop a better formula or rely on rulemaking on a chemical by chemical basis to add chemicals to appendix A.

Certain exemptions were contained in the proposed application paragraph of the process safety management rule (paragraphs (b)(2) (i) through (iii)). These exemptions included: retail facilities; oil and gas well drilling and servicing; and normally unmanned remote facilities.

With respect to the exclusion of retail facilities and normally unmanned remote facilities, OSHA believed that such facilities did not present the same degree of hazard to employees as other workplaces covered by the proposal. Therefore OSHA should not require a comprehensive process safety management system in addition to other applicable OSHA standards addressing flammable and combustible liquids, compressed gases, hazard communication, etc., for retail facilities and unmanned remote facilities.

Certainly, highly hazardous chemicals may be present in both types of work operations. However, OSHA believes that chemicals in retail facilities are in small volume packages, containers and allotments, making a large release unlikely. OSHA received few comments disagreeing with the exemption of retail facilities (e.g., gasoline stations). OSHA has retained the exemption in the final rule.

In normally unmanned remote facilities (defined in proposed paragraph (c) and called "normally unoccupied remote facilities" in final paragraph (b)), the likelihood of an uncontrolled release injuring or killing employees is effectively reduced by isolating the process from employees. OSHA believes that the present OSHA standards contained in subpart H, such as § 1910.101, compressed gases, and § 1910.106 flammable and combustible liquids and in part 1910, subpart Z, toxic and hazardous substances, adequately address the chemical hazards presented in these work operations.

OSHA did receive significant comment supporting the exemption of normally unmanned remote facilities (e.g., Ex 3: 30, 62, 64, 69, 71, 79, 129). Others suggested that OSHA redefine "normally unmanned remote facility" (e.g., Ex. 26, 32, 39, 69, 80, 82, 106, 108, 129). OSHA has retained the exclusion of normally unmanned remote facilities because the Agency believes such facilities pose a reduced likelihood of releases that could harm employees. The issue of modifying the definition will be discussed in the section concerning definitions.

OSHA also proposed to exclude oil and gas well drilling and servicing operations because OSHA had already undertaken rulemaking with regard to these activities (48 FR 57202). OSHA continues to believe that oil and gas well drilling and servicing operations should be covered in a standard designed to address the uniqueness of that industry. This exclusion is retained in the final standard since OSHA continues to believe that a separate standard dealing with such operations is necessary.

Finally, a number of participants requested special consideration for their processes or exemption from the standard. For example, concern was expressed by participants who conduct batch processing operations (e.g., Ex. 3: 50, 55, 74, 164, 169; Ex. 89; Tr. 972, 3202) regarding their ability to comply with the standard due to the dynamic nature of batch processing. With respect to this, the Synthetic and Organic Chemical Manufacturers Association (SOCMA, Ex. 3: 50, p.6–7) stated:

> Batch processes are distinct from continuous operations in that a continuous operation has a constant raw material feed to the process and continual product withdrawal from the process. A batch process has an intermittent introduction of frequently changing raw materials into the process, varying process conditions imposed on the process within the same vessel depending on the product being

> manufactured. Consequently under the process safety rule as proposed, a batch processor will be required to perform a process hazard analysis each time an order comes in for a chemical that may differ only slightly from the one previously produced.
>
> A batch processing plant is in a constant state of change, always being adapted for different projects. It is not unusual for a batch processor to have a different plant configuration weekly. SOCMA suggests that batch processors be given the flexibility to do a process hazard analysis that is representative of many similar batches. If this recommendation is not adopted, then given the fundamental differences of batch processors, SOCMA recommends that OSHA address batch process safety in a separate rulemaking.

The Ecological and Toxicological Association of the Dyestuffs Manufacturing Industry (Ex. 3: 55) noted:

> Based on our near total dependence on batch processing, we support the comments submitted by SOCMA * * * We also strongly urge OSHA to address batch process safety in a separate rule making given the major differences in operation of continuous and batch processing plants.

However, other participants who have been involved in running both continuous processing and batch processing indicated that the standard for process safety management is appropriate for batch processing (Ex. 128; Tr. 1031, 1936). The Chemical Manufacturers Association (CMA, Ex. 128, p.7–8) stated:

> CMA does not believe that facility owners/operators with batch processes should be exempted from complying with the proposed PSM standard * * * The key question is whether the hazardous material is present in an amount at or above the threshold quantity. If the answer to this question is yes, then the provisions of the proposed standard should apply. CMA companies have extensive experience handling listed materials both in batch and continuous facilities. CMA supports applying the provisions of the proposed standard to any facility (batch or continuous) where the threshold quantities are exceeded.

OSHA agrees that the key question for coverage is whether the highly hazardous chemical is present in an amount at or above the threshold. However, OSHA acknowledges the concern of SOCMA regarding the potential difficulty of conducting a separate process hazard analysis for each variation of a batch process. OSHA has accepted SOCMA's suggestion concerning the development of a generic process hazard analysis which is representative of similar batches. Accordingly, OSHA has included information in appendix C on conducting process hazards analyses for batch operations.

Some participants felt that their use of a particular highly hazardous chemical should not be covered in the process safety management standard since they observed that their type of process had not been included in the events described in the proposal; they did not feel their processes could create a catastrophic event; and that the broad definition of process used by OSHA captured industries which did not really process chemicals in the same manner chemical plants and refineries do. These participants address, for example, ammonia refrigeration (Ex. 3: 162, 168); steelmaking (Ex. 3: 161, 172); research and development facilities including pilot plants (Ex. 3: 56, 69; Tr. 662); bulk liquid terminals (Ex. 3: 8, 11, 16A, 37); and chlorination facilities (Ex. 90).

First, the catastrophic events described in the notice of proposed rulemaking were simply examples of what could happen upon the release of a highly hazardous chemical and in no way reflect all incidents which have occured or which have the potential to occur. The National Wildlife Federation (Ex. 3: 86, p.3) observed:

> The Acute Hazardous Events (AHE) Database, put together by EPA, catalogued 11,048 events spanning 8 years. In other words, this partial listing of the chemical incidents in the U.S. provides a record of nearly 4 accidents every day.

Second, OSHA has developed what it considers to be a reasonable and appropriate coverage of processes involving highly hazardous chemicals and further believes that those chemicals in their threshold amounts have the potential for a catastrophic release. OSHA believes its listing of highly hazardous chemicals fully meets the intent of the Clean Air Act Amendments (CAAA) which require OSHA to promulgate "a chemical process safety standard designed to protect employees from hazards associated with accidental release of highly hazardous chemicals in the workplace" and which require the standard include a "list of highly hazardous chemicals which includes toxic, flammable, highly reactive and explosives substances."

Third, as the Chemical Manufacturers Association succinctly observed, and with which OSHA concurs, the key question should be whether the highly hazardous chemical is present at or above the threshold quantity. Further, the United Steelworkers of America (Ex. 118, p.4) stated:

> In the opinion of the USWA, there is no need to write a specific exemption for any industry. Section (b)(1) already limits the standard to those processes which involve a highly hazardous chemical in sufficient quantities to cause a major accident. If a particular plant does not contain such a process, it will not be covered. If it does contain a hazardous process, it should be covered. There is no legitimate need for any further exemption * * *.

OSHA agrees with this rationale.

Finally, many participants (e.g., Ex. 3: 39, 41, 51, 69, 96, 106, 150, 173; Ex. 91; Ex. 93; Ex. 127; Tr. 1532, 1818, 2579) addressed their belief that gas processing should be excluded from the coverage of the process safety management standard. For example, the Gas Processors Association (Ex. 3: 28A, 1–3) stated:

> 75% * * * of GPA member companies are small-to-medium sized independent, non-integrated producers and processors of natural gas * * * GPA suggests that a policy similar to those found in certain plans developed for other government agencies could be utilized. In this approach small, remote, low risk facilities which qualify should be part of a two-tier concept in which the operator would develop and have available locally a plan describing efforts toward process safety management in lieu of full process hazard management. In the event of a major release or failure to maintain pre-defined accident experience standards, the local plan would be submitted automatically to OSHA for review and action. OSHA could require revision of the plan or mandate full compliance with Part 1910.119.

The American Gas Association (Ex. 3: 51, p.2) observed:

> OSHA's broad proposal could apply to natural gas and liquefied natural gas (LNG) facilities used in the distribution, transmission and storage of gas, except for those facilities that are "unmanned remote facilities."

AGA further observed (p.3) that the standard is overly broad and that it is inappropriate because OSHA is preempted and there are major differences in processes and risk of chemical explosions or accidents at natural gas and LNG facilities as compared with chemical plants and refineries.

The American Petroleum Institute (API, Ex. 3: 106A, p.2) remarked:

> API is concerned that OSHA's proposal to include all flammable liquids and gases * * * will result in the application * * * to an enormous number of relatively low hazard facilities, such as natural gas handling facilities, diluting industry's overall ability to comply with this important rule.
>
> API urges OSHA to exclude certain natural gas handling facilities * * * Our rationale is as follows:
>
> High methane natural gas has a density less than that of air, which aids in dispersion * * * has low reactivity and low burning speed * * * flame speeds in natural gas

> clouds are far below those that would produce dangerous overpressure.
>
> Confinement, such as in enclosed compressor buildings, can increase the risk of localized damage; however, flame speeds decelerate very rapidly beyond the boundaries of the confinement, and overpressure decreases markedly, even if well mixed vapor clouds exist outside. Natural gas is flammable, of course, and does present a heat radiation hazard when burning. However, the lack of open air overpressures limit the extent of potential injuries.

At the Washingon, DC, hearing an OSHA panel member inquired of a representative of API (Tr. 1885):

> OSHA Panel Member: * * * you're talking about some exemptions for gas processing plants, basically those that are dealing mainly with methane * * * could you expand as to what type of radiation hazard we're talking about in a typical situation? Is the danger area 100 meters, 10 meters, 1,000 meters * * *.
>
> API Representative Response: That depends purely on the size of the cloud and for how long it burns. If we're talking about an unplanned release that burns in a matter of seconds, then we're talking about, at most, a very few thousand BTUs that would—per square foot—that would be felt over a distance of only a few hundred feet, and probably less than 100 yards from outside the burn cloud. Now of course, if people were inside the burn cloud, that's an entirely different matter. They would probably be killed by the cloud or by inhaling the combustion gases.

OSHA disagrees with commenters that gas processing should be excluded from coverage. While OSHA is very concerned with explosions, OSHA is also concerned with fires resulting from releases of highly hazardous chemicals (55 FR at 29150) which as indicated above can occur and clearly endanger employees in the area. Therefore, OSHA believes that gas plants are appropriately covered by the process safety management standard.

Definitions: Paragraph (b)

Paragraph (b) contains the definitions of terms as they are used in the final rule. The proposed standard contained definitions for the following terms: Facility, highly hazardous chemicals, hot work, normally unmanned remote facility, process, and substance hazard index (SHI).

The final standard contains definitions for the following terms: Atmospheric tank, boiling point, catastrophic release, facility, highly hazardous chemical, hot work, normally unoccupied remote facility, process, replacement in kind, and trade secret. OSHA has added definitions for "atmospheric tank" and "boiling point" which are already in use in the § 1910.106 standard for flammable and combustible liquids in order to clarify the exemption from coverage for flammable liquids stored in atmospheric tanks or transferred which are kept below their normal boiling point without benefit of chilling or refrigeration.

A definition for catastrophic release was also added. The Organization Resources Counselors (Ex. 3: 53, p.3) advocated:

> OSHA should add a definition for "catastrophic release" to make it clear that this standard is directed to major accidents which, as stated in the preamble, "have the potential of not only placing employees in grave and imminent danger but also could endanger employees throughout the workplace and even the general public." ORC recommends that the definition read as follows:
>
> "Catastrophic release" means a major uncontrolled emission, fire, or explosion, involving one or more highly hazardous chemicals, that presents serious danger to employees or other persons both within and outside of the immediate workplace.

Other commenters supported the addition of a similar definition (Ex. 3: 12, 17, 48, 64, 71, 97, 101).

OSHA agrees that a definition for catastrophic release will provide for better consistency in the final standard. In the proposed standard OSHA used "catastrophic release" in paragraph (a), purpose, but in paragraph (m), incident investigation, OSHA used the term "major accident." Accordingly, OSHA has defined "catastrophic release" as recommended by ORC, leaving out any reference to "outside the immediate workplace" since OSHA only has jurisdiction to assure *workplace* safety. Consequently OSHA has changed "major accident" to "catastrophic release" in paragraph (m), incident investigation.

Some participants recommended defining "major accident" to mean any event involving fire, explosion, or release of a substance covered by this section which results in a fatality or five or more hospitalizations for medical treatment (Ex. 3: 106A). OSHA believes that the ORC definition for "catastrophic release" better reflects the intent of the Clean Air Act Amendments which require OSHA to develop a standard to prevent accidental release of chemicals which could pose a threat to employees and that, a definition of "major accident" is not needed.

Few participants raised significant issues concerning the definitions for facility, highly hazardous chemical and hot work. Therefore, these definitions remain the same as proposed.

As noted, OSHA excluded from coverage normally unmanned remote facilities for the reasons discussed above in the application section. OSHA defined "normally unmanned remote facility" in the proposal (proposed paragraph (b)(2)(iii)) as:

> *Normally unmanned remote facility* means a facility which is operated, maintained and serviced by employees who visit the unmanned facility only periodically to check the operation and perform necessary operating or maintenance tasks. No employees are permanently assigned. Facilities meeting this definition must be remote from other facilities.

The American Petroleum Institute (API, Ex. 3: 106) suggested that OSHA recognize that unmanned facilities may exist in remote areas away from the general public locations which possess little potential for a catastrophic event. API as well as other participants (e.g., Ex. 3: 26, 32, 69, 80, 82, 106, 108, 119, 120, 129; Tr. 1540, 3127) recommended retention of this exemption with certain modifications including a redefinition to include 10 or fewer persons potentially affected. API (Ex. 3: 106A, p.3–4) stated:

> OSHA recognizes that "unmanned" facilities may exist in remote, away-from-the-general-public locations which possess little potential for catastrophic event. API agrees that it is appropriate to exclude such facilities from this rule in order to allow industry to address more significant facilities with the limited resources available.
>
> API urges OSHA to retain this important exemption and clarify its application by defining the term "normally unmanned" to mean "facilities where the number of persons potentially affected by a major accident is 10 or less". This approach is similar to that taken by the Department of Transportation.
>
> In addition, API suggests that a definition for "remote facility", similar to that published by API in Publication 2510A, "Fire-Protection Considerations for the Design and Operation of Liquefied Petroleum Gas (LPG) Storage Facilities," April 1989, page 4, would be useful and should be included in the rule. The definition in Publication 2510A states: "Remote facility means a facility that is 4000 feet or more from populated or industrial areas involving 10 or more persons."
>
> API emphasizes that its purpose in urging these revisions is not to detract from the need to safely operate remote facilities; rather, it is to support the need to prioritize the allocation of limited resources, within OSHA and industry, for the implementation of the proposed rule.

OSHA's rationale for the exclusion of normally unmanned remote facilities from coverage was that these facilities did not have any employees present on a regular basis, i.e., a daily shift. Rather, employees only periodically visited the facility to check the operation and perform maintenance. OSHA believed that the likelihood of an uncontrolled release injuring or killing employees

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was effectively reduced by the isolation of the process from employees. The reasons for the exclusion do not allow, nor does OSHA agree with, a redefinition of normally unmanned remote facility to a facility where the number of persons affected by a major accident is 10 or less.

Other participants supported the definition of normally unmanned remote facility but suggested that OSHA clarify the idea that the facility must be remote from other facilities (e.g., Ex. 3: 17, 25, 39, 46, 53, 64, 121). The Organization Resources Counselors (Ex. 3: 53, p. 5) noted:

> It is important to emphasize that a "normally unmanned remote facility" is not meant to apply to an area that is located in a distant corner of a large facility. Rather, it is meant to apply to facilities that are so far removed from any other facility that they could not contribute to a catastrophic release, fire or explosion as defined by this standard.

Additionally some participants recommended that OSHA modify the language regarding the status of employees who visit the facility periodically (e.g., Ex. 3: 30, 53, 62). They observed that OSHA used the description in the definition "no employees are permanently assigned." Participants pointed out that an employee who visits such facilities periodically may in fact be assigned to the facility. The Chemical Manufacturers Association (Ex. 48, p. 6) suggested that OSHA define normally unmanned in the following manner:

> "Normally unmanned remote facility" means a facility which is operated, maintained and serviced by employees based at a different location and who visit the remote facility to perform periodic tasks. Remote facilities are not within the boundaries nor are they contiguous to other operations of the employer.

OSHA agrees with these recommendations and has revised the definition to clarify that the facility must be "remote" and has changed the word "unmanned" to "unoccupied" to better reflect the Agency's intent. Accordingly this definition has been revised to read:

> Normally unoccupied remote facility means a facility which is operated, maintained or serviced by employees who visit the facility only periodically to check its operation and to perform necessary operating or maintenance tasks. No employees are permanently stationed at the facility. Facilities meeting this definition are not contiguous with, and must be geographically remote from all other buildings, processes, or persons.

The definition of "process" remains essentially the same as proposed except for certain changes made to eliminate unnecessary words, and a modification and addition of language to clarify the intent of the definition. OSHA has eliminated the words "conducted by an employer." These words serve no purpose because OSHA is only addressing processes conducted by an employer.

The term "process" when used in conjunction with the application statement of the standard establishes the intent of the standard. The intent of the standard is to cover a "process" where the use, storage, manufacturing, handling or the on-site movement of a highly hazardous chemical exceeds the threshold quantity at any time. The boundaries of a "process" would extend to quantities in storage, use, manufacturing, handling or on-site movement which are interconnected and would include separate vessels located such that there is a reasonable probability that an event such as an explosion would affect interconnected and nearby unconnected vessels which contain quantities of the chemical that when added together would exceed the threshold quantity and provide a potential for a catastrophic release. In order to clarify this intent, a new sentence has been added to clarify the fact that interconnected and nearby vessels containing a highly hazardous chemical would be considered part of a single process and the quantities of the chemical would be aggregated to determine if the threshold quantity of the chemical is exceeded. The new sentence reads as follows: "For purposes of this definition, any group of vessels which are interconnected and separate vessels which are located such that a highly hazardous chemical could be involved in a potential release shall be considered a single process." Vessels located at more remote distances must be evaluated by the employer to determine if they would interact during an incident, and if such a reasonable condition exists these vessels would be included in the process. Where a dike is used around a liquid storage vessel to fully contain released material and prevent it from interacting with another vessel outside the dike, and neither vessel by itself contains the threshold quantity, then this physical barrier would be considered acceptable in making the two vessels remote from each other.

Additionally, some unnecessary words have been eliminated and the use of the word "movement" used in the proposal has been changed to "on-site movement" to clarify that transportation falling under DOT jurisdiction is not covered.

OSHA believes that its definition of process reflects the intent of the CAAA which requires that the standard be designed to protect employees from hazards associated with accidental releases of highly hazardous chemicals in the workplace.

Based on comments, OSHA has decided to add a definition for "replacement in kind" to clarify the types of changes which are not intended to be included in paragraph (1), management of change. The final definition states that "replacement in kind" means a replacement which satisfies design specifications.

Numerous participants expressed concerns (Ex. 3: 46, 48, 71, 76, 80, 81, 89, 97, 106, 112, 129; Ex. 162; Ex. 171; Tr. 1011, 1823, 2178) regarding trade secrets. For example, the Chemical Manufacturers Association (CMA, Ex. 3: 48, p. 2) remarked:

> CMA also recommends that OSHA adopt the definition for "trade secret" as found within the Hazard Communication Standard (HCS) * * * The final standard should also incorporate appendix D from the HCS.

In its post-hearing comment, CMA (Ex. 128, p. 18) expressed its concern again that:

> The issue of trade secret protection has not been addressed within the proposed standard. Trade secret information may be included within a number of documents created as a part of implementing the proposed PSM standard. Unless trade secrets are protected, items which include trade secret information collected by OSHA as a result of an inspection could be made public. This situation could result in damage to an employer's competitive position. CMA previously provided curative language and strongly suggests that OSHA consider using it in the final standard.

OSHA has decided to include the definition for trade secret from § 1910.1200, Hazard Communication, and has included provisions in a new paragraph. These trade secret provisions will be discussed below.

Employee Participation: Paragraph (c)

In the proposed standard, OSHA required that a team be used to conduct a process hazard analysis (proposed paragraph (e)(3)). The proposal required that the team have expertise in engineering and process operations, and the team was required to have at least one employee who had experience and knowledge specific to the process being evaluated. In Issue 5 of the proposal (55 FR at 29158), OSHA asked whether it should require an employee representative on the process hazard analysis team, as well as on the incident investigation team required for incident investigations (proposed paragraph (m)). It had been proposed that an incident investigation team consist of persons knowledgeable in the process. OSHA asked if the presence of an employee representative on the teams would assist in developing a cooperative participatory environment and the necessary flow of information from management to employees and from employees to management.

Several rulemaking participants supported the concept of having an employee representative on both the process hazard analysis team and the incident investigation team (Ex. 3: 20, 25, 47, 115; Tr. 2086, 2235, 2345). However, numerous participants objected to OSHA mandating the inclusion of an employee representative on the teams required by the standard and most stressed that team members should be chosen on the basis of their expertise and not on union membership (e.g., Ex. 3: 9, 21, 26, 28, 29, 30, 32, 41, 45, 59, 62, 69, 70, 76, 77, 80, 103, 106, 109, 112, 120, 123, 127, 129, 141, 155; Tr. 670, 740, 763, 1012, 1613, 2061, 2157, 2573–4, 3238, 3351, 3411).

The issue of employee participation in process safety management received even greater attention after the Clean Air Act Amendments (CAAA) were signed. The CAAA contains a requirement in section 304(c)(3) that the employer "consult with employees and their representatives on the development and conduct of hazard assessments and the development of chemical accident prevention plans and provide access to these and other records required under the standard."

Participants focused on what they believed was the intent of the CAAA and its language and suggested the manner in which the intent should be included in the final standard. Representatives from the United Steelworkers of America observed:

> (Tr. 2235) The Clean Air Act Amendments make it clear that workers and their representatives—it is in the law—are to have an important role in process safety management.
>
> (Tr. 2258) I want to clarify that the word participation and consultation means only that. They do not imply the power to veto or to change the programs required under this proposed standard * * *.
>
> (Tr. 2356) Consult to us means—or should mean that we are part of the process, that we have a voice in discussing the kind of information that is developed in writing and reviewing those reports. You know, it doesn't mean that we get to write the report to the exclusion of management, but it means that we ought to be part of the team.

Other participants suggested that the language in the CAAA be incorporated as a separate paragraph in the OSHA final standard and asserted that the language did not mandate an employee representative on the team conducting process hazards analyses or incident investigations.

A participant from Exxon U.S.A. (Tr. 3314) stated:

> We conclude that the "consult with employees" provision in the Clean Air Act Amendments does not require that employees or their representatives be PHA [process hazard analysis] team members.
>
> The requirement calls for the employer to exchange views on a process hazard analysis with employees and their representatives before a PHA is started.
>
> Review of the wording in the clean Air Act would appear to call for a more structured exchange of views with wage personnel before starting A PHA.
>
> Designated union representatives, such as union members on a plant safety committee, could be included in pre- and post-PHA discussions with wage employees.

A representative from the National Petroleum Refiners Association (Tr. 3372–74) testified:

> As you are well aware, the operative wording from the Clean Air Act Amendment is consult with employees and their representatives on the development and conduct of hazard assessments and the development of chemical accident prevention plans, and provide access to these and other records required under the standard.
>
> Now that is the law of the land, and we are clearly going to have to do that.
>
> In Shell Oil Company, we think we know how to do that. We have consulted—we have well established procedures in place for consulting with our unions * * *
>
> We don't—speaking for Shell Oil Company, we don't belive that we need additional OSHA words—pages of regulations to help us interpret what consult with employee representatives means * * *.
>
> Now, what is our position on involvement on teams? First, we support the involvement of workers on teams. We feel that the worker, the operator, the maintenance person, the foreman also can contribute significantly to the value of a PHA team.
>
> But what they bring to that team is their knowledge of the unit in question, their knowledge of the operating practices, their knowledge of the maintenance practices in that particular unit, and those are the attributes they bring to that team and the participant workers should be selected on the basis of bringing those skills to the team rather than filling a role.

After a thorough analysis of the CAAA and the rulemaking record on this issue, OSHA has concluded that it is important for one member of each team be an employee who is knowledgeable about the process. This employee may very well be an employee representative; or, an employee representative may be participating on a team because of some expertise that the individual can contribute to the team. However, OSHA does not believe it necessary or appropriate to mandate team membership on the basis of organization affiliation (i.e., union membership), nor does the Agency believe that this was the intent of the CAAA.

OSHA believes that the intent of the CAAA demands a broader approach to employee participation. A participant from the United Steelworkers of America (Tr. 2257) asserted:

> Workers and their representatives should have the right to participate in the development of hazard analysis, incident investigations and all safety audits. They should be consulted with respect to training, maintenance and emergency response programs.

OSHA agrees with this participant. This confirms OSHA's belief that a broader participation was envisioned by the CAAA. OSHA believes that employers must consult with employees and their representatives on the development and conduct of hazard assessments (OSHA's process hazard analyses) and consult with employees on the development of chemical accident prevention plans (the balance of the OSHA required elements in the process safety management standard). And, as prescribed by the CAAA, OSHA is requiring that all process hazard analyses and all other information required to be developed by this standard be available to employees and their representatives.

Therefore, as suggested by several rulemaking participants, OSHA has added language contained in the CAAA to the final rule in a new provision, paragraph (c). OSHA believes that this new provision, which requires broad and active employee participation in all elements of the process safety management program through consultation will enhance the overall program. OSHA also believes that the CAAA requirements demand that an employer carefully consider and structure the plant's approach to employee involvement in the process safety management program. Consequently, OSHA believes that it must require the employer to address this issue to ensure that the employer actively considers the appropriate method of employee participation in the implementation of the process safety management program at the workplace. Thus, OSHA has included a specific requirement that an employer develop a plan of action on how the employer is going to implement the employee participation requirements.

The new paragraph which has been added to the final process safety management rule, paragraph (c), reads as follows:

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> *Employee participation.* Employers shall develop a written plan of action regarding the implementation of the employee participation required by this paragraph.
>
> Employers shall consult with employees and their representatives on the conduct and development of process hazard analyses and on the development of the other elements of process safety management in this standard.
>
> Employers shall provide to employees and their representatives access to process hazard analyses and to all other information required to be developed under this standard.

Process Safety Information: Paragraph (d)

Paragraph (d) addresses process safety information. OSHA proposed that the employer develop and maintain certain important information about a covered process such as information about the hazards and characteristics of the chemicals used, information about the process technology and how it works and information about the process equipment. This process safety information was to be communicated to employees involved in operating the process.

The compilation of information concerning process chemicals, technology and equipment provides the foundation for identifying and understanding the hazards involved in a process and is necessary in the development of a complete and thorough process hazard analysis, as well as other provisions in the final rule including management of change, operating procedures, and incident investigations, etc.

A number of participants had recommendations to clarify the process safety information provisions. OSHA has made changes to this paragraph based on these recommendations, where such suggestions did not change the intent of the provisions.

OSHA has decided to allow the compilation of process safety information to occur on a schedule consistent with the schedule for conducting process hazard analyses as described in final paragraph (e)(1). It is necessary to assemble the process safety information specified in the final rule in order to conduct an adequate process hazard analysis. Therefore it is reasonable to allow the collection and compilation of process safety information on a given process to be completed before a process hazard analysis on that process is begun, instead of requiring the compilation of all process safety information on all processes to be completed before any process hazard analyses are begun.

Many participants objected to the requirement that the process safety information must be communicated to employees (e.g., Ex. 3: 17, 26, 33, 41, 48, 53, 103, 106, 109, 112, 119, 158). Participants noted that a lot of the process safety information was highly detailed and expressed their doubts concerning the usefulness of communicating such detail to employees. They believed that such information should be made available to employees rather than communicated to them. Paragraph (c) of the final rule, employee participation, requires that employees and their representatives must have access to process hazard analysis reports and to all other information required to be developed under this standard. The recommended change to make the information available is unnecessary in view of this requirement. Also, OSHA believes that process safety information pertinent to the employees job tasks is required to be communicated to employees by the final standard: To operating employees in paragraph (g); to contract employees in paragraph (h); and to maintenance employees in paragraph (j). Therefore the requirement contained in paragraph (d) to communicate the process safety information to employees has been deleted since it is provided for by other provisions of the final standard, such as employee participation, contractors, and training.

The process safety information required by paragraph (d)(1) pertains to the hazards of the highly hazardous chemicals in the process. OSHA proposed that the information include: toxicity information; permissible exposure limits; physical data; reactivity data, corrosivity data; thermal and chemical stability data; and the hazardous effects of inadvertent mixing of different materials that could foreseeably occur. Most of the information may already be available from the material safety data sheet (MSDS). MDSDs would be acceptable in meeting this requirement to the extent that the required information is available on the MSDS. The information required to be collected on the hazards of the chemicals is unchanged from the proposal.

In paragraph (d)(2) OSHA proposed that the employer develop and maintain information pertaining to the technology of the process itself. Paragraph (d)(2)(i) specified the required information and included the following: a block flow diagram or simplified process flow diagram; process chemistry; maximum intended inventory; safe upper and lower limits for such factors as temperatures, pressures, flows or compositions; and the consequences of any deviation in the process including those affecting the safety and health of employees. The final requirements remain virtually the same as those proposed except for a few minor editorial changes.

OSHA indicated in proposed paragraph (d)(2)(ii) that it might be difficult to obtain technical information for older existing processes. Therefore, it proposed to allow employers to develop such material from a hazard analysis conducted in accordance with paragraph (e) for processes initiated before January 1, 1980. OSHA believed that a properly conducted process hazards analysis should systematically identify technical information regarding the process and allow for adequate estimation of safe parameters for the process.

OSHA has reconsidered this paragraph and has decided that the best technical information available is the original information. Rather than include an arbitrary date, OSHA has decided to allow an alternate method of obtaining the technical information only for those processes where such information does not exist. In reviewing the record OSHA concluded that the American Petroleum Institute's RP 750 had acceptable language which met the intent of the Agency. Accordingly, OSHA has changed the final paragraph, (d)(2)(ii), to read as follows:

> Where the original technical information no longer exists, such information may be developed in conjunction with the process hazard analysis in sufficient detail to support the analysis.

The final type of information that the proposal required to be collected ((d)(3)) pertains to the equipment in the process. Since the equipment used in a process can have a significant adverse impact on the facility and employee safety, OSHA wanted to assure that the equipment is appropriate for the operation and that it meets appropriate standards and codes such as those published by the American Society of Mechanical Engineers, the American Petroleum Institute, etc.

In paragraph (d)(3)(i) OSHA proposed that information be compiled concerning equipment used in the process including: materials of construction; piping and instrument diagrams (P&IDs); electrical classification; relief system design and design basis; ventilation system design; design codes employed; material and energy balances for processes built after the effective date of this standard; and safety systems (such as interlocks, detection, monitoring and suppression systems). Again, this paragraph remains virtually unchanged except for minor editorial changes.

In paragraph (d)(3)(ii) OSHA proposed that the employer document that the process equipment being used complies with applicable consensus codes and standards, where they exist; or be consistent with recognized and generally accepted engineering practices. OSHA has modified this paragraph by eliminating the list of codes and standards producing organizations. The discussion in paragraph (j), mechanical integrity, discusses the reasons for this change.

Paragraph (d)(3)(iii) required that when existing equipment was designed and constructed in accordance with codes, standards, or practices that are no longer in general use, the employer must ascertain that the equipment is designed, installed, maintained, inspected, tested and operated in such a way that safe operation is assured.

There are many instances where process equipment has been in use for many years. Sometimes the codes and standards to which the equipment was initially designed and constructed are no longer in general use. For this type of situation, OSHA wants to ensure that the older equipment still functions safely, and is still appropriate for its intended use. OSHA is not specifying the method for this documentation. Under this approach the employer would be permitted to use any of several methods such as: documenting successful prior operation procedures; documenting that the equipment is consistent with the latest editions of codes and standards; or performing an engineering analysis to determine that the equipment is appropriate for its intended use. This paragraph remains the same as that which was proposed except the final rule requires the employer to determine and document that the equipment is "designed, maintained * * * and operating in a safe manner rather than "operating in such a way that safe operation is assured," as was proposed.

OSHA believes that the final provisions concerning process safety information meet the requirements in section 304(c)(1) of the CAAA. In this section OSHA must require employers to:

> (1) Develop and maintain written safety information identifying workplace chemical and process hazards, equipment used in the processes, and technology used in the processes.

Process Hazard Analysis: Paragraph (e)

The vast majority of commenters addressed proposed paragraph (e) concerning process hazards analysis, often referred to as "hazard evaluation" (e.g., Ex. 3: 20, 21, 25, 26, 27–29, 33–35, 39, 41, 43–45, 59, 64, 69, 70, 76, 77, 79, 80, 83, 89, 96, 109, 112, 115, 119, 120, 122, 123, 126, 129, 138, 141, 149, 152, 155, 156, Ex. 91; Ex. 127; Ex. 141; Ex. 148; Tr. 671, 735, 968, 1018, 1114, 1206, 1922, 2059, 2156, 2174, 2572, 2650, 2689, 2773, 3136, 3259, 3348, 3683). These commenters were generally supportive of the provisions regarding process hazards analyses recognizing that the process hazard analysis is a key component of a process safety management system because it is a thorough, orderly, systematic approach for identifying, evaluating and controlling processes involving highly hazardous chemicals. However, participants recommended certain modifications to the process hazard analysis provisions. Participants also addressed several issues OSHA raised in the notice of proposed rulemaking (Issues 3, 4 and 5; 55 FR at 29158) concerning process hazard analysis timeframes, acceptable methodologies and process hazard analysis team membership.

In paragraph (e)(1) OSHA proposed to require employers to conduct an initial process hazard analysis on facilities covered by the standard in order to identify, evaluate and control the hazards of the process. By properly performing a hazard analysis, the employer can determine where problems may occur, take corrective measures to improve the safety of the process and preplan the actions that would be necessary if there were a failure of safety controls or other failures in the process. Paragraph (e)(1) required the employer to conduct the process hazard analyses using one of the methodologies listed.

Paragraph (e)(1) of the final standard reflects several changes from the proposal. The final standard still requires employers to conduct a process hazard analysis to identify, evaluate and control the hazards in a process. The provision addressing methodologies has been moved to paragraph (e)(2).

Also in paragraph (e)(1) is a new requirement that an employer select a process hazard analysis method which is appropriate to the complexity of the process being analyzed. This requirement was implicit in the proposal. The new language simply states OSHA's concern that an employer not choose an inappropriate process hazard analysis methodology.

OSHA anticipates that employers will be able to readily explain their plans for completing process hazard analyses and their reasoning for prioritizing which processes will be addressed first. Therefore OSHA is requiring that employers determine and document the priority order for conducting process hazard analyses based on such considerations as the extent of the process hazards, number of potentially affected employees, age of the process, and operating history of the process. This requirement is written flexibly in recognition of the fact that different processes will require different considerations for prioritization.

A phase-in period for process hazard analyses may be necessary, particularly, for facilities with multiple covered processes. However OSHA believes that plants with a limited number of processes, with simple processes, or which have already completed a number of process hazard analyses, should complete process hazard analyses as soon as possible. Therefore, the final standard language indicates that process hazard analyses must be conducted as soon as possible.

In Issue 3 of the preamble to the proposal (55 FR at 29154) OSHA noted that no time period was specified in which to complete initial process hazard analyses. It had been suggested to OSHA that a 1-, 2-, 3-, or 5-year delay be allowed for employers to complete initial process hazard analyses. These extended compliance scenarios were based on the perception that there were not enough technical experts who had the experience to carry out the analyses required by the proposal. The issue was discussed extensively in the rulemaking.

A significant majority of participants discussed the timeframes they believed would be necessary to complete initial process hazard analyses. Recommended timeframes ranged from immediately to as many as ten years. The majority of commenters supported either a 5-year timeframe (e.g., Ex. 3: 21, 16, 33, 41, 43, 44, 48, 59, 64, 70, 76, 80, 77, 96, 109, 112, 122, 123, 129, 134, 138, 141, 149, 155, Ex. 127; Tr. 1018, 1114, 1206, 1922, 2059, 2156, 2689) or a 7-year timeframe (e.g., Ex. 3: 27, 28, 29, 39, 45, 69, 77, 106, 120; Ex. 91, Ex. 148; Tr. 671, 735, 968, 2174, 2572, 2478, 2594, 2650, 2773, 3136, 3259, 3348, 3683) in which initial process hazard analyses could be completed on covered processes. These suggested timeframes were based on similar reasons. For example, the National Cooperative Refinery Association (NCRA, Ex. 3: 21) stated:

> NCRA, like most independent refineries, does not have sufficient staff to complete a project of this magnitude without extensive use of contract consultants * * * Preliminary information indicates that it will be very difficult, if not impossible, for us to complete the analysis of all of the process units in the refinery in less than five years.

The American Petroleum Institute (API, Ex. 3: 106A, p. 7) noted:

> API shares OSHA's concern that compliance with this rule could overwhelm existing resources unless an adequate implementation period is allowed. Further, API believes that experienced personnel needed to lead and participate in the process hazard analysis studies are not available in numbers sufficient to comply with the rule in fewer than seven years.

Marathon Oil Company (Ex. 3: 108) observed:

> To start off, Marathon supports process safety management. Since the American Petroleum Institute published API Recommended Practice 750, "Management of Process Hazards" in January 1990, we have started implementing RP-750. This is a major, resource-intensive effort that we accepted voluntarily and estimate that it will require at least five years for implementation.

Phillips Petroleum (Ex. 3: 129, p. 3) indicated:

> Completion of initial PHA should be within five years of the effective date. We feel this timeframe is needed to achieve quality results with the limited resources available, and the amount of complexity of the information to be handled.

Sun Refining and Marketing Company (Ex. 3: 155, p. 1–2) remarked:

> Sun recommends that OSHA require all of the initial process hazards analyses be completed within five years of the effective date. While Sun recognizes the magnitude of work which will be required to implement these regulations as well as the limited number of resources, we believe that industry should take an aggressive approach to implementing this portion of the regulations. With such an approach, Sun believes a five year implementation schedule can be achieved and will accomplish process safety in a reasonable and realistic time frame.

OSHA accepts participants remarks that resources may be stretched by the requirement to conduct process hazard analyses. Further, OSHA agrees with participants that a five-year period may be necessary to complete good quality process hazard analyses but remains unconvinced that a seven-year timeframe is necessary, especially in light of the concentrated efforts directed toward meeting API's RP 750 published in January 1990 and the Chemical Manufacturers Association process safety management initiatives already described. After considering the evidence in the record on this issue, the Agency finds that the 5-year phase-in period to complete process hazard analyses required by the standard is feasible.

In recognition that time will also be needed to compile the information required in paragraph (d), process safety information, which is needed to conduct a process hazard analysis, OSHA has adopted a schedule that requires at least 25% of the process hazard analyses to be completed each year, starting with the second year after the effective date of the standard. These provisions become final paragraphs (e)(1)(i) through (e)(1)(iv).

Finally, OSHA has added a new paragraph (e)(1)(v) which grandfathers process hazard analyses completed 5 years before the effective date of the standard. These process hazard analyses must meet the requirements contained in paragraph (e) and will have to be updated and revalidated, based on their completion date, in accordance with the requirements in paragraph (e)(6). Many commenters addressed the grandfathering of these analyses and OSHA agrees that appropriate grandfathering should be allowed. It would not be reasonable to require that resources be expended to conduct another process hazard analyses when a recent one already exists since these same resources could be better used to conduct initial process hazard analyses on other processes.

OSHA proposed a performance oriented requirement with respect to the process hazard analysis so that an employer would have flexibility in choosing the type of analysis that would best address a particular process. Consequently in paragraph (e)(1) OSHA proposed that an employer use one or more of certain listed methodologies to perform a process hazard analysis. The methodologies included: what-if; checklist; what-if/checklist; failure mode and effects analysis; hazard and operability study; and fault free analysis. More detailed information concerning the methodologies was included in nonmandatory appendix D. In Issue 4 in the proposal (55 FR at 29158), OSHA asked whether OSHA should consider additional methodologies, such as those approved by the American Institute of Chemical Engineers. Additionally, OSHA asked if appendix D, which contained descriptions of the methodologies in the proposal should be made mandatory in order to assure a degree of uniformity when employers apply methodologies.

A vast number of participants opposed restricting process hazard analyses methodologies (e.g., Ex. 3: 9, 12, 17, 20, 21, 25, 26, 27, 28, 29, 30, 33, 38, 39, 41, 45, 47, 48, 50, 59, 62, 64, 69, 70, 71, 72, 73, 79, 83, 88, 92, 96, 99, 101, 106, 108, 109, 113, 115, 119, 120, 121, 127, 134, 137, 138, 139, 146, 150; Ex. 91; Ex. 127; Tr. 670, 736, 970, 1020, 1115, 1290–1, 1617, 1927, 2004, 2060, 2114, 2176, 3411, 3507). For example, Johnson Wax (Ex. 3: 12, p.28) stated:

> [T]he six methodologies are not the only ones in current use or under development. For this reason, we do not believe OSHA should limit "process hazard analyses" techniques to these six. Instead, we would recommend that OSHA allow any recognized "equivalent" methodology also be allowed under this rule.
>
> We would urge OSHA to explicitly state that other "process hazard analyses methodologies" would be acceptable if they can provide "equivalent" information to those listed. This will allow new methodologies to be used to "meet" this rule as they are developed. Otherwise the Agency will "freeze" process hazard analyses to current technologies.

Exxon Company, U.S.A. (EUSA, Ex. 3: 39, p.5), noted:

> Restricting process hazard analysis (PHA) methodologies is a critical issue, and one of our most serious concerns.
>
> EUSA is vigorously opposed to restricting PHA methodologies to the six currently listed in the proposed rule. This would indeed freeze technology in the new and rapidly evolving field of chemical process risk management, thereby excluding new and better methods which will most certainly be developed.

The American Paper Institute (Ex. 3: 45, p.15) commented:

> OSHA's proposal to list "acceptable" process hazard analysis methodologies is unnecessarily narrow. The better approach would be to eliminate the list and make this a performance-oriented requirement. OSHA should simply mandate that the employer use an appropriate methodology for the process hazard analysis.
>
> Realities of the workplace argue for maximum flexibility in this area. For example, the employer may need to modify one of the established methodologies. In some cases, the employer may need to develop a new approach because none of the existing methodologies is appropriate for the process to be evaluated. The precise methodology is unimportant so long as the method used addresses the elements specified in proposed section (e)(2).
>
> If OSHA elects to publish a list of acceptable methodologies, the rule should stress that these are examples and that other * * * methodologies may be used so long as they are appropriate * * *.

OSHA agrees with these commenters regarding the use of the methodologies. While many of these commenters indicated that OSHA should require methodologies recognized by the American Institute of Chemical Engineers, OSHA has decided against doing so since it agrees with those participants who believed that any methodology should be allowed as long as it meets the specified criteria described in paragraph (e). Therefore OSHA has added an additional paragraph to its list of acceptable methodologies allowing employers to use other appropriate methodologies capable of adequately addressing and analyzing the elements in paragraph (e)(3) of the final rule.

OSHA has decided not to retain the proposal's nonmandatory appendix D, Process Hazard Analysis Methodologies. Since OSHA is now allowing other appropriate methodologies, OSHA believes the appendix no longer serves the purpose for which it was intended. Further, OSHA believes that the proposal's nonmandatory appendix E, Sources of Further Information (which becomes final appendix D), provides more thorough information to employers seeking assistance in conducting process hazard analyses. This information appendix has been expanded to provide additional sources.

Comments were received directed toward clarifying OSHA's proposed paragraph (e)(2) concerning what a hazard analysis must address (final rule paragraph (e)(3)). The proposal required that the analysis address the hazards of the process; engineering and administrative controls applicable to the hazards and their interrelationships; the consequences of failure of these controls; and a consequence analysis of the effects of a release on all workplace employees.

Proposed paragraph (e)(2)(i) which required that employers address the hazards of the process remains the same as proposed. The paragraph becomes final paragraph (e)(3)(i).

Under the Clean Air Act Amendments, section 304(c)(2), OSHA must require employers to perform a workplace hazard assessment (OSHA's process hazard analysis), including, as appropriate, identification of potential sources of accidental release, an identification of any previous release within the facility which had a likely potential for catastrophic consequences in the workplace, estimation of workplace effects of a range of releases, and an estimation of the health and safety effects of such ranges on employees.

OSHA believes that the provisions contained in proposed paragraph (e)(2) concerning what a hazard analysis must address were responsive to the CAAA but did not require the identification of any previous incident which had a likely potential for catastrophic consequences. The inclusion of previous incidents will help to assure that the process hazard analysis adeqatately addresses a wide enough range of concerns. OSHA has included a requirement in the final rule for employers to identify any previous incident which had a likely potential of catastrophic consequences in the workplace. This provision is responsive to the CAAA and it becomes final paragraph (e)(3)(ii).

In proposed paragraph (e)(2)(ii), OSHA proposed to require that the process hazard analysis address the engineering and administrative controls applicable to the hazard and their interrelationships. The American Petroleum Institute (API) recommended that additional language be added concerning the detection of and monitoring for releases. OSHA believes that such information is important for employers to consider and has decided to accept the API (Ex. 137) suggestion for the most part. The paragraph becomes final paragraph (e)(3)(iii) and requires that the process hazard analysis address:

> Engineering and administrative controls applicable to the hazards and their interrelationships, such as the appropriate application of detection methodologies to provide early warning of releases. (Acceptable detection methods might include process monitoring and control instrumentation with alarms, and detection hardware such as hydrocarbon sensors).

It should be noted, however, that detection methodologies is being used only as an example and there may be many other interrelationships that must be covered to comply with this provision for a particular process.

In proposed paragraph (e)(2)(iii), OSHA required that the "consequences of failure of these controls" be addressed. OSHA has changed this paragraph to clarify what is meant by "these." The final paragraph now requires that the process hazard analysis address "consequence of failure of engineering and administrative controls." This change merely clarifies the fact that OSHA wants employers to examine the failure of engineering and administrative controls; it does not change the intent of the provision. This provision becomes final paragraph (e)(3)(iv).

In paragraph (e)(2)(iv) of the proposal OSHA required that employers address a failure of controls through "a consequence analysis of the effects on all workplace employees." Participants encouraged OSHA to rephrase the paragraph to better define its intent (e.g., Ex. 3: 26, 28, 45, 48, 69, 71, 77, 120; Tr. 1013, 1227–28, 1533, 1810, 2014). For example, Chevron Corporation (Ex. 3: 26A, p.5) stated:

> The term "consequence analysis" can be interpreted to mean many different types of evaluations, including studies and documentation far beyond what Chevron believes OSHA intends and far beyond what would add value to a PHA study.

Additionally, Mobil Research and Development Corporation (Ex. 3: 69, p.3) noted:

> [W]e are concerned that the term "consequence analysis" * * * could be misinterpreted as requiring highly specialized modeling and risk assessment techniques such as Probabilistic Risk Assessment (PRA) that are not called for in paragraph (e)(1) PRA's, vapor cloud modeling and other quantitative hazard assessment techniques are difficult to apply as a basis for regulatory control. Judgements and assumptions made by the individuals performing the assessments are subjective and findings are difficult to validate and compare to other assessments. Moreover, no nationally accepted risk criteria for industrial processes have been established.

OSHA has modified the paragraph to indicate that it did not intend employers to conduct probabilistic risk assessments to satisfy the requirement to perform a consequence analysis. OSHA agrees with commenters that specialized techniques such as vapor cloud modeling would add an unnecessary burden with respect to assessing the effects of releases on employees. OSHA believes employers can establish a reasonable range of possible effects of releases on employees without conducting these specialized quantitative analyses. Further OSHA believes it has insufficient data in this rulemaking record on which to establish what would be a reasonable quantitative analysis. Therefore, this clarified paragraph becomes final paragraph (e)(3)(vii) and requires a qualitative evaluation of the possible safety and health effects of failure of engineering and administrative controls on employees in the workplace. This evaluation is for the purpose of guiding decisions and priorities in planning for prevention and control, mitigation and emergency response. OSHA believes this better reflects what it intended to accomplish by the proposal.

Additionally, OSHA has added two additional elements to final paragraph (e)(3). OSHA believes and participants suggested (Tr. 2609, 2705, 2781, 3542) that facility siting should always be considered during process hazard analyses. In order to assure that employers do consider siting, OSHA has decided to specifically emphasize it. Facility siting becomes final paragraph (e)(3)(v).

Finally, OSHA has added paragraph (e)(3)(vi) to the final rule which requires that employers address human factors in the process hazard analysis. In response to an OSHA concern expressed during the rulemaking regarding the consideration of human factors in process hazard analyses, the Chemical

Manufacturers Association (CMA, Ex. 3: 128, p.6) observed:

> Human error is but one, albeit important, cause for chemical process accidents. A number of the provisions of the proposed PSM standard implicitly require companies to address the possibility of human error * * * Some individuals have testified that OSHA has not provided for the consideration of human error in the proposed standard-CMA disagrees with this shortsighted conclusion.

However, CMA further stated that if the Agency wished to highlight the importance of addressing human factors issues, OSHA should include a requirement. OSHA agrees and, as noted above, has added a provision to highlight this concern.

Proposed paragraph (e)(3) required employers to conduct a process hazard analysis using a team approach. OSHA believes that in order to conduct an effective, comprehensive process hazard analysis, it is imperative that the analysis be performed by competent persons, knowledgeable in engineering and process operations, and that those persons be familiar with the process being evaluated. Some employers may have a staff with expertise to perform a process hazard analysis. This staff will already be familiar with the process being evaluated. However, some companies, particularly smaller ones, may not have the staff expertise to perform such an analysis. The employer, therefore, may need to hire an engineering or consulting company to perform the analysis. OSHA believes it is important to note that in all situations, the team performing the process hazard analysis must include at least one employee from the facility who is intimately familiar with the process.

OSHA also believes that a team approach is the best approach for performing a process hazard analysis. This is because no one person will possess all of the knowledge and experience necessary to perform an effective process hazard analysis. Additionally, when more than one person is performing the analysis, different disciplines, opinions, and perspectives will be represented and additional knowledge and expertise will be contributed to the analysis. In fact, some companies even include an individual on the team who does not have any prior experience with the particular process being analyzed to help insure that a fresh view of the process is integrated into the analysis. Additionally, as discussed in the rulemaking, employees and other experts may be brought onto the team on a temporary basis to contribute their specialized knowledge to the conduct of the process hazard analysis.

The proposed provision required that the process hazard analysis be performed by a team with members who are knowledgeable in engineering and process operations, and that the team have at least one employee who has experience and knowledge specific to the process being evaluated.

In Issue 5 of the proposal (55 FR at 29158), OSHA inquired whether an employee representative should be included on process hazard analysis teams and incident investigation teams to assist in developing a cooperative participatory environment and to assist in developing the necessary flow of information.

OSHA received significant comment on the issue of teams and their makeup (e.g., Ex. 3: 9, 12, 15, 17, 20, 21, 25, 26, 28, 30, 32, 38, 39, 41, 45, 48, 50, 53, 59, 62, 69, 70, 76, 80, 81, 82, 83, 95, 96, 103, 106, 108, 109, 112, 113, 119, 120, 123, 127, 129, 134, 138, 139, 141, 143, 150, 155, 156; Ex. 91; Ex. 101; Ex. 134; Ex. 138; Ex. 143; Tr. 741, 1595–96, 1813, 2007, 2061; 3238, 3351, 3411). A vast majority of these commenters generally supported a team approach to conducting process hazard analysis as well as the team membership as specified in the proposal. As discussed previously, a great number of participants objected to the inclusion of an employee representative (union representative) on these teams; and as already indicated, OSHA has decided not to specifically require an employee representative on the team. Instead, the Agency has chosen to include a separate paragraph (final paragrph (c)) addressing employee participation in the process safety management program, which would require employee participation in the process hazard analysis by requiring that employers consult with employees and their representatives on the conduct and development of process hazard analyses. (See previous discussion of employee participation, final paragraph (c).) However, OSHA continues to require that an employee who has experience and knowledge specific to the process being evaluated be included on the team.

Numerous commenters noted that the proposal omitted a crucial team member, a person knowledgeable in the process hazard analysis methodology being used to evaluate the process in question (e.g., Ex. 3: 9, 17, 48, 69, 83, 103, 109, 115, 120, 153; Ex. 101; Tr. 1021, 1291). OSHA agrees with these commenters and has added a requirement that one team member must be knowledgeable in the specific process hazard analysis methodology being used. This paragraph concerning process hazard analyses teams becomes paragraph (e)(4) of the final rule.

In proposed paragraph (e)(4), the employer was required to address the findings and recommendations of the process hazard analysis team, to document actions taken, and communicate the actions taken to employees whose work assignments are in the facility affected by the recommendations or actions. The employer was also required to assure that recommendations were implemented in a timely manner. With these provisions, OSHA wanted to assure that the results of a process hazard analysis were fully utilized to improve process safety.

Many commenters objected to OSHA's requirement that the recommendations resulting from the process hazard analyses be implemented in total (e.g., Ex. 3: 26, 30, 38, 39, 45, 48, 50, 69, 70, 81, 101, 106, 108, 109, 115, 120, 121, 129, 153, 155; Ex. 95, 136, 138, 148; Tr. 670, 970, 1015, 1811, 1854, 1931, 2061, 2159, 2654, 3351, 3411, 3510). The Fertilizer Institute (Ex. 3: 109, p.7) remarked:

> Paragraph (e)(4) should be modified so that employers are not required to implement every recommendation offered by a Process Hazard Analysis Team. It is critically important that a PHA Team have freedom to make broad recommendations, at risk of being wrong, since they will not have time to completely research each recommendation. Working with the Team, Management must retain the responsibility for deciding which recommendations should be implemented* * *.

The Synthetic Organic and Chemical Manufacturers Association (SOCMA, Ex. 3: 50, p. 5–6) observed:

> SOCMA also agrees with OSHA's requirement that employers establish a system to promptly address the team's findings. However, SOCMA does not agree that the recommendations of the team should be "implemented" because that implies that every recommendation developed by the process hazard analysis team must be acted on exactly as recommended. Many times, on further study, process hazard analysis team recommendations are resolved in more effective ways than those originally envisioned by the team. The employer should be given the option to implement solutions that are more effective than those recommended by the team.

OSHA agrees with these participants that a process hazard analysis team should be encouraged to make broad recommendations. It is also possible that not all team recommendations will be correct or will resolve the problem found in the best way. OSHA has accordingly restructured, changed and added language to the final paragraph to reflect the concerns of many participants. In the final paragraph, the employer must assure that the recommendations resulting from the process hazard analysis are "resolved" in a timely manner and that the resolution is documented. In this way, when a team recommendation is incorrect, the employer can analyze it and then document in writing why the recommendation is not being adopted or is being adopted with modification.

In conjunction with this change OSHA believes that when an employer decides that a recommendation requires action, then an employer should develop a written schedule of the actions which are to be completed. It is OSHA's intention that the actions to be taken as a result of the process hazard analysis recommendations be completed as soon as possible. In most cases, OSHA believes that employers will be able to complete these actions within a one to two year timeframe, but notes that in unusual circumstances longer completion periods may be necessary. The final paragraph becomes paragraph (e)(5) and the above language has been incorporated into the final provision.

In the proposal, paragraph (e)(5), the process hazard analysis was to be updated and revalidated at least every five years, using the process hazard analysis team to assure that the process hazard analysis is consistent with the current process. The Agency believed that this five year update and revalidation interval was a reasonable timeframe, particularly in consideration of the long life span, without change, of many processes. OSHA also believed that there were adequate safeguards elsewhere in the proposal to protect employees when the process changed. (See for example, paragraph (d), process safety information and (l), management of change.)

In Issue 3 of the proposal (55 FR at 29158) OSHA invited comment on whether the five year update and revalidation cycle was appropriate. Many participants addressed this provision and most supported the 5-year update and revalidation provision (e.g., Ex. 3: 17, 26, 33, 41, 45, 48, 50, 59, 64, 69, 88, 95, 96, 101, 109, 119, 120; Tr. 740, 1114, 1598, 1809, 2157, 2774, 3349, 3411). For example, Pennzoil (Ex. 3: 41, p.11) noted:

> Pennzoil fully supports updating and revalidating the PHA every five (5) years, provided that OSHA does not intend updating and revalidating to mean doing a completely new PHA. As we understand the proposed language, during a PHA review, our PHA team would evaluate the previous PHA, examine the extent of any changes that might have occurred since the PHA was implemented (or last reviewed) and decide what work is needed to make the PHA current. Given our understanding of how these updates will work and our limited resources, we believe that this interval is very practical.

The American Paper Institute (Ex. 3: 45, p.14) indicated:

> API [American Paper Institute] believes that OSHA's proposal to require process hazard analyses updates and revalidations every five years is an appropriate choice. Adequate safeguards exist in the proposed rule to address potential concerns that might arise between periodic updates and validations. Elsewhere, OSHA has proposed that facilities prepare for and deal with changes; compliance with the requirements governing changes will provide ample protection until completion of the next regularly scheduled process hazard analysis validation/update. By selecting the five-year interval, OSHA has avoided imposing an unnecessary burden on facilities.

The American Petroleum Institute (Ex. 3: 106A, p.12) stated:

> OSHA's proposal to update and revalidate every PHA on a five year basis is acceptable, providing it is not intended to mean that a team must necessarily conduct a new and complete PHA. API understands the proposed language to mean that the PHA team could evaluate the previous PHA, examine the extent of change that had occurred in the interim and the procedures used for implementing change, and reach a conclusion regarding the scope and extent of the work necessary to update and revalidate the PHA. With this understanding, we support the five-year interval. The procedures required by paragraphs (1) Management of change and (i) Pre-startup safety reviews will ensure the interim integrity of process safety.

Texaco Inc. (Ex. 3: 120, p.6) observed:

> Paragraph (1), Management of Change, outlines the items the employer must address prior to any change. This enables the employer to determine the scope and extent of the work necessary to update and revalidate the process hazard analyses. Consequently, Texaco believes the five (5) year update and revalidation requirement for process hazard analyses is appropriate.

OSHA agrees with these commenters and has retained the five year update and revalidation schedule. Finally, OSHA has decided to clarify that the update and revalidation should occur five years after the completion of the initial process hazard analysis. This paragraph has been redesignated as paragraph (e)(6).

In paragraph (e)(6), OSHA proposed that employers retain the two most recent process hazard analyses and/or updates for each process covered as well as the documented responses to the process hazard analysis recommendations. Few participants addressed this particular provision. OSHA has determined, based on the discussions in the rulemaking, particularly those concerning the update and revalidation of process hazards analyses, that the proposed requirement to retain the two most recent process hazard analyses and/or updates for each process failed to recognize the full importance of documents developed relative to process hazard analyses. This requirement has been modified in the final rule. New paragraph (e)(7) requires that employers retain the process hazard analysis and their updates and revalidation. The Agency does not believe that this requirement will pose an undue burden on employers in that retention of these documents is necessary to conduct the periodic updates and revalidations which are required under the standard.

OSHA believes that the process hazard analysis provisions contained in the final standard meet the requirements contained in section 304(c) (2), (4), and (5) of the Clean Air Act Amendments. The requirements state that the OSHA standard must require employers to:

> (2) Perform a workplace hazard assessment [OSHA's Process Hazard Anaslysis] including, as appropriate, identification of potential sources of accidental release, an identification of any previous release within the facility which had a likely potential for catastrophic consequences in the workplace, estimation of workplace effects of such range on employees.
>
> (4) Establish a system to respond to the workplace hazard assessment findings, which shall address prevention, mitigation, and emergency responses.
>
> (5) Periodically review the workplace hazard assessment and response system.

Operating Procedures: Paragraph (f)

Paragraph (f) of the proposal contained provisions requiring the development and implementation of written operating procedures. The procedures are to provide clear instructions for safely conducting activities involved in covered processes and they must be consistent with the process safety information. To have an effective process safety management program, OSHA believed that tasks and procedures directly and indirectly related to the covered process must be appropriate, clear, consistent, and most importantly, communicated to employees.

Many different tasks may be necessary during a process, such as initial startup, handling special hazards, normal operation, temporary operations and emergency shutdown. The appropriate and consistent manner in which the employer expects these tasks and procedures to be performed consistent with the facility's operating

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procedures is sometimes referred to as standard operating procedures.

It is important to have written operating procedures so employees working on a process do a given task in the same manner. There is less likelihood that incidents will occur if written operating procedures are developed so even a new employee or one who is relatively inexperienced will respond to a given event in a preconsidered and prescribed manner. It is also important that the procedures be written so that they can be communicated to employees in the most effective manner possible. Such written procedures comprise the employer's policy with respect to what is to be accomplished, and how it is to be accomplished safely. This will ensure that employees will perform like tasks and procedures in a consistently safe manner, and employees will know what is expected of them. These procedures must also be available for ready reference and review during production to make sure the process is operated properly. Accordingly, OSHA proposed that the employer develop and implement written operating procedures that provide clear instructions for safely conducting all activities involved in each process.

In proposed paragraph (f)(1)(i), OSHA required that the operating procedures address steps for each operating phase, including initial startup, normal operation, temporary operations, emergency operations, normal shutdown, and startup following turnaround or emergency shutdown.

In proposed paragraph (f)(1)(ii) OSHA proposed that the operating procedures address the process operating limits, including the following: consequences of deviation; steps required to correct and/or avoid deviation; and safety systems (including detection and monitoring equipment) and their functions.

In paragraph (f)(1)(iii), OSHA proposed that the operating procedures address safety and health considerations regarding the process, including the following: properties of, and hazards presented, by the chemicals used; precautions necessary to prevent exposure; control measures to be taken if physical contact or airborne exposure occurs; safety procedures for opening process equipment (such as pipe line breaking); quality control for raw materials and control of hazardous chemicals inventory levels; and any special or unique hazards.

Few participants criticized the contents or the merits of paragraph (f) in general. However, OSHA has restructured and clarified certain provisions of paragraph (f)(1). One change includes a division of proposed paragraph (f)(1)(D) which addressed emergency operations, including emergency shutdowns, and who could initiate them. Proposed paragraph (f)(1)(D) has been divided into final paragraph (f)(1)(D) and final paragraph (f)(1)(E). Final paragraph (f)(1)(D) concerns emergency shutdown and requires that the employer assign shutdown responsibility to a qualified operator to ensure a safe and timely shutdown.

The second change is the relocation of (f)(1)(ii)(C), safety systems and their functions, to a separate paragraph. This paragraph becomes final paragraph (f)(1)(iv).

Proposed paragraph (f)(2) required that a copy of the operating procedures be readily accessible to employees who work in or maintain a process and it is retained in the final rule. This requirement assures that a ready and up-to-date reference is available to employees when needed. It will also form a foundation for training which employees need under this final rule.

In proposed paragraph (f)(3) OSHA proposed that the operating procedures be reviewed to assure that they reflect current operating practices and any changes to the process or facility. Since it is extremely important to the safe operation of covered processes that operating procedures remain current and accurate, OSHA has added a precaution to guard against the use of outdated or inaccurate operating procedures by requiring that an employer verify annually that the operating procedures are current and accurate. No other changes were made to the paragraph and it becomes final paragraph (f)(3).

Finally, OSHA has been persuaded by participants in the rulemaking that it should add another requirement to paragraph (f). Throughout the rulemaking OSHA has expressed its concern regarding the control of hazardous activities within a facility. For example, in the notice of hearing in Issue 1 (55 FR at 46075), OSHA asked whether it should require employers to issue permits for hazardous activities in addition to those for which hot work permits were required. It had been suggested that issuing permits would provide greater control of hazardous activities at a facility and would also facilitate a better coordination of contractor activities. A variety of participants objected to OSHA expanding the required permit system (e.g., Ex. 3: 154, 163, 166; Ex. 116; Tr. 1883).

However, the Organization Resources Counselors (ORC, Ex. 131, p. 5) recommended and others concurred (Ex. 3: 165):

> [T]he addition of a new paragraph to * * * provide for the development and implementation of an on-going mechanism to ensure that all workers performing non-routine work are informed of existing hazards, appropriate precautions, and emergency procedures. . . .
>
> The objectives of these requirements are, first, to insure that those persons operating high hazard processes are cognizant of any non-routine work (i.e., maintenance, construction, sampling or other activity) that is occurring in the process. The second objective is to insure that those in responsible control of the facility are also in control of such non-routine work so as to insure that the work does not undermine the safe control of the process. The third objective is to provide information to those workers performing non-routine work regarding the hazards and necessary precautions attendant to that work.
>
> Ordinarily, in chemical plants, maintenance and construction activities are supervised by persons other than those in direct control of the process. Implementation of these practices will insure that control over all activity in high hazard plants remains with those who manage the production units while they are in operation.

OSHA agrees that this approach will provide significant safety to employees impacted by on-going work activities and prefers this performance oriented approach provision. Therefore OSHA has added a new paragraph (f)(4) in the final standard requiring the employer to develop and implement safe work practices to provide for the control of hazards during work activities.

OSHA believes that the provisions concerning operating procedures included in the final standard meet the requirements of sections 304(c) (6) and (7) of the CAAA which state that the OSHA standard must require employers to:

> (6) Develop and implement written operating procedures for the chemical process including procedures for each operating phase, operating limitations, and safety and health considerations.
>
> (7) Provide written safety and operating information to employees and training employees in operating procedures, emphasizing hazards and safe practices.

Training: Paragraph (g)

OSHA believes that the implementation of an effective training program is one of the most important steps that an employer can take to enhance employee safety. The Agency also believes that an effective training program will help employees understand the nature and causes of problems arising from process operations, and will increase employee awareness with respect to the hazards particular to a process. OSHA is convinced that an effective training program will significantly reduce the number and severity of incidents arising from process operations, and can be instrumental in preventing small problems from leading to a catastrophic release.

While there were a few concerns expressed with respect to OSHA's performance-oriented approach to training, no participant disagreed with the importance of training. In fact, there was consensus among rulemaking participants that training is a necessary and integral part of any effective process safety management program.

Proposed paragraph (g)(1) covered initial training, and required each employee presently "involved" in a process, and each new employee before working in a newly assigned process, to be trained in an overview of the process and in the operating procedures that were specified in proposed paragraph (f) of the proposal. The proposal also required the training to include emphasis on the specific safety and health hazards, procedures, and safe work practices applicable to the employee's job tasks.

An extensive amount of comment and testimony resulted from this proposed provision. In its analysis of this rulemaking record, the Agency identified three broad topics that were addressed by rulemaking participants in relation to this proposed provision concerning initial training. These topics were: the application of this proposed provision (to whom the training applies); OSHA's approach (including the amount and method of training, and the content of the training program); and grandfathering of training (the recognition of training received by employees prior to promulgation of this standard).

Application

Several rulemaking participants (Ex. 3: 17, 33, 53, 71; Tr. 313; Tr. 389) remarked that the training coverage for "employees involved in a process" was too broad, and could be misinterpreted to mean contractor employees and maintenance employees, in addition to the operating employees that they assumed that this proposed provision was meant to address. They suggested that this proposed paragraph be renamed "Operator Training" and the applicability of this proposed paragraph be clarified; or, they suggested addressing training for all employees in this proposed paragraph, including training for contractor employees and maintenance employees. For example, a hearing participant from the Organization Resources Counselors (ORC Tr. 313) testified:

> To clarify the training requirements of this proposal, ORC recommends that OSHA either include the training appropriate for maintenance and contractor personnel in additional, separate subsections of paragraph G, or rename paragraph G as "operator training", and highlight those paragraphs in J and H which call for the training of other types of employees.

Another hearing participant from Chevron (Tr. 389) said:

> Training should cover operating employees rather than as currently worded, "employees involved in the process" which is subject to interpretation.

A commenter from Allied Signal (Ex. 3: 17, p. 9) stated:

> [I]t should be noted that the requirements of paragraph (g) are appropriate only for employees involved in operating the process. Training for mechanical personnel is referenced in paragraph (j)—specifically (j)(2)(ii)—and training for contractor employees is specified in paragraph (h).

Additionally, a commenter from ARCO Chemical Company (ACC, Ex. 3: 71, p. 3) remarked:

> ACC recommends that OSHA limit the application of the training requirements of the proposed rule to those employees directly involved in the process with training limited to relevant operating procedures necessary for the safe performance of job tasks.

When OSHA proposed that this provision apply to employees "involved in a process," it intended for this provision to apply to only those employees, including managers and supervisors, who are actually involved in "operating" the process. While most OSHA standards, by their terms, apply to all employees in a particular situation and contract employees are considered "employees" in the broad sense of the word, this standard distinguishes in the training requirements between contract employees and direct hire employees. This was done primarily for emphasis and in recognition of the fact that in some segments of industry covered by the process safety management standard, contractors make up a substantial portion of on-site workers. OSHA wanted to focus attention on that situation and did so by imposing separate but similar training objectives for direct hire and contract employees. This is the reason, as discussed below, that training requirements for contractor employees and maintenance employees were addressed in separate paragraphs in the proposal.

OSHA agrees with rulemaking participants that this intent was not clear in the proposed rule. Therefore, the phrase "involved in a process" is being replaced with the phrase "involved in operating a process" in paragraph (g)(1) of the final rule. This is intended to cover all direct hire employees not involved in maintenance. This paragraph is not intended to be limited to equipment operators. OSHA believes that this change together with other changes made to the training requirements for contractor and maintenance employees (addressed in paragraphs (h) and (j), respectively), will clarify the Agency's intent.

Approach

A few rulemaking participants (e.g., Tr. 1286, 2259, 2268–70, 2409) disagreed with OSHA's performance-oriented approach with respect to training, and contended that the proposed training requirements were inadequate and should be strengthened. For example, a hearing participant from the Laborers' National Health and Safety Fund (Tr. 1286) stated:

> The training required in 119 (g) and (h) suffer from the usual deficient approach that's been taken b[y] OSHA in the past in that form, content, duration, scope, proficiency and competency aspects, among others, are not addressed. This key element in achieving reduced worker and public risk from operations covered by 119, is seriously deficient.

A participant from the Oil, Chemical and Atomic Workers (Tr. 2408–09) testified:

> This standard doesn't propose to do anything. If you examine it closely, it is going to require industry to do no more than it does now, [no] more than it has said it has done over the last 20 and 30 years, and [no] more certainly than we think ought to be done in some of those areas.
>
> When it talks about training, it talks about training for operators. And essentially, when we look at the standard, we think it calls upon industry to do what it has done.
>
> When we looked at training and tried to fashion what the standard meant in terms of training for maintenance, our conclusion was that the standard essentially said, Do what you have done. When we looked at contractors in the one paragraph in the standard that talked about contractors, it essentially said, Do what you have done. And we don't believe that what has been done is enough * * *.

Additionally, a hearing participant from the United Steelworkers of America (USWA, Tr. 2268–69) remarked:

> Although both unions are pleased at OSHA's initial inclination to make training a component of the proposed 1910.119 standard, we find the proposal severely lacking in specific and detailed regulatory language, as well as scope and breadth.
>
> In addition, we find the voluntary and self-regulatory—i.e., strictly performance-based—aspects of OSHA's proposed training

requirements to be insufficient to assure the safety of workers, chemical facilities and their communities.

USWA and the International Chemical Workers Union recommended specific subjects that an effective training program should include, and suggested that a stratified approach to training be used by OSHA in the final rule (Tr. 2270–77). This stratified approach would consist of a minimum number of hours of training for two categories of employees: employees who have the potential to affect imminent danger situations and employees who have the potential to be affected by but not affect any imminent danger situations.

It was suggested that the first category, employees who have the potential to affect imminent danger situations, be separated into two subgroups of employees. The first group would consist of managers and supervisors directly responsible for highly hazardous chemical operations with imminent danger potential. It was suggested that these employees receive a minimum of 80 hours of initial training, and a minimum of 40 hours of refresher training annually, thereafter. The second group would consist of all workers who could, through the course of their production, maintenance or emergency work activities affect highly hazardous chemical imminent danger situations. These workers would include, but not be limited to, chemical and petroleum operators and their assistants, electricians, plumbers, pipefitters, etc. It was recommended that this group of employees receive a minimum of 40 hours of initial training, and a minimum of 40 hours of refresher training annually, thereafter.

It was further suggested that the second category of employees, those who have the potential to be affected by an imminent danger situation, be provided with a minimum of eight hours of training annually.

A few other rulemaking participants (e.g., Ex. 3: 5, 138; Tr. 47) also suggested that OSHA specify a minimum number of training hours in the final rule. However, the vast majority of rulemaking participants supported a performance-oriented approach to training (e.g., Ex. 3: 9, 17, 20, 28, 29; Ex. 138; Tr. 76, 313–14, 388, 674, 1021, 1207, 1318, 1508, 1538, 1596, 1617, 1663, 1815, 2008, 2062, 2158). They asserted that there were several levels of complexity of operations among the various covered processes and experience and skill levels vary widely among employees. As a result, a specified number of training hours might be too little for some employees, and more than is actually needed by other employees.

They contended that the employer should evaluate the complexity of operation, experience, and skill levels of employees. With this information, the employer would be able to determine the content of the training program as well as the amount and frequency of training that would best assure that employees will be able to perform their job tasks in a safe and effective manner. For example, a hearing participant from the Organization Resources Counselors (ORC, Tr. 313–14) testified:

> Choice of the most appropriate means for determining employee comprehension and expertise, however, must be the responsibility of the employer rather than mandated by regulation, as only the employer has the knowledge necessary to do this.
>
> Moreover, the employer is responsible for the safe management of processes involving highly hazardous chemicals and must be free to use whatever method he or she determines will best ensure that employees can and do perform their jobs safely.
>
> ORC also strongly opposes the notion that minimum hours of training must be specified in this standard to ensure that employees receive adequate training. The level and extent of training necessary should be dependent upon the complexity of the operation.

A commenter, who is an independent consultant (Ex. 3: 9, p. 2), remarked:

> As for training, setting a specific time period for the training seems unreasonable. Experienced personnel certainly need far less time than newly hired personnel. Also, the extent of training varies based on the difficulty of the operations being performed. Training is needed for all facilities where hazardous materials are present but, again it is impossible to set a specific single criteria for training covering all situations.

Another commenter from the Gas Processors Association (GPA, Ex. 3: 28, p. 12), stated:

> GPA's position is that OSHA should not specify a minimum amount of training because the training needs vary greatly depending on the size, complexity, and nature of the operation and hazards involved. For example, at a small, simple operation the requirement for 40 hours of initial training may greatly exceed the amount of training necessary to assure that employees are properly and adequately trained for that operation. Other large complex operations could dictate that 40 hours or more of initial training be provided for some employees involved in the operation. In summary, employers should custom design the training program for a location based on that operation's specific requirements. Forty hours of initial training and 8 hours of refresher training for many operations could be unnecessary.

A hearing participant from Manufacturing Technology Strategies (Tr. 1318) said:

> In terms of the amount of training required, we believe that time limits are not appropriate. Once again, it is our belief that the technology determines the extent and complexity of the needed training, and since this technology is highly variable from site to site, it is not possible to say 40 hours is sufficient or that 8 hours once annually would keep the person up to speed.

Additionally, a hearing participant from the Institute of Makers of Explosives (Tr. 1617–18) remarked:

> On training, OSHA should neither specify a minimum number of hours for initial or refresher training, nor should OSHA require any specific method for training validation. The employer can best determine the degree of initial and refresher training needed. The level of training should depend on the complexity of the job, the skill level of the trainee, and the skills needed to safely perform the job. For example, an employee at a chlorine repackaging operation will not need the same amount or level of training as an employee at a chloralkali production facility.

Finally, OSHA's expert witness (Tr. 2007–08) testified:

> In my experience, I have found that the amount of training should depend upon the complexity of the operation and the competence and experience level of the person being trained. A simple reaction using one reactor will require much less operator training than a complex chemical or petrochemical operation.
>
> Therefore, I do not think that there should be a minimal number of hours of training specified in the standard. The training requirements should not be rigid, but should cover the essential parts of the process involved to ensure that employees are competent to perform their duties.

After a careful analysis of the rulemaking record with respect to proposed paragraph (g)(1), OSHA has concluded that a performance-oriented approach to training is appropriate. The Agency believes that employers can determine the amount of training and the content of the training program that best reflects the operation's complexity and the experience and necessary skill level of their employees.

Proposed paragraph (g)(1) has been redesignated as (g)(1)(i) in the final standard and has been revised to read as follows:

> Each employee presently involved in operating a process, and each employee before being involved in operating a newly assigned process, shall be trained in an overview of the process and in the operating procedures as specified in paragraph (f) of this section. The training shall include emphasis on the specific safety and health hazards, emergency operations including

> shutdown, and safe work practices applicable to the employee's job tasks.

Grandfathering

Many rulemaking participants (e.g., Ex. 3: 26, 33, 38; Ex. 138; Ex. 143; Tr. 388, 1022, 1122, 1207, 1818) contended that OSHA should recognize training that employees received prior to the promulgation of this standard. For example, a commenter from Chevron (Ex. 3: 26, p. 7) stated:

> The rule also does not address training received prior to the effective date of the rule. To help alleviate some of the compliance burden placed on employers without compromising the safety of employees, OSHA should include a grandfather clause within the initial training requirement. As long as employees have received training comparable to that required by the standard, the employer should not be required to retrain these employees for the sake of the standard. These employees will still be covered by the refresher and supplemental training requirements of paragraph (g)(2).

A participant from Kodak (Ex. 3: 33A, p. 8–9), said:

> OSHA needs to grandfather initial training requirements for existing employees. It would be an incredible burden to require retraining of all employees, many of whom are experienced with and participated in development of the process and operating procedures.

A commenter from Monsanto (Ex. 143, p.2) asserted:

> Further, performance against established criteria by employees who are already performing these jobs should suffice for validation. These employees should not have to attend a training course on what they are already doing and again demonstrate their proficiency on the job to satisfy training/validation requirements. It will, therefore, be important that OSHA specifically "grandfather" training that has already been accomplished and employees are performing their jobs.

In testimony, a hearing participant from the American Petroleum Institute (API, Tr. 1122) observed:

> API believes that where employers previously have provided initial training that meets OSHA basic requirements, recipients of that training should be grandfathered and not be required to repeat the initial training.

Also, OSHA's expert witness (Tr. 1207) remarked:

> I suggest that training be phased in by grandfathering existing process operators, exempting them from the initial training requirement but making them subject to periodic refresher and supplemental training requirements.

OSHA agrees that previous training should be recognized if the employer certifies in writing that employees have the required knowledge, skills, and abilities to safely carry out their duties and responsibilities, particularly since employees must still be provided with refresher training in accordance with paragraph (g)(2) of this section (discussed below in this preamble).

Therefore, OSHA is adding a new provision, (g)(1)(ii), to the final rule to allow grandfathering of initial training under certain circumstances. The new paragraph reads as follows:

> In lieu of initial training for those employees already involved in operating a process on (Insert effective date of standard), an employer may certify in writing that the employee has the required knowledge, skills, and abilities to safely carry out the duties and responsibilities as specified in the operating procedures.

Proposed paragraph (g)(2) required refresher and supplemental training to be provided to each employee at least annually to assure that the employee understands and adheres to the current operating procedures of the process. Although the need for refresher training was well supported throughout this rulemaking record, some rulemaking participants (e.g., Ex. 3: 5, 26, 27, 30, 33, 38; Tr. 47, 1121, 1814–15, 2273) disagreed with OSHA that refresher training should be provided annually.

Some rulemaking participants contended that annual refresher training may not be necessary for some employees, and that OSHA should use a performance-oriented approach that would permit the employer to determine the appropriate frequency. Other rulemaking participants recommended that refresher training be held at least every three years. Some rulemaking participants asserted that OSHA should specify a minimum number of hours of refresher training, while still other rulemaking participants suggested that OSHA specify a minimum of 40 hours of refresher training annually. For example, a commenter from South Alabama University (Ex. 3: 5) said:

> I believe that employees that deal with hazardous substances should have a minimum of 40 hours training. Refresher training should be the same amount of time.

A hearing participant from the American Petroleum Institute (Tr. 1814–15) testified:

> [R]efresher training should be required every three years, not every year, as proposed by OSHA and be restricted to operators.

A commenter from Dupont (Ex. 120) suggested that this proposed provision be revised to read as follows:

> Refresher and supplemental training shall be provided to each employee to assure that the employee understands and adheres to the current operating procedures. The employer shall, in consultation with employees, prioritize and document refresher and supplemental training frequencies, which are not to exceed three years.

Another commenter, who was from ARCO (Ex. 3: 30A, p.5), remarked:

> Paragraph (g)(2) should be amended to provide refresher and supplemental training on a frequency necessary to assure that the employee understands and adheres to the current operating procedures of the process. The words "at least annually" should be removed.
>
> The key objective of this section is to assure that employees are knowledgeable about the current operating procedures and this should be a performance based requirement.

Also, a commenter from Chevron Corporation (Ex. 3: 26, p.8) stated:

> Item (g)(2) should be modified to require refresher training every three years rather than annually.
>
> Paragraph (1) Management of Change will require ongoing supplemental training for all covered changes.

After analysis of the rulemaking record on this issue, OSHA has concluded that as with the initial training, it would be inappropriate to prescribe a minimum number of hours of refresher training since there is a wide variation in operation complexity, and in the experience and skill levels of employees. The Agency believes that the employer, in consultation with employees, can best determine the appropriate frequency of refresher training.

OSHA believes, however, that the frequency of refresher training should be held at least every three years to assure that employees understand and adhere to current operating procedures.

Additionally, the Agency considers the terms "refresher training" and "supplemental training" to be similar and, consequently, has removed the term "supplemental training" from this provision of the final rule.

Accordingly, proposed paragraph (g)(2) has been revised in the final rule to read as follows:

> Refresher training shall be provided at least every three years, and more often if necessary, to each employee involved in operating a process to assure that the employee understands and adheres to the current operating procedures in the process. The employer, in consultation with the employees involved in operating a process, shall determine the appropriate frequency of refresher training.

Proposed paragraph (g)(3) required the employer to certify that employees had received and successfully completed the required training. It also required the certification to identify the employee, the date of the training, and the signature of the person doing the training.

The purpose of this proposed provision was to assure that employees not only receive training but, also, that they understand and can demonstrate what they have learned in order to perform their job tasks safely. This is especially important where, as here, comprehensive training and the understanding of the training plays such a crucial role in the risk reduction associated with the process safety management rule. OSHA also believed this proposed provision was necessary to serve as a tracking mechanism for the training that employees receive and when employees received the training.

Many rulemaking participants (e.g., Ex. 3: 21, 25, 26, 28, 30, 38; Ex. 134; Ex. 143; Tr. 389, 1022, 2009) were concerned that OSHA might revise this provision in the final rule to specify particular methods to validate that employees understood the training they had received such as written tests, oral examinations, on-the-job demonstrations, etc. It was suggested that some method, or combination of methods, would be appropriate to verify that employees have understood the training, but OSHA should not mandate any specific method of validation.

Based on the rulemaking record, OSHA believes that its performance-oriented approach with respect to the certification of training is appropriate and it recognizes that any one of several methods, or combination of methods, can be effective in verifying that employees understand the training that they have received. Employers are therefore free to devise the method that works best in their establishment to ascertain that employees have understood their training. Consequently, OSHA is not mandating any specific methods of training validation in the final rule.

Several rulemaking participants (e.g., Ex. 3: 28, 29, 33; Tr. 1599, 2158) suggested that OSHA replace the term "certify" with "document" because they believe some form of documentation was important but certification was unnecessary. OSHA agrees that the term "document" is descriptive of the Agency's intent, and has substituted the term "document" for "certify" in this provision of the final rule.

Additionally, the Agency believes that it is important that the training documentation contain the name of the person conducting the training, as opposed to the signature of the person conducting the training as was proposed. OSHA is therefore requiring the trainer name and is eliminating the requirement for a signature. Also this will allow employers to keep training records on computer if they so desire.

Therefore, proposed paragraph (g)(3) has been retitled "Training documentation", and has been revised in the final rule to read as follows:

> The employer shall document that each employee involved in operating a process has received and understood the training required by this paragraph. The employer shall prepare a record which contains the identity of the employee, the date of training, and the means used to verify that the employee understood the training.

Section 304(c)(9) of the Clean Air Act Amendments mandated that this standard contain a provision requiring employers to "train and educate employees and contractors in emergency response in a manner as comprehensive and effective as that required by the regulation promulgated pursuant to section 126(d) of the Superfund Amendments and Reauthorization Act" (SARA). That section of SARA requires that workers receive a specified minimum number of hours of training unless the worker "has received the equivalent of such training."

It is the Agency's position that the training requirements contained in paragraph (g) of the final rule, together with the requirements pertaining to emergency planning and response contained in paragraph (n) of the final rule (particularly the training requirements mandated by § 1910.38(a)), provide "equivalent training" to the training required for emergency response under section 126(d) of SARA. In addition, those employees who would be involved in emergency response must meet the training requirements in § 1910.120, Hazardous Waste Operations and Emergency Response, referenced in paragraph (n) of this final rule, which is directly responsive to section 126(d) of SARA.

Contractors: Paragraph (h)

In this final rule, paragraph (h), contractors, attempts to distinguish between the many types of contract workers who may be present at a job site and indicates the type of contract worker that the special training provisions of the regulation are attempting to cover. Among the many categories of contract labor that may be present at a particular job site, it is important to appreciate the differences among them. For example, contractors may actually operate a facility for an owner (who may own the facility but have little to do with the daily operation). In this case the contractor is the employer responsible for the covered processes and would obviously be treated as the "employer." Some contractors are hired to do a particular aspect of a job because they have a specialized area of expertise of which the host employer has little knowledge or skill (for example, asbestos removal). Other contractors work on site when the operation has need for increased manpower quickly for a short period of time, such as those involved in a turnaround operation. While paragraph (h)(2) sets forth the duties of the host employer to contract employers, the extent and the depth of these duties will depend to some degree on the category of contractor present. For example, should a contract employer provide employees to operate a process, then those employees would obviously have to be trained to the same extent as the directed hire employees "involved in operating a process" under paragraph (g) of the final standard.

Generally speaking, all OSHA standards cover all employees including contract employees. In something of a break with tradition, the process safety management rule has separate provisions covering the training of contract employees. This was done primarily for emphasis since contract employees make up a significant portion of some segment of industries covered by the final rule. This is not to say, however, that paragraph (h) is the only section of the process safety rule that applies to contractors. As already indicated, under appropriate circumstances, all of the provisions of the standard may apply to a contractor (i.e., a contractor operated facility). After all, employees of an independent contractor are still employees in the broadest sense of the word and they and their employers must not only follow the process safety management rule, but they must also take care that they do nothing to endanger the safety of those working nearby who work for another employer. Moreover, the fact that this rule has a separate section that specifically lays out the duty of contractors on the job site does not mean that other OSHA standards, lacking a similar section, do not apply to contract employers.

OSHA has a long history of enforcing OSHA standards on multi-employer worksites. Nothing in this rule changes the position that the Agency has long taken in cases such as Anning-Johnson (4 O.S.H. Cas. (BNA) 1193), Harvey Workover, Inc. (7 O.S.H. Cas. (BNA) 1687) and in its Field Operations Manual (CPL 2.45B CH-1, Chapter V-9). As a general matter each employer is responsible for the health and safety of his/her own employees. However, under certain circumstances an employer may be cited for endangering the safety of another's employees. In determining who to hold responsible, OSHA will look at who created the hazard, who controlled the hazard and whether all reasonable means were taken to deal with the hazard.

OSHA proposed in paragraph (h)(1) that the employer inform contractors performing work on or near a process, of the known potential fire, explosion or toxic release hazards related to the contractor's work and the process; ensure that contractor employees are trained in the work practices necessary to safely perform their job; and inform contractors of any applicable safety rules of the facility. OSHA also proposed in paragraph (h)(2) that the employer explain to contractors the applicable provisions of the emergency action plan. The purpose of these proposed requirements was to assure that contractors are aware of both the hazards associated with the work being performed and the actions to be taken during emergencies. Finally, OSHA proposed paragraph (h)(3) that contract employers assure that their employees follow all applicable work practices and safety rules of the facility.

In Issue 7 in the proposal (55 FR at 29159), OSHA requested comments on the extent and adequacy of contractor training. OSHA also asked if the standard should require contractors to inform the plant employer of the hazards presented by the contractor's work, and whether the contractor should be required to inform the employer of any hazards found during the contractor's work.

OSHA received a significant number of comments regarding the proposed contractor provisions (e.g., Ex. 3: 2, 4, 8, 11, 12, 16A, 17, 20, 25, 26, 29, 30; 32, 33, 37, 38, 39, 41, 43, 44, 45, 48, 59, 62, 66, 69, 70, 72, 80, 81, 88, 91, 95, 96, 99, 101, 104, 106, 108, 109, 112, 113, 115, 119, 120, 122, 123, 124, 127, 129, 130, 134, 150, 151, 152, 155, 156; Ex. 91; Ex. 103; Ex. 115; Ex. 128; Ex. 131; Ex. 133; Ex. 134; Ex. 138; Ex. 146; Tr. 741, 1013–14, 1227, 1538, 2009, 2158, 2365, 2445, 2574, 2655, 2695, 3157, 3442, 3605, 3752). Participants generally supported the inclusion of contractor provisions in the final standard. The Department of Environmental Protection of the State of New Jersey (Ex. 3: 20, p. 3) observed:

> Contractors should be informed about the potential hazards and risk related to the contracted work. Clear communication must take place between the facility and the contractor concerning safety rules, emergency action plan, scope of work and unforeseen hazards found.

Chevron Corporation (Ex. 3: 29, p. 10) remarked:

> Chevron agrees it is appropriate to address contractors in this rule to the extent that the contractors' activities actually bear on process safety.

The Chemical Manufacturers Association (CMA, Ex. 3: 48, p. 15) stated:

> CMA concurs with OSHA's decision to address contractor safety within the context of the proposed process safety management standard. Overall, CMA agrees with OSHA's approach * * *

The National Maintenance Agreements Policy Committee, Inc. (NMAPC, Ex. 3: 151, p. 2) remarked:

> The NMAPC is in full support of OSHA's attempt to increase the level of safety for all workers at hazardous process facilities and to mitigate the potential for catastrophic accidents. There has been some discussion suggesting that outside contractors are of and by themselves a contributing factor to accidents in these facilities. Nothing could be further from the truth.
>
> Unsafe conditions during maintenance operations are not caused by construction techniques, maintenance methods, tools or workers employed by contractors. What is needed is the assurance that proper training and communication is maintained between the owner and the maintenance contractor during maintenance operations.

Many participants criticized the proposed provisions, observing that they could be interpreted to mean that a plant employer would be responsible for training contractor employees, a responsibility they believed properly belongs to the contract employer (e.g., Ex. 3: 4, 8, 11, 16A, 17, 28, 30, 41, 48, 53, 59, 60, 62, 71, 87, 88, 91, 97, 101, 104, 113, 119, 120, 121, 127, 156, 161; Ex. 115; Ex. 127; Tr. 1597, 3510). The Santa Fe Pacific Pipeline, Inc. (Ex. 3: 124) observed that contractors in some cases are larger organizations than the employer and since an employer is paying a contractor as an expert, questioned how an employer could be expected to provide such training.

Other participants believed that the proposed contractor provisions were inadequate and urged OSHA to more thoroughly address contractors in the final standard (e.g., Ex. 3: 131; Tr. 1287, 1812, 2574, 3197, 3240). For example, the Food and Allied Service Trades Department of the AFL–CIO (Ex. 3: 25, p. 7) noted:

> Unfortunately Paragraph (h) perpetuates the dual standard created between regular plant workers and contract employees by this proposed standard. The proposed training programs are far more complete than those for contract workers although both are working at the same worksite, encounter the same dangers and may even be performing similar tasks. The reasons for the disparity in the training requirements are not immediately obvious to us and make little sense. We are unsure why OSHA has opted to establish one set of standards for some workers and a completely different set for others.

Organization Resources Counselors (ORC, Ex. 131, p. 4) stressed:

> As discussed in our earlier comments and testimony, the issue of ensuring that contract personnel are adequately trained and supervised to safely perform work in and around highly hazardous chemical processes is an important one. It has become a highly controversial one as well. A number of commenters representing both labor and industry have questioned the adequacy of the language proposed by OSHA to deal with this issue.
>
> ORC continues to recommend that the proposed standard's provisions for ensuring that contract personnel are adequately trained and supervised to safely conduct their work should be considerably strengthened. Also this section (paragraph (h)) should be organized to clearly delineate areas of site employer and contractor responsibility.

Many participants provided specific suggestions on how to revise the proposed provisions to improve, strengthen and clarify the language. Participants in addition to ORC suggested that the final rule should better delineate the duties and responsibilities of site employers who employ contractors and the duties and responsibilities of contractors who are providing specialized services at an employer's site (e.g., Ex. 3: 48, 106, 109; Ex. 128; Ex. 131; Tr. 2574, 3172, 3240, 3260, 3350, 3605).

On September 24, 1991, OSHA published a notice in the **Federal Register** announcing the availability of a report by the John Gray Institute on contractors and peer review of the report. The public was given an opportunity to comment and reexamine the contractor provisions of the proposed process safety management standard in light of the John Gray Report (56 FR 48133). (See preamble discussion in Part I, Background.) The comment period ended on October 24, 1991, and OSHA received 37 comments in response to the notice.

Generally commenters viewed some of the issues addressed in the John Gray Report (the Report) as important considerations (Ex. 154: 4, 5, 12, 18, 23, 24, 25, 28, 30). However, many commenters expressed their belief that the report should not be used as a basis in the development of the final contractor provisions in the final process safety management standard (e.g., Ex. 154: 4, 5, 7, 10, 12, 14, 15, 20, 23, 24, 30, 33, 34, 36, 37). Commenters

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questioned the credibility of the Report's findings and recommendations and pointed to criticisms leveled at the report by its peer reviewers and the criticisms that resulted from the special evaluation of the final John Gray Report (Ex. 154: 3) conducted for The Business Roundtable by the University of Texas at Austin and Texas A&M University (e.g., Ex. 154: 4, 11, 14, 15, 18, 20, 22, 23, 24, 28, 30, 34, 36, 37, 38). The evaluation concluded (p. 2) that the John Gray Report's "conclusions are based on a highly problematic research design, research methodologies, data, analysis of data, and intepretation of results" and further observed (p.2) that the review teams (one from the University of Texas at Austin and one from Texas A&M University) "are unanimous in concluding that the JGI [John Gray Institute] report should be treated with extreme caution and should not be used as a basis for establishing national policy or industry standards."

Additionally, some commenters observed that the John Gray Report only dealt with the petrochemical industry and that OSHA should not use it to draw conclusions with regard to other industry segments covered by the process safety management standard (Ex. 154: 10, 14, 15).

OSHA has not used the final John Gray Report as a basis for requirements in the development of its final provisions concerning contractors. A review of the comments in the record indicates that significant other information and data is available on which the final contractor provisions can be based. While OSHA has decided not to use the Report as a basis for the final contractor provisions, OSHA believes that the final provisions have benefitted by the additional public input which reconfirms, clarifies and expands on comments and testimony previously received. OSHA believes the safety and health of all employees working in processes involving highly hazardous chemicals will benefit from a safer workforce and a safer workplace.

Despite concerns regarding the John Gray Report, several commenters noted that the Report did address some issues which they agreed with in principle; as a result these commenters suggested additional revisions to further strengthen the contractor provisions in the final standard (e.g., Ex. 154: 7, 13, 19, 20, 24, 25, 27, 36). The Associated Builders and Contractors (Ex. 154: 7, p. 1–2) asserted:

> We urge OSHA to expand and strengthen Subparagraph (h) of the proposed rule to clearly assign responsibility to the plant manager and the contractor with respect to the training and supervision of contract workers.
>
> Subparagraph (h) should specifically state that the contractor is responsible for training and supervising its own employees to ensure that they perform their jobs safely and in accordance with the facility's safety rules. The standard should address safety in the selection of contractors, requiring facility owners to obtain and assess the safety performance records of contractors during a pre-bid, qualification round. Similarly, facility owners should conduct periodic reviews of contractors' safety records throughout the performance of the contract and verify contractors are fulfilling their responsibility to provide appropriate health, safety and craft training.
>
> Safety is a shared responsibility. The facility owner hires the contractor for their expertise and contracts for supervisory personnel, as well as skilled tradesmen. The contractor has been selected for their ability to do the job correctly and safely which requires providing personnel with appropriate craft and safety training for each task. Consequently, the contractor is in the best position to train and supervise its own employees.
>
> Communication between plant management and contractors is essential for a safe workplace. The facility owner must provide the contractor with sufficient information to enable the contractor to educate their employees about existing chemicals, potential hazards and site specific safety and health procedures. The contractor must provide its employees with site specific and task specific safety training. Owners may require the contractor to provide additional training on specified topics, and in some instances, may provide funding for the additional training. The facility owners should monitor the contractor's training of employees and audit the contractor's performance.
>
> ABC supports expansion of Subparagraph (h) to incorporate the assignment of responsibility outlined above to improve health and safety practices and process management.

After carefully considering the record, OSHA believes that the expansion of the proposed contractor provisions is necessary and appropriate.

Accordingly, OSHA has been convinced by participants in the rulemaking to revise, reorganize, and add requirements to the final standard's provisions regarding contractors, final paragraph (h). Before discussing the final contractor provisions, OSHA would like to direct interested persons to final Appendix D, Sources of Further Information, which lists several sources of helpful assistance to employers who use contractors.

First, OSHA has added an application statement, paragraph (h)(1), to clarify which contractors are covered by the standard (e.g., Ex. 3: 26, 29, 33, 48, 62, 69, 70, 80, 95, 99, 106, 113, 130, 134, 151; Ex. 128; Ex. 154: 18, 19; Tr. 2774, 3260, 3350). In the proposal, OSHA intended to cover those contractors whose work brings them into direct contact with, or whose work could affect the hazards of processes covered by the standard. OSHA believes that contractors providing incidental services are adequately covered under the 29 CFR 1910.1200, Hazard Communication standard. Therefore, the final contractor application provision better reflects OSHA's intent regarding which contractors will be covered by the final standard. This paragraph becomes final paragraph (h)(1) and reads as follows:

> (h) *Contractors.* (1) *Application.* This paragraph applies to contractors performing operating duties, maintenance or repair, turnaround, major renovation, or specialty work on or adjacent to a covered process area. It does not apply to contractors providing incidental services which do not influence process safety, such as janitorial work, food and drink services, laundry, delivery or other supply serivces.

At the request of some rulemaking participants (e.g., Ex. 3: 33, 48, 106, 109; Ex. 128; Ex. 131; Tr. 3172, 3240, 3350, 3605, 3731) who believed that the contractor provisions needed to be clarified and better organized in the final rule, OSHA has delineated the responsibilities of employers and contractors. OSHA believes that the delineation will provide clearer and better organized requirements. Accordingly, OSHA has added paragraph (h)(2), employer responsibilities, and paragraph (h)(3), contract employer responsibilities.

The final provisions concerning employer responsibilities read as follows:

> (2) *Employer responsibilities.* (i) The employer, when selecting a contractor, shall obtain and evaluate information regarding the contract employer's safety performance and programs.
>
> (ii) The employer shall inform contract employers of the known potential fire, explosion, or toxic release hazards related to the contractors work and the process.
>
> (iii) The employer shall explain to contract employers the applicable provisions of the emergency action plan required by paragraph (n) of this section.
>
> (iv) The employer shall develop and implement safe work practices consistent with paragraph (f)(4) of this section, to control the entrance, presence and exit of contract employers and contract employees in process areas covered by this section.
>
> (v) The employer shall periodically evaluate the performance of contract employers in fulfilling their obligations as specified in paragraph (h)(3).
>
> (vi) The employer shall maintain a contract employee injury and illness log related to the contractor's work in process areas.

Paragraph (h)(2)(i) of the final standard, requires that an employer, when selecting a contractor, obtain and evaluate information regarding a contractor employer's safety performance and programs. Several commenters noted that this should be an important consideration on the part of an employer when hiring a contractor (e.g., Ex. 115; Ex. 128; Ex. 154: 4, 16A, 18, 19, 20, 23, 24, 25, 30, 31, 35, 36, 38; Tr. 831, 1283, 2034, 2696, 2781, 3525, 3760).

OSHA agrees with these remarks and believes that an employer should be fully informed about a contract employer's safety performance. Therefore the Agency is requiring an evaluation of a contract employer's safety performance (e.g., an employer's experience modification rate) and safety programs. OSHA believes that evaluating safety performance and programs is an important measure in preserving the integrity of processes involving highly hazardous chemicals. OSHA anticipates that the requirement will provide employers an opportunity to assure that they are not introducing additional hazards to their processes; and will give employers an opportunity to request that contract employers improve their safety performance or make other adjustments to their safety programs in order to enhance the safety of all employees working in processes involving highly hazardous chemicals. The final rule, being performance oriented, does not require that employers refrain from using contractors with less than perfect safety records. However, the employer does have the duty to evaluate the contract employer's safety record and safety programs. Where the evaluation indicates some gaps in the contract employer's approach to safety, the employer may need to be more vigilant in the oversight and may need to develop and implement more stringent safe work practices to control the presence of contractors in covered process areas (see (h)(2)(iv)).

Paragraphs (h)(2) (ii) and (iii) of the final standard were contained in the proposed standard. These provisions require the communication of basic process hazard and emergency information to contract employers and have been retained in the final rule.

Paragraph (h)(2)(iv) of the final standard references a new paragraph concerning safe work practices which was added to the final provisions concerning operating procedures (see discussion in paragraph (f), operating procedures). Organization Resources Counselors (ORC, Ex. 131, p.5) observed:

> In the final rule * * * we also recommend that paragraph (h) [Contractors] * * * contain a provision requiring the employer to develop a procedure for controlling access into covered facilities by contractor personnel. This provision cross-references the general requirements already contained in [the safe work practices in paragraph (f)].

ORC noted the objectives of these additional provisions were to insure that those persons operating high hazard processes are cognizant of any nonroutine work that is occurring and to insure that those in responsible control of the facility are also in control of nonroutine work. The Agency strongly agrees that these additional provisions are important in safely controlling activities in covered processes involving highly hazardous chemicals.

In paragraph (h)(2)(v) of the final standard, OSHA is requiring employers to periodically evaluate the performance of contract employers in fulfilling their obligations. Many participants recommended or followed this type of approach (e.g., Ex. 3: 53, 59, 71, 86; Ex. 115; Ex. 128; Ex. 131; Tr. 1624, 2010, 2442, 2714). ARCO Chemical Company (ACC, Ex. 3: 71, p. 23) stated:

> ACC further recommends that OSHA require employers using contractors to verify that all contractor employers have been trained by contractor employers through new requirements * * * These new requirements should stipulate that contractor employers document training of their employees and provide a copy of that documentation to employers for each contractor employees assigned per the contract. This will facilitate a second new requirement for periodic performance assessment that should be placed on employers using contractors to use such documentation for verification purposes. Requiring that a contractor employer document training they provide also holds them accountable, a control measure absent from the proposed rule.

Finally, OSHA has added paragraph (h)(2)(vi) to the final rule which requires a log of injuries and illnesses to be kept by the employer. This was supported by a variety of commenters (e.g., Ex. 3: 39, 86, 106, 152; Ex. 154: 15, 19, 24, 36, 37, 38; Tr. 1227–28, 1283, 1812, 2783, 3319, 3350, 3524, 3617) and many claimed to be doing it already. For example, a participant from Brown and Root Industrial Services (Tr. 3617) responded to a question from an OSHA panel member as follows:

> OSHA Panel Member: You would not be at all opposed to the concept of requiring the site employer to keep track of injuries and incidents on the worksite involving everybody on the worksite. Is that correct?
>
> Response: I support that.

OSHA agrees that an employer should be informed of all of the injuries and illnesses occurring in processes involving highly hazardous chemicals at the plant regardless of whether they be the employer's employees or the contractor's employees.

Paragraph (h)(3) of the final rule delineates the contract employer responsibilities and it includes the following provisions:

> (3) *Contract employer responsibilities.* (i) The contract employer shall assure that each contract employee is trained in the work practices ncessary to safely perform his/her job.
>
> (ii) The contract employer shall assure that each contract employee is instructed in the known potential fire, explosion, or toxic release hazards related to his/her job and the process, and the applicable provisions of the emergency action plan.
>
> (iii) The contract employer shall document that each contract employee has received and understood the training required by this paragraph. The contract employer shall prepare a record which contains the identity of the contract employee, the date of training, and the means used to verify that the employee understood the training.
>
> (iv) The contract employer shall assure that each contract employee follows all applicable work practices and safety rules of the facility including the safe work practices required by paragraph (f)(4) of this section.
>
> (v) The contract employer shall advise the employer of any unique hazards presented by the contract employer's work, or of any hazards found during the contract employer's work.

Paragraphs (h)(3) (i) and (ii) of the final standard were included in the proposal. These provisions require the communication of basic process hazard and emergency information by the contract employer to the contract employees. They have been retained in the final rule.

Paragraph (h)(3)(iii) of the final rule requires the contract employer to document that each contract employee has received and understood required training. Numerous commenters suggested that such a requirement (Ex. 3: 41, 48, 59, 113, 139, 152; Ex. 128; Ex. 154: 15, 16A, 17, 18, 24, 25, 30, 31, 35, 37, 38, Tr. 1620) is necessary to help ascertain that employees have been properly trained.

The requirements in paragraph (h)(3)(iv) of the final standard were also contained in the proposal except for the addition of the requirement pertaining to safe work practices discussed above. It is vitally important that contract employers assure that their employees follow the rules of the facility.

Paragraph (h)(3)(v) was added to the final rule as a result of the request for information in the proposal (55 FR at 29159). OSHA asked if the standard should require contract employers to inform the plant employer of the hazards presented by the contractor's work, and whether the contractor should be required to inform the employer of any hazards found during the contractor's work. Participants supported the inclusion of this requirement (Ex. 3: 28, 41, 48, 53, 70, 71, 97, 106, 112, 113, 115, 120, 123, 146; Ex. 115, Ex. 127; Ex. 128; Tr. 1597, 2010, 2656, 3263, 3450).

Finally, the section 304 requirements of the Clean Air Act Amendments (CAAA) state that the OSHA standard must require employers to:

> (8) Ensure contractors and contract employees are provided appropriate information and training.
>
> (9) Train and educate employees and contractors in emergency response in a manner as comprehensive and effective as that required by the regulation promulgated pursuant to section 126(d) of the Superfund Amendments and Reauthorization Act.

OSHA believes that the contractor provisions contained in the final standard meet the requirements contained in section 304(c) (8) and (9) of the CAAA in a manner as comprehensive and effective as that required by the regulation promulgated pursuant to section 126(d) of the Superfund Amendments and Reauthorization Act for the reasons described in the preamble discussion regarding section 126(d) of the Superfund Amendments in paragraph (g), Training.

Pre-startup Safety Review: Paragraph (i)

Proposed paragraph (i)(1) required the employee to perform a pre-startup safety review for new facilities and for modified facilities when the modification necessitated a change to the process safety information. The purpose of this proposed requirement was to make sure that certain important considerations had been addressed before any highly hazardous chemical was introduced into a process.

Rulemaking participants (e.g., Ex. 3: 17, 28, 59, 62, 128) agreed with the importance of performing a pre-startup safety review to assure that adequate safety measures are in place and are operational. However, a few commenters (e.g., Ex. 3: 45, 71) did not believe it was necessary to require a pre-startup safety review for all modified facilities, particularly when the modifications were minor. These commenters suggested adding the word "significant" to this provision to describe the degree of modification that would necessitate a pre-startup safety review.

It was not the intent of OSHA to require a pre-startup safety review for each facility that may be modified slightly. OSHA believes that a pre-startup safety review is necessary for modified facilities only when the modification is significant enough to require a change in the process safety information. The Agency has made minor editorial changes to this provision in the final rule to clarify its intent.

Proposed paragraph (i)(1) has been revised to read as follows:

> The employer shall perform a pre-startup safety review for new facilities and for modified facilities when the modification is significant enough to require a change in the process safety information.

Paragraph (i)(2) of the proposal required that the pre-startup safety review confirm that construction was in accordance with design specifications, ((i)(2)(i)); safety, operating, maintenance, and emergency procedures were in place and were adequate ((i)(2)(ii)); process hazard analysis recommendations had been addressed and actions necessary for startup had been completed ((i)(2)(iii)); and, operating procedures were in place and training of each operating employee had been completed ((i)(2)(iv)).

OSHA did not receive any negative comments with respect to proposed paragraphs (i)(2)(i) and (i)(2)(ii). Therefore, these two provisions of the final rule remain the same as that which was proposed.

A few commenters (e.g., Ex. 3: 48, 71; Tr. 1933–35) believed that paragraph (i)(2)(iii) of the proposal was unclear and asked whether it implied that a process hazard analysis was required before startup for both new facilities and modified facilities. This was not the intent of OSHA. OSHA wants to assure that a process hazard analysis is performed for new facilities before start-up, and that recommendations resulting from the process hazard analysis have been addressed before startup. The Agency believes that any actions necessary before startup in modified facilities will be addressed by the requirements contained in paragraph (1) of this section pertaining to management of change. Therefore, OSHA has revised paragraph (i)(2)(iii) of the final rule to clarify its intent.

Other commenters (e.g., Ex. 3: 71, 87) asserted that it is not necessary that all recommendations resulting from a process hazard analysis be implemented before startup. OSHA agrees with these commenters. Certainly, all of the recommendations resulting from a process hazard analysis need to be addressed or resolved, but it may not be necessary in every case to complete all of the recommendations prior to startup.

Accordingly, proposed paragraph (i)(2)(iii) has been revised in the final rule to read as follows:

> For new facilities, a process hazard analysis is performed and recommendations have been resolved or implemented before startup; and modified facilities meet the requirements contained in management of change, paragraph (1).

In proposed paragraph (i)(2)(iv) OSHA required that operating procedures be in place prior to the introduction of a highly hazardous chemical to a process. Several commenters (e.g., Ex. 3: 53, 64, 71) noted that proposed paragraph (i)(2)(ii) also required that operating procedures be in place prior to the introduction of a highly hazardous chemical to a process. OSHA agrees that paragraph (i)(2)(ii) of the final rule already requires operating procedures to be in place and, therefore, the redundant reference to operating procedures has not been retained in paragraph (i)(2)(iv) of the final rule.

Mechanical Integrity: Paragraph (j).

Proposed paragraph (j) contained requirements for maintaining the mechanical integrity of process equipment in order to assure that such equipment is designed, installed, and operates properly.

Paragraph (j)(1) of the proposal specified certain process equipment to which the requirements of this paragraph would apply. This equipment included pressure vessels and storage tanks; piping systems (including piping components such as valves); relief and vent systems and devices; emergency shutdown systems; and controls, alarms, and interlocks. The Agency believed that any of this equipment could have a significant impact on the safety of a process that is covered by this standard if the equipment was improperly designed or installed or, if such equipment did not function as intended.

In the proposal OSHA specifically requested information and comments on whether the equipment listed in proposed paragraph (j) included equipment that does not impact the safety of a process, or whether additional equipment should be listed and covered by paragraph (j) (55 FR at 29159).

Several rulemaking participants (e.g., Ex. 3: 39, 41, 53, 71, 76; Ex. 127; Tr. 316, 1023, 1539, 1812) suggested that the Agency define the term "critical," and add this term to describe the process equipment that is to be covered by this paragraph. Some of these rulemaking participants also believed that the employer should be permitted to determine what process equipment should be identified as "critical." For example, a commenter from Chevron Corporation (Ex. 3: 26A, p.12) stated:

> The basic intent of the mechanical integrity provision in the proposed rule is to ensure that highly hazardous chemicals are contained within the process and not released in an uncontrolled manner. To achieve this intent, Chevron believes OSHA should use performance language and require the employer to develop and maintain a list of equipment that the employer has determined to be critical to process safety. This equipment would be subject to the provisions of paragraph (j).

A commenter from the Chemical Manufacturers Association (CMA, Ex. 3: 48, p. 17) asserted:

> Since all process equipment within a plant is not necessarily associated with Appendix A materials or flammable liquids or gases, CMA believes that section (j) should only apply to "Critical Equipment". CMA recommends that section (j) and a definition for critical equipment be reworked to ensure that this section pertains only to "Critical Equipment".
>
> Rather than specify types of equipment as is in (j)(1), OSHA should use a performance oriented approach and require the employer to develop and maintain a list of equipment that has been determined to be critical to process safety. This equipment would be subject to the provisions of paragraph (j).

A hearing participant from the Gas Processors Association (GPA, Tr. 1539) testified:

> GPA recommends that companies be required to define critical equipment at each facility and maintain a current list. GPA does not believe a generic list can be appropriate for all facilities.

Additionally, a commenter from the Chlorine Institute (Ex. 3: 113, p.3) added:

> Instead of listing non specific equipment as is done in paragraph (j), the rule should require that the employer determine which process equipment is critical to prevention of a catastrophic release.

Other rulemaking participants (e.g., Ex. 3: 45, 51, 64, 96) agreed with the approach that the Agency proposed. For example, a commenter from the American Paper Institute (Ex. 3: 45, p.19) stated:

> The list of equipment subject to the mechanical integrity requirements seems appropriate, except API believes that OSHA should add pumps to the list of process equipment.

A commenter from the Northwest Pipeline Corporation (Ex. 3: 96, p.4) said:

> The equipment listed in paragraph (j) impacts the safety of a process and is adequate with respect to process safety at Northwest's facilities that would fall within the scope of the proposed standard.

Another commenter, who is from the Occidental Chemical Corporation (Ex. 3: 70–A, p.8), remarked:

> "Critical" process equipment will vary from process to process. The generic listing in section (j) seems to be complete.

OSHA agrees with those rulemaking participants who believe that the goal of the mechanical integrity provisions is to ensure that highly hazardous chemicals covered by the standard are contained within the process and not released in an uncontrolled manner. The equipment OSHA has listed in proposed paragraph (j)(1) constitutes process equipment that the Agency considers critical in achieving this goal.

OSHA also agrees with those rulemaking participants who stated that process equipment will vary from process to process. This is the reason that the Agency did not propose that the employer determine the equipment "critical" to the process. Equipment considered critical to a process by one employer may not necessarily be considered critical to a different process by another employer. As a result, there could be confusion with respect to which equipment is subject to the requirements contained in paragraph (j).

The Agency believes that there is certain equipment, critical to process safety, that is common to all processes. This is the equipment specified in proposed paragraph (j)(1). It is the position of OSHA that at least the equipment specified in proposed paragraph (j)(1) must be subject to the requirements contained in paragraph (j). However, if an employer deems additional equipment to be critical to a particular process, that employer should consider that equipment to be covered by this paragraph and treat it accordingly.

OSHA also concurs with those rulemaking participants who said that all process equipment within a plant is not necessarily associated with appendix A materials or flammable liquids or gases. Paragraph (j)(1) is intended to cover only that equipment associated with a process that is covered by this standard.

After careful evaluation of the information contained in the record, OSHA believes that it is appropriate for the mechanical integrity requirements in paragraph (j) to apply to the equipment listed in proposed paragraph (j)(1). OSHA is accepting the recommendation of the American Paper Institute (Ex. 3: 45) and the United Steelworkers of America (Tr. 2512) that pumps be added to the list since OSHA agrees that pumps in a covered process could also significantly impact the safety of a process.

Accordingly, Paragraph (j)(1) of the final rule remains the same as that which was proposed except pumps (paragraph (j)(1)(vi) of the final rule) have been added to the list of process equipment that must meet the mechanical integrity requirements contained in paragraph (j).

Paragraph (j)(2) of the proposal pertained to written procedures with respect to mechanical integrity. Proposed paragraph (j)(2)(i), required the employer to establish and implement written procedures to maintain the on-going integrity of listed process equipment. The purpose of this proposed provision was to require a written program that would assure that process equipment receives careful, appropriate, regularly scheduled maintenance to assure its continued safe operation.

The Agency did not receive any comments on this proposed provision and it is contained in the final rule as proposed. However, this provision has been redesignated as paragraph (j)(2) in the final rule instead of paragraph (j)(2)(i), because (as discussed below) the subsequent proposed paragraph concerning training of maintenance employees will be redesignated in the final rule.

Paragraph (j)(2)(ii) of the proposal required the employer to assure that each employee involved in maintaining the on-going integrity of process equipment be trained in the procedures applicable to the employee's job tasks. Several rulemaking participants (e.g., Ex. 3: 17, 33; Tr. 313, 389) were concerned that there might be some confusion with respect to the training requirements contained in paragraph (g), which apply to employees who are involved in operating a process, and the training requirements contained in this provision, which apply to maintenance employees. It was suggested that all training requirements be contained in paragraph (g) or, alternatively, that the Agency clarify that there are separate training requirements for maintenance employees. Other rulemaking participants (e.g., Ex. 3: 17, 53, 71; Tr. 313, 389) suggested that, because of its importance, the training requirement for maintenance employees should be separated from proposed paragraph (j)(2) and given its own heading. For example, a commenter from Organization Resources Counselors, Inc. (Ex. 3: 53, p.14) stated:

> Training is an important issue which warrants special attention. Such attention might be better focused if the requirements in (j)(2)(ii) were separated from the current paragraph (j)(2), identified as (j)(3), and given their own heading * * *.

OSHA believes that this is an excellent suggestion because it will focus more attention on the importance of training of persons involved in maintaining equipment and will better distinguish these training requirements from those contained in paragraph (g).

The Agency was also concerned that there might be some confusion between the training requirements in this mechanical integrity provision, and the training requirements contained in paragraph (g). It is the Agency's position that maintenance employees need not be trained in process operating procedures to the same extent as those employees who are actually involved in operating the process.

However, OSHA believes that maintenance employees must receive on-going training in an overview of the process and its hazards and training in the procedures applicable to their job tasks to assure that they can perform their tasks in a safe manner. Without continual attention to training needs due to process changes and other changes, little assurance will exist that maintenance employees will perform their tasks safely.

OSHA believes that assigning this paragraph its own heading will focus more attention on the training requirements contained in this provision, and will help to clarify the distinction between the training requirements pertinent to mechanical integrity and the training requirements pertinent to employees involved in operating a process.

The Agency also believes that it is necessary to revise this proposed paragraph to better describe its intent regarding the training of maintenance employees.

Consequently, this proposed provision has been redesignated as paragraph (j)(3), assigned the title of "Training for process maintenance activities", and has been revised to read as follows:

> The employer shall train each employee involved in maintaining the on-going integrity of process equipment in an overview of that process and its hazards and in the procedures applicable to the employee's job tasks to assure that the employee can perform the job tasks in a safe manner.

Paragraph (j)(3)(i) of the proposal required inspections and tests to be performed on specified process equipment because of the potential safety and health hazards that could result if the equipment malfunctioned.

The Agency did not receive any comments on this particular provision, and it is contained in the final rule as proposed. However, it has been redesignated as (j)(4)(i) in the final rule instead of (j)(3)(i) as proposed.

In an effort to assure that inspections and tests are performed properly, proposed paragraph (j)(3)(ii) required that inspection and test procedures follow applicable codes and standards. Paragraph (j)(3)(ii) also contained examples of codes and standards that an employer could use to comply with this proposed provision.

Many rulemaking participants disagreed with this proposed provision (e.g., Ex. 3: 12, 53, 64, 87, 97, 121; Tr. 722–23, 796–97, 2177). Some commenters were concerned that the Agency would incorporate by reference all of the codes applicable to testing and inspection such as those published by the National Fire Protection Association (NFPA), the American Society for Testing and Materials (ASTM), the American National Standards Institute (ANSI), etc. These commenters asserted that it would be difficult for an employer to obtain all such standards and decide which standards the Agency intended for them to use. They also stated that some of the standards may conflict with each other.

Other commenters were concerned that some of the standards may be outdated and no longer applicable to their process equipment. As a result, many of these commenters suggested that the employer be permitted to use their own internal standards, or that inspection and testing procedures follow recognized and generally accepted good engineering practices. For example, a commenter from the ARCO Chemical Company (ACC, Ex. 3: 71, p.26) remarked:

> Subparagraphs (j)(3)(ii) and (j)(3)(iii) require equipment testing and inspection per "applicable" codes and standards "where they exist." Since some of these standards may be outdated and no longer represent a consensus of "good engineering practices", OSHA should provide employers the option of using internal engineering standards and practices, or practices recommended by equipment manufacturers.
>
> Further, as stated previously in ACC comments, such standards and guidelines often represent the minimum (least common denominator) agreed to by the participants in the organization specifying the performance requirements. Consequently, OSHA should also allow employers the option of using more demanding internal standards as the source of primary requirements.

A commenter from MARS Incorporated (Ex. 3: 87, p.2) added:

> A second overall concern is our strong objection to what appears to be an attempt to incorporate by reference into the Standard—binding legal requirements—all relevant codes and standards issued by the American Society of Mechanical Engineers, the American National Standards Institute, the American Society of Testing and Materials and the National Fire Protection Association.

A commenter from Union Carbide (Ex. 3: 112, p.21) stated:

> These sections, which pertain to compliance with applicable codes and standards for equipment testing and inspection, are very restrictive.
>
> We suggest that this section be modified to provide employers the latitude to use internal engineering standards and practices and standards and practices recommended by equipment manufacturers, for compliance with this section.

Additionally, a commenter from the American Iron and Steel Institute (Ex. 3: 161, p.22) said:

> Paragraph (j)(3) is unclear. It should be revised to specify that inspections and tests shall be performed on process equipment "in accordance with applicable codes, standards, or recognized and generally accepted engineering practice."

The codes and standards contained in proposed paragraph (j)(3)(ii) were examples of what the employer could use for inspection and testing of process equipment. The Agency did not intend to incorporate by reference into the standard all of the codes and standards published by these consensus groups. As noted above, the purpose of this proposed provision is to make sure that process equipment is inspected and tested properly, and that the inspections and tests are performed in accordance with appropriate codes and standards. The phrase suggested by rulemaking participants: "recognized and generally accepted good engineering practices" is consistent with OSHA's intent. The Agency also believes that this recommended phrase would include appropriate internal standards of a facility, as well as codes and standards published by NFPA, ASTM, ANSI, NFPA, etc.

Accordingly, proposed paragraph (j)(3)(ii) has been redesignated as paragraph (j)(4)(ii) in the final rule, and has been revised to read as follows:

> Inspection and testing procedures shall follow recognized and generally accepted good engineering practices.

Paragraph (j)(3)(iii) of the proposal required the frequency of inspections and tests to be consistent with applicable codes and standards; or, more frequently if determined necessary by prior operating experience. This proposed provision was a performance-oriented requirement that would provide flexibility for the employer to choose the frequency which would provide the best assurance of equipment integrity.

Several rulemaking participants (e.g., Ex. 3: 12, 53, 97, 161) suggested that if this provision is to be truly performance-oriented, employers should have the flexibility to follow internal standards and manufacturers' recommendations as well as applicable codes and standards.

OSHA agrees with these rulemaking participants. Since the phrase "recognized and generally accepted good engineering practices" would include both appropriate internal standards and applicable codes and standards, the Agency has decided to use this phrase in this provision of the final rule.

Accordingly, proposed paragraph (j)(3)(iii) has been redesignated as paragraph (j)(4)(iii) in the final rule, and has been revised to read as follows:

> The frequency of inspections and tests of process equipment shall be consistent with applicable manufacturers' recommendations and good engineering practices, and more frequently if determined to be necessary by prior operating experience.

Proposed paragraph (j)(3)(iv) required the employer to have a certification record that each inspection and test had been performed in accordance with paragraph (j). It also required that the certification identify the date of the inspection; the name of the person who performed the inspection and test; and, the serial number or other identifier of the equipment.

Several rulemaking participants (e.g., Ex. 3: 33, 39, 71, 101) disagreed with the use of the term "certification" because they believed that the term "certification" could be misinterpreted to mean an assurance by a third party. These rulemaking participants suggested that "documentation" would be a better term. For example, a commenter from Monsanto (Ex. 3: 64, p. 9) stated:

> In paragraph (j)(3)(iv), Monsanto recommends that the requirement for certification be deleted. The tests and inspections should be documented but certification, which implies a signature, should not be required. Electronic storage of the documentation is necessary and certification prohibits that or requires parallel hard copy be maintained in the files which is unnecessary.

A commenter from IMCERA (Ex. 3: 158, p. 6) remarked:

> IMCERA feels that the word "certification" should be replaced with "documentation." * * * Certification is commonly used in connection with validation by an outside professional body. We believe that the word "documentation" would better serve in this statement and avoid unnecessary confusion.

OSHA agrees that the word "documentation" (or "document") is descriptive of the Agency's intention with respect to this information.

Additionally, since OSHA is permitting inspection and test procedures to follow recognized and generally accepted good engineering practices, the Agency believes that different information than that proposed should be included in the record to identify the inspections and tests that were performed, and the results of those tests and inspections.

Therefore, proposed paragraph (j)(3)(iv) has been redesignated as paragraph (j)(4)(iv) in the final rule, and has been revised to read as follows:

> The employer shall document each inspection and test that has been performed on process equipment. The documentation shall identify the date of the inspection or test; the name of the person who performed the inspection or test; the serial number or other identifier of the equipment; the inspection or test that is performed; and, the results of the inspection or test.

Proposed paragraph (j)(4) required the employer to correct deficiencies in equipment which are outside acceptable limits before further use. OSHA received some excellent comments on this proposed provision. While most rulemaking participants agreed with the concept that equipment deficiencies must be corrected, several commenters (e.g., Ex. 3: 26, 39, 53, 64, 161) disagreed that the deficiencies must be corrected "before further use." It was contended that the phrase "before further use" would mean that the process would have to be shutdown, and that shutdown has its own inherent hazards. It was suggested that equipment operating beyond acceptable limits does not *always* create a serious hazard. Participants asserted that deficiencies might need to be corrected promptly, or in a time and manner to assure safe operation instead. As an example, a commenter from Allied Signal (Ex. 3: 17, p. 13) said:

> We recommend that the words "before further use" be deleted from paragraph (j)(4), and that the paragraph be rewritten to read:
>
> "The employer shall promptly correct deficiencies in equipment which are outside acceptable limits." The rationale for this change is that it is not always possible to correct a deficiency before further use, particularly with continuous process units. Moreover, immediate or rushed shut-downs can introduce risks that could otherwise be avoided.

A commenter from the Chevron Corporation (Ex. 3: 26, p. 12) remarked:

> Under (j)(4) the OSHA-proposed language seems to require that when deficiencies are found, the process must be shut down before further use. But not all deficiencies result in an unsafe condition. Chevron therefore recommends the following for (j)(4):
>
> "The employer shall correct deficiencies in critical equipment which are outside acceptable limits, before further use or in a time and manner to ensure safe operation."

Another commenter, who was from the ARCO Chemical Company (ACC, Ex. 3: 71, p. 26–27), stated:

> ACC recommends that OSHA revise the (text) * * * to read as follows:
>
> "The employer shall promptly correct deficiencies in critical equipment so that critical equipment is within safe and acceptable limits, which are included in the process safety information required by paragraph (d)".
>
> This language would tie this section into the requirements of subparagraph (d)(3) which pertains to information covering the critical equipment in a process subject to the proposed rule.
>
> This language has also substituted the word "promptly" for the phrase "before further use". This change is suggested to allow employers the decision-making responsibility for determining whether to continue to operate, to shut down, to isolate equipment, etc. Immediate actions can introduce increased process risks that could otherwise be avoided.

Additionally, a commenter from the AMOCO Corporation (Ex. 3: 95, p. 8) stated:

> In refining processes, there are occasionally instances when a piece of equipment exceeds what is deemed "acceptable", and interim measures are taken to bring the equipment back into conformance with safe operating parameters. Under (j)(4) it would be mandatory to immediately shut down the entire process upon discovery of such a situation. Shutdowns and startups are inherently dangerous operations which we try to avoid unless absolutely necessary. In addition, the life expectancy of certain components is directly affected by the number of cycles to which they are subjected. We feel that safety is promoted rather than diminished by keeping shutdowns to a minimum. We therefore propose that the phrase "before further use" be replaced with "in a safe and timely manner".

The purpose of this proposed requirement was to require equipment deficiencies to be corrected promptly if the equipment was outside the acceptable limits specified in the process safety information. The comments have convinced OSHA that there may be many situations where it may not be necessary that the deficiencies be corrected "before further use" as long as the deficiencies are corrected in a safe and timely manner when necessary means are taken to assure safe operation.

Consequently, proposed paragraph (j)(4) has been redesignated as paragraph (j)(5) in the final rule, and has been revised to read as follows:

> The employer shall correct deficiencies in equipment that are outside the acceptable limits defined by the process safety information in paragraph (d) before further use, or in a safe and timely manner when necessary means are taken to assure safe operation.

Paragraph (j)(5) of the proposal pertained to quality assurance of mechanical equipment. Proposed paragraph (j)(5)(i) required the employer to assure that equipment as fabricated meets design specifications. Some rulemaking participants (e.g., Ex. 3: 53, 59, 71; Tr. 1124) suggested that this proposed paragraph be clarified as it relates to the construction of new plants and equipment. The Agency agrees with these rulemaking participants since this was the actual intent of this proposed provision.

Another commenter (Ex. 3: 28) asserted that employers cannot be held accountable for the design specifications of the original equipment manufacturer, and suggested that the phrase, "meets design specifications" be replaced with the phrase, "is suitable for the process application." The Agency believes that the suggested change better describes the purpose of this proposed provision.

Accordingly, proposed paragraph (j)(5)(i) has been redesignated as paragraph (j)(6)(i) in the final rule, and has been revised to read as follows:

> In the construction of new plants and equipment, the employer shall assure that equipment as it is fabricated is suitable for the process application for which it will be used.

Proposed paragraph (j)(5)(ii) required appropriate checks and inspections to be performed as necessary to assure that equipment is installed properly and consistent with design specifications and manufacturer's instructions. The Agency did not receive any negative comments on this proposed provision and it is contained in the final rule unchanged. However, it has been redesignated as paragraph (j)(6)(ii) in the final rule.

Proposed paragraph (j)(5)(iii) required the employer to assure that maintenance materials, and spare parts and equipment, meet design specifications. Some commenters (e.g., Ex. 3: 28, 127, 158) expressed concerns with the phrase, "meet design specifications" similar to the concerns discussed above regarding paragraph (j)(6)(i) of the final rule. To clarify the Agency's intent and in order to be consistent with paragraph (j)(6)(i) of the final rule, the proposed paragraph, which becomes final paragraph (j)(6)(iii), has been revised to read as follows:

> The employer shall assure that maintenance materials, and spare parts and equipment are suitable for the process application for which they will be used.

Hot Work Permit: Paragraph (k)

In proposed paragraph (k)(1), OSHA required the employer to issue a permit for all hot work operations. The purpose of this proposed provision was to assure that the employer was aware of the hot work being performed, and that appropriate safety precautions had been taken prior to beginning the work.

The Agency did propose certain exceptions to this provision which included the following: Where the employer or the employer's representative, designated as responsible for authorizing hot work operations, is present while the hot work is being performed; and in welding shops authorized by the employer.

While a few rulemaking participants agreed with the Agency's approach (e.g., Ex. 3: 62, 162), many rulemaking participants (e.g., Ex. 3: 38, 53, 59, 71, 121, 153; Tr. 312–13) opposed the exceptions to this proposed provision. For example, a commenter from the Food and Allied Service Trades, AFL–CIO (Ex. 3: 25, p. 9) stated:

> The first exception would forego the issuance of a permit if the employer or employer's representative is present during the work. We feel that this exception is unfounded and should be deleted from the rule.
>
> Permits are required as a means of requiring employers to reexamine any and all processes for potential dangers. We feel that this analysis should take place for all hot work that may be necessary.

A commenter from Hoechst Celanese (Ex. 3: 76, p.3) said:

> The exception to hot work permits provided for in paragraph (k)(1) is not appropriate. Strict adherence to established hazardous work permitting procedures must be maintained to assure safe work activity.

Another commenter, who was from MARS Incorporated (Ex. 3: 87, p.15), remarked:

> The proposed standard requires that a hot work permit be required except where the person responsible for the permit is present. We are opposed to such an exemption and to any system that authorizes "general" hot work permits. The purpose of the permit system is not only to assure that the appropriate personnel are notified of the work. It is also to remind the person performing the work of the steps necessary to perform the job safely. Merely having the authorizing person present does not assure that all the proper steps are followed. The only way to do this is to require a permit which follows a systematic approach to granting the authority to do the work.
>
> The second exception given is for hot work in welding shops. Unless the welding shop is located in the process area, it is not clear that such a location would be covered by the proposed Standard.

A hearing participant from Organization Resources Counselors, Inc. (ORC, Tr. 312–13) testified:

> In the proposal, OSHA has addressed the issue of hot work, but ORC strongly disagrees with the proposal to exempt from hot work permitting procedures those cases where "the employer or his representative designated as responsible for authorizing hot work operations is present while the work is being performed."
>
> Hot work permits and procedures should be followed regardless of who is present. Consistent use of effective safety procedures is an important step in preventing incidents which can result in catastrophic releases, fires, and explosions.

Additionally, a commenter from Vulcan Chemicals (Ex. 3: 101A, p.4) stated:

> Vulcan Chemicals disagrees with the exceptions for performing hot work in paragraph (k). There should not be an exception to the hot work requirements because of the presence of an individual authorizing the work.

OSHA agrees with the commenters that the permit reminds the person performing the work of the steps necessary to perform the work safely; and if the hot work is performed on or near a covered process, then a permit should be required regardless of who is present. Additionally, this proposed provision would not require a permit for hot work operations in a welding shop unless the welding shop was located in a process area covered by the standard. OSHA believes that such a location would not exist. Consequently, the Agency has concluded that the proposed exceptions to this hot work provision are not appropriate, and the exceptions have not been retained in the final rule.

Therefore, paragraph (k)(1) of the final rule has been revised to read as follows:

> The employer shall issue a hot work permit for hot work operations conducted on or near a covered process.

Proposed paragraph (k)(2) required the permit to certify that the fire prevention and protection requirements contained in 29 CFR 1910.252(a) had been implemented prior to beginning the hot work operations; indicate the date authorized for the hot work; and identify the equipment or facility on which the hot work was to be performed. It also required the permit to be kept on file until completion of the hot work.

Most rulemaking participants supported this proposed provision. However, one commenter (Ex. 3: 53) suggested that the Agency not address the contents of the permit. The Agency disagrees with this suggestion because it believes that it is important that employers are informed of what the Agency expects the permit to contain.

Another commenter (Ex. 3: 158) suggested that the word "certify" be replaced with the word "document." The Agency is accepting this suggestion because it believes that the word "document" is descriptive of the intent of this proposed provision and is consistent with other changes made elsewhere in the final rule.

Accordingly, paragraph (k)(2) of the final rule remains the same as that which was proposed except for minor editorial changes which were made to clarify the intent of the requirement.

Management of Change: Paragraph (1)

OSHA believes that one of the most important and necessary aspects of a process safety management program is appropriately managing changes to the process. This is because many of the incidents that the Agency has reviewed resulted from some type of change to the process (e.g., the Flixborough incident).

Proposed paragraph (1) addresses management of change. While the Agency received some excellent suggestions concerning minor changes to improve this proposed provision, there was wide support for including a provision concerning the management of change in the final rule (e.g., Ex. 3: 41, 48, 62, 69, 71, 95, 101).

OSHA believes that it is necessary to thoroughly evaluate any contemplated changes to a process to assess the potential impact on the safety and health of employees and to determine what modifications to operating procedures may be necessary.

Proposed paragraph (l)(1) required the employer to establish and implement written procedures to manage changes (except for "replacement in kind") to process chemicals, technology, and equipment; and changes to facilities.

A few rulemaking participants suggested that the Agency define the term, "replacement in kind." For example, a commenter from Johnson Wax (Ex. 3: 12, p.22) remarked:

> Under this rule, "replacements in kind" were exempted from the management of change requirements. While this term was offset by quotations to denote a specific definition, there was no definition in the rule itself.
>
> Since OSHA apparently has a specific situation in mind for using this term, it should be explainable. If this is the case, we suggest that OSHA define this term in this part.

A commenter from the EXXON Company, U.S.A., (EUSA, Ex. 3: 39, p.4) stated:

> [S]ubparagraph (1)(1) excludes "replacement in kind" from requirements of that paragraph. This term needs to be defined to avoid misunderstandings, e.g., it does not mean replacement with the same brand and model number. EUSA recommends:
>
> "Replacement in kind means a replacement which satisfies the design specifications".

OSHA agrees that this term should be defined and has included a definition for "replacement in kind" in paragraph (b) of the final rule.

Another commenter, who was from Air Products and Chemicals (Ex. 3: 84, p.3), said:

> In Section (1) "Management of Change", the definition in subparagraph (1) is directed to physical changes only. It should be broadened to include changes in procedures. If a modification to the operating procedure is being recommended, it should undergo the same scrutiny as a piping change or other physical change.

The Agency agrees with this suggestion. OSHA believed that this intent was addressed in proposed paragraph (1)(2)(iii) and (1)(5). However, in order to resolve any ambiguity, the Agency is adding the word "procedures" to paragraph (1)(1) of the final rule.

Other rulemaking participants recommended that the phrase "changes to facilities" be replaced by the phrase "changes to facilities that affect a process." For example, a commenter from Amoco Corporation (Ex. 3: 95, p.8) stated:

> Amoco endorses the management of change provisions at paragraph (1), with the provision that under (1)(1) "* * * changes to facilities" be limited to * * * "changes to facilities which affect a process", in order to exclude incidental changes which have no bearing on safety.

A commenter from the American Iron and Steel Institute (Ex. 3: 161, p.23) remarked:

> Subsection (1) should be modified to make clear that it applies only to those changes which may affect process safety. For example, as currently defined, "facility" means the "buildings, containers, or equipment which contain a process". In the steel industry, the building containing a process may be quite large, and many changes could conceivably be made to the structure itself which would have no impact on the safety of the process contained within the building. We do not understand OSHA to intend that such a change would be subject to the requirements of subsection (1). This point should be made clear in the final rule.

Again, it was the intent of the Agency that the phrase "changes to facilities" would mean only those facilities that would have an impact on a process covered by the proposed standard. To clarify its intent, the Agency has revised paragraph (1)(1) of the final rule to read, "changes to facilities that affect a covered process."

Consequently, proposed paragraph (1)(1) has been revised in the final rule to read as follows:

> The employer shall establish and implement written procedures to manage changes (except for "replacement in kind") to process chemicals, technology, equipment, and procedures; and, changes to facilities that affect a covered process.

Proposed paragraph (1)(2) contained several considerations that must be addressed prior to any change. OSHA did not receive any comments with respect to this proposed provision and it is contained in the final rule as proposed, except for a minor editorial change.

Proposed paragraph (1)(3) required that employees involved in the process be informed of and trained in the change in the process as early as practicable prior to its implementation. Some rulemaking participants (e.g., Ex. 3: 26, 69, 91, 101, 121) suggested that this proposed provision be revised to clarify that the Agency intended the phrase "employees involved in the process" to mean only operating employees. They asserted that this change would make it clear that the proposed provision did not apply to maintenance or contract workers. These commenters misinterpreted the Agency's intent. OSHA believes that all employees whose job tasks will be impacted by a change must be informed of and trained in those changes with respect to what affect such changes will have on their job tasks. Otherwise, contract employees or maintenance employees who are unaware of the change, may unwittingly cause an incident by doing their job tasks as they have in the past. OSHA believes this training requirement to be important for maintenance and contract employees as well as those employees involved in operating a process.

The Agency has revised this provision in the final rule to clarify that this information and training provision applies to operating employees as well as to maintenance and contract employees whose job tasks will be affected by the change.

Other rulemaking participants (e.g., Ex. 3: 26, 56, 59; Tr. 2015) recommended that the phrase "prior to its implementation" be changed to "prior to start-up" to eliminate a possible misinterpretation of meaning before the change is made. OSHA agrees that the requirements contained in this provision must be completed before start-up and not necessarily before implementation of the change.

Accordingly, proposed paragraph (1)(3) has been revised in the final rule to read as follows:

> Employees involved in operating a process and maintenance and contract employees

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> whose job tasks will be affected by a change in the process shall be informed of, and trained in, the change prior to start-up of the process or the affected part of the process.

Paragraph (1)(4) of the proposal required that if a change covered by this paragraph results in a change to the process safety information, that such information be appended and/or updated in accordance with paragraph (d) of this section. The Agency did not receive any comments on this proposed provision. It is, therefore, contained in the final rule as proposed, except for minor editorial changes that were made to eliminate unnecessary words.

Proposed paragraph (1)(5) required that if a change covered by this paragraph results in a change to the operating procedures, such procedures shall be appended and/or updated in accordance with paragraph (f) of this section. Again OSHA did not receive any comments on this proposed provision and it is contained in the final rule as proposed except for minor editorial changes that were made to eliminate unnecessary words.

Incident Investigation: Paragraph (m)

OSHA included requirements for incident investigation in the proposal because a crucial part of any process safety management program is the thorough investigation of any incident that resulted in, or could reasonably have resulted in a catastrophic release of a highly hazardous chemical in the workplace. Such investigations are extremely important for identifying the chain of events leading to the incident and for determining causal factors. Information resulting from the investigation will be invaluable to the development and implementation of corrective measures and for use in subsequent process hazard analyses.

Proposed paragraph (m)(1) required the employer to investigate every incident which results in, or could reasonably have resulted in (near miss), a major accident in the workplace. This proposed provision received wide support throughout the rulemaking proceeding, although several rulemaking participants (e.g., Ex. 3: 12, 26, 69, 112, 121, 149, 158; Ex. 91; Tr. 678, 1938) were opposed to the use of the term "major accident." These commenters contended that if this term is to be used, then OSHA should define "major." Other rulemaking participants (e.g., Ex. 3: 17, 53, 64, 71; Tr. 1575) suggested that the term "major accident" be replaced with the term "catastrophic release" and then "catastrophic release" should be defined. OSHA agrees that the applicability of this proposed provision should be better defined. The Agency has decided to replace the term "major accident" with the term "catastrophic release" since this term is more consistent with the focus of the final rule and as discussed has added a definition for "catastrophic release" to paragraph (b) of the final rule.

Consequently, proposed paragraph (m)(1) has been revised in the final rule to read as follows:

> The employer shall investigate each incident which resulted in, or could reasonably have resulted in a catastrophic release of a highly hazardous chemical in the workplace.

Proposed paragraph (m)(2) required incident investigations to be initiated as promptly as possible, but no later than 48 hours following the incident. It is important that an incident investigation be initiated promptly so that events can be recounted as clearly as possible; to preserve crucial evidence; and so that there is less likelihood that the scene will have been disturbed. The Agency also realizes that circumstances may not facilitate an immediate investigation because of the potential emergency nature of some incidents. This is the reason that this proposed provision required investigations to be initiated as promptly as possible, "but not later than 48 hours following the incident."

A few rulemaking participants disagreed with the 48 hour requirement contained in this proposed provision, and suggested several alternatives. For example, a commenter from the National Solid Waste Management Association (Ex. 3: 57, p.8) remarked:

> By "incident", NSWMA assumes that OSHA is referring to a release of a HHC. The NSWMA is opposed to the subjectivity introduced to this requirement by the word "could." In fact, all unintentional or unauthorized releases should be investigated. As weekends and holidays may interfere with the 48-hour deadline to initiate investigations, NSWMA recommends that the time frame be extended to 72 hours.

A commenter from Monsanto (Ex. 3: 64, p. 10) said:

> Paragraph (m)(2) requires that an incident investigation begin no later than 48 hours following the incident. This is acceptable for incidents involving a fatality, multiple injuries or catastrophic releases. However, this is an unnecessarily stringent time requirement when investigating near-miss incidents [required in paragraph (m)(1)]. Frequently, such near-miss accidents are not recognized for their potential impact until more than 48 hours following the event. It is recommended that paragraph (m)(2) be changed to read:
>
> "Incident investigations for catastrophic releases in the workplace shall be initiated as promptly as possible, but no later than 48 hours following the incident." This wording eliminates the 48 hour requirement for incidents which could have but did not result in a major accident, i.e., near misses.

Also, a commenter from IMCERA (Ex. 3:158, p. 6–7) stated:

> Should a potentially serious incident occur the employer would immediately conduct an investigation to determine cause and corrective action. This is just good safety and business practices. Rather than establish time frames i.e., 48 hours, IMCERA would prefer to see this section be reworded as follows:
>
> Incident investigations shall be initiated as promptly as possible and completed in a timely manner.

As discussed previously, OSHA believes that it is necessary to initiate investigations as soon as possible after the incident and sees no reasonable basis for relating the time period to initiate the investigation to whether the incident was a fatality or a near miss. Although the Agency understands the concerns of these rulemaking participants, the Agency believes that the provision allows enough flexibility to the employer by requiring an incident investigation be initiated as soon as possible but not later than 48 hours following the incident. OSHA believes that 48 hours is a reasonable timeframe within which to initiate an investigation. Accordingly, proposed paragraph (m)(2) is contained in the final rule as proposed. It should also be noted that the investigation need only be initiated within this timeframe, not completed, although it is contemplated that there will not be unnecessary delay between initiation and completion of the incident investigation.

Paragraph (m)(3) of the proposal required an incident investigation team to be established and to consist of persons knowledgeable in the process involved and other appropriate specialties, as necessary.

While some rulemaking participants (e.g., Ex. 114; Tr. 2257) recommends that OSHA mandate that an employee representative be on the investigation team, most rulemaking participants (e.g., Ex. 3: 57, 108, 161; Ex. 101; Tr. 316, 678, 742, 1813) supported the performance-oriented approach of this proposed provision. These rulemaking participants asserted that the employer should be responsible for determining the composition of the team, and that the determination should be based on the ability of the team members to perform the investigation properly. Additionally, they stated that an employee representative may very well be selected to participate in the investigation; but, this should not be mandated by OSHA. OSHA is not requiring an employee representative on the process hazard analysis team or on the incident investigation team. This issue has already been addressed in the discussion concerning final paragraph (c), employee participation.

The intent of OSHA is to assure that team members have the ability to properly perform the investigation promptly and that the employer have the flexibility to select team members (in consultation with employees and their representatives as described in paragraph (c)) that possess this ability. The Agency believes that this proposed paragraph adequately reflects this intent.

Additionally, the Agency believes that in cases where an incident involved a contract employer's work, then a contract employee should be involved in the investigation. Therefore, proposed paragraph (m)(3) has been revised to read as follows:

> An incident investigation team shall be established and consist of at least one person knowledgeable in the process involved, including a contract employee if the incident involved work of the contractor, and other persons with appropriate knowledge and experience to thoroughly investigate and analyze the incident.

Proposed paragraph (m)(4) required a report to be prepared at the conclusion of the investigation which included, at a minimum, the date of the incident; date that the investigation began; a description of the incident; the factors that contributed to the incident; and, any recommendations resulting from the investigation.

A very small number of rule making participants (e.g., Ex. 3: 58, 64) contended that there was no benefit in specifying the date the investigation began. OSHA disagrees. The Agency wants to make sure that the investigation is initiated promptly. Consequently, it is important that the date of the incident, as well as the date that the investigation was initiated, are both specified.

OSHA did not receive any other negative comments with respect to the contents of the report specified by this proposed provision. Accordingly, proposed paragraph (m)(4) is included in the final rule as proposed.

Proposed paragraph (m)(5) required that the report be reviewed with all operating, maintenance, and other personnel whose work assignments are within the facility where the incident occurred. The purpose of this proposed provision is to assure that the report findings are disseminated to appropriate personnel, because the information contained in the report might be important in preventing similar incidents.

There was wide support for requiring dissemination of the information contained in the report to appropriate personnel. However, several rulemaking participants (e.g., Ex. 3: 57, 112, 121, 161) suggested changes to this proposed provision to better identify to whom this information should be disseminated. For example, a commenter for Kodak (Ex. 3: 33, p. 14) remarked:

> OSHA should understand that there are large facilities, some number in the thousands of employees, where employees of various disciplines have no need to interact with one another. Most employees at these large facilities have no work relationship to other process activities outside their own work area and consequently have no need to be informed of information regarding a process or investigation they have no commitment to or responsibility for. We therefore, recommend the following statement for (m)(5):
>
> "The report shall be reviewed with all appropriate personnel."

A commenter from CIBA–GEIGY (Ex. 3: 56, p. 2–3) said:

> CIBA-GEIGY agrees that an incident which occurs in an operator's work area should be reviewed with all affected operators. However, this provision as specified by OSHA defines those operators which are affected, and this definition will not always be correct.
>
> CIBA-GEIGY, therefore, recommends that the language be amended to read that the accident will be reviewed with those personnel who are directly involved with the operations in which the accident occurred.

Another commenter, who was from the ARCO Chemical Company (Ex. 3: 71, p. 31) asked OSHA to consider the following language:

> The report shall be reviewed with all affected operating personnel who have a need to know and/or whose job tasks are relevant to the incident findings.

Additionally, a commenter from Vulcan Chemicals (Ex. 3: 101A, p. 5) stated:

> Vulcan Chemicals recommends that this wording be changed to read:
>
> The report shall be reviewed with all affected personnel whose job tasks are relevant to the incident findings.

After careful review of these comments, OSHA has decided to revise this proposed provision to more accurately identify to whom this information should be disseminated. Additionally, the Agency believes that the logical progression of an incident investigation is to address the report recommendations (discussed in proposed paragraph (m)(6)) before disseminating the information contained in the report to affected personnel.

Accordingly, proposed paragraph (m)(5) has been redesignated as paragraph (m)(6) in the final rule, and has been revised to read as follows:

> The report shall be reviewed with all affected personnel whose job tasks are relevant to the incident findings including contract employees when applicable.

Proposed paragraph (m)(6) required the employer to establish a system to promptly address the report findings and recommendations and to implement the report recommendations in a timely manner.

Many rulemaking participants (e.g., Ex. 3: 17, 26, 30, 33, 38, 45, 53, 59, 60, 81, 113; Ex. 128; Tr. 1124, 1811, 1938) disagreed that all of the report recommendations need to be implemented. It was contended that upon further evaluation, some recommendations may be inappropriate. These rulemaking participants suggested that the term "implemented" be replaced with such terms as "resolved", "addressed", or "respond." It was further suggested that resolution of the recommendations and findings be documented.

The Agency agrees that there may be situations where it is not necessary or appropriate to implement all of the report recommendations. It is the Agency's position, however, that it is necessary to document the resolution of the report findings and recommendations to assure that they have been adequately considered.

Accordingly, proposed paragraph (m)(6) has been redesignated as paragraph (m)(5) in the final rule, and has been revised to read as follows:

> The employer shall establish a system to promptly address and resolve the report findings and recommendations. Resolutions and corrective actions shall be documented.

Paragraph (m)(7) of the proposal required incident investigation reports to be retained for five years in order to determine if an incident pattern develops or exists. A few rulemaking participants (e.g., Ex. 3: 97, 121) suggested that the investigation reports be retained for three years rather than five years. OSHA did consider a three-year retention period. However, the Agency believes it would be extremely useful if the report findings and recommendations were reviewed during the subsequent update or revalidation of the process hazard analysis. Consequently, the Agency believes it more appropriate to specify a five-year retention period to be consistent with paragraph (e) of the final rule, which requires the process hazard analysis to be updated or revalidated every five years. Therefore, proposed paragraph

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(m)(7) is included in the final rule as proposed.

Emergency Planning and Response: Paragraph (n)

Proposed paragraph (n) required the employer to establish and implement an emergency action plan in accordance with the provisions contained in 29 CFR 1910.38(a). For information purposes the Agency also added a note that 29 CFR 1910.120 (a), (p) and (q) may also be applicable.

The Agency received little negative comment with respect to this proposed provision except with respect to the issue of drills discussed below. OSHA believes that the implementation of an emergency action plan is extremely important for plant sites which have processes covered by this standard because of the potential hazards posed by highly hazardous chemicals and the elements of the emergency action plan which must be implemented to preplan for emergencies involving these substances (including training) so that employees will be aware of, and execute, appropriate actions.

The emergency action plan requires, at a minimum, the implementation of, and training employees in, the following procedures:

> Emergency escape procedures and emergency escape route assignments.
>
> Procedures to be followed by employees who remain to operate critical plant operations before they evacuate.
>
> Procedures to account for all employees after emergency evacuation has been completed;
>
> Rescue and medical duties for those employees who are to perform them;
>
> Preferred means of reporting fires and other emergencies; and
>
> Names or regular job titles of persons or departments who can be contacted for further information or explanation of duties under the plan.

The emergency action plan also requires the establishment of a system to alert employees of an emergency. If the alarm system is to be used for alerting fire brigade members, or for some other purpose, a distinctive signal must be used for each purpose.

With respect to training, employers must review the emergency action plan with each employee initially when the plan is developed, whenever the employee's responsibilities or designated actions under the emergency action plan changes, and whenever the emergency action plan, itself, is changed.

OSHA believes that the preplanning and training required by the emergency action plan will assure the readiness of employees to respond appropriately and safely to emergencies involving highly hazardous chemicals.

Additionally, as a part of emergency planning, OSHA is adding a provision that employers develop procedures to address small releases and spills, since it is not always obvious when such an event is, or is not, an emergency situation; and such an event may also warrant initiating an incident investigation.

The proposed paragraph concerning emergency planning and response was also the subject of one of the issues in the proposal (55 FR at 29159). The Agency asked whether or not drills or simulated exercises should be mandated by this proposed provision. Many participants addressed this issue and while the value of drills was expressed throughout this rulemaking record, most rulemaking participants who addressed this issue believed that drills should be recommended but not mandated (Ex. 3: 17, 26, 28, 29, 53, 59, 69, 80, 81, 109, 124, 156, 161).

The Agency has concluded that drills are certainly recommended, but OSHA believes that the employer is in the best position to assess the readiness of employees to respond correctly, to establish procedures for emergency action, including conducting drills or exercises when necessary. Additionally, OSHA believes that the subject of drills will be adequately addressed by the elements contained in the emergency action plan and applicable provisions of § 1910.120.

Paragraph (n) is included in the final rule as proposed except for the addition of a provision that requires establishment of procedures for handling small releases. Additionally, the note which made reference to the possible applicability of provisions contained in § 1910.120 has been added to the text of the provision.

Compliance Safety Audits: Paragraph (o).

This proposed paragraph contained provisions pertaining to an evaluation of an employer's process safety management system. OSHA believes that an audit with respect to compliance with the provisions contained in this section is an extremely important function. This is because it serves as a self-evaluation for employers to measure the effectiveness of their process safety management system. The audit can identify problem areas, and assist employers in directing attention to process safety management weaknesses.

Therefore, proposed paragraph (o)(1) required employers to certify that they have evaluated compliance with the provisions of this section, at least every three years.

The concept of employers evaluating the effectiveness of their own process safety management system was endorsed, and widely supported, throughout this rulemaking process. However, there was some disagreement with the approach taken by OSHA in this proposed provision. Some rulemaking participants (e.g., Ex. 3: 71, 121) contended that paragraph (o) should focus more on evaluating the effectiveness of the process safety management system, rather than determining compliance with provisions contained in the standard. For example, a commenter from Kodak (Ex. 3: 33, p.2) remarked:

> We are also concerned about the proposed Compliance Audit, which we suggest be retitled "Management Systems Audit." We agree that a periodic assessment is necessary, but it should be a review of the employer's entire process safety program, including elements that satisfy OSHA's requirements. It should not focus solely on the OSHA standard and must not be used for "compliance" purposes.

A commenter from Monsanto (Ex. 3: 64, p.11) stated:

> Monsanto recommends that the title of this section be changed to "Management System Review". The focus should be an employer's review of its own process safety system, including compliance with this standard, not an employer's review of its compliance with this standard.

Other rulemaking participants (e.g, Ex. 3: 38, 119; Tr. 1014) suggested that the title of paragraph (o) be changed to "compliance audit" because it is more descriptive of the intent of this section. For example, a commenter from BP America (Ex. 3: 59, p.7) remarked:

> BP America believes that paragraph (o) should be called "Compliance Audits" instead of "Compliance Safety Audits" to clarify the intent. The intent is to audit the Process Safety Management Program and is, therefore, an administrative audit, not a technical safety audit.

A commenter from IMCERA (Ex. 3: 158, p.7) stated:

> OSHA should consider changing the title of Subpart (o) from "Compliance Safety Audit" to "Compliance Audit". The term "Compliance Audit" more accurately describes the intent of this section, which is designed to determine compliance with the provisions of the proposed rule.

The objective of proposed paragraph (o) is to assure that employers evaluate the effectiveness of their process safety management system as required by the standard. The Agency believes that an effective means of achieving this objective is by employers assuring that the provisions contained in this standard are being met and in doing so, the employer will ascertain whether the procedures and practices required to be developed under the process safety management standard as adequate and being followed. Since this proposed paragraph contains provisions that focus on the means of achieving this objective, the Agency has decided to change the title of paragraph (o) of the final rule to "compliance audits" and to add wording to further clarify the intent of this provision.

Another concern expressed with respect to proposed paragraph (o)(1) was the requirement that audits be performed at least every three years. Some commenters (e.g., Ex. 3: 64, 70, 82; Ex. 143) asserted that every three years was too often and recommended a five year interval as an alternative.

OSHA disagrees. A five year interval between audits is too long. The Agency believes that it is necessary that audits be performed at least every three years in order to measure the effectiveness of the process safety management system. Accordingly, proposed paragraph (o)(1) has been retained in the final rule as proposed except for some additional clarifying language.

Proposed paragraph (o)(2) required that a team, comprised of at least one person knowledgeable in the process conduct the compliance audit. A few rulemaking participants (e.g., Ex. 3: 64, 71) remarked that it may not be necessary that the audit be performed by a "team." OSHA concurs. The Agency believes that it is important for the audit to be performed by at least one person knowledgeable in the process, but it is not necessary that it be performed by a team. Therefore, proposed paragraph (o)(2) has been revised in the final rule to read as follows:

> The compliance audit shall be conducted by at least one person knowledgeable in the process.

Proposed paragraph (o)(3) required a report of the findings of the audit to be developed. There were no objections to the requirement that a report of the audit findings be developed. Therefore, proposed paragraph (o)(3) is contained in the final rule as proposed.

Proposed paragraph (o)(4) required the employer to promptly determine and document an appropriate response to each of the findings of the compliance audit, and certify that deficiencies have been corrected.

Some rulemaking participants (e.g., Ex. 38; 48, 64, 71, 158; Ex. 143) disagreed with the term "certify" and suggested that other terms such as "document,""respond to," or "resolve" would be more descriptive of OSHA's intent.

The purpose of this proposed paragraph is to assure that employers determine an appropriate response to each of the report findings and if employers identify a deficiency that needs to be corrected, that they "document" the correction of the deficiency. Therefore, proposed paragraph (o)(4) is contained in the final rule as proposed except that the word "certify" has been replaced by the word "document."

Proposed paragraph (o)(5) required employers to retain the two most recent compliance audit reports, as well as the documented actions described in paragraph (o)(4) of this section. The purpose of this proposed provision is to focus on any continuing areas of concern that are identified through the compliance audits.

There were no objections to this proposed provision and it is contained in the final rule as proposed, except for minor editorial changes which were made to reflect the change in title of paragraph (o).

Trade Secrets: Paragraph (p)

A number of participants in the rulemaking expressed some concern that in the proposal OSHA did not appear to provide any trade secret protection (e.g., Ex 3: 46, 48, 80, 89, 106A, 129; Ex. 53). One commenter suggested that OSHA might itself reveal trade secrets in that "items which include trade secret information collected by OSHA as a result of an inspection could be made public" (Ex. 128, p. 18). Others worried about the possibility that information could substantially affect the competitive position of an employer (Ex. 3: 71) and asked for some protection against unwarranted disclosure of such information (Ex. 3: 89).

As to concern that OSHA might itself reveal trade secret information, it should be noted that employers are amply protected under the U.S. Code, the Occupational Safety and Health Act and regulations promulgated under the Act. Federal law makes it a criminal offense for federal employees to disclose trade secret information that is not authorized by law (18 U.S.C. 1905). Section 15 of the Occupational Safety and Health Act (the Act) requires that all information reported to or obtained by a Compliance Safety and Health Officer (CSHO) in connection with any inspection or other activity which contains or which might reveal a trade secret to kept confidential. Such information shall not be disclosed except to other OSHA officials concerned with the enforcement of the Act or, when relevant, in any proceeding under the Act. Other OSHA regulations further assure the protection of trade secrets (29 CFR 1903.7(b) and 1903.9). And the OSHA Field Operations Manual further emphasizes this point by stating "it is essential to the effective enforcement of the Act that the CSHO and all OSHA personnel preserve the confidentiality of all information and investigations which might reveal a trade secret" (III–58). Moreover, trade secret information is specifically excluded from disclosure under the Freedom of Information Act (5 U.S.C. 552(b)(4)).

As a general matter, OSHA believes that there are relatively few bona fide trade secrets among the information that is required to be gathered under this standard. However, the addition of provisions to protect trade secrets will give employers with legitimate trade secret concerns adequate protection, but require that they withhold information only on the basis of sound, legal justification.

Some commenters (e.g., Ex. 3: 76, 112) suggested that OSHA adopt the definition of "trade secret" used in the Hazard Communication standard; others, such as ARCO, suggested a more expansive (e.g., Ex. 3: 71, 106A) or more limited (e.g., Ex. 147) definition. OSHA has reviewed the definition of "trade secret" that is used in the Hazard Communication standard (29 CFR 1910.1200) and has decided to incorporate that definition of trade secret into the final standard. The Agency believes that this definition of trade secret is broad enough to offer adequate protection to employers with legitimate trade secrets, it is consistent with that used in the Restatement of Torts, and it has the additional advantage of being uniform with that used in the Hazard Communication standard so that many employers are already familiar with it. The final rule also incorporates Appendix D of the Hazard Communication standard which contains criteria to be used in determining whether material meets the definition of trade secret.

Some commenters (e.g., Ex. 3: 46, 80, 112) believed that trade secret information should be handled in the process safety management standard under the procedures set forth in the Hazard Communication standard. The United Steelworkers of America submitted for consideration a new draft section for trade secrets (Ex. 147, p.16–17). After reviewing these approaches and several others (see, for example, Ex. 3: 53), the Agency has decided that the best way of resolving the issue is to adopt language that will clearly indicate the accessibility and the procedures for obtaining trade secret information under the final rule. Arguably the trade secret provisions (§ 1910.1200(i)) of the Hazard Communication standard alone would take care of access to all trade secret information pertinent to the process safety management rule; however some may feel that their application might be limited to chemical identity information. In order to clarify its intent, OSHA has specifically stated in the final rule that the employer must make all relevant information available to those individuals involved in carrying out various information using and compiling activities required by the final rule regardless of whether the information in question is considered a trade secret or not. This is vital to the effective operation of the process safety management rule. It is questionable as to how useful a compliance safety audit or a process hazard analysis could be if some of the information necessary to their completion were denied or delayed. The language is written in this way to emphasize the right to access this information. However, the employer may take reasonable steps, such as those described in the Hazard Communication standard, to protect against the unauthorized disclosure of trade secrets to unauthorized third persons. Such steps include the signing of a confidentiality agreement.

OSHA believes that employees and their representatives also may have the need to access such information. The final rule assures employees access to the process hazard analysis and other information required to be developed under the standard. Under certain circumstances, however, it might be appropriate to substitute more general information or to require some sort of a balancing of the need to know the information with the need to protect the employer. Therefore, the Agency is incorporating into the final rule the access procedures that were developed under the Hazard Communication standard with the exception of § 1910.1200(i)(13). Section 1910.1200(i)(13) provides "[n]othing in this paragraph shall be construed as requiring the disclosure under any circumstances of process or percentage of mixture information which is a trade secret." That section is not being incorporated into the process safety management trade secret provisions in recognition of the fact that employees are entitled to certain process information under the process safety management standard and this proces information may at times contain trade secret information. There is no reason why the Hazard Communication information access provisions will not work well for information contained in the process hazard analysis and other documents that contain trade secrets. Employers bear the burden of demonstrating that their trade secret claim is bona fide. The Agency will evaluate the appropriateness of that substantiation in the event that an employer denies a legitimate request for disclosure of the trade secret and a complaint is subsequently made to OSHA.

IV. Statutory Considerations

Introduction

Section 3(8) of the Act provides:

> The term "occupational safety and health standard" means a standard which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment.

28 U.S.C. 652(8).

In two recent cases, reviewing courts expressed concern that OSHA's interpretation of this and other provisions of the Act pertaining to safety rulemaking could lead to overly costly or under-protective safety standards. In *International Union, UAW* v. *OSHA* 938 F.2d 1310 (D.C. Cir. 1991), the District of Columbia Circuit rejected substantive challenges to the lockout/tagout standard and denied a request that enforcement of that standard be stayed, but it also expressed concern that OSHA's interpretation of the Act could lead to safety standards that are very costly and only minimally protective. In *National Grain & Feed Ass'n* v. *OSHA*, 866 F.2d 717 (5th Cir. 1989), the Fifth Circuit concluded that Congress gave OSHA considerable discretion in structuring the costs and benefits of safety standards, but, concerned that the grain dust standard might be under-protective, directed OSHA to consider adding a provision that might further reduce significant risk of fire and explosion.

It is, of course, beyond doubt that OSHA rulemakings involve a significant degree of agency expertise and policy-making discretion to which reviewing courts must defer. See *e.g.*, *Building & Constr. Trades Dep't, AFL-CIO* v. *Brock*, 838 F.2d 1258, 1266 (D.C. Cir. 1988); *Industrial Union Dep't, AFL-CIO* v. *American Petroleum Inst.*, 448 U.S. 607, 655 n. 62 (1980). At the same time, the agency's technical expertise and policy-making authority must be exercised within parameters. The lockout/tagout and grain handling standard decisions sought from OSHA more clarification on the question of parameters. In light of those decisions, OSHA believes it would be useful to state its view of the limits of its safety rulemaking authority and to explain why the agency is confident that its interpretive views have in the past and will continue in the future to avoid regulatory extremes.

Stated briefly, the OSH Act requires that before promulgating any occupational safety standard, OSHA demonstrate based on substantial evidence in the record as a whole that: (1) The proposed standard will substantially reduce a significant risk of material harm; (2) compliance is technologically feasible in the sense that the protective measures being required already exist, can be brought into existence with available technology, or can be created with technology that can reasonably be developed; (3) compliance is economically feasible in the sense that industry can absorb or pass on the costs without major dislocation or threat of instability; and (4) the standard employs the least expensive protective measures capable of reducing or eliminating significant risk. In addition, proposed safety standards must be compatible with prior agency action, be responsive to significant comment in the record, and to the extent allowed by statute, be consistent with applicable Executive Orders. These elements set the parameters for safety rulemaking and a decision-making framework for developing a rule within the parameters.

A. Congress Concluded That OSHA Regulations are Necessary To Protect Workers From Occupational Hazards and That Employers Should Be Required To Reduce or Eliminate Significant Workplace Health and Safety Threats

At section 2(a) of the Act, Congress announced its determination that occupational injury and illness should be eliminated as much as possible. "The Congress finds that occupational injury and illness arising out of work situations impose a substantial burden upon, and are a hindrance to, interstate commerce in terms of lost production, wage loss, medical expenses, and disability compensation payments." 29 U.S.C. 651(a). Congress therefore declared "it to be its purpose and policy * * * to assure so far as possible every working man and woman in the Nation safe * * * working conditions" * * *. 29 U.S.C. 651(b).

To that end, Congress instructed the Secretary of Labor to adopt existing federal and consensus standards during the first two years after the Act became effective and, in the event of conflict among any such standards, to "promulgate the standard which assures the greatest protection of the safety or health of the affected employees." 29 U.S.C. 655(a). Congress also directed the Secretary to set mandatory occupational safety standards, 29 U.S.C. 651(b)(3), based on a rulemaking record and substantial evidence, 29 U.S.C. 655(b)(2), that are "reasonably necessary or appropriate to provide safe * * * employment and place of employment." When promulgating permanent safety or health standards that differ from existing national consensus standards, the Secretary must explain "why the rule as adopted will better effectuate the purposes of this Act than the national consensus standard." 29 U.S.C. 655(b)(8). Correspondingly, every employer must comply with OSHA standards and, in addition, "furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees." 29 U.S.C. 654(a).

"Congress understood that the Act would create substantial costs for employers, yet intended to impose such costs when necessary to create a safe and healthful working environment. Congress viewed the costs of health and safety as a cost of doing business. * * * Indeed, Congress thought that the *financial costs* of health and safety problems in the workplace were as large as or larger than the *financial costs* of eliminating these problems." *American Textile Mfrs. Inst. Inc.* v. *Donovan*, 452 U.S. 490, 519–522 (1981) ("*ATMI*") (emphasis in original). "[T]he fundamental objective of the Act [is] to prevent occupational deaths and serious injuries." *Whirlpool Corp.* v. *Marshall*, 445 U.S. 1, 11 (1980). "We know the costs would be put into consumer goods but that is the price we should pay for the 80 million workers in America." S. Rep. No. 91–1282, 91st Cong., 2d Sess. (1970); H.R. Rep. No. 91–1291, 91st Cong., 2d Sess. (1970), reprinted in Senate Committee on Labor and Public Welfare, Legislative History of the Occupational Safety and Health Act of 1970, (Committee Print 1971) ("Leg. Hist.") at 444 (Senator Yarborough). "Of course, it will cost a little more per item to produce a washing machine. Those of us who use washing machines will pay for the increased cost, but it is worth it, to stop the terrible death and injury rate in this country." *Id.* at 324; see also 510–511, 517.

> [T]he vitality of the Nation's economy will be enhanced by the greater productivity realized through saved lives and useful years of labor.
>
> When one man is injured or disabled by an industrial accident or disease, it is he and his family who suffer the most immediate and personal loss. However, that tragic loss also affects each of us. As a result of occupational accidents and disease, over $1.5 billion in wages is lost each year [1970 dollars], and the annual loss to the gross national product is estimated to be over $8 billion. Vast resources that could be available for productive use are siphoned off to pay workmen's compensation and medical expenses.* * *
>
> Only through a comprehensive approach can we hope to effect a significant reduction in these job death and casualty figures.

Id. at 518–19 (Senator Cranston).

Congress considered uniform enforcement crucial because it would reduce or eliminate the disadvantage that a conscientious employer might experience where inter-industry or intra-industry competition is present. Moreover, "many employers—particularly smaller ones—simply cannot make the necessary investment in health and safety, and survive competitively, unless all are compelled to do so." Leg. Hist. at 144, 854, 1188, 1201.

Thus, the statutory text and legislative history make clear that Congress conclusively determined that OSHA regulations are necessary to protect workers from occupational hazards and that employers should be required to reduce or eliminate significant workplace health and safety threats.

B. As Construed by the Courts and by OSHA, the Act Sets a Threshold and a Ceiling for Safety Rulemaking That Provide Clear and Reasonable Parameters for Agency Action

OSHA has long followed the teaching that section 3(8) of the Act requires that before it promulgates "*any* permanent health or safety standard, [it must] make a threshold finding that a place of employment is unsafe—in the sense that significant risks are present and can be eliminated or lessened by a change in practices." *Industrial Union Dep't, AFL–CIO* v. *American Petroleum Inst.*, 448 U.S. 607, 642 (1980) (plurality) ("*Benzene*") (emphasis in original). When, as frequently happens in safety rulemaking, OSHA promulgates standards that differ from existing national consensus standards, it must explain "why the rule as adopted will better effectuate the purposes of this Act than the national consensus standard." 29 U.S.C. 655(b)(8). (National consensus and existing federal standards that Congress instructed OSHA to adopt summarily within two years of the Act's inception provide reference points concerning the least an OSHA standard should achieve. 29 U.S.C. 655(a).)

As a result, OSHA is precluded from regulating insignificant safety risks or from issuing safety standards that do not at least lessen risk in a significant way. OSHA must also respond rationally to similarities and differences among industries or industry sectors. See *Building and Constr. Trades Dep't, AFL–CIO* v. *Brock*, 838 F.2d 1258, 1272–73 (D.C. Cir. 1988).

OSHA has also long accepted that "any standard that was not economically or technologically feasible would *a fortiori* not be 'reasonably necessary or appropriate' under the Act. See *Industrial Union Dep't* v. *Hodgson*, [499 F.2d 467, 478 (D.C. Cir. 1974)] ('Congress does not appear to have intended to protect employees by putting their employers out of business.')." American Textile Mfrs. Inst. Inc., 452 U.S. at 513 n. 31; *American Iron and Steel Inst.* v. *OSHA*, 939 F.2d 975, 980 (D.C. Cir. 1991) (a standard is economically feasible even if it portends "disaster for some marginal firms," but it is economically infeasible if it "threaten[s] massive dislocation to, or imperil[s] the existence of," the industry).

By stating the test in terms of "threat" and "peril," the Supreme Court made clear in ATMI that infeasibility begins short of industry-wide bankruptcy. OSHA itself has placed the line considerably below industry-wide bankruptcy. See, for example, ATMI, 452 U.S. at 527 n. 50; 43 FR 27360 (June 23, 1978) (proposed 200 $\mu g/m^3$ PEL for cotton dust did not raise serious possibility of industry-wide bankruptcy, but impact on weaving sector would be severe, possibly requiring reconstruction of 90 percent of all weave rooms. OSHA concluded that the 200 $\mu g/m^3$ level was not feasible for weaving and that 750 $\mu g/m^3$ was all that could reasonably be required). See also 54 FR 29245–246 (July 11, 1989); American Iron & Steel Institute, 939 F.2d at 1003 (OSHA raised engineering control level for lead in small nonferrous foundries to avoid the possibility of bankruptcy for about half of small foundries even though the industry as a whole could have survived the loss of small firms).

OSHA standards must also be cost-effective in the sense that the protective measures being required must be the least expensive measures capable of achieving the desired end. ATMI, at 514 n. 32; *Building and Constr. Trades Dep't AFL–CIO* v. *Brock*, 838 F.2d 1258, 1269 (D.C. Cir. 1988). (Although the cotton dust and lead rulemakings involved health standards, the economic feasibility ceiling established therein applies equally to safety standards. The feasibility boundary is the same for health and safety rulemaking since it comes from section 3(8), which governs all permanent OSHA standards.)

OSHA gives additional consideration to financial impact in setting the period of time that should be allowed for compliance, allowing as much as ten years for compliance phase-in. See *United Steelworkers of Am.* v. *Marshall*, 647 F.2d 1189, 1278 (D.C. Cir. 1980), cert. denied, 453 U.S. 913 (1981). In addition, OSHA's enforcement policy takes account of financial hardship on an individualized basis. OSHA's Field Operations Manual provides that, based on an employer's economic situation, OSHA may extend the period within which a violation must be corrected after issuance of a citation. CPL. 2.45B, Chapter 3 E6d(3)(a) (Dec. 31, 1990).

To reach the necessary findings and conclusions, OSHA must conduct rulemaking to determine, based on substantial evidence, the qualitative and, if possible, quantitative nature of the risk with and without regulation, technological feasibility of compliance, availability of capital to the industry, the extent to which capital was required for other purposes, the industry's profit history, the industry's ability to absorb costs or pass them on to the consumer, the impact of higher costs on demand, and the impact on competition with substitutes and imports. See ATMI at 2501–2503; American Iron & Steel Institute generally.

OSHA's powers are further circumscribed by the independent Occupational Safety and Health Review Commission, which provides a neutral forum for employer contests of citations issued by OSHA for noncompliance with health and safety standards. 29 U.S.C. 659–661 (noted as an additional constraint in Benzene at 652 n. 59).

OSHA rulemaking is thus constrained first by the need to demonstrate that the standard will substantially reduce a significant risk of material harm, and then by the requirement that compliance is technologically capable of being done and not so expensive as to threaten economic instability or dislocation for the industry. Within these parameters, further constraints such as the need to find cost-effective measures and to respond rationally to all meaningful comment militate against regulatory extremes. Finally, it is axiomatic that significant departures from prior practice must be justified. *International Union, UAW* v. *Pendergrass*, 878 F.2d 389, 400 (D.C. 1989). In the twenty years since enactment, OSHA has promulgated numerous safety standards, standards that provide benchmarks for judging risks, benefits, and feasibility of compliance in subsequent rulemakings. (OSHA's Hazardous Waste Operations and Emergency Response Standard, for example, required use of existing technology and well accepted safety practices to eliminate at least 32 deaths and 18,700 lost workday injuries at a cost of about $153 million per year. 54 FR 9311–9312 (March 6, 1989). The excavation standard also drew on existing technology and recognized safety practices to save 74 lives and over 800 lost workday injuries annually at a cost of about $306 million. 54 FR 45954 (Oct. 31, 1989). OSHA's Grain Handling Facilities standard relied primarily on simple housekeeping measures to save 18 lives and 394 injuries annually, at a total net cost of $5.9 to $33.4 million. 52 FR 49622 (Dec. 31, 1991).)

C. The PSM Standard Meets the Statutory Criteria

In promulgating the Clean Air Act Amendments of 1990, Congress conclusively determined that "a process safety standard designed to protect employees from hazards associated with accidental releases of highly hazardous chemicals in the workplace" is necessary and that the standard must, at a minimum, require employers to adopt fourteen specified planning, procedure and training safety measures. Public Law 101–549 (Nov. 15, 1990), reprinted at 29 U.S.C.A. 655 note (Supp. 1991). For the reasons explained in detail throughout this statement of findings and conclusions, the standard's fourteen planning, procedure and training requirements, when fully implemented, reduce the risk of catastrophic fire and explosion (330 fatalities and 1,917 injuries/illnesses annually) by 80 percent. This constitutes a substantial reduction of significant risk of material harm. Compliance is technologically feasible because the standard's requirements are already being implemented to some extent. Compliance is economically feasible because all regulated sectors can readily absorb or pass on compliance costs during the standard's first five years, and economic benefits will exceed compliance costs thereafter. The standard's costs, benefits, and compliance requirements are consistent with the Clean Air Act Amendments, as well as with other OSHA safety standards. OSHA considered and responded to all substantive comments on their merits; OSHA evaluated all suggestions for their impact on worker safety, their feasibility, their cost effectiveness, and their consonance with the OSH Act and the Clean Air Act Amendments.

V. Summary of Regulatory Impact and Regulatory Flexibility Analysis, International Trade Impact Analysis, and Environmental Impact Assessment

Introduction

OSHA has created a new standard within Subpart H, Hazardous Materials, to deal with the risks involved in the storage, handling and processing of highly hazardous materials. The standard—referred to as process safety management, or PSM—emphasizes the application of management controls, rather than specific engineering guidelines, when addressing the risks associated with handling or working near hazardous chemicals. Implementation of process safety management programs and procedures will enable affected establishments to prevent the occurrence, and minimize the consequences, of significant releases of toxic substances, as well as fires, explosions and other types of catastrophic accidents.

The benefits of implementing PSM include the prevention of accidental fatalities, injuries and illnesses, and the avoidance of physical property damage. Furthermore, the standard will contribute to enhanced productivity due to fewer process disruptions and accidental shutdowns and decreased labor turnover as workers perceive a safer work environment; lead to more efficient utilization of space, labor and equipment in the wake of programmatic plant reviews; promote an integrated approach to process design, construction, operation, and maintenance, with process safety as the central focus of concern; reduce loss of raw materials and inadvertent waste generation; and increase product quality. Savings in these areas are expected to offset direct costs of compliance. OSHA also anticipates significant improvements in ergonomic and other chronic health and safety problems—including low-level exposure to toxic substances—through compliance with the PSM standard.

In response to recent catastrophic accidents in the petrochemical industry, OSHA in 1990 initiated the Special Emphasis Program in Petrochemical Industries (PETROSEP), whose purpose is to determine whether management systems governing safety and health procedures for maintenance activities, contractor activities, and operations are in place to control risk. The largest firms in SIC 2821, Plastic Materials and Resins, SIC 2869, Industrial Organic

Chemicals, Not Elsewhere Classified, and SIC 2911, Petroleum Refining, are the subject of the program. The PETROSEP program focuses the attention of plant managers and contractors on the need to integrate the PSM philosophy into the safety culture of the worksite.

Executive Order 12291 (46 FR 13197) requires that a regulatory impact analysis be prepared for any proposed regulation that meets the criteria for a "major rule"; that is, one that would result in an annual impact on the economy of $100 million or more, have a major increase in cost or prices for consumers, individual industries, federal, state or local government agencies, or geographic regions, or have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. In addition, the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) requires analysis of whether a regulation will have a significant economic impact on a substantial number of small entities.

Consistent with these requirements, OSHA has prepared this Regulatory Impact and Regulatory Flexibility Analysis for § 1910.119, Process Safety Management of Highly Hazardous Chemicals. The Regulatory Impact Analysis is a critical part of OSHA reasoning both on issues arising under the OSH Act and under the Executive Order. OSHA has explicitly relied on the RIA to support this final Process Safety Management rule. As a result of this analysis OSHA has determined that promulgation of § 1910.119 will constitute a major rule.

Affected Industries and Current Compliance

Based on a report prepared by Kearney/Centaur [Ex. 5] and a follow-up review of national chemical databases, OSHA has determined that 24,939 establishments in 127 industry subgroups will be affected by the PSM standard. The population at risk is an estimated 3.0 million workers (2.37 million plant employees and 653,000 contract employees) and is found throughout manufacturing, particularly in Standard Industrial Classification (SIC) code 28, Chemicals and Allied Products, SIC 37, Transportation Equipment, and SIC 34, Fabricated Metal Products, Except Machinery and Transportation Equipment. In addition to manufacturing, natural gas liquids (SIC 1321), farm product warehousing (SIC 4221), electric, gas, and sanitary services (SIC 49) and wholesale trade (SICs 50 and 51) contain workers at risk. The extent of the impact will vary by industry depending on current practice, the number of processes, and the quantities of highly hazardous materials on site.

OSHA excluded from this final impact analysis establishments in California, Delaware and New Jersey, where process safety management statutes have already been enacted. In these three states the compliance burden is unaffected by the federal rule.

OSHA estimated current practices with the provisions of the process safety management rule using OSHA survey data, survey data compiled by a major chemical engineering magazine, and data in the rulemaking record. For all industries affected by the proposed rule, none are currently in full compliance, although compliance is greater than 75 percent among some establishments for some specific provisions. Generally, larger firms have a higher current compliance rate than smaller firms, but for many industries the compliance-rate differences by establishment size are not substantial.

Nonregulatory Environment

The primary objective of OSHA's process safety management standard is to reduce the number of employee fatalities and injuries associated with catastrophic releases of hazardous substances. OSHA believes that the PSM standard will eliminate to a considerable degree the risks which workers experience in the establishments falling within the scope of the rule.

The Agency examined the nonregulatory approaches for promoting the implementation of safety management programs, including (1) economic forces generated by the private market system, (2) incentives created by workers' compensation programs or the threat of private suits, and (3) related activities of private agencies. Following this review, OSHA determined that the need for government regulation arises from the significant risk of job-related injury or death caused by inadequate practices for preventing catastrophic accidents which currently exist in the industry. Private markets fail to provide enough safety and health resources due to the lack of information on risk, immobility of labor, and externalization of part of the social costs of worker injuries and deaths. Workers' compensation systems do not offer an adequate remedy because premiums do not reflect specific workplace risk and liability claims are restricted by statutes preventing employees from suing their employers. While certain voluntary standards exist, their scope and approach fail to provide adequate protection for all workers. Thus, OSHA has determined that a federal standard is necessary.

Technological Feasibility and Costs of Compliance

OSHA reviewed the process safety management practices currently in place across industry as well as the recommended practices of industry trade associations and standards-setting organizations. On the basis of substantial current compliance found by OSHA and its consultants, widespread familiarity with the concepts and procedures of PSM, and the availability of technical consultation within and outside the affected sectors, OSHA has determined that the final rule for managing process hazards is technologically feasible.

OSHA estimated the costs of compliance with the PSM standard using information from the rulemaking record and from a report prepared under contract by Kearney/Centaur in 1990 [Ex. 5]. Most of the activities required by the PSM standard involve personnel time to develop programs and procedures, train employees, and carry out inspection activities. Capital costs will be incurred by firms when process hazard analyses and pre-startup safety reviews uncover the need to redesign processes and/or change equipment in order to reduce risks.

Consistent with the implementation schedule for completing intial process hazard analyses under Paragraph (e) of the standard, OSHA estimated compliance costs for two five-year periods. OSHA estimates that $888.7 million in direct annualized costs will be required to comply with the standard during each of the first five years following implementation of the rule. Of this annual cost, $470.8 million (53 percent) are attributed to Paragraph (e), Process Hazard Analysis, and $179.1 million (20 percent) to Paragraph (1), Management of Change. Annualized compliance costs during Years 6–10 will be $405.8 million. The decline in costs is largely related to the completion of process hazard analyses for existing operations.

Implementation of process safety management should generate cost savings in the forms of improved worker productivity, reduced incidence of property damage, diminished probability of lost production, and reduced employee turnover. Based upon an analysis by Kearney/Centaur, OSHA estimates that the value of annual PSM-related cost savings will be $719.9

million in Years 1–5 and $1.44 billion in Years 6–10. Subtracting the value of the cost savings from the annualized direct costs gives adjusted compliance costs of $168.8 million in Years 1–5. Cost savings are expected to exceed direct costs for most industry groups in Years 6–10. OSHA believes the true economic cost of the standard is best reflected by the adjusted costs. Furthermore, the estimate may understate the true cost savings, in that insurance, administrative, and societal cost savings associated with accident prevention are not included in the assessment.

Benefits

OSHA anticipates that full compliance with the PSM standard will lead to fewer catastrophic fires, explosions, releases of hazardous substances and other types of serious accidents. It is expected that many minor incidents will be prevented as well. Using data from the OSHA Integrated Management Information System database and applying an adjustment based upon the analysis of Charles River Associates [Ex. 10] and Kearney/Centaur [Ex. 5], OSHA estimated the baseline number of fatalities and injuries/illnesses linked to the PSM standard for the period 1983–90. For the eight-year period, an average of 330 fatalities and 1,918 injuries/illnesses per year were associated with major accidents involving hazardous materials (these totals exclude fatalities and injuries in California, New Jersey and Delaware). Using an average risk-reduction estimate of 40 percent for Years 1–5 implementation phase, OSHA estimates that 132 fatalities and 767 catastrophic injuries/illnesses (including 250 lost-workday injuries) will be avoided annually through compliance with the standard. In Years 6–10, a risk reduction of 80 percent is projected, with 264 fatalities and 1,534 injuries/illnesses (including 500 catastrophic lost-workday injuries) avoided, annually.

In addition to the health and safety benefits from preventing catastrophic incidents, reductions in injuries and illnesses related to minor process disruptions are anticipated, as well as reductions in the long-run risks posed by occasional releases of toxic vapors and gases and by the physical hazards of poor process design.

Economic Impact and Regulatory Flexibility Analysis

OSHA assessed the potential economic impact of the PSM standard separately on large and small establishments and has determined that none of the major industry groups would experience a significant economic burden as a result of the standard. If affected large establishments added the entire cost of compliance to the price of their final good, OSHA estimates that the average price increase would not exceed 0.07 percent during the ten-year period of analysis, based on the ratio of gross compliance costs to average establishment revenue. The maximum price increase in any major industry sector would be 0.7 percent. On the other hand, if all direct compliance costs were absorbed internally (and not passed forward to final customers), OSHA estimates that the average reduction in profits among large firms (20 or more employees) would approximate 1.2 percent.

While a few industry groups might experience profit reductions above 5 percent under the no-cost-pass-through scenario, the large-firm impact on the majority of affected major industry groups would be less than 3 percent of profit.

As required by the Regulatory Flexibility Act of 1980, OSHA assessed the economic burden faced by small establishments. For Years 1 through 5, the average ratio of direct cost to revenue for firms with fewer than twenty employees would be 0.23 percent. If small firms were to absorb the direct cost of regulation in full, profit reductions would average 3.4 percent for the first five years of implementation. Since profit impacts of less than 6 percent would be felt by the majority of small establishments under this scenario (zero cost offsets), OSHA has determined that the standard is economically feasible for small firms.

International Trade

OSHA is aware that the European and East Asian economic communities are introducing the concept of process safety management among their member countries. In time, European and Asian firms adopting PSM programs will experience the range of implementation costs estimated in this RIA for American firms. OSHA anticipates that as PSM becomes widespread throughout American industry, the productivity benefits and other cost-savings resulting from the rule could improve the competitiveness of American businesses.

During the implementation schedule, the standard is not likely to have a significant adverse effect on international trade because of the small magnitude of any price increase that would be required for passing forward compliance costs. As indicated above, the maximum price increases generated from the standard would be less than 0.3 percent for the majority of affected establishments. Thus, no measurable impact on foreign trade is expected.

Environmental Assessment

The PSM standard has been reviewed in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*), the regulations of the Council on Environmental Quality (CEQ) (40 CFR part 1500), and DOL NEPA Procedures (29 CFR part 11). The provisions of the standard focus on the reduction and avoidance of incidents involving toxic releases, fires and explosions. Consequently, no major negative impact is foreseen on air, water or soil quality, plant or animal life, the use of land or other aspects of the environment. OSHA believes that compliance with the standard will result in positive environmental effects in the form of fewer releases of toxic liquids, solids and gases into the air, soil and water.

VI. Federalism

This regulation has been reviewed in accordance with Executive Order 12612 (52 FR 41685, October 30, 1987) regarding Federalism. This Order requires that agencies, to the extent possible, refrain from limiting state policy options, consult with states prior to taking any actions which would restrict state policy options, and take such actions only when there is clear constitutional authority and the presence of a problem of national scope. The Order provides for preemption of state law only if there is a clear Congressional intent for the Agency to do so. Any such preemption is to be limited to the extent possible.

Section 18 of the Occupational Safety and Health Act (OSH Act) expresses Congress' clear intent to preempt state laws relating to issues on which Federal OSHA has promulgated safety and health standards. Under the OSHA Act, a state can avoid preemption only if it submits, and obtains Federal approval of a plan for the development of such standards and their enforcement. Occupational Safety and health standards developed by such State Plan-States must, among other things, be at least as effective in providing safe and healthful employment and places of employment as the Federal standards. Where such standards are applicable to products distributed or used in interstate commerce, they may not unduly burden commerce and must be justified by compelling local conditions (see section 18(c)(2) of the OSH Act).

The Federal final standard on process safety management of highly hazardous chemicals addresses hazards that are not unique to any one state or region of the country. Nonetheless, states with occupational safety and health plans approved under section 18 of the OSHA Act will be able to develop their own state standards to deal with any special problems which might be encountered in a particular state. Moreover, because this standard is written in general, performance-oriented terms, there is considerable flexibility for state plans to require, and for affected employers to use, methods of compliance which are appropriate to the working conditions covered by the standard.

In brief, this proposed rule addresses a clear national problem related to occupational safety and health in general industry. Those states which have elected to participate under section 18 of the OSHA Act are not preempted by this standard, and will be able to address any special conditions within the framework of the Federal Act while ensuring that the state standards are at least as effective as that standard. State comments were considered prior to promulgation of this final rule.

VII. State Plan States

The 25 States and Territories with their own OSHA approved occupational safety and health plans must adopt a comparable standard within six months of the publication date of this final standard. These 25 States and Territories are: Alaska, Arizona, California, Connecticut (for State and local government employees only), Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, New York (for State and local government employee only), North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington, and Wyoming. Until such time a state standard is promulgated, Federal OSHA will provide interim enforcement assistance, as appropriate, in these states.

List of Subjects in 29 CFR Part 1910

Explosive, Flammable liquids and gases, Hazard analysis, highly hazardous chemicals, Hazardous materials, Occupational safety and health, Safety, Process hazard analysis, Pyrotechnics.

Authority

This document has been prepared under the direction of Dorothy L. Strunk, Acting Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington DC 20210.

Accordingly, pursuant to sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Section 304, Clean Air Act Amendments of 1990 (Pub. L. 101-549, Nov. 15, 1990, reprinted at 29 U.S.C. 655 Note (Supp. 1991)); Secretary of Labor's Order No. 1-90 (55 FR 9033); and 29 CFR part 1911, 29 CFR part 1910 is amended as set forth below.

Signed at Washington, DC, this 14th day of February, 1992.

Dorothy L. Strunk,

Acting Assistant Secretary of Labor.

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

1. The authority citation for Subpart H of Part 1910 is revised to read as follows:

Authority: Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736) or 1–90 (55 FR 9033), as applicable.

Sections 1910.103, 1910.106, 1910.107, 1910.108, 1910.109, 1910.110, 1910.111 and 1910.119 are also issued under 29 CFR part 1911.

Section 1910.119 is also issued under Sec. 304, Clean Air Act Amendments of 1990 (Public Law 101–549, Nov. 15, 1990, reprinted at 29 U.S.C. 655 Note (Supp. 1991)).

Section 1910.120 is also issued under Sec. 126, Superfund Amendments and Reauthorization Act of 1986 as amended (29 U.S.C. 655 note), 5 U.S.C. 553, and 29 CFR part 1911.

2. Section 1910.109 is amended by revising paragraph (k) to read as follows:

§ 1910.109 Explosives and blasting agents.

* * * * *

(k) *Scope.* (1) This section applies to the manufacture, keeping, having, storage, sale, transportation, and use of explosives, blasting agents, and pyrotechnics. The section does not apply to the sale and use (public display) of pyrotechnics, commonly known as fireworks, nor the use of explosives in the form prescribed by the official U.S. Pharmacopeia.

(2) The manufacture of explosives as defined in paragraph (a)(3) of this section shall also meet the requirements contained in § 1910.119.

(3) The manufacture of pyrotechnics as defined in paragraph (a)(10) of this section shall also meet the requirements contained in § 1910.119.

A new § 1910.119 and appendices A through D to § 1910.119 are added to read as follows:

§ 1910.119 Process safety management of highly hazardous chemicals.

Purpose. This section contains requirements for preventing or minimizing the consequences of catastrophic releases of toxic, reactive, flammable, or explosive chemicals. These releases may result in toxic, fire or explosion hazards.

(a) *Application.* (1) This section applies to the following:

(i) A process which involves a chemical at or above the specified threshold quantities listed in Appendix A to this section;

(ii) A process which involves a flammable liquid or gas (as defined in 1910.1200(c) of this part) on site in one location, in a quantity of 10,000 pounds (4535.9 kg) or more except for:

(A) Hydrocarbon fuels used solely for workplace consumption as a fuel (e.g., propane used for comfort heating, gasoline for vehicle refueling), if such fuels are not a part of a process containing another highly hazardous chemical covered by this standard;

(B) Flammable liquids stored in atmospheric tanks or transferred which are kept below their normal boiling point without benefit of chilling or refrigeration.

(2) This section does not apply to:

(i) Retail facilities;

(ii) Oil or gas well drilling or servicing operations; or,

(iii) Normally unoccupied remote facilities.

(b) *Definitions. Atmospheric tank* means a storage tank which has been designed to operate at pressures from atmospheric through 0.5 p.s.i.g. (pounds per square inch gauge, 3.45 Kpa).

Boiling point means the boiling point of a liquid at a pressure of 14.7 pounds per square inch absolute (p.s.i.a.) (760 mm.). For the purposes of this section, where an accurate boiling point is unavailable for the material in question, or for mixtures which do not have a constant boiling point, the 10 percent point of a distillation performed in accordance with the Standard Method of Test for Distillation of Petroleum Products, ASTM D-86-62, may be used as the boiling point of the liquid.

Catastrophic release means a major uncontrolled emission, fire, or explosion, involving one or more highly hazardous chemicals, that presents serious danger to employees in the workplace.

Facility means the buildings, containers or equipment which contain a process.

Highly hazardous chemical means a substance possessing toxic, reactive, flammable, or explosive properties and specified by paragraph (a)(1) of this section.

Hot work means work involving electric or gas welding, cutting, brazing, or similar flame or spark-producting operations.

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Normally unoccupied remote facility means a facility which is operated, maintained or serviced by employees who visit the facility only periodically to check its operation and to perform necessary operating or maintenance tasks. No employees are permanently stationed at the facility.

Facilities meeting this definition are not contiguous with, and must be geographically remote from all other buildings, processes or persons.

Process means any activity involving a highly hazardous chemical including any use, storage, manufacturing, handling, or the on-site movement of such chemicals, or combination of these activities. For purposes of this definition, any group of vessels which are interconnected and separate vessels which are located such that a highly hazardous chemical could be involved in a potential release shall be considered a single process.

Replacement in kind means a replacement which satisfies the design specification.

Trade secret means any confidential formula, pattern, process, device, information or compilation of information that is used in an employer's business, and that gives the employer an opportunity to obtain an advantage over competitors who do not know or use it. Appendix D contained in § 1910.1200 sets out the criteria to be used in evaluating trade secrets.

(c) *Employee participation.* (1) Employers shall develop a written plan of action regarding the implementation of the employee participation required by this paragraph.

(2) Employers shall consult with employees and their representatives on the conduct and development of process hazards analyses and on the development of the other elements of process safety management in this standard.

(3) Employers shall provide to employees and their representatives access to process hazard analyses and to all other information required to be developed under this standard.

(d) *Process safety information.* In accordance with the schedule set forth in paragraph (e)(1) of this section, the employer shall complete a compilation of written process safety information before conducting any process hazard analysis required by the standard. The compilation of written process safety information is to enable the employer and the employees involved in operating the process to identify and understand the hazards posed by those processes involving highly hazardous chemicals. This process safety information shall include information pertaining to the hazards of the highly hazardous chemicals used or produced by the process, information pertaining to the technology of the process, and information pertaining to the equipment in the process.

(1) *Information pertaining to the hazards of the highly hazardous chemicals in the process.* This information shall consist of at least the following:

(i) Toxicity information;

(ii) Permissible exposure limits;

(iii) Physical data;

(iv) Reactivity data:

(v) Corrosivity data;

(vi) Thermal and chemical stability data; and

(vii) Hazardous effects of inadvertent mixing of different materials that could foreseeably occur.

Note: Material Safety Data Sheets meeting the requirements of 29 CFR 1910.1200(g) may be used to comply with this requirement to the extent they contain the information required by this subparagraph.

(2) *Information pertaining to the technology of the process.* (i) Information concerning the technology of the process shall include at least the following:

(A) A block flow diagram or simplified process flow diagram (see Appendix B to this section);

(B) Process chemistry;

(C) Maximum intended inventory;

(D) Safe upper and lower limits for such items as temperatures, pressures, flows or compositions; and,

(E) An evaluation of the consequences of deviations, including those affecting the safety and health of employees.

(ii) Where the original technical information no longer exists, such information may be developed in conjunction with the process hazard analysis in sufficient detail to support the analysis.

(3) *Information pertaining to the equipment in the process.* (i) Information pertaining to the equipment in the process shall include:

(A) Materials of construction;

(B) Piping and instrument diagrams (P&ID's);

(C) Electrical classification;

(D) Relief system design and design basis;

(E) Ventilation system design;

(F) Design codes and standards employed;

(G) Material and energy balances for processes built after May 26, 1992; and,

(H) Safety systems (e.g. interlocks, detection or suppression systems).

(ii) The employer shall document that equipment complies with recognized and generally accepted good engineering practices.

(iii) For existing equipment designed and constructed in accordance with codes, standards, or practices that are no longer in general use, the employer shall determine and document that the equipment is designed, maintained, inspected, tested, and operating in a safe manner.

(e) *Process hazard analysis.* (1) The employer shall perform an initial process hazard analysis (hazard evaluation) on processes covered by this standard. The process hazard analysis shall be appropriate to the complexity of the process and shall identify, evaluate, and control the hazards involved in the process. Employers shall determine and document the priority order for conducting process hazard analyses based on a rationale which includes such considerations as extent of the process hazards, number of potentially affected employees, age of the process, and operating history of the process. The process hazard analysis shall be conducted as soon as possible, but not later than the following schedule:

(i) No less than 50 percent of the initial process hazards analyses shall be completed by May 26, 1994;

(ii) No less than 50 percent of the initial process hazards analyses shall be completed by May 26, 1995;

(iii) No less tahan 75 percent of the initial process hazards analyses shall be completed by May 26, 1996;

(iv) All initial process hazards analyses shall be completed by May 26, 1997.

(v) Process hazards analyses completed after May 26, 1987 which meet the requirements of this paragraph are acceptable as initial process hazards analyses. The process hazard analyses shall be updated and revalidated, based on their completion date, in accordance with paragraph (e)(6) of this section.

(2) The employer shall use one or more of the following methodologies that are appropriate to determine and evaluate the hazards of the process being analyzed.

(i) What-If;

(ii) Checklist;

(iii) What-If/Checklist;

(iv) Hazard and Operability Study (HAZOP):

(v) Failure Mode and Effects Analysis (FMEA);

(vi) Fault Tree Analysis; or

(vii) An appropriate equivalent methodology.

(3) The process hazard analysis shall address:

(i) The hazards of the process;

(ii) The identification of any previous incident which had a likely potential for catastrophic consequences in the workplace;

(iii) Engineerting and administrative controls applicable to the hazards and their iinterrelationships such as appropriate application of detection methodologies to provide early warning of releases. (Acceptable detection methods might include process monitoring and control instrumentation with alarms, and detection hardware such as hydrocarbon sensors.);

(iv) Consequences of failure of engineering and administrative controls;

(v) Facility siting;

(vi) Human factors; and

(vii) A qualitative evaluation of a range of the possible safety and health effects of failure of controls on employees in the workplace.

(4) The process hazard analysis shall be performed by a team with expertise in engineering and process operations, and the team shall include at least one employee who has experience and knowledge specific to the process being evaluated. Also, one member of the team must be knowledgeable in the specific process hazard analysis methodology being used.

(5) The employer shall establish a system to promptly address the team's findings and recommendations; assure that the recommendations are resolved in a timely manner and that the resolution is documented; document what actions are to be taken; complete actions as soon as possible; develop a written schedule of when these actions are to be completed; communicate the actions to operating, maintenance and other employees whose work assignments are in the process and who may be affected by the recommendations or actions.

(6) At least every five (5) years after the completion of the initial process hazard analysis, the process hazard analysis shall be updated and revalidated by a team meeting the requirements in paragraph (e)(4) of this section, to assure that the process hazard analysis is consistent with the current process.

(7) Employers shall retain process hazards analyses and updates or revalidations for each process covered by this section, as well as the documented resolution of recommendations described in paragraph (e)(5) of this section for the life of the process.

(f) *Operating procedures* (1) The employer shall develop and implement written operating procedures that provide clear instructions for safety conducting activities involved in each covered process consistent with the process safety information and shall address at least the following elements.

(i) *Steps for each operating phase*:

(A) Initial startup;

(B) Normal operations;

(C) Temporary operations;

(D) Emergency shutdown including the conditions under which emergency shutdown is required, and the assignment of shutdown responsibility to qualified operators to ensure that emergency shutdown is executed in a safe and timely manner.

(E) Emergency Operations;

(F) Normal shutdown; and,

(G) Startup following a turnaround, or after an emergency shutdown.

(ii) *Operating limits*:

(A) Consequences of deviation; and

(B) Steps required to correct or avoid deviation.

(iii) *Safety and health considerations*:

(A) Properties of, and hazards presented by, the chemicals used in the process;

(B) Precautions necessary to prevent exposure, including engineering controls, administrative controls, and personal protective equipment;

(C) Control measures to be taken if physical contact or airborne exposure occurs;

(D) Quality control for raw materials and control of hazardous chemical inventory levels; and,

(E) Any special or unique hazards.

(iv) *Safety systems and their functions.*

(2) Operating procedures shall be readily accessible to employees who work in or maintain a process.

(3) The operating procedures shall be reviewed as often as necessary to assure that they reflect current operating practice, including changes that result from changes in process chemicals, technology, and equipment, and changes to facilities. The employer shall certify annually that these operating procedures are current and accurate.

(4) The employer shall develop and implement safe work practices to provide for the control of hazards during operations such as lockout/tagout; confined space entry; opening process equipment or piping; and control over entrance into a facility by maintenance, contractor, laboratory, or other support personnel. These safe work practices shall apply to employees and contractor employees.

(g) *Training*. (1) *Initial training*. (i) Each employee presently involved in operating a process, and each employee before being involved in operating a newly assigned process, shall be trained in an overview of the process and in the operating procedures as specified in paragraph (f) of this section. The training shall include emphasis on the specific safety and health hazards, emergency operations including shutdown, and safe work practices applicable to the employee's job tasks.

(ii) In lieu of initial training for those employees already involved in operating a process on May 26, 1992, an employer may certify in writing that the employee has the required knowledge, skills, and abilities to safely carry out the duties and responsibilities as specified in the operating procedures.

(2) *Refresher training*. Refresher training shall be provided at least every three years, and more often if necessary, to each employee involved in operating a process to assure that the employee understands and adheres to the current operating procedures of the process. The employer, in consultation with the employees involved in operating the process, shall determine the appropriate frequency of refresher training.

(3) *Training documentation*. The employer shall ascertain that each employee involved in operating a process has received and understood the training required by this paragraph. The employer shall prepare a record which contains the identity of the employee, the date of training, and the means used to verify that the employee understood the training.

(h) *Contractors*. (1) *Application*. This paragraph applies to contractors performing maintenance or repair, turnaround, major renovation, or specialty work on or adjacent to a covered process. It does not apply to contractors providing incidental services which do not influence process safety, such as janitorial work, food and drink services, laundry, delivery or other supply services.

(2) *Employer responsibilities*. (i) The employer, when selecting a contractor, shall obtain and evaluate information regarding the contract employer's safety performance and programs.

(ii) The employer shall inform contract employers of the known potential fire, explosion, or toxic release hazards related to the contractor's work and the process.

(iii) The employer shall explain to contract employers the applicable provisions of the emergency action plan required by paragraph (n) of this section.

(iv) The employer shall develop and implement safe work practices consistent with paragraph (f)(4) of this section, to control the entrance, presence and exit of contract employers and contract employees in covered process areas.

(v) The employer shall periodically evaluate the performance of contract employers in fulfilling their obligations as specified in paragraph (h)(3) of this section.

(vi) The employer shall maintain a contract employee injury and illness log related to the contractor's work in process areas.

(3) *Contract employer responsibilities.* (i) The contract employer shall assure that each contract employee is trained in the work practices necessary to safely perform his/her job.

(ii) The contract employer shall assure that each contract employee is instructed in the known potential fire, explosion, or toxic release hazards related to his/her job and the process, and the applicable provisions of the emergency action plan.

(iii) The contract employer shall document that each contract employee has received and understood the training required by this paragraph. The contract employer shall prepare a record which contains the identity of the contract employee, the date of training, and the means used to verify that the employee understood the training.

(iv) The contract employer shall assure that each contract employee follows the safety rules of the facility including the safe work practices required by paragraph (f)(4) of this section.

(v) The contract employer shall advise the employer of any unique hazards presented by the contract employer's work, or of any hazards found by the contract employer's work.

(i) *Pre-startup safety review.* (1) The employer shall perform a pre-startup safety review for new facilities and for modified facilities when the modification is significant enough to require a change in the process safety information.

(2) The pre-startup safety review shall confirm that prior to the introduction of highly hazardous chemicals to a process:

(i) Construction and equipment is in accordance with design specifications;

(ii) Safety, operating, maintenance, and emergency procedures are in place and are adequate;

(iii) For new facilities, a process hazard analysis has been performed and recommendations have been resolved or implemented before startup; and modified facilities meet the requirements contained in management of change, paragraph (l).

(iv) Training of each employee involved in operating a process has been completed.

(j) *Mechanical integrity.* (1) *Application.* Paragraphs (j)(2) through (j)(6) of this section apply to the following process equipment:

(i) Pressure vessels and storage tanks;

(ii) Piping systems (including piping components such as valves);

(iii) Relief and vent systems and devices;

(iv) Emergency shutdown systems;

(v) Controls (including monitoring devices and sensors, alarms, and interlocks) and,

(vi) Pumps.

(2) *Written Procedures.* The employer shall establish and implement written procedures to maintain the on-going integrity of process equipment.

(3) *Training for process maintenance activities.* The employer shall train each employee involved in maintaining the on-going integrity of process equipment in an overview of that process and its hazards and in the procedures applicable to the employee's job tasks to assure that the employee can perform the job tasks in a safe manner.

(4) *Inspection and testing.* (i) Inspections and tests shall be performed on process equipment.

(ii) Inspection and testing procedures shall follow recognized and generally accepted good engineering practices.

(iii) The frequency of inspections and tests of process equipment shall be consistent with applicable manufacturers' recommendations and good engineering practices, and more frequently if determined to be necessary by prior operating experience.

(iv) The employer shall document each inspection and test that has been performed on process equipment. The documentation shall identify the date of the inspection or test, the name of the person who performed the inspection or test, the serial number or other identifier of the equipment on which the inspection or test was performed, a description of the inspection or test performed, and the results of the inspection or test.

(5) *Equipment deficiencies.* The employer shall correct deficiencies in equipment that are outside acceptable limits (defined by the process safety information in paragraph (d) of this section) before further use or in a safe and timely manner when necessary means are taken to assure safe operation.

(6) *Quality assurance.* (i) In the construction of new plants and equipment, the employer shall assure that equipment as it is fabricated is suitable for the process application for which they will be used.

(ii) Appropriate checks and inspections shall be performed to assure that equipment is installed properly and consistent with design specifications and the manufacturer's instructions.

(iii) The employer shall assure that maintenance materials, spare parts and equipment are suitable for the process application for which they will be used.

(k) *Hot work permit.* (1) The employer shall issue a hot work permit for hot work operations conducted on or near a covered process.

(2) The permit shall document that the fire prevention and protection requirements in 29 CFR 1910.252(a) have been implemented prior to beginning the hot work operations; it shall indicate the date(s) authorized for hot work; and identify the object on which hot work is to be performed. The permit shall be kept on file until completion of the hot work operations.

(l) *Management of change.* (1) The employer shall establish and implement written procedures to manage changes (except for "replacements in kind") to process chemicals, technology, equipment, and procedures; and, changes to facilities that affect a covered process.

(2) The procedures shall assure that the following considerations are addressed prior to any change:

(i) The technical basis for the proposed change;

(ii) Impact of change on safety and health;

(iii) Modifications to operating procedures;

(iv) Necessary time period for the change; and,

(v) Authorization requirements for the proposed change.

(3) Employees involved in operating a process and maintenance and contract employees whose job tasks will be affected by a change in the process shall be informed of, and trained in, the change prior to start-up of the process or affected part of the process.

(4) If a change covered by this paragraph results in a change in the process safety information required by paragraph (d) of this section, such information shall be updated accordingly.

(5) If a change covered by this paragraph results in a change in the operating procedures or practices required by paragraph (f) of this section, such procedures or practices shall be updated accordingly.

(m) *Incident investigation.* (1) The employer shall investigate each incident which resulted in, or could reasonably have resulted in a catastrophic release of highly hazardous chemical in the workplace.

(2) An incident investigation shall be initiated as promptly as possible, but not

later than 48 hours following the incident.

(3) An incident investigation team shall be established and consist of at least one person knowledgeable in the process involved, including a contract employee if the incident involved work of the contractor, and other persons with appropriate knowledge and experience to thoroughly investigate and analyze the incident.

(4) A report shall be prepared at the conclusion of the investigation which includes at a minimum:

(i) Date of incident;

(ii) Date investigation began;

(iii) A description of the incident;

(iv) The factors that contributed to the incident; and,

(v) Any recommendations resulting from the investigation.

(5) The employer shall establish a system to promptly address and resolve the incident report findings and recommendations. Resolutions and corrective actions shall be documented.

(6) The report shall be reviewed with all affected personnel whose job tasks are relevant to the incident findings including contract employees where applicable.

(7) Incident investigation reports shall be retained for five years.

(n) *Emergency planning and response.* The employer shall establish and implement an emergency action plan for the entire plant in accordance with the provisions of 29 CFR 1910.38(a). In addition, the emergency action plan shall include procedures for handling small releases. Employers covered under this standard may also be subject to the hazardous waste and emergency response provisions contained in 29 CFR 1910.120 (a), (p) and (q).

(o) *Compliance Audits.* (1) Employers shall certify that they have evaluated compliance with the provisions of this section at least every three years to verify that the procedures and practices developed under the standard are adequate and are being followed.

(2) The compliance audit shall be conducted by at least one person knowledgeable in the process.

(3) A report of the findings of the audit shall be developed.

(4) The employer shall promptly determine and document an appropriate response to each of the findings of the compliance audit, and document that deficiencies have been corrected.

(5) Employers shall retain the two (2) most recent compliance audit reports.

(p) *Trade secrets.* (1) Employers shall make all information necessary to comply with the section available to those persons responsible for compiling the process safety information (required by paragraph (d) of this section), those assisting in the development of the process hazard analysis (required by paragraph (e) of this section), those responsible for developing the operating procedures (required by paragraph (f) of this section), and those involved in incident investigations (required by paragraph (m) of this section), emergency planning and response (paragraph (n) of this section) and compliance audits (paragraph (o) of this section) without regard to possible trade secret status of such information.

(2) Nothing in this paragraph shall preclude the employer from requiring the persons to whom the information is made available under paragraph (p)(1) of this section to enter into confidentiality agreements not to disclose the information as set forth in 29 CFR 1910.1200.

(3) Subject to the rules and procedures set forth in 29 CFR 1910.1200(i)(1) through 1910.1200(i)(12), employees and their designated representatives shall have access to trade secret information contained within the process hazard analysis and other documents required to be developed by this standard.

Appendix A to § 1910.119—List of Highly Hazardous Chemicals, Toxics and Reactives (Mandatory)

This Appendix contains a listing of toxic and reactive highly hazardous chemicals which present a potential for a catastrophic event at or above the threshold quantity.

CHEMICAL name	CAS*	TQ**
Acetaldehyde	75-07-0	2500
Acrolein (2-Propenal)	107-02-8	150
Acrylyl Chloride	814-68-6	250
Allyl Chloride	107-05-1	1000
Allylamine	107-11-9	1000
Alkylaluminums	Varies	5000
Ammonia, Anhydrous	7664-41-7	10000
Ammonia solutions (>44% ammonia by weight)	7664-41-7	15000
Ammonium Perchlorate	7790-98-9	7500
Ammonium Permanganate	7787-36-2	7500
Arsine (also called Arsenic Hydride)	7784-42-1	100
Bis(Chloromethyl) Ether	542-88-1	100
Boron Trichloride	10294-34-5	2500
Boron Trifluoride	7637-07-2	250
Bromine	7726-95-6	1500
Bromine Chloride	13863-41-7	1500
Bromine Pentafluoride	7789-30-2	2500
Bromine Trifluoride	7787-71-5	15000
3-Bromopropyne (also called Propargyl Bromide)	106-96-7	100
Butyl Hydroperoxide (Tertiary)	75-91-2	5000
Butyl Perbenzoate (Tertiary)	614-45-9	7500
Carbonyl Chloride (see Phosgene)	75-44-5	100
Carbonyl Fluoride Cellulose Nitrate (concentration >12.6% nitrogen	9004-70-0	2500
Chlorine	7782-50-5	1500
Chlorine Dioxide	10049-04-4	1000
Chlorine Pentrafluoride	13637-63-3	1000
Chlorine Trifluoride	7790-91-2	1000
Chlorodiethylaluminum (also called Diethylaluminum Chloride)	96-10-6	5000
1-Chloro-2,4-Dinitrobenzene	97-00-7	5000
Chloromethyl Methyl Ether	107-30-2	500
Chloropicrin	76-06-2	500
Chloropicrin and Methyl Bromide mixture	None	1500
Chloropicrin and Methyl Chloride mixture	None	1500
Cumene Hydroperoxide	80-15-9	5000
Cyanogen	460-19-5	2500
Cyanogen Chloride	506-77-4	500
Cyanuric Fluoride	675-14-9	100
Diacetyl Peroxide (Concentration >70%)	110-22-5	5000
Diazomethane	334-88-3	500
Dibenzoyl Peroxide	94-36-0	7500
Diborane	19287-45-7	100
Dibutyl Peroxide (Tertiary)	110-05-4	5000
Dichloro Acetylene	7572-29-4	250
Dichlorosilane	4109-96-0	2500
Diethylzinc	557-20-0	10000
Diisopropyl Peroxydicarbonate	105-64-6	7500
Dilauroyl Peroxide	105-74-8	7500
Dimethyldichlorosilane	75-78-5	1000
Dimethylhydrazine, 1,1-	57-14-7	1000
Dimethylamine, Anhydrous	124-40-3	2500
2,4-Dinitroaniline	97-02-9	5000
Ethyl Methyl Ketone Peroxide (also Methyl Ethyl Ketone Peroxide; concentration >60%)	1338-23-4	5000
Ethyl Nitrite	109-95-5	5000
Ethylamine	75-04-7	7500
Ethylene Fluorohydrin	371-62-0	100
Ethylene Oxide	75-21-8	5000
Ethyleneimine	151-56-4	1000
Fluorine	7782-41-4	1000
Formaldehyde (Formalin)	50-00-0	1000
Furan	110-00-9	500
Hexafluoroacetone	684-16-2	5000
Hydrochloric Acid, Anhydrous	7647-01-0	5000
Hydrofluoric Acid, Anhydrous	7664-39-3	1000
Hydrogen Bromide	10035-10-6	5000
Hydrogen Chloride	7647-01-0	5000
Hydrogen Cyanide, Anhydrous	74-90-8	1000
Hydrogen Fluoride	7664-39-3	1000
Hydrogen Peroxide (52% by weight or greater)	7722-84-1	7500
Hydrogen Selenide	7783-07-5	150
Hydrogen Sulfide	7783-06-4	1500
Hydroxylamine	7803-49-8	2500
Iron, Pentacarbonyl	13463-40-6	250
Isopropylamine	75-31-0	5000
Ketene	463-51-4	100
Methacrylaldehyde	78-85-3	1000
Methacryloyl Chloride	920-46-7	150
Methacryloyloxyethyl Isocyanate	30674-80-7	100
Methyl Acrylonitrile	126-98-7	250
Methylamine, Anhydrous	74-89-5	1000
Methyl Bromide	74-83-9	2500
Methyl Chloride	74-87-3	15000
Methyl Chloroformate	79-22-1	500
Methyl Ethyl Ketone Peroxide (concentration >60%)	1338-23-4	5000
Methyl Fluoroacetate	453-18-9	100
Methyl Fluorosulfate	421-20-5	100
Methyl Hydrazine	60-34-4	100
Methyl Iodide	74-88-4	7500
Methyl Isocyanate	624-83-9	250
Methyl Mercaptan	74-93-1	5000
Methyl Vinyl Ketone	79-84-4	100
Methyltrichlorosilane	75-79-6	500
Nickel Carbonly (Nickel Tetracarbonyl)	13463-39-3	150

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CHEMICAL name	CAS*	TQ**
Nitric Acid (94.5% by weight or greater)	7697-37-2	500
Nitric Oxide	10102-43-9	250
Nitroaniline (para Nitroaniline	100-01-6	5000
Nitromethane	75-52-5	2500
Nitrogen Dioxide	10102-44-0	250
Nitrogen Oxides (NO; NO$_2$; N204; N203)	10102-44-0	250
Nitrogen Tetroxide (also called Nitrogen Peroxide)	10544-72-6	250
Nitrogen Trifluoride	7783-54-2	5000
Nitrogen Trioxide	10544-73-7	250
Oleum (65% to 80% by weight; also called Fuming Sulfuric Acid)	8014-94-7	1000
Osmium Tetroxide	20816-12-0	100
Oxygen Difluoride (Fluorine Monoxide)	7783-41-7	100
Ozone	10028-15-6	100
Pentaborane	19624-22-7	100
Peracetic Acid (concentration >60% Acetic Acid; also called Peroxyacetic Acid)	79-21-0	1000
Perchloric Acid (concentration >60% by weight)	7601-90-3	5000
Perchloromethyl Mercaptan	594-42-3	150
Perchloryl Fluoride	7616-94-6	5000
Peroxyacetic Acid (concentration >60% Acetic Acid; also called Peracetic Acid)	79-21-0	1000
Phosgene (also called Carbonyl Chloride)	75-44-5	100
Phosphine (Hydrogen Phosphide)	7803-51-2	100
Phosphorus Oxychloride (also called Phosphoryl Chloride)	10025-87-3	1000
Phosphorus Trichloride	7719-12-2	1000
Phosphoryl Chloride (also called Phosphorus Oxychloride)	10025-87-3	1000
Propargyl Bromide	106-96-7	100
Propyl Nitrate	627-3-4	2500
Sarin	107-44-8	100
Selenium Hexafluoride	7783-79-1	1000
Stibine (Antimony Hydride)	7803-52-3	500
Sulfur Dioxide (liquid)	7446-09-5	1000
Sulfur Pentafluoride	5714-22-7	250
Sulfur Tetrafluoride	7783-60-0	250
Sulfur Trioxide (also called Sulfuric Anhydride)	7446-11-9	1000
Sulfuric Anhydride (also called Sulfur Trioxide)	7446-11-9	1000
Tellurium Hexafluoride	7783-80-4	250
Tetrafluoroethylene	116-14-3	5000
Tetrafluorohydrazine	10036-47-2	5000
Tetramethyl Lead	75-74-1	1000
Thionyl Chloride	7719-09-7	250
Trichloro (chloromethyl) Silane	1558-25-4	100
Trichloro (dichlorophenyl) Silane	27137-85-5	2500
Trichlorosilane	10025-78-2	5000
Trifluorochloroethylene	79-38-9	10000
Trimethyoxysilane	2487-90-3	1500

*Chemical Abstract Service Number.

**Threshold Quantity in Pounds (Amount necessary to be covered by this standard).

Appendix B to § 1910.119—Block Flow Diagram and Simplified Process Flow Diagram (Nonmandatory)

BILLING CODE 4510-26-M

EXAMPLE OF A BLOCK FLOW DIAGRAM

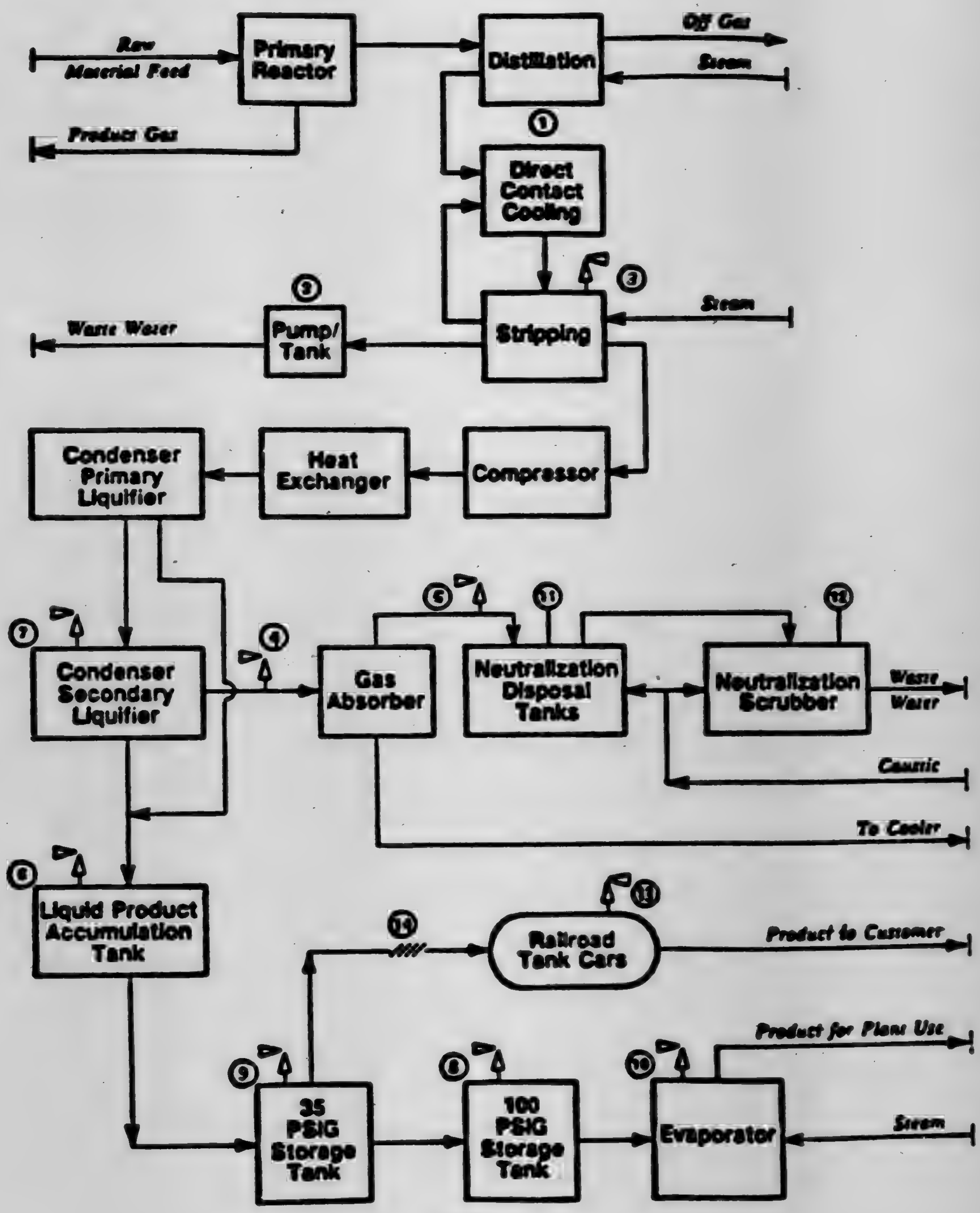
Raw Material Feed
Primary Reactor
Product Gas
Distillation
Off Gas
Steam
①
Direct Contact Cooling
②
③
Steam
Waste Water
Pump/ Tank
Stripping
Condenser Primary Liquifier
Heat Exchanger
Compressor
⑦
④
⑤
⑪
⑫
Condenser Secondary Liquifier
Gas Absorber
Neutralization Disposal Tanks
Neutralization Scrubber
Waste Water
Caustic
To Cooler
⑥
⑬
⑭
Liquid Product Accumulation Tank
Railroad Tank Cars
Product to Customer
Product for Plant Use
⑨
⑧
⑩
35 PSIG Storage Tank
100 PSIG Storage Tank
Evaporator
Steam

EXAMPLE OF A PROCESS FLOW DIAGRAM

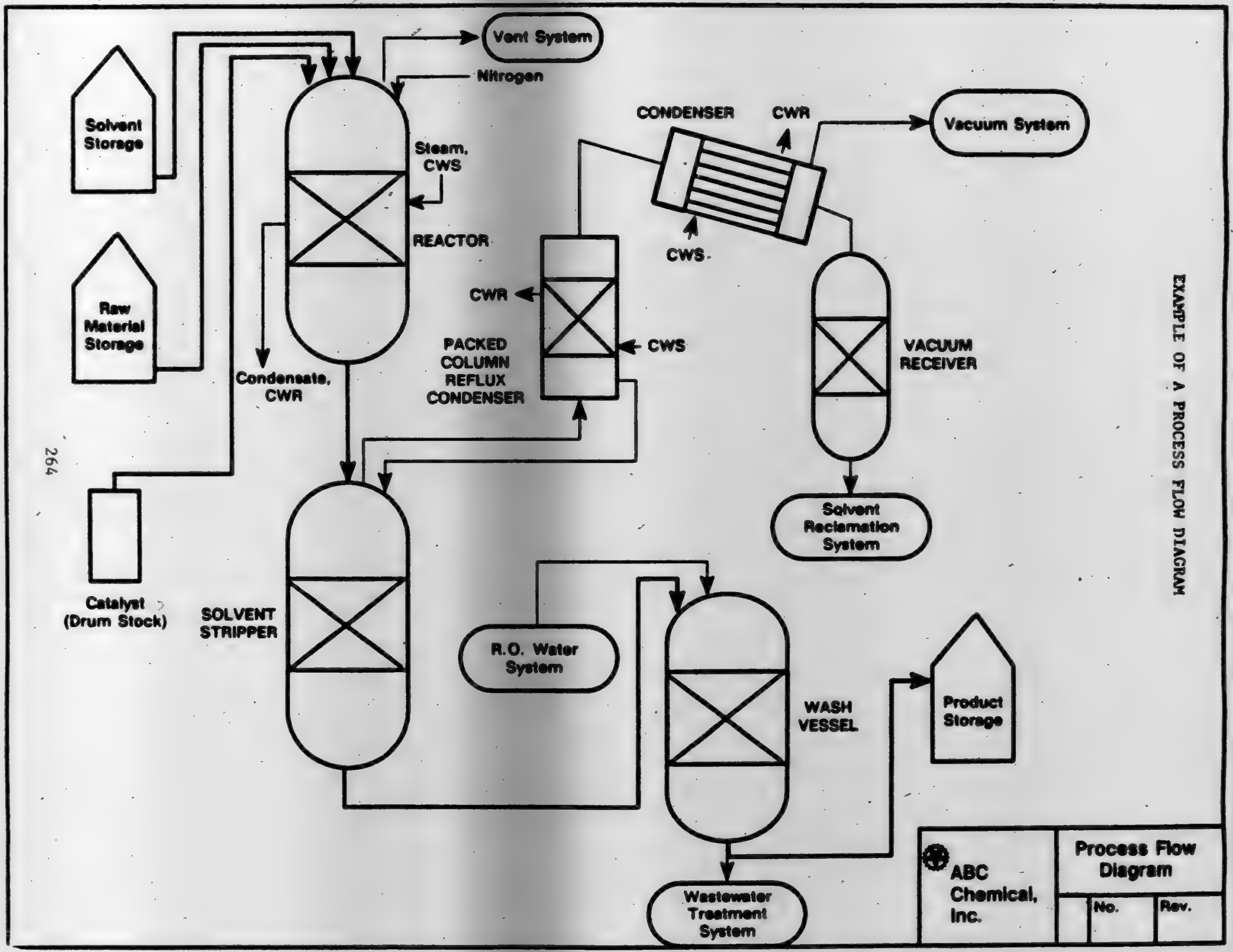
Vent System
Nitrogen
Solvent Storage
Steam, CWS
REACTOR
Raw Material Storage
Condensate, CWR
CONDENSER
CWR
Vacuum System
CWS
CWR
CWS
PACKED COLUMN REFLUX CONDENSER
VACUUM RECEIVER
Solvent Reclamation System
Catalyst (Drum Stock)
SOLVENT STRIPPER
R.O. Water System
WASH VESSEL
Product Storage
Wastewater Treatment System
ABC Chemical, Inc.
Process Flow Diagram
No.
Rev.

BILLING CODE 4510-26-C

Appendix C to § 1910.119—Compliance Guidelines and Recommendations for Process Safety Management (Nonmandatory)

This appendix serves as a nonmandatory guideline to assist employers and employees in complying with the requirements of this section, as well as provides other helpful recommendations and information. Examples presented in this appendix are not the only means of achieving the performance goals in the standard. This appendix neither adds nor detracts from the requirements of the standard.

1. *Introduction to Process Safety Management.* The major objective of process safety management of highly hazardous chemicals is to prevent unwanted releases of hazardous chemicals especially into locations which could expose employees and others to serious hazards. An effective process safety management program requires a systematic approach to evaluating the whole process. Using this approach the process design, process technology, operational and maintenance activities and procedures, nonroutine activities and procedures, emergency preparedness plans and procedures, training programs, and other elements which impact the process are all considered in the evaluation. The various lines of defense that have been incorporated into the design and operation of the process to prevent or mitigate the release of hazardous chemicals need to be evaluated and strengthened to assure their effectiveness at each level. Process safety management is the proactive identification, evaluation and mitigation or prevention of chemical releases that could occur as a result of failures in process, procedures or equipment.

The process safety management standard targets highly hazardous chemicals that have the potential to cause a catastrophic incident. This standard as a whole is to aid employers in their efforts to prevent or mitigate episodic chemical releases that could lead to a catastrophe in the workplace and possibly to the surrounding community. To control these types of hazards, employers need to develop the necessary expertise, experiences, judgement and proactive initiative within their workforce to properly implement and maintain an effective process safety management program as envisioned in the OSHA standard. This OSHA standard is required by the Clean Air Act Amendments as is the Environmental Protection Agency's Risk Management Plan. Employers, who merge the two sets of requirements into their process safety management program, will better assure full compliance with each as well as enhancing their relationship with the local community.

While OSHA believes process safety management will have a positive effect on the safety of employees in workplaces and also offers other potential benefits to employers (increased productivity), smaller businesses which may have limited resources available to them at this time, might consider alternative avenues of decreasing the risks associated with highly hazardous chemicals at their workplaces. One method which might be considered is the reduction in the inventory of the highly hazardous chemical. This reduction in inventory will result in a reduction of the risk or potential for a catastrophic incident. Also, employers including small employers may be able to establish more efficient inventory control by reducing the quantities of highly hazardous chemicals on site below the established threshold quantities. This reduction can be accomplished by ordering smaller shipments and maintaining the minimum inventory necessary for efficient and safe operation. When reduced inventory is not feasible, then the employer might consider dispersing inventory to several locations on site. Dispersing storage into locations where a release in one location will not cause a release in another location is a practical method to also reduce the risk or portential for catastrophic incidents.

2. *Employee Involvement in Process Safety Management.* Section 304 of the Clean Air Act Amendments states that employers are to consult with their employees and their representatives regarding the employers efforts in the development and implementation of the process safety management program elements and hazard assessments. Section 304 also requires employers to train and educate their employees and to inform affected employees of the findings from incident investigations required by the process safety management program. Many employers, under their safety and health programs, have already established means and methods to keep employees and their representatives informed about relevant safety and health issues and employers may be able to adapt these practices and procedures to meet their obligations under this standard. Employers who have not implemented an occupational safety and health program may wish to form a safety and health committee of employees and management representatives to help the employer meet the obligations specified by this standard. These committees can become a significant ally in helping the employer to implement and maintain an effective process safety managment program for all employees.

3. *Process Safety Information.* Complete and accurate written information concerning process chemicals, process technology, and process equipment is essential to an effective process safety management program and to a process hazards analysis. The compiled information will be a necessary resource to a variety of users including the team that will perform the process hazards analysis as required under paragraph (e); those developing the training programs and the operating procedures; contractors whose employees will be working with the process; those conducting the pre-startup reviews; local emergency preparedness planners; and incurance and enforcement officials.

The information to be compiled about the chemicals, including process intermediates, needs to be comprehensive enough for an accurate assessment of the fire and explosion characteristics, reactivity hazards, the safety and health hazards to workers, and the corrosion and erosion effects on the process equipment and monitoring tools. Current material safety data sheet (MSDS) information can be used to help meet this requirement which must be supplemented with process chemistry information including runaway reaction and over pressure hazards if applicable.

Process technology information will be a part of the process safety information package and it is expected that it will include diagrams of the type shown in Appendix B of this section as well as employer established criteria for maximum inventory levels for process chemicals; limits beyond which would be considered upset conditions; and a qualitative estimate of the consequences or results of deviation that could occur if operating beyond the established process limits. Employers are encouraged to use diagrams which will help users understand the process.

A block flow diagram is used to show the major process equipment and interconnecting process flow lines and show flow rates, stream composition, temperatures, and pressures when necessary for clarity. The block flow diagram is a simplified diagram.

Process flow diagrams are more complex and will show all main flow streams including valves to enhance the understanding of the process, as well as pressures and temperatures on all feed and product lines within all major vessels, in and out of headers and heat exchangers, and points of pressure and temperature control. Also, materials of construction information, pump capacities and pressure heads, compressor horsepower and vessel design pressures and temperatures are shown when necessary for clarity. In addition, major components of control loops are usually shown along with key utilities on process flow diagrams.

Piping and instrument diagrams (P&Ids) may be the more appropriate type of diagrams to show some of the above details and to display the information for the piping designer and engineering staff. The P&IDs are to be used to describe the relationships between equipment and instrumentation as well as other relevant information that will enhance clarity. Computer software programs which do P&Ids or other diagrams useful to the information package, may be used to help meet this requirement.

The information pertaining to process equipment design must be documented. In other words, what were the codes and standards relied on to establish good engineering practice. These codes and standards are published by such organizations as the American Society of Mechanical Engineers, American Petroleum Institute, American National Standards Institute, National Fire Protection Association, American Society for Testing and Materials, National Board of Boiler and Pressure Vessel Inspectors, National Association of Corrosion Engineers, American Society of Exchange Manufacturers Association, and model building code groups.

In addition, various engineering societies issue technical reports which impact process design. For example, the American Institute of Chemical Engineers has published technical reports on topics such as two phase flow for venting devices. This type of

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technically recognized report would constitute good engineering practice.

For existing equipment designed and constructed many years ago in accordance with the codes and standards available at that time and no longer in general use today, the employer must document which codes and standards were used and that the design and construction along with the testing, inspection and operation are still suitable for the intended use. Where the process technology requires a design which departs from the applicable codes and standards, the employer must document that the design and construction is suitable for the intended purpose.

4. *Process Hazard Analysis.* A process hazard analysis (PHA), sometimes called a process hazard evaluation, is one of the most important elements of the process safety management program. A PHA is an organized and systematic effort to identify and analyze the significance of potential hazards associated with the processing or handling of highly hazardous chemicals. A PHA provides information which will assist employers and employees in making decisions for improving safety and reducing the consequences of unwanted or unplanned releases of hazardous chemicals. A PHA is directed toward analyzing potential causes and consequences of fires, explosions, releases of toxic or flammable chemicals and major spills of hazardous chemicals. The PHA focuses on equipment, instrumentation, utilities, human actions (routine and nonroutine), and external factors that might impact the process. These considerations assist in determining the hazards and potential failure points or failure modes in a process.

The selection of a PHA methodology or technique will be influenced by many factors including the amount of existing knowledge about the process. Is it a process that has been operated for a long period of time with little or no innovation and extensive experience has been generated with its use? Or, is it a new process or one which has been changed frequently by the inclusion of innovative features? Also, the size and complexity of the process will influence the decision as to the appropriate PHA methodology to use. All PHA methodologies are subject to certain limitations. For example, the checklist methodology works well when the process is very stable and no changes are made, but it is not as effective when the process has undergone extensive change. The checklist may miss the most recent changes and consequently the changes would not be evaluated. Another limitation to be considered concerns the assumptions made by the team or analyst. The PHA is dependent on good judgement and the assumptions made during the study need to be documented and understood by the team and reviewer and kept for a future PHA.

The team conducting the PHA need to understand the methodology that is going to be used. A PHA team can vary in size from two people to a number of people with varied operational and technical backgrounds. Some team members may only be a part of the team for a limited time. The team leader needs to be fully knowledgeable in the proper implementation of the PHA methodology that is to be used and should be impartial in the evaluation. The other full or part time team members need to provide the team with expertise in areas such as process technology, process design, operating procedures and practices, including how the work is actually performed, alarms, emergency procedures, instrumentation, maintenance procedures, both routine and nonroutine tasks, including how the tasks are authorized, procurement of parts and supplies, safety and health, and any other relevant subject as the need dictates. At least one team member must be familiar with the process.

The ideal team will have an intimate knowledge of the standards, codes, specifications and regulations applicable to the process being studied. The selected team members need to be compatible and the team leader needs to be able to manage the team, and the PHA study. The team needs to be able to work together while benefiting from the expertise of others on the team or outside the team, to resolve issues, and to forge a consensus on the findings of the study and recommendations.

The application of a PHA to a process may involve the use of different methodologies for various parts of the process. For example, a process involving a series of unit operations of varying sizes, complexities, and ages may use different methodologies and team members for each operations. Then the conclusions can be integrated into one final study and evaluation. A more specific example is the use of a checklist PHA for a standard boiler or heat exchanger and the use of a Hazard and Operability PHA for the overall process. Also, for batch type processes like custom batch operations, a generic PHA of a representative batch may be used where there are only small changes of monomer or other ingredient ratios and the chemistry is documented for the full range and ratio of batch ingredients. Another process that might consider using a generic type of PHA is a gas plant. Often these plants are simply moved from site to site and therefore, a generic PHA may be used for these movable plants. Also, when an employer has several similar size gas plants and no sour gas is being processed at the site, then a generic PHA is feasible as long as the variations of the individual sites are accounted for in the PHA. Finally, when an employer has a large continuous process which has several control rooms for different portions of the process such as for a distillation tower and a blending operation, the employer may wish to do each segment separately and then integrate the final results.

Additionally, small businesses which are covered by this rule, will often have processes that have less storage volume, less capacity, and less complicated than processes at a large facility. Therefore, OSHA would anticipate that the less complex methodologies would be used to meet the process hazard analysis criteria in the standard. These process hazard analyses can be done in less time and with a few people being involved. A less complex process generally means that less data, P&IDs, and process information is needed to perform a process hazard analysis.

Many small businesses have processes that are not unique, such as cold storage lockers or water treatment facilities. Where employer associations have a number of members with such facilities, a generic PHA, evolved from a checklist or what-if questions, could be developed and used by each employer effectively to reflect his/her particular process; this would simplify compliance for them.

When the employer has a number of processes which require a PHA, the employer must set up a priority system of which PHAs to conduct first. A preliminary or gross hazard analysis may be useful in prioritizing the processes that the employer has determined are subject to coverage by the process safety management standard. Consideration should first be given to those processes with the potential of adversely affecting the largest number of employees. This prioritizing should consider the potential severity of a chemical release, the number of potentially affected employees, the operating history of the process such as the frequency of chemical releases, the age of the process and any other relevant factors. These factors would suggest a ranking order and would suggest either using a weighing factor system or a systematic ranking method. The use of a preliminary hazard analysis would assist an employer in determining which process should be of the highest priority and thereby the employer would obtain the greatest improvement in safety at the facility.

Detailed guidance on the content and application of process hazard analysis methodologies is available from the American Institute of Chemical Engineers' Center for Chemical Process Safety (see appendix D).

5. *Operating Procedures and Practices.* Operating procedures describe tasks to be performed, data to be recorded, operating conditions to be maintained, samples to be collected, and safety and health precautions to be taken. The procedures need to be technically accurate, understandable to employees, and revised periodically to ensure that they reflect current operations. The process safety information package is to be used as a resource to better assure that the operating procedures and practices are consistent with the known hazards of the chemicals in the process and that the operating parameters are accurate. Operating procedures should be reviewed by engineering staff and operating personnel to ensure that they are accurate and provide practical instructions on how to actually carry out job duties safely.

Operating procedures will include specific instructions or details on what steps are to be taken or followed in carrying out the stated procedures. These operating instructions for each procedure should include the applicable safety precautions and should contain appropriate information on safety implications. For example, the operating procedures addressing operating parameters will contain operating instructions about pressure limits, temperature ranges, flow rates, what to do when an upset condition occurs, what alarms and instruments are pertinent if an upset condition occurs, and other subjects. Another example of using operating instructions to properly implement operating procedures is in starting up or shutting down the process. In these cases, different parameters will be required from those of normal operation. These operating instructions need to clearly indicate the distinctions between startup and normal operations such as the appropriate allowances for heating up a unit to reach the normal operating parameters. Also the operating instructions need to describe the proper method for increasing the temperature of the unit until the normal operating temperature parameters are achieved.

Computerized process control systems add complexity to operating instructions. These operating instructions need to describe the logic of the software as well as the relationship between the equipment and the control system; otherwise, it may not be apparent to the operator.

Operating procedures and instructions are important for training operating personnel. The operating procedures are often viewed as the standard operating practices (SOPs) for operations. Control room personnel and operating staff, in general, need to have a full understanding of operating procedures. If workers are not fluent in English then procedures and instructions need to be prepared in a second language understood by the workers. In addition, operating procedures need to be changed when there is a change in the process as a result of the management of change procedures. The consequences of operating procedure changes need to be fully evaluated and the information conveyed to the personnel. For example, mechanical changes to the process made by the maintenance department (like changing a valve from steel to brass or other subtle changes) need to be evaluated to determine if operating procedures and practices also need to be changed. All management of change actions must be coordinated and integrated with current operating procedures and operating personnel must be oriented to the changes in procedures before the change is made. When the process is shut down in order to make a change, then the operating procedures must be updated before startup of the process.

Training in how to handle upset conditions must be accomplished as well as what operating personnel are to do in emergencies such as when a pump seal fails or a pipeline ruptures. Communication between operating personnel and workers performing work within the process area, such as nonroutine tasks, also must be maintained. The hazards of the tasks are to be conveyed to operating personnel in accordance with established procedures and to those performing the actual tasks. When the work is completed, operating personnel should be informed to provide closure on the job.

6. *Employee Training.* All employees, including maintenance and contractor employees, involved with highly hazardous chemicals need to fully understand the safety and health hazards of the chemicals and processes they work with for the protection of themselves, their fellow employees and the citizens of nearby communities. Training conducted in compliance with § 1910.1200, the Hazard Communication standard, will help employees to be more knowledgeable about the chemicals they work with as well as familiarize them with reading and understanding MSDS. However, additional training in subjects such as operating procedures and safety work practices, emergency evacuation and response, safety procedures, routine and nonroutine work authorization activities, and other areas pertinent to process safety and health will need to be covered by an employer's training program.

In establishing their training programs, employers must clearly define the employees to be trained and what subjects are to be covered in their training. Employers in setting up their training program will need to clearly establish the goals and objectives they wish to achieve with the training that they provide to their employees. The learning goals or objectives should be written in clear measurable terms before the training begins. These goals and objectives need to be tailored to each of the specific training modules or segments. Employers should describe the important actions and conditions under which the employee will demonstrate competence or knowledge as well as what is acceptable performance.

Hands-on-training where employees are able to use their senses beyond listening, will enhance learning. For example, operating personnel, who will work in a control room or at control panels, would benefit by being trained at a simulated control panel or panels. Upset conditions of various types could be displayed on the simulator, and then the employee could go through the proper operating procedures to bring the simulator panel back to the normal operating parameters. A training environment could be created to help the trainee feel the full reality of the situation but, of course, under controlled conditions. This realistic type of training can be very effective in teaching employees correct procedures while allowing them to also see the consequences of what might happen if they do not follow established operating procedures. Other training techniques using videos or on-the-job training can also be very effective for teaching other job tasks, duties, or other important information. An effective training program will allow the employee to fully participate in the training process and to practice their skill or knowledge.

Employers need to periodically evaluate their training programs to see if the necessary skills, knowledge, and routines are being properly understood and implemented by their trained employees. The means or methods for evaluating the training should be developed along with the training program goals and objectives. Training program evaluation will help employers to determine the amount of training their employees understood, and whether the desired results were obtained. If, after the evaluation, it appears that the trained employees are not at the level of knowledge and skill that was expected, the employer will need to revise the training program, provide retraining, or provide more frequent refresher training sessions until the deficiency is resolved. Those who conducted the training and those who received the training should also be consulted as to how best to improve the training process. If there is a language barrier, the language known to the trainees should be used to reinforce the training messages and information.

Careful consideration must be given to assure that employees including maintenance and contract employees receive current and updated training . For example, if changes are made to a process, impacted employees must be trained in the changes and understand the effects of the changes on their job tasks (e.g., any new operating procedures pertinent to their tasks). Additionally, as already discussed the evaluation of the employee's absorption of training will certainly influence the need for training.

7. *Contractors.* Employers who use contractors to perform work in and around processes that involve highly hazardous chemicals, will need to establish a screening process so that they hire and use contractors who accomplish the desired job tasks without compromising the safety and health of employees at a facility. For contractors, whose safety performance on the job is not known to the hiring employer, the employer will need to obtain information on injury and illness rates and experience and should obtain contractor references. Additionally, the employer must assure that the contractor has the appropriate job skills, knowledge and certifications (such as for pressure vessel welders). Contractor work methods and experiences should be evaluated. For example, does the contractor conducting demolition work swing loads over operating processes or does the contractor avoid such hazards?

Maintaining a site injury and illness log for contractors is another method employers must use to track and maintain current knowledge of work activities involving contract employees working on or adjacent to covered processes. Injury and illness logs of both the employer's employees and contract employees allow an employer to have full knowledge of process injury and illness experience. This log will also contain information which will be of use to those auditing process safety management compliance and those involved in incident investigations.

Contract employees must perform their work safely. Considering that contractors often perform very specialized and potentially hazardous tasks such as confined space entry activities and nonroutine repair activities it is quite important that their activities be controlled while they are working on or near a covered process. A permit system or work authorization system for these activities would also be helpful to all affected employers. The use of a work authorization system keeps an employer informed of contract employee activities, and as a benefit the employer will have better coordination and more management control over the work being performed in the process area. A well run and well maintained process where employee safety is fully recognized will benefit all of those who work in the facility whether they be contract employees or employees of the owner.

8. *Pre-Startup Safety.* For new processes, the employer will find a PHA helpful in improving the design and construction of the process from a reliability and quality point of view. The safe operation of the new process will be enhanced by making use of the PHA recommendations before final installations are completed. P&IDs are to be completed along with having the operating procedures in place and the operating staff trained to run the process before startup. The initial startup procedures and normal operating procedures need to be fully evaluated as part of the pre-startup review to assure a safe transfer into the normal operating mode for meeting the process parameters.

For existing processes that have been shutdown for turnaround, or modification, etc., the employer must assure that any changes other than "replacement in kind" made to the process during shutdown go through the management of change procedures. P&IDs will need to be updated as necessary, as well as operating procedures and instructions. If the changes made to the process during shutdown are significant and impact the training program, then operating personnel as well as employees engaged in routine and nonroutine work in the process area may need some refresher or additional training in light of the changes. Any incident investigation recommendations, compliance audits or PHA recommendations need to be reviewed as well to see what impacts they may have on the process before beginning the startup.

9. *Mechanical Integrity.* Employers will need to review their maintenance programs and schedules to see if there are areas where "breakdown" maintenance is used rather than an on-going mechanical integrity program. Equipment used to process, store, or handle highly hazardous chemicals needs to be designed, constructed, installed and maintained to minimize the risk of releases of such chemicals. This requires that a mechanical integrity program be in place to assure the continued integrity of process equipment. Elements of a mechanical integrity program include the identification and categorization of equipment and instrumentation, inspections and tests, testing and inspection frequencies, development of maintenance procedures, training of maintenance personnel, the establishment of criteria for acceptable test results, documentation of test and inspection results, and documentation of manufacturer recommendations as to meantime to failure for equipment and instrumentation.

The first line of defense an employer has available is to operate and maintain the process as designed, and to keep the chemicals contained. This line of defense is backed up by the next line of defense which is the controlled release of chemicals through venting to scrubbers or flares, or to surge or overflow tanks which are designed to receive such chemicals, etc. These lines of defense are the primary lines of defense or means to prevent unwanted releases. The secondary lines of defense would include fixed fire protection systems like sprinklers, water spray, or deluge systems, monitor guns, etc., dikes, designed drainage systems, and other systems which would control or mitigate hazardous chemicals once an unwanted release occurs. These primary and secondary lines of defense are what the mechanical integrity program needs to protect and strengthen these primary and secondary lines of defenses where appropriate.

The first step of an effective mechanical integrity program is to compile and categorize a list of process equipment and instrumentation for inclusion in the program. This list would include pressure vessels, storage tanks, process piping, relief and vent systems, fire protection system components, emergency shutdown systems and alarms and interlocks and pumps. For the categorization of instrumentation and the listed equipment the employer would prioritize which pieces of equipment require closer scrutiny than others. Meantime to failure of various instrumentation and equipment parts would be known from the manufacturers data or the employer's experience with the parts, which would then influence the inspection and testing frequency and associated procedures. Also, applicable codes and standards such as the National Board Inspection Code, or those from the American Society for Testing and Material, American Petroleum Institute, National Fire Protection Association, American National Standards Institute, American Society of Mechanical Engineers, and other groups, provide information to help establish an effective testing and inspection frequency, as well as appropriate methodologies.

The applicable codes and standards provide criteria for external inspections for such items as foundation and supports, anchor bolts, concrete or steel supports, guy wires, nozzles and sprinklers, pipe hangers, grounding connections, protective coatings and insulation, and external metal surfaces of piping and vessels, etc. These codes and standards also provide information on methodologies for internal inspection, and a frequency formula based on the corrosion rate of the materials of construction. Also, erosion both internal and external needs to be considered along with corrosion effects for piping and valves. Where the corrosion rate is not known, a maximum inspection frequency is recommended, and methods of developing the corrosion rate are available in the codes. Internal inspections need to cover items such as vessel shell, bottom and head; metallic linings; nonmetallic linings; thickness measurements for vessels and piping; inspection for erosion, corrosion, cracking and bulges; internal equipment like trays, baffles, sensors and screens for erosion, corrosion or cracking and other deficiencies. Some of these inspections may be performed by state of local government inspectors under state and local statutes. However, each employer needs to develop procedures to ensure that tests and inspections are conducted properly and that consistency is maintained even where different employees may be involved. Appropriate training is to be provided to maintenance personnel to ensure that they understand the preventive maintenance program procedures, safe practices, and the proper use and application of special equipment or unique tools that may be required. This training is part of the overall training program called for in the standard.

A quality assurance system is needed to help ensure that the proper materials of construction are used, that fabrication and inspection procedures are proper, and that installation procedures recognize field installation concerns. The quality assurance program is an essential part of the mechanical integrity program and will help to maintain the primary and secondary lines of defense that have been designed into the process to prevent unwanted chemical releases or those which control or mitigate a release. "As built" drawings, together with certifications of coded vessels and other equipment, and materials of construction need to be verified and retained in the quality assurance documentation. Equipment installation jobs need to be properly inspected in the field for use of proper materials and procedures and to assure that qualified craftsmen are used to do the job. The use of appropriate gaskets, packing, bolts, valves, lubricants and welding rods need to be verified in the field. Also procedures for installation of safety devices need to be verified, such as the torque on the bolts on ruptured disc installations, uniform torque on flange bolts, proper installation of pump seals, etc. If the quality of parts is a problem, it may be appropriate to conduct audits of the equipment supplier's facilities to better assure proper purchases of required equipment which is suitable for its intended service. Any changes in equipment that may become necessary will need to go through the management of change procedures.

10. *Nonroutine Work Authorizations.* Nonroutine work which is conducted in process areas needs to be controlled by the employer in a consistent manner. The hazards identified involving the work that is to be accomplished must be communicated to those doing the work, but also to those operating personnel whose work could affect the safety of the process. A work authorization notice or permit must have a procedure that describes the steps the maintenance supervisor, contractor representative or other person needs to follow to obtain the necessary clearance to get the job started. The work authorization procedures need to reference and coordinate, as applicable, lockout/tagout procedures, line breaking procedures, confined space entry procedures and hot work authorizations. This procedure also needs to provide clear steps to follow once the job is completed in order to provide closure for those that need to know the job is now completed and equipment can be returned to normal.

11. *Managing Change.* To properly manage changes to process chemicals, technology, equipment and facilities, one must define what is meant by change. In this process safety management standard, change includes all modifications to equipment, procedures, raw materials and processing conditions other than "replacement in kind". These changes need to be properly managed by identifying and reviewing them prior to implementation of the change. For example,

the operating procedures contain the operating parameters (pressure limits, temperature ranges, flow rates, etc.) and the importance of operating within these limits. While the operator must have the flexibility to maintain safe operation within the established parameters, any operation outside of these parameters requires review and approval by a written management of change procedure.

Management of change covers such as changes in process technology and changes to equipment and instrumentation. Changes in process technology can result from changes in production rates, raw materials, experimentation, equipment unavailability, new equipment, new product development, change in catalyst and changes in operating conditions to improve yield or quality. Equipment changes include among others change in materials of construction, equipment specifications, piping pre-arrangements, experimental equipment, computer program revisions and changes in alarms and interlocks. Employers need to establish means and methods to detect both technical changes and mechanical changes.

Temporary changes have caused a number of catastrophes over the years, and employers need to establish ways to detect temporary changes as well as those that are permanent. It is important that a time limit for temporary changes be established and monitored since, without control, these changes may tend to become permanent. Temporary changes are subject to the management of change provisions. In addition, the management of change procedures are used to insure that the equipment and procedures are returned to their original or designed conditions at the end of the temporary change. Proper documentation and review of these changes is invaluable in assuring that the safety and health considerations are being incorporated into the operating procedures and the process.

Employers may wish to develop a form or clearance sheet to facilitate the processing of changes through the management of change procedures. A typical change form may include a description and the purpose of the change, the technical basis for the change, safety and health considerations, documentation of changes for the operating procedures, maintenance procedures, inspection and testing, P&IDs, electrical classification, training and communications, pre-startup inspection, duration if a temporary change, approvals and authorization. Where the impact of the change is minor and well understood, a check list reviewed by an authorized person with proper communication to others who are affected may be sufficient. However, for a more complex or significant design change, a hazard evaluation procedure with approvals by operations, maintenance, and safety departments may be appropriate. Changes in documents such as P&IDs, raw materials, operating procedures, mechanical integrity programs, electrical classifications, etc., need to be noted so that these revisions can be made permanent when the drawings and procedure manuals are updated. Copies of process changes need to be kept in an accessible location to ensure that design changes are available to operating personnel as well as to PHA team members when a PHA is being done or one is being updated.

12. *Investigation of Incidents*. Incident investigation is the process of identifying the underlying causes of incidents and implementing steps to prevent similar events from occurring. The intent of an incident investigation is for employers to learn from past experiences and thus avoid repeating past mistakes. The incidents for whicn OSHA expects employers to become aware and to investigate are the types of events which result in or could reasonably have resulted in a catastrophic release. Some of the events are sometimes referred to as "near misses," meaning that a serious consequence did not occur, but could have.

Employers need to develop in-house capability to investigate incidents that occur in their facilities. A team needs to be assembled by the employer and trained in the techniques of investigation including how to conduct interviews of witnesses, needed documentation and report writing. A multi-disciplinary team is better able to gather the facts of the event and to analyze them and develop plausible scenarios as to what happened, and why. Team members should be selected on the basis of their training, knowledge and ability to contribute to a team effort to fully investigate the incident. Employees in the process area where the incident occurred should be consulted, interviewed or made a member of the team. Their knowledge of the events form a significant set of facts about the incident which occurred. The report, its findings and recommendations are to be shared with those who can benefit from the information. The cooperation of employees is essential to an effective incident investigation. The focus of the investigation should be to obtain facts, and not to place blame. The team and the investigation process should clearly deal with all involved individuals in a fair, open and consistent manner.

13. *Emergency Preparedness*. Each employer must address what actions employees are to take when there is an unwanted release of highly hazardous chemicals. Emergency preparedness or the employer's tertiary (third) lines of defense are those that will be relied on along with the secondary lines of defense when the primary lines of defense which are used to prevent an unwanted release fail to stop the release. Employers will need to decide if they want employees to handle and stop small or minor incidental releases. Whether they wish to mobilize the available resources at the plant and have them brought to bear on a more significant release. Or whether employers want their employees to evacuate the danger area and promptly escape to a preplanned safe zone area, and allow the local community emergency response organizations to handle the release. Or whether the employer wants to use some combination of these actions. Employers will need to select how many different emergency preparedness or tertiary lines of defense they plan to have and then develop the necessary plans and procedures, and appropriately train employees in their emergency duties and responsibilities and then implement these lines of defense.

Employers at a minimum must have an emergency action plan which will facilitate the prompt evacuation of employees due to an unwanted release of a highly hazardous chemical. This means that the employer will have a plan that will be activated by an alarm system to alert employees when to evacuate and, that employees who are physically impaired, will have the necessary support and assistance to get them to the safe zone as well. The intent of these requirements is to alert and move employees to a safe zone quickly. Delaying alarms or confusing alarms are to be avoided. The use of process control centers or similar process buildings in the process area as safe areas is discouraged. Recent catastrophes have shown that a large life loss has occurred in these structures because of where they have been sited and because they are not necessarily designed to withstand over-pressures from shockwaves resulting from explosions in the process area.

Unwanted incidental releases of highly hazardous chemicals in the process area must be addressed by the employer as to what actions employees are to take. If the employer wants employees to evacuate the area, then the emergency action plan will be activated. For outdoor processes where wind direction is important for selecting the safe route to a refuge area, the employer should place a wind direction indicator such as a wind sock or pennant at the highest point that can be seen throughout the process area. Employees can move in the direction of cross wind to upwind to gain safe access to the refuge area by knowing the wind direction.

If the employer wants specific employees in the release area to control or stop the minor emergency or incidental release, these actions must be planned for in advance and procedures developed and implemented. Preplanning for handling incidental releases for minor emergencies in the process area needs to be done, appropriate equipment for the hazards must be provided, and training conducted for those employees who will perform the emergency work before they respond to handle an actual release. The employer's training program, including the Hazard Communication standard training is to address the training needs for employees who are expected to handle incidental or minor releases.

Preplanning for releases that are more serious than incidental releases is another important line of defense to be used by the employer. When a serious release of a highly hazardous chemical occurs, the employer through preplanning will have determined in advance what actions employees are to take. The evacuation of the immediate release area and other areas as necessary would be accomplished under the emergency action plan. If the employer wishes to use plant personnel such as a fire brigade, spill control team, a hazardous materials team, or use employees to render aid to those in the immediate release area and control or mitigate the incident, these actions are covered by § 1910.120, the Hazardous Waste Operations and Emergency Response

(HAZWOPER) standard. If outside assistance is necessary, such as through mutual aid agreements between employers or local government emergency response organizations, these emergency responders are also covered by HAZWOPER. The safety and health protections required for emergency responders are the responsibility of their employers and of the on-scene incident commander.

Responders may be working under very hazardous conditions and therefore the objective is to have them competently led by an on-scene incident commander and the commander's staff, properly equipped to do their assigned work safely, and fully trained to carry out their duties safely before they respond to an emergency. Drills, training exercises, or simulations with the local community emergency response planners and responder organizations is one means to obtain better preparedness. This close cooperation and coordination between plant and local community emergency preparedness managers will also aid the employer in complying with the Environmental Protection Agency's Risk Management Plan criteria.

One effective way for medium to large facilities to enhance coordination and communication during emergencies for on plant operations and with local community organizations is for employers to establish and equip an emergency control center. The emergency control center would be sited in a safe zone area so that it could be occupied throughout the duration of an emergency. The center would serve as the major ccommunication link between the on-scene incident commander and plant or corporate management as well as with the local community officials. The communication equipment in the emergency control center should include a network to receive and transmit information by telephone, radio or other means. It is important to have a backup communication network in case of power failure or one communication means fails. The center should also be equipped with the plant layout and community maps, utility drawings including fire water, emergency lighting, appropriate reference materials such as a government agency notification list, company personnel phone list, SARA Title III reports and material safety data sheets, emergency plans and procedures manual, a listing with the location of emergency response equipment, mutual aid information, and access to meteorological or weather condition data and any dispersion modeling data.

14. *Compliance Audits.* Employers need to select a trained individual or assemble a trained team of people to audit the process safety management system and program. A small process or plant may need only one knowledgeable person to conduct an audit. The audit is to include an evaluation of the design and effectiveness of the process safety management system and a field inspection of the safety and health conditions and practices to verify that the employer's systems are effectively implemented. The audit should be conducted or lead by a person knowledgeable in audit techniques and who is impartial towards the facility or area being audited. The essential elements of an audit program include planning, staffing, conduting the audit, evaluation and corrective action, follow-up and documentation.

Planning in advance is essential to the success of the auditing process. Each employer needs to establish the format, staffing, scheduling and verification methods prior to conducting the audit. The format should be designed to provide the lead auditor with a procedure or checklist which details the requirements of each section of the standard. The names of the audit team members should be listed as part of the format as well. The checklist, if properly designed, could serve as the verification sheet which provides the auditor with the necessary information to expedite the review and assure that no requirements of the standard are omitted. This verification sheet format could also identify those elements that will require evaluation or a response to correct deficiencies. This sheet could also be used for developing the follow-up and documentation requirements.

The selection of effective audit team members is critical to the success of the program. Team members should be chosen for their experience, knowledge, and training and should be familiar with the processes and with auditing techniques, practices and procedures. The size of the team will vary depending on the size and complexity of the process under consideration. For a large, complex, highly instrumented plant, it may be desirable to have team members with expertise in process engineering and design, process chemistry, instrumentation and computer controls, electrical hazards and classifications, safety and health disciplines, maintenance, emergency preparedness, warehousing or shipping, and process safety auditing. The team may use part-time members to provide for the depth of expertise required as well as for what is actually done or followed, compared to what is written.

An effective audit includes a review of the relevant documentation and process safety information, inspection of the physical facilities, and interviews with all levels of plant personnel. Utilizing the audit procedure and checklist developed in the preplanning stage, the audit team can systematically analyze compliance with the provisions of the standard and any other corporate policies that are relevant. For example, the audit team will review all aspects of the training program as part of the overall audit. The team will review the written training program for adequacy of content, frequency of training, effectiveness of training in terms of its goals and objectives as well as to how it fits into meeting the standard's requirements, documentation, etc. Through interviews, the team can determine the employee's knowledge and awareness of the safety procedures, duties, rules, emergency response assignments, etc. During the inspection, the team can observe actual practices such as safety and health policies, procedures, and work authorization practices. This approach enables the team to identify deficiencies and determine where corrective actions or improvements are necessary.

An audit is a technique used to gather sufficient facts and information, including statistical information, to verify compliance with standards. Auditors should select as part of their preplanning a sample size sufficient to give a degree of confidence that the audit reflects the level of compliance with the standard. The audit team, through this systematic analysis, should document areas which require corrective action as well as those areas where the process safety management system is effective and working in an effective manner. This provides a record of the audit procedures and findings, and serves as a baseline of operation data for future audits. It will assist future auditors in determining changes or trends from previous audits.

Corrective action is one of the most important parts of the audit. It includes not only addressing the identified deficiencies, but also planning, followup, and documentation. The corrective action process normally begins with a management review of the audit findings. The purpose of this review is to determine what actions are appropriate, and to establish priorities, timetables, resource allocations and requirements and responsibilities. In some cases, corrective action may involve a simple change in procedure or minor maintenance effort to remedy the concern. Management of change procedures need to be used, as appropriate, even for what may seem to be a minor change. Many of the deficiencies can be acted on promptly, while some may require engineering studies or indepth review of actual procedures and practices. There may be instances where no action is necessary and this is a valid response to an audit finding. All actions taken, including an explanation where no action is taken on a finding, needs to be documented as to what was done and why.

It is important to assure that each deficiency identified is addressed, the corrective action to be taken noted, and the audit person or team responsible be properly documented by the employer. To control the corrective action process, the employer should consider the use of a tracking system. This tracking system might include periodic status reports shared with affected levels of management, specific reports such as completion of an engineering study, and a final implementation report to provide closure for audit findings that have been through management of change, if appropriate, and then shared with affective employees and management. This type of tracking system provides the employer with the status of the corrective action. It also provides the documentation required to verify that appropriate corrective actions were taken on deficiencies identified in the audit.

Appendix D to § 1910.119—Sources of Further Information (Nonmandatory)

1. Center for Chemical Process Safety, American Institute of Chemical Engineers, 345 East 47th Street, New York, NY 10017, (212) 705-7319.

2. "Guidelines for Hazard Evaluation Procedures," American Institute of Chemical Engineers; 345 East 47th Street, New York, NY 10017.

3. "Guidelines for Technical Management of Chemical Process Safety," Center for Chemical Process Safety of the American Institute of Chemical Engineers; 345 East 47th Street, New York, NY 10017.

4. "Evaluating Process Safety in the Chemical Industry," Chemical Manufacturers Association; 2501 M Street NW, Washington, DC 20037.

5. "Safe Warehousing of Chemicals," Chemical Manufacturers Association; 2501 M Street NW, Washington, DC 20037.

6. "Management of Process Hazards," American Petroleum Institute (API Recommended Practice 750); 1220 L Street, N.W., Washington, D.C. 20005.

7. "Improving Owner and Contractor Safety Performance," American Petroleum Institute (API Recommended Practice 2220); API, 1220 L Street N.W., Washington, D.C. 20005.

8. Chemical Manufacturers Association (CMA's Manager Guide), First Edition, September 1991; CMA, 2501 M Street, N.W., Washington, D.C. 20037.

9. "Improving Construction Safety Performance," Report A-3, The Business Roundtable; The Business Roundtable, 200 Park Avenue, New York, NY 10166. (Report includes criteria to evaluate contractor safety performance and criteria to enhance contractor safety performance).

10. "Recommended Guidelines for Contractor Safety and Health," Texas Chemical Council; Texas Chemical Council, 1402 Nueces Street, Austin, TX 78701–1534.

11. "Loss Prevention in the Process Industries," Volumes I and II; Frank P. Lees, Butterworth; London 1983.

12. "Safety and Health Program Management Guidelines," 1989; U.S. Department of Labor, Occupational Safety and Health Administration.

13. "Safety and Health Guide for the Chemical Industry," 1986, (OSHA 3091); U.S. Department of Labor, Occupational Safety and Health Administration; 200 Constitution Avenue, N.W., Washington, D.C. 20210.

14. "Review of Emergency Systems," June 1988; U.S. Environmental Protection Agency (EPA), Office of Solid Waste and Emergency Response, Washington, DC 20460.

15. "Technical Guidance for Hazards Analysis, Emergency Planning for Extremely Hazardous Substances," December 1987; U.S. Environmental Protection Agency (EPA), Federal Emergency Management Administration (FEMA) and U.S. Department of Transportation (DOT), Washington, DC 20460.

16. "Accident Investigation * * * A New Approach," 1983, National Safety Council; 444 North Michigan Avenue, Chicago, IL 60611–3991.

17. "Fire & Explosion Index Hazard Classification Guide," 6th Edition, May 1987, Dow Chemical Company; Midland, Michigan 48674.

18. "Chemical Exposure Index," May 1988, Dow Chemical Company; Midland, Michigan 48674.

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federal register

Monday
February 24, 1992

Part III

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 3280

Manufactured Home Construction and Safety Standards; Proposed Rule

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 3280

[Docket No. R-92-1497; FR-2622-P-01]

RIN 2502-AE56

Manufactured Home Construction and Safety Standards

AGENCY: Assistant Secretary for Housing—Federal Housing Commissioner, (HUD).

ACTION: Proposed rule.

SUMMARY: HUD is proposing to amend the Federal Manufactured Home Construction and Safety Standards (FMHCSS) to include preemptive standards significantly upgrading the existing energy conservation requirements. Additional miscellaneous amendments recommended by the Council of American Building Officials (CABO) and the MHCSS Consensus Committee (MCC) are being proposed.

DATES: Comment due date: May 26, 1992.

FOR FURTHER INFORMATION CONTACT: Donald R. Fairman, Manufactured Housing and Construction Standards Division, Department of Housing and Urban Development, 451 Seventh Street, SW., room 6270, Washington, DC 20410-8000. Telephone (202) 708-0718. (This is not a toll-free number.)

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule (notice) to the Rules Docket Clerk, Office of General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. FAXed comments are not acceptable. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

SUPPLEMENTARY INFORMATION:

I. Background

The National Manufactured Housing and Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 et. seq. (Act), authorizes the Secretary of Housing and Urban Development (Secretary) to establish and amend the Federal Manufactured Home Construction and Safety Standards (FMHCSS), 24 CFR part 3280 (Standards). The stated purposes of the Act are "to reduce the number of personal injuries and deaths and the amount of insurance costs and property damage resulting from manufactured home accidents and to improve the quality and durability of manufactured homes." 42 U.S.C. 5401. In accordance with the Act and these purposes, the Department is issuing these proposed amendments to the FMHCSS for public comment.

A. Amendment to the National Manufactured Housing Construction and Safety Standards Act of 1974

The Housing and Community Development Act of 1987, 42 U.S.C. 5301, amends the National Manufactured Housing Construction and Safety Standards Act of 1974 (Act) to require preemptive energy conservation standards. The new subsection to section 604 of the Act is reprinted as follows:

> (i) (1) The Federal manufactured home construction and safety standards established by the Secretary under this section shall include preemptive energy conservation standards in accordance with this subsection.
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> (2) The energy conservation standards established under this subsection shall be cost-effective energy conservation performance standards designed to ensure the lowest total of construction and operating costs.
>
> (3) The energy conservation standards established under this subsection shall take into consideration the design and factory construction techniques of manufactured homes and shall provide for alternative practices that result in net estimated energy consumption equal to or less than the specified standards.

To comply with the Act, the Department contracted with the Pacific Northwest Laboratories to assist in developing a revision to the existing energy conservation requirements in the FMHCSS. The developed revision is based upon the requirement to ensure the lowest total construction and operating cost. This revision is being published as a proposed rule for public comment.

Concurrently with the Pacific Northwest Laboratory, the MCC [1] caused an alternative energy conservation standard revision to be developed for the FMHCSS. It was duly submitted to the Secretary by the MCC for consideration. The substance of this alternative is discussed in parallel with the discussion on the proposed rule.

B. Private Organizations Developing Model Manufactured Housing Standards

On July 7, 1982, 47 FR 29605, HUD announced its interest in having a nationally recognized building code or standards organization develop, publish, and maintain model standards which could replace, by reference, all the HUD standards now in the FMHCSS. HUD would retain its responsibility and authority to promulgate and enforce revisions to the FMHCSS by using formal rulemaking procedures. Model standards incorporated by reference in the FMHCSS would then become preemptive and be enforced as a HUD standard.

The decision to select a private standards organization, in response to **Federal Register** announcement, was postponed in order that the Department could finalize comprehensive revisions to the Standards that the Department had initiated. The notice was re-issued February 13, 1987 at 57 FR 4663. On February 16, 1988, the Department announced at 53 FR 4463 that the Council of American Building Officials (CABO) was selected to initiate the process of developing a model standard for the FMHCSS in the private sector.

Although CABO was selected in response to the notice of February 13, 1987 to develop standards, the Department will consider standards developed by other organizations on an equal basis with standards developed by CABO for incorporation into FMHCSS. The Department does not consider CABO as an exclusive or preferred source of model standards. Other interested organizations were invited to submit model standards for consideration to HUD at any time. The Manufactured Housing Institute (MHI) declared its interest shortly thereafter.

Subsequently, CABO and MHI established separate Manufactured Home Construction and Safety Standards Committees. Recommendations for amendments were developed and submitted to the Department by both committees. Accordingly, the Department is issuing this notice of proposed rulemaking to solicit public comments on these recommendations, as well as other changes the Department feels it is necessary to propose.

C. General Update of the Standards

The Department is still charged with the overall maintenance of the Federal Manufactured Home Construction and Safety Standards. Accordingly, the Department believes it is necessary to propose changes to the Standards in response to information that is received directly. Most of these changes are for the purpose of clarity. They either incorporate a previously issued interpretive bulletin into the standards or revise the standards to more clearly state the requirements to reflect the manner in which they are being enforced. Other changes, such as those to Subpart A are basically editorial. The Department is initiating a general update of all the standards incorporated by reference.

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[1] The MCC (The Manufactured Housing Construction and Safety Standards Consensus Committee) is a group of manufacturers, regulators and other interested parties involved with the manufactured housing industry. The Manufactured Housing Institute serves as the Secretariat of the MHCSS Consensus Committee.

II. Energy Conservation Standards

A. The legislation passed by congress requires that the Department of Housing and Urban Development revise the FMHCSS to incorporate preemptive energy conservation standards which shall be cost effective and designed to ensure the lowest total of construction and operating costs. The congressional record clarified that the revision is to be based on a life cycle cost analysis taking into consideration the cost of energy conservation (efficiency) measures (ECM) and the energy savings from those measures over the effective physical life of the structures.

The approach used in developing the proposed energy conservation standards revision is a cost-benefit analysis in which the costs of energy conservation measures (ECM) were balanced against the benefits of energy savings. The resulting optimum was used to specify an overall level of energy conservation in terms of a building shell U-value (thermal conductance) that produced the lowest life-cycle cost to the owner of a manufactured home.

Several major activities were accomplished in the development of the proposed energy conservation standards. They are: 1. A life-cycle cost model to determine the optimum ECM investment was developed. 2. The definitions of the ECM, including their cost and "U" value, which could be considered as options were established. 3. The financial, economic, and fuel price parameters used in the life-cycle cost analysis were defined. 4. Separate "U" value optimums were defined for a large number of cities using different energy sources for both single and multi (double) section homes. 5. The resultant "U" values were aggregated in several steps into four "U" value zones, each one having a specified maximum coefficient of heat transmission.

At the direction of Congress the life-cycle cost (LCC) analysis from the consumer's perspective was developed as the basis for revising the HUD thermal standard. The LCC compares the total long-run (present value) dollar costs for an objective achieved through several alternative courses of action and selects the course of action that achieves the objective for the least cost. For this LCC analysis the benefit is the energy savings from the ECM's; and the major cost is the ECM cost, including the associated mortgages, fees, and payments. Maintenance expenses were also included as costs.

The analysis to develop the standard was done with the Automated Residential Energy Standard (ARES) software. The ARES was developed by the U.S. Department of Energy (DOE) specifically for the development of residential energy conservation standards. Given a set of fuel price, financial, economic, and ECM costs for a building at a specific location, ARES identifies the set of ECMs to invest in such that the purchaser's total life-cycle cost is minimized.

Several financial, economic, and fuel price parameters were required for the LCC analysis. Because most homes are purchased with financing, the development of the standard was based on a manufactured home purchased with financing. The loan selected has a 14% mortgage rate over 14 years with a down payment of 15%. This discount rate or alternative investment rate was 12%. The inflation rate was 4.9%. The period of analysis and building lifetime were both 33 years. Each state's average residential fuel price were defined for electricity, fuel oil, natural gas, and LPG. Residential fuel price escalation rates (real) were defined by U.S. census region. Nationally, these annual fuel escalation rates averaged: electricity, 0.0% (constant); fuel oil, 2.5%; natural gas, 2.0%; and liquid petroleum gas (LPG); 2.4%.

The ECM options used in the life-cycle cost analysis are based upon cost data and commercial availability as determined from a survey of about one third of the manufacturing plants in the United States. Single and double-wide homes were considered separately when there were significant differences between the ECM characteristics of the two. The ranges of insulation levels included as options are:

Ceilings	R–11 to R–38
Walls	R–7 to R–19
Floors	R–7 to R–22

ECM descriptions and costs were also developed for windows and doors.

Energy Conservation Measures which would lower infiltration were considered, but rejected based on several concerns. Currently new manufactured homes are relatively air-tight, so that a very low natural infiltration rate would result from further tightening. ECM's which could result in very low infiltration rates, can have significant negative impacts on occupant health and compound the problem of condensation control. For these reasons no infiltration control ECMs were considered. The issue of ventilation requirements is addressed as a solution to controlling condensation and indoor air quality separately in II C.

Heating and cooling equipment efficiencies were required for life-cycle cost analysis. The National Appliance and Energy Conservation Act of 1987 (NAECA) minimum standards for heating and cooling system efficiency in manufactured homes were assumed. A procedure to give credit for efficiencies higher than those required by the NAECA was also developed.

Initially, single-and double-wide homes which made use of five specific types of HVAC equipment and fuels were optimized by ARES. The five equipment/fuel types for which optimum U values were produced for each city are: Natural gas with a forced air furnace, LPG with a forced air furnace, oil with a forced air furnace, electric resistance baseboard heaters, and an electric heat pump with forced air distribution. In all cases, an electric air-conditioning system was included.

Rather than selecting a few cities to represent the U.S., all 881 cities available in ARES were used. Selection of all 881 cities included in ARES provided a density of locations such that any point in the U.S. was close to a city for which an optimum U value was produced. This coverage alleviated any bias which might have resulted from selecting a small number of cities to encompass the large area of the country.

The separate HVAC equipment and fuel types were aggregated into U-values for all equipment/fuel types based on the frequency with which each type of equipment was present in each region. Consideration was given to establishing separate fossil and electric U-values, but the combination of all system types was selected as preferable for a number of reasons including simplicity.

After the production of the 881 U-values defined above, the individual U-values were aggregated to four "U" value zones selected as representing the range of optimums found in the U.S. The U-value applicable to each zone was defined as the sales weighted average of the U-values for all states in that zone. The four zones and the U-value requirement associated with each is shown in the proposed rule. Single and double wide U values were determined to be very similar and were combined into U values for all homes. The zone are designated as Uo zones and the Uo indicates the maximum coefficient of heat transmission that will be acceptable.

The existing Standards divide the country into 3 "U" value Zones. The southern half being Zone I and the northern half Zone II. Alaska is by itself is Zone III. The proposed rule makes Zone II and III into Zone IV except for the States of Kansas, Missouri, Kentucky. The maximum allowed thermal transmission coefficient for most of Zone IV is reduced to 0.079 from 0.126. [The coefficient is expressed as BTUs/(hr)(sq.ft)(F°)]. Alaska is reduced to 0.079 from 0.104.

California, Arizona, New Mexico, Oklahoma, Kentucky, Tennessee, and North Carolina would have a coefficient of 0.096. Kansas, Missouri and Kentucky are presently 0.126, the others would be reduced from 0.157. The rest of the present Zone I states, with the exception of Florida are reduced to 0.109 from 0.157. Florida is reduced to 0.132 from 0.157.

The costs and benefits from the consumer's perspective were estimated to compare homes built to the proposed new rule (national average U value of 0.098) with current practice of the industry (average U value of 0.125 to 0.140) and with the existing FMHCSS (Title VI) average U value of 0.145. Nationally, the average present value of the net savings of the investment in energy conservation above current practice was about $800 to $1650 per home and that required by Title VI averaged $2000 per home, based on a sales weighted average for each state. (The present value of the net savings sums the total energy savings and deducts all the ECM costs, mortgage costs, and financing costs, putting all values in terms of present dollars). Nationally the cost of incorporating the ECMs above current practice was estimated to average $800 to $1100 per home and above Title VI were estimated to average $1200 per home. The total of the energy savings for current practice ranged from $1600 to $2800 and for Title VI averaged $3200 over the useful life of the home.

To examine the national total present value of the proposed standard, the average new home U-value for the current practice (rather than the Title VI) minimum U-values for a new home was approximated. The national aggregated present value of the savings for each year in which the proposed standard is in effect is estimated to be $300 million. This value would be about $400 million per year if all homes were assumed to be built to the current standard.

Two alternative methods of compliance are suggested for inclusion in the standard. The first alternative method allows a trade-off between investments which lower a home's U-value and investments in high efficiency HVAC equipment. This alternative gives homes a U-value credit for increases in HVAC efficiency, but does not require the use of equipment above the NAECA standard. The second alternative allows a calculation or simulation of annual energy use to show that a home meets the energy use implicit in the U-value standard.

An appendix to the Standards which will provide one acceptable method for calculating the coefficient of heat transmission has been developed. It will not be mandatory, however, it will indicate a minimum acceptable method for calculating the coefficient of heat transmission (Uo). The appendix document is on file with the Rules Docket Clerk and a copy will be made available to a commentator upon request.

B. The MCC is proposing an alternative energy conservation rule to the one proposed herein. It recommends "U" values, which while significantly more stringent than the existing Title VI standards, are not as stringent as those being proposed.

The significant difference in the optimum "U" value arise from the different assumption used for the time frame used in calculating the life cycle cost. The Department believes the time frame should be based upon the anticipated life of the structures, which for the purposes of the analysis, is 33 years. This is supported by Conference Report 100-426, a statement by Senator Adams in the Congressional Record of November 21, 1987 and in correspondence from Congressman Gonzales. The MCC believes the life cycle cost should be based upon an average length of time the first owner possess the home, which for purposes of their study is 7 years. There are other variations in the two studies, but in general address the cost issues in a very similar manner.

C. Condensation Control and Ventilation Requirements

In conjunction with the proposed energy conservation standards, the Department is proposing amendments to the standards to address the issues of condensation control and indoor air quality. Manufactured homes of today are being constructed with materials and construction systems that require more attention to the problem of dissipating moisture from within the home and from within the ceiling, wall and floor systems. The tighter construction methods employed today have compounded this problem by reducing the natural air flow in and out of these homes. The reduced number of natural air changes per hour raises the concern of how good the indoor air quality is. With the Department issuing proposed new energy conservation standards, the Department believes the issues of condensation control and indoor air quality must also be addressed with corresponding ventilation requirements which are more effective.

To provide adequate ventilation for the interior of the home, the Department is proposing that a combination of mechanical and passive systems be utilized. The ventilation recommendations are from the American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE) Standard No. 62-1989. Each home would be designed with the capability to exchange the indoor air at the rate of 0.35 air changes per hour. In meeting this objective, a mechanical air intake system providing at least 75 cubic feet per minute intake along with a mechanical or passive exhaust system providing at least 50 cubic feet per minute exhaust shall be installed. The higher intake rate is specified to provide a positive pressure within the home. This system maybe integral with any heating or heating and air conditioning system installed in the home or it may be a system that is separate. In either case, the home ventilating system shall be capable of operating independently of the heating or heating and air conditioning function. The system may have automatic controls, but shall be manually operable at the discretion of the home occupants. Bathrooms and kitchens would be required to have mechanical exhaust systems in all homes regardless of any operable window(s) in these rooms. The exhaust rate for kitchens would be 100 cubic feet per minute. The exhaust rate for bathrooms would be 50 cubic feet per minute. These rates are taken from the ASHRAE Standard No. 62-1989.

The other major ventilation change would be to require ventilation of all attic and roof cavities with the exception of single section homes that have metal roofs and no roof underlayment. The Department's review of the research on the subject indicates that attic or roof cavity ventilation is the primary and most reliable method of removing condensation from this area. It also assists in providing a way for moisture to escape from the home that is not removed by other methods. A 1978 NIST (formerly NBS) study by Burch and Luna, entitled "A Mathematical Model for Predicting Attic Ventilation Rates for Preventing Condensation on Roofing Sheathing" is a prominent study on the subject. The research also indicated that a vapor retarder should be utilized on the warm side of the attic or roof cavity.

The MCC recommendation would require that only homes having a shingled roof be provided with attic or roof cavity ventilation. Their recommended free ventilation area would be at least equal to 1/500 of the attic or roof cavity floor area when a vapor retarder is utilized. They recommended a ratio of 1/250 when a vapor retarder is not used. The Department could not determine any basis for using these ratios or for using ventilation only with shingled roofs.

The Department has concluded that all attic or roof cavities, except those on certain single section homes, should be ventilated with at least 50% of the open free ventilation area in the upper half of the roof cavity with the remainder to be equally dispersed in the eaves or a low location in the gabled ends. It has also been determined that a vapor retarder should be installed on the warm side of the attic or roof cavity. A free ventilation area equal to at least 1/300 of the attic or roof cavity floor area should be provided. It is believed that this ratio as specified in the Council of American Building Officials, One and Two Family Dwelling Code (CABO, 1 and 2 FDC), has been demonstrated as viable.

Alternatively, a mechanical system would be permitted in the attic or roof cavity to provide the ventilation. A minimum rate of 10 air change per hour would be required. This alternative is derived from recommendations published by the Home Ventilating Institute.

In the southern part of the United States in the zone that would be designated as condensation Zone 2, the manufacturer may leave out the vapor barrier provided the free ventilation area is at least equal to 1/150 (ratio specified in the CABO 1 and 2 FDC) of the attic or roof cavity ceiling area. The condensation zone map is derived from ASHRAE Handbook of Fundamentals—1989.

Certain single section manufactured homes would be excluded from the attic and roof cavity ventilation requirements, because the anticipated cost of revising the design of these homes may entail relatively significant increases. For these homes, however, an interior air exchange rate capability of at least 150 cubic feet per minute would be required.

There are several issues remaining which need to be addressed, and for which proposed amendments to the Standards are yet to be developed.

These are:

1. Given the need for improved thermal efficiency, should the Standards continue to permit the use of the ventilated walls? Should the Standards limit the use of ventilated walls for use only with metal sided homes?

2. Should the placement and location of vapor retarders in exterior walls be related to the condensation zone in which it is to be located?

Comments are solicited on these issues.

III. General Update of the Standards

A. Reference Standards Update

In order to remain abreast of the industries that utilize those reference standards incorporated in the FMHCSS, the Department is proposing to incorporate the latest edition of those standards, and new relevant standards. The following table lists the reference standards found in the MHCSS by issuing organization. The organization name and address is underlined. The column to the right indicates the section of the Standards where the reference is used. To the left of the Standard, an asterisk (*) indicates that the Standard is updated. An "N" indicates the Standard is new.

Standards by issuing organization	24 CFR
Aluminum Association, 900 19th Street NW., Washington, DC 20006	
*AA-1986, Aluminum Construction Manual Sec. 1, Specifications for Aluminum Structures	3280.304(b)(1).
American Architectural Manufacturers Assoc., 1540 East Dandee Rd., Suite 310, Palatine, IL 60067	
(N) AAMA 1503.1—1988, Voluntary Test Method for Thermal Transmittance and Condensation Resistance of Windows Doors and Glazed Wall Sections.	3280.508(e).
AAMA 1701.2—1985, Primary Window and Sliding Glass Door Voluntary Standard for Utilization in Manufactured Housing	3280.403(b), 3280.403(e), 3280.403(e)(2), 3280.404(b).
AAMA 1702.2—1985, Swinging Exterior Passage Doors Voluntary Standard for Utilization in Manufactured—Housing	3280.405(b), 3280.405(e), 3280.405(e)(2).
AAMA 1704—1985, Voluntary Standard Egress Window Systems for Utilization in Manufactured—Housing	3280.404(b), 3280.404(e)
American Gas Association, 8501 East Pleasant Valley Road, Cleveland, OH 44131	
(N) AGA Requirements for Gas Connectors for Connection of Fixed Appliances for Outdoor Installation, Park Trailers and Manufactured (Mobile) Homes to the Gas Supply. 3-87.	3280.703
American Institute of Steel Construction 400 N. Michigan Avenue, Chicago, IL 60611	
*AISC S335—1989, Specification for the Design, Fabrications, and Erection of Structural Steel for Buildings	3280.304(b)(1), 3280.305(i)(1).
American Iron and Steel Institute, 1000 16th Street NW., Washington, DC 20036	
*AISI—1986 and 1989 addendum, Specification for the Design of Cold-Formed Steel Structural Members	3280.304(b)(1), 3280.305(i)(1).
AISI—1974, Stainless Steel Cold-Formed Structural Design Manual	3280.304(b)(1), 3280.305(i)(1).
AISI—1973, Manual for Structural Applications of Steel Cables for Buildings	3280.304(b)(1)
American National Standards Institute, 1430 Broadway, New York, NY 10018	
ANSI A112.14.1—1975, Backflow Valves	3280.604(a).
*ANSI/ASME A112.18.1M—1989, Finished and Rough Brass Plumbing Fixture Fittings	3280.604(a).
*ANSI/ASME A112.19.1M—1987, Enameled Cast Iron Plumbing Fixtures	3280.604(a).
ANSI/ASME A112.19.2(M)—1982, Vitreous China Plumbing Fixtures	3280.604(a).
*ANSI/ASME A112.19.3M—1987, Stainless Steel Plumbing Fixtures	3280.604(a).

Standards by issuing organization	24 CFR
ANSI/ASME A112.19.4(M)—1984, Porcelain Enameled Formed Steel Plumbing Fixtures	3280.604(a).
ANSI A112.19.5—1979, Trim for Water Closet, Bowls, Tanks, and Urinals	3280.604(a).
ANSI/AHA A135.4—1982, Basic Hardboard	3280.304(b)(1).
*ANSI/AHA A135.5—1988, Prefinished Hardboard Paneling	3280.304(b)(1).
ANSI/AHA A135.6—1989, Hardboard Siding	3280.304(b)(1).
ANSI/AITC A190.1—1983, Structural Glued Laminated Timber	3280.304(b)(1).
(N) *ANSI A208.1—1989, Wood Particleboard	3280.304(b)(1).
ANSI/ASME B1.20.1—1983, Pipe Threads, General Purpose (Inch)	3280.604(a), 3280.703, 3280.705(e), 3280.706(d).
*ANSI/ASME B16.3—1985, Malleable Iron Threaded Fittings	3280.604(a).
*ANSI/ASME B16.4–1985, Cast Iron Threaded Fittings	3280.604(a).
*ANSI/ASME B16.15–1985, Cast Bronze Threaded Fittings 125 and 250 Pound	3280.604(a).
*ANSI B16.18–1984, Cast Copper Alloy Solder-Joint Pressure Fittings	3280.604(b).
*ANSI/ASME B16.22–1989, Wrought-Copper and Copper Alloy, Solder-Joint Pressure Fitting	3280.604(a).
ANSI B16.23–1984, Cast Copper Alloy Solder-Joint Drainage Fittings, DWV	3280.604(a).
*ANSI/ASME B16.26–1988, Cast Copper Alloy Fittings for Flared Copper Tubes	3280.604(a).
*ANSI/ASME B16.29–1986, Wrought Copper and Wrought Copper Alloy Solder-Joint Drainage Fittings—DWV	3280.604(a).
*ANSI/ASME B36.10–1985, Welding and Seamless Wrought Steel Pipe	3280.604(a), 3280.703, 3280.705(b)(1), 3280.706(b)(1).
ANSI C73.17–1972, Dimension of Caps, Plugs and Receptacles, Grounding Type	3280.803(g).
*ANSI Z21.1–1987, Household Cooking Gas Appliance with addenda Z21.1a–1989 and Z21/1b–1989	3280.703.
ANSI Z21.5.1–1982, Gas Clothes Dryers Vol. 1, Type 1 Clothes Dryers with Supplement Z21.5.1a–1987	3280.703.
*ANSI Z21.10.1–1990, Gas Water Heaters Vol. 1, Storage Water Heaters with Input Ratings of 75,000 BTU per hour or Less	3280.707(d)(2).
*ANSI Z21.15–1989, Manually Operated Gas Valves	3280.703.
ANSI Z21.19–1983, Refrigerators Using Gas Fuel	3280.703.
ANSI Z21.20–1985, Automatic Gas Ignition Systems and Components	3280.703.
*ANSI Z21.21–1987, Automatic Valves for Gas Appliances with addenda Z21.21a–1989	3280.703.
*ANSI Z21.22–1986, Relief Valves and Automatic Gas Shutoff Devices for Hot Water Supply Systems	3280.604(a), 3280.703.
ANSI Z21.23–1989, Gas Appliance Thermostats	3280.703.
*ANSI Z21.24–1987, Metal Connectors for Gas Appliances	3280.702(a)(17), 3280.703.
ANSI Z21.40.1–1981, With Addenda 1a–1982 Gas Fired Absorption Summer Air Conditioning Appliances	3280.703, 3280.714(a)(2).
*ANSI Z21.47–1989, Gas-Fired Central Furnaces [Except Direct Vent and Separated Combustion System Central Furnaces]	3280 703.
*ANSI Z21.64–1988, Direct Vent Central Furnaces, with addenda Z21.64a–1989 and Z21.64b–1989	3280.703.
ANSI Z34.1–1987, For Certification—Third Party Certification Program	3280 403(e)(1), 3280.405(e)(1).
ANSI Z97.1–1984, Safety Performance Specifications and Methods of Test for Safety Glazing Materials Used in Building	3280.114(b), 3280.304(b)(1), 3280.403(d)(1), 3280.604(a), 3280.607(b)(3)(iii).
*ANSI Z124.1–1987, Plastic Bathtub Units with addenda Z124.1a–1990	3289.604(a).
*ANSI Z124.2–1987, Plastic Shower Receptors and Shower Stalls	3280.604(a).
*ANSI Z124.3–1986, Plastic Lavatories	3280.604(a).
*ANSI Z124.4–1986, Plastic Water Closets, Bowls and Tanks with addenda Z124.4a–1990	3280.604(a).
*ANSI Z223.1–1988, National Fuel Gas Code	3280.703.
American Plywood Association, P.O. Box 11700, Tacoma, WA 98401	
*APA–E–30, APA Design/Construction Guide, Residential and Commercial	3280.304(b)(1).
*APA–H–815, Design and Fabrication of All-Plywood Beams, Suppl. 5	3280.304(b)(1).
*APA–Y–510, Plywood Design Specification	3280.304(b)(1).
*APA–S–812, Design and Fabrication of Plywood Lumber Beams, Suppl. 2	3280.304(b)(1).
*APA–S–811, Design and Fabrication of Plywood Curved Panels, Suppl. 1	3280.304(b)(1).
*APA–U–814, Design and Fabrication of Plywood Sandwich Panels, Suppl. 4	3280.304(b)(1).
*APA–U–813, Design and Fabrication of Plywood Stressed Skin Panels, Suppl. 3	3280 304(b)(1).
(N) *APA PRP E–445, Performance Standards and Policies for Structural Use Panels	3280.304(b)(1).
Air Conditioning and Refrigeration Institute, 1501 Wilson Boulevard, Arlington, VA 22209-2403	
(N) Standard 210/240–89 Unitary Air Conditioning and Air Source Unitary Heat Pump Equipment	3280.511(b), 3280.703, 3280.714(a)(1), (a)(1)(ii), 3280.714(a)(1)(iii).
American Society of Heating, Refrigeration and Air Conditioning Engineers, 1791 Tullie Circle, NE., Atlanta, GA 30329	
*ASHRAE, 1989, Handbook of Fundamentals	3280.508, 3280.511.
American Society of Civil Engineers, 345 East 47th Street, New York, NY 10017–2398	
(N) ASCE 7–88 Minimum Design Loads for Buildings and other Structures	3280.304(b)(1).
American Society of Mechanical Engineers, 345 E. 47th Street, New York, NY 10017	
*ASME Boiler and Pressure Vessel Code, Section VIII, Division 1, "Rules for Construction of Pressure Vessels", 1986	3280.704(b)(2).
(N) ASME/ANSI A112.1.2–1942(R 1979) Air Gaps in Plumbing Systems	3280.604(a).
(N) ASME/ANSI A112.19.7–1987 Whirlpool Bathtub Appliances	3280.604(a).
(N) ASME/ANSI A112.19.8–1987 Suction Fittings for use in swimming pools, wading pools, spas, hot tubs, and whirlpool bathtub appliances	3280.604(a).
(N) ASME/ANSI A112.21.3M–1984 Hydrants for Utility and Maintenance Use	3280.604(a).
(N) ASME/ANSI A112.26.1M–1984 Water Hammer Arrestors	3280.604(a).

Standards by issuing organization	24 CFR
American Society of Sanitary Engineering, P.O. Box 40362, Bay Village, OH 44140	
(N) ANSI/ASSE 1001-1990 Pipe Applied Atmospheric Type Vacuum Breakers	3280.604(a).
(N) ANSI/ASSE 1002-1986 Water Closet Flush Tank Fill Valves (Ballcocks)	3280.604(a).
(N) ANSI/ASSE 1006-1986 Household Dishwashers, Plumbing Requirements for	3280.604(a).
(N) ANSI/ASSE 1007-1986 Plumbing Requirements for Home Laundry Equipment	3280.604(a).
(N) ANSI/ASSE 1008-1980 Household Food Waste Disposer Units, Plumbing Requirements for	3280.604(a).
(N) ANSI/ASSE 1011-1982 Hose Connection Vacuum Breakers Wall Hydrants, Freezeless Automatic Draining	3280.604(a).
(N) ANSI/ASSE 1014-1990 Handheld Showers	3280.604(a).
(N) ANSI/ASSE 1016-1990 Individual Thermostatic Pressure Balancing and Combination Control Vavles for Bathing Facilities	3280.604(a).
(N) ANSI/ASSE 1017-1979 Thermostatic Mixing Valves, Self Actuated For Primary Domestic Use	3280.604(a).
(N) ANSI/ASSE 1019-1978 Wall Hydrants, Freezeless Automatic Draining Anti-Backflow Types	3280.604(a).
(N) ANSI/ASSE 1023-1979 Hot Water Dispensers, Household Storage Type Electrical Plumbing Requirements for	3280.604(a).
(N) ANSI/ASSE 1025-1978 Diverters for Plumbing Faucets with Hose Spray Anti-Siphon Type Residential Applications; Perf. Requirements	3280.604(a).
(N) ANSI/ASSE 1037-1990 Pressurized Fixtures Flushing Devices (Flushometers)	3280.604(a).
American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103	
*ASTM A 53-90a, Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated, Welded and Seamless	3280.604(a), 3280.703.
*ASTM A 74-87, Standard Specification for Cast Iron Soil Pipe and Fittings	3280.604(a).
*ASTM A 539-90a, Standard Specification for Electric-Resistence-Welded Coiled Steel Tubing for Gas and Fuel Oil Lines	3290.703, 3280.705(b)(4).
*ASTM B-42-89, Standard Specification for Seamless Copper Pipe, Standard Sizes	3280.604(a), 3280.703.
*ASTM B 43-88, Standard Specification for Seamless Red Brass Pipe, Standard Sizes	3280.604(a), 3280.705(b)(1).
*ASTM B 88-89(m), Standard Specification for Seamless Copper Water Tube [metric]	3280.604(a), 3280.703, 3280.705(b)(3), 3280.706(b)(3).
*ASTM B 251-88(m) Standard Specification for General Requirements for Wrought Seamless Copper and Cooper-Alley Tubes [metric]	3280.604(a), 3280.703.
*ASTM B 280-88, Standard Specification for Seamless Copper Tube for Air Conditioning and Refrigeration Field Service	3280.703, 3280.705(b)(3), 3280.706(b)(3).
*ASTM B 306-88, Standard Specification for Copper Drainage Tube (DWV)	3280.604(a).
*ASTM C 36-88, Standard Specification for Gypsum Wallboard	3280.304(b)(1).
*ASTM C 564-88, Standard Specification for Rubber Gaskets for Cast Iron Soil Pipe and Fittings	3280.604(a), 3280.611(d)(5).
*ASTM D 781-68 (73), Standard Test Methods for Puncture and Stiffness of Paperboard, and Corrugated and Solid Fiberboard	3280.304(b)(1), 3280.305(g)(4).
*ASTM D 2016-74 (83), Standard Test Methods for Moisture Content of Wood	3280.304.(b)(1).
*ASTM D 2235-88, Standard Specification for Solvent Cement for Acrylonitrile-Butadiene-Styrene (ABS) Plastic Pipe Fittings	3280.604(a).
*ASTM D 2564-88, Standard Specification for Solvent Cement for Poly (Vinyl Chloride (PVC) Plastic Pipe Fittings	3280.604(a).
*ASTM D 2661-90, Standard Specification Acrylonitrile-Butandiene Stryrene (ABS) Plastic Drain, Waste and Vent Pipe and Fittings	3280.604(a).
*ASTM D 2665-89a, Standard Specification for Poly (Vinyl Chloride) (PVC), Plastic Drain, Waste, and Vent Pipe and Fittings	3280.604(a).
*ASTM 2846-90, Standard Specification for Chlorinated Poly (Vinyl Chloride) (CPVC) Plastic Hot and Cold Water Distribution Systems	3280.604(a).
*ASTM D 3309-89a, Standard Specification for Polybutylene (PB) Plastic Hot and Cold Water Distribution Systems	3280.604(a).
*ASTM D 3311-90a, Standard Specification for Drain, Waste, and Vent (DWV) Plastic Fitting Patterns	3280.604(a).
*ASTM E 84-89a, Standard Test Method for Surface Burning Characteristics of Building Materials	3280.203(a).
*ASTM E 162-87, Standard Test Method for Surface Flammability of Materials Using Radiant Heat Energy Source	3280.203(a).
*ASTM E 773-88 Standard Test Method for Seal Durability of Sealed Insulating Glass Units	3280.403(d)(2).
*ASTM E 774-88 Standard Specification for Sealed Insulating Glass Units	3280.403(d)(2).
*ASTM E-1333-90 Standard Test Method for Determining Formaldehyde levels from wood products under defined test conditions using a large chamber.	3280.406(b).
*ASTM F 628-90 Standard Specification for Acrylonitrile-Butadiene-Stryene (ABS) Plastic Drain, Waste, and Vent Pipe Having a Foam Core.	3280.604(a).
Cast Iron Soil Pipe Institute, 5959 Shallowfind Rd., Suite 419, Chattanooga, TN 37421	
*CISPI-301-90, Standard Specification for Hubless Cast Iron Soil Pipe and Fittings for Sanitary and Storm Drain, Waste, and Vent Piping Applications.	3280.604(a).
*CISPI-310-90, Specification for Cast Iron Soil Pipe Institute's Approved Coupling for Use in Connection with Hubless Cast Iron Soil Pipe and fittings for Sanitary and Storm Drain, Waste, and Vent Piping Applications.	
*CISPI-HSN-85, Specification for Neoprene Rubber Gaskets for HUB and Spigot Cast Iron Soil Pipe and Fittings	3280.604(a), 3280.611(d)(5).
Federal Specification, General Services Administration, Specification Branch, Room 6039, GSA Building, 7th & D Sts., S.W., Washington, DC 20407	
L-P-320-B-1973, With 1977 Amendment 1, Pipe and Fittings, Plastic (Polyvinyl Chloride (PVC), Drain, Waste and Vent (DWV)	3280.604(a).
FF-N-105B-1971 With 1977 Amendment 4, Nails Brads, Staples and Spikes, Wire, Cut and Wrought	3280.304(b)(1).
QQ-S-781H-1974, With 1977 Amendment 2 and Notice I, Strapping, Steel, and Seals	3280.304(b)(1), 3280.306(g)(2).
WW-N-351-C-1976 With 1977 Interim Amendment 1, Nipples, Pipe, Threaded	3280.604(a).
WW-P-401E-1974, Pipe and Pipe Fittings, Cast-Iron, Soil	3280.604(a).
WW-P-541E/GEN-1980, Plumbing Fixtures (General Specifications)	3280.604(a).
(N) MSVIFISD-80 Valve, Gate, Bronze, (125, 150 and 200 Pound Threaded Ends, Flange Ends, Solder End and Bronze Ends, for Land Use)	
ZZ-R-765B-1970, With 1971 Amendment 1, Rubber Silicone	3280.611(d)(5).
Hardwood Plywood Manufacturers Association, P.O. Box 2789, 1825 Michael Faraday Drive, Reston, VA 22090	
*HPMA-HP-SG-86, Structural Design Guide for Hardwood Plywood Wall Panels	3280.304(b)(1).
*ANSI/HPMA HP-1983, Hardwood and Decorative Plywood	3280.304(b)(1).
HUD-FHA Use of Materials Bulletin, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410-8000	
HUD-FHA Use of Materials Bulletin—UM-25d-73 Application and Fastening Schedule: Power-Driven, Mechanically Driven and Manually Driven Fasteners.	3280.304(b)(1).

Standards by issuing organization	24 CFR
IIT Research Institute, 10 West 35th Street, Chicago, IL 60616	
J 6461, Development of Mobile Home Fire Test Methods to Judge the Fire-Safe Performance of Foam Plastic Sheathing and Cavity Insulation.	3280.207(a)(4).
International Association of Plumbing and Mechanical Officials, 20001 Walnut Drive South, Walnut, CA 91789-2825	
IAMPO/PS-2-1989, Material and Property Standard for Cast Brass and Tubing	3280.604(a).
P-Traps IAMPO/PS-4-1990, Material and Property Standard for Drains for Prefabricated and Precast Showers	3280.604(a).
IAMPO/PS-5-1984, Material and Property for Special Cast Iron Fittings	3280.604(a).
IAMPO/PS-9-1984, Material and Property Standard for Diversion Tees and Twin Waste Elbow	3280.604(a).
IAMPO/PS-14-1989, Material and Property Standard for Flexible Copper Water Connectors	3280.604(a).
IAMPO/PS-31-1991, Material and Property Standard for Dishwasher Drain Airgaps (Air Breaks)	3280.604(a).
*IAMPO/PS-23-1989, Material and Property Standards for Backflow Prevention Devices	3280.604(a).
IAMPO/TSC-9-1989, Standard for Gas Supply Connectors for Manufacturerd Mobile Homes	3280.703.
IAMPO/TSC-22-1985, Standard for Porcelain Enameled Formed Steel Plumbing Fixtures	3280.604(a).
Military Specifications, Naval Publications Information center, 5801 Tabor Road, Philadelphia, PA 19120	
MIL-L-10547E-1975, Liners, Case, and Sheet Overwarp; Water-Vapor Proof or Waterproof, Flexible	3280.611(d)(5).
National Fire Protection Association, Batterymarch Park, Quincy, MA 02269	
*NFPA 31-1987, Installation of Oil Burning Equipment	3280.703, 3280.707(F).
*NFPA-54-1988, National Fuel Gas Code	3280.703.
*NFPA-58-1989, Storage and Handling Liquefied Petroleum Gases	3280.703, 3280.704(b)(5)(i).
*NFPA-70-1990, National Electrical Code	3280.801 (a) and (b) 3280.8093(k)(1), 3280.803(k)(3), 3280.805(a)(3)(iv), 3280.806(a)(2), 3280.808(a), 3280.808(m), 3280.811(b).
NFPA-90B-1989, Warm Air Heating and Air Conditioning Systems	3280.703.
*NFPA-220-1985, Standard Types of Building Construction	3280.202(a) (4) and (5).
National Forest Products Association, 1250 Connecticut Avenue, NW., Washington, DC 20036	
Span Tables for Joists and Rafter (PS-20-70) (N) FPA-1977	3280.304(b)(1).
*National Design Specifications for Wood Construction (N) FPA-1986 with Supplement Design Value for Wood Construction 1988	3280.304(b)(1).
*Wood Structural Design Data (N) FPA-1986	3280.304(b)(1).
*Design Values for Joists and Rafters (N) FPA-1986	3280.304(b)(1).
National Sanitation Foundation, P.O. Box 1468, Ann Arbor, MI 48105	
*NSF-14-1991, Plastic Piping Components and Related Materials	3280.604(b).
NSF-24-1988, Plumbing System Components for Mobile Homes and Recreational Vehicles	3280.604(b).
National Wood Window and Door Association, 1400 E. Toughy Avenue, Suite G-54, Des Plaines, IL 60018	
*ANSI/NWWDA I.S.1-87, Wood Flush Doors	3280.304(b)(1), 3280.405(c)(2).
*ANSI/NWWDA I.S.2-87, Wood Window Units Window Units	3280.304(b)(1).
*NWWDA-I.S.3-88, Wood Sliding Patio Doors	3280.304(b)(1).
NWWDA-I.S.4-81, Water Repellent Preservative Non Pressure Treatment for Millwork	3280.304(b)(1), 3280.405(c)(2).
U.S. Department of Commerce, National Institute of Standards and Technology Standards, Office of Engineering Standards, Room A-166, Technical Building, Washington, DC 20234	
PS-1-1983, Construction and Industrial Plywood	3280.304(b)(1).
Society of Automotive Engineers, 400 Commonwealth Drive, Warrendale, PA 15096	
SAE-J533b, Flares for Tubing (1972)	3280.703, 3280.705(f)(1), 3280.705(f)(2).
Steel Joint Institute, 1205 48 Avenue N., Myrtle Beach, SC 29577	
*SJI-1990, Standard Specifications Load Tables and Weight Tables for Steel Joists and Joist Girders	3280.304(b)(1).
Truss Plate Institute, 583 D'Onofrio Drive, Suite 200, Madison, WI 53719	
TPI-1985, Design Specifications for Metal Plate Connected Wood Trusses	3280.304(b)(1).
Underwriter's Laboratories, Inc., 333 Pfingsten Road, Northbrook, IL 60062	
*UL 94 Fourth Edition 1991 Test for Flammability of Plastic Materials for Parts in Devices and Appliances	3280.715(e)(1).
*UL 103—Seventh Edition—1989, as Chimneys, Factory Built Residential Type and Building Heating Appliance	3280.703.
UL 109—Fourth Edition—1978, Tube Fittings for Flammable and Combustible Fluids and Refrigeration Service, and Marine Use	3280.703.
*UL 127—Sixth Edition—1988, as ammended through 1991, Factory-Built Fireplaces	3280.703.
UL 174—Seventh Edition—1989, as amended through 1991, Household Electric Storage Tank Water Heater	3280.703
UL 181—Seventh Edition—1990, Factory Made Air Ducts and Connectors	3280.703, 3280.715(e).
*UL 217—Third Edition—1985, as amended through 1989, Single and Multiple Station Smoke Detectors	3280.208(c).
*UL 307A—Sixth Edition—1990, Liquid Fuel-burning Heating Appliances for Mobile Homes and Recreational Vehicle	3280.703, 3280.707(f).
*UL 307(B)—First Edition 1982, as amended through 1987, Gas Burning Heating Appliances for Mobile Homes and Recreational Vehicles.	3280.703.
*UL 311—Seventh Edition 1990, Roof Jacks for Mobile Homes and Recreational Vehicles	3280.703.
*UL 441—Seventh Edition—1991, Gas Vents	3280.703.
*UL 465—Seventh Edition—1982, as amended through 1987, Central Cooling Air Conditioners	3280.703.
*UL 559—Fourth Edition—1985, as amended through 1987, Heat Pumps	3280.703.

Standards by issuing organization	24 CFR
*UL 569—Sixth Edition—1990, Pigtails, and Flexible Hose Connectors for LP-Gas	3280.703, 3280.705(1)(1).
*UL737—Sixth Edition—1980, as amended through 1991, Fireplace Stoves	3280.703.
*UL 1025—Second Edition—1980, as amended through 1991, Electrical Air Heaters	3280.703.
*UL 1042—Third Edition—1987, Electric Baseboard Heating Equipment	3280.703.
*UL 1096—Fourth Edition—1986 as amended through 1988, Electric Central Air Heating Equipment	3280.703.
*UL 1486—Third Edition—1988, Room Heaters Solid-Fuel Type	3280.703.

The following Standards would be deleted from the FMHCSS as they are obsolete and have been withdrawn by the issuing organization:

ANSI C72.1 1972, Household Automatic Storage Type Water Heaters

ARI Standard 210-81 for Unitary Air Conditioning Equipment

ARI Standard 240-81 for Air Sound Unitary Heat Pump Equipment

ASTM A120-83 Standard Specifications for Pipe, Block Hot dipped Zinc Coated (Galvanized) Welded and Seamless for Ordinary Uses.

CISPI 310-85

FTM-2-1985 Large Scale Test Method for Determining Formaldehyde Emissions from Wood Products.

ANSI A58.1-1982 Building Code Requirements for Minimum Design Loads in Buildings and other structures.

GAL Standard for Fireplace Stoves for installation in Mobile Structures

B. Other Proposed Amendments

Amendments are being proposed to the Standards in response to recommendations submitted by the respective Manufactured Home Construction and Safety Standards Committees of CABO and the MCC. Other amendments are being proposed by the Department in response to needs identified from working with the Standards. Following is a discussion of those changes by section.

Section 3280.1 Scope

This section is amended to delete those requirements pertaining to waivers and interpretive bulletins. These requirements would be relocated in new §§ 3280.8 and 3280.9 respectively.

Section 3280.2 Definition

Old paragraph (2) definition of "center", is deleted because it does not appear in the FMHCSS.

New paragraph (2) is added to provide definition of a "Bay Window". The definition is needed to establish minimum square footage of the home for coverage under the Act.

Old paragraph (4) "Combustible material" is deleted as the definition conflicts with the perferred definition of "combustible materials" in § 3280.202(a)(1).

Old paragraph (5) "defect" and (10) by "imminent safety hazard" are deleted. They are more appropriate located in 24 CFR part 3282, the Manufactured Home Procedural and Enforcement Regulations.

Section 3280.3 Acceptance of Plans

The existing Section is deleted and replaced with a new Section titled "Procedural and Enforcement Regulations and Consumer Manual Requirements".

Section 3280.4 Incorporation by Reference

Paragraph (a) is amended to clarify that reference standards have the same force and effect as the FMHCSS.

Paragraph (b) is amended to provide an updated list of the names and address of those organizations whose standards are referenced in the FMHCSS.

Section 3280.5 Data Plate

This change recommended by the MHI Standards Committee incorporates the language of interpretive bulletin A-2-77 on the durability requirements for data plates. A new requirement to provide the Departments certification label(s) number(s) to the data plate is also being proposed.

Section 3280.8 Waivers

A new Section is being proposed to set forth the requirements for waivers that were previously located in § 3280.1. The changes substantially incorporate the MCC Standards Committee's recommendation except that the Department perfers to retain the term "waiver" as opposed to using the new terminology "determination of equivalency."

Section 3280.9 Interpretative Bulletins

A new Section is being proposed to set forth the provision on interpretative bulletins previously located in § 3280.1.

Section 3280.10 Use of Alternative Construction

A new Section is being proposed to clarify that certain homes that do not conform to the FMHCSS in all respects are permissble when certain criteria found in the Procedural and Enforcement Regulations are followed. This is a MCC recommendation.

Section 3280.11 Certification Label

This Section has been renumbered from § 3280.8. Additionally, certain language pertaining to transition labels used at the time the FMHCSS were implemented that is no longer needed is being deleted.

Section 3280.103 Interior Light and Ventilation

This section would be editorially amended to present the lighting requirements separately from the ventilation requirements. The lighting requirements would be in paragraph (a) and the ventilation requirements in paragraphs (b), (c), (d), and (e).

The lighting requirements in paragraph (a) would reflect the following revisions. The use of artificial light in place of exterior windows would be permitted now for laundry areas, utitlity rooms, and storage rooms. It would be permissible to combine the space of adjoining rooms to meet the lighting requirements provided at least 50 percent of the common wall area is open and the open wall area is at least equal to 10 percent of the combined floor area. The CABO Standards Committee recommended the second change.

Paragraph (b) would reflect the following revisions to the present requirements. Each home would be capable of having sufficient ventilation to provide .35 air changes per hour, have a mechanical system which would intake 75 cubic feet of air a minute, and an exhaust system capable of exhausting 50 cubic feet of air per minute. (Refer also to the general write up on condensation control and ventilation.)

Paragraph (c) would specify the revised kitchen ventilation requirements. The present requirements specify an air change every 30 minutes. The new requirements would specify the capability to exhaust at the rate of 100 cubic feet per minute.

Paragraph (d) would specify the revised bathroom and toilet compartment ventilation requirements. The present requirements specifies an air change every 12 minutes. The new requirements would specify the capability to exhaust at the rate of 50 cubic feet per minute.

In paragraphs (c) and (d) the changes would reflect that ventilation through openable windows would not meet these new requirements except for a toilet compartment.

Paragraph (e) would establish a ventilation rate of 10 cubic feet per minute for all rooms, other than bathrooms, toilet compartments and kitchens, that do not have exterior walls.

Section 3280.105 Exit Facilities

Paragraph (b)(2) would be amended to incorporate interpretive bulletin B–1–76 which clarifies that swinging exterior doors stops may not reduce the clear opening to less than 73 inches in height and 27 inches in width.

Section 3280.109 Space Planning

The existing section does not provide any identifiable requirements, and therefore is being deleted.

Section 3280.112 Hallways

Existing § 3280.113 would be renumbered as §3280.112 and a new paragraph (b) would be added incorporating interpretative bulletin B–3–76. This would clarify that an interior door shall have at least 27 inches clear width if the interior door must be passed through to reach an exterior door. This would not apply to interior passage doors which only provide interior access to another room or other interior area.

Section 3280.203 Flame Spread Limitations and Fire Protection Requirements

Paragraph (a) would be editorially amended to include that list of materials which need not be flame spread tested in accordance with ASTM E–84 or ASTM E–162. This list was inadvertently deleted from the FMHCSS when the February 12, 1987 amendments were published.

Paragraph (b)(4) would be amended to clarify that vertical surface within 6 inches horizontally of the cooking range are subject to flame spread and combustibility requirements pertaining to cooking range areas.

Section 3280.208 Fire Detection Equipment

Paragraph (d) would be amended to permit locating smoke detectors on walls at a distance permitted by the smoke detector's listing.

Section 3280.303(g) Alternate Test Procedures

The section would be amended editorially. The revised rule clarifies that the Department will assess the adequacy of this test.

Section 3280.304 Materials Reference Standards Would be Updated

Refer to previous reference Standards table.

Section 3280.305 Structural Design Requirements

Paragraph (c), at the recommendation of the MCC, would be amended to incorporate interpretative bulletin D–3–76. It clarifies that roof slopes of 20 degrees or less may be excluded from the horizontal wind calculation.

Paragraph (d) would be amended to incorporate interpretative bulletin D–5–76 at the recommendation of the MCC. It clarifies that the deflection limit for cantilevered roof section is 2 times the length divided by 180. Additionally, it would be clarified that the uplift loads specified in § 3280.305(c)(1) and (2) are required by § 3280.305(c)(3)(iii) to be increased by a factor of 2.5.

Paragraph (f)(2) would be amended at the recommendation of the MCC to incorporate interpretative bulletin D–6–76. This permits increasing the allowed stress on interior walls by 1.33.

Paragraph (g)(2) would be amended at the recommendation of the MCC to incorporate the provisions of interpretative bulletin D–8–76. This clarifies the application of coverings and sealants to wood floors subject to moisture.

A new paragraph (g)(3) would be added to permit the installation of carpet in a laundry space when the laundry appliances are not provided with the home.

Section 3280.306 Windstorm Protection

Paragraph (a) would be amended at the recommendation of the MCC to incorporate interpretative bulletin D–7–76. This clarifies that 1.5 factor of safety is only applied to the tie down system and it is not required to be applied to the structure of the home.

Section 3280.309 Health Notice on Formaldehyde Emission

Paragraph (b), at the recommendation of the MCC, would be amended to delete the requirement that the title be printed with the color red.

Paragraph (d) would be amended to correctly cite 24, CFR part 3283 rather than 24 CFR part 3282 which is incorrect.

Section 3280.401 Structural Load Test

Paragraph (b) would be amended to clarify that 2.5 is the lowest factor of safety that will be acceptable when testing under the ultimate load test procedures. This clarification is based upon interpretive bulletin E–1–76.

Section 3280.504 Condensation Control and Installation of Vapor Retarders

Paragraph (a) would be revised to permit the ceiling vapor retarder to be omitted in the southern condensation zone, Zone II, when the attic or roof cavity ventilation open area is at least equal to 1/150 of the attic or roof cavity floor area.

A new paragraph (b) would be incorporated to require all attic and roof cavities to be ventilated. Paragraph b(1) would specify the minimum free ventilation area equal to 1/300 of the attic or roof cavity or permit a mechanical system capable of changing the air ten times in an hour.

A new paragraph (b)(2) would exclude single section homes with metal roofs having no roof underlayment from the requirements of paragraph (b)(1) providing the interior of the home can be ventilated at the rate of 150 cubic feet per minute and extra steps are taken to seal the roof cavity from interior moisture migration.

A new paragraph (b)(3) would specify that 50 to 60 percent ventilation free area will be in the upper half of the attic or roof cavity.

A new paragraph (b)(4) would establish the condensation zones and refer to a new figure 1 which would indicate the zones on the map of the United States.

A new paragraph (b)(5) would specify that the free ventilation area shall be designed to prevent the entry of rain, snow and insects.

Section 3280.506 Heat Loss

This section would be amended to use the term "U" Value Zones" in place of "Winter Design Temperature Zones." The section would be amended to incorporate the maps designating the "U Value Zones" of which there are four.

Paragraph (a) would be amended to incorporate the following "Maximum Transmission Coefficients": Zone 4–0.079, Zone 3–0.096, Zone 2–0.109, and Zone 1–0.132. The coefficient is in terms of Btu/(hr)(sq. ft.) (degree F).

Paragraph (c) would be amended to require storm window or insulating glass for homes designated for Zone 4.

(The proposed amendments to significantly improve the overall Heat Loss characteristics of manufactured homes are described in more detail in the previous discussion.)

Section 3280.508 Heat Loss, Heat Gain and Cooling Load Calculations

It is proposed to amend this section to incorporate the applicable section of the 1989 edition of the ASHRAE Handbook of Fundamentals and a new paragraph incorporating an appendix to the Standards which will outline an acceptable heat loss/heat gain method (see previous discussion on Energy Condensation II a).

Section 3280.510 Heat Loss Certificate

It is proposed to amend the certificate to be compatible with the revised Zones being proposed.

Section 3280.511 Comfort Cooling Certificate and Information

It is proposed to amend the certificate to be compatible with the revised Zones being proposed.

Section 3280.602 Definitions

It is proposed to add the definitions of (1) Flushometer tank; (2) Plumbing appliance; (3) Plumbing appurtenance; (4) Whirlpool bathtub.

Section 3280.603 General Requirements

Paragraph (a)(5) would be amended to clarify the applicability the reference standards. It would further clarify that in absence of an appropriate standards being specified, the plumbing component is to be listed as suitable for the intended use.

Section 3280.604 Materials

Paragraph (a) would be amended to incorporate the updated reference standards discussed previously.

Paragraph (b) would be amended to clarify that where two standards for a component are indicated, it is only necessary to conform to one of them except when evaluation of toxicity is necessary.

Section 3280.604 Materials

At the recommendation of CABO, several new standards are being proposed for inclusion into the reference standard tables. Refer to write up on reference standards.

Section 3280.606 Traps and Clean-outs

Paragraph (b)(1)(iii) would be amended at the recommendation of CABO to permit the removal of a water closet to provide the clean out access to the drain lines.

Section 3280.607 Plumbing Fixtures

Paragraph (b) would be amended to delete several references to the term "toilet" and replace with the term "water closet".

Paragraph (b)(4) would be amended to permit the use of high loop in the drain system of a dishwasher. Additional clarification is also added on the use of a standpipe for a dishwasher.

Paragraph (c) would be amended to incorporate interpretive bulletin G–2–77(a) to clarify that fixture diverter valves do not require direct access.

At the recommendation of CABO, it is proposed to add new paragraphs (c)(5) and (c)(6). (c)(5) would specify that the hot water supply to a fixture faucet, fitting, or diverter shall always be on the left. (c)(6) adds criteria for access and installation of Whirlpool bathtub drainage systems.

Section 3280.609 Water Distribution Systems

Paragraph (b)(5) and (b)(6) would be amended to change references from "toilets" to "water closets".

At the recommendation of CABO, a new paragraph (b)(7) is being proposed to require exterior hose bibs to be protected by a listed non-removable backflow prevention device.

At the recommendation of CABO, a new paragraph (b)(8) is being proposed to require flushometer tanks to be installed with an air gap or vacuum breaker located above the fixture flood level.

Paragraph (d)(1)(i) would be amended to delete the terminology "approved or listed" and replaced with "listed". The term approved is redundant as all plastic plumbing components must be listed.

Paragraph (e)(3) would be amended to clarify that any solder used in the water distribution system shall not contain more than 0.2 percent lead.

Section 3280.610 Drainage Systems

Paragraph (c)(5) would be amended to clarify the manufacturers responsibilities for drainage systems which require on site assembly. The clarification assures that the manufacturer provides all the materials and appropriate installation instructions.

Paragraph (d) and (e) would be amended to use the term "water closet" instead of "toilet".

Section 3280.612 Test and Inspection

Paragraph (b)(3) would be amended to use the term "water closet" instead of "toilet".

Section 3280.702 Definitions

At the recommendation of CABO, the definition of "Connector gas", paragraph (a)(17) would be amended to be more descriptive as to its function and delete the referenced to a specific reference standard.

Section 3280.703 Minimum Standards

It is proposed to amend this section by clarifying that compliance with only one of the incorporated reference standards suffice to met the requirement of the FMHCSS.

The table would be amended to incorporate the latest edition of the standard reference. Refer to the previous write up on reference standards.

Section 3280.705 Gas Piping System

At the recommendation of the MCC, paragraph (c) requirements for gas line interconnection of multiple unit Section of manufactured homes would be amended to permit permanent pipe and listed connectors. In addition, the Department is proposing that a shut off valve be required when connectors are utilized.

Section 3280.705 is amended to delete the table for gas line systems that are sized for liquified petroleum (LP) gas only. It is being proposed that all gas lines be sized to handle both LP and natural gas. Other references to LP only systems are being deleted from Subpart H.

At the recommendation of CABO, paragraph (1)(2) would be amended to clarify that appliance connectors may be installed through openings in cabinetry walls.

Paragraph (1)(2)(ii) and (1)(3) would be amended to clarify that shut off valves for appliances are to conform to ANSI Z21.15–1989 and are to be of the non-displaceable rotor type.

Section 3280.708 Exhaust Duct System and Provision for the Future Installation of a Clothes Dryer

Paragraphs (b)(3) and (c)(1) would be amended to incorporate the requirements for a roughed in moisture lint exhaust system which are currently provided by interpretive bulletin H–1–77.

Section 3280.709 Installation of Appliances

Paragraph (e)(6) would be amended to incorporate the requirements of interpretive bulletin H–2–76. This clarifies the manufactured home manufacturers responsibilities in preparing the home to connect external heating or combination cooling/heating appliances at the set-up site.

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Section 3280.710 Venting, Ventilation and Combustion Air

Paragraph (b)(1) would be amended to incorporate the requirements of interpretive bulletin H–2–78 as amended on February 27, 1979. This permits that section of a fuel fired heating appliance vent that is above the roof line to be shipped loose and installed at the set-up site.

Section 3280.713 Accessibility

It is proposed to amend this section to clarify that the gas risers to an appliance may be removable to permit replacement of the appliance.

Section 3280.714 Appliance Cooling

At the recommendation of the MCC, it is proposed to incorporate new paragraph (a)(4) and (a)(5) to clarify the testing and certification requirements for cooling and heat pump coils that are installed in a furnace or heating appliance. The certification shall insure that they are rated in combination with the heating appliance or furnace, and in combination with the outdoor section of the system. Additional language has been included to insure that safety is addressed and to implement the Department of Energy procedures.

Section 3280.715 Circulating Air System

It is proposed to amend paragraph (b)(4) to clarify the area calculation for return air when doors are undercut for this purpose. Specifically, it clarifies that the measurement is made from the hard floor deck and not the carpet surface.

Subpart I Electrical Systems

It is proposed to update all references to the National Electrical Code NFPA no. 70, to incorporate the 1990 edition of that document. CABO and MCC both recommended this change.

Section 3280.801 Scope

Paragraph (c) would be amended to editorially change references to 115/230 volts to 120/240 volts. This would make the FMHCSS consistent with the National Electrical Code.

Section 3280.804(j) Disconnecting Means and Branch Circuit Protection Equipment

Paragraph (j) would be amended to correct the editorial error on the tag for the power supply entrance. The blank space for the correct ampere rating is being repositioned.

A new paragraph (k) would be added to clarify that a common main disconnect is used services and distribution equipment that it shall be rated and listed as suitable for service equipment.

A new paragraph (1) would be added to provide a service entrance tag that is compatible with a 3 wire service connection.

Section 3280.805 Branch Circuit Required

Paragraph (a)(2) would be amended to no longer require the family room to be supplied with a small appliance branch circuit. This would make the FMHCSS compatible with article 220–4 of the NEC.

Paragraph (a)(3)(ii) would be amended editorially to clarify the circuits with motor loads, or any continuous duty load may not have a load that exceeds 80 percent of the branch circuit rating.

Paragraph (a)(3)(v) would be amended to clarify that a laundry area must be provided with a 20 ampere circuit dedicated for laundry room use only.

Section 3280.806 Receptacle Outlets

Paragraph (b) would be editorially amended to specify that receptacles in compartments accessible from the outdoors are required to be ground fault protected. It is being editorially removed from paragraph (d)(8) to alleviate the confusion over whether or not such a receptacle can be considered the required outdoor receptacle.

Paragraph (c) would also be amended to clarify that dedicated laundry receptacles provided in areas that are part of a bathroom are not required to have a ground fault protection.

Paragraph (d)(1) at the recommendation of CABO would be amended to permit a duplex receptacle to simultaneously serve as the dedicated outlet for a refrigerator and a counter top.

Paragraph (d)(7) would be amended to clarify that the receptacle in a laundry area is to be within 6 feet of the intended location of the appliance(s).

Paragraph (d)(8) would be amended to delete the language pertaining to receptacles located in compartments accessible from the outdoors. It is being located in paragraph (b).

Section 3280.807 Fixtures and Appliances

Paragraph (c) would be amended to cross reference Article 410–4(d) of the National Electrical Code. This article clarifies that no hanging or pendant type fixture may be installed within 3 feet horizontally or eight feet vertically of a bathtub rim.

Paragraph (e) would be amended to permit the use of "limited combustible" material as a fixture flash ring as "limited combustible" is currently defined and permitted in subpart C.

Existing paragraph (g) would be deleted. These provisions apply to the installation of hydro massage bathtubs. Previously, when the 1984 edition of the National Electrical Code was referenced, hydro massage bathtubs would have been treated as hot tubs or spas unless special consideration was provided. The 1990 edition of the National Electrical Code provides appropriate criteria for installing hydro massage bathtubs. Accordingly, those provisions in the FMHCSS are no longer necessary.

Section 3280.808 Wiring Methods and Materials

A new paragraph (g) would be added to incorporate the provision of interpretive bulletin I–1–80 to provide the performance requirements for a substantial brace used to support electrical outlet boxes.

A new paragraph (r) would be added to establish a limit of ⅛ inch as the permissible oversize limit for close fitting of electrical boxes in combustible walls and ceilings. ⅛ inch is the limit currently being enforced.

A new paragraph(s) would be added to clarify that N. M. cable sheathing can be repaired provided the conductors are not damaged.

Section 3280.809 Grounding

Paragraph (b)(1) would be amended to clarify that when service equipment is installed on manufactured homes, it is permissible to have the ground and neutral buses in the distribution panel remain interconnected.

Section 3280.810 Electrical Testing

Paragraph (a) would be amended to incorporate interpretive bulletin I–1–78. This clarifies the acceptable range of voltages that can be used and exactly which conductors must be tested against each other during the dielectric test.

Paragraph (b) would be amended to revise the operational check to exclude major listed appliances from the check and would revise the polarity test to permit visual inspection.

Section 3280.811 Calculations

Numerous references to voltage would be changed to read 120/240 volts from 115/230 volts.

Section 3280.813 Outdoor Outlets, Fixtures and Air Conditioning Equipments

It is proposed to amend paragraph (a) to specify a listing for outdoor fixtures and equipment of "suitable for use in wet locations."

C. Recommendations Not Adopted

1. Many of the recommendations provided by the CABO committee dealt with reference Standards. Two of these reference standards were not included because the Department could not verify that they were the latest edition or the most appropriate edition. AISC–S326–1978 is not listed in the AISC literature as having a 1986 supplement. FS ZZ R 765C–86 is listed in the source document from the General Services Administration. However, it does not replace 765B–1970 which is also listed.

2. CABO recommended that a definition of "direct vent" system be included in Subpart H. However, the Department believes that the more stringent definition of "sealed combustion" is needed for the FMHCSS.

3. The MCC recommended that a provision be incorporated stating reference standards shall be reviewed and updated every 3 years. The Department concludes, however, this is a policy and operational concern and not a standards issue.

4. The MCC recommended that the additional words "Important Document, Do not remove, alter or destroy" be added to the Data Plate. The Department does not believe that a problem has been identified which would justify making the addition.

5. The MCC recommended that the term "Waiver" be replaced with the term "Determination of Equivalency". The Department prefers "waiver". However, it would consider the alternative if public comment supported the change.

6. The MCC recommended that the Standard specify that the Department respond to all requests for alternative test procedure approval within 60 days. The Department does not object to 60 days. However, it considers turn around time to be an administrative issue and not a regulatory matter.

7. The MCC recommended that a formaldehyde emission standard be set for medium density fiberboard. The Department, however, believes that since the real question of how critical the threat from formaldehyde is yet to be resolved, that it would be premature to propose a rule at this time.

8. In § 3280.401(b) the procedures for ultimate load test would be amended to incorporate interpretative bulletin E–I–76. The Department could not accept the entire MCC recommendation in this change. The Department believes that for the alternative load test a factor of safety of 2.5 or greater is necessary. Also, the Department believes that the failure criteria-rupture, fracture, and excessive yielding are determinable and should be retained.

9. The MCC proposal for a revised test procedure for roof trusses is presently being reviewed by the Department. It would be the Department's intention to incorporate an amended procedure, such as proposed by the MCC, upon being assured that the procedure is adequate.

10. The MCC proposed definitions for "single package system" and "heat pump split system". This proposal was not accepted as a basis for their need isn't foreseen. Further, there may be the potential for conflict with future Department of Energy directive on this subject.

11. The MCC proposed that the mandatory enforcement dates for water heater, furnace, air conditioner and heat pump appliance energy efficiency standards prescribed by the National Appliance Energy Conservation Act be specified in the FMHCSS. The Department believes it is more appropriate to issue a notice to announce that the Department of Energy rules supersede those of the Department.

12. The MCC proposed that smoke detectors be allowed on ceilings. The Department recognizes that other building codes permit this location. However, data has not been presented to indicate that the dead air space found at the ceilings of manufactured home is any less of a problem that it was 13 years ago.

13. The MCC proposed condensation control measures for ceilings/roof cavities to include natural and mechanical ventilation means. The levels proposed by the MCC, however, are less than generally recognized workable levels. Due to insufficient data being presented, the Department is proposing levels that are higher than those recommended by the MCC.

D. Comments Requested

Comments are requested on the proposed energy conservation amendments to assist the Department in implementing the 1987 amendment to the National Manufactured Home Construction and Safety Standards Act. Of particular concern to Congress is that the cost be based upon the impact on the consumer. Accordingly, data which can assist in more accurately defining the economic effects as required by the amendment to the Act is requested.

Specific comments are requested on two of the financial parameters (i.e.-discount rate and fuel price escalation rates) used to develop the level of insulation required in the proposed energy conservation amendments.

The discount rate or alternative investment rate used to develop the proposed standard was 12% (7% real discounting for inflation of 5%). In addition to the proposed maximum U-values, the department has evaluated maximum U-value requirements based on alternative real investment rates of 4 and 10 percent.

The appropriate alternative investment rate is not the rate of interest at which the affected population can borrow to finance investments in energy efficiency nor is it the rate it can earn in a savings account. Rather, it is the rate of return required of equivalent investments. It is in the new home buyer's self interest to invest in only those energy conservation measures that pay a rate of return greater than or equal to that of an alternative investment that exhibits equivalent characteristics, including both liquidity (ease with which they can be converted to cash) and risk.

Generally, the more risky and the more illiquid any investment, the greater the rate of return investors will require. Most investments in energy conservation measures are highly illiquid, long-term investments. Further, they are subject to some risk since they depend on unknown factors, such as future energy prices and weather patterns. The required rate of return of such investments may be relatively high. In light of these observations, the department seeks comment on the appropriate discount rate.

The national fuel price escalation rates used to develop the proposed standard averaged: Electricity, 0.0% (constant); fuel oil, 2.5%; natural gas, 2.0%; and liquid petroleum gas (LPG), 2.4%. These rates were based on long term projections from the Federal Energy Management Program (FEMP) and are similar to projections from the Energy Information Administration (EIA). Other fuel price escalation rates for which an arguement could be made include using 0.0% escalation based on the fact that some (real) fuel prices have held fairly constant over the last several years and projecting them this would hold true for the future.

The impact on the maximum U-value requirements of the alternative discount rates and fuel price escalation rates are shown below:

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SS 36
FE 24
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Zone	Proposed(7% real discount rate, FEMP fuel escalation)
1	0.132
2	0.109
3	0.096
4	0.079
National	0.098

Zone	Alternate(4% real discount rate, FEMP fuel escalation)
1	0.121
2	0.100
3	0.088
4	0.072
National	0.090

Zone	Alternate(10% real discount rate, constant real fuel prices)
1	0.150
2	0.124
3	0.109
4	0.090
National	0.112

Comments are solicited on which discount rate most likely relates to the manufactured home purchaser and which fuel prices we will see in the future based on dwindling nonrenewable resources.

Comments are requested on the issue of condensation control. As homes become more energy efficient, the removal of moisture from within the home and the home structure becomes more difficult. The increased use of exterior siding and roofing materials more commonly associated with the traditional single family site built structures, has raised questions concerning the viability of the existing condensation control requirements solutions are needed for the problems that arise from the improved energy conservation measures and when upgraded siding and roofings are used. Most specifically, what is the cost impact of imposing improved ventilation requirements simultaneously with improved energy conservation measures.

Comments are also solicited on all areas of the Standards. In addition to those changes specifically proposed, the Department is soliciting information relating to the following problem areas.

Numerous request have been made to clarify the safety glazing requirements. A need to identify the locations requiring safety glazing is indicated. Additionally, suggestions have been received asking that certain decorative and design considerations be excluded from the safety glazing requirements. Comments are requested on this subject.

The existing standards require that an outdoor heat tape receptacle outlet cannot be protected by a ground fault circuit interrupter because numerous cases of nuisance tripping were reported. More recent input indicates that the nuisance tripping problem has been rectified. Further, it has been suggested that a ground fault circuit interrupter should be required to reduce the probability of fires from improperly installed heat tapes. Comments are requested on this issue.

Findings and Certification

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 120(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk at the above address.

This rule does constitute a "major rule" as that term is defined in section 1(d) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. An analysis of the rule indicates that it does: (1) Have an annual effect on the economy of $100 million or more, (2) cause a major increase in costs or prices for consumers and individual industries. It does not cause a major increase in cost or prices for Federal, State, or local government agencies, or geographic regions. It does not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The Regulatory Impact Analysis is available for public Inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk at the above address.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this proposed rule does not have a significant economic impact on a substantial number of small entities. As required by the Act, this proposed rule must balance the increased cost with real savings in energy cost.

This rule is listed as sequence number 1394 under the Office of Housing in the Department's semiannual agenda of regulations published on October 21, 1991 (53380, 53406) under Executive Order 12291 and the Regulatory Flexibility Act.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this rule will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the rule is not subject to review under the Order.

Specifically, the requirements of this rule are directed to manufacturers and do not impinge upon the relationship between the Federal government and State and local governments.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this rule does not have potential for significant impact formation, maintenance, and general well-being, and thus, is not subject to review under the Order. The rule involves requirements for property improvements and manufactured home loans insured by the Department. Any effect on the family would likely be indirect and insignificant.

List of Subjects in 24 CFR Part 3280

Fire prevention, Housing standards, Incorporation by references, Manufactured homes.

Accordingly, it is proposed to amend 24 CFR part 3280 as follows:

PART 3280—MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS

1. The authority citation for 24 CFR part 3280 is revised to read as follows and the authority citations following all of the sections in part 3280 are removed:

Authority: Secs. 604 and 625 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5403 and 5424): Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart A—General

2. Section 3280.1 is proposed to be revised to read as follows:

§ 3280.1 Scope.

This standard covers all equipment and installations in the design, construction, transportation, fire safety, plumbing, heat-producing and electrical systems of manufactured homes which are designed to be used as dwelling units. This standard seeks to the maximum extent possible to establish performance requirements. In certain instances, however, the use of specific requirements is necessary.

3. Section 3280.2 is proposed to be amended by removing the paragraph designations from the section, by revising the introductory paragraph, by removing the definitions for "Center", "Combustible Material," "Defect," and "Imminent safety hazard", and by adding in alphabetical order the definition for "Bay Window," to read as follows:

§ 3280.2 Definitions.

Definitions in this subpart are those common to all subparts of the standard and are in addition to the definitions provided in individual parts. The definitions are as follows:

* * * * *

Bay Window—a window assembly whose maximum horizontal projection is not more than two feet from the plane of an exterior wall and is elevated above the floor level of the home.

* * * * *

4. Section 3280.3 is proposed to be revised to read as follows:

§ 3280.3 Manufactured Home Procedural and enforcement regulations and manufactured home consumer manual requirements.

A manufacturer must comply with the requirements of this part and in addition must comply with the requirements of 24 CFR Parts 3282 Manufactured Home Procedural and Enforcement Regulation and 3283 Manufactured Home Consumer Manual Requirements.

5. Section 3280.4 is proposed to be amended by revising paragraphs (a) and (b) to read as follows:

§ 3280.4 Incorporation by reference.

(a) The specifications, standards and codes of the following organizations are incorporated by reference in this Standard pursuant to 5 U.S.C. 552(a) and 1 CFR part 51 as though set forth in full. The incorporation by reference of these standards has been approved by the Director of the Federal Register. Reference standards have the same force and effect as this Standard except that whenever reference standards and this Standard are inconsistent, the requirements of this Standard prevail to the extent of the inconsistency.

(b) The abbreviations, and addresses of organizations issuing the referenced standards appear below. Reference standards which are not available from their producer organizations may be obtained from the Office of Manufactured Housing and Construction Standards, Manufactured Housing Standards Division, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

AA—Aluminum Association, 900 19th Street NW., Suite 300, Washington, D.C. 20006
AAMA—American Architectural Manufacturers Association, 1540 East Dundee Road, Palatine, Illinois 60067
AGA—American Gas Association, 8501 East Pleasant Valley Road, Cleveland, Ohio 44131
AISI—American Iron and Steel Institute, 1000 16th Street, NW., Washington, DC 20036
AITC—American Institute of Timber Construction, 11818 SE Mill Plain Blvd., suite 415, Vancouver, Washington 98684
ANSI—American National Standards Institute, 1430 Broadway, New York, New York 10018
APA—American Plywood Association, P.O. Box 11700, Tacoma, Washington 98411
ARI—Air Conditioning and Refrigeration Institute, 1501 Wilson Blvd, 6th Floor, Arlington, Va 22209–2403
ASCE—American Society of Civil Engineers, 345 East 47th Street, New York, New York 10017–2398
ASHRAE—American Society of Heating, Refrigeration and Air Conditioning Engineers, 1791 Tullie Circle, NE., Atlanta, Georgia 30329
ASME—American Society of Mechanical Engineers, 345 East 47th Street, New York, New York 10017
ASSE—American Society of Sanitary Engineering, P.O. Box 40362, Bay Village, Ohio 44140
ASTM—American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103
CISPI—Cast Iron Soil Pipe Institute, 5959 Shallowford Road, Suite 419, Chattanooga, TN 37421
FS—Federal Specifications, General Services Administration, Specifications Branch, room 6039, GSA Building, 7th and D Streets, SW., Washington, DC 20407
HPMA—Hardwood Plywood Manufacturers Association, P.O. Box 2789, Reston, Virginia 22090
HUD-FHA—Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410
IAPMO—International Association of Plumbing and Mechanical Officials, 20001 Walnut Drive South, Walnut, CA 91784–2825
IITRI—IIT Research Institute, 10 West 35th Street, Chicago, Illinois 60616
MIL—Military Specifications and Standards, Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, Pennsylvania 19120
NFPA—National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269
(N)EPA—National Forest Products Association, 1250 Connecticut Avenue, NW., Washington, DC 20036
NIST—National Institute of Standards and Technology, Office of Engineering Standards Technical Building, Washington, DC 20234
NPA—National Particleboard Association, 18928 Premiere Court, Gaithersburg, Maryland 20879
NSF—National Sanitation Foundation, P.O. Box 1468, Ann Arbor, Michigan 48105
NWWDA—National Wood Window and Door Association, 1400 E. Toughy Avenue, suite G–54, Des Plaines, Illinois 60018
PS—Product Standards, U.S. Government Printing Office, Washington, DC 20410
SAE—Society of Automotive Engineers, 400 Commonwealth Drive, Warrendale, Pennsylvania 15096
SJI—Steel Joist Institute, suite A, 48 Avenue North, Myrtle Beach, South Carolina 29577
TPI—Truss Plate Institute, 583 D'Onofrio Drive, suite 200, Madison, Wisconsin 53719
UL—Underwriters' Laboratories, Inc., 333 Pfingsten Road, Northbrook, Illinois 60062.

* * * * *

6. Section 3260.5 is proposed to be revised as follows:

§ 3280.5 Data plate.

Each manufactured home shall bear a data plate affixed in a permanent manner near the main electrical panel or other readily accessible and visible location. Data plates shall be made of material which will receive typed information as well as preprinted information and which can be cleared of ordinary smudges or household dirt without removing information contained thereon; or, they shall be covered in a permanent manner with materials which will make it possible to clean them of ordinary dirt and smudges without obsuring the information. Data plates shall contain not less than the following information:

(a) The name and address of the manufacturing plant in which the manufactured home was manufactured.

(b) The serial number and model designation of the unit and the date the unit was manufactured.

(c) The statement, "This manufactured home is designed to comply with the Federal manufactured home construction and safety standards in force at the time of manufacture."

(d) A list of the certification label(s) number(s) which are affixed to each transportable manufactured section under § 3280.6.

(e) A list of major factory-installed equipment including the manufacturer's name and the mode designation of each appliance.

(f) Reference to the structural zone and wind zone for which the home is designed and duplicates of the maps as set forth in § 3280.305(c)(4). This information may be combined with the heating/cooling certificate and insulation zone maps required by §§ 3280.510 and 3280.511.

(g) The statement: "Design Approval by" followed by the name of the agency which approved the design.

* * * * *

7. The existing § 3280.8 is proposed to be amended by redesignating it to be a new § 3280.11 and by revising paragraph (c) of the new § 3280.11 to read as follows:

§ 3280.11 Certification label.

* * * * *

(c) The label shall read as follows:

As evidenced by this label No. ABC 000001, the manufacturer certifies to the best of the manufacturer's knowledge and belief that this manufactured home has been inspected in accordance with the requirements of the Department of Housing and Urban Development and is constructed in conformance with the Federal manufactured home construction and safety standards in effect on the date of manufacture. See date plate.

* * * * *

8. Part 3280, subpart A, is proposed to be amended by adding new §§ 3280.8, 3280.9, and 3280.10 to read as follows:

§ 3280.8 Waivers.

(a) Where any material piece of equipment, or system which does not meet precise requirements or specifications set out in the standard is shown, to the satisfaction of the Secretary, to meet an equivalent level of performance, the Secretary may waive the specifications set out in the Standard for that material, piece of equipment, or system.

(b) Where the Secretary is considering issuing a waiver to a Standard, the proposed waiver shall be published in the **Federal Register** for public comment, unless the Secretary, for good cause, finds that notice is impractical, unnecessary or contrary to the public interest, and incorporates into the waiver that finding and a brief statement of the reasons therefor.

(c) Each proposed and final waiver shall include:

(1) A statement of the nature of the waiver; and

(2) Identification of the particular standard affected.

(d) All waivers shall be published in the **Federal Register** and shall state their effective date. Where a waiver has been issued, the requirements of the Federal Standard to which the waiver relates may be met either by meeting the specifications set out in the Standard or by meeting the requirements of the waiver published in the **Federal Register.**

§ 3280.9 Interpretative bulletins.

Interpretative bulletins may be issued for the following purposes:

(a) To clarify the meaning of the Standard; and

(b) To assist in the enforcement of the Standard.

§ 3280.10 Use of alternative construction.

Requests for alternative construction can be made pursuant to 24 CFR 3282.14 of this chapter.

Subpart B—Planning Considerations

9. Section 3280.103 is proposed to be revised as follows:

§ 3280.103 Light and ventilation.

(a) *Lighting.* Each habitable room shall be provided with exterior windows and/or doors having a total glazed area of not less than 8 percent of the gross floor area.

(1) Kitchens, bathrooms, toilet compartments, laundry area, utility rooms and storage rooms may be provided with articifical light in place of windows.

(2) Rooms and areas may be combined for the purpose of providing the required natural lighting provided that at least one half of the common wall area is open and unobstructed, and the open area is at least equal to 10 percent of the combined floor area or 25 square feet whichever is greater.

(b) *Ventilation.* Every manufactured home shall be designed and contructed with ventilation provisions that are capable of providing a minimum of .35 air changes per hour. The following criteria is required for this purpose:

(1) A mechanical air intake system capable of providing at least 75 cubic feet per minute (cfm) that is operable independently of any other system with which it is intended to function.

(2) At least half of the glazed area required by paragraph (a) shall be openable directly to the outside of the manufactured home for unobstructable ventilation. These same ventilation requirements apply to rooms combined in accordance with § 3280.103(a)(2).

(3) Each manufactured home shall be provided with a ventilation system capable of providing a continuous exhaust of at least 50 cfm to the outside of the manufactured home. The system shall be in addition to the exhaust ventilation required for bathrooms and kitchens. The system may either be passive or mechanical. A mechanical system shall be provided with a manual control in addition to any automatic controls. It shall be operable independently of any other system with which it is intended to operate except it may operate with the intake system required in (b)(1) above.

(c) Kitchens shall be provided with a mechanical ventilation system that is capable of exhausting 100 cfm to the outside of the home. The exhaust fan shall be located as close as possible to the range or cooktop, but in no case further than 10 feet from the range or cooktop.

(d) Each bathroom and separate toilet compartment shall be provided with a mechanical ventilation system capable of exhausting 50 cfm to the outside of the home. A separate toilet comparment may be provided with 1.5 square feet of openable glazed area in place of mechanical ventilation.

(e) A room [refer to § 3280.103(a)(1)] which does not have an exterior wall shall be provided with artificial light and a mechanical ventilation system capable of exhausting 10 cfm. The system may be integral with the whole house ventilation system specified in § 3280.103(b)(3).

10. Section 3280.105 is proposed to be amended by revising paragraph (b)(2) to read as follows:

§ 3280.105 Exit facilities: exterior doors.

* * * * *

(b) * * *

(2) All exterior swinging doors shall provide a minimum 28 inch wide by 74 inch high clear opening, which may be determined by measuring the door itself. However the door stops may not reduce the clear opening to less than 27 inches wide and 73 inches high. All exterior sliding glass doors shall provide a minimum 28 inch wide 72 inch high clear opening.

* * * * *

§ 3280.109 [Removed]

11. Section 3280.109 is proposed to be removed.

§ 3280.110 [Redesignated as § 3280.109]

12. Existing § 3280.110 is proposed to be redesignated as § 3280.109.

§ 3280.111 [Redesignated as § 3280.110]

13. Existing § 3280.111 is proposed to be redesignated as § 3280.110.

§ 3280.112 [Redesignated as § 3280.111]

14. Existing § 3280.112 is proposed to be redesignated as § 3280.111.

§ 3280.113 [Redesignated as § 3280.112]

15. Existing § 3280.113 is proposed to be redesignated as new § 3280.112 and is revised to read as follows:

§ 3280.112 Hallways.

(a) Hallways shall have a minimum horizontal dimension of 28 inches measured from the interior finished surface to the interior finished surface of the opposite wall. When appliances are installed in a laundry area, the measurement shall be from the front of the appliance to the opposite finished interior surface. When appliances are not installed and a laundry area is provided, the area shall have a minimum clear depth of 27 inches in addition to the 28 inches required for passage. In addition, a notice of the available clearance for washer/dryer units shall be posted in the laundry area. Minor protrusions into the minimum hallway width by doorknobs, trim, smoke detectors or light fixtures are permitted.

(b) An interior door placed in a hallway or any path necessary to reach an exterior door (not including any access door to the hallway from any other space) shall have a minimum clear width opening of 27 inches for egress.

§ 3280.114 [Redesignated as § 3280.113]

16. Existing § 3280.114 is proposed to be redesignated as § 3280.113.

Subpart C—Fire Safety

17. Section 3280.202 is proposed to be revised as follows:

§ 3280.202 Definitions.

The following definitions are applicable to subparts C, H, and I of the Standards:

Combustible material: Any material not meeting the definition of limited-combusitble or non-combustible material.

Flame-spread rating: The measurement of the propagation of flame on the surface of materials or their assemblies as determined by recognized standard tests conducted as required by this subpart.

Interior finish: The surface material of walls, fixed or movable partitions, ceilings, columns, and other exposed interior surfaces affixed to the home's structure including any materials such as paint or wallpaper and the substrate to which they are applied. Interior finish does not include:

(1) Trim and sealant 2 inches or less in width adjacent to the cooking range and in furnace and water heater spaces provided if it is installed in accordance with the requirements of § 3280.203(b)(3) or (4), and trim 6 inches or less in width in all other areas;

(2) Windows and frames;

(3) Single doors and frames and a series of doors and frames not exceeding 5 feet in width;

(4) Skylights and frames;

(5) Casings around doors, windows, and skylights not exceeding 4 inches in width;

(6) Furnishings which are not permanently affixed to the home's structure;

(7) Baseboards not exceeding 6 inches in height;

(8) Light fixtures, cover plates of electrical receptacle outlets, switches, and other devices;

(9) Decorative items attached to walls and partitions (i.e., pictures, decorative objects, etc.) constituting no more than 10% of the aggregate wall surface area in any room or space not more than 32 square feet in surface area, whichever is less;

(10) Plastic light diffusers when suspended from a material which meets the interior finish provisions of § 3280.203(b);

(11) Coverings and surfaces of exposed wood beams; and

(12) Decorative items including the following:

(i) Non-structural beams not exceeding 6 inches in depth and 6 inches in width and spaced not closer than 4 feet on center;

(ii) Non-structural lattice work;

(iii) Mating and closure molding; and

(iv) Other items not affixed to the home's structure.

Limited combustible: A material meeting:

(1) The definition of Article 2–3 or NFPA 220–1985; or

(2) 5/16-inch or thicker gypsum board.

Noncombustible material: A material meeting the definition of Article 2–6 of NFPA 220–1985.

Single-station alarm device: An assembly incorporating the smoke detector sensor, the electrical control equipment, and the alarm-sounding device in one unit.

Smoke detector: A wall-mounted detector of the ionization chamber or photoelectric type which detects visible or invisible particles of combustion and operates from a 120 V AC source of current.

18. Section 3280.203 is amended by revising paragraphs (a) and (b)(4) to read as follows:

§ 3280.203 Flame spread limitations and fire protection requirements.

(a) Establishment of flame spread rating. The surface flame spread rating of interior-finish material shall not exceed the value shown in § 3280.203(b) when tested by "Standard Test Method for Surface Burning Characteristics of Building Materials, ASTM E 84–89a" except that the surface flame spread rating of interior-finish materials required by § 3280.203(b) (5) and (6) may be determined by using the "Standard Test Method for Surface Flammability of Materials Using a Radiant Heat Energy Source, ASTM E 162–87". However, the following materials need not be tested to establish their flame spread rating unless a lower rating is required by these standards.

(1) Flame-spread rating—76 to 200.

(i) .035-inch or thicker high pressure laminated plastic panel countertop;

(ii) ¼-inch or thicker unfinished plywood with phenolic or urea glue;

(iii) Unfinished dimension lumber (1-inch or thicker nominal boards);

(iv) ⅜-inch or thicker unfinished particleboard with phenolic or urea binder;

(v) Natural gum-varnished or laxtex- or alkyd-painted:

(*a*) ¼-inch or thicker plywood, or

(*b*) ⅜-inch or thicker particleboard, or

(*c*) 1-inch or thicker nominal board;

(vi) 5/16-inch gypsum board with decorative wallpaper; and

(vii) ¼-inch or thicker unfinished hardboard.

(2) Flame-spread rating—25 to 200.

(i) Painted metal;

(ii) Mineral-base acoustic tile;

(iii) 5/16-inch or thicker unfinished gypsum wallboard (both laxtexs- or alkyd-painted); and

(iv) Ceramic tile.

(The above-listed material applications do not waive the requirements of §§ 3280.203(c) or 3280.204 of this subpart.)

(b) * * *

(4) Exposed interior finishes adjacent to the cooking range shall have a flame spread rating not exceeding 50, except that backsplashes not exceeding 6 inches in height are exempted. Adjacent surfaces are the exposed vertical surfaces between the range top height and the overhead cabinets and/or ceiling and within 6 horizontal inches of the cooking range. (Refer also to § 3280.204(a), "Kitchen Cabinet Protection.") Sealants and other trim materials 2 inches or less in width used to finish adjacent surfaces are exempt from this provision provided that all joints are completely supported by a framing member.

* * * * *

19. Section 3280.208 is amended by revising paragraphs (c) and (d) to read as follows:

§ 3280.208 Fire detection equipment.

* * * * *

(c) *Labeling.* Smoke detectors shall be labeled as conforming with the requirements of Underwriters' Laboratories Standard No. 217—Third Edition 1985, as amended through 1989, for "Single and Multiple Station Smoke Detectors."

(d) *Installation.* Each smoke detector shall be installed in accordance with its listing. The top of the detector shall be located on a wall 4 inches to 12 inches, or at a distance permitted by the listing, below the ceiling. However, when a detector is mounted on an interior wall below a sloping ceiling, it shall be located 4 inches to 12 inches below the intersection of the connecting exterior wall and the sloping ceiling (cathedral ceiling). The required detector(s) shall be attached to an electrical outlet box and the detector connected by a permanent wiring method into a general electrical circuit. There shall be no switches in the circuit to the detector between the over-current protection device protecting the branch circuit and the detector. Smoke detector(s) shall not be placed on the same branch circuit or any circuit protected by a ground fault circuit interrupter.

Subpart D—Body and Frame Construction Requirements

20. Section 3280.302 is proposed to revised to read as follows:

§ 3280.302 Definitions.

The following definitions are applicable to Subpart D only:

Anchoring equipment means straps, cables, turnbuckles, and chains, including tensioning devices, which are used with ties to secure a manufactured home to ground anchors.

Anchoring system means a combination of ties, anchoring equipment, and ground anchors that will, when properly designed and installed, resist overturning and lateral movement of the manufactured home from wind forces.

Diagonal tie means a tie intended to primarily resist horizontal forces, but which may also be used to resist vertical forces.

Footing means that portion of the support system that transmits loads directly to the soil.

Ground anchor means any device at the manufactured home stand designed to transfer manufactured home anchoring loads to the ground.

Hurricane resistive manufactured home means a manufactured home which meets the wind design load requirements for Zone II in § 3280.305(c)(2).

Loads. (1) *Dead loads* means the weight of all permanent construction including walls, floors, roof, partition, and fixed service equipment.

(2) *Live load* means the weight superimposed by the use and occupancy of the manufactured home, including wind load and snow load, but no including dead load.

(3) *Wind load* means the lateral or vertical pressure or uplift on the manufactured home due to wind blowing in any direction.

Main frame means the structural component on which is mounted the body of the manufactured home.

Pier means that portion of the support system between the footing and manufactured home exclusive of caps and shims.

Sheathing means material which is applied on the exterior side of a building frame under the exterior weather resistant covering.

Stabilizing devices means all components of the anchoring and support system such as piers, footings, ties, anchoring equipment, ground anchors, and any other equipment which supports the manufactured home and secures it to the ground.

Support system means a combination of footings, piers, caps, and shims that will, when properly installed, support the manufactured home.

Tie means straps, cable, or securing devices used to connect the manufactured home to ground anchors.

Vertical tie means a tie intended to resist the uplifting or overturning forces.

21. Section 3280.303 is proposed to be amended by revising paragraph (g) to read as follows:

§ 3280.303 General requirements.

* * * * *

(g) *Alternative test procedures.* In the absence of recognized testing procedures either in these standards or the applicable provisions of those standards incorporated by reference, the manufacturer electing this option shall develop or cause to be developed testing procedures to demonstrate the structural properties and significant characteristics of the material, assembly, subassembly component or member. Such testing procedures shall become part of the manufacturer's approved design. (Refer to § 3280.3)

(1) Testing procedures so developed shall be submitted to the Department for approval.

(2) Upon notification of approval, the alternative test procedure is considered acceptable.

(3) Such tests shall be witnessed by an independent licensed professional engineer or architect or by a recognized testing organization. Copies of the test results shall be kept on file by the manufactured home manufacturer.

22. Section 3280.304 is proposed to be amended by revising paragraph (b)(1) to read as follows:

§ 3280.304 Materials.

* * * * *

(b)(1) Standards for some of the generally used materials and methods of construction are listed in the following table.

Aluminum Construction Manual, Sec. 1, Specifications for Aluminium Structures	AA–1986.
Steel:	
Specification for the Design, Fabrication, and Erection of Structural Steel for Buildings	AISC S335–1989.
The following parts of this reference standard are not applicable: 1.3.3, 1.3.4, 1.3.5, 1.3.6, 1.4.6, 1.5.1.5, 1.5.5, 1.6, 1.7, 1.8, 1.9, 1.10.4 through 1.10.7 1 10.9, 1.11, 1.13, 1.14.5, 1.17.7 through 1.17.9, 1.19.1, 1.19.3, 1.20, 1.21, 1.23.7, 1.24, 1.25.1 through 1.25.5, 1.26.4, 2.3, 2.4, 2.8 through 2.10.	
The Specification for the Design of Cold-Formed Steel Structural Members	AISI–1986 with 1989 addendum.
The following parts of this reference standard are not applicable: 3.1.2, 4.2.1., 4.2.4.	
Stainless Steel Cold-Formed Structural Design Manual, Part I, Structural Members: Specifications for the Design of Light Gage Cold-Formed Stainless Steel Structural Members, except 3.1.2..	AISI–1974.
Standard Specifications Load tables and Weight Tables for Steel Joists and Joist Girders, only Sections 1–6 and the table for "H series only" are applicable.	SJI–1986.
Manual for Structural Applications of Steel Cables for Buildings	AISI–1973.
Strapping, Steel, and Seals, with Notice #1 and Amendment #2, only type 1, Finish B, Grade I of plating/coating sections are applicable..	FS QQ–S–781H–1974 with 1977 Amendment 2 & Notice 1.
Wood and Wood Products:	
Basic Hardboard	ANSI/AHA A135.4–1982.
Prefinished Hardboard Paneling	ANSI/AHA A135.5–1988.

Hardboard Siding	ANSI/AHA A135.6-1989.
Hardwood and Decorative Plywood	ANSI/HPMA-HP-1983.
Structural Design Guide for Hardwood Plywood Wall Panels	HPMA-HP-SG-1986.
Structural Glued Laminated Timber	ANSI/AITC A190.1-1983.
Construction and Industrial Plywood	PS-1-83.
APA Design/Construction Guide, Residential and Commerical	APA-E-30.
Design and Fabrication of All-Plywood Beams, Suppl. 5	APA-H-815.
Plywood Design Specification	APA-Y-510.
Design and Fabrication of Plywood Lumber Beams, Suppl. 2	APA-S-812.
Design and Fabrication of Plywood Curved Panels, Suppl. 1	APA-S-811
Design and Fabrication of Plywood Sandwich Panels, Suppl. 4	APA-U-814.
Design and Fabrication of Plywood Stressed Skin Panels, Suppl. 3	APA-U-813.
National Design Specification for Wood Construction with Supplement Design Value for Wood Construction.	(N)FPA-1986 with 1988 Supplement.
Wood Structural Design Date	(N)FPA-1988.
Span Tables for Joists and Rafters (PS 20-70)	(N)FPA-1986.
Design Values for Joists and Rafters	(N)FPA-1986.
Design Specifications for Metal Plate Connected Wood Trusses	TPI-1985.
Mat-formed Wood Particleboard	ANSI A208.1-1984.
Wood Flush Doors	ANSI/NWWDA I.S. 1-1987
Wood Window Units	ANSI/NWWDA I.S. 2-1987
Wood Sliding Patio Doors	ANSI/NWWDA I.S.3-1988.
Water Repellant Preservative Non-Pressure Treatment for Millwork	NWWDA I.S. 4-81.
Standard Test Methods for Puncture and Stiffness of Paperboard, and Corrugated and Solid Fiberboard. Exception, the puncture resistance inch-pound value provided in Section 3280.306 shall be used.	ASTM D 781-68(73).
Standard Test Methods for Moisture Content of Wood, only Test Method B is applicable.	ASTM D-2016-74(83). ASTM D 2016-74(83).
Other:	
Standard Specification for Gypsum Wallboard	ASTM C 36-1988.
Fasteners:	
Nails, Brads, Staples and Spikes, Wire, Cut and Wrought, except packing and shipping provisions	FS FF-N-105B-1971 with 1977 Amendment 4.
Application and Fastening Schedule: Power-Driven Mechanically Driven and Manually Driven Fasteners.	HUD-FHA Use of Materials Bulletin UM-25D-73.
Unclassified:	
American Society of Civil Engineers Minimum Design Loads for Buildings and Other Structures	ASCE 7-88.
APA Performance Standards and Policies for Structural Use Panels	APA PRP E-445.
Windows and Glazing:	
Safety Performance Specifications and Methods of Test for Safety Glazing Materials Used in Building.	ANSI Z97.1-1984.

* * * * *

23. Section 3280.305 is proposed to be amended by redesignating paragraphs (g) (3) and (4) as (g) (4) and (5), respectively; by adding new paragraphs (b)(4) and (g)(3); and by revising paragraphs (d), (f)(2), (g)(2), and (i)(1)(i) to read as follows:

§ 3280.305 Structural design requirements.

* * * * *

(b) * * *

(4) Whenever the roof slope does not exceed 20, the design horizontal wind load required by § 3280.305(c) (1) and (2) may be determined without including the vertical roof projection of the manufactured home. However, regardless of the roof slope of the mobile home, the vertical roof projection shall be included when determining the wind loading for split level or clerestory type roof systems.

* * * * *

(d) *Design load deflection.* (1) When a structural assembly is subjected to total design live loads, the deflection for structural framing members shall not exceed the following:

Floor	L/240
Roof and ceiling	L/180
Headers, beams, and girders (vertical load)	L/180
Walls and partitions	L/180

Where L equals the clear span between supports or two times the length of a cantilever.

(2) The allowable eave on cornice deflection for uplift is to be measured at the design uplift load. [9 psf or 15 psf x by 2.5]. The allowable deflection shall be (2 x Lc)/180 when Lc is the measured horizontal eave projection from the wall.

* * * * *

(f) * * *

(2) Interior walls and partitions shall be constructed with structural capacity adequate for the intended purpose and shall be capable of resisting a horizontal load of not less than five pounds per square foot. An allowable stress measure of 1.33 times the permitted published design values may be used in the design of wood framed interior partitions. Finish of walls and partitions shall be securely fastened to wall framing.

(g) * * *

(2) Wood, wood fiber or plywood floors or subfloors in kitchens, bathrooms (including toilet compartments), laundry *areas,* water heater compartments, and any other areas subject to excessive moisture shall be moisture resistant or shall be made moisture resistant by sealing or by an overlay of nonabsorbent material applied with water-resistant adhesive. *Use one of the following methods:*

(i) Sealing the floor with a water-resistant sealer; or

(ii) Installing an overlay of a nonabsorbent floor covering material applied with water-resistant adhesive; or

(iii) Direct application of a water-resistant sealer to the exposed wood floor area when covered with a nonabsorbent overlay; or

(iv) The use of a nonabsorbent floor covering which may be installed without a continuous application of a water-resistant adhesive or sealant when the floor covering meets the following criteria:

(A) The covering is a continuous membrane with any seams or patches seam bonded or welded to preserve the continuity of the floor covering; and,

(B) The floor is protected at all penetrations in these areas by sealing with a compatible water-resistant adhesive or sealant to prevent moisture from migrating under the nonabsorbent floor covering; and,

(C) The covering is fastened around the perimeter of the subfloor in accordance with the floor covering manufacturer's instructions; and,

(D) The covering is designed to be installed to prevent moisture penetration without the use of a water-resistant adhesive or sealer except as required above.

The vertical edges of penetrations for plumbing shall be covered with a moisture-resistant adhesive or sealant. The vertical penetrations located under the bottom plates of perimeter walls of rooms, areas, or compartments are not required to be sealed; this does not include walls or partitions within the room or areas.

(3) Carpet or carpet pads shall not be installed under concealed spaces subject to excessive moisture, such as plumbing fixture spaces, floor areas under installed laundry equipment. Carpet may be installed in laundry space provided:

(i) The appliances are not provided;

(ii) The conditions of paragraph (g)(2) of this section are followed; and

(iii) Instructions are provided to remove carpet when appliances are installed.

* * * * *

(i) * * *

(1) *Welded connections.* (i) All welds shall be made in accordance with the applicable provisions of the Specification for the Design, Fabrication, and Erection of Structural Steel For Buildings, AISC–S335–1989. The Specification for the Design of Cold-Formed Steel Structural Members, AISI–1986 with 1989 addendum, and the Stainless Steel Cold-Formed Structural Design Manual, AISI–1974.

* * * * *

24. Section 3280.306 is proposed to be amended by revising the introductory paragraph (a) to read as follows:

§ 3280.306 Windstorm protection.

(a) *Provisions for support and anchoring systems.* Each manufactured home shall have provisions for support and anchoring systems, which, when properly designed and installed, will resist overturning and lateral movement (sliding) of the manufactured home as imposed by the respective design loads. The design wind loads to be utilized for calculating resistance to overturning and lateral movement shall be the wind loads indicated in § 3280.305(c) (1) and (2) increased by a factor of safety of 1.5. The basic allowable stresses of materials required to resist overturning and lateral movement shall not be increased in the design and proportioning of these members. The 1.5 factor of safety is to be applied to the design wind load is only to be utilized in the design of the tie-down system to resist overturning and lateral movement, and is not to be applied to the design of the home structure. Wind loading effects for purpose of this section shall be 1.5 x horizontal wind load (15 PSF, 25 PSF) and roof uplift (9 PSF, 15 PSF). When determining the effects of wind overturning and sliding to evaluate the tie-down system, the 1.5 factor of safety is to be applied simultaneously to both the vertical building projection as horizontal wind load and across the surface of the full roof structure as uplift loading. No additional shape or location factors need be applied in the design of the tie-down system. The dead load of the structure may be used to resist the above wind loading effects.

* * * * *

25. Section 3280.309 is proposed to be amended by revising paragraph (b) to read as follows:

§ 3280.309 Health Notice on formaldehyde emissions.

* * * * *

(b) The Notice shall be legible and typed using letters at least ¼ inch in size. The title shall be typed using letters at least ¾ inch in size.

* * * * *

Subpart E—Testing

26. Section 3280.401 is proposed to be amended by revising paragraph (b) to read as follows:

§ 3280.401 Structural load tests.

* * * * *

(b) *Ultimate load tests.* Ultimate load tests shall be performed on a minimum of three assemblies or components to generally evaluate the structural design. Every structural assembly or component tested shall be capable of sustaining its total dead load plus the design live load increased by a factor of safety of at least 2.5. A factor of safety greater than 2.5 shall be used when required by an applicable reference standard in § 3280.304(b)(1). Tests shall be conducted with loads applied and deflections recorded in ¼ design live load increments at 10-minute intervals until 1.25 times design live load plus dead load has been reached. Additional loading shall then be applied continuously until failure occurs or the total of the factor of safety times the design live load plus the dead loan is reached. Assembly failure shall be considered as design live load deflection greater than the limits set in § 3208.305(d) rupture, fracture, or excessive yielding. Assemblies to be tested shall be representative of average quality or materials and workmanship of the production. Each test assembly, component, or sub-assembly shall be identified as to type and quality or grade of material. All assemblies, components, or sub-assemblies qualifying under this section shall be subject to a periodic qualification testing program acceptable to the Department.

26. In § 3280.402, in paragraph (c)(1)(i), Figure A–1 is proposed to be revised as follows:

§ 3280.402 Test procedure for roof trusses.

* * * * *

(c) * * *

(1) * * *

(i) * * *

[Insert Figure A–1.]

* * * * *

27. Section 3280.403 is proposed to be amended by revising paragraphs (d)(2) and (e)(1) to read as follows:

§ 3280.403 Standard for windows and sliding glass doors used in manufactured homes.

* * * * *

(d) * * *

(2) Sealed insulating glass, where used, shall meet all performance requirements for Class C in accordance with ASTM E–774–88, Standard Specification for Sealed Insulating Glass Units. The sealing system shall be qualified in accordance with ASTM E–773–88 Standard Test Method for Seal Durability of Sealed Insulating Glass Units. Each glass unit shall be permanently identified with the name of the insulating glass manufacturer.

(e) * * *

(1) All such windows and doors shall show evidence of certification by affixing a quality certification label to the product in accordance with ANSI Z34.1–1987, "For Certification-Third Party Certification Program."

* * * * *

28. Section 3280.405 is proposed to be amended by revising paragraphs (c) (1) and (2) to read as follows:

§ 3280.405 Standard for swinging exterior passage doors for use in manufactured homes.

* * * * *

(c) * * *

(1) *Wood.* Doors shall conform to the type 1 requirements of "ANSI/NWWDA I.S.1–87, Wood Flush Doors."

(2) *Plywood.* Plywood shall be exterior type and preservative treated in accordance with "NWWDA I.S.4–81, Water Repellent Preservative Non-Pressure Treatment for Millwork."

* * * * *

29. Section 3280.406 is proposed to be amended by revising the introductory test of paragraph (b) to read as follows:

§ 3280.406 Air chamber test method for certification and qualification of formaldehyde emission levels.

* * * * *

(b) *Testing.* Testing shall be conducted in accordance with the Standard Test Method for Determining Formaldehyde Levels from Wood Products Under Defined Test Conditions Using a Large Chamber, ASTM E–1333–90, with the following exceptions:

* * * * *

Subpart F—Thermal Protection

30. Section 3280.504 is proposed to be amended by revising the section heading; by revising paragraph (a); by redesignating the existing paragraph (b) to be paragraph (c); and by adding a new paragraph (b) to read as follows:

§ 3280.504 Condensation control and installation of vapor retarders.

(a) *Ceiling vapor retarders.* Ceilings shall have a vapor retarder with a permance of not greater than 1 perm (dry cup method) installed on the living space side of the roof cavity. An exception is the vapor retarder may be omitted provided the manufactured home is constructed for condensation Zone II, (refer to Figure 504) and the minimum free ventilation area of the attic or roof cavity is not less than 1/150 of the attic or roof cavity floor area.

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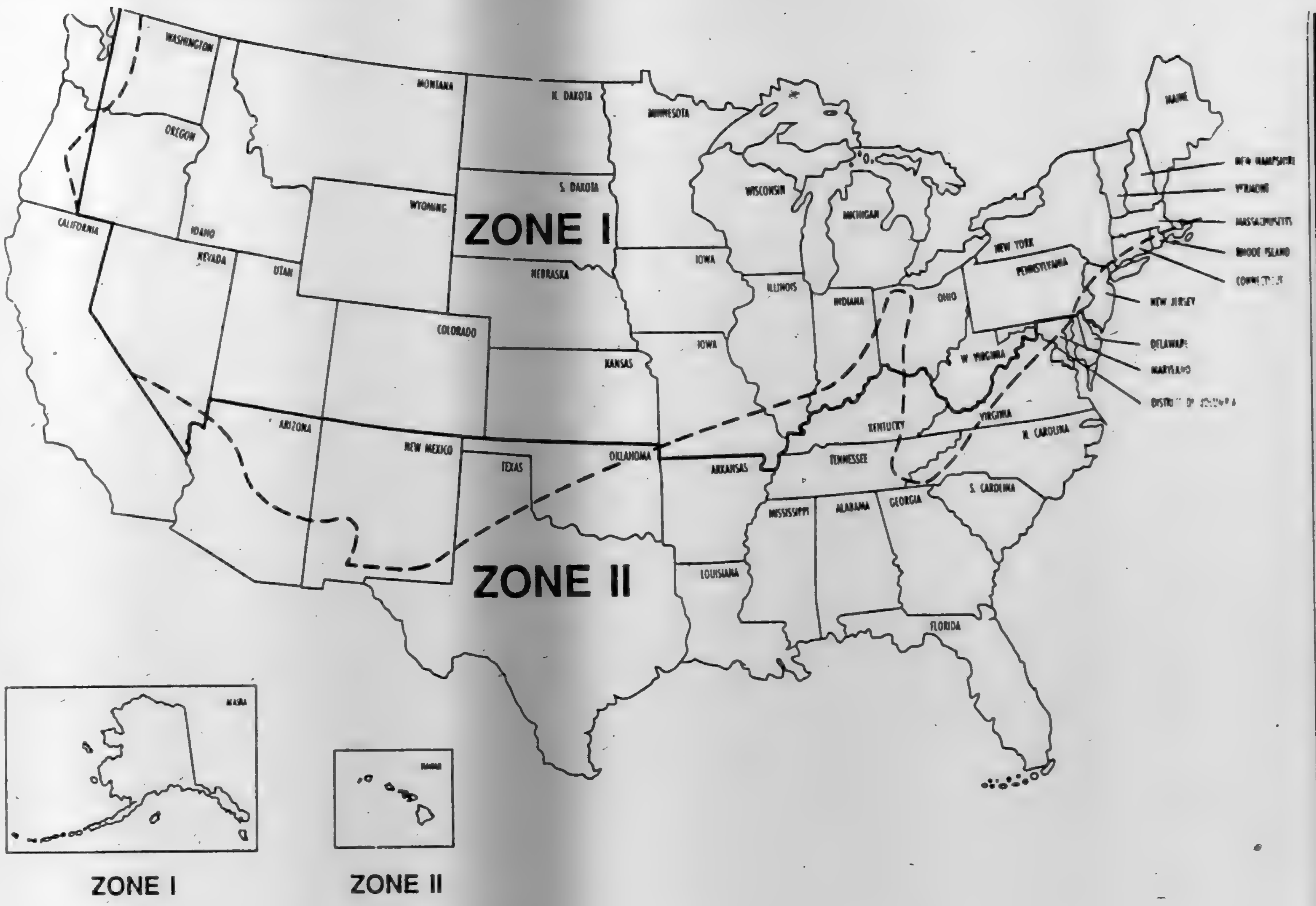
WASHINGTON
MONTANA
N. DAKOTA
MINNESOTA
OREGON
S. DAKOTA
WYOMING
IDAHO
WISCONSIN
MICHIGAN
CALIFORNIA
ZONE I
NEVADA
UTAH
NEBRASKA
IOWA
NEW YORK
PENNSYLVANIA
ILLINOIS
INDIANA
OHIO
COLORADO
KANSAS
W. VIRGINIA
ARIZONA
NEW MEXICO
OKLAHOMA
TEXAS
ARKANSAS
KENTUCKY
VIRGINIA
TENNESSEE
N. CAROLINA
S. CAROLINA
MISSISSIPPI
ALABAMA
GEORGIA
LOUISIANA
ZONE II
FLORIDA
MAINE
NEW HAMPSHIRE
VERMONT
MASSACHUSETTS
RHODE ISLAND
CONNECTICUT
NEW JERSEY
DELAWARE
MARYLAND
DISTRICT OF COLUMBIA
ALASKA
HAWAII
ZONE I
ZONE II

Figure 504. Condensation Map of the United States

BILLING CODE 4210-27-C

(b) *Attic or roof ventilation.* (1) Attic and roof cavities shall be provided with:

(i) A minimum free ventilation area of not less than 1/300 of the attic or roof cavity floor area; or

(ii) A mechanical attic or roof ventilation system may be installed instead of providing the free ventilation area when the mechanical system provides a minimum air change rate of 0.7 cubic feet per minute (cfm) per sq. ft. of attic floor area (at 0.03 inch static pressure) or 10 air changes per hour, whichever is less. The air intake shall provide at least 1 square foot free opening per 300 cfm fan capacity. Intake and exhaust vents shall be located so as to provide air movement throughout space.

(2) Single section manufactured homes constructed with metal roofs and having no sheathing or underlayment installed, are not required to be provided with attic or roof ventilation provided that:

(i) The vapor retarder specified in § 3280.504(a) is installed and air leakage paths from the living space to the roof cavity created by electrical outlets, plumbing penetrations, flue pipes and exhaust vents are sealed.

(ii) Capability to provide continuous mechanical ventilation from the exterior to the interior, and from the interior to the exterior, of the home is installed. The minimum ventilation rate shall be 150 cfm. This system shall be considered as complying with § 3280.103(b) (1) and (3). The ventilation provided shall be switch controlled and shall be provided with an automatic humidity control system.

(3) Between 50 and 60 percent of the required free ventilation area shall be provided by ventilators located in the upper portion of the space to be ventilated, with the balance provided by eave, soffit or low gable vents. The location and spacing of the vent openings and ventilators shall provide cross-ventilation to the entire attic or roof cavity space. A clear air passage space having a minimum height of 1 inch shall be provided between the top of the insulation and the roof sheathing or roof covering.

(4) To determine the appropriate condensation zone, refer to Figure 504. Either the state lines (solid lines) or the design temperature lines (if exact location of home is known) shall be utilized.

(5) The vents provided for ventilating attics shall be designed to prevent entry of rain, snow and insects.

* * * * *

31. Section 3280.506 is proposed to be revised to read as follows:

§ 3280.506 Heat loss/Heat gain.

The manufactured home heat loss/heat gain shall be determined by methods outlined in §§ 3280.508 and 3280.509. The Uo (Coefficient of heat transmission) value zone for which the manufactured home is acceptable and the lowest outdoor temperature to which the installed heating equipment will maintain a temperature of 70° F shall be certified as specified in § 3280.510 of this subpart. The Uo value zone shall be determined from the map in Figure 506.

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Figure 504. Condensation Map of the United States

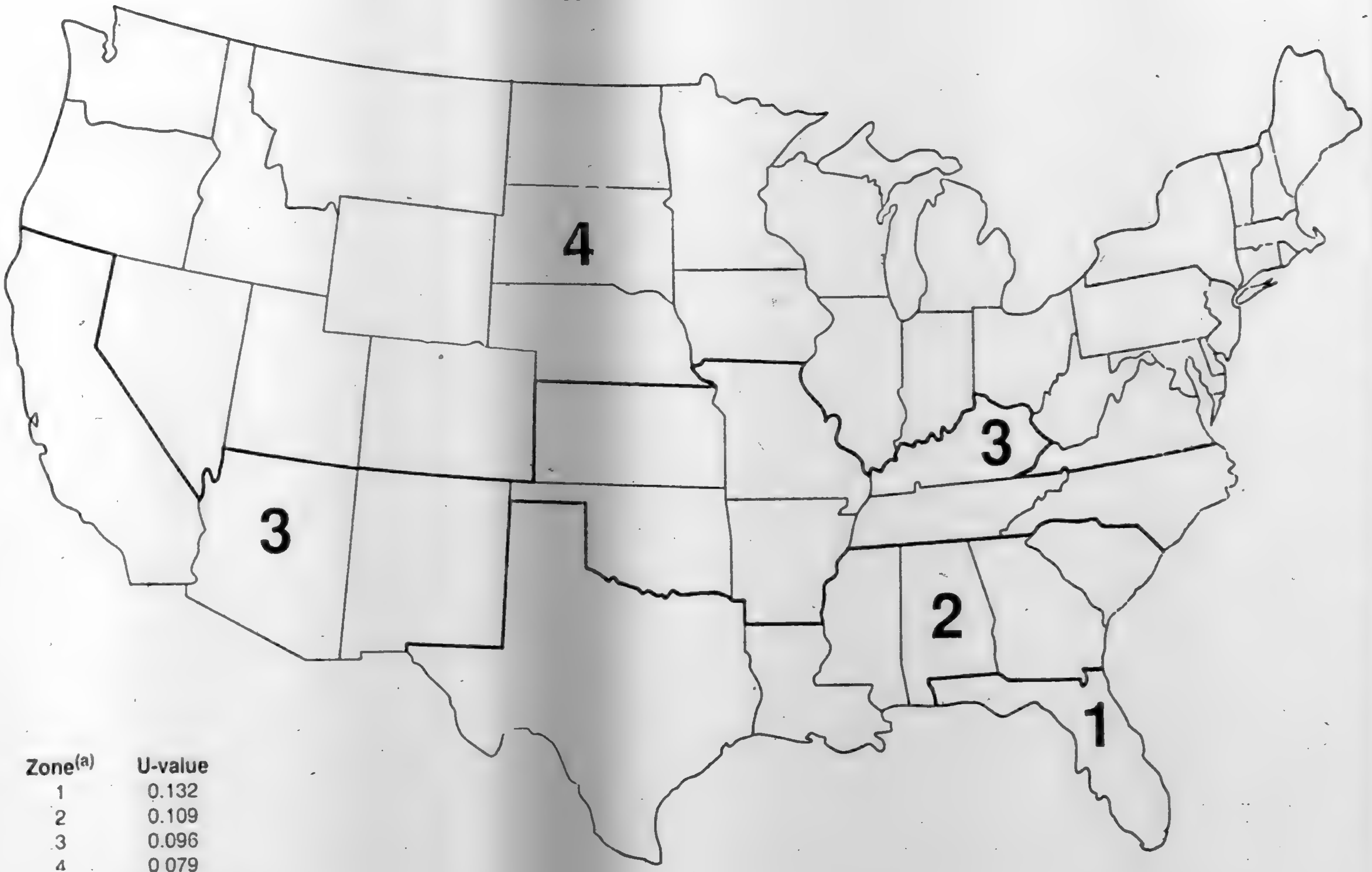

Zone[a]	U-value
1	0.132
2	0.109
3	0.096
4	0.079

[a] Hawaii is included in Zone 1
Alaska is included in Zone 4

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Figure 506. U-value Zones

(a) *Coefficient of heat transmission.* The overall coefficient of heat transmission (Uo) of the manufactured home for the respective zones and an indoor design temperature of 70° F, including internal and external ducts, and excluding infiltration ventilation and condensation control, shall not exceed the Btu/(hr.) (sq. ft.) (F) of the manufactured home envelope are as tabulated below:

Uo value zone	Maximum coefficient of heat transmission
1	0.132 Btu/(hr.) (sq. ft.) (F)
2	0.109 Btu/(hr.) (sq. ft.) (F)
3	0.096 Btu/(hr.) (sq. ft.) (F)
4	0.079 Btu/(hr.) (sq. ft.) (F)

(b) To assure uniform heat transmission in manufactured homes, cavities in exterior walls, floors, and ceilings shall be provided with thermal insulation.

(c) Manufactured homes designed for Uo Value Zone 4 shall be factory equipped with storm windows or insulating glass.

32. Section 3280.508 is proposed to be revised to read as follows:

§ 3280.508 Heat loss, heat gain and cooling load calculations.

(a) Information, values and data necessary for heat loss and heat gain determinations shall be taken from the 1989 ASHRAE Handbook of Fundamentals, Chapters 20 through 27. The following portions of those chapters are not applicable:

21.1 Steel Frame Construction
21.2 Masonry Construction
21.3 Floor Systems
21.14 Pipes
21.16 Tanks, Vessels and Equipment
21.17 Refrigerated Rooms and Buildings
22.15 Mechanical and Industrial Systems
23.13 Commercial Building Envelope Leakage
25.4 Calculation of Heat Loss from Crawl Spaces

(b) The calculation of the manufactured home's transmission heat loss coefficient (Uo) shall as a minimum address all the heat loss or heat gain considerations in a manner consistent with the calculation procedures provided in appendix A of this part.

(c) Areas where the insulation does not fully cover a surface or is compressed shall be accounted for in the U-calculation (see § 3280.506). The effect of framing on the U-value must be included in the Uo calculation. Other low-R-value heat-flow paths ("thermal shorts") shall be explicitly accounted for in the calculation of the transmission heat loss coefficient if in the aggregate all types of low-R-value paths amount to more than 1% of the total exterior surface area. Areas are considered low-R-value heat-flow paths if:

(1) They separate conditioned and unconditioned space; and

(2) They are not insulated to a level that is at least one-half the nominal insulation level of the surrounding building component.

(d) High Efficiency Heating and Cooling Equipment Credit. The calculated transmission heat loss coefficient (Uo) used for meeting the requirement in § 3280.506(a) may be adjusted for heating and cooling equipment efficiency above that required by the National Appliance Energy Conservation Act of 1987 (NAECA) by applying the following formula:

Uo adjusted = Uo standard × [1 + (0.6) (heating efficiency increase factor) + (cooling multiplier) (cooling efficiency increase factor)] where
"Uo standard" = maximum Uo for that zone.
"Uo adjusted" = maximum Uo adjusted for high efficiency HVAC equipment
"heating efficiency increase factor" = the increase factor in the heating equipment efficiency in AFUE (or HSPF for heat pumps) above that required by NAECA and = (AFUE home—AFUE NAECA)/AFUE NAECA
"cooling efficiency increase factor" = the increase factor in the cooling equipment efficiency in SEER above that required by NAECA and = (SEER home—SEER NAECA)/SEER NAECA
"cooling multiplier" = the cooling multiplier for the Uo zone from the table below.

Uo zone	Cooling multiplier (Cm)
1	0.60
2	0.20
3	0.07
4	0.03

(e) U-values for any glazing (windows, skylights, and the glazed portions of any door) shall be based on tests using American Architectural Manufacturers Association (AAMA) 1503.1–1988, Voluntary Test Method for Thermal Transmittance and Condensation Resistance of Windows, Doors, and Glazed Wall Sections. In the absence of tests, the following default values must be used, with storm windows treated as an additional pane:

- 1.31 for single-pane glazing.
- 0.92 for double-pane glazing.
- 0.79 for triple-pane glazing.
- 1.23 for single-pane sliding glass doors (slider).
- 0.78 for double-pane sliding glass doors.
- 0.64 for triple-pane sliding glass doors.
- 0.60 for the unglazed portion of a door.

(f) Annual Energy Used Based Compliance. As an alternative, homes may demonstrate compliance with the annual energy used implicit in the coefficient of heat transmission (Uo) requirement. The annual energy use determination must be based on generally accepted engineering practices. The general requirement is to demonstrate that the home seeking compliance approval has a projected annual energy use, including both heating and cooling, less than or equal to a similar "base case" home that meets the standard. The energy use for both homes must be calculated based on the same assumptions; including assuming the same dimensions for all boundaries between conditioned and unconditioned spaces, site characteristics, usage patterns and climate.

33. Section 3280.510 is proposed to be amended by revising paragraph (b) to read as follows:

§ 3280.510 Heat loss certificate.

* * * * *

(b) *Outdoor certification temperature.* The lowest outdoor temperature at which the installed heating equipment will maintain a 70° F temperature inside the home without storm sash or insulating glass for Zone 1, 2, and 3 and with storm sash or insulating glass for Zone 4 and complying with §§ 3280.508 and 3280.509.

Heating Certificate

Home Manufacturer ____________
Plant Location ____________
Home Model ____________
(Include U Value Zone Map)

This manufactured home has been thermally insulated to conform with the requirements of the Federal Manufactured Home Construction and Safety Standards for all locations within U Value Zone ____.

Heating Equipment Manufacturer ____________

Heating Equipment Model ____________

The above heating equipment has the capacity to maintain an average 70 °F temperature in this home at outdoor temperatures of ____ °F.

To maximize furnace operating economy and to conserve energy, it is recommended that this home be installed where the outdoor winter design temperature (97½%) is not higher than ____ degrees Fahrenheit.

The above information has been calculated assuming a maximum *wind velocity* of 15 MPH at standard atmospheric pressure.

34. Section 3280.511 is proposed to be amended by revising paragraphs (a)(1), (b), and (c) to read as follows:

§ 3280.511 Comfort cooling certificate and information.

(a) * * *

(1) [1]*Alternative I.* If a central air conditioning system is provided by the home manufacturer, the heat gain calculation necessary to properly size the air conditioning equipment shall be in accordance with procedures outlined in Chapter 22 of the 1989 ASHRAE Handbook of Fundamentals, with an assumed location and orientation. The following shall be supplied in the Comfort Cooling Certificate:

Air Conditioner Manufacturer ____________

Air Conditioner Model ____________

Certified Capacity ____ BTU/Hr. in accordance with the appropriate Air Conditioning and Refrigeration Institute Standards

The temperature to be specified shall be 20° or 30% of the design temperature difference, whichever is greater, added to the temperature specified as the heating system capacity certification temperature without storm windows or insulating glass for Zones 1, 2, and 3 and with storm windows or insulating glass for Zone 4. Design temperature difference is 70° minus the heating system capacity certification temperature in degrees Fahrenheit.

The central air conditioning system provided with this home has been sized, assuming an orientation of the front (hitch) end of the home facing ________ and is designed on the basis of a 75° F indoor temperature and an outdoor temperature of ____ F dry bulb and ____ F wet bulb."

Example Alternate I

Comfort Cooling Certificate

Manufactured Hme Mfg ____________

Plant Location ____________

Manufactured Home Model ____________

Air Conditioner Manufacturer ____________

Certified Capacity ____ BTU/Hr. in accordance with the appropriate Air Conditioning and Refrigeration Institute Standards.

The central air conditioning system provided with this home has been sized assuming an orientation of the front (hitch end) of the home facing ____________. On this basis, the system is designed to maintain an indoor temperature of 75° F when outdoor temperatures are ____ F dry bulb and ____ F wet bulb.

The temperature to which this home can be cooled will change depending upon the amount of exposure of the windows to the sun's radiant heat. Therefore, the home's heat gains will vary dependent upon its orientation to the sun and any permanent shading provided. Information concerning the calculation of cooling loads at various locations, window exposures and shadings are provided in chapter 22 of the 1989 edition of the ASHRAE Handbook of Fundamentals.

* * * * *

(b) For each home designated as suitable for central air conditioning the manufacturer shall provide the maximum central manufactured home air conditioning capacity certified in accordance with the ARI Standard 210/240 Unitary Air Conditioning and Air Source Unitary Heat Pump Equipment and in accordance with § 3280.715(a)(3). If the capacity information provided is based on entances to the air supply duct at other than the furnace plenum, the manufacturer shall indicate the correct supply air entrance and return air exit locations.

(c) *Comfort cooling information.* For each manufactured home designated, either "suitable for" or "provided with" a central air conditioning system, the manufacturer shall provide comfort cooling information specific to the manufactured home necessary to complete the cooling load calculations. The comfort cooling information shall include a statement to read as follows:

To determine the required capacity of equipment to cool a home efficiently and economically, a cooling load (heat grain) calculation is required. The cooling load is dependent on the orientation, location and the structure of the home. Central air conditioners operate most efficiently and provide the greatest comfort when their capacity closely approximates the calculated cooling load. Each home's air conditioner should be sized in accordance with chapter 22 of the 1989 Edition, American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) Handbook of Fundamentals, once the location and orientation are known.

Information Provided by the Manufacturer Necessary to Calculate Sensible Heat Gain

Walls (without windows and doors)	"U"
Ceilings and roofs of light color	"U"
Ceilings and roofs of dark color	"U"
Floors	"U"
Air ducts in floor	"U"
Air ducts in ceiling	"U"
Air ducts installed outside the home	"U"

Information necessary to calculate duct areas.

Subpart G—Plumbing Systems

35. Section 3280.602 is proposed to be amended by removing the pragraph designations from the section and by adding in alphabetical order the definitions for "Flushometer tank", "Plumbing appliance", "Plumbing appurtenance" and "Whirlpool bathtub", to read as follows:

§ 3280.602 Definitions.

* * * * *

Flushometer tank means a device integrated within an air accumulator vessel which is designed to discharge a predetermined quantity of water to fixtures for flusing purposes.

* * * * *

Plumbing appliance means any one of a special class of plumbing fixture which is intended to perform a special plumbing function. Its operation and/or control may be dependent upon one or more energized components, such as motors, control, heating elements, or pressure or temperature-sensing elements. Such fixture may operate automatically through one or more of the following actions: A time cycle, a temperature range, a pressure range, a measured volume or weight, or the fixture may be manually adjusted or controlled by the user or operator.

Plumbing appurtenance means a manufactured device, or a prefabricated assembly, or an on-the-job assembly of component parts, and which is an adjunct to the basis piping system and plumbing system and plumbing fixtures. An appurtenance demands no additional water supply, nor does it add any discharge load to a fixture or the drainage system.

* * * * *

Whirlpool bathtub means a plumbing appliance consisting of a bathtub fixture which is equipped and fitted with a circulation piping system, pump, and other appurtenances and is so designed to accept, circulate, and discharge bathtub water upon each use. (See also definition of "Hydromassage Bathtub" in Article 680 of the National Electrical Code, NFPA No 70–, 1990.

---

[1] The temperature to be specified shall be 20 F or 30% of the design temperature difference, whichever is greater, added to the temperature specified as the heating system capacity certification temperature without storm windows or insulating glass for Zones 1, 2, and 3 and with storm windows or insulating glass for Zone 4. Design temperature difference is 70 minus the heating system capacity certification temperature in degrees Fahrenheit.

36. Section 3280.603 is proposed to be amended by revising paragraph (a)(5) to read as follows:

§ 3280.603 General requirements.

(a) * * *

(5) *Components.* Plumbing materials, devices, fixtures, fittings, equipment, appliances, appurtenance, and accessories intended for use in or attached to a manufactured home shall conform to one of the applicable standards referenced in § 3280.604. Where an applicable standard is not referenced, the plumbing component shall be listed by a nationally recognized testing laboratory, inspection agency other qualified organization as suitable for the intended use.

* * * * *

37. Section 3280.604 is proposed to be revised as follows:

§ 3280.604 Materials.

(a) Minimum standards. Materials, devices, fixtures, fittings, equipment, appliances, appurtenances and accessories shall conform to one of the standards in the following table and be free from defects. Where an appropriate standard is not indicated in the table or a standard not indicated in the table is preferred, the item may be used if it is listed. A listing is also required when so specified in other sections of this subpart.

(b) Where more than one standard is referenced for a particular material or component, compliance with only one of those standards is acceptable. Exceptions:

(1) When one of the reference standards requires evaluation of chemical, toxicity or odor properties which are not included in the other standard, then conformance to the applicable requirements of each standard shall be demonstrated;

(2) When a plastic material or component is not covered by the Standards in the following table, it shall be certified as non-toxic in accordance with NSF14-1984, "Plastic Piping System Components and Related Materials.

Material	ANSI	ASTM	FS	Other
Ferrous pipe and fittings:				
Cast Iron Threaded Fittings	ASME/B16.4-1985			
Malleable Iron Threaded Fittings	ASME/B16.3-1985			
Material and Property Standard for Special Cast Iron Fittings.				IAPMO PS-5-1984
Welded and Seamless Wrought Steel Pipe	ASME/B36.10-1985			
Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated, Welded and Seamless.		A 53-90a		
Pipe threads, General (Inch)	ASME/B1.20.1-1983			
Standard Specification for Cast Iron Soil Pipe and Fittings.		A 74 -87	W-P-401E-1974	
Standard Specification for Hubless Cast Iron Soil Pipe and Fittings for Sanitary and Storm Drain, Waste, and Vent Piping Applications.				CISPI 301-90
Nonferrous pipe and fittings:				
Standard Specification for Seamless Copper Pipe, Standard Sizes.		B-42-89		
Standard Specification for General Requirements for Wrought Seamless Copper and Copper-Alloy Tubes.		B 152-86(M)		
Standard Specification for Seamless Copper Water Tube.		B-88-89(M)		
Standard Specification for Copper Drainage Tube (DWV).		B 306-88		
Wrought-Copper and Copper Alloy, Solder-Joint Pressure Fittings.	ASME/B16-22-1989			
Wrought Copper and Wrought Copper Alloy Solder—Joint Drainage Fittings—DWV.	B16.29-1986			
Cast Copper Alloy Solder—Joint Pressure Fittings—(DMV).	B16.18-1984			
Cast Copper Alloy Solder—Joint Drainage Fittings—(DWV).	B16.23-1984			
Cast Copper Alloy Fittings for Flared Copper Tubes	B16-26-1988			
Standard Specification for Seamless Red Brass Pipe, Standard Sizes.		B 43-88		
Cast Bronze Threaded Fittings 125 and 250 pound	ASME/B16.15-1985			
Plastic Pipe and fittings:				
Standard Specification for Acrylonitrile-Butadiene-Styrene (ABS) Plastic Drain, Waste and Vent Pipe and Fittings.		D 2661-90		NSF-14-1991
Standard Specification for Poly (Vinyl Chloride PVC) Plastic Drain, Waste and Vent Pipe Fittings.		D 2665-89a	L-P-320B-1973	NSF-14-1991
Standard Specification for Drain Waste and Vent (DWV) Plastic Fitting Patterns.		D3311-90a		
Standard Specification for Acrylonitrile-Butadiene-Styrene (ABS) Plastic Drain, Waste, and Vent Pipe Having a Foam Core.		F 628-90		NSF-14-1991
Standard Specification for Chlorinated Poly (Vinyl Chloride) (CPVC) Plastic Hot and Cold Water Distribution Systems.		D 2846-90		NSF-14-1991
Standard Specification for Polybutylene (PB) Plastic Hot and Cold Water Distribution Systems.		D 3309-90a		NSF-14-1991
Miscellaneous:				
Nipples, Pipe, Threaded				WW-N-351-C-1976 With Interim Amendment 1
Standard Specification for Rubber Gaskets for Cast Iron Soil Pipe and Fittings.		C 564-88		

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Material	ANSI	ASTM	FS	Other
Backflow Valves, Prevention Devices	A112.14.1-1975			IAPMO/PS 31-1991
Valve, Gate, Bronze, (125, 150 and 200 Pound Threaded Ends, Flange Ends, Solder End and Bronze Ends, for Land Use).			MSSVF150	
Plumbing Fixture Setting Compound			TTP 1536A-1975	
Material and Property Standard for Cast Brass and Tubing P-Traps.				IAPMO/PS-2-1989
Relief Valves and Automatic Gas Shut-off Devices for Hot Water Supply Systems.	Z21 22-1986			
Standard Specification for Solvent Cement for Acrylonitrile-Butadiene-Styrene (ABS) Plastic Pipe and Fittings.		D 2235-88		NSF-14-1991
Standard Specification for Solvent Cement for Poly (Vinyl Chloride) (PVC) Plastic Pipe and Fittings.		D 2564-88		NSF-14-1991
Specification for Neoprene Rubber Gaskets for Hub and Spigot Cast Iron Soil Pipe and Fittings.				CISPI-HSN-85
Plumbing System Components for Mobile Homes and Recreational Vehicles.				NSF-24-1988
Material and Property Standard for Diversion Tees and Twin Waste Elbow.				IAPMO/PS-9-1984
Material and Property Standard for Flexible Copper Water Connectors.				IAPMO/PS-14-1989
Material and Property Standard for Dishwasher Drain Airgaps (Air Breaks).				IAPMO/PS-23-1989
Plumbing fixtures:				
Plumbing fixtures (General Specifications)			WW-P-54E/GEN 1980	
Vitreous China Plumbing Fixtures	A112.19.2(M)-1982			
Enameled Cast Iron Plumbing Fixtures	ASME A112.19.1(M)-1987			
Porcelain Enameled Formed Steel Plumbing Fixtures.	ASME A112.19.4(M)-1984			IAPMO/TSC-22-1985
Plastic Bathtub Units	Z124.1-1987 with addenda Z124.1a-1990			IAPMO/TSC-22-1985
Plastic Shower Receptors and Shower Stalls	Z124.2-1987			
Stainless Steel Plumbing Fixtures—Residential Use	ASME A112.19.3(M)-1987			NSF-24-1988
Material and Property Standard for Drains for Prefabricated and Precast Showers.				IAPMO/PS-4-1988 NSF-24-1988
Plastic Lavatories	Z124.3-1986			
Safety Performance Specifications and Methods of Test for Safety Glazing Materials Use in Buildings.	Z97.1-1984			
Finished and Rough Brass Plumbing Fixture Fittings.	A112.18.1M-1989			
Trim for Water Closet Bowls, Tanks, and Urinals	A112.19.5-1979			
Plastic Water Closets, Bowls and Tanks	Z124.4-1986 with addendum Z124.4a-1990			
Whirlpool Bathtub Appliances	ASME/ANSI A112.19.7-1987			
Individual Shower Control Valves	ANSI/ASSE 1016-1990			
Pressurized Fixture Flushing Devices (Flushometers).				ASSE 1037-1990
Water Closet Flush Tank Fill Valves (Ballcocks)	ANSI/ASSE 1002-1979			
Handheld Showers	ANSI/ASSE 1014-1990			
Hydrants for Utility and Maintenance Use	ASME/ANSI A112.21.3M-1984			
Plumbing Requirements for Home Laundry Equipment.	ANSI/ASSE 1007-1986			
Hot Water Dispensers, Household Storage Type, Electrical Plumbing Requirements for.				ASSE 1023-1979
Household Dishwashers, Plumbing Requirements for.	ANSI/ASSE 1006-1986			
Household Food Waste Disposer Units, Plumbing Requirements for.	ANSI/ASSE 1008-1980			
Thermostatic Mixing Valves, Self Actuated for Primary Domestic Use.	ANSI/ASSE 1017-1979			
Water Hammer Arrestors	ASME/ANSI A112.26.1M-1984			
Suction Fittings for Use in Swimming Pools, Wading Pools, Spas, Hot Tubs, and Whirlpool Bathtub Appliances.	ASME/ANSI A112.19.8-1987			
Air Gaps in Plumbing Systems	ASME/ANSI A112.1.2-1942 (1979)			
Diverters for Plumbing Faucets with Hose Spray, Anti Siphon Type, Residential Appliances; Pref. Requirements.	ANSI/ASSE 1025-1978			
Pipe Applied Atmospheric Type Vacuum Breakers	ANSI/ASSE 1001-1982			
Hose Connection Vacuum Wall Hydrants, Freezeless, Automatic Draining.	ANSI/ASSE 1011-1982			
Wall Hydrants, Freezeless, Automatic Draining Anti-Backflow Types.	ANSI/ASSE 1019-1978			

38. Section 3280.606 is proposed to be amended by revising paragraph (b)(1)(iii) to read as follows:

§ 3280.606 Traps and cleanouts.

* * * * *

(b) * * *

(1) * * *

(iii) A cleaning tool shall not be required to pass through more than 360 degrees of fittings, excluding removable "P" traps, to reach any part of the drainage system. Water closets may be removed for drainage system access.

* * * * *

39. Section 3280.607 is proposed to be amended by revising paragraphs (b)(2), (b)(2) (i), (ii), (iv) and (v), (b)(4)(i), and (c)(1) and by adding new paragraphs (c)(5) and (6) to read as follows:

§ 3280.607 Plumbing fixtures.

* * * * *

(b) * * *

(2) *Water closets.* (i) Water closets shall be designed and manufactured according to approved or listed standards and shall be equipped with a water flushing device capable of adequately flushing and cleaning the bowl at each operation of the flushing mechanism.

(ii) Water closet flushing devices shall be designed to replace the water seal in the bowl after each operation. Flush valves, flushometer valves, flushometer tanks and ballcocks shall operate automatically to shut off at the end of each flush or when the tank is filled to operating capacity.

* * * * *

(iv) Water closets that have fouling surfaces that are not thoroughly washed at each discharge shall be prohibited. Any water closet that might permit the contents of the bowl to be siphoned back into the water system shall be prohibited.

(v) *Floor connection.* Water closets shall be securely bolted to an approved flange or other approved fitting which is secured to the floor by means of corrosion-resistant screws. The bolts shall be of solid brass or other corrosion-resistant material and shall be not less than one-fourth inch in diameter. A watertight seal shall be made between the water closet and flange or other approved fitting by use of a gasket or sealing compound.

* * * * *

(4) *Dishwashing machines.* (i) A dishwashing machine shall not be directly connected to any waste piping, but shall discharge its waste through a fixed air gap installed above the machine, or through a high loop as specified by the dishwashing machine manufacturer, or into a open standpipe-receptor with a height greater than the washing compartment of the machine. When a standpipe is used, it shall be at least 18 inches but not more than 30 inches above the trap weir. The drain connections from the air gap or high loop may connect to an individual trap, to a directional fitting installed in the sink tailpiece or to an opening provided on the inlet side of a food waste disposal unit.

* * * * *

(c) *Installation*—(1) *Access.* Each plumbing fixture and standpipe receptor shall be located and installed in a manner to be accessible for usage, cleaning, repair and replacement. Access to diverter valves and other connections from the fixture hardware is not required.

* * * * *

(5) *Fixture fittings.* Faucets and diverters shall be installed so that the flow of hot water from the fittings corresponds to the left-hand side of the fitting.

(6) *Whirlpool bathtub appliances*—(i) *Access panel.* A door or panel of sufficient size shall be installed to provide access to the pump for repair and/or replacement.

(ii) *Piping drainage.* The circulation pump shall be accessibly located above the crown weir of the trap. The pump drain line shall be properly sloped to drain the volute after fixture use.

(iii) *Piping.* Whirlpool bathtub circulation piping shall be installed to be self-draining.

40. Section 3280.609 is proposed to be amended by revising paragraph (b)(5) and (6), (d)(1)(i) and (e)(3), and by adding paragraphs (b)(7) and (8), to read as follows:

§ 3280.609 Water distribution system.

* * * * *

(b) * * *

(5) *Flushometer valves or manually operated flush valves.* An approved or listed vacuum breaker shall be installed and maintained in the water supply line on the discharge side of a water closet flushometer valve or manually operated flush valve. Vacuum breakers shall have a minimum clearance of 6 inches above the flood level of the fixture to the critical level mark unless otherwise permitted in their approval.

(6) *Flush tanks.* Water closet flush tanks shall be equipped with an approved or listed anti-siphon ball cock which shall be installed and maintained with its outlet or critical level mark not less than 1 inch above the full opening of the overflow pipe.

(7) *Hose bibbs.* When provided, all exterior hose bibbs and laundry tray hose connections shall be protected by a listed non-removable backflow prevention device.

(8) *Flushometer tanks.* Flushometer tanks shall be equipped with an approved air gap on vacuum breaker assembly located above the flood level rim above the fixture.

* * * * *

(d) * * *

(1) * * *

(i) *Plastic piping.* All plastic water piping and fittings in manufactured homes must be listed for use with hot water.

* * * * *

(e) * * *

(3) *Solder fittings.* Joints in copper water tube shall be made by the appropriate use of approved cast brass or wrought copper fittings, properly soldered together. The surface to be soldered shall be thoroughly cleaned bright mechanically. The joints shall be properly fluxed and made with a solder that contains no more than 0.2 percent lead.

* * * * *

41. Section 3280.610 is proposed to be amended by revising paragraphs (c)(5); by redesignating paragraphs (d) introductory text and (d)(1) as paragraphs (d) (1) and (2), respectively; and by revising the newly redesignated (d)(1), and (e)(1)(iii), to read as follows:

§ 3280.610 Drainage systems.

* * * * *

(c) * * *

(5) *Preassembly of drain lines.* Section(s) of the drain system, designed to be located underneath the home, are not required to be factory-installed when the manufacturer designs the system for site assembly and also provides all materials and components including piping, fittings, cement, supports, and instructions necessary for proper site installation.

* * * * *

(d) * * *

(1) *Water closets.* The drain connection for each water closet shall be 3 inches minimum inside diameter and shall be fitted with an iron, brass, or listed plastic floor flange adaptor ring securely screwed, soldered or otherwise permanently attached to the drain piping, in an approved manner and securely fastened to the floor.

* * * * *

(e) * * *

(1) * * *

(iii) A 3-inch minimum diameter piping shall be required for water closets.

* * * * *

42. Section 3280.611 is proposed to be amended by revising paragraph (d)(5) to read as follows:

§ 3280.611 Vents and venting.

* * * * *

(d) * * *

(5) Materials for the anti-siphon trap vent shall be as follows: Cap and housing shall be listed acrylonitrile-butadiene-styrene, DWV grade; stem shall be DWV grade nylon or acetal; spring shall be stainless steel wire, type 302; sealing disc shall be neoprene, conforming to the Specification for Neoprene Rubber Gaskets for HUB and Spigot Cast Iron Soil Pipe and Fittings. CISPI-HSN-85 and ASTM C 564-88, Standard Specification for Rubber Gaskets for Case Iron Soil Pipe and Fittings or, silicone rubber, low and high temperature and tear resistant, conforming to Rubber, Silicone, FS ZZ-R-765B-1970, With 1971 Amendment 1; and Liners, Case, and Sheet, Overwrap; Water-Vapor Proof or Waterproof, Flexible, MIL-L-10547E-1975.

* * * * *

43. Section 3280.612 is proposed to be amended by revising paragraph (b)(3) to read as follows:

§ 3280.612 Test and inspection.

* * * * *

(b) * * *

(3) Flood level test. The manufactured home shall be in a level position, all fixtures shall be connected, and the entire system shall be filled with water to the rim of the toilet bowl. (Tub and shower drains shall be plugged). After all trapped air has been released, the test shall be sustained for not less than 15 minutes without evidence of leaks. Then the system shall be unplugged and emptied. The waste piping above the level of the water closet bowl shall then be tested and show no indication of leakage when the high fixtures are filled with water and emptied simultaneously to obtain the maximum possible flow in the drain piping.

* * * * *

Subpart H—Heating, Cooling and Fuel Burning Systems

44. Section 3280.702 is proposed to be amended by removing the paragraph designations from the section and by revising the definition for "Connector-Gas appliance" to read as follows:

§ 3280.702 Definitions.

* * * * *

Connector-Gas appliance means a flexible or semi-rigid connector used to convey fuel gas between a gas outlet and a gas appliance.

* * * * *

45. Section 3280.703 is proposed to be revised to read as follows:

§ 3280.703 Minimum standards.

Heating, cooling and fuel burning appliances and systems in manufactured homes shall be free of defects, and shall conform to applicable standards in the following table unless otherwise specified in this standard. (See § 3280.4) When more than one standard is referenced, compliance with any one such standard shall meet the requirements of this standard.

Appliances	ANSI	UL	Standards
Central Cooling Air Conditioners		465–Seventh Edition-1982 as amended through 1987.	
Liquid Fuel-Burning Heating Appliances for Mobile Homes and Recreational Vehicles.		307A–Sixth Edition-1990	
Electric Air Heaters		1025–Second Edition-1980, as amended through 1991.	
Electric Baseboard Heating Equipment		1042–Third Edition 1987	
Electric Central Air Heating Equipment		1096–Fourth Edition 1986 as amended through 1988.	
Gas Burning Heating Appliances for Mobile Homes and Recreational Vehicles.		307(B)–First Edition-1982, as amended through 1987.	
Gas Clothes Dryers, Vol. 1, Type 1 Clothes Dryers	Z21.5.1–1982 with addenda Z21.5.1a–1987		
Gas-Fired Absorption Summer Air Conditioning Appliances	Z21.40.–1981, Z21.40.a–1982		
Gas-Fired Central Furnaces (Except Direct Vent and Separated Combustion System Central Furnaces).	Z21.47–1989		
Household Cooking Gas Appliances	Z21.1–1987		
Refrigerators Using Gas Fuel	Z21.19–1983		
Gas Water Heaters, Vol. 1 Storage Water Heaters with Input Ratings of 75,000 BTU per hour or Less.	Z21.10.1–1990		
Heat Pumps		559–Fourth Edition-1985, as amended through 1987.	
Household Electric Storage Tank Water Heaters		174–Eighth Edition-1989, as amended through 1991.	
Ferrous pipe and fittings:			
Standard Specification for Pipe, Steel, Black and Hot Dipped, Zinc Coated, Welded and Seamless.			ASTM A53–90a
Standard Specification for Electric-Resistance-Welded Coiled Steel Tubing for Gas and Fuel Oil Lines.			ASTM A 539–90a
Pipe Threads, General Purpose (Inch)	ASME B1.20.1–1983		
Welded and Seamless Wrought Steel Pipes	ASME B36.10–1985		
Nonferrous pipe, tubing and fittings:			
Standard Specification for Seamless Copper Water Tube			ASTM B–88–90(M)
Standard Specification for Seamless copper Tube for Air Conditioning and Refrigeration Field Service.			ASTM B–280–88
Metal Connectors for Gas Appliances	Z21.24–1987		
Manually Operated Gas Valves	Z21.15–1989		
Standard for Gas Supply Connectors for Manufactured Mobile Homes			IAPMO/TSC–9–1989
Standard Specification for General Requirements for Wrought Seamless Copper and Copper-Alloy Tubes.			ASTM B 251–88(M)
Standard Specification for Seamless Copper Pipe, Standard Sizes			ASTM B 42–89

Appliances	ANSI	UL	Standards
Direct Vent Central Furnaces	Z21.64-1988 with addenda Z21.64a-1989 and Z21.64b-1989.		
Miscellaneous:			
Factory Made Air Ducts and Connectors		181-Seventh Edition-1990	
Tube Fittings for Flammable and Combustible Fluids and Refrigeration Service, and Marine Use.		109-Fourth Edition-1978	
Pigtails, and Flexible Hose Connectors for LP-Gas		569-Sixth Edition-1990	
Roof Jacks for Mobile Homes and Recreational Vehicles		311-Seventh Edition 1990	
Relief Valves and Automatic Gas Shutoff Devices for Hot Water Supply Systems.	Z21.22-1986		
Automatic Gas Ignition Systems and components	Z21.20-1989		
Automatic Valves for Gas Appliances	Z21.21-1987 with addenda Z21.21a-1989		
Gas Appliance Thermostats	Z21.23-1989		
Gas Vents		441-Seventh Edition-1991	
Installation of Oil Burning Equipment (the following sections only):			NFPA 31-1987
1-1			
1-2			
1-3			
1-4 except 1-4.1			
1-5.1			
1-5.2			
1-5.4.2			
1-5.4.3			
1-5.5			
1-5.6			
1-6			
1-7.2 except 1-7.2.1			
1-8			
1-9			
1-10.1			
3-1.1			
3-1.3			
3-1.4			
3-1.5			
3-1.6			
3-10			
4-1.3			
4-1.4			
4-1.5			
4-2			
4-3 except 4-3.2			
4-4 except 4-4.2, 4-4.5.4, 4-4.6			
4-4.7, 4-4.9 and 4-4.10 Appendices B, C, and E			
National Fuel Gas Code	Z223.1-1988		NFPA 54-1988
Warm Air Heating and Air Conditioning Systems, except:			NFPA-90B-1989
2-2.4			
2-3.6			
Table 3-1.3, Section B			
4-1.6			
Storage and Handling Liquefied Petroleum Gases (Chapters 1, 2 and Articles 30 and 31 of Chapter 3).			NFPA 58-1989
Flares for Tubing			SAE J533b-1972
Chimneys, Factory Built Residential Type and Building Heating Appliance.		103-Seventh Edition-1983, as amended through 1988.	
Factory-Built Fireplaces		127-Sixth Edition 1988 as amended through 1991.	
Room Heaters, Solid-Fuel Type		1482-Third Edition 1988	
Fireplace Stoves		737-Sixth Edition 1988	
Unitary Air Conditioning and Air Source Unitary Heat Pump Equipment			ARI Standard 210/240

46. Section 3280.704 is proposed to be amended by revising the introductory test paragraph (b)(2) and paragraph (b)(5)(i) to read as follows:

§ 3280.704 Fuel supply systems.

* * * * *

(b) * * *

(2) *Construction of containers.* Containers shall be constructed and marked in accordance with the specifications for LP-Gas Containers of the U.S. Department of Transportation (DOT) or the Rules for Construction of Pressure Vessels 1986, ASME Boiler and Pressure Vessel Code section VIII, Division 1 ASME Containers shall have a design pressure of at least 312.5 psig.

* * * * *

(5) *LP-gas safety devices.* (i) DOT containers shall be provided with safety relief devices as required by the regulations of the U.S. Department of Transportation. ASME containers shall be provided with relief valves in accordance with subsection 221 of the Storage and Handling Liquified Petroleum Gases, NFPA No. 58-1989. Safety relief valves shall have direct communication with the vapor space of the vessel.

* * * * *

47. Section 3280.705 is proposed to be amended by revising paragraphs (b)(1), (b)(3), (c), (d), the table to (d), (k), the table to (k), (1)(1), (1)(2) introductory text, (1)(2)(ii), and (1)(3) to read as follows:

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§ 3280.705 Gas piping systems.

* * * * *

(b) * * *

(1) Steel or wrought-iron pipe shall comply with ANSI Standard B36.10–1985. Welded and Seamless Wrought Steel Pipe. Threaded brass pipe in iron pipe sizes may be used. Threaded brass pipe shall comply with ASTM B43–88 Standard Specification for Seamless Red Brass Pipe, Standard Sizes.

* * * * *

(3) Copper tubing shall be anneled type, Grade K or L, conforming to the Standard Specification for Seamless Copper Water Tube (ASTM B88–88a) or shall comply with the Standard Specification for Seamless Copper Tube for Air Conditioning and Refrigeration Field Service, ASTM B 280–88. Copper tubing shall be internally tinned.

* * * * *

(c) *Piping design.* Each manufactured home requiring fuel gas for any purpose shall be equipped with a natural gas piping system acceptable for LP-Gas. Where fuel gas piping is to be installed in more than one section of an expandable or multiple unit home, the design and construction of the crossover(s) shall be as follows:

(1) All points of crossover shall be readily accessible from the exterior of the home.

(2) The connection(s) between units shall be made with a connector(s) listed for exterior use or direct plumbing sized in accordance with § 3280.705(d). A shutoff valve of the nondisplaceable rotor type conforming to ANSI Z21.15–1989 Manually Operated Gas Valves, suitable for outdoor use shall be installed at each crossover point upstream of the connection when listed connectors are used.

(3) The connection(s) may be made by a listed "quick disconnect" device which shall be designed to provide a positive seal of the supply side of the gas system when such device is separated.

(4) The flexible connector, direct plumbing pipe, or "quick disconnect" device shall be provided with protection from mechanical and impact damage and located to minimize the possibility of tampering.

(5) For direct plumbing which may be either hard pipe or flexible connector, the crossover point(s) shall be capped on the supply side to provide a positive seal and covered on the other side with a suitable protective covering.

(6) Suitable protective coverings for the connection device(s) when separated, shall be permanently attached to the device or flexible connector.

(7) When a "quick disconnect" device is installed, a 3 inch by 1¾ inch minimum size tag made of etched, metal-stamped or embossed brass, stainless steel, anodized or alclade aluminum not less than 0.020 inch thick or other approved material (e.g., 0.005 inch plastic laminates) shall be permanently attached on the exterior wall adjacent to the access to the "quick disconnect" device. Each tag shall be legibly inscribed with the following information using letters no smaller than ¼ inch high:

Do Not Use tools to Separate the "Quick-Disconnect" Device

(d) *Gas pipe sizing.* Gas piping systems shall be sized so that the pressure drop to any appliance inlet connection from any gas supply connection, when all appliances are in operation at maximum capacity, is not more than 0.5 inch water column as determined on the basis of test, or in accordance with Table 3280.705(d). When determining gas pipe sizing in the table, gas shall be assumed to have a specific gravity of 0.65 and rated at 1000 B.T.U. per cubic foot. The natural gas supply connection(s) shall be not less than the size of the gas piping but shall be not smaller than ¾ inch nominal pipe size.

* * * * *

(k) *Identification of gas supply connections.* Each manufactured home shall have permanently affixed to the exterior skin at or near each gas supply connection or the end of the pipe, a tag of 3 inches by 1¾ inches minimum size, made of etched, metal-stamped or embossed brass, stainless steel, anodized or alclade aluminium not less than 0.020 inch thick, or other approved meaterial (e.g., 0.005 inch plastic laminates), which reads as follows.

Combination LP-Gas and Natural Gas System

This gas piping system is designed for use of either liquefied petroleum gas or natural gas.

Notice: BEFORE TURNING ON GAS BE CERTAIN APPLIANCES ARE DESIGNED FOR THE GAS CONNECTED AND ARE EQUIPPED WITH CORRECT ORIFICES. SECURELY CAP THIS INLET WHEN NOT CONNECTED FOR USE.

When connecting to lot outlet, use a listed gas supply connector for mobile homes rated at 100,000 Btuh or more; 250,000 Btuh or more.

Before turning on gas, make certain all gas connections have been made tight, all appliance valves are turned off, and any unconnected outlets are capped.

After turning on gas, test gas piping and connections to appliances for leakage with soapy water or bubble solution, and light all pilots.

The connector capacity indicated on this tag shall be equal to or greater than the total Btuh rating of all intended gas appliances.

(l) *Gas supply connectors*—(1) *LP-Gas.* A listed LP-Gas flexible connection conforming to the UL Standard for Pigtails, and Flexible Hose Connectors for LP-Gas, UL 569—Sixth Edition—1990, or equal shall be supplied when the fuel gas piping system is designed for the use of LP-Gas and cylinder(s) and regulator(s) are supplied.

(2) *Appliance connections.* All gas burning appliances shall be connected to the fuel piping. Materials as provided in § 3280.705(b) or listed appliance connectors shall be used. Listed appliance connectors when used shall not run through walls, floors, ceilings or partitions except for cabinetry and shall be 3 feet or less in length or 6 feet or less for cooking appliances. Connectors of aluminium shall not be used outdoors. A manufactured home containing an LPG or a combination LP-natural-gas-system may be provided with a gas outlet to supply exterior appliances when installed in accordance with the following:

* * * * *

(ii) The outlet shall be provided with an approved "quick-disconnect" device, which shall be designed to provided a positive seal on the supply side of the gas system when the appliance is disconnected. A shutoff valve of the nondisplaceable rotor type conforming to ANSI Z21.15–1989, Manually Operated Gas Valves, shall be installed immediately upstream of the quick-disconnect device. The complete device shall be provided as part of the original installation.

* * * * *

(3) *Valves.* A shutoff valve shall be installed in the fuel piping at each appliance inside the manufactured home structure, upstream of the union or connector in addition to any valve on the appliance and so arranged to be accessible to permit serving of the appliance and removal of its components. The shutoff valve shall be located within 6 feet of a cooking appliance and within 3 feet of any other appliance. A shutoff valve may serve more than one appliance if located as required above. Shut off valve used shall be of the nondisplaceable rotor type and conform ANSI Z21.15–1989, Manually Operated Gas Valve.

* * * * *

48. Section 3280.706 is proposed to be amended by revising paragraphs (b)(1), (b)(3), and (b)(4) to read as follows:

§ 3280.706 Oil piping systems.

* * * * *

(b) * * *

(1) Steel or wrought-iron pipe shall comply with ANSI B 36.10–1985, Welded and Seamless Wrought Steel Pipe. Threaded copper or brass pipe in iron pipe sizes may be used.

* * * * *

(3) Copper tubing shall be annealed type, Grade K or L conforming to the Standard Specification for Seamless Copper Water Tube, ASTM–B 88–89(M), or shall comply with the Standard Specification for Seamless Copper Tube for Air Conditioning and Refrigeration Field Service, ASTM B280–88.

(4) Steel tubing shall have a minimum wall thickness of 0.032 inch for diameters up to ½ inch and 0.049 inch for diameters ½ inch and larger. Steel tubing shall be constructed in accordance with the Specification for Electric-Resistance Welded Coiled Steel Tubing for Gas and Field Oil Lines, ASTM, A539–90a, and shall be externally corrosion protected.

* * * * *

49. Section 3280.707 is proposed to be amended by revising paragraph (d)(2) introductory text to read as follows:

§ 3280.707 Heat producing appliances.

* * * * *

(d) * * *

(2) All gas and oil-fired automatic storage water heaters shall have a recovery efficiency, E, and a standby loss, S, as described below. The method of test of E and S shall be as described in Section 2.7 of Gas Water heaters, Vol. I, Storage Water Heaters with Input/Ratings of 75,000 BTU per hour or less, ANSI Z21.10.1–1990, except that for oil-fired units. CF=1.0, Q=total gallons of oil consumed and H=total heating value of oil in BTU/gallon.

* * * * *

50. Section 3280.708 is proposed to be amended by revising paragraphs (b)(3) and (c)(1) to read as follows:

§ 3280.708 Exhaust duct system and provisions for the future installation of a clothes dryer.

* * * * *

(b) * * *

(3) A moisture lint duct system consisting of a complete access face (hole) through the wall or floor cavity with a cap or cover on the interior and exterior of the cavity secured in such a manner that they can be removed by a common household tool shall be provided. The cap or cover in place shall limit air infiltration and be designed to resist the entry of water or rodents. The manufacturer is not required to provide the moisture-lint exhaust duct or the termination fitting. The manufacturer shall provide written instructions to the owner on how to complete the exhaust duct installation in accordance with provisions of § 3280.708(a) (1) through (5).

(c) * * *

(1) Provide a roughed in moisture-lint exhaust duct system consisting of a complete access space (hole) through the wall or floor cavity with a cap or cover on the interior and exterior of the cavity which are secured in such a manner that they can be removed by the use of common household tools. The cap or cover in place shall limit air filtration and be designed to resist the entry of water or rodents into the home. The manufacturer is not required to provide the moisture-lint exhaust duct or the termination fitting:

* * * * *

51. Section 3280.709 is proposed to be amended by revising paragraph (e)(6) to read as follows:

§ 3280.709 Installation of appliances.

* * * * *

(e) * * *

(6) When an external heating appliance or combination cooling/heating appliance is to be field installed, the home manufacturer shall make provision for proper location of the connections to the supply and return air systems. The manufacturer is not required to provide said appliance(s). The preparation by the manufacturer for connection to the home's supply and return air system shall include all fittings and connection ducts to the main duct and return air system such that the installer is only required to provide:

(i) The appliance;

(ii) Any appliance connections to the home; and

(iii) The connecting duct between the external appliance and the fitting installed on the home by the manufacturer. The above connection preparations by the manufacturer do not apply to supply or return air systems designed only to accept external cooling (i.e., self contained air conditioning systems, etc.)

* * * * *

52. Section 3280.710 is proposed to be amended by revising paragraph (b)(1) to read as follows:

§ 3280.710 Venting, ventilation and combustion air.

* * * * *

(b) * * *

(1) Components shall be securely assembled and properly aligned at the factory in accordance with the appliance manufacturer's instructions except vertical or horizontal sections of the roof line or wall line may be installed at the site. Sectional venting systems shall be listed for such applications and installed in accordance with the terms of their listings and manufacturers' instructions. In cases where sections of the venting system are removed for transportation, a label shall be permanently attached to the appliance indicating the following:

> Sections of the venting system have not been installed. Warning—do not operate the appliance until all sections have been assembled and installed in accordance with the manufacturer's instructions.

* * * * *

53. Section 3280.713 is proposed to be revised to read as follows:

§ 3280.713 Accessibility.

Every appliance shall be accessible for inspection, service, repair, and replacement without removing permanent construction. For those purposes, inlet piping supplying the appliance shall be considered permanent construction. Sufficient room shall be available to enable the operator to observe the burner, control, and ignition means while starting the appliance.

54. Section 3280.714 is proposed to be amended by revising paragraph (a) to read as follows:

§ 3280.714 Appliances, Cooling.

(a) Every air conditioning unit or a combination air conditioning and heating unit shall be listed or certified by a nationally recognized testing agency for the application for which the unit is intended and installed in accordance with the terms of its listing.

(1) Mechanical air conditioners shall be rated in accordance with the ARI Standard 210/240–89 Unitary Air Conditioning and Air Source Unitary Heat Pump Equipment and certified by ARI or other nationally recognized testing agency capable of providing follow-up service.

(i) Electric motor-driven unitary cooling systems with rated capacity less than 65,000 BTU/Hr when rated at ARI Standard rating conditions in ARI Standard 210/240–89 Unitary Air Conditioning and Air Source Unitary Heat Pump Equipment, shall show energy efficiency (EER) values not less than 7.2.

(ii) Heat pumps shall be certified to comply with all the requirements of the ARI Standard 210/240–89 Unitary Air Conditioning and Air Source Unitary Heat Pump Equipment. Electric motor-driven vapor compression heat pumps with supplemental electrical resistance heat shall be sized to provide by compression at least 60 percent of the calculated annual heating requirements for the manufactured home being served. A control shall be provided and set to prevent operation of supplemental electrical resistance heat at outdoor temperatures above 40 °F, except for defrost operation.

(iii) Electric motor-driven vapor compression heat pumps with supplemental electric resistance heat conforming to ARI Standard 210/240–89 Unitary Air Conditioning and Air Source Unitary Heat Pump Equipment shall show coefficient of performance ratios not less than shown below:

COP

Outdoor Air Temperature/COP

47 °F	17 °F	0 °
2.5	1.7	1.0

(2) Gas-fired absorption air conditioners shall be listed or certified in accordance with ANSI Standard Z21.40.1–1981 "Gas-fired Absorption Summer Air Conditioning Appliances" with addenda la-1982, and certified by AGA or another nationally recognized testing agency capable of providing follow-up service.

(3) Direct refrigerating systems serving any air conditioning or comfort-cooling system installed in a manufactured home shall employ a type of refrigerant that ranks no lower than Group 5 in the Underwriters' Laboratories, Inc. "Classification of Comparative Life Hazard of Various Chemicals."

(4) When a cooling or heat pump coil and air conditioner blower are installed with a furnace or heating appliance, they shall be tested and listed in combination for heating and safety performance by a nationally recognized testing agency.

(5) Cooling or heat pump indoor coils and outdoor sections shall be certified, listed and rated in combination for capacity and efficiency by a nationally recognized testing agency (ies). Rating procedures shall be based on U.S. Department of Energy test procedures.

* * * * *

55. Section 3280.715 is proposed to be amended by revising the last sentence in paragraph (b)(4) and paragraph (e)(1) to read as follows:

§ 3280.715 Circulating air system.

* * * * *

(b) * * *

(4) * * * However, in the event that doors are undercut, they shall be undercut a minimum of 2 inches and not more than 2-½ inches, as measured from the top surface of the floor decking to the bottom of the door and no more than one half of the free air area so provided shall be counted as return air area.

* * * * *

(e) * * *

(1) Be made of a material classified 94V–0 or 94V–1 when tested as described in Underwriters' Laboratories, Inc., Tests for Flammability of Plastic Materials for Parts in Devices and Appliances, UL94–Fourth Edition–1991.

* * * * *

Subpart I—Electrical Systems

56. Section 3280.801 is proposed to be amended by revising paragraphs (a), (b), (c), and (e) to read as follows:

§ 3280.801 Scope.

(a) Subpart I of this standard and part A of Article 550 of the National Electrical Code (NFPA No. 70–1990) cover the electrical conductors and equipment installed within or on manufactured homes and the conductors that connect manufactured homes to a supply of electricity.

(b) In addition to the requirements of this standard and Article 550 of the National Electrical Code (NFPA No. 70–1990) the applicable portions of other Articles of the National Electrical Code shall be followed covering electrical installations in manufactured homes. Wherever the requirements of this standard differ from the National Electrical Code, this standard shall apply.

(c) The provisions of this standard apply to manufactured homes intended for connection to a wiring system nominally rated 120/240 volts, 3-wire AC, with grounded neutral.

* * * * *

(e) Aluminum conductors, aluminum alloy conductors, and aluminum core conductors such as copper clad aluminum; are not acceptable for use in branch circuit wiring in manufactured homes.

57. Section 3280.803 is proposed to be amended by revising paragraphs (k)(1), the introductory text of (k)(3), (k)(3)(ii) and (k)(3)(iii), and by removing paragraph (l) to read as follows:

§ 3280.803 Power supply.

* * * * *

(k) * * *

(1) One mast weatherhead installation installed in accordance with Article 230 of the National Electrical Code NFPA No. 70–1990 containing four continuous insulated, color-coded, feeder conductors, one of which shall be an equipment grounding conductor; or

* * * * *

(3) Service equipment installed on the manufactured home in accordance with Article 230 of the National Electrical Code NFPA No. 70–1990; and

* * * * *

(ii) Exterior equipment, or the enclosure in which it is installed shall be weatherproof and installed in accordance with Article 373–2 of the National Electrical Code NFPA No. 70–1990. Conductors shall be suitable for use in wet locations;

(iii) The neutral conductor shall be connected to the system grounding conductor on the supply side of the main disconnect in accordance with Articles 250–23, 25, and 53 of NFPA No. 70–1990.

* * * * *

58. Section 3280.804 is proposed to be amended by revising paragraphs (a) and (j) and by adding new paragraphs (k) and (l) at the end of the section to read as follows:

§ 3280.804 Disconnecting means and branch-circuit protective equipment.

(a) The branch-circuit equipment shall be permitted to be combined with the disconnecting means as a single assembly. Such a combination shall be permitted to be designated as a distribution panelboard. If a fused distribution panelboard is used, the maximum fuse size of the mains shall be plainly marked with lettering at least ¼-inch high and visible when fuses are changed. See section 110–22 of the National Electrical Code (NFPA No. 70–1990) concerning identification of each disconnecting means and each service, feeder, or branch circuit at the point where it originated and the type marking needed.

* * * * *

(j) A 3 inch by 1-¾ inch minimum size tag made of etched, metal-stamped or embosses brass, stainless steel, anodized or alclad aluminum not less than 0.020 inch thick, or other approval material (e.g., 0.005 inch plastic laminates) shall be permanently affixed on the outside adjacent to the feeder assembly entrance and shall read: This connection for 120/240 Volt, 3-Pole, 4-Wire, 60 Hertz,—Ampere Supply. The correct ampere rating shall be marked on the blank space.

(k) When a home is provided with installed service equipment, a single disconnecting means for disconnecting the branch circuit conductors from the service entrance conductors shall be provided in accordance with part H of Article 230 of the National Electrical Code, NFPA No. 70–1990. The disconnecting means shall be listed for use as service equipment. The disconnecting means may be combined with the disconnect required by

§ 3280.804(c). The disconnecting means shall be rated not more than the ampere supply or service capacity indicated on the tag required by paragraph (1) of this section.

(1) When a home is provided with installed service equipment, the electrical nameplate required by § 3280.804(j) shall read: "This connection for 120/240 volt, 3 pole, 3 wire, 60 Hertz,—Ampere Supply." The correrct ampere rating shall be marked in the blank space.

59. Section 3280.805 is proposed to be amended by revising paragraphs (a)(2), (a)(3)(ii), (iv), and (v) to read as follows:

§ 3280.085 Branch circuits required.

(a) * * *

(2) *Small appliances.* For the small appliance load in kitchen, pantry dining room and breakfast rooms of manufactured homes, two or more 20-ampere appliance branch circuits, in addition to the branch circuit specified in § 3280.805(a)(1), shall be provided for all receptacle outlets in these rooms, and such circuits shall have no other outlets. Receptacle outlets supplied by at least two appliance receptacle branch circuits shall be installed in the kitchen.

(3) * * *

(ii) For fixed appliances on a circuit without lighting outlets, the sum of rated amperes shall not exceed the branch-circuit rating. Motor loads on other continuous duty loads shall not exceed 80 percent of the branch circuit rating.

* * * * *

(iv) The rating of range branch circuit shall be based on the range demand as specified or ranges in § 3280.811, Item B(5) of Method 1. For central air conditioning, see Article 440 of the National Electrical Code (NFPA No. 70-1990).

(v) Where a laundry area is provided, a 20 ampere branch circuit shall be provided to supply laundry receptacle outlets. This circuit shall have no other outlets. See § 3280.806(a)(7).

60. Section 3280.806 is proposed to be amended by revising paragraphs (a)(2), (b), (d)(2), (d)(7), and (d)(8) to read as follows:

§ 3280.806 Receptacle outlets.

(a) * * *

(2) Installed according to section 210-7 of the National Electrical Code (NFPA No. 70-1990).

* * * * *

(b) All 120 volt single phase, 15 and 20 ampere receptacle outlets, including receptacles in light fixtures, installed outdoors, or in compartments accessible from the outdoors, and in bathrooms shall have ground-fault circuit protection for personnel. Feeders supplying branch circuits may be protected by a ground-fault circuit-interrupter in lieu of the provision for such interrupters specified above. Receptacles for laundry areas, also located in bathroom are exempt from this requirement.

(d) * * *

(2) Adjacent to the refrigerator and free-standing gas-range space. A duplex receptacle may serve as the outlet for a countertop and a refrigerator.

* * * * *

(7) In laundry areas within 6 feet of the intended location of the appliance(s).

(8) At least one receptacle outlet shall be installed outdoors.

* * * * *

61. Section 3280.807 is proposed to be amended by revising paragraphs (c) and (e) and by removing paragraph (g) to read as follows:

§ 3280.807 Fixtures and appliances.

* * * * *

(c) If a lighting fixture is provided over a bathtub or in a shower stall, it shall be of the enclosed and gasketed type, listed for wet locations. See also Article 410-4(d) of the National Electrical Code NFPA No 70-1990.

* * * * *

(e) Any combustible wall or ceiling finish exposed between the edge of a fixture canopy, or pan and an outlet box shall be covered with non-combustible or limited combustible material.

* * * * *

62. Section 3280.808 is proposed to be amended by revising paragraphs (a) and (m) and by adding new paragraphs (q), (r), and (s) to read as follows:

§ 3280.808 Wiring methods and materials.

(a) Except as specifically limited in this part, the wiring methods and materials specified in the National Electrical Code (NFPA No. 70-1990) shall be used in manufactured homes.

* * * * * *

(m) Outlet boxes of dimensions less than those required in Table 370-6(a) of the National Electrical Code (NFPA No. 70-1990) shall be permitted provided the box has been tested and approved for the purpose.

* * * * *

(q) A substantial brace for securing a box, fitting or cabinet shall be as described in the National Electrical Code, NFPA 70-1990 Article 370-13(d), or the brace, including the fastening mechanism to attach the brace to the home structure, shall withstand a force of 50 lbs. applied to the brace at the intended point(s) of attachment for the box in a direction perpendicular to the surface in which the box is installed.

(r) Outlet boxes shall fit closely to the openings in combustible wall and ceilings with a maximum of a ⅛ inch gap. They shall be flush with the finish surface or project therefrom.

(s) Where the sheathing of NM cable has been cut or damaged and visual inspection reveals that the conductor and its insulation has not been damaged, it shall be permitted to repair the cable sheath with electrical tape which provides equivalent protection to the sheath.

63. Section 3280.809 is proposed to be amended by adding at the end of paragraph (b)(1) to read as follows:

§ 3280.809 Grounding

* * * * *

(b) * * *

(1) * * * However, when service equipment is installed on the manufactured home, the neutral and the ground bus may be connected in the distribution panel.

* * * * *

64. Section 3280.810 is proposed to be revised to read as follows:

§ 3280.810 Electrical testing.

(a) *Dielectric strength test.* The wiring of each manufactured home shall be subjected to a 1-minute, 900 to 1079 volt dielectric strength test (with all switches closed) between live parts and the manufactured home ground, and neutral and the manufactured home ground. Alternatively, the test may be performed at 1080 to 1250 volts for 1 second. This test shall be performed after branch circuits are complete and after fixtures or appliances are installed. Fixtures or appliances which are listed shall not be required to withstand the dielectric strength test.

(b) Each manufactured home shall be subject to:

(1) A continuity test to assure that metallic parts are properly bonded;

(2) Operational test to demonstrate that all equipment, except water heaters, electric furnaces, dishwashers, clothes washers/dryers, and portable appliances, is connected and in working order; and

(3) Polarity checks to determine that connections have been properly made.

Visual verification shall be an acceptable check.

65. Section 3280.811 is proposed to be amended by revising the introductory text of paragraph (a), paragraph (a)(1)(iv), the introductory paragraph (a)(5), (a)(6), and the introductory text of paragraph (b) to read as follows:

§ 3280.811 Calculations.

(a) The following method shall be employed in computing the supplycord and distribution-panelboard load for each feeder assembly for each manufactured home and shall be based on a 3-wire, 120/240 volt supply with 120 volt loads balanced between the two legs of the 3-wire system. The total load for determining power supply by this method is the summation of:

(1) * * *

(iv) First 3,000 total watts at 100 percent plus remainder at 35 percent=watts to be divided by 240 volts to obtain current (amperes) per leg.

* * * * *

(5) Derive amperes for free-standing range (as distinguished from separate ovens and cooking units) by dividing values below by 240 volts.

* * * * *

(6) If outlets or circuits are provided for other than factory-installed appliances, include the anticipated load. The following example is given to illustrate the application of this Method of Calculation:

Example. A manufactured home is 70×10 feet and has two portable appliance circuits, a 1000 watt 240 volt heater, a 200 watt 120 volt exhaust fan, a 400 watt 120 volt dishwasher and a 7000 watt electric range.

Lighting and small appliance load	Watts
Lighting 70×10×3	2,100
Small appliance 1,500×2	3,000
Total	5,100
1st 3,000 W at 100 pct	3,000
Remainder (5,100 −3,000 =2,100) at 35 pct	735
Total	3,735

3,735/240 = 15.5A per leg
1,000 W (heater)/240 = 4.1A
200 W (fan)/120 = 1.7A.
400 W (dishwasher)/120 = 3.3A
7,000 W (range) ×0.8/240 = 233.3

	Amperes per leg	
	A	B
Lighting and appliances	15.5	15.5
Heater (230 v)	4.1	4.1
Fan (115 v)	1.7	
Dishwasher (115 v)		3.3
Range	23.3	23.3
Totals	44.6	46.2

Note: Based on the higher current calculated for either leg, use one 50-A supply cord.

(b) The following is an optional method of calculation for lighting and appliance loads for manufactured homes served by single 3-wire 120/240 volt set of feeder conductors with an ampacity of 100 or greater. The total load for determining the feeder ampacity may be computed in accordance with the following table instead of the method previously specified. Feeder conductors whose demand load is determined by this optional calculation shall be permitted to have the neutral load determined by section 220-22 of the National Electrical Code (NFPA No. 70-1990). The loads identified in the table as "other load" and as "Remainder of other load" shall include the following:

* * * * *

66. Section 3280.813 is proposed to be amended by revising paragraph (a) to read as follows:

§ 3280.813 Outdoor outlets, fixtures, air conditioning equipment, etc.

(a) Outdoor fixtures and equipment shall be listed for use in wet locations, except that if located on the underside of the home or located under roof extensions or similarly protected locations, they may be listed for use in damp locations.

* * * * *

Dated: February 10, 1992.

Arthur J. Hill,

Assistant Secretary for Housing-Federal Housing Commissioner.

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Part IV

Department of the Interior

Bureau of Indian Affairs

25 CFR Parts 81 and 82

Tribal Consultation on Proposed Regulations; Proposed Rule

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Parts 81 and 82

Tribal Consultation on Proposed Regulations

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Tribal consultation meetings on proposed rules.

SUMMARY: Notice is hereby given that the Bureau of Indian Affairs (BIA) will conduct consultation meetings to obtain written and oral comments concerning regulations being proposed to be published after June 1992 to govern the calling and conducting of Secretarial elections and the handling of petitions for Secretarial action. A consultation booklet containing drafts of the proposed text for both parts, the text of the current regulations, the text of recent Federal legislation which precipitated the changes and other pertinent information is being issued.

DATES: Meetings will be held 9 a.m. until 6 p.m. with a break for lunch between 1 p.m. and 2 p.m. on the dates listed below. Written comments concerning the consultation hearings must be received no later than April 20, 1991.

March 10, 1992—Portland, Oregon.
March 12, 1992—Anchorage, Alaska.
March 31, 1992—Minneapolis, Minnesota.
April 2, 1992—Mesa, Arizona.

ADDRESSES: Meetings will be held at the following locations:

Cypress Inn, 9707 S.E. Stark, Portland, Oregon (503) 252-8247.
The Anchorage Hilton, 500 West Third Avenue, Anchorage, Alaska (907) 272-7411.
Park Inn International, 1313 Nicollet Mall, Minneapolis, Minnesota (612) 332-0371.
Lexington Hotel, South Country Club Drive, Suite 1410, Mesa, Arizona (602) 964-2897.

Submit all comments to the Division of Tribal Government Services, Bureau of Indian Affairs, Mail Stop 2612, 1849 "C" Street NW., Washington, DC 20240-0001. A consultation booklet for the scheduled meetings is being distributed to federally recognized Indian tribes. The booklets will also be available from the addresses listed above.

FOR FURTHER INFORMATION CONTACT: Joyce Grisham, Division of Tribal Government Services, Branch of Tribal Relations, Bureau of Indian Affairs, 1849 "C" Street NW., Washington, DC 20240-0001, telephone number (202) 208-7445.

SUPPLEMENTARY INFORMATION:

Background Information, Part 81

The purpose of the proposed revision to Part 81 is to: (a) Reflect the amendments made to section 16 of the Indian Reorganization Act (The Act of June 18, 1934, 48 Stat. 984) by the Act of November 1, 1988, (Pub. L. 100-581: 102 Stat. 2938); (b) reflect the amendments made to Section 17 of the IRA by the Act of May 24, 1990, (Pub. L. 101-301, 104 Stat. 207); (c) correct demonstrated weaknesses and clarify confusing language in existing regulations, and (d) update procedures to reflect current technical and governmental developments. Each of these are addressed briefly below.

(a) The primary effects of Public Law 100-581 was to establish timeframes within which the Secretary of the Interior must call and conduct Secretarial elections, and to provide for significant changes in the guidelines for approval or disapproval of governing documents by the Secretary. The proposed text of part 81 provides for the implementation of these provisions in an orderly manner.

(b) The primary effects of Public Law 101-301, as it relates to these regulations was to enable additional tribes to petition for a charter of incorporation, and to remove the specific requirement for a Secretarial election on all charter ratifications. The proposed text of part 81 as it relates to charters reflects these changes.

(c) Some examples of demonstrated weaknesses which have been corrected and confusing language which has been clarified are: (1) The language regarding inclusion on the voting list of those who may or may not become 18 before the election date was confusing. The proposed revision provides for the election date to be set prior to the issuance of the notice to voters of the necessity to register, and (2) lists of the specific information to be included in the notice of necessity to register and in the notice of the election are included in the proposed revision to prevent inadvertent omission of essential items.

(d) Procedures which have been updated in the proposed revision include provision for the use of voting machines where they are available and the election board chooses to use them.

Background Information, Part 82

The purpose for the revision of part 82 is (a) to bring the definitions and terminology into conformity with the revised part 81 and (b) to clarify confusing language in existing regulations.

(a) Definitions affected are (1) officer in charge; (2) member; (3) tribe, and (4) tribal governing body.

(b) Two of the sections which have been clarified are those dealing with (1) from whom and for what purposes petitions will be recognized by the Secretary, and (2) the actions to be taken on the petition.

Dated: February 13, 1992.

William D. Bettenberg,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 92-4188 Filed 2-21-92; 8:45 am]

BILLING CODE 4310-02-M

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CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Jan. 1, 1987 to Dec. 31, 1990. The CFR volume issued January 1, 1987, should be retained.

[5] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1991. The CFR volume issued April 1, 1990, should be retained.

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[INS No. 1414-91]

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Applicant Processing for Family Unity Benefits

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: On August 30, 1991, the Service published a proposed rule, at 56 FR 42948, to implement the provisions of the new Family Unity Program created by section 301 of the Immigration Act of 1990, Public Law 101-649. The provisions would allow temporary stay of deportation and work authorization for certain eligible immigrants. For the proposed regulations the comment period ended on September 30, 1991. In drafting this interim rule, the Service has considered the comments submitted in response to the proposed rule. The Service is publishing an interim regulation at this time so that the public might comment on provisions that are new or different from those contained in the proposed rule.

DATES: This interim rule is effective October 1, 1991. Written comments must be submitted on or before March 26, 1992.

ADDRESSES: Please submit written comments, in triplicate, to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street NW., room 5304, Washington, DC 20536-0002. To ensure proper handling, please reference INS number 1414-91 on your correspondence.

FOR FURTHER INFORMATION CONTACT: Jack Hartsoch, Office of Service Center Operations, Immigration and Naturalization Service, 425 I Street NW., room 4014, Washington, DC 20536, telephone (202) 514-5309.

SUPPLEMENTARY INFORMATION: On November 29, 1990, the Immigration Act of 1990, Public Law 101-649, was enacted. Section 301 provides for relief from deportation, and the granting of employment authorization, to an eligible immigrant who is the spouse or unmarried child of a legalized alien holding temporary or permanent residence pursuant to sections 210 or 245A of the Immigration and Nationality Act, or permanent residence under section 202 of the Immigration Reform and Control Act of 1986 (Cuban/Haitian Adjustment). This new program supersedes the administrative Family Fairness Program.

Comments

The discussion that follows summarizes the comments submitted in response to the proposed rule and explains the revisions adopted in the interim rule.

Personal Checks as Payment

Numerous commenters asserted that the Service's decision not to accept personal checks to pay the Family Unity Program application fee would be burdensome.

The regulations have been revised to provide for the acceptance of personal checks consistent with § 103 of this chapter, which outlines general filing requirements that apply to applications and petitions.

Legalization Application Pending as of May 5, 1988

Several commenters asked the Service to clarify whether a legalization application pending on May 5, 1988 and later granted can be the basis of benefits for the legalized alien's spouse and children under the Family Unity Program.

This rule has been revised to clarify that an alien whose legalization application was filed on or before May 5, 1988 but not approved until after that date will be treated as having been a legalized alien as of May 5, 1988 for purposes of the Family Unity Program. However, a spouse or child of a person with a legalization application filed but not decided on May 5, 1988 is ineligible to apply for benefits under the Family Unity Program until the legalization application is approved.

Common Law Marriages

Numerous commenters asserted that common-law marriages that are recognized by state law should also be recognized for the purpose of the Family Unity Program.

Common-law marriages, in those states where such marriages are recognized, can be a basis for family-sponsored immigrant classification. Eligibility for benefits under the Family Unity Program is based on the principles governing eligibility for family-sponsored second preference classification. Therefore, the interim regulation uses the same rules with regard to common-law marriages as those that apply to immigrant relative visa petitions.

Continuing Relationship to a Legalized Alien

Many commenters asserted that once eligibility for benefits under the Family Unity Program is initially established, benefits should not be lost merely because a marriage ends or because a child turns twenty-one or marries.

Under the statute the required relationship to a legalized alien must have existed on May 5, 1988. The issue is whether that relationship must continue in order for eligibility to continue, or whether the alien granted benefits under the Family Unity Program should be allowed to retain those benefits even if the required relationship ends.

The purpose of the Family Unity Program is to provide a transition for specified family members of legalized aliens to family-sponsored second preference immigrant status. This is evident not only from section 301, but also from its interrelationship with section 112, which created up to an additional 55,000 visa numbers in fiscal years 1992, 1993, and 1994 for spouses and children of eligible legalized aliens under the family-sponsored second preference classification.

If benefits under the Family Unity Program were retained even after a required relationship ended by divorce of death, and the person became ineligible for family-sponsored second preference classification, the alien could potentially remain in the Family Unity Program without a means to become a permanent resident. This would go far beyond Congress's intent for the program, and would be inconsistent with section 205 of the Immigration and Nationality Act.

In essence there are two issues that must be addressed when determining whether a person's relationship to a legalized alien can be a basis for eligibility under the Family Unity Program. The first issue is whether the person was the spouse or unmarried child of the legalized alien as of May 5, 1988. The statute establishes this cut-off date. Any relationship established after that date cannot confer eligibility under the Family Unity Program.

Since the purpose of the statute is to provide a transition for certain family members of legalized aliens to family-sponsored second preference immigrant status, the second issue is whether the alien applying for benefits under the Family Unity Program continues to qualify for family-sponsored second preference classification based on the relationship which confers eligibility under the Family Unity Program.

Therefore, if the legalized alien's marriage has ended, the former spouse cannot retain benefits under the Family Unity Program: under these circumstances, he or she would not be qualified to make the transition to family-sponsored second preference immigrant status. For the same reason, if the legalized alien's child marries, he or she cannot retain benefits under the Family Unity Program.

However, the unmarried child of a legalized alien does not lose benefits under the Family Unity Program on reaching the age of twenty-one. Because section 101(b)(1) of the Immigration and Nationality Act defines a "child" as an unmarried child under the age of twenty-one, to qualify under the Family Unity Program the child of a legalized alien must have been unmarried and under twenty-one as of May 5, 1988. Yet family-sponsored second preference status is available to the "unmarried son or unmarried daughter" (who has since reached age twenty-one) as well as to the unmarried "child" (who is under twenty-one) of a legalized alien. Because the Family Unity Program is designed to facilitate transition to second preference immigrant status, a person who was an unmarried child of a legalized alien on May 5, 1988 does not lose benefits under the Family Unity Program solely for having turned twenty-one after May 5, 1988. The rule has been revised to so specify.

In essence this regulation applies the same rules to the Family Unity Program as those that apply to persons with approved family-sponsored immigrant petitions in similar circumstances. If a marriage to a petitioner ends by divorce or death, or the unmarried son or daughter of a lawful permanent resident petitioner marries, approval of an immigrant petition based upon that relationship is revoked, and that petition may no longer be used as a basis for immigration. This is consistent with 8 CFR § 205.

To further clarify that this program is based on family-sponsored second preference eligibility, the rule has also been modified to provide for denial of an extension of family unity benefits where an immigrant relative petition for family-sponsored second preference classification has not been filed by the legalized alien. The Service will notify the alien of the reason for the denial and afford him or her the opportunity to file another Application for Voluntary Departure under the Family Unity Program, Form I–817 once the Immigrant Petition for Relative, Fiance(e) or Orphan, Form I–130, has been filed in his or her behalf. The service will withhold a charging document for a period of 90 days for such denial. The termination provisions have also been revised to terminate family unity benefits where such a petition is denied because it is determined that the required relationship does not exist.

Filing Requirements

Many commenters requested that the Service not reject of deny an application because of filing errors. Some commenters also asked the Service to allow more time to submit additional information and documents that have been requested by the Service and to allow more time to submit a response to a notice of termination.

Again, to ensure consistency with application procedures for other Service programs, these provisions have been revised so that the general requirements and procedures for applications and petitions in 8 CFR part 103 and §§ 264.1(a), 299.1, and 299.5 will govern.

Fees

One commenter requested that the Service operate the program without charging a fee. Numerous other commenters asked for a family cap of $225.

The Service cannot dispense with the fee entirely because it will inevitably incur costs in administering the Family Unity Program. If it does not recover these costs by charging the appropriate fee, it would have to divert financial resources from its other programs. Failing to create an essentially self-sufficient Family Unity Program, therefore, could unfairly transfer costs of this program to applicants for other Service programs.

The Service has, however, adopted the suggestion to place a family cap on application fees. The Family Unity Program was designed to create a path to immigrant status for members of the families of legalized aliens. A special family cap was placed on the application fees of aliens when they applied for legalization. The Service has decided in this case to follow this similar family fee policy because the Family Unity Program stems directly from the Legalization Program. Under the interim rule, the maximum amount payable by the members of a family filing their applications concurrently will be $225.00. The Service will require the usual fee from any person filing an application for benefits under the Family Unity Program at a different time than the other members of that person's family. As stated above, the Service is taking this action for reasons specific to the Family Unity Program, and the action does not relate to any other fee structure or to any other category of applicant or petitioner.

Commenters also asked the Service to reconsider the fee for an application to extend voluntary departure under the program.

The Service anticipates that many aliens will not require an extension because they will acquire status as a lawful permanent resident alien through other provisions of law. This will be accelerated by the operation of section 112 of the Immigration Act of 1990, which created up to 55,000 additional visa numbers for fiscal years 1992, 1993, and 1994 to speed the transition of spouses and minor children of legalized aliens.

However, the Service acknowledges that some family unity aliens will need extensions. The Service determined not to waive or reduce the fee for those persons who would require extensions, partly because such fees would be necessary to help meet the operational costs of reviewing continuing eligibility and providing extensions. Furthermore, requiring the same fee for both initial applications and applications for an extension would address a potential source of confusion. If an alien would mistakenly regard the initial application for benefits under the Family Unity Program as an application to extend benefits under the former Family Fairness Program, and then would mark the initial application as one for an extension, the Service examiner could easily correct the mistake and move forward with the application. If the fee for an extension differed from an initial application fee, the examiner would have to return the application for resubmission with the correct fee. This would slow the application process for both the Service and the applicant. Therefore, the Service will not eliminate or reduce the application fee for extensions.

Nevertheless, in keeping with the reasoning related to the initial filing, the Service will provide a family cap of $225.00 for family members filing concurrently for extensions. Any member of a family filing an application for extended benefits under the Family Unity Program subsequent to such filing by other family members will be required to submit a separate fee.

Section 103.7(b)(1) is revised to provide for a fee, consistent with 31 U.S.C. 9701 and the guidelines of the Office of Management and Budget in OMB Circular A–25, for an application for an initial grant of Family Unity Program benefits and for an application to extend Family Unity Program benefits.

Entry Before May 5, 1988

Several commenters asserted that the proposed definition of "entered into the United States before May 5, 1988" was confusing and erroneously linked "parole" with the term "entered". In order to avoid confusion, and because the key term "entry" is defined at section 101(a)(13) of the Immigration and Nationality Act, the Service has removed the proposed definition from the rule.

Deportability Versus Excludability

A number of commenters requested that the rule be clarified to state that ineligibility for benefits under the Family Unity Program is based on an alien's deportability, and not on excludability. The regulation has been revised to clarify that ineligibility is based on the deportation grounds specified in the enabling legislation.

Waivers

Many commenters, referring to waivers allowed in connection with the Legalization Program, asked the Service to allow waivers of applicable grounds of deportation for "humanitarian purposes, family unity, or public interest."

Specific waiver provisions were included in the Immigration Reform and Control Act of 1986, Public Law 99–603, which created the Legalization Program. No such language exists in the Family Unity Program enabling legislation. Thus, no statutory basis exists for the Service to incorporate the broader Legalization waiver standards into the Family Unity Program.

Further, the Family Unity Program cannot be equated with the Legalization Program in this regard. The Legalization Program contains all of its own requirements for each phase of the process. In the Family Unity Program the alien must also meet requirements imposed under a separate provision of law, since the Family Unity Program is designed to facilitate transition to second preference family-sponsored immigrant status. To permit an alien to enter the program by waiving a ground of deportability that could not be waived when the alien applied for immigrant status would go beyond Congress's intent for the program by conferring program benefits on an alien who could not then make the transition to immigrant status.

Unlimited Stay of Deportation

One commenter asked that the regulations be revised to provide for an unlimited stay of deportation. However, this would fail to account for the situation in which an alien loses eligibility for Family Unity Program benefits or becomes deportable. Therefore, a fixed period of voluntary departure is warranted, as opposed to an unlimited stay of deportation. Moreover, the extension process allows the Service to assess continuing Family Unity Program eligibility. To be consistent with this principle, and to avoid redundancy, the Service has deleted the proposed revision of 8 CFR 243.4, which would have established stay of deportation procedures in connection with the Family Unity Program.

Employment Authorization

Many commenters asserted that the enabling legislation mandates employment authorization for those granted Family Unity Program benefits. A number of commenters also asked the Service not to charge a fee for the issuance of an employment authorization document.

In the interim rule, the proposed revision of section 274a of this chapter has been changed to reflect that employment authorization stems from the grant of voluntary departure under the program. The alien need not apply for authorization under section 274a.12(c) of this chapter. However, as with most categories of aliens authorized to work as an incident of their status, the alien must obtain an employment authorization document by filing an Application for Employment Authorization, Form I–765. This documentary requirement is necessary as part of the Service's efforts to prohibit the unlawful employment of aliens, and the Service must charge the standard fee in order to recover the costs of authorizing employment in connection with the Family Unity Program.

Many commenters also requested that interim work authorization be granted for the time period between the granting of an application and the issuance of the employment authorization document (EAD).

This issue does not relate simply to the Family Unity Program but to all employment matters. The Service has taken steps to establish a uniform employment authorization process for all its programs. To create a special exception or different document for the Family Unity Program would be inconsistent with these efforts. Furthermore, any form of interim work authorization would be less secure and would present problems to federal, state, and local agencies and to educational institutions and employers

Voluntary Departure Under Section 242.5

Many commenters asserted that where a family unity application is denied, consistent with 8 CFR part 103, the regulations should require mandatory consideration of voluntary departure separately under 8 CFR 242.5. There is no statutory basis for such an automatic procedure, nor is one desirable. Consideration of a request for voluntary departure under 8 CFR 242.5 requires information different from that contained in an application under the Family Unity Program. Creating the suggested mechanism thus would unnecessarily burden both the applicant and the Service. In any case, a person denied benefits under the Family Unity Program may request voluntary departure outside that program under 8 CFR 242.5 at his or her option.

Appeals

Several commenters suggested modifications to the procedures by which an alien could appeal a denial of benefits under the Family Unity Program.

After review, however, the Service has eliminated the proposed administrative appeal procedure. First, there is no statutory instruction to create such a procedure within the Family Unity Program, as there is, for example, within the Temporary Protected Status Program at section 224A(b)(5)(B) of the Immigration and Nationality Act. Second, § 242.6(e)(3) of the rule provides an automatic ninety-day delay between the denial of an alien's initial application under the program and the referral of the decision for enforcement action. This delay is designed to create an opportunity for renewed consideration of the alien's claim to benefits under a process that will likely prove both faster and less expensive than the appeal procedure would have been.

This revised process would be more effective in several ways. First, it is faster for the Service to process another application than it is for the administrative appeals unit to review the case. This is important because employment authorization would not be granted during a review process. Second, the cost of resubmitting an I–817 application ($75) is lower than the cost of filing an administrative appeal ($110). The Service has therefore concluded that the benefits of the more streamline reapplication process outweigh those of the proposed administrative appeal procedure. In this case, the applicant also has the opportunity to seek judicial review if the reapplication process is ultimately unsuccessful.

Orders to Show Cause

Many commenters asked the Service to limit the issuance of Orders to Show Cause (OSC) to "egregious" cases. However, the Service must fulfill its enforcement responsibilities as outlined in the Immigration and Nationality Act. Therefore, this provision remains unchanged.

Advance Parole

Several commenters expressed concern over such possible consequences of advance parole as exclusion and loss of the possibility of future suspension of deportation, and urged the Service to change its position on this matter. Section 304 of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991, Public Law 102–232 modifies this policy. Pursuant to this provision, an alien in the program who leaves the United States with advance authorization, and who is not excludable on a ground referred to in section 301(a)(1) of the Immigration Act of 1990 when he or she returns, shall be inspected and admitted in the same immigration condition the alien had at the time of departure. Thus the alien will continue to be ineligible to adjust status under section 245 of the Immigration and Nationality Act, since voluntary departure is not a "status" under the Act. The alien will obtain authorization using the advance parole mechanism, form I–131, Application for Travel Document. Upon his or her return to the U.S., however, the alien will not be paroled, but instead will be reinstated to voluntary departure under the Family Unity Program.

Effect of Loss of Legalization Status

One commenter asked that the Service clarify the effect on a person granted benefits under the Family Unity Program if the legalized alien on whose status those benefits were based has lost status as a legalized alien.

The regulations have been clarified to indicate that Family Unity Program benefits would be terminated in such a case because the requisite relationship to a legalized alien would no longer exist.

Automatic Termination of Benefits

Section 242.6(g) is reserved for the future publication of a proposed rule to allow for the automatic termination of Family Unity Program benefits of aliens for whom a final order of deportation or exclusion has been entered subsequent to a grant of program benefits.

The Service has retained in this interim rule the provision which pertains to termination after notice. An alien will be given notice of the Service's intent to terminate his or her benefits under the Family Unity Program and will be given 30 days to respond to the basis for the intended termination and may submit additional evidence to the Service in rebuttal. This provision is also consistent with the provision found at 8 CFR 205.2 pertaining to revocation of approval of immigrant petitions under section 203 of the Immigration and Nationality Act.

Miscellaneous Revisions

In addition to those discussed above, the Service has made certain revisions to the proposed rule in order to avoid duplication of other provisions of this chapter, the Immigration and Nationality Act, as amended, or other applicable statutes. For example, the proposed definitions of the terms "felony" and "misdemeanor" have been removed from the rule because the terms are defined elsewhere, at 18 U.S.C. 1. Likewise, all references to Form I–94, Nonimmigrant Visa Waiver Arrival Departure Form, have been removed, since a Form I–94 will not be issued for those receiving benefits under the Family Unity Program. Rather, approval for such benefits will be reflected on Form I–797 Notice of Action.

In accordance with 5 U.S.C. 605(b), the Commissioner of the Immigration and Naturalization Service certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. This rule is not considered to be a major rule within the meaning of section 1(b) of E.O. 12291, nor does this rule have Federalism implications warranting preparation of a Federalism Assessment in accordance with E.O. 12612.

The information collection requirements contained in this rule have been cleared by the Office of Management and Budget under the provisions of the Paperwork Reduction Act. Clearance numbers are contained in 8 CFR 299.5, Display of Control Numbers.

List of Subjects

8 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Privacy, Reporting and recordkeeping requirements, Surety bonds.

8 CFR Part 242

Administrative practice and procedure, Aliens, Crime.

8 CFR Part 243

Administrative practice and procedure, Aliens, Deportation, Reporting and recordkeeping requirements.

8 CFR Part 264

Aliens, Reporting and recordkeeping requirements.

8 CFR Part 274a

Administrative Practice and Procedure, Aliens, Employment, Reporting and recordkeeping requirements.

8 CFR Part 299

Immigration, Reporting and recordkeeping requirements.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. The authority citation for part 103 continues to read as follows:

Authority: 5 U.S.C. 552, 552a; 8 U.S.C. 1101, 1103, 1201, 1304; 31 U.S.C. 9701; E.O. 12356; 47 FR 14874, 15557; 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

2. In section 103.7 paragraph (b)(1) is amended by adding in proper numerical sequence the following form:

§ 103.7 Fees.

* * * * *

(b) * * *

(1) * * *

Form I–817. For filing application for voluntary departure under the Family Unity Program—$75.00. The maximum amount payable by the members of a family filing their applications concurrently shall be $225.00.

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PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

3. The authority citation for part 242 is revised to read as follows:

Authority: 8 U.S.C. 1103, 1182, 1186a, 1252; 8 CFR part 2.

4. In part 242, a new section 242.6 is added to read as follows:

§ 242.6 Family Unity Program.

(a) *General.* Except as otherwise specifically provided in paragraph (b) of this section, the definitions contained in the Immigration and Nationality Act shall apply to the administration of this section.

(b) *Definitions.* As used in this section:

Eligible immigrant means a qualified immigrant who is the spouse or unmarried child of a legalized alien.

Legalized alien means an alien who:

(1) Is a temporary or permanent resident under section 210 or 245A of the Immigration and Nationality Act; or

(2) Is a permanent resident under section 202 of the Immigration Reform and Control Act of 1986 (Cuban/Haitian Adjustment).

(c) *Eligibility*—(1) *General.* An alien who is not a lawful permanent resident is eligible to apply for benefits under the Family Unity Program if he or she establishes:

(i) That he or she entered the United States on or before May 5, 1988, and has been residing in the United States since that date; and

(ii) That on May 5, 1988, he or she was the spouse or unmarried child of a legalized alien, and that he or she has been eligible continuously since that time for family-sponsored second preference immigrant status under section 203(a)(2) of the Immigration and Nationality Act based on the same relationship.

(2) *Legalization application pending as of May 5, 1988.* An alien whose legalization application was filed on or before May 5, 1988 but not approved until after that date will be treated as having been a legalized alien as of May 5, 1988 for purposes of the Family Unity Program.

(d) *Ineligible aliens.* The following categories of aliens are ineligible for benefits under the Family Unity Program:

(1) An alien who is deportable under any paragraph in section 241(a) of the Act, except paragraphs (1)(A), (1)(B), (1)(C)(i), (1)(D), and (3); *provided that* an alien who is deportable under paragraph (1)(A) is also ineligible for benefits under the Family Unity Program if deportability is based upon an exclusion ground described in section 212(a), paragraphs (2)(A), (2)(B), (2)(C), (3)(A), (3)(B), (3)(C), (3)(D) or (3)(E) of the Act;

(2) An alien who has been convicted of a felony or three or more misdemeanors in the United States; or

(3) An alien described in section 243(h)(2) of the Immigration and Nationality Act.

(e) *Filing*—(1) *General.* An application for voluntary departure under the Family Unit Program must be filed at the Service Center having jurisdiction over the alien's place of residence, on Form I–817, Application for Voluntary Departure under the Family Unity Program, along with the fee required in § 103.7 of this chapter and the initial evidence required on the application form. A separate application must be filed by each person claiming eligibility.

(2) *Decision.* Jurisdiction to decide an application for benefits under the Family Unity Program lies exclusively with the Service Center director. The director will provide the applicant with specific reasons for any decision to deny an application. Denial of an application may not be appealed. An applicant who believes that the grounds for denial have been overcome may submit another application with the appropriate fee and evidence.

(3) *Referral of denied cases for consideration of issuance of Order to Show Cause.* If an application is denied, the case will be referred to the district director with jurisdiction over the alien's place of residence for consideration of whether to issue an Order to Show Cause (OSC). The first case denied for an applicant will not be referred for an OSC until 90 days from the date of the denial, to allow the alien the opportunity to file a new I–817 application in order to attempt to overcome the basis of the denial.

(4) *Grant of voluntary departure.* An alien whose application for benefits under the Family Unity Program is granted will receive a two-year period of voluntary departure. The two-year period will begin on the date the Service grants the application.

(5) *Employment authorization.* An alien granted benefits under the Family Unity Program is authorized to be employed in the United States and may apply for an employment authorization document on Form I–765, Application for Employment Authorization. The application must be filed with the district director having jurisdiction over the alien's place of residence. The application must be accompanied by the correct fee required by §103.7 of this chapter. The alien must present Form I–797, Notice of Action, reflecting the grant of voluntary departure under the Family Unity Program, and a document issued by a legitimate agency of the United States or a foreign government which reasonably establishes the alien's identity, along with his or her application. The validity period of the employment authorization will coincide with the period of voluntary departure.

(6) *Travel.* An alien granted family unity benefits who intends to travel outside the United States and then return must apply for advance authorization using Form I-131, Application for Travel Document. The authority to grant an application for advance authorization for an alien granted family unity benefits rests solely with the district director. An alien who is granted advance authorization and returns to the United States in accordance with such authorization, and who is found not to be excludable on a ground of exclusion referred to in section 301(a)(1) of the Immigration Act of 1990, shall be inspected and admitted in the same immigration condition the alien had at the time of departure for the remainder of the two-year period granted under the Family Unity Program.

(7) *Extension of voluntary departure.* An application for an extension of voluntary departure under the Family Unity Program must be filed by the alien on Form I–817, along with the fee required in § 103.7 of this chapter and the initial evidence required on the application form. An extension may be granted if the alien's eligibility for benefits under the Family Unity Program continues. However, an extension may not be approved if a petition for family-sponsored immigrant status has not been filed on behalf of the applicant during the initial period of voluntary departure under the Family Unity Program. In such case the Service will notify the alien of the reason for the denial and afford him or her the oportunity to file another Form I-817 once the petition, Form I-130, has been filed in behalf of him or her. No charging document will be issued for a period of 90 days.

(f) *Effect on eligibility for benefits from financial assistance programs furnished under federal law.* An alien granted Family Unity Program benefits based on a relationship to a legalized alien as defined in paragraph (b)(1) of this section is ineligible for public welfare assistance in the same manner and for the same period as the legalized alien is ineligible for such assistance under sections 245A(h) or 210(f), respectively, of the Act.

(g) *Termination.* (1) *Automatic termination.* [Reserved]

(2) *Termination after notice.* After notice, the Service may terminate benefits under the Family Unity Program when the necessity for the termination comes to the attention of the Service. Such grounds will exist in situations including, but not limited to, those in which:

(i) A determination is made that Family Unity Program benefits were acquired as the result of fraud or willful misrepresentation of a material fact;

(ii) The alien commits an act or acts which render him or her inadmissible as an immigrant or ineligible for benefits under the Family Unity Program;

(iii) The legalized alien upon whose status benefits under the Family Unity Program were based loses his or her legalized status;

(iv) The alien is the subject of a final order of deportation issued subsequent to the grant of benefits on any ground of deportability or excludability that would have rendered the alien ineligible for benefits under § 242.6(d)(1) of this chapter, regardless of whether the facts giving rise to such ground occurred before or after the benefits were granted; or

(v) A qualifying relationship to a legalized alien no longer exists. A person who qualified as the unmarried child of legalized alien on May 5, 1988 shall not be considered ineligible for benefits under the Family Unity Program solely as a result of having reached the age of 21.

(3) *Notice procedure.* Notice of intent to terminate and of the grounds thereof shall be sent pursuant to the provisions of § 103 of this chapter. The alien shall be given 30 days to respond to the notice and may submit to the Service additional evidence in rebuttal. Any final decision of termination shall also be sent pursuant to the provisions of § 103 of this chapter. Upon termination, the case will be referred to the district director with jurisdiction over the alien's place of residence for consideration of whether to issue an Order to Show Cause.

(4) *Effect of termination.* Termination of benefits under the Family Unity Program, other than as a result of a final order of deportation or exclusion, shall render the alien amenable to exclusion or deportation proceedings under sections 236 or 242 of the Act, as appropriate.

PART 264—REGISTRATION AND FINGERPRINTING OF ALIENS IN THE UNITED STATES

7. The authority citation for part 264 is revised to read as follows:

Authority: 8 U.S.C. 1103, 1201, 1201a, 1301–1305.

8. In section 264.1 paragraph (a) is amended by adding in proper numerical sequence the following form:

§ 264.1 Registration and fingerprinting.

(a) * * *

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I–817, Application for Voluntary Department under the Family Unity Program.

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PART 274a—CONTROL OF EMPLOYMENT OF ALIENS

9. The authority citation for part 274a is revised to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1324a; 8 CFR part 2.

Subpart B—Employment Authorization

10. Section 274a.12 is amended by:

a. Revising the introductory text in paragraph (a);

b. Revising paragraph (a)(12);

c. Removing the undesignated paragraph immediately following paragraph (a)(2); and

d. Adding a new paragraph (a)(13), to read as follows:

§ 274a.12 Classes of aliens authorized to accept employment

(a) *Aliens authorized employment incident to status.* Pursuant to the statutory or regulatory reference cited, the following classes of aliens are authorized to be employed in the United States without restrictions as to location or type of employment as a condition of their admission or subsequent change to one of the indicated classes. Any alien who is within a class of aliens described in paragraphs (a)(3) through (a)(8) or (a)(10) through (a)(13) of this section, and who seeks to be employed in the United States, must apply to the Service for a document evidencing such employment authorization.

* * * * *

(12) An alien granted Temporary Protected Status under section 244A of the Act for the period of time in that status, as evidenced by an employment authorization document issued by the Service; or

(13) An alien granted voluntary departure by the Attorney General under the Family Unity Program established by section 301 of the Immigration Act of 1990, as evidenced by an employment authorization document issued by the Service.

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§ 274a.13 [Amended]

11. In § 274a.13, paragraph (a) is amended by revising the number "(1)" in the first sentence to read "(13)".

PART 299—IMMIGRATION FORMS

12. The authority citation for part 299 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103; 8 CFR part 2.

13. Section 299.1 is amended by adding in proper numerical sequence the following form:

§ 299.1 Prescribed forms.

* * * * *

I–817 (09/10/91)—Application for Voluntary Department under the Family Unity Program.

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14. Section 299.5 is amended by adding in proper numerical sequence the following form:

§ 299.5 Display of control numbers.

* * * * *

INS form No.	INS form title	Currently assigned OMB control No.
*	*	*
I–817	Application for Voluntary Departure under the Family Unity Program.	1115–0166
*	*	*

Dated: February 18, 1992.

Gene McNary,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 92–4292 Filed 2–21–92; 10:12 am]

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Cooperation With States at Commercial Nuclear Power Plants and Other Nuclear Production or Utilization Facilities; Policy Statement

AGENCY: Nuclear Regulatory Commission.

ACTION: Amendment to policy statement.

SUMMARY: The Nuclear Regulatory Commission (NRC) is revising and amending its Policy on Cooperation With States at Commercial Nuclear Power Plants and Other Production or Utilization Facilities (54 FR 7530; February 22, 1989). The amendment to the policy statement allows State representatives in adjacent States to observe NRC inspections at licensed facilities. "Adjacent States" are defined as States within the plume exposure pathway (within approximately a 10-mile radius) Emergency Planning Zone (EPZ) of a licensed facility in another State.

EFFECTIVE DATE: February 25, 1992.

FOR FURTHER INFORMATION CONTACT: Frederick Combs, Assistant Director for State, Local and Indian Relations, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 504–2325.

SUPPLEMENTARY INFORMATION:

Discussion

On February 22, 1989 (54 FR 7530), the Commission published the policy statement "Cooperation With States at Commercial Nuclear Power Plants and Other Nuclear Production or Utilization Facilities." The policy statement was intended to provide a uniform basis for NRC/State cooperation as it relates to the regulatory oversight of commercial nuclear power plants and other nuclear production or utilization facilities. The policy statement allows State officials to accompany NRC on inspections and, under certain circumstances, enables States to enter instruments of cooperation (MOUs) which would allow States to participate in NRC inspection activities.

Analysis: On August 26, 1991 (56 FR 41968), the Commission published for comment a proposed amendment to the policy statement on Cooperation With States. This amendment would allow State representatives to observe NRC inspections at licensed facilities in adjacent States. "Adjacent States" are defined as States within the plume exposure pathway (within approximately a 10-mile radius) Emergency Planning Zone (EPZ) of a licensed facility in another State.

The Commission received seven comments on the proposed amendment: three from utilities, one from a utility organization, two from States and one from a public citizen's group.

Comments: One comment was received from Ohio Citizens for Responsible Energy Inc. ("OCRE") which was generally supportive of the amendment. OCRE did suggest, however, that an adjacent State be defined as one which is within the plume exposure pathway EPZ or within a 10-mile radius of a nuclear facility located in another State. They claim this addition is necessary due to the periodic political proposals to reduce the plume exposure pathway EPZ from its current 10-mile radius to some smaller area, perhaps as small as 2–5 miles or even limited to the site boundary.

Response: EPZs are the designated areas for which planning is recommended to ensure that prompt and effective actions can be taken to protect the public in the event of an accident. NRC licensees, State and local governments and petitioners for rulemaking have often questioned the exact size and configuration of the plume exposure pathway EPZ. The Commission answered these questions in a policy statement (Long Island Lighting Company, Shoreham Nuclear Power Station, Unit 1, CLI–89–12, 26 NRC 383, 384, 385) as follows:

> Implicit in the concept of "adequate protective measures" is the fact that emergency planning will not eliminate, in every conceivable accident, the possibility of serious harm to the public. Emergency planning can, however, be expected to reduce any public harm in the event of a serious but highly unlikely accident. Given these circumstances, it is entirely reasonable and appropriate for the Commission to hold that the rule precludes adjustments on safety grounds to the size of an EPZ that is "about 10 miles in radius." In the Commission's view, the proper interpretation of the rule would call for adjustment to the exact size of the EPZ on the basis of such straightforward administrative considerations as avoiding EPZ boundaries that run through the middle of schools or hospitals, or that arbitrarily carve out small portions of governmental jurisdictions. The goal is merely planning simplicity and avoidance of ambiguity as to the location for the boundaries.

As stated in the original **Federal Register** notice (February 22, 1989) during the comment period, NRC's reasoning behind limiting adjacent State observation to those States within the plume exposure pathway EPZ was twofold: First, a limit had to be set to allow Regional offices to manageably handle requests to observe inspections which might be made by host States and adjacent States. Second, the plume exposure pathway EPZ was determined to be that area (approximately 10 miles) requiring possibly prompt action in the event of an accident to reduce risk to the public. It is unlikely that any immediate protective actions would be required beyond the plume exposure pathway EPZ.

Therefore, it was felt those States with the most critical response efforts during emergency situations, and those with more immediate public health and safety risks, should be the States allowed to observe NRC inspections. These States would therefore become more familiar with plant safety issues.

Comment: A similar comment was received from the New York State Energy Office, which requests broadening the definition of "adjacent State" to include reciprocity for facilities further than the ten-mile radius around a plant to perhaps a fifty-mile radius.

Analysis: For the reasons stated above, NRC does not believe the plume exposure pathway or the definition of adjacent State should be changed. Furthermore, inclusion of all States which are within a fifty-mile radius of a reactor in another State would greatly increase the number of States eligible for observation of NRC inspections and also increase the administrative burden on the NRC, especially for highly-visible inspection efforts. The impact on NRC of having large numbers of requests for observations in inspections could become burdensome and negatively impact our own inspection program, and could adversely impact licensees.

Comment: The Nuclear Management and Resources Council (NUMARC) remains concerned if State representatives are allowed to carry out NRC inspection responsibilities. They also reiterated their previous concern with the original policy, that allowing State representatives, whether from a State in which a plant is located or an adjacent State within the plume exposure pathway, to conduct NRC inspections could result in a situation where a licensee could be subjected to dual, and perhaps conflicting, regulation by a State through this mechanism. NUMARC does believe that it is appropriate for the NRC and States to work together to coordinate the exercise of their complementary responsibilities, but feels that State representatives should not conduct NRC inspections.

Response: The concern of NUMARC regarding State representatives conducting NRC inspections was previously submitted and addressed in the summary of comments and NRC response section of the **Federal Register** notice adopting the final policy statement (54 FR 7530; February 22, 1989). There has been no change proposed to that aspect of the policy. This proposed change to the policy concerns only observations of inspections by representatives of adjacent States, not participation in inspection by these representatives. It was decided that NRC does not have enough experience with participation agreements between the NRC and host States to expand that arena to adjacent States at this time. NRC will continue to monitor closely the implementation of this policy statement to ensure that it is not misapplied and that unintended results do not occur.

Comment: The Vermont Yankee Nuclear Power Corporation commented that they endorse the concept of the current policy of NRC cooperation with State governments, however they believe that the host state deserves special consideration where requests for observations are concerned. They request NRC to encourage the adjacent States to communicate with host state representatives on matters pertaining to the operation of host state nuclear power plants.

Response: In the **Federal Register** notice, NRC committed to limit team inspections to normally no more than one observer from each State. When there is a conflict, preference would be given to the host state for routine inspections, but the NRC Regional Administrator should make the final determination as to whether more than one State observer should be involved in the inspection. In addition, the protocol agreement in Appendix A of the **Federal Register** notice has been revised to accommodate a request from an adjacent State, strongly encourage communication with the host State, and give preference to the host State should a conflict exist. NRC will adhere to this policy and endorse two-way communication at every stage of the observation.

Comment: New Hampshire Yankee (NHY) transmitted several comments. One comment concerned the possible misinterpretation of the roles of host States and adjacent States. NHY states that the Discussion section makes it clear that adjacent States should be limited to an observation role whereas a host State, under certain conditions, may actually participate in inspections. The Statement of Policy, however, does not explicitly state these distinctions and limits. Similarly, under Implementation, the first sentence of the second paragraph states that the "NRC will consider State *participation* in inspections * * *" (emphasis added) without specifying that this refers to host States.

The second comment stated that NHY believes that the State Protocol should be changed to reflect that where an MOU allows actual host State participation in inspections, or even observations, the protocol for publicly releasing or commenting on the results should be the same as for State observations. Release of information concerning the inspection should not occur before review by the NRC and issuance of the NRC inspection report.

The third comment expressed concern over ambiguity in the language regarding the number of State inspectors from the host and adjacent States. The Discussion indicates that the number of observers should normally be limited to the number of NRC inspectors and that team inspections should normally have no more than one observer from each State. The second bullet of the State Protocol sets a norm of one observer per NRC inspection. NHY believes that this language could lead to misunderstandings and the the Statement of Policy should clearly set forth the NRC's expectations on the total number of observers from the host and adjacent State including the case where the host State is actually participating in the inspection.

The fourth comment stated that NHY believes that State observations of routine inspections by the NRC Resident Inspectors should be limited to one individual from the host State, and that if States feel additional observers are needed this should be taken up as a special case.

The fifth comment states that NHY believes the State Protocol should clearly state that observers must obtain approval from the licensee as well as the NRC before removing any material from the site. This could be accomplished by simply having the observer formally submit a request for documents to the licensee through the NRC.

In their final comment, NHY requested that Maine be removed from the table listing adjacent States since they do not fall within the stated definition of the plume exposure pathway emergency planning zone.

Response: NRC agrees there may be some ambiguity regarding the roles of adjacent and host States in the policy statement. Therefore, we are amending the second paragraph under "Implementation," to read, "NRC will consider *host* State (emphasis added) participation in inspections and the inspection entrance and exit meetings, where the State-proposed agreement identifies the specific inspections they wish to assist NRC with and provides a program containing those elements as described in the policy statement." The modification clarifies NRC's intent to allow only host States to participate in NRC inspections.

With regard to the second comment, NRC enters into MOUs for participation where more detailed cooperation is required. In the MOUs, a provision is included for the State to abide by NRC protocol by not publicly disclosing inspection findings prior to the release of the NRC inspection report.

Regarding NHY's third comment relating to the number of State inspectors to observe an inspection, NRC believes the policy is clearly stated. Although the protocol states that normally one observer will be allowed to observe an NRC inspection, some amount of discretion is needed to allow more inspectors to attend under special circumstances. There are a sufficient number of inspections which are event-related or have attracted significant public interest, to which States may want to send more than one observer. The policy does not address the number of State inspectors allowed to participate in an NRC inspection. It is expected the State will utilize only the minimum number of inspectors it needs to accomplish the best possible coverage of the inspection activity. In this regard, the MOUs under a participation arrangement affirm that the State will submit monthly inspection recommendations to the NRC Resident Inspector (or Regional Office) in sufficient time to allow NRC review before preparation of the inspection plan. NRC will review the State's recommendations and inform the State of any activities that appear to impose an undue burden on the licensee. The State will make adjustments to the State inspection recommendations, as necessary, to address NRC comments.

The fourth comment, pertaining to the number of State observers of routine inspections by NRC Resident Inspectors, has already been addressed. Requests for observations of routine inspections by the Resident will be treated the same as any other inspection.

NRC also agrees that the State observer should obtain licensee or NRC approval before removing material from the site. We have modified the protocol to incorporate this change.

Regarding NHY's final comment, we have deleted Maine from the table of adjacent States since it does not fall within the Seabrook Station's 10-mile plume exposure pathway emergency planning zone. The table is reprinted below.

Comment: Both Philadelphia Electric Company and the State of Arkansas commented that they support NRC's efforts to amend the policy.

The following list of host States and adjacent States (within the 10-mile plume exposure pathway emergency planning zone) along with these NRC-licensed facilities could be affected by the proposed policy revision:

Plant	State	Adjacent state(s)
Beaver Valley	PA	OH, WV
Catawba	SC	NC
Cooper	NE	MO
Farley	AL	GA
Ft. Calhoun	NE	IA
Grand Gulf	MS	LA
Hope Creek	NJ	DE
Millstone	CT	NY
Peach Bottom	PA	MD
Prairie Island	MN	WI
Quad Cities	IL	IA
Salem	NJ	DE
Seabrook	NH	MA
Trojan	OR	WA
Vermont Yankee	VT	MA, NH
Yankee Rowe	MA	VT
Zion	IL	WI

A total of 17 utilities and 25 States could be affected by the policy revision.

Paperwork Reduction Act Statement

This final policy statement amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These requirements were approved by the Office of Management and Budget approval number 3150–0163.

The public reporting burden for this collection of information is estimated to average 20 hours per response, including the time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Information and Records Management Branch (MNBB–7714), U.S. Nuclear Regulatory Commission, Washington, DC 20555; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–3019 (3150–0163), Office of Management and Budget, Washington, DC 20503.

Final Amendments to the Policy Statement

In section III, Statement of Policy (54 FR 7530 at 7538, February 22, 1989), the final sentence in the second paragraph is revised to read as follows:

> Additionally, at the State's request, representatives from a State in which the NRC-licensed facility is located (the host State) and from a State within the plume exposure pathway emergency planning zone (EPZ)—(within approximately a ten-mile radius)—of an NRC-licensed facility located in another State (the adjacent State) will be able to observe specific inspections and/or inspection entrance and exit meetings where State representatives are knowledgeable in radiological health and safety matters.

In section III, Statement of Policy (54 FR 7530 at 7538, February 22, 1989), the third sentence in the third paragraph is revised to read as follows:

> State participation in NRC programs would allow qualified State representatives from States in which an NRC-licensed facility is located, either individually or as a member of a team, to conduct specific inspection activities in accordance with NRC standards, regulations, and procedures in close cooperation with the NRC.

In section IV, Implementation (54 FR 7530 at 7538, February 22, 1989), the fifth, and final sentences in the first paragraph are revised to read as follows:

> Host State or adjacent State representatives are free to attend as observers any public meeting between the NRC and its applicants and licensees.
>
> Requests from host States and adjacent States to observe inspections and/or inspection entrance and exit meetings conducted by the NRC require the approval of the appropriate Regional Administrator.

Also, in section IV, Implementation, the first sentence in the second paragraph is revised to read as follows:

> NRC will consider host State participation in inspections and the inspection entrance and exit meetings, where the State-proposed agreement identifies the inspections they wish to assist NRC with and provides a program containing those elements as described in the policy statement.

In Appendix A—Protocol Agreement for State Observation of NRC Inspections, the State Protocol Section, the eighth bullet is revised to read as follows:

> - An observer will not be provided with proprietary or safeguards information. Observers will not remove any material from the site without NRC or licensee approval.

The full text of the Policy Statement with new wording is reprinted below.

Dated at Rockville, MD, this 18th day of February 1992.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

Statement of Policy

It is the NRC's policy to cooperate fully with State governments as they seek to respond to the expectations of their citizens that their health and safety be protected and that there be minimal impact on the environment as a result of activities licensed by the NRC. The NRC and the States have complementary responsibilities in protecting public health and safety and the environment. Furthermore, the NRC is committed to the full and timely disclosure of matters affecting the public and to the fair and uniform handling of all agency interactions with the States, the public, and NRC licensees.

Accordingly, the NRC will continue to keep Governor-appointed State Liaison Officers routinely informed on matters of interest to the States. The NRC will respond in a timely manner to a State's requests for information and its recommendations concerning matters within the NRC's regulatory jurisdiction. If requested, the NRC will routinely inform State Liaison Officers of Public meetings between NRC and its licensees and applicants in order that State representatives may attend as observers. Additionally, at the State's request, representatives from a State in which the NRC-licensed facility is located (the host State) and from a State within the plume exposure pathway emergency planning zone (EPZ) (within approximately a 10-mile radius) of an NRC-licensed facility located in another State (the adjacent State) will be able to observe specific inspections and/or inspection entrance and exit meetings where State representatives are knowledgeable in radiological health and safety matters.

The Commission recognizes that the involvement of qualified State representatives in NRC radiological health and safety programs has the potential for providing additional safety benefit. Therefore, the NRC will consider State proposals to enter into instruments of cooperation for State participation in inspections and inspection entrance and exit meetings. State participation in NRC programs would allow qualified State representatives from States in which an NRC-licensed facility is located, either individually or as a member of a team, to conduct specific inspection activities in accordance with NRC standards, regulations, and procedures in close cooperation with the NRC. State activities will normally be conducted under the oversight of an authorized NRC representative with the degree of oversight dependent upon the activity involved. In the proposal to enter into an instrument of cooperation, the State must identify those activities for which cooperation with the NRC is desired. The State must propose a program that: (1) Recognizes the Federal Government, primarily NRC, as having the exclusive authority and responsibility to regulate the radiological and national security aspects of the construction and operation of nuclear production or utilization facilities, except for certain authority over air emissions granted to States by the Clean Air Act; (2) is in accordance with Fedeal standards and regulations; (3) specifies minimum

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education, experience, training, and qualifications requirements for State representatives which are patterned after those of NRC inspectors; (4) contains provisions for the findings of State representatives to be transmitted to NRC for disposition; (5) would not impose an undue burden on the NRC and its licensees and applicants; and (6) abids by NRC protocol not to publicly disclose inspection findings prior to the release of the NRC inspection report.

Consistent with section 274c of the Act, the NRC will not consider State proposals for instruments of cooperation that do not include the elements listed above, which are designed to ensure close cooperation and consistency with the NRC inspection program. As a practical matter, the NRC is concerned that independent State inspection programs could direct an applicant's or licensee's attention to areas not consistent with NRC safety priorites, misinterpret NRC safety requirements, or give the perception of dual regulation. For purposes of this policy statement, an independent State inspection program is one in which State representatives would conduct inspections and assess NRC-regulated activities on a State's own initiative and authority without close cooperation with, and oversight by, an authorized NRC representative.

Instruments of cooperation between the NRC and the States, approved prior to the date of this policy statement will continue to be honored by the NRC. The NRC strongly encourages those States holding these agreements to consider modifying them, if necessary, to bring them into conformance with the provisions of this policy statement.

Implementation

As provided in the policy statement the NRC will routinely keep State Liaison Officers informed on matters of interest to the States. In general, all State requests should come from the State Liaison Officer to the appropriate NRC Regional Office. The NRC will make every effort to respond as fully as possible to all requests from States for information on matters concerning nuclear production or utilization facility safety within 30 days. The NRC will work to achieve a timely response to State recommendations relating to the safe operation of nuclear production or utilization facilities. Host State or adjacent State representatives are free to attend as observers any public meeting between the NRC and its applicant and licensees. The appropriate Regional Office will routinely inform State Liaison Officers of the scheduling of public meetings upon request. Requests from host States and adjacent States to observe inspections and/or inspection entrance and exit meetings conducted by the NRC require the approval of the appropriate Regional Administrator.

NRC will consider host State participation in inspections and the inspection entrance and exit meetings, where the State-proposed agreement identifies the specific inspections they wish to assist NRC with and provides a program containing those elements as described in the policy statement. NRC may develop inspection plans along with qualified State representatives using applicable procedures in the NRC Inspection Manual. Qualified State representatives may be permitted to perform inspections in cooperation with, and on behalf of, the NRC under the oversight of an authorized NRC representative. The degree of oversight provided would depend on the activity. For instance, State representatives may be accompanied by an NRC representative initially, in order to assess the State inspectors' preparedness to conduct the inspection individually. Other activities may be conducted as a team with NRC taking the lead. All enforcement action will be undertaken by the NRC.

The Commission will decide policy matters related to agreements proposed under this policy statement. Once the Commission has decided the policy on a specific type of agreement, similar State-proposed agreements may be approved, consistent with Commission policy, by the Executive Director for Operations. A State-proposed instrument of cooperation will be documented in a formal MOU signed by NRC and the State.

Once the NRC has decided to enter into an MOU for State involvement in NRC inspections, a formal review, not less than six months after the effective date, will be performed by the NRC to evaluate implementation of the MOU and resolve any problems identified. Final agreements will be subject to periodic reviews and may be amended or modified upon written agreement by both parties and may be terminated upon 30 days written notice by either party.

Additionally, once State involvement in NRC activities at a nuclear production or utilization facility is approved by the NRC, the State is responsible for meeting all requirements of an NRC licensee and applicant related to personal safety and unescorted access of State representatives at the site.

Appendix A—Protocol Agreement for State Observation of NRC Inspections

NRC Protocol

- The Regional State Liaison Officer (RSLO) will normally be the lead individual responsible for tracking requests for State observation, assuring consistency regarding these requests, and for advising the Regional Administrator on the disposition of these requests. The appropriate technical representative or Division Director will communicate with the State on specific issues concerning the inspection(s).
- Requests for observations of Headquarters-based inspections will also be coordinated through the RSLO. Headquarters-based inspections should be referred through the RSLO to a technical representative designated by the Region.
- NRC will process written requests to the Regional Administrator through the State Liaison Officer (SLO). Requests should identify the type of inspection activity and facility the State wishes to observe.
- Limits on scope and duration of the observation period may be imposed if, in the view of the Regional Administrator, they compromise the efficiency or effectiveness of the inspection. Regions should use their discretion as to which, if any, inspections will be excluded from observations.
- States will be informed they must not release information concerning the time and purpose of unannounced inspections.
- The Region will make it clear to the licensee that the State views are not necessarily endorsed by NRC. The Region will also make it clear that only NRC has regulatory authority for inspection findings and enforcement actions regarding radiological health and safety.

State Protocol

- A State will make advance arrangements with the licensee for site access training and badging (subject to fitness for duty requirements), prior to the actual inspection.
- Normally, no more than one individual will be allowed to observe an NRC inspection.
- The State will be responsible for determining the technical and professional competence of its representatives who accompany NRC inspectors.
- An observer's communication with licensee with be through the appropriate NRC team member, usually the senior resident inspector or the team leader.
- When informed of an unannounced inspection, a State must not release information concerning its time and purpose.
- An observer will remain in the company of NRC personnel throughout the course of the inspection.
- State observation may be terminated by the NRC if the observer's conduct interferes with a fair and orderly inspection.
- An observer will not be provided with proprietary or safeguards information. Observers will not remove any material from the site without NRC or licensee approval.
- The State observer, in accompanying the NRC inspectors, does so at his or her own risk. NRC will not be responsible for injuries

or exposures to harmful substances which may occur to the accompanying individual during the inspection and will assume no liability for any incidents associated with the accompaniment.

- The State observer will be expected to adhere to the same conduct as NRC inspectors during an inspection accompaniment.
- If the State observer notices any apparent non-conformance with safety or regulatory requirements during the inspection, he/she will make those observations promptly known to the NRC team leader or lead inspector. Likewise, when overall conclusions or views of the State observer are substantially different from those of the NRC inspectors, the State will advise the team leader or lead inspector and forward those views, in writing, to the NRC Region. This will allow NRC to take any necessary regulatory actions.
- Under no circumstances should State communications regarding these inspections be released to the public or the licensee before they are reviewed by the NRC and the inspection report is issued. State communications may be made publicly available, similar to NRC inspection reports, after they have been transmitted to and reviewed by NRC.

Adjacent State Protocol

- An adjacent State is a State within the plume exposure pathway emergency planning zone (EPZ) (within approximately a 10-mile radius) of an NRC-licensed facility located in another State. A host State is a State in which an NRC-licensed facility is located. An adjacent State may request permission to observe NRC inspections at an NRC-licensed facility in a host State.
- The adjacent State SLO must communicate his/her request for observation to the Regional Administrator for the region in which the facility is located.
- The adjacent State SLO must also communicate his/her request to the host State SLO so that each State is aware of the other's intentions.
- If a host State and an adjacent State request observation of the same inspection, the Regional Administrator will make the final determination on the number of State observers who may attend the inspection. If there is a need to limit the number of observers, the Regional Administrator will routinely give preference to the host State observers.
- Adjacent State observers will abide by the same protocol in all aspects of the inspection as host States under this agreement.

____

Signature of State Observer

____

Date

[FR Doc. 92-4248 Filed 2-24-92; 8:45 a.m.]

BILLING CODE 7590-01-M

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 900

[92-64]

Delegation of Authority to Issue Consolidated Obligations

AGENCY: Federal Housing Finance Board.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is amending its regulations relating to Delegation of Authority to the Office of Finance. The purpose of this action is to amend the delegation of authority to issue Federal Home Loan Bank (FHLBank) consolidated debentures, bonds or notes (consolidated obligations) on behalf of the Finance Board under section 11 of the Federal Home Loan Bank Act (Bank Act) (12 U.S.C. 1431). This amendment reflects the new structure of the Office of Finance.

EFFECTIVE DATE: February 13, 1992.

FOR FURTHER INFORMATION CONTACT: Charles Szlenker, Attorney, Office of General Counsel, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

1. Overview

The Bank Act authorizes the Finance Board to issue FHLBank consolidated obligations. The proceeds raised by issuing the consolidated obligations are used by the FHLBanks to make advances to their members. The members in turn use those funds to facilitate housing finance. See 12 U.S.C. 1431 (b) and (c) (Supp. I 1989). The Finance Board delegates the ministerial duties of selling the obligations to the Office of Finance, a joint office of the Federal Home Loan Banks, created pursuant to section 2B(b)(2) of the Bank Act (12 U.S.C. 1422b(b)(2) (Supp. I 1989)).

This delegation to the Office of Finance is memorialized in a regulation. 56 FR 67158 (Dec. 30, 1991) (12 CFR 900.30). Specifically, that provision delegated the authority to the Director of the Office of Finance. The Finance Board recently promulgated regulations reorganizing the Office of Finance. See 57 FR 2832 (Jan. 24, 1992) (12 CFR 941.1–941.12). Consequently, the authority to issue the consolidated obligations will be specifically delegated to a newly created Office of Finance Board of Directors. This rule is a technical amendment to the Finance Board's regulations to reflect the new structure of the Office of Finance, and does not alter the recent reorganization of the Office of Finance or the existing rights of holders of FHLBank consolidated obligations.

2. Prior Delegations of Authority

Section 401(h)(2) of the Financial Institutions, Reform, Recovery and Enforcement Act of 1989, which replaced the former FHLBB with the Finance Board as the regulatory overseer of the FHLBanks, provided that all FHLBB resolutions and orders continued in effect until superseded by the Finance Board. 103 Stat. 183, 356 (1989) codified at 12 U.S.C. 1437 note. The Finance Board has relied on this authority to continue in effect all the delegations of authority to the Office of Finance issued by either the FHLBB's three member governing Board or by FHLBB Chairman's Orders. This regulation is intended to be the complete codification of the delegation of duties to the Office of Finance. Accordingly, all FHLBB resolutions and all FHLBB Chairman's Orders purporting to delegate any authority to the Office of Finance are superseded and void, effective as of the first meeting of the Office of Finance Board of Directors.

Administrative Procedures Act

The Finance Board is adopting this regulation as a final rule, effective on February 13, 1992. The Finance Board notes that the notice and comment requirements of the Administrative Procedures Act ("APA") (5 U.S.C. 553) may be suspended when the agency finds good cause that such requirements are unnecessary and incorporates its finding with the rulemaking. 5 U.S.C. at 553(b)(3)(B).

The Finance Board finds that notice and comment are unnecessary for two reasons. First, this regulation is a technical amendment that does not affect the rights of any member of the public. Second, the public already has received an opportunity to comment on issues raised in the Office of Finance restructuring since the regulation that created its Board of Directors provides for a comment period. See 57 FR 2832 (Jan. 24, 1992). The delegation created by this rulemaking does not raise any additional issues so no additional comment period is necessary.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rulemaking, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

List of Subjects in 12 CFR Part 900

Organization and functions (Government agencies).

Accordingly, the Finance Board amends subpart C of part 900 of its general regulations, at chapter IX, title 12, Code of Federal Regulations, as follows:

1. The Authority citation for part 900 continues to read as follows:

Authority: 5 U.S.C. 552; sec. 2B(a), as added by sec. 702(a), 103 Stat. 414 (1989) (12 U.S.C. 1422b(a)).

2. Section 900.30 is revised to read as follows:

§ 900.30 Office of Finance Board of Directors.

(a) *Consolidated obligations.* Subject to Finance Board regulations, resolutions or policies, the Office of Finance Board of Directors is delegated the authority:

(1) To issue through the Office of Finance the Federal Home Loan Bank consolidated debentures, bonds or notes pursuant to the Finance Board's authority under section 11 of the Bank Act (12 U.S.C. 1431); and

(2) To determine their denominations, interest rate and terms.

(b) *Treasury policy.* The Office of Finance Board of Directors shall implement this delegation in accordance with the policies and guidelines issued by the Secretary of the Treasury under section 9108 of title 31 of the United States Code (31 U.S.C. 9108).

By the Federal Housing Finance Board.

Dated: February 13, 1992.

Daniel F. Evans, Jr.,

Chairman.

[FR Doc. 92-4072 Filed 2-24-92; 8:45 am]

BILLING CODE 6725-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 26778; Amdt. No. 1479]

Standard Instrument Approach Procedures: Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: Effective: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS-420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The Provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been cancelled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPs criteria were applied to only these specific conditions existing at the affected airports.

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the US Standard for Terminal Instrument Approach Procedures (TERPs). Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (Air), Standard instrument approaches, Weather.

Issued in Washington, DC, on February 14, 1992.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. App. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 and 97.35; [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

NFDC TRANSMITTAL LETTER

Effective	State	City	Airport	FDC No.	SIAP
01/31/92	IA	Emmetsburg	Emmetsburg Muni	FDC 2/0618	NDB rwy 31 amdt 1.
01/31/92	IA	Emmetsburg	Emmetsburg Muni	FDC 2/0619	NDB rwy 13 amdt 1.
01/13/92	OH	Akron	Akron-Canton Regional	FDC 2/0187	ILS rwy 23 amdt 9 . . this corrects NOTAM in TL 92-3.
01/22/92	AR	Batesville	Batesville Regional	FDC 2/0371	NDB rwy 7 amdt 5 . . . this corrects TL 92-4.
01/29/92	TN	Columbia/Mount Pleasant	Maury County	FDC 2/0526	NDB rwy 23 amdt 3.
01/29/92	TN	Columbia/Mount Pleasant	Maury County	FDC 2/0527	SDF rwy 23 amdt 4.
01/29/92	TN	Dyersburg	Dyersburg Muni	FDC 2/0525	VOR/DME rwy 4 amdt 1.
01/29/92	TN	Selmer	Robert Sibley	FDC 2/0523	NDB rwy 16 amdt 4.
01/29/92	TN	Smyrna	Smyrna	FDC 2/0520	NDB rwy 32 amdt 7.
01/29/92	TN	Smyrna	Smyrna	FDC 2/0521	VOR/DME rwy 32 amdt 11.
01/29/92	TN	Smyrna	Smyrna	FDC 2/0522	ILS rwy 32 amdt 4.
01/29/92	TN	Smyrna	Smyrna	FDC 2/0524	VOR/DME rwy 14 amdt 5.
01/29/92	TN	Winchester	Winchester Muni	FDC 2/0519	NDB rwy 18 amdt 4.
01/30/92	FL	St. Petersburg-Clearwater	St. Petersburg-Clearwater Intl	FDC 2/0542	ILS rwy 17L amdt 19.
01/30/92	FL	St. Petersburg-Clearwater	St. Petersburg-Clearwater Intl	FDC 2/0543	NDB rwy 17L amdt 20.
01/30/92	FL	St. Petersburg-Clearwater	St. Petersburg-Clearwater Intl	FDC 2/0544	VOR rwy 17L amdt 11.
01/30/92	IA	Sioux City	Sioux Gateway	FDC 2/0561	ILS rwy 13 amdt 1.
01/30/92	IA	Sioux City	Sioux Gateway	FDC 2/0562	ILS rwy 31 amdt 24.
01/30/92	IA	Sioux City	Sioux Gateway	FDC 2/0566	VOR/DME or TACAN rwy 31 amdt 25.
01/30/92	IA	Sioux City	Sioux Gateway	FDC 2/0568	NDB rwy 31 amdt 23.
01/30/92	IA	Sioux City	Sioux Gateway	FDC 2/0569	RNAV rwy 17 amdt 3.
01/30/92	IA	Sioux City	Sioux Gateway	FDC 2/0570	RNAV rwy 35 amdt 6.
01/30/92	SC	Pageland	Pageland	FDC 2/0550	NDB rwy 23 Ong.
01/30/92	TN	Nashville	Nashville Intl	FDC 2/0557	ILS rwy 31 amdt 6.
01/30/92	TN	Waverly	Humphreys County	FDC 2/0554	VOR/DME-A amdt 2.
01/30/92	TN	Waverly	Humphreys County	FDC 2/0555	NDB rwy 21 amdt 2.
01/31/92	AR	Rogers	Rogers Municipal-Carter Field	FDC 2/0607	ILS rwy 19 orig.
01/31/92	AR	Rogers	Rogers Municipal-Carter Field	FDC 2/0608	VOR rwy 1 amdt 11.
01/31/92	AR	Rogers	Rogers Municipal-Carter Field	FDC 2/0609	VOR/DME rwy 19 amdt 8.
01/31/92	AR	Rogers	Rogers Municipal-Carter Field	FDC 2/0610	NDB rwy 19 orig.
01/31/92	FL	Miami	Miami Intl	FDC 2/0581	LOC rwy 30, amdt 5.
01/31/92	FL	Miami	Miami Intl	FDC 2/0582	VOR rwy 30, amdt 7
01/31/92	GA	Macon	Middle Georgia Regional	FDC 2/0586	ILS rwy 5 amdt 24.
01/31/92	GA	Macon	Middle Georgia Regional	FDC 2/0587	NDB rwy 5 amdt 20.
01/31/92	IA	Algona	Algona Muni	FDC 2/0612	VOR/DME-A amdt 4.
01/31/92	IA	Algona	Algona Muni	FDC 2/0613	NDB rwy 12 amdt 3.
01/31/92	IA	Hampton	Hampton Muni	FDC 2/0616	NDB rwy 17 amdt 3A.
01/31/92	IA	Hampton	Hampton Muni	FDC 2/0629	RNAV rwy 17 amdt 1.
01/31/92	IA	Sioux City	Sioux Gateway	FDC 2/0583	VOR/DME or TACAN rwy 13 amdt 17
01/31/92	IA	Sioux City	Sious Gateway	FDC 2/0584	NDB rwy 13 amdt 15.
01/31/92	IA	Storm Lake	Storm Lake Muni	FDC 2/0659	NDB rwy 35, orig.
01/31/92	ME	Sanford	Sanford Muni	FDC 2/0580	ILS rwy 7 orig.

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NFDC TRANSMITTAL LETTER—Continued

Effective	State	City	Airport	FDC No.	SIAP
02/03/92	OH	Carrollton	Carroll County-Tolson	FDC 2/0644	NDB rwy 25 amdt 5.
02/10/92	MI	Escanaba	Delta County	FDC 2/0792	ILS/DME rwy 9 amdt 3 . . . this corrects TL 92-3.
02/12/92	FL	Cross City	Cross City	FDC 2/0822	VOR rwy 31 amdt 16.
02/12/92	IA	Jefferson	Jefferson Muni	FDC 2/0826	NDB rwy 32 amdt 3.

NFDC Transmittal Letter Attachment

Batesville

Batesville Regional
Arkansas
NDB RWY 7 AMDT 5...
Effective: 01/22/92
This Corrects TL 92-4.

FDC 2/0371/BVX/FI/P Batesville Regional, Batesville, AR NDB RWY 7 AMDT 5... Change Note to read "IF LCL ALSTG not received, use Little Rock ALSTG and increase all MDAS 300 ft, and for BAIKS FM MINS, increase vis 1 mi all cats. INOP table does not apply. Circling NA NW of RWYS 7/25". BAIKS FM stepdown ALT raised to 1660 ft, 1960 when using Little Rock ALSTG. S–7 and circling all CATS MDA 1660/HAT 1197/HAA 1966. BAIKS FM MINS S–7 all CATS MDA 1000/HAT 537, VIS CAT C 1½, CAT D 1¾. circling MDA 1000/HAA 536 CATS A/B/C, CAT D MDA 1020/HAA 556 VIS CAT C 1–½, CAT D 2. This becomes NDB RWY 7 AMDT 5A.

Rogers

Rogers Municipal-Carter Field
Arkansas
ILS RWY 19 ORIG...
Effective: 01/31/92

FDC 2/0607/ROG/ FI/P Rogers Municipal-Carter Field, Rogers, AR. ILS RWY 19 ORIG... MSA From CJD NDB 090–270 3400; 270–090 3100. This becomes ILS RWY 19 ORIG A.

Rogers

Rogers Municipal-Carter Field
Arkansas
VOR RWY 1 AMDT 11...
Effective: 01/31/92

FDC 2/0608/ROG/ FI/P Rogers Municipal-Carter Field, Rogers, AR. VOR RWY 1 AMDT 11... MSA from RZC VORTAC 090–180 4500; 180–270 3500; 270–090 3100. This becomes VOR RWY 1 AMDT 11A.

Rogers

Rogers Municipal-Carter Field
Arkansas
VOR/DME RWY 119 AMDT 8...
Effective: 01/31/92

FDC 2/0609/ROG FI/P Rogers Municipal-Carter Field, Rogers, AR. VOR/DME RWY 19 AMDT 8... MSA from RZC VORTAC 090–180 4500; 180–270 3500; 270–090 3100. This becomes VOR/DME RWY 19 AMDT 8A.

Rogers

Rogers Municipal-Carter Field
Arkansas
NDB RWY 19 ORIG...
Effective: 01/31/92

FDC 2/0610/ROG/ FI/P Rogers Municipal-Carter Field, Rogers, AR. NDB RWY 19 ORIG... MSA from CJD NDB 090–270 3400; 270–090 3100. This becomes NDB RWY 19 ORIG A.

St Petersburg-Clearwater

St Petersburg-Clearwater Intl
Florida
ILS RWY 17L AMDT 19...
Effective: 01/30/92

FDC 2/0542/PIE FI/P St Petersburg-Clearwater Intl, St Petersburg-Clearwater, FL. ILS RWY 17L AMDT 19... S–ILS VIS RVR 1800 all CATS. S–LOC VIS CATS A/B RVR 2400, CAT C RVR 4000, CATS D/E RVR 5000. This becomes ILS 17L AMDT 19A.

St Petersburg-Clearwater

St Petersburg-Clearwater Intl
Florida
NDB RWY 17L AMDT 20...
Effective: 01/30/92

FDC 2/0543/PIE/ FI/P St Petersburg-Clearwater Intl, St Petersburg-Clearwater, FL. NDB RWY 17L AMDT 20... S–17L VIS CATS A/B RVR 4000, CAT C RVR 5000. This becomes NDB RWY 17L AMDT 20A.

St Petersburg-Clearwater

St Petersburg-Clearwater Intl
Florida
VOR RWY 17. AMDT 11...
Effective: 01/30/92

FDC 2/0544/PIE/ FI/P St Petersburg-Clearwater Intl, St Petersburg-Clearwater, FL. VOR RWY 17L AMDT 11... S–17L VIS CATS A/B RVR 2400, CAT C RVR 4000, CAT D RVR 5000. This becomes VOR RWY 17L AMDT 11A.

Miami

Miami Intl
Florida
LOC RWY 30, AMDT 5...
Effective: 01/31/92

FDC 2/0581/MIA/ FI/P Miami Intl, Miami, FL. LOC RWY 30, AMDT 5... S–30 VIS CATS A/B/C RVR 5000, CAT D RVR 6000. This becomes LOC RWY 30 AMDT 5A.

Miami

Miami Intl
Florida
VOR RWY 30, AMDT 7...
Effective: 01/31/92

FDC 2/0582/MIA/ FI/P Miami Intl, Miami, FL. VOR RWY 30, AMDT 5... S–30 VIS CATS A,B RVR 5000. This becomes VOR RWY 30 AMDT 7A.

Cross City

Cross City
Florida
VOR RWY 31 AMDT 16...
Effective: 02/12/92

FDC 2/0822/CTY/ FI/P Cross City, Cross City, FL. VOR RWY 31 AMDT 16... MIN ALT CTY VORTAC 1000 ft. MISSED APCH... Climb to 1000 then climbing right turn to 2000 direct CTY VORTAC and hold. This becomes VOR RWY 31 AMDT 16A.

Macon

Middle Georgia Regional
Georgia
ILS RWY 5 AMDT 24...
Effective: 01/31/92

FDC 2/0586/MCN/ FI/P Middle Georgia Regional, Macon, GA. ILS RWY 5 AMDT 24... Missed approach... Climb to 2200 VIA MCN R–028 to MURVE INT/MCN 17 DME/DBN R–306 and hold. Hold NE, RT, 208 inbound. This becomes ILS RWY 5 AMDT 24A.

Macon

Middle Georgia Regional
Georgia
NDB RWY 5 AMDT 20...
Effective: 01/31/92

FDC 2/0587/MNC/ FI/P Middle Georgia Regional, Macon, GA. NDB RWY 5 AMDT 20...Missed approach... climb to 2200 VIA MCN R–028 to murve INT/MCN 17 DMEM/DBN R–306 and hold. Hold NE, RT 208 inbound. This becomes NDB RWY 5 AMDT 20A.

Sioux City

Sioux Gateway

Iowa
ILS RWY 13 AMDT 1...
Effective: 01/30/92

FDC 2/0561/SUX/ FI/P Sioux Gateway, Sioux City, IA. ILS RWY 13 AMDT 1...TRML RTE SUX R–238/19 DME to I–OIQ LOC NW CRS MIN ALT 4500. Delete Notes...when CTR TWR..thru..MIN NA. This becomes ILS RWY 13 AMDT 1A.

Sioux City

Sioux Gateway
Iowa
ILS RWY 31 AMDT 24...
Effective: 01/30/92

FDC 2/0562/SUX/ FI/P Sioux Gateway, Sioux City, IA. ILS RWY 31 AMDT 24...Delete Notes... CAT D and E..thru..17 and 35 – 118.7. This becomes ILS RWY 31 AMDT 24A.

Sioux City

Sioux Gateway
Iowa
VOR/DME OR TACAN RWY 31 AMDT 25...
Effective: 01/30/92

FDC 2/0566/SUX/ FI/P Sioux Gateway, Sioux City, IA. VOR/DME or Tacan RWY 31 AMDT 25...Delete Notes... When CTR TWR..thru..118.7. Missed APCH instructions... climb to 1500, then climbing LT to 2900 direct to SUX VORTAC and hold. (TACAN ACFT... Continue VIA SUX R–132 to PARRC 12 DME and hold SE RT 132 inbound). This becomes VOR/DME or TACAN RWY 31 AMDT 25A.

Sioux City

Sioux Gateway
Iowa
NDB RWY 31 AMDT 23...
Effective: 01/30/92

FDC 2/0568/SUX/ FI/P Sioux Gateway, Sioux City, IA. NDB RWY 31 AMDT 23...Delete Notes... When CTR TWR..thru..118.7. This becomes NDB RWY 31 AMDT 23A.

Sioux City

Sioux Gateway
Iowa
RNAV RWY 17 AMDT 3...
Effective: 01/30/92

FDC 2/0569/SUX/ FI/P Sioux Gateway, Sioux City, IA. RNAV RWY 17 AMDT 3...Delete Notes... When CTR TWR..thru..118.7. This becomes RNAV RWY 17 AMDT 3A.

Sioux City

Sioux Gateway
Iowa
RNAV RWY 35 AMDT 6...
Effective: 01/30/92

FDC 2/0570/SUX/ FI/P Sioux Gateway, Sioux City, IA. RNAV RWY 35 AMDT 6...Delete Notes... When CTR TWR..thru..118.7. This becomes RNAV RWY 35 AMDT 6A.

Sioux City

Sioux Gateway
Iowa
VOR/DME or TACAN RWY 13 AMDT 17...
Effective: 01/30/92

FDC 2/0583/SUX/ FI/P Sioux Gateway, Sioux City, IA. VOR/DME or TACAN RWY 13 AMDT 17...TRML RTE SUX R–238/19 DME to SUX R–311/19 DME MIN ALT 4500. Delete Notes... When CTR TWR..thru..AOT. Apply to CAT C. Add Note...CAT C INOP Table does not apply. This becomes VOR/DME or TACAN RWY 13 AMDT 17A.

Sioux City

Sioux Gateway
Iowa
NDB RWY 13 AMDT 15...
Effective: 01/31/92

FDC 2/0584/SUX/ FI/P Sioux Gateway, Sioux City, IA. NDB RWY 13 AMDT 15...Delete Notes... When CTL TWR..thru.. Apply to CAT C. Add Note...CAT C INOP table does not apply. This becomes NDB RWY 13 AMDT 15A.

Algona

Algona Muni
Iowa
VOR/DME–A AMDT 4...
Effective: 01/31/92

FDC 2/0612/AXA/ FI/P Algona Muni, Algona, IA. VOR/DME–A AMDT 4...PROC NA at night. This becomes VOR/DME–A AMDT 4A.

Algona

Algona Muni
Iowa
NDB RWY 12 AMDT 3...
Effective: 01/31/92

FDC 2/0613/AXA/ FI/P Algona Muni, Algona, IA. NDB RWY 12 AMDT 3...PROC NA at night. This becomes NDB RWY 12 AMDT 3A.

Hampton

Hampton Muni
Iowa
NDB RWY 17 AMDT 3A...
Effective: 01/31/92

FDC 2/0616/HPT/ FI/P Hampton Muni, Hampton, IA. NDB RWY 17 AMDT 3A...S–17/CIRCLING MDA/HAT(HAA) All CATS 2120/944(944). VIS CAT A/B 1¼, C 2¾. This becomes NDB RWY 17 AMDT 3B.

Emmetsburg

Emmetsburg Muni
Iowa
NDB RWY 31 AMDT 1...
Effective: 01/31/92

FDC 2/0618/EGQ/ FI/P Emmetsburg Muni, Emmetsburg, IA. NDB RWY 31 AMDT 1...CNL TRML RTE from FRM VOR/DME to EGQ NDB, and Evert Int to EQG NDB. This becomes NDB RWY 31 AMDT 1A.

Emmetsburg

Emmetsburg Muni
Iowa
NDB RWY 13 AMDT 1...
Effective: 01/31/92

FDC 2/0619/EGQ/ FI/P Emmetsburg Muni, Emmetsburg, IA. NDB RWY 31 AMDT 1...CNL TRML RTE from FRM VOR/DME to EGQ NDB, and Evert Int to EQG NDB. This becomes NDB RWY 31 AMDT 1A.

Hampton

Hampton Muni
Iowa
RNVA RWY 17 AMDT 1...
Effective: 01/31/92

FDC 2/0629/HPT/ FI/P Hampton Muni, Hampton, IA. RNAV RWY 17 AMDT 1...S–17/Circling MDA/HAT(HAA) all CATS 2020/844(844), VIS CAT C 2 1/2. Horizontal DSTC MDA to MAP on GS 2.5 Miles. Delete...Activate MIRL 17–35 CTAF. Change TDZE to 1176. This is RNAV RWY 17 AMDT 1A.

Storm Lake

Storm Lake Muni
Iowa
NDB RWY 35, ORIG...
Effective: 01/31/92

FDC 2/0659/SLB/ FI/P Storm Lake Muni, Storm Lake IA. NDB RWY 35, Orig...Missed approach climb to 3000 then right turn direct SLB NDB and hold. Delete... TRML RTE Evert Int to Storm Lake NDB; Note... obtain LCL ALSTG..thru..13–31 CTAF. Add note... Obtain LCL ALSTG on CTAF, when not received use Fort Dodge ALSTG. Add Fort Dodge MIN... S–35 MDA/HA all CATS 2160/677, VIS A/B 1, C 2, D 2 1/4. Circling MDA/HAA CATS A/B/C 2160/672, D 2240/752, VIS CAT A/B 1,C 2, D 2 1/2. This becomes NDB RWY 35 ORIG A.

Jefferson

Jefferson Muni
Iowa
NDB RWY 32 AMDT 3...
Effective: 02/12/92

FDC 2/0826/EFW/ FI/P Jefferson, Muni, Jefferson, IA. NDB RWY 32 AMDT 3...S–32 All CATS MDA/HAT 1800/752, VIS CAT B 1 1/4, C 2 1/4. Circling CAT A MDA/HAA 1880/752, Delete Note...Activate.. Thru..122.8. This becomes NDB RWY 32 AMDT 3A.

Sanford

Sanford Muni
Maine
ILS RWY 7 ORIG...
Effective: 01/31/92

FDC 2/0580/SFM/ FI/P Sanford Muni, Sanford, ME. ILS RWY 7 Orig...Change SANFD INT/OM/ENE 11.1 DME to SANFD INT/LOM/ENE 11.1 DME. LOM Identifier SF, frequency 349 KHZ. This becomes ILS RWY 7 Orig A.

Escanaba

Delta County
Michigan
ILS/DME RWY 9 AMDT 3...
Effective: 02/10/92
This corrects TL 92–03

FDC 2/0792/ESC/ FI/P Delta County, Escanaba, MI. ILS/DME RWY 9 ADMT 3...Delete Notes, "When Control Zone...Thru...Increase MDA's 240 feet.", "Activate MALSR...Thru...VASI RWYS 18–36 CTAF.", "Alternate minimums NA...Thru...Weather reporting service." Add Note, "If local altimeter not received, use Marquette Altimeter setting and increase all MDA'S 240 feet." Alternate minimums standard, ILS CAT D 700–2. This is ILS/DME RWY 9 ADMT 3A.

Akron

Akron-Canton Regional
Ohio
ILS RWY 23 AMDT 9...
Effective: 01/13/92
This corrects NOTAM in TL 92–3.

FDC 2/0187/CAK/ FI/P Akron-Canton Regional, Akron, OH. ILS RWY 23 AMDT 9...Add Note, "Auto-Pilot coupled approach NA below 1574 Ft. "This is ILS RWY 23 AMDT 9A.

Carrollton

Carroll County-Tolson
Ohio
NDB RWY 25 AMDT 5...
Effective: 02/03/92

FDC 2/0644/TSO/ FI/P Carroll County-Tolson, Carrollton, OH. NDB RWY 25 AMDT 5... Minimums Cat C and D NA. This is NDB RWY 25 AMDT 5A.

Pageland

Pageland
South Carolina
NDB RWY 23 ORIG...
Effective: 01/30/92

FDC 2/0550/PYG/ FI/P Pageland, Pageland, SC. NDB RWY 23 Orig... MSA within 25 miles PYG NDB 2300. This becomes NDB Orig A.

Winchester

Winchester Muni
Tennessee
NDB RWY 18 AMDT 4...
Effective: 01/29/92

FDC 2/0519/BGF/ FI/P Winchester Muni, Winchester, TN. NDB RWY 18 AMDT 4...Delect Feeder Route Coals to BGF NDB. This becomes NDB RWY 18 AMDT 4A.

Smyrna

Smyrna
Tennessee
NDB RWY 32 AMDT 7...
Effective: 01/29/92

FDC 2/0520/MQY/ FI/P Smyrna, Smyrna, TN. NDB RWY 32 AMDT 7...Delete Note...Activate MALSR RWY 32 and HIRL RWYS 14–32, 1–19-CATF. This becomes NDB RWY 32 AMDT 7A.

Smyrna

Smyrna
Tennessee
VOR/DME RWY 32 AMDT 11...
Effective: 01/29/92

FDC 2/0521/MQY/ FI/P Smyrna, Smyrna, TN. VOR/DME RWY 32 AMDT 11...Delete note...Activate MALSR RWY 32 and HIRL RWYS 14–32, 1–19—CTAF. This becomes VOR/DME RWY 32 AMDT 11A.

Smyrna

Smyrna
Tennessee
ILS RWY 32 AMDT 4...
Effective: 01/29/92

FDC 2/0522/MQY/ FI/P Smyrna, Smyrna, TN. ILS RWY 32 AMDT 4...Delete note...Activate MALSR RWY 32 and HIRL RWYS 14–32, 1–19—CTAF. This becomes ILS RWY 32 AMDT 4A.

Selmer

Robert Sibley
Tennessee
NDB RWY 16 AMDT 4...
Effective: 01/29/92

FDC 2/0523/SZY/ FI/P Robert Sibley, Selmer, TN. NDB RWY 16 AMDT 4...Change all reference RWY 16–34 to RWY 17–35. This becomes NDB RWY 17AMDT 4A.

Smyrna

Smyrna
Tennessee
VOR/DME RWY 14 AMDT 5...
Effective: 01/29/92

FDC 2/0524/MQY/ FI/P Smyrna, Smyrna, TN. VOR/DME RWY 14 AMDT 5...Delete note...Activate MALSR RWY 32 and HIRL RWYS 14–32, 1–19—CTAF. This becomes VOR/DME RWY 14 AMDT 5A.

Dyersburg

Dyersburg Muni
Tennessee
VOR/DME RWY 4 AMDT 1...
Effective: 01/29/92

FDC 2/0525/DYR/ FI/P Dyersburg Muni, Dyersburg, TN. VOR/DME RWY 4 AMDT 1...Change note to read... If LCL ALSTB not received, use Jackson ALSTG and increase all MDAS 140 ft. This becomes VOR/DME RWY 4 AMDT 1A.

Columbia/Mount Pleasant

Maury County
Tennessee
NDB RWY 23 AMDT 3...
Effective: 01/29/92

FDC 2/0526/MRC/ FI/P Maury County, Columbia/Mount Pleasant, TN. NDB RWY 23 AMDT 3...Change TDZE/ ARPT ELEV 677. S–23—MDA 1320/HAT 643 All CATS, VIS CAT A/B 3/4, CAT C 1¾, CAT D 2. Circling MDA 1320/HAA 643 VIS CAT A/B 1, MDA 1360/HAA 683 CAT C/D VIS CAT C 2, CAT D 2¼. Change note to read... If LCL ALSTG not received, use Nashville ALSTG and increase all MDAS 200 Ft. INOP table does not apply to CAT C. This becomes NDB RWY 23 AMDT 3A.

Columbia/Mount Pleasant

Maury County
Tennessee
SDF RWY 23 AMDT 4...
Effective: 01/29/92

FDC 2/0527/MRC/ FI/P Maury County, Columbia/Mount Pleasant, TN. SDF RWY 23 AMDT 4...Change TDZE/ ARPT 677. S–23—HAT 483 All CATS. Circling HAA 603 CATS A/B, 683 CATS C/D. This becomes SDF RWY 23 AMDT 4A.

Waverly

Humphreys County
Tennessee
VOR/DME–A AMDT2...
Effective: 01/30/92

FDC 2/0554/OM5/ FI/P Humphreys County, Waverly, TN. VOR/DME–A AMDT 2...TRML RTE from GHM VORTAC to GHM 7 DME MIN ALT 4000. This becomes VOR/DME–A AMDT 2A.

Waverly

Humphreys County
Tennessee
NDB RWY 21 AMDT 2...
Effective: 01/30/92

FDC 2/0555/OM5/ FI/P Humphreys County, Waverly, TN. NDB RWY 21 AMDT 2...TRML RTE from GHM VORTAC to AEY NDB MIN ALT 4000. This becomes NDB RWY 21 AMDT 2A.

Nashville

Nashville Intl
Tennessee
ILS RWY 31 AMDT 6...
Effective: 01/30/92

FDC 2/0557/BNA/ FI/P Nashville Intl, Nashville, TN. ILS RWY 31 AMDT 6...TCH 55. This becomes ILS RWY 31 AMDT 6A.

[FR Doc. 92-4227 Filed 2-24-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 97

[Docket No. 26779; Amdt. No. 1480]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: Effective: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Ofice of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS-420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impratical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this admendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (Air), Standard instrument approaches, Weather.

Issued in Washington, DC, on February 14, 1992.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. App. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

* * **Effective April 30, 1992*

Camden, AR—Harrell Field, VOR/DME RWY 36, Amdt. 7

Hot Springs, AR—Memorial Field, VOR-1 RWY 5, Amdt. 15

Hot Springs, AR—Memorial Field, VOR-2 RWY 5, Amdt. 3

Hot Springs, AR—Memorial Field, NDB RWY 5, Amdt. 6

Ukiah, CA—Ukiah Muni, LOC RWY 15, Amdt. 5

Melbourne, FL—Melbourne Regional, VOR RWY 9R, Amdt. 19

Melbourne, FL—Melbourne Regional, ILS RWY 9R, Amdt. 9

Junction City, KS—Freeman Field, NDB-B, Amdt. 2

Madisonville, KY—Madisonville Muni, VOR RWY 23, Amdt. 12

Madisonville, KY—Madisonville Muni, VOR/DME RNAV RWY 23, Amdt. 3

Paducah, KY—Farrington Airpark, VOR/DME-B, Amdt. 3, Cancelled

Cape Girardeau, MO—Cape Girardeau Muni, VOR RWY 2, Amdt. 9

Cape Girardeau, MO—Cape Girardeau Muni, LOC/DME BC RWY 28, Amdt. 5

Cape Girardeau, MO—Cape Girardeau Muni, NDB RWY 10, Amdt. 8

Cape Girardeau, MO—Cape Girardeau Muni, ILS RWY 10, Amdt. 9

Fredericktown, MO—Fredericktown Muni, VOR-B, Amdt. 1

Fredericktown, MO—Fredericktown Muni, VOR/DME RWY 1, Amdt. 1

Broken Bow, NE—Broken Bow Muni, VOR RWY 14, Amdt. 3

Broken Bow, NE—Broken Bow Muni, NDB RWY 14, Amdt. 7

Norfolk, NE—Karl Stefan Memorial, VOR RWY 1, Amdt. 6

Norfolk, NE—Karl Stefan Memorial, VOR RWY 13, Amdt. 6

Norfolk, NE—Karl Stefan Memorial, VOR RWY 19, Amdt. 6

Norfolk, NE—Karl Stefan Memorial, VOR RWY 31, Amdt. 6

Mesquite, NV—Mesquite, VOR/DME-A, Orig.

Cross Keys, NJ—Cross Keys, VOR RWY 9, Amdt. 5

Belen, NM—Alexander Muni, VOR/DME-A, Amdt. 1

Binghamton, NY—Edwin A. Link Field/Broome Co., ILS RWY 16, Amdt. 6

Wurtsboro, NY—Wurtsboro-Sullivan County, VOR-A, Amdt. 2, Cancelled

Wurtsboro, NY—Wurtsboro-Sullivan County, VOR/DME RWY 5, Orig.

Ashtabula, OH—Ashtabula County, VOR RWY 8, Orig., Cancelled

Ashtabula, OH—Ashtabula County, VOR RWY 8, Orig.

Ashtabula, OH—Ashtabula County, VOR/DME RWY 26, Amdt. 6

Ashtabula, OH—Ashtabula County, VOR/DME RNAV RWY 26, Amdt. 6

Columbus, OH—Port Columbus Intl, LOC BC RWY 28R, Amdt. 6

Columbus, OH—Port Columbus Intl, NDB RWY 10L, Amdt. 7

Columbus, OH—Port Columbus Intl, NDB RWY 10R, Amdt. 7

Columbus, OH—Port Columbus Intl, NDB RWY 28L, Amdt. 13

Columbus, OH—Port Columbus Intl, ILS RWY 10L, Amdt. 15

Columbus, OH—Port Columbus Intl, ILS RWY 10R, Amdt. 6

Columbus, OH—Port Columbus Intl, ILS RWY 28L, Amdt. 26

Columbus, OH—Port Columbus Intl, RADAR-1, Amdt. 17

Hebron, OH—Buckeye Executive, VOR-A, Amdt. 5

Annville, PA—Millard, VOR/DME-A, Amdt. 3

Arlington, TN—Arlington Muni, LOC RWY 15, Amdt. 1

Arlington, TN—Arlington Muni, NDB RWY 15, Amdt. 7

Dyersburg, TN—Dyersburg Muni, VOR-A, Amdt. 16

Dyersburg, TN—Dyersburg Muni, VOR/DME RWY 4, Amdt. 2

Savannah, TN—Savannah-Hardin County, VOR/DME RWY 18, Amdt. 5

Savannah, TN—Savannah-Hardin County, NDB RWY 18, Amdt. 3

Dallas, TX—Redbird, VOR RWY 17, Amdt. 5

Dallas, TX—Redbird, VOR RWY 31, Amdt. 10

Dallas, TX—Redbird, NDB RWY 35, Amdt. 7

Dallas, TX—Redbird, ILS RWY 31, Amdt. 5

New Braunfels, TX—New Braunfels Muni, VOR/DME-A, Amdt. 8

New Braunfels, TX—New Braunfels Muni, NDB RWY 22, Amdt. 1

New Braunfels, TX—New Braunfels Muni, VOR/DME RNAV RWY 13, Amdt. 2

New Braunfels, TX—New Braunfels Muni, VOR/DME RNAV RWY 31, Amdt. 2

Abingdon, VA—Virginia Highlands, LOC RWY 24, Amdt. 1

* * * *Effective April 2, 1992*

Covington/Cincinnati, OH, KY—Cincinnati/Northern Kentucky International, ILS RWY 18L, Amdt. 1

Covington/Cincinnati, OH, KY—Cincinnati/Northern Kentucky International, ILS RWY 36R, Amdt. 2

Frankfort, KY—Capital City, RADAR-1, Orig.

Allegan, MI—Padgham Field, VOR RWY 28, Amdt. 13

Kalamazoo, MI—Kalamazoo/Battle Creek Intl, VOR RWY 17, Amdt. 17

Kalamazoo, MI—Kalamazoo/Battle Creek Intl, VOR RWY 23, Amdt. 17

Kalamazoo, MI—Kalamazoo/Battle Creek Intl, VOR RWY 35, Amdt. 16

Kalamazoo, MI—Kalamazoo/Battle Creek Intl, LOC BC RWY 17, Amdt. 18

Kalamazoo, MI—Kalamazoo/Battle Creek Intl, NDB RWY 35, Amdt. 18

Kalamazoo, MI—Kalamazoo/Battle Creek Intl, ILS RWY 35, Amdt. 20

Kalamazoo, MI—Kalamazoo/Battle Creek Intl, RADAR-1, Amdt. 8

Columbus-West Point Starkville, MS—Golden Triangle Regional, ILS RWY 18, Amdt. 6

Morganton, NC—Morganton-Lenoir, RNAV RWY 3, Amdt. 3, Cancelled

Albany, OR—Albany Muni, VOR/DME-A, Amdt. 1

Jacksboro, TN—Campbell County, NDB RWY 23, Amdt. 4

Nashville, TN—Nashville International, ILS RWY 20L, Amdt. 2

* * * *Effective February 12, 1992*

East Stroudsburg, PA—Birchwood-Pocono Airpark, VOR/DME RWY 32, Amdt. 3

[FR Doc. 92-4228 Filed 2-24-92; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 5, 225, 500, 510, 511, 514, 558, 570, and 571

[Docket No. 91N-506]

Center for Veterinary Medicine Address Change; Editorial Amendments

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending certain of its regulations to reflect the change of address for the Center for Veterinary Medicine (CVM). FDA is also editorially changing the name "Office of Compliance" in 21 CFR 570.6 to "Office of Surveillance and Compliance." This action will ensure public notice of the current address of CVM and improve the accuracy and clarity of the regulations.

EFFECTIVE DATE: February 25, 1992.

FOR FURTHER INFORMATION CONTACT: Robert S. Brigham, Center for Veterinary Medicine (HFV-238), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-295-8737.

SUPPLEMENTARY INFORMATION: FDA is revising certain of its regulations to correct the address for CVM due to its recent relocation to 7500 Standish Pl., Rockville, MD 20855. The affected regulations are: 21 CFR 5.100, 225.115(b)(2), 500.27(d), 500.51(c), 510.112(e), 510.302(d), 510.310(f), 511.1(e), 514.1(d)(2), 558.5(c)(2), 558.15 (d) and (e), 570.6(e), and 571.1(c). FDA is also editorially changing in § 570.6 the name "Office of Compliance" to "Office of Surveillance and Compliance." These amendments are nonsubstantive, and notice and public procedure and delayed effective date are unnecessary (5 U.S.C. 553 (b)(3)(B) and (d)).

List of Subjects

21 CFR Part 5

Authority delegations (Government agencies), Imports, Organization and functions (Government agencies).

21 CFR Part 225

Animal drugs, Animal feeds, Labeling, Packaging and containers, Reporting and recordkeeping requirements.

21 CFR Part 500

Animal drugs, Animal feeds, Cancer, Labeling, Polychlorinated biphenyls (PCB's).

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 511

Animal drugs, Medical research, Reporting and recordkeeping requirements.

21 CFR Part 514

Administrative practice and procedure, Animal drugs, Confidential business information, Reporting and recordkeeping requirements.

21 CFR Part 558

Animal drugs, Animal feeds.

21 CFR Part 570

Animal feeds, Animal foods, Food additives.

21 CFR Part 571

Administrative practice and procedure, Animal feeds, Animal foods, Food additives.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 5, 225, 500, 510, 511, 514, 558, 570, and 571 are amended as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. The authority citation for 21 CFR part 5 continues to read as follows:

Authority: 5 U.S.C. 504, 552, App. 2; 7 U.S.C. 2271; 15 U.S.C. 638, 1261–1282, 3701–3711a; secs. 2–12 of the Fair Packaging and Labeling Act (15 U.S.C. 1451–1461); 21 U.S.C. 41–50; 61–63, 141–149, 467f, 679(b), 801–886, 1031–1309; secs. 201–903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321–394); 35 U.S.C. 156; secs. 301, 302, 303, 307, 310, 311, 351, 352, 354–360F, 361, 362, 1701–1706, 2101–2672 of the Public Health Service Act (42 U.S.C. 241, 242, 242a, 242l, 242n, 243, 262, 263, 263b–263n, 264, 265, 300u–300u–5, 300aa–1–300ff); 42 U.S.C. 1395y, 3246b, 4332, 4831(a), 10007–10008; E.O. 11490, 11921, and 12591.

§ 5.100 [Amended]

2. Section 5.100 *Headquarters* is amended in footnote number one by removing "5600 Fishers Lane, Rockville, MD 20857" and replacing it with "7500 Standish Pl., Rockville, MD 20855".

PART 225—CURRENT GOOD MANUFACTURING PRACTICE FOR MEDICATED FEEDS

3. The authority citation for 21 CFR part 225 continues to read as follows:

Authority: Secs. 501, 502, 512, 701, 704 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351, 352, 360b, 371, 374).

§ 225.115 [Amended]

4. Section 225.115 *Complaint files* is amended in paragraph (b)(2) by removing "5600 Fishers Lane, Rockville, MD 20857" and replacing it with "7500 Standish Pl., Rockville, MD 20855".

PART 500—GENERAL

5. The authority citation for 21 CFR part 500 continues to read as follows:

Authority: Secs. 201, 301, 402, 403, 409, 501, 502, 503, 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 342, 343, 348, 351, 352, 353, 360b, 371).

§ 500.27 [Amended]

6. Section 500.27 *Methylene blue-containing drugs for use in animals* is amended in paragraph (d) by removing "5600 Fishers Lane, Rockville, MD 20857" and replacing it with "7500 Standish Pl., Rockville, MD 20855".

§ 500.51 [Amended]

7. Section 500.51 *Labeling of animal drugs; misbranding* is amended in paragraph (c) by removing "5600 Fishers Lane, Rockville, MD 20857" and replacing it with "7500 Standish Pl., Rockville, MD 20855".

PART 510—NEW ANIMAL DRUGS

8. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 376).

§ 510.112 [Amended]

9. Section 510.112 *Antibiotics used in veterinary medicine and for nonmedical purposes; required data* is amended in paragraph (e) by removing "5600 Fishers Lane, Rockville, MD 20857" and replacing it with "7500 Standish Pl., Rockville, MD 20855".

§ 510.302 [Amended]

10. Section 510.302 *Reporting forms* is amended in paragraph (d) by removing "5600 Fishers Lane, Rockville, MD 20857" and replacing it with "7500 Standish Pl., Rockville, MD 20855".

§ 510.310 [Amended]

11. Section 510.310 *Records and reports for new animal drugs approved before June 20, 1963* is amended in paragraph (f) by removing "5600 Fishers Lane, Rockville, MD 20857" and replacing it with "7500 Standish Pl., Rockville, MD 20855".

PART 511—NEW ANIMAL DRUGS FOR INVESTIGATIONAL USE

12. The authority citation for 21 CFR part 511 continues to read as follows:

Authority: Secs. 201, 501, 502, 503, 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 360b, 371).

§ 511.1 [Amended]

13. Section 511.1 *New animal drugs for investigational use exempt from section 512(a) of the act* is amended in paragraph (e) by removing "5600 Fishers Lane, Rockville, MD 20857" and replacing it with "7500 Standish Pl., Rockville, MD 20855".

PART 514—NEW ANIMAL DRUG APPLICATIONS

14. The authority citation for 21 CFR part 514 continues to read as follows:

Authority: Secs. 501, 502, 512, 701, 706, 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351, 352, 360b, 371, 376, 381).

§ 514.1 [Amended]

15. Section 514.1 *Applications* is amended in paragraph (d)(2) by removing "5600 Fishers Lane, Rockville, MD 20857" and replacing it with "7500 Standish Pl., Rockville, MD 20855".

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

16. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

§ 558.5 [Amended]

17. Section 558.5 *New animal drug requirements for liquid Type B feeds* is amended in paragraph (c)(2) by removing "5600 Fishers Lane, Rockville, MD 20857" and replacing it with "7500 Standish Pl., Rockville, MD 20855".

§ 558.15 [Amended]

18. Section 558.15 *Antibiotic, nitrofuran, and sulfonamide drugs in the*

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feed of animals is amended in paragraphs (d) and (e) by removing "5600 Fishers Lane, Rockville, MD 20857" and replacing it with "7500 Standish Pl., Rockville, MD 20855".

PART 570—FOOD ADDITIVES

19. The authority citation for 21 CFR part 570 continues to read as follows:

Authority: Secs. 201, 401, 402, 408, 409, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 341, 342, 346a, 348, 371).

§ 570.6 [Amended]

20. Section 570.6 *Opinion letters on food additive status* is amended in paragraph (e) by removing "Office of Compliance" and replacing it with "Office of Surveillance and Compliance", and by removing "5600 Fishers Lane, Rockville, MD 20857" and replacing it with "7500 Standish Pl., Rockville, MD 20855".

PART 571—FOOD ADDITIVE PETITIONS

21. The authority citation for 21 CFR part 571 continues to read as follows:

Authority: Secs. 201, 402, 409, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 371); sec. 301 of the Public Health Service Act (42 U.S.C. 241).

§ 571.1 [Amended]

22. Section 571.1 *Petitions* is amended in paragraph (c) by removing "5600 Fishers Lane, Rockville, MD 20857" and replacing it with "7500 Standish Pl., Rockville, MD 20855".

Dated: February 19, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92–4274 Filed 2–24–92; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 184

[Docket No. 89G–0126]

Direct Food Substances Affirmed as Generally Recognized as Safe; Chymosin Enzyme Preparation Derived From Genetically Modified Kluyveromyces Marxianus (Hansen) Van Der Walt Variety Lactis (Dombrowski) Johannsen et Van Der Walt

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulations to affirm that the use of chymosin preparation derived by fermentation from genetically modified *Kluyveromyces marxianus* (Hansen) Van Der Walt variety *lactis* (Dombrowski) Johannsen et Van Der Walt (*K. marxianus* var. *lactis*) is generally recognized as safe (GRAS). This action is in response to a petition filed by Gist-brocades, Inc.

EFFECTIVE DATE: February 25, 1992.

FOR FURTHER INFORMATION CONTACT: Vincent Zenger, Center for Food Safety and Applied Nutrition (HFF–333), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the procedures described in § 170.35 (21 CFR 170.35), Gist-brocades, Inc., P.O. Box 241068, Charlotte, NC 28224, submitted a petition (GRASP 9G0349) requesting that its chymosin preparation (referred to as "chymosin" in the notice of filing of the Gist-brocades petition that FDA published in the **Federal Register** of May 10, 1989 (54 FR 20203)), which is derived from the fermentation of genetically modified *K. marxianus* var. *lactis*, be affirmed as GRAS for use as a direct human food ingredient. Chymosin is the principal enzyme in rennet, a GRAS food ingredient used for its milk-clotting activity, and is primarily responsible for that activity. Chymosin preparation is intended for use as a substitute for rennet.

To avoid confusion between chymosin, the enzyme, and chymosin, the enzyme preparation (in which chymosin is the principal active component, but which also may contain impurities), this document will use the term "chymosin" to refer to the enzyme and "chymosin preparation" to refer to the fermentation-derived chymosin enzyme preparation.

In the May 10, 1989, notice of filing, FDA gave interested parties an opportunity to submit comments to the Dockets Management branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. In response to the notice, FDA received one comment which was from a cheese manufacturer, and expressed a desire to have available an alternate source of chymosin. The comment contained no information relevant to the safety, functionality, environmental impact, or the GRAS status of the food use of the subject chymosin preparation. Thus, the comment requires no response by FDA.

II. Standards for GRAS Affirmation

Pursuant to § 170.30 (21 CFR 170.30), general recognition of safety may be based only on the views of experts qualified by scientific training and experience to evaluate the safety of substances. The basis of such views may be either: (1) Scientific procedures, or (2) in the case of a substance used in food prior to January 1, 1958, through experience based on common use in food. General recognition of safety based upon scientific procedures requires the same quantity and quality of scientific evidence required for approval of the substance as a food additive and ordinarily is to be based upon published studies, which may be corroborated by unpublished studies and other data and information (§ 170.30(b)). In its petition, Gist-brocades, Inc., relies upon scientific procedures to establish that its chymosin preparation is GRAS.

Rennet is an animal-derived enzyme preparation that is GRAS as specified in § 184.1685 (21 CFR 184.1685). Therefore, if published information shows that the principal active component of chymosin preparation is the same as that of rennet, and that the other components (i.e., the impurities) of the chymosin preparation, which may differ from the other components (i.e., the impurities) of rennet, do not render the use of the substance unsafe, then chymosin derived from *K. marxianus* var. *lactis* would present no more safety concern than rennet. If this is the case, FDA can affirm the chymosin preparation derived from *K. marxianus* var. *lactis* as GRAS for use as a replacement for rennet.

III. Safety

A. Introduction

Chymosin, also known as rennin, is the principal milk-clotting enzyme present in rennet (Ref. 1). Rennet is an enzyme preparation that will clot milk, forming curds and whey (Refs. 1 and 2). It is used to make cheese and other dairy products. Rennet has a long and extensive history of safe use in food and has been affirmed by FDA as GRAS in § 184.1685 (Refs. 3 and 4).

Food-grade rennet is an enzyme preparation that is isolated from the fourth stomach of calves, kids, or lambs. Commercially, it is generally derived by the aqueous extraction of unweaned calf stomachs. The aqueous extraction step is followed by purification steps and an acidification step to cleave prochymosin (the inactive precursor of chymosin) in the rennet into chymosin (Ref. 1).

There are two predominant forms of calf chymosin, chymosin A and chymosin B (Ref. 1). Foltmann et al. (Ref. 5) have shown that chymosin A and chymosin B differ by a single amino acid. In this document, the term "chymosin" refers to either, or both, chymosin A and chymosin B.

Techniques developed in the early 1970's (frequently termed "recombinant DNA technology," or "cloning techniques") enable scientists to locate and to obtain a segment of deoxyribonucleic acid (DNA) containing a gene of interest. They are able to move that DNA segment into a vector (a DNA molecule that is easy to manipulate) and then introduce it into a new host organism where it can be correctly expressed (that is, produce the protein that it would have produced in the original organism). These techniques are well known to molecular biologists (Refs. 6 and 7).

B. Chymosin Component

Using cloning techniques, scientists in several laboratories have identified in the calf the prochymosin gene from which the chymosin in rennet is produced (Refs. 8, 9, and 10). Scientists have transferred the calf prochymosin gene into *K. marxianus* var. *lactis* as well as into other microorganisms (Refs. 8 through 16).

These scientists have used a variety of techniques to demonstrate that they have cloned full-length copies of the correct gene. Such techniques include: (1) DNA sequencing, whereby the putative cloned prochymosin gene was shown to have the nucleotide sequence that encodes the amino acid sequence of prochymosin (Refs. 8, 9, and 10); (2) nucleic acid hybridization, whereby the cloned DNA fragments or the ribonucleic acid molecules transcribed (copied) from the DNA fragments were shown to hybridize (i.e., specifically bind) with complementary DNA in the prochymosin gene (Refs. 9 through 12, 14, and 15); and (3) physical mapping, whereby the cloned DNA segments were shown to be large enough to contain the prochymosin gene and, when specifically cut with appropriate DNA cutting enzymes and run on gels to separate the resulting DNA fragments by size, were shown to yield the pattern of DNA fragments expected from the prochymosin gene (Refs. 9 through 12, and 14 through 16).

The published evidence establishes that the new host organisms are able to use the prochymosin gene to produce prochymosin that has the same molecular weight as the prochymosin found in calf rennet (Refs. 12, 14, and 15 through 18). This evidence also establishes that the prochymosin that is produced (cloned prochymosin) can be cleaved into chymosin (cloned chymosin) that has the same molecular weight and the same functional activity as chymosin found in calf rennet (Refs. 11, 12, and 15 through 19).

The molecular weights of prochymosin and chymosin were assayed, using sodium dodecyl sulfate polyacrylamide gel electrophoresis, a technique that allows determination of the comparative molecular weight of proteins based on their rate of migration through the gel. Cloned prochymosin was found to migrate through these gels at the same rate as the prochymosin derived from calves (Refs. 12, 14, and 15 through 18). Cloned chymosin was found to migrate through these gels at the same rate as the chymosin found in rennet (Refs. 11, 12 and 15 through 19).

The functional activity of chymosin that was measured was milk-clotting activity. Cloned chymosin was found to clot milk at the same rate as the chymosin in rennet under various temperatures, salt concentrations, and pH conditions (Refs. 11, 12, 14, 15 through 18, 20, and 21).

One safety concern raised by cloning is whether extraneous DNA, particularly DNA flanking the gene of interest which could potentially encode extraneous harmful proteins, may be cloned along with the gene of interest (i.e., the prochymosin gene).

As a matter of current good manufacturing practice, manufacturers using recombinant DNA technology must be sure that they have not inadvertently cloned extraneous protein-encoding DNA along with the prochymosin gene. Such assurance can come from reviewing the details of the cloning steps, such as the origin and sequence of all the DNA fragments, and from full characterization of the final genetic constructs via techniques such as DNA sequencing. The agency finds that the petition of Gist-brocades, Inc., contains information demonstrating that the firm conducted these steps and that the strain does not include extraneous protein-encoding DNA along with the prochymosin gene.

Furthermore, the amended regulation stipulates that the substance being affirmed as GRAS is one that is produced using a production strain that is nontoxigenic. (See § 184.1685(a)(3).) If the cloned DNA encodes a harmful substance that could render the enzyme preparation unsafe, the production strain would be considered toxigenic, and the substance produced would not be GRAS under § 184.1865(a)(3). Therefore, the agency finds that there is no basis for concern that the safety of the chymosin preparation will be compromised by contaminating proteins encoded by extraneous uncharacterized DNA cloned along with the prochymosin gene.

Based on the fact that published information demonstrates that chymosin produced from the cloned prochymosin gene has the same molecular weight and the same functional activity as the chymosin derived from calves, FDA concludes that the chymosin enzyme in this chymosin preparation is the same as the chymosin enzyme in calf rennet. Therefore, FDA concludes that the chymosin enzyme in this chymosin preparation is as safe as the chymosin enzyme in rennet.

C. Sources of Impurities

Enzyme preparations used in food-processing are not chemically pure but contain extraneous source (cellular and processing) materials. The nature and amounts of these materials in the finished enzyme preparation depend on the organism from which the enzyme preparation is produced (the source or production organism), the fermentation materials and methods used to grow the production organism, and the materials and methods used to generate the finished enzyme preparation.

Both the source material and the manufacturing methods for producing the chymosin preparation differ from those used to produce animal rennet. Therefore, the impurities in the chymosin preparation will differ from those in rennet. The question thus is whether the source material or manufacturing methods for the chymosin preparation will introduce impurities that would raise concerns about the safety of the preparation.

1. Processing Steps

Researchers in several laboratories have published papers describing methods that they used for producing chymosin preparation from microorganisms containing the calf prochymosin gene (Refs. 11, 12, 14 through 19, and 22). The enzyme that is the subject of this petition is secreted from the production organism during fermentation and therefore, is an extracellular enzyme product. Thus, it is not necessary to disrupt the cells to recover the enzyme. Extracellular enzymes account for approximately three-fourths of the market for fermentation-derived enzymes, and the techniques used in their production and processing are well-known (Ref. 23). The processing methods described by Gist-brocades, Inc., in this petition do not differ in any significant way from the published methods used to produce extracellular enzymes generally. The key steps described by Gist-brocades, Inc., are summarized below.

K. marxianus var. *lactis* is grown in a liquid nutrient medium. The aerobic growth phase of the fermentation step is monitored and allowed to continue until laboratory analyses show that the maximum production of the desired enzyme activity has been achieved. The fermentation is stopped by lowering the pH of the fermentation broth to 2 by adding sulfuric acid and sodium benzoate. The low pH induces the conversion (autocatalysis) of prochymosin to chymosin. The cell material is separated from the chymosin-containing fraction of the broth by filtration. The supernatant is then sterilized by filtration and subjected to ultrafiltration to concentrate the chymosin to the desired enzymatic activity. The chymosin preparation is formulated with sodium chloride and stabilizers (Ref. 24).

FDA finds that the Gist-brocades manufacturing method does not require the use of any processing materials that are not GRAS or not approved food additives. Accordingly, in the amended regulation, the agency specifies that the substance being affirmed as GRAS is one that is produced using only processing materials that are GRAS substances or food additives approved for use in this type of process.

Therefore, the agency concludes that the manufacturing steps will not introduce impurities into the enzyme preparation that will adversely affect the safety of the chymosin preparation.

2. Production Organism

The source material for the chymosin in the chymosin preparation that is the subject of the final rule set forth below is the production organism *K. marxianus* var. *lactis*. The currently accepted classification of the organism is *K. marxianus* (Hansen) van der Walt variety *lactis* (Dombrowski) Johannsen et van der Walt (Refs. 25 through 27). In the regulation, this organism will be referred to as *K. marxianus* var. *lactis*. Previously, FDA reviewed the safety of the use of *K. marxianus* var. *lactis* (previously named *K. lactis*) as a source of lactase enzyme preparation and concluded that the organism is nonpathogenic and nontoxigenic, and thus, generally recognized as safe (21 CFR 184.1388).

The strain of *K. marxianus* var. *lactis* used in the production of the chymosin preparation that is the subject of the amendment of the regulation was genetically modified by the introduction of the prochymosin gene. The petitioner conducted several studies to determine whether the genetic modification of *K. marxianus* var. *lactis* to produce chymosin altered the safety of the organism; these studies are corroborative evidence of the organism's safety. In one study, the production organism was tested for pathogenicity in mice; this study confirmed that the genetic modification of the organism did not render the organism pathogenic. As additional corroborative evidence of the safety of the chymosin preparation, the petitioner submitted five unpublished in vivo toxicity studies in rats fed either the Gist-brocades chymosin preparation or cheese produced with this chymosin preparation. The studies were: (1) An acute oral toxicity study of the Gist-brocades chymosin preparation; (2) a short-term oral toxicity study with cheese made with the chymosin preparation added to the feed; (3) a 91-day subchronic oral toxicity study of the chymosin preparation; (4) a 91-day subchronic feeding study with cheese made using the chymosin preparation; and (5) a passive cutaneous anaphylaxis of the chymosin preparation. In these five studies, no significant adverse effects were observed in rats fed either the chymosin preparation or cheese manufactured with the chymosin preparation.

Some *K. marxianus* var. *lactis* strains, such as those that are used by Gist-brocades, Inc., and others to produce chymosin preparation, contain marker genes that encode resistance to clinically useful antibiotics. Such genes could potentially be transferred to other microorganisms with which the production strain or its DNA comes into contact. However, as previously described, the procedure used to manufacture the chymosin preparation eliminates most cellular material, reducing the likelihood of DNA contamination of the chymosin preparation. Additionally, the acid treatment step in the manufacturing process inactivates residual cells and degrades residual DNA, including marker genes, that remain in the enzyme preparation (Ref. 28).

As corroborative evidence that the enzyme preparation does not contain transformable DNA (that is, DNA that a microorganism can take up from its surroundings and functionally incorporate into its own DNA), Gist-brocades, Inc., submitted data from unpublished transformation experiments. In the transformation assay, bacterial cells were mixed with DNA under optimized conditions and assayed to see if they picked up the antibiotic resistance encoded by the DNA. In the case of the Gist-brocades enzyme preparation, cells mixed with the preparation did not become antibiotic-resistant (Ref. 29). Based on the foregoing evidence, FDA concludes that chymosin preparation manufactured in conformity with § 184.1685(a)(3) will not contain DNA encoding resistance to antibiotics at levels that would produce any safety concern.

Having considered the evidence concerning the processing steps and the production organism, FDA concludes that *K. marxianus* var. *lactis* is safe for use as a source of food-grade chymosin preparations, and that impurities resulting from its use in the production of the chymosin preparation will not affect the safety of that preparation.

IV. Specifications

The agency finds that, because the principal active ingredient of the chymosin preparation and rennet are the same, and because the impurities in chymosin preparation do not provide any basis for concern about the safe use of the preparation, the general requirements for enzyme preparations in § 184.1685(b) are adequate for defining minimum criteria for a food-grade chymosin preparation derived from *K marxianus* var. *lactis*.

V. Conclusion

The agency has evaluated all available information, and finds, based on the published and corroborative evidence discussed above, that the active principal ingredient in the chymosin preparation is the same as that in rennet, and that when the preparation is manufactured in accordance with § 184.1685(a)(3), the source organism and manufacturing process will not introduce impurities into the preparation that may render the preparation unsafe. Therefore, the agency concludes, based upon scientific procedures, that the chymosin preparation derived by fermentation from *K. marxianus* var. *lactis* and described in the regulation (21 CFR 184.1685(a)(3)) is GRAS for use as a replacement for rennet.

VI. Environmental Effects

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

VII. Economic Effects

In accordance with the Regulatory Flexibility Act, the agency considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that no significant impact on a substantial number of small entities would derive from this action.

In accordance with Executive Order 12291, FDA has analyzed the potential economic effects of this final rule. The agency has determined that the rule is not a major rule as defined by the Executive Order.

The agency's finding of no major economic impact and no significant impact on a substantial number of small entities, and the evidence supporting these findings, are contained in a threshold assessment which may be seen in the Dockets Management Branch (address above).

VIII. References

The following reference has been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 am. and 4 p.m., Monday through Friday.

1. Foltmann, B., "Prochymosin and Chymosin (Prorennin and Rennin)," Methods in Enzymology, 19:421–436, 1970.

2. Burgess, K., M. and Shaw, "Dairy," Industrial Enzymology, Godfrey, T., and J. Reichelt, editors, The Nature Press, New York, pp. 260–265, 1983.

3. **Federal Register**, 48 FR 51151, November 7, 1983.

4. **Federal Register**, 55 FR 10932, March 23, 1990.

5. Foltmann, B. et al., "The Primary Structure of Calf Chymosin," Journal of Biological Chemistry, 254:8447–8451, 1979.

6. Murray, K., "Genetic Engineering and Its Applications," Basic Biotechnology, Bu'Lock, J., and B. Kristiansen, editors, Academic Press, London, pp. 483–508, 1987.

7. Watson, J. D. et al., "Molecular Biology of the Gene," Benjamin/Cummings Publishing Co., Inc., Menlo Park, CA, pp. 65–94, 202–213, 1987.

8. Harris, T. J. R. et al., "Molecular Cloning and Nucleotide Sequence of cDNA Coding for Calf Preprochymosin," Nucleic Acids Research, 10:2177–2187, 1982.

9. Hidaka, M. et al., "Cloning and Structural Analysis of the Calf Prochymosin Gene," Gene, 43:197–203, 1986.

10. Moir, D. et al., "Molecular Cloning and Characterization of Double-stranded cDNA Coding for Bovine Chymosin," Gene, 19:127–138, 1982.

11. Cullen, D. et al., "Controlled expression and secretion of bovine chymosin in *Aspergillus nidulans*," Bio/Technology, 5:369–376, 1987.

12. Emtage, J. S. et al., "Synthesis of Calf Prochymosin (Prorennin) in *Escherichia coli*," Proceedings of the National Academy of Sciences, 80:3671–3675, 1983.

13. Hollenberg, C. P. et al., International Patent Application, "Cloning System for *Kluyveromyces* Species," No. WO 83/04050, pp. 1–41, 1983.

14. Goff, C. G. et al., "Expression of Calf Prochymosin in *Saccharomyces cerevisiae*," Gene, 27:35–46, 1984.

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16. Mellor, J. et al., "Efficient Synthesis of Enzymatically Active Calf Chymosin in *Saccharomyces cerevisiae*," Gene, 24:1–14, 1983.

17. Kawaguchi, Y. et al., "Production of Chymosin in *Escherichia coli* Cells and its Enzymatic Properties," Agricultural and Biological Chemistry, 51:1871–1877, 1987.

18. Marston, F. A. O. et al., "Purification of Calf Prochymosin (Prorennin) in *Escherichia coli*," Bio/Technology, 2:800–804, 1984.

19. Van den Berg, J. A. et al., "*Kluyveromyces* as a Host for Heterologous Gene Expression: Expression and Secretion of Prochymosin," Bio/Technology, 8:135–139, 1990.

20. Hicks, C. L., J. O'Leary, and J. Bucy, "Use of Recombinant Chymosin in the Manufacture of Cheddar and Colby Cheese," Journal of Dairy Science, 71:1127–1131, 1988.

21. O'Sullivan, M., and P. F. Fox, "Evaluation of Microbial Chymosin from Genetically Engineered *Kluyveromyces lactis*," Food Biotechnology, 5:19–32, 1991.

22. Van den Berg, J. A. et al., European Patent Application, "Kluyveromyces as a Host Strain," No. 88201632.2, Publication No. EP–O 301/670–A1, pp. 1–26, 1988.

23. Frost, G. M., and D. A. Moss, "Production of Enzymes by Fermentation," Biotechnology, vol. 7A, Rehm, H. J., and G. Reed, editors, VCH, New York, pp. 72–76, 1987.

24. Brummer, W., and G. Gunzer, "Laboratory Techniques of Enzyme Recovery," Biotechnology, vol. 7A, Rehm, H. J., and G. Reed, editors, VCH, New York, pp. 217–219 and 273, 1987.

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26. Van der Walt, J. P., "Genus 8 *Kluyveromyces* van de Walt emend. van der Walt," The Yeasts. A Taxonomic Study, 2d ed., Lodder, J., editor, North Holland Publishing Co., Amsterdam, pp. 316–327, 345–352, 1970.

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28. Lehninger, A. L., Biochemistry, Worth Publishers, New York, p. 256, 1970.

29. Petition 9G0349.

List of Subjects in 21 CFR Part 184

Food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 184 is amended as follows:

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

1. The authority citation for 21 CFR part 184 continues to read as follows:

Authority: Secs. 201, 402, 409, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 371).

2. Section 184.1685 is amended by adding new paragraph (a)(3) to read as follows:

§ 184.1685 Rennet (animal-derived) and chymosin preparation (fermentation-derived).

(a) * * *

(3) Chymosin preparation is a clear solution containing the active enzyme chymosin (E.C. 3.4.23.4). It is derived, via fermentation, from a nonpathogenic and nontoxigenic strain of *Kluyveromyces marxianus* variety *lactis*, containing the prochymosin gene. The prochymosin is secreted by cells into fermentation broth and converted to chymosin by acid treatment. All materials used in the processing and formulating of chymosin must be either generally recognized as safe (GRAS), or be food additives that have been approved by the Food and Drug Administration for this use.

* * * * *

Dated: February 13, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92–4226 Filed 2–24–92; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 200, 201, and 202

[Docket No. R-92-1496; FR-2623-C-03]

Introduction; Title I Property Improvement and Manufactured Home Loans; Approval of Lending Institutions; Reform of the Title I Program; Corrections

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule; corrections.

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SUMMARY: This document corrects certain editorial and typographical errors in the Department's final rule which was published in the Federal Register on October 18, 1991 (56 FR 52414). The October 18, 1991 final rule amended 24 CFR parts 200, 201, and 202 with regard to the insurance of lenders against losses sustained as a result of borrower defaults on property improvement and manufactured home loans.

EFFECTIVE DATE: November 18, 1991.

FOR FURTHER INFORMATION CONTACT: Robert J. Coyle, Director, Title I Insurance Division, room 9158, 451 Seventh Street SW., Washington, DC 20410. Telephone number (202) 708–2880, or (202) 708–4594 (TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: On October 18, 1991 (56 FR 52414), the Department published a final rule implementing major changes to reform the title I property improvement and manufactured home loan programs. The effective date of the final rule was November 18, 1991.

Since the final rule was published, the Department has discovered certain typographical and editorial errors in the amendatory instructions for several of the amendments made to 24 CFR part 201, and in §§ 201.26(a)(6)(i), 201.50(a), and 201.54(c)(1). This document corrects these errors.

In addition to these errors, the final rule also incorrectly cited the OMB control number for the information collection requirements in §§ 202.1, 202.3, 202.5, and 202.6 in the final rule. The OMB control number was incorrectly given as "2502–0328". The correct number is "2502–0017." This document makes this correction as well.

The preamble to the final rule, which provides background information on the program reforms, also contained a number of typographical and editorial errors. The Department discovered six typographical and editorial errors in the preamble, which the Department believes are important to identify and correct because these errors may be misleading as to the intended meaning of certain of the regulatory provisions. These preamble errors are corrected by this document.

Accordingly, the following corrections are made to FR Doc. 91–24721, published on October 18, 1991 at 56 FR 52414.

In the preamble, the following corrections are made:

1. On page 52414, in numbered paragraph 2 in both the first and second columns, the apostrophe after the word "dealers" is replaced by a comma.

2. On page 52414, in numbered paragraph 3 in both the first and second columns, the comma after the word "dealers" (the second time this word appears), is replaced by an apostrophe.

3. On page 52415, in the first full paragraph in the first column, the phrase "applying for approval" in the second sentence is replaced by "approved." This change is made to agree with the clear language on applicability of the net worth and line of credit requirements in the text of the regulation.

4. On page 52416, in the first full paragraph in the second column, the last sentence is corrected to read "Therefore, partnerships will not be eligible to be Title I lending institutions, unless they can show that they are permanent organizations having succession."

5. On page 52423, in the first full paragraph in the third column, the phrase "dealer and the borrower" in the third sentence is replaced by "dealer or the borrower".

6. On page 52425, in the third column, the word "purchases" in the last line of the manufacturer's certification is replaced by "purchaser".

In the regulatory text, the following corrections are made:

PART 201—[CORRECTED]

7. On page 52428, in the first column, the amendatory instruction 4 should read:

"4. Section 201.2 is amended by removing paragraph (ii); by redesignating paragraphs (g) through (o) as paragraphs (h) through (p); by redesignating paragraphs (p) through (hh) as paragraphs (r) through (jj); by redesignating paragraphs (jj) through (ll) as paragraphs (kk) through (mm); by adding new paragraphs (g) and (q); and by revising paragraph (c) and newly redesignated paragraphs (h), (i), (o), (r), (ll)(2), and (mm), to read as follows:"

8. On page 52431, in the second column, the amendatory instruction 14 should read:

"14. Section 201.22 is amended by removing paragraph (a)(5); by redesignating paragraphs (a) (3), (4), and (6) as paragraphs (a) (4), (5), and (10), respectively; by adding new paragraphs (a) (3), (6), (7), (8), and (9); and by revising paragraphs (a)(2) and (b), to read as follows:"

9. On page 52432, in the first column, the amendatory instruction 16 should read:

"16. Section 201.25 is amended by removing paragraph (b)(2)(v); by revising paragraphs (b)(1)(iii)–(v), (b)(2)(ii)–(iv), and (c)(5), (8), (10), and (11); and by adding new paragraphs (b)(1)(vi), (c)(12), and (d), to read as follows:"

10. On page 52432, in the second column, the amendatory instruction 17 should read:

"17. Section 201.26 is amended by revising paragraphs (a)(1), (2) and (5)(ii); by redesignating paragraph (a)(6) as (a)(7); by removing paragraphs (b)(8) and (10); by redesignating paragraph (b)(9) as (b)(8); and by revising paragraphs (b)(2)(iii) and (iv), (3)(i), (iii), (v), and (vi), (4), (6), and (7); and by adding new paragraphs (a)(6) and (b)(3)(vii), to read as follows:"

11. On page 52432, in the third column, § 201.26(a)(6)(i) is corrected to read as follows:

§ 201.26 Conditions for loan disbursement.

(a) * * *

(6) * * *

(i) States that the loan will be insured by HUD and describes the actions the Secretary may take to recover the debt if the borrower defaults on the loan and an insurance claim is paid;

* * * * *

§ 201.50 [Corrected]

12. On page 52434, in the third column, § 201.50 is corrected by removing "(1)" following the heading of paragraph (a).

13. On page 52434, in the third column, § 201.54(c)(1) is corrected to read as follows:

§ 201.54 Insurance claim procedure.

* * * * *

(c) *Resubmitted and supplemental claims.* (1) Any insurance claim which is resubmitted with an appeal of a claim denial or a request for a waiver of the regulations in accordance with § 201.5(b) shall be filed within six months after the date of the claim denial.

* * * * *

PART 202—[CORRECTED]

14. On page 52436, in the second column, the OMB approval number at the end of § 202.1 is corrected to read as follows:

§ 202.1 Approval of financial institutions.

* * * * *

(Approved by the Office of Management and Budget under control number 2502–0017.)

15. On page 52437, in the first column, the OMB approval number at the end of § 202.3 is corrected to read as follows:

§ 202.3 General approval requirements.

* * * * *

(Approved by the Office of Management and Budget under control number 2502–0017.)

16. On page 52437, in the second column, the OMB approval number at the end of § 202.5 is corrected to read as follows:

§ 202.5 Requirements for nonsupervised lenders.

* * * * *

(Approved by the Office of Management and Budget under control number 2502–0017.)

17. On page 52437, in the third column, the OMB approval number at the end of § 202.6 is corrected to read as follows:

§ 202.6 Requirements for loan correspondents.

* * * * *

(Approved by the Office of Management and Budget under control number 2502–0017.)

Dated: February 18, 1992.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 92–4186 Filed 2–24–92; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 916

Kansas; State Program Provisions and Amendments Disapproved

CFR Correction

In title 30 of the Code of Federal Regulations, part 700 to end, revised as of July 1, 1991, on pages 489 and 490, § 916.12 appears twice. When § 916.12 was revised at 53 FR 39470, October 7, 1988, the superseded text was incorrectly retained in the volume.

Therefore, the second version of § 916.12 appearing on pages 489 and 490 is removed.

BILLING CODE 1505-01-D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[File No. E–89–297, FCC No. 92–36]

Interchange Common Carrier Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Memorandum Opinion and Order denies in part and dismisses in part AT&T Communications' formal complaint filed against MCI Telecommunications Corporation alleging that MCI provides common carrier telecommunications services to customers at rates, and on terms and conditions, that are not filed or contained in interstate tariffs, in violation of section 203 of the Communications Act. The effect of this order will be to protect customers' reliance interests in Commission rules and to benefit the public by ensuring that fundamental Commission's rules are not amended in a two-party adjudicatory proceeding.

EFFECTIVE DATE: March 26, 1992.

FOR FURTHER INFORMATION CONTACT: Gary Phillips, (202) 632–4047, or Andy Lachance, (202) 632–4047, Policy and Program Planning Division, Common Carrier Bureau.

SUPPLEMENTARY INFORMATION: On August 7, 1989, AT&T Communications filed a formal complaint with this Commission pursuant to sections 206 and 208 of the Communications Act alleging that MCI Telecommunications Corporation provides common carrier telecommunications services to several customers at rates, and on terms and conditions, that are not filed or contained in interstate tariffs, in violation of section 203 of the Act.

We now deny AT&T's complaint in part and dismiss it in part. We deny AT&T's complaint insofar as it claims that MCI is liable for damages because its practice of providing service off-tariff violates section 203 of the Act. Any off-tariff service offerings by MCI have been made pursuant to rules promulgated by the FCC in orders that were not challenged on review and have long since become final. We will not award damages against MCI based simply on allegations made years later that the rules to which MCI conformed its conduct are beyond our authority to adopt.

We also dismiss AT&T's complaint insofar as it seeks prospective relief enjoining MCI from providing off-tariff services. This claim, while nominally stated in terms of a request for relief against MCI, is in practical effect a challenge to the Commission's previously adopted and effective forbearance rule.

The Commission's forbearance rule was adopted in a notice and comment rulemaking proceeding and has been in place for almost ten years. This rule represents one of the cornerstones of our regulation of the long-distance industry. Any change in this fundamental policy would have a significant impact on a broad range of customers and providers of telecommunications services across the nation. It would be inappropriate for us to consider a modification or repeal of this policy, with so potentially widespread an impact, in the context of a two-party adjudicatory proceeding, as opposed to a rulemaking proceeding. In a rulemaking, all interested parties will have the opportunity to comment. In addition, a rulemaking proceeding will permit us to address our forbearance rule as it applies to all nondominant carriers, and to consider and implement any changes that we may make to it on an industry-wide basis. Given the fundamental importance of these matters, the coordinated and comprehensive approach made possible by a rulemaking will reduce industry uncertainty, while ensuring the smoothest possible transition to any new rules that may be necessary.

I. Ex Parte Rules

In light of the interrelationship between this proceeding and the Notice of Proposed Rulemaking we adopt today, to the extent this complaint proceeding remains pending through a petition for reconsideration or appeal of this order, the proceeding will henceforth be deemed a non-restricted proceeding under the Commission's *ex parte* rules. Ex parte presentations will be permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in Commission Rules.

II. Ordering Clause

For the reasons set forth above, pursuant to 47 U.S.C. 208, *It is Ordered,* That AT&T's above-referenced complaint is denied in part and dismissed in part.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92–4064 Filed 2–24–92; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90–173; RM–7171]

Radio Broadcasting Services; Doolittle, MO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 283A to Doolittle, Missouri, as that community's first local service in response to a petition filed by Howard Smith. See 55 FR 12870, April 6, 1990. The coordinates for Channel 283A are 37–55–01 and 91–55–18. There is a site restriction 4.4 kilometers (2.8 miles)

southwest of the community. With this action, this proceeding is terminated.

DATES: Effective April 3, 1992. The window period for filing applications will open on April 6, 1992, and close on May 6, 1992.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 90-173, adopted February 7, 1992, and released February 18, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1714 21st Street, NW., Washington, DC 20036, (202) 452-1422.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Missouri, is amended by adding Doolittle, Channel 283A.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-4067 Filed 2-24-92; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 57, No. 37
Tuesday, February 25, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Subtitle A and Chapters I–XLI
9 CFR Chapters I–III
36 CFR Chapter II
48 CFR Chapter 4

Regulatory Review

AGENCY: Department of Agriculture.

ACTION: Request for comments.

SUMMARY: In response to the President's regulatory review initiative, this notice requests public comments on how Departmental regulations can be improved, updated or streamlined to remove unnecessary regulatory burdens which impede economic growth, or simplified and made more "user friendly."

DATES: To the extent possible, comments received by March 13, 1992 will be considered. Because of the short time period provided to complete the review, we would appreciate comments being filed earlier, if possible.

ADDRESSES: Comments should be submitted to the agency responsible for the regulation or program within the Department of Agriculture at the following addresses. To the extent comments are considered, the Department will include any such comments relevant to pending rulemaking procedures in the dockets for those rules. The following list includes the Department's principal agencies; general comments should be sent to the address for the Office of the Secretary.

Agricultural Marketing Service (AMS)
Katherine E. Dennis, USDA AMS Legislative Staff, room 3510–S, P.O. Box 96456, Washington, DC 20250–5456

Agricultural Research Service (ARS)
Dr. Arthur Nies, Associate Deputy Administrator, USDA Agricultural Research Service, room 814, 6303 Ivy Lane, Greenbelt, MD 20770–1433, (301) 344–3264

Agricultural Stabilization and Conservation Service (ASCS)
Keith D. Bjerke, USDA Agricultural Stabilization and Conservation Service, 14th & Independence Avenue, SW., room 3086–S, Washington, DC 20250, (202) 720–3467

Animal Plant and Health Inspection Service (APHIS)
Nancy Chamberlain, Chief, Regulatory Analysis and Development, USDA APHIS, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8682

Commodity Credit Corp (CCC)
Comments on domestic programs should be sent to Keith D. Bjerke, USDA Agricultural Stabilization and Conservation Service, 14th & Independence Avenue, SW., room 3086–S, Washington, DC 20250, (202) 720–3467
Comments on foreign programs should be sent to Larry Walker, USDA Foreign Agricultural Service, 14th & Independence Avenue, SW., room 4957–S, Washington, DC 20250, (202) 720–9180

Cooperative State Research Service (CSRS)
Terry Pacovsky, Director, Awards Management Division, USDA CSRS, room 322, Aerospace Building, 901 D Street, SW., Washington, DC 20250–2200, (202) 401–5024

Economic Research Service (ERS)
Al French, USDA Office of Energy, room 227–E, 14th & Independence, SW., Washington, DC 20250, (202) 720–4737

Extension Service (ES)
Gene Spory, Director, Cooperative Management Staff, USDA Extension Service, room 3912–S, 14th & Independence, SW., Washington, DC 20250, (202) 720–6223

Farmers Home Administration (FmHA)
Chris Goettelmann, Chief, Regulations Analysis and Control Branch, USDA Farmers Home Administration, room 6348–S, 14th & Independence Ave., SW., Washington, DC 20250, (202) 720–9725

Federal Crop Insurance Corporation (FCIC)
Peter F. Cole, USDA Federal Crop Insurance Corporation, 14th & Independence Avenue, SW., Washington, DC 20250, (703) 235–1168

Federal Grain Inspection Service (FGIS)
George Wollam, Federal Grain Inspection Service, USDA, room 0619–S, P.O. Box 96454, Washington, DC 20090–6454, (202) 720–0292

Food and Nutrition Service (FNS)
Betty Jo Nelsen, Administrator, Food and Nutrition Service, room 803, 3101 Park Center Drive, Alexandria, VA 22302, (703) 305–2062

Food Safety and Inspection Service (FSIS)
Patricia Stolfa, International Programs, Food Safety and Inspection Service, room 341–E, Washington, DC 20250, (202) 720–3473

Foreign Agricultural Service (FAS)
Larry Walker, USDA Foreign Agricultural Service, 14th & Independence Avenue, SW., room 4957–S, Washington, DC 20250, (202) 720–9160

Forest Service (FS)
Marian Connolly, Regulatory Officer, Forest Service, USDA (809 RPE), P.O. Box 96090, Washington, DC 20090–6090, (703) 235–1488

National Agricultural Statistics Service (NASS)
Al French, Office of Energy, room 227–E, 14th & Independence Avenue, SW., Washington, DC 20250, (202) 720–4737

Office of Energy (OE)
Al French, Office of Energy, room 227–E, 14th & Independence Avenue, SW., Washington, DC 20250, (202) 720–4737

Office of the Secretary
Diane Liesman, Director, USDA Office of the Executive Secretariat, room 200–A, 14th & Independence Avenue, Washington, DC 20250, (202) 720–7631.

Packers and Stockyards Administration (PSA)
Calvin W. Watkins, Deputy Administrator, USDA, room 3039–S, 14th & Independence Avenue, Washington, DC 20250, (202) 720–7063.

Rural Electrification Administration (REA)
William F. Albrecht, Director, Program Support Staff, Rural Electrification Administration, room 2234–S, 14th & Independence Avenue, Washington, DC 20250–1500, (202) 720–0736.

Soil Conservation Service (SCS)
Michael F. King, Director,

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Administrative Service Division, Soil Conservation Service, room 6016–S, 14th & Independence Avenue, Washington, DC 20250–1400, (202) 720–4811.

FOR FURTHER INFORMATION CONTACT: Tim Obst, USDA Office of the General Counsel, room 107W, 14th & Independence Avenue, Washington, DC 20250–1400, (202) 720–9190.

SUPPLEMENTARY INFORMATION: In the State of the Union Address on January 28, 1992, President Bush announced a 90-day moratorium on new regulations and a concurrent review of existing regulations. In a January 28, 1992, memorandum to certain Department and Agency heads, the President directed that agencies set aside a 90-day period "to evaluate existing regulations and programs and to identify and accelerate action on initiatives that will eliminate any unnecessary regulatory burden or otherwise promote economic growth."

The President directed the Department to work with the public, other interested agencies, the Office of Information and Regulatory Affairs of OMB, and the Council on Competitiveness to (i) identify each of the "agency's regulations and programs that impose a substantial cost on the economy and (ii) determine whether each such regulation or program adheres to the following standards:

(a) The expected benefits to society of any regulation should clearly outweigh the expected costs it imposes on society.

(b) Regulations should be fashioned to maximize net benefits to society.

(c) To the maximum extent possible, regulatory agencies should set performance standards instead of prescriptive command-and-control requirements, thereby allowing the regulated community to achieve regulatory goals at the lowest possible cost.

(d) Regulations should incorporate market mechanisms to the maximum extent possible.

(e) Regulations should provide clarity and certainty to the regulated community and should be designed to avoid needless litigation."

The Department will also review the regulations to ensure they are as accessible and "user friendly" as possible. Within the bounds of its authority, the Department will propose administrative changes (including repeal, where appropriate) that will bring each regulation and program into conformity with these standards.

At the end of the 90 days, the Department will submit a report to the President indicating the regulatory changes made or recommended and the potential savings to the economy of those changes, including an estimate of the number of jobs that will be created. The report will include a summary of the regulatory programs that are left unchanged and an explanation of how such programs are consistent with the regulatory standards. The Department also intends to continue its regulatory review pursuant to these principles after the conclusion of the 90-day period directed by the President.

Regulations can occasionally take on a life of their own long after they have outserved their usefulness or been overtaken by technological, economic or legal innovations. The President's regulatory review intiative presents an excellent opportunity to improve the manner in which the Department interacts with the public. This effort should assist in benefitting the economy, enhancing job creation and making the government regulatory process more responsive and understandable to the public. The Department is committed to proceeding on this important initiative in as open and receptive a manner as possible.

This notice solicits comments from the public on the Department's regulations and programs. In particular, we would appreciate comments that identify programs and regulations which impose a substantial cost on the economy, are unnecessarily burdensome, impose needless costs, or are unnecessarily difficult for the public to access or to follow. We would also appreciate suggestions on how regulations and programs can be designed to incorporate market mechanisms, utilize performance standards instead of prescriptive command-and-control requirements, and provide clarity and certainty to the affected communities so as to avoid needless litigation.

Alan Charles Raul,

General Counsel, Department of Agriculture.

[FR Doc. 92–4336 Filed 2–21–92; 12:02 pm]

BILLING CODE 3410–01–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 15

Changes in Reporting Levels for Large Trader Reports

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission (Commission) is proposing to amend part 15, 17 CFR part 15 (1991), of its regulations to raise the reporting levels at which futures commission merchants (FCMs), clearing members, foreign brokers and traders must file large trader reports in 19 commodities. These increases are summarized in Table 1.

DATES: Comments on this proposed rulemaking should be submitted on or before March 26, 1992.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, Telephone (202) 254–6314.

FOR FURTHER INFORMATION CONTACT: Lamont L. Reese, Division of Economic Analysis, 2033 K Street, NW., Washington, DC 20581, Telephone (202) 254–3310.

SUPPLEMENTARY INFORMATION:

I. Background

Reporting levels are set in futures to ensure that the Commission receives adequate information to carry out its market surveillance programs. These are designed to detect and prevent market congestion and price manipulation and to enforce speculative position limits. In addition, the information serves as a basis to gauge overall hedging and speculative uses of the futures markets, use of the markets by foreign participants and other matters of public concern.

Generally, parts 17 and 18 of the regulations require reports from members of contracts markets, FCMs or foreign brokers ("firms") and traders, respectively, when a trader holds a "reportable position," *i.e.*, any open position held or controlled by a trader at the close of business in any one future of a commodity traded on any one contract market that is equal to or in excess of the quantities fixed by the Commission in § 15.03 of the regulations.[1]

The Commission periodically reviews information concerning trading volume, open interest and the number and position sizes of individual traders relative to the reporting levels for each market to determine if coverage is adequate for effective market surveillance. In this regard, the Commission also is mindful of the paperwork burden associated with these reporting requirements and reviews them with an eye to ameliorating that burden to the extent compatible with adequate market coverage. The Commission's most recent review of reporting levels indicates that the size of trading volume, open interest and positions of individual traders enable the Commission to raise reporting levels in 19 different commodities. The proposed increases are summarized in Table 1 below.[2] The Commission estimates that, if the subject amendment is adopted, the number of daily position reports (i.e., series '01 reports) filed by reporting firms would decrease by about 18 percent. There would also be a proportionate decrease in the number of Form 102's filed by firms and Form 40's filed by large traders.

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[1] Firms which carry accounts for traders who hold "reportable positions" are required to identify such accounts on a Form 102 and report on the series '01 forms any reportable positions in the account, the delivery notices issued or stopped by the account and any exchanges of futures for physicals. Traders who own or control reportable positions are required to file annually a CFTC Form 40 giving certain background information concerning their trading in commodity futures and, on call by the Commission, must submit a Form 103 showing positions and transactions in the contract market specified in the call.

TABLE 1.—PROPOSED REPORTING LEVELS

Commodity	Current level	Proposed level
Corn	100 contracts	150 contracts.
Soybean Oil	150 contracts	175 contracts.
Soybean Meal.	150 contracts	175 contracts.
T-bonds	500 contracts	750 contracts.
10-yr. T-notes.	400 contracts	500 contracts.
2-yr. T-notes	25 contracts	200 contracts.
30-day Interest Rates.	25 contracts	100 contracts.
MMI Stock Index.	50 contracts	100 contracts.
Municipal Bonds.	50 contracts	100 contracts.
T-bills	100 contracts	200 contracts.
Eurodollars	500 contracts	850 contracts.
S&P 500 Index.	300 contracts	500 contracts.
One-month Labor.	25 contracts	200 contracts.
NIKKEI Index.	25 contracts	200 contracts.
Crude Oil (sweet).	250 contracts	300 contracts.
Heating Oil	150 contracts	175 contracts.
Unleaded Gasoline.	100 contracts	150 contracts.
Sugar No. 11.	200 contracts	300 contracts.
Dollar Index	25 contracts	50 contracts.

Most exchanges also maintain large trader reporting systems that are similar in most respects to that operated by the Commission. All of the exchange systems rely on routine position and account identification reports from member firms similar to the Commission's series '01 reports and form 102s. The exchanges require the position reports daily from their members if a position in an account for an expiration month of a contract market exceeds reporting levels specified by the exchange. Although the data collected by the exchanges are in most respects duplicative of those collected by the Commission, the respective systems differ somewhat in terms of levels that are set to trigger reporting from firms.[3] For example, of 48 active markets examined by Commission staff, Commission and exchange reporting levels differed in 23 of the markets. These differences apparently increase reporting burdens for firms since they must track when and to whom specific reports are due.[4]

As part of the current review, Commission and exchange surveillance staff have been discussing the need for greater uniformity with respect to reporting levels. For an increasing number of contract markets, it appears that Commission and exchange reporting levels will converge. In other instances there are divergent views as to the appropriateness of certain levels.

In the past, when it has been determined that reporting levels could be raised, the Commission has followed a policy of doing so despite the fact that exchanges may not make similar changes to their systems. This has been premised on the assumption that fewer reports filed with the Commission would result in a lower overall reporting burden for the public as well as a decrease in processing costs to the Commission. As noted above, however, in cases where Commission reporting levels diverge from those of the exchanges additional burdens may be created for reporting firms. Since it is difficult to quantify the burden the Commission may be creating by adopting reporting levels higher than those deemed adequate by the exchanges, it is requesting specific comment on the tradeoffs involved with this issue. Specifically the Commission is interested in knowing whether it would be less burdensome for reporting firms if Commission reporting levels remained at, or were lowered to, levels set by an exchange even though Commission staff have otherwise determined that levels could be increased. The exchanges, in particular, are invited to address this issue.

II. Related Matters

A. The Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires that agencies, in proposing rules, consider the impact of those rules on small businesses. These amendments affect large traders and futures commission merchants and other similar entities such as foreign brokers and foreign traders. The Commission has defined "small entities" as used by the Commission in evaluating the impact of its rule in accordance with the RFA. 47 FR 18618–18621 (April 30, 1982).

In that statement, the Commission concluded that large traders and futures commission merchants are not considered to be small entities for purposes of the RFA. In this regard, the amendments to reporting requirements fall mainly upon futures commission merchants. Similarly, foreign brokers and foreign traders report only if carrying or holding reportable, *i.e.*, large positions. Pursuant to section 3(a) of the RFA (5 U.S.C. 605(b)), the Chairman, on behalf of the Commission, certifies that the proposed rules would not have a significant economic impact on a substantial number of small entities. The Commission invites comments from any firm which believes that these rules would have a significant economic impact upon its operations.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1980 (PRA), 44 U.S.C. 3501 *et seq.*, imposes certain requirements on Federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. In compliance with the PRA, the Commission is submitting these proposed rules and their associated information collection requirements to the Office of Management and Budget. The burden associated with this entire collection, including these amended rules, in as follows:

Average Burden Hours Per Response—0.16

Number of Respondents—3,721

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[2] The Commission is proposing to increase the reporting level for crude oil from 250 to 300 contracts. The Commission intends that reporting levels shall apply only to the mature contract in "sweet" crude oil and not to recently designated "sour" crude oil contracts. In view of this the Commission is appending the term "sweet" to the commodity name of crude oil in § 15.03 of the regulations. Sour crude oil will be included in the category "all other commodities", and the reporting level will be 25 contracts.

[3] Two exchanges, the Minneapolis Grain Exchange and the Kansas City Board of Trade, do not require firms to file larger trader reports in wheat, but, rather, rely on information from their clearing members. Clearing members generally are the largest traders in wheat on these two exchanges, and supplemental surveillance data can be obtained from the CFTC as needed.

[4] About two-thirds of the firms that file reports with the Commission use software to extract reportable positions from their computer files and transmit this data electronically to the respective regulators. The additional burden for these firms primarily relates to filing account identification forms. Firms that have automated their reporting account for about 95 percent of the position information filed with the Commission.

Frequency of Response—21.54

Persons wishing to comment on the information which would be required by these rules should contact Gary Waxman, Office of Management and Budget, Room 3228, NEOB, Washington, D.C. 20503, (202) 395–7304. Copies of the information collection submission to OMB are available from Joe F. Mink, CFTC Clearance Officer, 2033 K Street, NW, Washington, D.C. 20581, (202) 254–3310.

List of Subjects in 17 CFR Part 15

Brokers, Reporting and recordkeeping requirements.

In consideration of the foregoing, and pursuant to the authority contained in the Act and, in particular, sections 4g, 4i, 5 and 8a of the Act, 7 U.S.C. 6g, 6i, 7 and 12a (1990), the Commission hereby proposes to amend Part 15 of title 17 of the Code of Federal Regulations as follows:

PART 15 REPORTS—GENERAL PROVISIONS

1. The authority citation for part 15 continues to read as follows:

Authority: 7 U.S.C. 2, 4, 5, 6a, 6c,(a)–(d), 6f, 6g, 6i, 6k, 6m, 6n, 7, 9, 12a, 19 and 21; 5 U.S.C. 552 and 552(b).

2. Section 15.03 is proposed to be revised to read as follows:

§ 15.03 Quantities fixed for reporting.

The quantities for the purpose of reports filed under Parts 17 and 18 of this chapter are as follows:

Commodity	Quantity
Wheat (bushels)	500,000
Corn (bushels)	750,000
Soybeans (bushels)	500,000
Oats (bushels)	300,000
Cotton (bales)	5,000
Soybean oil (contracts)	175
Soybean meal (contracts)	175
Live cattle (contracts)	100
Feeder cattle (contracts)	50
Hogs (contracts)	50
Sugar No. 11 (contracts)	300
Sugar No. 14 (contracts)	100
Cocoa (contracts)	50
Coffee (contracts)	50
Copper (contracts)	100
Gold (contracts)	200
Silver bullion (contracts)	150
Platinum (contracts)	50
No. 2 heating oil (contracts)	175
Crude oil, sweet (contracts)	300
Unleaded gasoline (contracts)	150
Long-term U.S. Treasury bonds (contracts)	750
GNMA (contracts)	100
Three-month (13 week) U.S. Treasury bills (contracts)	200
Long-term U.S. Treasury notes (contracts)	500
Medium-term U.S. Treasury notes (contracts)	300
Short-term U.S. Treasury notes (contracts)	200
Three-month Eurodollar time deposit rates (contracts)	850
Thirty Day Interest Rates (contracts)	100
One Month Libor Rates (contracts)	200
Foreign currencies (contracts)	200
U.S. Dollar Index (contracts)	50
Standard and Poor's 500 stock price index (contracts)	500
New York Stock Exchange composite index (contracts)	50
Amex major market index-maxi (contracts)	100
Municipal bonds (contracts)	100
Value line average index (contracts)	50
All other commodities (contracts)	25

Issued in Washington, DC, this 19th day of February 1992, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 92–4149 Filed 2–24–92; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 803 and 807

[Docket No. 91N–0295]

Medical Devices; Medical Device, User Facility, Distributor, and Manufacturer Reporting, Certification, and Registration; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Tentative final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a tentative final rule that appeared in the **Federal Register** of November 26, 1991 (56 FR 60024). The tentative final rule was published with some editorial errors. In the preamble under the "Paperwork Reduction Act" heading, the last two lines in the table "Estimated Annual Burden for Reporting" should have been in the table "Annual Burden for Recordkeeping". As a result, the total figures in both tables were incorrect. This document corrects the errors in these two tables.

FOR FURTHER INFORMATION CONTACT: Joseph M. Sheehan, Center for Medical Devices and Radiological Health (HFZ–84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4874.

In FR Doc. 91–28377, appearing on page 60024 in the **Federal Register** of November 26, 1991, the following correction is made: On page 60031, the tables appearing under "Estimated Annual Burden for Reporting" and "Annual Burden for Recordkeeping" are corrected to read as follows:

ESTIMATED ANNUAL BURDEN FOR REPORTING

CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Hours per response	Total hours
803 24(a)	36,639	.09	3,360	4	13,439
803.24(b)	36,639	1	36,639	4	146,556
803.24(c)	36,639	2	73,278	2	146,556
803.25(a)	2,500	1	2,500	1	2,500
803 26(a)	750	53	40,000	1	40,000
803.26(c)	750	12	9,000	1	9,000
803.26(d)	750	3	2,250	1	2,250
803 26(e)	750	.01	10	4	40
803.26(f)	750	.01	10	4	40
803.26(g)	3,900	.26	1,000	1	1,000
803.30	13,953	1	13,953	1	13,953
803 33(a)	75	1	75	1	75
Total					375,409

ANNUAL BURDEN FOR RECORDKEEPING

CFR section	Number of record-keepers	Annual hours per record-keeping	Total annual burden hours
803.34(a)	39,900	40	159,556
803.34(b)(c)	39,900	40	159,556
803.35(a)	2,500	4	10,000
803.35(b)	624	16	9,984
803.35(c)	36,639	0.25	9,160
Total			348,256

Dated: February 19, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-4183 Filed 2-24-92; 8:45 am]

BILLING CODE 4160-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 268

[FRL 4103-6]

Land Disposal Restrictions: Potential Treatment Standards for Newly Identified and Listed Wastes and Contaminated Soil; Extension of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Advance notice of proposed rulemaking (ANPRM); extension of comment period.

SUMMARY: This notice announces the extension of the comment period for three groups of wastes covered in its advance notice of proposed rulemaking that was published in the **Federal Register** on October 24, 1991 (see 56 FR 55160-55189).

In that ANPRM, EPA requested data and comments on its approach for determining the Best Demonstrated Available Technology (BDAT) for many wastes that have been identified and listed as hazardous since the enactment of the Hazardous and Solid Waste Amendments (HSWA) in November 1984. That notice included a discussion of potential BDAT and related capacity for the following: Listed wastes from wood preserving operations (F032, F034, and F035); spent potliners from primary aluminum reduction (K088); characteristic hazardous wastes generated by the mining and mineral processing industries that are no longer exempted by the Bevill Amendment; and wastes that have been recently identified as D004 through D043 based on the toxicity characteristic leaching procedure (TCLP), i.e., TC wastes. EPA also solicited data and comment on its approach to developing BDAT for contaminated soil.

The Agency received many requests to extend the comment period in order to gather the necessary data and prepare comments.

Today's notice extends the comment period for certain of the wastes, in particular, wastes from wood preserving operations (F032, F034, and F035); spent potliners from primary aluminum reduction (K088); and characteristic hazardous wastes generated by the mining and mineral processing industries that are no longer exempted by the Bevill Amendment. EPA is able to grant this extension because its schedule calls for promulgation of the Land Disposal Restrictions (LDR's) for these wastes by the end of 1994.

DATES: Comments and data must be submitted on or before April 27, 1992.

ADDRESSES: The public must send an original and two copies of their written comments to EPA RCRA Docket (OS-305), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Place the Docket Number F-91-CSP-FFFFF on your comments. The RCRA Docket is located at the above address and is open from 9 a.m. to 4 p.m. Monday through Friday, except for Federal holidays. The public must make an appointment to review docket materials by calling (202) 475-9327. The public may copy a maximum of 100 pages from any regulatory document at no cost. Additional copies cost $.20 per page.

EPA is asking prospective commenters to submit voluntarily one additional copy of their comments on labeled personal computer diskettes in ASCII (TEXT) format or a word processing format that can be converted to ASCII (TEXT). For more details on this process, see the SUPPLEMENTARY INFORMATION section.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at (800) 424-9346 (toll-free) or (703) 920-9810 locally. For technical information on BDAT, contact the Waste Treatment Branch, Office of Solid Waste (OS-322-W), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (703) 308-8434. For technical information on capacity analyses, contact the Capacity Branch, Office of Solid Waste (OS-321W), (703) 308-8440.

SUPPLEMENTARY INFORMATION: While the Agency appreciates the desire of those who requested an extension of the comment period for issues related specifically to contaminated soil or to wastes considered hazardous because they exhibit the toxicity characteristic (TC), we are unable to grant that extension. Our schedule requires that we promulgate LDR's for those wastes by the end of April 1993. This schedule would make it difficult to add any extra time to the rulemaking process. Although we are not extending the comment period for contaminated soil and TC wastes at this time, this does not preclude public comments on these wastes. Our tentative schedule calls for a proposal that includes these wastes in July 1992. The public will, therefore, have an opportunity to comment at that time.

In regard to submitting comments on disks, it is essential to specify on the disk label the word processing software and version/edition as well as the commenter's name. This will allow EPA to convert the comments into one of the word processing formats utilized by the Agency. Please use mailing envelopes designed to protect physically the submitted diskettes. EPA emphasizes that submission of comments on diskettes is not mandatory; nor will it result in any advantage or disadvantage to any commenter. Rather, EPA is experimenting with this procedure in an attempt to expedite its internal review and response to comments. For further information on the submission of diskettes, contact the Waste Treatment Branch at the phone number listed in **FOR FURTHER INFORMATION CONTACT.**

Dated: February 5, 1992.

Richard J. Guimond,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 92-4209 Filed 2-24-92; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[CC Docket No. 92-13, FCC No. 92-35]

Interchange Common Carrier Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is issuing this notice of proposed rulemaking to review the lawfulness of its rules and policies under which it forbears from requiring certain common carriers to file interstate tariffs. This action comes in response to a complaint filed by AT&T Communications against MCI Telecommunications Corp. alleging that MCI was violating section 203 of the Communications Act by providing

interstate common carrier telecommunications services to certain customers at rates and on terms and conditions not set forth in MCI's interstate tariffs. In a companion order issued today, we dismiss this complaint, in part because the issues raised therein are more properly considered in a rulemaking proceeding than in an adjudication between two parties. This proceeding could have a significant impact on a broad range of customers and providers of telecommunications services across the nation.

DATES: Comments shall be filed on or before March 30, 1992, and reply comments shall be filed on or before April 29, 1992.

ADDRESSES: Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Parties should also file two copies of any pleadings with the Policy and Program Planning Division, Common Carrier Bureau, room 544, 1919 M Street NW., Washington, DC 20554. Parties should also file one copy of any documents with the Commission's copy contractor, The Downtown Copy Center, 1114 21st Street NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Gary Phillips, (202) 632-4047, or Andy Lachance, (202) 632-4047, Policy and Program Planning Division, Common Carrier Bureau.

SUPPLEMENTARY INFORMATION: On August 7, 1989, AT&T Communications filed a complaint against MCI Telecommunications Corporation alleging that MCI is violating section 203 of the Communications Act of 1934 (the Act) by providing interstate common carrier telecommunications services to certain large business customers at rates and on terms and conditions not set forth in MCI's interstate tariffs. AT&T's complaint did not allege that MCI is violating Commission rules but, in essence, that certain Commission rules are unlawful. In particular, AT&T calls into question the Commission's longstanding forbearance rule, under which the Commission forbears from requiring nondominant interexchange carriers (IXCs) from filing interstate tariffs.

In a companion order adopted today, we deny AT&T's complaint in part and dismiss it in part, on the grounds that: (1) MCI should not be liable to AT&T for actions that were fully consistent with Commission rules; and (2) reconsideration of a fundamental rule, such as forbearance, which represents one of the cornerstones of the Commission's regulatory framework for the long-distance industry, should not occur in the context of an adjudication between two parties. Because the issues raised in AT&T's complaint are serious and important ones, however, we issue this Notice of Proposed Rulemaking to review the lawfulness and future applications of our forbearance rules and policies.

The Commission seeks comment on the following issues:

(a) Does the Commission have authority under sections 4(i) and 203 or other provisions of the Communications Act to continue to permit nondominant carriers not to file tariffs?

(b) If the Commission's current forbearance rule is unlawful, does it necessarily follow that all common carriers must file tariffs? If not, for what classes of carriers is forbearance permissible and for what classes is it impermissible?

(c) If the Commission's current forbearance rule is unlawful, should carriers be required to file any or all of their off-tariff service arrangements that are currently in effect? If so, in what time frame?

(d) If the Commission's current forbearance rule is unlawful, would any other Commission rules need to be changed, and if so, how should they be changed? If forbearance is found to be unlawful, should the streamlining rules in Competitive Carrier be relaxed to allow for additional streamlining for carriers currently subject to forbearance? If so, what sort of additional streamlining might be appropriate? What would be the implications of any proposed changes in Commission tariffing policies for small IXCs, users, and other affected entities? What would be the implications for competition in the marketplace?

Procedural Matters

A. Ex Parte Rules—Non-restricted Proceeding

This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in Commission rules.

B. Regulatory Flexibility Act

Initial Regulatory Flexibility Act Analysis

Reason for Action

This rulemaking proceeding is initiated to obtain comment on the lawfulness of current forbearance rules in light of a complaint by AT&T alleging, in effect, that these rules violate the Communications Act.

Objectives

The Commission seeks to review the lawfulness and future application of forbearance for interstate common carriers. It also seeks comment regarding what rules would need to be changed and how those rules should be changed if forbearance is found to be lawful.

Legal Basis

The proposed action is authorized under sections 4 and 201–205 of the Communications Act of 1934, as amended, 47 U.S.C. 154, 201–205.

Reporting, Recordkeeping and Other Compliance Requirements

None.

Federal Rules Which Overlap, Duplicate or Conflict With These Rules

None.

Description, Potential Impact, and Number of Small Entities Involved

Any rule change in this proceeding could have a significant impact on a broad range of telecommunications common carriers. After evaluating the comments in this proceeding, the Commission will further examine the impact of any rule changes on small entities and set forth our findings in the Final Regulatory Flexibility Analysis.

Any Significant Alternatives Minimizing the Impact on Small Entities Consistent with the Stated Objectives

The notice does not propose new rules or alternative policies. It asks for comment on what rules should be changed in the event forbearance is unlawful, how these rules should be changed, and whether such changes should apply to all services and/or to all common carriers.

C. Authority

Authority for this rulemaking action is contained in 47 U.S.C. 154, and 201–205.

Ordering Clauses

It is ordered, That notice is hereby given of the proposed regulatory changes described above, and that comment is sought on these proposals.

It is further ordered, That pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, comments *shall be filed* on or before March 30, 1992, and reply comments shall be filed on or before April 29, 1992. To file formally in this proceeding, you must file an original and five copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original plus nine copies. You should send comments and reply comments to Office of the Secretary, Federal Communications Commission, Washington, DC 20554. In addition, parties should file two copies of any such pleadings with the Policy and Program Planning Division, Common Carrier Bureau, room 544, 1919 M Street NW., Washington, DC 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, The Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20036. Comments and reply comments will be available for public inspection during regular business hours in the Dockets Reference Room of the Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92-4068 Filed 2-24-92; 8:45 am]

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Notices

Federal Register
Vol. 57, No. 37
Tuesday, February 25, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FES 92-1]

Availability of the Final Environmental Impact Statement Regarding Subsistence Management for Federal Public Lands in Alaska

AGENCY: Fish and Wildlife Service, Interior. Forest Service, USDA.

ACTION: Notice of availability of the final environmental impact statement regarding subsistence management for Federal public lands in Alaska.

SUMMARY: The U.S. Fish and Wildlife Service (the Service) has prepared a Final Environmental Impact Statement (EIS) for Subsistence Management for Federal Public Lands in Alaska pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969. The EIS describes four alternatives for the Federal Subsistence Management Program in Alaska pursuant to title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) of 1980 (Pub. L. 96–487, 16 U.S.C. 3111–3126) and the environmental consequences of implementing each alternative.

The decision on the selection of a course of action will not be made before 30 days from the publication of the EPA Notice of Availability in the **Federal Register**.

ADDRESSES: Single copies of the final EIS can be obtained from the U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage Alaska 99503. Correspondence may be sent to the Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503.

FOR FURTHER INFORMATION CONTACT: Richard S. Pospahala, Office of Subsistence Management, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503; telephone (907) 786–3447. For questions specific to National Forest System lands, contact Norman Howse, Assistant Director for Subsistence, USDA, Forest Service, Alaska Region, P.O. Box 21628, Juneau, Alaska 99802–1628; telephone (907) 586–8890.

SUPPLEMENTARY INFORMATION:

Background

Title VIII of ANILCA requires the Secretary of the Interior and the Secretary of Agriculture (Secretaries) to implement a joint program to grant a priority for subsistence uses of fish and wildlife resources by rural residents on Federal public lands, unless the State has in effect a law that complies with the Act. Until recently, the State of Alaska has managed the subsistence program on public lands pursuant to section 805 of Title VIII of ANILCA. In December of 1989, the Alaska Supreme Court ruled in *McDowell* v. *State of Alaska* that the rural preference in the State subsistence statute, which is required by ANILCA, violated the Alaska Constitution. This ruling placed the State out of compliance with title VIII. Consequently, the Secretaries were required to assume responsibility for the implementation of title VIII of ANILCA on Federal public lands on July 1, 1990.

On June 29, 1990 the Temporary Subsistence Management Regulations for Public Lands in Alaska were published in the **Federal Register** (55 FR 27114). This program is administered by a Federal Subsistence Board made up of a Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture; the Alaska Regional Director, U.S. Fish and Wildlife Service; the Alaska Regional Director, National Park Service; the Alaska Regional Forester, USDA Forest Service; the Alaska State Director, Burfeau of Land Management; and the Alaska Area Director, Bureau of Indian Affairs. These five agencies within the Federal Government are responsible for management of Federal public lands covered by title VIII of ANILCA.

Availability

Copies of the final EIS will also be available for review by the public at the office of the Regional Director, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage Alaska 99503, and at the following locations:

U.S. Fish and Wildlife Service, Division of Refuge Management, U.S. Departament of the Interior Bldg., 18th & C Streets NW., Washington, DC 20240
U.S. Fish and Wildlife Service, Refuges and Wildlife, 500 NE. Multnomah Street, suite 1692, Portland, OR 97232
U.S. Fish and Wildlife Service, Refuges and Wildlife, 500 Gold Avenue SW., room 1306, Albuquerque, NM 87103
U.S. Fish and Wildlife Service, Refuges and Wildlife, Federal Building, Fort Snelling, Twin Cities, MN 55111
U.S. Fish and Wildlife Service, Refuges and Wildlife, Richard B. Russell Federal Bldg., 75 Spring Street, Atlanta, GA 30303
U.S. Fish and Wildlife Service, Refuges and Wildlife, One Gateway Center, suite 700, Newton Corner, MA 02158
U.S. Fish and Wildlife Service, Refuges and Wildlife, 134 Union Blvd., Lakewood, CO 80225

Drafting Information

The primary author of this notice is Cecil R. Kuhn, Subsistence Office, Alaska Regional Office, U.S. Fish and Wildllife Service, Anchorage, Alaska.

Curtis V. McVee,
Chair, Federal Subsistence Board.

Dated: February 20, 1992.

Approved:

Jonathan P. Deason,
Director, Office of Environmental Affairs.

[FR Doc. 92–4241 Filed 2–24–92; 8:45 am]

BILLING CODE 3410-11-M

Forest Service

Two Forks Timber Sales and Other Projects, Siskiyou National Forest, Josephine and Curry Counties, OR

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact settlement.

SUMMARY: Notice is hereby given that the Forest Service, USDA, will prepare an environmental impact statement (EIS) for a set of Forest Service proposals to implement two timber sales and other resource management projects. The specific projects include: (1) Harvest of timber from two timber sales and development of associated

road sysems; (2) development of a rock material source; and (3) miscellaneous projects related to prescribed burning, meadow enhancement, fireline rehabilitation, and road closures.

The proposed actions are located approximately 19 miles northeast of Brookings, Oregon, in the East Fork of Pistol River drainage and Mineral Hill Fork of Eagle Creek drainage of the Chetco Ranger District, Siskiyou National Forest. Projects would be implemented in accordance with direction in the Siskiyou National Forest Land and Resource Management Plan.

The agency gives notice that the environmental analysis process is underway. Interested and potentially affected persons, along with local, State and other Federal agencies, are invited to participate and contribute to the environmental analysis. The Siskiyou National Forest invites written input regarding the issues specific to the proposed actions.

DATES: Written input concerning issues with this Forest Service proposal must be received by March 13, 1992.

ADDRESSES: Submit written input to District Ranger, Chetco Ranger District, 555 Fifth Street, Brookings, Oregon 97415.

FOR FURTHER INFORMATION: Direct questions about the Proposed Action and EIS to Jerry Darbyshire, Project Leader, Chetco Ranger District, 555 Fifth Street, Brookings, Oregon 97415 [Telephone: (503) 469–2196].

SUPPLEMENTARY INFORMATION: The purpose of the Proposed Actions is to implement management direction and projects identified in the March 1989 Siskiyou National Forest Land and Resource Management Plan (Forest Plan). This project EIS will be retiered to the Forest Plan EIS, which provides goals, objectives, standards and guidelines for the various activities and land allocations on the Forest. The Proposed Actions would be located in Management Areas 6 (Backcountry Recreation), 9 (Special Wildlife Site), 13 (Partial Retention Visual), and 14 (General Forest). The following Proposed Actions are derived from two key elements in the Forest Plan; (1) the capital investment opportunities (appendix B), and (2) the ten-year action plan (appendix C).

The Proposed Action

The Mineral Hill and East Fork Timber Sales, scheduled for offering in Fiscal Year 1993, would harvest approximately 12.5 million board feet (MMBF). Proposed harvest methods and estimated harvest acreage include: (1) Clearcut harvest, 160 acres, (2) Commercial thinning, 165 acres; and (3) Group selection management of a 2700 acre area. A small amount of Pacific yew exists in the area. If harvest of yew would occur the bark would be utilized for taxol production. Skyline, helicopter, and tractor yarding systems would be used to harvest the timber. Fourteen (14.0) miles of new road construction would be required to provide access to the timber. These roads would be closed year-round after harvest is completed. A total of about 5.24 miles of existing roads would be closed. Portions of existing roads would be reconstructed and one failed culvert would be repaired. One rock material source would be developed. The entire group selection management area would be underburned. Clearcuts would be broadcast burned after harvest. The Silver Fire fireline on Mineral Hill would be revegetated using native plants. Existing meadows would be enlarged by removing conifer trees that have overgrown them. The meadows would be burned and seeded as appropriate to improve forage.

Stands proposed for harvest are located within Sections 29, 30, 31; Township 37½ South; Range 12 West; within Sections 4–9, 17–20; Township 38 South; Range 12 West; and within Sections 13, 14, 24, 25, Township 38 South; Range 13 West (Willamette Meridian). Portions of The Windy Valley Roadless Area are within this area.

Public input will be used to determine significant issues with the Proposed Action. These issues will in turn be used to develop alternatives to the Proposed Action. The No Action Alternative will be analyzed.

The Forest Service is seeking input from individuals, organizations, and local, State and Federal agencies who may be interested in or affected by the Proposed Action. Other avenues for public participation are commenting to the draft EIS, and a public meeting to be held after the draft EIS is published.

A mailing list will be compiled during the analysis. Interested individuals and agencies may have their names added to this list at any time by submitting a request to Jerry Darbyshire, Two Forks Project Leader, Chetco Ranger District, 555 Fifth Street, Brookings, Oregon 97415. The Freedom of Information Act (FOIA) govern disclosure of each Federal Government mailing list. Under provisions of the FOIA, the names and addresses of persons on these lists will be released upon request, unless the request falls within one of the FOIA exemptions.

The draft EIS is expected to be filed with the Environmental Protection Agency(EPA) and to be available for public review and commenting by May, 1992. At that time, EPA will publish a notice of availability of the draft EIS in the **Federal Register**. The comment period on the draft EIS will be 45 days from the date the EPA notice of availability appears in the **Federal Register**.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement.

Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. (Reviewer may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environment Policy Act at 40 CFR 1503.3 in addressing these points.)

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of a draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon v. Hodel*, 803 F. 2d. 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc. v. Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

After the 45 day comment period ends on the draft EIS, the comments will be analyzed and considered by the Forest Service in preparing the final EIS. The final EIS is scheduled to be completed by September 1992.

In the final EIS, the Forest Service is required to respond to the comments received. The responsible official is the Forest Supervisor. The responsible official will consider the comments, responses, environmental consequences discussed in the EIS and applicable laws, regulations, and policies in making

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a decision regarding this proposal. The responsible official will document the decision and reasons for the decisions in the Record of Decision. That decision will be subject to review under 36 CFR 217.

Dated: February 11, 1992.

J. Michael Lunn,

Forest Supervisor.

[FR Doc. 92-4214 Filed 2-24-92; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-557-805]

Postponement of Preliminary Antidumping Duty Determination: Extruded Rubber Thread From Malaysia

AGENCY: Import Administration, International Trade Administration, Commerce.

EFFECTIVE DATE: February 25, 1992.

FOR FURTHER INFORMATION CONTACT: Vincent Kane or Gary Bettger, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at (202) 377-2815 or 377-2239, respectively.

POSTPONEMENT: On January 21, 1992, at the request of the North American Thread Company, the petitioner in this investigation, the Department postponed the preliminary determination in this investigation from February 5, 1992, until February 14, 1992 (Notice of Postponement of Preliminary Antidumping Duty Determination on Extruded Rubber Thread from Malaysia and Alignment of Final Countervailing Duty and Antidumping Duty Determinations of Extruded Rubber Thread from Malaysia, 57 FR 3163, January 28, 1992). On February 11, 1992, the petitioner requested a further postponement of the preliminary determination until March 26, 1992, thereby amending its original request. The Department finds no compelling reasons to deny the request. Accordingly, we are postponing the date of the preliminary determination until not later than March 26, 1992.

This notice is published pursuant to section 733(c)(2) of the Tariff Act of 1930, as amended, and 19 CFR 353.15(d).

Dated: February 14, 1992.

Marjorie Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92-4269 Filed 2-24-92; 8:45 am]

BILLING CODE 3510-DS-M

[C-201-405]

Certain Heavy Textile Mill Products From Mexico; Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On December 12, 1991, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on certain textile mill products from Mexico. We have now completed this review and determine the net subsidy to be 0.09 percent *ad valorem* for all firms for the period January 1, 1990 through December 31, 1990. The results are unchanged. In accordance with 19 CFR 355.7, any rate less than 0.50 percent *ad valorem* is *de minimis.*

EFFECTIVE DATE: February 25, 1992.

FOR FURTHER INFORMATION CONTACT: Dana Mermelstein or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On December 12, 1991, the Department of Commerce (the Department) published in the **Federal Register** (56 FR 64763) the preliminary results of its administrative review of the countervailing duty order on certain textile mill products from Mexico (50 FR 10284; March 18, 1985). The Department has now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of Review

Imports covered by this review are shipments of certain textile mill products from Mexico. During the review period, such merchandise was classified under the Harmonized Tariff Schedule (HTS) item numbers listed in the Appendix to this notice. The review covers the period January 1, 1990 through December 31, 1990 and eleven programs: (1) FOMEX; (2) BANCOMEXT Financing for Exporters; (3) FONEI; (4) FOGAIN; (5) PITEX; (6) CEPROFI; (7) Other BANCOMEXT preferential financing; (8) Import Duty Reductions and Exemptions; (9) State Tax Incentives; (10) NAFINSA FONEI-Type financing; and (11) NAFINSA FOGAIN-Type financing. Forty-two companies produced and exported the subject merchandise to the United States during the review period.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received no comments.

Final Results of Review

As a result of our review, we determine the net subsidy to be 0.09 percent *ad valorem* for all firms for the period January 1, 1990 through December 31, 1990. In accordance with 19 CFR 355.7, any rate less than 0.50 percent *ad valorem* is *de minimis.*

Therefore, the Department will instruct the Customs Service to liquidate, without regard to countervailing duties, shipments of this merchandise from Mexico exported on or after January 1, 1990 and on or before December 31, 1990. The Department will also instruct the Customs Service to waive the collection of cash deposits of estimated countervailing duties on all shipments of the subject merchandise from Mexico entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1) and 19 CFR 355.22.

Dated: February 18, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-4272 Filed 2-24-92; 8:45 am]

BILLING CODE 3510-DS-M

[C-580-602]

Certain Stainless Steel Cooking Ware From the Republic of Korea; Determination Not To Revoke Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of determination not to revoke countervailing duty order.

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the countervailing duty order on certain stainless steel cooking ware from the Republic of Korea.

EFFECTIVE DATE: February 25, 1992.

FOR FURTHER INFORMATION CONTACT: Dana Mermelstein or Michael Rollin, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION: On January 2, 1992, the Department of Commerce ("the Department") published in the **Federal Register** (57 FR 48) its intent to revoke the countervailing duty order on certain stainless steel cooking ware from the Republic of Korea (52 FR 2140; January 20, 1987).

In accordance with 19 CFR 355.25(d)(4)(iii), the Secretary of Commerce will conclude that an order is no longer of interest to interested parties and will revoke the order if no interested party objects to revocation or requests an administrative review by the last day of the fifth anniversary month. We had not received a request for an administrative review of the order for the last five consecutive anniversary months.

On January 28, 1992, the Fair Trade Committee of the Cookware Manufacturers Association, a petitioner in the original countervailing duty investigation, objected to our intent to revoke the order. Farberware Inc., Regal Ware Inc., and Corning Incorporated, domestic producers of stainless steel cooking ware, also objected to our intent to revoke the order. Because the requirements of 19 CFR 355.25(d)(4)(iii) have not been met, we will not revoke the order.

This notice is in accordance with 19 CFR 355.25(d).

Dated: February 18, 1992.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 92-4271 Filed 2-24-92; 8:45 am]

BILLING CODE 3510-DS-M

[C-401-056]

Viscose Rayon Staple Fiber From Sweden; Preliminary Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of preliminary results of countervailing duty administration review.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on viscose rayon staple fiber from Sweden. We preliminarily determine the net subsidy to be 3.06 percent *ad valorem* for the period January 1, 1990 through December 31, 1990. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: February 25, 1992.

FOR FURTHER INFORMATION CONTACT: Allan Christian or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On May 21, 1991, the Department of Commerce (the Department) published in the **Federal Register** a notice of "Opportunity to Request Administrative Review" (56 FR 23271) of the countervailing duty order on viscose rayon staple fiber from Sweden (44 FR 28319, May 15, 1979). On June 14, 1991, Svenska Rayon AB, a producer and exporter of viscose rayon staple fiber, requested that we conduct an administrative review of the order for the period January 1, 1990 through December 31, 1990. We initiated the review on June 18, 1991 (56 FR 27943). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act). The final results of the last administrative review of this order were published on July 19, 1991 (56 FR 33256).

Scope of Review

Imports covered by this review are shipments of Swedish regular viscose rayon staple fiber and high-wet modulus (modal) viscose rayon staple fiber. Such merchandise is classifiable under item number 5504.10.00 of the Harmonized Tariff Schedule (HTS). The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period January 1, 1990 through December 31, 1990 and three programs. The only known Swedish manufacturer/exporter of this merchandise to the United States is Svenska Rayon AB (Svenska).

Analysis of Programs

(1) Loans/Grants for Plant Creation

Under three agreements, the Swedish government provided Svenska with interest-free loans for the creation of a modal fiber plant for national defense purposes. The agreements provided that the Swedish government would forgive the loans in equal amounts over ten years, if Svenska maintained its modal fiber production capacity for ten years. If Svenska eliminated this production capacity prior to the end of the ten-year period, the agreements also provided that the remaining amount of the outstanding principal would fall due immediately. Because the Swedish government provided these loans/grants to a specific enterprise on terms inconsistent with commercial considerations, we preliminarily determine that they are countervailable.

The first agreement, Project 77, was concluded in 1975, and the Swedish government disbursed the funds between 1975 and 1977. The second agreement, Project 81, was concluded in 1978, and the funds were disbursed between 1978 and 1981. In 1979, the Swedish government provided a final interest-free loan to Svenska for pollution control improvements to the modal fiber plant.

Forgiveness of these loans began when the purchased equipment went into operation. Accordingly, the Swedish government forgave ten percent of the total disbursements to Svenksa under Project 77 in each year from 1978 through 1985. Similarly, the Swedish government forgave ten percent of the total disbursements under Project 81 in each year from 1981 through 1985 and ten percent of the environmental loan in each year from 1980 through 1985. In 1986, after Svenska permanently discontinued all modal fiber production and closed the modal fiber plant, the Swedish government forgave Svenska's remaining indebtedness on these projects.

Since these loans were in effect grants, we have calculated the benefit streams using the declining balance methodology. We allocated the benefits from each grant over the 10-year average useful life of assets in the rayon fiber industry, according to the "Asset Guideline Classes" of the Internal Revenue Service, and used as discount rates the national average corporate bond rates in Sweden for the years in which each grant was received (obtained from the Monthly Digest of Swedish Statistics, a Swedish government publication). The 10-year allocation period has expired for the benefits from grants received between 1975 and 1977 under Project 77, and in 1978, 1979 and 1980 under Project 81, and for the pollution control grant given in 1979. Therefore, we included in our calculations only Project 81 grants received in 1981.

We divided the benefits attributable to the review period by the value of Svenska's total revenue income during the review period. (See, Viscose Rayon Staple Fiber from Sweden; Notice of Final Results of Countervailing Duty Administrative Review (54 FR 43191), Comment 1). On this basis, we preliminarily determine the benefit from this program to be 0.51 percent *ad valorem*.

(2) Elderly Employment Compensation Program

The Swedish government provided a subsidy to certain companies within the textile and apparel industries through a special employment contribution for older workers. This program provided compensation to a company based upon the number of hours worked by employees over 50 years of age. A company participating in the program had to agree not to dimiss or release redundant employees of any age for any reason other than normal attrition. Payments were calculated on the basis of 28 Swedish kroner per hour for employees over age 50 who were involved in production. The payment could not exceed 15 percent of the company's total labor costs. Because this program was available only to certain companies within the textile and apparel industry, we preliminarily determine that it is countervailable.

Svenska received its last payment under this program in July 1982. In January 1983, the Swedish government excluded the rayon fiber industry, including Svenska, from this program. Using the declining balance methodology referred to above, we calculated Svenska's benefit by allocating the 1982 payment over ten years, the average useful life of assets in the rayon fiber industry. We used Svenska's 1982 weighted cost of capital as the discount rate.

We divided the benefit attributable to the review period by the value of Svenska's total revenue during the review period. On this basis, we preliminarily determine the benefit from this program to be 0.24 percent *ad valorem*.

(3) Grant for Manpower Reduction and Conditional Loan

The Swedish government concluded an agreement with Svenska in 1980 consisting of two parts: A grant for manpower reduction and a conditional loan to cover operating losses. In the absence of any indication that this agreement was part of a broader financial assistance program available to companies other than Svenska, we concluded that the grant for manpower reduction and the conditional loan were available only to Svenska on terms inconsistent with commercial considerations. As a result, we preliminarily determine that they are countervailable.

The grant was intended to compensate the company for maintaining redundant employees longer than collective agreements and employment protection laws required, and for retraining employees to work elsewhere within the KF Industri group (the group of firms, including Svenska, owned directly or indirectly by Kooperativa Forbundet). The grant was paid through the National Labor Market Board in two installments, one in December 1980, and the other in July 1981. Svenska received no new manpower reduction grants during the period of review.

Using the declining balance methodology, we allocated the grant over ten years the average useful life of assets in the rayon fiber industry. We used as the discount rate the national average corporate bond rate in Sweden for 1980, the year in which the agreement was reached. We divided the benefit from the manpower reduction grant attributable to the review period by the value of Svenska's total revenue during the review period. On this basis, we preliminarily determine the benefit from this grant to be 0.14 percent *ad valorem*.

For the conditional loan part of the 1980 agreement, the terms (including the duration of the loan) and conditions depended on the company's profit levels. The loan was disbursed in three installments between 1980 and 1982. Under the original agreement, the Swedish government would forgive portions of the outstanding principal and interest of the loan if Svenska did not make a sufficient profit (based on a confidential formula agreed to by the Swedish government and Svenska). If Svenska attained the requisite level of profit, it would have to repay a certain portion of the loan, including interest. Svenska did not make a sufficient profit in any year between 1983 and 1985, and the Swedish government forgave the yearly repayment of the loan in 1983, 1984 and 1985. In 1986, in conjunction with the forgiveness of the loans/grants for plant creation, the Swedish government forgave the total outstanding balance of this loan.

Because Svenska never made any payments on this loan, which was forgiven in its entirety over four years, we have treated each of the three loan installments as grants given in the year of receipt. As with the loans/grants for the plant creation program, we have applied the declining balance methodology, allocating benefits from each grant over the 10-year average useful life of assets in the rayon fiber industry. We used as discount rates the national average corporate bond rates in Sweden for the years in which each grant was received.

We divided the benefit attributable to the review period by the value of Svenska's total revenue during the review period. The 10-year allocation period has expired for the benefits received from the conditional loan/grant given to Svenska in 1980. Therefore, we have included in our calculations only the conditional loans/grants given to Svenska in 1981 and 1982. On this basis, we preliminarily determine the benefit from the conditional loan to be 2.17 percent *ad valorem*.

Preliminary Results of Review

As a result of our review, we preliminarily determine the net subsidy to be 3.06 percent *ad valorem* for the period January 1, 1990 through December 31, 1990.

Upon completion of this review, the Department intends to instruct the Customs Service to assess countervailing duties of 3.06 percent of the f.o.b. invoice price on all shipments of this merchandise exported on or after January 1, 1990 and on or before December 31, 1990.

Further, upon completion of this review the Department intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties, as provided for by section 751(a)(1) of the Tariff Act, of 3.06 percent of the f.o.b. invoice price on all shipments of this merchandise from Sweden entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

Parties to the proceeding may request disclosure of the calculation methodology. Interested parties may request a hearing not later than 10 days after the date of publication of this notice. Interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted seven days after the time limit for filing the case brief. Any hearing, if requested, will be held seven days after the scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 355.38(e).

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under 19 CFR 355.38(c), are due.

The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a) (1)) and 19 CFR 355.22.

Dated: February 14, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-4270 Filed 2-24-92; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review

ACTION: Notice of issuance of an export trade certificate of review, application No. 83-2A028

SUMMARY: The Department of Commerce has issued an amendment to the Export Trade Certificate of Review granted to Carpenter Body Works, Inc. Notice of issuance of the Certificate was published in the **Federal Register** on April 19, 1984 (49 FR 15596).

FOR FURTHER INFORMATION CONTACT: George Muller, Director, Office of Export Trading Company Affairs, International Trade Administration, 202-377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing title III are found at 15 CFR part 325 (1990) (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the **Federal Register**. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Amended Certificate

Export Trade Certificate of Review No. 83-00028, was issued to Carpenter Body Works, Inc. on April 13, 1984 (49 FR 15596, April 19, 1984).

Carpenter Body Works, Inc's Export Trade Certificate of Review has been amended to change the name of its current Export Trade Certificate of Review from "Carpenter Body Works, Inc." to "Carpenter Manufacturing, Inc." The Export Trade, Export Trade Facilitation Services, Export Markets, Export Trade Activities, and Methods of Operation covered by the certificate of review are unchanged.

A copy of each certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: February 19, 1992.

George Muller

Director, Office of Export Trading Company Affairs.

[FR Doc. 92-4216 Filed 2-24-92; 8:45 am]

BILLING CODE 3510-DR-M

Export Trade Certificate of Review

ACTION: Notice of application for an amendment to an export trade certificate of review.

SUMMARY: The Office of Export Trading Company Affairs (OETCA), International Trade Administration, Department of Commerce, has received an application for an amendment to an Export Trade Certificate of Review. This notice summarizes the amendment and requests comments relevant to whether the amended Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: George Muller, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination of whether the Certificate should be amended. An original and five (5) copies should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, room 1800H, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 90-2A006."

OETCA has received the following application for an amendment to Export Trade Certificate of Review No. 90-00006, which was issued on July 9, 1990 (55 FR 28801, July 13, 1990), and previously amended April 30, 1991 (56 FR 21128, May 7, 1991).

Summary of the Application

Applicant: Forging Industry Association ("FIA"), 25 Prospect Avenue West, Suite 300, LTV Building, Cleveland, Ohio 44115

Contact: Robert W. Atkinson, Executive Vice President, Telephone: (216) 781-5200

Application No.: 90-2A006

Date Deemed Submitted: February 19, 1992

Request For Amended Conduct:

FIA seeks to amend its Certificate to:

1. Add the following eight companies as "Members" within the meaning of § 325.2(1) of the Regulations (15 CFR 325.2(1)): The Drop Dies & Forgings Co., Cleveland, OH; FMC Steel Products Division, Anniston, AL, (controlling entity: FMC Corporation, Chicago, IL); Hussey Marine Alloys LTD., Leetsdale, PA; Earle M. Jorgensen Co., Forge Division, Seattle, WA; (controlling entity: Earle M. Jorgensen Co., Seattle, WA); KomTek, Worcester, MA (controlling entity: Kervick Enterprises Inc., Worcester, MA); Ladish Co., Inc., Cudahy, WI; Union Forging Company, Endicott, NY (controlling entity UIS, Inc., New York, NY); Western Forge & Flange Co., Santa Clara, CA; and

2. Delete Bethlehem Steel Corporation, BethForge Division, Bethlehem, PA as a "Member" within the meaning of § 325.2(1) of the Regulations (15 CFR 325.2(1)).

Dated: February 19, 1992

George Muller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 92-4217 Filed 2-24-92; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: Transition Assistance Survey.

Type of Request: New collection; expedited submission—approval dated requested: 30 days after publication in the **Federal Register**.

Average Burden Hours/Minutes Per Response: 15 minutes.

Responses per Respondent: 1.

Number of Respondents: 1,000.

Annual Burden Hours: 250.

Annual Responses: 1,000.

Needs and Uses: This survey is being used for Air Force personnel who were involuntarily discharged in the past ten months. The Air Force wants to know the employment status of this group and their opinions about transition assistance seminars. Data will be used to improve services to departing members.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, room 3234, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce. Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, Virginia 22202-4302.

Dated: February 20, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92-4240 Filed 2-24-92; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0015]

OMB Clearance Request for Contractor Inventory Schedules

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000-0015).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning OMB Control Number 9000-0015, Contractor Inventory Schedules.

DATES: Comments may be submitted on or before April 27, 1992.

ADDRESSES: Send comments to Mr. Peter Weiss, FAR Desk Officer, OMB, room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Beverly Fayson, Office of Federal Acquisition Policy, GSA (202) 501-4755.

SUPPLEMENTARY INFORMATION:

A. Purpose

The series of standard forms (SF's) covering contractors' inventories (SF's 1423-1434) are essential for reporting, redistribution, and disposal of excess Government property at contractor plants (upon contract completion) and contractor termination inventory in support of contractor termination settlement proposals.

The contractor who is accountable for the property or who is submitting a termination settlement proposal is responsible for completing the inventory schedules.

These inventory schedules are the only means by which contractors report excess contractor inventory and by which the Government is able to achieve screening, redistribution and disposal of such property. They are also the only means of contractors supporting the inventory portion of their termination settlement proposals and accounting for Government property in their possession. Thus, this information is not available to those requiring it from any other source.

A variety of activities utilize these inventory schedules. Thus, the Termination Contracting Officer and the cognizant audit agency use the schedules in evaluating the termination charges being claimed under terminated Government contracts. The Property Administrator of the contract administration office uses the schedules to ensure that the contractor has accounted for all Government property in its possession.

In addition, screening activities of the owning agency, as well as GSA and other Federal agencies authorized to acquire such property, also use the schedules for effecting redistribution of the property within the Government. Eligible donees, under the donation program, similarly use the schedules for screening purposes. Finally, the cognizant plant clearance office uses the schedules for effecting disposition of any items determined to be surplus to the Government's requirements.

B. Annual Reporting Burden

The annual reporting burden is estimated as follows: Respondents, 12,500; responses per respondent, 4; total annual responses, 50,000; preparation hours per response, 1; and total response burden hours, 50,000.

Obtaining Copies of Proposals

Requester may obtain copies of OMB applications or justifications from the General Services Administration, FAR Secretariat (VRS), room 4041, Washington, DC 20405, telephone (202) 501-4755. Please cite OMB Control No. 9000-0015, Contractor Inventory Schedules, in all correspondence.

Dated: February 14, 1992.

Laurie A. Frazier,

FAR Secretariat.

[FR Doc. 92-4254 Filed 2-24-92; 8:45 am]

BILLING CODE 6820-JC-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board's Committee on Technology Options for Global Reach - Global Power: 1995-2020 (Mobility Panel) will meet on 11-12

March 1992, at the RAND Corporation, 1700 Main Street, Santa Monica, CA, at 8 a.m. to 5 p.m.

The purpose of this meeting is to receive briefings and gather information for the study.

The meeting will be closed to the public in accordance with section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–4811.

Patsy J. Conner,

Air Force Federal Register, Liaison Officer.

[FR Doc. 92–4262 Filed 2–24–92; 8:45am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board Meeting

The USAF Scientific Advisory Board of the Space and C³I Panel of 1992 Summer Study on Global Reach/Global Power will meet on 26–28 March 1992 from 8 a.m. to 5 p.m. at the Pentagon, Washington, DC.

The purpose of this meeting is to receive briefings and hold discussions on projects related to Space and C³I in support of Global Reach/Global Power. This meeting will involve discussions of classified defense matters listed in section 552b(c) of title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 92–4189 Filed 2–24–92; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board Meeting

The USAF Scientific Advisory Board's Committee on Technology to Support Force Projection: Global Reach—Global Power will meet on 19–20 March 1992, at the Hughes Aircraft Company, 7200 Hughes Terrace, Canoga Park, CA from 8 a.m. to 5 p.m.

The purpose of this meeting is to receive briefings and gather information for the study.

The meeting will be closed to the public in accordance with section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–4811.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 92–4190 Filed 2–24–92; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Army Science Board, Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates/Time of Meeting: 10–11 March 1992.

Time: 0800–1700 hours daily.

Place: Fort Monmouth, NJ.

Agenda: Members of the 1992 ASB Summer Study, "C2 on the Move" will meet to continue work on the study. The purpose of this Classified meeting is directed to interviews with commanders who participated in Desert Storm and Just Cause. Areas of interest are in both "real world" operational concerns and command and control areas. This meeting will be closed to the public in accordance with section 552b(c) of title 5, U.S.C., specifically subparagraph (1) thereof, and title 5, U.S.C., appendix 2, subsection 10(d). The classified and unclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (703) 695–0781/0782.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 92–4314 Filed 2–24–92; 8:45 am]

BILLING CODE 3710-08-M

Standardization of International and Domestic Carrier Evaluation Reporting System, Personal Property Traffic Management

AGENCY: Military Traffic Management Command (MTMC), DoD.

ACTION: Implementation and effective dates.

SUMMARY: MTMC is standardizing the policies and procedures in the International Carrier Evaluation and Reporting System (ICERS) and the Domestic Carrier Evaluation and Reporting System (CERS) programs. The program objectives are to streamline the process of evaluating carriers and standardize procedures for domestic and international personal property shipping offices (PPSOs), reducing the administrative workload for both the PPSOs and the carriers who are currently operating under two different quality assurance programs, CERS and ICERS.

DATES: Effective 16 February 1992 for the International Program and 16 March 1992 for the Domestic Program.

FOR FURTHER INFORMATION CONTACT: Captain Jeff Miser or Ms. Betty Wells at (703) 756–1784, HQMTMC, ATTN: MTPP-QQ, 5611 Columbia Pike, Falls Church, VA 22041–5050.

SUPPLEMENTARY INFORMATION: For reasons set forth in the summary and under the authority of DOD Directives 5126.9 and 4500.34, the revision will supersede the current procedures published in DOD 4500.34–R, Chapter 2, Personal Property Traffic Management Regulations; the CERS pamphlet, dated March 1984; and the ICERS pamphlet, dated 1 June 1987. The program was initially published for comments in the **Federal Register,** Volume 55, Number 91 (55 FR 19643, May 10, 1990). Comments were received in writing and during several public briefings on the program: 6 September 1991, 19 September 1991, and 23–24 October 1991. Some revisions to the program were made based on the comments received. A review of the results of the new program is scheduled for one year after implementation. A copy of the revised program entitled "Total Quality Assurance Program" (TQAP) is available in the public file at HQMTMC. The significant changes contained in the revision are as follows:

A. Carrier Assessment Program

1. Performance Factors.

a. One-Time Pickup—A carrier will be awarded 20 points for meeting the established pickup date. A carrier failing to effect pickup, as ordered, will receive no points.

b. On-Time Delivery—A carrier will be awarded 40 points for meeting the established required delivery date (RDD). Four points will be deducted for each day the shipment is late, up to a maximum of 40 points.

c. Loss and or Damage—A carrier will be awarded 40 points for no loss or damage, as indicated on the DD Form 1840 (Joint Statement of Loss and Damage at Delivery), DD Form 1840R (Notice of Loss or Damage), or other documentation. Two points will be deducted for each $100 increment up to $500, and 6 points for loss and damage in $100 increments of $501–$901. In absence of any documents reflecting loss or damage, no points will be awarded.

2. Individual Shipment Scores. All shipments will be individually scored on the above performance factors 1 year after pickup date or 120 days after

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delivery. A score of 90 percent or above on each shipment is considered satisfactory. A score below 90 percent, on any shipment is considered a failing score.

3. Semiannual Scores. The individual shipment scores will be averaged together for each six month evaluation period. Each carrier will receive only one domestic household goods (HHGs) score, (Codes 1 and 2), one international HHGs score (Codes 4, 5, 6, and T), and one unaccompanied baggage (UB) score (Codes 7, 8, and J), as applicable, out of an installation or activity regardless of areas of operation or traffic channels. Semiannual scores under 90 percent will be considered unsatisfactory and result in specified periods of traffic denial. A carrier who does not receive a shipment evaluation during the evaluation period, will have the last semiannual score carried forward. The scores will be used to qualify and establish the order for awarding traffic during the next rate cycle.

4. Traffic Denial. Semiannual scores below 90 percent will result in periods of traffic denial. Semiannual average scores of 80 to 89.99 will result in 60 days of traffic denial, scores of 70 to 70.99 will result in 120 days, and scores below 70 will result in 180 days of traffic denial. Carriers placed in a traffic denial status will be automatically returned to the traffic distribution record (TDR) at the end of the traffic denial period, with an administrative score of 90, with no further review of their performance file.

B. Quality Assurance Procedures

When a carrier or agent violates any provision of the Tender of Service, applicable rate tariffs or tenders, or commits unethical or unlawful acts, the PPSO shall take action to warn or suspend the carrier or to recommend the carrier's disqualification to the MTMC Area Command, MTMCPAC–PP, or MTEUR–PP, as applicable.

1. Letters of Warning. The PPSO will issue a Letter of Warning, using DD Form 1814, to note an unacceptable trend or performance problem. Letters of Warning will not be issued for each Tender of Service violation. The Letter of Warning will serve as a formal warning and will normally precede a Letter of Suspension.

2. Suspensions. The PPSO shall issue a Letter of Suspension, using a DD Form 1814, to the carrier after repeated violations of the Tender of Service, rules and regulations of rate tariffs or tenders, legal requirements, or commits unethical acts. Suspensions will apply to through Government bills of lading traffic as follows: HHG (Codes 1 and 2); international through Government bills of lading HHG (Codes 4, 5, 6, and T); or UB (Codes 7, 8, and J).

a. All suspensions will be for a minimum of 30 days during which time no shipments for the applicable codes of service identified in number 2 above will be booked with the carrier. The carrier will not be tendered shipments after the 30 day period until satisfactory evidence is provided to the PP indicating that the circumstances which gave rise to the suspension have been corrected.

b. Should a carrier fail to provide the PPSO adequate evidence of effective corrective action within 90 days of the effective date of the suspension, the PPSO will provide the carrier a "Notice of Intent to Return the Letter of Intent." The carrier will be advised that failure to respond within 30 days from the date of the notice will result in automatic return of the Letter of Intent, thereby, cancelling the rates for the rest of the cycle and possibly future cycles.

C. Appeals

A carrier has 45 days from the day of the aciton to submit a written appeal to the responsible PPSO. If an appeal is denied by the PPSO, it may be further appealed by the carrier to the responsible MTMC Area Command, MTMCPAC–PP, MTEUR–PP, as appropriate. If an appeal cannot be resolved by the MTMC Area Command, MTMCPAC–PP, or MTEUR–PP, it shall be forwarded to HQMTMC, ATTN: MTPP–Q, for resolution. The area command/field office will be the final appellate authority on semiannual score appeals. For all other actions, the decision of HQMTMC, shall be final.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 92–3909 Filed 2–24–92; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Office of the Secretary

National Energy Strategy Report

AGENCY: Office of the Secretary, Department of Energy.

ACTION: Notice of availability of the National Energy Statregy Report—One Year Later.

SUMMARY: The Department of Energy will present a report on the Administration's progress in implementing the National Energy Strategy titled, National Energy Strategy—One Year Later. The National Energy Strategy, first published on February 20, 1991, calls for more than 100 specific legislative and administrative actions to increase energy efficiency, spur economic growth, enhance the quality of the environment and increase our energy security. The Administration has moved aggressively to act on the more than 90 Strategy intiatives that could be implemented under the existing statutory authority. The list of accomplishments includes energy conservation and efficiency actions, energy-related regulatory reforms, and significantly increased budgetary emphasis on research and development important to long-term implementation of the Strategy.

DATES: The report was available on Thursday, February 20, 1992.

ADDRESSES: Persons requiring a single copy of the report, may write to: U.S. Department of Energy, Public Inquiries, room 1E–206, Mail Stop: PA–5, 1000 Independence Avenue, SW., Washington, DC 20585, or call (202) 586–3188. Multiple copies are available for a fee from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22161, (703) 487–4660, and the Office of Scientific and Technical Information, Post Office Box 62, Oak Ridge, Tennessee 37831, (615) 576–8401.

Peter B. Saba,

Principal Associate Deputy Under Secretary, Policy, Planning and Analysis.

FR Doc. 92–4266 Filed 2–24–92; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. TQ92-2-22-001]

CNG Transmission Corporation; Supplemental Filing

February 19, 1992.

Take notice that CNG Transmission Corporation (CNG), on February 14, 1992, pursuant to section 4 of the Natural Gas Act, part 154 of the Commission's Regulations, and section 12 of the General Terms and Conditions of CNG's tariff, filed the following revised tariff sheets to First Revised Volume No. 1 of its FERC Gas Tariff:

Eighteenth Revised Sheet No. 31
Thirteenth Revised Sheet No. 34

The purpose of this filing is to correct an inadvertent error in the original filing and to reflect a recent change in the rates of Tennessee Gas Pipeline Company ("Tennessee"). Tennessee on January 31, 1992, moved to place revised rates into effect on February 1, 1992 in Docket No. RP91–203.

CNG requests an effective date of March 1, 1991. In the event that the Commission does not grant CNG a shortened notice period for the supplemental tariff sheets, CNG requests an April 1, 1992, effective date in order to avoid split-month billings.

CNG states that copies of the filing were served upon CNG's sales customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's rules of practice and procedures, 18 CFR 385.211. All such protests should be filed on or before February 26, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-4204 Filed 2-24-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP89-1-012 and RP92-86-001]

Mojave Pipeline Co.; Tariff Filing

February 19, 1992.

Take notice that Mojave Pipeline Company (Mojave), on February 14, 1992, tendered for filing Second Substitute Tariff sheets to its FERC Gas Tariff Original Volume No. 1, in compliance with part 154 of the Commission's regulations and the Commission's orders of January 30, 1992, in Docket Nos. CP89-1-008 *et al.*, and February 5, 1992, in Docket No. RP92-86-000, to be effective February 1, 1992.

Mojave states that Second Substitute Original Sheet No. 11 contains revised rates for firm and interruptible transportation as authorized by the Commission in its order of January 31, 1992. Mojave has also submitted an Alternate Second Substitute Original Sheet No. 11, which contains rates proposed in Mojave's Request for Rehearing. In addition, Mojave has submitted a Second Alternate Second Substitute Original Sheet No. 11, which contains the rates Mojave would be authorized to charge if its motion for issuance of errata, filed on February 11, 1992 in Docket No. CP89-1-008, were grated in its entirety but no other relief sought in Mojave's request for rehearing were granted.

Mojave states that Second Substitute Original Sheet Nos. 110, 111, 111A and 112 make changes concerning marketing affiliates as required in the Commission's Order of February 5, 1992.

Mojave states that copies of the filing were served upon Mojave's jurisdictional transportation customers.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426, in accordance with Rule 211 of the Commission's rules of practice and procedures, 18 CFR 385.211. All such protests should be filed on or before February 26, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-4205 Filed 2-24-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ92-1-82-001 and RP92-48-002]

Viking Gas Transmission Company; Compliance Filing

February 19, 1992.

Take notice that on February 13, 1992, Viking Gas Transmission Company ("Viking") filed the following tariff sheet in compliance with a Commission order issued on January 29, 1992, in the above-referenced dockets:

Original Volume No. 1

Eighteenth Revised Sheet No. 6

Viking filed a quarterly purchased gas adjustment on December 31, 1992. In its January 29, 1992 order, the Commission accepted Viking's filing subject to refund and to Viking filing, within 15 days of the date of the Commission's order, a tariff sheet reflecting the base tariff rates in Docket No. RP92-48-000 that were accepted effective January 1, 1992. Viking states that this tariff sheet, which Viking proposes become effective on February 1, 1992, is filed to satisfy that requirement.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's rules of practice and procedure 18 CFR 385.211. All such protests should be filed on or before February 26, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-4206 Filed 2-24-92; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. 91-114-NG]

Kimball Energy Corporation; Application for Blanket Authorization To Import Natural Gas From Canada

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of application for blanket authorization to import natural gas from canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on December 23, 1991, of an application filed by Kimball Energy Corporation (Kimball) requesting blanket authorization to import up to 75 Bcf of natural gas from Canada over a two-year period commencing on April 1, 1992, the date on which Kimball's current two-year blanket import authorization expires.[1] Kimball intends to use existing facilities and submit quarterly reports detailing each transaction.

The application was filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATES: Protests, motions to intervene, or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time March 26, 1992.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, FE-50, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9482.

FOR FURTHER INFORMATION CONTACT:

Charles E. Blackburn, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-094, 1000

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[1] DOE/FE Opinion and Order 397, 1 FE Para. 70,324 (June 5, 1991).

Independence Avenue, SW.,
Washington, DC 20585, (202) 586-7751.
Lot Cooke, Office of Assistant General
Counsel for Fossil Energy, U.S.
Department of Energy, Forrestal
Building, room 6E-042, CG-14, 1000
Independence Avenue, SW.,
Washington, DC 20585, (202) 586-0503.

SUPPLEMENTARY INFORMATION: Kimball, a Texas corporation with its principal place of business in Arlington, Texas, is a natural gas marketer. Kimball requests authority to continue importing gas, either for its own account or as an agent on behalf of others, for sale to U.S. customers. The terms of each spot or short-term transaction will be determined by competitive factors in the natural gas marketplace.

The decision on this application for import authority will be made consistent with DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties, especially those that may oppose this application, should comment on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts imports made under the proposed arrangement will be competitive and otherwise consistent with DOE import policy. Parties opposing this arrangement bear the burden of overcoming this assertion.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have their written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Kimball's application is available for inspection and copying in the Office of Fuels Programs Docket Room, room 3F-056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on February 18, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-4265 Filed 2-24-92; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 91-110-NG]

Teco Gas Marketing Company; Application To Export Natural Gas to Mexico

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of application for blanket authorization to export natural gas to Mexico.

SUMMARY: The Office of Fossil Energy of the Department of Energy (DOE) gives notice of receipt on December 20, 1991, of an application filed by Teco Gas Marketing Company (Teco), requesting blanket authorization to export up to 200,000 MMBtu per day of natural gas over a two-year period commencing with the date of first delivery. Teco intends to use existing pipeline facilities and states that it will submit quarterly reports detailing each transaction and will advise the DOE of the date of the first delivery.

The application is filed under section 3 of the National Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time March 26, 1992.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, FE-50, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478.

FOR FURTHER INFORMATION CONTACT:

Stanley C. Vass, Office of Fuels
Programs, Fossil Energy, U.S.
Department of Energy, Forrestal
Building, room 3F-094, FE-53, 1000
Independence Avenue, SW.,
Washington, DC 20585, (202) 586-9482.
Diane Stubbs, Office of Assistant
General Counsel for Fossil Energy,
U.S. Department of Energy, Forrestal
Building, room 6E-042, GC-14, 1000
Independence Avenue, SW.,
Washington, DC 20585, (202) 586-9482.

SUPPLEMENTARY INFORMATION: Teco is a corporation organized under the laws of the State of Delaware with its principal place of business in Houston, Texas. Teco proposes to purchase gas from U.S. producers at market responsive prices for sale to various Mexican purchasers. Teco asserts that all gas exported would be surplus to domestic need and that all sales would result from arms-length negotiations.

The export application will be reviewed under section 3 of the Natural Gas Act and the authority contained in DOE Delegation Order Nos. 0204–111 and 0204–127. In deciding whether the proposed export is in the public interest, domestic need for the gas will be considered, and any other issues determined to be appropriate, including whether the arrangement is consistent with the DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment on these matters as they relate to the requested export authority. The applicant asserts that there is no current need for the domestic gas that would be exported under the proposed arrangement. Parties opposing this arrangement bear the burden of overcoming this assertion.

All persons should be aware that if DOE approves this import, it may designate a total term volume, rather than the maximum daily volumes requested, in order to provide Teco with maximum operating flexibility.

EPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C., 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have their written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR § 590.316.

A copy of Teco's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, February 18, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92–4264 Filed 2–24–92; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Cases Filed During the Week of January 10 Through January 17, 1992

Office of Hearings and Appeals

During the week of January 10 through January 17, 1992, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: February 20, 1992.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of January 10 through January 17, 1992]

Date	Name and location of applicant	Case No.	Type of submission
Nov. 13, 1992	William Albert Hewgley Kingston, TN	LFA–0178	Appeal of an Information Request Denial. If granted: William Albert Hewgley would receive access to DOE information.
Jan. 15, 1992	Mobil/Cantro Petroleum Corporation Hartford, CT	RR225–41	Request for modification/rescission in the Mobil Refund Proceeding. If granted: The U.S. District Court for the District of Connecticut has remanded the Mobil Oil Corporation refund calculation made in the Decision and Order issued June 18, 1989 to Cantro Petroleum Corporation, Case No. RR225–373, for further explanation.
Jan. 16, 1992	Gulf/Rooks Grocery Store Woodbridge, VA	RR300–125	Request for modification/rescission in the Gulf Refund Proceeding. If granted: The October 29, 1991 Dismissal Letter (Case No. RF300–12767) issued to Rooks Grocery Store would be modified regarding the firm's application for refund submitted in the Gulf refund proceeding.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of January 10 through January 17, 1992]

Date	Name and location of applicant	Case No.	Type of submission
Jan. 17, 1992	Gulf/Woodland Gulf Cordova, TN	RR300-126	Request for modification/recission in the Gulf Refund Proceeding. If granted: The November 20, 1991 Decision and Order (Case No. RF300-12755) is issued to Woodland Gulf would be modified regarding the firm's application for refund submitted in the Gulf refund proceeding.
Jan. 17, 1992	J. M. Davis Industries, Inc. Morehead City, NC	LEE-0034	Exception to the reporting requirements. If granted: J. M. Davis Industries, Inc. would not be required to file Form EIA-782B, "Reseller/Retailer's Monthly Petroleum Product Sales Report."

REFUND APPLICATIONS RECEIVED

[Week of January 10 to January 17, 1992]

Date received	Name of refund proceeding/name of refund applicant	Case No.
1/13/92	Jim Jordans Clark Super 100	RF342-121.
1/13/92	Tom's Clark Super 100	RF342-122.
1/13/92	Killeen Propane & Hardware	RF340-46.
1/14/92	Don's Clark	RF342-123.
1/15/92	Reilly Bros. Oil	RF304-12695.
1/15/92	Consumers Coop of Walworth	RF272-91411.
1/15/92	Southwest Butane Company	RF340-47.
1/15/92	Engel, Inc.	RF340-48.
1/16/92	Evans Oil Company	RF340-49.
1/17/92	Fraley Butane Company, Inc.	RF340-50.
1/17/92	Bob's Atlantic	RF304-12696.
1/17/92	Ramada Arco Service	RF304-12697.
1/17/92	Hampartosoun Torian	RF304-12698.
1/17/92	Reggie's Arco	RF304-12699.
1/17/92	Artz's Arco	RF304-12700.
1/17/92	Dana Point Fuel Dock	RF304-12701.
1/10/92 thru 1/17/92	Texaco refund applications received	RF321-18360 thru RF321-18388.
1/10/92 thru 1/17/92	Crude Oil applications received	RF272-91382 thru RF272-91435.
1/10/92 thru 1/17/92	Gulf Oil refund applications received	RF300-19404 thru RF300-19418.

[FR Doc. 92-4267 Filed 2-24-92; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed; Port of Beaumont Navigation District/Neches River Terminal Inc. Lease Agreement; et al.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-200619.

Title: Port of Beaumont Navigation District/Neches River Terminal, Inc. Lease Agreement.

Parties: Port of Beaumont Navigation District/Neches River Terminal, Inc.

Synopsis: This Agreement, filed February 12, 1992, provides for the lease of a facility for receiving, storage and loading of bulk cargo.

Agreement No.: 224-200620.

Title: Maryland Port Administration/Hale Container, Inc.

Parties: Maryland Port Administration ("MPA") Hale Container, Inc. ("Hale").

Synopsis: This Agreement, filed February 13, 1992, provides that MPA will lease approximately 3 acres at its Dundalk Marine Terminal to Hale for a one year period.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: February 19, 1992.

[FR Doc. 92-4196 Filed 2-24-92; 8:45 am]

BILLING CODE 6730-01-M

City of Los Angeles/Stevedoring Services of America; et al.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-200621.

Title: City of Los Angeles/Stevedoring Services of America Nonexclusive Preferential Crane Assignment.

Parties:

City of Los Angeles
Stevedoring Services of America.

Synopsis: This Agreement, filed February 14, 1992, provides for the assignment of Crane No. 209-3 at Berth 228 owned by the Los Angeles Harbor Department to Stevedoring Services of America on a nonexclusive preferential basis. The assignment time shall be on a month-to-month basis.

Agreement No.: 203-011367.

Title: Colombia Discussion Agreement.

Parties:

Lykes Bros. Steamship Co., Inc.
Flota Mercante Grancolombiana S.A. (F.M.G.)
Frontier Liner Services.

Synopsis: The purposed Agreement would authorize the parties to meet, discuss and agree on rates and charges in the trade between U.S. Atlantic, Gulf and Pacific Coast ports and ports in the Republic of Colombia. The parties have no obligation under this Agreement, other than voluntarily, to adhere to any consensus or agreement reached. The parties have requested a shortened review period.

By Order of the Federal Maritime Commission.

Dated: February 20, 1992.

Joseph C. Polking,
Secretary.

[FR Doc. 92-4250 Filed 2-24-92; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank of Camden Employee Stock Ownership Plan; Change in Bank Control Notice; Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than March 17, 1992.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Bank of Camden Employee Stock Ownership Plan, Camden, Tennessee; to acquire at least 9.83 percent, but no more than 12.20 percent, of the voting shares of Bancshares of Camden, Inc., Camden, Tennessee, and thereby indirectly acquire Bank of Camden, Camden, Tennessee.

Board of Governors of the Federal Reserve System, February 19, 1992.

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 92-4218 Filed 2-24-92; 8:45 am]

BILLING CODE 6210-01-F

CNB Financial Corp.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than March 23, 1992.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. CNB Financial Corp., Canajoharie, New York; to become a bank holding company by acquiring 100 percent of the voting shares of Central National Bank, Canajoharie, Canajoharie, New York.

Board of Governors of the Federal Reserve System, February 19, 1992.

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 92-4219 Filed 2-24-92; 8:45 am]

BILLING CODE 6210-01-F

First Mid-Illinois Bancshares, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 23, 1992.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. First Mid-Illinois Bancshares, Inc., Mattoon, Illinois; to acquire Heartland

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Federal Savings & Loan Association, Mattoon, Illinois, and thereby engage in operating a savings association pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 19, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92–4220 Filed 2–24–92; 8:45 am]

BILLING CODE 6210-01-F

Morrill Bancshares, Inc., Morrill & Janes Bancshares, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The companies listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.24) to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The applications are available for immediate inspection at the Federal Reserve Bank indicated. The applications are also available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than March 10, 1992.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Morrill Bancshares, Inc.*, Sabetha, Kansas; and Morrill and Janes Bancshares, Inc., Hiawatha, Kansas, to acquire 100 percent of the voting shares of Robinson Bancshares, Inc., Robinson, Kansas.

Board of Governors of the Federal Reserve System, February 21, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92–4354 Filed 2–24–92; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

National Advisory Council for Health Care Policy, Research, and Evaluation; Meeting

AGENCY: Agency for Health Care Policy and Research, HHS.

ACTION: Notice of public meeting.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces a public meeting of a Technology Assessment Task Force of the National Advisory Council for Health Care Policy, Research, and Evaluation. The Task Force was created to consider with all interested parties the utility of holding public meetings to channel information and opinions on health care technology issues to the Council.

DATES: The meeting, open to the public, will be on March 16, 1992, from 1 p.m. to 5:30 p.m. and March 17, 1992, from 9 a.m. to 12 p.m.

ADDRESSES: The meeting will be at the Sheraton Washington, 2660 Woodley Road, NW., Washington, DC 20008.

FOR FURTHER INFORMATION CONTACT: Deborah L. Queenan, Executive Secretary of the Advisory Council, Agency for Health Care Policy and Research, suite 603, 2101 East Jefferson Street, Rockville, Maryland 20852, (301) 227–8459.

SUPPLEMENTARY INFORMATION:

I. Purpose

Section 921 of the Public Health Service Act (42 U.S.C. 299c) established the National Advisory Council for Health Care Policy, Research, and Evaluation. The Council provides advice to the Secretary and the Administrator, Agency for Health Care Policy and Research, on matters related to enhancement of the quality, appropriateness, and effectiveness of health care services and access to such services through scientific research and the promotion of improvements in clinical practice and the organization, financing, and delivery of health care services. In order to better advise the Administrator on health care technology issues, the Council named a ten member Technology Assessment Task Force. The Task Force was directed to convene a public meeting for interested parties to discuss the potential benefits of, and formats for, a regular public forum for the presentation of information and recommendations regarding technology assessment issues for Council consideration.

Of the ten current Council members of the Task Force, seven are public members: Mr. Edward C. Bessey; Joseph T. Curti, M.D.; William S. Kiser, M.D.; Kermit B. Knudsen, M.D.; Barbara J. McNeil, M.D., Ph.D.; Walter J. McNerney; and Donald E. Wilson, M.D. Three Federal ex officio members, or their representatives, will also serve: the Administrator of the Health Care Financing Administration, the Commissioner of the Food and Drug Administration, and the Director of National Institutes of Health.

II. Agenda

On March 16, from 1 p.m. to 5:30 p.m., the Task Force will hear presentations and accept written comments from any interested parties on methods of opening public discussion of health care technology assessment issues and on options for future public discussions. On March 17, from 9 a.m. to 12 p.m., the Task Force will review information presented the previous day. The Technology Assessment Task Force will present its findings to the Council at the meeting scheduled for May 21–22, 1992.

Participants may make oral presentations of no more than 5 minutes. Written comments also may be submitted. Persons wishing to make an oral statement should contact the Executive Secretary of the Council at the phone number above in order to schedule time for participation.

Agenda items are subject to change as priorities dictate.

Dated: February 14, 1992.

J. Jarrett Clinton,

Administrator.

[FR Doc. 92–4182 Filed 2–24–92; 8:45 am]

BILLING CODE 4160-90-M

Centers for Disease Control

[Announcement Number 203]

A Project Grant to Coordinate a National Infant Immunization Coalition and to Coordinate the Development of State and Local Infant Immunization Coalitions

Introduction

The Centers for Disease Control (CDC), the Nation's prevention agency, announces the availability of funds for one project grant to coordinate a national infant immunization coalition of diverse national organizations representing public and private health professionals, minorities, volunteers, consumers, community organizations, government entities, and others and to develop local infant immunization coalitions in 6 to 10 high morbidity, inner-city and comparable rural areas. The purpose of this project is to improve immunization levels in the preschool age group.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Immunization and Infectious Diseases. (For ordering a copy of Healthy People 2000, see the section **WHERE TO OBTAIN ADDITIONAL INFORMATION.**)

Authority

This program is authorized under the Public Service Act, section 317k(3) (42 U.S.C. 247b(k)(3)), as amended.

Eligibility

Eligible applicants are non-profit organizations with a national membership which devote most of their activities to maternal and child health (MCH) issues. Applicants must also have an established coalition of diverse national organizations which promote public health educational efforts, including immunization, for pregnant women, new mothers, and their families. The coalition should include public and private health professionals, minorities, volunteers, consumers, community organizations, government entities, and others.

Availability of Funds

Approximately $80,000 is available in Fiscal Year 1992 to fund one project grant. It is expected that the award will begin on or about April 15, 1992, for a 12-month budget period, within a 3-year project period. The funding estimate may vary and is subject to change. Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

Purpose

The purpose of this project grant is to improve immunization levels in the preschool age group. The specific goals are: (A) To promote public awareness and education about immunization, with a special focus on reaching high risk, minority families; (B) to develop local infant immunization coalitions in 6 to 10 targeted areas to assist in implementing part of the strategies and plans; and (C) to provide training to ensure that state/local coalition members are informed advocates for immunization.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient shall be responsible for the following activities:

1. Coordinate the activities of the infant immunization coalition. Coordination includes, but is not limited to, communicating with or between members of the national coalition; providing orientation and referral of potential new members and participants in the coalition; jointly developing meeting agendas and conducting meetings with CDC and others; and making logistical arrangements for meetings.
2. Develop a strategic plan for the identification of 6 to 10 state/local targeted areas (high morbidity inner-city and rural); analyze the extent of the resources in each area; and select the types of organizations which should be included in the local coalition.
3. Serve as the lead organization to develope local coalitions of informed advocates, organizations, and community leaders to promote the need for immunization services and programs.
4. Work with state and local health agencies and community-based primary care programs (e.g. community and migrant health centers and others) to identify the major immunization problems which require a broad base of community support to achieve resolution.
5. Convene meetings of public and private health care providers, volunteer groups, community-based organizations, consumer advocates, members of the corporate sector, and other organizations to inform them of the immunization issues and problems and to solicit and focus their unique support/contribution to the effort.
6. Develop instructional protocols and manuals to enable state/local coalition chapters to train individuals, organizations, and community leaders as advocates to promote immunization services.
7. Provide training to ensure that state/local coalition members are informed advocates for immunization.

Evaluation Criteria

Each application will be reviewed and evaluated according to the following criteria (Maximum 100 points):

A. The ability of the applicant to describe its experience in coordinating coalitions of diverse organizations and effectively demonstrate a clear understanding of the purpose of this project. (Maximum 30 points)

B. The extent to which the applicant's short- and long-term objectives are realistic, measurable, time-phased, and consistent with the purpose of the program. (Maximum 10 points)

c. The extent to which the applicant demonstrates that is has the necessary administrative support and accessibility to participants in 6 to 10 inner-city and comparable rural areas with a high morbidity rate of vaccine-preventable diseases to accomplish the goals of this project. (Maximum 10 points)

D. The overall effectiveness of the applicant's proposed activities and the methods for meeting the stated objectives. (Maximum 10 points)

E. The adequacy of plans to evaluate progress in implementing methods and achieving objectives. (Maximum 10 points)

F. The extent to which qualified and experienced personnel are available to carry out the proposed activities. (Maximum 10 points)

G. The ability of the applicant to demonstrate that it has the necessary systems already in place to communicate effectively with its constituency through regular written communications such as newsletters, "dear colleague" letters, and the like *and* through sponsoring or promoting regularly scheduled local, regional, and national meetings of their chapters, affiliates, and individuals to share information, transfer skills, and promote initiatives in maternal and child health. (Maximum 10 points)

H. The degree to which letters from community leaders and state and local public health agencies indicate that the applicant has their support and involvement in carrying out the proposed activities of this project. (Maximum 10 points)

Consideration will also be given to the extent to which the budget request is clearly explained and adequately justified, reasonable, and consistent with the intended use of funds.

Executive Order 12372

Applications are not subject to Intergovernmental Review of Federal Programs as governed by Executive Order 12372 (45 CFR part 100).

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number for this project grant is 93.185.

Application and Submission Deadline

The original and two copies of the application (Form PHS–5161–1) must be submitted to Edwin L. Dixon, Grants Management Officer, Grants Management Branch, Procurement and

Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Room 300, Mailstop E–14, Atlanta, GA 30305 on or before March 24, 1992.

1. Deadline

Applications shall be considered as meeting the deadline if they are:

a. Received on or before the deadline date, or

b. Sent on or before the deadline date and received in time for submission to the independent review committee. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks will not be acceptable as proof of timely mailing.)

2. Late Applications

Applications that do not meet the criteria in 1.a. or 1.b. are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where To Obtain Additional Information

A complete program description, information on application procedures and application package may be obtained from Lynn Mercer, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control 255 East Paces Ferry Road, NE., room 300, Mailstop E–14, Atlanta, GA 30305, (404) 842–6640 or FTS 236–6640. Please refer to Announcement Number 203 when requesting information and submitting any application on the Request for Assistance.

Programmatic technical assistance may be obtained from Kenneth N. Anderson, Division of Immunization, National Center for Prevention Services, Centers for Disease Control, Mailstop E–52, Atlanta, GA 30333, (404) 639–1421 or FTS 236–1421.

A copy of Healthy People 2000 (Full Report; Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report; Stock No. 017–001–00473–1) referenced in the INTRODUCTION may be obtained through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone (202)783–3238).

Dated: February 19, 1992.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 92–4213 Filed 2–24–92; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 92N–0073]

Drug Export; Blood Grouping Reagent: Anti-C (ANTI-HR') (Monoclonal) Bioclone for Slide, Tube, and Microplate Test

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ortho Diagnostic Systems, Inc., has filed an application requesting approval for the export of the biological products Blood Grouping Reagent-Anti-c (Anti-hr') (Monoclonal) BioClone for Slide, Tube, and Microplate Test to Australia, Austria, Belgium, Canada, Denmark, Federal Republic of Germany, Finland, France, Iceland, Ireland, Italy, Japan, Luxembourg, The Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, and The United Kingdom.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human biological products under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Boyd Fogle, Jr., Center for Biologics Evaluation and Research (HFB–120), Food and Drug Administration, 5600 Fishers Lane, Rockvile, MD 20857, 301–295–8191.

SUPPLEMENTARY INFORMATION: The Drug Export Amendments Act of 1986 (Pub. L. 99–660) (section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382)) provides that FDA may approve applications for the export of biological products that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Ortho Diagnostic Systems, Inc., Route 202, Raritan, NJ 08869, has filed an application requesting approval for the export of the biological products Blood Grouping Reagent, Anti-c (Anti-hr') (Monoclonal) BioClone for Slide, Tube, and Microplate Test to Australia, Austria, Belgium, Canada, Denmark, Federal Republic of Germany, Finland, France, Iceland, Ireland, Italy, Japan, Luxembourg, The Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, and The United Kingdom. The Blood Grouping Reagent, (Anti-hr') (Monoclonal) BioClone for Slide, Tube, and Microplate Test is a qualitative test designed for use in hemagglutination tests for recognition of the c (hr') antigen on human erythrocytes.

The application was received and filed in the Center for Biologics Evaluation and Research on January 31, 1992, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by March 6, 1992, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Biologics Evaluation and Research (21 CFR 5.44).

Dated: February 11, 1992.

Thomas S. Bozzo,

Director, Office of Compliance, Center for Biologics Evaluation and Research.

[FR Doc. 92–4184 Filed 2–24–92; 8:45 am]

BILLING CODE 4160-01-M

Advisory Committees; meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also

summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

MEETINGS: The following advisory committee meetings are announced:

Blood Products Advisory Committee

Date, time, and place. March 12 and 13, 1992, 8:30 a.m., Holiday Inn-Bethesda, Versailles Ballrooms III and IV, 8120 Wisconsin Ave., Bethesda, MD.

Type of meeting and contact person. Open public hearing, March 12, 1992, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 5 p.m.; open committee discussion, March 13, 1992, 8:30 a.m. to 3 p.m.; Linda A. Smallwood, Center of Biologics Evaluation and Research (HFB–902), Food and Drug Administration, 8800 Rockville Pike, Betheada, MD 20892, 301–227–6700.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness, and appropriate use of blood products intended for use in the diagnosis, prevention, or treatment of human diseases.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before March 6, 1992, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On March 12, 1992, the committee will: (1) Review and discuss recommendations for use of multi-antigen screening tests that detect antibodies to the Hepatitis C Virus (anti-HCV), (2) review and discuss the false positive screening results associated with influenza immunization, and (3) discuss issues related to the use of the Chiron RIBA–II™ immunoblot test assay for anti-HCV. On March 13, 1992, the committee will consider FDA recommendations pertaining to the following blood issues: (1) HIV-related donor deferral criteria, and (2) "fresh" blood requirements and laboratory testing procedures.

Board of Tea Experts

Dater, time, and place. March 19 and 20, 1992, 10 a.m., New York Regional Laboratory, rm. 700, 850 Third Ave., Brooklyn, NY.

Type of meeting and contact person. Open public hearing, March 19, 1992, 10 a.m. to 11 a.m., unless public participation does not last that long; open committee discussion, 11 a.m. to 4:30 p.m.; open committee discussion, March 20, 1992, 10 a.m. to 4:30 p.m.; Robert H. Dick, New York Regional Laboratory, Food and Drug Administration, 850 Third Ave., Brooklyn, NY 11232, 212–965–5739.

General function of the committee. The committee advises on establishment of uniform standards of purity, quality, and fitness for consumption of all tea imported into the United States under 21 U.S.C. 42.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The committee will discuss and select tea standards.

Pulmonary-Allergy Drugs Advisory Committee

Date, time, and place. March 23, 1992, 8 a.m., Conference Rms. D and E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, 8 a.m. to 8:30 a.m., unless public participation does not last that long; open committee discussion, 8:30 a.m. to 1:30 p.m.; open public hearing, 1:30 p.m. to 2 p.m., unless public participation does not last that long; open committee discussion, 2 p.m. to 5 p.m.; Leander B. Madoo, Center for Drug Evaluation and Reasearch (HFD–9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational human drugs for use in the treatment of pulmonary disease and diseases with allergic and/or immunologic mechanisms.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before March 9, 1992, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss:

(1) New drug application 19–878, Pentyde (Dura Pharmaceuticals);

(2) Marketing status of Organidin (Carter Wallace, Inc.); and

(3) OTC switch applications for Tavist/Tavist D (Sandoz Pharmaceuticals).

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not is also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

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The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI-35), Food and Drug Administration, rm. 12A-16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: February 19, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy

[FR Doc. 92-4185 Filed 2-24-92; 8:45 am]

BILLING CODE 4160-01-M

Generic Topical Corticosteroids; Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that it is holding a meeting on bioequivalence issues related to generic topical corticosteroids. This meeting is to inform interested persons about FDA's plans to document bioequivalence between generic and innovator topical corticosteroid formulations.

DATES: The meeting will be held on Friday, March 27, 1992, between 9 a.m. and 12:30 p.m. Registration will be held between 8 a.m. and 9 a.m., March 27, 1992. Because space is limited, preregistration with the contact person before March 20, 1992, is encouraged.

ADDRESSES: The meeting will be held in Conference Rm. D, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

FOR FURTHER INFORMATION CONTACT: Justina A. Molzon, Center for Drug Evaluation and Research (HFD-600), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-295-8365, 301-295-8183 (fax).

SUPPLEMENTARY INFORMATION: FDA's Center for Drug Evaluation and Research's Office of Generic Drugs and Office of Small Business, Scientific, and Trade Affairs are cosponsoring a meeting on bioequivalence issues related to generic topical corticosteroids. The goal of the meeting is to inform interested persons about FDA's plans to document bioequivalence between generic and innovator topical corticosteroid formulations.

Because space is limited in the conference room, preregistration with the contact person (**FOR FURTHER INFORMATION CONTACT** section) before March 20, 1992, is encouraged. To preregister, provide the contact person with company name, address, telephone number, facsimile number, affiliation (if applicable), the number of people attending, and the names and titles of the people who wish to attend.

Dated: February 19, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy

[FR Doc. 92-4273 Filed 2-24-92; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

National Center for Research Resources; Meeting of the Biomedical Research Technology Review Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Biomedical Research Technology Review Committee, National Center for Research Resources, National Institutes of Health.

This meeting will be open to the public as listed below for a brief staff presentation on the current status of the Biomedical Research Technology Program and the selection of future meeting dates. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, the meeting will be closed to the public as listed below for the review, discussion and evaluation of individual grant applications submitted to the Biomedical Research Technology Program. These applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James J. Doherty, Acting Information Officer, National Center for Research Resources, National Institutes of Health, Westwood Building, room 10A15, Bethesda, Maryland 20892, (301) 496-5545, will provide a summary of the meeting and a roster of the Committee members upon request. Other information pertaining to the meeting can be obtained from the Scientific Review Administrator.

Name of Committee: Biomedical Research Technology Review Committee.

Scientific Review Administrator: Dr. Mary Ann Sestili, Director, Office of Review, National Center for Research Resources, National Institutes of Health, Westwood Building, room 8A16, 5333 Westbard Avenue, Bethesda, Maryland 20892, Telephone: (301) 402-0314.

Date of Meeting: March 5-6, 1992.

Place of Meeting: Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, MD 20852.

Open: March 5, 11 a.m.-12 noon.

Agenda: Report and review of administrative details.

Closed: March 5, 8 a.m.-11 a.m., March 5, 12 noon-Recess, March 6, 8 a.m.-Adjournment.

Closure Reason: To review grant applications.

(Catalog of Federal Domestic Assistance Program No. 93.371, Biomedical Research Technology, National Institutes of Health)

Dated: February 18, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-4280 Filed 2-24-92; 8:45 am]

BILLING CODE 4140-01-M

National Institute on Deafness and Other Communication Disorders; Meeting of the Research Priorities Subcommittee of the National Deafness and Other Communication Disorders Advisory Board

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Research Priorities Subcommittee of the National Deafness and Other Communication Disorders Advisory Board on March 4, 1992. The meeting will take place from 8:30 a.m. to 10:30 a.m. in Conference Room 9, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892, and will be conducted as a telephone conference with the use of speaker phones.

The meeting, which will be open to the public from 8:30 a.m. to 9:30 a.m., is being held to discuss methods for determining the research priorities of the National Institute on Deafness and Other Communication Disorders.

Attendance by the public will be limited to the space available.

In accordance with the provisions set forth in sec. 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public from 9:30 a.m. to adjournment for the discussion and recommendation of individuals to serve as consultants to the Research Priorities Subcommittee. This discussion could reveal personal information concerning these individuals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Summaries of the Board's meeting and a roster of members may be obtained from Ms. Monica Davies, Executive Director, National Deafness and Other Communication Disorders Advisory Board, Building 31, room 3C08, National Institutes of Health, Bethesda, Maryland 20892, 301–402–1129, upon request.

(Catalog of Federal Domestic Assistance Program No. 93.173 Biological Research Related to Deafness and Other Communication Disorders.)

Dated: February 18, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–4201 Filed 2–24–92; 8:45 am]

BILLING CODE 4140-01-M

Warren Grant Magnuson Clinical Center; Meeting of the Board of Scientific Counselors, CC

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, Warren Grant Magnuson Clinical Center, 16 March 1992, in Building 10, room 2C–124.

The entire meeting will be open to the public from 9 a.m. to 5 p.m. on 16 March for an introduction of the Board members to the activities of the Clinical Center and for a tour of the facility. Attendance by the public will be limited to space available.

Dr. Martin I. Goldenberg, Executive Secretary to the Board of Scientific Counselors, CC, Building 10, room 1C–121, National Institutes of Health, Bethesda, Maryland 20892 (Telephone: (301) 496–5939), will provide a summary of the meeting and a roster of Board members, and substantive program information upon request.

Dated: February 18, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–4203 Filed 2–24–92; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

Health Resources and Services Administration; Statement of Organization, Functions and Delegations of Authority

Part H, Chapter HB (Health Resources and Services Administration) of the State of Organization, Functions and Delegations of Authority of the Department of Health and Human Services (47 FR 39409–24, August 31, 1982, as amended most recently in pertinent part at 56 FR 65739, December 18, 1991), is amended to reflect the realignment of the functions assigned to the Bureau of Health Care Delivery and Assistance, within the Health Resources and Services Administration (HRSA).

Under HB–10, Organization and Functions, amended the functional statements for the Bureau of Health Care Delivery and Assistance (HBC) by deleting the functional statements for the entire Bureau and inserting the following:

Office of Program and Policy Development (HBC12)

(1) Serves as the Bureau's principal staff arm for program planning, coordination, and analysis, including the development of alternative program and policy positions; (2) oversees planning and tracking functions in support of policy formulation and program implementation; (3) advises the Director and his immediate staff on program policy and operational implications arising from activities of the Bureau; (4) collaborates in the development and implementation of annual and 5-year program and financial plans for the Bureau's program planning and budgeting systems; (5) provides the focus for legislative development and analysis in the Bureau; (6) conducts special inquiries and studies and provides liaison and coordination with the Office of the Administrator, Health Resources and Services Administration (HRSA), in the evaluation program for the Bureau; (7) manages the Bureau's correspondence activities; (8) coordinates the development of and accomplishes the formal clearance of policy for the Bureau; (9) coordinates the Bureau's responsibilities in connection with the Inspector General's Hotline; (10) develops and/or provides technical assistance in the development and implementation of new and revised regulations and standards; (11) determines the need for changes in legislation and regulations concerning Bureau programs and effectuates necessary changes; (12) tracks legislative proposals in the Congress which impact on Bureau programs; (13) prepares and/or provides guidance and assistance in the development of associated **Federal Register** notices; and (14) provides the focus for the Bureau's program for prepaid indigent health care and provides coordination and liaison with the Office of the Administrator and the Health Care Financing Administration.

Office of Minority and Women's Health (HBC13)

(1) In coordination with the Office of Minority Health, Office of the Administrator, develops and coordinates Departmental initiatives relating to the delivery of health services to minorities and women; (2) formulates proposals and plans for targeting financial and other resources on service improvement for women and culturally diverse populations in areas of special need, including infant mortality, low birthweight, school health, community-based and case-managed services for special populations; (3) conceives, designs and oversees the implementation of special projects integrating Bureau components and outside entities to anlayze the efficacy of historical and ongoing health delivery programs as they relate to and impact on minority populations and women; (4) develops segments of the Bureau work plan which impact on minority and women's health care; (5) coordinates with State and local agency representatives and officers of private, professional or academic health care organizations in conceiving and designing special health care projects for providing improved health care to minority and women's population groups; (6) establishes and maintains liaison with public and private institutions and organizations regarding the development of a common focus and approach to the delivery of health care to minorities and women; and (7) develops policy alternatives for elements of Bureau programs and activities impacting on minorities and women and the intersection of such, with other demographic and geographic considerations such as high risk, underserved, homelessness, etc.

Office of Data Management (HBC15)

Directs and coordinates all data systems management activities. Specifically: (1) Directs, analyzes, designs, develops, implements, and monitors data systems and data collection activities; (2) represents the Director and the Associate Director for

Information Resource Management on systems and data matters external to the Bureau; (3) conducts training for staff on data systems; (4) interfaces with all data systems support organizations; (5) coordinates data reporting to common PHS data systems; and (6) supervises the operation of the Bureau's Local Area Network and of the Bureau's Wide Area Network interfaces.

Office of Operations and Management (HBC17)

Plans, directs, coordinates, and evaluates Bureau-wide administrative and management activities; coordinates and monitors program policy implementation; and maintains close liaison with officials of the Agency, the Office of the Assistant Secretary for Health, and the Office of the Secretary on matters relating to those activities. Specifically: (1) Provides or serves as liaison for providing program support services and resources, including procurement of equipment and supplies, printing, property, etc.; (2) provides leadership on intergovernmental activities of the Bureau which require central direction or which cross program lines; (3) provides liaison between the Bureau Director and the Regional Health Administrators; (4) coordinates the activities of Headquarters program divisions and regional staff; (5) directs, conducts, and coordinates manpower management activities and advises on the allocation of personnel resources; (6) provides organization and management analysis, develops policies and procedures for internal operations, and interprets and implements the Bureau's management policies, procedures, and systems; (7) develops and coordinates program and administrative delegations of authority activities; (8) is responsible for the Bureau's paperwork management functions, including the development and maintenance of manual issuances; (9) is responsible for planning, directing, coordinating, and evaluating Bureau-wide grants management activities; (10) coordinates the development and processing of Bureau contact procurement activities and maintains liaison with the Division of Grants and Procurement Management, HRSA, and with the Office of the Assistant Secretary for Health, (11) develops and carries out a full range of financial management activities, including development of the annual budget; (12) in cooperation with the Divsion of Personnel, HRSA, coordinates personnel activities for the Bureau; and (13) conducts Bureau-wide activities associated with the management of national committees.

Office of Program Data (HBC18)

(1) Collects from various sources, such as the Bureau of the Census and the Centers for Disease Control (CDC), population data regarding age, gender, ethnicity, health status, economic status, and other information for analysis by Bureau staff; (2) establishes and maintains a repository of data on health care studies and research findings pertaining to health care issues affecting Bureau programs; (3) establishes and maintains contacts with public and private agencies engaged in public health research, both pure and applied, such as NIH, NIMH, CDC, and the National Science Foundation, as well as major academic, research and teaching institutions; (4) evaluates research findings and public health studies and prepares summaries for use by operational Bureau components; (5) designs data protocols for use in Bureau-sponsored projects which gather information on diseases, recurring health conditions, environmental conditions, and homeopathic factors relating to gender, age, ethnicity and socioeconomic conditions; (6) designs consortium-type approaches to health care delivery to targeted groups for which new research findings to health analyses can be applied; (7) evaluates and recommends training programs and classes on recent innovations in health care delivery for Bureau staff and Bureau-supported staff; and (8) in conjunction with the Office of Data Management, designs and implements data collection and analysis systems for information on health care studies and research finds.

Office of External Affairs (HBC19)

(1) Creates collaborative arrangements with external organizations, such as other PHS agencies, other Federal Departments, health professions organizations, foundations, State and local organizations, academic institutions, and international organizations, which enhance the mission and programs of the Bureau; (2) maintains liaison with those external organizations with which arrangements have been created; (3) develops and implements policies and evaluates plans and procedures dealing with external organizations; (4) provides technical assistance to Bureau staff, PHS staff in Regional Offices, and staff of State Primary Care Associations; (5) reviews and evaluates agreements with external organizations; (6) initiates, monitors and evaluates activities in the international area such as the U.S./Mexican Border, the Pacific Basin, Puerto Rico, and the Virgin Islands; and (7) evaluates data received from participating organizations and institutions.

Division of Special Populations Program Development (HBCB)

This division researches issues and develops program plans which identify health care needs of special population groups. Such research may include issues related to: (1) The health care of the homeless, substance abusers, the elderly, and victims of AIDS and Alzheimer's Disease; perinatal and other infant mortality reduction programs; home health services, environmental, occupational, and rural health, etc.; (2) coordinates the identification of issues and establishes Agency/Bureau priorities with the Division of Primary Care Services; (3) directs nationwide efforts to coordinate health care needs of special populations and encourages State and local assistance in meeting needs; (4) provides guidance and direction in the development of health care partnerships and networks and coordinates the management plans with regional offices, other Federal programs, and State and private organizations; (5) develops guidance materials and implements plans to meet needs of identified areas; (6) coordinates health needs of special populations with the Division of Primary Care Services, ensuring that funds are allocated according to Bureau priorities and legislative intent; (7) develops, conducts, and evaluates demonstration projects utilizing data collected as a base line for the integration of primary care systems or expanding existing health care networks; and (8) provides technical assistance in the interaction of community based systems.

Division of Primary Care Services (HBC4)

(1) Implements efforts to improve the organization and delivery of health services by serving as the point of accountability for Primary Health Care Services Delivery programs; (2) provides leadership and direction for legislative activities in the program area; (3) develops and establishes policies for such national programs and develops long- and short-range program goals and objectives; (4) is accountable for the administration of funds and other resources for grants, contracts, and clinical and programmatic consultation and assistance; (5) ensures that delegated responsibilities are being carried out; (6) coordinates the development and establishment of guidelines and standards for professional services, and for the

effective organization and administration of health programs, and the improvement of health services and staff development; (7) interprets policies, regulations, guidelines, standards, and priorities to higher echelons, within the Public Health Service, to Regional Offices, grantee agencies, institutions, and organizations; (8) coordinates with other programs providing health services, including voluntary, official and other community agencies and provides clinical and programmatic consultation and assistance, on request, to the States in such areas as program planning, establishment of goals and objectives, standards of care, and evaluation; (9) establishes and provides liaison in program matters with other entities within BHCDA and the Agency, within the Public Health Service, with the Department and with other Federal agencies, consumer groups and national organizations concerned with health matters, and through the Regional Offices, with State and local governments; (10) participates in the development of forward plans, legislative proposals, and budgets; and (11) coordinates the integration of Primary Care projects and services with other health care delivery systems.

Division of National Health Services Corps (HBC6)

(1) Directs nationwide efforts to improve the availability and distribution of health care delivery professionals; (2) plans, directs, administers and coordinates clinical services and related professional health care activities at the national level; (3) in coordination with the Office of Program and Policy Development, develops legislative proposals; (4) directs and implements policies and long- and short-range goals and objectives for programs and activities related to the National Health Services Corps (NHSC); (5) administers programs for: (a) recruitment and placement of volunteer health professionals and placement of NHSC scholarship obligators; (b) Private Practice Option and Private Practice Grants for NHSC scholarship recipients; and (c) Startup Loan for HSC sites; (6) provides coordination with other programs providing health services, including voluntary, official, and other community agencies; establishes and provides liaison in program matters, within the Bureau, the Department, and other Federal agencies, consumer groups and national organizations concerned with health matters, and through Regional Offices, with State and local governments; (7) plans, develops, and implements state and local clinical and programmatic consultation and assistance programs to: (a) improve the quality and effectiveness of patient care delivery systems for underserved population groups; and (b) improve the quality of staffing and knowledge of specific types of health care delivery providers; (8) in coordination with the Office of Data Management, develops program data need, formats, and reporting requirements including collection, collation, analysis and dissemination of data, and (9) participates in the development of forward plans, legislative proposals, and budgets.

Division of Health Services Scholarships (HBC7)

Responsible for the administration of the Public Health Service Scholarship Training Program, and the NHSC Scholarship Program. Specifically: (1) Directs and administers these programs, including the recruitment, application, selection and awarding of scholarship funds and deferment and service monitoring systems in close coordination with NHSC; (2) develops and implements program plans and policies and operating and evaluation plans and procedures in coordination with the Office of Program and Policy Development; (3) monitors obligatory service requirements and conditions of deferment for compliance; (4) provides guidance and technical assistance for PHS staff in Regional Offices and to staff of educational institutions; (5) maintains liaison with and provides assistance to program-related public and private professional organizations and institutions; (6) maintains liaison with the Office of General Counsel and the Office of the Inspector General, DHHS; (7) in coordination with the Office of Program and Policy Development , prepares legislative proposals; (8) coordinates financial aspects of programs with educational institutions; (9) in coordination with the Office of Data Management, develops program data needs, formats and reporting requirements including collection, collation, analysis and dissemination of data, (10) participates in the development of forward plans, legislative proposals, and budgets; and (11) administers the Bureau's Freedom of Information Act and Privacy Act activities.

Division of National Hansen's Disease Programs (HBC8)

(1) Plans, directs, and evaluates a comprehensive program of health care for designated persons with Hansen's disease; (2) manages administrative and professional support for ambulatory and contract Hansen's Disease treatment; (3) carries out the training of health services-personnel; (4) conducts research; (5) plans and performs activities in support of and in cooperation with intra-agency, interagency, and internationally sponsored programs; and (6) operates the National Hansen's Disease Center at Carville, Louisiana; and (7) responds to requests for information or copies of the PHS hospital and clinic medical records.

Division of Special Populations Program Development (HBCB)

This division researches issues and develops program plans which identify health care needs of special population groups. Such research may include issues related to: (1) The health care of the homeless, substance abusers, the elderly, and victims of AIDS and Alzheimer's Disease; perinatal and other infant mortality reduction programs; home health services, environmental, occupational, and rural health, etc.; (2) coordinates the identification of issues and establishes Agency/Bureau priorities with the Division of Primary Care Services; (3) directs nationwide efforts to coordinate health care needs of special populations and encourages State and local assistance in meeting needs; (4) provides guidance and direction in the development of health care partnerships and networks and coordinates the management plans with regional offices, other Federal programs, and State and private organizations; (5) develops guidance materials and implements plans to meet needs of identified areas; (6) coordinates health needs of special populations with the Division of Primary Care Services, ensuring that funds are allocated according to Bureau priorities and legislative intent; (7) develops, conducts, and evaluates demonstration projects utilizing data collected as a base line for the integration of primary care systems or expanding existing health care networks; and (8) provides technical assistance in the interaction of community based systems.

Division of Shortage Designation (HBCC)

(1) Studies and analyzes the geographic distribution and maldistribution of primary care manpower and other health personnel used in the delivery of health care services; (2) develops and conducts or coordinates studies and analyses of access to health care services and health status measurement issues; (3) develops and implements criteria for designating health manpower shortage areas and medically underserved

populations; (4) identifies and designates health personnel shortage areas for programmatic use in such activities as National Health Service Corps placement, health professions and nursing loan repayment and scholarship programs, and programs providing higher levels of Medicare and Medicaid reimbursement to providers serving such areas; (5) identifies and designates medically underserved populations for programmatic use in such activities as grant funding of community and migrant health projects and certification of rural health clinics; (6) develops data, analyses, studies, listings, repayment and related materials on present and potential shortage areas and on health personnel required to meet identified shortage area needs; (7) in conjunction with other Bureau components, develops analytical methods for needs assessment and the measurement of insufficient access; (8) in coordination with other HRSA components, conducts analyses of geographic and location choices of health professionals and allied health personnel; (9) develops and compiles information for use by health departments, planning agencies and others in assessment of current and potential geographic shortages; (10) works closely with other Bureau and agency components, State health departments and planning agencies, and other Federal and non-Federal agencies to assure a coordinated and comprehensive shortage area and underserved population designation program.

Division of Federal Occupational Health (HBCD).

(1) Provides consultation, and stimulates the development of, improved occupational health and safety programs throughout the Federal Government; (2) provides evaluation, consultation, and direction to Federal managers concerning the management and delivery of the full scope of agency occupational health programs in relation to established standards; (3) provides nationwide assistance in planning, implementing and monitoring health programs for Federal agencies on a reimbursable basis including improved environmental, education/promotional, clinical and managerial services and the development and incorporation of automated information management systems; (4) conducts research studies, science and engineering ventures, training, and demonstration projects; (5) develops occupational health standards and criteria for occupational health programs; (6) conducts activities designed to promote productivity and reduce absenteeism, lost time and related liability within the Federal work force; (7) provides mechanisms for the development and operation of shared services that promote joint contracting, cost comparison, analysis and program formulation; (8) plans, develops, implements, and operates occupational health programs, including Employee Assistance Programs (EAPs), fitness/wellness, environmental surveillance, medical monitoring, and disability management components; (9) maintains relationships with health officials in other Federal and private agencies and participates in Federal occupational health related policy and program development/implementation; (10) participates in the development of forward plans and legislative proposals for the Bureau, higher Health and Human Services (HHS) organizational levels, and other Federal agencies.

Division of Beneficiary Medical Programs (HBCE)

Plans, directs, and evaluates the delivery of health services for designated Public Health Service (PHS) beneficiaries, including active duty members of the PHS and the National Oceanic and Atmospheric Administration (NOAA). Specifically, (1) develops operational policies and procedures for direct health care and risk reduction services for PHS Commissioned Corps and other designated beneficiaries; (2) develops and monitors health services contracts, interagency agreements, and in conjunction with the Financial Management Branch, the reimbursement billings process for direct health services to designated beneficiaries; (3) receives, assesses and authorizes or denies requests for health care from designated beneficiaries, providers or others acting on behalf of beneficiaries; (4) coordinates beneficiary health care services through Federal and private sector resources and receives and acts on all first level appeals from beneficiaries and providers; (5) assures that direct health services to designated beneficiaries are provided in accordance with applicable laws, regulations, policies and instruction, and that they are medically necessary or prudently recommended, qualitatively accurate, and in consonance with recognized professional standards; (6) assures that adequate resources are available to provide comprehensive health care to eligible beneficiaries; (7) maintains relationships with health officials in other Federal and private agencies; (8) evaluates the quality and appropriateness of Division health care programs and operations; (9) certifies payment of beneficiary medical bills from Federal and non-Federal providers; (10) develops, monitors and reports on data management information systems for occupational surveillance programs, health promotion, and direct care services for PHS beneficiaries; (11) recommends financial management approaches to assure the integrity and appropriateness of provided reimbursement; (12) provides clinical and programmatic consultation, guidance and assistance to beneficiaries on their health care entitlement; (13) carries out all Departmental responsibilities with regard to the Civilian Health and Medical Care Program of the Uniformed Services (CHAMPUS); (14) participates in the development of plans, legislative proposals and budgets for the Bureau as they pertain to health services for PHS beneficiaries; (15) in conjunction with the Medical Branch, Division of Commissioned Personnel, recommends, develops, and implements services for new initiatives to include health promotion, substance abuse, fitness for duty and other medically related programs impacting on the Commissioned Corps; and (16) provides liaison to the Department of Defense (DOD) health care programs and to NOAA for health care services provided to NOAA beneficiaries.

This reorganization is effective upon date of signature.

Dated: February 14, 1992.

Robert G. Harmon,

Administrator.

[FR Doc. 92-4225 Filed 2-24-92; 8:45 am]

BILLING CODE 4160-15-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-92-3399]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708-0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: February 14, 1992.

John T. Murphy,

Director, Information Resources, Management Policy and Management Division.

[FR Doc. 92-4231 Filed 2-24-92; 8:45 am]

BILLING CODE 4210-01-M

Notice of Submission of Proposed Information Collection to OMB

Proposal: Statement of Profit and Loss (FR-2158).

Office: Housing.

Description of the Need for the Information and Its Proposed Use: Multifamily project owners are required to submit HUD-92410 each year to the Department as part of their annual financial statement. The data will be used by HUD to review request for rent increases and to prevent defaults by monitoring the reasonableness of the projects operating expenses and the adequacy of the projects cash flow.

Form Number: HUD-92410.

Respondents: Businesses or Other For-Profit.

Frequency of Submission: Annually.

Reporting Burden:

	Number of respondents	×	Frequency of Response	×	Hours per Response	=	Burden hours
HUD-92410	16,553		1		1		16,553

Total Estimated Burden Hours: 16,553.

Status: Revision.

Contact: Jo An Breijo, HUD, (202) 708-1220. Jennifer Main, OMB, (202) 395-6880.

[FR Doc. 92-4232 Filed 2-24-92; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-92-3398]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposals.

ADDRESSES: Interested persons are invited to submit comment regarding these proposals. Comments should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC, 20410, telephone (202) 708-0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collections of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notices list the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: February 14, 1992.

John T. Murphy,

Director, Information Resources, Management Policy and Management Division.

Proposal: Tenant Participation on Multifamily Housing Projects.

Office: Housing.

Description of the Need for the Information and its Proposed Use: This rule provides tenants in certain types of subsidized multifamily housing projects an opportunity to comment on the project owners request for HUD approval of certain specified actions, including the continuation of the requirement for tenants participation in project rent increases. HUD must take their comments into consideration when making approval decisions.

Form Number: None.

Respondents: Individuals or Households, State or Local Governments, Businesses or Other For-Profit, and Small Businesses or Organizations.

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Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
Increase in rents	160		1		13		2,080
Utility conversion	160		1		23		3,680
Conversion-residential to other	160		1		18		2,880
Partial release of security	160		1		17		2,720
Major capital addition	160		1		22		3,520
Recordkeeping	160		1		5		800

Total Estimated Burden Hours: 15,680.

Status: Extension.

Contact: James J. Tahash, HUD, (202) 708–3944, Jennifer Main, OMB, (202) 395–6880.

Dated: February 14, 1992.

Proposal: CDBG Funded Agency Employment Data.

Office: Fair Housing and Equal Opportunity.

Description of the Need for the Information and its Proposed Use: The Department is required by Section 104(d) of the Housing and Community Development Act of 1974, as amended, to carry out an annual review to determine whether entitlement and HUD administered program grantees have carried out activities in accordance with their certifications and the requirements of Title I and other applicable laws.

Form Number: HUD–EEO–4.

Respondents: State or Local Governments and Federal Agencies or Employees.

Frequency of Submission: Annually.

Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
HUD–EEO–4	950		1		1.25		1,188

Total Estimated Burden Hours: 1,188.

Status: Reinstatement.

Contact: Leon Garrett, HUD (202) 709–2740, Jennifer Main, OMB, (202) 395–6880.

[FR Doc. 92–4232 Filed 2–24–92; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. N–92–3397]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(b) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: February 12, 1992.

John T. Murphy,

Director, Information Resources Management Policy and Management Division.

Proposal: Owner's Certification of Compliance with HUD's Tenant Eligibility and Rent Procedures (Basic Forms and Worksheets).

Office: Housing.

Description of the Need for the Information and its Proposed Use: The information is needed to determine tenant eligibility, to compute tenant annual rents for those tenants occupying HUD subsidized housing units, and to collect information on citizenship/alien status to effect program utilization and need.

Form Number: HUD–50059, a/b/c/d/e/f/g/h/k and verification forms.

Respondents: Individuals or Households, Businesses or Other For-Profit, and Small Businesses or Organizations.

Frequency of Submission: Annually.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Annual Report	2,186,256		1		.931		2,035,404

Total Estimated Burden Hours: 2,035,404.

Status: Revision.

Contact: Jo Ann Breijo, HUD, (202) 708–1220, Jennifer Main, OMB, (202) 395–6880.

[FR Doc. 92–4233 Filed 2–24–92; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N–92–3396]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collection the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of responses; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: February 11, 1992.

John T. Murphy,

Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Housing Counseling Program—(Funded) Grantee Statistical Report (FR–2753).

Office: Housing.

Description of the Need for the Information and its Proposed Use. Form HUD–9923 will be used by grantees (HUD-approved housing counseling agencies) to record the results of housing counseling services provided under housing counseling grants for FY 1991 and future grants.

Form Number: HUD–9923.

Respondents: State or Local Governments, and Non-Profit Institutions.

Frequency of Submission: Other.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–9923	325		1		4		1,300

Total Estimated Burden Hours: 1,300.

Status: New.

Contact: Thomas Miles, HUD, (202) 708–1672, Jennifer Main, OMB, (202) 395–6880.

[FR Doc. 92–4234 Filed 2–24–92; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N–92–3395]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: Proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, a required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: February 6, 1992.

John T. Murphy,

Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Insurance Information.

Office: Public and Indian Housing.

Description of the Need for the Information and its Proposed Use: The Annual Contributions Contract requires public housing agencies and Indian housing authorities to obtain adequate fire insurance, extended coverage insurance, and boiler insurance to protect the Federal interest. Form HUD–5460 provides the format for determining the initial amount of insurance required for each project.

Form Number: HUD–5460.

Respondents: Non-Profit Institutions.

Frequency of Submission: On Occasion and Other.

Reporting Burden:

	No. of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–5460	125		1		1		125
Recordkeeping	125		1		.25		31

Total Estimated Burden Hours: 156.

Status: Reinstatement.

Contact: Arthur Methvin, HUD, (202) 708–1872, Jennifer Main, OMB, (202) 395–6880.

[FR Doc. 92–4235 Filed 2–24–92; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-92-3394]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: February 3, 1992.

Kay Weaver,

Acting Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: 24 CFR (Part 280)—Nehemiah Housing Opportunity Program (FR–2478).

Office: Housing.

Description of the Need for the Information and its Proposed Use: Under the Nehemiah Housing Opportunity Program, the Department is authorized to make grants to non-profit organizations to enable them to provide loans to families purchasing homes that are constructed or substantially rehabilitated in accordance with HUD approved programs.

Form Number: None.

Respondents: Individuals or Household, State or Local Governments and Non-Profit Institutions.

Frequency of Submission: On occasion.

Reporting Burden:

	No. of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Affirmative Fair Housing Marketing Requirements	10		1		.05		.50
Racial and Ethnic Data Collection Requirement	10		145		.05		72.50
Lead-Based Paint Reporting and Recordkeeping Requirement	2		145		0.50		145
Grant Agreement	10		1		2.00		20
Request for Modification of Requirement for Eligible Buyers	5		1		1.50		7.50
Sales Contract Requirement	10		145		0.50		725
Request for Reimbursement	10		145		0.50		725
Loan and 2nd Mortgage Requirement	10		145		0.50		725

	No. of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Request for HUD Approval of Sale or Transfer	10		45		1.50		675

Total Estimated Burden Hours. 3,095.
Status: Reinstatement.
Contact: Richard Harrington, HUD, (202) 708–2676, Jennifer Main, OMB, (202) 395–6880.

[FR Doc. 92–4236 Filed 2–24–92; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. N-92-3393]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephones numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507, Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: February 3, 1992.

John T. Murphy,

Director, Information Resources, Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Project Applications and Review of Application-Delegated Processing.
Office: Housing.

Description of The Need for The Information and its proposed Use:

The forms are completed and submitted to HUD by contracted Delegated Processors for Multifamily properties to be insured by HUD. These forms recite data that supports the fair market value and budget constructed cost.

Form Number: HUD–92264, 92264A, 92264TE, 92273, 92274, 92325, 92326, 92326–A, 92331, and 92485.

Respondents. Businesses or Other For-Profit.

Frequency of Submission: On Occasion.

Reporting Burden:

	No. of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information Collection	230		12.5		23.96		68,885

Total Estimated Burden Hours: 68,885.
Status: Reinstatement.
Contact: Tom Rager, HUD, (202) 708–0624, Jennifer Main, OMB, (202) 395–6880.

[FR Doc. 92–4237 Filed 2–24–92; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. N-92-3392]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: January 29, 1992.

John T. Murphy,

Director, Information Resources, Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Community Development Block Grant Program Subrecipient Management Training Program.

Office: Community Planning and Development.

Description of the Need for the Information and its Proposed Use: The purpose of this data collection is to enable HUD to characterize the scope of subrecipient utilization and monitoring for different kinds of grantees, to understand the nature and severity of monitoring problems among those grantees and subrecipients, and to identify effective monitoring strategies and procedures for addressing different kinds of problems. This information in turn will enable HUD to develop guidebooks and training materials that will be both relevant and immediately useful to grantees in the process of subrecipient monitoring.

Form Number: None.

Respondents: State or Local Governments, Businesses or Other For-Profit, Federal Agencies or Employees and Non-Profit Institutions.

Frequency of Submission: One-time.

Reporting Burden:

	No. of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Grantee Telephone Survey	96		1		.33		32
Grantee In-Depth Discussions	15		1		1.50		23
Subrecipient In-Depth Discussions	60		1		1.50		90

Total Estimated Burden Hours: 145.

Status: New.

Contact: Deidre Maguire-Zinni, HUD, (202) 708–1577, Jennifer Main, OMB, (202) 395–6880.

[FR Doc. 92–4238 Filed 2–24–92; 8:45 am]

BILLING CODE 4210-01-M

Office of the General Counsel

[Docket No. D–92–977; FR–3211–D–01]

Redelegation of Authority Under the Fair Housing Act

AGENCY: Office of the General Counsel, HUD.

ACTION: Notice of redelegation of authority.

SUMMARY: In this notice the General Counsel is redelegating to the Associate General Counsel for Equal Opportunity and Administrative Law, the authority to refer fair housing investigative materials to the Attorney General of the United States in matters involving the legality of local zoning or land use laws or ordinances. The Secretary's authority to make such referrals was delegated to the General Counsel in 24 CFR 103.400(a)(3).

EFFECTIVE DATE: February 12, 1992.

FOR FURTHER INFORMATION CONTACT: Jonathan Strong, Deputy Assistant General Counsel for Fair Housing Litigation, Fair Housing Division, Office of the General Counsel, room 9238, Department of Housing and Urban Development, Washington, DC 20410. Telephone: (202) 708–0570 (this is not a toll-free number). The toll-free TDD number for hearing impaired persons is 1–800–543–8294.

SUPPLEMENTARY INFORMATION: Section 810(g)(2)(C) of the Fair Housing Act ("the Act"), 42 U.S.C. 3610(g)(2)(C), provides that, if the Secretary of Housing and Urban Development determines that any fair housing complaint filed under the Act involves the legality of any State or local zoning or other land use laws or ordinance, the Secretary shall immediately refer investigative materials to the Attorney General for appropriate action, instead of issuing a charge of discrimination.

This authority is delegated to the General Counsel is the Department's regulations for the processing of complaints filed under the Act (24 CFR part 103). Under 24 CFR 103.400(a)(3), which governs the issuance of reasonable cause determinations, the General Counsel is given authority to determine whether a matter referred to him by the Assistant Secretary for Fair Housing and Equal Opportunity involves the legality of local zoning or land use laws or ordinances. If the General Counsel determines that such issues are involved, the General Counsel is required to refer investigative materials to the Attorney General for appropriate action under section 814(b)(1) of the Act, instead of making a determination as to whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur.

In a redelegation of authority dated January 14, 1991, the General Counsel redelegated to the Associate General Counsel for Equal Opportunity and Administrative Law and to the Assistant General Counsel for Fair Housing the authority to determine which complaints involve the legality of local zoning or land use laws or ordinances. A notice of that redelegation of authority was published in the Federal Register on January 25, 1991 (56 FR 2931).

In this redelegation of authority, the General Counsel is redelegating to the Associate General Counsel for Equal Opportunity and Administrative Law the authority to refer fair housing investigative materials to the Attorney General in those matters which have been determined (under the redelegation dated January 14, 1991) to involve the legality of a local zoning or land use laws or ordinances.

Accordingly, the General Counsel redelegates this authority as follows:

Section A—Authority Redelegated

The Associate General Counsel for Equal Opportunity and Administrative Law is authorized to refer to the Attorney General of the United States fair housing investigative materials in those matters which, in the determination of either the Associate General Counsel for Equal Opportunity and Administrative Law or the Assistant General Counsel for Fair Housing, involve the legality of a local zoning or land use laws or ordinances.

Section B—No Further Redelegation

The authority granted in section A may not be further redelegated pursuant to this redelegation.

Authority: 42 U.S.C. 3601-19; 42 U.S.C. 3535(d).

Dated: February 12, 1992.

Frank Keating,

General Counsel.

[FR Doc. 92-4230 Filed 2-24-92; 8:45 am]

BILLING CODE 4210-01-M

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. N-92-3391; FR 3225-N-01]

Mortgage Review Board Administration Actions

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: In compliance with section 202(c)(5) of the National Housing Act, notice is hereby given of the cause and description of administrative actions taken by HUD's Mortgage Review Board against HUD-approved mortgagees.

FOR FURTHER INFORMATION CONTACT: William Heyman, Director, Office of Lender Activities and Land Sales Registration, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708-1824. The Telecommunications Device for the Deaf (TDD) number is (202) 708-4594. (These are not toll-free numbers)

SUPPLEMENTARY INFORMATION: Section 202(c)(5) of the National Housing Act (added by section 142 of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101-235, approved December 15, 1989)) requires that HUD "publish in the **Federal Register** a description of and the cause for administrative action against a HUD-approved mortgagee" by the Department's Mortgagee Review Board. In compliance with the requirements of section 202(c)(5), notice is hereby given of administrative actions that have been taken by the Mortgagee Review Board from August 1, 1991 through December 31, 1991.

1. Horizon Savings Association, Houston, Texas

Action: Suspension and proposed withdrawal of HUD mortgagee approval.

Cause: A HUD Office of Inspector General Audit Report which cited violations of HUD-FHA single family loan origination requirements by Horizon's Houston, Texas branch office. The violations include: overstating mortgagors' income; mishandling mortgagors' employment verifications; mishandling mortgagors' income tax information; use of erroneous employment and other data in verifying borrowers' incomes; incomplete preliminary loan applications; failure to resolve questions concerning the residency status of mortgagors; improperly completing loan application certifications; inadequate underwriting reviews; and failure to maintain an adequate Quality Control Plan.

2. Inland Mortgage Corporation, Tulsa, Oklahoma

Action: Determination that withdrawal of Inland's HUD-FHA mortgagee approval for failure to submit its required annual financial statement supersedes the Board's previous suspension action.

Cause: Failure to comply with HUD-FHA financial reporting requirements.

3. First Federal Mortgage of America, Inc., Beverly Hills, California

Action: Withdrawal of HUD mortgagee approval.

Cause: Failure to comply with a previous Mortgagee Review Board probation action based upon the use of misleading advertising by First Federal Mortgage Company of America, Inc., with respect to its HUD-FHA insured mortgage activities.

4. Financial Entity Corporation, Fresno, California

Action: Withdrawal of HUD mortgagee approval.

Cause: Failure to comply with a previous Mortgagee Review Board probation action, and failure to remit at least 115 One-Time Mortgage Insurance Premiums (OTMIPs) to HUD-FHA.

5. Interstate Mortgage Corporation, Portland, Oregon

Action: Proposed Settlement Agreement that includes indemnification of HUD for claim losses in connection with improperly originated mortgages.

Cause: A HUD Monitoring Review citing violations of HUD-HUD single family loan origination requirements that include: Failure to verify mortgagors' source of funds for downpayments; and failure to assure that mortgagors made the minimum required investment in the property.

6. Waterfield Financial Corporation, Phoenix, Arizona

Action: Proposed Settlement Agreement on terms acceptable to the Department and Waterfield.

Cause: A HUD Office of Inspector General Audit Report which cited violations of HUD-FHA single family loan origination requirements by Waterfield's Phoenix, Arizona branch office. The violations include: failure to conduct face-to-face interviews with mortgagors; failure to assure that mortgagors made the minimum required investment in the property; permitting an interested third party to perform loan origination functions resulting in the submission of inaccurate information to HUD-FHA; and permitting improper sales inducements in connection with a builder's trade-in programs.

7. Logan Laws Financial Corporation, Johnson City, Tennessee

Action: Settlement Agreement that provides for issuance of a Letter of Reprimand, and indemnification of HUD in connection with nine improperly originated title I loans.

Cause: A HUD monitoring review citing violations of the Department's Title I program and of the requirements of the Government National Mortgage Association (GNMA). The violations include: failure to remit to investors in the GNMA mortgage-backed securities program, the manufactured housing claim payments or the liquidation of non-filed or denied HUD-FHA claims; failure to comply with dealer supervision requirements with respect to borrower complaints; failure to verify the source of borrower downpayments; and failure to comply with placement certificate and loan disbursement requirements.

8. Lender Service, Inc., Tulsa, Oklahoma

Action: Withdrawal of HUD Title I lender approval.

Cause: A HUD monitoring review citing violations of the Department's title I program requirements and of the requirements of the Government National Mortgage Association (GNMA). The violations include: failure to deposit $2.9 million of manufactured housing sales proceeds into GNMA custodial accounts; failure to pass through sales proceeds to GNMA security holders; failure to comply with dealer approval and supervision requirements; failure to provide evidence that conventional loans refinanced under the title I program were current; and failure to verify the existence of borrowers' downpayments.

9. Metropolitan Mutual Mortgages, Inc., Baton Rouge, Louisiana

Action: Issuance of a warning letter directing Metropolitan Mutual Mortgages, Inc., to continue

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implementation of certain corrective actions in its operations and fully comply with HUD–FHA requirements.

Cause: Noncompliance with HUD–FHA single family loan origination requirements in connection with six loans.

10. Stratford Mortgage Corporation, Richardson, Texas

Action: Proposed Settlement Agreement that would include indemnification of HUD in connection with eight improperly originated mortgages, and a buydown of the over-insured mortgage amounts in connection with 7 loans.

Cause: A HUD monitoring review that disclosed violations of HUD–FHA single family loan origination requirements. The violations include: failure to perform face-to-face interviews with mortgagors; failure to assure that borrowers signed a properly completed HUD Form 92900 application prior to loan approval by SMC underwriters; failure to assure that borrowers made the required minimum investment in the property; overinsured mortgages; false gift letters; inaccurate verifications of employment, deposit or rent; using a false Social Security number; permitting mortgagors to handcarry verifications of employment, deposit or rent; omitting mortgagor dependents; and failure to verify the sale of mortgagor's previous residence. In addition, SMC failed to implement a Quality Control Plan.

11. Executive Mortgage Corporation, Denver, Colorado

Action: Withdrawal of HUD mortgagee approval

Cause: Violations of HUD–FHA requirements and engaging in businss practices that do not conform to accepted practices of prudent lenders and demonstrate irresponsibility in selling the same HUD–FHA insured mortgages to more than one investor mortgagee.

12. First Federal Financial Services, Rutherford, New Jersey

Action: Withdrawal of HUD mortgagee approval.

Cause: Failure to comply with HUD–FHA requirements for approval as a mortgagee, and revocation of mortgage banking license by the New Jersey Department of Banking.

13. First Commerce Mortgage Corporation, Independence, Ohio

Action: Suspension.

Cause: Indictment of First Federal Mortgage Corporation and its president for offenses which reflect upon the responsibility, integrity and ability of First Commerce to participate in HUD–FHA programs as an approved mortgagee.

14. Empbanque Capital Corporation, Carle Place, New York

Action: Proposed Settlement Agreement that provides for a Letter of Reprimand, indemnification of HUD for claim losses in connection with 28 improperly originated loans, and compliance with HUD–FHA reporting requirements under the Home Mortgage Disclosure Act (HMDA).

Cause: A HUD monitoring review citing violations of HUD–FHA single family loan origination requirements. The violations include: failure to verify that a mortgagor had sufficient assets to close; failure to verify the mortgagor's source of funds to close; use of a falsified Verification of Deposit to close an insured mortgage; failure to verify or credit earnest money deposits; violation of the "seven unit" limitation; originating loans in which the mortgagors failed to meet their minimum required investment and which exceeded the regulatory maximum mortgage amounts; failure to establish the stability of a mortgagor's self-employment; failure to verify the physical soundness and increased value of a previously rejected property; failure to conduct face-to-face interviews with borrowers; completing the lender's certification on the HUD 92900 application prior to the borrower's certification; and failure to comply with the reporting requirements under the Home Mortgage Disclosure Act (HMDA).

15. PFG Mortgage, Inc., Mission Viejo, California

Action: Withdrawal of HUD mortgagee approval unless the president, who is the principal owner of PFG, disposes of all ownership interest in PFG and resigns as an officer and director of PFG.

Cause: Conviction of the president of PFG of offenses which reflect upon the responsibility, integrity and ability of PFG to participate in HUD–FHA programs as an approved mortgagee.

16. Leander Mortgage Corporation, Fort Worth, Texas

Action: Withdrawal of HUD mortgagee approval.

Cause: Failure to comply with HUD–FHA financial reporting requirements, and a HUD monitoring review which cited violations of HUD–FHA single family loan origination violations that include: failure to implement a Quality Control Plan (QCP); employment of an individual who is subject to a Limited Denial of Participation (LDP); failure to maintain an escrow account to segregate mortgagor escrow funds; failure to promptly pay fee appraisers; submitting false documents to HUD knowing them to be false and/or materially misrepresented; failure to insure that mortgagors made the minimum required investment in the property; failure to properly determine and verify mortgagors' sources of funds; failure to maintain the required line of credit; and charging fees for services where no such service was rendered, in violation of RESPA requirements.

17. City Mortgage Corporation, Anchorage, Alaska

Action: Proposed Settlement Agreement that includes indemnification of HUD for claim losses in connection with 15 improperly originated loans.

Cause: A HUD monitoring review citing violations of HUD–FHA single family program loan origination requirements. The violations include: failure to assure that borrowers made the minimum required investment in the property; failure to pay HUD–FHA Mortgage Insurance Premiums when due; failure to properly determine the mortgagor's source of funds for earnest money deposits and/or closing costs; conducting business practices that did not conform to those of a prudent lender or meet the requirements of HUD–FHA; failure to establish the mortgagor's income in several cases; submitting a loan in default for HUD–FHA insurance; failure to disclose all of the mortgagor's liabilities; misrepresenting HUD–FHA insurance on a loan sold to an investor; and failure to implement a satisfactory Quality Control Plan.

18. Sun American Mortgage Corporation, Mesa, Arizona

Action: Proposed Settlement Agreement that includes indemnification of HUD for claim closses in connection with six improperly originated loans.

Cause: A HUD monitoring review citing violations of HUD–FHA single family program loan origination requirements. The violations include: failure to document and identify borrowers' source of funds; failure to adhere to prudent underwriting standards in a case where there was a significant decline of self-employed borrowers' income; failure to assure that borrowers made the minimum required investment in the property; false verification of employment; and failure to implement and maintain an adequate Quality Control Plan for the origination of HUD–FHA insured mortgages.

19. Mountain Mortgage, Inc., Stone Mountain, Georgia

Action: Suspension.

Cause: Failure to provide information to the Board related to the conduct of Mountain Mortgage's HUD–FHA business.

20. Unity Mortgage Corporation, Atlanta, Georgia

Action: Proposed Settlement Agreement that includes indemnification of HUD for claim losses in connection with three improperly originated loans.

Cause: A HUD Office of Inspector General audit report citing violations of HUD–FHA single family loan origination requirements including improper verification of borrowers' source of gift funds used to meet their minimum required investment in the property.

21. State Funding, Inc., Corona, California

Action: Proposed Settlement Agreement requiring implementation of corrective actions with respect to HUD–FHA insured mortgage activities.

Cause: A HUD monitoring review citing violations of HUD–FHA requirements including: Failure to remit One-Time Mortgage Insurance Premiums (OTMIPs) to HUD–FHA; failure to timely remit OTMIPs to HUD–FHA; failure to implement a Quality Control Plan for the origination of HUD–FHA insured mortgages; failure to meet the principal activity requirement of an approved mortgagee; and failure to disclose to borrowers a controlled business arrangement.

22. Clarence A. Marshall Mortgage and Investment Company, Inc., Kansas City, Missouri

Action: Proposed Settlement Agreement which includes indemnification of HUD in connection with two improperly originated loans, and, separation of mortgage lending and real estate operations.

Cause: A HUD Office of Inspector General Audit Report cited violations of HUD–FHA requirements including: failure to include mortgagor liabilities on the HUD Form 92900; overstating mortgagor income; permitting a mortgagor to use unsecured borrowed funds to meet the minimum required investment; failure to determine the value of chattel in connection with a collateral loan for funds to close a HUD–FHA insured mortgage; and failure to separate mortgage lending and real estate operations.

23. Tower Financial Corporation, Rockville, Maryland

Action: Withdrawal of HUD mortgagee approval

Cause: Violation of HUD–FHA requirements for failing to remit to HUD–FHA 16 One-Time Mortgage Insurance Premiums (OTMIPs) totalling $77,766 collected from mortgagors.

Dated: February 14, 1992.

Arthur J. Hill,

Assistant Secretary for Housing–Federal Housing Commissioner.

[FR Doc. 92–4187 Filed 2–24–92; 8:45 am]

BILLING CODE 4210-27-M

[Docket No. D–92-978]

Office of the Regional Administrator—Regional Housing Commissioner; Acting Manager, Region IV (Atlanta); Designation for Memphis Office

AGENCY: Department of Housing and Urban Development.

ACTION: Designation.

SUMMARY: Updates the designation of officials who may serve as Acting Manager for the Memphis Office.

EFFECTIVE DATE: January 29, 1992.

FOR FURTHER INFORMATION CONTACT: Charles A. Lipthrott, Director, Management Systems Division, Office of Administration, Atlanta Regional Office, Department of Housing and Urban Devlopment, room 634, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia 30303-3388, 404–331–5199.

Designation of Acting Manager for Memphis Office

Each of the officials appointed to the following positions is designated to serve as Acting Manager during the absence of, or vacancy in the position of, the Manager, with all the powers, functions, and duties redelegated or assigned to the Manager: *Provided,* That no official is authorized to serve as Acting Manager unless all other employees whose titles precede his/hers in this designation are unable to serve by reason of absence:

1. Deputy Manager.
2. Chief, Property Disposition Branch.
3. Chief, Valuation/Architectural and Engineering Branch.
4. Chief, Loan Management Branch.
5. Chief, Mortgage Credit Branch.

This designation supersedes the designation effective May 24, 1990, (55 FR 25377, June 21, 1990). (Delegation of Authority by the Secretary effective October 1, 1970 (36 FR 3389, February 23, 1971)).

This designation shall be effective as of January 29, 1992.

Robert D. Atkins,

Manager, Memphis Office.

Raymond A. Harris,

Regional Administrator, Regional Housing Commissioner, Office of the Regional Administrator

[FR Doc. 92–4230 Filed 2–24–92; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA-940–4214–11; CAS 1037, CAS 2694, CAS 058127, CAS 058168, CAS 068455, CAS 073664, CAS 080236, CACA 7002, CACA 7005, CACA 7007, CACA 7012, CACA 7013, CACA 7014, CACA 7015, CACA 7017, CACA 7558, CACA 7579]

Proposed Continuation of Withdrawals; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation proposes that approximately 28,298.55 acres of lands withdrawn for the Central Valley, Klamath, and Washoe Reclamation Projects continue for an additional 20 years. The lands will remain closed to surface entry and mining but have been and will remain open to mineral leasing. This notice provides a public comment period.

DATES: Comments should be received by May 26, 1992.

ADDRESSES: Comments should be sent to State Director, California State Office, 2800 Cottage Way, room E–2845, Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: Judy Bowers, BLM California State Office (916) 978–4820.

SUPPLEMENTARY INFORMATION: The Bureau of Reclamation proposes that the existing land withdrawals identified below be continued for a period of 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The lands are described as follows:

Mount Diablo Meridian

Serial No. CAS 1037: Public Land Order 5270

T. 12 N., R. 9E.,
  sec. 5, lot 45.

The area described contains 2.00 acres in Placer County.

Serial No. CAS 2694: Public Land Order 2225

T. 13 N., R 10 E.,
  sec. 19, lots 19 and 20.

The area described contains 70.20 acres in Placer and El Dorado Counties.

Serial No. CAS 058127: Public Land Order 2225

T. 34 N., R. 8 W.,
sec. 6, N½ lot 6, NW¼NE¼SW¼.

The area described contains 30.435 acres in Trinity County.

Serial No. CAS 058168: Public Land Order 2225 amended by Public Land Order 2276

T. 12 N., R. 8 E.,
sec. 25, S½SE¼NW¼, W½NW¼ excluding Mineral Survey 6091.
T. 13 N, R. 9 E.,
sec. 10, E½SE¼NE¼;
sec. 31, lot 4.
T. 14 N., R. 9 E.,
sec. 36, lots 18, 19, 23, 25, 29.
T. 13 N., R. 10 E.,
sec. 28, N½NE¼;
sec. 30, lots 9, 10, 11.
T. 14 N., R. 10 E.,
sec. 30, SE¼ lot 6.

The area described contains 406.70 acres in Placer and El Dorado Counties.

Serial No. CAS 068455: Public Land Order 2729

T. 12 N., R. 8 E.,
sec. 12, lot 2.
T. 12 N., R. 9 E.,
sec. 4, lot 1.
T. 13 N., R. 9 E.,
sec. 2, lot 18;
sec. 25, unpatented portion lot 1, unpatented portion of W½NW¼, NW¼SW¼.
T. 14 N., R. 9 E.,
sec. 25, SE¼SE¼.
T. 13 N., R. 10 E.,
sec. 2, SE¼SE¼;
sec. 22, lot 3;
sec. 28, NE¼NW¼;
sec. 30, lots 8, 11 and 12.

The area described contains 418.82 acres in El Dorado and Placer Counties.

Serial No. CAS 073664: Public Land Order 3171

T. 34 N., R. 4 W.,
sec. 28, unpatented portion lot 1.

The area described contains 2.5 acres in Shasta County.

Serial No. CAS 080236: Public Land Order 4282

T. 19 N., R. 16 E.,
sec. 26, NW¼NW¼, N½SW¼NW¼;
sec. 34, N½N½.

The areas described contains 220 acres in Sierra County.

Serial No. CACA 7002: Secretarial Order dated March 6, 1936

T. 34 N., R. 2 W.,
sec. 6, W½ lot 5, E½ lot 10, E½NE¼SW¼;
sec. 12, NE¼SW¼NE¼, NE¼SE¼ SW¼NE¼, NE¼NE¼SE¼, NE¼NW¼ NE¼SE¼;
sec. 14, NW¼NW¼.
T. 35 N., R. 3 W.,
sec. 4, S½S½.

The area described contains 281.37 acres in Shasta County.

Serial No. CACA 7006: Secretarial Order dated 7/16/36

T. 34 N., R. 1 W.,
sec. 6, lots 1 through 4, inclusive, lot 7, S½NE¼, SE¼NW¼, E½SW¼, N½SE¼, SW¼SE¼.
T. 35 N., R. 1 W.,
sec. 28, S½S½, NE¼SE¼;
sec. 32, N½, NW¼SW¼.
T. 34 N., R. 2 W.,
sec. 2, NW¼SE¼;
sec. 6, E½ lot 5, lots 6 through 9, inclusive, W½ lot 10, lots 11 through 15, inclusive W½NE¼SW¼, SE¼NW¼, SE¼SW¼;
sec. 10, E½E½NE¼, W½NE¼, NW¼SW¼,
N½SW¼SE¼, SE¼SW¼, N½SW¼SE¼;
sec. 12, N½NE¼, NW¼SW¼NE¼, W½SW¼SW¼NE¼,
W½NW¼SE¼, SE¼NW¼SE¼, NW¼;
sec.14, S½SW¼;
sec.16, E½, SW¼, E½NW¼;
sec. 20, SE¼NE¼, W½W½.
T. 35 N., R. 3 W.,
sec. 28, N½N½.

The areas described contains 3,073.84 acres in Shasta County.

Serial No. CACA 7007: Secretarial Order dated September 2, 1937

T. 34 N., R. 4 W.,
sec.22, NE¼SE¼;
sec. 23, NW¼SW¼;
sec. 26, lot 25;
sec. 36 lots 5 through 8 inclusive, NE¼SW¼.

The area described contains 277.44 acres in Shasta County.

Serial No. CACA7012: Secretarial Order dated April 12, 1946

T. 36 N., R. 3 W.,
sec. 32, SW¼SW¼.

The area described contains 40.00 acres in Shasta County.

Serial No. CACA 7013: Bureau of Land Management Order dated July 16, 1947

T. 33 N., R. 4 W.,
sec. 1, W½SW¼.

The area described contains 80.00 acres in Shasta County.

CACA 7014: Bureau of Land Management Order dated November 6, 1947

T. 33 N., R. 4 W.,
sec. 12, lots 1 through 4, inclusive.
T. 35 N., R. 4 W.,
sec. 22, SW¼.
T. 36 N., R. 4 W.,
sec. 32, SW¼NE¼.
T. 34 N., R. 5 W.,
sec. 8, NW¼, N½SE¼, SE¼SE¼, NE¼.
T. 35 N., R. 5 W.,
sec. 22, N½NE¼, SW¼NE¼.

The area described contains 913.98 acres in Shasta County.

Serial No. CACA7015: Bureau of Land Management Order dated February 27, 1952

T. 35 N., R. 7 W.,
sec. 4, lots 3, 4, and 5;
sec. 6, lots 10, 11, 12 and 13;
sec. 8, SE¼NW¼, S½SW¼NW¼, NW¼NE¼SW¼, NW¼SW¼, S½S½ SW¼, S½SE¼;
sec. 16, N½N½NW¼, NE¼, N½N½ NW¼NW¼;
sec. 18, E½ lot 2, S½ lot 3, SE¼NW¼.
T. 36 N., R. 7 W.,
sec. 4, lot 2, E½SW¼NE¼, E½E½ NW¼SE¼, E½SW¼SE¼;
sec. 10, NW¼NW¼NE¼, S½NW¼NE¼, NE¼SW¼, S½SW¼;
sec. 12, NW¼NW¼NE¼, NW¼NW¼, NW¼NW¼SW¼, NE¼NE¼SW¼;
sec. 20, SE¼NE¼, E½SE¼SW¼, E½SE¼;
sec. 22, W½E½SW¼, N½SE¼NW¼, SW¼SE¼NW¼, NE¼NW¼;
sec. 28, N½NE¼NE¼, NE¼NW¼NE¼, S½NW¼NE¼, W½SW¼NE¼, E½NE¼SW¼, SW¼NE¼SW¼, W½SE¼SW¼;
sec. 32, NW¼NE¼, W½W½SW¼NE¼, E½SE¼NE¼, SW¼SW¼, SE¼SW¼, NE¼NE¼SW¼, S½NE¼SW¼, W½W½NW¼SE¼;
sec. 34, NW¼NW¼NE¼SW¼, N½N½ NW¼SW¼, S½NW¼NW¼SW¼, N½SW¼NW¼SW¼, SW¼SW¼ NW¼SW¼, W½NW¼SW¼SW¼, NW¼SW¼SW¼SW¼, S½SE¼ NE¼SW¼, SE¼SW¼NE¼SW¼, SE¼SW¼.
T. 37 N., R. 7W.,
sec. 20 W½W½NE¼, SE¼SW¼NE¼;
sec. 28, W½SW¼SW¼;
sec. 32, E½NW¼NE¼.
T. 33 N., R. 8W.,
sec. 4, NW¼NE¼SW¼, NW¼SW¼;
sec. 6, NW¼NE¼SE¼;
sec. 8, NW¼SW¼NE¼, SW¼SE¼NE¼, S½S½SE¼.
T. 34 N., R. 8 W.,
sec. 2, lots 3 and 4;
sec. 3, SE¼SW¼NE¼;
sec. 4, NW¼SW¼, NW¼SW¼SW¼, S½S½SW¼, NE¼SE¼, S½S½ SW¼SE¼, NE¼SE¼SE¼;
sec. 5, SW¼NE¼, N½S½NW¼, SW¼SW¼SW¼, NE¼SE¼SW¼, NE¼NE¼SE¼, S½NE¼SE¼, S½SE¼;
sec. 6, lots 1 and 5, N½SE¼NE¼, SW¼NE¼, S½SE¼SE¼;
sec. 7, SE¼ lot 3, NE¼ lot 4, N½NE¼NE¼, S½SE¼NE¼, SE¼SW¼, S½NE¼ SW¼, N½SE¼, SE¼SE¼;
sec. 10, SW¼NE¼, W½SW¼, W½E½ SW¼, SE¼;
sec. 16, E½E½, SW¼SE¼;
sec. 19, SW¼SE¼NE¼, W½NW¼SE¼;
sec. 22, lots 1 through 6, inclusive.
T. 35 N., R. 8 W.,
sec. 24, NE¼NE¼, W½SW¼NE¼, NE¼SW¼;
sec. 25, SW¼SE¼NW¼, W½E½ NE¼SW¼, W½NE¼SW¼, E½NW¼ SW¼, NW¼NW¼SW¼, SE¼SE¼S W¼;
sec. 26, NE¼NE¼SE¼, W½NE¼SE¼, NE¼SW¼SE¼, W½SW¼SE¼;
sec. 27, NW¼SW¼;
sec. 28, NW¼NE¼, E½NE¼NW¼, NE¼SE¼NW¼, SW¼SW¼NW¼, SE¼SW¼SE¼,SE¼SE¼;
sec. 29, W½SW¼SW¼, W½E½ SW¼SW¼;
sec. 30, E½SE¼NE¼, NW¼SE¼NE¼, E½NE¼SE¼;
sec. 31, lots 1 and 2, E½NW¼;
sec. 32, lot 3, NE¼SW¼, SE¼;

sec. 34, S½S½NE¼, E½SE¼SW¼, NW¼SE¼, N½NE¼SE¼, SE¼SE¼SE¼;
sec. 36, N½NW¼, N½S½NE¼NE¼, N½NE¼NE¼, N½NW¼NE¼, NW¼SW¼.
T. 34 N., R. 9 W.,
sec. 1, lot 4, S½N½;
sec. 2, SE¼NE¼.

The area described contains 4,856.92 acres in Shasta and Trinity Counties.

Serial No. CACA 7017: Bureau of Land Management Order dated March 12, 1956

T. 34 N., R. 7 W.,
sec. 18, lots 3 and 4.
T. 35 N., R. 7 W.,
sec. 18, S½NE¼NE¼, NW¼NE¼NE¼, SE¼NW¼;
sec. 20, N½SE¼.
T. 36 N., R. 7 W.,
sec. 1, E½E½SW¼;
sec. 2, W½NW¼SE¼SW¼, SW¼SE¼SW¼, SW¼SW¼NE¼SW¼;
sec. 5, lots 15 and 16;
sec. 8, S½S½SW¼NE¼, S½SE¼NE¼;
sec. 10, NE¼NE¼SE¼NW¼;
sec. 11, S½NE¼NE¼, S½NE¼;
sec. 14, W½NW¼, N½NW¼SW¼;
sec. 28, E½SE¼NW¼.
T. 37 N., R. 7 W.,
sec. 20, lot 2 in NW¼SW¼;
sec. 29, E½NE¼SW¼, E½SW¼NW¼;
sec. 32, NW¼SE¼.
T. 33 N., R. 8 W.,
sec. 5, Mineral Survey 1029 within NE¼, E½NW¼ excluding Mineral Survey 3947;
sec. 6, W½SE¼;
sec. 8, lots 3 and 4, SW¼NW¼NW¼, S½NE¼SW¼, SW¼NW¼SE¼.
T. 34 N., R. 8 W.,
sec. 2, W½ lot 2, N½S½NW¼;
sec. 4, NE¼;
sec. 14, NW¼NW¼, S½NW¼, S½;
sec. 15, NW¼NE¼, W½SE¼SW¼SW¼;
sec. 16, W½NE¼, NW¼SE¼;
sec. 18, E½ lot 1, E½ lot 2, NE¼ lot 3, NW¼NE¼SW¼, E½NW¼;
sec. 23, lot 2;
sec. 33, lot 13, W½SW¼SW¼.
T. 35 N., R. 8 W.,
sec. 12, NW¼NE¼NE¼, NW¼NE¼NE¼NE¼;
sec. 16, SE¼SW¼, SW¼SE¼, E½E½NW¼SE¼;
sec. 19, SE¼SW¼SE¼;
sec. 21, N½NE¼NE¼SE¼;
sec. 26, SE¼SE¼SE¼;
sec. 30, S½NE¼NE¼, E½NW¼NE¼, NW¼NE¼NE¼;
sec. 32, lot 4;
sec. 33, W½E½NW¼NE¼, E½W½NW¼NE¼, W½E½SW¼NE¼, W½SW¼NE¼, W½E½SE¼NW¼, E½E½NW¼SE¼;
sec. 36, N½S½SW¼, S½NE¼SW¼, NW¼NE¼SW¼.
T. 34 N., R. 9 W.,
sec. 1, S½N½NE¼, S½NE¼NW¼;
sec. 2, lots, 1, 2, 3, E½ lot 4, E½SW¼NE¼.
T. 35 N., R. 9 W.,
sec. 34, S½ and NW¼ lot 1, lot 2, N½NE¼NW¼, Mineral Survey 4359 within SE¼,NW¼;
sec. 35, N½NE¼SW¼.

The area described contains 2,586.125 acres in Shasta and Trinity Counties.

Serial No. CACA 7558: Secretatial Order dated June 25, 1919

T. 48 N., R. 1 E.,
sec. 13, that portion of the section in California;
sec. 14, lots 1 and 2, unpatented portion of SE¼;
sec. 15, lots 1 through 8 inclusive, SE¼SE¼;
sec. 16, lots 6, 7, and 9, fractional portion of the S½SW¼;
sec. 21, lots 11 through 13, inclusive;
sec. 22, lots 4 through 25, inclusive, NE¼NE¼;
Sec.23, lots 1 through 3, inclusive, W½E½W½, E¼SE¼, fractional portion of the E½NE¼, NE¼SE¼;
sec. 24, lots 1 through 3, inclusive, N½N½SE¼, fractional portion of the N½SW¼S½SE¼;
sec. 25, lots 5, 6 and 8, NW¼, fractional portion of the NE¼, NE¼SE¼;
sec. 26, lots 7 through 10, inclusive, NE¼.
T. 47N., R. 2 E.,
sec. 4, lots 1 through 4, inclusive, S½NE¼, S½NW¼, SW¼, W½SE¼;
sec. 5, all;
sec. 6, lots 1, 2, 3, S½NE¼, SE¼,NW¼, E½SW¼, SE¼;
sec. 7, NE¼, E½NW¼;
sec. 8, N½;
sec. 9, W½, W½E½, E½SE¼;
sec. 10, SW¼SW¼;
sec. 15, lots 3 through 6, inclusive;
sec. 21, lot 2;
sec. 22, lot 8;
sec. 25, lots 12 through 14, inclusive;
sec. 27, lots 5 through 8, inclusive;
sec. 34, lot 3;
sec. 35, lots 7 through 14, inclusive;
sec. 36, lots 18 and 19.
T. 48 N., R. 2 E.,
sec. 13, lots 1 through 4, inclusive, S½S½;
sec. 14, lots 1 and 2, SE¼SE¼;
sec. 23, NE¼NE¼;
sec. 24, E½, N½NW¼, SE¼NW¼, NE¼SW¼;
sec. 25, NE¼NE¼;
sec. 28, S½NW¼, SW¼, W½SE¼;
sec. 29, SE¼NE¼, SE¼SW¼, SE¼;
sec. 30, lot 1;
sec. 31, lot 1, E½SW¼, S½SE¼;
sec. 32, E½, E½W½, SW¼SW¼;
sec. 33, all.
T. 47 N., R. 3 E.,
sec. 2, lot 4, SW¼NW¼, W½SW¼;
sec. 3, lots 1 and 2;
sec. 4, lots 1 through 8, inclusive;
sec. 5, lots 1 and 2, S½NE¼, E½SE¼;
sec. 8, E½NE¼;
sec. 9, lots 1 through 4, inclusive;
sec. 10, S½SW¼, SW¼SE¼;
sec. 11, NW¼NW¼;
sec. 16, lot 1.
T. 48 N., R. 3 E.,
sec. 15, lot 7;
sec. 16, lots 2 through 5, inclusive; S½S½;
sec. 17, lots 5 through 9, inclusive;
sec. 18, lot 1;
sec. 19, lots 1 through 6, inclusive, W½NW¼, SW¼, SW¼SE¼;
sec. 20, lots 3 and 4;
sec. 21, lots 1 through 4, inclusive, NE¼, NE¼NW¼, NE¼SW¼, NE¼SE¼;
sec. 22, lots 4 through 6, inclusive, W½NW¼, NW¼SW¼, W½SE¼;
sec. 26, NW¼SW¼, SE¼SW¼;
sec. 27, N½NE¼, SE¼NE¼;
sec. 29, lots 1 through 9, inclusive, SE¼SW¼;
sec. 30, lots 1 through 5, inclusive, S½NE¼, SE¼NW¼, SE¼;
sec. 32, lot 1, W½NE¼, SE¼NE¼, NW¼, SE¼;
sec. 33, lots 1 through 4, inclusive, W½SW¼;
sec. 35, E½W½, SW¼SW¼.

The area described contains 14,818.21 acres in Siskiyou County.

CACA 7579: Bureau of Land Management Order dated August 22, 1956.

T. 10 N., R. 13 E.,
sec. 9, N½NE¼SE¼;
sec. 10, SW¼, W½W½SE¼.

The area described contains 220 acres in El Dorado County.

The purpose of the withdrawals is to protect the Central Valley, Klamath, and Washoe Reclamation Projects. The withdrawals segregate the lands from settlement, sale, location and entry, including location and entry under the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawals.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed continuation of the withdrawals may present their views in writing to the Chief, Branch of Adjudication and Records, in the California State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawals will be continued, and, if so, for how long. The final determination on the continuation of the withdrawals will be published in the **Federal Register**. The existing withdrawals will continue until such final determination is made.

Dated: February 19, 1992.

William Kennedy,
Acting State Director.

[FR Doc. 92-4211 Filed 2-24-92; 8:45 a.m.]

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[CA-940-4214-11; CACA-7001, CACA-7003, CACA-7062, CACA 7551, CACA 7569, CACA 7573, CACA 7817]

Proposed Continuation of Withdrawal; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation proposes that approximately 70,224.27 acres withdrawn for the Central Valley, Cachuma, and Klamath Reclamation Projects continue for an additional 20 years. The land will remain closed to surface entry and mining but have been and will remain open to mineral leasing. This notice provides a public comment period.

DATES: Comments should be received by May 26, 1992.

ADDRESSES: Comments should be sent to State Director, BLM California State Office, 2800 Cottage Way, room E-2845, Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: John Beck, BLM California State Office, 916-978-4820.

SUPPLEMENTARY INFORMATION: The Bureau of Reclamation proposes that the existing land withdrawals identified below, be continued for a period of 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The lands are described as follows:

CACA-7001

Secretarial Order of November 10, 1937.

Mount Diablo Meridian

- T. 33 N., R. 4 W.,
  - sec. 3, lots 2, 3, and 4, SW¼NW¼, SE¼NW¼.

The area described contains approximately 198.41 acres in Shasta County.

CACA-7003

Secretarial Order of April 20, 1938.

Mount Diablo Meridian

- T. 34 N., R. 2 W.,
  - sec. 30, lot 3, E½NE¼, E½SW¼.
- T. 33 N., R. 3 W.,
  - sec. 6, SE¼SE¼;
  - sec. 12, SE¼NE¼.
- T. 34 N., R. 3 W.,
  - sec. 15, SW¼ lot 14, W½ lot 17;
  - sec. 20, lots 3, 4, and 5;
  - sec. 30, NE¼NW¼.
- T. 33 N., R. 4 W.,
  - sec. 2, lots 2 and 3.
- T. 34 N., R. 4 W.,
  - sec. 4, SW¼SE¼;
  - sec. 28, E½NE¼.
- T. 33 N., R. 5 W.,
  - sec. 6, SE¼SE¼.
- T. 34 N., R. 5 W.,
  - sec. 10, lot 3;
  - sec. 22, lots 2 and 6;
  - sec. 26, SE¼W¼, SE¼.
- T. 35 N., R. 5 W.,
  - sec. 26, SE¼SW¼.

The area described contains approximately 828.88 acres in Shasta County.

CACA-7062.

Secretarial Order of November 16, 1918.

Mount Diablo Meridian

- T. 1 N., R. 13 E.,
  - sec. 1, lots 1 through 5, inclusive, S½NE¼, SE¼NW¼, E½SW¼, N½SE¼, SW¼SE¼;
  - sec. 2, lots 1 and 2, SW¼NE¼, S½NW¼, W½NW¼SW¼;
  - sec. 12, lot 1, NW¼NE¼, NE¼NW¼, NE¼SW¼.
- T. 2 N., R. 13 E.,
  - sec. 21, lot 1;
  - sec. 23, M.S. 3796 B in the NE¼, lot 1, and the unpatented portions of lot 2 and M.S. 4192;
  - sec. 24, lots 1, 3, 6, 15, 17, 20, 21, M.S. 5835 in lot 16, M.S. 5836 in lot 19, M.S. 5837 in lot 13, and unpatented portions of lots 22 and 23;
  - sec. 25, E½SE¼NW¼, E½SW¼, N½SE¼;
  - sec. 26, lots 1 and 2, NE¼NE¼, unpatented portion of the NW¼NE¼.
- T. 2 N., R. 14E.,
  - sec. 19, lots 7, 11, and 12, S½NE¼SW¼, N½N½NE¼SE¼, S½NW¼SE¼, unpatented portions of lots 3 and 4.

The area described contains approximately 1,465.47 acres in Calaveras and Tuolumne Counties.

CACA 7551

Secretarial Orders of January 24, 1905 and January 28, 1905.

Mount Diablo Meridian

- T. 48 N., R. 1 E.,
  - sec. 14, lots 1 and 2.
- T. 47 N., R. 2 E.,
  - sec. 1, all;
  - sec. 2, all;
  - sec. 3, E½,E½W½;
  - sec. 10, E½,E½W½;
  - sec. 11, all;
  - sec. 12, all;
  - sec. 13, all;
  - sec. 14, all;
  - sec. 15, E½, E½W½;
  - sec. 16, lot 10;
  - sec. 22, lots 6, 7, 9, and 10, E½E½, W½NE¼;
  - sec. 23, all;
  - sec. 24, all;
  - sec. 25, lots 3 through 7, inclusive, fractional portion N½;
  - sec. 26, N½, E½SW¼.
- T. 48 N., R. 2 E.,
  - sec. 14, the SW¼ portion of the section in California;
  - sec. 15, that portion of the section in California;
  - sec. 16, that portion of the section in California;
  - sec. 17, that portion of the section in California;
  - sec. 18, the SE¼ portion of the section in California;
  - sec. 19, NE¼, E½SW¼, W½SE¼;
  - sec. 20, N½, SE¼;
  - sec. 21, all;
  - sec. 22, N½, SE¼;
  - sec. 23, all;
  - sec. 24, N½, SW¼, W½SE¼;
  - sec. 25, all;
  - sec. 26, all;
  - sec. 27, E½;
  - sec. 29, SW¼;
  - sec. 30, N½, SE¼, and fractional portion of the SW¼;
  - sec. 31, NE¼, SE¼NW¼, and fractional portion of NE¼NW¼;
  - sec. 32, NW¼;
  - sec. 34, all;
  - sec. 35, all;
  - sec. 36, all.
- T. 47 N., R. 3 E.,
  - sec. 5, lot 3, NW¼NW¼, S½NW¼, SW¼, W½SE¼;
  - sec. 6, all;
  - sec. 7, all;
  - sec. 8, W½, W½E½, E½SE¼;
  - sec. 17, W½, W½NE¼, NW¼SE¼, fractional portions of SW¼SE¼ and E½E½;
  - sec. 18, all;
  - sec. 19, all;
  - sec. 20, lots 1 and 2, E½NE¼, fractional portion of SW¼NE¼ (unnumbered lot), and fractional portions of NW¼NE¼, N½NW¼, S½NW¼, and NW¼SW¼;
  - sec. 30, lot 1, NE¼NW¼.
- T. 48 N., R. 3 E.,
  - sec. 30, SW¼;
  - sec. 31, all;
  - sec. 32, SW¼.
- T. 46 N., R. 4 E.,
  - sec. 1, all;
  - sec. 2, all;
  - sec. 3, all;
  - sec. 4, all,
  - sec. 5, all;
  - sec. 6, all;
  - sec. 7, all;
  - sec. 8, all;
  - sec. 9, lots 2 through 7, inclusive, S½N½, SW¼, N½SE¼;
  - sec. 10, lots 2 through 6, inclusive, S½N½, SE¼, N½SW¼, SE¼SW¼;
  - sec. 11, lots 4 through 10, inclusive, lots 14 and 15, S½N½, N½S½;
  - sec. 12, lots 7 through 18, inclusive, lots 22 and 23;
  - sec. 13, lots 18 and 19.
- T. 46 N., R. 4 E.,
  - sec. 14, lots 18, 19, and 20;
  - sec. 15, lots 9 and 10, lots 17 through 25, inclusive, W½NE¼, NE¼NW¼;
  - sec. 16, lots 6 through 12, inclusive; lots 15 and 16, lots 23 through 27, inclusive;
  - sec. 17, lots 1 through 5, inclusive, lots 7 and 8, lot 13, W½NE¼, N½NW¼;
  - sec. 18, lots 1, 2, and 5, N½NE¼, SW¼NE¼, E½NW¼;
  - sec. 20, lots 5 and 6;
  - sec. 21, lots 6, 7, and 8.
- T. 47 N., R. 4 E.,
  - sec. 1, a tract of land within the NW¼NW¼ being all the southerly portion of lot 4 (also known as Block 1 on the plat of Tulelake Townsite Addition);
  - sec. 2, lot 7;
  - sec. 3, lots 6, 11, 14, 15, 16, and 18, SW¼SW¼;

sec. 4, lots 6, 9, and 12, SW¼, W½SE¼, SE¼SE¼;
sec. 5, S½N½, SE¼;
sec. 6, lots 4, 7, and 8, S½NE¼;
sec. 7, lots 4 through 7, inclusive;
sec. 8, E½;
sec. 9, all;
sec. 10, all;
sec. 11, lots 4 and 5, SE¼NE¼, W½NW¼, SE¼NW¼, S½;
sec. 12, lots 2, 7, and 9, SW¼, W½SE¼, SE¼SE¼;
sec. 13, all;
sec. 14, all;
sec. 15, all;
sec. 16, all;
sec. 17, E½, E½NW¼, E½NW¼NW¼, SW¼NW¼, SW¼;
sec. 18, lots 1 through 4, inclusive, SE¼;
sec. 19, lots 1 through 4, inclusive, E½;
sec. 20, all;
sec. 21, all;
sec. 22, all;
sec. 23, all;
sec. 24, all;
sec. 25, all;
sec. 26, all;
sec. 27, all;
sec. 28, all;
sec. 29, all;
sec. 30, lots 1 through 4, inclusive, E½;
sec. 31, lots 1 through 4, inclusive, E½;
sec. 32, all;
sec. 33, all;
sec. 34, all;
sec. 35, all;
sec. 36, all.

T. 48 N., R. 4 E.,
sec. 16, portion of Lost River;
sec. 21, lot 7;
sec. 22, lots 2 and 4;
sec. 27, lots 2 and 10;
sec. 33, lot 3;
sec. 34, lot 7;
sec. 35, lots 1 and 2 of Block 40 in Tulelake Townsite.

T. 48 N., R. 5 E.,
sec. 4, lots 12, 18, 19, and 20;
sec. 5, all;
sec. 6, all;
sec. 7, lots 5 through 16 inclusive, lots 18 through 23, inclusive;
sec. 8, all;
sec. 9, lots 11 and 12, 18 and 20, W½NW¼, SW¼;
sec. 11, portion of lot 1;
sec. 15, lots 4 through 6, inclusive, 8, 9, 18, and 19;
sec. 16, lots 8 and 10, W½NE¼, NW¼, and portions of lots 2, 3, and 6;
sec. 17, lots 3 through 8, inclusive, W½NE¼, E½NW¼;
sec. 22, lots 1 and 2.

T. 47 N., R. 5 E.,
sec. 7, lot 17;
sec. 15, lot 6;
sec. 17, lot 15;
sec. 18, lots 1 through 4, inclusive, 9 through 11, inclusive, SE¼NW¼, E½SW¼, W½SE¼, SE¼SE¼;
sec. 19, all;
sec. 20, lots 4 and 5, W½NW¼, SE¼NW¼, S½;
sec. 23, lots 14, 18, and 21;
sec. 24, lot 15;
sec. 25, lots 10, 12, 22 in the NW¼, 22 in the SW¼, 25, 31, and 33;
sec. 26, lots 40, 42, 48, 49, 50, 52, 53, 54, NE¼NE¼ (exclusive of Newell Townsite), blocks 22, 25, 28, lots 7 through 18 of block 8, lots 1 through 6 and 19 through 24 of block 10 (within Newell Townsite);
sec. 27, lot 21;
sec. 29, all;
sec. 30, all;
sec. 31, all;
sec. 32, all;
sec. 33, lot 22;
sec. 35, lot 16;
sec. 36, lot 11.

T. 48 N., R. 5 E.,
sec. 15, lots 6 and 7;
sec. 16, lots 5, 6, and 8;
sec. 17, lot 5;
sec. 22, lots 1, 2, 5, 8, and 9;
sec. 23, lots 12, N½SW¼;
sec. 36, lot 18 and portion of lot 17.

The area described contains approximately 58,512.13 acres in Siskiyou and Modoc Counties.

CACA 7569

Secretarial Order of September 14, 1942.

Mount Diablo Meridian

T. 12 N., R. 8 E.,
sec. 14, NE¼NE¼, SE¼SW¼, SE¼;
sec. 26, W½E½, NW¼NW¼;
sec. 34, SE¼.

T. 12 N., R. 9 E.,
sec. 4, lots 2 and 4, and that portion of lot 3 excepting MS 5431;
sec. 6, lots 12, 14, 20, and 23;
sec. 34, E½SE¼SW¼.

T. 13 N., R. 9 E.,
sec. 2, lots 8, 10, and 13, SE¼SE¼SW¼;
sec. 11, N½SW¼;
sec. 22, NW¼;
sec. 23, W½W½SE¼;
sec. 24, unpatented portion lot 1, SW¼NE¼, SE¼NW¼, NW¼NW¼, SE¼, unpatented portion SW¼NW¼, NE¼SW¼;
sec. 26, lot 1, NW¼NE¼, N½SW¼NE¼, unpatented portions E½NE¼, NE¼SE¼;
sec. 28, N½NW¼NE¼, N½NW¼, SW¼NW¼;
sec. 30, S½SE¼;
sec. 32, lot 4;
sec. 34, lots 1, 2, 7, 9, 10, 12, 13, 16, 17, and 18.

T. 13 N., R. 10 E.,
sec. 1, lots 8, 9, 10, and 14, S½NW¼;
sec. 11, lot 1, N½SE¼NE¼, SW¼NE¼, W½SE¼;
sec. 14, lots 2 and 3, W½NE¼, S½NW¼, SW¼, NW¼SE¼;
sec. 15, lots 4 and 5, S½NE¼, N½SE¼, SE¼SE¼;
sec. 19, lots 10, 11, 12, and 17 through 21, inclusive;
sec. 20, lots 3, 4, 5, 6, 7, 9, and 10, SW¼NE¼;
sec. 21, lots 5 & 6;
sec. 22, lots 4, 5, 6, 9, and 10, W½SW¼, SE¼.

T. 14 N., R. 10 E.,
sec. 19, lots 11 and 16;
sec. 30, lots 1 and 3, E½ lot 7, SW¼ lot 7, E½ lot 11, SW¼ lot 11, lot 14.

The area described contains approximately 4,624.18 acres in El Dorado County.

CACA 7573

Secretarial Order of February 20, 1946.

San Bernardino Meridian

T. 5 N., R. 29 W.,
sec. 4, lots 1, 5, 9 through 12, inclusive, SE¼;
sec. 5, lots 1 through 3, inclusive, 6 through 11, inclusive, 13 through 16, inclusive;
sec. 6, lots 5 through 7, inclusive, SE¼NE¼, E½SW¼, SE¼;
sec. 8, N½, N½S½;
sec. 9, all;
sec. 16, N½NE¼.

T. 6 N., R. 29 W.,
sec. 32, W½, N½SE¼, SW¼SE¼;
sec. 33, W½SW¼;
sec. 34, lots 1 and 2.

The area described contains approximately 2,932.15 acres in Santa Barbara County.

CACA 7817

Bureau of Land Management Order of February 28, 1952

San Bernardino Meridian

T. 14 N., R. 10 E.,
sec. 18, lots 12 and 14.

T. 13 N., R. 11 E.,
sec. 3, lots 4 and 5;
sec. 4, lots 1, 5, and 6, SE¼NE¼, unpatented portion SW¼NE¼, unpatented portion SE¼NW¼, NE¼SW¼, SW¼SW¼, N½SE¼, SE¼SE¼;
sec. 5, lots 6 and 8, S½SE¼NW¼, SE¼SW¼NW¼, N½SE¼, SE¼SE¼;
sec. 6, lots 2 through 5, inclusive, unpatented portion lot 6, lots 7 and 8, E½SW¼, W¼SE¼, S½NE¼SE¼, SE¼SE¼.

T. 14 N., R. 11 E.,
sec. 32, lot 1;
sec. 33, S½SW¼, SE¼SE¼;
sec. 34, SW¼SW¼.

T. 10 N., R. 13 E.,
sec. 16, NE¼, E½NW¼.

The area described contains 1,663.05 acres in Trinity and Shasta Counties.

The purpose of the withdrawals is to protect the Central Valley, Cachuma, and Klamath Reclamation Projects. The withdrawals segregate the lands from settlement, sale, location and entry, including location and entry under the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawals.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed continuation of the withdrawals may present their views in writing to the Chief, Branch of Adjudicaton and Records, in the California State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential

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demand for the lands and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawals will be continued, and, if so, for how long. The final determination on the continuation of the withdrawals will be published in the **Federal Register**. The existing withdrawals will continue until such final determination is made.

Dated: February 19, 1992.

William Kennedy,

Acting State Director.

[FR Doc. 92-4212 Filed 2-24-92; 8:45 am]

BILLING CODE 4310-40-M

National Park Service

National Register of Historic Places; Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before February 15, 1992. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013-7127. Written comments should be submitted by March 11, 1992.

Carol D. Shull,

Chief of Registration, National Register.

FLORIDA

Palm Beach County

West Palm Beach National Guard Armory, Old, 1703 S. Lake Ave., West Palm Beach, 92000142

GEORGIA

Walker County

Cavender's Store, Jct. of GA 201 and GA 136, SW corner, Villanow, 92000143

KENTUCKY

Daviess County

Moorman House, 2731 W. Second St., Owensboro, 92000140

MARYLAND

Anne Arundel County

Davidsonville Historic District, Along MD 214 E to jct. with Davidsonville Rd., Davidsonville, 92000141

MASSACHUSETTS

Norfolk County

Weymouth Civic District, 75 Middle St., Weymouth, 92000146

MISSISSIPPI

Hinds County

Futch, James M., House, Dry Grove Rd. 1½ mi. S of jct. with MS 18, Raymond vicinity. 92000144

NEW HAMPSHIRE

Grafton County

Carr, Daniel, House, Brier Hill Rd. N side, 1.5 mi. from jct. with NH 10, Haverhill, 92000156

Hillsborough County

Chase, Amos, House and Mill, NH 114 W side, ½ mi. S of jct. with NH 77, Weare, 92000155

NEW YORK

Monroe County

Brick Presbyterian Church Complex (Inner Loop MRA), 121 N. Fitzhugh St., Rochester, 92000152

English Evangelical Church of the Reformation and Parish House (Inner Loop MRA), 111 N. Chestnut St., Rochester, 92000150

German United Evangelical Church Complex (Inner Loop MRA), 60—90 Brittner St., Rochester, 92000151

Our Lady of Victory Roman Catholic Church (Inner Loop MRA), 210 Pleasant St., Rochester, 92000153

St. Mary's Roman Catholic Church and Rectory (Inner Loop MRA), 15 St. Mary's Pl., Rochester, 92000154

NORTH CAROLINA

Franklin County

Jones—Wright House, NC 1003 W side, 0.2 mi. S of jct. with NC 1252, Rocky Ford vicinity, 92000149

Green County

Speight—Bynum House, NC 1231 W side, 0.4 mi. N of jct. with NC 1232, Walstonsbury vicinity, 92000148

Watauga County

East Tennessee & Western North Carolina Railroad Locomotive No. 12, Tweetsie RR theme park, jct. of Tweetsie RR Rd. and US 321, Blowing Rock vicinity, 92000147

TENNESSEE

Rutherford County

Arnold—Harrell House, 1710 E. Main St., Murfreesboro, 92000145

TEXAS

Hill County

Baker, J. T., Farmstead, 1.2 mi. N of Blum between TX 174 and the Nolan R., Blum vicinity, 92000138

WISCONSIN

Washington County

Holy Hill, 1525 Carmel Rd., Erin, 92000139.

[FR Doc. 92-4152 Filed 2-24-92; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32010]

PSI Railroad, Inc.—Construction Exemption—Gibson County, IN

AGENCY: Interstate Commerce Commission

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the prior approval requirements of 49 U.S.C. 10901, the construction by PSI Railroad, Inc, of a 13-mile rail line between the Gibson Generating Station and the CSX Transportation Company main line in Gibson County, IN.

DATES: The exemption will only become effective when the Commission completes its environmental review of the proposed construction. At that time, the Commission will issue a further decision addressing environmental matters and establishing an exemption effective date, if appropriate. Petitions to reopen must be filed by March 16, 1992.

ADDRESSES: Send pleadings referring to Finance Docket No. 32010 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's representative: John R. Molm, Troutman, Sanders, Lockerman and Ashmore, 1400 Candler Building, 127 Peachtree Street, NE, Atlanta, GA 30303.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar; (202) 927-5660. [TDD for hearing impaired 927-5721]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission, Washington, DC 20423. Telephone: (202) 289-4357/4359. [Assistance for the hearing impared is available through TDD services (202) 927-5721.]

Decided: February 18, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillips, and Emmett.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-4221 Filed 2-24-92; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31927]

Sibley Railway Co.—Construction Exemption—Jackson County, MO

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Pursuant to 49 U.S.C. 10505, the Interstate Commerce Commission conditionally exempts from the prior approval requirements of 49 U.S.C. 10901 the construction by the Sibley Railway Company of 4.5 miles of rail line between Sibley Generating Station and the Union Pacific Railroad Company main line in Jackson County, MO.

DATES: The exemption will not become effective until the environmental process is completed. At that time, the Commission will issue a further decision addressing the environmental matters and establishing an exemption effective date, if appropriate. Petitions to reopen must be filed by March 16, 1992.

ADDRESSES: Send pleadings referring to Finance Docket No. 31927 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioners' representatives: John R. Molm, Esquire, 1400 Candler Building, 127 Peachtree Street NE., Atlanta, GA 30303.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927-5660. [TDD for hearing impaired: (202) 927-5721]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927-5721.]

Decided: February 18, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillips, and Emmett.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-4222 Filed 2-24-92; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on February 12, 1992, a proposed Consent Decree in *United States* v. *Aetna Life Insurance Co., et al.*, Civil No. N-90-674, was lodged with the United States District Court for the District of Connecticut. The proposed Consent Decree settles the United States' claims that the defendants had violated provisions of the National Emission Standards for Hazardous Air Pollutants for Asbestos ("NESHAP") promulgated pursuant to the Clean Air Act.

Under the terms of the Consent Decree, settling defendants will pay $45,000 in civil penalties, comply with the asbestos NESHAP and the Clean Air Act in the future, and undertake certain additional activities as part of a remedial program.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Aetna Life Insurance Co., et al.*, D.O.J. Ref. 90-5-2-1-1463.

The proposed Consent Decree may be examined at the Region I Office of the Environmental Protection Agency, 1 Congress Street, 10th Floor, Boston, Massachusetts 02203. Copies of the Consent Decree may be examined at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building NW., Washington, DC 20044, (202 347-2072). A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building NW., Box 1097, Washington, DC 20044. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $7.25 (25 cents per page reproduction cost) made payable to Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 92-4192 Filed 2-24-92; 8:45 am]

BILLING CODE 4410-01-M

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Department policy, 28 CFR 50.7, and section 122(d)(2) of CERCLA, 42 U.S.C. 9622(d), notice is hereby given that on February 14, 1992, a proposed Concent Decree in *United States v. Witco Corporation*, Civil Action No. 92-93, was lodged with the United States District Court for the District of Delaware. The Consent Decree requires defendant to perform the remedial action EPA has selected for operable unit one at the Halby Chemical Superfund Site in New Castle County, Delaware.

The Department of Justice will receive for a period of thirty (30) days from the date of publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department fo Justice, Washington, DC 20530, and should refer to *United States v. Witco Corporation*, DOJ Ref. No. 90-11-2-719.

The proposed Consent Decree may be examined at the Office of the United States Attorney, 844 King Street, Wilmington, Delaware 19801. Copies of the Consent Decree may also be examined at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building NW., Washington, DC 20004 (202-347-2072). A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue NW., Box 1097, Washington, DC 20004. In requesting a copy, please enclose a check in the amount of $53.25 (25 cents per page reproduction cost) payable to the "Consent Decree Library."

Barry M. Hartman,

Acting Assistant Attorney General, Environmental and Natural Resources Division.

[FR Doc. 92-4193 Filed 2-24-92; 8:45 am]

BILLING CODE 4410-01-M

National Institute of Corrections

Advisory Board Meeting

Time and Date: 8 a.m., Tuesday, March 24, 1992.

Place: Old Colony Inn, 625 First Street, Alexandria, Virginia.

Status: Open.

Matters to be Considered: An update on the feasibility study and pilot for the Corrections Satellite Television Network, on the relocation of the National Academy of Corrections, the Jail Center, and the Information Center, on foreign technical assistance, and on an inventory of mental health services. The FY 1993 Program Plan recommendations will be presented and the joining of pretrial services programs with the concept of Intermediate Sanctions will be discussed.

Contact person for more information: Larry Solomon, Deputy Director, (202) 307–3106.

M. Wayne Huggins,

Director.

[FR Doc. 92–4194 Filed 2–24–92; 8:45 am]

BILLING CODE 4410-36-M

DEPARTMENT OF LABOR

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period of February 1992.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–26,632; PPG Industries, Inc., Greensburg, PA

TA–W–26,647; Lancaster Mould Co., Lancaster, OH

TA–W–26,523; North American Refractories Co., Womelsdorf, PA

TA–W–26,607; Mercury Marine, Fon Du Lac, WI

TA–W–26,617; B.T.H., Inc., New York, NY

TA–W–26,573; Lynchburg Foundry Co., Radford, VA

TA–W–26,668; J.F. Pleating, Inc., East Newark, NJ

TA–W–26,676; Prairie Manufacturing Co., St. Louis, MO

TA–W–26,580; Stockpole Carbon Co., St. Mary's PA

In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA–W–26,583; Uniroyal Engineered Products, Inc., Port Clinton, OH

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–26,679; Unison Transformer Service, Inc., Allentown, PA

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–26,608; Micromatic Textron, Pendleton, IN

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA–W–26,557; Wilson Learning Corp., Eden Prairie, MN

The workers' firm does not produce an article as required for certification under Section 222 of Trade Act of 1974.

TA–W–26,684; Benkik Oldsmobile, Pittsburgh, PA

The workers' firm does not produce an article as required for certification under Section 222 of Trade Act of 1974.

TA–W–26,630; Parkway Sterling Regal, Inc., Carlstadt, NJ

U.S. imports of commercial printing were negligible in 1990 and 1991.

TA–W–26,641 & TA–W–26,642; Drilex Systems, Inc., Casper, WY and Oklahoma City, OK

U.S. Imports of oil and gas field machinery during the relevant period is negligible.

TA–W–26,638; American Hunter Exploration Ltd, Denver, CO

The investigation revealed that criterion (1) has not been met. Significant number of proportion of the workers did not become totally or partially separated as required for certification. The investigation also revealed that criterion (2) was not met. Sales or production did not decline during the relevant period as required for certification.

Affirmative Determinations

TA–W–26,592; Beautiful Blouse, Wilkes Barre, PA

A certification was issued covering all workers separated on or after July 16, 1990 and before July 14, 1991.

TA–W–26,769; Celebrity Fashion, Inc., Union City, NJ

A certification was issued covering all workers separated on or after January 14, 1991.

TA–W–26,605; Le Roi Princeton, Inc., Princeton, KY

A certification was issued covering all workers separated on or after September 26, 1990.

TA–W–26,582; Teledyne Packaging, Rochester, PA

A certification was issued covering all workers separated on or after October 25, 1990.

TA–W–26,531; Crawford/Carisbrook Co., Richmond, VA

A certification was issued covering all workers separated on or after October 29, 1990.

TA–W–26,574; Maple Leaf Industries, Inc., Hartselle, AL

A certification was issued covering all workers separated on or after January 1, 1991.

TA–W–26,637; American Cyanamid Co., Linden, NJ

A certification was issued covering all workers separated on or after November 28, 1990.

TA–W–26,671; Massena Sportswear, Inc. Massena, NY

A certification was issued covering all workers separated on or after December 2, 1990.

I hereby certify that the aforementioned determinations were issued during the month of February 1992. Copies of these determinations are available for inspection in room C-4318, U.S. Department of Labor, 200 Consititution Avenue NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: February 18, 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92–4215 Filed 2–24–92; 8:45 am]

BILLING CODE 4510-30-M

[TA–W–25, 350]

Shot Point Services, Inc., Houston, TX; Negative Determination on Reconsideration

By order dated January 3, 1992, the United States Court of International Trade (USCIT) in *Former Employees of Shot Point Services* v. *U.S. Secretary of Labor* (USCIT 91–05–00378) remanded this case to the Department for further investigation.

Investigation findings show that the workers of Shot Point Services do not produce an article within the meaning of Section 223(3) of the Trade Act. The Department's initial notice of negative determination stated that workers of Shot Point may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to the subject firm by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and the reduction must directly relate to the product impacted by imports. These conditions were not met.

New findings on remand show that Shot Point is an independent firm which provides the service of contract labor to firms in the oil and gas industry. The findings show that Shot Point has direct control its employees and is not owned or under the control of any of its customers.

Additional findings on remand reveal that Shell does its own seismic work and only contracts for general labor. In 1991, Shot Point provided this general labor to assist Shell's seismic crews by providing primarily brush and clean-up men, landsmen and secretarial personnel. These contract services for general labor do not provide a basis for meeting the criteria for certification under the Trade Act of 1974 or its subsequent amendments.

Accordingly, the Department concludes that Shot Point is an employment agency which supplies general labor to the oil and gas industry. the labor supplied by Shot Point to Shell in 1991 consisted of secretaries, landsmen and general labor (laborers involved in pre-exploration activities, e.g., brush cutters and post-exploration activities, e.g., clean-up workers and landscapers) and not labor directly involved in the drilling or exploring for gas and oil. Therefore, the Shot Point workers do not meet the provisions of section 1421(a)(1)(A) of the Omnibus Trade and Competitiveness Act of 1988 for workers from a firm or appropriate subdivision engaged in exploration and drilling for oil or natural gas.

The finding show that a typical Shell Western seismic crew consists of about 50 workers, 30 of which would be Shell employees and the remainder contract laborers. The contract labor supplied by Shot Point are not seismic crews, in themselves, but constitute the contract labor portion supporting Shell's seismic crews. The contract labor portion of a seismic crew is under the direct control of the contractor, in the case, Shot Point and not Shell.

If the Department's focus were to change to the seismic crew as the appropriate subdivision, the Shot Point workers still would not meet the qualifying requirements for certification because (1) the Shot Point workers on Shell's seismic crews are under the control of Shot Point and (2) they do not meet the provisions of section 1421(a)(1)(A) of the Omnibus Trade and Competitiveness Act of 1988 for workers employed by a firm or subdivision of a firm engaged in exploration and drilling for oil or natural gas as explained above.

The findings also show that the Exploration Employment Service (TA-W-21,179) contracted seismic services to its customers as opposed to Shot Point's providing only support to a customer's (Shell Western) seismic crews gathering data.

Conclusion

After reconsideration, I affirm the original notice of negative determination to apply for adjustment assistance to workers and former workers of Shot Point Services, Inc., Houston, Texas.

Signed at Washington, DC, this 14 day of February 1992.

Robert O. Deslongchamps,

Director, Office of Legislation & Actuarial Services, Unemployment Insurance Service.

[FR Doc. 92-4142 Filed 2-24-92; 8:45 am]

BILLING CODE 4510-30-M

Pension and Welfare Benefits Administration

[Application No. D-8546, et al.

Proposed Exemptions; Metropolitan Life Insurance Company, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of Proposed Exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restriction of the Employee Retirement income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days form the date of publication of this Federal Register Notice. Comments and request for a hearing should state: (1) the name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, room N-5649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, room N-5507, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the Federal Register. Such notice shall include a copy of the notice of proposed exemption as published in the Federal Register and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Metropolitan Life Insurance Company Located in New York, NY [Application No. D-8546]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply, effective March 29, 1991, to the cash purchase by the general account (the General Account) of Metropolitan Life Insurance Company (Met) of the debt and equity interests in real estate properties (the Shared Properties) held in an open-ended commingled real estate separate account (Account RE) in which certain plans (the Participating Plans) have invested; provided that: (1) the terms of the purchase were not less favorable to the Participating Plans than similar terms negotiated at arm's length between unrelated third parties; (2) the transaction was approved by independent fiduciaries of the Participating Plans (the Plan Fiduciaries), acting on behalf of the Participating Plans; and (3) the purchase price paid by Met for Account RE's aggregate equity and debt interests in the Shared Properties was not less than the fair market value of such interests on March 29, 1991, the date the purchase was consummated, as determined by independent, qualified appraisals.[1]

Effective Date: If granted, this exemption will be effective March 29, 1991.

Summary of Facts and Representations

1. Met is a mutual life insurance company organized under the Insurance Laws of the State of New York. Met represents that it is the second largest life insurance company in the United States and that it provides insurance products and asset management and other services for numerous employee benefit plans subject to the provisions of Title I of the Act. Met has under management in its General Account and all of its separate accounts, a portfolio of mortgage loans and real estate equities of approximately $26.8 billion. During 1990, approximately $.9 billion was invested in real estate investments. As of December 31, 1990, real estate investments comprised approximately 20.1% of all the assets of Met.

2. Met established Account RE in 1972, pursuant to the authorization of the New York Insurance Department and subsequently began offering participation interests to employee benefit plans. It is represented that after full disclosure by Met of all relevant information regarding Account RE, the decision to acquire units of participation in Account RE was made by the Plan Fiduciaries. As of October 30, 1990, there were twenty-six (26) Participating Plans invested in Account RE. The Metropolitan Insurance and Retirement Plan (the Met I&R Plan), a tax qualified defined benefit plan sponsored by Met, was the only Participating Plan having an interest in Account RE exceeding 20% of the total assets of Account RE. The Met I&R Plan's interest in Account RE, as of October 30, 1990, was 45%. Approximately 4.6% of the assets of the Met I&R Plan were invested in Account RE. Following investment in Account RE, Plan Fiduciaries received quarterly written reports which reflected the transactions in and the current status of Account RE. It is represented by Met that the value of the real estate interests held by Account RE, as of September 30, 1990, was approximately $226 million.

3. Met structured Account RE as a separate account within the contemplation of section 3(17) of the Act, under which income, gains or losses, whether or not realized, from assets allocated to such account were credited or charged against Account RE without regard to other income, gains or losses of Met. Account RE was "open-ended" both with respect to investments and participation. Participation in Account RE was effected pursuant to group annuity contracts issued to Participating Plans (or plan sponsors) which provided among other things, that amounts received under the contracts were applied to Account RE and that the investment experience of Account RE was credited or charged to the participating contracts proportionately to the relative interests of such contracts in the assets held in Account RE.

4. Met was the investment manager with respect to the investment of the assets of Account RE and, as such, was a fiduciary and party in interest with respect to the Participating Plans, pursuant to 3(14)(A) of the Act. It was represented that Met made investments in real estate on behalf of Account RE.[2] Such investments were ordinarily in the form of equity interests in joint venture partnerships which held title to, managed, and/or developed the Shared Properties. Development of joint venture arrangements were customarily "leveraged"; that is, acquisition and development costs were met by the equity contribution of the joint venture partners and by certain loans made to the partnerships. The financing for such loans generally took the form of non-recourse mortgages made by Met on behalf of its General Account and on behalf of Account RE to the joint venture partnership. Such mortgages were secured by the joint venture partnership's interest in its real property.

Pursuant to the Operational Investment Guidelines for Account RE established by the Investment Committee of Met's Board of Directors, Met allocated investments in real estate joint venture partnerships between its General Account and Account RE. Ordinarily, a real estate developer-partner owned 50% of the equity interest in the joint venture partnerships and conducted the ordinary day-to-day affairs of such partnerships. Met, on behalf of both its General Account and on behalf of Account RE, typically owned the other fifty percent (50%) of the equity interest in the joint venture partnerships and provided 100% of the debt financing for such partnerships. At its inception in 1972, Account RE participated in eligible investments, subject to the availability of assets for any particular transaction, to the extent of 10% of Met's equity interest in the joint venture partnership and 10% of Met's debt investment with respect to the property. Subsequently, the Investment Committee adopted a different method of initially allocating investments between the General Account and Account RE. Under the new method, Account RE participated in eligible investments, subject to the availability of assets for any particular transaction, to the extent of 25% of Met's equity interest in any one of the joint venture partnerships and participated in Met's debt financing of that partnership in a percentage which was equal to Account RE's percentage of equity ownership in such joint venture partnership. In 1988, the Department granted Met an individual exemption (PTE 88–93) (granted, 53 FR 38803, October 3, 1988; proposed 52 FR 30977 August 18, 1987) for this initial allocation of interests in real estate joint venture partnerships between Met's General Account and Account RE.[3]

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[1] For purposes of this proposed exemption, references to specific provisions of title I of the Act, unless otherwise specified, refer also to the corresponding provisions of the Code.

[2] Account RE had, as of December 31, 1990, interests in forty-nine (49) Shared Properties which consisted of office buildings, retail and hospitality facilities, industrial/distribution, mixed use properties, as well as land. It is represented that Account RE, as of that date, held no interests in residential properties. With respect to the allocation of types of real property held by Account RE, the portfolio was heavily weighted to investments in office buildings with highest geographic concentration in the Chicago metropolitan area.

5. It is represented that Participating Plans have over the years benefited from the investment experience of Account RE. However, in Met's opinion, as the Shared Properties matured, they no longer fulfilled the objective of large developmental real estate investments for which Account RE was originally established. In addition, it is represented that since 1972 the Participating Plans' investment objectives had shifted away from developmental real estate. Accordingly, on October 1, 1990, Met requested that each of the Plan Fiduciaries elect, by November 15, 1990, either (a) to participate in the restructuring of Account RE as a closed-end account containing four (4) identified properties, with the other Shared Properties to be liquidated, or (b) to withdraw from participation, and to receive their proportionate share of the proceeds generated from the liquidation of Account RE. On the basis of the responses from Plan Fiduciaries to the two options described above, Met determined to liquidate Account RE, and not to restructure Account RE as a closed-end account.

In order to facilitate the liquidation of Account RE, Met proposed that its General Account purchase Account RE's equity and debt interests, in the Shared Properties. At the time of the liquidation of Account RE, sixteen (16) of the twenty-six (26) Participating Plans in Account RE had withdrawal requests pending in an aggregate amount of approximately $53 million. In this regard, Met informed the Participating Plans that the liquidation of Account RE would be completed before the end of the first quarter of 1991.

Under the valuation rules of Account RE, as approved by the New York State Insurance Department, the assets of Account RE were required to be valued quarterly. It is represented that if the liquidation of Account RE were effected after March 31, 1991, Met would have had to revalue the Shared Properties. Such a valuation was in process during March 1991, to determine the value for the assets of Account RE as of the end of the first quarter. However, preliminary reports indicated that the outlook for real estate investments was declining, particularly for the type of office properties comprising the primary holding of Account RE. Accordingly, on March 29, 1991, Met sold Account RE's debt and equity interests in the Shared Properties to the General Account.[4] The purchase price paid by Met for such interests was based on the December 31, 1990, appraised value of the Shared Properties, as increased by their projected net income carried forward to March 29, 1991.[5] Under this approach, it is represented that the Participating Plans obtained a higher value for their proportionate share of Account RE's real estate holdings, received the cash proceeds from the sale without delay, and had the opportunity to reinvest the proceeds in more liquid assets.

6. On June 1, 1989, James Felt Realty Services, Inc. (Felt Realty), an unincorporated division of Grubb & Ellis, was retained by Met to act as the independent fiduciary on behalf of Account RE. Met, anticipating the need for an exemption with respect to the two options involving the restructuring or liquidation of Account RE, hired Felt Realty as the independent fiduciary and appraiser. One of the roles of Felt Realty, as independent fiduciary, was to determine the fair market value of Account RE's interests in the Shared Properties. In arriving at a methodology for the valuation of Account RE's assets, Felt Realty examined the valuation procedures utilized over the years by Met in its quarterly reports to Participating Plans. Felt Realty represented that the procedure utilized by Met since the inception of Account RE was consistently applied by Met and was a fair and appropriate means of valuing its assets. As a result, Felt Realty utilized a similar methodology in establishing the value of Account RE's equity and debt interests in the Shared Properties.

Under this method, Felt Realty valued the equity interests and debt interests of Account RE separately considering the effect that the mortgages on the Shared Properties had on both the equity and debt values. With respect to Account RE's equity interests in the Shared Properties, Felt Realty first established the fair market value of each of the Shared Properties, subtracted therefrom the face value of any outstanding mortgage(s) secured by the relevant Shared Property, multiplied that result by Account RE's equity interest in such Shared Property, and totalled the amounts reached for each Shared Property to determine Account RE's aggregate equity interest in all of the Shared Properties. (See paragraph number 7 below for a discussion of the impact, if any, of mortgage interest rates on the fair market value of the Shared Properties.)

With regard to establishing the fair market value of the Shared Properties, Felt Realty and/or another affiliate of Grubb & Ellis, prepared appraisals for forty-eight (48) of the forty-nine (49) Shared Properties held by Account RE, as of December 31, 1990.[6] In carrying out this responsibility, it is represented that either Abram Barkan, M.A.I., President of Felt Realty, or Arthur Margon, Ph.D., Vice President of Felt Realty, visited these Shared Properties. In addition, Felt Realty retained qualified appraisers and real estate consultants located in various areas of the country to gather relevant information and prepare certain analysis used by Felt Realty in appraising the value of the Shared Properties.

In estimating the value of the Shared Properties held in Account RE, Felt Realty relied primarily on a cash flow analysis, because, according to Felt Realty, that is the basis upon which transactions including acquisition and disposition of investment quality real estate, such as the Shared Properties, are most often concluded in the marketplace. It is represented that Felt Realty supplemented, where appropriate, its analysis of income stream projections with a value estimatte of the Shared Properties, based on either the replacement cost method or the comparable sales method of determining fair market value.

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[3] Met has represented that a number of transactions relating to the acquisition, management and disposition of the Shared Properties in which Account RE had an interest occurred subsequent to the grant of PTE 88–93 (See, for example, exemption application number D–8556). In this regard, the Department notes that it is not proposing any relief herein for any transactions which may have occurred during the operation of Account RE. Rather, this proposal is limited to relief for the disposition by the Participating Plans of their interests in Account RE.

[4] Met seeks retroactive exemption relief from the Department for the sale of Account RE's interests to the General Account. In support of Met's request for exemptive relief, the application file contains letters signed by Plan Fiduciaries of seven (7) Participating Plans which: (a) Express the belief that it was in the best interest of the Participating Plans to withdraw from participation in Account RE, (b) state the desires of the Participating Plans to receive cash for their proportionate share of Account RE as soon as possible after the end of 1990, and (c) support Met's determination to enter into the transaction as of March 29, 1991.

[5] Met represents that actual payments, plus interest were made to the Participating Plans on April 12, 1991.

[6] It is represented that as of December 31, 1990, Met hired Landauer, an appraiser independent of Met, Felt Realty, and their affiliates, to prepare the appraisal for the forty-ninth property, located at 600 Madison Avenue, New York, NY (the Madison Ave. Property).

7. As discussed above, many of the Shared Properties in which Account RE had an equity interest also served as collateral for mortgage indebtedness. Felt Realty represented that these mortgages fell into two categories: (1) Mortgages made by Met, on behalf of its General Account and Account RE, to the joint venture, and (2) mortgages made by unrelated third parties to the joint venture. With respect to the first group, because Account RE participated in the mortgages, as a lender, the interests in such mortgages were treated as assets of Account RE. To determine the effect such mortgages had on the fair market value of the Shared Properties, Felt Realty analyzed the principal and payment stream of such mortgages separately. In the opinion of Felt Realty, because Account RE had an interest in the mortgage, as lender, while at the same time had the same percentage interest in the borrowing joint venture partnership, the debt principal had a minimal influence on the fair market value of the Shared Properties and was generally irrelevant to the valuation of the Shared Properties. Further, because these loans had a minimal amortization and were "due on sale," in an actual open market sale transaction, the mortgage principal would have been paid off and Met and Account RE would each have received their proportionate share of the proceeds.

However, Felt Realty pointed out that these loans did carry a periodic payment stream which survived the proposed sale to the General Account. In the event the interest rates on certain mortgages were significantly above or below market, then the fair market value of the Shared Properties either decreased or increased, because in the liquidation of Account RE's assets, the General Account received control of property which had financing at other than market rates. It is represented that in its reports to Participating Plans, Met had adjusted the value of the loan assets of Account RE on an ongoing basis to account for such fluctuations in interest rates. Felt Realty reviewed this procedure and found it appropriate to account for the spread between market rates for financing and for other specifics of the loan terms. In Felt Realty's opinion the only non-mechanical aspect of the process was the choice of discount rate to apply to each loan. It is represented that in rendering its estimate of the value of Account RE's proportionate equity share of each of the Shared Properties, Felt Realty, as independent fiduciary, selected and applied an appropriate discount rate for these mortgage assets.

With respect to the second group of mortgages made to the joint venture partnerships by third parties, Felt Realty indicated that in its valuation such mortgages were treated as debts of Account RE. Five such mortgages existed. These mortgages were "due on sale" and also had a small (generally one percent (1%) of principal) amortization. Felt Realty represented that Account RE's proportional share of the remaining balance of each of these debts was subtracted from the fair market value of the appropriate Shared Properties. Felt Realty represented that it used the resulting value as a basis for calculating Account RE's equity value for those Shared Properties affected by such mortgages.

In addition, Felt Realty stated that it carefully reviewed these third party mortgages to determine whether or not the interest rates payable necessitated the application of a discount or a premium, and therefore, substantially affected Account RE's equity interest in the relevant Shared Properties. In the opinion of Felt Realty, Account RE's proportional share of the face value of these mortgages was small making it unnecessary to apply discounts for high interest rates or premiums for low interest rates, and the small amount of income affected by accounting for interest rate variations on these loans had little substantive impact on the value of the portfolio because of these third party mortgage debts and that any interest rate variation from market on the mortgage assets did not significantly affect the overall value of the Shared Properties in the portfolio.

8. Once the values of Account RE's equity interests in the Shared Properties were thus calculated, Felt Realty calculated the value of the remainder of Account RE's assets. This involved a determination of the amount of cash and cash equivalents remaining in Account RE and the value of mortgage loans in which Account RE participated and which were treated as assets of Account RE. With respect to the values of the mortgage loans, Felt Realty represented that it employed the same discounting procedure used by Met to account for any spread between the market for financing and the specifics of the loan under analysis. As was the case in calculating the effect of mortgages made by Met on the equity values of the Shared Properties, the only non-mechanical aspect of the process used by Met was the choice of the discount rate to apply to each loan. In rendering its estimate of the value of the mortgages and Account RE's interest therein, Felt Realty represented that it determined the appropriate discount rate.

Felt Realty raised one final point in addressing the value of the assets of Account RE. Felt Realty represented that Account RE had only a minority interest in each of the Shared Properties. As a general rule, such minority interests are bought and sold at a discount in order to account for the less liquid and less desirable nature of such non-controlling interests. However, Felt Realty in analyzing Account RE, determined that such discounting was inappropriate and inconsistent for the proposed transaction. This decision was based on the fact that when Account RE entered into each of the investments in the Shared Properties, it did so on a "dollar-for-dollar" basis and did not purchase its interest at a discount. In addition, throughout the history of Account RE, quarterly and annual reports, as well as withdrawals from time to time by Participating Plans from Account RE, have been based on values without making a deduction for minority interests.

9. With respect to its ability to act as independent fiduciary for the proposed transaction, Felt Realty represented that it is not an affiliate of Met, nor is it on retainer to Met or subject to any understanding of a continuing relationship with Met. However, subsequent to Felt Realty's retention as an independent fiduciary for Account RE, it came to the attention of the parties to the transaction that Felt Realty, acting in its capacity as a broker for an unrelated third party purchaser, received a commission from Met in connection with the sale of a portion of the Madison Ave Property and the conversion of part of that property into condominiums. As a result, it was determined that Felt Realty's aggregate income, including the commission it received in connection with the Madison Ave Property and the fees it received acting as independent fiduciary in the subject transaction, from Met and its affiliates exceeded five percent (5%) of its income from all sources in the applicable fiscal year of Felt Realty acting as independent fiduciary.

Following this disclosure, on July 12, 1991, Met informed the Department that it had selected Landauer to function as a second independent fiduciary, on behalf of the Participating Plans, to review and evaluate the appraisal work performed by Felt Realty regarding the Shared Properties. As the replacement fiduciary, Landauer was to accept fiduciary responsibility with respect to the sale of the assets of Account RE to Met and to ascertain that the value estimates derived by Felt Realty and used as the basis for Felt Realty's approval of the liquidation of Account RE were fair and reasonable, and that the price paid by Met was not less than the fair market value of such Shared Properties.

In this regard, Landauer was empowered: (1) To review, in a timely manner, the valuations of Account RE assets, prepared by Felt Realty, (2) to review the property valuation back-up files maintained by Felt Realty in reaching the conclusions presented in its summary appraisal report; (3) to review the 1990 year end operating statements, the 1991 budget, and the December 1990 rent rolls for all Account RE's assets prepared by Met to test the consistency of such data with that presented in the Felt Realty appraisals and back-up files; (4) to instruct Met, where appropriate, to rerun cash flow projections from the Shared Properties in order to test the affect of changes in specified inputs or assumptions; (5) to inspect selected Shared Properties and conduct independent market research, where necessary, to gain fuller understanding of such properties and their respective markets; (6) upon completion of review, testing, inspection, and data gathering, to provide an evaluation along with a determination as to whether the price paid by Met in the liquidation of Account RE was fair and reasonable; (7) to make adjustments in the value of Account RE's interests in the Shared Properties, if, based upon its independent findings, the price paid by Met was less than the aggregate market value of such interests on March 29, 1991; (8) to approve the short term rate of interest credited by Met to the Participating Plans on the final sales price for the transaction for the period from March 29, 1991, through April 12, 1991, the date Met actually made payments to the Participating Plans; and (9) to perform any other functions reasonably related to the liquidation of Account RE deemed to be included in the scope of its services.

It is represented that Landauer is qualified to serve an independent fiduciary in connection with the subject transaction in that it has at least five (5) years of experience in commercial real estate investments. Landauer is independent in that it has no personal interest in nor bias with respect to Met and its Affiliates. In addition, the gross income received in 1991 from Met or its Affiliates by Landauer or any partnership or corporation in which it owns a ten percent (10%) or more interest did not exceed five percent (5%) of the 1990 gross income of Landauer. Further, Landauer has represented that it has no present or contemplated future interest in the Shared Properties.

On November 8, 1991, Landauer submitted a valuation report to the Department which indicated its findings with respect to completion of the duties outlined above. Based on Landauer's examination of all reports issued by Felt Realty to the Department and Met, and its independent review of supporting documentation, Landauer concluded that: (a) The valuation of Account RE's assets used by Felt Realty to approve the liquidation of Account RE, as of March 29, 1991, was a fair and appropriate basis for such approval; (b) the methodology used by Felt Realty to carry forward the December 31, 1991 values of the Shared Properties to March 29, 1991 was a fair and appropriate treatment of the Participating Plans' interests in Account RE; (c) Felt Realty's approval of the liquidation, including the determination that the price paid by Met was not less than the fair market value of the Shared Properties, was reasonable and appropriate; and (d) the short term interest rate (6.9%) credited by Met to Account RE participants for the period from March 29, 1991, to April 12, 1991, the actual date of payment, was a reasonable short term rate of interest and compared equitably to short term rates available in the market during that period. Landauer represents that each phase of their review provided ample evidence that the liquidation of Account RE was carried out in an impartial and appropriate manner. Further, not only is Landauer of the opinion that the Participating Plans received not less than the fair market value of their interests in Account RE's assets, but Landauer states that the timing of the transaction, given the generally deteriorating economic conditions involving commercial real estate, was particularly beneficial to the Participating Plans. Accordingly, Landauer approved the March 29, 1991, liquidation of Account RE and the subsequent disbursement of the proceeds from such liquidation to the Participating Plans.

9. In summary, Met represents that the transaction meets the statutory criteria for an exemption under section 408(a) of the Act because:

(a) The purchase by Met's General Account of the Participating Plans' interests in Account RE was a one time transaction for cash;

(b) Met accommodated the preference expressed by the Plan Fiduciaries of Participating Plans for the cash payment option in liquidating Account RE;

(c) The Participating Plans were able to improve their liquidity and pursue alternative investments with the proceeds from the liquidation of Account RE;

(d) The purchase price paid by Met to acquire the Participating Plans' aggregate interests in Account RE was not less than the fair market value of the assets held by Account RE, as determined by Felt Realty and concurred in by Landauer;

(e) The transaction was approved by independent Plan Fiduciaries acting on behalf of the Participating Plans; and

(f) Met has borne the cost of filing the application and paying the fees of Felt Realty and Landauer, and will bear the cost of notifying all interested persons of the notice of pendency of this proposed exemption (the Notice).

Notice to Interested persons

Those persons who may be interested in the pendency of the requested exemption include Plan Fiduciaries for all the Participants and beneficiaries in each of the Participating Plans. Because of the potentially large number of individuals interested in this matter, the Department has determined that the only practical form of providing notice to interested persons is the distribution, by Met, of a copy of the Notice, within fifteen (15) days of the date of the publication of such Notice in the **Federal Register** to the Plan Fiduciaries of all Participating Plans. Such distribution to interested persons shall inform them of their right to comment and to request a hearing, and shall include a copy of the Notice, as published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Angelena C. Le Blanc of the Department, telephone (202) 523–8883. (This is not a toll-free number.)

Rena-Ware Distributors, Inc. Retirement Plan and Trust (the Plan) Located in Redmond, Washington

[Exemption Application No. D–8860]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32847, August 10, 1990). If the exemption is granted the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to interest-free extensions of credit (the Advances) to the Plan by Rena-Ware Distributors, Inc. (the Employer), a party in interest with respect to the Plan; provided that (a) no interest and/or expenses are paid by the Plan; (b) the proceeds of the Advances are used only in lieu of payments to the Plan by Mutual Benefit Life Insurance Company (Mutual Benefit) as obligor with respect to group annuity contract number GA-4211 (the GAC); (c) repayment of the Advances will be restricted to the cash proceeds obtained by the Plan from or on behalf of Mutual Benefit with respect to the GAC; and (d) repayment of the Advances will be waived with respect to the amount by which the Advances exceed the amount the Plan receives from the final disposition of the GAC.

EFFECTIVE DATE: This exemption, if granted, will be effective as of August 26, 1991.

Summary of Facts and Representations

1. The Plan is a defined benefit pension plan with 161 participants and total assets of $3,861,456 as of March 31, 1991. The Employer is a Washington corporation engaged in the manufacture and sale of household goods, with its principal place of business in Redmond, Washington. The trustees of the Plan are P.M. Lundquist, R.J. Zylstra and J.P. Strecker (the Trustees), each of whom is an officer and/or director of the Employer.

2. The Plan provides retirement benefits which Plan participants may elect to receive by lump sum distribution or annual payments. To fund the Plan's operations, the Trustee purchased the GAC on November 1, 1982 for an initial cash deposit of $700,000. The GAC is an open-ended contract with no maturity date of maturity payment. The Employer represents that as of March 31, 1991, the GAC had an accumulated book value of $3,815,089, representing total principal deposits by the Plan plus interest earnings, less total withdrawals, and constituting approximately 98.9 percent of total Plan asset.[7]

2. On July 16, 1991 Mutual Benefit was taken into conservatorship by the insurance commissioner of the State of New Jersey and Mutual Benefit has suspended payments on its group annuity contracts, including the GAC held by the Plan. The Trustees represent that it is uncertain whether or to what extent Mutual Benefit will be able to make any further payments to the Plan pursuant to the terms of the GAC. As a result of this development and because the GAC constitutes such a large percentage of the Plan's assets, the Trustees represent that the Plan is prevented from meeting its obligations to participants, and will remain unable to meet its obligations as long as it lacks the funds which are due from Mutual Benefit pursuant to the GAC. In order to restore to the Plan its ability to function and to ensure a source of sufficient funds for future benefit payments, the Trustees have arranged for the Employer to advance the Plan the funds (the Advances) which would otherwise be paid by Mutual Benefit under to the GAC.[8] The Trustees are requesting an exemption for the Advances under the terms and conditions described herein.

3. The Trustees represent that the Advances constitute the best method for protecting Plan participants from the uncertainties of the Mutual Benefit situation. The Advances will be in the form of a non-interest-bearing line of credit evidenced by an agreement (the Agreement) which provides that repayment of the Advances is to be limited to the cash proceeds eventually obtained by the Plan from or on behalf of Mutual Benefit or from any state guaranty fund providing coverage of the GAC. No other Plan assets will be used to repay the Advances. Repayment of the Advances will be waived to the extent that the Plan ultimately recovers from Mutual Benefit or any state guaranty fund less than the total amount of the Advances. To the extent the Plan recoups more than the total amount of the Advances, such amounts will be retained by the Plan. The proceeds of the Advances will be used to fund Plan benefit payments in lieu of the funds which otherwise would be obtained through Mutual Benefit's payments pursuant to the GAC. Due to the uncertainties as to the length of the Mutual Benefit receivership and the potentially large amount of Advances that may be required to fund Plan operations, the Employer proposes to obtain a duly-filed security interest in the GAC in order to be in a priority position with respect to other creditors of the Plan. The Trustees represent that the Advances will not result in any expenses or risks to the Plan. The Employer represents that it intends to remain obligated to make the Advances indefinitely, and that there are no plans to terminate the GAC.

4. The Trustees represent that prior to their application to the Department for the exemption proposed herein, it was necessary to make an initial Advance to the Plan, in the amount of $107,309.48, in order to fund the lump-sum distribution of a retiring Plan participant. The Trustees represent that without this initial Advance, on August 26, 1991, the Plan would have been unable to meet its obligation to the subject participants and that the Advance was necessary to enable the Plan to continue operations. Accordingly, the Trustees request that the exemption, if granted, be effective as of August 26, 1991.

5. In summary, the applicant represents that the Advances satisfy the criteria of section 408(a) of the Act for the following reasons: (1) The Advances will preserve the Plan's rights with respect to the GAC while enabling the Trustees to continue the operation of the Plan; (2) The Plan will pay no interest, or incur any expenses or risks, with respect to the Advances; (3) Repayment of the Advances will be restricted to proceeds from the GAC and no other Plan assets will be involved in the transactions; and (4) Repayment of the Advances will be waived to the extent the Plan recovers less upon the eventual disposition of the GAC than the amount of the Advances.

FOR FURTHER INFORMATION CONTACT: Ronald Willett of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Connecticut National Bank (the Bank) Located in Hartford, CT

[Application No. D-8827]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) shall not apply to the sale, on September 9, 1991, by the Hartford Steam Boiler Employees' Retirement Plan Trust (the Plan) to Hartford Steam Boiler Inspection and Insurance

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[7] The Department notes that the Trustee's decisions to acquire and hold the GAC are governed by the fiduciary responsibility requirements of part 4, subtitle B, title I of the Act. In this regard, the Department herein is not proposing relief for any violations of part 4 which may have arisen as a result of the acquisition and holding of the GAC.

[8] The Department has issued a conditional class exemption, PTE 80-26 (45 FR 28545, April 29, 1980) relating to certain loans to employee benefit plans. PTE 80-26 provides exemptive relief for interest-free loans for, among other purposes, the payment of benefits in accordance with the terms of the plan, if the conditions of the class exemption are satisfied. Among the applicable conditions of PTE 80-26 is a requirement that such loans be unsecured. In the instant case, the Employer proposes to retain a security interest in the GAC as collateral for the Advances. Accordingly, the Advances would fail to satisfy a condition of PTE 80-26.

Company (the Employer) of certain promissory notes (the Notes) issued by the Hartford National Corporation (HNC), an affiliate of the Bank, which is the Plan's directed trustee, for the Plan's original acquisition cost of the Notes plus accrued interest provided: (1) The sales price of the Notes was not less than their aggregate fair market value on the date of the sale; (2) the sales price of the Notes was determined on the date of sale by an independent appraiser; (3) the sale was a one-time transaction for cash; and (4) the Plan did not pay any fees or commissions in connection with its acquisition, holding or subsequent sale of the Notes.

EFFECTIVE DATE: If granted, this proposed exemption will be effective September 9, 1991.

Summary of Facts and Representations

1. The Employer, which maintains its principal place of business in Hartford, Connecticut, offers engineering services and specialty insurance products to commercial and industrial enterprises. The Employer's core business is in providing insurance coverage and related services for equipment typically found in commercial and industrial facilities. For the year ending December 31, 1990, the Employer had assets valued at approximately $827.3 million.

2. The Plan is a qualified defined benefit pension plan established by the Employer to provide retirement benefits to its employees. As of December 30, 1991, the Plan had 1,772 active participants, 736 retirees and beneficiaries, 258 vested participants and 16 disabled participants. Also as of December 30, 1990, the Plan had total assets having a fair market of $123 million. The Bank serves as the directed trustee of the Plan. Investment decisions for the Plan are made by a finance committee (the Finance Committee) comprised of six members of the board of directors of the Employer.

3. The Bank, a federally insured national bank located in Hartford, Connecticut, is a wholly owned subsidiary of HNC, a bank holding company that was incorporated in the State of Delaware in 1968. HNC is, in turn, a wholly owned subsidiary of the Shawmut National Corporation (Shawmut), a super-regional holding company with dual headquarters in Hartford, Connecticut and Boston, Massachusetts. As of December 31, 1990, the total assets of Shawmut were $23.7 billion, with the Bank accounting for $12.9 billion of that total. Shawmut and its subsidiaries hold approximately $2.5 billion in assets of plans that are covered by the Act.

4. Since 1959, the Bank has been the directed trustee of the Plan. In this capacity, the Bank serves as the custodian of the Plan's assets and it may invest the Plan's assets only upon the written direction of the Finance Committee. Under the Trust Agreement (the Trust Agreement) entered into between the Bank and the Employer, the Bank has no duty to inquire into the propriety of any investment direction received from the Finance Committee unless the Bank knows the direction constitutes a breach of the Finance Committee's duty to act prudently. Although the Bank serves under the Trust Agreement and it is designed as a trustee under the terms set forth therein, the applicant represents that the Bank's duties are limited to those of a custodian.

5. In 1986, the Finance Committee informed the Bank that it had directed an agent independent of the Bank to invest, on behalf of the Plan, $500,000 in certain unsecured debt securities that had been issued by HNC. HNC proposed to use the investment capital it received for its general corporate purposes. Thus, on November 3, 1986, the Plan acquired the Notes from an independent underwriter in an initial public offering totaling $125 million. The Notes were issued in denominations of $1,000 and integral multiples thereof. The Plan paid no commissions or fees to the Bank, HNC or the Employer in connection with the acquisition of the Notes. The Notes represented .004 percent of the total offering and approximately .5 percent of the total assets of the Plan.

6. The Notes bear interest at the rate of 8.25 percent per annum and they mature on November 15, 1993. The Notes also require HNC to pay interest semiannually on May 15 and November 15. According to the applicant, HNC paid the Plan all interest due under the Notes in a timely manner and the Plan received total interest income of $198,687. In addition, the applicant states that the Plan was not required to pay any servicing fees to the Bank in connection with its holding of the Notes.

7. After the Plan acquired the Notes, the Bank held them on behalf of the Plan until the Office of the Comptroller of the Currency (the OCC), as a result of a routine audit conducted in March 1991, raised questions regarding the propriety, under the Act, of the Plan's continued holding of the Notes. Although the Notes were purchased in a registered public offering through one of the underwriters for the offering and not directly from HNC or the Bank, the Bank had been advised by the OCC in oral communications that the continued holding of the Notes might constitute a prohibited extension of credit between the Plan and HNC in violation of section 406(a)(1)(B) of the Act.

8. The Bank then informed the Employer of the legal advice it had received from the OCC. To remedy the situation, the Employer agreed to repurchase the Notes from the Plan for the greater of the Plan's original purchase price plus accrued interest since the last payment date or the fair market value of the Notes on the date of the sale.

9. The sale took place on September 9, 1991. On that date, Merrill Lynch, Pierce, Fenner and Smith, Inc. (Merrill Lynch), an independent appraiser, valued each $100 of the original face amount of the Notes at $86 for a total fair market value of $430,000.[9] The aggregate purchase price paid by the Employer was $513,062. This amount represented the $500,000 original face value of the Notes plus an interest payment of $13,062 representing interest accruing between May 15, 1991, which was the date HNC made its last interest payment to the Plan, and September 9, 1991, the date of the sale. The Plan did not pay any fees or commissions in connection therewith. Thus, the total income received by the Plan from the time of its acquisition of the Notes (inclusive of interest income paid by HNC totaling $198,687) was $711,749.

10. Because the agreed upon purchase price for the Notes was in excess of their fair market value, the applicant represents that the parties to the transaction believed that it would be in the best interest of the Plan to execute the sale and thereby avoid any further

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[9] According to the applicant, Merrill Lynch determined the fair market value of the Notes through its internal Securities Pricing Service (SPS) provided to all SPS subscribers. Under the SPS, Merrill Lynch can provide daily pricings for stocks and weekly pricings for bonds. Prices are thus determined on the basis of recent transactions in the security being valued. Where there is insufficient trading activity in a bond covered by the system to warrant valuations on a weekly basis, the applicant explains that Merrill Lynch can provide direct price quotations upon request.

In the present case, the applicant notes that on September 9, 1991 Merrill Lynch placed the fair market value of the Notes at $430,000. This amount represented 86 percent of the Notes' original face value of $500,000 as well as a resulting decrease of $70,000 from their face amount. The applicant attributes this decrease in value to current concerns about HNC's financial situation and the general status of the banking industry in New England.

By letter dated January 10, 1992, Merrill Lynch stated that the fair market value of the Notes as of that date was $460,000 and it represented 92 percent of their face amount. The applicant explains that this amount is still less than the $500,000 (plus accrued interest) that was paid by the Employer on September 9, 1991.

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diminution in the value of the Notes or any other changes in circumstances that might alter the transactional terms. The applicant also asserts that the parties agreed that the Bank would request an administrative exemption from the Department. Accordingly, the Bank requests a retroactive administrative exemption for the transaction described herein.[10]

11. In summary, it is represented that the transaction satisfies the statutory criteria for an exemption under section 408(a) of the Act because: (a) The sale of the Notes by the Plan to the Employer was a one-time transaction for cash; (b) the sales price of the Notes was determined on the date of sale by an independent appraiser; (c) the plan did not pay any fees or commissions in connection with its acquisition, holding or subsequent sale of the Notes; and (d) the Plan sold the Notes to the Employer for an amount representing the original acquisition cost plus accrued interest which was in excess of the fair market value of the Notes as determined by Merrill Lynch.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 20th day of February, 1992.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 92-4260 Filed 2-24-92; 8:45 am]

BILLING CODE 7708-01-M

NATIONAL COMMISSION ON SEVERELY DISTRESSED PUBLIC HOUSING

Meetings/Public Hearings Announcement

AGENCY: National Commission on Severely Distressed Public Housing.

ACTION: Notice of meeting.

SUMMARY: In according with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Commission on Severely Distressed Public Housing announces a forthcoming meeting of the Commission.

NOTICE: The New York City Housing Authority's Public Hearing scheduled on Thursday, February 27, 1992 at the General Services Administration, 26 Federal Plaza, room 305 A, B, & C, New York, New York has been canceled.

The Full Commission Meeting scheduled for Friday, February 28, 1992 has been rescheduled to Thursday, February 27, 1992 in Washington, DC.

DATES: Thursday, February 27, 1992, Full Commission Meeting.

ADDRESSES: Hyatt Regency Hotel, 400 New Jersey, Washington, DC 20001, (202) 737-1234.

FOR FURTHER INFORMATION CONTACT: Carmelita Pratt, Administrative Officer, The National Commission on Severely Distressed Public Housing, 1100 L Street NW., #7121, Washington, DC 20005 (202) 275-6933.

TYPE OF MEETING: Open.

Due to scheduling difficulties, this notice could not be published 15 days prior to this meeting as required by Federal Advisory Committee Act.

Carmelita R. Pratt,

Administrative Officer.

[FR Doc. 92-4251 Filed 2-24-92; 8:45 am]

BILLING CODE 6820-07-M

NATIONAL SCIENCE FOUNDATION

Committee Management; Establishment

The Assistant Directorate for Education and Human Resources has determined that the establishment of the Special Emphasis Panel in Materials Development, Research, and Informal Science Education is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF) by 42 U.S.C. 1861 *et seq.* This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Name of Committee: Special Emphasis Panel in Materials Development, Research, and Informal Science Education.

Purpose: To provide advice and recommendations on the merit of proposals or applications submitted to the Division of Materials Development, Research, and Informal Science Education for financial support.

Balanced Membership Plan: Membership will be selected on an "as needed" basis in response to specific proposals or applications to be reviewed. About 180 individual panelists will be used each year. Members will be selected for their demonstrated scientific and engineering expertise so as to represent a reasonable balance of capability in the various subfields of the proposals to be reviewed. Consideration will also be given to achieving geographic balance and to enhancing representation for women, minority, younger and disabled scientists.

Responsible NSF Official: Dr. Joan R. Leitzel, Director for the Division of Materials Development, Research &

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[10] To the extent that the Plan's acquisition and holding of the Notes from November 3, 1986 until September 9, 1991 resulted in a prohibited extension of credit between the Plan and HNC, the Bank represents that it will file a Form 5330 with the Internal Revenue Service and pay all applicable excise taxes that are due within 60 days after the publication, in the **Federal Register**, of the grant of this notice of proposed exemption.

Informal Science Education, National Science Foundation, 1800 G Street, NW. Washington, DC 20550.

Dated: February 20, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-4263 Filed 2-24-92; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Human Resource Development; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Human Resource Development

Date & Time: March 9, 1992: 8:30 a.m. to 5 p.m.; March 10, 1992: 8:30 a.m. to 3 p.m.

Place: National Science Foundation, 1800 G Street, NW., room 1243, Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Lola Rogers, Program Manager, 1800 G Street, NW., room 1225, Washington, DC, 20550. Telephone: 202/357-7456.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate unsolicited proposals submitted to the Visiting Professorships for Women Program.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b (c)(4) and (6) of the Government in the Sunshine Act.

Dated: February 20, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-4210 Filed 2-24-92; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-445]

Texas Utilities Electric Co.; Comanche Peak Steam Electric Station; Receipt of Petition for Director's Decision Under 10 CFR 2.206

Notice is hereby given that by Memorandum and Order of January 17, 1992, CLI-92-01, the U.S. Nuclear Regulatory Commission (NRC) referred to the NRC staff under 10 CFR 2.206 allegations by Sandra Long Dow and Richard E. Dow (Petitioners) concerning the pipe support design at the Comanche Peak Steam Electric Station, Unit 1. These allegations were contained in a Motion to Reopen the Record (Motion) filed by Petitioners in the Comanche Peak operating license proceedings for Units 1 and 2. As provided by 10 CFR 2.206, the NRC will take appropriate action on this referral within a reasonable time.

The Petitioners assert as a basis for their Motion that Texas Utilities (TU Electric or the licensee) witnesses repeatedly made false and misleading statements to the Licensing Board between 1982 and 1985, and that these statements prompted the Board to rely on, or adopt false or misleading facts when issuing its Memorandum and Order of December 28, 1983, insofar as it addressed the question of pipe design at Comanche Peak. Specifically, the Petitioners allege that false information presented to the ASLB, the NRC staff, or both, led the ASLB to believe that

> The evidence establishes that each of the three pipe support design organizations has its own specific group of supports. There is no need for cross communication between the three groups since they share no common, in-line design responsibility * * *. The Board concludes that the Applicants have adequately defined and documented the responsibility and paths of communication between * * * the pipe support design groups. No NRC regulation has been violated.

The Petitioners also allege that after the NRC issued the Order, TU Electric filed a series of motions for summary disposition that included affidavits in which affiants knowingly made false statements to the effect that each of the three design organizations had "separate and distinct responsibilities for the design of pipe supports" and all design changes during construction are "returned to the original designer for correction and rechecking."

A copy of the Petition is available for inspection in the U.S. Nuclear Regulatory Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the University of Texas at Arlington Library, Government Publications/Maps, 701 South Cooper, P.O. Box 19497, Arlington, Texas 76019.

Dated at Rockville, Maryland, this 18th day of February 1992.

For the Nuclear Regulatory Commission.

Thomas E. Murley,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 92-4247 Filed 2-24-92; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Boston Stock Exchange, Inc.

February 18, 1992.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Blackstone Strategic Term Trust
  Common Stock, $.01 Par Value (File No. 7-7963)
Federated Department Stores, Inc.
  Common Stock, $.01 Par Value (File No. 7-7964)
Harken Energy Corp.
  Common Stock, $1.00 Par Value (File No. 7-7965)
Hartford Steam Boiler Inspection and Insurance Co.
  Common Stock, No Par Value (File No. 7-7966)
Integon Corp.
  Common Stock, $.01 Par Value (File No. 7-7967)
Margaretten Financial Corp.
  Common Stock, $.01 Par Value (File No. 7-7968)
Angelica Corp.
  Common Stock, $1.00 Par Value (File No. 7-7969)
Bancorp Hawaii, Inc.
  Common Stock, $2.00 Par Value (File No. 7-7970)
Continental Medical Systems, Inc.
  Common Stock, $.01 Par Value (File No. 7-7971)
First of America Bank Corp.
  Common Stock, $10.00 Par Value (File No. 7-7972)
Mid America Waste Systems, Inc.
  Common Stock, $1.00 Par Value (File No. 7-7973)
Policy Management Systems Corp.
  Common Stock, $.01 Par Value (File No. 7-7974)
Precision Castparts Corp.
  Common Stock, No Par Value (File No. 7-7975)
Transatlantic Holdings, Inc.
  Common Stock, $1.00 Par Value (File No. 7-7976)
Greyhound Lines, Inc.
  Common Stock, $.01 Par Value (File No. 7-7977)
Calgon Carbon Corp.
  Common Stock, $.01 Par Value (File No. 7-7978)
Ennis Business Forms, Inc.
  Common Stock, $2.50 Par Value (File

No. 7-7979)

International Corona Corp.

Class A Common Stock, No Par Value (File No. 7-7980)

Viacom, Inc.

Class B Common Stock, $.01 Par Value (File No. 7-7981)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 10, 1992, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-4200 Filed 2-24-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30378; File No. SR-GSCC-92-03]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Proposed Rule Change Requesting an Extension of Its Authority to Maintain Its Current Clearing Fund Formula

February 14, 1992.

Pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b), notice is hereby given that on January 23, 1992, the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by GSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

In the proposed rule change, GSCC seeks extended authority, on a temporary or a permanent basis, to maintain its current clearing fund formula.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, GSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. GSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On April 12, 1990, the Commission approved, on a temporary basis, until April 30, 1992, a proposed rule change (SR-GSCC-89-13) that revised GSCC's clearing fund formula in various respects, including allowing offsets of required margin amounts. By this filing, GSCC requests that such authority be made permanent or, in the alternative, that the Commission further extend, temporarily, GSCC's authority to maintain its current clearing fund formula.

In its April 12, 1990, approval order ("Approval Order"), the Commission noted that, "in light of its significance to GSCC and its membership, the proposed revisions to GSCC's Clearing Fund formula should be carefully monitored before they become a permanent feature" of GSCC's Rules and Procedures.[1] The essence of the Commission's concerns expressed in the Approval Order involved the adequacy of the following: (1) GSCC's analysis of price volatility; (2) GSCC's measures of correlation; and (3) the liquidity the Clearing Fund provides to GSCC during periods of high volatility. Each concern is discussed below.

1. Analysis of Price Volatility

The Commission stated in the Approval Order that GSCC should "continue to consider ways to refine its analysis of price volatility, including procedures to consider the effects of dramatic price movements."[2] Since the Commission issued the Approval Order, GSCC has compiled nearly two-years' of its own price volatility data. This data base is now sufficient for use in assessing and monitoring the adequacy of its margin factors.

GSCC continues to ensure the sufficiency of its margining process by using conservative margin factor criteria. In this regard, the information currently considered on a quarterly basis by the Membership and Standards Committee in reviewing the sufficiency of GSCC's margin factors includes: (1) Historical daily price volatility data prepared by Carol McEntee & McGinley Inc. which looks at the current leading issue in each category and uses means plus two standard deviations and (2) short-term (currently, the past 90 days) and long-term (currently, the past year) GSCC data covering mean plus two standard deviations and, separately, 99 percent of all price movements. GSCC's internal and third-party price volatility data indicates that its margin factors are prudent and conservative, including, on the long end of the maturity spectrum, where the greatest exposure exists for GSCC.

Recently, private sector initiatives in the government securities marketplace have arisen, such as the establishment of GOVPX, Inc., that have made significant steps toward disseminating the type of government securities price information that would benefit GSCC. In view of this development, GSCC continues to evaluate the types of third-party price volatility information that are available and the utility of such information. GSCC continues to believe, however, that its own data base would be the most accurate and meaningful source of price volatility data on government securities if GSCC could receive trade data from its members on a time-stamped basis.

2. Measures of Correlation

GSCC believes its disallowance percentage schedule is a conservative one. Currently, GSCC uses neither internal price data nor third-party data to monitor the accuracy of its disallowance percentage schedule. After evaluating available third-party price volatility information, however, GSCC will be able to determine whether and how to use either its internal price data base or a third-party data source to monitor its disallowance percentage schedule.

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[1] Securities Exchange Act Release No. 27901 (April 12, 1990), 55 FR 15055.

[2] *Id.*

3. Ensuring GSCC's Liquidity Needs

In the Approval Order, the Commission indicated the need for GSCC "to ensure that the Clearing Fund has sufficient liquidity, during periods of high volatility, to protect it from contingencies stemming from participants' daily net settlement obligations." [3]

GSCC's margining process helps ensure that GSCC has sufficient liquidity to meet its settlement guarantees, even during periods of high volatility. Perhaps the area of greatest potential concern in this regard is forward trades, which present the largest exposure to GSCC. GSCC believes the margining process for forward net settlement positions, on which Clearing Fund deposits are taken and which are subject to a separate margin pool (the forward mark allocation payment process), is conservative and prudent, particularly in light of GSCC's recent rule filing (SR–GSCC91–04) that makes various changes to GSCC's margin and funds collection processes. [4]

Considering GSCC's positive experience to date with the revised Clearing Fund formula, the conservative nature of its margining process and the extent to which that process has been strengthened to ensure GSCC's liquidity posture, and its ability now to use internal price volatility data to assess the adequacy of the margin factors and correlations, GSCC believes its Clearing Fund formula is appropriate and should be made permanent.

GSCC believes the proposed rule change with help further its ability to ensure orderly settlement in the government securities marketplace. Thus, GSCC believes the proposal is consistent with the requirements of the Act and, in particular, section 17A because it will promote clearance and settlement.

(B) Self-Regulatory Organization's Statement on Burden on Competition

GSCC does not believe that the proposed rule will have an impact on, or impose a burden on, competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments on the proposed rule change have not yet been solicited or received. Members will be notified of the proposed rule change, and comments will be solicited, by an Important Notice. GSCC will notify the Commission of any written comments received by GSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, at the address above. Copies of such filing will also be available for inspection and copying at the principal office of GSCC. All submissions should refer to file number SR–GSCC–92–03 and should be submitted by March 27, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. [5]

[FR Doc. 92–4190 Filed 2–24–92; 8:45 am]

BILLING CODE 8010-01-M

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[3] *Id.*

[4] Securities Exchange Act Release No. 30135 (December 31, 1991), 57 FR 942. The proposed rule change would allow GSCC to treat forward net settlement positions for Clearing Fund calculation purposes essentially as it does next-day settling and fail net settlement obligations.

In addition to Clearing Fund deposits of a separate "forward mark allocation" margin amount on forward net settlement positions, the proposed rule change would allow GSCC to raise the cap on this daily margin amount from 75 percent to 100 percent. Under most circumstances, this change would allow GSCC to collect the entire amount of the top five daily member debits in each CUSIP.

[5] 17 CFR 200.30–3(a)(12).

[Release No. 34–30388; File No. SR–MBSCC–92–1]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by MBS Clearing Corporation To Reduce Its SBO Destined Trade Fees

February 19, 1992

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. § 78s(b)(1), notice is hereby given that on February 7, 1992, the MBS Clearing Corporation ("MBSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Under the proposed rule change, MBSCC seeks to establish a 10% reduction in all SBO Destined Trade fees for MBSCC participants.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to establish a 10% reduction in all SBO Destined Trade fees for MBSCC participants. MBSCC fees will be reduced as follows:

Par value/month	Former fees	New fees
1,000,000–2,500,000,000	[1] 2.70/MM	2.45/MM
2,501,000,000–5,000,000,000.	2.50/MM	2.25/MM
5,001,000,000–7,500,000,000.	3.30/MM	2.10/MM

Par value/month	Former fees	New fees
7,501,000,000–10,000,000,000.	2.15/MM	1.95/MM
10,001,000,000–12,500,000,000.	1.95/MM	1.75/MM
12,501,000,000–Over	1.75/MM	1.60/MM

[1] MM denotes millions.

MBSCC's reduction in fees reflects its continued growth and solid financial condition. The fee reduction will be retroactive to trade input from January 2, 1992.

MBSCC believes the proposed rule change is consistent with section 17A(b)(3)(D) of the Act in that it provides for the equitable allocation of reasonable fees and other charges among participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

MBSCC does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement of Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee, or other charge imposed by MBSCC and therefore has become effective pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 thereunder. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communication relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the principal office of the above-referenced self-regulatory organization. All submissions should refer to file number SR–MBSCC–92–1 and should be submitted by March 17, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–4245 Filed 2–24–92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC–18555; 811–7801]

Hilliard Lyons Growth Fund, Inc.; Notice of Application

February 18, 1992.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

APPLICANT: Hilliard Lyons Growth Fund, Inc.

RELEVANT 1940 ACT SECTIONS: Exemption requested pursuant to section 6(c) from sections 2(a)(32), 2(a)(35), 22(c), 22(d) and from rule 22c–1.

SUMMARY OF APPLICATION: Applicant seeks an order that would permit it to impose and, under certain circumstances, waive a contingent deferred sales charge ("CDSC") on certain redemptions of its shares.

FILING DATE: The application was filed on October 9, 1991 and amended on December 12, 1991 and February 10, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 16, 1992, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, Hilliard Lyons Center, Louisville, KY 40202.

FOR FURTHER INFORMATION CONTACT: Maura A. Murphy, Staff Attorney, at (202) 272–7779, or Barry D. Miller, Branch Chief, at (202) 272–3030 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end diversified management investment company organized under the laws of Maryland on September 5, 1991. J.J.B. Hilliard, W.L. Lyons, Inc. (the "Distributor"), is a registered broker-dealer under the Securities Exchange Act of 1934 and will serve as principal underwriter for applicant.

2. Applicant intends to offer its shares for sale at net asset value plus a maximum front-end sales charge of 4.75% of the offering price (4.99% of net asset value) on single purchases of less than $50,000. The sales charge will be reduced on a graduated scale on single purchases of at least $50,000 but less than $1,000,000. For purchases of $1,000,000 or more, applicant will not impose a front-end sales charge.

3. Applicant proposes to impose a CDSC on redemptions of shares initially sold in amounts of $1,000,000 or more. The CDSC will be imposed only in the event of a redemption occurring within twelve months following the purchase and will be equal to 1% of the lesser of (a) the net asset value of the shares at the time of purchase or (b) the net asset value of the shares at the time of redemption.

4. Applicant will not impose a CDSC when the investor redeems (a) amounts representing an increase in the value of applicant's shares due to capital appreciation, (b) shares purchased through reinvestment of dividends or capital gains distributions, or (c) shares held for longer than twelve months. In determining whether a CDSC is payable, and the amount of the charge, applicant will assume that shares purchased with reinvested dividends and capital gains and then shares held the longest will be redeemed first.

5. Both the holding period and the amount of the CDSC are subject to change, but applicant will comply with proposed rule 6c–10. The maximum amount of any CDSC, or combination of

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[8] 17 CFR 200.30–3(a)(12).

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CDSC and front-end sales charge, will not exceed the maximum sales charge permitted under the rules of Fair Practice promulgated by the National Association of Securities Dealers.

6. Applicant intends to waive the CDSC on the redemption of shares in the event of: (a) The death or disability (as defined in section 72(m)(7) of the Internal Revenue Code) of the shareholder; (b) a lump sum distribution from a benefit plan qualified under the Employee Retirement Income Security Act of 1974 ("ERISA") or (c) systematic withdrawals from ERISA plans if the shareholder is at least 59½ years old.

7. Applicant intends to waive all sales charges, including CDSCs, in connection with purchases and redemptions of its shares by the following persons: (a) Current and retired employees of Hilliard-Lyons, Inc. (the parent of the Distributor) and its affiliates, employee benefit plans for those employees, and the spouses and children (under the age of 25) of those employees when orders on their behalf are placed by the employees; (b) employees and directors of applicant and registered representatives of securities dealers and financial advisors with whom the Distributor has sales agreements; (c) existing advisory fee clients of the Distributor or Hilliard Lyons Trust Company on purchases effected by transferring all or a portion of their investment management or trust accounts to applicant, provided that such accounts have been maintained for at least six months prior to the date of purchase; and (d) trust companies, bank trust departments and registered investment advisors purchasing for accounts over which they exercise investment authority and which are held in a fiduciary, agency, advisory, custodial or similar capacity, provided that the amount collectively invested or to be invested by such accounts during the subsequent 13-month period totals at least $100,000.

8. Applicant also proposes to impose no sales charges upon shareholders purchasing through an investment broker of the Distributor to the extent that the purchase is funded by proceeds from a sale of shares of any mutual fund (other than a money market fund) for which the investor paid a front-end sales charge, and which was either purchased (i) within three years of the date of purchasing shares of applicant, and held for at least six months, or (ii) at any time, and for which the Distributor was not a selling dealer, provided that in either case the order for shares of applicant was received within 30 days after the sale of the other fund.

9. With respect to the preceding paragraph, applicant will not waive the sales charges if it is unable to determine that the shareholder has not paid a deferred sales load, fee, or other charge in connection with the redemption of shares of such other open-end investment company. Applicant will take such steps as may be necessary to determine that the shareholder has not paid a deferred sales load, fee, or other charge in connection with the redemption of shares of such other mutual fund, including, without limitation, requiring the shareholder to provide a written representation that neither a deferred sales load, fee, nor other charge was imposed upon the redemption, and, in addition, either (a) requiring such shareholder to provide an activity statement reflecting the redemption that supports the shareholder's representation or (b) reviewing a copy of the current prospectus of the other mutual fund and determining that such company does not impose a deferred sales load, fee, or other charge in connection with the redemption of shares.

Applicant's Legal Analysis

1. Applicant seeks an exemption from sections 2(a)(32), 2(a)(35), 22(c), and 22(d) of the 1940 Act and Rule 22c-1 thereunder, to the extent necessary to permit the imposition of a CDSC. Applicant submits that, in keeping with the requirements of section 6(c), the requested relief is appropriate and in the public interest, consistent with the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the 1940 Act.

2. Applicant submits that a CDSC will not restrict a shareholder from receiving a proportionate share of applicant's current net assets upon redemption, but will merely defer the deduction of a sales charge and make it contingent upon an event that may never occur.

Applicant's Condition

1. If the requested exemptive relief is granted, applicant agrees that it will comply with the provisions of proposed rule 6c-10 under the 1940 Act (Investment Company Act Release No. 16619 (Nov. 2, 1988)) as currently proposed and as it may be reproposed, adopted or amended.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-4244 Filed 2-24-92; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Fitness Determination of Florida Air, Inc.

AGENCY: Department of Transportation.

ACTION: Notice of commuter air carrier fitness determination—Order 92-2-38. Order to show cause.

SUMMARY: The Department of Transportation is proposing to find that Florida Air, Inc., is fit, willing, and able to provide commuter air service under section 419(e) of the Federal Aviation Act and to transfer to it the commuter authority issued previously to Aero Coach Aviation International, Inc.

RESPONSES: All interested persons wishing to respond to the Department of Transportation's tentative fitness determination should file their responses with the Air Carrier Fitness Division, P-56, room 6401, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than February 28, 1992.

FOR FURTHER INFORMATION CONTACT: Mrs. Barbara P. Dunnigan, Air Carrier Fitness Division, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-2342.

Dated: February 18, 1992.

Patrick V. Murphy, Jr.

Deputy Assistant Secretary for Policy and International Affairs.

[FR Doc. 92-4223 Filed 2-24-92; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

Announcement of Receipt of Notice to Extend Public Comment Period on Proposed Restriction on Operations of Stage 2 Aircraft at Minneapolis-St. Paul International Airport in Minneapolis, MN

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

The Federal Aviation Administration (FAA) has been notified by the Metropolitan Airports Commission (MAC) that it is extending its public comment period by an additional 45 days. The MAC's original public comment period ended January 23, 1992. Comments will now be received by the MAC through March 9, 1992.

The MAC's notice of the proposed restriction and an opportunity to

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comment was published on December 9, 1991, pursuant the Airport Noise and Capacity Act of 1990 and 14 CFR 161.203. The MAC's notice of extension of the comment period was issued January 21, 1992.

In its notice, published on December 9, 1991, in the Star Tribune in Minneapolis, Minnesota and Pioneer Press in St. Paul, Minnesota, the Metropolitan Airports Commission indicated that the initial phase of the ordinance restricting operators to their Stage 2 baseline would take effect not earlier than 180 days from the date of publication of MAC's Notice. This date is June 6, 1992. The second phase, a ban on nighttime Stage 2 operations, would take effect on or after that date, as determined by the Commission. These effective dates are not proposed to be changed by the MAC.

Ms. Jennifer Unruh, Committee Secretary at: Metropolitan Airports Commission, General Offices, 6040 28th Avenue South, Minneapolis, Minnesota 55450, (612) 726–8100.

Copies of the complete text of the proposed restriction and the supporting analysis may be obtained by phoning or writing MAC. These documents are also available for public inspection at MAC's General Offices. MAC has indicated that extension of the comment period does not change the proposed restriction or its analysis in any way. Comments to MAC on the proposed restriction should be received by March 9, 1992.

Issued in Des Plaines, Illinois, January 23, 1992.

W. Robert Billingsley,

Manager, Airports Division, Great Lakes Region.

[FR Doc. 92–4229 Filed 2–24–92; 8:45 am]

BILLING CODE 4910–13–M

[Summary Notice No. PE–92–4]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemptions received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petition identify the petition docket number involved and must be received on or before March 10, 1992.

ADDRESSES: Send comments on any petition in triplicate to:

Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–10), Petition Docket No. 26624, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–10), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. C. Nick Spithas, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–9704.

Authority: This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on February 21, 1992.

Denise D. Castaldo,

Manager, Program Management Staff.

Docket No.: 26624 (Extension of comment period)

Petitioner: Geotech International Ltd. and the Mil Design Bureau

Sections of the FAR Affected: 14 CFR 133.19 and 133.21

Description of Relief Sought: To allow the petitioners to conduct external load rotorcraft operations within the United States with Soviet registered MI–26 rotorcraft operated by Soviet licensed crews.

[FR Doc. 92–4429 Filed 2–24–92; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 92–23]

Extension of Atlantic Petroleum Services, Inc., Customs Approval To Include Accreditations To Perform Certain Laboratory Analyses

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of the extension of Atlantic Petroleum Services, Inc., Customs approval to include the accreditation of certain laboratory analyses to be performed for Customs purposes.

SUMMARY: Atlantic Petroleum Services, Inc., of Staten Island, New York, a Customs approved gauger and accredited laboratory under § 151.13 of the Customs Regulations (19 CFR 151.13), has been given an extension of its Customs approval to include accreditations to perform the following laboratory analyses at its Staten Island, New York facility: API Gravity, Water by distillation, Reid Vapor Pressure, Saybolt Universal Viscosity, Sediment by extraction, percent by weight sulfur, percent by weight lead.

SUPPLEMENTARY INFORMATION: Part 151 of the Customs Regulations provides for the acceptance at Customs Districts of laboratory analyses and gauging reports for certain products from Customs accredited commercial laboratories and approved gaugers. Atlantic Petroleum Services, Inc., a Customs-approved commercial gauger and commercial laboratory, has applied to Customs to extend its Customs approval to include the laboratory analyses named above. Review of Atlantic Petroleum Services, Inc. qualifications shows that the extension is warranted and, accordingly, has been granted.

EFFECTIVE DATE: February 12, 1992.

FOR FURTHER INFORMATION CONTACT: Ira S. Reese, Special Assistant for Commercial and Tariff Affairs, Office of Laboratories and Scientific Services, U.S. Customs Service, 1301 Constitution Ave., NW., Washington, DC 20229 (202–566–2446).

Dated: February 20, 1992.

J.E. Harrell,

Acting Director, Office of Laboratories and Scientific Services.

[FR Doc. 92–4258 Filed 2–24–92; 8:45 am]

BILLING CODE 4820–02–M

[T.D. 92-22]

Approval of Marine Control Surveyors, Inc. as a Commercial Gauger

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of Approval of Marine Control Surveyors, Inc., as a Commercial Gauger.

SUMMARY: Marine Control Surveyors, Inc., of Groves, Texas recently applied to Customs for approval to gauge imported petroleum, petroleum products, organic chemicals and vegetable and animal oils under § 151.13 of the Customs Regulations (19 CFR 151.13). Customs has determined that Marine Control Surveyors, Inc., meets all of the requirements for approval of a commercial gauger.

Therefore, in accordance with § 151.13(f) of the Customs Regulations, Marine Control Surveyors, Inc., is approved to gauge the products named above in all Customs districts.

EFFECTIVE DATE: February 15, 1992.

FOR FURTHER INFORMATION CONTACT: Ira S. Reese, Special Assistant for Commercial and Tariff Affairs, Office of Laboratories and Scientific Services, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229, (202-566-2446).

Dated: February 20, 1992.

J.E. Harrell,

Acting Director, Office of Laboratories and Scientific Services.

[FR Doc. 92-4259 Filed 2-24-92; 8:45 am]

BILLING CODE 4820-02-M

Fiscal Service

[Dept. Circ. 570, 1991 Rev., Supp. No. 15]

Surety Companies Acceptable on Federal Bonds; The Cincinnati Casualty Co.

A Certificate of Authority as an acceptable surety on Federal Bonds is hereby issued to the following company under Sections 9304 to 9308, title 31, of the United States Code. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1991 Revision, on page 30137 to reflect this addition:

The Cincinnati Casualty Company

Business Address: P.O. Box 145496, Cincinnati, Ohio, 45250-5496. *Underwriting Limitation:* $3,598,000. *Surety Licenses:* AL, AZ, CO, FL, GA, IL, IN, IA, KS, KY, MI, MS, MO, NE, NM, NC, OH, OK, PA, SC, SD, TN, TX, UT, VA, VT, WV, WI, WY. *Incorporated in:* Ohio.

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

Copies of the Circular may be obtained from the Surety Bond Branch, Finance Division, Financial Management Service, Department of the Treasury, Washington, DC 20227, telephone (202) 874-6850.

Dated: February 14, 1992.

Charles F. Schwan, III,

Director, Funds Management Division.

[FR Doc. 92-4243 Filed 2-24-92; 8:45 am]

BILLING CODE 4810-35-M

UNITED STATES INFORMATION AGENCY

Parliamentary Exchange Program With the Commonwealth of Independent States—CIS (Armenia, Azerbaijan, Byelarus, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan), and Georgia

AGENCY: United States Information Agency.

ACTION: Notice—Request for proposals.

SUMMARY: The Office of Citizens Exchanges (E/P) announces a request for proposals from Washington-area public and private non-profit organizations in support of projects that develop a series of two-week legislative exchange programs for parliamentarians from representative States of the Commonwealth of Independent States (CIS) and Georgia, the former Soviet Union. Delegations of ten or fewer members of the parliaments of Russia, Ukraine, Kazakhstan, Armenia, Azerbaijan, Uzbekistan, Byelarus, Kyrgyzstan, Moldova, Tajikistan, Turkmenistan and Georgia will participate in this senior-level program. Interested applicants are urged to read the complete **Federal Register** announcement before addressing inquiries to the Office or submitting their proposals.

DATES: This action is effective from the publication date of this notice through April 17, 1992, for projects whose activities commence in the summer of 1992.

DEADLINE FOR PROPOSALS: All copies must be received at the U.S. Information Agency by 5 p.m. Washington, DC time on Friday, April 17, 1992. Proposals received by the Agency after this deadline will not be eligible for consideration. Faxed documents will not be accepted, nor will documents postmarked April 17, 1992, but received at a later date. It is the responsibility of each grant applicant to ensure that proposal are received by the above deadline.

ADDRESSES: The original and 15 copies of the completed application and required forms should be submitted by the deadline to: U.S. Information Agency, Grants Management Division (E/XE), ATTN: Citizen Exchanges—CIS Parliamentary Exchange Program, room 357, 301 4th Street, SW., Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: The Office of Citizen Exchanges, Bureau of Educational and Cultural Affairs, United States Information Agency, 301 4th Street, SW., Washington, DC 20547.

SUPPLEMENTARY INFORMATION: The Office of Citizen Exchanges of the United States Information Agency (USIA) announces a program to encourage, through limited awards to non-profit institutions, increased commitment to and involvement in international exchanges. Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social and cultural life. Awarding of any and all grants is contingent upon the availability of funds.

Objectives of the Parliamentary Exchange Program With the States of the Commonwealth of Independent States (CIS)

Overview

This program will focus on the historical evolution and development of the United States Congress, and demonstrate how American elected officials discharge their responsibilities. Participants will also spend approximately one half of their time outside Washington, DC, to shadow Members of Congress and their staff in their Congressional Districts, and to examine U.S. State legislatures through site visits and briefings.

Washington-area non-profit institutions will design these exchanges and work with CIS member State parliaments to derive representative deletions for consideration by USIA, the Department of State and Congressional leaders. The grantee organizations will select nominees, individuals and groups, based on guidance from the joint leadership of Congress after an opportunity for appropriate consultation with the Department of State and USIA. In some cases, based on Congressional and post requests, grantee institutions will be asked to program individual parliamentary leaders in addition to group delegations (see Funding section).

Background

Background information on the nature of the political changes within the CIS and the composition of the individual parliaments will be provided with the complete packet of application materials. This information will assist competing international exchange organizations in understanding the complexity of political change in the former USSR. Grantee institutions must demonstrate their awareness of these political changes in order to design relevant exchange programs and nominate appropriate participants. The political situation in and among these States is fluid and these observations are often quickly overtaken by events.

Program Planning Considerations

Competing grantee institutions should present a work plan for each of its parliamentary exchanges. In the development of each institution's unique proposal, they should be aware that while the United States Congress is an excellent model for comparison, one cannot assume that it is adaptable to individual state conditions. Similarly, while U.S. State Legislatures may be more comparable in size, their systems and processes may not completely parallel former state interests and needs.

Furthermore, grantee institutions should keep in mind the very different cultural, political and historical traditions of CIS State parliamentarians. Program organizers need to be particularly familiar with these traditions so that they can design their program plan, orientation sessions and briefings accordingly. U.S. organizers should assume that many of these CIS State leaders have only minimal familiarity with American traditions and institutions. Consequently, programs should begin with a few days of thoughtful orientations before participants begin highly focused substantive meetings.

Program Objectives

(1) To introduce the visitors to our democratic legislative system, using first-hand experience with the day-to-day work of American Senators and Congressmen in their Capitol Hill offices, in Committees and Subcommittees, and in their Districts.

(2) To expose U.S. Senators and Representatives to the way the various state legislative systems work, to establish institutional linkages, and encourage enduring personal relationships.

(3) To demonstrate how American legislators interact with their constituents, with lobbyists, with the other branches of the government and with their political party.

(4) To address long term problems facing state leaders and offer an array of possible solutions from which they may choose.

(5) To stress the role of government in protecting the rights of individuals to engage in productive and independent activity, and make participants aware that government possesses powers given to it by the people.

(6) To address such concepts as conflict of interest and political accountability; and to examine American approaches to reaching compromise through bargaining, negotiation and other conflict resolution techniques.

Participants

Several delegations of ten or fewer members of the parliaments of Russia, Ukraine, Kazakhstan, Armenia, Azerbaijan, Uzbekistan, Byelarus, Kyrgyzstan, Moldova, Tajikistan, Turkmenistan and Georgia will participate in this senior-level program.

Programs should have a thematic orientation, and grantee institutions may prefer to develop programs for smaller delegations (minimum of four participants), or divide delegations into subgroups, in order to address specific thematic issues in addition to the overall objective of introducing American Congressional and legislative functions and processes.

U.S. non-profit institutions will design these exchanges and work with the state legislatures to derive representative delegations for consideration by USIA, the Department of State and Congressional leaders. The grantee organizations will select nominees, individuals and groups, based on guidance from the joint leadership of Congress after an opportunity for appropriate consultation with the Department of State and USIA.

Knowledge of English is not essential since the Language Services Division of the Department of State will provide escort/interpreters as is necessary. Budgets for these programs should include travel and per diem allocations for these escort/interpreters (usually two simultaneous interpreters and one escort per program) but not salaries which are covered by USIA from other funds.

Programming Suggestions

In addition to the overall objectives listed above, the Office of Citizen Exchanges offers the following suggestions to stimulate the grantee institution's own creative design and to alert grant applicants to some of USIA's interests and concerns.

The program must be balanced and non-partisan, and representative of American political, geographic, and economic diversity. While Washington-based programming is essential to this program, it should be balanced with programming outside the capital to emphasize the representative nature of our political system, to provide opportunities to visit District offices, and to study individual state legislative systems, where appropriate. Programs might include some of the following concepts and/or ideas:

a. Briefings concerning the history of the American Constitutional system, the Federalist papers (available in Russian) and underlying debates that were addressed during the Articles of the Confederation and Constitutional development periods. Upon their arrival, participants might receive an appropriate set of translated books and materials.

b. An examination of the basic relationship of the separate yet overlapping powers of the Legislative, Judicial and Executive branches of the U.S. Government. Similarly, a study of the relationship, roles and responsibilities of different levels of government (local and state government, state and national government) and relevant communication patterns and obligations would prove beneficial.

c. An exploration of the Congressional structure and functions, and methods of drafting and ushering legislation through the system.

d. Study of the Congressional Committees and Subcommittees, their function, accomplishments and role in oversight, legislative development, appropriations, etc.

e. An examination of Congressional information systems, to include time spent exploring the Library of Congress and the Congressional Research Service.

f. Briefings and site visits to study the American political party system, election processes, campaigns, opinion polling, campaign financing and fund raising, and the role of the media in the American political process.

g. Shadowing of Members of Congress in their home districts, when possible, to examine constituent relations, and the role of citizen action groups and lobbies.

h. Study of the U.S. State legislative systems, committees, legislative development, civil and political service systems, and information systems.

i. Development of parliament to parliament linkages, information networks (LEXUS, BITNET etc.) and consortia for the creation of training centers in each of the former Soviet republics.

j. Where possible, individualized or sub-group visits to states and cities reflecting areas of similarity to the visitors' region, sister city affiliations, and other institutional ties and exchange relationships.

k. With separate funding, the establishment of follow-on consultations and training programs in these states to help facilitate the development of their legislative systems.

l. The enhancement of these exchanges through the addition of written training and other background materials, to possibly include video and software materials.

To the degree possible, exchange programs should be designed based on an assessment of the needs and interests of these leaders. Delegations should primarily represent only one CIS state, although thematic programs for multi-state delegations may be considered if they are particularly well-designed and confirmation of support from each of the states is included.

In nominating legislative delegations and designing exchange programs, grantee institutions may wish to include thematic programming on such topics as: (1) economic privatization, (2) the development of an infrastructure system (roads and transport, distribution systems), (3) stimulation and support for economic development and entrepreneurship, (4) conversion of military-industrial complex, (5) financial infrastructure development and banking, (6) environmental protection and legislation, (7) the public and private provision of social services and health care, (8) agricultural development and food processing, (9) the creation of new educational institutions, or (10) the development of foreign relations expertise on security issues, international organizations and financial assistance opportunities, etc.

Should the exchange program focus, to some degree, on any of these or other thematic foci in addition to introducing basic Congressional systems, then the grantee institution should include meetings with U.S. Senators and Congressmen with similar interests and Committee responsibilities.

Grantee institution program responsibilities include handling all program logistics, designing a cohesive and substantive program, selecting American speakers, identifying internship or "shadowing" opportunities, preparing the necessary program materials, obtaining cost-sharing support, and overseeing the program on a daily basis.

Funding

Competition for USIA funding support is keen. The final selection of a grantee institution will depend on program substance, cross-cultural sensitivity, the applicant's familiarity with the legislative process both here and in the target area, attention to protocol considerations, and ability to carry the program through to a successful conclusion. Furthermore, selection will be based on the grant proposal's cost-effectiveness—including in-kind contributions and ability to keep administrative costs to a minimum.

USIA will make several awards to conduct these legislative exchanges. The Office of Citizen Exchanges will consider CIS geographical distribution in selecting grantee institutions to insure that this overall program reaches most if not all of the CIS States. Similarly, a grantee institution's ability to reach a greater number of state leaders with carefully constructed cost-effective proposals will affect the selection of award winners.

There is no set funding limit on grant submissions, but proposals are likely to receive preference if they do not exceed $200,000. However, exchange organizations with less than four years of successful experience in managing international exchange programs are limited to $60,000.

As stated in the introduction, USIA posts and Congressional leaders may request individual parliamentary leader programs on an ad hoc basis. To facilitate opportunities to quickly program key individual leaders, grantee institutions should set aside approximately $20,000 in their proposals to be used for this purpose. USIA is aware that grantee institutions cannot prepare individualized programs in advance, but that they will design appropriate substantive programs once a nomination has been received. USIA also anticipates that most if not all of this $20,000 set-aside will be for participant and escort/interpreter program costs. This special funding category may be amended and increased by USIA, if necessary.

USIA will consider funding the following project costs: international and domestic air travel (economy class airfare up to and including business class airfare); ground transportation costs; per diem (at a minimum of $140 per day, although higher per diem rate requests will receive consideration on a case-by-case basis); consultant fees, if necessary, to provide background briefings; honoraria at not more than $200 per individual presentation; administrative costs including support staff, telex, telephone, etc.; a one-time book allowance payment of approximately $200 and a cultural allowance of approximately $150 for each participant. These categories are illustrative and the grantee institution may wish to fund any of them through in-kind contributions or other resources.

Detailed three-column budgets are required, summarizing funding amounts requested from USIA, institutional or other cost-sharing contributions, and total costs. Prospective grantees may also wish to submit a separate draft budget for possible second-year renewal funding consideration. However, all grantee institutions should be aware that the award of any grant is subject to the availability of funds, and that all program design and development costs are the responsibility of the submitting institution. USIA will not award funds for activities conducted prior to the actual grant award.

Grantee institutions should be aware that many of these delegations will require some protocol considerations, including photo-opportunities with Congressional leaders and receptions. USIA funding cannot cover the costs of receptions beyond the per diem expenditures for the foreign participants. Consequently, grantee institutions should make efforts to cost-share these events through other funding sources.

Because this is a competitive solicitation, representatives of the Office of Citizen Exchanges can only respond to technical questions. Application materials are available upon request. The USIA officer responsible for this project is: Dr. Gregory F. T. Winn, Deputy Director, Office of Citizen Exchanges (E/P), USIA Room 220, Washington, DC 20547, Telephone: (202) 619-5348 FAX: (202) 619-4350.

The resumes or c.v.'s of all program and administrative staff should be included with proposals. Confirmation letters, included within the proposal, from CIS, State and U.S. cosponsors will enhance a grantee institution's submission. However, letters of endorsement should be included within the grant proposal. Proposals must be fully in accord with the terms of this Request for Proposals (RFP) as well as with Project Proposal Information Requirements (OMB #3116–0175).

Other Logistical Considerations

Program monitoring and oversight will be provided by appropriate Agency elements. Per Diem support from host institutions during an internship component is strongly encouraged. However, for all programs which include internships, a non-profit grantee institution which receives funds from corporate or other cosponsors should use these funds to cost-share the following items: Food, lodging and pocket money for the participant. Internships should also have an American studies/values orientation component at the beginning of the exchange program in the U.S. Grantee institutions should try to maximize cost-sharing in all facets of their program design, and to stimulate U.S. private sector (foundation and corporate) support.

In the selection of all foreign participants, USIA and USIS posts retain the right to nominate participants and to accept or deny participants recommended by the program institution. The grantee institution should provide the names of American participants to the Office of Citizen Exchanges for information purposes.

The Government reserves the right to reject any or all applications received. Applications are submitted at the risk of the applicant; should circumstances prevent award of a grant, all preparation and submission costs are at the applicant's expense.

Funding and Budget Requirements for all Submission

Since USIA grant assistance constitutes only a portion of total project funding, proposals should list and provide evidence of other anticipated sources of support. Grant applications should demonstrate substantial financial and in-kind support.

Funding assistance is primarily limited to project costs as defined in the Project Proposal Information Requirements (OMB #3116–0175, provided in application packet) with modest contributions to defray total administrative costs (salaries, benefits, other direct and indirect costs). USIA-funded administrative costs are limited to 22 (twenty-two) per cent of the total funds requested for administrative costs. Awarding of any and all grants is contingent upon the availability of funds. USIA anticipates funding activities for one year, although applications should be structured so that a one-year renewal is an option.

Additional Guidelines and Restrictions

Proposals for all programs are subject to review and comment by USIS posts.

Bilateral programs should clearly identify the counterpart organization and provide evidence of the organization's participation.

Bureau grants are not given to support projects whose focus is limited to technical issues, or for research projects, for youth or youth-related activities (participants' age under 25), for publications funding for dissemination in the United States, for individual student exchanges, for film festivals and exhibits. Nor does this office provide scholarships or support for long-term (a semester or more) academic studies. Competitions sponsored by other Bureau offices are also announced in the **Federal Register.**

Other Application Requirements

Proposals must contain a narrative which includes a complete and detailed description of the proposed program activity as follows:

1. A brief statement (15 pages or less) of what the project is designed to accomplish; how it is consistent with the purposes of the USIA grant program; and how it relates to USIA's mission—to further U.S. foreign policy objectives, explain U.S. policies and actions overseas, to present American society to citizens of other countries, to create and strengthen personal and institutional ties between the U.S. and other nations, to increase mutual understanding, and to correct misperceptions about the United States.

2. A concise description of the project's work plan and its intellectual rationale, spelling out program schedules, thematic agenda, and proposed itineraries, who the participants might be and where they will come from. Resumes should not exceed two pages in length and should be tailored for this specific program.

3. A statement of what follow-up activities are proposed; how the project will be evaluated; and what groups, beyond the direct participants, will benefit from the project and how they will benefit.

4. A detailed three-column budget showing funds requested from USIA, funds cost-shared by the grantee institution, and a third column combining these totals for each funding category.

5. USIA compliance forms, furnished with the application package, must be submitted with the proposal.

Note: All application forms will be provided with the application packet.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines established herein and in the application packet. Eligible proposals will be forwarded to panels of USIA officers for advisory review. All eligible proposals will also be reviewed by the appropriate geographic area office and the contracts office. Proposals may also be reviewed by the Agency's Office of the General Counsel. Funding decisions are at the discretion of the Associate Director for Educational and Cultural Affairs. Final technical authority for grant awards resides with USIA's contracting officer.

Review Criteria

USIA will consider proposals based on the following criteria:

1. Quality of Program Idea

Proposals should exhibit originality, substance, rigor, and relevance to Agency mission. They should demonstrate the matching of U.S. resources to a clearly defined need.

2. Institution Reputation/Ability/Evaluations

Institutional grant recipients should demonstrate potential for program excellence and/or track record of successful programs, including responsible fiscal management and full compliance with all reporting requirements for past Agency grants as determined by USIA's Office of Contracts (M/KG). Relevant evaluation results of previous projects are part of this assessment.

3. Project Personnel

Personnel's thematic and logistical expertise should be relevant to the proposed program. Resumes or C.V.s should be summaries relevant to the specific proposal and no longer than two pages each.

4. Program Planning

Detailed agenda and relevant work plan should demonstrate substantive rigor or logistical capacity.

5. Thematic Expertise

Proposal should demonstrate expertise in the subject area which guarantees an effective sharing of information.

6. Cross-Cultural Sensitivity/Area Expertise

Evidence of sensitivity to historical, linguistic, and other cross-cultural factors; relevant knowledge of geographic area.

7. Ability to Achieve Program Objectives

Objectives should be reasonable, feasible, and flexible. Proposal should clearly demonstrate how the grantee institution will meet the program's objectives.

8. Multiplier Effect

Proposed programs should strengthen long-term mutual understanding, to include maximum sharing of information and establishment of long-term institutional and individual ties.

9. Cost-Effectiveness

The overhead and administrative components should be kept as low as possible. All other items should be necessary and appropriate to achieve the program's objectives.

10. Cost-Sharing

Proposals should maximize cost-sharing through other private sector support as well as institution direct funding contributions.

11. Follow-on Activities

Proposals should provide a plan for continued exchange activity (without USIA support) which insures that USIA supported programs are not isolated events.

12. Project Evaluation

Proposals should include a plan to evaluate the activity's success.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. Final award cannot be made until funds have been fully appropriated by Congress, allocated and committed through internal USIA procedures.

Notification

All applications will be notified of the results of the review process on or about August 1, 1992. Awarded grants will be subject to periodic reporting and evaluation requirements.

Dated: February 18, 1992.

William P. Glade,

Associate Director, Bureau of Educational and Cultural Affairs.

[FR Doc. 92-4253 Filed 2-24-92; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 37
Tuesday, February 25, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

U.S. CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, February 27, 1992.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED:

Compliance Status Report.

The staff will brief the Commission on various compliance matters.

for a Recorded Message Containing the Latest Agenda Information, Call (301) 504-0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, MD 20207, (301) 504-0800.

Dated: February 21, 1992.

Sheldon D. Butts,
Deputy Secretary.

[FR Doc. 92-4408 Filed 2-21-92; 1:44 pm]

BILLING CODE 6355-01-M

DEPARTMENT OF ENERGY

FEDERAL ENERGY REGULATORY COMMISSION

February 19, 1992.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 552b:

DATE AND TIME: February 26, 1992, 10:00 a.m.

PLACE: 825 North Capitol Street, N.E., Room 9306, Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 208-0400. For a recording listing items stricken from or added to the meeting, call (202) 208-1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference and Information Center.

Consent Agenda—Hydro, 953rd Meeting—February 26, 1992, Regular Meeting (10:00 a.m.)

CAH-1.
  Project No. 2984-017, S.D. Warren Company
CAH-2.
  Omitted
CAH-3.
  Project No. 8291-005, North Star Hydro, Ltd.
CAH-4.
  Project No. 7960-002, Wyoming Valley Hydro Partners
CAH-5.
  Project No. 5998-003, City of Emporia, Virginia
CAH-6.
  Project No. 2832-013, New York Irrigation District, Nampa-Meridian Irrigation District, Boise-Kuna Irrigation District, Wilder Irrigation District and Big Bend Irrigation District
CAH-7.
  Project No. 9085-007, Richard Balagar

Consent Agenda—Electric

CAE-1.
  Docket Nos. ER92-180-000 and EL92-17-000, Detroit Edison Company
CAE-2.
  Docket No. EL91-32-000, Power Authority of the State of New York v. Long Island Lighting Company
  Docket No. EL91-34-000, Municipal Electric Utilities Association of New York State v. Long Island Lighting Company
  Docket Nos. ER92-25-000, ER92-26-000 and ER92-31-000, Long Island Lighting Company
CAE-3.
  Docket No. ER91-505-001, Pacific Gas and Electric Company
  Docket No. EL92-2-000, City of Vernon, California v. Pacific Gas and Electric Company
  Docket No. EL92-18-000, Pacific Gas and Electric Company
CAE-4.
  Docket No. ER84-560-031, Union Electric Company
CAE-5.
  Omitted
CAE-6.
  Docket No. ER91-471-001, PacifiCorp Electric Operations
CAE-7.
  Docket No. ID-2657-001, Paul L. Gioia
CAE-8.
  Docket No. EL92-1-000, North Carolina Eastern Municipal Power Agency v. Carolina Power & Light Company
CAE-9.
  Docket Nos. ER89-207-004 and EL91-45-000, Public Service Company of New Hampshire
CAE-10.
  Docket Nos. ER88-630-007, ER89-582-003, ER90-525-005 and 006, New England Power Company

Consent Agenda—Oil and Gas

CAG-1.
  Docket Nos. TA92-1-28-000, TM92-3-28-000, TQ92-2-28-000 and TA92-1-28-001, Panhandle Eastern Pipeline Company
CAG-2.
  Docket Nos. TA92-2-20-000, 001, TM92-12-20-000 and RP92-92-000, Algonquin Gas Transmission Company
CAG-3.
  Docket No. TM92-13-20-000, Algonquin Gas Transmission Company.
CAG-4.
  Docket No. TQ92-2-15-000, Mid Louisiana Gas Company
CAG-5.
  Docket No. TQ92-6-25-000, Mississippi River Transmission Corporation
CAG-6.
  Docket Nos. TQ92-7-25-000 and RP92-101-000, Mississippi River Transmission Corporation
CAG-7.
  Docket No. RP92-44-000, Colorado Interstate Gas Company
CAG-8.
  Docket Nos. TA92-1-16-000, 001 and TQ92-2-16-000, National Fuel Gas Supply Corporation
CAG-9.
  Docket Nos. TA90-1-43-000, 001, 002 and TM90-7-43-000, Williams Natural Gas Company
CAG-10.
  Docket No. 92-102-000, Kentucky West Virginia Gas Company
CAG-11.
  Docket No. RP92-74-000, South Georgia Natural Gas Company
CAG-12.
  Docket Nos. RP92-96-000 and 001, Colorado Interstate Gas Company
CAG-13.
  Docket No. TM92-4-48-000, ANR Pipeline Company
CAG-14.
  Docket No. RP92-82-000, Transcontinental Gas Pipe Line Corporation
CAG-15.
  Docket No. RP92-94-000, Florida Gas Transmission Company
CAG-16.
  Docket No. RP92-87-000, Williams Natural Gas Company
CAG-17.
  Docket No. RP92-11-001, Southern Natural Gas Company
CAG-18.
  Docket Nos. RP91-161-004 and 005, Columbia Gas Transportation Corporation
CAG-19.
  Omitted
CAG-20.

Docket No. RP92-97-000, Tarpon Transmission Company

CAG-21.

Docket No. PR92-1-000, TEX/CON Gas Pipeline Company

CAG-22.

Docket No. RP92-48-001, Viking Gas Transmission Company

CAG-23.

Docket Nos. RP91-126-008, CP91-1669-004, CP91-1670-004, CP91-1671-004, CP91-1672-004, and CP91-1673-004, United Gas Pipe Line Company

CAG-24.

Docket No. RP92-51-001, Tennessee Gas Pipeline Company

CAG-25.

Docket Nos. TA92-1-9-002 and TM92-2-9-001, Tennessee Gas Pipeline Company

CAG-26.

Omitted

CAG-27.

Docket No. RP91-166-007, Northwest Pipeline Corporation

CAG-28.

Docket Nos. RP84-82-005 and RP92-97-000, Tarpon Transmission Company

CAG-29.

Docket Nos. RP92-8-002, RP91-104-004 RP91-106-003, RP91-217-001, 002, 003, RP91-109-004, RP91-215-002 and 004, Transwestern Pipeline Company

CAG-30.

Docket No. RP91-128-002, Viking Gas Transmission Company

CAG-31.

Omitted

CAG-32.

Docket Nos. RP89-140-004, RP89-195-001, and RP90-123-002, Williams Natural Gas Company

CAG-33.

Docket No. RP91-107-004, Williams Natural Gas Company

CAG-34.

Docket Nos. CP88-391-009, RP88-167-004, RP73-3-012, RP82-55-051, RP85-148-012, CP72-225-004, CP89-759-010, CP90-2228-003, CP90-2229-003, RP87-7-075, CP90-2230-004, CP89-728-003, CP89-790-003, CP88-273-002, CP88-328-007, CP89-1916-004, RP90-8-009, RP90-51-002, CP90-499-002, CP84-336-007, G-12503-002, G-12059-002, RP82-55-051, CP91-2819-001 and CP84-146-009, Transcontinental Gas Pipe Line Corporation

CAG-35.

Docket No. RP91-201-001, Columbia Gas Transmission Corporation

CAG-36.

Docket Nos. TM91-12-21-001, TM92-3-21-001, RP91-41-008, 009 and 010, Columbia Gas Transmission Corporation

CAG-37.

Docket Nos. RP91-72-001, RP91-73-001, RP91-74-001, RP91-75-001, RP88-80-016, RP89-153-005, RP89-154-004, RP90-96-004, TM89-6-17-002, TM89-10-17-003, TM90-17-004, TM90-11-17-002, TM90-14-17-002, TM89-3-17-004, RP88-223-008, RP88-251-008, RP89-184-004, RP90-73-004, TM89-4-17-004, TM89-7-17-003, TM89-8-17-003, TM89-11-17-003, TM89-12-17-003 and TM90-3-17-003, Texas Eastern Transmission Corporation

Docket No. RM91-2-007, Mechanisms for Passthrough of Pipeline Take-or-Pay Buyout and Buydown Costs

CAG-38.

Docket No. RP87-15-029, Trunkline Gas Company

CAG-39.

Docket No. RP91-210-003, Tennessee Gas Pipeline Company

CAG-40.

Docket Nos. CP89-629-015 and CP90-639-008, Tennessee Gas Pipeline Company

CAG-41.

Omitted

CAG-42.

Docket Nos. RP88-131-000, 001, 002, 003, 004, RP91-37-000, 001, 002, 003, 004, 005, RP91-151-000, 001, 002, 003, 004, RP88-127-000, 001, 002, 003, 004, 005, 006, 007, 008, 009, 010, RP90-80-000, TA88-1-63-000, 001, TA88-2-63-000, 001, 002, TA89-1-63-000, 001, 002, 003, 004, TA90-1-63-000, 001, 002, 003, 004 and CP92-220-000, Carnegie Natural Gas Company

CAG-43.

Docket Nos. ST83-93-000, ST84-44-000 and ST86-921-000, STGG Inc

CAG-44.

Docket No. PR91-20-000, Prairie Producing Company v. Louisiana Intrastate

CAG-45.

Docket No. GP91-13-000, Phillips Petroleum Company and Marathon Oil Company

CAG-46.

Docket No. CP91-350-003, Tennessee Gas Pipeline Company

CAG-47.

Docket No. TC92-6-001, South Georgia Natural Gas Company

CAG-48.

Docket Nos. CP87-5-022, CP87-92-008, CP88-197-005 and CP88-388-005, Texas Eastern Transmission Corporation

Docket No. CP87-554-013, Algonquin Gas Transmission Company

CAG-49.

Docket No. CP87-92-007, Texas Eastern Transmission Corporation

CAG-50.

Docket No. CP89-637-007, ANR Pipeline Company

Docket No. CP90-1726-002, Great Lakes Gas Transmission Limited Partnership

Docket No. CP88-178-004, Trunkline Gas Company

Docket No. CP89-638-004, CNG Transmission Corporation

Docket No. CP90-687-004, Transcontinental Gas Pipe Line Corporation

Docket No. CP90-608-003, Texas Gas Transmission Corporation

CAG-51.

Docket Nos. CP91-2828-001, CP91-2832-001, CP91-2847-001, CP91-2848-001, CP91-2849-001, CP91-2850-001 and CP91-2851-001, Columbia Gas Transmission Corporation

CAG-52.

Docket No. CP91-2520-000, Panhandle Eastern Pipe Line Company

CAG-53.

Docket No. CP92-36-000, Panhandle Eastern Pipe Line Company

CAG-54.

Docket No. CP92-124-000, Southern Natural Gas Company

CAG-55.

Docket No. CP91-3219-000, Texas Gas Transmission Company

CAG-56.

Docket No. CP86-146-005, CNG Transmission Corporation

CAG-57.

Docket No. CP90-1978-000, Panhandle Eastern Pipe Line Company

Docket No. CP91-1589-000, Phillips 66 Natural Gas Company

CAG-58.

Docket No. CP92-239-000, Northern Natural Gas Company

CAG-59.

Docket No. CP90-1391-001, Arcadian Corporation v. Southern Natural Gas Company

CAG-60.

Docket No. RP91-181-003, Northern Natural Gas Company

CAG-61.

Docket No. CP92-260-000, Transcontinental Gas Pipe Line Corporation

Hydro Agenda

H-1.

Docket No. HB20-85-1-002, Louisville Gas and Electric Company. Order on rehearing.

Electric Agenda

E-1.

Docket No. ER91-569-000, Entergy Services, Inc. Order on rate filing.

E-2.

Docket No. ER91-313-000, Pennsylvania Electric Company. Order on rate filing.

Miscellaneous Agenda

M-1.

Docket No. PL92-1-000, Incentive Ratemaking for Interstate Natural Gas Pipelines and Electric Utilities. Policy statement on incentive regulation.

Oil and Gas Agenda

I. Pipeline Rate Matters

PR-1.

Omitted

II. Producer Matters

PF-1.

Reserved

III. Pipeline Certificate Matters

PC-1. (A)

Docket No. CP92-79-000, Northwest Pipeline Corporation

Docket No. G-17350-010, Pacific Gas Transmission Company. Order on application to approve sales conversion proposals.

PC-1. (B)

Docket No. CP91-2392-000, Northwest Pipeline Corporation

Docket No. CP91-2393-000, Williams Gas Processing Company. Application to transfer certain facilities to Williams Gas Processing Company

PC-1. (C)

Docket Nos. RP88-47-000, 002, 026, RP89-196-000, CP88-651-006, RP91-166-000 and RP92-110-000, Northwest Pipeline

Corporation. Order consolidating proceeding.

PC–1. (D)

Docket No. RP82–56–023, Northwest Pipeline Corporation. Order on remand.

PC–2.

Docket No. CP92–213–000, Energy Development Corporation v. CNG Transmission Corporation. Order on complaint.

PC–3.

Docket No. CP91–3231–000, Pacific Gas Transmission Company. Application to amend certificate to designate an additional receipt point for Northwest Pipeline Corporation.

Lois D. Cashell,

Secretary.

[FR Doc. 92–4327 Filed 2–20–92; 5:00 pm]

BILLING CODE 6717-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 57 FR 6058 Wednesday, February 19, 1992.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:00 p.m. (Eastern Time) Tuesday, March 3, 1992.

PLACE: Conference Room on the Ninth Floor of the EEOC Office Building, 1801 "L" Street, N.W., Washington, D.C. 20507.

CHANGE IN THE MEETING:

Open Session

The item listed below has been deleted from the agenda:

A Report on Commission Operations.

CONTACT PERSON FOR MORE INFORMATION: Frances M. Hart, Executive Officer on (202) 663–7100.

This Notice Issued February 20, 1992.

Frances M. Hart,

Executive Officer, Executive Secretariat.

[FR Doc. 92–4407 Filed 2–21–92; 1:43 am]

BILLING CODE 6750-06-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, March 2, 1992.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: February 21, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92–4412 Filed 2–21–92; 2:22 pm]

BILLING CODE 6210-01-M

UNITED STATES INTERNATIONAL TRADE COMMISSION

[USITC SE–92–05]

TIME AND DATE: March 11, 1992 at 11:00 a.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meetings.
2. Minutes.
3. Ratification List.
4. Petition and complaint.
5. Inv. 731–TA–545 (Preliminary) (Medium voltage underground distribution cable from Canada)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 205–2000.

Dated: February 20, 1992.

Kenneth R. Mason,

Secretary.

[FR Doc. 92–4389 Filed 2–21–92; 1:41 pm]

BILLING CODE 7020-02-M

Corrections

Federal Register
Vol. 57, No. 37
Tuesday, February 25, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 101 and 201

[Docket No. RM92-1-000]

Revisions to Uniform Systems of Accounts To Account for Allowances Under the Clean Air Act Amendments of 1990 and Regulatory-Created Assets and Liabilities and to Form Nos. 1, 1-F, 2 and 2-A

Correction

In proposed rule document 91-29433 beginning on page 64567 in the issue of Wednesday, December 11, 1991, make the following correction:

1. On page 64572, in the third column, in the second full paragraph, in the last line, footnote reference 46 should appear after "transferred."; and remove the footnote reference 46 in the second line of the third full paragraph.

2. On the same page, in the same column, in the third full paragraph, the table should have appeared as a part of footnote 46. Footnote 46 is republished in its entirety.

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[46] The following examples illustrate these principles, where Utility A exchanges allowances for a combination of allowances plus boot from Utility B:

	Utility A "Old" allowances	Utility B "New" allowances
Fair Market Value (FMV) of Asset Surrendered	$500	$400
Boot Received by Utility A	100	....
Inventory Cost of Utility A's "Old" Allowances	Case (1) 50 Case (2) 250 Case (3) 500	

Formula 1:
$\text{Gain} = \text{Boot} - [\text{Boot}/(\text{Boot}+\text{FMV}_{new})] * \text{Inventory Cost}_{old}]$

Formula 2:
$\text{New Historical Inventory Cost} = \text{Inv. Cost}_{old} - (\text{Boot} - \text{Gain})$

$$\text{Case (1) Gain} = \$100 - \left(\frac{100}{100+400} * 0\right) = \$100$$

New Historical Inventory Cost = $0

$$\text{Case (2) Gain} = \$100 - \left(\frac{100}{100+400} * 250\right) = \$50$$

New Historical Inventory Cost = $200

$$\text{Case (3) Gain} = \$100 - \left(\frac{100}{100+400} * 500\right) = \$0$$

New Historical Inventory Cost = $400

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID-030-02-4212-13]

Amendement of Little Lost/Birch Creek Management Framework Plan (MFP), Realty Action (NORA), Exchange of Public Lands in Butte County, ID

Correction

In notice document 92-2894, beginning on page 4885, in the issue of Monday, February 10, 1992, make the following correction:

On page 4885, in the second column, in the land description, in the fourth line, "S¼SE¼." should read "S½SE¼.".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91-NM-240-AD]

Airworthiness Directives; Boeing Model 767 Series Airplanes

Correction

In proposed rule document 92-1016, beginning on page 1693, in the issue of Wednesday, January 15, 1992, make the following correction:

§ 39.13 [Corrected]

On page 1694, in the second column, in § 39.13, in the eighth line, "Model 737" should read "Model 767".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Intent to Rule on Application To Impose a Passenger Facility Charge (PFC) at Tulsa International Airport, Tulsa, OK

Correction

In notice document 92-3548, beginning on page 5506, in the issue of Friday, February 14, 1992, make the following correction:

On page 5507, in the 1st column, under **SUPPLEMENTARY INFORMATION:**, in the 26th line, "$42,081.00." should read "$42,081,000.00.".

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Tuesday, February 25, 1992

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102d Congress, 2nd Session, 1992

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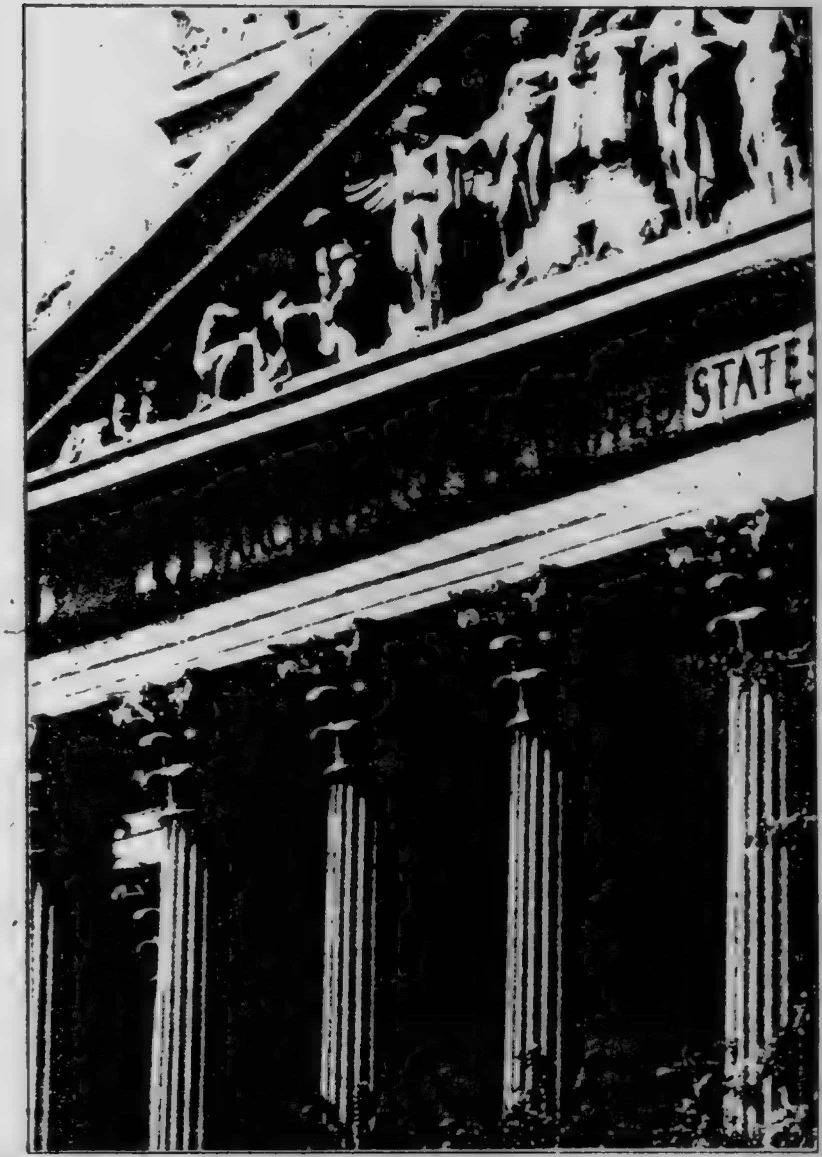

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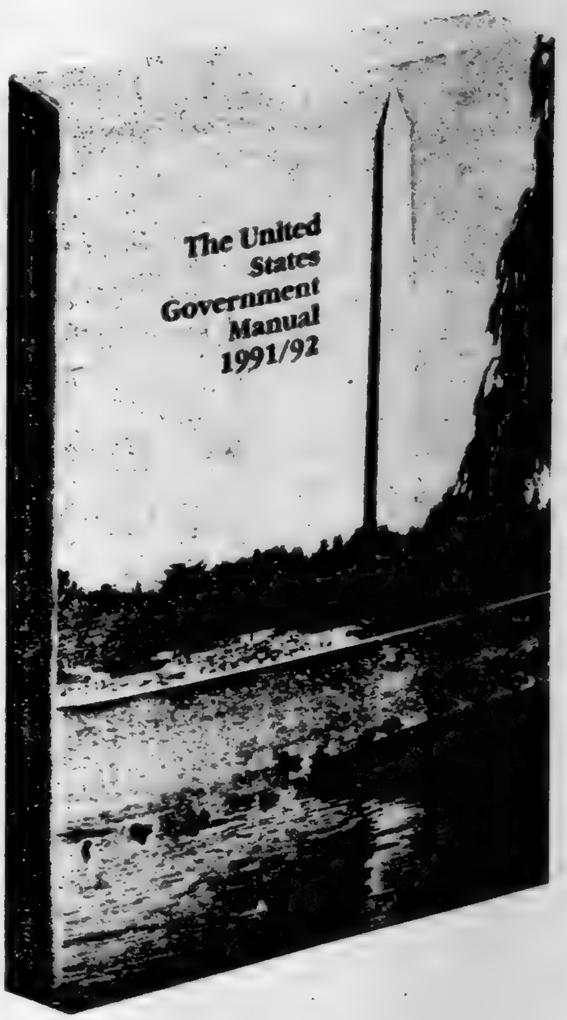

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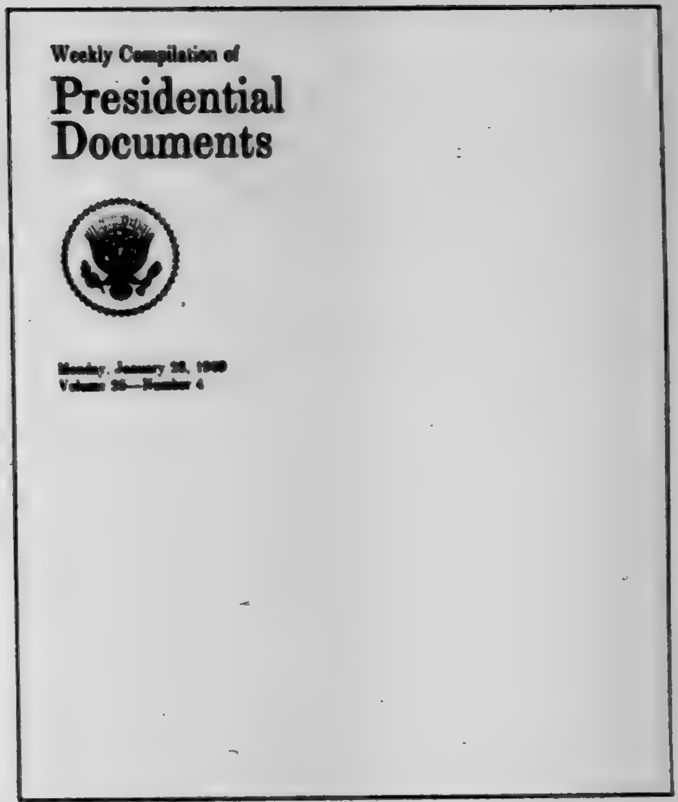

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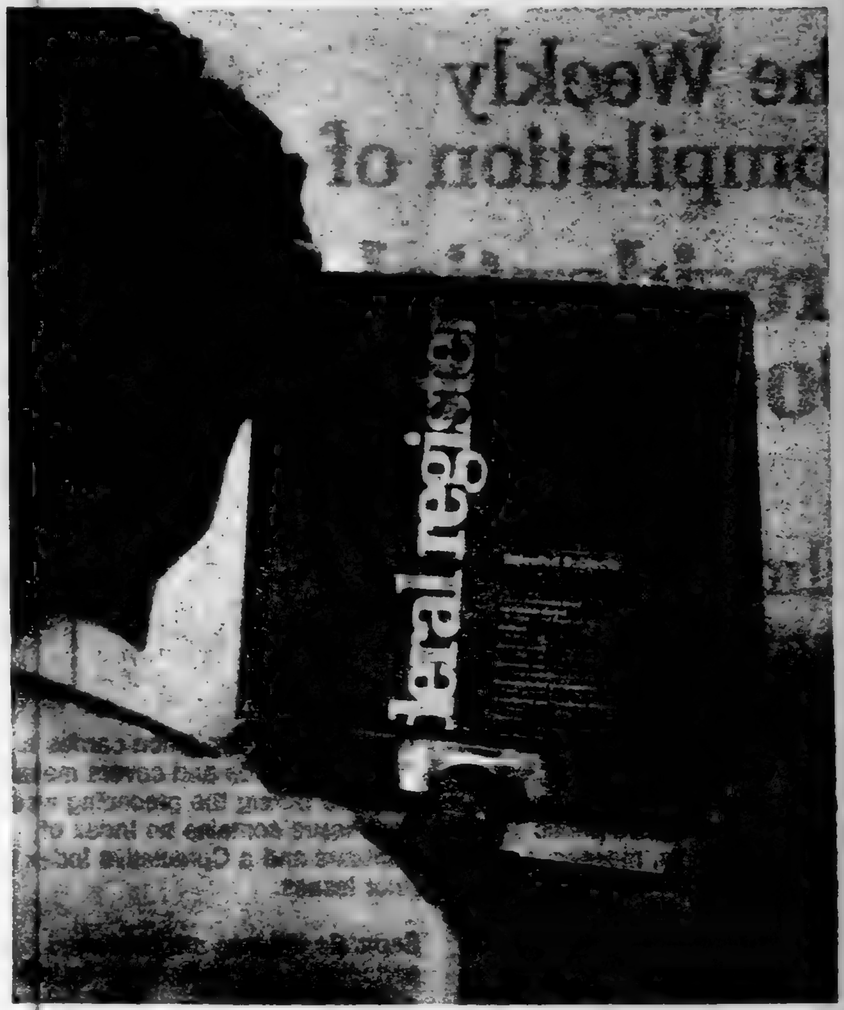

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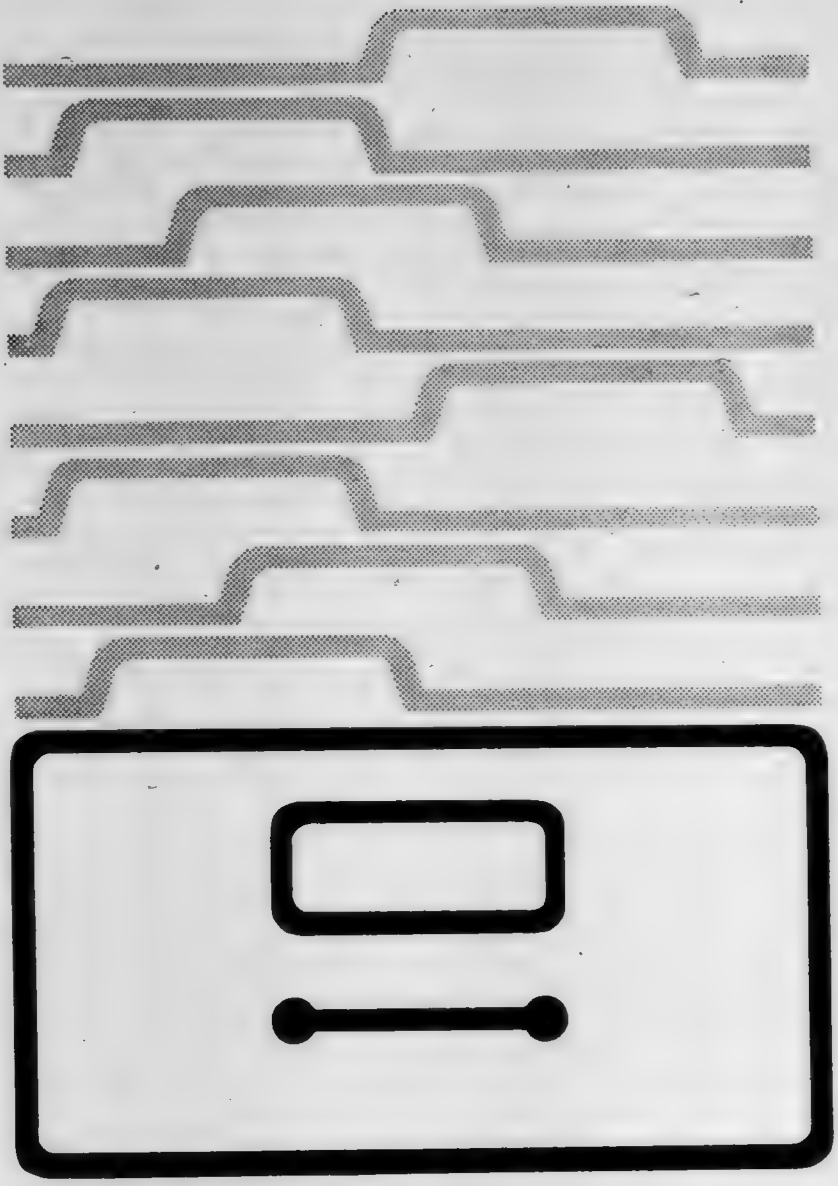

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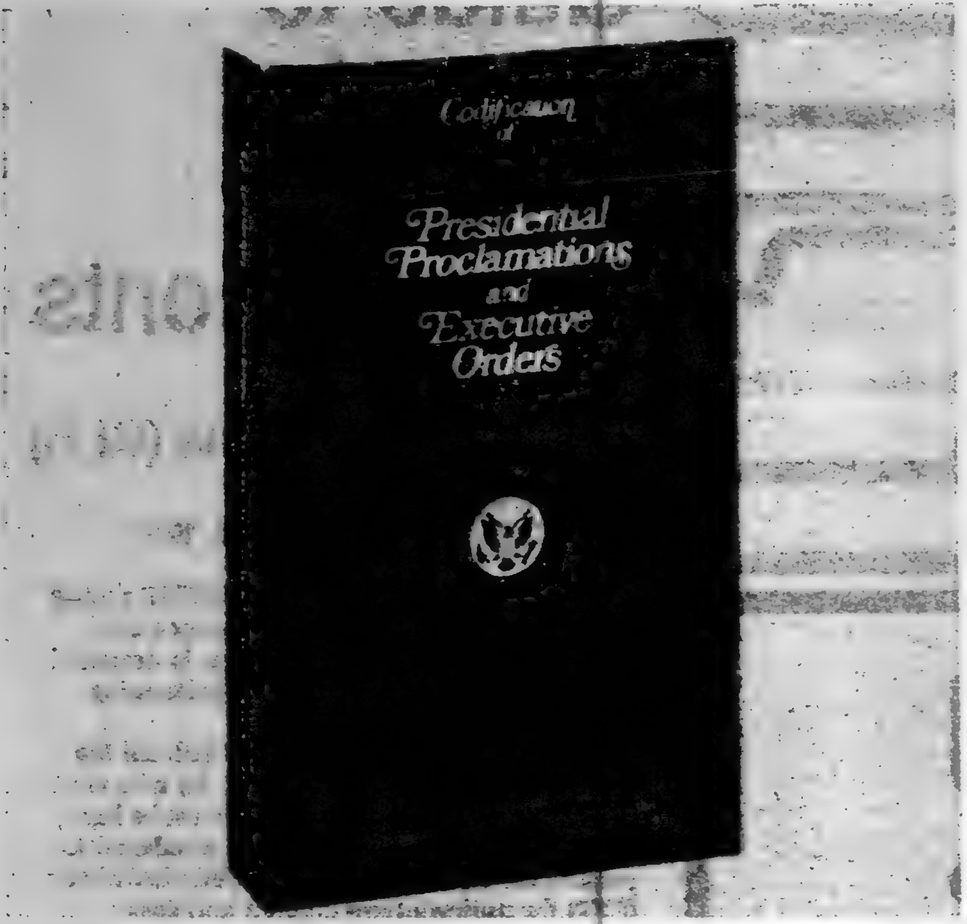

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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
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FARM CREDIT ADMINISTRATION

12 CFR Parts 613 and 618

RIN 3052-AB26

Eligibility and Scope of Financing; General Provisions; Financing of Basic Processing and Marketing Activities; Authorized Insurance Services; Effective Date

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.

SUMMARY: The Farm Credit Administration (FCA) published final regulations under parts 613 and 618 on December 20, 1991 (56 FR 65986). The final regulations amend 12 CFR parts 613 and 618 to delete the 20-percent minimum throughput requirement for loans financing the processing and/or marketing operations of eligible farmers, ranchers, and producers or harvesters of aquatic products, and imposes the statutory limitation on the volume of such loans where the throughput provided by the borrower is less than 20 percent. The final amendment also modifies the requirement that all Farm Credit System institutions must offer more than two insurance carriers. In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is February 26, 1992.

EFFECTIVE DATE: February 26, 1992.

FOR FURTHER INFORMATION CONTACT:

Linda C. Sherman, Senior Credit Specialist, Office of Examination, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498,

or

Richard A. Katz, Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020 TDD (703) 883–4444.

Authority: 12 U.S.C. 2252(a) (9) and (10).

Dated: February 21, 1992.

Curtis M. Anderson,
Secretary, Farm Credit Administration Board.

[FR Doc. 92–4376 Filed 2–25–92; 8:45 am]

BILLING CODE 6705-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 703

Investment and Deposit Activities

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule; delay of effective date.

SUMMARY: This final rule will delay the effective date of § 703.5(e) of the NCUA Rules and Regulations concerning federal credit union investment in corporate credit unions. It is necessary because § 703.5(e) references part 704 of the NCUA Rules and Regulations, which has not yet been finalized The rule will make § 703.5(e) effective upon the effective date of part 704. The NCUA will publish the effective date of § 703.5(e) in the **Federal Register**.

EFFECTIVE DATE: The effective date of § 703.5(e) is delayed indefinitely.

FOR FURTHER INFORMATION CONTACT: Lisa Henderson (Staff Attorney), (202–682–9630), or Charles Felker (Investment Officer), (202–682–9640).

SUPPLEMENTARY INFORMATION: On October 17, 1991, The NCUA Board issued a final rule amending part 703 of the NCUA Rules and Regulations (See 56 FR 56000, Oct. 31, 1991). The rule became effective on December 2, 1991, except for § 703.5(e), which was to become effective on March 1, 1992. The effective date of § 703.5(e) was delayed because that section references part 704 of the Rules and Regulations, which was in the process of being amended. The Board had anticipated that new part 704 would be in effect by March 1, 1992, but has now determined that it will be several months before that provision is issued as a final rule and takes effect.

The Board is therefore delaying the effective date of § 703.5(e) until the effective date of new part 704, which will be published in the **Federal Register**.

By the National Credit Union Administration Board on February 19, 1992.

Becky Baker,
Secretary of the Board.

[FR Doc. 92–4308 Filed 2–25–92; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Monensin and Bacitracin Methylene Disalicylate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by A. L. Laboratories, Inc. The approval provides for establishing a dose range for monensin sodium of 90 to 110 grams per ton (g/ton) when used in combination with bacitracin methylene disalicylate at 4 to 50 g/ton in Type C medicated broiler feeds.

EFFECTIVE DATE: February 19, 1992.

FOR FURTHER INFORMATION CONTACT: James F. McCormack, Center for Veterinary Medicine (HFV–128), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–295–8602.

SUPPLEMENTARY INFORMATION: A. L. Laboratories, Inc., One Executive Dr., P.O. Box 1399, Fort Lee, NJ 07024, is the sponsor of NADA 138–456. The NADA provides for use of single ingredient Type A medicated articles for the manufacture of a combination drug Type C medicated broiler feed containing monensin sodium at 110 g/ton with bacitracin methylene disalicylate at 4 to 50 g/ton. The feeds are used for improved feed efficiency and as an aid in the prevention of coccidiosis caused by *Eimeria necatrix, E. tenella, E. acervulina, E. maxima, E. brunetti,* and *E. mivati.* The firm has filed a supplemental NADA which provides for establishing a dose range for monensin sodium of 90 to 110 g/ton.

The supplemental NADA is approved as of February 19, 1992, and 21 CFR 558.355(f)(1)(xxiv) is amended to reflect the approval. The basis for approval is discussed in the freedom of information summary.

Monensin and bacitracin methylene disalicylate are new animal drugs used in Type A medicated articles to make Type C medicated feeds. Both drugs are Category I drugs which, as provided in 21 CFR 558.4(a), do not require an approved FDA 1900 for making Type C medicated feeds as in approved NADA 138–456 and in the regulation herein amended in 21 CFR 558.355(f)(1)(xxiv).

In accordance with the freedom of information provisions of Part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of relevant data and information submitted to support this approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Generic Animal Drug and Patent Term Restoration Act of 1988 (21 U.S.C. 360b(c)(2)(F)(iii)), this supplement does not qualify for an exclusivity period. The reports supporting the supplement do not qualify as "new clinical or field investigations" under that section because there is an earlier approval under section 512(b)(1) of the act for the combined use of monensin sodium and bacitracin methylene disalicylate in broiler chicken feeds based on similar investigations.

The agency has determined under 21 CFR 25.24(d)(1)(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

2. Section 558.355 is amended by revising paragraph (f)(1)(xxiv) to read as follows:

§ 558.355 Monensin.

* * * * *

(f) * * *

(1) * * *

(xxiv) *Amount per ton.* Monensin, 90 to 110 grams, plus bacitracin methylene disalicylate, 4 to 50 grams.

* * * * *

Dated: February 19, 1992.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 92–4361 Filed 2–25–92; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 7

[T.D. 8397]

RIN 1545–AQ29

Requirements Relating to Certain Exchanges Involving a Foreign Corporation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document provides final and temporary Income Tax Regulations concerning requirements relating to certain exchanges involving a foreign corporation pursuant to section 367(b) of the Internal Revenue Code, as enacted by the Tax Reform Act of 1976. These regulations provide guidance needed to comply with these requirements.

DATES: The amendments to the authority citations for parts 1 and 7 and §§ 1.367 (b)–2 and 7.367 (b)–2 (d) and (f) are effective on January 1, 1978, and apply to exchanges beginning on or after that date. Sections 1.367 (b)–7 through 1.367 (b)–9, 7.367 (b)–7 (c)(1) (ii) and (iii), 7.367 (b)–8 (c) (2), and 7.367 (b)–9 (b) (4) are effective on March 3, 1989, and apply to transactions beginning on or after that date.

FOR FURTHER INFORMATION CONTACT: Irwin Halpern of the Office of Associate Chief Counsel (International), within the Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224. Attention: CC:CORP:T:R (INTL–988–86) (202–566–3452, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

On March 6, 1989, the Internal Revenue Service published in the **Federal Register** proposed Income Tax Regulations (54 FR 9200) under section 367(b) of the Internal Revenue Code. Written comments were received from the public.

Explanation of Provisions

The comments received in response to the proposed regulations were favorable. As a result, no substantive changes have been made in the final regulations. However, two examples have been added illustrating the application of the regulations. Specifically, two examples have been added to § 1.367(b)–8(c)(2) (previously § 7.367(b)–8(c)(2)) illustrating the operation of that section in conjunction with § 1.367(b)–(7)(c)(1)(ii) (previously § 7.367(b)–7(c)(1)(ii)).

Special Analyses

It has been determined that these rules are not major rules defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a final Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking for the regulations was submitted to the Administrator of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Irwin Halpern of the Office of Associate Chief Counsel (International), within the Office of Chief Counsel, Internal Revenue Service. Other personnel from the Internal Revenue Service and Treasury Department participated in developing these regulations.

Lists of Subjects

26 CFR 1.361–1 through 1.367(e)–2T

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 7

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 7 are amended as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. The authority for part 1 is amended by adding the following citations:

Authority: Sec. 7805, 68A Stat. 917; 26 U.S.C. 7805 * * * § 1.367 (b)–2 also issued under 26 U.S.C. 367 (b). * * * § 1.367 (b)–7 also issued under 26 U.S.C. 367 (b). * * * § 1.367 (b)–8 also issued under 26 U.S.C. 367 (b). * * * § 1.367 (b)–9 also issued under 26 U.S.C. 367 (b). * * *

Par. 2. Section 1.367 (b)–2 is added to read as follows:

§ 1.367 (b)–2 Definitions.

(a) through (c) [Reserved].

(d) *Section 1248 amount.* In the case of an exchange of stock in a first-tier foreign corporation described in § 7.367 (b)–7 (c)(1)(i) of this chapter or a distribution by a foreign corporation described in § 7.367 (b)–10 (i) of this chapter in which an inclusion in gross income determined by reference to the "section 1248 amount" is required by those provisions, the term "section 1248 amount" means the net positive earnings and profits which would have been attributable under section 1248 and the regulations under that section to the stock of the foreign corporation exchanged if the stock has been sold in a transaction to which section 1248(a) applied. For all other purposes of this section, in the case of an exchange of stock in a first-tier foreign corporation to which section 367(b) applies, the term "section 1248 amount" means the earnings and profits or deficit in earnings and profits which would have been attributable under section 1248 and the regulations under that section to the stock of the foreign corporation exchanged if the stock had been sold in a transaction to which section 1248(a) applied.

(e) [Reserved].

(f) *All earnings and profits amounts.* For purposes of asset repatriations covered by §§ 7.367 (b)–5 (b), 7.367 (b)–6 (c), 7.367 (b)–7 (c)(2) and 7.367 (b)–10 (j) of this chapter, the term "all earnings and profits amount" means the net positive earnings and profits, if any, for all taxable years which are attributable to the stock of the foreign corporation exchanged under the principles of section 1246 or 1248 (whichever is applicable) and the regulations under that section. For all other purposes, the term "all earnings and profits amount" means the earnings and profits or deficit in earnings and profits for all taxable years which are attributable to the stock of the foreign corporation exchanged under the principles of section 1246 or 1248 (whichever is applicable) and the regulations under that section. The determination shall be made by applying section 1246 or 1248 as modified by §§ 7.367 (b)–2 through 7.367 (b)–12 of this chapter as if there were no distinction in those sections between earnings and profits accumulated before or after December 31, 1962.

Par. 3. Section 1.367 (b)–7 is added to read as follows:

§ 1.367 (b)–7 Exchange of stock described in section 354.

(a) [Reserved].

(b) [Reserved].

(c) *Receipt of other stock*—(1) *General Rule.* (i) [Reserved].

(ii) If an exchanging foreign corporation receives stock of a domestic corporation, or stock of a foreign corporation which is not a controlled foreign corporation, or stock of a controlled foreign corporation as to which any United States shareholder of the exchanging foreign corporation is not a United States shareholder, then there shall be added to the earnings and profits or deficit of the exchanging foreign corporation the section 1248 (c)(2) amount and the additional earnings and profits amount of the exchanging foreign corporation, computed as if all stock of the corporation whose stock is exchanged is owned by a United States shareholder. The amount added shall not be considered a dividend. Paragraph (c)(1)(iii) of this section, and not this paragraph (c)(1)(ii), applies if the stock received—

(A) Is of a domestic corporation which is a member of an affiliated group (as defined in section 1504(a), without application of section 1504(b)(3)) that also includes the exchanging foreign corporation as a member; and

(B) Is not received in an exchange pursuant to which the foreign corporation whose stock is exchanged transfers its assets to a domestic corporation.

(iii) For exchanges beginning after March 3, 1989, if the stock received is described in the last sentence of paragraph (c)(1)(ii) of this section, then the foreign corporation whose stock is exchanged will be considered to be a foreign corporation for purposes of section 354 or 356. This paragraph (c)(1)(iii) may be illustrated by the following examples:

Example 1. A U.S. parent corporation (USP) owns all of the stock of a foreign corporation (CFC1), which in turn owns all of the stock of a second foreign corporation (CFC2), which in turn owns all of the stock of a third foreign corporation (CFC3). USP also owns all of the stock of a U.S. subsidiary (Subsidiary). CFC2 and CFC3 have accumulated earnings and profits or accumulated deficits in earnings and profits. Subsidiary acquires all of the stock of CFC2 from CFC1 in exchange for stock of Subsidiary in a reorganization described in section 368(a)(1)(B). CFC1 will not recognize gain on the exchange. Moreover, CFC2's and CFC3's accumulated earnings and profits or accumulated deficits in earnings and profits will remain in CFC2 and CFC3, respectively, and will not be added to the earnings and profits or deficits in earnings and profits of CFC1.

Example 2. USP owns all of the stock of CFC1, which in turn owns all of the stock of CFC2. USP also owns all of the stock of a U.S. subsidiary (Subsidiary), which in turn owns all of the stock of CFC3. CFC3 acquires the assets of CFC2 in exchange for voting stock of Subsidiary in a reorganization described in section 368(a)(1)(C). Pursuant to the reorganization, CFC2 distributes the stock of Subsidiary to CFC1. CFC1 will not recognize gain on the exchange. In addition, CFC2's accumulated earnings and profits or accumulated deficits in earnings and profits will be added to CFC3's earnings and profits under section 381(c)(2), subject to the limitations contained in section 381 and in the regulations under that section.

(2) [Reserved].

Par. 4. Section 1.367(b)–8 is added to read as follows:

§ 1.367(b)–8 Transfer of assets by a foreign corporation in an exchange described in section 351.

(a) [Reserved].

(b) [Reserved].

(c) *Transfer of stock in a controlled foreign corporation.* (1) [Reserved].

(2) If the transferor corporation transfers stock in a foreign corporation of which there is a United States shareholder immediately before the exchange, and the transferor receives stock of a domestic corporation, of a foreign corporation which is not a controlled foreign corporation, or of a controlled foreign corporation as to which any United States shareholder of the transferor is not a United States shareholder, paragraph (c)(1)(ii) of § 1.367(b)–7 shall apply. This paragraph (c)(2) may be illustrated by the following examples:

Example 1. A U.S. parent corporation (USP) owns all of the stock of a foreign corporation (CFC1), which in turn owns all of the stock of a second foreign corporation (CFC2). CFC1 and CFC2 have accumulated earnings and profits or accumulated deficits in earnings and profits. CFC1 transfers its CFC2 stock to a newly organized foreign corporation (Newco) that is not a controlled foreign corporation, in an exchange described in section 351(a). CFC1 receives 20 percent of the Newco stock in exchange for its CFC2 stock. Persons unrelated to USP and CFC1 receive the remaining 80 percent of the Newco stock. Pursuant to the first sentence of § 1.367(b)–7 (c)(1)(ii), CFC2's accumulated earnings and profits or accumulated deficits in earnings and profits will be added to CFC1's earnings and profits or deficits in earnings and profits.

Example 2. USP owns all of the stock of CFC1, which in turn owns all of the stock of CFC2. USP also owns all of the stock of a U.S. subsidiary (Subsidiary). Subsidiary has both voting and nonvoting stock outstanding. In a transaction occurring after March 3, 1989, CFC1 transfers its CFC2 stock to Subsidiary in an exchange described in section 351(a). CFC1 receives 80 percent of each class of Subsidiary's stock in exchange for its CFC2 stock. Pursuant to the last sentence of § 1.367(b)–7 (c)(1)(ii), CFC2's accumulated earnings and profits or accumulated deficits in earnings and profits will remain in CFC2, and will not be added to the earnings and profits or deficits in earnings and profits of CFC1.

Par. 5. Section 1.367(b)–9 is added to read as follows:

§ 1.367 (b)–9 Attribution of earnings and profits on an exchange described in section 351, 354, or 356.

(a) [Reserved].

(b) *General Rule.* (1) through (3) [Reserved].

(4) For exchanges beginning on or after March 3, 1989, paragraph (b) (2) and (3) of § 7.367(b)–9 of this chapter will not apply if a U.S. shareholder described in §§ 7.367(b)–7 (b) or 7.367 (b)–8 (c) (1) of this chapter owns (applying the attribution rules of section 958) more than 50 percent of either the total voting power or the total value of the stock of both the corporation whose stock is received in the exchange and the corporation whose stock is exchanged. If this paragraph (b) (4) applies, the rules of section 381 (a) and the regulations under that section will determine the extent to which the corporation whose stock is received in the exchange (or other acquiring corporation) will succeed to the earnings and profits or a deficit in earnings and profits of the corporation whose stock is exchanged and of lower-tier corporations. This paragraph (b) (4) may be illustrated by the following examples:

Example 1. A U.S. parent owns all of the stock of CFC1 and CFC2. CFC1 has accumulated earnings and profits or an accumulated deficit in earnings and profits. CFC2 acquires all of the stock of CFC1 from the U.S. parent in a reorganization described in section 368 (a) (1) (B). CFC2 will not succeed to the earnings and profits or the accumulated deficit in earnings and profits of CFC1.

Example 2. A U.S. parent owns all of the stock of CFC1, which in turn owns all of the stock of CFC2. The U.S. parent also owns all of the stock of CFC3. CFC2 has accumulated earnings and profits or an accumulated deficit in earnings and profits. CFC3 acquires all of the assets of CFC1, including the stock of CFC2, in a reorganization described in section 368(a)(1)(D). CFC3 will not succeed to the earnings and profits or the accumulated deficit in earnings and profits of CFC2.

PART 7—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1976

Par. 6. The authority for part 7 is revised to read as follows:

Authority: 26 U.S.C. 7805, unless otherwise stated.

Section 7.367 (b)–1 also issued under 26 U.S.C. 367 (b).

Section 7.367 (b)–2 also issued under 26 U.S.C. 367 (b).

Section 7.367 (b)–3 also issued under 26 U.S.C. 367 (b).

Section 7.367 (b)–4 also issued under 26 U.S.C. 367 (b).

Section 7.367 (b)–5 also issued under 26 U.S.C. 367 (b).

Section 7.367 (b)–6 also issued under 26 U.S.C. 367 (b).

Section 7.367 (b)–7 also issued under 26 U.S.C. 367 (b).

Section 7.367 (b)–8 also issued under 26 U.S.C. 367 (b).

Section 7.367 (b)–9 also issued under 26 U.S.C. 367 (b).

Section 7.367 (b)–10 also issued under 26 U.S.C. 367 (b).

Section 7.367 (b)–11 also issued under 26 U.S.C. 367 (b).

Section 7.367 (b)–12 also issued under 26 U.S.C. 367 (b).

Section 7.367 (b)–13 also issued under 26 U.S.C. 367 (b).

Par. 7. Section 7.367(b)–2, paragraphs (d) and (f) are revised to read as follows:

§ 7.367 (b)–2 Definitions.

* * * * *

(d) *Section 1248 amount.* See § 1.367 (b)–2 (d) of this chapter.

* * * * *

(f) *All earnings and profits amount.* See § 1.367(b)–2(f) of this chapter.

* * * * *

Par. 8. Section 7.367(b)–7, paragraphs (c) (1) (ii) and (iii) are revised to read as follows:

§ 7.367 (b)–7 Exchange of stock described in section 354.

* * * * *

(c) * * *

(1) * * *

(ii) See § 1.367 (b)–7 (c) (1) (ii) of this chapter.

(iii) See § 1.367 (b)–7 (c) (1) (iii) of this chapter.

* * * * *

Par. 9. Section 7.367(b)–8, paragraph (c) (2) is revised to read as follows:

§ 7.367 (b)–8 Transfer of assets by a foreign corporation in an exchange described in section 351.

* * * * *

(c) * * *

(2) See § 1.367(b)–8(c)(2) of this chapter.

Par. 10. Section 7.367(b)–9, paragraph (b)(4) is revised to read as follows:

§ 7.367 (b)–9 Attribution of earnings and profits on an exchange described in section 351, 354, or 356.

* * * * *

(b) * * *

(4) See § 1.367(b)–9(b)(4) of this chapter.

* * * * *

David G. Blattner,

Acting Commissioner of Internal Revenue.

Approved: January 17, 1992.

Kenneth W. Gideon,

Assistant Secretary of the Treasury.

[FR Doc. 92–4087 Filed 2–25–92; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF EDUCATION

34 CFR Part 600

RIN 1840–AB10

Institutional Eligibility Under the Higher Education Act of 1965, as Amended

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends 34 CFR part 600 to add the Office of Management and Budget (OMB) control number to § 600.30 of the regulations. This section contains information collection requirements approved by OMB. The Secretary takes this action to inform the public that these requirements have been approved.

EFFECTIVE DATE: These regulations are effective on February 26, 1992.

FOR FURTHER INFORMATION CONTACT: Carol F. Sperry, Director, Division of Eligibility and Certification, U.S. Department of Education, 400 Maryland Avenue, SW., room 3030, Regional Office Building 3, Washington, DC 20202. Telephone: (202) 708–4906. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: On July 31, 1991, final regulations for Institutional Eligibility under the Higher Education Act of 1965, as amended, were published in the Federal Register at 56 FR 36682. The effective date of § 600.30 of these regulations was delayed until information collection requirements contained in that section were approved by OMB under the Paperwork Reduction Act of 1980, as amended. OMB has approved the information collection requirements, and that section of the regulations is now effective.

Waiver of Proposed Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)) and the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, the publication of OMB control numbers is purely technical and does not establish substantive policy. Therefore, the Secretary has determined, under 5 U.S.C. 553(b)(B), that proposed rulemaking is unnecessary and contrary to the public interest and that a delayed effective date is not required under 5 U.S.C. 553(d)(3).

List of Subjects in 34 CFR Part 600

Administrative practice and procedure, Colleges and universities, Education, Reporting and recordkeeping requirements, Student aid.

Dated: February 20, 1992.

Lamar Alexander,

Secretary of Education.

The Secretary amends part 600 of title 34 of the Code of Federal Regulations as follows:

PART 600—INSTITUTIONAL ELIGIBILITY UNDER THE HIGHER EDUCATION ACT OF 1965, AS AMENDED

1. The authority citation for part 600 continues to read as follows:

Authority: 20 U.S.C. 1085, 1088, 1094 and 1141, unless otherwise noted.

§ 600.30 [Amended]

2. Section 600.30 is amended by adding the OMB control number at the end of the section to read as follows:

(Approved by the Office of Management and Budget under control number 1840–0098).

[FR Doc. 92–4399 Filed 2–25–92; 8:45 am]

BILLING CODE 4000-01-M

POSTAL SERVICE

39 CFR Part 111

Mailings of Nonidentical-Weight Pieces Paid by Precanceled or Meter Stamps—Documentation Requirements

AGENCY: Postal Service.

ACTION: Interim rule.

SUMMARY: This interim rule adds Domestic Mail Manual (DMM) sections 143.134 through 143.137, and 144.114 through 144.147, to specify the basic requirements for use of precanceled or meter stamps (respectively) on nonidentical-weight pieces or when the denomination does not represent the full and exact postage for the mailpieces to which they are affixed. Generally, these interim regulations specify that if the precanceled or meter stamps used represent an amount other than the full and correct postage applicable to the piece, or are used in mailings of nonidentical-weight pieces, or are used in mailings where pieces qualify for different discounts or rates, the mailer will be required to provide documentation that describes the mailing, the various postage groups, the postage affixed to pieces in each group, and the additional postage due. Concurrent amendments for consistency are also made to DMM sections 382 and 661.

DATES: The interim rule will become effective March 9, 1992. Comments to be considered in formulating the final rule must be received on or before April 16, 1992.

ADDRESSES: Address all comments to the Director, Office of Classification and Rates Administration, U.S. Postal Service, 475 L'Enfant Plaza West, SW., Washington, DC 20260–5360. Copies of all written comments will be available for inspection between 9 a.m. and 4 p.m., Monday through Friday, in room 8430, at the above address.

FOR FURTHER INFORMATION CONTACT: Leo F. Raymond, (202) 268–5199.

SUPPLEMENTARY INFORMATION: When making a mailing at any bulk or presort First-, third-, or fourth-class rate, the mailer must pay postage either through an advance deposit account (permit imprint) or by affixing meter postage or precanceled stamps. Working with the mailing statement and supporting documentation (if any) that accompanies the mail, postal employees examine the mailing, using weight verification when possible, to confirm that the mailer's claim for postage payment is accurate. The Postal Service debits the mailer's advance deposit account to pay for permit imprint mailings, while postage-affixed mailings bear all or part of the correct postage in the form of the meter or precanceled stamp postage previously purchased by the mailer. Additional postage due for postage-affixed mailings is collected at the time of mailing by submission of additional meter or precanceled postage or by debit from an advance deposit account.

Weight verification is used when the mailing consists of identical-weight pieces. An average single-piece weight is computed based on a small sample, and that weight is divided into the net weight (gross less tare) of the whole mailing to determine the total number of mailpieces. This number must match the figure reported by the mailer on the mailing statement; discrepancies must be resolved before the mailing can be released.

Nonidentical-weight pieces cannot be verified by weight verification but rather require comparison of the mail to documentation supplied by the mailer in support of the mailing statement data. Typically, this involves isolation of a definable group of mail (e.g., for a single ZIP Code), counting the number of pieces physically present, subdivided as necessary by presort level or automation feature (such as a barcode), and comparing this to what the mailer claimed. The complexity of producing a large mailing has caused most mailers to use computers to manage address lists, mail presort, and documentation production. As a result, if the software is well-designed and properly employed, the physical production of the mailpiece is well-managed, and the overall mailing system is operated with reasonable quality controls, the data on the documentation supporting the mailing statement and the mailing itself will match exactly.

Mailings of permit imprint mail must be of identical-weight pieces unless a system has been specifically authorized by the Postal Service that includes the internal production controls that ensure accurate and reliable documentation. These "optional procedure" systems (as they were originally called) have evolved in recent years into many new forms, but all essentially do the same thing: allow verification of mail volume and postage through documentation provided by a mailer system in which the Postal Service has been able to gain a level of confidence.

At one time, mailings bearing meter postage typically were pieces that, regardless of weight, bore the correct postage. As meter users (predominantly First-Class mailers) began to produce mailings in which pieces were commingled that were not only of different weights but different levels of postage eligibility, systems were developed by which documentation (not unlike that used for permit imprint mailings) was used to confirm the volume of mail and total postage due. Since most of that postage was already represented in the meter impressions on the mail, the consequence was to compute the additional postage due (i.e., the difference between the total amount already affixed and the actual total). Especially with systems like "Value-Added Refunds," the amount of postage represented in the meter impression on a mailpiece has become increasingly less reliable as an indicator of the rate for which it qualifies and the postage actually paid for it. This makes post-acceptance postage verification nearly impossible and pre-acceptance postage verification (by documentation) critical. Improvements in postage payment system requirements and supporting postal regulations have been directed in recent years toward this purpose, particularly for metered (and, as mentioned above, permit imprint) mailers who represent the overwhelming majority of bulk and presort mail volume.

The use of precanceled stamps was possible for nonidentical-weight mailings as well, and, since these stamps have approximately the same characteristics as meter impressions for postage representation, the problems thus presented for postage verification were similar. Mitigating this problem were two common characteristics: the usual precanceled stamp mailing was relatively small or of identical-weight pieces, and the variety of precanceled stamps was sufficient to provide the necessary denomination for most rates available to the mailer.

However, things change. Precanceled stamps have become more popular as a method of postage payment; mailings (including meter and precanceled stamp mailings) have become more complex in general, often combining pieces of different weight, presort levels, and chances for discount eligibility; and number of possible net rates (including presort, automation, and destination entry discounts) has multiplied; and the number of different denominations of precanceled postage has declined. In early 1990, the Postal Service initially expected that as few as two denominations (5- and 10-cent) would suffice, to be supplemented as necessary by additional postage payment at the time of mailing.

Concurrently, given the circumstantial emphasis placed on documentation and verification of the predominant (permit imprint or meter postage) payment methods, postal systems for postage payment, particularly postal regulations' requirements for documentation, failed to evolve to keep the requirements for precanceled stamps on a par with those of the other two postage payment methods.

Meter users have recently begun to emulate the use of precanceled stamps by affixing an amount of meter postage that is analogous to the value of current denominations of precanceled stamps. Typically, these metered and precanceled stamped pieces, bearing comparable values in postage, are commingled in the same mailing.

The sum of these factors has led to increasingly-common instances in which complex mailings are presented that contain non-identical-weight pieces bearing precanceled stamps, or meter stamps, or both; but, notwithstanding the obvious need for such evidence, no documentation is presented (or required) to support the data on the mailing statement. In turn, this seriously compromises the ability of postal personnel to verify the information on the mailing statement, and represents an ongoing potential revenue loss for the Postal Service.

This interim rule is intended to correct this situation by imposing basic documentation requirements for mailings of non-identical-weight pieces bearing precanceled or meter stamps that are functionally analogous to those for similar mailings paid by permit imprint, or that have already become widely adopted for ZIP + 4 and ZIP + 4 Barcoded rate mailings. The content and specifications for this documentation are relatively simple and straightforward, and require the mailer to report, by ZIP Code, the number of pieces in each rate (discount) category, the additional postage due per piece (i.e., the difference between the applicable rate and the amount affixed), and the total postage due for that group. Further subdivision is required by weight as appropriate to the class of mail when the pieces in the mailing are not of identical weight. Mailers will be required to submit full documentation, including a summary totaling the volume and postage figures previously itemized by ZIP Code, for at least five consecutive mailings. After that time, if the documentation has been found to be consistently reliable and accurate, the entry office postmaster may allow the mailer to submit only the summary data. This reduced obligation, or the submission on summary data in electronic format, may continue so long as the documentation remains accurate.

The Postal Service believes that mailers currently mailing at the ZIP + 4 or ZIP + 4 Barcoded rates, or preparing permit imprint mailings of nonidentical-weight piece, or participating in the "Value-Added Refund" program, may already have the fundamental capability to produce the documentation described in this interim rule. Moreover, the software necessary for mailer systems to implement the requirements of the proposed rule may also be largely available or could be adapted from existing software with relative ease.

The Postal Service is confident of the need for documentation such as that described in this interim rule, and of the need to adopt such a requirement as soon as possible. Bearing that in mind, commenters are requested to address three issues: Whether and how the interim rule needs to be refined to yield better documentation; how it may be amended to simplify the mailer's data management tasks without compromising the integrity or value of the documentation to the Postal Service; and the earliest timeframe in which mailers' systems can be adapted to meet the requirements described in the rule.

Although exempt from the notice and comment provisions of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comments on the following amendments to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR part 111.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

1. The authority citation for part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 5001.

2. Amend the Domestic Mail Manual as follows:

140 Postage

* * * * *

143 PRECANCELED STAMPS

143.1 General

* * * * *

143.13 Use of Precanceled Stamps

* * * * *

143.134 Amount of Postage

a. Exact Amount. The value of the precanceled stamp(s) affixed to each mailpiece in a mailing must be the exact amount due for the piece, based on the applicable rate as reduced by any discounts, except as permitted by 143.134b–c. See 382 and 661.

b. Overpayment. Customers who use precanceled stamps to pay postage must not affix an amount in excess of the legal rate of postage. If that rate cannot be determined by the mailer at the time the postage is affixed (e.g., before presort, automation, or destination entry discounts can be determined), a refund for any overpayment is allowed only as provided by 147.42.

c. Underpayment. Subject to 382 (for First-Class Mail) and 661 (for third-class mail), customers may affix a value of precanceled stamps to each mailpiece to represent either the lowest rate in the mailing or another amount less than the full and correct rate if the mailer provides detailed documentation with the mailing as specified in 143.136 to describe the contents of the mailing and substantiate the additional postage due.

143.135 Nonidentical-Weight Mailpieces

Precanceled stamps may be used for payment of postage on mailings of nonidentical-weight pieces only if the mailer submits detailed documentation with the mailing as specified in 143.136 to describe the contents of the mailing and substantiate the amount of postage paid.

143.136 Documentation

a. General. The documentation described in 143.136b–e must be submitted whenever all pieces in a mailing bearing precanceled postage are not of identical weight or whenever one or more pieces in the mailing bear less postage than required for that piece at the rate (including all applicable discounts) for which it is eligible at the time of mailing.

b. Documentation Required by Other Regulations. Notwithstanding the requirements of this section, the mailer must also submit the documentation required by other applicable regulations. The information that must be provided under this section may be included in documentation required by other regulations (e.g., 364, 382, 560, 628, 661).

c. Content of Documentation. If not provided by the documentation required by other regulations (see 143.136b), the documentation must show for each 5-digit ZIP Code (for that portion of the mailing presorted to 5-digits) and each 3-digit ZIP Code prefix (for that portion of the mailing not sorted to 5-digits) the number of pieces in each rate (discount) category, the additional postage due per piece, and the total postage for that 5- or 3-digit ZIP Code entry. If all pieces in the mailing are not of identical weight, the documentation must subdivide the number of pieces reported for each ZIP Code entry by weight increment (e.g., by 1-ounce increment for First-Class Mail, and by whether subject to the minimum per-piece rate or to piece/pound rates for third-class mail). The report must summarize for the entire mailing the total number of pieces in each rate category (and, within each, as further required for mailings of nonidentical-weight pieces), and the total additional postage due for the mailing.

d. When to Submit. The required documentation must be submitted by the mailer with the corresponding mailing and mailing statement, except as provided by 143.136e.

e. Alternatives. When the mailer has submitted accurate documentation for at least five consecutive mailings, the postmaster of the post office that verifies the documentation may allow the mailer to submit only the summary information required by 143.136c in place of the complete documentation otherwise specified. Mailers may also be authorized by the postmaster to submit the required information on electronic media (e.g., diskette). Permission to use these alternatives may be withdrawn at any time the postmaster determines is necessary to ensure the proper payment of postage.

143.137 Markings and Endorsements

Whether the stamps used by the mailer are precanceled by the mailer as provided by 143.173 or by the Postal Service, each mailpiece bearing precanceled postage must bear markings and endorsements required for the rate claimed or ancillary services requested.

* * * * *

144 POSTAGE METERS AND METER STAMPS

144.1 Postage Meters

144.11 Use of Meter Stamps

* * * * *

144.114 Amount of Postage

a. Exact Amount. The value of the meter stamps affixed to each mailpiece in a mailing must be the exact amount due for the piece, based on the applicable rate as reduced by any discounts, except as permitted by 144.114b–c. See 382 and 661.

b. Overpayment. Customers who use meter stamps to pay postage must not affix an amount in excess of the legal rate of postage. If that rate cannot be determined by the mailer at the time the postage is affixed (e.g., before presort, automation, or destination entry discounts can be determined), a refund for any overpayment is allowed only as provided by 147.42.

c. Underpayment. Subject to 382 (for First-Class Mail) and 661 (for third-class mail), customers may affix a value of meter stamps to each mailpiece to represent either the lowest rate in the mailing or another amount less than the full and correct rate if the mailer provides detailed documentation with the mailing as specified in 144.116 to described the contents of the mailing and substantiate the additional postage due.

144.115 Nonidentical-Weight Mailpieces

Meter stamps may be used for payment of postage on mailings of nonidentical-weight pieces only if the mailer submits detailed documentation with the mailing as specified in 144.116 to describe the contents of the mailing and substantiate the amount of postage paid.

144.116 Documentation

a. General. The documentation described in 144.116b–e must be submitted whenever all pieces in a mailing bearing meter postage are not of identical weight or whenever one or more pieces in the mailing bear less postage than required for that piece at the rate (including all applicable discounts) for which it is eligible at the time of mailing.

b. Documentation Required by Other Regulations. Notwithstanding the requirements of this section, the mailer must also submit the documentation required by other applicable regulations. The information that must be provided under this section may be included in documentation required by other regulations (e.g., 364, 382, 560, 628, 661).

c. Content of Documentation. If not provided by the documentation required by other regulations (see 144.116b), the documentation must show for each 5-digit ZIP Code (for that portion of the mailing presorted to 5-digits) and each 3-digit ZIP Code prefix (for that portion of the mailing not sorted to 5-digits) the number of pieces in each rate (discount) category, the additional postage due per piece, and the total postage for that 5- or 3-digit ZIP Code entry. If all pieces in the mailing are not of identical weight, the documentation must subdivide the number of pieces reported for each ZIP Code entry by weight increment (e.g., by 1-ounce increment for First-Class Mail, and by whether subject to the minimum per-piece rate or to piece/pound rates for third-class mail). The report must summarize for the entire mailing the total number of pieces in each rate category (and, within each, as further required for mailings of nonidentical-weight pieces), and the total additional postage due for the mailing.

d. When to Submit. The required documentation must be submitted by the mailer with the corresponding mailing and mailing statement, except as provided by 144.116e.

e. Alternatives. When the mailer has submitted accurate documentation for at least five consecutive mailings, the postmaster of the post office that verifies the documentation may allow the mailer to submit only the summary information required by 144.116c in place of the complete documentation otherwise specified. Mailers may also be authorized by the postmaster to submit the required information on electronic media (e.g., diskette). Permission to use these alternatives may be withdrawn at any time the postmaster determines is necessary to ensure the proper payment of postage.

144.117 Markings and Endorsements

Each mailpiece bearing meter postage must bear markings and endorsements required for the rate claimed or ancillary services requested.

* * * * *

380 Payment of Postage

381 SINGLE-PIECE RATES

381.1 Method of Payment

[Add to the end of the existing text:] Requirements for use of precanceled or meter stamps are set forth in 143.13 and 144.11, respectively.

* * * * *

382 OTHER THAN SINGLE-PIECE RATES

382.1 Method of Payment

[Add to the end of the existing text:] Requirements for use of precanceled or meter stamps are set forth in 143.13 and 144.11, respectively.

382.2 Exact Postage on Each Piece

* * * * *

382.26 Precanceled or Meter Stamps

Requirements for use of precanceled or meter stamps are set forth in 143.13 and 144.11, respectively.

382.3 Postage at Lowest Rate in the Mailing Affixed to All Pieces in the Mailing

382.31 Identical Pieces

[Redesignate 382.31a–f as 382.311–382.316, respectively, and 382.31d(1)–(3) as 382.314(a)–(c), respectively.]

* * * * *

382.33 Nonidentical pieces at all ZIP + 4 Presort and ZIP + 4 Barcoded Rates

[Redesignate 382.33a–d as 382.331–382.334, respectively, and 382.33b(1)–(3) as 382.332(a)–(c), respectively.]

382.34 Precanceled or Meter Stamps

Requirements for use of precanceled or meter stamps are set forth in 143.13 and 144.11, respectively.

382.4 Neither Lowest Rate Nor Correct Postage Affixed to Each Piece

[Redesignate 382.4a–c as 382.41–382.43, respectively.]

382.44 Precanceled or Meter Stamps

Requirements for use of precanceled or meter stamps are set forth in 143.13 and 144.11, respectively.

* * * * *

660 Payment of Postage

661 METHOD OF PAYMENT

661.1 Single-Piece Mailings

[Add to the end of the existing text:] Requirements for use of precanceled or meter stamps are set forth in 143.13 and 144.11, respectively.

661.2 Bulk Mailings at the Basic Presort, 3/5 Presort, and Carrier Route Presort Rates

661.21 Identical-Weight Pieces

* * * * *

a. Meter Stamps

* * * * *

(4) See 144 for additional information about the use of meter stamps.

b. Precanceled Stamps or Precanceled Stamped Envelopes. [Add to the end of the existing text:] Additional requirements for the use of precanceled stamps are set forth in 143.13.

* * * * *

661.22 Nonidentical-Weight Pieces

661.221 Pound Rates

* * * * *

b. Meter Stamps. [Add at the beginning of the first sentence:] Subject to the requirements of 144.11, * * *

c. Precanceled Stamps. [Add at the beginning of the first sentence:] Subject to the requirements of 143.13. * * *

* * * * *

661.224 Use of Precanceled or Meter Stamps

Requirements for use of precanceled or meter stamps are set forth in 143.13 and 144.11, respectively.

* * * * *

661.3 Bulk Mailings at the Basic ZIP + 4, 3/5 ZIP + 4, and ZIP + 4 Barcoded Rates

* * * * *

661.33 Precanceled Stamps or Precanceled Stamped Envelopes

[Revise the first two sentences as follows:] The requirements described in 661.32 are also generally applicable to mailings paid by precanceled stamp postage. Additional requirements for the use of precanceled stamps are set forth in 143.13. * * *

* * * * *

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if the interim rule is permanently adopted.

Stanley F. Mires,

Assistant General Counsel, Legislative Division.

[FR Doc. 92–4323 Filed 2–25–92; 8:45 am]

BILLING CODE 7710–12–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6924

[CA–940–4214–10; CACA 28927]

Withdrawal of Public Lands for Southern Portion of the Chocolate Mountains Aerial Gunnery Range; CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 135,198 acres of public lands from surface entry and mining for a period of 5 years for the Department of the Navy to protect the southern portion of the Chocolate Mountains Aerial Gunnery Range pending the processing of an Engle Act withdrawal application. The lands have been and will remain open to mineral leasing.

EFFECTIVE DATE: February 26, 1992.

FOR FURTHER INFORMATION CONTACT: Viola Andrade, BLM California State Office, 2800 Cottage Way, room E–2845, Sacramento, California 95825, 916–978–4820.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and

Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Subject to valid existing rights, the following described public lands are hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2 (1988)), but not from leasing under the mineral leasing laws, to protect the lands pending action on an Engle Act withdrawal application:

San Bernardino Meridian

T. 9 S., R. 16 E.,
  Sec. 14, SW¼NE¼, NW¼, and S½;
  Secs. 22, 24, and 26;
  Sec. 28, E½ and E½W½;
  Sec. 34.
T. 9 S., R. 17 E.,
  Sec. 20, S½NW¼SW¼, SW¼SW¼, W½SE¼SW¼, and SE¼SE¼SW¼;
  Sec. 26;
  Sec. 28, NE¼NE¼, S½NE¼, and S½;
  Secs. 30, 32, and 34.
T. 10 S., R. 15 E.,
  Sec. 22, SE¼;
  Secs. 24 and 26;
  Sec. 28, E½ and SW¼;
  Sec. 34.
T. 10 S., R. 16 E.,
  Secs. 2 and 4;
  Sec. 8, NE¼, E½NW¼, SW¼NW¼, and S½;
  Secs. 10, 12, 14, 18, 20, 22, and 24;
  Sec. 25, S½SW¼ and SW¼SE¼.
  Secs. 26, 28, 30, 32, and 34.
T. 10 S., R. 17 E.,
  Secs. 2, 4, 6, 8, 10, 12, 14, 18, 20, 22, 24, 26, 28, 30, 32, and 34.
T. 10 S., R. 18 E.,
  Secs. 6, 8, 18, 20, 22, 26, 28, 30, 32, and 34.
T. 10 S., R. 19 E.,
  Sec. 32.
T. 11 S., R. 15 E.,
  Secs. 2 and 12.
T. 11 S., R. 16 E.,
  Secs. 2, 4, 6, 8, 10, 12, 14, 18, 20, 22, 24, 26, 28, and 34.
T. 11 S., R. 17 E.,
  Secs. 2, 4, 6, 8, 10, 12, 14, 18, 20, 22, 24, 26, 28, 30, 32, and 34.
T. 11 S., R. 18 E.,
  Secs. 2, 4, 6, 8, 10, 12, 14, 18, 20, 22, 24, 26, 28, 30, 32, and 34.
T. 11 S., R. 19 E.,
  Secs. 4, 6, 8, 10, 14, 18, 20, 22, 26, 28, 30, 32 and 34.
T. 12 S., R. 16 E.,
  Secs. 2 and 12.
T. 12 S., R. 17 E.,
  Secs. 2, 4, 6, 8, 10, 12, 13, and 14;
  Sec. 15, S½;
  Sec. 17, S½;
  Secs. 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, and 35.
T. 12 S., R. 18 E.,
  Secs. 2, 4, 6, 8, 10, 12, 13, 14, 15, and 17;
  Secs. 18 to 35, inclusive.
T. 12 S., R. 19 E.,
  Secs. 2, 4, 6, 8, and 10;
  Sec. 15, S½;
  Sec. 17, S½;
  Secs. 18 to 22, inclusive;
  Secs. 27 to 34, inclusive.
T. 13 S., R. 18 E.,
  Secs. 1 to 6, inclusive;
  Sec. 8, E½;
  Secs. 9, 10, and 11.
T. 13 S., R. 19 E.,
  Sec. 5, lots 1 to 10, inclusive;
  Sec. 6, lots 1 to 10, inclusive.

The areas described aggregate 135,198 acres in Imperial County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. The United States Department of the Interior through the Bureau of Land Management retains the right to grant rights-of-way under title V of the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1761) (1988).

4. This withdrawal will expire 5 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1988), the Secretary determines that the withdrawal shall be extended.

Dated: February 18, 1992.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 92-4301 Filed 2-25-92; 8:45 am]

BILLING CODE 4310-40-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89-120; RM-6701, RM-6999, RM-7000, and RM-7001]

FM Radio Broadcasting Services; Northwye, Cuba, Waynesville, Lake Ozark, and Eldon, MO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission grants the request of Herrin Broadcasting, Inc. to allot Channel 274A (102.7 MHz) to Lake Ozark, Missouri as its first local aural service, pursuant to Notice of Proposed Rule Making and Order to Show Cause, 54 FR 26219, June 22, 1989. Channel 274A can be allotted to Lake Ozark in compliance with the Commission's minimum interstation distance separation requirements using a site location restricted to North Latitude 38-05-34 and West Longitude 92-34-18, which is 13.1 kilometers south of the city coordinates for Lake Ozark. The Commission denied the requests of CTC Communications, Inc. to allot Channel 271A (102.1 MHz) to Northwye, Missouri; of Pulaski County Broadcasters, Inc. to upgrade its Station WJPW-FM, Waynesville, Missouri, on Channel 274C3; and of Lake Broadcasting, Inc. to upgrade its Station KBMX(FM), Eldon, Missouri, on Channel 270C1 (101.9 MHz), all of which were mutually exclusive with the proposed Lake Ozark allotment. With this action, the proceeding is terminated.

EFFECTIVE DATE: April 6, 1992; the window period for filing applications for Channel 274A at Lake Ozark, Missouri will open on April 7, 1992 and close on May 7, 1992.

FOR FURTHER INFORMATION CONTACT: J. Bertron Withers, Jr., Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 89-120, adopted February 7, 1992 and released February 20, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1714 21st Street NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Missouri, is amended by adding Channel 274A, Lake Ozark.

Federal Communications Commission.

Andrew J. Rhodes,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-4279 Filed 2-25-92; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 641

Reef Fish Fishery of the Gulf of Mexico

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: NMFS closes the commercial fishery for red snapper in the exclusive economic zone (EEZ) of the Gulf of Mexico. NMFS has projected that the annual commercial quota for red snapper will be reached at noon, local time, February 22, 1992. This closure is necessary to protect the red snapper resource.

EFFECTIVE DATES: Closure is effective 12:01 p.m., local time, February 22, 1992, through December 31, 1992.

FOR FURTHER INFORMATION CONTACT: Robert A. Sadler, 813-893-3161.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico was developed by the Gulf of Mexico Fishery Management Council under the authority of the Magnuson Fishery Conservation and Management Act, and is implemented by regulations at 50 CFR part 641. Those regulations set the commercial quota for red snapper in the Gulf of Mexico at 2.04 million pounds for the current fishing year, January 1—December 31, 1992.

Under 50 CFR 641.26, NMFS is required to close the commercial fishery for a species or species group when the quota for that species or species group is reached, or is projected to be reached, by publishing a notice in the **Federal Register**. Based on current statistics, NMFS has projected that the commercial quota of 2.04 million pounds for red snapper will be reached at noon, local time, February 22, 1992. Accordingly, the commercial fishery in the EEZ in the Gulf of Mexico for red snapper is closed effective 12:01 p.m., local time, February 22, 1992, through December 31, 1992, the end of the fishing year. A vessel with a valid reef fish permit having aboard red snapper must land and barter, trade, or sell such red snapper prior to 12:01 p.m., local time, February 22, 1992.

During the closure, the bag limit applies to all harvests of red snapper from the EEZ in the Gulf of Mexico. The daily bag limit for red snapper is seven per person. From 12:01 p.m., local time, February 22, 1992, through December 31, 1992, the purchase, barter, trade, or sale of red snapper taken from the EEZ is prohibited. This prohibition does not apply to trade in red snapper that were harvested, landed, and bartered, traded, or sold prior to 12:01 p.m., local time, February 22, 1992, and were held in cold storage by a dealer or processor.

Other Matters

This action is required by 50 CFR 641.26 and complies with E.O. 12291.

Authority: 16 U.S.C. 1801 *et seq.*

List of Subjects in 50 CFR Part 641

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: February 20, 1992.

Richard H. Schaefer,

Director of Office of Fisheries, Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92-4352 Filed 2-21-92; 11:21 am]

BILLING CODE 3510-22-M

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50 CFR Part 672

[Docket No. 911176-2018]

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of prohibition of retention.

SUMMARY: NMFS is prohibiting further retention of shortraker/rougheye rockfish (SRRE) by vessels fishing in the Western Regulatory Area of the Gulf of Alaska (GOA) and is requiring that SRRE be treated in the same manner as a prohibited species and discarded. The intent of this action is to promote optimum use of groundfish while conserving SRRE stocks.

EFFECTIVE DATES: 12 noon, Alaska local time, (A.l.t.) February 21, 1992, through 12 midnight, A.l.t., December 31, 1992.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, Resource Management Specialist, NMFS, 907-586-7228.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) governs the groundfish fishery in the exclusive economic zone of the GOA under the Magnuson Fishery Conservation and Management Act. The FMP was prepared by the North Pacific Fishery Management Council and is implemented by regulations appearing at 50 CFR 611.92 and parts 620 and 672.

The amount of a species or species group apportioned to a fishery is the total allowable catch (TAC) as defined at §§ 672.20(a)(2) and 672.20(c)(1). The final notice of 1992 initial specifications of groundfish established the SRRE rockfish TAC in the Western Regulatory Area of the GOA at 100 metric tons (mt) (57 FR 2844, January 24, 1992).

Under § 672.20(c)(3), the Director, Alaska Region, NMFS, has determined that the TAC apportioned to the SRRE fishery in the Western Regulatory Area of the GOA will be reached by February 21, 1992. NMFS is publishing this notice in the **Federal Register**, declaring that SRRE rockfish is to be treated as a prohibited species and discarded under § 672.20(e) by vessels fishing in the Western Regulatory Area of the GOA after 12 noon A.l.t., February 21, 1992, through 12 midnight, A.l.t., December 31, 1992.

Classification

This action is taken under 50 CFR 672.20, and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Recordkeeping and reporting requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 20, 1992.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92-4353 Filed 2-21-92; 11:22 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 57, No. 38
Wednesday, February 26, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL RESERVE SYSTEM

12 CFR Parts 208 and 225

[Regulation H, Regulation Y; Docket No. R-0748]

Capital; Capital Adequacy Guidelines

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed revisions to Capital Adequacy Guidelines.

SUMMARY: The Board is proposing to revise its capital adequacy guidelines for bank holding companies and state member banks to provide explicit guidance on the types of intangible assets that may be included in (i.e., not deducted from) the Tier 1 capital calculation for risk-based and leverage capital purposes. The proposal also includes limits and discounts that would be applicable to those intangibles proposed to be included in capital. The proposal, which was developed in conjunction with the staffs of the four federal financial institutions regulatory agenices, is aimed at achieving greater consistency among the agencies with respect to the capital treatment of intangible assets and is being released for public comment on a coordinated basis with these agencies. In addition, certain aspects of the proposal are intended to implement provisions of the Federal Deposit Insurance Corporation Improvement Act of 1991.

DATES: Comments on the proposed revisions to the Federal Reserve Board's risk-based capital guidelines and leverage capital guidelines should be submitted on or before March 27, 1992.

ADDRESSES: Comments, which should refer to Docket No. R-0748, may be mailed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenues, NW., Washington, DC 20551; or delivered to room B-2223, Eccles Building, between 8:45 a.m. and 5:15 p.m. weekdays. Comments may be inspected in Room B-1122 between 9 a.m. and 5 p.m. weekdays, except as provided in § 261 2.8 of the Board's Rules Regarding Availability of Information, 12 CFR 261.8.

FOR FURTHER INFORMATION CONTACT: Rhoger H Pugh, Manager (202/728-5883), Norah M. Barger, Supervisory Financial Analyst (202/452-2402), Charles H. Holm, Supervisory Financial Analyst (202/452-3502), Division of Banking Supervision and Regulation; and Scott G. Alvarez, Associate General Counsel (202/452-3583), Legal Division. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), Dorothea Thompson (202/452-3544).

SUPPLEMENTARY INFORMATION:

I. Background

The Board is proposing to revise the Federal Reserve's capital adequacy guidelines for bank holding companies and state member banks to provide explicit guidance on the types of intangible assets that may be included in (i.e., not deducted from) the Tier 1 capital calculation for risk-based and leverage capital purposes, and the limits and discounts that would be applicable to such intangibles includable in capital. Under the proposal, purchased mortgage servicing rights ("PMSRs") [1] and purchased credit card relationships ("PCCRs") [2] would be includable in the Tier 1 capital computation provided that, in the aggregate, they do not exceed a limit of 50 percent of Tier 1 capital and provided that PCCRs do not exceed a sublimit of 25 percent of Tier 1. PMSRs and PCCRs in excess of these limits, as well as core deposit intangibles ("CDIs") [3] and all other intangible assets, would be deducted from the sum of the core capital elements in determining Tier 1 capital.

The proposal is based on a tentative agreement regarding the treatment of identifiable intangible assets reached by the staffs of the Federal Reserve, the Federal Deposit Insurance Corporation ("FDIC"), the Office of the Comptroller of the Currency ("OCC"), and the Office of Thrift Supervision ("OTS"). It is being released for public comment on a coordinated basis with these other agencies in order to achieve uniformity among the federal financial institutions regulatory agencies in the capital treatment of these assets in a manner that is consistent with the international capital standards (Basle Accord).[4]

The Basle Accord requires that banks deduct goodwill from their core capital elements in determining Tier 1 capital for risk-based capital purposes.[5] The

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[1] PMSRs are identifiable intangible assets associated with the right to service mortgage loans. PMSRs generally arise when an institution purchases such rights from another entity that originated the mortgage loans. An organization that acquires PMSRs has the obligation to collect principal and interest payments, and escrow amounts from the mortgagor, and insure that all amounts collected are passed on to the appropriate parties. In return for performing these functions, the servicer receives a fee, which is generally based on the remaining principal amount due on the mortgages being serviced.

[2] PCCRs are identifiable intangible assets asssocated with the right to provide future advances and other services to credit cardholders under credit card arrangements that have been originated by, and purchased from, another entity. PCCRs generally arise when a credit card portfolio is bought and the purchaser acquires the current advances outstanding under the credit card arrangements, which are tangible assets, as well as the right to provide future services to the cardholders, which is an intangible asset. The value of PCCRs derives from the anticipated profit the purchaser will earn from interest on future advances and from fees charged for other future credit card-related services, after covering expenses and other operating costs, such as credit losses.

[3] CDIs are identifiable intangible assets associated with the value of the relatively low cost funding afforded by core depositor relationships (that is, certain nonbrokered retail deposits) acquired from another depository institution. CDIs generally arise when an organization purchases another depository institution or some of its branches and assumes the related deposit liabilities. The value of CDIs is based upon the assumption that the lower cost source of funds provided by core depositor relationships will continue to be available to the acquiring institution for a period of time after the acquisition.

[4] The Basle Accord is a risk-based capital framework that was proposed by the Basle Committee on Banking Regulations and Supervisory Practices and endorsed by the central bank governors of the Group of Ten (G-10) countries in July 1988. The Committee is comprised of representatives of the central banks and supervisory authorities from the G-10 countries (Belgium, Canada, France, Germany, Italy, Japan, Netherlands, Sweden, Switzerland, the United Kingdom, and the United States) and Luxembourg

[5] The risk-based capital guidelines utilize the ratio of a banking organization's Tier 1 capital and Tier 2 capital to the organization's total on-balance sheet assets and off-balance sheet credit arrangements, adjusted for their relative risks. Tier 1 capital is composed of core capital elements such as common equity and qualifying perpetual preferred stock, while Tier 2 capital is composed of supplementary capital elements such as the allowance for loan and lease losses and subordinated debt.

Basle framework, which by its terms applies only to internationally active banks, was adopted by the Federal Reserve for all state member banks. The Board also chose to apply, generally on a consolidated basis, a risk-based capital framework similar to the Basle Accord to U.S. bank holding companies.[6] Under this framework, bank holding companies are also required to deduct goodwill from Tier 1 capital. Furthermore, the Board has adopted a leverage capital standard for state member banks and bank holding companies.[7] Since Tier 1 capital serves as the numerator of the leverage ratio, goodwill also is deducted from the core capital elements for purposes of the leverage standard.

The Basle Accord does not address the treatment of identifiable intangible assets, that is, intangible assets other than goodwill. Consequently, under the Basle framework, U.S. bank regulators have discretion in specifying the treatment of these other intangible assets. The basic approach taken by the Federal Reserve and the other U.S. federal financial institutions regulatory agencies in determining the treatment of identifiable intangible assets has been to evaluate them on the basis of the following criteria:

1. The reliability and predictability of any cash flows associated with the asset and the degree of certainty that can be achieved in periodically determining the asset's useful life and value;
2. The marketability of the asset, i.e., the existence of an active and liquid market; and
3. The salability of the asset, i.e., the feasibility of selling the asset apart from the financial institution or from the bulk of its assets.

All the agencies have determined that PMSRs generally meet these criteria and all allow such assets to be included in Tier 1 capital, subject to certain limits. The agencies currently differ on the extent to which other intangibles meet the criteria, and each follows somewhat different procedures regarding their treatment.

The FDIC and OCC fully deduct all intangibles other than PMSRs from Tier 1 capital. The Federal Reserve does not automatically deduct any identifiable intangible asset from Tier 1 capital, but determines the appropriateness of their inclusion in the calculation of an organization's capital position on a case-by-case basis: The Board has long considered the level and quality of identifiable intangible assets in assessing the capital adequacy and overall asset quality of banking institutions since even those intangible assets that meet the above criteria usually contain a relatively high degree of risk. The OTS has concluded that, at least in some cases, certain other identifiable intangible assets (e.g., CDIs) may met the three criteria and, therefore, has not required the deduction of some of these other identifiable intangible assets in calculating capital ratios.

All the agencies specify limits for the amount of intangibles that institutions can include in capital. The OCC permits PMSRs to account for up to 25 percent of Tier 1 capital. The OTS permits PMSRs to be included up to 50 percent of Tier 1 capital, and other qualifying intangibles (e.g., CDIs) are limited to 25 percent of Tier 1 capital. The FDIC permits PMSRs up to 50 percent of Tier 1 capital. Both the OTS and the FDIC impose certain valuation and discounting requirements on PMSRs included in capital. The Board's current risk-based capital guidelines indicated that while all intangible assets will be monitored, identifiable intangible assets in excess of 25 percent of Tier 1 capital are subject to particularly close scrutiny.

For some time, the agencies have been reviewing the capital treatment of identifiable intangible assets with the aim of developing greater uniformity among the agencies in the treatment of these assets for capital adequacy purposes. On the basis of this review, the Board is now proposing to issue for public comment revisions to its capital adequacy guidelines to provide explicit guidance on the types of intangible assets that may be included in capital, namely PMSRs and PCCRs, as well as specifications for appropriate limits on the amount of such assets that may be included within capital. The proposed revisions are based on a tentative agreement reached by the staffs of the four federal financial institutions supervisory agencies with respect to the regulatory capital treatment of intangible assets.

To the extent that PMSRs are determined to be includable in Tier 1 capital, the Federal Reserve is also proposing that these intangible assets be subject to certain valuation requirements that are consistent with provisions of the FDIC Improvement Act of 1991. In that regard, section 475 of the Act provides that the federal banking agencies determine the amount of PMSRs includable in the calculation of an institution's capital, if such servicing rights are valued at not more than 90 percent of their fair market value, and are reviewed at least on a quarterly basis. In addition, the Federal Reserve is proposing that institutions determine the fair market value and book value of PMSRs includable in capital in accordance with criteria already set forth in the current FDIC and OTS rules regarding these intangible assets. Since the calculation of the fair market value for PCCRs is at least as subjective as it is for PMSRs, the Federal Reserve is also proposing that PCCRs be subject to the same valuation requirements as PMSRs.

The proposed changes in the capital treatment of intangible assets would be incorporated into the capital ratios used for both examinations and applications purposes. Consistent with the Board's existing capital guidelines, however, the Board, may in certain cases, continue to evaluate an organization's tangible capital ratios (after deducting all intangibles) in assessing its overall capital adequacy, if warranted in the judgment of the Board.

II. Proposal

The Board is proposing the following treatment for identifiable intangible assets for purposes of the risk-based and leverage capital guidelines:

1. PMSRs and PCCRs would be considered qualifying intangible assets. As such, they would not have to be deducted from capital provided that, in the aggregate, they do not exceed 50 percent of Tier 1 capital and provided that PCCRs do not exceed a sublimit of 25 percent of Tier 1 capital. PMSRs and PCCRs in excess of these limits would be deducted from the core capital elements in determining Tier 1 capital.[8]

2. The limits on PMSRs and PCCRs would be based on a percentage of Tier 1 capital before excess holdings of these assets are deducted, but after goodwill and all other nonqualifying identifiable intangible assets (e.g., CDIs) are deducted.

3. Institutions would be required to determine the fair market value and to review the book value of their PMSRs and PCCRs at least quarterly. Banking organizations that wish to include these assets in capital would not be able to carry them for regulatory reporting

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[6] For bank holding companies with consolidated assets of less than $150 million, the risk-based capital guidelines generally are applied on a bank-only basis.

[7] The leverage capital guidelines utilize a ratio of the banking organization's Tier 1 capital elements to its total on-balance sheet assets.

[8] PMSRs and PCCRs that are included in (that is, are not deducted from) capital would be included in the calculation of total risk-weighted assets at a risk weight of 100 percent for risk-based capital purposes and would be included in total average assets for leverage capital purposes. PMSRs and PCCRs that are not included in (that is, are deducted from) capital would not be included in the calculation of total risk-weighted assets for risk-based capital purposes and would be deducted from total average assets for leverage capital purposes.

purposes at a book value that exceeds the discounted value of their estimated future net cash flows.

4. For purposes of calculating Tier 1 capital, the amount of PMSRs and PCCRs an organization could include in capital could not exceed the lesser of 90 percent of the fair market value of the assets, 90 percent of their original purchase price, or 100 percent of their remaining unamortized book value.

5. CDIs and all other identifiable intangible assets would be deducted from the core capital elements for purposes of calculating an institution's Tier 1 capital, just as goodwill, in accordance with the Basle Accord, is deducted.[9]

Including and Limiting PMSRs and PCCRs Within Capital

The Board believes that PMSRs and PCCRs for the most part meet the three criteria the agencies use to evaluate identifiable intangible assets, as outlined in the previous section. Thus, provided that these assets do not exceed specified limits, they generally would not be deducted for purposes of calculating the risk-based and leverage capital ratios.

With regard to the two criteria that pertain to the marketability and salability of intangible assets, the Board believes that markets exist for PMSRs and PCCRs that permit their sale within a relatively short period of time apart from the sale of the banking organization or the bulk of its assets. The Board, however, is proposing to limit the amount of PMSRs and PCCRs includable in capital because of the characteristics of these assets and of the markets in which they are traded.

The market value estimate of PMSRs is based in important part upon expectations about the rate at which the underlying mortgages will prepay. Unexpected and relatively sharp changes in the level of interest rates can cause actual prepayment rates to differ substantially from projected prepayment rates. As a consequence, cash flows generated by PMSRs can vary unpredictably which, in turn, can cause the market value of these assets to change sharply. For example, if interest rates fall to a lower level than expected, a higher than anticipated number of mortgagors may pay off their mortgages in order to refinance their properties at a lower interest rate. When a mortgage is paid off early, the previously anticipated cash flows will no longer be received, and so the servicing right associated with that mortgage becomes valueless. Consequently, if the actual prepayment rate exceeds the expected prepayment rate for a pool of mortgages, the cash flow received from servicing those mortgages and, thus, the market value of the PMSRs associated with that pool, can be greatly reduced. Conversely, if interest rates increase more than anticipated, there may be fewer prepayments than were originally projected. In this case, the related PMSRs may generate greater cash flows than were foreseen at the time of purchase and their value may increase.

The cash flows and values of PMSRs are also affected by the credit quality and operating risks associated with these assets. The servicer is generally obligated to provide a steady cash flow to the owner of the mortgage and undertake normal collection efforts and foreclosure. The costs of fulfilling these obligations when a mortgage becomes delinquent can cause a significant increase in the servicer's collection and administrative expenses, narrowing profit margins. In addition, under some arrangements, known as "recourse" servicing arrangements, the institution that has acquired the PMSRs not only services the loans, but also guarantees their repayment. Such arrangements introduce another level of complexity and uncertainty to the valuation of PMSRs.

The values and cash flows associated with PCCRs, like those associated with PMSRs, are affected by changes in interest rates and credit quality factors. The value and cash flows also can be significantly affected by the amount of future borrowings under credit card lines of credit; the attrition rate (i.e., the rate at which credit cardholders terminate their relationships), which can be accelerated if the bank fails to offer competitive terms and features; and other factors.

The markets for PMSRs and PCCRs are far from perfect. The market for PMSRs is more active and liquid than for PCCRs, but neither approaches a trading volume necessary to qualify as liquid markets. This is reflected in the relatively wide bid/ask spreads quoted by the firms that make markets in PMSRs. Trading in the market for PCCRs is even more infrequent and transactions are customized so that readily available bid/ask quotes are not obtainable. It is possible to sell both types of assets without the delays characteristic of highly imperfect markets, but sales, particularly for PCCRs can take some time and, setting aside potential fluctuations in interest rate or other changes that affect the quality of these assets, there is, given the imperfection of the market, a considerable range of uncertainty concerning the price at which a transaction will occur.

Given the volatility of the cash flows and market values associated with PMSRs and PCCRs, the Board is proposing that the aggregate amount of such assets includable in capital be limited to 50 percent of Tier 1 capital. Furthermore, since estimating the value of PCCRs involves even more assumptions than are required to estimate the value of PMSRs, and the market for PCCRs is less mature and less liquid than the market for PMSRs, the Board is proposing that PCCRs be subject to a separate sublimit of 25 percent of Tier 1 capital. During the period in which this proposal is out for public comment, the Board believes that it would be inadvisable for a banking organization to acquire intangible assets in an amount that would cause its total holdings of identifiable intangible assets, including PMSRs and PCCRs, to exceed 25 percent of Tier 1 capital.

In order to provide for a simple method of calculating these limits, the Board is proposing that the limits be based on a percentage of Tier 1 capital before excess holdings of these assets are deducted, that is, the sum of core capital elements (e.g., common equity and qualifying perpetual preferred stock) less goodwill and other nonqualifying intangible assets. This method of calculation, however, could result in the inclusion in capital of PMSRs and PCCRs in an amount greater than 50 percent, and of PCCRs in an amount greater than 25 percent, of Tier 1 capital net of goodwill, other nonqualifying intangible assets, and deductible amounts of PMSRs and PCCRs. Thus, it would be possible for an institution to report positive Tier 1 capital even though its PMSRs and PCCRs exceed the sum of its core capital elements. Accordingly, the Board is proposing to add cautionary language to its capital adequacy guidelines regarding excessive holdings of intangible assets included in capital, which may be viewed as an unsafe and unsound practice.

Valuation of PMSRs and PCCRs

Section 475 of the FDIC Improvement Act of 1991 provides that the federal banking agencies shall determine the amount of PMSRs includable in the calculation of an institution's capital, if such servicing rights are valued at not more than 90 percent of their fair market value, and reviewed at least on a quarterly basis. At present, the FDIC and OTS rules regarding PMSRs require institutions to determine the fair market value of these assets by applying an appropriate market discount rate to the net servicing cash flows, taking into account any significant changes in original valuation assumptions such as prepayment estimates. The FDIC and OTS rules also contain certain requirements with regard to the determination of the book value of PMSRs, which is to be reviewed quarterly. Under these rules, if an institution wishes to include PMSRs assets in regulatory capital, the book value of these assets may not exceed the discounted amount of their estimated future net servicing income.

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[9] Like goodwill, CDIs and all other intangible assets not includable in capital would not be included in the calculation of total risk-weighted assets for risk-based capital purposes and would be deducted from average total assets for leverage capital purposes.

In order to implement section 475 and in the interest of achieving consistency in the treatment of intangible assets among the agencies, the Board is proposing to require institutions to determine the fair market value and the book value of PMSRs included in capital at least quarterly in accordance with the criteria established by the FDIC and the OTS in their rules regarding PMSRs. If an institution wishes to include such assets in capital, the amount of these assets carried on the balance sheet for regulatory reporting purposes may not exceed the discounted amount of their estimated future net cash flows. The discount rate used for the calculation of book value should not be less than that derived at the time of acquisition, based upon the estimated net cash flows and the price paid for the asset at the time of purchase.

In addition, and consistent with the provisions of section 475, the Board is proposing to use the discounting approach currently employed by the FDIC and the OTS for state nonmember banks and savings associations. Under this approach, for purposes of calculating Tier 1 capital, the amount of PMSRs and PCCRs that an institution could include in capital would be the lesser of:

(i) 90 percent of their fair market value; or

(ii) 90 percent of the original purchase price paid for the assets; or

(iii) 100 percent of their remaining unamortized book value. If both the application of the limit on PMSRs and the adjustment of the balance sheet asset for PMSRs would result in an amount being deducted from capital, the banking organization would deduct only the greater of the two amounts from the sum of its core capital elements in determining Tier 1 capital.

As indicated earlier, the calculation of the fair market value for PCCRs is considered to be at least as subjective as the related calculation is for PMSRs. Consequently, the Board believes the valuation of PCCRs should be subject to the same requirements as those proposed for PMSRs and that these assets should also be discounted. In order to maintain consistency in the valuation of identifiable intangibles included in capital, the Board is proposing that organizations be required to determine the fair market and book value of their PCCRs at least quarterly, using the same criteria as those proposed for PMSRs, and to subject these assets to a value adjustment identical to that proposed for PMSRs.

Deduction of CDIs

The proposal would require a full deduction of other identifiable intangible assets, including CDIs, from Tier 1 capital, which is the same treatment as that accorded to goodwill. This treatment reflects the Board's general conclusion that CDIs have many of the same characteristics as goodwill, which the Basle Accord requires to be deducted from capital.

Although CDIs have value when an organization is financially strong, their value tends to fall significantly when the organization experiences financial difficulty. Depositors who are concerned about the viability of a problem institution are more likely to withdraw their funds, thus diminishing core deposits and the value of the related intangible asset. Moreover, a troubled institution may be required to raise the interest rates on its core deposits along with other sources of funds in order to retain depositors, which in turn can also reduce the value of CDIs. Thus, CDIs provide little protection for an institution in times of stress or for the bank insurance fund if the institution fails. This lack of protection has been evident in closed and assisted transactions handled by the FDIC and the Resolution Trust Corporation ("RTC") where the amount of the premium received on deposit transfer transactions is typically very low.

Moreover, CDIs generally are not purchased apart from the acquisition of a depository institution or one or more branches of a depository institution. Accordingly, CDIs are generally more closely tied to an institution's operations than are its other assets, including the intangibles the Board is proposing to include in capital on a limited basis. This consideration is particularly relevant for an institution experiencing difficulties. When CDIs are sold, of necessity deposit balances must be assumed in connection with the acquisition of deposit account relationships and assets of an amount essentially equivalent to the sum of the deposit balances assumed must be passed to the purchaser. The acquiror ordinarily is only willing to accept high quality assets. Thus, an institution experiencing problems would, if it wished to sell its CDIs, have to give up high quality, relatively liquid assets at a time at which it could be vulnerable to liquidity pressures. In short, CDIs have clear shortcomings relative even to the other identifiable intangible assets, which are proposed to be counted in capital on a limited basis. Furthermore, CDIs are often acquired in a merger along with goodwill. Thus, if CDIs were not deducted from capital, institutions would have an incentive to assign higher amounts of the acquisition cost to CDIs rather than to goodwill.

Active and liquid markets do not exist for CDIs. As a result, their value is derived on the basis of many highly subjective assumptions, which may be difficult for examiners to assess. Such assumptions include the length of time acquired deposits may remain with the acquiring organization, the expected future interest rate on funds generated by the deposits or on alternative sources of funds, and the expected future interest rate and servicing costs on the core deposits.

The Board has not determined that other identifiable intangibles meet the three criteria discussed above that the Board uses to evaluate intangible costs. Accordingly, the Board is proposing to deducted all intangible assets other than PMSRs and PCCRs from Tier 1 for purposes of calculating risk-based and leverage capital ratios.

Questions for Comment

While the Board is seeking public comment on all aspects of its proposal on the capital treatment of identifiable intangible assets, it seeks specific comment on the following questions.

(1) Taking into account the provisions of section 475 of the FDIC Improvement Act of 1991, as well as the current requirements of the FDIC and the OTS with regard to the treatment of these intangible assets proposed to be included in capital, are the approaches proposed for the valuation and discounting of PMSRs and PCCRs appropriate? For example, could a more accurate fair market value for PMSRs and PCCRs be determined by reviewing the prices at which similar assets have sold recently in the market rather than by using the present value of their cash flows as proposed?

(2) How has the large level of mortgage refinancings that have occurred recently affected the market for, and values of, PMSRs? In this regard, commenters are encouraged to provide general market information on PMSRs, as well as other identifiable intangible assets, including the amount of such assets sold and changes in their market value.

(3) Commenters are also encouraged to provide information on the reasons for which banking organizations buy PMSRs, such as for servicing income or for interest rate risk management. Comments are also requested on whether it would be appropriate to limit a banking organization's involvement in PMSRs in relation to its demonstrated ability to incorporate the associated prepayment risk within the organization's overall interest rate risk management system.

(4) Although the proposal does not address the capital treatment of excess servicing rights, these assets carry many of the same risks as PMSRs. Comment therefore is requested on how excess servicing rights should be treated for capital purposes and whether they should be subject to the same limitations as PMSRs.

III. Regulatory Flexibility Act Analysis

The Federal Reserve Board does not believe adoption of this proposal would have a significant economic impact on a substantial number of small entities (in this case, small banking organizations), in accord with the spirit and purposes of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). In this regard, the vast majority of small banking organizations have very limited amounts of identifiable intangible assets, which are the subject of this proposal, as a component of their capital structures. In addition, because the risk-based and leverage capital guidelines generally do not apply to bank holding companies with consolidated assets of less than $150 million, this proposal will not affect such companies.

List of Subjects

12 CFR Part 208

Accounting, Agricultural loan losses, Applications, Appraisals, Banks, Banking, Branches, Capital adequacy, Confidential business information, Currency, Dividend payments, Federal Reserve System, Flood insurance, Publication of reports of condition, Reporting and recordkeeping requirements, Securities, State member banks.

12 CFR Part 225

Administrative practice and procedure, Appraisals, Banks, banking, Capital adequacy, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities, State member banks.

For the reasons set forth in this notice, and pursuant to the Board's authority under section 5(b) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(b)), and section 910 of the International Lending Supervision Act of 1983 (12 U.S.C. 3909), the Board is amending 12 CFR parts 208 and 225 to read as follows:

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM

1. The authority citation for part 208 continues to read as follows:

Authority: Sections 9, 11(a), 11(c), 19, 21, 25, and 25(a) of the Federal Reserve Act, as amended (12 U.S.C. 321–338, 248(a), 248(c), 461, 481–486, 601, and 611, respectively); sections 4 and 13(j) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1814 and 1823(j), respectively); section 7(a) of the International Banking Act of 1978 (12 U.S.C. 3105); sections 907–910 of the International Lending Supervision Act of 1983 (12 U.S.C. 3906–3909); sections 2, 12(b), 12(g), 12(i), 15B(c)(5), 17, 17A, and 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78b, 78*l*(b), 78*l*(g), 78*l*(i), 78o-4(c)(5), 78q, 78q-1, and 78w, respectively); section 5155 of the Revised Statutes (12 U.S.C. 36) as amended by the McFadden Act of 1927; and sections 1101–1122 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3310 and 3331–3351).

2. Appendix A to part 208 is amended by removing the first three paragraphs of II.B.1.b. and replacing them with seven new paragraphs, to read as follows:

Appendix A to Part 208—Capital Adequacy Guidelines for State Member Banks: Risk-Based Measure

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II. * * *

A. * * *

B. * * *

1. a. * * *

b. *Other intangible assets.* In determining the appropriateness of including particular types of intangible assets other than goodwill, that is, identifiable intangible assets, in a bank's capital calculation, the Federal Reserve considers a number of factors, including—

(1) the degree to which the intangible asset has a readily identifiable, predictable, and reliable stream of cash flows and the degree of certainty that the asset will hold this market value notwithstanding the future prospects of the bank;

(2) the existence of an active and liquid market for the intangible asset; and

(3) the ability to sell the intangible asset separate and apart from the bank or from the bulk of the bank's assets.

The Federal Reserve has determined that readily marketable purchased mortgage servicing rights and purchased credit card relationships generally meet these three criteria and, thus, may be included in (that is, not deducted from) a bank's capital, provided that, in the aggregate, the total amount of these assets included in capital does not exceed 50 percent of tier 1 capital. Purchased credit card relationships are subject to a separate sublimit of 25 percent of tier 1 capital. Amounts of purchased mortgage servicing rights and purchased credit card relationships in excess of these limitations, as well as all other identifiable intangible assets, including core deposit intangibles and favorable leaseholds, are to be deducted from a bank's core capital elements in determining tier 1 capital.

For purposes of calculating these limitations, tier 1 capital is defined as the sum of core capital elements, net of goodwill and all identifiable intangible assets other than purchased mortgage servicing rights and purchased credit card relationships. This method of calculation could result in the inclusion in capital of purchased mortgage servicing rights and purchased credit card relationships in an amount greater than 50 percent, and of purchased credit card relationships in an amount greater than 25 percent, of the amount of tier 1 capital used to calculate an institution's capital ratios. In such instances, the Federal Reserve may determine that a bank is operating in an unsafe and unsound manner because of overreliance on intangible assets in tier 1 capital.

Banks must determine the fair market value of intangible assets included in tier 1 capital at least quarterly. The quarterly determination of the fair market value of these intangible assets shall include adjustments for any significant changes in original valuation assumptions, including changes in prepayment estimates or account attrition rates. The valuation shall be based on an analysis of the current fair market value of the intangible assets, determined by applying an appropriate market discount rate to the expected net cash flows.

Banks must review the book value of intangible assets included in tier 1 capital at least quarterly and make adjustments to these values as necessary. If a bank wishes to include these intangible assets in tier 1 capital, the amount of these assets carried on the balance sheet for regulatory reporting purposes may not exceed the discounted amount of their estimated future net cash flows. At no time should the discount rate used for this calculation be less than that derived at the time of acquisition, based upon the estimated future net cash flows and the original purchase price paid for the asset at the time of purchase. If unanticipated prepayments, account attrition, or other events occur that would reduce the amount of expected future net cash flows from the asset, a writedown of the book value of the

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intangible asset should be made to the extent that the discounted amount of future net cash flows is less than the asset's carrying amount. Examiners will review both the book value and the fair market value assigned to these assets, together with supporting documentation, during the examination process.

While a bank that wishes to include purchased mortgage servicing rights and purchased credit card relationships in capital must carry them at a book value that does not exceed the discounted amount of their estimated future net cash flows, for purposes of calculating tier 1 capital, the amount of these assets that may be included in capital shall be the lesser of:

(1) 90 percent of their fair market value, as determined in accordance with this section;

(2) 90 percent of the original purchase price paid for the assets; or

(3) 100 percent of their remaining unamortized book value, as determined in accordance with this section.

If both the application of the limits on purchased mortgage servicing rights and purchased credit card relationships and the adjustment of the balance sheet amount for these intangibles would result in an amount being deducted from capital, the bank would deduct only the greater of the two amounts from its core capital elements in determining tier 1 capital.

Whenever necessary—in particular, when assessing applications to expand or to engage in other activities that could entail unusual or higher-than-normal risks—the Board will, on a case-by-case basis, continue to consider the level of an individual bank's tangible capital ratios (after deducting all intangible assets), together with the quality and value of the bank's tangible and intangible assets, in making an overall assessment of capital adequacy.

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2. Appendix B to part 208 is amended by revising footnote 2 and revising the last sentence of the second paragraph in II., to read as follows:

Appendix B to Part 208—Capital Adequacy Guidelines for State Member Banks: Tier 1 Leverage Measure

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[2] At the end of 1992, Tier 1 capital for state member banks includes common equity, minority interests in the equity accounts of consolidated subsidiaries, and qualifying noncumulative perpetual preferred stock. In addition, Tier 1 capital excludes goodwill; amounts of purchased mortgage servicing rights and purchased credit card relationships that, in the aggregate exceed 50 percent of Tier 1 capital; amounts of purchased credit card relationships that exceed 25 percent of Tier 1 capital; and all other intangible assets. The Federal Reserve may exclude certain investments in subsidiaries or associated companies as appropriate.

* * * * *

II. * * *

* * * Average total consolidated assets are defined as the quarterly average total assets (defined net of the allowance for loan and lease losses) reported on the bank's Reports of Condition and Income ("Call Report"), less goodwill; amounts of purchased mortgage servicing rights and purchased credit card relationships that, in the aggregate, are in excess of 50 percent of Tier 1 capital; amounts of purchased credit card relationships in excess of 25 percent of Tier 1 capital; all other intangible assets; and any investments in subsidiaries or associated companies that the Federal Reserve determines should be deducted from Tier 1 capital.[3]

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PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

1. The authority citation for part 225 continues to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1831i, 1843(c)(8), 1844(b), 3106, 3108, 3907, 3909, 3310, and 3331–3351.

2. Appendix A to part 225 is amended by removing the first three paragraphs of II.B.1.b. and replacing them with seven new paragraphs, to read as follows:

Appendix A to Part 225—Capital Adequacy Guidelines for Bank Holding Companies: Risk-Based Measure

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II. * * *

A. * * *

B. * * *

1.a. * * *

b. *Other intangible assets.* In determining the appropriateness of including particular types of intangible assets other than goodwill, that is, identifiable intangible assets, in a bank holding company's capital calculation, the Federal Reserve considers a number of factors, including—

(1) the degree to which the intangible asset has a readily identifiable, predictable, and reliable stream of cash flows and the degree of certainty that the asset will hold this market value notwithstanding the future prospects of the banking organization;

(2) the existence of an active and liquid market for the intangible asset; and

(3) the ability to sell the intangible asset separate and apart from the banking organization or from the bulk of the organization's assets.

The Federal Reserve has determined that readily marketable purchased mortgage servicing rights and purchased credit card relationships generally meet these three criteria and, thus, may be included in (that is, not deducted from) a bank holding company's capital, provided that, in the aggregate, the total amount of these assets included in capital does not exceed 50 percent of tier 1 capital. Purchased credit card relationships are subject to a separate sublimit of 25 percent of tier 1 capital. Amounts of purchased mortgage servicing rights and purchased credit card relationships in excess of these limitations, as well as all other identifiable intangible assets, including core deposit intangibles and favorable leaseholds, are to be deducted from a banking organization's core capital elements in determining tier 1 capital.

For purposes of calculating these limitations, tier 1 capital is defined as the sum of core capital elements, net of goodwill and all identifiable intangible assets other than purchased mortgage servicing rights and purchased credit card relationships. This method of calculation could result in the inclusion in capital of purchased mortgage servicing rights and purchased credit card relationships in an amount greater than 50 percent, and of purchased credit card relationships in an amount greater than 25 percent, of the amount of tier 1 capital used to calculate a banking organization's capital ratios. In such instances, the Federal reserve may determine that a banking organization is operating in an unsafe and unsound manner because or overreliance on intangible assets in tier 1 capital.

Banking organizations must determine the fair market value of intangible assets included in tier 1 capital at least quarterly. The quarterly determination of the fair market value of these intangible assets shall include adjustments for any significant changes in original valuation assumptions, including changes in prepayment estimates or account attrition rates. The valuation shall be based on an analysis of the current fair market value of the intangible assets, determined by applying an appropriate market discount rate to the expected net cash flows.

Banking organizations must review the book value of intangible assets included in tier 1 capital at least quarterly and make adjustments to these values as necessary. If a banking organization wishes to include these intangible assets in tier 1 capital, the amount of these assets carried on the balance sheet for regulatory reporting purposes may not exceed the discounted amount of their estimated future net cash flows. At no time should the discount rate used for this calculation be less than that derived at the time of acquisition, based upon the estimated future net cash flows and the original purchase price paid for the asset at the time of purchase. If unanticipated prepayments, account attrition, or other events occur that would reduce the amount of expected future net cash flows from the asset, a writedown of the book value of the intangible asset should be made to the extent that the discounted amount of future net cash flows is less than the asset's carrying amount. Examiners will review both the book value and the fair market value assigned to these assets, together with supporting documentation, during the inspection process.

While a banking organization that wishes to include purchased mortgage servicing rights and purchased credit card relationships in capital must carry them at a book value that does not exceed the discounted amount of their estimated future net cash flows, for purposes of calculating tier 1 capital, the amount of these assets that may be included in capital shall be the lesser of:

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[3] Deductions from Tier 1 capital and other adjustments are discussed more fully in section II.B. of Appendix A to this Part.

(1) 90 percent of their fair market value, as determined in accordance with this section;

(2) 90 percent of the original purchase price paid for the assets; or

(3) 100 percent of their remaining unamortized book value, as determined in accordance with this section.

If both the application of the limits on purchased mortgage servicing rights and purchased credit card relationships and the adjustment of the balance sheet amount for these intangibles would result in an amount being deducted from capital, the banking organization would deduct only the greater of the two amounts from its core capital elements in determining tier 1 capital.

Whenever necessary—in particular, when assessing applications to expand or to engage in other activities that could entail unusual or higher-than-normal risks—the Board will, on a case-by-case basis, continue to consider the level of an individual banking organization's tangible capital ratios (after deducting all intangible assets), together with the quality and value of the organization's tangible and intangible assets, in making an overall assessment of capital adequacy.

* * * * *

2. Appendix D to part 225 is amended by revising the last two sentences in footnote 3 and revising the last sentence of the second paragraph in II., to read as follows:

Appendix D to Part 225—Capital Adequacy Guidelines for Bank Holding Companies: Tier 1 Leverage Measure

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[3] * * * In addition, Tier 1 capital excludes goodwill; amounts of purchased mortgage servicing rights and purchased credit card relationships that, in the aggregate, exceed 50 percent of Tier 1 capital; amounts of purchased credit card relationships that exceed 25 percent of Tier 1 capital; and all other intangible assets. The Federal Reserve may exclude certain investments in subsidiaries or associated companies as appropriate.

* * * * *

II. * * *

* * * Average total consolidated assets are defined as the quarterly average total assets (defined net of the allowance for loan and lease losses) reported on the banking organization's Consolidated Financial Statements ("FR Y–9C Report"), less goodwill; amounts of purchased mortgage servicing rights and purchased credit card relationships that, in the aggregate, are in excess of 50 percent of Tier 1 capital; amounts of purchased credit card relationships in excess of 25 percent of Tier 1 capital; all other intangible assets; and any investments in subsidiaries or associated companies that the Federal Reserve determines should be deducted from Tier 1 capital.[4]

* * * * *

Board of Governors of the Federal Reserve System, February 18, 1992.

William W. Wiles,

Secretary of the Board.

[FR Doc. 92–4127 Filed 2–25–92; 8:45 am]

BILLING CODE 6210-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Regulations; Waiver of the Nonmanufacturer Rule

AGENCY: Small Business Administration.

ACTION: Notice of intent to waive the "Nonmanufacturer Rule" for garden tractors and lawn mowers (powered), pneumatic aircraft tires, and xerographic printing paper.

SUMMARY: This notice advises the public that the Small Business Administration (SBA) is considering a waiver of the "Nonmanufacturer Rule" for garden tractors and lawn mowers (powered), pneumatic aircraft tires, and xerographic printing paper. An initial SBA survey could not identify any small business manufacturers or processors for these classes of products available to participate in the Federal procurement market. The effect of a waiver would be to allow an otherwise qualified small business regular dealer to supply the product of any domestic manufacturer or processor on a Federal contract set aside for small business or awarded through the SBA 8(a) program. SBA therefore now proposes to waive the Nonmanufacturer Rule for these classes of products. The basis for a waiver is that no small business manufacturers or processors are available to participate in the Federal Government for these classes of products. This notice is to solicit small manufacturing or processing sources.

DATES: Comments must be submitted on or before March 12, 1992. If granted, the waivers will be effective immediately upon publication of the final waiver.

ADDRESSES: Comments should be addressed to: Mr. Robert J. Moffitt, Chairman, Size Policy Board, Small Business Administration, 409 Third St., SW., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: James Parker, Procurement Analyst, phone (703) 695–2435.

SUPPLEMENTARY INFORMATION: On November 15, 1988, section 303(h) of Public Law 100–656 incorporated into the Small Business Act the existing SBA policy that small businesses who are other than the actual manufacturers (nonmanufacturers) must supply products manufactured or processed by small businesses on set-aside or 8(a) contracts. This requirement is commonly known as the "Nonmanufacturer Rule". The SBA regulations imposing this requirement are found in 13 CFR 121.906(b) and 121.1106(b). The law also provided for waiver of this requirement by SBA for any "class of products" for which there are no small business manufacturers or processors "in the Federal market". Section 210 of Public Law 101–574 further amended the Small Business Act to allow that SBA may waive the rule if there are no small businesses "available to participate in the Federal procurement market". To be considered available to participate in the Federal procurement market, a small business must have been awarded a contract for that class of product by the Federal government, provided the product to the Government through a dealer, or offered on a solicitation for that class of product within the past twenty four months from the date of request for waiver. SBA has been requested to issue a waiver for each of the classes of products listed above because of an apparent lack of available small business manufacturers or processors within the Federal procurement market. SBA searched its Procurement Automated Source System (PASS) for small business manufacturers or processors available to participate in the Federal procurement market. Because no small business manufacturers or processors were identified as available to participate the Federal procurement market, we state by this notice to the public in the **Federal Register** our proposed intention to grant waivers for these products unless small business manufacturers or processors are identified.

SIC*	PSC**	Class of product
2621	7530	Xerographic printing paper.
3524	3750	Garden tractors and lawn mowers (powered).
5014	2620	Pneumatic aircraft tires.

*Standard Industrial Classification.

**Product and Service Code.

The public is invited to submit comments or supply information identifying small business manufacturers or processors for these classes of products.

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[4] Deductions from Tier 1 capital and other adjustments are discussed more fully in section II.B of appendix A to this part.

Dated: February 19, 1992.

Gene VanArsdale,

Chairman, Size Policy Board.

[FR Doc. 92-4372 Filed 2-25-92; 8:45 am]

BILLING CODE 6025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Chapter I

[Summary Notice No. PR-92-1]

Petition for Rulemaking; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before April 27, 1992.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-10), Petition Docket No. 26705, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-10), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3132.

FOR FURTHER INFORMATION CONTACT: Angela M. Washington, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-5571.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on February 5, 1992.

Denise D. Castaldo,

Manager, Program Management Staff.

Petitions for Rulemaking

Docket No.: 26705.

Petitioner: Tom Gasta.

Regulations Affected: 14 CFR 1.1 and all flight time and rest regulations affecting flight crewmembers.

Description of Petition: Petitioner would amend the Federal Aviation Regulations (FAR) to add a definition of rest or required rest to mean that period of time in which a flight crewmember shall be free from any and all duty with a certificate holder. Further, this time shall be free of a present responsibility for work, should the occasion arise. It must be prospective in nature and must be free from any restraint by the certificate holder in order to qualify as required rest.

Petitioner's Reason for the Request: The petitioner believes that the rest requirements in the regulations are written in a manner that facilitates misinterpretation of the rules. The petitioner further believes that amending the regulations to include a legal definition of the terms "rest" or "required rest" will insure that flight crewmembers are receiving adequate rest periods in which they are free from work restraints and responsibilities, thereby insuring the safe operation of aircraft within air commerce.

[FR Doc. 92-4397 Filed 2-25-92; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket No. 92-17; FCC No. 92-40]

Loading Requirements for 900 MHz Trunked SMR Stations

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This docket proposes to extend the loading deadline for 900 MHz SMR stations licensed on or before June 30, 1989, by two years. This action was initiated by a petition for rule making filed by the National Association of Business and Educational Radio, Inc. The effect of the proposed rules would be to allow the early 900 MHz SMR licensees to continue to operate and further the development of 900 MHz SMR systems.

DATES: Comments must be filed on or before March 11, 1992 and reply comments must be filed on or before March 23, 1992.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Steve Sharkey, Private Radio Bureau, (202) 634-2443.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, PR Docket No. 92-17, FCC 92-40, adopted January 30, 1992, and released February 18, 1992. The full text of this Notice of Proposed Rule Making is available for inspection during normal business hours in the FCC Dockets Branch, Room 230, 1919 M Street, NW., Washington, DC. The complete text may be purchased from the Commission's copy contractor, Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20026, telephone (202) 452-1422.

Summary of Notice of Proposed Rule Making

1. The National Association of Business and Educational Radio (NABER) has filed a petition for rule making to amend § 90.631 of the Rules, 47 CFR 90.631, to extend the five-year loading deadline for 900 MHz specialized mobile radio (SMR) licensees by two years. Currently, in accordance with § 90.631(b) of our Rules, if all the channels in a licensee's radio service category are assigned within the system's geographic area, failure to load the system to 70 mobile units per channel within the first five years results in automatic cancellation of any channels not loaded to 100 mobile units. The petitioner claims, however, that due to circumstances unique to the 900 MHz SMR service, such as the Commission's multi-phase licensing scheme for this service, it has been difficult or impossible for licensees to meet this five-year loading deadline. NABER has, therefore, requested that the Commission grant 900 MHz SMR licensees a two-year extension of the loading deadline.

2. The Commission recognizes that there are circumstances wholly unique to this service that may have made it difficult for 900 MHz SMR licensees to meet the five-year loading deadline, especially for early licensees whose

difficulties were compounded by the immaturity of the radio service. To allow these early licensees—that is, the licensees granted licenses during the first two years of the 900 MHz service—to continue to operate and further the development of the service, the Commission proposes granting a two-year renewal to 900 MHz SMR systems that have not met the loading requirements of § 90.631(b) of the Rules and were licensed on or before June 30, 1989. At the end of this two-year renewal period, these licensees would be required to meet any loading requirements normally associated with the initial five-year license term.

3. Because of the inherent differences between the SMR and Industrial/Land Transportation (I/LT) services the Commission declines to extend this proposal to I/LT licensees as was requested by the Special Industrial Radio Service Association, the Telephone Frequency Advisory Committee, and the Council of Independent Communication Suppliers.

Initial Regulatory Flexibility Analysis

Reason for Action

The proposal is intended to provide some relief from strict loading requirements to the initial licensees of the 900 MHz SMR service.

Legal Basis

Section 4(i), 303(g), 303(r) and 332(a) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(g), 303(r), and 332(a).

Reporting, Recordkeeping, and Other Compliance Requirements

None.

Federal Rules Which Overlap, Duplicate or Conflict With This Rule

None.

Description, Potential Impact and Number of Small Entities Involved

The temporary relief from our strict loading standards will give 900 MHz SMR licensees with initial licenses granted prior to June 30, 1989, some of which are small entities, a better chance to develop their businesses. These licensees are also providing a valuable service to their users which are generally small entities. The proposed action would allow the licensees to continue providing such service. Beyond this, we are unable to quantify the potential effects on small entities. We therefore invite specific comments on this point by interested parties.

Any Significant Alternatives Minimizing the Impact on Small Entities and Consistent With the Stated Objectives

None.

Paperwork Reduction Act Statement

The proposals contained herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to propose no new or modified form, information collection and/or recordkeeping, labeling, disclosure or record retention requirements, and will not increase burden hours imposed upon the public.

List of Subjects in 47 CFR Part 90

Administrative practice and procedure, Business and industry, Communications equipment, Reporting and record keeping requirements, Radio.

Amendatory Text

47 CFR part 90 is proposed to be amended as follows:

PART 90—[AMENDED]

1. The authority citation for part 90 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended, 47 U.S.C. 154, 303, and 332, unless otherwise noted.

2. Section 90.631 is amended by revising paragraph (b), and by adding a new paragraph (i) to read as follows:

§ 90.631 Trunked systems loading, construction and authorization requirements.

* * * * *

(b) Each applicant for a trunked system shall certify that a minimum of 70 mobiles for each channel authorized will be placed in operation within five years of the initial license grant. Except as provided in paragraph (i) of this section, if at the end of five years a trunked system is not loaded to the prescribed levels and all channels in the licensee's category are assigned in the system's geographic area, authorization for channels not loaded to 100 mobile stations per channel cancels automatically. If a trunked system has channels from more than one category, General Category channels are the first channels to be considered to cancel automatically. All licensees who are authorized initially before June 1, 1993, and are within their original license term or are within the term of a two-year authorization granted in accordance with paragraph (i) of this section are subject to this condition. A licensee that has had authorized channels cancelled due to failure to meet the above loading requirements will not be authorized to obtain additional channels to expand that same system for a period of six months from the date of cancellation.

* * * * *

(i) For SMRS category trunked systems licensed in the 896–901/935–940 MHz band and initially licensed on or before June 30, 1989, if at the end of the initial five-year license term the trunked system does not satisfy the loading requirements of paragraph (b) of this section, the licensee will be granted a two-year license renewal. Regardless of the date of grant of the two-year renewal the licensee will be required to fully comply with the minimum five-year loading requirements set forth in paragraph (b) of this section at the end of the two-year renewal term.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92-4283 Filed 2-25-92; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 245

[FRA Docket No. RSUF-1, Notice No. 6]

RIN 2130-AA62

Railroad User Fees

AGENCY: Federal Railroad Administration; Department of Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Railroad Administration ("FRA") proposes a revised allocation formula through which it will assess railroad user fees for fiscal years 1992 through 1995. The Federal Railroad Safety Act of 1970 (the "Act") requires FRA to equitably assess a schedule of fees on railroads to cover the costs incurred by FRA in administering the Act. In September, 1991, FRA issued an interim final rule applicable only to fiscal year 1991 collections. Under the proposal, FRA would continue to use the definition of railroad which was defined in the interim final rule for fiscal year 1991 to exclude from the user fee program only those railroads whose operations are confined within an industrial installation. All other railroads are in some manner subject to FRA's regulatory oversight and would be subject to FRA's regulatory oversight and would be subject to the user fee assessment program.

FRA proposes that the user fees be assessed based on three criteria: One

criterion, road miles, would be a measure of system size; the second criterion, train miles, would be a measure of volume; and the third criterion, employee hours, would be a measure of employee activity. FRA also proposes to apply a revised sliding scale system to help relieve the user fee burden on light density lines. The revised allocation formula would be applied across the board to all railroads, large or small, and would include a minimum fee of $500.00 to ensure that each railroad pays a share of the costs of the FRA safety and enforcement program.

DATES: (1) Written comments must be received not later than April 2, 1992. Comments received after that date will be considered to the extent possible without incurring additional expense or delay.

(2) FRA will hold a public hearing on this proposal on April 2, 1992 at the time and place set forth below. Any person who desires to make an oral statement at the hearing is requested to notify the Docket Clerk at least five working days prior to the date of the hearing, by phone or mail.

ADDRESSES: (1) Written comments should be submitted to the Docket Clerk (RCC-30), Officer of Chief Counsel, FRA, 400 Seventh Street, SW., Washington, DC 20590. Persons desiring to be notified that their written comments have been received by FRA should submit a stamped, self-addressed postcard with their comments. The Docket Clerk will indicate on the postcard the date on which the comments were received and will return the card to the addressee. Written comments will be available for examination, both before and after the closing date for comments, during regular business hours in room 8201 of the Nassif Building at the above address.

(2) The public hearing will be held in Washington, DC on April 2, 1992 at 10 a.m. in the Nassif Building (DOT Headquarters), 400 Seventh Street, SW., Washington, DC, room 2230.

Persons desiring to make oral statements at the hearing should notify the Docket Clerk by telephone (202) 366-2257 or by writing the Docket Clerk at the address above.

FOR FURTHER INFORMATION CONTACT: Gail L. Payne, Senior Program Analyst, Industry Operations and Safety Analysis Division, Office of Policy, (RRP-12), FRA, Washington, DC 20590 (Telephone: 202 366-0384); or William R. Fashouer, Deputy Assistant Chief Counsel, Office of Chief Counsel, (RCC-10), FRA, Washington, DC 20590 (Telephone: 202-366-0616).

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Background

Section 10501 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. No. 101-508, 104 Stat. 1388-399) amended the Federal Railroad Safety Act of 1970 (45 U.S.C. 421 *et seq.*) by adding a new section 216 requiring the Secretary of Transportation to establish by regulation, after notice and comment, a schedule of fees to be assessed equitably to railroads, in reasonable relationship to an appropriate combination of criteria such as revenue ton-miles, track miles, passenger miles, or other relevant factors, but not based on the proportion of industry revenues attributable to a railroad or class of railroads. The fees to be collected are to be imposed on railroads subject to the Safety Act and are to be designed to cover the costs of administering the Safety Act, other than activities described in section 202(a)(2) thereof (45 U.S.C. 431(a)(2)). The Secretary's authority under the Safety Act, including the authority to implement new section 216, has been delegated to the Federal Railroad Administrator. (See 49 CFR 1.49(m)).

The Secretary is further directed in section 216 to assess and collect the applicable user fees with respect to each fiscal year before the end of the fiscal year. The aggregate fees received for any fiscal year may not exceed 105 percent of the aggregate of appropriations made by the Congress for the fiscal year for activities covered by the fees. The Secretary's authority to collect fees is to expire on September 30, 1995. FRA estimates that the costs to be incurred by FRA's Office of Safety in administering the Safety Act in fiscal year 1992 that would be reimbursed through user fees will equal approximately $32 million.

B. FRA's Interim Final Rule

On September 30, 1991, FRA published an interim final rule establishing the railroad user fee program for fiscal year 1991 (56 FR 49418). The interim final rule was preceded by a Notice of Proposed Rulemaking ("NPRM") which was published in the **Federal Register** on May 7, 1991 (56 FR 21216). The interim final rule based the collection of railroad user fees for fiscal year 1991 on two criteria: train miles and road miles. As noted in the original NPRM, FRA selected these criteria because they equitably allocated user fees across the railroad industry, they represented data the industry was already maintaining and therefore imposed only a limited additional reporting burden on the industry, they represented data that FRA could verify, and they allowed FRA to complete the interim rulemaking process in fiscal year 1991.

C. Reconsideration

In proceeding with an interim final rule applicable to fiscal year 1991 only, FRA acceded to the wishes of certain segments of the rail industry, which requested FRA to reopen the proceeding in fiscal year 1992 in order to consider whether there might be other allocation criteria that better distribute the user fee burden across the railroad industry. FRA remains of the opinion that the user fee allocation formula based on train miles and road miles produced a fair and reasonable distribution of railroad user fees for fiscal year 1991. Objections to the train mile/road mile formula focused primarily on a perceived overreliance on the road mile component. It was argued that FRA's inspection activities related to the fixed component of railroad operations involved approximately 30% of FRA's inspector time and that drawing 50% of the user fee road miles failed to accurately reflect FRA's actual inspection activities. It was also argued that basing fifty percent of the user fee on road miles unduly burdened light density lines, FRA's use of the sliding scale notwithstanding. A related objection focused not so much on the criteria chosen but on the limited time frame available to commenters on the fiscal year 191 rule. Because of the need to complete the rulemaking process before the end of the fiscal year, FRA was forced to proceed on an expedited schedule. With all of these considerations in mind, FRA agreed to reopen the proceeding in fiscal year 1992 in order to consider whether there might be alternative allocation formulas that might more fairly allocate user fees across the railroad industry.

As FRA has noted from the very beginning, the development of an appropriate basis upon which to allocate the user fees represents a very significant challenge. The statue requires "a schedule of fees to be assessed equitably to railroads, in reasonable relationship to an appropriate combination of criteria such as revenue ton-miles, track miles, passenger miles, or other relevant factors, but shall not be based on the proportion of industry revenues attributable to a railroad or a class of railroads." Section 216(a)(1). The railroad industry is very diverse, incoroprting passenger and freight, intercity, commuter, and tourist, three traditional freight classes, and switching and terminal railroads. Developing a set of criteria that adequately represent the interests of all of these is a difficult task at best. On the other hand, attempting to divide up the total user fee among certain identifiable groups has proven to be even more difficult.

FRA completed a detailed analysis of new criteria that might be employed supplementing the extensive effort undertaken in developing the original regulation. Key considerations that remain relevant are FRA's interest in keeping the reporting burden on the industry to a minimum, the ability of FRA to verify the data, the degree the data would be compatible with administration of billing and collection, the degree that the criteria could be defined in a clear and unambiguous manner, and the extent to which the criteria fairly and equitably allocate the user fees to all railroads. As FRA noted in connection with the original rule, FRA collects three kinds of data: road miles, train miles and employee hours worked. Other data such as car miles and revenue ton miles are available from the Class I carriers only. Basing user fees on data not collected would add a significant dimension to the problem and would add a new reporting burden to the industry. In addition, since user fees are to be collected for fiscal year 1992 before the end of the fiscal year, new data would have to be collected well in advance of that date in order to meet the statutory deadline.

D. Open Meetings

On November 8, and December 6, 1991, FRA held open meetings to hear suggestions from the railroad industry and the public on the options and criteria for the assessment of railroad user fees for fiscal years 1992 through 1995. The November 8th meeting was announced in the **Federal Register** on October 21, 1991 (56 FR 52498) and the December 6th meeting was announced in the **Federal Register** on November 26, 1991 (56 FR 59693). Participating in the open meetings were representatives of the major railroad industry associations (the Association of American Railroads, the American Short Line Railroad Association, the Regional Railroads of America and the Tourist Railroad Association, Inc.) and a number of individual railroads. The meetings involved a frank discussion of considerations that are relevant to selecting user fee allocation criteria that fairly distribute the burden across the railroad industry as well as some possible criteria that might be selected. A court reporter was present at both meetings and transcripts relating the discussions have been included in the docket for these proceedings.

FRA was pleased with the extent of industry participation in the meetings and the willingness of attendees to provide detailed recommendations for user fee criteria and allocation formulas that would provide both fair and timely assessments. The range of ideas and options offered were varied and interesting and served to demonstrate the complexity of the issue. FRA appreciates the time and effort put forward by each of the participants.

FRA received four formal proposals through the open meetings, and one additional proposal that was received after the second meeting. We have briefly described the five proposals below.

1. CSX Transportation Proposal

CSX Transportation, Inc. ("CSXT") proposed that safety performance be incorporated into the formula for allocation of user fees in order to provide an incentive to all railroads to operate more safely and further the purposes of the Federal Railroad Safety Act. CSXT proposed to incorporate a safety incentive into the existing train mile/road mile formula through the addition of two factors: FRA reportable train accidents and FRA reportable personal injuries. Each criterion would account for 25 percent of the total fee to be collected and each railroad's fee would be the sum of its train miles, road miles, train accidents and personal injuries multiplied by the respective user fee rate for each category. CSXT argued that its proposal would incorporate a financial incentive for each carrier to increase railroad safety by reducing its train accidents and personal injuries. FRA noted that the proposal satisfied several of FRA's expressed concerns in that it did not require any additional reporting and was not overly complex or unwieldy. CSX indicated that it would also consider alternative proposals to incorporate safety performance into the user fee calculation.

2. Burlington Northern Railroad Proposal

The Burlington Northern Railroad ("BN") proposed to allocate railroad user fees according to FRA's inspectors' total recoverable hours. Each railroad's fee would be based on the inspection activity undertaken by FRA on that railroad, presumably for the previous year or some other relevant time period. The inspection activities to be included would be limited to those for which FRA is authorized to collect user fees. Overhead expenses would be allocated in the same proportion as the direct expenses. BN argued that this proposal most directly related to the statutory requirement to establish a user fee program.

3. Union Pacific Railroad Proposal

The Union Pacific Railroad ("UP") recommended preliminarily that FRA consider dividing all railroads into two major groups, i.e., the Class I railroads and all others. The recoverable FRA costs would be allocated between the two groups based on the proportion of inspection hours devoted to each category. The allocation in the Class I category could continue to be based on equal portions of train miles and road miles. The allocation among the smaller railroads could be based on train miles and road miles with an appropriate minimum fee. The allocation formula would be reassessed each year to insure that the user fee was being fairly distributed among the railroads.

4. American Short Line Railroad Association Proposal

The American Short Line Railroad Association ("ASLRA") proposed that an additional factor be added to the allocation formula, arguing that the two part train mile/road mile formula employed by FRA in fiscal year 1991 placed an undue and unsupportable emphasis on road mileage. ASLRA believed that this undue emphasis penalized railroads with large amounts of light density road mileage and was not in accord with FRA's practices in conducting safety inspections, which ASLRA felt only involved approximately one third in the track area and two thirds in other disciplines. To remedy this inequity, ASLRA suggested that among other options FRA might want to add a third component, such as employee-hours worked, and to provide an appropriate weight to each component. ASLRA's bottom line was not so much which formula FRA selected but to ensure that the particular methodology be based on the costs and level of FRA's safety inspection activities.

Following up on its comments at the public meetings, ASLRA submitted a supplemental letter suggesting that if FRA added employee hours to the formula it should assign 40 percent to employee hours, 40 percent to train miles and 20 percent to road miles. ASLRA argued that this combination of employee hours worked and the train miles more accurately reflects the level of safety activity that should be the determining factor in this inquiry and that 80 percent is the proper weight for this combination.

5. Association of American Railroads Proposal

Subsequent to the second public meeting the Association of American Railroads ("AAR"), representing the thirteen Class I freight railroads and Amtrak, submitted a proposal whereby FRA would divide all railroads into two major groups, Class I roads, including Amtrak, and all other railroads. The recoverable FRA costs would be allocated between the two groups on the basis of inspection hours devoted to each group as reported by FRA. The portion of the FRA safety budget attributed to the Class I railroads and Amtrak, as a group, on the basis of their portion of reported inspection hours, would be distributed among those railroads on the basis of the allocation formula in FRA's interim rule, i.e., road miles and train miles. The AAR proposal thus closely resembled the UP proposal. AAR indicted that this proposed allocation formula would eliminate inequities in the formula established by the interim rule while furthering FRA's new National Inspection Policy. In support of its proposal, AAR noted that under the interim final rule, the largest railroads received approximately 81% of the total recoverable FRA inspection hours while paying approximately 85% of the fiscal year 1991 user fees. In effect, according to the AAR, the largest railroads were subsidizing the smaller railroads and this, on balance, would worsen as FRA's national Inspection Policy is put into effect and additional inspector resources were devoted to smaller railroads. In conclusion, AAR noted that Congress mandated that user fees be "assessed equitably to railroads" and that this meant that each railroad should pay a fee commensurate with FRA's safety inspection program for that railroad (or category of railroads).

FRA has not adopted proposals put forward by the CSXT, BN, UP, or AAR, because we believe there are significant problems with all of them. We have incorporated key concepts from the ASLRA proposal in our proposed action, which is described in greater detail below. The language employed by Congress in section 216 focuses the allocation of the user fees primarily on output/size measures rather than on safety expenditures or individual risk assessments. Thus, the need to establish linkage to how FRA perceives risk or expends its resources is neither explicitly nor implicitly required by the statute. The development of risk by carrier, class or type, has its merits in principle but depends on a credible and verifiable data base.

In response to criticisms it has received from the General Accounting Office and others, FRA has revised its policies and procedures for allocating its safety inspection resources. These revised procedures are outlined in FRA's new National Inspection Plan, which will be put into effect for the first time in calendar year 1992. Since this new safety resource allocation system will require adjustments and modifications as it is implemented, FRA does not favor burdening the process with the additional responsibility of supporting the user fee program as well. In addition, since it will take a couple of years to perfect the carrier risk assessments that are an essential component of the NIP, practical application of the system to the user fee collection is not advisable. Relying on data for prior calendar years is inadequate, since it would mean allocating user fees on the basis of a system that FRA is no longer following. FRA believes that the new National Inspection Plan needs to be implemented on its own merits. Implementing the system presents enough challenges without requiring it to shoulder the burden of the user fee allocations as well.

FRA declines to adopt CSXT's suggestion, but does so somewhat reluctantly because every incentive to improve safety is welcome. One concern presented by this proposal that was discussed in the public meetings is that some railroads may perceive an enhanced incentive to report accidents and injuries inaccurately rather than improve the safety of their operations. Because those data are of critical importance to the safety program, FRA is loath to add any incentive to misreport accidents and injuries. If, despite FRA's skepticism about the appropriateness of allocating user fees on the basis of perceived safety risks, FRA does include some such factor in the final rule, FRA is concerned that raw accident and injury data may not present a fair basis for taking safety risk into account. At a minimum, FRA would want to consider (1) whether accident and injury rates would present a fairer picture of risk or provide a greater incentive to safe behavior than raw data and (2) whether severity of accidents and injuries can and should be taken into account. FRA also notes that, if such alterations and more were made to CSXT's proposal, its straightforward simplicity would likely be lost.

In addition to the reasons given above for not relating user fees directly to FRA's allocation of its resources, BN's proposal is not incorporated into the NPRM because: first, inspector time alone does not reflect the allocation of the full resources of the Office of Safety; second, FRA's allocation of its resources is changing significantly during implementation of the new National Inspection Program; and, third, FRA does not want to give any railroad an incentive to regard the appearance on its property of an FRA inspector primarily in terms of the cost of his or her time in user fees.

In addition to the reasons given above for not relating user fees directly to FRA's allocation of its resources, the proposals put forward by UP and the AAR are not adopted because: first, FRA does not perceive it to be fair and equitable to base the amount of user fees charged to the Class I railroads in the aggregate on the share of FRA's resources devoted to them without affording the same treatment to all of the other discernible classifications of railroads; second, FRA's allocation of its resources is changing significantly during implementation of the new National Inspection Program; and, third, the other concerns FRA is attempting to address in this rulemaking would remain unaddressed.

Notwithstanding our views on the subject of connecting user fees to FRA's safety activities, we are very interested in receiving public comment on the proposals put forth during the public meeting process. Since the proposals primarily were put forward by Class I railroads, FRA is particularly interested in comments from Class II and III railroads, switching and terminal railroads, and passenger railroads.

E. FRA's Proposal for Fiscal Years 1992 through 1995

After careful consideration, FRA proposes that user fees for fiscal years 1992 through 1995 be based on three criteria: one criterion, road miles, would be a measure of system size; the second criterion, train miles, would be a measure of volume; and the third criterion, employee hours, would be a measure of employee activity. FRA proposes that road miles would account for thirty percent (30%), train miles would account for fifty percent (50%), and employee hours would account for twenty percent (20%) of the total user fee. FRA's proposal also includes a revised sliding scale to mitigate the impact of the road mile criterion on light density lines. While FRA continues to believe that a system size component is an important part of the user fee allocation formula, we remain concerned that the road mile component may operate as a disincentive to retention of light density. Accordingly, FRA proposes to reduce the emphasis placed on road miles from fifty percent (50%) to thirty percent (30%), which benefits large railroads with some light density lines and small, light density railroads, and to retain and slightly expand the sliding scale concept from the interim final rule. The proposed sliding scale is as follows:

Train miles per road mile	Scaling factor
up to 100	.0
501 to 750	.25
751 to 1000	.50
1001 to 1200	.75
1201 and above	1.00

The scaling factor would be multiplied by the road miles for each railroad for the year. Approximately 400 railroads would be eligible for the sliding scale discount. Application of the sliding scale to certain railroads would reduce their user fee and correspondingly increase the fees to be collected from other railroads. FRA proposes to apply the road mile/train mile/employee hours allocation formula across the board to all railroads, large or small. FRA also proposes to include a $500 minimum fee to ensure that each railroad pays a share of the costs of the FRA safety and enforcement program.

FRA has selected this proposal because it addresses many of the features of the train mile/road mile formula about which complaints were made, and because it meets all of the criteria that FRA has identified from the start as being essential components of an acceptable allocation system. First, this proposal would reduce the reliance on the road mile criterion and increases the role of activity-based measures. Second, the inclusion of employee hours can be accomplished without increasing the reporting burden on the railroad industry or unduly complicating the allocation formula. Third, decreasing the reliance on road miles and slightly expanding the sliding scale concept would reduce adverse consequences for light density lines. FRA has indicated throughout this proceeding that it was concerned that user fees not become an incentive for railroads to dispose of light density lines.

The collection of a broad base of new measures with no clear benefit evident, coupled with the burden on the railroads and the lack of overwhelming support by the industry, was dismissed as impractical.

The current proposal seeks to allocate user fees with greater emphasis on activity and employment levels and away from system size. The proposed formula would align more closely the proportion of fees paid to the level of safety reviews received without the direct introduction of potentially unreliable safety data. It is constructed such that the greater the output or activity the greater the potential risk burden and the higher the fee to be assessed. Further, the proposed formula narrows the disparity or equity among the different groups critically observed by many commenters.

Section-by-Section Analysis

Section 245.1 describes the purpose and scope of the user fee regulations. No changes have been proposed to the interim final rule in this section.

Section 245.3 defines the applicability of these regulations. No changes have been proposed to the interim final rule in this section. While FRA has not proposed any changes to the applicability section, we would be interested in receiving public comment on how the applicability section has worked in practice during the first year. In addition, FRA is interested in receiving public comment on the issue of whether railroad user fees should be reduced or eliminated for certain types of railroad operations.

Section 245.5 includes a series of definitions of important terms employed in the user fee regulation. Only minor changes have been proposed in this section, including the addition of a definition of employee hours and revisions to the definition of light density railroad. FRA is interested in receiving comments on the definition of other terms. There have been some indications that some railroads had difficulty in calculating road miles or train miles. If these definitions can be improved to address specific problems, FRA would appreciate receiving comments on this topic and may incorporate recommended changes in the final rule. FRA is also considering further refining the definition of the term "railroad" and would welcome public comment on whether further refinements would assist the industry in complying with the rule.

Section 245.7 identifies the penalties FRA may impose upon any individual or entity that violates any requirement of this part. No changes have been proposed to the interim final rule in this section.

Section 245.101 would establish a new reporting requirement. FRA proposes to amend the reporting requirement established in the interim final rule by adding a requirement that each railroad also report on its user fee annual report the number of employee hours the railroad had for the previous year. Employee hours are already the subject of an annual reporting requirement so that the addition of this to the user fee annual report should not present a significant burden on the industry. FRA notes that the existing employee hours reporting requirement does not include volunteer hours and FRA intends that these type of activity would be excluded from the user fee report as well. FRA would appreciate public comment on issues related to calculating and reporting of employee hours.

Provisons in § 245.101 also address considerations to be employed in calculating train miles and road miles. As noted above in the discussion of the definition section, FRA is interested in receiving comments from the industry on any problems encountered in the first year in calculating train miles or road miles.

FRA proposes to add a new subsection (h) to section 101 noting that FRA employed a questionnaire in fiscal year 1991 entitled "Written Questionnaire On Whether Your Company Is A 'Railroad' Subject To FRA User Fee Regulations" (FRA Form 6180.90). The purpose of this questionnaire was to assist FRA in determining whether certain entities (i.e. plant railroads, urban rapid transit systems) were subject to the user fee provisions. FRA is considering expanding the questionnaire or developing additional questionnaires to help clarify considerations FRA applies in determining whether the user fee rule applies to a particular entity and to document the reasons for each organization's classification. FRA would welcome public comment on FRA Form 6180.90 or the use of questionnaires in general.

Section 245.103 requires each railroad subject to this part to maintain adequate records supporting the information submitted to FRA regarding the railroad's train miles, and road miles calculations. The only change proposed in this section involves the addition of employee hours to this list.

Section 245.105 requires relevant records to be maintained for three years. No changes have been proposed to the interim final rule in this section.

Section 245.201 describes the method FRA is proposing for calculating the user fee to be paid by each railroad subject to this part for fiscal years 1992 through 1995. FRA proposes to change this section to reflect the addition of employee hours to the user fee

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assessment formula. Under the proposed rule, train miles would account for fifty percent of the railroad's user fee, road miles would account for thirty percent of the railroad's user fee and employee hours would account for twenty percent of railroad's user fee.

II. Regulatory Impact

A. E.O. 12291 and DOT Regulatory Policies and Procedures

These proposed regulations have been evaluated in accordance with existing regulatory policies. They are considered to be non-major under Executive Order 12291 because they would not have an annual effect on the economy of $100 million or more, produce a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or produce significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. These proposed regulations are considered to be significant under section 5(a)(2)(f) of DOT's Regulatory Policies and Procedures (the "Procedures") (44 FR 11034, February 26, 1979) because of the widespread interest within the railroad industry in the user fee program.

FRA has determined that the proposed regulations would not in and of themselves significantly alter the fees to be paid by individual railroads or produce a change in the total user fees to be collected. In fiscal year 1991, approximately 600 railroads were assessed railroad user fees. The Class I railroads accounted for about 81 percent of the total fees, Class II railroads about 6 percent of the fees, Class III railroads about 6 percent of the fees, and the major passenger rail carriers about 7 percent. Under the proposed rule, which includes an adjusted sliding scale and revised allocation formula (decreasing the emphasis on road miles and adding an employee hours component), the user fees to be paid by small and medium size railroads (Class II and Class III railroads) would be reduced while the share to be paid by Amtrak and the other major passenger rail carriers would be larger. FRA estimates that under the proposed rule the Class II and Class III railroads would be responsible for approximately 9 percent of the total fees while the major passenger railroads would be responsible for approximately 10 percent of the fees.

FRA notes that by operation of law the railroad user fees collected in fiscal years 1992 through 1995 will be greater than the amount collected in fiscal year 1991 because the fiscal year 1991 collections involved reimbursement for FRA's safety enforcement costs for only seven months of the year. In addition, the user fees to be collected in fiscal years 1992 through 1995 will include some railroad safety enforcement costs that were not included in the fiscal year 1991 assessments. Both of these circumstances were discussed in FRA's original notice of proposed rulemaking.

In accordance with section 10(e) of the Procedures, FRA has prepared a draft Regulatory Evaluation, which includes a brief analysis of the economic consequences of the revisions to the user fee regulations and an analysis of the anticipated benefits and impacts. The draft regulatory evaluation has been included in the docket for this proceeding.

B. Regulatory Flexibility Act

FRA certifies that this proposal will not have a significant economic impact on a substantial number of small entities. The proposed rule would apply only to railroads, and accordingly, would have no direct impact on small units of government, or other businesses or organizations. Although a substantial number of small railroads would be subject to these regulations, the smallest of these carriers would only be subject to the minimum fee of $500.00 which does not constitute a significant economic impact under the Regulatory Flexibility Act. FRA has endeavored throughout this proceeding to lessen the burden on light density railroads and to avoid having railroad user fees act as an incentive to abandonment of light density lines. As noted above, the revised allocation formula proposed in this NPRM will have a positive effect on small and medium size carriers, since Class II and Class III railroads, as a group, will pay proportionately less under this proposal than under the allocation formula contained in the interim final rule.

C. Executive Order 12612—Federalism

The regulations proposed herein will not have a substantial effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Thus, in accordance with Executive Order 12612, preparation of a Federalism Assessment is not warranted. The regulations will apply to commuter rail operators and will have an impact on state and local governments which operate or support freight or commuter rail service. However, the user fees to be paid by commuter rail operators and state-owned freight railroads are not substantial and cannot be considered to constitute a significant effect on the states involved. FRA believes that it is also worth noting that commuter rail operators and state-owned freight railroads benefit from the FRA safety and enforcement program and as such they come within the ambit of those entities which Congress determined should pay to support the cost of that program.

D. Paperwork Reduction Act

This proposed rule contains information collection requirements. FRA will submit these information collection requirements to the Office of Management and Budget ("OMB") for approval in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Certain of the information collection requirements were included in the interim final rule and previously received OMB approval. FRA has endeavored to keep the burden associated with railroad user fees as simple and minimal as possible. The proposed sections that contain information collection requirements and the estimated time to fulfill each requirement are as follows:

Section	Brief description	Est. average time
245.101	Annual Report of Railroads Subject to User Fees.	1 to 8 hours depending on size of railroad.
245.101	Revised Annual Report.	45 minutes.
245.103	Recordkeeping	5 minutes.

All estimates include the time for reviewing instructions; searching existing data sources; gathering or maintaining the needed data; and reviewing the information. OMB has assigned the information collection requirements that were included in the interim final rule OMB approval number 2130–0532. This proposal involves the addition of information collection activities related to the inclusion of employee hours in the user fee annual report. FRA solicits comments on the accuracy of the estimates, the practical utility of the information, and alternative methods that might be less burdensome to obtain this information. Persons desiring to comment on this topic should submit their views in writing to Gloria D. Swanson, Federal Railroad Administration, 400 Seventh Street, SW., Washington, DC 20590; and to Desk Officer, Regulatory Policy

Branch (OMB No. 2130–0532), Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., Washington, DC 20530. Copies of any comments should also be submitted to the docket of this rulemaking at the address provided above.

III. Environmental Impact

FRA has evaluated these proposed regulations in accordance with its procedures for ensuring full consideration of the environmental impacts of FRA actions as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), other environmental statutes, executive orders, and DOT Order 5610.1c. These proposed regulations meet the criteria that establish this as a non-major action for environmental purposes.

IV. List of Subjects in 49 CFR Part 245

Railroad user fee, Reporting and recordkeeping requirements.

V. Request for Public Comment

FRA proposes to revise part 245 to title 49, Code of Federal Regulations, as set forth below. FRA solicits comments on all aspects of the proposed rule and the analysis advanced in the explanation of the proposed rule, whether through written submissions or participation at the public hearing, or both. FRA may make changes in the final rule based on comments received in response to this notice.

In consideration of the foregoing, chapter II, part 245 of title 49, Code of Federal Regulations is amended as follows:

1. Part 245 is revised to read as follows:

PART 245—RAILROAD USER FEES

Subpart A—General

Sec.
245.1 Purpose and scope.
245.3 Application.
245.5 Definitions.
245.7 Penalties.

Subpart B—Reporting and Recordkeeping

245.101 Reporting requirements.
245.103 Recordkeeping.
245.105 Retention of records.

Subpart C—User Fee Calculation

245.201 User fee calculation.

Subpart D—Collection Procedures and Duty to Pay

245.301 Collection procedures.
245.303 Duty to pay.

Authority: 45 U.S.C. 431, 437, 438, 446 as amended; Pub. L. 101–508, 104 Stat. 1388; and 49 CFR 1.49(m).

Subpart A—General

§ 245.1 Purpose and scope.

(a) The purpose of this part is to implement section 216 of the federal Railroad Safety Act of 1970 (45 U.S.C. 446) (the "Safety Act") which requires the Secretary of Transportation to establish a schedule of fees to be assessed equitably to railroads to cover the costs incurred by the Federal Railroad Administration ("FRA") in administering the Safety Act (not including activities described in section 202(a)(2) thereof).

(b) Beginning in the fiscal year ending September 30, 1991, each railroad subject to this part shall pay an annual user fee to the FRA. For the fiscal year ending September 30, 1991, the user fee shall be calculated by FRA in accordance with the Interim Final Rule published in the **Federal Register** on September 29, 1991 (56 FR 49418). For fiscal years 1992 through 1995, the user fee shall be calculated by FRA in accordance with § 245.101. The Secretary's authority to collect user fees shall expire on September 30, 1995, as provided for in section 216(f) of the Safety Act.

§ 245.3 Application.

This part applies to all railroads except those railroads whose entire operations are confined within an industrial installation.

§ 245.5 Definitions.

As used in this part—

(a) *Employee hours* means the number of hours worked by all employees of the railroad during the previous calendar year.

(b) *FRA* means the Federal Railroad Administration.

(c) *Light density railroad* means railroads with less than 1200 train-miles per road mile.

(d) *Main track* means a track, other than an auxiliary track, extending through yards or between stations, upon which trains are operated by timetable or train order or both, or the use of which is governed by a signal system.

(e) *Passenger service* means both intercity rail passenger service and commuter rail passenger service.

(f) *Railroad* means all forms of non-highway ground transportation that run on rails or electro-magnetic guideways, including:

(1) Commuter or other short-haul rail passenger service in a metropolitan or suburban area, as well as any commuter rail service which was operated by the Consolidated Rail Corporation as of January 1, 1979, and

(2) High speed ground transportation systems that connect metropolitan areas, without regard to whether they use new technologies not associated with traditional railroads.

Such term does not include rapid transit operations within an urban area that are not connected to the general railroad system of transportation.

(g) *Road miles* means the length in miles of the single or first main track, measured by the distance between terminals or stations, or both. Road miles does not include industrial and yard tracks, sidings, and all other tracks not regularly used by road trains operated in such specific service, and lines operated under a trackage rights agreement.

(h) *Safety Act* means the Federal Railroad Safety Act of 1970 (45 U.S.C. 421 *et seq.*)

(i) *Sliding Scale* means the adjustment made to the mile of road of light density railroads. The sliding scale is as follows:

Train miles per road mile	Scaling factor
up to 500	.0
501 to 750	.25
751 to 1000	.50
1001 to 1200	.75
1201 and above	1.00

The scaling factor is multiplied by the road miles for each railroad for the year.

(j) *Trackage rights agreement* means an agreement through which a railroad obtains access and provides service over tracks owned by another railroad where the owning railroad retains the responsibility for operating and maintaining the tracks.

(k) *Train* means a unit of equipment, or a combination of units of equipment (including light locomotives) in condition for movement over tracks by self-contained motor equipment.

(l) *Train mile* means the movement of a train a distance of one mile measured by the distance between terminals and/or stations. Note: Yard switching locomotive miles and work train miles are to be included in train mile reporting. Yard switching locomotive miles are computed at the rate of 6 mph for the time actually engaged in yard switching service if actual mileage is unknown.

§ 245.7 Penalties.

Any person (including a railroad and any manager, supervisor, official, or other employee or agent of a railroad) who violates any requirement of this part or causes the violation of any such requirement is subject to a civil penalty of at least $250 and not more than $10,000 per violation. Civil penalties may be assessed against individuals only for willful violations. Each day a violation continues shall constitute a separate offense. A person may also be subject to the criminal penalties provided for in 45 U.S.C. 438(e) for knowingly and willfully falsifying records or reports required by this part.

Subpart B—Reporting and Recordkeeping

§ 245.101 Reporting requirements.

(a) Each railroad subject to this part shall submit to FRA, not later than March 1 of each year (June 15 for the fiscal year ending September 30, 1992) a report identifying the railroad's total train miles for the prior calendar year, the total road miles owned, leased, or controlled (but not including trackage rights) by the railroad as of December 31 of the previous calendar year, and the railroad's total number of employee hours for the prior calendar year. This report shall be made on FRA Form 6180.89—Annual Report of Railroads Subject to User Fees. The report shall include an explanation for an entry of zero for train miles, road miles or employee hours. Each railroad shall also identify all subsidiary railroads and provide a breakdown of train miles, road miles, and employee hours for each subsidiary. Finally, each railroad shall enter its corporate billing address for the user fees, and the name, title, telephone number, date, and a notarized signature of the person submitting the form to FRA.

(b) FRA anticipates mailing blank copies of FRA Form 6180.89—Annual Report of Railroads Subject to User Fees to each railroad of record during the month of January (the month of May for the fiscal year ending September 30, 1992) for the railroad's use in preparing the report. This action by FRA is for the convenience of the railroads only and in no way affects the obligation of railroads subject to this part to obtain and submit FRA Form 6180.89 to FRA in a timely fashion in the event a blank form is not received from FRA. Blank copies of FRA Form 6180.89 may be obtained from the Office of Safety, FRA, 400 Seventh Street, SW., Washington, DC 20590.

(c) Train miles shall be calculated by the railroad in accordance with the following considerations:

(1) Each railroad subject to this part is to report the train miles for the freight and passenger service it operates without regard to track or facility ownership.

(2) Train miles are to be reported by both freight and passenger railroads and shall include miles run between terminals or stations, or both, miles run by trains consisting of empty freight cars or without cars, locomotive train miles run, miles run by trains consisting of deadhead passenger equipment, motor train miles run, and yard-switching miles run.

(d) Road miles shall be calculated by the railroad in accordance with the following considerations:

(1) Road miles to be reported shall include all track owned, operated, or controlled by the railroad but shall not include track used under trackage rights agreements. Road miles consisting of leased track shall be reported by the lessee railroad.

(2) Road miles to be reported shall not include industrial and yard tracks, sidings, and other tracks not regularly used by road trains operated in such specific service.

(e) Employee hours shall be calculated by the railroad in accordance with the following considerations:

(1) employee hours to be reported include the number of hours worked by all railroad employees, regardless of occupation, during the previous calendar year. Include all employees in the occupational categories shown in Appendix D of the FRA Guide for Preparing Accident/Incident Reports. Employee hours do not include time paid but not actually worked, such as holidays, vacations, etc. Employee hours do not include hours worked by volunteers. Copies of the FRA Guide for Preparing Accident/Incident Reports are available from office of Safety, FRA, 400 Seventh Street, SW., Washington, DC 20590.

(f) In computing both train miles and road miles, fractions representing less than one-half mile shall be disregarded and other fractions considered as one mile.

(g) Each railroad subject to this part has a continuing obligation to assure that the information provided to FRA on Form 6180.89 is accurate. Should a railroad learn at a later date that the information provided was not correct, it shall submit a revised Form 6180.89 along with a detailed letter explaining the discrepancy.

(h) The FRA has prepared a questionnaire entitled "Written Questionnaire on Whether Your Company Is A 'Railroad' Subject To FRA User Fee Regulations" (FRA Form 6180.90) in order to assist in determining whether certain entities meet the definition of "railroad" included in § 245.5 or constitute railroads whose entire operations are confined within an industrial installation excluded from this part under § 245.3. Copies of FRA Form 6180.90 are available from the Office of Safety, FRA, 400 Seventh Street, SW., Washington, DC 20590.

§ 245.103 Recordkeeping.

Each railroad subject to this part shall maintain adequate records supporting its calculation of the railroad's total train miles for the prior calendar year, total road miles as of December 31 of the previous calendar year, and the total employee hours for the previous calendar year. Such records shall be sufficient to enable the FRA to verify the information provided by the railroad on FRA Form 6180.89—Annual Report of Railroads Subject to User Fees. Such records shall also be available for inspection and copying by the Administrator or the Administrator's designee during normal business hours.

§ 245.105 Retention of records.

Each railroad subject to this part shall retain records required by § 245.103 for at least three years after the end of the calendar year to which they relate.

Subpart C—User Fee Calculation

§ 245.201 User fee calculation.

(a) The fee to be paid by each railroad shall be determined as follows:

(1) After March 15 of each year (June 15th for the fiscal year ending September 30, 1992), FRA will tabulate the total train miles, total employee hours, and total road miles for railroads subject to this part for preceding calendar year. FRA's calculations will be based on the information supplied by covered railroads under § 245.101 hereof, and other reports and submissions which railroads are required to make to FRA under applicable regulations (i.e. 49 CFR parts 225 and 228). At the same time, FRA will calculate the total cost of administering the Safety Act for the current fiscal year (other than activities described in section 202(a)(2) thereof) which will represent the total amount of user fees to be collected.

(2) Using tabulations of total train miles, total employee hours, total road miles, and the total cost of administering the Safety Act, FRA will calculate a railroad's user fee assessment as follows:

(i) The assessment rate per train mile will be calculated by multiplying the total costs of administering the Safety Act by 0.5 and then dividing this amount (i.e., fifty percent of the total amount to be collected) by the total number of train miles reported to the FRA for the previous calendar year. The result will be the railroad user fee assessment rate per train mile for the current fiscal year.

(ii) The assessment rate per employee hour will be calculated by multiplying the total costs of administering the Safety Act by 0.2 and then dividing this amount (i.e., 20 percent of the total amount to be collected) by the total number of employee hours reported to the FRA for the previous calendar year. The result will be the railroad user fee rate per employee hour for the fiscal year.

(iii) The assessment rate per road mile will be calculated in three steps. First, FRA will determine a preliminary assessment rate per road mile by multiplying the total costs of administering the Safety Act by 0.3 and dividing this amount (i.e., thirty percent of the total amount to be collected) by the total road miles reported to FRA for the previous calendar year. Second, FRA will adjust this preliminary rate per road mile for each light density railroad by multiplying the preliminary rate by the appropriate scaling factor identified in § 245.5(h). The result will be a reduced assessment rate per road mile for light density railroads. Third, FRA will adjust the preliminary assessment rate per road mile for all railroads except light density railroads by adding to their preliminary rate an incremental amount reflecting the reallocation of the relief provided to light density railroads under step 2 using the sliding scale. The incremental amount is calculated by subtracting the total amount to be collected from light density railroads after application of the sliding scale from the total amount that would have been collected from light density railroads using the preliminary assessment rate and developed under step 1 and dividing the resulting amount by the total road miles reported to FRA by all railroads except light density railroads. The incremental amount is then added to the preliminary assessment rate for all railroads except light density railroads to derive the assessment rate per road mile for all railroads except light density railroads. The results will be a modified assessment rate per road mile for light density railroads qualifying under step 2 and a general assessment rate applicable to all other railroads. In those cases where the computed fee is less than the defined minimum, the net increase attributable to the application of the minimum standard is not included in the reallocation process under step 3 and is instead added to total collections.

(b) FRA will publish a summary of its calculations in the **Federal Register.**

(c) The user fee to be paid by each covered railroad is the greater of $500.00 or the sum of the railroad's train miles times the assessment rate per train mile, the railroad's employee hours times the assessment rate per employee hour, and the railroad's road miles times the applicable assessment rate per road mile.

Subpart D—Collection Procedures and Duty to Pay

§ 245.301 Collection procedures.

(a) After March 15 of each year (June 15th for the fiscal year ending September 30, 1992), FRA will provide to each covered railroad a notice (the "Preliminary Assessment Notice") containing FRA's preliminary estimates of the total user fee to be collected, the assessment rate per train mile, the assessment rate per employee hour, the assessment rate per road mile (as adjusted by the sliding scale), the train miles, the employee hours, and the road miles for the railroad for the prior calendar year, and the user fee to be paid by the railroad. The Preliminary Assessment Notice is designed to be purely informational and will enable covered railroads to make necessary plans and budget adjustments in preparation of receipt of the final notice and user fee assessment. The Preliminary Assessment Notice is not a bill and no payment is due to FRA on the basis of the Preliminary Assessment Notice.

(b) FRA will refine its calculations as necessary and will provide to each covered railroad a notice (the "Final Assessment Notice") containing FRA's final calculations of the total user fee to be collected, the assessment rate per train mile, the assessment rate per employee hour, the assessment rate per road mile (as adjusted by the sliding scale), the train miles, employee hours, and road miles for the railroad for the prior calendar year, the user fee to be paid by the railroad, and a statement and payment record form. FRA will mail the Final Assessment Notice sufficiently in advance of the end of the fiscal year in order to allow all collections to be completed prior to the end of the fiscal year.

§ 245.303 Duty to pay.

(a) Beginning in the fiscal year ending September 30, 1991, each railroad subject to this part shall pay an annual railroad user fee to the FRA. Payment in full shall be received by FRA no later than September 15th of each year. Payment is made only when received by FRA. Payments in excess of ten thousand dollars ($10.000.00) shall be made by wire transfer through the Federal Reserve communications, commonly known as Fedwire, to the account of the U.S. Treasury in accordance with the instructions provided in the Final Assessment Notice. Payments of ten thousand dollars or less shall be by check or money order payable to the Federal Railroad Administration. The payment shall be identified as the railroad's user fee by marking it with the railroad's User Fee Account Number as assigned by FRA and by returning the payment voucher form received with the Final Assessment Notice. Payment shall be sent to the address stated in the assessment notice.

(b) Payments not received by the due date will be subject to allowable interest charges, penalties, and administrative charges (31 U.S.C. 3717). Follow-up demands for payment and other actions intended to assure timely collection, including referral to local collection agencies or court action, will be conducted in accordance with Federal Claims Collection Standards (4 CFR Chapter II) and Departmental procedures.

Issued in Washington, DC, on February 18, 1992.

Gilbert E. Carmichael,

Federal Railroad Administrator.

[FR Doc. 92-4224 Filed 2-25-92; 8:45 am]

BILLING CODE 4910-06-M

National Highway Traffic Safety Administration

49 CFR Parts 571 and 575

[Docket No. 92-03; Notice 1]

Evaluation Report on Tire Labeling Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Request for comments.

SUMMARY: This notice announces the publication by NHTSA of an Evaluation Report concerning § 575.104—the Uniform Tire Quality Grading Standards of the Consumer Information Regulations, Federal Motor Vehicle Safety Standard 109—New Pneumatic Passenger Car Tires, Safety Standard 117—Pneumatic Retreaded Tires, and Safety Standard 119—New Pneumatic Tires for Vehicles Other Than Passenger Cars. This staff report evaluates the effectiveness of tire labeling requirements in assisting; individual consumers and buyers of tires for fleets of vehicles to make informed choices; tire sales people to select tires appropriate for customer vehicles; and tire repairers/retreaders to repair/

retread tires. The report was developed in response to Executive Order 12291, which provided for Government-wide review of existing major Federal regulations. The agency seeks public review and comment on this evaluation. Comments received will be used to complete the review required by Executive Order 12291.

DATES: Comments must be received no later than April 13, 1992.

ADDRESSES: Interested persons may obtain a copy of the report free of charge by sending a self-addressed mailing label to Ms. Glorious Harris (NAD–51), National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590. All comments should refer to the docket and notice number of this notice and be submitted to: Docket Section, room 5109, Nassif Building, 400 Seventh Street, SW, Washington, DC 20590. [Docket hours, 9:30 a.m.–4 p.m., Monday through Friday.]

FOR FURTHER INFORMATION CONTACT: Mr. Frank Ephraim, Director, Office of Standards Evaluation, Plans and Policy, National Highway Traffic Safety Administration, room 5208, 400 Seventh Street, SW., Washington, DC 20590 (202–366–1574).

SUPPLEMENTARY INFORMATION: The Uniform Tire Quality Grading Standards (UTQGS), (49 CFR 575.104), require that information about the relative performance of tires in the areas of treadwear, traction, and temperature resistance be permanently molded into tire sidewalls, indelibly stamped on a label or labels affixed to the tire tread surface, and be made available in consumer brochures. The information is provided so that consumers are aided in making informed choices when purchasing passenger car tires. Under controlled test conditions, treadwear is defined as the wear rate of a tire; traction, a tire's ability to stop on wet pavement; and temperature resistance, a tire's ability to dissipate heat.

Federal Motor Vehicle Safety Standard (FMVSS) No. 109 (49 CFR 571.109) requires that new pneumatic passenger car tires have permanently molded into both sidewalls information regarding size, maximum permissible inflation pressure, maximum load rating, cord material, number of plies in the sidewall and tread area, the words "tubeless" or "tube type," as applicable, the word "radial," if the tire is a radial ply tire, a DOT certification symbol, and manufacturer name or brand name and number. FMVSS No. 117 (49 CFR 571.117) requires each new retreaded tire have molded into its sidewalls all the information required in FMVSS No. 109 plus the words "bias," or "bias belted," as applicable. FMVSS No. 119 (49 CFR 571.119) requires each new pneumatic tire for vehicles other than passenger cars, namely, multipurpose passenger vehicles, trucks, buses, trailers, and motorcycles, have molded into both sidewalls all the information required in Standard No. 109 plus information concerning speed restrictions if less than 55 mph, the word "regroovable," if the tire is designed for regrooving, and a letter designating load range rating.

Pursuant to Executive Order 12291, NHTSA is conducting an evaluation of tire labeling requirements, to determine if they assist consumers in making informed choices; assist sales people in selecting tires appropriate for customer vehicles; and air repairers and retreaders in knowing if, when, and how to repair or retread tires. Under the Executive Order, agencies review existing regulations to determine if they are achieving the Order's policy goals. The evaluation was based on telephone surveys of four statistically representative samples of potential users of the tire labeling information, namely:

- Individuals who buy tires for their privately owned vehicles (individual consumers),
- Individuals who purchase tires for fleets of vehicles (fleet buyers),
- Individuals who sell tires, and
- Individuals who repair and/or retread tires.

The individual consumers had either purchased tires six or less months prior to the telephone contact (recent consumers), or planned to purchase tires within two months of the contact (prospective consumers).

The surveys were designed to ascertain whether the members of the respondent groups knew what information is molded into tires, understood the meanings of the UTQGS terms and codes, and used UTQGS information when purchasing, selling, or repairing tires.

The principal findings of this study follow.

- Most individual consumers reported having heard of the treadwear and traction ratings (74 and 65 percents, respectively). Less than half reported having heard of the temperature resistance rating (38 percent).
- Most consumers knew the FMVSS information is molded into tires; most did not know UTQGS information is also molded into tires. Most tire sellers and repairer/retreaders knew information about both the FMVSSs and UTQGS are found on tires. Depending on the item, 50 to 92 percent of all individual consumers reported looking for FMVSS information relating to new pneumatic tires for passenger cars on tires; 15 to 26 percent looked for UTQGS information on tires. Seventy-eight to 100 percent of the tire sellers and repairers/retreaders knew information about specific UTQGS items and FMVSS terms relating to new pneumatic tires for passenger cars, are located on tires.
- When presented with multiple choice questions regarding the definitions of one or two UTQGS terms and the relative ranking of two traction grades, more than half the respondents in all groups chose the correct definition of the temperature resistance rating (individual consumers—64 percent, fleet buyers—69 percent, sales people—78 percent, repairers/retreaders—87 percent) and the relative ranking of the traction grades (individual consumers—61 percent, fleet buyers—58 percent, sales people—84 percent, repairers/retreaders—86 percent). However, less than half of the individual consumers and fleet buyers (43 and 34 percent, respectively) chose the correct definition for traction rating.
- Consumers who planned to buy tires differed from those who recently bought them. Prospective consumers rated significantly more FMVSS and UTQGS items important in influencing their tire choices than recent consumers. More than 50 percent of the prospective buyers rated all three UTQGS and eight FMVSS items "important" or "very important"; more than 50 percent of the recent consumers rated one FMVSS item (whether or not a tire is radial) and no UTQGS items "important" or "very important."
- Fleet buyers resembled prospective consumers in that more than 50 percent of them rated information about two UTQGS ratings (treadwear and traction) and most of the FMVSS items, important in tire purchase decisions.
- Most tire retailers perceived information about two UTQGS items (treadwear and traction), and two FMVSS items (radial and tubeless/tube type) as being important to consumers in tire purchase decisions.
- Although 72 percent of the individual consumers reported looking at tires identical to the ones they were about to buy, only 22 and 26 percents, reported they would look for information about treadwear and traction, respectively, on tires.

NHTSA seeks public review of the evaluation study and invites the reviewers to submit comments. It is requested but not required that 10 copies of comments be submitted.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

(15 U.S.C. 1392, 1401, 1407; delegation of authority at 49 CFR 1.50 and 501.8)

Issued on: February 21, 1992.

Donald C. Bischoff,

Associate Administrator for Plans and Policy.

[FR Doc. 92-4338 Filed 2-25-92; 8:45 am]

BILLING CODE 4910-59-M

Notices

Federal Register
Vol. 57, No. 38
Wednesday, February 26, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

February 21, 1992.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, room 404-W Admin. Bldg., Washington, DC 20250, (202) 690-2118.

Reinstatement

- Agricultural Stabilization and Conservation Service, 7 CFR part 704 and 7 CFR part 1410, Conservation Reserve Program, CRP-1, CRP-1 Appendix, CRP-1 Continuation (CRP-1A), CRP-1C, CRP-1D, CRP-1E, CRP-2, CRP-15, ASCS-893, CCC-111, 112, 113, 114, 115, 116. On occasion, Individuals or households; State or local governments; Farms; 285,000 responses; 28,500 hours, Charles Sims, (202) 720-7334.

Larry K. Roberson,

Deputy Departmental Clearance Officer.

[FR Doc. 92-4404 Filed 2-25-92; 8:45 am]

BILLING CODE 3410-01-M

Rural Electrification Administration

Associated Electric Cooperative, Inc.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Finding of No Significant Impact related to the Rural Electrification Administration's (REA) Federal action as pertains to the construction of a 161 kV transmission line in New Madrid County, Missouri.

SUMMARY: Notice is hereby given that REA has reached a Finding of No Significant Impact with respect to the construction of a 161 kV transmission line in New Madrid County, Missouri. The Finding of No Significant Impact is based on an Environmental Assessment of the Union City to New Madrid 161 kV Transmission Line prepared by the Tennessee Valley Authority (TVA) and adopted by REA. REA's finding and the adoption of TVA's Environmental Assessment are made pursuant to the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality Regulations (40 CFR parts 1500-1508) and the REA Environmental Policies and Procedures, 7 CFR part 1794.

Associated Electric Cooperative, Inc., (AECI) has requested approval from REA to participate with TVA in an interconnection project between AECI's New Madrid Substation and TVA's Union City Substation.

FOR FURTHER INFORMATION CONTACT: Robert M. Quigel, Environmental Protection Specialist, Environmental Compliance Branch, Electric Staff Division, room 1246, South Agriculture Building, Rural Electrification Administration, Washington, DC 20250, telephone (202) 720-1784.

SUPPLEMENTARY INFORMATION: The entire transmission line project entails the construction of 36.5 miles of 161 kV transmission line and the modification of the AECI's New Madrid Substation and TVA's Union City Substation. AECI's portion of the 161 kV transmission will be 9.5 miles and TVA portion will be 27 miles. AECI will construct the transmission line from its New Madrid Substation, located near New Madrid, Missouri, to the first transmission line support structure on the east side of the Mississippi River. AECI will be responsible for the river crossing. TVA will construct the transmission line from the first support structure on the east side of the Mississippi River to a point near its Troy Substation which is located southeast of Troy, Tennessee. (TVA is presently operating a 9-mile, 69 kV transmission line between its Troy and Union City Substations that has been designed to operate at 161 kV. This line will be disconnected from the Troy Substation and tied to the new transmission line.)

Alternatives considered to constructing the project as proposed were no action, alternative routes in Missouri and Tennessee, and construction of separate projects by AECI and TVA with no interconnection.

REA has determined that the proposed project is needed by AECI to solve its system voltage problems in Southeast Missouri. The transmission line will also provide the benefits of a major transmission interconnection between two large geographic areas with the resulting improvement in reliability and new opportunities for economy energy exchange between these regions.

Copies of the Environmental Assessment and Finding of No Significant Impact are available for review at, or can be obtained from, REA at the address provided herein or from Mr. Charles S. Means, Supervisor, Environmental Services, Associated Electric Cooperative, Inc., PO Box 754, Springfield, Missouri 65801-0754.

Dated: February 13, 1992.

Approved:

George E. Pratt,

Deputy Administrator—Program Operations, Rural Electrification Administration.

[FR Doc. 92-4328 Filed 2-25-92; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF COMMERCE

Estimates of the Voting Age Population for 1991

Under the requirements of the 1976 amendment to the Federal Election Campaign Act, title 2, United States Code, section 441a(e), I hereby give notice that the estimates of the voting age population for July 1, 1991, for each state and the District of Columbia is as shown in the following table.

I have certified these counts to the Federal Election Commission.

Dated: February 19, 1992.

R.A. Schnabel,

Deputy Secretary of Commerce.

ESTIMATES OF THE POPULATION OF VOTING AGE FOR EACH STATE, AND THE DISTRICT OF COLUMBIA: JULY 1, 1991

[In thousands]

	Population 18 and over
United States	187,033
Alabama	3,018
Alaska	391
Arizona	2,740
Arkansas	1,746
California	22,218
Colorado	2,493
Connecticut	2,527
Delaware	512
District of Columbia	477
Florida	10,280
Georgia	4,848
Hawaii	845
Idaho	721
Illinois	8,545
Indiana	4,144
Iowa	2,069
Kansas	1,822
Kentucky	2,754
Louisiana	3,018
Maine	924
Maryland	3,659
Massachusetts	4,622
Michigan	6,884
Minnesota	3,243
Mississippi	1,841
Missouri	3,818
Montana	585
Nebraska	1,158
Nevada	962
New Hampshire	824
New Jersey	5,919
New Mexico	1,089
New York	13,691
North Carolina	5,094
North Dakota	461
Ohio	8,120
Oklahoma	2,330
Oregon	2,174
Pennsylvania	9,132
Rhode Island	774
South Carolina	2,622
South Dakota	503
Tennessee	3,723
Texas	12,380
Utah	1,128
Vermont	422
Virginia	4,748
Washington	3,703
West Virginia	1,364
Wisconsin	3,644
Wyoming	323

Source: Population Estimates Branch, Bureau of the Census, Washington, DC.

For a description of methodology see Current Population Reports, Series P-25, No. 1010.

February 7, 1992.

[FR Doc. 92-4249 Filed 2-25-92; 8:45 am]

BILLING CODE 3510-07-M

Bureau of Export Administration

Action Affecting Export Privileges; Decision and Order

In the matter of: Instrubel NV, Westerring 19, B-9700 Oudenaarde, Belgium; OIP NV, Westerring 21, B-9700 Oudenaarde, Belgium, Respondents.

On February 22, 1992, then Assistant Secretary for Export Enforcement, Quincy M. Krosby, issued a temporary denial order (TDO) for 180 days naming Delft Instruments N.V., located in the Netherlands, also known as Oldelft, Old Delft, Olde Delft, Oude Delft (hereinafter referred to as Delft); Delft Instruments Electro-Optics, Delft Electronische Products and Optische Industrie Oude Delft; OIL Instrubel, a Delft subsidiary located in Belgium, and Franks & Co. Optik GmbH [1] a Delft subsidiary located in Germany, as persons temporarily denied all U.S. export privileges. 56 FR 8321 (February 28, 1991). On August 21, 1991, then-Acting Assistant Secretary for Export Enforcement, Kenneth A. Cutshaw, renewed that TDO for 90 days and modified it to name specifically all of Delft's 47 subsidiaries as persons related to Delft and, as such, also denied export privileges. 56 FR 42977 (August 30, 1991).[2] On November 19, 1991, I renewed the TDO for an additional 90 days, limiting it, however to seven of Delft's defense-related subsidiaries. 56 FR 60085 (November 27, 1991). Without renewal, the TDO will expire on February 17, 1992.

On January 29, 1992, the Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (Department), filed a request with me asking me to renew again the TDO against all seven of Delft's defense-related subsidiaries and, in addition, one recently established Delft defense-related affiliate. Since then, I have reviewed the Department's request and Delft's opposition thereto. I have also had discussions with representatives of the Department and Delft. Based thereon, I have decided to renew the TDO for 180 days with regard to only two of Delft's defense-related entities—Instrubel NV and OIP NV—because I find that such a renewal is necessary in the public interest to prevent an imminent violation of the Export Administration Regulations (currently codified at 15 CFR parts 768-799 (1991)) (the Regulations), issued pursuant to the Export Administration Act of 1979, as amended (currently codified at 50 U.S.C.A. app. 2401-2420 (1991)) (Act).[3] However, with regard to Delft's other defense-related subsidiaries and affiliates, I find that such a renewal is not warranted.

Accordingly, it is hereby

Ordered

I. Effective February 17, 1992, the TDO in effect against Delft's seven defense-related affiliates shall expire and have no effect, except that, it shall continue in effect with regard two Delft defense-related subsidiaries. Accordingly, all outstanding validated export licenses in which INSTRUBEL NV, Westerring 19, B-9700 Oudenaarde, Belgium and OIP NV Westerring 21, B-9700 Oudenaarde, Belgium, appear or participate, in any manner or capacity, are hereby revoked.

II. Respondents INSTRUBEL NV and OIP NV, their successors, assignees, officers, partners, representatives, agents, and employees, hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction in the United States or abroad involving commodities or technical data exported or to be exported from the United States, in whole or in part and subject to the Regulations. Without limiting the generality of the foregoing, participation, either in the United States or aboard, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to any export license application submitted to the Department any export

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[1] Since the time the TDO was originally issued, I have learned that the correct spelling of "Franks & Co. Optik GmbH" is "Franke & Co. Optik GmbH."

[2] The TDO was modified again on October 19, 1991 to delete B.V. Enraf-Nonius Ermelo as a person related to Delft, based on evidence proffered by Delft that it had sold that entity. 56 FR 55491 (October 28, 1991).

[3] The Act expired on September 30, 1990. Executive Order 12730 (55 FR 40373, October 2, 1990) continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. 1701-1706 (1991)).

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license application or reexport authorization, or any document to be submitted therewith; (c) in obtaining from the Department or using any validated or general export license, reexport authorization or other export control document; (d) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported or to be exported from the United States and subject to the Regulations; and (e) in financing, forwarding, transporting, or other servicing of such commodities or technical data. Such denial of export privileges shall extent only to those commodities and technical data which are subject to the Act and the Regulations.

III. After notice and opportunity for comment, such denial may be made applicable to any person, firm, corporation, or business origination with which either INSTRUBEL NV or OIP NV is now or hereafter may be related by affiliation, ownership, control, position or responsibility, or other connection in the conduct of trade or related services.

IV. As provided for in § 787.12(a) of the Regulations, without prior disclosure of the facts to and specific authorization of the Office of Export Licensing, in consultation with the Office of Export Enforcement, no person may directly or indirectly, in any manner or capacity, with respect to U.S.-origin commodities and technical data: (i) Apply for, obtain, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to an export or reexport of commodities or technical data by, to, or for another person then subject to an order revoking or denying his export privileges or then excluded from practice before the Bureau of Export Administration; or (ii) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate (a) in any transaction which may involve any commodity or technical data exported or to be exported from the United States, (b) in any reexport thereof, or (c) in any other transaction which in subject to the Export Administration Regulations, if the person denied export privileges may obtain any benefit or have any interest in, directly or indirectly, any of these transactions.

V. In accordance with the provisions of § 788.19(e) of the Regulations, any respondent may, at any time, appeal this temporary denial order by filing with the Office of the Administrative Law Judge, U.S. Department of Commerce, room H-6716, 14th Street and Constitution Avenue, NW., Washington, DC 20230, a full written statement in support of the appeal;.

VI. This order will be effective on February 18, 1992 and shall remain in effect for 180 days.

VII. In accordance with the provisions of § 788.19(d) of the Regulations the Department may seek renewal of this temporary denial order by filing a written request not later than 20 days before the expiration date. Any respondent may oppose a request to renew this temporary denial order by filing a written submission with the Assistant Secretary for Export Enforcement, which must be receive not later than seven days before the expiration date of this order.

A copy of this order shall be served on each respondent and this order shall be published in the **Federal Register**.

Entered this 13th day of February, 1992.

Douglas E. Lavin,

Acting Assistant Secretary for Export Enforcement.

[FR Doc. 92-4325 Filed 2-25-92; 8:45 am]

BILLING CODE 3510-DT-M

International Trade Administration

Export Certificate of Review

ACTION: Notice of application.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: George Muller, Director, Office of Export Trading Company Affairs, International Trade Administration, 202-377-5131. This is not a toll free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorized the Secretary of Commerce to issue Export Trade Certificate of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether a Certificate should be issued. An original and five (5) copies should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, room 1800H, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 92-00003". A summary of the application follows.

Summary of Application

Applicant: United States Apple and Pear Marketing Board, Inc. P.O. Box 70548, Seattle, Washington, 98107.

Contact: Wendy E. Hinman, Vice President of Government Relations, P.O. Box 70548, Seattle, WA 98107, Telephone: 206-782-4248.

Application No.: 92-00003.

Date Deemed Submitted: February 10, 1992.

Members (in addition to applicant): Appalachian Apple, Inc. of Mt. Jackson, VA; Applewood Orchards, Inc. of Deerfield, MI; Borton & Sons of Yakima, WA; Columbia Marketing International Corporation of Wenatchee, WA; Douglas Fruit Company of Pasco, WA; Eakin Fruit Company, Union Gap, WA; Evans Fruit Company, of Yakima, WA; Gold Digger Apples, Inc. of Oroville, WA; Green Valley Farms of Orcutt, CA; Inland Fruit Company of Wapato, WA; Jack Frost Fruit Company/Marley Orchard Corp. of Yakima, WA; Northwestern Fruit Company of Gleed, WA; Price Cold Storage of Gleed, WA; Rice Fruit Company of Biglerville, PA; Roche Fruit Company of Yakima, WA; Washington Apple and Pear Marketing Board of Seattle, WA.

Appalachian Apple, Inc. is a consortium of 8 companies: Fred L. Glaize partnership; Moore and Dorsey, Inc.; Ridgetop Orchards; Hearty Virginia, Inc.; Ikenberry Orchards; Buck Hill Orchards; Frederickson Orchards and Mount Clifton Fruit Co.

Export Trade

(A) *Products*

(1) Fresh, frozen and processed fruits and vegetables, including:

(a) Deciduous fruit, including apples and pears;

(b) Stone fruit, such as apricots, cherries, nectarines, peaches, plums, and prunes;

(c) Berries, including blackberries, blueberries, cranberries, raspberries and strawberries;

(d) Citrus, including grapefruit, lemons, limes, mandarins and oranges;

(e) Grapes;

(f) Cooking and salad vegetables, including asparagus, broccoli, cabbage, carrots, cauliflower, celery, lettuce, onions, potatoes and tomatoes.

(2) Fresh, frozen and processed meat, fish and egg products.

(3) Grains and legumes.

(4) Equipment related to transportation, storage, packaging, and marketing of the products sold by the Marketing Board.

(B) *Services*

Inspection and quality control services; and marketing and promotional services.

(C) *Technology Rights*

Proprietary rights to all kinds of technology associated with Products or Services including but not limited to patents, trademarks, service marks, trade names, copyrights (including neighboring rights), trade secrets, know-how, semiconductor mask works, utility models (including petty patents), plant breeders rights, industrial designs, and sui generis forms of biotechnology protection and computer software protection.

(D) *Export Trade Facilitation Services (as they relate to the export of Products, Services and Technology Rights)*

Consulting and trade strategy; sales and marketing, export brokerage; international marketing research; international market development; overseas advertising and promotion; product research and design based on foreign buyer and consumer preferences; communication and processing of export orders; inspection and quality control; transportation; freight forwarding and trade documentation; insurance; billing of foreign buyers; collection (letters of credit and other financial instruments); any additional technical and support services needed; provision of overseas sales and distribution facilities and overseas sales staff; legal, accounting and tax assistance; management information systems development, and application; assistance and administration of Governmental Export Assistance Programs, such as the Export Enhancement and Market Promotion Programs.

Export Markets

The market for the goods and services to be exported by the Marketing Board will include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam and the Commonwealth of the Northern Mariana Islands) and Canada.

Export Trade Activities and Methods of Operation

In connection with the promotion and sale of Members' Products into the Export Markets, the Corporation may, on behalf of and with the advice and assistance of its Members:

(1) Design and execute international marketing strategies for its Export Markets;

(2) Prepare joint bids, establish export prices for Members' Products and Services and establish the terms of sale for each Export Market;

(3) Design and implement a fair and reasonable export quota system which allocates export sales, international buyers and/or export markets among Members on the basis of each Member's commitment of Products, Product availability and/or its individual marketing plan in relation to the Corporate plan;

(4) Grant sales and distribution rights for its Members' Products into designated Export Markets to foreign agents or importers. These distribution rights may or may not be exclusive. "Exclusive" means that the Corporation and Members may agree not to sell its Products into the designated Export Market through any other foreign distributor, and that the foreign distributor may agree to represent only the Corporation in the Export Market and none of its competitors;

(5) Design, develop and market a generic corporate label which will signify to the buyers in the Export Markets a premium grade export product which they can depend on to consistently meet their quality requirements and specifications. When possible, the Members will package their premium grade export Products under this corporate label;

(6) Engage in joint promotional activities directly targeted at developing and expanding existing or new Export Markets, such as: arranging trade shows and marketing trips; providing advertising services; providing brochures, industry newsletters and other forms of product, service and industry information; conducting international market and product research; contracting international marketing, advertising and promotional services; and sharing the cost of these joint promotional activities among the Members;

(7) Conduct product and packaging research and development exclusively for the export of its Members' Products, such as meeting foreign regulatory requirements and foreign buyer specifications; and identifying and designing for foreign buyer and consumer preferences;

(8) Negotiate and enter into agreements with governments and other foreign persons regarding nontariff trade barriers in the Export Markets, such as packaging requirements, establishing and operating fumigation facilities and providing specialized packing operations and other quality control procedures which must be followed by its Members in the export of its Products into the Export Markets;

(9) Advise and cooperate with agencies of the United States Government in establishing procedures regulating the export of its Members' Products, Services and/or Technology Rights into the Export Markets;

(10) Negotiate and enter into purchase agreements with buyers in the Export Markets regarding the export prices, quantities, type and quality of Products, time periods, and the terms and conditions of the sale;

(11) Broker or take title to the Products;

(12) Purchase similar or complementary Products from non-Member producers whenever necessary to fulfill sales obligations and/or provide for the needs of the buyers in the Export Markets;

(13) Solicit non-Member producers of similar or complementary Products as Members whenever the addition of said non-Member can provide future benefits for the Corporation and its Members;

(14) Communicate and process export orders;

(15) Assist each Member in maintaining the quality standards necessary to be successful in the Export Markets and to detect and stop potential export problems at the packing house;

(16) Provide Export Trade Facilitation Services with respect to Products, Services and Technology Rights;

(17) Provide, procure, negotiate, contract and administer transportation services, including overseas freight transportation, inland freight transportation from the packing house to the United States port of embarkment, leasing of transportation equipment and facilities, storage and warehousing, stevedoring, wharfage and handling, insurance, forwarder services, trade documentation and services, custom clearance, financial instruments, and foreign exchange;

(18) Negotiate advantageous freight rate contracts with individual carriers and carrier conferences either directly or indirectly through Shipper's Associations and/or freight forwarders;

(19) Arrange financing through bank holding companies, governmental financial assistance programs, etc.;

(20) Bill and collect from foreign buyers and provide accounting, tax, legal and consulting assistance and services;

(21) Enter into exclusive agreements with Non-Members to provide specific services;

(22) Design, implement and administer Foreign Sales Corporations in compliance with the Internal Revenue Code;

(23) Open and operate overseas sales and distribution offices and companies to facilitate the sales and distribution of the Members' Products in the Export Markets;

(24) Apply for and utilize applicable export assistance and incentive programs which are available within the governmental and private sectors, such as the Export Enhancement, and Market Promotion Programs;

(25) Negotiate and enter into agreements with governments and other foreign persons to develop countertrade arrangements which can be mutually beneficial for all parties, such as exploring relationships with complementary markets;

(26) Provide Members with any and all additional technical and support services which may facilitate the export of their Products;

(27) Provide buyers in the Export Markets with competitive pricing, timely quotations, market knowledge, consistent quality, teamwork, creativity, innovation, and any and all additional technical and support services which may increase the sale of its Members' Products into the Export Markets;

(28) Respond to requests from the Corporation's foreign buyer network for assistance in the procurement of equipment and machinery which might enhance the utilization and purchase of additional products from the Corporation;

(29) Refuse to deal with or provide quotations to other Export Trade Intermediaries for sales of the Members' Products into the Export Markets;

(30) Exchange information with and among the Members, and enter into and carry out agreements with and among the Members as necessary to carry out the Export Trade Services and Trade Activities including:

(a) Information about sales and marketing efforts for the Export Markets, activities and opportunities for sales of Products into the Export Markets, selling and marketing strategies for the pricing in the Export Markets, projected demand in the Export Market for existing and new Products, customary terms of sale, prices and availability of Products from Members for sales in the Export Markets, prices and availability of Products from non-Member competitors for sales in the Export Markets, and new Products and specifications for new and existing Products by buyers and consumers in the Export Markets;

(b) Information about the price, quality, quantity, source and availability (delivery) dates of Products available from the Members for export;

(c) Information about terms and conditions of contracts for sales in the Export Markets to be considered and/or bid on by the Corporation;

(d) Information about joint bidding, selling arrangements for the Export Markets and the allocations of sales resulting from such arrangement among the Members, including information regarding the allocation methods used, such as each Member's percentage of the total committed volume of all Members;

(e) Information about expenses specific to exporting to and within the Export Markets, including without limitation, transportation, trans-shipments, intermodal shipments, insurance, inland freight to port, port storage, commissions, export sales, documentation, financing, customs, duties or taxes;

(f) Information about United States and foreign legislation and regulations, including Federal marketing order programs which may affect sales for the Export Markets; and

(g) Information about the Corporation's or its Members' export operations, including without limitation, sales and distribution networks established by the Corporation or its Members in the Export Markets, and prior export sales by Members including export price information.

Members will independently determine the approximate quantity of each of their Products that they will make available for sale by the Corporation into the Export Markets.

Members will be responsible for advising the Corporation in a timely manner regarding the Products, quantities and periods of availability.

Members will grant the Corporation the right of first refusal for all Products they plan to export; Members can obtain permission from the Corporation to sell their Products through other Export Intermediaries only if: (a) The Product does not meet the quality or packaging standards and requirements of the Corporation; (b) The terms of sale are not acceptable to the Member; (c) The export price is not acceptable to the Member; (d) Due to the perishability of the product, the Member must sell the Product immediately and the Corporation does not have a viable sales opportunity during the time necessary to ship.

Definitions

1. *Export Intermediary* means a person who acts as distributor, sales representative, sales or marketing agent, or broker, or who performs similar functions, including providing or arranging for the provision of Export Trade Facilitation Services.

2. *Member* means a person who has membership in the United States Apple and Pear Marketing Board, Inc. and who has been certified as a "Member" within the meaning of Section 325.2910 of the Regulations.

Dated: February 20, 1992.

George Muller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 92-4335 Filed 2-25-92; 8:45 am]

BILLING CODE 3510-DR-M

National Oceanic and Atmospheric Administration

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council (Council) has established an Ad Hoc Committee (AHC) to consider an allocation plan for Pacific whiting in 1992. The AHC, which is composed of members from each segment of the affected industry, will hold a public meeting on March 3, 1992, beginning at 10 a.m. The AHC will review the revised allocation analysis and discuss potential social and economic costs and benefits to the various users. The AHC plans to hold this meeting in the Yakima Room at the Columbia River Red Lion, 1401 North Hayden Island Drive, Portland, OR.

For more information contact Lawrence D. Six, Executive Director, Pacific Fishery Management Council, Metro Center, suite 420, 2000 SW., First Avenue, Portland, OR 97201; telephone: (503) 326-6352.

Dated: February 19, 1992.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92-4277 Filed 2-25-92; 8:45 am]

BILLING CODE 3510-22-M

South Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The South Atlantic Fishery Management Council (Council) will hold a public meeting of its Statement of Organization Practices and Procedures (SOPPs) Committee on March 10-11, 1992, at the Town and Country Inn, 2008 Savannah Highway, Charleston, SC. The meeting will begin on March 10 at 1 p.m., and adjourn on March 11 at 3 p.m.

The SOPPs Committee will amend the Council's SOPPs to bring it into compliance with amendments to the Magnuson Act. Final action on revising the SOPPs will be taken at the April Council meeting.

For more information contact Carrie Knight, Public Information Officer: South Atlantic Fishery Management Council: One Southpark Circle, suite 306; Charleston, SC 29407-4699; telephone: (803) 571-4366.

Dated: February 19, 1992.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92-4278 Filed 2-25-92; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton Textile Products Produced or Manufactured in Brazil

February 21, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing limits.

EFFECTIVE DATE: February 28, 1992.

FOR FURTHER INFORMATION CONTACT: Nicole Bivens Collinson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-5810. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for Categories 300/301 and 317/326 are being increased by application of swing.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 56 FR 60101, published on November 27, 1991). Also see 56 FR 12368, published on March 25, 1991.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

February 21, 1992.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on March 19, 1991, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Brazil and exported during the twelve-month period which began on April 1, 1991 and extends through March 31, 1992.

Effective on February 28, 1992, you are directed to amend further the directive dated March 19, 1991, to increase the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and the Federative Republic of Brazil:

Category	Adjusted twelve-month limit [1]
Sublevels in the aggregate	
300/301	6,320,758 kilograms.
317/326	17,477,011 square meters.

[1] The limits have not been adjusted to account for any imports exported after March 31, 1991.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92-4416 Filed 2-25-92; 8:45 am]

BILLING CODE 3510-DR-F

Adjustment of Import Limits and a Guaranteed Access Level for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the Dominican Republic

February 21, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting import limits and a guaranteed access level.

EFFECTIVE DATE: February 28, 1992.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-5810. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limit for Categories 347/348/647/648 and 347/348 sublimit are being increased by application of swing, reducing the limit for Categories 342/642 to account for the increases. Also, the guaranteed access level is being increased for Categories 347/348/647/648.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 56 FR 60101, published on November 27, 1991). Also see 56 FR 22402, published on May 15, 1991.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

February 21, 1992.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on May 9, 1991, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in the Dominican Republic and exported during the twelve-month period which began on June 1, 1991 and extends through May 31, 1992.

Effective on February 28, 1992, you are directed to amend further the directive dated May 9, 1991 to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and the Dominican Republic:

Category	Adjusted twelve-month limit [1]
342/642	292,486 dozen.
347/348/647/648	1,217,343 dozen of which not more than 837,015 dozen shall be in Categories 347/348 and not more than 714,610 dozen shall be in Categories 647/648.

[1] The limits have not been adjusted to account for any imports exported after May 31, 1991.

Further, you are directed to increase to 4,000,000 dozen the guaranteed access level for Categories 347/348/647/648. The guaranteed access level for Categories 342/642 remains unchanged.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92-4415 Filed 2-25-92; 8:45 am]

BILLING CODE 3510-DR-F

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Forms Under Review by Office of Management and Budget

The Committee for Purchase from the Blind and Other Severely Handicapped has submitted requests to extend the authorization for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

On April 30, and May 9, 1989, the Office of Management and Budget approved the following Committee forms:

Initial Certification—Blind, Form 401.
Initial Certification—Severely Handicapped, Form 402.
Annual Certification—Blind, Form 403.
Annual Certification—Severely Handicapped, Form 404.

It is proposed to extend the authorization for the collection of information on the above forms. The information included on the forms is required to ensure that the new nonprofit agencies entering the Committee's program meet the requirements of Public Law 92-28, June 23, 1971, (44 U.S.C. 45-48c), and that participating nonprofit agencies continue to meet the requirements of the law.

The Committee's regulatory language was updated effective October 28, 1991, in order to clarify meanings and modernize references to the accepted "people first" orientation. The above forms have updated language that reflects current regulatory usage but have not been changed in any other way.

Requests for information including copies of the proposed information requests and supporting documentation should be directed to: Beverly L. Milkman, Committee for Purchase from the Blind and Other Severely Handicapped, 1755 Jefferson Davis Highway, Crystal Square 5, suite 1107, Arlington, VA 22202, telephone 703-557-1145.

Comments on the requests to extend the authorization for the reports should be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Dan Chenok.

Beverly L. Milkman,

Executive Director.

[FR Doc. 92-4374 Filed 2-25-92; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Acceptance of Group Application Under Public Law 95-202 and DODD 1000.20

United States Civilian Flight Crews and Ground Support Personnel of Pan American World Airways and Its Subsidiaries and Affiliates Who Served the United States Government Under Contracts Known as Air Transport Command and Naval Air Transport Service During World War II Between December 14, 1941 and December 31, 1945

Under the provisions of section 401, Public Law 95-202 and DOD Directive 1000.20, the Department of Defense Civilian/Military Service Review Board has accepted an application on behalf of the group known as: "United States Civilian Flight Crews and Ground Support Personnel of Pan American World Airways and Its Subsidiaries and Affiliates Who Served the United States Government Under Contracts Known as Air Transport Command and Naval Air Transport Service During World War II between December 14, 1941 and December 31, 1945." Persons with information or documentation pertinent to the determination of whether the service of this group should be considered active military service to the Armed Forces of the United States are encouraged to submit such information or documentation within 60 days to the DOD Civilian/Military Service Review Board, Secretary of the Air Force (AFPC), Washington, DC 20330-1000. Copies of documents or other materials submitted cannot be returned. For further information, contact Lt. Col. Dunlap, (703) 692-4745.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 92-4302 Filed 2-25-92; 8:45 am]

BILLING CODE 3910-01-M

Acceptance of Group Application Under Public Law 95-202 and DODD 1000.20; Honorably Discharged Members of the American Volunteer Guard, Eritrea Service Command During the Period June 21, 1942 to March 31, 1943 (WWII)

Under the provisions of section 401, Public Law 95-202 and DOD Directive 1000.20, the Department of Defense Civilian/Military Service Review Board has accepted an application on behalf of the group known as: "Honorably Discharged Members of the American Volunteer Guard, Eritrea Service Command During the Period June 21, 1942 to March 31, 1943 (WWII)." Persons with information or documentation pertinent to the determination of whether the service of this group should be considered active military service to the Armed Forces of the United States are encouraged to submit such information or documentation within 60 days to the DOD Civilian/Military Service Review Board, Secretary of the Air Force (AFPC), Washington, DC

20330-1000. Copies of documents or other materials submitted cannot be returned. For further information, contact LtCol Dunlap, (703) 692-4745.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 92-4303 Filed 2-25-92; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Reopening of the Public Comment Period—Draft Environmental Impact Statement (DEIS) for the Disposal of Chemical Munitions Stored at Umatilla Depot Activity, OR

AGENCY: Department of the Army, DoD.

ACTION: Notice of reopening of public comments period and annoucement of public meeting.

SUMMARY: This announces the reopening of the public comment period and the holding of a public meeting for the draft site-specific EIS for the proposed chemical agent disposal facilities at Umatilla Depot Activity, Oregon. The draft site-specific EIS examines the potential impacts of the on-site incineration, alternative locations for the disposal facility on Umatilla Depot Activity and the "no-action" alternative. The "no-action" alternative is considered to be deferral of demilitarization with continued storage of agents and munitions at Umatilla Depot Activity.

SUPPLEMENTARY INFORMATION: The original comment period on the draft EIS was announced on October 23, 1991 (56 FR, 54841) and ended on December 9, 1991. The department of the Army has now reopened the comment period. Comments must be received by March 31, 1992, for consideration in the preparation of the Final Umatilla EIS. Comments should be forwarded in writing to the Program Manager for Chemical Demilitarization, ATTN: SAIL-PMM-N (Ms. Monica Satrape), Aberdeen Proving Ground, Maryland 21010-5401.

Notice of Public Meetings:

A public meeting is scheduled for 7 p.m., March 17, 1992, in the Multipurpose Room at the Hermiston Senior High School, 600 South First Street, Hermiston, Oregon, to receive comments on the draft Umatilla EIS.

Lewis D. Walker,

Deputy Assistant Secretary of the Army, (Environment, Safety and Occupational Health), OASA (I, L&E).

FR Doc. 92-4375 Filed 2-25-92; 8:45 am]

BILLING CODE 3710-08-M

Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee meeting:

Name of Committee: U.S. Army Reserve Command Independent Commission.

Date of Meeting: March 9, 1992 and March 10, 1992.

Place: 1225 Jefferson Davis Highway, suite 1410, Arlington, Virginia 22202.

Time: 9 a.m.-4 p.m. (each day).

Purpose: The Commission was established to assess the progress and effectiveness of the United States Army Reserve Command since its establishment.

Summary of Agenda: This is an organizational meeting for the Commission. It will provide information about the Commission's purpose, procedures and projected timelines.

The meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the matter permitted by the committee.

Deborah L. Brantley,

Administrative Officer, U.S. Army Reserve Command Independent Commission.

[FR Doc. 92-4337 Filed 2-25-92; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates/Time of Meeting: 10-12 March 1992.

Time: 0800-1700 hours daily.

Place: Alexandria, VA

Agenda: The Land Warfare Combat Identification 1992 Summer Study Panel of the Army Science Board will meet to receive briefings on the causes of fratricide in Operations Desert Storm, and Just Cause, historical and training settings. Materiel solutions to reduce fratricide will be discussed. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and unclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (703) 695-0781/0782.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 92-4418 Filed 2-25-92; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Inland Waterways Users Board; Meeting

AGENCY: Corps of Engineers, Department of the Army DoD;

ACTION: Notice of open meeting.

In accordance with 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following committee meeting:

Name of Committee: Inland Waterways Users Board.

Date of Meeting: March 24, 1992.

Place: Perdido Beach Hilton Resort Hotel, 27200 Perdido Beach Blvd. Orange Beach, Alabama 36561, telephone: 205-981-9811.

Time: 8:30 a.m. to 5 p.m.

PROPOSED AGENDA

Morning Session

8:30 Registration.

Business Session

9
—Administrative announcements.
—Chairman's call to order.
—Executive Director's comments.
—Approval of prior meeting minutes.
9:30 Trust Fund analysis.
10 Report on Corps investment needs survey.
10:30 Break.
11 Winfield Lock Construction update.
12 noon Lunch.

Afternoon Session

Presentation of Information to the Board

1:30 Mobile District Navigation Program—East GIWW, Problems and Issues.
2:30 Break.
3 WRDA 92—Project Authorization Process.
3:30 Cost—Shared Rehabilitation Program.
4 Public Comment Period.
5 Instructions to Board Staff/Adjourn.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee.

FOR FURTHER INFORMATION CONTACT: Mr. David B. Sanford, Jr., Headquarters, U.S. Army Corps of Engineers, CECW-P, Washington, DC 22314-1000, telephone (202) 272-0146.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 92-4304 Filed 2-25-92; 8:45 am]

BILLING CODE 3710-92-M

Regulatory Guidance Letters Issued by the Corps of Engineers

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice.

SUMMARY: The purpose of this notice is to provide current Regulatory Guidance Letters (RGL) to all interested parties. RGL's are used by the Corps Headquarters as a means to transmit guidance on the permit program (33 CFR parts 320–330), to its division and district engineers. Each future RGL will be published in the Notice Section of the **Federal Register** as a means to insure the widest dissemination of this information while reducing costs to the Federal Government. The Corps no longer maintains a mailing list to furnish copies of the RGL's to the public.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph Eppard, Regulatory Branch, Office of the Chief of Engineers at (202) 272–1783.

SUPPLEMENTARY INFORMATION: RGL's were developed by the Corps of Engineers as a system to organize and track written guidance issued to its field agencies. RGL's are normally issued as a result of evolving policy; judicial decisions and changes to the Corps regulations or another Agency's regulations which affect the permit program. RGL's are only used to interpret or clarify existing regulatory program policy, but do provide mandatory guidance to Corps district offices. RGL's are sequentially numbered and expire on a specified date. However, unless superseded by specific provisions of subsequently issued regulations or RGL's, the guidance provided in RGL's generally remains valid after the expiration date. The Corps incorporates most of the guidance provided by RGL's whenever it revises its permit regulations.

The RGL's were first published in the **Federal Register** on January 22, 1991 (56 FR 2408). There was only one RGL issued by the Corps during 1991, which was published in the notice section of the **Federal Register** on December 31, 1991 (56 FR 67604). We are hereby publishing all current RGL's, beginning with RGL 89–04 (excepting 90–01, which expired), and ending with RGL 91–1. We will continue to publish each RGL in the Notice Section of the **Federal Register** upon issuance and in early January 1993, we will again publish the complete list of all current RGL's.

Dated: January 31, 1992.

Approved:

Hugh F. Boyd, III,

Colonel, Corps of Engineers, Executive Director of Civil Works.

Regulatory Guidance Letter (RGL)

RGL 89–04 *Date:* 18 Oct 89. *Expires:* 31 Dec 92.

Subject: Consideration of public comments; Mandatory public notice language.

1. The Public Notice is the primary mechanism for soliciting public comments for individual permit applications. While the public notice includes the factors that are considered in reaching permit decisions, it does not fully express how the Army Corps of Engineers will use the public comments. Doing so will help the public and interested parties provide more meaningful comments and will enhance public involvement in the decision process.

2. The district engineer shall include in public notices for all individual permit applications the following statement:

> The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

3. This statement shall be included in the public notice after the paragraph on evaluation factors required by 33 CFR 325.3(c).

4. This requirement shall become effective as soon as possible, but in no case later than 15 January 1990.

5. This guidance expires 31 December 1992, unless sooner revised or rescinded.

For the Director of Civil Works:

John P. Elmore

Chief, Operations, Construction and Readiness Division, Directorate of Civil Works.

Regulatory Guidance Letter (RGL)

RGL 90–01 *Date:* 24 Jan 90. *Expires:* 31 Dec 92.

Subject: Permits for Structures and Fills which affect the Territorial Seas.

1. The construction of solid fill structures and fills along the coasts may extend a State's seaward boundary under the Submerged Lands Act, 43 U.S.C. 1301–1315. Accordingly, the regulations in 33 CFR 320.4(f) require that if it is determined that such a structure or work could extend the coastline or baseline from which the territorial sea is measured, the Solicitor of the Department of the Interior (DOI) must be contacted prior to the district issuing a permit for such structure.

2. Effective immediately, the Minerals Management Service (MMS), Outer Continental Shelf (OCS) Survey Group is to be added permanently to the public notice mailing lists of all coastal districts for all applications within coastal and ocean waters. The public notices must be sent to the MMS, OCS Survey Group, Mail Stop 625, Denver Federal Center, Building 41, Room 297B, Post Office Box 25165, Lakewood, Colorado 80225. (This requirement will be added to 33 CFR 325.3 the next time the regulations are revised.) The Solicitor of the DOI will coordinate with the district engineer if the Solicitor believes that the baseline will be affected.

3. If the Solicitor informs the district engineer that the proposed project may affect the baseline from which the territorial sea is measured, the district engineer will request a waiver from the affected state which would waive the state's interest in any increase in submerged lands caused by a change in the baseline. In the event the state refuses to grant the requested waiver and the district engineer believes that the permit should be issued, the final decision on the permit will be made by the Assistant Secretary of the Army (Civil Works) (ASA(CW)). For example, a permit for a solid fill at a naval base for national security reasons may not be contrary to the public interest even though the requested waiver is not issued by the state. In such cases, the district will complete all permit documentation including his recommendation on the permit and forward the documentation to HQUSACE, ATTN: CECW–OR.

4. This guidance expires 31 December 1992 unless sooner revised or rescinded.

For the Director of Civil Works:

John Elmore,

Chief, Operations, Construction and Readiness Division, Directorate of Civil Works.

Regulatory Guidance Letter (RGL)

RGL 90–03 *Date:* 24 Jan 90. *Expires:* 31 Dec 92.

Subject: Extension of Regulatory Guidance Letter (RGL) 87–8. RGL 87–8, subject: "Testing Requirements for Dredged Material Evaluation" is extended until 31 December 1992 unless sooner revised or rescinded.

For the Director of Civil Works:

John P. Elmore,

Chief, Operations, Construction and Readiness Division, Directorate of Civil Works.

Regulatory Guidance Letter (RGL)

RGL 90–04 *Date:* 13 Mar 90. *Expires:* 31 Dec 92.

Subject: Water Quality Considerations (33 CFR 320.4(d)).

1. Section 320.4(d) provides that a state's certification of compliance with applicable effluent limitations and water quality standards will be conclusive with respect to water quality considerations, unless the Environmental Protection Agency (EPA) advises the district engineer (DE) of "other water quality aspects" that he should examine.

2. The DE can usually presume that a state's water quality certification satisfies the requirements of section 401 of the Clean Water Act (CWA), 40 CFR 230.10(b)(1) and 33 CFR 320.4(d). If, however, EPA disagrees with the state's conclusions or raises water quality concerns beyond the state certification's scope, the DE shall consider EPA's objections and concerns as "other water quality aspects," as provided by 33 CFR 320.4(d). "Other water quality aspects," therefore, include water quality concerns outside the scope of the state's Section 401 certification review, indirect impacts on water quality aspects that the state certification does not address, and matters addressed in the state certification with which EPA has a different viewpoint.

3. In cases where the EPA regional Administrator advises the DE of "other water quality aspects" to be taken into consideration, the DE shall not consider the state Section 401 certification conclusive regarding water quality considerations. Although the state certification still satisfies the CWA section 401 requirement in such cases, the DE must make his own independent judgments regarding compliance with 40 CFR 230.10(b)(1) and the consideration of water quality issues in the public interest review process. In exercising his judgment, the DE shall coordinate his actions with the state certifying agency and EPA.

4. This guidance expires 31 December 1992 unless sooner revised or rescinded.

For the Director of Civil Works:

John P. Elmore,

Chief, Operations, Construction and Readiness Division, Directorate of Civil Works.

Regulatory Guidance Letter (RGL)

RGL 90–05 *Date:* 13 Mar 90. *Expires:* 31 Dec 92.

Subject: Landclearing Activities Subject to Section 404 Jurisdiction.

1. The purpose of this guidance is to interpret the statutory and regulatory definitions of "discharge of a pollutant" (CWA section 502(12) and 33 CFR 327.2(f)) to the effect that landclearing activities using mechanized equipment such as backhoes or bulldozers with sheer blades, rakes, or discs constitute point source discharges and are subject to section 404 jurisdiction when they take place in wetlands which are waters of the United States.

2. In Avoyelles Sportsmen's League, Inc. v. Marsh, 715 F.2d 897, 923–24 (5th Cir. 1983) the court stated that the term "discharge" may reasonably be understood to include "redeposit" and concluded that the term "discharge" covers the redepositing of soil taken from wetlands such as occurs during mechanized landclearing activities. Although the court in Avoyelles did not decide whether all landclearing activities constitute a discharge, it is our position that mechanized landclearing activities in jurisdictional wetlands result in a redeposition of soil that is subject to regulation under section 404. Some limited exceptions may occur, such as cutting trees above the soil's surface with a chain saw, but as a general rule, mechanized landclearing is a regulated activity.

3. As with any discharge subject to section 404, each case must be reviewed to determine if the discharge qualifies for a regional or nationwide permit, or for an exemption under section 404(f). This guidance is not intended to alter the exemptions for normal farming or silviculture activities under section 404(f).

4. This interpretation alters in some respects the guidance provided by previous Regulatory Guidance Letters (RGLs) on Landclearing (in particular RGL 85–4) and FOAs should exercise appropriate enforcement discretion with regard to properties whose owners have previously been informed that no permit is required for such landclearing based on the prior RGLs. The guidance in this RGL should apply to property which has not been cleared, unless the owner can demonstrate that he has committed substantial resources towards the clearing, in reliance on earlier Corps guidance, to the extent that it would be inequitable to apply this guidance.

5. This guidance expires on 31 December 1992 unless sooner modified or rescinded.

For the Director of Civil Works:

John P. Elmore,

Chief, Operations, Construction and Readiness Division, Directorate of Civil Works.

Regulatory Guidance Letter (RGL)

RGL 90–06 *Date:* 14 Aug 90. *Expires:* 31 Dec 93.

Subject: Expiration Dates for Wetlands Jurisdictional Delineations.

1. Recently, questions have been raised regarding the length of time that wetlands jurisdictional delineations remain valid. In light of the need for national consistency in this area, the guidance in paragraph 4(a)–(d) below is provided. This guidance is subject to the provisions in paragraphs 5., 6., and 7.

2. Since wetlands are affected over time by both natural and man-made activities, we can expect local changes in wetland boundaries. As such, wetlands jurisdictional delineations will not remain valid for an indefinite period of time.

3. The purpose of this guidance is to provide a consistent national approach to reevaluating wetlands delineations. This provides greater certainty to the regulated public and ensures their ability to rely upon wetlands jurisdictional delineations for a definite period of time.

4. (a) Written wetlands jurisdictional delineations made before the effective date of this guidance, without a specific time limit imposed in the Corps written delineation, will remain valid for a period of two years from the effective date of this Regulatory Guidance Letter (RGL).

(b) Written wetlands jurisdictional delineations made before the effective date of this guidance, with a specified time limit imposed in the Corps written delineation, will be valid until the date specified.

(c) Oral delineations (i.e., not verified in writing by the Corps) are no longer valid as of the effective date of this RGL.

(d) As specified in the 20 March 1989, Memorandum of Agreement Between the Department of the Army and the Environmental Protection Agency Concerning the Determination of the Geographic Jurisdiction of the Section 404 Program and the Application of the Exemptions Under Section 404(f) of the Clean Water Act (MOA), all wetlands jurisdictional delineations (including those prepared by the project proponent or consultant and verified by the Corps) shall be put in writing. Generally this should be in the form of a letter to the project proponent. The Corps letter shall include a statement that the wetlands jurisdictional delineation is valid for a period of three years from the date of the letter unless new information warrants revision of the delineation before the expiration date. Longer periods, not to exceed five years, may be provided where the nature and duration of a proposed project so warrant. The delineation should be supported by proper documentation. Generally the project proponent should be given the opportunity to complete the delineation and provide the supporting documentation subject to the Corps verification. However, the Corps will complete the delineation and documentation at the project proponent's request, consistent with other work priorities.

5. The guidance in paragraph 4 (a)–(b) above does not apply to completed permit applications [33 CFR 325.1(d)(9)] received before the effective date of this RGL, or where the applicant can fully demonstrate that substantial resources have been expended or committed based on a previous Corps jurisdictional delineation (e.g., final engineering design work, contractual commitments for construction, or purchase or long term leasing of property will, in most cases, be considered a substantial commitment of resources). However, district engineers cannot rely upon the expenditure or commitment of substantial resources to validate an otherwise expired delineation for more than five years from the expiration dates noted in paragraph 4 (a)–(b). At the end of the five year period a new delineation would be required. In certain rare cases, it may be appropriate to honor a previous oral wetlands delineation when the applicant can fully demonstrate a substantial expenditure or commitment of resources. However, the presumption is that oral delineations are not valid and acceptance of such must be based on clear evidence and equities of the particular case. This determination is left to the discretion of the district engineer.

6. When making wetlands jurisdictional delineations it is very important to have complete and accurate documentation which substantiates the Corps decision (e.g., data sheets, etc). Documentation must allow a reasonably accurate replication of the delineation at a future date. In this regard, documentation will normally include information such as data sheets, maps, sketches, and in some cases surveys.

7. This guidance does not alter or supersede any provisions of law, regulations, or any interagency agreement between Army and EPA. Further, this guidance does not impair the Corps discretion to revise wetlands jurisdictional delineations where new information so warrants.

8. Each district shall issue a public notice on this guidance no later than 1 September 1990. The public notice shall contain the full text of this RGL.

9. This guidance expires on 31 December 1993 unless sooner revised or rescinded.

For the Director of Civil Works:
John P. Elmore,
Chief, Operations, Construction and Readiness Division, Directorate of Civil Works.

Regulatory Guidance Letter (RGL)

RGL 90–07 *Date:* 26 Sep 90. *Expires:* 31 Dec 93.

Subject: Clarification of the Phrase "Normal Circumstances" as it pertains to Cropped Wetlands.

1. The purpose of this regulatory guidance letter (RGL) is to clarify the concept of "normal circumstances" as currently used in the Army Corps of Engineers definition of wetlands (33 CFR 328.3(b)), with respect to cropped wetlands.

2. Since 1977, the Corps and the Environmental Protection Agency (EPA) have defined wetlands as:

> areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions * * * (33 CFR 328.3(b)) (emphasis added).

While "normal circumstances" has not been defined by regulation, the Corps previously provided guidance on this subject in two expired "normal circumstances" RGLs (RGLs 82–2 and 86–9). These RGLs did not specifically deal with the issue of wetland conversion for purpose of crop production.

3. When the Corps adopted the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (Manual) on 10 January 1989, the Corps chose to define "normal circumstances" in a manner consistent with the definition used by the Soil Conservation Service (SCS) in its administration of the Swampbuster provisions of the Food Security Act of 1985 (FSA). Both the SCS and the Manual interpret "normal circumstances" as the soil and hydrologic conditions that are normally present, without regard to whether the vegetation has been removed (7 CFR 12.31(b)(2)(i)) (Manual page 71).

4. The primary consideration in determining whether a disturbed area qualifies as a section 404 wetland under "normal circumstances" involves an evaluation of the extent and relative permanence of the physical alteration of wetlands hydrology and hydrophytic vegetation. In addition, consideration is given to the purpose and cause of the physical alterations to hydrology and vegetation. For example, we have always maintained that areas where individuals have destroyed hydrophytic vegetation in an attempt to eliminate the regulatory requirements of section 404 remain part of the overall aquatic system, and are subject to regulation under section 404. In such a case, where the Corps can determine or reasonably infer that the purpose of the physical disturbance to hydrophytic vegetation was to avoid regulation, the Corps will continue to assert section 404 jurisdiction.

5. The following guidance is provided regarding how the concept of "normal circumstances" applies to areas that are in agricultural crop production:

a. "Prior converted cropland" is defined by the SCS (section 512.15 of the National Food Security Act Manual, August 1988) as wetlands which were both manipulated (drained or otherwise physically altered to remove excess water from the land) and cropped before 23 December 1985, to the extent that they no longer exhibit important wetland values. Specifically, prior converted cropland is inundated for no more than 14 consecutive days during the growing season. Prior converted cropland generally does not include pothold or playa wetlands. In addition, wetlands that are seasonally flooded or ponded for 15 or more consecutive days during the growing season are not considered prior converted cropland.

b. "Farmed wetlands" are wetlands which were both manipulated and cropped before 23 December 1985, but which continue to exhibit important wetland values. Specifically, farmed wetlands include cropped potholes, playas, and areas with 15 or more consecutive days (or 10 percent of the growing season, whichever is less) of inundation during the growing season.

c. The definition of "normal circumstances" found at page 71 of the Manual is based upon the premise that for certain altered wetlands, even though the vegetation has been removed by cropping, the basic soil and hydrological characteristics remain to the extent that hydrophytic vegetation would return if the cropping ceased. This assumption is valid for "farmed wetlands" and as such these areas are subject to regulation under section 404.

d. In contrast to "farmed wetlands", "prior converted croplands" generally have been subject to such extensive and relatively permanent physical hydrological modifications and alteration of hydrophytic vegetation that the resultant cropland constitutes the "normal circumstances" for purposes of section 404 jurisdiction. Consequently, the "normal circumstances" of prior converted croplands generally do not support a "prevalence of hydrophytic vegetation" and as such are not subject to regulation under section 404. In addition, our experience and professional judgment lead us to conclude that because of the magnitude of hydrological alterations that have most often occurred on prior converted cropland, such cropland meets, minimally if at all, the Manual's hydrology criteria.

e. If prior converted cropland is abandoned (512.17 National Food Security Act Manual as amended, June 1990) and wetland conditions return, then the area will be subject to regulation under section 404. An area will be considered abandoned if for five consecutive years there has been no cropping, management or maintenance activities related to agricultural production. In this case, positive indicators of all mandatory wetlands criteria, including hydrophytic vegetation, must be observed.

f. For the purposes of section 404, the final determination of whether an area is a wetland under normal circumstances will be made pursuant to the 19 January 1989 Army/EPA Memorandum of Agreement of geographic jurisdiction. For those cropped areas that have previously been designated as "prior converted cropland" or "farmed wetland" by the SCS, the Corps will rely upon such a designation to the extent possible. For those cropped areas that have not been designated "prior converted cropland" or "farmed wetland" by the SCS the Corps will consult with SCS staff and make appropriate use of SCS data in making a determination of "normal circumstances" for section 404 purposes. Although every effort should be made at the field level to resolve Corps/SCS differences in opinion on the proper designation of cropped wetlands, the Corps will make the final determination of section 404 jurisdiction. However, in order to monitor implementation of this RGL, cases where the Corps and SCS fail to agree on designation of prior converted cropland or farmed wetlands should be documented and a copy of the documentation forwarded to CECW–OR.

6. This policy is applicable to section 404 of the Clean Water Act only.

7. This guidance expires 31 December 1993 unless sooner revised or rescinded.

For the Commander:

Patrick J. Kelly,

Major General, USA, Director of Civil Works.

Regulatory Guidance Letter (RGL)

RGL 90–08 *Date:* 14 Dec 90. *Expires* 31 Dec 93.

Subject: Applicability of Section 404 to Pilings.

1. The purpose of this Regulatory Guidance Letter (RGL) is to provide additional guidance on the applicability of section 404 to certain categories of projects constructed with pilings in waters of the United States. This RGL represents a clarification and revision to RGL 88–14, which addresses this same subject. Therefore, effective on the date of this RGL, RGL 88–14 is rescinded.

2. For some years, the Army Corps of Engineers, as a matter of policy, has taken the position that pilings do not ordinarily constitute fill material and that the placement of pilings do not ordinarily constitute a discharge of fill material under the Clean Water Act (CWA; see RGL 88–14). Under RGL 88–14, however, the Corps recognized that "in the situation where piles are used in a manner essentially equivalent to fill material in effect, purpose and function they should be treated as fill material under the section 404 program." Historically, pilings were generally used for traditional pile-supported structures such as docks and bridges where the effect, purpose, and function of the pilings were not to replace an aquatic area with dry land or to change the bottom elevation of a waterbody. More recently, however, circumstances have changed, with pilings being used as a substitute for fill material. That is, there is increasing reliance on construction methods involving the use of pilings in place of fill, often at additional cost, in order to avoid regulation under the CWA section 404. The intent of this RGL is to clarify the application of requirements in the existing Corps regulations to these new circumstances involving the use of pilings in waters of the United States.

3. The Corps regulatory definitions of "fill material" and "discharge of fill material" (33 CFR 323.2 (e) and (f)) are clearly broad enough to capture the placement of pilings in waters of the United States as a discharge that could be regulated in certain specific circumstances. Projects involving pilings meet the definition of "fill" when they have the physical effect or functional use and effect of fill; that is, pilings may be regulated when they constitute the equivalent "of replacing an aquatic area with dry land or changing the bottom elevation of a waterbody." As was explained in RGL 88–14, pilings may have this function or effect when they are placed so as to facilitate sedimentation, or are placed so densely that they in effect displace a substantial percentage of the water in the project area.

In addition, pilings have the physical effect or functional use of fill, and will be regulated as fill, in circumstances where a structure is placed on top of the pilings in such a manner as to constitute the functional equivalent of fill; or where pilings are placed for the same basic purposes as fill; or where pilings have essentially the same effects as fill (i.e., replaces an aquatic area with dry land or changes the bottom elevation of a waterbody). Similarly, the placement of pilings in waters of the United States may, in certain specific circumstances, be regulated as a "discharge of fill material" under the current regulations.

4. Therefore, based on current regulations, the placement of pilings in waters of the United States will require authorization under section 404 when such placement is used in a manner essentially equivalent to a discharge of fill material in physical effect or functional use and effect. Examples include, but are not limited to, the following activities in waters of the United States:

a. Physical Effect of Fill: Projects that in effect replace an aquatic area or change the bottom elevation of a waterbody as a result of the placement of pilings that are so closely spaced that sedimentation rates are increased or the pilings themselves essentially replace the bottom will be regulated under CWA section 404. This circumstances would include pilings placed in waters of the United States for dams, dikes, other structure utilizing densely spaced pilings, or as a foundation for large structures.

b. Functional Use and Effect of Fill: Construction projects will be regulated under CWA section 404 where pilings serve essentially the same functional use as a solid fill foundation, and where the project would result in essentially the same effects as fill (e.g., alter flow or circulation of the waters, bring the area into a new, non-aquatic use, or significantly alter or eliminate aquatic functions and values). Regulated activities include the placement of pilings to facilitate the construction of office and industrial developments, parking structures, restaurants, stores, hotels, multi-family housing projects, and similar structures in waters of the United States.

5. Placement of pilings in waters of the United States will, as in the past, not be regulated under section 404 in

circumstances involving linear projects such as bridges, elevated walkways, or powerline structures, since pile-supported structures have traditionally been used in these circumstances to cross waters of the United States, and have not substantially harmed or eliminated acquatic functions and values. Similarly, placement of pilings will not be regulated under section 404 in circumstances that involve structures that have traditionally been constructed on pilings; examples are piers, boathouses, wharves, marinas, lighthouses, and individual houses built on stilts solely to reduce the potential of flooding (e.g., beach houses where road access is on uplands, but the house may be located in a low area necessitating construction on stilts).

6. We believe that it is appropriate to regulate projects placed on pilings, as provided for in paragraph 4. above, because of the effect the projects have on the aquatic environment and because they are essentially equivalent to solid-fill supported projects in purpose, effect, and/or function. Moreover, we have noted an increasing incidence of cases where large-scale construction projects originally, and typically, designed to be built on fill material have been re-designed for pile supports solely for the purpose of evading section 404 regulation.

7. For any proposed pile-supported project where the proponent has relied on earlier Corps guidance to conclude reasonably that a project is not covered by section 404, and has committed substantial resources to the degree that it would be unreasonable and inequitable for the Corps to assert section 404 jurisdiction based on this RGL, the District should not assert section 404 jurisdiction. In cases where a project proponent has been provided a specific answer by the Corps, in writing, that a pile-supported structure will not require a section 404 permit, the District will not require a section 404 permit.

8. As with all determinations regarding whether a proposed activity requires a section 404 permit, the Corps is solely responsible for the decision.

9. This guidance expires 31 December 1993 unless sooner revised or rescinded.

For the Commander:

Patrick J. Kelly,

Major General, USA, Director of Civil Works.

Regulatory Guidance Letter (RGL)

RGL 90-09 *Date:* 17 Dec 90. *Expires:* 31 Dec 93.

Subject: Wetlands Enforcement Initiative.

1. Enclosed is a joint Environmental Protection Agency/Army memorandum which establishes a wetlands enforcement initiative, and provides guidance on judicial civil and criminal enforcement priorities.

2. The memorandum describes the level of participation and schedule that will be followed during the initiative. As stated in the memo, Corps Headquarters will not be involved in decisions about filing suits, but will select the Corps cases for the initiative

3. The guidance on priorities will be followed as standard operating practice for judicial civil and criminal cases. The guidance was developed to promote consistency in the manner in which the provisions of the Clean Water Act are enforced. Those enforcement actions outside the purview of the Clean Water Act (i.e. section 10 only cases) should continue, and are to be included in the prioritization process using the general concepts provided in the guidance.

4. This guidance expires on 31 December 1993 unless sooner revised or rescinded.

For the Director of Civil Works:

John P. Elmore,

Chief, Operations, Construction and Readiness Division, Directorate of Civil Works.

Memorandum

Subject: Wetlands Enforcement Initiative, 12 Dec 1990.

From: James M. Strock, Assistant Administrator for Enforcement; LaJuana S. Wilcher, Assistant Administrator for Water; G. Edward Dickey, Acting Assistant Secretary for the Army (Civil Works).

To: Regional Administrators, Director of Civil Works.

We are seeking the participation of EPA Regions and Corps Districts in an enforcement initiative to protect wetlands. The Wetlands Enforcement Initiative is designed to emphasize the Federal government's commitment to Clean Water Act section 404 enforcement, to generally educate the regulated community and the public at large about the requirements of the section 404 program and the importance of wetlands, and to publicize Clean Water Act violations involving the unauthorized discharge of dredged or fill material. EPA and the Department of the Army have placed high priority on protecting this Nation's wetlands and recognize that an active section 404 enforcement program is one important wetlands protection tool.

The Wetlands Enforcement Initiative will be similar to EPA's FY89 municipal pretreatment enforcement initiative under the Clean Water Act. That initiative concluded with the filing of several important cases and a major Agency press release and press conference. We are proposing to publicize the Wetlands Enforcement Initiative in two phases. The first "wave" of publicity is planned for April 1991. It will announce the Initiative and highlight appropriate section 404 enforcement actions initiated or resolved over the previous 12 months. We also hope to file a "cluster" of section 404 cases at that time if such a filing does not unduly interfere with the normal flow of cases.

By alerting the regulated community, as well as the general public, to the Federal government's commitment to section 404 enforcement, this Spring announcement is also intended to provide an early deterrent to potential violations which might otherwise occur during the 1991 Spring and Summer construction season. The second "wave" of publicity is scheduled for October 1991 and will highlight appropriate section 404 enforcement actions initiated or resolved during FY91, including cases resulting from investigations conducted during the Spring field season. We also hope to have a second "cluster" filing at that time. Each announcement will consist of a joint EPA/Army/Department of Justice (DOJ) press release and press conference. In the press release, we will acknowledge section 404 administrative compliance orders, cease and desist orders, administrative penalty orders and judicial cases initiated or resolved by the Regions and Districts during the covered time period. At the press conferences, we will highlight those administrative and judicial cases that best serve to illustrate the Initiative's goals.

The Wetlands Enforcement Initiative will include cases involving both unpermitted discharges of dredged or fill material into wetlands and discharges in violation of the conditions in a section 404 permit. Regions and Districts will have flexibility to decide which enforcement actions are most appropriate to support the Initiative. In making enforcement decisions, Regions and Districts should consider: The "EPA/Army Guidance on Judicial Civil and Criminal Enforcement Priorities;" the "Clean Water Act Section 404 Civil Administration Penalty Settlement Guidance and Appendices;" the Clean Water Act Section 404 Enforcement Memorandum of Agreement; and the additional guidance discussed below, and should focus on the most significant violators/violations in each of the Regions or Districts.

While this initiative focuses on wetlands protection, section 404 enforcement actions involving unpermitted discharges and violations of 404 permit conditions to other waters of the United States can be included. We suggest, however, that, where possible, the Regions and Districts focus on enforcement actions which have one or more of the following elements.

—A discharge into a wetland that is identified on the Region's Priority Wetland List or is an important and/or threatened area in the Region or District;

—A case which will have high deterrence value in the Region, District or Nation, e.g., a particular industry, business or land development entity which engaged in unauthorized discharges of dredged or fill material.

—A discharge by a repeat or flagrant violator, e.g., someone who engaged in an unauthorized discharge activity after being denied a section 404 permit or withdrawing a permit application for such activity.

The above list is not intended to exclude other cases of importance.

As noted above, the Wetlands Enforcement Initiative will consist of cease and desist orders, administrative compliance orders, administrative penalty actions and civil judicial referrals. In addition, appropriate criminal actions, which have been approved in accordance with each agency's procedures for criminal referrals, may also be included in the press announcements. Because Regions and Districts follow different procedures in initiating enforcement responses, we have provided two separate schedules for implementing this Initiative.

EPA Regions

We propose that the Regions issue section 309(a) administrative compliance orders and section 309(g) administrative penalty complaints on the schedule described below. Administrative compliance orders and administrative penalty orders are not subject to Headquarters concurrence (with the exception of those Regions that have not fulfilled Headquarters concurrence requirements concerning the requisite number of section 309(g) complaints and consent agreements). Headquarters will review section 309(g) complaints and consent agreements, however, for the purpose of determining whether such orders should be highlighted in Initiative press activities.

We ask that the Regions submit case referrals by no later than February 15, 1991, for the April announcement and by August 1, 1991 for the October 1991 announcement. We do not intend, however, to delay the processing of referrals submitted earlier. Each Region should submit one or more civil judicial referrals and should also issue administrative compliance orders and administrative penalty orders as appropriate. After receipt of the referral packages, the Regions, Headquarters and DOJ, in consultation with the Army, will decide if suits should be filed simultaneously or in some other coordinated manner, as indicated in the following schedule:

1. Headquarters/Regional conference calls to discuss Call Letter.....Dec. 18 1990
2. Regions submit to Headquarters a list and brief description and schedule for candidate enforcement actions.................Jan. 8, 1991
3. Headquarters/Regional conference call to discuss candidate cases and confirm schedules for candidate enforcement actions................Jan. 22, 1991
4. Deadline for Regions to submit referrals to Headquarters for April filing.......................................Feb. 15, 1991
5. Deadline for Regions to issue administrative compliance orders, administrative consent orders and administrative penalty complaints (copies of issued compliance orders, consent orders and administrative penalty complaints should be supplied to Headquarters after issuance)...Mar. 23, 1991
6. Headquarters completes coordination of national communications strategy with Regions, Army and DOJ for April announcement...........................April 1, 1991
7. Likely judicial case filing dates...April 23, 1991
8. Joint press release and/or joint press conference held.......................April 23, 1991
9. Regions submit to Headquarters a list and brief description and schedule for candidate enforcement actions for October announcement.......................... June 14, 1991
10. Headquarters coordinates with Regions and confirms schedules for candidate enforcement actions...July 1, 1991
11. Deadline for Regions to submit civil judicial referrals to Headquarters for October filing........................ Aug. 1, 1991
12. Deadline for Regions to issue administrative compliance orders, administrative consent orders and administrative penalty complaints (copies of issued compliance and consent orders and administrative penalty complaints should be supplied to Headquarters after issuance)..................................Sept. 13, 1991
13. Headquarters completes coordination of national communications strategy with Regions, Corps and DOJ for October announcement......... Sept. 20, 1991
14. Likely judicial case filing date...Oct. 15, 1991
15. Joint press release and/or joint press conference held.............Oct. 15, 1991

We request that each Region complete the attached form on cases that are candidates for inclusion in the Wetlands Enforcement Initiative, and submit the forms to Hazel Groman of the Office of Wetlands Protection and Elyse DiBiagio-Wood of the Office of Enforcement by January 8, 1991 or June 14, 1991, as appropriate. Headquarters staff assigned to the Initiative and available to answer questions include Hazel Groman, OWP, FTS 475-8798, and Elyse DiBiagio-Wood, OE-Water, FTS 475-8187.

Corps Districts

Unlike EPA, Corps Headquarters will not participate in the decision as to which suits should be filed. The initiative is not intended to affect ongoing Corps enforcement activities. Districts should continue to employ all enforcement options, as discussed in the attached joint guidance letter. For purposes of the Initiative, however, we ask that each District submit two planned or pending enforcement actions for each phase of the Initiative which, in the District's opinion, target particularly egregious violations. We will then decide which cases are proper candidates to be publicized at the joint press conference. The Districts should submit their actions in accordance with the following schedule:

1. Districts submit to Headquarters two planned or pending enforcement actions to be included in the April announcement..............................Feb. 4, 1991
2. Headquarters coordinates with Districts and confirms schedules for enforcement actions........March 5, 1991
3. Headquarters completes coordination of national communications strategy with EPA and DOJ.. April 1, 1991
4. Joint press release and/or joint press conference..................................April 23, 1991
5. Districts submit to Headquarters two planned or pending enforcement actions to be included in the October announcement............ July 2, 1991
6. Headquarters coordinates with Districts and confirms schedules for enforcement actions..........Aug. 20, 1991
7. Headquarters completes coordination of national communications strategy with EPA and DOJ.......................................Sept. 20, 1991
8. Joint press release and/or joint press conference.................................Oct. 15, 1991

We request that each District complete the attached form on cases that it believes should be publicized in the Enforcement Initiative, and submit the form, in duplicate, to Jack Chowning, HQUSACE, CECW-OR by February 4, 1991 and July 2, 1991. Headquarters staff available to answer questions regarding the Initiative include Jack Chowning, 272–1781, and Martin Cohen, HQUSACE, CECC-K, 272–0027.

We realize that the above schedule will require a large effort by Regional and District offices. However, we believe that the Initiative is critical to the priority goal of the agencies to protect wetlands, and greatly appreciate your continued support of the Initiative. We will make Headquarters personnel available to assist the Regions and Districts.

Attachment

cc: Regional Counsels
Directors, Water Mgmt Div., Regs. I, II, IV, V, VIII, IX and X
Directors, Env'l Services Div., Regs. III and VI
Ass't Regional Administrator, Policy and Management, Reg. VII
Margaret Strand, Chief, Environmental Defense Sec., DOJ
John Studt, Chief, Regulatory Branch, COE
Pat Alberico, OCE
Fred Stiehl, OE-Water
Dave Davis, OWP
Martin Cohen, Assistant Chief Counsel for Litigation, Office of the Chief Counsel, USACE

United States Environmental Protection Agency

United States Department of the Army

Guidance on Judicial Civil and Criminal Enforcement Priorities

Background

This document provides guidance to the Environmental Protection Agency (EPA) Regions and Army Corps of Engineers Districts on enforcement priorities for unauthorized discharges of dredged or fill material in waters of the United States in violation of section 301 of the Clean Water Act (CWA). Unauthorized discharges include both discharges that are unpermitted and discharges that violate permit terms or conditions.

The guidance enumerates factors enforcement personnel should consider when deciding whether to refer a case for judicial action.

By providing this guidance, EPA and the Army intend to encourage consistency in the manner in which we enforce the CWA's requirements nationally, protect the integrity of the section 404 regulatory program, and direct limited program resources in a manner that produces the most beneficial environmental results.

Options to address CWA violations include: no action, voluntary compliance, cease and desist orders, EPA administrative compliance orders, interim measures designed to protect the aquatic ecosystem from further damage, after-the-fact permits, administrative penalty orders, and civil and criminal judicial actions. This guidance discusses priorities for civil and criminal judicial actions only. By defining priorities for judicial actions, EPA and the Army do not intend to suggest that the agencies limit their use of these or any other enforcement options. In fact, the agencies should continue the use of all enforcement options whether in conjunction with or instead of civil and criminal proceedings.

Civil and Criminal Enforcement Priorities

A. Civil Judicial Cases

Decisions on whether to refer a civil action to the Department of Justice must be on a case-by-case basis, and the absence or presence of one or more of the following factors should not necessarily dictate a decision regarding a particular case. Nevertheless, enforcement personnel should consider the following factors when deciding whether to refer a civil action:

1. Quality of the waters affected. Enforcement personnel should determine, to the extent practicable, what functions and values the waters performed prior to the unauthorized discharge. Regions and Districts should give priority to violations that affect wetlands and other special aquatic sites.

2. Impact of the discharge. Enforcement personnel should determine, to the extent practicable, the amount and content of the discharge, the number of acres affected by the discharge, and the discharge's direct and indirect effects. Priority should be given to those discharges that have an especially deleterious effect on wetlands functions or values, that affect a large area of wetlands or other waters, or that are widespread and have significant cumulative effects. These would include unauthorized discharges with significant adverse effects on aquatic ecosystem diversity, productivity, and stability such as loss of fish or wildlife habitat or loss of the capacity of a wetland to assimilate nutrients, purify water, or reduce wave energy. Judicial enforcement action would normally be appropriate, for example, for unauthorized discharges that cause or contribute to violations of state water quality standards; violate any applicable toxic effluent standard or prohibition under section 307 of the CWA; or jeopardize endangered or threatened species and their designated critical habitat. Judicial enforcement action should be considered for any case where unauthorized discharges did or may cause or contribute to significant adverse environmental impacts.

3. Culpability of violator. Enforcement personnel should consider the violator's prior compliance history when determining what type of enforcement action is appropriate. Priority should be given to violators with a history of noncompliance and those who commit knowing violations. The violator's experience with the program and whether he or she had been the subject of previous enforcement actions are considerations. In general, repeat violators warrant judicial action, regardless of whether the violations occurred on the same site or on different sites. Repeat violations, however, are not a prerequisite for referring a civil case to the Department of Justice.

4. Deterrence value. Enforcement personnel should consider the extent to which the violation is flagrant, visible, and well-publicized. If there are a number of violations within a particular geographic area or industry, civil judicial action against one or more of the violators can provide excellent deterrence. The agencies should refer for civil action a case against any violators whose actions, if left unpunished, would have the effect of jeopardizing the integrity of the section 404 program in the area where the violation occurred.

5. Benefit from the violation. Enforcement personnel should consider the economic benefit a violator derived from the unauthorized discharge. Because administrative penalties are limited, when a violator has obtained a significant economic benefit from the discharge, a civil judicial action may be the only enforcement option that can effectively recover that benefit.

6. Equitable considerations. In addition to the above five factors, the Regions and Districts will want to anticipate and evaluate the strength of any equitable considerations likely to be raised by potential defendants. Priority should be given to recent and ongoing violations. Regions and Districts should also take into account, as appropriate, when the Region and/or District learned of the violation, and whether timely administrative attempts to achieve compliance were unsuccessful and a civil referral is the only available means to obtain needed injunctive relief.

Another equitable consideration is whether the violator received misinformation from the federal government as to whether the discharge required a section 404 permit. Based on existing case law, the federal government can only rarely and in very limited circumstances be barred from enforcing its laws. At the same time, an important goal of federal enforcement, including section 404 enforcement, is fair and equitable treatment of the regulated community. As a result, the Regions and Districts will need to carefully consider the appropriateness of initiating a civil suit in cases where the violator may have reasonably relied on a federal official's misrepresentations regarding the need for a section 404 permit. This includes situations where the violator was led to believe that the activity did not constitute a discharge, that the discharge did not take place in waters of the United States, or that a general permit covered the discharge. When determining whether the violator's reliance was reasonable, enforcement personnel should assess such factors as whether the misrepresentations were made by EPA or the Corps, the two federal agencies charged with implementing the section 404 program, or another federal agency; whether the misrepresentations were communicated to the violator in writing or were merely oral statements; the extent of the violator's familiarity with the section 404 program; and whether the violator knew, should have known, or with reasonable diligence could have determined, that the representations were erroneous.

The first two factors listed above center upon the environmental effects of the violation. Special attention should be paid both to violations that damage large areas of wetlands and those that impair valuable wetlands, no matter what their size. The next three factors are intended to protect the integrity of the section 404 program by focusing enforcement priorities first on individuals or violations which show disdain for the law and on those who seek to benefit from circumvention of the law.

B. Criminal Cases

With regard to the discharge of dredged or fill material, section 309(c) of the CWA provides criminal penalties for four separate offenses. First, anyone who negligently violates section 301 (e.g., engaging in unauthorized discharges) or who negligently violates the requirements of a section 404 permit may be criminally liable. Second, anyone who knowingly violates section 301 or the requirements of a section 404 permit may also be subject to criminal liability. Third, any person who violates section 301 or the conditions of a section 404 permit and, in doing so, knowingly endangers another person may be subject to criminal penalties. Finally, section 309(c) provides criminal sanctions for persons who knowingly make false material statements regarding a section 404 permit.

In some instances a violation will involve circumstances which indicate that a criminal prosecution may be in order. Such circumstances should be underscored when the case is referred to the Department of Justice. Ultimately, Justice must exercise its discretion as to whether or not to proceed criminally in any case. If there is a possibility of criminal prosecution, field personnel should pay special attention to evidentiary matters such as sample preservation, content of statements to and from any potential defendant, good photographs, and chain of custody.

This document provides internal guidance for field personnel regarding the exercise of their enforcement discretion. Accordingly, this document creates no rights in third parties.

For the Environmental Protection Agency:

/S/ David G. Davis, Director Office of Wetlands Protection.
Dated: 12/7/90
/S/ Frederick F. Stiehl, Associate Enforcement Counsel for Water.
Dated: 12–10–90

For the Department of the Army:

/S/ John P. Elmore, Chief, Operations, Construction and Readiness Division, Directorate of Civil Works.
Dated: 2/12/90

Regulatory Guidance Letter (RGL)

RGL 91–1 *Date*: Dec. 31, 1991, *Expires*: Dec. 31, 1996.

Subject: Extensions of Time For Individual Permit Authorizations.

1. The purpose of this guidance is to provide clarification for District and Division offices relating to extensions of time for Department of the Army permits (See 33 CFR 325.6).

2. *General:* A permittee is informed of the time limit for completing an authorized activity by General Condition #1 of the standard permit form (ENG Form 1721). This condition states that a request for an extension of time should be submitted to the authorizing official at least one month prior to the expiration date. This request should be in writing and should explain the basis of the request. The DE may consider an oral request from the permittee provided it is followed up with a written request prior to the expiration date. A request for an extension of time will usually be granted unless the DE determines that the time extension would be contrary to the public interest. The one month submittal requirement is a workload management time limit designed to prevent permittees from filing last minute time extension requests. Obviously, the one month period is not sufficient to make a final decision on all time extension requests that are processed in accordance with 33 CFR 325.2. It should be noted that a permittee may choose to request a time extension sooner than this (e.g., six months prior to the expiration date). While there is no formal time limit of this nature, a request for an extension of time should generally not be considered by the DE more than one year prior to the expiration date. A permit will automatically expire if an extension is not requested and granted prior to the applicable expiration date (See 33 CFR 325.6(d)).

3. *Requests for time extensions prior to expiration:* For requests of time extensions received prior to the expiration date, the DE should consider the following procedures if a decision on the request cannot be completed prior to the permit expiration date:

(a) The DE may grant an interim time extension while a final decision is being made; or

(b) The DE may, when appropriate, suspend the permit at the same time that an interim time extension is granted, while a final decision is being made.

4. *Requests for time extensions after expiration:* A time extension cannot be granted if a time extension request is received after the applicable time limit. In such cases, a new permit application must be processed, if the permittee wishes to pursue the work. However, the DE may consider expedited processing procedures when: (1) The request is received shortly (generally 30 days) after the expiration date, (2) the DE determines that there have been no substantial changes in the attendant circumstances since the original authorization was issued, and (3) the DE believes that the time extension would likely have been granted. Expedited processing procedures may include, but are not limited to, not requiring that a new application form be submitted or issuing a 15 day public notice.

5. This guidance expires 31 December 1996 unless sooner revised or rescinded.

For the Director of Civil Works:

John P. Elmore, P.E.

Chief, Operations, Construction and Readiness Division Directorate of Civil Works.

[FR Doc. 92–4306 Filed 2–25–92; 8:45 am]

BILLING CODE 3710–92–M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before March 27, 1992.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Wallace R. McPherson, Jr., Department of Education, 400 Maryland Avenue SW., room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Wallace R. McPherson (202) 708–5174.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Wallace R. McPherson, Jr. at the address specified above.

Dated: February 20, 1992.

Wallace R. McPherson, Jr.,

Acting Director, Office of Information Resources Management.

Office of Vocational and Adult Education

Type of Review: Revision
Title: Application for Vocational Direct Grant Programs
Frequency: Annually
Affected Public: Individuals or households; state or local governments; non-profit institutions
Reporting Burden:
Responses: 469
Burden Hours: 42,210
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: This form will be used to apply for funds under the Carl D. Perkins Vocational and Applied Technology Education Act. The Department uses the information to make grant awards.

Office of Vocational and Adult Education

Type of Review: Revision
Title: Carl D. Perkins Vocational and Applied Technology Education Act of 1990—State Plan
Frequency: Triennial
Affected Public: State or local governments
Reporting Burden:
Responses: 53
Burden Hours: 146,534
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: State Boards for Vocational Education must submit state plans under the Carl D. Perkins Vocational and Applied Technology Education Act, as amended. The Department uses the information to determine compliance with the Act and to make grant awards.

Office of Vocational and Adult Education

Type of Review: Revision
Title: Carl D. Perkins Vocational and Applied Technology Education Act of 1990—Reporting Requirement
Frequency: Annual
Affected Public: State or local governments
Reporting Burden:
Responses: 4,212
Burden Hours: 1,367,748
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: State Boards for Vocational Education report data regarding information received from State Councils and local educational agencies. The Department uses the information to determine compliance with the act and to make grant awards to eligible recipients.

Office of Special Education and Rehabilitative Services

Type of Review: New
Title: Interview guides for "Evaluation of State Grants for Technology-Related Assistance for Persons with Disabilities Program"
Frequency: One time
Affected Public: Individuals or households, state or local governments, non-profit institutions, small businesses or organizations
Reporting Burden:
Responses: 194
Burden Hours: 194
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: This study will provide the Department with information on the technology-related assistance for individuals with disabilities grant program. The Department will use the information to assess the accomplishments of the grant program.

Office of Educational Research and Improvement

Type of Review: Extension
Title: Application for Grants Under the Secretary's Fund for Innovation in Education (FIE) (New and Continuation)
Frequency: Annually
Affected Public: State or local governments, Non-profit institutions
Reporting Burden:
Responses: 600
Burden Hours: 14,400
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: This form will be used by eligible applicants to apply for grants under the Secretary's Fund for Innovation in Education (The FIE Program). The Department uses the information to make grant awards.

Office of Postsecondary Education

Type of Review: Reinstatement
Title: Application for Grants Under the Foreign Periodicals Program
Frequency: Triennial
Affected Public: State or local governments, Federal agencies or employees, Non-profit institutions
Reporting Burden:

Responses: 200
Burden Hours: 4,500
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: This form will be used by state educational agencies to apply for funding under the Foreign Periodicals Program. The Department uses the information to make grant awards.

[FR Doc. 92–4406 Filed 2–25–92; 8:45 am]

BILLING CODE 4000-01-M

[CFDA No.: 84.083A]

Women's Educational Equity Act, New Awards for Fiscal Year 1992

ACTION: Cancellation Notice.

SUMMARY: On September 18, 1991, a combined application notice establishing closing dates for many of the Department's direct grant and fellowship programs was published in the **Federal Register** (56 FR 47270).

Because the Department's 1992 appropriation did not include funding to support new grants under the Women's Educational Equity Act Program, the fiscal year 1992 competition is cancelled.

FOR FURTHER INFORMATION CONTACT: Frank B. Robinson, Jr., U.S. Department of Education, 400 Maryland Avenue, SW., room 2059, Washington, DC 20202–6246. Telephone (202) 401–1342. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

Dated: February 20, 1992.

Daniel F. Bonner,

Acting Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 92–4400 Filed 2–25–92; 8:45 am]

BILLING CODE 4000-01-M

Advisory Committee on Testing in Chapter 1; Meeting

AGENCY: Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of the initial meeting of the Advisory Committee on Testing in Chapter 1. This notice also describes the functions of the Committee. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE AND TIME: March 10, 1992—9 a.m.–5 p.m.; March 11, 1992—9 a.m.–11 a.m.

ADDRESSES: Location will be announced later; call (202) 401–1682 for information.

FOR FURTHER INFORMATION CONTACT: Mary Jean LeTendre, Director, Compensatory Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., (Room 2043, FOB6), Washington, DC 20202–6132; (202) 401–1682.

SUPPLEMENTARY INFORMATION: The Advisory Committee on Testing in Chapter 1 is established under authority of section 442 of the General Education Provisions Act, as amended, (20 U.S.C. 1233a). The Advisory Committee is established to advise the Secretary of Education on possible improvements or alternatives to the current testing procedures for measuring the academic achievement of Chapter 1 students.

The meeting of the Committee is open to the public. The proposed agenda includes an overview of the history and current status of testing in Chapter 1 programs and the state of the art of assessment procedures.

Records are kept of all Committee proceedings, and are available at the office of the Advisory Committee on Testing in Chapter 1, room 2043, 400 Maryland Avenue, SW., Washington, DC 20202–7559, from the hours of 9 a.m. to 5 p.m.

Dated: February 19, 1992.

John T. MacDonald,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 92–4384 Filed 2–25–92; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER92-317-000, et al.]

Public Service Company of Colorado, et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

February 19, 1992.

Take notice that the following filings have been made with the Commission:

1. Public Service Company of Colorado

[Docket No. ER92–317–000]

Take notice that on February 7, 1992, Public Service Company of Colorado ("Public Service") filed with the Commission four initial rate schedules governing wholesale electric service to four rural electric distribution cooperatives, namely, Grand Valley Rural Power Lines, Inc.; Holy Cross Electric Association, Inc.; Intermountain Rural Electric Association; and Yampa Valley Electric Association, Inc. Public Service also filed two other initial rate schedules: The Power and Transmission Services Agreement among Public Service, Tri-State Generation and Transmission Association, Inc. and PacifiCorp; and a Transmission Service Tariff, which is being filed with the Commission on a limited basis, as is described in Public Service's transmittal letter. All of these rate schedules are the result of the reorganization of Colorado-Ute Electric Association, Inc. ("Colorado-Ute") (of which the four cooperatives are currently members), which reorganization is more fully described in the transmittal letter to this filing and in Public Service's application under section 203 of the Federal Power Act for authority to acquire and consolidate certain Colorado-Ute facilities, which has been assigned Docket No. EC92–8–000. The four rate schedules for the coops would replace their current supply agreements with Colorado-Ute.

Public Service is requesting that the rate schedules be effective as of the effective date of the Joint Plan of Reorganization for Colorado-Ute, which Joint Plan is now pending before the Bankruptcy Court; that effective date is projected to be April 1, 1992. Accordingly, Public Service has requested waiver of the Commission's notice requirements, for good cause. 18 CFR 35.3, 35.11. Public Service will inform the Commission of the actual effective date of the Joint Plan as soon as it is known.

Public Service states that copies of the filing have been served on the four coops named above, PacifiCorp and the Colorado Public Utilities Commission.

Comment date: March 4, 1992, in accordance with Standard paragraph E at the end of this notice.

2. The Kansas Power and Light Company, Kansas Gas and Electric Company

[Docket No. ER92–326–000]

Take notice that on February 18, 1992, The Kansas Power and Light Company (KPL) tendered for filing the Second Supplement to Electric Interconnection Contract between KPL and Kansas Gas and Electric Company (KG&E). KPL states the filing is to implement an electric operating agreement to permit the joint operation and dispatch of the Companies' electric systems. KPL seeks a waiver of the Commission's prior notice requirements and requests an effective date to coincide with the closing date of the merger between KPL and KG&E (anticipated to be on or about

March 16, 1992). In support of this request, KPL states such waiver will benefit the customers of KPL and KG&E by permitting the Companies to reflect economic benefits of the operating agreement in customer rates at the earliest possible date. Included in KPL's filing is a Certificate of Concurrence to the filing by KG&E.

Copies of the filing were served upon Kansas Gas and Electric Company, the Utilities Division of the Kansas Corporation Commission and affected purchasers.

Comment date: March 4, 1992, in accordance with Standard Paragraph E at the end of this notice.

3. Tampa Electric Company

[Docket No. ER92-319-000]

Take notice that on February 7, 1992, Tampa Electric Company (Tampa Electric) tendered for filing an Agreement to Provide Qualifying Facility Transmission Service between Tampa Electric and Seminole Fertilizer Corporation (Seminole Fertilizer). The Agreement provides for the transmission of power by Tampa Electric from Seminole Fertilizer's cogeneration facility to points of interconnection between the Tampa Electric and Florida Power Corporation (FPC) transmission system.

Tampa Electric proposes an effective date of the earlier of October 1, 1992, or the in-service date of the power sale contract between Seminole Fertilizer and FPC.

Copies of the filing have been served on Seminole Fertilizer and the Florida Public Service Commission.

Comment date: March 4, 1992, in accordance with Standard Paragraph E at the end of this notice.

4. Florida Power & Light Company

[Docket No. EL92-15-000]

Take notice that on February 4, 1992, Florida Power & Light Company (FP&L) tendered for filing a Petition for Declaratory Order requesting that the Commission issue an order terminating a controversy which has arisen under a transmission service agreement for firm service entered into between FPL and Seminole Electric Cooperative, Inc. (Seminole).

Comment date: March 9, 1992, in accordance with Standard Paragraph E at the end of this notice.

5. Kentucky Utilities Company

[Docket No. ER92-320-000]

Take notice that on February 7, 1992, Kentucky Utilities Company (KU) tendered for filing a request to withdraw its Rate Schedule 164 between KU and Old Dominion Power Company (ODP). Waiver of prior notice was requested to permit an effective date of December 1, 1991.

A copy of the filing was served on the Public Service Commission of Kentucky and the State Corporation Commission of Virginia.

Comment date: March 4, 1992, in accordance with Standard Paragraph E at the end of this notice.

6. Green Mountain Power Corporation

[Docket Nos. ER92-103-000, ER92-104-000, ER92-105-000, ER92-106-000, ER92-107-000, ER92-108-000]

Take notice that on February 4, 1992, Green Mountain Power Corporation (GMP) tendered for filing supplemental information regarding sales of system energy, unit power, and system capacity and energy pursuant to sales agreements previously submitted in each of the captioned proceedings.

Comment date: March 4, 1992, in accordance with Standard Paragraph E at the end of this notice.

7. Nevada Power Company

[Docket No. ER92-190-000]

Take notice that on February 7, 1992 Nevada Power Company (Nevada) tendered an amended filing of an agreement entitled Interconnection Agreement (Agreement) Between Nevada Power Company and Citizens Utilities Company. The Agreement establishes the terms and procedures for the interchange of economy, emergency and banked energy and any other power transactions that may be possible through the Parties' interconnected systems or through the systems of third parties.

Nevada requests an effective date of September 16, 1991 and therefore, requests waiver of the Commission's notice requirements.

Nevada states that copies of this filing were served upon Citizens Utilities Company.

Comment date: March 4, 1992, in accordance with Standard Paragraph E at the end of this notice.

8. Baltimore Gas and Electric Company

[Docket No. ER92-306-000]

Take notice that on February 3, 1992, Baltimore Gas and Electric Company ("BG&E") tendered for filing, as an initial rate schedule, an agreement between BG&E and the Delmarva Power & Light Company (DP&L) reflecting BG&E's and DP&L's sale to each other of up to 100% of each Company's respective entitlement for the use of the Pennsylvania-New Jersey-Maryland Interconnection ("PJM") transmission system which is used to import energy from Systems to the west of PJM at a rate of up to $5.50 Mwh commencing April 3, 1992. DP&L has concurred in this rate schedule by execution of a Certificate of Concurrence. BG&E requests that the Commission allow the rate schedule to become effective April 3, 1992.

Comment date: March 4, 1992, in accordance with Standard Paragraph E at the end of this notice.

9. Entergy Services, Inc.

[Docket No. ER92-305-000]

Take notice that Entergy Services, Inc. (Entergy Services), as agent for Arkansas Power & Light Company, Louisiana Power & Light Company, Mississippi Power & Light Company, and New Orleans Public Service Inc., on February 3, 1992, tendered for filing an Interchange Agreement with Northeast Texas Electric Cooperative, Inc.

Entergy Services requests an effective date of March 1, 1992 for the Interchange Agreement. Entergy Services requests waiver of the Commission's notice requirements under § 35.11 of the Commission's regulations.

Comment date: March 4, 1992, in accordance with Standard Paragraph E at the end of this notice.

10. Indiana Michigan Power Company Ohio Power Company

[Docket No. ER91-669-000]

Take notice that American Electric Power Corporation on behalf of Ohio Power Company and Indiana Michigan Power Company on February 12, 1992, tendered for filing an amendment to its September 23, 1991 filing in this docket.

AEPSC requests a revised effective date of February 1, 1992.

Copies of the filing were provided to The Cincinnati Gas & Electric Company, the Michigan Public Service Commission, the Indiana Utility Regulatory Commission, the Kentucky Public Service Commission, and the Public Utilities Commission of Ohio.

Comment date: March 4, 1992, in accordance with Standard Paragraph E at the end of this notice.

11. Central Maine Power Company

[Docket No. ER92-61-000]

Take notice that on February 4, 1992, Maine Electric Power Company ("MEPCO"), tendered for filing on behalf of Central Maine Power ("CMP"), Bangor Hydro-Electric Company ("BHE") and Maine Public Service Company ("MPS") supplemental information and documents relating to the following in the above referenced docket:

1. Support Services Agreement dated June 12, 1989 between MEPCO and CMP, as amended on March 13, 1991;

2. Support Services Agreement dated June 8, 1989 between MEPCO and BHE as amended on March 14, 1991; and

3. Support Services Agreement dated June 5, 1989 between MEPCO and MPS; as amended on March 18, 1991.

Pursuant to the above referenced agreements (the "MEPCO Support Agreements"), CMP, BHE and MPS furnish various professional, technical and administrative support services for MEPCO. In the original filing dated October 4, 1991, MEPCO, on behalf of CMP, BHE and MPS, had requested that the Commission disclaim jurisdiction over these Agreements, or in the alternative, accept the MEPCO Support Agreements for filing pursuant to section 205 of the Federal Power Act.

MEPCO has served a copy of the supplemental filing on the affected customer and on the Maine Public Utilities Commission.

Comment date: March 4, 1992, in accordance with Standard Paragraph E at the end of this notice.

12. Southern Company Services, Inc.

[Docket No. ER92-316-000]

Take notice that on February 6, 1992, Southern Company Services, Inc., acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power Company ("Southern Companies"), tendered for filing an Interchange Contract between Southern Companies and Duke Power Company. The Interchange Contract establishes the terms and conditions of power supply, including provisions relating to service conditions, control of system disturbances, metering and other matters related to the administration of the agreement. Services provided thereunder are governed by Service Schedules providing for emergency assistance, short-term power, economy transactions and economic energy participation. The Interchange Contract utilizes a formula rate methodology applicable to emergency assistance and short-term power, which is designed to facilitate the periodic revision of charges to reflect changes in costs.

Comment date: March 4, 1992, in accordance with Standard Paragraph E at the end of this notice.

13. Cambridge Electric Light Company

[Docket No. ER90-283-003]

Take notice that on February 10, 1992, Cambridge Electric Light Company (Cambridge) tendered for filing its compliance refund report pursuant to the Commission's order issued December 6, 1990.

Copies of the tendered filing have been served by Cambridge upon the Town of Belmont, Massachusetts, the Commission Staff and the Massachusetts Department of Public Utilities.

Comment date: March 4, 1992, in accordance with Standard Paragraph E at the end of this notice.

14. Florida Power & Light Company

[Docket No. ER92-143-000]

Take notice that on February 10, 1992, Florida Power & Light Company ("FPL") submitted supplemental information regarding a proposed decrease in charges to the Florida Keys Electric Cooperative, Inc. pursuant to the Long Term Agreement to Provide Capacity and Energy by Florida Power & Light Company to Florida Keys Electric Cooperative, Inc. ("Agreement"). FPL filed the Agreement with the Commission on October 31, 1991.

Comment date: March 3, 1992, in accordance with Standard Paragraph E at the end of this notice.

15. Public Service Company of New Mexico

[Docket No. ER91-447-000]

Take notice that on February 11, 1992, Public Service Company of New Mexico (PNM) submitted for filing an Amendment to the Economy Energy Agreement (Agreement) between PNM and the City of Azusa, California (Azusa). The Agreement was filed on May 20, 1991, and is pending before the Commission in Docket No. ER91-447-000. Under the Agreement PNM and the City of Azusa will make economy energy available to one another at rates reflecting current market conditions. The Amendment to the Agreement provides minimum pricing language, an appendix to the Agreement and clarification of share-saving language.

Copies of the filing have been served upon Azusa and the New Mexico Public Service Commission.

Comment date: March 4, 1992, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.14). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-4332 Filed 2-25-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP92-323-000, et al.]

Natural Gas Certificate Filings; Equitrans, Inc., et al.

Take notice that the following filings have been made with the Commission:

1. Equitrans, Inc.

[Docket No. CP92-323-000]

February 18, 1992.

Take notice that on February 12, 1992, Equitrans, Inc. (Equitrans), 3500 Park Lane, Pittsburgh, Pennsylvania 15275, filed in Docket No. CP92-323-000 request pursuant to § 157.205 of the commission's Regulations under the Natural Gas Act for authorization to construct and operate one sales tap for the delivery of natural gas to an end-user under its blanket certificate issued in Docket No. CP86-676-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Equitrans requests authorization to construct and operate a sales tap on its H-126 Line to provide gas service to Equitable Gas Company, a division of Equitable Resources, Inc. (Equitable) for an end-user, Mr. Charles Chovanec, located in Finleyville, Pennsylvania. Equitrans states the quantity of natural gas to be delivered through the proposed sales tap would be approximately one Mcf on a peak day. Equitrans would charge Equitable its applicable rate contained in Equitrans' current effective tariff approved by the Commission, it is indicated.

Comment date: April 3, 1992, in accordance with Standard Paragraph G at the end of this notice.

2. Northwest Pipeline Corporation

[Docket No. CP92-335-000]

February 18, 1992.

Take notice that on February 6, 1992, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 94158-0900, filed an application with the Commission in Docket No. CP92-335-000 pursuant to section 7(b) of the Natural Gas Act (NGA) for permission and approval to abandon its Federal No. 26-13 well line by sale to Lone Mountain Production Company (Lone Mountain) and to abandon by removal the associated metering and dehydrator facilities located in Garfield County, Colorado, all as more fully set forth in the application which is open to public inspection.

Northwest proposes to abandon approximately 3,500 feet of 4½-inch pipe, associated valves, a meter, and dehydration facilities used to connect the Federal No. 26-13 well to RMNG Gathering Company's South Canyon gathering system in Garfield County.[1] Northwest proposes to abandon the pipe and associated valves by sale to Lone Mountain for $7,500, the agreed upon fair market value. Concurrently with the sale of the well line Northwest proposes to remove and salvage the associated meter and dehydration facilities. Northwest states that these facilities are no longer needed and are uneconomical to operate.

Comment date: March 10, 1992, in accordance with Standard Paragraph F at the end of this notice.

3. United Gas Pipe Line Company

[Docket No. CP92-345-000]

February 18, 1992.

Take notice that on February 12, 1992, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, TX 77251-1478, filed a request pursuant to §§ 157.205 and 157.211 of the Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to reverse an existing meter station and related facilities, located in Marion County, Mississippi, under the provisions of section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Specifically, United proposes to reverse the tube on an existing station located off the McComb 24" line near Baxterville Field Section 34, Township 2 North, Range 17 West for the firm transportation of natural gas to Fina Natural Gas (Fina) to provide delivery to Mississippi Fuel in Marion County, Mississippi.

United states that the proposed meter station and the related facilities would enable United to transport an estimated maximum of 40,000 Mcf of natural gas per day to Fina for delivery to Mississippi Fuel, under United's Rate Schedule FTS. United further states that it anticipates no significant impact on its peak day or annual deliveries as a result of the proposed service.

Comment date: April 3, 1992, in accordance with Standard Paragraph G at the end of this notice.

4. Questar Pipeline Company

[Docket No. CP92-210-000]

February 18, 1992.

Take notice that on November 25, 1991, Questar Pipeline Company (Questar), 79 South State Street, Salt Lake City, Utah 84111, filed in Docket No. CP92-210-000, a request pursuant to §§ 157.205 and 157.211 of the Commission's Regulations and Questar's blanket certificate issued in Docket No. CP82-491-000 pursuant to section 7 of the Natural Gas Act for authorization to activate its previously certificated West Evanston delivery point located in Uinta County, Wyoming, by constructing and operating a district regulator station adjacent to its Jurisdictional Lateral Nos. 36 and 57 to serve Mountain Fuel Supply Company (MFS), all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Questar states that these facilities are required to deliver natural gas to MFS, the local distribution affiliate of Questar, under Questar's firm sale-for-resale Rate Schedule CD-1 and firm transportation Rate Schedule X-33 which are included in Original Volume Nos. 1 and 3 of Questar's FERC Gas Tariff.

Questar estimates the cost of the West Evanston district regulator station including metering, regulating and appurtenant facilities necessary to activate the existing delivery point will be $80,930. Questar states that the installation of these facilities will allow Questar to deliver up to approximately 4,080 Dth per day and 51,600 Dth annually to MFS, for ultimate sale by MFS to commercial and residential customers in the vicinity of Evanston, Wyoming, pursuant to MFS's Public Service Commission of Wyoming Tariff No. 8.

Comment date: April 3, 1992, in accordance with Standard Paragraph G at the end of this notice.

5. Michigan Gas Storage Company

[Docket No. CP92-332-000]

February 18, 1992.

Take notice that on February 5, 1992, Michigan Gas Storage Company (Gas Storage), 212 West Michigan Avenue, Jackson, Michigan 49201, filed in Docket No. CP92-332-000 an application pursuant to section 7(b) of the Natural Gas Act, for permission and approval to abandon a gas transportation service provided for Consumers Power Company (Consumers), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Gas Storage states that it is requesting approval to abandon the natural gas transportation service it provides for Consumers as authorized by Commission order issued March 2, 1984, in Docket No. CP83-69-000 (26 FERC ¶ 61,285).

Gas Storage further states that the transportation service provided for Consumers is to enable Consumers to provide a transportation and storage service for Kansas Power and Light Company (KPL).

Gas Storage asserts that KPL has requested that these services be terminated effective April 1, 1992. Accordingly, by letter dated January 11, 1992, Gas Storage notified Consumers that it is terminating the transportation service effective April 1, 1992. Consumers has agreed to the termination of this transportation service.

No facilities are proposed to be abandoned herein.

Comment date: March 10, 1992, in accordance with Standard Paragraph F at the end of this notice.

6. Northwest Pipeline Corporation

[Docket No. CP92-336-000]

February 18, 1992.

Take notice that on February 6, 1992, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah, 84158, filed in Docket No. CP92-336-000, a request for approval, pursuant to 18 CFR 157.205 and 157.211, to construct and operate a new meter station, to be named the SIPI Meter Station, at its Sumas Compressor Station site in Whatcom County, Washington. The SIPI Meter Station will be operated to deliver transportation gas to, and receive transportation gas from, the Sumas-Huntingdon Interconnect Pipeline System (SHIPS) under various authorized transportation agreements with BC Gas Inc. (BC Gas) and other shippers; all as more fully set forth in the request that is on file with the Commission and is open to inspection.

Northwest states that the proposed new meter station is designed at the request of BC Gas to receive or deliver up to approximately 350,000 MMBtu per day at the interconnect with SHIPS. The station will include four 12-inch turbine meters, six 20-inch manifold switching valves, approximately 2,100 feet of 24-inch pipe, various control valves and other appurtenances. To allow the station to convey the required gas volumes under all anticipated operational conditions, the meter station will be connected both to the suction side and the discharge side of Northwest's Sumas Compressor Station. The meter station will be located on a 90 foot by 150 foot site within Northwest's Sumas Compressor Station yard in Section 36, Township 41 North, Range 4 East, Whatcom County, Washington, at milepost number 1484.7 on Northwest's mainline transmission system.

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[1] Northwest installed these facilities under budget-type authority granted September 30, 1977, by the Commission in Docket No. CP77-507 (59 FPC 2362).

Northwest estimates the cost of the proposed SIPI Meter Station to be $2,285,711. Northwest estimates that the incremental annual revenues to be generated by the service to this meter station will exceed the estimated incremental cost of service for the proposed facilities. Therefore, Northwest will install the SIPI Meter Station at its own expense pursuant to the Facilities Reimbursement provisions of its transportation tariff.

Comment date: April 3, 1992, in accordance with Standard Paragraph G at the end of this notice.

7. CNG Transmission Corporation Carnegie Natural Gas Company

[Docket No. CP92–315–000]

February 18, 1992.

Take notice that on January 23, 1992, CNG Transmission Corporation (CNG), 445 West Main Street, Clarksburg, West Virginia 26301 and Carnegie Natural Gas Company (Carnegie), 800 Regis Avenue, Pittsburgh, Pennsylvania 15236, filed a joint application with the Commission in Docket No. CP92–315–000 pursuant to sections 7(b) of the Natural Gas Act (NGA) for permission and approval to delete two exchange points from an exchange agreement, all as more fully set forth in the application which is open to public inspection.

CNG and Carnegie request permission and approval to delete the Dorsey Davis connection, Doddridge County, West Virginia, and the Calvin Barr #1 Well, Wetzel County, West Virginia, as exchange points under their respective FERC Rate Schedules X–5 and X–4.[2] CNG and Carnegie no longer need the Dorsey Davis connection. CNG has purchased Carnegie's interest in the Calvin Barr #1 Well, which is connected to CNG's pipeline system.[3] Since Carnegie no longer has an interest in the well, Carnegie does not need this connection as an exchange point under its Rate Schedule X–4.

No exchange service would be abandoned in this proposal.

Comment date: March 10, 1992, in accordance with Standard Paragraph F at the end of this notice.

8. Consumers Power Company

[Docket No. CP92–331–000]

February 18, 1992.

Take notice that on February 5, 1992, Consumers Power Company (Consumers), 212 West Michigan Avenue, Jackson, Michigan 49203, filed in Docket No. CP92–331–000 an application pursuant to section 7(b) of the Natural Gas Act, for permission and approval to abandon a gas transportation and storage service provided for The Kansas Power and Light Company (KPL), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Consumers state that it is requesting approval to abandon the natural gas transportation and storage service it provides for KPL, as authorized by Commission order issued March 2, 1984, in Docket No. CP83–67–000 (26 FERC ¶ 61,285).

Consumers further states that KPL, by letter dated January 28, 1992, requested that this service be terminated effective April 1, 1992, to coincide with the end of the withdrawal cycle.

No facilities are proposed to be abandoned herein.

Comment date: March 10, 1992, in accordance with Standard Paragraph F at the end of this notice.

9. Southern Natural Gas Company

[Docket No. CP92–333–000]

February 18, 1992.

Take notice that on February 6, 1992, Southern Natural Gas Company (Southern), Post Office Box 2563, Birmingham, Alabama 35202–2563, filed in Docket No. CP92–333–000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a pipeline interconnection, exchange meter station and appurtances with Transcontinental Gas Pipe Line Corporation (Transco) near Selma, Alabama, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern states that the facilities were installed in 1957 pursuant to a joint application filed by Southern and Transco in Docket No. G–12060 to provide for another point of interchange where Transco could deliver gas to Southern pursuant to Rate Schedule EX–1 in the event of an emergency. Southern also states that gas has never flowed through those facilities and the facilities have become obsolete. Southern asserts that the proposed abandonment would save Southern the cost of maintaining those facilities, without any adverse impact on the capacity of Southern's system or any termination of service to Transco.

Comment date: March 10, 1992, in accordance with Standard Paragraph F at the end of this notice.

10. Panda Resources, Inc.

[Docket No. CI92–24–000]

February 19, 1992.

Take notice that on February 4, 1992, Panda Resources, Inc. (Panda) of 4200 East Skelly Drive, Suite 1000, Tulsa, Oklahoma 74135, filed an application pursuant to Sections 4 and 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder for an unlimited-term blanket certificate with pregranted abandonment authorizing it to make sales for resale in interstate commerce of natural gas imported by Panda from Canada, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Comment date: March 10, 1992, in accordance with Standard Paragraph J at the end of this notice.

11. Mountain Gas Resources, Inc.

[Docket No. CI92–25–000]

February 19, 1992.

Take notice that on February 10, 1992, Mountain Gas Resources, Inc. (MGR) of 5613 DTC Parkway, Suite 200, P.O. Box 6525, Englewood, Colorado 80155–6525, filed an application pursuant to sections 4 and 7 of the Natural Gas Act (NGA) and the Federal Energy Regulatory Commission's (Commission) regulations thereunder for an unlimited-term blanket certificate with pregranted abandonment authorizing the sale for resale in interstate commerce of all NGPA categories of natural gas subject to the Commission's NGA jurisdiction, including imported gas and liquefied natural gas, gas purchased under any existing or subsequently approved pipeline blanket certificate authorizing interruptible sales for resale of surplus system supply (ISS gas), and natural gas purchased from non-first sellers including interstate and intrastate pipelines and local distribution companies, all as more fully set forth in the application which is on file with the

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[2] The Commission authorized CNG and Carnegie's gas-for-gas exchange service by the order issued in Docket No. CP69–78 (40 FPC 1346).

[3] See the Commission order issued May 21, 1984, in Docket No. CP69–78–004 (27 FERC ¶ 62,171).

Commission and open for public inspection.

Comment date: March 10, 1992, in accordance with Standard Paragraph J at the end of the notice.

12. Williston Basin Interstate Pipeline Company

[Docket No. CP92-343-000]

February 19, 1992.

Take notice that on February 12, 1992, Williston Basin Interstate Pipeline Company (Williston Basin), 200 North Third Street, Suite 300, Bismarck, North Dakota 58501, filed in Docket No. CP92-343-000 a request pursuant to §§ 157.205, § 157.211 and/or § 157.212 of the Commission's Regulations, for authorization to construct and operate a new tap and two new meters and appurtenant facilities to be connected to that tap under its blanket certificate obtained in Docket Nos. CP82-487-000, *et al.*, all as more fully set forth in its request which is on file with the Commission and open to public inspection.

Williston Basin seeks authorization to construct and operate a new meter and appurtenant facilities in order to provide firm sales service to one of its existing local distribution company sales customers (LDC), Montana-Dakota Utilities Co., (Montana-Dakota) at Lignite, North Dakota. Williston Basin states that Williston Basin also seeks authorization to construct and operate a second new meter and related facilities in order to provide interruptible transportation service for Interenergy Corporation of gas needed for make-up fuel during times of plant upset and/or turn around at its Lignite Gas Plant. The estimated cost of this metering facility is $5,100. The tap and proposed meters will be located at an existing gas purchase meter station on existing pipeline right-of-way in Burke County, North Dakota. Williston Basin states that the installation of the proposed facilities would have no significant effect on its peak day or annual requirements.

Comment date: April 6, 1992, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Standard Paragraph

J. Any person desiring to be heard or make any protest with reference to said filings should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR. Doc. 92-4333 Filed 2-25-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER92-318-000]

Tampa Electric Co., Filing

February 18, 1992.

Take notice that on February 7, 1992, Tampa Electric Company (Tampa Electric) tendered for filing a Contract for Interchange Service between Tampa Electric and the City of Wauchula, Florida (Wauchula). The Contract was supplemented with Service Schedules D and J, providing for long-term and negotiated interchange service is, respectively.

Tampa Electric also tendered for filing, as a supplement to Service Schedule D, a Letter of Commitment providing for the sale by Tampa Electric to Wauchula of capacity and energy from Tampa Electric's Big Bend Stations coal-fired generating resources.

Tampa Electric proposes an effective date of June 1, 1992, for the Contract, Service Schedules, and Letter of Commitment.

Copies of the filing have been served on Wauchula and the Florida Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before March 2, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92–4334 Filed 2–25–92; 8:45 am]

BILLING CODE 6717-01-M

Office of Arms Control and Nonproliferation Technology Support

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Agreement of Cooperation in the Civil Uses of Atomic Energy, signed April 4, 1972, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following retransfer: RTD/CI(EU)–6, for the transfer of prototype fuel elements containing 7.6 kilograms of uranium, enriched to 19.95 percent in the isotope uranium-235, from France to Taiwan for use as fuel in the NTHU research reactor in Taiwan.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Issued in Washington, DC, on February 20, 1992.

Salvador N. Ceja,

Acting Director, Office of Nuclear Nonproliferation Policy.

[FR Doc. 92–4402 Filed 2–25–92; 8:45 am]

BILLING CODE 6450-01-M

Office of Fossil Energy

[FE Docket No. 91–100–NG]

Mobil Natural Gas Inc. Order Granting Blanket Authorization To Import Natural Gas, Including Liquefied Natural Gas

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of an order granting blanket authorization to import natural gas, including liquefied natural gas.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Mobil Natural Gas Inc. blanket authorization to import up to 100 Bcf of natural gas, including liquefied natural gas, over a two-year term beginning on the date of first delivery after February 15, 1992, the date MNGI's current authorization expires.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, February 20, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92–4403 Filed 2–25–92; 8:45 a.m.]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Cases Filed During the Week of December 27, 1991, through January 3, 1992

During the week of December 27, 1991, through January 3, 1992, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: February 20, 1992.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

Week of December 27, 1991, through January 3, 1992

Date	Name and Location of Applicant	Case No.	Type of Submission
1/3/92	Gulf/Buddy's Fuel Oil Service, Washington, DC	RR300-124	Request for Modification/Rescission in the Gulf special refund processing. If granted: The December 20, 1991 Decision and Order (Case No. RF300-65) issued to Buddy's Fuel Oil Service regarding the firm's Application for Refund submitted in the Gulf special refund proceeding would be modified.

REFUND APPLICATIONS RECEIVED

Date received	Name of refund proceeding/Name of refund applicant	Case No.
12/27/91 thru 1/3/92	Texaco Refund Applications Received	RF321-18154 thru RF321-18258
12/27/91 thru 1/3/92	Crude Oil Refund Applicants Received	RF272-91274 thru RF272-91289
12/30/91	Wal-Mart Stores, Inc.	RF335-59
12/30/91	Iberia R-5 School District	RF335-60
12/30/91	Jim Felgar	RF335-61
12/30/91	Clark Super 100 Samuel Perkins	RF342-102
12/30/91	Slattery Group, Inc.	RF336-41
12/31/91	Jim's Clark Super 100	RF342-103
1/2/92	West Paterson Quik Stop	RF341-17
1/2/92	Leo R. Geyman	RC272-153
1/2/92	Lester C. Newton Trucking Co.	RC272-154

REFUND APPLICATIONS RECEIVED—Continued

Date received	Name of refund proceeding/ Name of refund applicant	Case No.
1/3/92	Alet Kisleck	RF300-19293
1/3/92	Bernard Norris-Clark Super.	RF342-104
1/3/92	Ron Leto's Clark Super 100.	RF342-105
1/3/92	Douglas Murphy/ James Harp.	RF342-106
1/3/92	Lam Davis Super 100.	RF342-107
1/3/92	Owens Service Station.	RF342-108
1/392	Louis McLaurin Super 100.	RF342-109
1/3/92	Consumers Oil Corp.	RF330-64

[FR Doc. 92-4401 Filed 2-25-92; 8:45am]

BILLING CODE 6450-01-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to Office of Management and Budget for Review

February 18, 1992.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of these submissions may be purchased from the Commission's copy contractor, Downtown Copy Center, 1114 21st Street NW., Washington, DC 20036, (202) 452-1422. For further information on these submissions contact Judy Boley, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on these information collections should contact Jonas Neihardt, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395-4814.

OMB Number: 3060-0179.

Title: Section 73.1590, Equipment performance measurements.

Action: Extension of a currently approved collection.

Respondents: Businesses or other for-profit (including small businesses).

Frequency of Response: Recordkeeping requirement.

Estimated Annual Burden: 11,850 rcordkeepers, .65 hours average burden per recordkeeper, 7,703 hours total annual burden.

Needs and Uses: Section 73.1590 requires licensees of AM, FM and TV stations to make audio and video equipment performance measurements for each main transmitter. These measurements and a description of the equipment and procedure used in making the measurements must be kept on file at the transmitter for two years. In addition, this information must be made available to the FCC upon request. The data is used by FCC staff in field investigations to identify sources of interference.

OMB Number: 3060-0210.

Title: Section 73.1930, Political editorials.

Action: Extension of a currently approved collection.

Respondents: Individuals or households, businesses or other for-profit (including small businesses).

Frequency of Response: On occasion reporting.

Estimated Annual Burden: 2,157 responses; 3 hours average burden per response; 6,471 hours total annual burden.

Needs and Uses: Section 73.1930 requires that when a commercial licensee in an editorial endorses or opposes a candidate, the licensee must notify the other qualified candidate(s) for the same office or the candidate opposed, of the date and time of the editorial, provide a script or tape of the editorial, and offer reasonable opportunity to respond over the licensee's facility. This information is used to provide a qualified candidate reasonable opportunity to respond to a political editorial.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92-4282 Filed 2-25-92; 8:45 am.]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

BRAD, Inc.; Formation of; Acquisition by; or Merger of Bank Holding Companies; Correction

This notice corrects a previous Federal Register notice (FR Doc. 92-2610) published at page 4205 of the issue for Tuesday, February 4, 1992.

Under the Federal Reserve Bank of Chicago, the entry for BRAD, Inc. is revised to read as follows:

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *BRAD, Inc.*, Melrose, Wisconsin; to become a bank holding company by acquiring 88.87 percent of the voting shares of Bank of Melrose, Melrose, Wisconsin.

Comments on this application must be received by March 6, 1992.

Board of Governors of the Federal Reserve System, February 20, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-4342 Filed 2-25-92; 8:45 am]

BILLING CODE 6210-01-F

Prairie Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 23, 1992.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Prairie Bancorp, Inc.*, Manlius, Illinois; to merge with First Hanover Bancorp, Inc., Hanover, Illinois, and thereby indirectly acquire Hanover State Bank, Hanover, Illinois.

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Rio Blanco Holding Company*, Rangley, Colorado; to become a bank holding company by acquiring 90.7 percent of the voting shares of Rio Blanco State Bank, Rangely, Colorado.

Board of Governors of the Federal Reserve System, February 20, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-4343 Filed 2-25-92; 8:45 am]

BILLING CODE 6210-01-F

Bobby G. Rozas; Change in Bank Control; Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than March 18, 1992.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Bobby G. Rozas, Vidor, Texas*, to acquire an additional 0.78 percent of the voting shares of Vidor Bancorporation, Inc., Vidor, Texas, for a total of 25.10 percent, and thereby indirectly acquire First Texas Bank, Vidor, Texas.

Board of Governors of the Federal Reserve System, February 20, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-4344 Filed 2-25-92; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 020392 AND 021492

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
The RTZ Corporation PLC, Galactic Resources Limited, SCGC Holdings, Inc. & Galactic Resources Limited	92-0502	2/03/92
International Games, Inc., Mattel, Inc., Mattel, Inc	92-0511	2/03/92
Mattel, Inc., International Games, Inc., International Games, Inc	92-0512	2/03/92
HEALTHSOUTH Rehabilitation Corporation, Dr. John T. Macdonald Health Systems, Inc., Hospital Health Systems, Inc. & Drs. Health Serv. Corp	92-0514	2/03/92
Western States Chemical Supply Corp., American Stores Company, the T-Chem Products division of LKS Manufacturing, Inc	92-0528	2/03/92
Sears, Roebuck and Co., Tysons II Development Co. Limited Partnership, H-L Mall Venture	92-0519	2/05/92
Sears, Roebuck and Co., Sears, Roebuck and Co., H-L Mall Venture	92-0520	2/05/92
Stephen R. Karp, Edward J. DeBartolo, Northshore Plaza I, Inc	92-0550	2/05/92
Stephen R. Karp, Campeau Corporation, North Shore Plaza II, Inc	92-0551	2/05/92
BE Avionics, Inc., Pullman Partners, PTC Aerospace, Inc. and Aircraft Products Company	92-0536	2/06/92
SCANA Corporation, Patrick F. Taylor, Taylor Energy Company	92-0532	2/07/92
Komag, Incorporated, Dastek Holding Company (Joint Venture), Dastek Holding Company (Joint Venture)	92-0534	2/10/92
Asahi Glass Co., Ltd., Dastek Holding Company (Joint Venture), Dastek Holding Company (Joint Venture)	92-0546	2/10/92
Albert Einstein Healthcare Foundation, MossRehab, Inc., MossRehab, Inc	92-0547	2/10/92
Santa Fe Energy Resources, Inc., Adobe Resources Corporation, Adobe Resources Corporation	92-0555	2/10/92
Minorco, Santa Fe Energy Resources, Inc., Santa Fe Energy Resources, Inc	92-0556	2/10/92
Grand Metropolitan Public Limited Company, Burton J. McGlynn and Patricia J. McGlynn, McGlynn Bakeries, Inc	92-0503	2/11/92
Thermo Electron Corporation, Foster-Miller, Inc., Foster-Miller, Inc	92-0557	2/11/92
Norsk Hydro a.s., Royster Company, Royster Company	92-0576	2/11/92
General Motors Corporation, Blue Cross and Blue Shield of Massachusetts, Inc., Blue Cross and Blue Shield of Massachusetts, Inc	92-0554	2/12/92
W. R. Grace & Co., E. I. du Pont de Nemours and Co., Du Pont Canada Inc	92-0185	2/13/92
Maidenform, Inc., Sidney Goldberg, True Form Foundations Corp	92-0508	2/13/92
Martin Marietta Corporation, Culpeper Stone Company, Inc., Culpeper Stone Company, Inc	92-0518	2/13/92
Chiquita Brands International, Inc., Fritz C. Friday, Friday Canning Corporation	92-0553	2/14/92
Christopher Cohan, BILP Partners, L.P., BILP Partners, L.P	92-0568	2/14/92

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay or Renee A. Horton, Contact Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room 303, Washington, DC 20580, (202) 326-3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 92-4382 Filed 2-25-92; 8:45 am]

BILLING CODE 6750-01-M

[Dkt. C-3354]

Kreepy Krauly USA, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, a Florida manufacturer of automatic swimming pool cleaning devices from engaging in or enforcing any agreement with any dealer to establish or maintain the dealer's resale prices. In addition, the respondent is required to rescind the paragraph of its dealer agreements that requires dealers to agree to maintain resale prices, to refrain from maintaining resale prices, and to notify its officers, sales personnel, dealers, and distributors that dealers are allowed to determined their own selling prices.

DATES: Complaint and Order issued December 20, 1991.[1]

FOR FURTHER INFORMATION CONTACT: Michael Analics, FTC/S-2627, Washington, DC 20580, (202) 326-2682.

SUPPLEMENTARY INFORMATION: On Thursday, January 17, 1991, there was published in the **Federal Register**, 56 FR 1813, a proposed consent agreement with analysis In the Matter of Kreepy Krauly USA, Inc., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Donald S. Clark,

Secretary.

[FR Doc. 92-4381 Filed 2-25-92; 8:45 a.m.]

BILLING CODE 6750-01-M

[File No. 902 3112]

RMED International, Inc., et al.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a Colorado-based company, that makes "TenderCare" disposable diapers, and its president from making degradability claims in the future unless they possess competent scientific evidence to substantiate such claims.

DATES: Comments must be received on or before April 27, 1992.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th St. and Pa. Ave., NW, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Michael Dershowitz or Georgianna Allsopp, FTC/S-4002, Washington, DC 20580. (202) 326-3158 or 326-3183.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

The Federal Trade Commission having initiated an investigation of certain acts and practices of RMED International, Inc., a corporation, and Edward Reiss, individually and as an officer of said corporation, hereinafter sometimes referred to as proposed respondents, and it now appearing that proposed respondents are willing to enter into an agreement containing an order to cease and desist from the acts and practices being investigated,

It is hereby agreed by and between RMED International, Inc., by its duly authorized officer, and Edward Reiss, individually and as an officer of said corporation, and counsel for the Federal Trade Commission that:

1. Proposed respondent RMED International, Inc. ("RMED") is a Colorado corporation, with its office and principal place of business located at 675 Industrial Drive, Delta, Colorado 81416.

Proposed respondent Edward Reiss is an officer of said corporation. He formulates, directs, and controls the acts and practices of said corporation, and his business address is the same as that of said corporation.

2. Proposed respondents admit all the jurisdictional facts set forth in the attached draft complaint.

3. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement, and

(d) All claims under the Equal Access to Justice Act.

4. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the attached draft complaint, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the attached draft complaint, or that the facts as alleged in the attached draft complaint, other than the jurisdictional facts, are true.

6. This agreement comtemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the attached draft complaint and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service.

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[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

Proposed respondents waive any right they might have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the complaint and the order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

Definition

For purposes of this Order, the following definition shall apply:

RMED plastic product means any product or product packaging composed of plastic, in whole or in part, that is offered for sale, sold, or distributed to the public by respondents, its successors and assigns, under the "TenderCare" brand name or any other brand name; and also means any plastic product or product packaging that is sold or distributed to the public by third parties under private labeling agreements with respondents, its successors and assigns.

I

A. *It is ordered* That respondents RMED International, Inc., a corporation, its successors and assigns, and its officers, and Edward Reiss, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, labeling, offering for sale, sale, or distribution of any RMED plastic product, including, but not limited to, disposable diapers and their plastic packaging, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, by words, depictions, or symbols:

(1) That any such plastic product is "degradable," "biodegradable," or "photodegradable"; or,

(2) Through the use of such terms as "degradable," "biodegradable," "photodegradable," or any other similar term or expression, that any such plastic product offers any environmental benefits compared to other products when consumers dispose of them as trash that is ordinarily buried in a sanitary landfill or incinerated,

unless, at the time of making such representation, respondents possess and rely upon a reasonable basis, consisting of competent and reliable scientific evidence that substantiates such representation. For the purposes of this Order, to the extent such evidence of a reasonable basis consists of scientific or professional tests, analyses, research, studies, or any other evidence based on expertise of professionals in the relevant area, such evidence shall be "competent and reliable" only if those tests, analyses, research, studies, or other evidence are conducted and evaluated in an objective manner by persons qualified to do so, and using procedures generally accepted in the profession to yield accurate and reliable results.

B. *Provided,* however, respondents will not be in violation of this Order, in connection with the advertising, labeling, offering for sale, sale, or distribution of RMED plastic products, if they truthfully represents that their plastic products will compost, degrade into usable compost, or otherwise be converted into usable compost, when disposed of in facilities that collect municipal solid waste for composting (that is, the accelerated breakdown of waste into soil-conditioning material), provided that the labeling of such products and any advertising referring to the degradability of such products discloses clearly, prominently, and in close proximity to such representation:

(1) That such products are not designed to degrade in landfills; and either

(2)(a) That facilities to compost such products are generally unavailable in the U.S., or

(2)(b) The approximate percentage of the U.S. population having access to composting programs for such products.

If the advertising and labeling of respondents' plastic products otherwise complies with subpart A of part I of this Order, respondents will not be in violation of this Order if they do not make the disclosures in this proviso (subpart B).

II

It is further ordered That respondents RMED International, Inc., a corporation, its successors and assigns, and its officers, and Edward Reiss, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, labeling, offering for sale, sale, or distribution of any RMED plastic product, including, but not limited to, disposable diapers and their plastic packaging, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, by words, depictions, or symbols, that any such product offers any environmental benefit, unless the specific nature of that benefit is clear from the context or is disclosed clearly, prominently, and in close proximity thereto; and, at the time of making such representation, respondents possess and rely upon a reasonable basis, consisting of competent and reliable scientific evidence that substantiates such representation. For purposes of this provision, a disclosure elsewhere on the product package shall be deemed to be "in close proximity" to such terms if there is a clear and conspicuous cross-reference to the disclosure. The use of an asterisk or other symbol shall not constitute a clear and conspicuous cross-reference. A cross-reference shall be deemed clear and conspicuous if it is of sufficient prominence to be readily noticeable and readable by the prospective purchaser when examining the principal display panel of the package. The principal display panel of the package is that part of the package that faces the consumer when presented under normal and customary conditions of display for retail sale.

III

It is further ordered That for three (3) years from the date that the representations to which they pertain are last disseminated, respondents shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. All materials relied upon to substantiate any representation covered by this Order; and

B. All tests, reports, studies, surveys, or other materials in their possession or control that contradict, qualify, or call into question such representation or the basis upon which respondents relied for such representation.

IV

It is further ordered That respondent RMED International, Inc. shall distribute a copy of this Order to each of its operating divisions and to each of its officers, agents, representatives, or employees engaged in the preparation and placement of advertisements or other such sales materials covered by this Order.

V

It is further ordered That respondents shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, such as a dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations under this order.

VI

It is further ordered That the individual respondent shall promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. In addition, for a period of five (5) years from the service date of this Order, he shall promptly notify the Commission of each affiliation with a new business or employment whose activities relate to the manufacture, sale, or distribution of plastic products, or of his affiliation with a new business or employment in which his own duties and responsibilities relate to the manufacture, sale, or distribution of plastic products. When so required under this paragraph, each such notice shall include the individual respondent's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged, as well as a description of the respondent's duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this Order.

VII

It is further ordered That respondents shall, within sixty (60) days after service of his Order upon them, and at such other times as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from respondents RMED International, Inc., a Colorado Corporation, and Edward Reiss, individually and as an officer of said corporation.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

This matter concerns the package labeling and advertising of RMED International Inc.'s "TenderCare" disposable diapers. The Commission's complaint charges that the respondents' labeling and advertising contained unsubstantiated representations concerning "TenderCare" diapers' alleged biodegradability and the environmental benefits that could be obtained when the diapers were disposed of as trash. The complaint alleges that the respondents represented that "TenderCare" disposable diapers offer a significant environmental benefit when consumers dispose of them as trash, and that "TenderCare" diapers will completely break down, decompose, and return to nature within 2–5 years.

The proposed consent order contains provisions designed to remedy the violations charged and to prevent the respondents from engaging in similar acts and practices in the future.

Part I of the proposed order requires the respondents to cease representing that any plastic product or plastic packaging is "degradable," "photodegradable," or "biodegradable," or more specifically, through the use of such terms or similar terms, that such plastic products offer any environmental benefits compared to other products when disposed of as trash that is ordinarily buried in a sanitary landfill, or incinerated, unless the respondents have a reasonable basis for such representations at the time they are made. Part I also contains a proviso that allows the respondents to advertise certain plastic products as "compostable" or "degradable" without violating Part I of the proposed order. The respondents may use the terms if such products can be converted into usable compost (soil conditioning material) in municipal solid waste composting programs, and if they disclose, clearly, prominently, and in close proximity to such claims, either that facilities for composting such products are generally unavailable in the United States, or the approximate percentage of the U.S. population that has access to facilities for composting such products. Further-more, respondents much also disclose that such products are not designed to degrade in landfills.

Part II of the proposed order provides that if the respondents represent in advertising or labeling that their plastic products offer any environmental benefit, they must have a reasonable basis consisting of competent and reliable scientific evidence that substantiates the claims. Further, to ensure compliance with this provision, the order requires the respondents to disclose specifically what they mean by the claims, it if is not clear from the context.

The proposed order also requires the respondents to maintain materials relied upon to substantiate claims covered by the order, to distribute copies of the order to certain company officials and employees, to notify the Commission of any changes in corporate structure that might affect compliance with the order, to notify the Commission of any changes in the business or employment of the named individual respondent, and to file one or more reports detailing compliance with the order.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 92–5383 Filed 2–25–92; 8:45 am]

BILLING CODE 6750-1-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 91F–0457]

Parexel International Corp.; Filing of Food Additive Petition; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration is correcting a notice of filing of a food additive petition by Parexel International Corp. When this petition was published in the **Federal Register** on December 19, 1991 (56 FR 65907), the docket number provided in the heading was incorrect. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: C. James Shen, Center for Food Safety and Applied Nutrition (HFF–333), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–9528.

In FR Doc. 91–30214, appearing on page 65907 in the **Federal Register** of Thursday, December 19, 1991, in the second column, on the first line, the docket number is corrected by changing "91N–0457" to read "91F–0457".

Dated: February 12, 1992.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 92–4363 Filed 2–25–92; 8:45 am]

BILLING CODE 4160-01-F

Health Care Financing Administration

Public Information Collection Requirements Submitted to the Office of Management and Budget for Clearance

AGENCY: Health Care Financing Administration, HHS.

The Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information in compliance with the Paperwork Reduction Act (Pub. L. 96–511).

1. *Type of Request:* Reinstatement; *Title of Information Collection:* Information Collection Requirements in 42 CFR 405, Subpart N, Conditions of Coverage for Portable X-ray Suppliers; *Form Number:* HCFA–F–43; *Use:* These information requirements are needed to determine if a supplier is in compliance with published health and safety requirements for participating in the Medicare program; *Frequency:* On occasion; *Respondents:* Businesses/other for profit and small businesses/organizations; *Estimated Number of Responses:* 469 recordkeepers; *Average Hours per Response:* 2.5 (recordkeeping); *Total Estimated Burden Hours:* 1,173 (recordkeeping).

2. *Type of Request:* Reinstatement; *Title of Information Collection:* Statistical Report on Medical Care: Eligibles, Recipients, Payments and Services; *Form Number:* HCFA–2082; *Use:* The data reported are the basis for (1) actuarial forecasts for Medicaid services, utilizations and costs, (2) analyses and cost savings estimates required for legislative initiatives relating to Medicaid, and (3) responses for information from HCFA components, the Department of Health and Human Services, the Congress, and the press; *Frequency:* Quarterly; *Respondents:* State/local government; *Estimated Number of Responses:* 204; *Average Hours per Response:* 93.74; *Total Estimated Burden Hours:* 19,123.

3. *Type of Request:* New; *Title of Information Collection:* Attending Physician's Parenteral/Enteral Nutrition Certification of Medical Necessity; *Form Numbers:* HCFA–191 and 195; *Use:* The certification for medical necessity for parenteral and enteral nutrition is needed to protect the Medicare program from paying for unnecessary services by standardizing the information collected to determine coverage. Forms will be used by carriers in the processing of Medicare claims; *Frequency:* On occasion; *Respondents:* Businesses/other for profit and small businesses/organizations; *Estimated Number of Responses:* 492,000; *Average Hours per Response:* .2; *Total Estimated Burden Hours:* 98,400 reporting, 30,000 recordkeeping—total 128,400.

4. *Type of Request:* New; *Title of Information Collection:* Evaluation of the OBRA 1987 Medicare Payment for Therapeutic Shoes Beneficiary Survey; *Form Number:* HCFA–R–25; *Use:* The survey will determine whether foot infections are less common among those wearing therapeutic shoes, whether therapeutic shoe purchase rates are different among the treatment and control groups, and whether those who purchase the shoes wear them; *Frequency:* One-time; *Respondents:* Individuals/households; *Estimated Number of Responses:* 2,174; *Average Hours per Response:* .183; *Total Estimated Burden Hours:* 398.

5. *Type of Request:* New; *Title of Information Collection:* Clinical Laboratory Improvement Amendments (CLIA) of 1988, Regulation HSQ–176, 42 CFR 493; *Form Number:* HCFA–R–26; *Use:* CLIA requires every laboratory, with certain exceptions contained in the regulation, that performs testing on human specimens to meet performance requirements in order to be certified by the Department of Health and Human Services. This regulation implements the certificate, laboratory standards, and inspection requirements of CLIA; *Frequency:* On occasion; *Respondents:* Individuals/households, businesses/other for profit, non-profit institutions, State/local governments, Federal agencies/employees, and small businesses/organizations; *Estimated Number of Responses:* 100,000; *Average Hours per Response:* 161.34 (first year only—134 for subsequent years); *Total Estimated Burden Hours:* 16,134,136 (first year only—13,381,136 for subsequent years).

Additional Information or Comments: Call the Reports Clearance Officer on 410–966–2088 for copies of the clearance request packages. Written comments and recommendations for the proposed information collections should be sent directly to the following address: OMB Reports Management Branch, Attention: Allison Eydt, New Executive Office Building, room 3208, Washington, DC, 20503.

Dated: February 10, 1992.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

[FR Doc. 92–4355 Filed 2–25–92; 8:45 am]

BILLING CODE 4120-03-M

Hearing: Reconsideration of Disapproval of Pennsylvania State Plan Amendment (SPA)

AGENCY: Health Care Financing Administration, HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on April 7, 1992 at 10 a.m. in room 3030, 3535 Market Street, Philadelphia, Pennsylvania to reconsider our decision to disapprove Pennsylvania SPA 90–26.

CLOSING DATE: Requests to participate in the hearing as a party must be received by the Docket Clerk by March 12, 1992.

FOR FURTHER INFORMATION CONTACT: Docket Clerk, HCFA Hearing Staff, 1849 Gwynn Oak Avenue, Gwynn Oak Building, Ground Floor, Baltimore, Maryland, 21207, Telephone: (410) 597–3013.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to disapprove Pennsylvania State plan amendment (SPA) number 90–26.

Section 1116 of the Social Security Act (the Act) and 42 CFR, part 430 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. The Health Care Financing Administration (HCFA) is required to publish a copy of the notice to a State Medicaid agency that informs the agency of the time and place of the hearing and the issues to be considered. It we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice.

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with the requirements contained at 42 CFR 430.76(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins in accordance with the requirements contained at 42 CFR 430.76(c).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

The Commonwealth of Pennsylvania has requested an effective date of April 1, 1989, for State Medicaid plan amendment transmittal number 90–26. This plan amendment proposes to make language clarifications only to a payment methodology that was part of a previously approved plan amendment (TN 89–03, effective April 1, 1989). The Commonwealth requested an April 1, 1989 effective date of this clarification as a result of two court orders in *West Virginia University Hospitals, Inc.* vs. *Robert Casey et. al.*, Civil Action No. 1: CF–86–0955.

The issue in the matter is whether Pennsylvania's proposed effective date complies with the Health and Human Services (HHS) Appropriations Act and Federal regulation at 42 CFR 447.256(c), which requires that a State plan become effective not earlier than the first day of the calendar quarter in which an approvable amendment is submitted. An approvable amendment must be submitted in accordance with 42 CFR 430.20 and 42 CFR 447.253.

HCFA believes the proposed effective date of the plan amendment is not approvable because the Commonwealth has failed to comply with the HHS Appropriations Act and Federal regulation at 42 CFR 447.256(c) which requires that an SPA that is approved will become effective not earlier than the first day of the calendar quarter in which an approvable amendment is submitted.

Although HCFA advised the Commonwealth that the proposed effective date is unapprovable, the Commonwealth has continued to request April 1, 1989 as its effective date. The Commonwealth contends that due to the court order that was imposed on the State, it was unable to comply with the public notice requirements in 42 CFR 447.256(c). However, the court order does not specify an effective date and only requires additional clarification to an already approved SPA. Furthermore, although the Commonwealth has assured HCFA that this plan amendment does not require additional State or Federal dollars, and only clarifies an existing payment methodology, HCFA is not convinced by the Commonwealth's assurance that no additional monies are involved. Due to this uncertainty, HCFA believes that approval of the plan with its April 1, 1989 effective date would violate the Federal Appropriations Act and applicable Federal regulations.

The notice to Pennsylvania announcing an administrative hearing to reconsider the disapproval of its SPA reads as follows:

Mr. David L. Feinberg,
Acting Deputy, Department of Public Welfare, P.O. Box 2675, Harrisburg, Pennsylvania 17105

Dear Mr. Feinberg: I am responding to your request for reconsideration of the decision to disapprove Pennsylvania State Plan Amendment (SPA) 90–26.

The Commonwealth of Pennsylvania has requested an effective date of April 1, 1989, for State Medicaid plan amendment transmittal number 90–26. This plan amendment proposes to make language clarifications only to a payment methodology that was part of a previously approved plan amendment (TN 89–03, effective April 1, 1989). The Commonwealth requested in April 1, 1989 effective date of this clarification as a result of two court orders in *West Virginia University Hospitals, Inc.*, vs. *Robert Casey et.al.*, Civil Action No. 1: CV–86–0955.

The issue in the matter is whether Pennsylvania's proposed effective date complies with the Health and Human Services Appropriations Act and Federal regulation at 42 CFR 447.256(c), which requires that a State plan become effective not earlier than the first day of the calendar quarter in which an approvable amendment is submitted. An approvable amendment must be submitted in accordance with 42 CFR 430.20 and 42 CFR 447.253.

Although HCFA advised the Commonwealth that the proposed effective date is unapprovable, the Commonwealth has continued to request April 1, 1989 as its effective date. The Commonwealth contends that due to the court order that was imposed on the State, it was uanble to comply with the public notice requirements in 42 CFR 447.256(c). However, the court order does not specify an effective date and only requires additional clarification to an already approved SPA. Furthermore, although the Commonwealth has assured HCFA that this plan amendment does not require additional State or Federal dollars, and only clarifies an existing payment methodology, HCFA is not convinced by the Commonwealth's assurance that no additional monies are involved. Due to this uncertainty, HCFA believes that approval of the plan with its April 1, 1989 effective date would violate the Federal Appropriations Act and applicable Federal regulations.

Pennsylvania's request for reconsideration was received in the Philadelphia Regional Office on December 20, 1991, however, it was not forwarded to HCFA central office until January 22, 1992. As a result, we could not meet the requirement in 42 CFR 430.18(b) that we notify you of the time and place of the hearing within 30 days of receipt of your request for reconsideration. We have scheduled a hearing consistent with 42 CFR 430.72(a), which requires the hearing to be scheduled not less than 30 days nor more than 60 days after the date of this letter.

I am scheduling a hearing on your request for reconsideration to be held on April 7, 1992 at 10 a.m. in room 3030, 3535 Market Street, Philadelphia, Pennsylvania. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties. The hearing will be governed by the procedures prescribed at 42 CFR, part 430.

I am designating Mr. Stanley Katz as the presiding officer. If these arrangements present any problems, please contact the Docket Clerk. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached at (410) 597–303.

Sincerely,
Gail R. Wilensky,
Administrator.

(Section 1116 of the Social Security Act (42 U.S.C. 1316); 42 CFR 430.18)

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: February 18, 1992.

Gail R. Wilensky,
Administrator, Health Care Financing Administration.

[FR Doc 92–4356 Filed 2–25–92; 8:45 am]

BILLING CODE 4120–03–M

National Institutes of Health

National Institute on Aging; Meetings

Pursuant to Public Law 92–463, notice is hereby given of Subcommittees A and B meetings of the Biological and Clinical Aging Review Committee, and of Subcommittees A and B of the Neuroscience, Behavior and Sociology of Aging Review Committee.

These meetings will be open to the public as indicated below to discuss administrative details and other issues relating to committee activities as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92–463, for the review, discussion, and evaluation of individual research grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. June C. McCann, Committee Management Officer, National Institute on Aging, Gateway Building, room 2C218, National Institutes of Health, Bethesda, Maryland, 20892 (301/496–9322), will provide summaries of the meetings and rosters of the committee members upon request.

Other information pertaining to the meetings can be obtained from the Executive Secretary indicated below:

Name of Subcommittee: Subcommittee A—Biological and Clinical Aging Review Committee.
Executive Secretary: Dr. Daniel Eskinazi, Gateway Building, room 2C212, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–9666.
Dates of Meeting: March 9–11, 1992.
Place of Meeting: Marriott Residence Inn, 7335 Wisconsin Ave., Bethesda, Maryland 20814.
Open: March 9–6:45 p.m. to 7 p.m.
Closed: March 9–7 p.m. to adjournment on March 11.

Name of Subcommittee: Subcommittee B—Biological and Clinical Aging Review Committee.
Executive Secretary: Dr. James Harwood, Gateway Building, room 2C212, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–9666.
Dates of Meeting: March 17–19, 1992.
Place of Meeting: Marriott Residence Inn, 7335 Wisconsin Ave., Bethesda, Maryland 20814.
Open: March 17–8 p.m. to 9 p.m.
Closed: March 18–8:30 a.m. to adjournment on March 19.

Name of Subcommittee: Subcommittee A—Neuroscience, Behavior and Sociology of Aging Review Committee.
Executive Secretaries: Dr. Maria Mannarino, Dr. Louise Hsu, Gateway Building, room 2C212, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–9666.
Dates of Meeting: March 10–12, 1992.
Place of Meeting: Marriott Residence Inn, 7335 Wisconsin Ave., Bethesda, Maryland 20814.
Open: March 10–7:30 p.m. to 7:45 p.m.
Closed: March 11–8:30 a.m. to adjournment on March 12.

Name of Subcommittee: Subcommittee B—Neuroscience, Behavior and Sociology of Aging Review Committee.
Executive Secretary: Dr. Walter Spieth, Gateway Building, room 2C212, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–9666.
Dates of Meeting: March 11–13, 1992.
Place of Meeting: Marriott Residence Inn, 7335 Wisconsin Ave., Bethesda, Maryland 20814.
Open: March 11–8 p.m. to 8:30 p.m.
Closed: March 12–8:30 a.m. to adjournment on March 13.

(Catalog of Federal Domestic Assistance Program No. 93.866, Aging Research, National Institutes of Health)

Dated: February 18, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–4288 Filed 2–25–92; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Allergy and Infectious Diseases Amended; Notice of Meeting

Notice is hereby given of a change in the meeting of the Basic Sciences I Subcommittee of the Acquired Immunodeficiency Syndrome Research Review Committee, National Institute of Allergy and Infectious Diseases on March 10–12, 1992, at the Bethesda Ramada, 8400 Wisconsin Avenue, Bethesda, Maryland 20814 which was published in the **Federal Register** on February 12, (57 FR 5160).

This committee was to have convened at 8:30 a.m. on March 10 and continue until adjournment on March 12. The meeting has been changed to convene on March 10, 1992, at 12 noon and continue until adjournment on March 10 at the Bethesda Ramada, 8400 Wisconsin Avenue, Bethesda, Maryland 20814.

The meeting will be open to the public from 12 noon to 12:20 p.m. and will be closed from 12:20 p.m. to adjournment for the review, discussion, and evaluation of individual grant applications and contract proposals.

Dated: February 18, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–4291 Filed 2–25–92; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Diabetes and Digestive and Kidney Diseases; National Kidney and Urologic Diseases Advisory Board; Meeting

Pursuant to Public Law 92–463, notice is hereby given for the meeting of the National Kidney and Urologic Diseases Advisory Board on March 22–23, 1992. The Research Subcommittee and the Health Care Issues Subcommittee meetings will be held on March 22 from 7:30 p.m. to recess and on March 23 from 7:30 a.m. to approximately 9:30 a.m., to discuss future kidney related activities. These subcommittee meetings will be held at the Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, Maryland. The full Board meeting will be held on March 23 from 10 a.m. to approximately 3:45 p.m. in Conference Room 6, Building 31, National Institutes of Health, Bethesda, Maryland, to discuss the future activities of the Board and the 1992 Annual Report. All meetings will be open to the public. Attendance by the public will be limited to space available.

Dr. Ralph Bain, Executive Director, National Kidney and Urologic Diseases Advisory Board, 1801 Rockville Pike, suite 500, Rockville, Maryland 20852, (301) 496–6045, will provide on request an agenda and roster of the members. Summaries of the meeting may also be obtained by contacting his office.

(Catalog of Federal Domestic Assistance Program No. 93.847–849, Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health)

Dated: February 18, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–4289 Filed 2–25–92; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Diabetes and Digestive and Kidney Diseases; Meeting: National Diabetes Advisory Board and the Translation Subcommittee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Diabetes Advisory Board on March 15–16, 1992. The Translation Subcommittee will be held on March 15 from 7 p.m. to approximately 9 p.m. to discuss plans for addressing diabetes translation activities. The full Board meeting will be held on March 16 from 8:15 a.m. to approximately 4:30 p.m. to discuss the minority research training and future activities of the Board. All meetings will be held at the San Diego Princess Hotel in San Diego, California. Although the entire meeting will be open to the public, attendance will be limited to space available.

For any further information, please contact Mr. Raymond M. Kuehne, Executive Director, National Diabetes Advisory Board, 1801 Rockville Pike, suite 500, Rockville, Maryland 20852, (301) 496–6045. His office will provide, for example, a membership roster of the Board and an agenda and summaries of the actual meetings.

(Catalog of Federal Domestic Assistance Program No. 93.847–849, Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health)

Dated: February 18, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-4290 Filed 2-25-92; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Environmental Health Sciences; Meeting of Board of Scientific Counselors, Division of Biometry and Risk Assessment

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, DBRA, March 10-11, 1992, in Building 101 Conference Room, South Campus, NIEHS, Research Triangle Park, North Carolina.

This meeting will be open to the public from 8:30 a.m. to 5 p.m. on March 10 and from 8:30 a.m. to 11 a.m. on March 11, for the purpose of presenting an overview of the organization and conduct of research in the Laboratory of Molecular Toxicology. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sec. 552b(c)(6) of title 5 U.S. Code and sec. 10(d) of Public Law 92-463, the meeting will be closed to the public on March 11, from 11 a.m. to adjournment, for the evaluation of the Laboratory of Molecular Toxicology, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of person privacy.

The Executive Secretary, Dr. David Hoel, Director, Division of Biometry and Risk Assessment, NIEHS, Research Triangle Park, NC 27709, telephone (919) 541-3441, FTS 629-3441, will furnish summaries of the meeting, rosters of committee members and substantive program information.

Dated: February 10, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-4284 Filed 2-25-92; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Environmental Health Sciences; Meeting of Environmental Health Sciences Review Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Environmental Health Sciences Review Committee on March 30-31, 1992 at the National Institute of Environmental Health Sciences, Building 101 Conference Room, South Campus, Research Triangle Park, North Carolina. The meeting will be open to the public on March 30 from 9 a.m. to approximately 12 noon for general discussion. Attendance by the public is limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92-463, the meeting will be closed to the public March 30, from approximately 1 p.m. to adjournment on March 31, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Drs. John Braun, Carol Shreffler or Donald McRee, Scientific Review Administrators, Environmental Health Sciences Review Committee, National Institute of Environmental Health Sciences, National Institutes of Health, P.O. Box 12233, Research Triangle Park, North Carolina 27709, (telephone 919-541-7826), will provide summaries of meeting and rosters of committee members.

(Catalog of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation; 93.894, Research and Manpower Development, National Institutes of Health)

Dated: February 18, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-42811 Filed 2-25-92; 8:45 am]

BILLING CODE 4140-01-M

Office of Community Services

Fiscal Year (FY) 1993 State Median Income Estimates for Use Under the Administration for Children and Families, Office of Community Services, Division of Energy Assistance

AGENCY: Administration for Children and Families (ACF), DHHS.

ACTION: Notice of estimated state median income for Fiscal Year (FY) 1993.

SUMMARY: This notice announces the estimated median income for four-person families in each state and the District of Columbia for FY 1993. This listing of estimated state median incomes concerns maximum income levels for households to which the states may make payments under the Low Income Home Energy Assistance Program (LIHEAP).

EFFECTIVE DATE: The estimates are effective as of October 1, 1992.

FOR FURTHER INFORMATION CONTACT: Leon Litow, Administration for Children and Families, HHS, Office of Community Services, Division of Energy Assistance, 5th Floor West, 370 L'Enfant Promenade, SW, Washingotn, DC 20447, Telephone: (202) 401-5304.

SUPPLEMENTARY INFORMATION: Under the provisions of section 2603(7) of Title XXVI of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35, as amended), we are announcing the estimated median income of a four-person family for each state, the District of Columbia, and the United States for the period of October 1, 1992, through September 30, 1993. Section 2605(b)(2)(B)(ii) of the Statute provides that 60 percent of the median income for each state, as annually established by the Secretary of Health and Human Services, is one of the income criteria that states can use in determining a household's eligibility for LIHEAP. The purpose of this announcement is to provide estimates of state median income for use in FY 1993.

LIHEAP is currently authorized through the end of FY 1994 by provisions of title VII of the Augustus F. Hawkins Human Services Reauthorization Act of 1990, Public Law 101-501, enacted on November 3, 1990. Under this Act, the current income eligibility provisions relating to state median income remain unchanged.

Estimates of the median income of four-person families for each state and the District of Columbia for FY 1993 were developed by the Bureau of the Census of the U.S. Department of Commerce, using the most recent available income data. In developing the median income estimates for FY 1993, the Bureau of the Census used the following three sources of data: (1) The March 1991 Current Population Survey; (2) the 1980 Census of Population; and (3) 1990 per capita personal income estimates, by state, from the Bureau of Economic Analysis of the U.S. Department of Commerce

The estimating method for FY 1993 is similar to that used in previous years. Beginning with the estimating method for FY 1987, Current Population Survey sample estimates for three and five-person families and their relationships to four-person family medians are now used in addition to the Current Population Survey sample estimates of four-person family medians already in use. For further information, contact Chuck Nelson, Assistance Division Chief (Economic Characteristics), Housing and Household Economic Statistics Divisions, at the Bureau of the Census (301–763–8029).

A state-by-state listing of median income, and 60 percent of median income, for a four-person family for FY 1993 follows. The listing describes the method for adjusting median income for families of different sizes as specified in 45 CFR 96.85(b), which was published in the **Federal Register** on March 3, 1988 at 53 FR 6824.

February 19, 1992.

Eunice S. Thomas,

Director, Office of Community Services.

Estimated State Median Income for 4-Person Families, by State, Fiscal Year 1993 [1] [2]

States	Estimated state median income 4-person families	60 percent of estimated state median income 4-person families
Alabama	$35,937	$21,562
Alaska	51,538	30,923
Arizona	38,799	23,279
Arkansas	31,913	19,148
California	45,184	27,110
Colorado	41,803	25,082
Connecticut	53,931	32,359
Delaware	46,425	27,914
District of Col	38,824	23,294
Florida	38,438	23,063
Georgia	41,184	24,710
Hawaii	50,234	30,160
Idaho	34,091	20,455
Illinois	44,220	26,532
Indiana	39,700	23,820
Iowa	38,090	22,854
Kansas	40,576	24,346
Kentucky	36,348	21,809
Louisiana	36,510	21,906
Maine	38,848	23,309
Maryland	53,385	32,031
Massachusetts	52,171	31,303
Michigan	43,545	26,127
Minnesota	43,031	25,819
Mississippi	30,242	18,145
Missouri	39,766	23,860
Montana	35,105	21,063
Nebraska	39,644	23,798
Nevada	41,629	24,977
New Hampshire	49,088	29,453
New Jersey	56,436	33,862
New Mexico	32,941	19,765
New York	44,200	26,520
North Carolina	38,718	23,831
North Dakota	36,127	21,676
Ohio	42,821	25,693
Oklahoma	34,141	20,485
Oregon	39,653	23,792
Pennsylvania	40,892	24,535
Rhode Island	44,598	26,759
South Carolina	38,797	23,278
South Dakota	34,632	20,779
Tennessee	34,279	20,567
Texas	37,789	22,673
Utah	38,632	23,179
Vermont	41,312	24,787
Virginia	44,597	26,758
Washington	44,306	26,584
West Virginia	33,666	20,200
Wisconsin	43,182	25,909
Wyoming	36,796	22,078

NOTE—The estimated median income for 4-person families living in the United States is $41,451 for the period of October 1, 1992, through September 30, 1993.

[1] In accordance with 45 CFR 96.85, each state's estimated median income for a 4-person family is multiplied by the following percentages to adjust for family size: 52% for one person, 68% for two persons, 84% for three persons, 100% for four persons, 116% for five persons, and 132% for size persons. For family sized greater than six persons, add 3% to 132% for each additional family members and multiply the new percentage by the state's dollar amount for 4-person families.

[2] Prepared by the Bureau of the Census from the March 1991 current Population Survey, 1980 Census of Population and Housing, and 1990 per capita personal income estimates, by state, from the Bureau of Economic Analysis.

[FR Doc. 92–4393 Filed 2–25–92; 8:45 am]

BILLING CODE 4130-01-M

Public Health Service

Food, Agriculture, Conservation, and Trade Act of 1990, The National Laboratory Accreditation Program; Delegation of Authority

Notice is hereby given that I have delegated to the Assistant Secretary for Health, with authority to redelegate, all the authorities vested in the Secretary under sections 1322 (b) and (c) of the Food, Agriculture, Conservation, and Trade Act of 1990 (the National Laboratory Accreditation Program, 7 U.S.C. 138a), as amended hereafter. This delegation excludes the authority to submit reports to the Congress.

This delegation became effective upon the date of signature. In addition, I hereby affirm and ratify any actions taken by the Assistant Secretary for Health and his subordinates which involved the exercise of the delegated authorities prior to the effective date of the delegations.

Dated: February 14, 1992.

Louis W. Sullivan,

Secretary.

[FR Doc. 92–4380 Filed 2–25–92; 8:45 a.m.]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N-92-3355; FR-3148-N-2]

Correction to Funding Availability (NOFA) for Comprehensive Improvement Assistance Program (CIAP)

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Correction to February 10, 1992 Notice of Funding Availability.

SUMMARY: On February 10, 1992, HUD published a Notice of Funding Availability (NOFA) informing Public Housing Agencies and Indian Housing Authorities of the amount of CIAP funds available during FY 1992. Today's Notice revises the subassignments of funds to Indian field offices.

FOR FURTHER INFORMATION CONTACT: Dom Nessi, Office of Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., room 4140, Washington, DC 20410. Telephone (202) 708–1015. (This is not a toll-free number).

SUPLEMENTARY INFORMATION: On February 10, 1992, the Department published at 57 FR 4916, a Notice of Funding Availability (NOFA) announcing the availability of fiscal year (FY) 1992 funding authority for the Comprehensive Improvement Assistance Program (CIAP), as provided in the FY 1992 HUD Appropriations Act, Public Law 102–139, Approved October 28, 1991. Under the heading "Subassignment of funds to Indian field offices", at page 4917, section (4)(ii), the NOFA contained a table showing the distribution of CIAP funds for IHAs.

This Notice revises the subassignment to the OIPs as percentages of the total available funding of $544,601,052 as follows:

Indian offices	Percent of CIAP funds for indian housing
Chicago (Region V)	1.54
Oklahoma City (Region VI)	.94
Denver (Region VIII)	1.14
Phoenix (Region IX)	1.04
Seattle (Region X)	.51
Anchorage (Region X)	.83
Total	6.00

A correction of this information is necessary because there was an error in the calculation of the percentages based on the funds to be allocated to the Regional Offices.

This correction notice does not affect the distribution of CIAP funds for PHAs, excluding IHAs, assigned by Headquarters to the Regional Offices, or the distribution of CIAP funds for PHAs, excluding IHAs, subassigned to Field offices.

Dated: February 20, 1992.

Joseph G. Schiff,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 92-4340 Filed 2-25-92; 8:45 am]

BILLING CODE 4210-33-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT-921-08-4121-14; MTM 80697]

Coal Lease Application—MTM 80697—Western Energy Co.

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice.

SUMMARY: This is notice of Western Energy Company's Coal Lease Application MTM 80697 for certain coal resources within the Powder River Coal Region.

The land included in Coal Lease Application MTM 80697 is located in Rosebud County, Montana, and is described as follows:

T. 1 N., R. 39 E., P.M.M.,
  Sec. 2: S½NW¼, N½NE¼SE¼.
T. 1 N., R. 40 E., P.M.M.,
  Sec. 6: Lots 1, 2, 3, 4, S½N½, S½;
  Sec. 8: E½, N½NW¼;
  Sec. 14: S½SW¼, SE¼.
T. 2 N., R. 40 E., P.M.M.,
  Sec. 32: All.

The 2,061.00 acre tract contains an estimated 39.3 million tons of recoverable reserves.

The application will be processed in accordance with the provisions of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181, *et seq.*), and the implementing regulations at 43 CFR part 3400. A decision to allow leasing of the coal resources in said tract will result in a competitive lease sale to be held at a time and place to be announced through publication pursuant to 43 CFR part 3422.

SUPPLEMENTARY INFORMATION: Western Energy is lessee and operator of several federal coal leases at the Rosebud Mine near Colstrip, Montana. The area applied for is within an existing approved life-of-mine plan, with the exception of a portion of Section 14 in T. 1 N., R. 40 E., which is included within the Area B Extension Mine application now under final stages of review by the Montana Department of State Lands and the Office of Surface Mining.

No additional exploration and/or exploratory drilling is anticipated for these areas prior to leasing. Exploration and drilling was conducted in the 1980–1985 era in preparation for the submittal of the Area C Amendment Permit Application and the Area B Extension Permit Application.

The mining production sequence for the proposed lease tracts will be incorporated into the existing mine plan for Area C and the proposed mine plan for Area B Extension.

NOTICE OF AVAILABILITY: The application is available for review between the hours of 9 a.m. to 4 p.m. at the Bureau of Land Management, Montana State Office, 222 North 32nd Street, Billings, Montana 59101, and at the Bureau of Land Management Miles City District Office, whose address is Garryowen Road, Miles City, Montana 59301 between the hours of 7:45 a.m. to 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Ed Hughes (telephone 406-255-2813), Bureau of Land Management, Montana State Office, 222 North 32nd Street, P.O. Box 36800, Billings Montana 59107-6800.

Dated: February 14, 1992.

Robert H. Lawton,

State Director.

[FR Doc. 92-4345 Filed 2-25-92; 8:45 am]

BILLING CODE 4310-DN-M

[ID-921-02-4143-13; IDI-20422]

Revision of the Webster Range-Dry Ridge Known Leasing Area (Phosphate); ID

AGENCY: Bureau of Land Managment, Interior.

ACTION: Notice of Known Leasing Area revision.

SUMMARY: Re-evaluation of the Webster Range-Dry Ridge Known Leasing Area (Phosphate), based upon more recent geologic information, indicates that the boundaries of the Known Leasing Area are in need of revision. This evaluation action involves a revision of the Webster Range-Dry Ridge Known Leasing Area (Phosphate) in T. 7 S., R. 45 E., and T. 8 S., R. 46 E., Boise Meridian, Idaho. Detailed information regarding this action, a description of lands included in the Webster Range-Dry Ridge Known Leasing Area (Phosphate), and a diagram showing its boundaries are on file at the Idaho State Office of the BLM.

EFFECTIVE DATE: October 31, 1991.

ADDRESSES: Inquiries should be sent to State Director (921), Bureau of Land Management, Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706.

FOR FURTHER INFORMATION CONTACT: Robert Mallis, (208) 384-3030.

Pursuant to authority contained in the Act of March 3, 1879, (43 U.S.C. 31) as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 220 Departmental Manual 2, and Secretarial Orders No. 3071 and 3087, the Webster Range-Dry Ridge Known Leasing Area (Phosphate), serial number IDI-20422, is revised effective October 31, 1991, as follows.

Lands *added* to the Webster Range-Dry Ridge Known Leasing Area (Phosphate):

Boise Meridian

T. 7 S., R. 45 E.,
  Sec. 30, Lot 1, NE¼SW¼.
  Containing 91.16 acres.
T. 8 S., R. 46 E.,
  Sec. 18, SE¼SE¼;
  Sec. 19, NE¼NE¼;
  Sec. 20, SW¼NW¼;
  Sec. 32, W½W½.
  Containing 280.00 acres.

Dated: February 14, 1992.

Delmar D. Vail,

State Director.

[FR Doc. 92-4350 Filed 2-25-92; 8:45 am]

BILLING CODE 4310-GG-M

[ID-921-02-4143-13; IDI-20423]

Revision of the Aspen Range Known Leasing Area (Phosphate); Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of known leasing area revision.

SUMMARY: Re-evaluation of the Aspen Range Known Leasing Area (Phosphate), based upon more recent geologic information, indicates that the boundaries of the Known Leasing Area are in need of revision. This evaluation action involves a revision of the Aspen Range Known Leasing Area (Posphate) in T. 9 S., R. 43 E., Boise Meridian, Idaho. Detailed information regarding this action, a description of lands included in the Aspen Range Known Leasing Area (Phosphate), and a diagram showing its boundaries are on file at the Idaho State Office of the BLM.

EFFECTIVE DATE: October 31, 1991.

ADDRESSES: Inquiries should be sent to State Director (921), Bureau of Land

Management, Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706.

FOR FURTHER INFORMATION CONTACT: Robert Mallis, (208) 384-3030.

Pursuant to authority contained in the Act of March 3, 1879, (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 220 Departmental Manual 2, and Secretarial Orders No. 3071 and 3087, the Aspen Range Known Leasing Area (Phosphate), serial number IDI-20423, is revised effective October 31, 1991, as follows. Lands deleted from the Aspen Range Known Leasing Area (Phosphate):

BOISE MERIDIAN

T. 9 S., R. 43 E.,
  Sec. 2, SW¼NW¼, SE¼SW¼;
  Sec. 15, SE¼NE¼;
  Sec. 22, SW¼NW¼;
  Sec. 23, SW¼SW¼, SW¼NW¼.

Containing 240.00 acres.

Lands *added* to the Aspen Range Known Leasing Area (Phosphate):

BOISE MERIDIAN

T. 9 S., R. 43 E.,
  Sec. 15, NW¼SE¼, SE¼SE¼;
  Sec. 22, W½SW¼;
  Sec. 27, N½NW¼, SW¼NW¼;

Containing 280.00 acres.

Dated: February 14, 1992.

Delmar D. Vail,

State Director.

[FR Doc. 92-4346 Filed 2-25-92; 8:45 am]

BILLING CODE 4310-GG-M

[ID-921-02-4143-13; IDI-20418

Notice of Revision of the Grays Range-Wooley Range Known Leasing Area (Phosphate); ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of known leasing area revision.

SUMMARY: Re-evaluation of the Grays Range-Wooley Range Known Leasing Area (Phosphate), based upon more recent geologic information, indicates that the boundaries of the Known Leasing Area are in need of revision. This evaluation action involves a revision of the Grays Range-Wooley Range Known Leasing Area (Phosphate) in T. 6 S., R. 43E., and T. 6 S., R. 44 E., Boise Meridian, Idaho. Detailed information regarding this action, a description of lands included in the Grays Range-Wooley Range Known Leasing Area (Phosphate), and a diagram showing its boundaries are on file at the Idaho State Office of the BLM.

EFFECTIVE DATE: October 31, 1991.

ADDRESSES: Inquiries should be sent to State Director (921), Bureau of Land Management, Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706.

FOR FURTHER INFORMATION CONTACT: Robert Mallis, (208) 384-3030.

Pursuant to authority contained in the Act of March 3, 1879, (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 220 Department Manual 2, and Secretarial Orders No. 3071 and 3087, the Grays Range-Wooley Range Known Leasing Area (Phosphate), serial number IDI-20418, is revised effective October 31, 1991, as follows.

Lands deleted from the Grays Range-Wooley Range Known Leasing Area (Phosphate):

Boise Meridian

T. 6 S., R. 43 E.,
  Sec. 22, E½NW¼, NW¼NW¼.

Containing 120.00 acres.

Lands added to the Grays Range-Wooley Range Known Leasing Area (Phosphate):

Boise Meridian

T., 6 S., R. 44 E.,
  Sec. 31, SE¼NW¼.

Containing 40.00 acres.

T. 6 S., R. 43 E.,
  Sec. 21, SW¼NE¼.

Containing 40.00 acres.

Dated: February 14, 1992.

Delmar D. Vail,

State Director.

[FR Doc. 92-4351 Filed 2-25-92; 8:45 am]

BILLING CODE 4310-GG-M

[ID-921-02-4143-13; IDI-20421]

Revision of the Schmid Ridge Known Leasing Area (Phosphate); ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Known Leasing Area revision.

SUMMARY: Re-evaluation of the Schmid Ridge Known Leasing Area (Phosphate), based upon more recent geologic information, indicates that the boundaries of the Known Leasing Area are in need of revision. This evaluation action involves a revision of the Schmid Ridge Known Leasing Area (Phosphate) in T.8 S., R.44 E., and T.9 S., R.44 E., Boise Meridian, Idaho. Detailed information regarding this action, a description of lands included in the Schmid Ridge Known Leasing Area (Phosphate), and a diagram showing its boundaries are on file at the Idaho State Office of the BLM.

EFFECTIVE DATE: October 31, 1991.

ADDRESSES: Inquiries should be sent to State Director (921), Bureau of Land Management, Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706.

FOR FURTHER INFORMATION CONTACT: Robert Mallis, (208) 384-3030.

Pursuant to authority contained in the Act of March 3, 1879, (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 220 Departmental Manual 2, and Secretarial Orders No. 3071 and 3087, the Schmid Ridge Known Leasing Area (Phosphate), serial number IDI-20421, is revised effective October 31, 1991, as follows.

Lands *deleted* from the Schmid Ridge Known Leasing Area (Phosphate):

Boise Meridian

T.9 S., R.44 E.,
  Sec. 17, SW¼NW¼, NE¼SW¼;
  Sec. 18, SE¼NE¼;
  Sec. 21, E½SW¼. W½SE¼;
  Sec. 28, W½NE¼, NE¼NW¼, NW¼SE¼;
  Sec. 32, SE¼SE¼.

Containing 480.00 acres.

Lands *added* to the Schmid Ridge Known Leasing Area (Phosphate):

Boise Meridian

T.8 S., R.44 E.
Sec. 6, NE¼SE¼.

Containing 40.00 acres.

T.9 S., R.44 E.,
  Sec. 24, NE¼SW¼;
  Sec. 25, SW¼NW¼, W½SW¼;
  Sec. 26, SE¼NE¼, E½SE¼;
  Sec. 35, NE¼NE¼;
  Sec. 36, NW¼NW¼.

Containing 360.00 acres.

Dated: February 14, 1992.

Delmar D. Vail,

State Director.

[FR Doc. 92-4348 Filed 2-25-92; 8:45 am]

BILLING CODE 4310-GG-M

[NV-050-4410-08]

Nellis Air Force Range; Approved Resource Plan and Record of Decision

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Availability of the Approved Nellis Air Force Range Resource Plan (RP) and Record of Decision (ROD) and notice of designation of the Timber Mountain Caldera National Natural Landmark Area of Critical Environmental Concern (ACEC).

SUMMARY: Notice is given that the Bureau of Land Management (BLM) has released the Approved Nellis Air Force Range RP and ROD. The RP was prepared as a result of the Military Lands Withdrawal Act of 1986 (Pub. L. 99-606), as amended on June 17, 1988 (Pub. L. 100-338). This plan outlines the

level of management for the natural and cultural resources on approximately 2.2 million acres of withdrawn public lands on the Nellis Air Force Range in Nye, Lincoln, and Clark Counties, Nevada. These lands have been withdrawn for use as a high-hazard military weapons training and testing area. Resource management options are, therefore, limited and the RP reflects those limitations imposed by military use of the planning area.

This Approved RP and ROD completes the resource plan development and associated environmental documentation for the Nellis Air Force Range planning area, as required by the Federal Lands Policy and Management Act (FLPMA), the National Environmental Policy Act (NEPA), and the Military Lands Withdrawal Act of 1986. An "Implementation Plan" will be completed over the next several months, outlining the steps for implementation of the management actions of this RP.

The Approved RP and ROD designate the Timber Mountain Caldera National Natural Landmark Area of Critical Environmental Concern (ACEC). The 110,720 acre ACEC is a part of a larger area that is withdrawn from all forms of public land entry. Access to the proposed ACEC is restricted and subject to Nellis Air Force Base authorization. This will not change under the ACEC designation. This notice meets the requirements of 43 Code of Federal Regulations 1610.7-2 for designation of ACECs.

FOR FURTHER INFORMATION CONTACT: Curtis Tucker, Area Manager, Caliente Resource Area, P.O. Box 237, Caliente, NV 89008, or telephone (702) 726-3141.

SUPPLEMENTARY INFORMATION: Copies of the Approved RP and ROD may be obtained from the Caliente Area Office at the above address. Copies are available for review at the following BLM Offices:

Las Vegas District Office, 4765 Vegas Drive, Las Vegas, NV 89126

Caliente Resource Area, U.S. Highway 93, Caliente, NV 89008

Tonopah Resource Area, Bldg. 102, Military Circle, Tonopah, NV 89049

Nevada State Office, BLM, 850 Harvard Way, Reno, NV 89520-0006

Copies may also be reviewed at public libraries throughout Clark County; Beatty, Tonopah, and Pioche; the Washoe County Library in Reno, the State Library in Carson City, and the libraries at the University of Nevada-Las Vegas and the University of Nevada, Reno.

Dated: February 14, 1992.

Billy R. Templeton,

State Director, Nevada.

[FR Doc. 92-4300 Filed 2-25-92; 8:45 am]

BILLING CODE 4310-HC-M

[ID-943-4214-11; IDI-15697]

Notice of Proposed Continuation of Withdrawal; ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes that a 67.00 acre withdrawal for Powersite Classification No. 356, continue for an additional 20 years. The land is still needed for waterpower purposes. These lands will remain closed to surface entry, but have been and would remain open to mineral leasing and mining.

DATE: Comments should be received within 90 days of the date of publication of this notice.

FOR FURTHER INFORMATION: Larry Lievsay, Idaho State Office, BLM, 3380 Americana Terrace, Boise, Idaho 83706, (208) 384-3166. The Bureau of Land Management proposes that the existing land withdrawal made by secretarial order dated May 18, 1944, for Powersite Classification No. 356, be continued for a period of 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976; 90 Stat. 2751; 43 U.S.C. 1741, insofar as it affects the following described land:

Boise Meridian

T. 62 N., R. 2 E.,
Sec. 25, lots 1 and 4.
T. 62 N., R. 3 E.,
Sec. 30, SW¼NW¼.

The area described contains 67.00 acres in Boundary County.

The withdrawal is essential for protection of waterpower values. The existing withdrawal closes the described land to surface entry, but not to mineral leasing and mining. No change in the segregative effect or use of the land is proposed by this action.

For a period of 90 days from the date of publication of this notice , all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Idaho State Director at the above address. The authorized officer of the Bureau of Land Management will undertake such investigations as necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued, and if so, for how long. The final determiniation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

Dated: February 14, 1992.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 92-4349 Filed 2-25-92; 8:45 a.m.]

BILLING CODE 4310-GG-M

National Park Service

Denali National Park; Subsistence Resource Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Subsistence Resource Commission meeting.

SUMMARY: The Superintendent of Denali National Park and Preserve and the Chairperson of the Subsistence Resource Commission for Denali National Park announce a forthcoming meeting of the Denali National Park Subsistence Resource Commission.

The following agenda items will be discussed:

(1) Introduction of commission members and guests.

(2) Review of minutes and old business.

(3) Roster regulation update.

(4) Federal Subsistence Management Program.

(5) Park resource reports.

(6) Denali's hunting plan review and workshop.

(7) Public and other agency comments.

(8) New business.

DATES: The meeting will begin at 9 a.m. on Friday, March 6, 1992, and conclude around 5 p.m.

LOCATION: The meeting will be held at the Cantwell Community Center, Cantwell, Alaska.

FOR FURTHER INFORMATION CONTACT: Russ Berry, Superintendent, P.O. Box 9, Denali Park, Alaska 99755. Phone (907) 683-2294.

SUPPLEMENTARY INFORMATION: The Subsistence Resource Commission is authorized under Title VIII, section 808, of the Alaska National Interest Lands Conservation Act, Public Law 96-487, and operates in accordance with the provisions of the Federal Advisory Committees Act.

John M. Morehead,
Regional Director.

[FR Doc. 92-4339 Filed 2-25-92; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-335]

Certain Dynamic Sequential Gradient Devices; Designation of Additional Commission Investigative Attorney

Notice is hereby given that, as of this date, Linda C. Odom, Esq. and Sarah C. Middleton, Esq. of the Office of Unfair Import Investigations are designated as the Commission investigative attorneys in the above-cited investigation instead of Linda C. Odom, Esq.

The Secretary is requested to publish this Notice in the **Federal Register**.

Dated: February 19, 1992.

Lynn I. Levine,
Director, Office of Unfair Import Investigations.

[FR Doc. 92-4388 Filed 2-25-92; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 332-322]

Certain Pharmaceuticals and Intermediate Chemicals: Identification of Applicable 6-Digit HS Subheadings for Products Covered by the Proposed Uruguay Round Pharmaceutical Agreement

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation.

EFFECTIVE DATE: February 14, 1992.

FOR FURTHER INFORMATION CONTACT: General inquiries regarding the investigation may be directed to Ms. Elizabeth R. Nesbitt (202) 205-3355, Energy and Chemicals Division, Office of Industries, U.S. International Trade Commission, Washington, DC 20436. For information on legal aspects of the investigation contact Mr. William Gearhart of the Commission's Office of the General Counsel (202) 205-3091.

SUMMARY: Following receipt on January 27, 1992, of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-322 under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) for the purpose of providing a report listing the 6-digit Harmonized System (HS) subheading for each pharmaceutical product currently having an International Non-proprietary Name (INN) and certain intermediate chemicals (used primarily in the production of pharmaceuticals) to be covered in the proposed "zero-for-zero" initiative on pharmaceuticals currently being negotiated in the Uruguay Round market access negotiations. In her request letter, the USTR asked the Commission to make its work available both to her office and the public on a flow basis. Per the USTR's request, the following intermediate chemicals will be considered in this investigation:

- 1,1'-(4-Chlorobutylidene)bis(4-fluorobenzene)
- m-Chlorobenzyl chloride
- 4-Chloro-3-nitrotrifluoromethylbenzene
- Isophytol
- Sodium 4-chloro-1-hydroxy-1-butane sulphonate
- 2-Bromo-6-methoxynaphthalene
- 3-Chloropropyl-2,5-xylyl ether
- Oxirane{[4-(2-methoxyethyl)phenoxy}methyl]-
- Diisopropoxycyclohexane
- 9,10-Ethanoanthracene-9(10H)-acrolein
- 6-Methoxy-2-naphthalehyde
- Isobutyl acetophenone
- 4-Chloro-1-(4-fluorophenyl)-1-butanone
- 5-H-Dibenzo-[a,d]-cyclophepten-5-one
- 2-Chloro-1(2,4-dichlorophenyl) ethanone
- 10,11-Dihydro-5H-dibenzo-[a,d]-cyclohepten-5-one
- Pregna-1,4-diene-3,20-dione,11,17,21-trihydroxy-16-methyl-, (11. alpha., 16.beta)
- 9-beta,11-beta-Epoxy 17-alpha, 21-dihydroxy-16-beta-methylpregna-1,4-diene-3,20-dione (9,11-epoxide)
- 21-Acetoxy-17-alpha-hydroxy-16-beta-methylpregna-1,4,9-triene-3,20-dione
- D-(-)-3-Acetylthio-2-methyl propanoic acid
- Methyl-(R)-(-)-3-hydroxybutyrate
- Isobutyl-3,4-epoxybutanoate
- alpha-(2-Bromoethyl)-alpha-phenylbenzeneacetic acid
- 2-Chloro-4,5-difluorobenzoic acid
- [(2-Methyl 1-) 1-oxyl propoxy) (propoxy)-(4-phenylbutyl 1)-phosphinyl] cinchonidine salt
- [(2-Methyl-1)-1-oxyl propoxy) (propoxy)-(4-phenylbutyl 1)-phosphinyl] acetate
- Mono-4-nitrobenzyl malonate magnesium salt dihydrate
- Monophenyl phenyl malonate
- D(-)alpha-Formyloxy-alpha-phenylacetyl chloride
- Calcium lactate gluconate
- 8(S)-(2,2-dimethyl-1-oxobutoxy)-1,2,6,7,8,8-alpha(R), hexahydro-beta(R), delta (R)-dihydroxy-2(S), 6(R)-dimethyl-1(S)-naphthaleneheptanoic acid, ammonium salt
- 1,2,6,7,8,8-alpha-Hexahydro beta, beta, delta, beta-dihydroxy-2 beta, 6 alpha-dimethyl-8 alpha-(2 beta-methyl-1-oxobutoxy-1 beta-naphthaleneheptanoic acid, ammonium salt
- 3-(2-Chloro-4,5-difluorophenyl)-3-oxopropionic acid ethyl ester
- Ethyl-2-oxo-4-phenylbutanoate
- 16-alpha-Methyl-1,4-pregnadiene-17-alpha, 21-diol-3,20-dione, 21 acetate
- (6-alpha, 11-beta, 16-alpha, 17-alpha)-6,9-Difluoro-11,17-dihydroxy-16-methyl-3-oxoandrosta-1,4-diene-17-carboxylic acid
- 21-Acetoxy-17-alpha-hydroxy-16-beta-methylpregna-1,4-diene,3,20-dione
- Pregna-1,4-diene-3,20-dione, 21-[(ethoxycarbonyl)oxy]-17-hydroxy-16-methyl-11-[(methylsulfonyl)oxy]-, (11-alpha-, 16-beta)
- Pregna-1,4,9-(11)-triene-3,20-dione,21-[(ethoxycarbonyl)oxy]-17-hydroxy-16-methyl-, (16-beta)
- Diethyl ethoxymethylene malonate
- Dihydro phenyl glycine
- Ethyl-2-(2-chloro-4,5-difluoro-benzoyl)-3-(2,4-difluoro phenyl-amino)-2-acrylate
- alpha', alpha', alpha'-Trifluoro-2,3-xylidine
- 1-Naphthaleneamine,4-(3,4-dichlorophenyl)-1,2,3,4-tetrahydro-N-methyl-hydrochloride, trans-(.+-.)
- N-Benzylmethylamine
- 1-Deoxy-1-(octylamino)-D-glucitol
- 2(S,3R)-(+)-4-Dimethylamino-3-methyl-1,2-diphenyl-2-butanol
- 2-(3,4-Dimethoxyphenly)ethylamine
- 2-Amino-2'-chloro-5-nitrobenzophenone
- (S,S)-H-(1-Carboethoxy-3-phenylpropyl)alanine
- 4-Amino butric acid
- Benzenacetic acid, alpha-methyl-4-(2-methylpropyl)-(S)-, compound with L-lysine (1:1)
- Sodium D(-)-alpha-[(3-methoxy-1-methyl-3-oxo-1-propenyl)-amino]-phenyl acetate
- Potassium D(-)-alpha-[(methoxy-1-methyl-3-oxo-1-propenyl)-amino]-phenyl acetate
- trans-4-Cyclohexyl-L-proline hydrochloride
- 2-Butenoic acid,3-amino-,methyl ester
- Potassium D(-)-alpha [(3-methoxy-1-methyl-3-oxo-1-propenyl)-amino]-4-hydroxy phenyl acetate
- Sodium D(-)-alpha-[(3-methoxy-1-methyl-3-oxo-1-propenyl)-amino]-4-hydroxphenyl acetate
- D(-)-4-Hydroxyphenyl glycine
- N-Benzyl-N-tert-butyl-2-hydroxy-2-(3'-hydroxymethyl-4'-hydroxyphenyl)ethylamine
- Benzene-ethanamine-3,4-dimethoxy-betamethyl
- 4-Hydroxy-alpha-1-[{6-[4-phenlybuyoxy)hexyl]-amino}methyl]-1,3-benzenedimethanol
- D(-)-alpha-Phenylglycine

4-Amino-5-chloro-2-methoxybenzoic acid
2-(N-Benzyl-N-tert-butylamino)-4′-hydroxy-3′-hydroxymethylacetophenone hydrochloride
(2S,3R)-(+)-2-(1S)-Hydroxyethyl-3-amino-1,5-pentane-dioic acid-5 methyl ester
2-(Aminooxy)-2-methylpropanoic acid, monohydrochloride
N-(2-Hydroxyethyl)actamide
2,2-Dimethylcyclopropylcarboxamide
5-(N,N-Dibenzylglycyl)salicylamide
3-[(Dimethylamino)methyl]-1,2,3,9-tetrahydro-9-methyl-4H-carbazol-4-one
1,2,3,9-Tetrahydro-9-methyl-3-[(2-methyl-1H-imidazol-1-yl) methyl]-4H-carbazolone
Methyl 3-chloro-4-acetamido-6-methyoxy-benzoate
N-(Benzyl oxycarbonyl)-DL-valine
1,2,3,9-Tetrahydro-9-methyl-4H-carbazol-4-one N-Acetylsulfanilyl chloride
2-[4-(2-Hydroxy-3-isopropyl aminopropoxy)phenyl] acetamide
2-Methyl-N-[3-(trifluoromethyl)phenyl]propanamide
Formylisopropylamide
2,6-Piperidinedione 4-(4-chlorophenyl)
Ethyl ethoxymethylene cyanoacetate
(1)-N-(alpha-Cyano-4-hydroxy-3-methoxy-alpha methylphenethyl) acetamide
alpha-Isopropyl-3,4,5-trimethoxybenzyl cyanide
2-(3-Phenoxyphenyl)propiononitrile
1-(4-Fluorophenyl)-4-oxocyclohexane-carbonitrile
Alpha-Isopropyl-3,4-dimethoxy benzylcyanide
N-para-Chlorobenzoyl-N-para-methoxyphenylhydrazine
Dimethyl N-cyanodithioiminocarbonate
2-Naphthylchlorothioformate
cis-5-Fluoro-2-methyl-1-(para-methylthiobenzylidene)-indo-3-acetic acid
N,N-Dimethylaminothioacetamide hydrochloride
N-Methyl-1-(methylthio)-2-nitroethenamine
4-Amino-N-methylbenzenemethanesulphonamide hydrochloride
N-(2-Mercaptoethyl)-propanamide
Tertiarybutyl (triphenyl-phosphoranylidine) acetate
N-[2-((5-Dimethylamino)methyl)2-furanylmethyl]thio)-ethyl)-N-methyl-2-nitro-1,1-ethenediame
5[(2-Aminoethyl)thio]methyl-N,N-dimethyl-2-furan methanamide diamine
DL-Dihydro-3-hydroxy-4,4-dimethly-2(3H)-furanone
D-(-)-Dihydro-3-hydroxy-4,4-dimethyl-2(3H)-furanone
alpha-(2,4-Dichlorophenyl)-1H-imidazole-1-ethanol
Calcium bromide lactobiomate
Calcium lactobionate dihydrate
Lactobionic acid
N-[Dihydro-3,3-diphenyl-2(3H)-furanylidene]-N-methylmethanaminum bromide
Anthra[1,9-cd] pyrazol-6(2H)-one,7,10-dihydroxy-2 (2-[(2-hydroxyethyl)amino]ethyl)-5-[(2-methylamino)ethyl)amino]
1,2-Diphenyl-4-(2-phenylthioethyl)-3,5-pyrazolidinedione
2-Propyl-4(5)-carbomethoxy-5(4)-pentafluoroethyl imidazole
1-(3-Chloropropyl)-2,6-dimethylpiperidine hydrochloride
2-Methyl-4(or 5)-nitro-imidazole
4-Methylimidazole
2-Chloronicotinic acid
2,6-Dichloro-5-fluoronicotinic acid
3,5-Dimethyl-2-hydroxymethyl-4-methoxypyridine
1H-Imidazole-4-carboxaldehyde, 2-butyle 5-chloro-(+/−)-cis-4-Amino-5-chloro-N-(1-[3-(4-fluoro-phenoxy)propyl]-3-methoxy-4-piperidinyl]-2-methoxybenzamide methanol (1:1)
Ethyl 4-[(2-amino-4-chlorophenyl)amino]-1-piperidinecarboxylate
N-[4-(Methoxymethyl)-4-piperidinyl]-N-phenyl-propanamide monohydrochloride
(4-Fluorophenyl)(4-piperidinyl) methanone 4-methylbenzenesulfonate (1:1)
(−)-trans-3-Methyl-4-phenyl-4-piperidine-carboxylic acid hydrobromide
Ethyl 4-oxo-1-piperidinecarboxylate
alpha-Phenyl-2-piperidine acetic acid
3-Ethyl-5-methyl-4-(2-chlorophenyl)-1,4-dihydro-2-[2-(1,3-dihydro-1,3-dioxo-2H-isoindol-2-yl) ethoxy (methyl)-6-methyl-3,5-pyridine dicarboxylate
cis-1-[3-(4-Fluorophenoxy)
propyl]-3-methoxy-4-piperidinamine
N-Phenyl-N-(4-piperidinyl)propanamide
Quinuclidine
Chloro-7-ethyl-1-fluoro-6-oxo-4-dihydro-1,4-quinoline-3-carboxylic acid
3-Isoquinolinecarboxylic acid S-1,2,3,4-tetrahydro, benzyl ester, para-toluenesulfonic acid salt
2-Quinolinemethanamine,1,2,3,4-tetrahydro-6-methyl-
N-(1-methylethyl)-7-nitro-monomethanesulfonate
6,7-Difluoro-1(2,4-difluorophenyl)-1,4-dihydro-4-oxo-3-quinolone carboxlic acid
7-Chloro 6-fluoro-1-(4-fluorophenyl)-1,4-dihydro-4-oxo-3-quinoline carboxylic acid
Ethyl-ethyl-6,7,8-trifluoro-4-dihydro-4-oxo-3-quinoline carboxylate
7-Chloroquinaldine
1-Amino-4-methylpiperazine
1-Cyclopropyl-6,7-difluoro-1,4 dihydro-4-oxo-3-quinoline carboxylic acid
1-Ethyl-6,8-Difluoro-1,4-dihydro-7-(3-methyl-1-piperazinyl)-4-oxoquinoline-3-carboxylic acid
2,4-Didydroxy-6,7-dimethoxy quinazoline
1-(2-Furoyl)piperazine
N-(2-Tetrahydrofuroyl)-piperazine
3-(2-Chloroethyl)-2-methyl-4H-pyrido [1,2-a]pyrimidine-4-one
1-(Diphenylmethyl)piperazine
1-[alpha,alpha-bis(4-fluorophenyl)methyl]piperazine
1,3-Dimethyl-4-amino-5-formylaminouracil
4-[4-(1-Methylethyl)-1-piperazinyl]phenol
5,6-Dimethoxy-4-pyrimidinamine
1-Acetyl-4-(4-hydroxyphenyl) piperazine
1-(2,6-Dichlorophenyl)-2-indolinone
3,3-Diethyl-5-(hydroxymentyl)-2,4-(1H,3H)-pyridinedione
1′R,35,4R)-4-Acetoxy-3-(1′-tert-butyl-dimethyl-silyloxy) ethyl) azetidine-2-one
3-Oxy-4-aza-5-alpha androstene-17-beta-carboxylic acid
5-Ethenyl-2-pyrrolidone-3-carboxamide
3-Oxy-4-aza-androst-5-ene-17-beta-carboxylic acid
Methyl-3-oxo-4-aza-5-alpha-androst-1-ene-17-beta-carboxylate
8-Methoxypsoralen
(1S)-2-Methyl-2,5-diazabicyclo[2.2.1] heptane dihydrobromide
1H-Imidazole-5-methanol, 2-butyl-4-chloro-1-[(2′-1H-tetrazol-5-yl) (1,1′-biphenyl) -4-yl)methyl)-monopotassium salt
1H-Imidazole-5-methanol, 2-butyl-4-chloro-1-((2′-(1H-tetrazol-5-yl) (1,1′-biphenyl)-4-yl)methyl)-,potassium salt
1H-Imidazole-5-methanol, 2-butyl-4-chloro-1-((2′-1H-tetrazol-5yl)-1,
[1,1′-biphenyl-4-yl)methyl)-, monohydrochloride salt
1H-Tetrazole, 5-(4′-methyl[1,1′-biphenyl]-2-yl)-1-triphenylmethyl
[1,1′-Biphenyl;]-2-carbonitrile, 4′-methyl
1H-Imidazole-5-methanol, 2-butyl-4-chloro-1-((2′-(1H-tetrazol- 5-yl)-1, 1′-biphenyl)-4-yl)methyl)-, sodium salt
Trifluoroacetyl-L-lysine-L-proline tosyl salt
2-Mercapto-5-methoxy benzimidazole
Terfenadone
1-Carboethoxymethylpyrrolidin-2-one
2H-Indol-2-one, 1,3-dihydro-1-phenyl-3,3-bis
(4-pyridinylmethyl)
5-Mercapto-1-methyl-1,2,3,4-tetrazole
Iminostilbene
Pyrazine carboxylic acid, 3-amino-5,6-dichloro, methyl ester

2S-1-(3-Acetylthio-2-methyl-1-oxopropyl)-L-proline
Tetrazole-1-acetic acid
L-alanyl-L-proline
Trifluoroacetyl-L-lysine-L-proline
Iminodibenzyl
8-Chloro-6-(2-fluorophenyl)-1-methyl-4H-imidazo [1,5-a] [1-4] benzodiazephine-3-carboxylic acid
7-Chloronaphthyridine ethyl ester
4-(Methoxymethyl)-N-phenyl-1-(phenylmethyl)-4-piperidinamine
Tetrazole-1-acetic acid
L-alanyl-L-proline
Trifluoroacetyl-L-lysine-L-proline
Iminodibenzyl
8-Chloro-6-(2-fluorophenyl)-1-methyl-4H-imidazo [1,5-a] [1-4] benzodiazephine-3-carboxylic acid
7-Chloronaphthyridine ethyl ester
4-(Methoxymethyl)-N-phenyl-(phenylmethyl)-4-piperidinamine
2,4-Dihydro-4-{4-[4-(4-hydroxyphenyl)-1-piperazinyl}-2-(1-methylprophyl)-3H-1,2,4-triazol-3-one
1-[(4-Flurópheny)methyl]-N-(4-piperidinyl)-1H-benzimidazol-2-amine
1,3-Dihydro-1-(4-piperidinyl)-2H-benzimidazol-2-one
(Z)-3-[2-[4[(2,4-Difluorophenyl) (hydroxyimino)-methyl]-1-piperidiny] ethyl]-6,7,8,9-tetrahydro-2-methyl-4H pyrido [1,2-a] pyrimidin-4-one
3-(2-Chloroethyl)-6,7,8,9-tetrahydro-2-methyl-4H-pyrido[1,2-a) pyrimindin-4-one monohydrochloride
1,3-Dihydro-1-(1,2,3,6-tetrahydro-4-pyridinyl)-2H-benzimidazol-2-one
3-Aminopyrrolidine dihydrochloride
3-(2-Chloroethyl)2,4-(1H, 3H)-quinazolinedione
N-(N-[(S)-1-Carboxy-3-phenyl-propyl]-N'-trifluoracetyl)-1-lysil)-L-proline ethyl ester
5-Chloro-1,3-dihydro-1-(4-piperidinyl)-2H-benzimidazol-2-one
2,3-Dihydro-1-methoxy carbonyl-1H-pyrrolizine-7-carboxylic acid
1-[(4-Fluorophenyl)methyl]-1H-benzimidazol-2-amine
Ethyl 4-(5-chloro-2,3-dihydro-2-oxo-1H-benzimidazol-1-yl)-1-piperidinecarboxylate
4-(4-Chloropheny)-4-piperidinol
N-Methyl-2-pyrroleactic acid methylester
Ethyl 4-{[1-(4-fluorophenylmethyl)-1H-benzimidazol-2-yl] amino}-1-piperidinecarboxylate
1,3-Dihydro-1-(1-methylethenyl)-2H-benzimidazol-2-one
4-Animo-2-chloro-6,7-dimeoxy-quinazoline
2-(2-4-Difluorophenyl)-1,3-bis-(1H-1,2,4-triazol-1-yl-2-propanol
1-Ethyl-1,4-dihydro-5H-tetrazol-5-one
2',4'-Difluoro-2-(1H-1,2,4-triazol-1-yl)-acetophenone hydrochloride
4-(4-Bromophenyl)-4-pieridinol
2-(Formylamino)-alpha-oxo-4-thiazole acetic acid
Ethyl-2-(2-aminothiazole-4-yl)-2-hydroxyiminoacetate
2-(Formylamino)-thiazolyl-4-glyoxylic acid ethyl ester
Amino-2-phenothiazine
Chloro-2-phenothiazine
Acetyl-2-phenothiazine
2-(3,4-Dihydropxyphenyl-tetrahydro-1,4-oxazine
2H-1,2-Benzothiazine-3-carboxylic acid,4-hydroxy-2-methyl-ethyl ester,1,1-dioxide
7-Amino-3-methroxymethyl cephalosporanic acid
Imperatorin
7-Amino-desacetoxycephalosporanic acid
2-(2-Formamidothiazol-4-yl)-2-methoximido acetic acid
4-Thia-1-azabicyclo [3.2.0] heptane-2-carboxylic acid 3,3-dimethyl-7-oxo-iodomethyl ester, 4,4-dioxide, (2S-cis)
Piperazine,1-[(2,3-dihydro-1,4-benzodioxin-2-yl)-carbonyl] monohydrochloride
(6R,7R)-7-[(R)-2-Aminophenylacetamido]-3-methyl-8-oxa-5-thia-1-azabicyclo [4.2.0] oct-2-ene-2-carboxylic acid disolvate
2-Acetylbenzo-(beta)-thiophene
(6R,7R)-7-Amino-3-chloro-8-oxa-4-thia-1-azabicyclo [4.2.0] oct-2-ene-2-carboxylic acid, (4-nitrophenyl) methyl ester
3-Methylene-7-(2-phenoxyacetamido) cepham-4-carboxylic acid, para-nitro-benzyl ester, 1-oxide
2-Chlorodibenz-(beta,f)-(1,4)-oxazepin-11-(10-H)-one
(R)-3-(2-Deoxy-beta-D-erythropentofuransoyl)-3,4,7,8-tetrahydroimidazo-(4,5) (1,3) diazepin-8-ol
7-D(−)-Mandelamidocephalosporanic acid
2,5-Dihydro-5-thioxo-IH-tetrazole-1-methanesulphonic acid, disodium salt
5-Methyl-1,3,4-thiadiazole-2-thiol
4-Chlorobenzensulphonylurea, PCBS-urea
3-(2-Chlorophenyl)-5-methylisoxazole-4-carboxylic acid chloride
2', 3'-Dideoxyinosine
cis-2-(2,4-Dichlorophenyl)-2-(1H-,2,4-triazol-1-ylmethyl)-1,3-dioxolane-4-methanol methanesulfonte (ester) monohydrochloride
(6R, 7R)-3-Acetoxymethyl-7-[(R)-2-formyloxy-2-phenylacetamido]-8-oxo-5-thia-1-azabicyclo[4.2.0] oct-2-ene-2-carboxylic acid (and its sales and esters)
(7R)-7-Amino-3-{[5-methyl-1,3,4-thiadiazole-2-yl)-thio]methyl}-3-cephem-4-carboxylic acid
7-Amino-3-[(1-methyl-tetrazole-5-yl)-thiomethyl]-cephalosporanic acid
3-(2,6-Dichlorophenyl)-5-methylisoxazole-4-carboxylic acid chloride
Stavudine D4T
(3aS,6aR)-1,3-Dibenzyltetrahydro-4H-furo [3,4-d] imidazole-2,4 (1H)-dion
3-(2-Chloro-6-fluorophenyl)-5-methylisoxazole-4-carboxylic acid chloride
2-Thiophene acetyl chloride
(+)-6-Amino-penicillanic acid
7-Amino cephalosporanic acid
1-Ethyl-1,4-dihydro-4-oxo-(1,3) dioxolo (4,5-g) cinnoline-3-carbonitrile
cis-2-(2,4-Dichlorophenyl)-2-(1H-1,2,4-triazol-1-ylmethyl)-1,3-dioxolane-4-methanol
cis-2-(2,4-Dichlorophenyl)-2-(1H-imidazol-1-ylmethyl)-1,3-dioxolane-4-methanol methanesulfonate monohydrochloride
2-Chloro-9-[3-dimethylamine)-propyl]-9H-thioxanthen-9-ol
2-(2,4-Dichlorophenyl)-2-(1H-imidazol-1,3-dioxolane-
4-methanol
3-Thiophene malonic acid
(1-beta)-6-[Phenoxyacetyl)amino]penicillanic acid, (4-nitrophenyl) methyl ester, 1-oxide
3-Phenyl-5-methylisoxazole-4-carboxylic acid chloride
3-(2-Aminoethyl)-N-methyl-1H-indole-5-methanesulphonamide
5-Chloro-2,4-disulfamoylaniline
N-(2-(4-Aminosulfonyl)phenyl)ethyl-5-chloro-2-methoxybenzamide
4-Hydrazine-N-methylbenzene methanesulphonamide hydrochloride
5,6-Dihydro-4-oxo-thieno-(2,3-beta)-thiopyran-2-sulfonamide
5,6-Dihydro-4-oxo-4,H-thieno-(2,3-betha)thiopyran-2-sulforamide-7,7-dioxide
delta-9,11-Anhydro-16-alpha methylprednisolone acetate
Provitamins and vitamins, natural or reproduced by synthesis (including natural concentrates), derivatives thereof used primarily as vitamins, and intermixtures of the foregoing, whether or not in any solvent
Hormones, natural or reproduced by synthesis; derivatives thereof, used primarily as hormones; other steroids used primarily as hormones
Casanthranol
Senna extract

Acetyldigoxine
Sennaglycosides
Vegetable alkaloids, natural or reproduced by synthesis, and their salts, ethers, esters, and other derivatives
2-Deoxy-D-erythro-pentose
D-Ribose
2,3,4,6-tetra-O-acetyl-8-D-glucopyranosyl carbamimidothioate monohydrobromide
Antibiotics (excluding dihydrostreptomycin)
Mucopeptide N-acetylmuramylhydlase hydrochloride
Cytochrome C
4-(6-Fluoro-2-methylinden-3-ylmethyl) phenyl methyl sulphide in the form of a solution in toluene
4-(2-Aminoethylthiomethyl)-1,3-thiazol-2-ylmethyl dimethylamine, in the form of a solution in toluene
Crude bile acids
Intermediate products of the antibiotics manufacturing process, obtained from the fermentation of Streptomyces tenebrarius, whether or not dried, for use in the manufacture of human medicaments of No. 3004(a)
Potassium clavulanate/sucrose (1:1)
Potassium clavulanate/silicon dioxide (1:1)
Potassium clavulanate/microcrystalline cellulose (1:1)
Cholic acid and 3-alpha,12-alpha-dihydroxy-5-beta-cholan-24-oic acid (deoxycholic acid), crude
Polymerisation products of acrylic acid with small quantities of a polyunsaturated monomer for use in the manufacture of medicaments of heading no. 3003 or 3004

The Commission was also asked to identify each instance where there is a known difference in opinion among countries on the classification of a product. USTR has requested the Commissioner of Customs to provide Commission staff with any necessary technical assistance. The USTR requested that the Commission submit its report no later than June 1, 1992.

WRITTEN SUBMISSIONS: In response to the USTR's request that the Commission make its work available to the public on a flow basis, the Commission plans to make available two interim reports on March 13, 1992, and April 24, 1992. Each interim report will contain a listing of the classifications completed by that phase of the investigation. Anyone wishing to be put on a distribution list to be compiled should write or fax ((202) 205–2186) the Office of the Secretary as soon as possible and provide a mailing address. Interested parties may also obtain copies of the reports on or after the above-mentioned dates from the Office of the Secretary either in person or via a fax request to that Office. Copies of these reports will also be provided to the Pharmaceutical Manufacturers Association, the Synthetic Organic Chemical Manufacturers Association, and the Chemical Manufacturers Association.

Interested parties are requested to submit written statements to the Commission regarding any discrepancies between their current classifications for the chemicals under consideration and the classifications presented by the Commission. Only submissions regarding product classifications will be considered in the Commission's report. Proof of such classification conflicts are requested either in the form of official rulings provided by the U.S. Customs Service (Customs) or in the form of copies of prior communications with Customs on this issue. The Commission will work with Customs personnel to resolve any classification conflicts. No confidential information is requested. No requests to modify the list of products under consideration will be considered by the Commission.

To be given consideration, comments on the first report must be received by close of business (5:15 pm) on March 27, 1992. The deadline for the receipt of comments on the second interim report will be close of business May 8, 1992. Although confidential information is not required, information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be avaibable for inspection by interested persons. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

Hearing impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

Issued: February 19, 1992.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 92–4391 Filed 2–25–92; 8:45 am]

BILLING CODE 7020–02–M

[Investigations Nos. 731–TA–542–544 (Preliminary)]

Potassium Hydroxide From Canada, Italy, and the United Kingdom

Determinations

On the basis of the record [1] developed in the subject investigations, the Commission determines,[2] pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports from Canada, Italy, and the United Kingdom of potassium hydroxide, provided for in subheading 2815.20.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On January 2, 1992, a petition was filed with the Commission and the Department of Commerce by Linchem, Inc., Ashtabula, OH, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of potassium hydroxide from Canada, Italy, and the United Kingdom. Accordingly, effective January 2, 1992, the Commission instituted antidumping investigations Nos. 731–TA–542–544 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of January 9, 1992 (57 FR 924). The conference was held in Washington, DC, on January 23, 1992, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on February 18, 1992. The views of the Commission are contained in USITC Publication 2482 (February 1992), entitled "Potassium Hydroxide from Canada, Italy, and the United Kingdom: Determinations of the Commission in Investigations Nos. 73–TA–542–544 (Preliminary) Under the Tariff Act of 1930, Together With the

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[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Commissioner Watson not participating.

Information Obtained in the Investigations."

By Order of the Commission.
Issued: February 20, 1992.

Kenneth R. Mason,

Secretary.

[FR Doc. 92-4390 Filed 2-25-92; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with departmental policy, 28 CFR 50.7, notice is hereby given that on February 13, 1992, a proposed consent decree in *United States of America* v. *City of South Portland,* Civ. No. 90-209-P-H, was lodged with the United States District Court for the District of Maine. The proposed consent decree settles the United States' claims against South Portland under the Clean Water Act, set forth in a complaint that sought injunctive relief and civil penalties for: (1) The discharge of pollutants, including raw sewage, from approximately 19 combined sewer overflows ("CSOs") in violation of its NPDES permit; (2) the discharge of pollutants in violation of secondary effluent limitations made applicable to South Portland's wastewater treatment plant pursuant to its current NPDES permit; and (3) the discharge of untreated sewage through a bypass of South Portland's treatment plant in violation of the prohibition against a bypass of treatment, as contained in the City's NPDES permit and provided by applicable regulations, 40 CFR 122.41(m).

The proposed consent decree requires South Portland to upgrade its sewage treatment plant to achieve compliance with applicable effluent limits by August 1, 1995, and to comply with interim effluent limits until that time. It also requires South Portland to implement a comprehensive CSO abatement program that will (1) substantially reduce the infiltration of inflow of ground or surface water into South Portland's sewer system, and (2) Bring all of South Portland's CSOs into compliance with the terms and conditions of South Portland's NPDES permit and the Act. The proposed decree requires South Portland to pay a civil penalty of $15,000 to the United States and $15,000 to the State.

The Department of Justice will receive comments relating to the proposed consent decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *City of South Portland,* D.J. Ref. 90-5-1-1-3551.

The proposed consent decree may be examined at the office of the United States Attorney, 100 Middle Street Plaza, Portland, Maine; at the Region I office of the Environmental Protection Agency, 1 Congress Street, Boston, Massachusetts; and at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building, NW., Washington, DC (202-347-2072). A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building, NW., Box 1097, Washington, DC 20004. In requesting a copy, please enclose a check in the amount of $11.00 (25 cents per page reproduction cost) payable to Consent Decree Library.

Barry M. Hartman,

Acting Assistant Attorney General, Environment & Natural Resources Division.

[FR Doc. 92-4191 Filed 2-25-92; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-26,298]

Flowline Division, New Castle, PA; Negative Determination on Reconsideration

On November 29, 1991, the Department issued an Affirmative Determination Regarding Application for Reconsideration for workers and former workers of Flowline Division, New Castle, Pennsylvania. This notice was published in the **Federal Register** on December 17, 1991 (56 FR 65510).

The company states that the Department's customer survey was inadequate and submitted a new list of declining customers. Although the company states that imports of butt weld fittings increased in 1991, the Department's investigation shows that these imports did not contribute importantly to worker separations and declines in sales or production at Flowline.

In order for the workers to be certified eligible to apply for adjustment assistance, they must meet all three Group Eligibility Requirements of the Trade Act (1) a significant decrease in employment, (2) an absolute decrease in sales or production, and (3) an increase in U.S. aggregate imports of like or directly competitive products which "contributed importantly" to worker separations and declines in sales or production. The failure to meet any one of the Group Eligibility Requirement including the "contributed importantly" test would result in a negative decision.

The "contributed importantly" test is generally administered through a survey of the workers' firm customers. The Department's initial survey revealed that the "contributed importantly" test was not met.

On reconsideration, the Department conducted an additional customer survey from an additional list of customers submitted by the company. Respondents from this survey accounted for a major portion of Flowline's sales decline in the first 9 months of 1991 compared to the same period in 1990. The survey results show that most respondents either did not import butt weld fittings and flanges or had declining purchases of them in 1991 compared to 1990. A few customers reported increased import purchases but their increased import purchases accounted for a negligible portion of Flowline's sales decline in the first 9 months of 1991 compared to the same period in 1990.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for adjustment assistance to workers and former workers of Flowline Division in New Castle, Pennsylvania.

Signed at Washington, DC, this 18th day of February 1992.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Services, Unemployment Insurance Service.

[FR Doc. 92-4395 Filed 2-25-92; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Arts, National Foundation on the Arts and the Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Arts (NEA) has sent to the Office of Management and Budget (OMB) a request for clearance of the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Comments on this information collection must be submitted by March 27, 1992.

ADDRESSES: Send comments to Mr. Dan Chenok, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., room 3002, Washington, DC 20503; (202-395-7316). In addition, copies of such comments may be sent to Ms. Judith E. O'Brien, National Endowment for the Arts, Administrative Services Division, room 203, 1100 Pennsylvania Avenue, NW., Washington, DC 20506; (202-682-5401).

FOR FURTHER INFORMATION CONTACT: Ms. Judith E. O'Brien, National Endowment for the Arts, Administrative Services Division, room 203, 1100 Pennsylvania Avenue, NW., Washington, DC 20506; (202-682-5401).

SUPPLEMENTARY INFORMATION: The Endowment requests the review of a revision of a currently approved collection of information. This entry is issued by the Endowment and contains the following information:

(1) The title of the form; (2) how often the required information must be reported; (3) who will be required or asked to report; (4) what the form will be used for; (5) an estimate of the number of responses; (6) the average burden hours per response; (7) an estimate of the total number of hours needed to prepare the form. This entry is not subject to 44 U.S.C. 3504(h).

Title: FY 93 United States/Japan Artist Exchange Fellowship Program.

Frequency of Collection: One Time.

Respondents: Individuals.

Use: Guideline instructions and applications elicit relevant information from individual artists that apply for funding under specific International Program catagories. This information is necessary for the accurate, fair and thorough consideration of competing proposals in the peer review process.

Estimated Number of Respondents: 275.

Average Burden Hours per Response: 10.

Total Estimated Burden: 2,750.

Judith E. O'Brien,

Management Analyst, Administrative Services Division, National Endowment for the Arts.

[FR Doc. 92-4360 Filed 2-25-92; 8:45 am]

BILLING CODE 7537-01-M

Literature Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Literature Advisory Panel (Professional Development/Overview Section) to the National Council on the Arts will be held on March 12, 1992 from 9 a.m.-5 p.m. and March 13 from 9 a.m.-3 p.m. in room M-09 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on March 13 from 1 p.m.-3 p.m. The topics will be program overview, policy discussion and guidelines review.

The remaining portions of this meeting on March 12 from 9 a.m.-5 p.m. and March 13 from 9 a.m.-1 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: February 17, 1992.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 92-4322 Filed 2-25-92; 8:45 am]

BILLING CODE 7537-01-M

Music Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Recording Section) to the National Council on the Arts will be held on March 11, 1992 from 9 a.m.-5:30 p.m. and March 12 from 9 a.m.-4:30 p.m. in room 714 at the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on March 12 from 3 p.m.-4:30 p.m. The topics will be policy discussion and guidelines review.

The remaining portions of this meeting on March 11 from 9 a.m.-5:30 p.m. and March 12 from 9 a.m.-3 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, these sessions will be closed to the public pursuant to subsection (c)(4), (6), and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: February 17, 1992.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 92-4321 Filed 2-25-92; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Permit Application Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit application received under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at title 45 part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by March 27, 1992. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, room 627, Division of Polar Programs, National Science Foundation, Washington, DC 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 357–7817.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest.

The application received is as follows:

1. *Applicant*

Joan M. Bernhard, Wadsworth Center for Laboratories and Research, P.O. Box 509, Albany, NY 12201.

Activity for Which Permit Requested

Import into U.S. The applicant requests permission to take and import into the U.S. various benthic foraminifera collected in Antarctica for comparative ecological and physiological research studies.

Location

Palmer peninsula area, Antarctica.

Dates

April 1992.

Charles E. Myers,

Permit Office, Division of Polar Programs.

[FR Doc. 92–4309 Filed 2–25–92; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–320]

Environmental Assessment and Finding of No Significant Impact GPU Nuclear Corp.; Three Mile Island Nuclear Station, Unit No. 2

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of a Possession Only License (POL) to GPU Nuclear Corporation (the licensee or GPUN) and amending the Technical Specifications for the Three Mile Island Nuclear Station Unit 2 (TMI–2), located in Dauphin County, Pennsylvania.

The licensee has requested by letter dated August 16, 1988, as amended, that the Facility Operating License for TMI–2 be changed to a Possession Only License and that the Technical Specifications for the facility be amended to permit long-term storage of the facility.

Environmental Assessment

Identification of the Proposed Action

The POL would allow the licensee to possess but not operate TMI–2 and establishes requirements that are applicable to the facility in its post-accident, inoperable and essentially defueled condition. The proposed amendment to the facility's Technical Specifications would permit the licensee to place the TMI–2 facility in a long-term monitored storage configuration, termed Post-Defueling Monitored Storage (PDMS) by the licensee.

The Need for the Proposed Action

The licensee has completed the current phase of the cleanup effort. The licensee has determined that the facility should be maintained in the PDMS condition until the time Three Mile Island Nuclear Station Unit 1 (TMI–1) is ready for decommissioning, at which time both TMI–1 and TMI–2 will be decommissioned simultaneously. Since the licensee has no future plans for the operation of TMI–2, the licensee requested the conversion of their Facility Operating License to a Possession Only License. In order to permit and facilitate long-term storage of TMI–2, the licensee has proposed a number of changes to their Technical Specifications. The licensee has determined that many of the requirements contained in the current Technical Specifications are inappropriate and not required to ensure the safety of a post-accident, inoperable and essentially defueled facility.

Background

In March 1981, the NRC staff issued NUREG–0683, "Programmatic Environmental Impact Statement Related to Decontamination and Disposal of Radioactive Wastes Resulting from the March 28, 1979, Accident at TMI–2" (PEIS). The PEIS has been supplemented by the staff three times. In August 1989, the NRC staff issued PEIS Final Supplement 3, which assessed, in part, the environmental impacts associated with the licensee's plans to place the facility into Post-Defueling Monitored Storage. Seven alternatives to the licensee's proposal were also evaluated in PEIS Supplement 3.

The staff concluded in PEIS Supplement 3 that the licensee's proposal: (1) is within the applicable regulatory limits and could be implemented without significant environmental impact since the health impact on both the workers and the offsite public is very small; (2) calculated doses to the public that are fractions of the dose received from background radiation; (3) would result in substantial occupational dose savings and reduced transportation impacts over several of the alternatives considered; and (4) is environmentally acceptable and will not significantly affect the quality of the human environment.

The staff's evaluation of the licensee's proposal was based principally on the licensee's description of PDMS contained in the licensee's 1987 submittal entitled "Technical Plan, TMI–2, Cleanup Program Post-Defueling Monitored Storage" and on the licensee's submittal of August 1988, entitled "Post-Defueling Monitored Storage Proposed License Amendment and Safety Analysis Report." The 1988 submittal by the licensee provided the detailed system by system description of the facility during PDMS and provided the safety analysis necessary to assess the potential for environmental impact during storage. Since the August 16, 1988, submittal, the licensee has updated the PDMS proposed license amendment and Safety Analysis Report (SAR) 15 times. Since issuance of the August 1989, PEIS Supplement 3, the PDMS proposed license amendment and SAR have been updated 11 times.

The purpose of this environmental assessment is to determine if the August 1989, PEIS Supplement 3 to the Programmatic Environmental Impact Statement dealing with PDMS remains valid after a review of the subsequent 11 amendments to the licensee's submittal.

Environmental Assessment

The staff has reviewed the licensee's amendments to their August 16, 1988, submittal that have been submitted to the NRC staff since issuance of the August 1989, PEIS Supplement 3. The staff also reviewed the licensee's Defueling Completion Report dated February 22, 1990, the results of the post lower head sampling program cleanup in a letter dated April 12, 1990, and the results of independent staff analyses and analyses done for the staff by Battelle Pacific Northwest Laboratory. The purpose of these reviews was to determine if the licensee's proposal and the subsequent assessment of environmental impact is within the scope of the August 1989, PEIS Supplement 3.

The amendments to the licensee's August 16, 1988, submittal, sent to the staff after the publication of the August 1989, PEIS Supplement 3, consist primarily of written responses to detailed staff questions, changes in the licensee's Safety Analysis Report (SAR), and changes in the proposed Technical Specifications for PDMS. Some of the changes to the SAR resulted in physical changes to the facility that were not considered during the preparation of the PEIS Supplement 3 (e.g. closure mechanism for the atmospheric breather, and containment penetration overpressurization limits). The staff has reviewed these changes and has determined that there is no significant change in potential environmental impact due to the modifications. Some of the changes in the SAR deal with changes in values of measurements and estimates (e.g. residual fuel in the facility). These revised values do not alter the conclusions in PEIS Supplement 3. Finally, some of the changes in the SAR revise analyses of potential accidents (e.g. fire in containment). Review of these revised analyses did not reveal any significant changes in predicted impact.

The staff reviewed the licensee's Defueling Completion Report and subsequently submitted related documents. The principal issue in this review was the potential for inadvertent recriticality of the fuel remaining at the facility. The staff found that the fuel remaining at the facility was in a configuration that precluded criticality. This condition was assumed by the staff in PEIS Supplement 3; therefore the finding is consistent with the staff's earlier evaluation.

The staff reviewed the results of independent analyses done while preparing the PDMS Safety Evaluation Report (SER). These analyses were done by both the NRC staff and their contractor, Battelle Pacific Northwest Laboratory. In one case, the results of an analysis of a different fire scenario in the reactor containment showed offsite doses in excess of those evaluated for the fire analysis in PEIS Supplement 3. PEIS Supplement 3 predicted the consequences of a fire in the containment stairwell as a 50-year dose commitment to the maximally exposed member of the public of 1.6 mrem to the whole body. The staff's PDMS SER evaluated the consequences of a fire inside the D-rings in the containment. The predicted 50-dose commitment to the maximally exposed member of the public for this accident scenario is 49 mrem to the whole body.

For an accident situation, the guidance provided in 10 CFR Part 100 limits the total radiation dose to a member of the public to a less than 25 rem to the whole body. Although the predicted 50-year dose commitment to the maximally exposed member of the public in the revised accident analysis presented in the staff's PDMS SER is greater than that predicted in PEIS Supplement 3, the revised whole body dose to the maximally exposed member of the public is still a small fraction (less than 0.2 percent) of the regulatory guidance.

This small increase (from 1.6 to 49 mrem) in the 50-year whole body dose commitment to the maximally exposed member of the public does not change the conclusions of PEIS Supplement 3. Specifically, the calculated dose to the public are fractions of the dose received by a member of the public from background radiation ($\approx$ = 300 mrem annually), are within the applicable regulatory limits (< rem), and the potential health impact on the public is very small. Based on the above evaluation, the staff concludes that the licensee's proposal will result in environmental impacts that are still within the scope of the August 1989, PEIS Supplement 3.

Alternatives to the Proposed Action

Alternatives to the proposed action are evaluated in PEIS Supplement 3. The staff concludes in PEIS Supplement 3 that the licensee's proposal, and the seven NRC Staff-identified alternatives (with the exception of the no-action alternative which was found not to be viable because it would be contrary to regulations) could each be implemented without significant environmental impact. The staff has not identified any new alternatives since issuance of PEIS Supplement 3, and has not identified any new information, since issuance of PEIS Supplement 3, that would change their evaluation and conclusions on impacts for the licensee's proposal or any of the alternatives. Therefore, any reasonable alternative to this action would not have a significant environmental impact.

Alternative Use of Resources

There is no significant increase in the use of resources not previously considered by the staff's March 1981, Programmatic Environmental Impact Statement (NUREG–0683) as supplemented.

Agencies and Persons Consulted

The staff widely distributed Draft Supplement 3 and received comments from a number of Federal, state, and local agencies, the licensee, local citizens and citizen organizations. These comments were incorporated in PEIS Supplement 3, issued August 1989. The staff did not consult further with organizations or individuals in preparing this assessment.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed actions will not have a significant effect on the quality of the human environment and the impacts are still within the scope of the August 1989, PEIS Supplement 3. Therefore, the Commission has determined that the PEIS Final Supplement 3 (NUREG–0683) need not be supplemented.

PEIS Final Supplement 3 (NUREG–0683), the Staff's February 1992, Safety Evaluation Report, the licensee's amendments to their August 16, 1988 submittal, and the licensee's February 22, 1990, Defueling Completion Report are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and the local public document room at the Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Harrisburg, Pennsylvania 17105.

Dated at Rockville, Maryland, this 20th day of February 1992.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

Director, Non-Power Reactors, Decommissioning and Environmental Project Directorate, Division of Advanced Reactors and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 92–4386 Filed 2–25–92; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Meeting Agenda

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on March 5–7, 1992, in Room P-110, 7920 Norfolk Avenue, Bethesda, Maryland. Notice of this meeting was published in the **Federal Register** on February 6, 1992.

Thursday, March 5, 1992

8:30 a.m.–8:45 a.m.: Opening Remarks by ACRS Chairman (Open)—The ACRS Chairman will make opening remarks and comment briefly regarding items of current interest.

8:45 a.m.–9:45 a.m.: Policy Issued for Certification of Passive Plants (Open)—The Committee will discuss the proposed ACRS action plan to review and report on policy issues identified by the NRC staff for certification of passive nuclear plants.

10 a.m.–12 noon: Integram Systems Testing for the Westinghouse AP600 Nuclear Plant (Open/Closed)—The Committee will review and report on integral systems testing requirements for this standardized nuclear plant.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this matter.

1 p.m.–1:30 p.m.: Preparation for Meeting with NRC Commissioners (Open)—The Committee will discuss topics of mutual interest to be discussed with the NRC Commissioners, including matters such as the ACRS report dated February 14, 1992 on Use of Design Acceptance Criteria During 10 CFR part 52 Design Certification Reviews, the status of proposed plans for implementation of the NRC quantitative safety goals, and the ACRS–NRC staff interface.

2 p.m.–3:30 p.m.: Meeting with NRC Commissioners (One White Flint North Conference Room) (Open)—The Committee will meet with the NRC Commissioners to discuss topics of mutual interest as noted above.

4:15 p.m.–6:15 p.m.: Prioritization of Generic Issues (Open)—The Committee will review and report on priority rankings proposed by the NRC staff for a group of generic issues.

6:15 p.m.–6:45 p.m.: Preparation of ACRS Reports (Open/Closed)—The Committee will discuss proposed ACRS reports to the NRC regarding items considered during this meeting.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to the matters being considered.

Friday, March 6, 1992

8:30 a.m.–12 noon and 1 p.m.–3 p.m.: General Electric Advanced Boiling Water Reactor (GE ABWR) (Open/Closed)—The Committee will meet with representatives of the NRC staff and the General Electric Company to review and report on the proposed design of this standardized nuclear power plant.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this matter.

3:15 p.m.–4 p.m.: Future ACRS Activities (Open)—The Committee will hear and discuss the report of the ACRS Planning and Procedures Subcommittee regarding matters proposed for consideration by the full Committee.

4 p.m.–5 p.m.: Proposed Plan for Implementation of the NRC Quantitative Safety Goal Policy (Open)—The Committee will hear and discuss the report of the ACRS ad hoc working group regarding an alternate plan for implementation of the NRC Quantitative Safety Goal Policy.

5 p.m.–6:30 p.m.: Preparation of ACRS Reports (Open/Closed)—The Committee will discuss proposed ACRS reports to NRC regarding the NRC Safety Research Program, including program management, and matters considered during this meeting.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to the matters being considered and information the release of which would represent a clearly unwarranted invasion of personal privacy.

Saturday, March 7, 1992

8:30 a.m.–12:30 p.m.: Preparation of ACRS Reports (Open/Closed)—The Committee will discuss proposed reports to the NRC regarding the items considered during this meeting and matters which were not completed at previous meetings as time and availability of information permit.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to the matters being considered and information the release of which would represent a clearly unwarranted invasion of personal privacy.

12:30 p.m.–1:30 p.m.: Miscellaneous (Open/Closed)—The Committee will complete discussion of items considered during this meeting and the status of assigned subcommittee activities as time permits. Qualifications of candidates proposed for appointment to the Committee will also be discussed, as appropriate.

Portions of this session will be closed, as appropriate, to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 1, 1991 (56 FR 49800). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those open portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS Executive Director, Mr. Raymond F. Fraley, as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the ACRS Executive Director prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with Subsection 10(d) Public Law 92–463 that it is necessary to close portions of this meeting noted above to discuss Proprietary Information applicable to the matters being considered in accordance with 5 U.S.C. 552b(c)(4) and information the release of which would represent a clearly unwarranted invasion of personal privacy per 5 U.S.C. 552b(c)(6).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F.

Fraley (telephone 301/492-8049), between 8 a.m. and 4:30 p.m. est.

Dated: February 21, 1992.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 92-4385 Filed 2-25-92; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-335 and 50-389]

Denial of Amendments to Facility Operating Licenses and Opportunity for Hearing; Florida Power and Light Co.

The U.S. Nuclear Regulatory Commission (the Commission) has denied a request by Florida Power and Light Company (licensee) for amendments to Facility Operating License Nos. DPR-67 and NPF-16, issued to the licensee for operation of the St. Lucie Plant, Unit Nos. 1 and 2, located in St. Lucie County, Florida. A Notice of Consideration of Issuance of these amendments was not published in the **Federal Register**.

The purpose of the licensee's amendment request was to revise certain surveillance requirements dealing with moderator temperature coefficient.

The NRC staff has concluded that the licensee's request cannot be granted. The licensee was notified of the Commission's denial of the proposed change by letter dated February 19, 1992.

By March 27, 1992, the licensee may demand a hearing with request to the denial described above. Any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, by the above date. A copy of any petitions should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Harold F. Reis, Esquire, Newman and Holtziner, 1615 L Street, NW., Washington, DC 20036, attorney for the licensee.

For further details with respect to this action, see (1) the application for amendments dated November 22, 1991, and (2) the Commission's letter to the licensee dated February 19, 1992.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 33450. A copy of Item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Document Control Desk.

Dated at Rockville, Maryland, this 19th day of February, 1992.

For the Nuclear Regulatory Commission.

Herbert N. Berkow, Director,

Project Directorate II-2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 92-4387 Filed 2-25-92; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Request for Extension of OPM Form 192 Submitted to OMB for Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces the extended use of OPM Form 192, Personal Reference Inquiry for Administrative Law Judge Positions, which has been submitted to the Office of Management and Budget (OMB) for clearance. OPM Form 192 is completed by reference-givers for applicants for Federal Administrative Law Judge positions. Approximately 3,000 of the forms are completed each year, and it takes a reference giver approximately ten minutes to complete the form, for a total 500 hours. For copies of this proposal, call C. Ronald Trueworthy on (703) 908-8550.

DATES: Comments on this proposal should be received on or before March 27, 1992.

ADDRESSES: Send or deliver comments to:

C. Ronald Trueworthy, Agency Clearance Officer, U.S. Office of Personnel Management, room CHP 500, 1900 E Street, NW., Washington, DC 20415,

and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, room 3002, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: C. Lee Willis, (202) 606-0810.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 92-4324 Filed 2-25-92; 8:45 am]

BILLING CODE 6325-01-M

RESOLUTION TRUST CORPORATION

Coastal Barrier Improvement Act; Property Availability; Schwartz Property, Randolph County, MO

AGENCY: Resolution Trust Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as the Schwartz Property, located near the town of Clark, Randolph County, Missouri, is affected by section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written notices of serious interest to purchase or effect other transfer of the property may be mailed or faxed to the RTC until May 26, 1992.

ADDRESSES: Copies of detailed descriptions of the property, including maps, can be obtained from or are available for inspection by contacting the following person: Herbert Clark, Asset Specialist, Resolution Trust Corporation, Kansas City Consolidated Office, 4900 Main Street, P.O. Box 419570, Kansas City, Missouri 64141, (800) 365-3342, Fax (816) 561-0882.

SUPPLEMENTARY INFORMATION: The property located on the south side of a county gravel road, approximately one mile west of Highway "T," near the southern edge of Randolph County where Randolph, Howard, and Boone Counties corner. The nearest towns are Higbee and Clark. The property has recreational value and is located approximately 11 miles from Moberly, Missouri, and approximately 31 miles from Columbia, Missouri. The Rudolph Bennitt Wildlife Preserve, which is managed by the Missouri Department of Conservation, borders the west, south, and part of the east side of the property. The property is covered property within the meaning of section 10 of the Coastal Barrier Improvement Act of 1990, Public Law 101-591 (12 U.S.C. 1441a-3).

Characteristics of the property include: The property is approximately 71 acres of primarily undeveloped land that is partially treed, with one-third to one-half of the tract being open land that is overgrown. The terrain is rolling and has adequated drainage. Two small ponds are located on the property and a creek crosses the southern part of the tract. An abandoned farm house, barn and shop building are also located on the property.

Property size: Approximately 71 acres.

Written notice of serious interest in the purchase or other transfer of the property must be received on or before May 26, 1992 by the Resolution Trust Corporation at the address stated above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;
2. Agencies or entities of State or local government;
3. "Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notices of serious interest to purchase or effect other transfer of the property must be submitted by May 26, 1992 to Herbert Clark at the above **ADDRESSES** and in the following form:

Notice of Serious Interest

RE: Schwartz Property

Federal Register Publication Date: February 26, 1992.

1. Entity name.
2. Declaration of eligibility to submit Notice under criteria set forth in Coastal Barrier Improvement Act of 1990, Public Law 101–591, section 10(b)(2), (12 U.S.C. 1441a–3(b)(2)).
3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).
4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.
5. Authorized Representative (Name/Adress/Telephone/Fax).

Dated: February 20, 1992.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Secretary.

[FR Doc. 92–4392 Filed 2–25–92; 8:45 am]

BILLING CODE: 6714-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-30389; File No. SR-MSE-92-04]

Self Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Midwest Stock Exchange, Inc. Relating to Amending Membership Dues and Fees

February 19, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 5, 1992, the Midwest Stock Exchange, Inc. ("MSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend section (a), Membership Dues, and section (b), Registration Fees, of its Membership Dues and Fees schedule by: (1) Increasing its annual membership dues and making such charge applicable to both floor members and off-floor members; (2) changing its specialist registration fees to be based on the monthly MSE trading activity of the issue; and (3) adding an assignment fee to be charged when an issue is awarded to a specialist by the Exchange's Committee on Specialist Assignment and Evaluation.[1]

The MSE Membership Dues and Fees Schedule is proposed to be amended as follows (additions are italicized; deletions are bracketed):

(a) Membership Dues:	
All Members	*$3,200 per annum payable monthly in equal installments.*
[Floor Members	$2,500 per annum payable monthly in equal installments.]
[Off-Floor Members	$2,000 per annum payable monthly in equal installments.]
(b) Registration Fee:	
Firm or Corporation	No change in text.
Office (Other than Principal)	No change in text.
Officers of Partners	No change in text.
Salesmen	No change in text.
Specialist	*Fees will be determined based upon the monthly round lot activity of an issue on the MSE, and shall be paid monthly, according to the following:* *The 300 most active issues shall be charged at a rate of $400 per year.* *All other issues shall be charged at a rate of $100 per year.* *There shall also be an assignment fee of $500 per issue upon the approval by the Committee on Specialist Assignment and Evaluation of an application of a member or member organization to act as specialist in a security.* [$25 per issue per annum or quarterly pro-ratio thereof for interim appointments or termination for Primary market issues (defined to mean all issues other than NYSE).] [$50 per issue per annum or quarterly pro-ratio thereof for interim appointments or termination for Dual market issues (defined to mean all issues dual with NYSE only).]
Subordinated Loans	No change in text.
Transfer	No change in text

II. Self-regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The MSE's purpose for increasing its annual membership fees and specialist registration fees is to reflect the increasing administrative and overhead costs involved in providing Exchange services.[3]

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[1] See MSE Article IV, Rule 4.

The proposed rule change is consistent with section 6(b)(4) of the Act in that it provides for the equitable allocation of reasonable fees and other charges among members using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange and therefore has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the MSE. All submissions should refer to File No. SR-MSE-92-04 and should be submitted by March 18, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-4329 Filed 2-25-92; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

February 20, 1992.

The above name national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12F-1 thereunder for unlisted trading privileges in the following securities:

Enhance Financial Services Group, Inc.
  Common Stock, $.10 Par Value (File No. 7-8015)
Korean Investment Fund, Inc.
  Common Stock, $.01 Par Value (File No. 7-8016)
Living Centers of America, Inc.
  Common Stock, $.01 Par Value (File No. 7-8017)
Tandy Corporation
  Depositary Shares (each presenting 1/100 of a share of Series C Convertible Preferred Stock)—Preferred Equity Redemption Stock, PERCS, No Par Value (File No. 7-8018)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 12, 1992, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-4409 Filed 2-25-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30386; File No. SR-NYSE-91-44]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to Amendments to Rule 308—Acceptability Proceedings

February 19, 1992.

On December 16, 1991, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] a proposed rule change to amend NYSE Rule 308 to revise the required composition of Acceptability Committees.[3]

The proposed rule change was published for comment in Securities Exchange Act Release No. 30158 (January 6, 1992), 57 FR 1196 (January 10, 1992). No comments were received on the proposal.

NYSE Rule 308 was adopted in 1976 in order to establish fair procedures for acceptability proceedings.[4] These proceedings are used by the Exchange to consider the following types of applications and applicants: (1) Prospective members or member organizations; (2) employment or association with a member or member organization, prospective member, allied member, approved person, registered representative or any other person required by the NYSE constitution or rules to be approved by the Exchange; (3) any prospective non-member broker-dealer accessee; and (4) any change in the status of any person that requires Exhange approval. Since its adoption, Rule 308 has not been amended.

NYSE Rule 308 serves as a vehicle for establishing the structure and function of acceptability proceedings and committees. Specifically, Rule 308(b) describes the procedures employed in acceptability proceedings. Currently,

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[3] The Commission notes that the MSE is proposing that the specialist registration fee be paid monthly as opposed to quarterly.

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b-4 (1991).

[3] The text of the proposed rule change was attached to the rule filing as Exhibit A and is available at the Commission as well as at the NYSE.

[4] See Securities Exchange Act Release No. 12623 (July 14, 1976), 41 FR 30407 (approving File No. SR-NYSE-76-31).

Rule 308(c) requires an Acceptability Committee to be comprised of three Exchange officers appointed from time to time by the Chairman of the Board of Directors of the Exchange ("Chairman"). At least two of the three officers must be officers of the Regulation and Surveillance Group.

The Exchange proposes to amend NYSE Rule 308 (c) and (d) to revise the required composition of acceptability committees to provide that the acceptability of all applicants be determined by a committee of the applicant's peers. Specifically, proposed Rule 308(c) will require that an acceptability committee must consist of at least three persons who are selected to serve on the committee by the Exchange's Chief Hearing Officer.[5] All members of an acceptability committeee will be selected from the membership of the Acceptability Board.[6] Acceptability Board members will appointed annually by the Chairman and serve at the discretion of the Board of Directors.[7]

Moreover, proposed Rule 308(d) specifies that the status and background of acceptability committee members must be similar to that of the applicant's proposed activity. For example, the proposed rule provides that, if the applicant is a proposed member, member organization, allied member, approved person or non-member broker-dealer accessee, the members of the presiding Acceptability Committee must be members or allied members of the Exchange who, to the extent reasonably possible, are engaged in similar activities as the applicant proposes to engage in, or have knowledge of those activities. Furthermore, if the applicant is a proposed registered or non-registered employee of a member or member organization and will not be a prospective member or allied member, the members of the Acceptability Committee must be registered or non-registered employees of members or member organizations who are not members or allied members. In addition, these members should be, to the extent reasonably possible, engaged in similar activities as the applicant proposes to engage in, or have knowledge of those activities.

Pursuant to proposed Rule 308(d), if any acceptability application is related to proposed floor activities, then all persons on that Acceptability Committee must be active on the floor of the Exchange. Similarly, acceptability applications relating to proposed non-floor activities will require all members of the committee to work in the offices of a member or member organization that engages in a business involving substantial direct contact with securities customers.[8] Thus, under proposed NYSE Rule 308(d), the composition of acceptability committees will reflect both the position and experience for which the applicant seeks approval to be involved.

Accordingly, the Exchange believes that the proposed rule change will provide a framework for assuring acceptability proceedings before persons familiar with the relevant job functions of the applicant and who have the objectivity, experience and ability necessary to comprehend and evaluate the acceptability issues presented.

The Commission believes that the proposed amendments to NYSE Rule 308 are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. The Exchange is proposing to increase the size of an acceptability committee from three persons in all cases to a minimum of three persons. The Commission notes that pursuant to NYSE Rule 476 governing disciplinary proceedings the Exchange's Hearing Panel is similarly comprised of at least three person.[9] Moreover, the Commission believes that, in certain situations, the Exchange's ability to organize a particular committee comprised of more than three persons should promote fair acceptability proceedings. For example, where the issues presented are complex, a thorough resolution of the issues may necessitate that the committee's background be characterized by more varied experience. In addition, where scheduling lengthy proceedings with recurring meetings is difficult, the flexibility to select from a large pool, the Acceptability Board, should expedite the acceptability process. The Commission believes that affording the Exchange the flexibility to choose more than three committee members as well as a larger pool from which to select committee members should provide a more fair procedure to the applicant seeking acceptability, because pooling the experience of more committee members should produce more informed and exhaustive acceptability determinations.

The Commission also recognizes that the NYSE's proposed amendments to Rule 308 are intended to produce acceptability committees reflecting the position that the applicant seeks.[10] For example, the Exchange proposes that where an applicant seeks floor membership, members of that committee shall be active floor members. If the applicant is a prospective floor employee, as opposed to prospective member, then the committee will be comprised of floor employees. The Commission believes that this review by a committee of one's peers should also result in fairer proceedings because each acceptability application would be evaluated by committee members with direct experience in the same possition as the applicant seeks.[11]

For the above reasons, the Commission finds that the proposed rule change is consistent with the section 6(b)(7) requirement that the rules of an exchange establish fair procedures to be used in all proceedings brought to determine whether a person shall be denied membership, barred from becoming associated with a member, or prohibited or limited with respect to access to services offered by the Exchange.[12] In addition, the Commission finds that the proposed rule change is consistent with the due process requirements of Section 6(d)(2) of the Act.[13] NYSE Rule 308(b), which is not proposed to be amended, continues to mandate compliance with the procedural requirements of Section 6(d)(2), which include notice of and an opportunity to be heard, specific grounds for denial and a record of the determination. In this regard, the Commission believes that the proposed amendments to NYSE Rule 308 (c) and (d) are consistent with these due process requirements because a committee formed from a pool of an applicant's peers should afford a more meaningful opportunity to be heard.

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[5] See NYSE Rule 476(b). The Chief Hearing Officer is appointed by the Chairman, subject to the approval of the Board of Directors.

[6] See letter from Donald van Weezel, Managing Director, NYSE, to Mary N. Revell, Branch Chief, SEC, dated Janaury 30, 1992, confirming that all persons selected to serve on each Acceptability Committee shall be members of the Acceptability Board.

[7] The Exchange expects that the pool of available committee members on the Acceptability Board will closely parallel the composition of the Hearing Board under NYSE Rule 476(b), which is presently comprised of over 400 members.

[8] In this regard, an applicant proposing to be involved in "upstairs" activities would appear before a committee comprised of "upstairs" persons.

[9] See NYSE Rule 476(b).

[10] The Commission has approved a similar requirement in NYSE Rule 476(b), which provides that at least one member of the Hearing Panel should be engaged in activities similar to the respondent in a disciplinary proceeding. See Securities Exchange Act Release No. 25278 (January 20, 1988), 53 FR 2333 (approving File No. SR-NYSE-87-6).

[11] Committee members may not participate in proceedings in which they have a personal interest. See NYSE Rule 22.

[12] 15 U.S.C. 78f(b)(7) (1988).

[13] 15 U.S.C. 78f(d)(2) (1988).

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[14] that the proposed rule change (SR-NYSE-91-44) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,
Deputy Secretary.
[FR Doc. 92-4330 Filed 2-25-92; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-30387; File No. SR-PHLX-91-34]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Option Floor Procedure Advice A-14—Equity and Index Option Opening Price Parameters

February 19, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 21, 1991, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PHLX, pursuant to Rule 19b-4, proposes the addition of Options Floor Procedure Advice ("OFPA") A-14 in connection with PHLX Rules 1014 and 1020. Specifically, the proposed OFPA mirrors current PHLX Rule 1014, Commentary .15 which provides that an opening transaction in an options series may not occur at a price which is more than the difference of the preceding session's closing sale and the present session's opening sale in underlying security, in relation to the closing quotation, in the options series, without prior approval of one floor official. Like Commentary .15 to PHLX Rule 1014, OFPA A-14 would require specialists to observe opening price parameters for equity and index options where the underlying stock opens on firm quotes. In the event that a stock is quoted significantly away from the prior trading session's close, OFPA A-14 would permit a floor official to approve the opening of the option outside the stated parameters.

The text of the proposed rule change is available at the Office of the Secretary, PHLX, and the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and statutory basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Proposed OFPA A-14 relates to the opening price parameters for equity and index options, as set forth in Exchange Rule 1014, Commentary .15. The primary purpose for creating an OFPA to mirror Commentary .15 in this regard is to provide for a fine schedule for violations of the opening price parameter requirement, and thus permitting violations to be addressed under the Exchange's Minor Infraction Rule Plan. Proposed OFPA A-14 limits the price range in which a specialist may open transactions in an equity or index option series. The specialist's opening prices for equity and index options in a particular series may not fall outside of the previous session's closing quote in that option by more than the difference between the previous closing and opening sale in the underlying security. As with Commentary .15, the above parameters are to be applied in instances where stocks open on firm quotes. If a stock or stock index is quoted significantly away from its previous closing value, then floor official approval may be given in order to open the option outside of its allowable opening price range.

The PHLX states that proposed OFPA A-14 is consistent with the obligations and functions of an options specialist, as enumerated in PHLX Rules 1014 and 1020. The PHLX also believes that proposed OFPA A-14 contributes to further definition of the obligations and functions of an options specialist.

The Exchange believes that the proposed rule change is consistent with section 6(b)(5) of the Act in that it is designed to maintain consistency in the application of procedural guidelines, thereby promoting just and equitable principles of trade.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any inappropriate burden or competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by March 18, 1992.

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[14] 15 U.S.C. 78s(b)(2) (1988).

[15] 17 CFR 200.30-3(a)(12) (1991).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–4331 Filed 2–25–92; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

February 20, 1992.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

- MassMutal Participation Investor
  - Common Stock, $0.01 Par Value (File No. 7–7999)
- Niagara Share Corp.
  - Common Stock, $1 Par Value (File No. 7–8000)
- Property Capital Trust
  - Common Stock, No Par Value (File No. 7–8001)
- AMEV Securitiesd, Inc.
  - Capital Stock, $.01 Par Value (File No. 7–8002)
- System Industries, Inc.
  - Common Stock, $0.01 Par Value (File No. 7–8003)
- Horizon Healthcare/Harte Hanks Bond
  - Common Stock, $.001 Par Value (File No. 7–8004)
- Tandy Corporation "Percs"
  - Depository Shares, No Par Value (File No. 7–8005)
- Enhance Financial Services Group, Inc.
  - Common Stock, $.10 Par Value (File No. 7–8006)
- Living Centers of America, Inc.
  - Common Stock, $.01 Par Value (File No. 7–8007)
- Korean Investment Fund, Inc.
  - Common Stock, $.01 Par Value (File No. 7–8008)
- Value Merchants
  - Common Stock, $.01 Par Value (File No. 7–8009)
- Aegon N.V.
  - Ordinary Shares, NLG 5 Par Value (File No. 7–8010)
- Gaylord Entertainment Co.
  - Class A Common Stock, $0.01 Par Value (File No. 7–8011)
- Itel Corporation
  - $3.375 Conv. Exch. Preferred Stock ($50 Liquid Pref.) (File No. 7–8012)
- Wabash National
  - Common Stock, $0.01 Par Value (File No. 7–8013)
- General Kinetics
  - Common Stock, $0.25 Par Value (File No. 7–8014)

These securities are lsited and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 12, 1992, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92–4410 Filed 2–25–92; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Shortage of Operating Funds for a Disaster in Oregon

As a result of the Secretary of Agriculture's disaster designation S–571 for counties in the State of Oregon and contiguous counties in the States of California and Washington, the Small Business Administration (SBA) is accepting economic injury disaster loan applications from eligible nonfarm small business concerns. However, due to SBA's present severe shortage of operating funds for the disaster program for the current fiscal year (through September 30, 1992), SBA cannot provide assurance of its ability to continue to accept or process disaster loan applications or make disbursements on disaster loans until additional funds are available.

Dated: February 18, 1992.

Alfred E. Judd,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 92–4366 Filed 2–25–92; 8:45 am]

BILLING CODE 8025-01-M

Shortage of Operating Funds for a Disaster in Texas

As a result of the Secretary of Agriculture's disaster designation S–569 for counties in the State of Texas and contiguous counties in the State of New Mexico, the Small Business Administration (SBA) is accepting economic injury disaster loan applications from eligible nonfarm small business concerns. However, due to SBA's present servere shortage of operating funds for the disaster program for the current fiscal year (through September 30, 1992), SBA cannot provide assurance of its ability to continue to accept or process disaster loan applications or make disbursements on disaster loans until additional funds are available.

Dated: February 18, 1992.

Alfred E. Judd,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 92–4364 Filed 2–25–92; 8:45 am]

BILLING CODE 8025-01-M

Shortage of Operating Funds for a Disaster in Texas

As a result of the Secreatry of Agriculture's disaster designation S–570 for counties in the State of Texas and contiguous counties in the States of Arkansas, Oklahoma, and New Mexico, the Small Business Administration (SBA) is accepting economic injury disaster loan applications from eligible nonfarm small business concerns. However, due to SBA's present severe shortage of operating funds for the disaster program for the current fiscal year (through September 30, 1992), SBA cannot provide assurance of its ability to continue to accept or process disaster loan applications or make disbursements on disaster loans until additional funds are available.

Dated: February 18, 1992.

Alfred E. Judd,

Acting Assistant Administrator for Disaster Assistance.

FR Doc. 92–4365 Filed 2–25–92; 8:45 am]

BILLING CODE 8025-01-M

Microloan Demonstration Program

AGENCY: Small Business Administration.

ACTION: Notice of application filing deadline.

SUMMARY: On October 28, 1991, the President signed Public Law 102–140, the Commerce, Justice, and State, the Judiciary, and Related Agencies

Appropriations Act of 1992 (Law). Section 609(h) of the law authorized the Small Business Administration (SBA) to conduct a Microloan Demonstration Program (Program). SBA issued interim final regulations implementing the Program on January 31, 1992, 57 FR 3848. This notice announces the availability of applications for entities seeking to participate in the program as an intermediary, as well as a March 31, 1992 application filing deadline for such applications.

ADDRESSES: Application Packages may be obtained by written request submitted to: U.S. Small Business Administration, Office of Financial Assistance, 409 Third Street, SW., 8th Floor, Washington, DC 20416, Attn: Microloan Proposals, Mail Code 6120, or by telephone at (202) 205–6570.

SUPPLEMENTARY INFORMATION: Section 609(h) of Public Law 102–140 authorized SBA to conduct a Mircoloan Demonstration Program. The program has as its purpose to provide assistance to women, low-income, minority entrepreneurs, business owners, and other individuals possessing the capability to operate successful business concerns and to assist small business concerns in those areas suffering from a lack of credit due to economic downturn. Under the Program, SBA is authorized to make direct loans to qualified intermediary lenders who will use the proceeds to make short-term, fixed interest rate microloans, of not more than $25,000, to startup, newly established, and growing small business concerns. Additionally, SBA may make grants to such intermediaries to be used to provide, as an integral part of any microloan, intensive marketing, management and technical assistance to the microloan borrower.

SBA is currently accepting applications from those entities seeking to be accepted into the Program as an intermediary. To be eligible an organization, *inter alia*, must be a private, nonprofit entity or a nonprofit community development corporation having at least one year of experience making microloans to small business concerns and itself providing through its own organization, without contracting with others for the provision of such services, marketing, management, and technical assistance to its borrowers.

Those organizations believing themselves eligible and wishing to participate in the Program may obtain a Microloan Demonstration Program Application Package by contacting SBA at the above set forth address.

Completed applications must be received by SBA no later than 4 p.m. Eastern Standard Time, March 31, 1992.

Charles R. Hertzberg,

Associate Administrator for Financial Assistance.

[FR Doc. 92–4370 Filed 2–25–92; 8:45 am]

BILLING CODE 8025-01-M

Delegation of Authority

AGENCY: Small Business Administration.

ACTION: Notice delegating loan approval authority to specific agency field personnel.

SUMMARY: This notice increases the delegated authority of certain specific Small Business Administration (SBA) field personnel to approve SBA guaranteed loans. This increased authority is based upon the education, training, or experience of such personnel and is meant to expedite Agency action in processing loan applications.

EFFECTIVE DATE: This notice is effective February 26, 1992.

FOR FURTHER INFORMATION CONTACT: Charles R. Hertzberg, Assistant Administrator for Financial Assistance, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416, Tel. (202) 205–6490.

SUPPLEMENTARY INFORMATION: On December 19, 1991, SBA published, in the Federal Register, 56 FR 65823, a final rule amending section 101.3–2 of part 101, title 13, Code of Federal Regulations, which set forth a clarified standard delegation of authority to conduct program activities in SBA field offices. In addition, the rule provided authority by which SBA might, as it deemed appropriate, increase, decrease, or set the level of authority for any individual SBA field official in a regional, district, or branch office, based upon education, training, or experience by publication of a notice in the Federal Register. Prior to the December 19, 1991 publication, Section 101.3–2 had set forth the standard delegation of authority to SBA field personnel as well as all deviations from the standard based upon education, experience, and/or training.

The Agency believes that, when appropriate, delegating increased levels of authority to field personnel yields increased benefits for program participants and SBA. SBA is authorized to guaranty up to 90% of a loan depending upon total loan amount. As such, it is essential that the Agency have qualified loan officers to process expeditiously and accurately the applications submitted. Branch managers who are delegated greater levels of authority in light of their additional education, training, or experience allow SBA to process loan applications of greater amounts where both the lender and the borrower are located. In this fashion, the loan applicant and the lender are both served with quicker and more accurate processing, while the Agency is served by quality lending and better relations with its participating lenders.

This notice increases the delegated authority of specific SBA officials to approve guaranteed and direct loan applications based upon each respective officials' education, training, or experience. The SBA Branch Managers in Cincinnati, OH.; Milwaukee, WI.; Sacramento, CA.; Springfield, IL.; and Springfield, MO. have successfully completed training courses offered by the Agency. Such training, in conjunction with their extensive experience, qualifies them to better analyze and process loan applications. Additionally, the SBA Assistant Branch Managers for Finance and Investment in Milwaukee, WI.; Sacramento, CA.; and Springfield, IL. have completed the same Agency training course. This training, along with their experience, justifies increasing their level of delegated authority.

SBA branch managers have, as a standard, delegated authority to approve SBA guaranteed and direct loans of up to $250,000. This notice increases the delegated loan approval authority for the above named Branch Managers to $750,000, except the Branch Manager in Springfield, MO. whose authority shall be increased to $500,000, for guaranteed loans. Additionally, the delegated authority for all the above named Branch Managers shall be increased to $350,000 for direct loans. Further, this notice sets the guaranteed loan approval and decline authority for the above named Assistant Branch Managers for Finance and Investment at $750,000.

This increased delegation of authority is specific to the individuals presently incumbent and continues only so long as they remain in such positions.

Dated: February 20, 1992.

Charles R. Hertzberg,

Assistant Administrator for Financial Assistance.

[FR Doc. 92–4371 Filed 2–25–92; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 1576; Delegation of Authority No. 193–1]

Amendment to Delegation of Authority on Management and Other Matters Concerning United States Foreign Relations

By virtue of the authority vested in me as Secretary of State, including the authority of section 4 of the Act of May 26, 1949 (22 U.S.C. 2658) and Executive Order 12786 of December 26, 1991 (as it may be amended or superceded), Delegation of Authority No. 193 of January 7, 1992 is amended as follows:

1. Section 1 is amended by designating the existing paragraph under Section 1 as "a." and adding the following at the end of Section 1:

"b. The functions conferred upon the President by section 5(b) of the Fisherman's Protective Act, as amended (22 U.S.C. 1975(b)), and delegated to the Secretary of State by Executive Order 11772 of March 21, 1974."

2. Section 4 is amended by adding the following at the end of the section:

"d. The functions vested in the Secretary of State by sections 101(a), 102, 106, 107, 108, 207, 208 and 211 of the Federal Employees Pay Comparability Act (FEPCA) and sections 405 and 408 of the Federal Law Enforcement Pay Reform Act of 1990 (FLEPRA) (Pub. L. 101–509) and the functions vested in the President by Section 302 of FEPCA."

Date: February 5, 1992.

James A. Baker, III,

Secretary of State.

[FR Doc. 92–4347 Filed 2–25–92; 8:45 am]

BILLING CODE 4710-10-M

DEPARTMENT OF TRANSPORTATION

Advisory Commission on Conferences in Ocean Shipping; Open Meeting

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice of open meeting of the Advisory Commission on Conferences in Ocean Shipping.

SUMMARY: The Commission will be holding a meeting in Washington, DC on Tuesday, March 10, 1992; the meeting is open to the public. The Commission plans to make final changes to and adopt its report to the President and Congress.

DATES: *Meeting:* Tuesday, March 10, 1992; 9:30 a.m. to 5:30 p.m. EST.

ADDRESSES: The address for the public meeting is Department of Transportation Headquarters Building, 400 Seventh Street, SW., Washington, DC, room 10234.

FOR FURTHER INFORMATION CONTACT: Florizelle B. Liser, Executive Director: Telephone (202) 366–9781; FAX (202) 366–7870.

SUPPLEMENTARY INFORMATION: The Commission was created by the Shipping Act of 1984 to conduct an independent and comprehensive study of conferences in ocean shipping, particularly whether the Nation would be best served by prohibiting conferences, or by closed or open conferences. The Commission is to provide its report, including recommendations, to the President and the Congress by April 10, 1992. After holding five field hearings around the country during the summer, the Commission began the deliberative stage of its work in October. At this meeting, the Commissioner will discuss and make final changes to the Commission's report to the President and Congress. Adoption of the report is anticipated.

Issued in Washington, DC on February 20, 1992.

Florizelle B. Liser,

Executive Director.

[FR Doc. 92–4326 Filed 2–25–92; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

Advisory Circular: Flap Interconnections in Part 23 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of proposed advisory circular (AC) and request for comments.

SUMMARY: This notice announces the availability of and request for comments on a proposed AC which provides information and guidance concerning flap interconnections in part 23 airplanes.

DATES: Comments must be received on or before April 27, 1992.

ADDRESSES: Send all comments on the proposed AC to: Federal Aviation Adminstration, Small Airplane Directorate, Aircraft Certification Service, Standards Office (ACE–110), 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Ervin Dvorak, Aerospace Engineer, Standards Office (ACE–110), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; commercial telephone (816) 426–6941 or FTS 867–6941.

SUPPLEMENTARY INFORMATION: Any person may obtain a copy of this proposed AC by writing to: Federal Aviation Administration, Small Airplane Directorate, Aircraft Certification Service, Standards Office (ACE–110), 601 East 12th Street, Kansas City, Missouri 64106.

COMMENTS INVITED: Interested parties are invited to submit comments on the proposed AC. Commenters must identify AC 23.701–X, and submit comments to the address specified above. All communications received on or before the closing date for comments will be considered by the FAA before issuing the final AC. The proposed AC and comments received may be inspected at the Standards Office (ACE–110), room 1544, Federal Office Building, 601 East 12th Street, Kansas City, Missouri, between the hours 7:30 a.m. and 4 p.m. weekdays, except Federal holidays.

Background

This AC provides guidance and information regarding the flap interconnection requirements of 23.702. The requirements for the motion of the flaps to be synchronized by a mechanical interconnection or by a method that is shown to be extremely improbable are applicable to airplanes not having safe flight characteristics under asymmetrical flap operations. Equivalent level of safety findings are also discussed in this AC. Accordingly, the FAA is proposing and requesting comments on AC 23.701–X which will provide an acceptable means of compliance with part 23 of the Civil Air Regulations (CAR) and part 23 of the Federal Aviation Regulations (FAR) applicable to flap interconnections.

Issued in Kansas City, Missouri, February 14, 1992.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–4396 Filed 2–25–92; 8:45 am]

BILLING CODE 4910-13-M

Federal Transit Administration

FTA Section 3 and 9 Grant Obligations

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: The Department of Transportation and Related Agencies Appropriations Act, 1992, Public Law 102–143, signed into law by President

George Bush on October 28, 1991, contained a provision requiring the Federal Transit Administration to publish an announcement in the **Federal Register** every 30 days of grants obligated pursuant to sections 3 and 9 of the Federal Transit Act, as amended. The statute requires that the announcement include the grant number, the grant amount, and the transit property receiving each grant. This notice provides the information as required by statute.

FOR FURTHER INFORMATION CONTACT: Janet Lynn Sahaj, Chief, Resource Management and State Programs Division, Office of Capital and Formula Assistance, Department of Transportation, Federal Transit Administration, Office of Grants Management, 400 Seventh Street, SW., room 9301, Washington, DC 20590, (202) 366–2053.

SUPPLEMENTARY INFORMATION: The section 3 program provides capital assistance to eligible recipients in three categories: Fixed guideway modernization, construction of new fixed guideway systems and extensions, and bus purchases and construction of bus related facilities. The section 9 program apportions funds on a formula basis to provide capital and operating assistance in urbanized areas. Pursuant to the statute UMTA reports the following grant information:

SECTION 3 GRANTS

Transit property	Grant number	Grant amount	Obligation date
Regional Transit Authority, New Orleans, LA	LA-03-0049-01	$8,599,800	01/28/92

SECTION 9 GRANTS

Transit property	Grant number	Grant amount	Obligation date
Municipality of Anchorage, Anchorage, AK	AK-90-X009-00	$791,500	01/15/92
Mobile Transit Authority, Mobile, AL	AL-90-X059-01	349,680	01/15/92
Birmingham-Jefferson County Transit Authority, Birmingham, AL	AL-90-X062-00	2,748,320	01/15/92
City of Montgomery—Montgomery Area Transit System, Montgomery, AL	AL-90-X063-00	1,305,160	01/15/92
City of Tucson, Tucson, AZ	AZ-90-X029-00	5,182,957	01/15/92
City of Arcadia, Los Angeles, CA	CA-90-X396-00	84,000	01/15/92
City of Simi Valley, Simi Valley, CA	CA-90-X457-00	699,800	01/15/92
City of Commerce, Los Angeles, CA	CA-90-X460-00	76,000	01/15/92
Riverside Transit Agency, San Bernardino-Riverside, CA	CA-90-X466-00	2,198,571	01/15/92
City of Corona, San Bernardino-Riverside, CA	CA-90-X471-00	112,400	01/15/92
Riverside Transit Agency, San Bernardino-Riverside, CA	CA-90-X474-00	328,148	01/15/92
City of Gardena, Los Angeles, CA	CA-90-X477-00	1,068,800	01/24/92
North San Diego County Transit Development Board, San Diego, CA	CA-90-X483-00	5,200,000	01/15/92
City of Pueblo, Pueblo, CO	CO-90-X063-00	727,630	01/15/92
Mesa County, Grand Junction, CO	CO-90-X064-00	295,083	01/15/92
Greater Hartford Transit District, Hartford-Middletown, CT	CT-90-X193-00	1,596,000	01/17/92
Connecticut Department of Transportation, Waterbury, CT	CT-90-X194-00	4,966,080	01/17/92
Greater Bridgeport Transit District, Bridgeport-Milford, CT	CT-90-X195-00	91,356	01/17/92
Middletown Transit District, Hartford, CT	CT-90-X197-00	238,720	01/17/92
City of Stamford Commission on Aging, Stamford, CT	CT-90-X198-00	210,903	01/15/92
Delaware Transportation Authority, Delaware	DE-90-X011-00	1,950,000	01/15/92
East Volusia County—East Volusia Transp. Authority, Daytona Beach, FL	FL-90-X123-02	25,600	01/15/92
Metropolitan Dade Transit Agency, Miami, FL	FL-90-X160-01	1,200,000	01/15/92
Manatee County Board of County Commissioners, Sarasota-Bradenton, FL	FL-90-X175-01	44,034	01/15/92
East Volusia County—East Volusia Transp. Authority, Daytona Beach, FL	FL-90-X180-00	1,431,228	01/15/92
Lee County Transit, Fort Myers-Cape Coral, FL	FL-90-X181-00	1,198,796	01/15/92
Metropolitan Dade Transit Agency, Miami, FL	FL-90-X182-00	23,621,127	01/15/92
Broward Co Bd of Co Commissioners—Broward Co Mass Transit Division, Fort Lauderdale-Hollywood-Pompano Beach, FL	FL-90-X183-00	7,110,488	01/15/92
Panama City Metropolitan Planning Organization, Panama City, FL	FL-90-X184-00	32,960	01/15/92
Okaloosa County Board of County Commissioners, Fort Walton Beach, FL	FL-90-X185-00	37,080	01/15/92
City of Tallahassee—Tallahassee Transit Authority, Tallahassee, FL	FL-90-X186-00	1,276,017	01/15/92
City of Gainesville, Gainesville, FL	FL-90-X187-00	2,009,600	01/15/92
Jacksonville Transportation Authority, Jacksonville, FL	FL-90-X188-00	4,351,812	01/15/92
Hillsborough Area Regional Transit Authority, Tampa-St. Petersburg-Clearwater, FL	FL-90-X189-00	4,252,225	01/15/92
Metropolitan Atlanta Rapid Transit Authority, Atlanta, GA	GA-90-X067-00	19,822,000	01/15/92
City and County of Honolulu, Honolulu, HI	HI-90-X009-00	9,003,200	01/15/92
Cedar Rapids Transit Department, Cedar Rapids, IA	IA-90-X128-00	1,034,365	01/15/92
City of Coralville, Iowa City, IA	IA-90-X129-00	92,802	01/15/92
University of Iowa/Cambus, Iowa City, IA	IA-90-X130-00	99,100	01/15/92
Iowa City Transit, Iowa City, IA	IA-90-X131-00	314,628	01/16/92
Des Moines Metropolitan Transit Authority, Des Moines, IA	IA-90-X133-00	1,433,596	01/22/92
Sioux City Transit System, Sioux City, IA–NE–SD	IA-90-X134-00	431,266	01/15/92
City of Decatur, Decatur, IL	IL-90-X184-00	794,696	01/15/92
Pekin Municipal Bus Service, Peoria,IL	IL-90-X187-00	346,462	01/15/92
Champaign-Urbana Mass Transit District, Champaign-Urbana, IL	IL-90-X189-00	868,000	01/15/92
Bloomington-Normal Public Transit System, Bloomington-Normal, IL	IL-90-X190-00	682,299	01/15/92
Greater Lafayette Public Transportation Corporation, Lafayette-West Lafayette, IN	IN-90-X158-00	820,237	01/15/92
City of Anderson, Anderson, IN	IN-90-X159-00	794,535	01/15/92
Fort Wayne Public Transportation Corp., Fort Wayne, IN	IN-90-X160-00	1,137,437	01/15/92
Bloomington Public Transportation Corporation, Bloomington-Normal, IN	IN-90-X161-00	609,992	01/17/92
Greater Lafayette Public Transportation Corporation, Lafayette-West Lafayette, IN	IN-90-X162-00	714,680	01/15/92

SECTION 9 GRANTS—Continued

Transit property	Grant number	Grant amount	Obligation date
City of Kokomo, Indiana, Kokomo, IN	IN-90-X163-00	267,144	01/15/92
Indianapolis Public Transportation Corporation, Indianapolis, IN	IN-90-X164-00	5,648,038	01/17/92
Muncie Public Transportation Corporation, Muncie, IN	IN-90-X165-00	757,058	01/15/92
Wichita Metropolitan Transit Authority, Wichita, KS	KS-90-X052-00	3,103,810	01/15/92
Johnson County Transit, Kansas City, MO–KS	KS-90-X053-00	419,664	01/15/92
Transit Authority of River City, Louisville, KY–IN	KY-90-X058-00	4,888,906	01/15/92
City of Ashland, Huntington-Ashland, WV–K–OH	KY-90-X059-00	281,583	01/15/92
Regional Transit Authority, New Orleans, LA	LA-90-X124-00	7,564,345	01/17/92
Jefferson Parish, New Orleans, LA	LA-90-X125-00	3,185,585	01/15/92
Massachusetts Bay Transportation Authority, Boston, MA	MA-90-X127-00	18,191,994	01/17/92
Lowell Regional Transit Authority, Lowell, MA–NH	MA-90-X128-00	1,211,000	01/17/92
Brockton Area Transit Authority, Brockton, MA	MA-90-X129-00	1,115,000	01/17/92
Worcester Regional Transit Authority, Worcester, MA–CT	MA-90-X132-00	2,127,244	01/17/92
Mass Transit Administration, Baltimore, MD	MD-90-X047-00	14,953,899	01/15/92
Maine Department of Transportation, ME	ME-90-X060-00	765,328	01/15/92
Greater Portland Transit District, Portland, ME	ME-90-X061-00	401,020	01/17/92
Ann Arbor Transportation Authority, Ann Arbor, MI	MI-90-X151-00	1,841,680	01/15/92
Grand Rapids Area Transit Authority, Grand Rapids, MI	MI-90-X152-00	2,538,800	01/15/92
Twin Cities Area Transportation Authority, Benton Harbor, MI	MI-90-X153-00	298,026	01/15/92
Battle Creek Transit System, Battle Creek, MI	MI-90-X154-00	341,537	01/15/92
City of Moorhead, Fargo-Moorhead, ND–MI	MN-90-X056-00	245,773	01/15/92
City of Springfield City Utilities, Springfield, MO	MO-90-X074-00	791,488	01/15/92
Bi-State Development Agency, St. Louis, MO–IL	MO-90-X080-00	14,352,656	01/15/92
City of Hattiesburg—Planning & Community Development, Hattiesburg, MS	MS-90-X040-00	267,425	01/15/92
Gulf Regional Planning Commission, Biloxi-Gulfport, MS	MS-90-X041-00	170,700	01/15/92
City of Durham, Durham, NC	NC-90-X109-01	753,159	01/15/92
City of Raleigh, Raleigh, NC	NC-90-X129-01	819,897	01/15/92
City of Durham, Durham, NC	NC-90-X133-01	31,029	01/15/92
City of Asheville, Asheville, NC	NC-90-X134-00	638,765	01/15/92
City of Charlotte, Charlotte, NC	NC-90-X135-00	1,687,810	01/15/92
City of Lincoln, Lincoln, NE	NE-90-X029-00	1,196,492	01/15/92
Cooperative Alliance for Seacoast Transportation, Portsmouth-Dover-Rochester, NH–ME	NH-90-X028-00	12,936	01/17/92
New Jersey Transit Corporation, New York, NY-Northeastern NJ	NJ-90-X033-00	118,649,398	01/15/92
Regional Transportation Commission of Washoe County, Reno, NV	NV-90-X017-00	834,054	01/15/92
New York Metropolitan Transportation Authority, New York, NY-Northeastern NJ	NY-90-X200-01	38,968,360	01/15/92
Broome County, Binghamton, NY	NY-90-X213-00	1,100,000	01/15/92
Rochester-Genesee Regional Transportation Authority, Rochester, NY	NY-90-X214-00	7,426,360	01/15/92
Utica Transit Authority, Utica-Rome, NY	NY-90-X215-00	550,483	01/15/92
New York Metropolitan Transportation Authority, New York, NY-Northeastern NJ	NY-90-X216-00	91,984,495	01/15/92
Saratoga County Planning Board, New York	NY-90-X217-00	1,027,200	01/15/92
Greater Glens Falls Transit System, Glens Falls, NY	NY-90-X218-00	284,435	01/15/92
Niagara Frontier Transportation Authority, Buffalo-Niagara Falls, NY	NY-90-X219-00	9,192,748	01/15/92
Toledo Area Regional Transit Authority, Toledo, OH–MI	OH-90-X155-00	3,060,374	01/15/92
Portage Area Regional Transportation Authority, Akron, OH	OH-90-X156-00	240,000	01/15/92
Central Ohio Transit Authority, Columbus, OH	Oh-90-X158-00	4,339,693	01/15/92
Southwest Ohio Regional Transit Authority, Cincinnati, OH–KY	OH-90-X160-00	4,376,750	01/15/92
Lane Transit District, Eugene-Springfield, OH	OH-90-X039-00	1,394,265	01/15/92
Salem Area Mass Transit District, Salem, OR	OR-90-X040-00	975,814	01/15/92
Lehigh and Northampton Transportation Authority, Allentown-Bethleheim-Easton, PA–NJ	PA-90-X202-01	160,000	01/15/92
Westmoreland County Transit Authority, Pittsburgh, PA	PA-90-X215-00	290,000	012/16/91
Cumberland-Dauphin-Harrisburg Transit Authority, Harrisburg, PA	PA-90-X222-01	1,674,412	01/15/92
Southeastern Pennsylvania Transportation Authority, Philadelphia, PA–NJ	PA-90-X223-00	27,193,581	01/10/92
Luzerne County Transportation Authority, Scranton-Wilkes Barre, PA	PA-90-X224-00	942,518	01/15/92
County of Lackawanna Transit System, Scranton-Wilkes Barre, PA	PA-90-X225-00	1,182,466	01/15/92
City of Washington, Pittsburgh, PA	PA-90-X226-00	389,818	01/15/92
Port Authority of Allegheny County, Pittsburgh, PA	PA-90-X227-00	21,982,047	01/15/92
Westmoreland County Transit Authority, Pittsburgh, PA	PA-90-X228-00	735,935	01/15/92
Beaver County Transit Authority, Pittsburgh, PA	PA-90-X229-00	299,076	12/31/92
Municipality of Manati, Vega-Baja-Manati, PR	PR-90-X031-00	288,000	01/15/92
Municipality of Moca, Aquadilla, PR	PR-90-X048-02	99,200	01/15/92
Puerto Rico Highway and Transportation Authority, Puerto Rico	PR-90-X051-01	815,952	01/15/92
Municipality of Ponce, Ponce, PR	PR-90-X060-00	965,900	01/15/92
Municipality of Manati, Vega Baja-Manati, PR	PR-90-X066-00	668,000	01/15/92
Metropolitan Bus Authority, San Juan, PR	PR-90-X067-00	8,258,026	01/15/92
Commonwealth of Puerto Rico—Department of Transp. and Public Works, Puerto Rico	PR-90-X068-00	470,000	01/15/92
City of Anderson, Anderson, SC	SC-90-X044-00	268,000	01/15/92
City of Columbia, Columbia, SC	SC-90-X047-00	1,000,512	01/17/92
City of Sioux Falls, Sioux Falls, SD	SD-90-X019-00	672,346	01/15/92
City of Rapid City, Rapid City, SD	SD-90-X020-00	300,067	01/15/92
City of Knoxville, Knoxville, TN	TN-90-X098-00	1,634,935	01/17/92
City of Plano, Dallas-Ft. Worth, TX	TX-90-X219-00	12,000	01/15/92
City of Waco, Waco, TX	TX-90-X221-00	2,447,963	01/17/92
Corpus Christi Regional Transit Authority, Corpus Christi, TX	TX-90-X225-00	2,565,920	01/15/92
City of Beaumont, Beaumont, TX	TX-90-X232-00	736,000	01/15/92
City of Amarillo, Amarillo, TX	TX-90-X234-00	825,823	01/15/92
Metropolitan Transit Authority of Harris County, Houston, TX	TX-90-X237-00	26,568,363	01/15/92
Peninsula Transportation District Commission, Norfolk-Virginia Beach-Newport News, VA	VA-90-X088-00	2,182,400	01/15/92
City of Charlottesville, Charlottesville, VA	VA-90-X089-00	505,312	01/15/92
Greater Richmond Transit Company, Richmond, VA	VA-90-X090-00	5,301,138	01/15/92

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SECTION 9 GRANTS—Continued

Transit property	Grant number	Grant amount	Obligation date
Tidewater Transportation District Commission, Norfolk-Virginia Beach-Newport News, VA	VA-90-X091-00	3,799,215	01/15/92
Chittenden County Transportation Authority, Burlington, VT	VT-90-X012-00	501,806	01/17/92
Whatcom Transportation Authority, Bellingham, WA	WA-90-X106-00	600,000	01/15/92
Whatcom Transportation Authority, Bellingham, WA	WA-90-X119-00	320,000	01/15/92
Snohomish County Transportation Authority, Seattle, WA	WA-90-X125-00	90,000	01/15/92
Janesville City Planning Dept.-Metropolitan Planning Organization, Janesville, WI	WI-90-X119-02	14,624	01/15/92
City of Sheboygan, Sheboygan, WI	WI-90-X156-00	419,200	01/15/92
City of Weirton, Steubenville-Weirton, OH-WV-PA	WV-90-X046-00	172,655	01/15/92
City of Cheyenne, Cheyenne, WY	WY-90-X009-01	108,315	01/15/92

Issued on: February 20, 1992.

Brian W. Clymer,

Administrator.

[FR Doc. 92-4307 Filed 2-25-92; 8:45 am]

BILLING CODE 4910-57-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Art Advisory Panel of the Commissioner of Internal Revenue; Availability of Report of Closed Meetings

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of availability of report on closed meetings of the Art Advisory Panel.

SUMMARY: The report is now available.

Pursuant to 5 U.S.C. app. I section 10(d), of the Federal Advisory Committee Act; and 5 U.S.C. 552b, the Government in the Sunshine Act; and Treasury Directive 21-03 section 8 (1-29-87): A report summarizing the closed meeting activities of the Art Advisory Panel during 1991, has been prepared. A copy of this report has been filed with the Assistant Secretary of the Treasury for Management and is now available for public inspection at:

Internal Revenue Service, Freedom of Information Reading Room, room 1565, 1111 Constitution Avenue, NW., Washington, DC 20224.

Requests for copies should be addressed to:

Director, Disclosure Operations Division, Attn: FOI Reading Room, Box 388, Benjamin Franklin Station, Washington, DC 20224, Telephone (202) 566-3770, (Not a toll free telephone number).

The Commissioner of Internal Revenue has determined that this document is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis therefore is not required. Neither does this document constitute a rule subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

FOR FURTHER INFORMATION CONTACT: Karen Carolan, CC:AP:AS:4, 901 D Street, SW., room 224, Washington, DC 20024, Telephone (202) 401-4128, (Not a toll free telephone number).

Shirley D. Petersen,

Commissioner.

[FR Doc. 92-4337 Filed 2-25-92; 8:45 a.m.]

BILLING CODE 4830-01-M

Office of Thrift Supervision

[AC-13: OTS No. 7860]

Albany Savings Bank, FSB, Albany, NY: Final Action; Approval of Conversion Application

Notice is hereby given that on February 12, 1992, the Office of the Chief Counsel, Office of the Thrift Supervision, acting pursuant to delegated authority, approved the application of Albany Savings Bank, FSB, Albany, New York, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1776 G Street NW, Washington, DC 20552, and Northeast Regional Office, Office of Thrift Supervision, 10 Exchange Place Centre, 17th Floor, Jersey City, New Jersey 07302.

Dated: February 20, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92-4312 Filed 2-25-92; 8:45 am]

BILLING CODE 6720-01-M

[AC-7; OTS No. 0730]

The Blue Ash Building and Loan Company, Blue Ash, OH: Final Action; Approval of Conversion Application

Notice is hereby given that on February 6, 1992, the Office of the Chief Counsel, Office of Thrift Supervision, acting pursuant to delegated authority, approved the application of The Blue Ash Building and Loan Company, Blue Ash, Ohio, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1776 G Street, NW., Washington, DC 20552, and the Central Regional Office, Office of Thrift Supervision, 111 East Wacker Driver, Chicago, Illinois 60601-4360.

Dated: February 20, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92-4319 Filed 2-25-92; 8:45 am]

BILLING CODE 6720-01-M

[AC-10; OTS No. 7159]

First Federal Savings and Loan Association of Hardin County, Savannah, TN: Final Action; Approval of Conversion Application

Notice is hereby given that on February 11, 1992, the designee of the Chief Counsel, Office of Thrift Supervision, acting pursuant to the authority delegated to him, approved the application of First Federal Savings and Loan Association of Hardin County, Savannah, Tennessee, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1776 G Street, NW., Washington, DC 20552, and the Office of Thrift Supervision, Central Regional Office, 111 East Wacker Drive, suite 800, Chicago, Illinois 60601-4360.

Dated: February 20, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92-4316 Filed 2-25-92; 8:45 am]

BILLING CODE 6720-01-M

[AC-14; OTS No. 0774]

First Federal Savings and Loan Association of Missoula, Missoula, MT: Final Action; Approval of Conversion Appplication

Notice is hereby given that on February 12, 1992, the Office of the Chief Counsel, Office of Thrift Supervision, acting pursuant to delegated authority, approved the application of First Federal Savings and Loan Association of Missoula, Missoula, Montana for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1776 G Street, NW., Washington, DC 20552, and the Office of Thrift Supervision, Seattle Area Office, 2201 Sixth Avenue, suite 1500, Seattle, Washington 98121–1889.

Dated: February 20, 1992

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92–4311 Filed 2–25–92; 8:45 a.m.]

BILLING CODE 6720-01-M

[AC-12; OTS No. 3622]

First Federal Savings Bank, Hopkinsville, KY: Final Action; Approval of Conversion Application

Notice is hereby given that on February 12, 1992, the Office of the Chief Counsel, Office of Thrift Supervision, acting pursuant to delegated authority, approved the application of First Federal Savings Bank, Hopkinsville, Kentucky for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1776 G Street, NW., Washington, DC 20552, and the Office of Thrift Supervision, Central Regional Office, 111 East Wacker Drive, suite 800, Chicago, Illinois 60601–4360.

Dated: February 20, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92–4313 Filed 2–25–92; 8:45 am]

BILLING CODE 6720-01-M

[AC-11; OTS No. 1114]

Heritage Federal Bank for Savings, Kingsport, TN: Final Action; Approval of Conversion Application

Notice is hereby given that on February 11, 1992, the Office of the Chief Counsel, Office of Thrift Supervision, acting pursuant to delegated authority, approved the application of Heritage Federal Bank for Savings, Kingsport, Tennessee, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1776 G Street, NW., Washington, DC 20552, and the Central Regional Office, Office of Thrift Supervision, 11 East Wacker Drive, Chicago, Illinois 60601.

Dated: February 20, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92–4315 Filed 2–25–92; 8:45 am]

BILLING CODE 6720-01-M

[AC-9; OTS No. 0887]

Home Federal Savings and Loan Association of Sioux Falls, Sioux Falls, SD: Final Action; Approval of Conversion Application

Notice is hereby given that on February 10, 1992, the Office of the Chief Counsel, Office of Thrift Supervision, acting pursuant to delegated authority, approved the application of Home Federal Savings and Loan Association of Sioux Falls, Sioux Falls, South Dakota for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1776 G Street, NW., Washington, DC 20552, and the Midwest Regional Office, Office of Thrift Supervision, 122 W. John Carpenter Freeway, Irving, Texas 75062.

Dated: February 20, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92–4317 Filed 2–25–92; 8:45 am]

BILLING CODE 6720-01-M

[AC-6; OTS No. 0581]

Reliable Savings Bank, PaSa, Bridgeville, PA: Final Action; Approval of Conversion Application

Notice is hereby given that on February 6, 1992, the Office of the Chief Counsel, Office of Thrift Supervision, acting pursuant to delegated authority, approved the application of Reliable Savings Bank, PaSa, Bridgeville, Pennsylvania for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1776 G Street, NW. Washington, DC 20552, and the Northeast Regional Office, Office of Thrift Supervision, 10 Exchange Place Centre, 17th Floor, Jersey City, New Jersey 07302.

Dated: February 20, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92–4320 Filed 2–25–92; 8:45 am]

BILLING CODE 6720-01-M

[AC-8; OTS No. 5956]

United Postal Savings Association, St. Louis, MO: Final Action; Approval of Conversion Application

Notice is hereby given that on February 7, 1992, the Office of the Chief Counsel, Office of Thrift Supervision, acting pursuant to delegated authority, approved the application of United Postal Savings Association, St. Louis, Missouri for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1776 G Street, NW., Washington, DC 20552, and the Midwest Regional Office, Office of Thrift Supervision, 122 W. John Carpenter Freeway, suite 600, Dallas, Texas 75261–9027.

Dated: February 20, 1992.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 92–4318 Filed 2–25–92; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233–3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395–7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer by March 27, 1992.

Dated: February 20, 1992.

By direction of the Secretary.

Frank E. Lalley,

Associate Deputy, Assistant Secretary for Information Resources Policies and Oversight.

Extension

1. Compliance Inspection Report, VA Form 26–1839.
2. The form is used by fee compliance inspectors to report the acceptability of residential construction and its conformity with standards prescribed by law for new housing proposed as security for guaranteed loans. Because compliance inspections are a common practice in the housing industry, only one burden hour is shown for reporting purposes.
3. Individuals or households; Small businesses or organizations.
4. 1 hour.
5. 15 minutes.
6. On occasion.
7. 225,000 respondents.

[FR Doc. 92–4359 Filed 2–25–92; 8:45 am]

BILLING CODE 8320-01-M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233–3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395–7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer by March 27, 1992.

Dated: February 20, 1992.

By direction of the Secretary.

Frank E. Lalley,

Associate Deputy, Associate Secretary for Information, Resources Policies and Oversight.

Extension

1. Request to Lender for Information RE: Status of Loan—Veteran Applied for Subsequent Loan, VA Form Letter 26–247
2. The form letter is used to contact the holder of a prior guaranteed home loan to check on the status of the loan and the veteran's payment record. The information is used to determine the veteran's eligibility for a new GI loan.
3. Businesses or other for-profit.
4. 5,509 hours.
5. 5 minutes.
6. On occasion.
7. 66,100 respondents.

[FR Doc. 92–4358 Filed 2–25–92; 8:45 am]

BILLING CODE 8320-01-M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233–3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washinton, DC 20503, (202) 395–7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before March 27, 1992.

Dated: February 20, 1992.

By direction of the Secretary.

Frank E. Lalley,

Associate Deputy, Assistant Secretary for Information, Resources Policies and Oversight.

Reinstatement

1. Application for Conversion, Government Life Insurance, VA Form 29–0152 (formerly VA Form Letter 29–165).
2. The form is used by the insured to apply for conversion of a term policy to a permanent plan of insurance.
3. Individuals or households.
4. 1,125 hours.
5. 15 minutes.
6. On occasion.
7. 4,500 respondents.

[FR Doc. 92–4357 Filed 2–25–92; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 38
Wednesday, February 26, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:02 a.m. on Friday, February 21, 1992, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to a certain financial institution.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Mr. Jonathan L. Fiechter, acting in the place and stead of Director T. Timothy Ryan, Jr. (Office of Thrift Supervision), and concurred in by Director Robert L. Clarke (Comptroller of the Currency), Vice Chairman Andrew C. Hove, Jr., and Chairman William Taylor, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii) and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street NW., Washington, DC.

Dated: February 21, 1992.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 92-4461 Filed 2-24-92; 8:50 am]

BILLING CODE 6714-0-M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of February 24, 1992.

A closed meeting will be held on Thursday, February 27, 1992, at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed door meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Roberts, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Thursday, February 27, 1992, at 10:00 a.m., will be:

Institution of injunctive actions.
Settlement of injunctive actions.
Settlement of administrative proceedings of an enforcement nature.
Institution of administrative proceedings of an enforcement nature.
Formal order of investigation.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Kaye Williams at (202) 272-2400.

Dated: February 20, 1992.

Jonatahn G. Katz,

Secretary.

[FR Doc. 92-4522 Filed 2-24-92; 2:34 pm]

BILLING CODE 8010-01-M

STATE JUSTICE INSTITUTE

TIME AND DATE:
9:00 a.m. to 5:00 p.m., March 6, 1991
9:00 a.m. to 5:00 p.m., March 7,1992

PLACE: State Justice Institute, 1650 King Street, Suite 600, Alexandria, VA 22314.

STATUS: The meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Portions Open to the Public

Business meeting and consideration of Fiscal Year 1992 Concept Papers and Applications.

Portions Closed to the Public

Discussion of internal personnel policies.

CONTACT PERSON FOR MORE INFORMATION: David I. Tevelin, Executive Director, State Justice Institute, 1650 King Street, Suite 600, Alexandria, Virginia 22314, (703) 684-6100.

David I. Tevelin,

Executive Director.

[FR Doc. 92-4486 Filed 2-24-92; 10:57 am]

BILLING CODE 6820-SC-M

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federal register

Wednesday
February 26, 1992

Part II

Office of Management and Budget

Budget Rescissions and Deferrals; Notice

VOL 57
ISS 38
FE 26
1992
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OFFICE OF MANAGEMENT AND BUDGET

Budget Rescissions and Deferrals

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $16.7 million, one revised deferral, and one new deferral of budget authority. Including the revised and the new deferrals, funds withheld in FY 1992 now total $5.6 billion.

The proposed rescission affects the Department of Housing and Urban Development. The deferrals affect the Agency for International Development and the Department of Agriculture.

The details of the proposed rescission and deferrals are contained in the attached report.

George Bush,

The White House, February 19, 1992.

BILLING CODE 3110-01-M

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

RESCISSION NO.	ITEM	BUDGET AUTHORITY
	Department of Housing and Urban Development:	
	Housing Programs:	
R92-1	Congregate services program	16,700
	Total, rescission	16,700

DEFERRAL NO.	ITEM	BUDGET AUTHORITY
	Funds Appropriated to the President:	
	Agency for International Development:	
D92-2A	International disaster assistance, executive	53,187
	Department of Agriculture:	
	Forest Service:	
D92-11	Timber salvage sales	131,549
	Total, deferrals	184,736

SUMMARY OF SPECIAL MESSAGE
FISCAL YEAR 1992
(in thousands of dollars)

	RESCISSIONS	DEFERRALS
Third special message:		
New items	16,700	131,549
Revisions to previous special message	---	12,483
Effects of the third special message	16,700	144,032
Amounts from previous special message	---	5,487,088
Total amount proposed to date in all special messages	16,700	5,631,120

R92-01

Department of Housing and Urban Development

Housing Programs

Congregate Services

Of the funds made available under this heading in Public Law 102-139, $16,700,000 are rescinded.

Rescission Proposal No. R92-1

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Housing and Urban Development	New budget authority....... $ 17,700,000 (P.L. 102-139)
BUREAU: Housing Programs	Other budgetary resources.. $ 9,291,675
Appropriation title and symbol: Congregate services program 86X0178 862/30178 861/20178	Total budgetary resources... $ 26,991,675 Amount proposed for rescission...............$ 16,700,000
OMB identification code: 86-0178-0-1-604	**Legal authority (in addition to sec. 1012):** ☐ Antideficiency Act ☐ Other ____________
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☒ Multi-year: Sept. 30, 1992 Sept. 30, 1993 (expiration date) ☒ No-Year	**Type of budget authority:** ☒ Appropriation ☐ Contract authority ☐ Other ____________

JUSTIFICATION: This appropriation funds supportive services for elderly residents of public and section 202 housing. An early evaluation of the results from the initial three- to five-year contracts suggested that the program did not achieve its primary goal of preventing premature institutionalization. Under a $10 million HOPE initiative, enacted in FY 1992, the Administration is proposing an alternative approach to this program by linking housing vouchers with supportive services. In addition, $16.3 million has been appropriated to fund service coordinators, who help elderly and disabled residents to access existing supportive service programs.

ESTIMATED PROGRAM EFFECT: No new contracts would be funded under this program, the 58 projects that are currently funded would continue to receive assistance through the end of FY 1992.

OUTLAY EFFECT: (in thousands of dollars):

1992 Outlay Estimate		Outlay Changes					
Without Rescission	With Rescission	FY 1992	FY 1993	FY 1994	FY 1995	FY 1996	FY 1997
7,604	7,604	---	-12,525	-4,175	---	---	---

Deferral No. D92-2A

Supplemental Report
Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D92-2 transmitted to Congress on September 30, 1991.

This revision increases by $12,483,350 the previous deferral of $40,703,701 in the International Disaster Assistance program, resulting in a total deferral of $53,187,051. The increase reflects funding provided by the Continuing Resolution for FY 1992. Country-specific plans have not yet been developed to effectively utilize these funds.

Deferral No. 92–2A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93–344

AGENCY: Funds Appropriated to the President **BUREAU:** Agency for International Development **Appropriation title and symbol:** International disaster assistance, Executive 1/ 11X1035	**New budget authority**........... * $ 63,194,000 (P.L. 102–105) **Other budgetary resources**..... *$ 17,081,251 **Total budgetary resources**...... * 80,275,251
	Amount to be deferred: **Part of year**........................... *$ 53,187,051 **Entire year**........................... ______
OMB identification code: 11–1035–0–1–151 **Grant program:** ☒ Yes ☐ No	**Legal authority (in addition to sec. 1013):** ☒ Antideficiency Act ☐ Other ______
Type of account or fund: ☐ Annual ☐ Multi-year: ______ (expiration date) ☒ No–Year	**Type of budget authority:** ☒ Appropriation ☐ Contract authority ☐ Other ______

JUSTIFICATION: *The International disaster assistance account allows the President to respond to humanitarian disaster relief efforts throughout the world. Almost $49 million in FY 1991 was not obligated at the beginning of FY 1992. In addition, over $31 million was made available through March 31, 1992 by the FY 1992 Continuing Resolution. Funds are deferred pending the development of country-specific plans to ensure that aid is provided in an efficient manner to those most in need. This deferral action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in FY 1991 (D91–11).

* Revised from the previous report.

Deferral No. 92–11

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93–344

AGENCY: Department of Agriculture	**New budget authority**.............. $ 120,385,000 (P.L. 94–588 & 101–512)
BUREAU: Forest Service	**Other budgetary resources**..... 181,548,574
Appropriation title and symbol: Timber salvage sales 1/ 12X5204	**Total budgetary resources**...... 301,933,574
	Amount to be deferred: **Part of year**............................ $ ________ **Entire year**............................ 131,548,574
OMB identification code: 12–9922–0–2–302	**Legal authority (in addition to sec. 1013):** ☒ Antideficiency Act ☐ Other ____________________
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multi–year: ____________ (expiration date) ☒ No–Year	**Type of budget authority:** ☒ Appropriation ☐ Contract authority ☐ Other

JUSTIFICATION: The Timber Salvage Sales fund was established under the provisions of the National Forest Management Act of 1976 to enable immediate harvesting of dead and dying trees when required by market conditions or catastrophes. Purchasers of dead, damaged, insect–infested, or downed timber are required to make monetary deposits into this fund to cover the preparation costs for future salvage sales.

The salvage sale program is a part of the timber sales program and has specific timber volume targets assigned. Specific timber volume targets are assigned based on current information on salvage opportunities. The Forest Service is pursuing a program to achieve maximum salvage volumes while protecting the full range of environmental values. Approximately 1.8 billion board feet of new and existing salvage sales is planned for FY 1992. This program will require $120 million in FY 1992. In addition, a buffer of $50 million is apportioned to be available for immediate response to additional salvage opportunities should they develop. Funds are deferred pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in FY 1991 (D91–10).

[FR Doc. 92–4310 Filed 2–25–92; 8:45 am]

BILLING CODE 3110–01–C

federal register

Wednesday
February 26, 1992

Part III

Department of Health and Human Services

Administration for Children and Families

Developmental Disabilities: Financial Assistance for the University Affiliated Program; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. 93632-92-2]

Developmental Disabilities: Availability of Financial Assistance for the University Affiliated Program

AGENCY: Administration on Developmental Disabilities (ADD), Administration for Children and Families (ACF).

ACTION: Announcement of availability of financial assistance for the university affiliated program.

SUMMARY: The Administration on Developmental Disabilities announces that applications are being accepted in Fiscal year 1992 for FY 1993 funding from universities in eligible States, Territories and Insular areas for the purpose of establishing new university affiliated programs or satellite centers, or for conducting feasibility studies leading to the establishment of university affiliated programs or satellite centers. Subject to availability of funds, up to four grants for new programs will be awarded to increase and improve services and programs for persons with developmental disabilities.

DATES: Closing date for receipt of applications is: April 27, 1992.

ADDRESSES: Applications should be sent to: Administration for Children and Families, Grant and Contracts Management Division, 200 Independence Avenue, SW., HHH Building, room 341–F, Washington, DC 20201, Attention: Margaret Tolson (202) 245–9016.

FOR FURTHER INFORMATION CONTRACT: Mickey Holton, Program Specialist, Program Development Division, ADD (202) 245–1963.

SUPPLEMENTARY INFORMATION:

Part I. General Information

A. Background

The Developmental Disabilities program is authorized by the Developmental Disabilities Services and Facilities Construction Act, 42 U.S.C. 6000, *et seq.* (the Act). This Act makes funds available to assist States to assure that persons with developmental disabilities receive appropriate care, treatment, habilitation and support services. Programs funded under the Act are:

- Basic State formula grants;
- Systems for protection and advocacy of individual rights;
- Grants to University Affiliated Programs for interdisciplinary training, exemplary services/technical assistance and information dissemination; and
- Grants for Projects of National Significance.

B. Description of University Affiliated Programs

Under Part D of the Act, grants are awarded to support a national network of university affiliated programs (UAPs) and satellite centers. These programs provide interdisciplinary training, exemplary service, technical assistance and information dissemination for allied health professionals, physicians and parents who provide services to or care for persons with developmental disabilities.

A major purpose of these grants is to ensure that there is a professional and paraprofessional work force prepared to meet the service needs of persons with developmental disabilities and their families. Section 153 of the Act (42 U.S.C. 6063) requires that the Administration on Developmental Disabilities (ADD) consider funding four new UAP or satellite center applicants in fiscal years 1991, 1992, and 1993.

This announcement solicits applications from universities to establish new university affiliated programs or satellite centers, or to conduct feasibility studies leading to the establishment of new UAPs or satellite centers in eligible States, Territories and Insular Areas having no UAPs and in States and Territories having underserved populations.

The term "university affiliated program," as defined by section 102(18) of the Act, 42 U.S.C. 6001 (18) means a program operated by a public or nonprofit private entity which is associated with, or is an integral part of, a college or university and which must carry out the following activities:

- *Training.* The UAP or satellite center must provide interdisciplinary training for personnel concerned with developmental disabilities, including parents of persons with developmental disabilities, professionals, paraprofessionals, students and volunteers. Training may be conducted at the facility and through outreach activities.
- *Service Demonstration.* The UAP or satellite center must provide a demonstration program of exemplary services relating to persons with developmental disabilities in settings which are integrated in the community.
- *Techical Assistance.* The UAP or satellite center must provide technical assistance to generic and specialized agencies. The purpose of the technical assistance is to assist the agencies to provide services to increase the independence, productivity, and integration into the community of persons with development disabilities, such as the development and improvement of quality assurance mechanisms.
- *Dissemination Activities.* The UAP or satellite center must have a mechanism to disseminate findings relating to the provision of exemplary services as referenced above. They must also provide researchers and government agencies sponsoring service-related research with information on the needs for further service-related research that will assist in increasing the independence, productivity, and integration into the community of persons with developmental disabilities.
- A *satellite center* is defined as a public or private nonprofit entity which is affiliated with one or more university affiliated programs and which—
- Functions as a community and regional extension of such a university affiliated program or programs in the delivery of services to persons with developmental disabilities and their families who reside in geographical areas where adequate services are not otherwise available;
- May engage in interdisciplinary training, provision of exemplary services, technical assistance and information dissemination activities as described for a university affiliated program; or
- Provides for interdisciplinary training for personnel concerned with direct or indirect services to persons with developmental disabilities and their families, and dissemination of findings relating to the provision of services to persons with developmental disabilities and their families.

A *feasibility study* is a study to determine the need for and feasibility of establishing a new university affiliated program or new satellite center.

C. Eligible Applicants

Any public or non-profit organization associated with or an integral part of a college or university which is located in a State, Territory or Insular Area currently not served by an ADD-funded UAP or satellite center is eligible to apply for funding to establish a university affiliated program or a satellite center, or to conduct a feasibility study. Those States, Territories or Insular Areas which have no organized ADD-sponsored program to provide interdisciplinary training and exemplary services on behalf of persons with developmental disabilities, experience greater shortages or properly trained personnel and appropriate services and do not receive the benefits or technical assistance provided by UAPs. These States, Territories or Insular Areas are:

Delaware
Rhode Island
Wyoming
Virgin Islands
American Samoa
Northern Mariana Islands
Guam
Republic of Palau

The ADD policy, in effect since 1987, has not changed regarding unserved States having first priority for new UAP grants. This policy is based on section 153(d)(3)(A), 42 U.S.C. 6063(d)(3)(A) of the Act which requires the Department to consider applications for grants for four new UAPS (or satellite centers) for FY 1991, 1992, and 1993 in addition to the UAPs currently funded. Further, section 153(d)(3)(B), 42 U.S.C. 6063 (d)(3)(B) of the Act states that such programs and centers shall, to the extent feasible, be geographically distributed for the purpose of serving States that are unserved by UAPs and satellite centers. If an insufficient number of quality applications, as determined by the peer review process, have been received from unserved States, this section of the Act allows the Secretary to consider applications from universities in States that currently are served by a UAP satellite center that are not able to serve particular geographic regions of the State. Successful applications must demonstrate a need for additional training within the State and exemplary service capacity to serve individuals within the State.

D. Available Funds

Subject to the availability of funds, ADD expects award up to four grants for four university affiliated programs or satellite centers. ADD anticipates a minimum of $200,000 will be awarded for the establishment of a new UAP; a minimum of $150,000 will be awarded for the establishment of a new satellite center; and a minimum of $10,000 will be awarded for a grant to conduct a feasibility study.

Grants awarded to new UAPs and satellite centers will be for project periods of one to three years. Feasibility study grants will cover a six-month project period, and, upon completion of the study, the grantee must submit a feasibility study report and notify ADD in writing of its intention to apply for funds as a UAP or satellite center.

The budget period for UAPs and satellite centers begins October 1, 1992 and ends June 30, 1993 (pending availability of funds). The budget period for feasibility study grants begins October 1, 1992 and ends March 31, 1993 (pending availability of funds). Thereafter, the budget period will be for 12 months.

In FY 1991, potential grantees in thirteen States, Territories and Insular Areas were eligible to apply to establish a university affiliated program or a satellite center, or to conduct a feasibility study. Also in FY 1991, ADD awarded two grants to establish university affiliated programs and one grant to conduct a feasibility study. In FY 1992, ADD awarded three grants to establish university affiliated programs which were deferred for funding under the FY 1991 expansion announcement.

Part II. Specific Responsibilities of the Applicant

A. Applicant Responsibilities

ADD is requesting applicants to prepare an application of no more than 30 double-spaced typewritten pages to text and 30 pages of appendices (25 pages of text for satellite centers and 25 pages of appendices); and no more than 14 pages of text and 10 pages of appendices for feasibility studies.

1. UAP or Satellite Center Applications

Applications must include all of the items below:

(a) A description and explanation of the ways the applicant program meets the legislative mandates for university affiliated programs or satellite centers under Part D of the act, as appropriate;

(b) A description and explanation of the ways university affiliated program and satellite center applicants meet, or plan to meet, each of the applicable program criteria for UAPs and satellite centers (See 45 CFR part 1388);

(c) The assurance that the requirement to establish a consumer advisory committee comprised of consumers, family members, representatives of State protection and advocacy systems, developmental disabilities councils (including State service agency directors), local agencies, and private nonprofit groups concerned with providing services for persons with developmental disabilities has been met; and

(9) An assurance that the requirement to provide an opportunity for comment to the general public in the State and to the Development Disabilities State Planning Council in which the program will be conducted or the satellite center is located has been met. (See section 153(b)(5) of the Act, 42 U.S.C. 6063(b)(5).)

2. Feasibility Study Applications

Applications to conduct feasibility studies must include all of the items below:

(a) A description of the existing program and a description of the need for the establishment of a new UAP or satellite center;

(b) A description of the activities planned for determining the feasibility of implementing a program to address each of the four major areas of UAP responsibility;

(c) The responsibilities, extent of participation in the project and qualifications of faculty and staff; and

(d) An assurance of affiliation and cooperation with one or more colleges or universities.

B. Grantee Share of the Project

Applicants for university affiliated program, satellite center, and feasibility study projects must provide matching funds of at least 25 percent from a source other than the Federal Government (one dollar match for every three dollars of Federal financial assistance requested). If the Federal share is $75,000, the required non-Federal share is $25,000 for a total project cost of $100,000. If, however, the university affiliated program, satellite center, or feasibility study targets people who live in urban or rural poverty areas, the Federal share may not exceed 90 percent of the project's necessary costs.

Part III. Criteria for Review and Evaluation of Applications for Unserved Areas

In considering how the grantee will carry out the responsibilities under part II of this announcement, competing applications for unserved areas will be reviewed and evaluated against the following criteria:

A. Objectives and Need for Assistance (25 Points)

Pinpoint any relevant physical, economic, social, financial, institutional, or other problems requiring a solution. Describe the needs of unserved or underserved populations within the State. Demonstrate the need for the assistance and state the principal and subordinate objectives for the project. Supporting documentation or other testimonies from concerned interests other than the applicant may be used. Any relevant data based on planning studies should be included or footnoted.

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B. Results or Benefits Expected (30 Points)

Identify results and benefits to be derived. The anticipated contribution to policy, practice, theory, and research should be indicated.

C. Approach (40 Points)

Outline a plan of action pertaining to the scope of work and detail how the proposed work will be accomplished for each project. Cite factors which might accelerate or decelerate the work and your reasons for taking this approach as opposed to others. Describe any unusual features of the project, such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvements. Provide for each assistance program quantitative projections of the accomplishments to be achieved, if possible. When accomplishments cannot be quantified, list the activities in chronological order to show the schedule of accomplishments and their target dates. Identify the kinds of data to be collected and maintained, and discuss the criteria to be used to evaluate the results and success of the project. Explain the methodology that will be used to determine if the needs identified and discussed are being met and if the results and benefits identified are being achieved. List each organization, collaborator, consultant, or other key individuals who will work on the project along with a short description of the nature of their contribution.

D. Geographic Location (5 Points)

Give the precise location of the project and area to be served by the proposed project. Maps or other graphic aids may be attached.

Part IV. Criteria for Review and Evaluation of Applications for Underserved Areas

In considering how the grantee will carry out the responsibilities under part II of this announcement, competing applications for underserved areas will be reviewed and evaluated against the following criteria:

A. Objectives and Need for Assistance (50 Points)

Provide a detailed review of the nature and scope of present UAP services in the State. This should include the number of individuals served, services provided, and organization (including the staffing pattern) of the current UAP. Pinpoint any relevant physical, economic, social, financial, institutional, or other problems requiring a solution. Show how the geographic location of the proposed UAP strategically meets the needs of an underserved population. Demonstrate the need for the assistance and state the principal and subordinate objectives for the project. Supporting documentation or other testimonies from concerned interests other than the applicant may be used. Any relevant data based on planning studies should be included or footnoted.

B. Results or Benefits Expected (20 Points)

Identify results and benefits to be derived. The anticipated contribution to policy, practice, theory, and research should be indicated.

C. Approach (30 Points)

Outline a plan of action pertaining to the scope of work and detail how the proposed work will be accomplished for each project. Cite factors which might accelerate or decelerate the work and your reasons for taking this approach as opposed to others. Describe any unusual features of the project, such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvements. Provide for each assistance program quantitative projections of the accomplishments to be achieved, especially as they relate to meeting the needs of an unserved population. When accomplishments cannot be quantified, list the activities in chronological order to show the schedule of accomplishments and their target dates. Identify the kinds of data to be collected and maintained, and discuss the criteria to be used to evaluate the results and success of the project. Explain the methodology that will be used to determine if the needs identified and discussed are being met and if the results and benefits identified are being achieved. List each organization, collaborator, consultant, or other key individuals who will work on the project along with a short description of the nature of their contribution.

Part V. The Application Process

A. Availability of Forms

All instructions and forms for submittal of applications are included in an application kit available upon request from the Administration on Developmental Disabilities. The application kit, including certifications regarding drug-free workplace, debarment and lobbying, as well as additional copies of this announcement may be obtained by writing or telephoning: Mickey Holton, Administration on Developmental Disabilities, Program Development Division, 200 Independence Avenue, SW., Hubert H. Humphrey Building, room 336D, Washington, DC 20201, Telephone (202) 245–1963.

B. Application Submission

One signed original and two copies of the grant application must be mailed or hand delivered to: Department of Health and Human Services, Administration on Children and Families, Grants and Contracts Management Division, 200 Independence Avenue, SW., HHH Building, room 341–F, Washington, DC 20201, Attn: Margaret Tolson.

The original and the copies should be stapled in the upper left corner.

In order to be considered for a grant under this program announcement, an application must be submitted in accordance with the instructions provided in the application kit and in the manner required by this announcement. The application must be executed by an individual authorized to act for the applicant agency and to assume responsibility for the obligations imposed by the terms and conditions of the grant award.

C. Application Consideration

Applications which are complete and conform to the requirements of this program announcement are subject to a competitive peer review and evaluation by qualified individuals. Applicants will be scored against the evaluation criteria listed above. The Commissioner, ADD, determines the final action to be taken with respect to each grant application for this program.

After the Commissioner has made the final selection, unsuccessful applicants will be notified in writing of this final decision. The successful applicants will be notified through the issuance of a Financial Assistance Award which sets forth the amount of funds awarded, the budget period for which support is given, the non-Federal share requirements, and the total period for which project support is contemplated.

D. Closing Date for Receipt of Application

The closing date for receipt of all applications under this Program Announcement is April 27, 1992.

1. *Mailed applications:* Applications shall be considered as meeting the deadline if they are either:

a. received on or before the deadline date at the ACF Grants Office, or

b. sent on or before the deadline date and received by the granting agency in time for the independent review under the Health and Human Services Grants Administration Manual, chapter 1–62.

(Applicants are cautioned to request a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be accepted as proof of timely mailing.)

2. *Applications submitted by other means:* Applications which are not submitted in accordance with the above criteria shall be considered as meeting the deadline only if they are physically received before close of business on or before the deadline date. Hand delivered applications will be accepted at the ACF Grants and Contracts Management Division Office during the normal working hours of 9 a.m. to 5:30 p.m., Monday through Friday.

3. *Late applications:* Applications which do not meet criteria one and two above are considered late applications and will not be considered.

4. *Extension of deadline:* The Administration on Developmental Disabilities may extend the deadline for all applicants because of acts of God such as floods, hurricanes, etc., or when there is widespread disruption of the mail. However, if ADD does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicant.

E. Paperwork Reduction Act of 1980

Under the Paperwork Reduction Act of 1980, Public Law 96–511, the Department is required to submit to the Office of Management and Budget (OMB) for review and approval any reporting and recordkeeping requirements in regulations including program announcements. This program announcement does not contain information collection requirements beyond those approved for UAP grant applications by OMB.

F. Notifications Under Executive Order 12371, State Single Point of Contact

University Affiliated Programs, Satellite Centers and the relevant feasibility study grants are not covered by Executive Order 12372 (Form 424, Item 16).

(Catalog of Federal Domestic Assistance Program Number 93.632 Developmental Disabilities—University Affiliated Programs)

Dated: January 6, 1992.

Deborah L. McFadden,

Commissioner, Administration on Developmental Disabilities.

[FR Doc. 92–4394 Filed 2–25–92; 8:45 am]

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February 26, 1992

Part IV

The President

Presidential Determination No. 92-14—Determination Under Section 2(b)(2) of the Export-Import Bank Act of 1945, as Amended: Ethiopia

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Presidential Documents

Title 3—

The President

Presidential Determination No. 92-14 of February 10, 1992

Determination Under Section 2(b)(2) of the Export-Import Bank Act of 1945, as Amended: Ethiopia

Memorandum for the Secretary of State

Pursuant to the authority vested in me by section 2(b)(2)(C) of the Export-Import Bank Act of 1945, as amended (the Act), 12 U.S.C. 635(b)(2)(C), I hereby determine that Ethiopia (designated "Socialist Ethiopia" in section 2(b)(2)(B)(ii) of the Act) has ceased to be a Marxist-Leninist country within the definition of such term in subparagraph (B)(i) of such section.

You are directed to report this determination to the Congress and publish it in the **Federal Register**.

THE WHITE HOUSE,
Washington, February 10, 1992.

[FR Doc. 92-4596
Filed 2-24-92; 5:07 pm]
Billing code 3195-01-M

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Part V

Department of Transportation

Federal Aviation Administration

Receipt of Noise Compatibility Program and Request for Review; Notice

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Receipt of Noise Compatibility Program and Request for Review; Ryan Airfield, Tucson, AZ

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces that it is reviewing a proposed noise compatibility program that was submitted for Ryan Airfield under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) (hereinafter referred to as "the Act") and 14 CFR part 150 by the Tucson Airport Authority. This program was submitted subsequent to a determination by FAA that associated noise exposure maps submitted under 14 CFR part 150 for Ryan Airfield were in compliance with applicable requirements effective April 5, 1990. The proposed noise compatibility program will be approved or disapproved on or before August 8, 1992.

EFFECTIVE DATE: The effective date of the start of FAA's review of the noise compatibility program is February 10, 1992. The public comment period ends April 9, 1992.

FOR FURTHER INFORMATION CONTACT: David B. Kessler, Airport Planner, Airports Division, AWP–611.2, Mailing Address: P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009–2007, Telephone: 310/297–1534. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA is reviewing a proposed noise compatibility program for Ryan Airfield which will be approved or disapproved on or before August 8, 1992. This notice also announces the availability of this program for public review and comment.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) part 150, promulgated pursuant to title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The FAA has formally received the noise compatibility program for Ryan Airfield, effective on February 10, 1992. It was requested that the FAA review this material and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before August 8, 1992.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR part 150, § 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden in interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, 800 Independence Avenue, SW., room 617, Washington, DC 20591.

Federal Aviation Administration, Western-Pacific Region, Airports Division, room 3E24, 15000 Aviation Boulevard, Hawthorne, California 90261.

Tucson Airport Authority, 7005 South Plumer Avenue, Tucson, Arizona 85706.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Hawthorne, California on February 10, 1992.

Herman C. Bliss,

Manager, Airports Division, AWP–600, Western-Pacific Region.

[FR Doc. 92–4398 Filed 2–25–92; 8:45 am]

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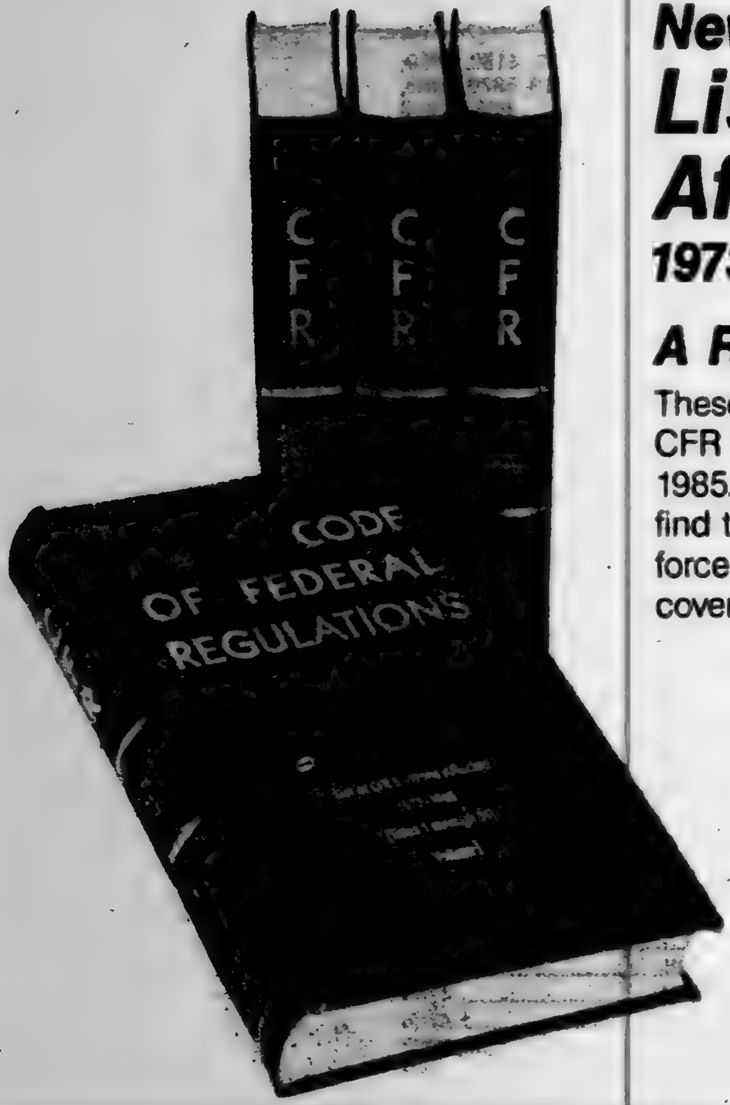

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List of CFR Sections Affected

1973-1985

A Research Guide

These four volumes contain a compilation of the "List of CFR Sections Affected (LSA)" for the years 1973 through 1985. Reference to these tables will enable the user to find the precise text of CFR provisions which were in force and effect on any given date during the period covered.

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2-27-92
Vol. 57 No. 39

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Thursday
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federal register

Thursday
February 27, 1992

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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Presidential Documents

Title 3—

The President

Memorandum of February 13, 1992

Delegation of Authority With Respect to the Conventional Forces in Europe Treaty Implementation Act

Memorandum for the Secretary of State and the Secretary of Defense

By virtue of the authority vested in me by the Constitution and laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby delegate to the Secretary of Defense the functions vested in me by section 93(a) and section 94 of the Arms Export Control Act, as amended (the "Act"), and to the Secretary of State the functions vested in me by section 93(f) of the Act. Consistent with section 2 of the Act, transfers of defense articles under section 93(a) shall be subject to the policy direction of the Secretary of State, including the determination of whether such transfers shall occur.

The Secretary of State is authorized and directed to publish this memorandum in the **Federal Register**.

Bush

THE WHITE HOUSE,
Washington, February 13, 1992.

[FR Doc. 92–4679
Filed 2–25–92; 3:23 pm]
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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

FEDERAL ELECTION COMMISSION

11 CFR Parts 9034, 9036, and 9037

[Notice 1992-3]

Matching Fund Submission and Certification Procedures for Presidential Primary Candidates

AGENCY: Federal Election Commission.

ACTION: Final rule: Correction to announcement of effective date.

SUMMARY: This document corrects the effective date for the final rules setting forth procedures for matching fund submissions by Presidential primary candidates at 11 CFR 9034.1, 9034.5, 9036.2, 9036.4, 9036.5, 9036.6, 9037.1 and 9037.2. The announcement of effective date was published Wednesday, November 6, 1991 at 56 FR 56570. These regulations implement portions of the Presidential Primary Matching Payment Account Act. 26 U.S.C. Chapter 96. The Commission announces that these rules are effective as of November 7, 1991.

EFFECTIVE DATE: November 7, 1991.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street NW., Washington, DC 20463, (202) 219-3690 or toll free (800) 424-9530.

SUPPLEMENTARY INFORMATION: A correction to the effective date for the matching fund submission regulations is being made to ensure that these rules will appear in the 1992 Code of Federal Regulations. Accordingly, the publication on November 6, 1991 of the Announcement of Effective Date, which was the subject of FR Doc. 91-26755 is corrected as follows:

1. On page 56570, in the third column, under **SUMMARY:** in the last two lines of the paragraph, "November 6, 1991" is corrected to read "November 7, 1991".

2. On page 56570, in the third column, under **EFFECTIVE DATE:** "November 6, 1991" is corrected to read "November 7, 1991".

3. On page 56571, in the first column, under "Announcement of Effective Date", line 5, "November 6, 1991." is corrected to read "November 7, 1991."

Dated: February 21, 1992.

Scott E. Thomas,

Vice Chairman, Federal Election Commission.

[FR Doc. 92-4435 Filed 2-26-92; 8:45 am]

BILLING CODE 6715-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92-NM-15-AD; Amendment 39-8180; AD 92-05-01]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, which currently requires repetitive inspections of the engine number two and engine number three upper strut wing leading edge compartments to detect chafing of the fuel supply tube and the electrical power feeder cables; repetitive inspections of the strut drains to verify that the drains are not obstructed; corrective action, if necessary; and a submission of a report of inspection findings. The amendment changes the applicability to delete Model 747-200 and 747-300 series airplanes, and to include additional Model 747-400 series airplanes. This amendment also deletes the requirement for inspections of the strut drains, deletes the required reporting of inspection findings, and adds an optional terminating modification. This amendment is prompted by the results of inspections required by the existing AD and the development of a modification that eliminates the need for the required inspections. The actions specified in this AD are intended to prevent fire in the number two and three enging struts.

DATES: Effective March 13, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 13, 1992.

Comments for inclusion in the Rules Docket must be received on or before April 27, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-15-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Jon Regimbal, Seattle Aircraft Certification Office, Propulsion Branch, ANM-140S; telephone (206) 227-2687. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: On January 3, 1992, the FAA issued AD 91-20-51, Amendment 39-8152 (57 FR 3928, February 3, 1992) to require repetitive inspections for damage of and adequate clearance between engine fuel supply tubes and power feeder cables in the number two and three engine struts, and to require repetitive inspections of the strut drains to verify that the drains are not obstructed. That action was prompted by a fire that occurred in the number two engine strut on a Boeing Model 747-400 series airplane. Although the investigation is continuing, the fire appeared to have been caused by electrical arcing between the engine number one electrical power feeder cable and the engine number two fuel feed line in the upper strut wing leading edge compartment of engine strut number two. Arcing could result from chafing or other damage to the electrical power feeder cables. Arcing in this location can create a hole in the fuel tube and provide a simultaneous ignition source. This condition, if not corrected, could result in a fire within the engine strut.

Since issuance of that AD, the FAA has received new data that indicate certain changes to the applicability and requirements of the existing rule are necessary:

The results of the inspections required by AD 91-20-51 have revealed that no chafing/clearance problems have occurred on any Model 747-200 or Model 747-300 series airplanes. The FAA has reconsidered the applicability of the existing rule with respect to these airplanes and, due to certain design differences of the subject area, has determined that the addressed unsafe condition does not exist with respect to these series airplanes. The applicability of the rule has been revised to delete these airplane series.

Even though provisions were made during the production of later airplanes in the Model 747-400 series to increase the clearance between engine fuel supply line and electrical power feeder cable, some operators have reported that the clearance on these planes has been found to be less than that required by AD 91-20-51. In light of this, and the fact that the later-produced Model 747-400 series airplanes are similar in design to the earlier-produced airplanes, the FAA has determined that the potential unsafe condition exists with respect to these airplanes. The applicability of the rule, therefore, has been expanded to include these later Model 747-400 series airplanes.

An inspection of the engine strut number two on the incident airplane after the strut fire, revealed that the flammable fluid drains in the strut were blocked. The blockage could allow fuel to collect within the strut and increase the fire risk. For this reason, AD 91-20-51 required repetitive inspections of the strut drains for blockage. However, further investigation by the operator and the manufacturer has revealed that the drain on the subject airplane actually was blocked by fire debris; the drains were not blocked prior to the fire. Based on this information, the FAA has determined that repetitive inspections of the strut drains, as required by AD 91-20-51, are no longer necessary. This final rule has deleted that requirement.

Reports obtained from operators, in response to the requirement in AD 91-20-51, have supplied the FAA with sufficient data to determine how widespread the identified problems are with respect to the Model 747 fleet. The FAA, therefore, has determined that the continuing submission of such reports is no longer necessary; accordingly, the requirement for such reporting has been deleted from this final rule.

The FAA has recently reviewed and approved Boeing Alert Service Bulletin 747-24A2168, Revision 1, dated December 5, 1991, which describes procedures for inspection of the clearance between the power feeder cables and fuel tube. The service bulletin also describes procedures for a modification of the engine number two and engine number three upper strut wing leading edge compartments, consisting of the installation of a new cable support bracket. Once this modification is installed, repetitive inspections for clearance between the cables are no longer necessary. Additionally, the effectivity of the service bulletin has been revised to include additional Model 747-400 series airplanes.

The FAA has included the installation of the modification, described in the revised Boeing service bulletin, as an optional terminating action for the repetitive inspections required by this rule. This is considered interim action. The FAA intends to revise this rule to require modification of the electrical power feeder cable installation in engine struts two and three. However, the proposed compliance time for installation of the modification is sufficiently long so that notice and opportunity for prior public comment would not be impracticable.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92-NM-15-AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AIRWORTHINESS DIRECTIVES]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–8152 (57 FR 3928, February 3, 1992), and by adding an airworthiness directive (AD), amendment 39–8180, to read as follows:

92–05–01. Boeing: Amendment 39–8180. Docket 92–NM–15–AD. Supersedes AD 91–20–51, Amendment 39–8152.

Applicability: Model 747–400 series airplanes, line numbers 696 to 843, 845 to 850, 852 to 870, 872 to 875, 877, 880 to 884 and 887; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent fire within the engine strut, accomplish the following:

(a) For airplanes having line numbers 696 through 734, inclusive: Within 10 days after February 18, 1992 (the effective date of AD 91–20–51, Amendment 39–8152), inspect the electrical power feeder cables and the engine fuel supply tube in engine struts two and three for damage or chafing and minimum clearance of 0.375 inch, in accordance with Boeing Alert Service Bulletin 747–24A2168, dated September 24, 1991, or Revision 1, dated December 5, 1991. If damage is found or if clearance is not within the specified limits, prior to further flight, repair any damage in accordance with that service bulletin, and relocate the electrical power feeder cables so that the clearance is more than 0.375 inch. Repeat this inspection at the following intervals:

(1) If the clearance is less than 0.75 inch, repeat this inspection at the intervals not to exceed 500 flight hours.

(2) If the clearance is 0.75 inch or greater, repeat the inspection at intervals not to exceed 1,000 flight hours.

(b) For airplanes having line numbers 735 to 843, 845 to 850, 852 to 870, 872 to 875, 877, 880 to 884, and 887: Within 30 days after the effective date of this AD, inspect the electrical power feeder cables and engine fuel supply tube in engine strut number three for damage or chafing and minimum clearance of 0.375 inch, in accordance with Boeing Alert Service Bulletin 747–24A2168, Revision 1, dated December 5, 1991. If damage is detected or if clearance is not greater than the specified limits, prior to further flight, repair any damage in accordance with that service bulletin, and relocate the electrical power feeder cables so that the clearance is more than 0.375 inch. Repeat this inspection at the following intervals:

(1) If the clearance is less than 0.75 inch, repeat the inspection at intervals not to exceed 500 flight hours.

(2) If the clearance is 0.75 inch or greater, repeat the inspection at intervals not to exceed 1,000 flight hours.

(c) Modification of the electrical power feeder cable installation in engine struts two and three, in accordance with Boeing Alert Service Bulletin 747–24A2168, Revision 1, dated December 5, 1991, constitutes terminating action for the inspections required by paragraphs (a) and (b) of this AD.

(d) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, ACO.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) The inspection and modification required by this AD shall be done in accordance with Boeing Alert Service Bulletin 747–24A2168, Revision 1, dated December 5, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

(g) This amendment (39–8180), AD 92–05–01, becomes effective March 13, 1992.

Issued in Renton, Washington, on February 11, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–4463 Filed 2–26–92; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 172

[Docket No. 82F–0295]

Food Additives Permitted for Direct Addition to Food for Human Consumption; Acesulfame Potassium

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; denial of requests for a stay of effective date and for a hearing; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is denying the request for a stay of the effective date of the amendment to the food additive regulations that provides for the safe use of acesulfame potassium as a nonnutritive sweetener in some foods. This request asked that the final rule be stayed until the issues raised in the objectives are resolved in a hearing. FDA is also denying the request for a hearing on the objections to this final rule. After reviewing the objections to the amendment and the request for a hearing, the agency has concluded that the objections do not raise issues of material fact that justify granting a hearing or revoking the regulation.

EFFECTIVE DATE: This document confirms July 28, 1988, as the effective date.

FOR FURTHER INFORMATION CONTACT: Laura M. Tarantino, Center for Food Safety and Applied Nutrition (HFF–333), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–8523.

SUPPLEMENTARY INFORMATION:

I. Introduction

In the **Federal Register** of July 28, 1988 (53 FR 28379), FDA issued a final rule permitting the use of acesulfame potassium as a nonnutritive sweetener. This regulation allows use of the additive as a table-top sweetener and as an ingredient in chewing gum, and in dry bases for beverages, instant coffee and tea, gelatins, puddings, pudding desserts, and dairy product analogs. This regulation, codified at § 172.800 (21 CFR 172.800), was issued in response to a food additive petition filed by American Hoechst Corp. (now Hoechst Celanese Corp.). Acesulfame potassium is the potassium salt of 6-methyl-1,2,3-oxathiazine-4(3*H*)-one-2,2-dioxide.

In the preamble to the final rule, FDA outlined major portions of its review of the petition and responded to safety questions raised in a letter dated September 23, 1987, to the agency from the Center for Science in the Public Interest (CSPI). These questions related to two long-term rat studies and a short-term study in rats made diabetic by treatment with streptozotocin. CSPI had examined the reports of these studies under the provisions of the Freedom of Information Act before writing its letter. After publication of the final rule, CSPI had an opportunity to review the reports on all major studies, as well as the FDA memoranda reviewing those studies.

II. Objections, Request for a Hearing, and Request for a Stay

Following publication of the final rule, CSPI filed timely objections (CSPI Obj.) to the regulation and requested a formal evidentiary public hearing on the issues raised in its objections. The objections sought revocation of the final rule on acesulfame potassium. CSPI also requested that the regulation be stayed until these issues are resolved in a hearing.

III. Standards for Granting a Hearing and a Stay

Under section 409(e) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348(e)), a request for a hearing on the issuance of a food additive regulation does not automatically stay or delay the effectiveness of that regulation. That section does, however, grant the Secretary of Health and Human Services the discretion to stay the effectiveness of the regulation (21 U.S.C. 348(e)). The Secretary's authority has been delegated to the Commissioner of Food and Drugs (21 CFR 5.10). In its stay request, CSPI argues that it has justified a discretionary stay of the food additive regulation for acesulfame potassium and requests a stay until a hearing is held to resolve the objections.

Section 409(f) of the act (21 U.S.C. 348(f)) provides that any person adversely affected by a final food additive regulation may file objections, specifying with particularity the provisions of the order "deemed objectionable, stating reasonable grounds therefor," and may request a public hearing based upon such objections. FDA may deny a hearing request if the objections to the regulation do not raise genuine and substantial issues of fact that can be resolved at a hearing. Specific criteria for determining whether a hearing has been justified are set forth in § 12.24(b) (21 CFR 12.24(b)). A hearing will be granted if the material submitted shows the following:

> (1) There is a genuine and substantial issue of fact for resolution at a hearing. A hearing will not be granted on issues of policy or law.
>
> (2) The factual issue can be resolved by available and specifically identified reliable evidence. A hearing will not be granted on the basis of mere allegations or denials or general descriptions of positions and contentions.
>
> (3) The data and information submitted, if established at a hearing, would be adequate to justify resolution of the factual issue in the way sought by the person. A hearing will be denied if the Commissioner concludes that the data and information submitted are insufficient to justify the factual determination urged, even if accurate.
>
> (4) Resolution of the factual issue in the way sought by the person is adequate to justify the action requested. A hearing will not be granted on factual issues that are not determinative with respect to the action requested, e.g., if the Commissioner concludes that the action would be the same even if the factual issue were resolved in the way sought * * *.

A party seeking a hearing is required to meet a "threshold burden of tendering evidence suggesting the need for a hearing." *Costle* v. *Pacific Legal Foundation*, 445 U.S. 198, 214–215 (1980) *reh. den.*, 445 U.S. 947 (1980), citing *Weinberger* v. *Hynson, Westcott & Dunning, Inc.*, 412 U.S. 609, 620–621 (1973). An allegation that a hearing is necessary to "sharpen the issues" or to "fully develop the facts" does not meet this test. *Georgia Pacific Corp.* v. *U.S. E.P.A.*, 671 F.2d 1235, 1241 (9th Cir. 1982). If a hearing request fails to identify any factual evidence that would be the subject of a hearing, there is no point in holding one. In judicial proceedings, a court is authorized to issue summary judgment without an evidentiary hearing whenever it finds that there are no genuine issues of material fact in dispute and a party is entitled to judgment as a matter of law. (See Rule 56, Federal Rules of Civil Procedure.) The same principle applies in administrative proceedings.

A hearing request must not only contain evidence, but that evidence should raise a material issue of fact concerning which a meaningful hearing might be held. *Pineapple Growers Association* v. *FDA*, 673 F.2d 1083, 1085 (9th Cir. 1982). Where the issues raised in the objection are, even if true, legally insufficient to alter the decision, the agency need not grant a hearing. *Dyestuffs and Chemicals, Inc.* v. *Flemming*, 271 F.2d 281 (8th Cir. 1959), *cert. denied*, 362 U.S. 911 (1960). FDA need not grant a hearing in each case where an objector submits additional information or posits a novel interpretation of existing information. (See *United States* v. *Consolidated Mines & Smelting Co.*, 455 F.2d 432 (9th Cir. 1971).) In other words, a hearing is justified only if the objections are made in good faith and if they "draw in question in a material way the underpinnings of the regulation at issue." *Pactra Industries* v. *CPSC*, 555 F.2d 677 (9th Cir. 1977). Finally, courts have uniformly recognized that a hearing need not be held to resolve questions of law or policy. (See *Citizens for Allegan County, Inc.* v. *FPC*, 414 F.2d 1125 (D.C. Cir. 1969); *Sun Oil Co.* v. *FPC*, 256 F.2d 233, 240 (5th Cir.), *cert. denied*, 358 U.S. 872 (1958).)

In summary, a hearing request should present sufficient credible evidence to raise a material issue of fact and the evidence must be adequate to resolve the issue as requested and to justify the action requested.

IV. Resolution of CSPI's Stay Request

The agency is responding to CSPI's objections in this document. Because FDA has determined, as set forth below, that a hearing need not be held, the question of a stay pending a hearing is moot.

V. Analysis of Objections and Response to Hearing Requests

CSPI raised four specific objections to the agency's final rule for acesulfame potassium, and requested a hearing on specific factual issues raised by each objection. In particular, CSPI filed objections to agency conclusions drawn from each of the three long-term safety studies of acesulfame potassium conducted in rodents.[1] In the preamble to the final rule (53 FR 28379, July 28, 1988), the agency addressed a number of the issues raised in these objections in responding to CSPI's letter of September 23, 1987. Below FDA addresses each of the four objections, as well as the data and information filed in support of each, comparing each to the standards for granting a hearing in § 12.24.

In addition to its four objections, CSPI observed that the chronic studies submitted to establish the safety of acesulfame potassium were performed over a decade ago, when approval of the sweetener was sought in Europe, and asserted "Test standards in these countries may not measure up to FDA standards." CSPI did not identify any specific evidence to support its assertion, nor did CSPI request a hearing on this point.

The agency has never condemned a laboratory solely on the basis of its location, and, in fact, has accepted many satisfactory studies from a variety of European laboratories in support of several food additives. Also, the agency has inspected many European laboratories under its good laboratory practice regulations without finding any difference in overall quality between these laboratories and laboratories in the United States. The agency reached its decision on the safety of acesulfame potassium only after concluding that the available studies were satisfactory to establish safety. CSPI has not presented any specific evidence to challenge that conclusion.

A. Adequacy of the Second Long-Term Rat Study

In concluding that acesulfame potassium had been shown to be safe,

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[1] Among the studies submitted by the petitioner in support of the safety of acesulfame potassium were three long-term (chronic) toxicity and carcinogenicity studies performed in rodents: (1) a study in Swiss mice; (2) a study in CIVO-bred Wistar rats (hereinafter referred to as the "first" rat study); and (3) a study in CPB–WU Wistar rats (hereinafter referred to as the "second" rat study). The agency discussed its evaluation of these studies in the preamble to the acesulfame potassium final rule (53 FR 28379, July 28, 1988).

FDA reviewed a long-term study conducted in CPB-WU Wistar rats (the "second rat study"). In the preamble to the final rule, the agency concluded that this study was adequate for the evaluation of a food additive and that it demonstrated the safety of acesulfame potassium. (See 53 FR 28379, 28380, and Ref. 1.) Implicit in FDA's determination of the second rat study's adequacy was that the dosing levels in this study were appropriate.

In its first objection, CSPI contends that the dosing levels in the second rat study were not high enough. (See CSPI Obj., p. 2.) In particular, CSPI asserts that the highest dose in this study (3 percent acesulfame potassium in the diet) did not reach the maximum tolerated dose (MTD). The MTD is the dose in a chronic study that elicits signs of minimal toxicity without substantially altering the normal lifespan of the test species due to effects other than tumors.) CSPI claims that doses for this study were selected on the basis of a subchronic study in rats which showed no toxicity at 3 percent and minimal effects but no distinct toxicity at 10 percent test compound in the diet. Based upon the results of the subchronic study, CSPI claims that the MTD of acesulfame potassium is 10 percent and that the highest level of acesulfame potassium used in the long-term study (3 percent) is less than the MTD. (See CSPI Obj., pp. 2 and 3.)

To support its objection, CSPI cities FDA's "Toxicological Principles for the Safety Assessment of Direct Food Additives and Color Additives Used in Food" (the FDA Redbook); an excerpt from a publication of the International Agency for Research on Cancer (IARC), "Long-Term and Short-Term Assays for Carcinogens: A Critical Appraisal" (the IARC Report); an FDA memorandum dated March 26, 1987; and data from the sub-chronic and second long-term studies in rats, which data were not specifically identified. (See CSPI Obj., pp. 4 and 5.)

CSPI's objection to the adequacy of dosing in the second rat study raises two separate questions: (1) Was the study required to use the MTD? (2) Was the study's 3 percent dose level sufficiently high for a proper assessment of the carcinogenic potential of acesulfame potassium?

As discussed in detail below, FDA is denying CSPI's request for a hearing on its first objection because the data and information identified by CSPI in support of this objection, even if established at a hearing, would not be adequate to justify resolution in CSPI's favor of the factual question about adequacy of dosing. (See § 12.24(b)(3).)

In particular, FDA is denying CSPI's first objection to the extent that it asserts that use of the MTD in a chronic study is required. The principal information cited by CSPI to support its contention that use of the MTD is required is the FDA Redbook (Ref. 2). (See CSPI Obj., p. 3) However, use of the MTD is not required by the FDA Redbook or any agency regulation.

The FDA Redbook contains general principles that serve as guidance for assessing the safety of direct food additives and color additives used in food; these principles are to be applied using good scientific judgment. The FDA Redbook represents the agency's best advice to manufacturers of food and color additives on how to satisfy that act's safety standard of "reasonable certainty * * * that a substance is not harmful." (See 21 CFR 170.3(i).) These general guiding principles are not binding requirements for manufacturers or for the agency.[2] Indeed, in a recent decision on FD&C Blue No. 2, the appellate court held that the criteria in the FDA Redbook are not binding and that deference to agency expertise is especially appropriate with respect to the selection of the MTD. (See *Simpson* v. *Young*, 854 F. 2d 1429, 1434–35 (D.C. Cir. 1988).)

None of the remaining data and information cited by CSPI, even if established at a hearing, would support a conclusion that use of the MTD is mandatory in a chronic study. In particular, the excerpt from the IARC report cited by CSPI discusses the consequence of selecting too low a dose for a chronic study; the report does not establish a requirement that the MTD be used (Ref. 3, p. 34). (See CSPI Obj., p. 4, 4. 11.) Likewise, the FDA memorandum dated March 26, 1987, discussed the apparent no-effect level for acesulfame potassium of 3 percent; it did not address the use of the MTD generally or discuss specifically the MTD for the second rat study. (See CSPI Obj., p. 4.) Finally, CSPI did not identify the data from the second rat study and the subchronic study on which they were relying; these data, however, even if identified, could not themselves answer the question of whether the MTD must be achieved in order for a chronic study to be valid.

FDA is also denying CSPI's request for a hearing on its first objection to the extent that the objection asserts that testing at the 3 percent dose level was not sufficiently high for a proper assessment of the carcinogenicity of acesulfame potassium. The sole basis for CSPI's objection to the dosing in this study is its claim that the MTD was not achieved. (See CSPI Obj., pp. 2 and 3.) As shown above, CSPI has provided no data or information establishing that the MTD must be reached in order for a chronic study to be valid. Thus, the data and other information cited by CSPI do not justify a conclusion that the dosing in the second rat study was not sufficiently high. (See § 12.24(b)(3).)

Finally, CSPI asserts that the FDA Redbook requires two rodent studies to establish the safety of a food additive such as acesulfame. (See CSPI Obj., p. 5.) CSPI further asserts that if the second rat study is determined to be inadequate, there will no longer be two rodent studies to support the safety of acesulfame potassium. Again, the data and information identified by CSPI, even if established at a hearing, would not be adequate to justify resolution of this issue in CSPI's favor. (See 21 CFR 12.24(b)(3).) The only information cited to establish that two rodent studies are required for approval is the FDA Redbook. (See CSPI Obj., p. 5.) As previously noted, the FDA Redbook does not establish binding requirements; instead, the FDA Redbook provides guidance to those conducting studies to assess the safety of direct food additives such as acesulfame potassium. Because the information cited is not sufficient to establish CSPI's factual assertion, a hearing need not be granted on this issue. (See § 12.24(b)(3).)

B. Adequacy of the Chronic Mouse Study

FDA relied upon the chronic mouse study of acesulfame potassium when it concluded that this sweetner had been shown to be safe. By relying on this study, FDA implicitly concluded that this study was adequate to assess the carcinogenicity of acesulfame potassium in that the study's dosing was adequate. (See 53 FR 28379, 28380, July 28, 1988 and Ref. 1.) In addition, in the final rule for acesulfame potassium, FDA explicitly addressed the adequacy of the length of the chronic mouse study. (See 53 FR 28379, 28380, July 28, 1988.) In particular, with respect to study duration, FDA considered the length of the mouse study and concluded that it was adequate because it had been conducted for the majority of the animals' lifespan (Ref. 1).[3]

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[2] The principles set out in the FDA Redbook were not promulgated by notice and comment rulemaking and do not have the force and effect of law.

[3] The Agency found that at the time the study was conducted (mid 1970's), survival of the Swiss strain of mice tended to decline severely between 18 and 24 months of age. Accordingly, even if the mouse study had not been terminated when it was

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CSPI's second objection asserts that, for two reasons, the chronic mouse study is not adequate to demonstrate that acesulfame potassium does not cause cancer in mice. First, CSPI asserts that doses in this study were not properly determined. (See CSPI Obj., p. 6.) Specifically, CSPI claims that, because there was no subchronic study in mice to determine the MTD, there is no assurance that the highest dose used (3 percent) was sufficient to assess whether acesulfame potassium causes cancer in mice. (See CSPI Obj., p. 7.) CSPI further asserts that, because FDA identified 3 percent as a no-effect level, this study did not meet FDA's own standards for long-term studies. (See CSPI Obj., p. 7.)

Secondly, CSPI claims that the mouse study was of insufficient duration in that this study lasted only 80 weeks and that FDA's Redbook requires chronic studies in rodents to be at least 104 weeks in duration. (See CSPI Obj., p. 7.) Accordingly, CSPI asserts that the mouse study was of insufficient duration to demonstrate that acesulfame potassium does not cause cancer.

In support of its second objection, CSPI identified the following data and information: the FDA Redbook; an excerpt from a publication of the National Toxicology Program, "Report of the National Toxicology Program Ad Hoc Panel on Chemical Carcinogenesis Testing and Evaluation" (the NTP Report); the IARC Report; and FDA memoranda dated March 26, 1987 and September 16, 1987. (See CSPI Obj., pp. 8 and 9.)

FDA is denying CSPI's request for a hearing on the adequacy of the chronic mouse study because the data and information identified by CSPI in support of its second objection, even if established at a hearing, would not be sufficient to justify resolution of the factual question in CSPI's favor. (See § 12.24(b)(3).)

First, FDA is denying CSPI's request for a hearing on this objection to the extent that it is based upon the mouse study's alleged failure to achieve the MTD. As with its first objection, CSPI relies principally upon the FDA Redbook to establish that the use of the MTD is required. (See CSPI Obj., p. 8.) As set forth in detail above, the FDA Redbook provides guidance for conducting tests of direct food additives such as acesulfame potassium; it does not establish requirements. The FDA memoranda cited by CSPI discussed the apparent no-effect level for acesulfame potassium and the use of rat studies to determine the Acceptable Daily Intake of the sweetener; they neither addressed the use of the MTD generally, nor discussed specifically the MTD for the mouse study. Thus, none of the information identified by CSPI is sufficient to justify the conclusion that the MTD must be used in all chronic studies. (See § 12.24(b)(3).)

FDA is also denying CSPI's request for a hearing on this objection to the extent that this request is based on an alleged requirement that the MTD be determined only by a subchronic study. Once again, CSPI relies upon the FDA Redbook and the IARC Report to support its assertion that a subchronic study is the only acceptable way of determining dosing levels. (See CSPI Obj., pp. 7 and 9.) However, as discussed above, neither the FDA Redbook nor the IARC Report establish requirements; both simply provide guidance for the conduct of chronic animal testing. In fact, in a comparable situation with FD&C Blue No. 2, the appellate court concluded that there are reasonable alternative approaches for determining the high dose in a chronic study.

> It is clear from the record that the pilot study is simply one accepted and efficient method to determine the MTD to be used in the main study, not an iron-clad prerequisite to the validity of the MTD actually selected * * *. Thus, the FDA justifiably rejected petitioners' argument that a pilot study was necessary to determine the Blue No. 2 MTD.
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> (*Simpson v. Young, supra*, 854 F.2d at 1435.)

Accordingly, the only information identified by CSPI is insufficient to justify the conclusion that the MTD for a chronic study must be determined by a subchronic study in the same species. (See § 12.24(b)(3).)

The agency is also denying CSPI's request for a hearing on this objection to the extent that it is based upon the claim that the mouse study was of insufficient duration. In support of its allegation of insufficient duration, CSPI relies upon the FDA Redbook and the NTP Report. (See CSPI Obj., p. 8.) Neither of these documents supports CSPI's position.

First, as discussed in detail in this document, as a general matter, the FDA Redbook provides guidance for chronic animal testing; it does not establish requirements. Similarly, the NTP Report identified by CSPI does not establish an ironclad requirement that chronic rodent studies be 104 weeks long. To the contrary, the NTP Report recommends that experimental animals be allowed "to survive for most of their natural lifespan" (Ref. 4, p. 189).[4] Accordingly, the data and information identified by CSPI, even if established at a hearing, would not justify the conclusion that the mouse study was of insufficient duration. Thus, FDA is denying a hearing on this objection. (See § 12.24(b)(3).)

CSPI's objection to adequacy of the mouse study is based solely upon the alleged failure of the study to achieve the MTD and the study's alleged insufficient duration. (See CSPI Obj., pp. 6 and 7.) As shown above, CSPI has identified no data or other information to demonstrate that, for a chronic study to be adequate, the MTD must be achieved and that such study must be at least 104 weeks in duration. Accordingly, the data and other information identified by CSPI do not justify a conclusion that the mouse study was not adequate to assess the carcinogenicity of acesulfame potassium. (See § 12.24(b)(3).)

As with its first objection, CSPI asserts that the FDA Redbook requires two rodent studies to establish the safety of a food additive such as acesulfame potassium. (See CSPI Obj., p. 9.) CSPI further asserts that if the mouse study is determined to be inadequate, there will be no longer be two rodent studies to support the safety of acesulfame potassium. As shown above, the data and information identified by CSPI, even if established at a hearing, would not be adequate to justify resolution of this issue in CSPI's favor. (See § 12.24(b)(3).) Because the information cited is not sufficient to establish CSPI's factual assertion, a hearing need not be granted on this issue. (See § 12.24(b)(3).)

C. Results of the First Long-Term Rat Study

As discussed in the final rule in the **Federal Register** of July 28, 1988 (53 FR 28379), the petitioners submitted data from a long-term toxicity and carcinogenicity study conducted in CIVO-bred Wistar rats (the "first rat study"). The agency evaluated all of the data and information from this study and concluded that the data do not establish a carcinogenic effect of acesulfame potassium. However, because of deficiencies and confounding factors, the agency further concluded that the first rat study is "inadequate for

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(at 80 weeks), termination would probably have been required a short time later because of increased, excessive mortality.

[4] FDA agrees with the NTP Report recommendation on study length. In this case, terminating the mouse study at 80 weeks was consistent with the NTP recommendation, given the average lifespan of Swiss mice: at the time of the study, their mortality declined severely between 18 months and 2 years.

assessing the carcinogenic potential of the test compound or for any other purposes of a safety evaluation" (53 FR 28379 at 28381; Ref. 1).

CSPI's third objection contends that the first rat study provides evidence that acesulfame potassium causes cancer in rats, citing increased incidences of lung lymphoreticular tumors and several types of other, rat tumors. The objection also disputes FDA's reasons for concluding that the study is inadequate for determining the safety of the sweetener.[5] CSPI makes six separate contentions in this objection. Each of these is addressed individually below.

1. Incidence of Rare Tumors

CSPI asserts that the first rat study demonstrates a carcinogenic effect of acesulfame potassium because increased incidences of several rare tumors (thymus lymphosarcoma, blood lymphocytic and monocytic leukemias, kidney carcinoma, chromophobe adenoma of the pituitary, and parafollicular cell adenoma of the thyroid) were observed in the treated animals. (See CSPI Obj., pp. 10 and 11.) In support of its assertion, CSPI cites an FDA memorandum dated "December 2, 1984" (Ref. 5; the memorandum referred to by CSPI is in fact dated December 3, 1984).

FDA is denying CSPI's request for a hearing on its third objection to the extent that it alleges that the incidence of rare tumors in treated animals of the first rat study provides evidence of the carcinogenicity of acesulfame potassium. The only evidence that CSPI cites in support of its allegation is the FDA memorandum dated December 3, 1984. This memorandum, even if its contents were established at a hearing, would not demonstrate that the rare tumors were attributable to dietary exposure to acesulfame potassium.

The December 3, 1984, FDA memorandum was merely a tabulation of the lesions and findings reported by the investigators of the first rat study. The memorandum was prepared by FDA scientists for the purpose of further evaluation of the study data.[6] It was not prepared for the purpose of drawing conclusions about whether the findings were effects that could be attributed to the test compound, and in fact, the memorandum does not draw any such conclusions. Thus, the data in the memorandum identified by CSPI do not justify a conclusion that the rare tumors observed in treated animals were attributable to acesulfame potassium. Accordingly, FDA is denying CSPI's hearing request on this point.[7] (See § 12.24(b)(3).)

2. Absence of Complete Histopathological Data.

In the preamble to the final rule, FDA explained its reasons for determining that the first rat study was not adequate to demonstrate safety. The agency stated:

> A major deficiency in the study is the fact that only 20 of the 60 rats in the control and high dose groups were subject to a complete histopathological examination, thereby limiting the proper interpretation of the results of the study.

(See 53 FR 28379 at 28380).

In its third objection, CSPI asserts that FDA's reasoning on this point " is not persuasive, because there is no reason to suspect that more extensive histopathological examination would have distorted the dose-response trend observed * * *." (See CSPI Obj., pp. 11 and 12.) The only evidence CSPI identifies in making its assertion are FDA memoranda dated December 3, 1984, and August 15, 1986. (See CSPI Obj., p. 12.)

FDA is denying CSPI's request for a hearing on its third objection to the extent that it alleges that further histopathological examination of animals in the first rat study would not have distorted the alleged observed dose-response trend.[8] Because complete histopathological examination of tissues from all animals in the first rat study was not done and cannot be done now, any prediction of the results of such an examination is simply speculation. Speculation regarding data that do not exist cannot serve as the basis for a hearing. (See § 12.24(b)(2).)

Moreover, as discussed above, the December 3, 1984, FDA memorandum cited by CSPI (Ref. 5) was merely a tabulation of the findings reported by the investigators of the first rat study, prepared for the purpose of further evaluation of the study data. The August 15, 1986, memorandum (Ref. 6) was a statistical analysis of mortality and body weights of rats of the first study; it did not discuss the histopathological examination nor did it address tumor incidence or dose-response trends. Thus, the information in the FDA memoranda, even if established at a hearing, is not sufficient to establish CSPI's factual assertion. (See § 12.24(b)(3).)

3. Significance of Extensive Chronic Respiratory Disease

In discussing the agency's conclusion that the first rat study was inadequate to demonstrate carcinogenicity or safety of acesulfame potassium, FDA noted that "extensive, severe chronic respiratory disease in the lungs of rats of all groups confounded diagnosis and interpretation of lung lesions in these animals." (See 53 FR 28379 at 23830). The agency also noted that the particular lung tumors associated with the CIVO-bred Wistar strain of rat differed from those in other rat strains and were associated with extensive, severe chronic respiratory disease (CRD) in this strain of rat (53 FR 23679 at 23832, Ref. 5).[9] Moreover, the agency noted that the second rat study, conducted in a different rat strain, did not show lymphoreticular tumors in the lungs (53 FR 28379 at 28380).

In its third objection, CSPI disagrees with the agency's interpretation of these data. In particular, CSPI asserts that lymphoreticular tumors occurred in the absence of CRD in dosed male rats, and further that, despite CRD, the study results showed dose-related trends in tumor incidence, time-to-tumor, and time-to-death with tumor.[10] (See CSPI

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[5] Many of the issues raised in this objection were raised previously by CSPI in its letter to FDA dated September 23, 1987, and were addressed by the agency in the preamble to the final rule (53 FR 28379, July 28, 1988).

[6] Specifically, the memorandum requested "that the Division of Mathematics perform statistical analyses of the tumor data for each of the 3 long-term feeding studies" (Ref. 5).

[7] In support of its third objection, CSPI also cited data regarding tumor incidence in the second rat study. Specifically, CSPI asserted that thymus lymphosarcoma was also found only in treated rats of the second rat study. This statement apparently is based on the initial pathology report of the second study. Before reaching a decision on the second rat study, however, the agency requested more detailed and consistent listings of the study results, which led to a reexamination of the slides and preparation of a new report (53 FR 28379 at 28380). No thymus lymphosarcomas were found in the treated animals following complete reexamination of the histopathology slides, as given in the later and more complete report (petitioner's submission dated March 20, 1986; see section D, below). Thus, the data from the second rat study do not support CSPI's contention concerning tumor incidence in the first rat study.

[8] FDA does not agree that the data establish an acesulfame potassium-dependent, dose-response trend in tumor incidence; see section V.C.4. of this document.

[9] The lung tumors common in this strain of rats were lung lymphoreticular tumors, that is, tumors of reticuloendothelial cells of lymphoid tissue in the lungs. Some of these tumors were classified as reticulum cellsarcomas, which are a type of malignant lymphoreticular tumor; that is, reticulum cell sarcomas are a subset of lymphoreticular tumors. Further, lymphoreticular tumors are tumors of the reticuloendothelial system (i.e., the "lymphatic" system). The lymphatic system is distributed throughout the body, and usually, these tumors are disseminated. In this strain of rats, (which had very high rates of chronic respiratory disease), the lymphoreticular tumors were localized to the lung. (See Ref. 1 and 53 FR 23879 at 23832, Ref. 5).

[10] In its objection, CSPI incorrectly claims that FDA said that CRD occurred in all study rats. (See

Continued

Obj., p. 12.) In support of its assertion, CSPI cites an FDA memorandum dated June 19, 1986 (Ref. 7).

FDA is denying CSPI's request for a hearing on this objection to the extent that it disputes FDA's conclusion that the presence of extensive CRD confounded interpretation of the first rat study because the evidence identified in support of CSPI's objection, even if established at a hearing, would not be adequate to justify resolution of this issue in CSPI's favor. (See § 12.24(b)(3).)

The only evidence that CSPI cites in support of its allegation is the FDA memorandum dated June 19, 1986. This memorandum was a request for an evaluation of all of the data available regarding the carcinogenic potential of acesulfame potassium. The portion of the memorandum cited by CSPI is a tabulation of recently submitted data, in which it was noted that lymphoreticular tumors occurred in the absence of CRD in a few animals. Importantly, however, the memorandum did not conclude that the lymphoreticular tumors observed in the absence of CRD were attributable to acesulfame potassium. Thus, the data in the memorandum relied upon by CSPI are not sufficient to refute FDA's conclusion that the presence of CRD confounded interpretation of the first rat study. Furthermore, CSPI identified no other evidence to support its assertion. Accordingly, FDA is denying CSPI's hearing request on this point. (See § 12.24(b)(3).)

4. Incidence of Lymphoreticular Tumors in Male Rats

In the preamble to the final rule, the agency noted that, in the first rat study, there was a slightly higher incidence, and earlier appearance, of lymphoreticular tumors in dosed rats than in the concurrent control group. The agency concluded that under the circumstances of severe CRD, sampling limitations, and the very high rate of spontaneously-occurring lung tumors in this strain of rat, no conclusions should be made about any effect of acesulfame potassium on the lungs (53 FR 28379 at 28380).

In its third objection, CSPI challenges the agency conclusion and assets that "acesulfame potassium, not CRD, was responsible for the increased mortality [from lymphoreticular tumors] in males." (See CSPI Obj., p. 13.)

In support of its allegation, CSPI cites a table that CSPI constructed, titled "Cause of Death in Male Rats That Died or Were Killed When Moribund." (See CSPI Obj., p. 14.) CSPI assets that the table shows an acesulfame potassium dose-related increase in mortality, and that "This dose-related increase in mortality was due to lymphoreticular tumors, not CRD. Male treated rats died of lung tumors at a much higher rate, and of CRD at a much lower rate, than controls did * * *." (See CSPI Obj., p. 14.)

The table upon which CSPI relies contains three columns of data that CSPI abstracted from two separate documents. Column one purports to represent the percentage of deaths of control and dosed male rats attributed to CRD; column two, the percentage of deaths attributed to reticulum cell sarcoma; and column three, the percentage of deaths attributed to lymphoreticular tumors. The data in the first two columns were taken for original (uncorrected) report of the study; the third column lists data taken from a review memorandum of a subsequent (corrected) report.

FDA is denying CSPI's request for a hearing on this objection to the extent that it alleges that acesulfame potassium was responsible for increased mortality from lymphoreticular tumors in male rats of the first study, because a hearing will not be granted on the basis of mere allegations or descriptions of positions or contentions (§ 12.24(b)(2)).

To justify a hearing on this objection, CSPI must specifically identify reliable evidence that can resolve the factual issue in the way sought by CSPI. The table CSPI constructed, and the conclusions CSPI draws from it, are not reliable for several reasons. (1) The table misrepresents the meaning of the data. The study reports from which the data were drawn listed the number of animals found to have the listed conditions. Contrary to the title of the table, CSPI has presented no evidence to establish that for each animal, CRD, reticulum cell sarcomas, or lymphoreticular tumors were determined to be the cause of death. (2) Data are double counted. Specifically, "lymphoreticular tumors" is a general term for benign and malignant noeplasms of the reticuloendothelial cells of the lymph nodes. This category includes "reticulum cell sarcomas," which are malignant tumors of the lymphoid tissue. Thus, the animals identified in column two (deaths attributed to reticulum cell sarcomas) are also counted in column three (deaths attributed to lymphoreticular tumors). (3) A portion of the data are drawn from an unreliable source. That is, the data purporting to represent the percentages of deaths attributed to CRD (column one) and reticulum cell sarcomas (column two) were taken from the original report of the study, which had several inconsistencies in the data. This original report was superseded by a consistent and more accurate report. (4) The data in column three cannot properly be compared to data in columns one and two. Data in columns one and two were drawn from a study report that counted only animals that died or were killed when moribund; the data in column three, however, were taken from a latter report of the study that listed all animals examined, including those sacrificed at the end of the study as well as those that died or were killed when moribund.[11]

CSPI asserts that deaths were caused by lung tumors and that the lung tumors were caused by the test compound. However, the information CSPI has offered in support of its assertion is not reliable, as explained above. A hearing must be based on reliable evidence, not on mere allegations or on information that is inaccurate and contradicted by the record. (See § 12.24(b)(2).)

5. The use of Historical Control Data

In the preamble to the final rule, FDA discussed historical control data for CIVO bred Wistar rats. Specifically, the agency noted:

> Reticulum cell sarcomas are known to occur spontaneously in this strain of rat; incidents as high as 32 percent had been reported in untreated CIVO-bred Wistar rats * * *. These findings on the lymphoreticular neoplasms observed in treated and control rats from this study reinforce the agency's judgment that these neoplasms were not caused by acesulfame potassium treatment * * *.

(53 FR 28379 at 28380 and Ref. 5 of final rule).

The agency received from the petitioners historical control data on tumors in this strain of rat, as well as information about the factors taken into account by the testing laboratory in its selection of appropriate historical control data. The historical control data are from the same type of studies conducted in the same laboratory, with the same strain of rat, under similar conditions, with continuity of pathological standards, and are from the same time period as the first rat study (Ref. 8). The agency evaluated this information in reaching its conclusion that there was no evidence that the tumors observed in the first rat study

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Obj., p. 12.) In fact, FDA stated that CRD was seen in rats in all groups in the study. (See 53 FR 28379 at 28380.)

[11] The data in column three are, therefore, inconsistent with the title of the table, which purports to compare causes of death in animals that died or were killed when moribund.

were attributable to acesulfame potassium.

CSPI objects to the agency's reliance on historical control data and makes three points about comparing the data in the first rat study to historical control data.

a. CSPI lists possible sources of variability in historical control data and asserts that "There is no evidence that FDA carefully evaluated the data for these sources of variability or that the laboratory conducting the study attempted to control the variability." (See CSPI Obj., p. 14.)

In support of its assertion, CSPI cites an Office of Science and Technology Policy (OSTP) report, "Chemical Carcinogens: A Review of the Science and its Associated Principles" (the OSTP report); a presentation by Dr. James S. Winbush to the Toxicology Forum (the Winbush statement); and unspecified "data from the petitioner's first long-term rat study, * * * evidencing the petitioner's failure to attempt to identify and control sources of variability in tumor rates among historical controls" (CSPI Obj., p. 16). CSPI cites the OSTP report as stating that the sources of variability in historical control data should be identified and, if possible, controlled (CSPI Obj., p. 14); CSPI cites the Winbush statement as listing the factors that can account for tumor rate variability among historical control groups (CSPI Obj., pp. 14 and 15).

FDA is denying CSPI's request for a hearing on this objection to the extent that it alleges that FDA did not evaluate historical control data for sources of variability, because the data and information identified by CSPI in support of the objection, even if established at a hearing, would not be adequate to justify resolution of this factual issue in CSPI's favor. (See § 12.24(b)(3).) With regard to the unspecified data from the petition, a hearing cannot be justified on the basis of a promise that some unidentified evidence will be provided at the time of that hearing. The person seeking a hearing must meet a threshold burden of identifying specific evidence that suggests a need for a hearing. (See § 12.24(b)(2).)

The assertion that there is no evidence showing FDA evaluation of, or laboratory control of, variability in historical controls is contradicted by the record. The objection fails to acknowledge the information on this point that FDA evaluated. CSPI has identified no specific evidence to challenge FDA's evaluation. The only information that CSPI specifically identified in support of its assertion are the Winbush statement and the OSTP report. The Winbush statement and the OSTP report, even if established at a hearing, do not support a conclusion that the agency's consideration of the historical control data was inadequate. (See § 12.24(b)(3).) In fact, FDA agrees with and follows the principles set out in the OSTP report and in the Winbush statement.[12]

b. CSPI asserts that the incidence of lymphoreticular tumors in females of the high-dose group was twice the average of historical control groups (CSPI Obj., p. 15).[13]

FDA is denying CSPI's request for a hearing on its third objection to the extent that it alleges that the average incidence in historical control groups is the most appropriate reference for comparing experimental data. CSPI offers no evidence in support of this position.[14] A hearing will not be granted on the basis of mere allegations or descriptions of positions or contentions. (See § 12.24(b)(2).)

c. In discussing the mortality of dosed male rats, which was higher than the mortality of control male rats, CSPI asserted "Although the study authors attribute this difference in death rates to unusually low mortality in the controls, and state that test group mortality was still within the historical control range, the variability in historical controls is too great for the historical data to be used in determining significance. Indeed, the high mortality rates and high variability lead one to question the adequacy of conditions in this laboratory." (See CSPI Obj., p. 13.)

CSPI identifies no specific evidence in support of the foregoing allegation. Accordingly, FDA is denying CSPI's request for a hearing on its third objection to the extent that it alleges that the variability in mortality in historical controls in this laboratory is too great for historical data to be used in determining significance, because a hearing will not be granted on the basis of mere allegations. (See § 12.24(b)(2).)

Moreover, by questioning the adequacy of the testing laboratory because of high mortality rates and high variability in mortality rates, CSPI actually identifies the crux of the problem with the first rat study: during the time of the study, CRD was so extensive in this colony that the disease and associated conditions obscured whether there could have been possible effects caused by the test compound. Thus, CSPI's objection is consistent with FDA's conclusion that the study is not adequate for use in determining the safety of an additive. A hearing will not be granted on factual issues that are not determinative with respect to the action requested. (See § 12.24(b)(4).

6. Appropriateness of dose levels. In the preamble to the final rule (53 FR 28379 at 28380, 28381), the agency discussed its reasons for concluding that the first rat study was not adequate to demonstrate carcinogenicity of acesulfame potassium, and noted that this study was not relied upon to show the safety of the sweetener.

In its third objection, CSPI asserts that the high dose in the first rat study was too low for a proper assessment of carcinogenicity, and further alleges that "This flaw biased the study toward a negative finding on carcinogenicity. If this flaw was corrected, an even stronger carcinogenic effect would likely be found." (See CSPI Obj., p. 10.) CSPI identified no specific evidence in support of this objection.

FDA is denying CSPI's request for a hearing on this objection to the extent that it alleges that the high dose used in the first rat study was too low for a proper assessment of carcinogenicity, because a hearing will not be granted on the basis of mere allegations. (See § 12.24(b)(2).) In addition, CSPI's contention that a higher dose level would likely have produced an "even stronger" carcinogenic effect is speculation on the outcome of a study that was not done. Speculation regarding data that do not exist cannot serve as the basis for a hearing. (See § 12.24(b)(2).)

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[12] Moreover, FDA followed the principles set out in the OSTP report and in the Winbush statement in assessing the use of historical control data in this instance. In discussing the use of historical control data, the OSTP statement cited by CSPI goes on to state: "Obviously one has more confidence in the most recent historical control data from the same laboratory conducting the current study than in a complication of pooled elder data from other laboratories" (50 FR 10372 at 10418, March 14, 1985). OSTP also states that "Historical control data can be valuable when used appropriately, especially when the differences in incidence rates between treated and concurrent negative controls are small and can be shown to be within the anticipated historical incidence." (See 50 FR 10372 at 10418.)

[13] In making this statement, CSPI ignored the fact that all incidences of lymphoreticular tumors in the first rat study, for treated as well as control groups, were within the range of incidences found in historical controls.

[14] The average incidence of historical control groups is not the most appropriate statistical reference point for comparing incidences among treated and historical or concurrent control groups: Information about the variability of the toxicologic end point under consideration is lost when incidences are averaged; the more variable the end point is among control animals, the more information is lost through averaging. In contrast, by comparing incidences in treated and control animals with the range of historical control incidences, information about the variability of the toxicologic end point is retained.

Finally, even if it were established that the dose used in the first rat study was too low for a proper assessment of carcinogenicity, this determination would not alter FDA's conclusion that this study was not adequate for determination of safety or carcinogenicity (53 FR 28379 at 28281). Thus, FDA is denying CSPI's request for a hearing on this point because a hearing will not be granted on factual issues that are not determinative with respect to the action requested. (See § 12.24(b)(4).)

D. Results of the Second Long-Term Rat Study

As discussed above, the petitioners submitted data from a long-term toxicity and carcinogenicity study conducted in CPB-WU Wistar rats (the "second rat study"). In the preamble to the final rule (53 FR 28379 at 28380), FDA explained that the original report of the second rat study contained inconsistencies in the criteria used to identify and diagnose lesions. Because of these inconsistencies, FDA requested more detailed and explicit listings of the results of the study. In response, the petitioner had the data and microscopic slides reviewed by a consulting pathologist, who prepared a new report. After a comprehensive review of all of the data, the agency concluded that the second rat study is adequate for the safety evaluation of a food additive and that there is no association between the occurrence of neoplasms and treatment with acesulfame potassium (Ref. 1; 53 FR 28379 at 28380 and 28381).

CSPI's fourth objection contends that the second long-term rat study demonstrates that acesulfame potassium causes cancer in rats.[15] CSPI discusses two bases for this contention.

1. Incidence of rare tumors. CSPI contends that the incidence of several types of rare tumors (lymphosarcoma of the thymus, hemangiosarcoma of the mesenteric lymph nodes, brain meningioma, spleen mesothelioma, and adenomatous polyps of the uterus) were elevated in treated animals. In support of this contention, CSPI cites an FDA memorandum dated December 2, 1984 (actually dated December 3, 1984) (Ref. 5).

FDA is denying CSPI's request for a hearing on this objection to the extent that it alleges that the increased incidence of rare tumors in treated animals in the second rat study provides evidence of carcinogenicity of acesulfame potassium. The data and information identified by CSPI in support of this objection, even if established at a hearing, would not be adequate to justify resolution of this factual question in CSPI's favor. (See § 12.24(b)(3).)

The only evidence that CSPI cites in support of its allegation is the FDA memorandum dated December 3, 1984. This memorandum, even if its contents were established at a hearing, would not demonstrate that the rare tumors were attributable to dietary exposure to acesulfame potassium. The memorandum was merely a tabulation of all lesions and findings reported in the second rat study, and was prepared for the purpose of further evaluation, including statistical analysis of the data (Ref. 5). It was not prepared for the purpose of drawing conclusions about whether the findings were effects that could be attributed to the test compound and, in fact, it did not draw any conclusion about whether the findings were attributable to acesulfame potassium.

Moreover, the memorandum cited by CSPI reflected the listing of the data in the first, inconsistent report of the study, a report that was subsequently revised and corrected. CSPI ignored the corrected data in the record when it formulated its objection. Unlike CSPI, FDA made its final determination on the basis of the entire record when it concluded that the data from the second rat study did not show an association between the occurrence of tumors and treatment with acesulfame potassium.

In summary, the data in the memorandum identified by CSPI do not justify a conclusion that the rare tumors observed in treated animals were attributable to acesulfame potassium. Accordingly, FDA is denying CSPI's hearing request on this point. (See § 12.24(b)(3).)

2. Incidence of mammary gland tumors. In promulgating the rule authorizing the use of acesulfame potassium, FDA specifically considered the differences in the incidence of mammary gland neoplasms in female rats in the second rat study. In the preamble to the final rule, FDA noted that most of the mammary tumors observed were fibroadenomas, and that there was an increased incidence of fibroadenomas in treated female rats. The agency also stated that tumors other than fibroadenomas were few in number and were distributed randomly among the different groups, and that the incidences of mammary gland hyperplasia were similar and uniformly high in all groups of treated and control females. (See 53 FR 28379 at 28380.)

After review of all of the data, the agency concluded that the occurrence of mammary gland neoplasms was not associated with treatment with acesulfame potassium. The final rule cited several reasons for this conclusion:

> (1) Fibroadenomas are a common old age tumor in this strain of rats and their incidence is variable.
>
> (2) The incidence of mammary fibroadenomas in female control rats from seven comparable studies, performed at this testing laboratory around the same time period as the acesulfame potassium study, is 250 of 452 or 55.3 percent * * *. This incidence is higher than the incidences for any of the treated groups in the acesulfame potassium study and is much higher than that for the concurrent control group. The concurrent control group had an unusually low incidence of these tumors.
>
> (3) In the treated groups, the lack of a dose response in incidences of fibroadenomas, as well as of all mammary tumors and of hyperplasia, is evidence that there is not a treatment-related effect of the sweetener on the incidence of fibroadenomas.
>
> (4) There was no evidence of progressive stages of mammary gland neoplasms (hyperplasia to malignant neoplasms) that would indicate a treatment-related induction of tumors.

(53 FR 28379 at 28381 and Ref. 6 of final rule).

In its fourth objection, CSPI challenges the agency's conclusion that the occurrence of mammary neoplasms was not associated with acesulfame potassium treatment. (See CSPI Obj., pp. 17 and 18.) CSPI further challenges the agency's reasons for its conclusion. (See CSPI Obj., pp. 19 and 20.) CSPA makes four separate points with regard to the occurrence of mammary tumors in the second rat study.

a. CSPI first asserts that the incidences of mammary gland neoplasms in female rats increased with increasing dose of acesulfame potassium up to the mid-dose,[16] and that this provides evidence of the carcinogenicity of the sweetener. (See CSPI Obj., p. 18.) CSPI further asserts that there were "increases in benign and malignant tumors associated with dosing of acesulfame potassium." (See CSPI Obj., p. 20.) In support of its assertions, CSPI identifies no specific evidence, referring only to unspecified and unidentified study data and FDA evaluations. (See CSPI Obj., p. 20.)

FDA is denying CSPI's request for a hearing on this objection to the extent that it alleges that the increased incidence of mammary neoplasms in the second rat study provides evidence of carcinogenicity of acesulfame potassium, because a hearing cannot be justified on the basis of a promise that some unidentified evidence will be provided at the time of the hearing. The person seeking the hearing must meet a threshold burden of identifying specific evidence that suggests a need for a hearing. (See § 12.24(b)(2).)

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[15] Most of the issues raised in this objection were raised previously by CSPI in its September 23, 1987, letter to FDA, and were addressed by the agency in the preamble to the final rule (53 FR 28379, July 28, 1988).

[16] This is simply a restatement of the fact that the mid-dose animals had more tumors than the low-dose animals, but the high-dose animals did not have more tumors than the mid-dose animals.

b. CSPI makes two separate assertions regarding FDA's use of historical control data. First, CSPI asserts that the weight accorded to historical control data is inappropriate and that "[t]here is no evidence that FDA examined the data for sources of variability or to ensure that the historical studies conformed with Good Laboratory Practice Standards." (See CSPI Obj., p. 19.)

CSPI identifies no specific evidence in support of its assertion that FDA failed to examine adequately the historical control data. Thus, FDA is denying CSPI's request for a hearing on its fourth objection to the extent that it alleges that FDA did not examine the historical data for sources of varability, because a hearing will not be granted on the basis of mere allegations. (See § 12.24(b)(2).)

Moreover, CSPI's assertion that there is no evidence that FDA evaluated the variability in historical control data is not correct. CSPI's objection fails to acknowledge the information received from the petitioner concerning historical controls that FDA did evaluate.[17]

FDA is also denying CSPI's request for a hearing on this objection to the extent that it alleges that FDA failed to ensure that the studies that constitute the historical control data conformed with good laboratory practice. Once again, CSPI identifies no specific evidence demonstrating that FDA's alleged failure to do detailed examinations of the historical studies seriously undermines the utility of the historical data for comparison purposes. CSPI's objection identifies no relevant data that were overlooked by the agency, nor does it identify any specific problems that invalidate these data. Thus, FDA is denying a hearing on this point, because a hearing will not be granted on the basis of mere allegations. (See § 12.24(b)(2).)

Secondly, CSPI asserts that wide variability of tumor rates in the historical controls makes the historical control data less reliable than if the range of incidences was narrow.[18] CSPI identifies no specific evidence in support of this allegation. Accordingly, FDA is denying CSPI's request for a hearing on its fourth objection to the extent that it alleges that the variability in tumor rates in historical controls limits the usefulness of historical control data, because a hearing will not be granted on the basis of mere allegations. (See § 12.24(b)(2).)

c. In the final rule (53 FR 28379 at 28381), FDA noted that the lack of a dose response to acesulfame potassium in the incidence of mammary tumors was evidence that there was not a treatment-related effect of the sweetener. In challenging the agency's reasoning, CSPI asserts that it is not necessary to establish a positive dose response to conclude that a test substance is a carcinogen. (See CSPI Obj., p. 20.) In support of its assertion, CSPI cites an article, "Scientific Basis for Identification of Potential Carcinogens and Estimation of Risk" (Ref. 9).

FDA is denying CSPI's request for a hearing on this objection to the extent that the objection alleges that it is not necessary to establish a positive dose response to reach a conclusion of carcinogenicity, because resolution of this factual issue in CSPI's favor is not adequate to justify a finding that the second rat study showed a carcinogenic effect of acesulfame potassium. (See § 12.24(b)(4).)

FDA agrees that it is not always necessary to establish a positive dose response to reach a conclusion of carcinogenicity. The agency also agrees with the principles outlined in the article cited by CSPI. However, as stated previously, the agency reached its decision about the lack of association of the sweetener with mammary gland tumors based on the weight of all of the evidence; no single point provided complete proof in determining the question of carcinogenicity. As discussed above, CSPI has identified no specific evidence to support the conclusion that the second rat study demonstrates a carcinogenic effect of acesulfame potassium, even absent a dose response.

d. CSPI asserts that FDA's point on the lack of progressive stages of mammary gland neoplasms is "hardly proof" that tumors were not related to treatment. (See CSPI Obj., p. 20.) Again, CSPI identifies no specific evidence to contradict FDA's conclusion that the absence of progressive stages of mammary gland neoplasms supports the agency's conclusion that the mammary gland neoplasms were not treatment-related.

FDA is denying CSPI's request for a hearing on its fourth objection to the extent that it alleges that the lack of progressive stages of mammary gland neoplasms is not evidence that tumors were not treatment-related, because a hearing will not be held on the basis of mere allegations. (See § 12.24(b)(2).) Because CSPI has not submitted any new information to support its allegation that this study demonstrated that acesulfame potassium caused cancer in rats, and has not demonstrated that the agency overlooked significant information in reaching its conclusion of safety, a hearing is not required (See § 12.24(b)(2).)

VI. Summary and Conclusions

Under 21 CFR 170.3(i), safety of a food additive means that there is a reasonable certainty in the minds of competent scientists that the substance is not harmful under the intended conditions of use. FDA's regulations reflect the congressional judgment that the additive must be properly tested and the tests carefully evaluated, but the additive need not, indeed cannot, be shown to be safe to an absolute certainty. The House Report on the Food Additives Amendment stated:

> Safety requires proof of a reasonable certainty that no harm will result from the proposed use of the additive. It does not—and cannot—require proof beyond any possible doubt that no harm will result under any conceivable circumstance.

(H.R. Rept. No. 2284, 85th Cong., 2d Sess., 1958.)

Acesulfame potassium has been thoroughly tested for safety and the data have been reviewed by the agency. As discussed above, the agency has concluded that the studies conducted to establish the safety of this compound are adequate to demonstrate, to a reasonable certainty, the safety of acesulfame potassium for its intended uses.

The petitioner has the burden to demonstrate safety before FDA will approve the use of a food additive. Nevertheless, once the agency makes a finding of safety in a listing document, the burden shifts to an objector, who must come forward with evidence that calls into question FDA's conclusion (*American Cyanamid Co.* v. *FDA*, 606 F2d. 1307, 1314–1315 (D. C. Cir. 1979)).

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[17] The agency noted in the final rule that the historical control data that the agency evaluated were "* * * from seven comparable studies, performed at [the same] testing laboratory around the same time period as the acesulfame potassium study * * *" (See 53 FR 28379 at 28381 and Ref. 6 of final rule).

[18] Historical control data are used to establish the background rates for tumor incidence. The variation in tumor rates among groups of test animals that is due to the spontaneous incidence of a tumor is the key information sought. Wide variations in the spontaneous incidence of a tumor show that tumor incidence can be expected to vary for reasons other than treatment with the test substance.

CSPI has neither submitted new information to support its claim that FDA incorrectly concluded that acesulfame potassium is safe, nor has CSPI established that the agency overlooked significant information in reaching its conclusion. Indeed, CSPI presents no evidence that has not already been carefully reviewed and weighed by the agency. The agency has determined that the objections do not raise genuine and substantial issues of fact that would justify an evidentiary hearing on any of the objections raised. (See § 12.24(b).) Accordingly, FDA is overruling CSPI's objections and is denying CSPI's request for a hearing. In addition, CSPI's request for a stay of the effectiveness of the July 28, 1988, regulation until a hearing is held is moot because FDA is denying the hearing requests. FDA is thus confirming July 28, 1988, as the effective date of the regulation.

VII. References

The following references have been placed on display in the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD, 20857, and may be seen in that office by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Cancer Assessment Committee, Memorandum of Conferences, November 21, 1983, February 21, 1985, December 12, 1985, and June 17, 1986.

2. FDA, Bureau of Foods, "Toxicological Principles for the Safety Assessment of Direct Food Additives and Color Additives Used in Food," 1982.

3. Feron, V.J., et al., "Basic Requirements for Long-term Assays for Carcinogenicity," in "Long-term and Short-term Assays for Carcinogens: A Critical Appraisal," International Agency for Research on Cancer, IARC Monographs, Supplement 2, 1980, pp. 21–83.

4. Board of Scientific Counselors, National Toxicology Program, "Report of the NTP Ad Hoc Panel on Chemical Carcinogenesis Testing and Evaluation," 1984, pp. 188–190.

5. Taylor, L.L., Food Additives Evaluation Branch, memorandum of December 3, 1984.

6. Chi, R.K., Experimental Design and Evaluation Branch, memorandum of August 15, 1986.

7. Taylor, L.L., Additives Evaluation Branch, memorandum of June 19, 1986.

8. De Groot, A.P., and V. J. Feron, CIVO Institute, "Statement on: Historical Control Data on Lung Tumors," food additive petition 2A3659, submission of April 23, 1986.

9. Interagency Regulatory Liaison Group, Work Group on Risk Assessment, "Scientific Bases for Identification of Potential Carcinogens and Estimation of Risks," *Journal of the National Cancer Institute*, 63:241, 1979, p. 252.

Dated: February 20, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92–4425 Filed 2–26–92; 8:45 am].

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Part 901

[Docket No. R-92-1520; FR-2897-O-04]

Public Housing Management Assessment Program; Announcement of OMB Approval Number

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Interim rule; Announcement of OMB approval number.

SUMMARY: On January 17, 1992 (57 FR 2160), the Department of Housing and Urban Development published in the **Federal Register**, an interim rule that established the Public Housing Management Assessment Program (PHMAP) in accordance with section 502 of the National Affordable Housing Act (approved November 28, 1990, Pub. L. 101–625, hereinafter, NAHA) as amended by the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (approved October 28, 1991, Pub. L. 102–139, hereinafter, 92 App. Act). PHMAP provides policies and procedures for the Department's use in identifying public housing agency (PHA) management capabilities and deficiencies, and allows HUD Field Offices to practice accountability monitoring and risk management.

In the supplementary information section, under the heading Paperwork Reduction Act, it was indicated that information collection requirements contained in the interim rule had been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980, and were pending approval of collections of information by OMB. It also indicated that the OMB control number, when assigned, would be announced by separate notice in the **Federal Register**.

The purpose of this document is to publish the OMB approval number for the section containing information collection requirements.

EFFECTIVE DATE: February 27, 1992.

FOR FURTHER INFORMATION CONTACT: Casimir R. Bonkowski, Director, Office of Management and Policy, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–0440. A telecommunications device for hearing or speech impaired persons (TDD) is available at (202) 708–0850. (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The information collection requirements contained in the regulatory section listed below have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and is assigned the control number listed.

List of Subjects in 24 CFR Part 901

Public housing, Reporting and recordkeeping requirements.

Text of the Amendment

Accordingly, part 901 of title 24 of the Code of Federal Regulations is amended as follows:

1. The authority citation for part 901 continues to read as follows:

Authority: Sec. 6(j), United States Housing Act of 1937 (42 U.S.C. 1437d(j); sec. 502, National Affordable Housing Act (approved November 28, 1990, Pub. L. 101–625); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

§ 901.100 [Amended]

2. Section 901.100 is amended by adding at the end of the section, the following statement:

(Approved by the Office of Management and Budget under OMB control number 2577–0156).

Dated: February 21, 1992.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 92–4476 Filed 2–26–92; 8:45 am]

BILLING CODE 4210-33-M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 591

Procurement—General Provisions

AGENCY: Office of the Assistant Secretary of the Army (Research, Development and Acquisition), DOD.

ACTION: Removal of rule.

SUMMARY: The purpose of this document is to remove 32 CFR part 591, subchapter G. The reason for this removal is that this part is no longer valid. The purpose of part 591 was to implement Department of Defense publications, pursuant to § 1.108 of this title and to establish for the Department of the Army uniform policies and procedures relating to the procurement of supplies and services.

EFFECTIVE DATE: February 26, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis Stevenson or Mr. Mark Lumer, Office of the Assistant Secretary of the Army (RDA), Washington, DC 20310-0103, (703) 697-0723.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 591

Procurement.

PART 591—[REMOVED]

Under the Secretary's authority, 44 U.S.C. chapter 15, 32 CFR part 591 is removed.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 92-4305 Filed 2-26-92; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD5-92-001]

Drawbridge Operation Regulations; Beaufort Channel, Beaufort, NC

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: The Coast Guard is changing the regulations that govern the operation of the U.S. 70 Bridge across Beaufort Channel, mile 0.1, in Beaufort, North Carolina. The new regulation will permit openings on signal every hour on the half hour from 7:30 a.m. to 7:30 p.m. year round. Openings between 7:30 p.m. to 7:30 a.m. will be on signal. The changes to these regulations are, to the extent practical and feasible, intended to provide for regularly scheduled drawbridge openings to help reduce motor vehicle traffic delays and congestion on the roads and highways linked by this drawbridge, while still providing for the reasonable needs of navigation.

EFFECTIVE DATE: These regulations become effective on March 30, 1997.

FOR FURTHER INFORMATION CONTACT: Ms. Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, at 804-398-6222.

SUPPLEMENTARY INFORMATION: On September 30, 1991, the Coast Guard published a Notice of Proposed Rulemaking (56 FR 49445) concerning operation of the Beaufort Channel Bridge. Interested persons were given until November 14, 1991, to submit comments on the proposed rule. A Temporary Rule (56 FR 54787) was published on October 23, 1991 to test the proposed regulations for a 60-day period and to solicit comments. Interested persons were given until December 15, 1991 to submit comments on the Temporary Rule. No comments were received. No public hearing was held since no request for a hearing was received.

Drafting Information

The drafters of this notice are Bill H. Brazier, Project Officer, and LT Monica Lombardi, Project Attorney.

Discussion of Regulations

The North Carolina Department of Transportation requested that the existing regulations for the U.S. 70 Bridge across Beaufort Channel, mile 0.1, in Beaufort, North Carolina, be amended by extending the current summer season bridge opening schedule year round. The current regulation states the bridge shall open on signal every hour on the half hour from 7:30 a.m. to 7:30 p.m. beginning May 1 through October 31 for pleasure craft. The Department of Transportation's request would have the Beaufort Channel Bridge open on signal for pleasure craft year-round from 7:30 a.m. to 7:30 p.m. every hour on the half hour, 7-days a week. This change was requested due to a 52% increase in year-round draw openings of the bridge, and a 68% increase in year-round vehicular traffic across the bridge between 1984 to present. By providing for hourly openings on the half-hour on a year-round basis, vehicular traffic congestion on U.S. 70 will be reduced and highway safety will be increased. The existing provision that the bridge opens on signal for public vessels of the United States, state and local governments, commercial vessels and vessels in distress would remain unchanged. No comments were received from waterway users or the motoring public for or against the proposed regulation. The Coast Guard feels that imposition of this final rule will not unduly restrict vessel passage through the bridge.

Regulatory Evaluation

This regulation is considered to be non major under Executive order 12291 and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034, February 26, 1979). The economic impact of these regulations will not have any substantial effect on commercial navigation or on any businesses that depend on waterborne transportation for successful operations. The Coast Guard believes that hourly openings on the half hour for recreational craft are not excessively restrictive.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the U.S. Coast Guard must consider whether proposed rules will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). The Coast Guard believes these regulations will have no adverse impacts on small entities.

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this regulation does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

This rulemaking has been thoroughly reviewed by the Coast Guard and it has been determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.g.(5) of Commandant Instruction M16475.1B. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 117

Bridges.

In consideration of the foregoing, the Coast Guard is amending part 117 of title 33, Code of Federal Regulations, to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g).

2. Section 117.822(a) is revised to read as follows:

§ 117.822 Beaufort Channel, North Carolina.

(a) The draw shall open on signal every hour on the half hour from 7:30 a.m. to 7:30 p.m. for the passage of pleasure craft. To accommodate approaching pleasure craft, the hourly openings may be delayed up to 10 minutes past the half hour.

* * * * *

Dated: January 21, 1992.

W. T. Leland,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 92–4368 Filed 2–26–92; 8:45 am]

BILLING CODE 4910-14-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 301–7 and Chapter 301

[FTR Amendment 23]

RIN 3090–AE44

Federal Travel Regulation; Maximum Per Diem Rates

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: An analysis of lodging and meal cost survey data reveals that the listing of maximum per diem rates for locations within the continental United States (CONUS) should be updated to provide for the reimbursement of Federal employees' expenses covered by per diem. This final rule increases the maximum lodging amounts in certain existing per diem localities and adds new per diem localities.

EFFECTIVE DATE: This final rule is effective March 1, 1992, and applies for travel (including travel incident to a change of official station) performed on or after March 1, 1992.

FOR FURTHER INFORMATION CONTACT: Donna Cooke, Transportation Management Division (FBX), Washington, DC 20406, telephone FTS 365–5253 or commercial (703) 305–5253.

SUPPLEMENTARY INFORMATION: The General Services Administration (GSA) has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for and consequences of this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 301–7

Government employees, Travel, Travel allowances, Travel and transportation expenses.

For the reasons set out in the preamble, title 41, chapter 301 of the Code of Federal Regulations is amended as follows:

PART 301–7—PER DIEM ALLOWANCES

1. The authority citation for part 301–7 continues to read as follows:

Authority: 5 U.S.C. 5701–5709; E.O. 11609, July 22, 1971 (36 FR 13747).

§ 301–7.4 [Amended]

2. Section 301–7.4(a) is amended by removing the term "Travel Management Division (FBT)" and adding in its place the term "Transportation Management Division (FBX)".

3. Appendix A to chapter 301 is revised to read as follows:

APPENDIX A TO CHAPTER 301—PRESCRIBED MAXIMUM PER DIEM RATES FOR CONUS

The maximum rates listed below are prescribed under § 301–7.3(a) of this regulation for reimbursement of per diem expenses incurred during official travel within CONUS (the continental United States). The amount shown in column (a) is the maximum that will be reimbursed for lodging expenses including applicable taxes. The M&IE rate shown in column (b) is a fixed amount allowed for meals and incidental expenses covered by per diem. The per diem payment calculated in accordance with part 301–7 for lodging expenses plus the M&IE rate may not exceed the maximum per diem rate shown in column (c).

Per diem locality		Maximum lodging amount (a)	+	M&IE rate (b)	=	Maximum per diem rate[4] (c)
Key city[1]	County and/or other defined location[2] [3]					
CONUS, Standard rate		$40		$26		$66
(Applies to all locations within CONUS not specifically listed below or encompassed by the boundary definition of a listed point. However, the standard CONUS rate applies to all locations within CONUS, including those defined below, for certain relocation subsistence allowances. See parts 302–2, 302–4, and 302–6 of this title.)						
ALABAMA						
Anniston	Calhoun	41		26		67
Birmingham	Jefferson	52		26		78
Dothan	Houston	43		26		69
Florence	Lauderdale	41		26		67
Gulf Shores	Baldwin	75		26		101
Huntsville	Madison	51		26		77
Mobile	Mobile	51		26		77
Montgomery	Montgomery	50		26		76
Sheffield	Colbert	63		26		89
ARIZONA						
Casa Grande	Pinal	46		26		72
Chinle	Apache	68		26		94
Grand Canyon Nat'l Park/Flagstaff	Coconino	74		26		100
Kayenta	Navajo	62		26		88
Phoenix/Scottsdale	Maricopa	72		26		98
Prescott	Yavapai	48		26		74
Sierra Vista	Cochise	48		26		74
Tucson	Pima County; Davis-Monthan AFB	60		26		86
Yuma	Yuma	57		26		83

Per diem locality		Maximum lodging amount (a)	+	M&IE rate (b)	=	Maximum per diem rate [4] (c)
Key city [1]	County and/or other defined location [2] [3]					
ARKANSAS						
Fayetteville	Washington	41		26		67
Fort Smith	Sebastian	44		26		70
Helena	Phillips	47		26		73
Hot Springs	Garland	50		26		76
Jonesboro	Craighead	41		26		67
Little Rock	Pulaski	51		26		77
CALIFORNIA						
Bridgeport	Mono	45		26		71
Chico	Butte	53		26		79
Death Valley	Inyo	89		34		123
El Centro	Imperial	49		26		75
Eureka	Humboldt	61		26		87
Fresno	Fresno	60		26		86
Gualala/Point Arena	Mendocino	84		26		110
Herlong	Lassen	53		26		79
Los Angeles	Los Angeles, Kern, Orange and Ventura Counties; Edwards AFB; Naval Weapons Center and Ordinance Test Station, China Lake.	100		34		134
Modesto	Stanislaus	54		26		80
Monterey	Monterey	74		26		100
Napa	Napa	66		26		92
Oakland	Alameda, Contra Costa and Marin	71		34		105
Ontario/Victorville/Barstow	San Bernardino	60		26		86
Palm Springs	Riverside	72		34		106
Redding	Shasta	58		26		84
Sacramento	Sacramento	66		34		100
San Diego	San Diego	77		34		111
San Francisco	San Francisco	92		34		126
San Jose	Santa Clara	65		34		99
San Luis Obispo	San Luis Obispo	54		34		88
San Mateo	San Mateo	67		34		101
Santa Barbara	Santa Barbara	77		34		111
Santa Cruz	Santa Cruz	73		34		107
Santa Rosa	Sonoma	54		26		80
South Lake Tahoe	El Dorado	66		34		100
Stockton	San Joaquin	53		26		79
Tahoe City	Placer	52		34		86
Vallejo	Solano	54		26		80
Visalia	Tulare	60		26		86
West Sacramento	Yolo	50		26		76
Yosemite Nat'l Park	Mariposa	68		34		102
COLORADO						
Aspen	Pitkin	115		34		149
Boulder	Boulder	62		34		96
Colorado Springs	El Paso	51		26		77
Denver	Denver, Adams, Arapahoe and Jefferson	74		34		108
Durango	La Plata	62		26		88
Glenwood Springs	Garfield	52		26		78
Grand Junction	Mesa	41		26		67
Gunnison	Gunnison	46		26		72
Keystone/Silverthorne	Summit	89		34		123
Montrose	Montrose	43		26		69
Pagosa Springs	Archuleta	48		26		74
Pueblo	Pueblo	46		26		72
Steamboat Springs	Routt	72		26		98
Vail	Eagle	134		34		168
CONNECTICUT						
Bridgeport/Danbury	Fairfield	71		26		97
Hartford	Hartford and Middlesex	68		34		102
New Haven	New Haven	67		26		93
New London/Groton	New London	62		26		88
Putnam/Danielson	Windham	63		26		89
Salisbury	Litchfield	60		34		94
DELAWARE						
Dover	Kent	51		26		77
Lewes	Sussex	50		26		76
Wilmington	New Castle	78		26		104
DISTRICT OF COLUMBIA						
Washington, DC (also the cities of Alexandria, Falls Church, and Fairfax, and the counties of Arlington, Loudoun, and Fairfax in Virginia; and the counties of Montgomery and Prince Georges in Maryland) (See also Maryland and Virginia.)		110		34		144
FLORIDA						
Altamonte Springs	Seminole	62		26		88
Bradenton	Manatee	60		26		86
Clewiston	Hendry	54		26		80

Per diem locality		Maximum lodging amount (a)	+	M&IE rate (b)	=	Maximum per diem rate [4] (c)
Key city [1]	County and/or other defined location [2] [3]					
Cocoa Beach	Brevard	62		26		88
Daytona Beach	Volusia	65		26		91
Fort Lauderdale	Broward	72		26		98
Fort Myers	Lee	74		26		100
Fort Pierce	Saint Lucie	57		26		83
Fort Walton Beach	Okaloosa	62		26		88
Gainesville	Alachua	52		26		78
Jacksonville	Duval County; Naval Station Mayport	49		26		75
Key West	Monroe	123		34		157
Kissimmee	Osceola	68		26		94
Lakeland	Polk	53		26		79
Miami	Dade	63		34		97
Naples	Collier	76		26		102
Orlando	Orange	63		26		89
Panama City	Bay	52		26		78
Pensacola	Escambia	54		26		80
Punta Gorda	Charlotte	62		26		88
Saint Augustine	Saint Johns	60		26		86
Sarasota	Sarasota	61		26		87
Stuart	Martin	68		26		94
Tallahassee	Leon	49		26		75
Tampa/St. Petersburg	Hillsborough and Pinellas	56		26		82
Vero Beach	Indian River	64		26		90
West Palm Beach	Palm Beach	69		34		103
GEORGIA						
Albany	Dougherty	51		26		77
Athens	Clarke	44		26		70
Atlanta	Clayton, De Kalb, Fulton and Cobb	79		34		113
Augusta	Richmond; Savannah River Plant	47		26		73
Brunswick	Glynn	45		26		71
Columbus	Muscogee	47		26		73
Macon	Bibb	44		26		70
Norcross/Lawrenceville	Gwinnett	56		26		82
Savannah	Chatham	49		26		75
St. Marys	Camden County; The Naval Submarine Base, Kings Bay	46		26		72
Warner Robins	Houston	44		26		70
Waycross	Ware	43		26		69
IDAHO						
Boise	Ada	49		26		75
Coeur d'Alene	Kootenai	51		26		77
Idaho Falls	Bonneville	43		26		69
Ketchum/Sun Valley	Blaine	66		26		92
Lewiston	Nez Perce	44		26		70
McCall	Valley	49		26		75
Pocatello	Bannock	45		26		71
Stanley	Custer	45		26		71
ILLINOIS						
Alton	Madison	48		26		74
Champaign/Urbana	Champaign	51		26		77
Chicago	Du Page, Cook and Lake	101		34		135
Danville	Vermilion	46		26		72
Dixon	Lee	45		26		71
East St. Louis	St. Clair	46		26		72
Joliet	Will	54		26		80
Macomb	McDonough	42		26		68
Mattoon	Coles	46		26		72
Peoria	Peoria	62		26		88
Rock Island/Moline	Rock Island	51		26		77
Rockford	Winnebago	55		26		81
Springfield	Sangamon	53		26		79
INDIANA						
Anderson	Madison	52		26		78
Bloomington	Monroe	49		26		75
Burlington Beach/Val-paraiso	Porter	52		26		78
Charlestown/Jeffersonville	Clark County; Indiana Army Ammunition Plant	57		26		83
Columbus	Bartholomew	44		26		70
Dale	Spencer	43		26		69
Elkhart	Elkhart	55		26		81
Evansville	Vanderburgh	49		26		75
Fort Wayne	Allen	57		26		83
Gary	Lake	52		26		78
Indianapolis	Marion County; Fort Benjamin Harrison	69		26		95
Jasper	Dubois	43		26		69
Lafayette	Tippecanoe	51		26		77
Logansport	Cass	47		26		73
Marion	Grant	44		26		70
Muncie	Delaware	55		26		81

Per diem locality		Maximum lodging amount (a)	+	M&IE rate (b)	=	Maximum per diem rate ⁴ (c)
Key city ¹	County and/or other defined location ² ³					
Nashville	Brown	57		26		83
New Albany	Floyd	43		26		69
Richmond	Wayne	42		26		68
South Bend	St. Joseph	60		26		86
Terre Haute	Vigo	51		26		77
IOWA						
Bettendorf/Davenport	Scott	54		26		80
Cedar Rapids	Linn	47		26		73
Des Moines	Polk	55		26		81
Dubuque	Dubuque	41		26		67
Iowa City	Johnson	48		26		74
Sioux City	Woodbury	45		26		71
Waterloo	Black Hawk	46		26		72
KANSAS						
Hays	Ellis	41		26		67
Kansas City	Johnson and Wyandotte (See also Kansas City, MO)	67		26		93
Manhattan	Riley	52		26		78
Topeka	Shawnee	47		26		73
Wichita	Sedgwick	62		26		88
KENTUCKY						
Ashland	Boyd	41		26		67
Bowling Green	Warren	44		26		70
Covington	Kenton	48		26		74
Frankfort	Franklin	44		26		70
Florence	Boone	48		26		74
Hopkinsville	Christian County; Fort Campbell	45		26		71
Lexington	Fayette	52		26		78
Louisville	Jefferson	57		26		83
Owensboro	Daviess	45		26		71
Paducah	McCracken	43		26		69
Pikeville	Pike	42		26		68
Prestonsburg	Floyd	43		26		69
LOUISIANA						
Alexandria	Rapides Parish	45		26		71
Baton Rouge	East Baton Rouge Parish	51		26		77
Bossier City	Bossier Parish	57		26		83
Gonzales	Ascension Parish	51		26		77
Lafayette	Lafayette Parish	50		26		76
Lake Charles	Calcasieu Parish	43		26		69
Monroe	Ouachita Parish	46		26		72
New Orleans	Parishes of Jefferson, Orleans, Plaquemines and St. Bernard.	65		34		99
Shreveport	Caddo Parish	57		26		83
Slidell	St. Tammany Parish	43		26		69
MAINE						
Auburn	Androscoggin	56		26		82
Augusta	Kennebec	53		26		79
Bangor	Penobscot	60		26		86
Bar Harbor	Hancock	60		26		86
Bath	Sagadahoc	64		26		90
Kittery	Portsmouth Naval Shipyard (See also Portsmouth, NH)	64		26		90
Portland	Cumberland	67		26		93
Presque Isle	Aroostook	44		26		70
Rockport	Knox	66		26		92
Kennebunk/Sanford	York	54		26		80
Wiscasset	Lincoln	48		26		74
MARYLAND						
(For the counties of Montgomery and Prince Georges, see District of Columbia.)						
Annapolis	Anne Arundel	75		34		109
Baltimore	Baltimore and Harford	78		34		112
Columbia	Howard	87		34		121
Cumberland	Allegany	49		26		75
Easton	Talbot	52		26		78
Frederick	Frederick	54		26		80
Hagerstown	Washington	55		26		81
Lexington Park/St.Inigoes/Leonardtown	St. Marys	54		26		80
Lusby	Calvert	58		26		84
Ocean City	Worcester	92		34		126
Salisbury	Wicomico	53		26		79
Waldorf	Charles	54		26		80
MASSACHUSETTS						
Andover	Essex	81		34		115
Boston	Suffolk	97		34		131
Greenfield	Franklin	60		26		86
Hyannis	Barnstable	80		26		106
Lowell	Middlesex	81		34		115

Per diem locality: Key city [1]	Per diem locality: County and/or other defined location [2] [3]	Maximum lodging amount (a)	+	M&IE rate (b)	=	Maximum per diem rate [4] (c)
Martha's Vineyard/Nantucket	Dukes and Nantucket	114		34		148
Northampton	Hampshire	59		26		85
Pittsfield	Berkshire	56		26		82
Plymouth	Plymouth	92		26		118
Quincy	Norfolk	81		34		115
Springfield	Hampden	64		26		90
Taunton/New Bedford	Bristol	56		26		82
Worcester	Worcester	61		26		87
MICHIGAN						
Adrian	Lenawee	46		26		72
Alpena	Alpena	42		26		68
Ann Arbor	Washtenaw	65		26		91
Battle Creek	Calhoun	47		26		73
Bay City	Bay	50		26		76
Bellaire	Antrim	51		26		77
Boyne City	Charlevoix	62		26		88
Cadillac	Wexford	51		26		77
Detroit	Wayne	80		34		114
Drummond Island	Chippewa	52		26		78
Escanaba	Delta	44		26		70
Flint	Genesee	45		26		71
Frankfort	Benzie	49		26		75
Gaylord	Otsego	54		26		80
Grand Rapids	Kent	60		26		86
Grayling	Crawford	54		26		80
Holland	Ottawa	51		26		77
Houghton Lake	Roscommon	54		26		80
Jackson	Jackson	49		26		75
Kalamazoo	Kalamazoo	58		26		84
Lansing/East Lansing	Ingham	52		26		78
Leland	Leelanau	57		26		83
Ludington	Mason	54		26		80
Mackinac Island	Mackinac	63		26		89
Manistee	Manistee	51		26		77
Marquette	Marquette	41		26		67
Midland	Midland	54		26		80
Monroe	Monroe	41		26		67
Mount Pleasant	Isabella	43		26		69
Muskegon	Muskegon	49		26		75
Pontiac	Oakland	58		26		84
Port Huron	St. Clair	43		26		69
Saginaw	Saginaw	51		26		77
South Haven	Van Buren	52		26		78
St. Joseph/Benton Harbor/Niles	Berrien	48		26		74
Tawas City	Iosco	43		26		69
Traverse City	Grand Traverse	85		26		111
Warren	Macomb	47		26		73
MINNESOTA						
Albert Lea	Freeborn	44		26		70
Austin	Mower	41		26		67
Bemidji	Beltrami	42		26		68
Brainerd	Crow Wing	46		26		72
Duluth	St. Louis	49		26		75
Fergus Falls	Otter Tail	57		26		83
Grand Rapids	Itasca	45		26		71
Mendota Heights	Dakota	59		26		85
Minneapolis/St. Paul	Anoka, Hennepin, and Ramsey Counties; Fort Snelling Military Reservation and Navy Astronautics Group (Detachment BRAVO), Rosemount.	62		26		88
Rochester	Olmsted	56		26		82
St. Cloud	Stearns	44		26		70
Winona	Winona	41		26		67
MISSISSIPPI						
Gulfport/Pascagoula/Bay St. Louis	Harrison, Jackson, and Hancock	49		26		75
Jackson	Hinds	52		26		78
Natchez	Adams	47		26		73
Oxford	Lafayette	44		26		70
Vicksburg	Warren	45		26		71
MISSOURI						
Branson	Taney	53		26		79
Cape Girardeau	Cape Girardeau	43		26		69
Columbia	Boone	50		26		76
Hannibal	Marion	44		26		70
Jefferson City	Cole	49		26		75
Joplin	Jasper	44		26		70
Kansas City	Clay, Jackson and Platte (See also Kansas City, KS)	67		26		93
Lake Ozark	Miller	52		26		78

Per diem locality		Maximum lodging amount (a)	+	M&IE rate (b)	=	Maximum per diem rate ⁴ (c)
Key city ¹	County and/or other defined location ² ³					
Osage Beach	Camden	64		26		90
Springfield	Greene	56		26		82
St. Louis	St. Charles and St. Louis	69		26		95
MONTANA						
Billings	Yellowstone	45		26		71
Great Falls	Cascade	47		26		73
Helena	Lewis and Clark	41		26		67
NEBRASKA						
Kearney	Buffalo	42		26		68
Lincoln	Lancaster	47		26		73
North Platte	Lincoln	41		26		67
Omaha	Douglas	55		26		81
NEVADA						
Elko	Elko	50		26		76
Las Vegas	Clark County; Nellis AFB	69		34		103
Lovelock	Pershing	45		26		71
Reno	Washoe	50		26		76
Winnemucca	Humboldt	46		26		72
NEW HAMPSHIRE						
Concord	Merrimack	56		26		82
Conway	Carroll	81		26		107
Durham	Strafford	73		26		99
Laconia	Belknap	66		26		92
Manchester	Hillsborough	68		26		94
Plymouth	Grafton	54		26		80
Portsmouth/Newington	Rockingham County; Pease AFB (See also Kittery, ME)	64		26		90
NEW JERSEY						
Atlantic City	Atlantic	107		34		141
Belle Mead	Somerset	62		26		88
Camden	Camden	63		26		89
Dover	Morris County; Picatinny Arsenal	64		26		90
Edison	Middlesex	63		34		97
Freehold/Eatontown	Monmouth County; Fort Monmouth	68		34		102
Millville	Cumberland	53		26		79
Moorestown	Burlington	69		26		95
Newark	Bergen, Essex, Hudson, Passaic and Union	87		34		121
Ocean City/Cape May	Cape May	96		34		130
Princeton/Trenton	Mercer	80		34		114
Salem	Salem	61		26		87
Tom's River	Ocean	79		26		105
NEW MEXICO						
Albuquerque	Bernalillo	59		26		85
Artesia	Eddy	45		26		71
Cloudcroft	Otero	64		34		98
Farmington	San Juan	53		26		79
Gallup	McKinley	49		26		75
Grants	Cibola	41		26		67
Las Cruces/White Sands	Dona Ana	44		26		70
Las Vegas	San Miguel	44		26		70
Los Alamos	Los Alamos	52		26		78
Raton	Colfax	57		26		83
Roswell	Chaves	41		26		67
Santa Fe	Santa Fe	73		34		107
Silver City	Grant	42		26		68
Taos	Taos	63		26		89
Tucumcari	Quay	46		26		72
NEW YORK						
Albany	Albany	64		26		90
Auburn	Cayuga	56		26		82
Batavia	Genesee	56		26		82
Binghamton	Broom	58		26		84
Buffalo	Erie	68		26		94
Canton	St. Lawrence	52		26		78
Catskill	Greene	48		26		74
Corning	Steuben	60		26		86
Elmira	Chemung	54		26		80
Glens Falls	Warren	56		26		82
Ithaca	Tompkins	61		26		87
Jamestown	Chautauqua	43		26		69
Kingston	Ulster	56		26		82
Lake Placid	Essex	78		26		104
Monticello	Sullivan	55		34		89
New York City	The boroughs of the Bronx, Brooklyn, Manhattan, Queens and Staten Island; Nassau and Suffolk Counties.	140		34		174
Niagara Falls	Niagara	82		26		108
Owego	Tioga	44		26		70

Per diem locality		Maximum lodging amount (a)	+	M&IE rate (b)	=	Maximum per diem rate [4] (c)
Key city [1]	County and/or other defined location [2] [3]					
Palisades	Rockland	58		26		84
Poughkeepsie	Dutchess	68		26		94
Rochester	Monroe	66		26		92
Romulus	Seneca	66		26		92
Saratoga Springs	Saratoga	62		34		96
Schenectady	Schenectady	62		26		88
Syracuse	Onondaga	63		26		89
Troy	Rensselaer	62		26		88
Utica	Oneida	59		26		85
Watertown	Jefferson	56		26		82
Watkins Glen	Schuyler	72		26		98
West Point	Orange	50		26		76
White Plains	Westchester	104		34		138
NORTH CAROLINA						
Asheville	Buncombe	52		26		78
Boone	Watauga	42		26		68
Charlotte	Mecklenburg	63		26		89
Duck	Dare	71		26		97
Elizabeth City	Pasquotank	53		26		79
Fayetteville	Cumberland	42		26		68
Greensboro/High Point	Guilford	54		26		80
Greenville	Pitt	59		26		85
Havelock	Craven	43		26		69
Jacksonville	Onslow	42		26		68
Kinston	Lenoir	47		26		73
Morehead City	Carteret	58		26		84
Raleigh/Durham/ Chapel Hill	Wake, Durham and Orange	66		26		92
Wilmington	New Hanover	48		26		74
Winston-Salem	Forsyth	53		26		79
NORTH DAKOTA						
Bismarck	Burleigh	44		26		70
Fargo	Cass	55		26		81
Grand Forks	Grand Forks	46		26		72
Minot	Ward	48		26		74
OHIO						
Akron	Summit	59		26		85
Bellevue/Norwalk	Huron	55		26		81
Chillicothe	Ross	45		26		71
Cincinnati/Evendale	Hamilton and Warren	60		26		86
Cleveland	Cuyahoga	76		34		110
Columbus	Franklin	68		26		94
Dayton	Montgomery County; Wright-Patterson AFB	63		26		89
Defiance	Defiance	46		26		72
East Liverpool	Columbiana	47		26		73
Elyria	Lorain	51		26		77
Fairfield/Hamilton	Butler	53		26		79
Findlay	Hancock	44		26		70
Geneva	Ashtabula	57		26		83
Lancaster	Fairfield	44		26		70
Lima	Allen	43		26		69
Port Clinton/Oakharbor	Ottawa	61		26		87
Portsmouth	Scioto	48		26		74
Sandusky	Erie	76		26		102
Springfield	Clark	48		26		74
Tinney/Fremont	Sandusky	47		26		73
Toledo	Lucas	53		26		79
Wapakoneta	Auglaize	46		26		72
OKLAHOMA						
Ada	Pontotoc	45		26		71
Lawton	Comanche	45		26		71
Norman	Cleveland	45		26		71
Oklahoma City	Oklahoma	49		26		75
Stillwater	Payne	44		26		70
Tulsa/Bartlesville	Osage, Tulsa and Washington	52		26		78
OREGON						
Beaverton	Washington	55		26		81
Bend	Deschutes	49		26		75
Clackamas	Clackamas	54		26		80
Coos Bay	Coos	45		26		71
Eugene	Lane	52		26		78
Gold Beach	Curry	52		26		78
Lincoln City/Newport	Lincoln	57		26		83
Portland	Multnomah	65		26		91
Salem	Marion	47		26		73
Seaside	Clatsop	75		26		101

Per diem locality		Maximum lodging amount (a)	+	M&IE rate (b)	=	Maximum per diem rate [4] (c)
Key city [1]	County and/or other defined location [2] [3]					
PENNSYLVANIA						
Allentown	Lehigh	58		26		84
Altoona	Blair	47		26		73
Bloomsburg	Columbia	47		26		73
Du Bois	Clearfield	51		26		77
Easton	Northampton	64		26		90
Erie	Erie	53		26		79
Gettysburg	Adams	58		26		84
Harrisburg	Dauphin	69		26		95
Johnstown	Cambria	55		26		81
King of Prussia/Ft. Washington	Montgomery County, except Bala Cynwyd (See also Philadelphia, PA).	83		34		117
Lancaster	Lancaster	64		26		90
Lebanon	Lebanon County; Indian Town Gap Military Reservation	51		26		77
Mansfield	Tioga	49		26		75
Mechanicsburg	Cumberland	52		26		78
Mercer	Mercer	54		26		80
Philadelphia	Philadelphia County; city of Bala Cynwyd in Montgomery County.	89		34		123
Pittsburgh	Allegheny	73		26		99
Radnor/Chester	Delaware	83		34		117
Reading	Berks	51		26		77
Scranton	Lackawanna	57		26		83
Shippingport	Beaver	45		26		71
Somerset	Somerset	58		26		84
State College	Centre	52		26		78
Stroudsburg	Monroe	51		26		77
Uniontown	Fayette	73		26		99
Valley Forge	Chester	83		34		117
Warminster	Bucks County; Naval Air Development Center	56		26		82
Wilkes-Barre	Luzerne	54		26		80
Williamsport	Lycoming	45		26		71
York	York	60		26		86
RHODE ISLAND						
East Greenwich	Kent County; Naval Construction Battalion Center, Davisville	77		26		103
Newport	Newport	98		34		132
Providence	Providence	78		26		104
Quonset Point	Washington	48		26		74
SOUTH CAROLINA						
Aiken	Aiken	41		26		67
Charleston	Charleston and Berkeley	59		26		85
Columbia	Richland	53		26		79
Florence	Florence	41		26		67
Greenville	Greenville	43		26		69
Hilton Head	Beaufort	86		34		120
Myrtle Beach	Horry County; Myrtle Beach AFB	74		26		100
Rock Hill	York	46		26		72
Spartanburg	Spartanburg	49		26		75
SOUTH DAKOTA						
Custer	Custer	50		26		76
Hot Springs	Fall River	64		26		90
Rapid City	Pennington	63		26		89
Sioux Falls	Minnehaha	51		26		77
Spearfish	Lawrence	52		26		78
TENNESSEE						
Chattanooga	Hamilton	45		26		71
Clarksville	Montgomery	43		26		69
Columbia	Maury	49		26		75
Gatlinburg	Sevier	63		26		89
Johnson City	Washington	54		26		80
Kingsport/Bristol	Sullivan	45		26		71
Knoxville	Knox County; city of Oak Ridge	53		26		79
Memphis	Shelby	56		26		82
Murfreesboro	Rutherford	44		26		70
Nashville	Davidson	52		26		78
Shelbyville	Bedford	52		26		78
TEXAS						
Abilene	Taylor	45		26		71
Amarillo	Potter	51		26		77
Austin	Travis	64		26		90
Bay City	Matagorda	41		26		67
Beaumont	Jefferson	44		26		70
Brownsville	Cameron	55		26		81
Brownwood	Brown	42		26		68
College Station/Bryan	Brazos	47		26		73
Corpus Christi	Nueces	62		26		88
Dallas/Fort Worth	Dallas and Tarrant	74		34		108

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Per diem locality		Maximum lodging amount (a)	+	M&IE rate (b)	=	Maximum per diem rate[4] (c)
Key city[1]	County and/or other defined location[2] [3]					
Denton	Denton	47		26		73
El Paso	El Paso	58		26		84
Galveston	Galveston	64		26		90
Granbury	Hood	59		26		85
Houston	Harris County; L. B. Johnson Space Center and Ellington AFB.	73		34		107
Kingsville	Kleberg	41		26		67
Lajitas	Brewster	56		26		82
Laredo	Webb	53		26		79
Longview	Gregg	47		26		73
Lubbock	Lubbock	58		26		84
Lufkin	Angelina	41		26		67
McAllen	Hidalgo	55		26		81
Midland/Odessa	Ector and Midland	52		26		78
Nacogdoches	Nacogdoches	46		26		72
Plainview	Hale	45		26		71
Plano	Collin	74		26		100
San Angelo	Tom Green	45		26		71
San Antonio	Bexar	61		26		87
Temple	Bell	50		26		76
Victoria	Victoria	44		26		70
Waco	McLennan	48		26		74
Wichita Falls	Wichita	46		26		72
UTAH						
Bullfrog	Garfield	85		26		111
Cedar City	Iron	50		26		76
Salt Lake City/Ogden	Salt Lake, Weber, and Davis Counties; Dugway Proving Ground and Tooele Army Depot.	70		26		96
St. George	Washington	44		26		70
VERMONT						
Burlington	Chittenden	63		26		89
Middlebury	Addison	57		26		83
Montpelier	Washington	45		26		71
Rutland	Rutland	57		26		83
White River Junction	Windsor	56		26		82
VIRGINIA						
(For the cities of Alexandria, Fairfax, and Falls Church, and the counties of Arlington, Fairfax, and Loudoun, see District of Columbia.)						
Amissville	Rappahannock	51		26		77
Blacksburg	Montgomery	57		26		83
Bristol *		46		26		72
Charlottesville *		53		26		79
Covington *		42		26		68
Fredericksburg *		44		26		70
Lexington *		48		26		74
Lynchburg *		51		26		77
Manassas/Manassas Park *	Prince William	55		26		81
Norfolk * (also Virginia Beach, Portsmouth, Hampton, Newport News, and Chesapeake)*.	York County; Naval Weapons Station, Yorktown	68		26		94
Petersburg *	Fort Lee	44		26		70
Richmond *	Chesterfield and Henrico Counties; also Defense Supply Center.	58		26		84
Roanoke *	Roanoke	54		26		80
Staunton *		43		26		69
Wallops Island	Accomack	57		26		83
Warrenton	Fauquier	51		26		77
Williamsburg *		68		34		102
Wintergreen	Nelson	68		26		94
*Denotes independent cities.						
WASHINGTON						
Anacortes	Skagit	56		26		82
Bellingham	Whatcom	56		26		82
Bremerton	Kitsap	43		26		69
Kelso/Longview	Cowlitz	46		26		72
Lynnwood/Everett	Snohomish	60		26		86
Ocean Shores	Grays Harbor	48		26		74
Port Angeles	Clallam	60		26		86
Richland	Benton	44		26		70
Seattle	King	79		34		113
Spokane	Spokane	50		26		76
Tacoma	Pierce	62		26		88
Tumwater/Olympia	Thurston	59		26		85
Vancouver	Clark	56		26		82
Whidbey Island	Island	47		26		73
Yakima	Yakima	44		26		70
WEST VIRGINIA						
Beckley	Raleigh	45		26		71

Per diem locality		Maximum lodging amount (a)	+	M&IE rate (b)	=	Maximum per diem rate [4] (c)
Key city [1]	County and/or other defined location [2] [3]					
Berkeley Springs	Morgan	52		26		78
Charleston	Kanawha	52		26		78
Harpers Ferry	Jefferson	53		26		79
Huntington	Cabell	51		26		77
Martinsburg	Berkeley	49		26		75
Morgantown	Monongalia	49		26		75
Wheeling	Ohio	44		26		70
WISCONSIN						
Brookfield	Waukesha	62		26		88
Eau Claire	Eau Claire	48		26		74
Green Bay	Brown	53		26		79
Kewaunee	Kewaunee	58		26		84
La Crosse	La Crosse	52		26		78
Lake Geneva	Walworth	81		26		107
Madison	Dane	58		26		84
Marinette	Marinette	44		26		70
Milwaukee	Milwaukee	63		26		89
Minocqua/Rhinelander	Oneida	48		26		74
Mishicot	Manitowoc	55		26		81
Oshkosh	Winnebago	55		26		81
Sheboygan	Sheboygan	43		26		69
Sturgeon Bay	Door	54		26		80
Wausau	Marathon	48		26		74
Wautoma	Waushara	49		26		75
Wisconsin Dells	Columbia	67		26		93
WYOMING						
Cheyenne	Laramie	45		26		71
Cody	Park	50		26		76
Gillette	Campbell	42		26		68
Jackson	Teton	60		26		86
Thermopolis	Hot Springs	42		26		68

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[1] Unless otherwise specified, the per diem locality is defined as "all locations within, or entirely surrounded by, the corporate limits of the key city, including independent entities located within those boundaries."

[2] Per diem localities with county definitions shall include "all locations within, or entirely surrounded by, the corporate limits of the key city as well as the boundaries of the listed counties, including independent entities located within the boundaries of the key city and the listed counties."

[3] Military installations or Government-related facilities (whether or not specifically named) that are located partially within the city or county boundary shall include "all locations that are geographically part of the military installation or Government-related facility, even though part(s) of such activities may be located outside the defined per diem locality."

[4] Federal agencies may submit a request to GSA for review of the costs covered by per diem in a particular city or area where the standard CONUS rate applies when travel to that location is repetitive or on a continuing basis and travelers' experiences indicate that the prescribed rate is inadequate. Other per diem localities listed in this appendix will be surveyed on an annual basis by GSA to determine whether rates are adequate. Requests for per diem rate adjustments shall be submitted by the agency headquarters office to the General Services Administration, Federal Supply Service, Attn: Transportation Management Division (FBX), Washington, DC 20406. Agencies should designate an individual responsible for reviewing, coordinating, and submitting to GSA any requests from bureaus or subagencies. Requests for rate adjustments shall include a city designation, a description of the surrounding location involved (county or other defined area), and a recommended rate supported by a statement explaining the circumstances that cause the existing rate to be inadequate. The request also must contain an estimate of the annual number of trips to the location, the average duration of such trips, and the primary purpose of travel to the locations.

Dated: February 18, 1992.

Richard G. Austin,

Administrator of General Services.

[FR Doc. 92–4521 Filed 2–26–92; 8:45 am]

BILLING CODE 6820-24-F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89–422; RM–6867; RM-7039, and RM–7099]

FM Radio Broadcasting Services; Mary Esther, Apalachicola, and Crawfordville, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission grants the requests of Holladay Broadcasting Company, Inc., licensee of Station WYZB(FM), Channel 288A, Mary Esther, Florida, to upgrade its station by substituting Channel 288C3 and by modifying its license to operate on Channel 288C3; and of Wakulla Broadcasting Associates to allot Channel 231A to Crawfordville, Florida to provide that community with its first local FM broadcast service. The Commission dismisses the request of B.F.J. Timm, permittee of Station WAPY(FM), Channel 288A, Apalachicola, Florida, to upgrade its station on Channel 288C2. See 54 FR 41128, October 5, 1989. Channel 288C3 can be allotted to Mary Esther in compliance with the Commission's minimum distance separation requirements using a site restricted to 19.8 kilometers (12.3 miles) east of Mary Esther at coordinates North Latitude 30–23–30 and West Longitude 86–27–30. Channel 231A can be allotted at Crawfordville in compliance with the Commission's minimum distance separations requirements using a site restricted to 11.6 kilometers (7.2 miles) south-southeast of Crawfordville at coordinates North Latitude 30–04–54 and West Longitude 84–19–27. With this action, the proceeding is terminated.

DATES: Effective April 3, 1992. The window period for filing applications for the Crawfordville allotment will open on April 6, 1992 and close on May 6, 1992.

FOR FURTHER INFORMATION CONTACT: J. Bertron Withers, Jr., Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 89–422, adopted February 7, 1992, and released February 18, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1714 21st Street NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Florida, is amended by removing Channel 288A and adding Channel 288C3 at Mary Esther, and by adding Crawfordville, Channel 231A.

Federal Communications Commission.

Andrew J. Rhodes,

Chief, Allocations Branch, Policy & Rules Division, Mass Media Bureau.

[FR Doc. 92-4065 Filed 2-26-92; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 911176-2018]

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of change in recordkeeping and reporting requirements.

SUMMARY: NMFS has determined that Daily Production Reports must be submitted by processor vessels and shoreside processing facilities that catch groundfish in, or receive groundfish from the Western Regulatory Area of the Gulf of Alaska (GAO). This action is necessary to prevent exceeding the total allowable catches (TACs) for pollock, Pacific cod, and other groundfish species. The intent of this action is to ensure optimum use of groundfish, while conserving individual stocks.

EFFECTIVE DATES: From 00:01, Alaska local time (A.l.t.), February 21, 1992, until 12 midnight, A.l.t., December 31, 1992.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, Resource Management Specialist, NMFS, 907-586-7228.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) governs the groundfish fishery in the exclusive economic zone in the GOA under the Magnuson Fishery Conservation and Management Act. The FMP is prepared by the North Pacific Fishery Management Council and is implemented by regulations appearing at 50 CFR 611.92 and parts 620 and 672.

Under § 672.5(c)(3)(i), the Director, Alaska Region, NMFS (Regional Director), is requiring processor vessels and shoreside processing facilities that catch groundfish in, or receive groundfish from, the Western Regulatory Area of the GOA, including all waters of Reporting Area 61, to submit Daily Production Reports in addition to weekly production reports. Daily Production Reports are required from 00:01, A.l.t., February 21, 1992, through December 31, 1992, or until the Regional Director determines that these reports are no longer necessary.

Fishing effort by trawl vessels in the GOA is not expected to follow any previous year's pattern. Recent trawl closures to pollock and Pacific cod in the Bering Sea/Aleutian Islands may result in increased trawl presence in the Western Regulatory Area of the GOA. Daily Production Reports are necessary to provide NMFS the means to monitor groundfish catches during fast-paced fisheries that are expected in the Western Regulatory Area of the GOA.

Daily Production Reports must include all information required by § 672.5(c)(3)(ii) for groundfish harvested from reporting area 61. Processors must submit the required information on the "Alaska Groundfish Processor Daily Production Report" (Daily Production Report) form available in the processors' recordkeeping reference manual or from the Regional Director at the address listed in the manual.

Processors must transmit their completed Daily Production Reports to the Regional Director by facsimile transmission to number (907) 586-7131 or by telex (U.S. code) at 6229600 no later than 12 hours after the end of the day the groundfish was processed.

If, and when the Regional Director determines that these reports are no longer necessary, he may rescind the requirement for Daily Production Reports. Criteria used to assess the need for the reports include the instability of effort and harvest rates in the groundfish fisheries and the remaining amounts of TAC in each fishery.

Classification

The Assistant Administrator finds that reasons justifying promulgation of this action also make it impracticable and contrary to the public interest to provide notice and opportunity for prior comment or to delay for 30 days its effective date under sections 553 (b) and (d) of the Administrative Procedure Act. Intense fishing effort without Daily Production Reports would risk exceeding the TAC for several groundfish fisheries.

This action is taken under § 672.5, and complies with Executive Order 12291.

The collection-of-information requirement contained in this notice was approved by the Office of Management and Budget (OMB) as a revision to OMB No. 0648-213 (56 FR 9636; March 7, 1991).

List of Subjects in 50 CFR Part 672

Fisheries, Recordkeeping and reporting requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 21, 1992.

Richard H. Schaefer,

Director of Office of Fisheries, Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92-4414 Filed 2-21-92; 3:29 pm]

BILLING CODE 3510-22-M

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50 CFR Part 675

[Docket No. 911172-2021]

Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure to directed fishing.

SUMMARY: The Director, Alaska Region, NMFS (Regional Director), has determined that the first seasonal allowance of prohibited species catch (PSC) of Pacific halibut for the domestic annual processing (DAP) rock sole fishery in the Bering Sea and Aleutian Islands management area (BSAI) has been caught. NMFS is prohibiting directed fishing for rock sole by vessels using trawl gear in the BSAI. This action is necessary to prevent the first seasonal allowance of Pacific halibut to the DAP rock sole fishery from being exceeded. The intent of this action is to promote optimum use of groundfish while conserving halibut stocks.

EFFECTIVE DATES: 12 noon, Alaska local time (A.l.t.), February 23, 1992, through midnight, A.l.t., March 29, 1992.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, Resource Management Specialist, NMFS, 907-586-7228.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) governs the groundfish fishery in the exclusive economic zone within the BSAI under the Magnuson Fishery Conservation and Management Act. The FMP was prepared by the North Pacific Fishery Management Council and is implemented by regulations appearing at 50 CFR 611.93 and parts 620 and 675.

Regulations appearing at § 675.21(a)(5), establish the secondary PSC mortality limit of Pacific halibut caught while conducting any domestic annual harvest trawl fishery for groundfish in the BSAI during any fishing year as an amount of Pacific halibut equivalent to 5,333 metric tons (mt). Further, § 675.21(b) provides that the PSC limit of Pacific halibut may be apportioned to fishery categories on a seasonal basis. Under § 675.21(b)(4), one such category is the DAP rock sole fishery. The final notice of initial specifications of BSAI groundfish for 1992 (57 FR 3952, February 3, 1992) established the 1992 first seasonal Pacific halibut bycatch allowance in the DAP rock sole fishery as 600 mt.

Under § 675.21(c)(1)(iv), the Regional Director has determined that U.S. fishing vessels using trawl gear have caught the 1992 first seasonal PSC allowance of Pacific halibut in the BSAI while participating in the DAP rock sole fishery. NMFS is publishing this notice in the **Federal Register** closing the BSAI to directed fishing for rock sole from 12 noon, A.l.t., February 23, 1992, through 12 midnight, A.l.t., March 29, 1992.

In accordance with § 675.20(h)(1), after this closure, vessels using trawl gear may not retain at any time during a trip an amount of rock sole equal to or greater than 20 percent of the aggregate catch of the other fish retained at the same time during the same trip as measured in round weight equivalents.

Classification

This action is taken under § 675.21, and complies with Executive Order 12291.

List of Subjects in 50 CFR Part 675

Fish, Fisheries, Recordkeeping and reporting requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 21, 1992.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92-4413 Filed 2-21-92; 3:28 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 57, No. 39
Thursday, February 27, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92-CE-05-AD]

Airworthiness Directives; Garrett AirResearch Aircraft Starters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD) that would be applicable to all aircraft equipped with Garrett AirResearch aircraft starters. The proposed action would require an inspection of owner/operator parts procurement records to determine if any aircraft starters have been procured from Classic Aviation, Inc., removal of any such installed aircraft starter, and replacement with an approved part. The Federal Aviation Administration (FAA) has received reports of improperly overhauled aircraft starters distributed by Classic Aviation, Inc., having been installed on certain airplanes. The Federal Aviation Administration cannot determine the fatigue life and structural soundness of these starters. The actions specified by this AD are intended to prevent in-service fatigue or structural failures of the aircraft starter, which could result in an in-flight fire or loss of control of the airplane.

DATES: Comments must be received on or before May 6, 1992.

ADDRESSES: Information that is applicable to this AD may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92-CE-05-AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Christina Marsh, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, suite 210C, Atlanta, Georgia 30349; Telephone (404) 991–6137; Facsimile (404) 991–3606.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 92-CE-05-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92-CE-05-AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The FAA has determined that Classic Aviation, Inc., has distributed improperly overhauled Garrett AirResearch aircraft starters, which could be installed on certain airplanes that include, but are not limited to, Boeing Models 707, 727, and 737 airplanes and McDonnell Douglas Models DC–8, DC–9, and DC–10 airplanes. These aircraft starters were overhauled though the use of unapproved methods and procedures, and the installation of unapproved parts, and then distributed by Classic Aviation, Inc. The FAA has determined that the fatigue life and structural soundness of these improperly overhauled aircraft starters cannot be ensured.

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that AD action should be taken tp prevent in-service fatigue or structural failures of the aircraft starter, which could result in an in-flight fire or loss of control of the airplane. Since the condition described is likely to exist or develop in other aircraft equipped with Garrett AirResearch aircraft starters of the same type design, the proposed AD would require an inspection of the owner/operator parts procurement records to determine if any aircraft starters have been procured from Classic Aviation, Inc., removal of any such installed aircraft starter, and replacement with an approved part.

The compliance time in paragraph (a) of the proposed AD would be 30 calendar days to allow the owner/operator a grace period to inspect the procurement records. This grace period does not constitute FAA approval that the part is safe for operation during this time.

The FAA has no way of determining how many airplanes may have these improperly overhauled aircraft starters installed. If an aircraft starter that was distributed by Classic Aviation, Inc., is found as a result of the proposed inspection of the procurement records as specified in paragraph (a) of the proposed AD, the installation of a new or approved overhauled aircraft starter would be required. The parts for this possible installation would cost approximately $7,500. It is estimated that it would take .5 workhours to accomplish the possible installation at an average labor rate of $55. The possible replacement would cost approximately $7,527.50 (parts plus labor) per airplane. Because the FAA is unable to determine how many airplanes have these unapproved overhauled aircraft starters installed or how many have been distributed by Classic Aviation, Inc., a cost impact for all U.S. operators is not available.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contracting the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

Garrett AirResearch: Docket No. 92–CE–05–AD.

Applicability: All aircraft equipped with Garrett AirResearch aircraft starters that are installed in, but not limited to, Boeing Models 707, 727, and 737 airplanes and McDonnell Douglas Models DC–8, DC–9, and DC–10 airplanes, certificated in any category.

Compliance: Required as indicated, unless already accomplished.

To prevent in-service fatigue or structural failures of the aircraft starter, which could result in an in-flight fire or loss of control of the airplane, accomplish the following:

Note 1: The 30-calendar day compliance time specified in paragraph (a) of this AD is a grace period and does not constitute FAA approval that the part is safe for operation during this time.

(a) Within the next 30 calendar days (see NOTE 1) after the effective date of this AD, inspect the owner/operator parts procurement records dated from January 1, 1987 to the effective date of this AD, and identify any of the following aircraft starter part numbers that have been distributed by Classic Aviation, Inc.:

355290–1–1
355740–1–1
355760–3–1
356364–1–1, 356364–6–2, and 356364–8–3
356564–3–1
383042–4–1
383152–1–2, 383152–16–1, and 383152–19–1
383222–1–1 and 383222–4–1
383342–1–1, 383342–2–1, and 383342–4–1
383350–1–1
383370–1–1, 383370–2–1, 383370–3–1, 383370–4–1, 383370–5–1, 383370–6–1, 383370–7–1, and 383370–8–1
383642–1–1
383780–1–1
384022–5–1 and 380422 (all dash numbers)

(b) If any of the starters referenced in paragraph (a) of this AD are identified as being distributed by Classic Aviation, Inc., within the next 50 hours time-in-service after the procurement records inspection required by paragraph (a) of this AD, replace any such installed aircraft starter with a new aircraft starter, or overhaul any such installed aircraft starter through an authorized repair station.

(c) This AD does not constitute FAA approval of Garrett AirResearch aircraft starters that have been distributed by Classic Aviation, Inc., and the affected aircraft is still subject to the maintenance, preventive maintenance, rebuilding, and alteration requirements of FAR 43.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) An alternative method of compliance or adjustment of the compliance times that provides an equivalent level of safety may be approved by the Manager, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, suite 210C, Atlanta, Georgia 30349. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta Aircraft Certification Office.

(f) All persons affected by this directive may examine information that is applicable to this AD at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on February 21, 1992.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–4464 Filed 2–26–92; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF JUSTICE

Office of Justice Programs

28 CFR Part 23

Proposed Revision to the Office of Justice Programs, Criminal Intelligence Systems Operating Policies

AGENCY: Office of Justice Programs, Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: The regulation governing criminal intelligence systems operating through support under Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, has been in effect and unchanged since September 17, 1980. The regulation, 28 CFR part 23, being revised to update basic authority citations and nomenclature, to clarify the applicability of the regulation, to define terms, and to modify a number of the regulation's operating policies and funding guidelines.

DATES: Comments must be received on or before 5 p.m., E.D.T. on April 27, 1992.

ADDRESSES: Comments should be sent to: the Office of the Assistant Attorney General, Office of Justice Programs, 633 Indiana Ave., NW., Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: John J. Wilson, Associate General Counsel, Office of Justice Programs, 633 Indiana Ave., NW., room 1246E, Washington, DC 20531, Telephone (202) 307–0793.

SUPPLEMENTARY INFORMATION: The statutory authorities for this regulation are section 801(a) and section 812(c) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, (the Act), 42 U.S.C. 3782(a) and 3789(c). The latter section provides as follows:

> **Confidentiality of Information**
>
> Sec. 812. . . .
>
> (c) All criminal intelligence systems operating through support under this title shall collect, maintain, and disseminate criminal intelligence information in conformance with policy standards which are prescribed by the Office of Justice Programs and which are written to assure that the funding and operation of these systems furthers the purpose of this title and to assure that such systems are not utilized in violation of the privacy and constitutional rights of individuals.
>
> (d) Any person violating the provisions of this section, or of any rule, regulation, or order issued thereunder, shall be fined not to exceed $10,000, in addition to any other penalty imposed by law.

This statutory provision and its implementing systems funded under title

I of the Act, whether the system operates for the benefit of a single law enforcement agency, is an interjurisdictional intelligence system, is funded with discretionary grant funds, or is funded by a State with formula grant funds awarded under the Act's Drug Control and System Improvement Grant Program pursuant to part E, subpart 1 of the Act, 42 U.S.C. 3751–3759.

The need for change to 28 CFR part 23 grew out of the program experience of the Office of Justice Programs (OJP) and its component agency, the Bureau of Justice Assistance (BJA), with the regulation and the changing and expanding law enforcement agency need to respond to criminal mobility, the National drug program, the increased complexity of criminal networks and conspiracies, and the limited funding available to State and local law enforcement agencies. In addition, law enforcement's capability to perform intelligence data base and analytical functions has been enhanced by technological advancements and sophisticated analytical techniques.

28 CFR part 23 governs the basic requirements of the intelligence system process. The process includes—

1. Information submission or collection
2. Secure storage
3. Inquiry and search capability
4. Controlled dissemination, and
5. Purge and review process

Any information system that receives, stores and disseminates information on individuals or organizations based on their involvement in criminal activity is a criminal intelligence system under the regulation. The definition includes both systems that store detailed information on the criminal activities of subjects and those which store only information designed to identify individuals or organizations that are the subject of an injury or analysis (a so-called "pointer system").

There are eight significant areas of change to the regulation:

(1) Nomenclature changes (name of part, authority citations, organizational names) are included to bring the regulation up to date.

(2) Definitions of terms (28 CFR 23.3(b)) are modified or added as appropriate. The term "intelligence system" is redefined to clarify the fact that historical telephone toll files, analytical information, and work products that are not either retained, stored, or exchanged are excluded from the definition, and hence are not covered by the regulation; the terms "interjurisdictional intelligence system", "criminal intelligence information", "participating agency", "intelligence project", and "validation of information" are key terms that are defined in the regulation for the first time.

(3) The operating principles for intelligence systems (28 CFR 23.20) are modified to define the term "reasonable suspicion" or "criminal predicate". The finding of reasonable suspicion is a threshold requirement for entering intelligence information on an individual or organization into an intelligence data base (28 CFR 23.20(c)). This determination, as well as determinations that information was legally obtained (28 CFR 23.20(d)) and that a recipient of the information has a need to know and/or a right to know the information in the performance of a law enforcement function (28 CFR 23.20(e)), are established as the responsibility of the project for an interjurisdictional intelligence system. However, the regulation permits these responsibilities to be delegated to a properly trained participating agency which is subject to project inspection and audit (28 CFR 23.20 (c), (d), (g)).

(4) Security requirements are established to protect the integrity of the intelligence data base and the information stored in the data base (28 CFR 23.20(g)(1) (i)–(vi)).

(5) The proposed regulation provides that information retained in the system must be reviewed and validated for continuing compliance with system submission criteria within a 5-year retention period. The current regulation provides a 2-year retention period, during which information can be disseminated without validation, but requires validation of information retained beyond two years before it can be disseminated. Thus, under the current regulation, information can be retained in a system indefinitely, a situation presenting a potential ongoing threat to individual privacy. The proposed regulation would permit information to be retained for a more realistic 5-year period but require that any information not validated within that period must be purged from the system (28 CFR 23.20(h)).

(6) Another proposed change would continue the general prohibition of direct remote terminal access to intelligence information in a funded intelligence system but would provide an exception for systems which obtain express OJP approval based on a determination that the system has adequate policies and procedures in place to insure that access to system intelligence information is limited to authorized system users (28 CFR 23.20(i)(1)). This change is important because of the information demands brought on by the war on drugs. Effective law enforcement response requires a 24-hour a day response capability and fast turn-around. At the same time, technological advancements enable intelligence projects to monitor system access as well as to program for system security and audit capacity. OJP would carefully review all requests for exception to assure that a need exists and that system integrity will be provided and maintained (28 CFR 23.20(i)(1)).

(7) The proposed regulation would require participating agencies to maintain back-up files for information submitted to an interjurisdictional intelligence system, establish that such files must comply with the operating principles and provide for inspection and audit by project staff (28 CFR 23.20(h)).

(8) The funding guidelines (28 CFR 23.30) are revised to permit funded intelligence systems to collect information either on organized criminal activity that represents a significant and recognized threat to the population or on criminal activity that is multi-jurisdictional in nature.

Executive Order 12291

These regulations are not a "major rule" as defined by section 1(b) of Executive Order No. 12291, 3 CFR part 127 (1981), because they do not result in: (a) An effect on the economy of $100 million or more, (b) a major increase in any costs or prices, or (c) adverse effects on competition, employment, investment, productivity, or innovation among American enterprises.

Regulatory Flexibility Act

These regulations are not a rule within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612. These regulations, if promulgated, will not have a "significant" economic impact on a substantial number of small "entities," as defined by the Regulatory Flexibility Act.

Paperwork Reduction Act

There are no collection of information requirements contained in the proposed regulation.

List of Subjects in 28 CFR Part 23

Administrative practice and procedure, Grant programs, Intelligence, Law enforcement.

For the reasons set out in the preamble, title 28, part 23 of the Code of Federal Regulations is proposed to be revised to read as follows:

PART 23—CRIMINAL INTELLIGENCE SYSTEMS POLICIES

Sec.
23.1 Purpose.
23.2 Background.
23.3 Applicability.
23.20 Operating principles.
23.30 Funding guidelines.
23.40 Monitoring and auditing of grants for the funding of intelligence systems.

Authority: 42 U.S.C. 3782(a); 42 U.S.C. 3789g(c).

§ 23.1 Purpose.

The purpose of this regulation is to assure that all criminal intelligence systems operating through support under the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. 3711, *et seq.*, as amended (Pub. L. 90–351, as amended by Pub. L. 91–644, Pub. L. 93–83, Pub. L. 93–415, Pub. L. 94–430, Pub. L. 94–503, Pub. L. 95–115, Pub. L. 96–157, Pub. L. 98–473, Pub. L. 99–570, Pub. L. 100–690, and Pub. L. 101–647), are utilized in conformance with the privacy and constitutional rights of individuals.

§ 23.2 Background.

It is recognized that certain criminal activities including but not limited to loan sharking, drug trafficking, trafficking in stolen property, gambling, extortion, smuggling, bribery, and corruption of public officials often involve some degree of regular coordination and permanent organization involving a larger number of participants over a broad geographic area. The exposure of such ongoing networks of criminal activity can be aided by the pooling of information about such activities. However, because the collection and exchange of intelligence data necessary to support control of serious criminal activity may represent potential threats to the privacy of individuals to whom such data relates, policy guidelines for Federally funded projects are required.

§ 23.3 Applicability.

(a) These policy standards are applicable to all criminal intelligence systems operating through support under the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. 3711, et seq., as amended (Pub. L. 90–351, as amended by Pub. L. 91–644, Pub. L. 93–83, Pub. L. 93–415, Pub. L. 94–430, Pub. L. 94–503, Pub. L. 95–115, Pub. L. 96–157, Pub. L. 98–473, Pub. L. 99–570, Pub. L. 100–690, and Pub. L. 101–647).

(b) As used in these policies, *Intelligence System* means the arrangements, equipment, facilities, and procedures used for the receipt, storage, exchange, and analysis of criminal intelligence information, except that this definition does not include (1) *modus operandi* files, (2) historical telephone toll files, and (3) analytical information and work products, as defined below. *Analytical information and work products* means working files for investigations where the bulk data and analytical results are returned to the submitter upon completion and are not otherwise retained, stored, or disseminated. *Interjurisdictional Intelligence System* means an intelligence system which involves two or more participating agencies representing different governmental units or jurisdictions. *Criminal Intelligence Information* means evaluated data pertaining to an individual who, or organization which, is the subject or target of an investigation conducted by an agency exercising law enforcement or criminal investigation authority. *Participating Agency* means an agency or local, county, State, Federal, or other governmental unit which exercises law enforcement or criminal investigation authority and which is authorized to submit and receive criminal intelligence information through an interjurisdictional intelligence system. A participating agency may be a member or a nonmember of an interjurisdictional intelligence system. *Intelligence Project* or *Project* means the organizational unit which operates an intelligence system on behalf of and for the benefit of a single agency or the organization which operates an interjurisdictional intelligence system on behalf of a group of participating agencies. *Validation of Information* means the procedures governing the periodic review of criminal intelligence information to assure its continuing compliance with system submission criteria established by regulation or program policy.

§ 23.20 Operating principles.

(a) A project shall collect and maintain criminal intelligence information concerning an individual only if there is reasonable suspicion that the individual is involved in criminal conduct or activity and the information is relevant to that criminal conduct or activity.

(b) A project shall not collect or maintain criminal intelligence information about the political, religious or social views, associations, or activities of any individual or any group, association, corporation, business, partnership, or other organization unless such information directly relates to an investigation of criminal conduct or activity and there is reasonable suspicion that the subject of the information is or may be involved in criminal conduct or activity.

(c) *Reasonable Suspicion* or *Criminal Predicate* is established when an investigative file exists which contains sufficient facts to give a trained law enforcement or criminal investigative agency officer, investigator, or employee a basis to infer or conclude there is a reasonable possibility that an individual or organization is involved in a definable criminal activity or enterprise. In an interjurisdictional intelligence system, in the project is responsible for establishing the existence or reasonable suspicion of criminal activity either through examination of supporting information submitted by a participating agency or by delegation of this responsibility to a properly trained participating agency which is subject to routine inspection and audit procedures established by the project.

(d) A project shall not include in any criminal intelligence system information which has been obtained in violation of any applicable Federal, State, or local law or ordinance. In an interjurisdictional intelligence system, the project is responsible for establishing that no information is entered in violation of Federal, State, or local laws, either through examination of supporting information submitted by a participating agency or by delegation of this responsibility to a properly trained participating agency which is subject to routine inspection and audit procedures established by the project.

(e) A project or authorized recipient shall disseminate criminal intelligence information only where there is a need to know and a right to know the information in the performance of a law enforcement activity.

(f)(1) Except as noted in paragraph (f)(2) of this section, a project shall disseminate criminal intelligence information only to law enforcement authorities who shall agree to follow procedures regarding information receipt, maintenance, security, and dissemination which are consistent with these principles.

(2) Paragraph (f)(1) of this section shall not limit the dissemination of an assessment of criminal intelligence information to a government official or to any other individual, when necessary, to avoid imminent danger to life or property.

(g) A project maintaining criminal intelligence information shall adopt administrative, technical, and physical safeguards (including audit trails) to insure against unauthorized access and against intentional or unintentional damage. A record indicating who has been given information, the reason for release of the information, and the date of each dissemination outside the project shall be kept. Information shall be labeled to indicate levels of sensitivity, levels of confidence, and the identity of submitting agencies and control officials. Each project must establish written definitions for the need to know and right to know standards for dissemination provided in paragraph (e) of this section. The project is responsible for establishing the existence of an inquirer's need to know and right to know the information being requested either through inquiry or by delegation of this responsibility to a properly trained participating agency which is subject to routine inspection and audit procedures established by the project. Each intelligence project shall assure that the following security requirements are implemented:

(1) Where appropriate, projects must adopt effective and technologically advanced computer software and hardware designs to prevent unauthorized access to the information contained in the system;

(2) The project must restrict access to its facilities, operating environment and documentation to organizations and personnel authorized by the project;

(3) The project must store information in the system in a manner such that it cannot be modified, destroyed, accessed, or purged without authorization;

(4) The project must institute procedures to protect criminal intelligence information from unauthorized access, theft, sabotage, fire, flood, or other natural or manmade disaster;

(5) The project must promulgate rules and regulations based on good cause for implementing its authority to screen, reject for employment, transfer, or remove personnel authorized to have direct access to the system; and

(6) A project may authorize remote (off-premises) system data bases to the extent that they comply with these security requirements.

(h) All projects shall adopt procedures to assure that all information which is retained by a project has relevancy and importance. Such procedures shall provide for the periodic review of information and the destruction of any information which is misleading, obsolete or otherwise unreliable and shall require that any recipient agencies be advised of such changes which involve errors or corrections. All information retained as a result of this review must reflect the name of the reviewer, date of review and explanation of decision to retain. Information retained in the system must be reviewed and validated for continuing compliance with system submission criteria before the expiration of its retention period, which in no event shall be longer than five (5) years.

(i) If funds awarded under the Act are used to support any portion of an intelligence system, then:

(1) No project shall make direct remote terminal access to intelligence information available to system participants, except as specifically approved by the Office of Justice Programs (OJP) based on a determination that the system has adequate policies and procedures in place to insure that it is accessible only to authorized systems users; and

(2) A project shall undertake no modifications to system design without prior OJP approval.

(j) A project shall notify OJP prior to initiation of formal information exchange procedures with any Federal, State, regional, or other information systems not indicated in the grant documents as initially approved at time of award.

(k) A project shall make assurances that there will be no purchase or use in the course of the project of any electronic, mechanical, or other device for surveillance purposes that is in violation of the provisions of the Electronic Communications Privacy Act of 1986, Public Law 99-508, 18 U.S.C. 2510-2520, 2701-2709 and 3121-3125, or any applicable State statute related to wiretapping and surveillance.

(l) A project shall make assurances that there will be no harassment or interference with any lawful political activities as part of the intelligence operation.

(m) A project shall adopt sanctions for unauthorized access, utilization, or disclosure of information contained in the system.

(n) A participating agency of an interjurisdictional intelligence system must maintain in its agency files information which verifies the correctness of each submission to the system and supports compliance with project entry criteria. Those files maintained by a participating agency to support system submissions are subject to the requirements of the intelligence system operating principles. Participating agency files supporting system submissions must be made available for reasonable audit and inspection by project representatives. A participating agency may maintain these files separately from other agency files. Project representatives will conduct participating agency inspection and audit in such a manner so as to protect the confidentiality and sensitivity of participating agency intelligence records.

§ 23.30 Funding guidelines.

The following funding guidelines shall apply to all OJP agency funded discretionary assistance awards and Bureau of Justice Assistance (BJA) formula grant program subgrants, the purpose of which is to support the operation of an intelligence system. Intelligence systems shall only be funded where a grantee/subgrantee agrees to adhere to the principles set forth above and the project meets the following criteria:

(a) The proposed collection and exchange of criminal intelligence information has been coordinated with and will support ongoing or proposed investigatory or prosecutorial activities relating to specific areas of criminal activity.

(b) The areas of criminal activity for which intelligence information is to be utilized represent a significant and recognized threat to the population and:

(1) Are either undertaken for the purpose of seeking illegal power or profits or pose a threat to the life and property of citizens; and

(2) Involve a significant degree of permanent criminal organization; or

(3) Are not limited to one jurisdiction.

(c) The head of a government agency or an individual with general policy making authority who has been expressly delegated such control and supervision by the head of the agency will retain control and supervision of information collection and dissemination for the criminal intelligence system. This official shall certify in writing that he or she takes full responsibility and will be accountable for the information maintained by and disseminated from the system and that the operation of the system will be in compliance with the principles set forth in § 23.20.

(d) Where the system is an interjurisdictional criminal intelligence system, the governmental agency which exercises control and supervision over the operation of the system shall require that the head of that agency or an individual with general policymaking authority who has been expressly delegated such control and supervision by the head of the agency:

(1) Assume official responsibility and accountability for actions taken in the name of the joint entity, and

(2) Certify in writing that the official takes full responsibility and will be accountable for insuring that the information transmitted to the

interjurisdictional system or to participating agencies will be in compliance with the principles set forth in § 23.20.

The principles set forth in § 23.20 shall be made part of the by-laws or operating procedures for that system. Each participating agency, as a condition of participation, must accept in writing those principles which govern the submission, maintenance and dissemination of information included as part of the interjurisdictional system.

(e) Intelligence information will be collected, maintained and disseminated primarily for State and local law enforcement efforts, including efforts involving Federal participation.

§ 23.40 Monitoring and auditing of grants for the funding of intelligence systems.

(a) Awards for the funding of intelligence systems will receive specialized monitoring and audit in accordance with a plan designed to insure compliance with operating principles as set forth in § 23.20. The plan shall be approved prior to award of funds.

(b) All such awards shall be subject to a special condition requiring compliance with the principles set forth in § 23.20.

(c) An annual notice will be published by OJP which will indicate the existence and the objective of all systems for the continuing interjurisdictional exchange of criminal intelligence information which are subject to the 28 CFR Part 23 Criminal Intelligence Systems Policies.

Jimmy Gurulé,

Assistant Attorney General, Office of Justice Programs.

[FR Doc. 92-4447 Filed 2-26-92; 8:45 am]

BILLING CODE 4410-18-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[Gen Docket No. 91-280; FCC 92-21]

Pioneer's Preference for Low-Earth Orbit Satellites Below 1 GHz

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; Tentative Decision.

SUMMARY: By this action the Commission tentatively grants a pioneer's preference to Volunteers in Technical Assistance (VITA). This is not a final pioneer's preference determination. If an allocation is made in Gen Docket No. 91-280, a final pioneer's preference determination will be made in the same docket. This decision also tentatively denies the pioneer's preference requests of Orbital Communications Corporation (ORBCOMM) and STARSYS Inc. (STARSYS).

DATES: Comments: March 30, 1992; Reply Comments: April 29, 1992.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Ray LaForge, telephone (202) 653-8117.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Tentative Decision adopted January 16, 1992, and released February 11, 1992.

Summary

1. The Commission's pioneer's preference rules are intended to provide a license preference to applicants that propose an allocation for a new service or a substantial enhancement to an existing service (See Report and Order, Gen Docket 90-217, 6 FCC Rcd 3488 (1991) 56 FR 24011, May 28, 1991 and Memorandum Opinion and Order, adopted February 13, 1991). On September 26, 1991, the FCC adopted a Notice of Proposed Rule Making (NPRM) to allocate spectrum to the fixed-satellite and mobile-satellite services for low-Earth orbit (LEO) satellites operating in VHF and UHF spectrum (See 56 FR 55484 released October 28, 1991). At that time the FCC deferred action to this Tentative Decision on related pioneer's preference requests.

2. VITA, ORBCOMM and STARSYS are potential licensees in the proposed VHF/UHF LEO satellite service, and each applied for a related pioneer's preference. VITA proposes to use two LEO satellites to facilitate the exchange of messages related to its provision of service to persons in other countries. ORBCOMM and STARSYS propose to provide commercial data messaging and position determination services to the public using 20 and 24 satellites, respectively.

3. In evaluating the three pioneers' preference requests, we considered the following policy and factual issues to determine which, if any, of the requests before us merits grant of a preference. First, we applied the basic eligibility criteria to each proposal. These include: (1) Whether the applicant has demonstrated that its proposal is technologically innovative, and (2) whether the innovation reasonably will lead to establishment of a service not currently provided or will substantially enhance an existing service. Second, we evaluated the extent to which any experiments conducted by the proponent or other detailed technical submission demonstrate the viability of its proposal.

4. After review and analysis of the facts and arguments presented, we have tentatively decided to grant VITA's request for a preference and deny the requests of ORBCOMM and STARSYS. VITA clearly was the first both to develop LEO data communications technology and to experiment with the operation of an actual LEO system to support data communications in the VHF spectrum. The VITA LEO satellite system as designed would use 19.2 kHz channels to provide reliable, low-cost packet data communications services at 9600 bits per second between ground stations located anywhere in the world. Unlike existing geostationary satellite systems and other LEO communications systems concepts proposed to date, the VITA system will support direct terminal-to-terminal network operations between ground stations via the LEO satellite system in a simple and inexpensive scheme without the use of a large expensive hub or gateway as proposed by ORBCOMM and STARSYS. The VITA system will allow near real time connection between ground stations located within approximately 2600 miles of each other.

5. VITA first filed a request for experimental authority for a LEO system in the VHF frequency range in 1988, well before either ORBCOMM or STARSYS. Even before its filing with us, earlier in the 1980's, VITA initiated experiments with communications technologies to evaluate the possibility of enhancing the capabilities and reducing the costs of global communications. VITA, with the Radio Amateur Satellite Corporation, designed and constructed a rudimentary satellite packet radio package that was launched in March 1984 aboard a scientific satellite built by the University of Surrey in Guilford, England. The test was successful, and VITA built upon the experiment's success by developing a more advanced system. It applied to this Commission in 1988 for an experimental license for a ground station to serve that more advanced system. Thus, VITA actually has operated an experimental LEO communications system. These facts establish that VITA pioneered use of low-orbit satellites for civilian data communications at VHF frequencies. For these reasons we conclude that a pioneer's preference to VITA is warranted.

6. In analyzing ORBCOMM's pioneer's preference request, we conclude that the information ORBCOMM submitted fails to justify a pioneer's preference. ORBCOMM fails to meet its burden to

demonstrate an innovation beyond existing communications technology. Many of the technical achievements that ORBCOMM argues are justification for a pioneer's preference are relatively routine design features that most new LEO satellite licensees would be expected to accomplish. For example, planning a frequency coordination scheme and designing technical parameters and system components are actions that would be a necessary component of almost any LEO satellite operation. As to whatever advances in launch technology for which ORBCOMM may be responsible, we agree with STARSYS that ORBCOMM's developments in this field are not within the class of innovations in new communications systems and services for which this Commission will grant a pioneer's preference for a radio license. While we recognize that ORBCOMM was the first to file a petition for rule making and a request for pioneer's preference in this proceeding, the proceeding already was in progress when our pioneer's preference rules went into effect. Therefore, all three requests have been considered as if they were filed concomitantly. Finally, ORBCOMM's consideration of the VHF spectrum for LEO communications was preceded by VITA's consideration of the same spectrum range for the same purpose.

7. For similar reasons we conclude that the information submitted by STARSYS also fails to meet our standard for innovation. Its development of the Argos satellite system does not demonstrate an innovative contribution toward advancing a commercial LEO communications system. We are unable to discern any unique or innovative contribution by STARSYS with respect to the spread spectrum technology it proposes to use. Finally, STARSYS' proposal clearly was preceded by the earlier VITA effort.

8. LEOSAT Corporation (LEOSAT) is a commercial entity that has filed a license application to construct, launch, and operate a LEO satellite system in these VHF/UHF bands. LEOSAT has filed formal oppositions to all three requests for pioneer's preference, arguing that the Commission is foreclosed from implementing a pioneer's preference in this proceeding because of timing considerations. We disagree. The public notice referenced by LEOSAT is a notice of applications that are "cut-off" for public comment and for the filing of mutually exclusive proposals. The public notice in question is not a *de facto* NPRM and has no effect upon either the LEO rule making or this pioneer's preference proceeding. Future action on those applications already is dependent upon completion of this rule making proceeding to allocate spectrum for LEO service and the attendant pioneer's preference determination.

9. This is a restricted proceeding. No *ex parte* presentations are permitted from the time the Commission adopts this Tentative Decision and requests comments until the proceeding has been finalized or until such decision or approval is no longer subject to reconsideration by the Commission or review by any court. In addition, no presentation, *ex parte* or otherwise, is permitted during the Sunshine Agenda period. See generally 47 CFR sections 1.1202, 1.1203, and 1.1208.

10. Pursuant to applicable procedures set forth at 47 CFR sections 1.415 and 1.419, of the Commission's Rules, interested parties may file comments on or before March 30, 1992, and reply comments on or before April 29, 1992. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. To file formally in this proceeding, participant must file an original and four copies of all comments and reply comment. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the Dockets Reference Room (room 239) of the Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

Ordering Clause

11. According, we tentatively decide that the pioneer's preference request of VITA is granted and that the pioneer's preference requests of ORBCOMM and STARSYS are denied.

List of Subjects in 47 CFR Part 2

Frequency allocations, General rules and regulations, Radio.

Federal Communications Commission
William F. Caton,
Acting Secretary.

[FR Doc. 92-4542 Filed 2-26-92; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 172, 173, 174, and 176

[Docket HM-211; Notice No. 92-2]

RIN 2137-AC16

Marine Pollutants; Extension of Comment Period

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Extension of time to file comments.

SUMMARY: On January 31, 1992, RSPA published a notice of proposed rulemaking (NPRM) in the Federal Register (57 FR 3853; Docket No. HM-211, Notice No. 92-2) which proposed to amend the Hazardous Material Regulations (HMR; 49 CFR Parts 171-180) by adopting requirements for the transportation of marine pollutants in all modes of transportation. The changes were proposed, in part, to implement the provisions of Annex III, an annex of the 1973 International Convention for the Prevention of Pollution from Ships, as modified by the Protocol of 1978 (MARPOL 73/78), and in order that the HMR more thoroughly address environmentally hazardous materials. The American Trucking Association and the Hazardous Materials Advisory Council requested that the comment period for this NPRM be extended by 90 and 60 days, respectively, in order to thoroughly evaluate its proposals. RSPA is extending the comment period for an additional 60 days to allow industry time to evaluate the proposal and to ensure that this important safety rulemaking is not unnecessarily delayed.

DATES: The date for filing comments is extended from March 2, 1992 to May 4, 1992.

ADDRESSES: Address comments to Dockets Unit, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590. Comments should identify the docket and notice number and be submitted, when possible, in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard showing the Docket number (e.g., HM-211). The Dockets Unit is located in room 8419 of the Nassif Building, 400 Seventh Street SW., Washington, DC. 20590. Office hours are 8:30 a.m. to 5 p.m. Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: John A. Gale (202–366–4488) Office of Hazardous Materials Standards, RSPA, 400 Seventh Street SW., Washington, DC 20590 or Lt. Cmdr. Phillip Olenik (202–267–1577), Office of Marine Safety, Security, and Environmental Protection, (G–MTH–1) U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001.

Issued in Washington, DC on February 24, 1992, under authority delegated in 49 CFR part 106, appendix A.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 92–4535 Filed 2–26–92; 8:45 am]

BILLING CODE 4910–60–M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1033 and 1039

[Ex Parte No. 334 (Sub-Nos. 8 and 8A)]

Joint Petition for Rulemaking on Railroad Car Hire Compensation, Joint Petition for Exemption of Arbitration Rule and Motion to Dismiss

AGENCY: Interstate Commerce Commission.

ACTION: Proposed rule and proposed approval of arbitration rule.

SUMMARY: The Commission proposes to add new car hire rules 49 CFR part 1033 and part 1039 to accomplish a 10-year, phased deprescription of the rates that rail carriers charge each other for the use of cars. The Commission also proposes to approve an arbitration rule under 49 U.S.C. 10706 that will enable participating railroads to negotiate their car hire rates bilaterally and, if unsuccessful, seek either private arbitration or Commission adjudication of disagreements. The Commission requests comments on both proposals.

DATES: Comments are due March 27, 1992.

ADDRESSES: An original and 20 copies of all comments must be sent to: Office of the Secretary, Case Control Branch, Attn: Ex Parte No. 334 (Sub-No. 8) and Ex Parte No. 334 (Sub-No. 8A), Interstate Commerce Commission, Washington, DC 20423.

One copy of all comments also must be served on all formal parties of record.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar (202) 927–5660. [TDD for hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: We propose to adopt a market-oriented approach to setting car hire rates. In Ex Parte No. 334 (Sub-No. 8), Joint Petition for Rulemaking on Railroad Car Hire Compensation, we are proposing rules to be codified at 49 CFR part 1033 and part 1039 to deprescribe the existing car hire rate formula. In Ex Parte No. 334 (Sub-No. 8A), Joint Petition For Exemption Of Arbitration Rule From Application of 49 U.S.C. 10706 And Motion To Dismiss, we are proposing to approve an Arbitration Rule under 49 U.S.C. 10706 to enable participating railroads to negotiate their car hire rates bilaterally and, if unsuccessful, seek either private arbitration or Commission adjudication of their disagreement. The Commission is also discontinuing Ex Parte No. 334 (Sub-No. 6), Review of Car Hire Regulation.

The formula for the rates that rail carriers charge each other for the use of their cars was prescribed in Car Service Compensation—Basic Per Diem Charges, 358 I.C.C. 714, 716 (1977). By petition filed October 19, 1990, a significant number of major Class I and regional rail carriers, short line rail carriers, and rail leasing companies have asked us to institute a rulemaking to consider new car service rules resulting in a gradual elimination of the car hire prescription. They also asked us to exempt under 49 U.S.C. 10505 their proposed rate agreement from the requirements of section 10706, by which they would amend the Association of American Railroads' Code of Car Hire Rules to permit negotiation and arbitration.

In a notice served and published January 16, 1991, (56 FR 1981, 1–17–91) we instituted the rulemaking proceeding and published the proposals as requested, expressing no view on their merits. This decision and notice is based on the comments received in these proceedings and also on the pending record in Ex Parte No. 334 (Sub-No. 6), Review of Car Hire Regulation.

Our proposal is summarized as follows:

Existing railroad cars—10-year phased deprescription. The proposed rules largely reflect the petitioners' proposal to deprescribe charges for existing railroad cars over a 10-year period. As charges for these cars are deprescribed, railroads may negotiate car hire rates bilaterally. The proposed rules would permit the railroads during the 10-year transition period to deprescribe up to 10 percent of their fleets each year. Car hire charges set pursuant to the current formula would be frozen on cars not deprescribed during the 10-year period. This freeze would eliminate downward adjustments for depreciation and increases for improvement and rebuilding of cars. At the end of the 10-year period, the existing prescription would be abolished and car hire charges for all cars would be set by agreement, arbitration, or Commission adjudication except for existing Class III boxcars. The car hire rates on existing boxcars of Class III carriers would remain frozen for the lifetime of the cars, even after the end of the 10-year phase out period.

New railroad cars—immediate deprescription. The proposed rules provide that they will become effective prospectively, rather than retroactively as the petitioners had proposed. Under the petitioners' proposal, new cars would be defined as those either ordered after July 1, 1990, or those built after January 1, 1991. Our proposed rules define new cars as those ordered on or after 30 days from the effective date of our final decision adopting the rules and those built on or after 90 days from that effective date.

Arbitration rule. We have modified the petitioners' proposed arbitration rule. Under the Association of American Railroads' (AAR) Code of Car Hire Rules, the proposed arbitration rule would establish procedures under which railroads would negotiate car hire rates bilaterally for deprescribed cars. If negotiations were not successful, the parties may seek either arbitration or Commission adjudication of the rates.

By contrast, the petitioners had proposed arbitration only, without alternative recourse to this Commission. Under that proposal, only a party not belonging to the Code of Car Hire Rules could seek Commission prescription.

The proposed arbitration rule provides for "baseball style" arbitration, by which the arbitrator would select between the best final offers of the parties the offer that most closely approximates a market rate. This rate would be based on evidence relating to other, comparable transactions between railroads, shippers, or other parties.

Regulatory Flexibility Analysis

The purpose of these proposed rules is to provide rail carriers and car leasing companies more opportunity to reach market-oriented car hire agreements. In the January 16, 1991, notice, the Commission preliminarily concluded that the proposed action would not have a significant economic impact on a substantial number of small entities. No parties have disagreed, and we propose to affirm our preliminary conclusion. Parties may comment on this issue.

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List of Subjects

49 CFR Part 1033

Railroads.

49 CFR Part 1039

Agricultural commodities, Intermodal transportation, Railroads.

Decided: February 18, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillips, and Emmett. Commissioner Emmett concurred with a separate expression.

Sidney L. Strickland,

Secretary.

For reasons set forth in the preamble, title 49, chapter X, parts 1033 and 1039 of the Code of Federal Regulations are proposed to be amended as follows:

1. Part 1033 is proposed to be revised to read as follows:

PART 1033—CAR SERVICE

Authority: 49 U.S.C. 10321, 10326, 11121, and 11122; 5 U.S.C. 553.

§ 1033.1 Care hire rates.

(a) *Definition applicable to this section*—(1) *Car.* A freight car bearing railroad reporting marks, other than an excluded boxcar as defined in § 1039.14(c)(2) whenever it is owned or leased by any Class III carrier and bears a Class III carrier's reporting marks.

(2) *Car hire.* Compensation to be paid by a user to an owner for use of a car. Such compensation may include, but need not be limited to, hourly and mileage rates.

(3) *Fixed rate car.* Any car placed in service prior to [90 days from the effective date of these rules] or for which there was a written and binding contract to purchase or build prior to [30 days from the effective date of these rules] provided, however, that for a period of one year from the effective date of these rules all cars shall be deemed to be fixed rate cars.

(4) *Market rate car.* Any car that is not a fixed rate car.

(5) *Owner.* A rail carrier entitled to receive car hire on cars bearing its reporting marks.

(6) *Prescribed rates.* The hourly and mileage rates in effect on [the effective date of these rules] as published in Association of American Railroads Circular No. OT–10.

(7) *User.* A rail carrier in possession of a car it does not own.

(b) *Determination of car hire for fixed rate cars.* (1) Any OT–37 surcharge to prescribed rates for work performed prior to [the effective date of these rules] shall expire upon the earlier of:

(i) The car becoming a market rate car; or

(ii) The expiration date provided in Association of American Railroads Circular No. OT–37.

(2) Upon termination of the 10-year period specified in paragraph (b)(1) of this section, all fixed rate cars shall be deemed to be market rate cars and shall be governed by paragraph (c) of this section.

(3)(i) During each calendar year beginning one year after the effective date of these rules, a rail carrier may voluntarily elect to designate up to 10 percent of the fixed rate cars in its fleet as of [the effective date of these rules] to be treated as market rate cars for the purposes of this section. The 10 percent limitation shall apply each calendar year and shall be noncumulative. Cars designated to be treated as market rate cars shall be governed by paragraph (c) of this section. Such election shall be effective only in accordance with the following provisions.

(A) An election shall be irrevocable and binding as to the rail carrier making the election and all users and subsequent owners of:

(*1*) The rail carrier making the election has legal title to the car; or

(*2*) The rail carrier making the election does not have legal title to the car but obtains written consent for such election from the party holding legal title; or

(*3*) The transaction pursuant to which the party holding legal title to the car has furnished the car to the rail carrier making the election was entered into after [the effective date of these rules].

(B) An election shall be irrevocable and binding only for the term of the transaction pursuant to which the car was furnished to the rail carrier making the election as to that rail carrier and all users and subsequent owners if:

(*1*) That rail carrier does not have legal title to the car and does not obtain written consent for such election from the party holding legal title;

(*2*) The transaction was entered into prior to [the effective dates of these rules]; and

(*3*) The transaction does not provide that the compensation to be paid to the party furnishing the car is to be based in whole or in part directly on the car hire earnings of the car; provided, however, that if the rail carrier making the election subsequently obtains legal title to the car, such election shall then be irrevocable and binding as to the rail carrier and all users and subsequent owners.

(C) The party holding legal title to the car may revoke an election subject to the provisions of paragraph (b)(3)(i)(B) only:

(*1*) At the time the transaction pursuant to which the car was furnished to the rail carrier making the election is first extended or renewed after [the effective date of these rules]; or

(*2*) If such transaction is not extended or renewed, at the time such transaction terminates.

If such election is so revoked, a rail carrier may make a new election only with the written consent of the party holding legal title to the car, and such election shall be irrevocable and binding as to the rail carrier making the election and all users and subsequent owners.

(ii) Nothing in paragraph (b)(3)(i) of this section shall be construed to limit the rights of parties to any transaction to provide for the consent of any party to an election made pursuant to such paragraph.

(c) *Market rate cars.* (1) Market rate cars shall not be subject to prescribed rates or to the provisions of 49 CFR 1039.14(c)(1) (i) and (ii) and (c)(4).

(2)(i) The commission shall not prescribe car hire for market rate cars.

(ii) The Code of Car Hire Rules referenced in the Association of American Railroads Car Service and Car Hire Agreement must provide that owners and users party to that agreement may resolve car hire disputes thereunder by any procedure they agree upon, including arbitration, or by petitioning the Commission to resolve the disputes: The Commission may review allegations of abuse of the car hire dispute resolution process established under those rules.

(iii) Car hire disputes involving an owner or user not a party to that agreement may be resolved by the Commission.

(d) *Car hire agreements.* Rail carriers are authorized to negotiate and enter into agreements governing car hire.

(e) *Effective date.* This rule shall take effect on the first day of the first month following the expiration of 30 days from the date of publication of such rule in the **Federal Register**.

PART 1039—EXEMPTIONS

2. The authority citation for part 1039 continues to read as follows:

Authority: 49 U.S.C. 10321, 10505, 10708, 10762 and 11105; 5 U.S.C. 553.

§ 1039.14 [Amended]

3. In § 1039.14, paragraph (c)(3) is proposed to be amended by adding the following language to the end of that paragraph:

* * * * *

(c) * * *

(3) * * * Any improvements or repairs subsequent to [the effective day of these rules] to the excluded boxcars performed under OT-37 criteria or under rebuilt criteria or any other criteria shall not result in any increases, additions, or surcharges in the car hire rates for such cars.

* * * * *

[FR Doc. 92-4464 Filed 2-26-92; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 655

[Docket No. 920246-2046]

Atlantic Mackerel, Squid, and Butterfish Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of proposed initial specifications for the 1992 Atlantic mackerel, squid, and butterfish fisheries and request for comment.

SUMMARY: NMFS issues this notice of proposed initial specifications for the 1992 fishing year for Atlantic mackerel, Squid, and Butterfish. Regulations governing this fishery require the Secretary of Commerce (Secretary) to publish specifications for the upcoming fishing year. This action is intended to fulfill this requirement and promote the development of the U.S. Atlantic mackerel, Squid, and butterfish fisheries.

DATES: Public comments must be received on or before March 27, 1992.

ADDRESSES: Copies of the Mid-Atlantic Fishery Management Council's "quota paper" and recommendations are available from John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, room 2115, Federal Building, 300 South New Street, Dover, DE 19901.

Copies of the environmental assessment prepared by the Northeast Regional Office for this action are available from Richard B. Roe, Regional Director, Northeast Region, NMFS, 1 Blackburn Circle, Gloucester, MA 01930. Send comments on the proposed initial specifications for mackerel, squid, and butterfish for 1992 to Richard B. Roe and mark on the outside of the envelope, "Comments—1992 SMB specifications."

FOR FURTHER INFORMATION CONTACT: Myles Raizin, 508-281-9104 or Richard Seamans, 508-281-9244.

SUPPLEMENTARY INFORMATION: Regulations implementing the Fishery Management Plan for Atlantic Mackerel, Squid, and Butterfish Fisheries (FMP) prepared by the Mid-Atlantic Fishery Management Council (Council), appear at 50 CFR part 655. These regulations stipulate that the Secretary will publish a notice specifying the initial annual amounts of the initial optimum yield (IOY) as well as the amounts for allowable biological catch (ABC), domestic annual harvest (DAH), domestic annual processing (DAP), joint venture processing (JVP), and total allowable levels of foreign fishing (TALFF) for the species managed under the FMP. No reserves are permitted under the FMP for any of these species. Procedures for determining the initial annual amounts are found in § 655.21.

While the Council followed the guidelines and regulations for submission of recommendations, the Regional Director believes that the analyses in the quota paper do not fully support their submission. To better evaluate the recommended specifications for the 1992 fishery, the Regional Director directed his staff to prepare an environmental assessment (EA). That assessment is based on the explicit and implicit economic assumptions on which the Council's recommendation for a zero TALFF was based.

The following table contains the proposed initial specifications for Atlantic mackerel, *Loligo* squid, *Illex* squid, and butterfish. These specifications are based on the recommendations of the Mid-Atlantic Fishery Management Council.

TABLE—PRELIMINARY INITIAL ANNUAL SPECIFICATIONS FOR ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FOR THE FISHING YEAR, JANUARY 1 THROUGH DECEMBER 31, 1992.

[In metric tons (mt)]

Specifications	Squid		Atlantic Mackerel	Butterfish
	Loligo	Illex		
Max OY [1]	44,000	30,000	[2] N/A	16,000
ABC [3]	37,000	30,000	650,000	16,000
IOY	34,000	30,000	95,000	10,000
DAH	34,000	30,000	[4] 95,000	10,000
DAP	34,000	27,000	55,000	10,000
JVP	0	3,000	26,000	0
TALF	0	0	0	0

[1] Max OY as stated in the FMP;

[2] Not applicable; see the FMP;

[3] IOY can rise to this amount;

[4] Contains 14,000 mt. projected recreational catch based on the formula contained in the regulations (50 CFR part 655).

Atlantic Mackerel

The FMP provides that ABC in U.S. waters for the upcoming fishing year is that quantity of mackerel that could be caught in U.S. and Canadian waters minus the estimated catch in Canadian waters, while still maintaining a spawning stock size in the year following the year for which catch estimates and quotas are being prepared, equal to or greater than 600,000 mt. Using an estimated spawning stock biomass of 1,500,000 mt and an estimated Canadian catch of 50,000 mt, the Council derived an ABC of 650,000 mt.

The proposed IOY for the 1992 Atlantic mackerel fishery is set at 95,000 mt, equal to the specified DAH. The proposed specification of DAH is computed by adding the estimated recreational catch, the proposed specified DAP, and the proposed specified JVP. The recreational component of DAH is estimated at 14,000 mt using a formula found at § 655.21(b)(2)(ii). DAP and JVP components of DAH are estimated using the Council annual processor survey. The U.S. processors projected to U.S. production of 52,967 mt for the upcoming fishing year and a foreign demand for over-the-side sales of 26,454 mt. Based on these figures, the Council recommended and the Regional Director proposes a DAP of 55,000 mt and a JVP of 26,000 mt yielding a DAH of 95,000 mt, which includes the 14,000 mt recreational component.

Zero TALFF is proposed for the 1992 Atlantic mackerel fishery. This is the first time, under this FMP, that foreign directed fishing for Atlantic mackerel would not be allowed. The exclusion of directed foreign fishing is recommended by the Council and proposed by the Regional Director. However, comments are particularly invited on the proposed IOY and zero TALFF. Careful consideration will be given to public comments in the determination of final specifications.

The Council used testimony from both the domestic fishing and processing industries and analysis of nine economic factors found at § 655.21(b)(2)(ii) to determine that mackerel produced from directed foreign fishing would directly compete with U.S. processed products, thus limiting markets available to U.S. processors. The industry was nearly unanimous in its assessment that continuation of TALFF would impede the continued growth of the U.S. fishery. The Council believes that an expanding mackerel market in Japan and uncertainty regarding world supply, due to the economic and political restructuring in Eastern Europe, may substantially increase opportunities for U.S. producers to increase sales to Japan while accessing new markets abroad. Also, the Department of Agriculture is considering adding Atlantic mackerel to the list of surplus agricultural commodities which may be purchased with U.S. agricultural aid under Title I of the Agricultural Trade Development and Assistance Act of 1954 by an eligible country. This may provide ready markets of substantial size for U.S. processed mackerel.

The Council also recommended and the Regional Director proposes four special conditions to be imposed on the 1992 Atlantic mackerel fishery as follows: (1) Joint ventures are allowed, but river herring bycatch south of 37°30′ N. latitude may not exceed 0.25 percent of the over-the-side transfers of Atlantic mackerel; (2) the Regional Director should do everything within his power to reduce impacts on marine mammals in prosecuting the Atlantic mackerel fisheries; (3) IOY may be increased during the year, but the total should not exceed 200,000 mt; and (4) applications from a particular nation for joint ventures for 1992 will not be decided on until the Regional Director determines, based on an evaluation of performances, that the nation's purchase obligations for 1991 and previous years have been fulfilled.

Atlantic Squids

The maximum OY for *Loligo* is 44,000 mt. The recommended ABC for the 1992 fishery is 37,000 mt, the same level used from 1986 through 1991. This level of ABC is based on the most recent stock assessments and is determined to be at a level that will not harm the continued growth of the resource.

An IOY of 34,000 mt, equal to DAH and DAP, is recommended by the Council and proposed by the Regional Director. This level of IOY is proposed to allow a 3,000 mt increase in IOY to ABC in the event the Regional Director determines that economic factors indicate an increase is needed to meet the goals of the FMP. Since the U.S. industry intends to fully utilize the IOY, there is no opportunity for JVP or TALFF.

Results of the 1991 Council processor survey indicate that the U.S. processing sector plans to process 34,332 mt of *Loligo* in the upcoming year. Therefore, the Council recommends and the Regional Director proposes a DAP of 34,000 mt.

Based on the results of the processor survey, the Council recommends and the Regional Director proposes zero JVP and zero TALFF for the 1992 fishery. The expansion of the U.S. freezer trawler and refrigerated sea water fleets participating in this fishery and substantially increased U.S. landings indicate that there is no longer a justification for foreign participation. TALFF and JVP have been absent from this fishery since 1987. Since TALFF and JVP are set at zero, DAH of 34,000 mt equals DAP for the 1992 fishery.

The maximum OY for *Illex* squid is 30,000 mt. Based on the best available scientific information, the Council recommended and the Regional Director proposes an ABC of 30,000 mt equal to the maximum OY.

The Council also recommended and the Regional Director proposes that the IOY be set at 30,000 mt because U.S. harvesters intend to utilize the entire IOY. Consequently, there would be no TALFF proposed. No directed foreign fishery has been allowed for *Illex* since 1986. Given the current economic situation, zero TALFF is recommended by the Council and proposed by the Regional Director.

Based on the 1991 Council processor survey, *Illex* squid processors plan to process 27,086 mt of *Illex* in 1992. Therefore, the DAP for the 1992 fishery is specified at 27,000 mt. This represents an increase of 15,000 mt from the 1991 specification and reflects the large increases in the capacity of the east coast freezer trawler fleet and projected increases in the number of vessels using refrigerated seawater systems capable of landing high quality *Illex*. Much of the increase in capacity is a function of a general increase in prices in the range of 20 percent for 1990 and 1991. In turn, the increase in prices is related to decreases in world supply including a closing of 30,000 square miles of traditional squid grounds east of the Falklands/Malvinas and a decrease in *Loligo* squid landings in Thailand. Although *Illex* is primarily a bait squid, it has been used as a substitute for *Loligo*, a food squid, in many markets.

While the development of the U.S. processing industry is of prime concern, the traditional "wet boat" that is utilized in joint ventures for over-the-side purchases is not ignored. The Council recommended and the Regional Director proposes a JVP of 3,000 mt for the 1992 fishery. Therefore, the DAH, which is comprised of the DAP and JVP, is specified at 30,000 mt, equal to both the IOY and Max OY. However, the Council has informed the "wet boat" sector of the fishery that JVP may not be allocated for the 1993 fishery.

Butterfish

The FMP sets the maximum OY for butterfish at 16,000 mt. Based on the most current stock assessments, the Council recommends and the Regional Director proposes an ABC of 16,000 mt for the 1992 fishery, unchanged from the 1991 specification. Commercial landings of butterfish have decreased in the past 3 years from 4,000 mt to 2,462 mt. Market limitations and the difficulty in locating schools of market size fish have caused severe reductions in both supply of and demand for butterfish. Fishermen and processors feel that the size and fat content of butterfish will improve in 1992, thereby enhancing the marketability of the species.

The Council recommended and the Regional Director proposes a IOY of 10,000 mt. The U.S. industry intends to fully utilize this IOY. Thus, there would be no TALFF available. The Council recommends and the Regional Director proposes a DAH of 10,000 mt based on the Council processor survey of 7,724 mt with an allowance of approximately 2,000 mt for non-responses. There has been no interest expressed in joint ventures, thus, the IOY is proposed at a level that does not allow for a JVP. The Council recommended and the Regional Director proposes that both JVP and TALFF be specified at zero for the 1992 fishery. However, a 6,000 mt difference between ABC and IOY is set aside to accommodate an increase in IOY if economic conditions dictate.

Classification

This action is authorized by 50 CFR part 655 and complies with Executive Order 12291 and the National Environmental Policy Act.

Authority: 16 U.S.C. 1801 *et seq.*

List of Subjects in 50 CFR Part 655

Fisheries, Reporting and recordkeeping requirements.

Dated: February 21, 1992.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 92-4448 Filed 2-26-92; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 57, No. 39
Thursday, February 27, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Human Nutrition Board of Scientific Counselors; Meeting

According to the Federal Advisory Committee Act of October 1972 (Pub. L. 92–463, 86 Stat. 770–776), the USDA, Science and Education, announces the following meeting:

Name: Human Nutrition Board of Scientific Counselors.

Date: March 17–18, 1992.

Time: 1 p.m. to 5 p.m., March 17. 8:30 a.m. to 4:30 p.m., March 18.

Place: Conference Room 104–A, Administration Building, Department of Agriculture, Washington, DC.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permits.

Comments: The public may file written comments before or after the meeting with the contact person below.

Purpose: To conduct annual meeting.

Contact Person: Jacqueline Dupont, Executive Secretary, Human Nutrition Board of Scientific Counselors, U.S. Department of Agriculture, BARC-West, room 132, Building 005, Beltsville, Maryland 20705. Telephone: (301) 504–6216.

Done at Beltsville, Maryland, this 13th of February 1992.

Jacqueline Dupont,

Executive Secretary, Human Nutrition Board of Scientific Counselors.

[FR Doc. 92–4518 Filed 2–26–92; 8:45 am]

BILLING CODE 3410–03–M

Cooperative State Research Service Committee on Nine Meeting

In accordance with the Federal Advisory Committee Act of October 6, 1972, (Pub. L. 92–463, 86 Stat. 770–776), the Cooperative State Research Service announces the following meeting:

Name: Committee on Nine.

Date: May 13–14, 1992.

Time: 8:30 a.m. to 5 p.m.

Place: Conference Room A, 10th Floor, Aerospace Building, CSRS, USDA, Washington, DC.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person listed below.

Purpose: To evaluate and recommend proposals for cooperative research on problems that concern agriculture in two or more States, and to make recommendations for allocation of regional research funds appropriated by Congress under the Hatch Act for research at the State Agricultural Experiment Stations.

Contact Person for Agenda and More Information: Dr. Edward M. Wilson, Executive Secretary, U.S. Department of Agriculture, Cooperative State Research Service, room 328, Aerospace Building, Washington, DC 20250, Telephone: 202–401–6040.

Done at Washington, DC this 18th day of February, 1992.

John Patrick Jordan,

Administrator, Cooperative State Research Service.

[FR Doc. 92–4517 Filed 2–26–92; 8:45 am]

BILLING CODE 3410–22–MT

Forest Service

Fish Creek Reservoir Expansion, Routt National Forest, Routt County, CO

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement on a proposal to enlarge the existing Fish Creek Reservoir, located on the Routt National Forest within Routt County, Colorado. The Fish Creek Reservoir is presently operating under Special Use Permit which was granted to the City of Steamboat Springs. The Fish Creek Reservoir is a municipal water supply that is administered by the Mount Werner Water and Sanitation District and provides water to the District and the City of Steamboat Springs.

The proposal includes expansion of the reservoir from approximately 1842 acre feet of water storage capacity to 4042 acre feet of water storage capacity, an increase of approximately 2200 acre feet. This will be accomplished by raising the level of the dam and inundating the area surrounding the existing reservoir boundary.

The purpose of and need for this expansion is to provide additional water storage for future demand and guarantee maintenance of minimum instream water flows in the Fish Creek drainage.

The Forest Service invites comments and suggestions on the scope of the analysis to be included in the draft environmental impact statement (DEIS). In addition, the Forest Service gives notice that it is beginning a full environmental analysis and decision-making process for this proposal so that interested or affected people may know how they can participate in the environmental analysis and contribute to the final decision. The first public "scoping" meeting is scheduled for March 18, 1992 in Steamboat Springs, Colorado, at the Steamboat Springs Community Center, 1255 Lincoln Avenue, Steamboat Springs, Colorado, from 7 to 9 p.m. The purpose of this meeting is to learn what issues members of the public or interested agencies believe are involved in the proposal. Knowledge of the issues will help establish the scope of the Forest Service environmental analysis and define the kind and range of alternatives to be considered. Forest Service officials and the proponent will describe and explain the proposed actions and the process of environmental analysis and disclosure to be followed in evaluating this proposal. The Forest Service welcomes any public comments on the proposal.

DATE: Comments concerning the scope of the analysis should be received in writing by March 18, 1992.

ADDRESSES: Send written comments to Sherry B. Reed, District Ranger, Hahns Peak Ranger District, P.O. Box 771212, Steamboat Springs, Colorado, 80477.

FOR FURTHER INFORMATION CONTACT: Wendy Schmitzer, Project Coordinator, (303) 879–1722 or (303) 879–1870.

SUPPLEMENTARY INFORMATION: The proposal for enlargement of Fish Creek Reservoir includes raising the level of the existing earthern dam approximately 18 feet, adding a solar-powered early warning system to the dam, and deepening the basin of the reservoir. Enlargement of the reservoir would increase water storage capacity by 2200 acre feet. During construction, the reservoir would be drained; water would be temporarily diverted into the drainage below the spillway or saddle dam until construction is completed. Geotechnical exploration was conducted and completed under permit during the summer of 1991.

The decision to be made is whether to permit enlargement of the Reservoir

The Routt National Forest Land and Resource Management Plan has identified the Fish Creek Reservoir as a municipal watershed. The Forest Service manages the land around the Reservoir under "Management Prescription 10E." The proposed action is consistent with the Forest Plan goal of protecting and improving ". . . the quality and quantity of municipal water supplies."

A U.S. Army Corps of Engineers "404 Permit" for dredging and filling waters and/or wetlands will be required. The Forest Service will request the U.S. Army Corps and U.S. Fish & Wildlife Service to cooperate in the environmental analysis, and may request cooperation from other State or Federal agencies.

The Deciding Official will be Jerry E. Schmidt, Forest Supervisor, Routt National Forest, 29587 West U.S. Highway 40, suite 20, Steamboat Springs, Colorado, 80487.

We expect to publish a draft environmental impact statement in early 1993, to ask for public comment on the draft material for a period of 45 days, and to complete a final environmental impact statement in June, 1993.

The 45 day public comment period on the draft environmental impact statement will commence on the day the Environmental Protection Agency publishes a "Notice Of Availability" in the **Federal Register**.

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.) Please note that comments you make on the draft environmental impact statement will be regarded as public information.

Dated: February 21, 1992.

Jerry E. Schmidt,

Forest Supervisor.

[FR Doc. 92-4469 Filed 2-26-92; 8:45 am]

BILLING CODE 3410-11-M

Devil's Canyon Timber Sale, Tahoe National Forest, Nevada County, CA

AGENCY: Forest Service, USDA.

ACTION: Cancellation of notice of intent to prepare an environmental impact statement.

SUMMARY: On June 27, 1991 a notice was published in the **Federal Register** (56 FR 29461) stating that an environmental impact statement would be prepared for proposed timber harvest in the Devil's Canyon area of the Nevada City Ranger District of the Tahoe National Forest.

That notice is hereby cancelled.

DATES: This Action is effective February 27, 1992.

FOR FURTHER INFORMATION CONTACT: Ruth Norman at the Nevada City Ranger District; 631 Coyote Street; P.O. Box 6003; Nevada City, CA 95959-6003; (916) 265-4531.

SUPPLEMENTARY INFORMATION: Changes have occurred in how California spotted owls are managed on the Tahoe National Forest since the filing of the notice to prepare an environmental impact statement. Also, a previously unrecorded pair of owls were located in the sale area. It has been determined that the project objectives are not compatible with the new spotted owl management direction.

Dated: February 18, 1992.

John H. Skinner,

Forest Supervisor, Tahoe National Forest.

[FR Doc. 92-4493 Filed 2-26-92; 8:45 am]

BILLING CODE 3410-11-M

ARCTIC RESEARCH COMMISSION

Meeting

February 21, 1992.

Notice is hereby given that the Arctic Research Commission will hold its 26th meeting in Washington, DC, on March 26, 1992. On Thursday, March 26, a business meeting open to the public will be held staring at 8:30 a.m. in room M-07 of the Old Post Office Building, 12th and Constitution Ave., NW. Agenda items include: (1) Chairman's Report: (2) Comments from agencies and organizations; (3) Resolutions of Appreciation for Mr. Rasmuson and Dr. Steele; (4) Interagency oil pollution research and development plan; (5) Arctic marine mammal research; (6) Update on state of Russian science, and (7) Discussion of draft report, "Research Needs for Response to Oil Spills in Ice-Infested Waters". The Commission will meet in Executive Session following the conclusion of the public meeting to consider budget and related items.

Any person planning to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs.

On March 25, 1993, the Commission is sponsoring jointly with the National Research Council and the Arctic Research Consortium of the United States an Assembly on the Arctic, from 8:30 a.m. to 5:30 p.m. in the auditorium of the National Academy of Sciences, 2101 Constitution Ave., NW., Washington, DC.

Contact Person for More Information: Philip L. Johnson, Executive Director, U.S. Arctic Research Commission, 202-371-9631 or TDD 202-357-9867.

Philip L. Johnson,

Executive Director, U.S. Arctic Research Commission.

[FR Doc. 92-4462 Filed 2-26-92; 8:45 a.m.]

BILLING CODE 7555-01-M

COMMISSION ON CIVIL RIGHTS

Wyoming Advisory Committee; Agenda and Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Wyoming Advisory Committee to the Commission will be held from 10:30 a.m. until 1 p.m. on Saturday, March 21, 1992, at the Casper Inn Hotel, I–25 & Center Street Exit, Casper, Wyoming 82601. The purpose of the meeting is to conduct orientation for new members, review Commission policies and procedures, and approve plans and the schedule for the Committee's project on The Employment of Minorities and Women in Wyoming State Government.

Persons desiring additional information should contact Committee Chairperson, Oralia G. Mercado, or William F. Muldrow, Director of the Rocky Mountain Regional Division, (303) 844–6716 (TDD 303–844–6720). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division at least five (5) workings days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, February 20, 1992.

Carol Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 92–4492 Filed 2–26–92; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 3-92; Foreign-Trade Zone 2]

Application for Temporary Subzone at the Equitable Shipyards Facility (Trinity Marine Group, Inc.) New Orleans, LA

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Board of Commissioners of the Port of New Orleans (the Port), grantee of FTZ 2, requesting temporary special-purpose subzone status at the Equitable Shipyards shipbuilding facility located in New Orleans, Louisiana. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on February 20, 1992.

The shipyard (38 acres) is located on the Inner Harbor-Navigation Canal at 4325 France Road, New Orleans. It is owned by the Port and is operated by Trinity Marine Group, Inc., which also operates a shipyard at the Halter Marine Yard in Escatawpa (Moss Point), Mississippi (formerly Moss Point Marine, Inc.). The latter yard was granted FTZ subzone status in 1988 (Subzone 92A, 53 FR 7953, 3–11–88). Zone procedures would be used at the Equitable facility to complete work on a fishing vessel ("American Champion") which is currently under construction (under zone procedures) at Trinity's Halter Marine Yard in Mississippi. The authority requested in this application covers only the completion of work on the foregoing vessel, subject to the standard restrictions adopted by the FTZ Board for shipyard subzones. An approval of temporary subzone status for two years is contemplated.

Public comment on the proposal is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is March 16, 1992.

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce District Office, 432 World Trade Center, 2 Canal Street, New Orleans, LA 70130.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, room 3716, 14th Street Constitution Avenue, NW., Washington, DC 20230.

Dated: February 20, 1992.

John J. Da Ponte, Jr.

Executive Secretary.

[FR Doc. 92–4528 Filed 2–26–92; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-588-819]

Final Antidumping Duty Determination: Aspheric Ophthalmoscopy Lenses From Japan

AGENCY: Import Administration, International Trade Administration, Commerce.

EFFECTIVE DATE: February 27, 1992.

FOR FURTHER INFORMATION CONTACT: Stefanie Amadeo, Office of Antidumping Duty Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution, Ave., NW., Washington, DC 20230, at (202) 377–1174.

FINAL DETERMINATION: The Department of Commerce (the Department) determines that imports of aspheric ophthalmoscopy lenses (lenses) from Japan are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735(a) of the Tariff Act of 1930, as amended (the Act). The estimated margin is shown in the "Continuation of Suspension of Liquidation" section of this notice.

Case History

We published an affirmative preliminary determination on October 15, 1991 (56 FR 51680).

On October 15, 1991, respondent, Nikon Corp. and Nikon, Inc. (together referred to as Nikon), requested a postponement of the final determination. On October 28, 1991, the Department published its notice postponing the final determination until January 22, 1991 (56 FR 55491). On December 2, 1991, Nikon requested another postponement of the final determination, and on December 17, 1991, the Department published its notice postponing the final determination until February 21, 1991 (56 FR 65466).

The Department conducted verification of Nikon's responses from October 21 through October 29, 1991, and on November 15, 1991. On October 25, 1991, Ocular Instrument, Inc. (Ocular) submitted a request for a hearing in this investigation. On November 1, 1991, the Department informed Ocular that its October 25, 1991, letter of appearance did not demonstrate that Ocular was an interested party under 19 CFR 353.2(k). On November 6, 1991, Ocular informed the Department that it was withdrawing its letter of appearance as an interested party and, consequently, its request for a hearing in the above-referenced investigation. On November 22, 1991, Ocular submitted a letter formally withdrawing its request for a hearing.

On December 16 and 20, 1991, respondent submitted its case and rebuttal briefs, respectively, and on December 16 and 23, 1991, Volk Optical, Inc. (Volk Optical), the petitioner, submitted its case and rebuttal briefs, respectively. Ocular submitted a position paper on December 16, 1991. Since Ocular did not establish its standing as an interested party in this investigation, the Department returned all copies of the position paper to Ocular on December 18, 1991.

In a January 21, 1992, letter to the Department, Nikon requested a meeting with Department officials to discuss the submission of revised computer tapes. Following the requested meeting, which was held on January 24, 1992, Nikon submitted comments on January 27, 1992, and petitioner submitted comments on January 29, 1992.

On January 31, 1992, Nikon and Volk Optical were invited to submit comments on the appropriate best information available (BIA) to use in this investigation. Nikon submitted such comments in a February 7, 1992, letter to the Department. Volk Optical declined further comment.

Scope of Investigation

The products covered by this investigation are aspheric ophthalmoscopy lenses, which are single element, non-contact ophthalmoscopy lenses, whether mounted or unmounted, framed or unframed, of which one or both surfaces are aspherical in shape. The subject merchandise is currently classifiable under subheading 9018.50.00 of the Harmonized Tariff Schedule (HTS). Although the HTS number is provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Period of Investigation

The period of investigation (POI) is November 1, 1990, through April 30, 1991.

Fair Value Comparisons

To determine whether Nikon made sales of lenses at less than fair value, we compared the United States price (USP) to the foreign market value (FMV), as specified below.

Although Nikon responded to the Department's questionnaires, in attempting to verify its response, the Department discovered numerous reporting errors and inconsistencies. Therefore, in accordance with section 776(c) of the Act, our results are based on BIA.

United States Price

We based USP on a FOB factory price contained in the petition, which was offered to U.S. distributors for one type of lens. We made no deductions or adjustments to USP.

Foreign Market Value

We based FMV on a retail price contained in the petition, which was offered in Japan, for identical merchandise to that for which petitioner provided a U.S. price. We reduced the retail price by 25 percent to arrive at the price offered to Japanese distributors based on information in the petition. The terms of the Japanese prices were FOB factory; therefore, no deductions or adjustments to FMV were made.

Currency Conversion

In accordance with 19 CFR 353.60, we converted foreign currency to United States currency using the official exchange rate in effect on the appropriate date.

Best Information Available

We have determined that the questionnaire responses of the respondent provide an inadequate basis for estimating dumping margins. The Department determined that, for the information we examined at verification, the misreporting and inaccuracies in the responses were so material and pervasive as to make the responses inherently unreliable, compelling the Department to use BIA.

On July 11, 1991, Nikon submitted its section A and B responses, and on August 9, 1991, Nikon submitted its section C response. On August 23, 1991, Nikon submitted its response to the Department's August 9, 1991, deficiency letter. This deficiency response contained new and revised information. On September 6, 1991, Nikon submitted a partial response to the Department's August 23, 1991, deficiency letter. The information contained in this response was significantly different from Nikon's previous responses. Then, on September 23, 1991, Nikon submitted another partial response with further new and revised information. Finally, on October 7, 1991, the date of the preliminary determination in this investigation, Nikon submitted yet another response containing substantially revised information.

Even though we used Nikon's July 11, 1991, August 9, 1991, August 23, 1991, and September 6, 1991, responses for the preliminary determination, we accepted Nikon's September 23, 1991, and October 7, 1991, submissions and examined these responses at verification. At verification, we discovered that Nikon's September 23, 1991, and October 7, 1991, responses, as well as the responses used in the preliminary determination, were so flawed, as discussed below, as to render them completely unreliable. At verification, company officials offered to again substantially revise their responses and submit computer tapes containing the new information to the Department. However, given the pattern of ever-changing data and methodology in this investigation, we determined it was inappropriate to accept what would constitute a completely new response after the preliminary determination.

At verification, the following items, among others, were found to have been inaccurately reported either fully, or in part: Home market payment dates; home market sale dates; home market gross unit prices; home market indirect selling expenses; home market inventory carrying expenses; home market advertising; home market sales to a related party (originally reported as unrelated sales); U.S. indirect selling expenses; U.S. foreign inland freight; U.S. sale dates; U.S. inland freight; U.S. brokerage and handling; U.S. marine insurance; U.S. credit; U.S. advertising; and the U.S. sales listing, which failed to report a number of U.S. sales. The deficiencies found are outlined in detail in the public version of our verification report and the public version of our BIA memoranda (dated December 15, 1991, January 31, 1992, and February 14, 1992), which are on file in room B-099 of the Main Commerce building.

In determining what rate to use as BIA, the Department follows a two-tiered methodology, whereby the Department may assign lower rates for those respondents who cooperated in an investigation and rates based on more adverse assumptions for those respondents who did not cooperate in an investigation. In the above-referenced investigation, Nikon attempted to provide the information that the Department requested; however, as noted above, the inaccuracies and discrepancies in Nikon's information are so pervasive as to make the responses inherently unreliable.

According to the Department's two-tiered BIA methodology outlined in the Final Determination of Sales at Less Than Fair Value: Antifriction Bearings (Other Than Tapered Roller Bearings) and parts thereof from the Federal Republic of Germany, Italy, Japan, Romania, Sweden, Thailand, and the United Kingdom (AFBs) (54 FR 18992, 19033, may 3, 1989), when a company which is the only producer or exporter of the subject merchandise (as is Nikon) fails to provide the information requested in the form required, it is appropriate for the Department to assign to that company the higher of (1) the estimated margin found for the affected company in the preliminary determination, or (2) the margin alleged in the petition. In the lenses investigation, the margins alleged in the petition range from 0.5 percent to 158.00 percent, with an average petition margin of 56.95 percent. Therefore, if we allow the AFB hierarchy, we should assign Nikon the preliminary determined margin of 112.72 percent.

However, among the discrepancies in Nikon's responses that were identified at verification were unreported movement expenses in the United States and the failure to report as a related party the customer which accounted for the lowest price home market sales during the POI. Due to the nature and magnitude of these discrepancies, it is likely that the correction of such errors would yield a margin higher than the rate estimated in our preliminary determination. Therefore, to assign Nikon 112.72 percent in the final determination would, in essence, be rewarding Nikon for submitting inaccurate and inconsistent responses. Hence, instead of assigning Nikon the preliminary determined margin as dictated by the AFB hierarchy, we assigned Nikon the average of the margins contained in the petition which are above the preliminarily determined margin. Since there is only one margin alleged in the petition which is above 112.72 percent, we assigned Nikon this petition rate of 158.00 percent.

Interested Party Comments

Comment 1

In its January 27, 1992, submission, Nikon contends that the Department should accept revised computer tapes from Nikon. Respondent argues that the deficiencies in Nikon's response found at verification were minor in scope, and that the majority of discrepancies, if corrected based on verification, would result in a decrease in the dumping margins in this investigation. Nikon further contends that because Nikon cooperated with the investigation, the Department should utilize the revised computer tapes because the discrepancies found at verification are not of a scope to warrant the rejection of Nikon's response.

In its January 29, 1992, submission, petitioner argues that Nikon's request to submit revised computer data should be rejected since such a submission would be untimely within the meaning of 19 CFR 353.31. Petitioner contends that Nikon had numerous opportunities to revise its data prior to the Department's verification. Petitioner further argues that Nikon's request would result in the submission of "new" information long after verification.

DOC Position

The Department did not request revised computer tapes from Nikon because, although some of the numerous discrepancies found at verification were minor, others, including home market sales to an unreported related party, incorrect sales prices on some of the transactions examined, and unreported U.S. movement expenses, were not. Given the discovery at verification that the fourth generation of data submitted by Nikon still contained substantial discrepancies, the Department found that an unverified revised computer tape would contain similarly unreliable data. For example, for certain expenses, we noted four errors out of the ten observations reviewed. Nikon offered to correct these four observed errors; however, we have no way of knowing if the other observations in the database are correct, and, hence, whether a revised computer tape would be accurate. Furthermore, taking into account the sales to an unreported related party and unreported movement expenses, items of greater significance than the multitude of errors addressed in Nikon's January 27, 1992, submission, it is likely that the preliminarily determined margin would increase, rather than decrease. Although Nikon did cooperate with the investigation, given the magnitude and number of material discrepancies found, rejecting Nikon's response *in toto* is warranted.

Comment 2

Petitioner contends that the Department should use BIA in several areas due to Nikon's misreporting and miscalculations. Among other expenses, petitioner argues that BIA should be used for Nikon's home market indirect selling expenses, home market inventory carrying expenses, and U.S. inland freight. Petitioner further contends that the Department should disregard the home market sales to Nikon's related party.

Respondent contends that changes in Nikon's reported home market indirect selling expenses, home market inventory, and U.S. air freight and ocean freight and inland freight expenses based upon verification, would be addressed in revised computer tapes. Respondent further argues that the unreported U.S. sales found at verification would be included in a revised computer tape. As for the home market sales which were discovered at verification to be to a related party, respondent contends that the prices to this customer were based on the historic level of purchases by that customer, rather than its related party status; therefore, respondent argues that the Department should include these sales in the final determination.

In its February 7, 1992, submission, Nikon argues that the adjusted petition margins contained in that submission should be used when calculating BIA for the final determination in this investigation. Nikon adjusted the alleged U.S. prices contained in the petition for air freight and import duties. Nikon also adjusted the U.S. price for two types of lenses. Nikon, however, stated that it did not adjust the home market prices alleged in the petition because it was not aware of any adjustment that could be made to home market prices based on information contained in the petition. Nikon contends that, as BIA, the Department should use a simple average of these adjusted petition margins.

DOC Position

As noted in the "Best Information Available" section of this notice, the various responses submitted by Nikon are seriously deficient in numerous respects. As the Department stated in the Final Determination of Sales at Less Than Fair Value: Photo Albums and Filler Pages from Korea (50 FR 43754, October 29, 1985), "[i]t is the obligation of respondents to provide an accurate and complete response prior to verification so that the Department may have the opportunity to fully analyze the information and other parties are able to review and comment on it. The purpose of verification is to establish the accuracy of a response rather than to reconstruct the information to fit the requirements of the Department." Since verification at Nikon did not establish the accuracy of its responses, the Department is compelled to use BIA. *See* the "Best Information Available" section of this notice.

According to the Department's two-tiered BIA methodology outlined in AFBs, it would not be consistent with the Departmental policy to assign to Nikon the average of the adjusted petition margins because this average margin is lower than the preliminarily calculated margin. *See*, "Best Information Available" section of this notice. Furthermore, the Department did not use the alleged petition margins as adjusted by Nikon because, even though these adjusted petition rates lead to margins higher than those alleged in the petition, it is the Department's long-standing practice to rely upon petition rates published in our notice of initiation as BIA rather than on a respondent's unsubstantiated data.

Given the Department's use of BIA, other comments submitted by the parties in their briefs in this investigation are moot, and will not be addressed in this notice.

Continuation of Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directing the Customs

Service to continue to suspend liquidation of all entries of lenses from Japan that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall continue to require a cash deposit or posting of a bond equal to the estimated amounts by which the foreign market value of lenses exceeds the United States price as shown below. The suspension of liquidation on lenses will remain in effect until further notice. The dumping margins are as follows:

Manufacturer/producer/exporter	Margin percentage
Nikon Corp. and Nikon Inc.	158.00
All Others	158.00

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. If the ITC determines that material injury, or threat of material injury, does not exist with respect to lenses, the proceeding will be terminated and all securities posted will be refunded or cancelled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all lenses from Japan, entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d) and 19 CFR 353.20.

Dated: February 21, 1992.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92-4529 Filed 2-26-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-307-803]

Gray Portland Cement and Clinker From Venezuela; Suspension of Investigation

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce has decided to suspend the antidumping investigation involving gray portland cement and clinker from Venezuela. The basis for the suspension is an agreement by the Venezuelan producers/exporter, which account for substantially all of the known products from Venezuela, to revise their prices to eliminate sales of this merchandise to the United States at less than fair value.

EFFECTIVE DATE: February 27, 1992.

FOR FURTHER INFORMATION CONTACT: Robert Bolling or Wendy Frankel, Office of Agreements Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-3793.

SUPPLEMENTARY INFORMATION:

Case History

On May 21, 1991, the Ad Hoc Committee of Florida Producers of Gray Portland Cement (the Ad Hoc Committee) filed with the Department of Commerce (the Department) an antidumping duty petition on behalf of the United States industry producing gray portland cement and clinker. In accordance with 19 CFR 353.12, the petitioner alleged that imports of gray portland cement and clinker from Venezuela are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are materially injuring, or threaten material injury to, a regional U.S. industry (Florida). We initiated such an investigation on June 14, 1991 (56 FR 27496).

Since our initiation, the following events have occurred. On July 17, 1991, the U.S. International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that a regional industry in the United States is materially injured, or threatened with material injury, by reason of imports of gray portland cement and clinker from Venezuela (56 FR 32589).

On July 12, 1991, the Department presented its questionnaire to Venezolana de Cementos, S.A.C.A. (Vencemos), whose sales accounted for more than 60 percent of imports of gray portland cement and clinker during the period of investigation (POI).

In August and September 1991, we received responses to the questionnaire from Vencemos and from Cementos Caribe, C.A. (Caribe), a voluntary respondent. Subsequent to these responses, we issued deficiency questionnaires. In addition, based on information in the respondent's initial questionnaire responses, a further manufacturing questionnaire section was issued to Vencemos. Responses to all of the aforementioned questionnaire sections and supplements were received from the respondents in time for consideration for purposes of the preliminary determination.

On September 12, 1991, petitioner alleged that Vencemos was selling clinker in its largest third country market at prices below the cost or production. Given that Vencemos' home market was not viable with respect to sales of clinker, on October 10, 1991, the Department initiated a cost of production (COP) investigation with regard to Vencemos' sales of clinker to that third country. The Department issued a COP questionnaire on October 16, 1991, but the response to that questionnaire were not received before the preliminary determination. On August 2, 1991, the Department received challenges to petitioners' standing from two U.S. producers of gray portland cement and clinker. We received responses to our standing questionnaire from those companies on August 21, 1991. The Department determined that petitioner had standing to bring this case (56 FR 56390; November 4, 1991).

On October 4, 1991, petitioner alleged the existence of critical circumstances and on October 10, 1991, the Department requested shipment information from respondents. The Department found no reasonable basis to believe or suspect that critical circumstances existed with respect to the subject merchandise (56 FR 56390; November 4, 1991).

On November 4, 1991, we published a preliminary determination that gray portland cement and clinker from Venezuela were being sold at less than fair value in the United States (54 FR 56390). Between November 9 and November 18, 1991, we conducted verification of the sales information provided by these respondents at their facilities in Venezuela, Florida and Georgia. Subsequently, between January 11 and January 21, 1992, in Venezuela, we verified the accuracy of the information provided in the respondents' cost of production and constructed value questionnaire responses.

Products Under Investigation

The products covered by this investigation are gray portland cement and clinker. Gray portland cement and clinker are currently classifiable under subheadings 2523.10 and 2523.29 of the Harmonized Tariff Schedule (HTS). Gray portland cement has also been entered under HTS subheading 2523.90 as "other hydraulic cements." Gray portland cement is a hydraulic cement and the primary component of concrete. Clinker, an intermediate material produced when manufacturing cement, has no use other than grinding into finished cement. Oil well cement is also included within the scope of the investigation. Although the HTS subheadings are provided for convenience and customs purpose, our written description of the scope of this proceeding remains dispositive.

Suspension of Investigation

On December 23, 1991, the Department and the respondents initialed a proposed agreement to suspend the antidumping investigation on gray portland cement and clinker from Venezuela. The Department gave parties an opportunity to comment on the proposed suspension agreement. Petitioner commented on aspects of the draft cost questionnaire but made no comments on the proposed suspension agreement. This cost questionnaire is not part of the suspension agreement, therefore, we will consider petitioner's comments when developing the subsequent cost questionnaire.

We have determined that the agreement will eliminate sales of this merchandise to the United States at less than fair value, that the agreement can be monitored effectively, and that the agreement is in the public interest. We find, therefore, that the criteria for suspension of an investigation pursuant to section 734 of the Act have been met. The terms and conditions of the agreement, signed February 11, 1992, are set forth in annex 1 to this notice.

Pursuant to section 734(f)(2)(A) of the Act, the suspension of liquidation of all entries of gray portland cement and clinker from Venezuela, entered or withdrawn from warehouse, for consumption effective November 4, 1991, as directed in our notice of "Antidumping Preliminary Determination of Sales at Less than Fair Value, Gray Portland Cement and Clinker from Venezuela" is hereby terminated. Any cash deposits on entries of gray portland cement and clinker from Venezuela pursuant to that suspension of liquidation shall be refunded and any bonds shall be released.

Notwithstanding the suspension agreement, the Department will continue the investigation if we receive such a request in accordance with section 734(g) of the Act within 20 days after the date of publication of this notice. This notice is published pursuant to section 734(f)(1)(A) of the Act.

Dated: February 20, 1992.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

ANNEX I

Gray Portland Cement and Clinker From Venezuela; Suspension Agreement

Pursuant to section 734 of the Tariff Act of 1930, as amended (19 U.S.C. 1673c) (the Act), and § 353.18 of title 19 U.S. Code of Federal Regulations (19 CFR part 353) (the regulations), the U.S. Department of Commerce (the Department) and the signatory producers/exporters of gray portland cement and clinker from Venezuela, enter into this suspension agreement (the Agreement). On the basis of this suspension agreement, the Department shall suspend its antidumping investigation initiated on June 14, 1991 (56 FR 27496) with respect to gray portland cement and clinker from Venezuela, subject to the terms and provisions set out below.

A. Product Coverage

The merchandise subject to this agreement is the following merchandise produced in and exported from Venezuela (either directly or indirectly):

Gray portland cement and clinker, which are currently classifiable under subheadings 2523.29 and 2523.10 of the Harmonized Tariff Schedule (HTS). Gray portand cement has also been entered under HTS subheading 2523.90 as "other hydraulic cements." Gray portland cement is a hydraulic cement and the primary component of concrete.

Clinker, an intermediate material produced when manufacturing cement, has no use other than grinding into finished cement. Oil well cement is also subject to this Agreement. Microfine cement is not included within the scope of this investigation and therefore is not subject to this Agreement.

B. U.S. Import Coverage

Venezolana de Cementos, S.A.C.A. (Vencemos) and Cementos Caribe, C.A. (Caribe), the signatory producers/exporters, collectively are the producers and exporters in Venezuela which, during the antidumping investigation of the merchandise subject to this Agreement, accounted for substantially all (not less than 85 percent) of the merchandise imported into the United States from Venezuela, as provided in the Department's regulations. The Department may at any time during the period of this Agreement require additional producers/exporters in Venezuela to sign this Agreement in order to ensure that not less than substantially all imports into the United States are covered by this Agreement.

In reviewing the operation of this Agreement for the purpose of determining whether this Agreement has been violated or is no longer in the public interest, the Department will consider imports into the United States from all sources of the merchandise described in section A of this Agreement. For this purpose, the Department will consider factors including, but not limited to, the following: Volume of trade, pattern of trade, whether or not a reseller is an original equipment manufacturer, and the reseller's purchase price.

C. Basis for the Agreement

On and after the effective date of this Agreement, each signatory producer/exporter agrees to make any necessary price revisions to eliminate completely any amount by which the foreign market value of its merchandise exceeds the United States price of its merchandise subject to this Agreement. For purposes of this agreement, the Department will determine the foreign market values in accordance with section 773 of the Act, and the U.S. prices in accordance with section 772 of the Act. In calculating foreign market value, the Department may also consider, to the extent it deems appropriate, information submitted by the producers/exporters regarding projected differences in production costs within the quarter in which the information is submitted resulting from factors such as anticipated changes in production yield, changes in production process, changes in production quantities or changes in production facilities.

1. For all sales occurring between February 27, 1992, and March 1, 1992, each signatory producer/exporter agrees not to sell its merchandise subject to this Agreement to unrelated purchasers in the United States at prices that are less than its foreign market value, as determined by the Department on the basis of information obtained during the course of the antidumping investigation and provided to parties not later than February 27, 1992.

2. For all sales occurring between March 1, 1992, and July 31, 1992, each signatory producer/exporter agrees not to sell its merchandise subject to this Agreement to unrelated purchasers in the United States at prices that are less than its foreign market value, as determined by the Department on the basis of information submitted to the Department on February 11, 1992, and provided to parties not later than February 28, 1992.

3. For all sales occurring between August 1, 1992, and September 31, 1992, each signatory producer/exporter agrees not to sell its merchandise subject to this Agreement to unrelated purchasers in the United States at prices that are less than its foreign market value, as determined by the Department on the basis of information submitted to the Department on June 1, 1992, and provided to parties not later than July 20, 1992.

4. For all sales occurring after October 1, 1992, each signatory producer/exporter agrees not to sell its merchandise subject to this Agreement to any unrelated purchaser in the United States at prices that are less than the foreign market value of the merchandise as determined by the Department on the basis of information submitted to the Department not later than the dates specified in section D of this Agreement and provided to parties not later than September 20, December 20, March 20, and June 20 of each year. The foreign market value shall apply to sales occurring during the calendar quarter beginning on the first day of the month following the date the Department provides

the foreign market value, as stated in this paragraph.

D. Monitoring

Each signatory producer/exporter will supply to the Department all information that the Department decides is necessary to ensure that the producer/exporter is in full compliance with the terms and conditions of this Agreement. As explained below, the Department will provide each signatory producer/exporter a detailed request for information and prescribe a required format and method of data compilation not later than the beginning of each reporting period.

1. Sales Information. The Department will require each signatory producer/exporter to report, on computer tape in the prescribed format and using the prescribed method of data compilation, each sale of the merchandise subject to this Agreement, either directly or indirectly to unrelated purchasers in the United States, including each adjustment applicable to each sale, as specified by the Department.

The first report of sales data shall be submitted to the Department on computer tape in the prescribed format not later than June 1, 1992, and shall contain the specified sales data covering the period March 1, 1992, through March 31, 1992. The second report of sales data shall be submitted to the Department not later than August 21, 1992, and shall contain the specified sales data covering the period April 1, 1992, through June 30, 1992. The third report of sales data shall be submitted to the Department not later than October 30, 1992 and shall contain the specified sales data covering the period July 1, 1992, through September 30, 1992. Subsequent reports of sales data shall be submitted to the Department not later than January 31, April 30, July 31, and October 31 of each year, and each report shall contain the specified sales information for the quarter ending one month prior to the due date, except that if the Department receives information that a possible violation of the Agreement may have occurred, the Department may request sales data on a monthly, rather than on a quarterly, basis.

2. Cost Information. The Department will require Vencemos and Caribe to report their constructed value data on a quarterly basis, in the prescribed format and using the prescribed method of data compilation. Each such producer/exporter must also report anticipated increases in production costs and may report anticipated decreases in production costs in the quarter in which the information is submitted resulting from factors such as anticipated changes in production yield, changes in production process, changes in production quantities or changes in production facilities.

The first report of cost data shall be submitted to the Department not later than February 11, 1992, and shall contain the specified cost data covering the period April 1, 1991, through September 30, 1991. The second report of cost data shall be submitted to the Department not later than June 1, 1992, and shall contain the specified cost data covering the period January 1, 1992, through March 31, 1992. The third report of cost data shall be submitted to the Department not later than August 31, 1992, and shall contain the specified cost data covering the period April 1, 1992, through June 30, 1992. Subsequent reports shall be submitted to the Department not later than October 31, January 31, April 30, and July 31 of each year, and each report shall contain the specified cost information for the quarter ending one month prior to the due date.

3. Special Adjustment of Foreign Market Value. If the Department determines that the foreign market value it determined for a previous quarter was erroneous because the reported data for that period were inaccurate or incomplete, or for any other reason, the Department may adjust foreign market value in a subsequent period or periods, unless the Department determines that section G of this Agreement applies.

4. Verification. Each signatory producer/exporter agrees to permit full verification of all cost and sales information semi-annually, or more frequently, as the Department deems necessary.

5. Rejection of Submissions. The Department may reject any information submitted after the deadlines set forth in this section or any information which it is unable to verify to its satisfaction.

If information is not submitted in a complete and timely fashion or is not fully verifiable, the Department may calculate foreign market value and/or U.S. price based on the best information otherwise available, as it determines appropriate, unless the Department determines that section G of this Agreement applies.

E. Disclosure and Comment

1. The Department may make available to representatives of each domestic party to the proceeding, under appropriately drawn administrative protective orders, business proprietary information submitted to the Department during each quarter as well as the results of its calculations of foreign market value.

2. Not later than July 1, 1992, December 1, 1992, and March 1, June 1, September 1, and December 1 in subsequent years, the Department will disclose to each producer/exporter the results and the methodology of the Department's calculations of its foreign market value. At that time, the Department may also make available such information to the domestic parties to the proceeding, in accordance with paragraph E.1.

3. Not later than seven days after the date of disclosure under paragraph E.2., the parties to the proceeding may submit to the Department written comments, not to exceed 10 pages. After reviewing these submissions, the Department will provide to each producer/exporter its foreign market value as provided in paragraph C.3. In addition, the Department may provide such information to domestic interested parties as specified in paragraph E.1.

4. Once during each calendar year of this Agreement, the Department shall provide an opportunity for each party to the proceeding to request a hearing on issues raised during the proceeding. If such a hearing is requested, it will be conducted in accordance with section 751 of the Act and applicable regulations.

F. Signatories

To the extent administratively feasible, the Department will calculate foreign market values based on cost data that may be submitted by any signatory producer/exporter not required to submit such data under paragraph D.2. To the extent such calculations are not administratively feasible, such producers/exporters may be assigned a foreign market value for each applicable product which is the weighted-average foreign market value of those companies for which specific foreign market values have been calculated.

G. Violation of the Agreement

If the Department determines that this Agreement is being or has been violated or no longer meets the requirements of section 734(b) or (d) of the Act, the Department shall take action it determines appropriate under section 734(i) of the Act and the regulations.

H. Other Provisions

In entering into this Agreement, the signatory producers/exporters do not admit that any sales of the merchandise subject to this Agreement have been made at less than fair value.

I. Termination

Absent likelihood of dumping, the Department of Commerce expects to terminate this suspended investigation in January 1997.

J. Definitions

For purposes of this Agreement, the following definitions apply:

1. U.S. Price—means the price at which merchandise is sold by the producer, or exporter to the first unrelated party in the United States, inclusive of the amount of any discounts, rebates, price protection or ship and debit adjustments, and other adjustments affecting the net amount paid or to be paid by the unrelated purchaser, as determined by the Department under section 772 of the Act.

2. Foreign Market Value—means the constructed value of the merchandise, as determined by the Department under section 773(e) of the Act, except in the interim period, as noted in item C.1. above. In calculating foreign market value, the Department may also consider, to the extent it deems appropriate, information submitted by producers/exporters regarding projected differences in production costs in the quarter in which the information is submitted resulting from factors such as anticipated changes in production yield, changes in production process, changes in productions quantities or changes in production facilities.

3. Producer/Exporter—means (a) the foreign manufacturer or producer, (b) the foreign producer or reseller which also exports, and (c) the related person by whom or for whose account the merchandise is imported into the United States, as defined in section 771(13) of the Act.

4. Date of Sale—For contracts entered into on or after February 27, 1992, the date of sale is the date on which the essential terms of the contract, including price, are agreed and

determinable, normally the date of confirmation of sale.

The effective date of this Agreement is February 27, 1992.

Signed on this 11 day of February 1992.

For Venezuelan producers/exporters: For Venezolana de Cementos, S.A.C.A.

Angel Graterol.

For Cementos Caribe, C.A.

Felix Saez de Ibarra.

For the U.S. Department of Commerce.

Alan M. Dunn,

Assistant Secretary for Import Administration.

I have determined pursuant to section 734(b) of the Act that the provisions of section C eliminate completely sales at less than fair value with respect to gray portland cement and clinker exported, directly or indirectly, from Venezuela to the United States. Furthermore, I have determined that suspension of the investigation is in the public interest, that the provisions of section D ensure that this Agreement can be monitored effectively, and the Agreement meets the requirements of section 734(d) of the Act.

Signed on this 11 day of February, 1992.

For the U.S. Department of Commerce.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92–4417 Filed 2–26–92: 8:45 am]

BILLING CODE 3510–DS–M

[A–570–502]

Certain Iron Construction Castings From the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration/International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request by one manufacturer/exporter and the petitioners, the Department of Commerce has conducted an administrative review of the antidumping duty order on certain iron construction castings from the People's Republic of China. This notice covers nine manufacturers/exporters for the period May 1, 1990 through April 30, 1991. The review indicates the existence of dumping margins during the period.

As a result of the review, the Department has preliminarily determined to assess antidumping duties based on the best information available.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: February 27, 1992.

FOR FURTHER INFORMATION CONTACT: Philip Marchal or Maureen Flannery, Office of Antidumping Compliance, International Trade Administration; U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–2923.

SUPPLEMENTARY INFORMATION:

Background

On May 9, 1986, the Department of Commerce (the Department) published in the **Federal Register** (51 FR 17222) an antidumping duty order on certain iron construction castings from the People's Republic of China (PRC). Petitioners, the Municipal Castings Fair Trade Council and its individually-named members—Alhambra Foundry, Inc., Allegheny Foundry Co., Bingham and Taylor Division, Virginia Industries, Inc., Campbell Foundry Co., Charlotte Pipe and Foundry Co., Deeter Foundry Co., East Jordan Iron Works, Inc., LeBaron Foundry Inc., Municipal Castings, Inc., Neenah Foundry Co., Opelika Foundry Co., Pinkerton Foundry, Inc., Tyler Pipe Industries Inc., U.S. Foundry and Manufacturing Co., and Vulcan Foundry, Inc.—and one respondent, Guangdong Metals and Minerals Import and Export Corporation (Minmetals Guangdong)—requested that we conduct an administrative review for the May 1, 1990 through April 30, 1991 period. We published a notice of initiation on June 18, 1991 (56 FR 27943). The Department has now conducted a review for this period in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act).

Questionnaires were sent to nine companies: The Beijing Branch of the China National metals and Minerals Import and Export Corporation, Minmetals Guangdong, the Liaoning (or Dalian) Branch of the China National Metals and Minerals Import and Export Corporation, the Jilin Branch of the China National Metals and Minerals Import and Export Corporation, the Anhui Branch of the China National Metals and Minerals Import and Export Corporation (Minmetals Anhui), China National Metals and Minerals Import and Export Corporation (CNMMIEC), China National Machinery Import and Export Corporation, China National Machinery and Equipment Import and Export Corporation, and China National Light Industrial Products Import and Export Corporation. Minmetals Anhui and CNMMIEC responded to our questionnaire that they had no shipments of the subject merchandise during the period of review. The other seven companies did not respond.

In the final results of administrative review for the 1988–89 period, the most recent period for which final review results have been issued, we determined that because the PRC is a state-controlled economy, a single country-wide rate was appropriate absent a clear showing of legal, financial, and economic independence, and was appropriate for that review. See Iron Construction Castings From the People's Republic of China; Final Results of Antidumping Duty Administrative Review (January 24, 1991, 56 FR 2742). Also, see Sparklers from the People's Republic of China; Final Determination of Sales at Less than Fair Value (May 6, 1991, 56 FR 20588). We have received no evidence to the contrary during this review. Therefore, we determine that a single country-wide rate is appropriate for this review.

Scope of the Review

Imports covered by this review are shipments of certain iron construction castings, limited to: Manhole covers, rings and frames; catch basin grates and frames; cleanout covers and frames used for drainage or access purposes for public utility, water, and sanitary systems; and valve, service, and meter boxes which are placed below ground to encase water, gas, or other valves, or water or gas meters. These articles must be of cast iron, not alloyed, and not malleable. Certain iron construction castings are currently classifiable under numbers 7325.10.00.00 and 7325.10.00.50 of the Harmonized Tariff Schedule (HS). Although the HS numbers are provided for convenience and Customers purposes, our written description of the scope of this proceeding is dispositive.

This review covers nine manufacturers and exporters of the subject merchandise and the period May 1, 1990 through April 30, 1991.

Best Information Available

Seven companies failed to respond to our questionnaire. The Department has therefore decided to use the best information available (BIA) in determining the country-wide rate.

When a company fails to provide the information requested in a timely manner, or otherwise significantly impedes the Department's review, the Department considers the company uncooperative and generally assigns to that company the higher of: (a) The highest rate assigned to any company in a previous review or the determination of sales at less that fair value, or (b) the highest rate for a responding company with shipments during the review period. See 19 CFR 353.37(b) See Final Results of Antidumping Duty Administrative Reviews: Portable Electric Typewriters from Japan (November 4, 1991, 56 FR 36393).

For BIA, we have used the rate of 45.92 percent from the final results of the 1988–89 (third) administrative review, the most recent completed review.

If we determine to use BIA for the final results of this review, we may change the BIA rate used to reflect the final results of review for a more recent review period, the 1989–90 period, if such final results have been issued by that time.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the margin for the period May 1, 1990 through April 30, 1991 is 45.92 percent. This rate applies to all exports of certain iron construction castings from the PRC.

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication of this notice, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. The Department will publish a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any such case briefs or at a hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed companies will be that rate established in the final results of this administrative review; (2) for previously reviewed or investigated companies not listed above which received their own rate in the prior review, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will be 45.92 percent, the "all others" rate established in the final results of this administrative review. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period.

Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: February 19, 1992.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92–4530 Filed 2–26–92; 8:45 am]

BILLING CODE 3510-DS-M

[A-791-502]

Low-Fuming Brazing Copper Wire and Rod From South Africa; Determination Not To Revoke Antidumping Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of determination not to revoke antidumping duty order.

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the antidumping duty order on low-fuming brazing copper wire and rod from South Africa.

EFFECTIVE DATE: February 27, 1992.

FOR FURTHER INFORMATION CONTACT: Jorge A. Arce or Robert Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–5255.

SUPPLEMENTARY INFORMATION: The Department may revoke an antidumping duty order, pursuant to § 353.25(d)(4) of the Department's regulations, if no interested party has requested an administrative review for four consecutive annual anniversary months and no interested party objects to the revocation (19 CFR 353.24(d)(4)). We had not received a request to conduct an administrative review of the antidumping duty order on low-fuming brazing copper wire and rod from South Africa (51 FR 3640, January 29, 1986) for the last four consecutive annual anniversary months. Therefore, pursuant to the Department's regulations, on December 31, 1991, we published in the **Federal Register** a notice of intent to revoke the order and served written notice of the intent to revoke to each interested party on the Department's service list.

On January 30, 1992, Copper & Brass Fabricators Council, Inc., a petitioner, objected to our intent to revoke this order. Therefore, because an interested party objects to the revocation, we no longer intent to revoke this order.

Dated: February 20, 1992.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 92–4531 Filed 2–26–92; 8:45 am]

BILLING CODE 3510-DS-M

[A-122-818]

Initiation of Antidumping Duty Investigation: Medium Voltage Underground Distribution Cable From Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: February 27, 1992.

FOR FURTHER INFORMATION CONTACT: Stefanie Amadeo, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377–1174.

INITIATION OF INVESTIGATION:

The Petition

On January 31, 1991, we received a petition filed in proper form by the U.S. Cable Trade Action Group (the petitioner). Supplements to the petition were received on February 11, 18, 19, and 20, 1992. In accordance with 19 CFR 353.12, the petitioner alleges that medium voltage underground distribution cable (URD) from Canada is being, or is likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are materially injuring, or threaten material injury to, a U.S. industry.

The petitioner has stated that it has standing to file the petition because it is an interested party, as defined under section 771(9)(E) of the Act, and because it has filed the petition on behalf of a U.S. industry producing a product that is subject to this investigation. If any interested party, as described under paragraphs (C), (D), and (E), or (F) of section 771(9) of the Act, wishes to register support for, or opposition to, this petition, it should file a written notification with the Assistant Secretary for Import Administration.

Under the Department's regulations, any producer or reseller seeking exclusion from a potential antidumping duty order must submit its request for exclusion within 30 days of the date of the publication of this notice. The procedures and requirements are contained in 19 CFR 353.14.

United States Price and Foreign Market Value

Petitioner's estimate of U.S. price (USP) is based on domestic industry sources and is comprised of bids, or offers for sale of the subject merchandise in the United States by the Canadian producer. Petitioner adjusted USP for movement charges.

Petitioner estimated foreign market value (FMV) based both on actual home market sales prices obtained from public bids and on constructed value (CV). Petitioner adjusted the bid prices for differences in merchandise. We deducted freight charges from the bid price.

Based on the comparisons of the bid prices in both markets, the alleged dumping margins for URD from Canada range from 77.22 to 240.48 percent. Based on the comparisons of USP and CV, the alleged dumping margins for URD from Canada range from 53.9 to 126.9 percent.

Initiation of Investigation

We have examined the petition on URD from Canada and have found that it meets the requirements of section 732(b) of the Act. Therefore we are initiating an antidumping duty investigation to determine whether imports of URD from Canada are being, or are likely to be, sold in the United States at less than fair value.

Scope of Investigation

The merchandise subject to this investigation, medium voltage underground distribution cable (URD), is an insulated electrical conductor used by electric utility companies in the medium voltage stage (*i.e.*, for voltages exceeding 1,000 volts but not exceeding 46,000 volts) of transmitting electricity. URD is generally used by utility companies to distribute electricity from regional substations to neighborhood transformers. URD is composed principally of metal (generally aluminum or copper for the conductor, and copper for the "neutral" or ground wires) and insulating compounds (*e.g.*, polyethylene). Imports of this product are currently classifiable under Harmonized Tariff Schedule (HTS) subheading 8544.60.60. Although this subheading also includes insulated electrical conductors of greater than 46,000 volts, the scope of this investigation is limited to medium voltage underground distribution cable. Although the HTS subheading is provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Preliminary Determination by the International Trade Commission

The International Trade Commission will determine by March 16, 1992, whether there is a reasonable indication that imports of URD from Canada are materially injuring, or threaten material injury to, a U.S. industry. If its determination is negative, the investigation will be terminated. Otherwise, if the investigation proceeds normally, the Department will make its preliminary determination on or before July 9, 1992.

This notice is published pursuant to section 732(c)(2) of the Act and 19 CFR 353.13(b).

Dated: February 20, 1992.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92-4532 Filed 2-26-92; 8:45 am]

BILLING CODE 3510-DS-M

Export Certificate of Review

ACTION: Notice of application.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: George Muller, Director, Office of Export Trading Company Affairs, International Trade Administration, 202-377-5131. This is not a toll free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorized the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from State and Federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether a Certificate should be issued. An original and five (5) copies should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, room 1800H, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 92-00004". A summary of the application follows.

Summary of Application

Applicant: John J. Wheeling, 11117 Sunglow Dr., Moreno Valley, CA 92557, Telephone: 714-242-3807

Application No.: 92-00004.

Date Deemed Submitted: February 13, 1992.

Export Trade

(1) *Products*

Telecommunications Equipment, Auto Parts, and Electronic Equipment.

(2) *Technology Rights*

Proprietary rights to all kinds of technology associated with Products including but not limited to patents, trademarks, service marks, trade names, copyrights (including neighboring rights), trade secrets, know-how, semiconductor mask works, utility models (including petty patents), and computer software protection.

(3) *Export Trade Facilitation Services (as They Relate to the Export of Products and Technology Rights)*

Acting as distributor or broker; conducting marketing research; and conducting studies to determine the ability of suppliers to provide Products to certain foreign buyers.

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Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam and the Commonwealth of the Northern Mariana Islands)

Export Trade Activities and Methods of Operation

1. To engage in Export Trade in Export Markets, John J. Wheeling may:

a. Provide and/or arrange for the provision of Export Trade Facilitation Services;

b. Engage in promotional and marketing activities;

c. Enter into exclusive export sales agreements with Suppliers for the export of Products for sale in the Export Markets; such agreements may prohibit Suppliers from exporting independently of John J. Wheeling;

d. Enter into exclusive agreements with distributors in the Export Markets;

e. Establish the price of Products for sale in the Export Markets; and

f. Allocate export orders among his Suppliers.

2. John J. Wheeling and individual Suppliers may regularly exchange information on a one-to-one basis regarding inventories and near term production schedules in order that the availability of supplies for export can be determined and effectively coordinated by John J. Wheeling with his distributors in the Export Markets.

Definitions

"Supplier" means a person who produces, provides, or sells a Product or Technology Right.

Dated: February 24, 1992.

George Muller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 92-4525 Filed 2-26-92; 8:45 am]

BILLING CODE 3510-DR-M

Export Trade Certificate of Review

ACTION: Notice of Issuance of an amended export trade certificate of review, application No. 90-3A005.

SUMMARY: The Department of Commerce has issued an amended Export Trade Certificate of Review to the California Kiwifruit Commission ("CKC") and California Kiwifruit Exporters Association ("CKEA") on February 24, 1992. The original Certificate was issued on August 10, 1990 (55 FR 33740, August 17, 1990) and previously amended on November 27, 1990 (55 FR 50204, December 5, 1990), and January 29, 1991 (56 FR 4601, February 5, 1991).

FOR FURTHER INFORMATION CONTACT: George Muller, Director, Office of Export Trading Company Affairs, International Trade Administration, 202-377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing title III are found at 15 CFR part 325 (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the **Federal Register**. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Amended Certificate

CKC's and CKEA's Export Trade Certificate of Review has been amended to:

1. Add the following two companies as "Members" within the meaning of § 325.2(1) of the Regulations (15 CFR 325.2(a)): Murrah Packing, Inc., Gridley, California; and Kiwi Sales of California, Gridley, California; and

2. Delete Calavo Growers of California, Santa Ana, California; Riverbend Sales Inc., Sanger, California; Davis Kiwi Gardens, Inc., Porterville, California; Kiwi Blossom Packing, Gridley, California; Sun Fresh Marketing, Delano, California; and Visalia Produce Sales, Visalia, California as "Members" within the meaning of § 325.2(1) of the Regulations (15 CFR 325.2(1)).

A copy of the amended Certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

EFFECTIVE DATE: November 26, 1991.

Dated: February 24, 1992.

George Muller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 92-4533 Filed 2-26-92; 8:45 am]

BILLING CODE 3510-DR-M

Scripps Clinic and Research Foundation, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 91-118. *Applicant:* Scripps Clinic and Research Foundation, La Jolla, CA 92037. *Instrument:* Mass Spectrometer, Model API III. *Manufacturer:* Sciex, Canada. *Intended Use:* See notice at 56 FR 46597, September 13, 1991. *Reasons:* The foreign instrument provides: (1) Triple quadrupole mass spectrometry, (2) liquid chromatography at flow rates to 200 µl per minute and (3) mass range to 2400. *Advice Submitted By:* National Institutes of Health, December 18, 1991.

Docket Number: 91-119. *Applicant:* Oklahoma Medical Center, Oklahoma City, OK 73104. *Instrument:* Dual Station Rapid Karyotyping System. *Manufacturer:* Applied Imaging Corporation, United Kingdom. *Intended Use:* See notice at 56 FR 46597, September 13, 1991. *Reasons:* The foreign instrument provides computer based metaphase location and karyotyping with a spatial image resolution of 768 x 575 pixels. *Advice Submitted By:* National Institutes of Health, January 14, 1992.

Docket Number: 91-122. *Applicant:* Associated Universities, Incorporated—Brookhaven National Laboratory, Upton, NY 11973. *Instrument:* Microvolume Stopped-Flow Spectrophotometer, Model SF.17MV. *Manufacturer:* Applied Photophysics, United Kingdom. *Intended Use:* See notice at 56 FR 46597, September 13, 1991. *Reasons:* The foreign instrument provides: (1) Submillisecond dead time, (2) sensitivity of 0.0004 in absorbance change and (3) small sample capability to 50 µl per run) *Advice Submitted by:* National Institutes of Health, January 14, 1992.

Docket Number: 91-132 *Applicant:* National Institutes of Standards and Technology, Gaithersburg, MD 20899.

Instrument: Electron Beam Ion Trap. *Manufacturer:* Oxford University, United Kingdom. *Intended Use:* See notice at 56 FR 47188, September 18, 1991. *Reasons:* The foreign instrument provides generation of very highly charged ions using 3.0 tesla superconducting coils and a current density of 4000 A/cm^2. *Advice Submitted By:* National Institutes of Health, January 14, 1992.

Docket Number: 91-138. *Applicant:* University of California, Los Angeles, Los Angeles, CA 90024-1569. *Instrument:* Mass Spectrometer System, Model Autospec. *Manufacturer:* VG Analytical Ltd., United Kingdom. *Intended Use:* See notice at 56 FR 50861, October 9, 1991. *Reasons:* The foreign instrument provides: (1) Trisector MS/MS capability, (2) mass range to 3000 and (3) scan rate to 0.2 second/decade. *Advice Submitted By:* National Institutes of Health, January 14, 1992.

The National Institutes of Health advises that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 92-4534 Filed 2-26-92; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Oceanic and Atmospheric Management Advisory Committee; Open Meeting

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

SUMMARY: The Oceanic and Atmospheric Management Advisory Committee (OAMAC) was established by the Secretary of Commerce on July 2, 1990, to advise the Secretary on issues related to the management of oceanic and atmospheric resources that fall within the legislative and administrative purview of the National Oceanic and Atmospheric Administration (NOAA). This Committee reviews on a selective basis, Earth systems research and data management, the status of marine and atmospheric science, service programs of NOAA, and NOAA's laboratories, fleet, satellites and supercomputers, and their application to resource management and to products and services beneficial to the American public.

TIME AND PLACE: March 5, 1992, from 8:30 a.m. until 5 p.m. at the Herbert Clark Hoover Building (HCHB), 14th Street and Constitution Avenue NW., Washington, DC 20230, and on March 6, 1992, from 8:30 a.m. until 4 p.m. at the Herbert Clark Hoover Building, 14th and Constitution Avenue NW., Washington, DC 20230.

AGENDA: This is the second meeting of OAMAC. The committee will consider reports from the four subcommittees: (1) NOAA Definition and Public Appreciation, (2) Fleet Modernization, (3) Weather Station Closings, (4) Fisheries—International Support.

PUBLIC PARTICIPATION: The meeting will be opened to the public. Seats will be available on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: R.A. Edwards, Deputy Assistant Secretary of Commerce for Oceans and Atmosphere, Room 5804, Hoover Building, Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230. Telephone: (202) 377-3567.

R.A. Edwards,

Deputy Assistant Secretary for Oceans and Atmosphere.

Accordingly the following agenda for the second meeting of the Oceanic and Atmospheric Management Advisory Committee is published.

Agenda for the March 5–6, 1992 Meeting of the Oceanic and Atmospheric Advisory Committee

March 5, 1992

8:30 a.m. Meeting (Willard Hotel). OAMAC Overview and Business. Subcommittee Reports.
9:30 a.m. Report of Fisheries Subcommittee.
11 a.m. Report of Fleet Modernization Subcommittee.
12:30 p.m. Lunch break.
2:30 p.m. Meeting continues at Department of Commerce, room 1412. Briefing on the El Nino Effect.
5 p.m. Meeting concludes.

March 6, 1992

8:30 a.m. Subcommittee reports continue (Department of Commerce, Room 1851).

Report of Weather Station Subcommittee

10 a.m. Report of Public Awareness Subcommittee.
Noon—Lunch break.
1 p.m. Briefing on Sanctuaries.
2 p.m. Conclude OAMAC Business.
2:30 p.m. Adjournment.

[FR Doc. 92-4470 Filed 2-26-92; 8:45 am]

BILLING CODE 3510-08-M

Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council and its advisory entities will meet on March 9–13, 1992, at the Sea-Tac Red Lion Hotel, 18740 Pacific Highway South, Seattle, WA. Except as noted below, the meetings are open to the public.

The Council will begin its meeting on March 9 at 1 p.m. in open session to discuss 1992 salmon fishery management measures. At 4 p.m., the Council will accept public comments on issues not listed on the agenda.

On March 10 at 8 a.m. the Council will convene a closed session (not open to the public) to discuss international negotiations affecting salmon management. The open session will begin at 8:30 a.m. to continue the discussion of 1992 salmon management measures.

On March 11 at 8 a.m., the Council will begin at open session to discuss groundfish management issues. The groundfish discussion will be continued at 8:30 a.m. on March 12 following a second closed session to discuss litigation and personnel matters at 8 a.m. Also on March 12 the Council will discuss work load priorities for 1992 and administrative matters. On March 13, the Council will conclude salmon management agenda items.

Salmon Management Issues: (1) Review of 1991 fisheries and summary of 1992 stock abundance estimates; (2) final reports on overfishing reviews; (3) status of the Endangered Species Act assessments; (4) reviews of salmon methodology; (5) preliminary definition of 1992 salmon management options; (6) adoption of management options for Salmon Technical Team analysis; (7) policy on adjustments to seasons due to adverse weather; (8) specific proposals for plan amendment issues; (9) schedule of hearings and appointment of hearings officers; and (10) adoption of 1992 management options for public review.

Groundfish Management Issues: (1) Status of Federal review of Council groundfish actions; (2) Pacific Whiting allocation; (3) management of bycatch in the whiting fishery; (4) foreign vessel permit applications for transshipment activities in 1992; (5) sablefish allocation; (6) status of development of a comprehensive groundfish data gathering program. (7) scoping session on individual quotas in the groundfish and Pacific halibut fisheries; and (8) enforcement of yellowtail rockfish trip limits north and south of Cape Lookout.

The Scientific and Statistical Committee will meet on March 9 at 8 a.m., to address scientific issues on the Council's agenda, and reconvene on March 10 at 8 a.m.

The Salmon Advisory Subpanel will meet on March 9 at 8 a.m., to address salmon fishery management issues on the Council's agenda, and reconvene on March 10–13 at 8 a.m., or as necessary, to complete its agenda.

The Salmon Technical Team will meet as necessary on Marcy 9–13 to assist the Salmon Advisory Subpanel, and to prepare impact analyses for management options.

The Foreign Fishing Committee will meet on March 9 at 6 p.m., to review foreign vessel permit applications.

The Budget Committee will meet on March 9 at 6 p.m., to review the fiscal year 1992 Council budget and to make recommendations for adjustments if necessary.

Enforcement Consultants will meet on March 10 at 7 p.m., to address enforcement issues on the Council agenda.

Detailed agendas for the above meetings will be available to the public after February 27, 1992. For more information contact Lawrence D. Six, Executive Director, Pacific Fishery Management Council, Metro Center, suite 420, 2000 SW. First Avenue, Portland, OR 97201; telephone: (503) 326–6352.

Dated: February 21, 1992.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92–4449 Filed 2–26–92; 8:45 am]

BILLING CODE 3510–22–M

Western Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council's Select Committee for the Resolution of Gear Conflict and Longline Area Closure Hardships will hold a public meeting on March 4, 1992, beginning at 1:30 p.m. The meeting will be held in the Boardroom of the Department of Land and Natural Resources (DLNR), Hawaii DLNR, 1151 Punchbowl Street, Honolulu, Hawaii.

The Committee will: (1) Review proposals for altering the size of area closures to minimize hardships to longline fishermen while continuing to avoid the risk of gear conflict; (2) develop recommendations for presentation to the Council at its March meeting regarding possible changes to the Main Hawaiian Islands longline area closures; and (3) discuss other business.

For more information contact Kitty M. Simonds, Executive Director, 1164 Bishop Street, suite 1405, Honolulu, HI 96813; telephone: (808) 526–0824.

Dated: February 21, 1992.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92–4450 Filed 2–26–92; 8:45 am]

BILLING CODE 3510–22–M

COMMISSION OF FINE ARTS

Notice of Meeting

The Commission of Fine Arts' next meeting is scheduled for Thursday, 19 March 1992 at 10:00 a.m. in the Commission's offices in the Pension Building, suite 312, Judiciary Square, 441 F Street NW., Washington, DC 20001 to discuss various projects affecting the appearance of Washington, DC, including buildings, memorials, parks; etc.; also matters of design referred by other agencies of the government.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address or call the above number.

Dated in Washington, DC, 21 February 1992.

Charles H. Atherton,

Secretary.

[FR Doc. 92–4501 Filed 2–26–92; 8:45 am]

BILLING CODE 6330–01–M

COMMODITY FUTURES TRADING COMMISSION

New York Cotton Exchange Proposed Futures Option Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures option contract.

SUMMARY: The New York Cotton Exchange (NYCE or Exchange) has applied for designation as a contract market in futures options on cotton No. 2 straddles. The Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposal for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received on or before March 30, 1992.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Reference should be made to the cotton No. 2 futures option contract on straddles.

FOR FURTHER INFORMATION CONTACT: Please contact Frederick Linse of the Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, telephone 202–254–7303.

SUPPLEMENTARY INFORMATION: Copies of the terms and conditions of the proposed contract will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by the NYCE in support of the application for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the terms and conditions of the proposed contract, or with respect to other materials submitted by the NYCE in support of the application, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581 by the specified date.

Issued in Washington, DC, on February 21, 1992.

Blake Imel,

Deputy Director.

[FR Doc. 92–4458 Filed 2–26–92; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting.

Name of the Committee: Army Science Board (ASB).

Dates/Time of Meeting: 24–25 March 1992.

Time: 0800–1700 hours daily.

Place: Ft Gordon, GA.

Agenda: Members of the 1992 ASB Summer Study, "C2 on the Move" will meet to continue work on the study. The purpose of this Classified meeting is directed to interviews with commanders who participated in Desert Storm and Just Cause. Areas of interest are in both "real world" operational concerns and command and control areas. This meeting will be closed to the public in accordance with section 552b(c) of title 5, U.S.C., specifically subparagraph (1) thereof, and title 5, U.S.C., appendix 2, subsection 10(d). The classified and unclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (703) 695–0781/0782.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 92–4419 Filed 2–26–92; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

National Board of the Fund for the Improvement of Postsecondary Education; Meeting

AGENCY: National Board of the Fund for the Improvement of Postsecondary Education, Education.

ACTION: Notice of partially closed meeting.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming meeting of the National Board of the Fund for the Improvement of Postsecondary Education. This notice also describes the functions of the Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATES AND TIMES: March 16, 1992 from 9 a.m. to 5 p.m. (closed); March 17, 1992 from 9 a.m. to 12 p.m. (open).

ADDRESSES: Governor's House Holiday Inn, Rhode Island Avenue at 17th Street NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Charles Karelis, Director, Fund for the Improvement of Postsecondary Education, 7th & D Streets SW., Washington, DC 20202. Telephone: (202) 708–5750.

SUPPLEMENTARY INFORMATION: The National Board of the Fund for the Improvement of Postsecondary Education (Fund) is established under Section 1003 of the Higher Education Act of 1965, as amended (20 U.S.C. 1135a–1). The National Board of the Fund is authorized to recommend to the Director of the Fund and the Assistant Secretary for Postsecondary Education priorities for funding and approval or disapproval of grants submitted to the Fund.

On March 17, 1992 the Board will meet in open session from 9 a.m. to 12 p.m. The proposed agenda for the open portion of the meeting will include a review of the progress of FIPSE special initiatives, including: The Higher Education Cooperation and Exchange between the United States and the European Community program; College-School Partnerships to Improve Learning of Essential Academic Subjects, Kindergarten through College program; and the Leadership Projects in Science and the Humanities program.

On March 16, 1992 from 9 a.m. to 5 p.m. the meeting will be closed to the public for purpose of reviewing, evaluating, and recommending grant applications submitted to the Fund under the Innovative Projects for Community Services and Student Financial Independence Program. This portion of the meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C.A. appendix 2) and under exemptions (4) and (6) of the Government in the Sunshine Act (Pub. L. 94–409, 5 U.S.C. 552b(c) (4) and (6). The review and discussions of the applications and the qualifications of proposed staff to work on these grants is likely to disclose commercial or financial information obtained from a person and privileged or confidential, or information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session.

A summary of the activities at the closed session and related matters which are informative to the public consistent with the policy of title 5 U.S.C. 552b will be available to the public within fourteen days of the meeting.

Records are kept of all Board proceedings, and are available for public inspection at the Office of the Fund for the Improvement of Postsecondary Education, room 3100, Regional Office Building #3, 7th & D Street SW., Washington, DC 20202 from the hours of 8 a.m. to 4:30 p.m.

Carolynn Reid-Wallace,

Assistant Secretary for Postsecondary Education.

[FR Doc. 92–4524 Filed 2–26–92; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of requests submitted for review by the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act (Pub. L. 96–511, 44 U.S.C. 3501 et. seq.). The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) The sponsor of the collection (the DOE component or Federal Energy Regulatory Commission (FERC)); (2) Collection number(s); (3) Current OMB docket number (if applicable); (4) Collection title; (5) Type of request, e.g., new, revision, extension or reinstatement; (6) Frequency of collection; (7) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (8) Affected public; (9) An estimate of the number of respondents per report period; (10) An estimate of the number of responses per respondent annually; (11) An estimate of the average hours per response; (12) The estimated total annual respondent burden; and (13) A brief abstract describing the proposed collection and the respondents.

DATES: Comments must be filed within 30 days of publication of this notice. If

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you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395–3084. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington DC, 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.)

FOR FURTHER INFORMATION AND COPIES OF RELEVANT MATERIALS CONTACT: Jay Casselberry, Office of Statistical Standards (EI-73), Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Mr. Casselberry may be telephoned at (202) 254–5384.

SUPPLEMENTARY INFORMATION: The first energy information collection submitted to OMB for review was:

1. Federal Energy Regulatory Commission
2. FERC–592
3. 1902–0157
4. Marketing Affiliates of Interstate Pipelines
5. Extension
6. On Occasion, Monthly, Quarterly
7. Mandatory
8. Businesses or other for-profit
9. 55 respondents
10. 12 responses
11. 10.6 hours per response
12. 6,996 hours
13. The information filed is to support the monitoring of pipeline marketing affiliate activity so as to deter undue discrimination by pipeline companies in favor of marketing affiliates and protect non-affiliates from discrimination.

The second information collection submitted for OMB review was:

1. Federal Energy Regulatory Commission
2. FERC–555
3. 1902–0098
4. Preservation of Records of Public Utilities and Licensees, Natural Gas Companies and Oil Pipeline Companies
5. Extension
6. Recordkeeping
7. Mandatory
8. Businesses or other for-profit
9. 500 recordkeepers
10. N/A
11. 2,400 hours per recordkeeper
12. 1,200,000 recordkeeping hours
13. The records retention regulations establish retention periods and necessary guidelines and requirements to sustain retention of applicable records for the 500 regulated public utilities, natural gas and oil pipeline companies subject to the jurisdiction of FERC.

Statutory Authority: Secs. 5(a), 5(b), 13(b), and 52, Public Law 93–275, Federal Energy Administration Act of 1974, 15 U.S.C. 764(a), 764(b), 772(b), and 790a.

Issued in Washington, DC, February 20, 1992.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 92–4523 Filed 2–26–92; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. TA92-2-31-000]

Arkla Energy Resources; Refiling of Annual PGA

February 20, 1992.

Take notice that no February 18, 1992, Arkla Energy Resources, (AER), a division of Arkla, Inc., tendered for filing the following revised tariff sheets to become effective April 1, 1992:

Rate Schedule No. X–26

Original Volume No. 3
Eighteenth Revised Sheet No. 185.1

Rate Schedule No. G–2

Second Revised Volume No. 1
Tenth Revised Sheet No. 11

Rate Schedule No. CD

Second Revised Volume No. 1
Tenth Revised Sheet No. 16

AER states that the tariff sheets reflect AER's Fourth Annual PGA filing made pursuant to the commission's rules under Order Nos. 483 and 483–A.

AER further states that its Annual PGA is being resubmitted due to the rejection of AER's original filing in Docket No. TA92–1–31–000 by Commission order dated February 5, 1992, which has required AER to file Schedule B1 as a D1 Working Paper No. 21 on its electronic medium.

AER states that the proposed changes in the above tariff sheets reflect an increase in AER's system cost of $49,311 and would increase its revenue from jurisdictional sales and service by $69 for the PGA period of April, May and June 1992, as adjusted.

AER states that copies of the filing is being mailed to the jurisdictional customers served under AER's Rate Schedule Nos. X–26 and G–2 and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before March 6, 1992.

Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 92–4452 Filed 2–26–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP92-53-001 and CP89-2048-007]

Kern River Gas Transmission Co.; Compliance Filing

February 20, 1992.

Take notice that Kern River Gas Transmission Company (Kern River), on February 14, 1992, tendered for filing the following modified tariff sheets to be part of its FERC Gas Tariff, Original Volume No. 1:

Original Sheet No. 52A

Substitute Original Sheet Nos. 5, 6, 10, 50, 52, 97, 98, 100, 500–502, 504–507, 509–510, 521–522, 600, 602, 604, 610, 700, 703, 712, 713, 803–804, 810–811 and 836

The tariff revisions are being submitted to comply with the requirements of the Commission's January 30, 1992 "Order Accepting Rate Filing Subject to Conditions" in Docket No. RP92–53–000. Pursuant to that order, the effective date of the tariff revisions is the date that transportation service commences on Kern River's new interstate natural gas pipeline system. Kern River has advised the Commission that the system in-service date is February 15, 1992.

Kern River states that copies of the filing were served upon all of Kern River's jurisdictional transportation customers and on the parties to the proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedures, 18 CFR 385.211. All such protests should be filed on or before February 27, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 92-4453 Filed 2-26-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ92-2-5-002]

Midwestern Gas Transmission Co.; Rate Filing Pursuant to Tariff Rate Adjustment Provisions

February 20, 1992.

Take notice that on February 14, 1992, Midwestern Gas Transmission Company (Midwestern) filed the following revised tariff sheets to First Revised Volume No. 1 of its FERC Gas Tariff to be effective as follows:

Revised tariff sheet	Effective date
Substitute Sixth Revised Twenty-seventh, Revised Sheet No. 5.	Jan. 1, 1992.
Substitute Sixth Revised Twenty-second, Revised Sheet No. 6.	Jan. 1, 1992.
Second Substitute Twenty-eighth, Revised Sheet No. 5.	Jan. 1. 1992.
Substitute Twenty-ninth Revised, Sheet No. 5.	Jan. 1. 1992.
Substitute Thirtieth Revised Sheet No. 5.	Feb. 1, 1992.

Midwestern states that it is filing the above referenced tariff sheets to track Tennessee Gas Pipeline Company's (Tennessee) motion rates, filed January 31, 1992 to be effective February 1, 1992 in docket No. RP91-203-000, as directed in the Commission's December 18, 1991 order in Docket No. TQ92-2-5. Midwestern states that the purpose of these revisions is to change the rates on Midwestern's system through the Purchase Gas Adjustment filed originally on November 29, 1991 in Docket No. TQ92-2-5, which tracked, in part, Tennessee's rates in Docket No. RP91-203-000, and subsequent filings with purchase gas adjustments predicated upon Docket No. TQ92-2-5 (specifically Docket Nos. RP91-189, TF92-4-5 and TF92-5-5).

Midwestern states that all copies of the filing have been mailed to all affected customers and state regulatory commissions and is available for public inspection during regular business hours in a convenient form and place at Midwestern's office at 1010 Milam in Houston, Texas.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before February 27, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 92-4454 Filed 2-26-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA92-1-9-003 and TM92-2-9-002]

Tennessee Gas Pipeline; Tariff Filing

February 20, 1992.

Take notice that on February 18, 1992, Tennessee Gas Pipeline Company (Tennessee), filed the following tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1, to be effective February 1, 1992:

Second Revised Sheet Nos. 249-252
Third Revised Sheet No. 253

Tennessee states that the purpose of its revisions is to respond to the Commission's Order of December 26, 1991, in the above-referenced dockets.

Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions and on all parties shown on the Commission's official service list in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before February 27, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 92-4455 Filed 2-26-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA92-2-82-004]

Viking Gas Transmission Co.; Compliance Filing

February 20, 1992.

Take notice that on February 13, 1992, Viking Gas Transmission Company ("Viking") filed the following tariff sheets and certain additional information in compliance with a Commission order issued on November 7, 1991, in the above-referenced dockets:

Original Volume No. 1

Third Substitute Sixteenth Revised Sheet No. 6
Substitute Alternate Seventeenth Revised Sheet No. 6

Pursuant to the Commission's November 7, 1991 order, Viking was required to correct any errors in its Form No. 542-PGA (Revised) and to file revised tariff sheets if the corrections resulted in a rate change of $.001 per Dth or more. Viking states that a correction to its Form No. 542 has resulted in a $.0223 per Dth increase in its gas rate surcharge. Viking requests that Third Substitute Sixteenth revised Sheet No. 6, which reflects such increase, be made effective as of November 1, the effective date of acceptance of the underlying purchased gas adjustments. Viking requests that Substitute Alternate Seventeenth Revised Sheet No. 6, which reflects the base tariff rate restatement authorized in Docket No. RP92-48-000 adjusted to include the revised surcharge on Third Substitute Sixteenth Revised Sheet No. 6, be made effective as of January 1, 1992.

Viking further states that, in compliance with the November 7, 1991 order, its filing includes the workpapers detailing the corrections to its Form No. 542.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before February 27, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the

Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-4456 Filed 2-26-92; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4106-4]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before March 30, 1992.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 260-2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: Reporting and Recordkeeping Requirements for the New Source Performance Standards (NSPS) for Nonmetallic Mineral Processing Plants—Subpart OOO (No. 1084.03, OMB No. 2060-0050).

Abstract: This ICR is for an extension of an existing information collection in support of the Clean Air Act, as described under the general NSPS at 40 CFR 60.7-60.8 and the specific NSPS, regulating particulate emissions from nonmetallic mineral processing plants at 40 CFR 60.674-60.676. The information will be used by the EPA to direct monitoring, inspection, and enforcement efforts, thereby ensuring facility compliance with the NSPS.

Owners or operators of all new facilities subject to this NSPS must provide EPA, or a delegated State or local authority, with: (1) Notification of the date of construction or reconstruction, (2) notification of the anticipated and actual dates of the start-up, (3) notification of the date of the initial performance test of the wet scrubber and a copy of the test results (including observations demonstrating compliance), (4) notification of the continuous monitoring system (CMS) demonstration, and (5) notification that CMS data will be used during the initial performance test.

Owners and operators of facilities that were constructed, reconstructed, or modified prior to September 1, 1983 are exempt from this NSPS. Owners or operators of exempted facilities may replace a piece or pieces of equipment with equal or smaller size piece(s) that perform the same function (provided that they do not replace the entire production line) without falling subject to this NSPS. An exemption report, however, must be submitted to the Administrator describing: (1) Size and age of the existing facility, and the size of the new facility, (2) a description of the control device used on the existing facility, and (3) a list of all facilities using that control device.

Owners and operators of all affected facilities must provide EPA, or a delegated State or local authority, with: (1) Reports, semiannually, of instances when scrubber pressure drop and liquid flow rate differ by more than 30% from the rates recorded during the most recent performance test; and (2) any physical or operational change to their facility which may result in an increase in the regulated pollutant emission rate. All facilities must also maintain records on the facility operation that document: (1) The occurrence and duration of any start-ups, shutdowns, and malfunctions; (2) initial performance test conditions, measurements, and results; and (3) daily CMS readings.

Presently there are an estimated 73 subject facilities with an average annual growth of 2 new facilities over the next three years. All subject facilities must maintain records related to compliance for two years.

Burden Statement: Public reporting burden for facilities subject to this collection of information is estimated to average 19 hours per response including time for reviewing instructions, searching existing data sources, gathering and maintaining data, and completing and reviewing the collection of information. Public recordkeeping burden is estimated to average 94 hours annually.

Respondents: Facilities in fixed or portable nonmetallic mineral processing plants.

Estimated Number of Respondents: 75.

Estimated Number of Responses Per Respondent: Two.

Estimated Total Annual Burden on Respondents: 9,793 hours.

Frequency of Collection: Semiannual reporting for existing facilities, with additional one-time reporting requirements for new facilities. Daily recordkeeping for all facilities.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM-223Y), 401 M Street, SW., Washington, DC 20460, and

Troy Hillier, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th St., NW., Washington, DC 20503

Dated: Feb. 6, 1992.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 92-4436 Filed 2-26-92; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4106-5]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 30, 1992.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 260-2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: Motor Vehicle Exclusion Request (EPA ICR #0012.05; OMB #2060-0124). This ICR requests renewal of the existing clearance.

Abstract: Motor Vehicle manufacturers that request the Environmental Protection Agency to determine whether a particular type of vehicle is excluded from coverage under the Clean Air Act must submit specifications of the vehicle, including its size, use, and top speed.

Burden Statement: The public reporting burden for this collection of information is estimated to average 1.5 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: Vehicle manufacturers.

Estimated Number of Respondents: 80.

Estimated Total Annual Burden on Respondents: 90 hours.

Frequency of Collection: On occasion.

Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM-223Y), 401 M Street, SW., Washington, DC 20460, and

Troy Hillier, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20530

Dated: February 6, 1992.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 92-4437 Filed 2-26-92; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4106-8]

Prevention of Significant Deterioration of Air Quality (PSD) Old Dominion Electric Cooperative; Clover, VA

AGENCY: United States Environmental Protection Agency.

ACTION: Notice of final action.

SUMMARY: The purpose of this Notice is to announce that the Administrator of the United States Environmental Protection Agency issued a final decision, pursuant to the Prevention of Significant Deterioration of Air Quality (PSD) regulations codified at 40 CFR 52.21 and the Procedures for Decisionmaking codified at 40 CFR part 124, regarding Old Dominion Electric Cooperative in Halifax County, Virginia.

EFFECTIVE DATE: The effective date of the Administrator's decision was January 29, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Denis M. Lohman, Chief, New Source Review Section, Air Enforcement Branch, Air, Radiation and Toxics Division, U.S. Environmental Protection Agency, Region III, Mail Code 3AT22, 841 Chestnut Building, Philadelphia, Pennsylvania, 19107, (215) 597-3024.

SUPPLEMENTARY INFORMATION: In a petition dated June 3, 1991, the Southern Environmental Law Center (SELC), Conservation Council of Virginia, Sierra Club, National Parks and Conservation Association, Trout Unlimited, Environmental Defense Fund, Natural Resources Defense Council, The Wilderness Society, Southside Concerned Citizens, and Virginia Wildlife Federation requested review of a PSD permit issued to Old Dominion Electric Cooperative for the construction of a 786 megawatt pulverized coal-fired steam electric generating station in Halifax County, near Clover, Virginia. The proposed facility will be operated by Virginia Electric and Power Company, a 50% co-owner of the facility, on behalf of both Old Dominion Electric Cooperative and Virginia Power. The permit was issued by the Virginia Department of Air Pollution Control (DAPC) on April 29, 1991, pursuant to a delegation of authority from the U.S. Environmental Protection Agency (EPA), Region III, Philadelphia, Pennsylvania. Because of the delegation, any permit issued by the DAPC is an EPA-issued permit for purposes of federal law. 40 CFR 124.41; 45 FR 33413 (May 19, 1980). PSD permits issued by the DAPC are subject to the review provisions of the applicable EPA regulations, 40 CFR 124.19 (1989).

The Administrator issued an Order Denying Review in the above case on January 29, 1992, concluding that review of DAPC's permit determination was not warranted and that it met all necessary requirements of Federal law.

United States Environmental Protection Agency

Anyone wishing to review the final permit, petition, final order, or related materials should contact the following offices:

U.S. Environmental Protection Agency, Region III, Air Enforcement Branch, New Source Review Section (3AT22), 841 Chestnut Building, Philadelphia, Pennsylvania 19107, or

Virginia Department of Air Pollution Control, Room 801, Ninth Street Office Building, Richmond, Virginia 23219.

Pursuant to 40 CFR 124.19(f)(2), for purposes of judicial review, notice is today being published in the **Federal Register** of this final Agency action. If available pursuant to the Consolidated Permit Regulations (40 CFR 124), judicial review of these determinations under section 307(b)(1) of the Clean Air Act (Act) may be sought only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days from the date on which this determination is published in the **Federal Register**. Under section 307(b)(2) of the Act, this determination shall not be subject to later judicial review in any civil or criminal proceedings for enforcement.

Dated: February 12, 1992.

Edwin B. Erickson,

Regional Administrator.

[FR Doc. 92-4438 Filed 2-26-92; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4109-2]

Open Meeting on March 18-19, 1992: Industrial Pollution Prevention Project Focus Group of the Technology Innovation and Economics Committee, National Advisory Council for Environmental Policy and Technology (NACEPT)

Under Public Law 92463 (The Federal Advisory Committee Act), EPA gives notice of a meeting of the Industrial Pollution Prevention Project Focus Group of the Technology Innovation and Economics (TIE) Committee. The TIE Committee is a standing committee of the National Advisory Council for Environmental Policy and Technology (NACEPT), an advisory committee to the Administrator of the EPA. The meeting will convene March 18 and 19 from 8:30 a.m. to 5 p.m. at the Madison Hotel, 1177 15th St., NW., Washington, DC 20005.

The Industrial Pollution Prevention Project Focus Group is examining methods by which pollution prevention can be encouraged, particularly through effluent guidelines. The TIE Committee is investigating the possibility that among the most important barriers to the implementation of pollution prevention concepts and programs are disincentives inadvertently built into standard setting processes, including the effluent guidelines, and into associated permit and compliance programs. The Focus Group, which includes individuals from industry, academia, environmental groups, all levels of government, and other interested parties is developing recommendations for EPA about the incorporation of pollution prevention into EPA's Office of Water effluent guidelines process and about EPA's efforts to spread the pollution prevention ethic.

The Focus Group is an "Ongoing Forum" for the Industrial Pollution Prevention Project (IP3). At the meeting, in addition to holding general discussions, the Group will discuss its comments on IP3 draft products, including:

- Incentives Study
- 301(k) Variance Study
- International Study
- Statute Analysis

The March 18 and 19 meeting will be open to the public. Written comments will be received and reviewed by the

Focus Group. Additional information may be obtained from Jim Lund, EPA (WH–551), 401 M Street, SW., Washington, DC 20460 (202–260–7811); David R. Berg or Morris Altschuler, EPA (A–101–F6), 401 M Street, SW., Washington, DC 20460, (202–260–9153), by written request sent by fax at 202–260–6882, or by mail at the second address.

Dated: February 19, 1992.

Abby J. Pirnie,

NACEPT Designated Federal Official.

[FR Doc. 92–4439 Filed 2–26–92; 8:45 am]

BILLING CODE 6560-50-M

[FRL–4109–3]

Open Meeting on March 19, 1992, of the Pollution Prevention Measurements Subcommittee of the Environmental Measurements and Chemical Accident Prevention Committee of the National Advisory Council for Environmental Policy and Technology (NACEPT)

Under Public Law 92463 (The Federal Advisory Committee Act), EPA gives notice of the meeting of the Pollution Prevention Measurements Subcommittee of the Environmental Measurements and Chemical Accident Prevention (EM/CAP) Committee. The EM/CAP Committee is a standing committee of the National Advisory Council for Environmental Policy and Technology (NACEPT), an advisory committee to the Administrator of the EPA. The meeting will convene March 19, from 9 am to 5 pm at the National Governors' Association, Hall of States, 444 North Capitol Street, NW., suite 250, Washington, DC.

The subjects for discussion will be a draft report on the methodology for measuring success in pollution prevention pursuant to section 6604(b)(1) of the Pollution Prevention Act, and draft methodology for evaluating States' waste minimization reductions made as part of the Capacity Assurance Plans submitted pursuant to CERCLA section 104(c)(9). Copies of both will be available at the meeting.

The meeting will be open to the public. Additional information may be obtained from David Graham at (202) 260–9743, or by written request sent by fax (202) 260–6882.

Dated: February 19, 1992.

Abby J. Pirnie,

NACEPT Designated Federal Official.

[FR Doc. 92–4440 Filed 2–26–92; 8:45 am]

BILLING CODE 6560-50-M

[FRL–4107–2]

Meeting of the Ozone Transport Commission for the Northeast United States

AGENCY: Environmental Protection Agency.

ACTION: Notice of meeting.

SUMMARY: The United States Environmental Protection Agency is announcing a meeting of the Ozone Transport Commission to be held on March 10, 1992.

This meeting is for the Transport Commission to deal with appropriate matters within the transport region, as provided for under the Clean Air Act Amendments of 1990. This meeting is not subject to the provisions of the Federal Advisory Committee Act, Public Law 92–463, as amended.

DATES: The meeting will be held on March 10, 1992.

ADDRESSES: The meeting will be held at: Loews Annapolis Hotel, 126 West Street, Annapolis, Maryland 21401, (410) 263–7777.

FOR FURTHER INFORMATION CONTACT: Bruce Carhart, Executive Director, Ozone Transport Commission, 444 North Capitol Street NW., suite 604, Washington, DC 20001, (202) 508–3840.

FOR PRESS INQUIRIES CONTACT: John Haggerty, New Jersey Department of Environmental Protection and Energy, CN402 Trenton, NJ 08625–0402, (609) 292–2994.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1990 contain at Section 184 new provisions for the "Control of Interstate Ozone Air Pollution." Section 184(a) establishes an ozone transport region comprised of the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, parts of Virginia and the District of Columbia.

The Assistant Administrator for Air and Radiation of the Environmental Protection Agency convened the first meeting of the Commission in New York City on May 7, 1991. The purpose of the Transport Commission is to deal with appropriate matters within the transport region.

The purpose of this notice is to announce that this Commission will meet on March 10, 1992. The meeting will be held at the address noted earlier in this notice.

Section 176A(b)(2) of the Clean Air Act Amendments of 1990 specifies that the meetings of Transport Commissions are not subject to the provisions of the Federal Advisory Committee Act. This meeting will be open to the public as space permits. Seating will begin at 8:30 a.m.

TYPE OF MEETING: Open.

AGENDA: The meeting begins at 9 a.m. and is expected to last until 5 p.m. The purpose of the meeting is for the Commission to receive reports from its committees, particularly on enhanced inspection and maintenance, effectiveness of the California Low Emission Vehicle program and reasonably available control technologies for sources of nitrogen oxides.

William J. Muszynski,

Acting Regional Administrator, EPA Region II.

[FR Doc. 92–4442 Filed 2–26–92; 8:45 am]

BILLING CODE 6560-50-M

[FRL–4108–8]

Superior Electro Finishes Site; Proposed Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement.

SUMMARY: Under section 122(h) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the United States Environmental Protection Agency (EPA) has agreed to settle claims for response costs at the Superior Electro Finishes Site, Winston Salem, North Carolina, with Superior Electro Finishes, Inc. EPA will consider public comments on proposed settlement for thirty (30) days. EPA may withdraw or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper or inadequate. Copies of the proposed settlement are available from: Carolyn McCall, Cost Recovery Section, Waste Management Division, EPA, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365, 404–347–5059.

Written comments may be submitted to the person above by March 30, 1992.

Dated: January 20, 1992.

James S. Kutzman,

Acting Director, Waste Management Division.

[FR Doc. 92–4443 Filed 2–26–92; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4109-4]

Management Advisory Group to the Assistant Administrator for Water; Open Meeting

Under section (1)(a)(2) of Public Law 92-423, "The Federal Advisory Committee Act," notice is hereby given that a meeting of the Management Advisory Group (MAG) to the Assistant Administrator for Water will be held at 8 a.m. on March 9 and at 8:30 a.m. on March 10 and 11, 1992, at the Holiday Inn, Interstate 80, Grand island, Nebraska.

The purpose of this meeting will be to seek the MAG's advice and comments on issues pertaining to water quality and water resource protection. The agenda includes further development of recommendations and minimum technologies for combined sewer overflows, technology transfer for storm water controls, recommendations and environmental education, and strategies to address nonpoint sources nationwide.

At 10 a.m. on March 11, 1992, this MAG meeting will provide a public forum for a special discussion. On January 28, 1992, the President announced a moratorium on Federal regulations for 90 days. During the 90 day moratorium, the President instructed Federal agencies to conduct a review of existing regulations. This review is to ensure that Federal regulations promote economic growth and are as efficient as possible, but consistent with Federal laws. Accordingly, the Assistant Administrator for Water will allocate a portion of the MAG agenda to a discussion of the effects of certain water program regulations on economic growth and opportunities for improved efficiency. The Office of Water is particularly interested in opportunities for trading between point and nonpoint source pollution control strategies and opportunities to improve the stormwater control program. The proposals for discussion should provide meaningful reductions in costs and economic or regulatory burdens, be supported by data or other information, and have no adverse impact on the quality of environmental protection.

The meeting will be open to the public. The MAG encourages the hearing of outside statements and will allocate a portion of its meeting time for public participation. Oral statements will be limited to ten minutes. It is preferred that there be one presenter for each statement. Any outside parties interested in presenting an oral statement should petition the MAG, by telephone, at (202) 382-5554. The petition should include the topic of the proposed statement and the petitioner's telephone number and should be received before March 6, 1992.

Any person who wishes to file a written statement can do so before or after a MAG meeting. Written statements received prior to the meeting will be distributed to the members before any final discussion or vote is completed. Statements received after a meeting will become part of the permanent meeting file and will be forwarded to the MAG members for their information.

Any member of the public wishing to attend the MAG meeting, present an oral statement, or submit a written statement should contact Ms. Michelle Hiller, Designated Federal Official, U.S. Environmental Protection Agency, Office of the Assistant Administrator for Water, 401 M Street, SW., WH-556, Washington DC 20460 or at (202) 382-5554.

Dated: February 29, 1991.

Martha G. Prothro,

Deputy Assistant Administrator for Water.

[FR Doc. 92-4441 Filed 2-26-92; 8:40 am]

BILLING CODE 6560-50-M

[OPPTS-140174; FRL-4047-7]

Access to Confidential Business Information by Science Applications International Corp.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, Science Applications International Corporation (SAIC), of Falls Church, Virginia, for access to information which has been submitted to EPA under section 8 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

DATES: Access to the confidential data submitted to EPA will occur no sooner than March 12, 1992.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, TSCA Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, rm. E-545, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION: Under contract number 68-C8-0062, contractor SAIC of 7600-A Leesburg Pike, Falls Church, VA will assist the Office of Pollution Prevention and Toxics (OPPT) in assigning document control numbers (DCNs) to incoming TSCA section 8 submissions.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number 68-C8-0062, SAIC will require access to CBI submitted to EPA under section 8 of TSCA to perform successfully the duties specified under the contract. SAIC personnel will be given access to information submitted to EPA under section 8 of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under section 8 of TSCA that EPA may provide SAIC access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA Headquarters.

Clearance for access to TSCA CBI under this contract may continue until March 31, 1992.

SAIC personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

Dated: February 13, 1992.

George A. Bonina,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 92-4444 Filed 2-26-92; 8:45 am]

BILLING CODE 6560-50-F

[OPPTS-140173; FRL-4047-4]

Access to Confidential Business Information by Techlaw, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, Techlaw, Incorporated (TCH), of Lakewood, Colorado, for access to information which has been submitted to EPA under sections 4, 5, 6, 8, 12, and 13 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

DATES: Access to the confidential data submitted to EPA will occur no sooner than March 12, 1992.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, TSCA Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, rm. E-545, 401 M St., SW.,

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Washington, DC 20460, (202) 554–1404, TDD: (202) 554–0551.

SUPPLEMENTARY INFORMATION: Under contract number 68–WO–0001, contractor TCH of 12600 W. Colfax Ave., suite C310, Lakewood, CO. will assist the Office of Compliance Monitoring (OCM) and the National Enforcement Investigations Center (NEIC) in consolidating Regional and EPA Headquarters evidentiary files resulting from investigations and subpoenas, and in monitoring the provisions of settlement agreements.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number 68–WO–0001, TCH will require access to CBI submitted to EPA under sections 4, 5, 6, 8, 12, and 13 of TSCA to perform successfully the duties specified under the contract. TCH personnel will be given access to information submitted to EPA under sections 4, 5, 6, 8, 12, and 13 of TSCA. Some of the information may be claimed or determined to be CBI.

In a previous notice published in the **Federal Register** of April 23, 1991 (56 FR 18591), TCH was authorized for access to CBI submitted to EPA under sections 4, 5, 6, 8, 12, and 13 of TSCA. EPA is issuing this notice to extend TCH's access to TSCA CBI under contract number 68–W0–0001.

EPA is issuing this notice to inform all submitters of information under sections 4, 5, 6, 8, 12, and 13 of TSCA that EPA may provide TCH access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA Headquarters and TCH's Lakewood, CO facility only.

TCH will be authorized access to TSCA CBI at its facility under the EPA "Contractor Requirements for the Control and Security of TSCA Confidential Business Information" security manual. Before access to TSCA CBI is authorized at TCH's site, EPA will approve TCH's security certification statement, perform the required inspection of its facility, and ensure that the facility is in compliance with the manual. Upon completing review of the CBI materials, TCH will return all transferred materials to EPA.

Clearance for access to TSCA CBI under this contract may continue until September 30, 1994.

TCH personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

Dated: February 13, 1992.

George A. Bonina,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 92–4445 Filed 2–26–92; 8:45 am]

BILLING CODE 6560-50-F

[OPPTS-59299B; FRL–4048–2]

Certain Chemicals; Approval of Modifications to Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of a modification to the test marketing period for test marketing exemptions (TMEs) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA designated the original test marketing applications as TME–91–19 and TME–91–20. The test marketing conditions are described below.

EFFECTIVE DATES: July 21, 1991 to April 22, 1992.

FOR FURTHER INFORMATION CONTACT: Kathleen Bailey, Program Development Branch, Chemical Control Division (TS-794), Office of Pollution Prevention and Toxics, Environmental Protection Agency, rm. E–503, 401 M St. SW., Washington, DC 20460, (202) 260–5591.

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present an unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present an unreasonable risk of injury.

EPA hereby approves the modification of the test marketing period for TME–91–19 and TME–91–20. EPA has determined that test marketing of the pesticide intermediates described below, under the conditions set out in the TME applications and modification requests, and for the modified time periods specified below, will not present an unreasonable risk of injury to health or the environment. Production volume, use, and the number of customers must not exceed that specified in the application. All other conditions and restrictions described in the original Notice of Approval of Test Marketing Application must be met.

TME–91–19 and TME–91–20

Notice of Approval of Original Application: July 8, 1991 (56 FR 30923).

Modified Test Marketing Period: April 22, 1992, representing a 52 day extension from the original expiration date.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present an unreasonable risk of injury to health or the environment.

Dated: February 11, 1992.

John W. Melone,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 92–4446 Filed 2–26–92; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

[PR Docket No. 91-258; DA 92-167]

Private Land Mobile Radio Services; Ohio Public Safety Plan

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Chief, Private Radio Bureau and the Chief Engineer released this Order accepting the Public Safety Radio Plan for Ohio (Region 33). As a result of accepting the Plan for Region 33, licensing of the 821–824/866–869 MHz band in that region may begin immediately.

EFFECTIVE DATE: February 13, 1992.

FOR FURTHER INFORMATION CONTACT: Betty Woolford, Private Radio Bureau, Policy and Planning Branch, (202) 632–6497.

SUPPLEMENTARY INFORMATION:

Order

Adopted: February 6, 1992.

Released: February 13, 1992.

In the matter of Ohio Public Safety Plan.

By the Chief, Private Radio Bureau and the Chief Engineer:

1. On April 25, 1991, Region 33 (Ohio) submitted its public safety plan to the Commission for review. The plan sets

forth the guidelines to be followed in allotting spectrum to meet current and future mobile communications requirements of the public safety and special emergency entities operating in Ohio. On May 30, 1991, Ohio filed revisions to the plan, based on conversations with the Commission's staff.

2. The Ohio plan was placed on Public Notice for comments on August 30, 1991, 56 FR 46181 (September 10, 1991). The Commission received comments from the Indiana Region 14 Public Safety Planning Committee (Indiana) and reply comments from the Ohio Regional Planning Committee (Ohio).

3. In reviewing Ohio's plan, Indiana located 28 conflicts in Ohio's frequency allocation tables involving areas bordering Indiana. Indiana's concerns were brought to the attention of Ohio and the two regions resolved the frequency allocation conflicts.

4. We have reviewed the plan submitted for Ohio and find that it conforms with the National Public Safety Plan. The plan includes all the necessary elements specified in the Report and Order in Gen. Docket No. 87–112, 3 FCC Rcd 905 (1987), and satisfactorily provides for the current and projected mobile communications requirements of the public safety and special emergency entities in Ohio.

5. Therefore, we accept the Ohio Public Safety Radio Plan. Furthermore, licensing of the 821–824/866–869 MHz band in Ohio may commence immediately.

Federal Communications Commission.

Ralph A. Haller,

Chief, Private Radio Bureau.

[FR Doc. 92–4411 Filed 2–26–92; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Port of New Orleans; et al.; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission pursuant to section 15 of the Shipping Act, 1916, and section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 560.6 and/or § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 224–200622.

Title: Port of New Orleans/Alliance Transport Co., Inc. Terminal Agreement.

Parties:

Port of New Orleans
Alliance Transport Co., Inc. ("Alliance").

Filing Party: Gerald O. Gussoni, Jr., Port General Counsel, Board of Commissioners of the Port of New Orleans, P.O. Box 60046, New Orleans, Louisiana 70160.

Synopsis: This Agreement, filed February 19, 1992, provides for Alliance's project move of eight metal stamping pressers from New Orleans to Korea.

Dated: February 24, 1992.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 92–4513 Filed 2–26–92; 8:45 am]

BILLING CODE 6730-01-M

[Docket Nos. 92–06 and 92–07]

Western Overseas Trade and Development Corp. v. Asia North America Eastbound Rate Agreement, Allstate Trading Co., et. al. v. Asia North America Eastbound Rate Agreement; Filing and Consolidation of Complaints and Assignment

Notice is given that a complaint filed by Western Overseas Trade and Development Corp. ("Western") against Asia North America Eastbound Rate Agreement ("Respondent") and a complaint filed by Allstate Trading Company; Big Roc Tools, Inc.; Coaster Co. of America; 1st Oriental Food, Inc.; Greenball Corp.; and Hanstai International, Inc. against Asia North America Eastbound Rate Agreement ("Respondent") were served February 21, 1992. The two complaints have been consolidated pursuant to Rule 148, 46 CFR 502.148, because they involved substantially the same issues. Both allege that Respondent engaged in violations of sections 10(b), (6), (10), (11) and (12) of the Shipping Act of 1984 ("Act"), 46 U.S.C. app. 1709(b), (6), (10), (11) and (12), by entering into invalid service contracts without any meaningful service commitment, by attempting to collect dreadfreight penalties at terms other than those provided for by the applicable service contract, and through its members filing independent action tariffs for rates lower than agreed upon in the service contracts. Western also alleges the latter actions violation section 10(b)(1) of the Act, 46 U.S.C. app. 1709(b)(1).

This proceeding has been assigned to Administrative Law Judge Frederick M. Dolan, Jr. ("Presiding Officer"). Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the Presiding Officer in this proceeding shall be issued by February 22, 1993, and the final decision of the Commission shall be issued by June 22, 1993.

Joseph C. Polking,

Secretary.

[FR Doc. 92–4512 Filed 2–26–92; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Kan-Mar Corporation, 9355 W. Okeechobee Rd.—Bay 9, Hialeah Gardens, FL 33016, Officers: Luis Kannee A., President, Isabel Martinez, Vice President/Treasurer.

Gulf International Freight, Inc., 16058 Vickery Dr., suite 130, Houston, TX 77032, Officers: James Edgar Byrd, President/Director, Malcolm Rushworth, Vice Pres./Dir./Chairman,

Candice A. Jacobson, Secretary/Treas./Director.
Tara International, 636 Valle Vista Ave., Vallejo, CA 94590, Officer: Paul M. Tiger, III, President.
Priority One Forwarding, Inc., 3419 Trentwood Blvd., Orlando, FL 32812, Officers: Susan Marla Pomerantz, President, Gregory Scott Carkeet, Vice President, John James Yarwood, Vice President.
Trans Line Corp., 163 East Compton Blvd., Gardena, CA 90248, Officer: Taek Kwan Hwang, President.
Amerpole International, Inc., 220 McClellan Highway, East Boston, MA 02128, Officers: Alfred Landano, President/Chief Exec. Officer, Paul Durkin, Vice President, Anna Landano, Treasurer.

Dated: February 24, 1992.

Joseph C. Polking,
Secretary.

[FR Doc. 92-4511 Filed 2-26-92; 8:45 am]

BILLING CODE 6730-01-M

Organization and Functions of the Federal Maritime Commission

[C.O. 1, Amdt. No. 19]

The following delegation of authority is made to the Director, Bureau of Tariffs, Certification and Licensing, by amending Commission Order 1, section 9, as revised, Specific Authorities Delegated to the Director, Bureau of Tariffs, Certification and Licensing by amending subsection 9.11(b) to read as follows:

(b) approve applications for Certificates (Performance) evidenced by a surety or guaranty issued by an approved entity; and issue, reissue, or amend such Certifications.

Dated: February 20, 1992.

Christopher L. Koch,
Chairman.

[FR Doc. 92-4459 Filed 2-26-92; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 92N-0079]

Drug Export; Recombigen® HIV-1/HIV-2 EIA Test Kit

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Cambridge Biotech Corp. has filed an application requesting approval for the export of the biological product Recombigen® HIV-1/HIV-2 EIA Test Kit to Australia, Belgium, Canada, Denmark, Federal Republic of Germany, France, Italy, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human biological products under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Boyd Fogle, Jr., Center for Biologics Evaluation and Research (HFB-120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8191.

SUPPLEMENTARY INFORMATION: The Drug Export Amendments Act of 1986 (Pub. L. 99-660) (section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382)) provides that FDA may approve applications for the export of biological products that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Cambridge Biotech Corp., 365 Plantation St., Worcester, MA 01605, has filed an application requesting approval for the export of the biological product Recombigen® HIV-1/HIV-2 EIA Test Kit to Australia, Belgium, Canada, Denmark, Federal Republic of Germany, France, Italy, Norway, Portugal, Spain, Sweden, Switzerland, and The United Kingdom. Recombigen® HIV-1/HIV-2 EIA Test Kit is an invitro qualitative enzyme immunoassay for the detection of antibodies to Human Immunodeficiency Virus Type 1 (HIV-1) and/or Human Immunodeficiency Virus Type 2 (HIV-2) in serum or plasma. It is intended for screening of blood donors or other individuals at unknown risk for HIV-1 or HIV-2 infection and for clinical diagnostic testing. The application was received and filed in the Center for Biologics Evaluation and Research on January 22, 1992, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by March 9, 1992, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (section 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Biologics Evaluation and Research (21 CFR 5.44).

Dated: February 7, 1992.

Thomas S. Bozzo,
Director, Office of Compliance, Center for Biologics Evaluation and Research.

[FR Doc. 92-4426 Filed 2-26-92; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

The Ryan White Comprehensive AIDS Resources Emergency Act of 1990; Early Intervention Services

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of public meeting.

SUMMARY: The Health Resources and Services Administration will hold a pre-application technical assistance meeting for new grants under Title III, Early Intervention Services, of the Ryan White Comprehensive AIDS Resources Emergency Act of 1990, Public Law 101-381. Grants under this program will be awarded to eligible ambulatory service entities that have strong primary care programs to increase their capacity and capability to provide a continuum of HIV prevention and care services. Eligible applicants are Community and Migrant Health Centers, Health Care for the Homeless Programs, Comprehensive Hemophilia Diagnostic and Treatment Centers, Family Planning Grantees (other than State), Federally Qualified Health Centers and Public and Private Not-for-Profit Providers of Comprehensive Primary Care Services.

PURPOSE: The purpose of this meeting is to discuss plans for implementing this program and to provide an overview of the requirements of the program.

Arrangements for attending the meeting can be made with Ms. Jill Newman, MayaTech Corpporation, telephone 301 984-4014. Attendees will be responsible for their own expenses.

The meeting will be held on March 30, 1992, at 9:30 a.m., in Atlanta, Georgia, at the Hyatt Regency, 265 Peachtree Street NE., Atlanta, Georgia 30303, telephone 404 577-1234.

Dated: February 21, 1992.

Robert G. Harmon,

Administrator.

[FR Doc. 92-4540 Filed 2-26-92; 8:45 am]

BILLING CODE 4160-15-M

Special Project Grants and Cooperative Agreements; Maternal and Child Health (MCH) Federal Set-Aside Program; Pediatric Acquired Immune Deficiency (AIDS) Demonstration Program; Hemophilia Grant Projects

AGENCY: Health Resources and Services Administration (HRSA), HHS.

ACTION: Notice of pre-application technical assistance meetings.

SUMMARY: The Health Resources and Services Administration is conducting a two-day pre-application technical assistance meeting concerning fiscal year (FY) 1992 funding available under Public Law 102-170, through two different programs administered by the Maternal and Child Health Bureau (MCHB) to broaden the service capability of existing regional hemophilia diagnostic and treatment centers to meet unmet needs of underserved HIV/AIDS populations and to improve their coordination and integration with other programs serving children and families in the same service area. One group of grants will be awarded under the Pediatric AIDS Health Care Demonstration Grant Program, authorized under Section 301 of the Public Health Service Act, to expand the capacity of hemophilia treatment centers to provide pediatric and family HIV/AIDS services to unserved or underserved HIV/AIDS affected populations. At Congressional direction, eligible applicants for grants under this initiative are limited to existing hemophilia treatment centers. The second group of grants will be awarded under the MCH Federal-Set-Aside Program, authorized under section 502(a) of the Social Security Act, to demonstrate ways in which hemophilia diagnostic and treatment centers can work in which hemophilia diagnostic and treatment centers can work collaboratively with State Title V programs in the development of statewide systems of care required under the MCH Services Block Grant. The hemophilia grants under this initiative will be awarded to public or private entities, including existing hemophilia treatment centers.

PURPOSE: The meeting will provide technical assistance and an overview of the requirements for funding under each program. The program guidance and application process will be discussed.

CONTACT: Anyone interested in attending the meeting should contact Ms. Sharon E. Barrett, M.S., Director, Hemophilia Program, Division of Services for Children with Special Health Needs, room 18A-19, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443-9051. Costs of attending are to be borne by prospective applicants.

DATE AND TIME: March 23-24, 1992, 8:30 a.m. to 4 p.m.

PLACE: Clarion Inn at Harrisons, 711 Eastern Avenue, Baltimore, Maryland 21202, telephone (410) 783-5553.

Dated: February 21, 1992.

Robert G. Harmon,

Administrator.

[FR Doc. 92-4539 Filed 2-26-92; 8:45 am]

BILLING CODE 4165-15-M

Rural Health Outreach Grant Program

AGENCY: Health Resources and Services Administration (HRSA), HHS.

ACTION: Notice of availability of funds.

SUMMARY: The Office of Rural Health Policy, Health Resources and Services Administration (HRSA), announces that applications are being accepted for Rural Health Outreach Demonstration Grants to expand or enhance the availability of essential health services in rural areas. Awards will be made from funds appropriated under Public Law 102-170 (HHS Appropriation Act for FY 1992). Grants for these projects are authorized under section 301 of the Public Health Service Act.

NATIONAL HEALTH OBJECTIVES FOR THE YEAR 2000: The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. The Rural Health Outreach program is related to the priority areas for health promotion, health protection and preventive services. Potential applicants may obtain a copy of Healthy People 2000 (Full Report: Stock No. 017-001-00474-C) or Healthy People (Summary Report: Stock No. 017-001-00473-1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325 (Telephone (202) 783-3238).

FUNDS AVAILABLE: Approximately $21.5 million is available for the Outreach Grant program in FY 1992. Of this amount, approximately $18.5 million is for noncompeting continuances and $3 million will be available to support new one-year outreach grants. With these funds the Office of Rural Health Policy expects to make approximately 15 new awards for one year. The start date for new projects will be September 30, 1992.

Individual grant awards under this notice will be limited to a total amount of $300,000 (direct and indirect costs) per year. Applications for smaller amounts are strongly encouraged. It is expected that the average grant award will be approximately $190,000 for one year. Applicant may propose project periods for up to three years. However applicants are advised that continued funding of grants awarded under this announcement beyond FY 1992 is subject to appropriation of funds.

DATES: Applications for the program must be received by the close of business on May 8, 1992. Applications must be received by the Grants Management Officer at the address shown below.

Applications shall be considered as meeting the deadline if they are either (1) received on or before the deadline date; or (2) postmarked on or before the deadline date and received in time for orderly processing. Applicants must obtain a legible dated receipt from a commercial carrier or the U.S. Postal Service in lieu of a postmark. Private metered postmarks will not be acceptable as proof of timely mailing. Late applications will be returned to the sender.

ADDRESSES: Requests for grant application kits and additional information regarding business or fiscal issues should be directed to: Opal McCarthy, Grants Management Office, Bureau of Health Care Delivery and Assistance, 12100 Parklawn Drive, Rockville, Maryland 20857, (301) 443-5414. The standard application form and general instructions for completing applications (Form PHS-5161-1, OMB

#0937–0189) have been approved by the Office of Management and Budget.

FOR FURTHER INFORMATION CONTACT: Requests for technical or programmatic information on this announcement should be directed to Glenda Koby, Office of Rural Health Policy, room 14–22, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–0835.

SUPPLEMENTARY INFORMATION:

Program Objectives

The purpose of the program is to support projects that demonstrate new and innovative models of outreach and health care services delivery in rural areas that lack basic health services. Grants will be awarded either for the direct provision of health services to rural populations, especially for those who are not currently receiving them, or to enhance access to and utilization of existing available services.

Applicants may propose projects to address the needs of a wide range of rural population groups including the poor, the elderly, the disabled, pregnant women, infants, adolescents, rural minority populations, and rural populations with special health care needs. Projects should be responsive to the special cultural and linguistic needs of specific populations. The following areas are of special interest. Applications in these areas are particularly encouraged.

1. Projects to provide ambulatory health and/or mental health or substance abuse services in Health Professions Shortage Areas and in frontier areas.
2. Projects to provide, enhance or revitalize emergency medical services in rural areas.
3. Projects to reduce high rates of infant mortality in rural areas.
4. Projects designed to reduce high rates of suicide and depression among rural adolescents through the provision of mental, social, educational and related services.
5. Projects to enhance the health and safety of farmers, farm families, and migrant and seasonal farm workers through direct services.

A central goal of the demonstration program is to develop new and innovative models for more effective integration and coordination of health services in rural areas. It is hoped that some of these models will prove significant to solving rural health problems in States, regions of the country, or throughout the country. In order to better integrate the provision of health services in rural areas, participation in the program requires the formation of consortium arrangements among three or more separate and distinct entities to carry out the demonstrations. A consortium must be composed of three or more existing health care providers, or a combination of three or more health care and social service providers. Individual members of a consortium might include such entities as hospitals, public health agencies, home health providers, mental health centers, substance abuse service providers, rural health clinics, social service agencies, health profession schools, emergency service providers, community and migrant health centers, etc. Successful applicants must propose strong consortium arrangements where the roles and responsibilities of each member organization are clearly defined, where each member contributes significantly to the goals of the project, and where there is a strong management plan for operating the consortium.

The HRSA is particularly interested in consortia involving primary care providers and public health organizations.

Eligible Applicants

All public and private entities, both nonprofit and for-profit may participate as members of a consortium arrangement as described above. However, a grant award will be made to only one entity in a consortium. The grant recipient must be a nonprofit or public entity which meets one of the three requirements stated below.

(1) The applicant is located outside of a Metropolitan Statistical Area as defined by the Office of Management and Budget. A list of the cities and counties that are designated as being within a Metropolitan Statistical Area will be included with the application kit.

(2) The applicant is located in a rural census tract of one of the counties listed in appendix I to this announcement. Although each of these counties is a Metropolitan Statistical Area, or part of one, large parts of the counties are rural. Organizations located in these rural areas are eligible for the program. Rural portions of these counties have been identified by census tract since this is the only way we have found to clearly differentiate them from urban areas in the large counties. Appendix I provides a list of these census tracts for each county. Appendix II includes the telephone numbers for regional offices of the Census Bureau. Applicants may call these offices to determine the census tract in which they are located.

(3) The applicant is an organization that is constituted exclusively to provide services to migrant and seasonal farmworkers in rural areas and is supported under section 329 of the Public Health Service Act. These organizations are eligible regardless of the urban or rural location of their administrative headquarters.

Applications from organizations that do not meet one of the three requirements described above will not be reviewed.

Review Consideration

Grant applications will be evaluated on the basis of the following criteria:

(1) The extent to which the applicant has proposed a new and innovative approach to health care in the rural area.

(2) The extent to which the applicant has justified and documented the need(s) for the project and developed measurable goals and objectives for meeting the need(s).

(3) The extent to which the applicant has clearly defined the roles and responsibilities for each member of the consortium and developed a workable plan for managing the consortium's activities.

(4) The reasonableness of the budget proposed for the project.

(5) The extent to which the proposed project would be capable of replication in rural areas with similar needs and characteristics.

(6) The level of local commitment and involvement with the project, including the extent of cost participation by the applicant and/or other organizations, and the extent to which the project will contribute to enhancing the local economy.

(7) The feasibility of plans to continue the project after federal grant support is completed.

(8) The strength of the project evaluation plan.

The HRSA hopes to expand the outreach program into geographic areas not currently served by the program. Consequently, HRSA will consider geographic coverage when deciding which approved applications to fund. We do not anticipate supporting services in areas that are currently funded by this program.

Other Information

Grantees will be required to use at least 85 percent of the total amount awarded for outreach and care services as opposed to administrative costs. It is also required that more than 50 percent of the funds awarded be spent in rural areas. Grant funds may not be used for purchase, construction or renovation of real property or to support the delivery of inpatient services.

Applicants are advised that the narrative description of their program and the budget justification may not exceed 40 pages in length. Applications that exceed the 40 page limit for the program narrative and budget justification will not receive consideration. All applications must be typewritten and clearly legible with no less than ½" margin on all sides.

Executive Order 12372

The Rural Health Outreach Grant Program has been determined to be a program which is subject to the provisions of Executive Order 12372 concerning intergovernmental review of Federal programs by appropriate health planning agencies as implemented by 45 CFR part 100. Executive Order 12372 allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. Applicants (other than federally-recognized Indian tribal governments) should contact their State Single Point of Contact (SPOCs), a list of which will be included in application kit, as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more then one State, the applicant is advised to contact the SPOC of each affected State. All SPOC recommendations should be submitted to Opal McCarthy, Grants Management Office, Bureau of Health Care Delivery and Assistance, 12100 Parklawn Drive, Rockville, Maryland 20857, (301) 443–5414. The due date for State process recommendations is 60 days after the application deadline for new and competing awards. The granting agency does not guarantee to "accommodate or explain" for State process recommendations it receives after that date. (See part 148, Intergovernmental Review of PHS Programs under Executive Order 12372 and 45 CFR part 100 for a description of the review process and requirements.)

The OMB Catalog of Federal Domestic Assistance number is 93.912.

Dated: December 20, 1991.

Robert G. Harmon,

Administrator.

Appendix I

*Census tract numbers are shown *below* each county name.

State

County tract number

Alabama

Baldwin
0101
0102
0106
0110
0114
0115
0116

Mobile
0059
0062
0066
0072.02

Tuscaloosa
0107

Arizona

Maricopa
0101
0405.02
0507
0611
0622.02
5228
7233

Pima
0044.05
0048
0049

California

Butte
0024
0025
0026
0027
0028
0029
0030
0031
0032
0033
0034
0035
0036
El Dorado
0301.01
0301.02
0302
0303
0304.01
0304.02
0305.01
0305.02
0305.03
0306
0310
0311
0312
0313
0314
0315
Fresno
0040
0063
0064.01
0064.03
0065
0066
0067
0068
0071
0072
0073
0074
0077
0078
0079
0080
0081
0082
0083
0084.01
0084.02
Kern
0033.01
0033.02
0034
0035
0036
0037
0040
0041
0042
0043
0044
0045
0046
0047
0048
0049
0050
0051.01
0052
0053
0054
0055.01
0055.02
0056
0057
0058
0059
0060
0061
0063
Los Angeles
5990
5991
9001
9002
9004
9012.02
9100
9101
9108.02
9109
9110
9200.01
9201
9202
9203.03
9301
Monterey
0109
0112
0113
0114.01
0114.02
0115
Placer
0201.01
0201.02
0202
0203
0204
0216
0217
0219
0220
Riverside
0421
0427.02
0427.03
0429
0430
0431
0432
0444
0452.02
0453
0454
0455
0456.01
0456.02
0457.01
0457.02
0458
0459
0460
0461
0462
San Bernardino
0089.01
0089.02
0090.01
0090.02
0091.01
0091.02
0093
0094
0095
0096.01
0096.02
0096.03
0097.01
0097.03
0097.04
0098
0099
0100.01
0100.02
0102.01
0102.02
0103
0104.01
0104.02
0104.03
0105
0106
0107
San Diego
0189.01
0189.02
0190
0191.01
0208
0209.01
0209.02
0210
0212.01
0212.02
0213
San Joaquin
0040
0044
0045
0052.01
0052.02
0053.02
0053.03
0053.04
0054
0055
Santa Barbara
0016
0019.03
Santa Clara
5117.04
5118
5125.01
5127
Shasta
0126
0127
1504
Sonoma
1506.04
1537.01
1541
1542
1543
Stanislaus
0001
0002.01
0032
0033
0034
0035
0036.05
0037
0038
0039.01
0039.02
Tulare
0002
0003
0004
0005
0006
0007
0025
0028
0040
0043
0044
Ventura
0001
0002
0045
0075.01

Colorado

Adams
0064
0085.13
0087.01
El Paso
0038
0039.01
0040
Larimer
0014
0017.02
0019.02
0020.01
0022
Pueblo
0028.04
0032
0034
Weld
0019.02
0020
0024
0025.01
0025.02

Florida

Collier
0111
0112
0113
0114
Dade
0115
Marion
0002
0004
0005
0027
Osceola
0401.01
0401.02
0402.01
0402.02
0403 01
0403.02
0404
0405.01
0405.02
0405.03
0405.05
0406
Palm Beach
0079.01
0079.02
0080.01
0080.02
0081.01
0081.02
0082.01
0082.02
0082.03
0083.01
0083.02
Polk
0125
0126
0127
0142
0143
0144
0152
0154
0155
0156
0157
0158
0159
0160
0161

Kansas

Butler
0201
0203
0204
0205
0209

Louisiana

Rapides
0106
0135
0136
Terrebonne
0122
0123

Minnesota

St. Louis
0105
0112
0113
0114
0121
0122
0123
0124
0125
0126
0127
0128
0129
0130
0131
0132
0133
0134
0135
0137.01
0137.02
0138
0139
0141
0151
0152
0153
0154
0155
Stearns
0103
0105
0106
0107
0108
0109
0110
0111

Montana

Cascade
0105
Yellowstone
0015
0016
0019

Nevada

Clark
0037
0038
0039
Washoe
0031.04
0032
0033.01
0033.02
0033.03
0033.04
0034

New Mexico

Dona Ana
0014
0019
Santa Fe
0101
102
0103.01

New York

Herkimer
0101
0105.02
0107
0108
0109
0110.01
0110.02
0111
0112
0113.01

North Dakota

Burleigh
0114
0115
Grand Forks
0114
0115
0116
0118
Morton
0205

Oklahoma

Osage
0103
0104
0105
0106
0107
0108

Oregon

Clackamas
0235
0236
0239
0240
0241
0243
Jackson
0024
0027
Lane
0001
0005
0007.01
0007.02
0008
0013
0014
0015
0016

Pennsylvania

Adams
0101
0102

South Dakota

Pennington
0116
0117

Texas

Bexar
1720
1821
1916
Brazoria
0606
0609
0610
0611
0612
0613
0614
0615
0616
0617
0618
0619
0620.01
0620.02
0621
0622
0623
0624
0625.01
0625.02
0625.03
0626.01
0626.02
0627
0628
0629
0630
0631
0632
Harris
0554
0544
0545
Hidalgo
0223
0224
0225
0226
0227
0228
0230
0231
0243

Washington

Benton
0116
0117
0118
0119
0120
Franklin
0208
King
0327
0328
0330
0331
Snohomish
0532
0536
0537
0538
Spokane
0101
0102
0103.01
0103.2
0133
0138
0143
Whatcom
0110
Yakima
0018
0019
0020
0021
0022
0023
0024
0025
0026

Wisconsin

Douglas
0303
Marathon
0017
0018
0020
0021
0022
0023

Wyoming

Laramie
0016
0017
0018

Appendix II

Bureau of the Census Regional Information Service

Atlanta, GA 404–347–2274
Alabama, Florida, Georgia
Boston, MA 617–565–7078
Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, Upstate New York
Charlotte, NC 704–344–6144
Kentucky, North Carolina, South Carolina, Tennessee, Virginia
Chicago, IL 708–409–4617
Illinois, Indiana, Wisconsin
Dallas, TX 214–767–7105
Louisiana, Mississippi, Texas
Denver, CO 303–969–7750
Arizona, Colorado, Nebraska, New Mexico, North Dakota, South Dakota, Utah, Wyoming
Detroit, MI 313–354–4654
Michigan, Ohio, West Virginia
Kansas City, KS 913–236–3711
Arkansas, Iowa, Kansas, Missouri, New Mexico, Oklahoma
Los Angeles, CA 818–904–6339
California
New York, NY 212–264–4730
Brooklyn, Bronx, Manhattan, Queens, Staten Island, Nassau Co., Orange Co., Suffolk Co., Rockland Co., Westchester Co.
Philadelphia, PA 215–597–8313
Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania
Seattle, WA 206–728–5314
Idaho, Montana, Nevada, Oregon, Washington

[FR Doc. 92–4538 Filed 2–26–92; 8:45 am]

BILLING CODE 4160-15-M

Public Health Service

Reestablishment; Advisory Committee on Scientific Integrity, Public Health Service

Pursuant to the Federal Advisory Committee Act, Public Law 92–463 (5 U.S.C. appendix II), the Office of the Assistant Secretary for Health (OASH) announces the reestablishment by the Secretary, HHS, of the Advisory Committee on Scientific Integrity on February 20, 1992, pursuant, to 42 U.S.C. 217a, section 222 of the Public Health Service Act, as amended.

Designation. Advisory Committee on Scientific Integrity.

Purpose. Provides advise to the Secretary of Health and Human Services and the Assistant Secretary for Health on issues that relate to the Department's activities in deterring, investigating, and resolving allegations of misconduct in science.

Unless renewed by appropriate action prior to its expiration, this committee will terminate on February 20, 1995.

Dated: February 20, 1992.

Lyle W. Bivens,

Director, Office of Scientific Integrity Review.

[FR Doc. 92–4502 Filed 2–26–92; 8:45 am]

BILLING CODE 4160-17-M

State Offices of Rural Health Grant Program

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of availability of funds.

SUMMARY: The Office of Rural Health Policy, Health Resources and Services Administration (HRSA), announces that applications are being accepted for matching grants to States for the purpose of improving health care in rural areas through the operation of State Offices of Rural Health. This program is authorized by section 338J of the Public Health Service Act, 42 U.S.C. 254r, as added by Public Law 101–597, and awards will be made from funds appropriated under Public Law 102–170 (HHS Appropriations Act for FY 1992). It is anticipated that approximately $350,000 will be available to support the first year of new grants under this program, and $1.65 million will be available to support continuation of existing grants.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. The State Offices of Rural Health Program is related to the priority areas as Educational and Community-Based Programs as well as Clinical Preventive Services. Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017–001–00474–C) or Healthy People 2000 (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, (Telephone (202) 783–3238).

DATES: Application deadline for this program is April 30, 1992. Applications must be received by the Grants Management Officer at the address shown below.

Applications shall be considered as meeting the deadline if they are either (1) received on or before the deadline date; or (2) postmarked on or before the deadline date and received in time for orderly processing. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks will not be acceptable as proof of timely mailing. Late applications will be returned to the sender.

ADDRESSES: Requests for grant application kits and guidance should be directed to: Grants Management Office (GMO), Bureau of Health Care Delivery and Assistance, HRSA, PHS, U.S. Department of Health and Human Services, 12100 Parklawn U.S. Department of Health and Human Services, 12100 Parklawn Drive, Rockville, Maryland 20857, (Telephone (301) 443–5887). The GMO can also provide information on business management issues.

The standard application form and general instructions for completing applications (Form PHS-5161-1, OMB 0937–0189) have been approved by the Office of Management and Budget.

FOR FURTHER INFORMATION CONTACT: Requests for technical or programmatic information should be directed to Jerry Coopey, Senior Policy Analyst, Office of

Rural Health Policy, HRSA, PHS, U.S. Department of Health and Human Services, room 14-22, Parklawn, Building, 5600 Fishers Lane, Rockville, Maryland 20857, (Telephone (301) 443-0835).

SUPPLEMENTARY INFORMATION:

Program Objectives

The purpose of the program is to improve health care in rural areas by making matching grants to States to support the operation of State Offices of Rural Health.

These Federal funds are available to all States whether or not they have previously established an office or "focal point" for rural health.

To receive a Federal grant, each State must agree that its Office of Rural Health will carry out at least the following activities: (1) Establish and maintain a clearinghouse for collecting and disseminating information on rural health care issues, research findings, relating to rural health care, and innovative approaches to the delivery of health care in rural areas, (2) coordinate the activities carried out in the State that relate to rural health care, including providing coordination for the purpose of avoiding redundancy in such activities; (3) identify Federal and State programs regarding rural health, and provide technical assistance to public and nonprofit private entities regarding participation in such programs, and (4) submit an annual report regarding its activities. In addition to these required activities, a State Office of Rural Health may use Federal grant funds for activities which support, but do not directly fund, the recruitment and retention of health professionals to serve in rural areas. Consideration will be given to applicants that demonstrate a commitment to this discretionary activity. The Secretary, DHHS, views this as an important program activity which can produce tangible results.

The State (e.g. Department of Health, Governor's Office, State University) can conduct the required and any discretionary activities directly or through grants or contracts to other public or nonprofit private entities (e.g. Private Universities, Area Health Education Centers, Foundations).

States, however, may not use grant funds to (1) provide health care (2) duplicate activities for which Federal funds are being used under the State primary care association, cooperative agreement and State loan repayment programs, (3) purchase medical equipment, vehicles, or real property, or (4) conduct certificate of need activities. In addition, not more than 10% of grant funds may be expended on research.

To encourage States to commit their own resources toward improving rural health care, this program requires a minimum non-Federal match to support the establishment and operation of State Offices of Rural Health. For the first fiscal year of participation, States must match at least $1 for each $3 of Federal funds, $1 for each $1 in the second year; and $3 for each $1 in the third year. In the first year, the State match can be 100% in-kind. In the second year at least 50% must be in cash, and in the third year solely in cash. Rules regarding in-kind and in cash State contributions are found in 45 CFR part 92.

To assure that each State Office of Rural Health has the resources to carry out its minimum responsibilities, a State must make sure that the Office has a total budget of not less than $50,000.

Eligible Applicants

The fifty States.

Review Consideration

Grant applications will be evaluated on the basis of the following criteria:

(1) The extent to which the application is responsive to the requirements and purposes of the program.

(2) The extent to which the applicant has developed measurable goals, objectives, and an evaluation plan for the required, and any discretionary, activities.

(3) The extent to which the Office is coordinated with, and has the cooperation of, other health entities and activities within the State.

(4) The strength of the applicant's plans for administrative and financial management of the Office.

(5) The reasonableness of the budget proposed for the Office.

(6) The likelihood that the Office will be continued after Federal grant support is completed.

Other Award Information

A total of approximately $2 million will be available to support this grant program in its second year. Approximately $1.65 million fund 38 continuation grants in their second year, and $350,000 will be available to fund the first year of new grants. Although difficult to predict, it is expected that approximately 8 grants will be awarded to first year projects. Grant applications should be submitted for a three-year projected period. While support for additional years is contingent upon satisfactory performance and the availability of funds for this program, States should be aware that continued participation will require an increase in their contribution. Only one grant application will be accepted from each State and it must indicate approval by the Governor.

Executive Order 12372

The State Office of Rural Health Grant Program has been determined to be a program which is subject to the provisions of Executive Order 12372 concerning intra-governmental review of Federal programs, as implemented by 45 CFR part 100. Executive Order 12372 sets up a system for State and local government review of proposed Federal assistance applications. A current list of SPOCs, including their names, addresses, and telephone numbers is included in the application kit. Applicants (other than federally-recognized Indian tribal governments) should contact their State Single Point of Contact (SPOCs) as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. All SPOC recommendations should be submitted to Gary Houseknecht, Grant Management Officer, Bureau of the Health Care Delivery and Assistance, 12100 Parklawn Drive, Rockville, Maryland 20857, (301), 443-5902. The due date for State process recommendations is 60 days after the application deadline date for new and existing awards. The granting agency does not guarantee to "accommodate or explain" for State process recommendations it receives after that date. (See part 148, Intergovernmental Review of PHS Programs under Executive Order 12372 and 45 CFR part 100 for a description of the review process and requirements.)

The OMB Catalog of Federal Domestic Assistance number is 93.913.

Dated: February 20, 1992.

Robert G. Harmon,

Administrator.

[FR Doc. 92-4427 Filed 2-26-92; 8:45 am]

BILLING CODE 4160-15-M

Meeting of the Advisory Committee on Scientific Integrity

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Advisory Committee on Scientific Integrity, Public Health Service, on Saturday, March 7, and Sunday, March 8, 1992, at the National Institutes of Health, Bethesda, Maryland. The meeting will take place March 7 from 9 a.m. to 4:30 p.m., and on March 8 from 9 a.m. to 4:30 p.m., Building 31, C Wing, Conference Room 6. The meeting will be open to the public.

The charge of the Committee is to review and evaluate, on an ongoing basis, the efficacy of policies and procedures of the Department of Health and Human Services in detecting, deterring, investigating, and resolving allegations of scientific misconduct and to make recommendations to the Secretary and the Assistant Secretary for Health on improving these policies and procedures.

The purpose of the meeting will be to continue discussion of the June 13, 1991 **Federal Register** Notice (56 FR 27384–94) of the PHS Policies and Procedures for Dealing With Possible Scientific Misconduct in Extramural Research and of means by which the PHS could respond to concerns voiced by the scientific community. Discussion items will include but will not be limited to the definition of scientific misconduct and a working model of the investigation of scientific misconduct. Discussions of the model will include due process protection, hearings and appeals, protection for informants, and the ALERT system.

Henrietta D. Hyatt-Knorr, Executive Secretary, Advisory Committee on Scientific Integrity, Office of Scientific Integrity Review, Rockwall II, suite 1113, 5515 Security Lane, Rockville MD 20852, (301) 443–5300, will furnish the meeting agenda, the Committee charter, and a roster of the Committee members upon request. Members of the public wishing to make presentations should contact the Executive Secretary. Depending on the number of presentations and other considerations, the Executive Secretary will allocate a time frame for each speaker.

Dated: February 20, 1992.

Lyle W. Bivens,

Director, Office of Scientific Integrity Review.

[FR Doc. 92–4503 Filed 2–26–92; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-92-3248; FR 3047–N–02]

Funding Availability for the HUD-Administered Small Cities Community Development Block Grant Program; Fiscal Year 1991 Announcement of Funding Awards

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department under the HUD-Administered Small Cities Community Development Block Grant (CDBG) Program for Fiscal Year 1991. The announcement contains the names and addresses of the award winners and the amounts of the awards.

FOR FURTHER INFORMATION CONTACT: Stanley Gimont, State and Small Cities Division, Office of Community Planning and Development, Department of Housing and Urban Development, room 7184, 451 7th Street, SW., Washington, DC 20410, Telephone (202) 708–1322. The TDD number is (202) 708–2565. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: Title I of the Housing and Community Development Act of 1974, as amended (the HCD Act), authorizes the Community Development Block Grant (CDBG) Program. Section 106 of title I permits States to elect to assume administrative responsibility for the CDBG Program for nonentitled units of general local government within their jurisdictions. Section 106 provides that HUD will administer the CDBG Program for nonentitled areas within a State which does not elect to assume the administrative responsibility for the program.

Hawaii and New York are the only two States which have not elected to assume administrative responsibility for the nonentitled CDBG Program. As such, HUD continues to operate the nonentitlement CDBG Program in these two States in accordance with 24 CFR part 570, subpart F. In Hawaii, HUD distributes funds in Hawaii on a formula basis since there are only three nonentitlement entities. In New York State, HUD conducts an annual competitive in which nonentitled units of general local government may apply for nonentitled CDBG funds allocated to New York State.

Subpart B of 24 CFR part 12 directs HUD to publish in the **Federal Register** a notice identifying recipients of assistance under 24 CFR part 570, subpart F, the Small Cities Program.

The Fiscal Year 1991 competition in New York State was announced by means of a Notice of Funding Availability (NOFA) published in the **Federal Register** on May 9, 1991 at 56 FR 21536. The NOFA announced the allocation of the State's nonentitled CDBG funds between the New York Regional Office and the Buffalo Field Office, as well as the amount of funds available for Single Purpose and Comprehensive grants. The NOFA also explained in detail how HUD would apply regulatory threshold requirements for funding eligibility and the selection criteria for rating and scoring applications.

In New York, HUD received applications presenting 230 projects for consideration, and seeking a total of more than $85 million in funding. Awards were made to 103 nonentitled units of general local government throughout the State for 107 separate projects, totalling $38,437,245. In accordance with section 102 (a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, the Department is publishing the names, addresses and amounts of those awards as follows:

Nonentitlement CDBG Small Cities Program Recipients

FY 1991—State of Hawaii

For further information regarding these grants, contact:

Ms. Patty Nicholas, Director,
Community Planning and Development Division, Department of Housing and Urban Development, 300 Ala Moana Boulevard, room 3318, Honolulu, HI 96850–4991.

1. County of Hawaii, Lorraine R. Inouye, 25 Aupuni Street, Hilo, HI 96720 $1,159,000 Awarded November 22, 1991.
2. County of Kauai, JoAnn A. Yakimura, Lihue, HI 96766 $468,000 Awarded September 25, 1991.
3. County of Maui, Linda Crockett-Lingle, 200 South High Street, Maui, HI 96793 $928,000 Awarded September 30, 1991.

Nonentitlement CDBG Small Cities Program Recipients

FY 1991—State of New York

For further information regarding these grants, contact either:

U.S. Department of Housing and Urban Development, Office of Community Planning and Development, 26 Federal Plaza, New York, NY 10278–0068,

or:

U.S. Department of Housing and Urban Development, Community Planning and Development Division, Lafayette Court, 465 Main St., Buffalo, NY 14203.

These awards were announced between September 10 and September 18, 1991:

Single Purpose Grants—New York Regional Office:

1. Town of Liberty, Beverly O'Hearn-Dill, 120 North Main Street, Liberty, NY 12754 $250,000.
2. Town of Mamakating, Dennis Grewnwald, Town Hall, Wurtsboro, NY 12790 $150,000.
3. Town of Callicoon, Ludwig Grupp, RT. 52, Box 211, Jeffersonville, NY 12748 $250,000.
4. Town of Thompson, David Kaufman, P.O. Box 872, Monticello, NY 12701 $150,000.
5. Sullivan County, David Kaufman, County Goverment Center, Monticello, NY 12701 $300,000.
6. Town of Fallsburg, Darryl Kaplan, Town Hall, South Fallsburg, NY 12779 $250,000.
7. Village of Kiryas Joel, Leopold Lewkowitz, P.O. Box 566, Monroe, NY 10950 $250,000.
8. City of Port Jervis, Richard K. Roberts, Municipal Building, Port Jervis, NY 12771 $250,000.
9. Village of Walden, Charles Frank, 8 Scofield Street, Walden, NY 12586 $250,000.
10. Town of Rockland, Leon L. Siegel, Town Hall, Livingston Manor, NY 12758 $250,000.
11. Town of Shawangunk, Kim W. Corey, P.O. Box 247, Wallkill, NY 12589 $250,000.
12. Town of Shandaken, Marian C. Umhey, P.O. Box 134, Shandaken, NY 12480 $250,000.
13. Town of Bethel, Allan C. Scott, Box 300, White Lake, NY 12786 $250,000.
14. Town of Highland, Andrew Boyar, Route 55, Eldred, NY 12732 $250,000.
15. Village of Woodridge, Richard Elliott, P.O. Box 655, Woodridge, NY 12789 $250,000.
16. Village of New Paltz, Thomas E. Nyquist, P.O. Box 877, New Paltz, NY 12561 $210,878.

Comprehensive Grants—New York Regional Office

1. Town of Wawarsing, Joseph P. Stoeckeler, Jr., 108 Canal Street, Ellenville, NY 12428 $373,367.
2. City of Kingston, John P. Heitzman, 1 Garraghan Drive, Kingston, NY 12401 $400,000.
3. Village of Greenport, William R. Pell, III, Village Hall, 236 Third Street, Greenport, NY 11944 $400,000.

Single Purpose Grants—Buffalo Field Office

1. Village of Albion, Joseph Sacco, 35–37 East Bank Street, Albion, NY 14411 $400,000.
2. City of Amsterdam, Paul M. Parillo, City Hall, Church St., Amsterdam, NY 12010 $400,000.
3. Village of Antwerp, Juan A. Rodriquez, PO Box 620, Antwerp, NY 13608 $400,000.
4. Village of Bainbridge, John L. Hyzer, 33 West Main St., Bainbridge, NY 13733 $400,000.
5. Town of Barre, Jon Peglow, 14317 West Barre Rd., Albion, NY 14411 $400,000.
6. Town of Berkshire, David Alexander, RD #2, Box 272, Berkshire, NY 13736 $400,000.
7. Town of Black Brook, Roger Nelson, Town Offices, Main St., Ausable Forks, NY 12912 $400,000.
8. Village of Brocton, Donald McFadden, Village Hall, 34 West Main St., Brocton, NY 14716 $126,728.
9. Village of Brushton, Carol Herne, PO Box 501, Brushton, NY 12916 $400,000.
10. Town of Canton, Anne M. Ryan, Municipal Building, Main St., Canton, NY 13617 $400,000.
11. Cayuga County, Herbert D. Marshall, County Office Building, 160 Genesee St., Auburn, NY 13021 $33,000.
12. Chenango County, Glenn Angell, 5 Court St., Norwich, NY 13815 $600,000.
13. Town of Clayton, Gordon D. Cerow, 403 Riverside Dr., Clayton, NY 13624 $342,000.
14. Village of Clayton, Joseph Turcotte, PO Box 250, Municipal Building, Clayton, NY 13624 $400,000.
15. Village of Clayville, Linda Turley, Box 274, Foundry Rd., Clayville, NY 13322 $400,000.
16. Village of CLeveland, Malchoff Davis, PO Box A, Cleveland, NY 13042 $159,050.
17. Village of Cobleskill, William C. Wolford, 75 East Main St., PO Box 169, Cobleskill, NY 12043 $400,000.
18. Columbia County, Gerald Simons, 401 State St., Hudson, NY 12534 $587,000.
19. City of Courtland, Martin J. Mack, 25 Court St., Courtland, NY 13045 $400,000.
20. Town of Crown Point, Charles Mazurowski, Town Office, Crown Point, NY 12928 $233,000.
21. Town of Dickinson, Keith J. Marsh, PO Box 101, Dickinson Center, NY 12930 $400,000.
22. Village of Fort Plain, Albert Nalli, Village Hall, 168 Canal St., Fort Plain, NY 13339 $400,000.
23. Town of Friendship, Carl Schneider, 50 West Main St., Friendship, NY 14739 $400,000.
24. City of Fulton, Muriel L. Allerton, 2 Tower Dr., Suite 8, Fulton, NY 13069 $320,000.
25. Town of Georgetown, Janet M. Coye, Town Hall, Georgetown, NY 13072 $400,000.
26. Village of Hermon, R. Bardeschewski, PO Box 29, Hermon, NY 13652 $400,000.
27. Town of Hinsdale, Elizabeth Linderman, RD 1–3609 Rt. 16, Hinsdale, NY 14743 $240,000.
28. Town of Horicon, Jean A. Olson, Town Hall, Brant Lake, NY 12815 $400,000.
29. Village of Hudson Falls, Charles P. Jones, 220 Main St., Hudson Falls, NY 12839 $400,000.
30. City of Hudson, Michael Yusko, Jr., City Hall, Hudson, NY 12534 $400,000.
31. Town of Jay, Paul Savage, Civil Center, Ausable Forks, NY 12912 $400,000.
32. Jefferson County, Wesley E. Eisenhauer, 75 Arsenal St., Watertown, NY 13601 $560,000.
33. Town of Jerusalem, Howard De May, 3816 Italy Hill Dr., PO Box 412, Jerusalem, NY 14418 $400,000.
34. Town of Johnsburg, William H. Thomas, Town Hall, North Creek, NY 12853 $400,000.
35. City of Johnstown, Francis Reed, 33–41 East Main St., Johnston, NY 12095 $400,000.
36. Town of Livonia, Francis Kosakowski, PO Box 43, 35 Commercial St., Livonia, NY 14487 $400,000.
37. Town of Middlesex, Robert Multer, Town Hall, Middlesex, NY, 14507 $400,000.
38. Montgomery County, Vito Dandreano, Annex Building, PO Box 1500, Fonda, NY 12068 $283,500.
39. Town of Moriah, Thomas T. Scozzafava, Park St., Port Henry, NY 12974 $400,000.
40. Town of Murray, James Piedimonte, 3840 Route 31, Holley, NY 14470 $400,000.
41. Village of Newark, S. Crothers Earl, Municipal Building, 100 East Miller St., Newark, NY 14513 $400,000.
42. Town of North Greenbush, Richard Fennelly, PO Box 39, Wynantskill, NY 12198 $395,000.

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43. City of North Tonowanda, Elizabeth C. Hoffman, 216 Payne Ave., North Tonowanda, NY 14120 $400,000.

44. Town of Ohio, Harvey Bussey, RD #1 Box 561, Cold Brook, NY 13324 $400,000.

45. Town of Olean, John Mitchell, Town Hall, RD 1, Rte. 16 North, Olean, NY 14760 $400,000.

46. City of Oneida, Army Carinci, 109 North Main St., Oneida, NY 13421 $400,000.

47. City of Oneonta, David W. Brenner, City Hall, 258 Main St., Oneonta, NY 13820 $375,000.

48. Oswego County, Hollis J. Iselin, 46 East Bridge St., Oswego, NY 13126 $185,000.

49. Otsego County, Carl F. Higgins, County Office Building, 197 Main St., Cooperstown, NY 13326 $112,075.

50. Village of Parish, Douglas Clark, South Railroad St., Parish, NY 13131 $258,500.

51. Village of Perrysburg, Leonard E. Fuller, III, PO Box 218, Petersburg, NY 14129 $400,000.

52. Town of Petersburg, Daniel McCumber, PO Box 125, Petersburg, NY 12138 $400,000.

53. Town of of Plattsburgh, Arthur L. Lefevre, RD #1—Box 412, Plattsburgh, NY 12901 $400,000.

54. Village of Port Henry, Richard Gonyeau, 25 South Main St., Port Henry, NY 12974 $393,200.

55. Town of Putnam, John R. LaPointe, Town Hall—Rt. 22, Putnam Station, NY 12861 $400,000.

56. Village of Remsen, C. Harold Spicer, PO Box 335, Remsen, NY 13438 $175,584.

57. Village of Richburg, James L. Childs, Wirt Town Hall, Box 191, Richburg, NY 14774 $400,000.

58. Town of Salisbury, Robert T. Jorrey, Box 241, Salisbury Center, NY 13454 $400,000.

59. Town of of Schulyer Falls, Bernard Barber, PO Box 99, Morrisonville, NY 12962 $400,000.

60. Town of Smyrna, James B. Bays, Town Hall, Smyrna, NY 13464 $400,000.

61. Village of Smyrna, Judi Clippinger, PO Box 25, Smyrna, NY 13464 $400,000.

62. St. Lawrence County, Betty H. Bradley, County Courthouse, Court St., Canton, NY 13617 $200,000.

63. Town of Tioga, Lawrence S. Brink, PO Box 193, Tioga Center, NY 13845 $400,000.

64. Tompkins County, James A. Mason, County Courthouse, 320 North Tioga St., Ithaca, NY 14850 $400,000.

65. Town of Turin, Roger W. Maciejko, PO Box 131, Turin NY 13473 $400,000.

66. Warren County, Richard E. Bolton, Municipal Center, Lake George, NY 12845 $449,580.

67. Town of Warrensburg, Maynard D. Baker, Town Hall, 98 Main St., Warrensburg, NY 12885 $400,000.

68. Washington County, Darryl L. Decker, County Office Building, Upper Broadway, Fort Edward, NY 12828 $336,000.

69. Village of Waterloo, Lee Patchen, 412 West Main St., Waterloo, NY 13165 $83,000.

70. City of Watertown, T. Urling Walker, Municipal Building, 245 Washington St., Watertown, NY 13601 $400,000.

71. Town of White Creek, Darryl Decker, One North Park St., PO Box 205, Cambridge, NY 12816 $400,000.

72. Town of Willsboro, Edna Coonrod, Town Office, Willsboro, NY 12996 $400,000.

Comprehensive Grants—Buffalo

1. City of Ithaca, Benjamin Nichols, 108 East Green St., Ithaca, NY 14850 $600,000.

2. City of Little Falls, Michael D. Izzo, City Hall, 659 Main St., Little Falls, NY 13326 $600,000.

3. City of Oswego, John T. Sullivan, City Hall, Oswego, NY 13126 $600,000.

4. Village of Herkimer, Mary Carol Aiello, Village Hall, 120 Green St., Herkimer, NY 13350 $600,000.

5. Village of Canastota, Joseph Paone, Village Hall, 205 S. Peterboro, Canastota, NY 13032 $600,000.

6. City of Gloversville, John M. Reich, City Hall, Frontage Rd., Gloversville, NY 12078 $493,000.

7. City of Hornell, Shawn Hogan, 108 Broadway, Hornell, NY 14843 $600,000.

8. City of Rensselaer, Joseph E. Harrigan, City Hall, 505 Broadway, Rensselaer, NY 12144 $600,000.

9. Town of Martinsburg, Donald Ingersoll, Route 26, Martinsburg, NY 13404 $600,000.

10. City of Auburn, Michael Oropallo, Memorial City Hall, 24 South St., Auburn, NY 13021 $512,783.

11. City of Saratoga Springs, Almeda C. Dake, City Hall, Saratoga Springs, NY 12866 $600,000.

12. Village of Lake Saranac, Richard V. Depuy, 2 Main St., Saranac Lake, NY 12983 $600,000.

Dated: February 20, 1992.

Anna Kondratas,

Assistant Secretary for Community Planning and Development.

[FR Doc. 92-4422 Filed 2-26-92; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Meeting of the Take Pride in America Advisory Board

AGENCY: Take Pride in America, Office of the Secretary, United States Department of the Interior.

ACTION: Notice of meeting of the Take Pride in America Advisory Board.

Notice is hereby given in accordance with the Federal Advisory Committee Act, 5 U.S.C. appendix (1988), that a meeting of the Take Pride in America Advisory Board will be held on March 16 and 17, 1992 in the Secretary of the Interior's Conference Room, #5160, 5th Floor of the United States Department of the Interior's Main Building, 1849 C Street, Washington, DC 20240.

The Take Pride in America Advisory Board will convene on Monday, March 16, 1992 at 9 a.m. The morning general business session will meet until 11:30 a.m. The Advisory Board's general business session will reconvene at 1 p.m. and is planned to conclude at 4:30 p.m. of that day.

The Advisory Board will reconvene for the second day of meetings on March 17th at 9 a.m. and will conclude all general business meetings at 11:30 a.m. on that same day. The Advisory Board's two-day meetings will conclude with a field trip activity.

The third official meeting of the Take Pride in America Advisory Board will focus on three main topics: Presentations by officials of the Department of the Interior on the status of Take Pride in America program; Presentation on the Long-Range Marketing Strategy for the Take Pride in America program; and Reports by the Board's four Subcommittee Chairmen. The Advisory Board has the following subcommittees: Long Range Planning; Outreach; Education; and the National Awards Program. Subcommittee reports will include an update of subcommittee activities.

The general business meetings will be open to the public. Space and facilities to accommodate members of the public are limited and persons will be accommodated on a first-come, first-serve basis. Anyone may file with the Advisory Board a written statement concerning matters to be discussed.

The Chairman of the Board will allow for public commentary, but may restrict the length of presentations as necessary to allow the Board to complete its agenda within the allotted time.

Persons wishing further information concerning the meeting, or who wish to submit written statements, may contact Ms. Mary Ann Gomez, Take Pride in America, U.S. Department of the Interior, room 5129, 1849 C Street, NW., Washington, DC 20240, telephone number is (202) 208–3726.

Draft summary minutes of the meeting will be available for public inspection about eight weeks after the meeting, in the Take Pride in America Office, U.S. Department of the Interior, 1849 C Street, NW., Washington, DC 20240.

Mary Ann Gomez,

Advisory Board Coordinator.

[FR Doc. 92–4460 Filed 2–26–92; 8:45 am]

BILLING CODE 4310-10-M

Bureau of Land Management

[CO-920-92-4111-15; COC51588]

Proposed Reinstatement of Terminated Oil and Gas Lease; Colorado

Under the provisions of Public Law 97–451, a petition for reinstatement of oil and gas lease COC51588, Cheyenne County, Colorado, was timely filed and was accompanied by all required rentals and royalties accruing from July 1, 1991, the date of termination.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $5 per acre and 16-⅔ percent, respectively. The lessee has paid the required $500 administrative fee for the lease and has reimbursed the Bureau of Land Management for the cost of this **Federal Register** notice.

Having met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920, as amended, (30 U.S.C. 188 (d) and (e), the Bureau of Land Management is proposing to reinstate the lease effective July 1, 1991, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Questions concerning this notice may be directed to Joan Gilbert of the Colorado State Office at (303) 239–3783.

Dated: February 19, 1992.

Janet M. Budzilek,

Chief, Fluid Minerals Adjudication Section.

[FR Doc. 92–4500 Filed 2–26–92; 8:45 am]

BILLING CODE 4310-JB-M

[NM-910-02-4143-02]

Redelegation of Authority for Solid Minerals and Geothermal Casework; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Redelegation of authority.

SUMMARY: Pursuant to the authority in Bureau Manual 1203 dated July 17, 1990, the State Director, New Mexico State Office, has redelegated the authority for the entire sodium, potassium, sulfur, and other leasable minerals programs to the District Managers in New Mexico and Oklahoma. This redelegation covers Indian Minerals Operations under 43 CFR 3590. Authority for the entire geothermal leasing function is also redelegated to the Las Cruces District Manager.

EFFECTIVE DATE: October 1, 1991.

ADDRESSES: Comments should be sent to the New Mexico State Director, P.O. Box 271115, Santa Fe, New Mexico 87502–7115.

FOR FURTHER INFORMATION CONTACT: Clarenace F. Hougland, New Mexico State Office, (505) 438–7593.

SUPPLEMENTARY INFORMATION: On October 3, 1991, the State Director, New Mexico State Office, redelegated the entire Solid Minerals Program to all the District Managers in New Mexico and Oklahoma and also redelegated the Geothermal Leasing Program to the Las Cruces District Manager. This redelegation was effective October 1, 1991. All applications, proposed assignments, modifications, terminations, and other requests involving solid minerals and geothermal casework, including requests for information, should be filed with the following District Offices:

Albuquerque District Office, 435 Montano NE., Albuquerque, New Mexico 87107, (505) 758–8851.

Las Cruces District Office, 1800 Marquess Street, Las Cruces, New Mexico 88005, (505) 525–8228.

Roswell District Office, P.O. Box 1397, 1717 W. Second, Roswell, New Mexico 88202–1397, (505) 622–9042.

Tulsa District Office, 9522–H E. 47th Place, Tulsa, Oklahoma 74145, (918) 621–4100.

Dated: February 18, 1992.

Kathy Eaton,

Acting State Director.

[FR Doc. 92–4497 Filed 2–26–92; 8:45 am]

BILLING CODE 4310-FB-M

[AZ-040-4212-13]

Realty Action for the Private Exchange of Lands, Case Number AZA 22643

AGENCY: Bureau of Land Management (BLM), Safford District, AZ., Interior.

ACTION: Notice of realty action for the private exchange of public lands in Greenlee County, Arizona, Case Number AZA 22643.

SUMMARY: The following described public lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Gila and Salt River Meridian, Arizona

T. 5 S., R. 29 E.,
  Sec. 36, lots 7 and 8.
T. 5 S., R. 30 E.,
  Sec. 31, lots 3, 10, 12.

The land described above comprises 125.49 acres, more or less, in Greenlee County.

In exchange for these lands, the federal government will obtain non-federal lands from Mr. Jeffrey Menges that are described as follows:

Gila and Salt River Meridian, Arizona

T. 5 S., R. 29 E.,
  Sec. 33, S½S½.

The land described above comprises 160.00 acres, more or less, in Greenlee County.

The purpose of the exchange is to obtain non-federal lands that are isolated by public lands and adjacent to the Gila Box Riparian National Conservation Area that will effectively and efficiently improve the management of the natural and recreational resources in the area. The exchange is consistent with the Bureau's planning for the lands involved. The public interest will be well-served by making the exchange. The values of the lands to be exchanged are approximately equal and the values will be adjusted or monies will be used to equalize values upon completion of the final appraisal of the lands. The exchange involves both the surface and mineral estates.

Publication of this notice segregates the public lands from the operation of the public land laws, including the mining and mineral leasing laws, for a period of two years from the date of the publication.

The patent for the public land, when issued, shall contain the following reservations:

1. A reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States under the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

2. A perpetual easement for road access to the United States.

The public lands shall also be patented subject to:

1. An existing right-of-way for a 7.2 kv electric distribution powerline granted in perpetuity (AZAR 032889).

2. Any valid existing rights and terms and conditions of authorized uses.

DATES: On or before April 13, 1992, interested parties may submit written comments to the Safford District Manager, 425 E. 4th Street, Safford, AZ 85546. Adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue a final determination.

SUPPLEMENTARY INFORMATION: Additional information concerning this application may be obtained from the Safford District Office at the mailing address given above.

Dated: February 20, 1992.

Vernon L. Saline,

Acting District Manager.

[FR Doc. 92-4495 Filed 2-26-92; 8:45 am]

BILLING CODE 4310-32-M

[ID-942-02-4730-12]

Idaho: Filing of Plats of Survey; Idaho

The plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9 a.m., February 19, 1992.

The supplemental plat prepared to correct the distances on the north-half of the north and south center line of section 1, T. 44 N., R. 6 W., Boise Meridian, Idaho, was accepted February 6, 1992.

This survey was executed to meet certain administrative needs of the Bureau of Land Management.

All inquiries concerning the survey of the above described land must be sent to the Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706.

Dated: February 19, 1992.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 92-4498 Filed 2-26-92; 8:45 am]

BILLING CODE 4310-GG-M

[ID-942-02-4730-12]

Idaho: Filing of Plats of Survey; Idaho

The plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9 a.m., February 19, 1992.

The plat representing the dependent resurvey of portions of the east boundary and subdivisional lines, and the subdivision of section 24, T. 29 N., R. 4 E., Boise Meridian, Idaho, Group No. 804, was accepted, February 5, 1992.

This survey was executed to meet certain administrative needs of the USDA Forest Service, Region 1, Nez Perce National Forest.

All inquiries concerning the survey of the above described land must be sent to the Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706.

Dated: February 19, 1992.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 92-4584 Filed 2-26-92; 8:45 am]

BILLING CODE 4310-GG-M

[ID-942-02-4730-12]

Idaho: Filing of Plats of Survey; Idaho

The plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9 a.m., February 19, 1992.

The plat representing the dependent resurvey of portions of the subdivisional lines and subdivision of section 8, T. 3 N., R. 4 W., Boise Maridian, Idaho, Group No. 814, was accepted, February 11, 1992.

This survey was executed to meet certain administrative needs of the Bureau of Land Management.

All inquiries concerning the survey of the above described land must be sent to the Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706.

Dated: February 19, 1992.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 92-4585 Filed 2-26-92; 8:45 am]

BILLING CODE 4310-GG-M

[CA-017-4212-10; CACA 16951]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to withdraw 110.00 acres of public land in Mono County to protect the archaeological, historical and recreational integrity of the historic mining site of Dog Town. This notice closes the lands for up to two years from location and entry under the mining laws. The lands will remain open to mineral leasing.

DATES: Comments and requests for a public meeting must be received by May 27, 1992.

ADDRESSES: Comments and meeting requests should be sent to the Area Manager, BLM Bishop Resource Area, 787 N. Main St., suite P, Bishop, California. 93514.

FOR FURTHER INFORMATION CONTACT: David Lehmann, BLM Bishop Resource Area, 787 N. Main, suite P, Bishop, California 93514; (619) 872-4881.

SUPPLEMENTARY INFORMATION: On November 18, 1991 a petition was approved allowing the Bureau of Land Management to file an application to withdraw the following described land from settlement, sale, location or entry under the general land laws, including the mining laws, but not the mineral leasing laws:

Mount Diablo Meridian

T. 4N., R. 25E.,
  Sec. 26, W½SE¼SW¼;
  Sec. 27, E½SE¼NE¼SE¼,SE¼SE¼;
  Sec. 34, N½NE¼NE¼, E½SE¼NE¼NE¼;
  Sec. 35. W½NW¼NW¼
The area described contains 110.00 acres in Mono County.

The purpose of the withdrawal is to protect the archeological, historical and recreational integrity of the historic mining site of Dog Town.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the Bishop Area Manager of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the Bishop Area Manager within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

For a period of two years from the date of publication of this notice in the **Federal Register** the land will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. The temporary uses which may be permitted with the approval of an authorized officer of the Bureau of Land Management during this segregative period are licenses, permits, cooperative agreements, rights-of-way, or other discretionary land-use authorizations of a temporary nature.

Dated: February 20, 1992.

Michael A. Ferguson,

Bishop Area Manager.

[FR Doc. 92-4491 Filed 2-26-92; 8:45 am]

BILLING CODE 4310-40-M

National Park Service

Chesapeake and Ohio Canal National Historical Park Commission; Meeting

Notice is hereby given in accordance with Federal Advisory Committee Act that a meeting will be held Saturday, March 14, 1992, at the Antietam Post, American Legion Home, Route 34, West, Sharpsburg, Maryland 21782.

The Commission was established by Public Law 91-664 to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Chesapeake and Ohio Canal National Historical Park.

The members of the Commission are as follows:

Mrs. Sheila Rabb Weidenfeld, Chairman, Washington, DC.
Mrs. Dorothy Tappe Grotos, Delaplane, Virginia
Mr. Samuel S.D. Marsh, Bethesda, Maryland
Mr. James F. Scarpelli, Sr., Cumberland, Maryland
Ms. Elise B. Heinz, Arlington, Virginia
Captain Thomas F. Hahn, Shepherdstown, West Virginia
Mr. Rockwood H. Foster, Washington, DC.
Mr. Barry A. Passett, Washington, DC.
Mrs. Jo Reynolds, Potomac, Maryland
Ms. Nancy C. Long, Glen Echo, Maryland
Mrs. Minny Pohlmann, Dickerson, Maryland
Dr. James H. Gilford, Frederick, Maryland
Mr. Edward K. Miller, Hagerstown, Maryland
Mrs. Sue Ann Sullivan, Williamsport, Maryland
Mr. Terry W. Hepburn, Hancock, Maryland
Mr. Robert L. Ebert, Cumberland, Maryland

Matters to be discussed at this meeting include:

1. Superintendent's Report
2. Old & New business
3. Public comments

The meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed. Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact Thomas O. Hobbs, Superintendent, C&O Canal National Historical Park, P.O. Box 4, Sharpsburg, Maryland 21782.

Minutes of the meeting will be available for public inspection six (6) weeks after the meeting at Park Headquarters, Sharpsburg, Maryland.

Dated: February 20, 1992.

Richard E. Powers

Acting Regional Director, National Capital Region.

[FR Doc. 92-4519 Filed 2-26-92, 8:45 am]

BILLING CODE 4310-70-M

Trail of Tears National Historic Trail Advisory Council; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act, Public Law 92-463, that a meeting of the Trail of Tears National Historic Trail Advisory Council will be held April 9-10, 1992, at 8 a.m., at Red Top Mountain State Park, 653 Red Top Mountain Road, SE., Cartersville, Georgia.

The Trail of Tears National Historic Trail Advisory Council was established pursuant to Public Law 100-192 establishing the Trail of Tears National Historic Trail to advise the National Park Service on such issues as preservation of trail routes and features, public use, standards for posting and maintaining trail markers, as well as administrative matters.

The matters to be discussed include:

—Review of Final Draft Comprehensive Management and Use Plan/Environmental Assessment with Map Supplement.
—Review of Public Input to Planning Process
—Plan Implementation
—Logo Design

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come, first-served basis. Any member of the public may file a written statement concerning the matters to be discussed with David Gaines, Trail Administrator.

Persons wishing further information concerning this meeting, or who wish to submit written statements may contact David Gaines, Administrator, Trail of Tears National Historic Trail, National Park Service, Southwest Region, P.O. Box 728, Santa Fe, New Mexico, 87504-0728, telephone 505/988-6888. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of the Administrator, located in room 347, Pinon Building, 1220 South St. Francis Drive, Santa Fe, New Mexico.

Dated: February 18, 1992.

Richard W. Marks,

Deputy Regional Director, Southwest Region.

[FR Doc. 92-4520 Filed 2-26-92; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Notice of Intent To Prepare a New or Supplemental Environmental Impact Statement for Approval of State and Tribal Reclamation Program Grants Under Title IV of the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of intent to prepare an environmental impact statement, notice of a scoping period, and notice of public meetings.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C), the Office of Surface Mining Reclamation and Enforcement (OSM) intends to prepare a new or supplemental environmental impact statement (EIS) for approval of grants which authorize certain construction activities undertaken by States/Tribes using monies from the Abandoned Mine Land Reclamation Fund. These construction activities will be identified by general categories of projects, sharing common, predictable, construction techniques and designs, environmental impacts, and mitigating measures. The EIS will be used to assist OSM in making grant decisions regarding the reclamation of abandoned mine lands (AML). It is intended to facilitate NEPA compliance in the AML grant program.

DATES: *Comment Period*: Written comments regarding the scope of the EIS analysis will be accepted through March 30, 1992 at the location listed below under "**ADDRESSES.**"

Public Meetings: Upon request, OSM will hold public scoping meetings in Pittsburgh, PA on March 19, 1992, and in Denver, CO on March 23, 1992. Both meetings will begin at 1:00 pm local time. OSM will accept requests for public scoping meetings until 4:00 pm Eastern Time on March 16, 1992. Persons wishing to attend should contact the person identified under "**FOR FURTHER INFORMATION CONTACT**" beforehand to verify that the meeting will be held.

ADDRESSES: *Written Comments*: Written comments regarding the scope of the EIS analysis should be mailed or hand delivered to David S. Hamilton, Chief, Operations Branch, Office of Surface Mining, Third Floor, Suite 3C, Harrisburg Transportation Center, 4th and Market Streets, Harrisburg, PA 17101.

Public Scoping Meetings: Public scoping meetings will be held at the following locations only if requested. Office of Surface Mining, Eastern Support Center, second floor conference room, Ten Parkway Center, Pittsburgh, PA 15220; Office of Surface Mining, Western Support Center, second floor conference room, Brooks Towers, 1020 15th Street, Denver, CO 80202.

Requests For Public Scoping Meetings: Submit orally or in writing to the person and address specified under "**FOR FURTHER INFORMATION CONTACT**".

FOR FURTHER INFORMATION CONTACT: David S. Hamilton, Office of Surface Mining, Third Floor, Suite 3C, Harrisburg Transportation Center, 4th and Market Streets, Harrisburg, PA 17101; telephone: 717-782-4036.

SUPPLEMENTARY INFORMATION: The Office of Surface Mining Reclamation and Enforcement administers Public Law 95-87, the Surface Mining Control and Reclamation Act of 1977 (The Act). The Act authorizes OSM to collect a tonnage fee from the mining of coal which is placed in the Abandoned Mine Land Reclamation Fund (Fund). States and Tribes with approved coal mining regulatory programs and abandoned mine reclamation plans receive yearly grants from the Fund to reclaim abandoned mined lands. Since 1981, OSM has been regularly awarding grants to 26 States/Tribes for administration of AML reclamation programs. Through Fiscal Year 1991, approximately 1.2 billion dollars have been awarded from the Fund for reclamation of thousands of acres of eligible abandoned lands and waters.

AML problems are exhibited in several board categories including highwalls, surface and underground burning of coal and coal refuse, surface subsidence, open shafts and portals, sediment clogged streams, landslides, embankments, structures, impoundments, mine discharges, and barren or poorly vegetated lands. AML sites present public health and safety and environmental hazards. In order to facilitate compliance with the requirements of the National Environmental Policy Act (NEPA) in the AML program, OSM prepared OSM-EIS-2 in March of 1980 and OSM-EIS-11 in November of 1983. These environmental impact statements address the AML programmatic aspects of the Act and the impacts of the reclamation proposed in the grant request. However, the preparation of site specific environmental assessments has still been required with each grant approval.

Review of hundreds of AML grant projects on State and Tribal lands across the country has led OSM to conclude that many projects, grouped into the general types discussed above, have virtually the same reclamation descriptions, reclamation design techniques, environmental impacts, and mitigating measures. These projects are implemented consistent with State or Federal Laws, and generally have only local, negligible to moderate short term impacts which are effectively mitigated through standard construction practices.

With the background information now available from the site specific environmental assessment programmatic EIS or supplement to EIS-11 can be prepared which will describe the site conditions, impacts, and mitigating measures of AML project types. This would enable the preparation of environmental assessments in support of grant approvals without requiring a site specific analysis of each project within the grant.

OSM will hold public scoping meetings on the proposed EIS action on request only. The dates and addresses scheduled for the hearings at two locations are specified previously in this notice (see "**DATES**" and "**ADDRESSES**").

Any person interested in participating at a meeting at particular location should inform Mr. Hamilton (see "**FOR FURTHER INFORMATION CONTACT**") either orally or in writing of the desired meeting location by 4 pm Eastern time on March 16, 1992. If no one has contacted Mr. Hamilton to express interest in participating in a meeting at a given location by that date, the meeting will not be held. If only one person expressed an interest, an acceptable alternate meeting arrangement may be made.

OSM is requesting that any interested party submit written comment, and/or attend the public meeting to submit oral statements regarding the scope of the EIS analysis.

Dated: February 21, 1992

Brent Wahlquist,

Assistant Director, Reclamation and Regulatory Policy

[FR Doc. 92-4467 Filed 2-26-92; 8:45 am]

BILLING CODE 4310-05-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-336]

Certain Single In-line Memory Modules and Products Containing Same; Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337 and provisional acceptance of motion for temporary relief.

SUMMARY: Notice is hereby given that a complaint and a motion for temporary relief were filed with the U.S. International Trade Commission on January 17, 1992, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Wang Laboratories, Inc., One Industrial Avenue, Lowell, Massachusetts 01851. Four letters containing revisions to the complaint and motion and containing additional information were filed on January 17, January 21, January 31, and February 18, 1992. A supplement to the complaint was filed on February 11, 1992.

The complaint, as supplemented, alleges violations of subsection (a)(1)(B)(i) of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain single in-line memory modules and products containing same by reason of alleged infringement of claim 1 of U.S. Letters Patent 4,656,605 and claim 1 of U.S. Letters Patent 4,727,513, and that an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337. The complainant requests that the Commission institute an investigation and, after a full investigation, issue a permanent general exclusion order and permanent cease and desist orders.

The motion for temporary relief requests that the Commission issue a temporary general exclusion order and temporary cease and desist orders prohibiting the importation into and the sale within the United States after importation of single in-line memory modules which infringe claim 1 of U.S. Letters Patent 4,727,513 and proposed respondents' products containing same

during the course of the Commission's investigation.

ADDRESSES: The complaint and the motion for temporary relief, except for any confidential information contained therein, are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., room 112, Washington, DC 20436, telephone 202-205-1802. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

FOR FURTHER INFORMATION CONTACT: Steven A. Glazer, Esq., telephone 202-205-2577, or Kent Stevens, Esq., telephone 202-205-2579, Office of Unfair Import Investigations, U.S. International Trade Commission.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in § 210.12 of the Commission's Interim Rules of Practice and Procedure, 19 CFR 210.12. The authority for provisional acceptance of the motion for temporary relief is contained in § 210.24(e) of the Commission's Interim Rules of Practice and Procedure, 19 CFR 210.24(e).

Scope of Investigation

Having considered the complaint and the motion for temporary relief, the U.S. International Trade Commission, on February 20, 1992, *Ordered* That—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B)(i) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain single in-line memory modules or products containing same by reason of infringement of claim 1 of U.S. Letters Patent 4,656,605 or claim 1 of U.S. Letters Patent 4,727,513, and whether an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337.

(2) Pursuant to Rule 210.24(e)(8) of the Commission's Interim Rules of Practice and Procedure, 19 CFR 210.24(e)(8), the motion for temporary relief under subsection (e) of section 337, which was filed with the complaint, be provisionally accepted and be referred to an administrative law judge.

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

Wang Laboratories, Inc., One Industrial Avenue, Lowell, Massachusetts 01851.

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint and motion for temporary relief are to be served:

Fujitsu Ltd., 6-1, Marunouchi 1-chome, Chiyoda-ku, Tokyo 100, Japan.
Fujitsu Microelectronics, Inc., 3545 North First Street, San Jose, California 95134-1804.
Hitachi Ltd., 5-1, Marunouchi 1-chome, Chiyoda-ku, Tokyo 100, Japan.
Hitachi America, Ltd., 50 Prospect Avenue, Tarrytown, New York 10391.
Intel Corporation, 3065 Bowers Avenue, Santa Clara, California 95101.
Matsushita Electric Industrial Co., Ltd., 1006 Kadoma, Osaka, Japan.
Matsushita Electric Corporation of America, One Panasonic Way, Secaucus, New Jersey 07094.
Mitsubishi Electric Corporation, 2-2-3 Marunouchi, Chiyora-Ku, Tokyo 100, Japan.
Mitsubishi Electronics America, Inc., 5665 Plaza Drive, Cypress, California 90630.
NMB Semiconductor Co., Ltd., 1580 Yamamoto, Tateyama-shi, Chica 294, Japan.
NMB Technologies, Inc., 9730 Independence Avenue, Chatsworth, California 91311.
Oki Electric Industry Co., Ltd., Shuwa No. 2 Kamiya-cho Bldg., 7-12 Toranomon 1-chome, Minato-ku, Tokyo 105, Japan.
Oki America, Inc., Three University Plaza, Hackensack, New Jersey 07601.

(c) Steven A. Glazer, Esq., and Kent Stevens, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., suite 401, Washington, DC 20436, who shall be the Commission investigative attorneys, party to this investigation; and

(4) For the investigation and temporary relief proceedings so instituted, Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding administrative law judge.

Responses to the complaint, the motion for temporary relief and the notice of investigation must be submitted by the named respondents in accordance with §§ 210.21 and 210.24 of the Commission's Interim Rules of Practice and Procedure, 19 CFR 210.21, 210.24. Pursuant to §§ 201.16(d), 210.21(a), and 210.24(e)(9) of the Commission's Rules, 19 CFR 201.16(d), 210.21(a), 210.24(e)(9), such responses will be considered by the Commission if received not later than ten (10) days after the date of service by the Commission of the complaint, the motion for temporary relief, and the notice of investigation. Extensions of time for submitting responses to the complaint, the motion for temporary relief, and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint, in the motion for temporary relief, and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint, the motion for temporary relief, and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint, motion for temporary relief, and this notice, and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against such respondent.

Issued: February 20, 1992.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 92-4428 Filed 2-26-92; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32012]

Lake State Railway Co.—Lease and Operation Exemption—Detroit and Mackinac Railway Co.

Lake State Railway Company (Lake State) has filed a verified notice to exempt its lease (or acceptance of assignment of operating rights) and operation of about 275 miles of rail line owned by Detroit and Mackinac Railway Company (D&M) between Kawkawlin and Gaylord, MI, and between Pinconning and Rogers City, MI. The exemption became effective February 18, 1992, 7 days after the verified notice was filed.[1]

The lines being leased include: The Pinconning Subdivision, between mileposts 5.0± and 11; the Mackinac Subdivision, between milepost 116 and the end of the line at milepost 122; and the Huron Subdivision, between mileposts 16± and 151.25, including the

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[1] According to the verified notice, the transaction was to have been consummated "on or about" February 17, 1992. Consummation may not occur, however, before the exemption's effective date. 49 CFR 1150.32(b).

Pinconning crossover, the Rogers City Branch (between mileposts 0.0 and 11), the Hillman Branch, and the Alabaster Branch. As part of the transaction, D&M is assigning its agreement with the Michigan Department of Transportation for operating rights on the Mackinac Subdivision (division III), between mileposts 11 and 116 (Sallings).

This transaction is related to a verified notice filed concurrently in Finance Docket No. 32018, Lake State Railway Company—Trackage Rights Exemption—Central Michigan Railway Company, to exempt Central Michigan Railway Company's grant of overhead trackage rights to Lake State between milepost 1.6, at Bay City, MI, and milepost 57.6, at Kawkawlin.

Any comments must be filed with the Commission and served on: Phillip B. Maxwell, Hackett & Maxwell, P.C., 35 W. Huron St., suite 902, Pontiac, MI 48342.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: February 21, 1992.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92–4482 Filed 2–26–92; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 32018]

Lake State Railway Co.—Trackage Rights Exemption—Central Michigan Railway Co.

Central Michigan Railway Company (CMR) has agreed to grant overhead trackage rights to Lake State Railway Company (Lake State) between milepost 1.6, at Bay City, MI, and milepost 57.6, at Kawkawlin, MI. Lake State will use the line to bridge unconnected segments of its line and to interchange with CMR at CMR's Wenona Yard and with CSX Transportation, Inc., at the North Bay City Yard, which Lake State operates. The exemption became effective February 18, 1992, 7 days after the verified notice was filed.[1]

This transaction is related to a verified notice filed concurrently in Finance Docket No. 32012, Lake State Railway Company—Lease and Operation Exemption—Detroit and Mackinac Railway Company, to exempt Lake State's lease and operation of about 275 miles of Detroit and Mackinac Railway Company line between Kawkawlin and Gaylord, MI, and between Pinconning and Rogers City, MI.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Phillip B. Maxwell, Hackett & Maxwell, P.C., 35 W. Huron, suite 902, Pontiac, MI 48342.

As a condition to the use of this exemption, any employees adversely affected by the trackage rights will be protected under Norfolk and Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980).

Decided: February 21, 1992.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92–4483 Filed 2–26–92; 8:45 am]

BILLING CODE 7035-01-M

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[1] According to the verified notice, the transaction was to have been consummated on or before February 17, 1992. Consummation may not occur, however, before the exemption's effective date. To qualify for the class exemption at 49 CFR 1180.2(d)(7), a railroad must file a verified notice of the transaction at least 1 week before the transaction is consummated. 49 CFR 1180.4(g)(1).

[Docket No. AB–174 (Sub-No. 3X)]

The Central Vermont Railway, Inc.—Abandonment Exemption—in Franklin County, VT

Applicant has filed a notice of exemption under 49 CFR 1151 subpart F—Exempt Abandonment to abandon its 17.4-mile line of railroad, as redescribed [1], between milepost 10.0, at Sheldon Junction, and milepost 27.4, at Richford, in Franklin County, VT.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on March 28, 1992 (unless stayed). Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by March 9, 1992.[4] Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by March 18, 1992, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Charles A. Spitulnik, 888 16th Street, NW., suite 700, Washington, DC 20006.

If the notice of exemption contains tales or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by March 3, 1992. Interested persons may obtain a copy of the EA from SEE by writing to it (room 3219), Interstate Commerce Commission,

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[1] Applicant in its verified notice describes the line to be abandoned as "between mileposts 9.96 and 27.4". We have redescribed the line because the Commission already has exempted a small portion (between mileposts 0.8 and 10.0) of the line in a prior decision. *See* Docket No. AB–174 (Sub-No. 2X) the Central Vermont Railway, Inc.—Abandonment Exemption—In Franklin County, VT, served February 6, 1990.

[2] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[3] See Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

[4] The Commission will accept a late-filed trail use statement as long as it retains jurisdiction to do so.

Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 927-6248. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: February 20, 1992.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-4481 Filed 2-26-92; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Massachusetts Allergy Society, Inc.; et al.

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)-(h), that an Amended Competitive Impact Statement has been filed with the United States District Court for the District of Massachusetts, in *United States of America* v. *Massachusetts Allergy Society, Inc., et al.*, Civil No. 92-10273H.

The Complaint in this case alleges that defendants unreasonably restrained trade in violation of Section 1 of the Sherman Act, 15 U.S.C. 1, by conspiring to fix and raise the fees paid for allergy services by certain health maintenance organizations ("HMOs") in Massachusetts. The Complaint alleges that defendants and their co-conspirators combined and conspired to, among other things, agree to have the Massachusetts Allergy Society, Inc. ("MAS") act as their joint negotiating agent to obtain higher fees from certain HMOs for allergy services and to resist competitive pressures to discount fees, and also to develop and adopt a fee schedule to be used by MAS in negotiating higher fees on their behalf from certain HMOs.

The proposed Final Judgment prohibits MAS from entering into, negotiating, or attempting to enter into any agreement or understanding concerning any fee regarding any allergy or allergy-related service, either on its own behalf or as a representative of any physician, with any third-party payer; and also enjoins MAS from advocating or recommending that any physician withdraw from or refuse to enter into an agreement with any third-party payer. The proposed Final Judgment also provides that the Court may impose a civil fine upon MAS for violating these prohibitions without any showing of willfulness or intent and requires MAS to institute a stringent antitrust compliance program.

The consenting individual physician defendants are similarly enjoined from discussing with or submitting to any third-party payer any fee regarding any allergy or allergy-related service on behalf of MAS or, except in very limited circumstances, as an agent for any other physician, and must submit annual written certifications regarding compliance with the Final Judgment.

Public comment on the proposed Final Judgment is invited within the statutory 60-day comment period. Such comments and responses thereto will be published in the **Federal Register** and filed with the Court. Comments should be directed to Robert E. Bloch, Chief, Professions and Intellectual Property Section, U.S. Department of Justice, Antitrust Division, 555 4th Street, NW., room 9903, Judiciary Center Building, Washington, DC 20001 (202/307-0467).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

Amended Competitive Impact Statement

United States of America, Plaintiff, v. *Massachusetts Allergy Society, Inc.; Wilfred N. Beaucher; Jack E. Farnham; Bernard A. Berman; and Irving W. Bailit*, Defendants. Civil Action No.: 92-10273H; Judge Harrington.

Filed: 2/18/92.

Pursuant to section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)-(h), the United States submits this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

On February 3, 1992, the United States filed a civil antitrust Complaint alleging that the defendants named above and their co-conspirators conspired unreasonably to fix and raise the fees paid for allergy services by certain health maintenance organizations ("HMOs") in Massachusetts in violation of Section 1 of the Sherman Act, 15 U.S.C. 1.

The Complaint alleges that, beginning at least as early as October 1984 and continuing at least until the date of the Complaint, defendants and their co-conspirators violated Section 1 of the Sherman Act, 15 U.S.C. 1, by agreeing to have defendant Massachusetts Allergy Society, Inc. ("MAS") act as their joint negotiating agent to obtain higher fees from certain HMOs for allergy services and to resist competitive pressures to discount fees, and to develop and adopt a fee schedule to be used by defendant MAS in negotiating higher fees on their behalf from certain HMOs. According to the Complaint, the effects of the conspiracy have been to unreasonably restrain price competition among defendants for the sale of their services to certain HMOs in Massachusetts, to artificially increase fees for allergy services provided to members of certain HMOs in Massachusetts, and to deprive certain HMOs in Massachusetts of the benefit of free and open competition in the sale of allergy services.

The relief sought in the Complaint is to enjoin defendants for a period of 10 years from continuing or renewing the conspiracy or from engaging in any other conspiracy or arrangement having a similar purpose or effect. The Complaint also seeks to require MAS to institute a compliance program to ensure that MAS does not enter into or participate in any plan, program or other arrangement having the purpose or effect of continuing or renewing the conspiracy.

Entry of the proposed Final Judgment will terminate the action with respect to the consenting defendants, except that the Court will retain jurisdiction over the matter for further proceedings which may be required to interpret, enforce or modify the Judgment, or to punish violations of any of its provisions.

II. Description of the Practices Involved in the Alleged Violation

At trial, the Government would have contended the following:

1. An HMO is an entity that, for a set premium, provides comprehensive health care services to its members through designated providers who contract with the HMO.

2. In 1988, approximately 20 HMOs provided health care services to approximately 1.3 million people in Massachusetts.

3. HMOs in Massachusetts often provide allergy services to their members by contracting with independent, private practice physicians who specialize in the treatment of allergies ("allergists"). HMOs typically pay these allergists according to fee schedules set by the HMO. These fee schedules frequently represent a discount from the physicians' usual charges.

4. MAS was founded in 1977 and is not a not-for-profit membership corporation organized and existing under the laws of the Commonwealth of Massachusetts. MAS is a professional association of about 55 allergists. Most of the allergists practicing in Massachusetts are members of MAS

and compete with each other for both private-pay patients and the opportunity to provide service to HMO members.

5. Wilfred N. Beaucher, M.D. ("Beaucher") is an allergist licensed to practice medicine in Massachusetts and is in private practice. Beaucher since October 1984 has been the official MAS representative to negotiate fees with HMOs and served as Chairman of the MAS HMO Liaison Committee from its inception in September 1986.

6. Jack E. Farnham, M.D. ("Farnham") is an allergist licensed to practice medicine in Massachusetts and is in private practice. Farnham was Secretary-Treasurer of MAS from June 1984 to June 1986 and President of MAS from June 1986 to June 1988. Farnham served as an ex-officio member of the MAS HMO Liaison Committee from September 1986 until at least June 1988.

7. Bernard A. Berman, M.D. ("Berman") is an allergist licensed to practice medicine in Massachusetts and is in private practice. Berman is a founder of MAS and served as a member of the MAS HMO Liaison Committee from its inception in September 1986.

8. Irving W. Bailit, M.D. ("Bailit") is an allergist and is licensed to practice medicine in Massachusetts. Bailit is a former president of MAS and served as a member of the MAS HMO Liaison Committee from its inception in September 1986.

9. Defendants Beaucher, Farnham, Berman, and Bailit each provide allergy services to members of one or more HMOs in Massachusetts.

10. Beginning at least as early as October 1984, defendants and some other MAS members agreed to use MAS as a joint negotiating agent to obtain higher fees from certain HMOs for allergy services and resist competitive pressures to discount fees.

11. On or about October 2, 1984, Beaucher was appointed as the official representative of MAS to negotiate higher fees from HMOs for allergy services on behalf of the individual defendants and other MAS members, and on subsequent dates Beaucher's appointment was reconfirmed.

12. On or about September 16, 1986, the MAS HMO Liaison Committee was created and Berman, Bailit and another allergist were appointed to that Committee to assist Beaucher in negotiating higher fees from certain HMOs for allergy services.

13. On or before December 3, 1986, Defendants and some other MAS members agreed to develop and use a fee schedule in negotiating higher fees from certain HMOs for allergy services and agreed that MAS members would take a uniform position on the prices to be sought from these HMOs.

14. On or about December 31, 1986, MAS submitted a fee schedule to an HMO on behalf of MAS for the purpose of negotiating higher fees for allergy services from that HMO for the individual defendants and other MAS members.

15. On or about May 29, 1987, Beaucher submitted a revised fee schedule to the same HMO on behalf of MAS and pressured the HMO to raise its allergy fees to the level specified in the schedule.

16. On or before August 6, 1987, MAS agreed with that HMO on the fees to be paid by the HMO for allergy services.

17. On or about August 19, 1987, Berman submitted a fee schedule, on behalf of MAS; to another HMO for the purpose of negotiating higher fees for allergy services from that HMO.

III. Explanation of the Proposed Final Judgment

The United States and defendants have stipulated that the Court may enter the proposed Final Judgment after compliance with the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)-(h). The proposed Final Judgment provides that its entry does not constitute any evidence against or admission by either party with respect to any issue of fact or law.

Under the provisions of section 2(e), the proposed Final Judgment may not be entered unless the Court finds that entry is in the public interest. Section XVIII of the proposed Final Judgment sets forth such a finding.

The proposed Final Judgment is intended to ensure that defendant MAS does not act for and is not used by allergists as a joint negotiating agent on fees with any HMO.

A. Prohibitions and Obligations

Under Section IV(A) of the proposed Final Judgment, MAS is enjoined from entering into, negotiating, or attempting to enter into any agreement or understanding concerning any fee, either on its own behalf or as a representative of any physician, with any third party payer. "Fee" is defined in Section II of the Final Judgment as "any proposed, suggested, recommended, or actual charge, capitation rate, reimbursement rate, relative value conversion factor, relative value unit, or price term or condition for any allergy or allergy-related service or any methodology for determining or computing any of the foregoing." "Third party payer" is defined in Section II of the Final Judgment as "any person or entity that reimburses for, purchases, or pays for health care services provided to any other person and includes, but is not limited to, health maintenance organizations, preferred provider organizations, health insurance companies, prepaid hospital, medical, or other health service plans such as Blue Shield and Blue Cross plans, government health benefits programs, administrators of self-insured health benefits programs, and employers or other entities providing self-insured health benefits programs."

Section IV(B) enjoins MAS from providing recommendations to any physician on the desirability or appropriateness of any fee paid or to be paid by any third party payer. Section IV(B) states, however, that (1) nothing in Section IV(B) prohibits MAS from engaging in the conduct permitted by Section IV(C), and (2) nothing in the Final Judgment prohibits MAS when requested by a third party payer or patient from participating in peer review of fees charged by individual physicians in individual cases. "Peer review" is defined in Section II of the Final Judgment as "an examination of a physician's charges in a particular case and an assessment of whether those charges were excessive."

Section IV(C) enjoins MAS from developing, adopting or distributing any fee schedule or relative value scale for any use with any third party payer, including use in negotiating or attempting to enter into an agreement or understanding with a third party payer, with one exception. Under the Final Judgment, MAS may suggest or provide a fee schedule or relative value scale to a third party payer solely for informational purposes if (a) the third party payer initiates in writing a specific request to MAS for that information, and (b) MAS, at the time of transmitting the fee schedule or relative value scale to the third party payer, expressly states in writing that the payer is not required to accept or adopt the fee schedule or relative value scale. "Fee schedule" is defined in Section II of the Final Judgment a "any list of physician services showing a fee, range of fees, or methodology for determining or computing fees for such services." "Relative value scale" is defined in Section II of the Final Judgment as "any list or compilation of medical services or procedures that sets comparative values for such procedures or services whether or not those values are expressed in or convertible to monetary terms." Section IV(C) further states that nothing in the Final Judgment prohibits MAS from considering or developing any other type of fee information for use by a third party payer, or from actually suggesting or providing such fee information to a third party payer provided MAS, at the time of the transmission, expressly states that the payer is not required to accept or adopt the information.

Under Section IV(D), MAS is enjoined from advocating or recommending that any physician withdraw from or refuse to enter into, or threaten to withdraw from or refuse to enter into, any actual or proposed agreement with any third party payer. MAS is also prohibited under Section IV(E) from communicating to any third party payer that any physician will or may withdraw from or refuse to enter into any actual or proposed agreement with any third party payer if any term or condition is not acceptable to MAS or to any physician.

Under Section V, each individual defendant is enjoined, except as provided in Section VI, from (1) discussing any fee with or submitting any fee to any third party payer on behalf of MAS or as an agent for any other physician; (2) agreeing or attempting to agree with MAS or any other physician on any fee; and (3) agreeing or attempting to agree with MAS or any other physician to withdraw from or refuse to enter into, or threaten to withdraw from or refuse to enter into, any actual or proposed agreement with any third party payer.

Section VI provides that nothing in the Final Judgment prohibits an individual defendant from continuing to be or becoming a member or employee of partnership, professional corporation, or other bona fide group practice, or, on behalf of any such entity, from negotiating any fee or withdrawing from or refusing to enter into or stating an intention to withdraw from or refuse to enter into any actual or proposed agreement with any third party payer. Section VI also provides that nothing in the Final Judgment prohibits an individual defendant from continuing to be or becoming a member of an integrated joint venture before or after the entry of the Final Judgment so long as the integrated joint venture in no way discourages or prohibits any participating physician from negotiating or contracting independently with any third party payer. "Integrated joint venture" is defined in Section II of the Final Judgment as "a joint arrangement to provide prepaid health care services in which physicians who would otherwise be competitors pool their capital to finance the venture, by themselves or together with others, and share substantial risk of adverse financial results caused by unexpectedly high utilization or costs of health care services." Under Section VI, an individual defendant must promptly inform plaintiff of the name and address of any integrated joint venture he joins after the entry of this Final Judgment.

Section VII provides that nothing in the Final Judgment prohibits any defendant acting either alone or with others from exercising rights permitted under the First Amendment to the United States Constitution to petition any federal or state government executive agency, legislative body or other governmental agency concerning legislation, rules, or procedures, or to participate in any federal or state administrative or judicial proceeding.

Section VIII provides that each individual defendant is enjoined from holding any office in MAS for the next five years or serving on any committee of MAS that provides any information on fees to third party payers.

Section IX requires MAS to maintain an antitrust compliance program. Section IX provides that this program at a minimum shall include (1) establishing, adopting, and maintaining a written statement setting forth the policy of MAS regarding compliance with the antitrust laws and this Final Judgment; (2) distributing by certified mail, return receipt requested, within 60 days from the entry of this Final Judgment, a copy of this policy statement and the Final Judgment, Complaint, and Competitive Impact Statement in this matter to each member of MAS; (3) providing a copy of the policy statement and the Final Judgment, Complaint, and Competitive Impact Statement in this matter to each person joining MAS within 60 days of that person joining MAS; (4) holding a briefing annually at a general membership meeting on the meaning and requirements of the Final Judgment and the antitrust laws; (5) obtaining from each MAS officer and Executive Committee member an annual written certification that he or she (a) has read, understands, and agrees to abide by the terms of the Final Judgment, (b) has been advised and understands that noncompliance with the Final Judgment may result in his or her conviction for criminal contempt of court and imprisonment and/or fine, and (c) is not aware of any violation of the Final Judgment; (6) maintaining for inspection by plaintiff a record of recipients to whom the Final Judgment has been distributed and from whom the required certification has been obtained; and (7) conducting an audit of its activities within 60 days from the entry of the Final Judgment and periodically thereafter while the Final Judgment remains in effect, to determine compliance with the Final Judgment.

Section X requires each individual defendant to distribute a copy of the Final Judgment to each physician in, and the business and office managers of, their respective practices within 10 days of the entry of the Final Judgment. Section X also requires each individual defendant to distribute a copy of the Final Judgment to any physician who joins their respective practices or to any person who becomes the business or office manager of their respective practices within 10 days of that person joining or becoming employed by the practice.

Section XI required various certifications of defendants. Section XI requires MAS to certify to plaintiff within 75 days after the entry of the Final Judgment that MAS has established and adopted a written antitrust compliance policy and provide a copy thereof to plaintiff; and that MAS has made the distribution of the policy statement and Final Judgment, Complaint, and Competitive Impact Statement in this matter as required by Sections IX(A)–(B) of the Final Judgment. Under Section XI, MAS must also certify annually to plaintiff whether MAS has complied with the provisions of Sections IX(C)–(G). Section XI also requires each individual defendant to certify annually using the form attached to the Final Judgment that defendant has read the Final Judgment and understands it and has complied with Section X of the Final Judgment.

Section XII of the proposed Final Judgment provides that the Court may, after notice and hearing, impose upon MAS a civil fine for violating Section IV of the Final Judgment without there having to be any showing of willfulness or intent. Section XIII of the proposed Final Judgment provides that, in addition to or in lieu of the civil penalties provided for in Section XII of the Final Judgment, the United States may seek and the Court may impose against any defendant or any person any other relief allowed by law for violation of the Final Judgment.

Section XVI requires defendants to provide various notifications to plaintiff. Under Section XVI, MAS must notify plaintiff at least 30 days before any proposed change in its legal structure such as dissolution, reorganization, or merger resulting in the creation of a successor corporation or association, or any other change which may affect compliance with the Final Judgment. Section XVI also requires each individual defendant to notify, in writing, plaintiff not later than 15 days after the retirement of his license to practice medicine or his assumption of inactive status, and to provide plaintiff with evidence of such retirement or assumption of inactive status. In the event that the retiring or inactive individual defendant subsequently seeks reinstatement of his license or resumes active status, Section XVI requires him to notify plaintiff, in writing, not later than 15 days after such reinstatement or resumption of active status.

B. Scope of the Proposed Final Judgment

The Final Judgment applies to MAS and to each of its officers, committee members, agents, employees, successors, and assigns, to each individual defendant until the retirement of his license to practice medicine or the assumption of inactive status as provided in 243 CMR 2.06(3) and 243 CMR 2.07(7) and during any subsequent period of reinstatement of his license or resumption of active practice, and to each of their agents and employees, and to all other persons acting in concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

Section XVII of the proposed Final Judgment provides that the Final Judgment shall remain in effect for 10 years.

C. Effect of the Proposed Judgment on Competition

The relief in the proposed Final Judgment is designed to ensure that MAS does not act for and is not used by allergists as a joint negotiating agent on fees with any HMO. The relief is also designed to ensure that the individual defendants do not negotiate fees on behalf of MAS or, except in very limited circumstances, as an agent for any other physician with any third party payer.

Three separate methods for determining compliance with the terms of the Final Judgment are provided. First, Section XI(A) requires MAS to certify to the Department of Justice within 75 days after the Final Judgment is entered that MAS has established and adopted a written antitrust compliance policy, provided a copy to plaintiff, and made the required distribution of the statement and Complaint and Competitive Impact Statement under Sections IX(A)–(B) of the Final Judgment. Section XI(B) requires MAS to certify annually to the Department of Justice that it has made the various distributions, held the briefings, obtained the certifications, maintained the records, and conducted the audits required by Sections IX(C)–(G) of the Final Judgment. Section XI(C) requires each individual defendant to certify annually using the form attached to the Final Judgment that he has read the Final Judgment and understands it and has complied with Section X of the Final Judgment.

Second, Section XIV(A) provides that, upon reasonable notice, the Department of Justice shall be given access to any records of a defendant and be permitted to interview any officers, employees, or agents of such defendant.

Finally, Section XIV(B) provides that, upon written request, the Department of Justice may require a defendant to submit written reports, under oath if asked, about any matters relating to the Final Judgment as may be requested.

The Department of Justice believes that this proposed Final Judgment contains adequate provisions to prevent further violations of the type upon which the Complaint is based and to remedy the effects of the alleged conspiracy.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages suffered, as well as costs and reasonable attorney's fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of such actions. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the judgment has no *prima facie* effect in any subsequent lawsuits that may be brought against defendants in this matter.

V. Procedures Available for Modification of the Proposed Final Judgment

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed Final Judgment should be modified may submit written comments to Robert E. Bloch, Chief, Professions and Intellectual Property Section, Antitrust Division, U.S. Department of Justice, 555 Fourth Street NW., Washington, DC 20001, within the 60-day period provided by the Act. These comments, and the Department's responses, will be filed with the Court and published in the **Federal Register**. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed judgment at any time prior to entry. Section XV of the proposed Final Judgment provides that the Court retains jurisdiction over this section, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. Alternative to the Proposed Final Judgment

The alternative to the proposed Final Judgment would be a full trial of the case with the respect to the consenting defendants. In the view of the Department of Justice, such a trial would involve substantial cost to the United States and is not warranted since the proposed Final Judgment provides all the relief that the United States sought in its Complaint.

VII. Determinative Materials and Documents

No materials and documents of the type described in Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b), were considered in formulating the proposal Final Judgment.

Dated: February 14, 1992.

Respectfully submitted,

Edward D. Eliasberg, Jr.

Seymour H. Dussman

James F. Shalleck

Karen L. Gable

Attorneys, U.S. Department of Justice, Antitrust Division, 555 Fourth Street, N.W., Washington, DC 20001, Telephone: (202) 307–0808

Certificate of Service

I, James F. Shalleck, hereby certify that a copy of the Amended Competitive Impact Statement in *United States* v. *Massachusetts Allergy Society, Inc., et al.* was served on the 14th day of February 1992, first class mail, to counsel as follows:

Daniel L. Goldberg, Esquire, Bingham, Dana & Gould, 150 Federal Street, Boston, Massachusetts 02110.

Phillip A. Proger, Esquire, Jones, Day Reavis & Pogue, 1450 G Street, NW., Washington, DC 20005.

Elliot D. Lobel, Esquire, Peckham, Lobel, Casey, Prince & Tyne, 585 Commercial Street, Boston, Massachusetts 02109–2024.

Mitchell Rogovin, Esquire, Donovan Leisure, Rogovin, Huge & Schiller, 1250 Twenty-Fourth Street, NW., Washington, DC 20037–1124.

Robert M. Buchanan, Esquire, Sullivan & Worcester, One Post Office Square, Boston, Massachusetts 02109.

James F. Shalleck.

[FR Doc. 92–4424 Filed 2–26–92; 8:45 am]

BILLING CODE 4410–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Media Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Media Arts Advisory Panel (Arts on Radio Section) to the National Council on the Arts will be held on March 19, 1992 from 9 a.m.–5:30 p.m. in room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

Portions of this meeting will be open to the public from 9 a.m.–9:30 a.m. and 5 p.m.–5:30 p.m. The topics will be introductory remarks and guidelines review.

The remaining portion of this meeting from 9:30 a.m.–5 p.m. is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 21, 1991, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC, 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC, 20506, or call (202) 682–5433.

Dated: February 20, 1992.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 92–4433 Filed 2–26–92; 8:45 am]

BILLING CODE 7537-01-M

Media Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Media Arts Advisory Panel (Radio/Audio Projects Section) to the National Council on the Arts will be held on March 17, 1992 from 9 a.m.—6:30 p.m. and March 18 from 9 a.m.—5:00 p.m. in room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC, 20506.

Portions of this meeting will be open to the public on March 17 from 9 a.m.—9:30 a.m. and March 18 from 5 p.m.—5:30 p.m. The topics will be introductory remarks and guidelines review.

The remaining portions of this meeting on March 17 from 9:30 a.m.—6:30 p.m. and March 18 from 9 a.m.—5 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC, 20506, or call (202) 682–5433.

Dated: February 20, 1992.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 92–4434 Filed 2–26–92; 8:45 am]

BILLING CODE 7537-01-M

Theater Advisory Panel to the National Council on the Arts; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Theater Advisory Panel (Professional Theater Companies "A" Section) to the National Council on the Arts will be held on March 16, 1992 from 9:30 a.m.–8:30 p.m., March 17–18 from 9:30 a.m.–9:30 p.m. and March 19 from 9:30 a.m.–6 p.m. in room 714 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on March 16 from 9:30 a.m.–10:30 a.m. The topics will be opening remarks and panelist orientation.

The remaining portions of this meeting on March 16 from 10:30 a.m.–8:30 p.m., March 17–18 from 9:30 a.m.–9:30 p.m. and March 19 from 9:30 a.m.–6 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at east seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: February 21, 1992.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 92-4536 Filed 2-26-92; 8:45 am]

BILLING CODE 7537-01-M

Theater Advisory Panel to the National Council on the Arts; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Theater Advisory Panel (Professional Theater Companies "B" Section) to the National Council on the Arts will be held on March 24, 1992 from 9:30 a.m.-8:30 p.m., March 25-26 from 9:30 a.m.-9:30 p.m. and March 27 from 9:30 a.m.-6 p.m. in room 714 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on March 24 from 9:30 a.m.-11 a.m. The topics will be opening remarks and panelist orientation.

The remaining portions of this meeting on March 24 from 11 a.m.-8:30 p.m., March 25-26 from 9:30 a.m.-9:30 p.m. and March 27 from 9:30 a.m.-6 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodation due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: February 21, 1992.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 92-4537 Filed 2-26-92; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Computer and Computation Research; Meeting

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review and evaluate proposals and provide advice and recommendations as part of the selection process for awards. Because the proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meetings are closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Name: Special Emphasis Panel in Computer & Computation Research.

Date: March 18-19, 1992.

Time: 8:30 a.m-5 pm.

Place: St. James Hotel, 950 24th Street, NW., Washington, DC 20037.

Type of Meeting: Closed.

Agenda: Review and evaluate Research Initiation Awards proposals.

Contact: Dr. Bruce H. Barnes, Acting Division Director, Computer and Computation Research, National Science Foundation, rm. 304, Washington, DC 20550 (202-357-9747).

Dated: February 24, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-4466 Filed 2-26-92; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Materials Research; Meeting

Name: Special Emphasis Panel in Materials Research.

Type of Meeting: Closed.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Purpose of Meeting: To provide advice and recommendations concerning support for DMR 1992 NYI Awards Program.

Contact: Dr. Robert J. Reynik, Head, Office of Special Programs, Division of Materials Research, room 408, National Science Foundation, Washington, DC 20550. Telephone (202) 357-9791.

Place: National Science Foundation, 1800 G Street, Northwest, Washington, DC 20550.

Meeting Dates and time	Proposal area	Room
Mar 16-17, 1992 8:30 a.m. to 5 p.m.	Metals, ceramics, electronic materials.	411
Mar. 25-26, 1992 8:30 a.m. to 5 p.m.	Solid state chemistry and polymers.	411
Mar. 30-31, 1992 8:30 a.m. to 5 p.m.	Condensed matter physics.	411
Mar. 30-31, 1992 8:30 a.m. to 5 p.m.	Materials theory	417C

Dated: February 24, 1992.

M. Rebecca Winkler,

Committee Management Office.

[FR Doc. 92-4468 Filed 2-26-92; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Microelectronic Information Processing Systems

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Microelectronic Information Processing Systems.

Date and Time: March 16, 1992, 8:30 a.m.-5 p.m.

Place: National Science Foundation, 1800 G Street, NW., Washington, DC 20550, Conference Rooms: 523, 540B, 1242, 1243.

Type of Meeting: Closed.

Contact Person: Dr. John R. Lehmann, Deputy Division Director, Microelectronic Information Processing Systems, National Science Foundation, room 414, Telephone No.: 202-357-7853.

Purpose of Meeting: To provide advice and recommendations as part of the selection process for awards.

Agenda: Proposals to be reviewed and evaluated are the FY 92 Research Initiation Award (RIA) proposals. These proposals are in the Microelectronic

Information Processing Systems area of research.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b.(c)(4) and (6) of the Government in the Sunshine Act.

Dated: February 24, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-4467 Filed 2-26-92; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-461]

Illinois Power Co., et al.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-62, issued to Illinois Power Company and Dairyland Power Cooperative Inc. (the licensee), for operation of the Clinton Power Station, Unit No. 1, located in DeWitt County, Illinois.

Environmental Assessment

Identification of Proposed Action

The proposed amendment would revise Technical Specification (TS) section 3.3.4.1 to allow use of the Clinton Power Station (CPS) Anticipated Transient Without Scram Recirculation Pump Trip (ATWS-RPT) system test switches during operational condition ' (RUN MODE) and to extend the out-of-service time for one channel from 48 hours to 72 hours.

The proposed action is in accordance with the licensee's application for amendment dated December 17, 1990, as supplemented by letter dated December 17, 1991.

The Need for the Proposed Action

The proposed change to the TS is required in order to make the CPS TS consistent with other BWR-6 plants. The proposed TS change is in compliance with 10 CFR 50.62. The current TS do not allow having more than one channel in a trip system inoperable. The ATWS-RPT test switch design renders both channels in a trip system inoperable. The proposed TS change will allow greater flexibility for maintenance and surveillance activities on the ATWS-RPT system.

Environmental Impacts of the Proposed Action

The ATWS-RPT instrumentation is nonsafety related. It is used to limit the consequences of a failure to scram during an anticipated transient. The proposed changes do not result in any changes to the plant design, operation, or the setpoints of the ATWS-RPT instrumentation, and do not increase the probability or consequences of an accident. No changes are being made in the types of any effluent that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that this proposed action would result in no significant radiological environmental impact.

With regard to potential nonradiological impacts, the proposed change to the TS does not affect nonradiological plant effluent and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed amendment.

Alternative to the Proposed Action

Since the Commission concludes that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statements for the Clinton Power Station, Unit No. 1, dated May 1982.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

Based upon this environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed license amendment.

For further details with respect to this action, see the request for amendment dated December 17, 1990 and revised December 17, 1991, and the Final Environmental Statement for the Clinton Power Station dated May 1982, which are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC and at the Vespasian Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Dated at Rockville, Maryland, this 20th day of February 1992.

For the Nuclear Regulatory Commission.

Leonard N. Olshan,

Acting Director, Project Directorate III-3, Division of Reactor Projects III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 92-4508 Filed 2-26-92; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on Planning and Procedures; Meeting

A portion of the ACRS Subcommittee meeting on Planning and Procedures scheduled for Wednesday, March 4, 1992, 3 p.m., room P-422, 7920 Norfolk Avenue, Bethesda, MD, will be closed as necessary to discuss the qualifications of candidates proposed for appointment as members of the Committee. This session will be closed to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy per 5 U.S.C. 552b(c)(6). All other items pertaining to this meeting remain the same as published previously in the **Federal Register** on Thursday, February 20, 1992 (57 FR 6132).

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Official, Mr. Raymond F. Fraley (telephone 301/492-4516) between 7:30 a.m. and 4:15 p.m., EST. Persons planning to attend this meeting are urged to contact the above-named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: February 21, 1992.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 92-4505 Filed 2-26-92; 8:45 am]

BILLING CODE 7590-01-M

Draft Report on Estimate of Radionuclide Release Characteristics Into Containment Under Severe Accident Conditions

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability for comment of DRAFT NUREG/CR-5747, "Estimate of Radionuclide Release Characteristics into Containment Under Severe Accident Conditions".

SUMMARY: This notice announces the availability for comment of draft NUREG/CR-5747, "Estimate of Radionuclide Release Characteristics into Containment Under Severe Accident Conditions." The information in this report will be considered by the NRC staff in the formulation of updated accident source terms for LWR reactors to replace those given in report TID-14844. These source terms are used in the licensing of nuclear power plants to assure adequate protection for the public health and safety.

Any interested party may submit comments on this report for consideration by the staff. To be certain of consideration, comments must be received within 45 days of the date of this Federal Register notice and should be sent to the contact indicated below. Comments received after this date will be considered to the extent practical.

A copy of draft NUREG/CR-5747 has been placed in the NRC Public Document Room, Gelman Building, 2120 L Street N.W., Washington, DC 20555. A free single copy may be obtained by writing to the U.S. Nuclear Regulatory Commission, Attn: Distribution Section, 7103-MNBB, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Leonard Soffer, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 492-3916.

Dated in Rockville, Maryland this 19th day of February, 1992.

For the Nuclear Regulatory Commission.

Warren Minners,

Director, Division of Safety Issue Resolution, Office of Nuclear Regulatory Research.

[FR Doc. 92-4506 Filed 2-26-92; 8:45 am]

BILLING CODE 7590-01-M

Shutdown and Low-Power Operation at U.S. Nuclear Power; Availability of a Draft Report for Public Comment

The Nuclear Regulatory Commission has published a report, NUREG-1449, entitled, "Shutdown and Low-Power Operation at Commercial Nuclear Power Plants in the United States". The report documents the results of the NRC Staff's evaluation of shutdown and low-power operation at U.S. commercial nuclear power plants. Potential new regulatory requirements are discussed in the report, as well as potential changes in NRC programs.

NUREG-1449 has been issued as a draft report for public comment. The Commission is especially interested in comments regarding the safety benefits and the financial, and other, impacts of implementing potential new requirements discussed in the report. Such comments and any others will be considered by the Commission as it conducts its regulatory analysis of the potential new requirements. The comment period expires on April 30, 1992. Comments received after that date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before that date.

A free single copy of NUREG-1449, may be requested by those considering public comment by writing to the U.S. Nuclear Regulatory Commission, ATTN: Distribution and Mail Services Section, Mail Stop P-370, Washington, DC 20555. A copy is also available for inspection and/or copying for a fee in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington DC.

Dated at Rockville, Maryland, this 20th day of February 1992.

For the Nuclear Regulatory Commission.

Robert C. Jones, Jr.,

Chief, Reactor Systems Branch, Office of Nuclear Reactor Regulation.

[FR Doc. 92-4507 Filed 2-26-92; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-250 and 50-251]

Florida Power & Light Co., Turkey Point Plant, Units 3 and 4; Receipt and Denial of Petition for Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has taken action regarding the Petition filed pursuant to 10 CFR 2.206 by Mr. Thomas J. Saporito, Jr.

On December 3, 1992, Mr. Saporito (Petitioner) submitted a request pursuant to 10 CFR 2.206 that the U.S. Nuclear Regulatory Commission (NRC) take certain actions against the Florida Power and Light Company (FPL) regarding the Turkey Point Plant, Units 3 and 4. These actions include initiating a show cause proceeding pursuant to 10 CFR 2.202 and an enforcement action for violations of the Atomic Energy Act and 10 CFR 50.7.

The Petitioner asserts, as bases for the request, that in December 1988 he was fired from his job as an Instrument Control Technician at the Turkey Point Station because he raised nuclear safety concerns to the NRC Region II office, that FPL is continuing to practice conduct in violation of the Atomic Energy Act and 10 CFR 50.7 and recently fired Mr. Richard Robaines for identifying nuclear safety concerns to NRC Region II personnel, and that this action by FPL has resulted in a significant "chilling effect" on the willingness of employees to raise safety concerns at FPL's Turkey Point and St. Lucie nuclear stations. The Office of Nuclear Reactor Regulation (NRR) has evaluated the petition and concluded that it does not provide any basis for any action against FPL. The basis for this position is that the Petitioner has not provided any new information that has not already been addressed by the licensee and the NRC staff. Upon finding no sufficient bases for action, the NRC has denied the Petition in its letter to the petitioner, of February 20, 1992.

Dated at Rockville, Maryland, this 20th day of February 1992.

Frank J. Miraglia,

Deputy Director, Office of Nuclear Reactor Regulation.

[FR Doc. 92-4509 Filed 2-26-92; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-327]

Tennessee Valley Authority; Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-77 issued to the Tennessee Valley Authority (the licensee) for operation of the Sequoyah Nuclear Plant, Unit 1 located in Hamilton County, Tennessee.

The proposed changes would revise the overtemperature (OT) differential temperature (DT) allowable values, overpower (OP) DT allowable values, and the Reactor Coolant System (RCS) loop DT allowable values in Tables 2.2-

1 and 3.3-4 for the reactor trip and engineered safety features. The OTDT and OPDT values would be changed from 1.9 and 1.7 percent of span respectively, to 1.6 percent of span each. The RCS loop DT would change from +2.5 percent reactor thermal power (RTP) (Item 13.a in Table 2.2-1 and Item 6.c.i in Table 3.3-4) to +2.4 percent RTP. In addition, the 18-month requirement for calibration of the RCS resistance temperature detectors in Table 4.3-1 (Items 7 and 8) and Table 4.3-2 (Item 6.c.3) would be changed to use a technical evaluation in lieu of a cross-calibration of the resistance temperature detector sensors. The technical evaluation used is that described for this proposed Technical Specification. The changes would be effective for the current fuel cycle (Unit 1, Cycle 6), which is scheduled to end in March 1993.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated: or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

> TVA has evaluated the proposed technical specifications (TS) change and has determined that it does not represent a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of Sequoyah Nuclear Plant (SQN) in accordance with the proposed amendment will not:
>
> 1. Involve a significant increase in the probability or consequences of an accident previously evaluated.
>
> [* * *] this TS change will provide different allowable values for overtemperature (OT) differential temperature (DT), overpower (OP) DT, and reactor coolant system (RCS) loop DT and documents the technical evaluation used in lieu of the associated channel-calibration requirements. These changes ensure that the accident analysis for SQN remains valid and that the associated surveillances remain in frequency. The impact on control and protection functions considering these changes is shown not to increase the probability of any accident because no accident initiator is affected. With these changes, the consequences of an accident have been evaluated to ensure no increase in the radiological consequences would result. Control and protection functions will continue to operation. The proposed TS changes will compensate for the increased calibration uncertainty of the RCS resistance temperature detectors (RTD).
>
> 2. Create the possibility of a new of different kind of accident from any previously analyzed.
>
> These TS changes only affect protection functions that required additional conservatism to support the SQN safety analysis because of the increase in RTD calibration uncertainly. All other effects resulting from the calibration uncertainty have been evaluated by Westinghouse and verified not to impact the intended functions or operability of control or protection features. Accordingly, no new accident scenarios have been created by these changes to the TSs or the calibration uncertainty.
>
> 3. Involve a significant reduction in a margin of safety.
>
> The increase in the RTD calibration uncertainly did not adversely impact the safety-analysis limits or nominal trip setpoints of any protection function. To accommodate the increase in RTD uncertainly, the TS allowances for OTDT, OPDT, and RCS loop DT setpoints are reallocated. The SQN safety analysis remains valid with these changes and does not involve a reduction in the margins of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within thirty (30) days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Breach, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By March 30, 1992, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board Panel, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board Panel will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in

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the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Frederick J. Hebdon: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board Panel that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated February 20, 1992, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee.

Dated at Rockville, Maryland, this 24th day of February 1992.

For the Nuclear Regulatory Commission.

David E. LaBarge,

Senior Project Manager, Project Directorate II-4, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 92-4510 Filed 2-26-92; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Improving the Management and Use of Government

AGENCY: Office of Management and Budget, General Management Division.

ACTION: Proposed Revision to OMB Circular No. A-126.

SUMMARY: This Notice offers interested parties an opportunity to comment on proposed changes to Office of Management and Budget (OMB) Circular No. A-126 "Improving the Management and Use of Government Aircraft," dated January 18, 1989. The Circular contains guidance to the Federal agencies on acquiring, managing, using, accounting for the costs of, and disposing of aircraft.

DATES: Comments must be in writing and must be received by March 30, 1992.

ADDRESSES: Comments should be sent to the Office of Management and Budget, General Management Division, room 10202, New Executive Office Building, Washington DC 20503.

FOR FURTHER INFORMATION CONTACT: Jack Kelly, Federal Services Branch, General Management Division, Office of Management and Budget, (202) 395-5090. Copies of Attachments A and B to the Circular are available upon request.

SUPPLEMENTARY INFORMATION: On September 28, 1991, OMB announced its intention to reform the circular system. This initiative involves eliminating 11 circulars and revising 20 of the remaining 32 circulars. This revision to OMB Circular No. A-126 strengthens the guidelines on use of government aircraft and imposes stricter approval and reporting requirements.

The text of the proposed revision to OMB circular No. A–126 follows.

Frank Hodsoll,

Deputy Director for Management.

To the Heads of Executive Departments and Establishments

Subject: Improving the Management and Use of Government Aircraft

1. *Purpose.* This Circular is being issued to improve the management and use of government aviation resources. It prescribes policies to be followed by Executive Agencies in acquiring, managing, using, accounting for the costs of, and disposing of aircraft.

2. *Authority.* This Circular is issued under the authority of the Budget and Accounting Act of 1921, as amended; the Budget and Accounting Procedures Act of 1950, as amended; Reorganization Plan No. 2 of 1970; Executive Order 11541; and 31 U.S.C. 1344.

3. *Background.* The Office of Management and Budget has concluded that the government-wide policy guidance with respect to the use of government aircraft should be clarified to restrict the operation of government aircraft to defined official purposes; restrict travel on such aircraft; require special review of such travel on government aircraft by senior officials or non-Federal travelers in circumstances described hereafter; and codify policies for reimbursement for the use of government aircraft.

4. *Scope and Coverage.* This Circular applies to all government-owned, leased, chartered and rental aircraft and related services operated by Executive Agencies except for aircraft while in use by or in support of (a) the President or Vice President; or (b) the head of any agency (i.e., the Secretary of State or Defense or the Attorney General) that the President has required to use government aircraft because of bona fide security concerns, communications needs, or exceptional scheduling requirements.

5. *Definitions.* For purposes of this Circular, the following definitions apply.

a. *Government aircraft* means any aircraft owned, leased, chartered or rented and operated by an Executive Agency.

b. *Mission requirements* means activities that constitute the discharge of an agency's official responsibilities. Such activities include, but are not limited to, the transport of troops and/or equipment, training, evacuation (including medical), intelligence and counter-narcotics activities, search and rescue, transportation of prisoners, use of defense attaché-controlled aircraft, and other such activities. For purposes of this Circular, mission requirements do not include official travel to give speeches, to attend conferences or meetings, or to make routine site visits.

c. *Official travel* means (i) travel to meet mission requirements, (ii) authorized special use travel, and (iii) other travel for the conduct of agency business.

d *Authorized special use* means use of a government aircraft for the travel of an Executive Agency officer or employee, where the use of the government aircraft is required because of bona fide communications or security needs of the agency or exceptional scheduling requirements.

e. *Senior Federal officials* are persons:

(i) Employed at a rate of pay specified in or fixed according to subchapter II of chapter 53 of title 5 of the U.S. Code;

(ii) Employed in a position in an Executive Agency, including any independent agency, at a rate of pay payable for level I of the Executive Schedule or employed in the Executive Office of the President at a rate of pay payable for level II of the Executive Schedule;

(iii) Employed in an Executive Agency in a position that is not referred to in clause (i) (other than a position that is subject to pay adjustment under section 1009 of title 37 of the U.S. Code) and for which the basic rate of pay, exclusive of any locality-based pay adjustment under section 5304 of title 5 of the U.S. Code (or any comparable adjustment pursuant to interim authority of the President), is equal to or greater than the rate of basic pay payable for level V of the Executive Schedule; or

(iv) Appointed by the President to a position under section 105(a)(2) (A) or (B) of title 3 of the U.S. Code or by the Vice President to a position under section 106(a)(1) (A) or (B) of title 3 of the U.S. Code.

f. *Full coach fare* means a coach fare available to the general public between the day that the travel was planned and the day the travel occurred.

g. *Full operating cost* means all costs associated with the use and operation of an aircraft. (See Attachment A for detailed definition.)

6. *Acquisition and Management.*

a. The number and size of aircraft acquired by an agency and the capacity of those aircraft to carry passengers and cargo shall not exceed the level necessary to meet the agency's mission requirements.

b. Agencies must comply with OMB Circular No. A–76 before purchasing, leasing or otherwise acquiring aircraft and related services to assure that these services cannot be obtained from and operated by the private sector more cost effectively.

c. Agencies shall review periodically the continuing need for all of their aircraft and the cost effectiveness of their aircraft operations in accordance with the requirements of OMB Circular No. A–76. A copy of each agency review shall be submitted to GSA when completed and to OMB with the agency's next budget submission. Agencies shall report any excess aircraft and release all aircraft that are not fully justified by these reviews.

d. Agencies shall use their aircraft in the most cost effective way to meet their requirements.

7. *Use of Government Aircraft.* Agencies shall operate government aircraft only for official purposes. Official purposes include the operation of government aircraft for (i) mission requirements, and (ii) other official travel.

8. *Travel on Government Aircraft.* Government aircraft shall only be used for (i) official travel; or (ii) on a space available basis subject to the following policies:

a. Official travel that is not also authorized special use travel or to meet mission requirements shall be authorized only when:

(i) No commercial airline or aircraft service is reasonably available to fulfill effectively the agency requirement; or

(ii) The full operating cost of using a government aircraft is not more than the cost of using commercial airline or aircraft service. When a flight is being made to meet mission requirements or for authorized special use travel (and certified as such in writing by the agency which is conducting the mission as required in Section 10.b.), secondary use of the aircraft for other travel for the conduct of agency business may be presumed to result in cost savings (i.e., cost comparisons are not required).

b. Travelers may not use government aircraft on a "space available" basis unless:

(i) the aircraft is already scheduled for use for an official purpose;

(ii) such "space available" use does not require a larger aircraft than needed for the official purpose;

(iii) such "space available" use results only in minor additional cost to the government; and

(iv) reimbursement is provided as set forth in Section 9.

9. *Reimbursement for Use of Government Aircraft.*

a. *For travel that is not authorized special use travel:*

(i) Any incidental private activities (personal or political) of an employee

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undertaken on an employee's own time while on official travel shall not result in any increase in the full costs to the government of operating the aircraft.

(ii) The government shall be reimbursed the appropriate share of the full coach fare for any portion of the time on the trip spent on political activities.

b. *For authorized special use travel.* The government shall be reimbursed as follows (except as may otherwise be required by subsection (d)) for authorized special use travel:

(i) For a wholly personal or political trip, the full coach fare for the trip;

(ii) For an official trip during which the employee engages in political activities, the appropriate share of the full coach fare for the trip;

(iii) For an official trip during which the employee engages in personal or political activities and takes one or more flights that would not have been taken by him or her had there been no personal or political activities, the excess of the full coach fare of all flights taken by the employee on the trip over the full coach fare of the flights that would have been taken by the employee had there been no personal or political activities on the trip.

c. *"Space available" travel.* For "space available" travel other than for the conduct of agency business, whether on mission or other flights, the government shall be reimbursed at the full coach fare except, (i) as authorized under 10 U.S.C. 4744 and regulations implementing the statute; and (ii) for civilian personnel and their dependents in remote locations, i.e., locations not reasonably accessible to regularly scheduled commercial airline service.

d. In any case of political travel, reimbursement shall be made in the amount required by law (e.g., 11 C.F.R. 106.3) if greater than the amount otherwise required by the foregoing reimbursement rules.

10. *Approving the Use of Government Aircraft.* The following policies apply to the procedures under which the use of government aircraft for official travel may be approved by the agency which owns or operates the aircraft:

a. Only an agency head, or officials designated by the agency head, may approve the use of agency aircraft for official travel.

b. Whenever a government aircraft used to fulfill a mission requirement is used also to transport senior Federal officials, members of their families or other non-Federal travelers on a "space available" basis (except as authorized under 10 U.S.C. 4744 and regulations implementing that statute), the agency that is conducting the mission shall certify in writing prior to the flight that the aircraft is scheduled to perform a bona fide mission activity, and that the minimum mission requirements have not been exceeded in order to transport such "space available" travelers. In special emergency situations, an after-the-fact written certification by an agency is permitted.

c. Agencies that use government aircraft shall report semi-annually to GSA each use of such aircraft for non-mission travel by senior Federal officials, members of the families of such officials, and any non-Federal travelers (except as authorized under 10 U.S.C. 4744 and regulations implementing that statute). Such reports shall be in a format specified by GSA and shall list all such travel conducted during the preceding six month period. The report shall include: (i) the name of each such traveler, (ii) the official purpose of the trip, (iii) destination(s), and (iv) for travel to which Section 8.a.(ii) applies, the appropriate allocated share of the full operating cost of each trip and the corresponding commercial cost for the trip. (Reports on classified trips shall not be reported to GSA but must be maintained by the agency using the aircraft and available for review as authorized.)

11. *Approving Travel on Government Aircraft.* The following policies apply to the procedures under which travel on government aircraft may be approved by the agency which sponsors the travel:

a. *General approval requirements*—All travel on government aircraft must be authorized by the sponsoring agency in accordance with its travel policies and this Circular and documented on an official travel authorization.

b. *Special approval requirements for authorized special use travel*—Use of government aircraft for authorized special use travel must be approved in advance and in writing. A Federal officer or employee must obtain written approval for all authorized special use travel on a trip-by-trip basis from the agency's senior legal official or his/her principal deputy, unless, in the case of an officer or employee who is not an agency head, the agency head has determined that all travel by the officer or employee or travel in specified categories qualifies as authorized special use travel. Any determination by the head of an agency that travel by an officer or employee of that agency qualifies as authorized special use travel must be in writing and set forth the basis for that determination. In special emergency situations, an after-the-fact written certification by an agency is permitted.

Any agency head opting to determine that travel by an officer or employee may be authorized special use travel shall establish written standards for determining when authorized special use travel is permitted. Such travel is not permitted unless in conformance with such written standards.

c. *Special approval requirements for other travel that is not authorized special use travel*—Use of government aircraft for such travel by the following categories of people must be authorized in advance and in writing:

(i) Senior Federal officials;

(ii) Members of families of such senior Federal officials; and

(iii) Non-Federal travelers.

Such authorizations must be approved on a trip-by-trip basis and be signed by the agency's senior legal official or his/her principal deputy; or be in conformance with an agency review and approval system that has been approved by OMB. In special emergency situations, an after-the-fact written certification by an agency is permitted.

12. *Responsibilities.*

a. All Executive Agency officials with statutory authority to procure aircraft will assure that:

(i) Their agency's internal policies and procedures for procuring aircraft and related services are consistent with the requirements of OMB Circular No. A-76.

(ii) Their agency's aircraft programs comply with the internal control requirements of OMB Circular No. A-123 and that they are included in the agency's Management Control Plan. Any material weaknesses in these programs are to be reported in the annual internal control reports to the President and the Congress.

(iii) Their agency cooperates with the General Services Administration in the development of aircraft management policies and standards and in the collection of aircraft information.

b. The Secretaries of Defense and "the uniformed services," the Secretary of State, and the Administrator of General Services shall incorporate the applicable policies in this Circular into the travel regulations which they promulgate for uniformed service, foreign service, and civilian employees, respectively. The necessary changes to these regulations should be issued no later than 180 days from the date of this Circular.

c. The Administrator of General Services shall maintain a single coordinating office for civilian agency aircraft management. The responsibilities of this office shall include, but not be limited to, the following: (i) Coordinating the development of effectiveness measures and standards, policy recommendations, and guidance for the procurement, operation, safety, and disposal of civilian agency aircraft; (ii) operating a government-wide aircraft management information system; (iii) identifying and advising agencies and OMB of opportunities to share, transfer, or dispose of underutilized aircraft; to reduce excessive aircraft operations and maintenance costs; and to replace obsolete aircraft; (iv) providing other technical assistance to agencies in establishing their own automated aircraft information and cost accounting systems and conducting the cost analyses required by this Circular; (v) reviewing proposed agency internal aircraft policies for compliance with OMB guidance and notifying OMB of any discrepancies; and (vi) conducting an annual study of the variable and fixed costs of operating the different categories of government aircraft and disseminating the results for use in making the cost comparisons required in Section 8.a.(ii) and reporting the trip costs as required in Section 10.c.

In order to carry out these responsibilities, the Administrator of General Services shall maintain an interagency aviation policy working group to advise him in developing or changing aircraft policies and information requirements.

d. Except for provisions of this Circular which specify their own implementation dates, each agency head shall issue internal agency directives to implement this Circular no later than 180 days from the date of the Circular. These internal agency directives must include all policies contained in this Circular, but may also contain additional policies unique to the agency. Responsibility for these policies shall be assigned to a senior management official who has the agency-wide authority and resources to implement them.

13. *Accounting for Aircraft Costs.* Agencies must maintain systems for their aircraft operations which will permit them to: (i) Justify the use of government aircraft in lieu of commercially available aircraft, or the use of one government aircraft in lieu of another; (ii) recover the costs of operating government aircraft when appropriate; (iii) determine the cost effectiveness of various aspects of their aircraft programs; and (iv) conduct the cost comparisons required by OMB Circular A-76 to justify in-house operation of government aircraft versus procurement of commercially available aircraft services. Although agency accounting systems do not have to be uniform in their design or operation to comply with this Circular, they must accumulate costs which can be summarized into the standard Aircraft Program Cost Elements defined in Attachment B. The use of these elements to account for aircraft costs is discussed in Attachment A.

14. *Effective Date.* This Circular is effective on publication.

15. *Information Contact.* All inquires should be addressed to the General Management Division, Office of Management and Budget, telephone number (202) 395-5090.

Richard Darman,
Director.

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OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Exercise of Federal Oversight Within Scope of Statutory Authority: Planned Introductions of Biotechnology Products Into the Environment

AGENCY: Executive Office of the President, Office of Science and Technology Policy.

ACTION: Announcement of policy.

SUMMARY: Biotechnology is the use of various biological processes, both traditional and newly devised, to make products and perform services from living organisms or their components. Because these diverse processes, products and services may find application in many areas, such as medicine and pharmaceuticals, agriculture, energy, manufacturing, and environmental protection, the attendant planned introduction of biotechnology products into the environment may be subject to federal oversight under the federal statute(s) relating to each such area. The statutory provisions necessarily define the boundaries of the scope of discretion afforded to executive branch agencies to exercise oversight..

In 1986 the "Coordinated Framework" was issued to explain the proper allocation and coordination of oversight responsibilities under the several relevant statutes and among the several relevant federal agencies. The Coordinated Framework thus addressed who shall have oversight authority in each instance, but did not address how that authority should be exercised in the frequent situations in which a statute leaves the implementing agency latitude for discretion.

To fill that need, the **Federal Register** notice sets forth the proper basis for agencies' exercise of oversight authority within the scope of discretion afforded by statute. It describes a risk-based, scientifically sound approach to the oversight of planned introductions of biotechnology products into the environment that focuses on the characteristics of the biotechnology product and the environment into which it is being introduced, not the process by which the product is created. Exercise of oversight in the scope of discretion afforded by statute should be based on the risk posed by the introduction and should not turn on the fact that an organism has been modified by a particular process or technique.

In order to ensure that limited federal oversight resources are applied where they will accomplish the greatest net beneficial protection of public health and the environment, oversight will be exercised only where the risk posed by the introduction is unreasonable, that is, when the value of the reduction in risk obtained by additional oversight is greater than the cost thereby imposed. The extent and type of oversight measure(s) will thus be commensurate with the gravity and type of risk being addressed, the costs of alternative oversight options, and the effect of additional oversight on existing safety incentives.

These principles recognize the desirability of appropriate oversight of unreasonable risks, such as current restrictions on the introduction of dangerous pathogens; the principles also confirm the limited extent of current oversight of low-risk activities, such as the traditional breeding of farm animals and plants.

Means for implementing these principles are illustrated; specific implementation must be developed in the context of each agency's statutory programs. Because this Final Statement on Scope addresses the exercise of oversight discretion within the scope of statutory authority, nothing herein displaces agencies' duties under applicable statutes, nor provides additional authority not available under applicable law.

Dated: February 24, 1992.

D. Allan Bromley,
Director, Office of Science and Technology Policy.

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I. Background

A. Statutes Pertaining to Biotechnology Products

Biotechnology is the use of various biological processes, both traditional and newly devised, to make products and perform services from living organisms or their components. See Report on National Biotechnology Policy (President's Council on Competitiveness: Feb. 1991), p. 1. Because these diverse processes, products and services may find application in many areas, such as medicine and pharmaceuticals, agriculture, industry, and environmental protection, the attendant planned introduction of organisms or other biotechnology products into the environment may be subject to federal oversight under the one or more federal statutes relating to each such area. The **Federal Register** of November 14, 1985 (50 FR 47174) contains a matrix of the many federal authorities related to biotechnology products. There is no single, unified statute governing all introductions of biotechnology products into the environment, just as there is no single, unified statute governing the use of any other basic, multipurpose technology such as chemical engineering, civil engineering, or the use of fire or electricity. A single statute would quickly become obsolete, or an excessive constraint on innovation, as people devised new and useful ways to employ the technology, and would fail to address the important differences in the potential impacts of the technology when used in different ways.

Introductions into the environment of biotechnology products are therefore subject to government oversight pursuant to statutory authority corresponding to the particular type of introduction in question. The Federal Plant Pest Act governs the importation and movement of plant pests; the Federal Food, Drug and Cosmetic Act (FFDCA) governs foods, food additives, cosmetics, human and veterinary drugs, and medical devices; the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) governs pesticides; the Toxic Substances Control Act (TSCA) governs chemicals; several statutes (the Clean Air Act, Clean Water Act, Oil Pollution Act, "Superfund" law, and Resource Conservation & Recovery Act) govern the use of pollution control techniques; and certain statutes govern projects that are federally funded. One or more of these laws may apply to introductions of biotechnology products for research or commercial purposes.

Each of these laws is administered by a Federal agency. For example, the Food & Drug Administration (FDA) administers FFDCA; the Environmental Protection Agency (EPA) administers FIFRA, TSCA, and the pollution-control statutes; and the Department of Agriculture (USDA) administers the Federal Plant Pest Act while also funding many research projects involving biotechnology.

Each statute directs the implementing executive branch agency to carry out certain responsibilities. The statutory provisions necessarily define the boundaries of the scope of discretion afforded to executive branch agencies to exercise oversight. Typically each statute leaves the agency discretion within those bounds in exercising oversight.

B. The "Coordinated Framework" and the Need for a Scope Document

In view of the diversity of Federal statutes pertaining to biotechnology products, in 1986 the Coordinated Framework for the Regulation of Biotechnology was issued to describe the comprehensive Federal regulatory policy for ensuring the safety of biotechnology research and products. It explained that existing statutes provide a basic network of agency jurisdiction over both research and products, assuring reasonable safeguards for the public and the environment. It also explained the coordination among Federal agencies to ensure that such safeguards would be generated by a smooth, understandable regulatory oversight process. The Coordinated Framework stated that "to the extent possible, responsibility for a product use will lie with a single agency." (51 FR 23363). The Framework was expected to evolve in light of experience, and modifications to the framework were anticipated. The Coordinated Framework for the Regulation of Biotechnology continues to be Federal Government policy today for the allocation of oversight responsibilities—which agencies shall have oversight responsibility for which biotechnology products.

But the Coordinated Framework did not fully address how oversight should be exercised within the scope of discretionary authority afforded by statute. The Coordinated Framework recognized that while the statutory bases for regulation among the involved agencies may differ, common principles should govern decisions on how to exercise discretionary oversight over introductions of biotechnology products.

C. Proposed Statement on Scope

In order to fill that need, the Federal agencies worked closely to devise such a common statement of the basis for exercising oversight within the scope of discretionary authority afforded by statute. This statement has commonly come to be called the "Scope" document. In July 1990, OSTP published a proposed version of the Scope document prepared through the Interagency Biotechnology Working Group of the President's Council on Competitiveness, which had been asked to review the scope issues by the Director of OSTP after prior attempts to develop a scope had not reached consensus and because the Director observed the need for attention by an interagency group concerned with policy implications as well as scientific issues. This history of this effort is detailed in the Proposed Scope document published by OSTP. See "Principles for Federal Oversight of Biotechnology: Planned Introduction Into the Environment of Organisms with Modified Hereditary Traits," 55 FR 31118 (July 31, 1990). The Proposed Scope set forth a risk-based approach to the scope of oversight: "To the extent permitted by law, planned introductions into the environment of organisms with modified hereditary traits should not be subject to oversight * * * unless information concerning the risk posed by the introduction indicates that oversight is necessary." 55 FR at 31120. This statement expresses a risk-based approach that focuses on the properties of products introduced into the environment, the characteristics of the target environment, and the confinement measures employed, rather than on the process or technique by which the product was created. Information on the process could provide evidence of likely risk and of quality control in production, but the nature of the process could not be the sole or dispositive criterion for triggering oversight. The Proposed Scope delineated possible criteria for evaluating risk, pertaining to both the organism and the target environment into which it was introduced.

The Proposed Scope also suggested six examples of categories for exclusion from oversight. Five of these categories were defined by modifications such as selective breeding, transformation, deletions and use of noncoding marker genes. The sixth category consisted of modified organisms that present no greater risk than their unmodified parental strains.

D. Public Comments on the Proposed Scope and Subsequent Policy Developments

The Proposed Scope was issued for public comment. A summary of the public comments received is provided in the appendix below.

In addition, several important policy developments have occurred since the issuance of the Proposed Scope, which have been taken into account in developing the current final statement on Scope. These developments include a decision by the President to approve Principles for Regulatory Review for Biotechnology, and an EPA report endorsing the risk-based approach to environmental policy. These policy. These policy developments are also summarized in the appendix.

Agency proposals that address the introduction of organisms into the environment have also been issued since the Proposed Scope. On February 1, 1991, USDA proposed guidelines (56 FR 4134) which set out points-to-consider for scientists in designing field trials and were intended to provide quality assurance for federally-funded agricultural research.

EPA is considering proposed regulations under FIFRA for small-scale release of microbial pesticides titled: Microbial Pesticides; Experimental Use Permits and Notifications, and proposed regulations under TSCA titled: Microbial Products of Biotechnology; Proposed Regulations under the Toxic Substances Control Act.

The present final statement of principles for the exercise of oversight within the scope of statutory authority is based on interagency deliberations since July 1990 and careful consideration of all the items set forth at greater length in the Appendix, including consideration of comments from public and subsequent policy developments. As indicated below, the fundamental risk-based approach in the Proposed Scope received widespread endorsement and has been retained and strengthened in today's final statement.

II. Rationale for Risk-Based Approach

The propose of this statement is to guide the exercise of agencies' oversight, within the scope of authority afforded by statute, to ensure the safety of planned introductions of biotechnology products into the environment while not unduly inhibiting the benefits of such introductions. This approach therefore focuses on the characteristics and risk posed by an introduction, rather than on the process by which a product is created. This is the same fundamental, risk-based approach enunciated in the Proposed Scope in July 1990 (see 55 FR at 31119), and endorsed by the great majority of public comments on the Proposed Scope (see appendix below). The risk-based approach is scientifically sound, properly protects public health and the environment against risk, and avoids hindering safe innovations. Citing these rationales, the first Principle of Regulatory Review for Biotechnology approved by President Bush in August 1990 requires the federal government to adhere to a risk-based approach. Likewise, the EPA Report on Risk Priorities issued in September 1990 and the Competitiveness Council Fact Sheet on Critical Technologies issued in April 1991 explain the imperative of following a risk-based approach. (See excerpts in appendix, below.) This section briefly explains the reasoning behind this risk-based approach.

A. Scientific Principles for the Risk-Based Approach

Introductions of organisms into the environment may pose hazards to humans, wild or domesticated plants and animals, or to the environment generally (for example, algal blooms in ponds or disruptions of natural cycles). The risk posed by an introduction of biotechnology products into the environment is a function of the characteristics of the organisms or other products, the particular application (including confinement measures), and the environment itself. As stated in the Coordinated Framework, "Within agriculture, for example, introductions of new plants, animals and microorganisms have long occurred routinely with only some of those that are not native or are pathogenic requiring regulatory approval." (51 FR 23303). Even many organisms that are pathogenic are routinely used with practices or under conditions that mitigate risk; much of the research within the discipline of plant pathology is in this category. Meanwhile, certain unmodified organisms are of such great risk that they are not allowed into the United States, such as the Foot and Mouth Disease Virus (FMDV).

Just as with traditional breeding techniques, the production of organisms using new molecular techniques of genetic manipulation may or may not pose risk, depending on the characteristics of the organism, the target environment, and the type of application. The National Research Council's extensive review of the potential risks of introductions of organisms made from new biotechnology processes (NRC, Field Testing Genetically Modified Organisms (1989)) reached the conclusion that organisms that have been genetically modified are not *per se* of inherently greater risk than unmodified organisms.

It elaborated:

1. The same physical and biological laws govern the response of organisms modified by modern molecular and cellular methods and those produced by classical methods. (p. 15)

2. Information about the process used to produce a genetically modified organism is important in understanding the characteristics of the product. However, the nature of the process is not a useful criterion for determining whether the product requires less or more oversight. (pp. 14 and 15.)

3. No conceptual distinction exists between genetic modification of plants and microorganisms by classical methods or by molecular techniques that modify DNA and transfer genes. (p. 14)

4. Crops modified by molecular and cellular methods should pose risks no different from those modified by classical methods for similar traits. As the molecular methods are more specific, users of these methods will be more certain about the traits they introduce into the plants. (p. 3)

5. In many respects, molecular methods resemble the classical methods for modifying particular strains of microorganisms, but many of the new methods have two features that make them even more useful than the classical methods.

Precision allows scientists to make genetic modifications in microbial strains that can be characterized more fully, in some cases to the level of DNA sequence. This reduces the degree of uncertainty associated with any intended application. The new methods

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have greater power because they enable scientists to isolate genes and transfer them across natural barriers. (p. 123)

The process of modification is thus independent of the safety of the organism. Although the new biotechnology processes can be used to produce risky organisms, so can traditional techniques; it is the characteristics of the organism, the environment, and the application that determine risk (or lack thereof) of the introduction, not the technique used to produce the organism. Indeed, the new technologies of molecular modification may increase the potential for safe, planned introductions because they employ techniques that are more precise and more efficient than traditional cross-breeding, and that therefore yield a better-characterized and more predictable organism. On the other hand, their great power allows us to transfer genes more readily, thus resulting in organisms with new traits or combinations of traits.

From these scientific observations derive the following fundamental Scope principles:

1. A determination to exercise oversight within the scope of discretion afforded by statute should not turn on the fact that an organism has been modified or modified by a particular process or technique, because such fact is not alone a sufficient indication of risk.

2. A determination to exercise oversight in the cope of discretion afforded by statute should be based on evidence that the risk presented by introduction of an organism in a particular environment used for a particular type of application is unreasonable.

3. Organisms with new phenotypic trait(s) conferring no greater risk to the target environment than the parental organisms should be subject to a level of oversight no greater than that associated with the unmodified organisms.

B. Risk-Based Approach Ensures Safety

A purpose of government regulation of biotechnology, as with any safety regulation, is to limit unreasonable risks faced by the public and the environment. Yet agency resources are scarce, and cannot be applied to every possible problem; responsible officials must choose carefully the risks of highest concern and find the best way to combat them. In order to protect the public and the environment, the scope of oversight should help focus agency efforts at reduction of the most important risks (and at least cost, so that society's resources are kept available to combat the next highest risks). As the US Environmental Protection Agency (EPA) recently stated,

> There are heavy costs involved if society fails to set environmental priorities based on risk. If finite resources are expended on lower-priority problems at the expense of higher-priority risks, then society will face needlessly high risks. (US EPA, SAB, "Reducing Risk: Setting Priorities and Strategies for Environmental Protection," Sept. 1990, Exec. Sum., (p. 2.))

C. Risk-Based Approach Avoids Discouraging Useful Innovation

Determining the scope of oversight on grounds other than risk would also tend to discourage useful innovations. The potential benefits of biotechnology are enormous; as described in the February 1991 Report on National Biotechnology Policy, innovation in biotechnology has begun to make possible great improvements in our ability to grow food, protect the environment, and produce medications, among other applications. Triggering the exercise of oversight based on the use of a specific innovative technology, such as recombinant DNA, will tend to discourage the use of that technology by industry and researchers.

The distribution of oversight burden across technologies is in many ways as important as the total amount of burden: If oversight is aimed only at one type of technology, the burden will be skewed against that technology and hinder its development. New regulations often place greater restrictions on new products or technologies while grandfathering in older, and sometimes more risky, products or technologies. This uneven regulation encourages the continued use of older products and technologies, while discouraging innovation and potential risk reduction.

Similarly, special oversight directed at "new techniques" in biotechnology could discourage innovations using those techniques.

III. Final Statement on Scope

Statutory provisions necessarily define the boundaries of the scope of discretion afforded to executive branch agencies to exercise oversight. Within the scope of authority provided by statute, federal agencies shall exercise oversight of planned introductions of biotechnology products into the environment only upon evidence that the risk posed by the introduction is unreasonable. A risk is unreasonable where the full value of the reduction in risk obtained by oversight exceeds the full cost of the oversight measure. This formulation ensures that limited federal oversight resources will be applied where they will accomplish the most net beneficial protection of public health and the environment while allowing useful, safe innovations to proceed. Evidence of risk must incorporate information about the chacteristics of the organism or other biotechnology product, the target environment, and the type of application.

Federal government regulatory oversight should focus on the characteristics and risks of the biotechnology product—not the process by which it is created. Products developed through biotechnology processes do not *per se* pose risks to human health and the environment; risk depends instead on the characteristics and use of individual products. Where oversight is warranted, the extent and type of oversight measure(s) must be commensurate with the gravity and type of risk being addressed, must maximize the net benefits of oversight by choosing the oversight measure that achieves the greatest risk reduction benefit at the least cost, and must consider the effect that additional oversight could have on existing safety incentives.

The risk-based approach taken in this Final Statement on Scope is the same as the approach enunciated in the July 1990 Proposed Scope, which provided that "To the extent permitted by law, planned introductions into the environment * * * should not be subject to oversight * * * unless information concerning the risk posed by the introduction indicates that oversight is necessary." 55 FR at 31120. As detailed below, the Final Statement on Scope also retains the "criteria for evaluating risk" suggested in the Proposed Scope. The principal differences between today's Final Statement on Scope and the Proposed Scope are (i) the recognition that there are a variety of oversight measures that agencies might employ, not simply a binary choice between "oversight" and "no oversight," and therefore the provision that agencies choose from among the menu of measures those oversight measures that achieve risk reduction at net benefit and least cost; (ii) the removal of the examples of "categories for exclusion" in the Proposed Scope, because, as described below under "Implementation," those categories were not explained in the basis of risk and ignored the need for each agency to have the flexibility to fashion its implementation in the context of its statutory program. These differences are warranted in the interest of sound public policy, and reflect the numerous public comments (summarized in the appendix) recommending such revisions.

IV. Implementation

A. Exercising Discretion Within the Scope of Statutory Authority

As described above, this Final Statement on Scope guides agencies' exercise of oversight within the scope of discretion provided by statute. Nothing in this document displaces agencies' duties under applicable statutes, nor does this document provide the basis for additional authority not available to agencies under applicable law. Rather, this document guides the exercise of discretion within the range of authority left to agencies under their statutes. Each agency will need to implement these guidelines in a manner appropriate to each statutory framework, and to exercise its oversight authority consistent with the risk-based principles of this Final Statement on Scope.

This Final Statement on Scope governs all oversight within the scope of agency discretion afforded by statute of planned introductions of biotechnology products into the environment. It does not relate only to new regulatory initiatives or new categories of organisms introduced into the environment. In addition, the term "planned introduction" as used here includes introductions in the course of research and in commercial and other applications. It is not limited to initial small-scale field trials.

In applying the risk-based approach there will of course be areas in which regulatory interventions are frequent, and areas in which such interventions are legally authorized but are less common because the industry operates safely and the occasions for regulation and enforcement are fewer. Such safety could be the result of longstanding industry practices, and of industry's pragmatic understanding that government intervention—whether through federal or state law or otherwise—would occur if safety rules were violated. Although federal oversight for such activities may be legally available, it may be observed that where an industry operates in a safe manner, little or no oversight is commonly exercised. One example of such a safe equilibrium may be traditional agriculture operating with safe organisms following accepted practices and precautions. This is consistent with recommendations made by the National Research Council in the publication, Field Testing Genetically Modified Organisms, 1989, p. 66.

B. Evaluating Risks

Products developed through biotechnology processes do not *per se* pose risks to human health and the environment; risk depends instead on the characteristics and use of individual products. Such determinations should be based on risk factors or criteria like the ones listed below pertaining to the organism's ecological niche, potential for gene exchange, ability to monitor and to mitigate persistence and spread and potential consequences of dissemination into the greater environment. These factors for evaluation of risk are largely derived form the work of the Ecological Society of America. (See J. Tiedje, R. Colwell, Y. Grossman, et al., 70 *Ecology* 298 (April 1989).)

For the Organism: Fitness; infectivity, virulence, pathogenicity, toxicity; host range; the type of substrate or resources utilized; the purity of the formulation; environmental limits to growth or reproduction (habitat, microhabitat); susceptibility to control by antibiotics, biocides, by substrate, or by mechanical means; whether and how introduced traits are expressed.

For the Target Environment: Selection pressure for the introduced trait; presence of wild, weedy or feral relatives within dispersal capability of the organism or its genes; presence of vectors or agents of dissemination or dispersal (e.g., mites, insects, rodents, birds, humans, machines, wind, water); direct involvement in basic ecosystem process (e.g., nutrients cycling); whether there are alternative hosts or partners (e.g., the organism is involved in symbiosis or mutualism); range of environments for testing or use in light of potential geographic range; effectiveness of confinement, monitoring and mitigation plans.

The scope principles do not dictate precisely how information on risk should be evaluated. Different ways of making the risk determination are possible. One means of judging the risk posed by an introduction is to compare its risk to an introduction of a comparable organism or biotechnology product previously used in introductions in a comparable target environment. An organism or other biotechnology product can be comparable to a previously used organism or product regardless of the process by which that organism has been modified or product produced. An introduction should be subject to no greater degree of oversight than was a comparable organism or product previously used in past safe introductions in a comparable target environment. Effective confinement techniques in appropriate cases can also reduce the potential risk of an introduction, and accordingly, the need for oversight.

Unreasonable risk is the threshold for exercising oversight within the scope of discretion afforded by statute. The term does not denote a fixed absolute number. Rather, a risk is "unreasonable" where the environmental benefits achieved by oversight measures to reduce the risk are greater than the social cost of those oversight measures. This definition enables, and requires, agencies to choose from among the range of oversight options those measures that obtain net benefits. Thus, a more demanding oversight option may be warranted when the risk reduction to be gained from government intervention is large. If the risk reduction to be gained is small, as will usually be the case with low-level risks, less costly oversight options will need to apply. As described above under "Rationale for Risk-Based Approach," this formulation ensures that oversight resources will be allocated to address priority risks. "If finite resources are expended on lower-priority problems at the expense of higher-priority risks, then society will face needlessly high risks." (US EPA, SAB, "Reducing Risk: Setting Priorities and Strategies for Environmental Protection," Sept. 1990, Exec. Sum. (p. 2.) It should also be noted that "unreasonable risk" is already a criterion used by federal agencies, such as in exercising oversight under provisions of TSCA and FIFRA.

Of course, in some cases an agency may not have sufficient information to determine whether the introductions of organisms would pose unreasonable risk, and whether additional oversight therefore would be warranted. In cases in which an agency has reason to believe that introductions could pose risk but lacks adequate information to determine if that risk is unreasonable, agencies may need to collect information. Any information requests should be designed to maximize their benefits and minimize their costs by soliciting only the most useful information in the least costly manner.

Certain terms used to characterize risk evaluation in the Proposed Scope, 55 FR 31118, have been dropped because they were ambiguous and raised concerns among the public commenters. Several comments noted the confusing language and potential circularity of the term "similar organism" or "similar introduction." That usage has therefore been removed and, where appropriate, replaced by the more precise idea of an introduction posing comparable risk to a previous introduction. The term "organism with deliberately modified hereditary traits" was intended to encompass any organism with changed hereditary traits, regardless of the technique or process used to effect the change. This term was intentionally broader than terms such as "genetically modified organism" which have come to imply a specific technique of genetic manipulation (namely, use of recombinant DNA methods). Yet, "deliberately modified hereditary traits" might not have encompassed exotic organisms introduced by humans into a vulnerable target environment. Thus, the term has been omitted and the focus is now placed on the risk of an introduction, not the genesis of the organism.

C. Assessing Oversight Options

Agencies have a wide variety of oversight options with which to fashion their oversight programs consistent with the risk-based approach enunciated here. The term "federal oversight" includes a range of possible Federal activities related to planned introductions: Issuance of suggested industry practices, development of guidelines for certain introductions, and requirements for notification, labelling, prior review or approval of certain introductions. This range of federal oversight activity might be undertaken by a Federal agency or by a local entity as directed by or under guidance from a Federal agency. It could involve, for example, a research institution establishing an "institutional safety committee" for review of certain planned introduction experiments.

This menu of oversight options means that agencies can choose oversight measures to be commensurate with the gravity and type of risk being addressed, and fashioned to maximize the net benefits to society and the environment, taking into account the costs of oversight.

In determining the risk reduction that may be achieved by a contemplated oversight measure, it is important to recognize that persons introducing biotechnology products into the environment often face other institutional incentives to ensure that such introductions are safe. Such existing safety incentives may include oversight already being exercised under another regulatory authority, state laws, and marketplace incentives for safety created by the interests of workers and consumers in obtaining products that are safe. Safety can also be promoted by generally accepted research practices, professional and industrial association standards, and other safety-oriented guidelines and procedures. It is important to take account of the interplay between the new oversight measure and the pre-existing incentive systems. In some circumstances the effect of a new oversight measure may complement existing safety incentives, but in others its effect may be dampened or undercut by its (unintended) displacement of existing safety incentives. For example, imposing new safety standards may in certain circumstances simply displace existing safety incentives provided by state law or by market price differentials for accepting risk. Agencies should account for these potential incentive effects in their calculation of the net benefits of potential oversight measures. Further, agencies should affirmatively design oversight measures to work in concert with pre-existing safety systems, such as by strengthening the information base on which marketplace incentives depend. In appropriate cases agencies might forgo additional oversight where existing incentives adequately address the risks posed.

D. Use of "Categories of Exclusion/Inclusion"

1. Treatment of Former Exclusion Examples

The six examples of "categories for exclusion" provided in the Proposed Statement on Scope (55 FR at 31121) have been deleted from the Final Statement on Scope. As these examples were set forth without the context provided by the statutes under which regulations were to be implemented, no rationales were provided in the Proposed Scope relating them to risk. Thus, a certain amount of confusion arose concerning their relationship to risk. Indeed, several commenters suggested that the exclusions were inconsistent with a risk-based approach because they were "process-based." For instance, the first proposed exclusion category contained plants and animals that result from natural reproduction or the use of traditional breeding techniques. Traditional breeding activities, however, are typically of low or trivial risk because the plants and animals chosen for breeding by traditional agricultural breeders are typically of low or negligible risk in their applications and target environments, not because the techniques are themselves intrinsically safe. Because this Final Statement is to be a guidance document to the agencies, it is not meant to provide the risk rationales for these examples. Any agency that wishes to use any of these categories in the context of a specific statute would provide a rationale based on risk.

The five examples of categories for exclusion addressed only various aspects of the introduced organism, whereas the present Final Statement on Scope addresses the entire introduction, necessarily including the characteristics of the target environment and the particular application as well as the nature of the biotechnology product. The five examples for exclusion gave no insight into the critical issue of the potential interactions between an organism's traits and its ecological context. An organism may pose risk in one target environment but be relatively harmless, or beneficial, in another. It is fundamental that the present Final Statement on Scope requires oversight decisions to be made within the scope of discretion afforded by statute based on information about the organism or other product, the target environment and the type of application, not about the organism alone.

The simple binary choice between "oversight" and "no oversight," implied by the notion of a single scope with a single set of exclusions, does not accurately characterize the range of choices open to an agency within the scope of discretion afforded by statute. Oversight measures may include the option of no oversight, or no further oversight in cases where statutes require initial oversight, as well as a range of other measures.

A single list of "exclusions" (or, for that matter, "inclusions") cannot pragmatically be written to apply uniformly to all agencies and all statutes. The specific mechanisms of implementation of the risk-based principles will of course depend on the statute at issue, and accordingly no single list of "categories" can be promulgated for use by all agencies under all statutes. Agencies could, for instance, develop categorical risk-based exclusions from a statute's oversight net, such as where a statute begins by encompassing all of a certain set of activities and then exempts low-risk elements of that set. Or agencies could develop categorical risk-based inclusions in a statute's oversight net, such as where a statute attaches oversight only when an activity creates an unreasonable risk. Or agencies could employ a stratified hierarchy, providing several levels or types of oversight that correspond to levels of risk. The choice of these or other means will depend on the statute and the nature of the activity subject to oversight. Not every statute may be open to all of these options. Indeed, by listing specific "examples of categories for exclusion," the Proposed Scope issued in July 1990 may have given the incorrect impression that some exclusion-oriented approach was mandatory for all agencies, or that the specific categories listed in that proposed document were mandatory, or that an extra burden of persuasion would be borne by agencies seeking to craft a different approach or set of exclusions; none of these was intended.

2. Developing Categories of Exclusion

The concept of categories for exclusion may nonetheless retain usefulness in appropriate statutory circumstances. Where a statute initially casts a wide net over a field of activity, the agency may retain or be delegated authority to exclude some subcategories of activity from oversight on the ground that the potential risks they pose are too low to justify oversight or that such risks are already adequately overseen by another agency.

For example, under TSCA, EPA must receive notice of all "new chemicals"; those that pose "unreasonable risk" are subject to further regulatory restrictions. But TSCA enables EPA to exclude products from review, in at least four ways. First, EPA may determine that certain products are not "new" and thus do not require premanufacturing notice to the agency. For instance, where small changes in genetic or molecular structure are involved, it may be a matter of judgment whether the product is "new." In exercising such judgment, the agency may determine that certain categories of products are not "new" under TSCA because they possess no "new" properties. Second, under TSCA section 5(h)(3), EPA may exclude microorganisms used in small quantities (defined by rule) for research and development. Third, the agency can decline to act during the 90-day period after a notice is filed. Unless the agency acts, after 90 days the product may be produced without further restriction. EPA could develop guidance to its TSCA program to decline action with respect to certain low-risk categories of introductions of organisms. Fourth, under TSCA 5(h)(4), the agency has the authority to exclude broad categories of products by rulemaking where those products do not pose "unreasonable risk." EPA could propose risk-based 5(h)(4) exclusions for certain categories of introductions, simultaneous with proposing any regulations applying TSCA to organisms.

Similarly, under FFDCA, no "food additive" may be marketed unless it is in compliance with an authorizing regulation promulgated by FDA. However, substances that are "generally recognized as safe," as defined in the statute, are excluded from the definition of "food additive," and therefore from the premarket clearance requirements. For organisms to be used as or to make food ingredients, FDA could describe the criteria by which it will determine the organisms or their products will fall into the "generally recognized as safe" exclusion, or will be subject to premarket regulation.

Thus, agencies exercising oversight pursuant to this document should consider employing risk-based exclusions. For example, an exclusion could be fashioned (if its risk basis is appropriately explained in the context of the particular oversight measure) for organisms whose introductions pose low or negligible risk, e.g. domesticated animal and crop varities used in agriculture.

3. Developing Categories of Inclusion

A different approach could be employed where a statute bases the exercise of oversight on risk and gives the agency the task of affirmatively identifying which particular activities out of a larger universe pose risks sufficient to justify oversight. Agencies could therefore develop risk-based categories of inclusion to define the area of oversight.

For example, the Federal Plant Pest Act governs the movement of plant pests regardless of the process by which the organisms were produced. The Act defines "plant pests" as any organisms "which can directly or indirectly injure or cause disease or damage in any plants or parts thereof * * *" In order to implement the Act, USDA has identified specific organisms with these properties and placed them on a published list. Movement or importation of organisms on the list requires an advance permission from the agency. The list is expanded as new plant pests are identified; also, items can be removed from the list when they are believed to no longer present a plant pest risk.

4. Developing Combined Approaches

In some areas, an agency might use both "exclusion" and "inclusion" approaches. It might identify categories of activities for inclusion on the ground that they pose a sufficient risk to justify oversight, and simultaneously exclude other activities on the ground that they do not present risk justifying oversight. Any activities not included in either category could be dealt with on a case-by-case basis, and perhaps addressed explicitly in categorical exclusions or inclusions at a later date. For example, the guidelines on recombinant DNA organisms developed by NIH use both approaches. An appendix to the guidelines list microorganisms on the basis of likely hazard, an example of the "inclusion" approach. The guidelines also specifically exclude certain organisms, such as *E. coli* K–12, *B. subtilis* and *Saccharomyces*. As another example, an agency might implement a statute requiring public disclosure of all hazardous introductions by explicitly excluding some trivial-risk activities from the duty to disclose, specifically including some categories of introductions that typically pose a potential hazard, and announcing criteria for deciding whether the remaining introductions are risky enough to require disclosure.

Finally, agencies could employ a "hierarchy" of oversight options to correspond to degrees and types of risk. Some statutes arm that agency with an array of oversight instruments to deploy as the circumstances warrant. In such cases, agencies must decide not only whether or not to exercise oversight but also the appropriate level and type of oversight when it is exercised. Agencies could develop categories of criteria for exercise of varying degrees of oversight, based on the degree of risk posed by an introduction, and the costs of oversight options. For example, oversight options might include: guidance on sound practices, simple notification to a local review committee, application for prior approval by a local review committee, notification to a federal agency, considered deference to another agency already overseeing such introduction, or application for prior approval by a federal agency. Or under its statutory authority an agency might impose (as a requirement of all introductions of a certain risk level or as a condition of prior approval in a specific case) disclosure of information, restrictions on a planned introduction, appropriate prophylactic measures (confinement or containment), or prohibition of certain kinds of activities. Other options could also be available under various statutory programs.

One example of such a hierarchical approach to the degree of oversight is contained in USDA's proposed guidelines for federally-funded researchers (56 FR 4134 (Feb. 1, 1991)). The guidelines calculate the likely risk of an introduction of a modified organism according to the likely risk to health and environment posed by introducing the parental strain, and the change in that risk (increase or decrease) effected by modification of the parental strain. For each of five risk levels, they suggest levels of confinement measures to be applied, and degrees of review by a disinterested party (such as a local safety committee).

Appendix: Comments on Proposed Statement on Scope and Subsequent Policy Developments

Several important statements of government policy on risk and new technology have been published since July 1990. Because these policy guidelines have played a formative role in the development of the current Final Statement on Scope, they are excerpted briefly below. In addition, public comments on the Proposed Statement on Scope were received. The discussion in the present document relies on and refers to the concepts and recommendations contained in these policy guidelines and the views expressed in the public comment letters. The items below are presented in chronological order.

1. President's Principles of Regulatory Review

In August 1990 President Bush approved Four Principles of Regulatory Review for Biotechnology, as follows:

(1) Federal government regulatory oversight should focus on the characteristics and risks of the biotechnology product—not the process by which it is created.

Products developed through biotechnology processes do not *per se* pose risks to human health and the environment; risk depends instead on the characteristics and use of individual products. Biotechnology products that pose little or no risk should not be subject to unnecessary regulatory review during testing and commercialization. This allows agencies to concentrate resources in areas that may pose substantial risks and leaves relatively unfettered the development of biotechnology products posing little or no risk.

(2) For biotechnology products that require review, regulatory review should be designed to minimize regulatory burden while assuring protection of public health and welfare.

Expedited review procedures should be adopted for products likely to pose lesser risk. The jurisdiction of the several regulatory agencies should be clarified to avoid unnecessary confusion and delay and agencies should use the same standards and apply them consistently. This is especially important where a product could be regulated by several agencies. For example, pest-resistant plants may be subject to regulation by both the Environmental Protection Agency (for pesticidal properties) and by the Food and Drug Administration (for food safety).

(3) Regulatory programs should be designed to accommodate the rapid advances in biotechnology. Performance-based standards are, therefore, generally preferred over design standards.

A performance standard sets the ends or goals to be achieved, rather than specifying the means to achieve it (e.g., through a design standard). This provides firms and researchers with flexibility in choosing the best means of compliance. A performance-based standard for containment, for example, would permit alternative biological approaches for assuring containment in place of a design-based standard requiring specific physical barriers.

The adoption of performance criteria in developing regulations reduces the need to rely on a lengthy and contentious regulatory process to revise regulations. Such unwieldly regulatory procedures inevitably inhibit the changes in regulatory structure needed to accommodate advances in science knowledge. Procedures should be adopted to provide agency decision-makers with up-to-date scientific opinion and knowledge—for example, through the use of science advisory panels.

(4) In order to create opportunities for the application of innovative new biotechnology products, all regulation in environmental and health areas—whether or not they address biotechnology—should use performance standards rather than specifying rigid controls or specific designs for compliance.

"Design-based" requirements may preclude use of biotechnology products even when such approaches may be both less costly and more effective. For example, a requirement to employ specific pollution control equipment would prevent use of innovative biotechnology pollution remediation or control techniques.

2. EPA Report on Risk Priorities

In September 1990 the U.S. Environmental Protection Agency's Science Advisory Board released its report, "Reducing Risk: Setting Priorities and Strategies for Environmental Protection." The report stated (Exec. Sum. p. 2):

> There are heavy costs involved if society fails to set environmental priorities based on risk. If finite resources are expended on lower-priority problems at the expense of higher-priority risks, then society will face needlessly high risks.

Setting regulatory policy based on the process used to modify an organism rather than on the relative risk of its introduction, or based on type of technology (e.g., biotechnology verses other technologies) rather than the relative risk of an activity, would be inconsistent with this risk-based approach; it would misallocate oversight resources and thereby burden low-risk activities while exposing society to higher-risk activities.

3. Summary of Public Comments on the Proposed Statement on Scope

By October 1990, the deadline for submissions, forty-four letters of comment on the OSTP Proposed Statement on Scope (55 FR 31118 (July 1, 1990)) were received. The following is a brief summary of these comments.

(A) Overview

- The general response to the "Scope Document" and the Administration's effort to define a common approach to oversight of planned introductions was positive.
- Commentators strongly supported those principles outlined in the body of the document which emphasized a risk-based approach to regulation.
- The majority of criticisms focused on the "Examples of Potential Exclusion Categories" while other comments related to ensuring implementation of the principles through the regulatory process. Particular words or phrases were cited as vague or otherwise problematic.

(B) Specific Issues

(i) Risk-based Approach

- Thirty-two letters specifically noted the wisdom of a risk-based approach, particularly if the level of oversight is commensurate with the degree of potential risk.
- The "Criteria for Evaluating Risk" were deemed adequate and appropriate in that they focused on characteristics of the organism and the environment into which it is being released, rather than on the process by which the organism is produced.
- Several respondents stated that there is a sufficient body of scientific experience to support risk evaluation as a means for determining need for oversight.

(ii) Examples of Potential Exclusion Categories

- Several respondents supported the use of categories of introductions that could be excluded from oversight as a move away from case-by-case regulatory review.

- The most frequent objection to the exclusion categories (10 letters) was that categories 1–5 were process-based, in contradiction with the principles contained in the body of the document. Thus, several respondents proposed deleting the "Examples of Potential Exclusion Categories."
- At least 3 commenters opposed any regulatory scheme that did not include *all* of the exclusion categories on the premise that current regulatory inconsistencies and confusion would be retained otherwise.
- Five commenters proposed employing category 6 as the cornerstone for federal policy on exemptions.
- It was pointed out that many organisms produced using methods described in categories 1–5 would be subsumed under category 6 if the resulting product posed no greater risk to the target environment than the parental organism.
- Evidence was offered that organisms produced via methods proposed for possible exclusion under exclusion categories 1–5 may still pose health or environmental hazards and, thus, should not be exempted.
- One commenter felt that category 2 should be modified to cover only those exchanges "known to occur in nature" and another suggested adding viruses.
- There was a proposal to add "organisms resulting from mutagenesis by transposable elements" to category 5.
- A new category was proposed comprised of organisms developed using recombinant techniques (such as PCR, *in vitro* mugagenesis, homologous recombination, or other self-cloning methods) which result in phenotypes identical to those obtainable through traditional techniques.
- One letter suggested adding three organisms to the exempt list indicating interest in a process similar to that used by the National Institutes of Health (NIH) whereby conditions under which certain experiments may be performed are considered by petition to the Recombinant DNA Advisory Committee.

(iii) Implementation

- A recurring theme was the need for consistent implementation across agencies. It was suggested that OSTP remain visible and involved in order to ensure interagency consistency.
- Three letters noted the past delays in proposing agency regulations and encouraged rapid implementation of the "Scope Document."
- Four commenters predicted that it would be difficult or impossible to implement this scheme because it was not clear who was responsible for determining the need for oversight.
- Local Industrial Biosafety Committees (IBCs) or similar institutions were proposed as a venue for determination of risk and need for further oversight.
- Two commentators suggested that notification be deleted from the description of oversight methods in order to allow for categories of exemption from other, more burdensome forms of oversight.
- Several respondents stated that a system of licenses or permits was not appropriate for research activities.

(iv) Definitions

- The most problematic word was "similar" when used to describe the situation in which "the level of risk of an introduction is the same as or less than a previous safe introduction." Suggested alternative language in 3 letters was "comparable to or less than."
- Two letters questioned the adoption of the term "modified hereditary traits" as opposed to "genetically modified organisms," which implies that modified traits are heritable, regardless of how the modification was achieved.
- There was a question as to whether or not contained field tests would be included under "planned introductions into the environment."

(v) Additional Issues

- Four respondents proposed alternate schemes, three of which involved the development of lists of exempt organisms or introductions. Suggested criteria for inclusion on such a list were "familiarity" or inclusion on the list currently maintained by CDC and NIH.
- OSTP was reminded that this document will play an important role in international negotiations and product export.

4. Report on National Biotechnology Policy

In February 1991, the President's Council on Competitiveness published the Report on National Biotechnology Policy. The Report describes the Administration's policy on biotechnology regulations (p. 11)

> In biotechnology, as in many other high technology industries, Federal regulation is a critical determinant of the time and cost to bring a product to market. In serving as "gatekeepers" for the development and use of new products, regulatory agencies may create substantial barriers to product development. These barriers result from the costs of testing to meet regulatory requirements, the potential for delay in regulatory approval, and the uncertainty associated with the possible imposition of extensive restrictions or outright disapproval of new biotechnology research or products. In addition, uncertainty related to the extent or effectiveness of Federal regulation may lead to the enactment of a patchwork of conflicting and burdensome state regulations. Delay, cost, and regulatory uncertainty discourage new research in regulated areas and curtail the development of new products, as well as undermine public confidence.
>
> In general, to avoid unnecessary burdens on biotechnology, the Administration has sought to eliminate unneeded regulatory burdens for all phases of the development of new biotechnology products—laboratory and field experiments, products development, and eventual sale and use. Existing regulatory structures for plants, animals, pharmaceuticals, chemicals and toxic substances provide an adequate framework for regulation of biotechnology in those limited instances where private markets fail to provide adequate incentives to avoid unreasonable risks to health and the environment. In these instances, regulation also can help shield industry from avoidable incidents that could tarnish its image and impair its development.

5. Competitiveness Council Fact Sheet on Critical Technologies

In April 1991 the President's Council on Competitiveness issued a Fact Sheet concurrently with the OSTP publication of the Report of the National Critical Technologies Panel. The Fact Sheet stated:

> Because technological innovation holds the promise of providing new and better ways to meet the very objectives of particular health, safety, or environmental regulations, those regulations that discourage or penalize innovation are self-perpetuating burdens of American industry.
>
> While appropriate regulation in response to market failures can serve valuable social and economic functions, it may also impose significant costs that particularly affect the ability and incentive of firms to develop new high technology products. Some regulatory regimes are no longer appropriate to new technologies, while others were developed without adequate consideration of the burdens placed on international competition, and many regulations explicitly impose greater burdens on new facilities and products.
>
> Regulation inhibits innovation most when the regulatory agency takes on the task of specifying which technologies or designs industry must employ. Further, once a technology is enshrined in regulation, firms have little incentive to invest in better techniques.

The following principles were offered to minimize disincentives to innovation:

- Regulations should be issued only on evidence that their potential benefits exceed their potential costs. Regulatory objectives, and the methods for achieving these objectives, should be chosen to maximize the net benefits to society.

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- Regulations that seek to reduce health or safety risks should be based upon scientific risk-assessment procedures, and should address risks that are real and significant rather than hypothetical or remote.
- Voluntary private standards and disclosure should be relied on where possible instead of inflexible regulation.
- Health, safety and environmental regulations should address ends rather than means. They should employ performance-based incentives that harness the creativity of market actors to design and continually innovate better ways of reducing excess risks. They should not specify technologies or designs that firms must employ.
- Licensing and permitting decisions and review of new products should be made swiftly and should be based on standards that are clearly defined in advance.

[FR Doc. 92–4603 Filed 2–26–92; 8:45am]

BILLING CODE 6560-50-M

Meeting of the President's Council of Advisors on Science and Technology

The President's Council of Advisors on Science and Technology will meet on March 5–6, 1992. The meeting will begin at 9 a.m. on Thursday, March 5, 1992 in the Conference Room, Council on Environmental Quality, 722 Jackson Place, NW., Washington, DC. The meeting will conclude at approximately 12 noon on Friday, March 6, 1992.

The purpose of the Council is to advise the President on matters involving science and technology.

Proposed Agenda

1. Briefing of the Council on the current activities of the Office of Science and Technology Policy.
2. Briefing of the Council on current federal activities and policies in science and technology.
3. Discussion of progress of working group panels.

Portions of the March 5–6 meeting will be closed to the public.

A portion of the briefings on current federal activities and policies in science and technology will require discussion of budget preparation procedures of the Executive Office of the President and other federal agencies which, if prematurely disclosed, would significantly frustrate the implementation of decisions made requiring agency action. Also, a portion of the discussion of panel progress will necessitate discussion of information which is formally classified in the interest of national security. Accordingly, these portions of the meeting will be closed to the public pursuant to 5 U.S.C. 552b(c)(1), (2), and (9)(B).

Because of the security requirements, persons wishing to attend the open portion of the meeting should contact Ms. Ann Barnett (202) 395–4692, prior to 3 p.m. on March 4, 1992. Ms. Barnett is available to provide specific information regarding time, place, and agenda.

Dated: February 20, 1992.

Damar W. Hawkins,

Executive Assistant, Office of Science and Technology Policy.

[FR Doc. 92–4465 Filed 2–26–92; 8:45 am]

BILLING CODE 3170-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 1577]

Extension of the Restriction on the Use of the United States Passport for Travel to, in, or Through Iraq

On February 1, 1991, pursuant to the authority of 22 U.S.C. 211a and Executive Order 11295 (31 FR 10603), and in accordance with 22 CFR 51.73 (a)(2) and (a)(3), all United States passports, with the following exceptions, were declared invalid for travel to, in, or through Iraq and Kuwait unless specifically validated for such travel. The restriction was not applicable to those American citizens then residing in Iraq and Kuwait nor to American professional reporters and journalists on assignment there. The restriction was required by the fact that armed hostilities then were taking place in Iraq and Kuwait, and the safety of any American citizens travelling to those countries no longer could be guaranteed.

With cessation of armed hostilities, the restrictions on use of the United States passport for travel to, in, or through Kuwait was revoked on March 6, 1991. The restriction on use of the passport for travel to, in, or through Iraq was continued because the Secretary concluded that conditions in that country continued to present an imminent danger to the public health or physical safety of American citizens.

Although armed hostilities have ended, the Government of Iraq continues to direct hostile acts against United States citizens and nationals. There have been numerous incidents over the past year in which American citizens, including some who entered Iraq inadvertently, were detained by Iraqi authorities for extended periods of time without notification to the U.S. Interest Section of the Polish Embassy in Baghdad. Several of these Americans were subjected to harsh and inhumane treatment during their detention.

In light of these circumstances, I have determined that Iraq continues to be a country "* * * where there is imminent danger to the public health or physical safety of United States travelers."

Accordingly, United States passports shall be invalid for use in travel to, in, or through Iraq unless specifically validated for such travel under the authority of the Secretary of State. The restriction shall not apply to American citizens who were residing in Iraq on February 1, 1991 who continue to reside there nor to American professional reporters and journalists on assignment there.

The Public Notice shall be effective upon publication in the **Federal Register** and shall expire at the end of one year unless sooner extended or revoked by Public Notice.

Dated: February 18, 1992.

Lawrence S. Eagleburger,

Acting Secretary of State.

[FR Doc. 92–4494 Filed 2–26–92; 8:45 am]

BILLING CODE 4710-10-M

THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD

National Advisory Board Meeting

AGENCY: Thrift Depositor Protection Oversight Board.

ACTION: Notice of meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. app., announcement is hereby published for a meeting of the National Advisory Board The meeting is open to the public. Please note that elsewhere in this issue of the **Federal Register** is a meeting notice for the newly established National Housing Advisory Board which will meet in the afternoon following the National Advisory Board meeting.

DATES: The meeting is scheduled for Wednesday, March 11, 9 a.m. to 12 noon.

ADDRESSES: The meeting will be held at the Federal Deposit Insurance Corporation, Board Room, 6th floor, 550 17th Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jill Nevius, Committee Management Officer, Thrift Depositor Protection Oversight Board, 1777 F Street, NW., Washington, DC 20232, 202/786–9675.

SUPPLEMENTARY INFORMATION: Pursuant to section 21A(d) of the Federal Home Loan Bank Act, the Thrift Depositor

Protection Oversight Board had established a National Advisory Board and six Regional Advisory Board to advise the Oversight Board and the RTC on the disposition of real property assets of the Corporation.

Agenda

A detailed agenda will be available at the meeting. There will be briefings from the chairman of the six regional advisory boards on their regional meetings held throughout the country between February 5 and February 27, 1992. Discussion will focus on the key topics from the meetings: hard-to-sell asset sales strategies, affordable housing disposition, and the RTC REOMS system.

Statements

Interested persons may submit in writing data, information, or views on the issues pending before the National Advisory Board prior to or at the meeting. The meeting is open to the public. Seating is available on a first come first served basis.

Dated: February 24, 1992.

Jill Nevius,

Committee Management Officer.

[FR Doc. 92–4526 Filed 2–26–92; 8:45 am]

BILLING CODE 2222-01-M

National Housing Advisory Board Meeting

AGENCY: Thrift Depositor Protection Oversight Board.

ACTION: Meeting notice.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act 5 U.S.C. app., announcement is hereby published for the first meeting of the newly established National Housing Advisory Board. The meeting is open to the public. Please note that elsewhere in this issue of the **Federal Register** is a meeting notice for the National Advisory Board which will meet the morning prior to the National Housing Advisory Board meeting.

DATES: The meeting is scheduled for Wednesday, March 11, 1 to 3 p.m.

ADDRESSES: The meeting will be held at the Federal Deposit Insurance Corporation, Board Room, 6th floor, 550 17th Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jill Nevius, Committee Management Officer, Thrift Depositor Protection Oversight Board, 1777 F Street NW., Washington, DC 20232, 202/786-9675.

SUPPLEMENTARY INFORMATION: In accordance with section 21A(d)(2) of the Federal Home Loan Bank Act, as amended by the Resolution Trust Corporation Thrift Depositor Protection Reform Act of 1991, the Thrift Depositor Protection Oversight Board has established a National Housing Advisory Board to advise the Oversight Board on policies and programs related to the provision of affordable housing. The National Housing Advisory Board consists of the Secretary of the Housing and Urban Development and the chairmen of the regional advisory boards established under section 21A(d)(3) of the Federal Home Loan Bank Act. The charter for the National Housing Advisory Board was filed on February 20, 1992.

Agenda

A detailed agenda will be available at the meeting. There will be briefings from the chairman of the Board, from the chairmen of the six regional advisory boards, and on the RTC's affordable housing program. Discussions will focus on single-family and multi-family housing dispositions.

Statements

Interested persons may submit in writing data, information, or views on the issues pending before the National Advisory Board prior to or at the meeting. The meeting is open to the public. Seating is available on a first come first served basis.

Dated: February 24, 1992.

Jill Nevius,

Committee Management Officer.

[FR Doc. 92–4527 Filed 2–26–92; 8:45 am]

BILLING CODE 2222-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Advisory Circular 21–RUP; Detecting and Reporting Suspected Unapproved Parts

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability.

SUMMARY: This notice announces the availability for public comment of proposed Advisory Circular (AC) 21–RUP, Detecting and Reporting Suspected Unapproved Parts. The proposed AC provides information and guidance to the aviation community for detecting and reporting suspected unapproved aircraft parts, and includes procedures for referral of such reports to the appropriate FAA office. This AC provides a standardized method of reporting suspected unapproved parts to the FAA.

DATES: Comments submitted must identify the proposed AC File Number PO–220–0300, and be received by May 27, 1992.

ADDRESSES: Copies of the proposed AC 21–RUP can be obtained from and comments may be returned to the following: Federal Aviation Administration, Production Certification Branch, AIR–220, Aircraft Manufacturing Division, Aircraft Certification Service, 800 Independence Avenue, SW., Washington, DC, 20591.

FOR FURTHER INFORMATION CONTACT: David W. Broughton, Federal Aviation Administration, Production Certification Branch, AIR–220, Aircraft Manufacturing Division, Aircraft Certification Service, 800 Independence Avenue, SW., Washington, DC, 20591, (202) 267–9575.

SUPPLEMENTARY INFORMATION:

Background

Reports of suspected unapproved parts may originate from various sources such as: audits, facility surveillance, letters or telephone calls from the general public, Congressional inquiries, accident or incident investigations, service difficulties or from the Government Industry Data Exchange Program (GIDEP). Concerns have been raised with reports of unapproved parts offered for sale for use on type certificated aircraft or related products. Therefore, this AC is being issued to provide guidance for detecting and reporting suspected unapproved parts. Additionally, this AC contains guidance for the aviation industry to enhance their current quality control system relating to the detection of unapproved parts.

Comments Invited

Interested persons are invited to comment on the proposed AC 21–RUP by submitting such written data, views, or arguments as they desire to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director, Aircraft Certification Service, before issuing the final AC.

Comments received on the proposed AC 21–RUP may be examined before and after the comment closing date at the Federal Aviation Administration Headquarters Building (FOB–10A), 800 Independence Avenue, SW., Washington, DC, 20591, weekdays between 8:30 a.m. and 4:30 p.m.

Issued in Washington, DC, on February 10, 1992.

Ronald T. Wojnar,

Manager, Aircraft Manufacturing Division.

[FR Doc. 92-4477 Filed 2-26-92; 8:45 am]

BILLING CODE 4910-13-M

Aviation Security Advisory Committee, Meeting

AGENCY: Federal Aviation Administration.

ACTION: Notice of Aviation Security Advisory Committee Meeting.

SUMMARY: Notice is hereby given of a meeting of the Aviation Security Advisory Committee.

DATES: The meeting will be held March 13, 1992, from 9 a.m. to 1 p.m.

ADDRESSES: The meeting will be held in the MacCracken Room, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: The Office of the Assistant Administrator for Civil Aviation Security, ACS, 800 Independence Avenue, SW., Washington, DC 20591, telephone 202-267-9863.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; U.S.C. App. II), notice is hereby given of a meeting of the Aviation Security Advisory Committee to be held March 13, 1992, in the MacCracken Room, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC.

The agenda for the meeting will include reports from subcommittee chairs on actions that have occurred since the December 6, 1991, committee meeting and an update on various domestic security programs including criminal records checks and air carrier contingency planning. A discussion on the affect of the moratorium on new regulations is also planned. Additionally, there will be a presentation on the latest technologies being reviewed in the aviation research and development area. Attendance at the March 13, 1992, meeting is open to the public but limited to space available. Members of the public may address the committee only with the written permission of the chair, which should be arranged in advance. The chair may entertain public comment if, in its judgment, doing so will not disrupt the orderly progress of the meeting and will not be unfair to any other person. Members of the public are welcome to present written material to the committee at any time.

Person wishing to present statements or obtain information should contact the Office of the Assistant Administrator for Civil Aviation Security, 800 Independence Avenue, SW., Washington, DC 20591, telephone 202-267-9863.

Issued in Washington, DC on February 21, 1992.

Jack L. Gregory,

Deputy Assistant Administrator for Civil Aviation Security.

[FR Doc. 92-4478 Filed 2-26-92; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement: AK

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in the southcentral region of Alaska.

FOR FURTHER INFORMATION CONTACT: Steven Moreno, Field Operations Engineer, Federal Highway Administration, P.O. box 21648, Juneau, Alaska, 99802-1648, Telephone (907) 586-7428; and Stephen C. Sisk, P.E., Director Alaska Department of Transportation and Public Facilities, Division of Design and Construction, Northern Region, 2301 Peger Road, Fairbanks, Alaska, 99709-5316, Telephone (907) 451-2214.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Alaska Department of Transportation and Public Facilities (ADOT&PF), will prepare an Environmental Impact Statement (EIS) on a proposal to construct a highway between the City of Cordova and the State of Alaska's contiguous highway system. The project is considered necessary to provide overland access to the city of Cordova and the Cooper River Valley. The new highway would be constructed to federal standards and range in length between 63 and 165 miles depending upon the location selected.

Alternatives under consideration include: (1) No-action, (2) various build alternatives, and (3) includes four alternative locations achieving a link with the existing highway system. Three of these locations would begin at the Million Dollar Bridge (Milepost (MP) 49 of the Cooper River Highway) and extend north in the vicinity of the historic Cooper river and Northwestern Railway (CR&NWR) alignment. These include: (a) A Tasnuna River route departing the CR&NWR alignment at MP 82 and following the Tasnuna Valley west for approximately 31 miles to a tie-in with the Richardson Highway at MP 22.5; (b) a Tiekel River route departing the CR&NWR alignment at MP 101 and following the Tiekel River valley west to a tie-in with the Richardson Highway near MP 46; and (c) a Wood Canyon route generally following the CR&NWR alignment north to Chitina (MP 130.6) intersecting the Edgerton Highway approximately 30 miles east of MP 94.1 on the Richardson Highway. The fourth location begins at Cordova and follows a coastal route northwest toward Valdez to a tie-in with the Richardson Highway near MP 3. This alternative varies in length from approximately 63 miles to 165 miles depending on the extent of tunneling considered.

Letters, describing the proposed action and soliciting input will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have an interest in this proposal. Scoping activities will include meetings with the aforementioned agencies at a location convenient for the agencies. Public meetings will be held in potentially affected communities, including Cordova, Valdez, Chitina, Cooper Centers, Fairbanks and Anchorage. In addition, Public Hearings following publication of the Draft EIS will be held. Public notice will be given of the time and place of the meetings and hearings. The Draft EIS will be available for public and agency review and comment prior to the public hearings.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of Federal programs and activities apply to this program)

Issued on: February 20, 1992.

Robert E. Ruby,

Division Administrator, Juneau.

[FR Doc. 92-4489 Filed 2-26-92; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement: City of Roanoke; Roanoke, Bedford and Botetourt Counties, VA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Cancellation of the notice of intent.

SUMMARY: This notice rescinds the previous notice of intent issued on November 4, 1987, to prepare an environmental impact statement for a proposed highway project to serve as an eastern bypass of Roanoke, Virginia, from I–81 (northern terminus) to Route 220 (southern terminus).

FOR FURTHER INFORMATION CONTACT: Mr. Robert B. Welton, District Engineer, Federal Highway Administration, P.O. Box 10045, Richmond, Virginia, 23240–0045, Telephone (804) 771–2682.

SUPPLEMENTARY INFORMATION: The Draft Environmental Impact Statement (DEIS) has been completed and the Location Public Hearing was held on November 21, 1991. As a result of strong public opposition to this proposal, the Virginia Commonwealth Transportation Board has stopped all work on this project and has chosen not to pursue the study any further.

Issued on: February 19, 1992.

Robert B. Welton,

District Engineer, Richmond, Virginia.

[FR Doc. 92–4423 Filed 2–26–92; 8:45 am]

BILLING CODE 4910-22-M

Federal Transit Administration

Announcement of Discretionary Grants To Support Advanced Transportation Systems and Electric Vehicles Research and Development; Solicitation of Program Proposals

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice.

SUMMARY: The FTA announces a discretionary grant program to support advanced transportation systems and electric vehicle research and development and solicits applications from eligible consortia interested in participating in the program.

DATE: Proposals shall be received on or before May 27, 1992.

ADDRESSES: Proposals shall be submitted to Steven A. Barsony, Director, Office of Engineering (TTS–20), Federal Transit Administration, 400 Seventh Street, SW., room 6431, Washington, DC 20590 and shall reference ATS/EV R&D.

FOR FURTHER INFORMATION CONTACT: Shang Hsiung, Office of Engineering (TTS–21), at (202) 366–0241.

SUPPLEMENTARY INFORMATION:

Background and Objectives

On December 18, 1991, the President signed the Intermodal Surface Transportation Efficiency Act of 1991 (Pub. L. 102–240) providing authorizations for highways, highway safety, and mass transportation for the next six years. The purpose of the Act, as stated in its policy statement is "to develop a national Intermodal Transportation System that is economically efficient, environmentally sound, provides the foundation for the Nation to compete in the global economy and will move people and goods in an energy efficient manner."

Title VI, part C of the Act establishes a grant program for Advanced Transportation Systems and Electric Vehicles research and development. One objective of this program is to examine new technologies to bring new approaches in providing 21st Century transportation. Another short term objective is to explore approaches to meet current and imminent air quality and energy security goals.

Under this program, grants will be awarded to at least three consortia that must provide services for advancing the development of advanced transportation systems or electric vehicles. Approximately $12 million is available in FY 1992 under this program. No one eligible consortium may receive more than one third of the funds made available for grants. If fewer than three complete applications from eligible consortia have been received in time to permit the awarding of grants, the deadlines for the submission of applications and the awarding of grants may be extended.

The term *advanced transportation* means a system of mass transportation, such as an electric trolley bus or alternative fuels bus, which employs advanced technology such as light weight materials in order to function cleanly and efficiently. The term "electric vehicle" means a passenger vehicle, such as a van, primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electrical current, and that may include a nonelectrical source of supplemental power.

Eligibility Requirements

An eligible consortium means a consortium of: businesses incorporated in the United States; public or private educational or research organizations located in the United States; entities of State or local governments in the United States; or Federal laboratories.

An eligible consortium shall: (1) Be organized for the purpose of designing and developing electric vehicles and advanced transportation systems, related systems or equipment, or for the purpose of enabling serial production processes;

(2) Facilitate the participation in the consortium of small and medium-size businesses in conjunction with large established manufacturers, as appropriate;

(3) To the extend practicable, include participation in the consortium of defense and aerospace suppliers and manufacturers;

(4) To the extent practicable, include participation in the consortium of entities located in areas designated as non-attainment areas under the Clean Air Act;

(5) Be designed to use State and Federal funding to attract private capital in the form of grants or investments to further the purposes stated in paragraph (1); and

(6) Ensure that at least 50 percent of the costs of the consortium be provided by non-Federal sources.

Services to be performed by an eligible consortium shall include:

(1) Obtaining funding for the acquisition of plant sites, conversion of plant facilities, and acquisition of equipment for the development or manufacture of advanced transportation systems or electric vehicles, or other related systems or equipment, especially for environmentally benign and cost-effective manufacturing processes;

(2) Obtaining low-cost, long-term loans or investments for the purposes described in paragraph (1);

(3) Recruiting and training individuals for electric vehicle and transit related technical design, manufacture, conversion, and maintenance;

(4) Conducting marketing surveys for services provided by the consortium;

(5) Creating electronic access to an inventory of industry suppliers and serving as a clearinghouse for such information;

(6) Consulting with respect to applicable or proposed Federal motor vehicle safety standards;

(7) Creating access to computer architecture needed to stimulate crash testing and to design internal subsystems and related infrastructure for electric vehicles and advanced transportation systems to meet applicable standards; and

(8) Creating access to computer protocols that are compatible with

larger manufacturers' systems to enable small and medium-sized suppliers to compete for contracts for advanced transportation systems and electric vehicles and other related systems and equipment.

Application Procedure

Each consortium shall submit one original and five copies of its proposal to: Steven A. Barsony, Director, Office of Engineering, Federal Transit Administration, 400 Seventh Street, SW., room 6431, Washington, DC 20590, Mail code: TTS-20. Only complete proposals received on or before May 27, 1992 shall be considered. The proposals shall reference ATS/EV R&D.

Proposal Contents

A proposal submitted shall include:

(A) A description of the services to be performed by the consortium including a discussion of how the proposed efforts relate to past or on-going activities, a proposed schedule of performance, a proposed budget, and proposed management plan;

(B) A description of the eligible consortium making the proposal;

(C) A description of the type of additional members targeted for inclusion in the consortium;

(D) A description of the eligible consortium's ability to contribute significantly to the development of vehicles, transportation systems or related subsystems and equipment, that are competitive in the commercial market and its ability to enable serial production processes;

(E) A description of the eligible consortium's financing scheme and business plan, including any projected contributions of State and local governments and other parties;

(F) Assurances, by letter of credit or other acceptable means, that the eligible consortium is able to meet the requirement that at least 50 percent of the costs of the consortium be provided by non-Federal sources.

(G) Documentation of technical capability and previous experience.

Proposals should be under 100 pages. Glossy or elaborate proposals are not required. The proposals should contain at a minimum the following sections:

(1) Technical approach;

(2) Management approach;

(3) Consortium members and key personnel, including a description of the related experience of each consortium member and key personnel in the proposed approach; and

(4) Cost, including a breakdown of the proposed FTA and consortium share of the estimated cost.

Proposal Review Process and Criteria

Initially, all proposals will be reviewed to confirm that the proposer is an eligible consortium and to ensure that the proposal contains all the information required by the Proposal contents section of this notice.

Each complete proposal from an eligible consortium will then be evaluated by a Technical Evaluation Committee. Proposals will be rated in accordance with the following criteria listed in descending order:

(1) Ability of proposed work effort to advance the development of electric vehicles or advanced transportation systems, or related subsystems and equipment, that are competitive in the commercial market and its ability to enable serial production processes.

(2) Cost-effectiveness of proposed work effort and financing plan including the commitment of non-Federal sources of funding and the assurance of the availability of such funds.

(3) Ability of proposed work effort to significantly enhance the capability of existing domestic manufacturing industries and energy suppliers to supply electric vehicles or advanced transportation systems and the necessary infrastructure to support electric vehicles or advanced transportation systems that may be required to meet Federal and local air quality standards.

(4) Composition of consortium and its management commitment and technical capability to successfully conduct and administer the proposed work effort.

(5) Qualifications of proposed key personnel to carry out the proposed work effort.

The Technical Evaluation Committee will forward its evaluation to the Administrator upon completion of its review. The final decision on the election of proposals for funding will be made by the Administrator.

Issued On: February 21, 1992.

Brian W. Clymer,

Administrator.

[FR Doc. 92-4457 Filed 2-26-92; 8:45 am]

BILLING CODE 4910-57-M

National Highway Traffic Safety Administration

[Docket No. 92-08, NO. 1]

Uniroyal Goodrich; Receipt of Petition for Determination of Inconsequential Noncompliance

Michelin Technical Services, Inc. of Greenville, South Carolina, on behalf of Uniroyal Goodrich Tire Company of Akron, Ohio, has determined that some tires fail to comply with 49 CFR 571.119, "New Pneumatic Tires For Vehicles Other Than Passenger Cars." and has filed an appropriate report pursuant to 49 CFR part 573. Michelin has also petitioned that Uniroyal Goodrich be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. *et seq.*) on the basis that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgement concerning the merits of the petition.

Michelin determined that 2,177 Uniroyal LT 245/75R16 LRC Laredo LTL raised white letter tires were marked with the incorrect maximum load rating, inflation pressure and ply rating markings on the inside sidewall. The inside sidewall was marked as follows:

Load Range E—Max. load single—1380 Kg (3042 pounds) at 550 Kpa (80 psi) cold
Max. load dual—1260 Kg (2778 pounds) at 550 Kpa (80 psi) cold

The correct marking is as follows:

Load Range C—Max load single—1000 kg (2205 pounds) at 350 kpa (50 psi) cold
Max load dual—910 kg (2006 pounds) at 350 kpa (50 psi) cold

Michelin supports its petition with the following:

1. The load range appears twice on both sidewalls, in small letters near the load and inflation pressure markings and in larger letters near the tire size designation. Only the load range marking in small letters on the inside sidewall is in error. The larger marking, which is more likely to be used is correct.

2. The tires mounted on the GMC trucks are correctly marked on the raised white letter side which faces outwards. It is unlikely that anyone would refer to the information on the inside sidewall while the tire is mounted. Furthermore, the consumer is directed by the vehicle owner's manual to refer to the tire placard in the vehicle for correct loading and tire inflation information.

3. The tires sold as replacement tires have the correct information on the paper label affixed to the tread which is the primary source of information before a tire is mounted. Since raised white letters are a feature that a customer pays a premium for it is unlikely that these tires would be mounted with blackball out, so once again, the

information facing outwards would be correct.

Michelin tested two of the noncompliant tires to the strength and endurance requirements of FMVSS No. 119. The tires were tested at the higher load range E load and inflation pressure and exceeded all the test requirements, according to Michelin. The test results are:

Endurance: Tire No. 1 was tested for the required 47 hours and then run to destruction which occurred at 86.6 hours, which is 84 percent beyond the test requirement.

Tire No. 2 was tested for the required 47 hours then run to destruction which occurred at 84.2 hours which is 80 percent beyond the test requirement.

Strength: The required minimum static breaking energy for load range E is 5,100 inch-pounds. Tire No. 1 averaged 5,985 inch-pounds, while Tire No. 2 averaged 6,119 inch-pound. Michelin believes the test results demonstrate that even in the highly unlikely event the tires were run at the conditions indicated by the incorrect marking, they would not present a safety problem.

Interested persons are invited to submit written data, views and arguments on the petition of Michelin, described above. Comments should refer to the Docket Number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC., 20590. It is requested but not required that six copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, the Notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: March 30, 1992.

Authority: 15 U.S.C. 1417; delegation of authority at 49 CFR 1.50 and 49 CFR 501.8.

Issued on February 21, 1992.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 92–4479 Filed 2–26–92; 8:45 am]

BILLING CODE [illegible]

Research and Special Programs Administration

[Docket No. WPDA–1]

The City of New York's Application for a Waiver of Preemption Determination Concerning New York City Fire Department Regulations Governing Pickup/Delivery Transportation of Flammable and Combustible Liquids and Flammable and Compressed Gases

AGENCY: Research and Special Programs Administration, (RSPA), DOT.

ACTION: Public notice of reopening of rebuttal comment period.

SUMMARY: The City of New York has applied for an administrative determination waiving preemption, under the Hazardous Materials Transportation Act (HMTA), of certain provisions of New York City Fire Department directives. Those regulatory provisions concern the transportation of flammable and combustible liquids and flammable and compressed gasses for pickup or delivery within New York City. This notice reopens the rebuttal comment period on the City's application.

DATES: Rebuttal comments received on or before March 13, 1992, will be considered before an administrative ruling is issued by the Associate Administrator for Hazardous Materials Safety, Research and Special Program Administration. These rebuttal comments may discuss only those issues raised by comments and rebuttal comments received and docketed prior to publication of this notice and may not discuss new issues.

ADDRESSES: The application and any comments received may be reviewed in the Dockets Unit, Research and Special Programs Administration, room 8421, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590–0001. Rebuttal comments on the application may be submitted to the Dockets Unit at the above address, and should include the Docket Number (WPDA–1). Three copies are requested. A copy of each rebuttal comment must also be sent to Grace Goodman, Esq., Asst. Corporation Counsel, Law Department, The City of New York, 100 Church Street, room 6F41, New York, NY 10007; John J. Collins, Esq., ATA Litigation Center, American Trucking Associations, 2200 Mill Road, 6th Floor, Alexandria, VA 22314; and Timothy L. Harker, Esq., The Harker Firm, 5301 Wisconsin Ave., NW., suite 740 Washington, DC 20015.

A certification that a copy has been sent to each person must also be included with the comment. (The following format is suggested: "I hereby certify that copies of this comment have been sent to Ms. Goodman and Messrs. Collins and Harker at the addresses specified in the **Federal Register**.")

FOR FURTHER INFORMATION CONTACT: Edward H. Bonekemper, III, Assistant Chief Counsel for Hazardous Materials Safety, Office of the Chief Counsel, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590–0001, telephone number 202–366–4400.

SUPPLEMENTARY INFORMATION:

1. Background

On October 9, 1991, the City of New York submitted an application for a waiver of preemption determination, which was reproduced in critical part as appendix A to a public notice and invitation to comment published in the **Federal Register** on November 15, 1991 (56 FR 58126). A comment period expired on December 13, 1991, and a rebuttal comment period expired on January 17, 1992.

However, several comments supporting and opposing the City's applications were received and docketed after January 17, 1992. Therefore, in fairness to all interested parties, the rebuttal comment period is being extended through March 13, 1992. Parties may file comments rebutting any comments which have been received and docketed prior to publication of this notice.

Several exhibits were enclosed with the City's application, and they are available for examination at, and copies of them are available at no cost from the Dockets Unit, Research and Special Programs Administration (RSPA), room 8421, Nassif Building, 400 Seventh Street, SW. 20590–0001, telephone 202–366–4453.

The City requirements at issue in this proceeding were determined to be preempted in Inconsistency Ruling 22 (IR–22) (52 FR 46574, Dec. 8, 1987; correction, 52 FR 49107, Dec. 29, 1987) and in the RSPA Administrator's Decision of Appeal (IR–22(A)) (54 FR 26698, June 23, 1989). According to an October 29, 1991 letter from the City to RSPA, on October 18, 1991, in *National*

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Paint & Coatings Ass'n et al. v. *City of New York et al.*, Index No. CV 84–4525 (ERK), the United States District Court for the Eastern District of New York issued an order confirming that the City has acknowledged preemption of its requirements. That decision was reproduced as appendix B to the November 15, 1991 **Federal Register** notice.

2. Request for Temporary Stay of Preemption

In its application, the City also requested a temporary stay of preemption as to the regulations which are the subject of its application. In its October 29 letter, the City states that, because the District Judge in the Federal Court litigation had provided for temporary relief for 150 days, RSPA need not rule on the request at that time. However, the City requested notice and an opportunity to renew its request if no determination is issued by March 15, 1992.

In the November 15, 1991 notice, RSPA indicated that there is no authority in the HMTA for the Secretary or RSPA to temporarily stay preemption. The authority to grant such relief lies, if anywhere, with the courts. RSPA has notified the City that RSPA does not expect to issue a determination by March 15, 1992, but that it does expect to issue a determination by May 15, 1992.

3. Public Comment

Comments should be limited to the following issues:

(1) Whether the specified City regulations afford an equal or greater level of protection to the public than is afforded by the requirements of the HMTA or regulations issued under the HMTA;

(2) whether those requirements do not unreasonably burden commerce, and

(3) Whether RSPA should grant the waiver request if it makes affirmative findings on issues (1) and (2).

Persons intending to comment on the application should review the standards and procedures governing the Department's consideration of applications for waiver of preemption determinations found at 49 CFR 107.215–107.225.

Dated: Issued in Washington, DC on February 21, 1992.

Alan I. Roberts

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 92–4480 Filed 2–26–92; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular—Public Debt Series—No. 7–92]

8% Treasury Bonds of November 2021

February 6, 1992.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of chapter 31 of title 31, United States Code, invites tenders for approximately $10,000,000,000 of United States securities, designated 8% Treasury Bonds of November 2021 (CUSIP No. 912810 EL 8), hereafter referred to as Bonds. The Bonds will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Bonds may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities.

2. Description of Securities

2.1. The Bonds will be issued February 18, 1992, and are offered as an additional amount of 8% Treasury Bonds of November 2021 (CUSIP No. 912810 EL 8) dated November 15, 1991. Payment for the Bonds will be based on the price equivalent to the bid yield determined in accordance with this circular, plus accrued interest from November 15, 1991, to February 18, 1992. Interest on the Bonds offered as an additional issue is payable on a semiannual basis on May 15, 1992, and each subsequent 6 months on November 15 and May 15 through the date that the principal becomes payable. They will mature November 15, 2021, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Bonds will be issued only in book-entry form in a minimum amount of $1,000 and in multiples of that amount. They will not be issued in registered definitive or in bearer form.

2.3. A Bond may be held in its fully constituted form, or it may be divided into its separate Principal and Interest Components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as fiscal agents of the United States. The provisions specifically applicable to the separation, maintenance, transfer, and reconstitution of Principal and Interest Components are set forth in section 6 of this circular. Subsections 2.1. and 2.2. of this section are descriptive of Bonds in their fully constituted form; the description of the separate Principal and Interest Components is set forth in section 6 of this circular.

2.4. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2–86 (31 CFR Part 357), apply to the Bonds offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239–1500, Thursday, February 13, 1992, prior to 12 noon, eastern standard time, for noncompetitive tenders and prior to 1 p.m., eastern standard time, for competitive tenders. Non-competitive tenders as defined below will be considered timely if postmarked no later than Wednesday, February 12, 1992, and received no later than Tuesday, February 18, 1992.

3.2. The par amount of Bonds bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. A bidder, whether bidding directly or submitting bids through a depository institution or government securities broker/dealer, may not bid both competitively and noncompetitively for its own account in the auction.

3.3. Competitive bids must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. A single bidder, as defined in Treasury's single bidder guidelines contained in Attachment A to this circular, may submit bids for more than one yield. However, at any one yield, the Treasury will not recognize any amount tendered by a single bidder in excess of $3,500,000,000, which is 35 percent of the public offering amount of $10,000,000,000. A competitive bid by a single bidder at any one yield in excess of $3,500,000,000 will be reduced to that amount.

3.4. Noncompetitive tenders do not specify a yield. A single bidder should not submit a noncompetitive tender for more than $5,000,000. A noncompetitive bid by a single bidder in excess of $5,000,000 will be reduced to that amount. A bidder may not submit a noncompetitive bid if the bidder holds a position, in the Bonds being auctioned, in "when issued" trading, or in futures or forward contracts. A noncompetitive bidder may not enter into any agreement to purchase or sell or otherwise dispose of the security being auctioned, nor may it commit to sell the security prior to the designated closing time for receipt of competitive bids.

3.5. The following institutions may submit tenders for accounts of customers: Depository institutions, as described in section 19(b)(1)(A), excluding those institutions described in subparagraph (vii), of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)); and government securities broker/dealers that are registered with the Securities and Exchange Commission or noticed as government securities broker/dealers pursuant to section 15C(a)(1) of the Securities Exchange Act of 1934. Others are permitted to submit tenders only for their own account. For competitive bids, an institution submitting a bid for customers must submit with the institution's tender a customer list that includes, for each customer, the name of the customer and the amount bid at each yield. Customer bids may not be aggregated by yield on the customer list. For noncompetitive bids, the customer list must provide, for each customer, the name of the customer and the amount bid. All competitive and noncompetitive bids submitted on behalf of trust estates must provide, for each trust estate, the name or title of the trustee(s), a reference to the document creating the trust with the date of execution, and the employer identification number of the trust.

3.6. A competitive single bidder must report its net long position if the total of all its bids for the security being offered and its position in the security equals or exceeds $2 billion, with the position to be determined as of one half-hour prior to the closing time for the receipt of competitive tenders. A net long position includes positions, in the security being auctioned, in "when issued" trading, and in futures and forward contracts. Bidders who meet this reporting requirement and are customers of a depository institution or a government securities broker/dealer must report their positions through the institution submitting the bid on their behalf.

3.7. Tenders from bidders who are making payment by charge to a funds account at a Federal Reserve Bank and tenders from bidders who have an approved autocharge agreement on file at a Federal Reserve Bank will be received without deposit. In addition, tenders from States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks will be received without deposit. Tenders from all others must be accompanied by full payment for the amount of Bonds applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.8. Immediately after the deadline for receipt of competitive tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Competitive tenders at yields higher than 8.67% will not be accepted because the equivalent prices would fall below the original issue discount limit of 92.750. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.9. No single bidder will be awarded securities in an amount exceeding 35 percent of the public offering. The maximum amount which may be awarded in this auction is $3,500,000,000. The determination of the maximum award to a single bidder will take into account the bidder's net long position, if the bidder has been obliged to report its position per the requirements outlined in Section 3.6.

3.10. Notice of awards will be provided by a Federal Reserve Bank or Branch or the Bureau of the Public Debt to bidders who have submitted accepted competitive bids, whether for their own account or for the account of customers. Those submitting noncompetitive bids will be notified only if the bid is not accepted in full, or when the price at the average yield is over par. Not later than 12 noon local time Friday, February 14, 1992, the appropriate Federal Reserve Bank will notify each depository institution that has entered into an autocharge agreement with a bidder as to the amount to be charged to the institution's funds account at the Federal Reserve Bank on the issue date. Any customer that is awarded $500 million or more of securities must furnish, no later than 10 a.m. local time Friday, February 14, 1992, written confirmation of its bid to the Federal Reserve Bank or Branch where the bid was submitted. A depository institution or government securities broker/dealer submitting a bid for a customer is responsible for notifying its customer of this requirement if the customer is awarded $500 million or more as a result of bids submitted by the depository institution or the broker/dealer.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Bonds specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

5. Payment and Delivery

5.1. Settlement for the Bonds allotted must be made timely at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted, and must include accrued interest from November 15, 1991, to February 18, 1992, in the amount of $20.87912 per $1,000 of Bonds allotted. Settlement on Bonds allotted will be made by a charge to a fund account or pursuant to an approved autocharge agreement, as provided in Section 3.7. Settlement on Bonds allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in Section 3.7 must be made or completed on or before Tuesday, February 18, 1992. Payment must be in cash; in other funds immediately available to the Treasury;

in Treasury notes or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, February 13, 1992. When payment has been submitted with the tender and the purchase price of the Bonds allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up top 5 percent of the par amount of Bonds allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Bonds allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identified to the registration of the Bond being purchased. In any such case, the tender form used to place the Bonds allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. Separability of Principal and Interest

6.1. Under the Treasury's STRIPS Program (Separate Trading of Registered Interest and Principal of Securities), a Bond may be divided into its separate components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as Fiscal Agents of the United States. The separate STRIPS components are: each future semiannual interest payment (referred to as an Interest Component) and the principal payment (referred to as the Principal Component). Each Interest Component and the Principal Component shall have an identifying designation and CUSIP number, which are set forth in Attachment B to this circular.

6.2. Attachment B also provides the payable dates for the separate components. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

6.3. For a Bond to be separated into the components described in Section 6.1., the par amount of the Bond must be in an amount which, based on the 8% interest rate of the Bond, will produce a semiannual interest payment of $1,000 or a multiple of $1,000. The minimum par amount required to obtain the separate components for this offering is $25,000. Par amounts greater than the minimum amount must be in multiples of that amount.

6.4. A Bond may be separated into its components at any time from the issue date until maturity. A request for separation must be made to the Federal Reserve Bank maintaining the account for the Bonds. Once a Bond has been separated into its components, the components may be maintained and transferred in multiples of $1,000.

6.5. Interest and Principal Components of separated securities may be reconstituted, i.e., restored to their fully constituted form, on the book-entry records of the Federal Reserve Banks. A Principal Component and all related unmatured Interest Components, in the appropriate minimum or multiple amounts previously announced, must be submitted together for reconstitution.

6.6. Detached physical interest coupons, coupons held under the CUBES Program, or cash payments may not be substituted for missing Interest or Principal Components. Any reconstitution request which does not comprise all of the necesssary STRIPS components in the appropriate amounts will not be accepted.

6.7. The book-entry transfer of each Interest Component and Principal Component included in a reconstitution transaction will be subject to the fee schedule generally applicable to transfers of book-entry Treasury securities.

6.8. Unless otherwise provided in this offering circular, the Department of the Treasury's general regulations governing United States securities apply to the Bonds separated into their components.

7. General Provisions

7.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Bonds.

7.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Bonds. Public announcement of such changes will be promptly provided.

7.3 The Bonds issued under this circular shall be obligations of the United States, whether held in the fully constituted form or as separate Interest and Principal Components, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Bonds.

7.4. Attachments A and B are incorporated as part of this circular.

Marcus W. Page,

Acting Fiscal Assistant Secretary.

Treasury's Single Bidder Guidelines for Noncompetitive Bidding in all Treasury Security Auctions

The investor categories listed below define what constitutes a single noncompetitive bidder.

(1) *Bank Holding Companies and Subsidiaries*—

A bank holding company (includes the company and/or one or more of its subsidiaries, whether or not organized as separate entities under applicable law).

(2) *Banks and Branches*—

A parent bank (includes the parent and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(3) *Thrift Institutions and Branches*—

A thrift institution, such as a savings and loan association, credit union, savings banks, or other similar entity (includes the principal or parent office and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(4) *Corporations and Subsidiaries*—

A corporation (includes the corporation and/or one or more of its majority-owned subsidiaries, i.e., any subsidiary more than 50 percent of whose stock is owned by the parent corporation or by any other of its majority-owned subsidiaries).

(5) *Families*—

A married person (includes his or her spouse, and any unmarried adult children, having a common address and/or household).

Note: A minor child, as defined by the law of domicile, is *not* permitted to submit tenders individually, or jointly with an adult bidder. (A minor's parent acting as natural guardian is *not* recognized as a separate bidder.)

(6) *Partnerships*—

Each partnership (includes a partnership or individual partner(s), acting together or separately, who own the majority or controlling interest in other partnerships, corporations, or associations).

(7) *Guardians, Custodians, or Other Fiduciaries*—

A guardian, custodian, or similar fiduciary, identified by (a) the name or title of the fiduciary, (b) reference to the document, court order, or other authority under which the fiduciary is acting, and (c) the taxpayer identifying number assigned to the estate.

(8) *Trusts*—

A trust estate, which is identified by (a) the name or title of the trustee, (b) a reference to the document creating the trust, e.g., a trust indenture, with date of execution, or a will,

(c) the IRS employer identification number (not social security account number).

(9) *Political Subdivisions*—

(a) A state government (any of the 50 states and the District of Columbia).

(b) A unit of local government (any county, city, municipality, or township, or other unit of general government, as defined by the Bureau of the Census for statistical purposes, and includes any trust, investment, or other funds thereof).

(c) A commonwealth, territory, or possession.

(10) *Mutual Funds*—

A mutual fund (includes all funds that comprise it, whether or not separately administered).

(11) *Money Market Funds*—

A money market fund (includes all funds that have a common management).

(12) *Investment Agents/Money Managers*—

An individual, firm, or association that undertakes to service, invest, and/or manage funds for others.

(13) *Pension Funds*—

A pension fund (includes all funds that comprise it, whether or not separately administered).

Notes: The definitions do not reflect all bidder situations. "Single bidder" is not necessarily synonymous with "single entity".

Questions concerning the guidelines should be directed to the Office of Financing, Bureau of the Public Debt, Washington, DC 20239 (telephone 202/219–3350).

Attachment B

CUSIP Numbers and Designations for the Principal Component and Interest Components of 8% Treasury Bonds of November 15, 2021, CUSIP No. 912810 EL 8

The Principal Component is designated 8% Treasury Principal (TPRN) 2021 due November 15, 2021, CUSIP No. 912803 AY 9.

INTEREST COMPONENTS

Designation	CUSIP No. 912833	Designation	CUSIP No. 912833
Treasury Interest (TINT) Due		Treasury Interest (TINT) Due	
May 15, 1992	EU 0	May 15, 2007	GA 2
Nov. 15, 1992	EV 8	Nov. 15, 2007	GB 0
May 15, 1993	EW 6	May 15, 2008	GC 8
Nov. 15, 1993	EX 4	Nov. 15, 2008	GD 6
May 15, 1994	EY 2	May 15, 2009	GE 4
Nov. 15, 1994	EZ 9	Nov. 15, 2009	GF 1
May 15, 1995	FA 3	May 15, 2010	JU 5
Nov. 15, 1995	FB 1	Nov. 15, 2010	JV 3
May 15, 1996	FC 9	May 15, 2011	JW 1
Nov. 15, 1996	FD 7	Nov. 15, 2011	JX 9
May 15, 1997	FE 5	May 15, 2012	JY 7
Nov. 15, 1997	FF 2	Nov. 15, 2012	JZ 4
May 15, 1998	FG 0	May 15, 2013	KA 7
Nov. 15, 1998	FH 8	Nov. 15, 2013	KB 5
May 15, 1999	FJ 4	May 15, 2014	KC 3
Nov. 15, 1999	FK 1	Nov. 15, 2014	KD 1
May 15, 2000	FL 9	May 15, 2015	KE 9
Nov. 15, 2000	FM 7	Nov. 15, 2015	KF 6
May 15, 2001	FN 5	May 15, 2016	KH 2
Nov. 15, 2001	FP 0	Nov. 15, 2016	KK 5
May 15, 2002	FQ 8	May 15, 2017	KM 1
Nov. 15, 2002	FR 6	Nov. 15, 2017	KP 4
May 15, 2003	FS 4	May 15, 2018	KR 0
Nov. 15, 2003	FT 2	Nov. 15, 2018	KT 6

INTEREST COMPONENTS—Continued

Designation	CUSIP No. 912833	Designation	CUSIP No. 912833
May 15, 2004	FU 9	May 15, 2019	KV 1
Nov. 15, 2004	FV 7	Nov. 15, 2019	KX 7
May 15, 2005	FW 5	May 15, 2020	KZ 2
Nov. 15, 2005	FX 3	Nov. 15, 2020	LB 4
May 15, 2006	FY 1	May 15, 2021	LD 0
Nov. 15, 2006	FZ 8	Nov. 15, 2021	LF 5

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BILLING CODE 4810-40-M

[Department Circular—Public Debt Series—No. 5–92]

Treasury Notes of February 15, 1995, Series N–1995

Washington, February 6, 1992.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of chapter 31 of title 31, United States Code, invites tenders for approximately $15,000,000,000 of United States securities, designated Treasury Notes of February 15, 1995, Series N–1995 (CUSIP No. 912827 E2 4), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated February 18, 1992, and will accrue interest from that date, payable on a semiannual basis on August 15, 1992, and each subsequent 6 months on February 15 and August 15 through the date that the principal becomes payable. They will mature February 15, 1995, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes will be issued only in book-entry form in a minimum amount of $5,000 and in multiples of that amount. They will not be issued in registered definitive or in bearer form.

2.3. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2–86 (31 CFR part 357), apply to the Notes offered in this circular.

3. Sales Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC, 20239–1500, Tuesday, February 11, 1992, prior to 12 noon, Eastern Standard Time, for noncompetitive tenders. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, February 10, 1992, and received no later than Tuesday, February 18, 1992.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of that amount. A bidder, whether bidding directly or submitting bids through a depository institution or government securities broker/dealer, may not bid both competitively and noncompetitively for its own account in the auction.

3.3. Competitive bids must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. A single bidder, as defined in Treasury's single bidder guidelines contained in Attachment A to this circular, may submit bids for more than one yield. However, at any one yield, the Treasury will not recognize any amount tendered by a single bidder in excess of $5,250,000,000, which is 35 percent of the public offering amount of $15,000,000,000. A competitive bid by a single bidder at any one yield in excess of $5,250,000,000 will be reduced to that amount.

3.4. Noncompetitive tenders do not specify a yield. A single bidder should not submit a noncompetitive tender for more than $5,000,000. A noncompetitive bid by a single bidder in excess of $5,000,000 will be reduced to that amount. A bidder may not submit a noncompetitive bid if the bidder holds a position, in the notes being auctioned, in "when issued" trading, or in futures or forward contracts. A noncompetitive bidder may not enter into any agreement to purchase or sell or otherwise dispose of the security being auctioned, nor may it commit to sell the security prior to the designated closing time for receipt of competitive bids.

3.5. The following institutions may submit tenders for accounts of customers: depository institutions, as described in section 19(b)(1)(A), excluding those institutions described in subparagraph (vii), of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)); and government securities broker/dealers that are registered with the Securities and Exchange Commission or noticed as government securities broker/dealers pursuant to section 15C(a)(1) of the Securities Exchange Act of 1934. Others are permitted to submit tenders only for their own account. For competitive bids, an institution submitting a bid for customers must submit with the institution's tender a customer list that includes, for each customer, the name of the customer and the amount bid at each yield. Customer bids may not be aggregated by yield on the customer list. For noncompetitive bids, the customer list must provide, for each customer, the name of the customer, and the amount bid. All competitive and noncompetitive bids submitted on behalf of trust estates must provide, for each trust estate, the name or title of the trustee(s), a reference to the document creating the trust with the date of execution, and the employer identification number of the trust.

3.6. A competitive single bidder must report its net long position if the total of all its bids for the security being offered and its position in the security equals or exceeds $2 billion, with the position to be determined as of one half-hour prior to the closing time for the receipt of competitive tenders. A net long position includes positions, in the security being auctioned, in "when issued" trading, and in futures and forward contracts. Bidders who meet this reporting requirement and are customers of a depository institution or a government securities broker/dealer must report their positions through the institution submitting the bid on their behalf.

3.7. Tenders from bidders who are making payment by charge to a funds account at a Federal Reserve Bank and tenders from bidders who have an approved autocharge agreement on file at a Federal Reserve Bank will be received without deposit. In addition, tenders from States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States hold membership; foreign central banks and foreign states; and Federal Reserve Banks will be received without deposit. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.8. Immediately after the deadline for receipt of competitive tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.9. No single bidder will be awarded securities in an amount exceeding 35 percent of the public offering. The maximum amount which may be awarded in this auction is $5,250,000,000. The determination of the maximum award to a single bidder will take into account the bidder's net long position, if the bidder has been obliged to report its position per the requirements outlined in Section 3.6.

3.10. Notice of awards will be provided by a Federal Reserve Bank or Branch or the Bureau of the Public Debt to bidders who have submitted accepted competitive bids, whether for their own account or for the account of customers. Those submitting noncompetitive bids will be notified only if the bid is not accepted in full, or when the price at the average yield is over par. Not later than 12 noon local time Wednesday, February 12, 1992, the appropriate Federal Reserve Bank will notify each depository institution that has entered into an autocharge agreement with a bidder as to the amount to be charged to the institution's funds account at the Federal Reserve Bank on the issue date. Any customer that is awarded $500 million or more of securities must furnish, no later than 10:00 a.m. local time Wednesday, February 12, 1992, written conformation of its bid to the Federal Reserve Bank or Branch where the bid was submitted. A depository institution or government securities broker/dealer submitting a bid for a customer is responsible for notifying its customer of this requirement if the customer is awarded $500 million or more as a result of bids submitted by the depository institution or the broker/dealer.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made timely at the Federal reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted will be made by a charge to a funds account or pursuant to an approved autocharge agreement, as provided in section 3.7. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.7 must be made or completed on or before Tuesday, February 18, 1992. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury notes or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, February 13, 1992. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the Note being purchased. In any such case, the tender form used to place the Notes allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

6.4. Attachment A is incorporated as part of this circular.

Marcus W. Page,
Acting Fiscal Assistant Secretary.

Treasury's Single Bidder Guidelines for Noncompetitive Bidding in all Treasury Security Auctions

The investor categories listed below define what constitutes a single noncompetitive bidder.

(1) *Bank Holding Companies and Subsidiaries*—A bank holding company (includes the company and/or one or more of its subsidiaries, whether or not organized as separate entities under applicable law).

(2) *Banks and Branches*—A parent bank (includes the parent and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(3) *Thrift Institutions and Branches*—A thrift institution, such as a savings and loan association, credit union, savings banks, or other similar entity (includes the principal or parent office and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(4) *Corporations and Subsidiaries*—A corporation (includes the corporation and/or one or more of its majority-owned subsidiaries, i.e., any subsidiary more than 50 percent of whose stock is owned by the parent corporation or by any other of its majority-owned subsidiaries).

(5) *Families*—A married person (includes his or her spouse, and any unmarried adult children, having a common address and/or household).

Note: A minor child, as defined by the law of domicile, is *not* permitted to submit tenders individually, or jointly with an adult bidder. (A minor's parent acting as natural guardian is *not* recognized as a separate bidder.)

(6) *Partnerships*—Each partnership (includes a partnership or individual partner(s), acting together or separately, who own the majority or controlling interest in other partnerships, corporations, or associations).

(7) *Guardians, Custodians, or other Fiduciaries*—A guardian, custodian, or similar fiduciary, identified by (a) the name or title of the fiduciary, (b) reference to the document, court order, or other authority under which the fiduciary is acting, and (c) the taxpayer identifying number assigned to the estate.

(8) *Trusts*—A trust estate, which is identified by (a) the name or title of the trustee, (b) a reference to the document creating the trust, e.g., a trust indenture, with date of execution, or a will, (c) the IRS employer identification number (not social security account number).

(9) *Political Subdivisions*—(a) A state government (any of the 50 states and the District of Columbia).

(b) A unit of local government (any county, city, municipality, or township, or other unit of general government, as defined by the Bureau of the Census for statistical purposes, and includes any trust, investment, or other funds thereof).

(c) A commonwealth, territory, or possession.

(10) *Mutual Funds*—A mutual fund (includes all funds that comprise it whether or not separately administered).

(11) *Money Market Funds*—A money market fund (includes all funds that have a common management).

(12) *Investment Agents/Money Managers*—An individual, firm, or association that undertakes to service, invest, and/or manage funds for others.

(13) *Pension Funds*—A pension fund (includes all funds that comprise it, whether or not separately administered).

Notes: The definitions do not reflect all bidder situations. "Single bidder" is not necessarily synonymous with "single entity".

Questions concerning the guidelines should be directed to the Office of Financing, Bureau of the Public Debt, Washington, DC 20239 (telephone 202/219-3350).

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[Department Circular—Public Debt Series—No. 6-92]

7½% Treasury Notes of November 15, 2001

Washington, February 6, 1992.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $11,000,000,000 of United States securities, designated 7½% Treasury Notes of November 15, 2001 (CUSIP No. 912827 D2 5), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be issued February 18, 1992, and are offered as an additional amount of 7½% Treasury Notes of November 15, 2001, Series D-2001 (CUSIP No. 912827 D2 5) dated November 15, 1991. Payment for the Notes will be based on the price equivalent to the bid yield determined in accordance with this circular, plus accrued interest from November 15, 1991, to February 18, 1992. Interest on the Notes offered as an additional issue is payable on a semiannual basis on May 15, 1992, and each subsequent 6 months on November 15 and May 15 through the date that the principal becomes payable. They will mature November 15, 2001, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other non-business day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes will be issued only in book-entry form in a minimum amount of $1,000 and in multiples of that amount. They will not be issued in registered definitive or in bearer form.

2.3. A Note may be held in its fully constituted form, or it may be divided into its separate Principal and Interest Components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as fiscal agents of the United States. The provisions specifically applicable to the separation, maintenance, transfer, and reconstitution of Principal and Interest Components are set forth in section 6 of this circular. Subsections 2.1. and 2.2. of this section are descriptive of Notes in their fully constituted form; the description of the separate Principal and Interest Components is set forth in Section 6 of this circular.

2.4. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations, governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2–86 (31 CFR part 357), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC, 20239–1500, Wednesday, February 12, 1992, prior to 12 noon, Eastern Standard time, for noncompetitive tenders and prior to 1 p.m., Eastern Standard time, for competitive tenders. Non-competitive tenders as defined below will be considered timely if postmarked no later than Tuesday, February 11, 1992, and received no later than Tuesday, February 18, 1992.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. A bidder, whether bidding directly or submitting bids through a depository institution or government securities broker/dealer, may not bid both competitively and non-competitively for its own account in the auction.

3.3. Competitive bids must also show the yield desired expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. A single bidder, as defined in Treasury's single bidder guidelines contained in Attachment A to this circular, may submit bids for more than one yield. However, at any one yield, the Treasury will not recognize any amount 35 percent of the public offering amount of $10,000,000,000. A competitive bid by a single bidder at any one yield in excess of $3,500,000,000 will be reduced to that amount.

3.4. Noncomptitive tenders do not specify a yield. A single bidder should not submit a noncompetitive tender for more than $5,000,000. A noncompetitive bid by a single bidder in excess of $5,000,000 will be reduced to that amount. A bidder may not submit a noncompetitive bid if the bidder holds a position, in the Bonds being auctioned, in "when issued" trading, or in futures or forward contracts. A noncompetitive bidder may not enter into any agreement to purchase or sell or otherwise dispose of the security being auctioned, nor may it commit to sell the security prior to the designated closing time for receipt of competitive bids.

3.5. The following institutions may submit tenders for accounts of customers: depository institutions, as described in section 19(b)(1)A), excluding those institutions described in subparagraph (vii), of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A); and government securities broker/dealers that are registered with the Securities and Exchange Commission or noticed as government securities broker/dealers pursuant to section 15C(a)(1) of the Securities Exchange Act of 1934. Others are permitted to submit tenders only for their own account. For competitive bids, an institution submitting a bid for customers must submit with the institution's tender a customers list that includes, for each customer, the name of the customer and the amount bid at each yield. Customer bids may not be aggregated by yield on the customer list. For noncompetitive bids, the customer list must provide, for each customer, the name of the customer and the amount bid. All competitive and noncompetititive bids submitted on behalf of trust estates must provide, for each trust estate, the name or title of the trustee(s), a reference to the document creating the trust with the date of execution, and the employer identification number of the trust.

3.6. A competitive single bidder must report its net long position if the total of all its bids for the security being offered and its position in the security equals or exceeds $2 billion, with the position to be determined as of one half-hour prior to the closing time for the receipt of competitive tenders. A net long position includes positions, in the security being auctioned, in "when issued" trading, and in futures and forward contracts. Bidders who meet this reporting requirement and are customers of a depository institution or a government securities broker/dealer must report their positions through the institution submitting the bid on their behalf.

3.7. Tenders from bidders who are making payment by charge to a funds account at a Federal Reserve Bank and tenders from bidders who have an approved autocharge agreement on file at a Federal Reserve Bank will be received without deposit. In addition, tenders from States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks will be received without deposit. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.8. Immediately after the deadline for receipt of competitive tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extend required to attain the amount offered. Competitive tenders at yields higher than 7.82% will not be accepted because the equivalent prices would fall below the original issue discount limit of 97.750. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.9. No single bidder will be awarded securities in an amount exceeding 35 percent of the public offering. The maximum amount which may be awarded in this auction is $3,850,000,000. The determination of the maximum award to a single bidder will take into account the bidder's net long position, if the bidder has been obliged to report its position per requirements outlined in Section 3.6.

3.10. Notice of awards will be provided by a Federal Reserve Bank or Branch or the Bureau of the Public Debt to bidders who have submitted accepted competitive bids, whether for their own account or for the account of customers. Those submitting noncompetitive bids will be notified only if the bid is not accepted in full, or when the price at the average yield is over par. Not later than 12 noon local time Thursday, February 13, 1992, the appropriate Federal Reserve Bank will notify each depository institution that has entered into an autocharge agreement with a bidder as to the amount to be charged to the institution's funds account at the Federal Reserve Bank on the issue date. Any customer that is awarded $500 million or more of securities must furnish, no later than 10 a.m. local time Thursday, February 13, 1992, written confirmation of its bid to the Federal Reserve Bank or Branch where the bid was submitted. A depository institution or government securities broker/dealer submitting a bid for a customer is responsible for notifying its customer of this requirement if the customer is awarded $500 million or more as a result of bids submitted by the depository institution or the broker/dealer.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made timely at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted, and must include accrued interest from November 15, 1991, to February 18, 1992, in the amount of $19.57418 per $1,000 of Notes allotted. Settlement on Notes allotted will be made by a charge to a funds account or pursuant to an approved autocharge agreement, as provided in Section 3.7. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in Section 3.7. must be made or completed on or before Tuesday, February 18, 1992. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury notes or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, February 13, 1992. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the Note being purchased. In any such case, the tender form used to place the Notes allotted in Treasury Direct must be completed to show all the information required thereon, or the Treasury Direct account number previously obtained.

6. Separability of Principal and Interest

6.1. Under the Treasury's STRIPS Program (Separate Trading of Registered Interest and Principal of Securities), a Note may be divided into its separate components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as Fiscal Agents of the United States. The separate STRIPS components are: each future semiannual interest payment (referred to as an Interest Component) and the principal payment (referred to as the Principal Component). Each Interest Component and the principal Component shall have an identifying designation and CUSIP number, which are set forth in Attachment B to this circular.

6.2. Attachment B also provides the payable dates for the separate components. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

6.3. For a Note to be separated into the components described in Section 6.1., the par amount of the Note must be in an amount which, based on the 7½% interest rate of the Note, will produce a semiannual interest payment of $1,000 or a multiple of $1,000. The minimum par amount required to obtain the separate components for this offering is $80,000. Par amounts greater than the minimum amount must be in multiples of that amount.

6.4. A Note may be separated into its components at any time from the issue date until maturity. A request for separation must be made to the Federal Reserve Bank maintaining the account for the Notes. Once a Note has been separated into its components, the components may be maintained and transferred in multiples of $1,000.

6.5. Interest and Principal Components of separated securities may be reconstituted, i.e., restored to their fully constituted form, on the book-entry records of the Federal Reserve Banks. A Principal Component and all related unmatured Interest Components, in the appropriate minimum or multiple amounts previously announced, must be submitted together for reconstitution.

6.6. Detached physical interest coupons, coupons held under the CUBES Program, or cash payments may not be substituted for missing Interest or Principal Components. Any reconstitution request which does not comprise all of the necessary STRIPS components in the appropriate amounts will not be accepted.

6.7. The book-entry transfer of each Interest Component and Principal Component included in a reconstitution transaction will be subject to the fee schedule generally applicable to transfers of book-entry Treasury securities.

6.8. Unless otherwise provided in this offering circular, the Department of the Treasury's general regulations governing United States securities apply to the Notes separated into their components.

7. General Provisions

7.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

7.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

7.3. The Notes issued under this circular shall be obligations of the United States, whether held in the fully constituted form or as separate Interest and Principal Components, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

7.4. Attachments A and B are incorporated as part of this circular.

Marcus W. Page,

Acting Fiscal Assistant Secretary.

ATTACHMENT A

Treasury's Single Bidder Guidelines for Noncompetitive Bidding in all Treasury Security Auctions

The investor categories listed below define what constitutes a single noncompetitive bidder.

(1) *Bank Holding Companies and Subsidiaries—*

A bank holding company (includes the company and/or one or more of its subsidiaries, whether or not organized as separate entities under applicable law).

(2) *Banks and Branches—*

A parent bank (includes the parent and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(3) *Thrift Institutions and Branches—*

A thrift institution, such as a savings and loan association, credit union, savings banks, or other similar entity (includes the principal or parent office and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(4) *Corporations and Subsidiaries—*

A corporation (includes the corporation and/or one or more of its majority-owned subsidiaries, i.e., any subsidiary more than 50 percent of whose stock is owned by the parent corporation or by any other of its majority-owned subsidiaries).

(5) *Families—*

A married person (includes his or her spouse, and any unmarried adult children, having a common address and/or household).

Note: A minor child, as defined by the law of domicile, is *not* permitted to submit tenders individually, or jointly with an adult bidder. (A minor's parent acting as natural guardian is *not* recognized as a separate bidder.)

(6) *Partnerships—*

Each partnership (includes a partnership or individual partner(s), acting together or separately, who own the majority or controlling interest in other partnerships, corporations, or associations).

(7) *Guardians, Custodians, or other Fiduciaries—*

A guardian, custodian, or similar fiduciary, identified by (a) the name or title of the fiduciary, (b) reference to the document, court order, or other authority under which the fiduciary is acting, and (c) the taxpayer identifying number assigned to the estate.

(8) *Trusts—*

A trust estate, which is identified by (a) the name or title of the trustee, (b) a reference to the document creating the trust, e.g., a trust indenture, with date of execution, or a will, (c) the IRS employer identification number (not social security account number).

(9) *Political Subdivisions—*

(a) A state government (any of the 50 states and the District of Columbia).

(b) A unit of local government (any county, city, municipality, or township, or other unit of general government, as defined by the Bureau of the Census for statistical purposes, and includes any trust, investment, or other funds thereof).

(c) A commonwealth, territory, or possession.

(10) *Mutual Funds—*

A mutual fund (includes all funds that comprise it, whether or not separately administered).

(11) *Money Market Funds—*

A money market fund (includes all funds that have a common management).

(12) *Investment Agents/Money Managers—*

An individual, firm, or association that undertakes to service, invest, and/or manage funds for others.

(13) *Pension Funds—*

A pension fund (includes all funds that comprise it, whether or not separately administered).

Notes: The definitions do not reflect all bidder situations. "Single bidder" is not necessarily synonymous with "single entity".

Questions concerning the guidelines should be directed to the Office of Financing, Bureau of the Public Debt, Washington, DC 20239 (telephone 202/219-3350).

ATTACHMENT B

CUSIP Numbers and Designations for the Principal Component and Interest Components of 7½% Treasury Notes of November 15, 2001, Series D-2001, CUSIP No. 912827 D2 5

The Principal Component is designated 7½% Treasury Principal (TPRN) Series D-2001 due November 15, 2001, CUSIP No. 912820 BC 0.

INTEREST COMPONENTS

Designation	CUSIP No. 912833	Designation	CUSIP No. 912833
Treasury Interest (TINT) due		Treasury Interest (TINT) due	
May 15, 1992...	EU 0	May 15, 1997...	FE 5
Nov. 15, 1992..	EV 8	Nov. 15, 1997..	FF 2
May 15, 1993...	EW 6	May 15, 1998...	FG 0
Nov. 15, 1993..	EX 4	Nov. 15, 1998..	FH 8
May 15, 1994...	EY 2	May 15, 1999...	FJ 4
Nov. 15, 1994..	EZ 9	Nov. 15, 1999..	FK 1

INTEREST COMPONENTS—Continued

Designation	CUSIP No. 912833	Designation	CUSIP No. 912833
Treasury Interest (TINT) due		Treasury Interest (TINT) due	
May 15, 1995...	FA 3	May 15, 2000...	FL 9
Nov. 15, 1995..	FB 1	Nov. 15, 2000..	FM 7
May 15, 1996...	FC 9	May 15, 2001...	FN 5
Nov. 15, 1996..	FD 7	Nov. 15, 2001..	FP 0

[FR Doc. 92-4515 Filed 2-24-92; 8:45 am]

BILLING CODE 4810-40-M

UNITED STATES INFORMATION AGENCY

Educational Advising Program for International Students From the Middle East and North Africa

AGENCY: United States Information Agency.

ACTION: Notice.

SUMMARY: The U.S. Information Agency finds it necessary to change the intended location of the Regional Educational Advising Center for which a Request for Proposals was issued in the Federal Register on August 16, 1991 (56 FR 40940).

SUPPLEMENTARY INFORMATION: The August notice requested proposals from non-profit organizations willing to establish and maintain eleven educational advising centers in the Middle East and North Africa. The Agency requested that interested organizations also submit an addendum detailing their concept of a regional educational advising center to be located in Bahrain. The Agency has now determined that the regional educational advising center should be sited instead in Kuwait City, Kuwait.

Any organization having comments regarding this change must submit them in writing as follows:

ADDRESSES: Comments should be directed to: U.S. Information Agency, Reference: Educational Advising Middle East/North Africa, Bureau of Educational and Cultural Affairs, Advising, Teaching and Specialized Programs Division, E/ASA—room 349, 301 4th Street, SW., Washington, DC 20547.

DATE: Comments must be received no later than 5 p.m. e.s.t., March 13, 1992.

Dated: February 19, 1992.

Dr. William P. Glade,

Associate Director, Bureau of Educational and Cultural Affairs.

[FR Doc. 92–4420 Filed 2–26–92; 8:45 am]

BILLING CODE 8230-01-M

Public and Private Non-Profit Organizations in Support of International Educational and Cultural Activities

AGENCY: United States Information Agency.

ACTION: Notice—Request for Proposals.

SUMMARY: The Office of Citizens Exchanges (E/P) announces a request for proposals from public and private nonprofit organizations in support of a project that has been initiated by E/P. Interested applicants are urged to read the complete **Federal Register** announcement before addressing inquiries to the Office or submitting their proposals.

DATES: This action is effective from the publication date of this notice through April 17, 1992.

APPLICATION DEADLINES: All copies must be received at the U.S. Information Agency by 5 p.m. Washington, DC time on Friday, April 17, 1992. Faxed documents will not be accepted, nor will documents postmarked April 17, 1992 but received at a later date. It is the responsibility of each grant applicant to ensure that proposals are received by the above deadline. The grant should not begin before the summer of 1992.

ADDRESSES: The original and 15 copies of the completed application, including required forms, should be submitted by the deadline to: U.S. Information Agency, Bureau of Educational and Cultural Affairs, Grants Management Division (E/XE), ATTN: Citizen Exchanges—Initiatives, room 357, 301 4th Street, SW., Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: The Office of Citizen Exchanges, Bureau of Educational and Cultural Affairs, United States Information Agency, 301 4th Street, SW., Washington, DC 20547. To facilitate the processing of your request, please include the name of the appropriate USIA Program Officer, Stephen Taylor.

SUPPLEMENTARY INFORMATION: The Office of Citizen Exchanges of the United States Information Agency (USIA) announces a program to encourage, through limited awards to nonprofit institutions, increased private sector commitment to and involvement in international exchanges. All international participants will be nominated by overseas personnel of the U.S. Information Service (USIS) and selected by USIA. Pursuant to the Bureau's authorizing legislation, the program must maintain a non-political character and should be balanced and representative of the diversity of American political, social and cultural life. Awarding of any and all grants is contingent upon the availability of funds.

Summary of Initiative Award Program Idea

Project for Professional Development of Media Managers in Francophone Africa

The Office of Citizen Exchanges (E/P) of the United States Information Agency proposes the development of a two-way exchange program for up to 12 newspaper publishers and managing editors from Francophone Africa. The project would develop business management strategies for independent African newspapers operating under new press freedoms gained through recent democratic reforms. The program would also examine journalistic standards and ethics practiced in the United States. The first phase of the program, approximately three weeks in duration, would focus on newspaper publication as a business enterprise and would identify management strategies for strengthening journalism skills of staff reporters. This program segment would provide a forum for identifying objectives for follow-on activities to take place in selected Francophone African countries.

During Phase II, U.S. consultants would conduct intensive workshops designed to sharpen business management skills and develop strategies for promoting journalistic excellence.

A U.S. nonprofit institution will design and execute the program and select the American presenters. The institution should demonstrate extensive experience and success in coordinating international exchange programs for senior-level foreign visitors. The potential grantee should have substantive working relationships with U.S. public and private sector organizations responsible for promoting journalistic professionalism and successful business management. African participants will be nominated by USIS personnel overseas and selected by USIA. The program will take place in summer or fall 1992.

The E/P Program Officer for this project is Stephen Taylor.

Funding and Budget Requirements for All Submissions

Since USIA assistance constitutes only a portion of total project funding, proposals should list and provide evidence of other anticipated sources of support. Applications should demonstrate substantial financial and in-kind support.

Funding assistance is limited to project costs as defined in the Project Proposal Information Requirements (OMB #3116–0175, provided in application packet) with modest contributions to defray total administrative costs, defined as: (a) Salaries and benefits for institutional staff of grant recipient; (b) direct costs (communications expenses, office supplies, office space and materials when not developed for program participants); and (c) indirect costs. Total USIA-funded administrative costs are limited to 22 (twenty-two) per cent of the total funds requested from USIA. The recipient institution may wish to cost-share any of these expenses.

Organizations with less than four years experience in conducting international exchange programs are limited to $60,000 of USIA support, and their budget submissions should not exceed this amount. (Awarding of any and all grants is contingent upon the availability of funds.)

Application Requirements

Prior to submission of proposals, detailed concept papers and application materials must be obtained from: The Office of Citizen Exchanges (E/P), United States Information Agency, room 216, 301 4th Street, SW, Washington, DC 20547, Attention: Stephen Taylor.

Inquiries concerning technical requirements are welcome.

Proposals must contain a narrative which includes a complete and detailed description of the proposed program activity as follows:

1. A brief statement of what the project is designed to accomplish; how it is consistent with the purposes of the USIA award program; and how it relates to USIA's mission.
2. A concise description of the project, spelling out complete program schedules and proposed itineraries, who the participants will be, where they will come from and how they will be selected.
3. A statement of what follow-up activities are proposed; how the project will be evaluated; what groups, beyond the direct participants, will benefit from the project and how they will benefit.

4. A detailed three-column budget, instructions for which are contained in the application package.

5. Required certifications and compliance forms, which will be provided in the application package.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines established herein and in the application packet. Eligible proposals will be forwarded to panels of USIA officers for advisory review. All eligible proposals will also be reviewed by the Office of Citizen Exchanges, the appropriate geographic area office, and the budget and contracts offices. Eligible proposals may also be reviewed by the Agency's Office of the General Counsel. Funding decisions are at the discretion of the Associate Director for Educational and Cultural Affairs. Final technical authority for grant awards resides with USIA's contracting officer.

Review Criteria

USIA will consider proposals based on the following criteria:

1. *Institution Reputation/Ability/Evaluations:* Institutional recipients should demonstrate potential for program excellence and/or track record of successful programs, including responsible fiscal management and full compliance with all reporting requirements for past Agency grants as determined by USIA's Office of Contracts (M/KG). Relevant evaluation results of previous projects are part of this assessment.

2. *Project Personnel:* Personnel's thematic and logistical expertise should be relevant to the proposed program.

3. *Program Planning:* Detailed agenda and relevant work plan should demonstrate substantive rigor and logistical capacity.

4. *Thematic Expertise:* Proposal should demonstrate expertise in the subject area which guarantees an effective sharing of information.

5. *Cross-Cultural Sensitivity/Area Expertise:* Evidence of sensitivity to historical, linguistic, and other cross-cultural factors; relevant knowledge of geographic area.

6. *Ability to Achieve Program Objectives:* Objectives should be reasonable, feasible, and flexible. Proposal should clearly demonstrate how the institution will meet the program's objectives.

7. *Multiplier Effect:* Proposed programs should strengthen long-term mutual understanding, to include maximum sharing of information and establishment of long-term institutional and individual ties.

8. *Cost-Effectiveness:* The overhead and administrative components should be kept as low as possible. All other items should be necessary and appropriate to achieve the program's objectives.

9. *Cost-Sharing:* Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

10. *Follow-on Activities:* Proposals should provide a plan for continued exchange activity (without USIA support) which insures that USIA supported programs are not isolated events.

11. *Project Evaluation:* Proposals should include a plan to evaluate the activity's success.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The final award cannot be made until funds have been fully appropriated by Congress, allocated and committed through internal USIA procedures.

Notification

All applicants will be notified of the results of the review process on or about August 3, 1992. The awarded grant will be subject to periodic reporting and evaluation requirements.

Dated: February 19, 1992.

William P. Glade,

Associate Director, Bureau of Educational and Cultural Affairs.

[FR Doc. 92-4421 Filed 2-26-92; 8:45 am]

BILLING CODE 8230-01-M

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Patti Viers, Records Management Service (723), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-3172.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395-7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before March 30, 1992.

Dated: February 21, 1992.

By direction of the Secretary:

Frank E. Lalley,

Associate Deputy Assistant Secretary for Information Resources Policies and Oversight.

Extension

1. Architect-Engineer Fee Proposal, VA Form 08-6298.

2. The form is used by architect-engineering firms to submit a fee proposal based on the scope and complexity of an individual project. The information is used by VA in the negotiation of a fair and reasonable contract for services.

3. Businesses or other for-profit.

4. 800 hours.

5. 4 hours.

6. On occasion.

7. 200 respondents.

[FR Doc. 92-4471 Filed 2-26-92; 8:45 am]

BILLING CODE 8320-01-M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual report hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395-7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before March 30, 1992.

Dated: February 21, 1992.

By direction of the Secretary:

Frank E. Lalley,

Associate Deputy Assistant Secretary for Information Resources Policies and Oversight.

Reinstatement

1. Fiduciary Statement, VA Form 27-4703.
2. The form constitutes a legally binding contract for the use of VA funds. It is used when payment of VA benefits are made to a fiduciary on behalf of a beneficiary who is incompetent, a minor, or under legal disability.
3. Individuals or households; State or local governments; Federal agencies or employees; Non-profit institutions.
4. 1,757 hours.
5. 5 minutes.
6. On occasion.
7. 21,080 respondents.

[FR Doc. 92-4472 Filed 2-26-92; 8:45 am]

BILLING CODE 8320-01-M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-3021.

Comments and questions about the items on the list should be directed to VA's-OMB Desk Officer, Joseph Lachey, NEOB, room 3002, Washington, DC 20503, (202) 395-7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before March 30, 1992.

Dated: February 21, 1992.

By direction of the Secretary.

Frank E. Lalley,

Associate Deputy Assistant Secretary for Information Resources Policies and Oversight.

Extension

1. Request for Verification of Deposit, VA Form 26-8497a.
2. The information collected is used for VA to determine whether the veteran qualifies as a prospective mortgagor for mortgage insurance or guaranty or as a borrower for a rehabilitation loan under VA programs.
3. Business or other for-profit.
4. 16,666 hours.
5. 5 minutes.
6. On occasion.
7. 200,000 respondents.

[FR Doc. 92-4473 Filed 2-26-92; 8:45 am]

BILLING CODE 8320-01-M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 (202) 233-3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395-7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before March 30, 1992.

Dated: February 21, 1992.

By direction of the Secretary.

Frank E. Lalley,

Associate Deputy Assistant Secretary for Information Resources Policies and Oversight.

Reinstatement

1. Application for Payment of Matured Endowment, VA Form 29-5767.
2. This form is used to notify the insured that his/her endowment policy has matured, and to elicit the desired disposition of the proceeds of the policy.
3. Individuals or households.
4. 2,867 hours.
5. 20 minutes.
6. On occasion.
7. 8,600 respondents.

[FR Doc. 92-4474 Filed 2-26-92; 8:45 am]

BILLING CODE 8320-01-M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). this document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 (202) 233-3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395-7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before March 30, 1992.

Dated: February 21, 1992.

By direction of the Secretary.

Frank E. Lalley,

Associate Deputy Assistant Secretary for Information Resources Policies and Oversight.

Extension

1. Income Verification, VA Forms 21-0161 and 21-0161a.
2. The forms are used to verify a beneficiary's income—dependent benefits in connection with the administration of veterans benefits. The information is used by VA to accurately adjust pension benefits payments and avoid overpayments.
3. Individuals or households; State or local governments; Farms; Businesses or other for-profit; Federal agencies or employees; Non-profit institutions; Small businesses or organizations.
4. 114,000 hours.
5. 30 minutes.
6. On occasion.
7. 228,000 respondents.

[FR Doc. 92-4475 Filed 2-26-92; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 39
Thursday, February 27, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

DEPARTMENT OF ENERGY

FEDERAL ENERGY REGULATORY COMMISSION

Notice

February 25, 1992.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 552b:

DATE AND TIME: March 12, 1992, 3:00 p.m.

PLACE: 825 North Capitol Street, NE., Room 9306, Washington, DC. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will receive a briefing by representatives of the Electric Power Research Institute on electricity research developments.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 208-0400.

Lois D. Cashell,
Secretary.

[FR Doc. 92-4682 Filed 2-25-92; 3:59 pm]

BILLING CODE 6717-01-M

FEDERAL COMMUNICATIONS COMMISSION

Federal-State Joint Board To Meet Monday, March 2, 1992

The Federal-State Joint Board will hold an Open Meeting on the subject listed below on Monday, March 2, 1992, which is scheduled to commence at 10:00 a.m. at the J. W. Marriott Hotel, Grand Ballroom II, 1331 Pennsylvania Avenue, NW., Washington, D.C.

Bureau, Item No., and Subject

Common Carrier—1—Title: Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board, CC Docket No. 80-286. Summary: The Federal-State Joint Board will consider whether to initiate comprehensive review of issues related to the jurisdictional separations process set forth in Part 36 of the Commission's Rules and will consider the scope and goals of such review.

Additional information concerning this meeting may be obtained from Deborah Dupont of the Common Carrier Bureau, telephone number (202) 632-7500.

Federal Communications Commission.

Issued: February 24, 1992.

Donna R. Searcy,
Secretary.

[FR Doc. 92-4639 Filed 2-25-92; 2:13 pm]

BILLING CODE 6712-01-M

FEDERAL COMMUNICATIONS COMMISSION

Federal-State Joint Conference on Open Network Architecture To Meet on Monday March 2, 1992

The Federal-State Joint Conference on Open Network Architecture will hold an Open Meeting on the subjects listed below on Monday March 2, 1992. The meeting is scheduled to convene at 11:00 a.m. at the J.W. Marriott Hotel, Grand Ballroom II, 1331 Pennsylania Avenue, N.W., Washington, D.C.

Bureau, Item No., and Subject

COMMON CARRIER—1—Title: Federal-State Joint Conference on Open Network Architecture, CC Docket No. 88-2. Summary: The Federal-State Joint Conference will consider whether to extend the current sunset date of the Joint Conference of June 30, 1992, a staff report on uniform tariff guidelines, and related issues.

Additional information concerning this meeting may be obtained from Patrick Donovan of the Common Carrier Bureau, telephone number (202) 632-4047.

Federal Communications Commission.

Issued: February 24, 1992.

Donna R. Searcy,
Secretary.

[FR Doc. 92-4640 Filed 2-25-92; 2:13 pm]

BILLING CODE 6712-01-M

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, March 3, 1992, 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This Meeting Will Be Closed to the Public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.
Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration
Internal personnel rules and procedures or matters affecting a particular employee

DATE AND TIME: Thursday, March 5, 1992, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC. (Ninth Floor.)

STATUS: This Meeting Will Be Open to the Public.

ITEMS TO BE DISCUSSED:

Title 26 Certification Matters
Advisory Opinion 1992-3: Mr. Richard D. Shore of Covington & Burling on behalf of the Reynolds Metal Co.
Advisory Opinion 1991-32: Mr. Michael G. Massey on behalf of CEC, Inc.
Legislative Recommendations—1992
Administrative Matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, press officer, telephone: (202) 219-4155.

Delores Harris,
Administrative Assistant.

[FR Doc. 92-4673 Filed 2-25-92; 3:17 pm]

BILLING CODE 6715-01-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, March 4, 1992.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Benefits proposals regarding the Office of Inspector General.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank holding company applications scheduled for the meeting.

Dated: February 25, 1992.

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 92-4677 Filed 2-25-92; 3:18 pm]

BILLING CODE 6210-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9:30 a.m., Tuesday, March 3, 1992.

PLACE: The Board Room, 5th Floor, 490 L'Enfant Plaza, S.W., Washington, D.C. 20024.

STATUS: Open.

MATTERS TO BE CONSIDERED:

5558A—Aviation Accident Report: Weather Encounter Involving L'Express Airlines, Inc., Beech C99, Flight 508, near Birmingham, Alabama, July 10, 1991.

5671—Highway Accident Report: Greyhound Bus Run-Off-The Road Accidents: Donegal, Pennsylvania, June 28, 1991, and Caroline, New York, August 3, 1991.

NEWS MEDIA CONTACT: Telephone (202) 382–0660.

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 382–6525.

Dated: February 24, 1992.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 92–4595 Filed 2–25–92; 9:00 am]

BILLING CODE 7533-01-M

NUCLEAR REGULATORY COMMISSION

DATES: Weeks of February 24, March 2, 9, and 16, 1992.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of February 24

Tuesday, February 25

10:00 a.m.
Briefing on Design Basis Reconstitution Programs (Public Meeting)

Wednesday, February 26

2:30 p.m.
Briefing by Executive Branch (Closed—Ex. 1 and 3)

3:15 p.m.
Classified Safeguards Briefing (Closed—Ex. 1 and 3)

4:00 p.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Commission Reconsideration of Standards Covering Combined License Hearing (Tentative)

Week of March 2—Tentative

Wednesday, March 4

10:00 a.m.
Briefing by NARUC on Economic Issues Associated with Nuclear Power Plant Operations and HLW Programs (Public Meeting)

Thursday, March 5

2:00 p.m.
Periodic Meeting with the Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting)

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Ohio Edison Company's Motion for Reconsideration of CLI–91–15 (Tentative)
b. NRC Staff's Motion to Vacate the Licensing Board's Initial Decision, LBP–91–29. Fewell Geotechnical Engineering, Ltd., (Thomas E. Murray, Radiographer) (Tentative)

Week of March 9—Tentative

Tuesday, March 10

1:00 p.m.
Briefing on Pending Investigations (Closed—Ex. 5 and 7)

2:00 p.m.
Briefing on Risk-Based Regulations Transition Strategy (Public Meeting)

Wednesday, March 11

1:30 p.m.
Briefing on Requirements for Integral System Testing of Westinghouse AP–600 (Public Meeting)

Thursday, March 12

2:00 p.m.
Periodic Meeting with the Advisory Committee on Nuclear Waste (ACNW) (Public Meeting)

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of March 16—Tentative

Tuesday, March 17

8:30 a.m.
Briefing on Status of Restart of General Atomics Sequoyah Fuels Facility (Public Meeting)

2:00 p.m.
Briefing on Activities of the Center for Nuclear Waste Regulatory Analysis (CNWRA) (Public Meeting)

3:30 p.m.
Discussion of Internal Commission Procedures (Public Meeting)

Thursday, March 19

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

ADDITIONAL INFORMATION:

By a vote of 3–0 (Commissioner Remick not present and Commissioners de Planque not participating) on February 11, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that "Affirmation of Georgia Power Company, Intervenor's Appeal of LBP–91–21" (Public Meeting) be held on February 12 and on less than one week's notice to the public.

By a vote of 3–0 (Commissioners Remick and de Planque were not present) on February 12, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that "Meeting on Investigative Matters" (Closed—Ex. 2 and 9) be held on February 13 and on less than one week's notice to the public.

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To Verify the Status of Meeting Call (Recording)—(301) 504–1292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 504–1661.

Dated: February 24, 1992.

William M. Hill, Jr.,

Office of the Secretary.

[FR Doc. 92–4619 Filed 2–25–92; 1:21 pm]

BILLING CODE 7590-01-M

POSTAL SERVICE

Board of Governors

Notice of a Meeting

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 C.F.R. Section 7.5) and the Government in the Sunshine Act (5 U.S.C. Section 552b), hereby gives notice that it intends to hold a meeting at 1:00 p.m. on Monday, March 9, 1992, and at 8:30 a.m. on Tuesday, March 10, 1992, in Washington, D.C.

By telephone vote, February 14–24, 1992, a majority of the members contacted and voting, the Board of Governors voted to close to public observation its meeting schedule for March 9, which will involve consideration of an additional funding request for the Goleta, California, Mail Handling Annex. The Board determined that pursuant to sections 552b(c)(10) and 552b(c)(9)(B) of Title 5, United States Code, and sections 7.3 (i) and (j) of Title 39, Code of Federal Regulations, discussion of this matter is exempt from the open meeting requirement of the Government in the Sunshine Act [5 U.S.C. 552b(b)] because it is likely to disclose information, the premature disclosure of which would significantly frustrate proposed procurement actions.

The March 10 meeting is open to the public and will be held at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, S.W., in the Benjamin Franklin Room. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, David F. Harris, at (202) 268–4800.

AGENDA

Monday Session

March 9—1:00 p.m. (Closed)

1. Goleta, California, Mail Handling Annex, Additional Funding Request. (Stanley W.

Smith, Assistant Postmaster General, Facilities Department.)

Tuesday Session

March 10—8:30 a.m. (Open)

1. Minutes of Previous Meeting, February 3–4, 1992.
2. Remarks of the Postmaster General.
3. Capital Investment Process. (Comer S. Coppie, Senior Assistant Postmaster General, Finance Group.)
4. Operational Use of the Customer Service Index (William R. Cummings, Senior Assistant Postmaster General, Operations Support Group.)
5. Report on the Human Resources Group. (Joseph J. Mahon, Jr., Senior Assistant Postmaster General, Human Resources Group.)
6. Report on the Marketing and Customer Service Group. (Richard J. Strasser, Jr., Senior Assistant Postmaster General, Marketing and Customer Service Group.)
7. Report on the Law Department. (Harold J. Hughes, General Counsel.)
8. Capital Investment. (Stanley W. Smith, Assistant Postmaster General, Facilities Department, and Elwood A. Mosley, Assistant Postmaster General, Training and Development Department.)
   a. Norman, Oklahoma, Technical Training Center, Deviation Request.
9. Tentative Agenda for the April 6–7, 1992, meeting in Washington, D.C.

David F. Harris,

Secretary.

[FR Doc. 92–4621 Filed 2–25–92; 1:22 pm]

BILLING CODE 7710-12-M

Corrections

Federal Register
Vol. 57, No. 39
Thursday, February 27, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF EDUCATION

[CFDA No. 84.197E]

College Library Technology and Cooperation Grants Program—Biotechnology Education Information Demonstration Project; Notice Inviting Applications for a New Award for Fiscal Year (FY) 1992

Correction

In notice document 92-3219, appearing on page 4994, in the issue of Tuesday, February 11, 1992, in the third column, under *Selection Criteria:*, in the eighth line, "43 CFR 779.21(b)(9)" should read "43 CFR 779.21(b)(4)".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Ch. I

[Docket No. 91P-0156/CP1]

Needle-Bearing Devices; Citizen Petition; Request for Comment

Correction

In proposed rule document 92-3459, beginning on page 5241, in the issue of Thursday, February 13, 1992, make the following correction:

On page 5242, in the first column, under II. Citizen Petition, in the second line, "1992" should read "1991".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 92M-0047]

Chiron Ophthalmics, Inc.; Premarket Approval of Chiroflex™ II Model 32-C20SX/XX, 32-C21SX/XX, 32-C22SX/XX, 32-C23SX/XX, and 32-C24SX/XX Silicone Posterior Chamber Intraocular Lenses

Correction

In notice document 92-3708 beginning on page 5895 in the issue of Tuesday, February 18, 1992, the subject heading should read as set forth above.

BILLING CODE 1505-01-D

federal register

Thursday
February 27, 1992

Part II

The President

Proclamation 6405—Save Your Vision Week, 1992

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Presidential Documents

Title 3—

The President

Proclamation 6405 of February 25, 1992

Save Your Vision Week, 1992

By the President of the United States of America

A Proclamation

As the "window" to the brain, the human eye joins our other senses in opening the mind to the outside world, enabling us to appreciate more fully the wonders of creation and their wide range of form, color, size, and motion. While the gift of sight is a tremendous blessing, it is one that we sometimes, all too easily, take for granted. Hence, during Save Your Vision Week, we reflect on both the importance of good vision in our daily lives and the vital role of prevention, early detection, and treatment in the fight against vision loss.

Each year thousands of Americans suffer from vision loss that might have been prevented. One simple and effective way to prevent such tragedies is through periodic eye examinations by a licensed professional. Regular eye exams can provide an early warning of eye disease and allow an eye care professional to initiate prompt treatment.

Glaucoma is one potentially blinding eye disease that can be controlled and treated effectively if detected early. Despite this fact, however, glaucoma remains a leading cause of blindness in the United States. People who run the highest risk of developing the disease—in particular, black Americans over the age of 40 and all persons over the age of 60—are urged to obtain an eye examination at least every two years.

Periodic eye examinations are absolutely critical for persons with diabetes. Although diabetic eye disease is treatable, it remains a leading cause of blindness because many people with diabetes fail to have their eyes examined at least annually.

Children also need early and regular eye examinations. Even the healthiest of youngsters may have an unsuspected visual problem that, if left untreated, could interfere with his or her play and learning and eventually cause permanent vision loss. A routine checkup can identify a disorder in time for effective treatment.

Eye safety is a must at any age. Children should be instructed early and often in the basic principles of eye safety. Both in the home and in the workplace, Americans should wear a face mask, goggles, or safety glasses when working with chemicals or machinery that might be dangerous to the eyes. Individuals who engage in contact sports and other potentially hazardous athletic activities are urged to wear protective eyewear whenever possible, and contact lens wearers should always clean, store, and handle their lenses carefully and in accordance with the directions of their eye care professional. Through simple yet important steps like these, we can protect our precious gift of sight.

To encourage Americans to cherish and to protect their vision, the Congress, by joint resolution approved December 30, 1963 (77 Stat. 629; 36 U.S.C. 169a), has authorized and requested the President to proclaim the first week in March of each year as "Save Your Vision Week."

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NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week of March 1 through March 7, 1992, as Save Your Vision Week. I urge all Americans to participate in this observance by making eye care and eye safety an important part of their lives. I also invite eye care professionals, members of the communications media, and other concerned parties to join in activities that will help make Americans more aware of the steps that they can take to protect their vision.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of February, in the year of our Lord nineteen hundred and ninety-two, and of the Independence of the United States of America the two hundred and sixteenth.

G Bush

[FR Doc. 92-4754
Filed 2-26-92; 10:55 am]
Billing code 3195-01-M

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Federal Register
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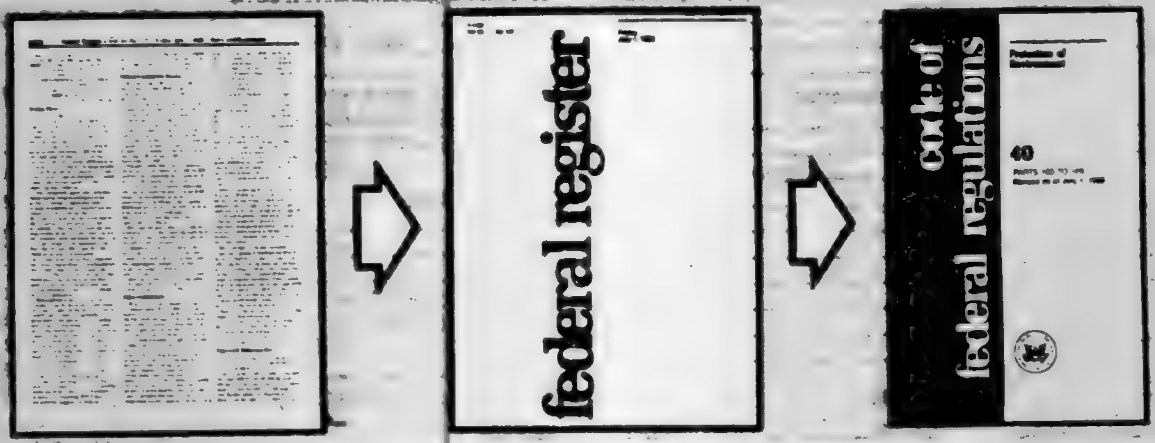

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Rules and Regulations

Federal Register
Vol. 57, No. 40
Friday, February 28, 1992

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

FEDERAL RESERVE SYSTEM

12 CFR Part 265

[Docket No. R-0748]

Delegation of Authority to the General Counsel and Director of the Board's Division of Banking Supervision and Regulation

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: Pursuant to sections 11(i) and (k) of the Federal Reserve Act (12 U.S.C. 248(i) and (k)), the Board is amending its Rules Regarding Delegation of Authority (12 CFR part 265). The amendment expands the duties delegated to the General Counsel and the Director of the Board's Division of Banking Supervision and Regulation to include the authority to enter into, stay, modify, terminate or suspend a cease-and-desist order, removal and prohibition order, or civil money penalty assessment order, when the order has been consented to by the institution or individual subject to the order. The Board believes that the Federal Reserve's enforcement functions can be made more efficient and responsive by delegating this authority.

EFFECTIVE DATE: February 28, 1992.

FOR FURTHER INFORMATION CONTACT: Gregory A. Baer, Attorney (202/452-3236), Legal Division, Board of Governors of the Federal Reserve System. For the hearing impaired *only*, Telecommunication Device for the Deaf (TDD), Dorothea Thompson (202/452-3544), Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Section 11(k) of the Federal Reserve Act provides that the Board may delegate any of its functions, other than those related to rulemaking or pertaining principally to monetary and credit policies. Section 11(i) authorizes the Board to make regulations necessary to enable the Board to perform its duties effectively. Pursuant to this authority, the Board is amending its Rules Regarding Delegation of Authority (12 CFR part 265).

In order to address unsafe and unsound banking practices and violations of the statutes, rules and regulations under its jurisdiction, the Federal Reserve undertakes formal enforcement actions against financial institutions and the individuals associated with them. Over the past two years, the Federal Reserve has issued or executed approximately 150 enforcement orders and written agreements, the great majority of which were consented to by the person subject to the order or agreement. The number of such actions is expected to grow in the future.

The Board is proposing an expansion of the powers delegated to the General Counsel and the Director of the Division of Banking Supervision and Regulation. Specifically, the Board is proposing to grant joint authority to the General Counsel and the Director to enter into, stay, modify, terminate or suspend cease-and-desist, removal and prohibition, and civil money penalty assessment orders when they have been consented to by the institutions or individuals subject to the orders. The Board believes that the Federal Reserve's enforcement functions can be made more efficient and responsive by delegating this authority. The Board would retain its approval authority over all contested enforcement actions and enforcement actions involving the issuance of temporary cease-and-desist orders and suspension orders.

The provisions of section 553 of title 5, United States Code, relating to notice, public participation, and deferred effective date have not been followed in connection with the adoption of this amendment because the change to be effected is procedural in nature and does not constitute a substantive rule subject to the requirements of that section. The Board's expanded rulemaking procedures have not been followed because the amendment is a technical, procedural one.

List of Subjects in 12 CFR Part 265

Authority delegations (Government agencies), Federal Reserve System.

For the reasons outlined above, the Board of Governors is amending 12 CFR part 265 as set forth below:

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

1. The authority citation for 12 CFR part 265 continues to read as follows:

Authority: Section 11 (i) and (k) of the Federal Reserve Act (12 U.S.C. 248 (i) and (k)).

2. Section 265.6 is amended by republishing the introductory text and adding paragraph (e) to read as follows:

§ 265.6 Functions delegated to General Counsel.

The Board's general counsel (or the general counsel's delegee) is authorized:

* * * * *

(e) *Consent enforcement orders.* With the concurrence of the director of the Board's Division of Banking Supervision and Regulation (or the Director's delegee):

(1) To enter into a cease-and-desist order, removal and prohibition order, or civil money penalty assessment order with a bank holding company or any nonbanking subsidiary thereof, with a state member bank, or with any other person or entity subject to the Board's jurisdiction, when the order has been consented to by the institution or individual subject to the order;

(2) To stay, modify, terminate, or suspend an order issued pursuant to paragraph (e)(1) of this section.

By order of the Board of Governors of the Federal Reserve System, February 14, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-4546 Filed 2-27-92; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD1 92-005]

Safety Zone Regulations: Kill Van Kull, New York and New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Temporary Final Rule.

SUMMARY: The Coast Guard is establishing a safety zone in the waters of Bergen Point West Reach in the Kill Van Kull of New York and New Jersey. This zone will divide a portion of the channel at Bergen Point West Reach into two sections, a northern half and a southern half. In the northern half, concentrated drilling and blasting will be conducted and no vessel is permitted to transit that section. In the southern half, vessel passage is permitted under the criteria set forth in this regulation. This action is necessary to protect the maritime community from the possible dangers and hazards to navigation associated with the extensive blasting and dredging operations which are being conducted in the northern half of this section of the channel.

EFFECTIVE DATE: This regulation becomes effective at 6 a.m., February 13, 1992. It terminates at 12 a.m., August 10, 1992, unless terminated sooner by Captain of the Port NY (COTP NY).

FOR FURTHER INFORMATION CONTACT: MST1 S. Whinham of Captain of the Port, New York (212) 668-7934.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this notice are LTJG J.E. Peschel, Project Officer, Captain of the Port, New York and LCDR J. Astley, Project Attorney, First Coast Guard District, Legal Office.

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to respond to any potential hazards. The request for this zone was not received until February 12, 1992. Therefore, there was not sufficient time to publish proposed rules in advance of the event or to provide for a delayed effective date.

On August 8, 1991 this office submitted for publication a final rule which would impose a regulated navigation area (RNA) over the entire Kill Van Kull for the duration of a three year deepening project which is occurring throughout the Kill. When that rule is published it will appear as Part 165.165 of this Title (CGD1 89-065). As that rule has not been made effective yet this action is necessary to safeguard users of this waterway from the hazards involved with this ongoing project. This regulation is necessary, as an interim measure, to adequately ensure vessel safety in the affected area until the RNA is published and becomes effective.

Background and Purpose

In August 1991, the Army Corps of Engineers (A.C.O.E.) and the Port Authorities of New York and New Jersey commenced an extensive channel deepening project in the Kill Van Kull and the Bergen Point area. This project reduces the available channel width by one half in the area of the worksite, from approximately 800 feet to 400 feet for the duration of the project.

In order to minimize the burden on the maritime community during this important and necessary dredging operation, the project is divided into phases. During each phase, blasting and dredging operations occur in only a small portion of the navigable channel. Limiting the size of the work area allows vessels to continue navigating the waterway with few, if any, restrictions, while providing the necessary level of safety and allowing the A.C.O.E. to complete the project without undue delay.

Since August, the work area has shifted westward along Bergen Point Reach toward Shooters Island. Each time the work area moved, the Coast Guard established a safety zone around the work site. These safety zones were narrowly tailored to provide an adequate level of safety to vessels transiting the area while minimizing the restrictions imposed on vessel operations. In addition, throughout the blasting and dredging project the Coast Guard has consulted with the port community and kept them apprised of developments.

On February 12, 1992 the A.C.O.E. advised COTP NY that the previous work area as published in the **Federal Register** of January 10, 1991 had been completed and that the depths had been certified. The safety zone around that area is cancelled upon the effective date and time of this new regulation. The new safety zone is temporary in nature, and will be in effect less than six months. It provides the minimum level of safety needed to protect users of the waterway from the dangers and hazards associated with the dredging and blasting operation while navigating in a heavily trafficked area.

This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of Part 165.

Regulatory Evaluation

These regulations are not major under Executive Order 12291 and not significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a Regulatory Evaluation is unnecessary.

Small Entities

Because it expects the impact of this regulation to be minimal, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that these regulations do not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of these regulations and concluded that under section 2.B.2.c. of Commandant Instruction M16475.1B, they will have no significant impact and they are categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 USC 1225 and 1231; 50 USC 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 33 CFR 160.5.

2. A new 165.T 01-008 is added to read as follows:

§ 165.T 01-008 Safety Zone: Bergen Point West Reach, Kill Van Kull—New York and New Jersey.

(a) *Location.* The following area has been declared a Safety Zone: All waters of Bergen Point West Reach in the Kill Van Kull Channel, west of a line drawn shore to shore along the 074°08'41.8"W line of longitude, and east of a line drawn north from Staten Island along the 074°08'56.6"W line of longitude to a point at 40°38'39"N 074°08'56.6"W and thence east to shore at Bergen Point at 40°38'39"N 074°08'41.8"W. KVK Channel Light Buoy 14 (LLNR 34565) has been initially relocated in approximate position 40°38'28.99"N 074°08'42.22"W, and KVK Channel Light Buoy 14A (NO LLNR) will initially be located in approximate position 40°38'30.342"N 074°08'56.197"W to indicate the eastern and western boundaries, respectively, of this zone.

(b) *Effective date.* This regulation becomes effective at 6 a.m., February 13, 1992. It terminates at 12 a.m., August 10, 1992, unless terminated sooner by COTP NY.

(c) *Regulations.* (1) Northern half of channel: No vessel may operate in the northern half of the channel within this zone. In accordance with the general regulations in § 165.23 of this part, entry into or movement within this area of the safety zone is prohibited unless authorized by the Captain of the Port.

(2) Southern half of channel: (i) Each vessel transiting the southern half of the channel in this zone is required to do so at minimum wake speed.

(ii) No vessel shall enter this zone when they are advised by the drilling barge or Vessel Traffic Service New York (VTSNY) that a misfire or hangfire has occurred. Vessels already underway in the zone shall proceed to clear the area immediately.

(iii) Vessels, 300 gross tons or greater and tugs with tows, are prohibited from meeting or overtaking in this portion of the channel.

(iv) Vessels, 300 gross tons or greater and tugs with tows, transiting with the prevailing current are regarded as the stand-on vessel.

(v) Prior to entering this safety zone, the master, pilot or operator of each vessel, 300 gross tons or greater and tugs with tows, shall notify VTSNY as to their decision regarding the employment of assist tugs and intentions while transiting the safety zone.

(vi) For vessels towing astern, hawser or wire length must not exceed 100 feet for that tow. This length is measured from the towing bit on the towing vessel to the point where the hawser or wire connects with the vessel being towed.

Dated: February 12, 1992.

R.M. Larrabee,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 92-4642 Filed 2-27-92; 8:45 am]

BILLING CODE 4910-14-M

Proposed Rules

Federal Register
Vol. 57, No. 40
Friday, February 28, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 155

[CGD 91-034/90-068]

RIN 2115-AE51 and 66

Vessel Response Plans and Carriage and Inspection of Discharge-Removal Equipment

AGENCY: Coast Guard, DOT.

ACTION: Notice of meetings of the Oil Spill Response Plan Negotiated Rulemaking Committee; correction.

SUMMARY: The Coast Guard is correcting the schedule of meeting dates for the Oil Spill Response Plan Negotiated Rulemaking Committee published January 16, 1992. The committee has decided to cancel the meeting previously scheduled for February 27, 1992 and schedule a new meeting on March 10, 1992.

DATES: The corrected schedule of meetings of the negotiated rulemaking committee is as follows: February 28, 1992 and March 10, 1992 as well as March 11–13 if the workload requires. The meetings will be held between 8:30 a.m. and 5 p.m., except the March 10th meeting will begin at 9 a.m.

ADDRESSES: The meetings will be held in room 8236 on February 28, 1992 and in room 4234 on March 10–13, 1992 at DOT Headquarters, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: For information contact Lieutenant Commander Glenn Wiltshire, OPA 90 Staff (G-MS-1), at (202) 267-6739 between 7 a.m. and 3:30 p.m., Monday through Friday, except federal holidays.

SUPPLEMENTARY INFORMATION: In a previous notice in the **Federal Register** (57 FR 1890, January 16, 1992), the Coast Guard announced a meeting schedule for the Oil Spill Response Plan Negotiated Rulemaking Committee. At their last meeting on February 13, 1992, the committee decided to cancel the meeting scheduled for February 27th and to meet on March 10th and, if necessary, on March 11th, 12th, and 13th. The next meeting of the committee is being held on February 28, 1992. All committee meetings will be open to the public, subject to space availability.

Dated: February 24, 1992.

R.C. North,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 92-4643 Filed 2-27-92; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MM Docket No. 82-434, DA 92-218]

Network-Cable Cross-Ownership

AGENCY: Federal Communications Commission.

ACTION: Proposed rule, Order extending time.

SUMMARY: By this action, the Commission extends the deadlines for filing comments and reply comments to the *Second Further Notice of Proposed Rulemaking* in MM Docket No. 82-434, 57 FR 868 (January 9, 1992). This *Notice* seeks to update the record on our proposal to eliminate § 76.501(a)(1) of the Commission's rules, which prohibits common ownership of cable television systems and national television networks. Capital Cities/ABC, Inc. (Capital Cities/ABC) requested a 30-day extension of time to file comments and reply comments in this proceeding. The Commission is not persuaded that 30 additional days are required, although we do agree that some additional time should be allowed. Therefore, we will grant the motion in part and extend the deadlines for filing initial and reply comments by 20 days.

DATES: Comments are due on or before March 23, 1992 and reply comments are due on or before April 7, 1992.

FOR FURTHER INFORMATION CONTACT: James Coltharp, Policy and Rules Division, Mass Media Bureau, (202) 632-6302.

SUPPLEMENTARY INFORMATION:

In the Matter of Amendment of Part 76, Subpart J, Section 76.501 of the Commission's Rules and Regulations to Eliminate the Prohibition on Common Ownership of Cable Television Systems and National Television Networks.

Order Granting Extension of Time

Adopted: February 21, 1992. Released: February 21, 1992.

By the Chief, Mass Media Bureau: 1. On December 30, 1991, the Commission released a Second Further Notice of Proposed Rulemaking in MM Docket No. 82-434, 7 FCC Rcd 586 (1991) (Second FNPRM), in order to seek further comment on our proposal to eliminate Section 76.501(a)(1) of our rules, which prohibits common ownership of cable television systems and national television networks. The Second FNPRM sought to update the record in this proceeding and also invited comment on options that would permit network ownership of cable systems subject to safeguards that address competition and diversity concerns. Accordingly, we established a deadline of March 2, 1992, for filing comments and a deadline of March 17, 1992, for filing reply comments.

2. Before the Commission is a motion for extension of time filed by Capital Cities/ABC, Inc. (Capital Cities/ABC) on February 18, 1992. The motion requests an extension of time to file comments until April 1, 1992, and reply comments until April 16, 1992.

3. Capital Cities/ABC requests an extension to permit Capital Cities/ABC, CBS, Inc., National Broadcasting Company, Inc., the Network Affiliated Stations Alliance, and the Association of Independent Television Stations to engage in further discussions to reach agreement about appropriate safeguards if networks are allowed to own local cable systems. All of the above-mentioned parties have agreed that a 30-day postponement in the comment dates for this proceeding would provide the needed opportunity for further discussion, and join in the motion.

4. As set forth in § 1.46 of our rules, 47 CFR 1.46, it is our policy that extensions of time not be routinely granted. In this case, however, some additional time will allow the interested parties to continue a constructive discussion of the possible safeguards pertaining to network-cable cross-ownership, which may encourage an agreement that could assist us in resolving several concerns raised by interested parties. At the same

time, we seek to proceed with this matter as expeditiously as possible, and are not persuaded that 30 additional days should be required for parties to conclude their discussions. Therefore, we will grant the motion in part and extend the deadlines for filing initial and reply comments by 20 days, respectively, to March 23, 1992, and April 7, 1992. We also note that we do not contemplate granting further extensions of time.

5. Accordingly, *It is Ordered* That the Motion for Extension of Time filed by Capital Cities/ABC IS GRANTED in Part, and the deadlines for filing comments and reply comments in this proceeding ARE EXTENDED to March 23, 1992, and April 7, 1992, respectively.

6. This action is taken pursuant to authority found in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and Sections 0.204(b), 0.283, and 1.46 of the Commission's Rules.

7. For further information on this proceeding, contact James Coltharp, Policy and Rules Division, Mass Media Bureau, (202) 632-6302.

Federal Communications Commission.
Roy J. Stewart,
Chief, Mass Media Bureau.

[FR Doc. 92-4641 Filed 2-27-92; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 391

[FHWA Docket No. MC-91-1]

RIN 2125-AC62

Qualifications of Drivers; Vision

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: The FHWA is requesting comments from interested parties on the need, if any, to amend its driver qualification requirements relating to the vision standard found at 49 CFR 391.41(b)(10). The vision standard sets forth minimum vision requirements for drivers of commercial motor vehicles (CMV) operating in interstate commerce. The FHWA believes that a review of the standard is necessary to assess the effect advances in medical science and technology may have on the standard. These advances may lead to amending the current standard, including the possibility of individual waivers, and the accompanying examination guides that are provided to medical examiners.

DATES: Written comments must be received on or before April 28, 1992.

ADDRESSES: Submit written, signed comments to FHWA Docket No. MC-91-1, room 4232, HCC-10, Office of the Chief Counsel, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590. Commenters may, in addition to submitting "hard copies" of their comments, submit a floppy disk in standard or high density formats containing data compatible with either WordPerfect or WordStar for IBM systems or Microsoft Word or WordPerfect or WordStar for Apple MacIntosh systems. Commenters should clearly label submitted disks with the software format used (e.g., WordPerfect 5.0 [IBM] or Microsoft Word 4.0 [Mac]). All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m., e.t., Monday through Friday, except legal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Ms. Eliane Viner, (202) 366-2981, Office of Motor Carrier Standards, or Mr. Raymond W. Cuprill, Office of the Chief Counsel (202) 366-0834, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION:

Background—Authority

The FHWA is authorized by statute to establish minimum driver qualification requirements for drivers of commercial motor vehicles in interstate commerce. This authority was originally granted to the Interstate Commerce Commission in the Motor Carrier Act of 1935, now codified in relevant part at 49 U.S.C. 3102 (1988). The authority was transferred to the DOT in 1966 with enactment of the Department of Transportation Act.

In 1984, the Congress further directed the Secretary to establish minimum safety standards to ensure that "the physical condition of operators of commercial motor vehicles is adequate to enable them to operate such vehicles safely * * *." 49 U.S.C. App. 2505 (1988).

The FHWA's first concern is to enhance safety on the Nation's highways. The FHWA's rules are designed to protect the general public. However, it is not FHWA's policy to unnecessarily limit the employment opportunities of individuals with disabilities. The FHWA is concerned that its physical qualification requirements be based on sound medical, scientific, and technological grounds, and that individual determination be made to the maximum extent possible consistent with the FHWA's responsibility to ensure commercial motor vehicles are operated safety.

Several congressional committee reports accompanying the Americans with Disabilities Act of 1990 (42 U.S.C. 12101, Pub. L. 101-336, 104 Stat. 327) expressly state that, while the committees expect persons who wish to drive CMVs to meet FHWA's minimum physical qualification standards, the committees also expect the FHWA to review its standards in light of the ADA within 2 years. See H. Rep. 101-596, 101st Cong., 2d Sess. 60-61 (1990) (conference report); H. Rep. 101-485, Part 2, 101st Cong., 2d Sess. 57 (1990) (House Committee on Education and Labor); H. Rep. 101-458, Part 3, 101st Cong., 2d Sess. 34 (1990) (House Committee on the Judiciary); S. Rep. 101-116, 101st Cong., 1st Sess. 27-28 (1989) (Senate Committee on Labor and Human Resources). This ANPRM is part of that review with respect to the vision standard. This review also is being conducted in light of Section 504 of the Rehabilitation Act of 1973, as amended.

Current Standard

The current vision standard is found at 49 CFR 391.41(b)(10) and provides:

> A person is physically qualified to drive a [commercial] motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber.

Regulatory History

The first Federal vision standard appeared in 1937 when the Federal Motor Carrier Safety Regulations (FMCSRs) required "good eyesight in both eyes (either without glasses or by correction with glasses), including adequate perception of red and green colors."

In 1939, the vision standard was changed to require "visual acuity (either without glasses or by correction with glasses) of not less than 20/40 (Snellen) in one eye, and 20/100 (Snellen) in the other eye; form field of not less than 45 degrees in all meridians from the point

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of fixation; ability to distinguish red, green, and yellow."

In 1952, the vision standard was strengthened to require "visual acuity of not less than 20/40 (Snellen) in each eye, whether without glasses or by correction."

In 1964, the vision standard was revised to add "form field of vision in the horizontal meridian shall not be less than a total of 140 degrees; ability to distinguish colors red, green and yellow; drivers requiring glasses shall wear properly-prescribed glasses at all times when driving."

Effective January 1, 1971, physical qualifications for drivers in § 391.41 were "revised in the light of discussions with the Administration's medical advisers." 35 FR 78. Among the amendments, a provision under § 391.41(b)(10) required a driver to have distant binocular acuity of not less than 20/40 (Snellen) with or without corrective lenses; field of vision of at least 70 degrees in the horizontal meridian in each eye; ability to recognize the colors of traffic signals and devices showing standard red, green, and amber.

The current rule has remained unchanged since 1971. Since that time, several studies have been conducted addressing the role vision plays in driving motor vehicles, including commercial motor vehicles. The following studies have been reviewed by the FHWA and copies have been placed in the docket for public review.

1. Henderson, R. L., and Burg, Albert, Published by System Development Corp., Santa Monica, CA. "The Role of Vision and Audition in Truck and Bus Driving," Dec. 1973, TM–(L)–5260/000/00. A systematic analysis was made of the visual requirements of CMV driving, based upon a review of the scientific literature, a detailed examination of the driving task, and observations of and interviews with qualified drivers. As a result of this analysis, new visual performance measures dealing with perception of motion and dynamic performance of the total visual system were identified as important to driving. A device was designed and constructed that provided the capability of testing performance on these new visual performance parameters as well as on selected conventional measures.

Performance on these vision tests was measured on 236 CMV drivers and compared with past accident records. The results show that visual performance measures identified analytically were also shown experimentally to be related to accident involvement. However, the limited size of the sample of truck and bus drivers on which experimental data were collected prevents generalization of the findings to the entire population of commercial carrier drivers and precludes the generation of qualification standards. Moreover, the term "poor driving record" is used in this study to denote an accident rate higher than that experienced by other drivers. Again, the study does not distinguish at-fault from other accidents, or accidents in which limited vision may have played a role from others.

2. Bartow Associates, Inc., "The Monocular Driver: A Review of Distant Visual Acuity Risk Analysis Data," Sept. 1982, DTFH61–82–F–30050. This study concludes that there is no positive relationship between accident rate and static visual acuity for drivers under age 54 and only a weak relationship for those over 60. The empirical support for the importance of visual field for safe driving is tenuous at best. Drivers with visual disabilities appear to have a higher proportion of side accidents. Whether the apparent blind side risk for the monocular driver is substantially higher than that of the general population is not conclusively shown. Potentially spurious relationships, small sample sizes, lack of controls, and the potential dominance of other variables reduces the validity of much of the past research. No correlation exists between defective stereoscopic vision and accident rates. Adequate monocular cues appear to exist for depth perception by an attentive driver during the day. Little research has been done on depth perception at night. The oscillatory nature of eye movement while driving and the attendant head and vehicle motion preclude consideration of a blind spot as an important issue in monocular driving. Early allegations that one-eyed drivers are unable to grasp an emergency situation quickly are not founded based on any measures of the probable increment in perception time needed by the monocular driver.

In several studies, including one on 14,000 drivers, the most consistent result was a failure to find a direct relationship between poor static visual acuity performance and high accident rates for young and middle-aged drivers. There appeared to be no consistent relationship between glare sensitivity or glare recovery time and measures of accident involvement. There also did not appear to be any difference in the glare recovery ability between monocular and binocular conditions. No substantive research was found comparing the night driving ability of monocular to binocular drivers.

3. McKnight, A. J., Shinar, D., Hilburn, B., National Public Services Research Institute, 1985, DTFH61–83–C–00134. "Visual Tasks Driving Analysis of Monocular Versus Binocular Heavy Duty Truckers." This study compared the performance of 40 monocular and 40 binocular tractor-trailer drivers on measures of both visual and driving performance. On the visual measures, the monocular drivers were deficient in contrast sensitivity, visual acuity under low illumination and glare, and binocular depth perception. They were not deficient in static or dynamic visual acuity, visual field or individual eye, or glare recovery.

Measures of visual search, lane keeping, clearance judgment, gap judgment, hazard detection, and information interpretation showed no differences between monocular and binocular drivers. The only driving measure in which monocular drivers showed evidence of decrement was the distance at which signs could be read in both daytime and nighttime driving. This decrement correlated significantly with the binocular depth perception measure.

It was concluded that monocular and binocular drivers show significant differences in the ability to see clearly and certain driving functions dependent on this ability, and do not show differences in the safety of day-to-day driving.

4. Janke, M.K., California Dept. of Motor Vehicles, 1986, "The Relation Between Vision Test Performance and Accidents." This study states that "evidence continues to accumulate that there is a weak, but statistically significant, relationship between vision measures and accident involvement. A study of 10,000 volunteer subjects "found that drivers showing visual field loss in both eyes had three-year prior accident and conviction rates (per 100,000 miles) that were twice as high as those of age- and sex-matched control group with normal visual fields. This finding was highly significant statistically."

The study suggests that a special battery of vision tests could be used as a diagnostic tool in the case of drivers whose record indicates the possible existence of a vision problem. Vision tests can be used as feedback mechanisms rather than, or as well as, licensure screening devices. Thus they can alert drivers to visual deficiencies they are not aware of, and motivate them to seek correction of their defects. No known attempt has ever been made rigorously to establish the existence of this possible beneficial effect. The State of California continues to grant waivers to drivers with visual impairment.

5. Rogers, Partrice N., Ratz, Michael, and Janke, Mary K., "Accident and Conviction Rates of Visually Impaired Heavy-Duty Operators," Jan. 1987, DTFH-61-85-00114. This study compared two-year accident and conviction rates of visually impaired heavy-vehicle operators (with class 1 and 2 licensure) to those of a sample of visually non-impaired heavy-vehicle operators. Non-impaired drivers met current federal acuity standards (corrected acuity of 20/40 or better in both eyes) while impaired drivers had substandard static acuity and were assessed within either moderately (corrected acuity between 20/40 and 20/200 in the worse eye, 20/40 or better in the other) or severely (corrected acuity worse than 20/200 Snellen in the worse eye) impaired subgroups. Total mileage estimates for Class 1 and Class 2 drivers obtained in a mailed questionnaire did not differ significantly between impairment groups. However, other potential bias issues remained and are discussed. "Visually impaired drivers had a significantly higher incidence of total accidents (37.15% more) * * * and * * * convictions (48.38% more) * * * than did the non-impaired drivers." The severely impaired drivers had directionally worse records than did the moderately impaired drivers on three of the four traffic safety measures. These findings lead to qualified support for the current federal standard, particularly regarding the severely impaired, with less support of its application regarding the moderately impaired heavy-vehicle operator.

This study does not distinguish between accidents in which the driver was at fault and others or between accidents in which a vision impairment may be relevant and those in which surely an impairment is not. Nor does the study provide a rationale for the relevance of conviction rates. These factors may limit the study's usefulness in resolving questions raised in the rulemaking.

As a concurrent effort with this ANPRM, the FHWA has awarded a research contract to Ketron, Inc., to study visual disorders and commercial motor vehicle drivers. The objectives of this study are to (1) reassess the basis for the visual disorder standards; (2) revise testing procedures, if necessary; (3) define what is an acceptable level of vision for CMV drivers; and (4) determine the risk associated with defining "acceptable" levels for visual capabilities such as visual acuity, field of vision, central vision, horizontal field of vision, and color perception. On June 24, 1991, the contractor held a conference with vision experts from the visual sciences community, occupational health care professionals, motor carrier safety experts, and other representatives from the motor carrier industry to obtain their views on the vision standard for CMV drivers. A copy of the final report will be placed in the docket once the contractor submits it to the FHWA. Disability groups and others are invited to comment on this report. The FHWA may undertake additional studies and analyses based on the information received in response to this ANPRM and the Ketron study.

The FHWA has received and denied numerous requests for waivers of the vision standard. Recently, the FHWA has received petitions for rulemaking to revise § 391.41(b)(10) and for waivers from this requirement. The FHWA has denied the petitions for individual waivers and accepted them as petitions for rulemaking.[1] The FHWA believes that rulemaking to review the vision standard and the possibility of individual waivers, generally, will better serve all affected persons.

Request for Comments

The FHWA requests comments from individuals, medical specialists, motor carriers, unions, driver organizations, motor carrier associations and all other interested parties. The FHWA is seeking technical and medical details on existing vision requirements for drivers, especially CMVs. The information should include, but not be limited to, recommended minimum standards, examination procedures (including who should be qualified to perform the examination), ophthalmological conditions which would adversely affect a person's ability to safely operate a CMV, potential criteria for individual waivers, and possible restrictions on driving (but not total prohibition) for persons with certain visual defects. The FHWA is also seeking information on advances made in the treatment and accommodation of individuals with vision impairment and/or loss, especially as it relates to the safe operation of a CMV. We are interested in receiving information on all aspects of the vision standard for CMV drivers (i.e., examination procedures, guidelines, consultations, documentation, limitations/restrictions, etc.). Additionally, information is requested concerning the potential costs, benefits and safety risks associated with allowing persons with a vision impairment to drive CMVs. The FHWA is particularly interested in receiving responses to the following questions, although comments need not be limited to these questions. Commenters are urged to include scientific and medical data to support their comments.

1. Do the current standards reflect the current state of the art or knowledge in the visual sciences both in terms of methods of treatment/correction and public safety? Please explain.

2. If FHWA were to implement a vision waiver program what should be the minimum preconditions required of the driver, such as a physician's (ophthalmologist's) recommendation, driving experience, driving history and accident involvement, additional training, over-the-road driving test, and degree of vision deficiency (corrected)?

3. Should a driver who does not meet the 20/40 visual acuity standard in one eye (e.g., a monocular driver) be allowed to operate a CMV in interstate commerce? If "yes," should restrictions be placed upon such an individual? Should such a driver be allowed to operate a CMV laden with hazardous materials or transport passengers?

4. What diagnostic tests and/or evaluation procedures should be required? What are the most appropriate measuring and screening methods (e.g., Snellen test)?

5. Should the visual acuity standard of 20/40 be maintained for each eye separately, or should it be required for binocular acuity of at least 20/40 only?

6. The current standard calls for a field of vision of at least 70 degrees in each eye. Expert medical opinion states that the horizontal field of vision should be 120 degress in each eye. The FHWA is interested in comments on the field of vision standard. Of particular interest is the effect such devices as mirrors would have on assisting persons with restricted field of vision.

7. What level of depth perception, if any, should be required for driving CMVs? When can a CMV driver no longer compensate for lack of "normal" depth perception?

8. What would be an acceptable level for visual acuity, field of vision, central vision, horizontal field of vision (including blind spots and missed points), and color perception for a CMV driver? Please address each item separately.

9. What vision-related medical evaluation procedures should be implemented and who should make the decision as to a CMV driver's medical qualification with regard to the vision standard? Should the examining

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[1] Vision Petitions: Mr. Walter C. Boyles of Auburn, IN in August, 1990. Mr. Charles A. Smart of Worcester, MA in May, 1990.

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physician make the certification decision based on the recommendation of an ophthalmologist or an optometrist? Should vision screening be conducted through the state driver license application programs?

10. What modifications can be made to CMVs to accommodate persons with impaired vision? How will such modifications help and what are their costs and effectiveness, and what are the risks?

11. Should an individual who has recently become monocular but has previously driven a CMV and has demonstrated safe operation of a CMV on the highway be allowed to continue operating a CMV? What criteria should be used to demonstrate safe operation? Does it make a difference whether the driver has been monocular from birth?

12. Are there mitigating factors that may reduce the risk associated with vision impairment?

13. What other medical conditions affecting vision or types of vision impairments should the FHWA vision standard address and what additional requirements, if any, should be incorporated?

14. Medical examinations are required to be performed at least every 24 months. Should there be a different time frame for recertification of a particular vision condition (e.g., glaucoma)? Should this recertification time requirement be set by the medical examiner or be specified by the FHWA in the regulation?

Commenters are not limited to responding to the above questions. They are encouraged to submit any facts or views relevant to the role of vision in the safe operation of CMVs.

Rulemaking Analyses and Notices Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

The action being considered by the FHWA in this document would amend the physical qualification requirements for commercial motor vehicle drivers subject to the FMCSRs. The FHWA has not yet determined whether this document contains a major rule under Executive Order 12291. However, the FHWA considers this to be a significant regulation under the regulatory policies and procedures of the DOT because of the substantial public interest anticipated in this action. The potential economic impact of this rulemaking is not known at this stage. Therefore, a full regulatory evaluation has not yet been prepared.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354), the agency will evaluate the effects of this proposal on small entities. Following the agency's evaluation, the FHWA will certify whether this proposed action will have a significant economic impact on a substantial number of small entities.

Executive Order 12612 (Federalism Assessment)

This action will be analyzed in accordance with the principles and criteria contained in Executive Order 12612 to determine whether it has sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

This rule does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

National Environmental Policy Act

The agency will analyze this action for the purpose of the National Environmental Policy Act of 1969 to determine whether this action will have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 391

Driver qualifications, Highways and roads, Highway safety, Motor carriers, Motor vehicle safety.

Authority: 49 U.S.C. 3102; 49 U.S.C. App. 2505; 49 CFR 1.48.

Issued on: February 21, 1992.

T.D. Larson,

Administrator.

[FR Doc. 92–4606 Filed 2–27–92; 8:45 am]

BILLING CODE 4910-22-M

Notices

Federal Register
Vol. 57, No. 40
Friday, February 28, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 92-004N]

National Advisory Committee on Microbiological Criteria for Foods; Meetings

Pursuant to the Federal Advisory Committee Act (5 U.S.C., appendix I), notice is hereby given that Subcommittee meetings of the National Advisory Committee on Microbiological Criteria for Foods, will be held on Monday through Thursday, March 16–19, 1992, and a plenary session of the Committee will be held on Friday, March 20, 1992, in Orlando, Florida, at the Orlando Airport Marriott Hotel, 7499 Augusta National Drive, Orlando, Florida, telephone (407) 851–9000. The Committee provides advice and recommendations to the Secretaries of Agriculture and Health and Human Services concerning the development of microbiological criteria by which the safety and wholesomeness of food can be assessed, including criteria for microorganisms that indicate whether foods have been produced using good manufacturing practices.

Scheduled sessions are as follows:

1. Monday, March 16, 1 p.m. to 4:30 p.m.,—HACCP Subcommittee;
2. Tuesday and Wednesday, March 17–18, 8:30 a.m. to 4:30 p.m.—Concurrent sessions of the Meat and Poultry and Seafood Subcommittees;
3. Thursday, March 19, 8:30 a.m. to 4:30 p.m.—Open agenda; and
4. Friday, March 20, 8:30 a.m. to 4:30 p.m.—Plenary session of the National Advisory Committee on Microbiological Criteria for Foods.

The Committee meetings are open to the public on a space available basis. Comments of interested persons may be filed prior to the meeting in order that they may be considered and should be addressed to Ms. Linda Hayden, Executive Secretariat, U.S. Department of Agriculture, Food Safety and Inspection Service, room 3175, South Agriculture Building, 14th and Independence Avenue SW., Washington, DC 20250. In submitting comments, please reference the docket number appearing in the heading of this notice. Background materials and copies of the agenda are available for inspection by contacting Ms. Hayden on (202) 720–9150.

Done at Washington, DC, on February 25, 1992.

H. Russell Cross,

Administrator, Food Safety and Inspection Service.

[FR Doc. 92–4703 Filed 2–27–92; 8:45 am]

BILLING CODE 3410-DM-M

Forest Service

Wall Wolf/Indian Henry Timber Sale; Clearwater National Forest, Clearwater County, ID

AGENCY: Forest Service, USDA.

ACTION: Notice; Intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an Environmental Impact Statement (EIS) to document the analysis and disclose the environmental impacts of proposed actions to harvest timber, build roads, and regenerate new stands of trees in the Upper Quartz Creek drainage, a tributary to the North Fork of the Clearwater River. The analysis area consists of approximately 16,670 acres. It is located approximately 50 air miles from Orofino, Idaho. Portions of the proposed action are located in the proposed Mallard-Larkins Roadless Area (#1300) and the Citizens Proposal for Roadless Areas.

The northern boundary of the study area follows Indian Henry Ridge from the ridge west of Wall Creek east to its junction with Pot Mountain Ridge. Pot Mountain Ridge forms the east and south boundary. The west boundary extends from the ridge west of Wolf Creek and Pot Mountain Ridge north to Quartz Creek, west down Quartz Creek and then north, up the ridge to the west of Wall Creek to its junction with Indian Henry Ridge.

DATES: Written comments concerning the scope of the analysis should be received within 45 days of the date of publication of the Notice in the **Federal Register**. The Draft Environmental Impact Statement is expected to be filed with the Environmental Protection Agency in December 1992. The Final Environmental Impact Statement (EIS) and Record of Decision are expected to be completed in December 1993.

ADDRESSES: Written comments should be sent to Arthur S. Bourassa, District Ranger, North Fork Ranger District, P.O. Box 2139, Orofino, Idaho 83544.

FOR FURTHER INFORMATION CONTACT: Specific questions about the proposed action, analysis and EIS should be directed to Jennefer Waggoner, North Fork Ranger District, Phone: (208) 476–3775.

SUPPLEMENTARY INFORMATION: These management activities would be administered by the North Fork Ranger District, Clearwater National Forest, Clearwater County, Idaho. Because of the potential for significant impacts resulting from the proposed action (as defined by 40 CFR 1508.27) an Environmental Impact Statement will be prepared.

The proposed actions are consistent with the Forest Plan (September 1987) which provides the overall guidance (Goals, Standards and Guidelines, and Management Area direction) in achieving the desired future condition for this area. There are six management areas located within the study area. The purpose and goals for the proposed actions are specifically defined by these management areas and include:

Management Area E1—Provide an optimum, sustained production of wood products through harvests that fully realize site potential and result in healthy, vigorous stands.

Management Area C3—Provide winter range and thermal cover for elk on steep breaklands with south exposures supporting suitable browse stands.

Management Area C4—Provide sufficient winter forage and thermal cover for existing and projected big game populations while achieving timber production outputs.

Management Area A4—Travel corridors along designated roads and trails. Maintain or enhance natural scenic qualities and dispersed recreation. Modify big-game summer range and timber management to meet key values.

Management Area M2—Provide for the protection and enhancement of riparian dependent resources. Management activities can include timber harvest, grazing and recreation as long as these practices enhance and protect the riparian values.

Management Area US—Unsuitable for timber management. Includes nonforest and low productive forest lands incapable of producing crops of industrial wood and lands with apparent regeneration limitations. Manage for soil and watershed protection.

The analysis area encompasses the entire Upper Quartz Creek drainage. It includes all or part of sections 1, 12, and 13, T40N, R8E, BM; sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15 16, 17, 21, 22, and 27 T40N, R9E, BM; sections 6 and 7, T40N, R10E; sections 24, 25, 26, 27, 28, 29, 31, 32, 33, 34, 35, and 36, T41N, R9E, BM; and sections 19, 30, and 31, T41N, R10E, BM. All but approximately 200 acres meets the RARE II criteria for roadless areas.

There are several smaller drainages in the upper Quartz Creek watershed. These are Wall Creek, Wolf Creek, Saddle Creek, Twin Cabin Creek, Indian Creek, Henry Creek and several unnamed drainages.

The North Fork Ranger District proposes to initiate regeneration harvest on approximately 1602 acres and construct approximately 10 miles of road. Specifically, the proposal includes 19 acres of seed tree harvest, 279 acres of shelterwood harvest, and 1304 acres of group selection harvest. Approximately 54% of the area to be harvested would require a skyline yarding system, and the other 46% would require helicopter yarding systems. The proposal also includes the construction of a connector road (3 miles) on Indian Henry ridge. The proposed harvest would generate approximately 10 million board feet of wood products.

Preliminary issues and concerns identified as a result of internal scoping and public comments received on the Integrated Resource Analysis include:

- The efficiency and cost-effectiveness of the timber sale.
- The need for alternative yarding procedures to effectively harvest on steep slopes.
- The effect of any management activity on the roadless character of the proposed Mallard-Larkins Roadless Area.
- Potential effect on threatened, endangered or sensitive species.
- The protection of watershed values—especially as this is a "Stream Segment of Concern"—as they relate to fish productivity and riparian zones.
- The effect of any management activity on elk security.
- The effect of any management activity on dispersed recreation.
- The protection and continuity of old growth stands for viable populations of dependent species.
- The effect any management activity would have on the outfitter/guide.
- The cumulative effect of this activity and other activities in the area.
- Protection/enhancement of the visual resources.
- The ability to regenerate high elevation (>5000') sites.
- The effect a connector road on Indian Henry Ridge would have on the roadless/wilderness charter, wildlife movement and security, and economics.

No meetings are scheduled, but letters, phone calls, or personal visits are invited for the purpose of providing information related to this proposal. This additional information will be used to prepare a Draft Environmental Impact Statement. This process will include:

1. Determination of significant issues.
2. Determination of potential cooperating agencies.
3. Identification and elimination from detailed study of nonsignificant issues, or issues that have been covered by previous environmental review.
4. Identification of reasonable alternatives to the proposed action.
5. Identification of potential environmental effects of the alternatives.

The analysis will consider a range of alternatives developed from the key issues. One of these will be the "No Action" alternative, in which all harvest and regeneration activities are deferred. Other alternatives will consider various levels and location of harvest and regeneration activities in response to issues and non-timber objectives.

Public participation is important all through the analysis process. Agencies and other interested publics are invited to visit with Forest Service officials at any time during the process. However, two specific time periods are identified for the receipt of formal comments on the analysis. They are: (1) during the scoping process (the next 45 days) and, (2) during the formal review period of the Draft EIS.

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement.

Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

The Final EIS is expected to be released December 31, 1993. The Forest Supervisor for the Clearwater National Forest who is the responsible official for the EIS will make a decision regarding this proposal considering the comments, responses, and environmental consequences discussed in the Final Environmental Impact Statement, and applicable laws regulations and policies. The reasons for the decision will be documented in a Record of Decision.

Dated: February 18, 1992.

Bert Kulesza,

Deputy Forest Supervisor, Clearwater National Forest.

[FR Doc. 92–4549 Filed 2–27–92; 8:45 am]

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Fern Star Timber Sale; Clearwater National Forest, Clearwater County, ID

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an Environmental Impact Statement (EIS) to document the analysis and disclose the environmental impacts of proposed actions to harvest timber, build roads, and regenerate new stands of trees in the Isabella, Fern, Twin, and Nub Creek drainages, which are tributary to the North Fork of the Clearwater River. The analysis area is located approximately 50 air miles from Orofino, Idaho. The majority of the analysis area is located in the RARE II Mallard-Larkins Roadless Area (#1300) and in various citizens wilderness proposals.

The Fern Star analysis area is located east and north of the confluence of Isabella Creek and the North Fork of the Clearwater River. The analysis is comprised of 14,723 contiguous acres of public land administered by the North Fork Ranger District of the Clearwater National Forest. The analysis area is bounded on the north by the Mallard-Larkins Pioneer Area, on the south by the North Fork of the Clearwater River, on the west by Isabella Creek and Goat Ridge, and on the east by Skull Creek.

DATES: Written comments concerning the scope of the analysis should be received within 45 days of the date of publication of the Notice in the **Federal Register**. The Draft Environmental Impact Statement is expected to be filed with the Environmental Protection Agency in October, 1992. The Final Environmental Impact Statement (EIS) and Record of Decision are expected to be completed in June 1993.

ADDRESSES: Send written comments to Arthur S. Bourassa, District Ranger, North Fork Ranger District, P.O. Box 2139, Orofino, ID 83544.

FOR FURTHER INFORMATION CONTACT: Specific questions about the proposed action, analysis, and EIS should be directed to Jennefer Waggoner, Resource Analyst, or Arthur S. Bourassa, District Ranger, North Fork Ranger District, Clearwater National Forest, (208) 476–3775.

SUPPLEMENTARY INFORMATION: All management activities would be administered by the North Fork Ranger District of the Clearwater National Forest, Clearwater County, Idaho. Because of the potential for significant impacts resulting from the proposed action (as defined by 40 CFR 1508.27) an Environmental Impact Statement will be prepared.

The proposed actions are consistent with the Forest Plan (September 1987) which provides the overall guidance (Goals, Standards and Guidelines, and Management Area direction) in achieving the desired future condition for this area. There are six management areas located within the study area. The purpose and goals for the proposed actions are specifically defined by these management areas and include:

Management Area A4—Travel corridors along designated roads and trails. Maintain or enhance natural scenic qualities and dispersed recreation. Modify big-game summer range and timber management to meet key values.

Management Area C4—Provide sufficient winter forage and thermal cover for existing and projected big game populations while achieving timber production outputs.

Management Area E1—Provide an optimum, sustained production of wood products through harvests that fully realize site potential and result in healthy, vigorous stands.

Management Area E3—Manage timber without or with very few limited and restricted roads utilizing long-line and aerial harvest methods. Develop trail systems for dispersed recreation where compatible with timer management. Provide maximum protection of soil and water values.

Management Area M2—Provide for the protection and enhancement of riparian dependent resources. Management activities can include timber harvest, grazing, and recreation as long as these practices enhance and protect the riparian values.

Management Area US—Unsuitable for timber management. Includes nonforest and low productive forest lands incapable of producing crops of industrial wood and lands with apparent regeneration limitations. Manage for soil and watershed protection.

The analysis area encompasses all or portions of sections 1, 2, 3, 4, 5, and 6, T40N, R7E, BM; sections 4, 5, 6, 7, and 8, T40N, R8E, BM; sections 15, 16, 17, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36, T41N, R7E, BM; and sections 29, 30, 31, 32, 33, and 34, T41N, R8E, BM.

The North Fork Ranger District proposes to initiate regeneration harvest on approximately 2550 acres and construct approximately 11.2 miles of new road. Specifically, the proposal includes 1860 acres of clearcut harvest and 690 acres of shelterwood harvest. Approximately 53% of the area to be harvested would require use of cable yarding systems and the other 47% would utilize helicopter yarding systems. The proposed harvest would generate approximately 67 million board feet of wood products.

Preliminary issues and concerns identified as a result scoping include:

- The effect of any management activities on the roadless character of the proposed Mallard-Larkins Roadless Area.
- Protection of the visual resources.
- The effects of the proposed activities on the outfitter/guide in the area.
- The protection and continuity of old growth stands for viable populations of dependent species.
- The effect of proposed activities on recreation users of the area.
- The effects of management practices on elk security.
- The protection of watershed values, fish productivity, and riparian zones.
- Potential effect on threatened, endangered, and sensitive species.
- The efficiency and cost-effectiveness of the timber sale.
- The effect of proposed practices on the stability of the steep slopes that characterize the area.

No meetings are scheduled, but letters, phone calls, or personal visits are invited for the purpose of providing information related to this proposal. This additional information will be used to prepare a Draft Environmental Impact Statement. This process will include:

1. Determination of significant issues.
2. Determination of potential cooperating agencies.
3. Identification and elimination from detailed study of nonsignificant issues, or issues that have been covered by previous environmental review.
4. Identification of reasonable alternatives to the proposed action.
5. Identification of potential environmental effects of the alternatives.

The analysis will consider a range of alternatives developed from the key issues. One of these will be the "No Action" alternative, in which all harvest and regeneration activities are deferred. Other alternatives will consider various levels and location of harvest and regeneration activities in response to issues and non-timber objectives.

Public participation is important all through the analysis process. Agencies and other interested publics are invited to visit with Forest Service officials at any time during the process. However, two specific time periods are identified for the receipt of formal comments on the analysis. They are: (1) During the scoping process (the next 45 days) and, (2) During the formal review period of the Draft EIS.

The comment period on the draft environmental impact statement will be 45 days from date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement.

Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

The Final EIS is expected to be released June 30, 1993. The Forest Supervisor for the Clearwater National Forest who is the responsible official for the EIS will make a decision regarding this proposal considering the comments, responses, and environmental consequences discussed in the Final Environmental Impact Statement, and applicable laws, regulations and policies. The reasons for the decision will be documented in a Record of Decision.

Dated: February 18, 1992.

Bert Kulesza,

Deputy Forest Supervisor, Clearwater National Forest.

[FR Doc. 92–4550 Filed 2–27–92; 8:45 am]

BILLING CODE 3410-11-M

Stalf and Erskine Helicopter Sales; Sequoia National Forest, Kern County, CA; Intent To Prepare an Environmental Impact Statement

The Department of Agriculture, Forest Service will prepare an environmental impact statement for a proposal to harvest and regenerate timber on the Stalf and Erskine Helicopter Sales within the Greenhorn Ranger District. The Sequoia National Forest Land and Resource Management Plan has been prepared. One of the management emphases in the Plan is to manage for timber harvest and production on lands within the Piute East and West Compartments.

The alternatives to be considered will range from "No Action" to harvesting up to approximately 16 million board feet. The quantity of timber cut, road construction and reconstruction, as well as the physical, biological, economic, and social effects of project implementation will be analyzed within the context of the alternatives. Potential resource issues which may affect alternative development are clearcutting, visual quality, spotted owl habitat, maintaining biodiversity, reforestation, and furbearer habitat.

The U.S. Fish and Wildlife Service will be invited to participate as a cooperating agency to evaluate potential impacts on threatened and endangered species habitat if any such species are found to exist in the proposed timber sale areas. Federal, State, and local agencies, as well as industry; and other individuals or organizations who may be interested in or affected by the decision, will be invited to participate in the scoping process. This process will include:

1. Identification of potential issues and/or concerns.
2. Identification of issues to be analyzed in depth.
3. Elimination of insignificant issues or those which have been covered by a previous environmental review.

Scoping will be initiated during the winter of 1992, and will continue into the spring of 1992.

The analysis is expected to take approximately 9 months to complete. The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and available for public review and comment by November 1992. EPA will publish a notice of availability for the draft EIS in the **Federal Register**. The comment period will be 45 days from the date of the EPA's published notice of availability. All persons interested in the proposed projects are urged to participate at that time. Comments on the draft EIS should be as specific as possible and may address the adequacy of the EIS or the merits of the alternatives considered. (See the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3.) In addition, Federal court decisions have established that reviewers of a draft EIS must structure their participation in the environmental review so that it is meaningful and alerts an agency to the reviewer's positions and contentions, *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Environmental objections that could have been raised at the draft EIS review stage, but are not raised until after completion of the final EIS may be waived or dismissed by the courts, *City of Angoon* v. *Hodel,* 803 F. 2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in these proposed actions participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service in a timely manner so the agency can respond to them in the final EIS. To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible.

The final EIS is scheduled to be completed by February 1993. In the final EIS, the Forest Service is required to respond to comments received from the public and consulted agencies. The responsible official will consider the comments, responses, laws, regulations, and policies in making a decision regarding these project proposals. The responsible official will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to appeal.

Philip H. Bayles, Acting Forest Supervisor, Sequoia National Forest, Porterville, CA, is the responsible official. Written comments, questions, and suggestions concerning the analysis should be sent to Linda Brett, District Ranger, Greenhorn Ranger District, P.O.

Box 6129, Bakersfield, California 93386 (phone 805–871–2223).

Dated: February 21, 1992.

Philip H. Bayles,

Acting Forest Supervisor.

[FR Doc. 92–4546 Filed 2–27–92; 8:45 am]

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DEPARTMENT OF COMERCE

International Trade Administration

[A-570-813]

Final Determination of Sales at Less Than Fair Value: Refined Antimony Trioxide From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: February 28, 1992.

FOR FURTHER INFORMATION CONTACT: Susan M. Strumbel or Carole Showers, Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377–1442 and 377–3217, respectively.

Final Determination

The Department determines that refined antimony trioxide from the People's Republic of China ("PRC") is being, or is likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended ("the Act") (19 U.S.C. 1673d). The estimated margin is shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the publication of our preliminary determination on October 9, 1991 (56 FR 50849), and its reprint on November 5, 1991 (56 FR 56496), the following events have occurred.

On October 25, 1991, respondents withdrew their request, submitted on September 13, 1991, that the Department use domestic Chinese input prices to value the factors of production.

On November 6, 1991, we published a notice postponing the final determination until no later than February 21, 1992 (56 FR 56631). We verified the responses of China National Nonferrous Metals Import and Export Corporation ("CNIEC"), China National Metals and Minerals Import and Export Corporation ("China Minmetals"), Xikuangshan Antimony Trioxide Refinery ("Xikuangshan") and Stibium Products Refinery ("Stibium") in Hunan Province and in Beijing, PRC, from November 18 through November 30, 1991. We also verified certain U.S. subsidiaries of respondents in Houston, Texas and Duarte, California from Janaury 13 through January 16, 1992. A public hearing was held on February 14, 1992.

Separate Rates

In our preliminary determination, we stated that we were seeking additional information from respondents on the issue of whether they should receive company-specific rates. Based on that information, we determine that company-specific rates are appropriate for CNIEC and China Minmetals. (For further discussion, see DOC Postion to Comment 6 below).

Scope of the Investigation

The product covered by this investigation is refined antimony trioxide (also known as antimony oxide) from the PRC. Antimony trioxide is a crystalline powder of the chemical formula Sb203, currently classified under subheading 2825.80.00 of the Harmonized Tariff Schedule ("HTS"). Refined antimony trioxide includes blends with organic or inorganic additives comprising up to and including 20 percent of the blend by volume or weight. Crude antimony trioxide (antimony trioxide having less than 98 percent Sb203) is excluded. Although the HTS subheading is provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Period of Investigation

The period of investigation ("POI") is November 1, 1990 through April 30, 1991.

Fair Value Comparisons

To determine whether sales of refined antimony trioxide from the PRC to the United States were made at less than fair value, we compared the United States price to the foreign market value ("FMV"), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

For both respondents, we based United States price on purchase price where sales were made directly to unrelated parties prior to the date of importation into the United States, in accordance with section 772(b) of the Act. We used purchase price as defined in section 772 of the Act, both because refined antimony trioxide was sold to unrelated purchasers in the United States prior to importation into the United States, and because exporter's sales price ("ESP") methodology was not indicated by other circumstances. Where sales to the first unrelated purchasers took place after importation into the United States, we based United States price on ESP, in accordance with section 772(c) of the Act.

As in our preliminary determination, we have made no adjustments to United States price or FMV for selling expenses. (For further discussion, see DOC Postion to Comment 21).

A. China Minmetals

For China Minmeteals, we calculated both purchase price and ESP based on packed, FOB, CIF or Ex-Dock prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, ocean freight, marine insurance, U.S. brokerage and handling, U.S. duty and U.S. terminal charges.

At the time of our preliminary determination, we stated that we did not make an adjustment for foreign inland insurance, as reported by respondent, because we were unable to obtain a value for this factor from either surrogate country. Since that time, we have received no information from any party, and have no information from the surrogate countries, concerning this valuation. Therefore, we are still unable to make this adjustment.

B. CNIEC

For CNIEC, we calculated both purchase price and ESP based on packed, ex-warehouse, FOB, or delivered prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, ocean freight, marine insurance, U.S. duty, U.S. inland freight, U.S. drayage, U.S. handling, dock discharge and U.S. port charges. We did not make an adjustment for foreign inland insurance for the reason discussed above. For certain sales, CNIEC did not report U.S. inland freight. For those sales, we used average inland freight as best information available ("BIA").

We have included in CNIEC's U.S. sales one transaction that was discovered at verification (see Comment 16 below). We have also included a second transaction which was not treated as a sale made by CNIEC in the preliminary determination.

Foreign Market Value

As in our preliminary determination, we are treating the PRC as a nonmarket economy country ("NME") for the purposes of the final determination. As a result, section 773(c) of the Act directs the Department to base FMV on the NME producers' factors of production.

For one refinery, Stibium, we were not able to verify the conversion factor for the blast furnace of the production process. Therefore, we used information from the petition as BIA for the factors of production this stage of Stibium's production process. (For further discussion, see DOC Position to Comment 12.) Those factors were valued in the surrogate country.

Surrogate Country

Section 773(c) of the Act requires the Department to value the factors of production, to the extent possible, in one or more market economy countries that are at a level of economic development comparable to that of the nonmarket economy country, and that are significant producers of comparable merchandise. Based on these criteria, we have determined that Bolivia is the most appropriate surrogate country within which to value the PRC factors of production. (See, DOC Position to Comments 1 and 2 for a complete discussion of this issue.)

With the exception of the blast furnace stage of Stibium's production process, we calculated FMV based on the PRC producers' factors of production. Refined antimony trioxide factors of production include materials, labor, and energy. To value antimony concentrate, we used the London Metal Bulletin ("LMB") prices for Bolivian-origin antimony concentrate. (For further discussion, see DOC Position to Comment 4.) For other materials, labor, and energy, we used Bolivian values where they were available. Where Bolivian values were not available, *i.e.* for coke, soft coal, and inland freight, we used Thai values. Where appropriate, the factor values were inflated to POI levels using wholesale price indices published by the International Monetary Fund.

We added to materials, labor, and energy, amounts for selling, general and administrative expenses ("SG&A"), factory overhead, profit, and packing. The factory overhead, SG&A, and packing expenses were based on the experience of a Bolivian producer. For profit, we used the statutory minimum of eight percent of the sum of production costs and general expenses. (For further discussion, see DOC Position to Comment 3.)

For the factors of production reported for the Xikuangshan factory, adjustments were made as follows: (1) For the reduction and oxidation furnaces, we revised the reported yield for all non-antimony materials, labor, and energy to include the factors that had been assigned to scrap, (2) for the blast furnace, we included a limestone factor, (3) we recalculated labor to include down days and days off due to illness, travel, etc., (4) we did not make an adjustment to the cost of manufacture for the two by-products created from producing refined antimony trioxide because we were unable to verify the quantities, and (5) we corrected minor clerical errors.

For the factors of production reported for the Stibium factory, adjustments were made as follows: (1) We relied on BIA for all factors related to the blast furnace (as discussed above and in DOC Position to Comment 12), (2) for the reduction furnace, we recalculated the factors reported for soft coal, soda ash, and electricity, (3) for the oxidation furnace, we recalculated the factors reported for soft coal and electricity, (4) for the reduction and oxidation furnaces, we revised the reported yield for all non-antimony materials, labor, and energy to include the factors which had been assigned to scrap, (5) we accepted respondent's revised labor calculation methodology, and (6) we eliminated our adjustment for byproducts because the adjustment was already included in the respondent's calculations.

We made currency conversions in accordance with 19 CFR 353.60(a).

Verification

Pursuant to section 776(b) of the Act, we verified information used in reaching our final determination. We used standard verification procedures, including examination of relevant accounting records and original source documents provided by respondents.

Interested Party Comments

Comment 1: Petitioners assert that the Department should choose Bolivia as the surrogate, free market economy for valuing PRC production because, both in terms of economic development and in significant production of a comparable product, Bolivia is more simililar to the PRC than is Thailand. With respect to economic comparability, petitioners argue that per capita gross national product ("GNP"), the distribution of gross domestic product, and the distribution of labor between agricultural and non-agricultural sectors all reflect that Bolivia is clearly at a level of economic development far more comparable to the PRC than is Thailand.

Further, petitioners assert that Bolivia produces crude antimony trioxide, a product which is more comparable to the subject merchandise than is antimony metal produced in Thailand. Unlike Thailand, Bolivia has produced refined antimony trioxide in the past Bolivia is currently a significant producer and exporter of crude antimony trioxide and, unlike Thailand, its production is for commercial sales as opposed to captive consumption. In Thailand, crude antimony trioxide is produced only as an intermediate product to be used in the production of antimony metal. Petitioners assert that antimony metal differs significantly from refined antimony trioxide in composition, physical properties and applications. Petitioners state that, most importantly, the products have entirely different applications. Antimony metal is used for a variety of industrial uses including starting-lighting-ignition, batteries, ammunition, corrosion resistant pumps and pipes, tank linings, roofing sheets, solder, cable sheaths, and antifriction bearings. Refined antimony trioxide, in contrast, is used as a flame-retardant synergist or catalyst in glass or ceramic production, and as a chemical intermediate. Thus, based on production of a comparable product, Bolivia is clearly a more suitable surrogate than Thailand for valuing the PRC factors of production.

Respondents dispute petitioners' assertion that Bolivia is a more appropriate surrogate county than Thailand in which to value the factors of production. Respondents state that the Department has often used Thailand to value factors of production in cases involving the PRC. Furthermore, respondents assert that, in terms of economic comparability, Bolivia has experienced a negative growth rate and hyperinflation, unlike the PRC. Respondents claim that if the hyperinflationary Bolivian experience is used for surrogate purposes, it will be impossible for Chinese producers to determine whether they are selling at a dumped price.

Respondents also assert that antimony metal is a more camparable product to the subject merchandise than is crude antimony trioxide. As seen at vertification, the Chinese production process has three stages—ore to crude, crude to metal, metal to refined. Therefore, because antimony metal is one step away from the production of refined antimony trioxide, it is more similar than crude antimony trioxide, which is produced two steps prior to producing refined antimony trioxide. In addition, respondents add that a substantial number of U.S. antimony trioxide producers import antimony metal from the PRC to produce refined antimony trioxide. Finally, respondents state that Thailand is a significant producer/exporter of antimony metal.

DOC Position: In our preliminary determination, we stated that in economic terms, Bolivia and Thailand were equally comparable to the PRC for purposes of selecting a surrogate country within which to value PRC factors of production. Nonetheless, the Department strives, where possible, to select one surrogate country for purposes of factor valuation. In making this determination and consistent with 19 CFR 353.52(b), the Department has traditionally considered GNP, per capita GNP, the distribution of labor within the economy, and the rate of economic growth. While all these factors are important, the disparity in the per capita GNP figures between Thailand and Bolivia has persuaded us that Bolivia is the more comparable economy for purposes of this investigation.

With respect to the significant production of a comparable product, based on an analysis of information gathered throughout this investigation, we have determined that antimony metal is more comparable to refined antimony trioxide than is crude antimony. Refined antimony trioxide is produced in three stages—ore to crude, crude to metal, and metal to refined. Because antimony metal is at an intermediate stage of processing in the spectrum from ore to refined, it is more comparable to the end product. The mere fact that antimony metal is also used to produce other products does not detract from its greater comparability to refined antimony, particularly since crude antimony is two production steps away from refined antimony and the metal production stage immediately precedes the production of refined antimony trioxide, the subject merchandise.

Therefore, because Bolivia is a significant producer of antimony metal, a comparable product, and we find it to be more comparable economically, we determine that Bolivia is the appropriate surrogate country within which to value PRC factors of production. In those few instances where values were unobtainable from Bolivia, we have used values from Thailand.

Comment 2: Respondents argue that, if the Department continues to believe that Bolivia and Thailand are equally comparable to the PRC, as a "tie-breaker" the Department should consider the similarity of the production processes in the various countries. Respondents contend that the prdouction process utilized in Thailand is more comparable to that used in the PRC, indicating that Thailand may be the better surrogate.

DOC Position: The Department has concluded that, based on the statutory criteria for surrogate selection, Bolivia is more camparable than Thailand for purposes of this investigation (see DOC Position to Comment 1 above.) Consequently, we need not consider whether the production process for refined antimony trioxide in Thailand or Bolivia is more similar to that of the PRC.

Comment 3: Respondents argue that since Laurel Industries, a petitioner, is related to and controls Empresa Metalurgica Vinto ("Vinto"), the Department should disregard the profit and SG&A obtained from this Bolivian company for purposes of calculation constructed value. Respondents content that information provided by Vinto does not fairly reflect the profit or SG&A of antimony producers in the United States, worldwide, or in the PRC. Consequently, respondents suggest that the Department use the statutory minimum of eight percent profit and ten percent SG&A as BIA in constructing FMV for the product under investigation.

Petitioners content that since a Bolivian firm producing crude antimony trioxide has supplied GS&A and profit data to the Department, the Department should continue using these actual data for its final determination. Petitioners state that respondents' claim that Vinto is related to Laurel Industries is incorrect. Vinto and Laurel signed a joint cooperation and technology transfer agreement but the two firms are not related. Neither has any ownership interest in the other, nor does any relationship exist through either company's employees. Vinto, in fact, is a government-owned entity. Vinto and Laurel trade under an arms-length toll contract and are in no way related.

Petitioners further content that respondents' claim that Vinto's profits are too high is erroneous. Laurel has other source of supply besides Vinto. If Vinto's prices were not competitive, Laurel would stop purchasing from this firm because Laurel is in no way bound to Vinto as a supplier.

DOC Position: We have determined that it is appropriate to use Vinto's actual SG&A figures for purposes of this final determination. No evidence has been provided to demonstrate that this amount is atypically high by industry-wide standards, or that it is tainted by virtue of Laurel's association with Vinto. Where we are using a surrogate producer's expenses, there is no evidence on the record which persuades the Department that a relationship with this petitioner can, or has, affected those expenses.

We are concerned, however, that Laurel's relationship to this Bolivian producer raises reasonable suspicions concerning Vinto's profitability. Laurel is Vinto's only customer, so Vinto's revenues are determined entirely by the price paid by Laurel. Moreover, in discussing why an LMB price differential exists, between Bolivian and Chinese concentrate, petitioners have pointed to their willingness to pay a premium for the Bolivian product so as to diversify their sources of supply. These factors lead us to conclude that use of Vinto's profit rate would mean that petitioners effectively control this aspect of the calculations, an outcome which we cannot accept. For these reasons, the Department has used as profit the statutory mimimum of eight percent of general expenses and cost, pursuant to section 773(e)(1)(B)(ii) of the Act, for the final determination.

Comment 4: Petitioners claim that the Department should base its valuation of antimony concentrate on the price for Bolivian-origin concentrate tracked by the LMB rather than on the export price of Chinese-origin antimony concentrate tracked by the LMB. In the PRC, refined antimony trioxide is a class-one product subject to special state controls and the entire antimony sector which produces it is an integral part of the PRC's command economy. Section 773 of the Act does not permit the Department to base its valuation of the antimony concentrate factor on the export price of the PRC product. In fact, the Act precludes the Department from valuing it in this manner. Section 773 allows the Department to use NME cost data only when the entire firm or sector, even though it operates within an NME, is subject to market forces. Otherwise, the statute requires the Department to use cost data from a comparable market economy country. In addition, petitioners assert that the Chinese export price of antimony concentrate is subsidized and, therefore, cannot be used. Further, petitioners claim that the Department's decision in the preliminary determination that the LMB price for Chinese antimony concentrate most accurately reflects the actual impurity levels of the concentrate used by respondents is in error. In fact, 60 percent antimony concentrate of Chinese and Bolivian origin are completely competitive and fungible. The LMB tracks the market price for the best 60 percent concentrate of Chinese origin, which is comparable in quality to the only other major source—60 percent concentrate of Bolivian origin. Petitioners purchase antimony concentrate from both sources and comparative assays show the difference to be insignificant.

Respondents assert that the LMB price for Chinese concentrate is not the Chinese market price but a world market price. Respondents argue that Chinese concentrate has a lower price than Bolivian concentrate because of differences in impurity levels, as the Department noted in its preliminary determination.

DOC Position: We agree, in part, with petitioners. For the final determination, the Department has determined that Bolivia is the appropriate surrogate country by which to value factors of production. (See, DOC Position to Comment 1.) There are three LMB prices listed for antimony concentrate, one for Chinese-origin concentrate and two for non-Chinese-origin concentrate. Based upon conversations with experts in the field, we have determined that the two prices for non-Chinese-origin concentrate are actually prices for Bolivian-origin concentrate. (See, February 19 and 21, 1992 memoranda to file re: conversations with Metal Bulletin experts.) The Department has determined that an average of the prices for Bolivian-origin concentrate is the most appropriate valuation of the antimony concentrate factor.

Evidence on the record suggests that the LMB prices for Bolivian-origin concentrate are internationally-traded prices for lump and clean sulfide concentrates. Both of these types of ore are used by the respondents in their production of the product under investigation. Therefore, an average of these two LMB prices, results in a valuation of the factor for antimony concentrate which most accurately reflects respondents' production experience.

Section 773(c)(4) of the Act, mandates the valuation of factors of production "to the extent possible" on the basis of prices or costs of such factors "in one or more market economy countries * * *." Since the Department has available to it prices of products produced in a market economy (the LMB prices for Bolivian-origin concentrate) by which to value this factor, it must use them over the LMB price for Chinese-origin concentrate.

Respondents argue that the LMB price for Chinese-origin concentrate is not an internal Chinese price but, instead, an internationally-quoted price for Chinese antimony concentrate. The Department, however, cannot ignore the fact that the PRC is an NME country which is the major exporter of antimony concentrate on the world market. Accordingly, distortion caused by the nonmarket nature of the Chinese economy will affect subsequent transactions involving the product, as reflected in the LMB.

With regard to purported differences in impurity levels, current evidence on the record is conflicting, rather than conclusive. The same experts who informed the Department at the time of the preliminary determination that the price discrepancy between the Chinese- and Bolivian-origin concentrate was due to the difference in impurity levels now inform the Department that the discrepancy could also be accounted for by a premium which buyers are willing to pay for a second source of supply. Thus, the information on the record does not establish the reason for the difference in price.

Comment 5: Respondents request that for values other than the antimony concentrate, the Department use the information provided in a facsimile transmission from the U.S. Embassy in Thailand rather than the import prices used in the preliminary determination, since the Embassy information more accurately reflects the actual experience of local producers during the POI.

Petitioners state that the Department's practice demonstrates a preference for valuing all of the factors of production in a single surrogate country. Since Bolivia is the most appropriate surrogate, the Department should follow this practice in its final determination by valuing in Bolivia all of the factors of production, including those valued in Thailand for the preliminary determination. Petitioners' case brief contains values for fluorespar, soft coal, and coke, the only factors not already valued in Bolivia. The Department should use these factors in its final determination.

DOC Position: We agree with petitioners that it is the Department's preference to value factors of production in one surrogate country, if possible. Therefore, we have valued the PRC factors of production in Bolivia where public information from independent sources was available. We did not accept petitioners' values for fluorespar, soft coal, or coke, as we were able to obtain values for these inputs from independent sources in Thailand. The Thai values were (i) based on input values or (ii) taken from the information submitted by the U.S. Embassy.

Comment 6: Petitioners claim that CNIEC and Minmetals are government-controlled entities whose exports are strictly regulated. Therefore, the Department should assign a single, country-wide antidumping duty rate to their exports. CNIEC is a subsidiary of CNNC, which is a "nationally integrated enterprise" directly under the leadership of the State Council of the PRC. The corporate charter for the Ministry of Foreign Economic Relations and Trade ("MOFERT") spells out the extent of central government control over its export activities. MOFERT controls both the quantity and price of exports of refined antimony trioxide, a class-one product.

Respondents argue that each trading company should be given a separate antidumping duty margin because the companies vigorously compete with each other, MOFERT sets only export quotas, not prices, and the companies have proven both *de jure* and *de facto* absence of central control over export prices. *DOC Position:* We have determined that exporters in nonmarket economy countries are entitled to separate, company-specific rates when they can demonstrate an absence of central government control, both in law and in fact, with respect to exports. (See Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China, 56 FR 20588, May 6, 1991.) Evidence supporting, though not requiring, a finding of *de jure* absence of central control includes: (1) Absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; or (3) any other formal measures by the government decentralizing control of companies. A finding of *de facto* absence of central government control with respect to exports is based on two prerequisites: (1) Whether each exporter sets its own export prices independently of the government and other exporters; and (2) whether each exporter can keep the proceeds from its sales.

The evidence on the record demonstrates that each exporter of refined antimony trioxide sets its own prices for export. At vertification, MOFERT officials stated that it did not set prices of refined antimony trioxide and we saw no evidence at the trading companies to contradict this. Officials from each of the two companies explained that export prices were established independently on the basis of monthly LMB price quotes. In addition, we observed different prices being charged by the two companies at or about the same time period.

At verification, we also noted that CNIEC's sales proceeds were deposited to its own account and that CNIEC bank records revealed no payments to the PRC government, CNIEC Beijing, or CNNC. Nor was there evidence of any control exercised by these entities over CNIEC's accounts. At Minmetals Hunan, we also traced proceeds from sales of refined antimony trioxide to that company's bank accounts and general ledger. We found no evidence of payments to the PRC government, China Minmetals Beijing, or MOFERT, or of control exercised by any of these agencies over Minmetals' receipts.

Our examination of the business and export licenses of these companies revealed no restrictive stipulations on the export of various antimony products, including refined antimony trioxide. While at MOFERT, we received excerpts from the State Council Directive No. 12 of 1988, on the deregulation of the branches of foreign trade corporations. This directive made the branches financially independent from their former headquarters.

In view of the ample evidence on the record, as noted above, we have assigned separate, company-specific rates for purposes of our final determination.

Comment 7: Petitioners assert that respondents deliberately withheld and misreported key information with respect to their factors of production. For example, verification demostrated that respondents understated the antimony content of their raw material by at least two-to-one. In addition, petitioners assert that respondents withheld information on the antimony content of blast furnace slag. Petitioners state that this information, critical to determining the blast furnace conversion rate, was neither reported by respondents nor verified by the Department. Therefore, the Department should use BIA.

Respondents claim that the verified concentrate percentage was different than that provided in the questionnaire response because of a simple communication problem between counsel and respondents, and that the Department should use the information collected at verification.

DOC Position: The Department does not believe that respondents deliberately withheld or misreported key information with respect to the factors of production. Except as identified in other sections of this notice, we have accepted respondents' information as verified. Therefore, with the exception of the blast furnace stage of Stibium's production process, we have used respondents' data for the final determination.

Comment 8: Petitioners claim that the Department may have verified the antimony content of the antimony concentrate on a dry basis, when the assay was actually taken on a wet basis. The water content of the antimony quoted on a wet basis is about eight percent. Thus, the assay of concentrate on a wet basis will be significantly less than the assay on a dry basis. In support of its assertion, petitioners cite an article written about the production of antimony oxide in Xikuangshan which suggests that the assay verified by the Department was taken on a wet basis.

DOC Position: We disagree with petitioners. There is no evidence on the record to support this assumption for the companies under investigation.

Comment 9: Petitioners argue that the Department cannot accept Xikuangshan's blast furnace factors of production because the factors were based on theoretical, formula-based output of crude antimony rather than actual output. Additionally, the antimony content of blast furnace slag is not known, and the Department was unable to reconcile the production of crude antimony with the consumption of crude antimony in the reduction furnace. Petitioners further claim that this calculation rate is excessively high when compared to a state of the art facility like that owned by a petitioner using a far superior concentrate.

Petitioners additionally contend that in calculating the blast furnace conversion rate, Xikuangshan assumed a fixed loss-of-antimony-in-process rate and a fixed loss-to-slag rate. Petitioners contend that these loss rates are never fixed but vary considerably over time. Therefore, the Department should not accept these unverified loss rates for purposes of establishing a blast furnace conversion rate.

Xikuangshan suggests that the Department must base its judgments upon the production process and the records it observed at verification. Xikuangshan claims that, since it uses a continuous flow process, the Department must rely on the veracity of the formula provided by it to calculate the standard output of crude antimony rather than weighing the actual output of crude antimony, disagreeing the petitioners' claim that crude antimony is an output. Rather, Xikuangshan asserts that crude antimony trioxide is an intermediate process stage in the continuous production process and suggests that petitioners' objection to the verification of the stanadard output of crude antimony boils down to the fact that Xikuangshan uses a continuous production process and, therefore, does not weigh crude antimony oxide when it comes out of the blast furnace. Xikuangshan argues that the blast furnace factor was based on actual raw materials input into the production process, and actual output of the reduction furnace and oxidation furnace. Since the Department was able to verify the inputs and the outputs of the reduction and oxidation furnaces, the Department was able to verify the output of the blast furnace.

DOC Position: We disagree with petitioners. Respondents' production process does not allow the type of verification suggested by petitioners. Nevertheless, we are able to verify the factors of production of the Xikuangshan blast furnace. We verified that Xikuangshan weighs work-in-process crude inventory at the end of each month. At verification, the Department was able to reconcile monthly reported output crude antimony from the blast furnace with monthly recorded input crude antimony into the reduction furnace with recorded weighed work-in-process crude antimony inventory for each month. Thus, the Department was satisfied that Xikuangshan accounted for all the actual inputs and outputs of the blast and reduction furnaces during the POI.

Comment 10: Petitioners claim that Xikuangshan's calculation of its blast furnace conversion rate is significantly flawed because it takes into account antimony-containing scrap recycled from the blast furnace. Petitioners argue that the use of the reported conversion rate would significantly understate the consumption of antimony concentrates in the production of the subject merchandise.

Xikuangshan claims that the amount of scrap and its antimony content were verified. Further, it asserts that the antimony is not underquantified and the cost of recycling the scrap is captured in the cost.

DOC Position: We disagree with petitioners. Antimony scrap with a higher concentration than the lump/concentrate is recycled into the blast furnace. The Department verified that the antimony contained in the scrap was included in the calculation of the total antimony input into the furnace. Therefore, the antimony contained in the scrap is included in the factors of production.

However, the Department noted that Xikuangshan's methodology allocated fabrication expenses to antimony contained in the output of the furnaces that was eventually recycled as scrap. These fabrication expenses were not included in the submitted factors of production. Therefore, the Department adjusted the conversion rates to properly charge all fabrication costs to finished output only.

Comment 11: Petitioners claim that the Xikuangshan verification should have established that the quantity of crude produced in the blast furnace equalled the quantity of crude used by the reduction furnance, and that the quantity of antimony metal produced in the reduction furnace equalled the quantity of antimony metal used by the oxidation furnace. Otherwise, Xikuangshan cannot demonstrate that the quantities of these intermediate products produced at prior stages were actually used in their entirety to produce refined antimony trioxide. If these quantities cannot be reconciled from one stage to the next, the Department should draw no inference regarding production factors from the actual ouput of refined antimony trioxide over the POI. In support of their argument, petitioners state that the Department's verification report does not establish that the quantity output from one stage equalled the quantity input to the next stage.

Xikuangshan argues that the Department's verfication reports do not indicate that it failed to account for work-in-process and that, in fact, the reports state that consumption included beginning inventory and inputs added, less inventory.

DOC Position: We disagree with petitioners. Xikuangshan's methodology calculates the factors of production in three stages, one for each furnace used in production. The calculation accounts for work-in-process between the processing stages. Because the Department verified that the quantities were reconciled from one stage to the next, we consider this calculation to be a reasonable method for determining usage, and an accurate reflection thereof, during the POI.

Comment 12: Petitioners claim that Stibium calculated a blast furnace conversion rate rather than establish a rate based on actual consumption of inputs over the POI. Further, the method of calculating the conversion rate is inherently faulty because it does not account for the fact that Stibium recycled large amounts of antimony-containing scrap back to the blast furnace from the reduction furnace. Thus, Stibium's conversion rate is not a rate for converting antimony concentrate to crude antimony trioxide but a rate for converting the combined input of concentrate and recycled scrap to crude antimony trioxide. The conversion rate of the combined input seriously understates the antimony concentrate factor of production. Petitioners cite the verifiction report which states that the quantity of crude antimony trioxide produced by the blast furnace could not be verified. Thus, it was not possible to determine whether the total amount of crude produced over the POI was used in the reduction furnace over the same period. This lapse in record-keeping undermines any attempt to verify Stibium's factors of production.

Stibium argues that its blast furnace factor was based on actual raw material input into the production process and actual output of the reduction and oxidation furnaces. Since the Department was able to verify the blast furnace input and the reduction and oxidation furnaces' outputs, the Departemnt was able to verify the otuput of the blast furnace.

DOC Position: We agree with petitioners. Stibium's blast furnace conversion factor was based on a calculation with unsupported ratios for loss in process and slag rate. Additionally, the Stibium Refinery did not provide any documentation to support that it weighed crude work-in-process inventory at the end of each month of the POI. Thus, the Deparatment was unable to reconcile the calculated crude antimony output from the blast furnace with crude antimony input into the reduction furnace. As a result, the Department used, as BIA, the factors of production information for the blast furnace as reported in the petition, valued using surrogate country prices.

Comment 13: Petitioners claim that the verification of Stibium's factors of production assumes that the quality of antimony metal produced in the reduction furnace exactly equals the quantity of antimony metal used in the oxidation furnace. Since this equality was never established from Stibium's production records, verification of these factors is seriously flawed.

DOC Position: We disagree with petitioners. Stibium's revised methodology calculates factors of production for the reduction furnace and the oxidation furnace by dividing total weighed input by total weighed output for each furnace. Any differences between output from the redution furnace and input into the oxidation furnace are included in work-in-process. Thus, it is not relevant whether the quantity of antimony metal produced in the reduction furnace exactly equals the quantity of antimony metal used in the oxidation furnace.

Comment 14: Petitioners claim that the straight-line proportionality method is not valid for deriving a value for less than 60 percent antimony concentrate based on the price of 60 percent antimony concentrate. The Department admitted that this method could result in as much as ten percent error. Petitioners have supplied a valuation chart based on one petitioner's experience indicating the value to a refined antimony trioxide producer of antimony concentrate of various percentages of antimony content.

DOC Position: Based on information from an independent source, we have reason to believe that the straight-line proportionality method may, in fact, overstate the price of less than 60 percent antimony concentrate. (See Memorandum from Susan Kuhbach to Francis J. Sailer, dated February 21, 1992, on file in the Central Records Unit.) However, lacking actual prices for the lower concentrate levels, we have no means of adjusting the straight-line proportionality formula. Therefore, we have used this formula as best available information.

Comment 15: Respondents state that the LMB price is a quote for one metric ton of concentrate containing 600 kilograms of antimony. Therefore, the Department must first multiply the LMB price by 60 percent to arrive at the price for the antimony content without any impurities. The resulting price should then be multiplied by the percentage of antimony contained in the respondents' antimony input in order to arrive at the surrogate value. Then, because the LMB price is CIF, respondents assert that the Department should subtract ocean freight charges. To this end, respondents have provided an invoice showing actual ocean freight expenses incurred.

Petitioners claim that respondents are mistaken in their method of evaluating antimony concentrate. They assert that the LMB price is actually for one metric ton of contained antimony. Thus, because respondents reported the quantity of their concentrate on an antimony-contained basis, the Department need only multiply the LMB price by this quantity to arrive at the surrogate value.

In addition, petitioners claim that the Department should not accept the ocean freight invoice provided by respondents because the information was submitted only 24 hours prior to the due date for rebuttal briefs. Furthermore, the invoice was not verified, does not indicate the quantity shipped, and the carrier appears to be from a nonmarket economy.

DOC Position: We agree with petitioners regarding the LMB quotation. The LMB quote is based on a per metric ton unit of antimony contained. (*See,* "February 19, 1992 Memo to File, RE: Conversation with LMB Specialist" on file in the Central Records unit.) Respondents also reported their antimony input factor on an antimony-contained basis. Therefore, our claculations are made on an anitmony-contained basis.

In addition, we have made further adjustment to the LMB price to account for ocean freight and marine insurance. The LMB quotation is on a CIF basis. Petitioners, in exhibit 16 of their petition, provided information with which we were able to make this adjustment.

Comment 16: Petitioners state that since respondents failed to report all U.S. sales and to report accurately all movement epenses, the Department must use BIA for U.S. price as set forth in the petition.

DOC Position: We disagree with petitioners. The discrepancies found at verification for the U.S. sales listing were minor. Therefore, the Department believes it would be inappropriate to use BIA for U.S. price.

Comment 17: Petitioners state that, in reviewing the completeness of China Minmetals' U.S. sales list, the verification team discovered invoices for shipments from Minmetals Hunan to a related U.S. company not previously mentioned in respondent's questionnaire response. Furthermore, petitioners noted that after the Department returned from verification in the PRC, China Minmetals provided inadequate documentation supporting that these two entities were related.

China Minmetals states that while the Department was at China Minmetals Hunan for verification, it suggested to the Department that a U.S. sales verification at the U.S. company could take place in the United States. China Minmetals further states that after the home market verification, the Department decided not to visit this company. Therefore, China Minmetals provided a copy of the original stock certificate of this company to prove the relationship with China Minmetals.

Furthermore, China Minmetals states that the sales made by this company were outside the period of investigation.

DOC Position: Based on documentation provided at verification, we are satisfied that the two companies are related. Moreover, because the sales to the first unrelated customer occurred outside the POI, there was no need to report it.

Comment 18: Petitioners state that CNIEC's failure to report a large U.S. sale should result in the use of BIA for U.S. price. Even if the Department were to accept this sale, it did not verify the amount paid for the merchandise, nor other charges such as discharge, drayage, brokerage, handling, duty and U.S. inland freight and insurance.

CNIEC argues that with the exception of one contract, the Department verified that CNIEC reported all sales. Respondents further argue that a March 7, 1991, contract discovered at CNIEC's Hunan Branch was not a sale during the POI because CNIEC breached the contract when it did not make the ageed upon shipment of the refined antimony trioxide. CNIEC further claims that even if the Department determines that this sale should have been included, the Department verified all of the information about the sale at verification and it should use this information for the final determination.

DOC Position: According to the documents supplied at verification, CNIEC and its customer never formally canceled the contract and the merchandise was eventually shipped, on the terms agreed upon in the contract. Therefore, the Department is including this sale for purposes of its final determination. Furthermore, the sale terms of this contract were CIF. The Department has verified all the information required to make all of its adjustment to U.S. price. We disagree with petitioners that omission of this sale requires the application of BIA.

There were rather unusual circumstances surrounding the transaction and we believe the omission was inadvertent.

Comment 19: Petitioners state that since CNIEC failed to report certain movement expenses, significantly understated certain expenses, or was unable to document other movement expenses, the Department should use the net U.S. price reported in the petition as BIA for its final determination. However, the peitioners assert that if the Department decides to reconstruct and supplement CNIEC's sales data bases, then the Department must use as BIA the highest movement expenses verified by the Department or reported by CNIEC for each movement category.

CNIEC maintains that the Department should accept the movement charges for Metaland, CNIEC's subsidiary, because the average allocation methodology used to report them has been accepted by the Department in prior cases.

DOC Position: The Department prefers shipment-specific movement expenses and for those sales where shipment-specific information was available, we used it. Where shipment-specific data were not available, we accepted CNIEC's average values as there is no evidence that they systematically over-or understate actural movement charges. However, we have adjusted these average figures, where appropriate, to include inland freight.

Comment 20: Petitioners claim that the Department's investigation accounted for only 25 percent of exports of the subject merchandise from the PRC during the POI. Petitioners state that the Department should not have excluded the other sales based on respondents' claims that certain exporters did not know, at the time of sale, that shipment were destined for the United States. Petitioners also state that the Department did not adequately verify respondents' claim that 75 percent of shipments during the period were made pursuant to contracts signed prior to the POI. Consequently, the Department should use BIA in establishing United States price.

Respondents claim that the Department verified the universe of sales of Newmet Inc. ("Newmet"), a related party of China Minmetals, through Newmet and MOFERT. Furthermore, respondents assert that the Department verified, through MOFERT and the respective companies' sales ledgers, that CNIEC and China Minmetals account for over 60 percent of the sales during the POI.

DOC Position: We agree with respondents. At verification, we verified that respondents reported all sales of refined antimony trioxide made to the United States during the POI except for the one missing sale discussed in Comment 17 above. Moreover, as discussed in a September 11, 1991 memo to the file (on file in the Central Records Unit), there were allegations that other exporters of refined antimony trioxide existed. Based on information on the record at that time, we determined that the PRC exporters being investigated accounted for most if not all of the imports during the POI. Therefore, we decided not to include the other possible exporters in our investigation. During verification, we found no evidence that the two exporters investigated did not account for all sales to the United States during the POI. Thus, we are confident that our investigation was comprehensive.

Comment 21: Petitioners assert that the Department should adjust for warehousing, credit, packing, and commission expenses incurred on U.S. sales, regardless of whether similar expenses could be identified or quantified in the surrogate country. The U.S. Court of International Trade in *Funai Electric Company, Ltd., v. United States*, 713 F. Supp. 420 (CIT) (1989), ruled that the Department could adjust constructed value for circumstances of sale in the United States in the absence of specific evidence that these expenses were incorporated within the statutory minimum of ten percent for SG&A.

Respondents disagree with petitioners' request that the Department reduce the U.S. price for indirect selling expenses but not make a corresponding adjustment to the foreign market value to account for indirect selling expenses.

DOC Position: As in our preliminary determination, we have made no adjustments to United States price or FMV for selling expenses. To have made such an adjustment to FMV would have required an arbitrary division of the surrogate country producer's selling expenses into amonts for direct, indirect, and other general and administrative expenses. Alternatively, to reduce ESP for selling expenses without making corresponding adjustments to FMV would have resulted in an unfair and unreasonable inflation of any differences between ESP and FMV. See, Final Determination of Sales at Less than Fair Value: Oscillating fans and Ceiling Fans from the People's Republic of China, (56 FR 55271, October 25, 1991) and Final Results of Antidumping Duty Administrative Review: Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the Republic of Hungary, (55 FR 48146, November 19, 1990).

Comment 22: Petitioners claim that technical matters raised in respondents' briefs may not be considered by the Department because respondents' case briefs were not certified by competent authorities from the responding firms but only by respondents' counsel who is not qualified to certify to these factors.

DOC Position: We disagree with petitioners. Section 353.31(i) of the Commerce regulations (19 CFR 353.31(i)) requires proper certification of factual information submitted to the Department for consideration in the proceeding. Any technical matters raised in respondents' case briefs were raised in the context of argument based upon factual information properly certified, and earlier submitted, to the Department. Contrary to petitioners' assertion, § 353.38(c) of the regulations addressing case briefs, as opposed to the submission of factual information, states that the purpose of the case brief is to separately present in full all arguments which the submitter continues to view as relevant to the Department's final determination. There is no statutory or regulatory requirement that an authority from a responding firm certify a case brief submitted in an administrative proceeding.

Suspension of Liquidation

We are directing the U.S. Customs Service to continue suspension of liquidation of all entries of refined antimony trioxide from the PRC, as defined in the "Scope of Investigation" section of this notice that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The U.S. Customs Service shall require a cash deposit or bond equal to the estimated weighted-average amount by which the foreign market value of the subject merchandise exceeds the United States price as shown below. The suspension of liquidation will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Weighted-average manufacturer/producer/exported	Margin percent
China Minmetals	60.64
CNIEC	13.05
All others	33.10

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d) and (19 CFR 353.20(a)(4)).

Dated: February 21, 1992.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92–4635 Filed 2–27–92; 8:45 am]

BILLING CODE 3510–DS–M

[A–588–028]

Final Results of Antidumping Duty Administrative Review and Partial Termination: Roller Chain, Other Than Bicycle, From Japan

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

EFFECTIVE DATE: February 28, 1992.

FOR FURTHER INFORMATION CONTACT: Mark Wells, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377–3003.

FINAL RESULTS

Background

On December 5, 1991, the Department of Commerce (the Department) published in the **Federal Register** the preliminary results of this administrative review of the antidumping duty order on roller chain, other than bicycle ("roller chain"), from Japan (56 FR 63708). The Department has now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

The review covers five manufacturers/exporters of roller chain for the period April 1, 1989 through March 31, 1990. They are: Hitachi Metals Techno, Ltd., Izumi Chain Manufacturing Co., Ltd., Kaga Kogyo, K.K. (Kaga Industries Co., Ltd.), Pulton Chain Company, and RK Excel, Ltd. Additionally, the Department has determined that one firm that was listed in the notice of initiation, Kaga Koken, no longer exists. Counsel for the petitioner, the American Chain Association, presented evidence that Kaga Koken was "dissolved by resolution at a shareholders' meeting on May 13, 1987" nearly two years before the period of review. Accordingly, and with the consent of the petitioner, we are terminating the review of Kaga Koken, in accordance with 19 CFR 353.22(a)(5), and because no party to the proceeding is prejudiced by the termination, we are waiving the 90 day requirement.

The period of review (POR) is April 1, 1989 through March 31, 1990. Administrative reviews of several other firms are being conducted separately.

Scope of the Review

Imports covered by the review are shipments of roller chain, other than bicycle, ("roller chain") from Japan. The term "roller chain, other than bicycle" includes chain, with or without attachments, whether or not plated or coated, and whether or not manufactured to American or British standards, which is used for power transmission and/or conveyance. Such chain consists of a series of alternately-assembled roller links and pin links in which the pins articulate inside the bushings and the rollers are free to turn on the bushings. Pins and bushings are press fit in their respective link plates. Chain may be single strand, having one row of roller links, or multiple strand, having more than one row of roller links. The center plates are located between the strands of roller links. Such chain may be either single or double pitch and may be used as power transmission or conveyor chain.

The review also covers leaf chain, which consists of a series of link plates alternately assembled with pins in such a way that the joint is free to articulate between adjoining pitches. The review further covers chain model numbers 25 and 35. Roller chain is currently classifiable under Harmonized Tariff Schedule (HTS) subheadings 7315.11.00

through 7616.90.00. Although the HTS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

Use of Best Information Available

As provided for in section 776(c) of the Act, the Department has determined that use of best information available (BIA) is appropriate for all sales of roller chain from Izumi and Pulton, to calculate the margin on Hitachi sales requiring a difference in merchandise adjustment (difmer), and for RK Excel U.S. sales with a reported gross unit price of zero.

Our decision to use BIA for Izumi and Pulton is based on the Magnitude of the omissions and deficiencies in their responses. Izumi failed to provide the Department with information necessary to calculate constructed value (CV). Pulton failed to provide the information necessary to select comparison products or calculate a CV.

Hitachi reported that it purchased some roller chain from related parties in the home market. The Department requested that for purposes of the difmer calculation, Hitachi provide the cost of manufacture (COM) of these products. Hitachi responded that it was unable to obtain the cost information because of its limited relationship with the supplier. Instead, it supplied the weighted-average acquisition price to be used as the basis for the difmer calculation. The acquisition price from a related supplier does not provide a reliable basis upon which to calculate the cost attributable to the physical differences in the merchandise.

Section 776(c) of the Act requires the Department to use the best information available "whenever a party or any other person refuses or is unable to produce information requested in a timely manner and in the form required, or otherwise significantly impedes an investigation." In deciding what to use as best information available, the Department may take into account whether a party refuses to provide requested information (19 CFR 353.37(b)). Thus, the Department may determine, on a case-by-case basis, what the best information available is.

In selecting a BIA rate, the statute and the implementing regulation direct the Department to evaluate the nature of the information on the record, as well as the respondent's actions during the administrative proceeding. When a company refuses to cooperate with the Department or otherwise significantly impedes the proceedings, as BIA we generally assign the higher of: (a) the highest rate for any firm for any previous review or the original less-than-fair-value investigation, or (b) the highest rate found for any firm in this review. When a company is considered by the Department to be cooperative because it substantially responds to the Department's requests, we generally assign to that company the higher of: (a) The highest rate calculated for a responding firm with shipments during the period, or (b) the highest rate for that company for any previous review or the original investigation, which may include a prior rate based on BIA. See, e.g., Final Results of Antidumping Duty Administrative Review: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany (56 FR 31692, July 11, 1991); Final Results of Antidumping Duty Administrative Review: Portable Electric Typewriters from Japan (56 FR 56394, November 4, 1991).

Following this hierarchy, as BIA for Izumi and Pulton we assigned the highest rate for each company from any previous review or the original investigation. For Izumi that is the 17.57 percent rate from the 1987–88 review period (55 FR 42602, October 22, 1990), and for Pulton that is the 15.92 percent rate from the 1981–83 review periods (56 FR 32175, July 15, 1991).

For Hitachi's U.S. sales where it was unable to provide cost of production information to calculate difmers, as BIA, we have used the weighted-average margin found on all other Hitachi sales.

Similarly, for RK Excel's few sales with a gross unit price of zero, as BIA, we have used the weighted-average margin found on all other RK Excel sales.

United States Price

For Hitachi, Kaga, and RK Excel, we based United States Price on purchase price or exporter's sales price methodology, as set forth in the preliminary results.

Foreign Market Value

In calculating foreign market value, the Department used home market prices or constructed value, as set forth in the preliminary results.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received comments from petitioner, Hitachi, and Izumi.

Comment 1

Petitioner states that the BIA margins applied to Izumi and Pulton should be modified to reflect the highest individual rate, including BIA rates, assigned for any previous review. In this case, petitioner contends that the BIA rates assigned to Izumi and Pulton should be 17.57 percent and 15.92 percent, respectively, both of which were based on BIA.

Citing the Final Results of Antidumping Duty Administrative Review: Fishnetting of Man-Made Fibers from Japan, (56 FR 49456, September 30, 1991) ("*Fishnetting*"), petitioner claims that when determining the "highest rate for [a] company for any previous review," the Department does not restrict itself to calculated margins, but includes BIA rates previously assigned to the party in question, even when it concludes that the companies have been "substantially cooperative."

Department Position

We agree with petitioner. As noted in the preliminary results of this review, the Department determined that both Izumi and Pulton were cooperative parties. As such, the Department's selection of BIA is based on the criteria established in the second tier described in the Use of Best Information Available section of this notice. The reason for this is that although rates selected under the second tier are still adverse, they are generally less punitive than those in the first tier reserved for uncooperative firms, and thus encourage cooperation.

As petitioner correctly noted, the Department does not draw any distinction between a firm's prior calculated and prior BIA rates in selecting BIA for a cooperative firm. The cooperative firm is still at an advantage vis-a-vis uncooperative firms because selection of BIA is restricted to the firm's own prior rates, or to a calculated rate from that review period.

Applying the second tier of the hierarchy, as BIA for Izumi we are using the 17.57 percent rate from the 1987–88 review period (55 FR 42602, October 22, 1990), and as BIA for Pulton we are using the 15.92 percent rate from the 1981–83 review periods (56 FR 32175, July 15, 1991).

Comment 2

Petitioner contends that the Department's BIA methodology, as applied in the preliminary results, provides a BIA floor equal to the "highest rate for a responding firm with shipments during the period." Petitioner notes that for the preliminary results the Department published a BIA rate for Izumi that was lower than the highest calculated rate for this review (the 4.12 percent rate calculated for Hitachi) and lower than Izumi's own highest previous rate (17.57 percent).

Izumi maintains that the Department's use of BIA was not justified, since there was substantial information on the record to allow the Department to calculate a margin for Izumi. Izumi asserts that its methodology of reporting CV was reasonable and should be used to calculate CV. If the Department rejects Izumi's CV data, Izumi suggests several alternatives for the Department to calculate its margin: (1) Using only Izumi's identical matches (*i.e.*, less than 10 percent of Izumi's sales); (2) making difference of merchandise adjustments for non-identical matches, although the differences in merchandise exceed 20 percent; (3) using third country sales data reported by Izumi, although Izumi's home market is viable; and (4) accepting Izumi's identical matches, while using BIA for the rest of Izumi's sales.

Department Position

We agree with petitioner that the highest rate for a responding firm with shipments during the period forms a BIA floor for substantially cooperative respondents for the results of this review. For these final results, we have assigned to Izumi its highest rate from a previous review, which is higher.

We disagree with Izumi that its CV data should be used. The Department's decision to use BIA for Izumi was based on the magnitude of the ommissions and deficiencies in its responses. Izumi's proposed options for calculating its margin are not acceptable. Izumi's home market is viable, but in most cases, the difference in merchandise between the U.S. product and the most similar home market product is greater than 20 percent. Therefore, it would be necessary to use CV to calculate FMV for all but a small number of sales. In Izumi's case, it failed to provide the Department with adequate CV information.

Comment 3

Petitioner requests that the Department modify its calculation of the value-added tax (VATR) for all respondents. Petitioner claims that, under the approach required by the statute an by judicial precedent, the Department should add a VAT amount to home market price. The Department should then increase U.S. price by the lesser of the VAT amount applicable to the home market sale or the amount that would have been assessed, but was forgiven on exportation.

In the preliminary results, petitioner contends that the Department essentially performed a circumstrance of sale adjustment for VAT. Citing *Daewoo Electronics Co., Ltd. Co.*, v. *United States*, 760 F. Supp. 200, 208 (CIT 1991) ("Daewoo"), petitioner asserts that such an adjustment is contrary to law.

Department Position

We disagree with petitioner. As this issue is presently before the Court of Appeals for the Federal Circuit, the Department is not applying the Daewood decision. The methodology used to adjust for VAT for the preliminary results, and in these final results, is consistent with the Department's practice.

Comment 4

Petitioner states that Hitachi's claimed inventory carrying costs account only for inventory time in the United States, improperly excluding costs for "time on the water."

Hitachi rebuts that costs for "time on the water" were included, with other inventory carrying costs, in its indirect selling expenses.

Department Position

We agree with Hitachi. Costs for "time on the water" are included in its indirect selling expense calculation.

Comment 5

Petitioner disputes the BIA methodology used by the Department to calculate FMVs for Kaga's sales without contemporaneous matches, and for which we have no CV information. As BIA for these sales for the preliminary results, we calculated a weighted-average FMV for each product based on all reported sales. There was an identical weighted-average FMV for each U.S. model. Petitioner maintains that this methodology is not appropriate because it rewards Kaga for failing to meet its minimum reporting obligations. For the final results, petitioner recommends that the Department assign to Kaga's unmatched sales the highest rate found for the company in any prior review.

Department Position

We disagree with petitioner. No use of punitive BIA is warranted in this situation. The Department's use of FMV averaging was an appropriate means of filling the gaps where contemporaneous model matches did not exist. However, Section 777A of the Act requires the Department to ensure that samples and averages shall be representative of the transactions under review. Therefore, before adopting for these final results the use of weighted-average FMVs for the unmatched sales, we conducted two studies on prices to ensure that the transactions, and thus the results produced, would be representative.

First, we compared the monthly weighted-average price to the annual weighted-average price. We found that the annual weighted-average price for more than 90 percent of the products sold was within 10 percent of the monthly weighted-average price. Second, we tested whether home market prices of the subject merchandise consistently rose or fell during the POR. We found that no significant correlation existed between price and time. That is, prices did not consistently rise or fall so as to make annual weighted-average prices unrepresentative of home market prices.

The results of these test demonstrate that Kaga's pricing practices remained stable during the review period, thus ensuring that an annual weighted-average FMV is as representative of home market prices as the traditional monthly weighted-average FMV. We are satisfied that, if the weighted-average FMV is representative of the home market prices for the POR, then the margins calculated using the weighted-average prices are accurate. See, Final Results of Antidumping Duty Administrative Review: Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Certain Components Thereof, from Japan, (56 FR 65228, December 16, 1991).

Comment 6

Petitioner states that the Department should disallow RK Excel's claimed adjustment to FMV for technical services. Petitioner argues that we should treat RK Excel's technical services expenses as indirect expenses, rather than direct expenses.

The bulk of the expenses in question consist of the salary, fringe benefit, travel and automobile depreciation expenses of a single employee whose sole duty is to provide after-sale technical service to OEM customers. The remainder of the expenses consists of travel expenses of the R & D Department associated with performing technical services for OEMs.

Department Position

We agree with petitioner in part. For the preliminary results, we disallowed the portion of this claimed adjustment which consists of salary and benefits, because we consider them fixed expenses which would have been incurred whether or not any sales occurred. We would also normally disallow the automobile depreciation portion of the claim for the same reason. In this case, however, we have not done so because the amount involved is insignificant. We have continued to allow the travel expense portion of the claim because we consider respondent's methodology—dividing expense incurred during the period by sales during the same period—reasonable.

Final Results of the Review

Based on our final analysis, we determine that the following weighted-average margins exist for the period April 1, 1989, through March 31, 1990:

Manufacturer/Exporter	Margin (Percent)
Hitachi Metals Techno, Ltd.	3.50
Izumi Chain Co., Ltd.	17.57
Kaga Industries Co., Ltd.	0.00
Pulton Chain Co., Inc.:	
Pulton Chain/HIC;	
Pulton Chain/I & OC	15.92
RK Excel Co., Ltd.	0.34
All others	3.50

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed companies will be as outlined above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will be 3.50 percent. This rate represents the highest rate for any firm with shipments in the administrative review, other than those firms receiving a rate based entirely on best information available.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22(c)(5).

Dated: February 21, 1992.

Majorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92-4636 Filed 2-27-92; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review

ACTION: Notice of application for an amendment to an export trade certificate of review.

SUMMARY: The Office of Export Trading Company Affairs ("OETCA"), International Trade Administration, Department of Commerce, has received an application for an amendment to an Export Trade Certificate of Review. This notice summarizes the amendment and requests comments relevant to whether the certificate should be amended.

FOR FURTHER INFORMATION CONTACT: George Muller, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether the Certificate should be amended. An original and five (5) copies should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1800H, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 90-3A007."

OETCA has received the following application for an amendment to Export Trade Certificate of Review No. 90-00007, which was issued on August 22, 1990 (55 FR 35445, August 30, 1990) and previously amended on December 12, 1990 (55 FR 53031, December 28, 1990) and June 11, 1991 (56 FR 27946, June 18, 1991). The applicant has requested expedited review of the application pursuant to 15 CFR 325.8. A summary of the application follows.

Summary of the Application

Applicant: United States Surimi Commission ("USSC") 4200 First Interstate Center, Seattle, Washington 98104-4082, Contact: Mr. Wm. Paul MacGregor, Legal Counsel, Telephone: 206/624-5950.

Application No.: 90-3A007.

Date Deemed Submitted: February 25, 1992.

Request for Amended Conduct

USSC seeks to amend its Certificate to:

1. add Premier Pacific Seafoods, Inc. of Seattle, WA (controlling entities: Dave Galloway (74%) and Doug Forsythe (26%)) as a "Member" within the meaning of section 325.2(a) of the Regulations (15 CFR 325.2 (1)); and

2. delete ProFish International, Inc., Seattle, WA (controlling entity: none); and Golden Age Fisheries, Seattle, WA (controlling entities: BTI, Inc., Seattle, WA (50%) and Simonson Investments, Inc., Seattle, WA (50%)) as "Members" of the Certificate.

Dated: February 25, 1992.

George Muller,

Director, Office of Export Trading, Company Affairs.

[FR Doc. 92-4637 Filed 2-27-92; 8:45 am]

BILLING CODE 3510-DR-M

Short-Supply Determination: Certain Hexagonal Steel Tubes and Trilobe Steel Tubes

AGENCY: Import Administration/International Trade Administration, Commerce.

ACTION: Notice of short-supply determination on certain hexagonal steel tubes and trilobe steel tubes.

SHORT-SUPPLY REVIEW NUMBER: 65.

SUMMARY: The Secretary of Commerce ("Secretary") hereby grants a short-supply allowance for 28 metric tons of certain hexagonal steel tubes and trilobe steel tubes through March 31, 1992, under Article 7 of the Arrangement Between the European Economic Community and the Government of the United States of America Concerning Trade in Certain Steel Pipes and Tubes ("the U.S.-EC Arrangement").

EFFECTIVE DATE: February 19, 1992.

FOR FURTHER INFORMATION CONTACT: Marissa A. Rauch or Kathy McNamara, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230 (202) 377–1382 or (202) 377–3793.

SUPPLEMENTARY INFORMATION: On February 4, 1992, the Secretary received an adequate petition from AL-KO Kober Corporation ("AL-KO Kober"), requesting a short-supply allowance for 28 metric tons of this product through March 31, 1992, under Article 7 of the U.S.-EC Arrangement. AL-KO Kober requested short supply because this product is not available in the United States and because its foreign supplier has insufficient quota available. The Secretary conducted this short-supply review pursuant to section 4(b)(4)(A) of the Steel Trade Liberalization Program Implementation Act, Public Law 101–221, 103 Stat. 1886 (1989) ("the Act"), the § 357.102 of the Department of Commerce's Short-Supply Procedures, 19 CFR 357.102 ("Commerce's Short-Supply Procedures").

Specifications

The requested material consists of one size of custom-shaped asymmetrical hexagonal tubes and one size of trilobe tubes. The two shapes of tubing are complimentary and used together to form a unified axle.

The exact sizes, grades and quantity requested of each tube are as follows:

Size	Steel grade	Quantity (metric tons)
80×3	SAE 1012 or 1020	21
	Trilobe Tubes	
56×5.7	QStE 460 TM	7

The hexagonal tubes are welded, but have smoothed outer seams. The cross-section of the 80×3 mm hexagonal tube consists of three 96 degree angles between which are three 144 degree angles in alternating order. The 144 degree angles tend to be sharper than the other angles, which are more rounded.

The trilobe tubes are welded, but have smoothed outer seams. The cross-section of the trilobe tubes are essentially rounded equianglar, equilateral triangles comprised of three equiangular lobes. Each of the three lobes is a bell-shaped, rounded curve, the sides of which form a 60 degree angle. Between the bell-shaped lobes are shallow, U-shaped curves, and the sides of each form a 120 degree angle.

Action

On February 4, 1992, the Secretary established an official record on this short-supply request (Case Number 65) in the Central Records Unit, room B-099, Import Administration, U.S. Department of Commerce at the above address. Section 4(b)(4)(B) of the Act and § 357.106(b)(1) of Commerce's Short-Supply Procedures require the Secretary to apply a rebuttable presumption that a product is in short supply and to make a determination with respect to a short-supply petition not later than the 15th day after the petition is filed if the Secretary finds that one of the following conditions exists: (1) The raw steelmaking capacity utilization in the United States equals or exceeds 90 percent; (2) the importation of additional quantities of the requested steel product was authorized by the Secretary during each of the two immediately preceding years; or (3) the requested steel product is not currently produced in the United States. The Secretary finds that the requested product is not produced in the United States. Therefore, the Secretary has applied a rebuttable presumption that this product is presently in short supply in accordance with section 4(b)(4)(B)(i) of the Act and § 357.106(b)(1) of Commerce's Short-Supply Procedures.

Unless domestic steel producers provided proof that they could and would produce the requested quantity of this product within the desired period of time, provided it represented a normal order-to-delivery period, the Secretary would issue a short-supply allowance not later than February 19, 1992. On February 10, 1992, the Secretary published a notice in the **Federal Register** announcing a review of this request and providing domestic steel producers an opportunity to rebut the presumption of short supply. All comments were required to be received no later than February 18, 1991. No comments were received.

Conclusion

Since the Secretary received no comments to the **Federal Register** notice by potential suppliers to rebut the Secretary's presumption of short supply for the requested product, the Secretary hereby grants, pursuant to section 4(b)(4)(A) of the Act and § 357.102 of Commerce's Short-Supply Procedures, a short-supply allowance for 28 metric tons of the requested steel tubes in the sizes and quantities noted above, under the U.S.–EC Arrangement. This material must be exported no later than March 31, 1992.

Dated: February 19, 1992.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92–4638 Filed 2–27–92; 8:45 am]

BILLING CODE 3510-DS-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Costa Rica

February 24, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: March 2, 1992.

FOR FURTHER INFORMATION CONTACT: Nicole Bivens Collinson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566–5810. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limit for Categories 347/348 is being increased by application of swing and carryover. The limit for Categories 340/640 is being reduced to account for the swing being applied.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff

Schedule of the United States (see **Federal Register** notice 56 FR 60101, published on November 27, 1991). Also see 56 FR 22157, published on May 14, 1991.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Memorandum of Understanding dated February 14, 1989, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

February 24, 1992.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on May 8, 1991, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Costa Rica and exported during the twelve-month period which began on June 1, 1991 and extends through May 31, 1992.

Effective on March 2, 1992, you are directed to amend the directive dated May 8, 1991, to adjust the limits for the following categories, as provided under the terms of the Memorandum of Understanding dated February 14, 1989:

Category	Adjusted twelve-month limit[1]
340/640	592,971 dozen.
347/348	1,060,420 dozen.

[1] The limits have not been adjusted to account for any imports exported after May 31, 1991.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92-4598 Filed 2-27-92; 8:45 am]

BILLING CODE 3510-DR-F

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to procurement list.

SUMMARY: This action adds to the Procurement List a commodity to be furnished by a nonprofit agency employing persons who are blind.

EFFECTIVE DATE: March 30, 1992.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: On November 8, 1991, the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (56 FR 57323) of proposed addition to the Procurement List.

Comments were received on this proposed addition from the current contractors for the containers and other interested parties, expressing concern about delays and disruptions in service to blind persons if the containers were supplied by a single source. Both current contractors also indicated that the proposed addition would adversely affect their business.

By placing only one-third of the annual requirement for the containers on the Procurement List, the Committee has eliminated the sole source concerns. In addition, the annual value of the amount placed on the Procurement List constitutes only a small percentage of each of the current contractors' total sales. Thus, the Committee has concluded that there will not be a severe adverse impact on either firm as a result of adding one-third of the annual requirement for the containers to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to produce the commodity at a fair market price and impact of the addition on the current or most recent contractors, the Committee has determined that the commodity listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity to the Government.
2. The action will not have a severe economic impact on current contractors for the commodity.
3. The action will result in authorizing small entities to furnish the commodity to the Government.
4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the commodity proposed for addition to the Procurement List.

Accordingly, the following commodity is hereby added to the Procurement List:

Cassette Mailing Containers
8115-00-NIB-0001
(One-third of the requirement for the Library of Congress, National Library Services for the Blind and Physically Handicapped)

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 92-4649 Filed 2-27-92; 8:45]

BILLING CODE 6820-33-M

Procurement List; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to procurement list.

SUMMARY: This action adds to the Procurement List services to be furnished by a nonprofit agency employing persons with severe disabilities.

EFFECTIVE DATE: March 30, 1992.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT. Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: On December 13, 1991 and January 6, 1992, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (56 FR 65047 and 57 FR 400) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning the capability of a qualified nonprofit agency to provide the services at a fair market price and the impact of the addition on the current or most recent contractor, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.6.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will not have a severe economic impact on current contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Accordingly, the following services are hereby added to the Procurement List:

Disassembly of Recorders, U.S. Geological Survey, Hydrologic Instrumentation Facility, Stennis Space Center, Mississippi
Food Service Attendant, Naval Station, Staten Island Galley, New York, New York
Grounds Maintenance, Building 5513–Dental Clinic, Edwards Air Force Base, California
Janitorial/Custodial, Federal Building and U.S. Post Office, Fort Collins, Colorado
Repair and Cleaning of Respirators, Robins Air Force Base, Georgia.

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Beverly L. Milkman,
Executive Director.
[FR Doc. 92–4650 Filed 2–27–92; 8:45 am]
BILLING CODE 6820–33–M

Procurement List; Proposed Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed addition to procurement list.

SUMMARY: The Committee has received proposals to add to the Procurement List a service to be furnished by nonprofit agencies employing persons with severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: March 30, 1992.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed action.

If the Committee approves the proposed addition, all entities of the Federal Government (except as otherwise indicated) will be required to procure the service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the service to the Government.

2. The action will result in authorizing small entities to furnish the service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

It is proposed to add the following service to the Procurement List: Grounds Maintenance, Naval Station, Treasure Island, and Yerba Buena Island, San Francisco, California.

Beverly L. Milkman,
Executive Director.
[FR Doc. 92–4651 Filed 2–27–92; 8:45 am]
BILLING CODE 6820–33–M

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to and deletion from procurement list.

SUMMARY: The Committee has received proposals to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and delete commodities and services previously furnished by such agencies.

COMMENTS MUST BE RECEIVED ON OR BEFORE: March 30, 1992.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javitts-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

It is proposed to add the following services to the Procurement List:

Commissary Shelf Stocking and Custodial, Brooks Air Force Base, Texas
Food Service, White Sands Missile Range, Consolidated Dining Facility, White Sands, New Mexico
Janitorial/Custodial, Federal Complex, 607 Hardesty Street, Kansas City, Missouri

Mailroom Service, General Services Administration Regional Office, 1500 E. Bannister Road, Kansas City, Missouri.

Deletions

It is proposed to delete the following commodities and services from the Procurement List:

Commodities

Gown, Hospital, General Purpose
6532-01-045-5380
Pallet Assembly
8140-01-050-9789

Services

Laundry Service, Acoma/Canoncito/Laguna PHS Indian Hospital, Acomita, New Mexico
Laundry Service, Zuni PHS Indian Hospital, Zuni, New Mexico
Microfilming and Related Services, Internal Revenue Service, Western Region, Seattle, Washington.

Beverly L. Milkman,

Executive Director.

[FR Doc. 92-4652 Filed 2-27-92; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Joint Precision Interdiction (JPI)

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Joint Precision Interdiction (JPI) will meet in closed session on March 19–20, 1992 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Director, Defense Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will review acquisition strategies needed for an optimum family of surveillance, reconnaissance, and target acquisition systems. C3I systems and weapon systems required to perform the JPI mission.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92-463, as amended (5 U.S.C. App. II, (1988)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly this meeting will be closed to the public.

Dated: February 25, 1992.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92-4587 Filed 2-27-92; 8:45 am]

BILLING CODE 3810-01-M

DOD Advisory Panel on Streamlining and Codifying Acquisition Laws

AGENCY: Defense Systems Management College, DOD.

ACTION: Notice of meeting.

SUMMARY: Open to the public on March 12, 1992, starting at 8:30 a.m. in Building 184 of the Defense Systems Management College, Fort Belvoir, Virginia. The panel will hear presentations/recommendations by the task force on its review of the out-of-scope and low-level laws, and by the various panel working groups on the statutes they have reviewed to date.

For further information contact Major Jean Kopala at (703) 355-2665.

Dated: February 25, 1992.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92-4586 Filed 2-27-92; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of the Meeting: 25 March 1992.

Time: 0800–1630.

Place: Aberdeen Proving Ground, MD.

Agenda: The Army Science Board's Analysis, Test and Evaluation Issue Group will meet to discuss the technical and educational requirements for the civilian workforce and the utilization of professional development plans. This meeting will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information (703) 695-0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 92-4616 Filed 2-27-92; 8:45 am]

BILLING CODE 3810-01-M

Corps of Engineers Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) Proposed Levee Improvement Project; Snake and Gros Ventre Rivers, WY

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a DEIS.

SUMMARY: The Walla Walla District, Corps of Engineers, proposes to extend the left bank Federal levee, above the mouth of the Gros Ventre River, on the Snake River; raise the existing Gros Ventre levees to 100-year protection level; and identify other problem areas through the public scoping process. The project is located in Jackson Hole, Wyoming. This action is necessary to protect cutthroat spawning spring creeks and several homes from damage due to avulsion.

FOR FURTHER INFORMATION CONTACT: Comments concerning the project and DEIS should be addressed to Robert D. Volz, LTC, EN, Commanding, Walla Walla District, Corps of Engineers, Walla Walla, Washington 99362-9265, ATTN: Mr. William MacDonald. Mr. MacDonald can be reached at (509) 522-6625.

SUPPLEMENTARY INFORMATION:

1. This project is located along the Snake and Gros Ventre Rivers in Jackson Hole, Teton County, Wyoming. Land use in this area has been changing from primarily livestock grazing to recreational and residential development. The rivers in the area are highly braided and tend to spread out during high flows, causing flooding. To prevent flood damage, the Corps of Engineers and State and local entities built a series of levees along the Snake from River Mile 961.5 (on the opposite side of the river from Grand Teton National Park) to River Mile 944, and along the Gros Ventre from the mouth upstream to the Grand Teton National Park boundary. The upstream section of the left bank Federal levee was not completed to the mouth of the Gros Ventre River and leaves an unprotected reach in this area. This area contains Three Channel Spring Creek, an important cutthroat spawning stream, and several homes, which are all subject to avulsion damage from either the Snake River or Gros Ventre River. Levees on the Gros Ventre River have a low level of protection and need to be raised to provide 100-year level of protection. Overtopping of these levees

would damage homes, a golf course, agricultural land, and several spring creeks.

A scoping meeting will be held at Jackson, Wyoming, to determine if other problem areas exist which should be included in the study.

2. Alternatives to be investigated include:

a. No action.

b. Extension of left bank Federal levee, approximately 5,500 feet.

c. Raising Gros Ventre levees to 100-year flood level.

d. Protection of other areas subject to avulsion (to be identified).

3. Significant issues to be addressed in the DEIS include effects of the alternatives on fisheries, wildlife, endangered species, socioeconomics, and cultural resources. The project will be reviewed under all applicable Federal, State, and local statutes.

4. Affected Federal, State, and local agencies, affected Indian tribes, and other interested organizations and parties are invited to participate in scoping for the DEIS. A formal scoping meeting is planned for March 4, 1992.

5. The DEIS should be available on or about October 30, 1992.

Dated: February 14, 1992.

Donald P. Kurkjian,

Major, EN Deputy Commander.

[FR Doc. 92-4499 Filed 2-27-92; 8:45 am]

BILLING CODE 3710-GC-M

Defense Logistics Agency

Privacy Act of 1974; Computer Matching Program Between the Health Resources and Services Administration and the Defense Manpower Data Center of the Department of Defense

AGENCY: Defense Manpower Data Center, Defense Logistics Agency, DOD.

ACTION: Notice of a computer matching program between the Health Resources and Services Administration (HRSA) and the Defense Manpower Data Center (DMDC) of the Department of Defense (DOD) for public comment.

SUMMARY: DMDC, as the matching agency under the Privacy Act of 1974 (5 U.S.C. 552a), as amended, is hereby giving constructive notice in lieu of direct notice to the record subjects of a computer matching program between HRSA and DMDC that their records are being matched by computer. The record subjects are delinquent debtors of the HRSA who are current or former Federal employees receiving Federal salary or benefit payments and indebted and delinquent in their payment of debts owed to the United States Government under certain programs administered by HRSA (including health professions, student loans, scholarships, traineeships, or grants under Titles III, VII, and VIII of the Public Health Service Act, as amended), so as to permit HRSA to pursue and collect the debt by voluntary repayment or by administrative or salary offset procedures under the provisions of the Debt Collection Act of 1982.

DATES: This proposed action will become effective March 30, 1992, and the computer matching will proceed accordingly without further notice, unless comments are received which would result in a contrary determination or if the Office of Management and Budget or Congress objects thereto. Any public comment must be received before the effective date.

ADDRESSES: Any interested party may submit written comments to the Director, Defense Privacy Office, 400 Army Navy Drive, Room 205, Arlington, VA 22202-2884.

FOR FURTHER INFORMATION CONTACT: Mr. Aurelio Nepa, Jr., at (703) 614-3027.

SUPPLEMENTARY INFORMATION: Pursuant to subsection (o) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, HRSA and DMDC have concluded an agreement to conduct a computer matching program between the agencies. The purpose of the match is to assist HRSA in identifying and locating those delinquent debtors employed in another Federal agency, including retirees receiving a Federal benefit. HRSA will use this information to initiate independent collection of these debts under the Debt Collection Act of 1982 when voluntary payment is not forthcoming or by administrative or salary offset procedures until the obligation is paid in full. These collection efforts will include requests by HRSA of the employing agency to apply administrative and/or salary offset procedures until such time as the obligation is paid in full. The parties to this agreement have determined that a computer matching program is the most efficient, effective and expeditious method for accomplishing this task with the least amount of intrusion of personal privacy of the individuals concerned. It was therefore concluded and agreed upon that computer matching would be the best and least obtrusive manner and choice for accomplishing this requirement.

A copy of the computer matching agreement between HRSA and DMDC is available upon request to the public. Requests should be submitted to the address caption above or to the Health Resources and Services Administration, Division of Fiscal Services, Debt Management Branch, 5600 Fishers Lane, Rockville, MD 20857.

Set forth below is a notice of the establishment of a computer matching program required by paragraph 6.c. of the Office of Management and Budget Guidelines on Computer Matching published in the **Federal Register** at 54 FR 25818 on June 19, 1989.

The matching agreement as required by 5 U.S.C. 552a(r) and an advance copy of this notice was submitted on February 18, 1992, to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget pursuant to paragraph 4b of Appendix I to OMB Circular No. A-130, "Federal Agency Responsibilities for Maintaining Records about Individuals," dated December 12, 1985 (50 FR 52738, December 24, 1985). This matching program is subject to review by OMB and Congress and shall not become effective until that review period has elapsed.

Dated: February 24, 1992.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Computer Matching Program Between the Health Resources and Services Administration and the Defense Manpower Data Center of the Department of Defense for Debt Collection

A. *Participating agencies:* Participants in this computer matching program are the Health Resources and Services Administration (HRSA) and the Defense Manpower Data Center (DMDC) of the Department of Defense (DOD). HRSA is the source agency, i.e., the agency disclosing the records for the purpose of the match. DMDC is the specific recipient or matching agency, i.e., the agency that actually performs the computer matching.

B. *Purpose of the match:* The purpose of the match is to identify and locate delinquent debtors who are current or former Federal employees receiving any Federal salary or benefit payments and indebted and delinquent in their repayment of debts owed to the United States Government under certain programs administered by HRSA (including health professions, student loans, scholarships, traineeships, or grants under Titles III, VII, and VIII of the Public Health Services Act, as amended), so as to permit HRSA to pursue and collect the debt by voluntary repayments or by administrative or salary offset procedures under the provisions of the Debt Collection Act of 1982.

C. *Authority for conducting the match:* The legal authority for conducting the matching program is contained in the Debt Collection Act of 1982 (Pub. L. 97–365), 31 U.S.C. chapter 37, subchapter I (General) and subchapter II (Claims of the United States Government), 31 U.S.C. 3711 Collection and Compromise, 31 U.S.C. 3716 – 3718 Administrative Offset, 5 U.S.C. 5514 Installment Deduction for Indebtedness (Salary Offset); 10 U.S.C. 136, Assistant Secretaries of Defense, Appointment Powers and Duties; Section 206 of Executive Order 11222; 4 CFR chapter II, Federal Claims Collection Standards (General Accounting Office - Department of Justice); 5 CFR 550.1101 – 550.1108 Collection by Offset from Indebted Government Employees (OPM); 40 CFR part 30.

D. *Records to be matched:* The systems of records maintained by the respective agencies under the Privacy Act of 1974, as amended, 5 U.S.C. 552a, from which records will be disclosed for the purpose of this computer match are as follows:

1. This match will involve the HRSA record system identified as 09–15–0045, "Health Resources and Services Administration Loan Repayment/Debt Management Records System, HHS/HRSA/OA", last published in the **Federal Register** at 53 FR 41243 on October 20, 1988. The HRSA file contains information on approximately 4000 debtors.

2. The DOD will use the system of records identified as S322.11 DLA-LZ, "Federal Creditor Agency Debt Collection Data Base", last published in the **Federal Register** at 52 FR 37495 on October 7, 1987. The DMDC file contains information on approximately ten million active duty, retired, and Reserve military members, current and former Federal civilian employees.

3. Both record systems contain appropriate routine use disclosure provisions required by the Privacy Act permitting the disclosure of the affected personal information between the HRSA and the DOD. The routine uses are compatible with the purposes for which the information was collected and maintained. Moreover, there will be a disclosure accounting maintained by DMDC for any disclosures from the S322.11 DLA-LZ record system.

E. *Description of computer matching program:* HRSA, as the source agency, will provide DMDC with a magnetic tape of individuals who are indebted to the HRSA. The tape will contain data elements on individual debtors. DMDC, as the recipient agency, will perform a computer match using all nine digits of the SSN of the HRSA file against a DMDC computer data base. Matching records, "hits" based on the SSN, will produce the member's name, service or agency, and current work or home address. Matching records will be returned to HRSA. HRSA will be responsible for verifying the information and for resolving any discrepancies or inconsistencies on an individual basis. HRSA will be responsible for making the final determinations as to positive identification, amount of indebtedness, and recovery efforts as a result of the match. If the debtor is employed by another Federal agency, a request for salary or administrative offset is issued to the employing agency.

F. *Individual notice and opportunity to contest:* It will be the responsibility of HRSA to verify and determine whether the data from the DMDC match are consistent with the data from the HRSA debtor file, and to resolve any discrepancies or inconsistencies as to positive identification. HRSA will screen the initial data to verify that the matched individual is in fact a delinquent debtor not in a repay status. HRSA will do this by manually comparing the hit file with the HRSA debtor files to verify debtor identity; conducting independent inquiries when necessary to resolve questionable identities; and reviewing records of the suspected debtor's account to confirm that the debt is still in a non-pay status without resolution. Any discrepancies or inconsistencies furnished by DMDC, or developed as the result of the match, such as amount of indebtedness or salaries of hits will be independently investigated and verified by HRSA prior to any final adverse action being taken against the individual by HRSA. There will be no adverse action taken based on raw hits. Raw hit data will be manually reviewed to ensure the individuals identified are eligible for salary offset.

The debtor is given an opportunity to enter into a voluntary agreement to repay the debt under terms agreeable to HRSA. The debtor is given an opportunity to inspect and copy records related to the debt and for review of the decision related to the debt. Requests for copies of the records relating to the debt shall be made no later than 10 days from the receipt by the debtor of the notice of indebtedness.

The debtor is entitled to a 30 day written notification informing the debtor of the circumstances under which the debt occurred, the amount owed, the intent to collect by deduction from pay if the amount owed is not paid in full, and an explanation of other rights of the debtor under the law.

The debtor is also entitled to an opportunity for a hearing concerning the existence or the amount of the debt, or when a repayment schedule is established other than by written agreement concerning the terms of the repayment schedule. The debtor shall be advised that a challenge to either the existence of the debt, the amount of the debt, or the repayment schedule, must be made within 30 days of receipt by the debtor of the notice of indebtedness or within 30 days after receipt of the records relating to the debt, if such records are requested by the debtor.

G. *Inclusive dates of the matching program:* This computer matching program is subject to review by the Office of Management and Budget and Congress. If no objections are raised by either and the mandatory 30 day public notice period for comment has expired for this **Federal Register** notice with no significant adverse public comments in receipt resulting in a contrary determination, then this computer matching program becomes effective and the respective agencies may begin the exchange of data 30 days after the date of this published notice at a mutually agreeable time and may be repeated no more than once a year. Under no circumstances shall the matching program be implemented before this 30 day public notice period for comment has elapsed as this time period cannot be waived. By agreement between HRSA and DMDC, the matching program will be in effect and continue for 18 months with an option to renew for 12 additional months unless one of the parties to the agreement advises the other by written request to terminate or modify the agreement.

H. *Address for receipt of public comments or inquiries:* Director, Defense Privacy Office, 400 Army Navy Drive, Room 205, Arlington, VA 22202–2884. Telephone (703) 614–3027.

[FR Doc. 92–4589 Filed 2–27–92; 8:45 am]

BILLING CODE 3810-01-F

DEPARTMENT OF EDUCATION

Office of Bilingual Education and Minority Languages Affairs; National Research Symposium; Call for Proposals

ACTION: Notice of call for proposals for presentation at National Research Symposium.

SUMMARY: The Department of Education's Office of Bilingual Education and Minority Languages Affairs (OBEMLA) invites proposals on selected issues in the education of middle and high school students who are of limited English proficiency (LEP) for its Third National Research Symposium of LEP Student Issues to be held in Washington, DC, August 12–14, 1992.

OBEMLA welcomes proposals that are based on sound research and whose findings have direct application to the teaching and learning processes in classrooms and their surrounding communities. There is a special interest in recent educational approaches and alternative or innovative methods that will assist educators in enabling LEP students to meet the National Education Goals by the year 2000, specifically in:

- Curricular and materials development;
- Classroom strategies;
- Subject matter areas such as mathematics, science, and integrated language arts;
- Teacher education, both preservice and inservice; and
- Family-school collaboration and inter-generational learning.

Maximum proposal length is set at three double-spaced pages. All proposals must include an abstract of not more than 100 words, citations in the text and references. Winning proposal authors will be notified by April 24, 1992. Fifteen to twenty proposals will be selected through peer-review.

The authors of the selected proposals will be commissioned to write papers of up to 40 pages for presentation at the Third National Research Symposium on LEP Student Issues. A $2,000 honorarium will be paid in addition to round-trip airfare to Washington, DC, and per diem, both at Government rates. The Department expects that an audience of approximately 400 researchers and educators from across the Nation will attend the Symposium. Final versions of the papers must be delivered to OBEMLA by July 1, 1992.

ADDRESSES: Proposals should be sent to Dr. Carmen Simich-Dudgeon, Director of Research and Evaluation, U.S. Department of Education, OBEMLA, 5623 Switzer Building, 330 C St. SW., Washington, DC, 20202, by March 20, 1992. Proposals arriving later than this date will not be considered. Proposal writers should include their name, address, telephone and fax numbers.

FOR FURTHER INFORMATION CONTACT: Dr. Carmen Simich-Dudgeon. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

Dated: February 20, 1992.

Rita Esquivel,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 92-4574 Filed 2–27–92; 8:45 am]

BILLING CODE 4000-01-M

Transitional Bilingual Education Program; Special Alternative Instructional Program; Proposed Priority for Fiscal Year 1992

AGENCY: Department of Education.

ACTION: Notice of proposed priority for fiscal year 1992.

SUMMARY: The Secretary proposes an absolute priority for a special competition under two programs of the Office of Bilingual Education and Minority Languages Affairs for fiscal year (FY) 1992. The Secretary takes this action to assist local educational agencies (LEAs) that have experienced recent major influxes of limited English proficient (LEP) students. The priority is intended to enable affected LEAs to provide Transitional Bilingual Education (TBE) and Special Alternative Instructional (SAI) programs for these students.

DATES: Comments must be received on or before March 30, 1992.

ADDRESSES: All comments concerning this proposed priority should be addressed to Harry G. Logel, U.S. Department of Education, 400 Maryland Avenue, SW., room 5086, Switzer Building, Washington, DC 20202–6641.

FOR FURTHER INFORMATION CONTACT: Harry G. Logel. Telephone: (202) 732–5715. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: Awards for TBE and SAI programs are made to LEAs to provide instructional services to LEP children. Authority for these programs is in section 7021 of the Bilingual Education Act (20 U.S.C. 3291).

Bilingual education programs have been funded by the Federal government for over 20 years in an effort to ensure equal educational opportunity for all students. In recent years, some school districts have experienced major influxes of LEP students as a result of immigration and secondary migrations. The Secretary is proposing a special competition to provide these districts with additional assistance. A district qualifying for this competition may apply for funds under either the TBE or the SAI program.

The Secretary will determine eligibility for this competition on the basis of the same criteria used for a competition in FY 1991. An LEA is eligible for this competition if the LEA has had a recent major influx of LEP students. For this purpose, a "recent major influx of LEP students" means—as it did for the FY 1991 competition—the arrival in the LEA, within the last two years, of at least 500 LEP students or of a number of LEP students that equals at least 3 percent of the LEA's total enrollment.

The Secretary has chosen these criteria because they appear to be fair indicators of whether a school district has absorbed a sudden arrival of a substantial number of LEP children and is, therefore, in particular need of additional assistance. These criteria, moreover, are similar to those used in determining eligibility under the Emergency Immigrant Education Program.

The Secretary believes that the proposed priority will contribute significantly to the implementation of AMERICA 2000, the President's strategy for moving the Nation toward the National Education Goals. In particular, the priority will assist affected communities to attain Goal 3 by helping LEP students achieve competence in English while mastering challenging subject matter. The priority will also assist affected communities to attain Goal 5 by helping LEP students develop the skills necessary to compete in a global economy.

The Secretary will announce the final priority in a notice in the **Federal Register**. The final priority will be determined by responses to this notice, available funds, and other considerations of the Department. Funding of particular projects depends on the availability of funds, the nature of the final priority, and the quality of the applications received. The publication of this proposed priority does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only this priority, subject to meeting applicable rulemaking requirements.

Note: This notice of proposed priority does *not* solicit applications. A notice inviting applications under this competition will be published in the **Federal Register** concurrent with or following publication of the notice of final priority. This competition will be in addition to the regular competitions for new TBE and SAI program grants in FY 1992.

Priority

Under 34 CFR 75.105(c)(3), the Secretary proposes to give an absolute preference to applications that meet the following priority. The Secretary proposes to fund under this competition only applications that meet this absolute priority:

The local educational agency (LEA) must propose to provide bilingual instructional services to students who are part of both a recent and a major influx of limited English proficient (LEP) children into its district. To be considered part of a recent influx, the LEP children must have arrived in the LEA's district during the two years immediately preceding the LEA's application to the Department for funds under this priority. An LEA will be determined to have received a major influx of LEP children if it can demonstrate that the total number of those recently arrived LEP students is equal to at least either 500 of those students or 3 percent of the LEA's total enrollment.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding this proposed priority.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in room 5611, Switzer Building, 330 "C" Street, SW., Washington, D.C., between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

Applicable Program Regulations

34 CFR parts 500 and 501.

Program Authority: 20 U.S.C. 3291.

(Catalog of Federal Domestic Assistance Numbers: 84.003M Transitional Bilingual Education Program; and 84.003N Special Alternative Instructional Program)

Dated: January 28, 1992.

Lamar Alexander,

Secretary of Education.

[FR Doc. 92-4575 Filed 2-27-92; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Nuclear Weapons Complex Reconfiguration Programmatic Environmental Impact Statement; Announcement of Reasonable Siting Alternatives, Relocation of Certain Nuclear Facilities

AGENCY: Department of Energy.

ACTION: Nuclear Weapons Complex Reconfiguration Programmatic Environmental Impact Statement; announcement of reasonable siting alternatives, relocation of certain nuclear facilities.

SUMMARY: The Department of Energy (DOE) has evaluated five candidate sites to determine which should be analyzed in the Nuclear Weapons Complex Reconfiguration Programmatic Environmental Impact Statement (PEIS) as reasonable alternatives to receive certain functions now performed at the Rocky Flats Plant near Denver, Colorado, the Pantex Plant near Amarillo, Texas, and the Y-12 Plant near Oak Ridge, Tennessee. DOE has determined that all five sites are reasonable alternatives for consideration in the PEIS. The five sites are the Hanford Site near Richland, Washington; the Idaho National Engineering Laboratory near Idaho Falls, Idaho; the Oak Ridge Reservation near Oak Ridge, Tennessee; the Pantex Plant near Amarillo, Texas; and the Savannah River Site near Aiken, South Carolina.

ADDRESSES: The addresses of the DOE public reading rooms established for this project are provided below.

FOR FURTHER INFORMATION CONTACT: Requests for further information on the DOE nuclear weapons complex reconfiguration program should be sent to: Howard R. Canter, Deputy Assistant Secretary, Weapons Complex Reconfiguration Office, DP-40, room 4C-014, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-2700.

SUPPLEMENTARY INFORMATION: On February 11, 1991, DOE published a Notice of Intent (NOI) to prepare a PEIS on reconfiguring the nuclear weapons complex [56 FR 5590]. The PEIS is being prepared pursuant to the National Environmental Policy Act (NEPA), as amended (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality (CEQ) regulations implementing NEPA (40 CFR parts 1500-1508), and DOE Guidelines for compliance with NEPA (52 FR 47662), as amended (54 FR 12474 and 55 FR 37174).

DOE has identified relocating the plutonium recycling and manufacturing functions now performed at the Rocky Flats Plant as part of its preferred alternative. DOE will also examine the option of collocating either the nuclear materials functions now performed at the Pantex Plant or the uranium processing functions now performed at the Y-12 Plant, or both, with the plutonium functions from Rocky Flats.

Concurrently with the NOI, the DOE published an "Invitation for Site Proposals, Nuclear Weapons Complex Reconfiguration Site" (Invitation) to solicit sites for consideration to receive the relocated functions from the Rocky Flats, Pantex, and Y-12 Plants. Based upon qualifying criteria of size, electrical power and potable water requirements, and mission compatibility, DOE identified the five sites listed above as candidate sites and collected information packages from them. No additonal sites were proposed in response to the Invitation.

DOE established a Site Evaluation Panel (SEP) to assist with the development of alternatives to be analyzed in the PEIS. The Panel reviewed the candidate sites and recommended that all five qualified as reasonable siting alternatives. DOE plans to analyze all five in the Reconfiguration PEIS as reasonable siting alternatives, within the meaning of NEPA and the CEQ regulations, to receive the plutonium functions now taking place at Rocky Flats and possibly collocating the nuclear functions now taking place at Pantex and Y-12. The decision whether to relocate any facilities and selection of a relocation site (if any) will be included in a Record of Decision (ROD) to be issued following completion of the PEIS.

This Notice concerns only the sites which will be considered in the PEIS for the potential relocation of the plutonium functions currently conducted at the Rocky Flats Plant and the potential collocation of the nuclear functions currently conducted a the Pantex and Y-12 Plants. However, the PEIS will also

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consider siting alternatives for other weapons complex functions. On November 1, 1991, the Secretary of Energy decided to incorporate the environmental impact analysis for the DOE New Production Reactor (NPR) capacity proposal into the Reconfiguration PEIS and include NPR siting and technology decisions in the Reconfiguration ROD. The draft NPR Environmental Impact Statement, issued in April 1991, examined three siting alternatives: the Hanford Site, the Idaho National Engineering Laboratory, and the Savannah River Site; all of these are on the list of sites evaluated by SEP for relocation of the nuclear functions now carried out at the Rocky Flats, Pantex, and Y-12 Plants. Accordingly, for the Hanford, Idaho, and Savannah River sites, the PEIS will assess the effects of collocating tritium production activities with one or more other nuclear functions as well as analyzing locating the tritium activities alone. DOE is currently reevaluating siting options for the NPR to determine if any other sites would be reasonable alternatives for locating tritium supply capacity in light of the Secretary's November 1, 1991, announcement. The possibility of relocating other weapons complex mission elements would also be examined in the PEIS in the interest of further consolidating the weapons complex.

The SEP report that evaluates the suitability of the five sites listed above for the relocation of the nuclear functions currently at the Rocky Flats, Pantex, and Y-12 plants has been placed in the DOE public reading rooms (listed below) established for the Reconfiguration PEIS. The five site information packages that were evaluated in the report are also available for review.

The fourteen public reading rooms established for the Reconfiguration PEIS are as follows:

DOE Public Reading Rooms

California

U.S. Department of Energy, San Francisco Field Office, 1333 Broadway, Oakland, California 94612, (415) 273-4428.

Colorado

U.S. Department of Energy, Rocky Flats Public Reading Room, Front Range Community College Library, 3645 West 112th Avenue, Westminster, Colorado 80030, (303) 469-4435.

Florida

U.S. Department of Energy, Public Reading Room, Largo Public Library, 351 East Bay Drive, Largo, Florida 34640, (813) 587-6715.

Idaho

U.S. Department of Energy, Idaho Field Office, Public Reading Room, 1776 Science Center Drive, P.O. Box 1625, Idaho Falls, Idaho 83402, (208) 526-1191.

Illinois

U.S. Department of Energy, Chicago Field Office, 9800 South Cass Avenue, Argonne, Illinois 60439, (708) 972-2010.

Missouri

U.S. Department of Energy, Public Reading Room, Red Bridge Branch, Mid-Continent Public Library, 11140 Locust Street, Kansas City, Missouri 64137, (816) 942-1780.

New Mexico

U.S. Department of Energy, Albuquerque Field Office, Pennsylvania and H Streets, P.O. Box 5400, Kirtland Air Force Base, New Mexico 87115, (505) 845-5163.

Nevada

U.S. Department of Energy, Nevada Field Office, 2753 South Highland Drive, Las Vegas, Nevada 89193, (702) 295-1274.

Ohio

Miamisburg Library, 35 South Fifth Street, Miamisburg, Ohio 45342, Attn: Department of Energy Public Reading Room, (513) 866-1071.

South Carolina

U.S. Department of Energy Reading Room, University of South Carolina, Aiken Campus, Writing Center, 171 University Parkway, Aiken, South Carolina 29801, (803) 648-6851, Extension 3262.

Tennessee

U.S. Department of Energy, Oak Ridge Field Office, Freedom of Information Officer, 200 Administration Road, Room G-209, P.O. Box 2001, Oak Ridge, Tennessee 37831, (615) 576-9344 or 576-1216.

Texas

U.S. Department of Energy Reading Room, Lynn Library—Learning Center, Amarillo College, 2201 South Washington Street, Amarillo, Texas 79109, (806) 371-5400.

Washington

U.S. Department of Energy, Richland Field Office, 825 Jadwin Avenue, Room 157, P.O. Box 1970, Mail Stop A1-65, Richland, Washington 99352, (509) 376-8583.

Washington, DC

U.S. Department of Energy, Freedom of Informaton Reading Room, room 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6020.

For information on the availability of specific documents and hours of operation, please contact the reading rooms at the telephone numbers provided.

Issued in Washington, DC this 24th day of February 1992.

Richard A. Claytor,

Assistant Secretary for Defense Programs.

[FR Doc 92-4655 Filed 2-27-92; 8:45 am]

BILLING CODE 6450-01-M

San Francisco Field Office, New Cooperative Agreement; Noncompetitive Award

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice of noncompetitive financial assistance award.

SUMMARY: The U.S. Department of Energy San Francisco Field Office announces, it is restricting eligibility for award of DE-FG03-92 SF19168 as a Cooperative Agreement to the State of Hawaii for conducting a comprehensive energy study for the state.

DATES: The terms of this award will commence on February 28, 1992, and end on February 14, 1993. The total estimated cost of the award is $685,000.

ADDRESSES: Supporting documentation is available for public inspection upon request at the following location: U.S. Department of Energy, San Francisco Field Office, 1333 Broadway, Oakland, CA 94612.

FOR FURTHER INFORMATION CONTACT: Maria C. Hernandez of the DOE San Francisco Field Office Contracts Management Division, telephone (510) 273-4133.

SUPPLEMENTARY INFORMATION: A comprehensive energy study will be conducted by the State of Hawaii including an assessment of that State's fossil fuel strategic reserve requirements and the most effective and efficient way to meet those needs, the availability and practicality of increasing the use of native energy resources, potential alternative fossil energy technologies such as coal gasification which potentially could enhance the islands' electric and liquid fuel resources, and potential energy efficiency measure which can lead to demand reduction. Within the study, a paramount consideration shall be accorded to security of supply and energy security by diversity, where appropriate. Environmental concerns, including waste reduction, shall also be given strong consideration in the report.

This announcement is made pursuant to the Financial Assistance Rules, 10 CFR 600.7(b)(2)(i)(C).

Joan Macrusky,

Acting Director, Contracts Management Division.

[FR Doc. 92-4656 Filed 2-27-92; 8:45 am]

BILLING CODE 6450-01-M

Secretary of Energy Advisory Board Task Force on Economic Analysis and Modeling Related to Energy; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770, as amended), notice is hereby given of the following advisory committee task force meeting:

Name: Secretary of Energy Advisory Board Task Force on Economic Analysis and Modeling Related to Energy.

Date and Time: Tuesday, March 17, 1992, 8:30 a.m.–12:15 p.m.

Place: U.S. Department of Energy, Forrestal Building—room 1E-245, 1000 Independence Avenue, SW., Washington, DC 20585.

Note: To obtain badge at front desk it will be necessary to have a picture I.D. (For example, Driver's License, Passport or Company I.D.). All visitors will be escorted at all times for security reasons.

Contact: Susan D. Heard, Designated Federal Officer, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone: (202) 586-3770.

Purpose: The Task Force will advise the Department of Energy on how economic models and tools of analysis can better be used to address issues of energy policy by developing recommendations to clarify analytical needs, facilitate communication between DOE analysts and policy makers, and create institutions within DOE that accumulate knowledge gained through the policy making process.

TENTATIVE AGENDA

Tuesday, March 17, 1992
8:30 a.m.—Call to Order—Roger Noll, Kenneth Lay.
8:45–9:15—Progress report by the subgroup on Current and Emerging Issues—Glenn Schleede.
9:15–9:45—Progress Report by the subgroup on Economic Analysis and Modeling Principles—Stephen Peck.
9:45–10—Status of commissioned papers—David Bjornstad.
10–10:20—Break
10:20–11:20—Discussion of the NEMS review—Roger Noll.
11:20–11:45—Discussion of externalities study review—David Bjornstad.
11:45–12—Discussion of preparations for the June workshop—Roger Noll
12 p.m.—Public Comments
12:15—Adjourn

Public Participation

The meeting is open to the public. The Chairman of the Task Force is empowered to conduct the meeting in a fashion that will, in the Chairman's judgment, facilitate the orderly conduct of business.

Persons wishing to attend the public meeting should provide their names and social security numbers to (202) 586-7092 by March 13 to arrange for visitor passes to the Forrestal Building.

Any member of the public who wishes to make an oral statement pertaining to agenda items should contact the Designated Federal Officer at the address or telephone number listed above. Requests must be received before 3 pm (E.S.T.) Friday, March 13, 1992, and reasonable provision will be made to include the presentation during the public comment period. It is requested that oral presenters provide 15 copies of their statements at the time of their presentations.

Written testimony pertaining to agenda items may be submitted prior to the meeting. Written testimony must be received by the Designated Federal Officer at the address shown above before 5 pm (E.S.T.) Friday, March 13, 1992, to assure it is considered by Task Force members during the meeting.

Minutes

A transcript of the open, public meeting will be available for public review and copying approximately 30 days following the meeting at the Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday except Federal holidays.

Issued: Washington, DC, on February 24, 1992.

Marcia L. Morris,

Deputy Advisory Committee Management Officer.

[FR Doc. 92-4657 Filed 2-27-92; 8:45 am]

BILLING CODE 6450-01-M

Conduct of Employees; Waiver Pursuant to Section 602(c) of the Department of Energy Organization Act (Pub. L. No. 95-91)

Section 602(a) of the Department of Energy ("DOE") Organization Act (Pub. L. No. 95-91, hereinafter referred to as the "Act") prohibits a "supervisory employee" (defined in section 601(a) of the Act) of the Department from knowingly receiving compensation from, holding any official relation with, or having any pecuniary interest in any "energy concern" (defined in section 601(b) of the Act).

Section 602(c) of the Act authorizes the Secretary of Energy to waive the requirements of section 602(a) where the interest is a pension, insurance, or other similarly vested interest.

Mr. Silas D. Stadler has been appointed to the position of Director of the Performance Assessment Division in the Office of Nuclear Safety. As a result of his past employment with The Detroit Edison Company, Mr. Stadler has a vested pension interest, within the meaning of section 602(c) of the Act, in the company's Employees' Retirement Plan. Accordingly, I have granted Mr. Stadler a waiver of the divestiture requirement of section 602(a) of the Act for the duration of his employment with the Department with respect to this pension interest.

In accordance with section 208, title 18, United States Code, Mr. Stadler has been directed not to participate personally and substantially, as a Government employee, in any particular matter to outcome of which could have a direct and predictable effect upon the The Detroit Edison Company.

Dated: February 13, 1992.

James D. Watkins,

Admiral, U.S. Navy (Retired), Secretary of Energy.

[FR Doc. 92-4654 Filed 2-27-92; 8:45 am]

BILLING CODE 6450-01-M

Office of Fossil Energy

[FE Docket No. 91-97-NG]

Interenergy Corp.; Order Granting Authorization To Import and Export Natural Gas

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of an order granting blanket authorization to import and export natural gas.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Interenergy Corporation blanket authorization to import up to 73 Bcf and export up to 73 Bcf of natural gas from and to Canada, and any other country with which trade in natural gas is not prohibited, over a two-year period commencing with the date of first import or export.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence

Avenue SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, February 24, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92–4658 Filed 2–27–92; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 91-90-NG]

Marathon Oil Company; Order Granting Authorization To Export Natural Gas To Mexico

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of an order granting blanket authorization to export natural gas.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Marathon Oil Company blanket authorization to export a total of 73 Bcf of U.S. natural gas to Mexico over a two-year period commencing with the date of first delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, February 24, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92–4659 Filed 2–27–92; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 91-99-NG]

Petro Source Corporation; Order Granting Blanket Authorization To Import and Export Natural Gas From and to Canada and Mexico

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of order granting blanket authorization to import and export natural gas from and to Canada and Mexico.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Petro Source Corporation authorization to import from Canada and Mexico up to 100 Bcf of natural gas and export from the United States to Canada and Mexico up to 100 Bcf of natural gas over a two-year period begining on the date of first delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, February 24, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 89–4660 Filed 2–27–89; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Issuance of Revised Proposed Remedial Order to OXY USA Inc.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of issuance of revised proposed remedial order to OXY USA Inc. and notice of opportunity for objection.

SUMMARY: Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a Revised Proposed Remedial Order issued to OXY USA Inc., formerly Cities Service Oil and Gas Corporation, successor in interest to Cities Service Company (collectively Cities). This Revised Proposed Remedial Order charges Cities with filing false monthly entitlements reports, and circumventing the DOE's Entitlements Program, in violation of 10 CFR 211.66(b) and (h), 211.67(j), and 205.202, with respect to 82 reciprocal crude oil "tier trade" transactons which Cities consummated with thirteen crude oil resellers between October 1979 and December 1980. The total violation amount is $253,766,849.54, plus interest. The impact of Cities' conduct was spread nationwide.

SUPPLEMENTARY INFORMATION: The Revised Proposed Remedial Order is issued pursuant to the remand directive in a Remedial Order decision and order issued to Cities by the DOE's Office of Hearings and Appeals (OHA) on September 30, 1988. Cities Service Oil and Gas Corp., 17 DOE ¶ 83,021 (1988). In this Revised Proposed Remedial Order, the ERA seeks restitution of the violation amount noted above, plus interest, in the alternative to the $263.9 million, plus interest, in restitution ordered by the OHA in the Remedial Order issued to Cities in 1988.

ADDRESSES: A copy of the Revised Proposed Remedial Order may be obtained from the DOE Freedom of Information Reading Room, U.S. Department of Energy, 1000 Independence Avenue SW., room 1E–190, Washington, DC 20585, (202) 586–6020.

DATES: Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, in accordance with 10 CFR 205.193. If a Notice of Objection is not filed in accordance with § 205.193, the proposed order may be issued as a final Remedial Order by the Office of Hearings and Appeals.

Issued in Washington, DC on the 24th day of February 1992.

Chandler L. van Orman,

Acting Administrator, Economic Regulatory Administration.

[FR Doc. 92–4661 Filed 2–27–92; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

Fusion Energy Advisory Committee; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Fusion Energy Advisory Committee (FEAC).

Date and Time: Wednesday, March 18, 1992–8:30 a.m.-5:30 p.m.; Thursday, March 19, 1992–8:30 a.m.-5 p.m.

Place: Melvin B. Gottlieb Auditorium (C-Site), Princeton University, Plasma Physics Laboratory, Forrestal Campus, U.S. Route #1 North, Princeton, New Jersey 08543.

Contact: Deborah Lonsdale, U.S. Department of Energy, GTN, Office of Fusion Energy (ER–50), Office of Energy Research, Washington, DC 20585, Telephone: 301–903–4941.

Purpose of the Committee: To provide advice on a continuing basis to the Department of Energy on the complex scientific and technical issues that arise in the planning, management, and implementation of its Fusion Energy Program.

Tentative Agenda:

Wednesday, March 18, 1992

- Report from Panel #2 on the U.S. Program after the Tokamak Fusion Test Reactor (TFTR).
- Discussion of Panel #2 Report.
- Public Comment (10 Minute Rule).

Thursday, March 19, 1992

- Continued Discussion of Panel #1 Report on the International Thermonuclear Experimental Reactor (ITER).
- Progress Report from Panel #3 on Concept Improvements.
- Tour of Princeton Plasma Physics Laboratory.
- Public Comment (10 Minute Rule).

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact: Deborah Lonsdale at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: The transcript of the meeting will be available for public review and copying at the Freedom of Information Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on February 24, 1992.

Marcia L. Morris,

Deputy Advisory Committee Management Officer.

[FR Doc. 92-4662 Filed 2-27-92; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Cases Filed: Week of January 3 Through January 10, 1992

During the Week of January 3 through January 10, 1992, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of acutal notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: February 24, 1992.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Jan. 3 through Jan. 10, 1992]

Date	Name and location of applicant	Case No.	Type of submission
Jan. 6, 1992	New Dixie Oil Corporation Roanoke Rapids, NC	LEE-0035	Exception to the reporting requirements. If Granted: New Dixie Oil Corporation would not be required to file Form EIA-782B, "Resellers'/Retailers' Monthly Petroleum Product Sales Report."
Jan. 9, 1992	Texaco/City of Elgin, Washington, DC	RR321-103	Request for modification/rescission in the Texaco refund proceeding. If Granted: The September 21, 1990 Decision and Order (Case No. RF321-3475) issued to the City of Elgin would be modified regarding the city's Application for Refund submitted in the Texaco refund proceeding.
Jan. 10, 1992	ARCO/Ahmad's ARCO, Atlantic Beach, FL	RR304-23	Request for modification/rescission in the ARCO refund proceeding. If Granted: The April 24, 1989 Dismissal Letter (Case No. RF304-4130) issued to Ahmad's ARCO would be modified regarding the firm's Application for Refund submitted in the ARCO refund proceeding.
Jan. 10, 1992	Jones, Walker, Waechter, Poitevent, Carrere & Denegre New Orleans, LA.	LFA-0177	Appeal of an information request denial. If Granted: The December 12, 1991 Freedom of Information Request Denial issued by the Strategic Petroleum Reserve Project Management Office (SPRMO) would be rescinded, and Jones, Walker, Waechter, Poitevent, Carrere & Denegre would receive access to all records pertaining to the ADP Disaster Recovery Plan, Master Drawing System Plan, Master Test Plan, Property Control System Document, Radio Communications Operating Procedures, System Safety Program, Plan System Engineering Management Plan, or Technical Data Center Management Plan.
Jan. 10, 1992	Texaco/Transport Service Company, Washington, DC	RR321-104	Request for modification/rescission in the Texaco refund proceeding. If Granted: The December 6, 1990 Decision and Order (Case No. RF321-4085) issued to Transport Service Company regarding the firm's Application for Refund submitted in the Texaco refund proceeding would be modified.
January 10, 1992	Wisconsin Project on Nuclear Arms Control Washington, DC.	LFA-0176	Appeal of an information request denial. If Granted: The Freedom Request Denial issued by the Office of Arms Control and Nonproliferation Technology Support, Defense Programs, Department of Energy would be rescinded, and Wisconsin Project on Nuclear Arms Control would receive access to certain DOE information.

REFUND APPLICATIONS RECEIVED

Date Received	Name of refund proceeding/name of refund applicant	Case No.
12/17/91	Burger Bros. Distributing.	RF321-18263.
1/3/92 thru 1/10/92.	Texaco Refund Applications Received.	RF321-18259 thru RF321-18359.

REFUND APPLICATIONS RECEIVED—Continued

Date Received	Name of refund proceeding/name of refund applicant	Case No.
1/3/92 thru 1/10/92.	Crude Oil Refund Applications Received.	RF272-91290 thru RF272-91381.

REFUND APPLICATIONS RECEIVED—Continued

Date Received	Name of refund proceeding/name of refund applicant	Case No.
1/3/92 thru 1/10/92.	Gulf Oil Refund Applications Received.	RF300-19294 thru RF300-19403.

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REFUND APPLICATIONS RECEIVED—Continued

Date Received	Name of refund proceeding/name of refund applicant	Case No.
1/3/92 thru 1/10/92.	Atlantic Richfield Applications Received.	RF304-12670 thru RF304-12693.
1/6/92	Warren Exxon Servicenter.	RF307-10210.
1/6/92	David Rupp	RF335-62.
1/6/92	Viola Holmer	RF335-63.
1/6/92	Russ' Super Clark 100 #1797.	RF342-110.
1/6/92	George Cernovich.	RF342-111.
1/7/92	Joe's Clark Super 100.	RF342-112.
1/7/92	Mallory's L.P. Products.	RF340-41.
1/8/92	Castoro GMC Truck Company.	RF307-10211.
1/8/92	Allan's Clark Super 100.	RF342-113.
1/8/92	Reed's Clark Service.	RF342-114.
1/9/92	Barnard Oil Co., Inc.	RF340-42.
1/9/92	Connersville Gasoline.	RF342-115.
1/9/92	Doug's Clark Super 100.	RF342-116.
1/9/92	Sam's Service Station.	RF315-10180.
1/10/92	Raukin Oil Co	RF340-43.
1/10/92	C.W. Heist Bottled Gas Sales.	RF340-44.
1/10/92	La Gloria Oil & Gas Co.	RF340-45.
1/10/92	Cecil's Super 100.	RF342-117.
1/10/92	Cleatus McPhearson.	RF342-118.
1/10/92	Rjo's Clark Super 100.	RF342-119.
1/10/92	Ray Ondreka's Super 100.	RF342-120.
1/13/92	Petroleum Electronics, Inc.	RF333-25.
1/13/92	Jobbers Buying Group.	RF333-26.
1/13/92	Crago & Cook Enterprises, Inc.	RF333-27.
1/13/92	Everdyke Oil Co	RF333-28.

[FR Doc. 92-4663 Filed 2-27-92; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders During the Week of January 6 through January 10, 1992

During the week of January 6 through January 10, 1992, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E-234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: February 24, 1992.

George B. Breznay,

Director, Office of Hearings and Appeals.

Appeals

Mark S. Boggs, 1/8/92, LFA-0171

On September 6, 1991, Mark S. Boggs filed an Appeal from a determination issued by the Oak Ridge Operations Office (Oak Ridge) in response to a request from Mr. Boggs submitted under the Freedom of Information Act (FOIA). In that determination, Oak Ridge released documents found to be responsive to Mr. Boggs' request but which contained handwritten corrections. Mr. Boggs appealed, requesting "corrected" copies of the document. The DOE found that Oak Ridge had conducted a search reasonably calculated to uncover the material that Mr. Boggs requested but that no "corrected" copies existed. Therefore, Mr. Boggs' Appeal was denied.

The Government Accountability Project, 1/8/92, LFA-0169

The Government Accountability Project (GAP) filed an Appeal from a determination issued by the Richmond Operations Office in response to a request from GAP submitted under the Freedom of Information Act (FOIA). GAP had sought transcripts of four depositions taken in connection with litigation involving alleged illegal retaliation by Westinghouse Hanford Company, the prime contractor at the DOE's Hanford facility, against one of its employees. The transcripts, which were in the possession of Westinghouse, had never come into possession of the DOE. The DOE noted that the transcripts dealt primarily with how Westinghouse managed its internal affairs, not with any governmental function. Under these circumstances, the DOE found that the transcripts did not constitute "agency records" for FOIA purposes. Accordingly, the Appeal was denied.

Refund Applications

Gulf Oil Corp./Aristech Chemical Corp., 1/10/92, RF300-10954

The DOE issued a Decision and Order denying an Application for Refund filed by Aristech Chemical Corporation (Aristech) in the Gulf Oil Corporation special refund proceeding. Aristech filed its refund based on its purchases of styrene and cumene. But Aristech has not demonstrated that these products for which it requests a refund were covered by any of the relevant regulations. Accordingly, because the evidence before us indicates that these products are ineligible for a refund for the purposes of this proceeding, the Application for Refund was denied.

Gulf Oil Corp./Union Camp Corp., 1/8/92 RF300-13647

The DOE issued a Decision and Order concerning an Application for Refund submitted in the Gulf Oil Corporation special refund proceeding by Union Camp Corporation, an end-user who purchased Gulf products both directly from Gulf and indirectly through a distributor, S.W. Rawls. S.W. Rawls has received a refund in the Gulf proceeding under a presumption of injury. Therfore, Union Camp's Application for Refund was analyzed under the same procedures used for a direct purchaser. The Applicant was granted a full volumetric refund for its purchases of 71,079,983 gallons of refined products. The total refund granted in the Decision is $71,791.

Murphy Oil Co./Creola Mercantile Co., 1/10/92, RF309-1100

The DOE issued a Decision and Order concerning the Application for Refund filed in the Murphy Oil Company special refund proceeding by Creola Mercantile Company (Creola). To substantiate its claim, Creola submitted a representative sample of ledger sheets dated from January 1975 to October 1975. Since these ledger sheets indicated the dollar amount paid each month instead of gallons, DOE converted the purchase amounts from dollars to gallons by referring to the State Energy Price and Expenditure Data Systems as compiled by the Energy Information Administration (EIA) of the DOE. DOE found that the computed 1975 gallonage was consistent with Creola's claimed 1975 purchase volume. The OHA concluded that Creola had sufficiently substantiated its total claimed purchase volume. The total refund granted in this Decision was $198 (comprised of $139 in pricipal and $59 in interest).

Murphy Oil Co./Crown Oil Co., Inc. American Petroleum Developers, Inc., 1/7/92, RF309-1156, RF309-1157

The DOE issued a Decision and Order concerning two Applications for Refund filed in the Murphy Oil Company special refund proceeding by two commonly owned firms, Crown Oil Company, Inc. (Crown), and American Petroleum Developers, Inc. (APD). As is customary, the purchase volumes of Crown and APD were combined in order to determine their eligibility for a refund. Crown documented pruchases of 15,982,187 gallons of motor gasoline and distillates during the consent order period. APD demonstrated that it purchased 5,637,609 gallons of motor gasoline and distillates during the consent order period. Thus, the maximum basis for a refund was purchases of 21,619,796 gallons of refined products (15,982,187 gallons plus 5,637,609 gallons). Under the procedures in Murphy, the firms could seek a refund under the medium-range presumption of injury. Accordingly, Crown was granted a refund of $7,405 ($5,223 principal and $2,182 interest). APD was granted a refund of $2,612 ($1,842 principal and $770 interest). The total refund granted is $10,017 (comprised of $7,065 in principal and $2,952 in interest).

Shell Oil Co./Tomco, Inc., 1/8/92, RF315–6513

The DOE issued a Decision and Order denying an Application for Refund filed in the Shell Oil Company (Shell) special refund proceeding. This Application was filed by Tomco, Inc. (Tomco), a reseller of Shell petroleum products during the consent order period. In 1987, the shareholders of Tomco purchased a 37% interest in Trasher Oil Company (Thrasher), Tomco's exlusive supplier during the consent order period, and purchased a controlling interest in Thrasher subsequent to Tomco's filing in this proceeding in 1989. In light of the current common ownership of the firms, DOE considered the firms to be affiliated. In cases where the product was purchased and subsequently sold to an affiliated firm, DOE has determined that the purchase volumes may only be considered once in calculating the claimant's refund. Because Thrasher has already received a refund in this proceeding under the mid-level presumption of injury, the DOE determined that Tomco's submission be denied.

Shell Oil Co./Tomco, Inc., 1/8/92, RF315–6513

The DOE issued a Decision and Order denying an Application for Refund filed in the Shell Oil Company (Shell) special refund proceeding. This Application was filed by Tomco, Inc. (Tomco), a reseller of Shell petroleum products during the consent order period. In 1987, the shareholders of Tomco purchased a 37% interest in Trasher Oil Company (Thrasher), Tomco's exlusive supplier during the consent order period, and purchased a controlling interest in Trasher subsequent to Tomco's filing in this proceeding in 1989. In light of the current common ownership of the firms, DOE considered the firms to be affiliated. In cases where the product was purchased and subsequently sold to an affiliated firm, DOE has determined that the purchase volumes may only be considered once in calculating the claimant's refund. Because Thrasher has already received a refund in this proceeding under the mid-level presumption of injury, the DOE determined that Tomco's submission be denied.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Aminoil U.S.A., Inc.:		
Poe's Rural & City Gas Co.	RF139–208	01/08/92
Terhune L.P. Gas Co.	RF139–209	
Wilder & Son, Inc.	RF139–210	
Atlantic Richfield Company/Kavanaugh & Van Fleet, Inc.	RR304–21	01/09/92
Atlantic Richfield Company:		
Scott's L.P. Gas, Inc.	RF304–5874	01/09/92
Scott's L.P. Gas, Inc.	RF304–5875	
Scott's L.P. Gas, Inc.	RF304–5876	
Scott's L.P. Gas, Inc.	RF304–5877	
Scott's L.P. Gas, Inc.	RF304–5878	
Scott's L.P. Gas, Inc.	RF304–5879	
Atlantic Richfield Company:		
Tracy E. Gargis Service Stat.	RF304–4504	01/07/92
Pepsi Cola Btlg. Co. of Takima.	RF304–6574	
Noel Canning Corp.	RF304–6575	
Citronelle-Mobile Gathering:		
Conoco Inc	RF336–35	01/07/92
Mobil Oil Corp	RF336–38	
D.C. Speer Construction Co. *et al.*	RF272–65181	01/08/92
Allied Corp., Inc.	RD272–64433	
Frehner Construction Co.	RD272–68378	
Greer Steel Co.	RD272–69790	
Delaware Administration for Regional Transit *et al.*	RF272–77194	01/09/92
Gulf Oil Corporation/Beckham Gulf *et al.*	RF300–14076	01/10/92
Gulf Oil Corporation:		
C.R. Quesenberry, Inc.	RF300–56	01/07/92
W.E. Jersey & Sons, Inc.	RR300–92	
Gulf Oil Corporation/ET & WNC Transportation Co. *et al.*	RF300–14001	01/06/92
Gulf Oil Corporation:		
White & Stewart, Inc.	RF300–13659	01/08/92
Petroleum Products, Inc.	RF300–13663	
F.A. Stein Oil Co	RF300–13664	
Speedway Petroleum Co., Inc.	RF300–13668	
Inland Steel Company.	RF272–66565	01/08/92
Inland Steel Mining Company.	RF272–66566	
Inland Steel Company.	RF272–69961	
Lester C. Newton Trucking Co.	RC272–154	01/10/92
Tesoro Petroleum Corp.; Minit Mart #1.	RF326–315	01/09/92
Texaco Inc./Anyzek Fuels *et al.*	RF321–7039	01/06/92
Texaco Inc./Automatic Lubrication Service *et al.*	RF321–2812	01/07/92
Texaco Inc./City of Wauwatosa *et al.*	RF321–12750	01/06/92
Texaco Inc./Goodar Oil Company, Inc. *et al.*	RF321–8259	01/09/92
Texaco Inc./Medina Texaco *et al.*	RF321–1415	01/06/92
Texaco Inc./Paul & Frank's Texaco #2.	RF321–13143	01/10/92
Texaco Inc./Smith Texaco.	RF321–18133	01/07/92
United Refining Company:		
Petroleum Electronics, Inc.	RF333–21	01/09/92
Jobbers Buying Group.	RF333–22	
Crago & Cook Enterprises.	RF333–23	
Everdyke Oil Co	RF333–24	
West Covina Unified School District.	RF272–78771	01/09/92
Rock Falls Elementary School District 13.	RF272–78850	

Dismissals

The following submissions were dismissed:

Name	Case No.
ABC Oil Distributor, Inc.	RF304-3775
Aviritt Express	RD272-64979
Bob's Texaco	RF321-4952
Crum's Texaco Station	RF321-5044
Fairfield Texaco	RF321-4959
Haworth Oil Company	RF300-13857
James R. & Linda L. West	RF307-10206
Manning Avenue Texaco	RF321-9614
R & R Texaco	RF321-9533
Stanley Wasserman Real Estate	RF272-83913
Sweeney's Texaco	RF321-18050
T. L. James & Company	RD272-64814
Tascosa Texaco	RF321-1326
Thriftway Company	LEE-0015

[FR Doc. 92-4664 Filed 2-27-92; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. FA85-71-006]

Central Illinois Public Service Co.; Order on Remand Directing Surcharges and Interpretative Rule on Fuel Adjustment Clause Regulation and Accounts 151 and 518

Issued February 20, 1992.

Before Commissioners: Martin L. Allday, Chairman; Charles A. Trabandt, Elizabeth Anne Moler, Jerry J. Langdon and Branko Terzic.

This case is on remand from the United States Court of Appeals for the Seventh Circuit.[1]

Background

Before the Commission in this case is the treatment of the proceeds of a settlement between Central Illinois Public Service Company (Central Illinois) and Consolidation Coal Company (Consol). The settlement was the result of a lawsuit filed by Central Illinois against Consol. Central Illinois alleged that Consol failed to deliver the contract-required quantity of coal, failed to deliver coal with the requisite BTU content, and defrauded Central Illinois by tampering with coal samples which were being used to determine the quality of Consol's coal deliveries. Central Illinois sought to recover approximately $90.4 million in damages from Consol for increased coal costs due to fraud, costs for purchasing settlement coal, increased maintenance costs, lost generation costs, and increased financing costs. Central Illinois also sought to terminate the coal contract.[2]

After four weeks of trial, Central Illinois and Consol reached a settlement which required Consol to pay Central Illinois $25 million. Central Illinois apportioned $7 million of the settlement proceeds and any interest to the shareholders, and $18 million to the ratepayers through the fuel adjustment clause as a credit to the cost of fuel.

This issue was brought before the Commission following an audit of Central Illinois by the Commission's audit staff. Central Illinois requested that the matter be resolved after evidentiary hearing pursuant to part 41 of the Commission's regulations.[3] Following an evidentiary hearing, the presiding judge found that Central Illinois' disposition of the settlement proceeds was unreasonable. The judge concluded that, in the first instance, all of the settlement proceeds should have been distributed to ratepayers. However, he also concluded that Central Illinois should be permitted to net litigation expenses against the settlement proceeds, and thus refund only the net settlement proceeds.[4]

In Opinion No. 309,[5] the Commission affirmed the presiding judge's ruling that Central Illinois' disposition of the settlement proceeds was unreasonable. The Commission agreed with the judge that the ratepayers should receive all of the settlement proceeds from the fuel supplier as reimbursement for damages the cost of which were flowed through the fuel adjustment clause and borne by the ratepayers.[6] However, the Commission reversed the judge's decision to allow Central Illinois to recover its litigation costs through the fuel adjustment clause absent Commission authorization.[7]

In Opinion No. 309-A,[8] the Commission granted rehearing on the limited issue of the releases executed by the Municipal Intervenors[9] and determined that the Municipal Intervenors' releases against Central Illinois should be recognized and given effect. As a consequences, the Commission found that the Municipal Intervenors were not entitled to any additional refunds beyond those already voluntarily made by Central Illinois to them.[10] Otherwise, the Commission reaffirmed its earlier findings.[11]

In Opinion No. 309-B,[12] the Commission denied the Municipal Intervenors' request for rehearing, and reaffirmed that the Municipal Intervenors were not entitled to additional refunds.[13]

On appeal, the court considered three issues: (1) Whether the Commission properly found that the plain language of the releases between Central Illinois and the Municipal Intervenors precluded the Municipal Intervenors from sharing in any additional refunds; (2) whether the Commission properly found that Central Illinois' distribution of the settlement proceeds (with approximately $18 million distributed to ratepayers and approximately $7 million distributed to shareholders) was unreasonable; and (3) whether Central Illinois was entitled to deduct its litigation expenses from the settlement proceeds refunded.[14]

The court found that the Commission properly determined that the releases, by their very language, cover the monies at issue in this case. The court affirmed the Commission's ruling, stating that the Municipal Intervenors would not be permitted now to deny the plain meaning of the releases they executed and accordingly they were not entitled to any additional refunds.

The court found that there was no record evidence supporting the Commission's disposition of the settlement proceeds, and that the record evidence supported Central Illinois' disposition of the settlement proceeds. Accordingly, the court reversed the Commission on the distribution of the settlement proceeds and concluded that Central Illinois' distribution of the settlement proceeds was fair and reasonable.[15]

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[1] Central Illinois Public Service Company v. FERC, 941 F.2d 622 (7th Cir. 1991).

[2] Consol counterclaimed against Central Illinois for breach of contract and wrongful cancellation. Consol sought to recover damages totaling approximately $130 million on its counterclaim and a permanent injunction requiring Central Illinois to continue purchasing coal from Consol for the Central Illinois Coffeen facility.

[3] 18 CFR part 41.

[4] Central Illinois Public Service Company, 40 FERC ¶ 63,018 (1987).

[5] Central Illinois Public Service Company, Opinion No. 309, 44 FERC ¶ 61,191 (1988).

[6] *Id.* at 61,688.

[7] *Id.* at 61,688-89.

[8] Central Illinois Public Service Company, Opinion No. 309-A, 47 FERC ¶ 61,043 (1989).

[9] The following Illinois municipalities comprise the Municipal Intervenors: the Cities of Flora, Bushnell, Cairo, Carmi, Casey, Marshall, Metropolis, Newton, and Roodhouse, and the Villages of Bethany, Greenup, and Rantoul. During the course of the proceeding, the Cities of Newton and Bushnell withdrew from the proceeding.

[10] 47 FERC at 61,123.

[11] *Id.* at 61,124-25.

[12] Central Illinois Public Service Co., Opinion No. 309-B, 48 FERC ¶ 61,068 (1989).

[13] *Id.* at 61,033-34.

[14] 941 F.2d at 627.

[15] *Id.* at 631.

[16] *Id.* at 627.30.

The court determined that on the facts of this case, including that there was no evidence that Central Illinois' failure to seek prior Commission approval was anything more than an inadvertent oversight, the Commission should have allowed Central Illinois to recover its litigation expenses prior to the distribution of the settlement proceeds. Accordingly, the court directed the Commission to permit Central Illinois to recoup its litigation expenses from the settlement proceeds.[17]

Discussion

Pursuant to our opinions in this proceeding, Central Illinois has already refunded additional monies to its customers. Accordingly, consistent with the court's findings and directives, we will permit Central Illinois to surcharge the relevant customers for the amounts previously refunded to them pursuant to the Commission's Opinion Nos. 309, 309–A, and 309–B, with interest pursuant to 18 CFR 35.19a (1991) for the period from the date of the refund until the date of payment of the surcharge.[18]

Interpretive Rule on Fuel Adjustment Clause Regulation and Accounts 151 and 518

Section 35.14(a)(2)(i) of the Commission's regulations, 18 CFR 35.14(a)(2)(i), provides that what a utility may recover in its fuel adjustment clause is: "(F)ossil and nuclear fuel consumed in the utility's own plants and the utility's share of fossil and nuclear fuel consumed in jointly owned or leased plants." [19]

Section 35.14(a)(6) of the Commission's regulations, 18 CFR 35.14(a)(6), further specifies that the cost of the fossil fuel consumed that may be included in the fuel adjustment clause: "Shall include no items other than those listed in Account 151 of the Uniform System of Accounts for Public Utilities and Licensees." Account 151, in turn, states:

> This account shall include the book cost of fuel on hand.
>
> *Items*
>
> 1. Invoice price of fuel less any cash or other discounts.
> 2. Freight, switching, demurrage and other transportation charges, not including, however, any charges for unloading from the shipping medium.
> 3. Excise taxes, purchasing agents' commissions, insurance and other expenses directly assignable to cost of fuel.
> 4. Operating, maintenance and depreciation expenses and ad valorem taxes on utility-owned transportation equipment used to transport fuel from the point of acquisition to the unloading point.
> 5. Lease or rental costs of transportation equipment used to transport fuel from the point of acquisition to the unloading point.

18 CFR part 101, Account 151.

Section 35.14(a)(6) of the Commission's regulations, 18 CFR 35.14(a)(6) further specifies that the cost of nuclear fuel that may be included in the fuel adjustment clause: "Shall be that as shown in Account 518 * * *." Account 518, in turn, states:

> A. This account shall be debited and account 120.5, Accumulated Provision for Amortization of Nuclear Fuel Assemblies, credited for the amortization of the net cost of nuclear fuel assemblies used in the production of energy. The net cost of nuclear fuel assemblies subject to amortization shall be the cost of nuclear fuel assemblies plus or less the expected net salvage of uranium, plutonium, and other byproducts and unburned fuel. The utility shall adopt the necessary procedures to assure that charges to this account are distributed according to the thermal energy products in such periods.
>
> B. This account shall also include the costs involved when fuel is leased.
>
> C. This account shall also include the cost of other fuels, used for ancillary steam facilities, including superheat.
>
> D. This account shall be debited or credited as appropriate for significant changes in the amounts estimated as the net salvage value of uranium, plutonium, and other by products contained in account 157, Nuclear Materials Held for Sale and the amount realized upon the final disposition of the materials. Significant declines in the estimated realizable value of items carried in account 157 may be recognized at the time of market price declines by charging this account and crediting account 157. When the declining change occurs while the fuel is recorded in account 120.3, Nuclear Fuel Assemblies in Reactor, the effect shall be amortized over the remaining life of the fuel.

18 CFR part 101, Account 518.

As the Central Illinois Public Service company proceeding discussed above illustrates, questions have been raised as to whether litigation expenses are properly included in Account 151 (and, by implication, in Account 518) and recovered through the fuel adjustment clause. Likewise, questions have been raised as to whether auditing fees and administrative and general expenses are properly included in Account 151 (and, by implication, in Account 518) and recovered through the fuel adjustment clause.[20]

We note that our fuel adjustment clause regulation, Account 151, and Account 518 are narrowly drawn, and that we have long had a policy—which has been upheld in the courts—of strict construction of the fuel adjustment clause regulation and Account 151 (and, by implication, Account 518).[21] We also note that litigation expenses, auditing fees, and administrative and general expenses, are not listed in the fuel adjustment clause regulation, Account 151, or Account 518.

Accordingly, in order to resolve any ambiguity that may exist as to the future treatment of litigation expenses, auditing fees, and administrative and general expenses, in light of the express language of these various regulations and accounts and in light of our longstanding policy of strict construction, we clarify that, effective upon publication in the **Federal Register**, litigation expenses, auditing fees, and administrative and general expenses are not properly included in Accounts 151 and 518 and also are not, absent prior waiver by the Commission, properly recoverable through a fuel adjustment clause.[22]

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[17] *Id.* at 630.

[18] Central Illinois shall afford the customers the option to pay their surcharge amounts in either a lump sum or in equal installments over 12 months.

[19] The Commission's fuel adjustment clause regulation also permits recovery of "(t)he actual identifiable fossil and nuclear fuel costs" associated with certain energy purchases. 18 CFR 35.14(a)(2)(ii).

[20] In addition to the Central Illinois Public Service Company proceeding involving litigation expenses discussed above, the inclusion and recovery of litigation expenses, auditing fees, and administrative and general expenses have also been addressed in Indianapolis Power & Light Company, Opinion No. 328, 48 FERC ¶ 61,040 at 61,200–03 (1989) (litigation expenses and auditing fees) and Minnesota Power & Light Company, 39 FERC ¶ 61,192 at 61,707–08, reh'g denied, 40 FERC ¶ 61,042 (1987), aff'd in part and remanded in part, 852 F.2d 1070, 1072–74 (8th Cir. 1988), order on remand, 45 FERC ¶ 61,369 at 62,157–58 (1988) (litigation expenses and administrative and general expenses).

[21] See, *e.g.*, Cities and Villages of Bangor, *et al.* v. FERC, 922 F.2d 861, 862 (D.C. Cir. 1991) (citing Illinois Power Company, *infra*, and Commission's policy of strict construction approvingly); Minnesota Power & Light Company v. FERC, 852 F.2d 1070, 1072–73 (8th Cir. 1988); Illinois Power Company, 52 FERC ¶ 61,162 at 61,622–23 (1990).

[22] We do not mean to imply by our addressing in this interpretive rule only litigation expenses, auditing fees, and administrative and general expenses that other expenses not properly included in Accounts 151 and 518 or not properly recoverable through the fuel adjustment clause are now includable or recoverable.

In addition, we emphasize again—as we have emphasized repeatedly in the past—that, if questions exist as to whether a cost (or refund amount) is properly includable in Account 151 or 518 or properly included in a fuel adjustment clause, the appropriate course of action is to seek a determination by either the Commission or the Chief Accountant. See 18 CFR 385.207(a)(2) (1991) (requests for declaratory order); 18 CFR part 101, General Instruction 5 (1991) (submission of questions of doubtful interpretation); 18 CFR 375.303(a) (1991) (Chief Accountant authorized to issue interpretation); see also, *e.g.*, Gulf Power Company, 55 FERC ¶ 61,352 at 62,043 & n.23 (1991); 52 FERC at 61,623–24 & nn.17–18.

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The Commission Orders: (A) Within 45 days of the date of this order, Central Illinois may surcharge the customers amounts previously refunded in these proceedings, as discussed in the body of this order.

(B) The Secretary shall promptly publish a copy of this order in the **Federal Register**.

By the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 92-4591 Filed 2-27-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF87-617-001]

Keystone Energy Service Co., L.P. and Keystone Urban Renewal Limited Partnership; Amendment to Filing

February 21, 1992.

On February 18, 1992, Keystone Energy Service Company, L.P. and Keystone Urban Renewal Limited Partnership tendered for filing an amendment to its filing in this docket.

The amendment provides additional information pertaining to the ownership structure and clarifies certain technical information. No determination has been made that the submittal constitutes a complete filing.

Any person desiring to be heard or objecting to the granting of qualifying status should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed by March 11, 1992, and must be served on the Applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-4590 Filed 2-27-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP92-7-000]

Pike County Citizens for Justice v. Ashland Exploration, Inc., a Subsidiary of Ashland Oil, Inc.; Change in Intervention and Protest Deadline

February 21, 1992.

Take notice that the deadline for filing motions or notices to intervene or protests in the captioned proceeding has been changed to March 2, 1992. (57 FR 6106, February 20, 1992).

Lois D. Cashell,

Secretary.

[FR Doc. 92-4592 Filed 2-27-92; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2515; West Virginia]

Potomac Edison Co.; Soliciting Applications

February 21, 1992.

On December 14, 1988, Potomac Edison Company, the existing licensee for the Harpers Ferry Hydroelectric Project No. 2515, filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act). The original license for Project No. 2515 was issued effective April 1, 1962, and expires December 31, 1993.

The project is located on the Potomac River in Jefferson County, West Virginia, and Washington County, Maryland. The principal project works consist of: (a) An 18-foot-high, 1,700-foot-long concrete capped log and stone dam; (b) a 4,500-foot-long headrace channel; (c) a powerhouse with an installed capacity of 600 kW; (d) a tailrace; (e) a transmission line; and (f) appurtenant facilities.

The licensee did not file an application for new license because it has reached an agreement in principle with the National Park Service (NPS) wherein the powerhouse, land, and operating rights will be conveyed to the NPS.[1] If and when this conveyance is complete, the NPS will assume responsibility for the project and the project will become nonjurisdictional.

To provide for the possibility that the conveyance to the NPS may not be completed, and pursuant to § 16.25 of the Commission's regulations, the Commission is soliciting applications from potential applicants other than the existing licensee. This is necessary because the deadline for filing an application for new license and any competing license applications, pursuant to § 16.20 of the regulations, was December 31, 1991, and no other applications for license for this project were filed.

Pursuant to § 16.19 of the Commission's regulations, the licensee is required to make available certain information described in § 16.7 of the regulations. Such information is available from the licensee at Downsville Pike, Hagerstown, Maryland, 21740.

A potential applicant that files a notice of intent within 90 days from the date of issuance of this notice: (1) May apply for a license under part I of the Act and part 4 (except § 4.38) of the Commission's regulations within 18 months of the date on which it files its notice; and (2) must comply with the requirements of § 16.8 of the Commission's regulations.

Lois D. Cashell,

Secretary.

[FR Doc. 92-4593 Filed 2-27-92; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2550—Wisconsin]

Wisconsin Electric Power Co.; Soliciting Applications

February 21, 1992.

On December 19, 1988, Wisconsin Electric Power Company, the existing licensee for the Weyauwega Hydroelectric Project No. 2550, filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Public Law 99-495. The original license for Project No. 2550 was issued effective May 1, 1965, and expires December 31, 1993.

The project is located on the Waupaca River in Waupaca County, Wisconsin. The principal project works consist of: (a) A dam which includes a 161-foot-long steel sheet pile faced earth section and a 50-foot-wide spillway; (b) a reservoir of 286 acres; (c) a powerhouse with an installed capacity of 400 kW; (d) a transmission line connection; and (e) appurtenant facilities.

Pursuant to § 16.20 of the Commission's regulations, the deadline for filing an application for new license and any competing license applications was December 31, 1991. No applications for license for this project were filed. Therefore, pursuant to § 16.25 of the Commission's regulations, the

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[1] By order issued May 23, 1985, the Commission approved the licensee's request to sell the project to the NPS, but to retain ownership of the powerhouse, the land it occupies, and the rights necessary to operate the project.

Commission is soliciting applications from potential applicants other than the existing licensee.

Pursuant to § 16.19 of the Commission's regulations, the licensee is required to make available certain information described in § 16.7 of the Commission's regulations. Such information is available from the licensee at Real Estate Department, Public Service Building Room 452, 231 West Michigan Street, Milwaukee, WI 53201.

A potential applicant that files a notice of intent within 90 days from the date of issuance of this notice: (1) May apply for a license under part I of the Act and part 4 (except § 4.38) of the Commission's regulations within 18 months of the date on which it files its notice; and (2) must comply with the requirements of § 16.8 of the Commission's regulations.

Lois D. Cashell,

Secretary.

[FR Doc. 92-4594 Filed 2-27-92; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-4109-9]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared February 10, 1992 Through February 14, 1992 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260-5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in the **Federal Register** dated April 05, 1991 (56 FR 14096).

Draft EISs

ERP No. D-FHW-K40183-CA Rating E02, Eastern Transportation Corridor (ETC), Construction, CA-231 Between the Riverside (CA-91) and Santa Ana Freeways (I-5), Funding and Section 404 Permit, Orange County, CA.

Summary

EPA objects to the contribution to carbon monoxide violations in the project area and to increases in other air pollutants. The placement of fill material into the waters of the US will have significant impacts, and after mitigation, EPA expects the project to have severe cumulative impacts to water quality, noise levels, wildlife corridors, prime and unique farmlands, and other natural resources.

ERP No. D-FHW-K40184-CA Rating EC2, CA-87/Guadalupe Parkway Upgrading, between Julian Street and US 101 in the City of San Jose, Funding and Section 404 Permit, Santa Clara County, CA.

Summary

EPA Eexpresses environmental concerns for and requests more information in the FEIS to fully essess potential impacts to air quality, the loss of waters of the United States due to the placement of fill material, and potential impacts to water quality and beneficial uses.

ERP No. D—FHW-L40178-WA Rating EC2, First Avenue South Bridge Improvement, from WA-509 at South Cloverdale Street to WA-99/East Marginal Way South crossing the Duwamish River, Funding, Section 10 and 404 Permits, King County, WA.

Summary

EPA expresses environmental concerns for the potential adverse effects on water quality this proposed action may cause, and requests more information on monitoring the effectiveness of mitigation measures and the design features for the bridge.

ERP No. D-UAF-K11049-CA Rating E02, Mather Air Force Base Disposal and Reuse, Implementation, Sacramento County, CA.

Summary

EPA expressed environmental objections regarding potential wetlands, air quality, ground water, hazardous substance issues associated with base disposal and reuse. Subsequent environmental and decision documents need to further address the above environmental issues.

Dated: February 25, 1992.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 91-4648 Filed 2-27-92; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-4109-8]

Environmental Impact Statements; Availability

Responsible Agency

Office of Federal Activities, General Information (202) 260-5075 OR (202) 260-5076.

Availability of Environmental Impact Statements Filed February 17, 1992 Through February 21, 1992, pursuant to 40 CFR 1506.9.

EIS No. 920048, FINAL EIS, AFS, CO, KS, Pike and San Isabel National Forests/Comanche and Cimarron National Grasslands Oil and Gas Exploration and Development, Leasing, Several Counties, CO and KS, Due: April 13, 1992, Contact: Dan Bishop (719) 545-8737.

EIS No. 920049, FINAL EIS, SCS, NY, Beaver Brook Watershed Flood Control Plan, Funding and Implementation, Herkimer County, NY, Due: March 30, 1992, Contact: Paul A. Dodd (315) 423-5521.

EIS No. 920050, FINAL EIS, SCS, KS, Doyle Creek Watershed Protection Plan, Funding and Implementation, Possible 404 Permit, Arkansas-White-Red River Basin, Harvey and Marion Counties, KS, Due: March 30, 1992, Contact: James N. Habiger (913) 823-4565.

EIS No. 920051, FINAL EIS, SFW, AK, Federal Subsistence Management Program for Federal Public Lands in Alaska, Implementation, AK, Due: March 30, 1992, Contact: Richard S. Pospahala (907) 786-3447.

EIS No. 920052, DRAFT SUPPLEMENT, DOE, WA, Washington Water Power and British Columbia Hydro 230kV Transmission Interconnection, Updated Information and Modifications, Construction, Operation and Maintenance, Presidential Permit, Pend Oreille, Spokane, Stevens and Lincoln Counties, WA, Due: April 28, 1992, Contact: Anthony J. Como (202) 586-5935.

EIS No. 920053, DRAFT EIS, USA, HI, Strategic Target System Program, Launching of nonnuclear payloads from the Kauai Test Facility at the Pacific Missile Test Facility, Island of Kauai, HI, Due: April 13, 1992, Contact: D. R. Gallien (205) 955-3058.

EIS No. 920054, FINAL EIS, COE, NC, Las Vegas Wash and Tributaries (Tropicana and Flamingo Washes) Flood Damage Reduction Plan, Implementation and Funding, Las Vegas Valley, Clark County, NV, Due: March 30, 1992, Contact: Ronald MacDonald (213) 894-3661.

EIS No. 920055, FINAL EIS, AFS, AK, Kelp Bay Timber Harvest Project, Availability of Timber to the Alaska Pulp Long-Term Timber Sale Contract, Timber Sale and Road Construction, Implementation, Tongass National Forest, Baran of Islands, AK, Due: March 30, 1992, Contact: Janis S. Burns Buyarski (907) 747-4200.

EIS No. 920056, DRAFT SUPPLEMENT, GSA, VA, U.S. Navy Commands

Consolidation, Office Complex Construction and Rehabilitation, Updated Information and Site Alternative, the City of Alexandria, Arlington County, VA, Due: April 13, 1992, Contact: Linda L. Eastman (202) 708–5334.

Amended Notices

EIS No. 910328, DRAFT EIS, FHW, WV, New River Parkway Construction, from Intersection Raleigh Co., 26 and WV 20 near Hinton, north to I–64, Funding Section 404 Permit, and Possible NPDES Permit, Raleigh and Summers Counties, WV, Due: December 02, 1991, Contact: Billy R. Higginbotham (304) 348–3093. Published FR 9–20–91—Officially Withdrawn by Preparing Agency.

EIS No. 910401, DRAFT EIS, FAA, MN, Minneapolis-St. Paul International Airport, Runway 4–22 Extension, Funding, Wold-Chamberlain Field, Hennepin County, MN, Due: April 17, 1992, Contact: Glen Orcutt (612) 725–7221. Published FR–11–15–91—Review period extended.

Dated: February 25, 1992.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 92–4647 Filed 2–27–92; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4110–4]

Notice of Coke Oven Batteries Advisory Committee Meetings

AGENCY: Environmental Protection Agency.

ACTION: Notice of March 16–17 and April 21–22 meetings.

SUMMARY: The National Emission Standards for Coke Oven Batteries Advisory Committee will meet again in Washington, DC on March 16–17 and April 21–22. On March 16 and April 21, the meetings will start at 9:30 a.m. and end at 6 p.m. On March 17 and April 22, the meetings will start at 8:30 a.m. and end at 3 p.m. All meetings will be held at the Quality Hotel Capitol Hill, Washington, DC.

ADDRESSES: The Committee will meet at the Quality Hotel Capitol Hill, 425 New Jersey Avenue NW., 20001, (202) 638–1616.

FOR FURTHER INFORMATION CONTACT: For information on substantive matters, please contact Amanda Agnew, Office of Air Quality Planning and Standards, (919) 541–5268. For information on administrative matters, please contact the Committee's Facilitator, Phil Harter, at (202) 887–1033.

Dated: February 24, 1992.

Chris Kirtz,

Designated Federal Official, Coke Oven Battery Advisory Committee.

[FR Doc. 92–4646 Filed 2–27–92; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL RESERVE SYSTEM

F & M Bancorporation; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 24, 1992.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. F & M Bancorporation, Tulsa, Oklahoma; to acquire American Trustcorp, Inc., Tulsa, Oklahoma, and thereby indirectly acquire Trust Company of Oklahoma of Tulsa, Tulsa, Oklahoma, and thereby engage in trust company activities pursuant to § 225.25(b)(3) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 24, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92–4610 Filed 2–27–92; 8:45 am]

BILLING CODE 6210–01–F

MSB Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 24, 1992.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. MSB Bancorp, Inc., Middletown, New York; to become a bank holding company by acquiring 100 percent of the voting shares of Middletown Savings Bank, Middletown, New York.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Peoples Bancorporation, Inc., Easley, South Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of The

Peoples National Bank, Easley, South Carolina.

C. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. Niota Bancshares, Inc., Niota, Tennessee; to become a bank holding company by acquiring 97.95 percent of the voting shares of Bank of Niota, Niota, Tennessee.

D. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Union Planters Corporation, Memphis, Tennessee, and Union Planters - SBI Acquisition Company, Memphis, Tennessee; to acquire 100 percent of the voting shares of Southeastern Bancshares, Inc., Alexandria, Tennessee, and thereby indirectly acquire DeKalb County Bank & Trust Company, Alexandria, Tennessee. In connection with this application, Union Planters - SBI Acquisition Company has also applied to become a bank holding company.

Board of Governors of the Federal Reserve System, February 24, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92–4611 Filed 2–27–92; 8:45 am]

BILLING CODE 6210-01-F

NBD Bancorp, Inc., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies; and Acquisitions of Nonbanking Companies

The companies listed in this notice have applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed companies have also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The applications are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 24, 1992.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. NBD Bancorp, Inc., and NBD Indiana, Inc., both of Detroit, Michigan; to acquire 100 percent of the voting shares of Summcorp, Fort Wayne, Indiana, and thereby indirectly acquire Summit Bank, Fort Wayne, Indiana; Summit Bank of Clinton County, Frankfort, Indiana; Summit Bank of Indianapolis, Indianapolis, Indiana; Summit Bank of Marion, Marion, Indiana; and Summit Bank of Muncie, Muncie, Indiana; and 14.84 percent of the voting shares of Decatur Financial Inc., Decatur, Indiana, and thereby indirectly acquire Decatur Bank & Trust Company, Decatur, Indiana.

In connection with this application, Applicants also propose to consolidate Summcorp Financial Services, Inc., Fort Wayne, Indiana, into their subsidiary, NBD Securities, Inc., and thereby engage in discount brokerage services pursuant to § 225.25(b)(15) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 24, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92–4612 Filed 2–27–92; 8:45 am]

BILLING CODE 6210-01-F

Norman Ashley Bancstock Voting Trust, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 20, 1992.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Norman Ashley Bancstock Voting Trust, Crossett, Arkansas; to acquire 50.66 percent of the voting shares of Ashley Bancstock Company, Crossett, Arkansas, and thereby indirectly acquire First National Bank of Crossett, Crossett, Arkansas.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. Milford Nelson Bostick, Waco, Texas; to acquire an additional 22.11 percent of the voting shares of American National Bancshares, Inc., Waco, Texas, for a total of 30.84 percent, and thereby indirectly acquire American Bank, N.A., Waco, Texas.

2. Elk Trust, James P. Leake, Dallas, Texas; to acquire 99.74 percent of the voting shares of Bandera Bancshares, Inc., Bandera, Texas, and thereby indirectly acquire Bandera Bank, Bandera, Texas.

Board of Governors of the Federal Reserve System, February 24, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92–4600 Filed 2–27–92; 8:45 am]

BILLING CODE 6210-01-F

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Clinical Laboratory Improvement Advisory Committee; Establishment

ACTION: Establishment of Clinical Laboratory Improvement Advisory Committee.

Pursuant to Federal Advisory Committee Act, 5 U.S.C. appendix 2, the Centers for Disease Control announces the establishment by the Secretary of Health and Human Services, on February 19, 1992, of the following Federal advisory committee:

DESIGNATION: Clincial Laboratory Improvement Advisory Committee.

PURPOSE: This committee will provide scientific and technical advice and guidance to the Secretary and the Assistant Secretary for Health regarding the need for, and the nature of, revisions to the standards under which clinical laboratories are regulated; the impact on medical and laboratory practice of proposed revisions to the standards; and the modification of the standards to accommodate technological advances.

Authority for this committee will expire February 19, 1994, unless the Secretary of Health and Human Services, with the concurrence of the Committee Management Secretariat, General Services Administration, formally determines that continuance is in the public interest.

Dated: February 24, 1992.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 92-4597 Filed 2-27-92; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following district consumer exchange meeting: Boxton District Office, chaired by Edward McDonnell, District Director. The topic to be discussed is food labeling reform.

DATES: Monday, March 16, 1992, 10 a.m. to 11:30 a.m.

ADDRESSES: The Chamber of the Assembly of Delegates, First District Courthouse, Barnstable County Complex, Rte. 6A, Barnstable Village, MA 02630.

FOR FURTHER INFORMATION CONTACT: Paula Fairfield, Public Affairs Specialist, Food and Drug Administration, One Montvale Ave., Stoneham, MA 02180, 617-279-1479.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's district offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: February 25, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-4665 Filed 2-27-92; 8:45 am]

BILLING CODE 4160-01-M

Investigational New Drugs; Procedure To Monitor Clinical Hold Process; Meeting of Review Committee and Request for Submissions

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is asking interested drug companies to submit the name and number of any investigational new drug (IND) trial placed on clinical hold during fiscal years 1991 and 1992 which the drug companies want reviewed by the committee that periodically reviews selected clinical holds of the Center for Drug Evaluation and Research (CDER). FDA imposes clinical holds on drug studies when it believes it necessary to protect the welfare of clinical subjects. Submission should be made to the Chief Mediator and Ombudsman to ensure the confidentiality of the request.

DATES: The meeting will be held in March. Drug companies may submit requests for the March meeting before March 16, 1992.

ADDRESSES: Submit clinical hold review requests to Amanda B. Pedersen, FDA Chief Mediator and Ombudsman, Office of the Commissioner (HF-7), Food and Drug Administration, rm. 14-84, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1306.

FOR FURTHER INFORMATION CONTACT: Center for Drug Evaluation and Research (HFD-362), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-295-8046.

SUPPLEMENTARY INFORMATION: FDA is announcing the second in a series of meetings of the committee that reviews the clinical holds that CDER has placed on certain IND trials. If FDA determines that a proposed or ongoing study may pose significant risks for human subjects, or, for phase 2 or 3 studies, is otherwise seriously deficient, it may impose a clinical hold on a study. FDA is asking interested drug companies to submit to the committee for their review the name and number of any IND placed on clinical hold during fiscal years 1991 and 1992 that the drug companies want the committee to review.

The clinical hold is FDA's primary mechanism for protecting subjects who are involved in IND trials. A clinical hold is an order that FDA issues to a sponsor to delay a proposed investigation or to suspend an ongoing investigation. The clinical hold may be placed on one or more of the investigations covered by an IND. When a proposed study is placed on clinical hold, subjects may not be given the investigational drug as part of that study. When an ongoing study is placed on clinical hold, no new subjects may be recruited to the study and placed on the investigational drug, and patients already in the study should stop receiving therapy involving the investigational drug unless FDA specifically permits it.

In the **Federal Register** of October 2, 1991 (56 FR 49894), the agency published a notice announcing the establishment of an experimental procedure for reviewing clinical holds. The notice described the IND regulations and the provisions governing clinical holds. The notice also described some concerns which IND sponsors have expressed concerning the reasons for imposition of clinical holds.

The procedure involved the creation of a committee composed of senior agency officials to review the process by which clinical holds are imposed. Under the procedure, the committee reviews a number of clinical holds at each of its regularly scheduled meetings. The Chief Mediator and Ombudsman develops the list of clinical holds to be reviewed. Some are selected randomly from CDER'S management information system, but others are submitted by IND sponsors. The committee process neither replaces, nor prevents firms from using, the dispute resolution procedures described in the IND regulations (see 21 CFR 312.48).

The committee held a pilot meeting in August 1991 and a meeting in November 1991. The March meeting will be the second regular meeting of the committee.

The meetings of the review committee are closed to the public because committee discussions deal with confidential commercial information. Summaries of the committee deliberations, excluding privileged commercial information, are available from the Chief Mediator and Ombudsman. If the status of a clinical hold changes following the committee's review, the appropriate division will notify the sponsor.

FDA invites drug companies to submit to the FDA Chief Mediator and Ombudsman the name and number of any IND that was placed on clinical hold in fiscal year 1991 or 1992 that they want the committee to review at its March meeting. Submissions should be made by March 16, 1992, to Amanda B. Pedersen, FDA Chief mediator and Ombudsman (address above).

Dated: February 24, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-4601 Filed 2-27-92; 8:45 am]

BILLING CODE 4160-01-M

Public Health Service

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The following requests have been submitted to OMB since the list was last published on Friday, February 7, 1992.

(Call PHS Reports Clearance Officer on 202-245-2100 for copies of package)

1. Assessment of Seroprevalence and Risk Factors for Hepatitis B Virus Infection Among Public Safety Workers—New—This request is for a 3-year approval to collect blood specimens and questionnaire responses from public safety workers such as firefighters, police, and prison guards in order to study the occupational risk of hepatitis B virus (HPV) infection. The results of the proposed study will assist in identification of workers who are at occupational risk of HIV infection. Respondents: Individual or households. Number of Respondents: 4,500; Number of Responses per Respondent: 1; Average Burden per Response: .254 hours; Estimated Annual Burden: 1,142.

2. National AIDS Hotline Survey of Callers—New—The hotline is intended to serve populations at increased risk of infection as well as geographical areas in which other sources of information are not readily available, e.g., rural communities. CDC is requesting clearance to gather information in order to manage the hotline more effectively and assess the impact of selected CDC public information programs. Respondents: Individuals or households; Number of Respondents 19,000; Number of Responses per Respondent: 1; Average Burden per Response: .019 hours; Estimated Annual Burden: 367.

3. Health Education Assistance Loan (HEAL) Program—Forms—0915-0034—The forms are needed for lenders to make application to the HEAL insurance program, to report accurately and timely on loan actions, including transfer of loans to a secondary agent, and to establish the repayment status of borrowers. These reports assist DHHS in diligent administration of the HEAL program which protects the Government's financial interest. Respondents: Individuals or households, Businesses or other for-profit, Non-profit institutions.

Title	Number of respondents	Number of responses per respondent	Average burden per response
Lender Application HRSA Form 504.	66	1	.13 hr.
Lenders Manifest HRSA 505.	31	141	.08 hr.
Loan Transfer Statement HRSA 507.	66	123	.17 hr.
Borrower Status HRSA Form 508 (Borrower).	10,582	1	.17 hr.
Borrower Status HRSA Form 508 (Employer).	6,560	1.6	.08 hr.

Estimated Total Annual Burden—4,368 hours.

4. National Health Service Corps Loan Repayment Program and the NHSC State Loan Repayment Program (42 CFR Part 62)—0915-0127)—Health professionals applying to the National Health Service Corps (NHSC) Loan Repayment Program (LRP) provide information needed to determine eligibility. NHSC/LRP participants provide information on training status in compliance with program requirements. States applying to the NHSC State LRP provide information needed to determine eligibility. Respondents: Individuals or households, State or local governments, Businesses or other for-profit.

Title	Number of respondents	Number of responses per respondent	Average burden per response
NHSC/LRP Application.	1000	1	1.5 hrs.
Lender's Confirmation of Loan.	1500	1	.25 hrs.
Training Documentation 62.26(b)(2).	1	1	1 hr.
State Loan Repayment Program 62.54 Application [1]			

[1] Burden carried with application OMB No. 0937-0169.

Estimated Total Annual Burden—1901.

5. Hanford Thyroid Disease Study—Pilot Phase—New—An epidemiologic study will be conducted by the Centers for Disease Control to determine whether thyroid disease is increased among persons exposed as young children to radioactive iodine released from the Hanford Nuclear Site. The current data collection is a feasibility study to test procedures and determine actual levels of exposure. Respondents: Individuals or households; Number of Respondents: 2020; Number of Responses Per Respondent: 2.56; Average Burden Per Response: .557 hours; Estimated Annual Burden: 2887 hours.

6. A Study of Caregiving and Dementia, Honolulu Heart Program Cohort—New—The purpose of the project is to describe predictors and outcomes of caregiver burden and quality of life in caregivers and elderly men with dementia. Standard questionnaires will be used in an interview format to obtain information from caregivers and control group. Respondents: Individuals or households; Number of Respondents 400; Number of Responses per Respondent: 1.94; Average Burden per Response: .5 hours; Estimated Annual Burden: 388 hours.

7. Color Additive Certification (21 CFR part 80, subpart B)—0910-0216—This information is required by FDA to respond to requests for "Color Certification" of color additives and their lakes as required by Section 706 of the Food, Drug and Cosmetic Act and 21 CFR part 80. The activity includes chemical analysis for batch composition of a representative sample to insure compliance with applicable specifications and issuance of a

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certificate with an assigned certification lot number. Respondents are any persons requesting certification of a manufactured batch of color additive. Respondents: Businesses or other for-profit; Small businesses or organizations.

Title	Number of respondents	Number of responses per respondent	Average burden per response
Reporting:			
Request for Certification (21 CFR 80.21).	28	146	0.217 hrs.
Samples of Batch Colors (21 CFR 80.22).	28	146	0.033 hrs.
Recordkeeping:			
Records of Distribution (21 CFR 80.39).	28	1	36.5 hrs.

Total Annual Burden—2,044 hours.

8. Public Health System Impact Statement, Third Party Notification—New—Public Health Service agencies that award financial assistance to community-based, nongovernmental agencies will require applicants to send a portion of their application to affected state and local health agencies. The purpose is to inform state and local agencies about services provided and populations served. Respondents: Nonprofit institutions; Number of Respondents: 2,800; Number of Responses Per Respondent: 2.5; Average Burden Per Response: 0.166 hours; Estimated Annual Burden: 1167 hours.

Desk Officer: Shannah Koss-McCallum.

Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated above at the following address: Human Resources and Housing Branch, New Executive Office Building, room 3002, Washington, DC 20503.

Dated: February 21, 1992.

Sandra K. Mahkorn,

Deputy Assistant Secretary for Public Health Policy.

[FR Doc. 92-4552 Filed 2-27-92; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-92-1917; FR-2934-N-67]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

ADDRESSES: For further information, contact James N. Forsberg, room 7262, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708-4300; TDD number for the hearing- and speech-impaired (202) 708-2565 (these telephone numbers are not toll free), or call the toll-free Title V information line at 1-800-927-7588.

SUPPLEMENTARY INFORMATION: In accordance with 56 FR 23789 (May 24, 1991) and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88-2503-OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A-10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443-2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 56 FR 23789 (May 24, 1991).

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1-800-927-7588 for detailed instructions or write a letter to James N. Forsberg at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *GSA:* Ronald Rice, Federal Property Resources Service, GSA, 18th and F Streets NW., Washington, DC 20405; (202) 501-0067; *Dept. of Veterans Affairs:* Douglas Shinn, Management Analyst, Dept. of Veterans Affairs, room 414 Lafayette Bldg., 811 Vermont Ave. NW., Washington, DC 20420; (202) 233–8474; *Dept of Transportation:* Ronald D. Keefer, Director, Administrative Services & Property Management, DOT, 400 Seventh St. SW., room 10319, Washington, DC 20590; (202) 366–4246; *Dept. of Interior:* Lola D. Knight, Property Specialist, Dept. of Interior, 1849 C St. NW., Mailstop 5512–MIB, Washington, DC 20240; (202) 208–4080; *Dept. of Energy:* Tom Knox, Realty Specialist, AD223.1, 1000 Independence Ave. SW., Washington, DC 20585; (202) 586–1191; (These are not toll-free numbers).

Correction: Property numbers 319140005 and 319140004 were inadvertently published as suitable/available in the January 24, 1992 Notice. These properties are not available for homeless assistance use.

Dated: February 21, 1992.

Paul Roitman Bardack,

Deputy Assistant Secretary for Economic Development.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM—FEDERAL REGISTER REPORT FOR 02/28/92

Suitable/Available Properties

Buildings (by State)

California

Yunker House (07–108)
Redwood National Park
Hioúchi Co: Del Norte CA 95531–
Landholding Agency: Interior
Property Number: 619140004
Status: Unutilized
Comment: 900 sq. ft., 1 story frame residence, off-site use only.

Bldg. 116
VA Medical Center
Wilshire and Sawtelle Blvds.
Los Angeles Co: Los Angeles CA 90073–
Landholding Agency: VA
Property Number: 979110009
Status: Underutilized
Comment: 60309 sq. ft., 3 story brick frame, seismic reinforcement defics., underutil. port of bldg. used intermitly., needs rehab, poss. asbestos in pipes/floor tiles, site access lim.

Bldg. 263
VA Medical Center
Wilshire and Sawtelle Blvds.
Los Angeles Co: Los Angeles CA 90073–
Landholding Agency: VA
Property Number: 979110010
Status: Unutilized
Comment: 1600 sq. ft., 1 story wood frame w/ stucco exterior, needs rehab, poss. asbestos on pipes/floor tiles, site access limitations, no operating utilities.

Colorado

Otis Repeater Building
Otis Co: Washington CO 80743–
Landholding Agency: Energy
Property Number: 419130001
Status: Excess
Comment: 144 sq. ft., one story metal structure, most recent use—communication equipment storage, off-site use only.

Limon Repeater Station
Limon Co: Lincoln GO 80828–
Landholding Agency: Energy
Property Number: 419130002
Status: Excess
Comment: 144 sq. ft., one story metal structure, most recent use—communication equipment storage, off-site use only.

Florida

(P) Jacksonville Job Corps
236 W. 4th Street
Jacksonville Co: Duval FL 32206–
Landholding Agency: GSA
Property Number: 549140007
Status: Excess
Comment: 1250 sq. ft., 2 story residence, needs major rehab, subject to compliance with federal and local historic preservation laws
CSA Number: 4–L–FL–967

Idaho

Storage and Training Facility
INEL DOE–ID
Idaho Falls Co: Bonneville ID
Landholding Agency: Energy
Property Number: 419040001
Status: Excess
Comment: 2072 sq. ft., 1 story wood frame, needs major rehab, off-site use only.

Bldg. 705, Ditchrider House
Boise Project
Notus Co: Cayon ID 83656–
Location: T5N, R3W, Sec 2, SE¼, SW¼, SW¼,
Landholding Agency: Interior
Property Number: 619120010
Status: Unutilized
Comment: 586 sq. ft., 1 story residence, needs major rehab, off-site use only.

Bldg. 508—Warehouse
Black Canyon Dam
Emmett Co: Gem ID 83611–
Landholding Agency: Interior
Property Number: 619120011
Status: Unutilized
Comment: 4625 sq. ft., needs major rehab, most recent use—storage, off-site use only.

Bldg. 510—Carpenter Shop
Black Canyon Dam
Emmett Co: Gem ID 83611–
Landholding Agency: Interior
Property Number: 619120012
Status: Unutilized
Comment: 4625 sq. ft., needs major rehab, most recent use—storage, off-site use only.

Maryland

Chesapeake Bay Hydraulic Model
Matapeake Co: Queen Annes MD 21666–
Landholding Agency: GSA
Property Number: 549040007
Status: Excess
Comment: 617280 sq. ft., 1 story metal bldg., ceiling height over 40 ft., lease restriction, Corps will maintain an antenna on property
GSA Number: 4–D–MD–578

Michigan

Bldg. 7348
Bayshore RBS
Det 6, 1st Combat Evaluation Group
Bay Shore Co: Emmet MI 49711–
Landholding Agency: GSA
Property Number: 189010044
Status: Excess
Comment: 225 sq. ft., 1 story wood frame, needs rehab, most recent use—storage
GSA Number: 2–D–MI–751

Bldg. 7352
Bayshore RBS
Det 6, 1st Combat Evaluation Group
Bay Shore Co: Emmet MI 49711–
Landholding Agency: GSA
Property Number: 189010046
Status: Excess
Comment: 25 sq. ft., 1 story wood, most recent use—storage
GSA Number: 2–D–MI–751

Bldg. 7354
Bayshore RBS
Det 6, 1st Combat Evaluation Group
Bay Shore Co: Emmet MI 49711–
Landholding Agency: GSA
Property Number: 189010049
Status: Excess
Comment: 25 sq. ft., 1 story wood, most recent use—storage
GSA Number: 2–D–MI–751

Bldg. 7357
Bayshore RBS
Det 6, 1st Combat Evaluation Group
Bay Shore Co: Emmet MI 49711–
Landholding Agency: GSA
Property Number: 189010051
Status: Excess
Comment: 1080 sq. ft., 1 story wood/frame/block, most recent use—hobby shop/recreation center
GSA Number: 2–D–MI–751

Bldg. 7358
Bayshore RBS
Det 6, 1st Combat Evaluation Group
Bay Shore Co: Emmet MI 49711–
Landholding Agency: GSA
Property Number: 189010055
Status: Excess
Comment: 96 sq. ft., 1 story wood frame/concrete, most recent use—hazard storage
GSA Number: 2–D–MI–751

Bldg. 5043
Bayshore RBS
Det 6, 1st Combat Evaluation Group
Bay Shore Co: Emmet MI 49711–
Landholding Agency: GSA
Property Number: 189010065
Status: Excess
Comment: 694 sq. ft., 1 story concrete/block 134 sq. ft., latrine with separate entrance
GSA Number: 2–D–MI–751

New Mexico

Old Helium Plant
Gallup Co: McKinley NM 87301–
Location: ¼ mile north of Gallup, adjacent to Old US Highway 666.
Landholding Agency: Interior
Property Number: 619010002
Status: Excess
Comment: 7653 sq. ft., 1 story office and warehouse space, possible asbestos, on 4.65 acres, secured area with alternate access.

New York

Bldg. 1
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–

Landholding Agency: GSA
Property Number: 549120006
Status: Excess
Comment: 31519 sq. ft., 7 story brick frame, presence of asbestos on pipe insulation, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. 311
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120017
Status: Excess
Comment: 9720 sq. ft., 2 story brick frame, needs heating system repairs, needs rehab, presence of asbestos on pipe insulat., most recent use-ofc/storage, sched. to be vacated Oct. 1992
GSA Number: 2–N–NY–797

North Carolina

Dwellings 1, 2 & 3
USCG Coinjock Housing
Coinjock Co: Currituck NC 27923–
Landholding Agency: DOT
Property Numbers: 879120083–879120085
Status: Unutilized
Comment: One story wood residences, periodic flooding in garage and utility room occurs in heavy rainfall

USCG Station—Building
Oregon Inlet Coast Guard Station
Rodanthe Co: Dare NC 27968–
Landholding Agency: DOT
Property Number: 879120086
Status: Unutilized
Comment: 1207 sq. ft., two story wood frame, most recent use—office, storage, shops, communications, dining, etc.

USCG Station—Building
Oregon Inlet Coast Guard Station
Rodanthe Co: Dare NC 27968–
Landholding Agency: DOT
Property Number: 879120088
Status: Unutilized
Comment: 1521 sq. ft., two story lightweight steel frame, most recent use—office, shops, communications, storage, berthing, dining, etc.

USCG Station—Garage
Oregon Inlet Coast Guard Station
Rodanthe Co: Dare NC 27968–
Landholding Agency: DOT
Property Number: 879120089
Status: Unutilized
Comment: 1920 sq. ft., one story steel frame, most recent use—garage/storage

USCG Station—Building
Oregon Inlet Coast Guard Station
Rodanthe Co: Dare NC 27968–
Landholding Agency: DOT
Property Number: 879120090
Status: Unutilized
Comment: 320 sq. ft., one story wood frame, most recent use—storage

USCG Station Oak Island
300 A Caswell Beach Road
Caswell Beach Co: Brunswick NC 28461–
Landholding Agency: DOT
Property Number 879210001
Status: Excess
Comment: 1300 sq. ft., 3 story wood frame, needs rehab, presence of asbestos on pipes, secured area w/alternate access, off-site removal only.

North Dakota

Calhoon Radio Relay Tower Site
5 miles north and 1 mile west of Hannover, North Dakota Co: Oliver ND 58563–
Landholding Agency: GSA
Property Number: 549130015
Status: Excess
Comment: One story 12' × 10'8" communication tower on concrete slab w/ 5.74 acres and 0.68 acre easement, potential utilities, needs rehab
GSA Number: 7–B–ND–489

Ohio

Parcel 2
Lock and Dam # 16
Washington Co: Washington OH
Location: On the Ohio River, 4 miles downstream from New MataMoras, Grandview Township.
Landholding Agency: GSA
Property Number 549110010
Status: Excess
Comment: Two story brick frame, subject to periodic flooding, possible asbestos on pipes, most recent use—office space
GSA Number: 2–GR(1)–OH–730

Parcel 1
Lock and Dam # 16
Washington Co: Washington OH
Location: On the Ohio River, 4 miles downstream from New MataMorus, Grandview Township.
Landholding Agency: GSA
Property Number: 549110011
Status: Excess
Comment: 2.5 story brick frame, subject to periodic flooding, possible asbestos on pipes, most recent use—storage
GSA Number: 2–GR(1)–OH–730

U.S Naval Reserve Center
170 Ashland Road
Mansfield Co: Richland OH 44902–
Landholding Agency: GSA
Property Number: 779010075
Status: Excess
Comment: 29000 sq. ft., 1 story quonset hut structure, most recent use—office, recreation and storage, needs rehab, land leased from City through September 1992
GSA Number: 2–N–OH–783

Oregon

Bldg. #3 (Ranger Residence)
1900 Caves Highway
Cave Junction Co: Josephine OR 97523–
Landholding Agency: Interior
Property Number: 619130004
Status: Excess
Comment: 732 sq. ft., one story cabin, off-site use only.

Tennessee

Federal Building
216 North Jackson Street
Athens Co: McMinn TN 37303–
Landholding Agency: GSA
Property Number: 549210003
Status: Excess
Comment: 2069 sq. ft., 3 story brick and concrete frame, presence of asbestos on pipes and air ducts in mechanical areas, most recent use—offices.
GSA Number: 4–G–TN–632

Texas

Administration Bldg.
Guadalupe Mountains National Park
Pine Springs Co: Culberson TX 79847–
Landholding Agency: Interior
Property Number: 619130005
Status: Excess
Comment: 2016 sq. ft., one story frame structure, most recent use—office, off-site use only.

Utah

100 KW Solar Photovoltaic Sys.
Natl. Bridges National Monument
P.O. Box 1
Lake Powell Co: San Juan UT 84533–
Landholding Agency: Energy
Property Number: 419140001
Status: Excess
Comment: Solar panels, off-site use only, current use—generate electrical power.

Virginia

Housing
Rt. 637—Gwynnville Road
Gwynn Island Co: Mathews VA 23066–
Landholding Agency: DOT
Property Number: 879120082
Status: Unutilized
Comment: 929 sq. ft., one story residence

Washington

Thompson Boathouse
Lake Crescent Ranger Station
HC 62, Box 10
Port Angeles WA 98362–
Landholding Agency: Interior
Property Number: 619030011
Status: Unutilized
Comment: 693 sq. ft., 1 story boathouse, no utilities, needs rehab, off-site use only

Spracklen Utility Shed
Quinault Ranger Station
Route 2, Box 76
Amanda Park WA 98256–
Landholding Agency: Interior
Property Number: 619030012
Status: Unutilized
Comment: 150 sq. ft., frame utility shed, limited utilities, off-site use only.

Wisconsin

Bldg. 2
VA Medical Center
County Highway E
Tomah Co: Monroe WI 54660–
Landholding Agency: VA
Property Number: 979010055
Status: Underutilized
Comment: 18000 sq. ft., 3 story masonry, needs rehab, possible asbestos, potential utilities.

Bldg. 8
VA Medical Center
County Highway E
Tomah Co: Monroe WI 54660–
Landholding Agency: VA
Property Number: 979010056
Status: Underutilized
Comment: 2200 sq. ft., 2 story wood frame, possible asbestos, potential utilities, structural deficiencies, needs rehab.

Land (by State)

Alabama

VA Medical Center
VAMC
Tuskegee Co: Macon AL 36083–
Landholding Agency: VA
Property Number: 979010053
Status: Underutilized
Comment: 40 acres, buffer to VA Medical Center, potential utilities, undeveloped.

Alaska

Wrangell Narrows Reservation
Wrangell Co: Wrangell AK
Location: Approximately 6 miles south of Petersburgh, Alaska along Mitkof highway.
Landholding Agency: DOT
Property Number: 879010008
Status: Excess
Comment: 42.15 acres

California

Receiver Site
Dixon Relay Station
7514 Radio Station Road
Dixon CA 95620–9653
Location: Approximately .16 miles southeast of Dixon, CA.
Landholding Agency: GSA
Property Number: 549010042
Status: Excess
Comment: 60 acres, 1580 sq. ft., radio receiver bldg. on site, subject to grazing lease, limited utilities.
GSA Number: 9–2–CA–1162–A

Receiver Site
Delano Relay Station
Route 1, Box 1350
Delano Co: Tulare CA 93215–
Location: 5 miles west of Pixley, 17 miles north of Delano.
Landholding Agency: GSA
Property Number: 549010044
Status: Excess
Comment: 81 acres, 1560 sq. ft., radio receiver bldg. on site, subject to grazing lease, potential utilities
GSA Number: 9–2–CA–1308

Colorado

Portion/Curecanti Substation
Cimarron Co: Montrose CO 81220–
Location: 2 miles east of Cimarron on Highway 50
Landholding Agency: GSA
Property Number: 419030009
Status: Excess
Comment: 36.39 acres, easement restrictions
GSA Number: 7–B–CO–624

Railroad Spur and Right-of-Way
Denver Federal Center
Lakewood Co: Jefferson CO 80215–
Landholding Agency: GSA
Property Number: 549120007
Status: Excess
Comment: 1.5 miles long (width varies 35 to 200 ft.), limited access, right-of-way restrictions
GSA Number: 7–G–CO–441–Q

Georgia

Lake Sidney Lanier
Riverside Dr.
Gainesville Co: Hall GA
Landholding Agency: GSA
Property Number: 549140003
Status: Excess
Comment: 6.22 acres, leased to City for construction of an alum sludge dewatering and wash water handling facility
GSA Number: 4–D–GA–731

Kansas

Titan II Missile Site 8
McConnell AFB
4.8 miles east of Winfield on State Rd. 15
Winfield Co: Cowley KS 67156–
Landholding Agency: GSA
Property Number: 549130010
Status: Excess
Comment: Approx. 25.44 acres, most recent use—missile site complex
GSA Number: 7–D–KS–477–N

McConnell AF Facility S–15
McConnell Air Force Base Co: Kingman KS 67201–
Location: Two miles south of Rago on State road 14
Landholding Agency: GSA
Property Number: 549130013
Status: Excess
Comment: 16.69 fee acres and 2.73 paved easement, potential utilities
GSA Number: 7–D–KS–477–P

Titan II Missile Site No. 9
McConnell Air Force Base Co: Sumner KS 67201–
Landholding Agency: GSA
Property Number: 549130014
Status: Excess
Comment: 6.43 fee acres and 2.96 acres easement, subject to utility rights by third parties, most recent use—missile site
GSA Number: 7–D–KS–0477–O

Louisiana

Land—8.27 acres
VA Medical Center
2501 Shreveport Highway
Alexandria Co: Rapides LA 71301–
Landholding Agency: VA
Property Number: 979010009
Status: Unutilized
Comment: 8.27 acres, heavily wood with natural drainage ravine across property, most recent use—recreation/buffer area.

Maryland

VA Medical Center
9500 North Point Road
Fort Howard Co: Baltimore MD 21052–
Landholding Agency: VA
Property Number: 979010020
Status: Underutilized
Comment: Approx. 10 acres, wetland and periodically floods, most recent use—dump site for leaves.

Michigan

Facility 93359
Bayshore RBS
Det 6, 1st Combat Evaluation Group
Bay Shore Co: Emmet MI 49711–
Landholding Agency: GSA
Property Number: 189010058
Status: Excess
Comment: 2.52 acres, utilities and sanitary facilities
GSA Number: 2–D–MI–751

Facility 93361
Bayshore RBS
Det 6, 1st Combat Evaluation Group
Bay Shore Co: Emmet MI 49711–
Landholding Agency: GSA
Property Number: 189010061
Status: Excess
Comment: 0.14 acres, access gained through Air Force controlled property
GSA Number: 2–D–MI–751

Minnesota

Land around Bldg. 240–249, 253
VA Medical Center
Fort Snelling
St. Paul Co: Hennepin MN 55111–
Landholding Agency: VA
Property Number: 979010007
Status: Unutilized
Comment: 3.76 acres, potential utilities.

North Carolina

USCG Station—Land
Oregon Inlet Coast Guard Station
Rodanthe Co: Dare NC 27968–
Landholding Agency: DOT
Property Number: 879120087
Status: Unutilized
Comment: 10 acres, potential utilities

North Dakota

Valley City Radio Tower Site
1 mile south and 1 mile east of Valley City, North Dakota
Valley City Co: Barnes ND 58072–
Landholding Agency: GSA
Property Number: 549130016
Status: Excess
Comment: 5.74 acres w/one story metal equipment storage bldg. 12' X 10'6", potential utilities
GSA Number: 7–B–ND–490

Tappen Radio Relay Tower Site
2 miles east and 1.5 miles north of Tappen
Tappen Co: Kidder ND 58487–
Landholding Agency: GSA
Property Number: 549130017
Status: Excess
Comment: 5.74 fee acres and 0.59 acre easement w/100' guyed communication tower, potential utilities
GSA Number: 7–B–ND–491

Oregon

Tongue Point Job Corps Center (Portion of)
Astoria Co: Clotsop OR 97103–
Location: On the east by highway 30; on the west by city of Astoria's sewage treatment plant.
Landholding Agency: GSA
Property Number: 549010027
Status: Excess
Comment: 22.77 acres, land slopes, some soil erosion, potential utilities
GSA Number: 9–I–OR–506M

Sewer and Road Easements
Camp White
Medford Co: Jackson OR
Location: Table Rock Road and Avenue A and Kirtland Road and Newland Road.
Landholding Agency: GSA
Property Number: 549110012
Status: Excess
Comment: 10 acres, potential utilities, most recent use–road and sewer line easements
GSA Number: 9–G–OR–38

Land
Portland Co: Multnomah OR 97217–

Location: Near SE corner of North Union Ave. and North Marine Dr.
Landholding Agency: GSA
Property Number: 549120006
Status: Excess
Comment: 63000 sq. ft. (140X450) land, most recent use-part of highway right-of-way, access is restricted.

Port Orford Radio Station
Port Orford Co: Curry OR 97465–
Landholding Agency: DOT
Property Number: 879010007
Status: Excess
Comment: 5.17 acres, radio station

Texas

Test Tract—Formerly Jet Ind.
Burleson Road
Austin Co: Travis TX 78741–
Location: Approx. 7 mi NW of U.S. Hwy 183 and approx. 3.5 mi SE of Ben White Blvd.
Landholding Agency: GSA
Property Number: 549140008
Status: Excess
Comment: 75.18 acres, most recent use—one-mile asphalt test track for electric cars, approx. 15 acres in floodplain
GSA Number: 7–B–TX–970

Land
Olin E. Teague Veterans Center
1901 South 1st Street
Temple Co: Bell TX 76504–
Landholding Agency: VA
Property Number: 979010079
Status: Underutilized
Comment: 13 acres, portion formerly landfill, portion near flammable materials, railroad crosses property, potential utilities.

VA Medical Center
4800 Memorial Drive
Waco Co: McLennan TX 76711–
Landholding Agency: VA
Property Number: 979010081
Status: Underutilized
Comment: 2.3 acres, leased to Owens-Illinois Glass Plant, expiration date 10/31/91, most recent use—parking lot.

Washington

Seaplane Base
Naval Air Station—Whidbey Island
Oak Harbor Co: Island WA 98278–
Landholding Agency: GSA
Property Number: 549130007
Status: Excess
Comment: 5.472 acres, most recent use—roadway and outside boat storage, easement restrictions
GSA Number: 9–N–WA–585M

Wisconsin

VA Medical Center
County Highway E
Tomah Co: Monroe WI 54660–
Landholding Agency: VA
Property Number: 979010054
Status: Underutilized
Comment: 12.4 acres, serves as buffer between center and private property, no utilities.

Wyoming

Wind Site A
Medicine Bow Co: Carbon WY 82329–
Location: 3 miles south and 2 miles west of Medicine Bow
Landholding Agency: GSA
Property Number: 419030010
Status: Excess
Comment: 46.75 acres, limitation-eastment restrictions

Suitable/Unavailable Properties

Buildings (by State)

California

Bldg. 8, Coast Guard Island
USCG Support Center, Alameda
Alameda Co: Alameda, CA 94501–
Landholding Agency: DOT
Property Number: 879130005
Status: Underutilized
Comment: 16,900 sq. ft., 2 story wood frame, most recent use—barracks, needs major rehab, presence of asbestos, off-site use only

Bldg. 9, Coast Guard Island
USCG Support Center, Alameda
Alameda Co: Alameda, CA 94501–
Landholding Agency: DOT
Property Number: 879130006
Status: Unutilized
Comment: 29,440 sq. ft., 2 story wood frame, most recent use—office, presence of asbestos, needs major rehab, off-site use only

Florida

Naval Reserve Center
2610 Tigertail Avenue
Miami Co: Dade FL 33133–
Landholding Agency: GSA
Property Number: 549120062
Status: Excess
Comment: 4,600 sq. ft., 2 story, concrete and wood siding, most recent use—offices/training rooms, vehicle maintenance GSA Number: FL–P–192

Louisiana

Federal Building
Mississippi and Vienna Streets
Ruston Co: Lincoln Parish LA 71273–
Landholding Agency: GSA
Property Number: 549040005
Status: Excess
Comment: 3,492 sq. ft., 2 story, most recent use—office, listed on National Register of Historic Places
GSA Number: 7–G–LA–0541

Maryland

Bldg. 8A
DVA Medical Center
Perry Point
Perry Point Co: Cecil MD 21902–
Landholding Agency: VA
Property Number: 979010047
Status: Underutilized
Comment: 17,000 sq. ft., 1 story masonry, needs a roof, no utilities, most recent use—storage.

Minnesota

Bldg. 15
VA Medical Center
Near 5629 Minnehaha Avenue
Minneapolis Co: Hennepin MN 55417–
Landholding Agency: VA
Property Number: 979010025
Status: Underutilized
Comment: 15,100 sq. ft., 2 story concrete/brick frame, asbestos present in pipe insulation, most recent use—laundry.

Bldg. 16
VA Medical Center
Near 5629 Minnehaha Avenue
Minneapolis Co: Hennepin MN 55417–
Landholding Agency: VA
Property Number: 979010026
Status: Underutilized
Comment: 8,000 sq. ft., 3 story concrete/brick, asbestos present on pipe insulation, most recent use—boiler plant.

Bldg. 21
VA Medical Center
Near 5629 Minnehaha Avenue
Minneapolis Co: Hennepin MN 55417–
Landholding Agency: VA
Property Number: 979010027
Status: Underutilized
Comment: 3,200 sq. ft., 1 story prefab/quonset, most recent use—garage for motor vehicles.

Bldg. 48
VA Medical Center
Near 5629 Minnehaha Avenue
Minneapolis Co: Hennepin MN 55417–
Landholding Agency: VA
Property Number: 979010028
Status: Underutilized
Comment: 2,000 sq. ft., 1 story concrete/block, most recent use—incinerator/storage.

Bldg. 64
VA Medical Center
Near 5629 Minnehaha Avenue
Minneapolis Co: Hennepin MN 55417–
Landholding Agency: VA
Property Number: 979010029
Status: Unutilized
Comment: 380 sq. ft., 1 story prefab, potential utilities.

Bldg. T-10
VA Medical Center
Near 5629 Minnehaha Avenue
Minneapolis Co: Hennepin MN 55417–
Landholding Agency: VA
Property Number: 979010030
Status: Unutilized
Comment: 1,800 sq. ft., 1 story prefab/quonset, potential utilities, most recent use—storage.

Bldg. 43
VA Medical Center
Minneapolis Co: Hennepin MN 55441–7
Location: 54th Street and 48th Avenue S.
Landholding Agency: VA
Property Number: 979010032
Status: Underutilized
Comment: 28000 sq. ft., 8 story brick/steel frame, asbestos present on pipe insulation, most recent use—office/storage.

Bldg. 227
VA Medical Center
Fort Snelling
St. Paul Co: Hennepin MN 55111–
Landholding Agency: VA
Property Number: 979010033
Status: Unutilized
Comment: 850 sq. ft., 2 story wood frame and brick residence, utilities disconnected.

Missouri

Bldg. 208–C
6400 Stratford Avenue

Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis MO 63120–
Landholding Agency: GSA
Property Number: 549120047
Status: Excess
Comment: 2210 sq. ft., most recent use—general storage, permitted to Dept of Labor
GSA Number: 7–D–MO–460–F

Bldg. 208–D
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis MO 63120–
Landholding Agency: GSA
Property Number: 549120048
Status: Excess
Comment: 750 sq. ft., most recent use—general storage, permitted to Dept. of Labor
GSA Number: 7–D–MO–460–F

Bldg. 222
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis MO 63120–
Landholding Agency: GSA
Property Number: 549120049
Status: Excess
Comment: 16150 sq. ft., most recent use—medical/dental, permitted to Dept. of Labor
GSA Number: 7–D–MO–460–F

Bldg. 223–A
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis MO 63120–
Landholding Agency: GSA
Property Number: 549120050
Status: Excess
Comment: 77340 sq. ft., most recent use—dormitory, permitted to Dept. of Labor
GSA Number: 7–D–MO–460–F

Bldg. 223–B
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis MO 63120–
Landholding Agency: GSA
Property Number: 549120051
Status: Excess
Comment: 21380 sq. ft., most recent use—education bldg., permitted to Dept. of Labor
GSA Number: 7–D–MO–460–F

Bldg. 230
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis MO 63120–
Landholding Agency: GSA
Property Number: 549120052
Status: Excess
Comment: 1840 sq. ft., most recent use—facility maintenance, permitted to Dept. of Labor
GSA Number: 7–D–MO–460–F

Bldg. 230–A
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis MO 63120–
Landholding Agency: GSA
Property Number: 549120053
Status: Excess
Comment: 1880 sq. ft., most recent use—facility maintenance, permitted to Dept of Labor
GSA Number: 7–D–MO–460–F

Bldg. 232–A–H
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis MO 63120–
Landholding Agency: GSA
Property Number: 549120054
Status: Excess
Comment: 29280 sq. ft., most recent use—vocational training shop, permitted to Dept. of Labor
GSA Number: 7–D–MO–460–F

Bldg. 234
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis MO 63120–
Landholding Agency: GSA
Property Number: 549120055
Status: Excess
Comment: 44620 sq. ft., most recent use—admin/food service, permitted to Dept. of Labor
GSA Number: 7–D–MO–460–F

Bldg. 237
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis MO 63120–
Landholding Agency: GSA
Property Number: 549120056
Status: Excess
Comment: 300 sq. ft., most recent use—storage, permitted to Dept. of Labor
GSA Number: 7–D–MO–460–F

Bldg. 244
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis, MO 63120–
Landholding Agency: GSA
Property Number: 549120057
Status: Excess
Comment: 7480 sq. ft., most recent use—weld/automotive shop, permitted to Dept. of Labor
GSA Number: 7–D–MO–460–F

Bldg. 223C
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis, MO 63120–
Landholding Agency: GSA
Property Number: 549120058
Status: Excess
Comment: 123 sq. ft., permitted to Dept. of Labor
GSA Number: 7–D–MO–460–F

Bldg. 224B
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis, MO 63120–
Landholding Agency: GSA
Property Number: 549120059
Status: Excess
Comment: 100 sq. ft., permitted to Dept. of Labor
GSA Number: 7–D–MO–460–F

Bldg. 233A
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis, MO 63120–
Landholding Agency: GSA
Property Number: 549120060
Status: Excess
Comment: 637 sq. ft., permitted to Dept. of Labor
GSA Number: 7–D–MO–460–F

Bldg. 233F
6400 Stratford Avenue
Portion U.S. Army Reserve Center No. 4
St. Louis Co: St. Louis, MO 63120–
Landholding Agency: GSA
Property Number: 549120061
Status: Excess
Comment: 837 Sq. ft., permitted to Dept. of Labor
GSA Number: 7–D–MO–460–F–

New York

Bldg. 2
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120009
Status: Excess
Comment: 35537 sq. ft., 3 story bay brick frame, presence of asbestos on pipe insulation, most recent use—office, storage, auto shop, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. 3
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120010
Status: Excess
Comment: 2700 sq. ft., 2 story brick frame, most recent use—office, scheduled to be vacated Oct. 1992.
GSA Number: 2–N–NY–797

Bldg. 4
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120011
Status: Excess
Comment: 80400 sq. ft., 1 story bay brick frame, most recent use—warehouse and rec. center, presence of asbestos on pipe insulation, scheduled to be vacated Oct 1992
GSA Number: 2–N–NY–797

Bldg. 5
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120012
Status: Excess
Comment: 3330 sq. ft., 2 story brick frame, most recent use—office, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. 10
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120015
Status: Excess
Comment: 3100 sq. ft., 1 story, concrete and fiberglass frame, no utilities, most recent use—storage, scheduled to be vacated Oct 1992
CSA Number: 2–N–NY–797

Bldg. 306
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120016
Status: Excess
Comment: 6364 sq. ft., 1 story brick frame, presence of asbestos on pipe insulation,

most recent use—storage, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. 316
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120019
Status: Excess
Comment: 3952 sq. ft., 1 story brick frame, needs heating system repairs, potential utils., pres. of asbestos on pipe insula, most recent use—storage, sched. to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. 353
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120020
Status: Excess
Comment: 670 sq. ft., 1 story brick frame, limited utilities, needs rehab, most recent use—storage, needs heating system repairs, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. 670
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120021
Status: Excess
Comment: Concrete block gasoline station, no sanitary or heating facilities, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. 672
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120023
Status: Excess
Comment: 400 sq. ft., 1 story wood frame, most recent use—pool house, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R1
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120025
Status: Excess
Comment: 5274 sq. ft., 2 story single family housing, brick veneer/wood frame, presence of asbestos on pipe insulation, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R2
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120026
Status: Excess
Comment: 2400 sq. ft., 2 story single family hsg., cement asbestos/wood frame, needs heating system repairs, presence of asbestos on pipe insulation, sched. to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R3
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120027
Status: Excess
Comment: 2400 sq. ft., 2 story single family housing, cement asbestos/wood frame, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R4
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120028
Status: Excess
Comment: 2517 sq. ft., 3 story four-family housing, brick asbestos/tile frame, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldgs. R5, R6, R7
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120029–549120031
Status: Excess
Comment: 2140 sq. ft. each, 1-story single family residences, brick frame, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R103
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120032
Status: Excess
Comment: 1650 sq. ft., 2 story brick frame, needs heating system repairs, limited utils., most recent use—storage, presence of asbestos on pipe ins., scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R103A
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120033
Status: Excess
Comment: 2620 sq. ft., 1 story concrete block frame, limited utils., most recent use—garage, presence of asbestos on pipe insulation, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R104
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120034
Status: Excess
Comment: 712 sq. ft., 2 story brick frame, most recent use—bachelor officers quarters, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R109
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120035
Status: Excess
Comment: 2 story brick frame, limited utilities, needs heating syst. repairs, most recent use—storage & garage, presence of asbestos on pipe insul., scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R426
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120036
Status: Excess
Comment: 2409 sq. ft., 1 story brick frame, needs heating system repairs, most recent use—storage, presence of asbestos on pipe ins., limited utils., scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R448
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120037
Status: Excess
Comment: 969 sq. ft., 1 story concrete & glass frame, limited utilities, needs major rehab, most recent use—greenhouse, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R475
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120039
Status: Excess
Comment: 1789 sq. ft., 1 story concrete block frame, most recent use—auto hobby shop, presence of asbestos on pipe insulation, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R476
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120040
Status: Excess
Comment: 36 sq. ft., 1 story metal frame, most recent use—security gate house, needs heating system repairs, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. RG
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120041
Status: Excess
Comment: 15490 sq. ft., 3 story brick & stucco frame, needs heating system repairs, needs major rehab, presence of asbestos on pipe ins., scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R8R9
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA

Property Number: 549120042
Status: Excess
Comment: 2800 sq. ft., 2 story brick frame, most recent use—residential duplex, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. R95
Naval Station
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 779010256
Status: Excess
Comment: 41800 sq. ft., 2 story stone frame, needs heating system repairs, pres. of asbestos on pipe ins., needs major rehab, NYS Historical Landmark, sched. to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. RD
Naval Station
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 779010257
Status: Excess
Comment: 14120 sq. ft., 2 story brick and stone frame, needs heating system repairs, pres. of asbestos on pipe ins., needs major rehab, sched. to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. 305
Naval Station
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 779010258
Status: Excess
Comment: 18920 sq. ft., 2 story brick frame, limited util., needs major rehab, presence of asbestos on pipe insulation, needs heating system repairs, scheduled to be vacated Oct. 1992
GSA Number: 2–N–NY–797

Bldg. 5
V.A. Medical Center
Redfield Parkway
Batavia Co: Genesee NY 14020–
Landholding Agency: VA
Property Number: 979030001
Status: Underutilized
Comment: Portion of 16800 sq. ft., 3 story, brick and masonry bldgs., needs minor repairs.

Texas

Peary Place #1
Naval Air Station
Corpus Christi Co: Nueces TX 78419–5000
Landholding Agency: GSA
Property Number: 779030002
Status: Excess
Comment: 9160 sq. ft., 1 story, possible asbestos, most recent use—remote transmitter site.
GSA Number: 7–N–PX–402–V

Brownsville Urban System
(Grantee)
700 South Iowa Avenue
Brownsville Co: Cameron TX 78520–
Landholding Agency: DOT
Property Number: 879010003
Status: Unutilized
Comment: 3500 sq. ft., 1 story concrete block, (2nd floor of Admin. Bldg.) on 10750 sq. ft. land, contains underground diesel fuel tanks.

Utah

Bryce Canyon Admin. Site
Near Bryce Canyon National Park
Bryce Canyon Co: Garfield UT 84717–
Landholding Agency: Interior
Property Number: 619140005
Status: Underutilized
Comment: 7 houses and other bldgs. on 66 acre site, seasonal use, one story wood frame structures, 48 thru 1400 sq. ft., environmentally protected.

Washington

Mica Peak Radio Station
Approx. 15 miles SE of Spokane
Spokane Co: Spokane WA 99210–
Landholding Agency: GSA
Property Number: 549120065
Status: Excess
Comment: 25X48 ft. on 0.4 acres 1 story concrete block, most recent use—radio communications, only accessible from late June to October.
GSA Number: 9–B–WA–895

Thompson Main Residence
Lake Crescent Ranger Station
HC 62, Box 10
Port Angeles WA 98362–
Landholding Agency: Interior
Property Number: 619030001
Status: Unutilized
Comment: 2 story residence, no utilities, needs rehab, off-site use only.

Thompson Older Residence
Lake Crescent Ranger Station
HC 62, Box 10
Port Angeles WA 98362–
Landholding Agency: Interior
Property Number: 619030002
Status: Unutilized
Comment: 888 sq. ft., 1 story residence, no utilities, needs rehab, off-site use only.

Thompson Garage
Lake Crescent Ranger Station
HC 62, Box 10
Port Angeles WA 98362–
Landholding Agency: Interior
Property Number: 619030003
Status: Unutilized
Comment: 240 sq. ft., 1 story garage, no utilities, needs rehab, off-site use only.

Thompson Shop
Lake Crescent Ranger Station
HC 62, Box 10
Port Angeles WA 98362–
Landholding Agency: Interior
Property Number: 619030009
Status: Unutilized
Comment: 300 sq. ft., 1 story shop, no utilities, needs rehab, off-site use only.

Thompson Powerhouse
Lake Crescent Ranger Station
HC 62, Box 10
Port Angeles WA 98362–
Landholding Agency: Interior
Property Number: 619030010
Status: Unutilized
Comment: 160 sq. ft., 1 story powerhouse, no utilities, needs rehab, off-site use only.

Dahinden Storage Building
Quinault Ranger Station
Route 2, Box 76
Amanda Park WA 98526–
Landholding Agency: Interior
Property Number: 619030013
Status: Unutilized
Comment: 240 sq. ft., frame storage building, no utilities, needs rehab, off-site use only.

Bldg. 1185
Lake Crescent Ranger Station
HC 62, Box 10
Carter Storage Building
Port Angeles WA 98362–
Landholding Agency: Interior
Property Number: 619030016
Status: Unutilized
Comment: 92 sq. ft., 1 story storage building, no utilities, off-site use only.

Haas Barn
% Quinault Ranger Station
Route 2, Box 76
Amanda Park Co: Grays Harbor WA 98526–
Landholding Agency: Interior
Property Number: 619040001
Status: Excess
Comment: 1408 sq. ft., 1 story wood frame barn, potential utilities, poor condition, off-site use only.

Haas Shed
% Quinault Ranger Station
Route 2, Box 76
Amanda Park Co: Grays Harbor WA 98526–
Landholding Agency: Interior
Property Number: 619040002
Status: Excess
Comment: 480 sq. ft., wood frame shed, poor condition, off-site use only.

Haas Shed
% Quinault Ranger Station
Route 2, Box 76
Amanda Park Co: Grays Harbor WA 98526–
Landholding Agency: Interior
Property Number: 619040003
Status: Excess
Comment: sq. ft., wood frame shed, poor condition, off-site use only.

Haas Residence
% Quinault Ranger Station
Route 2, Box 76
Amanda Park Co: Grays Harbor WA 98526–
Landholding Agency: Interior
Property Number: 619040006
Status: Excess
Comment: 624 sq. ft., 1 story wood frame residence, potential utilities, poor condition, off-site use only.

Bldg. 1323
Jensen Barn
% Quinault Ranger Station
Route 2, Box 76
Amanda Park Co: Grays Harbor WA 98526–
Landholding Agency: Interior
Property Number: 619040007
Status: Excess
Comment: 4200 sq. ft., wood frame barn, most recent use—storage, no utilities, off-site use only.

Wyoming

Administration Bldg.
Fontenelle Camp
Fontenelle Co: Lincoln WY
Location: Approximately 24 miles southeast of Labarge, off State Road 372 and on County Road 316.
Landholding Agency: Interior

Property Number: 619030017
Status: Excess
Comment: 4464 sq. ft., 2 story brick structure with a 2880 sq. ft. wood frame addition, needs rehab. possible asbestos, off-site use only.

Bldg. 13
Medical Center
N.W. of town at the end of Fort Road
Sheridan Co: Sheridan WY 82801–
Landholding Agency: VA
Property Number: 979110001
Status: Unutilized
Comment: 3613 sq. ft., 3 story wood frame masonry veneered, potential utilities, possible asbestos, needs rehab.

Bldg. 79
Medical Center
N.W. of town at the end of Fort Road
Sheridan Co: Sheridan WY 82801–
Landholding Agency: VA
Property Number: 979110003
Status: Unutilized
Comment: 45 sq. ft., 1 story brick and tile frame, limited utilities, most recent use—reservoir house, use for storage purposes.

Land (by State)

Alaska

Portion, Dyke Range
Old Richardson Hwy.
North Pole Co: Fairbanks AK 99705–
Landholding Agency: GSA
Property Number: 549130016
Status: Excess
Comment: 0.73 acre—75% of land encroached upon by private residence
GSA Number: 9–D–AK–727

Arizona

Liberty Substation
Buckeye Co: Maricopa AZ 85326–
Location: 3 miles south of Interstate 10 on Tuthill Road
Landholding Agency: Energy
Property Number: 419030001
Status: Underutilized
Comment: 15 acres, buffer area for substation.

California

Remote Transmitter
Section 35
Red Bluff Co: Tehema CA 96080–
Landholding Agency: DOT
Property Number: 879010010
Status: Unutilized
Comment: 4 acres, paved road, current use—storage.

Land
VA Medical Center
Wilshire and Sawtelle Boulevards
Los Angeles Co: Los Angeles CA 90073–
Landholding Agency: VA
Property Number: 979010077
Underutilized
Comment: Approx. 30 acres of 80 acre tract, 7 acre portion contaminated, portions may be environmentally protected.

Florida

Parcel A & B
U.S. Coast Guard Light Station
Lots 1, 8 & 11, Section 31
Jupiter Inlet Co: Palm Beach FL 33420–
Location: Township 40 south, range 43 east.
Landholding Agency: DOT
Property Number: 879010009
Unutilized
Comment: 56.61 acres, area is uncleared, vegetation growth is heavy, no utilities

Illinois

Portion, JAAP
Joliet Army Ammunition Plant
Co: Will IL 60436–
Location: Approx. 15 miles south of Joliet on the east side of Interstate 55
Landholding Agency: GSA
Property Number: 549130019
Status: Excess
Comment: 1.25 acres, most recent use—aquatic sampling station, subject to occasional flooding
DSA Number: 2–GR(1)–IL–450–FF

VA Medical Center
3001 Green Bay Road
North Chicago Co: Lake IL 60064–
Landholding Agency: VA
Property Number: 979010002
Status: Underutilized
Comment: 2.5 acres, currently being used as a construction staging area for the next 6–8 years, potential utilities.

Iowa

Sioux City Substation
Hinton Co: Plymouth IA 51024–
Location: 1 mile south of Hinton Iowa on Highway 75.
Landholding Agency: Energy
Property Number: 419030003
Status: Underutilized
Comment: 34 acres, limitation—easement restrictions, most recent use—transmission line corridor and buffer area.

Kansas

Titan II Missile S-17
McConnell Air Force Base Co: Kingman, KS 67068–
Location: 4 miles east of US Hwy 54 and 3 miles north on FAS 361
Landholding Agency: GSA
Property Number: 549210001
Status: Excess
Comment: 10.26 acres fee and ⅔ acres easement (paved), potential utilities, PCB's underground on 1 acre, most recent use—missile site.
GSA Number: 7–D–KS–477–Q

Titan II Missile S–12
McConnell Air Force Base Co: Sumner KS 67221–
Location: 1.5 miles south of Conway Springs, KS on State Hwy 49
Landholding Agency: GSA
Property Number: 549210002
Status: Excess
Comment: 16.75 acres fee and 3.79 acres easement (paved), potential utilities, PCB's underground on 1 acre, most recent use—missile site.
GSA Number: 7–D–KS–477–R

Kentucky

Portion of Tract 409–2
Upper Cumberland River Basin
Pineville Co: Bell KY 40977–
Location: Portions of Lots 1 & 2 in Blk 9 of Hull and Barclay Addition at the intersection of Mtn. View and Tenn. Ave.
Landholding Agency: GSA
Property Number: 549130008
Status: Excess
Comment: 0.01 acres/640 sq. ft., most recent use—flood control project
GSA Number: 4–D–KY–0569

Massachusetts

Por. of Former Navy Ammo. Plt.
Fort Hill Street
Hingham Co: Plymouth MA 02043–
Location: Across from Bus Company Parking Garage.
Landholding Agency: GSA
Property Number: 549030017
Status: Excess
Comment: 1.129 acres, gravel pavement, most recent use—parking lot
GSA Number 2–GR–MA–591B

Michigan

VA Medical Center
5500 Armstrong Road
Battle Creek Co: Calhoun MI 49016–
Landholding Agency: VA
Property Number: 979010015
Status: Underutilized
Comment: 20 acres, used as exercise trails and storage areas, potential utilities.

Minnesota

Bldg. 43 Land Site
VA Medical Center
54th Street & 48th Avenue South
Minneapolis Co: Hennepin MN 55417–
Landholding Agency: VA
Property Number: 979010005
Status: Underutilized
Comment: 8.9 acres, most recent use—parking, potential utilities.

Bldg. 227–229 Land
VA Medical Center
Fort Snelling
St. Paul Co: Hennepin MN 55111–
Landholding Agency: VA
Property Number: 979010006
Status: Underutilized
Comment: 2.0 acres, potential utilities, buildings occupied, residence/garage.

VA Medical Center
Near 5629 Minnehaha Avenue
Minneapolis Co: Hennepin MN 55417–
Location: Land (Site of Building 15, 16, 21, 48, 64, T10)
Landholding Agency: VA
Property Number: 979010024
Status: Underutilized
Comment: 12.1 acres, most recent use—parking, potential utilities.

Land—12 acres
VAMC
Near 5629 Minnehaha Avenue
Minneapolis Co: Hennepin MN 55417–
Landholding Agency: VA
Property Number: 979010031
Status: Unutilized
Comment: 12 acres, possible asbestos, leased to Department of Natural Resources as a park walking trail.

Montana

Miles City Substation
Miles City Co: Custer MT 59301–
Location: 1 mile east of Miles City
Landholding Agency: Energy

Property Number: 419030004
Status: Underutilized
Comment: 59 acres, limitation—easement restrictions subject to grazing lease, most recent use—buffer area for substation.

Custer Substation
Custer Co: Yellowstone MT 59024-
Location: 2 miles east of the town of Custer—east of Highway 47
Landholding Agency: Energy
Property Number: 41903006
Status: Underutilized
Comment: 18 acres, buffer area for substation.

Nebraska

Grand Island Substation
Phillips Co: Merrick NE 68865-
Location: 5 miles east of Grand Island and 4 miles west of Phillips.
Landholding Agency: Energy
Property Number: 419030002
Status: Underutilized
Comment: 11 acres, buffer area for substation, right-of-way for transmission lines for Nebraska Public Power District.

New York

Land 671
Naval Station New York
Brooklyn Co: Kings NY 11251-
Landholding Agency: GSA
Property Number: 549120022
Status: Excess
Comment: 50 ft. by 25 ft., most recent use—swimming pool concrete frame, scheduled to be vacated Oct. 1992.
GSA Number: 2-N-NY-797

Playing Field—675
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251-
Landholding Agency: GSA
Property Number: 549120024
Status: Excess
Comment: 67974 sq. ft., limited utilities, most recent use—baseball field, scheduled to be vacated Oct. 1992
GSA Number: 2-N-NY-797

Land R464/R474
Naval Station New York
Brooklyn Co: Kings NY 11251-
Landholding Agency: GSA
Property Number: 549120043
Status: Excess
Comment: 90′ × 45′ each, concrete over gravel, most recent use—tennis courts, scheduled to be vacated Oct. 1992
GSA Number: 2-N-NY-797

VA Medical Center
Fort Hill Avenue
Canandaigua Co: Ontario NY 14424-
Landholding Agency: VA
Property Number: 979010017
Status: Underutilized
Comment: 27.5 acres, used for school ballfield and parking, existing utilities easements, portion leased.

North Dakota

Fargo Substation
Fargo Co: Cass ND 58102-
Landholding Agency: Energy
Property Number: 419030005
Status: Underutilized
Comment: 25 acres, most recent use—transmission line corridor and buffer.

Pennsylvania

VA Medical Center
New Castle Road
Butler Co: Butler PA 16001-
Landholding Agency: VA
Property Number: 979010016
Status: Underutilized
Comment: Approx. 9.29 acres, used for patient recreation, potential utilities.

Land No. 645
VA Medical Center
Highland Drive
Pittsburg Co: Allegheny PA 15206-
Location: Between Campania and Wiltsie Streets.
Landholding Agency: VA
Property Number: 979010080
Status: Unutilized
Comment: 52.42 acres, heavily wooded, property includes dump area and numerous site storm drain outfalls.

South Carolina

Georgetown Wayside Park
U.S. 701
Approx. 9–10 mi north of Georgetown
Georgetown Co: Georgetown SC 29440-
Landholding Agency: GSA
Property Number: 549130011
Status: Excess
Comment: 31.74 acres, approx. 1150 ft. of highway frontage through the property
GSA Number: 4-GR-SC-521

South Dakota

Por. of Pactola Dist. Ad. Site
803 Soo San Drive
Rapid City Co: Pennington SD 57702-
Landholding Agency: GSA
Property Number: 159130003
Status: Excess
Comment: 5.58 acres, potential utilities
GSA Number: 7-A-SD-511

Virginia

St. Helena Annex (former portion)
Treadwell and South Main Streets
Norfolk Co: Norfolk VA 23523-
Landholding Agency: GSA
Property Number: 549120005
Status: Excess
Comment: 7.69 acres, most recent use—paved parking lot
GSA Number: 4-GR(2)-VA525AA

Washington

Raver Substation Co: King WA
Location: Approximately 16 miles east of Kent.
Landholding Agency: Energy
Property Number: 419030012
Status: Unutilized
Comment: 10+ acres, potential utilities, heavily treed.

West Virginia

VA Medical Center
1540 Spring Valley Drive
Huntington Co: Wayne WV 25704-
Landholding Agency: VA
Property Number: 979010022
Status: Unutilized
Comment: 72 acres, very rough terrain and wooded, potential utilities

Suitable/To Be Excessed

Buildings (by State)

South Carolina

Bldg. #1 U.S. Coast Guard
Folly Island Loran Station
Folly Island Co: Charleston SC 29401-
Landholding Agency: DOT
Property Number: 879120096
Status: Unutilized
Comment: 2340 sq. ft., 1 story concrete block, most recent use—communications station

Bldg. #2 U.S. Coast Guard
Folly Island Loran Station
Folly Island Co: Charleston SC 29401-
Landholding Agency: DOT
Property Number: 879120097
Status: Unutilized
Comment: 2050 sq. ft., 1 story concrete block, most recent use—communications station

Land (by State)

Michigan

U.S. Coast Guard—Air Station
Traverse City Co: Grand Traverse MI 49684-
Landholding Agency: DOT
Property Number: 879120099
Status: Underutilized
Comment: 21.7 acres, most recent use—helo landings

South Carolina

Land—U.S. Coast Guard
Folly Island Loran Station
Folly Island Co: Charleston SC 29401-
Landholding Agency: DOT
Property Number: 879120098
Status: Unutilized
Comment: 55 acres (88 acres submerged) tidal marshland, potential utilities

Unsuitable Properties

Buildings (by State)

Alabama

5 Buildings
USCG Mobile Pt. Station
Ft. Morgan
Gulfshores Co: Baldwin AL 36542-
Landholding Agency: DOT
Property Numbers: 879120001–879120005
Status: Excess
Reason: Floodway

Alaska

Bldg. No. 10, Firehouse
Jct. of 5th St. & Ave. B
Kodiak Co: Kodiak Island AK 99619-
Landholding Agency: DOT
Property Number: 879120100
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Bldg. 22
USCG Support Center, Kodiak
Jct. of 5th Street and C Avenue
Kodiak Co: Kodiak Island AK 99619-
Landholding Agency: DOT
Property Number: 879130003
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

USCG MSD Office (2 buildings)
2958 Tongass Avenue

Ketchikan Co: Ketchikan AK 99901–
Landholding Agency: DOT
Property Number: 879130004
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Galley/Rec. Bldg.
USCG Base Ketchikan
1300 Stedman Street
Ketchikan Co: Ketchikan AK 99901–
Landholding Agency: DOT
Property Number: 879140002
Status: Excess
Reason: Secured Area

Supply Warehouse
USCG Base Ketchikan
1300 Stedman Street
Ketchikan Co: Ketchikan AK 99901–
Landholding Agency: DOT
Property Number: 879140003
Status: Excess
Reason: Secured Area

Old Barracks
USCG Base Ketchikan
1300 Stedman Street
Ketchikan Co: Ketchikan AK 99901–
Landholding Agency: DOT
Property Number: 879140004
Status: Excess
Reason: Secured Area

Bldg. 517
USCG Support Center Kodiak
Kodiak Island
Kodiak Co: Kodiak Island AK 99916–5000
Landholding Agency: DOT
Property Number: 879140007
Status: Excess
Reason: Secured Area; Within airport runway clear zone

California

Bldg. 17
Coast Guard Island
USCG Support Center, Alameda
Alameda Co: Alameda CA 94501–
Landholding Agency: DOT
Property Number: 879130002
Status: Unutilized
Reason: Other
Comment: Structural deficiencies

3 Buildings
Former Long Beach Radio Station
Palos Verde Drive
Palos Verde Co: Los Angeles CA 90274–
Landholding Agency: DOT
Property Numbers: 879140008–879140010
Status: Excess
Reason: Secured Area

4 Bldgs., Loran Station
Johnston Island
APO San Francisco, CA (Sand Island)
Johnston ATOLL CA 96305–5000
Landholding Agency: DOT
Property Number: 879210004
Status: Excess
Reason: Secured Area

Colorado

Alemeda Facility
350 S. Santa Fe Drive
Denver Co: Denver CO 80223–
Landholding Agency: DOT
Property Number: 879010014
Status: Unutilized
Reason: Other environmental
Comment: contamination

Florida

Bldg. #3, Recreation Cottage
USCG Station
Marathon Co: Monroe FL 33050–
Landholding Agency: DOT
Property Numbers: 879210008
Status: Unutilized
Reason: Secured Area; Floodway

Hawaii

14 Buildings
USCG Base Honolulu
Sand Island
Honolulu Co: Honolulu HI 96819–4398
Landholding Agency: DOT
Property Number: 879140011–879140024
Status: Excess
Reason: Secured Area; Within 2000 ft. of flammable or explosive material.

9 Bldgs., Loran Station
Kure Island
FPO San Francisco, CA Co: Honolulu HI 96619–0006
Landholding Agency: DOT
Property Number: 879210005
Status: Excess
Reason: Secured Area

Barracks/Recreation Bldg.
Loran Station Upolu Point
Box 2
Hawi Co: Hawaii HI 96719–0002
Landholding Agency: DOT
Property Number: 879210006
Status: Excess
Reason: Secured Area

Transmitter Bldg.
Loran Station Upolu Point
Hawi Co: Hawaii HI 96719–0002
Landholding Agency: DOT
Property Number: 879210007
Status: Excess
Reason: Secured Area

Illinois

Former Martin L. King Center
3312 West Grenshaw Avenue
Chicago Co: Cook IL 60624–
Landholding Agency: GSA
Property Number: 549130005
Status: Excess
Reason: Other
Comment: Extensive deterioration
GSA Number: 2(R)–F–IL–691

Massachusetts

115 Buildings
Massachusetts Military Reservation
Bourne Co: Barnstable MA 02542–
Landholding Agency: DOT
Property Numbers: 879210009–879210123
Status: Excess
Reason: Other
Comment: Extensive deterioration

New Jersey

Bldg. 120
USCG Training Center Cape May
North side of Munro Ave.
Cape May Co: Cape May NJ 08204–
Location: Opposite GSK Bldg. 204
Landholding Agency: DOT
Property Number: 879210007
Status: Unutilized
Reason: Secured Area

New Mexico

Farmington Office and Yard
900 La Plata Highway
Farmington Co: San Juan NM 87490–
Landholding Agency: Interior
Property Number: 619010001
Status: Unutilized
Reason: Within airport runway clear zone

New York

Plum Island Light Station
Plum Island
Southfield Township Co: Suffolk NY
Landholding Agency: GSA
Property Number: 549030004
Status: Excess
Reason: Secured Area
GSA Number: 2–A–NY–798

3 Buildings
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Numbers: 549120013–549120014, 549120038
Status: Excess
Reason: Other
Comment: Electrical substation
GSA Number: 2–N–NY–797

Hospital Area Steam Tunnel
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120045
Status: Excess
Reason: Other
Comment: Structurally unsound
GSA Number: 2–N–NY–797

North Street Steam Tunnel
Naval Station New York
207 Flushing Avenue
Brooklyn Co: Kings NY 11251–
Landholding Agency: GSA
Property Number: 549120046
Status: Excess
Reason: Other
Comment: Structurally unsound
GSA Number: 2–N–NY–797

North Carolina

Bldg. 9
VA Medical Center
1100 Tunnel Road
Asheville Co: Buncombe NC 28805–
Landholding Agency: VA
Property Number: 979010008
Status: Underutilized
Reason: Other
Comment: Friable asbestos.

Oregon

Eugene District Office Site
751 South Danebo
Eugene Co: Lane OR 97402–
Landholding Agency: Interior
Property Number: 619010003
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material

USCG Air Station North Bend
2000 Connecticut Avenue
North Bend Co: Coos OR 97549–2399
Landholding Agency: DOT

Property Number: 879140001
Status: Excess
Reason: Secured Area

Storage Building
USCG Marine Safety Office
6767 North Basin Avenue
Portland Co: Multnomah OR 97217–3992
Landholding Agency: DOT
Property Number: 879210002
Status: Excess
Reason: Other
Comment: Extensive deterioration

Puerto Rico

Mona Island
Punta Este Co: Mona Island PR
Landholding Agency: DOT
Property Number: 879010004
Status: Excess
Reason: Other
Comment: Inaccessible

Texas

3 Buildings
Olin E. Teague Veterans Center
1901 South 1st Street
Temple Co: Bell TX 76504–
Landholding Agency: VA
Property Numbers: 979010050–979010052
Status: Unutilized
Reason: Other
Comment: Friable asbestos.

Washington

Dahinden Chicken Coop
Quinault Ranger Station
Route 2, Box 76
Amanda Park WA 98526–
Landholding Agency: Interior
Property Number: 619030014
Status: Unutilized
Reason: Other
Comment: Chicken coop

Dahinden Outhouse
Quinault Ranger Station
Route 2, Box 76
Amanda Park WA 98526–
Landholding Agency: Interior
Property Number: 619030015
Status: Unutilized
Reason: Other
Comment: Detached latrine

Haas Chicken Coop
% Quinault Ranger Station
Route 2, Box 76
Amanda Park Co: Grays Harbor WA 98526–
Landholding Agency: Interior
Property Number: 619040004
Status: Excess
Reason: Other
Chicken coop

Haas Lean-to
Quinault Ranger Station
Route 2, Box 76
Amanda Park Co: Grays Harbor WA 98526–
Landholding Agency: Interior
Property Number: 619040005
Status: Excess
Reason: Other
Comment: Lean-to

Bldg. #38—Stehekin District
Company Creek Road
Stehekin Co: Chelan WA 98852–
Landholding Agency: Interior
Property Number: 619130001
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Bldg. 689—Comfort Station
Olympic Hot Springs Wilderness Backcountry
Port Angeles Co: Clallam WA 98362–6798
Landholding Agency: Interior
Property Number: 619130002
Status: Excess
Reason: Other
Comment: Extensive deterioration

Bldg. 252—Storage Shed
Olympic Hot Springs Wilderness Backcountry
Port Angeles Co: Clallam WA 98362–6798
Landholding Agency: Interior
Property Number: 619130003
Status: Excess
Reason: Other
Comment: Extensive deterioration

Bldgs. L–103, L–234
Mount Rainier National Park
Longmire Maintenance Complex
Longmire Co: Pierce WA 98397–
Landholding Agency: Interior
Property Number: 619130007–619130008
Status: Excess
Reason: Other
Comment: Extensive deterioration

2 Buildings
USCG Station Cape Disappointment
Foot of Canby Road
Ilwaco Co: Pacific WA 98624–0460
Landholding Agency: DOT
Property Numbers: 879140006–879140008
Status: Excess
Reason: Secured Area

Bldg. #1, USCG Support Center
1519 Alaskan Way South
Seattle Co: King WA 98134–
Landholding Agency: DOT
Property Number: 879210003
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material; Secured Area

Wyoming

Bldg. 95
Medical Center
N.W. of town at the end of Fort Road
Sheridan Co: Sheridan WY 82801–
Landholding Agency: VA
Property Number: 979110004
Status: Unutilized
Reason: Other
Comment: Sewage digester for disposal plant.

Bldg. 96
Medical Center
N.W. of town at end of Fort Road
Sheridan Co: Sheridan WY 82801–
Landholding Agency: VA
Property Number: 979110005
Status: Unutilized
Reason: Other
Comment: Pump house for sewage disposal plant.

Structure 99
Medical Center
N.W. of town at the end of Fort Road
Sheridan Co: Sheridan WY 82801–
Landholding Agency: VA
Property Number: 979110006
Status: Unutilized
Reason: Other
Comment: Mechanical screen for sewage disposal plant.

Structure 100
Medical Center
N.W. of town at the end of Fort Road
Sheridan Co: Sheridan WY 82801–
Landholding Agency: VA
Property Number: 979110007
Status: Unutilized
Reason: Other
Comment: Dosing tank for sewage disposal plant.

Structure 101
Medical Center
N.W. of town at the end of Fort Road
Sheridan Co: Sheridan WY 82801–
Landholding Agency: VA
Property Number: 979110008
Status: Unutilized
Reason: Other
Comment: Chlorination chamber for sewage disposal plant.

Land (by State)

Alaska

Nike Site, Tract 104
Jig Battery "D"
Eielson Defense Area
Fairbanks Co: Fairbanks AK 99701–
Landholding Agency: GSA
Property Number: 549120001
Status: Excess
Reason: Other
Comment: Property is landlocked
GSA Number: 9–D–AK–058–AD

Sanak Harbor Daybeacon
Sanak Island
Sanak Co: Aleutian AK
Landholding Agency: DOT
Property Number: 879010012
Status: Unutilized
Reason: Other
Comment: Isolated area on Arctic Coast

Arizona

Elliott Homes—Canal
West of 77th Ave. and South of Cholla Street
Peoria Co: Maricopa AZ 85345–
Landholding Agency: Interior
Property Number: 619130006
Status: Surplus
Reason: Other
Comment: Lateral canal

California

Elverta Substation
736 W. Elverta Road
Elverta Co: Sacramento CA 95626–
Landholding Agency: Energy
Property Number: 419030008
Status: Underutilized
Reason: Secured Area

DVA Medical Center
4951 Arroyo Road
Livermore Co: Alameda CA 94550–
Landholding Agency: VA
Property Number: 979010023
Status: Unutilized
Reason: Other
Comment: 750,000 pal water reservoir.

Colorado

Sunset Canyon Field Station
Boulder Co: Boulder CO 80302–

VOL
57
SS
40
FE
28
992
UMI

Location: 5 miles west of Wall Street on County Road 118
Landholding Agency: GSA
Property Number: 549030019
Status: Excess
Reason: Floodway
GSA Number: 7–C–CO–602

Beaver Creek Well Site
Approx. 1½ miles east of Brush
Brush Co: Morgan CO 80723–
Landholding Agency: GSA
Property Number: 549120064
Status: Excess
Reason: Floodway
GSA Number: 7–B–CO–604

Georgia

(P) Dobbins AFB/(P) NAS Atlanta
N.E. Quadrant of Intersection between Fairground & South Cobb Drive
Marietta Co: Cobb GA 30060–
Landholding Agency: GSA
Property Number: 549140001
Status: Surplus
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 4–GR–GA–557 & 4–GR–GA–587A

Kentucky

E.C. Clements Job Corps Cntr.
1 Mile East of Morganfield, Ky.
Morganfield Co: Union KY 42437–
Landholding Agency: GSA
Property Number: 549120002
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material; Within airport runway clear zone
GSA Number: 4–L–KY–432–E

Louisiana

Land—3.4 acres
VA Medical Center
2501 Shreveport Highway
Alexandria Co: Rapides LA 71301–
Landholding Agency: VA
Property Number: 979010010
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material

Michigan

Middle Marker Facility
Yipsilanti Co: Washtenaw MI 48198–
Location: 549 ft. north of intersection of Coolidge and Bradley Ave. on East side of street
Landholding Agency: DOT
Property Number: 879120006
Status: Unutilized
Reason: Within airport runway clear zone

Minnesota

VAMC
VA Medical Center
4801 8th Street No.
St. Cloud Co: Sterns MN 56303–
Landholding Agency: VA
Property Number: 979010049
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material

Missouri

Portion (120.60 acres)
Harry S. Truman Dam & Reservoir
County Road BB Co: St. Clair MO 63077–
Landholding Agency: GSA
Property Number: 549140005
Status: Excess
Reason: Floodway
GSA Number: 7–D–MO–607E

Montana

Dawson County Substation
Glendive Co: Dawson, MT 59330–
Location: 3 miles east of Glendive, MT on highway 20
Landholding Agency: Energy
Property Number: 419030011
Status: Underutilized
Reason: Secured Area

Anaconda Substation Co: Deer Lodge, MT
Location: 4 miles southeast of Anaconda
Landholding Agency: Energy
Property Number: 419030013
Status: Unutilized
Reason: Other environmental
Comment: contamination

New York

Tracts 1, 2, 3, & 4,
VA Medical Center
Bath Co: Steuben NY 14810–
Location: Exit 38 off New York State Route 17.
Landholding Agency: VA
Property Numbers: 979010011–979010014
Status: Unutilized
Reason: Secured Area

North Dakota

VAM & ROC—Land—6.1 acres
2101 Elm Street, N.
Fargo Co: Cass ND 58102–
Landholding Agency: VA
Property Number: 979010018
Status: Underutilized
Reason: Floodway

VAM & ROC—Land—8.9 acres
2101 Elm Street, N.
Fargo Co: Cass ND 58102–
Landholding Agency: VA
Property Number: 979010019
Status: Underutilized
Reason: Floodway

Washington

Snoqualmie Substation
King County, WA
Location: 12 miles southwest of North Bend.
Landholding Agency: Energy
Property Number: 419030007
Status: Unutilized
Reason: Secured Area

Portion
Chehalis-Mayfield access road right-of-way
Approx. 2 mi. east of Onalaska Co: Lewis WA 98570–
Landholding Agency: GSA
Property Number: 549140006
Status: Excess
Reason: Other
Comment: Inaccessible
GSA Number: 9–B–WA–1014

Land
Puffin Island Light House Res.
San Juan Co: San Juan WA
Landholding Agency: DOT
Property Number: 879010013
Status: Excess
Reason: Other
Comment: Island

[FR Doc. 92–4341 Filed 2–27–92; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Joint Tribal/BIA/DOI Advisory Task Force on Bureau of Indian Affairs Reorganization, Public Meeting

AGENCY: Department of the Interior.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Public Law 101–512, the Office of the Assistant Secretary—Indian Affairs is announcing the forthcoming meeting of the Joint Tribal/BIA/DOI Advisory Task Force on Bureau of Indian Affairs Reorganization (Task Force).

DATES: March 17, 18, and 19, 1992; 8 a.m. to 5:30 p.m. on March 17 and 9 a.m. to 5:30 p.m. on March 18 and 19; Bally's Casino Resort, 3645 Las Vegas Boulevard South, Las Vegas, Nevada. Adjournment time on March 17, 1992, may be later than the 5:30 p.m. time set above in order to accommodate all those persons signing up to present comments to the Task Force. The meeting of the Task Force is open to the public.

FOR FURTHER INFORMATION CONTACT: Veronica L. Murdock, Designated Federal Officer, Office of the Assistant Secretary—Indian Affairs; MS 4140 MIB; 1849 C Street NW.; Washington, DC 20240; Telephone number (202) 208–4173.

SUPPLEMENTARY INFORMATION: The Task Force welcomes public oral and written comments, and it regularly schedules public comment time during each meeting. In order to broaden Tribal Government participation, however, the first day of this meeting of the Task Force has been designated as a "Public Hearing" to obtain Tribal Government, Indian and Tribal Organization, and individual comments on the "1991 Cumulative Report of the Joint Tribal/BIA/DOI Advisory Task Force on Bureau of Indian Affairs Reorganization" and on other Task Force activities. The order for speaking at this Public Hearing will be determined by the order in which persons sign up to speak and in the following categorical order: (1) Tribal Council Chairpersons and persons designated in writing to speak on behalf of Tribal Governing Bodies, (2) Representatives of National, Regional, Inter-Tribal, and Tribal organizations, and (3) individuals speaking on their own behalf. Persons wishing to present testimony or speak to the Task Force may sign up in advance by calling

Veronica L. Murdock at (202) 208–4173 until 4 p.m. on March 12, 1992. Sign up sheets will also be available at the meeting site on March 16, 1992, from 2 p.m. until 10 p.m. in the Task Force work room and on March 17, 1992, from 7:30 a.m. to 10:15 a.m. at the Task Force registration table at the meeting room. Speakers are encouraged to prepare written testimony, background material, comments, and other documents for presentation to the Task Force because time for oral presentations will be limited. All written documentation should be submitted with an original and 50 copies to ensure distribution to all Task Force members during this meeting. Also written comments may be submitted by individuals unable to attend the meetings. The Task Force appreciates written comments at any time, but comments mailed to the Task Force for this meeting should be received prior to March 12, 1992, to ensure their consideration at this meeting. Written comments received too late for consideration at this meeting will be made a part of the official record and used for discussion at future meetings of the Task Force. Written comments for this meeting are to be addressed to Veronica L. Murdock, Office of the Assistant Secretary—Indian Affairs, Mail Stop 4140 MIB, Department of the Interior, 1849 C Street NW., Washington, DC 20240. The Task Force will discuss the comments obtained from the public, identify goals and objectives and the means for achieving these during the remainder of the Task Force's activities, and discuss the means by which public comments will be incorporated into future activities. The Task Force will also continue old business with concentration on Area/Agency structures, the Bureau's budget process, and the directives systems under which the Bureau operates.

Dated: February 25, 1992.

Eddie F. Brown,

Assistant Secretary—Indian Affairs.

[FR Doc. 92–4617 Filed 2–27–92; 8:45 am]

BILLING CODE 4310-02-M

Fish and Wildlife Service

Grizzly Discovery Center, West Yellowstone, Montana

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Receipt of Application for a Permit.

SUMMARY: The following applicant applied for a subpermit under the Fish and Wildlife Permit number PRT 704930 for the purposes of holding a threatened species for zoological exhibition and educational purposes. This is consistent with the purposes of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended.

ADDRESSES: Applicant: Lewis S. Robinson, III, President, Firehole Land Corporation, P.O. Box 1020, West Yellowstone, Montana 59758.

SUPPLEMENTARY INFORMATION:

Background

The applicant proposes to develop an 87-acre parcel of land in West Yellowstone, Montana, adjacent to the west entrance of Yellowstone National Park. This proposed development is now known as "Grizzly Park" and would feature as its main attraction the "Grizzly Discovery Center." The proposed Grizzly Discovery Center would be a grizzly bear (*Ursus arctos horribilis*) exhibition facility for which the applicant is seeking an Endangered Species Permit to hold and display up to 28 grizzly bears. The purpose of this zoological exhibit will be to house grizzly bears in "natural exhibit areas" for the education and entertainment of paying visitors. The Grizzly Discovery Center will provide information on grizzly bears and their habitat in the Yellowstone Ecosystem and will include an "Imax" theater for this purpose. The applicant requests that grizzly bears for this facility be obtained from a variety of sources including zoos, research centers, and wild "orphan," or "problem" bears in the possession of State wildlife agencies, pending the agencies' determination to remove them from the wild under provisions of the Interagency Grizzly Bear Guidelines.

FOR FURTHER INFORMATION CONTACT: Written comments should be submitted to the Field Supervisor, Fish and Wildlife Enhancement, P.O. Box 10023, Federal Building and U.S. Courthouse, 301 South Park, room 464, Helena, Montana 59626, telephone (406) 449–5322 or FTS 585–5322. Comments must be received within 60 days of the date of this publication.

Documents and other information submitted with this application are available to the public by appointment during normal business hours at the above Fish and Wildlife Enhancement Office. For further information, interested persons should contact the Field Supervisor at the above address.

Author

Dale Harms, State Supervisor, Fish and Wildlife Enhancement, P.O. Box 10023, Federal Building and U.S. Courthouse, 301 South Park, room 464, Helena, Montana 59626, telephone (406) 449–5225 or FTS 585–5225.

Authority: Endangered Species Act of 1973, as amended.

Dated: February 21, 1992.

Robert D. Jacobsen,

Acting Regional Director.

[FR Doc. 92–4599 Filed 2–27–92; 8:45 am]

BILLING CODE 4310-55-M

Availability of the Draft Environmental Assessment and Land Protection Plan; Proposed Establishment of Mandalay National Wildlife Refuge Terrebonne Parish, LA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of the draft environmental assessment and land protection plan for the proposed establishment of Mandalay National Wildlife Refuge.

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service, Southeast Region, proposes to establish a national wildlife refuge in the vicinity of Terrebonne Parish, Louisiana. The purpose of the proposed refuge is to protect and manage approximately 15,000 acres of nationally significant freshwater marshes and wetlands in the Bayou Penchant Basin of southcentral Louisiana for the benefit of migratory waterfowl and other wildlife. A Draft Environmental Assessment and Land Protection Plan for the proposed refuge has been developed by Service biologists in coordination with the Louisiana Department of Wildlife and Fisheries, the U.S. Army Corps of Engineers, The Nature Conservancy, and other federal and state agencies and private conservation organizations. The assessment considers the biological, environmental, and socioeconomic effects of establishing the refuge. The assessment also evaluates five alternative actions and their potential impacts on the environment. Written comments or recommendations concerning the proposal are welcomed, and should be sent to the address below.

DATES: Land acquisition planning for the project is currently underway. The draft assessment will be available to the public for review and comment on March 16, 1992. Written comments must be received no later than April 30, 1992 to be considered.

ADDRESSES: Comments and requests for copies of the assessment and further information should be addressed to Mr. Charles R. Danner, Chief, Branch of

Project Development, Office of Refuges and Wildlife, U.S. Fish and Wildlife Service, 75 Spring Street SW., room 1240, Atlanta, Georgia 30303.

SUPPLEMENTARY INFORMATION: The primary objectives of the proposed refuge are to provide (1) wintering habitat for migratory waterfowl, (2) production habitat for wood ducks and mottled ducks, (3) habitat for a natural diversity of wildlife, (4) habitat for nongame migratory birds, (5) habitat for threatened and endangered species, and (6) opportunities for environmental education, interpretation, and wildlife-oriented recreation. The proposed refuge would also serve as a focal point for the overall protection and management of the Bayou Penchant Basin in cooperation with other federal and state agencies, conservation organizations, and the private sector.

The proposed refuge area is located in Terrebonne Parish, Louisiana, about 5 miles west of Houma and 20 miles east of Morgan City. The proposed area is bisected by the Gulf Intracoastal Waterway and lies south of the Bayou Black Ridge between Houma and Morgan City near U.S. Highway 90. Three major oil and gas fields are located within the boundary of the proposed refuge.

The area's biological diversity is high. Thousands of migratory waterfowl are attracted to the area's freshwater marshes, including mallards, blue- and green-winged teal, gadwalls, wigeons, and mottled ducks. Wood ducks are common, both as migrants and breeders, and mottled ducks commonly nest throughout the area. American coots heavily use this part of coastal Louisiana, as do several other species of rails and gallinules. Pintails, lesser scaups, geese, and shovelers also winter in the area. It is not uncommon for this area to reach peaks of 75,000 or more ducks.

In addition, the proposed refuge area provides critical spring and fall habitat for neotropical migratory birds. Wading birds also use the area in significant numbers and several rookeries are present. One major rookery consists of several thousand pairs of white ibis, great egrets, little blue herons, snowy egrets, and tricolored herons. A few roseate spoonbills also nest in the area.

Bald eagles use the proposed refuge heavily and at least four active nests have been documented. One nest near Hansons Canal in the proposed refuge area fledged two young in 1989. The proposed refuge area represents the primary core nesting area for bald eagles west of Florida. The area's marshes also support high populations of other wildlife, including nutria, alligators, and white-tailed deer. Freshwater fishing for largemouth bass, crappie, and catfish is popular in the canals and open water areas.

The draft environmental assessment was developed by the Service in consultation with representatives from the Louisiana Department of Wildlife and Fisheries, The Nature Conservancy, the U.S. Army Corps of Engineers, Ducks Unlimited, the USDA Soil Conservation Service, the Environmental Protection Agency, and the National Marine Fisheries Service. The biological, environmental, and socioeconomic effects of acquiring approximately 15,000 acres of freshwater marshes and wetlands for the establishment of the refuge have been considered. Five alternatives and their potential impacts on the environment are presented and evaluated. The Service believes the preferred alternative, Protection and Management of Approximately 15,000 Acres by the U.S. Fish and Wildlife Service, is a positive step in preserving a nationally significant wetland ecosystem for the benefit of migratory waterfowl, neotropical migrant birds, endangered species, and other native wildlife.

Dated: February 20, 1992.

James W. Pulliam, Jr.,

Regional Director.

[FR Doc. 92-4547 Filed 2-27-92; 8:45 am]

BILLING CODE 4310-55-M

Issuance of Permit for Marine Mammals

On November 21, 1991, a notice was published in the **Federal Register**, Vol. 56, No. 225, Page(s) 58705, that an application had been filed with the Fish and Wildlife Service by The Seattle Aquarium (PRT-763288) for a permit to import 1 male Alaskan Sea otter (*Enhydra lutris lutris*) for public display.

Notice is hereby given that on 02/10/92, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*), the Fish and Wildlife Service issued the requested permit subject to certain conditions set forth therein.

The permit documents themselves are available for public inspection by appointment during normal business hours (7:45-4:15) at the Fish and Wildlife Service's Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203 (703/358-2104).

Other information in permit file is available under the Freedom of Information Act to any person who submits a written request to the Service's Office of Management Authority at the above address, in accordance with procedures set forth in Department of the Interior regulations, 43 CFR 2.

Dated: February 25, 1992.

Maggie Tieger,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 92-4624 Filed 2-27-92; 8:45 am]

BILLING CODE 4310-55-M

Intent To Prepare an Environmental Impact Statement (EIS) for the Proposed Patoka River Wetlands Project in Pike and Gibson Counties, IN

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This Notice advises the public that the U.S. Fish and Wildlife Service (Service) intends to prepare an EIS for the proposed Patoka River Wetlands Project (Project) located in southwestern Indiana along the Patoka River near the communities of Oakland City and Winslow in Pike and Gibson Counties. The Project is proposed to protect and manage wetlands in a significant bottomland hardwood forest ecosystem.

The EIS will evaluate eight preliminary alternatives on the basis of their biological and socioeconomic impacts. Preparation of the EIS is in response to new resource and socioeconomic impacts uncovered during the preparation of an Environmental Assessment for the proposed establishment of a national wildlife refuge in the same area.

This Notice is being furnished as required by the National Environmental Policy Act (NEPA) Regulations (40 CFR 1501.7) to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. Comments and participation in this scoping process are solicited.

DATES: Written comments should be received by March 30, 1992. A Service office located adjacent to the proposed project in Winslow, Indiana, is currently open from 8 a.m. to 4:30 p.m., Monday through Friday, for personal comments and input, phone (812) 789-2102.

ADDRESSES: Comments should be addressed to: Regional Director, U.S.

Fish and Wildlife Service, Bishop Henry Whipple Federal Building, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056; Attention Jeanne Holler, RE–AP.

FOR FURTHER INFORMATION CONTACT: William McCoy, Project Leader, U.S. Fish and Wildlife Service, P.O. Box 510, Winslow, Indiana 47598–0510, (812) 789–2102.

Copies of a map of the proposed Wetlands Project are available from the Project Leader.

SUPPLEMENTARY INFORMATION: The Service proposes to restore, protect and manage a significant bottomland hardwood forest wetland complex within an area totalling approximately 21,000 acres along the Patoka River in southwestern Indiana.

The purposes of the Patoka River Wetlands Project are to:

1. Restore, protect, and manage a bottomland hardwood forest ecosystem for the many values associated with these wetlands.

2. Restore, protect, and manage uplands that complement and/or protect wetlands.

3. Restore, protect, and manage migratory bird habitat with special emphasis on habitat for wood ducks.

4. Restore, protect, and manage habitat for endangered and threatened species of plants and animals.

5. Increase public opportunities for outdoor recreation and environmental education that are compatible with the primary resource objectives of the Project area.

6. Provide more responsive wildlife extension services and restore wetland habitat in southwestern Indiana per landowner requests according to guidelines of the Service's Partners for Wildlife Program.

7. Improve water quality in the Patoka River watershed to reduce adverse impacts on human health and wildlife productivity, enhance the fishery resource, and increase the attractiveness of the water resources for wildlife-oriented public recreation.

Primary alternatives to be considered in preparation of the EIS are:

1. *No Action*—Rely on existing Federal, State, and local government laws, regulations, and ordinances to protect resources.

2. *Waterbank/Wetland Reserve*—Rely on Department of Agriculture wetland protection or set-aside programs to provide protection of existing or restored wetlands along the Patoka River.

3. *Expansion of Land Use and Zoning Regulations*—Encourage Federal, State, and local governments to enact new laws and regulations to protect the Patoka River's resources.

4. *Acquisition/Management by Others*—This alternative would involve other Federal, State, non-profit, and citizen's groups in the protection of the area's resources through fee title, easement, and lease acquisition.

5. *Private Lands Agreements*—Rely on a program of technical outreach sponsored by the Service and Indiana Department of Natural Resources to assist landowners in the restoration and enhancement of wildlife and fish habitats in the area.

6. *Acquisition of 20,774 acres by the Service for the Patoka River National Wildlife Refuge as Previously Defined in the Environmental Assessment*—Under this alternative, the Service would establish a national wildlife refuge and acquire fee title, easements, and leases from willing sellers, subject to appropriated funds.

7. *Acquisition of Interests in Lands by the Service as Wildlife Management Areas from within a 20,774-acre Selection Area*—Under this alternative, the Service would acquire fee title, easements, and leases to habitats within a selection area based upon availability of funds and willing sellers. These areas would be known as wildlife management areas and would be actively managed by the Service.

8. *Acquisition of Interests in 7,505 acres by the Service for the Patoka River National Wildlife Refuge, and Acquisition of Interests in Other Lands within a 13,269-acre Selection Area to be Managed as Wildlife Management Areas*—This alternative combines features of alternatives 7 and 8. The Service would acquire fee title, easements, and leases from willing sellers to establish a national wildlife refuge from within a 7,505-acre national wildlife refuge acquisition boundary. The Service would also acquire fee title, easements, and lease interests from willing sellers within a 13,269-acre selection area to be managed as wildlife management areas. All acquisition would be subject to appropriation of funds.

The purpose for considering the acquisition alternatives is to provide long term assurance that critical wetland habitat would be preserved while promoting conservation of our Nation's wetlands in accordance with national plans.

The Department of the Interior developed a National Wetlands Priority Conservation Plan as directed by section 301 of the Emergency Wetlands Resources Act of 1986. The North Central Region of the Service developed a Regional Wetlands Concept Plan that identified priority wetland habitat for preservation based on areas where wetland losses are highest and where the threat of additional loss is greatest. Since forested, bottomland wetlands have experienced a high rate of loss, the Patoka River was identified as a high priority area for preservation.

Additional focus has been placed on the Patoka River area as a result of the North American Waterfowl Management Plan signed by the U.S. and Canada in 1986. The plan calls for restoration of continental waterfowl populations by the year 2000 through partnerships of Federal, State, and provincial agencies as well as private conservation organizations and individuals.

One of the partnerships formed is the Lower Mississippi Valley Joint Venture to emphasize the protection and restoration of bottomland hardwood wetlands. The New Madrid Wetlands Project Initiative was developed as one of several thrusts by this multi-agency group. The goal of this initiative is to acquire, develop, and manage important waterfowl habitat in the four cooperating States of Indiana, Illinois, Kentucky, and Missouri.

Sites identified for protection represent the most important habitat still in existence. A total of 30,000 acres have been identified for acquisition by different agencies in Indiana. Of this total, approximately 21,000 acres along the Patoka River have been identified in the New Madrid initiative for acquisition by the Service.

At this time the Service does not have a preferred alternative. The major impacts expected, should the proposed action be carried out, are the conversion of cropland to wildlife habitat use, curtailment of timber harvest, improved economic conditions due to tourism, and change in land ownership from private to Federal. The possible impacts on the surface mining of coal have yet to be quantified. These anticipated impacts will be highly variable between alternatives.

The major issues expected include Service acquisition policy, avian diseases related to the poultry industry, wetland and water level management, effects on the tax base, local employment, effects on adjacent cropland, effects on rights to surface mine coal resources, loss of cropland, and effects on existing and proposed public roads.

Additional studies and report completed since release of the original Environmental Assessment in May 1989, include:

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Coal Reserve Evaluation of the Proposed Patoka River National Wildlife Refuge. October 1991. Office of Surface Mining.

Plants and Plant Community Survey. 1991. Indiana Department of Natural Resources, Division of Nature Preserves.

Fish Survey of the Patoka River. July 1991. Indiana Department of Natural Resources, Division of Fisheries.

Wetland Development and Management Alternative Concept Management Plan. April 1991. U.S. Fish and Wildlife Service.

Hydrographics of Daily Water Elevations at Four Selected Points on the Patoka River, 1974 through 1989. January 1991. U.S. Army Corps of Engineers, Louisville, Kentucky.

The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4371 *et seq.*), NEPA Regulations (40 CFR part 1500–1508), other appropriate Federal regulations, and Service procedures for compliance with those regulations.

The Draft EIS will be made available to the public on or before July 1, 1992. Public meetings will then be announced and held to solicit additional comment for preparing the Final EIS.

Dated: February 21, 1992.

Marvin E. Moriarity,

Acting Regional Director.

[FR Doc. 92–4465 Filed 2–27–92; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Land Management

[G010–4351–10/G2–0104]

Albuquerque District, New Mexico; Emergency Closure of Public Lands, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that all public lands in sections 11, 12, 13, 14, 24, 25, T. 29 N., R. 9 E., NMPM, and sections 17, 18, 19, 20, 28, 29, 31, T. 29 N., R. 10 E., NMPM located in the vicinity of the No Agua Peaks, New Mexico, also known as the Buffalo Piñon Ranch, are closed to unauthorized vehicles.

The purposes of this closure is to protect resident and migratory herds of wild ungulates from the displacement caused by motorized vehicles and to protect forest resources. The area will be closed to all vehicles, except authorized vehicles.

The authority for this closure is found in 43 CFR 8341.2. Any person who violates the closure is subject to fines of not more than $1,000 or imprisonment for not longer than 12 months or both.

EFFECTIVE DATE: February 28, 1992. The closure will remain in effect until rescinded or modified by the authorized officer upon completion of the transportation planning for the North Unit Transportation Access Area.

FOR FURTHER INFORMATION CONTACT: Chuck Schultz, Supervisory Mutli-Resource Specialist, Taos Resource Area, 224 Cruz Alta Road, Taos, New Mexico 87571. Phone (505) 758–8851; FTS 479–8801.

Dated: February 20, 1992.

Robert T. Dale,

District Manager.

[FR Doc. 92–4555 Filed 2–27–92; 8:45 am]

BILLING CODE 4310-FB-M

[ID–010–02–4350–08]

Management Framework Plan Amendment Draft and Environmental Assessment Availability; Cascade Resource Area; ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of draft Management Framework Plan Amendment; and draft Area of Critical Environmental Concern Designations.

SUMMARY: Pursuant to the BLM Planning Regulations (43 CFR part 1600) and the National Environmental Policy Act (NEPA, section 102(2)(C)) the Boise District, BLM has prepared a draft amendment to the Cascade Resource Management Plan on a proposal to designate six sites as areas of critical environmental concern (ACECs) and to consider transfer of four parcels of land from Federal ownership. This notice is also issued pursuant to § 1610.7–2(b) of the BLM Planning Regulation. The draft plan amendment and an environmental assessment (EA) prepared on the amendment are now available for public review and comment.

DATES: The 90–day public comment period for the draft plan amendment will close on May 29, 1992. Written comments should be mailed to the address listed below. Public meetings have not been scheduled.

ADDRESSES: Written Comments should be mailed to: Cascade Area Manager, Bureau of Land Management, 3948 Development Avenue, Boise, ID 83705.

FOR FURTHER INFORMATION CONTACT: John Fend, Cascade Area Manager or Fred Minckler, Team Leader at the Bureau of Land Management, 3984 Development Avenue, Boise, ID 83705, telephone (208) 384–3300.

SUPPLEMENTARY INFORMATION: The Cascade Resource Management Plan (RMP) is a land use plan for public lands within the Cascade Resource Area administered by BLM in southwest Idaho. The Boise District has prepared an amendment which addresses special management actions and designation of six sites ranging in size from 40 acres to 1,250 acres as ACECs to protect *Allium aaseae* (Aase'e onion), an onion species being considered by the U.S. Fish and Wildlife Service for listing as threatened or endangered. The six sites are: Cartwright Canyon, 400 acres; Hulls Gulch, 120 acres; Sand-capped Knob, 40 acres; Sand Hollow, 1,250 acres; Willow Creek, 1,080 acres and Woods Gulch, 40 acres. Resource use limitations proposed for these areas address: Livestock grazing; motorized vehicle use; rights-of-way; mineral leasing, location and disposal; water developments and fire suppression and rehabilitation. The draft amendment also considers possible transfer of four parcels of public land from Federal ownership. An environmental assessment (EA) has been prepared on the amendment. The draft amendment and the EA have been distributed for public review and comment. Additional copies are available at the Boise District Office at the address listed above.

Dated: February 21, 1992.

Rodger E. Schmitt,

Associate District Manager.

[FR Doc. 92–4576 Filed 2–27–92; 8:45 am]

BILLING CODE 4310-GG-M

[AZ–050–4410–02]

Arizona: Availability of the Final Yuman District Resource Management Plan Amendment and Environmental Assessment, Yuma District

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of the Yuman District Resource Management Plan Amendment and Environmental Assessment, Yuma District.

SUMMARY: In compliance with the Federal Land Policy and Management Act of 1976 and section 102(2)(c) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared an amendment and environmental assessment to its Yuma District Resource Management Plan.

The management actions prescribed in the Final Amendment include: (1) No surface occupancy on oil and gas leases in riparian areas; (2) categorization of desert tortoise habitat; (3) designation of the Bill Williams Riparian Management Area; (4) adjustments in lands available for disposal; (5) additions to lands identified for acquisition; (6) withdrawal of the La Posa Long-Term Visitor Area; (7) adjustments to District off-highway vehicle designations; and (8) adjustments in competitive-use, off-highway vehicle area designations.

The protest period will begin upon publication of this notice in the **Federal Register** and will run for 30 days, after which the decision will become final.

The document contains procedures for protesting the plan or any part of it. These procedures can also be found in the Code of Federal Regulations (43 CFR 1610.5-2).

Except for any portions under protest, the Bureau of Land Management's Arizona State Directory may approve the plan after 30 days from the date of this notice.

SUPPLEMENTARY INFORMATION: A limited number of copies of the Amendment and Environmental Assessment are available upon request to the Yuman District Manager, Bureau of Land Management, 3150 Winsor Avenue, Yuma, Arizona 85365. There are also copies available for review at the above location.

FOR FURTHER INFORMATION CONTACT: Environmental Protection Specialist Dave Curtis, Bureau of Land Management, 3150 Winsor Avenue, Yuma, Arizona 85365, telephone (602) 726-6300.

Dated: February 19, 1992.

Mervin Boyd,

Acting District Manager.

[FR Doc. 92-4490 Filed 2-27-92; 8:45 am]

BILLING CODE 4310-32-M

[AZ-020-00-4320-12]

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction of **Federal Register** publication.

On February 3, 1992, the location for the Kingman Resource Area Grazing Advisory Board meeting was incorrectly published in the **Federal Register** Volume 57, No. 22., Page 4052. The correct location for the meeting will be the Kingman Resource Area Conference Room, 2475 Beverly Avenue, Kingman, Arizona 86401.

Dated: February 20, 1992.

Henri R. Bisson,

District Manager.

[FR Doc. 92-4579 Filed 2-27-92; 8:45 am]

BILLING CODE 4310-32-M

[ID-050-4212-13; I-26669]

Realty Action: Private Exchange Involving Public Land in Blaine County, ID; Amendment

AGENCY: Bureau of Land Management; Interior.

ACTION: Amendment to Notice of Realty Action, I-26669; exchange of public and private land in Blaine County, Idaho. Original Notice of Realty Action was published in the **Federal Register** on March 9, 1989 (Vol. 54, No. 45, page 10054).

SUMMARY: Publication of this amendment reinstitutes the segregation of the public land and closes them to the operation of the public land laws, including the mineral laws, for a period of two years from date of publication of this amendment in the **Federal Register**.

SUPPLEMENTARY INFORMATION: Detailed information concerning this action is available from the Shoshone District office of the Bureau of Land Management, 400 West F Street, Shoshone, Idaho 83352 or telephone (208) 886-2206.

Dated: February 19, 1992.

Mary C. Gaylord,

District Manager.

[FR Doc. 92-4580 Filed 2-27-92; 8:45 am]

BILLING CODE 4310-GG-M

[ID-030-02-4212-11]

Realty Action; ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Amendment of Pocatello Resource Management Plan (RMP), notice of Realty Action (NORA), Recreation and Public Purposes (R&PP) Act Classification (IDI-27984) in Bannock County, ID.

NOTICE: Notice is hereby given that the Bureau of Land Management (BLM) has amended the Pocatello RMP to provide for the management of certain lands acquired by Quit Claim Deed and lease relinquishment in Bannock County, Idaho. Notice is further given that portions of these lands have been examined and found suitable for lease under the R&PP Act, as amended (43 U.S.C. 869 et seq.) to the Boy Scouts of America for a scout camp.

The effective date of this R&PP classification will be 60 days from the date of **Federal Register** publication. The lease will be subject to the following terms and conditions:

1. Development in accordance with the approved plan of development.
2. Civil Rights requirements.
3. Nine (9) specific environmental protection stipulations will be made a part of the lease.
4. All conditions contained in Sections 1-8 of Lease Form 2912-1.

SUMMARY: The following described acquired lands have been examined and through the public supported land use planning process have been identified to be managed through multiple use management pursuant to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

Boise Meridian, Idaho

T. 7 S., R. 36 E.,
  Sec. 34, E½SE¼.
T. 8 S., R. 36 E.,
  Sec. 2, Lot 4, SW¼NW¼, W½SW¼;
  Sec. 3, Lot 1, S½NE¼, E½SE¼SW¼, SE¼;
  Sec. 10, NE¼, E½E½NW¼, N½SE¼,
    E½SW¼SE¼, SE¼SE¼;
  Sec. 11, W½W½;
  Sec. 14, W½;
  Sec. 15, NE¼NE¼, E½SE¼NE¼,
    E½E½SE¼;
  Sec. 22, E½NE¼NE¼, SE¼NE¼, E½SE¼,
    E½NW¼SW¼;
  Sec. 23, NW¼, W½SW¼;
  Sec. 26, NW¼NW¼, S½NW¼, SW¼;
  Sec. 27, E½NE¼;
  Sec. 34, SE¼NE¼, NE¼SE¼,
    N½SE¼SE¼, SE¼SE¼SE¼;
  Sec. 35, W½, SW¼NE¼, W½SE¼.
T. 9 S., R. 36 E.,
  Sec. 2, Lots 3-5, S½N½, SE¼SW¼,
    N½SW¼.

Comprising 3,137.54 acres.

The public lands obtained by lease relinquishment are described as:

Boise Meridian, Idaho

T. 8 S., R. 36 E.,
  Sec. 3, W½SE¼SW¼;
  Sec. 10, W½E½NW¼, W½SW¼SE¼;
  Sec. 15, W½SE¼NE¼, W½E½SE¼;
  Sec. 22, W½NE¼NE¼, SW¼NE¼, W½
    NW¼SE¼; SW¼SE¼;
  Sec. 27, E½SE¼;
  Sec. 34, SW¼SE¼SE¼, NE¼NE¼;
T. 9 S., R. 36 E.,
  Sec. 3, Lot 1.

Comprising 422.50 acres.

The following public lands have been examined and found suitable for R&PP Act lease. These lands are hereby classified as suitable for lease under the provisions of the R&PP Act (Act of June 14, 1926 as amended).

Boise Meridian, Idaho

T. 8 S., R. 36 E.,
  Sec. 30, W½W½SW¼;

Sec. 27, E½SE¼;
Sec. 34, E½E½;
Sec. 35, W½W½, SE¼SW¼.
T. 9 S., R. 36 E.,
Sec. 2, Lot 5, SW¼NW¼, NW¼SW¼, E½W½;
Sec. 3, Lot 1.
Comprising 668 acres.

The classification is based on the following reasons:

1. The lands are physically suitable to Boy Scout camp site development.

2. The lands meet the guidelines for lease as contained in 43 CFR 2741.5.

3. These lands are valuable for public purposes as stated in 43 CFR 2430.4(a) and may properly be classified for lease under the R&PP Act as stated in 43 CFR 2430.4(c).

The previously described 668 acres of land are hereby segregated from appropriation under the public land laws, except the R&PP Act, including the mining laws for a period of 18 months.

SUPPLEMENTARY INFORMATION: Detailed information concerning the conditions of the lease can be obtained by contacting Debbie Kovar, Realty Specialist, at (208) 236–6860.

Planning Protest

Any party that participated in the plan amendment and is adversely affected by the amendment may protest this action as it affects issues submitted for the record during the planning process. The protest shall be in writing and filed with the Director (760), Bureau of Land Management, 1800 "C" Street NW., Washington, DC 20240, within 30 days of this notice.

R&PP Act Lease Comments

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho 83401. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any planning protests or objections regarding the R&PP Act lease, this realty action will become the final determination of the Department of the Interior.

Dated: February 21, 1992.

Lloyd H. Ferguson,

District Manager.

[FR Doc. 92–4554 Filed 2–27–92; 8:45 am]

BILLING CODE 4310-GG-M

[MT-020-02-4333-08]

Montana, South Dakota Resource Management Plan Amendment—Fort Meade Recreation Area

AGENCY: Bureau of Land Management, Miles City District Office, Interior.

ACTION: Notice of intent to prepare an amendment to the South Dakota Resource Management Plan for the Fort Meade Recreation Area in Meade County, South Dakota.

SUMMARY: The South Dakota Resource Area is initiating a revision of the Recreation Management Plan for the Fort Meade Recreation Area near Sturgis, South Dakota. The revision will update the present plan, which was approved in 1981 and incorporated into the South Dakota Resource Management Plan (RMP) in 1985. The revision will therefore constitute an amendment to the RMP.

The revised plan will prescribe long-term management objectives, allocations and actions for all affected resources in the recreation area. No major issues have been identified to date. The plan amendment will consolidate past planning efforts and provide more detailed management guidance for some resources. Potential issues include the balancing of public demands for increased development and dispersed recreational activities and management actions necessary to ensure human health and safety. Disciplines represented in the preparation of the plan amendment will include forestry, archeology, fisheries, wildlife, recreation, range, watershed, realty, geology and law enforcement. Opportunities for public involvement will include scoping of issues and concerns, periodic updates on progress and review of the final plan amendment. Various state and federal agencies, including the South Dakota Game, Fish and Parks Department, the Department of Veterans Affairs and the public will be involved. Contact with agencies and the public will be made through meetings, update letters and written comments.

DATES: Comments and recommendations of issues and concerns to be considered will be received until at least 30 days after February 28, 1992.

FOR FURTHER INFORMATION CONTACT: Mark W. Stiles, Area Manager, South Dakota Resource Area, 310 Roundup Street, Belle Fourche, South Dakota 57717, phone (605) 892–2526.

Sandra E. Sacher,

Acting District Manager.

[FR Doc. 92–4578 Filed 2–27–92; 8:45 am]

BILLING CODE 4310-DN-M

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

Request for Nominations to the Board of Trustees

AGENCY: Institute of American Indian and Alaska Native Culture and Arts Development (aka Institute of American Indian Arts).

ACTION: Request for nominations.

SUMMARY: The Board directs the administration of the Institute of American Indian and Alaska Native Culture and Arts Development, including soliciting, accepting, and disposing of gifts, bequests, and other properties for the benefit of the Institute The Institute, established under Public Law 99–498 (20 U.S.C. 4411 et seq.), provides scholarly study of and instruction in Indian art and culture, and establishes program which culminate in the awarding of degrees in the various fields of Indian arts and culture.

The Board consists of thirteen members appointed by the President of the United States, by and with the consent of the U.S. Senate, who are American Indians or persons knowledgeable in the field of Indian art and culture. This notice requests nominations to fill five appointments on the Board of Trustees.

DATES: Nominations will be accepted until March 30, 1992.

ADDRESSES: Nominations may be sent to the Chairman, Board of Trustees, Institute of American Indian Arts, Post Office Box 1836, Santa Fe, New Mexico 87504.

FOR FURTHER INFORMATION CONTACT: William Stewart Johnson, Chairman of the Board of Trustees, Institute of American Indian Arts, Post Office Box 1836, Santa Fe, New Mexico 87504, 505–988–6288.

SUPPLEMENTARY INFORMATION: Public Law 99–498 (20 U.S.C. 4412(a)(2)(B), requires the President to publish in the **Federal Register** an announcement regarding nominations of the Presidentially appointed members of the Board of Trustees of the Institute. On February 22, 1991 (56 FR 8099, February 26, 1991), the President delegated to the Chairman of the Board of Trustees the responsibility to publish an announcement regarding these nominations in the **Federal Register**. All nominations submitted will be forwarded to the President for consideration.

Dated: February 21, 1992, Santa Fe, New Mexico.

William Stewart Johnson,

Chairman, Board of Trustees, Institute of American Indian Arts.

[FR Doc. 92-4553 Filed 2-27-92; 8:45 am]

BILLING CODE 0000-00-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-518 (Final)]

Aspherical Ophthalmoscopy Lenses From Japan; Commission Determination To Conduct a Portion of the Hearing in Camera

AGENCY: U.S. International Trade Commission.

ACTION: Closure of a portion of a commission hearing to the public.

SUMMARY: Upon request of respondent, and subsequent request of petitioner, in the above-captioned final investigation, the Commission has unanimously determined to conduct a portion of its hearing scheduled for February 26, 1992, *in camera*. See Commission rules 207.23(a), 201.13 and 201.35(b)(3) (19 CFR 207.23(a), 201.13 and 201.35(b)(3)). The remainder of the hearing will be open to the public. The Commission unanimously has determined that the 10-day advance notice of the change to a meeting was not possible. See Commission rule 201.35(a), (c)(1) (19 CFR 201.35(a), (c)(1)).

FOR FURTHER INFORMATION CONTACT: Robin L. Turner, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-205-3103. Hearing impaired individuals are advised that information on this matter may be obtained by contacting the Commission's TDD terminal on 202-205-1810.

SUPPLEMENTARY INFORMATION: The Commission believes that good cause exists in this investigation so as to make it appropriate to hold a portion of the hearing *in camera*. The majority of the information collected by the Commission is business proprietary information (BPI) because there is one domestic producer. In light of these facts, the Commission has determined that a full discussion of petitioner's financial condition and of many of the indicators that the Commission examines in assessing material injury by reason of subject imports could only take place if at least part of the hearing was held *in camera* In making this decision, the Commission nevertheless reaffirms its belief that wherever possible its business should be conducted in public.

The hearing will include the usual public presentations by petitioner and by respondent, with questions from the Commission. In addition the hearing will include *in camera* sessions for discussion of petitioner's BPI, for discussion of respondent's BPI, and for comparative discussion of BPI submitted by respondent and BPI of petitioner, as necessary. For any *in camera* session, the room will be cleared of all persons except: Those who have been granted access to business proprietary information under a Commission administrative protective order (APO) and are included on the Commission's APO service list in this investigation. See 19 CFR 201.35(b) (1), (2). In addition, if petitioner's BPI will be discussed in the *in camera* session, personnel of petitioner also will be granted access to the closed session. See 19 CFR 201.35(b) (1), (2). In the alternative, if respondent's BPI will be discussed in the *in camera* session, personnel of respondent also will be granted access to the closed session. See 19 CFR 201.35(b) (1), (2). The time for the parties' presentations and rebuttals in the *in camera* session will be taken from their respective overall allotments for the hearing. All those planning to attend the *in camera* portions of the hearing should be prepared to present proper identification.

Authority: The General Counsel has certified, pursuant to Commission Rule 201.39 (19 CFR 201.39) that, in her opinion, a portion of the Commission's hearing in Aspherical Ophthalmoscopy Lenses from Japan, Inv. No. 731-TA-518 (Final) may be closed to the public to prevent the disclosure of business proprietary information.

Issued: February 25, 1992.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 92-4628 Filed 2-25-92; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation—American Telephone & Telegraph Company, 32 Avenue of the Americas, New York, New York 10013.

2. Subsidiaries—AT&T Paradyne Corporation (Delaware), AT&T Universal Card Service Corp. (Delaware), NCR Corporation (Maryland).

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-4604 Filed 2-27-92; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-3 (Sub-No. 96X)]

Missouri Pacific Railroad Co. Abandonment Exemption—in St. Louis County, MO

Applicant has filed a notice of exemption under 39 CFR 1152 subpart F—Exempt Abandonments, to abandon its 6.2-mile line of railroad between milepost 15.8, near Billman Spur, and milepost 22.0, near Broadway Junction, in St. Louis County, MO.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). to address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on March 29, 1992 (unless stayed). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to

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[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation)

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file an offer of financial assistance under 49 CFR 1152.27(c)(2).[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by March 9, 1992.[3] Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by March 19, 1992, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Joseph D. Anthofer, 1416 Dodge Street, room 830, Omaha, NE 68179.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by March 4, 1992. Interested persons may obtain a copy of the EA from SEE by writing to it (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 927-6248. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: February 24, 1992.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.

Secretary.

[FR Doc. 92-4605 Filed 2-27-92; 8:45 am]

BILLING CODE 7035-01-M

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory Committee on Appellate Rules

AGENCY: Judicial Conference of the United States.

SUBAGENCY: Advisory Committee on Rules of Appellate Procedure.

ACTION: Notice of open meeting.

SUMMARY: There will be a one-day meeting of the Advisory Committee on Appellate Rules. The meeting will be open to public observation but not participation. The meeting will commence at 9 a.m.

DATES: April 30, 1992.

ADDRESSES: Administrative Office of the United States Courts, 811 Vermont Avenue, NW., room 638, Washington, DC 20544.

FOR FURTHER INFORMATION CONTACT: Joseph F. Spaniol, Jr., Secretary, Committee on Rules of Practice and Procedure, Washington, DC 20544, telephone (202) 633-6021.

Dated: February 21, 1992.

Joseph F. Spaniol, Jr.,

Secretary, Committee on Rules of Practice and Procedure.

[FR Doc. 92-4568 Filed 2-27-92; 8:45 am]

BILLING CODE 2210-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 9, 1992.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 9, 1992.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC this 18th day of February 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers/firm—	Location	Date received	Date of petition	Petition No.	Articles produced
Allied Signal, Inc. (workers)	Eatontown, NJ	02/18/92	02/10/92	26,849	Tank generators.
Baxter Healthcare, Corp (workers)	Savage, MD	02/18/92	11/17/91	26,850	Intravenous infusion pumps.
Classic Leather Corp (company)	Johnstown, NY	02/18/92	01/24/92	26,851	Sheepskin leather.
Concurrent Computer Corp. (workers)	Oceanport, NJ	02/18/92	02/07/92	26,852	Computers.

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cannot be made prior to the effective date of the notice of exemption. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] *See* Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

[3] By letter filed February 6 (confirmed by letter filed February 19), 1992, Gateway Trailnet, Inc. (Gateway), requested that a notice of interim trail use/rail banking (NITU) be issued. Gateway indicates that a copy of each letter was served on applicant. Under 49 CFR 1152.29(b)(5), the railroad must reply to a request for interim trail use within 10 days after the request is filed in an exemption proceeding. Computed under 49 CFR 1152.25(d)(3), the actual due date for applicant's reply to Gateway's request was February 18, 1992. No reply had been filed with the Commission as of February 24, 1992. Accordingly, in order to meet the target publication date, the Commission is constrained to defer action on the trail use request pending a reply. Applicant is admonished to comply with the Commission's rules, including prompt replies to any additional trail use requests filed in this proceeding. The Commission will accept a late-filed trail use request as long as it retains jurisdiction to do so.

APPENDIX—Continued

Petitioner: Union/workers/firm—	Location	Date received	Date of petition	Petition No.	Articles produced
D & R Cedar (company)	Fork, WA	02/18/92	01/23/92	26,853	Red cedar shakes and shingle.
DeKalb Energy Co (company)	Bakersfield, CA	02/18/92	02/07/92	26,854	Oil, gas exploration, production.
DeKalb Energy Co (company)	Artesia, NM	02/18/92	02/07/92	26,855	Oil, gas exploration, production.
DeKalb Energy Co (company)	Williston, ND	02/18/92	02/03/92	26,856	Oil, gas exploration, production.
Electronic Measurements, Inc (workers)	Neptune, NJ	02/18/92	02/07/92	26,857	Power supplies.
ENSCO Drilling Co (company	Broussard, LA	02/18/92	02/03/92	26,858	Drilling contractor.
Gerber Childrenswear, Inc. (company)	Ephrata, PA	02/18/92	02/07/92	26,859	Cloth diapers.
Gerber Childrenswear, Inc. (company)	Tempe, AZ	02/18/92	02/07/92	26,860	Cloth diapers.
Gerber Childrenswear, Inc. (company)	Pelzer, SC	02/18/92	02/07/92	26,861	Cloth diapers.
Golden Ribbon Corp (company)	Boulder, CO	02/18/92	02/07/92	26,862	Computer printer ribbons.
Grimes Aerospace Corp (IAM)	Columbus, OH	02/18/92	02/03/92	26,863	Fuel control valves.
Halliburton Services (workers)	Lafayette, LA 70502	02/18/92	01/22/92	26,864	Oilfield services.
ISC-Bunker Ramo (company)	Fostoria, OH	02/18/92	02/03/92	26,865	Provide computer systems.
ISC-Bunker Ramo (company)	Sharonville, OH	02/18/92	02/03/92	26,866	Provides computer systems.
ISC-Bunker Ramo (company)	Dayton, OH	02/18/92	02/03/92	26,867	Provide computer systems.
ISC-Bunker Ramo (company)	Broadview Hgts, OH	02/18/92	02/03/92	26,868	Provide computer systems.
ISC-Bunker Ramo (company)	Columbus, OH	02/18/92	02/03/92	26,869	Provides computer systems.
K W Well Service, Inc (company)	Abilene, TX	02/18/92	02/07/92	26,870	Oil, gas well servicing.
Mid-West Waltham Abrasives Co (workers)	New Castle, IN	02/18/92	02/07/92	26,871	Bonded and coated abrasives.
National-Oilwell (company)	Garland, TX	02/18/92	01/27/92	26,872	Oil drilling.
NCR Corp NCRIU	Middletown, OH	02/18/92	02/03/92	26,873	Computer equipment.
Stevenson Co-Ply, Inc (company)	Stevenson, WA	02/18/92	01/31/92	26,874	Softwood plywood.
TMBR/Sharp Drilling, Inc. (company)	Midland, TX	02/18/92	01/31/92	26,875	Oil, gas well drilling.
Trainer Surveys, Inc. (company)	Shreveport, LA	02/18/92	02/03/92	26,876	Logging and perforating services.
Trico Products Corp (UAW)	Buffalo, NY	02/18/92	01/27/92	26,877	Windshield wiper systems.

[FR Doc. 92-4630 Filed 2-27-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-26,713]

Atlas Wireline Services, Abilene, TX; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on January 6, 1992 in response to a worker petition which was filed on January 6, 1992 on behalf of workers at Atlas Wireline Services, A Division of Western Atlas International, Incorporated, Abilene, Texas. The workers are engaged in activities related to exploration and drilling for unaffiliated firms in the oil and gas industry.

The petitioning group of workers is subject to an ongoing investigation for which a determination has not yet been issued (TA-W-26,588). Consequently, further investigation in this case would serve no purpose, and investigation has been terminated.

Signed at Washington, DC this 21st day of February 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92-4631 Filed 2-27-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-26,765]

Atlas Wireline Services, Midland, TX; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on January 27, 1992 in response to a worker petition which was filed on January 27, 1992 on behalf of workers at Atlas Wireline Services, a Division of Western Atlas International, Incorporated, Midland, Texas. The workers are engaged in activities related to exploration and drilling for unaffiliated firms in the oil and gas industry.

The petitioning group of workers is subject to an ongoing investigation for which a determination has not yet been issued (TA-W-26,588). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 21st day of February 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92-4632 Filed 2-27-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-26,523]

North American Refractories Co., Womelsdorf, PA; Negative Determination Regarding Application for Reconsideration

By an application dated February 12, 1992, Local #3269 of the United Steelworkers of America (USW) requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice was signed on January 23, 1992 and will soon be published in the **Federal Register.**

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The workers produce refractory products for U.S. steelmaking firms.

In order for a worker group to be certified eligible to apply for adjustment assistance benefits, it must meet all three of the Group Eligibility Requirements—(1), a significant decrease in employment; (2), an absolute decrease in sales or production and (3), an increase of imports which contributed importantly to worker separations and declines in sales or production. The "contributed importantly" test is generally demonstrated through a survey of the workers' firm's customers.

Investigation findings show that the workers' petition did not meet the

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"contribution importantly" test of the Group Eligibility Requirements of the Trade Act. The Department's survey of North American's major declining customers indicated that none of the respondents purchased imported refractory products during the period under investigation.

The investigation findings show that although some special types of refractory products are imported from a company in Scotland, Womelsdorf never produced the imported products. With respect to the Japanese refractory products, North American purchased Japanese technology in 1983 and imported products in the mid-1980s for reshipment; however, North American never produced these products. North American still imports a small quantity of Japanese refractory products but the types and quantities needed do not lend themselves for production at Womelsdorf.

Company officials indicated that worker separations occurred at Womelsdorf mainly because of the slow business conditions in U.S. steelmaking and a corporate restructuring.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 20th day of February 1992.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Services, Unemployment Insurance Service.

[FR Doc. 92-4633 Filed 2-27-92; 8:45 am]

BILLING CODE 4510-30-M

Employment Standards Administration

Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribe in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purposes of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., room S-3014, Washington, DC 20210.

New General Wage Determination Decisions

The numbers of the decisions added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are listed by Volume, State, and page numbers(s).

Volume I:

Virginia:	
VA91-64 (FEB. 28, 1992)	p. All.
VA91-73 (FEB. 28, 1992)	p. All.
VA91-77 (FEB. 28, 1992)	p. All.

Volume II:

Missouri MO91-13 (FEB. 28, 1992).	p. All.

Modification to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I:

Pennsylvania:	
PA91-1 (FEB. 22, 1991)	p. 943. p. 954.
PA91-2 (FEB. 22, 1991)	p. 965 pp. 966, 970.
PA91-18 (FEB. 22, 1991)	p. 1085. p. 1086.
Virginia:	
VA91-10 (FEB. 22, 1991)	p. All.
VA91-33 (FEB. 22, 1991)	p. All.

Volume II:

Illinois IL91-1 (FEB. 22, 1991)	p. 69. p. 70.
Wisconsin WI91-10 (FEB. 22, 1991).	p. 1247. p. 1253.

Volume III:

California	
CA91-1 (FEB. 22, 1991)	p. All.
CA91-2 (FEB. 22, 1991)	p. All.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 21st day of February 1992.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 92-4405 Filed 2-27-92; 8:45 am]

BILLING CODE 4510-27-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

Agency Information Collection Under OMB Review

AGENCY: National Endowment for the Humanities, National Foundation on the Arts and the Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Comments on this information collection must be submitted on or before March 30, 1992.

ADDRESSES: Send comments to Ms. Susan Daisey, Assistant Director, Grants Office, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., room 310, Washington, DC 20506 (202-786-0494) and Mr. Daniel Chenok, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., room 3002, Washington, DC 20503 (202-395-7316).

FOR FURTHER INFORMATION CONTACT: Ms. Susan Daisey, Assistant Director, Grants Office, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., room 310, Washington, DC 20506, (202) 786-0494 from whom copies of forms and supporting documents are available.

SUPPLEMENTARY INFORMATION: All of the entries are grouped into new forms, revisions, extensions, or reinstatements. Each entry is issued by NEH and contains the following information: (1) The title of the form; (2) the agency form number, if applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what the form will be used for; (6) an estimate of the number of responses; (7) the frequency of response; (8) an estimate of the total number of hours needed to fill out the form; (9) an estimate of the total annual reporting and recordkeeping burden. None of these entries are subject to 44 U.S.C. 3504(h).

Category: Extension

Title: Summary Report for Institute Participants (ES).

Form Number: OMB #3136-0057.

Frequency of Collection: Annual.

Respondents: Individuals; academic scholars—teachers, administrators.

Use: Used by staff and reviewers to evaluate projects funded by the Endowment.

Estimated Number of Respondents: 43.

Frequency of Response: Annually.

Estimated Hours for Respondents to Provide Information: 3 per Respondent.

Estimated Total Annual Reporting and Recordkeeping Burden: 129 hours.

Title: Summary Report for Institute Participants (EH).

Form Number: OMB #3136-0058.

Frequency of Collection: Annual.

Respondents: Individuals; academic scholars—teachers, administrators.

Use: Used by staff and reviewers to evaluate projects funded by the Endowment.

Estimated Number of Respondents: 19.

Frequency of Response: Annually.

Estimated Hours for Respondents to Provide Information: 3 per respondent.

Estimated Total Annual Reporting and Recordkeeping Burden: 57 hours.

Title: Forms for Reporting Project Activities.

Form Number: 3136-0126.

Frequency of Collection: Annual.

Respondents: Individuals; academic scholars—teachers, administrators.

Use: Used by staff and reviewers to evaluate projects funded by the Endowment.

Estimated Number of Respondents: 2,144.

Frequency of Response: Once.

Estimated Hours for Respondents to Provide Information: 1 per respondent.

Estimated Total Annual Reporting and Recordkeeping Burden: 4,288 hours.

Thomas S. Kingston,

Assistant Chairman for Operations.

[FR Doc. 92-4582 Filed 2-27-92; 8:45 am]

BILLING CODE 7536-01-M

Humanities Panel; Meeting

AGENCY: National Endowment for the Humanities, NFAH

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506:

FOR FURTHER INFORMATION CONTACT: David C. Fisher, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone 202/786-0322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on 202/786-0282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; or (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated September 9, 1991, I have determined that these meeting will be closed to the public pursuant to subsections (c)(4), and (6) of section 552b of title 5, United States Code.

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1. *Date:* March 12–13, 1992.
Time: 8:30 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review applications to the Preservation Program for projects submitted to the Division of Preservation and Access Programs, for projects beginning after July 1, 1992.

2. *Date:* March 13, 1992.
Time: 8:30 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for Centers for Advanced Study submitted to the Division of Research Programs, for projects beginning after July 1, 1992.

3. *Date:* March 25, 1992.
Time: 9 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review applications for Distinguished Teaching Professorships, submitted to the February 15, 1992 deadline in the Challenge Grant Program and reviewed in the Division of Education Programs, for projects beginning after September 1992.

4. *Date:* March 27, 1992.
Time: 9 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review applications for Distinguished Teaching Professorships, submitted to the February 15, 1992 deadline in the Challenge Grant Program and reviewed in the Division of Education Programs, for projects beginning after September 1992.

David C. Fisher,
Advisory Committee, Management Officer.

[FR Doc. 92–4581 Filed 2–27–92; 8:45 am]

BILLING CODE 7536-01-M

NATIONAL SCIENCE FOUNDATION

Directorate for Education and Human Resources; Division of Research Career Development; Graduate Research Traineeship Program; Program Announcement and Guidelines; Closing Date: May 15, 1992

This Printed Information Contains the Essence of the Announcement for This Program, and is not a Full Copy of the Actual Brochure Containing the Guidelines for Submission. Before Submitting a Proposal, Obtain a Printed Copy of the Guidelines by Writing or Calling the Publications Office of NSF.

The national Science Foundation (NSF) supports graduate students through a variety of mechanisms. Graduate fellowships provide portable support to enalbe individual students the widest latitude in planning their graduate study. Research assistantships permit graduate students to participate with senior investigators in research projects at the forefront of science and engineering.

With this document, the National Science Foundation announces a new program of Graduate Research Traineeships (GRT) beginning in 1992. The principal objective of this program is to increase the numbers of talented American undergraduates enrolling in doctoral programs in critical and emerging areas of science and engineering. Proposals are solicited from institutions whose existing facilities and staff can accommodate additional graduate students in Ph.D. programs of high quality.

This program is also intended to contribute to strengthening the Nation's human resource base in all geographical sectors and among all underrepresented groups. NSF has made a commitment to human resource development within the scientific and technological community, and the GRT Program will promote diversity with respect to both student and institutional participation. As an integral part of this strategy, proposals are encouraged from departments of comprehensive university systems in which one or more institutional components enroll significant numbers of women and/or minorities underrepresented in graduate science or engineering programs. Such proposals should include explicit plans for recruitment of minority students form the system feeder institutions to graduate programs of departments in science or engineering in the research-intensive graduate institutions of such systems.

Graduate Research Traineeship awards are packages of student support. The colleges and universities that receive the awards are responsible for the selection of trainees. retention of trainees, and administration of traineeships.

Approximately 180 traineeship positions will be made in this competition on a fully-funded basis (ie., up to a maximum of 5 years support per traineeship). Within each award, traineeships will provide initially a $14,000/year stipend and a $7,500/year cost-of-education allowance in lieu of tuition and fees normally charged to students of similar academic standing (unless such charges are optional or refundable). A one-time $3,500 per trainee project enhancement allowance to be directly matched by the institution as stated under conditions of Awards below will be provided in the initial year of an award. Successful proposers are encouraged to design flexible periods of support for their trainees, thereby enhancing the impact of the program on Science and Engineering graduate education.

Eligibility Information

Eligible Institutions

Any university or other academic institution in the United States and its territories that awards a Ph.D. in a field of science or engineering normally supported by the NSF is eligible to submit proposals.

Focus on Proposed Critical Area

Each proposal must be developed around a selected, and fully-justified, critical area of anticipated national human resource priorities.

Eligible Disciplinary (Focus) Area

The disciplinary area of the proposal must lead to the Ph.D. in the proposed area or in a related area. Interdisciplinary or multidisciplinary proposals must include only combinations of fields of science and engineering that are normally supported by the Foundation, including research in engineering education or science education.

The Foundation normally will not support biomedical research with disease-related goals, including work on the etiology, diagnosis, abnormality, or malfunction in human beings or animals. Animal models of such conditions or development or testing of drugs or other procedures for their treatment also are not generally eligible for support.

Eligible Students

Only U.S. citizens or permanent residents are eligible for appointment to a GRT. Verification of citizenship status of trainees will be required.

Numbers of Submissions

Only one proposal may be submitted by a department or comparable organizational unit within the institution. There is no limit, however, on the number of departmental units within an eligible institution submitting GRT proposals.

Proposals must request a minimum of five traineeships. There is no limit on the maximum number of traineeships that may be requested in an individual proposal or by all proposals submitted by an institution.

Principal Investigator

The principal investigator designated in a GRT proposal will have overall responsibility for the administration of the awards and for discussions with NSF. This individual should be the department head, other senior officer, or faculty member who can represent the focus area and lead the effort toward achievement of the goals and objectives stated in the proposal.

Proposal Preparation

Proposals submitted in response to this program announcement should be prepared and submitted in accordance with the guidelines provided in the NSF brochure, Grants for Research and Education in Science and Engineering (GRESE), NSF90–77(8/90). Single copies of this brochure are available at no cost from the Forms and Publications Unit, phone (202) 357–7861, or via e-mail (Bitnet:pubs@nsf or Internet:pubs@nsf.gov).

Proposal Format

A GRT submission consists of the following:

(1) One copy of NSF Form 1225 (attached to the original signed copy of the proposal).

(2) Five complete sets of basic proposal documents (one original signed proposal) as specified and assembled in the order given below (page limits must be strictly observed):

- Completed Cover Page (NSF Form 1207), including one copy of the "Certification Regarding Lobbying," if applicable.
- Table of Contents.
- Summary (200 words maximum).
- Narrative—The Proposal Content topics (maximum ten single-spaced pages) are described in the following section and should be treated in the order indicated.
- Basic data regarding degree productivity. In tabular form provide statistics by participating departments indicating ethnic and gender distribution of the following: (1) Ph.D. degrees awarded in each of the past three years; (2) number of graduate students currently enrolled in Ph.D. programs; and (3) average number of years to complete Ph.D. degree.
- Basic data regarding other sources of graduate support. In tabular form provide statistics by participating departments indicating the following: (1) Source of funding; (2) number of students receiving indicated funding, (3) level of funding (amount per student); and (4) duration of funding.
- A list of principal faculty participants, followed by a brief biographical sketch or curriculum vitae for each individual, including a brief list of major publications, descriptions of their research and teaching programs (maximum two pages per individual). The number of graduate students currently being trained by each faculty participant should also be indicated.
- Appendices, if any. The use of appendices is strongly discouraged, and should be included only in exceptional circumstances. The Foundation will accept them as part of the proposal if submitted, but will not require evaluating panelists to review them.

Proposal Content

The proposal narrative must contain (in the order given) in sufficient detail for review by evaluating panelists the following:

(1) A strong case for the national need for additional doctoral professionals in the critical disciplinary area;

(2) An explanation of how the relevant aspects of the component disciplines of multidisciplinary proposals are integrated into the chosen focus area;

(3) Evidence of research and teaching excellence in the fields covered by the proposal;

(4) A justification of the proposed number of graduate research traineeships requested by the institution relative to its ability to accommodate additional graduate students in the proposed focus area, including evidence that the requested student support represents a truly new effort, and does not represent simply a replacement of other support by NSF funds;

(5) A description of the training to be provided, including any new enhanced activities that are planned and a plan for retention of students to completion of the Ph.D.;

(6) A plan for student recruitment for traineeships. For relatively new fields of national importance there may be a need for extensive recruitment efforts. In these cases, a delay of up to two years may be requested with respect to participant support costs to allow time for recruitment of undergraduates. Proposers would be expected, in such cases, to present a complete strategy for stimulating student interest;

(7) A description of the institution's commitment to and plans for recruiting minorities underrepresented in science and engineering, women, and students with disabilities for the traineeships requested;

(8) The institution's commitment for matching the departmental project enhancement allowance and a plan for its use. Examples of possible use include: Supplementing the stipend and/or the cost-of-education allowance, purchasing research equipment, strengthening human resource development programs, or recruiting students. Institutions may supplement project enhancement allowances to a greater extent than the amount matched by NSF. Creative use of these funds for program development is encouraged.

Proposal Submission

Copies of all forms to be used may be found in the NSF GRESE publication further described below. All proposal copies, *including one copy bearing original signatures*, should be mailed to:
Proposal Processing Unit—room 223, Attention: Graduate Research Traineeship Program, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Proposals may also be submitted electronically. For information, contact the Electronic Proposal Submission Program Director, Office of Information Systems (OIS), phone (202) 357–9767, or via e-mail, nsfprops@nsf (Bitnet) or nsfprops@nsf.gov(Internet). Proposals submitted electronically will be dated when they enter the NSF system.

Proposal Deadline

Proposal must be postmarked not later than May 15, 1992.

Proposal Review

Proposals will be reviewed in accordance with the general criteria described in GRESE. In addition, each proposal will be evaluated on the following criteria:

- The quality of the ongoing research and teaching effort in the proposed critical area, including cited indicators of quality;
- The need for additional Ph.D.'s in the proposed program, including citations of demands in, and national importance of, the chosen focus area;
- The institution's existing capacity to utilize the requested number of traineeships for additional graduate sutdents (including cited current and projected numbers of graduate students in the selected area, and the institution's plans for handling more students);
- The institution's record for producing Ph.D's in the selected area (if it is an established area), and the projected Ph.D. productivity resulting from the proposed activity;
- The recruiting plan for appointing trainees, including the institution's plans to interest and appoint eligible minorities, women, and students with disabilities;
- The appropriateness of the proposed training and retention programs, including the integration of activities associated with multidisciplinary programs;
- The proposed use of the project enhancement allowance, including the matching institutional funds.

Award Information

Announcement of Awards

The foundation expects to announce Graduate Traineeship Awards in Fall, 1992. Traineeship positions may be filled at any time after awards are made.

Conditions of Awards

Each new traineeship will be funded by the Foundation for up to $25,000 for the first year. Of this $25,000, a minimum of $14,000 is designated for stipend support of the trainee, and $7,500 is provided for a cost-of-education allowance to the institution. The balance of $3,500 will be available, on a one-time basis, subject to a 100% match from the institution, to assist the institution with the costs of strengthening its capabilities in the proposed focus area.

The Foundation expects to provide fully funded support for up to a maximum of five years.

The Foundation may elect to adjust the terms of grants to keep the stipends and the cost-of-education allowances of GRT's approximately equal to those for NSF Graduate Research Fellowships.

All traineeship appointments by a grantee institution must be made in the area specified in the successful proposal. Since traineeships are designed to support truly new efforts on the part of the institution, it is expected that newly recruited graduate students will be the principal recipients of traineeships. Any plan that anticipates appointment of current graduate students to traineeships should be described and justified in the proposal. No student may be appointed to a graduate research traineeship for a period of more than five years.

NSF will permit institutions to require appropriate service of trainees by appointment to positions that can generate additional income to cover any difference between the cost-of-education allowance and tuition. Any such required service must be contributory to the progress of the trainee toward a Ph.D. and must not be expected to delay that progress. Except as provided above in the various allowances, no other indirect costs will be included in GRT awards.

Grant Administration

Except as modified by this program announcement, standard NSF guidelines on proposal submission and general information on awards, declination, and withdrawals are as stated in the NSF booklet Grants for Research and Education in Science and Engineering (GRESE) (NSF 90–77). Grants awarded as a result of this announcement are administered in accordance with the terms and conditions of NSF GC–1, "Grant General Conditions. Copies of these documents are available at no cost from the NSF Forms and Publications Unit, phone (202) 357–7861, or via e-mail (Bitnet:pubs@nsf or Internet:pubs@nsf.gov). More comprehensive information is contained in the NSF Grant Policy Manual (NSF 88–47, July 1989), for sale through the Superintendent of Documents, Government Printing Office, Washington, DC 20402. The telephone number at GPO is (202) 783–3288 for subscription information.

If the submitting institution has never received an NSF award, it is recommended that appropriate administrative officials become familiar with the policies and procedures in the NSF Grant Policy Manual which are applicable to most NSF awards. If a proposal is recommended for an award, the NSF Division of Grants and Contracts will request certain organizational, management, and financial information. These requirements are described in Chapter III of the NSF Grant Policy Manual.

Contact Person

Roosevelt Johnson (202) 357–9453, Program Director.

Dated: February 24, 1992.

Roosevelt Johnson,

Program Director.

[FR Doc. 92–4618 Filed 2–27–92; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–320]

GPU Nuclear Corporation; Availability of Safety Evaluation for Post-Defueling Monitored Storage of Three Mile Island Nuclear Station, Unit 2

The U.S. Nuclear Regulatory Commission has published its Safety Evaluation Report associated with GPU Nuclear Corporation's (the licensee) proposal for long term storage of Three Mile Island Nuclear Station, Unit 2, termed Post-Defueling Monitored Storage, or PDMS, by the licensee.

Copies of the Safety Evaluation Report have been placed in the NRC's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and in the Local Public Document Room, Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Harrisburg, Pennsylvania 17105, for review by interested persons. Single copies of the Safety Evaluation may be requested in writing from Michael Masnik, Senior Project Manager, OWFN MS: 11–B–20, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Dated at Rockville, Maryland this 21st day of February 1992.

For the Nuclear Regulatory Commission.

Richard F. Dudley, Jr.,

Acting Director, Non-Power Reactors, Decommissioning and Environmental Project Directorate, Division of Advanced Reactors, Office of Nuclear Reactor Regulation.

[FR Doc. 92–4622 Filed 2–27–92; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–322]

Long Island Lighting Co.; Shoreham Nuclear Power Station; Environmental Assessment and Finding of no Significant Impact

The U.S. Nuclear Regulatory Commission (the NRC or Commission) is considering issuance of an amendment to Facility License No. NPF–82 issued to Long Island Lighting Company (LILCO or the licensee) for the possession of the Shoreham Nuclear Power Station, Unit 1 (SNPS or the facility), located in Suffolk County, New York.

Environmental Assessment

Identification of Proposed Action

The proposed amendment would change license conditions and Technical Specifications (TS) to allow the possession and management of Shoreham by the Long Island Power Authority (LIPA).

The proposed action is in accordance with the licensee's and LIPA's joint application dated June 28, 1990, and as supplemented June 13, June 27, October 31, and December 5, 1991.

The Need for the Proposed Action

Under the 1989 Settlement Agreement between New York State and LILCO, LILCO is contractually committed never to operate Shoreham as a nuclear facility and to transfer the Shoreham facility to LIPA for decommissioning. The proposed amendment would transfer the SNPS Facility Operating License (Possession Only License or POL) to LIPA. There will be no physical changes to the Shoreham facility associated with this amendment other than the change in owner to Long Island Power Authority.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed changes to the license conditions and TS. The proposed changes involve transferring the Possession Only License from LILCO to LIPA. Under the proposed amendment, all responsibilities and obligations associated with the Possession Only License, Technical Specifications, as well as applicable plans, procedures, and programs referenced therein will be transferred to LIPA. Accordingly, LIPA's activities after license transfer will be consistent with the Defueled Safety Analysis Report (DSAR) and the established safety margins. The direct environmental impacts of LIPA's activities under the license transfer are within those previously evaluated by LILCO in their DSAR and the Commission's approval of the POL on June 14, 1991. There will be no changes to the facility or the environment as a result of the license amendment and the corresponding administrative and managerial changes to the TS reflecting the change in ownership and the permanently defueled condition of the plant. Accordingly, the Commission concludes that this action would result in no radiological or non-radiological environmental impact.

Alternative to the Proposed Action

It has been determined that there is no impact associated with the proposed amendment; any alternatives to the amendment will have either no environmental impact or greater environmental impact. The principal alternative would be to deny the proposed transfer. This would not reduce the environmental impacts associated with the facility as currently licensed.

Alternative Use of Resources

This action does not involve the use of resources not considered in the Final Environmental Statement for the Shoreham Nuclear Power Station.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of no Significant Impact

Based on the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant affect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed amendment.

A Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with this action was published in the **Federal Register** on March 20, 1991, (56 FR 11781). On April 19, 1991, the Scientists and Engineers for Secure Energy and the Shoreham - Wading River Central School District (the petitioners) filed petitions and comments to intervene and request for hearing concerning the license transfer application. The NRC staff (staff) addressed the petitioner's comments in their Safety Evaluation concerning this amendment and concluded that nothing in the petitioner's comments affects the staff's proposed no significant hazards consideration.

For further details with respect to this action, see the request for amendment dated June 28, 1990, and supplements of June 13, June 27, October 31, and December 5, 1992, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the Shoreham-Wading River Public Library, Route 25A, Shoreham, New York 11786-9697.

Dated at Rockville, Maryland this 24th day of February 1992.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

Director, Non-Power Reactors, Decommissioning and Environmental Project Directorate, Division of Advanced Reactors and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 92-4620 Filed 2-27-92; 8:45 am]

BILLING CODE 7590-01-M

PRESIDENT'S COMMISSION ON MANAGEMENT OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT PROGRAMS

Meetings

The President's Commission on the Management of the Agency for International Development Programs will hold a public meeting on Wednesday, March 18, 1992.

The subject of discussion will be the Commission's Draft Action Plan findings and recommendations on management of A.I.D. programs.

DATE: Wednesday, March 18, 1992.

TIME: 2 to 6 p.m.

PLACE: 1333 H Street, NW., Third Floor, Washington, DC, Postal Rate Commission Hearing Room.

Persons or organizations wishing to be heard by the Commission or to receive copies of the draft should call Ms. Brenda Jones at (202) 647-4399 or write to The President's Commission on the Management of A.I.D. Programs, 320 Twenty-First Street, NW., room 5665 NS, Washington, DC, 20523-0062.

Dated: February 25, 1992.

Frank B. Kimball,

Executive Director, Presidential Commission on the Management of A.I.D. Programs.

[FR Doc. 92-4623 Filed 2-27-92; 8:45 am]

BILLING CODE 6116-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-30381; File No. SR-DTC-92-05]

Self-Regulatory Organizations; The Depository Trust Co.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Concerning Revised Service Fees

February 18, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on February 10, 1992, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

DTC is filing the proposed rule change to revise its fee schedule in accord with its estimated 1992 service costs (*see Exhibit A*), including an additional fee of $0.65 to the deliverer per pending delivery order cancellation for the new PEND service.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

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[1] 15 U.S.C. 78s(b)(1).

(A) *Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

The purpose of the proposed rule change, which will be effective for services provided after February 29, 1992, is to adjust the fees charged for various services to bring them closer to, or to, their respective estimated service costs for 1992.

Prior to 1985, DTC attempted to relate service fees to their respective service costs at intervals of several years. During these intervals, unit service costs could diverge substantially from current fees, necessitating large changes when service fees were realigned with their costs. To prevent such divergence after adopting major fee changes at its December 1985 meeting which moved toward cost-based fees, the DTC Board then adopted and announced a new procedure, as follows:

> In adopting new fees, the Board also declared its belief and intention that DTC should revise its basic fee schedule each year so that, through modest changes gradually over approximately five years, DTC service fees will be based on service cost in the absence of policy considerations which would justify limited exceptions. Large changes in service fees after intervals of several years would thereby be avoided.

The present fee schedule for DTC services, marked the completion of that 5-year effort to bring DTC service fees and costs into alignment. To ensure that this alignment continues, the depository's Board recently completed a review of DTC's estimated service costs for 1992 and has adopted changes in a number of service fees designed to move those fees closer to estimated 1992 service costs.

DTC believes that the proposed rule change is consistent with the requirements of section 17A of the Act and the rules and regulations thereunder applicable to DTC because the fees will more equitably be allocated amount DTC participants.

(B) *Self-Regulatory Organization's Statement on Burden on Competition*

DTC does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

(C) *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others*

DTC informed participants and other users of its services of the proposed fee revisions (other than the fee for deliver order cancellations in the new PEND service) by a memorandum dated January 13, 1992, entitled "1992 Revisions of DTC Service Fees." Because participants have supported gradual moves toward cost-based fees in the past and because, overall, the subject fee changes are modest, a formal period for participant comment was not considered necessary this year.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of the rule 19b–4 thereunder, because the proposed rule change establishes or changes a due, fee, or other charge imposed by the self-regulatory organization. At any time within 60 days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. section 552, will be available for inspection and copying in the Commission's Public Reference Room at the address above. Copies of such filing will also be available for inspection and copying at the principal office of DTC. All submissions should refer to the file Number SR–DTC–92–05 and should be submitted by March 19, 1992.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

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[8] 17 C.F.R. 200.30-3(a)(12).

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Exhibit A
- p. 1

1992 REVISED DTC SERVICE FEES

Service	Present Fee			Revised Fee		
A. Registered Securities						
I. Deposits						
. The fee for deposits of certificates in active issues is determined by the time of receipt by DTC: (1)						
Zone A - 4:00 PM to 8:00 PM (Prior PM)	$ 2.20	$2.30 includes certificate charge*	$2.76*	$1.70	$1.78 includes certificate charge*	$2.24*
Zone B - 7:30 AM to 10:00 AM	$ 3.00			$2.35		
Zone C - 10:00 AM to 11:00 AM	$ 5.20			$4.05		
Zone D - 11:00 AM to 12:00 Noon	$10.00			$7.75		
. The fee for deposits of certificates in less-active issues** is determined by the time of receipt by DTC: (1)						
Zone A - 4:00 PM to 8:00 PM (Prior PM)	$ 3.15	$3.28 includes certificate charge*		$2.65	$2.76 includes certificate charge*	
Zone B - 7:30 AM to 10:00 AM	$ 3.95			$3.30		
Zone C - 10:00 AM to 11:00 AM	$ 6.15			$5.00		
Zone D - 11:00 AM to 12:00 Noon	$10.60			$8.70		
. A certificate charge per deposit per group of 10 certificates beyond the first 10 certificates in addition to the Zone fee	$.30 per group of 10 certificates beyond the first 10 certificates			No Change		

All footnotes in this Annex are found on the last page.

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1992 REVISED DTC SERVICE FEES

Service	Present Fee	Revised Fee
Legal Deposits		
Full-Service Deposit Fee (includes examination by DTC)	$4.40 per deposit	$4.07 per deposit
Telephone Notification Fee (optional addition available for Full-Service only)	$4.20 per deposit	No Change
Basic Deposit Fee (no examination by DTC)	$3.05 per deposit	$2.72 per deposit
Tracking Service (available for both Full and Basic Service)	$ .20 per deposit	No Change
A record date deposit surcharge for bond interest, cash and stock dividends and proxy	$3.15 per record date deposit	$2.94 per record date deposit
II. Withdrawals-by-Transfer (WTs)		
. For each assignment in an active issue submitted on PTS, MDH or CCF	$2.30 per assignment	$2.18 per assignment
. For each assignment in an active issue concluding in direct mail	$1.50 per assignment(2)	$1.38 per assignment(2)
. For each paper assignment in an active issue	$3.60 per assignment	$3.48 per assignment
. For each assignment in a less-active issue** submitted on PTS, MDH or CCF	$3.95 per assignment	$3.83 per assignment
. For each assignment in a less-active issue** concluding in direct mail	$3.15 per assignment(2)	$3.03 per assignment(2)
. For each paper assignment in a less-active issue**	$5.25 per assignment	$5.13 per assignment

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All footnotes in this Annex are found on the last page.

1992 REVISED DTC SERVICE FEES

Service	Present Fee		Revised Fee	
III. Urgent Withdrawals				
. For each Certificate-on-Demand (COD) withdrawal requested:				
Submitted by PTS	$ 16.45 per withdrawal		$22.10 per withdrawal	
Submitted by paper	$ 17.95 per withdrawal		$23.60 per withdrawal	
. For each Rush Transfer requested	$ 29.50 per assignment plus a pass-through of any rush transfer fees charged by the agent		$31.95 per assignment plus a pass-through of any rush transfer fees charged by the agent	
IV. Collateral Loans (Pledges/Releases)				
. For each security (line item) pledged, released or substituted via PTS	$ .09 per line item payable by both the pledgee and pledgor in each transaction	$ .17*	$ .12 per line item payable by both the pledgee and pledgor in each transaction	$ .20*
. Collateral Loan Report A detailed daily report of a bank or broker Participant's DTC collateral loans valued to the "market"	$ .02 per line item with a minimum charge of $250.00 monthly for each subscribing Participant		$ .03 per line item with no minimum charge	
Individual daily copies of this report, available upon request	$ 25.00 per copy		No Change	
V. Error Charge				
. For each deposit, WT, COD and Collateral Loan pledge/release corrected or returned to a Participant because of error:				
From 0 to 5%	$ 27.00 per reject	$28.34*	$23.50 per reject	$24.84*
Over 5%	$ 37.00 per reject		$33.50 per reject	
. A surcharge for each deposit of called bearer securities	$ 35.00 plus a deposit reject fee		No Change	

All footnotes in this Annex are found on the last page.

1992 REVISED DTC SERVICE FEES

Service	Present Fee		Revised Fee	
VI. Deliveries				
. Deliver orders via CNS	$ .08 for each item delivered or received		$ .085 for each item delivered or received	
. Deliver orders via ID System	$ .18 for each item delivered or received		$ .17 for each item delivered or received	
. Deliver orders via PTS, MDH or CCF For each deliver item presented Prior PM AM opening to 1:15 PM	$ .19 to the deliverer $ .44 to the deliverer $ .29 for each item received (regardless of time)	$ .34*	$ .18 to the deliverer $ .43 to the deliverer $ .28 for each item received (regardless of time)	$ .33*
VII. SDFS Deliveries				
. Deliver orders via PTS, MDH or CCF For each deliver item presented Prior PM AM opening to 2:30 PM	$1.86 to the deliverer $2.11 to the deliverer $1.96 for each item received	$2.00*	$1.26 to the deliverer $1.51 to the deliverer $1.36 for each item received	$1.40*
. Deliver orders via ID System	$1.86 for each item delivered or received		$1.26 for each item delivered or received	
. Receiver Authorized Delivery (RAD) Receiver Cancellation	$4.00 to the deliverer		$ .65 to the deliverer	
VIII. Commercial Paper Activity				
. Deliver orders	$1.96 for each item delivered or received		$1.30 to the deliverer $1.15 to the receiver	
. Maturity presentments	$1.81 for each item delivered or received		$1.10 for each item delivered or received	
. Issuance instruction (both dealer-placed and directly-placed)	$3.00 to the issuer		$1.85 to the issuer	
IX. Dropped Deliveries				
. For each Deliver Order (DO) not completed due to insufficient position in a Participant's account, unless DTC's system shows the submitting Participant's drop was caused by notice of potential receive of a delivery from another Participant which subsequently dropped	$4.00 for each item dropped		$2.00 for each item dropped	

All footnotes in this Annex are found on the last page.

1992 REVISED DTC SERVICE FEES

Service	Present Fee		Revised Fee	
X. ID Service • For each confirm distributed by paper, tape, PTS, CCF or dial-in terminal	$ .17 to broker (and $ .17 for any interested party), $ .17 to clearing agent if agent requests confirm; $ .17 to investment manager for each confirm received, whether or not affirmed	$.27 includes reports*	$ .16 to broker (and $ .16 for any interested party), $ .16 to clearing agent if agent requests confirm; $ .16 to investment manager for each confirm received, whether or not affirmed	$.26 includes reports*
• For each confirm transmitted in magnetic tape form	$ .31 per confirm, plus telephone line costs		$ .30 per confirm, plus telephone line costs	
• For each Pre-Authorized Delivery Quantity (PDQ) Delivered/Not Delivered and Received/Not Received Report line item	$ .06 to the deliverer and $ .06 to the receiver		No Change	
• For each Unaffirmed Report line item	$ .06 to the broker		No Change	
• For each Cumulative and Daily Eligible Trade Report line item	$ .06 to broker and clearing agent		No Change	
• For each Daily Eligible Trade Report line item	$ .06 to broker and for reports received by any interested party		No Change	
• For each Ineligible Trade Report line item	$ .06 to broker and clearing agent and $.06 to broker for reports received by any interested party		No Change	
• Ability to dial-in to DTC's ID system via personal computer to transmit instructions and receive reports	$400.00 per year access fee		$500.00 per year access fee	

All footnotes in this Annex are found on the last page.

1992 REVISED DTC SERVICE FEES

Service	Present Fee		Revised Fee
XI. Long Position		$.83*	
. For each active issue monthly (for registered corporate issues when a daily average of more than 15 Participants have position; and for registered municipal issues when a daily average of more than 2 Participants have position)	$ .51 per issue		No Change
. For each less-active registered corporate issue monthly (when a daily average of 15 or fewer Participants have position)	$ .76 per issue		No Change
. For each less-active registered municipal issue monthly (when a daily average of 1 or 2 Participants have position)	$1.26 per issue		No Change
. For each 100 shares or $4,000 bonds (monthly) based on the average daily number of shares or bonds:			
- 0-25 million shares	$ .0052		No Change
- Excess over 25 million up to 200 million shares	$ .0013		No Change
- Excess over 200 million up to 300 million shares	$ .000652		No Change
- Excess over 300 million shares	$ .00005		No Change
. For each book-entry-only issue (monthly)	$ .35 per issue; no per bond/per share charge		No Change
. For each Medium-Term Note (MTN) and Commercial Paper (CP) issue (monthly)	$ .60 per issue; no per bond/per share charge		No Change

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All footnotes in this Annex are found on the last page.

1992 REVISED DTC SERVICE FEES

Service	Present Fee		Revised Fee	
XII. Reorganization				
• Conversions and Warrant Subscriptions For each common stock resulting from the conversion of bonds or preferred stocks/for each instruction submitted - From 1 to 400 common shares - 401 to 2,000 common shares - 2,001 and over common shares	Two DO fees, plus: $ 28.80 per transaction minimum; $ .072 per share from 401 to 2,000 shares; $144.00 per transaction maximum	$96.00*	No Change	
• Unit Swingovers	$ 8.80 per swingover instruction plus 3 DO fees		$ 7.75 per swingover instruction plus 3 DO fees	
• Mandatory Exchanges/Redemptions Corporate issues	$ 26.75 per Participant position		$27.95 per Participant position	
Registered municipal issues	$ 32.30 per Participant position plus $ .25 per $1,000 with a $ 70.00 maximum transaction fee (3)	$43.42*	$29.05 per Participant position plus $ .25 per $1,000 with a $70.00 maximum transaction fee (3)	$40.17*
• Voluntary Exchanges/Tender Offers	$ 37.50 per letter of transmittal		$38.85 per letter of transmittal	

All footnotes in this Annex are found on the last page.

1992 REVISED DTC SERVICE FEES

Service	Present Fee		Revised Fee	
XIII. Underwritings				
. Issues Having 1 (one) CUSIP Number	$198.50 plus $ 3.00 per million with a total maximum fee of $2,000 (4) and any unusual expenses	$192.43*	No Change	$171.26*
Book-Entry-Only Issues	$198.50 (4) and any unusual expenses		No Change	
Full FAST Issues	$198.50 plus $ 3.00 per million with a total maximum fee of $2,000 (4) and any unusual expenses		$198.50 (4) and any unusual expenses	
. Issues Having More Than 1 (one) CUSIP Number	$438.50 plus $ 3.00 per million with a maximum of $2,000 (4) and any unusual expenses		$403.50 plus $ 3.00 per million with a maximum of $2,000 (4) and any unusual expenses	
Book-Entry-Only Issues	$438.50 (4) and any unusual expenses		$403.50 (4) and any unusual expenses	
Full FAST Issues	$438.50 plus $ 3.00 per million with a total maximum fee of $2,000 (4) and any unusual expenses		$403.50 (4) and any unusual expenses	
. Certificates of Deposit	$ 90.00 (4) and any unusual expenses		No Change	
. Medium-Term Notes (MTNs)	$ 20.00 (4) and any unusual expenses per tranche		$ 4.00 (4) and any unusual expenses per tranche	

All footnotes in this Annex are found on the last page.

1992 REVISED DTC SERVICE FEES

Service	Present Fee	Revised Fee
XIV. Dividends		
. For each cash dividend or interest payment:		
Corporate issues	$ 1.30 per credit (5)	$ 1.30 per credit (5)
Registered municipal issues	$ 1.88 per credit	$ 1.91 per credit
. For each stock dividend payment	$16.90 per credit	$12.90 per credit
. For each Dividend Reinvestment Service instruction to receive stock in lieu of a cash dividend	$23.90 per instruction	$12.65 per instruction
. For each Change Mode of Payment (CMOP)	$ 8.80 per CMOP plus 2 DO fees	$ 7.75 per CMOP plus 2 DO fees

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All footnotes in this Annex are found on the last page.

1992 REVISED DTC SERVICE FEES

Service	Present Fee		Revised Fee	
XV. PTS Reports				
. Inquiries, Unsolicitated Messages and Messages Participant inquiries about security positions, security eligibility, aged WT instructions, and money settlement figures; messages about activities affecting a Participant's securities, etc.	$ .075 per inquiry or message	$ .08*	$ .085 per inquiry or message	$ .09*
. Reports Dropped Deliveries Report Dropped COD's Report Cash Dividend Report	$ 30.00 per month per report series plus $ .075 per line		$ 30.00 per month per report series plus $ .085 per line	
. Pre-Update Edits Allows a Participant to edit a DO or withdrawal instruction prior to update by DTC's system	$ .075 per edit		$ .085 per edit	
. Broadcast To send messages to other Participants in the DTC terminal network	$ .165 per 300 character message per addressee		$ .175 per 300 character message per addressee	
. Participant Exchange Service (PEX) To transmit forms for buy-in notices	$ .33 per form		$ .34 per form	
XVI. Usage Charge . For each Participant account	$552.50 per month each account up to 5 $232.50 per month each account over 5	$461.09*	$576.50 per month each account up to 5 $256.50 per month each account over 5	$485.09*
. For each non-Participant Pledgee account	$412.50 per month		$436.50 per month	
. For each Pledgee that is also a Participant	$232.50 per month		$256.50 per month	

All footnotes in this Annex are found on the last page.

1992 REVISED DTC SERVICE FEES

Service	Present Fee	Revised Fee
XVII. Inter-Depository Interface Fees to Participants		
. RIO delivery	$ .45 to NSCC	$ .40 to NSCC
. Third-party delivery	$ .53 surcharge for each item delivered, received or reclaimed on the regular DO fee	$ .47 surcharge for each item delivered, received or reclaimed on the regular DO fee
XVIII. Use of DTC Interface Department		
. Participant usage		
Basic services:		
Settlement	$44.30 per month	$45.50 per month
Sorting	$85.70 per month	$89.20 per month
Shipping	$78.75 per month	$87.75 per month
Physical certificate forwarding fees:		
Deposit	$ .39	$ .38
Withdrawal-by-Transfer	$ .49	No Change
Urgent Withdrawal	$ 3.07	$ 3.08
For preparation or correction of a Shipping Manifest:		
Preparation due to Participant omission	$40.00 per occurrence	No Change
Correction because of error	$20.00 per occurrence	No Change

1992 REVISED DTC SERVICE FEES

Service	Present Fee	Revised Fee
. Depository Facility usage		
Facility usage	To the Facility, $ .92 per deposit with a $100.00 minimum per month plus telephone costs	No Change
Facility deposit	$ .60 per deposit chargeable to the Participant, plus the regular Deposit fee (Zone A) and certificate charge	No Change
XIX. Participant Output Services		
. Legal Notices via the LENP function on PTS	$ .25 per page	$ .12 per page
. Computer-to-Computer Facility (CCF) Output Transmissions:		
Eligible Securities list with security descriptions	$115.00 per request	$89.00 per request
Eligible Securities list (CUSIPs only)	$ 40.00 per request	$31.00 per request
Daily changes in Eligible Securities list	$ 25.00 per month	$20.00 per month
Eligible Participants list	$ 10.00 per request	No Change
Daily Participant Account Activity	$100.00 per month	$75.00 per month
Daily Participant Closing Balances	$ 75.00 per month	$58.00 per month
Daily Cash Settlement	$ 50.00 per month	$38.50 per month
Reorganization, Dividend and Proxy Record Date position information	$ 50.00 per month	$38.50 per month

1992 REVISED DTC SERVICE FEES

Service	Present Fee	Revised Fee
Withdrawal-by-Transfer Detail Balances	$50.00 per month	$38.50 per month
Completed WT Items	$75.00 per month	$58.00 per month
Participant Account Return Payment Order Transactions	$50.00 per month	$38.50 per month
Municipal Bond System Announcements	$50.00 per month	$38.50 per month
Dividend and Proxy Announcements	$50.00 per month	$38.50 per month
Reorganization Date	$50.00 per month	$38.50 per month
Collateral Loan Report for Pledgee Banks	None	$38.50 per month
Call Lottery Results	None	$38.50 per month
ID Master File	None	$20.00 per request
Legal Deposit Tracking Data	None	$38.50 per month

1992 REVISED DTC SERVICE FEES

Service	Present Fee	Revised Fee
XX. Charges to DTC Passed Through to Users		
. Participant Terminal System (PTS)		
PTS Terminal: A basic configuration comprised of 1 CRT and 1 printer at a Participant's site	$500.00 per month, plus line charge and applicable sales tax	$400.00 per month, plus line charge and applicable sales tax
Dial Back-Up: Equipment and associated telephone lines for use when a Participant's dedicated line is inoperable	$165.00 per month	$125.00 per month
Contingency Site: For CCF, PTS and Mainframe Dual Host installations connections to the DTC contingency site in Philadelphia	$ 85.00 per month	No Change
PTS Jr. Terminal (To be secured by the Participant)	$100.00 per month access fee, plus line charge and applicable sales tax	$ 55.00 per month access fee, plus line charge and applicable sales tax
Additional CRT: Each additional CRT added to the basic configuration of 1 CRT and 1 printer (maximum of 5)	$100.00 per month, plus applicable sales tax	$ 75.00 per month, plus applicable sales tax
Additional Printer: Each additional printer added to the basic configuration of 1 CRT and 1 printer	$175.00 per month, plus applicable sales tax	$150.00 per month, plus applicable sales tax
Installation Charges: One-time vendor charges to install telephone lines, ship equipment and provide DTC training:		
- Dedicated and dial back-up lines	Out-of-pocket expenses	No Change
- Basic PTS configuration	Out-of-pocket expenses	No Change
- Additional CRT	Out-of-pocket expenses	No Change
- Additional Printer	Out-of-pocket expenses	No Change
- Modem	Out-of-pocket expenses	No Change
- Shipping of equipment	Out-of-pocket expenses	No Change
- Training by DTC on site	Out-of-pocket travel expenses	No Change
Mainframe Dual Host and CCF Dedicated Line	Monthly charge of $725.00 for modem and related equipment plus applicable line charges	No Change

1992 REVISED DTC SERVICE FEES

Service	Present Fee		Revised Fee	
B. Bearer Bond Securities				
I. Deposits (by issue)	$ 2.95 plus a charge after the first 10 certificates of $ 2.00 per group of 10 certificates with a maximum total deposit charge of $10.95.*** Deposits between 12:00 noon and 1 p.m. for same day credit $40.00. A bulk deposit discount is available under certain conditions.	$ 3.77*	$ 3.55 plus a charge after the first 10 certificates of $ 2.00 per group of 10 certificates with a maximum total deposit charge of $11.55*** Deposits between 12:00 noon and 1 p.m. for same day credit $40.00. A bulk deposit discount is available under certain conditions.	$ 4.37*
. A surcharge per deposit of certificates without CUSIP numbers	$ .65 per deposit		No Change	
II. Withdrawals (CODs) . Overnight CODs Submitted by PTS	$10.55 plus a charge after the first 10 certificates of $ 4.00 per group of 10 certificates with a maximum total withdrawal charge of $26.55***	$11.10*	$11.90 plus a charge after the first 10 certificates of $ 4.00 per group of 10 certificates with a maximum total withdrawal charge of $27.90***	$12.45*
Submitted by paper	$11.35 plus a charge after the first 10 certificates of $ 4.00 per group of 10 certificates with a maximum total withdrawal charge of $27.35***	$11.90*	$12.70 plus a charge after the first 10 certificates of $ 4.00 per group of 10 certificates with a maximum total withdrawal charge of $28.70***	$13.25*

All footnotes in this Annex are found on the last page.

1992 REVISED DTC SERVICE FEES

Service	Present Fee		Revised Fee	
III. Long Position				
• For each active issue per month (held by more than 2 Participants)	$ .52 per issue		No Change	
• For each less-active issue per month (held by 1 or 2 Participants)	$1.27 per issue		No Change	
• Monthly charge on face value				
$0 - $.5 billion	$.00000825		$.0000075	
Excess over $.5 billion up to $1 billion	$.0000020625		$.0000018765	
Excess over $1 billion up to $8 billion	$.00000103125		$.00000092813	
Excess over $8 billion	$.000000515625		$.000000464063	
• A monthly surcharge on all positions in Book Bond issues	$1.05 per issue	$1.62*	No Change	$1.57*
• A monthly surcharge on all positions requiring coupon collection from paying agents located outside Metropolitan New York area	$ .25 per issue		No Change	
• A monthly surcharge on all positions in multiple purpose issues	$ .50 per issue		No Change	
• A monthly surcharge on all positions in issues denominated in units of $1,000	$ .50 per issue		No Change	

All footnotes in this Annex are found on the last page.

1992 REVISED DTC SERVICE FEES

Service	Present Fee		Revised Fee	
IV. Interest Payments	$ 4.42 per credit plus $ .05 per $1,000	$ 5.77*	$ 4.75 per credit plus $ .07 per $1,000	$ 6.23*
V. Maturities/Redemptions (Full or Partial)	$33.10 per Participant position plus $ .20 per $1,000 with a $70.00 maximum transaction fee	$43.42*	$29.85 per Participant position plus $ .20 per $1,000 with a $70.00 maximum transaction fee	$40.17*
VI. Deliver Orders (Bearer Issues)				
. ID	$ .18 for each item delivered or received		$ .17 for each item delivered or received	
. PTS, MDN or CCP	$ .37 for each item delivered, $ .29 for each item received		No Change	

Notes:

* Weighted rate based on current mix of transactions in this service.

** A less-active issue fee applies to certain issues each calendar quarter based on prior period of activity averaging 2 or fewer transactions on days when activity occurred.

*** In a deposit or withdrawal of more than 150 certificates, each group of 150 certificates is charged as a separate deposit or withdrawal.

(1) All deposits shipped to DTC from outside the NYC area are regarded as Zone A deposits.

(2) Presently, an additional $1.95 charge is added to this fee for each assignment resulting in direct mail by DTC. This charge will now be reduced to $1.79.

(3) The portion of the fee associated with face value will not be applied to Registered Municipal book-entry-only issues.

(4) A surcharge of $350.00 applies to issues with a put option feature to cover the costs associated with reviewing the official statement and establishing a data base through which put periods are monitored. Issues requiring consultation and special development efforts will be charged an additional surcharge to cover DTC's additional costs. The impact of these surcharges is not included in the weighted rates.

(5) Monthly refunds of dividends investment income are reduced $650,000 annually for unrecovered costs associated with efforts to collect cash dividends and interest payments in same-day funds on payable date. The reduction of such monthly refunds will now be eliminated, as these costs are recovered in the service fee.

[FR Doc. 92-4451 Filed 2-27-92; 8:45 am]

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[Release No. 34-30392; File No. SR-NASD-91-50]

Self-Regulatory Organizations; Notice of Proposed Rule Change and Amendment by National Association of Securities Dealers, Inc.; Relating to Transaction Reporting for Nasdaq Securities

February 21, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 25, 1991, and January 31, 1992, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change and amendment as described in Items I, II, and III below, which items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing to amend Schedule D to the NASD By-Laws to add requirements for trade reporting for Nasdaq securities that are similar to the trade reporting requirements currently in place for Nasdaq National Market System securities.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Association is proposing transaction reporting requirements for all Nasdaq securities, similar to the requirements currently in place for Nasdaq National Market System securities ("Nasdaq/NMS"). Transaction reporting is a fundamental component of a national marketplace that facilitates several important functions: Reporting enhances transparency of information for investors and issuers, permits immediate collection and scrutiny of trading information for regulatory purposes, and permits the compilation of historical price and volume data for analysis and research. The NASD has had over nine years of experience with real-time reporting Nasdaq/NMS securities and believes that capturing trade-by-trade data for dissemination to the public through the Nasdaq and vendor networks is beneficial to investors and issuers, as capturing transactional information as it occurs is fundamental to ensure regulatory and self-regulatory oversight of the markets. Moreover, transaction reporting allows investors to monitor effectively the quality of executions they receive. Therefore the NASD is proposing to expand transaction reporting to include all Nasdaq securities.[1]

Proposed amendments to Schedule D contain trade reporting requirements similar to those currently in place for Nasdaq/NMS securities. The rules will require transactions in Nasdaq securities to be reported to the NASD within 90 seconds after execution. Members are currently reporting broker-to-broker transactions into the Automated Confirmation Transaction service ("ACT") for comparison processing, and ACT will also be the vehicle for transaction reporting. Current ACT requirements call for firms to report transactions in regular Nasdaq securities within 15 minutes after execution—these time frames will be condensed to 90 seconds to comply with the new trade reporting requirements. The proposed rules also specify which party to a transaction is required to report (in most transactions, the market maker registered in the security in the Nasdaq system is the reporting party) and provide reporting policies, such as reporting transactions at the selling or purchasing price, irrespective of mark-ups and mark-downs, or commissions. These requirements parallel those currently in place for Nasdaq National Market System securities. Finally, the trade reporting state that aggregating trade reports is allowable under certain circumstances, and sets forth permissible aggregation practices.

Last sale information for Nasdaq/NMS securities contains the execution price of each trade reported and the number of shares executed. This information is required to be reported to the NASD within 90 seconds after execution and is validated, processed, and disseminated to information vendors for publication to subscribers. Information vendors also provide in their own format, on a real-time basis, the daily high, low and last sale prices as well as aggregate volume throughout the trading day to the investment community and the investing public. Currently members and others are able to monitor trade reports of Nasdaq/NMS securities through the last sale reports disseminated via the vendor networks and also through the Nasdaq Workstation service that permits subscribers to customize their own information displays to monitor trade reports in specific Nasdaq securities real-time. The NASD's digital interface service also supplies last sale information to subscribers.

When trade reporting of regular Nasdaq securities is implemented, the trade reports will be collected and disseminated in a similar manner, real-time, as they are submitted to the NASD. Vendor networks will be supplied the data over high speed lines, as they are currently receiving Nasdaq/NMS last sale information, and trade reports from regular Nasdaq transactions will be disseminated to subscribers through the Workstation and digital interface services as well.

The NASD is also proposing real-time transaction reporting for Nasdaq securities because of the impact of the SEC's proposed "Penny Stock Disclosure Rules"[2] on regular Nasdaq securities. As proposed, the rules define any stock selling for less than $5.00 per share as a penny stock unless it meets one of the itemized exemptions from the definition. Approximately 1,600 Nasdaq issues would fall into this category.

One of the exemptions to the "less than $5.00" classification is for a "reported security," subject to a transaction reporting plan approved by the SEC pursuant to section 11A rules. Therefore, all Nasdaq/NMS, New York and American Stock Exchange issues are exempt from the penny stock definition because they are trade reported, notwithstanding the fact that some of those issues may trade at prices under $5.00.

Although the proposed rule change to Schedule D of the NASD By-Laws is not a national market system plan pursuant to section 11A of the Act, the NASD believes that real-time reporting and dissemination of transaction reports is the objective of the exemption set out in the SEC's penny stock rules and this objective is equally served by the proposed rule changes. Trade reporting of all Nasdaq issues will enhance the information available to the public and provide investors with instant, up-to-the-minute information on the securities traded throughout the Nasdaq market. Trade reporting will also greatly enhance the NASD's ability to detect or deter manipulative or abusive trading practices.

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[1] An appropriate service charge for last sale data for Nasdaq securities is being developed and will be the subject of a separate rule proposal.

[2] See Securities Exchange Act Release No. 29093 (April 17, 1991).

In proposing real-time reporting for Nasdaq securities, the NASD evaluated the ramifications of such a requirement on the membership. Members are currently reporting only inter-dealer transactions into ACT for comparison purposes and are reporting total volume of purchases and sales in Nasdaq securities at the end of the day. The proposed rule changes would, therefore, reduce the time-frames for reporting transactions into ACT from 15 minutes to 90 seconds, and increase the transactions eligible for reporting to include internalized transactions. These changes will be an added burden on members, but elimination of end-of-day volume reporting, which the NASD anticipates eliminating shortly after real-time trade reporting has been implemented, will be a beneficial offset.[3]

The NASD also does not believe that the extension of trade reporting to regular Nasdaq securities will adversely impact the liquidity of those securities. Experience with NMS securities demonstrates that the increased visibility associated with trade reporting expands the universe of institutional and public investors willing to purchase the security and therefore generally provides a net increase in liquidity.

Also, for members that trade infrequently, the NASD will make the ACT service desk available for trade reporting purposes. The NASD operates the ACT service desk to facilitate members that account for fewer than five trades a day on average and that do not have Nasdaq Workstation equipment. Therefore, the ACT service desk will also be made available to members for trade reporting that qualify under the same criteria of five or fewer trades a day on average. The NASD believes that the benefits to be gained by the Nasdaq market as a whole outweigh any burdens experienced by members in complying with the new reporting requirements.

From a regulatory perspective, real-time reporting requirements will enhance market surveillance oversight and will provide more immediate and useful information for investigating questionable conduct, such as insider trading and manipulative activity. Up until now, the NASD had to rely on end-of-day volume statistics as the primary source of surveillance information for trades in regular Nasdaq securities, but real-time transaction reporting will increase the NASD's ability to conduct surveillance of trading as it occurs. For example, as real-time trade reporting is fully implemented, the trading data will be available on the NASD's equity audit trail, which integrates last sale, clearing, and inside quotation data for reported securities. In addition, transaction data will be added to daily quote and trade comparison reports and to exception-based systems that monitor for marking-the-close violations, trading during trading halts, volume concentrations, late trade reporting, and other activity monitored by Market Surveillance. The trade reports will also be added to weekly and monthly trade summary and volume concentration reports for purposes of surveillance and analysis of historical data.

The NASD believes the proposed rule change is consistent with section 15A(b)(6) of the Act. Section 15A(b)(6) requires that the rules of a national securities association be designed to "foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market." Trade reporting of all Nasdaq securities facilities transparency of information for investors and issuers and permits immediate collection and scrutiny of transactional data for regulatory purposes.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted March 20, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12)

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-4583 Filed 2-27-92; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. 48001]

New Air Transportation Opportunities (U.S.-China)

Through an exchange of notes concluded February 11, 1992, the Governments of the United States and the People's Republic of China finalized amendments to the 1980 U.S.-China Air Transport Services Agreement, as amended. As described more fully below, the new agreement provides for, among other things, a new all-cargo route, and an initial increase in total U.S. carrier frequencies to eighteen weekly roundtrip flights, four of which are available immediately for operations on the new all-cargo route.

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[3] The NASD proposes to eliminate end-of-day volume reporting shortly after the commencement of real-time transaction reporting to ensure that there will be no gaps in regulatory information collected, and will make the appropriate rule filing at this time.

By this notice, we are inviting applications from U.S. carriers interested in providing U.S.-China all-cargo services.

All-Cargo Services

Under the amended agreement, a third route has been established available for all-cargo services only. The United States may designate one U.S. carrier to operate all-cargo services over the following route:

Route 3

From any point or points in the United States, via any intermediate points to any point or points in the People's Republic of China open to scheduled international operations, and beyond to any points outside the People's Republic of China.

In operating such services, the designated U.S. airline may, at its option, omit any point or points on the route on any or all flights in either or both directions, provided that the service begins or terminates at a point on the specified route in the United States.[1] Under the terms of the amended agreement, on the all-cargo route, U.S. carriers may operate up to four weekly all-cargo frequencies through 1992. These frequencies increase to six weekly all-cargo flights for both 1993 and 1994. For 1995 and 1996, there is no specific limitation on all-cargo frequencies on the all-cargo route. However, during the 1995–1996 period U.S. carrier combination and all-cargo frequencies collectively may not exceed a total of 27 weekly flights.

In view of the new route opportunity, we invite all U.S. carriers interested in providing all-cargo service in the U.S.-China market to file exemption and/or certificate applications to serve the market. Except for the filing dates, certificate applications should be filed pursuant to subpart Q of part 302 of the Department's regulations, and exemption applications should conform to subpart D of part 302 of the Department's regulations. Applications should be filed no later than 15 calendar days from the date of service of this notice. Competing applications and answers shall be due no later than 7 calendar days thereafter, and responsive pleadings to the above, 5 calendar days thereafter.

Applications should be filed with the Department's Docket Section (Docket 48001), room 4107, 400 Seventh Street, SW., Washington, DC 20590. Further procedures for acting on the applications filed, if necessary, shall be established by future Department order.

Dated: February 24, 1992.

Paul L. Gretch,

Director, Office of International Aviation.

[FR Doc. 92–4614 Filed 2–27–92; 8:45 am]

BILLING CODE 4910-62-M

Coast Guard

[CGD 92–010]

Central Pacific Loran-C Closure

AGENCY: Coast Guard, DOT.

ACTION: Notice; request for comments.

SUMMARY: On November 5, 1991, the Coast Guard published a notice of intent (56 FR 56539) for early closure of the Central Pacific Loran-C chain, Rate 4990 on 31 December 1992. The Coast Guard is considering terminating the Loran-C service provided by the Central Pacific Loran-C chain, in the Hawaiian Islands, on 30 June 1992, in lieu of continuing operations until 31 December 1992. Continued operation of the Central Pacific Loran-C chain is not economically justified. Earlier closure of this Loran-C chain on 30 June 1992 will allow the Coast Guard to dismantle and clean up Loran-C station Kure and Johnston Island with minimal impact on the wildlife.

DATES: Comments must be received on or before March 30, 1992.

ADDRESSES: Comments should be mailed to the Executive Secretary (G–LRA/3406) (CGD 92–010), U.S. Coast Guard, Washington, DC, 20593–0001. Comments will be available for public inspection and copying between 8 a.m. and 3:30 p.m., Monday through Friday, except holidays, at the Marine Safety Council (G–LRA), room 3406, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001. Comments may also be hand delivered to this address.

FOR FURTHER INFORMATION CONTACT: Commander Richard J. Armstrong, Chief, Radio Aids Management Branch (G–NRN–1), room 1413, U.S. Coast Guard Headquarters, 2100 2nd St., SW., Washington, DC 20593–0001, phone (202) 267–0990.

SUPPLEMENTARY INFORMATION: The Central Pacific Loran-C Chain, in the Hawaiian area, was installed in the mid-60's in response to a Department of Defense requirement. The coverage provided by the satellite-based Global Positioning System (GPS) is increasing while the cost of GPS receivers is decreasing. GPS presently provides coverage where Loran-C cannot and this coverage includes the Hawaiian Islands. The 1990 edition of the Federal Radionavigation Plan, provides for termination of overseas and Hawaiian Loran-C stations when the Department of Defense requirement for Loran-C ends on December 31, 1994. The new satellite based Global Positioning System may allow the Department of Defense to end its requirement for Loran-C in the Hawaiian area as early as the end of June 1992. Because of the poor coverage area and limited number of users, the continued operation of the Central Pacific Loran-C chain past June 1992 is not economically justified. The Loran-C system serving the continental U.S., its coastal areas, and Alaska with the exception of Hawaii, will remain part of the radionavigation mix and would not be terminated with the Central Pacific system.

Kure Atoll is a designated Hawaiian monk seal critical habitat, a State Seabird Sanctuary, and is part of the State Wildlife Refuge System. Johnston Island is located in a wildlife refuge which provides protection to seabirds. Earlier closure of this Loran-C chain on 30 June 1992 will allow the Coast Guard to dismantle and clean up these stations without interfering with seal pupping or bird nesting and breeding.

Comments are requested concerning possible termination of Loran-C service provided by the Central Pacific Loran-C Chain, Rate 4990, in the Hawaiian area, by 30 June 1992, in lieu of the end of calendar year 1992 as is currently planned.

The Coast Guard encourages interested persons to participate by submitting written data, views, or arguments. Persons submitting comments should include their name and address, identify this Notice (CGD 92–010) and how each comment relates to the proposed action. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

Dated: February 25, 1992.

W.J. Ecker,

Rear Admiral, Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 92–4645 Filed 2–27–92; 8:45 am]

BILLING CODE 4910-14-M

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[1] Prior to the amendment, the United States could designate two airlines, one on each of two routes, to provide scheduled services between the U.S. and China. The designated airlines for these routes could operate combination or all-cargo services or both. United Air Lines and Northwest Airlines are designated on Routes 1 and 2, respectively, to provide U.S.-China services. Under the 1992 amendment, the operation of all-cargo flights by carriers designated under Routes 1 and 2 does not reduce the frequencies available for all-cargo services on the new Route 3.

[CGD 91-15]

Coast Guard Academy Advisory Committee; Meetings

ACTION: Open meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App I) notice is hereby given of a meeting of the Coast Guard Academy Advisory Committee to be held in Hamilton Hall at the U.S. Coast Guard Academy, New London, CT, on Monday and Tuesday, March 23 and 24, 1992. The open sessions on Monday will be held from 9:30 a.m. to 10:30 a.m. and 1:15 p.m. to 2:15 p.m. Open sessions on Tuesday will be held from 2:30 p.m. to 3:15 p.m. The agenda for the meeting consists of the following items:

1. Recruiting and Admissions
2. Athletics
3. Faculty and Curricula
4. Library

The Coast Guard Academy Advisory Committee was established in 1937 by Public Law 75-38 to advise on the course of instruction at the Academy and to make recommendations as necessary. Attendance is open to the public. With advance notice, members of the public may present oral statements at the meeting. Persons wishing to attend or present oral statements at the meeting should notify the U.S. Coast Guard Academy not later than March 8, 1992.

Any member of the public may present a written statement to the Committee at any time.

FOR FURTHER INFORMATION CONTACT: Dr. William A. Sanders, Dean of Academics, U.S. Coast Guard Academy, New London, CT 06320, ph (203) 444-8275.

Issued in Washington, DC, on February 21, 1992.

G. D. Passmore,

Rear Admiral, U.S. Coast Guard Chief, Office of Personnel and Training.

[FR Doc. 92-4644 Filed 2-27-92, 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Advisory Circular 21-31, Quality Control for the Manufacture of Non-metallic Compartment Interior Components

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of Advisory Circular 21-31, Quality Control for the Manufacture of Non-metallic Compartment Interior Components. Advisory Circular 21-31, provides information and guidance to the general public and the aviation industry concerning compliance with Federal Aviation Regulation (FAR) part 21, Certification Procedures for Products and Parts.

ADDRESSES: Copies of AC 21-31 can be obtained from the following: Federal Aviation Administration, Department of Transportation, Utilization and Storage Section, M443.2, 400 Seventh Street SW., Washington, DC 20591.

Issued in Washington, DC, on November 15, 1991.

Ronald T. Wojnar,

Manager, Aircraft Manufacturing Division.

[FR Doc. 92-4607 Filed 2-27-92; 8:45 am]

BILLING CODE 4910-13-M

Receipt of Noise Compatibility Program and Request for Review; Tucson International Airport, Tucson, AZ

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces that it is reviewing a proposed noise compatibility program that was submitted for Tucson International Airport under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) (hereinafter referred to as "the Act") and 14 CFR part 150 by the Tucson Airport Authority. This program was submitted subsequent to a determination by FAA that associated noise exposure maps submitted under 14 CFR part 150 for Tucson International Airport were in compliance with applicable requirements effective May 11, 1990. The proposed noise compatibility program will be approved or disapproved on or before August 9, 1992.

EFFECTIVE DATE: The effective date of the start of FAA's review of the noise compatibility program is February 11, 1992. The public comment period ends April 11, 1992.

FOR FURTHER INFORMATION CONTACT: David B. Kessler, Airport Planner, Airports Division, AWP-611.2, Mailing Address: P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009-2007, telephone: 310/297-1534. Comments on the proposed noise compatibility program should also be submitted to the above office.

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SUPPLEMENTARY INFORMATION: This notice announces that the FAA is reviewing a proposed noise compatibility program for Tucson International Airport which will be approved or disapproved on or before August 9, 1992. This notice also announces the availability of this program for public review and comment.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) part 150, promulgated pursuant to title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The FAA has formally received the noise compatibility program for Tucson International Airport, effective on February 11, 1992. It was requested that the FAA review this material and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before August 9, 1992.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR part 150, § 150.33. The primary consideration in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to those factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, 800 Independence Avenue, SW., room 617, Washington, DC 20591.

Federal Aviation Administration, Western-Pacific Region, Airports Division, room 3E24, 15000 Aviation Boulevard, Hawthorne, California 90261.

Tucson Airport Authority, 7005 South Plumer Avenue, Tucson, Arizona 85706.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT:**

Issued in Hawthorne, California on February 11, 1992.

Herman C. Bliss,

Manager, Airports Division, AWP-600, Western-Pacific Region.

[FR Doc. 92-4608 Filed 2-27-92; 8:45 am]

BILLING CODE 4910-13-M

Research and Special Programs Administration

Meeting of Technical Pipeline Safety Standards Committee

This notice amends the notice appearing in the February 21, 1992 **Federal Register** (57 FR 6275) of the meeting of the Technical Pipeline Safety Standards Committee, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. app. 1).

The Technical Pipeline Safety Standards Committee meeting scheduled for 1:30 p.m., on March 11, 1992, in room 2201 of the Department of Transportation Building, 400 Seventh Street, SW., Washington, DC, will also include a short discussion on excess flow valves (Docket No. PS-118), in addition to the agenda items appearing in the February 21, 1992 **Federal Register** notice.

Dated: February 24, 1992.

Cesar De Leon,

Executive Director, TPSSC.

[FR Doc. 92-4543 Filed 2-27-92; 8:45 am]

BILLING CODE 4910-60-M

[Docket No. P-91-4W; Notice 1]

Transportation of Natural and Other Gas by Pipeline, Petition for Waiver; Northwest Pipeline Corp.

Northwest Pipeline Corporation (Northwest) has petitioned the Research and Special Programs Administration (RSPA) for a waiver from compliance with 49 CFR 192.611(c), which requires confirmation or revision of the maximum allowable operating pressure (MAOP) within 18 months of a change in class location. Northwest determined that, effective October 4, 1990, the class location for the 26-inch main line and 30-inch loop line between mileposts 1393.79

and 1394.57 (0.78 miles) and mileposts 1395.99 and 1396.52 (0.53 miles), Snohomish County, Washington, changed from Class Location 2 to Class Location 3. Such class location change determination was made pursuant to a study required by § 192.609 due to an increase in population density. Absent a waiver, Northwest would be required, on April 4, 1992, to either (1) reduce MAOP on the 26-inch main line from 674 psig to 562 psig, or (2) retest the lines for operation at 674 psig (60 percent of the specified minimum yield of the pipe) pursuant to § 192.611(a)(1). Northwest seeks a waiver of the requirements of § 192.611(c) for a 6 month period ending September 30, 1992. No action is required for the 30-inch loop line because it meets Class 3 standards.

The waiver would allow Northwest to maintain throughput pending replacement of the sections of the 26-inch main line requiring waiver from § 192.611(c) and testing of a 46.25 mile portion of the system. Northwest filed a certificate application with the Federal Energy Regulatory Commission (FERC) on December 31, 1990, seeking approval to expand and upgrade certain existing facilities (Docket No. CP91-780-000, 002). Northwest estimates construction and requalification of the pipelines should be complete by September 30, 1992, assuming timely receipt of FERC approval. Further, Northwest states that, without the waiver, they must retest the lines for operation at 674 psig prior to April 4, 1992, to avoid disruption of service to customers.

A close interval potential survey was performed between mileposts 1392 and 1397 on the 26-main line in May 1990. Readings of pipe to soil potential at 3 foot intervals indicated the segments meet or exceed the minimum corrosion control requirements. Northwest's corrosion consultant concluded that it is unlikely that the segments of pipeline are suffering from any form of corrosion. Northwest states that both lines are in good operating condition, have not had any leaks or failures, and have been cathodically protected to required levels. The pipelines are patrolled every week.

Northwest estimates an additional cost of $162,000 for duplicate hydrostatic testing, gas loss and excavation under wet winter conditions when compared to concurrent construction. They also state that simultaneous construction of pipelines will minimize the extent and duration of disturbance to the environment and ecology of the area. The two sections requiring replacement are near major rivers which have wintering populations of bald eagles. By deferring construction activities until late spring, Northwest would reduce the potential for displacing the bald eagles. Northwest's statements seem reasonable.

Because of the previous safe and reliable history of the pipeline, and the additional cost and disruption that an additional construction period would cause, it seems reasonable to waive the requirements of § 192.611(c) for a 6 month period, and allow the operator sufficient time to install and qualify pipelines in a single construction period. There is no reason to anticipate a lesser level of safe performance for the existing lines than the previous record shows, or any additional risks to the population in proximity to the line. In view of these reasons and those stated in the foregoing discussion, it appears that a waiver of compliance with § 192.611(c) is not inconsistent with gas pipeline safety, and as a consequence, RSPA proposes to grant the waiver.

Interested parties are invited to comment on the proposed waiver by submitting in duplicate such data, views, or arguments as they may desire. Comments should identify the Docket and Notice numbers, and be submitted to the Dockets Unit, room 8417, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590.

All comments received before March 30, 1992 will be considered before final action is taken. Late filed comments will be considered so far as practicable. All comments and other docketed material will be available for inspection and copying in room 8419 between the hours of 8:30 a.m. and 5 p.m. before and after the closing date. No public hearing is contemplated, but one may be held at a time and place set in a Notice in the **Federal Register** if requested by an interested person desiring to comment at a public hearing and raising a genuine issue.

Issued in Washington, DC on February 25, 1992.

George W. Tenley, Jr.,

Associate Administrator for Pipeline Safety.

[FR Doc. 92-4625 Filed 2-27-92; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

February 24, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0757.
Regulation ID Number: LR-209-76 Final Regulations.
Type of Review: Extension.
Title: Special Lien for Estate Taxes Deferred Under section 6166 or 6166A Procedure and Administration.
Description: Section 6324A permits the executor of a decedent's estate to elect a lien on section 6166 property in favor of the United States in lieu of a bond or personal liability if an election under section 6166A was made.
Respondents: Individuals or households, Businesses or other for-profit.
Estimated Number of Respondents: 34,600.
Estimated Burden Hours Per Respondent: 15 minutes.
Frequency of Response: Other (Nonrecurring).
Estimated Total Reporting Burden: 8,650 hours.

OMB Number: 1545-0889.
Form Number: IRS Forms 8275 and 8275-R.
Type of Review: Revision.
Title: Disclosure Statement and Regulation Disclosure Statement.
Description: Internal Revenue Code (IRC) section 6662 imposes accuracy related penalties for substantial understatement of tax liability or negligence or disregard of rules and regulations. Section 6694 imposes similar penalties on return preparers. Regulations section 1.6662-4(e)&(f) provide for reduction of these penalties if adequately disclosure of the tax treatment is made on Form 8275 or, if the position is contrary to a regulation, new Form 8275-R.
Respondents: Individuals or households, Farms, Businesses or other for-profit, Non-profit institutions, Small businesses or organizations.
Estimated Number of Respondents/Recordkeepers: 595,000.
Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping	3 hours, 7 minutes
Learning about the law or the form	48 minutes
Preparing and sending the forms to the IRS	58 minutes

Frequency of Response: Annually.
Estimated Total Reporting/Recordkeeping Burden: 3,975,000 hours.

OMB Number: 1545-1102.
Regulation ID Number: Notice 89-1.
Type of Review: Revision.
Title: Low-Income Housing Tax Credit—Election of Appropriate Percentage Month; Carryover of Post 1987 Low-Income Housing Credit Dollar Amounts.
Description: The Technical and Miscellaneous Revenue Act of 1988 allows a taxpayer to use the appropriate percentage for a month other than the month a building is placed in service and (2) to obtain an allocation of credits prior to the building's placed in service date.
Respondents: Individuals or households, State or local governments, Businesses or other for-profit, Non-profit institutions, Small businesses or organizations.
Estimated Number of Respondents/Recordkeepers: 2,000.
Estimated Burden Hours Per Respondent/Recordkeeper: 5 hours, 5 minutes.
Frequency of Response: Other (One-time election and/or allocation).
Estimated Total Reporting/Recordkeeping Burden: 10,150 hours.
Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 92-4613 Filed 2-27-92; 8:45 am]
BILLING CODE 4830-01-M

Public Information Collection Requirements Submitted to OMB for Review

Dated: February 20, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the

Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Special Request: The Department of the Treasury's Office of the Assistance for International Affairs is requesting approval from the Office of Management and Budget of this information collection by February 21, 1992 in a timely manner.

Departmental Offices

OMB Number: New.

Form Number: None.

Type of Review: New collection.

Title: Questionnaire on State Rules, Laws, and Measures That May Conflict with Proposal in North Atlantic Free Trade Agreement (NAFTA).

Description: We need to know state laws, rules, and other measures that may conflict with nondiscrimination obligations of the investment chapter of the draft NAFTA agreement. Knowing such measures in advance, and recording them in an annex to the agreement will enable the U.S. to exempt such measures from NAFTA obligations.

Respondents: State of local governments.

Estimated Number of Respondents: 50.

Estimated Burden Hours Per Response: 4 hours.

Frequency of Response: Other (one time).

Estimated Total Reporting Burden: 200 hours.

Clearance Officer: Lois K. Holland, (202) 566–6579, Departmental Offices, room 3171, Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

Dear ______________:

I am writing to ask your help in identifying the laws, regulations or practices ("measures") in your state which treat investment fully or partially owned by foreign investors differently than investments owned by either residents of your state or U.S. citizens.

The U.S. Government is in the process of negotiating a free trade agreement with Mexico and Canada known as the North American Free Trade Agreement ("NAFTA"). The NAFTA will include rules to liberalize investment among parties. The rules will provide rights for U.S. investors and their investments in Mexico and Canada. Just as we are seeking that the rules apply to treatment by all levels of government in Canada and Mexico, Mexico and Canada are seeking that the rules apply to the treatment of their investors and investments by the U.S. federal, state and local governments.

One basic rule in the NAFTA investment chapter will be that the governments of the NAFTA parties treat investors of other parties, and their investments, no less favorably than they treat domestic investors. In addition, NAFTA parties will also assure that investors from other NAFTA parties will be treated no less favorably than investors from outside the NAFTA territory.

Under our proposal investors of the parties will have the right to take a dispute over a measure inconsistent with these nondiscrimination principles to international arbitration. Consequently, the U.S. must also seek to except any current federal, sate or local measures which conflict with the rules and which we intend to maintain.

Your state may have laws which conflict with the proposed rules. We have the opportunity to maintain any or all of such conflicting measures if and only if the measures are correctly identified as exceptions in an annex to the agreement. If such measures are not listed, they could be determined to be violations of the agreement.

In order to provide a complete list of such U.S. exceptions, we need your assistance in identifying your state's measures which do not conform to the proposed rules. The attached questionnaire is designed to verify and solicit information on such measures. Since President Bush has stated that he may present the NAFTA to the Congress this year for approval, we need your assistance now.

We have coordinated our questionnaire with another request for information to an official of your state from the Office of the United States Trade Representative to avoid your having to respond to duplicate questions. The latter questionnaire relates to the services negotiation of the Uruguay Round. Accordingly, for certain of the attached questions, we only ask for information in sectors other than financial services and other service sectors.

Please return completed questionnaires to: Fran Huegel, Department of Treasury, Room 5100, 1500 Pennsylvania Ave., NW., Washington, D.C. 20220.

Ms. Huegel may be reached by phone at (202) 535–6211 and by fax at (202) 786–8453 regarding any questions on the NAFTA or on the questionnaire.

Thank you very much for your prompt assistance.

Sincerely,

Olin Wethington,

Assistant Secretary (International Affairs).

NAFTA Investment Questionnaire

Paperwork Reduction Act Notice: This is in accordance with the Paperwork Reduction Act of 1980, P.L. 96–511. The information collection is voluntary pursuant to 19 U.S.C. 1101 and is necessary to seek the help of the attorney generals in each of the 50 states to identify laws, regulations or practices which treat investments fully or partially owned foreign investors differently than investments owned by either residents of the state or U.S. citizens.

Burden Estimate Statement: The estimated average burden associated with this collection of information is 4 hours per individual respondent. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be addressed to the Office of International Investment, Room 5100 Main Treasury Building, 15th & Pennsylvania Avenue, NW., Washington, DC 20220 and the Office of Management and Budget, Paperwork Reduction Project (1505-XXXX), Washington, DC 20503.

Note: For the purposes of this questionnaire, "foreign investor" means a national other than a U.S. national or a company fully or partially owned by a national other than a U.S. national, whether the investment is made directly from abroad or through a company incorporated in the United States.

1. Last year, in connection with ongoing negotiations in the Organization for Economic Cooperation and Development, the State Department sought a description of the laws of your state which limit ownership by foreign investors, by residents or companies of another state, or otherwise accord foreign investors, or residents or companies of other states, differential treatment. Examples of such differential treatment are:

—Restrictions on land ownership by foreign investors or non-residents;
—Reporting requirements for foreign investors or non-residents;
—Foreign investors or non-residents do not qualify for government small business loans or access to public lands; or
—Foreign investors are not eligible for agricultural loans.

A summary of your response to last year's questionnaire is attached. We would appreciate your confirming whether the attached information on laws in your state remains accurate.

If it is not accurate, please correct the information and provide a reference to the statutory or other authority on which the measure is based.

2. Other than the measures listed for your state in the attachment, do you maintain any measure, in any sector other than a services sector, which upon making an investment or after the establishment of an investment:

(1) Treats foreign investors differently than U.S. nationals or companies wholly-owned by U.S. nationals; or

(2) Treats residents or companies of another state differently than residents or companies of your state?

If so, please describe the measure and provide a reference to the statutory or other authority on which the measure is based.

3. For any of the measures listed above, could foreign investors, or residents or companies of another state, receive the same treatment accorded to U.S. nationals or residents of your state by incorporating in your state?

If so, please provide a reference to the statutory or other authority on which the treatment is based.

4. Other than the measures listed on the attachment, does your state maintain any measure, in any sector other than a services sector, which treats one foreign investor differently than another foreign investor based on the nationality of the investor? A difference in treatment among foreign investors might arise, for instance, if treatment of foreign investors is based on the treatment accorded U.S. investors by that foreign investor's home government ("reciprocity"), or if the treatment accorded the foreign investor is based on a treaty.

If so, please describe the measure and provide a reference for the statutory or other authority on which the measure is based.

5. Do you maintain any measures restricting acquisitions by foreign investors?

If so, please describe the measure and provide a reference to the statutory or other authority on which the measure is based.

6. In your incorporation laws, are there any requirements that any directors or managers be U.S. citizens or residents of your state?

If so, please describe the measure and provide a reference to the statutory or other authority on which the measure is based.

7. If they do not appear in the attachment, please list any subsidies that are not available to foreign investors or non-residents, or are only available to businesses located/incorporated/headquartered/regulated in your state. Examples of possible subsidies include low interest/interest free loans, direct payments, loan guarantees, government financed research and development, and government financed utilities/support services.

8. For any of the measures listed in answers to previous questions, please provide definitions and relevant criteria (e.g., percentage ownership, control, location, etc.) under your state's law of the following terms if they are relevant to your state's measures:

—Resident
—Non-resident
—Foreign
—Domestic
—Alien
—Domestication

9. Please provide the name, address and phone number of an official of your state government that we may contact for clarifications and future updates.

[FR Doc. 92-4627 Filed 2-27-92; 8:45 am]

BILLING CODE 4810-25-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition

Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85-5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "Picasso and Things: The Still Lifes of Picasso" (see list [1]) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign lender. I also determine that the temporary exhibition or display of the listed exhibit objects at the Cleveland Museum of Art, Cleveland, Ohio, beginning on or about February 28, 1992, to on or about May 3, 1992; at the Philadelphia Museum of Art, Philadelphia, Pennsylvania, on or about June 7, 1992, to on or about August 23, 1992, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register**.

Dated: February 24, 1992.

Alberto J. Mora,

General Counsel.

[FR Doc. 92-4626 Filed 2-27-92; 8:45 am]

BILLING CODE 8230-01-M

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[1] A copy of this list may be obtained by contacting Mr. R. Wallace Stuart of the Office of the General Counsel of USIA. The telephone number is 202/619-6076, and the address is room 700, U.S. Information Agency, 301 Fourth Street, SW., Washington, DC 20547.

DEPARTMENT OF VETERANS AFFAIRS

Special Medical Advisory Group, Meeting

The Department of Veterans Affairs gives notice under Public Law 92-463 that a meeting of the Special Medical Advisory Group will be held on March 26-27, 1992, at the Ramada Renaissance Hotel, 999 9th Street, NW., and Department of Veterans Affairs, 801 I Street, NW., Washington, DC. The purpose of the Special Medical Advisory Group is to advise the Secretary and Chief Medical Director relative to the care and treatment of disabled veterans, and other matters pertinent to the Department's Veterans Health Administration. The session on March 26 will convene at 6 p.m. and the session on March 27 will convene at 8 a.m. All sessions will be open to the public up to the seating capacity of the rooms. Because this capacity is limited, it will be necessary for those wishing to attend to contact Ginny Rassman, Office of the Chief Medical Director, Department of Veterans Affairs (phone 202/535-7605) prior to March 24, 1992.

Dated: February 14, 1992.

By Direction of the Secretary.

Diane H. Landis,

Committee Management Officer.

[FR Doc. 92-4602 Filed 2-27-92; 8:45 am]

BILLING CODE 8320-01-M

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Sunshine Act Meetings

Federal Register
Vol. 57, No. 40
Friday, February 28, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

AFRICAN DEVELOPMENT FOUNDATION

Board of Directors Meeting

TIME: 2:30–4:30 p.m.

PLACE: African Development Foundation.

DATE: Monday, 09 March 1992.

STATUS: Open.

Agenda

1. Chairman's Report.
2. President's Report.
3. Other.

If you have any questions or comments, please direct them to Ms. Janis McCollim, Executive Assistant to the President, who can be reached at (202) 673–3916.

Gregory Robeson Smith,

President.

[FR Doc. 92–4702 Filed 2–26–92; 9:02 am]

BILLING CODE 6116-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:03 p.m. on Tuesday, February 25, 1992, the Corporation's Board of Directors determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Director T. Timothy Ryan, Jr. (Office of Thrift Supervision), Vice Chairman Andrew C. Hove, Jr., and Chairman William Taylor, that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Memorandum and resolution re: Delegations of Authority to the Resolution Trust Corporation's Division of FSLIC Operations.

The Board further determined, by the same majority vote, that Corporation business required the addition to the agenda for consideration at the meeting on less than seven days' notice to the public, of the following matter:

Resolution re: Expression of Appreciation to Director Robert L. Clarke (Comptroller of the Currency) for His Years of Service on the Corporation's Board of Directors.

By the same majority vote, the Board further determined that no earlier notice of the changes in the subject matter of the meeting was practicable.

Dated: February 26, 1992.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 92–4768 Filed 2–26–92; 2:15 pm]

BILLING CODE 6714-0-M

LEGAL SERVICES CORPORATION BOARD OF DIRECTORS

Operations and Regulations Committee Meeting

TIME AND DATE: A meeting of the Board of Directors Operations and Regulations Committee will be held on March 8, 1992. The meeting will commence at 4 p.m.

PLACE: The Washington Marriott Hotel, 1221 22nd Street, NW., The Dupont Ballroom, Washington, D.C. 20037, (202) 872–1500.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

OPEN SESSION:

1. Approval of Agenda.
2. Approval of Minutes of February 16–17, 1992 Meetings.
3. Consideration of Draft Request for Proposals for Demonstration Project Funding.
4. Consideration of Staff Proposal on Timekeeping.
5. Consideration of Report by Staff Competition Committee.

CONTACT PERSON FOR INFORMATION: Patricia Batie, Executive Office, (202) 863–1839.

Date Issued: February 26, 1992.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 92–4764 Filed 2–26–92; 2:14 pm]

BILLING CODE 7050-01-M

LEGAL SERVICES CORPORATION BOARD OF DIRECTORS

Audit and Appropriations Committee Meeting

TIME AND DATE: A meeting of the Board of Directors Audit and Appropriations Committee will be held on March 8, 1992. The meeting will commence at 2:00 p.m.

PLACE: The Washington Marriott Hotel, 1221 22nd Street, NW., The Dupont Ballroom, Washington, DC 20037. (202) 872–1500.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Agenda.
2. Approval of Minutes of February 16, 1992 Meeting.
3. Consideration of Budget and Expenses Through January 1992.
4. Consideration of Report by Grant/Thornton On Corporation's 1991 Financial Audit and Management Report.
5. Consideration of the Inspector General's Comments On the Auditing and Appropriations Committee's Operating Guidelines.
6. Consideration of Public and Staff Comments On the Audit and Appropriations Committee's Operating Guidelines.
7. Consideration of the Audit and Appropriations Committee's Operating Guidelines.
8. Consideration of Management Request to Modify Management and Administration Fiscal Year 1992 Budget Within and Between Line Items.
9. Consideration of Written Rationale Supporting Fiscal Year 1993 Appropriations Request.
10. Consideration of Options to Ensure Adequate Funding for the Micronesian Legal Services Corporation.

CONTACT PERSON FOR INFORMATION: Members of the public wishing to comment on the above-referenced matter are requested to contact Patricia Batie at (202) 863–1839 by March 5, 1992.

Date Issued: February 26, 1992.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 92–4765 Filed 2–26–92; 2:14 pm]

BILLING CODE 7050-01-M

LEGAL SERVICES CORPORATION BOARD OF DIRECTORS

Provision for the Delivery of Legal Services Committee Meeting

TIME AND DATE: A meeting of the Board of Directors Provision for the Delivery of Legal Services Committee will be held on March 8, 1992. The meeting will commence at 12:00 p.m.

PLACE: The Washington Marriott Hotel, 1221 22nd Street, N.W., The Dupont Ballroom, Washington, D.C. 20037, (202) 872–1500.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Agenda.

2. Approval of January 12, 1992 Meeting Minutes.

3. Consideration of Procedures for Proposals for Corporation Grants.

4. Consideration of the Corporation Policy Governing Interstate Subgrants.

5. Consideration of Vehicles Through Which the Corporation Could Assist LSC-Funded Grantees To Recruit and Retain Staff Attorneys.

CONTACT PERSON FOR INFORMATION: Patricia Batie, Executive Office, (202) 863–1839.

Date Issued: February 26, 1992.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 92–4766 Filed 2–26–92; 2:14 pm]

BILLING CODE 7050–01–M

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Corrections

Federal Register
Vol. 57, No. 40
Friday, February 28, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

FEDERAL MARITIME COMMISSION

Ocean Freight Fowarder License Revocations

Correction

In notice document 92-3758 appearing on page 6026 in the issue of Wednesday, February 19, 1992, make the following correction:

In the third column, "*License Number:* 2990" should read "*License Number:* 2900".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 88N-0003]

RIN 0905-AA06

Antacid and Acetaminophen Combination Drug Products in a Solid Dosage Form; Marketing Status for Over-the-Counter Human Use; Notice of Enforcement Policy

Correction

In the correction to notice document 92-2727 appearing on page 6165 in the issue of Thursday, February 20, 1992, make the following correction:

In the second column, in the second paragraph, in the second line, "second" should read "third".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Consumer Participation; Open Meeting

Correction

In notice document 92-3867 appearing on page 6122 in the issue of Thursday, February 20, 1992, in the second column, under **SUPPLEMENTARY INFORMATION**, in the last line, "decision" should read "decisions".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Butynorate, Phenothiazine, Piperazine in Combination

Correction

In rule document 92-3865 appearing on page 6072 in the issue of Thursday, February 20, 1992, make the following corrections:

1. In the first column, in the **SUMMARY**, in the fourth line from the bottom, "chicks" should read "chickens".

2. In the second column, under **SUPPLEMENTARY INFORMATION**, in the first paragraph, in the third line from the bottom, "piperazine," should be removed.

§558.4 [Corrected]

3. In the third column, in the amendatory instruction to § 558.4, in the first paragraph, in the third line, "table for" should read "table by".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Certain Drug Combinations Involving Melengestrol Acetate, Monensin, Lasalocid and Tylosin

Correction

In rule document 92-3301 beginning on page 5052 in the issue of Wednesday, February 12, 1992, make the following correction:

On page 5053, in the first column, under **SUPPLEMENTARY INFORMATION:**, in the second paragraph, in the fourth line from the bottom, "(C)(4)(ii)" should read "(c)(4)(ii)".

BILLING CODE 1505-01-D

federal register

Friday
February 28, 1992

Part II

Department of Health and Human Services

Health Care Financing Administration
Public Health Service

42 CFR Part 405, et al.
Clinical Laboratory Improvement Amendments of 1988; Final Rule

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Public Health Service

42 CFR Parts 405, 410, 416, 417, 418, 440, 482, 483, 484, 485, 488, 491, 493, and 494

[HSQ-176-FC]

RIN 0938-AE47

Medicare, Medicaid and CLIA Programs; Regulations Implementing the Clinical Laboratory Improvement Amendments of 1988 (CLIA)

AGENCY: Health Care Financing Administration (HCFA), and Public Health Service (PHS), HHS.

ACTION: Final rule with comment period.

SUMMARY: This final rule revises regulations applicable to laboratories and implements provisions of the Clinical Laboratory Improvement Amendments of 1988 (CLIA), Public Law 100-578. The regulation applies to laboratories that examine human specimens for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, human beings. They specify the performance requirements, based on 19 test complexity and risk factors related to erroneous test results, that apply to laboratories that are subject to CLIA. They also list requirements for laboratories performing certain limited testing to be eligible for a certificate of waiver. These laboratories will not be inspected routinely, nor will they be required to meet certain other CLIA requirements.

DATES: *Effective date:* These rules are effective on September 1, 1992 except as follows: § 493.3 is effective March 30, 1992. For laboratories not subject to 42 CFR part 493 published in the **Federal Register** on March 14, 1990 at 55 FR 9538, prior to September 1, 1992, Subpart H applies January 1, 1994. In addition, § 493.1203 is effective September 1, 1994.

Comment date: Written comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on April 28, 1992.

ADDRESSES: Mail written comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: HSQ-176-FC, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your written comments to one of the following addresses:

Room 309-G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or
Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

Due to staffing and resource limitations, we cannot accept audio, video, or facsimile (FAX) copies of documents. In commenting, please refer to file code HSQ-176-FC. Written comments received timely will be available for public inspection as they are received, beginning approximately three weeks after publication of this document, in room 309-G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: 202-245-7890).

Organizations and individuals desiring to submit comments on the reporting requirements discussed under the section on "Collection of Information Requirements" of this preamble should direct them to the Health Care Financing Administration at one of the addresses cited above, and to the Office of Information and Regulatory Affairs, Attention: Allison Herron Eydt, Office of Management and Budget, New Executive Office Building (room 3002), Washington, DC 20503.

Copies: To order copies of the **Federal Register** containing this document, send your request to: Government Printing Office, Attn: New Order, P.O. Box 371954, Pittsburgh, PA 15250-7954. Specify the date of the issue requested and stock number (069-001-00042-4). Enclose a check or money order payable to the Superintendent of Documents, or enclose your Visa or MasterCard number and expiration date. Credit card orders can also be placed by calling the order desk at (202) 783-3238 or by faxing to (202) 512-2250. The cost for each copy is $3.50. In addition, you may view and photocopy the **Federal Register** document at most libraries designated as U.S. Government Depository Libraries and at many other public and academic libraries throughout the country that receive the **Federal Register**. The order desk operator will be able to tell you the location of the U.S. Government Depository Library nearest to you.

FOR FURTHER INFORMATION CONTACT: Wayne Smith, Ph.D., (410) 966-6801.

SUPPLEMENTARY INFORMATION:

Background

Historical Review

On August 5, 1988 (53 FR 29590), HHS published a proposed rule on requirements for clinical laboratories. The proposal was the result of a Departmental effort to update, consolidate, and recodify into 42 CFR part 493 all requirements applicable to clinical laboratories engaged in testing in interstate commerce, some of which were licensed under the Clinical Laboratories Improvement Act of 1967 (CLIA '67), and laboratories participating in the Medicare and Medicaid programs. The rule was intended to update laboratory requirements, delete obsolete regulations, impose new quality assurance standards applicable to all such laboratories, and make numerous other technical revisions.

Shortly after our publication on August 5, 1988, of the proposed rule, the Clinical Laboratory Improvement Amendments of 1988 (CLIA), Public Law 100-578, was enacted on October 31, 1988. CLIA greatly revised portions of the Public Health Service Act, the underlying statute for a portion of the August 5, 1988 proposed regulation. Attendant publicity from the public, laboratories, and their personnel generated numerous timely comments that provided an impetus and basis for many changes that we were able to incorporate in a final rule published March 14, 1990 (55 FR 9536). Additionally, the March 14, 1990, rule included several self-implementing provisions of CLIA (for example, proficiency testing and cytology). On the other hand, we chose not to make proposed personnel requirements final so that we could propose and establish personnel standards that are in accordance with testing performed, as mandated by CLIA. The March 14, 1990 final rule, then, has been the basis for regulating the quality of laboratory services while we are going through the rulemaking procedure to implement fully the provisions of CLIA.

On May 21, 1990 (55 FR 20896), we published as a proposed rule an expanded 42 CFR part 493 which would incorporate many CLIA requirements. For sake of completeness and due to some reorganization of text, we repeated in our proposal virtually the entire part, which had the consequence of allowing public comment on many of the CLIA changes that had been incorporated in the March 14, 1990 final rule by reason of either their self-executing nature or public comment suggesting they be added to the rule as proposed on August 5, 1988. This final rule addresses issues raised in connection with our proposed rule of May 21, 1990 (55 FR 20896). Readers interested in additional background may wish to review the preamble to that rule as well as the preamble to the other cited proposals or rules.

Regulation Requirements to Implement CLIA

CLIA established a new section 353 of the Public Health Service (PHS) Act to replace the existing section 353. New section 353 requires the Department of HHS to establish certification requirements for any laboratory that performs tests on human specimens, and certify through issuance of a certificate that those laboratories meet the certificate requirements established by HHS. Also, the legislation contains certificate requirements and specifies circumstances that permit waiver of the certificate. The law also includes requirements for approval of accreditation bodies and State licensure bodies, inspections, sanctions, judicial review, fees, and disclosure of information to the public.

Section 6141 of the Omnibus Budget Reconciliation Act of 1989 (OBRA '89), Public Law 101-239, requires that laboratories participating in the Medicare program comply with CLIA requirements. Subject to specified exceptions, laboratories must have a current unrevoked and unsuspended certificate to be eligible for reimbursement in the Medicare or Medicaid programs or both.

This rule implements the following sections of CLIA:

Section 353(a) Definitions.
Section 353(b) Certificate Requirements.
Section 353(d) Requirements for Certificates.
Section 353(c) Issuance and Renewal of Certificates.
Section 353(f) Standards.
Section 353(g) Inspections.

We are implementing the following sections through separate rulemakings which we may refer to in subsequent discussion in this preamble.

Section 353(e) Accreditation.
Section 353(h) Intermediate sanctions.
Section 353(i) Suspension, Revocation and Limitation.
Section 353(j) Injunctions.
Section 353(k) Judicial Review.
Section 353(l) Sanctions.
Section 353(m) Fees.
Section 353(p) State laws.

Related Rulemaking Activities

On August 3, 1990 (55 FR 31758), we published a proposed rule that set forth the requirements that all laboratories must meet to apply for and be issued a registration certificate, certificate of waiver, certificate, certificate of accreditation, or be licensed by an approved State licensure program as being exempt from CLIA requirements. It also set forth the methodology for determining the amount of fees for the certificates and the fee schedules for determining a laboratory's compliance with CLIA standards. The final rule is published elsewhere in this issue of the **Federal Register**.

On August 20, 1990 (55 FR 33936), we published a proposed rule that set forth the criteria we would use to approve and withdraw approval of State or private accreditation programs. The final rule is under development. Upon the effective date of this rule, accreditation programs and State licensing organizations can apply for recognition of their programs under CLIA.

On April 2, 1991 (56 FR 13430), we published a proposed rule that set forth the rules and sanctions that we would consider imposing on laboratories that do not meet Federal requirements instead of, or before suspending, limiting, or revoking the laboratory's certificate and canceling the laboratory's approval to receive Medicare payment for its services. The final rule concerning sanctions appears elsewhere in this issue of the **Federal Register**.

Actions Taken to Develop Final Rules

Analysis of Comments

The May 21, 1990 proposed rule generated a response from approximately 60,000 public commenters. Each commenter's letter was screened and comments were associated with like or related comments. Many comments were identical, indicating that form letters had been developed. After association of like comments, they were placed in categories based on subject matter or portion of the regulation affected, and reviewed. All general comments similarly were reviewed and considered. This process led to development of possible changes which needed to be reviewed in terms of their effect on policy, consistency, or clarity of the rules.

Use of Consultants from Outside HHS

The Public Health Service (PHS) held several work sessions in Atlanta with technical experts. These individual consultants were not part of any advisory committee, and no group consensus was sought at any of the sessions. The PHS obtained the technical expertise of each consultant in order to assist in its internal deliberations to develop a practical and effective regulation. This process of using consultants after the close of a comment period to assist the agency in assessing an NPRM is within the agency's authority and discretion and has been upheld in *United Steelworkers* v. *Marshall*, 647 F.2d 1189 (D.C. Cir. 1980). Copies of the summaries of the work sessions held in June, July and September, 1991 have been associated with the rulemaking record and are available for review by the public. Copies may be reviewed on Monday through Friday of each week from 8:30 a.m. to 5 p.m. at the Health Care Financing Administration, Regulations Staff, room 132 East High Rise Building, 6325 Security Boulevard, Baltimore, MD 21207 (phone: (410) 966-4659). They also may be reviewed during the same times in room 309-G of our Department's offices at 200 Independence Ave., SW., Washington, DC (phone: 202-245-7890).

Principles for Developing Final Rules

The huge outpouring of public interest with thousands of technical comments required that we approach them with clear goals. The principles evolved as we analyzed the many comments and found that there were several major concerns, summarized below.

- Most commenters, in summarizing their views, predicted that, if the NPRM were made final, access to convenient, low cost, accurate laboratory testing would be severely curtailed, especially in rural areas, and costs throughout the system would increase dramatically.
- The complexity model (which CLIA requires be used in regulating laboratories by test, as opposed to our regulating laboratories by location under current rules) in the proposed rule, based almost entirely on a system of classifying analytes, did not adequately represent "real world" testing patterns and did not adequately account for the multitude of methodologies and instruments in current use, thereby rendering, in the opinion of the commenters, the classification scheme in the proposed rule essentially unworkable as a regulatory model.
- The use of personnel qualifications as the sole differentiating characteristic between Level I and Level II testing resulted in a far greater number of laboratories (for example, physician's offices, rural health clinics) being required to meet the more stringent Level II requirements, since far more laboratories would have become Level II laboratories under the analyte classification system than we anticipated in the NPRM.
- Most commenters, while strongly supportive of proficiency testing (PT) as

a valuable educational tool in the overall laboratory quality assurance scheme, felt strongly that the use of PT in a punitive way defeats the value of PT and encourages cheating.

Consequently, numerous changes have been incorporated in these final rules based on the following principles:

- The final rules should not unduly impede current laboratory practice in *all* testing that is subject to the requirements of CLIA.
- The complexity model should include analytes, methodologies and current and emerging technologies, including a recognition that never before regulated laboratories will require some length of time to achieve compliance with these requirements.
- The final rules should provide greater flexibility to accommodate testing environments, such as physician office laboratories, nursing homes, health fairs, etc.
- The final rules should maintain at their core a reliance on strong patient test management, quality control, quality assurance and proficiency testing (PT) requirements as the basis of good laboratory practice, all under the responsibility of a director and trained, qualified staff.

Highlights of Major Revisions

We earlier noted the principles used in developing the final rules and the major areas of concern that prompted their development. In view of the large number of commenters and their interest in several specific areas of regulation, the following is a description of major changes made from the proposed rule in response to comments. Elsewhere in this preamble we discuss the rationale and considerations leading to the adoption of a particular change.

- We have modified the criteria for the categorization of analytes and have included test systems/assays/examinations in the categorization scheme.

There are still 3 categories of test systems/assays/examinations:

—*Certificate of Waiver*—The criteria for the revised list of waived tests include (1) simple and accurate methodologies, as to render the likelihood of erroneous results negligible, (2) pose no reasonable risk of harm if performed incorrectly, or (3) are cleared by FDA for home use. Only 8 tests have been determined to meet these criteria. They are:

—dipstick/tablet urinalysis (includes 10 analytes)
—ovulation test kits
—urine pregnancy test
—erythrocyte sedimentation rate (non-automated)
—hemoglobin (copper sulfate)
—fecal occult blood
—blood glucose by glucose monitoring devices cleared by FDA specifically for home use.
—spun microhematocrit

Laboratories which conduct only tests on the waived list are eligible for a certificate of waiver and will not be inspected routinely, nor will they be required to meet certain other CLIA requirements. They are expected, however, to adhere to good laboratory practices.

—*Tests of Moderate Complexity and Tests of High Complexity*—Test systems, assays, and examinations have been classified as moderate or high complexity using the following differentiating criteria: (1) Knowledge needed to perform the test, (2) training and experience required, (3) complexity of reagent and materials preparation, (4) characteristics of operational steps, (5) availability of calibration, quality control and PT materials, (6) troubleshooting and maintenance required, and (7) degree of interpretation and judgement. Using these criteria, virtually hundreds of test systems, assays, and examinations have been classified as moderately complex, while fewer, highly specialized tests (for example, cytogenetics, histopathology, histocompatibility, cytology, and some highly specialized tests in other specialities) have been classified as high complexity.

The expansion of tests in the moderate category coupled with a categorization of test systems, assays, and examinations, enables each laboratory to determine easily what level of regulation it must follow. The intent in this final rule is that testing environments not eligible for a certificate of waiver, and which do not conduct highly specialized testing, will be certified to perform moderate complexity testing.

- We continue to view personnel standards as a significant differentiating element in the regulation of moderate and high complexity testing. However, in response to the major concerns raised about personnel requirements, we have significantly revised the personnel requirements. For moderate complexity testing, the director remains responsible and accountable for the safety and accuracy of the testing conducted. We have ensured that most directors currently conducting laboratory testing (including physicians) will either qualify under the final rule immediately or will be able to qualify within a year. If the director does not have a needed skill, he or she must use the services of a technical and/or clinical consultant. In addition, individuals who, as of September 1, 1992, are serving as laboratory directors and must have qualified or could have qualified under 42 CFR part 493, published March 14, 1990, would remain qualified under this rule. Individuals with a high school degree and training and experience can serve as testing personnel. These changes should not cause current laboratory personnel to lose their jobs. The director's responsibilities are numerous and specific since the director is ultimately responsible for the laboratory operation. We have emphasized personnel performance as well as credentials of personnel employed in laboratories performing moderate complexity testing. Since we placed only the most difficult test systems, assays, and examinations in the high complexity category, we strengthened somewhat the high complexity testing personnel requirements by requiring individuals conducting such testing to have, at a minimum, an associate degree in science. Until September 1, 1997, we will allow a high school graduate to perform high complexity testing under the on-site supervision of a general supervisor. The director requirements remain at the M.D., D.O. or doctoral levels, or previously qualified under the March 14, 1990 regulation. For certain qualifications where employees have to upgrade their education in order to meet the regulatory requirements, we have provided a phase-in period to allow time for completion of the necessary coursework. Most importantly, we stress that the personnel requirements refer to roles rather than to individuals, so that a qualified person can assume more than one role. For example, a director can serve as a technical supervisor as well, if he or she is qualified to do so.
- Generally, we have retained the 5 challenges per testing event in the PT requirements, but we have reduced the number of events from 4 to 3 per year. We estimate that this change will still result in identifying poorly performing laboratories, and will be more workable for PT programs and laboratories alike. We have provided laboratories that will be subject to Federal rules for the first time sufficient time to adjust and comply with these regulations by permitting laboratories until January 1, 1994 to enroll in an approved PT program. However, laboratories currently subject to March 1990 rules must continue to participate in PT. Likewise, we would not impose sanctions for failure to participate

successfully in PT in the first year, though laboratories would be required to correct whatever problems lead to failure. (Of course, immediate action would be taken if the failure suggests that patient health and safety is jeopardized.)

- We have attempted to make the sections dealing with patient test management, quality control, and quality assurance as flexible and adaptable to a wide variety of testing environments as possible while ensuring the quality of preanalytical, analytical, and postanalytical phases of testing. If the physician conducts the test for his or her own patient, the patient record will suffice as the "requisition," as well as the "report."
- We have included a new quality control provision that, when fully implemented September 1, 1994, will enable a laboratory to meet quality control requirements by following manufacturer's instructions, if the manufacturer's instructions are determined by the FDA under its medical devices approval process to be in compliance with the CLIA requirements. This provision also involves a phase-in of the full range of ways a laboratory can meet the quality control requirements and not only provides greater flexibility to laboratories in how they meet quality control requirements, but it provides manufacturers with an incentive to ensure that their instructions provide for strong quality control measures.
- We have retained the role of the Technical Advisory Committee, now identified as the Clinical Laboratory Improvement Advisory Committee (CLIAC) in the final rule. This committee will assist HHS in resolving technical and scientific issues as well as reevaluating criteria used for categorizing test systems, assays, and examinations.
- We have made significant changes to the cytology requirements as well. Requirements are now technically and scientifically feasible, while retaining the essential elements to assure quality. In cytology PT, we have reduced the number of testing events from two to one per year, altered the grading system, and eliminated the 500 slide rescreening requirement. We have changed the workload limit to 100 slides per 24 hours and deleted the separate limit for unevaluated slides. We have allowed flexibility in the reporting nomenclature and have altered the slide retention rules. We also have clarified the personnel requirements to ensure that individuals currently screening slides will be able to demonstrate that they meet the qualification requirements.
- In subpart K, Quality Control, reference is made to appendix C of the State Operations Manual (HCFA Publication 7). Appendix C offers guidance to State agency inspectors and occasionally describes protocols which achieve equivalent outcomes to those stated in the regulations. These equivalent protocols are designed to serve as substitutes or alternatives in situations where the quality control (QC) procedures used fall outside of the routine testing methodologies to which the regulation is directed. These protocols are not only less burdensome and in many instances, less costly to the laboratory, but they also accommodate new advances in technology that may not require the time and manual interaction of the procedures still in use by many laboratories for the same testing. These equivalent QC protocols provide the same outcome as the requirements in the regulations; that is, minimum requirements for laboratories that are intended to assure accurate and reliable test results.

Numerous other changes have been made throughout the final rule to articulate the principles we used in the development of the final rule. The net effect of these changes is to ensure that safe and accurate testing occurs throughout the laboratory testing systems while still enabling health care providers to offer convenient, low cost laboratory services in an ever broader range of environments.

Organization of Final Rule

This regulation contains revisions to several parts of title 42 of the Code of Federal Regulations (CFR). Because part 493 contains all the rules applicable to laboratories, and in consolidating laboratory provisions in part 493, we make numerous technical and conforming changes to parts 405, 410, 416, 417, 418, 440, 482, 483, 484, 485, 488, 491, and 494, we discuss in this preamble changes to part 493 first, and then discuss in numerical order the other parts of the CFR affected. For the convenience of the reader, we are repeating in this preamble the listing of subparts and sections included in part 493 of these final rules. This portion of the preamble is organized to parallel the construction of the regulation. Following this listing, each subpart's discussion begins with a summary of the provisions of the proposed rule, has a summary of comments and our responses to those comments, and a summary of changes to the regulations. In some instances, changes to one subpart require corresponding changes to another subpart discussed earlier. Readers are cautioned not to rely on any one summary as exhaustively identifying all changes made to that subpart.

Note: The subpart and section headings in this discussion portion may reflect headings that vary from the headings actually shown in the final rule.

The final rule for part 493 consists of the following:

Subpart A—General Provisions

Sec.
493.1 Basis and scope.
493.2 Definitions.
493.3 Applicability.
493.10 Categories of tests by complexity.
493.15 Laboratories performing waived tests.
493.17 Test categorization.
493.20 Laboratories performing tests of moderate complexity.
493.25 Laboratories performing tests of high complexity.

Subpart B—Certificate of Waiver

493.35 Application for a certificate of waiver.
493.37 Requirements for a certificate of waiver.
493.39 Notification requirements for laboratories issued a certificate of waiver.

Subpart C—Registration Certificate and Certificate

493.43 Application for registration certificate and certificate.
493.45 Requirements for a registration certificate.
493.49 Requirements for a certificate.
493.51 Notification requirements for laboratories issued a certificate.

Subpart D—Certificate of Accreditation

493.55 Application for registration certificate and certificate of accreditation.
493.57 Requirements for a registration certificate.
493.61 Requirements for a certificate of accreditation.
493.63 Notification requirements for laboratories issued a certificate of accreditation.

Subpart E—[Reserved]

Subpart F—General Administration

493.638 Registration certificate and certificate fees.
493.639 Fee for revised certificate.
493.643 Fee for determination of program compliance.
493.645 Fee(s) applicable to accredited laboratories/State licensure programs.
493.646 Payment of fees.
493.649. Methodology for determining fee amount.

Subpart G—[Reserved]

Subpart H—Participation in Proficiency Testing for Laboratories Performing Tests of Moderate Complexity, or High Complexity, or Both

493.801 Condition: Enrollment and testing of samples.

493.803 Condition: Successful participation.
493.807 Condition: Reinstatement of laboratories performing tests of moderate or high complexity, or both, after failure to participate successfully.

Proficiency Testing by Specialty and Subspecialty for Laboratories Performing Tests of Moderate or High Complexity, or Both

493.821 Condition: Microbiology.
493.823 Standard; Bacteriology.
493.825 Standard; Mycobacteriology.
493.827 Standard; Mycology.
493.829 Standard; Parasitology.
493.831 Standard; Virology.
493.833 Condition: Diagnostic immunology.
493.835 Standard; Syphilis serology.
493.837 Standard; General immunology.
493.839 Condition: Chemistry.
493.841 Standard; Routine chemistry.
493.843 Standard; Endocrinology.
493.845 Standard; Toxicology.
493.849 Condition: Hematology.
493.851 Standard; Hematology.
493.853 Condition: Pathology.
493.855 Standard; Cytology: gynecologic examinations.
493.857 Condition: Immunohematology.
493.859 Standard; ABO group and D (Rho) typing.
493.861 Standard; Unexpected antibody detection.
493.863 Standard; Compatibility testing.
493.865 Standard; Antibody identification.

Subpart I—Proficiency Testing Programs for Tests of Moderate or High Complexity, or Both

493.901 Approval of proficiency testing programs.
493.903 Administrative responsibilities.
493.905 Nonapproved proficiency testing programs.

Proficiency Testing Programs by Specialty and Subspecialty

493.909 Microbiology.
493.911 Bacteriology.
493.913 Mycobacteriology.
493.915 Mycology.
493.917 Parasitology.
493.919 Virology.
493.921 Diagnostic immunology.
493.923 Syphilis serology.
493.927 General immunology.
493.929 Chemistry.
493.931 Routine chemistry.
493.933 Endocrinology.
493.937 Toxicology.
493.941 Hematology (including routine hematology and coagulation).
493.945 Cytology; gynecologic examinations.
493.959 Immunohematology.

Subpart J—Patient Test Management for Moderate or High Complexity Testing, or Both

493.1101 Condition: Patient test management; moderate or high complexity testing, or both.
493.1103 Standard; Procedures for specimen submission and handling.
493.1105 Standard; Test requisition.
493.1107 Standard; Test records.
493.1109 Standard; Test report.
493.1111 Standard; Referral of specimens.

Subpart K—Quality Control for Tests of Moderate or High Complexity, or Both

493.1201 Condition: General quality control for tests of moderate or high complexity, or both.
493.1202 Standard; Moderate or high complexity testing, or both: Effective from September 1, 1992 to September 1, 1994.
493.1203 Standard; Moderate or high complexity testing, or both: Effective beginning September 1, 1994.
493.1204 Standard; Facilities.
493.1205 Standard; Test methods, equipment, instrumentation, reagents, materials, and supplies.
493.1211 Standard; Procedure manual.
493.1213 Standard; Establishment and verification of method performance specifications.
493.1215 Standard; Equipment maintenance and function checks.
493.1217 Standard; Calibration and calibration verification procedures.
493.1218 Standard; Control procedures.
493.1219 Standard; Remedial actions.
493.1221 Standard; Quality control records.
493.1223 Condition: Quality control—specialties and subspecialties for tests of moderate or high complexity, or both.
493.1225 Condition: Microbiology.
493.1227 Condition: Bacteriology.
493.1229 Condition: Mycobacteriology.
493.1231 Condition: Mycology.
493.1233 Condition: Parasitology.
493.1235 Condition: Virology.
493.1237 Condition: Diagnostic immunology.
493.1239 Condition: Syphilis serology.
493.1241 Condition: General immunology.
493.1243 Condition: Chemistry.
493.1245 Condition: Routine chemistry.
493.1247 Condition: Endocrinology.
493.1249 Condition: Toxicology.
493.1253 Condition: Hematology.
493.1255 Condition: Pathology.
493.1257 Condition: Cytology.
493.1259 Condition: Histophatology.
493.1261 Condition: Oral pathology.
493.1263 Condition: Radiobioassay.
493.1265 Condition: Histocompatibility.
493.1267 Condition: Clinical cytogenetics.
493.1269 Condition: Immunohematology.
493.1271 Condition: Transfusion services and bloodbanking.
493.1273 Standard; Immunohematological collection, processing, dating periods, labeling, and distribution of blood and blood products.
493.1275 Standard; Blood and blood products storage facilities.
493.1277 Standard; Arrangement for services.
493.1279 Standard; Provision of testing.
493.1283 Standard; Retention of samples of transfused blood.
493.1285 Standard; Investigation of transfusion reactions.

Subpart L—[Reserved]

Subpart M—Personnel for Moderate and High Complexity Testing

493.1401 General.

Laboratories Performing Moderate Complexity Testing

493.1403 Condition: Laboratories performing moderate complexity testing; Laboratory director.
493.1405 Standard; Laboratory director qualifications.
493.1407 Standard; Laboratory director responsibilities.
493.1409 Condition: Laboratories performing moderate complexity testing; technical consultant.
493.1411 Standard; Technical consultant qualifications.
493.1413 Standard; Technical consultant responsibilities.
493.1415 Condition: Laboratories performing moderate complexity testing; clinical consultant.
493.1417 Standard; Clinical consultant qualifications.
493.1419 Standard; Clinical consultant responsibilities.
493.1421 Condition: Laboratories performing moderate complexity testing; testing personnel.
493.1423 Standard; Testing personnel qualifications.
493.1425 Standard; Testing personnel responsibilities.

Laboratories Performing High Complexity Testing

493.1441 Condition: Laboratories performing high complexity testing; laboratory director.
493.1443 Standard; Laboratory director qualifications.
493.1445 Standard; Laboratory director responsibilities.
493.1447 Condition: Laboratories performing high complexity testing; technical supervisor.
493.1449 Standard; Technical supervisor qualifications.
493.1451 Standard; Technical supervisor responsibilities.
493.1453 Condition: Laboratories performing high complexity testing; clinical consultant.
493.1455 Standard; Clinical consultant qualifications.
493.1457 Standard; Clinical consultant responsibilities.
493.1459 Condition: Laboratories performing high complexity testing; general supervisor.
493.1461 Standard; General supervisor qualifications.
493.1463 Standard; General supervisor responsibilities.
493.1467 Condition: Laboratories performing high complexity testing; Cytology general supervisor.
493.1469 Standard; Cytology general supervisor.
493.1471 Standard; Cytology general supervisor responsibilities.
493.1481 Condition: Laboratories performing high complexity testing; cytotechnologist.
493.1483 Standard; Cytotechnologist qualifications.
493.1485 Standard; Cytotechnologist responsibilities.

493.1487 Condition: Laboratories performing High Complexity testing; testing personnel.
493.1489 Standard; Testing personnel qualifications.
493.1495 Standard; Testing personnel responsibilities.

Subparts N and O—[Reserved]

Subpart P—Quality Assurance for Moderate or High Complexity Testing, or Both

493.1701 Condition: Quality assurance for moderate or high complexity testing, or both.
493.1703 Standard; Patient test management assessment.
493.1705 Standard; Quality control assessment.
493.1707 Standard; Proficiency testing assessment.
493.1709 Standard; Comparison of test results.
493.1711 Standard; Relationship of patient information to patient test results.
493.1713 Standard; Personnel assessment.
493.1715 Standard; Communications.
493.1717 Standard; Complaint investigations.
493.1719 Standard; Quality assurance review with staff.
493.1721 Standard; Quality assurance records.

Subpart Q—Inspection

493.1775 Condition: Inspection of laboratories issued a certificate of waiver.
493.1777 Condition: Inspection of all laboratories not issued a certificate of waiver or a certificate of accreditation.
493.1780 Condition: Inspection of accredited and State-exempt laboratories.

Subpart R—[Reserved]

Subpart S—[Reserved]

Subpart T—Consultations

493.2001 Establishment and function of the Clinical Laboratory Improvement Advisory Committee.

Response to Public Comments

Because of the large volume of public comments that we usually receive on rules, we cannot acknowledge or respond to them individually. However, we will address all public comments that we receive by the date specified in the "**DATES**" section of this preamble and respond to them in the preamble to any subsequent final rule issued.

Collection of Information Requirements

The following sections of this rule contain information collection requirements that are subject to the Office of Management and Budget (OMB) review under the Paperwork Reduction Act of 1980:

Sections 493.35, 493.37, 493.39, 493.43, 493.45, 493.49, 493.51, 493.55, 493.57, 493.61, 493.63, 493.801, 493.823, 493.825, 493.827, 493.829, 493.831, 493.833, 493.835, 493.837, 493.841, 493.843, 493.845, 493.851, 493.855, 493.859, 493.861, 493.863, 493.865, 493.901, 493.903, 493.911, 493.913, 493.915, 493.917, 493.919, 493.923, 493.927, 493.931, 493.933, 493.937, 493.941, 493.945, 493.959, 493.1101, 493.1103, 493.1105, 493.1107, 493.1109, 493.1111, 493.1201, 493.1205, 493.1211, 493.1213, 493.1215, 493.1217, 493.1218, 493.1219, 493.1221, 493.1223, 493.1227, 493.1229, 493.1231, 493.1233, 493.1235, 493.1239, 493.1241, 493.1245, 493.1247, 493.1249, 493.1253, 493.1255, 493.1257, 493.1259, 493.1261, 493.1263, 493.1265, 493.1267, 493.1269, 493.1271, 493.1273, 493.1275, 493.1283, 493.1425, 493.1701, 493.1703, 493.1705, 493.1707, 493.1715, 493.1717, 493.1719, 493.1721, 493.1775, 493.1777, 493.1780, and 493.2001.

Public reporting burden for this collection of information is estimated to average 134 hours per response including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This estimate may vary significantly in each laboratory, depending upon: (1) The variety of tests and test systems used in the laboratory; (2) the volume of tests conducted; (3) the number and variety of proficiency testing programs in which the laboratory enrolls; and (4) how extensively the laboratory used manual vs. computerized management systems. This estimate is targeted to a "typical" comprehensive reference laboratory. The estimate could be much less for a very small laboratory, such as a physician office laboratory, and higher for a huge interstate laboratory that conducts millions of tests per year. These reporting and recordkeeping requirements are not effective until cleared by the Office of Management and Budget. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Office of Financial Management, HCFA, P.O. Box 26684, Baltimore, Maryland 21207, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. A notice will be published in the **Federal Register** when approval is obtained.

Subpart A—General Provisions

Summary of the Proposed Rule

Section 493.1 Basis and Scope

In § 493.1, Basis and scope, we proposed that all laboratories as defined under "laboratory" in § 493.2, Definitions, would be subject to the requirements specified in part 493. However, this rule would not apply to any laboratory or component or function of a laboratory that maintains a valid certification by the National Institute on Drug Abuse for the performance of forensic urine drug testing. The laboratories subject to CLIA certification provisions on January 1, 1990, include, but are not limited to the following entities that perform test procedures or examinations:

- Accredited hospital-based facilities;
- Nonaccredited hospital-based facilities;
- Federal hospitals, such as military, and Public Health Service hospitals;
- Independent laboratories;
- Critical care units;
- Physician office laboratories;
- Skilled nursing facilities;
- End stage renal disease facilities;
- Intermediate care facilities, including intermediate care facilities for the mentally retarded;
- Laboratories associated with tissue banks and tissue repositories;
- Ambulatory surgical centers;
- Rural health clinics;
- Laboratory Accreditation Program of the College of American Pathologists (CAP) Accredited, New York State Approved, and low volume exempt laboratories;
- Industrial laboratories that monitor employee health and test for drugs of abuse;
- Insurance company laboratories;
- City, State and county laboratories;
- Federal clinics; and
- All other facilities that perform laboratory tests such as: Planned Parenthood clinics, mobile laboratories, drug screening laboratories, and health maintenance organizations and any other facility including pharmacies and health fairs that perform quantitative, qualitative or screening test procedures or examinations.

Laboratories that perform research testing on human specimens, but do not report patient specific results for the diagnosis, prevention or treatment of any disease or impairment of, or the assessment of the health of individual patient would be exempt from the CLIA regulations.

Section 493.3 Applicability

In proposed § 493.3, Applicability, we restated the CLIA requirement that any laboratory, as defined in § 493.2, may not perform tests on materials derived from the human body unless the laboratory has a certificate issued by the Department of Health and Human Services (HHS) applicable to the category of procedures performed by the laboratory. This is specified in the law under certificate requirements. Section 6141 of OBRA '89 amended the Social Security Act to require that Medicare

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laboratories meet the CLIA certification requirements.

Several commenters inquired as to whether in vivo and externally attached patient dedicated monitoring devices (for example, pulse oximetry, Sv02 pulmonary artery catheters, extra corporeal blood gas testing and capnographs) are subject to the provisions of CLIA. While it is possible that eventually this testing will be determined to be subject to CLIA by definition, the issue of whether this testing involves "materials derived from the human body," as CLIA uses the term, has not been resolved. Therefore, until the definitional and technical issues have been resolved, in vivo and externally attached patient dedicated monitoring is not subject to CLIA. Should it be determined at a later date that it is subject to CLIA, proper notice and opportunity for public comment will be provided before this testing is subject to CLIA.

While we have always required laboratories to identify and perform only tests for which the laboratory is approved and propose to continue to do so in this regulation, we were interested in receiving comments on whether we should consider some mechanism to permit physicians to conduct testing not included on the laboratory's certificate when the test is essential to emergency patient care or emergency treatment.

Since the tests would not be included on the laboratory's certificate, the laboratory would not be evaluated for compliance with the CLIA requirements for these tests. We asked commenters to respond to the following questions:

What criteria should be developed to allow emergency testing, when appropriate, while providing assurance that these emergency tests are conducted in a manner to ensure quality results?

Should we require prior notification for approval of those laboratories that may need to perform emergency tests not included on their certificates? Should we specify the tests that could be performed in emergency situations although not included on the laboratory's certificate? How would we prevent physicians from using the emergency test authorization to bypass the regulatory requirements? What are the circumstances that would require a physician to perform an emergency test for which the laboratory is not certified or for which access to a certified laboratory is not possible or feasible?

Section 493.10 Categories of Tests by Complexity

We proposed to establish three levels of tests by complexity: Certificate of waiver tests as defined in § 493.15; level I tests as defined in § 493.20; and level II tests as defined in § 493.25. We proposed that only one certificate would be issued to a laboratory. Laboratories performing only certificate of waiver tests would be issued a certificate of waiver; laboratories performing one or more tests not on the list of waived tests, would be issued a certificate. The certificate would reflect the complexity of tests the laboratory performed—waiver, level I or level II or any combination of complexity of testing. For example, if a laboratory performed certificate of waiver, and level I and level II tests, the certificate would specify certificate of waiver, level I, including appropriate specialties/subspecialties, and level II, including appropriate specialties/subspecialties. Regardless of the combination of tests performed by a laboratory, level II standards would be applied only to level II testing, level I standards would be applied only to level I testing and no standards, as specified under section 353(f) of the PHS Act, would be applied to certificate of waiver testing.

HHS designated the PHS, specifically the Centers for Disease Control (CDC) and the Food and Drug Administration (FDA) as the components within PHS responsible for providing scientific expertise in the evaluation of tests and methodologies as they relate to the provisions of certificate of waiver and testing complexity. Beyond certificate of waiver tests, which were not subject to regulation, we proposed two levels of test complexity (level I and level II) that would be subject to a standards enforcement program. The tests proposed for the certificate of waiver and level I lists were selected after an extensive review of existing State licensure requirements and comments from voluntary professional organizations. Test categorization was based upon specific criteria outlined in our discussion of proposed §§ 493.15 and 493.20, respectively. Twenty-eight tests were proposed as tests qualifying for certificate of waiver. These were simple tests which we proposed as procedures that pose no reasonable risk of harm to the patient even if the test were performed incorrectly. Eleven tests were proposed for level I testing complexity. We proposed that these tests were relatively simple to perform but that there may be a reasonable risk of harm to the patient if they were performed incorrectly.

We recognized that a number of tests which can be performed using diagnostic medical devices deemed Class I or Class II under the Food and Drug Administration's (FDA) regulatory process would not be classed as waived or Level I tests under the proposed rules. This could be the case even for some relatively simple and reliable Class I *in vitro* diagnostic medical devices. (Class I is the FDA category for devices which, because they present little or no hazard to the patient, are subject to only general regulatory controls such as labelling requirements, reporting of adverse experience, and good manufacturing practices.)

We believed it appropriate that many devices regulated under Class I or II standards be subject to the proposed level I or II laboratory requirements. The FDA mandate and regulatory efforts have a different and narrower focus than does the legislation underlying these proposed rules. The FDA process is intended to assess a device when used according to the manufacturer's instructions, that is, the assessment is based on information provided by the manufacturer. And, as the criteria reflected, we felt that the technology was only one important factor in the overall quality of the testing process. Many contextual factors, such as the adequacy of the sample size, whether the device has been misused or maintained correctly, the skills of the person operating the machine or using the device, and the clinical context, would also affect the accuracy and reliability of tests. Thus, we did not feel a one-on-one comparison between the FDA Class I category and the waiver category of the rule could be made.

In order to accommodate emerging technology, advances in instrumentation, new test methodologies, and changing clinical needs, we proposed the creation of a technical advisory committee. This group would be comprised of individuals representing the providers and users of laboratory services and would have the responsibility for making recommendations to HHS. We proposed that this committee have the following functions:

- An ongoing review of test complexity criteria;
- The periodic review of requests for test classification or reclassification; and
- The periodic review of quality control/quality assurance standards for level I and level II test performance.

Tests that involved a new methodology or new instrumentation would be considered level II tests until the Technical Advisory Committee had evaluated the new tests and HHS had made a decision on the appropriate level of test complexity for publication in the **Federal Register**.

In the proposed rule, we asked commenters to provide their recommendations on this review process.

Section 493.15 Laboratories Performing Waived Tests

We proposed to establish the requirements that a laboratory must meet to qualify for a certificate of waiver. We also included in this section a list of proposed tests that could be performed by these laboratories.

As specified in section 353(d)(3) of CLIA, we considered the following criteria in the selection of tests qualifying for certificate of waiver:

- No reasonable risk of harm to the patient if the test is performed incorrectly, such as tests which are used to detect non-pathologic conditions, tests which are not used as the only indication of underlying disease, or tests used in situations which do not usually require immediate clinical intervention and are generally followed-up with more specific testing or medical evaluation;
- The likelihood of erroneous results is negligible;
- Simplicity of testing method. Tests do not usually involve complicated instrumentation, calibration, extensive quality control, reagent preparation, multiple steps, or environmental control. In addition, they are characterized by stable test systems which have minimal or no calculations, require a minimal degree of independent judgment, a minimal degree of interpretation, minimal or no patient preparation, minimal or no sample preparation, and minimal training and experience; and
- Availability of home use methodology.

We proposed that laboratories performing certificate of waiver tests would not be subject to the requirements in the regulations for proficiency testing (PT), patient test management, quality control, personnel, quality assurance, routine inspections or computer systems. Thus a laboratory issued a certificate of waiver would not need to meet requirements of the subparts dealing with Participation in Proficiency Testing, Patient Test Management, Quality Control, Laboratory Information Systems, Personnel, and Quality Assurance. However, we proposed that these laboratories would be subject to random inspections to verify that only certificate of waiver tests were performed, to investigate complaints, and to collect information for the addition, deletion, or continued inclusion of tests on the waiver list.

We proposed that the concept of waiving certain tests from regulations should not be misconstrued to mean that these tests were "foolproof," or that the person performing the test need not adhere to the basic tenets of quality control and quality assurance. It would only mean that these tests, because they had met the criteria outlined above, would be exempt from Federal regulation.

In the proposed rule, we specifically asked commenters to make suggestions as to which test should be added to or deleted from the proposed certificate of waiver tests and the reasons for the recommendation.

We proposed that the laboratory would only perform and report tests or examinations that were specified as a waived test in proposed § 493.15.

We proposed that laboratories issued a certificate of waiver would be required to report to HHS within six months any deletions and/or changes in the test methodologies for which a certificate of waiver was issued. Prior to performing a non-waived test or examination, we proposed that the laboratory would be required to notify HHS to upgrade its certificate of waiver to a certificate for the performance of level I or level II tests.

Section 493.20 Laboratories Performing Level I Tests (Now Laboratories Performing Tests of Moderate Complexity)

We are renaming this section as Laboratories performing tests of moderate complexity because this terminology better describes the tests that meet the criteria specified in § 493.17(a) of the regulations.

We proposed that, to be certified for performance of level I tests, laboratories must limit test performance to those tests listed under certificate of waiver in § 493.15 and one or more of the eleven tests proposed as tests to be categorized as level I tests. The following criteria, listed in priority order, were used to categorize these tests:

- There may be a reasonable risk of harm to the patient if the test is performed incorrectly;
- The risk of erroneous results is present, but is minimized because testing methodologies are not complex and are characterized by: few steps, previously prepared or minimal reagent preparation, equipment which requires few operational steps (minimal interaction between operator and equipment) and is easy to maintain and troubleshoot, minimal calibration requirements—testing systems are often self-calibrated, quality control materials which are readily available, and limited analyst interpretation;
- Test performance involves the exercise of some independent judgment and a basic knowledge of the method, instrumentation, and interpretation of data, but decision-making is less complex because options for action steps are few and are well characterized; and
- Interpretation of test results requires knowledge of a limited number of factors which can influence test results.

In the proposed rule, we specifically asked commenters to make suggestions as to which tests should be added or deleted to the proposed list of level I tests and the reasons for the recommendations.

We proposed to require that laboratories performing level I tests, regardless of their setting, meet the applicable requirements of the following subparts of the proposed regulations: Administration, Participation in Proficiency Testing, Patient Test Management, Quality Control, Laboratory Information Systems, Personnel (for level I tests), Quality Assurance, and Inspection.

We proposed personnel standards for laboratories performing level I tests which would permit the director (who would be qualified under current requirements as an M.D., D.O., or Ph.D. or qualified under State law or "grandfather" provision) to select and train his or her analysts. Analysts would not be required to have baccalaureate degrees, but rather could be high school graduates or the equivalent. We understood that these proposed requirements might exceed those in existing physician office laboratories and hospital-based settings. In the proposed rule, we requested that commenters provide data describing additional benefits and costs that might result from the proposed personnel standards and asked for alternative suggestions.

Section 493.25 Laboratories Performing Level II Tests (Now Laboratories Performing Tests of High Complexity)

We are renaming this section Laboratories performing tests of high complexity because this terminology better describes the tests that meet the criteria specified in § 493.17(a) of the regulations.

We proposed to define laboratories performing level II tests as those facilities performing one or more tests not included on the certificate of waiver or level I test list. The following criteria were used to categorize level II tests:

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- There is a reasonable risk of harm to the patient if the test is performed incorrectly, and for some tests this risk is substantial;
- The risk of erroneous results is substantial because testing methodologies are often complex, usually involving multiple steps and are characterized by: complicated reagent preparation or the requirement for special reagents; equipment which requires multiple operational steps (maximum operator-equipment interaction), complicated/extensive maintenance, and troubleshooting; calibration requirements which may be extensive and require operator intervention; quality control which may require special materials and analyst interpretation;
- Test performance involves the exercise of independent judgment and decisions may require a comprehensive understanding of the method, instrumentation, physiology, interpretation of data and clinical significance of the result;
- Interpretation of test results requires knowledge of the myriad factors which can influence test results, including: preanalytic, analytic, and post-analytic variables; and
- Training is required prior to performing level II testing. In addition to more extensive procedure specific training (reflecting the greater complexity of level II testing), training is included in all aspects of the total testing process.

Regardless of their setting, we proposed to require that laboratories performing level II tests comply with the applicable requirements of Federal, State and local laws, proficiency testing, patient test management, quality control, personnel, quality assurance, inspections and computer systems. However, we solicited public comments on whether there are specific additional *in vitro* diagnostic medical devices which should be subject to the lesser requirements of the certificate of waiver or level I category, rather than level II.

Section 493.30 Categorization of Certificate of Waiver, Level I and Level II Tests (now Subpart T—Consulations)

We proposed to establish a Technical Advisory Committee (TAC). In this final rule, we are removing § 493.30 and replacing it with a new Subpart T, Consultation, which contains the provisions concerning the TAC, renamed Clinical Laboratory Improvement Advisory Committee (CLIAC).

We proposed to establish a TAC that would assist HHS to revise test complexity criteria and the periodic review of requests for test classification or reclassification as a waived or level I test. Also, we proposed to use the TAC to evaluate the appropriateness of applicable requirements for proficiency testing, patient test management, quality control, personnel, quality assurance, and computer services for level I and level II tests. This committee was to be comprised of technical professionals representing both the providers and users of laboratory services and would meet on at least an annual basis. We proposed that, following the publication of a final rule, individuals or organizations could submit to HHS in writing, requests for test classification or reclassification. We proposed that these requests must include the following information:

- Name of analyte or test;
- Precise methodology to be employed;
- Degree of independent judgement involved by the individual performing the test;
- Amount of interpretation involved by the individual performing the test;
- Difficulty of the calculations involved
- Calibration and quality control requirements of test methodology, including instrumentation or equipment used;
- Availability of quality control material
- Number of reagents and difficulty of preparation of reagents;
- Stability of test systems;
- Patient preparation involved;
- Sample preparation involved;
- Amount of interaction between operator and instrumentation or equipment is operator dependent;
- Factors that can influence test results;
- Specific training required to perform the test or examination, including the operation of the instrumentation or equipment used in the test methodology;
- The specificity, sensitivity, accuracy and precision of the test or the examination and/or methodology;
- Risks to the patient if clinical intervention is initiated based on the results of an incorrectly performed or interpreted test;
- Data to support the validity, accuracy, and reliability of the test when used as intended;
- Intended use of the results; and
- Other factors that HHS may define.

We proposed to develop more complete protocols when the regulations were implemented.

We solicited comments on whether additional information would be needed for review by the committee.

Comments and Responses

Section 493.1 Basis and Scope

Approximately 4000 comments were received on this section of the proposed rule, over 50 percent were opposed to the requirements. The majority of the commenters represented physicians, particularly those in family practice, and approximately 25 percent of the comments were from the general public.

Comment: Over 400 commenters offered recommendations or alternative suggestions to the scope of the proposed rule and its application. Included in these alternatives were suggestions that we—

- Rely on proficiency testing (PT) results to identify problems.
- Permit physician supervision or performance of laboratory tests.
- Permit a physician to serve as the director/technical supervisor of his/her laboratory that performs level II testing.
- Apply regulations only to those laboratories that do not provide accurate testing.
- Allow for technological advances in categorization of tests so that when "state of the art computerized systems" are developed for level II tests, the tests will be recategorized as level I procedures.
- Rely on existing quality control mechanisms employed by facilities in lieu of regulating laboratories under CLIA.
- Regulate manufacturers of laboratory systems rather than the providers of laboratory services.
- Permit "affiliated certification" in which a medical center could assume responsibility for testing performed by affiliated physician office laboratories (POLs).
- Test the regulations in a cross-section of laboratories on a trial basis prior to implementation.
- Delay enforcement of these rules until data supporting the need for such regulation is obtained.

Response: Some of these suggestions have been incorporated into the regulations and are addressed in the applicable sections. Regulation of products by the Food and Drug Administration (FDA) does not eliminate the need for Federal oversight of the provision of laboratory services. CLIA specifically requires the regulation of the provision of laboratory services. On the other hand, CLIA and those implementing regulations are not intended to affect FDA's existing jurisdiction under the Federal Food, Drug and Cosmetic act to regulate as devices, products used by providers of laboratory services. With respect to permitting "affiliated certification", we have modified the regulation to permit multiple sites within a hospital to receive one certificate if they are located at the same street address and under common direction. In addition, not for profit or Federal, State or local government laboratories that engage in limited public health testing may operate under one certificate. In response to the last two suggestions, we are unable to delay enforcement of the regulation or test the regulations on a trial basis since CLIA stipulates specific time frames and effective dates for implementation.

Comment: We received many comments suggesting that the following types of facilities be exempt or subject to less stringent regulation:

- Operating room "stat" laboratories;
- Health screening facilities;
- Women, Infant and Children (WIC) clinics and Planned Parenthood facilities;
- Colleges;
- Private practices where physicians perform all tests, POLs with low volumes (less than 500 tests per year);
- Public schools;
- Armed Forces facilities and ships at sea;
- Indian Health Service facilities and Alaska Community Health Aides/Practitioners
- Law enforcement agencies/breathalizer test;
- Tests performed in the home by home health agencies and hospices;
- Nursing facilities utilizing blood glucose monitors for testing glucose levels in diabetic residents;
- Blood centers and hospital blood banks that are regulated by FDA;
- End-stage renal disease (ESRD) facilities that perform simple laboratory tests necessary for safe dialysis treatment;
- Rural areas; and
- Research laboratories (Commenters suggested that if research laboratories are not exempt, a category should be identified that includes "orphan" laboratory tests. This category should contain tests deemed appropriate by the Clinical Laboratory Improvement Advisory Committee for performance only by research laboratories. They recommended that special regulations developed to apply to these laboratories).

Other commenters believed that the proposed regulations should apply to the following entities:

- Home health agencies; and
- Satellite locations within an institution, such as a hospital or other health care facility that operate independently of the centralized laboratory, (for example, emergency and operating rooms, nursing stations).

Response: Many of the entities asking for exemptions from the law have been previously unregulated. CLIA clearly defines the type of facility subject to regulation and is specific with respect to its applicability to facilities that conduct testing for the medical diagnosis, prevention, or treatment of individuals. Law enforcement agencies that are not determining a health status but rather a legal status are exempt by definition, and § 493.3 has been revised to reflect this exemption.

We are covering Federal laboratories not exempt by definition as a matter of public policy that is consistent with the scope of the public law. We have included a provision which allows us to work with the Department of Defense and other Federal agencies regarding oversight of their laboratories due to the special problems and requirements that these laboratories have. We believe that recipients of laboratory services in the Federal sector deserve the same reliable and accurate testing that other members of the public would receive by virtue of these regulations. We recognize, however, that laboratory operations in the Federal government are not always completely analogous to testing elsewhere and that some accommodations may need to be made to acknowledge these differences. For example, the kind of training given to military personnel to be laboratory technicians may not coincide perfectly with what is required in these regulations. Yet comparable training and qualifications offered by the military may very well result in equivalent testing accuracy and reliability. Accordingly, we have included in the regulations a provision that would enable the Secretary to make accommodations for Federal laboratories when he considers it appropriate to do so. Note that on October 28, 1991, Public Law 102–139 (the Department of Veterans Affairs Appropriation Act of 1991) was signed into law. Therefore, laboratories under the jurisdiction of the Department of Veterans Affairs (VA) will be subject only to regulations the VA publishes and the enforcement authority of the VA. The VA regulations are to be comparable to those issued by HHS.

As we indicated in the preamble of the proposed rule, the list of entities performing laboratory services which would be subject to CLIA was not intended to be inclusive. While we have modified the regulations to respond to concerns raised about access of care if an entity is performing laboratory testing for diagnosis and treatment of patients, they must meet CLIA requirements. We have made modifications to the application sections to allow certain entities doing limited public health testing to apply for one certificate for all testing sites. See §§ 493.35(b), 493.43(b) and 493.55(b). The facility is responsible for determining whether to apply for one or more certificates to cover multiple testing sites as required in §§ 493.35(a), 493.43(a), and 493.55(a).

Comment: A few commenters indicated that standards for decentralized testing, that is, satellite locations, should be as rigorous as those applied to hospital or independent laboratories although they may not be as comprehensive as required in a full service laboratory.

Response: The requirements are based on test complexity rather than the location of the laboratory. Thus entities performing tests of certain complexity levels, regardless of location, will be subject to the same requirements that hospital or independent laboratories performing the same tests must meet.

Comment: We received a few comments supporting regulation of laboratories testing human specimens but suggested the use of one set of standards for ease of inspection.

Response: In establishing the standards, we have attempted to implement the statute which requires the regulation of laboratories based on the complexity of testing. If a laboratory performs a variety of tests in different categories, the laboratory will be subject to varying regulations based on the testing performed. Laboratories performing only waived tests will not be subject to CLIA standards and routine inspections. However, these laboratories have a general responsibility to follow manufacturers' instructions for performing tests.

Comment: Several commenters believed that facilities currently in compliance with the Medicare/Medicaid requirements (that is, nursing homes) should be deemed to meet the CLIA rules.

Response: If laboratory services are provided by a nursing home that participates in Medicare/Medicaid, the existing requirements for long term care facilities at § 483.75 state that the facility must meet the applicable requirements of part 493. These regulations revise part 493, and any nursing home testing human specimens for health purposes is subject to CLIA. Also, if a facility does not provide laboratory services directly it must have an agreement to obtain laboratory services from a laboratory which meets the CLIA requirements.

Comment: Many commenters recommended that State licensure programs and private accreditation organizations, already operating quality assurance or quality control programs, should be recognized to meet CLIA rules.

Response: CLIA authorizes the recognition of accreditation and State programs that have standards equal to or more stringent than the CLIA requirements. Once we publish in the **Federal Register** the final rule outlining the criteria for recognition of accreditation and State programs, accreditation programs and State programs will be able to apply for recognition under CLIA. Those programs determined to have standards equal to or more stringent than CLIA will be recognized, and a laboratory accredited by an approved accreditation program will be deemed to meet the CLIA requirements provided the laboratory submits an application, meets the application requirements, and pays the appropriate fee for a certificate of accreditation. In addition, laboratories that are licensed by an approved State licensure program would be exempt from CLIA requirements (i.e., State-exempt), as indicated by section 353(p) of the PHS Act.

Comment: Many commenters supported laboratory certification requirements and particularly the need for oversight of laboratory testing in all environments. Commenters believed that the regulations would protect public health and ensure that individuals receive services worthy of payment. An overwhelming number of commenters agreed with the need to improve the quality of testing but expressed concern that rural areas of the country would not be able to meet the proposed regulations, particularly the personnel requirements. Commenters noted that economic constraints facing rural areas should be considered and believed that the proposed rule would ultimately result in reducing the quality of health care in rural areas by forcing entities to close, leaving the rural population without ready access to basic health care services.

Response: We appreciate the concerns the commenters expressed about the regulations forcing entities to close or no longer offer testing. We have attempted to respond to these concerns, as will be discussed more fully later, by appropriately categorizing tests to reflect the level of regulation needed to ensure accurate testing for patient health and safety, and through more flexible personnel requirements than those that appeared in the proposed rule.

Comment: Several commenters supported the regulation of physician office laboratories (POLs). Many other commenters, representing physicians, military service laboratories, Indian Health clinics, home health agencies, and public health departments, indicated that the overall impact of CLIA would interfere with the provision of services and increase costs to patients who can least afford it. Commenters believed that the proposed regulations were too stringent, would limit access to laboratory services and go beyond the basic requirements necessary to ensure quality and maintain broad access to accurate test services.

Response: HHS has specifically reviewed the commenters' concerns and used the suggestions proposed by the commenters to revise the proposed rule, as will be more fully discussed below. In accordance with CLIA, we have made every effort to establish regulations that are commensurate with the simplicity and accuracy of testing as well as the risk of harm to patients due to an incorrect result.

Comment: In response to the March 14, 1990 final rule with comment period, one commenter indicated that several provisions of the March 14, 1990 (55 FR 9538) final rule were less restrictive than those enforced by the Medicaid program. The commenter wanted confirmation that a State Medicaid program may continue to impose more restrictive requirements than those implemented under part 493.

Response: A State may impose requirements for its Medicaid program that are more restrictive than those contained in part 493.

Comment: Several other commenters on the March 14, 1990 final regulations indicated that they should apply to all laboratories, including Federal and State government laboratories and POLs.

Response: The prior (March 14, 1990) rule completed the rulemaking initiated to revise Federal requirements for laboratories participating in Medicare, Medicaid and testing specimens in interstate commerce. Although certain provisions of CLIA were implemented as part of the March 14, 1990 rule, the CLIA applicability section was not part of that rulemaking. This final rule for the first time establishes regulation of all entities performing laboratory testing on human specimens for health purposes.

Comment: We received a few comments suggesting that the definition of a "challenge" include the amount of substance or analyte measured in a sample because not all substances can be measured directly. One commenter requested clarification of the difference between challenge and sample.

Response: The definition of "challenge" has been changed to incorporate this suggestion. The terms "challenge" and "sample" have been distinctly defined.

Comment: A few commenters suggested that referee laboratories not be used to establish target values for proficiency testing since they might use sophisticated methods that could bias the target value. However, they felt that the use of referee laboratories would be valid if PT samples consistently mimicked patient specimens. One commenter suggested that the definition for "reference" be changed to include a laboratory that has a record of satisfactory performance for "a specific analyte" for the purpose of establishing the target value for the analyte.

Response: The expanded definition of target value, which specifically permits the use of "by method" target values to assess performance if such "by method" groupings are deemed necessary by the proficiency testing program provider, should correct problems in target value bias due to use of referee laboratories. The suggested rewording for the definition of referee laboratory has been incorporated.

Comment: One commenter proposed defining the word sample for ABO and compatibility testing.

Response: The definition for sample has been modified to reflect the fact that tests involving a donor and a recipient, such as ABO and compatibility testing, require two separate vials or materials.

Comment: One commenter suggested clarifying a screening test as it relates to the proposed Level I test, because it appeared that all Level I tests were screening tests. One commenter recommended a set of specific criteria that a test must meet before it would be categorized as a screening test.

Response: Since Level I tests are no longer designated as a "screening test" the term does not need to be defined, and is being deleted.

Comment: Many commenters wanted the definition of a "target value" changed to permit a target value based on a "by method" or "peer group" mean as well as the "all result" mean, whichever is determined to be more scientifically valid and appropriate by the proficiency testing service. Commenters were concerned that a single target value could not be used for many analytes due to matrix effects, physical parameters of a measurement or different methodologies used in measuring various properties of an analyte. A few commenters suggested that the comparative method group be changed from 20 to 10 participants since the use of 20 laboratories could limit the introduction of new technology.

Response: The definition of "target value" has been changed to explicitly permit the use of a "by method" or "peer group" mean in assessment of laboratory performance and the number of participants in such groups has been reduced to 10.

Comment: A few commenters suggested the following terms be added in the definitions category or more clearly defined so that those affected will understand the requirements: Discharge, exudate, terminated, revoked, suspended, limited, pertinent clinical information, definitive value, investigational status, and standard deviation.

Response: The terms discharge and exudate are no longer included in this regulation. The terms terminated, revoked, suspended, and limited are defined in the regulation pertaining to sanctions, which is also published in this issue of the **Federal Register**. The terms pertinent clinical information and investigational status are defined by context. Standard deviation is a mathematically defined term. A definitive value refers to a target value which has been determined using a definitive method. Definitions have been added for the terms accredited institution, performance characteristic, performance specification, reference range, reportable range, unsatisfactory PT performance, and unsuccessful PT performance.

Comment: A few commenters noted that under Medicare, payment may be made for laboratory tests ordered by physician assistants. Commenters were concerned that the proposed definition of "authorized person" was not consistent with Medicare coverage policy.

Response: We agree with the commenters and have modified the definition of "authorized person" to state that "tests may be ordered by individuals authorized under State law to order tests or receive test results."

Comment: Many commenters requested that the definition of "authorized person" be expanded to include individuals authorized under State law to order tests and receive test results, such as nurse practitioners, State, county and municipal health directors, Federal courts, police officers, etc.

Response: We agree with the commenters. While we have modified the regulation by deleting specific reference to Medicare concerning the definition of "authorized person," we have retained that part of the regulation which currently states that an "authorized person" means "individuals authorized under State law to order tests or receive test results." This allows deference to State law in any situation involving the ordering of laboratory tests or examinations.

Comment: We received a few comments requesting that the last sentence of the definition of "authorized person" be changed to read, "authorized under State law to order tests and receive test results." Commenters believed that changing the "or" to "and" would be more restrictive and would preclude individuals authorized under State law to receive test results unless such individuals also were authorized to order tests.

Response: The intent of the current regulation is to reduce the conflict between Federal and State laws concerning who can order tests and/or receive results. Some States may preclude individuals from ordering tests while allowing them to receive test results. Others may not. We are retaining the existing regulation to allow States to determine who is authorized to order tests and who is authorized to receive results.

Comment: Several commenters expressed concern that under the proposed definition of "authorized person," home health care personnel would not be permitted to receive test results and would be restricted from making emergency medical interventions and necessary changes in the patient's plan of care.

Response: The regulations have been modified to allow the ordering of laboratory tests or examinations by an authorized person as defined by State law. It would be up to the State to determine who would have this authority, and this determination may vary from State to State. Emergency situations have been addressed at § 493.1109(f) of this regulation in which the laboratory is required to report imminent life-threatening results to the individual or entity requesting the test or the individual responsible for utilizing test results.

Comment: One commenter believed that the proposed definition of "authorized person" was more restrictive than existing regulations. The commenter noted that the proposed definition may not be in conformity with CLIA and that such a requirement would force health fairs to stop testing.

Response: The regulation, as revised, permits authorized individuals, as defined by State law, to request tests or receive test results. While we have deleted the part of the proposed definition referencing title XVIII of the Social Security Act, we have retained that portion that defers to State law to define who is authorized to order tests or receive test results, which is in conformance with the section 353(p) of the PHS Act.

Comment: A few commenters recommended that the definition of "laboratory" be expanded to require facilities only collecting specimens to be owned and operated by certified laboratories. Commenters believed that the omission of collecting facilities from regulatory oversight provided a loophole that would create unregulated laboratory referral services.

Response: Section 353(b) of the PHS Act requires that "no person may solicit or accept materials derived from the human body for laboratory examinations or other procedures unless there is in effect for the laboratory a certificate * * *." If a facility only collects specimens and does not perform testing, the facility would not be subject to CLIA certification requirements because it does not meet the definition of "laboratory" as defined by the statute.

Comment: One commenter noted that the definition of a laboratory had been successfully challenged in a related context in the case of *Association of American Physicians and Surgeons, et al.* v. *Bowen*. The appellate court in this case found that individual physicians offices were not considered to be "laboratories." This commenter noted that while the definition is taken from CLIA language, there was a concern that it may be vulnerable to a similar challenge.

Response: CLIA specifically requires the regulation of any facility that performs tests on human beings for "* * * the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, human beings." This would include testing being done in physician offices. Moreover, the CLIA legislative history could not be more clear that one of the primary targets of that legislation was to be physician office laboratories. The statute would have to be changed to alter the regulation of these facilities.

Comment: We received a few comments recommending that the definition of "laboratory" be clarified to distinguish between a pathology laboratory and a clinical laboratory.

Response: We disagree with the commenters. The term laboratory, which is defined at section 353(a) of the PHS

Act, encompasses both clinical and anatomical services, as well as any facility that performs examination of clinical or pathological materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, human beings. The law does not make a distinction between a pathology laboratory and a clinical laboratory, but treats every laboratory equally for the purpose of defining a laboratory.

Comment: Several commenters asked that the regulations clarify that facilities that only draw blood specimens or collect patient samples and do not perform testing, would not be considered laboratories.

Response: As stated above, facilities that collect specimens, including drawing blood specimens, but do not perform testing of specimens, are not subject to CLIA requirements because they do not meet the definition of a laboratory.

Comment: A few commenters noted that in defining a laboratory we did not address location, control, ownership, or direction.

Response: The current regulations for laboratories participating in Medicare, Medicaid or interstate testing are based on the location of a laboratory and are uniform with regard to test complexity. However, CLIA requires the regulation of all laboratories according to test complexity without regard to their location. Ownership is defined in regulations concerning sanctions, which is also published today. Requirements for director and location are contained in this regulation.

Comment: An overwhelming number of commenters expressed concern that the definition of a laboratory was too broad and did not reflect the intent of the CLIA legislation. Commenters requested that the definition be amended to specifically exclude research laboratories, home health care services, physiological tests, private homes, forensic, police and pulmonary laboratories and public health department screening services.

Response: The definition of a laboratory was taken from the statute at section 353(a) of the PHS Act, which clearly defines the type of facility subject to regulation and is specific with respect to its applicability to facilities that conduct testing for the medical diagnosis, prevention, or treatment of individuals. The Basis and Scope and Applicability sections of this regulation specifically indicate entities excluded from CLIA.

Comment: We received a few comments objecting to the inclusion of physician office laboratories performing any tests on referred specimens in the scope of the final rule. Commenters felt that the 100 specimen exemption rule should remain in effect until a final regulation is published under CLIA.

Response: The statute that provided for the 100 specimen exemption is no longer in effect and has been superseded by CLIA. Therefore, we can no longer exempt laboratories from the regulations on the basis of the number of tests performed.

Section 493.3 Applicability

Approximately 500 individuals or organizations provided comments on this section. Approximately 27 percent of the commenters represented police/probation departments, crime laboratories and medical examiners.

Comment: Many commenters expressed concern that establishing regulations prior to performing the studies mandated by CLIA was not consistent with the intent of the statute. Commenters believed that proceeding with the regulations prior to the completion of these studies will result in standards developed without scientific evaluative data not supportable by the laboratory community.

Response: CLIA sets forth specific time frames for implementation. There is no authority in the CLIA statute to modify the effective date of those provisions by awaiting the results of the studies that the statute mandates. The Public Health Service used available scientific data and information to develop the proposed categorization of procedures and examinations based on test complexity. This regulation was developed with the suggestions and recommendations of the commenters and represents the best information and data available at this time. When the studies required by CLIA are completed, the standards will be revised accordingly if regulatory changes are needed based on the study findings.

Comment: Approximately 50 percent of the commenters representing law enforcement agencies, medical examiners and other State agencies indicated the regulations would have a negative impact on their ability to gather evidence for legal purposes. Commenters believed that the ability of criminal justice systems to operate breath/blood/urine screening programs would be jeopardized and emphasized that testing is not performed for the purpose of clinical treatment, medical diagnosis, health assessment or disease prevention.

Response: We agree with the commenters. We have determined that CLIA does not apply to such entities, provided that these entities do not conduct testing for "the purpose of providing information for the diagnosis, prevention or treatment of any disease or impairment of, or the assessment of the health, of human beings." This means that generally, CLIA would not apply to entities, (for example, law enforcement agencies) that conduct such testing to determine whether there is a violation of the law. In the forensic testing context, laboratory results are generated purely for the purpose of detecting illegal substances or illegal amounts of certain substances in the body that may be relevant to legal proceedings. There is no concern in such testing for developing accurate and reliable data for use by health care professionals for the purpose of diagnosis or treatment, which we believe to be the focus of the CLIA legislation. However, if the entity conducts testing for the purpose of providing information for the diagnosis, prevention or treatment of any disease or impairment of, or the assessment of the health of, human beings, the entity would be subject to CLIA. The determining factor is not the test itself, but the purpose for which the test is conducted. We have revised the regulation to incorporate these changes.

Comment: A few commenters strongly urged that drug testing facilities be included within the scope of these regulations. Commenters believed that although such testing may not be for the purpose of "diagnosis, treatment or prevention" of disease, the same regulatory oversight is warranted since test results are used as evidence in the court system.

Response: CLIA is specific with respect to its applicability to facilities that conduct testing for the medical diagnosis and treatment of individuals. Based on the CLIA law and its legislative history, we have determined that forensic testing is excluded under CLIA since forensic testing is conducted to determine if there has been a violation of the law and is not done for the purpose of providing remedial treatment. Urine drug testing that is conducted for non-forensic purposes is covered by this rule.

Comment: Several commenters agreed with the extension of Federal standards to all laboratories conducting tests on human specimens exclusive of National Institute on Drug Abuse (NIDA) approved testing and research laboratories.

Response: We are pleased that the commenters agreed with the extension of Federal standards to all laboratories, with noted exceptions. It should be noted that significant aspects of testing done by NIDA-certified laboratories will be exempt. We have specified the scope of that exemption in § 493.3(b)(3).

Comment: Several commenters expressed concern that the proposed rules would extend HCFA's authority over tests performed primarily for blood donor screening. Commenters indicated that these tests, already regulated under the FDA's Good Manufacturing Practices for blood components, are not performed for the diagnosis, prevention, or treatment of disease in a patient.

Response: It is true that FDA regulates this type of testing to some extent; however, the FDA requirements do not necessarily have the same focus as the CLIA requirements (that is, successful participation in a proficiency testing program and personnel requirements). The FDA requirements are product-related, while CLIA requirements are patient-related. Tests such as hepatitis, HIV and syphilis serology, among others, are used in donor screening to assess the health of the person donating blood, one of the activities that come within the statutory definition of "laboratory." Therefore, the performance of these tests must meet CLIA requirements.

Comment: Several commenters representing nuclear power companies and offshore drilling industries indicated that laboratory procedures for forensic or substance abuse testing are already subject to comprehensive regulation by the U.S. Nuclear Regulatory Commission (NRC) and the Department of Transportation (DoT). Commenters felt that the NRC and DoT regulations are consistent with and meet the objectives and requirements of these rules and should be exempt from CLIA.

Response: As previously indicated, these requirements do not apply to any component or function of any laboratory that is certified by NIDA to perform urine drug testing for Federal agencies. However, it does apply to all other testing conducted even in NIDA-certified laboratories.

Comment: Several commenters stated that there is no medical or regulatory need to require End Stage Renal Disease (ESRD) facilities to be certified as laboratories when tests are performed in conjunction with administering treatment to their own patients.

Response: Every facility testing human specimens "for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment of, or assessment of the health of, human beings" is subject to these requirements. There is no provision in CLIA to exempt testing performed on a facility's own patients.

Comment: Numerous commenters representing State, County and local health departments strongly urged that public health laboratories should be categorized separately or exempted from CLIA regulations. Commenters expressed concern that public health service programs dependent on Federal and State funding (e.g., the Women, Infants and Children (WIC) and Early Pregnancy Screening and Diagnostic Testing (EPSDT) programs) would be adversely affected. The commenters noted that available funds would not be sufficient to meet all of the proposed requirements. Other commenters suggested that public health screening programs be exempted from the regulations when testing is performed by trained personnel.

Response: As previously indicated, except as noted in § 493.3 of these regulations, every facility testing human specimens "for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment of, or assessment of the health of, human beings" is subject to CLIA. There is no provision in the statute to exempt private dental offices or public screening programs conducted by trained personnel. However, we have revised the regulation to permit not-for-profit or Federal, State or local government laboratories that engage in limited (that is, few types of tests) public health testing to operate under one certificate.

Comment: Several commenters stated that home care testing and private homes should not be subject to CLIA requirements and the rule should be revised to clearly reflect this.

Response: Individual patients and private homes are not subject to CLIA. However, a home health agency (HHA) or hospice that performs laboratory testing on individuals for the purpose of medical treatment is subject to the requirements. On the other hand, we acknowledge that certain activities that involve testing are not within the range of concerns that the Congress had when it enacted CLIA. Specifically, we do not believe that the Congress had any wish to see us regulate, as laboratories, individuals who may be self-administering a test in their own home with an appliance that has been cleared for that purpose by the FDA. Thus, to the extent that an HHA or hospice that is providing care in an individual's home is engaged solely in assisting an individual in performing a test, we have no intent to impose a CLIA requirement on the HHA or hospice by virtue of that activity. If these activities are performed by the individual they would be beyond CLIA's reach. Where the HHA or hospice engages in testing outside this narrow context, however, CLIA would apply.

Comment: Several commenters noted that research laboratories including National Institutes of Health (NIH) laboratories perform experimental tests on human specimens and may include test information in the patient's medical record for completeness. Other commenters requested that research laboratories be included in the definition of entities regulated under CLIA to assure that they can continue to receive reimbursement for tests performed.

Response: In the proposed rule at § 493.2 under the definition of "laboratory" we indicated that "laboratories that perform research testing on human specimens, but do not report patient specific results for the diagnosis, prevention or treatment of any disease or impairment of, or the assessment of the health of an individual patient are not considered laboratories under CLIA." However, this exception was not included in § 493.3, "Applicability." Thus, we have amended this section to reflect this exception for research laboratories. This exception is also set forth in the applicability sections of the regulation pertaining to laboratory fee collection. If the results of such "experimental" testing are used for individual treatment of the patient tested, the laboratory would be subject to CLIA requirements. Additionally, in accordance with OBRA '89, a facility must be certified under CLIA in order to receive payment under Medicare.

Comment: In response to our request for recommendations for development of criteria for emergency testing, we received the following suggestions and comments in support of allowing a facility to perform emergency testing, that is, testing not included on the laboratory's certificate. A few commenters indicated that the rules needed to permit exceptions to compliance with the requirements when emergency testing is necessary, but offered no specific recommendations. One commenter cautioned that the term "emergency" must be defined carefully, while another suggested that we define criteria which apply to these emergency situations and define a sub-list of tests which are used in emergency situations only. Other commenters indicated that the need to perform "emergency" testing would occur when a laboratory expands its parameters of testing (for example,

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acquires new equipment) and wants to perform testing not included on its certificate. The commenters recommended that laboratories that wish to perform services not included on their certificate be granted a grace period to allow testing during the time period between which the laboratory requests revisions in its certificate and is issued a revised certificate to cover the additional testing. Other commenters expressed concern that if emergency testing were prohibited this would be in conflict with many States "Good Samaritan" laws which require a physician to do anything within his/her knowledge or abilities to aid a person in need of care. Several commenters stated that physicians should be permitted to perform direct microscopic tests (Wright or Gram stains) on an emergency basis or that physicians be permitted to perform tests in a life threatening situation provided the physician has adequate knowledge of the principles and quality assurance of the test. Such commenters felt that the intent of the law would be met if the laboratory that performed emergency tests not included on its certificate notified HCFA subsequent to the testing and immediately filed an application to include the testing on its certificate. As a final point, a commenter stated that it is cost effective and medically necessary for hospitals to perform screening tests for drug treatment facilities and emergency medical treatment. The commenter suggested that the results be reported as values obtained from a screening test with the method specified. Screening tests should be subject to appropriate quality control and PT.

Other commenters were opposed to the idea of an exemption for emergency testing. Approximately 90 percent of individuals and organizations commenting on emergency testing, opposed an exemption for emergency testing. The commenters indicated that if a laboratory is not certified to perform routine testing when the patient's life is not in danger, it should not be allowed to perform emergency testing when the patient's life is in danger. Commenters suggested that improperly performed laboratory work is probably worse than no laboratory work at all. Inaccurate results performed in the name of an "emergency situation" may lead to a more critical situation than already exists. Commenters indicated that permitting emergency testing could be used as a "loop-hole" for laboratories to circumvent the regulations. The reliability of laboratory tests performed by personnel who do not perform the test routinely and who do not participate in proficiency testing on the emergency tests may produce results that are questionable. In addition, this would not be logical from a cost standpoint. For example, to buy all the reagents and have them sit on a shelf until they might possibly be used is costly and not practical because the reagents have a limited shelf-life. The amount of "red tape" which would have to be developed in order to prove that it was an emergency and therefore should be reimbursed (for Medicare) would be cumbersome. As a final point, in emergencies the treatment of the patient's symptoms is necessary before laboratory results are available. This would almost always be true for a non-certified one-time test where setup of equipment, reagents and control processes would be required. In very few cases would such a test result in a significant difference in patient outcome. It is possible, however, that a badly performed "quickie" test would lead to a mistake in patient care. For a physician or facility to attempt to treat an individual with an emergency condition beyond the capabilities of either the physician or facility would also be a liability nightmare.

Response: We never intended to prohibit emergency testing. The proposed rule asked for comments on the appropriateness and conditions under which a laboratory might perform emergency tests not listed on its certificate. In the regulation pertaining to fee collection (also published today), we have indicated that upon further review of CLIA and in response to comments raised in that regulation, a laboratory with a certificate or certificate of accreditation has up to 6 months to notify HCFA if it adds a test or examination not included on its certificate, while a laboratory with a certificate of waiver must notify HCFA prior to performing a test that is not included on the waived test list. These revisions are reflected in this regulation. Due to specific statutory references, we do not feel it is necessary to define "emergency testing."

Section 493.10 Categories of Tests by Complexity

Approximately 14,470 comments were received in response to this section of the proposed rule, with more than 95 percent opposed to the proposed categorization of tests.

Comment: Commenters opposed the overall design of the complexity model. A large number of commenters expressed concern that the use of the proposed model in determining specific requirements for laboratory practices may have a negative impact on health care due to increased cost, which thus limits patient access. Over 11,000 commenters offered recommendations or alternative suggestions to the proposed categorization of tests and its applications. Some of the alternatives suggested were:

- Consider the site of testing to establish the degree of regulation;
- Create a separate level of testing or an exemption for public health screening procedures, physicians performing testing for their own patients and forensic laboratories;
- Define complexity on the basis of methodology/instrumentation;
- Create a model with only two categories or a model with more than three categories;
- Exempt from regulation or decrease the regulatory burden for testing performed using FDA "cleared" tests/devices; and
- Use a weighted matrix for test/methodology categorization.

Response: We agree with the commenters that a regulatory model should not unduly impede current laboratory operations or the practice of medicine, nor should the development or application of new technologies be impeded. We also agree that a complexity model should include the processes for defining levels of complexity, and assigning tests to specific categories, as well as the requirements that are derived from this categorization process. Therefore, in developing the revised model in these regulations, we have considered:

- Complexity of the analytical procedures and laboratory operations; and
- Potential impact of the regulations on the Nation's laboratories.

One organization provided a test categorization matrix and justification for the categorization, which was supported by many commenters. We took this model into consideration as we developed the revised complexity model. Rather than using a model based strictly on analyte, as was previously proposed, we have taken into consideration the methodology for test systems, assays and examinations to categorize laboratory tests as either waived, tests of moderate complexity or tests of high complexity. We believe this revised model for test categorization will not impede health care nor the services provided by any laboratory operation. Laboratories performing tests of moderate complexity will be required to conform to patient test management, quality control, proficiency testing, personnel, and quality assurance requirements that are appropriate for tests of moderate complexity. Laboratories performing tests of high complexity will be required to adhere to more stringent requirements appropriate for tests of high complexity. Compliance with these standards will assure accurate and reliable test results through the appropriate management and use of technology and personnel having the appropriate skills, knowledge and training. If the appropriate standards are met, a laboratory should be able to continue performing any test in use at the present time.

Under these rules, eight tests now qualify as waived tests. Test categorization was based upon specific criteria outlined in § 493.15(b) of these regulations. Laboratories performing only waived tests are required to apply for a certificate of waiver and have a general responsibility to follow manufacturers' instructions for performing tests.

We have revised the criteria for tests of moderate and high complexity as listed in § 493.17(a). Using these criteria, we developed a scoring scheme for categorizing tests as high or moderate complexity. Within each criteria, tests were assigned scores of 1, 2 or 3 with the score of "1" indicating the lowest level of complexity.

The descriptions for the numerical scores within each criteria heading are as follows:

Note: A score of "2" was assigned to a criteria heading when the characteristics for a particular test were intermediate between the descriptions listed for scores of "1" and "3".

Knowledge

1—Analyst needs little, if any, information additional to the step-by-step directions to properly perform the procedure and report results

3—Analyst needs experience to acquire the information necessary to properly perform the procedure and report results

Training and Experience

1—Training specific for the procedure is all that is required

3—Training and experience with the total testing process is necessary

Reagents and Materials Preparation

1—Minimal preparation (pre-packaged or pre-measured)

3—Special reagents or preparation are required

Characteristics of Operational Steps

1—Few steps, automatic specimen processing, and timing of procedural steps, limited function checks, built-in calibration, and minimal or no calculations required

3—Many steps in the procedure and some analytical procedures including calibrations are not automated or are semi-automated

Characteristics of calibration, quality control and proficiency testing materials

1—Calibration and control materials readily available, stable and easily incorporated into the procedure. Proficiency testing materials, when available, are stable

3—Calibration, control or proficiency testing materials may not be readily available or stable

Troubleshooting and Maintenance

1—Minimal operator intervention required

3—Experience required to properly troubleshoot or maintain the procedure

Interpretation and Judgment

1—Minimal required

3—Experience needed to properly perform the test because decision making is required throughout the testing process

Test systems, assays or examinations receiving scores of 12 or less were categorized as moderate complexity while those receiving scores of 13 or greater were categorized as high complexity. Laboratories performing tests of moderate complexity are required to meet the applicable requirements of the subparts concerning: Registration Certificate and Certificate or Certificate of Accreditation, Participation in Proficiency Testing for Laboratories Performing Tests of Moderate and High Complexity, Patient Test Management for Moderate and High Complexity Testing, Quality Control for Tests of Moderate and High Complexity, Personnel for Moderate and High Complexity Testing (for moderate complexity testing), Quality Assurance for Moderate and High Complexity Testing, and Inspection. Laboratories performing tests of high complexity are required to meet the applicable requirements of the subparts concerning: Registration Certificate and Certificate or Certificate of Accreditation, Participation in Proficiency Testing for Laboratories Performing Tests of Moderate and High Complexity, Patient Test Management for Moderate and High Complexity Testing, Quality Control for Tests of Moderate and High Complexity, Personnel for Moderate and High Complexity Testing (for high complexity testing), Quality Assurance for Moderate and High Complexity Testing, and Inspection.

Following publication of this rule, manufacturers of new commercial test systems, assays or examinations may submit their supporting data to FDA simultaneously with their section 510(k) and pre-market approval (PMA) submissions. The FDA, under authority of CLIA, will determine the complexity category using the previously mentioned criteria, notify the manufacturer and simultaneously inform both HCFA and CDC of the test categorization. In the case of a request for a change of category or for devices/tests that have not been previously categorized, FDA will receive the request application and determine the device/test categorization. In cases when new devices/tests cannot be easily categorized or if a manufacturer appeals an initial categorization decision by FDA, FDA will consult with CDC. Test categorization will be effective as of the notification to the applicant.

For test systems, assays, or examinations not commercially available, a laboratory or professional group may submit a written request to PHS. These requests will be forwarded to CDC for evaluation; CDC will notify the applicant, HCFA, and FDA of its decision. In the case of a request for a change of category or for tests that have not been previously categorized, PHS will receive the request application and forward it to CDC for evaluation. Test categorization will be effective as of the notification to the applicant.

Prior to categorization as provided under this rule, any laboratory test system, assay, or examination that does not appear on the list of tests published in a notice in the **Federal Register** will be considered a test of high complexity until HHS, upon request, reviews and makes a final determination of test categorization. If the request is part of the 510(k)/PMA process, determination of device/test categorization will be completed within the 510(k)/PMA time frame. If the request is not a part of the 510(k)/PMA process, the device/test categorization will be made within 120 days of the request.

Any test system, assay, or examination will be considered for recategorization not more frequently than once per year. We are creating a new § 493.17, Test categorization, which explains the categorization process for test systems, assays and examinations.

PHS will publish updates of test categorizations periodically in the **Federal Register** for comment. The following generic lists containing moderate and high complexity tests are provided to assist laboratories in evaluating their complexity of testing. These lists may not encompass exact descriptions of all laboratory tests. However, PHS is planning to publish periodic lists of tests in the **Federal Register** which will contain specific test systems, assays and examination by test complexity category, as specified in § 493.17. (We note that published elsewhere today in the **Federal Register** as a Notice we are providing the first listing of specific tests that have been scored for purposes of categorization.)

We are specifically not providing an opportunity for comment prior to the effective date of the decision for two reasons. First, we foresee that for the many tests that will be categorized in either the moderate complexity or waiver category, it would be unfair to both laboratories and manufacturers to further extend the time that a particular test would have to be treated as one of high complexity and thus be subject to stricter regulation than is necessary. Second, by submitting the criteria for the categorization of tests to notice and comment rulemaking, as is the case with this rule, we believe that the public will have already shared in the shaping of the most critical aspect of this process.

Moderate complexity test list. The following test procedures, assays, and examinations are categorized as tests of moderate complexity unless categorized otherwise as provided under § 493.15 (a) or (c):

(1) *Clinical cytogenetics.* No procedures.

(2) *Histopathology.* No procedures.

(3) *Histocompatibility.* No procedures.

(4) *Cytology.* No procedures.

(5) *Bacteriology.*

(i) Primary culture inoculation;

(ii) Urine culture and colony count kits;

(iii) Microscopic evaluation of direct wet mount preparations;

(iv) Isolation and presumptive identification of aerobic bacteria from throat or urine or cervical/urethral specimens;

(v) Isolation and confirmatory identification of aerobic bacteria from throat or urine or cervical/urethral specimens;

(vi) Gram stain;

(vii) Darkfield examination for *Treponema pallidum*;

(viii) Manual procedures with limited steps and with limited sample or reagent preparation;

(ix) Manual screening devices for bacteriuria with limited steps and with limited sample or reagent preparation; and

(x) Automated procedures that do not require operator intervention during the analytic process.

(6) *Mycobacteriology.*

Direct acid fast smear.

(7) *Mycology.*

(i) Primary culture inoculation;

(ii) Isolation of yeast with identification limited to *Candida albicans*;

(iii) Identification procedures for *Candida albicans* (excluding semi-automated and semi-quantitative procedures);

(iv) Microscopic evaluation of direct wet mount preparations;

(v) Tests using selective media for the presence or absence of dermatophytes;

(vi) Microscopic evaluation of KOH preparations;

(vii) Manual procedures with limited steps and with limited sample or reagent preparation; and

(viii) Automated mycology procedures that do not require operator intervention during the analytic process.

(8) *Parasitology.*

(i) Microscopic evaluation of pinworm preparations;

(ii) Microscopic evaluation of direct wet mount preparations for the presence or absence of parasites;

(iii) Manual procedures with limited steps and with limited sample or reagent preparation; and

(iv) Culture devices indicating the presence or absence of *Trichomonas vaginalis.*

(9) *Virology.*

(i) Manual procedures with limited steps and with limited sample or reagent preparation; and

(ii) Automated procedures that do not require operator intervention during the analytic process.

(10) *Immunology.*

(i) Automated procedures that do not require operator intervention during the analytic process;

(ii) Darkfield examinations for *Treponema pallidum;* and

(iii) Manual procedures with limited steps and with limited sample or reagent preparation;

(11) *Chemistry (Routine/Endocrinology/Toxicology)*

(i) Automated procedures that do not require operator intervention during the analytic process;

(ii) Automated blood gas analyses that do not require operator intervention during the analytic process (such as instruments that have an automated process for calibration, sample intake and flushing of sample lines);

(iii) Whole blood measurements using test stripmeters, excluding glucose monitoring devices cleared by FDA specifically for home use;

(iv) Osmolality measurements; and

(v) Manual procedures with limited steps and with limited sample or reagent preparation.

(12) *Urinalysis.*

(i) Microscopic analysis of urinary sediment; and

(ii) Automated urinalysis procedures that do not require operator intervention during the analytic process.

(13) *Hematology.*

(i) Automated hematology procedures without differentials that do not require operator intervention during the analytic process;

(ii) Automated hematology procedures with differentials that do not require operator intervention during the analytic process and that do not require an analyst to interpret a histogram or scattergram;

(iii) Manual white blood cell differential counts when the analyst is not required to identify atypical cells;

(iv) Automated procedures that do not require operator intervention during the analytic process;

(v) Manual hematology procedures with limited steps and with limited sample or reagent preparation; and

(vi) Manual coagulation procedures with limited steps and with limited sample or reagent preparation.

(14) *Immunohematology.*

(i) Manual or semi-automated procedures with limited steps and with limited sample or reagent preparation; and

(ii) Automated procedures that do not require operator intervention during the analytic process.

(15) *Other.*

(i) Semen analysis for the presence or absence of sperm;

(ii) Occult blood on body fluids;

(iii) Crystal analysis on joint fluid; and

(iv) Viscosity.

High complexity test list. The following test procedures, assays, and examinations are categorized as tests of high complexity unless categorized otherwise as provided under § 493.15 (a) or (c):

(1) *Clinical cytogenetics.* All procedures.

(2) *Histopathology.* All procedures.

(3) *Histocompatibility. All procedures.*

(4) *Cytology.* All procedures.

(5) *Bacteriology.*

(i) Isolation and identification of aerobic and anaerobic bacteria from specimens that are not specified in moderate complexity;

(ii) Automated or semi-automated procedures that do require operator

intervention during the analytic process;
(iii) Serogrouping or typing;
(iv) Antigen or toxin test procedures or kits requiring microscopic Avaluation;
(v) Manual procedures with multiple steps in sample or reagent preparation or the analytic process; and
(vi) Semi-automated nonculture urine screening devices predicting bacteriuria.
(6) *Mycobacteriology.*
(i) Concentration, smear, and primary culture inoculation;
(ii) Isolation and identification techniques;
(iii) Antimycobacterial susceptibility testing;
(iv) Manual procedures with multiple steps in sample or reagent preparation or the analytic process; and
(v) Automated or semi-automated procedures that do require operator intervention during the analytic process.
(7) *Mycology.*
(i) Isolation and identification of all fungi not specified in moderate complexity;
(ii) Identification techniques requiring interpretative skills;
(iii) Automated or semi-automated mycology procedures that do require operator intervention during the analytic process; and
(iv) Manual procedures with multiple steps in sample or reagent preparation or the analytic process.
(8) *Parasitology.*
(i) Identification techniques requiring interpretative skills;
(ii) Concentration or differential staining techniques;
(iii) Antigen test procedures or kits requiring microscopic evaluation; and
(iv) Manual procedures with multiple steps in sample or reagent preparation or the analytic process.
(9) *Virology.*
(i) Isolation and identification techniques;
(ii) Antigen test procedures or kits requiring microscopic evaluation;
(iii) Manual procedures with multiple steps in sample or reagent preparation or the analytic process; and
(iv) Automated or semi-automated procedures that do require operator intervention during the analytic process.
(10) *Immunology.*
(i) Gel based immunochemical procedures;
(ii) Electrophoresis;
(iii) Western blot;
(iv) Immunoassay methods requiring microscopic evaluations;
(v) Procedures requiring cell or tissue culture techniques;
(vi) Automated or semi-automated procedures that do require operator intervention during the analytic process;
(vii) Cell phenotyping and analysis;
(viii) Radioimmunoassays; and
(ix) Manual procedures with multiple steps in sample or reagent preparation or the analytic process.
(11) *Chemistry (Routine/Endocrinology/Toxicology).*
(i) Manual procedures with multiple steps in sample or reagent preparation or the analytic process;
(ii) Atomic absorption;
(iii) Flame photometry;
(iv) Electrophoresis;
(v) Gel-based immunochemical procedures;
(vi) Blood gas analyses that do require operator intervention to calibrate the instrument, equilibrate gas supplies, introduce sample into measuring chambers or flush sample lines;
(vii) Automated or semi-automated procedures requiring operator intervention during the analytic process;
(viii) Anodic stripping voltometry;
(ix) Radioimmunoassays; and
(x) Mass spectrometry.
(12) *Urinalysis.*

Automated or semi-automated procedures that do require operator intervention during the analytic process.

(13) *Hematology.*
(i) Manual reticulocyte counts;
(ii) Hemoglobin electrophoresis;
(iii) Bone marrow evaluation;
(iv) Manual coagulation procedures with multiple steps in sample or reagent preparation or the analytic process;
(v) Manual cell counts;
(vi) Automated or semi-automated procedures that do require operator intervention during the analytic process;
(vii) Manual white blood cell differential counts when the analyst is required to identify atypical cells;
(viii) Manual hematology procedures with multiple steps in sample or reagent preparation or the analytic process.
(ix) Flow cytometry; and
(x) Manual platelet counts.
(14) *Immunohematology.*
(i) Manual procedures with multiple steps in sample or reagent preparation or the analytic process;
(ii) Semi-automated and automated procedures that do require operator intervention during the analytic process; and
(iii) Compatibility testing, which includes any of the following when performed in the process of determining donor/recipient compatibility:
(A) Recipient and donor ABO group/D(Rho) type/special antigen typing;
(B) Direct antiglobulin test;
(C) Unexpected antibody detection and identification; and
(D) Crossmatch procedures.
(15) *Other.*
(i) Semen analysis (quantitative); and
(ii) Eye bank microscopy procedures.

Section 493.15 Laboratories Performing Waived Tests

Approximately 4,650 comments were received in response to the proposed list of waived tests, while approximately 175 individuals and organizations provided comments on the proposed criteria for certificate of waiver test. About 670 comments were in favor of applying standards for quality assurance, quality control and personnel to certificate of waiver laboratories.

Comment: Many commenters suggested changing, adding or deleting the criteria for certificate of waiver. A few suggested that the criterion "no reasonable risk of harm to the patient if the test is performed incorrectly" be deleted.

Response: The primary criterion for placing a test on the waived list is that the test is so simple to perform, when following acceptable laboratory practices (that is, not using out-of-date materials, and following manufacturers directions), that the likelihood of an erroneous result is extremely small. This assessment is based on our determination that the method used for testing involves a stable test system which is simple, requiring no extensive quality control or environmental control. Therefore, based on the characteristics of a waived test, we feel that there is minimal training and experience required in performing these tests and that there is minimal interpretative and judgmental skills required by the analyst.

We agree that there is no test which carries with it absolutely no risk of harm if performed erroneously. If a medical test is performed erroneously and an inappropriate action is taken, risk of harm to the patient may result. However, we do not feel that the tests on the certificate of waiver list present an insignificant risk of an erroneous result and, therefore, are exempt.

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The proposed rule included tests cleared by FDA for home use as a criterion for a waived test. We have not deleted this criterion. However, it cannot be a sole criterion for qualifying as a waived test, since all home use tests may not meet the criteria for a waived test.

The criteria for waived tests are:

Test systems that are simple laboratory examinations and procedures which—

- Are cleared by FDA for home use;
- Pose no reasonable risk of harm to the patient if the test is performed incorrectly; or
- Employ methodologies that are so simple and accurate as to render the likelihood of erroneous results negligible.

Comment: A large number of commenters suggested modifications to the list of waived tests. Many recommended deleting tests and moving them to either level I or level II (now moderate and high complexity). The majority of commenters suggested moving examinations or tests that require the use of a microscope to a higher level because, according to commenters, these tests or examinations require a higher degree of training and involve independent judgement by the analyst. A very large number of physicians recommended adding to the waived test list those tests used by a physician to treat his/her own patients.

Response: Section 353(d)(3) of the PHS Act states that there are "simple laboratory examinations and procedures" that will not be subject to the regulations. Using the criteria outlined in the PHS Act, and in § 493.15(a) of these regulations, eight tests were selected for the waived category. The blood glucose monitors cleared by FDA specifically for home use have been placed in the waived category. Any new tests that have been determined by HHS to meet the criteria for waived tests will be placed in that category by HHS.

A number of the originally proposed 28 waived tests were removed from the list of waived tests because they did not meet the revised criteria for waived tests.

We have taken into consideration the suggestions of the commenters and modified the quality control, personnel, and quality assurance standards of the regulations for non-waived tests which will allow a laboratory currently in operation to continue to perform testing.

As previously mentioned, HHS will determine whether a new test meets or does not meet the criteria for a waived test.

Comment: Many commenters suggested that quality control and/or proficiency testing be required for laboratories holding a certificate of waiver. Some commenters recommended that personnel in laboratories performing only waived tests be subject to qualification requirements.

Response: Section 353(d)(2)(C) of the PHS Act specifies that quality assurance, quality control, personnel, proficiency testing and inspections should not be applicable to certificate of waivers laboratories. We agree with the commenters that it is the general responsibility of any laboratory performing waived tests to follow manufacturers' instructions for performing tests. This requirement is included in § 493.15(e) of these regulations.

Section 493.20 Laboratories Performing Level I Tests (Now Laboratories Performing Tests of Moderate Complexity)

Approximately 6,850 comments were received from individuals and organizations objecting to the proposed level I test list. Nearly 2,000 comments concerned the applicability of the quality control, proficiency testing and personnel requirements for level I testing. Approximately 1,250 comments were in opposition to the proposed requirement that abnormal level I screening test results for previously undiagnosed conditions be verified using a more specific level II test method.

Comment: Many commenters expressed concern about the proposed criteria for level I tests. A few commenters suggested changing, deleting or adding to these criteria. A few expressed the opinion that "risk of harm" is too vague and indeterminate to be used as a criterion.

Response: We have taken into consideration the concerns expressed by the commenters and have provided revised criteria for tests of moderate complexity as stated in § 493.17(a). The proposed rule included a "risk" criterion as well as the criterion pertaining to "the risk of erroneous results is present". These criteria have been deleted. The revised criteria for tests of moderate complexity take into consideration the analyst involvement and the complexity of the test.

Comment: Many commenters suggested moving tests from level I to the certificate of waiver category to allow the testing to continue in their laboratory and not interfere with patient care. Other commenters recommended moving tests from the certificate of waiver to level I because, in their opinion, some of the proposed waived tests required training and involved some degree of judgement and interpretation by the analyst. A very large number of commenters suggested moving tests from level II to level I so as to not impede or interrupt services presently being provided to patients in doctor's offices.

Response: We have taken into consideration the commenters' suggestions in revising the list of tests for moderate complexity. Rather than using a model based strictly on analyte, as was previously proposed, we have taken into consideration the methodology for test systems, assays and examinations in categorizing tests.

Using the revised criteria specified in § 493.17(a) and the scoring scheme previously mentioned, some tests that were proposed as waived tests are now categorized as tests of moderate complexity. As a result of this change, performance of these tests is now subject to patient test management, quality control, proficiency testing, personnel and quality assurance standards. Other tests previously proposed as level II tests, when using the new categorization process, are now categorized as tests of moderate complexity. In most instances, these changes should allow a laboratory to continue at their present level of operation and not impede services to patients, provided the laboratory meets the applicable requirements for personnel as stated in Subpart M (Personnel for Moderate and High Complexity Testing) for tests of moderate complexity: patient test management requirements as specified in Subpart J (Patient Test Management for Moderate and High Complexity Testing); quality control standard specified in Subpart K (Quality Control for Tests of Moderate and High Complexity) and quality assurance standards specified in Subpart P (Quality Assurance for Tests of Moderate and High Complexity).

Comment: Many commenters opposed the personnel requirements for level I laboratories and suggested changing the personnel requirements for the director to allow specialists, such as physicians and other individuals, to qualify as director of laboratories that are located in areas where there is a shortage of personnel meeting the requirements proposed for level I laboratories. They also stated that the requirements proposed for director of a level I laboratory would unjustifiably exclude many qualified medical professionals from performing this function.

Reponse: In response to the comments, we have revised the personnel standards for laboratories performing tests of moderate complexity. A physician performing tests of moderate complexity may qualify to direct his/her own laboratory as stated in this regulation at § 493.1405(b)(2). The qualifications and responsibilities for personnel for moderate complexity testing are specified in Subpart M (Personnel for Moderate and High Complexity Testing).

Comment: A large number of commenters disagreed with the regulation requiring that abnormal level I screening test results be verified by a level II test method.

Response: We agree with the commenters and have deleted this proposed requirement, § 493.15(c), from the regulations.

Section 493.25 Laboratories Performing Level II Tests (Now Laboratories Performing Tests of High Complexity)

Approximately 16,230 comments suggested changes to the tests included in level II. We received nearly 2,840 comments that expressed concern about the applicability of the personnel, quality control and proficiency testing requirements to level II testing. Approximately 140 comments suggested changes in the proposed criteria for level II tests. A few comments were received concerning paragraph (d) of this section which specified that laboratories that perform level I tests would be subject to the level I personnel requirements and applicable requirements pertaining to proficiency testing, patient test management, quality control, quality assurance, inspections and computer systems.

We received a few comments in response to "whether there are specific additional *in vitro* diagnostic medical devices which should be subject to the lesser requirements of the waived or level I category rather than level II."

Comment: Many commenters opposed the criteria for level II tests. Commenters offered various suggestions for changing, deleting or adding criteria for level II tests. A few felt that the "risk" criterion was unclear and could not be consistently applied.

Response: We have considered the concerns of the commenters and we have provided revised criteria for tests of high complexity as specified in § 493.17(a). The "risk" criteria in the proposed rule have been deleted. The revised criteria take into consideration the analyst involvement and the complexity of the test.

Comment: many commenters recommended moving tests from level II to either the waiver or level I categories. Some commenters suggested moving tests from the waived or level I to the level II category.

Response: Using the revised criteria for tests of high complexity and the scoring scheme previously mentioned, many tests that were in level II have been placed in the moderate complexity category. On the other hand, tests that require specialized training, knowledge and experience that were proposed for level I or waived have been recategorized into a higher category of testing using these revised criteria.

As previously mentioned, HHS will determine whether a new test meets or does not meet the criteria for a test of high complexity.

Comment: Commenters opposed the personnel requirements for level II laboratories. They expressed concern that physicians in a level I laboratory performing some proposed level II tests could not direct their own laboratory. Some voiced opposition to the proposed quality control and proficiency testing requirements.

Response: In developing the complexity model, we have taken into consideration the concerns raised by the commenters and have revised the personnel standards for laboratories performing tests of high complexity. The qualifications and responsibilities for personnel for high complexity testing are specified in subpart M. The quality control standards for tests of high complexity are listed in Subpart K (Quality Control for Tests of Moderate and High Complexity), with the proficiency testing requirements specified in Subpart H (Participation in Proficiency Testing for Laboratories Performing Tests of Moderate and High Complexity). In addition, many of the test systems, assays, and examinations previously categorized as level II are now categorized as tests of moderate complexity. Based on the revised criteria for categorization, physicians who meet the qualifications for director of a moderate complexity laboratory will be able to perform these tests.

Comment: A few commenters recommended that all tests should have the same standard (level I and level II) rather than a laboratory which performs more than one level of testing to meet separate requirements for each level.

Response: We are retaining the requirement that a laboratory performing tests of moderate complexity will only have to meet the applicable standards for tests of moderate complexity as specified in these regulations, and a laboratory performing tests of high complexity will have to meet the applicable standards in these regulations for tests of high complexity.

Comment: In the preamble to the proposed rule, we requested comments on whether there are specific additional *in vitro* diagnostic medical devices which should be subject to the lesser requirements of the waived or level I category rather than level II. A few commenters suggested that laboratory test/device categorization should be coordinated with FDA categorization and clearance of new devices, but no specific devices were suggested for placement in lower levels of testing.

Response: CDC, FDA and HCFA have worked together to revise the complexity model, taking into consideration the review and clearance process of FDA. HHS will serve as the primary decision making body on issues relating to test categorization and recategorization.

Section 493.30 Determination of Test Levels and Waived Test Requirements

We received approximately 230 comments in response to the proposed establishment of a technical advisory committee. We received about 15 comments in response to the request for suggestions on information to be submitted for test categorization or recategorization.

Comment: The concept of establishing a technical advisory committee was generally supported by the commenters but some expressed concern about the composition of the committee, its functions, and the frequency of meeting. Some of the suggestions were:

- Establish the committee immediately;
- Identify the types of individuals or representatives to be included in the committee;
- Specify the committee responsibilities and functions; and
- Establish a specific frequency for the committee to meet.

Individual commenters provided specific suggestions concerning who should be on the committee, its functions and meeting frequency.

Response: Once these rules are effective, a Clinical Laboratory Improvement Advisory Committee will be established by HHS to advise and make recommendations on technical and scientific aspects of this regulation and its provisions. HHS may designate specialized subcommittees as necessary. This committee or designated subcommittees will be composed of individuals involved in the provision of laboratory services, utilization of laboratory services, development of laboratory testing devices or methodology and others as approved by HHS. The committee, or any designated subcommittee, at the request of HHS, will review and make recommendations concerning:

- Criteria for categorizing tests and examinations;
- Personnel standards;
- Patient test management, quality control, quality assurance standards;
- Applicability of the standards to new technology; and
- Proficiency testing standards

This committee or any designated subcommittee will meet as needed, but not less than once per year. The frequency of meeting depends on the issues referred by HHS to the committee or designated subcommittee for review and evaluation.

Comment: One commenter disagreed with the type of information to be submitted with requests for categorization or recategorization and questioned the value of submitting the proposed information.

A few commenters suggested revising the FDA product review process in order to establish a procedure that will initially categorize tests into the appropriate category of testing. One commenter suggested modifying the information to be submitted to include the name and description of the instrument.

Response: The specific information to be provided for test categorization or recategorization, as stated in the proposed § 493.30(b), has been deleted. CDC, FDA and HCFA have worked together to revise the complexity model. As previously mentioned, HHS will review and render decisions on categorization for new tests.

Changes to the Regulation

Section 493.2 Definitions

The definition of "challenge" is being amended to include the amount of substance or analyte measured. The definition of "referee laboratory" is being clarified to indicate that such laboratories are designated by the proficiency testing program provider and are subsequently reviewed and approved by HHS during the approval process for the proficiency testing program. A laboratory may be designated as a referee laboratory for a test or analyte as well as for an entire specialty or subspecialty. Since proficiency testing in some areas, such as compatibility testing in immunohematology, requires both donor and recipient specimens, the definition of "sample" has been modified to indicate that, for such areas of testing, two separate vials or materials constitute a sample. Also amended is the definition of "target value" to permit the use of a "by method" or "peer group" mean and to allow ten or more laboratories to constitute a method group.

The definition of "authorized person" is being revised to delete specific reference to Medicare's definition of an authorized person. We are retaining the part of the definition to provide that an authorized person is an individual authorized under State law to order tests or receive test results.

The definition of "laboratory" is being revised to delete reference to laboratories performing research testing on human specimens. Research laboratories have been addressed under § 493.3, Applicability, of this regulation.

Definitions have been added for the terms accredited institution, performance characteristic, performance specification, reference range, reportable range, unsatisfactory PT performance, HHS, and unsuccessful PT performance.

Section 493.3 Applicability

Excluded from CLIA are any laboratory or its component that performs testing only for forensic purposes, and research laboratories that test human specimens but do not report patient specific results for treatment or diagnostic purposes, or that are certified by NIDA and in which drug testing is performed which meets NIDA guidelines and regulations. These rules do apply to all other testing conducted by a NIDA-certified laboratory.

Section 493.10 Categories of Tests by Complexity

We are revising the proposed three levels for categorizing tests. We have taken into consideration the methodology for test systems, assays, and examinations and have devised a model that categories all testing as either waived, tests of moderate complexity or tests of high complexity.

Section 493.15 Laboratories Performing Certificate of Waiver Tests

- Eight tests are now included in the certificate of waiver category.
- We are adding the requirement that laboratories performing waived tests have a general responsibility to follow manufacturers' instructions for performing tests.
- We are adding the process for revisions to the list of waived tests.

Section 493.17 Test Categorization

- We are adding this section to collectively explain the categorization process for test systems, assays and examinations. Revised criteria for tests of moderate and high complexity, which are used for categorizing tests, are defined in this section, as well as the scoring system that we developed using each of the criteria.
- We are including in paragraph (b) the process for proposing revisions of the criteria.
- We are including in paragraph (c) the process for categorizing tests after publication of this rule.

Section 493.20 Laboratories Performing Level I Tests (Now Laboratories Performing Tests of Moderate Complexity)

- We are deleting the test list from this section.
- We are deleting from this section the function of the technical advisory committee, now the Clinical Laboratory Improvement Advisory Committee in the categorization/recategorization of tests.
- We are deleting the requirement that all abnormal level I screening test results be verified by a level II test method.

Section 493.25 Laboratories Performing Level II Tests (Now Laboratories Performing Tests of High Complexity)

- No substantive changes are made to this section.

Section 493.30 Determination of Test Levels and Waived Test Requirements

- A new Subpart T, Consultation, is being created which explains the creation, responsibilities, composition and frequency of meeting of the Clinical Laboratory Improvement Advisory Committee or designated subcommittee.
- The requested information to be submitted for test categorization or recategorization, as specified in proposed § 493.30(b), has been deleted.

Subpart B—Certificate of Waiver

Summary of the Proposed Rule

Section 493.35 Application for a Certificate of Waiver

We proposed that all laboratories, performing only waived tests, must file a separate application for each laboratory location. The application must be filed on a form prescribed by HCFA and signed by the owner or an authorized representative of the laboratory. As required by section 353(d)(1)(A) of the PHS Act, the application would also describe the characteristics of the test procedures or examinations performed by the laboratory including: the total number and types of laboratory tests and examinations performed; the methodologies for laboratory procedures and examinations employed and the qualifications of the personnel directing and supervising the laboratory and performing the tests. As also required by the PHS Act, the laboratory must agree to make records available and submit reports to HHS, as necessary.

Additionally, we proposed that laboratories performing waived tests must permit unannounced inspections by HHS, as discussed below, on a random basis to verify that they are performing only those tests specified on the waived list in § 493.15, to collect information for the addition, deletion, or continued inclusion of tests on the waived list, to evaluate complaints from the public, and to investigate when HHS has substantive reason to believe that testing is being performed in a manner that constitutes a hazard to patient health and safety.

Section 493.37 Requirements for Certificate of Waiver

We proposed that for HHS to issue a laboratory a certificate of waiver, the laboratory must meet the general application requirements as well as the specific certificate of waiver application requirements and pay the fee specified by HHS for certificate of waiver. It should be noted that laboratories performing only waived tests would not be issued registration certificates because these laboratories would not be subject to the requirements of CLIA and HHS would not need to determine compliance with the requirements of the subparts dealing with Participation in Proficiency Testing for Laboratories Performing Tests of Moderate and High Complexity, Patient Test Management for Moderate and High Complexity Testing, Quality Control for Tests of Moderate and High Complexity, Laboratory Information Systems, Personnel for Moderate and High Complexity Testing, and Quality Assurance for Moderate and High Complexity Testing. After issuance of a certificate of waiver, we proposed that laboratories, in accordance with § 493.39, must notify HHS before performing and reporting any test not listed as a waived test in § 493.15; within six months of any deletions or changes in test methodologies; and within thirty days of all changes in ownership, name and location. In addition, we proposed that laboratories issued a certificate of waiver must permit unannounced inspections by HHS:

- When HHS has substantive reason to believe that testing is being performed in a manner that constitutes a hazard to patient health and safety;
- To evaluate complaints from the public;
- On a random basis to determine whether the laboratory is performing non-waived tests; and
- To collect information for the addition, deletion, or continued inclusion of waived tests.

We believe that certificate of waiver laboratories, while exempted from routine inspections under section 353(d)(2)(C) of the PHS Act, are nevertheless subject to extraordinary inspections in these four specific areas through our enforcement authority contained in section 353(i) of the PHS Act. This section reserves to the Secretary the right to make reasonable requests to inspect a laboratory's operations if there is cause to question whether the laboratory is operating in a lawful and safe manner. While subsection (i) speaks to certificates, it is clear from sections 353 (b) and (c) of the PHS Act that this term encompasses certificates of waiver as well. Such inspections would not be routine. Indeed, as a routine matter, certificate of waiver laboratories would not be subject to any inspections as the statute provides. We believe, however, that Congress did not wish to allow any laboratory to operate in a hazardous or otherwise unlawful manner and be beyond the reach of the statute to account for such conduct. If the laboratory fails to meet the requirements for certificate of waiver, we would propose that the laboratory's certificate of waiver be suspended, revoked, or limited in conformance with procedures in a new subpart dealing with enforcement procedures, which are to be established through another rulemaking. Also, failure to meet the certificate of waiver requirements would result in a laboratory losing its Medicare approval and having its payments under Medicare suspended or denied. Ordinarily, a certificate of waiver would be valid for no more than two years. However, in the event of a non-compliance determination, HHS would suspend or deny payments under Medicare and would initiate action to revoke or suspend the laboratory's certificate of waiver. The laboratory would be provided with a statement of grounds outlining the basis for the non-compliance determination and would be offered an opportunity for a hearing in part 498. If the laboratory requests a hearing, we would extend the expiration date of the certificate of waiver until a hearing decision is issued, unless HHS or its designee finds that conditions at the laboratory pose an imminent and serious risk to human health. In any case, Medicare payments would be suspended or denied pending a hearing decision.

Section 493.41 Requirements for a Renewal Application for a Certificate of Waiver

To renew a certificate of waiver, we proposed that a laboratory must complete and return a renewal application to HHS not less than 9 months or more than 1 year before the expiration of the certificate of waiver. The requirements for renewal were proposed to be the same as the application requirements in §§ 493.35 and 493.37.

We proposed that the laboratory must remit the certificate of waiver fee and agree to permit unannounced inspections by HHS on a random basis to verify that they are performing only those tests specified on the waived list in §§ 493.15, to collect information for the addition, deletion, or continued inclusion of tests listed in § 493.15, to evaluate complaints from the public and when HHS has substantive reason to believe the laboratory is performing testing in a manner that constitutes a hazard to patient health and safety. If we determine that a laboratory does not meet the requirements and we do not grant a certificate of waiver, we would notify the laboratory in writing of the basis for denial, and offer an opportunity for a hearing in accordance with subpart R.

Comments and Responses

Approximately 250 individuals submitted comments on subpart B. The majority of the comments were alternative suggestions or were opposed to the content of these sections. The commenters primarily represented technologists, professional organizations, various health care entities and physicians.

Section 493.35 Application for Certificate of Waiver

Comment: Several commenters stated that certificate of waiver laboratories should not be involved in interstate commerce. The commenters recommended that certificates of waiver should be restricted to individual clinicians and the certificate of waiver laboratory should not be permitted to receive tests for analysis from other clinicians.

Response: While the PHS Act previously regulated only laboratories engaged in interstate testing, effective January 1, 1990, all laboratories in the

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United States that perform tests on human specimens for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment of, or assessment of the health of human beings are subject to the requirements of CLIA. Soliciting or accepting specimens across State lines is no longer a criterion for regulation. Therefore, laboratories holding a certificate of waiver are not precluded from engaging in interstate testing. In addition, the statute is specific in stating that a certificate is issued to a "laboratory" (that is, a facility) rather than to individuals.

Comment: A few commenters recommended that as a monitoring mechanism, certificate of waiver laboratories should be required to participate in proficiency testing (PT) for tests they perform.

Response: Section 353(d)(2)(C) of the PHS Act states that subsection (f) (which includes participation in a PT program) shall not apply to a laboratory which has been issued a certificate of waiver. A certificate of waiver laboratory may participate in PT for its own purposes, but participation is not specifically mandated under CLIA.

Comment: Several physicians questioned whether pharmacies, supermarkets and shopping centers should be permitted to perform waived tests. The commenters recommended requiring that certificates of waiver only be granted to laboratories operated by physicians or other authorized individuals who order tests and receive test results for use on their own patients.

Response: CLIA does not restrict the performance of waived tests to physicians nor does it require routine inspections or standards, including personnel requirements, for this level of testing. In accordance with the statutory definition, procedures and examinations qualifying as certificate of waiver tests are simple laboratory examinations and procedures that have an insignificant risk of an erroneous result. Based on the statute, we have not made the recommended revision.

Comment: Other commenters indicated that military facilities performing only waived tests should be exempt from CLIA. As an alternative another commenter suggested that the regulations provide for "blanket" certificates of waiver to be issued to criminal justice agencies and drug treatment facilities performing testing for patient treatment.

Response: Any facility conducting laboratory testing on human specimens for the purpose of providing information for the diagnosis, prevention or treatment of any disease or impairment of, or the assessment of the health of human beings is subject to CLIA requirements. If the testing conducted is limited to the tests within the certificate of waiver category, the facility would be able to apply for a certificate of waiver. The statute does not provide for "waiving" certificate of waiver requirements. If the testing performed by a military facility is limited to waived tests, then that facility must apply for a certificate of waiver. The statute also does not authorize the issuance of "blanket" certificates of waiver; however, as noted in § 493.3, if testing is conducted for forensic or research purposes, CLIA would not apply. In addition, as previously indicated, based on recent legislation, laboratories under the jurisdiction of the Department of Veterans Affairs (VA) will be subject only to regulations the VA publishes and the enforcement authority of the VA. The VA regulations are to be comparable to those issued by HHS.

Comment: Another commenter stated that there are existing controls which help ensure the quality of care provided by physician operated laboratories (POLs), such as malpractice liability as well as the general need to ensure patient satisfaction and the reputation of the practice, making CLIA unnecessary.

Response: The purpose of CLIA is to ensure that appropriate standards are established to ensure quality laboratory testing to improve the diagnosis of disease, management of care for treatment and assessment of health of patients and to avoid or eliminate test errors that might result in patient harm.

Comment: One commenter assumed that a certification of waiver laboratory would be exempt from the application requirements and fees associated with certification.

Response: The statute sets forth specific requirements for certificate of waiver laboratories at section 353(d)(2) of the PHS Act. These requirements include submission of information describing the characteristics of the laboratory examinations performed and qualifications of personnel. In addition, the statute also requires payment of fees for the issuance and renewal of certificates, except that the Secretary shall only require a nominal fee for the issuance and renewal of certificates of waiver. A separate regulation to being issued to deal with fee collection. (See 55 FR 31758, August 3, 1990 for the proposed rule and today's issue of the **Federal Register** for the final rule.)

Comment: Many commenters indicated that the requirement for a laboratory to file a separate application for each laboratory location would be burdensome and costly for Federally funded health care clinics which operate at multiple sites under the same procedures and protocols. The commenters also recommended that "location" be defined.

Response: We agree with the commenters. In the above cited regulation concerning fee collection, we permit laboratories within a hospital under common direction located at the same street address to apply for a single certificate or multiple certificates. In addition, we permit not-for-profit or Federal, State or local government laboratories that engage in limited (in other words, few types of tests) public health testing to file a single application. Revised § 493.35(a) (as well as other sections) reflects this change. We also are revising the regulation to clarify that a laboratory that is not at a fixed location, that is a laboratory that moves from testing site to testing site (such as health screening fairs), or other temporary testing locations, must file a single application using the address of the home base. Mobile vans providing laboratory testing would require a separate certificate for each van which would reflect the address of the home base.

Comment: One commenter asked what are "other procedures" referred to in the regulation ("* * * the characteristics of the laboratory examinations and other procedures * * *)." The commenter was not sure what other procedures laboratories perform, other than laboratory examinations.

Response: We agree with the commenters that "other procedures" was vague and are revising the regulation at § 493.35(c)(3) to state "* * * the characteristics of the laboratory operation and the examinations and other test procedures * * *" The statute does not define "examinations or other procedures"; however, "examinations" are usually considered to be those activities related to macroscopic or microscopic evaluation of specimens. "Other test procedures" would be all other specimen analyses performed manually or by instrumentation.

Comment: One commenter suggested that some criteria should be set forth by HCFA to define what is meant by operating in a "lawful and safe manner" as described in the preamble with respect to inspecting certificate of waiver laboratories.

While the latitude HCFA has granted is appropriate (that is, indicating that certificate of waiver laboratories are not subject to the requirements concerning

PT, patient test management, quality control, personnel, routine inspections or computer systems), some suggested guidelines (not regulations) should be provided as to what inspectors would review for determining that a laboratory is operating in a safe and lawful manner. For instance, should records be maintained of quality control checks of reagent performance, the expiration dates of kits, or tachometer checks of centrifuges performed with established frequency?

Response: We are revising the regulation at § 493.15(d) to indicate that laboratories with a certificate of waiver have a general responsibility to follow manufacturers' instructions for performing the test.

Comment: A few commenters expressed concern that the categorization of tests listed in the proposed rule implies a static test categorization system and suggested that in light of changing technology we should not create conditions wherein we will impede or "stagnate" improvements in technology.

Response: We are aware that advancements in technology will impact on placing tests in a particular category. Section 493.30 sets forth the procedures that will be followed for test categorization or recategorization, and subpart T discusses the establishment of a Clinical Laboratory Improvement Advisory Committee that will be responsible for suggesting criteria for test categorization as well as evaluating data and information for recommendations to HHS on appropriateness of test categorization.

Comment: One commenter asked for clarification concerning the requirement that each laboratory submit "the total number of tests and examinations performed annually" and whether this number is based on the total tests performed the previous year or an estimate of the number of tests that will be performed in the current year.

Response: This number should be based on the total number of tests and examinations performed during the previous calendar year. However, as indicated in the final regulation on CLIA fee collection, this total should not include tests performed for purposes of quality control, quality assurance or proficiency testing. We are revising the regulations at §§ 493.35, 493.43, and 493.55 to clarify this issue.

Comment: One commenter suggested that laboratories performing Moh's micrographic surgery be classified under certificate of waiver until standards and methods for review of such laboratories are established. The commenter suggested that such standards could be developed by a task force established by HCFA.

Response: As previously discussed, tests categorized as waived tests must meet the criteria specified in § 493.15(a). If such categorization is questioned, § 493.15(c) outlines the procedures to revise the list of waived tests.

Comment: Several commenters indicated that the proposed rule requires submission of qualifications of the personnel directing and supervising the laboratory and performing the examinations, as part of the certificate of waiver application process; however, there are no personnel requirements for the director or supervisor of this type of laboratory (certificate of waiver).

Response: It is true that there are no specific regulations pertaining to the qualifications of a director or a supervisor in a certificate of waiver laboratory. However, the CLIA statute at section 353(d)(2)(A)(i)(II) requires submission of this information by all applicants for a certificate of waiver. In addition, the application process is used to identify the individual(s) responsible for laboratory testing performed. In many instances the same individual will serve as supervisor and director in a certificate of waiver laboratory.

Comment: Several commenters suggested that the rule be revised to specifically exclude nursing facilities (NFs) certified under § 483.75(1) and intermediate care facilities for the mentally retarded (ICF/MRs) certified under § 483.460(m) from unannounced inspections. Inasmuch as NFs and ICF/MRs are currently subject to unannounced, routine, extended, special, complaint, and validation surveys under Medicare and Medicaid, the commenters felt that an additional unannounced inspection to investigate certificate of waiver testing would be redundant and an unnecessary expenditure of resources.

Response: An NF or ICF/MR which only performs those tests listed as waived tests must apply for a certificate of waiver but will not be subject to routine inspections. If an NF or ICF/MR performs tests other than those categorized as waived tests it would be subject to the requirements applicable to the level of testing conducted, including unannounced inspections. States may coordinate the Medicare/Medicaid compliance surveys for NF or ICF/MR certification with CLIA compliance activities. However, this may not be possible in all instances. In addition, inspections will be conducted on a biennial basis under CLIA rather than the more frequent intervals required for Medicare/Medicaid certification of NFs and ICF/MRs. The Medicare and Medicaid regulations have been revised to reference the CLIA requirements for entities providing laboratory services.

Comment: Several commenters indicated that unannounced inspections would disrupt the daily schedule and could possibly interfere with patient care.

Response: Section 353(g) of the PHS Act permits the Secretary to conduct inspections on an announced or unannounced basis. In conducting inspections for Medicare program purposes, we have found unannounced inspections provide a more valid assessment of a provider's or supplier's day-to-day operations. In addition, in recent years Congress has specifically mandated that Medicare and Medicaid surveys of nursing homes be unannounced. We will make every attempt to conduct inspections in a manner that will not disrupt the facility's operations.

Comment: One commenter suggested that no decertification proceedings should be initiated if a laboratory fails to meet the application requirements, until an onsite review of such a facility determines why such problems exist, how they can be corrected, or that decertification is in order.

Response: The regulation states that if an application for a certificate of waiver is denied HHS will notify the laboratory in writing of the basis for denial of the application and an opportunity for a hearing as provided in subpart R. In addition to providing an opportunity for a hearing, the final rule concerning Enforcement Procedures for Laboratories, also published today, provides for reconsideration of actions that are initial determinations. Any laboratory dissatisfied with HHS' denial of its application may request a reconsideration. We have revised the regulation to indicate that laboratories may request an appeal, which includes a reconsideration. Since certificate of waiver laboratories will not be subject to routine onsite inspections for compliance determinations, it would serve no purpose to conduct an onsite inspection if the application for a certificate of waiver is denied.

Comment: One commenter suggested that certificate of waiver laboratories be exempt from the subparts concerning Administration, Participation in Proficiency Testing for Laboratories Performing Tests of Moderate and High Complexity, Patient Test Management for Moderate and High Complexity Testing, Quality Control for Tests of Moderate and High Complexity, Laboratory Information Systems, Personnel for Moderate and High

Complexity Testing, Quality Assurance for Moderate and High Complexity Testing, and Inspection. Certificate of waiver laboratories should only be required to submit information on the type of testing performed and pay the required fee.

Response: The regulations at § 493.35 do not require certificate of waiver laboratories to comply with the requirements of the aforementioned subparts. While certificate of waiver laboratories are not subject to routine biennial inspections, as required under the subpart dealing with Inspections, they must, in accordance with § 493.37, agree to permit unannounced inspections by HHS as specified in the subpart dealing with Inspection. Section 493.37 outlines the specific requirements for certificate of waiver laboratories.

Section 493.37 Requirements for a Certificate of Waiver

Comment: Several commenters suggested that if a laboratory test has no reasonable risk of harm to a patient if performed incorrectly, has a negligible likelihood of erroneous results and can be performed by anyone, then perhaps it does not need to be ordered and performed, and certainly not billed.

Response: Although a laboratory test may not pose a risk of harm to the patient if performed improperly, this does not diminish the importance of the testing. The categorization of a test as a waived test simply indicates that the test is simple and has an insignificant risk of an erroneous result. Moreover, the statute requires that tests falling into this category come within CLIA's scope. To the extent that the commenters are expressing an opinion about the necessity for certain kinds of testing, such considerations are beyond the scope of CLIA and this rulemaking.

Comment: One commenter, a State medical association, stated that criteria for placing laboratory tests within a level based on "no reasonable risk of harm to the patient if performed incorrectly" was a medically indefensible concept. The commenter stated that since virtually all testing (depending on the medical condition of the patient) has the potential to harm a patient if performed incorrectly, this criterion should be deleted from the regulations.

Response: Section 353(d)(3) of the PHS Act sets forth the criteria in categorizing tests as waived tests, which includes the determination that the test poses "no reasonable risk of harm to the patient if performed incorrectly." Thus, the statute does not contemplate that there be a complete absence of risk, only that the risk not be unreasonable. We believe that the tests falling into this category in this final rule satisfy that requirement.

Comment: Several commenters stated that although the proposed waivered tests are simple procedures to perform, there still must be assurances of accuracy and operator competence for the safety of all individuals who have laboratory tests performed. The commenters expressed concern about the lack of regulation with respect to waivered tests.

Response: We appreciate the commenters' concern for accurate test performance. However, section 353(d)(2)(C) of the PHS Act specifically states that subsections (f) and (g) which address establishment of standards and compliance inspections shall not apply to a laboratory which has been issued a certificate of waiver. The regulations do require a certificate of waiver laboratory to permit unannounced inspections in certain instances (that is, when HHS might have reason to believe that testing is being performed in a manner that constitutes an imminent and serious risk to human health, or in response to a complaint).

Comment: Many commenters indicated that the proposed fees specified in fee collection proposed regulation, published in the **Federal Register** on August 3, 1990, (55 FR 31758) were prohibitive and could close operations. Commenters offered the following suggestions:

- Waive all fees for Federal departments;
- Require no fee or reduce fees (less than $50–$100) for laboratories of State or local public health agencies;
- Apply a single fee for the agency, not each site;
- Include only processing costs for certificate of waiver fees.

Response: CLIA requires that certification fees be sufficient to cover the costs of implementing and administering the program and provides for no exemptions. We recognize that some laboratories may experience more financial difficulty than others in meeting the requirements of CLIA. In developing the fees for certification and compliance determination, we considered average time estimates for determining compliance and average surveyor pay scales across the country. These estimates also considered laboratory size based on types of specialities and volumes of tests. As we gain experience in administering the CLIA program, we will review the fee schedules and revise then as necessary. The fee for a certificate of waiver represents our best estimate of the costs necessary to establish the CLIA requirements, including processing of the application, fee collection, ongoing evaluation of tests for categorization, and a share of the costs for conducting inspections in the event of complaints as well as random inspections to gather information for PHS evaluation of waiver test performance. Commenters should review the previously cited fee collection regulation, as we have reduced fees for laboratories performing limited low volume testing by creating a new fee category for laboratories performing fewer than 2000 tests per year.

Comment: Several commenters suggested that the time period for a certificate of waiver be extended to 3 or 5 years; or that a permanent waiver be granted with re-application required only when new tests are to be conducted.

Response: Section 353(c)(2) of the PHS Act specifies that a certificate (including a certificate of waiver) is valid for a period of no more than 2 years or such shorter period as the Secretary may require. We are revising the regulation to clarify that a laboratory which requests a hearing would retain its certificate of waiver or a reissued certificate of waiver until a hearing decision by the administrative law judge (ALJ).

Comment: Several commenters felt it is inappropriate to suspend Medicare/Medicaid payment during an appeal of a denial of certification. Since a laboratory would be permitted to bill individual patients or carriers other than Medicare/Medicaid, this establishes two standards of care. If there is no risk to the welfare of the general patient population, the laboratory should be permitted to bill carriers until the appeal is heard. If the appeal were denied, all subsequent payments would be disallowed. As an alternative the commenter suggested an expedited decision (within 30 days) should be required of the ALJ or HHS to prevent undue financial burden on small rural hospitals.

Response: As we explained in the preamble of the proposed rule, although we intend for the Federal health and safety requirements to be the same for Medicare and CLIA, failure to meet the requirements for part 493 would result in different adverse actions under Medicare, as opposed to CLIA, since different statutes apply. The Medicare program has for many years required that some providers, including laboratories, not in compliance with the requirements to be subject to adverse actions under that statute before there is an opportunity for a hearing. The PHS Act specifically requires a different result. It permits continuation of test performance until a hearing results in a revocation, suspension or limitation of the certificate, unless HHS determines there is an imminent threat to human health. The final rule concerning CLIA enforcement, issued in final elsewhere in this issue of the **Federal Register** addresses this issue in greater detail.

Section 493.39 Notification Requirements for Laboratories Issued a Certificate of Waiver

Comment: One commenter recommended that we maintain the 30-day time frame set forth in § 493.39(c) of the proposed rule for notification to HHS of any change in laboratory ownership, name or location. The commenter felt that this would contribute to stable, reliable, traceable testing histories for each laboratory site. The commenter also indicated that with the appropriate penalties, it will serve to deter short-term, ill-directed operations.

Response: We are maintaining this requirement for the reasons discussed by the commenter. We agree that this should contribute to good testing practices and laboratory accountability.

Comment: Several commenters indicated that HHS should be notified of any change in directorship or supervision within 30 days, in addition to changes in ownership or location. One commenter indicated that there are not requirements for notification in changes in the supervision of a certificate of waiver laboratory.

Response: We agree with the commenters to the extent that we should be notified of any change in directorship and are revising the regulation accordingly.

Changes to the Regulation

In addition to minor editorial changes and cross reference corrections for consistency with other CLIA regulations, the major changes to this regulation are summarized below. We also deleted § 493.41 and combined the renewal requirements with § 493.37.

Section 493.35 Application for a Certificate of Waiver

- We are permitting laboratories within a hospital under common direction, located at the same street address to apply for a single certificate. In addition, not-for-profit or Federal, State or local government laboratories that engage in limited testing (that is, few types of tests) can file a single application. We have revised the regulation at § 493.35(a) (as well as other sections) to reflect this change. We are also clarifying that a laboratory that is not at a fixed location, that is, a laboratory that moves from testing site to testing site (such as health screening fairs and each mobile van), or other temporary testing locations, must file an application using the address of the home base.
- We are clarifying that the annual total number of tests and examinations performed should not include tests the certificate of waiver laboratory may run for proficiency testing or quality control purposes.
- We are revising language to more accurately reflect the statutory requirement that records must be made available and reports submitted as HHS may reasonably require to determine compliance with this section.
- We are adding a reference to § 493.15(d) which states certificate of waiver laboratories must follow manufacturers' instructions for performing the test.
- We are clarifying that certificate of waiver laboratories are subject to inspection if there is reason to believe that the laboratory is operating (rather than testing is being performed) in a manner that constitutes a risk to human health. This is being done to agree with criteria for waived tests.

Section 493.37 Requirements for a Certificate of Waiver

- We are revising the regulation to clarify that a laboratory which requests a hearing within the specified time frame would retain its certificate of waiver or a reissued certificate of waiver until a hearing by an ALJ unless the conditions at the laboratory pose an imminent and serious risk to human health.
- We are adding a reference to § 493.15(d) of subpart A and a reference to subpart F for remittance of fees.
- We are clarifying that laboratories receiving Medicare or Medicaid payments will have these payments suspended on the effective date specified in the notice.
- We are adding a new subparagraph (f) to include the requirements for renewal of application. This previously was in § 493.41.
- We are adding a new subparagraph (g) to address requirements for certificate of waiver laboratories that want to perform testing in addition to the waived tests.

Section 493.39 Notification Requirements for Laboratories Issued a Certificate of Waiver

- We are revising the regulation so that HHS is to be notified of any change in directorship. We restructured the format of this section and added language to set forth the appeals opportunity for failure to comply with notification requirements.
- We are removing the notification requirements for deletions or changes in tests methodologies specified in § 493.15, since certificate of waiver laboratories will be able to perform all waived tests.
- We are adding the laboratory director to notification changes because, although there are no personnel requirements for a director in a certificate of waiver laboratory, we still need to know the person who is responsible for operation of the laboratory.

Subpart C—Registration Certificate and Certificate

Summary of the Proposed Rule

Under § 493.43, Requirements for initial application for provisional certificate and certificate encompassing Level I or Level II test performance or both, we proposed to require that all laboratories performing level I or level II tests, or both, file a separate application for each laboratory location. The provisional certificate was intended to be a temporary certificate that is valid for no more than two years, which would give laboratories time to comply with CLIA 88 regulations and give HHS sufficient time to determine laboratory compliance with the regulations prior to the expiration of the provisional certificate. We proposed that the application must be filed on a form prescribed by HCFA, and signed by the owner or an authorized representative of the laboratory. In addition, the application, in accordance with section 353(d)(1)(A) of the PHS Act, must also describe the characteristics of the test procedures or examinations performed by the laboratory including: The total number and types of laboratory tests and examinations performed; the methodologies for laboratory procedures and examinations employed and the qualifications of the personnel directing and supervising the laboratory and performing the tests. As required by CLIA, the laboratory must agree to make records available and submit reports to HHS, as necessary.

Section 493.45 Provisional Certificate Requirements

A provisional certificate is a temporary certificate that is valid for no more than two years, which gives laboratories time to comply with CLIA regulations and gives HHS sufficient time to determine laboratory compliance with the regulations prior to the expiration of the provisional certificate.

HHS would reissue a provisional certificate to any laboratory that HHS or its designee has not determined compliance prior to the expiration date of the provisional certificate. We would intend to use provisional certificates because of the practical impact of the different effective dates for the various elements of CLIA. Specifically, Congress has mandated that effective January 1, 1990, laboratories will be subject to certification requirements set forth at section 353 (b) and (c) of the PHS Act. In theory, issuance of a certificate under CLIA would reflect judgment by HHS that a laboratory has provided satisfactory assurance that it will meet the substantive requirements set forth in CLIA and that it will accede to the inspection requirements of the statute. The substantive requirements of CLIA are being implemented through this rulemaking. It will be impossible for HHS to determine anything more than simple superficial compliance with the statute's application requirements at the time certificates are issued.

Thus, while laboratories need to have CLIA certificates in order to operate lawfully, we proposed that laboratories are not in a position to represent now that they will comply with the requirements imposed by HHS under subsection (f), which are the subject of this proposed rule, and HHS is without authority to inspect most laboratories for compliance with subsection (f) requirements until July 1, 1991. As a result, we proposed that certificates be issued in provisional form to allow laboratories to test until HHS can establish standards under CLIA and inspect laboratories for compliance with these standards.

We proposed in § 493.45 that all laboratories performing level I and level II tests not currently licensed or exempt from licensure under CLIA '67 on December 31, 1988 would be issued a provisional certificate by HHS provided that the laboratory submits the appropriate information specified under the application section. Prior to issuance of a provisional certificate, we proposed to require each laboratory to:

- Comply with § 493.43, Requirements for application for provisional certificate;
- Agree to treat PT samples as it would treat patient specimens; and
- Achieve a satisfactory score for one testing event in an approved PT program in the applicable specialty or subspecialty for each test or examination it performs.

Before the provisional certificate expires, the laboratory would have to demonstrate satisfactory performance in three consecutive proficiency testing events for each test or examination included in a proficiency testing program approved by HHS, remit the fee specified by HHS, and submit to HHS an application for a certificate from nine to twelve months before the provisional certificate expires. In addition, we proposed that an on-site inspection be conducted to determine compliance with the applicable requirements of Federal, State and local laws, proficiency testing, patient test management, quality control, quality assurance, inspections, personnel requirements and computer systems. HHS would not issue a certificate to any laboratory unless the laboratory demonstrates compliance with the applicable requirements. Therefore, if HHS or its designee has not conducted a compliance determination prior to the expiration of the provisional certificate, the provisional certificate would be reissued. We proposed that a certificate would be valid for no more than two years. However, in the event of a non-compliance determination, HHS would suspend or deny payments under Medicare and would initiate action to revoke, suspend, or limit the laboratory's certificate. The laboratory would be provided with a statement of grounds outlining the basis for the non-compliance determination and would be offered an opportunity for a hearing as provided in part 498. If the laboratory requests a hearing, we proposed to extend the expiration date of the certificate until a hearing decision is issued, unless HHS or its designee finds that conditions at the laboratory pose an imminent and serious risk to human health.

In § 493.47, Requirements for Initial Application for Certificate, we proposed that laboratories performing Level I or Level II tests, or both, meet the application requirements in §§ 493.43 and 493.45, Provisional certificate, if applicable, and permit unannounced inspections:

- To determine compliance with applicable requirements in subparts G, H, J, K, L, M, N, and P;
- To evaluate complaints from the public;
- When HHS has substantive reason to believe that the laboratory is performing any test, including those listed in § 493.15, in a manner that constitutes a hazard to patient health and safety; and
- To collect information for the addition, deletion, or continued inclusion of tests on the waiver and Level I lists.

If we find that the laboratory does not meet the requirements for a certificate, in whole or in part, we proposed to notify the laboratory in writing of the basis for the denial, and offer an opportunity for a hearing in accordance with procedures in part 498.

In § 493.49, Requirements for a certificate, we proposed to specify that laboratories not subject to CLIA '67 on December 31, 1988 meet the applicable requirements in § 493.45 to obtain a provisional certificate. Laboratories subject to CLIA '67 on December 31, 1988 would need not obtain a provisional certificate. We proposed to require that laboratories meet the general application requirements of § 493.43 and the specific application requirements of §§ 493.47 and 493.45, as applicable, and would be issued a certificate provided compliance is achieved with the applicable requirements of subparts G, H, J, K, L, M, N, and P. We proposed that laboratories issued a certificate must comply with the notification requirements of § 493.51 to notify HHS prior to performance of any test not included on its certificate. If the laboratory performs only certificate of waiver and level I tests, we proposed to require the laboratory to notify HHS prior to performing and reporting any test not included as a waiver test or in the Level I specialty and subspecialties listed on the laboratory's certificate or any Level II tests. For laboratories performing one or more level II tests, we would require notification prior to the performance of any test or examination not included as a waiver test or included in the specialties and subspecialties of service listed on the laboratory's certificate. We proposed that all laboratories issued a certificate must notify HHS within six months of any deletions or changes in test methodologies. For administrative efficiency, we proposed to require laboratories to notify HHS within thirty days of all changes in ownership, name, location, director(s), and supervisor(s). We proposed that laboratories issued a certificate would be subject to applicable requirements of subparts G, H, J, K, L, M, N, and P and would be required to permit unannounced inspections:

- To determine compliance with the requirements of part 493;
- To evaluate complaints from the public;
- When HHS has substantive reason to believe that any tests are being performed in a manner that constitutes a hazard to patient health and safety; and
- To collect information for the addition, deletion, or continued inclusion of tests listed in § 493.15 as waivered tests or § 493.20 as level I tests.

In the event of a non-compliance determination, HHS would suspend or deny payments under Medicare and would initiate action to revoke, suspend, or limit the laboratory's certificate. We proposed to provide the laboratory with a statement of grounds outlining the basis for the non-compliance determination and would be offered an opportunity for a hearing as provided in part 498. If the laboratory requests a hearing, we would extend the expiration date of the certificate until a hearing decision is issued, unless HHS or its designee finds that conditions at the laboratory pose an imminent and serious risk to human health. In any case, we proposed to suspend or deny Medicare payments pending a hearing decision.

In § 493.53, Requirements for a renewal application for a certificate, we proposed to require that within 9 months to 1 year prior to the expiration of the certificate the laboratory apply for a new certificate. To qualify for renewal of a certificate, a laboratory would continue to meet the application requirements in §§ 493.43 and 493.47, remit the certificate fee and agree to permit unannounced biennial as well as random inspections in accordance with subpart N to determine compliance with the applicable regulations, to collect information for tests listed in §§ 493.15 and 493.20, to evaluate complaints from the public and when HHS has substantive reason to believe that any tests are performed in a manner that constitutes a hazard to patient health and safety. If HHS determines that a laboratory does not meet the requirements for certificate renewal, we proposed that HHS give the laboratory a written statement of the basis for the denial, and opportunity for a hearing to be conducted in accordance with part 498.

Comments and Responses

Approximately 170 individuals submitted alternative suggestions or expressed opposition to the proposed requirements in §§ 493.43–493.53. The majority of the commenters for these sections represented professional organizations, and physicians of various types.

Section 493.43 Application for Registration Certificate and Certificate

Comment: A few commenters expressed concern that completing an application form will result in laboratories being issued a provisional certificate authorizing Medicare or Medicaid payment for tests performed for a period of up to two years without meeting any standards. The commenters felt that an unscrupulous operator could follow the same procedure every year or two by changing the address or name of the laboratory and be permitted to collect payments under Medicare and Medicaid without ever being subjected to the certification process.

Response: A laboratory will be issued a CLIA identification number along with its registration certificate (formerly referred to as a provisional certificate). This number will be retained by the laboratory even if the laboratory undergoes a change of location or name. The laboratory is required to notify HHS within 30 days of any changes including changes in name or location (see § 493.45(a)(2)); therefore, the probability of this occurring is reduced.

Comment: A commenter expressed concern that the proposed rule did not establish a mechanism for issuing provisional certificates for laboratories which began operation after December 31, 1988, while it specifically mentions laboratories existing as of December 31, 1988 and new laboratories.

Response: In the preamble of the proposed rule, we indicated that provisional certificates would be issued initially to all laboratories not eligible for a certificate of waiver and to all laboratories not subject to CLIA '67 on December 31, 1988 (that is, not licensed for testing specimens in interstate commerce). However, as established in the regulation concerning fee collection, we will not issue registration certificates (previously called provisional certificates) or certificates of waiver until the final CLIA standards are published. This will give laboratories an opportunity to determine if they want to continue performing laboratory tests before being subject to fees.

Comment: Another commenter did not agree with the concept of provisional certificates and indicated that laboratories should be issued certificates only if they provide evidence of quality control and PT.

Response: In addition to quality control and PT requirements, laboratories must meet requirements pertaining to personnel, patient test management and quality assurance in order to obtain a CLIA certificate. CLIA requires inspections of laboratories to determine the laboratory's compliance with CLIA requirements and standards. The issuance of a registration certificate permits performance of laboratory testing until compliance can be determined by an onsite inspection.

Comment: A few commenters suggested that, if the number of CLIA regulated testing sites is substantial, 10–15 percent of laboratories should be randomly selected for reinspection each year and inspections be conducted of those laboratories which exhibit substandard PT performance.

Response: CLIA requires that inspections of all laboratories issued regular certificates be conducted "on a biennial basis or with such other frequency as the Secretary determines to be necessary to assure compliance with such requirements and standards." The statute also indicates that certificates are valid for no longer than two years. In order to renew the certificate, the laboratory must be evaluated to determine whether it continues to meet Federal requirements.

Comment: Several commenters indicated that the costs involved to obtain certification (for example, enrollment in PT, hiring qualified personnel and the certificate fee) could cause laboratories to stop testing.

Response: The purpose of the CLIA legislation is to ensure the accuracy and reliability of laboratory testing performed on human specimens. We recognize that the costs associated with complying with CLIA may be more difficult for some laboratories than for others; however, the CLIA statute is specific in establishing that the fees imposed shall be sufficient to cover the general cost of administering the CLIA program. To the extent that the complexity of the test performed prescribes that certain requirements be met (for example, personnel standards, participation in PT) the facility may incur increased costs. However, we anticipate that meeting the requirements will benefit patients by increasing the accuracy and reliability of test results. The certificate fees are based on our best estimates of Federal costs associated with the development of the CLIA regulations, implementation, and studies. As better data become available on the costs necessary to operate the CLIA program we will adjust the fee schedules as appropriate.

Comment: One commenter asked for clarification concerning time frames for application for provisional certificates. The commenter also suggested that HCFA publish a chronology outlining the publication sequence of the other CLIA rules with effective dates for implementation and explain how the rules will fit together.

Response: By the time this final rule is published, laboratories subject to CLIA should have submitted preliminary information to HHS. Once this regulation is published and laboratories have had time to review the requirements, each laboratory that has decided to continue or initiate testing based on the requirements of this rule will be required to complete an application for certificate of waiver, certificate, or certificate of accreditation, as appropriate. An entity that conducts only waived tests will be issued a certificate of waiver upon payment of the applicable fee. If a laboratory performs testing other than those listed as waived tests, it will be issued a certificate or certificate of accreditation, as applicable. Inspections to determine compliance will be conducted when required. If the laboratory's existing registration certificate would expire prior to the issuance of a regular certificate or certificate of accreditation, we will reissue the registration certificate, upon payment of the appropriate fees. The Background section of this preamble contains a summary of the other CLIA rulemaking activities.

Comment: Many commenters expressed concern about the requirement for a separate certificate for each laboratory site, believing it to be redundant and only serving to increase the cost of laboratory services, and suggested that if laboratories are part of a multi-site laboratory system, one application for a single certificate would be appropriate. A few commenters suggested that the requirements for certification, while appropriate for a central reference laboratory, are too stringent for facilities performing procedures for screening purposes, and suggested that the requirement for separate laboratory certification of each screening site be waived or eliminated for screening sites.

Response: As we previously indicated in § 493.35, we agree with the commenters and will permit laboratories within a hospital under common direction located at the same street address to apply for a single certificate or multiple certificates. In addition, not-for-profit or Federal, State, or local government laboratories that engage in limited public health testing can operate under one certificate. We are revising the regulation at § 493.43(a) to reflect this change. We are also revising the regulation to clarify that a laboratory that is not at a fixed location, that is, a laboratory that moves from testing site to testing site (such as health screening fairs), or other temporary testing location must file a single application using the address of the home base. Mobile vans providing laboratory testing would require a separate certificate for each van which would reflect the address of the home base. Each testing site would be subject to applicable quality control requirements based on the testing performed or instrumentation or methodology employed.

Comment: Several commenters indicated that the basic differences between central and alternate site laboratories should be recognized in the regulation, as State laws recognize this distinction.

Response: As previously stated, we have attempted to provide flexibility to multiple site laboratories that perform limited testing for screening or treatment of individuals that are directed by not-for-profit organizations or Federal, State, or local governments by permitting them to operate under one certificate. This certificate would allow testing to be performed up to the highest level covered by the certificate for all of the testing sites. Therefore, if the central site has a certificate to perform tests of high complexity, the alternate site which may be performing waived tests under that certificate would be allowed to perform these tests without being required to have its own certificate of waiver.

Comment: Several commenters also indicated that issuing one certificate to an entity with multiple testing sites should not preclude each site from participating in a PT program or complying with the quality control requirements, however such a system would be less costly and disruptive to the laboratory.

Response: Proficiency testing requirements are applicable to a laboratory that is issued a regular certificate or certificate of accreditation. While a facility would not be precluded from voluntarily participating in more than one PT program, it must designate which site and which PT program or programs it will use to fulfill the regulatory requirements of CLIA.

Comment: Many commenters expressed opposition to the proposed information requirements on the certificate applications requiring laboratories to forward to HCFA personnel qualifications, techniques and methodologies employed for testing, and procedure manuals. Not only would this be burdensome, but the commenters felt that it will be impossible for HCFA to review all of the material. The commenters suggested that reviewing these records at the time of inspection should be adequate.

Response: Collection of information concerning personnel qualifications, techniques and methodology are required by CLIA as part of the application process. This information provides basic information on the laboratory operation and is necessary to determine if the laboratory meets the minimum requirements in order for the application to be processed. If the laboratory does not meet our minimum application requirements, there would be no benefit to performing the initial inspection. We have attempted to design application forms that are simple to complete and that will diminish the burden of the application process.

Comment: Other commenters suggested that for military services' laboratories, personnel qualifications could be indicated by specialty codes rather than requiring submittal of extensive documentation. These specialty codes indicate the qualifications and training received by laboratory personnel.

Response: CLIA requires submission of personnel qualifications, including educational background, training and experience of personnel directing and supervising the laboratory and performing the laboratory examinations and other procedures. We have attempted to simplify the information that must be submitted on personnel qualifications and will continue to revise the forms as necessary to reduce the paperwork burden. In order for the information to be consistent we are requiring all applications to be submitted in a uniform manner.

Section 493.45 Requirements for a Registration Certificate

Comment: Several commenters asked for clarification concerning the role of PT during provisional certification. The commenters believe it is unreasonable to require a laboratory to successfully participate in one PT event before a provisional certificate will be issued, particularly since it can take six months or longer for the laboratory to enroll and participate in a single PT event. The commenters suggested that it would be more reasonable and feasible to revoke the provisional certificate based on the first set of results than to bar them from patient testing for such a long period of time.

Response: We agree with the commenters. Under the CLIA fee collection regulation (also published today), laboratories are not required to achieve satisfactory PT performance prior to issuance of a registration certificate. Similarly, under this regulation we will not require satisfactory participation in a PT program prior to the issuance of a registration certificate, and have revised the regulation to delete this requirement from § 493.45(b).

Comment: Several commenters agreed that successful participation in one PT event may not be adequate; however, the proposed requirement for successful participation in three consecutive events may be difficult to achieve. As an alternative, the commenters recommended that the regulation be reworded to require successful participation in two consecutive or two of three PT events.

Response: Due to the phase in of PT requirements and the difficulty PT programs may have in fulfilling laboratory needs, we have removed this requirement.

Section 493.49 Requirements for a Certificate

Comment: A few commenters expressed concern that the fees for determination of compliance that could be in excess of $2,000 every one or two years were excessive for certification of a level II laboratory.

Response: As much more fully described in the regulation pertaining to fee collection (also published in this issue of the **Federal Register**), our fee schedules reflect our best estimates of the current costs associated with implementing and operating the CLIA program. As more definitive data becomes available we will adjust the fee schedules as appropriate.

Comment: Several commenters disagreed with the requirement to conduct unannounced inspections since such inspections can disrupt the laboratory operation as well as compromise patient care. The commenters suggested that laboratories be given minimum notice to ensure the availability of the appropriate supervisory personnel during the inspection. Commenters suggested that 24-hour notice be provided prior to inspection. This would permit the laboratory to schedule additional staff to provide patient care while other staff employees assisted the inspector in the review of patient records, quality control data, laboratory procedures, etc.

Response: As previously explained, the CLIA statute authorizes the Secretary to conduct unannounced inspections and in our experience with conducting inspections for Medicare program purposes, we have found that such inspections more realistically reflect a facility's operation. In general, while initial inspections are not always announced, the schedule for such an inspection is usually known since these surveys are conducted as soon as possible following application of the laboratory. On the other hand, complaint investigations may be scheduled to ensure that appropriate staff and records are available for inspections. Whether the inspection is announced or unannounced, every effort will be made to avoid disruption of the facility's testing activities.

Section 493.51 Notification Requirements for Laboratories Issued a Certificate

Comment: Several commenters supported notification of changes in ownership, name, location and directors, but did not agree that the laboratory should provide notification of changes in supervisors. Since turnover among supervisors is fairly common, they recommended that notice of changes of supervisors be provided biannually or annually.

Response: We disagree with the commenters' recommendation concerning the frequency in reporting changes in supervisory personnel. Such notification is necessary to ensure that the laboratory is employing appropriately qualified personnel as supervisors. We note that due to changes in the personnel standards, this is applicable only to laboratories performing high complexity testing.

Comment: Many commenters indicated that permitting laboratories to wait six months to report changes in test methodologies employed was too long a time period without enforcing appropriate regulations on the laboratory. They suggested revising the requirement to require notification within 30 days since this time period would coincide with the reporting requirements for changes in ownership, director, etc., and it is more important from an inspection standpoint to report changes in test performance than laboratory ownership.

Response: As previously stated, CLIA specifies that a laboratory has up to 6 months to notify HHS of any changes in test procedures, including changes in test methodologies. We have revised the regulation to reflect this change.

Summary of Changes to the Regulation

- We are restructuring the format of subpart C to eliminate duplicative information. We are deleting § 493.37 since it contained information also found in § 493.49. We are no longer requiring separate application for a certificate (the information from the application for registration certificate will be used), and we are deleting § 493.53 and combining appropriate information with § 493.49.

Section 493.43 Requirements for Initial Application for Registration Certificate and Certificate

- We are modifying the title of this section to more accurately reflect its contents. We are changing references to level I and II to moderate and high complexity here and throughout the regulation. We are also changing references to provisional to registration certificate here and throughout the regulation to more accurately portray the purpose of the certificate.
- We are adding exceptions to the application requirement to permit laboratories within a hospital under common direction at the same address to apply for one certificate. In addition, not-for-profit or Federal, State, or local government laboratories that engage in limited (for example, few types of tests) can file a single application. We also clarify that each laboratory not at a fixed location must file an application using the address of the home base, including health screening fairs and each mobile van.
- We are clarifying that the annual total number of tests and examinations performed should not include tests that the laboratory runs for PT, quality assurance, or quality control purposes.
- We are revising language to more accurately reflect the statutory requirement that records and reports must be made available so that HHS may reasonably determine compliance with this section.

Section 493.45 Requirements for a Registration Certificate

- We are clarifying who must have a registration certificate, and that notification of changes in director or supervisor (applicable only to laboratories performing high complexity testing) must also be made within 30 days.
- We are adding specific reference to subpart F, Fee collections, with respect to remittance of fees.
- We are removing the requirement for successful participation in PT prior to issuance of a registration certificate or before expiration of a registration certificate.
- We are clarifying that failure to meet the requirements of this subpart will result in suspension of payments under Medicaid or Medicare.
- We are clarifying that a registration certificate is not renewable but may be reissued if compliance has not been determined by HHS prior to the expiration date of the registration certificate.
- We are restructuring the appeals discussion into a separate subsection for clarity.

Section 493.49 Requirements for a Certificate

- We are adding specific reference to subpart F with respect to fee collection.

- We are stating that an inspection may be performed if HHS has reason to believe that tests are being performed "or the laboratory is being operated" in a manner that constitutes a risk to human health.
- We are adding reference to suspension or denial of payments under Medicaid in addition to Medicare.
- We are restructuring the discussion of appeals to reflect more clearly the process set forth in Subpart R by adding separate subsections.
- We are adding new subsections (g) through (j) to discuss the renewal process that was previously addressed in § 493.53 of the proposed rule (that section has been deleted).

Section 493.51 Notification Requirements for Laboratories Issued a Certificate

- We are combining notification requirements for laboratories performing moderate and/or high complexity testing into one subsection.
- We are clarifying that supervisor change notification is applicable only to laboratories performing tests of high complexity.
- We are revising the regulation to indicate that laboratories with a regular certificate must notify HHS no later than six months after performing any tests within a specialty/subspecialty not included in their certificate.

Subpart D—Certificate of Accreditation

Summary of Proposed Rule

We proposed that subpart D would not be effective until the requirements for recognition of an accreditation program or State licensure program (developed in a separate rulemaking) are published as a final rule, become effective, and HHS has recognized an accreditation program or State licensure program. After HHS recognizes an accreditation or State program under subpart E, laboratories may choose to meet the applicable requirements of Subparts H (Participation in Proficiency Testing for Laboratories Performing Tests of High and Moderate Complexity), J (Patient Test Management for Moderate and High Complexity Testing), K (Quality Control for Tests of Moderate and High Complexity), L (Laboratory Information Systems), P (Quality Assurance for Moderate and High Complexity Testing) and Q (Inspection) by becoming accredited by an accreditation program or licensed under a State program provided the laboratory obtains a certificate of accreditation in accordance with this subpart. Laboratories that are accredited by an approved accreditation program or licensed by an approved State program will be issued a certificate of accreditation in lieu of a certificate. A certificate of accreditation will be equivalent to a certificate.

Under § 493.55, Requirements for initial application for certificate of accreditation, we proposed to require a laboratory performing one or more Level I or Level II tests to file a separate application for each laboratory location. The application would have to be filed on a form prescribed by HHS, and signed by the owner or authorized representative of the laboratory. In addition, the application for the certificate of accreditation in accordance with section 353(d)(1)(A) of the PHS Act, would describe the characteristics of the test procedures or examinations performed by the laboratory including: the number and types of laboratory tests and examinations performed; the methodologies for laboratory procedures and examinations employed and the qualifications of the personnel directing and supervising the laboratory and performing the tests. As required by CLIA, the laboratory must agree to make records available and submit reports to HHS, as necessary.

In § 493.57, we proposed that all laboratories seeking certification through participation in an approved accreditation program or State licensure program would be issued a provisional certificate unless the laboratory holds a valid certificate issued by HHS for performance of one or more Level I or Level II tests or both. Laboratories would be issued a provisional certificate provided they comply with the initial application requirements specified in § 493.55, agree to treat proficiency testing specimens in the same manner as patient specimens, achieve satisfactory performance for one testing event in an approved PT program for each test or examination performed, and remit the provisional certificate fee specified by HHS. Prior to expiration of the provisional certificate, the laboratory must achieve successful participation, as defined in Subpart H (Participation in Proficiency Testing for Laboratories Performing Tests of Moderate and High Complexity), for three consecutive proficiency testing events in a proficiency testing program approved by HHS for each test or examination performed. In addition, the laboratory would have to file an application for a certificate of accreditation as specified in § 493.55 not less than 9 months nor more than 1 year before expiration of the provisional certificate and notify HHS with proof of its accreditation or licensure in an approved accreditation or State program.

In accordance with the provisions of CLIA, that will be implemented as part of a separate rulemaking and located in subpart O, HHS would initiate suspension, revocation or limitation of a laboratory's provisional certificate and would deny the laboratory's application for a certificate of accreditation for failure to comply with the requirements for provisional certificate or application requirements for certificate of accreditation. A provisional certificate would not be renewable and would be valid for a period of no more than 2 years. If the approved accreditation program or State licensure program were unable to conduct an inspection to determine compliance with its requirements before the provisional certificate expires, the provisional certificate would be reissued for solely that period that is needed by the program to determine compliance with its standards.

Laboratories that do not meet the requirements for application for certificate of accreditation in proposed § 493.59 or the requirements of proposed § 493.57 for provisional certificates would be issued a denial of the application for a certificate of accreditation. In this case, HHS would provide the laboratory with a statement of grounds on which the denial is based, offer an opportunity for a hearing as provided in part 498 and notify the laboratory if it is eligible for a certificate as described in Subpart C (Registration Certificate and Certificate).

In proposed § 493.59, we specified the requirements for application for certificate of accreditation. We would require that all laboratories that perform Level I or Level II tests, or both, that are accredited by an approved accreditation organization or State licensure program meet the application requirements for a certificate of accreditation or the requirements for provisional certificate for new laboratories unless the laboratory already has a valid certificate issued by HHS. In order to meet the application requirements for certificate of accreditation, we would require laboratories to:

- Provide HHS with assurances that the laboratory would be operated in accordance with the accreditation or State program requirements;
- Agree to treat proficiency testing specimens in the same manner as patient samples;
- Authorize the accreditation or State licensure program to release to HHS the laboratory's proficiency testing results;

- Agree to permit random sample and complaint inspections as defined in the subpart on Inspection;
- Allow HHS or its designee to monitor correction of any deficiencies identified in random sample or complaint inspections; and
- Authorize the accreditation program or State licensure program to release to HHS the laboratory's survey findings whenever HHS or its designee conducts random sample or complaint inspection surveys.

If HHS determines that the application for a certificate of accreditation is to be denied or limited, HHS would notify the laboratory in writing of the bases for denial of the application, and opportunity for a hearing as provided in part 498. If the laboratory is eligible for a certificate as described in Subpart C (Registration Certificate and Certificate), HHS would advise the laboratory.

In § 493.61, Requirements for a certificate of accreditation, we would specify that laboratories must meet the requirements of § 493.55, Application for certificate of accreditation, and if applicable, § 493.57, Requirements for a provisional certificate for laboratories. We would require the laboratory to pay the certificate of accreditation fee specified by HHS. We proposed that laboratories must treat proficiency testing samples in the same manner as patient specimens; comply with notification requirements specified in § 493.63; meet the requirements of the accreditation or State licensure programs; permit random sample and complaint inspections by HHS or its designee; allow the State inspecting agency to monitor the correction of deficiencies found through the inspections; and authorize the accrediting body to release inspection findings to HHS.

In the event of a non-compliance determination, HHS would suspend or deny payments under Medicare and would initiate action to revoke, suspend, or limit the laboratory's certificate of accreditation. The laboratory would be provided with a statement of grounds outlining the basis for the non-compliance determination and would be offered an opportunity for a hearing as provided in part 498. If the laboratory requested a hearing, we would extend the expiration date of the certificate of accreditation until a hearing decision is issued, unless HHS or its designee finds that conditions at the laboratory pose an imminent and serious risk to human health. In any case, Medicare payments would be suspended or denied pending a hearing decision.

We proposed in § 493.63, Notification requirements for laboratories issued a certificate of accreditation, that laboratories performing one or more of the Level I tests or examinations listed in § 493.20 must notify the approved accrediting body and HHS before performing any test not included as a waiver test or included in the specialties and subspecialties listed on the laboratory's certificate or any Level II tests. Laboratories issued a certificate of accreditation would have to notify the accrediting or State licensure program within 6 months of changes or deletions of test methodologies of Level I or waived tests; and within 30 days of any changes in ownership, name, director(s), or supervisor(s). For laboratories performing one or more Level II tests, we would require notification to the approved accrediting body and HHS, prior to the performance of any test or examination not included as a waived test or included in the specialties and subspecialties of service listed on the laboratory's certificate of accreditation. In addition, we would specify that those laboratories performing Level II tests issued a certificate of accreditation must notify the accreditation program or State licensure program within 6 months of any deletions or changes in test methodologies and within 30 days of all changes in ownership, name, location, director(s), and supervisor(s).

In § 493.65, Requirements for renewal application for a certificate of accreditation, we would require that the laboratory apply for a new certificate of accreditation within 9 months to 1 year prior to the expiration of the certificate of accreditation. To qualify for renewal of a certificate of accreditation, the request would have to meet the requirements of § 493.55, Requirements for application for certification of accreditation and § 493.59, Requirements for application for a certificate of accreditation. We proposed that the laboratory: provide HHS with satisfactory assurances that the laboratory will be operated in accordance with the requirements of the accreditation or State licensure program; agree to treat PT samples as it treats patient specimens; authorize the approved accrediting body to release the results of the laboratory's PT samples; agree to allow random sample and complaint inspections; authorize the accrediting body to release inspection findings whenever HHS or its designee conducts random sample or complaint inspections; authorize the State inspection agency to monitor the correction of deficiencies found by the inspection; and remit the fee specified by HHS. If HHS determines that a laboratory does not meet the requirements for renewal of a certificate of accreditation, HHS would give the laboratory a written statement of the basis for the denial, and opportunity for a hearing to be conducted in accordance with part 498.

Comments and Responses

Approximately 90 commenters, the majority representing physicians, technologists, and professional organizations, submitted opposing views or alternative suggestions to §§ 493.55 through 493.65.

Section 493.55 Requirements for Initial Application for Registration Certificate and Certificate of Accreditation

Comment: Many commenters recommended that deemed status should be given to hospital laboratories which meet the requirements of JCAHO or laboratories certified by COLA, while other commenters questioned whether JCAHO and CAP were not already recognized accreditation programs.

Response: CLIA establishes new requirements requiring each facility subject to its provisions to have a certificate authorizing it to perform testing. CLIA authorizes the recognition of accreditation and State programs that have standards equivalent to or more stringent than the CLIA requirements. On August 20, 1990, we published in the **Federal Register** a proposed rule, which sets forth the criteria for recognition of accreditation and State licensing programs. When that proposed rule is published in final, accreditation organizations and States can submit requests for review of their programs for recognition under CLIA. Programs that were previously recognized under the Social Security Act for Medicare purposes or the Public Health Service Act for CLIA '67 laboratories must reapply for recognition since laboratories are subject to new requirements mandated by CLIA.

Comment: Many commenters indicated that many States have certification or licensure requirements that are as stringent as those proposed in CLIA and recommended that these State programs be granted deemed status. The commenters recommended that all recognized programs should provide on-site inspection for the educational benefit of laboratory staff and for assurance of compliance with standards.

Response: In response to comments received on the August 20, 1990 proposed rule concerning recognition of accreditation organizations and State programs, we reexamined the statutory

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provisions regarding State licensing programs. Section 353(p)(2) of the PHS Act specifies that if a State enacts laws that provide for requirements equal to or more stringent than the CLIA statutory requirements or requirements of regulations, the Secretary may exempt clinical laboratories in that State from the CLIA requirements. We are exempting from the requirements of CLIA, laboratories located in States whose licensure programs are approved by HHS. Such State-exempt laboratories will not require certification by HHS and will not be subject to fees. State-exempt laboratories will be required to permit Federal inspectors to conduct inspections to ensure that standards are being enforced in an appropriate manner. The costs for such inspections will be borne by the State licensure program.

Comment: One commenter questioned whether a home health agency which has a contract with a New York state licensed laboratory would be considered to have deemed status?

Response: If the HHA staff are not testing human specimens for "the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, human beings * * *", and such testing is performed by another entity, that entity and not the HHA would be subject to the CLIA requirements. If the HHA staff performs such testing (as opposed to specimen collection or assisting a patient in his home in performing a test), the HHA would be subject to CLIA requirements. If the HHA were licensed by an approved State laboratory licensure program or accredited by an organization for laboratory services that was approved by HHS, the HHA would be exempt from CLIA requirements or eligible for a certificate of accreditation.

Comment: Many commenters indicated that professional organizations have delays in scheduling inspections that result in longer time period between inspection cycles. The commenters noted that in some instances, "biennial" inspections were scheduled 36 months after the previous inspection; however, the average biennial inspection cycle is 30 months. The most common reasons given for the delays in conducting inspections were insufficient professional volunteers to participate in the inspection process, and late payment of fees to the professional agency to cover the costs of inspection and accreditation. The commenters asked how these problems would be resolved.

Response: As set forth in the CLIA proposed rule pertaining to accreditation, the evaluation of the accreditation or State program will include an assessment of the accreditation organization's or State program's standards compared to the CLIA requirements and assessment of the capability of the organization or State to monitor its participants.

Section 493.57 Requirements for a Registration Certificate

Comment: A few commenters suggested that we require laboratories to notify HHS of successful participation, as defined in Subpart H (Participation in Proficiency Testing for Laboratories Performing Tests of Moderate and High Complexity, in two of the last three PT events, instead of the proposed three consecutive PT events, in a PT program approved by HHS for each test or examination performed, if applicable.

Response: As discussed earlier, we no longer require successful participation in a PT program prior to the expiration of the registration certificate; thus this requirement has been removed.

Section 493.61 Requirements for a Certificate of Accreditation

Comment: A few commenters stated that the fees assessed would impact on the cost of proving laboratory services, particularly since laboratories frequently change the services offered. The commenters asked about the specific costs for upgrading or reissuing a certificate.

Response: The actual fees to be assessed are specified in a separate CLIA User Fee Final regulation, published elsewhere in this issue of the **Federal Register**.

Comment: A few commenters recommended that HCFA develop a process and time frame to allow a laboratory to come into compliance *prior* to suspension of a certificate. This would require written notification to the laboratory detailing the specific reasons for noncompliance and recommendations for achieving compliance and provide a reasonable time frame for the laboratory to comply with the requirements. The commenters also recommended that Medicare payment not be denied while the laboratory awaits a hearing decision. If a laboratory receives a favorable judgement from a hearing or is able to reestablish compliance within a reasonable timeframe, it should not be burdened with reapplication for approval for Medicare payment.

Response: For a full explanation of enforcement procedures for CLIA laboratories, we refer readers to the proposed rule, which was published on April 1, 1991 and the final rule published today.

Changes to the Regulation

In addition to minor editorial changes for consistency with other regulations, the major changes to this regulation are summarized below. We restructured the format of this subpart to eliminate repetitious language and deleted §§ 493.59 and 493.65, combining appropriate parts into § 493.61. We are also exempting from the requirements of CLIA laboratories located in States whose licensure programs are approved by HHS. Such State-exempt laboratories will not require certification by HCFA and will not be subject to fees.

Section 493.55 Application for Registration Certificate and Certificate of Accreditation

- We are no longer requiring separate application for a certificate of accreditation since information from the application for registration and accrediting body will be used.
- We are making an exception to the application requirement to permit laboratories within a hospital under common direction at the same street address to apply for one certificate.
- Not-for-profit or Federal, State or local government laboratories that engage in limited testing (i.e., few types of tests) may file a single application.
- We are clarifying that each laboratory not at a fixed location must file an application using the address of the home base, including health screening fairs and each mobile van.
- We are clarifying that the annual total number of tests and examinations performed should not include tests the laboratory runs for proficiency testing, quality assurance, or quality control purposes.

Section 493.57 Requirements for a Registration Certificate

- We are removing the requirement that a laboratory successfully participate in PT prior to issuance of a registration certificate or before expiration of a registration certificate.

Section 493.61 Requirements for a Certificate of Accreditation

- We are adding specific reference to Subpart F concerning remittance of fees.
- We are adding requirements from proposed § 493.65 (now deleted) concerning release of PT and inspection findings.
- We are adding reference to effect on Medicaid in addition to Medicare.
- We are adding discussion concerning the effect on a laboratory's

certificate if accreditation organization approval is removed.

- We are adding new subsections to discuss a renewal process that was previously addressed in § 493.65 of the proposed rule, which is now deleted.

Section 493.63 Notification Requirements for Laboratories Issued a Certificate of Accreditation

- We are providing that a laboratory with a certificate of accreditation must notify the accreditation program no later than 6 months after performing any test within a specialty/subspecialty not included in the certificate.
- We are revising the regulations to provide that a laboratory must notify only the accreditation program of deletions or changes in tests included in the certificate.

Subpart G—Administration

Summary of Proposed Rule

We proposed that laboratories must comply with Federal, State and local laws, and the standards of the National Fire Protection Association (NFPA).

We received comments opposing the requirement for laboratories to comply with all applicable Federal, State and local laws in Subpart G, Administration. Some commenters noted this requirement would authorize the Department to enforce regulations beyond the scope of CLIA, which is to ensure the quality of laboratory services.

CLIA neither authorizes the exemption of any laboratory from other applicable Federal, State or local laws, nor does it authorize the enforcement of regulations outside the scope of the statute. Therefore, we are deleting the requirements in this subpart as redundant.

State and local laws that are more stringent than Federal requirements take precedence over the Federal regulations. Laboratories subject to other applicable Federal laws will be required by the Federal agency with jurisdiction to comply with those laws.

Subpart H—Proficiency Testing for Laboratories Performing Tests of Moderate and High Complexity

Summary of the Proposed Rule

We proposed this subpart as, "Participation in Proficiency Testing for Laboratories Performing Level I and Level II Tests," but have renamed it to be consistent with changes in the categorization of tests under § 493.10.

Proposed subpart H contained descriptions of general requirements a laboratory must meet for enrollment in a proficiency testing (PT) program, for testing PT samples, and for successful participation. Also described were the conditions applying to PT which must be met for certification and for reinstatement after a failure to participate satisfactorily in PT. Specific PT requirements for each specialty were proposed.

These proposed PT requirements emphasized the importance of achieving a passing score on PT samples of known content, which have been tested in the same manner as the laboratory tests patient specimens, to provide a measure of a laboratory's quality. The procedures monitored by the proposed regulatory PT program focused on tests which are commonly performed or whose results are critical in health care, or both.

In § 493.801, Condition: Enrollment and testing of samples, we proposed that a laboratory seeking certification must notify HCFA of the approved PT program in which it has chosen to enroll for each specialty and subspecialty. If a laboratory chooses to participate in more than one PT program for a specialty or subspecialty, we proposed that it must designate which program it wishes to use to comply with PT requirements. It would then have to participate in the chosen program for quarters before designating a different program for PT compliance. The laboratory must agree to allow all PT programs in which it participates to release PT performance data to HCFA. The laboratory must examine or test the PT samples in a manner as close as possible to the same manner that it tests patient specimens and must maintain records to document how PT samples were handled within its facility. We proposed that interlaboratory communications about PT results before they are reported and referrals of PT samples to another laboratory for testing be prohibited.

Section 493.803, Condition: Successful participation, would require a laboratory that does not successfully participate in PT for an analyte or test or a specialty or subspecialty be subject to termination of its certificate or intermediate sanctions.

In § 493.805 Condition: Satisfactory participation before provisional certification or revising a certificate to include additional specialties and subspecialties or services, we proposed to require a laboratory to demonstrate satisfactory performance in one PT testing event before a laboratory would be eligible for a certificate or to add a specialty or subspecialty to its certificate.

In § 493.806 Condition: Successful participation before certification, we proposed to require a laboratory to demonstrate satisfactory performance for each specialty or subspecialty in three consecutive testing events before its provisional certificate expired.

Section 493.806 Condition: Reinstatement of laboratories performing Level I and Level II tests after failure to participate successfully, would require a laboratory whose certificate was suspended or whose Medicare approval was terminated or who had voluntarily withdrawn its certification to demonstrate satisfactory performance in three consecutive PT testing events before HCFA would consider reinstatement. In any event, the period of termination would not be less than six months.

Sections 493.821 through 493.865 contain proposed criteria for acceptable performance for each specialty and subspecialty which a laboratory would have to meet to participate successfully in a PT program. For most analytes or tests examined and for most specialties and subspecialties, a score of 80% would be considered a reasonable and achievable level of performance. However, for immunohematology, in which even one error can have serious and immediate consequences, we proposed to require a performance level of 100% for certain components of this specialty.

Sections 493.855 described the proposed requirements for successful participation in a cytology PT program for gynecologic examinations (Pap smears). We proposed that each individual engaged in the examination of gynecologic preparations be tested twice per year. One examination would be an unannounced, on-site test that was conducted annually in each laboratory, and one would be one of four off-site tests conducted annually in each State. We proposed that certain events would occur if an individual scores less than 80 percent on a test set. The laboratory would be responsible for:

- Providing the individual with immediate remedial training in the area of failure;
- Assuring the all subsequent gynecologic slides were reexamined until the individual passed a testing event; and
- Reexamining the last 500 slides (500 negative slides if the individual who failed the testing event was a cytotechnologist) examined by the individual before the failed testing event.

We proposed that if a laboratory failed to take the required remedial actions when one or more individuals failed a testing event we would initiate intermediate sanctions, revoke the laboratory's certificate for gynecologic cytology and terminate the laboratory's Medicare approval for gynecologic cytology testing.

Due to the vast number of newly regulated laboratories expected to be enrolled in proficiency testing (PT) for the first time under this rule, PT requirements are being phased in to allow laboratories and regulatory agencies adequate time to meet requirements. These never before regulated laboratories will be required to enroll in a PT program approved under this rule by January 1, 1994. Sanctions for previously unregulated laboratories arising out of PT failures will begin on January 1, 1995.

While this phase-in period is necessary for previously unregulated laboratories (and for PT programs that will need the extra time to acquire and prepare the greatly expanded volume of samples required), its application to those laboratories that have previously been required to participate successfully in PT under Medicare/Medicaid and interstate laboratory regulations published on March 14, 1990 would be problematic. These laboratories have experience with PT and currently subscribe to PT programs that can meet their needs. Therefore, we could see no basis for exempting these laboratories from PT during the phase in period applicable to previously unregulated laboratories.

We considered two other possible approaches to the problem of how best to deal with PT requirements in previously regulated laboratories. First, we could have carried forward the PT standards from the March 14, 1990 rule until newly regulated laboratories were fully on board. This approach would have been consistent with the CLIA legislative history which contemplated the carrying forward of current standards until they could be replaced by those that would implement CLIA. Also, it would not be disruptive to currently regulated laboratories since they would carry on with their current PT participation. This approach, however, would have severe repercussions for PT providers. Specifically, carrying forward the current PT requirements for one set of laboratories, while simultaneously asking PT providers to develop other programs for the greatly expanded regulated universe that will be participating in PT on January 1, 1994, would be excessively burdensome on those programs and would ultimately slow the pace of CLIA implementation. Thus, we concluded that it would not be productive to have current PT programs maintain the current system of four PT events per year while at the same time gearing up for production, scheduling, processing and reporting for a system of three events per year. Nor did we wish to see PT programs literally having to run two different systems during 1993.

Second, we considered applying the new PT requirements immediately to the currently regulated laboratories while permitting newly regulated laboratories the phase-in period described earlier.

We have opted for the second approach, and rejected a third possibility that currently regulated laboratories would be exempt from PT for two years. As we have explained, these laboratories are already accustomed to enrollment and participation in PT programs, and we could see no reasons to risk lowering the quality of laboratory services by dropping the PT requirement altogether until January 1, 1994. For the reasons stated above, we also rejected as infeasible and counterproductive carrying over the PT requirements from the March 14, 1990 regulations.

As a practical matter, currently regulated laboratories will be unaffected during the calendar year 1992, since they have already purchased their complete PT programs for the full year. By 1993, the PT providers will be ready to offer PT to the previously regulated laboratories using the three event schedule, while they are also gearing up for the greatly expanded PT enrollment expected by 1994 from the previously unregulated laboratories. This approach affords a smooth transition to the full implementation of CLIA PT requirements while, at the same time, maintaining PT participation by those laboratories that have been receiving Medicare or Medicaid payments and/or been engaged in interstate commerce under the March 14, 1990 regulations.

Moreover, laboratories that have been participating in PT programs under the March 14, 1990 regulations ought to be satisfied with this approach since it was clearly within our authority to maintain the current, and somewhat more rigorous, PT demands of those regulations until January 1, 1994. We wish to emphasize, however, that the substitution of three PT events for the current four annual events does not decrease our ability to identify poor laboratory performance, nor does it signal a diminution of laboratory standards since we believe that the complementary requirements of quality control, quality assurance, and patient test management provide a comprehensive regulatory scheme that we believe should enhance the quality of laboratory services performed in this country.

The relationship between proficiency testing and the quality of laboratory testing will be examined as part of the CLIA studies. Every effort will be made to develop information on proficiency testing as quickly as possible. When the data is available, it will be used as a basis for making corrections and modifications, and to refine the proficiency testing standards in the regulations.

Comments and Responses

Approximately 5,700 comments were received in response to the proposed PT regulations. Of these comments, 61 percent addressed concerns about PT participation, 34 percent addressed topics related to PT program operations and logistics, and 5 percent addressed PT definitions.

About 38 percent of the comments were provided by physicians, another 32 percent were from individuals working in independent and hospital laboratories or professional organizations representing such individuals or facilities, 11 percent were from PT program providers, and the remainder were from a variety of individuals, including patients and the general public.

Comments to the proposed PT requirement for cytology were analyzed separately from those to the other specialities and subspecialties. Since the regulations in this subpart are so similar to the final rule with comment published on March 14, 1990 (55 FR 9538), we are considering comments from both that final rule and this proposed rule in making revisions in the requirements for PT in cytology.

We received a total of 2,600 letters in response to the cytology requirements in the March 14, 1990 rule. These letters contained nearly 7,000 opinions and suggestions (comments) on participation in PT (§ 493.855) and 1,500 comments on the PT program (§ 493.945). In response to the cytology requirements in this proposed rule, we received 900 letters that contained approximately 1,700 comments on cytology PT participation and 470 comments on the cytology PT program. The majority of the comments were from individual laboratory professionals, primarily pathologists, cytotechnologists and medical technologists. We also received comments from provider organizations, professional organizations, and other health care professionals.

Comment: Commenters recommended that the studies called for by CLIA be completed before final regulations are written.

Response: The CLIA studies are extremely complex research projects and will require several years to complete. Therefore, while the results of these studies may impact future regulatory requirements, they should not delay implementation of basic good laboratory practice standards included in this regulation.

Comment: One commenter suggested that there is a need to allow for interim provisions for in-house blind testing and sharing specimens for histology and histocompatibility testing.

Response: Under Subpart P, Quality Assurance for Moderate or High Complexity Testing, or both, we have provided for determining the accuracy of tests not covered in subpart I.

Section 493.801 Condition: Enrollment and Testing of Samples. (Previously Named, Condition: Enrollment and Testing of Samples for Laboratories performing Level I and Level II tests)

Comment: Commenters recommended that we phase in PT programs over two years.

Response: We agree that immediately implementing PT requirements for a vast number of newly regulated laboratories would place an unacceptable burden on such laboratories as well as on PT program providers and HHS and its designees. Therefore, we have decided to allow a two-year phase-in PT for enrollment of newly regulated laboratories, but will continue to require PT participation for laboratories that were regulated under the March 14, 1990 rule. A two-year phase-in, until January 1994, for enrollment of previously unregulated laboratories will allow the PT providers time to expand their programs to accommodate the increased number of laboratories and also allow regulatory agencies sufficient time to develop processes to monitor laboratory performance and apply sanctions.

Comment: Commenters recommended that a laboratory be allowed to change PT programs to best meet its needs.

Response: Section 353(f)(3) of the PHS Act requires that laboratories issued a certificate be proficiency-tested for each examination or procedure conducted within a category of examinations or procedures for which it has received a certificate, except for examinations or procedures for which a proficiency test cannot reasonably be developed.

Recognizing the technical and administrative difficulties that would be encountered by laboratories, PT program providers, and HHS or its designees if PT were required immediately for all procedures and examinations, we are phasing in PT. Therefore, although many external assessment programs provide evaluations of laboratory performance for a wide variety of tests, in order to guide efforts to improve laboratory performance, we have initially selected only those tests for which assessments of laboratory performance can be implemented uniformly on a national basis in a regulatory context for inclusion in the mandated PT evaluation program. We are not including in the required PT program those tests for which stable materials have not been developed, those for which the scientific community has not agreed upon what should be and can be measured, nor those tests for which we have been unable to evaluate the performance of laboratories to determine appropriate grading criteria.

For those tests that are not included in the uniform graded PT program, a laboratory must establish the accuracy and reliability of its testing procedures. A laboratory may either subscribe to an external assessment program that monitors these tests at least twice a year, or share split samples with another laboratory or incorporate known valued materials as unknowns in the testing process.

For those procedures and examinations that are included in the required uniform PT program, our interpretation of Congressional intent is that a laboratory using more than one method need only participate in PT for the test system, assay, or examination. For example, if a laboratory uses three different test systems to perform cholesterol measurements, it must participate in PT for only one of these systems in a PT testing event. This must be the method that is used as the primary system or is located at the principle site of patient testing during the time that the PT event is being conducted. We also are requiring that the laboratory establish the relationship between the results obtained with the other test systems and the system being evaluated by PT as part of the laboratory's quality assurance program.

In the same manner, a laboratory performing testing at multiple sites under one certificate must either participate in PT for each site or it must establish and maintain a fixed relationship between the results obtained at each site with those obtained at the principle site used for patient testing. In such cases, the laboratory must select the principle patient testing site as the site to be evaluated by PT.

A multiple-site laboratory, which is covered by a single certificate and elects to participate in PT only at its principal patient testing site, must appreciate the fact that a failure in PT could lead to the revocation of its certificate for all sites, not just for the one participating in PT. Laboratories are allowed to change from one HCFA-approved PT program to another approved program after they have been enrolled for one year.

Comment: Some commenters recommended that we change the requirement for a laboratory to examine or test PT samples in the same manner as it tests patient specimens. These include: to delete the requirement, to add a qualifying statement "where reasonable and practical and/or possible," to place no restrictions on repeat testing of samples, to allow inter-laboratory communication after PT results are submitted, to apply the same criteria for referral of PT samples as used for referral of patient specimens, to treat documentation for PT samples and patient specimens in the same manner, and to require the regulatory agency to investigate any allegation that a PT sample might be referred to another laboratory rather than require the laboratory to report suspicious behavior.

Response: Since the requirement for a certified laboratory to treat PT samples in the same manner as it treats patient specimens referred to it in the ordinary course of business is specifically stated under section 353(d)(1)(E) of the Public Health Service Act, it cannot be deleted. We agree with the commenters that this requirement only applies to the extent that a PT sample is similar to a patient's specimen—that is, some PT samples are lyophilized and must be reconstituted before analysis, unlike a patient specimen. However, the intent is for the laboratory not to otherwise treat the PT samples uniquely by performing more analyses or a different type of analysis than that which would be applied to a patient specimen; repeated analysis of PT samples is not appropriate unless patient specimens are similarly tested.

We have clarified our intent under paragraph (b)(3) of this section to allow inter-laboratory communication about results after the date by which a laboratory must report results to the program for the testing event.

Under paragraph (b)(4), we indicate that PT specimen referral is not necessary for purposes of PT, since a laboratory is being evaluated on the basis of its own level of service, not on any combination of service between it and another laboratory. We understand that this violates the condition of treating the PT sample like it would treat a patient's specimen in this instance. It was the intent of paragraph (b)(4) for the regulatory agency to investigate any allegation that a PT sample might be referred to another laboratory, but such allegations may require other laboratories to report suspicious behavior.

We concur that the intent of paragraph (b)(5) of this section is for a laboratory to treat documentation for PT samples and patient specimens in the same manner.

Section 493.803 Condition: Successful Participation

Approximately 1,500 comments were received in response to this section of the proposed rule. Over 95 percent of the commenters opposed the requirement to apply sanctions to a specialty or subspecialty based on the PT failure for an analyte or test within the subspecialty or specialty.

Comment: A large number of commenters strongly objected to losing certification for a specialty or subspecialty if a laboratory performed unsuccessfully for the challenges on a given analyte; the commenters also opposed the loss of certification in the respective specialty if the laboratory performed unsuccessfully in a given subspecialty.

Many comments provided recommendations or alternative suggestions to this regulation including the following:

- Establish a probationary period for the laboratory to investigate and clarify an event following a failure;
- Establish an appeal mechanism for failures;
- Conduct either a pilot or phase-in the PT program before implementing penalties;
- Use a training/education focus;
- Establish an "investigational status" for any laboratory that has failed PT or voluntarily withdrawn;
- Correlate suspension/termination with the instrument/method used for testing the analyte or group of analytes, since specialty/subspecialty categories may not be relevant to the state-of-the-art technology;
- Place the laboratory at risk for only the failed analyte;
- Continue testing the analyte by another method, if the analyte was performed routinely using more than one method;
- Withhold action against the laboratory until there are serious problems with several analytes in specialties/subspecialties;
- Give the laboratory the option to withdraw from testing for the failed analyte;
- Delete § 493.801(b) of this regulation and refer to paragraph (h) "Intermediate Sanctions" in the Act; and
- Base adverse actions only on true failures.

An additional suggestion provided by one commenter for the specialty of chemistry was to suspend by analyte only if the overall score for the specialty falls below 80 percent.

Response: We agree with the commenters that the loss or limitation of a laboratory's approval or certification for a specialty or subspecialty if a laboratory performs unsuccessfully for the challenges on a give analyte is a heavy penalty. A laboratory performing unsuccessfully for an analyte or challenge can choose to voluntarily withdraw from participation in PT, by all methods, for that analyte or challenge, thereby losing the ability to perform the test, without causing the loss of approval or certification for the entire specialty or subspecialty. In addition, we have included provisions for invoking an intermediate sanction, as opposed to loss of approval or revoking a license for the entire specialty, whenever failure is limited to an analyte or test or for a subspecialty.

We are aware of the need to provide an opportunity for a laboratory to identify and to correct unsatisfactory performance before voluntarily withdrawing service or having sanctions imposed. We are reducing the number of testing events per year from four to three in order to allow more time between testing events for corrective action before sanctions are applied.

Section 493.805 Condition: Successful Participation Before Initial Aproval of Licensure

Comment: A few commenters recommended an expedited PT schedule for new laboratories awaiting a provisional certificate. One felt that this could be accomplished by allowing laboratories to request PT samples from previous PT events. Another commenter felt that a provisional six-month certificate should be issued when laboratories are awaiting PT test results, if their compliance with all other regulations has been verified. A few commenters expressed concern that this regulation will cause delay in the institution of new tests and provision should be made to allow parallel testing or split samples to verify satisfactory performance for a new test.

Response: We agree that the requirement for demonstrating satisfactory performance in one PT testing event before certification or revising a certificate is not necessary and have deleted it from the regulations.

Section 493.806 Condition: Successful Participation Before Certification

Comment: One commenter suggested expediting the certification process; another suggested changing this requirement so that laboratories would be obligated to pass only two consecutive or two of three PT events in order to obtain certification; and a third suggested that a laboratory not be denied certification because the PT program was not able to provide material.

Response: The number of testing events per year has been reduced to three. We have also eliminated the requirement that a laboratory must demonstrate satisfactory performance before issuance of a certificate.

Section 493.807 Condition: Reinstatement After Failure To Participate Successfully

Comment: Many commenters felt that a waiting period of not less than six months from the date of termination of Medicare approval or CLIA certification was too long to wait and therefore wanted the reinstatement process expedited. Many others felt that less than three PT events should be required for reinstatement because a laboratory cannot improve when it is not testing. Some felt that one on-site PT was sufficient for reinstatement, while some others felt that no on-site PT was needed since on-site PT was considered to be expensive, not cost effective, and burdensome. A few commenters felt that a special PT challenge should be provided. A few others felt that instead of the termination period the laboratory should be reinstated when it can demonstrate that the problems leading to the failure have been corrected and it is successful in two PT events.

Response: We feel that after a laboratory has voluntarily withdrawn from offering service or has been terminated, a requirement to demonstrate that problems have been corrected is essential before service can be resumed. A period of six months may seem excessive to some; however a failing laboratory had at least this amount of time to correct its performance problems before it failed and was unable to do so. We feel that the criteria for reinstatement should include two consecutive PT testing events to demonstrate that the problem(s) have been corrected which would require a minimum of six months.

Although an on-site PT event will not be required prior to reinstatement, we retain the right to use on-site PT, if necessary. On-site PT offers an inspecting agency the opportunity to observe the testing process and can help to identify source(s) of error.

Sections 493.821 through 493.865 Proficiency Testing by Specialty and Subspecialty (Except § 493.855, Cytology)

Comment: Some commenters opposed setting the score for satisfactory performance at 80 percent and were in favor of a lower passing score. An 80-percent score was viewed as an unduly harsh and unrealistic requirement. It was also considered by some to be too inflexible for some testing areas such as bacteriology. One commenter suggested that the 80-percent score should be a cumulative score for two PT events, while another recommended that the scoring be suspended until a pilot program determines an appropriate value. Another commenter proposed adopting the Commission on Office Laboratory Assessment (COLA) requirements for successful participation. Another commenter suggested a minimum passing score of 90 percent if the director is qualified as a M.D., Ph.D., or D.O. An additional suggestion offered for this regulation was that an overall score of 60 percent be used for satisfactory performance if less than 10 challenges are provided.

Response: We feel that a laboratory that meets acceptable standards of laboratory performance should be able to maintain at least 80 percent of its results for analytes or tests in any specialty/subspecialty within the limits of acceptable performance described in these regulations. Several factors were taken into account in establishing an 80 percent performance requirement including: A review of historical data that documented the ability of most laboratories to achieve this level of performance; the probability that a poorly performing laboratory will be identified as such; and the probability that a laboratory with acceptable performance will not be misidentified as a poor performer. This requirement does not imply that more than 20 percent of the results obtained in a laboratory that occasionally achieves a score of less than 80 percent jeopardizes patients' care. However, a laboratory that cannot achieve scores of at least 80 percent over an extended period of time does pose an added risk to the public. Therefore, we are retaining the requirement of at least an 80-percent overall score as a criterion for satisfactory PT performance in all areas.

Comment: A few commenters proposed 100 percent for an analyte score for diagnostic immunology, chemistry, and hematology. A few commenters felt that the 80 percent analyte score was unduly restrictive, while another suggested an analyte score of 90 percent.

Response: We consider a requirement of at least 80 percent for most areas as reasonable. Since we are requiring five samples per testing event, less than an 80 percent score would mean a laboratory tests only three of five samples (60 percent) accurately.

Comment: A few commenters felt that flexibility should be provided in the program to allow a laboratory to continue patient testing if the laboratory's inability to submit a result is due to an unusual event such as a loss of sample(s) or a logistic breakdown in the PT system. It was further suggested that sanctions should not be imposed during the appeal process. One commenter proposed that a score of "0" should be given to laboratories that fail to participate in a particular survey regardless of their past participation, while another commenter felt nonperformance should be fineable offense rather than a "0" score. One commenter suggested a separate category for a test not performed.

Response: Since flexibility has been given in §§ 493.821 through 493.860 of this regulation to PT program providers to permit them to compensate for problems in the testing process, we do not feel that a laboratory will be inappropriately penalized for failure to participate.

Comment: Although the time frame is not specified in the regulations, two commenters replied that in small laboratories, a turn-around time of 5–7 days could be a hardship and that a turn-around time of 10–15 days would be more realistic.

Response: We feel that the time frame for reporting results should be determined by the PT provider(s). Since there were no comments opposing this regulation we are adopting the content of the proposed rule as final.

Comment: One commenter proposed the terminology "unsuccessful" rather than "unsatisfactory" with regard to immunohematology. One commenter also requested clarification of the term "appropriate" as applied to training. One suggestion, specific for microbiology and diagnostic immunology, was that the laboratory in question should investigate the problem, take corrective action, document the findings and retain the records for two years or until the next inspection, whichever is later. One commenter suggested that an outside source be consulted for technical assistance with a PT failure; another commenter requested that the laboratory be allowed 90–120 days to correct the problem.

Response: The term, "unsatisfactory" relates to the failure in a PT event, while the cumulative effect of these testing event failures leads to "unsuccessful" overall performance.

The term "appropriate" refers to the level of training/technical assistance needed to correct problem(s) where failures occurred, and thus enable the laboratory to reach satisfactory status. The laboratory is free to choose its own form of remedial action, provided that it corrects the problem(s) after the first failure.

A statement or plan of corrective action may be required by the regulatory agency and any such actions must be documented. We have increased the time between testing events, which will allow more time for corrective action to occur before the next testing event.

Comment: In diagnostic immunology, one commenter suggested substituting "marginal performance" when a laboratory fails to "achieve satisfactory performance for the same analyte or for an overall testing event in two consecutive testing events, or two out of three consecutive testing events." One commenter suggested that unacceptable performance should only apply after failure of three consecutive testing events or three out of four testing events. Another asked that the criteria for unsuccessful performance be appropriate to the type of specimen.

Response: We feel that unsatisfactory performance should be corrected as soon as possible. Therefore, a plan of corrective action may be required by the regulatory agency after one unsatisfactory testing event. This permits a laboratory to correct its "marginal performance."

By reducing the number of testing events per year from four to three, we have allowed more time for corrective action to occur before the next testing event.

Specimen type has been considered in developing the PT program. A laboratory will be evaluated based on the type of specimen it ordinarily examines. As other specimen types are added to the program, appropriate criteria for unsatisfactory performance will be developed for these specimen types.

Comment: One commenter recommended that for microbiology and diagnostic immunology "marginal performance" be substituted for "unacceptable" in the instance when a laboratory does not score satisfactorily on two consecutive testing events or two out of three testing events. They further

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recommended adding the actions that a laboratory must take to address "marginal performance". A few commenters suggested changing unacceptable performance to either three out of four testing events or four out of six testing events.

Response: We have taken into account concerns over "marginal performance" by allowing time for corrective action to occur. We are specifically delaying the imposition of adverse actions until a laboratory has demonstrated unsatisfactory performance on two consecutive or two out of three testing events.

Comment: A few commenters felt that a 100-percent performance requirement should be changed to 80 percent; one commenter felt the requirement should be "less than" 100 percent; and another commenter wanted the 100 percent performance requirement deleted. One commenter requested clarification of the concept of how "analyte" applies to "antibody identification".

Response: Those specialty/subspecialty tests for which a 100-percent performance standard is required are those for which mistakes in testing could have an immediate and profound effect on patient care. We will retain the 100 percent analyte score for the ABO/Rh group and compatibility testing in recognition of their importance. As indicated previously, a laboratory that achieves a score of 80 percent does not imply that 20 percent of its results jeopardize patient care. However, sustained scores of less than 80 percent indicate chronic performance problems that could affect patient care and must be corrected.

The definition for the term "analyte" under § 493.2 is applicable to "antibody identification."

Comment: Many commenters felt the concept that PT samples are the same as patient samples is unrealistic and consequently wanted an overall score requirement of 80 percent rather than 100 percent for ABO/Rh group, and compatibility testing. However, one commenter suggested a score of 90 percent overall; one a score of 60–80 percent, and another wanted the requirement deleted in its entirety.

One commenter suggested that if the number of challenges was increased, a 90-percent score would become acceptable.

Response: We disagree with the commenters. We require at least 95 percent agreement on the correct response for such tests before they are evaluated, which compensates for unrealistic samples. Given the importance of accuracy in these tests we will retain the 100 percent overall score for ABO/Rh group and compatibility testing.

Section 493.855 Cytology

Comment: Most commenters did not object to participating in a PT program for gynecologic cytology. However, some who did object recommended that quality control and quality assurance measures be used instead of PT to identify individuals who need remediation. Several stated that the proposed regulations placed too much weight on PT as a measure of quality; some suggested that mandatory continuing education be substituted for PT. A few others recommended conducting pilot studies or initiating cytology PT on a trial basis before a national program is established.

Response: CLIA mandates PT for cytology. The primary purpose for PT is to identify performance problems that need correction or improvement and to ensure that good performance is maintained over time. Quality control and quality assurance, in conjunction with PT, identify performance problems. We recognize the value of continuing education, but do not think that it can substitute as a measure of performance.

PT as described in the revised § 493.855 is a means to identify individuals who need intensive remedial education to improve their performance. While pilot PT programs for cytology may be worthwhile, we believe we have developed reasonable and achievable standards based on information and implementation experience from existing State PT programs for cytology. Revisions in the requirements for PT will be based on recommendations of the Clinical Laboratory Improvement Advisory Committee. We believe that the revisions described herein provide the framework for a PT program that is reasonable and achievable.

Comment: An enormous number of commenters opposed the requirements under § 493.855(a) describing PT for individuals. A large number of commenters felt that the requirement for testing individuals, in particular pathologists, was tantamount to recertification and could supersede State medical licensing and medical specialty recertification prerogatives. Many suggested testing the laboratory as a whole instead of individuals. They asserted that testing the laboratory was the most cost-effective and realistic measure of day-to-day quality and would allow for the normal teamwork among pathologists and cytotechnologists. Some commenters expressed concern that individual testing measured test taking skills rather than performance ability.

Response: CLIA requires periodic confirmation and evaluation of the proficiency of individuals involved in screening and interpreting cytologic preparations. This evaluation is intended as a measure of performance only in the area of gynecologic cytology, and therefore does not threaten or supersede medical licensure or certification. Unlike most other laboratory subspecialties, the quality of cytology testing depends on the recognition and interpretive skills of the individual cytotechnologists and pathologists; therefore PT is focused on measuring these individual skills.

Comment: An overwhelming number of commenters were opposed to participating in PT twice per year as required under proposed § 493.855(a). The majority suggested changing the frequency of testing to every one or two years. Other suggestions ranged from four times per year to every five years. A few commenters suggested variable testing schedules in which testing frequency would be reduced for those individuals with successful participation and increased for those who were unsuccessful. Commenters said that biannual testing was excessive and that skills are not lost in six months. No State conducts biannual testing currently, some added. They also pointed out that there is no data to support that the frequency of PT in the proposed regulation will improve the quality of cytology laboratory test results.

Response: In response to these comments and other considerations, we are initially establishing the frequency for cytology testing events for each individual at once per year (unless the individual fails a testing event). We have made this change from the proposed rule on the basis of the specific cytology PT requirements at section 353(f)(4)(B)(iv) of the PHS Act. Here, the law requires that the Secretary establish "periodic" evaluation of individuals involved in screening or interpreting cytological preparations. This is in contrast to the general PT requirement for at least twice annual PT set forth at section 353(f)(3)(A) of the PHS Act. We believe that we may interpret the cytology provision as the one that governs since Congress was so specific in the law. Accordingly, we believe that we have the discretion to define "periodic" for cytology PT, and have concluded that it permits once annual PT for each individual engaged in screening or interpretation of cytological preparations.

Since there is currently no cytology PT being conducted on a national basis, the logistics for establishing and administering such a program must be developed. We expect that the establishment of a program will take a considerable period of time, since a number of tasks must be accomplished, such as the accumulation and referencing of slides and the development of scoring and reporting systems. In addition, we anticipate that administering the program will involve coordination with State survey agencies and the establishment of systems to schedule testing events, distribute test sets and conduct on-site testing. In light of the anticipated time required for development of the program, we are allowing laboratories previously unregulated until January 1, 1994 to enroll all individuals involved in gynecologic cytology slide examination in an approved PT program.

Comment: A large number of commenters addressed the requirements under proposed § 493.855(a) for unannounced, on-site testing and announced, off-site testing events. Many commenters had no problem with on-site testing events, but said that they should be announced. They stated that unannounced testing will be disruptive, costly and inefficient, since many examinees may be absent on the test date. They also said there was no real benefit to totally unannounced testing since preparation for this type of test is not possible. A few commenters suggested that the week of the on-site testing be announced but not the day. A few commenters suggested that on-site testing be reserved only for remedial actions. Numerous commenters preferred a mailed PT program over on-site or off-site testing, saying that it would be more cost-effective. Some recommended regional or statewide testing instead of on-site testing and a few suggested that this off-site testing be used in combination with mail-out challenges and on-site evaluations, with the laboratory given the option of choosing sites and testing format. Other commenters recommended the elimination of off-site testing because it could not be characterized as being "under normal working conditions". Some commenters noted that off-site testing is costly in terms of travel expenses and time lost from work and that it could cause delays in reporting patient results and increase the cost of Pap smears. Some commenters stated that it would be extremely difficult for small laboratories to participate in an off-site program. A few commenters suggested a testing format based on an on-site review of random cases by outside cytology professionals.

Response: Standards in CLIA under section 353(f)(4)(B)(iv) of the PHS Act mandate both announced and unannounced on-site PT of individuals. Therefore, we are retaining the requirement for announced and unannounced on-site testing. We agree with commenters that in most instances announced testing is preferable. However we are retaining the option to conduct unannounced testing, if needed, in laboratories on which we have received complaints, for example. We expect that testing will typically be announced and are requiring that PT providers schedule the on-site events at least 30 days in advance. This provision should allow maximum participation in testing events since all personnel, except in unusual circumstances, should be present at the time of testing. In spite of this provision, some individuals may be unable to participate in the on-site testing event. Therefore, we are providing for off-site testing events in each region or State so that personnel who miss an on-site event, as well as those who are newly employed or those who need to be retested, can participate in a testing event within a reasonable time frame. We have specified that these off-site events must take place as necessary to provide all individuals with opportunities for testing.

While a mailed PT program may be more cost-effective, we do not think that it is appropriate for evaluating the performance of individuals, as it would be impossible to monitor in order to ensure that each individual was equitably tested. Mailed PT is more realistic as a tool for assessing the overall or collective performance of the whole laboratory.

Comment: A few commenters suggested changing the passing score for a PT event which was fixed at 80 percent under proposed § 493.855(b). Approximately equal numbers of commenters recommended making the passing score more than 80 percent as recommended making it less than 80 percent. Several commenters suggested adopting the scoring system used in Maryland or New York.

Response: We are modelling the scoring system as described in § 493.945 after that in use in the State of Maryland. To that end we have changed the minimum passing score to 90 percent. Therefore, § 493.855(b) now states that an individual is determined to have failed a testing event if he or she scores less than 90 percent on a test set. This 90 percent score, however, cannot be directly compared to the proposed 80 percent score because the point scoring system has also been changed. In addition, at § 493.855(b), we have added a maximum time allowed for each testing event, based on the PT program in the State of Maryland. Individuals are given not more than 2 hours to complete a 10-slide test and 4 hours to complete a 20-slide test. These time limits were established to provide for equitable testing on a national scale and to allow individuals sufficient time to complete the test at their normal pace without unduly restricting or extending the time for the examination.

Comment: The consequences of failing a testing event as described under § 493.855(b) were a major concern to a large number of commenters. Numerous commenters suggested that individuals who fail a PT event be given the opportunity for a retest before remediation or rescreening requirements are imposed. Some noted that test anxiety is likely to be a factor for the initial examination. Many commenters suggested that retesting should occur within 30 days after the first test. One organization said that pathologists should be excluded from failure penalties because this action would preclude physicians from practicing medicine in their specialty.

An overwhelming number of commenters recommended eliminating the requirement for reexamining the last 500 slides read by an individual who fails a PT event. They said it is punitive, burdensome, has no statistical validity, and that, for small laboratories, could mean going back to pull slides from many previous months. Some commenters suggested reexamining less than 500 slides, with suggestions ranging from 50 to 250. Others recommended prorating the number of slides to be reexamined based on the size of the laboratory. A few recommended requiring a small percentage of previously read slides be reexamined by an outside reviewer.

Many commenters also opposed the requirement to reexamine all subsequent gynecologic slides until an individual passes a PT event. They said that this requirement would effectively force small laboratories to close because the individual who failed the PT event and the rescreener would both be removed from the work force. In light of the current shortage of cytotechnologists, they noted, this could have a detrimental impact on Pap smear services. Few commenters opposed requiring remedial training for individuals who failed PT as long as individuals were first given a retest. A few commenters suggested that remedial training be provided by approved cytopathology teaching centers.

Response: We agree with the commenters on several recommendations concerning PT failure. We are deleting the requirement for reexamination of the last 500 slides read by an individual who fails a PT event. The intent of this review was to further analyze the slide evaluation problems that an individual demonstrated in PT and to ensure that there were no significant errors in recently evaluated specimens. While we realized that the statistical probability of discovering missed cases of cancer by this retrospective rescreening was low, it was felt that even if only a few cases were discovered, the review would be worthwhile. Nevertheless, we agree with the commenters that this requirement may be burdensome and costly for some laboratories and may not accomplish the intended goals. Even though we are deleting the requirement for retrospective slide review, we expect that if a serious performance problem is identified by PT, the laboratory will take the initiative to review previous slides to further define the problem. Furthermore, laboratories must meet stringent requirements for quality control, as specified under § 493.1257, which include limits on workload and retrospective negative slide review and confirmation of abnormal results. At least 10 percent of the slides interpreted as negative by each cytotechnologist will be routinely reexamined. This ongoing program for error detection and feedback on performance should identify individual performance problems and correct them on a continuing basis.

We are providing for a series of retests for those individuals who fail PT events. Individuals who fail the annual testing event, which involves evaluation of a 10 slide test set as described in § 493.945, must be provided with a retest, using another 10 slide test set, within 45 days after the receipt of the notification of failure. Examinations must be offered as necessary within each State or region to provide sufficient opportunities to participate in a retest within this period of time. An unexcused failure to appear for a retest will result in test failure. There are no other repercussions for failure of the first testing event.

If an individual fails the first retest (the second test), the laboratory must provide him or her with documented remedial training and education in the area of failure and must assure that all subsequent gynecologic slides are reexamined until the individual is again retested and passes the testing event. If this slide reexamination is not feasible, such as in a laboratory with few personnel, the laboratory has the option of assigning the individual duties other than gynecologic slide evaluation. Following completion of remedial training, the individual is eligible to take another retest. This second retest involves evaluating a 20 slide test set, and is thus more rigorous than the first retest.

If an individual fails the second retest (the third test) he or she must cease examining gynecologic slides. In addition, the laboratory must assure that the individual obtains in-depth training in cytology by obtaining at least 35 hours of formally structured continuing education which focuses on the examination of gynecologic preparations. Formally structured continuing education means educational activities such as those sponsored by local, regional, national or international organizations or institutions. Such programs are usually accredited by the Accreditation Council for Continuing Education, or equivalent, and provide one-for-one credit hour certification. For physicians, this training would consist of credit hours that are approved by the American Medical Association or the American Osteopathic Association for either category 1 or category 2D physician recognition award. For cytotechnologists the credit hours are approved by the International Association of Cytology or The American Society of Cytology, for example. Numerous training programs exist throughout the country which meet these criteria.

After completion of the training requirement, the individual must be retested with a 20 slide test set and achieve a passing score before he or she may resume examining gynecologic slides.

Comment: We received only a few comments concerning the sanctions for failure of the laboratory to take the required remedial actions after PT failure as described under § 493.855(c). The majority of these suggested that sanctions be directed at education and enhanced performance rather than punitive actions. One commenter requested clarification as to why a cytology laboratory is penalized for not providing remediation instead of for failing PT as was proposed for other laboratory subspecialties.

Response: We are retaining and expanding this requirement so that sanctions will be imposed on a laboratory that does not provide for individuals who fail a testing event to be retested as well as to receive remedial training after failing the first or second retesting events. PT in other subspecialties is based on laboratory performance and sanctions are imposed on the subspecialty for repeated poor performance. Since the PT program for cytology is based on the assessment of individual performance, the effects of PT failure are designed to improve the performance of individuals, and the laboratory is sanctioned for not participating in this improvement process.

Changes to the Regulation

Section 493.801 Condition: Enrollment and Testing of Samples

Laboratories not previously subject to Federal regulations must be enrolled in an approved proficiency testing program on January 1, 1994. Laboratories regulated under the March 14, 1990 rule are required to enroll and participate in an approved proficiency testing program under this rule, effective July 1, 1992 for the calendar year 1993.

Since PT is no longer conducted on a quarterly basis, we are amending § 493.801(a)(3) and are requiring a laboratory to participate in an approved PT program for one year before it can designate a different PT program for compliance with requirements for PT enrollment. We are amending § 493.801(b)(2) to clarify the frequency with which PT samples may be tested and § 493.801(b)(3) to permit inter-laboratory communications about PT after the reporting date for the testing event. Section 493.801(b)(4) is modified to clarify our intent for a laboratory not to refer PT samples for tests for which it is certified to perform to another laboratory for analysis. We are also indicating that the laboratory director, rather than the PT program provider, has the responsibility to assure that a signed attestation statement is maintained for each PT event that documents that PT samples have been handled in the same manner as patient specimens. The attestation statement is part of the record of the PT event and therefore is required to be kept for a minimum of two years from the date of the PT event.

Section 493.803 Condition: Successful Participation

Provisions of this section become effective on January 1, 1995 for previously unregulated laboratories. Under § 493.803(c), we are withdrawing the proposal to suspend a laboratory's certificate or terminate Medicare or Medicaid approval for an entire specialty or subspecialty for a laboratory which fails to perform successfully for an analyte or test. Previously regulated laboratories subject to the March 14, 1990 rule will be subject to sanctions for PT failure beginning on January 1, 1994. If a laboratory fails PT for an analyte or test, they may voluntarily withdraw service for the test or analyte, by all methods, and therefore not be subject to sanctions for the specialty or subspecialty. If they fail to withdraw, they are subject to intermediate sanctions for the analyte or test subspecialty.

Section 493.806 Condition: Successful Participation Before Certification

Laboratories are not required to participate in PT before a certificate or a revised certificate is issued. Therefore, we are deleting this proposed condition.

Section 493.807 Condition: Reinstatement After Failure to Participate Successfully

Two consecutive satisfactory PT testing events, (one of which may be on-site, if necessary), are required before a laboratory is reinstated after termination of Medicare approval or revocation of the CLIA certificate.

Sections 493.821 through 493.865 Proficiency Testing by Specialty and Subspecialty (Except § 493.855, Cytology)

The provisions of the proposed rule are adopted as final with the following exceptions/additions:

- In § 493.835, only overall performance is evaluated in syphilis serology.

Section 493.855 Cytology

By January 1, 1994, individuals engaged in the examination of gynecologic preparations must be enrolled in a PT program. Initially, each individual must participate in an annual testing event that involves the examination of a 10 slide test set. One testing event will be conducted annually in each laboratory and will be announced or unannounced. Testing events will be conducted as necessary in each region or State.

Individuals who fail the annual testing event by scoring less than 90 percent on a 10 slide test set must be retested with another 10 slide test set within 45 days of the notification of failure. Individuals who fail the retest must be provided with remedial training, and all subsequent gynecologic slides must be reexamined until the individual passes a 20 slide retest. An individual who fails the second retest must cease examining gynecologic slides and the laboratory must assure that the individual obtains at least 35 hours of continuing education in cytology before another 20 slide retest is scheduled. Unexcused failure to appear for a retest will result in test failure.

Subpart I—Proficiency Testing Programs for Tests of Moderate and High Complexity

Summary of the Proposed Rule

We proposed this subpart as Proficiency Testing Programs for Level I and Level II Tests, but have renamed it to be consistent with changes in the categorization of tests under § 493.10.

We proposed requirements that a PT program provider would have to meet before a laboratory could use the program to meet the PT requirements of Subpart H, Proficiency Testing for Laboratories Performing Tests of Moderate and High Complexity. For each specialty and subspecialty, we described the program content, frequency of challenge, number of challenges per quarter, and process for evaluating performance.

We proposed that programs would have to offer at least five challenges per quarter for each analyte or test, except for mycobacteriology, which was to be evaluated with five challenges twice per year. Criteria for determining acceptable performance were proposed, with performance evaluations based on the scope, type, and level of services a laboratory offers.

We proposed a process for updating the PT requirements after the proposed program had been in operation for two years. We proposed to review standards for PT programs on a regular basis and to make necessary changes in the required program after giving notice of these changes to all affected individuals and groups through an expedited rule making.

In § 493.945 we proposed that test sets for cytology PT be composed of 20 glass slides which represent various types of challenges including unsatisfactory preparations, normal and various abnormal challenges. We proposed that each individual's responses would be evaluated by comparison with responses that represented an 80 percent consensus agreement of at least 5 pathologists. We proposed that premalignant and malignant slide preparations be confirmed by an 80 percent consensus agreement on the tissue biopsy. We proposed a scoring system with point values based on the significance of the relationship of the slide interpretation to a clinical condition. The point values for correct and incorrect responses would range from maximums of 2 points to −1 point, with a formula for calculating the total points based on 100 percent. We proposed four response categories using the nomenclature developed at the National Cancer Institute Workshop in Bethesda, Maryland in 1988, known as The Bethesda System, and proposed that this nomenclature system be used by individuals to report PT results.

Implementation of Subpart I

The provisions of Subpart I of this rule will be applied to proficiency testing program providers seeking approval for their programs in 1993. Applicants must submit a detailed description of their program by July 1, 1992 in order to be approved as 1993 proficiency testing program providers.

Comments and Responses

Section 493.901 Approval of Proficiency Testing Programs

Comment: Some commenters asked that "for profit" and "duly empowered" city PT programs be permitted. A few commenters suggested using existing PT programs, such as those offered by States or by professional specialty organizations, such as the Commission on Office Laboratory Assessment. A few commenters recommended that the FDA be designated to clear and monitor the PT programs; a few others preferred that HCFA be the monitoring agency.

Many commenters asked that different PT programs be established for Levels I and II testing. A few commenters suggested that PT programs should develop PT for specific methodology/instrument combinations and be allowed time to develop test materials without subjecting laboratories to penalties. Other suggestions included the establishment of a program for eye banks and the establishment of an advisory panel of experts in PT. Some commenters suggested that we provide a customer service or complaint handling process and define the procedure in those situations where PT is not available.

Response: We cannot approve "for profit" PT programs because the law references only State and private non-profit organizations as approved program providers. In accordance with State law, a State may delegate responsibility for PT of a city's laboratories to a city; however, the city's PT program must meet all applicable PT program provider requirements before it can become an HHS approved PT program provider. A professional specialty organization that is non-profit can submit its program for review and approval. Approval of PT programs and monitoring the effectiveness of the

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approved programs is an HHS responsibility, which could be delegated to any of the agencies within HHS. Presently, HCFA has that responsibility, but HCFA relies on the PHS to provide advice to HCFA on technical and scientific issues related to PT.

We do not propose to have different PT in terms of the frequency, number of samples, or grading for tests of moderate and high complexity. We agree that PT for less complex testing should be provided. This can be accomplished by PT providers developing PT modules to fit the testing being performed without establishing completely separate high and moderate complexity PT programs. For example, PT providers might establish a program for laboratories that only perform Gram stain testing. The phase-in period will allow the PT providers time to develop the needed modules and for laboratories to enroll in a program that most closely matches its level of service. In addition, a PT provider can provide samples that are specific for a methodology/instrument and can develop new materials before they are employed in the regulatory portion of the program.

We have reviewed the services offered by eye banks and do not feel that a unique PT program is necessary since the laboratory testing performed by eye banks fits well with existing programs. We agree with the comment that an advisory panel on PT is needed. The Clinical Laboratory Improvement Advisory Committee or one of its subcommittees can address PT concerns.

Approved PT program providers must offer technical assistance to laboratories enrolled in their PT programs. We agree that, as part of this assistance, PT providers must establish and maintain a process for resolving problems with administrative, technical, and scientific issues about program operations. Therefore, we have modified the regulation to assure this process will be available in programs offered by approved providers.

If no PT program exists, a laboratory can maintain its own internal consistency in performance by analyzing split patient or control samples with another laboratory or by incorporating known value samples as unknowns in the test procedure. However, if a PT program evaluates performance for analytes or tests which are currently not part of analytes or tests included in regulatory PT, a laboratory can use the unregulated tests to monitor its own performance for these additional tests.

Comment: Some commenters indicated that it should be imperative that PT providers indicate the source, manufacturing process, possible interfering components and predictable matrix effects of all PT samples offered in their program. Providers should also arrange to include shipping and storage conditions for samples and to monitor the condition of samples on arrival at participating laboratories. A few commenters suggested that the PT materials should be compatible for each technology/instrument. It was recommended that the providers should be allowed to develop test materials without penalizing participants and that providers should be relieved of any responsibility for defending the credibility of values assigned to PT samples when the samples were used for on-site PT.

Response: We agree that PT program providers should be responsible for identifying any known interfering substances in the sample matrix they provide and to assist participating laboratories and kit and instrument manufacturers in identifying any unknown interferents. We are adding a provision to require approved PT program providers to have a process in place to resolve administrative, technical and scientific issues about their program. Concerns about the logistics associated with PT, such as shipping and storage conditions, etc., or about sample matrix effects for a particular technology/instrument could also be handled by this process.

We agree that PT providers should complete the development of new test materials before these materials are introduced into the regulatory program. However, PT programs must still meet the minimum requirements specified for approval, in addition to the inclusion of strictly experimental PT components.

Regarding samples used for on-site PT, the PT provider is responsible for the integrity of the samples used up to the point of the delivery of samples to a laboratory or laboratory surveyor.

Comment: One commenter recommended that the Food and Drug Administration (FDA) inspect and enforce 21 CFR Part 606, Current Good Manufacturing Practice (GMP) for Blood and Blood Components, and 21 CFR Part 640, Additional Standards for Human Blood and Blood Products, of the regulations since there are no provisions in the regulations for monitoring compliance with GMP. Two commenters stated that the regulations omit a relevant part of the CFR pertaining to GMP and that those practices specified in 21 CFR Part 820, GMP for Medical Devices: General, should be included. Another organization suggested that the words "when practical" be inserted before "prepare or purchase" to avoid the need of continual regulation revision. One commenter suggested that patient specimens should be allowed for PT use.

Response: The FDA has the enforcement responsibility for compliance with GMP. We agree that 21 CFR part 820 should be included as a cross reference under the revised § 493.901(b)(1)(ii). We feel that the GMP rules provide sufficient flexibility to address concerns about short-lived materials.

Comment: A few commenters recommended that "scientifically defensible process" be defined and clarified. It was also suggested that "peer group" comparisons are the only scientifically justifiable means of comparing laboratory performance.

Response: A scientifically defensible process for determining the correct response for each PT challenge is one that is both technically feasible and credible. It should take into account such factors as any known and predictable causes of interference with test results due to the sample matrix as well as the accuracy, precision, sensitivity, and specificity of methods used to determine the correct response.

Peer group comparisons may be unavoidable in some instances, but should only be used when no other means of achieving comparable results across methods is possible. If bias between methods of unknown origin occurs and the sample matrix is suspected as the source, the PT program should seek to determine the reason for the bias in conjunction with the manufacturers of the method and the laboratories using the method. Comparability of data across the nation's laboratories will not be achieved unless the reasons for bias between methods and problems with the matrix of PT samples are identified and corrected, where possible.

Comment: Overall, the requirement for a signature block for attestation on the report form was viewed as burdensome, of little value, and one that should be eliminated. Some commenters suggested that the laboratory maintain the documentation in-house for review, at the time of a regular inspection. A few commenters requested clarification and/or better definition of the attestation statement.

Response: The attestation statement defines who was responsible for assuring that the PT samples were tested in the same manner as patient specimens. The PT program provider is responsible for providing a place on its report form for the attestation statement.

The laboratory director is now responsible for ensuring that the attestation statement is completed and maintained as a record as required under § 493.801(b)(5), Condition: Enrollment and testing of samples.

Comment: One commenter asked for clarification of the process for replacing lost or damaged samples and a few commenters suggested expanding the requirement to include a mechanism to investigate and resolve problems and complaints.

Response: The PT program provider must notify its program participants of the process a participant should use to replace lost or damaged samples. We agree that PT program providers need to have a process to resolve problems and have added this provision to our regulations.

Section 493.903 Condition: Administrative Responsibilities

Comment: It was suggested that the reporting time be extended to 60 days. One commenter asked that the data be made available "rapidly" and another indicated that PT results should be issued within 2 weeks. A third commenter would prefer cytology PT results within 7 days. Another indicated that a PT provider should be allowed 2 years from the date of the final rule publication to adjust its system to meet the new reporting requirements.

Response: Participants in PT programs and regulatory agencies need to receive reports of results of testing events as soon as possible. Laboratories or individuals who fail testing events must have sufficient time between testing events to take corrective action before the next testing event. Due to the large amount of information that must be computer analyzed and the many potential sources of delays in receipt of PT reports, we feel that the 45-day time frame for issuing reports may not be sufficient. After taking into account the increase in the number of newly regulated laboratories that will be participating in PT for the first time, we are requiring three rather than four testing events per year. Proficiency testing program providers must be allowed sufficient time to process data for PT events in order to provide laboratories and HHS or its designee with reports on individual laboratory performance; HHS or its designee must have sufficient time to determine which laboratories have not performed acceptably; and laboratories must be allowed sufficient time to identify the source of problems and to correct performance problems. Historically, using quarterly PT, it has not been technically feasible even with a much smaller number of participating laboratories to allow sufficient time for all of these activities to take place before the next testing event occurs. This change permits more time for problem identification and correction between testing events and allows an increased time period for PT providers to issue reports. Under the new provisions, PT providers will be allowed 60 days to issue reports, except for cytology reports, which must be issued within 15 working days.

Regarding the comments that the PT provider be allowed 2 years to adjust its systems to meet any new reporting requirements, the phase-in period should permit time for PT providers to meet all reporting requirements.

Comment: One commenter suggested that the PT program reporting requirements be strengthened by requiring providers to monitor performances on a continual basis. This monitoring would include information on sample problems attributed to matrix effects and individual system biases rather than PT participant errors. One commenter recommended this regulation be deleted because the specific details of such reports and the extent of data to be collected are not specified.

Response: We agree that PT program providers should monitor performance problems attributed to matrix effects and individual system biases. Therefore, we have added a requirement that PT providers must report to HCFA on an annual basis any previously unrecognized sources of variability in kits, instruments, methods, or PT samples which adversely affect their ability to evaluate laboratory performance.

Comment: One commenter indicated that the requirement to maintain records for 5 years is "unreasonable" and an "unwarranted burden" on PT programs. The commenter stated that it should be the responsibility of HHS or its State agencies to keep records since all of the necessary data would be provided to them on a regular basis.

Response: Since adverse action proceedings based on failure in PT will require confirmation of PT results generated by the PT program provider, we feel that the PT provider must maintain these records for at least five years. HHS or its designee will retain copies of these reports, but will not possess originals, nor will HHS or its designee possess the type of detailed information about the samples and about the PT provider's evaluation process for the specific samples that are included in the adverse action.

Section 493.907 Process for Updating PT Programs

Comment: One commenter suggested that obsolete tests be deleted from PT, but that routinely well performed tests not be deleted. Data from the latter could provide HCFA with a tool to evaluate program performance. Another commenter suggested that there should be an exemption provision for "well performed" tests which have proven to be free from performance error, if documented appropriately. It was suggested that HHS should convene a panel of experts in the PT field to monitor program compliance, assess needed changes in the programs, as well as advise HHS on matters relating to PT program development.

Response: A Clinical Laboratory Improvement Advisory Committee, formed by HHS, will evaluate the appropriateness of applicable requirements of proficiency testing including retaining well-performed tests. HHS must publish any changes in the **Federal Register** and will allow proficiency testing program providers two years to incorporate the new program requirements.

As required by the Public Health Service Act, participation in PT will be required for all procedures and examinations for which PT can reasonably be developed. HHS will phase in the PT requirements for additional analytes as tests, specialties, and subspecialities and consider other revisions to program requirements based on recommendations of the Clinical Laboratory Improvement Advisory Committee concerning the feasibility of additions of analytes to the national PT program. Laboratories offering service for these analytes or tests will be required to enroll in an approved PT program by the effective date specified in the regulations for these procedures or examinations.

Sections 493.909–493.959 Proficiency Testing Programs by Specialty/Subspecialty (Formerly Proficiency Testing Programs by Specialty/Subspecialty for Level I and II Tests)

Comment: Some suggestions were made for adding and dividing specialties and subspecialties. Commenters recommended adding the specialty of flow cytometry, which would include image analysis, molecular pathology diagnostics, and nucleic acid probe technology. One commenter, however, thought that nucleic acid probe technology should be a subspecialty of microbiology. One commenter suggested adding a new specialty of

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dermatopathology. Other commenters suggested adding subspecialties to specialties including direct antigen testing, lyme disease serology, viral markers, and newborn genetic screening. A few commenters suggested dividing the specialty of chemistry into subspecialties of routine chemistry, enzymatic chemistry, electrolyte chemistry, blood gas, and drug screening and dividing the specialty of hematology into hematology and coagulation. Others suggested dividing the specialty of immunology into subspecialties of immunological components, infectious disease, and non-infectious disease. Another commenter recommended that the specialty of immunology be eliminated. A few commenters recommended dividing the specialty of toxicology into subspecialties of drugs of abuse, blood alcohol, and toxic metals. An alternative that was suggested would be to reserve toxicology for drugs of abuse and create a new specialty for therapeutic drug monitoring.

There were a few suggestions that the subspecialty categorization consider variations in technology, or that testing requirements be by analyte rather than specialty. One commenter proposed that the specialty/subspecialty concept be deleted altogether and that HHS, using the assistance of laboratory representatives knowledgeable in current laboratory operations, develop a relevant, achievable and practical categorization scheme.

Response: We feel that the creation of additional specialty or subspecialty areas is not warranted at this time. PT results will be evaluated by analyte or test regardless of which subspecialty or specialty they are categorized under for PT purposes.

We will consider changes in specialty/subspecialty categories recommended by the Clinical Laboratory Improvement Advisory Committee. This Committee will assist HHS in determining the appropriateness of new specialty and subspecialty categories. Any necessary realignments of PT tests to correspond to new specialty or subspecialty categories will occur in conjunction with these changes.

Comment: For microbiology, one commenter suggested that "types of services offered by laboratories" for bacteriology, mycobacteriology, mycology, and parasitology be rewritten to reflect current technology and the wide scope of testing performed. Another commenter felt that this regulation was designed for large full-service laboratories and could not be applied to smaller, limited-service laboratories.

Others felt that organism identification to species was unnecessary and should be used only if the organism is clinically significant from the standpoint of pathogenicity or treatment. One commenter felt that laboratories should be classified in a manner similar to the College of American Pathologists system, while another said that "type of service" should be based on specimen type. A specialized program in parasitology for laboratories which determine the presence of parasites and refer them to another laboratory for identification was recommended by one commenter. One commenter felt that for bacteriology the pathogenicity of a microorganism should determine the level at which it should be tested.

For mycology PT, a few commenters expressed the opinion that PT laboratories identify yeast only to the species, while a few others suggested identification to the genus level, with species level identification optional. "Special allowance" was requested to cover a screening procedure for *Candida albicans* by germ tube for those laboratories that do bacteriology, and send out other mycology. One commenter requested a "type of service" for those laboratories only performing yeast identification. Also, a type of service was requested in mycobacteriology for those laboratories that interpret stains and culture, but send out the positive cultures for ID and sensitivity.

With regard to immunohematology, one commenter indicated that the terminology "D(Rho) group" is incorrect and that the proper terminology is "Rh typing". "Compatibility testing" should be called "Crossmatching". Correct terminology should be incorporated throughout the regulation.

Response: We have revised the types of service categories in microbiology to more accurately reflect the range of service offered in all types of laboratories. We have expanded the number of types of service from three to five for bacteriology, from three to five for mycobacteriology, and from two to four for mycology. We have included pinworm preparations as part of the type (a)(1) level of service in parasitology.

We have not attempted to determine or to define the clinical utility of the different levels of microbiological service being offered nor have we tried to determine the appropriateness of level of service by specimen type. The laboratory must test the PT samples to the extent to which service is offered regardless of the number of categories developed for type of service. If a laboratory offers service for yeasts, it must enroll in PT for mycology.

In immunohematology, for PT purposes, we have amended the types of service offered to designate separately each of the components. The terminology used in this section is now consistent and appropriate for the specialty.

Comment: A few commenters suggested that the specific list of organisms for bacteriology, mycobacteriology, mycology, parasitology, and virology be deleted in order to permit more flexibility in each subspecialty and to meet the clinical relevance criteria of the Act. One commenter suggested adding the clause "but not limited to" in bacteriology to provide for inclusion of emerging pathogens. One commenter indicated that HHS should specify the inclusion of important viruses as opposed to determining important emergent viruses.

A few commenters indicated that only the pathogens and normal flora that are representative of the patient population and are commonly encountered by the physician should be included in PT specimens. For mycobacteriology, it was suggested that 10 percent of the samples should be mixed. A few commenters asked for clarification of the 50 percent principal organism/50 percent normal flora specimen requirement. Another suggested that the word "principal" be changed to "clinically relevant".

It was also recommended that PT challenges for organism identification be separate from those for susceptibility testing. Another recommendation was that samples for Gram stain interpretation be included along with bacteria isolation and identification. With regard to susceptibility testing, it was suggested that minimum inhibitory concentration (MIC) target values be based on "participant means" to allow for biases which exist for panels from different manufacturers. One commenter asked for an interpretation of the meaning of "predictable pattern" of sensitivity.

One commenter stated that *M. terrae* belongs in Group II (not IV); *M. fortuitum* in Group IV (not V); and that there is no Group V. Another stated that most authorities recognize only five groups of mycobacteria, not six as listed, and recommended that organisms in Groups III and IV be combined. Additional recommendations were to add challenges for nucleic acid probe technology and for antigen detection for *E. histolytica,* to add measurements for urine, bile, solid tissues, and vitreous humor in toxicology, and to include body fluids and/or tissue smears in parasitology. Others suggested adding educational materials in parasitology, and to add PT for illegal drug screening and other forensic purposes.

With regard to hematology, one commenter suggested expanding the requirement to include current WBC identification techniques, as well as new technology. Another recommended that the WBC differential not be included at all "because of the lack of valid statistical scheme for averaging and comparing across cell lines", as well as the difficulty of producing and shipping glass slides. It was stated that the use of kodachrome transparencies has proven successful in the past.

Response: We believe that a specific list of organisms for bacteriology, mycobacteriology, mycology, parasitology and virology serves as a guide to PT providers about program content and assists regulatory agencies with a comparison of PT programs. The proposed rule included provisions for changes in the list of organisms to permit the addition of emerging organisms. The organisms in the PT samples are expected to be representative of those found in patient specimens. However, we recognize that those organisms included in national PT programs may not always represent those being found locally at any given time.

We support the need to have a 50-percent mixed culture distribution of samples, since the samples must be representative of those encountered in human specimens. By this we mean that samples will consist of two types: one type will be for the identification of only the significant pathogens; the other type will be for the identification of all organisms present. Of the first type one half of the samples will be pure cultures and one half will be mixed cultures. Of the second type one half of the samples will be pure cultures and one half will be mixed cultures.

We agree with the commenters regarding the classification of mycobacteria and have revised the regulation to reflect the correct groups of mycobacteria.

The term "principal" in § 493.911(b)(1) is used interchangeably with the term "significant pathogen" as defined in § 493.911(b)(1)(i). We are revising the regulations so that the terminology is used consistently throughout the regulations.

We agree with the commenter that the term "predictable" pattern is confusing and have revised the regulation at § 493.911(b)(3) to use the term "predetermined" pattern of sensitivity. One sample can be used for both organism identification and susceptibility testing. The regulations allow PT programs flexibility as to how they establish target values for minimum inhibitory concentration (MIC). Target values for MIC can be determined using either 90 percent of 10 or more referee laboratories or 90 percent or more of all participant laboratories.

PT programs can include additional samples or challenges to address new techniques and technology for educational purposes for any test; however, HHS must be kept informed as to which samples have been designated as educational samples.

We have revised the mycology program to include *Microsporum species* and will make updates to the program at least every two years to keep it consistent with changes in technology. Approved PT program providers are charged with developing appropriate samples and challenges for their program. HHS will review data from PT programs and other sources to determine the usefulness of new approaches and materials for proficiency testing.

Since the Act specifically covers laboratories which test specimens for medical purposes, we have not included any requirements for PT for forensic purposes.

Comment: Suggestions regarding our proposed requirement of 5 samples per event ranged from one commenter recommending 5 or more samples/event to others wanting less than 5 samples/event. Several commenters favored 2 samples/event. One commenter stated there was no scientific rationale for using 5 samples, while another questioned the need for increasing the numbers of samples from 3 to 5 because this would increase the cost, but not the benefit. Another commenter recommended that the number of PT samples be based on the volume of tests a laboratory performs rather than requiring a minimum mandatory number, at least until a positive correlation is established between the number of PT samples and the accuracy of patient test results. For mycology, one commenter requested 10 samples twice per year.

A few commenters recommended that endocrinology, toxicology, urinalysis, and microbiology have 3 samples/event, that parasitology have 8 samples/event, and that HIV testing include 10 samples/event.

Response: We are retaining the 5 samples per event requirement. Five samples/event provides the best combination of high probability to rapidly identify poor performance and low probability that a laboratory which makes an infrequent mistake will fail PT. More than 5 samples/event would increase the cost and burden of PT, without significantly improving the program's ability to separate poor from acceptable laboratory performance.

Comment: Suggestions regarding our proposed requirement of 5 challenges per analyte or test ranged from one commenter recommending 5 or more challenges per analyte or test to some favoring 2 challenges per analyte or test. A few suggested that 5 challenges was not supported by research or that 5 challenges had been used to accommodate the 80 percent performance requirement. An additional suggestion was to expand the number of challenges for blood gases to accommodate the number of instruments in the laboratory. There was a request for clarification of the grading system when only 4 or 5 samples could be evaluated.

Response: We are retaining the 5 challenges per analyte or test requirement. Five challenges provides the best combination of high probability to rapidly identify poor performance and low probability that a laboratory which makes an infrequent mistake will fail PT. More than 5 challenges per testing event would increase the cost and burden of PT, without significantly improving the ability to separate poor from acceptable laboratory performance.

While we encourage some form of assessment of the performance for every method or procedure used by a laboratory, PT is required only for the test system, assay, or examination which is the primary patient testing procedure in use during the time that PT is being conducted. The performance of other procedures used by a laboratory must be compared to the procedure evaluated by PT in order to assure consistency between laboratory measurements. Comparability of results among different methods can be achieved using split patient specimen or control samples, etc. However, PT is not required for these additional procedures.

When only four of the five challenges can be evaluated for all participants due to problems with samples or other factors beyond the participants' control, the PT program may give participants full credit for the unevaluated sample in calculating scores for the testing event.

Comment: We received several suggestions regarding our proposed requirement of 4 events per year (with 2 events per year for mycobacteriology). A few commenters requested less than 4 events/year, one suggested 3 events/year and a few wanted only 2 events/year. One commenter felt that mycobacteriology should have more than 2 events/year. One asked for clarification of whether it is exactly 4 events/year or a minimum of 4 per year.

Response: Section 353(3)(a) of the PHS Act specifies that PT shall be conducted on a quarterly basis, except where HHS determines that, for technical and scientific reasons, a particular examination or procedure may be tested less frequently (but not less often than twice per year). We are requiring three events per year due to problems with PT providers generating and mailing results to regulatory agencies and to laboratories within the 45-day time frame specified in the March 14, 1990 rule. Four testing events per year does not allow sufficient time for a regulatory agency to receive reports, issue warning letters to laboratories who have failed a testing event, and still allow time for corrective action by the failing laboratory to take place before the next testing event. Testing triennially allows additional time between events for all of these activities to occur within a reasonable period of time.

Comment: One commenter indicated that any PT samples used for on-site testing must meet the same standards as mailed samples, and that any scheduled on-site testing should be made known before the start of the program year. One commenter said that on-site testing for microbiology should be deleted.

Response: We agree with the commenters that on-site samples must meet the same standards of quality as those required for mailed-in samples. We also agree that in some circumstances on-site PT may not be practical, particularly if such testing cannot be completed within a day or two day period while an inspector is usually present. However, in certain circumstances on-site PT offers a valuable technique for the inspecting agency. Therefore, we are retaining the requirement as specified in the regulations.

On-site PT is especially helpful in reinstatement of a laboratory that has failed PT and has had sanctions imposed. Under such circumstances the regulatory agency must make a determination of whether performance problems have been corrected before allowing testing to be resumed. Since on-site PT may be conducted either on an announced or unannounced basis, not all on-site PT can be scheduled.

Comment: A few commenters indicated that there should be changes in the list of analytes. Suggestions in parasitology included adding *Blastocystis hominis, Isospora belli, Taenia species, Schistosoma mansoni and hematobium, Plasmodia and Babesia microti.* Suggestions in chemistry included: for toxicology, distinguishing between drugs of abuse and therapeutic drug monitoring and adding cocaine, amphetamines, opiates, and tobramycin, while deleting ethosuximide; adding testing for forensic purposes by placing blood alcohol and blood lead in a new subspecialty; and including samples of urine, bile, vitreous humor and tissue; for urinalysis, add nitrates, hemoglobin, specific gravity, urobilinogen, and microscopic examination of urine sediment.

In hematology, suggestions were given to add CD4 cell counts and expand cell differentiation to include cell types other than "major" abnormalities. Another recommendation was that the WBC differential not be included as a regulated analyte. In immunology, it was suggested that we add alpha-fetoprotein (AFP) as a screening test for neural tube defects. In immunohematology, we were asked to clarify the use of the terms "tests" (in § 493.959) and "subspecialties" (in § 493.857), since there are important differences in the two sections that affect scoring, certification and reimbursement.

A final suggestion was made to evaluate laboratory performance by type of procedure rather than by analyte, since for some specialties multiple analyte tests are performed using the same procedure.

Response: One of the tasks of the Clinical Laboratory Improvement Advisory Committee will be to review the analytes or tests that should be included in PT and to recommend to HHS any additions or deletions in the program. Since it is our intention to have the Clinical Laboratory Improvement Advisory Committee conduct a thorough review of the regulatory PT program requirements as soon as possible, we have made very few changes to the list of analytes or tests to be included in the regulatory PT program for any specialty at this time.

Once the Clinical Laboratory Improvement Advisory Committee has reviewed information about analytes or tests not currently included in the regulatory program and has recommended that specific additional analytes or tests be included in the regulatory program, a list of these additional analytes will be published along with grading criteria in a notice in the **Federal Register** with an opportunity for public comment. Each publication will denote the effective date for approved PT programs to incorporate these new analytes and grading criteria into their program. Laboratories offering service for these tests would be required to participate in PT for these additional tests as soon as they are incorporated into an approved PT program.

In microbiology, we have included additional *Enterobacteriaceae* and Gram-negative bacteria, added *Microsporum species* to mycology, and added *Enterobius vermicularis* to parasitology. In chemistry, we have added tobramycin. We have included dipstick or tablet urinalysis on the list of waived tests therefore, no PT is required. Since testing conducted exclusively for forensic purposes is exempt from these regulations, PT requirements do not include forensic samples.

In hematology, we are not adding CD4 cell counts, due to problems with sample quality and stability, nor are we changing requirements for cell differentials at this time. In immunology, we are not adding alpha-fetoprotein as a screening test for neural tube defects to the list of required tests.

We agree with the commenters that for PT purposes there are no subspecialties in immunohematology, and the regulation will be changed accordingly.

Comment: A few commenters suggested that for hematology, referee laboratories should not be used to establish the target value. If a preponderance of referee laboratories use one method or instrument that produces results which are biased compared to other procedures, laboratories using the other procedures could be penalized or even fail PT. A few commenters recommended the deletion of all references to referee laboratories. Others suggested using both 80 percent of 10 referee laboratories and 80 percent of participants to establish the correct response. A few commenters suggested changing 80 percent to 95 percent agreement, particularly for urinalysis, hematology, routine chemistry, and toxicology. Others suggested using peer group agreements instead of a consensus process for endocrinology, routine chemistry, and toxicology.

Response: We are retaining the ability of a PT program provider to use referee laboratories to establish a target value. Approved PT program providers can determine whether the use of referee laboratories is scientifically valid and appropriate for the analyte or test. Performance assessments by peer group combinations of instrument/method/reagent can also be used, if necessary, in instances where a specific method has been determined by a valid scientific protocol to produce atypical results compared to patient specimens which affect the evaluation of laboratories using the method.

We have raised to at least 90 percent the consensus required to establish a target value for qualitative analyte or tests in order to provide additional assurance that any samples which demonstrate significant variation in sample composition will not be evaluated.

Comment: A few commenters suggested that the penalty for reporting erroneous organisms be deleted for bacteriology, mycobacteriology, mycology, parasitology and virology. They also requested that the ambiguity regarding penalties for incorrectly identified principal organisms be alleviated. They recommended that the PT program be allowed to determine the organisms to be considered incorrect and the associated penalties.

One commenter suggested that referrals for identification be considered as a correct response for bacteriology, mycobacteriology, mycology, and parasitology. Commenters also suggested including morphology in the performance criteria for Gram stain. Another commenter expressed concern over the proposed process of evaluating a laboratory's performance in bacteriology, which was considered to allow the results from susceptibility testing to disproportionately offset an incorrect organism identification. The commenter recommended that a separate grade for identification of an organism(s) and for susceptibility testing be calculated and that these scores be averaged to obtain the score for bacteriology.

A commenter suggested changing score calculations so that varying amounts can be deducted for incorrect identifications from the "actual" instead of the "possible" number of responses. Another suggested determining a correct response for each antimicrobial agent, using criteria established by the National Committee on Clinical Laboratory Standards (NCCLS) or "other specifically accepted references as appropriate". (We note that the NCCLS only issues standards on how to test, not on which agents are appropriate to be tested.)

In the specialty of parasitology, one commenter suggested deleting the words "or concentrate and identify because in reality, not all samples require concentration.

A large number of commenters suggested using Commission on Office Laboratory Assessment (COLA) grading criteria and establishing different grading criteria for Level I and Level II laboratories. In addition, many commenters proposed changing the criteria for acceptable performance to take into account peer group means, matrix effects, target values appropriate for dilution based tests, methodology, instrumentation, technology, and reagents.

A few commenters suggested that grading criteria should take into account clinical relevance. One commenter suggested that values within 10 percent of the target value are almost always clinically adequate and would not materially affect clinical decision making. Another suggested that PT grading requirements vary with clinical context—the more critical the test results are for diagnosis and treatment, the more stringent the PT criteria should be for acceptable performance. In this vein, another commenter recommended that the acceptable performance criteria for glucose measurements using blood glucose meters should be modified to 15–20 percent because currently available meters cannot and should not be expected to meet the criteria in the regulations.

One commenter recommended that acceptable performance criteria for many tests in routine chemistry be those currently employed in 1990 by the College of American Pathologists. Some felt that grading for enzymes should be delayed until after PT programs have been implemented and the data analyzed. Others suggested not grading an analyte when participant results show marked differences.

Concern was expressed regarding score calculations. Commenters recommended that a trial period for PT be set to allow for evaluation of the grading criteria. Many suggested changing the criteria for acceptable performance for specific tests including blood lead, cortisol, and thyroid stimulating hormone. Another commenter suggested using a ±3 SD as acceptable performance criteria for new quantitative methods. A few indicated that they considered acceptable limits for some analytes to be too broad or too narrow. Ranges were considered by one commenter to be too broad for alanine transaminase (ALT) and alkaline phosphatase. Other commenters felt that the albumin and blood urea nitrogen limits were too narrow for many methods. Others recommended retaining the use of standard deviations, however, they indicated that relying only on standard deviations could result in unreasonably narrow tolerances around the target value as technology improves and interlaboratory variation is reduced.

A commenter indicated that the target values for syphilis and for dilution-based quantitative immunology tests were not appropriately defined; the definition of target values should be a geometric mean rather than an arithmetic mean for dilution-based tests.

A few commenters pointed out the error in the toxicology acceptable performance chart, requiring a plus sign to complete the criteria table for acceptable target ranges for toxicology.

Response: Since reports of erroneous organisms could contribute to mismanagement of patients, we are retaining the penalty for reporting erroneous organisms.

We disagree with comments that referrals for organism identification should be considered to be part of a laboratory's PT response. PT is being used to evaluate only the services offered by the certified laboratory, not a combination of the services offered by the certified laboratory and its referral laboratory. We also disagree that morphology should be included in the performance criteria for Gram stain.

We have amended the method of calculating the score for each sample in microbiology to permit separate scores for each of the preliminary steps leading to the final answer to be calculated and averaged to obtain the sample score. While weighing scores for each of the preliminary steps leading to a laboratory's final answer has merit, we feel that it would be difficult to implement in a regulatory PT program. Therefore, we are retaining the method of scoring calculations, but will have the CLIA committee consider the possibility of weighted scores, particularly for microbiology.

Regarding antimicrobial susceptibility testing, the NCCLS has established guidelines for performing these procedures and we have adopted these guidelines. However, if other accepted references become available they will be reviewed by the Clinical Laboratory Improvement Advisory Committee and could become acceptable alternatives.

We disagree with the commenter about deleting the words, "and concentrate and identify" because we feel that a wet mount may be sufficiently sensitive to detect small numbers of ova or parasites in a fecal specimen. Therefore, concentration constitutes good laboratory practice.

Laboratories will be evaluated on the basis of the service offered. We disagree with comments that different grading criteria should be applied for the same tests being performed by moderate and high complexity procedures. We are allowing previously unregulated laboratories to participate in PT for one year before they are held accountable to the same set of standards as previously regulated laboratories. This gives them

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time to develop managerial control for these new activities.

Ideally, the criteria for acceptable laboratory performance should be based on the clinical usefulness and clinical context of the test results. However, there are no generally agreed upon medical-usefulness criteria for most tests. In the absence of consensus medical criteria, we have defined acceptable performance on the basis of the state of the practice, which presumably is sufficient to meet medical needs.

We have reviewed suggestions regarding additional ways to establish criteria for acceptable performance and have made adjustments to take into consideration some of these recommendations. We have amended criteria for acceptable performance for specific analytes or tests in general immunology, chemistry, endocrinology, toxicology, and hematology. Although we consider fixed limit criteria based on clinical relevance as the best means of performance assessment, the use of ±3 SD seems necessary at present for some procedures and for previously unevaluated procedures.

Since both the presence or absence of antibody and the relative titer are of clinical concern and there are significant intermethod differences between enzyme linked immunoassays (ELISA) and assays based on titers, we will continue to include both qualitative and quantitative responses for immunology. We have accepted the suggestion that the +/−1 dilution be based on a geometric rather than an arithmetic mean and have provided for an acceptable range of +/−2 dilutions for nonsyphilis immunology tests.

The error in the table of criteria for acceptable performance in toxicology has been corrected.

Section 493.945 Cytology: Gynecologic Examinations

Comment: Many individuals and several organizations were opposed to the proficiency testing program content as specified in § 493.945(a). They expressed concern over the cost and the ability of program providers to acquire the quantity of high quality, referenced glass slides that would be needed to provide equivalent slide sets for a national PT program. Several commenters suggested using less than 20 glass slides, with 10 being the number favored by most. A few individuals from small laboratories noted that it would be difficult for them to discontinue their other laboratory services for the length of time required to take a test with 20 slides. A large number of commenters suggested that the program not be restricted to glass slides and that alternative test materials, such as computer interactive video discs or Kodachromes be considered. In contrast, several commenters stressed that glass slides were preferable for PT and would be the only type of test material that could simulate daily laboratory practice.

Response: In response to these comments and in order to increase the feasibility of providing for a cytology PT program on a national basis we have reduced the number of glass slides per test set. As described under § 493.855, the annual testing event and the retest for individuals who fail the annual event involve 10 glass slide challenges. Test sets composed of 20 glass slides are provided to individuals who must take a second or third retest. Increasing the number of slides in a test set from 10 to 20 allows for a greater variety of challenges and, in general, increases the discriminatory power of the examination. As described under § 493.945(a) each test set should include at least one slide in each of the four response categories. We have added a requirement for test sets to be comparable so as to provide for equitable testing within and between PT providers. The exact number and type of each challenge to be included in each test set cannot be specified since this would afford the individual taking the examination the opportunity of identifying slide preparations by the process of elimination.

We have retained the requirement for glass slide challenge because we believe that testing with glass slides most closely resembles the actual examination of patient preparations. However, if other materials are developed which can be shown to be equivalent to testing with glass slides they may be considered in future regulatory revisions.

Comment: We received a small number of comments on the consensus agreement required for determining the correct responses for PT challenges as described in § 493.945(b)(1). A few commenters suggested that the consensus agreement be greater than 80 percent. One organization recommended 90% consensus for categorizing a slide as unsatisfactory, negative, inflammatory, reactive, or reparative. A few commenters recommended consensus agreement on the diagnosis of premalignant or malignant cytologic smears, instead of on the tissue biopsy, which they said should be used for confirmation of the smear diagnosis. In contrast, one organization and a few individuals suggested requiring only that testing material be referenced in a scientifically valid manner and eliminating the requirement for a consensus. A few commenters suggested that the consensus panel be composed of both pathologists and cytotechnologists.

Response: We agree that greater than an 80 percent consensus agreement is preferred for referencing cytologic slides based both on these comments and on modifications that have been made in the scoring system as described under § 493.945(b)(3). However, increasing the consensus to a percentage between 80 percent and 100 percent requires increasing the number of slide reviewers, which would also increase the time and cost for referencing slides. Therefore, we have revised this requirement so that a 100 percent consensus agreement among a minimum of three pathologists is required for all slide preparations. We believe that this slide review is best done by pathologists since this correlates with the quality control requirements under § 493.1257 for confirmation and reporting of cytologic slide preparations. We have deleted the requirement for consensus agreement on tissue biopsies that confirm premalignant or malignant cytologic preparations and, instead, the PT program has the option of either confirming these preparations by comparison with the tissue biopsy reports or by reevaluation of the biopsy slide preparations.

Comment: A large number of commenters suggested changes in the methods for evaluating an individual's performance and in the scoring system as described under § 493.945(b). The majority recommended that those individuals who screen slides (cytotechnologists) should be scored differently from those who interpret them for diagnoses (pathologists). They said that scoring should be based on the daily responsibilities of the individual being tested and that cytotechnologists should be scored on their ability to separate negative cases from those that need to be reviewed by a supervisor and not on their interpretation of the degree of abnormality present. Commenters pointed out that cytotechnologists and pathologists normally work as a team to screen and interpret slides. They stated that if PT is to be conducted under conditions that normally prevail within the laboratory and samples handled the same as patient specimens, then PT should be conducted to allow for this type of teamwork.

One organization suggested changing the scoring grid so that category C includes both low and high grade lesions and category D only invasive carcinomas, similar to that used in the

State of Maryland. A few commenters recommended eliminating the "unsatisfactory" category. They said that there is no consensus on the characterization of unsatisfactory smears and that this category should not be included in testing until specific criteria can be developed by professional societies and the National Institutes of Health. Others asserted that it is unacceptable to treat specimen adequacy determination as a diagnostic category for PT purposes because determination of specimen adequacy is not comparable to diagnostic interpretation.

A few commenters said that the PT scoring system should be validated before it is implemented. One organization and a few individuals recommended that the weighted scoring system be replaced with a direct calculation of the percentage of correct responses. Several commenters, approximately equal in number, recommended adopting either the scoring system used in Maryland or New York.

Response: We agree with the commenters on several points and have modified the scoring system described in § 493.945(b). We have made several changes to allow for individuals to be tested in accordance with their qualifications as either a cytotechnologist or a technical supervisor. We have added a provision under § 493.945(b)(2) to allow for teamwork between technical supervisors and cytotechnologists. All cytotechnologists will be tested with materials that have not been previously reviewed. Technical supervisors who routinely examine gynecologic slide preparations only after they have been reviewed by a cytotechnologist may be tested with slides that have been reviewed by a cytotechnologist in their laboratory. Technical supervisors who routinely review slides without the assistance of a cytotechnologist must be tested with slide sets that have not been previously examined.

In addition, several changes have been made in the criteria for acceptable performance as described under § 493.945(b)(3). We have retained a weighted scoring system which is modeled after the one in use in the State of Maryland. Each slide in either a 10 or 20 slide test set has point values for responses based on both the significance of the relationship of the interpretation of the slide to a clinical condition and on whether the examinee is a cytotechnologist or a technical supervisor. There are, therefore, four scoring grids: two for a 10 slide test set and two for a 20 slide test set, with one each for technical supervisors and cytotechnologists. The total possible points for each test, 10 or 20 slides, is 100. Consequently, each slide is worth a maximum of 10 points in a 10 slide test set and 5 points in a 20 slide test set. Point values range from −5 to 10 and −10 to 5 in the 10 and 20 slide test sets, respectively. Cytotechnologists are not penalized for being unable to differentiate between categories C and D, low grade abnormalities or high grade abnormalities and carcinoma. Technical supervisors, however, lose points for incorrectly identifying challenges in these two categories. All individuals fail an examination (score less than 90%) if they incorrectly identify one high grade abnormality or carcinoma (category D) as a negative/normal (category B).

We have retained the four category delineations, including the unsatisfactory category. We think that it is appropriate to include unsatisfactory slides in proficiency testing since laboratories are required under § 493.1257 to identify, report and keep statistics on slides that are unsatisfactory for diagnostic interpretation. We have retained the separation between categories C and D as being between low grade and high grade squamous cell abnormalities. This point of separation is in keeping with the weighting of the scoring system and, we believe is more readily discernable than the separation between high grade abnormalities and carcinoma. We have added a table in § 493.945(b)(3)(ii)(A) which defines and describes the four categories. We acknowledge that the professional community has not reached a consensus on the criteria for unsatisfactory preparations, however, for proficiency testing purposes, we have defined three criteria that are to be used for classifying slides as unsatisfactory. These criteria are scant cellularity, air drying and obscuring material. We believe that by defining each of the categories in this table, rather than referring to The Bethesda System of nomenclature, we have alleviated the confusion that commenters expressed over the classification.

Comment: While some commenters supported the use of The Bethesda System for reporting cytopathology PT results, a larger number were opposed to requiring its use. Some suggested delaying or phasing-in this requirement. Others recommended that individuals use the terminology they normally use in practice, either alone or in conjunction with The Bethesda System. They said that it was inappropriate and premature to require the use of terminology that is not widely used or accepted and with which many cytotechnologists and pathologists are unfamiliar. One commenter suggested the use of a simpler reporting system that does not have such fine differentiation among the various abnormalities. A few commenters pointed out that requiring the use of The Bethesda System for reporting PT results, if the laboratory does not normally use it, is inconsistent with the requirement that PT samples be treated like patient samples.

Response: We agree with the commenters and have deleted this requirement. Proficiency testing results are to be reported using the four categories previously described. While these categories are delineated based on The Bethesda System of nomenclature, the PT program may supplement the category descriptions with other terminology, if desired. We will evaluate the PT program on an ongoing basis, and may consider changes in the format and terminology for reporting results in the future.

Changes to the Regulation

In addition to editorial and clarifying changes, we have made the following specific changes to this subpart:

- We are renaming this subpart as Proficiency Testing Programs for Tests of Moderate and High Complexity to reflect the changes in the categorization of tests under § 493.10.
- Under § 493.901, we are amending the requirement to prepare PT samples in accordance with good manufacturing practices by adding a requirement to follow 21 CFR part 820.
- We are retaining the requirement for PT program providers to include an attestation statement with the report form for each PT testing event and have made the completion of an attestation statement and its documentation the responsibility of the laboratory director.
- We are including a requirement in § 493.901 that PT program providers develop and maintain a process to resolve administrative, technical, and scientific problems associated with program operations.
- We are revising § 493.903 to require providers of PT programs to issue reports within 60 days of the testing event, except for cytology PT for which reports must be issued within 15 working days. In order to improve the exchange of information about problems with PT, all approved PT providers will be required to provide HCFA with an annual report which identifies any previously unrecognized sources of variability in kits, instruments, methods,

or PT samples, which adversely affect the programs' ability to evaluate laboratory performance.

- We are deleting § 493.907 since these requirements have been incorporated elsewhere in this rule.
- In §§ 493.909–493.959 (except for § 493.945), the provisions of the proposed rule are adopted as final with the following exceptions/additions:
- All specialty and subspecialty testing must be conducted at least three times per year, at approximately four month intervals, with the exception of mycobacteriology, which must occur at least twice per year.
- Formulas for calculating testing event scores have been amended throughout this subpart to clarify the grading scheme.
- For tests requiring quantitative results, provision has been made to allow target values based on a "peer" or "by method" group when the PT provider has determined by a valid scientific protocol that a specific method's results are atypical compared with results on patient specimens, and the bias would adversely affect the evaluation of laboratory performance if an all-method target value had been used. PT program providers must report the circumstances which require such variations on an annual basis to HCFA. Since the use of standard deviation limits for acceptable performance could unduly penalize very precise method groups when "by method" assessments are employed, fixed-limit criteria for acceptable performance have been added, where possible, for quantitative tests.
- In order to assure that a laboratory's evaluation process is fair for qualitative responses, a 90% agreement is required in the determination of the correct response before laboratories are evaluated.
- For microbiology, a laboratory's evaluation is determined by its final answer, which is based on the type of service it offers. Scores for any preliminary analyses leading to the final answer are not included in the averaging of results to calculate a laboratory's score for each sample.
- The procedure for calculating scores for antigen tests has been clarified.
- For the subspecialty bacteriology, five types of laboratory services are now recognized. Laboratories are required to report the principle pathogen rather than the significant pathogen in designated samples. Four additional *Enterobacteriaceae* and two additional Gram-negative organisms have been added to the list of organisms to be included in approved PT programs over time. A predetermined rather than a predictable pattern of resistance to common antimicrobial agents as determined by a NCCLS guideline procedure or a reference method approved by HCFA is being required for antimicrobial susceptibility testing.
- For mycobacteriology five types of laboratory service and for mycology four types of laboratory service are now recognized. The types of mycobacteria now reflect the five groups suggested by most authorities. *Microsporum species* have been added to the list of organisms to be included in approved PT programs over time.
- For parasitology, *Enterobius vermicularis* (pinworm) has been added to the list of parasites that might be included in an approved program.
- In toxicology, acceptable performance limits for blood lead have been narrowed to reflect both improvements in the analytic state of the practice and the need for better accuracy and precision due to the recognition that lower concentrations of lead can cause adverse health effects in children. Also, tobramycin is now included in toxicology.
- For hematology, standard deviation limits have been replaced with fixed criteria for determining acceptable performance.
- We are revising § 493.945 to require that cytology proficiency testing programs provide: (1) 10 slide test sets for the annual testing event for each individual and for the retest for those who fail the annual test; and (2) 20 slide test sets for the second and subsequent retesting events. Each test set must include at least one slide in each of the four response categories and test sets should be comparable. All slide preparations included in each test set must be referenced by obtaining 100 percent consensus agreement of a minimum of 3 anatomic pathologists. Premalignant and malignant slide preparations must be confirmed by either comparison with the reported tissue biopsy results or with the reevaluation of the tissue biopsy slide material.

An individual qualified as a technical supervisor may be tested with a test set after it has been screened by a cytotechnologist in the same laboratory if he or she routinely examines prescreened slides. Technical supervisors who work without a cytotechnologist must be tested with an unevaluated test set.

There are separate scoring systems for cytotechnologists and technical supervisors. The maximum point value for each slide is 10 in a 10 slide set and 5 in a 20 slide set. One major undercall (reporting category B for a slide in category D) results in a failing score (less than 90 percent) in both the 10 and 20 slide test sets. Proficiency test results are to be reported using the four categories as defined.

Subpart J—Patient Test Management for Moderate or High Complexity Testing, or Both

Summary of the Proposed Rule

We proposed this subpart as Patient Test Management For Level I and Level II, but have renamed it to be consistent with changes in the categorization of tests under § 493.10. Proposed § 493.1101 Condition: Patient Test Management for Level I and Level II Testing (now Patient Test Management for Moderate or High Complexity Testing, or both) was substantially unchanged from the final rule with comments published on March 14, 1990, at 55 FR 9536. At § 493.1101(e), Standard; Referral of specimens, the proposed rule was slightly reworded to reflect the site-neutrality direction of CLIA and section 6141 of the Omnibus Budget Reconciliation Act of 1989 (OBRA '89), Public Law 101–239, which requires laboratories participating in the Medicare program to comply with CLIA requirements. Specifically, the requirements in the March 14, 1990 final rule for CLIA licensed laboratories to refer specimens only to other CLIA licensed laboratories, and Medicare approved laboratories to refer specimens to other Medicare approved laboratories has been removed. The proposed rule required laboratories to refer specimens only to a laboratory certified to perform testing for the appropriate level of testing.

Comments and Responses

Almost 250 comments were received on this subpart. The comments were divided almost evenly between commenters who opposed portions of the proposed requirements and commenters who basically agreed with the intent of the subpart, but offered alternative suggestions.

Comment: Several comments were received from individuals associated with nursing homes and other inpatient facilities that perform bedside laboratory testing. Commenters believed that the requirements of this subpart were burdensome and not appropriate to this type of testing. These commenters requested that the regulations be modified to accommodate laboratory testing when specimens are analyzed at the source of collection (i.e., patient's bedside).

At these facilities, the patient and specimen information is on the patient's chart or medical record and test results are recorded directly on the chart or medical record. The commenters believed that they would be required to use additional formal requisitions and report forms.

Response: We agree with the need for revision as suggested by the commenters. However, every laboratory must implement a system that maintains the pertinent patient and specimen information required to assure reliable and accurate test orders, testing, and reporting of test results for each patient. Due to the diversity of laboratory settings that will be subject to these regulations, and in response to the comments received, we have modified the regulation to allow facilities flexibility in devising and implementing such a system. The regulations allow a laboratory to receive test requests and report test results directly in the patient's chart or medical record. While testing may be done at the bedside, written procedures describing patient preparation, specimen collection and handling and test reporting policies would still be required, as would the applicable requirement for record retention.

Comment: A number of commenters suggested that the requirements of the subpart addressing specimen integrity and record keeping should be applicable to waived tests.

Response: We agree with the commenters that specimen integrity and record keeping are an essential component of good laboratory practice. We expect that any laboratory committed to reporting accurate and reliable results would institute a policy that includes these components. However, section 353(d)(2) of the Act specifically exempts those laboratories that perform only waived tests from meeting the Federal health and safety standards.

Comment: Most commenters agreed with the requirements for specimen collection. Several commenters requested that the standards for specimen collection and submission be applicable to all entities, including those facilities that only collect specimens for testing.

Response: We agree with the commenters, but the requirements in CLIA apply only to those facilities that meet the definition of a laboratory; that is, a facility that performs tests on human specimens for the purpose of providing information for the diagnosis, prevention or treatment of any disease or impairment of, or the assessment of the health of human beings. Facilities that perform no testing and only collect specimens do not fall into this category. It is the laboratory's responsibility to establish criteria for acceptance or rejection of specimens and to provide their collection sites and/or clients with the instructions needed to meet these criteria.

Comment: A few commenters suggested that we require the facility that collects specimens to label the specimen container and the request slip with a unique patient identification number as part of the labeling requirements to assure positive patient identification.

Response: The regulations provide laboratories the flexibility to establish a system that ensures positive patient identification through each step of specimen accession, storage, testing and reporting of test results. This may include a system that involves labeling the specimen container and request slip with a unique patient identification number, but does not preclude the use of other mechanisms to assist in patient identification and tracking of specimens throughout the testing and reporting precesses. The choice remains with the laboratory.

Comment: A few commenters expressed concern about the requirement for laboratories to make written instructions available to patients for specimen collection, including patient preparation, and suggested that an oral explanation is often more effective.

Response: We agree with the commenters that oral instructions to patients for specimen collection, including patient preparation, may be more effective in some cases. We are modifying the regulations to add a number of additional sections. New § 493.1103 is entitled, "Standard; Procedures for specimen submission and handling." At § 493.1103(c), we include a provision for a supplemental oral explanation of instructions to patients for specimen collection, if the laboratory desires to do so. This does not replace the requirement that a laboratory have written instructions for specimen submission which include patient preparation as warranted.

Comment: A few commenters noted that facilities performing testing for organ transplants (e.g. eye banks) do not initiate testing as a result of direct authorization or requisition by a patient's physician. Commenters suggested that the final rule provide for testing of organ specimens.

Response: We agree with the commenters. The definition of "authorized person" has been broadened to cover their concern. An "authorized person or entity" now may request the testing required by organ agencies. However, the organ agencies are required to follow their respective State regulations for testing authorization.

Comment: A few commenters suggested that electronic test requests should be accepted as an alternative to written requests.

Response: The regulations do not preclude the use of electronic requests. As previously stated in § 493.1101(b), now at § 493.1105, Standard; Test requisition, the laboratory must perform tests only at the written or electronic request of an authorized person.

Comment: Many commenters offered alternative time frames, both shorter and longer, for a laboratory to obtain written verification of oral requests, and some believed written verification was not necessary at all.

Response: Written verification of oral requests is necessary to prevent the unauthorized ordering of tests. We have retained the provision of proposed § 493.1101(b), now located at § 493.1105. That provision requires written verification of oral test requests within 30 days as a reasonable time frame within which to comply. Electronically signed documents are acceptable in lieu of written authorization.

Comment: Some commenters disagreed with the requirements for retaining the test requisition for two years. Commenters believed that the two year requirement was too long.

Response: All records related to testing, including documentation of the tests requested and that tests were ordered by an authorized person, are a necessary part of a laboratory's recordkeeping. We also note that CLIA directs biennial certification and we plan biennial inspections, not annual inspections, as had been the case for previously regulated laboratories. We are retaining the requirement at proposed § 493.1101(b), relocating it to § 493.1105. The requirement directs laboratories to retain the test requisition or the test authorization for a minimum of two years. This period may be longer if other Federal or State regulations are applicable.

Comment: Several commenters suggested that in physician office laboratories the patient chart could serve as the test requisition.

Response: We agree with the commenters that a patient's chart or medical record could serve as the test requisition provided that it includes all the information relevant and necessary to assure accurate and timely testing and reporting of test results. Specifically required is the patient's name or other unique identifier, the name and address or other suitable identifier of the authorized person requesting the test, the test(s) to be performed, the date of specimen collection, and for Pap smears, the last menstrual period, the patient's age or date of birth, and indication of whether the patient had a previous abnormal report, treatment or biopsy. Additional information may include the patient's age, sex, current medications, the time the specimen was collected, diagnosis, the type of specimen to be tested, (i.e., serum versus urine, etc.) if relevant and necessary to the testing to be performed. This would be determined by the laboratory. The patient's chart or medical record used for this purpose must be available to the laboratory at the time of testing, available to HCFA upon request, and must be maintained in lieu of a separate form for at least two years.

Comment: A number of commenters felt that too much information was required on the requisitions, and that much of it was really not necessary for proper test performance.

Response: We agree with the commenters that the requirements at proposed § 493.1101(b)(1–8), now at § 493.1105(a)–(f), were overly prescriptive in some instances and have revised them to allow laboratories to develop their own system of determining the information relevant and necessary for proper specimen identification and handling, and to assure accurate and timely test performance and reporting of test results. The laboratory must, however, include on the requisition the name of the authorized person ordering the test and, if appropriate, the individual responsible for utilizing test results, or the name and address of the laboratory submitting the specimen, including, as applicable, a contact person. In addition, the requisition must include the test(s) to be performed and the date of the specimen collection. In the event a question arises concerning specimen integrity or if a life-threatening or panic level result is obtained, the requesting individual or entity must be notified.

Comment: Numerous commenters stated that it would be unfair to the patient and adversely affect patient health to require the rejection of cytology specimens that are submitted without the required information provided on the test requisition. Some suggested that the laboratory document its attempts to obtain required information.

Response: We have not specified the conditions under which specimens should be rejected. Each laboratory must establish its own criteria for specimen acceptability or rejection and specify these criteria in its procedure manual as required in subpart K, Quality Control at § 493.1211(b)(1). It is our intent that the laboratory make provisions for obtaining patient information, and demonstrate reasonable attempts to obtain the information.

Comment: A few commenters felt that the determination of which information is pertinent should be left to the individual ordering the test.

Response: We agree with the commenters that the individual ordering the test may be qualified to determine the relevance of clinical information. However, in many instances the technologist or laboratory director will be aware of clinical conditions that may affect testing while a clinician, nurse practitioner, or even a patient who may order a test may not have such knowledge. The laboratory must determine the information it requires to assure proper and reliable test performance and result reporting. A laboratory must make a reasonable attempt to obtain such information. The laboratory can solicit specific information from the authorized person ordering tests by specifying or identifying specific areas on a test request form. If specific information is required by the laboratory in order to perform or report the test, and it is not supplied by the test requester, direct communication is warranted.

Comment: Several commenters noted that pertinent clinical information may include HIV testing status or the presence of risk factors for AIDS and may conflict with patient confidentiality requirements.

Response: "Pertinent clinical information" pertains to the patient information that may be required by the laboratory for the proper performance of the required test procedure. Only the information that the laboratory determines is necessary for testing must be obtained. We have reworded this requirement to state that, "any additional information relevant and necessary to a specific test to assure accurate and timely testing and reporting of results." Since all patient information is considered confidential, the laboratory must ensure patient confidentiality for all the information it collects.

Comment: Several individuals and organizations expressed concern about the requirement to obtain information as to whether a patient is at risk for developing cervical cancer or its precursors. Some stated that many clinics are successful in obtaining Pap smears because of the assurance of patient confidentiality and this requirement might reveal confidential patient information. Other commenters stated that the majority of American women fall into one or more high risk categories so there would be no point in providing this information.

Response: We agree with the commenters and have deleted the requirement, formerly at § 493.1101(b)(8), requesting information as to whether a patient is at risk for developing cervical cancer or its precursors.

Comment: A significant number of commenters expressed concern about the requirement for laboratories to have records of each step in the processing and testing of patient specimens, stating that such records could be voluminous.

Response: We agree with the commenters regarding the burden implied by this requirement; that is, the recording of every step in the processing and testing of patient specimens. We have removed the requirement to document each step in the processing of patient specimens. We have, however, added the requirement that records must identify the personnel performing the testing procedure. The complexity model consists of waiver, moderate, and high complexity tests and dictates the personnel qualifications required for performing each level of tests. Documentation of the identity of the personnel performing the test procedure is a mechanism for determining compliance with the regulations. These records must be maintained for at least two years.

Comment: A few commenters stated that the language in § 493.1101(c) should be clarified to indicate that instrument printouts must be retained for 2 years.

Response: We agree with the commenters that instrument printouts must be maintained for two years. We are revising the requirement proposed at § 493.1101(c), and locating it in a new § 493.1107, Standard; Test records, to state that records of patient testing, including, if applicable, instrument printouts, must be retained for at least two years.

Comment: Several commenters suggested that assigning accession numbers was not necessary in very small laboratories.

Response: We agree with the commenters. It was never our intent to require the laboratory to utilize accession numbers. The system used must assure proper identification of the specimen throughout the testing process. The requirement, which has been relocated to § 493.1107(a), is being reworded for clarification to include the patient identification number, accession number, or other unique identification of the specimen. The patient's name may be used as part of the identification system. However, the patient's name must be linked with another identifier to assure positive identification between patients with like or similar names.

Comment: Numerous commenters opposed the requirement for retention of copies of all test reports, including preliminary reports, for two years or longer. Most of the commenters were concerned about maintaining copies of preliminary microbiology reports.

Response: The laboratory's recordkeeping system must include copies of all results that have been reported and potentially acted upon by the clinician. Preliminary reports generated in microbiology are often used by the clinician to initiate treatment and must be retained.

Comment: A few commenters questioned the meaning of the phrase "legally reproduced record".

Response: The questions raised by the commenters have prompted a more clearly worded requirement. Rather than using the phrase "legally reproduced record", we are changing the regulation as proposed at § 493.1101(d), and are incorporating the provision in a new § 493.1109(h), Standard; Test report. We are requiring laboratories to retain an "exact duplicate" of the original report. The exact duplicate of the test report may be a manually written report or a report generated by an electronic system, one maintained on microfilm, etc., provided it contains all of the information that was on the original test record or report. The duplicate copy does not necessarily have to be reproduced in the exact format of the original test record or report.

Comment: Several commenters suggested revisions to proposed § 493.1101(d)(1), which required that systems used to report results ensure the confidentiality of those results when appropriate. The commenters stated that "when appropriate" should be changed to "when appropriate as determined by the laboratory director".

Response: The confidentiality of patient results should be insured to the best of the laboratory's ability and in areas over which it has control. All patient information, as well as test results, are confidential. The decision to determine which portions of patient information are or are not confidential cannot be made in the laboratory. We have modified the requirements in proposed § 493.1101(d)(1), and relocated them to § 493.1109(a). As modified, they state that the laboratory must have adequate systems in place to report results in a timely, accurate, reliable and confidential manner, and ensure patient confidentiality throughout those parts of the total testing process that are under the laboratory's control.

Comment: Many commenters stated that it was unreasonable to expect laboratories to be able to retrieve stored records within a two hour time frame.

Response: A specific time frame was not mandated in the proposed regulations nor are we including such a requirement in the final rule. The laboratory must be capable of retrieving records in a timely fashion and making these records available when requested to do so during the inspection process.

Comment: A few commenters noted that proposed § 493.1101(d)(3), which states that the results or transcripts of laboratory tests must be released only to authorized persons, restricts release of results to authorized individuals and may impede patient care in emergency situations if the physician is not available.

Response: We agree with the commenters and we have modified proposed § 493.1101(d)(3), relocating it at § 493.1109(e) and requiring that results or transcripts of laboratory tests or examinations be released to authorized persons or the individual responsible for utilizing test results. This allows results to be released to an authorized person other than the person who ordered the test. In addition, the reporting of potentially life-threatening test results to an individual or entity that requested the test as proposed at § 493.1101(d)(5), is being revised and relocated to § 493.1109(f) to include reporting results to the individual responsible for utilizing the test results, when any test result indicates an imminent life-threatening laboratory result.

Comment: Several commenters pointed out that life threatening results could not be immediately reported to the individual responsible for utilizing test results unless the regulations were revised to require that a laboratory referring test include on the test request the name, address and telephone number or other means of contacting the authorized person who ordered the test or is responsible for utilizing test results.

Response: We agree with the commenters that a mechanism is needed to report life-threatening or panic value test results when a specimen is sent to a referral laboratory. At § 493.1109(f), we now require that the laboratory immediately alert the authorized person or entity requesting the test or the individual responsible for utilizing the test results whenever a test result is imminently life-threatening. In addition, we have modified proposed § 493.1101(b)(2), now relocated to § 493.1105(b), to include on the requisition, as applicable, a contact person to enable the reporting of imminent life threatening laboratory results or panic values. The laboratory is responsible for establishing a reporting system to ensure that this information is reported to the appropriate person.

Comment: A few commenters were opposed to the requirement that a laboratory make available to clients data on test sensitivity, specificity, and interferences, pointing out that "volumes" have been written on these subjects. A small number of commenters stated that the rules should stipulate to what extent manufacturer's literature can be used to comply with the requirements for laboratories to provide data on sensitivity, specificity, interferences, etc. A few commenters stated that it was unreasonable to require laboratories to make available "information that may affect the interpretation of test results". They also stated that, for many tests and diseases, sensitivity and specificity data are not available.

Response: We agree with the concerns of the commenters regarding the requirement for laboratories to make available specified information on test characteristics. We have modified proposed § 493.1101(d)(7), now relocated at § 493.1109(g), by removing exact requirements and are making the regulation more general. The laboratory must make available, upon request, the performance specifications as required under § 493.1213, Standard; Method performance verification, if applicable, of each test method used. This information may include the manufacturer's data supplied, dependant upon whether the method is used according to the manufacturer's instructions. In addition, the laboratory must make available, upon request, information that may affect the interpretation of test results, such as test interferences. Pertinent updates on testing information must be provided to clients whenever changes occur that affect the test results or interpretation of test results.

Comment: Several commenters expressed concern about the requirement for the name and address of each laboratory performing tests to be included on report forms, noting that some reports are already crowded and additional information could make the reports confusing.

Response: The potential for the individual requesting and/or utilizing the test results to require additional test information to aid in result interpretation and treatment of patients is of much greater importance to patient care than report format. If a laboratory determines that its reports are crowded and confusing to the test requester and/or utilizer, it has complete latitude to reorganize the report in the manner necessary to correct the problem. In addition, it is a Medicare requirement to include this information on result reports if the laboratory participates in and receives payment from the Medicare program. The final rule maintains the requirement at § 493.1101(d)(8), now located at § 493.1109(b), to include the name and address of the laboratory location at which the test was performed. In addition, we have added that the test performed, the test result, and if applicable, the units of measurements also be included on the test report.

Comment: A few commenters stated that the requirement to refer specimens only to CLIA laboratories should be modified to include Medicare certified laboratories.

Response: CLIA requires HHS to establish certification requirements for any laboratory performing tests on human specimens for diagnosis, prevention, treatment of disease or impairment, or health assessment purposes and to certify through issuance of a certificate that those laboratories meet the requirements. The Omnibus Budget Reconciliation Act of 1989 (OBRA '89) required that all laboratories participating in the Medicare program comply with CLIA requirements. Only laboratories that have a current unrevoked and unsuspended certificate issued by HHS under CLIA will be eligible for reimbursement in the Medicare or Medicaid programs, or both. Due to the passage of OBRA '89, it is no longer necessary for the distinction to be made between Medicare approved laboratories and CLIA certified laboratories for referral of specimens since a laboratory, in order to be approved by Medicare, must meet the applicable CLIA requirements. Therefore, the requirement proposed at § 493.1101(e), is retained at § 493.1111 and states that a laboratory may refer specimens for testing only to a laboratory possessing a valid certificate authorizing the performance of the service for the level of complexity in which the referred test is categorized, and does not mention Medicare approval.

Comment: A few commenters suggested the deletion of the requirement at proposed § 493.1101(e)(2) for a referring laboratory, which revises results in any way, to notify both the testing laboratory and the authorized person who ordered the test of the changes made. Other commenters stated that the requirement should be eliminated by revising the regulation to prohibit alteration of results by a referral laboratory.

Response: We agree with the commenters who suggested the elimination of the requirement at § 493.1101(e)(2). We have modified the regulations, now at § 493.1111(a), to state that the referring laboratory must not revise results or information directly related to the interpretation of results provided by the testing laboratory.

Changes to the Regulation

We have made several editorial and clarifying changes to this subpart to provide more flexibility to the diverse variety of testing entities now subject to the final rule. We also have renamed the subpart as Patient Test Management for Moderate and High Complexity Testing, or Both and have renumbered and added sections § § 493.1103 to 493.1111 to accommodate changes in the regulations. Specific changes to the regulations are as follows:

- Under § 493.1103(c), we are allowing laboratories to provide oral explanations of instructions to patients as a supplement to written directions.
- Under § 493.1105, we are allowing laboratories to receive test requests directly in the patient's chart or medical record.
- Under § 493.1105(b), we are adding the option to include a contact person and/or the name and address of the person utilizing test results on the test requisition.
- Under § 493.1105(c), we are requiring that the test(s) to be performed be included on the test requisition.
- We are modifying the test requisition standard under § 493.1105(f) to allow laboratories to develop their own system of determining the information relevant and necessary for proper specimen identification and handling, and to assure accurate and timely test performance and reporting of test results.
- We are deleting from the test requisition standard the requirement requesting time of collection, source of specimen and test requested, age and sex of patient, and pertinent clinical information.
- For Pap smears, we are removing the requirement that the requisition request information as to whether a patient is at risk for developing cervical cancer or its precursor, but requiring that the form indicate the patient's age or date of birth.
- We are removing the requirement that the test record document each step in the processing and testing of patient specimens.
- Under § 493.1109, we are allowing laboratories to report test results directly in the patient's chart or medical record, which must be readily available to HHS upon request.
- We are requiring that the test record identify the person who performed the test and that the laboratory retain instrument printouts for at least two years.
- We are requiring that the test performed, the test results and, if applicable, the units of measurement be included on the test report.
- We are removing the option for a referring laboratory to revise test results received from a testing laboratory.

Subpart K—Quality Control for Tests of Moderate or High Complexity, or Both

Summary of the Proposed Rule

We proposed this subpart as "Quality Control for Level I and Level II Testing," but have renamed it to be consistent with the changes made in this subpart.

With the exceptions described herein, the quality control requirements in the May 21, 1990 proposed rule were the same standards as specified in the final rule published March 14, 1990. We sought comments on the applicability of those proposed requirements to new technology.

In § 493.1203, Standard; Facilities, we proposed to add the requirement for laboratories that perform non-waived tests to provide for adequate ventilation to ensure proper removal of toxic fumes and that air exhausted from areas in which infectious materials are handled is appropriately filtered before discharge into the atmosphere.

Also in § 493.1203, we proposed to add a requirement for laboratories to have and maintain a stable electrical power source.

We proposed to add to § 493.1211(a)(12), Standard; Procedure Manuals, a new paragraph requirement to ensure that appropriate specimen storage criteria be included in each test procedure.

In § 493.1217, Standard; Frequency of quality control, we proposed to specify in paragraph (e) that the laboratory include only one control in each electrophoresis cell rather than include two controls with each test run. In addition, we proposed at § 493.1249, Standard; Toxicology, for drug abuse screening using thin layer chromatography, that each plate be spotted with at least one calibrator containing all drugs identified by the thin layer procedure and that at least one control be included in each chamber and processed through every step of patient testing.

In the proposed regulations, we proposed no substantial changes to the special quality control requirements specified in the final rule published March 14, 1990. In the preamble to the proposed rule, we requested the public to consider and comment on the following statements that could be included in several future regulations:

HIV-1 Antibody Testing

A reactive screening test for HIV-1 antibody must be followed up with a more specific supplemental test before issuing a final report.

Urine Drug Testing for Drugs of Abuse

A positive screening test for drug(s) of abuse must be followed up with a more specific confirmatory test before issuing a final report.

Although we proposed no substantive changes to § 493.1257, Standard; Cytology, from the cytology regulations published on March 14, 1990, to provide clarity to the proposed requirements we are providing an overview of the proposed cytology regulations.

The proposed requirements for quality control in cytology provided for a comprehensive program to detect errors and assure accurate diagnoses. To ensure satisfactorily stained slide preparations and to prevent specimen cross-contamination during staining, we specified that a Papanicolaou stain be used, that stains be filtered or changed between staining gynecologic and nongynecologic specimens, and that body cavity fluids be assessed for their potential to cross-contaminate. We also proposed that no diagnostic interpretations be reported on unsatisfactory slide preparations.

We proposed that each individual examining slides by nonautomated technique examine no more that 120 gynecologic and nongynecologic slides in a 24 hour period, irrespective of the site or laboratory. No more that two thirds of this slide limit, up to a maximum of 80 slides, could be unevaluated slides. We proposed that the technical supervisor establish a slide limit for each individual based on performance and that the limit be documented and reassessed monthly. In addition, we proposed that the laboratory require each individual to account for any slides he or she examined for the laboratory or any other laboratory or employer. Each laboratory would have to maintain a record of the number of slides examined by each individual within each 24 hour period. We also proposed that the maximum number of 120 slides be examined in no less than 6 hours and proposed a formula for prorating the slide limit for individuals who worked part-time.

We proposed that all premalignant and malignant gynecologic smears and all nongynecologic preparations be reviewed and confirmed by a technical supervisor in cytology. In addition, we proposed that the technical supervisor provide for feedback to cytotechnologists on premalignant and malignant cases and on the results of the reexamination of negative or normal cases. This feedback was to be part of a documented performance evaluation for each cytotechnologist.

To provide for the detection of errors and for further performance evaluation, we proposed that each laboratory establish an error detection program. This program was to include the rescreen of at least 10 percent of all gynecologic cases interpreted to be negative for premalignant or malignant conditions by each individual not qualified as technical supervisor. We proposed that this 10 percent rescreen include cases from patients identified as having a high probability of developing cervical cancer. We also proposed that laboratories compare premalignant and malignant gynecologic cytology results with histology results, available either in the laboratory or from the State health department, and that all normal or negative specimens from the previous 5 years be reexamined when a new malignant or premalignant case is identified. In addition, we proposed that laboratories establish and document an annual statistical evaluation of their case mix with respect to several variables and compare the case reviews of each individual with the overall laboratory statistics, documenting and evaluating any discrepancies.

We proposed several requirements for the laboratory report to specify information that would assist the ordering physician in interpretation of the results. Additionally, we requested comments on whether we should require The Bethesda System for reporting Pap smear results.

We proposed that cytology slides be retained for 5 years if reported as normal, negative or unsatisfactory and 10 years if reported as premalignant or malignant. We proposed to provide for laboratories to donate slides to approved cytology proficiency testing programs in lieu of retaining them for the 5 or 10 year period if authorized by HCFA.

We also proposed that laboratories report all malignant and premalignant gynecologic cases to their respective State health departments.

Comments and Responses

Approximately 1400 comments were received on § 493.1201 Condition: General quality control; tests of moderate or high complexity, or both. About one-half of the commenters were opposed to the proposed quality control requirements, while about one-fifth of the commenters were in support of the proposed requirements. Alternate suggestions were submitted by many of the commenters. Comments received from a few individuals indicated that they had misinterpreted or misread the proposed requirements.

In response to commenters concerns, language has been added to this subpart to allow a two-year phase-in for the development and implementation of a FDA clearance process which will determine if instruments, kits, and test systems developed by manufacturers for in-vitro diagnostic use are in compliance with the CLIA requirements for general quality control.

CDC, FDA, and HCFA have worked collaboratively to revise the complexity model, taking into consideration the responsibility for regulating the products used in the clinical laboratory under the Medical Device Amendments to the Food Drug and Cosmetic Act and these regulations. Although the FDA mandate and regulatory activities have a different focus than does the legislation underlying these proposed rules, we agree that it would benefit both the laboratory and the manufacturer for FDA to consider the CLIA regulations during the review process for products used in the clinical laboratory. Therefore, exercising its authority under both the Federal Food, Drug and Cosmetic Act and CLIA, FDA will develop guidelines for manufacturers to follow in preparing their supplementary data to support their performance claims and recommended quality control procedures for laboratory users of both moderate and high complexity tests. FDA will review this data and, if found to be in compliance with CLIA regulations, will allow the manufacturer to market "cleared" products as meeting the quality control requirements for performing tests of either moderate or high complexity. The laboratory performing these tests in accordance with their labeling instructions, and complying with the requirements of this subpart that are unique to the laboratory facility, will be considered in compliance with the requirements of this subpart. With respect to notifying laboratories that compliance with the quality control instructions specified in the labeling for the product will constitute compliance with CLIA, the regulations provide that a laboratory cannot rely on a manufacturer's quality control instructions unless the manufacturer, in addition to obtaining FDA clearance of its quality control instructions, also includes the following statement in the quality control instructions: "Unless this device is modified by a laboratory, compliance with these quality control instructions satisfies 42 CFR 493.1201 through 493.1221 and 493.1223 through 493.1285, as applicable, implementing the Clinical Laboratory Improvement Amendments of 1988." The inclusion of such a statement in the quality control instructions without FDA review and clearance will be considered a violation of 21 U.S.C. 352(a) and applicable provisions of Title 18, including 18 U.S.C. 1001. Manufacturers should be advised that HHS will continue to regard any other statements concerning FDA review and clearance of devices to violate 21 U.S.C. 301(1) or 352(a).

Except for the discussion listed below under § 493.1201 which explains the addition of §§ 493.1202 and 493.1203 concerning the applicability and the effective dates of the quality control requirements, the comment and response section does not include the two year phase-in implementation nor does it include any equivalent procedures that will be specified in the State Operations Manual and may be used by laboratories to meet the requirements specified in this subpart.

Section 493.1201 Condition: General Quality Control; Level I and Level II Testing (General Quality Control for Tests of Moderate or High Complexity, or Both)

Comment: Many commenters believed that quality control (QC) activities are an essential component of good laboratory practice and supported subpart K as written, stating that the quality control requirements should apply to all testing facilities, including those laboratories that perform only waived tests. Many other commenters expressed general disagreement with subpart K stating that it was too rigid and did not allow laboratories the flexibility needed to meet basic QC requirements. Many of these commenters suggested that the regulations be more outcome-oriented as opposed to listing prescriptive requirements. Other commenters felt that the requirements were excessively burdensome and would lead to significant increases in laboratory cost without substantially improving quality and benefiting patient care.

Response: We agree with those who felt that QC activities are an essential component of good laboratory practice. The development, performance, and documentation of QC protocols enables the laboratory to assure the quality of patient test results and reporting. We cannot, however, impose QC requirements upon laboratories that perform only waived tests because the Act specifically exempted laboratories performing only waived tests from all standards, including those of quality control.

The QC requirements established in subpart K are designed to assure the accuracy and reliability of patient test results by monitoring and detecting variations in the performance of test systems using calibration and control materials. We have amended this subpart to clarify the intent of the various sections describing QC requirements and have restructured portions of the subpart to provide a more logical flow to these requirements.

For laboratories that perform tests of moderate complexity using any instrument, kit or test system cleared by the FDA through the premarket notification (510(k)) or premarket approval (PMA) process for *in-vitro* diagnostic use, we have added § 493.1202, Standard; Moderate or high complexity testing or both: Effective from September 1, 1992 to September 1, 1994, which allows a two year phase-in of some of the quality control requirements. Specifically, during this two year period, these laboratories must: Follow manufacturers' instructions for instrument or test system operation and test performance; have a procedure manual describing the processes for testing and reporting patient test results; perform and document calibration procedures at least once every six months; perform and document control procedures using at least two levels of control materials each day of testing; perform and document applicable specialty and subspecialty control procedures; and perform and document that remedial action has been taken when problems are identified.

When laboratories perform tests of high complexity or perform tests of moderate complexity using a method developed in-house or using an instrument, kit or test system cleared by the FDA through the 510(k) or PMA that has been modified by the laboratory there is no phase-in for quality control requirements. For these tests, laboratories must meet all applicable standards of this subpart.

We have added § 493.1203, Standard; Moderate or high complexity testing, or both: Effective beginning September 1, 1994, which addresses requirements in effect after the 2 year phase-in period. Laboratories must either follow the instructions in package inserts or operator manuals supplied with instruments, kits, and test systems that have been cleared by the FDA as meeting the CLIA requirements for general quality control and comply with requirements of this subpart that are unique to the laboratory and cannot be met by manufacturers' instructions; or they must meet all applicable quality control requirements specified in this subpart. If, on September 1, 1994, a laboratory is performing a test of moderate or high complexity using an instrument, kit or test system that has not been cleared by the FDA as meeting the CLIA requirements for general quality control, the laboratory will be expected to meet all applicable requirements of this subpart.

The FDA has analyzed the potential number of 510(k) submissions likely to be received from manufacturers during the phase-in period for implementation of the General Quality Control standard, based on the very limited data available. The agency estimates that an initial, non-recurring bolus of between 3,000 and 9,000 existing applications could potentially be resubmitted for review, most within the first two years of the effective date of the rule, along with the 1,000 new 510(k) or PMA applications the agency usually receives annually. The estimates of reapplications vary widely as a result of the fact that the revised review process is new to both the FDA and to manufacturers, and because the submission of reapplications for devices already in use will depend on market factors which are complex and inherently difficult to anticipate.

The FDA is concerned about its ability to process all applications received within the 2-year phase-in period. The agency's ability to handle this early, greatly-expanded workload of premarket submissions will depend on the actual numbers and timing of submissions received, as well as on the availability of the additional resources necessary to fully accommodate the projected workload. While a moderate number of applications can be accommodated, if the early submissions received are in the higher range of estimates, FDA may well have difficulty in completing its review of all reapplications during the 2-year phase-in period.

The agency anticipates that CLIA user fees will be available to support additional staff and services needed to develop and implement an expanded 510(k) process. However, there are practical limits on the number of additional technical staff that can be hired and trained within a short period of time, particularly when the need for these staff is temporary. In any case, subject to user fee generated resources, FDA management will be monitoring submission activity very closely and will take all possible steps to anticipate and meet the challenges presented.

Comment: Many commenters felt that comprehensive QC programs were fully justified for large laboratories but too costly for small limited-service laboratories that perform only Level I tests. Commenters suggested that QC requirements should be commensurate with the scope of testing performed and compatible with the instruments and methodologies used for testing. A few commenters suggested that built-in computers in many of today's instruments would handle most QC requirements.

Response: We agree that QC programs should be commensurate with the scope of testing preformed. The regulations have been amended to provide all testing facilities performing tests of moderate and high complexity a framework within which to develop a QC program that will provide accurate and reliable patient test results. In addition, an option is provided for laboratories to be in compliance with these regulations by using instruments, kits and test systems that have been cleared by the FDA as meeting the CLIA requirements for general quality control.

We agree that many instruments provide computer assisted QC monitoring and data processing; however, the interpretation of these data, and the decisionmaking process concerning whether quality control results are acceptable or require remedial action, and the final decision regarding the release of patient test results are functions which require trained laboratory personnel.

We recognize that these requirements will increase the costs in some testing facilities that have practiced little or no QC to date, but we feel that these QC requirements are essential to ensure quality patient testing. Therefore, the benefits associated with these requirements outweigh any costs imposed and burden associated with their implementation.

Comment: Several commenters felt that the extensive requirements in subpart K would have a negative impact on the development of tests for the diagnosis of uncommon or rare diseases and on the development of new technologies, methodologies, and equipment. Many commenters identified specific types of equipment or devices that they felt had sufficient control mechanisms recommended by the manufacturer and should not be subject to additional Federal requirements. Several commenters felt that manufacturers should be required to provide products which meet the Federal QC requirements. If so, laboratories would only be required to comply with manufacturers' instructions for QC.

Response: We appreciate the commenters' concerns. The requirements in subpart K were established to provide a basic framework within which all testing facilities can develop policies and protocols which will assure accurate and reliable test results. As previously described, we have amended the requirements to permit greater flexibility by allowing laboratories performing tests of moderate complexity, for a two year period after the effective date of the regulation, to be in compliance with the QC provisions of this subpart by meeting minimal QC requirements and following manufacturers' instructions, as long as the laboratory has not modified the instrument, kit, or test system's procedure. During this two year period, the FDA will implement a thorough review and clearance process for manufacturers' products to assure that QC claims and instructions conform to these regulations before products are marketed. If existing manufacturer's claims for products presently on the market do not conform to these regulations, manufacturers may choose to collect and submit, to FDA for review and acceptance, quality control data to support claims presented in their instructions. After the manufacturer's QC claims and instructions have been cleared by the FDA, a laboratory may meet the QC requirements by following the manufacturer's product instructions. With these changes, we feel that the regulations will not impede the development of new technologies. If, however, a future technological advancement would warrant existing quality control requirements to be revised or amended, the Clinical Laboratory Improvement Advisory Committee (CLIAC) would be requested to undertake such a review. The request for review of new technology may be sent to HHS by an organization, a manufacturer or an individual. The CLIAC and its functions are described in subpart T.

CLIA is specifically applicable to laboratories, not manufacturers. Manufacturers may recommend QC practices, but the laboratory is responsible for their performance, documentation, and QC data interpretation.

Comment: Several commenters requested that Home Health Agencies and Ambulatory Surgical Centers not be subject to this subpart.

Response: If a Home Health Agency or an Ambulatory Surgical Center performs "* * * examinations of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease * * *" as stated in section 353(a) of the Statute, that agency or center is defined by law as a laboratory. Unless these facilities perform only waived tests, they would be subject to the applicable quality control requirements in this subpart.

Comment: Several commenters felt that the QC standards of organizations such as the College of American Pathologists (CAP), the Commission on Office Laboratory Accreditation (COLA), the American Association of Family Practitioners (AAFP), and the American Society of Internal Medicine (ASIM) should be acceptable alternatives to Federal requirements.

Response: Section 353(e) of the statute allows for the deeming of non-profit organizations such as CAP, COLA, AAFP, and ASIM, provided they apply for HHS approval of their accreditation program and have standards that are equal to or more stringent than those of the final rule. If an organization is recognized as an approved accreditation program, its QC standards would be deemed to be equivalent to or more stringent than the quality control standards described in this rule.

In a separate rule, we are establishing the criteria for approval of accreditation bodies and State programs that have standards equivalent to or more stringent than the final regulations.

Comment: Several commenters were concerned about public access to the interpretive guidelines published in Appendix C of the HCFA State Operations Manual.

Response: State Operations Manual publications are available through the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161. The phone number is 1-800-336-4700.

Section 493.1203 Standard: Facilities (This Section Has Been Redesignated as § 493.1204)

Comment: Several commenters recommended that safety requirements be added to this section.

Response: We agree with the commenters that safety is an important factor and have added § 493.1204(b), which states, "Safety precautions must be established, posted, and observed to ensure protection from physical hazards and biohazardous materials."

Comment: Several commenters considered the term "adequate ventilation" to be too vague. The commenters indicated that the costs associated with adding a ventilation system would be prohibitive, and suggested that this requirement not apply to laboratories doing simple bacteriology.

Response: While we agree with the commenters that the term "adequate ventilation" is vague, laboratories should defer to applicable Federal, State and local laws regarding ventilation to determine what is "adequate" for their facility. The regulation has been reworded to provide a framework that will allow the laboratory to determine what requirements are necessary to ensure proper performance and accurate reporting of tests. We do not agree that laboratories performing simple bacteriology testing should be exempt from this requirement, since laboratories performing any test procedure that may adversely affect the health of laboratory personnel must employ appropriate safeguards. We have added § 493.1204(b), which requires the laboratory to establish, post, and observe safety precautions to ensure protection from physical hazards and biohazardous materials.

Comment: A few commenters noted that the preamble contained language which would require all air exhausted from areas where infectious materials are handled to be "appropriately filtered before discharge into the atmosphere." They expressed concern about the expense involved and the types of materials which would be considered infectious.

Response: A laboratory should defer to Federal, State and local laws, including those regulations provided by OSHA and EPA, concerning the requirements for the discharge of infectious materials into the atmosphere. Laboratories must establish, post, and observe safety precautions to ensure protection from physical hazards and biohazardous materials. In laboratories where hazardous specimens are handled and processed, such as cultures for tuberculosis and systemic mycoses, we would expect these activities to be performed in a properly maintained biological safety hood.

Comment: Many commenters felt that the phrase to "ensure an adequate, stable electrical source" is too vague and compliance with such a requirement would be costly. It was suggested that it would be more appropriate to require preventive measures such as voltage regulators, surge suppressors, and uninterruptable power supplies.

Response: We agree with the commenters that the proposed language was not well defined. Our intent is to detect circumstances when proper test performance or accurate reporting of test results are adversely affected. The laboratory must then identify and document remedial actions taken to correct the problems. The facility would determine the mechanisms needed to achieve the desired outcome of proper performance and reporting of results. This requirement has been rewritten and now appears § 493.1205(c)(2).

Comment: Several commenters suggested that the electrical sources of existing facilities by "grandfathered." Other commenters requested that manufacturers of laboratory equipment not be held responsible for electrical power conditions, associated problems, and their resolution.

Response: We disagree with the commenters. If electrical sources were always constant and never changed, "grandfathering" of existing testing facilities might be a viable recommendation. Unfortunately, neither the source nor its use is predictable, and either could adversely impact testing.

We agree it would be impractical to hold manufacturers of equipment responsible for areas beyond their control. Manufacturers may and usually do recommend to equipment purchasers the necessary power requirements needed for optimum instrument performance; however, electrical power usage and stabilizing power problems, such as fluctuations, are the responsibility of the equipment user when such conditions impact adversely on patient testing.

Section 493.1205 Standard; Adequacy of Methods and Equipment (Now Renamed Standard; Test Methods, Equipment, Instrumentation, Reagents, Materials, and Supplies)

Comment: Several commenters believed that HCFA should be required to register and regulate all equipment.

Response: The Act does require each laboratory to designate the methods and procedures it uses for testing. The Act requires standards for laboratories using equipment, instruments or systems for testing human specimens to assure that they are functioning appropriately to provide accurate and reliable test results. FDA is responsible for regulating all of the equipment described in this standard.

Comment: Several commenters suggested adding linearity testing to parts (b) and (c) of this section.

Response: We disagree with the commenters. The subject of linearity has been addressed under § 493.1213, Establishment and verification of method performance specifications. Laboratories that are required to verify or establish their reportable range for patient test result could perform a linearity determination for new testing procedures. In addition, the calibration verification procedure described in § 493.1217, Calibration and calibration verification procedures, requires that the laboratory verify the reportable range for patient test results a minimum of once every six months. This does not preclude the laboratory from performing additional linearity checks to verify the reportable range for methods in use.

Comment: A few commenters stated that it is impossible to perform tests in a manner that ensures "freedom from interference" as stated in § 493.1205(c).

Response: We agree with the commenters and have deleted the requirement. However, as part of the establishment or verification of the method performance specifications, under § 493.1213(b)(2), for methods developed in-house, a modification of the manufacturer's test procedure, or a method that has not been cleared by the FDA as meeting the CLIA requirements for general QC, we expect a laboratory to identify specific interfering substances and include these substances in the procedure manual as a limitation in methodology as directed under § 493.1211(b)(9).

Section 493.1207 Standard: Temperature and Humidity Monitoring (The Contents of This Section Have Been Incorporated in Section 493.1205, Standard; Test Methods, Equipment, Instrumentation, Reagents, Materials and Supplies Under Paragraph (c))

Comment: Many commenters believed that it was not necessary to monitor humidity and requested that the requirement be deleted. Others asked how humidity should be monitored and with what frequency. Others asked for definitions of "acceptable ranges" for temperature and humidity.

Response: We have revised the requirements at § 493.1205(c) to state that the laboratory must, when applicable, define criteria for humidity only as it applies to proper test performance and storage of reagents and specimens and document corrective actions taken when there is a failure to meet the acceptability criteria. The laboratory location, test method, instrumentation, procedure, and reagent storage requirements will determine the necessity for establishing an acceptable range and monitoring and modifying humidity, as necessary. The method used for measurement of humidity, where applicable, is the responsibility of the laboratory.

Comment: Several commenters expressed concern about controlling climatic conditions of transported specimens, specifically the integrity of specimens that are placed in containers for specimen pickup prior to transporting the specimens to a reference laboratory for testing.

Response: We share the commenters' concern about specimen integrity during storage prior to transport. We would expect a laboratory to establish policies and procedures for specimen transport, storage, and evaluation of specimen acceptability for testing and monitor the acceptable operation of this system as required in Subpart J, Patient Test Management and Subpart P, Quality Assurance.

Comment: Numerous commenters expressed concerns about possible increased matrix effect upon proficiency testing samples and proper control material reconstitution if improper diluent was used by the laboratory.

Response: We have included requirements at § 493.1205(c) which requires the laboratory to define the criteria for those conditions which are essential for proper storage of reagents and specimens, and accurate and reliable test system operation and test result reporting. Water quality is a condition that may affect test performance. The presence of possible contaminants in impure water, such as tap water, may compromise the integrity of a proficiency testing sample or control sample and procedure interference sufficient to cause inaccurate results.

Section 493.1209 Standard; Labeling of Testing Supplies (The Contents of This Section Also Have Been Incorporated in § 493.1205 Under Paragraphs (d) and (e))

Comment: Many commenters believed that the regulations should allow laboratories to use certain rare and expensive antigens, antibodies, stains, and other materials beyond their expiration dates as long as the performance of these materials is closely monitored. One commenter asked for a list of products exempted from the dating requirements by the FDA.

Response: While we understand the concerns expressed by the commenters regarding the use of rare and expensive material beyond their expiration dates, these dates have been established to assure that materials will perform properly when used for patient testing. For licensed biological products, product dating requirements specified in FDA regulations at 21 CFR 610.53 and at 21 CFR 809.10 for all other *in-vitro* diagnostics must be met. Any exceptions to these product dating requirements for licensed biological products must be approved by FDA in accordance with 21 CFR 610.53(d). No exceptions are approved for other products. FDA does not publish a list of exempted products.

Comment: A few commenters noted that HCFA does not recognize that calibrator and control sera are often packaged in containers too small to enable the manufacturer or user to fully label the container, whereas FDA provides an exemption for small containers.

Response: Laboratories may choose to store small containers in larger containers that are suitable for proper labeling or develop another method or system that would ensure that materials are properly identified and labeled.

Comment: Several commenters considered the requirement prohibiting the interchange of kit components to be "too rigid" and suggested only applying this rule to those "critical" components of a kit when interchanging these components might not produce acceptable and reliable results.

Response: The performance specifications of a particular kit are established by the manufacturer based on the reactivity of the reagents in the kit to provide the most accurate and reliable test results. Alterations, such as substituting components of other lot numbers, may adversely affect the test results. The testing facility must follow the manufacturer's recommendations for using the kit components unless the laboratory chooses to establish (not verify) the performance specifications for the modified kit as described in § 493.1213(b)(2). Therefore, no changes were made in the regulation as proposed.

Section 493.1211 Standard; Procedure Manual

Comment: A few commenters requested that procedure manuals for small laboratories be developed by DHHS, several suggested using package inserts, and many commenters wanted the National Committee for Clinical Laboratory Standards (NCCLS) identified as a reference for developing procedure manuals. A few commenters recommended that textbooks and literature references or product materials supplied by manufacturers not be accepted in lieu of a procedure manual.

Response: A procedure manual is the testing facility's written instructions and descriptions related to its own unique operation. The regulations provide a framework for which each laboratory may tailor its manual, where applicable. Manufacturer's package inserts or operator manuals are acceptable for use by the facility in place of separate, rewritten step-by-step instructions for test performance provided they meet the requirements of the regulation. Specifically, manufacturer's package inserts or operator manuals may be used, when applicable, to meet the requirements of § 493.1211 (b)(1) through (b)(13). However, any of the items under paragraphs (b)(1) through (b)(13) not provided by the manufacturer must be provided by the laboratory. We believe that laboratory directors will have to spend only a minimum of time writing procedure manuals and, as a result, the regulatory impact analysis estimates only a small cost for this provision.

Laboratories may use a number of reference resources when establishing a procedure manual, including the NCCLS publication.

Comment: A few commenters believed that a procedure for referring specimens to another laboratory should be included in the procedure manual.

Response: We agree with the commenters and have added this requirement at § 493.1211(b)(16).

Comment: Several commenters noted that the requirements for the procedure manual did not include step-by-step instructions for performing examinations.

Response: We agree with the commenters and have added these requirements at § 493.1211(b)(3).

Comment: One commenter noted the term "Quality Control" under Procedure Manual was too general and needed to be clarified by adding requirements for identification, number, and frequency of control specimens.

Response: We agree with the commenter and have revised the title of subparagraph 493.1211(b)(7) to "Control procedures" which will allow the testing facility to develop policies and procedures identifying the type and number of controls, the frequency of use, etc. and any other pertinent directions.

Comment: A few commenters noted that Subpart M, Quality Assurance, adequately addressed quality assurance policies and it is redundant to require that quality assurance instructions be in the procedure manual.

Response: We agree with the commenters. We have removed the requirement for quality assurance protocols to be included in the laboratory's procedure manual.

Comment: Several commenters noted that in § 493.1211(b) it would not be possible for the current director to "initially approve" a procedure if that person was not director at the time the procedure was instituted. Another commenter suggested deleting the term "initially."

Response: We agree with the commenters. Since all procedures must be approved by the laboratory director, we have deleted the term "initially" from the section that is now at § 493.1211(d). In addition, we have added § 493.1211(e) which requires that procedures be re-approved, signed and dated if the directorship of the laboratory changes.

Comment: Many commenters suggested changing § 493.1211 (b) and (c) to allow laboratory personnel qualified in the particular specialty or subspecialty to approve, sign, and date procedure manual changes.

Response: We disagree with the commenters. The laboratory director is ultimately responsible for the overall management of the testing facility and "* * * must assure that tests, examinations and procedures are properly performed, recorded and reported * * *". In addition, in laboratories that perform no high complexity testing, only a director and an analyst may be employed. Therefore, we are retaining the requirements, now at § 493.1211 (d), (e) and (f) for documentation of the director's approval of the procedure and reapproval of each change in a procedure.

Comment: Several commenters requested adding "reviewed annually by the director" to § 493.1211(c).

Response: We disagree with the commenters and therefore, have not included a requirement for an annual review of the procedure manual. The requirements at § 493.1211 (d), (e) and (f), which require approval of the procedure manual by the director and re-approval when changes occur in procedures, accomplishes the same function without requiring the repetitive annual reviews.

Comment: A few commenters suggested that § 493.1211(d) be changed to require laboratories to retain copies of discontinued procedures for five years rather than for two years.

Response: We have retained the requirement, which is now addressed in § 493.1211(g), for a laboratory to retain records for two years as a minimum requirement. Laboratories may choose to retain records for longer periods of time. Under State law a laboratory may be required to maintain records for a longer period than the Federal regulations stipulate.

Section 493.1213 Standard: Equipment Maintenance and Function Checks

Note: This section has been moved to § 493.1215, Standard; Validation of methods.

Comment: Many commenters supported following manufacturers' preventive maintenance instructions and one suggested using this requirement as a "model" throughout the regulation. A few commenters requested that labofatories be allowed to deviate from manufacturers' suggested maintenance schedules. Several commenters recommended simplifying § 493.1213(a) to read: "The laboratory must document the existence of and adherence to a preventive maintenance program." A few commenters requested that laboratories be allowed to omit some maintenance requirements providing they could document that they served no useful function.

Response: We agree with the commenters who suggested using the manufacturer's instructions as a "model" for the testing facility's equipment maintenance policy. We have modified the regulations now at § 493.1215(a) to clarify this point. Laboratories using manufacturers' equipment, instruments, or test systems cleared by the FDA as meeting the CLIA requirements for general QC must perform maintenance as defined by the manufacturer. We disagree with the commenters who suggested omitting "unnecessary" maintenance requirements and have retained the requirement for following the maintenance instructions with at least the frequency suggested by the manufacturer to avoid inaccurate and unreliable test performance and result reporting as a consequence of improper equipment maintenance.

Comment: Many commenters objected to the requirement for performance checks on certain pieces of equipment. Some were confused about the terms "function checks," "rechecking," "calibrating," and "recalibrating."

Response: The terms "function checks", "rechecking", "calibrating," and "recalibrating" are the terms most often used by manufacturers when describing the activities needed to be performed, prior to patient testing, to assure accurate and reliable test results. Function checks are activities performed regularly to ensure that an instrument, device, or test system is performing properly. These activities are usually described by the manufacturer and may include such things as evaluating electrical levels, optical alignment, background counts, etc. Function checks must be performed as stated in § 493.1215(b) to assure proper equipment, instrument and test system performance and accurate and reliable test results. Calibration is the process of testing and adjusting an instrument, kit, or test system to provide a known relationship between the measurement response and the value of the substance that is being measured by the test procedure. Recalibration is the repeat performance of the calibration procedure after a certain time period or when an event has occurred which may have caused a shift in test values. Rechecking may involve using another group of samples of known concentration or activity to verify that the procedure is operating properly.

Comment: Several commenters suggested requiring function checks less frequently than each day of use if "specified by the manufacturer."

Response: If the laboratory uses equipment, instruments, or test systems cleared by the FDA as meeting the CLIA requirements for general QC, the laboratory must adhere to the manufacturer's specifications to assure that the equipment, instrument, or test system is performing at the optimum levels. If the manufacturer's instructions state that function checks may be performed at less than daily frequency, the laboratory may follow that schedule.

Comment: One commenter requested deleting the requirement at § 493.1213(b)(1), which requires rechecking, calibrating, or recalibrating each day of use because they were included in § 493.1217, Standard; Frequency of quality control. Other commenters suggested deleting § 493.1213(b)(1) if function checks are performed.

Response: We agree with the commenters. We have revised § 493.1215 to describe a laboratory's responsibility to perform equipment maintenance and function checks and § 493.1217 was revised to describe a laboratory's responsibility for calibration and calibration verification.

Section 493.1215 Standard; Validation of Methods (Redesignated as Section 493.1213 and Renamed Establishment and Verification of Method Performance Specifications)

Comment: Numerous commenters agreed that validation of methods was important, but recommended that the validation performed by the manufacturer or other authoritative sources should be accepted in lieu of a validation performed by each laboratory for every method. Many commenters believed that validation of a method would not be necessary if a laboratory followed the manufacturer's instructions and had not altered the method, but the commenters agreed that laboratories should validate methods that had been altered or developed "in-house." Commenters stated that in-house laboratory validation was expensive, not feasible for all laboratories, unnecessary, and too complicated for many laboratories to perform. A few commenters stated that laboratories should be allowed to use manufacturers' validation studies if the laboratory follows the manufacturer's calibration scheme and instrument maintenance schedule, particularly if the manufacturer provides evidence of following the NCCLS protocols for linearity, precision, accuracy, and interference claims. These commenters suggested that manufacturers be encouraged to follow the NCCLS validation protocols. Several commenters recommended deleting all validation requirements while others proposed maintaining only parts of the requirements. Many commenters suggested this requirement be changed to read "evidence of validation."

Response: We agree with the commenters who stated that testing facilities should be allowed to use manufacturers' established validation studies for methods used strictly according to the manufacturer's specifications. Laboratories introducing a new procedure for patient testing using an instrument, kit, or test system cleared by the FDA as meeting the CLIA requirements for general QC must demonstrate, prior to patient testing, that it can obtain performance specifications for accuracy, precision, and reportable range of patient test results comparable to those established by the manufacturer. The laboratory must also verify that the manufacturer's reference range is appropriate for the laboratory's patient population.

Laboratories that use in-house methods, a modification of the manufacturer's test procedure, or an instrument, kit or test system that has not been cleared by the FDA as meeting the CLIA requirements for general QC, must verify or establish the performance specifications for the applicable performance characteristics such as: Accuracy; precision; analytical sensitivity; analytical specificity to include interfering substances; reportable range of patient test results; reference range; and any other performance characteristic required for test performance. This requirement is not retroactive for testing facilities not previously subject to the regulations or test procedures in use prior to the effective date of the regulations.

Comment: Several commenters questioned the acceptability of validations performed by parent laboratories for their satellite laboratories. Some of these commenters suggested that the validation studies conducted by a parent laboratory not be accepted for satellite locations. Others suggested that all satellite laboratories perform at least a minimum verification of a parent facility's validation.

Response: As previously described, each laboratory must verify the performance specifications of each test method before patient test results can be reported. If the satellite laboratory uses the same method, equipment, and reagents, and the performance specifications have already been verified by the parent laboratory, the satellite laboratory may use this verification in lieu of its own, but should confirm that equivalent data is being produced which can be accomplished through performing tests using common control materials or patient specimens. If the satellite laboratory serves a different patient population, it must confirm that the parent laboratory's verification or establishment of the reference range is valid for the satellite laboratory. In addition, in situations where a patient may have the same test performed by both the parent laboratory and satellite laboratory the comparability of the test values must be defined as required at § 493.1709, Standard; Comparison of test results.

Comment: Numerous commenters were unclear about what was expected of a laboratory under the method validation requirements. One commenter was pleased to see a change in the regulation from "linear reportable range" to "reportable range." Commenters requested clarification of validation requirements for the following: Applicability to microbiology procedures; determination of the linear reportable range; whether clinical trials are required; and the applicability of validation to a small limited-service laboratory that might be unable to collect data to verify performance characteristics. In addition, commenters inquired whether validation records should include lot numbers of reagents and dates of testing and asked for specific guidance to ensure that inspectors uniformly interpret the validation requirements.

Response: In order to meet the requirements for establishment and verification of method performance specifications, a testing facility must have documentation of its claims for each method used. If the instrument, kit, or test system has been cleared by the FDA as meeting the CLIA requirements for general QC and is used by the testing facility in accordance with the manufacturer's instructions, the testing facility must demonstrate it can obtain results comparable to those obtained by the manufacturer for accuracy, precision, and reportable range of patient test results. In addition, the laboratory must verify that the manufacturer's reference range is appropriate for the laboratory's patient population. In most cases, clinical trials are not required to validate the performance characteristics of a test method. However, if the laboratory establishes an in-house method, alters a manufacturer's described test methodology, or uses an instrument, kit or test system not cleared by the FDA as meeting the CLIA requirements for general QC, verification or establishment of the performance specification must be performed and documented as previously described.

A laboratory's verification or establishment of microbiology procedures' performance specifications is expected to demonstrate the ability to isolate and identify the organisms that the laboratory claims to be capable of isolating and identifying.

To document method verification activities performed by the laboratory, records of dates of testing and of the reagents employed must be maintained. Lot numbers of reagents need not be recorded when performing method verification, but are required when lot numbers of reagents are changed during routine use of the procedure.

Comment: Several commenters suggested that § 493.1215(d) be deleted, specifically the requirement for laboratories to determine the sensitivity and specificity of a method, because it was considered too time consuming and not possible for a laboratory to routinely and consistently establish these parameters for all tests and disease states. A few commenters suggested adding the word "analytical" before the words sensitivity and specificity to clarify that we were not referring to diagnostic sensitivity or specificity.

Response: We understand the commenters' concerns about the extent to which a testing facility must determine and provide documentation of precision, accuracy, sensitivity and specificity. While we are retaining this requirement, we have modified it as previously explained in response to other commenters' concerns about method performance verification. We have added the word "analytical" before the words sensitivity and specificity.

Comment: One commenter requested clarification of the data required at § 493.1215(e) of the proposed rule, requiring the laboratory to maintain documentation verifying that test systems perform according to the laboratory's specifications. The commenter stated that this was a reasonable requirement if the data was limited to performance characteristics, such as bias and precision that are measurable, and the rationale for selecting reporting limits.

Response: We agree in part with the commenter. We have changed the requirements, now in § 493.1213, to reflect that if the testing facility utilizes an instrument, kit, or test system that has been cleared by the FDA as meeting the CLIA requirements for general quality control according to a manufacturer's specifications, it must demonstrate and document that it can obtain results comparable to the manufacturer's performance specifications for accuracy, precision, and the reportable range of patient test results, and verify that the manufacturer's reference range is appropriate for the laboratory's patient population. However, if the testing facility develops its own in-house method, alters a manufacturer's method, or utilizes an instrument, kit, or test system not cleared by the FDA as meeting the CLIA requirements for general QC, it must verify or establish, and document the method's accuracy, precision, reportable range of patient test results, reference range, analytical specificity and sensitivity and other performance specification required for test performance. The data collected by the laboratory during the establishment and verification of method performance specifications process, must be available to the authorized person ordering tests or receiving test results.

Comment: Several commenters stated that it is not possible for each laboratory to establish reference ranges for all methods as required under § 493.1215(f). Commenters recommended that laboratories be permitted to use reference ranges published in the literature or established by the manufacturer provided the laboratory has documentation of the source. One commenter requested clarification of this requirement to indicate how a laboratory is to establish a reference range. Other commenters noted the nationally established reference range for cholesterol. A few commenters indicated that this requirement would be appropriate for procedures with significant variability like coagulation.

Response: We appreciate the commenters' concerns. We have modified the language in the regulation now at § 493.1213(b) to state that testing facilities must verify or establish their reference ranges before reporting patient results. Verification of the reference range can be accomplished by testing a random sample of (normal) patient specimens and comparing the results with the reference range established by the manufacturer or documented in related literature. Laboratories using instruments, kits, and test systems that have been cleared by the FDA as meeting the CLIA requirements for general quality control must verify that, prior to patient testing, the manufacturer's reference range is appropriate for the laboratory's patient population.

Section 493.1217 Standard: Frequency of Quality Control (Now Separated Into Two Sections, Section 493.1217 Standard; Calibration and Calibration Verification Procedures, and Section 493.1218 Standard; Control Procedures)

Comment: Many commenters felt that § 493.1217 should be revised to allow laboratories latitude in testing quality control samples. The commenters felt that the frequency of testing controls should vary depending upon the amount of testing performed and the types of procedures and instruments employed. They were critical of the prescribed frequencies and claimed that some of these frequencies were excessive, contributed to higher costs, and did not improve the quality of patient testing. Many commenters recommended that § 493.1217(a)–(f) be replaced with the requirement that "laboratories perform calibration, calibration verification, or recalibration of each automated and manual procedure as specified by the manufacturer." Several commenters asked for clarification concerning the definition of a run and how often controls and/or calibrators would have to be tested. Several commenters suggested that laboratories be allowed to follow the manufacturer's recommendation regarding the number of calibrators and controls per run or be allowed to use a less stringent protocol if supported by proper documentation. Some commenters suggested more frequent calibration while other commenters suggested less frequent calibration.

Response: We appreciate the concern of the commenters regarding frequency of calibration and control procedures. While we have retained certain minimum requirements necessary to alert analysts to unsatisfactory analytical performance, we have made some changes in the regulations. The laboratory must perform the calibration procedure specified by the manufacturer and with at least the frequency recommended by the manufacturer. In addition, we maintained the requirement for laboratories to verify calibration every six months and whenever testing conditions are altered. We are allowing the testing facility to determine the frequency of testing control samples with each run based on its evaluation of instrument and reagent stability and operator variance, although we are requiring at least two levels of control to be included with each run of patient specimens. We are defining "run" as an "interval within which the accuracy and precision of a testing system is expected to be stable, but must not exceed a period of 24 hours and must not be less frequent than the manufacturer's specifications of including controls and calibration materials."

Comment: While some commenters favored calibration every six months, many believed it increased the cost of testing without improving the quality of test results. Many commenters asked for exact definitions of calibration, calibration verification, and recalibration.

Response: We disagree with the commenters who consider verification of calibration at least every six months to be an unreasonable requirement. We have defined calibration, recalibration and calibration verification of a procedure as follows:

Calibration—is the process of testing and adjusting an instrument, kit, or test system to provide a known relationship between the measurement response and the value of the substance that is being measured by the test procedure.

Recalibration—is the repeat performance of the calibration procedure after a certain period of time or when an event has occurred which has caused a shift in values.

Calibration Verification—is the assaying of calibration materials in the same manner as patient samples to confirm that the calibration of the instrument, kit or test system has remained stable throughout the laboratory's reportable range of patient test results.

Comment: Many commenters felt that verifying calibration of different shipments of reagents was unnecessary if the reagents were the same lot number.

Response: We appreciate the commenters' concerns. The laboratory must perform calibration verification of each automated and manual procedure when commercially prepared reagents of the same lot number are received in different shipments to ensure that reagents have not been adversely affected during shipment and to verify that parallel results are obtained with the new reagents. However, we have modified the requirement, now at § 493.1217(b)(2)(ii)(C)(*1*), to allow the laboratory to waive this requirement if it can demonstrate that changing lot numbers does not effect the range used to report patient test results, and control values are not adversely affected by reagent lot number changes.

Comment: Several commenters felt that the phrase in § 493.1217(a)(1)(iii) "Controls begin to reflect an unusual trend," was not defined, difficult to determine and should be deleted. A few commenters agreed with this part as written. Many commenters believed that recalibration should not be the first and only solution required when control values exceed acceptable limits and a few commenters suggested that the laboratory staff should decide how to troubleshoot a problem.

Response: We disagree with the commenters who indicated that one cannot identify when "controls begin to reflect an unusual trend." A number of QC "rules," have been developed to help detect and monitor trends in QC testing and decision rules have been developed for situations which may indicate an analytic problem.

We have modified the regulation, now at § 493.1217(b)(2)(ii)(C)(*3*), to allow testing facilities to correct unacceptable control values by other means rather than requiring calibration verification of an instrument, kit or test system.

Comment: A few commenters suggested changing the term calibrators to "standards."

Response: The term "standard" usually refers to a primary reference material that is of fixed or known composition, which can be used to establish a reference point for all measurements. Secondary reference materials may also be used to perform calibration activities. These secondary materials are of many types and varieties, including calibrators. In some instances, where costs are not prohibitive, a "standard" may be employed as a calibrator. For this reason we have decided to use the term "calibration materials(s)" instead of calibrator(s) or standard(s).

Comment: Although several commenters agreed with a full range calibration check, many commenters felt that requiring calibrators to cover the entire range of patient values was excessive and unnecessary for linear tests. Commenters claimed that four point calibration was unnecessary and offered suggestions when fewer calibration points could be used. Several commenters were concerned that this requirement increased costs and four calibration materials are not always available to calibrate linear methodologies on each instrument. Several commenters suggested that the number of calibrators should be no fewer than the number recommended by the manufacturer.

Response: Although we recognize that calibration materials may not be available to cover the manufacturer's reportable range, we believe that a laboratory must confirm the calibration over the laboratory's reportable range of patient test results. The laboratory must follow the manufacturer's instructions for calibration and verify calibration using additional calibration materials to check the upper and lower limits of the laboratory's range of reporting patient test results. We have amended the number of calibration materials required to verify calibration throughout the laboratory's range of reporting patient test results to include a minimum value or zero, a mid-point value, and a maximum value at the upper limit of that range.

Comment: Several commenters suggested adding linear reportable range verification to the calibration and recalibration requirements contained in § 493.1217(a).

Response: We have clarified the regulation, now at § 493.1217(b)(2)(B)(*2*), stating that the calibration materials used for calibration verification must cover the laboratory's range of reporting patient test results. The required calibration verification will then verify the laboratory's range of reporting patient test results.

Comment: Several commenters objected to the requirement at § 493.1217(a)(4) that patient values above the maximum calibration point or below the minimum calibration point be reported as greater than or less than the calibration point. They felt this requirement was too restrictive and that other factors such as test linearity, manufacturers' specifications, and patient clinical history needed to be considered.

Response: We agree with the commenters that felt that this requirement was too restrictive and have deleted the requirement. However, if a laboratory reports patient results that are outside of the laboratory's reportable range of patient test results, it must be able to provide evidence that the procedure used yields accurate and reliable results as specified in § 493.1219, Remedial actions.

Comment: Several commenters recommended deleting "operator variance" from the requirement § 493.1217(b) for determining quality control frequency noting that it is impractical and unnecessary.

Response: We disagree with the commenters. Variance between individuals performing a test may occur in both automated and manual systems. Operator variance is a significant factor in test systems that are dependent on technique. Therefore, the ease of use and the amount of training and experience of the analyst must be considered when determining the frequency of quality control checks.

Comment: A few commenters cautioned that the rule should require that the controls be run by the operator who performs the testing.

Response: We appreciate the concerns of the commenters and we agree that there are test methods where the operator who runs the controls should be the operator doing the testing for that run. However, this is not the case for all procedures. We have defined "run" as an interval within which the accuracy and precision of a testing system is expected to be stable, which must not exceed 24 hours, but must be no less frequent than the manufacturer's specifications. Also, in § 493.1218(b), we require that "for each procedure, the laboratory must evaluate instrument and reagent stability and operator variance in determining the frequency of testing quality control samples with each run."

Comment: Two commenters felt that § 493.1217(d) needed clarification. They suggested changing the requirement to allow the laboratory to use some combination of calibration materials, control samples, linearity standards, and other standards that monitor both the abnormal and normal range of reportable patient values. Other commenters indicated that many analyses cannot be characterized as having "normal" and "abnormal" ranges and that this section should be changed to read "* * * and monitor appropriate clinical ranges of reportable patient

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values." Other commenters suggested changing the language to read "* * * ranges that approximate both the abnormal and normal * * *"

Response: We agree with the commenters and have changed the regulation, now at § 493.1218(b), to require that testing facilities monitor the performance of their testing systems using calibration materials, control materials, or a combination thereof.

Comment: One frequently expressed comment was to amend the wording of the section to specify "abnormal high, abnormal low, and normal daily controls."

Response: We disagree with the commenters because control or calibration materials are not always available to check the abnormal low, abnormal high and a normal range of reportable patient values for each test. We have amended this requirement, now at § 493.1218(b), from * * * "must use the calibrator samples, the control samples, or combinations thereof, and monitor both the abnormal and normal range of reportable patient values" to * * *" "must monitor test performance using calibration materials, control materials, or combination thereof."

Comment: Two commenters felt that § 493.1217(d)(2) is too restrictive and recommended deleting the sentence that reads: "Two separate dilutions * * * must be used."

Response: We agree with the commenters and have deleted this requirement from the regulations.

Comment: Many commenters suggested that § 493.1217(f) be revised by adding "where appropriate" to provide for those tests in which either the positive or negative control is not necessary. Several other commenters suggested adding "or as recommended by the manufacturer" to permit laboratories to follow the manufacturer's instructions regarding control materials.

Response: We disagree; assaying positive and negative controls provides assurance that all phases of the test procedure have been performed appropriately. Controls are required to monitor the test procedure in order to detect the deterioration of the reagents, improper use or sequence of reagent additions, incorrect incubation time, etc., so that the testing facility can be assured that it reports accurate and reliable test results. This requirement is now at § 493.1218(b)(1). Any exceptions to the requirements are specified in §§ 493.1223 through 493.1255 of this subpart.

Comment: A few commenters suggested changing § 493.1217(g) by removing the requirement to verify assayed values previously determined by the manufacturer; several commenters supported the requirement as written.

Response: We agree with the commenters who supported the requirement, however, for clarity we reworded the regulation, now at § 493.1218(d)(1), to specify that "the stated values of an assayed control material may be used as the target values provided the stated values correspond to the methodology and instrumentation employed by the laboratory and are verified by the laboratory."

Comment: Several commenters felt that the requirement in § 493.1217(k) for daily testing of positive and negative controls for direct antigen systems should be changed to the "frequency recommended by the manufacturer."

Response: Control materials are tested to assure proper reagent reactivity throughout all phases of the system. Positive and negative control materials (organism or antigen extract) for direct antigen systems must be run each day of testing to evaluate the detection phase. When an extraction phase is included, the system must be checked each day of use using a positive organism. Clarification will be provided in the State Operations Manual concerning the appropriate controls to be employed with antigen systems used to identify viruses. If the manufacturer recommends more frequent use of control samples, the testing facility must follow the manufacturer's recommendation. This requirement is now at § 493.1218(b)(4).

Comment: One commenter believed that § 493.1217(1) should be changed to simply accept the manufacturers' results of quality control testing of media. Another commenter indicated that it was unclear whether all media tested by the manufacturer would need to be retested by the laboratory. One commenter felt that some media, identified in the NCCLS Guidelines, are unstable and should be rechecked.

Response: The regulations, now at § 493.1218(f)(4), allow the testing facility to accept the manufacturers' quality control checks on media if the testing facility has documentation to verify that the manufacturer has used the quality assurance practices that have been cleared by the FDA as meeting the National Committee for Clinical Laboratory Standards (NCCLS) for media quality control. The testing facility must document that the physical characteristics of the media are not compromised. However, the laboratory must perform quality control checks of the media having a high quality control failure rate. A testing facility may wish to perform additional quality control testing of media, but it must document the results and any corrective action taken.

Comment: A few commenters recommended that § 493.1217(n) be modified to allow the director of the laboratory to report some critical results for patient care purposes even when control results do not meet the laboratory's quality control criteria.

Response: We appreciate the commenters' concerns regarding § 493.1217(n), now at § 493.1218(e). However, it is the responsibility of the laboratory director to establish policies under which test results may be reported even though the control results do not meet the laboratory's established criteria for acceptability, to avoid compromising patient care if results are not reported. Such occurrences should be rare and be documented. Any affected patient specimen should be retested, if possible, once control has been reestablished.

Section 493.1219 Standard: Remedial Actions

Comment: A few commenters believed the requirement to notify the ordering individual when specimens cannot be tested within the laboratory's established time frame is impossible, inefficient, and troublesome to the practitioner. One commenter suggested a time frame of 24 hours. Another commenter suggested that the laboratory have contingency plans, including back-up testing for emergency procedures.

Response: We appreciate the commenters concerns and have revised the regulations at § 493.1219(c) to allow the testing facility to establish and document a plan of action based on the urgency of the patient test results for patient management. They may refer specimens to another certified laboratory for testing or store specimens until testing can be resumed. The need to notify the person who would utilize the test results depends on the urgency of the test request, whether results are needed immediately or can be delayed.

Comment: One commenter suggested adding to § 493.1219(a) a requirement that remedial action be documented when quality control results exhibit a trend as reflected on a Levy-Jennings graph or defined by multi-rule systems, such as those of Westgard, *et. al.*

Response: The regulations at § 493.1219, now at § 493.1219(b), require the testing facility to document actions taken in response to control and calibration results that fail to meet the laboratory's criteria for acceptability. It is the responsibility of the testing facility to determine its criteria for evaluating and accepting quality control results and define the remedial action necessary to correct out-of-control situations.

Comment: One commenter requested clarification about the type of format that must be used to notify the "authorized person ordering a test or utilizing test results." Specifically, the commenter asked whether electronic notification would be adequate.

Response: The regulation permits flexibility in determining the format or mechanism to be used for notification. Electronic notification, as well as other mechanisms, would be acceptable provided that records are maintained to document that the appropriate person was contacted.

Comment: A few commenters requested changing the word "copies" to "records" in the requirement that a laboratory "maintain copies of the original report as well as the corrected report for two years."

Response: The regulation at § 493.1219(d)(3) has been modified to state "exact duplicate" in keeping with previous language used in the regulation.

Comment: A few comments were received on § 493.1219(a)(3). One commenter suggested that the requirement for a laboratory to document remedial action taken when "test results that are outside of the laboratory's reportable range" be changed to "test results that are outside of the laboratory's linear reportable range." Two commenters suggested eliminating the requirement and another commenter stated that reportable ranges are established by methodology, maximum and minimum concentration values of linearity, repetitive testing, and well-defined population test studies, not based on maximum and minimum calibration values.

Response: In response to the commenters' concerns, we have revised the requirement now at § 493.1219(a)(2). The laboratory must document remedial action taken when patient test values are outside of the laboratory's reportable range of patient test results.

Section 493.1221 Standard: Quality Control Records

Comment: Several commenters found the record retention requirement in § 493.1221(b) to be unrealistic, time-consuming and a storage problem. The commenters suggested that the requirement exceeded the need to ensure quality laboratory results. In § 493.1221(b), one commenter asked for clarification of the words "each step in" while other commenters suggested deleting "each step in" from the requirement or deleting § 493.1221(b) entirely.

Response: We agree with the commenters who requested the removal of the phrase "each step in" from the regulations. We have modified the regulation to state that "records of all quality control activities" are retained. This modification removes the burden of documenting unnecessary steps in the testing of quality control specimens while requiring the testing facility to maintain quality control data to verify the performance of accurate and reliable test results for a minimum of two years, except in immunohematology where record retention is required for no less than five years, in accordance with 21 CFR part 606, subpart I.

Section 493.1223 Condition: Quality Control, Specialties and Subspecialties (Now Condition: Quality Control—Specialties and Subspecialties for Tests of Moderate or High Complexity, or Both)

We proposed this section as Quality control—specialties and subspecialties but have renamed it Quality control—specialties and subspecialties for tests of moderate or high complexity, or both, because this terminology better describes the quality control that is applicable for tests of moderate and high complexity.

Approximately 250 comments were received concerning § 493.1223, Condition: Quality control, Specialties and Subspecialties. One hundred twelve were opposed to the requirements as proposed, 23 were positive and 124 made alternate suggestions. The majority of comments were received from technologists, followed by dermatologists and pathologists, respectively. The summary of comments received concerning the quality control requirements for cytology are listed under § 493.1257.

In response to commenters' concerns, language has been added to §§ 493.1202 and 493.1203 to allow a 2 year phase-in for the development and implementation of an FDA clearance process which will determine if instruments, kits, and test systems developed by manufacturers for in-vitro diagnostic use are in compliance with the CLIA requirements for quality control.

Effective September 1, 1994, a laboratory that performs tests of moderate or high complexity, or both, as applicable, will be in compliance with this section if it meets quality control requirements specified in this subpart or follows manufacturer's instructions when using products cleared by FDA as meeting the CLIA requirements for general quality control, as well as specialty and subspecialty quality control.

Comment: Several hospitals and one professional organization expressed the concern that a laboratory could possibly lose its certification for an entire specialty or subspecialty or testing because of quality control problems with only one test in the specialty or subspecialty category.

Response: Certification is not granted on a test-by-test basis but by specialty or subspecialty of testing. Therefore, if a laboratory has quality control problems related to only one test or one analyte in the specialty or subspecialty and the laboratory fails to correct those problems it could jeopardize its certification for that specialty or subspecialty area. In all instances, a laboratory would be notified in writing of the quality control deficiencies found during a survey and be given an opportunity to correct the deficiencies. If the laboratory is unable or refuses to correct the deficiencies, its certification could be cancelled and an intermediate sanction could be imposed or certification could be limited, suspended or revoked as specified in Subpart R—Enforcement Procedures.

Comment: One organization has recommended the addition of more specialty categories such as flow cytometry and molecular pathology to § 493.1223.

Response: We agree that eventually additional specialty areas will be needed. As more laboratories performing a wider array of services are regulated, HHS will need advice on how to most effectively certify laboratories for these procedures. However, we are deferring changes in certification categories until we have established the Clinical Laboratory Improvement Advisory Committee. This committee will assist us in determining not only new specialty and subspecialty areas but also the appropriate quality control requirements, personnel qualifications, recordkeeping, proficiency testing and quality assurance requirements that apply in the new areas.

Comment: Numerous commenters found the requirement at § 493.1225 Condition: Microbiology, to be unclear about what was expected of a laboratory for method validation. One commenter was pleased to see a change in the regulation from "linear reportable range" to "reportable range." Commenters requested clarification of validation requirements for the applicability to microbiology.

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Response: A laboratory's validation of microbiology procedures is expected to demonstrate its ability to accurately and reliably isolate and identify each organism that the laboratory claims to be capable of isolating and identifying. Susceptibility testing procedures are validated according to the guidelines published by the National Committee for Clinical Laboratory Standards (NCCLS). Commercial test systems including those for biochemical identification, antigen and antibody detection, and nucleic acid detection should be validated by using a range of controls that verify the qualitative and quantitative performance claims of the manufacturer in accordance with the applicable requirements at § 493.1218, Standard: Control procedures.

Comment: A few commenters suggested that the frequency of performing quality control checks for beta-lactamase testing should be each day of use and included in § 493.1227, Standard: Bacteriology, at paragraph (a)(1).

Response: We agree with the commenters that reagents such as beta-lactamase should be quality controlled each day of use to check for proper positive and negative reactivity. We have revised § 493.1227(a)(1) to also include beta-lactamase testing.

Comment: One professional organization contended that the regulation at § 493.1227(a)(1) was excessive in the testing frequencies required for catalase, coagulase, and oxidase, and that ONPG needs testing by lot only. The commenters also stated that there was no need for a negative catalase control, while other commenters noted that a negative control is not required for catalase testing of anaerobes.

Response: Unstable reagents (such as catalase, coagulase, and oxidase) that are used in the routine testing of patient specimens for microbiological identification must be checked for proper positive and negative reactivity each day of use. In the case of ONPG, checking for positive and negative reactivity each week of use is considered a minimum time interval for verifying the reactivity and stability of this reagent. A negative catalase control is required for aerobic microorganisms to assure proper reactivity of the catalase reagent, however, a negative control is not required for anaerobic microorganisms. The Clinical Laboratory Improvement Advisory Committee will periodically review the quality control and quality assurance standards for test performance and will make recommendations to HHS for revisions to the current regulations. We are retaining the requirement at § 493.1227(a)(1) until the Clinical Laboratory Improvement Advisory Committee advises HHS a change is warranted.

Comment: A manufacturer recommended that the same positive and negative control requirements should be applied to DNA probe methods as are applicable in other Microbiology areas.

Response: We agree with the commenter. The requirement to check DNA probes each day of use for positive and negative reactivity using control organisms is included under § 493.1227(a)(1).

Comment: A few commenters noted that there is no known available organism for a negative control for XV discs, and recommended that other important stains, such as flagella, be included under § 493.1227(a)(2), which requires weekly quality control.

Response: We agree with the commenter regarding the negative control for XV discs and are revising the regulation at § 493.1227(a) to require that laboratories check positive reactivity with a control organism each week of use. The quality control requirements for flagella stains and other stains not specified in this subpart require a positive and negative control each day of use. The frequency of quality control for these stains are covered under paragraph (f)(2) of the general quality control requirement at § 493.1218, Standard; Control procedures.

Comment: A professional organization recommended the regulation at § 493.1227(a)(3) be revised to require antisera quality control checks each six months instead of each month.

Response: Antisera used in aerobic culture identification that will directly impact on patient care (i.e, Salmonella and Shigella) should be quality controlled with the opening of each new vial and at least monthly thereafter using an organism that produces a positive reaction and an organism that produces a negative reaction. Antisera used for epidemiological categorization beyond routine testing should be quality controlled with the opening of each new vial and quarterly until further review by the Clinical Laboratory Improvement Advisory Committee.

Comment: Various commenters suggested that the time frames for quality control of antibiotic sensitivity testing under § 493.1227 (c)(1) and (c)(2) be revised. They suggested time frames ranging from daily to quarterly as well as initially when the test is placed into routine use. However, the majority of commenters suggested testing quality control organisms on a weekly basis.

Response: We agree with the majority of commenters who recommended weekly control of susceptibility test procedures. However, we are retaining the regulation at § 493.1227(c)(2) which requires daily quality control checks for antibiotic sensitivity testing unless the laboratory complies with the options specified in § 493.1223. Once a laboratory establishes that it can meet the accuracy and precision limits established by NCCLS and adopted by HCFA, it may test control strains on a weekly basis.

Comment: A few commenters recommended that a minimum length of time (6 weeks) for holding negative mycobacteriology cultures be included in the regulations under § 493.1229, Standard; Mycobacteriology.

Response: We appreciate the commenters' concerns for the accurate testing of mycobacterial specimens. While we agree that an extended incubation for negative mycobacterial cultures is good laboratory practice, we do not feel that specific instructions for the incubation of mycobacterial cultures or any other specimen types should be specified in the regulation. It is the laboratory's responsibility to develop and validate procedures to accurately and reliably isolate and identify organisms for which service is offered.

Comment: Several commenters questioned why the regulation at § 493.1229(a) specifically addressed the iron uptake test while quality control regulations did not address less-reproducible tests such as catalase, niacin, tween hydrolysis and nitrate. A few commenters suggested this section be rewritten by deleting references to specific tests and adding generic instructions for quality control testing for labile reagents (catalase) and stable reagents/test (iron uptake).

Response: Section 493.1229(a) specifically addresses the iron uptake test. By using an acid-fast organism that produces a positive reaction and an organism that produces a negative reaction, the laboratorian has a reference for making a distinctive color determination. All other tests such as catalase, niacin, tween hydrolysis, and nitrate only need to be checked with an acid-fast organism that produces a positive reaction. For these tests, negative control checks can be performed as good laboratory practice using uninoculated media or other organisms that would produce a negative reaction. We are retaining as written the requirements at § 493.1229(a) for checking these tests each day of use.

Comment: A few commenters felt that the requirement for daily testing of fluorochrome stain with controls each day of use in § 493.1229(b) was inconsistent with the requirement under § 493.1229(c) for checking acid-fast stains each week of use.

Response: We agree with the commenters. Quality control for fluorochrome acid-fast stains must be checked weekly since this is not a fluorescent antibody procedure and we are revising the regulation at § 493.1229(b) to reflect this change.

Comment: A few commenters stated that the quality control requirements in § 493.1229(b) for fluorochrome acid fast stains are inconsistent with the CDC manual "Quality Control in Microbiology," 1987, p. 64, which requires controls to be tested each time of use.

Response: The CDC publication, "Quality Control in Microbiology" is currently under review for possible revision. The regulation at § 493.1229(b), which has been modified to require the testing facility to check fluorochrome acid-fast stains weekly, reflects the latest revision to the requirements for quality control in microbiology.

Comment: A few commenters stated that for safety and standardization purposes the *Mycobacterium-tuberculosis* control strain for susceptibility tests should be specified as H37Rv in § 493.1229(d).

Response: We agree with the commenters that for safety and standardization purposes a susceptible control strain of *Mycobacterium tuberculosis,* such as H37Rv, should be used. In addition, we are revising the requirement at § 493.1229(d) to state that for susceptibility test performed on *M. tuberculosis* isolates, the laboratory must check the procedure each week of use with one strain of *M. tuberculosis* susceptible to all antimycobacterial agents tested. While we have specified the use of H37Rv as an example, we are not precluding the use of other appropriate control strains of *M. tuberculosis.*

Comment: A few commenters suggested that the regulation at § 493.1231, Standard: Mycology, be rewritten to include instructions for the commonly performed or more variable tests (i.e., germ tube, yeast morphology media, and nitrate).

Response: The regulations contain minimum quality control requirements for laboratories to use in determining that its results are within its established control limits. It is up to each individual laboratory to determine which test methodologies it will use in performing laboratory testing and to establish a mechanism to determine whether the results obtained from testing are accurate and reliable. In § 493.1218, Standard; Control procedures, under paragraph (f), laboratories are required to check each batch or shipment of reagents, discs, stains, antisera and identification systems when prepared or opened for positive and negative reactivity.

Under § 493.1231, specific requirements are listed for checking nitrate reagent, acid-fast stains and susceptibility test procedures. In order to be consistent with other microbiology requirements and for clarification, we are adding to this section a requirement that reagents used for biochemical tests and other test procedures be checked each week of use with a positive control organism.

Comment: In § 493.1233 Standard: Parasitology, several commenters felt that concentrated and permanent mount techniques are not necessary for the identification of fecal parasites and that wet mount preparations were sufficient to identify fecal parasites.

Response: A wet mount preparation may not be sufficiently sensitive to detect small numbers of ova or parasites in fecal specimens, or to render a final species identification. However, the regulations at § 493.1233 do not require the use of concentrated and permanent mount techniques to identify fecal parasites. It is the laboratory's responsibility to assure that it can accurately and reliably identify the organisms it claims to be able to identify, to specify on the test report the method employed by the laboratory for screening fecal specimens and upon request provide information to clients that may affect the interpretation of test results, such as test interferences, if known, and detection limits, if applicable.

Comment: An organization recommended that § 493.1233(a) require the use of a standard textbook as a reference in lieu of slides, photos or gross specimens.

Response: We disagree with the commenters and are retaining the regulation as written in § 493.1233(a) which requires a laboratory to have available a reference collection of slides, or photographs, and if available, gross specimens for use in the identification of parasites. This allows the laboratory the flexibility of having a standard textbook with photographs as their reference source, or other applicable reference materials with which to make appropriate comparisons for identification.

Comment: Several commenters requested that § 493.1233(c) be revised to require more frequent quality control requirements for staining materials. Other commenters wanted controls to be required daily and when any staining component is changed.

Response: We disagree with the commenters and are retaining the regulations at § 493.1233(c) which specify a minimum requirement that permanent stains be checked each month of use using a fecal sample control that will demonstrate staining characteristics. If desired, a laboratory may establish a quality control procedure to check staining materials at a more frequent interval than required by the regulations.

Comment: In § 493.1235, Standard: Virology, a few commenters considered paragraph (a) to be overly broad in requiring laboratories to have available host systems and test methods for the identification of viruses that cover the "entire range of viruses" that are etiologically related to clinical diseases for which services are offered. Also, laboratories should be able to offer testing for the isolation of herpes virus only.

Response: We disagree with the commenters. The intent of the regulations at § 493.1235(a) is for the laboratory to have methodologies available to isolate and identify the viruses it claims to be able to isolate and identify that are etiologically related to the clinical disease for which services are offered. That means, that if a laboratory offers services only for *Herpes* testing, it must have available host systems for the isolation and/or test methods for the identification of the *Herpes* virus.

Comment: A few commenters noted that there are no time frames specified in § 493.1235 for performing virology quality control.

Response: Frequency of testing for quality control specimens is addressed in the general quality control section, § 493.1218, Standard; Control procedures.

Comment: Several commenters recommended that under § 493.1235(c) a positive control could be "cell culture cells infected with the specific virus" while a negative control could be "uninfected cell culture cells from the same batch as the specific virus-infected cells."

Response: We agree with the commenters. A laboratory may use cell culture cells infected with the specific virus as a positive control and uninfected cells culture cells from the same batch as the specific virus infected cells as a negative control to meet the requirement.

Comment: In § 493.1239, Standard: Syphilis Serology, several commenters believed that § 493.1239(c) applies only to complement fixation procedures and that only positive and negative controls are needed for all other tests.

Response: We disagree with the commenters. Controls which evaluate all phases of the test system would be applicable to complement fixation procedures as well as Microhemagglutination Treponema pallidum (MHATP) and the Fluorescent Treponemal Antibody Absorption (FTA-ABS), a multiple step indirect immunofluorescence procedure. We are modifying the regulation at § 493.1239(c) to clarify the requirement that controls which evaluate all phases of the test system must be used to assure reactivity and uniform dosages.

Comment: In § 493.1241, Standard: General Immunology, several physicians considered the requirement under § 493.1241(a) for running a positive and negative control with qualitative RA and Mono tests to be a waste of expensive reagents and that a negative control should be run only if the patient is positive.

Response: We disagree with the commenters and are retaining § 493.1241(a), which requires the concurrent testing of patient specimens with positive and negative controls. Concurrent testing of positive and negative controls with each batch of patient specimens is necessary to ensure proper testing performance and reactivity of the test system. It is the laboratory's decision to determine the frequency with which it performs testing in order to limit usage of control materials.

Comment: Several commenters stated that serology procedures using EIA do not need controls beyond those in the kit and the requirements under § 493.1241(b) should not apply.

Response: Laboratories using test kits which include controls are expected to test those controls in the same manner as patient specimens. The control materials provided in each kit are acceptable provided they are subjected to the same procedures as patient specimens such as dilution, extraction, incubation, washing, etc. and evaluate all phases of the test system.

Comment: Several commenters thought that § 493.1241(d) should differentiate between HIV and Hepatitis tests performed on autologous units as opposed to testing of other blood and blood products for transfusion.

Response: We are adopting the FDA requirements referenced at § 493.1241(d) for testing of HIV and hepatitis which are required along with syphilis testing for all homologous blood or blood products, that is blood or blood products processed for transfusion to a recipient other than the original donor. There have been numerous questions concerning the applicability of testing requirements to blood collected for autologous transfusion. The FDA published a memorandum in January, 1990, clarifying their position on the testing requirements for autologous blood. While the performance of these tests is recommended, an exception to the HIV-1 and hepatitis testing requirement, as well as syphilis testing for autologous blood or blood components, can be made when the establishment collects and uses these blood products only for the autologous donor, these products are used at the site of collection, and all products not used by the donor are destroyed. However, establishments that routinely ship autologous units interstate must be licensed by the FDA, the units fully tested and appropriately labeled, and any autologous units that are used homologously must come from a donor who meets all donor suitability requirements at 21 CFR 640.3 and whose products meet all test requirements at 21 CFR 640.5, 610.40 and 610.45.

Comment: In response to requesting comments from the public on adding the requirement that "a reactive screening test for HIV-1 antibody must be followed-up with a more specific supplemental test, before issuing a final report," many commenters supported this new requirement. Several commenters stated that the proposed language appeared to disallow the reporting of initial screening results for HIV until the confirmatory testing was performed, that the terminology "* * * reactive screening * * *" should be changed to read "* * * repeatedly reactive * * *" and a few commenters stated that if the initial test for HIV meets the criteria for a confirmatory test, no further testing is needed.

Response: We appreciate the commenters response to our request for comments concerning the reporting of HIV results. We have determined that laboratories should not be required to perform confirmatory tests for reactive HIV-1 antibody tests. Each laboratory must be responsible for providing accurate and reliable test results and ensuring that the test report clearly indicates the test procedure performed. It is up to the authorized person who requested the test or the individual responsible for utilizing the test results to determine whether additional testing is required.

Comment: In § 493.1245, Standard: Routine chemistry, many commenters felt that the requirements under paragraphs (a) and (b) pertaining to blood gas analyses, were too restrictive, already obsolete and the time frames for recalibration of blood gas analyzers were unrealistic. A few commenters suggested that these sections be deleted from the regulation and added to the State Operations Manual.

Response: While we are retaining the section on blood gases at § 493.1245, we are modifying the regulations at § 493.1245(a) to allow laboratories to use manufacturer's specifications for calibration with at least the frequency recommended by the manufacturer. These requirements are based on the guidelines of the National Committee for Clinical Laboratory Standards (NCCLS) and are minimum standards with which a laboratory must comply when performing blood gas analyses. We are modifying the regulations at § 493.1245(b) to clarify the requirement that one sample of controlled material be used each eight hours of testing. We are adding, at § 493.1245(c), that a combination of calibration and control materials, which include both low and high values, must be used each day of testing to monitor the reportable range.

Comment: Concerning § 493.1249, Standard: Toxicology, a few commenters objected that the regulation specifies quality control requirements only for thin layer chromatography for drug abuse testing. Other commenters expressed concern over the nonavailability of a calibrator that contains all of the drugs that the system detects and the requirement for the inclusion of a control on the same chromatography strip as the patient specimen. Several comments suggested that the regulation at § 493.1249(b) is obsolete and that a control for each chamber is not necessary, if one calibrator for each drug is included on each plate.

Response: We disagree with the commenters and are retaining, with modification, the requirement at § 493.1249(a) that each thin layer chromatography plate be spotted with a minimum of one calibrator that contains a representative of each drug group for which the laboratory reports results in order to assure proper performance of the test system. We are adding the word "groups" due to commenters concerns over the nonavailability of a calibrator that contains all of the individual drugs that the system detects. Calibrators are available and widely used which detect the major drug groups being tested for abuse. In addition, each testing chamber must contain a control which is processed through each step of patient testing, including the extraction procedures. Quality control requirements for gas chromatography and GC–MS are included in the general quality control section under § 493.1218(b) which states that the laboratory must evaluate instrument, reagent stability, and operator variance in determining the frequency of testing quality control samples with each run.

Comment: A few commenters wanted to replace the word "calibrator" in § 493.1249(a) with "primary standard."

Response: We disagree with the commenters. A primary standard is a reference material that is of fixed or known chemical composition and capable of being prepared in essentially pure form. It is the gold standard by which similar materials should conform. Secondary reference materials are often commercially prepared and are less expensive to use in performing calibration activities while still retaining a certain condition of accuracy. These secondary materials are of many types and varieties and should be traceable to a National Institute for Standards and Technology (NIST), if possible. For this reason we are using the term "calibration material(s)" instead of calibrator(s) or standard(s).

Comment: In response to our request for comments on whether confirmative tests should be required for positive urine drug screening results, several commenters wanted the decision for ordering a confirmatory test left to the physician for those tests used for counseling purposes or emergency medical treatment. Several suggested that drug testing for patient care purposes be excluded from requirements for confirmatory testing and maintenance of chain of custody records since such requirements would unnecessarily increase costs.

Several hospitals and drug treatment facilities wanted to be able to use screening test results for inpatient counselling without having to confirm the results. A few commenters supported requiring confirmatory testing using a test procedure that employs a methodology different from the methodology used for screening purposes.

Response: We appreciate the commenters response to our request for comments concerning whether confirmatory tests should be required for positive urine drug screening results. We have determined that laboratories should not be required to perform confirmatory tests for positive urine drug screening tests that are used for patient care purposes. However, NIDA certified laboratories which perform testing under "Mandatory Guidelines for Federal Workplace Drug Testing Programs" (**Federal Register**, Vol. 53, No. 69, April 11, 1988) must comply with requirements including confirmatory testing. Each laboratory must be responsible for providing accurate and reliable test results and ensuring that the test report clearly indicates the test procedure performed. It is up to the authorized person who requested the test or the individual responsible for utilizing the test results to determine whether additional testing is required.

Comment: Concerning § 493.1253, Condition: Hematology, many individuals believed that the frequency of testing hematology quality control materials as required under paragraph (a) should be revised to reflect the same frequency as chemistry controls, i.e., no less frequently than once every 24 hours, since it is the hematology quality control material that is unstable rather than the instrumentation.

Response: We disagree with the commenters. Hematology controls generally do require fastidious handling in order to maintain the accuracy of their control properties. However, the requirement to run controls every eight hours is necessary to effectively detect shifts or trends in instrumentation of this type that may potentially lead to problems resulting in inaccurate and unreliable patient results. We are retaining the requirements to test hematology control materials a minimum of every eight hours of operation as specified in § 493.1253(a) to ensure the accuracy and reliability of patient test results. These are the existing minimum standards which laboratories currently regulated under Federal requirements must meet. A patient specimen may be used to meet the requirements for a control, provided that the patient specimen was verified in the same run with the assayed material. The patient specimen must have a range of acceptable performance limits established for the difference between duplicates. We have included automated differential counters, manual cell counts and automated coagulation as well in this requirement.

Comment: Other commenters suggested that the quality control checks at § 493.1253(a) for manual cell counts should be more frequent than those required for automated systems use in hematology.

Response: We believe the regulation to test control materials for manual cell counts a minimum of every 8 hours is sufficient to ensure accurate and reliable patient results. We are revising the regulation at § 493.1253(b) (formerly § 493.1253(a)), for the manual cell count, to require one control material to be tested each eight hours of operation. We have also included the requirement to perform manual cell counts (using a hemocytometer) in duplicate.

Comment: Several individuals were concerned that § 493.1253 did not include a requirement for checking the stain quality of differential blood films. The commenters also felt that the regulation should include quality control requirements for manual and automated differentials.

The instability of automated differential instruments, and the importance of verifying abnormal differential tests results was emphasized by the commenters.

Response: The quality control regulations for stains are included in § 493.1218(f) (1) and (2), which require initial quality control testing of each batch of stains and thereafter testing of control materials each day of use to verify staining properties. We agree with the commenters that automated differential counters should be included in the quality control regulations for hematology and we are clarifying this position by requiring hematology controls on automated differential counters in the regulation at § 493.1253(a). The laboratory must establish policies and procedures which specify decision making criteria for repeating or verifying abnormal test results, as appropriate, as well as defining remedial action to follow when controls are out of the laboratory's established limits.

Comment: Several commenters felt that it was not necessary to require duplicate testing of patient specimens for manual coagulation tests as required under proposed § 493.1253(c)(2).

Response: We disagree with the commenters and are retaining the provision which requires that patient and control specimens be tested in duplicate. This provision is now located at § 493.1253(d)(2).

Section 493.1257 Standard: Cytology

Comments in response to both the March 14, 1990 final rule with comment period and the May 21, 1990 proposed rule were considered for making revisions in the cytology quality control requirements. A total of 2660 letters were received in response to the cytology requirements in the March 14 rule. These letters contained nearly 2000 opinions and suggestions (comments) on quality control. In response to the cytology requirements in the May 21 rule, 900 letters were received, which contained nearly 1100 comments on quality control.

Comment: A few individuals disagreed with the regulation at

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§ 493.1257(a)(1) which requires gynecologic cytology specimens to be stained using the Papanicolaou staining method saying that such a requirement would inhibit development of new technology and impede research. A few said that it restricted the laboratory from choosing a stain that may be optimal for their situation. Some commenters suggested changing the requirement to specify the use of a modified Papanicolaou stain or a Papanicolaou type stain since the original Papanicolaou stain is rarely used.

Response: Our intent is not to impede research, but to assure that routine gynecologic specimens are stained using the best stain for differentiation of the morphology of cells to ensure quality slide evaluations. Therefore, we are retaining the requirement at § 493.1257(a)(1) with the added clarification for using either a Papanicolaou or a modified Papanicolaou technique. Other staining methods may be used as adjuncts, but not as a replacement for a Papanicolaou staining procedure.

Comment: Several commenters felt that the regulation at § 493.1257(a)(2) requiring changing or filtering stain solutions between staining gynecologic specimen batches and nongynecologic batches was not needed since cross contamination is more prevalent when staining nongynecologic specimens.

Response: We are revising the regulation at § 493.1257(a)(2) so that the laboratory must establish effective measures to prevent cross-contamination between gynecologic and nongynecologic specimens. The laboratory would thus have the option of filtering or changing stain solutions after staining nongynecologic specimens prior to staining gynecologic specimens or using some other method to prevent cross-contamination.

Comment: A few commenters objected to the requirement that body cavity fluids be evaluated for their potential for cross-contamination as required under § 493.1257(a)(3). Rather than making this evaluation, one recommendation was that staining solutions be filtered after they are used to stain any specimens highly suspicious of having abnormal cells. Another recommendation was that body cavity fluids should be stained in separate staining jars and the stain solutions should be filtered or discarded after staining each specimen.

Response: We are changing this requirement to address all nongynecologic specimens, such as body cavity fluids, which have a high potential for cross-contamination. It is up to the laboratory to determine which specimens fall into this category. These specimens are to be stained separately from other nongynecologic specimens and the stains filtered or changed after use.

Comment: Many commenters were opposed to one or more of the requirements under § 493.1257(b)(1) specifying workload limits. Many said that the workload limit of 120 slides per 24 hours was too high, whereas other commenters remarked that the limit was too low and did not allow flexibility for exceptional screeners. Of those who suggested a lower limit, the most favored numbers ranged between 80 and 100 slides per day. One professional organization recommended a limit of 100 slides per 24 hours. Some commenters recommended that no specific limit be designated and that the establishment of a workload limit be the responsibility of the laboratory supervisory staff who could make allowances for the different slide screening abilities of cytotechnologists. Additionally, a large number of commenters recommended eliminating the separate workload limit on unevaluated slides and leaving it to the discretion of the laboratory how to divide the unevaluated and previously evaluated slides (quality control, quality assurance and proficiency testing slides). Several commenters believed that cytotechnologists should be allowed to examine slides for longer periods of time than the standard eight hour day. Some thought that the workload limit should be specified for 8 hours instead of 24 hours or that it be set as an hourly rate. A few commenters felt that the workload limit should apply only to cytotechnologists and not technical supervisors.

Response; CLIA requires the establishment of "the maximum number of cytology slides that any individual may screen in a 24-hour period." In accordance with the law, the workload limit is based on 24 hours, not a standard 8-hour work day. We established the workload limit of 120 slides, with a maximum of 80 unevaluated slides, based on the suggestions and recommendations that we received from professional organizations and individuals. However, since the commenters were overwhelmingly opposed to the differentiation between unevaluated and previously evaluated (quality control, etc.) slides, we have deleted this distinction. Also, in response to the comments, we are reducing the workload limit to 100 slides per 24 hours. Accordingly, there is now one workload limit of 100 slides (gynecologic, nongynecologic, or both) and the laboratory has the flexibility to establish for each individual how many unevaluated slides can be screened per day. This 100-slide limit represents an absolute maximum number and is not intended to be used as a performance target for each individual. We recognize that all individuals do not possess the same capabilities with respect to slide examination, and that every laboratory's caseload is different with respect to degree of difficulty in interpretation and to numbers and types of gynecological and nongynecological preparations processed. Therefore, in each laboratory, the technical supervisor must evaluate each individual's performance and establish the individual's actual workload limit based on performance. We are specifying that laboratories must evaluate their own operation and determine appropriate workloads that do not exceed 100 slides per 24 hours for each individual. This includes the technical supervisor in cytology when he or she performs initial gynecological or nongynecological interpretations and/or participates in the rescreen of cases interpreted to be negative for reactive, reparative, atypical, premalignant or malignant changes.

Comment: A number of commenters suggested that the workload limit separately address one-slide gynecologic cases, two-slide gynecologic cases and nongynecologic cases. A few thought that the workload limit should not include nongynecologic slides. One organization suggested prorating slides from nongynecologic cases and counting them up to a maximum of 3 slides/case as done in New York State.

Response: CLIA requires the establishment of the maximum number of cytology slides that any individual can screen, therefore the workload limit includes both gynecologic and nongynecologic cytology slides. Since workload is counted by the number of slides, one-slide and two-slide gynecologic cases are counted as either one slide or two slides. We recognize that some types of slide preparations have smaller cell areas to be evaluated than others, and therefore have added a new provision at § 493.1257(b)(2), which allows for a variance in slide counting for certain gynecologic and nongynecologic slide preparations. Each slide made using automated, semi-automated or other liquid-based preparatory techniques that results in cell dispersion over one-half or less of the available slide area may be counted as one-half slide toward the workload limit. For example, two nongynecologic slides prepared using a filter and centrifugal technique would be counted as one slide for workload calculations. Additionally, if instrumentation currently under development for use in preparing cytology slides is approved by the FDA for use with gynecologic preparations, and an individual evaluates, by manual microscopic technique, only slide preparations made by this type of instrumentation which produces preparations as described above, the effective absolute workload limit would be 200 slides per 24 hours. It must be noted that this limit and method for calculating workload only apply to slide preparations evaluated by nonautomated microscopic technique. We are not addressing slide evaluation done by automated methods (e.g., image analysis or other computerized systems) in this regulation.

Comment: A few commenters thought that the requirement at § 493.1257(b)(2) for maintaining records of the number of slides read by each individual during each 24 hours should be the responsibility of the individual rather than the laboratory. They felt that this requirement is a recordkeeping burden for the laboratory.

Response: It is the laboratory's responsibility to ensure that each individual keeps records of the number of slides read and the number of hours spent reading slides during each 24 hour period, irrespective of the site or laboratory. These records must be available in the laboratory. The responsibility for keeping these records is also stated under §§ 493.1451, 493.1471 and 493.1485 which list the technical supervisor, cytology general supervisor and cytotechnologist responsibilities, respectively. Each individual is responsible for keeping records of his or her slide screening activities.

Comment: Several organizations and individuals felt that the time limit of 6 hours specified in § 493.1257(b)(2)(i) for examining the maximum number of 120 slides and the formula for prorating the part-time workload limit under § 493.1257(b)(2)(ii), which is based on 8 hours, were inconsistent. Some thought that the time for examining the maximum number of slides should be changed to 8 hours.

Others suggested that the maximum slide limit should be adjusted for individuals working full-time based on the actual time spent evaluating slides during an 8 hour workday. Some were concerned that the 6 hour limit may have an adverse effect on quality as some laboratories may make 6 hours a target time period for cytotechnologists to screen the workload maximum.

Response: Because of the concern that some laboratories will compel individuals to read the maximum number of slides in 6 hours on a routine basis and to provide consistency, we are changing the requirement now at § 493.1257(b)(3)(i) to require that the maximum of 100 slides can be read in no less than an 8 hour workday. In addition, for individuals working less than 8 hours per day examining slides, either those who work part-time or those who work full-time and carry out other duties not related to slide examination, the formula now at § 493.1257(b)(3)(ii) should be used to calculate the individual's slide limit. We emphasize again that this is an absolute maximum and is not to be construed as a target number of slides for every individual.

Comment: Comments on § 493.1257(c)(1) indicated that the technical supervisor's responsibilities for diagnostic confirmation of gynecologic smears should be expanded. One professional organization suggested that all cases that are interpreted as abnormal or atypical be reviewed by a technical supervisor before they are reported.

Response: We agree with the commenters and are adding the requirement at § 493.1257(c)(1) that all gynecologic smears interpreted to be showing reactive or reparative changes or those of atypia of undetermined significance be confirmed by a technical supervisor. This requirement is in addition to the review and confirmation by a technical supervisor of gynecologic smears interpreted to be premalignant or malignant and confirmation of all nongynecologic preparations as described under § 493.1257(c)(2).

Comment: Most commenters supported the requirements specifying that the technical supervisor evaluate and document the slide examination performance and establish and document a workload slide limit for each individual as required under §§ 493.1257(c) (3) and (4). Several felt, however, that the requirement to reassess each individual's workload on a monthly basis, as specified under paragraph (c)(4)(ii), was excessive. They recommended an annual or semi-annual reassessment, saying that monthly evaluations are burdensome and not necessary since an individual's ability does not change in a month's time.

Response: We are modifying § 493.1257(c)(3), which formerly required slide examination performance evaluation and feedback on normal, negative, premalignant and malignant cases to additionally require evaluation and feedback on cases which show reactive, reparative, or atypical changes. We are making this change to correspond to the addition made in paragraph (c)(1) requiring that slides showing these conditions be confirmed. Paragraph (c)(4)(i) in this section was revised to require that each individual's workload limit be established based on this performance evaluation. We agree with the commenters that monthly workload limit evaluation is unrealistic and have changed this requirement to allow for workload limit reassessments not less frequently than every six months. This does not preclude more frequent workload limit evaluations. If adjustments to workload limits are needed before the six month interval for reassessment, they should be made as necessary.

Comment: A large number of commenters were opposed to the requirement under § 493.1257(d)(1) specifying that at least 10 percent of all gynecologic cases interpreted by cytotechnologists as negative for premalignant or malignant conditions be reexamined. Many recommended eliminating this requirement and several recommended that rescreening be focused on those patients who have been identified as high risk or who belong to a population group identified as high risk. Commenters stated that a random rescreening of negatives was nonproductive and that the statistical probability of identifying false negatives by this method was remote. Several published articles were cited and one organization provided statistical analyses to support this conclusion. On the other hand, some commenters supported the random 10 percent rescreen and felt that it was the best available method for evaluating the ability of cytotechnologists to identify normal or negative conditions. One organization recommended deleting the requirement that slides be reviewed before reporting patient results, because they felt that such a requirement would cause significant delays in reporting patient results. Another commenter suggested that any individual authorized by the laboratory to examine cytologic preparations should be able to rescreen slides, not necessarily a supervisor. One commenter asked for clarification as to whether the inclusion of negative cases from patients identified as having a high probability of developing cervical cancer meant that all of these cases must be rescreened or just those that would be needed to obtain a total of 10 percent of all negative cases. A few commenters recommended replacing the rescreening requirements with a requirement for inserting blind abnormals into the routine workload. They said that this is a more effective method for determining false negative rates.

Response: The reevaluation of 10 percent of gynecologic cases interpreted as negative for malignant or premalignant conditions has been a longstanding quality control practice in cytology. Several published statistical analyses have shown that, depending on the cervical cancer prevalence rate for the laboratory, the number of slides that are typically rescreened does not detect a significant number of missed cases of cancer. Rescreening slides, however, is a method that is readily available for assessing an individual's ability to correctly interpret negative cases. Additionally, misinterpretations may be detected for conditions other than those that are classified as malignant or premalignant. Therefore, we are retaining the requirement for reevaluating at least 10 percent of the cases interpreted by individuals not qualified as technical supervisors which would not otherwise be reevaluated. The cases to be included for reexamination are those found negative for reactive or reparative changes and atypical cells of undermined significance, as well as premalignant and malignant conditions. This would include cases reported as negative or normal or showing infections other than HPV. Cases for this review must be selected at random from the total caseload and include some cases from patients or groups of patients which can be identified as having an increased risk for developing cervical cancer (high risk cases). If a laboratory evaluates a large number of cases from high risk populations that account for more than 10 percent of its caseload, all of these do not need to be reexamined, however we hope that the laboratory would determine if more than 10 percent of these cases need to be reevaluated based on its own performance statistics.

To ensure that this review is done in a timely manner, we are retaining the requirement that it must be completed before reporting patient results. For clarification, we added that this refers only to those cases selected for review. Laboratories should be able to develop a routine system to accomplish this review so as not to result in significant delays in reporting. Also, we are retaining and clarifying the requirement that the slide reexamination be done by a cytotechnologist who meets the qualifications of cytology general supervisor or by the technical supervisor. For clarification, we have listed who can perform this review; a technical supervisor in cytology, a cytology general supervisor, or a cytotechnologist who has the experience specified for a cytology general supervisor. This does not mean, therefore, that only those individuals designated as the laboratory's supervisors can perform this slide review, but any cytotechnologist who meets the experience qualifications for cytology supervisor can do so.

The insertion of blind controls into the workload is another method to evaluate performance, but, at this time, cannot be routinely achieved in most laboratories. Therefore, we are not specifying the use of this method; however, a laboratory that is able to perform this type of slide review is encouraged to continue to do so in conjunction with other quality control and quality assurance measures.

Comment: Several commenters objected to the requirement for comparing all premalignant and malignant cytologic results with the histopathology report, if available in the laboratory or through the State health department as described in § 493.1257(d)(2). The primary concern noted by most individuals and organizations is requiring the laboratory to obtain reports from State health departments. They said that this will be extremely burdensome for both the laboratories and the health departments, especially since many laboratories receive specimens from multiple States and patients may change residency from State to State.

A few commenters suggested that the requirement be revised to require only in-house report comparison. One commenter noted that interpretations of histopathology reports are as variable as cytology Pap smear reports and that it will be difficult to determine the causes for discrepancies.

Response: We recognize that discrepancies between histopathology and cytology results may be due to the subjective nature of the interpretations or to sampling differences. However, the laboratory's comparison of histopathology and cytology results is a valuable quality control activity and when discrepancies are found, useful information can be generated. We are retaining this requirement, therefore, with one modification. We agree with the commenters that at this time, many State health departments are not equipped to retrieve tissue reports and, therefore, are deleting this requirement.

Comment: There were a number of objections to the requirement under § 493.1257(d)(3) for review of gynecologic specimens from the last five years for current malignant and premalignant cases. Commenters objected to both the time frame for this review as well as the inclusion of some premalignant conditions. Suggestions ranged from leaving the review to the discretion of the technical supervisor to changing from the previous 5 years to the previous one or two years or the previous one or two slides. Commenters said that it was improbable that abnormal cells would be missed consistently over 5 years. Some organizations and individuals recommended that this review should be conducted only for newly diagnosed cases with high grade lesions or worse. They stated that it would be very time consuming and could result in the review of a large number of cases to comply with this requirement for low grade or condylomatous lesions and that the effort would have no clinical value or benefit to patients. A few commenters asked what the laboratory was supposed to do with the results of this retrospective review. They contended that this activity is to be used as an educational tool for quality assurance purposes and recommended that if a missed positive slide is found, the laboratory should only issue an amendment report if it would impact on patient management or treatment.

Response: The primary purpose for this retrospective slide review is to evaluate the slide examination performance of individuals. We agree with the commenters that this review should be limited to current cases showing high grade intraepithelial lesions or worse, which includes moderate dysplasia or CIN–2 or above, and have modified the requirement accordingly. Although we were interested in decreasing the 5 year time period, we were prevented from doing so by the statutory requirements for reviewing all prior available specimens. Since slides must be held for 5 years, available specimens should date back through that time period. We are not requiring that laboratories issue amended reports of results found on this retrospective review that have minor differences from the original report that would have no impact on patient care. However, if significant discrepancies are found that would effect patient care the laboratory must notify the patient's physician and issue an amended report.

Comment: The annual statistical evaluation requirement under § 493.1257(d)(4) was opposed by a few commenters. Some felt that specific requirements should not be defined and that the development of a credible evaluation system should be the responsibility of the technical supervisor. Some thought that these recordkeeping requirements were burdensome and that some items should be deleted, such as the number of cases for which histology results were unavailable. Others were concerned about the ability of some laboratories, especially those that do not have automated information management systems, to provide this documentation. A few commenters wanted clarification on the requirement for documenting the number of unsatisfactory specimens per physician and wondered whether this information should be maintained only in the laboratory or sent to the individual physicians.

Response: The goal of this annual statistical evaluation is for each laboratory to obtain data which describes its overall case mix with respect to specimen types and diagnoses as well as the general false negative rate. These data can then be used as a baseline to compare the case reviews of each individual as specified under § 493.1257(d)(5). We recognize that if a laboratory does not have a mechanism in place to collect and analyze this information the initial implementation may take time. However, once a system is in operation, these statistics will provide invaluable to the laboratory in assessing its performance and the performance of individuals. With the exception of records for unsatisfactory specimens, we are retaining this requirement as proposed.

The intent for requiring records for the annual number of unsatisfactory specimens submitted by each physician or laboratory was to enable the laboratory to recognize trends. The laboratory then would have the option of sending these statistics to individual physicians or notifying them in some other manner of improper specimen collection or preparation. We recognize that laboratories without computerized record systems may find this requirement difficult to meet, and have therefore deleted it. However, we have included under the documentation of the volume of cases reported by diagnosis, the number reported as unsatisfactory for diagnostic interpretation. Therefore, the laboratory should have annual overall statistics on the total volume of specimens submitted for each specimen type that were determined to be unsatisfactory.

Comment: A few commenters objected to § 493.1257(d)(5), which requires the laboratory to compare the case reviews of each individual examining slides with the overall laboratory statistics and document discrepancies. One commenter felt that this review and documentation should only be necessary for individuals who are poor performers.

Response: The comparison of each individual's case reviews with the laboratory's overall statistics is intended to provide a mechanism for evaluating each individual's performance and to assure that poor performance is identified. It is not meant as a punitive or remedial measure. Therefore we are retaining this requirement.

Comment: A small number of comments were received on the laboratory report requirements as listed under § 493.1257(e). A few individuals noted that there is no consensus agreement in the cytology community on the definition for smears that are unsatisfactory for diagnostic interpretation. One organization suggested that endometrial cells should be reported if present and not only if "present out of cycle" as stated under § 493.1257(e)(3). Another organization felt that the ordering physician should determine the appropriate follow-up actions and that the requirement for a follow-up recommendation on the report as specified under § 493.1257(e)(5) should be eliminated.

In addition, in response to our request for public comment on requiring The Bethesda System to report Pap smear results, several commenters were in support of such a requirement, but most commenters, while they supported its use, were opposed to requiring it. Some thought that, if required, it should be phased-in or delayed to give everyone time to become familiar with it and for the system to be standardized and accepted. Several organizations said that The Bethesda System was still evolving and not yet widely used, and a few were concerned that requiring its use at this time may impede its further development. A few commenters suggested requiring the use of descriptive terminology, such as The Bethesda System or other nomenclature, giving the laboratories the option to choose.

Response: We are changing § 493.1257(e) to reflect recommendations made by commenters. We are not requiring the use of The Bethesda System, but are specifying that the laboratory report must contain narrative, descriptive nomenclature for all results. While we are in support of using The Bethesda System to report patient results, other terminology is acceptable, as long as it is descriptive. The Papanicolaou numerical classification system is not acceptable. Since a descriptive report is required, we have deleted specific requirements for reporting endometrial cells, viral infections and follow-up recommendations. The presence of endometrial cells and viral infections are part of descriptive reporting and laboratories should determine when follow-up recommendations are appropriate. We are retaining the requirement for reporting unsatisfactory smears as mandated by CLIA. The laboratory must define its criteria for categorizing smears as unsatisfactory and notify physicians if they receive specimens which are unsatisfactory for diagnostic interpretation.

Comment: A few commenters were opposed to the slide retention requirements under §§ 493.1257 (g) and (h). Some recommended that all slides be retained for 5 years, rather than 5 years for negatives and 10 years for premalignant or malignant cases, adding that there was no significant advantage to retaining abnormal slides longer than negative slides, since they automatically initiate patient management. A few commenters suggested retaining negative slides for only 2 or 3 years in order to reduce the amount of storage space required and a few suggested retaining all slides indefinitely.

Response: We are revising and combining the slide retention requirements under § 493.1257(g) to require that all slides be retained 5 years. This change should simplify the slide filing system for laboratories while assuring that slides are available for review with the tissue reports of a follow-up biopsy. Laboratories have the flexibility of retaining slide preparations for longer time periods if they feel this will aid in the provision of better patient care.

Comment: One organization and a few individuals objected to the requirement for cytology laboratories to obtain HHS approval for donating slide preparations to an approved proficiency testing program as required under § 493.1257(i). They said that requiring HHS approval would impede contributing slides to a program.

Response: We agree with this comment and are deleting the requirement that a laboratory must obtain HHS authorization to loan slides to an approved proficiency testing program. Instead, a laboratory may loan slides to any proficiency testing program, without regard to whether the program has been approved by HHS. This revision was made to allow PT programs to collect the slides needed to assemble test sets which must be done prior to seeking HHS approval. If slides have been retained by the laboratory

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less than 5 years, the laboratory must have written acknowledgment from the proficiency testing program of the slide transfer. This requirement has been combined with the requirement for slide retention under § 493.1257(g). In addition, we have added a provision for laboratories that loan or refer slides for purposes other than PT to maintain documentation of the loan or referral, and that all slides must be retrievable upon request.

Comment: An overwhelming number of individuals and organizations were opposed to the requirement at § 493.1257(j) that the laboratory must report all malignant and premalignant gynecologic cases to its State health department. The majority of commenters recommended deleting this requirement, noting concerns with feasibility, cost, and maintenance of patient confidentiality. Several State health departments questioned the reason for this reporting and they, along with other commenters, noted that many State health departments have no mechanism in place to receive these reports and most have no resources to establish such a registry. Some recommended that the wording of the regulation be changed, adding "if so directed by the State." One commenter recommended that if the purpose for this requirement is to set up a data bank, then it should be done on a national level with a central registry at the CDC. Additionally, some commenters noted that a large volume of cases would be reported if premalignant conditions such as dysplasia and HPV infection are included. Several laboratories suggested that the physician should report premalignant and malignant cases to the State since the physician would have more information on the patient's status and usually would be practicing in the State in which the patient resides. Several physicians stated that this requirement infringes on the right of privacy and would compromise patient confidentiality. A few commenters noted that the requirement should be clarified to address how laboratories should report interstate cases, specifically those situations in which the laboratory reports results to the State in which it is located but the patient is a resident of another State. A few States pointed out that they have no interest in test reports of nonresidents whose specimens were examined within their State.

Response: We recognize the difficulties associated with this requirement and agree with many of the comments. Therefore, we are deleting § 493.1257(j)

Comment: A few commenters indicated that the regulations, at § 493.1259 Standard: Histopathology, should be applicable to the laboratory that prepared the slides not the individual examining the slides.

Response: CLIA requirements apply only to those facilities that perform "* * * examinations of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease * * *" and does not apply to facilities that prepare specimens for examinations. It is the responsibility of the laboratory to ensure that the specimens it receives are properly labeled, processed and stained for examination, and are transported to it in a manner that assures safe and intact receipt of the specimen.

The requirements for specimen submission procedures for referral specimens are in subpart J, Patient Test Management.

Comment: A few commenters felt that it was not necessary to document control slide results as required under § 493.1259(a).

Response: We disagree with the commenters. All quality control staining procedures in histopathology must be performed and documented in accordance with the requirements at § 493.1218(f) (1) and (2) of this subpart and with the requirement here at § 493.1259(a). Documentation of quality control performance is necessary to provide records of the performance of the quality control, to determine if there is a problem with the staining materials or procedures, or to alert the laboratory to an unsatisfactory trend in quality control results. We are retaining the requirement at § 493.1259(a) which requires documentation of the reaction of the control slides with each special stain used.

Comment: Several pathologists and a professional organization recommended that the time frame for maintaining paraffin tissue blocks be changed from 2 years, as required under § 493.1259(b), to 10 years.

Response: Section 493.1259(b), which requires laboratories to retain paraffin tissue blocks for at least 2 years from the date of examination, is a minimum requirement. A laboratory may be required under State law to retain paraffin tissue blocks for longer time periods or the laboratory may choose to retain paraffin tissue blocks for longer periods of time.

Comment: Several pathologists and a professional organization objected to the retention of surgical specimens "in a fixative solution" as required in § 493.1259(c). A few commenters noted that there were times when fresh tissue material is better if refrigerated and that some fixative solutions were deemed hazardous by OSHA and EPA.

Response: We agree with the commenters that the requirement for surgical specimens to be retained in a fixative solution was prescriptive and may pose a safety hazard. The requirement is intended to assure that tissue fragments are satisfactorily preserved in the event they are needed for further examination. We are revising § 493.1259(c) to state that remnants of tissue specimens must be retained in an appropriate manner that results in the preservation of the tissues until the portions submitted for microscopic examination have been examined and a diagnosis made by an authorized individual.

Comment: A few commenters recommended that § 493.1259(e) be clarified or deleted because there is no specific system of histopathologic terminology and they did not want to rely on one particular nomenclature for reporting tissue results. Several hospitals indicated that this reporting requirement is a duplication of activities normally performed by the medical records department.

Response: We did not specify under § 493.1259(e) the type of terminology that a laboratory must use to report tissue pathology results. This requirement requires laboratories to use "acceptable terminology of a recognized system of tissue nomenclature" and does not restrict the laboratory to any one particular nomenclature.

Comment: Numerous commenters objected to the mandatory reporting of all biopsy-confirmed cases of cervical cancer by the laboratory to its State health department and requested the deletion of § 493.1259(f). Several commenters stated that many State health departments have no tumor registry of this type and no resources for its establishment. A few noted that many localities already have tumor registries to which these cases are reported and reporting to the State health departments would be a duplication of effort. A few commenters said that this reporting should be the responsibility of the patient's clinician, not the laboratory, and many were concerned about the effect of this requirement on patient confidentiality. Several commenters said that the requirement should be clarified to specify procedures for handling cases in which the laboratory is located in a State that is different from the one in which the patient resides.

Response: This requirement was established to assist laboratories in tracking and obtaining follow-up biopsies from client physicians who submit Pap smears to one laboratory and biopsy specimens to another. We believed that a central repository in each State containing laboratory reported biopsy results would provide a mechanism by which all laboratories could make comparisons between cytology and histology results as required in § 493.1257(d)(2). However, we recognize the logistical complications involved in this type of interactive tumor registry, and, since many States are unable, at this time, to comply with this requirement, we are deleting it from the regulations.

Comment: Several commenters stated that radiobioassay in § 493.1263 is not one of the established specialty areas and that this specialty of testing essentially was part of chemistry, the only difference was the qualifications of the technical supervisor.

Response: Radiobioassay as a category of testing was established to include those tests that involve the in-vivo administration of radioactive materials to a patient and the subsequent measurement of radioactivity in body fluids in order to evaluate body functions, and is a separate specialty area from chemistry.

Comment: A professional organization recommended changing the wording of proposed Condition: Histocompatibility, § 493.1265(a)(6) to read "make every reasonable attempt and effort to obtain and have available the appropriate serum samples from all potential renal transplant recipients."

Response: We agree with the commenters that this requirement is too restrictive and not practical. Thus, we are requiring that laboratories document their efforts to reasonably obtain serum specimens for all potential transplant recipients at initial typing, for periodic screening, pretransplantation crossmatch, and following sensitizing events. We are including this change at § 493.1265(a)(2)(ii).

Comment: Several commenters questioned whether proposed § 493.1265(a)(10) and (a)(18)(ii) apply only to renal transplant recipients or if they apply to all types of organs. The commenters were concerned about the cost of complying with these requirements.

Response: This provision applies to renal as well as non-renal solid organ transplants, especially to sensitized recipients. Monthly antibody screening of recipient serum can be beneficial in regulating the dosage of the immunosuppressive drug(s) as well as providing retrospective data to monitor any problems that may arise. For non-sensitized patients, monthly screening may not be necessary, but it is desirable. We are including this provision at § 493.1265(a)(6)(i) and (a)(8)(i)(B).

We are modifying § 493.1265(b)(1) to accommodate living donor liver and pancreas transplants, a procedure that has been performed for the last 18 months. In these instances, the mixed lymphocyte culture test, while listed as an exception to the requirement at § 493.1265(b)(1), is helpful and is one of the compatibility testing options stated in § 493.1265(a)(10) (formerly § 493.1265(a)(20)). Section 493.1265(b)(1) now states that "for transfusions and other non-renal transplantation, excluding bone marrow and living transplants all the requirements specified in this section, as applicable, except for the performance of mixed lymphocyte cultures must be met."

Comment: Several individuals noted that renal transplant compatibility testing does not frequently incorporate DNA analysis and suggested that this be deleted from proposed § 493.1265(a)(20).

Response: We disagree with the commenters. DNA analysis is an applicable procedure for renal and non-renal transplants. In renal transplants it could be used for compatibility testing as an alternative to the mixed lymphocyte culture test.

Comment: Several commenters suggested that proposed § 493.1265(a)(12) be revised to require verification of the efficacy of those immunologic reagents used to remove contaminating cells during the isolation of lymphocytes.

Response: We agree with the commenters. Based on commenters' suggestions, we are including reagents other than ABO antisera. The regulation now states "If the laboratory utilizes immunologic reagents such as antibodies or complement to remove contaminating cells during the isolation of lymphocytes or lymphocyte subsets, the efficacy of the methods must be verified with appropriate quality control procedures." We are including this change at § 493.1265(a)(12).

Comment: A professional organization suggested that "or proficiency testing program" be added after "regional cell exchange" in proposed § 493.1265(a)(24).

Response: We disagree with the commenter. We have not yet established requirements for approval of proficiency testing programs, however, the histocompatibility proficiency testing program currently offered by CAP/ASHI is considered an acceptable cell exchange program.

Comment: Many commenters stated that § 493.1265(b)(3) should not be applicable to non-renal solid organ transplants because it would significantly increase the amount of time required to perform the transplant and with the application of immunosuppressive drugs, many recipients are transplanted successfully.

Response: Although we disagree with the commenters, we are modifying § 493.1265(b)(3) to permit life saving non-renal solid organ transplants to be performed prior to completion of the final crossmatch provided records document the emergency basis for the transplant. The short term viability of liver, heart, and pancreas organs after removal from the donor is often insufficient time for the laboratory to complete the crossmatch. However, for those individuals that exhibit presensitization, we are continuing to require the crossmatch prior to transplant. When transplants are performed prior to the crossmatch for emergency situations or at the discretion of the patient's physician, we are requiring that the laboratory document the reason(s) if provided by the patient's physician.

Comment: Several commenters felt that several requirements in § 493.1265 do not apply to disease-associated studies or parentage testing as required under § 493.1265(c). They felt that the requirements concerning crossmatching or antibody screen do not apply.

Response: We agree with the commenters that crossmatching and antibody screening do not apply to parentage testing and disease-associated studies. Therefore, we are modifying § 493.1265(c) to exclude antibody screening and crossmatching along with mixed lymphocyte cultures.

Comment: Many commenters felt that § 493.1265(d), which requires the laboratory to assure the donor is tested for HIV reactivity, places an unrealistic responsibility on the histocompatibility laboratory and that this should be the responsibility of the Organ Procurement Agency or the transplant center.

Response: We agree with the commenters that it is not appropriate to require histocompatibility laboratories to assure HIV testing of donors. Therefore, we are modifying § 493.1265(d) to require those histocompatibility laboratories that perform HIV testing to meet the requirements of § 493.1241.

Comment: Several laboratories did not feel that they should have to perform HIV testing as required under § 493.1265(d). Several individuals stated that it would cause delays in transplantation and given the condition of the patient, HIV testing should not be required.

Response: We agree with the commenters and are revising § 493.1265(d) to require that any laboratory performing and reporting HIV reactivity testing on organ donors must meet the requirements at § 493.1241.

Comment: A few commenters disagreed with the HCFA Common Procedures Coding System (HCPCS) list categorization of HLA B27 testing in the certification category of histocompatibility since the commenters believe that the histocompatibility testing quality control requirements are not applicable to HLA B27 testing.

Response: We disagree with the commenters. We are retaining disease associated antigen testing in the specialty of histocompatibility because we believe that the expertise of the technical supervisor is necessary for performing this test.

Comment: A few commenters said that the word "adequate" appeared in three of four explanatory paragraphs under § 493.1267 Condition: Clinical Cytogenetics, but was never defined.

Response: In accordance with § 493.1213, Standard; Establishment and verification of method performance specifications, the laboratory will define the number of cells to be examined for X and Y chromatin counts and the number of karyotypes prepared for each patient that it determines to be adequate in order to meet the laboratory's stated performance specifications. We are retaining § 493.1267 (a) and (b) as written. However, we are replacing the word "adequate" in § 493.1267(c) with the words "accurate and reliable" to be consistent with the language used in subpart J, Patient Test Management.

Comment: Other individuals noted that many parts of § 493.1201 to § 493.1221 do not apply to cytogenetics such as the inclusion of positive and negative controls.

Response: The regulations at § 493.1201 to § 493.1221 have been written to apply to a wide variety of testing facilities. The laboratory must adhere to those requirements applicable to the scope of testing it performs.

If the inclusion of positive and negative controls with each run of specimens is not applicable to cytogenetics, then the laboratory need not comply with that requirement, as stated in the first paragraph of § 493.1267.

Comment: Several health care providers suggested that §§ 493.1269, Condition: Immunohematology, and 493.1285, Standard; Investigation of transfusion reactions, be deleted and replaced with reference to the appropriate parts of 21 CFR.

Response: The regulations promulgated by FDA and HCFA are based on different laws. The FDA regulations are directed towards establishments which collect blood and blood components in other than emergency situations, perform therapeutic collection or apheresis with no destruction of resulting product or prepare frozen deglycerolized, washed, rejuvenated, or leucocyte-poor red blood cells and/or recovered human plasma. HCFA is responsible for regulating transfusion service facilities and laboratories performing HIV, hepatitis and syphilis testing for registered blood establishments. FDA regulations are product oriented while HCFA regulations are patient oriented. For this reason, we are retaining §§ 493.1269 and 493.1285 as a supplement to those published by the FDA, but whenever possible we have adopted the FDA regulations for blood and blood products.

Comment: A few commenters said that the requirements for immunohematology under §§ 493.1269 and 493.1285 were too specific, while others wanted more specifics for testing the Du variant.

Response: We are retaining the requirements under §§ 493.1269 and 493.1285 since they are compatible with the FDA requirements. Except where noted, the intent of this regulation is to allow laboratories the flexibility to determine the appropriate tests for their patient population and scope of operation. For this reason, the requirement at § 493.1269(c) does not address when Du variant testing be performed. However, as with all test procedures, when Du variant testing is performed, it must be in accordance with manufacturer's instructions and the applicable quality control requirements of this subpart. We are making supplemental changes to the regulations requiring positive identifications of the blood products recipient at § 493.1273(d) and monitoring and inspection of the blood products refrigerator at § 493.1275(a) and (b).

Comment: Several technologists noted that the requirement under proposed § 493.1283, Standard: Retention of Transfused Blood, does not set retention time frames nor does it reference other standards that should be observed. Other commenters wondered if the intention of this regulation was that all components and retained specimens were to be stored in an alarmed system.

Response: The intent of this regulation is to allow laboratories the flexibility to determine an appropriate length of time to retain samples of transfused blood in the event that post-transfusion testing becomes necessary. The regulation did not intend to require that these samples be retained in an alarmed system. There was no mention of alarmed systems at § 493.1283. We are retaining the regulation at § 493.1283 with a modification only to the paragraph title where we have added the word "samples" which changes the title to "Standard; Retention of Samples of Transfused Blood."

Comment: A few commenters suggested that in § 493.1285, Standard: Investigation of Transfusion Reactions, the words "Where appropriate and possible" be added to the second sentence to read "Where appropriate and possible, the facility must (change to should) document that all necessary remedial actions are taken to prevent future recurrences of transfusion reactions" as many reactions are unavoidable and not under the control of the laboratory.

Response: We disagree with the commenters because transfusion reactions are potentially life threatening events and we expect that every laboratory involved in transfusion services will treat them as such. Therefore, we are retaining the language at § 493.1285, which states that "The facility must document that all necessary remedial actions are taken to prevent * * *". This language allows the laboratory some flexibility in determining appropriate action to be taken when a transfusion reaction occurs. If the investigation reveals that action must be taken to prevent future recurrences then appropriate policies must be established and the corrective action must be documented.

Changes to the Regulation

Section 493.1201 Condition: General Quality Control

We are revising this condition to clarify that procedures HCFA approves as equivalent will be specified in appendix C of the State Operations Manual.

Section 493.1202 Standard; Moderate or High Complexity Testing, or Both

Effective from September 1, 1992 to September 1, 1994.

We are adding this standard to explain the applicability of the quality control requirements from September 1, 1992, to 2 years thereafter. This standard is providing a 2-year phase-in of quality control requirements for laboratories performing tests of moderate complexity using an instrument, kit, or test system cleared by the FDA through the 510(k) or PMA process.

Section 493.1203 Standard; Facilities

The contents of this section are being redesignated as § 493.1204, with the exception of electrical power variances, which are now covered in § 493.1205(c) and revised to eliminate the requirement for laboratories to maintain an adequate, stable, electrical source for laboratory equipment.

We are adding a requirement for the laboratory to establish, post, and observe safety precautions to ensure protection from physical hazards and biohazardous materials.

Section 493.1203 Standard; Moderate or High Complexity Testing, or Both

Effective beginning September 1, 1994. This standard is being added to explain the applicability of the quality control requirements effective September 1, 1994. We are revising §§ 493.1213, 493.1215, 493.1217, and 493.1218 to differentiate between laboratories using an instrument, kit, or test system that has been cleared by the FDA as meeting the CLIA requirements for general QC, and those laboratories using a method developed in-house, a modification of the manufacturer's test procedure, or an instrument, kit, or test system that has not been cleared by the FDA as meeting the CLIA requirements for general QC.

Section 493.1205 Standard; Adequacy of methods and equipment; Section 493.1207 Standard; Temperature and humidity monitoring; and Section 493.1209 Standard; Labeling of testing supplies.

These standards are being combined into § 493.1205 Standard; Test methods, equipment, instrumentation, reagents, materials and supplies. We are reorganizing the section to incorporate the principal components of the three proposed standards.

Since the laboratory is required to identify specific interfering substances and include these substances in the procedure manual as a limitation in methodology, we are deleting the requirement to perform test procedures or examinations in a manner that ensures "freedom from interference."

We are adding "as applicable" to the requirement for laboratories to define criteria for the conditions essential for proper storage of reagents and specimens, and accurate and reliable test system operation and test result reporting. Also, we are adding water as an essential condition for test performance.

Section 493.1211 Standard; Procedure Manual

We are adding the following requirements to this standard:

- —Manufacturers' package inserts or operator manuals that include the information in § 493.1211(b) (1) through (13) may be used in addition to or in lieu of preparing a separate manual;
- —Instructions for the step-by-step performance of the procedure;
- —Reportable range for patient test results;
- —Reference range (normal values);
- —Panic values;
- —Criteria for the referral of specimens; and
- —Reapproval of procedures whenever directorship of the laboratory changes.

We are deleting the requirement for quality assurance protocols to be included in the procedure manual and the requirement for the director to "initially" approve procedures.

Section 493.1213 Standard; Equipment Maintenance and Function Checks

This standard is being moved to § 493.1215.

Laboratories using equipment, instrument or test systems cleared by FDA as meeting the CLIA requirements may follow manufacturers' instructions for maintenance and function checks.

Laboratories using equipment, instruments, or test systems not cleared by FDA as meeting the CLIA requirements, or equipment, instruments, or test systems that have been modified or developed in-house, must establish their own maintenance and function check protocols.

We are deleting the requirement to recheck, calibrate or recalibrate each instrument, device, or test system at least once each day of use, and perform baseline or background checks each day of use.

Section 493.1215 Standard; Validation of Methods

This standard is being redesignated as § 493.1213, renamed, "Establishment and verification of method performance specifications," and revised to emphasize that the requirements in this section are not retroactive.

We are adding language that permits laboratories using test methods established and validated by a manufacturer whose product has been cleared by the FDA to meet these requirements by using the manufacturer's performance specifications, provided they can obtain comparable results

The requirement for laboratories to retain documentation of method validation is being deleted to eliminate redundancy with the quality control records retention requirement at § 493.1221.

We are revising the terms sensitivity and specificity to include the word "analytical."

We are consolidating the documentation requirements formerly in paragraphs (c), (d), and (e) into a new paragraph (c).

We are deleting the requirement for making method validation records available to the authorized persons ordering or receiving test results since it is already covered in Subpart J, Patient Test Management.

Section 493.1217 Standard; Frequency of Quality Control

This section is being divided into two sections. § 493.1217 Standard; Calibration and calibration verification, and § 493.1218 Standard; Control procedures.

Under the new § 493.1217 Standard; Calibration and calibration verification, we are making the following revisions:

- —We are adding language that permits laboratories using a manufacturer's product that has been cleared by the FDA as meeting the CLIA requirements, to meet these requirements by using the manufacturer's instructions for calibration and calibration verification.
- —For those laboratories using a method that is developed in-house, is a modification of the manufacturer's test procedure, or is a manufacturer's product that has not been cleared by the FDA as meeting the CLIA requirements, we are revising this section to distinguish between the calibration and calibration verification requirements.
- —Under the calibration requirements, the laboratory may meet the requirements by either following, as a minimum, the manufacturer's instructions for calibration or developing its own criteria for calibration that includes calibration materials appropriate for the methodology.
- —Under the calibration verification requirements, the laboratory must use calibration materials appropriate for the methodology to verify the adequacy of the calibration over the laboratory's reportable range for patient test values.
- —We are adding an option for laboratories to waive calibration verification for a complete change of

reagents, if the laboratory can demonstrate that changing reagent lot numbers does not affect the range to report patient test results and control values are not adversely affected.

—Rather than requiring calibration verification whenever controls reflect an unusual trend or shift or exceed the laboratory's acceptable limits, we are adding language to permit laboratories to employ other means of correcting unacceptable control values. Calibration verification is required whenever these measures fail to correct the problem.

—We are reducing the number of calibration materials required to verify calibration from three points and a zero to two points and a zero. Also, we are no longer distinguishing between linear and nonlinear methods.

—We are deleting the requirements specifying the procedures to follow when patient values are above the maximum calibration point or below the minimum calibration point.

- Under the new § 493.1218 Standard: Control procedures, we are making the following revisions:

—We are adding language to this section to permit laboratories using a manufacturer's product that has been cleared by the FDA as meeting the CLIA requirements, to meet these requirements by using the manufacturer's instructions for control procedures. In addition, these laboratories must test control samples in the same manner as patient samples, have statistical parameters for calibration and control materials, and control results must meet the laboratory's criteria for acceptability prior to reporting patient test results.

—We are requiring those laboratories using a method developed in-house, a modification of the manufacturer's test procedure, or a method that has not been cleared by the FDA as meeting the CLIA requirements, to meet the requirements in this section.

—We are deleting the reference to using two separate dilutions from a stock calibrator and using a sample spiked with a calibrator to meet these requirements.

—We are revising the direct antigen system control procedure requirements to clarify that controls must check, when applicable, both the detection and extraction phases.

Section 493.1219 Standard: Remedial Actions

We are reorganizing this section to correspond to the sequence of laboratory testing and reporting of results.

We are incorporating the contents of paragraph (b) into paragraph (c), which is being revised to allow the laboratory to establish and document a plan of action when it cannot report patient test results within its established time frames. It allows the laboratory, based on the urgency of the patient test(s) requested, to determine whether to notify the appropriate individual of the delay in testing. We are moving the requirement located at proposed paragraph (e), which required a laboratory to have remedial action policies and procedures when proficiency test results are unacceptable or unsatisfactory, to Subpart P, Quality Assurance. The requirement for the laboratory to evaluate for accuracy and reliability all patient test results obtained in an unacceptable test run or since the last acceptable test run, and take remedial action as necessary, is being revised for clarity and moved from Subpart P, Quality Assurance, to this section.

Section 493.1221 Standard: Quality Control Records

We are deleting the requirement for the laboratory to maintain records of each step in the processing and testing of quality control samples. We are deleting the reference to maintaining records reflecting that control samples were tested in the same manner as patient specimens since this requirement is already included in § 493.1218(c).

Section 493.1223 Quality Control—Specialty and Subspecialties for Test of Moderate and High Complexity

We are adding other options for quality control procedures. We are adding that effective September 1, 1994, a laboratory that performs tests of moderate or high complexity, as applicable, will be in compliance with this section if it meets quality control requirements specified in this subpart or follows manufacturer's instructions when using products (instruments, kits, or test systems) cleared by the FDA as meeting the CLIA requirements for general quality control and, as applicable, specialty and subspecialty quality control. We are adding the requirement that the laboratory document all quality control activities. This requirement was formerly located at § 493.1221 and has been transferred to all standard requirements and, where applicable, to condition requirements. We are requiring the laboratory to establish and follow "written" policies and procedures for an acceptable quality control program.

Section 493.1227 Bacteriology

We are adding the requirement for beta-lactamase testing to be checked each day of use for positive and negative reactivity.

We are revising the requirement for checking XV discs or strips to require that the XV discs or strips be checked each week of use with only a positive control organism.

Section 493.1229 Mycobacteriology

We are changing the frequency for testing quality control specimens for fluorochrome acid-fast stain from each day of use to each week of use. We are revising this section to require the use of a strain of *Mycobacterium tuberculosis* which is susceptible to all antimycobacterial agents each week antimycobacterial susceptibility testing is performed.

Section 493.1231 Mycology

We are adding a requirement that reagents used with biochemical tests and other test procedures be checked each week of use with a positive control organism.

Section 493.1233 Parasitology

We are clarifying that the ocular micrometer be calibrated prior to its use.

Section 493.1235 Virology

We are clarifying the requirement that a laboratory must "simultaneously culture" uninoculated cells or cell substrate controls as a negative control to detect erroneous results.

Section 493.1239 Syphilis Serology

We are deleting the reference to Appendix C of the State Operations Manual (HCFA Pub. 7) because the items referenced are not applicable to syphilis serology. We are clarifying that controls which evaluate all phases of the test system must be used to assure reactivity and uniform dosages. For clarification, we are stating that the laboratory may not report test results unless the predetermined reactivity pattern "of the controls" is observed.

Section 493.1241 General Immunology

We are clarifying that controls which evaluate all phases of the test system must be used to ensure reactivity and uniform dosages. For clarification, we are adding that the laboratory may not report test results unless the predetermined reactivity pattern "of the controls" is observed.

Section 493.1245 Routine Chemistry

We are revising this section, for blood gas analyses, to allow laboratories to use the manufacturer's specifications for calibration. We are specifying that one sample of control material be used each eight hours of testing.

We are adding that a combination of calibration and control materials, which include both low and high values, be used each day of testing.

For clarification, we are adding that "one sample of a calibration material" or control be included each time patients are tested unless automated instrumentation verifies calibration.

Section 493.1249 Toxicology

We are clarifying the requirement by using the words "calibration material" instead of "caliborator" or "standard" because in many instances a secondary reference material is used.

We are modifying the requirement that a calibration material contain a representative of each drug "group," instead of each drug, since calibration materials are available which detect the major drug groups being tested for abuse.

§ 493.1253 Hematology

We are revising this section to include the use of controls with automated differential counters. The words "automated" hematology "testing systems" are used to clarify this requirement.

We are adding the requirement that manual cell counts, using a hemocytometer, must be tested in duplicate. We are adding, for clarity, the words "automated" coagulation "testing systems."

We are revising this section, for manual coagulation testing, to require two levels of controls each time there is a change of reagent.

Section 493.1257 Cytology

- We are clarifying that slide preparations must be stained with a Papanicolaou or modified Papanicolaou stain and have given laboratories flexibility in establishing procedures that prevent specimen cross-contamination.
- We are adding that all cytology slide preparations must be evaluated on the laboratory premises.
- We are deleting the workload limit on unevaluated slides and have established one maximum of 100 slides per 24 hour period.
- We are specifying that the limit of 100 slides is not a performance target for each individual but an absolute maximum limit. The technical supervisor must establish the actual workload limit for each individual and this limit must be reassessed and documented at least every six months, rather than monthly, as proposed.
- We are specifying that the maximum of 100 slides can be read in no less than an 8 hour workday, rather than 6 hours, as proposed. In accordance with this change, the formula for prorating slides is now based on the time spent reading slides for both full-time and part-time employees.
- We are adding a provision for establishment of workload limits for individuals examining gynecologic slides by nonautomated technique that are prepared using automated, semi-automated or other liquid-based preparatory methods. Each slide prepared by these methods that results in cell dispersion over one-half or less of the total available slide area counts as one-half slide for purposes of workload calculation.
- We are adding a requirement for the confirmation of all gynecologic smears interpreted as showing reactive or reparative changes or atypia of undetermined significance by a technical supervisor in cytology.
- We are specifying that for each patient with a current high grade intraepithelial lesion or worse moderate dysplasia or CIN–2 or above, the laboratory must review all normal or negative gynecologic specimens from the previous 2 years, or slides from the most recent 2 specimens, whichever is less. If significant discrepancies are detected in this retrospective slide review between previously reported results and current evaluations that would affect patient care, the laboratory must notify the patient's physician and issue amended reports.
- We are retaining the requirement for gynecologic cytology/histology correlations, but are deleting the requirement for laboratories to obtain histology results from the State health departments. These comparisons are to be done only if the histopathology reports are available in the laboratory. In conjunction with this modification, we are deleting the requirement for reporting premalignant and malignant gynecologic cytology results to the State health department as well as biopsy-confirmed cases of cervical cancer as was required under the histopathology quality control section.

We are deleting specific requirements for the laboratory report and specifying that the laboratory report all results using narrative, descriptive nomenclature. We are not requiring use of The Bethesda System for gynecologic results.

We are changing the slide retention requirement for malignant and premalignant slides to 5 years. The requirement now states that all slides must be retained for 5 years. We are modifying the requirement for loaning slide preparations to PT programs to allow for slide donation to programs regardless of their approval status and to require that written acknowledgement of the receipt of slides by the PT program is maintained by the laboratory in lieu of slides if the slides are less than 5 years old, and therefore, still subject to the retention requirement.

Section 493.1259 Histopathology

We are revising this section to require that remnants of tissue specimens are retained in a manner that assures their proper preservation. We are deleting the requirement that the laboratory report results of biopsy-confirmed cases of cervical cancer to the State health department.

Section 493.1265 Histocompatibility

We are revising the requirement that laboratories document their efforts to reasonably obtain serum specimens for all potential transplant recipients at initial typing, for periodic screening, pretransplantation crossmatch and following sensitizing events. We are revising this section to accommodate living donor transplants by including the performance of the mixed lymphocyte culture test.

We are revising the requirement to require a laboratory to verify the efficacy of immunologic reagents used to remove contaminating cells during the isolation of lymphocytes.

We are modifying the requirement for laboratories performing histocompatibility testing for bone marrow transplantation and living transplants to meet all the requirements of this section, including the performance of mixed lymphocyte cultures. We are adding the alternative requirement to perform other augmented testing to evaluate class II compatibility to accommodate new technology emerging in this specialty of laboratory testing.

We are clarifying the requirement not to limit life-saving non-renal solid organ transplants prior to completion of the final crossmatch if records document the emergency basis for the transplant.

We are including antibody screening and crossmatching as exceptions for HLA typing for disease-associated studied and parentage testing.

We are revising the requirement that laboratories performing and reporting HIV reactivity testing on organ donors must meet the requirements at § 493.1241.

Section 493.1267 Clinical Cytogenetics

We are adding the words "accurate and reliable" in clarifying the procedures for patient identification.

Section 493.1273 Immunohematological Collection, Processing, Dating Periods, Labeling and Distribution of Blood and Blood Products

We are clarifying that the testing laboratory must meet the applicable requirements of part 493. We are adding the requirement that policies be available, followed, and documented to assure positive identification of the blood product recipient.

Section 493.1275 Blood and Blood Products Storage Facilities

We are adding the words "Blood products" to the section title in order to include proper storage for blood products.

We are requiring that an audible alarm system monitor proper blood and blood product storage temperature over a 24 hour period.

We are requiring that inspections of the alarm system be documented.

We are requiring that blood storage facilities document that storage conditions are appropriate.

Section 493.1283 Retention of Samples of Transfused Blood

We are adding the word "samples" to the paragraph title for clarity.

Section 493.1285 Investigation of Transfusion Reactions

We are revising the requirement that the facility must investigate all transfusion reactions occurring in all facilities for which it has investigational responsibility.

Subpart M—Personnel Standards

Summary of the Proposed Rule

In accordance with CLIA, the proposed rule was designed to establish uniform personnel requirements based on the complexity of testing performed. The proposed personnel standards in §§ 493.1401–493.1445, proposed as subpart M, were site neutral and were not to be applicable to laboratories possessing a certificate of waiver. The proposed rule specified requirements for laboratories that perform Level I or Level II testing, or both. Specifically, the personnel requirements contained in the proposed rule were the following:

- For laboratories performing less complex Level I tests, we proposed that the laboratory director be a physician with four years of laboratory training and experience, have a doctoral degree and four years of laboratory training and experience or be currently qualified under Federal regulations. We proposed that the director be qualified to serve as the technical and general supervisor, or the director could delegate the functions of the general supervisor to an individual qualified as a general supervisor of Level II testing. Since Level I tests were less complex, we proposed that the individual performing the testing be a high school graduate or equivalent, as long as the director provided assurance that the individual had appropriate training commensurate with the testing performed. In addition, we proposed that the director be responsible for assuring that testing personnel were evaluated for competency on an ongoing basis.
- For laboratories performing Level II testing, we proposed that the director requirements be essentially the same as for Level I testing. The proposed education, training, and experience requirements to qualify as a director, technical supervisor, general supervisor, technologist, technician, or cytotechnologist for laboratories performing Level II tests were based on the current personnel requirements for independent laboratories. Responsibilities were specified for the director, technical supervisor, general supervisor, technologist, technician, and cytotechnologist. We proposed that the director be responsible for assuring that testing personnel had appropriate training and were evaluated for competency on an ongoing basis. We proposed that qualified supervisors monitor performance of testing personnel through direct observation of the testing personnel's performance. We proposed that a general supervisor be required to be on the premises during all hours of testing in laboratories performing Level II tests. However, we proposed to reduce the number of years of experience required for a general supervisor from six to three years.
- Since Level II test procedures were more complex, we proposed to require specific education, training, and experience credentials. The qualification requirements for individuals performing Level II testing were differentiated based on the proposed proficiency testing specialty/subspecialty categories. In general, we proposed that technicians with specific specialty/subspecialty training and experience were qualified to perform the majority of Level II laboratory tests. We proposed that tests not currently included in the proficiency testing specialty/subspecialty categories be performed by a technician with one year of experience in the subspecialty category or by a technologist until the tests had been categorized through a formal review process. In cytology, microbiology, and immunohematology, in which testing involves independent judgment or when erroneous results are critical to patient health and safety, we proposed personnel qualified as cytotechnologists and technologists, respectively. The proposed rule contained current cytotechnologist qualification requirements but solicited comments on three options for qualifying individuals who did not meet the proposed requirements for cytotechnologists. The options we proposed were: Option 1, extend the July 1, 1969 period for qualifying individuals under the "grandfather" provision located at appendix E; Option 2, recognize an accrediting agency's credentials; and Option 3, administer an examination to qualify cytotechnologists.

The proposed rule acknowledged the paucity of scientific data correlating education and experience qualifications with test performance and asked for recommendations to establish appropriate, reasonable and cost-effective personnel requirements which assure quality testing.

Comments and Responses

General summary of comments on proposed personnel requirements. Approximately 23,200 comments were received in response to the proposed personnel requirements. The majority of the commenters were opposed to the proposed provisions, while a small percentage of the commenters expressed support for the proposed requirements. About 28 percent of the comments received demonstrated that the commenters had misinterpreted the proposed requirements and almost 25 percent of the commenters offered alternative suggestions to the proposed personnel regulations.

Of the comments received, physicians provided about 42 percent, technicians and technologists submitted approximately 11 percent, respiratory care practitioners provided about 25 percent, and the remaining comments on personnel were provided by a variety of health care professionals, organizations and groups. The following is a summary of these comments.

Comment: Approximately 2,450 commenters provided general comments that were nonspecific and not related to a particular section. Of these comments, nearly 60 percent generally were opposed, 30 percent offered alternative suggestions and the remainder either misinterpreted or offered some support for the proposed personnel requirements.

A number of medical technologists commented that education, training and experience qualifications of testing personnel represent the single most important factor in quality laboratory testing. On the other hand, several manufacturers contended that with the advances in instrumentation and technology, pathologists and medical technologists are not needed to operate a laboratory.

Many commenters expressed concern about the job security of those currently employed laboratory workers who would not have the education necessary to meet the proposed requirements. Many commenters recommended that the final rule contain a "grandfather" provision to qualify all currently employed laboratory personnel.

Some commenters expressed the view that the proposed personnel requirements should be uniform for all levels of testing in all settings ranging from a large hospital laboratory to a small physician office laboratory performing waiver tests. However, a large number of commenters expressed the view that the proposed personnel requirements, if finalized, would limit patient access to laboratory services, since only a few facilities will have personnel with the qualifications required for certification.

Numerous commenters stated that there is an insufficient number of technologists to meet the requirements and facilities will experience difficulty in recruiting technologists and will be in competition for limited technologist resources. Some commenters from rural areas suggested that the personnel standards be waived in underserved or rural areas if a laboratory can document that "good faith" efforts were made to acquire and retain qualified laboratory personnel.

A large number of commenters suggested using the current Medicare hospital requirements to require that the director, a physician or individual with a doctoral degree, assume responsibility for the overall competency and supervision of the staff, and not specify qualification requirements for testing personnel. Some commenters recommended modifying the proposed personnel requirements for laboratories performing the most complex tests to allow a physician to serve as the laboratory director and technical supervisor of his or her own laboratory, and require no detailed personnel standards for other laboratory personnel.

A few commenters suggested maintaining the proposed requirements for director of a laboratory performing Level I testing but eliminating the qualification requirements for technical and general supervisor and for testing personnel. Some commenters recommended establishing more flexible personnel requirements until the shortage of qualified laboratory personnel is alleviated with some suggesting that individuals be allowed to qualify through "alternate routes" rather than requiring a specific degree or academic course work.

A small number of commenters suggested Federal funding be appropriated to support medical technology training programs to ensure the availability of qualified personnel to meet the proposed Federal requirements. A number of commenters suggested HHS recognize certification examinations administered by a variety of credentialing organizations (i.e., ASCP, ISCLT, NCA, AMT, etc.) to qualify individuals as technologists and technicians.

Numerous commenters recommended reinstatement of the HHS technologist proficiency examination formerly offered as an alternative mechanism to qualify individuals who are unable to meet the Federal requirements for education and training. Commenters suggested allowing individuals to qualify as technologists if they are able to pass any part of the examination, but test performance should be limited to those areas in which a passing grade was achieved. Many commenters recommended that all laboratory workers be required to pass a competency-based examination as well as participate in a specific amount of continuing education.

Numerous technologists of all registries decried the lack of a career ladder while those individuals with associate degrees believed that their training was ignored by the framers of the proposed regulation. A number of commenters objected to the absence of requirements for histotechnologists, medical laboratory technicians and supervisory histotechnologists. A group of commenters suggested that HHS complete the studies mandated in the CLIA statute prior to establishing laboratory personnel standards.

A number of commenters supported the proposed personnel requirements and recommended that they be retained in final regulations.

Response: In response to commenters concerns, we re-evaluated the proposed criteria for categorizing non-waived tests, the procedures included in the moderate and high complexity categories, and the personnel requirements for laboratories performing non-waived tests. As previously discussed under § 493.10, the names of non-waived test categories were changed from Level I and Level II to moderate complexity and high complexity testing, respectively.

In establishing the personnel requirements, we complied with section 353(f)(1)(C) of the PHS Act, which requires HHS to establish personnel qualification standards which "* * * take into consideration competency, training, experience, job performance, and education * * *". In our opinion, many individuals currently working in laboratories, as a function of their employment, have gained valuable experience in testing operations. In most instances in this rule, we are acknowledging the value of this experience, by allowing those individuals, who do not meet the qualification requirements in these regulations, to continue their laboratory employment while acquiring the education or training necessary to meet the requirements. The net effect of the personnel standards will be to permit a preponderance of personnel presently working in laboratories to continue their employment while they are upgrading their credentials to meet the national standards for laboratory personnel specified in this rule.

In the future, we anticipate that college curricula and laboratory training programs will be geared to meet these education and training requirements and sufficient personnel will be available and qualified to perform the laboratory testing needed for patient diagnosis and treatment. Moreover, the personnel qualification requirements are being established in concert with other standards that contain additional safeguards to ensure quality laboratory services. We are requiring laboratory personnel at all levels to meet rigorous responsibility requirements. Testing personnel are required to demonstrate their testing skills prior to performing tests on patient specimens and thereafter on an ongoing basis to ensure their continued competency in patient testing. In addition, we are establishing other standards under proficiency testing, recordkeeping/patient test management, quality control and quality assurance that will serve as a mechanism for the laboratory to assess and evaluate its testing performance and personnel capabilities.

Requirements in this rule will be imposed on a large number of laboratories never before subject to Federal regulation. These formerly unregulated laboratories in many cases have not implemented internal or external programs to assess the quality of laboratory services provided by their laboratories and to monitor the testing capabilities of their laboratory employees.

We believe that these regulations will provide the framework to guide laboratories in the establishment of quality control practices that will result in improved laboratory testing for the nation's laboratories. We determined that for each personnel position specified in these regulations, the education and training or experience required are appropriate for the performance of tests of moderate and high complexity; however, these qualifications are intended to be the minimum standards. In many laboratories, individuals with higher qualifications may be needed to perform the functions that may be unique to their testing operations and necessary to comply with the responsibility requirements in this rule. In addition to the minimum personnel requirements contained in this rule pertaining to all laboratories, the regulations require the laboratory director to assure that the individuals working in his or her laboratory have the appropriate education, training or experience to perform the specific responsibilities assigned to the individual.

For those individuals currently employed in laboratories subject to Federal regulations, we determined that the records of these individuals, reflecting acceptable performance abilities, serve to demonstrate their competency in laboratory service activities. Therefore, under this rule we have established a provision to allow those individuals who qualified under the March 14, 1990, rule to continue to qualify under the requirements for laboratory director or general supervisor of high complexity testing as well as testing personnel for performance of high complexity testing. In addition, those individuals who qualified as a director under the March 14, 1990, rule will continue to qualify as a director of a laboratory performing tests of moderate complexity.

We agree with the majority of commenters that personnel standards for laboratories should be based on the complexity of the tests performed. As a result, we have separated non-waived testing into two categories describing test complexity and have linked the responsibilities and qualifications of personnel to these categories.

We agree that the current number and location of medical technologists would not permit staffing of all of the nation's laboratories with such individuals. We also agree that rural areas, and even some urban areas, would have difficulty recruiting medical technologists to staff their facilities. Therefore, we have amended the personnel requirements to qualify individuals who are involved in providing health care and, in addition, perform laboratory services, provided they can meet the responsibilities associated with the testing performed. Such provisions should allow flexibility in selection of qualified individuals to fulfill the personnel requirements. We agree that the laboratory director has the responsibility of assuring the competency of the laboratory staff and have specifically designated this as one of the director's functions.

We agree that a physician who meets the training and experience requirements can serve as both the director and the technical supervisor in a laboratory performing tests of high complexity. However, in order to assure that all of the laboratory's test responsibilities are met, other laboratory staff must also meet the training and experience requirements specified for their positions.

We agree that the responsibilities of the general supervisor can be met by the laboratory director in a laboratory that performs only tests of moderate complexity. Therefore, we are not requiring a general supervisor for such laboratories. However, we have concluded that a technical consultant will be required for tests of moderate complexity, and that the laboratory director may function as the technical consultant provided he or she possesses the amount of training or experience required in the specific specialty and subspecialty for which service is offered.

We have established requirements which allow personnel from many diverse backgrounds to qualify to supervise and to perform laboratory testing. However, all personnel must be able to meet the responsibilities required by their position. We have recognized several professional credentialing organizations as a means of assuring that personnel meet standards of practice established by such groups.

Because of the many pathways that are open to individuals wishing to qualify, we have not proposed to reinstate the HHS exam as an alternative to qualify individuals. Assuring staff competency has been included as one of the laboratory director's responsibilities. Therefore, we are not proposing to provide competency exams.

Continuing education and training opportunities are offered by many manufacturers of laboratory products and by professional societies as well as by the Federal Government. Laboratory personnel who take advantage of these opportunities will be prepared to climb a career ladder by taking advantage of the expanding universe of laboratory testing.

Since testing in histopathology consists of the interpretation of tissue specimens which must be performed by a physician qualified in histopathology, we have not proposed specific personnel requirements for histotechnologists.

Laboratories Performing Level I (Moderate Complexity) Testing

Sections 493.1403–493.1407 Laboratory Director, Qualifications and Responsibilities

Approximately 2,700 comments were received concerning the qualifications and responsibilities of the director of a laboratory performing Level I tests. Over half of the commenters mistakenly interpreted the proposed rule to require that a pathologist serve as director of a laboratory performing Level I tests. Approximately 8 percent of the commenters supported the proposed director requirements, while 20 percent expressed opposition to these provisions and 6 percent offered alternative suggestions. Around 88 percent of the comments were submitted by physicians operating their own office laboratories.

Comment: A number of commenters objected to allowing physicians to qualify as laboratory directors since they lack formal laboratory training and/or experience. Commenters noted that physicians generally do not receive clinical laboratory training in medical school or during their internship or residency. Commenters were particularly concerned about physicians serving as laboratory directors, since the proposed rule did not specify education and experience qualification requirements for personnel performing Level I testing.

Several commenters were opposed to the "grandfather" provision that would permit a person, who qualified as a laboratory director prior to 1971, to serve as a director of a laboratory performing Level I tests. Some commenters agreed that an individual, who is qualified under State law to direct a laboratory in the State in which the laboratory is located, should be qualified as a director of a laboratory performing Level I services.

A number of health professionals, including registered nurses, nurse practitioners, physician assistants, podiatrists, naturopathic physicians and chiropractors, suggested that they be qualified to direct Level I laboratory services if they are authorized to perform this function under State law. Alternatively, many commenters suggested that the regulations permit individuals with a bachelor's or a master's degree and appropriate experience to serve as the director of Level I laboratory services.

Commenters representing public health laboratories expressed concern about employing personnel with the credentials specified in the proposed rule to serve as directors of laboratories performing Level I testing, since hiring such individuals would present a severe economic hardship to their local health departments.

A few physicians requested that the regulations be expanded to include certification by other boards. Some commenters indicated that the proposed personnel standards for Level I testing personnel were not stringent enough, while the requirements for director and supervisor were overly stringent and place an unnecessary burden on laboratories in rural areas.

Several commenters recommended that the regulations be revised to differentiate directorship on the basis of services performed. One suggestion was to define "laboratory director" as the director of a laboratory performing only single specialty or subspecialty services whereas "director of laboratories" would be the director of a laboratory performing tests in multiple specialty/subspecialty areas. The commenters indicated that different credentials should be required depending on the types of services performed, with a physician trained in anatomical or clinical pathology being the most qualified to serve as director of a multispecialty laboratory. Other commenters suggested the regulations distinguish between administrative director and medical director.

Several commenters objected to the proposed requirement in paragraph (a)(3) of § 493.1407, Standard; Laboratory director responsibilities, requiring the establishment of a process for reviewing test results prior to issuing patient reports. Commenters representing physician group practices objected to a laboratory director reviewing test results of other physicians' patients.

Many commenters disagreed with the requirement for all abnormal Level I screening tests for previously undiagnosed conditions to be referred to an appropriately certified laboratory for verification by a more specific Level II method citing increased costs and delay in patient diagnosis and treatment.

One commenter disagreed with the requirement for the laboratory director to assure that personnel performing and reporting tests have appropriate training. The commenter suggested that persons performing Level I testing meet higher personnel standards promulgated by the American Society of Medical Technologists.

Response: We agree with the commenters who suggested that the director qualification requirements be more flexible and have expanded the requirements in § 493.1405, Standard; Laboratory director qualifications, to permit individuals with a bachelor's or master's degree to serve as directors of laboratories performing moderate complexity testing provided they have laboratory training or work experience and, in addition, have supervisory experience. Also, since moderate complexity testing is more extensive than testing proposed for Level I, we have added a requirement for physicians to have laboratory training or experience in order to qualify as a laboratory director. This training or experience can be gained in one of three ways. Physicians with at least one year of experience directing or supervising non-waived testing can qualify and this experience may be gained while directing or supervising their laboratories, while simultaneously engaged in providing diagnosis, treatment, or other services to patients. Physicians who do not have this experience must have laboratory training which can be gained either during residency training or by completing at least 20 hours of continuing medical education in laboratory practice commensurate with the responsibilities of the laboratory director as detailed in § 493.1407. This training should include principles and theory of laboratory practice and hands on laboratory testing. Those physicians having laboratory training and experience acquired during their residency training programs for specialty certification will be qualified under these regulations to direct a laboratory performing moderate complexity testing. For example, a board certified hematologist or hematologist/oncologist would meet the training or experience requirements to direct a laboratory performing moderate complexity testing. Physicians have one year from February 28, 1992 to obtain the continuing education credit hours and during that year can function as a laboratory director.

We are retaining the qualification requirement for individuals with a doctorate degree who are certified by a national accrediting board acceptable to HHS to qualify and, to provide consistency with the laboratory director qualifications in high complexity testing, we are adding the American Board of Medical Laboratory Immunology. We are modifying the experience requirement for individuals with a doctorate degree who are not board-certified to have one year of experience directing or supervising non-waived testing.

Individuals with a master's degree must have at least one year of laboratory training or experience and at least one year of experience as a laboratory supervisor. Individuals with a bachelor's degree must have two years of laboratory training or experience and two years of supervisory experience. These revisions permit medical technologists and other health care professionals (i.e. nurses and physician assistants) to serve as directors of moderate complexity testing provided they have the requisite degree in science and can meet the laboratory training, experience and supervisory requirements. In addition, individuals, who either were qualified or could have been qualified as a laboratory director under previous Federal regulations, will be qualified under this rule. Also, we will allow those individuals to qualify as director if, on the date of publication of these regulations, they are qualified under State law as a laboratory director. This is a "one-time" recognition of those individuals who have qualified under State law as a director. In this rule, we are not authorizing states to continue to set standards that in the future will automatically qualify individuals under State law to function as director when those cannot meet the director qualifications contained in this rule.

In our view, these requirements are the minimum qualifications necessary to perform the functions of laboratory director. We expect laboratories to evaluate their own testing activities to determine whether additional knowledge, training or skills are required to fulfill the director responsibilities.

The laboratory director responsibilities in § 493.1407 are being revised to more accurately define the duties of the director and to clearly specify that the director has overall responsibility for all laboratory operations and testing personnel. The director may delegate some of his or her responsibilities but retains the responsibility for ensuring that all of the director responsibilities are properly performed. For consistency with the director requirements for high complexity testing, we are limiting the

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number of laboratories that an individual can direct to five laboratories. Since we did not propose to place a limit on the number of laboratories that an individual can direct, we are inviting comments on this requirement.

We have eliminated the requirement for abnormal Level I screening tests for previously undiagnosed conditions to be confirmed by a more specific Level II method. Also, we deleted the requirement for the director to establish a process for review of patient test results prior to reporting.

Sections 493.1408 Standard; Technical Supervisor (Sections 493.1409–493.1413 Technical Consultant, Qualifications and Responsibilities)

A total of 168 comments were received on the proposed requirements for technical supervisor of a laboratory performing Level I testing, proposed as § 493.1408. Approximately 60 percent of the commenters were opposed to these proposed provisions, nearly 30 percent of the commenters offered alternative suggestions and the balance of the commenters either misinterpreted or were in support of the proposed requirements for technical supervisor. Most of the comments were provided by technologists who either disagreed with the proposed requirements or offered alternative suggestions.

Comments: A number of commenters mistakenly interpreted the proposed regulations to require a pathologist to serve as technical supervisor of a laboratory performing Level I testing. Several commenters were of the opinion that physicians who direct their own laboratories performing Level I testing on their own patients should be exempt from personnel requirements for technical supervision. Several commenters representing public health laboratories disagreed with the requirement that an M.D. or Ph.D. serve as director and technical supervisor since hiring such individuals would be cost prohibitive for the volume and complexity of procedures performed in these laboratories. Another commenter recommended that the current proposed requirements for director and supervisors be waived for public health facilities.

Numerous commenters indicated that a consultant medical technologist would be qualified and capable to function as the technical supervisor of a laboratory performing Level I testing. One commenter recommended expanding the qualification requirements for technical supervisor to permit individuals with two years of general laboratory training and experience to qualify. Other suggestions for technical supervisor qualifications included: allowing individuals to qualify with a master's or higher degree in a laboratory related field of study or laboratory management, or qualifying those individuals having certification as a clinical laboratory director by a recognized certifying agency plus two years of general laboratory training and experience. One commenter was opposed to allowing individuals who were approved as laboratory directors prior to 1970 (i.e., grandfathered) to be technical supervisors.

One commenter suggested requiring technical and general supervisors to be available by phone whenever Level I testing is performed. One commenter requested that proposed § 493.1408(c)(1) include a definition of the phrase "regular in-service training and education appropriate for the type and complexity of the laboratory services offered." A commenter questioned the procedures to be used for evaluating the performance of the testing personnel under § 493.1408(c)(2) and recommended that the technical supervisor annually certify the competency of those individuals performing Level I testing. Another commenter expressed concerns about the recordkeeping required to document the competency assessment of each employee's testing of previously assayed samples. Finally, a commenter expressed concerns about the cost of retesting previously assayed samples and suggested deleting this requirement because of the increased proficiency testing standards.

A number of commenters were opposed to the requirement in proposed § 493.1408(c)(3) for the technical supervisor to evaluate the performance of individuals performing tests at least quarterly during the first year the individual tests patient specimens and thereafter semiannually. They considered this requirement to be excessive and recommended evaluation and documentation of employee performance initially during orientation training followed by annual evaluation.

Response: The regulations for technical supervisor qualifications and responsibilities proposed at § 493.1408 have been revised and recodified. We have changed the name from technical supervisor to technical consultant to more closely reflect the functions related to moderate complexity testing that may be provided by one or more individuals on a consultative basis. We created a condition level requirement at § 493.1409, Condition: Laboratories performing moderate complexity testing; technical consultant, to encompass the qualifications and responsibilities of the technical consultant. At § 493.1411, Standard; Technical consultant qualifications, we have defined the technical consultant qualification requirements, and we created a standard at § 493.1413, Standard; Technical consultant responsibilities, to contain the specific responsibilities of the technical consultant. Specifically, the regulations authorize pathologists to function as the technical consultant of any moderate complexity testing service. Physicians may function as the technical consultant in any area in which the physician has at least one year of laboratory training or experience. The specialty/subspecialty training or experience may be acquired simultaneously in more than one specialty or subspecialty. For example, those physicians who have obtained laboratory training or experience during their medical residency training programs will be able to qualify as a technical consultant of any specialty or subspecialty area related to their residency training or experience. In other words, a board certified hematologist or hematologist/oncologist will be qualified as a technical consultant of all examinations and test procedures included in the specialty of hematology.

Individuals with a doctoral or master's degree in a chemical, physical, biological or clinical laboratory science or medical technology and one year of laboratory training or experience may serve as the technical consultant if the training or experience was in the speciality or subspecialty area of moderate complexity testing performed by the laboratory. In addition, individuals with a bachelor's degree in the sciences may serve as technical consultant provided they have at least two years of laboratory training or experience in the specialty and subspecialty services of moderate complexity testing performed by the laboratory. The training or experience in more than one specialty or subspecialty may be acquired concurrently as noted in the regulation. These changes are somewhat similar to the changes made in the qualification requirements for director of a laboratory performing moderate complexity testing; therefore, many medical technologists and other health care professionals will be able to meet the qualifications necessary to function as technical consultants of laboratories performing moderate complexity testing. We believe that the qualifications specified for technical consultant will ensure the provision of technical oversight needed to monitor the laboratory's testing activities.

The proposed technical supervisor responsibility requirements were revised to require the technical consultant to be accessible to the laboratory to provide on-site or telephone consultation on an as needed basis. The competency evaluation of testing personnel has been revised to require semiannual evaluations the first year the individual tests patient specimens, and thereafter, annual evaluations are required unless there are changes in test instrumentation or methodology, in which case performance must be evaluated initially prior to reporting patient results. The use of proficiency testing samples to evaluate employee test performance was proposed as an option, not a specific requirement. Since it is essential to evaluate testing personnel performance based on the ability to test specimens, we have retained the requirement as proposed and allow the laboratories the flexibility of deciding which specimens to use in the evaluation. Laboratories must maintain records to document that the evaluations have been performed.

Section 493.1409 Standard; General Supervisor

A total of 208 comments were received concerning the qualifications and responsibilities for general supervisor of a laboratory performing Level I tests that were proposed as § 493.1409. Slightly over 51 percent of the commenters were opposed to the proposed requirements, nearly 35 percent of the commenters offered alternative suggestions and 13 percent of the commenters either supported or misinterpreted the proposed requirements for general supervisor.

Comment: Several commenters suggested deleting the general supervisor requirement for a laboratory performing Level I testing, while other commenters did not see the need for both a technical and general supervisor. Several commenters stated that the proposed qualification requirements for general supervisor were too stringent for Level I screening procedures, and registered nurses should be permitted to supervise Level I test performance.

A number of commenters from rural health clinics suggested waiving the requirement for a general supervisor if the facility performs only Level I tests and meets the Medicare requirements for rural health clinics located at 42 CFR part 491. Another commenter proposed that nurse practitioners be allowed to supervise rural health clinics when a physician is not readily available. One commenter objected to allowing a person who qualified under State law as a director to qualify as a general supervisor of a laboratory performing Level I tests.

A few commenters agreed with the requirement that a technologist have three years of experience in order to qualify as a general supervisor of a laboratory performing Level I testing, while a small number of commenters objected to lowering the experience requirement from 6 to 3 years. About 20 commenters suggested that technicians be permitted to serve as general supervisors due to the shortage of registered medical technologists. Several commenters expressed concern about the difficulty in recruiting medical technologists willing to supervise Level I testing.

Several commenters expressed concern about the national shortage of qualified laboratory personnel, especially in rural areas. A number of commenters were concerned that there would not be enough qualified general supervisors to provide supervision during all hours that a laboratory would perform Level I testing. Several commenters were opposed to the requirement that a supervisor be on-site during all hours of testing in a laboratory performing Level I testing. Several commenters suggested requiring a consultant medical technologist to fulfill the general supervisor requirements. A commenter suggested that non-accredited hospitals performing Level I testing be required to have a general supervisor on the premises only during one shift and, on the other shifts, the general supervisor could be available by phone.

Several commenters requested a definition of the term "accessible" relative to the general supervisors' location and availability. Other commenters objected to the requirement for on-site supervision. Specifically the commenters disagreed with requiring individuals qualified under paragraphs (b)(1), (2), (3), (4), or (6) of § 493.1427, Standard; General supervision, to be on-site while allowing the director functioning as the general supervisor to be accessible to the staff rather than on-site. Some commenters recommended that a physician not be permitted to serve as supervisor of his own office laboratory since a physician would not be readily available to provide general supervision to the staff. One commenter suggested that a physician director not be permitted to serve as both technical and general supervisor. Other commenters recommended that persons qualifying as general supervisor under proposed § 493.1405, Standard; Laboratory director qualifications, should have at least two years of full-time general laboratory training and experience.

Several commenters suggested that in laboratories performing Level I testing, if the director is not always on-site, monthly consultation by an individual meeting the qualifications of a general supervisor should be required. A few commenters suggested revising the general supervisor requirements to specify "experience at the management level".

Response: We agree with the commenters that the responsibilities that were proposed for the technical and general supervisor overlap in a laboratory performing moderate complexity testing. To reduce confusion and provide clarity to the personnel standards, we have eliminated the requirement for general supervision of moderate complexity testing. The duties proposed for the general supervisor have been incorporated into the revisions made in the responsibility requirements for the laboratory director and technical consultant.

(Sections 493.1415–493.1419 Clinical Consultant, Qualifications and Responsibilities)

Comment: A number of commenters recommended that for laboratories performing Level II testing, requirements should be established for an administrative director and a medical director/advisor. The commenters expressed the view that a medical technologist is qualified to handle the administrative responsibilities while a physician should serve as a medical director/advisor to evaluate test results for medical intervention or decision-making concerning patient diagnosis and treatment.

Response: We agree with the commenters. However, we believe that clinical consultation is needed for moderate as well as high complexity testing to ensure proper oversight of the total testing process from test selection through analysis and test result reporting and interpretation. Therefore, we are including provisions requiring each laboratory performing moderate complexity testing to have access to clinical consultant services. At § 493.1415, Condition: Laboratories performing moderate complexity testing; clinical consultant, we are creating a condition for clinical consultation to encompass the qualifications and responsibilities required for the clinical consultant. Revised § 493.1417, Standard; Clinical consultant qualifications, contains the specific qualifications required for the clinical

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consultant. The clinical consultant responsibilities are defined at § 493.1419, Standard; Clinical consultant responsibilities. The addition of these requirements should enable the laboratory to provide to its' clients clinical consultation whenever needed for the utilization of specific laboratory test results in the diagnosis and treatment of patients and to assist in the interpretation of particular test results with individual patient conditions.

Sections 493.1410–493.1411 Testing Personnel (Sections 493.1421–493.1425 Testing Personnel, Qualifications and Responsibilities)

Approximately 450 comments were received in response to the proposed requirements for testing personnel (which were proposed at §§ 493.1410–493.1411). About 45 percent of the commenters expressed opposition to these sections, with some indicating that the requirements were too stringent and others stating that the proposed requirements were not stringent enough. Around 25 percent of the commenters misinterpreted the requirements, 23 percent of the commenters offered alternative suggestions and 8 percent of the commenters agreed with the proposed requirements for testing personnel.

Comment: Although a number of commenters agreed that the proposed standards for personnel performing Level I testing were appropriate for the limited testing categorized as Level I, many commenters strongly advised HHS to modify the proposed qualifications for personnel performing Level I testing to require specific laboratory training. The commenters stated that studies show there is a correlation between the qualifications of testing personnel and the quality of the results. Commenters were concerned that the minimal personnel qualification requirements proposed would result in laboratory errors and decreased quality of testing affecting patient diagnosis and treatment. In addition, some commenters suggested that if a physician functions as the director, technical supervisor and general supervisor of Level I testing, the individuals performing testing should meet the qualifications specified in § 493.1441 for Level II test performance. On the other hand, several commenters suggested that regulations for physician office laboratories should permit lesser trained personnel to perform Level I testing.

A number of commenters mistakenly interpreted the proposed regulations to require a registered technician for performance of Level I testing. Other commenters suggested that only medical laboratory technicians or clinical laboratory assistants be allowed to perform Level I testing. These commenters stated that high school graduates, or equivalent, do not have the background and training necessary to perform Level I testing. On the other hand, a few commenters were opposed to any proposed regulations that would require laboratory technicians for test performance. The commenters cited the personnel shortage and the expense associated with hiring personnel with these qualifications. The commenters expressed the opinion that the quality of the testing could be monitored by proficiency testing that is reviewed by the laboratory director.

Several commenters suggested that HHS establish uniform standards for testing personnel for all laboratories performing non-waived tests. Other commenters were concerned that the regulations were unclear about whether physicians and nurses were qualified to perform Level I tests. One commenter from a rural health clinic suggested that the requirements for testing personnel be eliminated and these clinics be allowed to continue to provide laboratory services if they meet the rural health clinic requirements located at 42 CFR part 491.

A few commenters proposed that standards for personnel performing Level I testing focus on performance rather than on education, with several commenters suggesting that HHS develop a competency-based examination for all personnel performing Level I testing. Several commenters suggested that the Level I testing personnel requirements permit high school graduates with formal training in laboratory testing to perform testing only when a supervisor is on-site. Alternatively, numerous commenters suggested that each laboratory performing Level I testing be required to have a consultant medical technologist to provide orientation and training to employees, assist in the selection of test methodology and development of quality control and quality assurance programs, and monitor testing personnel performance. Other commenters noted that the proposed personnel requirements for Level I test performance are not appropriate for some of the procedures, specifically gram stain interpretations, microscopic examinations, and semen analysis. Several commenters recommended expanding personnel requirements to create a Level IA to include higher personnel standards for performance of certain tests.

Several commenters suggested that if Level I testing is performed by a high school graduate, the high school curriculum should include biology and chemistry courses. Other commenters questioned the necessity of requiring a high school diploma, and suggested qualifications be based on individual competency. Some commenters suggested that there be a "grandfather" provision in this section to allow persons without a high school diploma to perform tests. These commenters noted that the proposed requirements for technician under Level II test performance contained a "grandfather" provision which was formerly used to qualify individuals without a high school diploma and asked that a similar "grandfather" provision be included for Level I testing.

Several commenters suggested adding to the training requirements for testing personnel language that would require individuals to have an "understanding of the basic principles surrounding each test and be able to identify problems, using preset criteria" or "understanding of reagent preparation, stability and storage and factors that influence test results, and test system stability".

Response: In response to comments, the proposed regulations for testing personnel were modified and recodified. At § 493.1421, Condition: Laboratories performing moderate complexity testing; testing personnel, we are creating a condition level requirement to encompass testing personnel qualifications and responsibilities. Testing personnel qualification requirements are now located at § 493.1423, Standard; Testing personnel qualifications. A new standard, Standard; Testing personnel responsibilities, has been created at § 493.1425 to contain the responsibility requirements for testing personnel. As previously discussed under § 493.20, the criteria for categorizing tests as moderate complexity were revised resulting in more uniform and appropriate test/methodology categorization. The criteria were closely analyzed for proper linkage with testing personnel requirements resulting in the following revisions to the proposed requirements.

Section 493.1423 was revised to clearly reflect that physicians and individuals who possess a doctoral, master's, bachelor's or associate degree in science would be qualified to perform moderate complexity testing. In addition, we have modified the requirements to ensure that any individual who has military training in laboratory procedures and is qualified as a Medical Laboratory Specialist would be qualified to perform moderate complexity testing. We have retained the requirement for testing personnel to have a high school diploma, or an equivalent, to ensure that individuals have basic skills in reading and comprehension. We believe that the qualifications specified for testing personnel are appropriate for the performance of moderate complexity testing but are placing the responsibility on the laboratory director and consultant(s) for assessment of these individuals' competency and abilities specifically related to the types of testing performed. At § 493.1423, we have more clearly defined the training needed for high school graduate testing personnel, and in § 493.1425 we have established specific responsibilities for any individual performing testing.

Laboratories Performing Level II (High Complexity) Testing

Sections 493.1413–493.1417 (Sections 493.1441–493.1445) Laboratory Director: Qualifications and Responsibilities

Almost 7,000 commenters responded to the proposed qualification requirements for director of a laboratory performing Level II testing. Over half of the commenters misinterpreted the proposed requirements, about 26 percent of the commenters were opposed to the proposed requirements, 17 percent of the commenters offered alternate suggestions and nearly 2 percent of the commenters were in support of the proposed requirements for director of Level II testing.

Over 4,000 of the commenters mistakenly interpreted the proposed regulations to require a pathologist to serve as director of a laboratory performing Level II testing. These commenters noted the increased costs associated with employing such individuals and the shortage of pathologists available to serve as laboratory directors. Many of these commenters also assumed that the proposed rule required a pathologist to be present whenever Level II testing is performed. A small number of commenters suggested that the director requirements for laboratories performing Level II testing should be the same as the proposed requirements for director of Level I testing. Some commenters recommended that current Medicare hospital requirements be adopted as the qualifications required for director of Level II testing, in particular rural hospitals appeared to be in favor of employing either a consultant pathologist or a person with a doctoral degree in a biomedical area to function as the director of Level II testing.

A number of commenters suggested that only physicians who have appropriate training in laboratory test methodology and technology be permitted to serve as directors of laboratories performing Level II testing. On the other hand, many commenters suggested that the proposed regulations be modified to allow physicians to serve as directors of office laboratories performing Level II testing, provided the laboratories perform tests only on the physicians' own patients. A number of physicians serving as directors of laboratories performing tests on their own patients, stated that current technology and instrumentation provides test results that are sufficiently accurate and reliable to preclude the need for specific qualification requirements for the director of Level II testing. Several of these commenters felt that approval to perform Level II testing should be based upon proficiency testing performance.

Many commenters noted that requiring a pathologist or individual with a doctoral degree to serve as director would result in a "figurehead" director, since these individuals were not necessarily trained or skilled in quality control, management or quality assurance, whereas medical technologists were capable of performing the management and administrative functions of the laboratory director. some commenters felt that the laboratory director standards of Puerto Rico (i.e., medical technologists with 5 years of experience) should be adopted. Some commenters were opposed to allowing individuals to direct Level II testing if they met the "grandfather" provision in current Federal regulations, which previously permitted individuals to qualify as a director if they directed a laboratory prior to July 1, 1971. Conversely, a few commenters were in favor of retaining the "grandfather" provision, while numerous commenters stated that final regulations must contain a liberal "grandfather" clause to allow individuals currently serving as directors of Level II testing to continue to serve.

A few commenters stated that board eligibility was not sufficient, that directors should be required to pass the board examination. Other commenters suggested approving additional boards, such as the American Board of Forensic Toxicology and the American Board of Medical Laboratory Immunology. A large number of comments from physicians and other allied health professionals suggested that board certification or speciality training should be acceptable to qualify individuals as directors of laboratories performing specific Level II tests. The professionals and the services they felt qualified to have performed in laboratories they direct included:

Dermatopathologists—mycology, histopathology
Mohs micrographic surgeons—histopathology
Rheumatologists—chemistry, serology
Allergists/immunologists—chemistry, serology
Endocrinologists—chemistry
Podiatrists—Level II testing
Naturopathic physicians—Level II testing
Ophthalmic pathologists—ophthalmic histopathology
Hematologists—hematology
Oncologists—chemistry, hematology
Pulmonary physicians and anesthesiologists—blood gasses
Urologists—chemistry, microbiology
Psychiatrists—Level II tests
Pediatricians—microbiology, serology, hematology
Physiatrist—Level II testing
Physician with a master's degree in public health—all public health testing

Many comments were received from respiratory care practitioners, specifically pulmonary physicians or anesthesiologists, suggesting that they be qualified to serve as laboratory directors of Level II testing. As an alternate suggestion, they recommended recognizing their boards to qualify individuals as directors of blood gas laboratories. A few commenters stated that the proposed experience requirements needed to be more specific and recommended requiring that the director of Level II testing have three years of post-doctoral experience in all phases of clinical laboratory testing. Some commenters were concerned that the proposed rule established no limit on the number of laboratories performing Level II testing that an individual could direct.

Response: Qualification requirements for director of Level II testing, now high complexity, that were proposed in § 493.1415 are now located at § 493.1443, Standard; Laboratory director qualifications. We have retained the requirement for the director to be a pathologist, physician, or have a doctoral degree but are changing the training or experience required for physicians or individuals with doctoral degrees. Physicians are required to have at least one year of laboratory training during medical residency. This training should include principles and theory of laboratory practice and hands on laboratory testing. This medical residency laboratory training may be

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acquired in conjunction with obtaining specialty certification. In other words, a board certified hematologist or hematologist/oncologist would meet the training or experience required to qualify as a director of a laboratory performing high complexity testing. In addition, physicians may qualify to direct a laboratory performing high complexity tests if they have two years of experience directing or supervising high complexity testing. Physicians may use the experience gained directing or supervising their own laboratories, or co-directing or sharing in the supervision of a group practice laboratory while simultaneously engaged in patient care, provided this experience is in high complexity testing. Physicians currently operating their own laboratories, who do not have one year of laboratory training or two years of experience directing or supervising high complexity testing on September 1, 1992, will not be qualified as a director. In order to perform high complexity testing, such physicians must obtain the services of an individual qualified under § 493.1443 until the requirement for laboratory training or experience is met.

We are retaining the requirement for individuals with a doctoral degree to be board-certified as a prerequisite to meet the director requirements. We have added the American Board of Medical Laboratory Immunology to the list of board recognized under the regulations because its certification requirements are similar to the American Board of Medical Microbiology. We did not include certification by the American Board of Forensic Toxicology because these regulations are applicable to clinical testing, not forensic procedures. For individuals with a doctoral degree, we are modifying the proposed four-year laboratory training or experience requirements to require that two of the four years include experience directing or supervising high complexity testing. We are also specifying that these individuals must obtain certification by an approved Board within two years after September 1, 1992. We have made a provision to allow those individuals who are qualified or could have qualified as director under the March 14, 1990 regulations, to qualify as director of high complexity testing. We are specifying that individuals will be qualified as laboratory directors, if on the publication date of these regulations, they previously qualified under Federal regulations as a laboratory director or are qualified under State law as a laboratory director. This is a "one-time" recognition of those individuals who have qualified under State law as a director. In this rule, we are not authorizing states to continue to set standards that in the future will automatically qualify individuals under State law to function as director when those individuals cannot meet the director qualifications contained in this rule. These qualification requirements are consistent with current Federal regulations and we believe they are appropriate for the direction of laboratories performing the test procedures or examinations now categorized as high complexity tests.

The director responsibility requirements that were proposed in § 493.1417 are now located at § 493.1445, Standard; Laboratory director responsibilities. They are being revised to more accurately define the duties of the director of a laboratory performing high complexity testing. We are specifying that the director has overall responsibility for all laboratory operations and testing personnel. The director may delegate some of his or her responsibilities but retains the responsibility for ensuring that all of the director responsibilities are properly performed. In response to commenters concerns, we are limiting the number of laboratories that an individual can direct to five laboratories. Since we did not propose to place a limit on the number of laboratories that an individual can direct, we are inviting comments on this requirement.

Sections 493.1419–493.1423 (Sections 493.1447–493.1451) Technical Supervisor, Qualifications and Responsibilities

Approximately 1,250 comments were received on the proposed requirements for technical supervisor. Almost half of the commenters were opposed and a small percent of the commenters were in agreement, 40 percent offered alternative suggestions and about 10 percent of the commenters misinterpreted the proposed requirements for technical supervisor. Physicians provided 42 percent and dermatologists submitted 26 percent of the total comments received on these sections. A large number of physician commenters misunderstood the proposed requirements and mistakenly assumed that only pathologists or individuals having a PhD would be qualified to function as technical supervisors of their office laboratories performing Level II testing.

A number of commenters suggested that physicians be permitted to serve as technical supervisors of their own laboratories. Other commenters requested expanding the proposed technical supervisor requirements to permit medical technologists to qualify for these positions based on either demonstrable expertise in a subspecialty or specialty of services or on their overall laboratory training and experience. In addition, commenters suggested that the criteria for qualifying technical supervisors be expanded to relieve current laboratory personnel shortages and include nurse practitioners or nurses having a master's degree or individuals with bachelor's degrees who are certified or eligible for certification in a particular specialty. A few commenters suggested allowing existing laboratory supervisors to qualify by passing an examination such as the examination formerly administered by HHS in the 1970s.

Several commenters objected to the proposed regulations citing the shortage of trained personnel available in rural areas and suggested eliminating the requirements for a technical supervisor. One commenter noted that under the proposed regulations, nearly 25 percent of the rural hospitals in his State would be unable to find qualified persons to provide technical supervision of chemistry and immunohematology services. A few commenters suggested substituting the current Medicare or Joint Commission accreditation requirements for hospital laboratory director for the proposed technical supervisor requirements.

Some commenters proposed that the technical supervisor requirements be revised to qualify those individuals who have been certified by a nationally recognized certifying body at the specialist level or higher in clinical and/or public health microbiology, to relieve the shortage of qualified personnel available to work in public health laboratories. A few commenters recommended allowing a "medical technologist with appropriate experience" to meet the qualification requirements for technical supervisor in chemistry, while other commenters suggested that an individual who has a bachelor's degree in science and certification or is eligible for certification and has four years experience in chemistry, should be qualified as a technical supervisor in chemistry.

A large number of pulmonary physicians and respiratory therapy practitioners objected to the proposed requirements for technical supervisor in chemistry and suggested that credentialed respiratory therapy practitioners be qualified to serve as technical supervisors in blood gas laboratories. Many comments received from hematologists/oncologists indicated that they misinterpreted the proposed regulations and thought that they would be prohibited from serving as technical supervisors in their own office laboratories performing Level II testing.

A large number of comments on the proposed regulations for technical supervisor were received from dermatologists, who objected to the proposed provisions which would prohibit them from examining skin biopsies and performing a number of Level II tests on their own patients. Some dermatologists suggested that any test or examination performed by a dermatologist should be categorized as a waived test. Other dermatologists suggested that the requirements of § 493.1421(g) be changed to include the following: "* * * for tests in dermatopathology, the individual is certified in dermatopathology by the American Board of Pathology and American Board of Dermatology."

A number of commenters representing physicians who perform Mohs micrographic surgery, proposed that physicians performing such procedures "* * * be accredited as an Associate Member or Fellow of the American College of Mohs Micrographic Surgery and Cutaneous Oncology, or possess qualifications equivalent to those required for accreditation as an Associate Member or Fellow status * * *" A number of commenters practicing ophthalmic pathology recommended revising the proposed requirements for technical supervisor at § 493.1421(g) to include a new paragraph (4) as follows: "For tests in ophthalmic pathology, the individual—

(i) Meets the requirements of paragraph (a) of this section;
(ii) Is certified by the American Board of Pathology or the American Osteopathic Board of Pathology; or
(iii) Is certified by the American Board of Ophthalmology (or eligible for such certification) and has successfully completed a minimum of one year of formal post-residency fellowship training in ophthalmic pathology." Other commenters recommended adding to the requirement, the phrase "* * * is recognized as an ophthalmic pathologist upon the recommendation of the AAOP, a subspecialty group affiliated with the American Academy of Ophthalmology".

A few commenters agreed with the proposed requirements for technical supervisor of histocompatibility services and indicated that histocompatibility testing requires more evaluation and judgement than most other areas of laboratory medicine; therefore, additional training and experience are necessary to acquire the requisite specialized experience. Some commenters suggested that the requirement for technical supervisors of histocompatibility to have four years of experience in immunology, two of which have been in histocompatibility testing, should be revised to allow individuals having four years of training or experience in histocompatibility testing to qualify. Commenters also suggested that the proposed rule be revised to require experience in "human" histocompatibility testing.

A few commenters objected to the technical supervisor responsibility requirements. The commenters were particularly opposed to requiring the technical supervisor to evaluate personnel on a quarterly basis. They recommended requiring initial training and competency evaluation of each individual performing testing at the time the individual is hired with subsequent performance evaluation required only when new procedures are introduced or changes in procedures occur.

Response: The proposed condition of technical supervision of Level II (now high complexity) testing formerly located at § 493.1419 has been relocated to § 493.1447. The qualification requirements for technical supervisor that were proposed at § 493.1421 have been revised and recodified and are now at § 493.1449, Standard; Technical supervisor qualifications. In response to the commenters' concerns, we reevaluated the qualification requirements. We had proposed that, at a minimum, technical supervisors of hematology and radiobioassay have a bachelor's degree in science. In this regulation, we have revised the requirements for technical supervision to permit an individual, who has a bachelor's degree and four years of laboratory training or experience in the specialty/subspecialty, to provide technical supervision of high complexity testing not only in hematology and radiobioassay, but also the subspecialties of microbiology, immunology, and chemistry. For individuals with a master's degree in a science, we have reduced the proposed requirement for laboratory training and experience from four years to two years. We had proposed that physicians be qualified as technical supervisors of all specialty/subspecialty areas, provided they had the required certification or specialty/subspecialty experience. Under this rule, we are retaining the requirement permitting physicians without pathology specialty certification to serve as technical supervisors in all specialty/subspecialty areas, except cytology and histopathology. To serve as technical supervisor, we proposed that each individual have training and experience in the specialty/subspecialty area; we revised the requirement to qualify those individuals who either have training or have experience in the specialty/subspecialty area. For physicians and individuals with a doctoral degree, we have reduced the specialty/subspecialty training or experience required to one year, except for the specialties of histocompatibility and clinical cytogenetics. Those physicians, who are not pathologists but have medical residency laboratory training and experience acquired during their training programs for specialty certification, will be qualified under these regulations as a technical supervisor of any specialty or subspecialty area related to their residency training or experience. For example, a board certified hematologist or hematologist/oncologist will be qualified as a technical supervisor of all examinations and test procedures included in the specialty of hematology.

In response to recommendations from medical schools, we are revising the cytology technical supervisor qualification requirements to allow physicians in their final year of residency training in anatomic pathology to perform some of the responsibilities of the cytology technical supervisor. These individuals are expected to perform duties in cytology as part of their training and are qualified to perform the duties of the cytology technical supervisor.

We agree with the commenters that dermatologists and ophthalmic pathologists should be permitted to perform tissue examinations and have added provisions to allow dermatologists and ophthalmic pathologists to qualify as technical supervisors of dermatopathology and ophthalmic pathology, respectively.

In response to recommendations from commenters that we permit residents in anatomic pathology training programs to perform histopathology services, we have added provisions to the technical supervisor requirements for histopathology, dermatopathology, ophthalmic pathology and oral pathology to permit pathology residents to perform tissue examinations in these subspecialty areas.

We agree with the commenters who suggested that in histocompatibility testing the experience should be in "human" histocompatibility. The technical supervisor qualifications require laboratory training or experience. According to the CLIA statute, a laboratory is defined as a

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facility performing testing on "* * * materials derived from the human body * * *", therefore it is not necessary to specify that the experience be in "human" histocompatibility. In response to commenters suggestions, we have revised the training or experience requirement to allow individuals, who have four years of training or experience in histocompatibility, to qualify as technical supervisors of histocompatibility.

We believe that the changes made in the qualification requirements for technical supervisor represent a more uniform set of standards across laboratory specialty and subspecialty service areas and are consistent with the knowledge and skills needed to monitor the technical aspects of laboratory testing for high complexity procedures or examinations.

We agree with the commenters that the proposed requirement for the technical supervisor to perform quarterly evaluations of personnel the first year of testing and thereafter semiannually is excessive and burdensome. We have revised the standard to require semiannual evaluations of personnel during their first year of testing and annually thereafter. If there are changes in test methodology or instrumentation, semiannual evaluations are required for an additional year.

(Sections 493.1453–493.1457 Clinical Consultant, Qualifications and Responsibilities)

Comment: A number of commenters recommended that for laboratories performing Level II testing, requirements be established for an administrative director and a medical director/advisor. The commenters expressed the view that a medical technologist is qualified to handle the administrative responsibilities but a physician should serve as the medical director/advisor to evaluate test results for medical intervention or decision-making concerning patient diagnosis and treatment.

Response: We agree with the commenters. Therefore, we are including provisions requiring each laboratory performing high complexity testing to have access to clinical consultant services to ensure proper oversight of the total testing process from test selection through analysis and test result reporting and interpretation. At § 493.1453, Condition: Laboratories performing high complexity testing; clinical consultant, we created a condition for clinical consultation to encompass the qualifications and responsibilities required for the clinical consultant. Section 493.1455, Standard; Clinical consultant qualifications, contains the specific qualifications required for the clinical consultant, and the clinical consultant responsibilities are defined at § 493.1457, Standard; Clinical consultant responsibilities. The addition of these requirements should enable the laboratory to provide clinical consultation to its clients whenever needed for the utilization of specific laboratory test results in the diagnosis and treatment of patients and to assist in the interpretation of particular test results with individual patient conditions.

Sections 493.1425–493.1429 (Sections 493.1459–493.1463) General Supervisor, Qualifications and Responsibilities

Approximately 950 comments were received on the proposed requirements (proposed at §§ 493.1425–493.1429) for general supervisor of a laboratory performing Level II testing. About 66 percent of the commenters were opposed and almost 5 percent were in support of the proposed requirements, 27 percent offered alternate suggestions and 3 percent misinterpreted the proposed requirements. Technologists submitted 25 percent and physicians submitted 30 percent of the total comments received on these sections.

In the proposed rule, the qualification requirements for the general supervisor of Level I testing were cross-referenced to the requirements for general supervisor of Level II testing. Therefore, many of the comments concerning the requirements for general supervisor were previously summarized under our discussion of proposed § 493.1409.

Comment: Several commenters felt that the proposed requirements for general supervisor were overly stringent and personnel would not be available to provide supervision of Level II testing. These commenters expressed the view that the proposed regulations would increase the cost of testing specimens and noted that it has not been demonstrated by scientific studies that the proposed personnel requirements will improve the quality of Level II testing. Additionally, the majority of the physicians, who commented on these sections, indicated that their test costs would increase if they were required to have a general supervisor with the qualifications listed in the proposed rule.

A number of commenters suggested that hematologists, rheumatologists and registered nurses be qualified as general supervisors of laboratories performing Level II tests. On the other hand, several commenters expressed the view that only a registered medical technologist should be qualified as a general supervisor. Many medical technologists contended that physicians do not have training or experience in laboratory management, quality control, instrument calibration, maintenance or trouble shooting; therefore, physicians need to employ a medical technologist to fulfill the responsibilities of a general supervisor.

Several histotechnologists objected to the proposed requirement that would permit only a physician certified in anatomic pathology, or equivalent to serve as general supervisor of histopathology. Other commenters recommended recognizing those individuals trained in respiratory therapy, who are either credentialed by the National Board for Respiratory Care or licensed by a State to practice respiratory therapy, as meeting the qualifications of a general supervisor.

Several commenters suggested eliminating the academic and experience requirements and focusing on the competency of personnel as a mechanism for meeting the general supervisor qualifications. A few commenters suggested that HHS developed an examination to qualify individuals currently employed as supervisors who could not meet the proposed requirements.

Many commenters objected to requiring a general supervisor to be on the laboratory premises during all hours of testing. Numerous commenters observed that there are not enough qualified people available to serve as general supervisors of all laboratories performing Level II testing. Commenters from rural areas expressed concerns about the hardships associated with hiring individuals who have the qualifications necessary to meet the proposed general supervisor requirements. One commenter estimated that if the proposed regulations were finalized, 65 percent of the hospitals in his state would be unable to have a qualified general supervisor on all shifts.

Some commenters recommended that a technologist supervisor be required if more than one person is employed in the laboratory. Numerous commenters suggested that if testing is performed by qualified technologists, a general supervisor should not be required to be on-site during test performance. One commenter, reflecting the view of many commenters, suggested that the requirements be changed to read "* * * the general supervisor is on the premises during the majority of scheduled hours in which test are being performed, provided the individual that is performing tests is qualified to perform such tests and the supervisor responsible for the results reviews them within 24 hours and a record is maintained to reflect the actual review."

Several commenters were opposed to the proposed requirement that would allow a physician or doctoral scientist with only one year of experience to qualify as a general supervisor performing Level II testing. They suggested the a minimum of two years experience be required to qualify as a supervisor of a laboratory performing Level II testing in multiple specialties or subspecialties of service. Other commenters recommended that three years of experience be required.

Many commenters agreed with the proposed requirements that would allow a medical technologist with three years of experience to qualify as a general supervisor. However, a number of commenters recommended reducing the experience requirement from three years to one year, while several other commenters supported the current Federal regulations for independent laboratories that require six years of experience to qualify as a general supervisor.

Response: In response to the comments, we have clarified the general supervisor qualification requirements to specify that physicians are qualified to function as the general supervisor if they have at least one year of laboratory training or experience in high complexity testing. Physicians may acquire the one year of laboratory training or experience during medical residency training programs for speciality certification. For example, a board certified hematologist or hematologist/oncologist would meet the training or experience required to serve as as general supervisor of high complexity testing. Also, individuals who are qualified as a director or technical supervisor of high complexity testing, are qualified to function as the general supervisor. In addition, we are revising the proposed rule, which would have required individuals with a master's degree to have two years of laboratory experience and individuals with a bachelor's degree to have three years of laboratory experience, to require one year of laboratory training or experience to be consistent with the requirement for physicians to have one year of laboratory training or experience. This will permit nurses and other allied health professionals to qualify as general supervisors. We have revised the requirements to allow individuals with an associate degree in laboratory science or medical technology to qualify as general supervisors provided they have at least two years of laboratory training or experience in high complexity testing. We are permitting those individuals, who are qualified or could have qualified as a general supervisor under Federal regulations published on March 14, 1990, to qualify as a general supervisor of high complexity testing. Also, we have added a provision to qualify as general supervisors of blood gas analysis, those individuals with a bachelor's degree in respiratory therapy and one year of training or experience in blood gas analysis, and those individuals have an associate degree related to pulmonary function and two years of laboratory training or experience in blood gas analysis. In establishing standards for general supervisor of high complexity testing, we carefully evaluated the personnel qualifications in conjunction with tests now categorized as high complexity and believe that the education and experience requirements are reasonable and appropriate for individuals responsible for the day-to-day supervision of laboratories performing the most complex procedures and the direct supervision of high school graduates performing high complexity testing.

We understand and agree with the commenters concerns that it may not always be feasible to have a general supervisor in the laboratory during all hours of testing. Therefore, we have revised the requirements to generally require day-to-day, but not necessarily on-site, supervision of testing personnel. However, direct, onsite supervision is required when high complexity testing is performed by a high school graduate who does not meet the other qualification requirements for testing personnel. In other cases, the general supervisor must be accessible to the laboratory to provide on-site, telephone, or electronic consultation on an as needed basis.

In response to the histotechnologists comments that the general supervisor requirements should be expanded to allow histotechnologists to function as a general supervisor of histopathology, we have not changed the proposed requirement because we are permitting only pathologists and pathology residents to perform histopathology testing i.e., gross and microscopic examinations of tissue. However, the regulations do not preclude a director from appointing a histotechnologist to supervise specimen handling, i.e., tissue processing and staining of slides.

Section 493.1427(b)(5) (Sections 493.1467–493.1471) Cytology General Supervisor

Comment: Several commenters recommended that the experience requirement for qualifying as a cytology general supervisor be expanded to include teaching experience or other experience that was field related, not just laboratory experience. Many commenters objected to requiring the general supervisor of cytology to be on the premises when nonsupervisory cytotechnologists examine cytologic preparations, unless a technical supervisor of cytology was present. They said that it is not necessary to have a cytology general supervisor on-site when slides are examined because the examination of slides is not generally an emergency procedure and laboratories must employ qualified cytotechnologists to examine cytologic preparations.

Response: We agree with the commenters that the cytology general supervisor qualification requirements should be expanded to include experience obtained in performing various duties, including evaluating slide preparations, teaching or clinically oriented cytology research. Therefore, we have modified this requirement to qualify those cytotechnologists who have 3 years of full-time experience within the preceding 10 years as a cytotechnologist. We agree that supervisory personnel do not need to be on the premises at all times when nonsupervisory personnel are reviewing slides and are revising the proposed requirement. The revision states that the cytology general supervisor is responsible for the day-to-day supervision of the overall laboratory operation and must be accessible to provide on-site, telephone, or electronic consultation to resolve technical problems. In addition, we have expanded the list of responsibilities for the general supervisor to be consistent with the duties listed under the cytology quality control regulations, including documentation of the number of cytology slides examined or reviewed.

Sections 493.1437–493.1439 (Sections 493.1481, 493.1483 and 493.1485) Cytotechnologist, Qualifications and Responsibilities

Comment: In response to our request for comments on optional cytotechnologist qualification requirements, recognition of an accrediting agency's credentials for qualifying cytotechnologists was the preferred option of the majority of those who commented on the options for cytotechnologist qualifications. The majority of commenters were in favor of recognizing the American Society of Clinical Pathologists' (ASCP) Board of Registry of qualifying cytotechnologists who do not meet existing regulations. To qualify as a cytotechnologist, ASCP currently requires a baccalaureate degree (in cytotechnology or a biological science) from an accredited university, graduation from a school of cytotechnology approved by the Committee on Allied Health Education and Accreditation (CAHEA) or five years of experience as a cytotechnologist, and ASCP certification. A few commenters suggested that certification by the American Society of Cytology should be recognized by HHS for qualifying cytotechnologists, while others suggested that cytotechnologists from foreign countries be qualified on the basis of certification by the International Academy of Cytology (IAC). A few commenters working in hospitals expressed fear of losing their jobs if the IAC certification examination is not recognized.

Many commenters felt that the existing qualification requirements for cytotechnologists should not be changed because they represent the appropriate qualifications necessary for examination of cytology preparations. Due to the shortage of cytotechnologists in the field, a few commenters felt the educational requirements for cytotechnologists were either unnecessary or too stringent and should be removed from the regulations. These commenters felt they should be allowed to qualify through an examination that would be made available to all individuals.

Many commenters made recommendations to ensure that individuals currently working as cytotechnologists would not be disenfranchised and would be given an opportunity to qualify based on demonstrated competency. These recommendations included: Use proficiency testing to ensure that individuals are competent; require attestation of competency by the technical supervisor; establish a time frame for all currently working cytotechnologists to sit for a recognized examination; and designate a date by which individuals must meet qualification requirements. A few commenters requested the establishment of new training programs for cytotechnologists. One commenter suggested a nationwide training program similar to the training programs offered during the 1950s and 1960s.

Many individuals and organizations offered suggestions on the option of extending the "grandfather" clause. These suggestions included extending the time period for qualifying individuals under the "grandfather" clause until the implementation date of the regulations and considering as qualified all individuals who have functioned in the capacity of a cytotechnologist whether or not they have the specific education or training in cytology. Many commenters indicated a variety of entry methods for becoming certified as cytotechnologists have been available over the past 20 years and both employers and individuals performing cytology services should have been aware of these opportunities, therefore an extension of the time period in which to qualify individuals was not necessary.

A variety of comments were received about the option of establishing an examination to qualify cytotechnologists. A few commenters indicated they did not agree with qualifying cytotechnologists on the basis of a single examination. Several commenters indicated an additional examination was both unnecessary and inefficient since similar examinations already exist or did at one time.

Under the cytotechnologist responsibility requirements, one commenter suggested daily documentation of the amount of time spent in the cytopreparatory laboratory and/or on clerical duties.

Response: We are adopting the option favored by the majority of the commenters and are adding to the qualification requirements for cytotechnologists a provision to recognize certification by a certifying agency approved by HHS. In addition, we are adding a provision to qualify those individuals who have graduated from a school of cytotechnology accredited by the Committee on Allied Health Education and Accreditation (CAHEA). Depending on the school, these individuals may or may not have a bachelor's degree, but they will meet education requirements that we feel are appropriate for performing the duties of a cytotechnologist. We are not establishing new training programs for cytotechnologists, but, if there is a need for new programs, we encourage their development.

Our intent is not to disenfranchise individuals currently working as cytotechnologists but to provide standards for cytotechnologist qualifications that will ensure quality of service and be in the best interest of public health. We realize, however, that some currently employed cytotechnologists may not be able to qualify under the new requirements described above. Therefore, in addition to these new provisions for qualifying as a cytotechnologist, we are permitting individuals to qualify who, as of September 1, 1992 meet qualification requirements specified under previous Federal regulations. Accordingly, those individuals who are able to qualify under the requirements that were published on March 14, 1990, will be qualified, including those who have recent experience and can meet the grandfather clause contained in prior regulations for Medicare approval and interstate license of laboratories. These individuals would be qualified based on training and experience acquired before January 1, 1969 provided they have had at least 2 years of full-time experience as a cytotechnologist within the preceding 5 years.

In spite of our efforts to develop standards that will qualify most individuals currently working as cytotechnologists, there may be some individuals who are unable to meet these requirements. Therefore, we are adding provisions to allow up to 2 years for individuals who do not meet the new qualification standards or those in previous regulations, to either complete a CAHEA-approved program in cytotechnology or obtain certification credentials. Individuals seeking to qualify by this route must have at least 2 years of full-time experience or equivalent as of September 1, 1993. In addition, we are providing a second year for those individuals who meet the experience requirement to either complete formal training in a CAHEA-approved school or to become certified as a cytotechnologist. Prior to September 1, 1994, HHS will assess the status of these individuals and consider modifications to these requirements.

Because of its limited scope, we do not think that proficiency testing for gynecologic cytology, as described under §§ 493.855, Standard; Cytology: Gynecologic cytology, and 493.945, Cytology; gynecologic examinations, is a suitable means for qualifying cytotechnologists. However, proficiency testing will test the competency of all individuals who are able to qualify as cytotechnologists under the provisions described above. We believe that proficiency testing, along with standards in quality control, such as limitations on workload, rescreening of negatives, feedback on abnormal and other cases, and performance evaluations will provide and maintain quality performance in cytology.

Under the cytotechnologist responsibility requirements, we are retaining requirements for documentation of workload needed to meet the standards under the cytology quality control section; that is, documentation, for each 24-hour period, of the number of slides examined or reviewed and the number of hours spent examining slides for all laboratories in which the individual is employed. We do not agree that it is necessary for each cytotechnologist to document the amount of time spent on duties other than slide examination. However, If a cytotechnologist has other duties not directly related to slide examination, his or her workload limit must be prorated based on the formula given in the cytology quality control section.

Sections 493.1431, 493.1441, 493.1443 and 493.1445 Technologist, Technician and Technician Trainee Qualifications and Responsibilities (Sections 493.1487–1495 Testing Personnel, Qualifications and Responsibilities

About 1,500 comments were received concerning the proposed regulations for testing personnel. Approximately 54 percent of the commenters were opposed, while about 5 percent were in support of the proposed requirements. About 9 percent of the commenters misinterpreted the proposed requirements and nearly 31 percent of the commenters offered alternative suggestions. Approximately 37 percent of the comments were from physicians, while 33 percent of the comments were from technologists and respiratory care personnel.

Comment: Many physicians and numerous commenters representing rural hospitals expressed the view that the proposed qualifications for testing personnel were too stringent and could not be met due to the severe shortage of technical personnel and the financial burden associated with employing such individuals.

Many commenters mistakenly interpreted the proposed rule to require all Level II testing personnel to have at a minimum an academic degree and, therefore, requested regulatory revisions to allow test performance by non-degreed individuals. They expressed concern about laboratory personnel shortages and noted that the performance of tests using highly automated equipment does not require specialized expertise. However, a number of commenters agreed with the proposed requirements for personnel performing Level II testing, while several commenters recommended more stringent requirements for testing personnel such as requiring that all testing be performed either by certified medical technologists or medical laboratory technicians.

Numerous commenters disagreed with the proposed qualifications for technicians, since a high school graduate with two years of laboratory experience was considered equivalent to a medical laboratory technician having an associate degree. A few commenters suggested Federal funding to support technician and technologist training programs to avoid critical personnel shortages.

Several commenters from States having personnel licensure laws suggested that testing personnel either be licensed or certified by examination, while other commenters recommended that HHS reinstate the proficiency examination as a mechanism to qualify individuals as technologists. One professional organization recommended establishing a competency-based, credentialing examination to qualify individuals as technologists and technicians. The organization proposed three levels of personnel qualifications. Another organization recommended that the proposed qualifications for technologists be modified to recognize certifying organizations approved by HHS.

A few commenters suggested that, in addition to the studies mandated under CLIA, HHS conduct a study to evaluate the equivalency of alternative mechanisms for qualifying as technologists those individuals who do not have a baccalaureate degree. Some commenters noted that the proposed requirements did not include any requirements for histotechnologists or histologic technicians. These commenters suggested that histotechnologist qualifications be included in proposed § 493.1433, and that histotechnician qualifications be included in proposed § 493.1441. One commenter suggested recognizing the American Society of Clinical Pathologists certification for histotechnologists. Other commenters recommended that individuals performing histocompatibility testing possess a bachelors degree in a biological science, which includes courses in immunology and genetics, and complete a 3–6 month training program in histocompatibility.

Numerous commenters suggested that the "pertinent full time laboratory experience" should be in an approved laboratory. A few commenters voiced concerns about the quality of the training programs for laboratory technicians and were opposed to for-profit laboratory technician training programs.

Response: We are adding provisions to clarify that physicians and individuals with a doctoral or master's degree in a science are qualified to perform high complexity testing in specialty areas other than pathology. We are including a provision to allow individuals who were qualified or could have qualified as a technologist under the March 14, 1990 regulations, to now qualify to perform tests of high complexity. Additional specifications were provided in the responsibility requirements to insure that testing personnel are aware of all of the duties related to test performance.

Section 493.1442 Personnel Qualifications for Test Performance

Approximately 6,100 commenters responded to the proposed personnel qualifications required for performance of specific categories of Level II tests. Approximately 65 percent of the commenters to this section were opposed to the proposed requirements, primarily because they misunderstood the qualification requirements, while around 34 percent offered alternative suggestions.

Comment: Nearly 85 percent of the comments received were from respiratory care practitioners (primarily respiratory therapists), who believed that the proposed regulations precluded them from performing and supervising blood gas analysis and other laboratory tests. They felt that restricting respiratory therapy practitioners from performing blood gas analysis would have an adverse impact on patient care that could be life threatening. A large number of respiratory therapists expressed the view that they were qualified to perform laboratory testing by virtue of their training in an American Medical Association (AMA) approved program and certification by the National Board for Respiratory Care. These commenters strongly suggested that credentialed respiratory therapy practitioners and pulmonary function technologists be qualified to serve as technologists/technicians in blood gas laboratories. A much smaller number of respiratory therapists felt that they were not prepared to operate laboratory equipment and instruments and should be limited to interpretation of blood gas reports rather than performance of blood gas analyses.

A few commenters did not understand that the proposed requirements would permit physicians to perform laboratory tests. Several comments were received from dermatologists, who perform Mohs micrographic surgery as well as clinical laboratory tests in their offices, suggesting that they be qualified to perform these procedures on the basis of their training, experience and board eligibility and/or certification. Other commenters asked that hematologists, oncologists, and ophthalmic pathologists be exempt from the requirements contained in § 493.1442.

Many comments from individuals employed in rural physician office laboratories and nurses working in home health agencies, clinics and hospitals, were in opposition to the proposed regulations because the commenters incorrectly assumed that only credentialed laboratory personnel would be permitted to perform Level II testing. They recommended revising the proposed requirements to allow non-credentialed laboratory personnel to perform Level II testing, provided the proficiency testing and quality control requirements were met.

A number of commenters thought that the proposed rule would have to be revised in order to permit hospital nursing personnel to perform Level II tests at the patient's bedside, while other comments received from perfusionists indicated that they should be qualified to perform blood gas analysis and electrolyte determinations.

Some commenters agreed with the requirement that all testing personnel be licensed as required by the State but other commenters indicated that only medical technologists should be qualified to perform Level II testing. On the other hand, several commenters expressed the view that the proposed personnel qualification requirements would severely limit the ability of State and local clinics to provide epidemiology testing and health fairs to offer screening services. In addition, numerous commenters expressed concern that the requirement permitting only technologists to perform tests in microbiology and immunohematology was overly stringent, without scientific basis and would cause severe problems in rural hospitals that do not have personnel who could meet the proposed qualifications. Many commenters representing rural hospitals stated that, if the proposed regulations were implemented, their hospitals would no longer be able to perform blood bank services due to the shortage of qualified technologists.

A few commenters suggested adding the phrase "or equivalent education and/or experience" to all personnel qualification standards, especially in the specialty/subspecialty areas of cytogenetics, histocompatibility, and virology because qualified medical technologists are not always available to perform the testing and personnel having equivalent education and experience should not be restricted from testing in these areas. A few commenters felt that "trained" persons rather than "credentialed" individuals should be qualified to perform *in vitro* allergy tests.

Many commenters expressed the view that medical laboratory technicians with an associate degree are qualified to perform the same level of testing as medical technologists, although a much smaller number of commenters suggested that technicians be allowed to perform Level II tests only under the supervision of technologists. A few commenters claimed that there were no studies, conducted in the past or currently in process, to support the proposed technician and technologist testing categories. Other commenters felt that the addition 30 semester hours of course work required for a degree in medical technology did not necessarily ensure competency in laboratory testing and was not justified for performance of the proposed testing categories. Numerous commenters objected to the proposed requirement for medical laboratory technicians to have additional experience in order to perform Level II testing, since their training programs prepare graduates to perform the Level II tests listed under § 493.1442(a). They indicated that the additional experience is not needed and suggested that medical laboratory technicians be allowed to perform all Level II tests, except cytology. On the other hand, some commenters recommended that technicians be required to gain additional experience and training prior to performing toxicology, complex electrophoresis testing and gas chromatography/mass spectrophotometry tests. Other commenters suggested requiring technicians to have additional experience of from three months to one year prior to performance of tests in general immunology, endocrinology, mycology, virology, immunohematology, mycobacteriology and toxicology. One organization cited an inconsistency in requiring work experience for technicians performing Level II tests listed in § 493.1442(b), but not requiring work experience for technologists performing Level II tests listed in § 493.1442(a). The commenter suggested requiring technologists to have a minimum of one year experience before qualifying to perform the tests listed in § 493.1442(a).

A number of medical laboratory technicians expressed concerns that the requirements for technicians fail to differentiate between individuals who complete a formal associate degree training program for medical laboratory technicians, and high school graduates with on-the-job training.

A number of commenters suggested that § 493.1442 be deleted. The commenters were of the opinion that it is the laboratory's responsibility to establish personnel qualifications required for test performance and monitor the competence of individuals. Many commenters felt that the director should have responsibility for determining which individuals are qualified to perform specific tests.

A few commenters noted the difficulty in inspecting laboratories for compliance with the proposed requirements, since different personnel qualifications would be required for Level I and Level II test performance on the same specimen.

A few commenters asked for clarification of "full-time experience" Others suggested that "testing" be defined in the definition section. The commenters noted that testing does not include clerical or support tasks and, for the purpose of defining personnel qualifications requirements, testing should be defined as the functions performed on a specimen that changes it in some significant or substantial way.

One commenter noted that in the table under § 493.1442(a), immunohematology procedures were incorrectly referenced to § 493.950 instead of § 493.959.

Response: The respiratory therapy practitioners misinterpreted the proposed requirement that would have permitted a high school graduate with two years of testing experience to perform laboratory tests, including the performance of blood gas analysis. To clarify that respiratory therapy practitioners are qualified to perform blood gas analyses, we are adding a provision under § 493.1489, Standard; Testing personnel qualifications, specifically authorizing blood gas analysis by individuals who have a bachelor's degree in respiratory therapy or an associate degree related to pulmonary function.

We agree with the commenters that the qualification requirements for testing personnel need to ensure that individuals have the knowledge and skills necessary to process specimens, perform testing and report test results. Since the test categorization criteria were revised, only the most complex text procedures now are categorized as high complexity. At a minimum, individuals performing high complexity testing must have an associate degree in science in order to perform high complexity testing without direct, on-site supervision by a general supervisor. For five years after the effective date of the regulations, we will allow high school graduates to perform high complexity testing under the on-site, direct supervision of a general supervisor. During the five year period, we expect that these individuals will complete the course work necessary to obtain an associate degree in laboratory science or medical laboratory technology to continue to qualify to perform high complexity testing. An individual qualified under § 493.1489 to perform high complexity testing is authorized to perform testing in all specialties and subspecialities, except histopathology and cytology. In our view, the qualifications required for testing personnel are appropriate for individuals performing high complexity testing provided they have been appropriately oriented and trained to perform the tests and the director specifies in writing that the individual is authorized to perform the specific tests or examinations. In addition, we have provided for these individual's testing skills to be evaluated prior to performing test on patients, and thereafter on an ongoing basis to ensure continued competency in test performance.

The requirements that were proposed at §§ 493.1442 are being deleted, since we have revised the director responsibilities to require the director to specify in writing the responsibilities of each consultant, supervisor, and individual performing tests. In addition, the director must determine the procedures each individual is authorized to perform, whether supervision of testing is required and whether a supervisor or director must review test results prior to reporting.

Changes to the Regulation

Moderate complexity testing—Laboratory director. We are changing the qualification requirements for laboratory director for moderate complexity testing (previously Level I) so that physicians who are not pathologists must have laboratory training or experience. This training or experience can be acquired by directing or supervising non-waived testing for at least one year or by obtaining 20 continuing medical education credit hours in laboratory practice commensurate with the responsibilities for laboratory director of moderate complexity testing or equivalent training obtained during a residency training program. Physicians have one year from [the publication date of the regulations] to obtain the continuing education credit hours. In addition, individuals who have a doctoral degree, if not Board certified must have at least one year of experience directing or supervising non-waived testing. We have added the American Board of Medical Laboratory Immunology to the list of Boards that are accepted by HHS to meet this requirement. We are expending the director qualifications to include individuals with a master's or bachelor's degree in the sciences with one or two years of laboratory training or experience and one or two years of supervisory laboratory experience, respectively. In addition, individuals who were previously qualified or could have qualified as a laboratory director under the Federal regulations published on March 14, 1990, will be qualified as laboratory director for moderate complexity testing. Also, we are adding a provision to permit individuals, who on the date of publication of these regulations are qualified under State law as a director, to qualify as a director of a laboratory performing moderate complexity testing.

We are expending the responsibilities for laboratory director to be more comprehensive and represent the functions required for directing moderate complexity testing, which is more extensive than the testing proposed for Level I. Thus, responsibilities have been added and are listed under § 493.1407, Standard; Laboratory director responsibilities.

Technical consultant. We are renaming technical supervisor to technical consultant to reflect changes in functions related to moderate complexity testing that may be provided on a consultative basis. The qualifications for technical consultant are listed under § 493.1411, Standard; Technical consultant qualifications, and are not the same as those for director as specified in the proposed rule for technical supervisor. The qualifications are:

- Physician certified in anatomic or clinical pathology;
- Physician or individual with a doctoral or master's degree in the sciences and at least one year of laboratory training or experience in the specialty or subspecialty areas for which the consultant is responsible; or
- Individual with a bachelor's degree in the sciences and at least two years of laboratory training or experience in the specialty or subspecialty for which the consultant is responsible.

We are modifying the technical consultant responsibilities somewhat from those proposed for the technical supervisor and are listed under § 493.1413, Standard; Technical consultant responsibilities. The technical consultant must be accessible to the laboratory to provide on-site or telephone consultation on an as needed basis to resolve technical problems and perform the other responsibilities listed. We are changing the frequency for evaluating and documenting the performance of testing personnel to semiannual during the first year the individual tests patient specimens and annually thereafter, unless test methodology or instrumentation changes, in which case performance must be evaluated initially prior to reporting patient results.

Clinical consultant. We are adding a requirement for clinical consultant. The qualifications for clinical consultant are met by the laboratory director when the director is a physician or has a doctoral degree with Board certification. In addition, the clinical consultant may be a physician without pathology certification or laboratory training or experience as specified under the director requirements. The clinical consultant is responsible for providing consultation regarding appropriateness of the testing ordered and interpretation of results. Specific responsibilities are listed under § 493.1419, Standard; Clinical consultant responsibilities.

General supervisor. We are deleting the requirement for general supervisor for moderate complexity testing.

Testing personnel. We are revising the qualifications for testing personnel to clearly reflect that physicians and individuals who possess a doctoral, master's, bachelor's or associate degree in the sciences are qualified to perform moderate complexity testing. In addition, we are modifying the requirements so that individuals who have military training in laboratory procedures and are qualified as a Medical Laboratory Specialist can qualify. Individuals who possess a high school diploma or equivalent can qualify if they have had training appropriate for the testing performed prior to analyzing patient specimens. The requirements for this training have been modified and are listed under § 493.1423, Standard; Testing personnel qualifications.

We are adding a new § 493.1425, Standard; Testing personnel responsibilities, which lists the testing personnel responsibilities.

High complexity testing.—Laboratory director. We are modifying the qualification requirements for director of high complexity testing (formerly Level II) to require physicians who are not pathologists to either have one year of laboratory training during medical residency, or have at least two years of

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experience directing or supervising high complexity testing. For individuals with a doctoral degree in science, we are adding the American Board of Medical Laboratory Immunology to the list of boards required for certification. Also, individuals who were previously qualified or could have qualified as a laboratory director under Federal regulations published March 14, 1990, will now qualify as a laboratory director of high complexity testing. In addition, we are adding a provision to permit individuals, who on the date of publication of these regulations are qualified under State law as a director, to qualify as a director of a laboratory performing high complexity testing.

We are revising and expanding the responsibility requirements for laboratory director under § 493.1445, Standard; Laboratory director responsibilities, to more closely correspond with the functions required to direct a laboratory performing the examinations and procedures now categorized as high complexity testing.

Technical supervisor. We are modifying the qualification requirements for technical supervisor to require physicians and individuals with a doctoral degree to have at least one year of laboratory training or experience in high complexity testing in the specialty or subspecialty of service for which the individual is providing technical supervision. For individuals with a master's or bachelor's degree, laboratory training or experience in high complexity testing in the specialty or subspecialty of service is required for a period of two or four years, respectively. In addition, in the subspecialties of microbiology located at § 493.1449 (c)–(g), the technical supervisor is required to have at least six months of experience in the subspecialty of service.

We are revising the technical supervisor qualification requirements for cytology formerly located at § 493.1421(f), now § 493.1449(k). We are adding a provision to permit physicians in their final year of residency training in anatomic pathology to perform some of the functions of the cytology technical supervisor. In addition, we are expanding the technical supervisor's responsibilities in cytology to include duties listed in the quality control section and the responsibility for ensuring that each individual examining gynecologic cytology slide preparations participates and achieves a passing score in a gynecologic cytology testing program. To the qualifications for technical supervisor of histopathology, we are adding provisions at § 493.1449(l)(2) to qualify those individuals, who are certified in dermatology by the American Board of Dermatology, to serve as technical supervisors of dermatopathology testing. Likewise, we are revising § 493.1449(l)(3) to allow a physician certified in ophthalmic pathology by the American Board of Ophthalmology to qualify as a technical supervisor of ophthalmic pathology. In addition, we are adding provisions to the technical supervisor requirements for histopathology, dermatopathology ophthalmic pathology and oral pathology to permit residents in anatomic pathology to perform tissue examinations.

Under the responsibility requirements for technical supervisor located at § 493.1451, Standard; Technical supervisor responsibilities, we are revising the requirements to require technical supervision on an as needed basis and expanded the responsibilities to correlate with the technical functions to be performed by the individual providing technical supervision. The frequency for performing evaluations of testing personnel was revised to require semiannual evaluations the first year the individual tests specimens and annual evaluation thereafter unless test methodology or instrumentation changes, in which case performance must be evaluated initially prior to reporting patient results.

At § 493.1451(c), we are expanding the specific responsibility requirements for the technical supervisor in cytology to provide for internal consistency within the regulation. Now included are those duties listed in the cytology quality control section, such as establishing and documenting workload limits and review and confirmation or cytologic preparations.

Clinical consultant. At § 493.1455, Standard; Clinical consultant qualifications, we are adding a requirement for a clinical consultant. The qualifications for clinical consultant may be met by the laboratory director provided the director is qualified as a physician or has a doctoral degree with Board certification. Alternatively, the laboratory may employ a physician without pathology certification or laboratory training or experience as specified under the director requirements to fulfill the responsibilities of the clinical consultant. The clinical consultant is responsible for providing consultation regarding the appropriateness of the tests ordered and interpretation of results. Specific responsibilities for the clinical consultant are listed under § 493.1457, Standard; Clinical consultant responsibilities.

General supervisor. We are revising the qualification requirements for general supervisor to clearly specify that an individual functioning as the technical supervisor could qualify to provide general supervision. We are adding to the general supervisor requirements the phrase "day-to-day supervision" to distinguish the role of the general supervisor from that of the technical supervisor. We are changing the qualification requirements at § 493.1459, Condition: Laboratories performing high complexity testing; general supervisor, to allow individuals with a master's or bachelor's degree to serve as general supervisors if they have at least one year of laboratory training or experience. Additionally, we are adding a provision to allow individuals with an associate degree in medical laboratory technology and two years of laboratory training or experience to qualify as general supervisors. Also, we are specifying that on the date of publication of these regulations, individuals who previously qualified or could have qualified as general supervisors under Federal regulations published March 14, 1990 will qualify under these regulations as a general supervisor. For blood gas analysis, we are adding a provision to permit individuals, who have a bachelor's degree in respiratory therapy and one year of training or experience in blood gas analysis or an associate degree related to pulmonary function and two years of training or experience in blood gas analysis, to qualify as general supervisors. Under paragraph (d) of § 493.1461, Standard; General supervisor qualifications, we are adding ophthalmic pathology to the histopathology subspecialities in which the general supervisory requirement is met by the technical supervisor performing tissue examinations, to correspond with the addition of ophthalmic pathologists to the technical supervisor qualification requirements.

Under the general supervisor responsibilities at § 493.1463, Standard; General supervisor responsibilities, we are specifying that the general supervisor must be accessible to the testing personnel at all times testing is performed to resolve technical problems. However, if high complexity testing is performed by a high school graduate who does not possess at least an associate degree in laboratory science or medical laboratory technology, the general supervisor must be onsite to provide direct supervision.

Cytology general supervisor. At § 493.1469, Standard; Cytology general supervisor qualifications, we are revising the qualification requirements for cytology general supervisor so that various types of experience as a cytotechnologist can be applied toward the 3 year experience requirement. In addition, at § 493.1471, Standard; Cytology general supervisor responsibilities, we are replacing the proposed requirement that the cytology general supervisor be on the premises when nonsupervisory cytotechnologists examine cytologic slide preparations, with the requirement that the cytology general supervisor be accessible to provide on-site, telephone, or electronic consultation to resolve technical problems. We also are expanding the list of responsibilities listed at § 493.1469 to be consistent with those duties for the general supervisor that are listed under the cytology quality control requirements in § 493.1257.

Cytotechnologist. We are establishing a new condition at § 493.1481, Condition: Laboratories performing high complexity testing; cytotechnologist, to encompass the qualification and responsibility requirements for cytotechnologists. We are relocating the cytotechnologist qualification requirements to § 493.1483 and cytotechnologist responsibility requirements are now at § 493.1485. We are adding to the qualification standards for cytotechnologists to require that individuals either have graduated from a CAHEA-approved school of cytotechnology or have been certified as a cytotechnologist by an HHS-approved certifying agency. Individuals who meet the qualifications for cytotechnologists under previous Federal regulations, prior to September 1, 1992, will also be qualified. In addition, for those individuals currently working as cytotechnologists who do not meet any of these standards, we are phasing-in the requirements so that a one year period from the effective date of the regulation is provided to obtain the experience requirement of 2 years of full-time or equivalent experience and a two year period is provided for either completing training in a CAHEA-approved school or obtaining certification.

We are deleting from the cytotechnologist responsibilities, the requirement for documenting the numbers of slides examined for initial interpretation, quality control, quality assurance and proficiency testing to correspond with the deletion under the cytology quality control section for a separate workload limit for different types of slides. In addition, we are removing the requirement for the laboratory to employ a sufficient number of cytotechnologists from the cytotechnologist responsibilities section. This requirement is now under the laboratory director responsibility requirements located at § 493.1407, Standard; Laboratory director responsibilities, where it is more appropriate.

Testing personnel. Under § 493.1489, Standard; Testing personnel qualifications, we are revising the qualifications for testing personnel to clarify that physicians and individuals with a doctoral or master's degree in a science are qualified to perform all high complexity testing, with the exception of pathology. For blood gas analysis, we are adding a provision to qualify individuals having a bachelor's degree in respiratory therapy or an associate degree related to pulmonary function. We are including a provision to qualify all individuals who, on the date these regulations are published, were previously qualified or could have qualified as a technologist under Federal regulations published March 14, 1990. The minimum qualification requirement for individuals performing high complexity testing without onsite direct supervision by a general supervisor, is an associate degree in laboratory science or medical laboratory technology. We are adding a provision to allow a high school graduate to perform high complexity testing for a period of five years before such individuals would be required to obtain, at a minimum, an associate degree in medical laboratory technology or laboratory science.

Subpart P—Quality Assurance for Moderate or High Complexity Testing, or Both

Summary of the Proposed Rule

This subpart was proposed as Subpart M—Quality Assurance for Level I and Level II Testing. It has been renamed to reflect changes previously discussed. We proposed that the requirements in subpart M, established in the final rule on March 14, 1990, apply to all laboratories not issued a certificate of waiver. This subpart was previously applicable only to laboratories licensed under CLIA '67 and/or participating in Medicare. We proposed that the subpart would apply to laboratories performing any Level I or II tests.

Summary of Comments and Responses

Approximately 700 comments were received on this subpart. Thirty percent of the comments supported the requirements as written, 45 percent were opposed to the proposed regulations and approximately 25 percent offered alternative suggestions.

Comment: Several commenters expressed concern that certificate of waiver laboratories were excluded from quality assurance requirements. They felt that quality assurance activities are necessary to insure the validity and accuracy of the test results reported.

Response: We agree with the commenters that quality assurance is an essential component of good laboratory practice and anticipate that any laboratory committed to accurate, reliable and prompt reporting of test results would institute a quality assurance program. However, the statute exempts certificate of waiver laboratories from compliance with certain CLIA standards including quality assurance, quality control, proficiency testing, personnel records and biennial inspections.

Comment: A small number of physicians commented that since the regulations did not define quality assurance, a laboratory might assume that quality assurance requirements could be met by complying with the quality control requirements. Other commenters confused quality assurance standards with proficiency testing requirements and assumed these requirements were the same.

Response: We agree with the commenters that the proposed rule did not clearly define quality assurance or differentiate between quality assurance activities and quality control activites. In this final regulation, we are defining quality assurance (QA) as an ongoing process for monitoring and evaluating every step of the laboratory's testing operation including pre-analytic, analytic and post-analytic processes.

QA extends to the laboratory's interactions with and responsiblities to patients, physicians, other laboratories, and other departments of the facility, organization, or institution of which it is a part. A QA program must: Evaluate all established policies and procedures for their effectiveness; identify and correct problems; assure accurate, reliable and prompt test reports; and assure the adequacy and competency of the staff. This encompasses the entire testing process from patient preparation and specimen collection, through test analysis and finally, to test result reporting.

To clarify QA requirements, we are adding language to the condition requiring the laboratory to have a QA program that monitors and evaluates the ongoing and overall quality of the total

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testing process. This clarification was previously in the regulatory guidelines and is now being placed in the regulations at § 493.1701, Condition: Quality Assurance for Moderate or High Complexity testing or both. In addition, when appropriate, the standards of this subpart have been revised to emphasize that the laboratory must evaluate the effectiveness of its policies and procedures and, as necessary, revise policies and procedures based upon the results of its evaluation.

While quality control (QC) and proficiency testing (PT) are components of the total testing process that often identify problems in the analytic phase of testing, they may not necessarily identify problems in the pre- or post-analytic phase of the testing process. For this reason, we are adding § 493.1703, Patient test management assessment, which requires that the laboratory have an ongoing mechanism for monitoring and evaluating the systems under Subpart J, Patient Test Management. We believe the addition of this requirement addresses QA activities in the pre- and post-analytic processes which were not adequately addressed in the proposed rule.

Comment: Several commenters agreed that laboratory tests performed in a doctor's office should fall under a quality assurance program; however, the requirements should be appropriate for the complexity of the testing performed. The commenters also believed that quality assurance regulations for physicians' office laboratories should be different from the requirements for laboratories in which the attending physician is not directly involved with the laboratory testing. Other commenters felt that the regulations were appropriate and that the quality assurance standards should not be lowered. Some commenters stated that a quality assurance program that allows for the evaluation of services and performance indicators is the ideal basis for construction of a site-neutral and criteria based model of laboratory operations.

Response: We agree with the commenters who expressed the view that the quality assurance standards that were proposed in these regulations should be maintained. The standards in Subpart P, Quality Assurance for Moderate or High Complexity Testing, or Both, provide guidance for a laboratory in establishing a QA program that monitors and evaluates the overall quality of its total testing process. A laboratory should use the regulations as a guide while designing a QA program that is appropriate for the complexity of the testing performed and the unique practices of the testing entity. The extent of a laboratory's quality assurance program should be proportional to the laboratory's test volume, scope and complexity of operations. We are broadening the language of § 493.1701 to clarify that the laboratory must meet the standards of this subpart as they apply to the services offered, complexity of testing performed and the unique practices of each testing entity.

Comment: A few commenters recommended that employee training, quality control and quality assurance functions should be the responsiblity of the manufacturers. The commenters believed that the manufacturers could provide these services at little cost to the physician's office laboratory.

Response: It is true that many manufacturers provide services and reference materials to assist with the training of laboratory personnel who will be operating the instrumentation purchased. Some manufacturers also assist the laboratory to develop its quality control policies and procedures. However, it is ultimately the responsiblity of the laboratory, through its director, to assure that personnel are adequately trained and quality control and quality assurance programs are established and implemented.

Comment: Several commenters noted that laboratories performing only Level I testing will not have qualified personnel capable of establishing and monitoring a quality assurance program. The commenters felt that Level I testing personnel would not have the education and experience necessary to understand the implications of pathologic conditions on specimen testing, or to assess/correlate patient test results.

Response: Although all laboratory personnel must be involved in quality assurance activities, the laboratory director, regardless of the laboratory's level of testing, is ultimately responsible for the overall management of the laboratory QA program. The director must establish and implement QA policies and procedures according to the standards contained in subpart P, including devising a system to monitor the QA program, assess and document problems that may arise, and perform and document the corrective actions taken to prevent recurrences.

Comment: A few commenters were concerned that the proposed regulations were too comprehensive for their laboratories to implement without extensive revision of their present hospital based quality assurance programs.

Response: We believe that the revised final regulations would not require extensive revisions to existing QA programs. Current hospital regulations require a facility-wide QA program that must include laboratory services. CLIA requires every laboratory performing non-waived tests to maintain a QA program adequate and appropriate for the laboratory's total testing process. These final regulations establish minimum requirements for a laboratory to follow in devising its own QA program, and are no more comprehensive than those presently required for laboratories currently participating in Medicare or Medicaid or testing specimens in interstate commerce.

Comment: A small number of commenters noted that in proposed paragraph (a) of § 493.1501, Condition: Quality Assurance; Level I and Level II, the word "ongoing" was excessive and that a laboratory would be consumed with continual monitoring of quality assurance activities. A few commenters suggested that § 493.1501(a), which requires the laboratory to evaluate test results against the laboratory's stated performance criteria including sensitivity, specificity, validity and adequacy, be deleted because these characteristics are not analytical attributes but instead refer to the clinical application of test results. Other commenters requested that laboratories be allowed to use manufacturers' test performance criteria to satisfy the requirement. A few commenters requested a definition of the terms validity and adequacy.

Response: We disagree with the commenters who felt that the word "ongoing" was excessive. Quality assurance is a comprehensive process that must be performed on a continuing basis to monitor and evaluate the laboratory's test performance and identify and correct problems in a timely manner to assure accurate and reliable test results. The determination and monitoring of a laboratory's performance specifications for precision and accuracy, are quality control issues and are addressed in Subpart K, Quality Control at § 493.1213, Standard; Method performance verification and § 493.1219, Standard; Remedial actions. For this reason, we are deleting proposed § 493.1501(a) as being repetitive and are adding § 493.1705, Standard; Quality control assessment, which addresses the evaluation of the effectiveness of corrective actions taken under § 493.1219. This addition correlates with the QA activities previously described and required by the condition of this subpart. The terms validity and adequacy, as used in proposed § 493.1501(a), have not been included in § 493.1705.

Comment: We received several comments regarding the establishment of reporting times by the laboratory. A suggestion was made that, as part of the quality assurance program, reporting times should be periodically evaluated for all testing priorities (for example, emergency and routine).

Response: We agree with the commenters and are rewording the requirement proposed at § 493.1501(b) (now at § 493.1703(e)) to state that the laboratory must have an ongoing mechanism, based on testing priorities (STAT, routine, etc.) for monitoring and evaluating the timely reporting of test results.

Comment: Several commenters noted that repeating a control which was outside of the laboratory's acceptable range could be the first step in assuring the validity of patient results before reevaluating and reporting patient results. Several other commenters felt that it was unreasonable to expect that patient test results not be reported in every instance that a control is outside of its acceptable range particularly when multiple controls are in use and suggested that the regulation be modified to allow for review and release of test results by the technical supervisor.

Response: We agree with the commenters that there is more than one action a laboratory can take when a control is outside of the laboratory's acceptable range to assure the validity of data before reporting patient results. This subject has been addressed in subpart K, Quality Control at § 493.1211(b) (7) and (8) which addresses the establishment of the laboratory's own control procedures that would provide flexibility for determining the criteria for releasing test results, and at § 493.1218(e) which addresses the laboratory's established criteria for reporting patient results when control values are outside of the laboratory's acceptable limits. We are removing proposed paragraph § 493.1501(c)(2) as being repetitive.

Comment: A commenter noted that the requirement in proposed § 493.1501(c)(3) to evaluate patient test results analyzed in the same run before a failure in quality control or since the last acceptable quality control would be applicable only to batch processing of specimens and could not be applied to random access analyzers. Several commenters were concerned that laboratories may not have samples available for retesting patient specimens and felt that it was not necessary to repeat all patient samples when a failure in quality control is identified. Another commenter suggested that the requirement at proposed § 493.1501(c)(3) should be revised to delete the words "before reporting" since this would require laboratories to test quality control materials before and after each run. The commenter noted that reports would be excessively delayed until the testing of quality control materials was completed. The commenters further noted the lack of consensus on the definition of an analytical run.

Response: A run, as defined in subpart K, Quality Control at § 493.1218(b), indicates a period of time within which the accuracy of the test system is expected to be stable. The regulation does not specify the quantity of test specimens per run and does not make any distinction between test systems as to the length of a run. Also, the regulations here do not mandate that all patient specimens be retested when a failure in quality control is identified but that the laboratory must evaluate those test results involved and, based on this evaluation, take the necessary action to correct any problems identified and issue corrected reports as appropriate. Actions necessary after correction of the problem may include the retesting of all patient specimens, but are not restricted to that. We have determined that the requirement specified in proposed § 493.1501(c)(3) should be included in the laboratory's remedial actions policies and procedures and are removing this paragraph from this subpart and inserting it into subpart K–Quality Control, § 493.1219 Remedial Actions. The regulation is being reworded to state that the laboratory must employ the remedial action necessary to ensure that accurate and reliable patient test results are reported.

Comment: A small number of commenters believed that testing quality control material before any patient testing is performed is a form of self-regulation.

Response: Quality control testing is performed by the laboratory as a check of the testing system's stability and to assure that the test results reported are accurate and reliable. A laboratory regulates itself through its QA program, part of which is the monitoring and evaluating of the effectiveness of corrective actions taken for problems identified in the review of calibration and control data to substantiate that the laboratory is meeting its specified performance criteria.

Comment: An overwhelming number of commenters requested that proposed § 493.1501(c)(5) be deleted.

Response: We agree with the commenters and are deleting § 493.1501(c)(5).

Comment: Several commenters requested that the regulation be revised to require that the laboratory's test report contain pertinent notation concerning the condition of the patient specimen when testing is performed on an unacceptable specimen.

Response: The requirement that the laboratory must indicate on the test report any information regarding the condition and disposition of specimens that do not meet the laboratory's criteria for acceptability is addressed at § 493.1109(c), Standard; Test Report, in subpart J, Patient Test Management. The language of proposed § 493.1501(e), now at § 493.1703(c), has been revised to state that the laboratory's QA program must have an ongoing mechanism for monitoring and evaluating the use and appropriateness of the criteria established for specimen rejection. This revision correlates with the QA activities previously described and required by the condition of this subpart.

Comment: Many commenters agreed that the patient data requirements in proposed § 493.1501(f) would be useful and may be pertinent to testing. However, commenters were concerned that the laboratory frequently has little knowledge or access to a patient's actual diagnosis or condition and that this information is often confidential. In addition, it is believed that it is the responsibility of the physician to evaluate test results to determine if they are inconsistent with the patient's condition.

Response: We agree with the commenters that the laboratory frequently is not provided with the diagnosis or other pertinent patient information and are adding the words "when provided" to the requirement at § 493.1711(c). The laboratory is responsible for making reasonable attempts to obtain the information necessary for the performance of accurate and reliable testing and for determining whether the test results are consistent with any patient data provided. However, it is ultimately the responsibility of the physician to evaluate the test results received for consistency with the patient's condition. Since many laboratories perform the same test using different methodologies, instruments, or at multiple testing sites, it is essential that the laboratory assure consistency among patient test measurements regardless of the methodology, instrument or testing site. The physician's interpretation of the test

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result and subsequent treatment of the patient must not be hampered by a lack of correlation between the laboratory's methodologies, instruments or testing sites. For this reason, we have added § 493.1709, Comparison of test results, which requires the laboratory, twice a year, to establish and define the relationship between the test results obtained using different methodologies, instruments, or testing sites. In addition, if a laboratory performs tests that are not included under subpart I, Proficiency Testing Programs, the laboratory must have a system for verifying the accuracy and reliability of its test results at least twice a year. One of the ways this may be accomplished is by split sample testing as previously described in the Proficiency Testing regulations and the preamble discussion of Proficiency Testing.

This standard requires that laboratories have a mechanism in place which would help to detect misidentified specimens and gross errors by using whatever data is available to the laboratory. As an example, if a positive pregnancy test result is obtained and the patient is male, the laboratory must take steps to be sure that the specimen is not mislabeled; it may be necessary to repeat the test to be certain that the correct result was obtained. It is a very useful quality assurance tool for the laboratory, and is considered good laboratory practice.

Comment: A few commenters were concerned that more sophisticated computer software would be necessary to comply with the requirement in proposed § 493.1501(g) to assess breakdowns in communication.

Response: The regulation at proposed § 493.1501(g) (now at § 493.1715, Standard; Communications) is not intended to require the use of computers to resolve communication problems and is applicable to manual as well as automated laboratory information systems. The requirement is now worded to clarify that a laboratory does have flexibility in establishing a system for documenting and correcting breakdowns in communication that is appropriate for the type of information system the laboratory employs.

Comment: Many commenters objected to the two methods specified in proposed § 493.1501(h) for evaluating employee competency. Most of the commenters felt that a laboratory should have the flexibility to develop its own mechanisms to evaluate staff performance. The majority of the commenters objected to evaluating employee performance through an additional external proficiency testing program. Commenters indicated that this requirement is repetitive and would dramatically increase costs over and above the proficiency testing required in subpart H. A few commenters believed that proficiency testing and quality control requirements were sufficient to measure the competency of cytotechnologists and that using blind proficiency test samples for evaluating employees may cause problems in record keeping and test reporting. While several commenters felt that direct supervisory observation of employees is sufficient to assure adequate performance of staff, others believed that evaluating individuals in this manner would be disruptive to the performance and reporting of tests.

Response: We agree with the commenters who felt that a laboratory should have the flexibility to develop its own mechanism to evaluate staff performance. This is now addressed under subpart M, Personnel Standards, under Director, Technical Consultant/Supervisor responsibilities. We are revising the paragraph at § 493.1501(h) (now at § 493.1713, Standard; Personnel) to require that the laboratory must have an ongoing mechanism to evaluate the effectiveness of policies and procedures instituted for assuring the competency of employees and, if applicable, consultants. This revision correlates the QA activities previously described and required by the condition of this subpart.

Comment: A few commenters felt that clarification was needed for the statement, under proposed § 493.1501(h)(2), suggesting that cytology laboratories insert blind samples into the workload or exchange slides with another laboratory. They questioned whether this would necessitate establishing an additional quality assurance program for each individual or whether the other requirements such as rescreening and comparing individual performance statistics with laboratory performance statistics satisfy this requirement. One commenter recommended that the requirement state that the laboratory must define an employee performance evaluation system and maintain documentation allowing the laboratory to develop its own program.

Response: This statement for assuring employee competency and monitoring performance in cytology was not intended to require the development of additional programs to those specified in § 493.1257, Standard; Cytology, but was given as an example of ways in which to accomplish performance evaluation. To avoid confusion, we are deleting this statement.

Comment: Concerning proposed § 493.1501(j), commenters requested clarification regarding whether this requirement applies to manual reporting systems as well as computer systems. In addition, commenters were concerned about the required frequency of this activity and suggested that continuous verification was not necessary for automated systems. Several other commenters suggested that § 493.1501(j) be expanded to include security systems and confidentiality safeguards and eliminate proposed subpart P, Computer Systems for Level I and II Testing.

Response: Section 493.1501(j), now at § 493.1703(f), applies to both manual and automated test reporting systems. We have removed words that would be specific to automated systems so as not to preclude users of manual systems. We are requiring that the laboratory evaluate its test reporting, storage and retrieval systems on a continuing basis. We have not mandated how a laboratory should evaluate these systems or the frequency with which the evaluation must be done, however, documentation of this quality assurance activity is required and must be made available to HHS. We agree with the commenters who suggested we eliminate the proposed subpart P, Computer Systems for Level I and II testing. The standards of the proposed subpart P are covered in the appropriate subparts of the final rule such as Patient Test Management, Quality Control and Quality Assurance.

Comment: A few commenters were concerned about documenting all complaints and problems reported to the laboratory since such documentation would be extremely time consuming and unrealistic. Commenters suggested replacing the word "all" with "substantive" or "significant" or "pertinent".

Response: We disagree with the commenters. We are not removing the requirement, formerly at § 493.1501(k) and now at § 493.1717, to document all complaints and problems reported to the laboratory. We have, however, provided flexibility in this requirement by adding "when appropriate", to "Investigations of complaints must be made * * *" to allow for the laboratory to decide when and to what extent an investigation will be made based on its established policies and procedures.

Changes to the Regulation

As previously described, the regulations have always been applicable to the total testing process. Language has been added to the subpart which has been redesignated as subpart M and renamed Quality Assurance for Moderate or High Complexity Testing, or Both to clarify that QA activities extend throughout the total testing process and include an evaluation of the effectiveness of the laboratory's policies and procedures.

We have added § 493.1709, Comparison of test results, which requires, twice a year, that the laboratory evaluate and define the relationship between test results obtained using different methodologies, instruments, or testing sites, and verify the accuracy and reliability of test results obtained using tests that are not included under subpart I, Proficiency Testing Programs.

We are clearly defining quality assurance and differentiating between quality assurance activities and quality control activities.

We are adding § 493.1703, Patient test management assessment, which requires that the laboratory have an ongoing mechanism for monitoring and evaluating the systems under subpart J, Patient Test Management.

Section 493.1705, Quality control assessment, is being added and requires that the laboratory have an ongoing mechanism for evaluating corrective actions taken under subpart K, Quality Control.

We require the laboratory to have an ongoing mechanism, based on testing priorities (STAT, routine, etc.) for monitoring and evaluating the timely reporting of test results.

We are removing proposed paragraph § 493.1501(c)(2) as being repetitive of § 493.1211(b) (7) and (8) which concerns the establishment of the laboratory's own control procedures that would provide flexibility for determining the criteria for releasing test results, and § 493.1218(e) which concerns the laboratory's established criteria for reporting patient results when control values are outside of the laboratory's acceptable limits.

We are moving the requirement specified in proposed § 493.1501(c)(3) concerning the laboratory's remedial actions policies and procedures to subpart K—Quality Control, § 493.1219, Remedial Actions.

We are deleting proposed § 493.1501(c) (1) and (4) because these are QC issues and have been addressed in subpart K, Quality Control and subpart M, Personnel.

We require the laboratory to evaluate the effectiveness of corrective actions taken, which correlates with the QA activities required by the condition of this subpart.

We provide that the laboratory's QA program must have an ongoing mechanism for monitoring and evaluating the use and appropriateness of the criteria established for specimen rejection.

We clarify that the laboratory must identify and evaluate patient test results that appear inconsistent with relevant criteria, such as diagnosis or pertinent patient data "when provided."

We clarify that a laboratory has flexibility in establishing a system for documenting and correcting breakdowns in communication that is appropriate for the type of information system the laboratory employs, and that it is not necessary to employ sophisticated computer software to assess breakdowns in communication.

We clarify that a laboratory has the flexibility to develop its own mechanism to evaluate staff performance. (This is now addressed under subpart M under Director, Technical Consultant/ Supervisor responsibilities.) We now provide that the laboratory must have an ongoing mechanism to evaluate the effectiveness of policies and procedures instituted for assuring the competency of employees and, if applicable, consultants.

To avoid confusion, we are deleting the statement concerning assuring employee competency and monitoring performance in cytology.

We require the laboratory to evaluate its test reporting, storage and retrieval systems on a continuing basis. This applies to both manual and automated test reporting systems.

Concerning the investigation of complaints and problems reported to the laboratory, we are adding "when appropriate," to allow for the laboratory to decide when and to what extent an investigation will be based on its established policies and procedures.

The terms "data analysis" and "transmittal" are being deleted from proposed § 493.1501(j), now § 493.1703(f). The section is reworded to clarify that the laboratory must monitor and evaluate the accuracy and reliability of test reporting systems, appropriate storage of records and retrieval of test results.

Subpart Q—Inspection

Summary of Proposed Rule

We proposed, as subpart N, to apply the requirements of existing §§ 493.1601, 493.1603, and 493.1605 to all laboratories under the authority of CLIA. For organizational consideration, we are redesignating the subpart as subpart Q. We proposed that HHS may conduct an unannounced inspection of any laboratory at any time during its hours of operation. These inspections may include interviewing employees, observation of employees performing tests, data analysis and reporting of test results, and review of all records and data required by HHS to determine compliance with the requirements. Further, HHS may deny approval to a laboratory for at least one year for violation of any of the requirements in regulations at part 493. HHS may waive this one-year period if the laboratory submits good cause for the waiver. Failure to permit an inspection would result in revocation of a certificate of waiver, provisional certificate, certificate or certificate of accreditation, as applicable.

Comments and Responses

We received approximately 1,080 comments in response to this section. Nearly 60 percent of the comments represented physician office laboratories (POLs). Almost 50 percent of the commenters were opposed to the requirements as written while nearly 40 percent offered alternative suggestions to the proposed standards.

Comment: Numerous comments were received from individuals and organizations regarding the proposed requirements for unannounced inspections of waivered, certified and accredited laboratories. A large number of commenters suggested that in lieu of conducting routine unannounced inspections, on-site inspections of only a random number of laboratories after their initial on-site inspection is conducted should be performed. These commenters also recommended that unannounced inspections should only be performed on laboratories that have demonstrated a problem. Another group of commenters offered a suggestion that on-site inspection be required only for "substantial reason" and not for "public complaint". Some commenters agreed that both waivered and non-waivered laboratories should be subject to inspection while others objected to the requirement that certificate of waiver laboratories be subject to inspection. Finally, a commenter from a military facility expressed his views that unannounced inspections would not be feasible in all military facilities because of security reasons.

Response: Section 353(g) (1) and (2) of the Public Health Service Act requires that HHS conduct announced or unannounced biennial inspections of laboratories issued a certificate and requires inspections of laboratories issued a certificate of accreditation on such basis as the Secretary determines necessary to assure compliance with the CLIA requirements and standards.

Under the Medicare Survey and Certification Procedures, it is our policy to conduct unannounced inspections during routine operational hours for all health care providers and suppliers, with the exception of hospitals. It is imperative that a laboratory be inspected during its routine operation so that an appropriate evaluation can be made about the services and activities ordinarily performed by the laboratory. Inspections are not necessarily conducted for the convenience of either the laboratory or the survey agency, but serve as a mechanism to assess the quality of services routinely provided by the laboratory for the diagnosis and treatment of patients.

We disagree with the commenters who suggested that on-site inspections be performed only for "substantial reason" and not for "public complaint" and are retaining our policy as written in order to assure the laboratory's compliance with the regulations and to exonerate the laboratory from the alleged accusation, when appropriate. For laboratories issued a certificate of waiver, random inspections will be conducted to determine compliance with § 493.15(d), to verify that only waivered tests are performed, to investigate complaints and to collect information for the addition, deletion or continued inclusion of tests on the waiver lists. For military facilities where security clearance is mandated, we would use personnel who already possess clearance or we would seek security clearance as needed, in order that we may treat all laboratories equally.

Comment: A number of commenters expressed the view that unannounced on-site inspections of laboratories would be disruptive since individuals would be removed from routine testing in order to be interviewed, to assist in the observation of test performance, and to retrieve records or copies of records requested by the inspectors. One commenter expressed the concern that the observation of employees performing tests, including the testing of proficiency samples, could create an intimidating situation which may result in the employee failing to properly test a patient or proficiency testing sample.

Response: It is not our intent to disrupt the laboratory's operations. Inspectors will be instructed to make every effort to accommodate the laboratory's routine testing activities. Observation of testing will be part of examining the overall operation of the laboratory and we will avoid, as much as possible, interrupting the routine work flow. We would expect the technical staff to perform proficiency testing to the extent that they are performing patient testing and reporting test results. Interviews of workers are intended to be "on the job" rather than in an area removed from the workplace, unless there is cause for privacy.

Comment: A few commenters noted that previous inspections had been beneficial to the laboratory and that test quality had been improved.

Response: While the inspection process is focused on evaluating the quality of the laboratory services, corrective actions taken by facilities in response to deficiencies noted during an inspection are beneficial to both the patient and the laboratory.

Comment: A few commenters suggested different frequencies for on-site inspections, with some recommending a three year cycle, on an "as needed" basis (as determined by proficiency testing performance), or on a random periodic basis.

Response: The law requires biennial issuance of certificates and specifies that inspections should be conducted on a biennial basis or with such frequency as the Secretary determines to be necessary to assure compliance with the CLIA requirements. In order to issue CLIA certificates, we must conduct inspections to evaluate whether the laboratory is in compliance with CLIA standards. However, the laboratory may be subject to more frequent inspections due to public complaints, validation surveys, addition of tests to the certificate, and follow-up inspections to assess compliance when serious deficiencies were noted on a prior inspection.

Comment: A few commenters noted that the inspection of physician office laboratories would raise the cost of medical care.

Response: Under the provisions of the statute, inspections conducted to assess compliance with the CLIA requirements must be financed through the payment of fees by the regulated laboratories. The CLIA requirements are intended to improve the quality of laboratory services provided to all patients. Therefore, the costs associated with CLIA may be somewhat offset by the benefits accrued by more accurate laboratory test results and the decreasing need for repeat testing. A more complete analysis of the costs and benefits of CLIA are discussed in the Regulatory Impact Analysis.

Comment: Several commenters asked how inspection of waivered laboratories would be conducted when there are no requirements for proficiency testing or quality control.

Response: We will inspect a certificate of waiver laboratory to determine compliance with § 493.15(d), which requires the laboratory to follow manufacturer's instructions for the performance of the waivered tests, and compliance with applicable State and local laws. In addition, we will collect information to determine the future addition, deletion, or continued inclusion of tests listed in the waiver category and to confirm that the laboratory is only performing tests in the waiver category. This will be accomplished by reviewing records, interviewing employees, and observing test performance, availability and use of test equipment, reagents and reporting mechanisms for test results.

Comment: A commenter recommended that any PT sample used for on-site testing must meet the same standards required of approved proficiency testing programs and that a legal chain of possession document to be maintained for every PT sample used for on-site PT such that the sample is traceable to the source of preparation and documents every person handling the sample.

Response: We agree with the commenter that specimen integrity of all PT samples must be assured before any grading criteria can be applied. In most instances, the laboratory's proficiency testing event will be conducted using samples that have been mailed to the laboratory from approved PY programs, and the laboratory will be responsible for proper storage and handling of PT samples prior to testing. Currently, we do not require a legal chain of custody to document transport and receipt of PT samples and we would not require such records for on-site PT sample delivery. If HCFA or one of its agents has PT samples delivered to it for transportation to a laboratory for on-site testing during an inspection, the samples will be stored and transported by the inspecting entity in accordance with the PT programs' instructions.

Comment: A number of commenters expressed concerns about the qualification of laboratory inspectors. Several commenters suggested specific qualifications to include pathologists, Ph.D.s and certified medical technologists with extensive bench or work experience as a laboratory inspector. One commenter suggested that for inspections of research laboratories, the inspection should be conducted by an individual possessing the relevant scientific background, or if necessary with the aid of an outside expert consultant who may be a biomedical researcher.

Response: Inspections are performed by HCFA regional surveyors and State agency personnel. Generally, these individuals have education, qualifications, and experience similar to the General Supervisor requirements of § 493.1429, in addition to mandatory attendance at HCFA sponsored laboratory surveyor training programs. We also provide written guidelines to assist surveyors in evaluating laboratory compliance with Federal regulations. In a research laboratory, only tests performed that meet the definition of the statute "* * * examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, human beings" would be subject to the CLIA regulations. If a research laboratory performs testing that fall under CLIA, we would expect this testing to be conducted in accordance with part 493, therefore, our inspectors would have the proper qualifications and experience to evaluate the testing system for compliance with the CLIA regulations for those test results directly related to and used for the patient.

Comment: Some commenters suggested revising the proposed requirements for interviewing laboratory employees to be amended as follows:

> Allow HHS or its designee to interview all employees of the laboratory concerning all aspects of the laboratory's compliance with CLIA and the following related sections of the Federal regulations:—405, 416, 440, 482, 483, 488 and 493.

Response: We agree with the commenters and have added the phrase "* * * concerning the laboratory's compliance with the applicable regulations at part 493." at § 493.1801(b)(1), § 493.1803(b)(2), and § 493.1805(c)(2).

Comment: A few commenters expressed the view that the proposed requirements providing HHS access to all of a laboratory's records are too broad and suggested they should be amended as follows:—"provide copies to HHS or its designee of all records and data relevant to the laboratory's compliance with CLIA * * *".

Response: All records pertaining to the operation of the laboratory, including ownership, testing performed, personnel qualifications, etc., are relevant to the laboratory's compliance with CLIA requirements. Therefore, we have retained the requirement as proposed and have moved it to § 493.1775(b)(5), § 493.1777(b)(5), and § 493.1780(c)(5). We have also added a requirement at §§ 493.1777(b)(4) and 493.1780(c)(4), which permits HHS access to all areas of the testing facility necessary to evaluate the compliance of the laboratory with the regulations at part 493 to meet statutory requirements at section 353(g)(1) of the PHS Act.

Comment: One commenter opposed the proposed requirement in § 493.1601(e) that would prevent approval of a laboratory's application for a period of one year following the effective date of a revocation of its certificate of waiver.

Response: We agree with the commenter and are deleting the requirement from §§ 493.1775, 493.1777 and 493.1780.

Comment: Some commenters noted that proposed § 493.1603(d) and § 493.1605(f) address record retention requirements which were already addressed in the Patient Test management Subpart, but they do not include pathology or cytology. They recommended dropping the requirements from the Inspection Subpart to avoid confusion.

Response: We agree with the commenters that there were inconsistencies between the two proposed subparts, therefore we are adding the requirement for a 10 year maintenance period for reports for the specialty of pathology, which would include reports for the subspecialty of cytology, at § 493.1777(d) and § 493.1780(f), to be consistent with the requirements in Subpart J, Patient Test Management.

Changes to the Regulation

We are adding a provision that allows HCFA and its designee access to all areas of the facility necessary to determine compliance with part 493 during an inspection.

We are clarifying that failure of a laboratory to permit an inspection will result in suspension of Medicare and Medicaid payments or termination of the laboratory's participation in the Medicare or Medicaid program, and suspension of or action to revoke the laboratory's CLIA certificate to be in accordance with the subpart R, Enforcement, which is being established in a separate rulemaking in this issue of the **Federal Register.**

We are removing the proposed requirement that if a laboratory's CLIA certificate is revoked, HCFA will not approve the laboratory's application for a period of 1 year.

Proposed Subpart P—Computer Systems for Level I and Level II Testing

Summary of Proposed Rule

Section 493.1801 Condition: Computer Systems

To ensure that laboratories are able to accurately report patient testing by a properly functioning system, we proposed computer system requirements for laboratories using any size computer system to assist in patient test performance and identification of patient specific information for result reporting. Included in these requirements were provisions for the computer system environment, operation of the computer, scheduled and unscheduled computer interruptions, computer programs, computer data entry, patient result reporting, data retrieval, computer security, and capacity.

Comments and Responses

A total of 320 comments were received to subpart P, Computer Systems. Nineteen commenters fully supported the proposed requirements for computer systems as written. Of the more than 200 commenters who suggested alternate language, the majority agree with the intent of the requirements and the need for computer systems regulations. The number of commenters requesting deletion of the subpart was 65. Over 60 physicians misread the requirements, believing that they would be required to purchase and use a laboratory information system (LIS) in their office laboratory.

The subpart would have been applicable only to laboratories that chose to use an LIS in their facility. Upon further review, we are removing this subpart from the final regulations.

Conforming Changes

We are making technical and conforming changes to parts 405, 410, 416, 417, 418, 440, 482, 483, 484, 485, 488, 491, 493, and 494 to clarify that if any of these entities provides its own lab services, the services must meet the requirements in part 493. These parts concern suppliers of End-Stage Renal Disease (ESRD) services, ambulatory surgical centers, Federally qualified health maintenance organizations, hospitals, long term care facilities, intermediate care facilities for the mentally retarded, home health agencies, comprehensive outpatient rehabilitation facilities, organ procurement organizations, rural health clinics, and screening mammography services. If the entity refers specimens to another laboratory, the referral laboratory must be certified in the appropriate specialties and subspecialties in accordance with part 493.

We are clarifying that individual patients and private homes are not subject to CLIA requirements. However, we are providing in § 484.14 that when a home health agency engages in testing outside the context of assisting an individual in his or her own home in self-administering a test with an appliance that has been approved for that purpose by FDA, the testing must be in compliance with the requirements in part 493.

Regulatory Impact Analysis

Executive Order (E.O.) 12291 requires us to prepare and publish a final regulatory impact analysis for any proposed regulation that meets one of the Executive Order (E.O.) 12291 criteria for a "major rule." A major rule is defined as any rule likely to result in:

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers; individual industries; Federal, State or local government agencies; geographic regions; or
- Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Also, we generally prepare a regulatory flexibility analysis consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), unless the Secretary certifies that a proposed regulation would not have a significant economic impact on a substantial number of small entities. For purposes of RFA, States and individuals are not small entities. We consider all clinical laboratories to be small entities.

In addition, section 1102(b) of the Social Security Act requires the Secretary to prepare a regulatory impact analysis if a proposed rule may have a significant impact on the operations of a substantial number of small rural hospitals. We define a small rural hospital as a hospital which is located outside a Metropolitan Statistical Area and has fewer than 50 beds.

The four HHS regulations implementing CLIA clearly meet E.O. 12291, RFA, and Social Security Act thresholds for preparation of a regulatory impact analysis. This analysis fulfills impact analysis requirements for all four of the implementing regulations: HSQ-176-FC, HSQ-177-F, HSQ-179F, and HSQ-193-P.

Executive Summary

There is a general lack of information on the characteristics of the U.S. clinical laboratory industry. Estimates of the number of laboratories subject to CLIA requirements vary widely. For the purposes of this analysis, we constructed independent estimates, using a variety of sources. To address uncertainty, three assumptions concerning the number of laboratories are used throughout the analysis:

- Low Assumption—180,000 laboratories.
- Intermediate Assumption—210,000 laboratories.
- High Assumption—250,000 laboratories.

These estimates are significantly below the 300,000 to 600,000 laboratory estimates previously cited by HHS. We believe that these earlier estimates are inflated due to double counting of laboratories, which remains a concern even in the current 180,000 to 250,000 estimates.

Costs of the Regulations

The direct costs of these regulations will fall on the nation's laboratories. Under the final rule, proficiency testing, quality control, and personnel requirements will be phased in over a two-year period, in order to address the significant implementation concerns of both the government and the laboratory industry.

The full implementation costs of the final rule will not occur until Federal fiscal year (FY) 1994 (October 1993–September 1994), when we project that CLIA costs will total $1.2 billion to $2.1 billion. While this is our best estimate, it is based on assumptions we are presently unable to verify.

COSTS OF THE FINAL RULE UNDER INTERMEDIATE ASSUMPTION

[Dollars in millions]

	FY 1992	FY 1993	FY 1994	FY 1995	FY 1996
Certification	$27	$28	$29	$30	$31
Proficiency Testing	0	0	445	461	477
Patient Test Management	22	15	16	16	17
Quality Control	600	609	631	653	676
Inspections	15	95	137	98	142
Personnel	0	286	296	307	317
Other Startup Activities	70	0	0	0	0
Total	734	1,033	1,554	1,565	1,660

The costs of CLIA regulation will vary widely among clinical laboratories. Hospitals and independent laboratories already subject to Federal regulation may sustain small incremental increases which, due to their large testing volume, may amount to a penny or less per test. On the other hand, many physician offices may see their laboratory costs increase by 10 percent or more—and the cost of an average test rise in excess of a dollar. Under our intermediate assumptions, the average cost of a laboratory test in the United States could increase by 25 cents as a result of CLIA requirements.

The cost increases that will be incurred by individual laboratories will largely depend on their current operations. Those laboratories presently following what is generally referred to as "good lab practice"—including, for instance, following daily quality control protocols, maintaining instruments according to manufacturers' instructions, participating in proficiency testing, using qualified personnel to perform tests, and keeping detailed, organized records—may see only marginal cost increases as a result of CLIA. Those laboratories currently not following such practices may experience significant increases in the costs of their operations.

Benefits of the Final Rule

CLIA anticipates that comprehensive Federal regulation will improve the accuracy of clinical laboratory testing, thereby producing national public health benefits. There is no reliable means of quantifying these expectations, especially given the current lack of data on the clinical laboratory industry.

Nonetheless, we offer two quantitative projections of potential CLIA benefits. While the methodologies reflect the scarcity of definitive data required for more elaborate economic models, we believe that these projections may be useful in framing discussions on the prospective impact of CLIA regulations.

Willingness-to-Pay. The first projection is based on a "willingness-to-pay" model. This technique is commonly used by economists to project public health benefits by estimating how much consumers are willing to pay for decreases in medical or health risk. We project that non-poor American households may be willing to pay anywhere from 5 percent to 25 percent more for laboratory services in order to improve their accuracy, and thereby reduce risk. Using this approach, CLIA benefits may be valued from $570 million to $2.8 billion per year.

Cost Avoidance. An alternative model attempts to estimate the savings in national health expenditures that would result from reductions in laboratory false positive and false negative rates. False positives occur when test results indicate disease in a patient that does not actually have disease; they can result in unnecessary followup testing and medical treatments. False negatives occur when test results show no disease in a patient that actually does have disease; they can result in delayed treatment, increased morbidity, and unnecessary death.

While no data exist for assessing current and future false negative and positive rates, HCFA offers several scenarios for potential economic benefits to accrue through early intervention, and reductions in unwarranted follow-up tests and unnecessary treatments. IF CLIA—through reductions in false positive rates—can reduce national expenditures for unnecessary testing and treatments by ½ percent to 1 percent, annual savings of $300 million to $2.1 billion could result. If CLIA—through reductions in false negative rates—can lead to earlier intervention and thereby reduce expenditures for necessary care, annual savings of $200 million to $2.8 billion could result.

Therefore, under the cost avoidance model, public health benefits resulting from CLIA could total $500 million to $4.9 billion per year.

Such models are, of course, highly speculative. This is due in part to a lack of research data. Perhaps more importantly, it can not be assumed that improvements in testing accuracy will directly translate into better treatment and outcomes. Laboratory testing is only one variable in the medical decision-making equation. Test results only seek to provide answers to the clinical questions posed by physicians and other care providers. CLIA has no bearing on the larger public health issue of whether the clinical questions being asked are the appropriate questions—or, given the lack of access to care for many Americans, of whether the questions are being asked at all.

Potential Impact on Access

The American health care delivery system is quite complex and diverse, and there is no clear, comprehensive understanding of its laboratory testing component. Without that understanding, it is difficult to predict with confidence how CLIA regulations will affect patient access to medical services. Nonetheless, some ramifications of CLIA regulation can be forecast with certainty, and others reasonably conjectured.

The final rule will significantly increase the operating expenses of the nation's laboratory industry—perhaps by as much as 6 percent per year. Most laboratories will successfully pass on these cost increases to patients and other consumers of their services.

These cost increases may reduce the ability of certain already-financially burdened providers to deliver services, and of the poor, uninsured, and underinsured to obtain needed care. Facilities and individuals in under-served areas, primarily rural America and the inner cities, will be most affected. The actual numbers may be quite small, but we are unable to reliably predict this impact.

Among those providers that will be most vulnerable to increased costs are small rural hospitals, student health services, public health clinics, community screening programs, and other types of providers that must function within constrained budgets. For some of these providers, such as some municipal health programs, passing on costs is not a viable option. They will be forced instead to restrict their services. Of those programs that are able to pass on some or all of their operating cost increases, many may find their initiatives less effective, as their patients are unable or unwilling to pay more for health care services.

While the final rule is designed to protect all consumers from substandard quality laboratory work, the CLIA program could in some instances thwart larger public health objectives by hindering the provision of screening services to the poorest Americans.

Ironically, this could be the case in cytological screening, which was the impetus for CLIA legislation. There is already a national shortage of cytotechnologists, and the final rule will increase demand. In the laboratory industry generally, recent surveys indicate that 80 percent of U.S. laboratories have experienced a shortage of technical personnel. Again, the problems are more acute in rural areas, where the ratio of laboratory personnel per 100,000 population is less than half that of metropolitan areas.

For all of the uncertainty about CLIA implementation, it is certain that the final rule will not restrict access to the extent feared and expressed in public comments on the NPRM. Though there remain some valid questions about potential restrictions on access, especially in under-served and low income communities, the final rule will in one overarching respect broaden access. By setting consistent requirements for all laboratories—regardless of setting, location, or populations served—CLIA legislation and the final rule seek to assure for the first time that all U.S. laboratories provide testing services that meet minimum standards of quality.

Regulatory Impact Analysis

Methodology and Approach

This analysis addresses a wide range of projected costs and benefits of the final rule. Whenever possible, it employs appropriate methods for expressing impact quantitatively. These projections are supplemented by narrative discussion.

Any effort to prospectively assess the cost-effectiveness of a major public health initiative must be premised, to some degree, upon educated speculation. This analysis in particular must address regulation of a clinical discipline, about which there is scant cost/benefit data or empirical study, in the context of a complex health care marketplace. The analysis is reliant upon many simplifying assumptions, which are made explicit throughout the analysis.

Laboratory Estimates

Estimates of the number and characteristics of laboratories vary widely in professional and scientific literature, as do estimates included in public comments to the NPRM. Generally, however, these estimates share one common characteristic: They represent best guesses, and are lacking in reliable supporting data.

In many cases, our analysis cannot rely upon tabulated actual counts or statistical inferences drawn from empirical data. It instead uses estimates based on currently available information. We must await compilation of CLIA laboratory registration and certification information for comprehensive, reliable data on the number and characteristics of CLIA laboratories.

Following our review of the existing body of laboratory estimates, it was decided that the usefulness of this analysis would be improved by compiling new, independent projections. To this end, the following source materials were used:

- Medicare, Medicaid, and CLIA 67 data.
- Accreditation and professional organization data.
- Physician data from the American Medical Association.
- State licensure and regulatory experience.
- Public comments to the NPRM.
- Academic and professional literature.
- Expert opinion.

In order to address the uncertainty surrounding laboratory estimates, we use three sets of assumptions throughout the analysis.

ESTIMATES OF THE NUMBER OF LABORATORIES SUBJECT TO CLIA

	Low assumption	Intermediate assumption	High assumption
Hospitals	7,000	7,000	7,000
Independent Labs	6,000	5,000	6,000
POLs [1]	110,000	130,000	140,000
Other	57,000	67,000	97,000
Total	180,000	210,000	250,000

[1] Physician Office Laboratories.

The four categories of laboratory estimates vary greatly in degree of reliability. As is to be expected, we are far more confident in the numbers and characteristics of laboratories and other health care providers currently under Federal regulation, such as most hospitals, independent laboratories, and nursing facilities. We are most uncertain about the various entities that may fall into the "Other" category.

Hospital and Independent Laboratories. The hospital and independent laboratory estimates are based on Medicare, Medicaid, and CLIA 67 survey and certification data. These laboratory counts are supplemented by State survey agency estimates that include projections of hospitals and independent laboratories not currently subject to HCFA requirements. To the extent possible, these estimates were validated through comparison with accreditation and professional organization data.

Physician Laboratories. Estimates of the number of U.S. physician office laboratories (POLs) vary widely. The POL estimates in this analysis are drawn from HCFA extrapolation of published AMA data. AMA reports cite the total number of U.S. physicians in office-based practice as approximately 350 thousand, and distribute these physicians by practice specialty. These distributions were converted into estimates of laboratories by application of AMA research on the proportions of in-office clinical laboratories found in a large sample of physician specialties. These estimates were then grouped, according to practice specialty, into Primary and Non-Primary Care categories.

ESTIMATES OF THE NUMBER OF PHYSICIAN OFFICE LABORATORIES

	Office-based physicans	Proportion with clinical labs	No. of POLs
Primary Care	160,000	.56	90,000
Non-Primary Care	190,000	.21	40,000
Total	350,000	.37	130,000

*Rounded to nearest 1,000.

Several alternative methodologies were explored, but appeared less reliable. These included an effort to apply information about the size and frequency of group practices to AMA databases of individual physicians. The analysis uses an approach that is appropriately conservative, for it does not appear to understate the POL universe. It attempts to avoid double-counting of physicians working in institutional settings. These estimates also compare favorably with State survey agency estimates collected by HCFA regional offices.

Other. The "other" category includes nursing facilities, end stage renal disease dialysis clinics, freestanding home health agencies, hospices, rural health centers, ambulatory surgery centers, dental offices, blood and organ banks, mobile and walk-in screening programs, family planning clinics, corporate health facilities, prisons, student health services, WIC programs, sexually-transmitted disease clinics, methadone clinics, State and local health departments, and the host of other facility types that may be subject to CLIA regulations.

There is great uncertainty about the many disparate entities that may fall into this category of laboratories. Under the CLIA statute, the term "laboratory" is very broadly defined to encompass any facility performing testing on human specimens for health care purposes. We obtained estimates of non-hospital, non-independent, non-physician laboratories from a wide selection of sources, including NPRM comments, State health departments, and Medicare and Medicaid data files. However, we lack a comprehensive understanding of the number and types of these other facilities that may be subject to CLIA. It is this uncertainty that accounts for the 70 percent variance between the high and low assumptions in the "other" category.

CLIA Study Coalition Estimates. Our estimates of the number of CLIA laboratories differ widely from those of the CLIA Study Coalition, which is composed of the AMA, the American Hospital Association, the Health Industry Distributors Association, and the Health Industry Manufacturers Association. This coalition projects that less than 90,000 laboratories will be subject to CLIA regulations—an estimate only one-half as large as our low assumption. We believe that the coalition estimates do not account, either in whole or in part, for significant components of the laboratory universe, such as nursing homes, public health laboratories, and student health clinics. Nonetheless, although we believe their estimates are low, it is possible that the coalition's projections may prove more accurate than independent HHS estimates. If the number of CLIA laboratories is indeed below our low assumption of 180,000 laboratories, then our estimates of the cost of CLIA regulation will likely be high. Again, we await the compilation of CLIA registration data for an accurate depiction of the size of the CLIA laboratory universe.

The Market for Laboratory Testing Services

Although the category of "other" laboratories appears large in terms of the sheer number of facilities, it is hospitals, independent laboratories and physician offices that perform the vast majority of clinical laboratory testing in the United States.

There is a lack of comprehensive data about the market for clinical laboratory services. One 1980 study estimated that "$15 billion was spent on laboratory services of all kinds, (and that) the number of laboratory tests performed each year in this country is huge and growing at a compound rate of about 15 percent per year" (Relman, 1980). In the previous year, another prominent study found "evidence that such technologies as the CT scanner account for far less of the growth in medical expenditures than do the collective expenses of thousands of small tests and procedures * * *. The nation's bill for operating only one class of 'little-ticket' technologies—clinical laboratory tests—far exceeded that of capital equipment purchased by hospitals (Moloney and Rogers, 1977)."

Since 1980, the clinical laboratory market has continued its escalation, and

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physician office laboratories have been the most rapidly expanding segment of the industry (Kenney and Greenberg, 1986). The physician portion of this market has been estimated to represent 50 percent of all outpatient laboratory testing, with a projected 16 percent annual growth rate through 1990 (Fischer, 1986). However, this estimate is representative of only one of the many opinions on the size of this market segment. A study by Boston Biomedical Consultants projected that by 1990, POLs would perform 2.7 billion tests valued at $16 million, a four-fold increase since 1986 (Kenney and Greenberg, 1986). Application of American Medical Association assumptions to their office-based physician count results in much lower annual estimates for the size of the physician market: $2.7 to $3.7 billion annually as of 1989 (AMA, 1989). A 1987 report in Hospitals estimated that "laboratory testing is a $20 billion business, with $5 billion performed in physician offices, $5 billion in independent and reference labs, and $10 billion in hospital labs" (Crane, 1987).

To obtain a working assumption of the dollar volume of the U.S. laboratory market, we utilize HHS and HCFA market projections, and estimates that spending on laboratory services comprised 4.5 percent, or approximately $30 billion, of 1990 national health care expenditures of $666.2 billion.

Information concerning the national volume of tests is even more sketchy than dollar estimates. There are no available comprehensive studies. Problems emanating from a lack of data are compounded by definitional problems entailed by modern testing systems that perform many different tests at once.

The House Energy and Commerce Committee Report on CLIA estimates that 4 to 6 billion tests are performed each year. The CLIA Study Coalition projects that 8.8 billion analytes are tested annually. For the purposes of this analysis, we assume that the annual national testing volume totals 6 billion tests.

The Complexity Model

Following the CLIA statutory mandate, the final rule sets standards and conditions for certification of laboratories according to the complexity of the tests they perform. Laboratory tests are classified according to Public Health Service criteria in one of three categories:

- Waived tests.
- Tests of moderate complexity.
- Tests of high complexity.

Laboratories may perform tests only in categories in which they are certified by HCFA, unless they are accredited by an approved organization, or are State-exempt.

Laboratories performing only tests on the waived list are required to follow accepted laboratory practice and other applicable Federal, State, or local requirements, but are otherwise not subject to the substantive requirements of the final rule. Moderate and high complexity laboratories must comply with the proficiency testing, patient test management, quality control, quality assurance, and personnel standards of the regulation. Standards for high complexity laboratories exceed the requirements for laboratories performing only waived and moderately complex tests. Many requirements are being phased in over a two-year period.

Distribution Under the Complexity Model. In order to assess the impact of the final rule, we projected the number of laboratories that will fall into each of the three complexity categories according to the highest level of testing performed. We made no projections of State-exemption or accreditation, for several reasons. First, there is no reliable basis on which to base such speculation. Second, accreditation bodies and State programs that seek HCFA approval under CLIA regulations must provide assurance that their laboratory standards are as stringent or more stringent than those of the final rule. Thus, it can be assumed that, as any State-exempt or accredited laboratory must maintain compliance with State regulations and accreditation standards comparable to those of the final rule, the costs to laboratories of such compliance may also be assumed to be comparable. Finally, we do not wish to understate the impact through speculation about accreditation and State exemption. Nevertheless, it must be noted that approximately 20 States have some sort of program that could qualify for consideration for CLIA exemption, and that the remaining States may also pursue CLIA exempt status. Additionally, a number of non-profit, voluntary organizations are expected to pursue accredited status. State exemption and accreditation could significantly lower the costs of the CLIA program.

We estimate that the projected number of laboratories subject to CLIA requirements will be distributed across the three complexity model categories according to the percentages on the following table.

DISTRIBUTION OF LABORATORIES BY HIGHEST LEVEL OF TESTING PERFORMED

	Waived labs (percent)	Moderate complexity (percent)	High complexity (percent)	Total labs (percent)
Hospitals	0	0	100	100
Independent Labs	0	0	100	100
Primary Care POLs	3	87	10	100
Non-Primary Care POLs	10	80	10	100
Total, POLs	5	85	10	100
Other	5	85	10	100

This distribution incorporates gross rounding assumptions for the purposes of this analysis, but is not indicative of the actual makeup of the laboratory industry. For instance, we classify all hospital laboratories under the high complexity category, even though there is a small segment of the hospital industry (including some rural short-term inpatient facilities) that does not perform high complexity tests.

This distribution reflects the final rule's concentration of tests in the moderate complexity category. Although we have not projected a distribution of laboratories according to the provisions of the NPRM, it is clear that the NPRM distribution would have had many more laboratories in the waived and high complexity categories, and fewer in the moderate category.

PROJECTION OF THE NUMBER OF LABORATORIES BY COMPLEXITY MODEL CATEGORY

	Low assumption			Total labs
	Waived labs	Moderate complexity	High complexity	
Hospitals	0	0	7,000	7,000
Independent Labs	0	0	6,000	6,000
Primary Care POLs	2,400	69,600	8,000	80,000
Non-Primary POLs	3,000	24,000	3,000	30,000
Subtotal, POLs	5,400	93,600	11,000	110,000
Other	2,850	48,450	5,700	57,000
Total	8,250	142,050	29,700	180,000

PROJECTION OF THE NUMBER OF LABORATORIES BY COMPLEXITY MODEL CATEGORY—Continued

	Intermediate assumption			Total labs
	Waived labs	Moderate complexity	High complexity	
Hospitals	0	0	7,000	7,000
Independent Labs	0	0	6,000	6,000
Primary Care POLs	2,700	78,300	9,000	90,000
Non-Primary POLs	4,000	32,000	4,000	40,000
Subtotal, POLs	6,700	110,300	13,000	130,000
Other	3,350	56,950	6,700	67,000
Total	10,050	167,250	32,700	210,000
	High assumption			
Hospitals	0	0	7,000	7,000
Independent Labs	0	0	6,000	6,000

PROJECTION OF THE NUMBER OF LABORATORIES BY COMPLEXITY MODEL CATEGORY—Continued

	High assumption			Total labs
	Waived labs	Moderate complexity	High complexity	
Primary Care POLs	2,850	82,650	9,500	95,000
Non-Primary POLs	4,500	36,000	4,500	45,000
Subtotal, POLs	7,350	118,650	14,000	140,009
Other	4,850	82,450	9,700	97,000
Total	12,200	210,100	36,700	250,000

Certification

Under the final rule, all clinical laboratories must possess either a certificate of waiver, a registration certificate, a certificate to perform tests of moderate and/or high complexity, a certificate of accreditation, or be State-exempt. For the purposes of this analysis, we assume that all laboratories will be certified as waived, moderate complexity, or high complexity. We have made no projections of accreditation or State exemption.

According to the provisions of the final user fee rule, a biennial certificate of waiver will cost $100. Moderate and high complexity laboratories will pay:

- An initial registration certificate fee of $100, $350, or $600, according to a fee schedule based on annual testing volume, and
- A biennial certification fee, based on the same fee schedule, following Federal inspection and determination of compliance with the standards set in the final rule.

For the purposes of calculating the annual costs of the CLIA program, we assume that all laboratories will pay only one fee in a given two-year period, whether they pay for a certificate of waiver, a registration certificate, or a regular certificate. The tables below project the distribution of laboratories by fee category.

PROJECTED DISTRIBUTION OF LABORATORIES BY CERTIFICATE FEE CATEGORY

	Waived:	Moderate and high:			Total
	$100	$100	$350	$600	
Low Assumption					
Hospital	0	0	2,800	4,200	7,000
Independent	0	0	2,700	3,300	6,000
POL	5,400	47,070	43,932	13,598	110,000
Other	2,850	33,032	18,410	2,708	57,000
Total	8,250	80,102	67,842	23,806	180,000
Intermediate Assumption					
Hospital	0	0	2,800	4,200	7,000
Independent	0	0	2,700	3,300	6,000
POL	6,700	55,485	51,786	16,029	130,000
Other	3,350	38,827	21,640	3,183	67,000
Total	10,050	94,312	78,926	26,712	210,000
High Assumption					
Hospital	0	0	2,800	4,200	7,000
Independent	0	0	2,700	3,300	6,000
POL	7,350	59,693	55,713	17,244	140,000
Other	4,850	56,212	31,331	4,607	97,000
Total	12,200	115,905	92,544	29,351	250,000

The table below presents the annualized projections of biennial certificate fee collections.

PROJECTED ANNUALIZED CERTIFICATE FEE COLLECTIONS

[Millions of dollars]

	Low assumption	Intermediate assumption	High assumption
Hospitals	$2	$2	$2
Independent Labs	1	1	1
POLs	14	17	18
Other	6	7	10
Total	23	27	31

Non-Selected Option. The three-level fee schedule of the final rule marks a major change from the flat $261 certificate fee of the NPRM. This new approach responds to public concerns that under the proposed rule, small physician office laboratories performing relatively few tests—with correspondingly low laboratory revenue—would be assessed the same certificate fee as large hospital and independent laboratories. The final rule sets the certificate fees of small laboratories (defined as those with annual testing volume below 25,000 tests) at a modest $100 level, payable every two years.

The switch to the new fee schedule is designed to be a budget neutral change. That is, if all other assumptions are kept constant, collections under the $100/$350/$600 schedule are projected to equal projections using the $261 flat fee.

Proficiency Testing

CLIA mandates that all non-waived clinical laboratories participate successfully in an approved proficiency testing (PT) program. The House Energy and Commerce Committee report states that PT "is arguably the most important measure of laboratory performance since it reviews actual results rather than merely gauging the potential for good results."

PT may be defined as "evaluating the ability to perform laboratory procedures within acceptable limits of accuracy, through the analysis of unknown specimens distributed at periodic intervals by an external source" (DeBoy and Jarboe, 1991). In essence, it is a means of testing the testers.

Under the final rule, laboratories must participate in PT for all tests for which service is offered and for which approved proficiency testing is available. PT samples must be treated in the same way as patient specimens, and cannot be referred to another laboratory. Laboratories must analyze five challenges for each test they perform, in three PT events per year.

We project that approximately 160,000 to 225,000 laboratories will be subject to Federal PT requirements for the first time.

In order to provide the necessary lead time to permit PT programs to gear up to meet this enormous new demand and to receive HCFA approval, the final rule sets a two-year phase-in period. This period will also allow the laboratories not currently participating in PT to progress up the PT learning curve. In this way, disruption to laboratory testing in presently unregulated laboratories may be minimized or largely avoided. During this period, emphasis can be placed on identification of the source of PT errors, and laboratories can seek appropriate technical assistance and training.

NUMBER OF LABORATORIES SUBJECT TO PT REQUIREMENTS FOR THE FIRST TIME

	Low assumption	Intermediate assumption	High assumption
Hospitals	0	0	0
Independent Labs	0	0	0
POLs	104,600	123,300	132,650
Other	54,150	63,650	92,150
Total	158,750	186,950	224,800

Costs of the Final Rule

The direct costs of these requirements will be sustained by laboratories. PT costs are analyzed in two components: General PT and Cytology PT.

General Proficiency Testing

For General PT requirements, projected costs include:

- Payments to approved PT programs for enrollment fees and purchase of PT materials and kits, and
- Internal expenses for testing materials (such as reagents and pipettes), staff time devoted to the PT process, and associated overhead.

PT costs of hospitals and independent laboratories, most of which are subject to current Federal PT requirements, are assumed to remain stable. It is also assumed that a reasonable projection of incremental CLIA PT costs for all other non-waived laboratories may be obtained through use of an average cost to be applied without consideration of current voluntary or State-required PT participation.

In order to compute an average PT program participation cost, we obtained a random selection of 1990 PT survey or kit purchases by POLs enrolled in the Medical Laboratory Evaluation (MLE) program of the American Society of Internal Medicine. That sample revealed a mean annual POL purchase of $341. We then extrapolated a cost increase attributable to the new five specimen per test, three event per year requirement; added the annual $66 MLE enrollment fee to this average; and converted our results into current dollars. This resulted in a projected average annual laboratory payment to PT providers of $909.

Though similar sample data were not readily available from other PT providers, comparison of program participation costs do not indicate significant differences in overall costs.

We project that the laboratory material, personnel, and overhead expenses associated with PT will average 125 percent of the costs of payments to PT providers. This factor is assumed to approximate the average laboratory costs and overhead entailed by PT participation, which requires steps similar or identical to those involved in performing a test on a standard patient specimen. These steps include:

- Handling of specimens.
- Performance of tests.
- Recording and reporting results.
- Maintenance, instrument checks, cleaning and repair.
- Supervision, review, and follow-up.

The $909 projected average PT program payment plus the 125 percent in-house expense factor result in average annual PT costs of $2,045 for those laboratories not subject to Federal PT requirements prior to the effective date of the final rule. The projected incremental general PT costs attributable to the final rule are outlined in the table below.

ANNUAL GENERAL PT COSTS: SELECTED OPTION—FIVE CHALLENGES, THREE EVENTS ANNUALLY

[Millions of dollars]

	Low assumption	Intermediate assumption	High assumption
Hospitals	0	0	0
Independent Labs	0	0	0
POLs	$214	$253	$271
Other	111	129	183
Total	325	382	454

Non-Selected Options. We examined three non-selected options:

- The quarterly, five challenge requirements of the NPRM,

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- The quarterly, two challenge program used by many PT providers, and by Medicare and CLIA 67 laboratories prior to the promulgation of the March 1990 final rule, and
- A split sample approach.

We constructed cost projections for the first two non-selected options, using the same laboratory assumptions as the final rule projections, and relying upon MLE average cost data to estimate annual laboratory expenses.

PROJECTED ANNUAL GENERAL PT COSTS: NON-SELECTED OPTION—QUARTERLY FIVE CHALLENGE

[Millions of dollars]

	Low assumption	Intermediate assumption	High assumption
Hospitals	0	0	0
Independent Labs	0	0	0
POLs	$227	$268	$289
Other	118	139	201
Total	345	407	490

The costs of this non-selected option exceed the costs of the final rule from $20 million to $30 million per year. This option was not chosen because: (1) There is no scientific or technical basis for selecting a program of quarterly frequency over a program of three events per year, and (2) there are more formidable logistical problems inherent in a quarterly program in comparison with a program of three events per year.

PROJECTED ANNUAL GENERAL PT COSTS: NON-SELECTED OPTION—QUARTERLY TWO CHALLENGE

[Millions of dollars]

	Low assumption	Intermediate assumption	High assumption
Hospitals	0	0	0
Independent Labs	0	0	0
POLs	$101	$119	$128
Other	52	61	88
Total	153	180	216

The annual costs of this non-selected option are approximately one-half the costs of the final rule, or from $72 million to $244 million less per year. This option was not chosen for scientific and technical reasons, as two challenges are deemed to provide insufficient information for the purposes of a regulatory program with sanctions for repeated PT failures.

Split Samples. "Split Samples" have been discussed as a possible option for proficiency testing in small laboratories. In split sampling, a laboratory selects actual patient test specimens off the line at some given frequency and sends them to another laboratory for independent testing. Thus, laboratories arrange a trading of sample specimens for PT purposes, and compare results. Errors or differences are identified and problem solving resolution is initiated, similar to PT. A possible variation of this approach would be to organize split sampling as part of a formal PT program. At present, split samples are included in the final rule as a possible quality assurance mechanism for evaluating analyte testing for which there is no acceptably stable proficiency test.

Proficiency testing and split sampling (for those analytes for which there is no stable PT) could well serve as partners in laboratory quality improvement. In order to adopt split sampling as a workable approach in a formal PT program, a great deal of developmental work would be required.

Therefore, we do not consider split sampling to be a viable regulatory option at this time.

Cytology Proficiency Testing

PT for the specialty of cytology has unique requirements and associated costs. The key elements of cytology PT include:

- Testing of individuals rather than laboratories;
- Two scoring systems: one for those who screen slides, and one for those who review screened slides;
- Annual testing of all individuals, rather than the three events per year per lab required for general PT;
- Retesting of individuals who fail cytology PT;
- Mandatory slide rescreening after the second failure;
- Screening privileges suspended after the third failure.

The final rule provides an eighteen month phase-in period for enrollment in a HCFA-approved proficiency testing program. These requirements are modeled on the Maryland State Cytology Testing Program. Each person examining cytologic preparations is tested on his or her ability to categorize each slide into one of four response categories. After an initial PT failure, an examinee must take a second 10-slide test within 45 days. After a second failure, the laboratory must provide immediate remedial training.

The second failure also triggers a mandatory rescreen of all subsequent slides by another cytologist. Failure of the third, 20-slide test results in immediate suspension of screening privileges. Remedial training of at least 35 hours must be completed before the participant can be retested. Another 20-slide test must be passed before screening of gynecological slides may resume.

We estimated the national number of cytotechnologists and cytopathologists by extrapolating Maryland data to the national level. This yielded an estimate of 7,950 cytotechnologists and 8,690 cytopathologists. The cytotechnologists estimate compares well to American Society of Cytotechnologists registration data.

To estimate the number and cost of slide sets, we projected Maryland program data to the nation as a whole, with the result that $3,649,000 will be needed to produce 1,950 slide sets.

We next estimated the cost of administering the proficiency tests, based upon an average laboratory volume of 24,000 cases a year, and employing five cytotechnologists.

We estimate that the first round of tests will cost between $5 million and $7.2 million. In developing this estimate, we assumed the loss of 5 hours for each person taking the proficiency test. Hourly wages were computed at low and high assumptions of $14 and $20 respectively for cytotechnologists and $75 and $110 for cytopathologists. In order to measure possible costs of retesting, we used a 15 percent initial failure rate for both cytotechnologists and cytopathologists.

We project that costs associated with taking the second test, assumed to be conducted offsite, will be between $1.8 million and $2.7 million. In addition, we calculate that the cost to laboratories of rescreening slides for the 20 work days between tests will be between $1.0 and $1.4 million.

We estimate that 25 percent of those taking the second test will fail that exam, and be required to take the third test. We calculate that approximately 150 cytologists across the country will take the third exam each year. Again, we assume one day of work per examinee will be lost, due to offsite testing. We calculate total test costs for the third exam will be between $230,000 and $439,000. If an on-site testing option is offered and selected, costs may be significantly lower.

Each cytologist who fails the third test will be required to take 35 hours of training to bring their skills up to a passing level. It is the Maryland experience that a high proportion of those who failed the test at one point were able to pass the next, often with a 100 percent score.

PROJECTED ANNUAL COSTS OF CYTOLOGY PROFICIENCY TESTING

	Low	High
Cytology slide sets	$3,690,000	$3,690,000
Conduct of first testing	5,062,000	7,237,000
Conduct of second testing	1,831,000	2,675,000
Cost to rescreen for 20 workdays	1,000,000	1,430,000
Conduct of third testing	230,000	439,000
Loss of 40 days—Cytotech	336,000	450,000
Loss of 40 days—Cytopath	1,944,000	3,868,000
Costs through third testing	14,093,000	19,839,000

Combined General and Cytology PT Costs

The following table displays the incremental projected PT costs of the final rule.

PROJECTED ANNUAL TOTAL PT COSTS: GENERAL AND CYTOLOGY

[Millions of dollars]

	Low assumption	Intermediate assumption	High assumption
Cytology PT	$14	$17	$20
General PT	325	382	460
Total	339	399	480

Proficiency Testing Issues. Approximately 5,700 of the almost 60,000 public comments on NPRM addressed proposed PT requirements. Many were concerned about the costs of the requirements, and the sanctions to be levied on laboratories that failed to meet PT requirements. Many who commented on the NPRM were skeptical about the benefits to be derived from the regulations.

PT had its inception in 1945 as a voluntary educational process for laboratorians. Although the laboratory industry, the medical community, and academia have not reached consensus on the role of PT in the modern clinical laboratory, the intent of Congress in this area is clear: Laboratories must participate in PT, and stop performing tests in those areas in which they cannot pass PT.

In contrast to Congressional emphasis on PT as the most important measure of laboratory performance, to be used as such in a national regulatory program with sanction authority, many laboratorians and physicians see PT primarily as a tool for externally-aided laboratory self-education. The CLIA mandate for national proficiency testing is viewed by many in the medical profession as an intrusion into an area that the Federal government has no business entering, and in which it has little expertise. Other views correspond to the Congressional opinion, and hold that only national regulation, with mandated uniform application and threats of sanction, can assure the improvement and quality assurance necessary to safeguard patients.

Proficiency testing is neither administratively nor scientifically without flaws or complicating factors. There are well over 2,000 instruments and systems for testing analytes listed in the Centers for Disease Control's Catalog of Instruments and Test Systems. Some of these are manual, some are fully-automated, and some are semi-automated. Certain testing procedures considered in some quarters to be antiquated continue to yield results as meaningful to clinical decisionmaking as those produced by far more sophisticated and expensive systems. Finding adequate, reliable means for providing comprehensive PT nationally across the complete spectrum of testing is very problematic.

In each medical specialty, various tests are performed in different contexts, with differing degrees of frequency, by various methodologies and on many types of equipment. Wide ranges in levels of accuracy occur for these reasons, and are sometimes dependent on personnel, training and experience factors as well. Accuracy may also be greatly affected by the site of testing and other factors, such as the "matrix effect" attributable to the characteristics of water used in laboratory applications.

Though the value of PT as an isolated regulatory measure is debatable, an approach that integrates education with regulation has been supported by many laboratorians and regulators. The Commonwealth of Pennsylvania, for example, which sponsors a PT program for physician offices emphasizing education, is recognized as a national leader among regulatory programs for in-office labs.

Current PT Participation. Nearly 13,000 laboratories are already operating under Federal PT requirements as hospital and independent laboratories subject to Medicare and CLIA 67 regulations issued on March 14, 1990. These regulations require successful participation in a quarterly, five-challenge program.

Many other laboratories are either voluntarily enrolled in a PT program as part of their own quality assurance efforts, or as a result of State requirements. While it is unclear how many laboratories fall into these categories, evaluation of data from the American Association of Bioanalysts, College of American Pathologists, and State programs indicate that perhaps 8 to 11 percent of physician office laboratories in the country are currently enrolled in some form of PT program.

CLIA's Impact on PT Providers. Though some of the larger PT providers have indicated they will be ready to handle the increased workload resulting from the final rule, some admit that preparation of enough samples, reagents, test kits and surveys may prove problematic without sufficient lead time. Industry discussions indicate that the time needed to implement a major program change is usually a minimum of 15 to 18 months. Such lead time allows for proper planning, effective use of computer programming staff, appropriate software and hardware purchases, and preparation of new materials and user literature. The shorter the lead time, the higher the costs.

Changes in the composition, packaging and pricing of proficiency test kits are a likely consequence of the final rule. Most PT programs package multiple, like-specialty test materials into PT kits that generally meet the needs of the majority of their customers. A laboratory may, therefore, receive more PT materials than it requires. As a result of CLIA, there will be increased demand for the creation of menu-type order forms, with which laboratories can select specific PT analytes germane to their operations. This would benefit small and specialized laboratories performing only a few tests. PT program representatives note that such a development would increase PT costs.

For those specialties that require a mix of tests due to the extensive testing they perform, different PT requirements apply. Providing such a representative mix three times a year will assure the full range of tests for which proficiency testing is required is actually performed. However, for small laboratories that perform high complexity testing for a limited number of analytes, it is possible that the mix of tests received from the PT manufacturers for any given testing event will skip tests for the few regularly tested analytes. Since the ingredients of PT test materials cannot be annotated, some laboratories may

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take tests on unfamiliar analytes before discovering that they have received kits that do not contain samples of the analytes they should be tested for. Such laboratories consequently would not be tested according to mandated frequency. Program testing procedures will have to be able to detect such testing outliers and to make adjustments in order to assure that no laboratory goes untested. This dilemma will not be easily resolved unless the menu or shopping-list PT approach is offered, or special kits are prepared for special testing situations.

The re-tooling effort and costs for established PT manufacturers is affected by their earlier investment in operational changes made to accommodate the quarterly, five challenge requirement of the March 14, 1990 rule. Software was reprogrammed, new computers were purchased, and program materials redesigned and reprinted. We believe that this gearing up leaves PT providers more capable of addressing the new demand to result from the final rule.

Although we expect that there will be some PT expense reductions for currently regulated laboratories, we do not anticipate that the final rule's 25 percent reduction in the number of the testing events will translate into a corresponding 25 percent reduction in the PT costs of currently regulated laboratories.

One of the most frequently voiced complaints about currently approved PT programs is that they have been unable to return test results in a timely fashion. For PT results to be used effectively as both an educational tool and an indicator of problems, laboratory management must receive results well before the next scheduled testing event. The laboratory director must have adequate time to analyze results; to consult with technicians, peers, PT providers, and manufacturer representatives, as necessary, to determine the sources of problems; and to initiate remedial training or other needed corrective actions. Currently, many laboratories report that their test results arrive after they have started the next round of proficiency testing. The lessening of the PT standard to a three-event per year requirement, in conjunction with the phase-in period of the final rule, could help to alleviate this situation.

Patient Test Management

The final rule:

- Requires laboratories to have and follow written policies on patient record preparation, specimen collection and handling, and referrals;
- Sets test requisition and specimen records standards;
- Establishes test reporting requirements; and
- Sets test referral standards.

It is assumed that all hospitals, all independent laboratories, and 50 percent of non-waived POLs and other laboratories currently meet the requirements of the final rule. The estimated number of remaining CLIA laboratories that will incur expenses for these requirements is displayed in the table below.

PROJECTED NUMBER OF LABORATORIES INCURRING FINAL RULE PATIENT TEST MANAGEMENT COSTS

	Low assumption	Intermediate assumption	High assumption
POLs	52,300	65,000	70,000
Other	27,500	33,500	48,500
Total	79,800	98,500	118,500

Non-Recurring Costs. To calculate the costs of developing written policies, we assume that each laboratory will devote an average of four labor hours, at a cost of $20 per hour, to this activity. Development of these policies is assumed to be a one-time cost.

DEVELOPMENT OF WRITTEN POLICIES: NON-RECURRING COSTS

[Dollars in millions]

	Low assumption	Intermediate assumption	High assumption
POLs	$4.2	$4.9	$5.3
Other	2.2	2.5	3.7
Total	6.4	7.4	9.0

Recurring Costs. We estimate that "other" laboratories will incur an average of $400 per year in additional storage costs to meet the final rule requirements for storage of test requisitions, testing records, and test reports. For the average POL, added storage costs are assumed to be negligible, as the existing patient record/folder is the usual storage medium for test reports.

We also project that two hours per year, at $20 per hour, will be devoted to updating and revising written procedures in both POLs and other laboratories.

PROJECTED ANNUAL RECORDKEEPING AND PROCEDURE REVISION COSTS

[Dollars in millions]

	Low assumption	Intermediate assumption	High assumption
POLs	$1.0	$1.2	$1.3
Other	11.4	13.4	$9.4
Total	12.4	14.6	20.7

Non-Selected Option. In contrast to the widespread agreement on the need for written procedures and manuals in laboratories employing relatively large numbers of workers, there is a lack of consensus on the need for such documents in small laboratories. In particular, there are questions surrounding the necessity of written procedures in physician office laboratories, especially when a physician is the only person involved in the testing process. The costs of CLIA patient test management requirements could be greatly reduced through the exemption of small laboratory providers, defined either in terms of annual test volume or number of laboratory personnel. However, we believe that current operating manuals—tailored in detail and scope to the needs and practice of each individual laboratory—are a necessary component of any laboratory operation, regardless of size.

Quality Control

The final rule sets Quality Control (QC) standards for laboratories performing tests of moderate and/or high complexity. In accord with generally accepted definitions, the regulations distinguish quality assurance from quality control. Quality control is defined as "those standards required to monitor and control the quality of the analytical testing process to assure the accuracy and reliability of the patient test result," although the final rule does include equipment and facility standards as part of quality control. Quality assurance embraces a comprehensive view of the test process, including quality control, patient test management, proficiency testing, and personnel standards.

The rule establishes quality control standards in the following areas:

- Test methods and equipment.
- Adequacy of methods, equipment, supplies, and facilities.
- Equipment maintenance and function checks.
- Procedure manual contents.
- Validation of methods.

- Frequency of quality control.
- Remedial action.
- Quality control records.

In addition to these general laboratory requirements, the rule establishes individual quality control requirements for specialized laboratory services, including cytology, hematology, microbiology, and others.

Quality control requirements in the NPRM were based in large part on the regulations for Medicare and CLIA 67 clinical laboratories published on March 14, 1990. The NPRM added additional requirements for ventilation, specimen storage, and power supply, and eased requirements for the quality control of electrophoresis and thin layer chromatography. The NPRM, of course, departed dramatically from the final rule of March 1990 in proposing regulations for all U.S. laboratories performing human testing, not only for Medicare hospitals and independent laboratories, or laboratories engaged in interstate commerce.

We received about 700 comments opposing the quality control conditions of the NPRM. Most of these expressed the opinion that the burden of the proposed requirements would be excessive to small laboratories. The Health Industry Manufacturers Association (HIMA) estimated that compliance with NPRM quality control requirements could cost a solo practitioner from $40,000 to $90,000 per year, depending on the type of testing the physician conducts (HIMA, 1990). The American Society of Internal Medicine estimated more conservatively that quality control requirements would cost the average physician office lab about $500 per year—about $50 million for the physician office laboratory industry as a whole (ASIM, 1990).

Costs of the Selected Option

It is clear from wide differences in the cost estimates developed by HIMA and ASIM that varying opinions exist about how quality control provisions in the NPRM would affect the clinical laboratory industry. Difficulties arise from the dearth of data about the number of laboratories affected—what kinds of laboratories they are, what types of tests they perform, how many tests they do—and from honest differences in interpretation of the rule. Rapid technological and marketplace changes in the clinical laboratory industry only exacerbate the difficulty of estimating the economic costs of the rule.

The final rule greatly modifies the QC requirements of the NPRM, most notably by limiting the required number of controls and calibrations that laboratories must perform, and allowing laboratories to follow manufacturers' protocols. Consequently, we expect the administrative burden on small laboratories to be vastly reduced.

In order to estimate the costs of these provisions, we assume that all independent and hospital laboratories already meet the standards of the final rule. Although some of these providers might adjust their procedures, particularly documentation protocols, after implementation of the rule, we assume for the purposes of this analysis that the costs of these adjustments will be negligible.

The remainder of the laboratory universe potentially affected by the final rule consists of physician office and other laboratories. We assume that some physician office laboratories already comply with final rule quality control standards, and have estimated the incremental costs attributed to labs who are currently not in compliance. Because we know little about currently non-regulated laboratories not located in physicians' offices, we decided to treat them in the same way.

There is a lack of reliable data with which to construct physician office QC estimates. A widely quoted survey of family physicians in Ohio and North Carolina (Wilderman and Schneider, 1986) reported that about 44 percent of responding physicians a quality control program in place. Our review of physician office laboratory literature and discussions with industry experts lend credence to the data reported in this survey. We assume, conservatively, that 50 percent of all physician office and other laboratories currently have in place a quality control protocol rigorous enough to meet the standards applied by the final rule. We also assume that those office laboratories that do have quality control in place substantially satisfy the requirements of the final rule. Of the remaining 50 percent of physician and other office laboratories that do not have in place a comprehensive quality control system, we assume that a portion of them meet some of the quality control requirements. These assumptions will be discussed more explicitly below.

To estimate the costs of running quality control, we first reviewed professional and technical literature, but were unable to find any recent studies of the cost of running a quality control program. Kenney and Greenberg reviewed several studies estimating that large, commercial laboratories spend from 8 percent to nearly 30 percent of total operating expenses on quality control activities (Kenney and Greenberg, 1986), but we did not feel these estimates were reliable enough to use in our model. Instead, we constructed two HCFA models of a "typical" physician office laboratory.

Based on staff experience and reviews of surveys conducted by the American Academy of Family Physicians and others, we divided the universe of physician office and other laboratories into two groups. Group A comprises those small physician office labs that perform a very limited number of tests—none requiring sophisticated instrumentation. We estimate that approximately two-thirds of all physician office laboratories subject to CLIA standards will fall into this group. Group B comprises those physicians who may have simple, bench-top instrumentation such as a chemistry analyzer, and who perform slightly more sophisticated tests. These tests may include urine pregnancy tests, hematocrits, and blood chemistries, among others. We assume that test volume is low—less than 25 tests per day, on average.

PROJECTED NUMBER OF LABORATORIES SUBJECT TO QC COSTS AS A RESULT OF THE FINAL RULE

	Low assumption	Intermediate assumption	High assumption
Hospitals	0	0	0
Independent Labs	0	0	0
POLs	52,300	65,000	70,000
Other	27,500	33,500	48,500
Total	79,800	98,500	118,500

We estimate that in the first year of CLIA implementation, the total costs of laboratory compliance with the quality control provisions of the final rule will be $600 million. Of this total, recurring costs are projected to be $587 million a year, and non-recurring costs $13 million.

PROJECTED ANNUAL (RECURRING) QC COSTS OF THE FINAL RULE

[Millions of dollars]

	Low assumption	Intermediate assumption	High assumption
Hospitals	$18	$20	$23
Independent Labs	18	20	23
POLs	305	361	389
Other	155	166	268
Total	496	567	703

The assumptions utilized in these costs projections are outlined below.

OL
57
SS
40
FE
28
992
UMI

Test Methods and Equipment. We assume no significant cost associated with complying with this section.

Procedure Manual. Because the final rule allows manufacturers' instructions to be used in the procedure manual, we estimate that evaluating written instructions and assembling procedure protocols for the small number of procedures these labs perform would require 4 only hours labor annually, at a cost of $60 per lab per year. We estimate the cost of updating the documentation each year to be $30 per lab, assuming two hours per year per lab.

Method Performance Verification. We assume that laboratories will have to conduct formal validation procedures, following National Committee on Clinical Laboratory Standards (NCCLS) protocols, only for those tests introduced in the laboratory after the effective date of the final rule. We assume, therefore, that the cost of complying with this section is negligible in the first two years. In subsequent years, the cost of validation studies is difficult to estimate because of the likelihood of significant technological and marketplace changes.

Equipment Maintenance and Function Checks. We believe laboratories should already be following manufacturers' maintenance recommendations, and that no additional costs will be incurred in complying with the requirements of this section.

Calibration, Recalibration, and Calibration Verification. We assumed that laboratories will recalibrate at least once every six months, the minimum amount prescribed by the regulation, although many manufacturers of test equipment prescribe more frequent calibration. We assume that the cost of recalibration for labs performing simple, non-instrumented tests, is negligible. For other labs, we calculate that the cost will be $315 per lab per year based on laboratories' performing calibration twice a year on three different tests.

Control Procedures. We do not have data indicating the portion of laboratories that run control samples regularly. We assume conservatively that half of all laboratories do not run daily controls. We estimate that labs that conduct simple tests without instrumentation will run a total of 4 quality control samples daily. We assume that the supply cost for these tests is negligible, but that quality control runs will require one-half hour of labor each day. We assume an hourly rate of $15. With overhead included, total yearly quality control cost per lab is estimated at $3,000.

We estimate that labs performing more complex tests will spend nearly $10,000 each per year to perform control procedures. This estimate assumes that labs will spend one hour each day performing quality control on four different types of tests. The total labor cost per day is about $22, including overhead; the remainder of the daily cost, about $16, includes the costs of supplies.

Remedial Actions. We estimate that the costs for laboratories performing simple, non-instrumented tests, will be slight. We estimate that some laboratories performing quantified tests using instruments might have to carry out remedial actions, but we have no reliable way of estimating the cost associated with this provision.

Quality Control Records. We estimate that the cost of compliance is $50 per year, per laboratory. We assume that all documentation of quality control efforts may be kept adequately in binders or in one file drawer. This cost estimate reflects the cost of one file drawer purchased each year.

Manufacturers' Costs. FDA estimates that manufacturers of clinical laboratory equipment may choose to carry out quality control validation studies for about 5,000 to 9,000 clinical laboratory devices currently on the market. In addition, the FDA expects that about 1,000 new devices will be marketed each year. Manufacturers will need to develop quality control protocols for these.

It is difficult to estimate manufacturers' costs for developing and validating quality control protocols, in large part because manufacturers' costs will be offset by market advantages associated with having validated quality control protocols and by lower costs to laboratories who are able to follow manufacturers' instructions rather than developing their own.

The expenses associated with FDA review of manufacturers' data and protocols will be financed through laboratory user fees discussed previously.

Cost Estimates for Quality Control by Specialty. We received about 250 comments on quality control for specialties and subspecialties. The NPRM proposed no changes of substance from the final rule for Medicare and CLIA 67 laboratories published on March 14, 1990. The final rule adopts FDA standards for testing of blood collected for autologous transfusion, and permits laboratories to follow manufacturers' quality control procedures for many types of automated tests.

We have counted increased costs associated with microbiology, routine chemistry, and hematology in the general quality control costs counted above, because of the small volume of tests that physician office laboratories perform.

We estimate that the costs of cytological laboratory compliance consist of the additional burden of collecting and analyzing workload and case data, and of reviewing slides of pre-malignant and malignant cases. We estimate the burden to be $5,000 per year per lab. We assume this to be a new cost for all laboratories.

We are estimating that the cost of rescreening 10 percent of all negative slides will be $20 million. Although this level of rescreening of negative slides appears to be a common quality control practice, there is a strong difference of opinion among pathologists about its merits or cost effectiveness. We therefore cannot assume that implementing this condition is without economic cost. As we are unable to estimate the number of laboratories currently following this practice, we assume this to be a new cost for all laboratories.

Non-Selected Options

A number of NPRM comments questioned the utility of applying strict quality control procedures in physician offices, arguing that clinical test accuracy must be viewed and understood in the larger context of the clinical question. Precision may be less useful than timeliness in some clinical settings. To this end, an emphasis on the management of quality control in the context of the clinical setting may be clinically more useful than an application of strict, QC process controls.

HCFA and PHS did not pursue any regulatory options that might be drawn from this approach. While such options might be less costly to the laboratory industry, we decided that to achieve CLIA objectives regular, documented QC protocols must be a component of the integrated quality assurance program of the final rule complexity model.

Personnel Standards

The final rule sets standards for personnel who direct, supervise, perform, and assist clinical laboratory testing and related activities.

There are no personnel requirements for waived laboratories beyond the general final rule requirement that they use appropriately qualified individuals, and adhere to sound laboratory practices and applicable Federal, State, and local laws. Laboratories certified to perform tests of moderate complexity must meet requirements for the positions of:

- Laboratory Director.
- Technical Consultant.
- Clinical Consultant.
- Testing Personnel.

Laboratories certified to perform tests of high complexity must meet requirements for the positions of:

- Laboratory Director.
- Technical Supervisor.
- Clinical Consultant.
- General Supervisor.
- Cytology General Supervisor.
- Cytotechnologist.
- Testing Personnel.

Costs of the Selected Option

We project the personnel costs of CLIA regulation in three components: Consultant expenses, educational expenses of laboratory directors, and the payroll cost inflation attributable to comprehensive Federal personnel standards.

Consultant Expenses. In a major change from the NPRM standards, the final regulations set requirements for technical and clinical consultants. Laboratories may fulfill these requirements in two ways: through the assumption of the consultant(s) role(s) by a qualified laboratory director, and/or through the retention of an external consultant(s).

To estimate the costs of consultant requirements, we assume that 25 percent of laboratories performing tests of moderate complexity will retain paid consultants, at an average annual expense of $1,000 per laboratory per year. We assume that 50 percent of all non-hospital, non-independent laboratories performing tests of high complexity will retain paid consultants, at an average annual cost of $1,500 per laboratory per year.

CONSULTANT EXPENSES

[Dollars in millions]

	Low assumption	Intermediate assumption	High assumption
POLs	$31.6	$37.3	$40.2
Independent	16.4	19.3	27.9
Total	48.0	56.6	68.1

Director Educational Expenses. The final regulations permit laboratory directors of moderate complexity laboratories who are not pathologists, or who do not have 1 year laboratory director or supervisory experience, to fulfill director requirements though 20 credit hours of continuing medical education. We assume that 10 percent of the directors of moderate complexity laboratories will require some formal training in laboratory science to meet the requirements of the final rule. It is assumed that the unit cost of this additional training will be approximately $1,500 per year. This assumption is based on the average university training cost for 4 semester-hours of instruction. It is also assumed that this cost would be covered by the laboratory.

DIRECTOR EDUCATIONAL EXPENSES

[Dollars in millions]

	Low assumption	Intermediate assumption	High assumption
POLs	$14.0	$16.6	$17.8
Independent	7.3	8.5	12.4
Total	21.3	25.1	30.2

Personnel Cost Inflation. We assume that the most significant expense resulting from CLIA personnel standards will be the general inflation in employee salaries and related costs attributable to the tighter labor market resulting from comprehensive Federal credentialing and personnel requirements.

In order to assess the potential economic consequences of payroll inflation, we constructed a simplified current laboratory personnel expense baseline, using data collected from:

- The Statistical Abstracts of the United States
- The States of Pennsylvania, Maryland, California, New York, and Ohio,
- The Bureau of Labor Statistics,
- Scientific and professional literature, and
- Interviews with laboratory professionals.

We estimate that the U.S. may currently spend somewhere between $16.7 billion and $21.3 billion per year to support clinical laboratory personnel, including expenditures for salaries, benefits, training, continuing education, and related costs.

There is no clear understanding of the inflationary impact of CLIA regulations upon specific components or personnel categories of this labor market. We concluded, therefore, that the most useful approach to estimating this impact is to assess a range of effects across the market as a whole.

The table below projects incremental CLIA inflationary impact according to three assumptions of annual personnel cost increases: one-half percent, one-percent, and two percent.

PERSONNEL COST INFLATION ATTRIBUTABLE TO CLIA

[Dollars in millions]

Annual inflation assumptions	Personnel costs baseline assumptions		
	Low: $16,700	Intermediate: $18,400	High: $21,300
Low: ½% increase	$83.5	$92.0	$106.5
Intermediate: 1% increase	167.0	184.0	368.0
High: 2% increase	334.0	368.0	426.0

Total Personnel Costs. We estimate total personnel cost increases attributable to CLIA regulations will range from $153 million to $524 million per year. The following table displays the combined effects of consultant, education, and personnel expense inflation costs, distributed by type of laboratory.

TOTAL CLIA PERSONNEL COSTS

[Dollars in millions]

	Low assumption	Intermediate assumption	High assumption
Hospitals	$16.1	$35.3	$81.8
Independent	13.7	30.3	70.1
POLs	75.4	119.4	209.7
Independent	47.6	80.6	162.6
Total	152.8	265.6	524.2

Non-Selected Options

The NPRM Standards. We project that the final rule personnel standards will be far less costly than the NPRM standards, but we have not estimated the costs of the proposed rule.

No Consultants in Moderate Labs. One non-selected option would be to not require the position of consultant in laboratories performing only tests of moderate complexity. Such an option could reduce the costs of the final rule personnel costs model by $35 million to $50 million per year. However, we believe that consultant requirements of the final rule will do much to address the perceived deficiencies of physician laboratory practice, and to meet Congressional intent, which was clearly concerned with physician office laboratories.

Personnel Standards in the Clinical Laboratory Market

Personnel standards are perhaps the most controversial feature of laboratory regulation. CLIA does not specify detailed requirements for laboratory personnel. However, in a hearing before

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the Senate Committee on Labor and Human Resources on proposed revisions to CLIA, the Committee was forceful in its statement of the need for detailed standards for the various levels of personnel employed by clinical laboratories (Senate Report 96–130).

Education and academic credentials have been widely used by the laboratory community and regulators as a surrogate predictor of good laboratory performance. The empirical basis for this practice, however, is mixed. There is an economic incentive for laboratory specialists to try to limit the available labor pool of laboratory personnel to individuals with academic degrees. Given the law of supply and demand, a limited labor pool results in higher wages than would be the case if the supply of eligible workers included individuals whose formal laboratory training was not obtained in academic, degree-granting programs. Tight labor markets, however, produce undesirable consequences for clinical laboratory workers and managers in the form of longer hours and higher levels of stress. This may be a particular problem in public health care systems which may not have funds to raise salaries or attract qualified personnel.

The CLIA statute avoids reliance on formal education and academic credentials and requires comprehensive personnel standards based on consideration of competency, experience, job performance, and training, with formal education being but one component. The person in charge of the laboratory must possess knowledge of laboratory science commensurate with the range and sophistication of the testing being performed, and be capable of maintaining quality services. The Secretary is charged with determining what specific qualifications are necessary and sufficient to satisfy these objectives.

CLIA also directs that laboratory standards be developed with consideration of the methodologies used, the judgement needed, the interpretation required, the difficulty of calculations, quality control requirements of the instruments, and "such other factors" as are relevant. These considerations form what is commonly referred to as the "complexity model" of laboratory regulation.

Most respondents to interviews about laboratory regulation support the concept of personnel standards. In general, there is substantial agreement that training of directors, supervisors, and testing personnel is an essential feature of any quality assurance program. However, there is considerable disagreement concerning specific levels and types of training and certification that should be required for each job category.

There is currently a multiplicity of personnel requirements for clinical laboratories among the various Federal, State, and private sector licensing, accreditation and inspection programs. Common to these programs are three basic classifications of personnel employed in clinical laboratories: (1) Laboratory directors, (2) supervisory personnel, and (3) testing personnel. Supervisory personnel can be further subdivided into general supervisors and technical or medical supervisors.

Laboratory Director Standards

Governmental and private sector quality assurance programs generally require that the laboratory director hold an earned doctorate in medicine, dentistry, or an appropriate scientific discipline. This is based on the assumption that doctoral level training for directors is the minimum requirement to assure quality performance by a laboratory. This assumption has not been validated through carefully controlled studies.

Under current Medicare rules, services in hospital laboratories not accredited by an agency with deemed status must be under the supervision of a physician with training and experience in clinical laboratory services or a laboratory specialist qualified by a doctoral degree. Director standards issued by the Joint Commission on Accreditation of Health Care Organizations (JCAHO), an accrediting agency, are quite broad. Specificity is added to these standards through "interpretations" which accompany the standards. JCAHO has a provision for nondoctoral directorship of hospital laboratories under certain conditions and allows for a form of dual directorship where a physician is the formal director but actual technical supervision rests with an employee with greater technical knowledge than the nominal director. The College of American Pathologists (CAP) also sets broad director standards and adds specificity with interpretations keyed to the standards. Current State regulations also vary.

Physicians and representatives of physician organizations generally support the requirement that laboratory directors hold a doctorate. However, some pathologists and physicians agree with observations by persons in other segments of the laboratory profession that the primary factor in producing high quality laboratory results has historically been training and professional dedication of the technologists responsible for actually conducting tests. The doctoral directorship requirement is also challenged by bioanalysts and technologists. The American Association of Bioanalysts (AAB) has maintained a long-standing position that a baccalaureate degree is sufficient for director and technical supervisor qualifications under Medicare, and that alternate routes to formal academic qualifications be incorporated into all levels of requirements for clinical laboratory personnel, from technicians to directors.

Some State regulators also challenge the doctoral director requirement. The State of Ohio, for example, requires a bachelor's degree plus five years of relevant experience to qualify a laboratory director. Kenney and Greenberg quote one director of a State regulatory agency for clinical laboratories as saying that director standards are irrelevant and that the key to quality performance is the supervisor. The doctoral directorship requirement continues to generate controversy, with the primary split tending to be along professional and economic lines of interest.

One view expressed by laboratory managers is that medical training, including the pathology specialty, and laboratory scientist training does not necessarily prepare a person to direct a laboratory, because the roles of laboratory directors are so varied. There does not appear to be any generally agreed upon definition of laboratory direction. However, at least three components of laboratory directorship skills have been identified: (1) Technical knowledge, (2) medical knowledge and training, and (3) management knowledge and skill. Some laboratorians view laboratory directorship as an inseparable part of the practice of medicine, while others see the management function as the key to defining needed laboratory director skills.

An intermediate position is that laboratories in large health organizations should be directed or managed by persons with M.D. or Ph.D. degrees. The rationale for this argument is that the prestige that these doctoral degrees confer is necessary to assure effective planning and coordination, but that direct supervision of operations can be placed in the hands of persons with B.S. or M.S. degrees. There is little disagreement that laboratory directors need a substantial level of technical training as a minimum base for directing laboratories, but there is no widespread agreement regarding the specific minimum technical training required (Sheinbach, 1977).

Supervisor Standards

The need for highly trained and professionally dedicated laboratory supervisors and technical personnel below the director level is widely acknowledged in the literature. In general, both certified technologists and doctoral scientists with relevant experience are identified as appropriate persons to supervise clinical laboratories. The traditional importance of trained medical technologists in assuring laboratory quality, either in their roles as formal supervisors or as bench workers are recognized not only by technologists and representatives of technologists' associations but also by pathologists, other physicians, and State and Federal regulators (Carlson, 1982).

There is substantial variation among clinical laboratory regulatory programs in the level of detail of requirements for personnel below the director level. In general, agencies such as JCAHO and CAP have broad, nonspecific standards for supervisory personnel in hospital laboratories, placing responsibility for setting detailed personnel standards within each laboratory with the laboratory director.

Medicare has set personnel standards for independent laboratories and included detailed requirements for technical and general supervisors, provisions for supervision of emergency procedures after normal working hours, and detailed descriptions of the duties and qualification of technologists, cytotechnologists, and technicians. In contrast to Medicare standards, CLIA 67 imposed one set of personnel requirements on all laboratories falling under its jurisdiction whether they are in hospitals or in the independent setting.

The issue of the amount of time a supervisor spends on site raises the general question of the various levels of technical supervision needed to assure acceptable laboratory performance. A study of physician office laboratories conducted by Crawley, et al. in Idaho suggests that supervision of the laboratory was the responsibility of either a nurse, medical technologist, or an individual without formal laboratory training (Crawley, et. al., 1986). Similar findings are common in the literature (Grayson, 1984; McKenzie, et. al., 1985; Gleich and Rose, 1973).

Testing Personnel Standards

There also has been substantial variation among regulatory programs in the level of detail of requirements for personnel below the director and supervisory levels. In general, the voluntary agencies have broad nonspecific standards for technical personnel in hospital laboratories, placing responsibility for setting detailed personnel standards within each laboratory with the laboratory director.

This perspective was reflected in previously detailed standards for Medicare providers for nondirector levels in independent laboratories, including requirements regarding the number of semester hours of university coursework in organic chemistry, biology, and mathematics that a technologist or technician must have completed before qualifying for work in a Medicare laboratory. The option of passing an HHS-approved proficiency examination was another alternate route toward qualification. In contrast to Medicare standards, CLIA 67 did not regulate testing personnel. There have been no distinctions between hospital and independent laboratory personnel standards under CLIA 67.

Among the States, there is considerable variation in personnel standards for supervisors, technologists, technicians, and other laboratory employment categories. Most States do not recognize certification provided by other States. Laboratory personnel certified as technologists or supervisors in one State may be prohibited from working at comparable jobs in other States because they are unable to qualify for equivalent certification. California requires licensure and sets examination requirements for fully licensed clinical laboratory technologists, limited to specific specialties and specific trainees. Its regulations also specify activities in which unlicensed personnel may engage. On the other hand, Pennsylvania sets no specific qualifications for clinical laboratory technologists. Laboratory directors are responsible for determining the qualifications of personnel below the technologist level.

Empirical Data on the Personnel Environment

Most professional laboratorians can agree with general Statements regarding the roles of technical laboratory personnel. However, there is a growing understanding that the traditional division of labor in clinical laboratories requires some study and adjustment as a result of advances in laboratory medicine and technology.

In an extensive article by Gaumer reviewing the empirical literature on the topic of regulating health professionals, evidence supports the conclusion that credentialing does not reflect a link between educational experience and subsequent on-the-job performance. According to Gaumer, these credentials simply certify the ability of the entry-level worker to become competent (Gaumer, 1984).

If Donabedian's classic typology of structure, process, and outcome is applied to clinical laboratory quality assurance, one element of "structure" could be defined as the credentialing or licensing of laboratory personnel and the educational and experience levels required for such certification. In addition, a definition of structure must include specifications of certain physical aspects of the laboratory, its equipment, and who can operate it.

In an empirical study designed by Peddecord and Taylor to analyze descriptive relationships between laboratory performance and structural variables (education, training, experience, professional certification, and work patterns of directors in interstate laboratories), few statistically significant relationships were found (Peddecord and Taylor, Undated). Peddecord asserts that clinical laboratories should be viewed as a cluster of unique smaller laboratories unified under one management system and implies that specific regulation for one specialty area may not be appropriate for other specialty areas.

According to Peddecord, "the best empirically supported strategy for improving performance is specialization of both supervisors and technical personnel, by reducing the number of specialty areas in which technical personnel work or supervise." Peddecord also argued that the results of this study reinforce the value of regulation of clinical laboratories (Peddecord, unpublished). Various studies were conducted by Kenney in the State of California, suggesting that a doctorate is not a necessary condition to assure acceptable laboratory performance (Kenney, 1981). In fact, regulated, non-doctoral directed full-service laboratories consistently performed at higher levels than unregulated laboratories in physicians' offices. This offered tentative evidence that regulatory systems are effective in assuring minimum levels of laboratory performance and, therefore, in providing presumptive public health protection. There is a widely held but previously untested belief that the quality of work in laboratories is in part a function of the scope of services offered by the laboratories. This belief holds that laboratories providing a broader range of services will be forced to hire more highly trained and experienced personnel than laboratories providing limited services and that they will be able to afford (and will therefore use) more sophisticated, reliable testing equipment and methods.

A follow-up study conducted by Kenney and Greenberg found that there was often a statistically significant relationship between the scope of services provided and laboratory performance. This relationship was most visible in unregulated laboratories. Kenney and Greenberg also found that there was no pattern of statistically significant differences in performance between full-service regulated hospital laboratories and full-service regulated non-doctoral directed independent laboratories. Schaeffer has conducted supporting studies (Schaeffer, et. al., 1967).

This limited evidence suggests that it is quite possible that the JCAHO and CAP approach to setting non-specific personnel standards for employees below the director level is appropriate. Results of this study also imply that the non-doctoral directed regulated independent laboratories performed at a somewhat higher level than unregulated physicians' office laboratories when compared to laboratories offering a similar scope of services. Two conclusions may be drawn from this comparison: (1) A doctorate is not necessary to assure laboratory performance, and (2) regulated laboratories perform at higher levels than unregulated laboratories.

Credentialing and Economic Effects

Entry level competence, or evidence indicating that workers have the necessary minimum training and/or experience to allow them to begin performing at a specified level, is at the core of professional, economic, and political controversy regarding personnel standards. Credentialing or certification of laboratory personnel is the method traditionally used to certify entry level competence for various levels of the workforce.

The primary public justification for private and governmental credentialing or certification requirements in clinical laboratories is to assure professional competence and laboratory quality. Social and economic considerations must include the fact that a natural result of personnel regulation is restricted entry into professions. These barriers to entry artificially sustain wage rates at a level higher than the market equilibrium rate. In addition, there are a number of indirect costs associated with personnel regulation. These indirect costs include higher training requirements, more rigid standards, and lower occupational mobility.

While licensure and personnel standards theoretically may benefit the public, their critics note that these laws also strengthen professional control and, by reducing competition, produce extra economic benefits for the occupations involved. The critics also point out that where serious quality problems exist, alternative solutions may exist for dealing with them. Instead of regulating the practitioners, for instance, it may be more efficient to monitor the quality of services they provide.

Inspections

CLIA requires the Secretary to conduct inspections of laboratories to determine compliance with applicable requirements. Inspections are to be conducted on a biennial basis, or with such other frequency as the Secretary determines to be necessary.

The final rule includes requirements for inspections of laboratories issued a certificate of waiver. HCFA will conduct inspections of laboratories issued a certificate of waiver in order to determine that such laboratories are performing only waived tests, to investigate complaints, to determine that laboratory testing is being performed in an acceptable manner, and to collect information for use in on-going evaluations of the listing of waived tests. HCFA plans to annually conduct such inspections on a 5 percent sample of waived laboratories.

We will also conduct inspections of laboratories not issued a certificate of waiver. HCFA will inspect, on a biennial basis, all non-accredited, non-State-exempt laboratories performing tests of moderate and/or high complexity. In addition, HCFA plans to annually inspect a 5 percent sample of laboratories accredited by HCFA-approved accrediting bodies, and a 5 percent sample of State-exempt laboratories.

Costs of the Final Rule

The costs of conducting inspections will be paid by fees assessed under the authority of subsection (m) of CLIA. Laboratories performing moderate and/or high complexity tests will pay biennial compliance fees according to an eleven category fee schedule based on laboratory annual test volume and number of specialties. These fees will range from $300 for a laboratory of very small volume, to fees in excess of $3,000 for laboratories performing more than one million tests per year.

We assume that the annual costs of conducting inspections will equal the annualized level of projected biennial fee collections. It assumes no accredited or State-exempt status. The following table presents current HCFA projections of compliance determination fee collections.

ANNUALIZED PROJECTED COMPLIANCE DETERMINATION FEE COLLECTIONS

[Dollars in millions]

	Low assumption	Intermediate assumption	High assumption
Hospitals	$7	$7	$7
Independent	5	5	5
POLs	73	86	92
Other	31	37	53
Total	$116	$135	$157

In addition to HCFA costs, it is assumed that inspected laboratories will also incur costs as a result of inspections, including costs attributable to devoting staff time to the inspections, primarily laboratory director hours spent with HHS surveyors.

Non-Selected Options. The compliance fees discussed above reflect HCFA projections of the number of hours required to perform complete inspections for CLIA requirements, based on a provision-by-provision review of final rule standards by a panel of experienced State and Federal laboratory surveyors and supervisors. One alternative to this selected approach would be to arbitrarily limit the number of hours to be devoted to each survey, and structure user fees accordingly. Using such a target approach, rather than the zero-based approach of the selected option, we could have set fees at a reduced level—for example, one-half of the current fees. In such a scenario, the costs of CLIA inspections could be one-half of the current projections. This approach, however, would limit our ability to fulfill our statutory mandate to survey each laboratory for compliance with CLIA requirements.

Laboratory Review and Analysis of Final Rule Requirements

Entities subject to CLIA will incur significant expense in reading and analyzing pertinent sections of CLIA regulations. To ease this burden, HHS will provide educational and informational materials to laboratories. We estimate that the average laboratory performing only waived tests will devote 2 hours of laboratory director time to reading and analyzing CLIA materials, and that each moderate and high complexity laboratory will expend an average of 8 laboratory director hours. This will result in national non-recurring costs ranging from $61 million to $81 million dollars.

Benefits of the Final Rule

In attempting to assess the potential benefits of CLIA regulation, it is first necessary to define the expectations of the statute. The House Energy and Commerce Committee report on CLIA presents the logic of the legislation's framers:

- Accurate and reliable testing is vital to the public health of all Americans;
- Current regulatory standards and procedures fail to protect public health and welfare and fail to eliminate burdens on interstate commerce; and
- Federal regulation is reasonable and appropriate to promote public health and welfare and to protect interstate commerce.

The committee report further suggests that "patients expect such tests to be done properly and rely heavily on others to make sure that is the case. Patients assume, quite reasonably, that their interests and the public health are being protected by appropriate governmental agencies."

Projecting the potential public health benefits of CLIA is not a simple task. Kenney and Greenberg, in a 1986 report to HHS on the issues surrounding regulation of clinical laboratories, address one of the key hurdles of this undertaking, which is definitional. "Statements linking legislation regulating clinical laboratories to the protection of public health are common * * *. However, public health in the clinical laboratory context is an undefined term." Quality, they argue, is measured "operationally" by accuracy and precision through proficiency testing and quality control programs.

There are three broadly-recognized dimensions to health care: quality, access, and cost. In discussing the benefits of laboratory regulation in terms of improvement of testing quality, there is widespread agreement that quality must be balanced with preservation of access to lab services, as brought home by public comments to the NPRM.

Assigning an economic value to CLIA's attempt to protect the public health through laboratory regulation is problematic, at best. We broadly searched available literature for cost-benefit, cost-effectiveness, or other potentially useful studies of laboratory regulatory or health improvement programs. There is little scholarship and research on the subject. In our analysis, we used the relatively few studies available, but these generally are applicable to isolated topics, and not to a comprehensive regulatory program. Moreover, there exists no irrefutable evidence demonstrating that the performance of clinical laboratories, or public health status, will improve tangibly under regulation. Nonetheless, the majority of scholarly opinion and available research suggests benefits will be derived through Federal regulation.

Any attempt to quantify the benefits of an unimplemented, major public health program is inherently highly speculative. This analysis relies upon two, separate quantitative methods to project the potential benefits of the final rule:

- A willingness-to-pay projection, using a technique employed by economists to estimate the benefits of programs with ill-defined impact, and
- A projection of national health care expenditure cost avoidance resulting from early intervention and reductions of unnecessary treatments.

While both of these analytic methods have shortcomings, we concluded that they are the most useful approaches to the problem at hand. The presentation of two, discrete projections is our response to the unreliability of any one approach.

Economic Rationale for Federal Intervention

The HHS *Handbook on Developing Low Burden and Low Cost Regulatory Proposals* presents a basic guide to the requirements for assessing regulatory impact. Among the issues which merit consideration in analysis is the need for "emphasizing private market forces whenever feasible." Additionally, the Regulatory Program of the United States Government 1990–91 specifies that agencies must evaluate the existence of a "market failure" as a necessary prerequisite for Federal intervention.

There are four basic reasons that a competitive market may fail: incomplete information, market power, externalities, and public goods. The perceived failure of the clinical laboratory market may be attributed, in varying degrees, to all four of these reasons.

Incomplete Information. The suppliers of laboratory tests have vastly better information and understanding about the quality of and need for clinical tests than patients do. This type of situation, which economists refer to as asymmetric information, often leads to market failure. More broadly, some degree of market failure is inherent in the entire health care industry, where consumers generally are relatively uninformed, and reliant upon the actions of suppliers of goods and services.

Market Power. Market power may be defined as the control a firm has over price and production decisions in a market. Crane raises the specter of market power as a reason for the failure of the clinical laboratory market. The monopolistic positions of physicians as primary test-orderers in this market gives them market power. This market power in turn leads to inefficiencies in quantity (number of tests) and price in the physician segment of the supply side of the market.

Externalities. An externality affects individuals or entities beyond those willingly involved in a market transaction. Negative externalities that affect consumers who are not direct participants in the clinical laboratory market predate CLIA. By largely avoiding regulation of the physician segment of suppliers in this market, regulatory agencies contributed to presence of unnecessary quantities of tests and of inflated test prices. All consumers have borne the brunt of the costs of this inefficiency, while physician-suppliers have reaped the benefits. Therefore, these private costs have not been in balance with the social optimum for production.

Public Goods. Federal regulation of laboratories is non-exclusive. That is, there is no way to provide this service, as with other services like national defense, to the public without

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potentially benefitting everyone. As such, lab regulation may be called a public good.

In theory, "the efficient level of provision of a public good is determined by comparing the marginal benefit of an additional unit to the marginal cost of producing the unit" (Pindyck and Rubinfield, 1989). While there are Congressional statements and media presentations of recognized need, there is a deficit of studies of consumer demand for laboratory regulation.

Projected Public Health Benefits: Willingness-To-Pay

Many different policy analysis tools and techniques have been used by Federal agencies to project and evaluate programmatic impact that is ill-defined or difficult to measure. In the health arena, efforts to measure improvements based on equivalent measurements for the value of life have been used widely. Some health policy analysts have noted the use of the Discounted Future Earnings (DFE) method, which uses life-expectancy and future earnings expectations discounted to present value, by the Department of Health, Education and Welfare in the 1960s. This method, and other comparable approaches, have been employed by many governmental agencies since that time.

The willingness-to-pay (WTP) method holds more promise for evaluating CLIA regulation. In such an analysis, individuals would be asked to make an informed judgment about how much they were willing to pay to avoid risk of illness or death. There are, of course, considerable limits inherent in this approach. With these limitations in mind, this analysis uses a WTP model to project, in dollar terms, a range of potential valuation of CLIA regulation. When considering this model, it is important to note that assuming consumers would value a potential reduction in health risks is not the same as asserting these risks will be measurably reduced by the implementation of CLIA.

For this model, the number of total potential consumers of regulated laboratory tests is assumed to equal the number of U.S. households or families. Families, instead of individuals, are selected since one member of a family usually makes health care decisions for the entire unit. Moreover, the structure of most insurance options encourages consideration of health care consumption according to number of families rather than individuals.

However, families below the poverty line are unlikely to have discretionary monies to spend on improvement of the quality of their health care. Nonetheless:

> One can grant * * * that the poor should be assured a certain minimum standard of safety and medical care, even if their income is so low that they would not willingly use their money to purchase such services * * *. [Some economists believe] that if the general public is upset because the poor are deprived of a minimum level of life-saving expenditures, then government programs that spend more than the poor would be willing to pay are indeed justified—not by any principle beyond welfare economics, but simply because of the external or spillover benefits to the non poor of life-saving expenditures for the poor (Rhoads, 1986).

Assuming this argument is acceptable, the number of families near the poverty level could be subtracted from the total number of families to obtain a more meaningful WTP model.

According to 1990 Census data, the total number of families in the United States is 65,133,000. Given the current poverty line of $10,563 for a family of four, families making $14,999 or less were subtracted from the total number of families. This computation yields a net approximation of 51,601,000 families with the means to contribute to the costs of Federal regulation of laboratory testing. Ideally, a sample of non-poor families would be asked how much they would be willing to pay for a Federal regulatory program that would improve, to some unknown degree, the accuracy of medical testing in America. Such a sample is beyond the scope of this analysis. Instead, HCFA has projected a potential range of willingness-to-pay responses.

To this end, we assume that estimates of consumer responses may be obtained by expressing willingness-to-pay options as incremental percentage increases to current household spending levels for clinical laboratory services. In order to estimate current spending for laboratory testing, HCFA determined the percentage of the U.S. median family income directed to spending on personal health care. To this amount, we applied the proportion of the U.S. health care dollar spent on laboratory services.

ESTIMATED U.S. SPENDING FOR LABORATORY SERVICES PER HOUSEHOLD

1988 Median Family Income	$30,853
Spending on Health Care, Percent	13.7%
Spending on Health Care, Dollars	$4,227
Spending on Lab Tests, Percent	4.5%
Spending on Lab Tests, Dollars	$190
Conversion to Current Dollars	$221

Sources: Bureau of Census and American College of Surgeons

The willingness-to-pay model uses a range of possible responses to the hypothetical question: "If the average American family currently spends about $221 per year on medical lab tests, how much more would your family be willing to spend per year for Federal regulations intended to improve the accuracy and accountability of laboratories—and thereby perhaps to reduce your family's medical risk?"

Our model assumes that, in response to this hypothetical question, households may be willing to pay anywhere from 5 percent to 25 percent more for laboratory services. This would result in valuations of the benefits of the potential risk reduction ranging from $570 million to $2.8 billion per year.

WILLINGNESS-TO-PAY PROJECTIONS

5 percent more	10 percent more	25 percent more
$570 million	$1.1 billion	$2.8 billion.

This wide range of WTP projections presents one valuation of the CLIA regulatory program. There are many obvious shortcomings to this approach, including the previously-discussed fact that American families are not educated consumers of clinical laboratory tests. Nonetheless, they are directly or indirectly the purchasers of services, and their willingness to pay has utility in assessing the value of a program that will increase their purchasing costs. For all its weakness, WTP is a useful tool, and "when we are dealing with small changes in small risks of death, most economists would support a WTP criterion" (Rhoads, 1986).

Projected Public Health Benefits: Cost Avoidance

As an alternative approach to assessing the benefits of CLIA implementation, we explored potential national health care cost avoidance in three areas:

- Malpractice and Defensive Medicine
- False Positives
- False Negatives

Malpractice Ramifications. While the threat of malpractice suits is to some degree a deterrent to provision of poor quality care, it also encourages "defensive medicine," which places the burden of an accelerating number of laboratory tests, with their accompanying costs and inconvenience, primarily on consumers. On the other hand, running an office laboratory increases physician risks of incurring malpractice claims. This increased risk may reduce incentives for physicians to conduct tests in their own laboratories.

Physician reaction to perceived malpractice risks increases consumer costs while also having adverse effects on access.

Crane notes that "malpractice is not often considered a quality assurance or regulatory mechanism, but its effect may be equal to or greater than that of other more explicit regulatory systems owing to the potential penalties involved for providers" (Crane, 1987).

Could comprehensive Federal regulation of laboratories lessen the quasi-regulatory pressure of malpractice actions? Some analysts think yes, particularly in unregulated portions of the market. Some argue that external quality assurance could reduce liability risks. One approach to quantification of such benefits is to project the reduction of costs attributable to regulations that increase accuracy in laboratory performance.

While attempting this analysis, no data could be located that document malpractice award dollars precisely attributable to laboratory errors. A 1984 GAO report estimates that 24 percent of claims, and 29 percent of dollar awards, result from general diagnostic error. Although the contribution of laboratory tests to general diagnostic error is unknown, it is estimated to equal between 1 and 10 percent of all general diagnostic errors, or between .2 and 3 percent of all dollar awards (GAO, 1987). Total malpractice awards for all types of errors were estimated to exceed $5 billion in 1988. If laboratory error accounted for less than 3 percent of all awards that year, awards resulting from laboratory mistakes would be valued at less than $150 million.

If an improvement in laboratory accuracy from Federal regulation reduced this amount by 1 percent, ensuing savings would have been approximately $1.5 million or less. Because mean award amounts and annual number of claims per physician have been decreasing since 1985, a 1991 amount comparable to this 1988 estimate would be even lower than $1.5 million. While these relatively small dollar figures seem consistent with Belsey's assertion that relative few physician office labs are involved in malpractice suits, the involvement of other types of laboratories in malpractice suits is probably more commonplace (Belsey, et al., 1986).

Factors such as a possible reduction in test ordering due to a relaxing of defensive medicine reflexes are not taken into account in these savings estimates. Such reduction would be thought to ensue if regulation of labs led to improved accuracy and a subsequent reduction in malpractice premiums. However, the balance of scholarship has tended to dispute the association of a reduction in the number of defensive procedures and consumer costs with a reduction in premiums. Additionally, there is no way to demonstrate that regulated status would lead to increases in consumer confidence, decreases in malpractice suits and ensuing reductions in premiums.

The advent of comprehensive Federal regulation may only marginally ameliorate the malpractice crisis by promulgating easily identifiable national standards for laboratory operation. Physicians themselves can be proactive, not just reactive, when it comes to reducing liability in their own labs. Belsey found in a sample of liability cases that careless procedures were the contributing cause and argues that sound protocols will control risk of liability (Belsey, et al., 1986).

Valuation Relative to False Positives and False Negatives. In terms of patient health, the final rule assumes benefits may be derived from two basic improvements in laboratory accuracy: Reduction of rates of false positive and of false negative test results. Reductions in false positives are linked to decreases in spending on unnecessary or inappropriate medical procedures. Reductions in false negative rates are tied to savings brought about by earlier medical intervention and limitation of negative health consequences in provision of appropriate care.

Savings derived from these two results are related to two distinct pools of personal health expenditures. One third of all personal health expenditures is used as the upper bound of estimates for potential savings derived from reductions in false positives. Consequently, two thirds of these expenditures form the lower bound of estimates of savings resulting from lowering the number of false negatives.

Since the assumption that the amount of necessary medical care delivered exceeds the amount of unnecessary care is constant, potential savings derived from reductions in false negative rates would seem likely to exceed those achieved by reductions in false positives in all the following examples. However, this is not the case in this analysis.

This analysis uses higher percentages to model potential savings related to unnecessary care, as opposed those used for necessary care. This choice was made since savings resulting from reductions in unnecessary lab testing are thought to be more likely to result from CLIA implementation than those savings anticipated to result from reductions in false negative rates and concomitant improvements in health outcomes effected during the delivery of necessary care.

Benefits of Reducing False Positives. A false positive result occurs when a test detects disease in a patient that does not actually have disease. False positives can result in unnecessary treatment, as when a falsely positive biopsy leads to unwarranted surgery. In regard to individual tests, the likelihood of getting a true positive when a patient has a disease is referred to as the test's sensitivity.

If the final rule and the CLIA program reduce false positive rates, it is anticipated there would be reductions in unnecessary testing and treatment, and reductions in health care expenditures. HCFA estimates that national expenditures for health care totaled $666.2 billion in 1990. We project that 1991 spending will total $720.8 billion. We estimate that 88 percent of this amount, or $632.9 billion, will fund personal health expenditures.

Using Relman's observation that one-third of all medical treatment is unnecessary, more than $208.9 billion in 1991 expenditures may be attributed to unnecessary care. A more conservative estimate of 10 percent unnecessary care could mean unnecessary expenditures of $63.3 billion; a 20 percent estimate would yield $126.6 billion. These estimates are vulnerable to legitimate skepticism, but they will be satisfactory for calculations of a possible range of regulatory impact. In any case, a more detailed, research-based approach to deriving estimates of unnecessary care is beyond the scope of this analysis.

There is no apparent basis on which to project reductions in false positive rates quantitatively. A review of the available literature yields no supporting research to aid such an undertaking, especially for a comprehensive regulatory program. Rather, in order to estimate a dollar projection of potential savings emanating from a reduction in false positives, this analysis estimates potential percentage reductions in national expenditures for unnecessary care.

Again, there is no established methodology for estimating such savings. It is assumed that a useful, "ballpark" understanding of the potential benefits associated with reductions in the incidence of false positive laboratory tests can be gained by calculating several possible scenarios. The table below presents a range of scenarios for reductions in unnecessary care.

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POTENTIAL NATIONAL HEALTH CARE SAVINGS SCENARIOS: DECREASES ATTRIBUTABLE TO REDUCING FALSE POSITIVES

[Dollars in billions]

	If 10 percent of care is unnecessary	If 20 percent of care is unnecessary	If 30 percent of care is unnecessary
½% Cost Reduction:	$0.3	$0.5	$1.1
1% Cost Reduction:	0.6	1.3	2.1

Benefits of Reducing False Negatives. CLIA also looks to reduce rates of false negatives. A false negative result occurs when disease is not detected in a patient when the patient has the disease. In the worst case, failure to recognize false negatives contributes to unnecessary deaths. A less extreme but more likely result of erroneously negative tests is delay of medical treatment. Anecdotal evidence of unacceptably high rates of false negatives in Pap smears contributed heavily to the impetus for CLIA. In regard to individual tests, the likelihood of getting a true negative when a patient has a disease is referred to as the test's specificity.

Patients who receive falsely negative test results still need treatment. Therefore, savings derived from comprehensive reductions in false negative rates should come about through earlier intervention in disease processes. Earlier intervention should result in better health outcomes and savings in health care expenditures, as patients will be less sick when they are treated. Consequently, treatment is likely to be less expensive, and society should benefit through improved public health status.

A hypothetical approach like the one used to value benefits derived from reducing false positive rates can again be used. As stated in that model, 1991 aggregate health care expenditures are estimated to be approximately $720.8 billion, $632.9 billion of which is estimated to represent personal health expenditures. Under Relman's assumption, two-thirds of this spending—$424.0 billion—is assumed to fund necessary care. In addition to this 67 percent scenario, alternative assumptions include an estimation that 90 percent of all care is necessary, resulting in $569.6 billion in spending, and an 80 percent assumption resulting in $506.3 billion in spending for the delivery of necessary health care.

The value of earlier intervention brought about by comprehensive regulation of laboratories is highly subjective, and even more controversial than modeling savings resulting from reductions in unnecessary care. Our model of potential savings utilizes the limited available current research. This research consists of one study conducted in association with CDC that found that the health of an average of 37.5 patients per 100,000 treated in hospital settings was placed at increased risk because of mistakes in the testing process (Ross and Boone, 1987). Of note, examination of a small sample during this study also found more than 22 percent patients were subjected to unnecessary procedures, although none of these patients were harmed.

We set the rate of 37.5 per 100,000 as a lower bound of possible percentage reductions in health expenditures resulting from lower false negative rates. However, a rate based solely on hospital experience may be misleading. Hospitals are more highly regulated and have more established quality control procedures than the majority of other laboratory service providers. Therefore, a weighted average rate of 45 per 100,000 was used to take into account increased risk of negative health effects among other types of laboratories. The subsequent range of economic estimates in our model represents avoidance of possible undue health expenditures for necessary care resulting from decreases in false negative rates for three possible levels of percentage reductions.

POTENTIAL NATIONAL HEALTH CARE SAVINGS SCENARIOS: COST AVOIDANCE ATTRIBUTABLE TO REDUCING FALSE NEGATIVES

[Dollars in billions]

	If 90 percent of care is necessary	If 80 percent of care is necessary	If 67 percent of care is necessary
Research-Based Cost Reduction:	$0.3	$0.2	$0.2
¼% Cost Reduction:	1.4	1.3	1.1
½% Cost Reduction:	2.8	2.5	2.1

Despite the shortcomings of these cost avoidance models, we are hopeful that these necessarily simplified projections will help to frame discussions of the potential benefits of the CLIA program.

Regulation of Previously Exempt Laboratories

Profile of the Market. Hospitals, independent laboratories and physician offices perform the majority of clinical laboratory testing in the United States. While the Federal government has regulated hospital and independent laboratories for almost 25 years, it has regulated neither laboratories in physician offices nor labs in non-traditional settings. The histories of public health, private practice and the rapid rate of technological advancement in clinical laboratory equipment and procedures have contributed to this site-specific differentiation in laboratory regulation.

At present, as many as 17 States currently regulate labs in physician offices, and fewer mandate standards for public health settings. In the case of physician office laboratories (POLs), this is surprising if only because POLs are the largest class of laboratory providers in terms of number of sites. POLs also compose a sizable part of total market revenues. Non-traditional providers, such as mobile clinics, may have been overlooked both because they are difficult to identify and because they account for only a very small portion of the revenues generated by the laboratory industry.

Analysts of the laboratory industry concur that POLs have comprised the fastest growing segment of the market. Ironically, growth among these providers in the last decade was intensified by Federal regulations (Bartola, 1987). For example, enactment of the Medicare prospective payment system for hospital patients has caused the hospital lab to become a cost center instead of the profit center of the past, resulting in more pre-admission and post-discharge testing being transferred to the physicians' office laboratories to reduce hospital costs. Also, passage of the Deficit Reduction Act of 1984 implemented a new Medicare policy regarding laboratory services, preventing physicians from billing for laboratory services performed in a laboratory which is independent of their offices.

In response to the growing POL market demand, laboratory equipment manufacturers accelerated the development of new instrumentation and kit systems that permit physicians to perform a wider range of testing in their offices. The anticipated surplus of physicians has also continued to provide an incentive for physicians to perform in-house testing to stay competitive and to supplement income (Bartola, 1986).

The growth in POLs may have been spurred, in part, by the competitive advantage that lack of regulation bestowed to POLs. CLIA may bring an end to this competitive advantage.

Potential Health Consequences. The rapid growth of testing in POL settings raises the question of whether laboratory work in POLs is more or less accurate than in other settings—and whether any such differences in accuracy have an impact on health outcomes.

Most States have not pursued regulation of low-volume physician office laboratories. The small number of tests performed in these labs for physician evaluation of their own patients have not been perceived as constituting any great risk of public harm. Studies cited by Kenney and Greenberg question that assumption. Crawley et al. have linked larger size laboratories with better performance measures. Both Kenney and Gilbert have demonstrated a positive correlation between the scope of services performed in laboratories and outcome measures of performance. These three sets of findings imply that the lack of regulation of low-volume laboratories may increase the risk of laboratory error.

While there is little research on the question of risk of laboratory error in unregulated settings, there is no reported research on the effect such errors may have on health outcomes. In the case of POLs, may physicians argue that outcomes are improved by in-office testing, which offers the rapid results desired by many physicians in the interest of prompt patient treatment. Furthermore, some laboratory errors are identified by physicians when test results appear inconsistent with clinical expectations. In-office laboratories facilitate this sort of error detection.

Regulatory Challenges, Options and Effects. In their final report on clinical laboratory regulations, Kenney and Greenberg state: "there is wide-spread professional agreement that mandatory regulations are an important factor in a perceived improvement in clinical laboratory performance in the past two decades." However, there is far from consensus on this issue. There are strong arguments for voluntary, as opposed to mandatory, standards. Many analysts make the basic assumption that providers of health services—be they physicians or entities providing proficiency testing or quality control products to laboratories—are committed to maintaining quality in the services they deliver. If this were universally the case, and if all lab providers were well-trained, voluntary standards would be sufficient.

A premise common in arguments against mandatory regulation of physician labs is that current laboratory technology already allows physicians to produce test results in their offices which are routinely useful to treatment of their patients. The progression of technological innovation and increasing use of automation is likely to continue to improve test quality in the office setting.

However, confidence in the state of automated testing in physician offices today, as with all testing performed in this setting, has yet to become widespread. Though some analysts suggest that higher variability of automated testing in physician offices is due to operator, rather than to equipment error, results are not conclusive. Inability to assure reliability, and to determine the source of errors in testing, potentially has significant consequences for patients.

In reviewing State programs monitoring POLs, Kenney and Greenberg describe two basic gains made during periods of State oversight: improvements in laboratory accuracy and explicit certification of lab providers. Certification signals to consumers, as well as to their third-party payers, that in the eyes of State regulators these laboratories provide products comparable to other competitors—including hospital and independent labs—and superior to unregulated facilities.

Some State regulatory programs, such as those in Pennsylvania and Idaho, emphasize provider education as part of their quality improvement efforts. Both these programs use proficiency testing (PT) to monitor quality of testing results, and thereby are able to educate lab personnel who are found to be performing imprecise tests. CLIA does not require educational assistance be given to laboratory providers, but educational assistance will occur naturally during laboratory inspections or as part of routine follow-up of unacceptable PT performance.

Do such educational efforts answer an identified need in the laboratory community? Even brief examination of available literature regarding POLs suggests yes. Pennsylvania's experience has been that physicians are not very familiar with laboratory quality control systems. One can infer that many small laboratories can benefit from the opportunity to share information with their peers. CLIA may have an added benefit of encouraging sound laboratory practice among personnel not previously familiar with proper procedures. It is not clear, however, that CLIA will help practitioners to use lab results in a clinically effective way.

Qualitative Discussion of Health Improvements

Though no lab test is ever 100 percent accurate, as a sampling of available scholarship on various tests conveys, there are many avenues for attaining realistic improvements:

- *Lyme Disease.* A study conducted in New Jersey, where Lyme Disease has been increasing in public health importance and no proficiency testing for labs performing the serological tests for this disease is available, found there were low levels of agreement in test results on both inter- and intra-laboratory bases. Four independent laboratories, performing 90,000 Lyme disease tests at an estimated cost of $3.5 million in 1988 alone, were reviewed in this study. The authors of the report following the study concluded that Lyme disease serological testing should be standardized (Schwartz, 1989).
- *High Serum Cholesterol.* A study attempting to determine the accuracy of portable cholesterol analyzers used in public settings found that such testing tended to underestimate values from reference laboratories, and tended to produce false negative results. This

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variability was partially caused by insufficient laboratory training, but inadequate quality control procedures in field settings and dilution of capillary blood by tissue fluid also contributed to inaccuracies. Since it is estimated that 60 percent of adults in the United States have greater than the desirable levels of blood cholesterol, and testing in mobile settings is increasing, these results are of concern (Naughton, 1990). Health, a publication of the Public Health Service, agrees with the 60 percent estimate, and adds that high serum cholesterol is a known modifiable risk factor for cardiovascular disease. In 1988, diseases of the heart accounted for 35 percent of all deaths in America.

- Another study of the clinical context for cholesterol testing found the accuracy of cholesterol assays will be improved by use of newly available reference material labeled by definitive methodology, and that this aspect of testing is well monitored by proficiency testing. The study also found that long-term, intra-laboratory variability is well monitored by programs like the College of American Pathologists Quality Assurance Service (Oxley, 1988).

This sampling of accuracy for tests relative to selected diseases raises another dimension of laboratory performance: reliability. Reliability, which is also known as reproducibility or precision, is the ability to reproduce results consistently, and can be measured both on intra-laboratory and inter-laboratory bases. This measure encompasses both the reliability of tests themselves and of their operators. What kind of operational mistakes are made in laboratories? Since perceived abuses in cytology were a prominent catalyst for CLIA, the effects of other types of laboratory errors are often discounted. In his discussion of office laboratory liability, Belsey provides a diverse sampling of cases in other laboratory specialties:

- Failure to communicate or act upon a sputum culture that tested positive for tuberculosis;
- Error in a report of mother's blood type led to a child's hemolytic blood disease;
- Mislabeling of father's blood sample led to a child with Tay-Sachs disease;
- Improper collection technique for urethral smear test caused a patient to faint and to injure head seriously;
- Use of outdated reagents resulted in an unreliable test for bilirubin and severe, permanent brain damage for a child;
- Mingling of cysts from both breasts and no separation during dissection led to a bilateral mastectomy even though only one breast had a malignancy;
- Failure to report the results of bacteriology tests revealing meningococcal infection led to brain damage from untreated meningitis (Belsey, et al., 1986).

Though anecdotal, this list portrays the broad effects of laboratory inaccuracies, and how devastating such mistakes can be. Paying for regulatory requirements like quality control protocols will always seem reasonable to victims of clinical laboratory negligence. The question remains whether comprehensive regulation of laboratories is worth the costs for society as a whole. In cases involving communicable diseases like tuberculosis, where negative health effects can rapidly reach beyond any one patient, the answer may well be "yes."

For example, accuracy in testing for AIDS is essential to limiting the spread of this disease. Both false positive and false negative results have serious personal and public consequences. Overall, AIDS is estimated to have infected 145,000 Americans through 1990, and to have caused 89,605 deaths in the same period. A review of the scientific basis for the evaluation, performance and use of the most commonly employed HIV assays suggests current levels of performance are not minimizing public health risks as much as possible and recommends licensure and proficiency testing as a partial solution (Schwartz, et al., 1988).

Cytologic Treatment and Service Delivery

A series of articles published in The Wall Street Journal and Newsweek in 1987 and 1988 spurred the interest of the public, the medical profession and Congress in efforts to assure quality in laboratories performing cervical cytology. The Council on Scientific Affairs of the AMA reacted by convening an expert advisory body to review issues in the collection, processing and interpretation of Pap smears. This interest led to a series of Congressional hearings, which culminated in the passage of CLIA.

Although it was anecdotal evidence presented in the popular press that aroused initial interest, the size of the population effected and the ability of medical intervention to limit fatalities sustained the drive to assure accuracy in cytology labs. The American Cancer Society estimates that 13,000 new cases, and 4,500 deaths, will occur nationally this year as the result of cervical cancer. Though primarily an aid in the detection of cervical cancer, Pap smears have also been shown as contributing to the diagnosis of other gynecological cancers, such as those of the uterus, ovary, vagina and vulva.

Though a large number of women are still afflicted, the rates of incidence and mortality for cervical cancer have dropped dramatically over the past four decades. Over this period, the death rate from uterine cervix cancer has decreased more than 70 percent—mainly due to the Pap test and regular check-ups (Fink, 1991). Additionally, a task force set up by the Canadian government in 1982 found in a province-by-province survey that uterine cancer mortality, including cervical cancers, had dropped from 36 to 67 percent from 1957 to 1979. The task force concluded that: "squamous cell carcinoma of the cervix can be controlled by the means of a cytologic screening program". Literature from the American Cancer Society finds "that cervical cancer is almost 100 percent curable when detected and treated early."

This decrease in incidence led to examination of the cost-effectiveness of different screening programs and revisions in screening guidelines subsequent to 1976. Though all guidelines concur in recommending adult women undergo Pap screening, the majority now differentiate rates of frequency of testing for high- and low-risk patients. "The resulting trend toward less frequent screening for low-risk patients, however, necessitates increased vigilance by the primary care physician and the pathologist to minimize false-negative smears through optimum communication, technical preparation, and quality control" (Zuna, 1984).

Estimates of false negative results from Pap smears vary widely, but most range from 20 to 30 percent. False negative results, as well as false positives, can significantly impact the lives and health of women undergoing screening. "There are few better examples of where the patient is more vulnerable to the consequences of a falsely negative result than the Pap test for cervical cancer. Little, if any, information redundancy is provided by the earlier clinical indications of cervical cancer that enable the physician to compensate for poor laboratory performance" (Zuna, 1984).

On the other hand, false positives can affect the cost-effectiveness of annual screening as well as individual patients. "The term 'battered-womb syndrome' is used to describe the effects of investigating atypical smears (frequently due to minor inflammatory changes) on the emotional, physical and financial well-being of an otherwise healthy woman" (Zuna, 1984).

In her survey article on Pap smears, Zuna points to three basic factors that diminish the accuracy of Pap smears: clinician-related factors, patient-related factors and laboratory factors. Clinician-related errors are largely comprised of inappropriate gathering and labelling of smears. Patient-related factors include lack of cooperation and failure to provide pertinent information about health status. Laboratory factors, like the improvement of accuracy through reduction of false negative and false positive results, would translate into tangible health benefits for individual women receiving Pap tests and for society.

The 1982 Canadian Task Force Report on cytology screening, which updated Canada's landmark 1976 study, provides detailed information on avoidance of false-negative reports on cervicovaginal smears under the following categories: Errors in documentation of smears, inadequate or improper sampling of lesions, presence of interfering substances, technical problems in processing, and errors in screening and reporting. These problems are addressed by the report in several ways, including specific observations and recommendations regarding lab operations.

The report also finds a role for government in assuring quality control requirements are met. According to its final recommendations, "the jurisdiction responsible for screening programs should ensure that appropriate mechanisms for quality control have been established and are functioning satisfactorily."

The approach of CLIA to regulating cytology laboratories reflects a viewpoint similar to the Canadian. However, CLIA and the final rule are also responsive to the particular concerns motivating Congress' passage of the law. The Committee Report accompanying the law describes five "glaring problems" found with cytological testing:

- First, there was evidence of improper collection of specimens by clinicians, compounded by an unwillingness on the part of laboratories receiving such specimens to refuse to report the results and to notify physicians of the deficiencies.
- Second, the Committee received many reports of cytologists screening excessive numbers of slides—numbers so high that the risk of improper diagnosis was extremely high. The Committee heard about cytotechnologists performing work for many different employers, some of whom paid employees on a piece-work basis, and of other cytotechnologists who worked at home without proper supervision or quality assurance.
- Third, the Committee learned that inspections of cytology laboratories were being performed by personnel unfamiliar with cytology.
- Fourth, despite the importance of the Pap smear and reports of high numbers of false negatives, there has been no Federal proficiency testing requirement for cytology.
- Fifth, some laboratories have dispensed with proper quality control in order to mass market Pap smear screening to physicians at cut rates. Some physicians, attracted by the prices offered or ignorant of the laboratories' operations, have engaged such laboratories.

In sum, the Committee found serious deficiencies in the regulation of cytology and the need for vigorous regulatory standards and oversight. Therefore, CLIA's mandates for cytology are more explicit than those recommended by the 1982 Canadian Task Force Report.

There is no consensus within the laboratory and medical communities that such requirements will improve the accuracy in cytology. Though as many as twenty States have implemented or are in the process of implementing regulations for physician office laboratories, only New York and Maryland actively regulate cytology laboratories. The Maryland program has been in effect for only two years. However, in its comments on the NPRM, the American Society of Cytology stated that it "supports encourages reasonable, feasible, cost-effective quality assurance measures as an essential component of laboratory practice."

It is difficult to see how even educationally and peer-oriented efforts to assure quality for a large number of labs could be done without reference to a standard outcome measure. Proficiency Testing (PT), which identifies laboratory error, is the outcome measure used by the laboratory community. Pennsylvania uses quarterly PT as a key to the education of physician providers in proper laboratory procedures.

Even dubious health providers may want to meet the minimum standards of laboratory operation, if only to avoid the costs of potential malpractice actions. Consequently, it is difficult to support the existence of a dichotomy between provider and patient interests in assuring laboratory quality. Additionally, although it is nearly impossible to fix the true value of a "pass" in a system that is as easily gamed as unblinded PT, it is hard to ignore the significance of repeated failures.

The extension of such regulations equally to all individuals through Federal action should be a significant benefit to all Americans. Even if a particular individual never becomes a patient, he or she stands to gain through reductions in negative health outcomes for others, and the concomitant reduction in direct, indirect and opportunity costs for society.

Market Impact

Market failure in the laboratory industry and the apparent need for regulation have already been described in this report, with an emphasis on consumer protection. Regulation in the presence of market failure also holds potential benefits for suppliers in an age of limited resources.

Comprehensive regulation will maintain or increase laboratory prices, while providing a new signal of product quality. Many laboratories may see the visibility of CLIA as an opportunity to pass any new costs of regulation directly to consumers and third-party payers, particularly non-governmental payers. Incentives to shift costs to governmental payers, such as the subsidization of discount customer sales by large labs through their Medicare payments documented by the GAO, may be diminished as private-payer prices rise, governmental payers ratchet down their fee schedules and overall information on laboratory operations becomes standardized and more available. However, price increases may not be uniform. Among currently regulated labs, particularly large labs, there may be offsetting price reductions: their test volume may increase if some competing small providers drop out of the market, and if their current regulatory costs are only marginally affected by the final rule. A contraction in the number of lab providers due to the costs of regulation—particularly small providers in rural areas—is possible and is a continuing cause for concern. Yet the identification and potential expulsion of incompetent labs, whether in rural or urban areas, would be an offsetting gain to society.

Uniform Federal regulation may support innovation in the laboratory industry and ancillary businesses. In reviewing changes in the status of labs subject to Federal regulation since 1967, Belsey noted that industry and regulatory efforts to improve quality among conventional, large laboratories has been very successful and has led to the development of important new techniques and technology (Belsey and Baer, 1986).

However, a contrary view was expressed in a report evaluating the proposed rule completed by the Health Industry Manufacturers Association, which suggested "that the regulations could result in a reduced demand for testing products * * * [and] lead in turn to a reduced investment in research and development for alternative site diagnostic technologies." One major manufacturer of testing equipment for the physician market reported a decline in sales of 25 percent following the publication of the NPRM, which it attributed to the uncertain environment fostered by the proposed rules.

The final rule should alleviate these concerns. In fact, CLIA quality control standards may broaden market opportunities for manufacturers offering equipment with FDA-approved quality control protocols, as laboratories will likely view such equipment as offering the least costly approach to satisfying CLIA requirements.

Tangible economic benefits will accrue to businesses providing ancillary services to regulated labs. For example, interviews completed for this report found that proficiency test kit manufacturers are already gearing up for the increased demand for their services brought about by CLIA. New niches will also be created for some service industries, such as consulting, that can assist lab providers and other affected parties to prepare for, to implement and to operate under CLIA requirements.

No data exists that permits any kind of meaningful financial modeling of these business benefits. Therefore, though they are described here, the failure to value these benefits quantitatively contributes to understatement of the aggregate benefits of CLIA.

Benefits by Major Provision

Personnel Standards

Laboratories that produce both good quality and poor quality results often use the same analytic systems, tools, and supplies. Different individuals, using the same equipment, procedure, and reagents, can produce markedly different results when performing laboratory tests from a common patient sample. However, an empirically-proven relationship between personnel standards and laboratory performance has not been found by researchers.

While no statistically valid correlation between personnel standards and laboratory proficiency has ever been demonstrated by empirical study, a certain minimal level of benefits can be expected to accrue from the personnel standards embodied in the final rule. Establishing personnel requirements serves to standardize the laboratory industry by instituting a common personnel classification scheme. Currently, multiple classification schemes exist across public and private regulatory programs. Each of these programs employs its own definitions, terminology, and personnel classifications. The final rule will create standard classifications that will allow laboratorians and regulators to interpret and to apply personnel policies consistently, and to gauge the impact of regulation on the quality of testing more accurately.

As noted earlier in this analysis, most respondents to interviews about laboratory regulation support the concept of minimal personnel standards. There is substantial agreement that training of directors, supervisors, and testing personnel is an essential feature of any quality assurance program. The final rule extends regulation to previously unregulated sectors of the laboratory industry, especially exempt physician office laboratories. New regulation in such sectors will establish minimum standards, i.e., qualifications and responsibilities of individuals performing and supervising laboratory testing, where none existed before.

In addition, the establishment of laboratory personnel standards creates an entry-level threshold for personnel competence. CLIA personnel standards were designed, when combined with proficiency testing and quality assurance/quality control requirements, to improve the accuracy of the nation's laboratory services. The sheer existence of such standards implicitly sets minimum entry-level standards for testing. This is especially true in the areas of cytology and cytotechnology where much of the debate about laboratorian competence originated.

When compared to the NPRM and a number of State and private sector regulatory programs, the less rigid CLIA personnel standards do not unnecessarily limit upward professional mobility. Flexibility is needed by the laboratory industry to effectively take advantage of the personnel resources available to it. The final rule is much closer to achieving a critical balance between quality, cost, and flexibility than the other regulatory programs reviewed during the course of this analysis.

With the exception of physician office laboratories and laboratories engaging in cytological testing, the status quo is likely to be maintained in most clinical laboratories. Despite the increased costs associated with laboratory standards under the final rule, most personnel currently employed by laboratories will be able to continue conducting tests as they do currently. Those employees who cannot meet these standards should have sufficent time to qualify for the positions they currently occupy.

Since gaps between current experience and qualifications and the personnel requirements set forth in the final rule can be bridged during the window of opportunity offered by phased-in standards, only minimal new demand for support-services, training programs, or other commercial enterprises are expected to result. In addition, no new job categories are created by the regulation, so we can expect no significant increases in laboratory employment opportunities. However, by further clarifying both personnel categorization and complexity of testing being performed in each lab site, the final rule may cause some shifting of personnel and reorganization of staff duties among lab providers.

Proficiency Testing Provisions

The final rule requires the performance of proficiency testing (PT) three times a year for most analytes. CLIA mandates four events per year, unless the Secretary can justify fewer events on a scientific or technical basis. Review of professional literature on proficiency testing shows expert opinion is divided with regard to the appropriate frequency for testing. Medicare had long accepted the two-a-year frequency standard in the industry, and then adopted the three-a-year survey cycle of the Joint Commission on the Accreditation of Health Care Organizations.

Maintenance of a three-time-a-year cycle should help limit the rise in expenditures for lab providers currently participating in a PT program. For example, some PT subscribers have complained that their PT programs failed to supply tests in a timely fashion. Current systems for mailing out tests often require strict adherence to a rigid schedule in order to avoid backups in the testing cycle. After tests are completed, PT programs must still enter data and score results. These steps must be completed before results can be reported to individual laboratories. All too often, the provider-supplied results have been returned to laboratories too late to help them initiate the corrective actions suggested by their test results. Requiring testing only three times a year may give both testers and the tested a needed respite, may provide more time to do proper analysis of the causes of test failures, and may increase the educational value of testing efforts.

Although proficiency testing is used as a regulatory enforcement tool, its impetus and primary benefits are educational. Proficiency testing organizations provide advice to clinical laboratories. PT kit manufactures help in analyzing testing problems and in assuring laboratories run at acceptable performance levels. The requirement that laboratories subscribe to professional PT programs will result in overall improvement in laboratory expertise. The PT requirements of the final rule will also preclude laboratories from testing in areas in which they can not prove competence.

CLIA is expected to increase demand for proficiency testing products roughly by a factor of sixteen, proportional to the expected increase in the number of Federally-regulated laboratories. This demand will result in growth for proficiency testing manufacturers and other industries, such as packaging and shipping, that support the distribution of PT products to laboratories. New manufacturers may also come into the proficiency testing market, but interviews completed for this analysis reveal existing manufacturers have attempted to gauge new demand and to prepare to meet this growth themselves. It is also possible that some standardization of PT products resulting from the specifications of regulation will lower manufacturer's production costs.

Patient Test Management Provisions

Benefits are expected to accrue for patients from these requirements through the reduction of laboratory errors in the identification, handling and submission of specimens. Overall, laboratories, along with physicians and their patients, will benefit from specification and standardization of the method by which laboratories are linked to the results they produce.

Quality Assurance and Control Provisions

Quality control is a necessary but not sufficient guarantee of the quality of laboratory results. Quality control regulates the machining and inspection of parts, using Diamond's industrial analogy, but doesn't assure that the right kind of product is manufactured, or that this product is delivered to the right customer on time. Quality assurance, on the other hand, does attempt to make sure that the customer gets what he or she ordered, on time, and that the product is well made. The primary benefit of the regulation of quality control, therefore, is standardization of procedures, the ability to repeat the same test in different laboratories, at different times, with reasonable assurance of the same result will be derived (Diamond, 1986).

Westgard and many others have documented the need for process specifications that account for biases and sources of variation (Westgard, 1991). Recent work has also argued for the application of traditional quality control procedures to low-volume physician office lab settings. Yet quality control in isolation from careful clerical procedures, proper test management and sensible clinical use of lab testing may be wasted effort.

Several commentators have observed that in labs without well-trained personnel, without careful clerical practice, the incidence of random, unrepeatable, unidentifiable error may be so high that quality control efforts are useless. To that end, quality assurance, which strives to put in place systems for monitoring and standardizing quality control, proficiency testing, personnel training, and the observation of error, is perhaps the greatest benefit of the final rule. Though the benefits of quality assurance are well recognized, regulators are still hard pressed to measure appropriateness of tests or laboratory efficiency.

Inspection Provisions

The final rule requires biennial inspection of clinical laboratories performing tests of moderate- or higher-level complexity. Such inspections are intended "to provide on-site education regarding accepted laboratory procedures, thus improving laboratory quality; to determine if a laboratory is complying with mandated requirements; and, to aid in the decision to issue initial or renewal licenses or certification."

Kenney and Greenberg found general support for the inspection process among laboratorians and suggest that inspections performed as part of governmental enforcement efforts were more rigorous than those provided through voluntary agencies. Full implementation of the inspection requirement of the final rule should extend such benefits to the entire laboratory community.

Consultations

The final rule calls for creation of an ongoing technical advisory committee. This provision stands to benefit both the laboratory industry and consumers by formalizing a channel for active consideration of innovations, problems and consumer and provider opinions. The existence of the committee will allow regulators to be more immediately and uniformly responsive than was ever possible before. The value of increased responsiveness should not be discounted in an industry subject to an accelerating rate of technological change.

Benefits of Codification

CLIA and its implementing rules mark the first Federal effort to regulate all clinical laboratories. Having a single regulatory authority offers many benefits. The preeminence of Federal regulation, as opposed to reliance on multiple rules developed in different localities, is more easily and equitably enforced.

No quantification of the benefits of codification, nor of specific provisions, could be done. This inability to compute dollar values for largely qualitative requirements further contributes to underestimation of the benefits of CLIA overall.

Potential Impact on Access

National public health initiatives face the challenge of attempting to effect improvement in societal health status without upsetting the presently precarious balance of cost, quality and access in U.S. medical services. CLIA implementation will significantly increase the operating costs of laboratories. These laboratories will, in turn, pass on cost increases to consumers to the greatest extent possible. A decrease in access to laboratory services would also represent a cost to society at-large, and must be weighed, along with other costs, against the benefits CLIA may offer.

At the same time, a seeming majority of professional opinion in the medical and clinical laboratory communities asserts that implementation of many of the provisions of the final rule—such as mandatory proficiency testing and quality control measures—will improve laboratory quality. The final rule will create and maintain minimum standards for laboratory operations, which should remove any substandard tiers of laboratories currently in existence. CLIA should guarantee access to laboratory services of adequate quality for all Americans receiving laboratory tests, whether underprivileged or not. While there is still great debate as to whether these less tangible gains in quality will offset measurable dollar increases in operating costs, the effect of the final rule on access, in terms of the ability of providers to continue offering medical and laboratory services and of patients to receive them, is difficult to gauge.

A principal reason for this lack of understanding is the still unknown nature of the nation's laboratory testing industry. Hospital and independent laboratories, which may collect as much as 75 percent of total U.S. laboratory revenues and number about 13,000, have largely been subject to Federal regulation. On the other hand, there has never been comprehensive regulation of physician office laboratories (POLs). This lack of regulatory experience has contributed to the inability to determine the number and characteristics of POLs, even though these facilities are thought to account for as much as 25 percent of all test revenues. There is even less research on laboratory service providers in non-traditional settings, operationally defined as settings other than hospitals, physician offices and independent laboratories, though we assume that these providers comprise only a small portion of total clinical laboratory revenues and number of tests.

Overview of Access Concerns

In its analysis of laboratory profits relative to the treatment of Medicare patients, the General Accounting Office indicated that, before an access problem would be created, current profit margins would allow some cost absorption to occur within the laboratory industry. However, this estimate, and other attempts to estimate CLIA's impact on access remain largely theoretical. Consequently, concern that CLIA implementation will be detrimental to access is widespread, as embodied in many of the 60,000 public comments to the NPRM.

Many of these comments relayed anecdotal evidence of potential access problems among specific patient populations like the elderly. These problems were anticipated as results of the NPRM on cost, test-result timeliness and patient transportation issues. Though revisions made between the proposed and final rule alleviated these concerns, they did not remove them. Research will be necessary subsequent to full CLIA implementation to assure the public that access to laboratory services has not been adversely affected.

Hospital-Specific Issues. In discussions about CLIA, there has been great focus on access in rural areas. Small hospitals are a primary source of basic health care in many rural communities. These hospitals have watched with alarm over the last several years as patient census has continued to drop in the midst of double-digit inflation in health care industry expenses. Many have little financial flexibility, and are greatly inhibited in their ability to shift costs. Therefore, when a product line such as laboratory testing fails to support its own costs, it is likely to be dropped from the roster of services, or decreased in emphasis.

In spite of the reduced burden of the final rule in comparison with the NPRM, the cost increases that will most certainly result from CLIA implementation may push marginally-profitable laboratory operations of a smaller number of rural hospitals into the red. Some rural hospitals may cease performing some tests in-house. Some may refer certain tests to commercial laboratories, adding specimen transportation and testing turnaround time to the delivery of medical services, with possible negative consequences for patient health status. Other rural hospital many respond by simply reducing the scope of the laboratory services they offer.

Alternatively, many of these marginal providers may also try to maintain laboratory services by raising prices whenever so permitted by payers. This, of course, would reduce the already hindered ability of the poor, uninsured, and underinsured to obtain complete medical care. The trend of rural hospital closures has continued for several years, and it is not known if the possible curtailment of laboratory testing brought about by CLIA will accelerate this closure rate among these institutions.

Physician Office Laboratory Issues. Similar pressures are expected to be felt by POLs. Just as the Medicare Prospective Payment System affected hospitals in the 1980s, doctors will be subject to the implementation of Medicare Physician Fee Schedule in 1992, the probable continuance of the ratcheting down of Medicare Part B laboratory fee schedules, and the culmination of other physician-directed regulations. This may lead physician offices to discard unprofitable product lines, particularly if such services are ancillary to their main businesses and can be more efficiently purchased elsewhere.

As the majority of physicians, particularly those outside of rural areas, are not as dependent on government payers as institutional health care providers, they may have the flexibility to shift costs between payers, as well as between services, and to maintain a broader spectrum of products. Studies completed by the Inspector General's Office suggest that physician owners of laboratories may react by increasing the volume of tests they perform in order to offset regulatory costs. However, the results of a recent report commissioned by the State of Florida implied that access to physician-owned joint ventures, including clinical labs and diagnostic testing centers, is already not widely available to the poor.

Non-metropolitan physician offices are both more likely to have in-office labs and to generate a higher proportion of revenues from this enterprise. Research completed by the American Medical Association found that 54 percent of non-metropolitan physicians had in-office labs, as opposed to 34 percent of physicians in metropolitan areas of 1 million or more and 40 percent of all physicians. Non-metropolitan physicians generated 10.2 percent of their revenues from these labs, while the corresponding figures for physicians in large metropolitan areas and physicians overall were 8.5 and 9.1 percent respectively (AMA, 1989). According to the AMA, non-metropolitan physicians, faced with a scarcity of commercial clinical laboratories, have responded by developing and maintaining their own in-house clinical labs. In the absence of substantial competition from commercial laboratories, these in-house labs are able to generate a higher proportion of practice revenues.

Higher proportional revenues may help to cushion the impact of the final rule on these providers, and to decrease the likelihood that rural physician offices already performing laboratory tests will discontinue these services. However, if the number of such labs is reduced, "forcing patients to go elsewhere for testing could seriously impede access to care, or could cause a health-threatening delay in receiving test results" (AMA, 1989).

Discussions with State regulators suggest that POLs have not been impeded by governmental review. Comments specific to oversight of cytology laboratories by the State of Maryland are given below. Pennsylvania regulators see little or no evidence of physicians opting to drop laboratory services because of State regulation. However, the CLIA program differs from the Pennsylvania program in several ways. It is more costly, more prescriptive, and it emphasizes sanctions over provider education. However, the effects of these differences, particularly under the final rule, are more likely to cause physicians to abandon infrequently performed and high-complexity tests than to move them to cease performing testing altogether.

Alternative Provider and Public Health Concerns

Several commenters serving rural populations took a broad perspective in their analysis of the proposed rule. The National Rural Health Association, the

United States Conference of Local Health Officers, and the Association of State and Territorial Health Officials (ASTHO) all conveyed serious concerns about access to health services among non-traditional providers of laboratory tests. Specific concerns were voiced about the continued viability of the WIC program, school health programs, and screening services provided to the poor in various community settings. In particular, commenters noted that State and local public health systems must function within restricted budgets, and often do not have fee authorization or the ability to increase revenues, unless approved by their legislative bodies. Thus, they are unable to pass on rising costs to their patients.

While the final rule relaxes several NPRM Level I (now moderate complexity) and Level II (now high complexity) requirements, the concerns of public and rural health providers have not been completely allayed.

Public health laboratories often play uniquely crucial roles in the U.S. health care delivery system. In California, for instance, these laboratories provide services including HIV testing, identification of the tubercule bacillus (TB), rabies detection and screening for sexually transmitted, bacterial and parasitic enteric diseases. In some cases, as with rabies testing, the private sector does not have the facilities to replicate services solely provided by local health laboratories. Additionally, some State laws place restrictions on the provision of public health services by private entities.

Any increase in the costs of delivering public health services stands to marginally decrease the scope or quality of services. Any potential service curtailment by these providers would most dramatically affect low-income individuals, and would not be limited to rural areas. Inner-city hospital and screening programs, such as for cholesterol and sexually transmitted diseases, are also likely to be constrained.

It is impossible to compute the potential public health costs that may result from curtailment of these local health laboratory services. Such costs have the potential to substantially reduce the aggregate benefits afforded by CLIA.

While the final rule is designed to protect all consumers—no matter their income levels—from poor-quality laboratory work, it would violate larger public health objectives if it prevented the delivery of screening services of adequate quality to the poor. We cannot discount the contention that the availability of high-complexity laboratory tests for disadvantaged populations may be placed in jeopardy by CLIA implementation in some instances. Additional input needs to be solicited from public health advocates on the final rule in order to assure that the proper balance of cost/quality/access has been struck for all segments of the population.

Consumers will ultimately determine whether they receive access to laboratory services or not. Some people will always avoid doctors and health facilities unless (and sometimes in spite of being) deathly ill. Despite numerous public health promotions and guidelines available to primary care physicians, a large study performed in South Carolina found that a minority of people already captured by the health care system received five basic recommended preventative health services. These services included laboratory procedures such as fecal occult blood testing, Pap smears and serum cholesterol measurements, only one of which is a waived test under the final rule. Factors which seemed to be most strongly correlated with access to laboratory services were: Patient's physician practice type, type of medical insurance, physican visit frequency and increasing age. It is impossible to predict how the implementation of CLIA will fit into this complex equation.

Possible Cytology Effects

Perceived deficiencies in the quality of cytology testing spurred the enactment of CLIA. Ironically, the final rule may adversely affect access to Pap screening for some women because it may exacerbate current personnel shortages and increase costs of service delivery, as it attempts to assure minimum quality standards are met by all cytology laboratories.

The recognized shortage of cytotechnologists and the increased demand for such personnel fostered by the final rule is problematic, as discussed elsewhere in this analysis. There is also concern that the training and rescreening requirements of the regulation may cause backlogs of unread slides, delaying the delivery of valuable diagnostic information to health practitioners and patients. CLIA's impact on access to Pap screening will have to be carefully studied once the law is implemented.

No research exists on the potential effects of federal regulation of the cytology industry on patient access. However, the American Society of Cytology (ASC) raised this issue as one of its three basic concerns relative to implementation of the proposed rule, which had more burdensome cytology provisions:

> The ASC supports and encourages reasonable, feasible, cost-effective quality assurance measures as an essential component of laboratory practice. However, imposition of the regulations as currently outlined will most likely:

- Result in some high-quality laboratories abandoning cytology thus reducing the availability of services,
- Delay reporting of smear results and thereby delay appropriate patient care, and
- Lead to increased costs and ultimately reduce access of women to cervical cancer cytology screening.

All three effects foreseen by the ASC will be reduced by the less stringent cytology requirements of the final regulations, but they will not be completely assuaged. For example, though the demand on cytotechnologists' time has been reduced in the final rule, it will still increase over current levels. This will undoubtedly result in processing delays. Lengthening slide processing time, along with the other operational and personnel-specific requirements of the regulation, will drive provider costs up. Already an industry with small profit margins, most cytology labs will have little choice but to pass on cost increases to consumers. Some women will then skip or delay having Pap tests due to the cost increases.

New York and Maryland are the only States that currently regulate cytology laboratories. A study of the New York State program, which has been in existence for over 20 years, strongly suggested there had been adverse effects on patient access under the auspices of regulation, while no measurable effect on the cervical cancer mortality rate had been achieved. In reference to the cytology requirements of the NPRM, the author of this New York State study also found "many labs in South Carolina and elsewhere plan to discontinue Pap smear services in the face of these costly and intrusive regulations" (Austin, 1991). Concerns about access arising from a possible diminution in the number of cytology labs seem less valid. In reflecting upon Maryland's implementation of its own cytology proficiency testing program, State officials agree that effects on patient access have been minimal. In the first year of comprehensive regulation, only three cytopathologists failed proficiency tests, and consequently opted to relinquish certification. All three were able to refer their cytology work elsewhere.

Overall, DeBay and Jarboe saw no adverse impact on patient access to adequate Pap testing. Some increase in patient fees was seen, and physicians said that the cost of proficiency testing caused them to raise their prices. However, in drawing comparisons to the potential effects of the final rule, it must be remembered that the Maryland program is less demanding than the final CLIA rule. Additionally, access to Pap screening in rural States with fewer laboratory services and personnel per capita may be affected more negatively than in Maryland.

Regulatory efficiency entails maintaining the balance of cost, quality and access in delivery of health care. The exhaustive work done by the Canadian Task Force on Cervical Cancer Screening in 1982 came to general conclusions about what constituted efficiency in cytology screening programs:

- First, there are diminishing returns with the increasing frequency of screening in a given cohort of women.
- Second, in light of diminishing returns, and from the point of view of public health, it is better to spend money on increasing the number of women being screened initially than on increasing the frequency of screening for women who have already been screened.
- Third, again from the point of view of public health, establishing a policy in which screening is done on the basis of current screening history of the target population is more beneficial than prescribing a lifetime schedule for all women, particularly if screening programs are organized on a community basis.
- Fourth, improving the quality and sensitivity of screening programs will be more effective than increasing the frequency of screening in reducing mortality.
- Finally, although women are primarily responsible for entering and continuing in screening programs themselves, government-sponsored registries are essential if the full potential of cervical smear programs are to be realized. (Canadian Task Force, 1982)

Personnel Implications. Beyond the realm of cytology, existing shortages in health manpower already pose access-related concerns that may be intensified following implementation of the final rule. Data from the U.S. Bureau of Labor Statistics (BLS) project a growth in demand for laboratory personnel of approximately 23 percent over the next 10 years, with an annualized growth rate of approximately 2.3 percent per year. This projected growth in demand is expected to occur unevenly across different sectors of the clinical laboratory industry. In contrast, by the year 2000, BLS projects that labor demand will grow as follows:

Hospitals Laboratories	+6.8%
Physician Office Laboratories	+53.5%
Independent Laboratories	+53.7%
Outpatient Facility Laboratories	+145.3%
All Other Laboratories	+102.3%

Surveys indicate that more than 80 percent of clinical laboratories have encountered or are currently experiencing a shortage of technical personnel (CAP, 1988). CAP is one of the few organizations studying this topic, and implementation of the final rule is expected to spur new efforts to quantify the effects of potential personnel shortages further. In the meantime, to make matters worse, 40 percent of the accredited medical technology training programs have closed since 1983 (Cepil, 1989). Laws of supply and demand would predict that, as the labor market constricts and demand increases, the current labor shortage will intensify. Upward pressures on laboratory wages will drive the costs of laboratory services higher than current projects suggest. The present analysis of personnel costs under the final rule does not adjust for these economic forces. As a result, costs that appear to be quite high may actually be understated.

The geographic maldistribution of personnel in some health care fields (i.e., physicians and registered nurses) has been well studied. Less research has focused on the distribution of allied health personnel, as laboratory personnel are often classified. Clinical laboratory education, like most allied health care education, takes place primarily in metropolitan areas. According to research by Hamburg, most clinical experience in laboratory science is provided in health care settings with patient volumes sufficient to support state-of-the-art technology. Graduates are subsequently drawn to employment in metropolitan settings for several reasons. Graduates perceive these settings as offering higher quality care, greater personal challenge, broader use of their education, and the greater stimulation of contact with peers and supervisors.

Hamburg indicates that the non-metropolitan ratio of clinical laboratory technicians is 68.9 per 100,000 population. The metropolitan ratio is 120.5 per 100,000 population. As a percent of the metropolitan ratio, the non-metropolitan ratio is only 57 percent, indicating a potential access problem in rural areas (Hamburg, 1985). However, there is also a dearth of comparable studies supporting this finding, and CLIA implementation is likely to draw attention to the need for further research.

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List of Subjects

42 CFR Part 405

Administrative practice and procedure, Health facilities, Health professions, Kidney diseases, Medicare, Reporting and recordkeeping requirements, Rural areas, X-rays.

42 CFR Part 410

Health facilities, Health professions, Kidney diseases, Laboratories, Medicare, Rural areas, X-rays.

42 CFR Part 416

Health facilities, Kidney diseases, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 417

Administrative practice and procedure, Grant programs—health, Health care, Health facilities, Health insurance, Health maintenance organizations (HMO), Loan programs—health, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 418

Health facilities, Hospice care, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 440

Grant programs—health, Medicaid.

42 CFR Part 482

Grant programs—health, Hospitals, Medicaid, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 483

Grant programs—health, Health facilities, Health professions, Health records, Medicaid, Medicare, Nursing homes, Nutrition, Reporting and recordkeeping requirements, Safety.

42 CFR Part 484

Health facilities, Health professions, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 485

Grant programs—health, Health facilities, Medicaid, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 488

Health facilities, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 491

Grant programs—health, Health facilities, Medicaid, Medicare, Reporting and recordkeeping requirements, Rural areas.

42 CFR Part 493

Grant programs—health, Health facilities, Laboratories, Medicaid, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 494

Medicare, Reporting and recordkeeping requirements, X-rays.

42 CFR chapter IV is amended as set forth below:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

A. Part 405 is amended as follows:

Subpart U—Conditions for Coverage of Suppliers of End-Stage Renal Disease (ESRD) Services

1. The authority citation for part 405, subpart U is revised to read as follows:

Authority: Secs. 1102, 1861, 1862(a), 1871, 1874, and 1881 of the Social Security Act (42 U.S.C. 1302, 1395x, 1395y(a), 1395hh, 1395kk, and 1395rr); and sec. 353 of the Public Health Service Act (42 U.S.C. 263a), unless otherwise noted.

2. In subpart U, § 405.2163 is amended by revising paragraph (b) to read as follows:

§ 405.2163 Condition: Minimal service requirements for a renal dialysis facility or renal dialysis center.

* * * * *

(b) *Standard: Laboratory services.* The dialysis facility makes available laboratory services (other than the specialty of tissue pathology and histocompatibility testing), to meet the needs of the ESRD patient. All laboratory services must be performed by an appropriately certified laboratory in accordance with part 493 of this chapter. If the renal dialysis facility furnishes its own laboratory services, it must meet the applicable requirements established for certification of laboratories found in part 493 of this chapter. If the facility does not provide laboratory services, it must make arrangements to obtain these services from a laboratory certified in the appropriate specialties and subspecialties of service in accordance with the requirements of part 493 of this chapter.

* * * * *

3. Section 405.2171 is amended by revising paragraph (d) to read as follows:

§ 405.2171 Condition: Minimal service requirements for a renal transplant center.

* * * * *

(d) *Standard: Laboratory services:* (1) The Renal Transplantation Center makes available, directly or under arrangements, laboratory services to meet the needs of ESRD patients. Laboratory services are performed in a laboratory facility certified in accordance with part 493 of this chapter.

(2) Laboratory services for crossmatching of recipient serum and donor lymphocytes for pre-formed antibodies by an acceptable technique are available on a 24-hour emergency basis.

* * * * *

PART 410—SUPPLEMENTARY MEDICAL INSURANCE (SMI) BENEFITS

B. Part 410 is amended as follows:

1. The authority citation for part 410 is revised to read as follows:

Authority: Secs. 1102, 1832, 1833, 1835, 1861(r), (s) and (cc), 1871, and 1881 of the Social Security Act (42 U.S.C. 1302, 1395k, 1395l, 1395n, 1395x(r), (s) and (cc), 1395hh, and 1395rr); and sec. 353 of the Public Health Service Act (42 U.S.C. 263a).

2. In § 410.5, the introductory text is revised and a new paragraph (d) is added to read as follows:

§ 410.5 Other applicable rules.

The following other rules of this chapter set forth additional policies and procedures applicable to four of the kinds of services covered under the SMI program:

* * * * *

(d) Part 493: Laboratory Services.

3. In § 410.32, the introductory text of paragraph (b) is republished and

paragraphs (b)(2) and (5) are revised to read as follows:

§ 410.32 Diagnostic X-ray tests, diagnostic laboratory tests, and other diagnostic tests: Conditions.

* * * * *

(b) *Diagnostic laboratory tests.* Medicare Part B pays for covered diagnostic laboratory tests that are furnished by any of the following:

* * * * *

(2) A nonparticipating hospital that meets the requirements for emergency outpatient services specified in subpart G of part 424 of this chapter and the laboratory requirements specified in part 493 of this chapter.

* * * * *

(5) A laboratory, if it meets the applicable requirements of part 493 of this chapter, including the laboratory of a nonparticipating hospital that does not meet the requirements for emergency outpatient services in subpart G of part 424 of this chapter.

PART 416—AMBULATORY SURGICAL SERVICES

C. Part 416 is amended as follows:

1. The authority citation for part 416 is revised to read as follows:

Authority: Secs. 1102, 1832(a)(2), 1833, 1863 and 1864 of the Social Security Act (42 U.S.C. 1302, 1395k(a)(2), 13951, 1395z, and 1395aa); and sec. 353 of the Public Health Service Act (42 U.S.C. 263a).

2. Section 416.49 is revised to read as follows:

§ 416.49 Condition for coverage—Laboratory and radiologic services.

If the ASC performs laboratory services, it must meet the requirements of part 493 of this chapter. If the ASC does not provide its own laboratory services, it must have procedures for obtaining routine and emergency laboratory services from a certified laboratory in accordance with part 493 of this chapter. The referral laboratory must be certified in the appropriate specialties and subspecialties of service to perform the referred tests in accordance with the requirements of part 493 of this chapter. The ASC must have procedures for obtaining radiologic services from a Medicare approved facility to meet the needs of patients.

PART 417—HEALTH MAINTENANCE ORGANIZATIONS, COMPETITIVE MEDICAL PLANS, AND HEALTH CARE PREPAYMENT PLANS

D. Part 417 is amended as follows:

1. The authority citation for part 417 is revised to read as follows:

Authority: Secs. 1102, 1833(a)(1)(A), 1861(s)(2)(H), 1871, 1874, and 1876 of the Social Security Act (42 U.S.C. 1301, 1395(a)(1)(A), 1395x(s)(2)(H), 1395hh, 1395kk, and 1395mm); sec. 114(c) of Pub. L. 97–248 (42 U.S.C. 1395mm note); 31 U.S.C. 9701; and secs. 215, 353 and 1301 through 1318 of the Public Health Service Act (42 U.S.C. 216, 263a, and 300e through 300e–17), unless otherwise noted.

2. Section 417.107 is amended by revising paragraph (i) to read as follows:

§ 417.107 Organization and operation.

* * * * *

(i) *Certification of institutional providers.* Each HMO must ensure that institutional providers through which it provides basic and supplemental health services—

(1) Are certified either under title XVIII of the Social Security Act (Medicare) in accordance with part 405 of this chapter or under title XIX of the Social Security Act (Medicaid) in accordance with the regulations governing participation of providers in the Medical Assistance Program; or

(2) In the case of hospitals, are either accredited by the Joint Commission on Accreditation of Healthcare Organizations or the American Osteopathic Association or certified by Medicare; or

(3) In the case of laboratories are certified in the appropriate specialties and subspecialties of services in accordance with the requirements of Part 493 of this chapter.

* * * * *

3. Section 417.800 is amended by revising paragraph (b) to read as follows:

§ 417.800 Reimbursement of health care prepayment plans; definitions and basic rule.

* * * * *

(b) *Qualifying conditions.* (1) Except as provided in paragraph (b)(2) of this section, an organization wishing to participate as an HCPP must—

(i) Enter into a written agreement with HCFA as specified in § 417.801;

(ii) Furnish physicians' services through its employees or under a formal arrangement with a medical group, independent practice association or individual physicians; and

(iii) Furnish covered Part B services to its Medicare enrollees through institutions, entities, and persons that have qualified under the applicable requirements of Title XVIII of the Social Security Act and section 353 of the Public Health Service Act.

(2) An organization that, as of January 31, 1983, was being reimbursed on a reasonable cost basis under section 1833(a)(1)(A) of the Act, and that would not otherwise meet the conditions specified in paragraph (b)(1) of this section, may receive reimbursement on a reasonable cost basis as an HCPP, provided it files an agreement with HCFA as required by § 417.801.

* * * * *

PART 418—HOSPICE CARE

E. Part 418 is amended as follows:

1. The authority citation for part 418 is revised to read as follows:

Authority: Secs. 1102, 1812(a)(4), 1812(d), 1813(a)(4), 1814(a)(7), 1814(i), 1816(e)(5), 1861(dd), and 1871 of the Social Security Act (42 U.S.C. 1302, 1395d(a)(4), 1395d(d), 1395e(a)(4), 1395f(a)(7), 1395f(i), 1395h(e)(5), 1395x(dd), and 1395hh); and sec. 353 of the Public Health Service Act (42 U.S.C. 263a).

2. Section 418.92 is revised to read as follows:

§ 418.92 Condition of participation—Physical therapy, occupational therapy, and speech-language pathology.

(a) Physical therapy services, occupational therapy services, and speech-language patholgy services must be available, and when provided, offered in a manner consistent with accepted standards of practice.

(b)(1) If the hospice engages in laboratory testing outside of the context of assisting an individual in self-administering a test with an appliance that has been cleared for that purpose by the FDA, such testing must be in compliance with all applicable requirements of part 493 of this chapter.

(2) If the hospice chooses to refer specimens for laboratory testing to another laboratory, the referral laboratory must be certified in the appropriate specialties and subspecialties of services in accordance with the applicable requirements of part 493 of this chapter.

PART 440—SERVICES: GENERAL PROVISIONS

F. Part 440 is amended as follows:

1. The authority citation for part 440 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. In § 440.30, the introductory text is republished and paragraphs (a) and (c) are revised to read as follows:

§ 440.30 Other laboratory and X-ray services.

Other laboratory and X-ray services means professional and technical laboratory and radiological services—

(a) Ordered and provided by or under the direction of a physician or other licensed practioner of the healing arts within the scope of his practice as defined by State law or ordered by a physician but provided by referral laboratory;

* * * * *

(c) Furnished by a laboratory that meets the requirements of part 493 of this chapter.

PART 482—CONDITIONS OF PARTICIPATION FOR HOSPITALS

G. Part 482 is amended as follows:

1. The authority citation for part 482 is revised to read as follows:

Authority: Secs. 1102, 1138, 1814(a)(6), 1861 (e), (f), (k), (r), (v)(1)(G), (z), and (ee), 1864, 1871, 1883, 1886, 1902(a)(30), and 1905(a) of the Social Security Act (42 U.S.C. 1302, 1338, 1395f(a)(6), 1395x (e), (f), (k), (r), (v)(1)(G), (z), and (ee), 1395aa, 1395hh, 1395tt, 1395ww, 1396a(a)(30), and 1396(a)); and sec. 353 of the Public Health Service Act (42 U.S.C. 263a).

Subpart C—Basic Hospital Functions

2. Section 482.27 is revised as follows:

§ 482.27 Condition of participation: Laboratory services.

(a) The hospital must maintain, or have available, adequate laboratory services to meet the needs of its patients. The hospital must ensure that all laboratory services provided to its patients are performed in a facility certified in accordance with part 493 of this chapter.

(b) *Standard: Adequacy of laboratory services.* The hospital must have laboratory services available, either directly or through a contractual agreement with a certified laboratory that meets requirements of part 493 of this chapter.

(1) Emergency laboratory services must be available 24 hours a day.

(2) A written description of services provided must be available to the medical staff.

(3) The laboratory must make provision for proper receipt and reporting of tissue specimens.

(4) The medical staff and a pathologist must determine which tissue specimens require a macroscopic (gross) examination and which require both macroscopic and microscopic examinations.

Subpart D—Optional Hospital Services

3. Section 482.53 is amended by revising paragraph (b)(3) to read as follows:

§ 482.53 Condition of participation: Nuclear medicine services.

* * * * *

(b) *Standard: Delivery of service.*

* * *

(3) If laboratory tests are performed in the nuclear medicine service, the service must meet the applicable requirement for laboratory services specified in § 482.27.

* * * * *

4. Section 482.57 is amended by revising paragraph (b)(2) to read as follows:

§ 482.57 Condition of participation: Respiratory care services.

* * * * *

(b) *Standard: Delivery of Services.*

* * *

(2) If blood gases or other laboratory tests are performed in the respiratory care unit, the unit must meet the applicable requirements for laboratory services specified in § 482.27.

* * * * *

PART 483—REQUIREMENTS FOR STATES AND LONG TERM CARE FACILITIES

H. Part 483 is amended as follows:

1. The authority citation for part 483 is revised to read as follows:

Authority: Secs. 1102, 1819 (a)–(d), 1861(j) and (1), 1863, 1871, 1902(a)(28), 1905 (a) and (c), and 1919(a)–(d) of the Social Security Act (42 U.S.C. 1302, 1395(i)(3) (a)–(d), 1395x (j) and (1), 1395hh, 1396a(a)(28), and 1396d(c) and 1396r (a)–(d)) and sec. 353 of the Public Health Service Act (42 U.S.C. 263a), unless otherwise noted.

Subpart B—Requirements for Long Term Care Facilities

2. In subpart B, § 483.75 is amended by revising the section heading and paragraph (j) to read as follows:

§ 483.75 Level A requirement: Administration.

* * * * *

(j) Level B requirement: Laboratory services. (1) The facility must provide or obtain laboratory services to meet the needs of its residents. The facility is responsible for the quality and timeliness of the services.

(i) If the facility provides its own laboratory services, the services must meet the applicable requirements for laboratories specified in part 493 of this chapter.

(ii) If the facility provides blood bank and transfusion services, it must meet the applicable requirements for laboratories specified in part 493 of this chapter.

(iii) If the laboratory chooses to refer specimens for testing to another laboratory, the referral laboratory must be certified in the appropriate specialties and subspecialties of services in accordance with the requirements of part 493 of this chapter.

(iv) If the facility does not provide laboratory services on site, it must have an agreement to obtain these services from a laboratory that meets the applicable requirements of part 493 of this chapter.

(2) The facility must—

(i) Provide or obtain laboratory services only when ordered by the attending physician;

(ii) Promptly notify the attending physican of the findings;

(iii) Assist the resident in making transportation arrangements to and from the source of service, if the resident needs asistance;

(iv) File in the resident's clinical record laboratory reports that are dated and contain the name and address of the testing laboratory.

* * * * *

Subpart I—Conditions of Participation for Intermediate Care Facilities for the Mentally Retarded

3. Section 483.460 is amended by revising paragraph (n) to read as follows:

§ 483.460 Condition of participation: Health care services.

* * * * *

(n) *Standard: Laboratory services.* (1) If a facility chooses to provide laboratory services, the laboratory must meet the requirements specified in part 493 of this chapter.

(2) If the laboratory chooses to refer specimens for testing to another laboratory, the referral laboratory must be certified in the appropriate specialties and subspecialities of service in accordance with the requirements of part 493 of this chapter.

PART 484—CONDITIONS OF PARTICIPATION: HOME HEALTH AGENCIES

I. Part 484 is amended as follows:

1. The authority citation for part 484 is revised to read as follows:

Authority: Sec. 1102, 1861, 1866(a), 1871 and 1891 of the Social Security Act (42 U.S.C. 1302, 1395x, 1395cc(a), 1395hh, and 1395bbb); and sec. 353 of the Public Health Service Act (42 U.S.C. 263a).

2. Section 484.14 is amended by adding a new paragraph (j) to read as follows:

§ 484.14 Condition of participation: Organization, services, and administration.

* * * * *

(j) *Standard: Laboratory services.* (1) If the HHA engages in laboratory testing outside of the context of assisting an individual in self-administering a test with an appliance that has been cleared for that purpose by the FDA, such testing must be in compliance with all applicable requirements of part 493 of this chapter.

(2) If the HHA chooses to refer specimens for laboratory testing to another laboratory, the referral laboratory must be certified in the appropriate specialties and subspecialties of services in accordance with the applicable requirements of part 493 of this chapter.

PART 485—CONDITIONS OF PARTICIPATION AND CONDITIONS FOR COVERAGE: SPECIALIZED PROVIDERS

J. Part 485 is amended as follows:

1. The authority citation for part 485 is revised to read as follows:

Authority: Secs. 1102, 1138, 1861 (aa) and (cc) and 1871 of the Social Security Act (42 U.S.C. 1302, 1320b–8, 1395x and 1395hh); and sec. 353 of the Public Health Service Act (U.S.C. 263a).

2. Section 485.58 is amended by adding a new paragraph (g) to read as follows:

§ 485.58 Condition of participation: Comprehensive rehabilitation program.

* * * * *

(g) *Standard: Laboratory services.* (1) If the facility provides its own laboratory services, the services must meet the applicable requirements for laboratories specified in part 493 of this chapter.

(2) If the facility chooses to refer specimens for laboratory testing, the referral laboratory must be certified in the appropriate specialties and subspecialties of services in accordance with the requirements of part 493 of this chapter.

3. In § 485.304, the introductory text is republished and a new paragraph (q) is added to read as follows:

§ 485.304 Condition: Qualifications required of an organization for it to be a designated organ procurement organization.

To be designated by the Secretary as the OPO for its service area in accordance with § 485.303 of this subpart, an organization must at the time of application and throughout the period of its designation—

* * * * *

(q) Assure appropriate tests consistent with OPTN standards and CDC guidelines are performed by a laboratory that is certified in the appropriate specialty or subspecialty of service in accordance with the requirements of part 493 of this chapter, including tests to prevent the acquisition of organs that are infected with the etiologic agent for acquired immune deficiency syndrome.

PART 488—SURVEY AND CERTIFICATION PROCEDURES

K. Part 488 is amended as follows:

1. The authority citation for part 488 is revised to read as follows:

Authority: Secs. 1102, 1814, 1861, 1865, 1866, 1871, 1880, 1881 and 1883 of the Social Security Act (42 U.S.C. 1302, 1395f, 1395x, 1395bb, 1395cc, 1395hh, 1395qq, 1395rr and 1395tt); and sec. 353 of the Public Health Service Act (42 U.S.C. 263a).

§ 488.52 [Removed]

2. Section 488.52 is removed and reserved.

PART 491—CERTIFICATION OF CERTAIN HEALTH FACILITIES

L. Part 491 is amended as follows:

1. The authority citation for part 491 is revised to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302); and sec. 353 of the Public Health Service Act (42 U.S.C. 263a).

Subpart A—Rural Health Clinics: Conditions for Certification

2. Section 491.9 is amended by revising paragraph (c)(2), republishing paragraph (d)(1) introductory text, and revising paragraph (d)(1)(iii) to read as follows:

§ 491.9 Provision of services.

* * * * *

(c) *Direct services*—* * *

(2) *Laboratory.*

(i) The clinic provides basic laboratory services essential to the immediate diagnosis and treatment of the patient, including:

(A) Chemical examinations of urine by stick or tablet methods or both (including urine ketones);

(B) Microscopic examinations of urine sediment;

(C) Hemoglobin or hematocrit;

(D) Blood sugar;

(E) Gram stain;

(F) Examination of stool specimens for occult blood;

(G) Pregnancy tests;

(H) Primary culturing for transmittal to a certified laboratory; and

(I) Test for pinworm.

(ii) All laboratory services provided by the clinic must meet the applicable requirements of part 493 of this chapter.

* * * * *

(d) *Services provided through agreements or arrangements.* (1) The clinic has agreements or arrangements with one or more providers or suppliers participating under Medicare or Medicaid to furnish other services to its patients, including:

* * * * *

(iii) Additional and specialized diagnostic and laboratory services that are not available at the clinic. If the facility chooses to refer specimens for testing to another laboratory, the referral laboratory must be certified in accordance with the requirements of Part 493 of this chapter.

* * * * *

PART 493—LABORATORY REQUIREMENTS

M. Part 493 is amended as follows:

1. The authority citation for part 493 is revised to read as follows:

Authority: Sec. 353 of the Public Health Service Act, secs. 1102, 1861(e), the sentence following 11861(s)(11), 1861(s)(12), 1861(s)(13), 1861(s)(14), 1861(s)(15), and 1861(s)(16) of the Social Security Act (42 U.S.C. 1302, 1395x(e), the sentence following 1395x(s)(11), 1395x(s)(12), 1395x(s)(13), 1395x(s)(14), 1395x(s)(15), and 1395x(s)(16)).

2. The table of contents for part 493 is revised to read as follows:

PART 493—LABORATORY REQUIREMENTS

Subpart A—General Provisions

Sec.
493.1 Basis and scope.
493.2 Definitions.
493.3 Applicability.
493.10 Categories of tests by complexity.
493.15 Laboratories performing waived tests.
493.17 Test categorization.
493.20 Laboratories performing tests of moderate complexity.
493.25 Laboratories performing tests of high complexity.

Subpart B—Certificate of Waiver

493.35 Application for a certificate of waiver.
493.37 Requirements for a certificate of waiver.
493.39 Notification requirements for laboratories issued a certificate of waiver.

Subpart C—Registration Certificate and Certificate

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493.618 Additional application requirements. [Reserved]
493.622 Appeals procedures. [Reserved]
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493.825 Standard: Mycobacteriology.
493.827 Standard: Mycology.
493.829 Standard: Parasitology.
493.831 Standard: Virology.
493.833 Condition: Diagnostic immunology.
493.835 Standard: Syphilis serology.
493.837 Standard: General immunology.
493.839 Condition: Chemistry.
493.841 Standard: Routine chemistry.
493.843 Standard: Endocrinology.
493.845 Standard: Toxicology.
493.849 Condition: Hematology.
493.851 Standard: Hematology.
493.853 Condition: Pathology.
493.855 Standard: Cytology: gynecologic examinations.
493.857 Condition: Immunohematology.
493.859 Standard: ABO group and D (Rho) typing.

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493.861 Standard: Unexpected antibody detection.
493.863 Standard: Compatibility testing.
493.865 Standard: Antibody identification.

Subpart I—Proficiency Testing Programs for Tests of Moderate or High Complexity, or Both

493.901 Approval of proficiency testing programs.
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493.917 Parasitology.
493.919 Virology.
493.921 Diagnostic immunology.
493.923 Syphilis serology.
493.927 General Immunology.
493.929 Chemistry.
493.931 Routine chemistry.
493.933 Endocrinology.
493.937 Toxicology.
493.941 Hematology (including routine hematology and coagulation).
493.945 Cytology: gynecologic examinations.
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Subpart J—Patient Test Management for Moderate or High Complexity Testing, or Both.

493.1101 Condition: Patient test management; moderate or high complexity testing, or both.
493.1103 Standard; Procedures for specimen submission and handling.
493.1105 Standard: Test requisition.
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493.1201 Condition: General quality control for tests of moderate or high complexity, or both.
493.1202 Standard; Moderate or high complexity testing, or both: Effective from September 1, 1992 to September 1, 1994.
493.1203 Standard; Moderate or high complexity testing, or both: Effective beginning September 1, 1994.
493.1204 Standard; Facilities.
493.1205 Standard; Test methods, equipment, instrumentation, reagents, materials, and supplies.
493.1211 Standard; Procedure manual.
493.1213 Standard; Establishment and verification of method performance specifications.
493.1215 Standard; Equipment maintenance and function checks.
493.1217 Standard; Calibration and calibration verification procedures.
493.1218 Standard; Control procedures.
493.1219 Standard; Remedial actions.
493.1221 Standard; Quality control records.
493.1223 Condition: Quality control—specialties and subspecialties for tests of moderate or high complexity, or both.

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493.1225 Condition: Microbiology.
493.1227 Condition: Bacteriology.
493.1229 Condition: Mycobacteriology.
493.1231 Condition: Mycology.
493.1233 Condition: Parasitology.
493.1235 Condition: Virology.
493.1237 Condition: Diagnostic immunology.
493.1239 Condition: Syphilis serology.
493.1241 Condition: General immunology.
493.1243 Condition: Chemistry.
493.1245 Condition: Routine chemistry.
493.1247 Condition: Endocrinology.
493.1249 Condition: Toxicology.
493.1253 Condition: Hematology.
493.1255 Condition: Pathology.
493.1257 Condition: Cytology.
493.1259 Condition: Histopathology.
493.1261 Condition: Oral pathology.
493.1263 Condition: Radiobioassay.
493.1265 Condition: Histocompatibility.
493.1267 Condition: Clinical cytogenetics.
493.1269 Condition: Immunohematology.
493.1271 Condition: Transfusion services and bloodbanking.
493.1273 Standard; Immunohematological collection, processing, dating periods, labeling and distribution of blood and blood products.
493.1275 Standard; Blood and blood products storage facilities.
493.1277 Standard; Arrangement for services.
493.1279 Standard; Provision of testing.
493.1283 Standard; Retention of samples of transfused blood.
493.1285 Standard; Investigation of transfusion reactions.

Subpart L—[Reserved]

Subpart M—Personnel for Moderate and High Complexity Testing

493.1401 General.

Laboratories Performing Moderate Complexity Testing

493.1403 Condition: Laboratories performing moderate complexity testing; laboratory director.
493.1405 Standard; Laboratory director qualifications.
493.1407 Standard; Laboratory director responsibilities.
493.1409 Condition: Laboratories performing moderate complexity testing; technical consultant.
493.1411 Standard; Technical consultant qualifications.
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493.1415 Condition: Laboratories performing moderate complexity testing; clinical consultant.
493.1417 Standard; Clinical consultant qualifications.
493.1419 Standard; Clinical consultant responsibilities.
493.1421 Condition: Laboratories performing moderate complexity testing; testing personnel.
493.1423 Standard; Testing personnel qualifications.
493.1425 Standard; Testing personnel responsibilities.

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493.1441 Condition: Laboratories performing high complexity testing; laboratory director.
493.1443 Standard; Laboratory director qualifications.
493.1445 Standard; Laboratory director responsibilities.
493.1447 Condition: Laboratories performing high complexity testing; technical supervisor.
493.1449 Standard; Technical supervisor qualifications.
493.1451 Standard; Technical supervisor responsibilities.
493.1453 Condition: Laboratories performing high complexity testing; clinical consultant.
493.1455 Standard; Clinical consultant qualifications.
493.1457 Standard; Clinical consultant responsibilities.
493.1459 Condition: Laboratories performing high complexity testing; general supervisor.
493.1461 Standard; General supervisor qualifications.
493.1463 Standard; General supervisor responsibilities.
493.1467 Condition: Laboratories performing high complexity testing: Cytology general supervisor.
493.1469 Standard; Cytology general supervisor qualifications.
493.1471 Standard; Cytology general supervisor responsibilities.
493.1481 Condition: Laboratories performing high Complexity testing; cytotechnologist.
493.1483 Standard; Cytotechnologist qualifications.
493.1485 Standard; Cytotechnologist responsibilities.
493.1487 Condition: Laboratories performing High Complexity testing: testing personnel.
493.1489 Standard; Testing personnel qualifications.
493.1495 Standard; Testing personnel responsibilities.

Subparts N-O—[Reserved]

Subpart P—Quality Assurance for Moderate or High Complexity Testing, or Both

493.1701 Condition: Quality assurance for moderate or high complexity testing, or both.
493.1703 Standard; Patient test management assessment.
493.1705 Standard; Quality control assessment.
493.1707 Standard; Proficiency testing assessment.
493.1709 Standard; Comparison of test results.
493.1711 Standard; Relationship of patient information to patient test results.
493.1713 Standard; Personnel assessment.
493.1715 Standard; Communications.
493.1717 Standard; Complaint investigations.
493.1719 Standard; Quality assurance review with staff.

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493.1721 Standard; Quality assurance records.

Subpart Q—Inspection

493.1775 Condition: Inspection of laboratories issued a certificate of waiver.
493.1777 Condition: Inspection of all laboratories not issued a certificate of waiver or a certificate of accreditation.
493.1780 Condition: Inspection of accredited and State-exempt laboratories.

Subparts R-S—[Reserved]

Subpart T—Consultations

493.2001 Establishment and function of the Clinical Laboratory Improvement Advisory Committee.

3. By revising subpart A, adding subparts B through D, reserving subpart E, amending subpart F by removing the text of §§ 493.602 through 493.634 and reserving the section headings, removing and reserving subpart G, and revising subparts H through K to read as follows:

Subpart A—General Provisions

§ 493.1 Basis and scope.

This part sets forth the conditions that all laboratories must meet to be certified to perform testing on human specimens under the Clinical Laboratory Improvement Amendments of 1988 (CLIA). It implements sections 1861 (e) and (j), the sentence following section 1861(s)(13), and 1902(a)(9) of the Social Security Act, and section 353 of the Public Health Service Act. This part applies to all laboratories as defined under "laboratory" in § 493.2 of this part. This part also applies to laboratories seeking payment under the Medicare and Medicaid programs. The requirements are the same for Medicare approval as for CLIA certification.

§ 493.2 Definitions.

As used in this part—

Accredited institution means a school or program which—

(a) Admits as regular student only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate;

(b) Is legally authorized within the State to provide a program of education beyond secondary education;

(c) Provides an educational program for which it awards a bachelor's degree or provides not less than a 2-year program which is acceptable for full credit toward such a degree, or provides an educational program for which it awards a master's or doctoral degree;

(d) Is accredited by a nationally recognized accrediting agency or association.

This definition includes any foreign institution of higher education that HHS or its designee determines meets substantially equivalent requirements.

Analyte means a substance or constituent for which the laboratory conducts testing.

Authorized person means an individual authorized under State law to order tests or receive test results, or both.

Automated means an instrument or test system in which all analytical processes, including sample and reagent uptake, sample/reagent interaction, chemical/biological analysis, result calculation and result readout are mechanized.

Challenge means, for quantitative tests, an assessment of the amount of substance or analyte present or measured in a sample. For qualitative tests, a challenge means the determination of the presence or the absence of an analyte, organism, or substance in a sample.

CLIA means the Clinical Laboratory Improvement Amendments of 1988.

HHS means the Department of Health and Human Services, or its designee.

Kit means all components of a test that are packaged together.

Laboratory means a facility for the biological, microbiological, serological, chemical, immunohematological, hematological, biophysical, cytological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, human beings. These examinations also include procedures to determine, measure, or otherwise describe the presence or absence of various substances or organisms in the body. Facilities only collecting or preparing specimens (or both) or only serving as a mailing service and not performing testing are not considered laboratories.

Performance characteristic means a property of a test that is used to describe its quality, e.g., accuracy, precision, analytical sensitivity, analytical specificity, reportable range, reference range, etc.

Performance specification means a value or range of values for a performance characteristic, established or verified by the laboratory, that is used to describe the quality of patient test results.

Referee laboratory means a laboratory currently in compliance with applicable CLIA requirements, that has had a record of satisfactory proficiency testing performance for all testing

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events for at least one year for a specific test, analyte, subspecialty, or specialty and has been designated by an HHS approved proficiency testing program as a referee laboratory for analyzing proficiency testing specimens for the purpose of determining the correct response for the specimens in a testing event for that specific test, analyte, subspecialty, or specialty.

Reference range means the range of test values expected for a designated population of individuals, e.g., 95 percent of individuals that are presumed to be healthy (or normal).

Reportable range means the range of test values over which the relationship between the instrument, kit, or system's measurement response is shown to be valid.

Sample in proficiency testing means the material contained in a vial, on a slide, or other unit that contains material to be tested by proficiency testing program participants. When possible, samples are of human origin.

Semi-automated means an instrument or system in which some of the steps in the analytical process are mechanized but others require operator intervention.

State-exempt laboratory means a licensed laboratory in a State whose licensure program is approved by HCFA and is exempt from CLIA requirements (i.e., State-exempt).

Target value for quantitative tests means either the mean of all participant responses after removal of outliers (those responses greater than 3 standard deviations from the original mean) or the mean established by definitive or reference methods acceptable for use in the National Reference System for the Clinical Laboratory (NRSCL) by the National Committee for the Clinical Laboratory Standards (NCCLS). In instances where definitive or reference methods are not available or a specific method's results demonstrate bias that is not observed with actual patient specimens, as determined by a defensible scientific protocol, a comparative method or a method group ("peer" group) may be used. If the method group is less than 10 participants, "target value" means the overall mean after outlier removal (as defined above) unless acceptable scientific reasons are available to indicate that such an evaluation is not appropriate.

Unsatisfactory proficiency testing performance means failure to attain the minimum satisfactory score for an analyte, test, subspecialty, or specialty for a testing event.

Unsuccessful proficiency testing performance means a failure to attain the minimum satisfactory score for an analyte, test, subspecialty, or specialty for two consecutive or two of three consecutive testing events.

§ 493.3 Applicability.

(a) *Basic rule.* Except as specified in paragraph (b) of this section, a laboratory will be cited as out of compliance with section 353 of the Public Health Service Act unless it—

(1) Has a current, unrevoked or unsuspended certificate of waiver, a registration certificate, a certificate, or a certificate of accreditation issued by HHS applicable to the category of examinations or procedures performed by the laboratory; or

(2) Is State exempt.

(b) *Exception.* These rules do not apply to components or functions of—

(1) Any facility or component of a facility that only performs testing for forensic purposes;

(2) Research laboratories that test human specimens but do not report patient specific results for the diagnosis, prevention or treatment of any disease or impairment of, or the assessment of the health of individual patients; or

(3) Laboratories certified by the National Institutes on Drug Abuse (NIDA), in which drug testing is performed which meets NIDA guidelines and regulations. However, all other testing conducted by a NIDA-certified laboratory is subject to this rule.

(c) *Federal laboratories.* Laboratories under the jurisdiction of an agency of the Federal Government are subject to the rules of this part, except that the Secretary may modify the application of such requirements as appropriate.

§ 493.10 Categories of tests by complexity.

(a) Laboratory tests are categorized as either—

(1) Waived tests;

(2) Tests of moderate complexity; or

(3) Tests of high complexity.

(b) A laboratory may perform only waived tests, only tests of moderate complexity, only tests of high complexity or any combination.

(c) Each laboratory must be either State-exempt or possess one of the following, as defined in this part:

(1) Registration certificate;

(2) Certificate of waiver;

(3) Certificate; or

(4) Certificate of accreditation.

§ 493.15 Laboratories performing waived tests.

(a) *Requirement.* Tests for certificate of waiver must meet the descriptive criteria specified in paragraph (b) of this section.

(b) *Criteria.* Test systems are simple laboratory examinations and procedures which—

(1) Are cleared by FDA for home use;

(2) Employ methodologies that are so simple and accurate as to render the likelihood of erroneous results negligible; or

(3) Pose no reasonable risk of harm to the patient if the test is performed incorrectly.

(c) *Certificate of waiver tests.* A laboratory may qualify for a certificate of waiver under section 353 of the PHS Act if it restricts the tests that it performs to one or more of the following tests or examinations (or additional tests added to this list as provided under paragraph (c) of this section) and no others:

(1) Dipstick or Tablet Reagent Urinalysis (non- automated) for the following:

(i) Bilirubin;

(ii) Glucose;

(iii) Hemoglobin;

(iv) Ketone;

(v) Leukocytes;

(vi) Nitrite;

(vii) pH;

(viii) Protein;

(ix) Specific gravity; and

(x) Urobilinogen.

(2) Fecal occult blood;

(3) Ovulation tests—visual color comparison tests for human luteinizing hormone;

(4) Urine pregnancy tests—visual color comparison tests;

(5) Erythrocyte sedimentation rate—non-automated;

(6) Hemoglobin—copper sulfate—non-automated;

(7) Blood glucose by glucose monitoring devices cleared by the FDA specifically for home use; and

(8) Spun microhematocrit.

(d) *Revisions to criteria for test categorization and the list of waived tests.* (1) The Clinical Laboratory Improvement Advisory Committee, as defined in subpart T, will conduct reviews upon request of HHS and recommend to HHS revisions to the criteria for categorization of tests.

(2) HHS will determine whether a laboratory test meets the criteria listed under paragraph (b) of this section for a waived test. Revisions to the list of waived tests approved by HHS will be published in the **Federal Register** in a notice with opportunity for comment.

(e) Laboratories eligible for a certificate of waiver must—

(1) Follow manufacturers' instructions for performing the test; and

(2) Meet the requirements in subpart B, Certificate of Waiver, of this part.

§ 493.17 Test categorization.

(a) *Categorization by criteria.* Notices will be published in the **Federal Register** which list each specific test system, assay, and examination categorized by complexity. Using the seven criteria specified in this paragraph for categorizing tests of moderate or high complexity, each specific laboratory test system, assay, and examination will be graded for level of complexity by assigning scores of 1, 2, or 3 within each criteria. The score of "1" indicates the lowest level of complexity, and the score of "3" indicates the highest level. These scores will be totaled. Test systems, assays or examinations receiving scores of 12 or less will be categorized as moderate complexity, while those receiving scores above 12 will be categorized as high complexity.

Note: A score of "2" will be assigned to a criteria heading when the characteristics for a particular test are intermediate between the descriptions listed for scores of "1" and "3."

(1) *Knowledge.* (i) *Score 1.* (A) Minimal scientific and technical knowledge is required to perform the test.

(B) Minimal decision-making is required, and knowledge required to perform the test may be obtained through on-the-job instruction.

(ii) *Score 3.* (A) Specialized scientific and technical knowledge is essential to perform the test.

(B) Specialized knowledge is necessary for decision-making relative to the preanalytic, analytic, or postanalytic phases of testing.

(2) *Training and experience.* (i) *Score 1.* (A) Minimal training is required for preanalytic, analytic and postanalytic phases of the testing process; and

(B) Limited experience is required to perform the test.

(ii) *Score 3.* (A) Specialized training is essential to perform the preanalytic, analytic or postanalytic testing process; and

(B) Substantial experience may be necessary for analytic test performance.

(3) *Reagents and materials preparation.* (i) *Score 1.* (A) Reagents and materials are generally stable and reliable; and

(B) Reagents and materials are prepackaged, or premeasured, or require no special handling, precautions or storage conditions.

(ii) *Score 3.* (A) Reagents and materials may be labile and may require special handling to assure reliability; and

(B) Reagents and materials preparation may include manual steps such as gravimetric or volumetric measurements.

(4) *Characteristics of operational steps.* (i) *Score 1.* Operational steps are either automatically executed (such as pipetting, temperature monitoring, or timing of steps), or are easily controlled.

(ii) *Score 3.* Operational steps in the testing process require close monitoring or control, and may require special specimen preparation, precise temperature control or timing of procedural steps, accurate pipetting, or extensive calculations.

(5) *Calibration, quality control, and proficiency testing materials.* (i) *Score 1.* (A) Calibration materials are stable and readily available;

(B) Quality control materials are stable and readily available; and

(C) External proficiency testing materials, when available, are stable.

(ii) *Score 3.* (A) Calibration materials, if available, may be labile;

(B) Quality control materials may be labile, or not available; or

(C) External proficiency testing materials, if available, may be labile.

(6) *Test system troubleshooting and equipment maintenance.* (i) *Score 1.* (A) Test system troubleshooting is automatic or self-correcting, or clearly described or requires minimal judgment; and

(B) Equipment maintenance is provided by the manufacturer, is seldom needed, or can easily be performed.

(ii) *Score 3.* (A) Troubleshooting is not automatic and requires decision-making and direct intervention to resolve most problems; and

(B) Maintenance requires special knowledge, skills, and abilities.

(7) *Interpretation and judgment.* (i) *Score 1.* (A) Minimal interpretation and judgment are required to perform preanalytic, analytic and postanalytic processes; and

(B) Resolution of problems requires limited independent interpretation and judgment; and

(ii) *Score 3.* (A) Extensive independent interpretation and judgment are required to perform the preanalytic, analytic or postanalytic processes; and

(B) Resolution of problems requires extensive interpretation and judgment.

(b) *Revisions to the criteria for categorization.* The Clinical Laboratory Improvement Advisory Committee, as defined in subpart T of this part, will conduct reviews upon request of HHS and recommend to HHS revisions to the criteria for categorization of tests.

(c) *Process for device/test categorization utilizing the scoring system under § 493.17(a).* (1)(i) For new commercial test systems, assays, or examinations, the manufacturer, as part of its 510(k) and PMA application to FDA, will submit supporting data for device/test categorization. FDA will determine the complexity category, notify the manufacturers directly, and will simultaneously inform both HCFA and CDC of the device/test category. FDA will consult with CDC concerning test categorization in the following three situations:

(A) When categorizing previously uncategorized new technology;

(B) When FDA determines it to be necessary in cases involving a request for a change in categorization; and

(C) If a manufacturer requests review of a categorization decision by FDA in accordance with 21 CFR 10.75.

(ii) Test categorization will be effective as of the notification to the applicant.

(2) For test systems, assays, or examinations not commercially available, a laboratory or professional group may submit a written request for categorization to PHS. These requests will be forwarded to CDC for evaluation; CDC will determine complexity category and notify the applicant, HCFA, and FDA of the categorization decision. In the case of request for a change of category or for previously uncategorized new technology, PHS will receive the request application and forward it to CDC for categorization.

(3) A request for recategorization will be accepted for review if it is based on new information not previously submitted in a request for categorization or recategorization by the same applicant and will not be considered more frequently than once per year.

(4) If a laboratory test system, assay or examination does not appear on the lists of tests in the **Federal Register** notices, it is considered to be a test of high complexity until PHS, upon request, reviews the matter and notifies the applicant of its decision.

(5) PHS will publish revisions periodically to the list of moderate and high complexity tests in the **Federal Register** in a notice with opportunity for comment.

§ 493.20 Laboratories performing tests of moderate complexity.

(a) A laboratory may qualify for a certificate to perform tests of moderate complexity provided that it restricts its test performance to certificate of waiver tests or examinations and one or more tests or examinations meeting criteria for tests of moderate complexity.

(b) A laboratory that performs tests or examinations of moderate complexity must meet the applicable requirements in subpart C, registration certificate and certificate, or if applicable, subpart D,

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certificate of accreditation; subpart H, participation in proficiency testing; subpart J, patient test management; subpart K, quality control; subpart M, personnel; subpart P, quality assurance; and subpart Q, inspections, of this part.

(c) If the laboratory also performs certificate of waiver tests listed in § 493.15, compliance with subparts H, J, K, M, P, and Q of this part for routine inspections are not required for the waived tests. However, the laboratory must comply with the requirements in §§ 493.15(d) and 493.1775.

§ 493.25 Laboratories performing tests of high complexity.

(a) A laboratory must obtain a certificate for tests of high complexity if it performs one or more tests that meet the criteria for tests of high complexity as specified in § 493.17(a).

(b) A laboratory performing one or more tests of high complexity must meet the applicable requirements of subpart C, registration certificate and certificate, or if applicable, subpart D, certificate of accreditation; subpart H, participation in proficiency testing; subpart J, patient test management; subpart K, quality control; subpart M, personnel; subpart P, quality assurance; and subpart Q, inspections, of this part.

(c) If the laboratory also performs certificate of waiver tests, the requirements of subparts H, J, K, M, P, and Q of this part for routine inspections are not applicable for the waived tests. However, the laboratory must comply with the requirements in §§ 493.15(d) and 493.1775.

(d) If the laboratory also performs tests of moderate complexity, the personnel requirements of subpart M are applicable for the performance of tests of moderate complexity as well as subparts H, J, K, P, and Q of this part.

Subpart B—Certificate of Waiver

§ 493.35 Application for a certificate of waiver.

(a) *Filing of application.* Except as specified in paragraph (b) of this section, a laboratory performing only one or more waived tests listed in § 435.15(b) of this chapter must file a separate application for each laboratory location.

(b) *Exceptions.* (1) Each laboratory that is not in a fixed location, must file an application using the address of the home base, including—

(i) A laboratory that moves from testing site to testing site or has a temporary testing location, such as a health screening fair; and

(ii) Each mobile van providing lab services.

(2) Not-for-profit or Federal, State, or local government laboratories that engage in limited (e.g., few types of tests) public health testing may file a single application.

(3) Laboratories within a hospital that are located at the same street address and under common direction may file a single application or multiple applications for the laboratory sites within the same physical location or street address.

(c) *Application format and contents.* The application must—

(1) Be made to HHS or its designee on a form or forms prescribed by HHS;

(2) Be signed by an owner, or by an authorized representative of the laboratory who attests that the laboratory will be operated in accordance with requirements established by the Secretary under section 353 of the PHS Act; and

(3) Describe the characteristics of the laboratory operation and the examinations and other test procedures performed by the laboratory including—

(i) The name and the total number of test procedures and examinations performed annually (excluding tests the laboratory may run for quality control, quality assurance or proficiency testing purposes;

(ii) The methodologies for each laboratory test procedure or examination performed, or both; and

(iii) The qualifications (educational background, training, and experience) of the personnel directing and supervising the laboratory and performing the laboratory examinations and test procedures.

(d) *Access requirements.* Laboratories that perform one or more waived tests listed in § 493.15(b) and no other tests must—

(1) Make records available and submit reports to HHS as HHS may reasonably require to determine compliance with this section and § 493.15(d);

(2) Agree to permit unannounced inspections by HHS in accordance with subpart Q of this part—

(i) When HHS has substantive reason to believe that the laboratory is being operated in a manner that constitutes an imminent and serious risk to human health;

(ii) To evaluate complaints from the public;

(iii) On a random basis to determine whether the laboratory is performing tests not listed in § 493.15; and

(iv) To collect information for the addition, deletion, or continued inclusion of tests listed in § 493.15.

(e) *Denial of application.* If HHS determines that the application for a certificate of waiver is to be denied, HHS will—

(1) Provide the laboratory with a written statement of the grounds on which the denial is based and an opportunity for appeal, in accordance with the procedures set forth in subpart R of this part;

(2) Notify a laboratory that has its application for a certificate of waiver denied that it cannot operate as a laboratory under the PHS Act unless the denial is overturned at the conclusion of the administrative appeals process provided by subpart R; and

(3) Notify the laboratory that it is not eligible for payment under the Medicare and Medicaid programs.

§ 493.37 Requirements for a certificate of waiver.

(a) HHS will issue a certificate of waiver to a laboratory only if the laboratory meets the requirements of § 493.35.

(b) Laboratories issued a certificate of waiver—

(1) Are subject to the requirements of this subpart and § 493.15(d) of subpart A of this part; and

(2) Must permit unannounced inspections by HHS in accordance with subpart Q of this part.

(c) Laboratories must remit the certificate of waiver fee specified in subpart F of this part.

(d) In accordance with subpart R of this part, HHS will suspend or revoke or limit a laboratory's certificate of waiver for failure to comply with the requirements of this subpart. In addition, failure to meet the requirements of this subpart will result in suspension or denial of payments under Medicare and Medicaid in accordance with subpart R of this part.

(e)(1) A certificate of waiver issued under this subpart is valid for no more than 2 years. In the event of a non-compliance determination resulting in HHS action to revoke, suspend, or limit the laboratory's certificate of waiver, HHS will provide the laboratory with a statement of grounds on which the determination of non-compliance is based and offer an opportunity for appeal as provided in subpart R of this part.

(2) If the laboratory requests a hearing within the time specified by HHS, it retains its certificate of waiver or reissued certificate of waiver until a decision is made by an administrative law judge, as specified in subpart R of this part, except when HHS finds that conditions at the laboratory pose an imminent and serious risk to human health.

(3) For laboratories receiving payment from the Medicare or Medicaid program, such payments will be suspended on the effective date specified in the notice to the laboratory of a non-compliance determination even if there has been no appeals decision issued.

(f) A laboratory seeking to renew its certificate of waiver must—

(1) Complete the renewal application prescribed by HHS and return it to HHS not less than 9 months nor more than 1 year before the expiration of the certificate; and

(2) Meet the requirements of §§ 493.35 and 493.37.

(g) A laboratory with a certificate of waiver that wishes to perform examinations of test procedures not listed in the waiver test category must meet the requirements set forth in subparts C or D of this part.

§ 493.39 Notification requirements for laboratories issued a certificate of waiver.

Laboratories performing one or more tests listed in § 493.15 and no others must notify HHS or its designee—

(a) Before performing and reporting results for any test or examination that is not specified under § 493.15 for which it does not have a registration certificate as required in subparts C or D of this part; and

(b) Within 30 days of any change(s) in—

(1) Ownership;

(2) Name;

(3) Location; or

(4) Director.

Subpart C—Registration Certificate and Certificate

§ 493.43 Application for registration certificate and certificate.

(a) *Filing of application.* Except as specified in paragraph (b) of this section, all laboratories performing tests of moderate or high complexity, or both, must file a separate application for each laboratory location.

(b) *Exceptions.* (1) Each laboratory that is not in a fixed location, must file a single application using the address of the home base, including—

(i) A laboratory that moves from testing site to testing site or uses a temporary testing location, such as a health screening fair; and

(ii) Each mobile van providing laboratory services.

(2) Not-for-profit or Federal, State, or local government laboratories that engage in limited (e.g., few types of tests) public health testing may file a single application.

(3) Laboratories within a hospital that are located at the same street address and under common direction may file a single application or multiple applications for the laboratory sites within the same physical location or street address.

(c) *Application format and contents.* The application must—

(1) Be made to HHS or its designee on a form or forms prescribed by HHS;

(2) Be signed by an owner, or by an authorized representative of the laboratory who attests that the laboratory will be operated in accordance with requirements established by the Secretary under section 353 of the PHS Act; and

(3) Describe the characteristics of the laboratory operation and the examinations and other test procedures performed by the laboratory including—

(i) The name and total number of test procedures and examinations performed annually (excluding tests for quality control, quality assurance or proficiency testing purposes);

(ii) The methodologies for each laboratory test procedure or examination performed, or both; and

(iii) The qualifications (educational background, training, and experience) of the personnel directing and supervising the laboratory and performing the laboratory examinations and test procedures.

(d) *Access and reporting requirements.* All laboratories must make records available and submit reports to HHS as HHS may reasonably require to determine compliance with this section.

§ 493.45 Requirements for a registration certificate.

(a) A registration certificate is required—

(1) Initially for all laboratories performing test procedures listed at §§ 493.17 (b) and (c); and

(2) For all certificate of waiver laboratories that intend to perform testing in addition to those tests listed in § 493.15.

(b) HHS will issue a registration certificate if the laboratory—

(1) Complies with the requirements of § 493.43;

(2) Agrees to notify HHS or its designee within 30 days of any changes in ownership, name, location, director or supervisor (laboratories performing high complexity testing only);

(3) Agrees to treat proficiency testing samples in the same manner as it treats patient specimens; and

(4) Remits the fee for the registration certificate, as specified in subpart F of this part.

(c) Prior to the expiration of the registration certificate, a laboratory must—

(1) Remit the certificate fee specified in subpart F of this part;

(2) Be inspected by HHS as specified in subpart Q of this part; and

(3) Demonstrate compliance with the applicable requirements of this subpart and subparts H, J, K, M, P, and Q of this part.

(d) In accordance with subpart R of this part, HHS will initiate suspension or revocation of a laboratory's registration certificate and will deny the laboratory's application for a certificate for failure to comply with the requirements set forth in this subpart. HHS may also impose certain alternative sanctions. In addition, failure to meet the requirements of this subpart will result in suspension of payments under Medicare and Medicaid as specified in subpart R of this part.

(e) A registration certificate is—

(1) Valid for a period of no more than two years or until such time as an inspection to determine program compliance can be conducted, whichever is shorter; and

(2) Not renewable; however, the registration certificate may be reissued if compliance has not been determined by HHS prior to the expiration date of the registration certificate.

(f) In the event of a non-compliance determination resulting in an HHS denial of a laboratory's certificate application, HHS will provide the laboratory with a statement of grounds on which the non-compliance determination is based and offer an opportunity for appeal as provided in subpart R.

(g) If the laboratory requests a hearing within the time specified by HHS, it retains its registration certificate or reissued registration certificate until a decision is made by an administrative law judge as provided in subpart R of this part, except when HHS finds that conditions at the laboratory pose an imminent and serious risk to human health.

(h) For laboratories receiving payment from the Medicare or Medicaid program, such payments will be suspended on the effective date specified in the notice to the laboratory of denial of the certificate application even if there has been no appeals decision issued.

§ 493.49 Requirements for a certificate.

(a) HHS will issue a certificate to a laboratory only if the laboratory—

(1) Meets the requirements of §§ 493.43 and 493.45;

VOL
57
SS
40
FE
28
992
UMI

(2) Remits the certificate fee specified in subpart F of this part; and

(3) Meets the applicable requirements of this subpart and subparts H, J, K, M, P, and Q of this part.

(b) Laboratories issued a certificate—

(1) Are subject to the notification requirements of § 493.51 of this section; and

(2) Must permit unannounced inspections by HHS in accordance with subpart Q of this part—

(i) To determine compliance with the requirements of this part;

(ii) To evaluate complaints from the public;

(iii) When HHS has substantive reason to believe that any tests are being performed, or the laboratory is being operated in a manner that constitutes an imminent and serious risk to human health; and

(iv) To collect information for the addition, deletion, or continued inclusion of tests listed in §§ 493.15 and 493.17 (b) and (c).

(c) Failure to comply with the requirements of this subpart will result in—

(1) Suspension, revocation or limitation of a laboratory's certificate in accordance with subpart R of this part; and

(2) Suspension or denial of payments under Medicare and Medicaid in accordance with subpart R of this part.

(d) A certificate issued under this subpart is valid for no more than 2 years.

(e) In the event of a non-compliance determination resulting in an HHS action to revoke, suspend or limit the laboratory's certificate, HHS will—

(1) Provide the laboratory with a statement of grounds on which the determination of non-compliance is based; and

(2) Offer an opportunity for appeal as provided in subpart R of this part. If the laboratory requests a hearing within the time specified by HHS, it retains its certificate or reissued certificate until a decision is made by an administrative law judge as provided in subpart R of this part, except when HHS finds that conditions at the laboratory pose an imminent and serious risk to human health.

(f) For laboratories receiving payment from the Medicare or Medicaid program, such payments will be suspended on the effective date specified in the notice to the laboratory of a non-compliance determination even if there has been no appeals decision issued.

(g) A laboratory seeking to renew its certificate must—

(1) Complete and return the renewal application to HHS 9 to 12 months prior to the expiration of the certificate; and

(2) Meet the requirements of § 493.43 and paragraphs (a)(2) and (b)(2) of this section.

(h) If HHS determines that the application for the renewal of a certificate is to be denied or limited, HHS will notify the laboratory in writing of the—

(1) Basis for denial of the application; and

(2) Opportunity for appeal as provided in subpart R of this part.

(i) If the laboratory requests a hearing within the time specified by HHS, it retains its certificate or reissued certificate until a decision is made by an ALJ as provided in subpart R, except when HHS finds that conditions at the laboratory pose an imminent and serious risk to human health.

(j) For laboratories receiving payment from the Medicare or Medicaid program, such payments will be suspended on the effective date specified in the notice to the laboratory of nonrenewal of the certificate even if there has been no appeals decision issued.

§ 493.51 Notification requirements for laboratories issued a certificate.

Laboratories issued a certificate must:

(a) Notify HHS or its designee within 30 days of any change in—

(1) Ownership;

(2) Name;

(3) Location;

(4) Director; or

(5) Superviser (laboratories performing high complexity testing only).

(b) Notify HHS no later than 6 months after performing any test or examination within a specialty or subspecialty area that is not included on the laboratory's certificate, so that compliance with requirements can be determined; and

(c) Notify HHS no later than 6 months after any deletions or changes in test methodologies for any test or examination included in a specialty or subspecialty, or both, for which the laboratory has been issued a certificate.

Subpart D—Certificate of Accreditation

§ 493.55 Application for registration certificate and certificate of accreditation.

(a) *Filing of application.* A laboratory performing one or more tests of moderate complexity or high complexity, or both may be issued a certificate of accreditation in lieu of a certificate provided the laboratory—

(1) Meets the standards of a private non-profit accreditation program approved by HHS in accordance with subpart E; and

(2) Files a separate application for each location, except as specified in paragraph (b) of this section.

(b) *Exceptions.* (1) Each laboratory that is not in a fixed location must file an application using the address of the home base, including—

(i) A laboratory that moves from testing site to testing site or uses a temporary testing location, such as a health screening fair; and

(ii) Each mobile van providing laboratory testing.

(2) Not-for-profit or Federal, State, or local government laboratories that engage in limited (e.g., few types of tests) public health testing may file a single application.

(3) Laboratories within a hospital that are located at the same street address and under common direction may file a single application or multiple applications for the laboratory sites within the same physical location or street address.

(c) *Application format and contents.* The application must—

(1) Be made to HHS on a form or forms prescribed by HHS;

(2) Be signed by an owner, or by an authorized representative of the laboratory who attests that the laboratory will be operated in accordance with requirements established by the Secretary under section 353 of the PHS Act; and

(3) Describe the characteristics of the laboratory operation and the examinations and other test procedures performed by the laboratory including—

(i) The name and total number of tests and examinations performed annually (excluding tests for quality control, quality assurance or proficiency testing purposes);

(ii) The methodologies for each laboratory test procedure or examination performed, or both; and

(iii) The qualifications (educational background, training, and experience) of the personnel directing and supervising the laboratory and performing the laboratory examinations and test procedures.

(d) *Access and reporting requirements.* All laboratories must make records available and submit reports to HHS as HHS may reasonably require to determine compliance with this section.

§ 493.57 Requirements for a registration certificate.

A registration certificate is required for all laboratories seeking a certificate of accreditation, unless the laboratory holds a valid certificate issued by HHS.

(a) HHS will issue a registration certificate if the laboratory—

(1) Complies with the requirements of § 493.55;

(2) Agrees to notify HHS within 30 days of any changes in ownership, name, location, director, or supervisor (laboratories performing high complexity testing only);

(3) Agrees to treat proficiency testing samples in the same manner as it treats patient specimens; and

(4) Remits the fee for the registration certificate specified in subpart F of this part.

(b)(1) The laboratory must provide HHS with proof of accreditation by an approved accreditation program—

(i) Within 11 months of issuance of the registration certificate; or

(ii) Prior to the expiration of the certificate.

(2) If such proof of accreditation is not supplied within this timeframe, the laboratory must meet, or continue to meet, the requirements of Subpart C, § 493.49 of this part.

(c) In accordance with subpart R of this part, HHS will initiate suspension, revocation, or limitation of a laboratory's registration certificate and will deny the laboratory's application for a certificate of accreditation for failure to comply with the requirements set forth in this subpart. In addition, failure to meet the requirements of this subpart will result in suspension or denial of payments under Medicare and Medicaid as specified in subpart R of this part.

(d) A registration certificate is valid for a period of no more than 2 years. However, it may be reissued if the laboratory is subject to subpart C of this part, as specified in § 493.57(b)(2) and compliance has not been determined by HHS before the expiration date of the registration certificate.

(e) In the event that the laboratory does not meet the requirements of this subpart, HHS will—

(1) Deny a laboratory's request for certificate of accreditation;

(2) Notify the laboratory if it must meet the requirements for a certificate as defined in subpart C of this part;

(3) Provide the laboratory with a statement of grounds on which the application denial is based;

(4) Offer an opportunity for appeal on the application denial as provided in subpart R of this part. If the laboratory requests a hearing within the time specified by HHS, the laboratory will retain its registration certificate or reissued registration certificate until a decision is made by an administrative law judge as provided in subpart R, unless HHS finds that conditions at the laboratory pose an imminent and serious risk to human health; and

(5) For those laboratories receiving payment from the Medicare or Medicaid program, such payments will be suspended on the effective date specified in the notice to the laboratory of denial of the request even if there has been no appeals decision issued.

§ 493.61 Requirements for a certificate of accreditation.

(a) HHS will issue a certificate of accreditation to a laboratory if the laboratory—

(1) Meets the requirements of § 493.57 or, if applicable, § 493.49 of subpart C of this part; and

(2) Remits the certificate of accreditation fee specified in subpart F of this part.

(b) Laboratories issued a certificate of accreditation must—

(1) Treat proficiency testing samples in the same manner as patient samples;

(2) Meet the requirements of § 493.63;

(3) Comply with the requirements of the approved accreditation program;

(4) Permit random sample validation and complaint inspections as required in subpart Q of this part;

(5) Permit HHS to monitor the correction of any deficiencies found through the inspections specified in paragraph (b)(4) of this section;

(6) Authorize the accreditation program to release to HHS the laboratory's inspection findings whenever HHS conducts random sample or complaint inspections; and

(7) Authorize its accreditation program to submit to HHS the results of the laboratory's proficiency testing.

(c) A laboratory failing to meet the requirements of this section—

(1) Will no longer meet the requirements of this part by virtue of its accreditation in an approved accreditation program;

(2) Will be subject to full determination of compliance by HHS;

(3) May be subject to suspension revocation or limitation of the laboratory's certificate of accreditation or certain alternative sanctions; and

(4) May be subject to suspension of payments under Medicare and Medicaid as specified in subpart R.

(d) A certificate of accreditation issued under this subpart is valid for no more than 2 years. In the event of a noncompliance determination as a result of a random sample validation or complaint inspection, a laboratory will be subject to a full review by HHS in accordance with § 488.11 of this chapter.

(e) Failure to meet the applicable requirements of part 493, will result in an action by HHS to suspend, revoke or limit the certificate of accreditation. HHS will—

(1) Provide the laboratory with a statement of grounds on which the determination of noncompliance is based;

(2) Notify the laboratory if it is eligible to apply for a certificate as defined in subpart C of this part; and

(3) Offer an opportunity for appeal as provided in subpart R of this part.

(f) If the laboratory requests a hearing within the time frame specified by HHS—

(1) It retains its certificate of accreditation or reissued certificate of accreditation until a decision is made by an administrative law judge as provided in subpart R of this part, unless HHS finds that conditions at the laboratory pose an imminent and serious risk to human health; and

(2) For those laboratories receiving payments from the Medicare or Medicaid program, such payments will be suspended on the effective date specified in the notice to the laboratory even if there has been no appeals decision issued.

(g) In the event the accreditation organization's approval is removed by HHS, the laboratory will be subject to the applicable requirements of subpart C of this part or § 493.57.

(h) A laboratory seeking to renew its certificate of accreditation must—

(1) Complete and return the renewal application to HHS 9 to 12 months prior to the expiration of the certificate of accreditation;

(2) Meet the requirements of this subpart; and

(3) Submit the certificate of accreditation fee specified in subpart F of this part.

(i) If HHS determines that the renewal application for a certificate of accreditation is to be denied or limited, HHS will notify the laboratory in writing of—

(1) The basis for denial of the application;

(2) Whether the laboratory is eligible for a certificate as defined in subpart C of this part;

(3) The opportunity for appeal on HHS's action to deny the renewal application for certificate of accreditation as provided in subpart R of this part. If the laboratory requests a hearing within the time frame specified by HHS, it retains its certificate of accreditation or reissued certificate of accreditation until a decision is made by an administrative law judge as provided

in subpart R of this part, unless HHS finds that conditions at the laboratory pose an imminent and serious risk to human health; and

(4) Suspension of payments under Medicare or Medicaid for those laboratories receiving payments under the Medicare or Medicaid programs.

§ 493.63 Notification requirements for laboratories issued a certificate of accreditation.

Laboratories issued a certificate of accreditation must:

(a) Notify HHS and the approved accreditation program within 30 days of any changes in—

(1) Ownership;

(2) Name;

(3) Location; or

(4) Director.

(b) Notify the approved accreditation program no later than 6 months after performing any test or examination within a specialty or subspecialty area that is not included in the laboratory's accreditation, so that the accreditation organization can determine compliance and a new certificate of accreditation can be issued.

(c) Notify the accreditation program no later than 6 months after of any deletions or changes in test methodologies for any test or examination included in a specialty or subspecialty, or both, for which the laboratory has been issued a certificate of accreditation.

Subpart H—Participation in Proficiency Testing for Laboratories Performing Tests of Moderate or High Complexity, or Both

§ 493.801 Condition: Enrollment and testing of samples.

Each laboratory must enroll in a proficiency testing (PT) program that meets the criteria in subpart I of this part and is approved by HHS. The laboratory must enroll in an approved program or programs for each of the specialties and subspecialties for which it seeks certification. The laboratory must test the samples in the same manner as patients' specimens. For laboratories subject to 42 CFR part 493 published on March 14, 1990 (55 FR 9538) prior to September 1, 1992, the rules of this subpart are effective on September 1, 1992. For all other laboratories, the rules of this subpart are effective January 1, 1994.

(a) *Standard; Enrollment.* The laboratory must—

(1) Notify HHS of the approved program or programs in which it chooses to participate to meet proficiency testing requirements of this subpart.

(2)(i) Designate the program(s) to be used for each specialty, subspecialty, and analyte or test to determine compliance with this subpart if the laboratory participates in more than one proficiency testing program approved by HCFA; and

(ii) For those tests performed by the laboratory that are not included in subpart I of this part, a laboratory must establish and maintain the accuracy and reliability of its testing procedures, in accordance with § 493.1709.

(3) For each specialty, subspecialty and analyte or test, participate in one approved proficiency testing program or programs, for one year before designating a different program and must notify HCFA before any change in designation; and

(4) Authorize the proficiency testing program to release to HHS all data required to—

(i) Determine the laboratory's compliance with this subpart; and

(ii) Make PT results available to the public as required in section 353(f)(3)(F) of the Public Health Service Act.

(b) *Standard; Testing of proficiency testing samples.* The laboratory must examine or test, as applicable, the proficiency testing samples it receives from the proficiency testing program in the same manner as it tests patient specimens.

(1) The samples must be examined or tested with the laboratory's regular patient workload by personnel who routinely perform the testing in the laboratory, using the laboratory's routine methods. The individual testing or examining the samples and the laboratory director must attest to the routine integration of the samples into the patient workload using the laboratory's routine methods.

(2) The laboratory must test samples the same number of times that it routinely tests patient samples.

(3) Laboratories that perform tests on proficiency testing samples must not engage in any inter-laboratory communications pertaining to the results of proficiency testing sample(s) until after the date by which the laboratory must report proficiency testing results to the program for the testing event in which the samples were sent. Laboratories with multiple testing sites or separate locations must not participate in any communications or discussions across sites/locations concerning proficiency testing sample results until after the date by which the laboratory must report proficiency testing results to the program.

(4) The laboratory must not send PT samples or portions of samples to another laboratory for any analysis which they are certified to perform in their own laboratory. Any laboratory that HCFA determines intentionally referred its proficiency testing samples to another laboratory for analysis and submits the other laboratory's results as their own will have its certification revoked for at least one year. Any laboratory that receives proficiency testing samples from another laboratory for testing must notify HCFA of the receipt of those samples.

(5) The laboratory must document the handling, preparation, processing, examination, and each step in the testing and reporting of results for all proficiency testing samples. The laboratory must maintain a copy of all records, including a copy of the proficiency testing program report forms used by the laboratory to record proficiency testing results including the attestation statement provided by the PT program, signed by the analyst and the laboratory director, documenting that proficiency testing samples were tested in the same manner as patient specimens, for a minimum of two years from the date of the proficiency testing event.

(6) PT is required for only the test system, assay, or examination used as the primary method for patient testing during the PT event.

§ 493.803 Condition: Successful participation.

(a) Each laboratory performing tests of moderate and/or high complexity must successfully participate in a proficiency testing program approved by HCFA, if applicable, as described in subpart I of this part for each specialty, subspecialty, and analyte or test in which the laboratory is certified under CLIA.

(b) If the laboratory fails to participate successfully in proficiency testing for a given specialty, subspecialty, analyte or test, as defined in this section, or fails to take remedial action when an individual fails gynecologic cytology, sanctions will be taken as defined in subpart R of this part.

§ 493.807 Condition: Reinstatement of laboratories performing tests of moderate or high complexity, or both, after failure to participate successfully.

(a) If a laboratory's certificate is suspended and/or Medicare or Medicaid approval is terminated because it fails to participate successfully in proficiency testing for one or more specialties, subspecialties, analyte or test, or voluntarily withdraws its certification under CLIA for the failed specialty, subspecialty, or analyte, the laboratory must then demonstrate sustained satisfactory performance on two consecutive proficiency testing events, one of which may be on site, before HCFA will consider it for reinstatement for certification and Medicare or Medicaid approval in that specialty, subspecialty, analyte or test.

(b) The termination period for Medicare or Medicaid approval or period for suspension of certification under CLIA for the failed specialty, subspecialty, or analyte or test is for a period of not less than six months from the date of termination or suspension.

(c) If a laboratory's certificate is suspended and/or Medicare or Medicaid approval is terminated in gynecologic cytology, the laboratory must take corrective action and reapply for certification.

Proficiency Testing by Specialty and Subspecialty for Laboratories Performing Tests of Moderate or High Complexity, or Both

§ 493.821 Condition: Microbiology.

The specialty of microbiology includes, for purposes of proficiency testing, the subspecialties of bacteriology, mycobacteriology, mycology, parasitology and virology.

§ 493.823 Standard; Bacteriology.

(a) Failure to attain an overall testing event score of at least 80 percent is unsatisfactory performance.

(b) Failure to participate in a testing event is unsatisfactory performance and results in a score of 0 for the testing event. Consideration may be given to those laboratories failing to participate in a testing event only if—

(1) Patient testing was suspended during the time frame allotted for testing and reporting proficiency testing results;

(2) The laboratory notifies the inspecting agency and the proficiency testing program within the time frame for submitting proficiency testing results of the suspension of patient testing and the circumstances associated with failure to perform tests on proficiency testing samples; and

(3) The laboratory participated in the previous two proficiency testing events.

(c) Failure to return proficiency testing results to the proficiency testing program within the time frame specified by the program is unsatisfactory performance and results in a score of 0 for the testing event.

(d)(1) For any unsatisfactory testing event for reasons other than a failure to participate, the laboratory must undertake appropriate training and employ the technical assistance necessary to correct problems associated with a proficiency testing failure.

(2) Remedial action must be taken and documented, and the documentation must be maintained by the laboratory for two years from the date of participation in the proficiency testing event.

(e) Failure to achieve an overall testing event score of satisfactory performance for two consecutive testing events or two out of three consecutive testing events is unsuccessful performance.

§ 493.825 Standard; Mycobacteriology.

(a) Failure to attain an overall testing event score of at least 80 percent is unsatisfactory performance.

(b) Failure to participate in a testing event is unsatisfactory performance and results in a score of 0 for the testing event. Consideration may be given to those laboratories failing to participate in a testing event only if—

(1) Patient testing was suspended during the time frame allotted for testing and reporting proficiency testing results;

(2) The laboratory notifies the inspecting agency and the proficiency testing program within the time frame for submitting proficiency testing results of the suspension of patient testing and the circumstances associated with failure to perform tests on proficiency testing samples; and

(3) The laboratory participated in the previous two proficiency testing events.

(c) Failure to return proficiency testing results to the proficiency testing program within the time frame specified by the program is unsatisfactory performance and results in a score of 0 for the testing event.

(d)(1) For any unsatisfactory testing event for reasons other than a failure to participate, the laboratory must undertake appropriate training and employ the technical assistance necessary to correct problems associated with a proficiency testing failure.

(2) Remedial action must be taken and documented, and the documentation must be maintained by the laboratory for two years from the date of participation in the proficiency testing event.

(e) Failure to achieve an overall testing event score of satisfactory performance for two consecutive testing events or two out of three consecutive testing events is unsuccessful performance.

§ 493.827 Standard; Mycology.

(a) Failure to attain an overall testing event score of at least 80 percent is unsatisfactory performance.

(b) Failure to participate in a testing event is unsatisfactory performance and results in a score of 0 for the testing event. Consideration may be given to those laboratories failing to participate in a testing event only if—

(1) Patient testing was suspended during the time frame allotted for testing and reporting proficiency testing results;

(2) The laboratory notifies the inspecting agency and the proficiency testing program within the time frame for submitting proficiency testing results of the suspension of patient testing and the circumstances associated with failure to perform tests on proficiency testing samples; and

(3) The laboratory participated in the previous two proficiency testing events.

(c) Failure to return proficiency testing results to the proficiency testing program within the time frame specified by the program is unsatisfactory performance and results in a score of 0 for the testing event.

(d)(1) For any unsatisfactory testing event for reasons other than a failure to participate, the laboratory must undertake appropriate training and employ the technical assistance necessary to correct problems associated with a proficiency testing failure.

(2) Remedial action must be taken and documented, and the documentation must be maintained by the laboratory for two years from the date of participation in the proficiency testing event.

(e) Failure to achieve an overall testing event score of satisfactory performance for two consecutive testing events or two out of three consecutive testing events is unsuccessful performance.

§ 493.829 Standard; Parasitology.

(a) Failure to attain an overall testing event score of at least 80 percent is unsatisfactory performance.

(b) Failure to participate in a testing event is unsatisfactory performance and results in a score of 0 for the testing event. Consideration may be given to those laboratories failing to participate in a testing event only if—

(1) Patient testing was suspended during the time frame allotted for testing and reporting proficiency testing results;

(2) The laboratory notifies the inspecting agency and the proficiency testing program within the time frame for submitting proficiency testing results of the suspension of patient testing and the circumstances associated with failure to perform tests on proficiency testing samples; and

(3) The laboratory participated in the previous two proficiency testing events.

(c) Failure to return proficiency testing results to the proficiency testing program within the time frame specified by the program is unsatisfactory performance and results in a score of 0 for the testing event.

(d)(1) For any unsatisfactory testing event for reasons other than a failure to participate, the laboratory must undertake appropriate training and employ the technical assistance necessary to correct problems associated with a proficiency testing failure.

(2) Remedial action must be taken and documented, and the documentation must be maintained by the laboratory for two years from the date of participation in the proficiency testing event.

(e) Failure to achieve an overall testing event score of satisfactory performance for two consecutive testing events or two out of three consecutive testing events is unsuccessful performance.

§ 493.831 Standard; Virology.

(a) Failure to attain an overall testing event score of at least 80 percent is unsatisfactory performance.

(b) Failure to participate in a testing event is unsatisfactory performance and results in a score of 0 for the testing event. Consideration may be given to those laboratories failing to participate in a testing event only if—

(1) Patient testing was suspended during the time frame allotted for testing and reporting proficiency testing results;

(2) The laboratory notifies the inspecting agency and the proficiency testing program within the time frame for submitting proficiency testing results of the suspension of patient testing and the circumstances associated with failure to perform tests on proficiency testing samples; and

(3) The laboratory participated in the previous two proficiency testing events.

(c) Failure to return proficiency testing results to the proficiency testing program within the time frame specified by the program is unsatisfactory performance and results in a score of 0 for the testing event.

(d)(1) For any unsatisfactory testing event for reasons other than a failure to participate, the laboratory must undertake appropriate training and employ the technical assistance necessary to correct problems associated with a proficiency testing failure.

(2) For any unsatisfactory testing events, remedial action must be taken and documented, and the documentation must be maintained by the laboratory for two years from the date of participation in the proficiency testing event.

(e) Failure to achieve an overall testing event score of satisfactory performance for two consecutive testing events or two out of three consecutive testing events is unsuccessful performance.

§ 493.833 Condition: Diagnostic immunology.

The specialty of diagnostic immunology includes for purposes of proficiency testing the subspecialties of syphilis serology and general immunology.

§ 493.835 Standard; Syphilis serology.

(a) Failure to attain an overall testing event score of at least 80 percent is unsatisfactory performance.

(b) Failure to participate in a testing event is unsatisfactory performance and results in a score of 0 for the testing event. Consideration may be given to those laboratories failing to participate in a testing event only if—

(1) Patient testing was suspended during the time frame allotted for testing and reporting proficiency testing results;

(2) The laboratory notifies the inspecting agency and the proficiency testing program within the time frame for submitting proficiency testing results of the suspension of patient testing and the circumstances associated with failure to perform tests on proficiency testing samples; and

(3) The laboratory participated in the previous two proficiency testing events.

(c) Failure to return proficiency testing results to the proficiency testing program within the time frame specified by the program is unsatisfactory performance and results in a score of 0 for the testing event.

(d)(1) For any unsatisfactory testing event for reasons other than a failure to participate, the laboratory must undertake appropriate training and employ the technical assistance necessary to correct problems associated with a proficiency testing failure.

(2) For any unacceptable testing event score, remedial action must be taken and documented, and the documentation must be maintained by the laboratory for two years from the date of participation in the proficiency testing event.

(e) Failure to achieve an overall testing event score of satisfactory performance for two consecutive testing events or two out of three consecutive testing events is unsuccessful performance.

§ 493.837 Standard; General immunology.

(a) Failure to attain a score of at least 80 percent of acceptable responses for each analyte in each testing event is unsatisfactory analyte performance for the testing event.

(b) Failure to attain an overall testing event score of at least 80 percent is unsatisfactory performance.

(c) Failure to participate in a testing event is unsatisfactory performance and results in a score of 0 for the testing event. Consideration may be given to those laboratories failing to participate in a testing event only if—

(1) Patient testing was suspended during the time frame allotted for testing and reporting proficiency testing results;

(2) The laboratory notifies the inspecting agency and the proficiency testing program within the time frame for submitting proficiency testing results of the suspension of patient testing and the circumstances associated with failure to perform tests on proficiency testing samples; and

(3) The laboratory participated in the previous two proficiency testing events.

(d) Failure to return proficiency testing results to the proficiency testing program within the time frame specified by the program is unsatisfactory performance and results in a score of 0 for the testing event.

(e)(1) For any unsatisfactory analyte or test performance or testing event for reasons other than a failure to participate, the laboratory must undertake appropriate training and employ the technical assistance necessary to correct problems associated with a proficiency testing failure.

(2) For any unacceptable analyte or testing event score, remedial action must be taken and documented, and the documentation must be maintained by the laboratory for two years from the date of participation in the proficiency testing event.

(f) Failure to achieve satisfactory performance for the same analyte or test in two consecutive testing events or two out of three consecutive testing events is unsuccessful performance.

(g) Failure to achieve an overall testing event score of satisfactory performance for two consecutive testing events or two out of three consecutive testing events is unsuccessful performance.

§ 493.839 Condition: Chemistry.

The specialty of chemistry includes for the purposes of proficiency testing the subspecialties of routine chemistry, endocrinology, and toxicology.

§ 493.841 Standard; Routine chemistry.

(a) Failure to attain a score of at least 80 percent of acceptable responses for each analyte in each testing event is unsatisfactory analyte performance for the testing event.

(b) Failure to attain an overall testing event score of at least 80 percent is unsatisfactory performance.

(c) Failure to participate in a testing event is unsatisfactory performance and results in a score of 0 for the testing event. Consideration may be given to those laboratories failing to participate in a testing event only if—

(1) Patient testing was suspended during the time frame allotted for testing and reporting proficiency testing results;

(2) The laboratory notifies the inspecting agency and the proficiency testing program within the time frame for submitting proficiency testing results of the suspension of patient testing and the circumstances associated with failure to perform tests on proficiency testing samples; and

(3) The laboratory participated in the previous two proficiency testing events.

(d) Failure to return proficiency testing results to the proficiency testing program within the time frame specified by the program is unsatisfactory performance and results in a score of 0 for the testing event.

(e)(1) For any unsatisfactory analyte or test performance or testing event for reasons other than a failure to participate, the laboratory must undertake appropriate training and employ the technical assistance necessary to correct problems associated with a proficiency testing failure.

(2) For any unacceptable analyte or testing event score, remedial action must be taken and documented, and the documentation must be maintained by the laboratory for two years from the date of participation in the proficiency testing event.

(f) Failure to achieve satisfactory performance for the same analyte or test in two consecutive testing events or two out of three consecutive testing events is unsuccessful performance.

(g) Failure to achieve an overall testing event score of satisfactory performance for two consecutive testing events or two out of three consecutive testing events is unsuccessful performance.

§ 493.843 Standard; Endocrinology.

(a) Failure to attain a score of at least 80 percent of acceptable responses for each analyte in each testing event is unsatisfactory analyte performance for the testing event.

(b) Failure to attain an overall testing event score of at least 80 percent is unsatisfactory performance.

(c) Failure to participate in a testing event is unsatisfactory performance and results in a score of 0 for the testing event. Consideration may be given to those laboratories failing to participate in a testing event only if—

(1) Patient testing was suspended during the time frame allotted for testing and reporting proficiency testing results;

(2) The laboratory notifies the inspecting agency and the proficiency testing program within the time frame for submitting proficiency testing results of the suspension of patient testing and the circumstances associated with failure to perform tests on proficiency testing samples; and

(3) The laboratory participated in the previous two proficiency testing events.

(d) Failure to return proficiency testing results to the proficiency testing program within the time frame specified by the program is unsatisfactory performance and results in a score of 0 for the testing event.

(e)(1) For any unsatisfactory analyte or test performance or testing event for reasons other than a failure to participate, the laboratory must undertake appropriate training and employ the technical assistance necessary to correct problems associated with a proficiency testing failure.

(2) For any unacceptable analyte or testing event score, remedial action must be taken and documented, and the documentation must be maintained by the laboratory for two years from the date of participation in the proficiency testing event.

(f) Failure to achieve satisfactory performance for the same analyte or test in two consecutive testing events or two out of three consecutive testing events is unsuccessful performance.

(g) Failure to achieve an overall testing event score of satisfactory performance for two consecutive testing events or two out of three consecutive testing events is unsuccessful performance.

§ 493.845 Standard; Toxicology.

(a) Failure to attain a score of at least 80 percent of acceptable responses for each analyte in each testing event is unsatisfactory analyte performance for the testing event.

(b) Failure to attain an overall testing event score of at least 80 percent is unsatisfactory performance.

(c) Failure to participate in a testing event is unsatisfactory performance and results in a score of 0 for the testing event. Consideration may be given to those laboratories failing to participate in a testing event only if—

(1) Patient testing was suspended during the time frame allotted for testing and reporting proficiency testing results;

(2) The laboratory notifies the inspecting agency and the proficiency testing program within the time frame for submitting proficiency testing results of the suspension of patient testing and the circumstances associated with failure to perform tests on proficiency testing samples; and

(3) The laboratory participated in the previous two proficiency testing events.

(d) Failure to return proficiency testing results to the proficiency testing program within the time frame specified by the program is unsatisfactory performance and results in a score of 0 for the testing event.

(e)(1) For any unsatisfactory analyte or test performance or testing event for reasons other than a failure to participate, the laboratory must undertake appropriate training and employ the technical assistance necessary to correct problems associated with a proficiency testing failure.

(2) For any unacceptable analyte or testing event score, remedial action must be taken and documented, and the documentation must be maintained by the laboratory for two years from the date of participation in the proficiency testing event.

(f) Failure to achieve satisfactory performance for the same analyte or test in two consecutive testing events or two out of three consecutive testing events is unsuccessful performance.

(g) Failure to achieve an overall testing event score of satisfactory performance for two consecutive testing events or two out of three consecutive testing events is unsuccessful performance.

§ 493.849 Condition: Hematology.

The specialty of hematology, for the purpose of proficiency testing, is not subdivided into subspecialties of testing.

§ 493.851 Standard; Hematology.

(a) Failure to attain a score of at least 80 percent of acceptable responses for each analyte in each testing event is unsatisfactory analyte performance for the testing event.

(b) Failure to attain an overall testing event score of at least 80 percent is unsatisfactory performance.

(c) Failure to participate in a testing event is unsatisfactory performance and results in a score of 0 for the testing event. Consideration may be given to

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those laboratories failing to participate in a testing event only if—

(1) Patient testing was suspended during the time frame allotted for testing and reporting proficiency testing results;

(2) The laboratory notifies the inspecting agency and the proficiency testing program within the time frame for submitting proficiency testing results of the suspension of patient testing and the circumstances associated with failure to perform tests on proficiency testing samples; and

(3) The laboratory participated in the previous two proficiency testing events.

(d) Failure to return proficiency testing results to the proficiency testing program within the time frame specified by the program is unsatisfactory performance and results in a score of 0 for the testing event.

(e)(1) For any unsatisfactory analyte or test performance or testing event for reasons other than a failure to participate, the laboratory must undertake appropriate training and employ the technical assistance necessary to correct problems associated with a proficiency testing failure.

(2) For any unacceptable analyte or testing event score, remedial action must be taken and documented, and the documentation must be maintained by the laboratory for two years from the date of participation in the proficiency testing event.

(f) Failure to achieve satisfactory performance for the same analyte in two consecutive events or two out of three consecutive testing events is unsuccessful performance.

(g) Failure to achieve an overall testing event score of satisfactory performance for two consecutive testing events or two out of three consecutive testing events is unsuccessful performance.

§ 493.853 Condition: Pathology.

The specialty of pathology includes, for purposes of proficiency testing, the subspecialty of cytology limited to gynecologic examinations.

§ 493.855 Standard; Cytology: gynecologic examinations.

To participate successfully in a cytology proficiency testing program for gynecologic examinations (Pap smears), the laboratory must meet the requirements of paragraphs (a) through (c) of this section.

(a) The laboratory must ensure that each individual engaged in the examination of gynecologic preparations is enrolled in a proficiency testing program approved by HCFA by January 1, 1994. The laboratory must ensure that each individual is tested at least once per year and obtains a passing score. To ensure this annual testing of individuals, an announced or unannounced testing event will be conducted on-site in each laboratory at least once each year. Laboratories will be notified of the time of each announced on-site testing event at least 30 days prior to each event. Additional testing events will be conducted as necessary in each State or region for the purpose of testing individuals who miss the on-site testing event and for retesting individuals as described in paragraph (b) of this section.

(b) The laboratory must ensure that each individual participates in an annual testing event that involves the examination of a 10-slide test set as described in § 493.945. Individuals who fail this testing event are retested with another 10-slide test set as described in paragraphs (b)(1) and (b)(2) of this section. Individuals who fail this second test are subsequently retested with a 20-slide test set as described in paragraphs (b)(2) and (b)(3) of this section. Individuals are given not more than 2 hours to complete a 10-slide test and not more than 4 hours to complete a 20-slide test. Unexcused failure to appear by an individual for a retest will result in test failure with resulting remediation and limitations on slide examinations as specified in (b)(1), (b)(2), and (b)(3) of this section.

(1) An individual is determined to have failed the annual testing event if he or she scores less than 90 percent on a 10-slide test set. For an individual who fails an annual proficiency testing event, the laboratory must schedule a retesting event which must take place not more than 45 days after receipt of the notification of failure.

(2) An individual is determined to have failed the second testing event if he or she scores less than 90 percent on a 10-slide test set. For an individual who fails a second testing event, the laboratory must provide him or her with documented, remedial training and education in the area of failure, and must assure that all gynecologic slides evaluated subsequent to the notice of failure are reexamined until the individual is again retested with a 20-slide test set and scores at least 90 percent. Reexamination of slides must be documented.

(3) An individual is determined to have failed the third testing event if he or she scores less than 90 percent on a 20-slide test set. An individual who fails the third testing event must cease examining gynecologic slide preparations immediately upon notification of test failure and may not resume examining gynecologic slides until the laboratory assures that the individual obtains at least 35 hours of documented, formally structured, continuing education in diagnostic cytopathology that focuses on the examination of gynecologic preparations, and until he or she is retested with a 20-slide test set and scores at least 90 percent.

(c) If a laboratory fails to ensure that individuals are tested or those who fail a testing event are retested, or fails to take required remedial actions as described in paragraphs (b)(1), (b)(2) or (b)(3) of this section, HCFA will initiate intermediate sanctions or revoke the laboratory's certificate for gynecologic cytology testing under CLIA, and, if applicable, terminate the laboratory's Medicare approval for gynecologic cytology testing in accordance with subpart R of this part.

§ 493.857 Condition: Immunohematology.

The specialty of immunohematology includes four subspecialties for the purposes of proficiency testing: ABO group and D (Rho) typing; unexpected antibody detection; compatibility testing; and antibody identification.

§ 493.859 Standard; ABO group and D (Rho) typing.

(a) Failure to attain a score of at least 100 percent of acceptable responses for each analyte or test in each testing event is unsatisfactory analyte performance for the testing event.

(b) Failure to attain an overall testing event score of at least 100 percent is unsatisfactory performance.

(c) Failure to participate in a testing event is unsatisfactory performance and results in a score of 0 for the testing event. Consideration may be given to those laboratories failing to participate in a testing event only if—

(1) Patient testing was suspended during the time frame allotted for testing and reporting proficiency testing results;

(2) The laboratory notifies the inspecting agency and the proficiency testing program within the time frame for submitting proficiency testing results of the suspension of patient testing and the circumstances associated with failure to perform tests on proficiency testing samples; and

(3) The laboratory participated in the previous two proficiency testing events.

(d) Failure to return proficiency testing results to the proficiency testing program within the time frame specified by the program is unsatisfactory performance and results in a score of 0 for the testing event.

(e)(1) For any unsatisfactory testing event for reasons other than a failure to participate, the laboratory must undertake appropriate training and employ the technical assistance necessary to correct problems associated with a proficiency testing failure.

(2) For any unacceptable analyte or unsatisfactory testing event score, remedial action must be taken and documented, and the documentation must be maintained by the laboratory for two years from the date of participation in the proficiency testing event.

(f) Failure to achieve satisfactory performance for the same analyte in two consecutive testing events or two out of three consecutive testing events is unsuccessful performance.

(g) Failure to achieve an overall testing event score of satisfactory for two consecutive testing events or two out of three consecutive testing events is unsuccessful performance.

§ 493.861 Standard; Unexpected antibody detection.

(a) Failure to attain an overall testing event score of at least 80 percent is unsatisfactory performance.

(b) Failure to participate in a testing event is unsatisfactory performance and results in a score of 0 for the testing event. Consideration may be given to those laboratories failing to participate in a testing event only if—

(1) Patient testing was suspended during the time frame allotted for testing and reporting proficiency testing results;

(2) The laboratory notifies the inspecting agency and the proficiency testing program within the time frame for submitting proficiency testing results of the suspension of patient testing and the circumstances associated with failure to perform tests on proficiency testing samples; and

(3) The laboratory participated in the previous two proficiency testing events.

(c) Failure to return proficiency testing results to the proficiency testing program within the time frame specified by the program is unsatisfactory performance and results in a score of 0 for the testing event.

(d)(1) For any unsatisfactory testing event for reasons other than a failure to participate, the laboratory must undertake appropriate training and employ the technical assistance necessary to correct problems associated with a proficiency testing failure.

(2) For any unsatisfactory testing event score, remedial action must be taken and documented, and the documentation must be maintained by the laboratory for two years from the date of participation in the proficiency testing event.

(e) Failure to achieve an overall testing event score of satisfactory for two consecutive testing events or two out of three consecutive testing events is unsuccessful performance.

§ 493.863 Standard; Compatibility testing.

(a) Failure to attain an overall testing event score of at least 100 percent is unsatisfactory performance.

(b) Failure to participate in a testing event is unsatisfactory performance and results in a score of 0 for the testing event. Consideration may be given to those laboratories failing to participate in a testing event only if—

(1) Patient testing was suspended during the time frame allotted for testing and reporting proficiency testing results;

(2) The laboratory notifies the inspecting agency and the proficiency testing program within the time frame for submitting proficiency testing results of the suspension of patient testing and the circumstances associated with failure to perform tests on proficiency testing samples; and

(3) The laboratory participated in the previous two proficiency testing events.

(c) Failure to return proficiency testing results to the proficiency testing program within the time frame specified by the program is unsatisfactory performance and results in a score of 0 for the testing event.

(d)(1) For any unsatisfactory testing event for reasons other than a failure to participate, the laboratory must undertake appropriate training and employ the technical assistance necessary to correct problems associated with a proficiency testing failure.

(2) For any unsatisfactory testing event score, remedial action must be taken and documented, and the documentation must be maintained by the laboratory for two years from the date of participation in the proficiency testing event.

(e) Failure to achieve an overall testing event score of satisfactory for two consecutive testing events or two out of three consecutive testing events is unsuccessful performance.

§ 493.865 Standard; Antibody identification.

(a) Failure to attain an overall testing event score of at least 80 percent is unsatisfactory performance.

(b) Failure to participate in a testing event is unsatisfactory performance and results in a score of 0 for the testing event. Consideration may be given to those laboratories failing to participate in a testing event only if—

(1) Patient testing was suspended during the time frame allotted for testing and reporting proficiency testing results;

(2) The laboratory notifies the inspecting agency and the proficiency testing program within the time frame for submitting proficiency testing results of the suspension of patient testing and the circumstances associated with failure to perform tests on proficiency testing samples; and

(3) The laboratory participated in the previous two proficiency testing events.

(c) Failure to return proficiency testing results to the proficiency testing program within the time frame specified by the program is unsatisfactory performance and results in a score of 0 for the testing event.

(d)(1) For any unsatisfactory testing event for reasons other than a failure to participate, the laboratory must undertake appropriate training and employ the technical assistance necessary to correct problems associated with a proficiency testing failure.

(2) For any unsatisfactory testing event score, remedial action must be taken and documented, and the documentation must be maintained by the laboratory for two years from the date of participation in the proficiency testing event.

(e) Failure to identify the same antibody in two consecutive or two out of three consecutive testing events is unsuccessful performance.

(f) Failure to achieve an overall testing event score of satisfactory for two consecutive testing events or two out of three consecutive testing events is unsuccessful performance.

Subpart I—Proficiency Testing Programs for Tests of Moderate or High Complexity, or Both

§ 493.901 Approval of proficiency testing programs.

In order for a proficiency testing program to receive HHS approval, the program must be offered by a private nonprofit organization or a Federal or State agency, or entity acting as a designated agent for the State. An organization, Federal, or State program seeking approval or reapproval for its program for the next calendar year must submit an application providing the required information by July 1 of the current year. The organization, Federal, or State program must provide technical assistance to laboratories seeking to qualify under the program, and must, for each specialty, subspecialty, and analyte or test for which it provides testing—

(a) Assure the quality of test samples, appropriately evaluate and score the testing results, and identify performance problems in a timely manner;

(b) Demonstrate to HHS that it has—

(1) The technical ability required to—

(i) Prepare or purchase samples from manufacturers who prepare the samples in conformance with the appropriate good manufacturing practices required in 21 CFR parts 606, 640, and 820; and

(ii) Distribute the samples, using rigorous quality control to assure that samples mimic actual patient specimens when possible and that samples are homogeneous, except for specific subspecialties such as cytology, and will be stable within the time frame for analysis by proficiency testing participants;

(2) A scientifically defensible process for determining the correct result for each challenge offered by the program;

(3) A program of sufficient annual challenge and with the frequency specified in §§ 493.90 through 493.959 to establish that a laboratory has met minimum performance requirements;

(4) The resources needed to provide Statewide or nationwide reports to regulatory agencies on individual's performance for gynecologic cytology and on individual laboratory performance on testing events, cumulative reports and scores for each laboratory or individual, and reports of specific laboratory failures using grading criteria acceptable to HHS. These reports must be provided to HHS on a timely basis when requested;

(5) Provisions to include on each proficiency testing program report form used by the laboratory to record testing event results, an attestation statement that proficiency testing samples were tested in the same manner as patient specimens with a signature block to be completed by the individual performing the test as well as by the laboratory director;

(6) A mechanism for notifying participants of the PT shipping schedule and for participants to notify the proficiency testing program within three days of the expected date of receipt of the shipment that samples have not arrived or are unacceptable for testing. The program must have provisions for replacement of samples that are lost in transit or are received in a condition that is unacceptable for testing; and

(7) A process to resolve technical, administrative, and scientific problems about program operations;

(c) Meet the specific criteria for proficiency testing programs listed by specialty, subspecialty, and analyte or test contained in §§ 493.901 through 493.959 for initial approval and thereafter provide HHS, on an annual basis, with the information necessary to assure that the proficiency testing program meets the criteria required for approval; and

(d) Comply with all applicable packaging, shipment, and notification requirements of 42 CFR part 72.

§ 493.903 Administrative responsibilities.

The proficiency testing program must—

(a)(1) Provide HHS or its designees and participating laboratories with an electronic or a hard copy, or both, of reports of proficiency testing results and all scores for each laboratory's performance in a format as required by and approved by HCFA for each CLIA-certified specialty, subspecialty, and analyte or test within 60 days after the date by which the laboratory must report proficiency testing results to the proficiency testing program.

(2) Provide HHS with reports of PT results and scores of individual performance in cytology and provide copies of reports to participating individuals, and to all laboratories that employ the individuals, within *15* working days of the testing event;

(b) Furnish to HHS cumulative reports on an individual laboratory's performance and aggregate data on CLIA-certified laboratories for the purpose of establishing a system to make the proficiency testing results available, on a reasonable basis, upon request of any person, and include such explanatory information as may be appropriate to assist in the interpretation of the proficiency testing results;

(c) Provide HHS with additional information and data upon request and submit such information necessary for HHS to conduct an annual evaluation to determine whether the proficiency testing program continues to meet the requirements of §§ 493.901 through 493.959;

(d) Maintain records of laboratories' performance for a period of five years or such time as may be necessary for any legal proceedings; and

(e) Provide HHS with an annual report and, if needed, an interim report which identifies any previously unrecognized sources of variability in kits, instruments, methods, or PT samples, which adversely affect the programs' ability to evaluate laboratory performance.

§ 493.905 Nonapproved proficiency testing programs.

If a proficiency testing program is determined by HHS to fail to meet any criteria contained in §§ 493.901 through 493.959 for approval of the proficiency testing program, HCFA will notify the program and the program must notify all laboratories enrolled of the nonapproval and the reasons for nonapproval within 30 days of the notification.

Proficiency Testing Programs by Specialty and Subspecialty

§ 493.909 Microbiology.

The subspecialties under the specialty of microbiology for which a program may offer proficiency testing are bacteriology, mycobacteriology, mycology, parasitology and virology. Specific criteria for these subspecialties are found at §§ 493.911 through 493.919.

§ 493.911 Bacteriology.

(a) *Types of services offered by laboratories.* In bacteriology, for proficiency testing purposes, there are five types of laboratories:

(1) Those that interpret Gram stains or perform primary inoculation, or both; and refer cultures to another laboratory appropriately certified for the subspecialty of bacteriology for identification;

(2) Those that use direct antigen techniques to detect an organism and may also interpret Gram stains or perform primary inoculation, or perform any combination of these;

(3) Those that, in addition to interpreting Gram stains, performing primary inoculations, and using direct antigen tests, also isolate and identify aerobic bacteria from throat, urine, cervical, or urethral discharge specimens to the genus level and may also perform antimicrobial susceptibility tests on selected isolated microorganisms;

(4) Those that perform the services in paragraph (a)(3) of this section and also isolate and identify aerobic bacteria from any source to the species level and may also perform antimicrobial susceptibility tests; and

(5) Those that perform the services in paragraph (a)(4) of this section and also isolate and identify anaerobic bacteria from any source.

(b) *Program content and frequency of challenge.* To be approved for proficiency testing for bacteriology, the annual program must provide a minimum of five samples per testing event. There must be at least three testing events at approximately equal intervals per year. The samples may be provided to the laboratory through mailed shipments or, at HHS' option, may be provided to HHS or its designee for on-site testing. For the types of laboratories specified in paragraph (a) of this section, an annual program must include samples that contain organisms that are representative of the six major groups of bacteria: anaerobes, Enterobacteriaceae, gram-positive bacilli, gram-positive cocci, gram-negative cocci, and miscellaneous gram-negative bacteria, as appropriate. The specific organisms included in the samples may vary from year to year. The annual program must include samples for bacterial antigen detection, bacterial isolation and identification, Gram stain, and antimicrobial susceptibility testing.

(1) An approved program must furnish HHS with a description of samples that it plans to include in its annual program no later than six months before each calendar year. At least 50 percent of the samples must be mixtures of the principal organism and appropriate normal flora. The program must include other important emerging pathogens (as determined by HHS) and either organisms commonly occurring in patient specimens or opportunistic pathogens. The program must include the following two types of samples; each type of sample must meet the 50 percent mixed culture criterion:

(i) Samples that require laboratories to report only organisms that the testing laboratory considers to be a principal pathogen that is clearly responsible for a described illness (excluding immuno-compromised patients). The program determines the reportable isolates, including antimicrobial susceptibility for any designated isolate; and

(ii) Samples that require laboratories to report all organisms present. Samples must contain multiple organisms frequently found in specimens such as urine, blood, abscesses, and aspirates where multiple isolates are clearly significant or where specimens are derived from immuno-compromised patients. The program determines the reportable isolates.

(2) An approved program may vary over time. For example, the types of organisms that might be included in an approved program over time are—

Anaerobes:
Bacteroides fragilis group
Clostridium perfringens
Peptostreptococcus anaerobius
Enterobacteriaceae:
Citrobacter freundii
Enterobacter aerogenes
Escherichia coli
Klebsiella pneumoniae
Proteus mirabilis
Salmonella typhimurium
Serratia marcescens
Shigella sonnei
Yersinia enterocolitica
Gram-positive bacilli:
Listeria monocytogenes
Corynebacterium species CDC Group JK
Gram-positive cocci:
Staphylococcus aureus
Streptococcus Group A
Streptococcus Group B
Streptococcus Group D (S. bovis and enterococcus)
Streptococcus pneumoniae
Gram-negative cocci:
Branhamella catarrhalis
Neisseria gonorrhoeae
Neisseria meningitidis
Miscellaneous Gram-negative bacteria:
Campylobacter jejuni
Haemophilis influenza, Type B
Pseudomonas aeruginosa

(3) For antimicrobial susceptibility testing, the program must provide at least one sample per testing event that includes gram-positive or gram-negative strains that have a predetermined pattern of sensitivity or resistance to the common antimicrobial agents.

(c) *Evaluation of a laboratory's performance.* HHS approves only those programs that assess the accuracy of a laboratory's responses in accordance with paragraphs (c) (1) through (7) of this section.

(1) The program determines staining characteristics to be interpreted by Gram stain. The program determines the reportable bacteria to be detected by direct antigen techniques or isolation. To determine the accuracy of a laboratory's response for Gram stain interpretation, direct antigen detection, identification, or antimicrobial susceptibility testing, the program must compare the laboratory's response for each sample with the response which reflects agreement of either 90 percent of ten or more referee laboratories or 90 percent or more of all participating laboratories.

(2) To evaluate a laboratory's response for a particular sample, the program must determine a laboratory's type of service in accordance with paragraph (a) of this section. A laboratory must isolate and identify the organisms to the same extent it performs these procedures on patient specimens. A laboratory's performance will be evaluated on the basis of its final answer, for example, a laboratory specified in paragraph (a)(3) of this section will be evaluated on the basis of the average of its scores for paragraphs (c)(3) through (c)(6) as determined in paragraph (c)(7) of this section.

(3) Since laboratories may incorrectly report the presence of organisms in addition to the correctly identified principal organism(s), the grading system must provide a means of deducting credit for additional erroneous organisms that are reported. Therefore, the total number of correct responses for organism isolation and identification submitted by the laboratory divided by the number of organisms present plus the number of incorrect organisms reported by the laboratory must be multiplied by 100 to establish a score for each sample in each testing event. For example, if a sample contained one principal organism and the laboratory reported it correctly but reported the presence of an additional organism, which was not considered reportable, the sample grade would be $1/(1+1) \times 100 = 50$ percent.

(4) For antimicrobial susceptibility testing, a laboratory must indicate which drugs are routinely included in its test panel when testing patient samples. A laboratory's performance will be evaluated for only those antibiotics for which service is offered. A correct response for each antibiotic will be determined as described in §§ 493.911(c)(1) using criteria such as the guidelines established by the National Committee for Clinical Laboratory Standards. Grading is based on the number of correct susceptibility responses reported by the laboratory divided by the actual number of correct susceptibility responses determined by the program, multiplied by 100. For example, if a laboratory offers susceptibility testing for *Enterobacteriaceae* using amikacin, cephalothin, and tobramycin, and the organism in the proficiency testing sample is an *Enterobacteriaceae*, and the laboratory reports correct responses for two of three antimicrobial agents, the laboratory's grade would be $2/3 \times 100 = 67$ percent.

(5) The performance criterion for qualitative antigen tests is the presence or absence of the bacterial antigen. The score for antigen tests is the number of correct responses divided by the number of samples to be tested for the antigen, multiplied by 100.

(6) The performance criteria for Gram stain is staining reaction, i.e., gram positive or gram negative. The score for Gram stain is the number of correct responses divided by the number of samples to be tested, multiplied by 100.

(7) The score for a testing event in bacteriology is the average of the scores determined under paragraphs (c)(3) through (c)(6) of this section based on the type of service offered by the laboratory.

§ 493.913 Mycobacteriology.

(a) *Types of services offered by laboratories.* In mycobacteriology, there are five types of laboratories for proficiency testing purposes:

(1) Those that interpret acid-fast stains and refer specimen to another laboratory appropriately certified in the subspecialty of mycobacteriology;

(2) Those that interpret acid-fast stains, perform primary inoculation, and refer cultures to another laboratory appropriately certified in the subspecialty of mycobacteriology for identification;

(3) Those that interpret acid-fast stains, isolate and perform identification and/or antimycobacterial susceptibility of *Mycobacterium tuberculosis*, but refer other mycobacteria species to another laboratory appropriately certified in the subspecialty of mycobacteriology for identification and/or susceptibility tests;

(4) Those that interpret acid-fast stains, isolate and identify all mycobacteria to the extent required for correct clinical diagnosis, but refer antimycobacterial susceptibility tests to another laboratory appropriately certified in the subspecialty of mycobacteriology; and

(5) Those that interpret acid-fast stains, isolate and identify all mycobacteria to the extent required for correct clinical diagnosis, and perform antimycobacterial susceptibility tests on the organisms isolated.

(b) *Program content and frequency of challenge.* To be approved for proficiency testing for mycobacteriology, the annual program must provide a minimum of five samples per testing event. There must be at least two testing events per year. The samples may be provided through mailed shipments or, at HHS' option, provided to HHS or its designee for on-site testing events. For types of laboratories specified in paragraphs (a)(1) and (a)(3) through (5) of this section, an annual program must include samples that contain species that are representative of the 5 major groups (complexes) of mycobacteria encountered in human specimens. The specific mycobacteria included in the samples may vary from year to year.

(1) An approved program must furnish HHS and its agents with a description of samples that it plans to include in its annual program no later than six months before each calendar year. At least 50 percent of the samples must be mixtures of the principal mycobacteria and appropriate normal flora. The program must include mycobacteria commonly occurring in patient specimens and other important emerging mycobacteria (as determined by HHS). The program determines the reportable isolates and correct responses for antimycobacterial susceptibility for any designated isolate.

(2) An approved program may vary over time. For example, the types of mycobacteria that might be included in an approved program over time are—

TB
Mycobacterium tuberculosis
Mycobacterium bovis
Group I
Mycobacterium kansasii
Group II
Mycobacterium szulgai
Group III
Mycobacterium avium-intracellulare
Mycobacterium terrae
Group IV
Mycobacterium fortuitum

(3) For antimycobacterial susceptibility testing, the program must provide at least one sample per testing event that includes mycobacterium tuberculosis that has a predetermined pattern of sensitivity or resistance to the common antimycobacterial agents.

(4) For laboratories specified in paragraphs (a)(1) and (a)(2), the program must provide at least five samples per testing event that includes challenges that are acid-fast and challenges which do not contain acid-fast organisms.

(c) *Evaluation of a laboratory's performance.* HHS approves only those programs that assess the accuracy of a laboratory's response in accordance with paragraphs (c) (1) through (6) of this section.

(1) The program determines the reportable mycobacteria to be detected by acid-fast stain and for isolation and identification. To determine the accuracy of a laboratory's response, the program must compare the laboratory's response for each sample with the response that reflects agreement of either 80 percent of ten or more referee laboratories or 90 percent or more of all participating laboratories.

(2) To evaluate a laboratory's response for a particular sample, the program must determine a laboratory's type of service in accordance with paragraph (a) of this section. A laboratory must interpret acid-fast stains and isolate and identify the organisms to the same extent it performs these procedures on patient specimens. A laboratory's performance will be evaluated on the basis of the average of its scores as determined in paragraph (c)(6) of this section.

(3) Since laboratories may incorrectly report the presence of organisms in addition to the correctly identified principal organism(s), the grading system must provide a means of deducting credit for additional erroneous organisms reported. Therefore, the total number of correct responses submitted by the laboratory divided by the number of organisms present plus the number of incorrect organisms reported by the laboratory must be multiplied by 100 to establish a score for each sample in each testing event. For example, if a sample contained one principal organism and the laboratory reported it correctly but reported the presence of an additional organism, which was not present, the sample grade would be

$1/(1+1) \times 100 = 50$ percent

(4) For antimycobacterial susceptibility testing, a laboratory must indicate which drugs are routinely included in its test panel when testing patient samples. A laboratory's performance will be evaluated for only those antibiotics for which susceptibility testing is routinely performed on patient specimens. A correct response for each antibiotic will be determined as described in § 493.913(c)(1). Grading is based on the number of correct susceptibility responses reported by the laboratory divided by the actual number of correct susceptibility responses as determined by the program, multiplied by 100. For example, if a laboratory offers susceptibility testing using three antimycobacterial agents and the laboratory reports correct response for two of the three antimycobacterial agents, the laboratory's grade would be $\frac{2}{3} \times 100 = 67$ percent.

(5) The performance criterion for qualitative tests is the presence or absence of acid-fast organisms. The score for acid-fast organism detection is the number of correct responses divided by the number of samples to be tested, multiplied by 100.

(6) The score for a testing event in mycobacteriology is the average of the scores determined under paragraphs (c)(3) through (c)(5) of this section based on the type of service offered by the laboratory.

§ 493.915 Mycology.

(a) *Types of services offered by laboratories.* In mycology, there are four types of laboratories for proficiency testing purposes that may perform different levels of service for yeasts, dimorphic fungi, dermatophytes, and aerobic actinomycetes:

(1) Those that isolate and identify only yeasts and/or dermatophytes to the genus level;

(2) Those that isolate and identify yeasts and/or dermatophytes to the species level;

(3) Those that isolate and perform identification of all organisms to the genus level; and

(4) Those that isolate and perform identification of all organisms to the species level.

(b) *Program content and frequency of challenge.* To be approved for proficiency testing for mycology, the annual program must provide a minimum of five samples per testing event. There must be at least three testing events at approximately equal intervals per year. The samples may be provided through mailed shipments or, at HHS' option, may be provided to HHS or its designee for on-site testing. An annual program must include samples that contain organisms that are representative of five major groups of fungi: Yeast or yeast-like fungi; dimorphic fungi; dematiaceous fungi; dermatophytes; and saprophytes, including opportunistic fungi. The specific fungi included in the samples may vary from year to year.

(1) An approved program must, before each calendar year, furnish HHS with a description of samples that it plans to include in its annual program no later than six months before each calendar year. At least 50 percent of the samples must be mixtures of the principal organism and appropriate normal background flora. Other important emerging pathogens (as determined by HHS) and organisms commonly occurring in patient specimens must be included periodically in the program.

(2) An approved program may vary over time. As an example, the types of organisms that might be included in an approved program over time are—

Candida albicans
Candida (other species)
Cryptococcus neoformans
Sporothrix schenckii
Exophiala jeanselmei
Fonsecaea pedrosoi
Microsporum sp.
Acremonium sp.
Trichophvton sp.
Aspergillus fumigatus
Nocardia sp.
Blastomyces dermatitidis [1]
Zygomycetes sp.

Note: [1] Provided as a nonviable sample.

(c) *Evaluation of a laboratory's performance.* HHS approves only those programs that assess the accuracy of a laboratory's response, in accordance with paragraphs (c)(1) through (5) of this section.

(1) The program determines the reportable organisms. To determine the accuracy of a laboratory's response, the program must compare the laboratory's response for each sample with the response that reflects agreement of either 90 percent of ten or more referee laboratories or 90 percent or more of all participating laboratories.

(2) To evaluate a laboratory's response for a particular sample, the program must determine a laboratory's type of service in accordance with paragraph (a) of this section. A laboratory must isolate and identify the organisms to the same extent it performs these procedures on patient specimens.

(3) Since laboratories may incorrectly report the presence of organisms in addition to the correctly identified principal organism(s), the grading system must deduct credit for additional erroneous organisms reported. Therefore, the total number of correct responses submitted by the laboratory divided by the number of organisms present plus the number of incorrect organisms reported by the laboratory must be multiplied by 100 to establish a score for each sample in each shipment or testing event. For example, if a sample contained one principal organism and the laboratory reported it correctly but reported the presence of an additional organism, which was not present, the sample grade would be $1/(1+1) \times 100 = 50$ percent.

(4) The score for the antigen tests is the number of correct responses divided by the number of samples to be tested for the antigen, multiplied by 100.

(5) The score for a testing event is the average of the sample scores as determined under paragraph (c)(3) or (c)(4) of this section.

§ 493.917 Parasitology.

(a) *Types of services offered by laboratories.* In parasitology there are two types of laboratories for proficiency testing purposes—

(1) Those that determine the presence or absence of parasites by direct observation (wet mount) and/or pinworm preparations and, if necessary, refer specimens to another laboratory appropriately certified in the subspecialty of parasitology for identification;

(2) Those that identify parasites using concentration preparations and/or permanent stains.

(b) *Program content and frequency of challenge.* To be approved for proficiency testing in parasitology, a program must provide a minimum of five samples per testing event. There must be at least three testing events at approximately equal intervals per year. The samples may be provided through mailed shipments or, at HHS's option, may be provided to HHS or its designee for on-site testing. An annual program must include samples that contain parasites that are commonly encountered in the United States as well as those recently introduced into the United States. Other important emerging pathogens (as determined by HHS) and parasites commonly occurring in patient specimens must be included periodically in the program.

(1) An approved program must, before each calendar year furnish HHS with a description of samples that it plans to include in its annual program no later than six months before each calendar year. Samples must include both formalinized specimens and PVA (polyvinyl alcohol) fixed specimens as well as blood smears, as appropriate for a particular parasite and stage of the parasite. The majority of samples must contain protozoa or helminths or a combination of parasites. Some samples must be devoid of parasites.

(2) An approved program may vary over time. As an example, the types of parasites that might be included in an approved program over time are—

Enterobius vermicularis
Entamoeba histolytica
Entamoeba coli
Giardia lamblia
Endolimax nana
Dientamoeba fragilis
Iodamoeba butschli
Chilomastix mesnili
Hookworm
Ascaris lumbricoides
Strongyloides stercoralis
Trichuris trichiura
Diphyllobothrium latum
Cryptosporidium sp.
Plasmodium falciparum

(3) For laboratories specified in paragraph (a)(1) of this section, the program must provide at least five samples per testing event that include challenges which contain parasites and challenges that are devoid of parasites.

(c) *Evaluation of a laboratory's performance.* HHS approves only those programs that assess the accuracy of a laboratory's responses in accordance with paragraphs (c) (1) through (6) of this section.

(1) The program must determine the reportable parasites. It may elect to establish a minimum number of parasites to be identified in samples before they are reported. Parasites found in rare numbers by referee laboratories are not considered in scoring a laboratory's performance; such findings are neutral. To determine the accuracy of a laboratory's response, the program must compare the laboratory's response with the response that reflects agreement of either 90 percent of ten or more referee laboratories or 90 percent or more of all participating laboratories.

(2) To evaluate a laboratory's response for a particular sample, the program must determine a laboratory's type of service in accordance with

paragraph (a) of this section. A laboratory must determine the presence or absence of a parasite(s) or concentrate and identify the parasites to the same extent it performs these procedures on patient specimens.

(3) Since laboratories may incorrectly report the presence of parasites in addition to the correctly identified principal parasite(s), the grading system must deduct credit for these additional erroneous parasites reported and not found in rare numbers by the program's referencing process. Therefore, the total number of correct responses submitted by the laboratory divided by the number of parasites present plus the number of incorrect parasites reported by the laboratory must be multiplied by 100 to establish a score for each sample in each testing event. For example, if a sample contained one principal parasite and the laboratory reported it correctly but reported the presence of an additional parasite, which was not present, the sample grade would be $1/(1+1) \times 100 = 50$ percent.

(4) The criterion for acceptable performance for qualitative parasitology examinations is presence or absence of a parasite(s).

(5) The score for parasitology is the number of correct responses divided by the number of samples to be tested, multiplied by 100.

(6) The score for a testing event is the average of the sample scores as determined under paragraphs (c)(3) through (c)(5) of this section.

§ 493.919 Virology.

(a) *Types of services offered by laboratories.* In virology, there are two types of laboratories for proficiency testing purposes—

(1) Those that only perform tests that directly detect viral antigens or structures, either in cells derived from infected tissues or free in fluid specimens; and

(2) Those that are able to isolate and identify viruses and use direct antigen techniques.

(b) *Program content and frequency of challenge.* To be approved for proficiency testing in virology, a program must provide a minimum of five samples per testing event. There must be at least three testing events at approximately equal intervals per year. The samples may be provided to the laboratory through mailed shipments or, at HHS's option, may be provided to HHS or its designee for on-site testing. An annual program must include viral species that are the more commonly identified viruses. The specific organisms found in the samples may vary from year to year. The annual program must include samples for viral antigen detection and viral isolation and identification.

(1) An approved program must furnish HHS with a description of samples that it plans to include in its annual program no later than six months before each calendar year. The program must include other important emerging viruses (as determined by HHS) and viruses commonly occurring in patient specimens.

(2) An approved program may vary over time. For example, the types of viruses that might be included in an approved program over time are the more commonly identified viruses such as Herpes simplex, respiratory syncytial virus, adenoviruses, enteroviruses, and cytomegaloviruses.

(c) *Evaluation of laboratory's performance.* HHS approves only those programs that assess the accuracy of a laboratory's response in accordance with paragraphs (c) (1) through (5) of this section.

(1) The program determines the reportable viruses to be detected by direct antigen techniques or isolated by laboratories that perform viral isolation procedures. To determine the accuracy of a laboratory's response, the program must compare the laboratory's response for each sample with the response that reflects agreement of either 90 percent of ten or more referee laboratories or 90 percent or more of all participating laboratories.

(2) To evaluate a laboratory's response for a particular sample, the program must determine a laboratory's type of service in accordance with paragraph (a) of this section. A laboratory must isolate and identify the viruses to the same extent it performs these procedures on patient specimens.

(3) Since laboratories may incorrectly report the presence of viruses in addition to the correctly identified principal virus, the grading system must provide a means of deducting credit for additional erroneous viruses reported. Therefore, the total number of correct responses determined by virus culture techniques submitted by the laboratory divided by the number of viruses present plus the number of incorrect viruses reported by the laboratory must be multiplied by 100 to establish a score for each sample in each testing event. For example, if a sample contained one principal virus and the laboratory reported it correctly but reported the presence of an additional virus, which was not present, the sample grade would be $1/(1+1) \times 100 = 50$ percent.

(4) The performance criterion for qualitative antigen tests is presence or absence of the viral antigen. The score for the antigen tests is the number of correct responses divided by the number of samples to be tested for the antigen, multiplied by 100.

(5) The score for a testing event is the average of the sample scores as determined under paragraph (c)(3) and (c)(4) of this section.

§ 493.921 Diagnostic immunology.

The subspecialties under the specialty of immunology for which a program may offer proficiency testing are syphilis serology and general immunology. Specific criteria for these subspecialties are found at §§ 493.923 and 493.927.

§ 493.923 Syphilis serology.

(a) *Program content and frequency of challenge.* To be approved for proficiency testing in syphilis serology, a program must provide a minimum of five samples per testing event. There must be at least three testing events at approximately equal intervals per year. The samples may be provided through mailed shipments or, at HHS' option, may be provided to HHS or its designee for on-site testing. An annual program must include samples that cover the full range of reactivity from highly reactive to non-reactive.

(b) *Evaluation of test performance.* HHS approves only those programs that assess the accuracy of a laboratory's responses in accordance with paragraphs (b) (1) through (4) of this section.

(1) To determine the accuracy of a laboratory's response for qualitative and quantitative syphilis tests, the program must compare the laboratory's response with the response that reflects agreement of either 90 percent of ten or more referee laboratories or 90 percent or more of all participating laboratories. The proficiency testing program must indicate the minimum concentration, by method, that will be considered as indicating a positive response. The score for a sample in syphilis serology is the average of scores determined under paragraphs (b)(2) and (b)(3) of this section.

(2) For quantitative syphilis tests, the program must determine the correct response for each method by the distance of the response from the target value. After the target value has been established for each response, the appropriateness of the response must be determined by using either fixed criteria or the number of standard deviations the response differs from the target value. The criterion for acceptable performance for quantitative syphilis serology tests is the target value +/− 1 dilution.

(3) The criterion for acceptable performance for qualitative syphilis serology tests is reactive or nonreactive.

(4) To determine the overall testing event score, the number of correct responses must be averaged using the following formula:

$$\frac{\text{Number of acceptable responses for all challenges}}{\text{Total number of all challenges}} \times 100 = \text{Testing event score}$$

§ 493.927 General immunology.

(a) *Program content and frequency of challenge.* To be approved for proficiency testing for immunology, the annual program must provide a minimum of five samples per testing event. There must be at least three testing events at approximately equal intervals per year. The annual program must provide samples that cover the full range of reactivity from highly reactive to nonreactive. The samples may be provided through mailed shipments or, at HHS' option, may be provided to HHS or its designee for on-site testing.

(b) *Challenges per testing event.* The minimum number of challenges per testing event the program must provide for each analyte or test procedure is five. Analytes or tests for which laboratory performance is to be evaluated include:

Analyte or Test Procedure

Alpha-1 antitrypsin
Alpha-fetoprotein (tumor marker)
Antinuclear antibody
Antistreptolysin O, quantitative
Anti-human immunodeficiency virus (HIV)
Complement C3
Complement C4
Hepatitis markers (HBsAg, anti-HBc, HBeAg)
IgA
IgG
IgE
IgM
Infectious mononucleosis
Rheumatoid factor
Rubella

(c) *Evaluation of a laboratory's analyte or test performance.* HHS approves only those programs that assess the accuracy of a laboratory's responses in accordance with paragraphs (c) (1) through (5) of this section.

(1) To determine the accuracy of a laboratory's response for quantitative and qualitative immunology tests or analytes, the program must compare the laboratory's response for each analyte with the response that reflects agreement of either 90 percent of ten or more referee laboratories or 90 percent or more of all participating laboratories. The proficiency testing program must indicate the minimum concentration that will be considered as indicating a positive response. The score for a sample in general immunology is either the score determined under paragraph (c) (2) or (3) of this section.

(2) For quantitative immunology analytes or tests, the program must determine the correct response for each analyte by the distance of the response from the target value. After the target value has been established for each response, the appropriateness of the response must be determined by using either fixed criteria or the number of standard deviations (SDs) the response differs from the target value.

Criteria for Acceptable Performance

The criteria for acceptable performance are—

Analyte or test	Criteria for acceptable performance
Alpha-1 antitrypsin	Target value ±3 SD.
Alpha-fetoprotein (tumor marker).	Target value ±3 SD.
Antinuclear antibody	Target value +/−2 dilutions or positive or negative.
Antistreptolysin O	Target value +/−2 dilution or positive or negative.
Anti-Human Immunodeficiency virus.	Reactive or nonreactive.
Complement C3	Target value ±3 SD.
Complement C4	Target value ±3 SD.
Hepatitis (HBsAg, anti-HBc, HBeAg).	Reactive (positive) or nonreactive (negative).
IgA	Target value ±3 SD.
IgE	Target value ±3 SD.
IgG	Target value +/−25%.
IgM	Target value ±3 SD.
Infectious mononucleosis.	Target value +/−2 dilutions or positive or negative.
Rheumatoid factor	Target value +/−2 dilutions or positive or negative.
Rubella	Target value +/−2 dilutions or immune or nonimmune or positive or negative.

(3) The criterion for acceptable performance for qualitative general immunology tests is positive or negative.

(4) To determine the analyte testing event score, the number of acceptable analyte responses must be averaged using the following formula:

$$\frac{\text{Number of acceptable responses for the analyte}}{\text{Total number of challenges for the analyte}} \times 100 = \text{Analyte score for the testing event}$$

(5) To determine the overall testing event score, the number of correct responses for all analytes must be averaged using the following formula:

$$\frac{\text{Number of acceptable responses for all challenges}}{\text{Total number of all challenges}} \times 100 = \text{Testing event score}$$

§ 493.929 Chemistry.

The subspecialties under the specialty of chemistry for which a proficiency testing program may offer proficiency testing are routine chemistry, endocrinology, and toxicology. Specific criteria for these subspecialties are listed in §§ 493.931 through 493.939.

§ 493.931 Routine chemistry.

(a) *Program content and frequency of challenge.* To be approved for proficiency testing for routine chemistry, a program must provide a minimum of five samples per testing event. There must be at least three testing events at approximately equal intervals per year. The annual program must provide samples that cover the clinically relevant range of values that would be expected in patient specimens. The specimens may be provided through mailed shipments or, at HHS' option, may be provided to HHS or its designee for on-site testing.

(b) *Challenges per testing event.* The minimum number of challenges per testing event a program must provide for each analyte or test procedure listed below is five serum, plasma or blood samples.

Analyte or Test Procedure

Alanine aminotransferase (ALT/SGPT)
Albumin
Alkaline phosphatase
Amylase
Aspartate aminotransferase (AST/SGOT)
Bilirubin, total
Blood gas (pH, pO2, and pCO2)
Calcium, total
Chloride
Cholesterol, total
Cholesterol, high density lipoprotein
Creatine kinase

VOL
57
ISS
40
FE
28
992
UMI

Creatine kinase, isoenzymes
Creatinine
Glucose (Excluding measurements on devices cleared by FDA for home use)
Iron, total
Lactate dehydrogenase (LDH)
LDH isoenzymes
Magnesium
Potassium
Sodium
Total Protein
Triglycerides
Urea Nitrogen
Uric Acid

(c) *Evaluation of a laboratory's analyte or test performance.* HHS approves only those programs that assess the accuracy of a laboratory's responses in accordance with paragraphs (c)(1) through (5) of this section.

(1) To determine the accuracy of a laboratory's response for qualitative and quantitative chemistry tests or analytes, the program must compare the laboratory's response for each analyte with the response that reflects agreement of either 90 percent of ten or more referee laboratories or 90 percent or more of all participating laboratories. The score for a sample in routine chemistry is either the score determined under paragraph (c)(2) or (3) of this section.

(2) For quantitative chemistry tests or analytes, the program must determine the correct response for each analyte by the distance of the response from the target value. After the target value has been established for each response, the appropriateness of the response must be determined by using either fixed criteria based on the percentage difference from the target value or the number of standard deviations (SDs) the response differs from the target value.

Criteria for Acceptable Performance

The criteria for acceptable performance are—

Analyte or test	Criteria for acceptable performance
Alanine aminotransferase (ALT/SGPT).	Target value ±20%.
Albumin	Target value ±10%.
Alkaline phosphatase	Target value ±30%.
Amylase	Target value ±30%.
Aspartate aminotransferase (AST/SGOT).	Target value ±20%.
Bilirubin, total	Target value ±0.4 mg/dL or ±20% (greater).
Blood gas pO2	Target value ±3 SD.
pCO2	Target value ±5 mm Hg or +/−8% (greater).
pH	Target value ±0.04.
Calcium, total	Target value ±1.0 mg/dL.
Chloride	Target value ±5%.
Cholesterol, total	Target value ±10%.
Cholesterol, high density lipoprotein.	Target value ±30%.
Creatine kinase	Target value ±30%.
Creatine kinase isoenzymes.	MB elevated (presence or absence) or Target value ±3SD.
Creatinine	Target value ±0.3 mg/dL or ±15% (greater).
Glucose (excluding glucose performed on monitoring devices cleared by FDA for home use.	Target value ±6 mg/dl or ±10% (greater).
Iron, total	Target value ±20%.
Lactate dehydrogenase (LDH).	Target value ±20%.
LDH isoenzymes	LDH1/LDH2 (+ or −) or Target value ± 30%.
Magnesium	Target value ±25%.
Potassium	Target value ±0.5 mmol/L.
Sodium	Target value ±4 mmol/L.
Total Protein	Target value ±10%.
Triglycerides	Target value ±25%.
Urea nitrogen	Target value ±2 mg/dL or ±9% (greater).
Uric acid	Target value ±17%.

(3) The criterion for acceptable performance for qualitative routine chemistry tests is positive or negative.

(4) To determine the analyte testing event score, the number of acceptable analyte responses must be averaged using the following formula:

$$\frac{\text{Number of acceptable responses for the analyte}}{\text{Total number of challenges for the analyte}} \times 100 = \text{Analyte score for the testing event}$$

(5) To determine the overall testing event score, the number of correct responses for all analytes must be averaged using the following formula:

$$\frac{\text{Number of acceptable responses for all challenges}}{\text{Total number of all challenges}} \times 100 = \text{Testing event score}$$

§ 493.933 Endocrinology.

(a) *Program content and frequency of challenge.* To be approved for proficiency testing for endocrinology, a program must provide a minimum of five samples per testing event. There must be at least three testing events at approximately equal intervals per year. The annual program must provide samples that cover the clinically relevant range of values that would be expected in patient specimens. The samples may be provided through mailed shipments or, at HHS' option, may be provided to HHS or its designee for on-site testing.

(b) *Challenges per testing event.* The minimum number of challenges per testing event a program must provide for each analyte or test procedure is five serum, plasma, blood, or urine samples.

Analyte or Test

Cortisol
Free Thyroxine
Human Chorionic Gonadotropin
T3 Uptake
Triiodothyronine
Thyroid-stimulating hormone
Thyroxine

(c) *Evaluation of a laboratory's analyte or test performance.* HHS approves only those programs that assess the accuracy of a laboratory's responses in accordance with paragraphs (c) (1) through (5) of this section.

(1) To determine the accuracy of a laboratory's response for qualitative and quantitative endocrinology tests or analytes, a program must compare the laboratory's response for each analyte with the response that reflects agreement of either 90 percent of ten or more referee laboratories or 90 percent or more of all participating laboratories. The score for a sample in endocrinology is either the score determined under paragraph (c)(2) or (c)(3) of this section.

(2) For quantitative endocrinology tests or analytes, the program must determine the correct response for each analyte by the distance of the response from the target value. After the target value has been established for each response, the appropriateness of the response must be determined by using either fixed criteria based on the percentage difference from the target value or the number of standard deviations (SDs) the response differs from the target value.

Criteria for Acceptable Performance

The criteria for acceptable performance are—

Analyte or test	Criteria for acceptable performance
Cortisol	Target value ±25%.
Free Thyroxine	Target value ± 3 SD.
Human Chorionic Gonadotropin.	Target value ± 3 SD positive or negative.
T3 Uptake	Target value ± 3 SD.
Triiodothyronine	Target value ± 3 SD.
Thyroid-stimulating hormone.	Target value ± 3 SD.
Thyroxine	Target value ± 20% or 1.0 mcg/dL (greater).

§ 493.937 Toxicology.

(3) The criterion for acceptable performance for qualitative endocrinology tests is positive or negative.

(4) To determine the analyte testing event score, the number of acceptable analyte responses must be averaged using the following formula:

$$\frac{\text{Number of acceptable responses for the analyte}}{\text{Total number of challenges for the analyte}} \times 100 = \text{Analyte score for the testing event}$$

(5) To determine the overall testing event score, the number of correct responses for all analytes must be averaged using the following formula:

$$\frac{\text{Number of acceptable responses for all challenges}}{\text{Total number of all challenges}} \times 100 = \text{Testing event score}$$

(a) *Program content and frequency of challenge.* To be approved for proficiency testing for toxicology, the annual program must provide a minimum of five samples per testing event. There must be at least three testing events at approximately equal intervals per year. The annual program must provide samples that cover the clinically relevant range of values that would be expected in specimens of patients on drug therapy and that cover the level of clinical significance for the particular drug. The samples may be provided through mailed shipments or, at HHS' option, may be provided to HHS or its designee for on-site testing.

(b) *Challenges per testing event.* The minimum number of challenges per testing event a program must provide for each analyte or test procedure is five serum, plasma, or blood samples.

Analyte or Test Procedure

Alcohol (blood)
Blood lead
Carbamazepine
Digoxin
Ethosuximide
Gentamicin
Lithium
Phenobarbital
Phenytoin
Primidone
Procainamide
(and metabolite)
Quinidine
Theophylline
Tobramycin
Valproic Acid

(c) *Evaluation of a laboratory's analyte or test performance.* HHS approves only those programs that assess the accuracy of a laboratory's responses in accordance with paragraphs (c)(1) through (4) of this section.

(1) To determine the accuracy of a laboratory's responses for quantitative toxicology tests or analytes, the program must compare the laboratory's response for each analyte with the response that reflects agreement of either 90 percent of ten or more referee laboratories or 90 percent or more of all participating laboratories. The score for a sample in toxicology is the score determined under paragraph (c)(2) of this section.

(2) For quantitative chemistry tests or analytes, the program must determine the correct response for each analyte by the distance of the response from the target value. After the target value has been established for each response, the appropriateness of the response must be determined by using fixed criteria based on the percentage difference from the target value

Criteria for Acceptable Performance

The criteria for acceptable performance are:

Analyte or test	Criteria for acceptable performance
Alcohol, blood	Target Value ± 25%.
Blood lead	Target Value ± 10% or 4 mcg/dL (greater).
Carbamazepine	Target Value ± 25%.
Digoxin	Target Value ± 20% or ± 0.2 ng/mL (greater).
Ethosuximide	Target Value ± 20%.
Gentamicin	Target Value ± 25%.
Lithium	Target Value ± 0.3 mmol/L or ± 20% (greater).
Phenobarbital	Target Value ± 20%
Phenytoin	Target Value ± 25%.
Primidone	Target Value ± 25%.
Procainamide (and metabolite).	Target Value ± 25%.
Quinidine	Target Value ± 25%.
Tobramycin	Target Value ± 25%.
Theophylline	Target Value ± 25%.
Valproic Acid	Target Value ± 25%.

(3) To determine the analyte testing event score, the number of acceptable analyte responses must be averaged using the following formula:

$$\frac{\text{Number of acceptable responses for the analyte}}{\text{Total number of challenges for the analyte}} \times 100 = \text{Analyte score for the testing event}$$

(4) To determine the overall testing event score, the number of correct responses for all analytes must be averaged using the following formula:

$$\frac{\text{Number of acceptable responses for all challenges}}{\text{Total number of all challenges}} \times 100 = \text{Testing event score}$$

§ 493.941 Hematology (including routine hematology and coagulation).

(a) *Program content and frequency of challenge.* To be approved for proficiency testing for hematology, a program must provide a minimum of five samples per testing event. There must be at least three testing events at approximately equal intervals per year. The annual program must provide samples that cover the full range of values that would be expected in patient specimens. The samples may be provided through mailed shipments or, at HHS' option, may be provided to HHS and or its designee for on-site testing.

(b) *Challenges per testing event.* The minimum number of challenges per testing event a program must provide for each analyte or test procedure is five.

Analyte or Test Procedure

Cell identification or white blood cell differential
Erythrocyte count
Hematocrit (excluding spun microhematocrit)
Hemoglobin
Leukocyte count
Platelet count
Fibrinogen
Partial thromboplastin time
Prothrombin time

(1) An approved program for cell identification may vary over time. The types of cells that might be included in an approved program over time are—

Neutrophilic granulocytes
Eosinophilic granulocytes
Basophilic granulocytes
Lymphocytes
Monocytes
Major red and white blood cell abnormalities
Immature red and white blood cells

(2) White blood cell differentials should be limited to the percentage distribution of cellular elements listed above.

(c) *Evaluation of a laboratory's analyte or test performance.* HHS approves only those programs that assess the accuracy of a laboratory's responses in accordance with paragraphs (c) (1) through (5) of this section.

(1) To determine the accuracy of a laboratory's responses for qualitative and quantitative hematology tests or analytes, the program must compare the laboratory's response for each analyte

with the response that reflects agreement of either 90 percent of ten or more referee laboratories or 90 percent or more of all participating laboratories. The score for a sample in hematology is either the score determined under paragraph (c) (2) or (3) of this section.

(2) For quantitative hematology tests or analytes, the program must determine the correct response for each analyte by the distance of the response from the target value. After the target value has been established for each response, the appropriateness of the response is determined using either fixed criteria based on the percentage difference from the target value or the number of standard deviations (SDs) the response differs from the target value.

Criteria for Acceptable Performance

The criteria for acceptable performance are:

Analyte or test	Criteria for acceptable performance
Cell identification	90% or greater consensus on identification.
White blood cell differential.	Target +/− 3SD based on the percentage of different types of white blood cells in the samples.
Erythrocyte count	Target +/−6%.
Hematocrit (Excluding spun hematocrits).	Target +/−6%.
Hemoglobin	Target +/−7%.
Leukocyte count	Target +/−15%.
Platelet count	Target +/−25%.
Fibrinogen	Target +/− 20%.
Partial thromboplastin time.	Target +/−15%.
Prothrombin time	Target +/−15%.

(3) The criterion for acceptable performance for the qualitative hematology test is correct cell identification.

(4) To determine the analyte testing event score, the number of acceptable analyte responses must be averaged using the following formula:

$$\frac{\text{Number of acceptable responses for the analyte}}{\text{Total number of challenges for the analyte}} \times 100 = \text{Analyte score for the testing event}$$

(5) To determine the overall testing event score, the number of correct responses for all analytes must be averaged using the following formula:

$$\frac{\text{Number of acceptable responses for all challenges}}{\text{Total number of all challenges}} \times 100 = \text{Testing event score}$$

§ 493.945 Cytology; gynecologic examinations.

(a) *Program content and frequency of challenge.* (1) To be approved for proficiency testing for gynecologic examinations (Pap smears) in cytology, a program must provide test sets composed of 10- and 20-glass slides. Proficiency testing programs may obtain slides for test sets from cytology laboratories, provided the slides have been retained by the laboratory for the required period specified in § 493.1257. If slide preparations are still subject to retention by the laboratory, they may be loaned to a proficiency testing program if the program provides the laboratory with documentation of the loan of the slides and ensures that slides loaned to it are retrievable upon request. Each test set must include at least one slide representing each of the response categories described in paragraph (b)(3)(ii)(A) of this section, and test sets should be comparable so that equitable testing is achieved within and between proficiency testing providers.

(2) To be approved for proficiency testing in gynecologic cytology, a program must provide announced and unannounced on-site testing for each individual at least once per year and must provide an initial retesting event for each individual within 45 days after notification of test failure and subsequent retesting events within 45 days after completion of remedial action described in § 493.855.

(b) *Evaluation of an individual's performance.* HHS approves only those programs that assess the accuracy of each individual's responses on both 10- and 20-slide test sets in which the slides have been referenced as specified in paragraph (b)(1) of this section.

(1) To determine the accuracy of an individual's response on a particular challenge (slide), the program must compare the individual's response for each slide preparation with the response that reflects the predetermined consensus agreement or confirmation on the diagnostic category, as described in the table in paragraph (b)(3)(ii)(A) of this section. For all slide preparations, a 100% consensus agreement among a minimum of three physicians certified in anatomic pathology is required. In addition, for premalignant and malignant slide preparations, confirmation by tissue biopsy is required either by comparison of the reported biopsy results or reevaluation of biopsy slide material by a physician certified in anatomic pathology.

(2) An individual qualified as a technical supervisor under § 493.1449 (b) or (k) who routinely interprets gynecologic slide preparations only after they have been examined by a cytotechnologist can either be tested using a test set that has been screened by a cytotechnologist in the same laboratory or using a test set that has not been screened. A technical supervisor who screens and interprets slide preparations that have not been previously examined must be tested using a test set that has not been previously screened.

(3) The criteria for acceptable performance are determined by using the scoring system in paragraphs (b)(3) (i) and (ii) of this section.

(i) Each slide set must contain 10 or 20 slides with point values established for each slide preparation based on the significance of the relationship of the interpretation of the slide to a clinical condition and whether the participant in the testing event is a cytotechnologist qualified under §§ 493.1469 or 493.1483 or functioning as a technical supervisor in cytology qualified under § 493.1449 (b) or (k) of this part.

(ii) The scoring system rewards or penalizes the participants in proportion to the distance of their answers from the correct response or target diagnosis and the penalty or reward is weighted in proportion to the severity of the lesion.

(A) The four response categories for reporting proficiency testing results and their descriptions are as follows:

Category	Description
A	Unsatisfactory for diagnosis due to: (1) Scant cellularity. (2) Air drying. (3) Obscuring material (blood, inflammatory cells, or lubricant).
B	Normal or Benign Changes—includes: (1) Normal, negative or within normal limits. (2) Infection other than Human Papillomavirus (HPV) (e.g., *Trichomonas vaginalis*, changes or morphology consistent with *Candida* spp., *Actinomyces* spp. or *Herpes simplex* virus). (3) Reactive and reparative changes (e.g., inflammation, effects of chemotherapy or radiation).
C	Low Grade Squamous Intraepithelial Lesion—includes: (1) Cellular changes associated with HPV.

Category	Description
	(2) Mild dysplasia/CIN-1.
D	High Grade Lesion and Carcinoma—includes:
	(1) High grade squamous intraepithelial lesions which include moderate dysplasia/CIN-2 and severe dysplasia/carcinoma in-situ/CIN-3.
	(2) Squamous cell carcinoma.
	(3) Adenocarcinoma and other malignant neoplasms.

(B) In accordance with the criteria for the scoring system, the charts in paragraphs (b)(3)(ii)(C) and (D) of this section, for technical supervisors and cytotechnologists, respectively, provide a maximum of 10 points for a correct response and a maximum of minus five (−5) points for an incorrect response on a 10-slide test set. For example, if the correct response on a slide is "high grade squamous intraepithelial lesion" (category "D" on the scoring system chart) and an examinee calls it "normal or negative" (category "B" on the scoring system chart), then the examinee's point value on that slide is calculated as minus five (−5). Each slide is scored individually in the same manner. The individual's score for the testing event is determined by adding the point value achieved for each slide preparation, dividing by the total points for the testing event and multiplying by 100.

(C) Criteria for scoring system for a 10-slide test set. (See table at (b)(3)(ii)(A) of this section for a description of the response categories.) For technical supervisors qualified under § 493.1449(b) or (k):

Correct response category:	A	B	C	D
Examinee's response:				
A	10	0	0	0
B	5	10	0	0
C	5	0	10	5
D	0	−5	5	10

(D) Criteria for scoring system for a 10-slide test set. (See table at paragraph (b)(3)(ii)(A) of this section for a description of the response categories.) For cytotechnologists qualified under §§ 493.1469 or 493.1483:

Correct response category:	A	B	C	D
Examinee's response:				
A	10	0	5	5
B	5	10	5	5
C	5	0	10	10
D	0	−5	10	10

(E) In accordance with the criteria for the scoring system, the charts in paragraphs (b)(3)(ii)(F) and (G) of this section, for technical supervisors and cytotechnologists, respectively, provide maximums of 5 points for a correct response and minus ten (−10) points for an incorrect response on a 20-slide test set.

(F) Criteria for scoring system for a 20-slide test set. (See table at paragraph (b)(3)(ii)(A) of this section for a description of the response categories.) For technical supervisors qualified under § 493.1449(b) or (k):

Correct response category:	A	B	C	D
Examinee's response:				
A	5	0	0	0
B	2.5	5	0	0
C	2.5	0	5	2.5
D	0	−10	2.5	5

(G) Criteria for scoring system for a 20-slide test set. (See table at (b)(3)(ii)(A) of this section for a description of the response categories.) For cytotechnologists qualified under § 493.1469 or 493.1483:

Correct response category:	A	B	C	D
Examinee's response:				
A	5	0	2.5	2.5
B	2.5	5	2.5	2.5
C	2.5	0	5	5
D	0	−10	5	5

§ 493.959 Immunohematology.

(a) *Types of services offered by laboratories.* In immunohematology, there are four types of laboratories for proficiency testing purposes—

(1) Those that perform ABO group and/or D (Rho) typing;

(2) Those that perform ABO group and/or D (Rho) typing, and unexpected antibody detection;

(3) Those that in addition to paragraph (a)(2) of this section perform compatibility testing; and

(4) Those that perform in addition to paragraph (a)(3) of this section antibody identification.

(b) *Program content and frequency of challenge.* To be approved for proficiency testing for immunohematology, a program must provide a minimum of five samples per testing event. There must be at least three testing events at approximately equal intervals per year. The annual program must provide samples that cover the full range of interpretation that would be expected in patient specimens. The samples may be provided through mailed shipments or, at HHS' option, may be provided to HHS or its designee for on-site testing.

(c) *Challenges per testing event.* The minimum number of challenges per testing event a program must provide for each analyte or test procedure is five.

Analyte or Test Procedure

ABO group (excluding subgroups)
D (Rho) typing
Unexpected antibody detection
Compatibility testing
Antibody identification

(d) *Evaluation of a laboratory's analyte or test performance.* HHS approves only those programs that assess the accuracy of a laboratory's response in accordance with paragraphs (d)(1) through (5) of this section.

(1) To determine the accuracy of a laboratory's response, a program must compare the laboratory's response for each analyte with the response that reflects agreement of either 100 percent of ten or more referee laboratories or 95 percent or more of all participating laboratories except for unexpected antibody detection and antibody identification. To determine the accuracy of a laboratory's response for unexpected antibody detection and antibody identification, a program must compare the laboratory's response for each analyte with the response that reflects agreement of either 95 percent of ten or more referee laboratories or 95 percent or more of all participating laboratories. The score for a sample in immunohematology is either the score determined under paragraph (d)(2) or (3) of this section.

(2) *Criteria for acceptable performance.* The criteria for acceptable performance are—

Analyte or test	Criteria for acceptable performance
ABO group	100% accuracy.
D (Rho) typing	100% accuracy.
Unexpected antibody detection.	80% accuracy.
Compatibility testing	100% accuracy.
Antibody identification	80% accuracy.

(3) The criterion for acceptable performance for qualitative immunohematology tests is positive or negative.

(4) To determine the analyte testing event score, the number of acceptable analyte responses must be averaged using the following formula:

$$\frac{\text{Number of acceptable responses for the analyte}}{\text{Total number of challenges for the analyte}} \times 100 = \text{Analyte score for the testing event}$$

(5) To determine the overall testing event score, the number of correct responses for all analytes must be averaged using the following formula:

$$\frac{\text{Number of acceptable responses for all challenges}}{\text{Total number of all challenges}} \times 100 = \text{Testing event score}$$

Subpart J—Patient Test Management for Moderate or High Complexity Testing, or Both

§ 493.1101 Condition: Patient test management; moderate or high complexity testing, or both.

Each laboratory performing moderate or high complexity testing, or both, must employ and maintain a system that provides for proper patient preparation; proper specimen collection, identification, preservation, transportation, and processing; and accurate result reporting. This system must assure optimum patient specimen integrity and positive identification throughout the preanalytic (pre-testing), analytic (testing), and postanalytic (post-testing) processes and must meet the standards of this subpart as they apply to the testing performed.

§ 493.1103 Standard; Procedures for specimen submission and handling.

(a) The laboratory must have available and follow written policies and procedures for each of the following, if applicable: Methods used for the preparation of patients; specimen collection; specimen labeling; specimen preservation; and conditions for specimen transportation. Such policies and procedures must assure positive identification and optimum integrity of the patient specimens from the time the specimen(s) are collected until testing has been completed and the results reported.

(b) If the laboratory accepts referral specimens, written instructions must be available to clients and must include, as appropriate, the information specified in paragraph (a) of this section.

(c) Oral explanation of instructions to patients for specimen collection, including patient preparation, may be used as a supplement to written instructions where applicable.

§ 493.1105 Standard; Test requisition.

The laboratory must perform tests only at the written or electronic request of an authorized person. Oral requests for laboratory tests are permitted only if the laboratory subsequently obtains written authorization for testing within 30 days. Records of test requisitions or test authorizations must be retained for a minimum of two years. The patient's chart or medical record, if used as the test requisition, must be retained for a minimum of two years and must be available to the laboratory at the time of testing and available to HHS upon request. The laboratory must assure that the requisition or test authorization includes—

(a) The patient's name or other unique identifier;

(b) The name and address or other suitable identifiers of the authorized person requesting the test and, if appropriate, the individual responsible for utilizing the test results or the name and address of the laboratory submitting the specimen, including, as applicable, a contact person to enable the reporting of imminent life threatening laboratory results or panic values;

(c) The test(s) to be performed;

(d) The date of specimen collection;

(e) For Pap smears, the patient's last menstrual period, age or date of birth, and indication of whether the patient had a previous abnormal report, treatment or biopsy; and

(f) Any additional information relevant and necessary to a specific test to assure accurate and timely testing and reporting of results.

§ 493.1107 Standard; Test records.

The laboratory must maintain a record system to ensure reliable identification of patient specimens as they are processed and tested to assure that accurate test results are reported. These records must identify the personnel performing the testing procedure. Records of patient testing, including, if applicable, instrument printouts, must be retained for at least two years. Immunohematology records must be retained for no less than five years in accordance with 21 CFR part 606, subpart I. The record system must provide documentation of information specified in § 493.1105 (a) through (f) and include—

(a) The patient identification number, accession number, or other unique identification of the specimen;

(b) The date and time of specimen receipt into the laboratory;

(c) The condition and disposition of specimens that do not meet the laboratory's criteria for specimen acceptability; and

(d) The records and dates of all specimen testing, including the identity of the personnel who performed the test(s), which are necessary to assure proper identification and accurate reporting of patient test results.

§ 493.1109 Standard; Test report.

The laboratory report must be sent promptly to the authorized person, the individual responsible for using the test results or laboratory that initially requested the test. The original report or an exact duplicate of each test report, including final and preliminary reports, must be retained by the testing laboratory for a period of at least two years after the date of reporting. Immunohematology reports must be retained by the laboratory for a period of no less than five years in accordance with 21 CFR part 606, subpart I. For pathology, test reports must be retained for a period of at least ten years after the date of reporting. This information may be maintained as part of the patient's chart or medical record which must be readily available to the laboratory and to HHS upon request.

(a) The laboratory must have adequate systems in place to report results in a timely, accurate, reliable and confidential manner, and, ensure patient confidentiality throughout those parts of the total testing process that are under the laboratory's control.

(b) The test report must indicate the name and address of the laboratory location at which the test was performed, the test performed, the test result and, if applicable, the units of measurement.

(c) The laboratory must indicate on the test report any information regarding the condition and disposition of specimens that do not meet the laboratory's criteria for acceptability.

(d) Pertinent "reference" or "normal" ranges, as determined by the laboratory performing the tests, must be available to the authorized person who ordered the tests or the individual responsible for utilizing the test results.

(e) The results or transcripts of laboratory tests or examinations must be released only to authorized persons or the individual responsible for utilizing the test results.

(f) The laboratory must develop and follow written procedures for reporting imminent life-threatening laboratory results or panic values. In addition, the laboratory must immediately alert the individual or entity requesting the test or the individual responsible for utilizing the test results when any test result indicates an imminent life-threatening condition.

(g) The laboratory must, upon request, make available to clients a list of test methods employed by the laboratory and, in accordance with § 493.1213, as applicable, the performance specifications of each method used to test patient specimens. In addition, information that may affect the interpretation of test results, such as test interferences, must be provided upon request. Pertinent updates on testing information must be provided to clients whenever changes occur that affect the test results or interpretation of test results.

(h) The original report or exact duplicates of test reports must be maintained by the laboratory in a manner that permits ready identification and timely accessibility.

§ 493.1111 Standard; Referral of specimens.

A laboratory must refer specimens for testing only to a laboratory possessing a valid certificate authorizing the performance of testing in the specialty or subspecialty of service for the level of complexity in which the referred test is categorized.

(a) The referring laboratory must not revise results or information directly related to the interpretation of results provided by the testing laboratory.

(b) The referring laboratory may permit each testing laboratory to send the test result directly to the authorized person who initially requested the test. The referring laboratory must retain or be able to produce an exact duplicate of each testing laboratory's report.

(c) The authorized person who orders a test or procedure must be notified by the referring laboratory of the name and address of each laboratory location at which a test was performed.

Subpart K—Quality Control for Tests of Moderate or High Complexity, or Both

§ 493.1201 Condition: General quality control; Moderate or high complexity testing, or both.

The laboratory must establish and follow written quality control procedures for monitoring and evaluating the quality of the analytical testing process of each method to assure the accuracy and reliability of patient test results and reports. In addition, the laboratory must meet the applicable standards in §§ 493.1202 through 493.1221 of this subpart, unless an alternative procedure specified in the manufacturer's protocol has been cleared by the Food and Drug Administration (FDA) as meeting the CLIA requirements for general quality control, and the device/test quality control instructions contain the following statement: "Unless this device is modified by a laboratory, compliance with these quality control instructions satisfies 42 CFR 493.1201 through 493.1221 implementing the Clinical Laboratory Improvement Amendments of 1988," or HCFA approves an equivalent procedure specified in appendix C of the State Operations Manual (HCFA Pub. 7). HCFA Pub. 7 is available from the Technical Information Service, U.S. Department of Commerce, 5825 Port Royal Road, Springfield, VA 22161, telephone number (703) 487–4630.

§ 493.1202 Standard; Moderate or high complexity testing, or both: Effective from September 1, 1992 to September 1, 1994.

(a) For each test of high complexity performed, the laboratory must meet all applicable standards of this subpart.

(b) For each test of moderate complexity performed using a method developed in-house or using an instrument, kit or test system cleared by the FDA through the premarket notification (510(k)) or premarket approval (PMA) process for in-vitro diagnostic use but modified by the laboratory, the laboratory must meet all applicable standards of this subpart.

(c) For all other tests of moderate complexity performed using an instrument, kit or test system cleared by the FDA through the premarket notification (510(k)) or premarket approval (PMA) process for in-vitro diagnostic use, the laboratory must—

(1) Follow the manufacturer's instructions for instrument or test system operation and test performance;

(2) Have a procedure manual describing the processes for testing and reporting patient test results;

(3) Perform and document calibration procedures at least once every six months;

(4) Perform and document control procedures using at least two levels of control materials each day of testing;

(5) Perform and document applicable specialty and subspecialty control procedures as specified under § 493.1223; and

(6) Perform and document that remedial action has been taken when problems or errors are identified as specified in § 493.1219.

§ 493.1203 Standard; Moderate or high complexity testing, or both: Effective beginning September 1, 1994.

For each moderate or high complexity test performed, the laboratory will be in compliance with this section if it:

(a) Meets all applicable quality control requirements specified in this subpart; or

(b) Follows manufacturer's instructions when using products (instruments, kits, or test systems) cleared by the FDA as meeting the CLIA requirements for general quality control located at §§ 493.1213, 493.1215, 493.1217 and applicable parts of §§ 493.1205, 493.1211 and 493.1218. In addition, the laboratory must comply with requirements within any section of this subpart that are unique to the laboratory facility and cannot be met by manufacturer's instructions.

§ 493.1204 Standard; Facilities.

The laboratory must provide the space and environmental conditions necessary for conducting the services offered.

(a) The laboratory must be constructed, arranged, and maintained to ensure the space, ventilation, and utilities necessary for conducting all phases of testing, including the preanalytic (pre-testing), analytic (testing), and postanalytic (post-testing), as appropriate.

(b) Safety precautions must be established, posted, and observed to ensure protection from physical hazards and biohazardous materials.

§ 493.1205 Standard; Test methods, equipment, instrumentation, reagents, materials, and supplies.

The laboratory must utilize test methods, equipment, instrumentation, reagents, materials, and supplies that provide accurate and reliable test results and test reports.

(a) Test methodologies and equipment must be selected and testing performed in a manner that provides test results within the laboratory's stated performance specifications for each test method as determined under § 493.1213.

(b) The laboratory must have appropriate and sufficient equipment and instruments, reagents, materials, and supplies for the type and volume of testing performed and for the maintenance of quality during the preanalytic, analytic, and postanalytic phases of testing.

(c) The laboratory must define criteria for those conditions that are essential for proper storage of reagents and specimens, and accurate and reliable test system operation and test result reporting.

(1) These conditions include, if applicable—

(i) Water quality;

(ii) Temperature;

(iii) Humidity; and

(iv) Protection of equipment and instrumentation from fluctuations and interruptions in electrical current that adversely affect patient test results and test reports.

(2) Remedial actions taken to correct conditions that fail to meet the criteria specified in paragraph (c)(1) of this section must be documented.

(d) Reagents, solutions, culture media, control materials, calibration materials and other supplies, as appropriate, must be labeled to indicate—

(1) Identity and, when significant, titer, strength or concentration;

(2) Recommended storage requirements;

(3) Preparation and expiration date; and

(4) Other pertinent information required for proper use.

(e) Reagents, solutions, culture media, control materials, calibration materials and other supplies must be prepared, stored, and handled in a manner to ensure that—

(1) Reagents, solutions, culture media, controls, calibration materials and other supplies are not used when they have exceeded their expiration date, have deteriorated or are of substandard quality. The laboratory must comply with the FDA product dating requirements of 21 CFR 610.53 for blood products and other biologicals, and labeling requirements, as cited in 21 CFR 809.10 for all other in vitro diagnostics. Any exception to the product dating requirements in 21 CFR 610.53 will be granted by the FDA in the form of an amendment of the product license, in accordance with 21 CFR 610.53(d). All exceptions must be documented by the laboratory; and

(2) Components of reagent kits of different lot numbers are not interchanged unless otherwise specified by the manufacturer.

§ 493.1211 Standard; Procedure manual.

(a) A written procedure manual for the performance of all analytical methods used by the laboratory must be readily available and followed by laboratory personnel. Textbooks may be used as supplements to these written descriptions but may not be used in lieu of the laboratory's written procedures for testing or examining specimens.

(b) The procedure manual must include, when applicable to the test procedure:

(1) Requirements for specimen collection and processing, and criteria for specimen rejection;

(2) Procedures for microscopic examinations, including the detection of inadequately prepared slides;

(3) Step-by-step performance of the procedure, including test calculations and interpretation of results;

(4) Preparation of slides, solutions, calibrators, controls, reagents, stains and other materials used in testing;

(5) Calibration and calibration verification procedures;

(6) The reportable range for patient test results as established or verified in § 493.1213;

(7) Control procedures;

(8) Remedial action to be taken when calibration or control results fail to meet the laboratory's criteria for acceptability;

(9) Limitations in methodologies, including interfering substances;

(10) Reference range (normal values);

(11) Imminent life-threatening laboratory results or "panic values";

(12) Pertinent literature references;

(13) Appropriate criteria for specimen storage and preservation to ensure specimen integrity until testing is completed;

(14) The laboratory's system for reporting patient results including, when appropriate, the protocol for reporting panic values;

(15) Description of the course of action to be taken in the event that a test system becomes inoperable; and

(16) Criteria for the referral of specimens including procedures for specimen submission and handling as described in § 493.1103.

(c) Manufacturers' package inserts or operator manuals may be used, when applicable, to meet the requirements of paragraphs (b)(1) through (b)(13) of this section. Any of the items under paragraphs (b)(1) through (b)(13) of this section not provided by the manufacturer must be provided by the laboratory.

(d) Procedures must be approved, signed, and dated by the director.

(e) Procedures must be re-approved, signed and dated if the directorship of the laboratory changes.

(f) Each change in a procedure must be approved, signed, and dated by the current director of the laboratory.

(g) The laboratory must maintain a copy of each procedure with the dates of initial use and discontinuance. These records must be retained for two years after a procedure has been discontinued.

§ 493.1213 Standard; Establishment and verification of method performance specifications.

Prior to reporting patient test results, the laboratory must verify or establish, for each method, the performance specifications for the following performance characteristics: accuracy; precision; analytical sensitivity and specificity, if applicable; the reportable range of patient test results; the reference range(s) (normal values); and any other applicable performance characteristic.

(a) The provisions of this section are not retroactive. Laboratories are not required to verify or establish performance specifications for any test method of moderate or high complexity in use prior to September 1, 1992.

(b) (1) After September 1, 1992, a laboratory that introduces a new procedure for patient testing using a moderate or high complexity method (instrument, kit, or test system) cleared by the FDA as meeting the CLIA requirements for general quality control, must demonstrate that, prior to reporting patient test results, it can obtain the performance specifications for accuracy, precision, and reportable range of patient test results, comparable to those established by the manufacturer. The laboratory must also verify that the manufacturer's reference range is appropriate for the laboratory's patient population.

(2) After September 1, 1992, a laboratory that introduces a new procedure for patient testing using: a method developed in-house; a modification of the manufacturer's test procedure; or a method (instrument, kit, or test system) that has not been cleared by the FDA as meeting the CLIA requirements for general quality control, must, prior to reporting patient test results—

(i) Verify or establish for each method the performance specifications for the following performance characteristics, as applicable:

(A) Accuracy;

(B) Precision;

(C) Analytical sensitivity;

(D) Analytical specificity to include interfering substances;

(E) Reportable range of patient test results;

(F) Reference range(s); and

(G) Any other performance characteristic required for test performance.

(ii) Based upon the performance specifications verified or established in accordance with paragraph (b)(2)(i) of this section, establish calibration and control procedures for patient testing as required under §§ 493.1217 and 493.1218.

(c) The laboratory must have documentation of the verification or establishment of all applicable test performance specifications.

§ 493.1215 Standard; Equipment maintenance and function checks.

The laboratory must perform equipment maintenance and function checks that include electronic, mechanical and operational checks necessary for the proper test performance and test result reporting of equipment, instruments and test systems, to assure accurate and reliable test results and reports.

(a) *Maintenance of equipment, instruments, and test systems.* (1) For manufacturers' equipment, instruments or test systems cleared by the FDA as meeting the CLIA requirements for general quality control, the laboratory must—

(i) Perform maintenance as defined by the manufacturer and with at least the frequency specified by the manufacturer; and

(ii) Document all maintenance performed.

(2) For equipment, instruments, or test systems not cleared by the FDA as meeting the CLIA requirements for general quality control, or equipment, instruments, or test systems that have been modified or developed in-house, the laboratory must—

(i) Establish a maintenance protocol that ensures equipment, instrument, and test system performance necessary for accurate and reliable test results and test result reporting;

(ii) Perform maintenance with at least the frequency specified in paragraph (a)(2)(i) of this section; and

(iii) Document all maintenance performed.

(b) *Function checks of equipment, instruments, and test systems.* (1) For manufacturers' equipment, instruments, or test systems cleared by the FDA as meeting the CLIA requirements for general quality control, the laboratory must—

(i) Perform function checks as defined by the manufacturer and with at least the frequency specified by the manufacturer; and

(ii) Document all function checks performed.

(2) For equipment, instruments, or test systems not cleared by FDA as meeting the CLIA requirements for general quality control, or equipment, instruments, or test systems that have been modified or developed in-house, the laboratory must—

(i) Define a function check protocol that ensures equipment, instrument, and test system performance necessary for accurate and reliable test results and test result reporting;

(ii) Perform function checks including background or baseline checks specified in paragraph (b)(2)(i) of this section. Function checks must be within the laboratory's established limits before patient testing is conducted; and

(iii) Document all function checks performed.

§ 493.1217 Standard; Calibration and calibration verification procedures.

Calibration and calibration verification procedures are required to substantiate the continued accuracy of the test method throughout the laboratory's reportable range for patient test results. Calibration is the process of testing and adjusting an instrument, kit, or test system to provide a known relationship between the measurement response and the value of the substance that is being measured by the test procedure. Calibration verification is the assaying of calibration materials in the same manner as patient samples to confirm that the calibration of the instrument, kit, or test system has remained stable throughout the laboratory's reportable range for patient test results. The reportable range is the range of test result values over which the relationship between the instrument, kit or test system measurement response is shown to be valid. Calibration and calibration verification must be performed and documented as required in this section unless otherwise specified in §§ 493.1223 through 493.1285 of this subpart.

(a) For laboratory test procedures that are performed using instruments, kits, or test systems that have been cleared by the FDA as meeting CLIA requirements for general quality control, the laboratory must, at a minimum, follow the manufacturer's instructions for calibration and calibration verification procedures using calibration materials specified by the manufacturer.

(b) For each method that is developed in-house, is a modification of the manufacturer's test procedure, or is an instrument, kit, or test system that has not been cleared by the FDA as meeting the CLIA requirements for general quality control, the laboratory must—

(1) Perform calibration procedures—

(i) At a minimum, in accordance with manufacturer's instructions, if provided, using calibration materials provided or specified, as appropriate, and with at least the frequency recommended by the manufacturer;

(ii) In accordance with criteria established by the laboratory—

(A) Including the number, type and concentration of calibration materials, acceptable limits for calibration, and the frequency of calibration if manufacturer's instructions are not provided; and

(B) Using calibration materials appropriate for the methodology and, if possible, traceable to a reference method or reference material of known value; and

(iii) Whenever calibration verification fails to meet the laboratory's acceptable limits for calibration verification; and

(2) Perform calibration verification procedures—

(i) In accordance with the manufacturer's calibration verification instructions when they meet or exceed the requirements specified in paragraph (b)(2)(ii) of this section; or

(ii) In accordance with criteria established by the laboratory—

(A) Including the number, type, and concentration of calibration materials, acceptable limits for calibration verification and frequency of calibration verification; and

(B) Using calibration materials appropriate for—

(*1*) The methodology and, if possible, traceable to a reference method or reference material of known value; and

(*2*) Verifying the laboratory's established reportable range of patient test results, which must include at least a minimal (or zero) value, a mid-point value, and a maximum value at the upper limit of that range; and

(C) At least once every six months and whenever any of the following occur:

(*1*) A complete change of reagents for a procedure is introduced, unless the laboratory can demonstrate that changing reagent lot numbers does not affect the range used to report patient test results, and control values are not adversely affected by reagent lot number changes.

Note: If reagents are obtained from a manufacturer and all of the reagents for a test are packaged together, the laboratory is not required to perform calibration verification for each package of reagents, provided the packages of reagents are received in the same shipment and contain the same lot number;

(*2*) There is major preventive maintenance or replacement of critical parts that may influence test performance;

(*3*) Controls reflect an unusual trend or shift or are outside of the laboratory's acceptable limits and other means of assessing and correcting unacceptable control values have failed to identify and correct the problem; or

(*4*) The laboratory's established schedule for verifying the reportable range for patient test results requires more frequent calibration verification than specified in paragraphs (b)(2)(ii)(C)(*1*), (*2*), or (*3*) of this section; and

(3) Document all calibration and calibration verification procedures performed.

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§ 493.1218 Standard; Control procedures.

Control procedures are performed on a routine basis to monitor the stability of the method or test system; control and calibration materials provide a means to indirectly assess the accuracy and precision of patient test results. Control procedures must be performed as defined in this section unless otherwise specified in §§ 493.1223 through 493.1285 of this subpart.

(a) For each method cleared by the FDA as meeting CLIA requirements for general quality control, the laboratory must, at a minimum, follow the manufacturer's instructions for control procedures. In addition, the laboratory must meet the requirements under paragraphs (c) through (e) of this section and, as applicable, paragraph (f) of this section.

(b) For each method that is developed in-house, is a modification of the manufacturer's test procedure, or is a method that has not been cleared by the FDA as meeting the CLIA requirements for general quality control, the laboratory must evaluate instrument and reagent stability and operator variance in determining the number, type, and frequency of testing calibration or control materials and establish criteria for acceptability used to monitor test performance during a run of patient specimen(s). A run is an interval within which the accuracy and precision of a testing system is expected to be stable, but cannot be greater than 24 hours. For each procedure, the laboratory must monitor test performance using calibration materials or control materials or a combination thereof.

(1) For qualitative tests, the laboratory must include a positive and negative control with each run of patient specimens.

(2) For quantitative tests, the laboratory must include at least two samples of different concentrations of either calibration materials, control materials, or a combination thereof with the frequency determined in § 493.1218(b), but not less frequently than once each run of patient specimens.

(3) For electrophoretic determinations—

(i) At least one control sample must be used in each electrophoretic cell; and

(ii) The control sample must contain fractions representative of those routinely reported in patient specimens.

(4) Each day of use, the laboratory must evaluate the detection phase of direct antigen systems using an appropriate positive and negative control material (organism or antigen extract). When direct antigen systems include an extraction phase, the system must be checked each day of use using a positive organism.

(5) If calibration materials and control materials are not available, the laboratory must have an alternative mechanism to assure the validity of patient test results.

(c) Control samples must be tested in the same manner as patient specimens.

(d) When calibration or control materials are used, statistical parameters (e.g., mean and standard deviation) for each lot number of calibration material and each lot of control material must be determined through repetitive testing.

(1) The stated values of an assayed control material may be used as the target values provided the stated values correspond to the methodology and instrumentation employed by the laboratory and are verified by the laboratory.

(2) Statistical parameters for unassayed materials must be established over time by the laboratory through concurrent testing with calibration materials or control materials having previously determined statistical parameters.

(e) Control results must meet the laboratory's criteria for acceptability prior to reporting patient test results.

(f) *Reagent and supply checks.* (1) The laboratory must check each batch or shipment of reagents, discs, stains, antisera and identification systems (systems using two or more substrates) when prepared or opened for positive and negative reactivity, as well as graded reactivity if applicable.

(2) Each day of use (unless otherwise specified in this subpart), the laboratory must test staining materials for intended reactivity to ensure predictable staining characteristics.

(3) The laboratory must check fluorescent stains for positive and negative reactivity each time of use (unless otherwise specified in this subpart).

(4) The laboratory must check each batch or shipment of media for sterility, if it is intended to be sterile, and sterility is required for testing. Media must also be checked for its ability to support growth, and as appropriate, selectivity/inhibition and/or biochemical response. The laboratory may use manufacturer's control checks of media provided the manufacturer's product insert specifies that the manufacturer's quality control checks meet the National Committee for Clinical Laboratory Standards (NCCLS) for media quality control. The laboratory must document that the physical characteristics of the media are not compromised and report any deterioration in the media to the manufacturer. The laboratory must follow the manufacturer's specifications for using the media and be responsible for the test results.

Note: A batch of media (solid, semi-solid, or liquid) consists of all tubes, plates, or containers of the same medium prepared at the same time and in the same laboratory; or, if received from an outside source or commercial supplier, consists of all of the plates, tubes or containers of the same medium that have the same lot numbers and are received in a single shipment.

§ 493.1219 Standard; Remedial actions.

Remedial action policies and procedures must be established by the laboratory and applied as necessary to maintain the laboratory's operation for testing patient specimens in a manner that assures accurate and reliable patient test results and reports. The laboratory must document all remedial actions taken when—

(a) Test systems do not meet the laboratory's established performance specifications, as determined in § 493.1213 of this section, which include but are not limited to—

(1) Equipment or methodologies that perform outside of established operating parameters or performance specifications;

(2) Patient test values that are outside of the laboratory's reportable range of patient test results; and

(3) The determination that the laboratory's reference range for a test procedure is inappropriate for the laboratory's patient population.

(b) Results of control and calibration materials fail to meet the laboratory's established criteria for acceptability. All patient test results obtained in the unacceptable test run or since the last acceptable test run must be evaluated to determine if patient test results have been adversely affected and the laboratory must take the remedial action necessary to ensure the reporting of accurate and reliable patient test results;

(c) The laboratory cannot report patient test results within its established time frames. The laboratory must determine, based on the urgency of the patient test(s) requested, the need to notify the appropriate individual of the delayed testing; and

(d) Errors in the reported patient test results are detected. The laboratory must—

(1) Promptly notify the authorized person ordering or individual utilizing the test results of reporting errors;

(2) Issue corrected reports promptly to the authorized person ordering the test

or the individual utilizing the test results; and

(3) Maintain exact duplicates of the original report as well as the corrected report for two years.

§ 493.1221 Standard; Quality control records.

The laboratory must document and maintain records of all quality control activities specified in §§ 493.1202 through 493.1285 of this subpart and retain records for at least two years. Immunohematology quality control records must be maintained for a period of no less than five years. In addition, quality control records for blood and blood products must be maintained for a period not less than five years after processing records have been completed, or six months after the latest expiration date, whichever is the later date, in accordance with 21 CFR 606.160(d).

§ 493.1223 Condition: Quality control—specialties and subspecialties for tests of moderate or high complexity, or both.

The laboratory must establish and follow written policies and procedures for an acceptable quality control program that include verification and assessment of accuracy, measurement of precision and detection of error for all analyses and procedures performed by the laboratory. In addition to the general requirements specified in §§ 493.1201 through 493.1221 of this subpart, the laboratory must meet the applicable requirements of §§ 493.1225 through 493.1285 unless HCFA approves an equivalent procedure specified in appendix C of the State Operations Manual (HCFA Pub. 7). However, effective September 1, 1994, a laboratory that performs tests of moderate or high complexity, or both, as applicable, will be in compliance with this section if it—

(a) Meets quality control requirements specified in this subpart; or

(b) Follows manufacturer's instructions when using products (instruments, kits, or test systems) cleared by FDA as meeting the CLIA requirements for general quality control as well as specialty and subspecialty quality control.

Failure to meet any of the applicable conditions in §§ 493.1225 through 493.1285 will result in intermediate sanctions, loss of Medicare or Medicaid approval, and/or revocation of CLIA certification for the entire specialty or subspecialty to which the condition applies, in accordance with subpart R of this part.

§ 493.1225 Condition: Microbiology.

The laboratory must meet the applicable quality control requirements in §§ 493.1201 through 493.1221 and in §§ 493.1227 through 493.1235 of this subpart for the subspecialties for which it is certified under the specialty of microbiology.

§ 493.1227 Condition: Bacteriology.

To meet the quality control requirements for bacteriology, the laboratory must comply with the applicable requirements in §§ 493.1201 through 493.1221 and with paragraphs (a) through (c) of this section. All quality control activities must be documented.

(a) The laboratory must check positive and negative reactivity with control organisms—

(1) Each day of use for catalase, coagulase, beta-lactamase, and oxidase reagents and DNA probes;

(2) Each week of use for Gram and acid-fast stains, bacitracin, optochin, ONPG, X, and V discs or strips; and

(3) Each month of use for antisera.

(b) Each week of use, the laboratory must check XV discs or strips with a positive control organism.

(c) For antimicrobial susceptibility tests, the laboratory must check each new batch of media and each lot of antimicrobial discs before, or concurrent with, initial use, using approved reference organisms.

(1) The laboratory's zone sizes or minimum inhibitory concentration for reference organisms must be within established limits before reporting patient results.

(2) Each day tests are performed, the laboratory must use the appropriate control organism(s) to check the procedure.

§ 493.1229 Condition: Mycobacteriology.

To meet the quality control requirements for mycobacteriology, the laboratory must comply with the applicable requirements in §§ 493.1201 through 493.1221 of this subpart and with paragraphs (a) through (d) of this section. All quality control activities must be documented.

(a) Each day of use, the laboratory must check the iron uptake test with at least one acid-fast organism that produces a positive reaction and with an organism that produces a negative reaction and check all other reagents or test procedures used for mycobacteria identification with at least one acid-fast organism that produces a positive reaction.

(b) The laboratory must check fluorochrome acid-fast stains for positive and negative reactivity each week of use.

(c) The laboratory must check acid-fast stains each week of use with an acid-fast organism that produces a positive reaction.

(d) For susceptibility tests performed on *Mycobacterium tuberculosis* isolates, the laboratory must check the procedure each week of use with a strain of *Mycobacterium tuberculosis* susceptible to all antimycobacterial agents tested.

§ 493.1231 Condition: Mycology.

To meet the quality control requirements for mycology, the laboratory must comply with the applicable requirements in §§ 493.1201 through 493.1221 of this subpart and with paragraphs (a) through (d) of this section. All quality control activities must be documented.

(a) Each day of use, the laboratory using the auxanographic medium for nitrate assimilation must check the nitrate reagent with a peptone control.

(b) Each week of use, the laboratory must check all reagents used with biochemical tests and other test procedures for mycological identification with an organism that produces a positive reaction.

(c) Each week of use, the laboratory must check acid-fast stains for positive and negative reactivity.

(d) For susceptibility tests, the laboratory must test each drug each day of use with at least one control strain that is susceptible to the drug. The laboratory must establish control limits. Criteria for acceptable control results must be met prior to reporting patient results.

§ 493.1233 Condition: Parasitology.

To meet the quality control requirements for parasitology, the laboratory must comply with the applicable requirements of §§ 493.1201 through 493.1221 of this subpart and with paragraphs (a) through (c) of this section. All quality control activities must be documented.

(a) The laboratory must have available a reference collection of slides or photographs, and, if available, gross specimens for identification of parasites and use these references in the laboratory for appropriate comparison with diagnostic specimens.

(b) The laboratory must calibrate and use the calibrated ocular micrometer for determining the size of ova and parasites, if size is a critical parameter.

(c) Each month of use, the laboratory must check permanent stains using a fecal sample control that will demonstrate staining characteristics.

§ 493.1235 Condition: Virology.

To meet the quality control requirements for virology, the laboratory

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must comply with the applicable requirements in §§ 493.1201 through 493.1221 of this subpart and with paragraphs (a) through (c) of this section. All quality control activities must be documented.

(a) The laboratory must have available host systems for the isolation of viruses and test methods for the identification of viruses that cover the entire range of viruses that are etiologically related to clinical diseases for which services are offered.

(b) The laboratory must maintain records that reflect the systems used and the reactions observed.

(c) In tests for the identification of viruses, the laboratory must simultaneously culture uninoculated cells or cell substrate controls as a negative control to detect erroneous identification results.

§ 493.1237 Condition: Diagnostic immunology.

The laboratory must meet the applicable quality control requirements in §§ 493.1201 through 493.1221 and §§ 493.1239 through 493.1241 of this subpart for the subspecialties for which it is certified under the specialty of diagnostic immunology.

§ 493.1239 Condition: Syphilis serology.

To meet the quality control requirements for syphilis serology, the laboratory must comply with the applicable requirements in §§ 493.1201 through 493.1221 of this subpart and with paragraphs (a) through (e) of this section. All quality control activities must be documented.

(a) For laboratories performing syphilis testing, the equipment, glassware, reagents, controls, and techniques for tests for syphilis must conform to manufacturers' specifications.

(b) The laboratory must run serologic tests on patient specimens concurrently with a positive serum control of known titer or controls of graded reactivity plus a negative control.

(c) The laboratory must employ positive and negative controls that evaluate all phases of the test system to ensure reactivity and uniform dosages.

(d) The laboratory may not report test results unless the predetermined reactivity pattern of the controls is observed.

(e) All facilities manufacturing blood and blood products for transfusion or serving as referral laboratories for these facilities must meet the syphilis serology testing requirements of 21 CFR 640.5(a).

§ 493.1241 Condition: General immunology.

To meet the quality control requirements for general immunology, the laboratory must comply with the applicable requirements in §§ 493.1201 through 493.1221 of this subpart and with paragraphs (a) through (d) of this section. All quality control activities must be documented.

(a) The laboratory must run serologic tests on patient specimens concurrently with a positive serum control of known titer or controls of graded reactivity, if applicable, plus a negative control.

(b) The laboratory must employ controls that evaluate all phases of the test system (antigens, complement, erythrocyte indicator systems, etc.) to ensure reactivity and uniform dosages when positive and negative controls alone are not sufficient.

(c) The laboratory may not report test results unless the predetermined reactivity pattern of the controls is observed.

(d) All facilities manufacturing blood and blood products for transfusion or serving as referral laboratories for these facilities must meet—

(1) The HIV testing requirements of 21 CFR 610.45; and

(2) Hepatitis testing requirements of 21 CFR 610.40.

§ 493.1243 Condition: Chemistry.

The laboratory must meet the applicable quality control requirements in §§ 493.1201 through 493.1221 and §§ 493.1245 through 493.1249 of this subpart for the subspecialties for which it is certified under the specialty of chemistry.

§ 493.1245 Condition: Routine chemistry.

To meet the quality control requirements for routine chemistry, the laboratory must comply with the applicable requirements in §§ 493.1201 through 493.1221. All quality control activities must be documented. In addition, for blood gas analyses, the laboratory must—

(a) Calibrate or verify calibration according to the manufacturer's specifications and with at least the frequency recommended by the manufacturer;

(b) Test one sample of control material each eight hours of testing;

(c) Use a combination of calibrators and control materials that include both low and high values on each day of testing; and

(d) Include one sample of calibration material or control material each time patients are tested unless automated instrumentation internally verifies calibration at least every thirty minutes.

§ 493.1247 Condition: Endocrinology.

To meet the quality control requirements for endocrinology, the laboratory must comply with the applicable requirements contained in §§ 493.1201 through 493.1221 of this subpart. All quality control activities must be documented.

§ 493.1249 Condition: Toxicology.

To meet the quality control requirements for toxicology, the laboratory must comply with the applicable requirements in §§ 493.1201 through 493.1221 of this subpart. All quality control activities must be documented. In addition, for drug abuse screening using thin layer chromatography—

(a) Each plate must be spotted with at least one sample of calibration material containing all drug groups identified by thin layer chromatography which the laboratory reports; and

(b) At least one control sample must be included in each chamber, and the control sample must be processed through each step of patient testing, including extraction procedures.

§ 493.1253 Condition: Hematology.

To meet the quality control requirements for hematology, the laboratory must comply with the applicable requirements in §§ 493.1201 through 493.1221 of this subpart and with paragraphs (a) through (d) of this section. All quality control activities must be documented.

(a) For automated hematology testing systems, excluding coagulation, the laboratory must include two levels of controls each eight hours of operation.

(b) Cell counts performed manually using a hemocytometer must be tested in duplicate. One control is required for each eight hours of operation.

(c) For all automated coagulation testing systems, the laboratory must include two levels of control each eight hours of operation and each time a change in reagents occurs.

(d) For manual coagulation tests—

(1) Each individual performing tests must test two levels of controls before testing patient samples and each time a change in reagents occurs; and

(2) Patient and control specimens must be tested in duplicate.

§ 493.1255 Condition: Pathology.

The laboratory must meet the applicable quality control requirements in §§ 493.1201 through 493.1221 and §§ 493.1257 through 493.1261 of this subpart for the subspecialties for which it is certified under the specialty of pathology. All quality control activities must be documented.

§ 493.1257 Condition: Cytology.

To meet the quality control requirements for cytology, the laboratory must comply with the applicable requirements in §§ 493.1201 through 493.1221 of this subpart and paragraphs (a) through (g) of this section.

(a) The laboratory must assure that—

(1) All gynecologic smears are stained using a Papanicolaou or modified Papanicolaou staining method;

(2) Effective measures are taken to prevent cross-contamination between gynecologic and nongynecologic specimens during the staining process;

(3) Nongynecologic specimens that have a high potential for cross-contamination are stained separately from other nongynecologic specimens, and the stains are filtered or changed following staining;

(4) Diagnostic interpretations are not reported on unsatisfactory smears; and

(5) All cytology slide preparations are evaluated on the premises.

(b) The laboratory is responsible for ensuring that—

(1) Each individual engaged in the evaluation of cytology preparations by nonautomated microscopic technique examines no more than 100 slides (gynecologic or nongynecologic, or both) in a 24 hour period, irrespective of the site or laboratory. This limit represents an absolute maximum number of slides and is not to be employed as a performance target for each individual. Previously examined reactive, reparative, atypical, premalignant or malignant gynecologic cases as defined in paragraph (c)(1) of this section, previously examined nongynecologic cytology preparations, and tissue pathology slides examined by a technical supervisor qualified under §§ 493.1449 (b) or (k) are not included in the 100 slide limit. (For this section, all references to technical supervisor refer to individuals qualified under §§ 493.1449 (b) and (k).);

(2) For purposes of workload calculations, each slide preparation (gynecologic or nongynecologic) made using automated, semi-automated, or other liquid-based slide preparatory techniques which result in cell dispersion over one-half or less of the total available slide area and which is examined by nonautomated microscopic technique counts as one-half slide.

(3) Records are maintained of the total number of slides examined by each individual during each 24 hour period, irrespective of the site or laboratory, and the number of hours each individual spends examining slides in the 24 hour period;

(i) The maximum number of 100 slides described in paragraph (b)(1) of this section is examined in no less than an 8 hour workday;

(ii) For the purposes of establishing workload limits for individuals examining slides by nonautomated microscopic technique on other than an 8 hour workday basis (includes full-time employees with duties other than slide examination and part-time employees), a period of 8 hours must be used to prorate the number of slides that may be examined. Use the formula—

$$\frac{\text{No. of hours examining slides} \times 100}{8}$$

to determine maximum slide volume to be examined.

(c) The individual qualified under §§ 493.1449 (b) or (k) who provides technical supervision of cytology must ensure that—

(1) All gynecologic smears interpreted to be showing reactive or reparative changes, atypical squamous or glandular cells of undetermined significance, or to be in the premalignant (dysplasia, cervical intraepithelial neoplasia or all squamous intraepithelial lesions including human papillomavirus-associated changes) or malignant category are confirmed by a technical supervisor in cytology. The report must be signed to reflect the review or, if a computer report is generated with signature, it must reflect an electronic signature authorized by the technical supervisor in cytology;

(2) All nongynecologic cytologic preparations are reviewed by the technical supervisor in cytology. The report must be signed to reflect technical supervisory review or, if a computer report is generated with signature, it must reflect an electronic signature authorized by the technical supervisor;

(3) The slide examination performance of each cytotechnologist is evaluated and documented, including performance evaluation through the re-examination of normal and negative cases and feedback on the reactive, reparative, atypical, malignant or premalignant cases as defined in paragraph (c)(1) of this section; and

(4) A maximum number of slides, not to exceed the maximum workload limit described in paragraph (b) of this section is established by the technical supervisor for each individual examining slide preparations by nonautomated microscopic technique.

(i) The actual workload limit must be documented for each individual and established in accordance with the individual's capability based on the performance evaluation as described in paragraph (c)(3) of this section.

(ii) Records are available to document that each individual's workload limit is reassessed at least every 6 months and adjusted when necessary.

(d) The laboratory must establish and follow a program designed to detect errors in the performance of cytologic examinations and the reporting of results.

(1) The laboratory must establish a program that includes a review of slides from at least 10 percent of the gynecologic cases interpreted to be negative for reactive, reparative, atypical, premalignant or malignant conditions as defined in paragraph (c)(1) of this section that are examined by each individual not qualified under §§ 493.1449 (b) or (k). This review must be done by a technical supervisor in cytology, a cytology general supervisor qualified under § 493.1469, or a cytotechnologist qualified under § 493.1483 who has the experience specified in § 493.1469(b)(2).

(i) The review must include negative cases selected at random from the total caseload and from patients or groups of patients that are identified as having a high probability of developing cervical cancer, based on available patient information;

(ii) Records of initial examinations and rescreening results must be available; and

(iii) The review must be completed before reporting patient results on those cases selected.

(2) The laboratory must compare clinical information, when available, with cytology reports and must compare all malignant and premalignant (as defined in paragraph (c)(1) of this section) gynecology reports with the histopathology report, if available in the laboratory (either on-site or in storage), and determine the causes of any discrepancies.

(3) For each patient with a current high grade or above intraepithelial lesion (moderate dysplasia or CIN–2 or above), the laboratory must review all normal or negative gynecologic specimens received within the previous five years, if available in the laboratory (either on-site or in storage). If significant discrepancies are found that would affect patient care, the laboratory must notify the patient's physician and issue an amended report.

(4) The laboratory must establish and document an annual statistical

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evaluation of the number of cytology cases examined, number of specimens processed by specimen type, volume of patient cases reported by diagnosis (including the number reported as unsatisfactory for diagnostic interpretation), number of gynecologic cases where cytology and available histology are discrepant, the number of gynecologic cases where any rescreen of a normal or negative specimen results in reclassification as malignant or premalignant, as defined in paragraph (c)(1) of the section, and the number of gynecologic cases for which histology results were unavailable to compare with malignant or premalignant cytology cases as defined in paragraph (c)(1) of this section.

(5) The laboratory must evaluate the case reviews of each individual examining slides against the laboratory's overall statistical values, document any discrepancies, including reasons for the deviation, and document corrective action, if appropriate.

(e) The laboratory report must—

(1) Clearly distinguish specimens or smears, or both, that are unsatisfactory for diagnostic interpretation; and

(2) Contain narrative descriptive nomenclature for all results.

(f) Corrected reports issued by the laboratory must indicate the basis for correction.

(g) The laboratory must retain all slide preparations for five years from the date of examination, or slides may be loaned to proficiency testing programs, in lieu of maintaining them for this time period, provided the laboratory receives written acknowledgment of the receipt of slides by the proficiency testing program and maintains the acknowledgment to document the loan of such slides. Documentation for slides loaned or referred for purposes other than proficiency testing must also be maintained. All slides must be retrievable upon request.

§ 493.1259 Condition: Histopathology.

To meet the quality control requirements for histopathology, a laboratory must comply with the applicable requirements in §§ 493.1201 through 493.1221 of this subpart and paragraphs (a) through (e) of this section. All quality control activities must be documented.

(a) A control slide of known reactivity must be included with each slide or group of slides for differential or special stains. Reaction(s) of the control slide with each special stain must be documented.

(b) The laboratory must retain stained slides at least ten years from the date of examination and retain specimen blocks at least two years from the date of examination.

(c) The laboratory must retain remnants of tissue specimens in a manner that assures proper preservation of the tissue specimens until the portions submitted for microscopic examination have been examined and a diagnosis made by an individual qualified under § 493.1449(b) or § 493.1449(l)(1) of this part. In addition, an individual who meets the requirements of § 493.1449(b), § 493.1449(l)(1) or § 493.1449(l)(2), may examine and provide reports for specimens for skin pathology; an individual meeting the requirements of § 493.1449(b) or § 493.1449(l)(3) may examine and provide reports for ophthalmic pathology; an individual meeting the requirements of § 493.1449(b) or § 493.1449(m) may examine and provide reports for oral pathology specimens.

(d) All tissue pathology reports must be signed by an individual qualified as specified in paragraph (c) of the section. If a computer report is generated with an electronic signature, it must be authorized by the individual qualified as specified in paragraph (c) of this section.

(e) The laboratory must utilize acceptable terminology of a recognized system of disease nomenclature in reporting results.

§ 493.1261 Condition: Oral pathology.

To meet the quality control requirements for oral pathology, the laboratory must comply with the applicable requirements in §§ 493.1201 through 493.1221 and § 493.1259 of this subpart. All quality control activities must be documented.

§ 493.1263 Condition: Radiobioassay.

To meet quality control requirements for radiobioassay, the laboratory must comply with the applicable requirements of §§ 493.1201 through 493.1221 of this subpart. All quality control activities must be documented.

§ 493.1265 Condition: Histocompatibility.

In addition to meeting the applicable requirements for general quality control in §§ 493.1201 through 493.1221, for quality control for general immunology in § 493.1241 of this subpart and for immunohematology in § 493.1269 of this subpart, the laboratory must comply with the applicable requirements in paragraphs (a) through (d) of this section. All quality control activities must be documented.

(a) For renal allotransplantation, the laboratory must meet the following requirements:

(1) The laboratory must have available and follow criteria for—

(i) Selecting appropriate patient serum samples for crossmatching;

(ii) The technique used in crossmatching;

(iii) Preparation of donor lymphocytes for crossmatching; and

(iv) Reporting crossmatch results;

(2) The laboratory must—

(i) Have available results of final crossmatches before an organ or tissue is transplanted; and

(ii) Make a reasonable attempt and document efforts to have available serum specimens for all potential transplant recipients at initial typing, for periodic screening, for pre-transplantation crossmatch and following sensitizing events, such as transfusion and transplant loss;

(3) The laboratory's storage and maintenance of both recipient sera and reagents must—

(i) Be at an acceptable temperature range for sera and components;

(ii) Use a temperature alarm system and have an emergency plan for alternate storage; and

(iii) Ensure that all specimens are properly identified and easily retrievable;

(4) The laboratory's reagent typing sera inventory (applicable only to locally constructed trays) must indicate source, bleeding date and identification number, and volume remaining;

(5) The laboratory must properly label and store cells, complement, buffer, dyes, etc.;

(6) The laboratory must—

(i) HLA type all potential transplant recipients;

(ii) Type cells from organ donors referred to the laboratory; and

(iii) Have available and follow a policy that establishes when antigen redefinition and retyping are required;

(7) The laboratory must have available and follow criteria for—

(i) The preparation of lymphocytes for HLA-A, B and DR typing;

(ii) Selecting typing reagents, whether locally or commercially prepared;

(iii) The assignment of HLA antigens; and

(iv) Assuring that reagents used for typing recipients and donors are adequate to define all major and International Workshop HLA-A,B and DR specificities for which reagents are readily available;

(8) The laboratory must—

(i) Screen potential transplant recipient sera for preformed HLA-A and B antibodies with a suitable lymphocyte panel on sera collected;

(A) At the time of the recipient's initial HLA typing; and

(B) Thereafter, following sensitizing events and upon request; and

(ii) Use a suitable cell panel for screening patient sera (antibody screen), a screen that contains all the major HLA specificities and common splits—

(A) If the laboratory does not use commercial panels, it must maintain a list of individuals for fresh panel bleeding; and

(B) If the laboratory uses frozen panels, it must have a suitable storage system;

(9) The laboratory must check—

(i) Each typing tray using—

(A) Positive control sera;

(B) Negative control sera; and

(C) Positive controls for specific cell types when applicable (i.e., T cells, B cells, and monocytes); and

(ii) Each compatibility test (i.e. mixed lymphocyte cultures, homozygous typing cells or DNA analysis) and typing for disease-associated antigens using controls to monitor the test components and each phase of the test system to ensure an acceptable performance level;

(10) Compatibility testing for cellularly-defined antigens must utilize techniques such as the mixed lymphocyte culture test, homozygous typing cells or DNA analysis;

(11) If the laboratory reports the recipient's or donor's, or both, ABO blood group and D(Rho) typing, the testing must be performed in accordance with § 493.1269 of this subpart;

(12) If the laboratory utilizes immunologic reagents (such as antibodies or complement) to remove contaminating cells during the isolation of lymphocytes or lymphocyte subsets, the efficacy of the methods must be verified with appropriate quality control procedures;

(13) At least once each month, the laboratory must have each individual performing tests evaluate a previously tested specimen as an unknown to verify his or her ability to reproduce test results. Records of the results for each individual must be maintained; and

(14) The laboratory must participate in at least one national or regional cell exchange program, if available, or develop an exchange system with another laboratory in order to validate inter-laboratory reproducibility.

(b) If the laboratory performs histocompatibility testing for—

(1) Transfusions and other non-renal transplantation, excluding bone marrow and living transplants, all the requirements specified in this section, as applicable, except for the performance of mixed lymphocyte cultures must be met;

(2) Bone marrow transplantation and living transplants, all the requirements specified in this section, including the performance of mixed lymphocyte cultures or other augmented testing to evaluate class II compatibility, must be met; and

(3) Non-renal solid organ transplantation, the results of final crossmatches must be available before transplantation when the recipient has demonstrated presensitization by prior serum screening except for emergency situations. The laboratory must document the circumstances, if known, under which emergency transplants are performed, and records must reflect any information concerning the transplant provided to the laboratory by the patient's physician.

(c) Laboratories performing HLA typing for disease-associated studies or parentage testing must meet all the requirements specified in this section except for the performance of mixed lymphocyte cultures, antibody screening and crossmatching.

(d) For laboratories performing organ donor HIV testing the requirements of § 493.1241 of this subpart for the transfusion of blood and blood products must be met.

§ 493.1267 Condition: Clinical cytogenetics.

To meet the quality control requirements for clinical cytogenetics, the laboratory must comply with the applicable requirements of §§ 493.1201 through 493.1221 of this subpart and with paragraphs (a) through (d) of this section. All quality control activities must be documented.

(a) When determination of sex is performed by X and Y chromatin counts, these counts must be based on an examination of an adequate number of cells. Confirmatory testing such as full chromosome analysis must be performed for all atypical results.

(b) The laboratory must have records that reflect the media used and document the reactions observed, number of cells counted, the number of cells karyotyped, the number of chromosomes counted for each metaphase spread, and the quality of the banding; that the resolution is sufficient to support the reported results; and that an adequate number of karyotypes are prepared for each patient.

(c) The laboratory also must have policies and procedures for assuring an accurate and reliable patient sample identification during the process of accessioning, cell preparation, photographing or other image reproduction technique, and photographic printing, and storage and reporting of results or photographs.

(d) The laboratory report must include the summary and interpretation of the observations and number of cells counted and analyzed and the use of appropriate nomenclature.

§ 493.1269 Condition: Immunohematology.

To meet the quality control requirements for immunohematology, the laboratory must comply with the applicable requirements in §§ 493.1201 through 493.1221 of this subpart and with paragraphs (a) through (d) of this section. All quality control activities must be documented.

(a) The laboratory must perform ABO group and D(Rho) typing, unexpected antibody detection, antibody identification and compatibility testing in accordance with manufacturer's instructions, if provided, and as applicable, with 21 CFR part 606 (with the exception of 21 CFR 606.20a, Personnel) and 21 CFR part 640 et seq.

(b) The laboratory must perform ABO group by concurrently testing unknown red cells with anti-A and anti-B grouping reagents. For confirmation of ABO group, the unknown serum must be tested with known A1 and B red cells.

(c) The laboratory must determine the D(Rho) type by testing unknown red cells with anti-D (anti-Rho) blood grouping reagent.

(d) If required in the manufacturer's package insert for anti-D reagents, the laboratory must employ a control system capable of detecting false positive D(Rho) test results.

§ 493.1271 Condition: Transfusion services and bloodbanking.

If a facility provides services for the transfusion of blood and blood products, the facility must be under the adequate control and technical supervision of the pathologist or other doctor of medicine or osteopathy meeting the qualifications in subpart M for technical supervision in immunohematology. The facility must ensure that there are facilities for procurement, safekeeping and transfusion of blood and blood products and that blood products must be available to meet the needs of the physicians responsible for the diagnosis, management, and treatment of patients. The facility meets this condition by complying with the standards in §§ 493.1273 through 493.1285 of this subpart.

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§ 493.1273 Standard; Immunohematological collection, processing, dating periods, labeling and distribution of blood and blood products.

In addition to the requirements in paragraphs (a) through (d) of this section, the facility must also meet the applicable quality control requirements in §§ 493.1201 through 493.1221 of this part.

(a) Blood and blood product collection, processing and distribution must comply with 21 CFR part 640 and 21 CFR part 606, and the testing laboratory must meet the applicable requirements of part 493.

(b) Dating periods for blood and blood products must conform to 21 CFR 610.53.

(c) Labeling of blood and blood products must conform to 21 CFR part 606, subpart G.

(d) Policies to ensure positive identification of a blood or blood product recipient must be established, documented, and followed.

§ 493.1275 Standard; Blood and blood products storage facilities.

(a) The blood and blood products must be stored under appropriate conditions, which include an adequate temperature alarm system that is regularly inspected.

(1) An audible alarm system must monitor proper blood and blood product storage temperature over a 24-hour period; and

(2) Inspections of the alarm system must be documented.

(b) If blood is stored or maintained for transfusion outside of a monitored refrigerator, the facility must ensure and document that storage conditions, including temperature, are appropriate to prevent deterioration of the blood or blood product.

§ 493.1277 Standard; Arrangement for services.

In the case of services provided outside the blood bank, the facility must have an agreement reviewed and approved by the director that governs the procurement, transfer and availability of blood and blood products.

§ 493.1279 Standard; Provision of testing.

There must be provision for prompt ABO blood group, D(Rho) type, unexpected antibody detection and compatibility testing in accordance with § 493.1269 of this subpart and for laboratory investigation of transfusion reactions, either through the facility or under arrangement with an approved facility on a continuous basis, under the supervision of a pathologist or other doctor of medicine or osteopathy meeting the qualifications of § 493.1449(b) or § 493.1449(q).

§ 493.1283 Standard; Retention of samples of transfused blood.

According to the facility's established procedures, samples of each unit of transfused blood must be retained for further testing in the event of reactions. The facility must promptly dispose of blood not retained for further testing that has passed its expiration date.

§ 493.1285 Standard; Investigation of transfusion reactions.

The facility, according to its established procedures, must promptly investigate all transfusion reactions occurring in all facilities for which it has investigational responsibility and make recommendations to the medical staff regarding improvements in transfusion procedures. The facility must document that all necessary remedial actions are taken to prevent future recurrences of transfusion reactions and that all policies and procedures are reviewed to assure that they are adequate to ensure the safety of individuals being transfused within the facility.

Subparts M, L and N—[Redesignated as Subparts P, M, and Q]

4. Subparts M, L and N are redesignated as subparts P, M, and Q, respectively, and revised, subparts L, N, R, and S are reserved, subpart O is removed and reserved, and subpart T is added to read as follows:

Subpart L—[Reserved]

Subpart M—Personnel for Moderate and High Complexity Testing

§ 493.1401 General.

This subpart consists of the personnel requirements that must be met by laboratories performing moderate or high complexity testing, or both.

Laboratories Performing Moderate Complexity Testing

§ 493.1403 Condition: Laboratories performing moderate complexity testing; Laboratory director.

The laboratory must have a director who meets the qualification requirements of § 493.1405 of this subpart and provides overall management and direction in accordance with § 493.1407 of this subpart.

§ 493.1405 Standard; Laboratory director qualifications.

The laboratory director must be qualified to manage and direct the laboratory personnel and the performance of moderate complexity tests and must be eligible to be an operator of a laboratory within the requirements of subpart R of this part.

(a) The laboratory director must possess a current license as a laboratory director issued by the State in which the laboratory is located, if such licensing is required; and

(b) The laboratory director must—

(1) (i) Be a doctor of medicine or doctor of osteopathy licensed to practice medicine or osteopathy in the State in which the laboratory is located; and

(ii) Be certified in anatomic or clinical pathology, or both, by the American Board of Pathology or the American Osteopathic Board of Pathology or possess qualifications that are equivalent to those required for such certification; or

(2) (i) Be a doctor of medicine or doctor of osteopathy licensed to practice medicine or osteopathy in the State in which the laboratory is located; and

(ii) Have had laboratory training or experience consisting of:

(A) At least one year directing or supervising non-waived laboratory testing; or

(B) Effective (August 2, 1993) have at least 20 continuing medical education credit hours in laboratory practice commensurate with the director responsibilities defined in § 493.1407; or

(C) Laboratory training equivalent to paragraph (b)(2)(ii)(B) of this section obtained during medical residency (For example, physicians certified either in hematology or hematology and medical oncology by the American Board of Internal Medicine); or

(3) Hold an earned doctoral degree in a chemical, physical, biological, or clinical laboratory science from an accredited institution; and

(i) Be certified by the American Board of Medical Microbiology, the American Board of Clinical Chemistry, the American Board of Bioanalysis, or the American Board of Medical Laboratory Immunology; or

(ii) Have had at least one year experience directing or supervising non-waived laboratory testing;

(4) (i) Have earned a master's degree in a chemical, physical, biological or clinical laboratory science or medical technology from an accredited institution;

(ii) Have at least one year of laboratory training or experience, or both; and

(iii) In addition, have at least one year of supervisory laboratory experience; or

(5) (i) Have earned a bachelor's degree in a chemical, physical, or biological science or medical technology from an accredited institution;

(ii) Have at least 2 years of laboratory training or experience, or both; and

(iii) In addition, have at least 2 years of supervisory laboratory experience;

(6) Have previously qualified or could have qualified as a laboratory director under 42 CFR 493.1415 published March 14, 1990, (55 FR 9538) on or before February 28, 1992; or

(7) On or before February 28, 1992, qualified under State law to direct a laboratory in the State in which the laboratory is located.

§ 493.1407 Standard; Laboratory director responsibilities.

The laboratory director is responsible for the overall operation and administration of the laboratory, including the employment of personnel who are competent to perform test procedures, and record and report test results promptly, accurate, and proficiently and for assuring compliance with the applicable regulations.

(a) The laboratory director, if qualified, may perform the duties of the technical consultant, clinical consultant, and testing personnel, or delegate these responsibilities to personnel meeting the qualifications of §§ 493.1409, 493.1415, and 493.1421, respectively.

(b) If the laboratory director reapportions performance of his or her responsibilities, he or she remains responsible for ensuring that all duties are properly performed.

(c) The laboratory director must be accessible to the laboratory to provide onsite, telephone or electronic consultation as needed.

(d) Each individual may direct no more than five laboratories.

(e) The laboratory director must—

(1) Ensure that testing systems developed and used for each of the tests performed in the laboratory provide quality laboratory services for all aspects of test performance, which includes the preanalytic, analytic, and postanalytic phases of testing;

(2) Ensure that the physical plant and environmental conditions of the laboratory are appropriate for the testing performed and provide a safe environment in which employees are protected from physical, chemical, and biological hazards;

(3) Ensure that—

(i) The test methodologies selected have the capability of providing the quality of results required for patient care;

(ii) Verification procedures used are adequate to determine the accuracy, precision, and other pertinent performance characteristics of the method; and

(iii) Laboratory personnel are performing the test methods as required for accurate and reliable results;

(4) Ensure that the laboratory is enrolled in an HHS approved proficiency testing program for the testing performed and that—

(i) The proficiency testing samples are tested as required under subpart H of this part;

(ii) The results are returned within the timeframes established by the proficiency testing program;

(iii) All proficiency testing reports received are reviewed by the appropriate staff to evaluate the laboratory's performance and to identify any problems that require corrective action; and

(iv) An approved corrective action plan is followed when any proficiency testing results are found to be unacceptable or unsatisfactory;

(5) Ensure that the quality control and quality assurance programs are established and maintained to assure the quality of laboratory services provided and to identify failures in quality as they occur;

(6) Ensure the establishment and maintenance of acceptable levels of analytical performance for each test system;

(7) Ensure that all necessary remedial actions are taken and documented whenever significant deviations from the laboratory's established performance specifications are identified, and that patient test results are reported only when the system is functioning properly;

(8) Ensure that reports of test results include pertinent information required for interpretation;

(9) Ensure that consultation is available to the laboratory's clients on matters relating to the quality of the test results reported and their interpretation concerning specific patient conditions;

(10) Employ a sufficient number of laboratory personnel with the appropriate education and either experience or training to provide appropriate consultation, properly supervise and accurately perform tests and report test results in accordance with the personnel responsibilities described in this subpart;

(11) Ensure that prior to testing patients' specimens, all personnel have the appropriate education and experience, receive the appropriate training for the type and complexity of the services offered, and have demonstrated that they can perform all testing operations reliably to provide and report accurate results;

(12) Ensure that policies and procedures are established for monitoring individuals who conduct preanalytical, analytical, and postanalytical phases of testing to assure that they are competent and maintain their competency to process specimens, perform test procedures and report test results promptly and proficiently, and whenever necessary, identify needs for remedial training or continuing education to improve skills;

(13) Ensure that an approved procedure manual is available to all personnel responsible for any aspect of the testing process; and

(14) Specify, in writing, the responsibilities and duties of each consultant and each person, engaged in the performance of the preanalytic, analytic, and postanalytic phases of testing, that identifies which examinations and procedures each individual is authorized to perform, whether supervision is required for specimen processing, test performance or results reporting, and whether consultant or director review is required prior to reporting patient test results.

§ 493.1409 Condition: Laboratories performing moderate complexity testing; technical consultant.

The laboratory must have a technical consultant who meets the qualification requirements of § 493.1411 of this subpart and provides technical oversight in accordance with 493.1413 of this subpart.

§ 493.1411 Standard; Technical consultant qualifications.

The laboratory must employ one or more individuals who are qualified by education and either training or experience to provide technical consultation for each of the specialties and subspecialties of service in which the laboratory performs moderate complexity tests or procedures. The director of a laboratory performing moderate complexity testing may function as the technical consultant provided he or she meets the qualifications specified in this section.

(a) The technical consultant must possess a current license issued by the State in which the laboratory is located, if such licensing is required.

(b) The technical consultant must—

(1) (i) Be a doctor of medicine or doctor of osteopathy licensed to practice medicine or osteopathy in the State in which the laboratory is located; and

(ii) Be certified in anatomic or clinical pathology, or both, by the American Board of Pathology or the American Osteopathic Board of Pathology or possess qualifications that are

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equivalent to those required for such certification; or

(2)(i) Be a doctor of medicine or doctor of osteopathy licensed to practice medicine or osteopathy in the State in which the laboratory is located; and

(ii) Have at least one year of laboratory training or experience, or both, in the designated specialty or subspecialty areas of service for which the technical consultant is responsible (for example, physicians certified either in hematology or hematology and medical oncology by the American Board on Internal Medicine are qualified to serve as the technical consultant in hematology); or

(3)(i) Hold an earned doctoral or master's degree in a chemical, physical, biological or clinical laboratory science or medical technology from an accredited institution; and

(ii) Have at least one year of laboratory training or experience, or both, in the designated specialty or subspecialty areas of service for which the technical consultant is responsible; or

(4)(i) Have earned a bachelor's degree in a chemical, physical or biological science or medical technology from an accredited institution; and

(ii) Have at least 2 years of laboratory training or experience, or both, in the designated specialty or subspecialty areas of service for which the technical consultant is responsible.

Note: The technical consultant requirements for "laboratory training or experience, or both" in each specialty or subspecialty may be acquired concurrently in more than one of the specialties or subspecialties of service, excluding waived tests. For example, an individual, who has a bachelor's degree in biology and additionally has documentation of 2 years of work experience performing tests of moderate complexity in all specialties and subspecialties of service, would be qualified as a technical consultant in a laboratory performing moderate complexity testing in all specialties and subspecialties of service.

§ 493.1413 Standard; Technical consultant responsibilities.

The technical consultant is responsible for the technical and scientific oversight of the laboratory. The technical consultant is not required to be onsite at all times testing is performed; however, he or she must be available to the laboratory on an as needed basis to provide consultation, as specified in paragraph (a) of this section.

(a) The technical consultant must be accessible to the laboratory to provide on-site, telephone, or electronic consultation; and

(b) The technical consultant is responsible for—

(1) Selection of test methodology appropriate for the clinical use of the test results;

(2) Verification of the test procedures performed and the establishment of the laboratory's test performance characteristics, including the precision and accuracy of each test and test system;

(3) Enrollment and participation in an HHS approved proficiency testing program commensurate with the services offered;

(4) Establishing a quality control program appropriate for the testing performed and establishing the parameters for acceptable levels of analytic performance and ensuring that these levels are maintained throughout the entire testing process from the initial receipt of the specimen, through sample analysis and reporting of test results;

(5) Resolving technical problems and ensuring that remedial actions are taken whenever test systems deviate from the laboratory's established performance specifications;

(6) Ensuring that patient test results are not reported until all corrective actions have been taken and the test system is functioning properly;

(7) Identifying training needs and assuring that each individual performing tests receives regular in-service training and education appropriate for the type and complexity of the laboratory services performed;

(8) Evaluating the competency of all testing personnel and assuring that the staff maintain their competency to perform test procedures and report test results promptly, accurately and proficiently. The procedures for evaluation of the competency of the staff must include, but are not limited to—

(i) Direct observations of routine patient test performance, including patient preparation, if applicable, specimen handling, processing and testing;

(ii) Monitoring the recording and reporting of test results;

(iii) Review of intermediate test results or worksheets, quality control records, proficiency testing results, and preventive maintenance records;

(iv) Direct observation of performance of instrument maintenance and function checks;

(v) Assessment of test performance through testing previously analyzed specimens, internal blind testing samples or external proficiency testing samples; and

(vi) Assessment of problem solving skills; and

(9) Evaluating and documenting the performance of individuals responsible for moderate complexity testing at least semiannually during the first year the individual tests patient specimens. Thereafter, evaluations must be performed at least annually unless test methodology or instrumentation changes, in which case, prior to reporting patient test results, the individual's performance must be reevaluated to include the use of the new test methodology or instrumentation.

§ 493.1415 Condition: Laboratories performing moderate complexity testing; clinical consultant.

The laboratory must have a clinical consultant who meets the qualification requirements of § 493.1417 of this part and provides clinical consultation in accordance with § 493.1419 of this part.

§ 493.1417 Standard; Clinical consultant qualifications.

The clinical consultant must be qualified to consult with and render opinions to the laboratory's clients concerning the diagnosis, treatment and management of patient care. The clinical consultant must—

(a) Be qualified as a laboratory director under § 493.1405(b) (1), (2), or (3)(i); or

(b) Be a doctor of medicine or doctor of osteopathy and possess a license to practice medicine or osteopathy in the State in which the laboratory is located.

§ 493.1419 Standard; Clinical consultant responsibilities.

The clinical consultant provides consultation regarding the appropriateness of the testing ordered and interpretation of test results. The clinical consultant must—

(a) Be available to provide clinical consultation to the laboratory's clients;

(b) Be available to assist the laboratory's clients in ensuring that appropriate tests are ordered to meet the clinical expectations;

(c) Ensure that reports of test results include pertinent information required for specific patient interpretation; and

(d) Ensure that consultation is available and communicated to the laboratory's clients on matters related to the quality of the test results reported and their interpretation concerning specific patient conditions.

§ 493.1421 Condition: Laboratories performing moderate complexity testing; testing personnel.

The laboratory must have a sufficient number of individuals who meet the qualification requirements of § 493.1423, to perform the functions specified in

§ 493.1425 for the volume and complexity of tests performed.

§ 493.1423 Standard; Testing Personnel qualifications.

Each individual performing moderate complexity testing must—

(a) Possess a current license issued by the State in which the laboratory is located, if such licensing is required; and

(b) Meet one of the following requirements:

(1) Be a doctor of medicine or doctor of osteopathy licensed to practice medicine or osteopathy in the State in which the laboratory is located or have earned a doctoral, master's, or bachelor's degree in a chemical, physical, biological or clinical laboratory science, or medical technology from an accredited institution; or

(2) Have earned an associate degree in a chemical, physical or biological science or medical laboratory technology from an accredited institution; or

(3) Be a high school graduate or equivalent and have successfully completed an official military medical laboratory procedures course of at least 50 weeks duration and have held the military enlisted occupational specialty of Medical Laboratory Specialist (Laboratory Technician); or

(4)(i) Have earned an academic high school diploma or equivalent; and

(ii) Have documentation of training appropriate for the testing performed prior to analyzing patient specimens. Such training must ensure that the individual has—

(A) The skills required for proper specimen collection, including patient preparation, if applicable, labeling, handling, preservation or fixation, processing or preparation, transportation and storage of specimens;

(B) The skills required for implementing all standard laboratory procedures;

(C) The skills required for performing each test method and for proper instrument use;

(D) The skills required for performing preventive maintenance, troubleshooting and calibration procedures related to each test performed;

(E) A working knowledge of reagent stability and storage;

(F) The skills required to implement the quality control policies and procedures of the laboratory;

(G) An awareness of the factors that influence test results; and

(H) The skills required to assess and verify the validity of patient test results through the evaluation of quality control sample values prior to reporting patient test results.

§ 493.1425 Standard; Testing personnel responsibilities.

The testing personnel are responsible for specimen processing, test performance, and for reporting test results.

(a) Each individual performs only those moderate complexity tests that are authorized by the laboratory director and require a degree of skill commensurate with the individual's education, training or experience, and technical abilities.

(b) Each individual performing moderate complexity testing must—

(1) Follow the laboratory's procedures for specimen handling and processing, test analyses, reporting and maintaining records of patient test results;

(2) Maintain records that demonstrate that proficiency testing samples are tested in the same manner as patient samples;

(3) Adhere to the laboratory's quality control policies, document all quality control activities, instrument and procedural calibrations and maintenance performed;

(4) Follow the laboratory's established corrective action policies and procedures whenever test systems are not within the laboratory's established acceptable levels of performance;

(5) Be capable of identifying problems that may adversely affect test performance or reporting of test results and either must correct the problems or immediately notify the technical consultant, clinical consultant or director; and

(6) Document all corrective actions taken when test systems deviate from the laboratory's established performance specifications.

Laboratories Performing High Complexity Testing

§ 493.1441 Condition: Laboratories performing high complexity testing; laboratory director.

The laboratory must have a director who meets the qualification requirements of § 493.1443 of this subpart and provides overall management and direction in accordance with § 493.1445 of this subpart.

§ 493.1443 Standard; Laboratory director qualifications.

The laboratory director must be qualified to manage and direct the laboratory personnel and performance of high complexity tests and must be eligible to be an operator of a laboratory within the requirements of subpart R.

(a) The laboratory director must possess a current license as a laboratory director issued by the State in which the laboratory is located, if such licensing is required; and

(b) The laboratory director must—

(1)(i) Be a doctor of medicine or doctor of osteopathy licensed to practice medicine or osteopathy in the State in which the laboratory is located; and

(ii) Be certified in anatomic or clinical pathology, or both, by the American Board of Pathology or the American Osteopathic Board of Pathology or possess qualifications that are equivalent to those required for such certification; or

(2) Be a doctor of medicine or a doctor of osteopathy licensed to practice medicine or osteopathy in the State in which the laboratory is located; and

(i) Have at least one year of laboratory training during medical residency (for example, physicians certified either in hematology or hematology and medical oncology by the American Board of Internal Medicine); or

(ii) Have at least 2 years of experience directing or supervising high complexity testing; or

(3) Hold an earned doctoral degree in a chemical, physical, biological or clinical laboratory science from an accredited institution and—

(i) Be certified by the American Board of Medical Microbiology, the American Board of Clinical Chemistry, the American Board of Bioanalysis, the American Board of Medical Laboratory Immunology or other board deemed comparable by HHS; or

(ii) Until September 1, 1994 must have at least—

(A) Two years of laboratory training or experience, or both;

(B) Two years of experience directing or supervising high complexity testing; and

(C) On September 1, 1994, individuals must meet the qualifications specified in paragraph (b)(3)(i) of this section;

(4) Be serving as a laboratory director and must have previously qualified or could have qualified as a laboratory director under regulations at 42 CFR 493.1415, published March 14, 1990 at 55 FR 9538, on or before February 28, 1992; or

(5) On or before February 28, 1992, be qualified under State law to direct a laboratory in the State in which the laboratory is located.

§ 493.1445 Standard; Laboratory director responsibilities.

The laboratory director is responsible for the overall operation and

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administration of the laboratory, including the employment of personnel who are competent to perform test procedures, record and report test results promptly, accurately and proficiently, and for assuring compliance with the applicable regulations.

(a) The laboratory director, if qualified, may perform the duties of the technical supervisor, clinical consultant, general supervisor, and testing personnel, or delegate these responsibilities to personnel meeting the qualifications under §§ 493.1447, 493.1453, 493.1459, and 493.1487, respectively.

(b) If the laboratory director reapportions performance of his or her responsibilities, he or she remains responsible for ensuring that all duties are properly performed.

(c) The laboratory director must be accessible to the laboratory to provide onsite, telephone or electronic consultation as needed.

(d) Each individual may direct no more than five laboratories.

(e) The laboratory director must—

(1) Ensure that testing systems developed and used for each of the tests performed in the laboratory provide quality laboratory services for all aspects of test performance, which includes the preanalytic, analytic, and postanalytic phases of testing;

(2) Ensure that the physical plant and environmental conditions of the laboratory are appropriate for the testing performed and provide a safe environment in which employees are protected from physical, chemical, and biological hazards;

(3) Ensure that—

(i) The test methodologies selected have the capability of providing the quality of results required for patient care;

(ii) Verification procedures used are adequate to determine the accuracy, precision, and other pertinent performance characteristics of the method; and

(iii) Laboratory personnel are performing the test methods as required for accurate and reliable results;

(4) Ensure that the laboratory is enrolled in an HHS-approved proficiency testing program for the testing performed and that—

(i) The proficiency testing samples are tested as required under subpart H of this part;

(ii) The results are returned within the timeframes established by the proficiency testing program;

(iii) All proficiency testing reports received are reviewed by the appropriate staff to evaluate the laboratory's performance and to identify any problems that require corrective action; and

(iv) An approved corrective action plan is followed when any proficiency testing result is found to be unacceptable or unsatisfactory;

(5) Ensure that the quality control and quality assurance programs are established and maintained to assure the quality of laboratory services provided and to identify failures in quality as they occur;

(6) Ensure the establishment and maintenance of acceptable levels of analytical performance for each test system;

(7) Ensure that all necessary remedial actions are taken and documented whenever significant deviations from the laboratory's established performance characteristics are identified, and that patient test results are reported only when the system is functioning properly;

(8) Ensure that reports of test results include pertinent information required for interpretation;

(9) Ensure that consultation is available to the laboratory's clients on matters relating to the quality of the test results reported and their interpretation concerning specific patient conditions;

(10) Ensure that a general supervisor provides on-site supervision of high complexity test performance by testing personnel qualified under § 493.1489(b)(4);

(11) Employ a sufficient number of laboratory personnel with the appropriate education and either experience or training to provide appropriate consultation, properly supervise and accurately perform tests and report test results in accordance with the personnel responsibilities described in this subpart;

(12) Ensure that prior to testing patients' specimens, all personnel have the appropriate education and experience, receive the appropriate training for the type and complexity of the services offered, and have demonstrated that they can perform all testing operations reliably to provide and report accurate results;

(13) Ensure that policies and procedures are established for monitoring individuals who conduct preanalytical, analytical, and postanalytical phases of testing to assure that they are competent and maintain their competency to process specimens, perform test procedures and report test results promptly and proficiently, and whenever necessary, identify needs for remedial training or continuing education to improve skills;

(14) Ensure that an approved procedure manual is available to all personnel responsible for any aspect of the testing process; and

(15) Specify, in writing, the responsibilities and duties of each consultant and each supervisor, as well as each person engaged in the performance of the preanalytic, analytic, and postanalytic phases of testing, that identifies which examinations and procedures each individual is authorized to perform, whether supervision is required for specimen processing, test performance or result reporting and whether supervisory or director review is required prior to reporting patient test results.

§ 493.1447 Condition: Laboratories performing high complexity testing; technical supervisor.

The laboratory must have a technical supervisor who meets the qualification requirements of § 493.1449 of this subpart and provides technical supervision in accordance with § 493.1451 of this subpart.

§ 493.1449 Standard; Technical supervisor qualifications.

The laboratory must employ one or more individuals who are qualified by education and either training or experience to provide technical supervision for each of the specialties and subspecialties of service in which the laboratory performs high complexity tests or procedures. The director of a laboratory performing high complexity testing may function as the technical supervisor provided he or she meets the qualifications specified in this section.

(a) The technical supervisor must possess a current license issued by the State in which the laboratory is located, if such licensing is required; and

(b) The laboratory may perform anatomic and clinical laboratory procedures and tests in all specialties and subspecialties of services except histocompatibility and clinical cytogenetics services provided the individual functioning as the technical supervisor—

(1) Is a doctor of medicine or doctor of osteopathy licensed to practice medicine or osteopathy in the State in which the laboratory is located; and

(2) Is certified in both anatomic and clinical pathology by the American Board of Pathology or the American Osteopathic Board of Pathology or Possesses qualifications that are equivalent to those required for such certification.

(c) If the requirements of paragraph (b) of this section are not met and the laboratory performs tests in the subspecialty of bacteriology, the individual functioning as the technical supervisor must—

(1)(i) Be a doctor of medicine or doctor of osteopathy licensed to practice medicine or osteopathy in the State in which the laboratory is located; and

(ii) Be certified in clinical pathology by the American Board of Pathology or the American Osteopathic Board of Pathology or possess qualifications that are equivalent to those required for such certification; or

(2)(i) Be a doctor of medicine or a doctor of osteopathy licensed to practice medicine or osteopathy in the State in which the laboratory is located; and

(ii) Have at least one year of laboratory training or experience, or both, in high complexity testing within the specialty of microbiology with a minimum of 6 months experience in high complexity testing within the subspecialty of bacteriology; or

(3)(i) Have an earned doctoral degree in a chemical, physical, biological or clinical laboratory science from an accredited institution; and

(ii) Have at least 1 year of laboratory training or experience, or both, in high complexity testing within the specialty of microbiology with a minimum of 6 months experience in high complexity testing within the subspecialty of bacteriology; or

(4)(i) Have earned a master's degree in a chemical, physical, biological or clinical laboratory science or medical technology from an accredited institution; and

(ii) Have at least 2 years of laboratory training or experience, or both, in high complexity testing within the specialty of microbiology with a minimum of 6 months experience in high complexity testing within the subspecialty of bacteriology; or

(5)(i) Have earned a bachelor's degree in a chemical, physical, or biological science or medical technology from an accredited institution; and

(ii) Have at least 4 years of laboratory training or experience, or both, in high complexity testing within the specialty of microbiology with a minimum of 6 months experience in high complexity testing within the subspecialty of bacteriology.

(d) If the requirements of paragraph (b) of this section are not met and the laboratory performs tests in the subspecialty of mycobacteriology, the individual functioning as the technical supervisor must—

(1)(i) Be a doctor of medicine or doctor of osteopathy licensed to practice medicine or osteopathy in the State in which the laboratory is located; and

(ii) Be certified in clinical pathology by the American Board of Pathology or the American Osteopathic Board of Pathology or possess qualifications that are equivalent to those required for such certification; or

(2)(i) Be a doctor of medicine or doctor of osteopathy licensed to practice medicine or osteopathy in the State in which the laboratory is located; and

(ii) Have at least 1 year of laboratory training or experience, or both, in high complexity testing within the specialty of microbiology with a minimum of 6 months experience in high complexity testing within the subspecialty of mycobacteriology; or

(3)(i) Have an earned doctoral degree in a chemical, physical, biological or clinical laboratory science from an accredited institution; and

(ii) Have at least 1 year of laboratory training or experience, or both, in high complexity testing within the specialty of microbiology with a minimum of 6 months experience in high complexity testing within the subspecialty of mycobacteriology; or

(4)(i) Have earned a master's degree in a chemical, physical, biological or clinical laboratory science or medical technology from an accredited institution; and

(ii) Have at least 2 years of laboratory training or experience, or both, in high complexity testing within the specialty of microbiology with a minimum of 6 months experience in high complexity testing within the subspecialty of mycobacteriology; or

(5)(i) Have earned a bachelor's degree in a chemical, physical or biological science or medical technology from an accredited institution; and

(ii) Have at least 4 years of laboratory training or experience, or both, in high complexity testing within the specialty of microbiology with a minimum of 6 months experience in high complexity testing within the subspecialty of mycobacteriology.

(e) If the requirements of paragraph (b) of this section are not met and the laboratory performs tests in the subspecialty of mycology, the individual functioning as the technical supervisor must—

(1)(i) Be a doctor of medicine or doctor of osteopathy licensed to practice medicine or osteopathy in the State in which the laboratory is located; and

(ii) Be certified in clinical pathology by the American Board of Pathology or the American osteopathic Board of Pathology or possess qualifications that are equivalent to those required for such certification; or

(2)(i) Be a doctor of medicine or a doctor of osteopathy licensed to practice medicine or osteopathy in the State in which the laboratory is located; and

(ii) Have at least 1 year of laboratory training or experience, or both, in high complexity testing within the specialty of microbiology with a minimum of 6 months experience in high complexity testing within the subspecialty of mycology; or

(3)(i) Have an earned doctoral degree in a chemical, physical, biological or clinical laboratory science from an accredited institution; and

(ii) Have at least 1 year of laboratory training or experience, or both in high complexity testing within the speciality of microbiology with a minimum of 6 months experience in high complexity testing within the subspecialty of mycology; or

(4)(i) Have earned a master's degree in a chemical, physical, biological or clinical laboratory science or medical technology from an accredited institution; and

(ii) Have at least 2 years of laboratory training or experience, or both, in high complexity testing within the specialty of microbiology with a minimum of 6 months experience in high complexity testing within the subspecialty of mycology; or

(5)(i) Have earned a bachelor's degree in a chemical, physical or biological science or medical technology from an accredited institution; and

(ii) Have at least 4 years of laboratory training or experience, or both, in high complexity testing within the specialty of microbiology with a minimum of 6 months experience in high complexity testing within the subspecialty of mycology.

(f) If the requirements of paragraph (b) of this section are not met and the laboratory performs tests in the subspecialty of parasitology, the individual functioning as the technical supervisor must—

(1)(i) Be a doctor of medicine or a doctor of osteopathy licensed to practice medicine or osteopathy in the State in which the laboratory is located; and

(ii) Be certified in clinical pathology by the American Board of Pathology or the American Osteopathic Board of Pathology or possess qualifications that are equivalent to those required for such certification; or

(2)(i) Be a doctor of medicine or a doctor of osteopathy licensed to practice medicine or osteopathy in the State in which the laboratory is located; and

(ii) Have at least one year of laboratory training or experience, or both, in high complexity testing within the specialty of microbiology with a minimum of 6 months experience in high

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complexity testing within the subspecialty of parasitology;

(3)(i) Have an earned doctoral degree in a chemical, physical, biological or clinical laboratory science from an accredited institution; and

(ii) Have at least 1 year of laboratory training or experience, or both, in high complexity testing within the specialty of microbiology with a minimum of 6 months experience in high complexity testing within the subspecialty of parasitology; or

(4)(i) Have earned a master's degree in a chemical, physical, biological or clinical laboratory science or medical technology from an accredited institution; and

(ii) Have at least 2 years of laboratory training or experience, or both, in high complexity testing within the specialty of microbiology with a minimum of 6 months experience in high complexity testing within the subspecialty of parasitology; or

(5)(i) Have earned a bachelor's degree in a chemical, physical or biological science or medical technology from an accredited institution; and

(ii) Have at least 4 years of laboratory training or experience, or both, in high complexity testing within the specialty of microbiology with a minimum of 6 months experience in high complexity testing within the subspecialty of parasitology.

(g) If the requirements of paragraph (b) of this section are not met and the laboratory performs tests in the subspecialty of virology, the individual functioning as the technical supervisor must—

(1)(i) Be a doctor of medicine or doctor of osteopathy licensed to practice medicine or osteopathy in the State in which the laboratory is located; and

(ii) Be certified in clinical pathology by the American Board of Pathology or the American Osteopathic Board of Pathology or possess qualifications that are equivalent to those required for such certification; or

(2)(i) Be a doctor of medicine or a doctor of osteopathy licensed to practice medicine or osteopathy in the State in which the laboratory is located; and

(ii) Have at least 1 year of laboratory training or experience, or both, in high complexity testing within the specialty of microbiology with a minimum of 6 months experience in high complexity testing within the subspecialty of virology; or

(3)(i) Have an earned doctoral degree in a chemical, physical, biological or clinical laboratory science from an accredited institution; and

(ii) Have at least 1 year of laboratory training or experience, or both, in high complexity testing within the specialty of microbiology with a minimum of 6 months experience in high complexity testing within the subspecialty of virology; or

(4) (i) Have earned a master's degree in a chemical, physical, biological or clinical laboratory science or medical technology from an accredited institution; and

(ii) Have at least 2 years of laboratory training or experience, or both, in high complexity testing within the specialty of microbiology with a minimum of 6 months experience in high complexity testing within the subspecialty of virology; or

(5) (i) Have earned a bachelor's degree in a chemical, physical or biological science or medical technology from an accredited institution; and

(ii) Have at least 4 years of laboratory training or experience, or both, in high complexity testing within the specialty of microbiology with a minimum of 6 months experience in high complexity testing within the subspecialty of virology.

(h) If the requirements of paragraph (b) of this section are not met and the laboratory performs tests in the specialty of diagnostic immunology, the individual functioning as the technical supervisor must—

(1) (i) Be a doctor of medicine or a doctor of osteopathy licensed to practice medicine or osteopathy in the State in which the laboratory is located; and

(ii) Be certified in clinical pathology by the American Board of Pathology or the American Osteopathic Board of Pathology or possess qualifications that are equivalent to those required for such certification; or

(2) (i) Be a doctor of medicine or doctor of osteopathy licensed to practice medicine or osteopathy in the State in which the laboratory is located; and

(ii) Have at least 1 year of laboratory training or experience, or both, in high complexity testing for the specialty of diagnostic immunology; or

(3) (i) Have an earned doctoral degree in a chemical, physical, biological or clinical laboratory science from an accredited institution; and

(ii) Have at least 1 year of laboratory training or experience, or both, in high complexity testing within the specialty of diagnostic immunology; or

(4) (i) Have earned a master's degree in a chemical, physical, biological or clinical laboratory science or medical technology from an accredited institution; and

(ii) Have at least 2 years of laboratory training or experience, or both, in high complexity testing for the specialty of diagnostic immunology; or

(5) (i) Have earned a bachelor's degree in a chemical, physical or biological science or medical technology from an accredited institution; and

(ii) Have at least 4 years of laboratory training or experience, or both, in high complexity testing for the specialty of diagnostic immunology.

(i) If the requirements of paragraph (b) of this section are not met and the laboratory performs tests in the specialty of chemistry, the individual functioning as the technical supervisor must—

(1) (i) Be a doctor of medicine or doctor of osteopathy licensed to practice medicine or osteopathy in the State in which the laboratory is located; and

(ii) Be certified in clinical pathology by the American Board of Pathology or the American Osteopathic Board of Pathology or possess qualifications that are equivalent to those required for such certification; or

(2) (i) Be a doctor of medicine or doctor of osteopathy licensed to practice medicine or osteopathy in the State in which the laboratory is located; and

(ii) Have at least 1 year of laboratory training or experience, or both, in high complexity testing for the specialty of chemistry; or

(3) (i) Have an earned doctoral degree in a chemical, physical, biological or clinical laboratory science from an accredited institution; and

(ii) Have at least 1 year of laboratory training or experience, or both, in high complexity testing within the specialty of chemistry; or

(4) (i) Have earned a master's degree in a chemical, physical, biological or clinical laboratory science or medical technology from an accredited institution; and

(ii) Have at least 2 years of laboratory training or experience, or both, in high complexity testing for the specialty of chemistry; or

(5) (i) Have earned a bachelor's degree in a chemical, physical or biological science or medical technology from an accredited institution; and

(ii) Have at least 4 years of laboratory training or experience, or both, in high complexity testing for the specialty of chemistry.

(j) If the requirements of paragraph (b) of this section are not met and the laboratory performs tests in the specialty of hematology, the individual functioning as the technical supervisor must—

(1) (i) Be a doctor of medicine or a doctor of osteopathy licensed to practice medicine or osteopathy in the State in which the laboratory is located; and

(ii) Be certified in clinical pathology by the American Board of Pathology or the American Osteopathic Board of Pathology or possess qualifications that are equivalent to those required for such certification; or

(2) (i) Be a doctor of medicine or doctor of osteopathy licensed to practice medicine or osteopathy in the State in which the laboratory is located; and

(ii) Have at least one year of laboratory training or experience, or both, in high complexity testing for the specialty of hematology (for example, physicians certified either in hematology or hematology and medical oncology by the American Board of Internal Medicine); or

(3) (i) Have an earned doctoral degree in a chemical, physical, biological or clinical laboratory science from an accredited institution; and

(ii) Have at least 1 year of laboratory training or experience, or both, in high complexity testing within the specialty of hematology; or

(4) (i) Have earned a master's degree in a chemical, physical, biological or clinical laboratory science or medical technology from an accredited institution; and

(ii) Have at least 2 years of laboratory training or experience, or both, in high complexity testing for the specialty of hematology; or

(5) (i) Have earned a bachelor's degree in a chemical, physical or biological science or medical technology from an accredited institution; and

(ii) Have at least 4 years of laboratory training or experience, or both, in high complexity testing for the specialty of hematology.

(k) (1) If the requirements of paragraph (b) of this section are not met and the laboratory performs tests in the subspecialty of cytology, the individual functioning as the technical supervisor must—

(i) Be a doctor of medicine or a doctor of osteopathy licensed to practice medicine or osteopathy in the State in which the laboratory is located; and

(ii) Meet one of the following requirements—

(A) Be certified in anatomic pathology by the American Board of Pathology or the American Osteopathic Board of Pathology or possess qualifications that are equivalent to those required for such certification; or

(B) Be certified by the American Society of Cytology to practice cytopathology or possess qualifications that are equivalent to those required for such certification;

(2) An individual qualified under § 493.1449(b) or paragraph (k)(1) of this section may delegate some of the cytology technical supervisor responsibilities to an individual who is in the final year of full-time training leading to certification specified in paragraphs (b) or (k)(1)(ii)(A) of this section provided the technical supervisor qualified under § 493.1449(b) or paragraph (k)(1) of this section remains ultimately responsible for ensuring that all of the responsibilities of the cytology technical supervisor are met.

(l) If the requirements of paragraph (b) of this section are not met and the laboratory performs tests in the subspecialty of histopathology, the individual functioning as the technical supervisor must—

(1) Meet one of the following requirements:

(i) (A) Be a doctor of medicine or a doctor of osteopathy licensed to practice medicine or osteopathy in the State in which the laboratory is located; and

(B) Be certified in anatomic pathology by the American Board of Pathology or the American Osteopathic Board of Pathology or possess qualifications that are equivalent to those required for such certification;

(ii) An individual qualified under § 493.1449(b) or paragraph (l)(1) of this section may delegate to an individual who is a resident in a training program leading to certification specified in paragraph (b) or (l)(1)(i)(B) of this section, the responsibility for examination and interpretation of histopathology specimens.

(2) For tests in dermatopathology, meet one of the following requirements:

(i) (A) Be a doctor of medicine or doctor of osteopathy licensed to practice medicine or osteopathy in the State in which the laboratory is located and—

(B) Meet one of the following requirements:

(*1*) Be certified in anatomic pathology by the American Board of Pathology or the American Osteopathic Board of Pathology or possess qualifications that are equivalent to those required for such certification; or

(*2*) Be certified in dermatopathology by the American Board of Dermatology and the American Board of Pathology or possess qualifications that are equivalent to those required for such certification; or

(*3*) Be certified in dermatology by the American Board of Dermatology or possess qualifications that are equivalent to those required for such certification; or

(ii) An individual qualified under § 493.1449(b) or paragraph (l)(2)(i) of this section may delegate to an individual who is a resident in a training program leading to certification specified in paragraphs (b) or (l)(2)(i)(B) of this section, the responsibility for examination and interpretation of dermatopathology specimens.

(3) For tests in ophthalmic pathology, meet one of the following requirements:

(i) (A) Be a doctor of medicine or doctor of osteopathy licensed to practice medicine or osteopathy in the State in which the laboratory is located and—

(B) Must meet one of the following requirements:

(*1*) Be certified in anatomic pathology by the American Board of Pathology or the American Osteopathic Board of Pathology or possess qualifications that are equivalent to those required for such certification; or

(*2*) Be certified in ophthalmic pathology by the American Board of Ophthalmology or possess qualifications that are equivalent to those required for such certification; or

(ii) An individual qualified under § 493.1449(b) or paragraph (l)(3)(i) of this section may delegate to an individual who is a resident in a training program leading to certification specified in paragraphs (b) or (l)(3)(i)(B) of this section, the responsibility for examination and interpretation of ophthalmic specimens; or

(m) If the requirements of paragraph (b) of this section are not met and the laboratory performs tests in the subspecialty of oral pathology, the individual functioning as the technical supervisor must meet one of the following requirements:

(1) (i) Be a doctor of medicine or a doctor of osteopathy licensed to practice medicine or osteopathy in the State in which the laboratory is located and—

(ii) Must meet one of the following:

(A) Be certified in anatomic pathology by the American Board of Pathology or the American Osteopathic Board of Pathology or possess qualifications that are equivalent to those required for such certification; or

(B) Be certified in oral pathology by the American Board of Oral Pathology or possess qualifications that are equivalent to those required for such certification; or

(2) An individual qualified under § 493.1449(b) or paragraph (m)(1) of this section may delegate to an individual who is a resident in a training program leading to certification specified in paragraphs (b) or (m)(1)(ii) of this section, the responsibility for examination and interpretation of oral pathology specimens.

(n) If the requirements of paragraph (b) of this section are not met and the laboratory performs tests in the specialty of radiobioassay, the

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individual functioning as the technical supervisor must—

(1) (i) Be a doctor of medicine or a doctor of osteopathy licensed to practice medicine or osteopathy in the State in which the laboratory is located; and

(ii) Be certified in clinical pathology by the American Board of Pathology or the American Osteopathic Board of Pathology or possess qualifications that are equivalent to those required for such certification; or

(2) (i) Be a doctor of medicine or doctor of osteopathy licensed to practice medicine or osteopathy in the State in which the laboratory is located; and

(ii) Have at least 1 year of laboratory training or experience, or both, in high complexity testing for the specialty of radiobioassay; or

(3) (i) Have an earned doctoral degree in a chemical, physical, biological or clinical laboratory science from an accredited institution; and

(ii) Have at least 1 year of laboratory training or experience, or both, in high complexity testing within the specialty of radiobioassay; or

(4) (i) Have earned a master's degree in a chemical, physical, biological or clinical laboratory science or medical technology from an accredited institution; and

(ii) Have at least 2 years of laboratory training or experience, or both, in high complexity testing for the specialty of radiobioassay; or

(5) (i) Have earned a bachelor's degree in a chemical, physical or biological science or medical technology from an accredited institution; and

(ii) Have at least 4 years of laboratory training or experience, or both, in high complexity testing for the specialty of radiobioassay.

(o) If the laboratory performs tests in the specialty of histocompatibility, the individual functioning as the technical supervisor must either—

(1) (i) Be a doctor of medicine or osteopathy licensed to practice medicine or osteopathy in the State in which the laboratory is located; and

(ii) Have training or experience that meets one of the following requirements:

(A) Have 4 years of laboratory training or experience, or both, within the specialty of histocompatibility; or

(B) (*1*) Have 2 years of laboratory training or experience, or both, in the specialty of general immunology; and

(*2*) Have 2 years of laboratory training or experience, or both, in the specialty of histocompatibility; or

(2) (i) Have an earned doctoral degree in a biological or clinical laboratory science from an accredited institution; and

(ii) Have training or experience that meets one of the following requirements:

(A) Have 4 years of laboratory training or experience, or both, within the specialty of histocompatibility; or

(B) (*1*) Have 2 years of laboratory training or experience, or both, in the specialty of general immunology; and

(*2*) Have 2 years of laboratory training or experience, or both, in the specialty of histocompatibility.

(p) If the laboratory performs tests in the specialty of clinical cytogenetics, the individual functioning as the technical supervisor must—

(1) (i) Be a doctor of medicine or doctor of osteopathy licensed to practice medicine or osteopathy in the State in which the laboratory is located; and

(ii) Have 4 years of training or experience, or both, in genetics, 2 of which have been in clinical cytogenetics; or

(2) (i) Hold an earned doctoral degree in a biological science, including biochemistry, or clinical laboratory science from an accredited institution; and

(ii) Have 4 years of training or experience, or both, in genetics, 2 of which have been in clinical cytogenetics.

(q) If the requirements of paragraph (b) of this section are not met and the laboratory performs tests in the specialty of immunohematology, the individual functioning as the technical supervisor must—

(1) (i) Be a doctor of medicine or a doctor of osteopathy licensed to practice medicine or osteopathy in the State in which the laboratory is located; and

(ii) Be certified in clinical pathology by the American Board of Pathology or the American Osteopathic Board of Pathology or possess qualifications that are equivalent to those required for such certification; or

(2) (i) Be a doctor of medicine or doctor of osteopathy licensed to practice medicine or osteopathy in the State in which the laboratory is located; and

(ii) Have at least one year of laboratory training or experience, or both, in high complexity testing for the specialty of immunohematology.

Note: The technical supervisor requirements for "laboratory training or experience, or both" in each specialty or subspecialty may be acquired concurrently in more than one of the specialties or subspecialties of service. For example, an individual, who has a doctoral degree in chemistry and additionally has documentation of 1 year of laboratory experience working concurrently in high complexity testing in the specialties of microbiology and chemistry and 6 months of that work experience included high complexity testing in bacteriology, mycology, and mycobacteriology, would qualify as the technical supervisor for the specialty of chemistry and the subspecialties of bacteriology, mycology, and mycobacteriology.

§ 493.1451 Standard: Technical supervisor responsibilities.

The technical supervisor is responsible for the technical and scientific oversight of the laboratory. The technical supervisor is not required to be on site at all times testing is performed; however, he or she must be available to the laboratory on an as needed basis to provide supervision as specified in (a) of this section.

(a) The technical supervisor must be accessible to the laboratory to provide on-site, telephone, or electronic consultation; and

(b) The technical supervisor is responsible for—

(1) Selection of the test methodology that is appropriate for the clinical use of the test results;

(2) Verification of the test procedures performed and establishment of the laboratory's test performance characteristics, including the precision and accuracy of each test and test system;

(3) Enrollment and participation in an HHS approved proficiency testing program commensurate with the services offered;

(4) Establishing a quality control program appropriate for the testing performed and establishing the parameter for acceptable levels of analytic performance and ensuring that these levels are maintained throughout the entire testing process from the initial receipt of the specimen, through sample analysis and reporting of test results;

(5) Resolving technical problems and ensuring that remedial actions are taken whenever test systems deviate from the laboratory's established performance specifications;

(6) Ensuring that patient test results are not reported until all corrective actions have been taken and the test system is functioning properly;

(7) Identifying training needs and assuring that each individual performing tests receives regular in-service training and education appropriate for the type and complexity of the laboratory services performed;

(8) Evaluating the competency of all testing personnel and assuring that the staff maintain their competency to perform test procedures and report test results promptly, accurately and proficiently. The procedures for evaluation of the competency of the staff must include, but are not limited to—

(i) Direct observations of routine patient test performance, including patient preparation, if applicable, specimen handling, processing and testing;

(ii) Monitoring the recording and reporting of test results;

(iii) Review of intermediate test results or worksheets, quality control records, proficiency testing results, and preventive maintenance records;

(iv) Direct observation of performance of instrument maintenance and function checks;

(v) Assessment of test performance through testing previously analyzed specimens, internal blind testing samples or external proficiency testing samples; and

(vi) Assessment of problem solving skills; and

(9) Evaluating and documenting the performance of individuals responsible for high complexity testing at least semiannually during the first year the individual tests patient specimens. Thereafter, evaluations must be performed at least annually unless test methodology or instrumentation changes, in which case, prior to reporting patient test results, the individual's performance must be reevaluated to include the use of the new test methodology or instrumentation.

(c) In cytology, the technical supervisor or the individual qualified under § 493.1449(k)(2)—

(1) May perform the duties of the cytology general supervisor and the cytotechnologist, as specified in §§ 493.1471 and 493.1485, respectively;

(2) Must establish the workload limit for each individual examining slides;

(3) Must reassess the workload limit for each individual examining slides at least every 6 months and adjust as necessary;

(4) Must perform the functions specified in § 493.1257(c);

(5) Must ensure that each individual examining gynecologic preparations participates in an HHS approved cytology proficiency testing program, as specified in § 493.945 and achieves a passing score, as specified in § 493.855; and

(6) If responsible for screening cytology slide preparations, must document the number of cytology slides screened in 24 hours and the number of hours devoted during each 24-hour period to screening cytology slides.

§ 493.1453 Condition: Laboratories performing high complexity testing; clinical consultant.

The laboratory must have a clinical consultant who meets the requirements of § 493.1455 of this subpart and provides clinical consultation in accordance with § 493.1457 of this subpart.

§ 493.1455 Standard; Clinical consultant qualifications.

The clinical consultant must be qualified to consult with and render opinions to the laboratory's clients concerning the diagnosis, treatment and management of patient care. The clinical consultant must—

(a) Be qualified as a laboratory director under § 493.1443(b)(1), (2), or (3)(i); or

(b) Be a doctor of medicine or doctor of osteopathy licensed to practice medicine or osteopathy in the State in which the laboratory is located.

§ 493.1457 Standard; Clinical consultant responsibilities.

The clinical consultant provides consultation regarding the appropriateness of the testing ordered and interpretation of test results. The clinical consultant must—

(a) Be available to provide consultation to the laboratory's clients;

(b) Be available to assist the laboratory's clients in ensuring that appropriate tests are ordered to meet the clinical expectations;

(c) Ensure that reports of test results include pertinent information required for specific patient interpretation; and

(d) Ensure that consultation is available and communicated to the laboratory's clients on matters related to the quality of the test results reported and their interpretation concerning specific patient conditions.

§ 493.1459 Condition: Laboratories performing high complexity testing; general supervisor.

The laboratory must have one or more general supervisors who are qualified under § 493.1461 of this subpart to provide general supervision in accordance with § 493.1463 of this subpart.

§ 493.1461 Standard: General supervisor qualifications.

The laboratory must have one or more general supervisors who, under the direction of the laboratory director and supervision of the technical supervisor, provides day-to-day supervision of testing personnel and reporting of test results. In the absence of the director and technical supervisor, the general supervisor must be responsible for the proper performance of all laboratory procedures and reporting of test results.

(a) The general supervisor must possess a current license issued by the State in which the laboratory is located, if such licensing is required; and

(b) The general supervisor must be qualified as a—

(1) Laboratory director under § 493.1443; or

(2) Technical supervisor under § 493.1449.

(c) If the requirements of paragraphs (b)(1) or (b)(2) of this section are not met, the individual functioning as the general supervisor must—

(1) (i) Be a doctor of medicine or doctor of osteopathy licensed to practice medicine or osteopathy in the State in which the laboratory is located or have earned a doctoral, master's, or bachelor's degree in a chemical, physical, biological or clinical laboratory science, or medical technology from an accredited institution; and

(ii) Have at least one year of laboratory training or experience, or both, in high complexity testing; or

(2) (i) Have earned an associate degree in a laboratory science or medical laboratory technology from an accredited institution; and

(ii) Have at least two years of laboratory training or experience, or both, in high complexity testing; or

(3) Have previously qualified or could have qualified as a general supervisor under 42 CFR 493.1427 of the Federal regulations published March 14, 1990, (55 FR 9538) on or before February 28, 1992.

(d) For blood gas analysis, the individual providing general supervision must—

(1) Be qualified under § 493.1461(b) (1) or (2), or § 493.1461(c); or

(2) (i) Have earned a bachelor's degree in respiratory therapy from an accredited institution; and

(ii) Have at least one year of laboratory training or experience, or both, in blood gas analysis; or

(3) (i) Have earned an associate degree related to pulmonary function from an accredited institution; and

(ii) Have at least two years of training or experience, or both in blood gas analysis.

(e) The general supervisor requirement is met in histopathology, oral pathology, dermatopathology, and ophthalmic pathology because all tests and examinations, must be performed:

(1) In histopathology, by an individual who is qualified as a technical supervisor under §§ 493.1449(b) or 493.1449(l)(1);

(2) In dermatopathology, by an individual who is qualified as a technical supervisor under §§ 493.1449(b) or 493.1449(l) or (2);

(3) In ophthalmic pathology, by an individual who is qualified as a technical supervisor under §§ 493.1449(b) or 493.1449(l)(3); and

(4) In oral pathology, by an individual who is qualified as a technical supervisor under §§ 493.1449(b) or 493.1449(m).

§ 493.1463 Standard: General supervisor responsibilities.

The general supervisor is responsible for day-to-day supervision or oversight of the laboratory operation and personnel performing testing and reporting test results.

(a) The general supervisor—

(1) Must be accessible to testing personnel at all times testing is performed to provide on-site telephone or electronic consultation to resolve technical problems in accordance with policies and procedures established either by the laboratory director or technical supervisor;

(2) Is responsible for providing day-to-day supervision of high complexity test performance by testing personnel qualified under § 493.1489;

(3) Must be onsite to provide direct supervision when high complex testing is performed by any individuals qualified under § 493.1489(b)(4); and

(4) Is responsible for monitoring test analyses and specimen examinations to ensure that acceptable levels of analytic performance are maintained.

(b) The director or technical supervisor may delegate to the general supervisor the responsibility for—

(1) Assuring that all remedial actions are taken whenever test systems deviate from the laboratory's established performance specifications;

(2) Ensuring that patient test results are not reported until all corrective actions have been taken and the test system is properly functioning;

(3) Providing orientation to all testing personnel; and

(4) Annually evaluating and documenting the performance of all testing personnel.

§ 493.1467 Condition: Laboratories performing high complexity testing; cytology general supervisor.

For the subspecialty of cytology, the laboratory must have a general supervisor who meets the qualification requirements of § 493.1469 of this subpart, and provides supervision in accordance with § 493.1471 of this subpart.

§ 493.1469 Standard: Cytology general supervisor qualifications.

The cytology general supervisor must be qualified to supervise cytology services. The general supervisor in cytology must possess a current license issued by the State in which the laboratory is located, if such licensing is required, and must—

(a) Be qualified as a technical supervisor under § 493.1449 (b) or (k); or

(b) (1) Be qualified as a cytotechnologist under § 493.1483; and

(2) Have at least 3 years of full-time (2,080 hours per year) experience as a cytotechnologist within the preceding 10 years.

§ 493.1471 Standard: Cytology general supervisor responsibilities.

The technical supervisor of cytology may perform the duties of the cytology general supervisor or delegate the responsibilities to an individual qualified under § 493.1469.

(a) The cytology general supervisor is responsible for the day-to-day supervision or oversight of the laboratory operation and personnel performing testing and reporting test results.

(b) The cytology general supervisor must—

(1) Be accessible to provide on-site, telephone, or electronic consultation to resolve technical problems in accordance with policies and procedures established by the technical supervisor of cytology;

(2) Document the slide interpretation results of each gynecologic and nongynecologic cytology case he or she examined or reviewed (as specified under § 493.1257(d));

(3) For each 24-hour period, document the total number of slides he or she examined or reviewed in the laboratory as well as the total number of slides examined or reviewed in any other laboratory or for any other employer; and

(4) Document the number of hours spent examining slides in each 24-hour period.

§ 493.1481 Condition: Laboratories performing high complexity testing; cytotechnologist.

For the subspecialty of cytology, the laboratory must have a sufficient number of cytotechnologists who meet the qualifications specified in § 493.1483 to perform the functions specified in § 493.1485.

§ 493.1483 Standard: Cytotechnologist qualifications.

Each person examining cytology slide preparations must meet the qualifications of § 493.1449 (b) or (k), or—

(a) Possess a current license as a cytotechnologist issued by the State in which the laboratory is located, if such licensing is required; and

(b) Meet one of the following requirements:

(1) Have graduated from a school of cytotechnology accredited by the Committee on Allied Health Education and Accreditation; or

(2) Be certified in cytotechnology by a certifying agency approved by HHS; or

(3) Before September 1, 1992—

(i) Have successfully completed 2 years in an accredited institution with at least 12 semester hours in science, 8 hours of which are in biology; and

(A) Have had 12 months of training in a school of cytotechnology accredited by an accrediting agency approved by HHS; or

(B) Have received 6 months of formal training in a school of cytotechnology accredited by an accrediting agency approved by HHS and 6 months of full-time experience in cytotechnology in a laboratory acceptable to the pathologist who directed the formal 6 months of training; or

(ii) Have achieved a satisfactory grade to qualify as a cytotechnologist in a proficiency examination approved by HHS and designed to qualify persons as cytotechnologists; or

(4) Before September 1, 1992, have full-time experience of at least 2 years or equivalent within the preceding 5 years examining slide preparations under the supervision of a physician qualified under § 493.1449(b) or (k)(1), and before January 1, 1969, must have—

(i) Graduated from high school;

(ii) Completed 6 months of training in cytotechnology in a laboratory directed by a pathologist or other physician providing cytology services; and

(iii) Completed 2 years of full-time supervised experience in cytotechnology; or

(5) (i) On or before September 1, 1993, have full-time experience of at least 2 years or equivalent examining cytology slide preparations within the preceding 5 years in the United States under the supervision of a physician qualified under § 493.1449(b) or (k)(1); and

(ii) On or before September 1, 1994, have met the requirements in either paragraph (b)(1) or (2) of this section.

§ 493.1485 Standard; Cytotechnologist responsibilities.

The cytotechnologist is responsible for documenting—

(a) The slide interpretation results of each gynecologic and nongynecologic cytology case he or she examined or reviewed (as specified in § 493.1257(d));

(b) For each 24-hour period, the total number of slides examined or reviewed in the laboratory as well as the total number of slides examined or reviewed

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in any other laboratory or for any other employer; and

(c) The number of hours spent examining slides in each 24-hour period.

§ 493.1487 Condition: Laboratories performing high complexity testing; testing personnel.

The laboratory has a sufficient number of individuals who meet the qualification requirements of § 493.1489 of this subpart to perform the functions specified in § 493.1495 of this subpart for the volume and complexity of testing performed.

§ 493.1489 Standard; Testing personnel qualifications.

Each individual performing high complexity testing must—

(a) Possess a current license issued by the State in which the laboratory is located, if such licensing is required; and

(b) Meet one of the following requirements:

(1) Be a doctor of medicine or doctor of osteopathy licensed to practice medicine or osteopathy in the State in which the laboratory is located or have earned a doctoral, master's, or bachelor's degree in a chemical, physical, biological or clinical laboratory science, or medical technology from an accredited institution;

(2) Have earned an associate degree in a laboratory science, or medical laboratory technology from an accredited institution;

(3) Have previously qualified or could have qualified as a technologist under 42 CFR 493.1433 published in March 14, 1990 (55 FR 9538), on or before February 28, 1992;

(4) Until September 1, 1997—

(i) Have earned an academic high school diploma or equivalent; and

(ii) Have documentation of training appropriate for the testing performed prior to analyzing patient specimens. Such training must ensure that the individual has—

(A) The skills required for proper specimen collection, including patient preparation, if applicable, labeling, handling, preservation or fixation, processing or preparation, transportation and storage of specimens;

(B) The skills required for implementing all standard laboratory procedures;

(C) The skills required for performing each test method and for proper instrument use;

(D) The skills required for performing preventive maintenance, troubleshooting and calibration procedures related to each test performed;

(E) A working knowledge of reagent stability and storage;

(F) The skills required to implement the quality control policies and procedures of the laboratory;

(G) An awareness of the factors that influence test results; and

(H) The skills required to assess and verify the validity of patient test results through the evaluation of quality sample values prior to reporting patient test results.

On September 1, 1997, must meet the qualifications of § 493.1489(b) (1) or (2);

(5) For blood gas analysis, the individual must—

(i) Be qualified under § 493.1489(b) (1), (2), or (3), (4);

(ii) Have earned a bachelor's degree in respiratory therapy from an accredited institution; or

(iii) Have earned an associate degree related to pulmonary function from an accredited institution; or

(6) For histopathology, tissue examinations must be performed by an individual who meets the qualifications of § 493.1449 (b) or (l) of this subpart.

§ 493.1495 Standard; Testing personnel responsibilities.

The testing personnel are responsible for specimen processing, test performance and for reporting test results.

(a) Each individual performs only those high complexity tests that are authorized by the laboratory director and require a degree of skill commensurate with the individual's education, training or experience, and technical abilities.

(b) Each individual performing high complexity testing must—

(1) Follow the laboratory's procedures for specimen handling and processing, test analyses, reporting and maintaining records of patient test results;

(2) Maintain records that demonstrate that proficiency testing samples are tested in the same manner as patient specimens;

(3) Adhere to the laboratory's quality control policies, document all quality control activities, instrument and procedural calibrations and maintenance performed;

(4) Follow the laboratory's established policies and procedures whenever test systems are not within the laboratory's established acceptable levels of performance;

(5) Be capable of identifying problems that may adversely affect test performance or reporting of test results and either must correct the problems or immediately notify the general supervisor, technical supervisor, clinical consultant, or director;

(6) Document all corrective actions taken when test systems deviate from the laboratory's established performance specifications; and

(7) If qualified under § 493.1489(b)(4), must perform high complexity testing only under the onsite, direct supervision of a general supervisor qualified under § 493.1461.

Subparts N–O [Reserved]

Subpart P—Quality Assurance for Moderate or High Complexity Testing, or Both

§ 493.1701 Condition: Quality assurance; moderate or high complexity testing, or both.

Each laboratory performing moderate or high complexity testing, or both, must establish and follow written policies and procedures for a comprehensive quality assurance program which is designed to monitor and evaluate the ongoing and overall quality of the total testing process (preanalytic, analytic, postanalytic). The laboratory's quality assurance program must evaluate the effectiveness of its policies and procedures; identify and correct problems; assure the accurate, reliable and prompt reporting of test results; and assure the adequacy and competency of the staff. As necessary, the laboratory must revise policies and procedures based upon the results of those evaluations. The laboratory must meet the standards of this subpart as they apply to the services offered, complexity of testing performed and reported, and the unique practices of each testing entity. All quality assurance activities must be documented.

§ 493.1703 Standard; Patient test management assessment.

The laboratory must have an ongoing mechanism for monitoring and evaluating the systems required under Subpart J, Patient Test Management. The laboratory must monitor, evaluate, and revise, if necessary, based on the results of its evaluations, the following:

(a) The criteria established for patient preparation, specimen collection, labeling, preservation and transportation;

(b) The information solicited and obtained on the laboratory's test requisition for its completeness, relevance, and necessity for the testing of patient specimens;

(c) The use and appropriateness of the criteria established for specimen rejection;

(d) The completeness, usefulness, and accuracy of the test report information

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necessary for the interpretation or utilization of test results;

(e) The timely reporting of test results based on testing priorities (STAT, routine, etc.); and

(f) The accuracy and reliability of test reporting systems, appropriate storage of records and retrieval of test results.

§ 493.1705 Standard; Quality control assessment.

The laboratory must have an ongoing mechanism to evaluate the corrective actions taken under § 493.1219, Remedial actions. Ineffective policies and procedures must be revised based on the outcome of the evaluation. The mechanism must evaluate and review the effectiveness of corrective actions taken for—

(a) Problems identified during the evaluation of calibration and control data for each test method;

(b) Problems identified during the evaluation of patient test values for the purpose of verifying the reference range of a test method; and

(c) Errors detected in reported results.

§ 493.1707 Standard; Proficiency testing assessment.

Under subpart H of this part, Proficiency Testing, the corrective actions taken for any unacceptable, unsatisfactory, or unsuccessful proficiency testing result(s) must be evaluated for effectiveness.

§ 493.1709 Standard; Comparison of test results.

If a laboratory performs the same test using different methodologies or instruments, or performs the same test at multiple testing sites, the laboratory must have a system that twice a year evaluates and defines the relationship between test results using different methodologies, instruments, or testing sites. In addition, if a laboratory performs tests that are not included under Subpart I, Proficiency Testing Programs, the laboratory must have a system for verifying the accuracy and reliability of its test results at least twice a year.

§ 493.1711 Standard; Relationship of patient information to patient test results.

For internal quality assurance, the laboratory must have a mechanism to identify and evaluate patient test results that appear inconsistent with relevant criteria such as—

(a) Patient age;

(b) Sex;

(c) Diagnosis or pertinent clinical data, when provided;

(d) Distribution of patient test results when available; and

(e) Relationship with other test parameters, when available within the laboratory.

§ 493.1713 Standard; Personnel assessment.

The laboratory must have an ongoing mechanism to evaluate the effectiveness of its policies and procedures for assuring employee competence and, if applicable, consultant competence.

§ 493.1715 Standard; Communications.

The laboratory must have a system in place to document problems that occur as a result of breakdowns in communication between the laboratory and the authorized individual who orders or receives the results of test procedures or examinations. Corrective actions taken to resolve the problems and minimize communications breakdowns must be documented.

§ 493.1717 Standard; Complaint investigations.

The laboratory must have a system in place to assure that all complaints and problems reported to the laboratory are documented. Investigations of complaints must be made, when appropriate, and, as necessary, corrective actions are instituted.

§ 493.1719 Standard; Quality assurance review with staff.

The laboratory must have a mechanism for documenting and assessing problems identified during quality assurance reviews and discussing them with the staff. The laboratory must take corrective actions that are necessary to prevent recurrences.

§ 493.1721 Standard; Quality assurance records.

The laboratory must maintain documentation of all quality assurance activities including problems identified and corrective actions taken. All quality assurance records must be available to HHS.

Subpart Q—Inspection

§ 493.1775 Condition: Inspection of laboratories issued a certificate of waiver.

(a) HHS or its designee will conduct unannounced inspections of any laboratory at any time during its hours of operation to assess compliance with the applicable requirements of part 493.

(b) The laboratory may be required, as part of this inspection, to—

(1) Permit HHS or its designee to interview all employees of the laboratory concerning the laboratory's compliance with the applicable requirements of part 493;

(2) Permit HHS or its designee access to all areas of the facility including—

(i) Specimen procurement and processing areas;

(ii) Storage facilities for specimens, reagents, supplies, records, and reports; and

(iii) Testing and reporting areas.

(3) Permit employees to be observed performing tests, data analysis and reporting;

(4) Permit HHS or its designee upon request to review all information and data necessary to—

(i) Determine that testing is being performed or the laboratory is being operated in a manner that does not constitute an imminent and serious risk to public health;

(ii) Evaluate complaints from the public;

(iii) Determine whether the laboratory is performing tests not listed in § 493.15; and

(iv) Collect information to determine the addition, deletion, or continued inclusion of tests listed in § 493.15; and

(5) Provide copies to HHS or its designee of all records and data that the agency requires under these regulations.

(c) The laboratory must provide upon reasonable request all information and data needed by HHS or its designee to make a determination of compliance with the requirements of part 493.

(d) Failure to permit an inspection under this subsection will result in the suspension of Medicare and Medicaid payments to the laboratory or termination of the laboratory's participation in Medicare and Medicaid for payment, and suspension of or action to revoke laboratory's CLIA certificate of waiver in accordance with subpart R of this part.

§ 493.1777 Condition: Inspection of all laboratories not issued a certificate of waiver or a certificate of accreditation.

(a) HHS or its designee will conduct unannounced inspections on at least a biennial basis of any laboratory at any time during its hours of operation. To assess compliance with the requirements of part 493, HHS will inspect a laboratory possessing a registration certificate before issuance of a certificate.

(b) The laboratory may be required, as part of this inspection, to—

(1) Test samples (including proficiency testing samples) or perform procedures as HHS or its designee requires;

(2) Allow HHS or its designee to interview all employees of the laboratory concerning the laboratory's compliance with the applicable requirements of part 493;

(3) Permit employees to be observed performing tests (including proficiency testing specimens), data analysis and reporting;

(4) Permit HHS or its designee access to all areas of the facility including—

(i) Specimen procurement and processing areas;

(ii) Storage facilities for specimens, reagents, supplies, records, and reports; and

(iii) Testing and reporting areas; and

(5) Provide copies to HHS or its designee of all records and data it requires.

(c) The laboratory must have all records and data accessible and retrievable within a reasonable time frame during the course of the inspection.

(d) The laboratory must retain—

(1) Immunohematology records for a period of not less than 5 years, in accordance with 21 CFR part 606, subpart I;

(2) Pathology test reports for at least 10 years after the date of reporting as required in § 493.1109; and

(3) All other laboratory records for at least 2 years.

(e) The laboratory must provide upon request all information and data needed by HHS or its designee to make a determination of the laboratory's compliance with the applicable requirements of part 493.

(f) HHS or its designee may reinspect a laboratory at any time necessary to evaluate the ability of the laboratory to provide accurate and reliable test results.

(g) Failure to permit an inspection under this subsection will result in the suspension of Medicare and Medicaid payments to the laboratory, or termination of the laboratory's participation in Medicare and Medicaid for payment, and suspension of or action to revoke the laboratory's CLIA certificate in accordance with subpart R.

§ 493.1780 Condition: Inspection of accredited and State-exempt laboratories.

(a) HHS or its designee will conduct unannounced, random validation inspections of any accredited or State-exempt laboratory at any time during its hours of operation.

(b) HHS or its designee will conduct unannounced complaint inspections of an accredited or State-exempt laboratory at any time during its hours of operation upon receiving a complaint about that laboratory.

(c) The laboratory may be required, as part of either of the above inspections, to—

(1) Test samples (including proficiency testing samples) or perform procedures as required by HHS or its designee;

(2) Allow HHS or its designee to interview all employees of the laboratory concerning the laboratory's compliance with the applicable requirements of part 493;

(3) Permit employees to be observed performing tests (including proficiency testing specimens), and performing data analysis and reporting activities; and

(4) Permit HHS or its designee access to all areas of the facility including—

(i) Specimen procurement and processing areas;

(ii) Storage facilities for specimens reagents, supplies, records, and reports; and

(iii) Testing and reporting areas; and

(5) Provide copies to HHS of all records and data required under these requirements.

(d) The laboratory must have all records and data accessible and retrievable within a reasonable time during the inspection.

(e) The laboratory must retain—

(1) Immunohematology records for a period of not less than 5 years, in accordance with 21 CFR part 606, subpart I;

(2) Pathology test reports for at least 10 years after the date of reporting, as required in 493.1109; and

(3) All other laboratory records for at least 2 years unless otherwise specified in part 493.

(f) The laboratory must provide, upon request, all information and data needed by HHS to make a determination of compliance or noncompliance with the applicable requirements of part 493.

(g) Failure to permit an inspection under this subsection will result in the suspension of Medicare and Medicaid payments to the laboratory or termination of the laboratory's Medicare and Medicaid approval for payment; and suspension of or action to revoke the laboratory's CLIA certificate of accreditation in accordance with subpart R of this part.

Subpart T—Consultations

§ 493.2001 Establishment and function of the Clinical Laboratory Improvement Advisory Committee.

(a) HHS will establish a Clinical Laboratory Improvement Advisory Committee to advise and make recommendations on technical and scientific aspects of the provisions of this part 493.

(b) The Clinical Laboratory Improvement Advisory Committee will be comprised of individuals involved in the provision of laboratory services, utilization of laboratory services, development of laboratory testing or methodology, and others as approved by HHS.

(c) HHS will designate specialized subcommittees as necessary.

(d) The Clinical Laboratory Improvement Advisory Committee or any designated subcommittees will meet as needed, but not less than once each year.

(e) The Clinical Laboratory Improvement Advisory Committee or subcommittee, at the request of HHS will review and make recommendations concerning:

(1) Criteria for categorizing tests and examinations of moderate and high complexity;

(2) Categorization of waived tests;

(3) Personnel standards;

(4) Patient test management, quality control, quality assurance standards;

(5) Proficiency testing standards;

(6) Applicability to the standards of new technology; and

(7) Other issues relevant to part 493, if requested by HHS.

(f) HHS will be responsible for providing the data and information, as necessary, to the members of the Clinical Laboratory Improvement Advisory Committee.

PART 494—CONDITIONS FOR COVERAGE OF PARTICULAR SERVICES

N. Part 494 is amended to read as follows:

1. The authority citation for part 494 is revised to read as follows:

Authority: Secs. 1833(a)(2)(E), 1834, 1861, 1862(a), 1863, 1864(a), 1865(a), 1902(a)(9)(C), and 1915(a)(1)(B)(ii)(I) of the Social Security Act (42 U.S.C. 13951(a)(2)(E), 1395m, 1395x, 1395y(a), 1395z, 1395aa(a), 1395bb(a), 1396a(a)(9)(C), and 1396n(a)(1)(B)(ii)(I)).

Subpart B—Conditions for Coverage of Screening Mammography

2. Section 494.51 is revised to read as follows:

§ 494.51 Conditions for coverage: Compliance with Federal, State, and local laws and regulations.

(a) The supplier of screening mammography services must comply with all applicable Federal, State, and local laws and regulations pertaining to radiological services and screening mammography services. This includes—

(1) Licensure or registration of supplier;

(2) Licensure or registration of personnel;

(3) Licensure or registration of equipment; and

(4) Compliance with health and safety requirements.

(b) In addition, if the supplier of screening mammography services also provides laboratory services, these services must be provided in accordance with the applicable requirements of part 493 of this chapter. If the supplier of screening mammography services chooses to refer specimens for testing to another laboratory, the referral laboratory must be certified in the appropriate specialties and subspecialties of services in accordance with the applicable requirements or part 493 of this chapter.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: December 30, 1991.

James O. Mason,

Assistant Secretary for Health.

Dated: December 30, 1991.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

Approved: January 23, 1992.

Louis W. Sullivan,

Secretary.

[FR Doc. 92-4053 Filed 2-20-92; 12:26 pm]

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Friday
February 28, 1992

Part III

Department of Health and Human Services

Health Care Financing Administration
Public Health Service

42 CFR Part 493
Clinical Laboratory Improvement Amendments of 1988; Final Rules and Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 493

[HSQ–177–FC]

RIN 0938–AE26

Clinical Laboratory Improvement Act Program Fee Collection

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule with comment.

SUMMARY: This rule implements provisions of section 353 of Public Health Service Act (as amended by the Clinical Laboratory Improvement Amendments of 1988). Those provisions require laboratories to pay fees for issuance of registration certificates, certificates of waiver, certificates of accreditation, or certificates and to fund activities to determine compliance with the requirements established by the Department of Health and Human Services for laboratory testing. It also establishes the policy that laboratories licensed by and located in States with licensure programs approved by HHS may be exempt from the requirements of the Clinical Laboratory Improvement Amendments of 1988 (CLIA). This rule also establishes the methodology used to determine the amount of the fees charged for certificates of waiver, registration certificates, certificates of accreditation, or certificates and activities to establish application procedures and determine compliance with applicable certification requirements.

DATES: *Effective date:* These regulations are effective March 30, 1992. They are being issued as a final rule with comment for reasons explained under "Supplementary Information," in section VII, "Final Rule with Comment Period."

Comment period: We will accept comments on the collection of fees related to State-exempt laboratories from the respective States. Comments on this issue only will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on April 28, 1992.

ADDRESSES: *Comments:* Mail written comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: HSQ–177–FC, P.O. Box 26676, Baltimore, MD 21207.

If you prefer, you may deliver your comments to one of the following addresses:

Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201, or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

Due to staffing and resource limitations, we cannot accept audio or video comments or facsimile (FAX) copies of comments. In commenting, please refer to file code HSQ–177–FC. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in room 309–G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 245–7890).

Questionnaires: While the law places the responsibility to apply for a certificate on the entity that conducts laboratory testing, to facilitate the initial phase of implementation, we have mailed questionnaire materials to all affected entities that we could identify to solicit initial information. If an entity that conducts laboratory testing has not yet received a questionnaire, write to the following address to obtain one: HCFA Laboratory, P.O. Box 26687, Baltimore, MD 21207.

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FOR FURTHER INFORMATION CONTACT: Jeffrey A. Clark (410) 966–6802.

SUPPLEMENTARY INFORMATION:

I. Background

A. Federal Oversight

Before the establishment of the Health Care Financing Administration (HCFA) in 1977 and the signing of an interagency agreement, the Public Health Service (PHS) was responsible for the administration of the Clinical Laboratories Improvement Act of 1967 (CLIA '67). Currently, HCFA has inspection and administrative responsibility for both the Medicare and CLIA programs. HCFA and PHS have the joint responsibility for the development of the Federal requirements for laboratories. Within the PHS, the Centers for Disease Control (CDC) and the Food and Drug Administration (FDA) provide technical and scientific expertise in the establishment of regulations.

B. Legislative History

Prior to the enactment of the Clinical Laboratory Improvement Amendments of 1988 (CLIA), Public Law 100–578, laboratories engaged in testing specimens in interstate commerce were required, under CLIA '67, to meet the requirements of section 353 of the Public Health Service Act (42 U.S.C. 263a). In October 1988, Public Law 100–578 amended section 353 of the Public Health Service Act (PHSA) to expand the authority for the regulation of laboratories, with some provisions having varying effective dates depending on whether or not the laboratory was subject to CLIA '67 on December 31, 1988. The provisions that are the subject of this rule have the following effective dates: The fee provisions (section 353(m) of PHSA) are effective January 1, 1989 for all laboratories; the application provisions (section 353(d) of PHSA) are effective January 1, 1990 for all laboratories; the provision in section 353(g)(2) relating to inspection and the provision in section 353(f)(1)(C) relating to personnel qualifications are effective January 1, 1990 for laboratories that were subject to CLIA '67 on December 31, 1988, and on July 1, 1991 for all other laboratories.

Prior to the 1988 amendments, only those laboratories performing interstate testing were subject to the provisions of CLIA '67. CLIA '67 included a provision that authorized the Secretary of the Department of Health and Human Services (HHS) to collect fees from approved laboratories for the issuance and renewal of CLIA licenses. The fee was set at $25 for each test category with a $125 cap on the amount any laboratory would be required to pay. This fee was eliminated because the administrative costs required for collection exceeded the revenue derived from the fees.

The 1988 CLIA amendments require that any entity performing laboratory testing have a certificate, certificate of accreditation, or certificate of waiver or be licensed by an approved State licensure program (that is, State-exempt) and comply with the standards for laboratory testing established by HHS. In addition, section 353(m) of the PHSA, as amended by CLIA, requires HHS to impose fees for the issuance and renewal of certificates, certificates of waiver, and accreditation certificates and for determining program compliance. Although the fee required for issuance and renewal of a certificate of waiver is to be only a nominal fee, the overall fees for certificates and certificates of accreditation must be sufficient to cover the general costs of administration incurred by HHS in carrying out the provisions of section 353 of the PHSA, including evaluating and monitoring approved proficiency testing programs and accreditation bodies and implementing and monitoring compliance with the requirements of section 353 of the PHSA. The fee imposed for determining compliance must also be sufficient to cover the costs incurred by HHS in inspecting laboratories that are not accredited. Section 353(m) also requires that the fees imposed vary by group or classification of laboratory, based on such considerations as HHS determines are relevant.

HHS is also required, under section 353(n) of the PHSA, to annually compile and make available to physicians and the general public information that HHS determines is useful in evaluating the performance of a laboratory. This information must include a listing of laboratories whose certificates have been revoked, suspended, or limited and those laboratories that have been subject to intermediate sanctions, exclusion from Medicare or Medicaid, injunctions, or withdrawal of accreditation. Additionally, sections 353(e)(2)(D) and 353(e)(3) of the PHSA require HHS to evaluate annually the performance of each approved accreditation body and submit an annual report to Congress that describes the results of that evaluation.

Section 6141 of the Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101-239) requires that laboratories participating in the Medicare program comply with CLIA requirements. Only laboratories that have a current unrevoked and unsuspended certificate of waiver, registration certificate, certificate, or certificate of accreditation, or are State-exempt will be eligible for reimbursement in the Medicare or Medicaid programs or both.

On August 3, 1990, we published our proposed rule (55 FR 31758) to implement the certificate and fee requirements of CLIA.

II. Implementation of CLIA

The following is a general explanation of our plan to implement CLIA, as well as CLIA's relationship to Medicare and Medicaid.

A. Activities to Date

In order to implement CLIA, in addition to this final rule, we published three proposed rules. The three proposed rules are:

HSQ-176-P Medicare, Medicaid and CLIA Programs: Regulations Implementing the Clinical Laboratory Improvement Amendments of 1988 (CLIA)

This proposed rule was published on May 21, 1990, with the comment period closing on September 21, 1990. It set forth our proposed requirements for laboratories that must be inspected, as well as the criteria for determining if a laboratory qualifies for a certificate of waiver. In addition, this proposed rule outlined how laboratories would be regulated as a function of the complexity of tests and their risk of harm to the patient if mistakes were made in testing. Provisions include requirements dealing with personnel, quality control, quality assurance, proficiency testing, and recordkeeping, among others. These provisions will also be used as the basis of comparison of State or private accreditation program requirements when organizations are seeking deemed status under the law or States are seeking an exemption. This regulation generated 60,000 comments. The final rule is published in this edition of the **Federal Register**.

HSQ-179-P Medicare and Clinical Laboratory Improvement Amendment Programs: Enforcement Procedures for Laboratories

This proposed rule, which was published on April 2, 1991, outlines how the Federal Government proposes to implement the provisions of section 1846 of the Social Security Act, as amended by section 4064(d) of the Omnibus Budget Reconciliation Act of 1987 and sections 353(h), (i), (j), (k), and (l) of the PHSA. This rule applies to laboratories that are subject to CLIA or that participate in Medicare/Medicaid. The final version of this proposed rule is published in this edition of the **Federal Register**.

HSQ-181-P Clinical Laboratories Improvement Amendments Program: Granting and Withdrawal of Deeming Authority to Private Nonprofit Accreditation Organizations and State Licensure Agencies

The CLIA law (at sections 353(e) and (p) of the PHSA) permits States and private, nonprofit accreditation organizations to seek our approval of their programs. A laboratory that is accredited by an approved State or private accreditation program would be "deemed" to meet CLIA requirements. (Note that, as a change from the requirements outlined in HSQ-177-P, a laboratory licensed in a State whose licensure program is approved would be exempt from CLIA requirements). The proposed rule, published on August 20, 1990, with the comment period closing on October 19, 1990, sets forth the criteria we would use to approve and to withdraw approval of State or private accreditation programs.

B. Sequence of Implementation Events

CLIA requires that all laboratories in the United States subject to its provisions be regulated by the Federal Government. Regulation is mandated regardless of whether or not a laboratory is being reimbursed for services by the Federal or State government. CLIA legislation requires that such regulation focus on the issuance of a certificate, without which a laboratory may not legally test human specimens for the purpose of "providing information for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, human beings." The publication of this final rule concerning application procedures and fee schedules is a first step in the full implementation of CLIA. After considering comments received in response to the proposed rule, we have decided to adopt the following implementation plan.

1. Mailing of Questionnaire

The law requires every laboratory subject to the provisions of CLIA to hold a certificate issued by HCFA. Initially, we sent a questionnaire to entities performing laboratory testing soliciting basic information concerning the name and address of the laboratory, the type of ownership, type of facility, name of director, types of personnel, test volume by specialty and subspecialty, and test methodologies and reagents. All laboratories subject to CLIA must complete the questionnaire so that HCFA is provided with information on laboratories performing testing that can

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be used by HCFA to develop a database.

To determine the entities that received the questionnaire, HCFA took a number of actions. These included mailings to professional groups and State licensing components to request their assistance in identifying facilities affected by CLIA, and advertising (though a variety of trade periodicals and special interest journals) our implementation of the CLIA law and instructions for laboratories to follow to obtain the necessary certificate. If a facility performing laboratory testing has not received a questionnaire from HCFA, it is the responsibility of the facility to request a questionnaire from HCFA. This request should be made to the address previously indicated.

2. Mailing of Applications and Bills

After receipt of the completed questionnaire and publication of the standards rule, HSQ–176–F, we will send an application and a bill for the certificate fee (based on the volume of testing indicated on the questionnaire) to each laboratory that we believe (based on the information provided in response to the questionnaire) is subject to the requirements of CLIA. Mailing after publication of the final standards rule will allow laboratories sufficient time to review the standards and criteria established by HSQ–176–F and determine whether they want to continue testing based on the standards.

3. Issuance of Registration Certificate or Certificate of Waiver

Upon receipt of the completed application and fee, we will issue a registration certificate or certificate of waiver. (In this final rule, we are using the term "registration" certificate(s) in place of "provisional" certificate(s) in order to accurately reflect the fact that this type of certificate represents only the registration of the laboratory and does not indicate a certification of quality. This change is reflected throughout the preamble and regulation.) If upon review of the information provided by a laboratory in the application, we determine the laboratory qualifies for a certificate of waiver, we will issue a certificate of waiver to the laboratory instead of a registration certificate. If we find that the fee amount that the laboratory was billed and paid is greater than the fee for a certificate of waiver, a refund of the difference will be made to the laboratory. No fees will be collected from existing laboratories electing to discontinue laboratory testing before the effective date of the standards rule HSQ–176.

The registration certification indicates that the laboratory has properly registered with the government and is legally entitled to test human specimens and to conduct business and agrees to comply with CLIA requirements. The registration certificate will remain in effect for up to 2 years, although the registration certificate may be re-issued if additional time is necessary for HHS to conduct an inspection; or pending an appeal. This will ensure that the laboratory has a valid certificate authorizing the testing of human specimens. The registration certificates will be effective until we are able to conduct inspections, approve State programs and private accreditation programs (deemed status), and determine which laboratories qualify for certificates.

4. Final Implementation Steps

As final implementation steps, we will:

- Approve (or disapprove) private nonprofit accreditation programs for deemed status.
- Approve (or disapprove) State licensing programs for exemption of their laboratories from the requirements of CLIA.
- Communicate with all laboratories that hold registration certificates, instructing them on how to apply for a regular certificate, certificate of waiver, or certificate of accreditation, whichever applies. The laboratory will be billed for the appropriate certificate and compliance fees and, if an inspection to determine compliance is necessary, it will be scheduled and conducted. The laboratory will be required to submit the billed amount to HHS prior to the determination of compliance (including inspection). The inspection, if required, will be performed generally by State surveyors who will determine, with the assistance of guidelines developed by us, if the laboratory successfully meets CLIA's requirements. If the State survey agency determines that the laboratory meets CLIA's requirements, it will recommend that we issue a certificate. This (regular) certificate indicates that the laboratory has demonstrated that it has met all of the conditions and standards outlined in CLIA. A laboratory that meets the requirements for a certificate of waiver and has submitted the appropriate fee will not be subject to routine inspection.
- Implement procedures for the reissuance of certificates upon expiration. A certificate will be valid not more than for 2 years. Prior to the expiration date of the certificate, HHS will send an application to the laboratory and collect the necessary fee(s), and the compliance determination survey cycle and certificate issuance will be repeated.
- Establish and maintain a computer system to manage the above processes.
- Implement the system of alternative sanctions and enforcement procedures described in the law and the final version of HSQ–179.
- Continue to conduct the mandated studies and make reports to Congress concerning the implementation of CLIA.

C. Implementation of Certificates of Accreditation

If, after HHS has approved accreditation programs, a registered or certified laboratory seeks a certificate of accreditation, the laboratory must show proof of accreditation by an approved private accreditation body or proof that the laboratory has applied for such accreditation. We will allow the laboratory up to 11 months to receive accreditation. If the laboratory is not accredited by then, we will notify the laboratory that it is subject to Federal inspection, and include a bill for the inspection costs. We believe 11 months from the time application for accreditation is made is adequate time for accreditation to take place.

While the approved accreditation body will bill the laboratory separately for its inspection and any other fees applicable, we will send an accredited laboratory a bill for a registration certificate (if necessary) and/or a certificate of accreditation to cover our administrative costs and the costs of monitoring the performance of approved private accreditation bodies as required by CLIA.

D. State-Exempt Laboratories

If a laboratory is licensed by and located in a State that has had its licensure and inspection program approved by HHS under section 353(p) of the PHSA, the laboratory is exempt from CLIA's requirements and, therefore, need not apply for certification, pay any certificate fee(s), or undergo a routine onsite CLIA compliance determination survey. These "State-exempt" laboratories are subject, however, on a sample basis, to surveys to determine the extent and appropriateness of the State's licensing criteria. For purposes of establishing a user fee amount for this activity, we considered 5 percent of the State-exempt laboratories an appropriate sample size. State-exempt laboratories will not receive certificates or pay fees. Rather, HHS may assess their State licensing programs fees for all validation surveys conducted and any follow-up visits that may be necessary.

III. Provisions of the Proposed Rule

We proposed to implement section 353(m) of the PHSA by establishing regulations at 42 CFR part 493, subpart F. We proposed the requirements all laboratories must meet in order to apply for and be issued a certificate under CLIA and proposed the methodology for determining the amount of the fees for issuing provisional certificates, certificates, certificates of waiver, and certificates of accreditation, and for the proposed fee schedules for determining compliance with the standards.

We proposed, in § 493.606, that part 493, subpart F would apply to all entities that perform laboratory testing, except that it would not apply to any component or function of a laboratory that has been certified by the National Institute on Drug Abuse (NIDA) under Executive Order 12564 and section 503 of Public Law 100–71 for the performance of forensic urine drug testing or to laboratories that perform research testing on human specimens but do not report patient specific results for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, an individual patient. If a laboratory conducts both NIDA certified forensic urine drug testing and other laboratory tests, the laboratory would be subject both to NIDA certification for the forensic urine drug testing and these rules for all other tests, including other urine drug testing, performed by the laboratory.

We proposed, in § 493.610, to prohibit solicitation or acceptance of materials derived from the human body for laboratory examination or other procedure unless the laboratory has an effective provisional certificate issued by HHS or a certificate, certificate of waiver, or certificate of accreditation issued by HHS applicable to the specialty or subspecialty of services offered by the laboratory.

In § 493.614, we proposed the procedure a laboratory must follow to obtain a provisional certificate, certificate, certificate of accreditation, or certificate of waiver. We proposed to require that a separate application be made for each laboratory location using a form(s) prescribed by HHS and that the application be signed by the owner, operator, or authorized representative of the laboratory.

Based on section 353(d)(1)(A) of the PHSA, the application would require information that describes the characteristics of the test procedures and examinations performed by the laboratory including—

(a) The names of the test procedures and examinations performed and the total number of test procedures and examinations performed annually;

(b) The methodologies for the test procedures and examinations performed; and

(c) The qualifications (educational background, training, and experience) of the personnel directing and supervising the laboratory and performing the test procedures and examinations.

We specifically requested public comment on ways to minimize the reporting burden for laboratories, both in initial applications and in updating certificates, while meeting the legislative requirements.

We proposed, in § 493.618, to require that, in submitting an application for a provisional certificate, a certificate of waiver, certificate of accreditation, or a certificate, a laboratory must agree to the following:

(a) To make records available and submit reports to HHS as HHS may require.

(b) To permit routine inspections by HHS as specified in subpart N of part 493, except that the effective date of this requirement for laboratories not subject to section 353 of the PHSA as in effect on December 31, 1988, is July 1, 1991. This requirement would not apply to laboratories issued certificates of waiver.

(c) Except for certificate of waiver laboratories, to treat proficiency testing samples in the same manner as it treats materials derived from the human body referred to it for laboratory examinations or other test procedures in the ordinary course of business.

(d) To provide HHS with satisfactory assurances, through an attestation statement signed by the laboratory owner, operator, or authorized representative, that the laboratory will be operated in accordance with the requirements established by the Secretary under section 353 of the PHSA.

We proposed, in § 493.622, that if HHS denies a laboratory's application for a provisional certificate, certificate, certificate of accreditation, or certificate of waiver or limits its applicable certificate, the laboratory would be given a statement of the grounds on which the denial or limitation is based and an opportunity for a hearing in accordance with procedures set forth in part 498.

We also proposed that if a laboratory that is seeking a certificate of any kind for the first time has its application denied or the applicable certificate limited, it would not be able to conduct business as a laboratory under the PHSA unless the denial or limitation is overturned at the conclusion of the administrative appeals process.

As mentioned in section II.B, we plan to implement interim procedures and policy for the issuance of certificates and collection of fees until we are able to fully implement the requirements of CLIA. In § 493.626 we proposed to issue a provisional certificate to each laboratory that was not licensed under section 353 of the PHSA as in effect on December 31, 1988, provided that the laboratory meets the application requirements and pays the applicable fee. Following the full implementation of CLIA, upon payments of the provisional certificate fee, a provisional certificate would be issued initially to any new laboratory not eligible for a certificate of waiver, including a laboratory that is seeking accreditation, to permit the laboratory to test specimens and to allow time for HHS to determine compliance with the CLIA standards.

We also proposed that a provisional certificate would be valid for a period of not more than 2 years. If necessary, a provisional certificate would be reissued until such time as an inspection to determine program compliance can be conducted or the laboratory demonstrates it qualifies to receive a certificate of waiver or certificate of accreditation. We also proposed that the provisional certificate would not be renewable. However, HHS would reissue a provisional certificate to any laboratory that HHS or its designee has not had an opportunity to evaluate for compliance with the requirements for certification.

We proposed that, prior to expiration of the provisional certificate, HHS would notify the laboratory of the requirements to obtain the appropriate certificate. If a laboratory fails to comply with the applicable requirements as specified in the notification, HHS would suspend or deny Medicare payments, if applicable, and initiate revocation or limitation of a laboratory's provisional certificate and would deny the application for a certificate, certificate of accreditation, or certificate of waiver. In this case, HHS would provide the laboratory with a statement of the grounds on which the revocation and denial is based and with an opportunity for a hearing. If the laboratory requests a hearing, the expiration date of the provisional certificate would be extended until a hearing decision by an Administrative Law Judge (ALJ) is issued. The Medicare payments would be suspended or denied pending the hearing decision because the Act authorizes termination of payments under Medicare for those laboratories that fail to meet the requirements, with the opportunity for a hearing to occur subsequent to payment suspension or denial. Under CLIA, laboratories that do not meet the requirements would be notified of the basis for noncompliance determination and offered an opportunity for a hearing prior to any adverse action, unless HHS determines that the laboratory's deficiencies are such that they constitute an imminent and serious threat to human health.

In § 493.630, we proposed to issue a certificate to each laboratory that was licensed under CLIA '67 as of December 31, 1988 provided the laboratory meets the application requirements and pays the applicable fees.

In § 493.631, we proposed the requirements for certificates of waiver and, in § 493.632, we proposed the requirements for certificates of accreditation.

We proposed that the certificate, certificate of waiver, or certificate of accreditation issued would be applicable to only those test procedures and examinations performed by the laboratory that were included on the laboratory's application. In accordance with section 353(b) of the PHSA, a laboratory may not perform any test procedure or examination within a specialty or subspecialty that is not included on the laboratory's certificate, certificate of waiver, or certificate of accreditation. Laboratories must notify HHS prior to the performance of any test not included as a waiver test for performance by certificate of waiver laboratories or any test not included on the laboratory's certificate. A laboratory may not perform any "new" test or examination until it has requested and been issued an appropriate revised certificate that covers the examination or procedure. Additionally, we proposed that the laboratory must notify HHS or its designee within 6 months of any deletions and/or changes in methodologies for any test procedure or examination for which the laboratory has been issued a certificate, certificate of waiver, or certificate of accreditation.

We also proposed that HHS will initiate revocation or limitation of a laboratory's certificate, certificate of waiver, or certificate of accreditation for failure to comply with applicable requirements. For those laboratories that were licensed under CLIA '67 or participate in the Medicare or Medicaid programs, the applicable health and safety requirements are contained in part 493. The applicable health and safety requirements implementing CLIA will be published in a separate rulemaking. If a determination is made that the laboratory is not in compliance with applicable requirements, the laboratory would be given a statement of grounds on which the revocation or limitation action is based and an opportunity for a hearing. The effective date of the revocation or limitation would not be earlier than the date of decision by an ALJ, unless we find that conditions at the laboratory pose an imminent and serious risk to human health. In such cases, we would suspend or limit the laboratory's certificate before the hearing is held. Failure to meet the applicable requirements could also result in loss of Medicare approval or intermediate sanctions to be specified in a separate proposed rule.

In the interest of administrative efficiency, we proposed in § 493.634 that a laboratory must notify HHS or its designee within 30 days if changes occur in the laboratory's ownership, name, location, or director.

In § 493.638, we proposed that a laboratory must pay a fee for the issuance of a provisional certificate, certificate of waiver, certificate of accreditation, or a certificate, as applicable. We proposed that the total fees collected must be sufficient to cover the general cost of administering the laboratory certification program, including evaluating and monitoring proficiency testing programs and accreditation bodies and implementing and monitoring compliance with section 353 of the PHSA. For a certificate of waiver, the fee includes the cost of issuing a certificate of waiver, collection of fees, and analyzing applications to determine if a laboratory should be issued a certificate of waiver. For a certificate of accreditation, the fee includes the cost of issuing a certificate of accreditation, collection of fees, and analyses of standards and administrative policies of programs of accrediting organizations. The fees for the issuance of a provisional certificate, certificate of waiver, certificate of accreditation, or certificate will be assessed biennially. (Our proposed methodology for determining the amounts of the fees is discussed later in this preamble.)

We also proposed that the fee would be set annually on a calendar year basis and would be based on schedules, or ranges, of laboratory test volume and scope of specialties tested, with the amounts of inspection fees in each schedule a function of the average hourly rates for the required activities and the average length of time required for the activity. The amount of the fee applicable to the issuance of a provisional certificate or to the issuance or renewal of a certificate would be the fee amount in effect at the time the application is received. Upon receipt of an application for a provisional certificate or an application (or renewal request) for a certificate, certificate of waiver, or certificate of accreditation, we would send the laboratory a notice advising it of the amount of the fee. We also stated our intent to inform the public of the fee amounts each year by publishing a notice containing that information in the **Federal Register**.

In § 493.639, we proposed that if after a certificate, certificate of accreditation, or a certificate of waiver is issued a laboratory adds services and requests that its certificate or certificate of accreditation be upgraded, or certificate of waiver be changed or eliminated, the laboratory must pay a fee to cover the cost of issuing an appropriate revised certificate. We proposed to base this fee on the actual cost to issue the revision to the laboratory. (Note that an additional fee is also required under § 493.643(e) if it is necessary to fund activities to determine compliance with additional requirements.)

In § 493.643, we proposed that a laboratory that was licensed under section 353 of the PHSA as of December 31, 1988 must pay a fee to cover the cost of determining program compliance. We also proposed that effective July 1, 1991, the other laboratories would be subject to a fee to determine their compliance with Federal requirements. We would not begin collecting this fee from these laboratories, however, until applicable criteria and standards are established in final regulations. Further, the laboratory would not be assessed this fee if it qualifies for a certificate of waiver or certificate of accreditation. We proposed to include in this fee the cost of: conducting onsite surveys, evaluating qualifications of personnel, monitoring proficiency testing, documenting deficiencies, evaluating laboratories' plans to correct deficiencies, and State and Federal surveyor preparation for and attendance at ALJ hearings. Laboratories will not be required to pay the cost of investigating followup surveys and sanction activities if allegations are not substantiated. Although the amount of the fee will be determined annually, inspections will be conducted biennially. Therefore, the fee covers a 2-year period. The proposed methodology used to determine the amount of the fee is discussed later in this preamble.

For purposes of determining the amount of the fee a laboratory that must be inspected must pay, we proposed to initially establish ten fee schedules. The schedules have been established based on the experience of Federal laboratory surveyors and other experts in HCFA to estimate appropriate parameters for classifying laboratories. In addition, we analyzed data from the Federal government's national data base that captures facility-specific information on laboratories, in an attempt to establish parity among the ten schedules listed.

We analyzed the various sizes and workloads of laboratories that are currently participating in the Medicare/Medicaid program and concluded that the average costs to inspect laboratories of various sizes are represented by the benchmarks set forth. These are averages based on a relatively limited amount of experience since the universe of the total number of regulated laboratories will eventually be much greater. We proposed that, as we obtain experience in future years, we will analyze the data and develop new estimates.

We proposed to define a test as a test procedure or examination for a single analyte. Each profile (that is, group of tests) would be counted as the number of separate procedures; for example, a chemistry profile consisting of 18 tests would be counted as 18 separate test procedures or examinations. We specifically invited comments on the appropriateness of the number of specialties and tests we plan to use as thresholds. We also invited comments on our definition of a test and its feasibility, particularly in the area of quantitative testing.

We also proposed that, for purposes of determining a laboratory's fee schedule classification, the specialties and subspecialties currently used for Medicare, Medicaid, and CLIA '67 would be used initially to describe a laboratory's services.

We also proposed that, if after a certificate is issued, a laboratory adds services and requests that its certificate be upgraded, the laboratory must pay an additional fee if, in order to determine compliance with additional requirements, it is necessary to conduct an inspection, evaluate personnel, or monitor proficiency testing participation. We proposed to base the additional fee on the actual resources and time necessary to perform the activities.

In § 493.645, we proposed that, in addition to the certificate fee, a laboratory that is issued a certificate of accreditation would also be assessed a fee to cover the cost of evaluating individual laboratories to determine overall whether an accreditation program's standards and inspection policies are equivalent to the Federal program. An annual random sample of 5 percent of all accredited laboratories would be inspected in order to compare inspection findings of HHS or its agents with the findings of the accreditation organizations. All accredited laboratories would share in the cost of these inspections. These costs are the same as those that would be incurred when inspecting nonaccredited laboratories.

Additionally, we proposed that if, in the case of a laboratory that has been issued a certificate of accreditation, it is necessary to conduct a complaint investigation, impose sanctions or conduct a hearing, the affected laboratory would be assessed a fee to cover the cost of these activities. Sanction activity costs for State surveyors and sanction activity costs for the Federal Government (which include testimony of Federal experts and costs for ALJs and attorney representation) would be in addition to the certificate of accreditation fee. If a complaint investigation results in a complaint being unsubstantiated or if an HHS adverse action is overturned at the conclusion of the appeals process, the cost of the inspection would not be imposed upon the laboratory. The inspection fee for the complaint investigation would not be assessed until after a laboratory concedes the existence of the deficiencies or an ALJ rules in favor of HHS.

In § 493.646, we proposed to notify laboratories by mail of the appropriate fee(s) and instructions for submitting the fee(s), including the due date for payment and the United States Department of Treasury designated commercial bank to which payment must be made. These fees, when finally calculated, would be nonrefundable, and provisional certificates, certificates of waiver, certificates of accreditation, and certificates would not be issued until the applicable fees have been paid.

Three different entities perform activities related to the issuance or renewal of the various types of certificates and determining program compliance. They are: State survey agencies, Federal agencies, and HHS contractors. In § 493.649, we proposed to establish fee amounts fixed to the schedule in which the laboratory falls, which is related to the average hourly rates established for these three entities and to the average number of hours required to perform the activities. We also proposed the costs to be included in establishing the average hourly rate.

We proposed that the number of hours used to determine the overall fee in each of the schedules initially would be HCFA's estimate of the average time needed by each entity to perform the activities for which it is responsible. We asked for comments from all laboratories on the methodology proposed for establishing the fee amounts for determination of compliance because we propose to use the same methodology to determine fees for laboratories that were not subject to CLIA '67 but will be subject to CLIA '88 determinations of compliance. We also proposed that, as we gain experience using the schedules, we would consider appropriate adjustments to the methodology for assessing fees to ensure that each laboratory is charged the fee amount related to the time and resources needed to determine the laboratory's compliance with the requirements.

On the basis of this methodology, we proposed a fee of $261 for issuing a provisional certificate or a certificate to each laboratory, regardless of its relative size. We also proposed this same fee for issuing a revised certificate. (We are changing this approach in this final rule by stipulating that the fee a laboratory must pay for a registration certificate or a certificate will depend upon the laboratory's scope and volume of testing. A discussion of this change is contained in section IV of this preamble in response to comments under § 493.638, "Registration Certificate and Certificate Fees.")

We proposed that, under the proposed methodology, the average time and cost required to determine compliance during fiscal year 1991 would be as follows:

	Hours	Average [1] hourly rate	Biennial user fee
Schedule A Laboratories:			
Biennial inspection [2]	24	$35	$840
Followup visit or complaint investigation	15	35	525

	Hours	Average [1] hourly rate	Biennial user fee
Sanctions/Hearings	8	35	280
Schedule B Laboratories:			
Biennial inspection [2]	32	35	1,120
Followup visit or complaint investigation	17	35	595
Sanctions/Hearings	9	35	315
Schedule C Laboratories:			
Biennial inspection [2]	40	35	1,400
Followup visit or complaint investigation	19	35	665
Sanctions/Hearings	10	35	350
Schedule D Laboratories:			
Biennial inspection [2]	47	35	1,645
Followup visit or complaint investigation	21	35	735
Sanctions/Hearings	11	35	385
Schedule E Laboratories:			
Biennial inspection [2]	54	35	1,890
Followup visit or complaint investigation	24	35	840
Sanctions/Hearings	12	35	420
Schedule F Laboratories:			
Biennial inspection [2]	61	35	2,135
Followup visit or complaint investigation	26	35	910
Sanctions/Hearings	13	35	455
Schedule G Laboratories:			
Biennial inspection [2]	68	35	2,380
Followup visit or complaint investigation	28	35	980
Sanctions/Hearings	14	35	490
Schedule H Laboratories:			
Biennial inspection [2]	75	35	2,625
Followup visit or complaint investigation	30	35	1,050
Sanctions/Hearings	15	35	525
Schedule I Laboratories:			
Biennial inspection [2]	82	35	2,870
Followup visit or complaint investigation	32	35	1,120
Sanctions/Hearings	16	35	560
Schedule J Laboratories:			
Biennial inspection [2]	The sum of 82 hours plus 7 hours for each additional 500,000 tests or portion thereof multiplied by a $35 hourly rate.		
Followup visit or complaint investigation	The sum of 32 plus 2 hours for each additional 500,000 tests or portion thereof multiplied by a $35 hourly rate.		
Sanctions/Hearings	The sum of 16 hours plus 1 hour for each additional 500,000 tests or portion thereof multiplied by a $35 hourly rate.		

[1] Average hourly rates and user fees are shown since individual contracts are negotiated with 53 State survey agencies. The actual user fee for determining compliance would depend upon the State in which the laboratory is located. The $35 hourly rate is based on total surveyor time, which includes the time surveyors are not involved in activities directly related to determinations of compliance. The unit cost budget methodology is based on actual surveyor time to conduct compliance evaluations, which is about $27 per hour. We add an adjustment of $8 per hour to cover surveyor costs for holidays, vacation, sick leave, and attendance at training courses. Therefore, the cost of these other work-related activities has been included in the user fee methodology.

[2] Includes evaluating qualifications of personnel; monitoring proficiency testing; conducting onsite surveys; developing deficiency statements; and evaluating laboratories plans to correct deficiencies.

(Note that this final rule contains a change concerning compliance inspections of State-exempt laboratories that is discussed, in section IV of this preamble, in response to comments on § 493.645. Also, note that this final rule adds a new category within Schedule A for those laboratories performing no more than 2,000 laboratory tests per year. The fee associated with determining compliance for this category during FY 1992 is $300.)

We proposed that, under the proposed methodology, the fee that a laboratory issued a certificate of accreditation would pay [1] in fiscal year 1991 to share the cost of the 5 percent random inspections discussed earlier would be:

Schedule A Laboratories	$42
Schedule B Laboratories	56
Schedule C Laboratories	70
Schedule D Laboratories	82
Schedule E Laboratories	95
Schedule F Laboratories	107
Schedule G Laboratories	119
Schedule H Laboratories	131
Schedule I Laboratories	144
Schedule J Laboratories	(1)

[1] Schedule I base fee plus $12 for each additional 500,000 tests or portion thereof.

(Note that this final rule contains a change concerning responsibility for the cost of compliance inspections of State-exempt laboratories that is discussed in section IV of this preamble in response to comments on § 493.645.

We proposed that, under the proposed methodology, the average fee that a laboratory issued a certificate of accreditation would pay, if it is necessary to perform the following activities in the case of that particular laboratory during fiscal year 1991, would be:

Follow-up visits or complaint investigations:

Schedule A Laboratories	$525
Schedule B Laboratories	595
Schedule C Laboratories	665
Schedule D Laboratories	735
Schedule E Laboratories	840

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[1] Includes evaluating qualifications of personnel; monitoring proficiency testing; conducting onsite surveys; developing deficiency statements; and evaluating laboratories plans to correct deficiencies.

Schedule F Laboratories	910
Schedule G Laboratories	980
Schedule H Laboratories	1,050
Schedule I Laboratories	1,120
Schedule J Laboratories	([1])

[1] Schedule I base fee plus $70 for each additional 500,000 tests or portion thereof.

Sanctions/Hearing:	
Schedule A Laboratories	$280
Schedule B Laboratories	315
Schedule C Laboratories	350
Schedule D Laboratories	385
Schedule E Laboratories	420
Schedule F Laboratories	455
Schedule G Laboratories	490
Schedule H Laboratories	525
Schedule I Laboratories	560
Schedule J Laboratories	([1])

[1] Schedule I base fee plus $35 for each additional 500,000 tests or portion thereof.

(Note that this final rule contains a change concerning the application of the above costs to State-exempt laboratories that is discussed in section IV of this preamble in response to comments on § 493.645.)

We proposed that the minimum fee that a laboratory would be required to pay for determination of program compliance would be the amount representing the biennial inspection costs in the aforementioned schedules. If the laboratory requires additonal survey time as a result of followup visit(s), certificate revisions, complaint investigation(s) that are substantiated, intermediate sanctions, appeals or hearings, an additional assessment will be made for such activities.

IV. Analysis of and Responses to Public Comments

We received 93 comments in response to the proposed rule published August 3, 1990. Commenters included professional organizations, hospitals, home health agencies, medical and professional organizations, and individuals. While many of the commenters raised general concerns about the proposed application procedures and fee schedule, their major concerns pertained to the proposed regulations published in the **Federal Register** on May 21, 1990 (55 FR 20896) that would establish CLIA health and safety requirements based on the complexity of testing performed. The issues raised by commenters concerning tests and procedures that will be eligible for waiver or exclusion are addressed in the final rule and complexity list published elsewhere in this edition of the **Federal Register**. We have based our fees on our best estimates of the costs necessary to implement and administer the CLIA program. Once better data are available on the actual costs necessary to operate the CLIA program, we will adjust the fee schedules, as appropriate.

General Comments

Comment: A few commenters recommended that HCFA republish or "repropose" the proposed rule for user fees or postpone publication of the final rule until the proposed certification standards published May 21, 1990 (HSQ-176-P) are established. The commenters indicated that without knowledge of the certification standards establishing the regulatory framework applicable to all facilities performing testing, they could not provide meaningful comments on the proposed regulations governing fee schedules.

Response: Based upon concerns of the commenters, we have decided to wait until publication of the final CLIA laboratory standards (HSQ-176-F) before we collect fees. We will collect fees based upon the volume and scope of testing that laboratories perform. No fees will be collected from laboratories that elect to discontinue laboratory testing before the effective date of HSQ-176-F.

Also, to minimize the overall impact of this regulation on the laboratory community, we have: (1) Restructured the fee schedule by establishing, in Schedule A, a separate fee ($300) for compliance inspections of low-volume laboratories that conduct 2,000 or fewer tests per year, and (2) revised the cost of issuing registration certificates and certificates from $261 across-the-board to $100, $350, or $600 depending on the scope and volume of laboratory testing.

Section 493.602 Scope and Section 493.606 Applicability

We received numerous inquiries questioning whether CLIA is applicable to laboratories that conduct testing only for forensic purposes. We have determined that CLIA does not apply to such entities provided that these entities do not conduct testing for "the purpose of providing information for the diagnosis, prevention or treatment of any disease or impairment of, or the assessment of the health, of human beings." This means that, generally, CLIA would not apply to law enforcement agencies that conduct such testing to determine whether there is a violation of the law. Specifically, the clear thrust of the CLIA legislative history is in seeing that medical diagnosis and treatment are based upon accurate and reliable laboratory test results, not that laboratory testing should be regulated outside the patient care context. However, if the entity conducts testing for the purpose of providing information for the diagnosis, prevention or treatment of any disease or impairment of, or the assessment of the health of, human beings, the entity would be subject to CLIA. The determining factor is not the test itself, but the purpose for which the test is conducted. We have revised proposed § 493.602 to clarify that the requirements of this rule apply to all laboratories "that test human specimens for health purposes."

Comment: One commenter suggested that it may be appropriate to conduct inspections of laboratories that are not under any regulatory agency but that hospitals that are accredited by the Joint Commission on the Accreditation of Healthcare Organizations (JCAHO) should not be subject to CLIA.

Response: CLIA authorizes the recognition of accreditation and State programs that have standards equal to or more stringent than the CLIA requirements. On August 20, 1990, we published in the **Federal Register** (55 FR 33936) proposed criteria for recognition of accreditation and State licensure programs. Once the CLIA requirements are published in final, including the health and safety standards and criteria for recognition of accreditation and State licensure programs, accreditation programs and State licensure programs will be able to apply for recognition under CLIA. Those programs with standards equal to or more stringent than CLIA will be recognized. A laboratory accredited by an approved accreditation program will be deemed to meet the CLIA requirements provided the laboratory submits an application, meets the application requirements, and pays the appropriate fee for a certificate of accreditation. Laboratories with certificates of accreditation will be subject to random inspections to monitor the accreditation organization standards with respect to their equivalency with CLIA requirements.

Further, in response to comments received on the August 20, 1990 proposed rule concerning recognition of accreditation and State programs, we reexamined the statutory provisions regarding State licensing programs. Section 353(p)(2) of PHSA specifies that, if a State enacts laws that provide for requirements equal to or more stringent than the CLIA statutory requirements or requirements of the regulations, the Secretary may exempt clinical laboratories in that State from the CLIA requirements. We have chosen to exercise that authority and will exempt from the requirements of CLIA laboratories located in States whose licensure programs are approved by HHS. Such "State-exempt" laboratories will not require certification by HHS and will not be subject to fees. We have revised proposed § 493.610, "Registration certificate or certificate required for laboratories," to reflect this change. We have also changed the title of the section to "Certificate requirements for laboratories" to more accurately reflect the content of this section. State-exempt laboratories will be required to permit Federal inspectors to conduct inspections to ensure standards are being enforced in an appropriate manner. We have revised proposed § 493.602 to add that this rule sets forth the methodology for determining the amount of the fees for Federal validation of State-exempt laboratories. Further, we have revised proposed § 493.645, which concerns additional fees, to add that HHS assesses the State the costs of the validation inspections and its proportionate share of the general overhead costs for the development and implementation of CLIA. We have made this revision because we realize that laboratories in these States are exempt from all CLIA requirements, including the statute's fee provisions. At the same time, because the Congress expects us to recover all Federal CLIA expenses through the collection of fees, we realized that the costs of validation inspections for a CLIA-exempt laboratory had to be reflected in our fee structure. Accordingly, we concluded that such costs ought to be recovered through the assessment of fees from those States seeking Federal approval of their licensure programs under section 353(p) of the PHSA. We view this agreement to pay such fees as a condition of our approval of such licensure programs. Whether States would in turn assess laboratories these fees is a matter that is behond the scope of CLIA '88.

Comment: One commenter sugggested that a laboratory that is enrolled in and acceptably participating in an independent or external commercial quality control program should be exempt from inspections and the fees for inspection. The commenter agreed that a fee for issuing certificates should be charged.

Response: With the exception of laboratories exempted by § 493.3 (published elsewhere in this issue of the **Federal Register**), every facility testing human specimens "for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, human beings" is subject to CLIA. There is no provision in CLIA to exempt laboratories because they are enrolled and participate in a quality control program.

Comment: One commenter suggested that the fees paid for JCAHO accreditation and the inspection by the State for licensure should be accepted in total and in place of collecting any additional fees or conducting inspections under CLIA.

Response: Once CLIA is fully implemented, a laboratory that is accredited by an accreditation program that is approved by HHS will need to apply for a CLIA certificate of accreditation and pay the appropriate fee. All certificate fees include the Federal costs associated with establishing the CLIA requirements, conducting the studies mandated by CLIA, contractor-related costs, and costs for the implementation and operation of the CLIA program. In addition, HHS must recoup all costs associated with the monitoring of the approved private accrediting organization's performance in determining the laboratory's compliance with the CLIA requirements. CLIA requires that all certificate holders, including those which might have a certificate of accreditation, must share in the costs that the government incurs in administering the CLIA program.

A clinical laboratory located within a State that has had its licensing program approved by HHS (that is, a "State-exempt" laboratory) is not required to apply for a certificate. State-exempt laboratories are closely monitored by their State licensing program. However, like an accredited laboratory, a State-exempt laboratory may undergo a random survey to validate that the licensing program's standards and criteria continue to be applied appropriately. Unlike accredited laboratories, which must pay for their share of the costs of these sample validation surveys, State-exempt laboratories do not pay these costs to HHS. Rather, as stated above, HHS will asssess the State for all costs associated with these surveys.

Comment: A few commenters indicated that, in consideration of costs, we should perform random inspections of laboratories or target inspections of laboratories that have been responsible for providing inaccurate results. The commenters noted that inspecting all the laboratories in the country would increase medical costs.

Response: Consistent with section 353(g)(2) of the PHSA, once CLIA is fully implemented, we intend to conduct an inspection at least every 2 years of all laboratories issued a certificate. Laboratories with a certificate of accreditation or State-exempt laboratories are subject to random validation inspections. However, no routine inspections are required for certificate of wavier laboratories.

Comment: One commenter recommended that, with the expanded level system, there should be a role for self certification by means of the application for the lower laboratory levels. The commenter stated that HHS should retain the right to inspect for cause or as part of a random survey, but the commenter saw no need for HHS to inspect every laboratory location during the initiation phase of the regulation.

Response: Because the statute requires that the Secretary undertake inspections, we could not adopt the system of self-certification suggested by the commenter. After an initial certificate is issued, we intend to conduct at least biennial inspections.

Comment: Several commenters indicated that home health agencies (HHAs) and hospices should be exempt from the CLIA requirements because HHAs and hospices are not clinical laboratories since these facilities typically perform screening procedures only or provide instructions to patients for performing self-administered tests. The commenters stated that the fees and requirements imposed by these regulations would have devastating effects on the budgets of HHAs. They also stated that the fee requirements, even those for certificates of waiver, combined with threatened cuts in Medicare payments and State budgets for Medicaid, will force HHAs to stop offering these patient services and assisting patients in the performance of self-administered tests in the home.

Response: Section 353 of the PHSA applies to every facility testing human specimens "for the purpose of providing information for the diagnosis, prevention, or treatment of any disease of impairment of, or the assessment of the health of, human beings * * *." If an HHA or hospice performs testing for these purposes, we cannot exempt it from the CLIA requirements. On the other hand, we acknowledge that certain activities that involve testing are not within the range of concerns that the Congress had when it enacted CLIA. Specifically, we do not believe that the Congress had any wish to see us regulate, as laboratories, individuals who may be self-administering a test in their own home with an appliance that has been approved for that over-the-counter purpose by the Food and Drug Administration. Thus, to the extent that an HHA or hospice that is providing care in an individual's home is engaged solely in assisting an individual in performing a test, which if performed by the individual would be beyond CLIA's reach, we have no intent to impose a CLIA fee on the HHA or hospice by virtue of that activity. If the HHA or hospice engages in testing outside this narrow context, however, section 353 of the PHSA also requires "payment of fees for the issuance and renewal of certificates, except that the Secretary shall only require a nominal fee for the issuance and renewal of certificates of waiver." After publication of the final CLIA standards regulation (HSQ–176–F), laboratories will be required to meet CLIA application requirements and pay the established fee for a certificate of waiver or registration certificate. The bases for the fee amounts are discussed in our responses to comments under § 493.638, "Registration certificate and certificate fees," and § 493.646, "Payment of fees."

Comment: One commenter (representing an HHA) questioned whether we expect individual HHA patients to apply for CLIA certification since they own reflectance meters and conduct blood glucose testing on themselves. Initially, HHA staff provides training to the patients to assist them in performing tests on themselves after discharge from the HHA.

Response: We will not require individual patients to apply for CLIA certification. CLIA only applies to "facilities" performing laboratory testing on human specimens. Therefore, except for those laboratories listed in § 493.3 (published elsewhere in this issue of the **Federal Register**) that are excluded from CLIA, facilities that test human specimens must apply for a registration certificate. In HSQ–176–F, we will establish regulations that are based on complexity of testing and specify which tests meet the requirements for waiver. In addition, as previously explained, to the extent that an HHA or hospice that is providing care in an individual's home is engaged solely in assisting an individual in performing a test, which if performed by the individual would be beyond CLIA's reach, we have no intent to impose a CLIA fee on the hospice by virtue of that activity.

Comment: Another commenter (representing an HHA/hospice) indicated that registered nurses on occasion perform finger sticks and/or venapunctures as a courtesy to a patient, family member, or physician. The commenter questioned whether, since the related examinations are not conducted in the hospice or HHA office, the certification would be issued to the patient's home, the nurse's automobile, or the office. The commenter also asked whether the HHA/hospice would be identified as a laboratory if staff perform an occasional waived test as a courtesy to the patient or physician.

Response: In situations in which a hospice or HHA conducts testing at a temporary location or patients home, the hospice or HHA is subject to the requirements of CLIA. However, the certificate would be issued to the HHA or hospice office or branch location not to the temporary location of the patient's home or the nurse's automobile unless the automobile is a mobile vehicle that patients come to for testing. Since waived tests are encompassed by the CLIA statute, an HHA or hospice staff that performs such a test for the convenience of the patient would automatically subject the HHA or hospice to CLIA's requirements. In addition, as previously explained, to the extent that an HHA or hospice that is providing care in an individual's home is engaged solely in assisting an individual in performing a test, which if performed by the individual would be beyond CLIA's reach, we have no intent to impose a CLIA fee on the HHA or hospice by virtue of that activity.

Comment: A commenter, representing a State Home Care Association, recommended that the definition of location not be construed to include home health care clinics held at a variety of sites throughout a county or at individual homes. They advocated the location being defined as the office location of the agency or the area of service for home health agencies.

Response: Facilities that provide services at temporary sites such as patients' homes or shopping centers do not have to obtain certificates for these locations, but the home base must apply.

Comment: One commenter recommended that the proposed fee schedules be reexamined to consider the burden and cost imposed on rural facilities. The commenter noted that public health departments and small rural hospitals will not be able to effectively accommodate these uncertain costs in their financially strapped budgets.

Response: In a change from our proposed rule and in an attempt to fairly distribute the cost of this program, we are reducing the fees for registration certificate purposes. Largely to benefit laboratories such as those found in small rural hospitals, we have established a range of fees that is based on the scope and volume of laboratory testing. We have also reduced the compliance fee for low-volume laboratories that conduct 2,000 or fewer tests per year. As better data become available on the cost necessary to operate the CLIA program, we will revise the fees.

Comment: Several commenters expressed concern about the effect of CLIA certification on the Women, Infants and Children (WIC) program. They stated that the financial burden for obtaining a certificate for the limited number of tests performed (primarily hemoglobin/hematocrit) will increase the administrative cost and limit the ability of these programs to provide patient services.

Response: WIC programs are subject to CLIA because they test human specimens for health purposes. We have revised the regulation to permit laboratories that do limited testing and are directed by not-for-profit or Federal, State, or local government organizations to operate under one certificate.

Comment: One commenter expressed concern that the fee schedule is unfavorably skewed against his facility because his laboratory performs a very large volume of a limited number of test types.

Response: Our fee schedules reflect our best estimates of current cost information associated with completing the inspection process. The greater a laboratory's test volume, the more time it will take (and the higher the cost will be) to properly evaluate whether the laboratory is conducting tests in compliance with Federal requirements. As more definitive data becomes available, we intend to adjust the fee schedules, as appropriate.

Comment: One commenter questioned how we will determine the affected entities and adequately enforce the CLIA provisions, since we had stated in the proposed rule that "currently we are unable to determine with any high degree of accuracy, due to lack of data, the universe of laboratories that would be compelled to meet the requirements of these provisions."

Response: As we outlined under section II.B. of this preamble, we will use various approaches to identify all entities that test human specimens and are not excluded from CLIA and notify them of the CLIA requirements and necessity of being certified under CLIA. However, the law places the burden on the laboratory to come forward and obtain a certificate if it is to test specimens. Unless the laboratory is State-exempt, operation of a laboratory without a certificate is a violation of the law and will subject the laboratory to the penalties outlined in the law.

Comment: Several commenters indicated that physicians who perform laboratory tests for their patients view these laboratory tests as an integral component of their practice, not as a function of a separate, distinct facility or a "laboratory" in the common meaning, and, therefore, should be exempt from CLIA requirements. One commenter also indicated that we have not defined what constitutes a "laboratory" in either this rule or the proposed rule published May 21, 1990 and that has created problems in estimating the number of entities regulated under CLIA.

Response: Congress fully intended that CLIA apply to physician offices that perform testing services for patients, as reflected in the Report from the Committee on Energy and Commerce that accompanied the CLIA legislation (H.R. Rep. No. 5150, 100th Cong., 2nd Sess. pages 27–39 (1988)). For example, when discussing standards, the Report specifically states at section 101(f) that "* * * two laboratories otherwise identical, would be subject to the same standards and requirements, notwithstanding that one is located in a physician's office and the other in a different setting." Additionally in section 102, with respect to effective dates, the Report states that "* * * the number of laboratories subject to Federal certification for the first time on January 1, 1990 may exceed 100,000. Moreover, many of these will be physician office laboratories performing a limited range of testing."

Section 493.610 Registration Certificate or Certificate Required for Laboratories (Now Titled "Certificate Requirements for Laboratories")

Comments that affect § 493.610 are reflected in other sections of this preamble.

Section 493.614 Application Procedures

Comment: Some commenters believed that it is the government's responsibility to inform all laboratories of what actions are necessary to comply with the law (CLIA).

Response: We have sent a questionnaire to all laboratories approved for participation in the Medicare or Medicaid program or authorized to test specimens in interstate commerce, as well as any other laboratories we were able to identify that we believe may be subject to the provisions of CLIA. However, the law clearly places the burden on the laboratory to secure the needed certification to operate as a laboratory. Once the standards regulation, HSQ–176–F, is published, we will bill laboratories based on test volume.

Comment: Many commenters indicated that the application requirements for certification are burdensome due to the data required and time involved for the staff to collect the information. Laboratories indicated that the paperwork involved in completing the initial application as well as maintaining the ongoing statistics for renewal application will increase the laboratory's operational expenses.

Response: As stated above, we sent a questionnaire to entities we were able to identify as performing laboratory testing. After the standards rule, HSQ–176–F, is published, we will send applications and bills to laboratories subject to CLIA. We will attempt to reduce the burden of these forms as much as possible; however, certain information is required by the statute.

Comment: One commenter indicated that the application requirements would be particularly burdensome for hospitals that have multiple laboratory locations (that is, a hospital with a critical care unit, operating rooms, surgery center, dialysis unit, etc.).

Response: The application requirements are those required by section 353(d)(1)(A) of the PHSA. In consideration of the organizational and operational aspects of hospitals, we will allow laboratories within a hospital that are under common direction and located at the same street address to apply for a single certification or multiple certificates. Therefore, a hospital could apply for a single certificate to cover all testing sites at the same address, or, at its option, apply for separate certificates for each department of service; for example, a critical care unit, operating rooms, surgery centers, dialysis units. In addition, an organization that does limited testing (that is, few types of tests) for screening or treatment of individuals that is directed by a not-for-profit or Federal, State, or local government organization can operate (at its option) under one certificate; for example, the WIC program. We have revised proposed § 493.614 to include these options.

Comment: One commenter indicated that the proposed application process seems time consuming and costly. The commenter suggested that we carefully consider each laboratory's current operation, particularly those facilities that are already licensed by the State or approved by an accrediting organization.

Response: Section 353(b) of the PHSA requires that "No person may solicit or accept materials derived from the human body for laboratory examination or other procedure unless there is in effect for the laboratory a certificate issued by the Secretary * * *." The statute requires as well that, in order for a laboratory to receive a certificate, it must comply with the statute's application requirements. This includes laboratories accredited by an accrediting organization. As stated previously, we are exercising the authority contained in section 353(p) of PHSA to exempt from CLIA requirements laboratories licensed by an approved State licensure program. Those laboratories will not be required to have a certificate.

Comment: One commenter expressed concern that CLIA does not take into consideration the impact that the application process would have on home health and community based agencies.

Response: CLIA provides no exclusion for HHAs. All facilities testing human specimens "for the purpose of providing information for diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, human beings" are required to conform to CLIA. However, to the extent that an HHA or hospice that is providing care in an individual's home is engaged solely in assisting an individual in performing a test, which if performed by the individual would be beyond CLIA's reach, we have no intent to impose a CLIA fee on the HHA or hospice by virtue of that activity. In addition, since we will not begin the application or billing process until HSQ–176–F is published, an entity will be in a better position at that time to determine whether it wishes to continue laboratory testing.

Comment: One commenter stated that methodologies are often instrument-dependent for chemistry and immunochemistry testing and expressed the concern that laboratories would be unable to include the upgrade of equipment until a new application for certification was filed and acted upon. The commenter also questioned whether a laboratory would be in violation of CLIA if it began using a kit or methodology not on its certificate application. Another commenter indicated that if notification to HHS is required before modifications can be made to the test menu, the efficient and effective operation of the laboratory will be severely inhibited. The commenter recommended that laboratories adding tests that would be included in the service levels specified on the certificate should not be charged an additional fee or need to notify HHS before performing the test. Additions to, deletions from, and changes in the list of tests for which the laboratory has been issued a certificate could be communicated to

HHS every 2 years, at the time of biennial inspection.

Response: The CLIA statute requires that we collect information on the methodologies for the test procedures performed. Registration certificates will not specify the specialties/subspecialties of services offered, except as indicated in § 493.633. Thus, laboratories will be able to notify us of the revised services offered and are not required to obtain an amended registration certificate. With respect to certificates and certificates of accreditation, we plan to list categories or specialties or subspecialties of testing on the certificate. (Except that certificates of waiver will only reflect testing in the waived category.) We will not routinely list individual test procedures. Therefore, laboratories will not be required to obtain a revised certificate provided the test additions are covered in the specialties or subspecialties of services listed on the certificate. CLIA requires laboratories that are issued a regular certificate or certificate of accreditation to report changes in tests not later than 6 months after the change has been put in effect as indicated in § 493.633. However, if a laboratory with a certificate of waiver expands its services beyond the waived tests, it must notify HHS before performing such testing. In such instances, a registration certificate will be issued to the laboratory so that the additional testing can be performed until we determine compliance with Federal requirements and issue a regular certificate.

Comment: One organization supports the intent of CLIA to strengthen quality control and quality assurance activities in the performance of laboratory tests. However, the commenter is concerned that burdensome application processes and excessive fees may cause a significant reduction in laboratory services provided in physician offices. The commenter indicated that this may result in a potentially large gap in access to laboratory services for patients everywhere, but most critically for those in rural areas and other sites where alternative testing sites are scarce.

Response: As stated earlier, the application and fee collection requirements are specified in the law. The fee schedules are based on our best estimates of the Federal costs associated with the development and administration of CLIA regulations, reviewing applications and collecting fees, Federally mandated studies, contractor costs, and evaluating laboratories for determination of compliance. As better data become available on the cost necessary to operate the CLIA program, we intend to seek input from the public and will adjust the fee schedules as appropriate. In addition, we have reduced the compliance fee for small laboratories conducting not more than 2,000 tests per year and have also lowered the certificate fee for small laboratories to $100 from the proposed $261 level. These very small laboratories are the type often found in low volume, rural clinics or small doctors" offices.

Section 493.614 Responses to Request for Comments

In the preamble of the proposed rule we specifically requested suggestions on ways the reporting burden required for certificate application can be minimized, while meeting the legislative intent. We received the following responses to this request.

Comment: Many commenters urged that the application include a pre-printed "checklist." One commenter recommended that we develop special forms to update certifications that would require information only on the "changes" that occurred since the initial application. Another commenter suggested that separate applications be developed and utilized for waiver, Level I, and Level II laboratories, with the information requested targeted to the requirements for each type of certificate.

Response: We will take into account any measure that is feasible to simplify the application process. When CLIA is fully implemented, we plan to have application forms that are simple, easy to complete, and appropriate for all categories of laboratory testing. Until that time we will use a questionnaire that will collect the basic information necessary to identify laboratories subject to CLIA.

Comment: One commenter urged HHS to consider revising the fee schedule to discount multiple certificates issued to a single institution and to reduce reporting burden by allowing hospitals to file a single application that would encompass all the certificates to be issued to its laboratories.

Response: A certificate may be issued to a hospital location identified by a specific street address to cover multiple testing sites within the hospital provided the different testing sites are under common directorship. Likewise the hospital may wish to have multiple certificates for different testing sites in the same location. We believe the fee schedule is established appropriately to represent general CLIA implementation and operational costs as well as the costs for determining compliance that correlate with the volume and scope of services performed. Additionally, organizations that do limited testing (that is, few types of tests) for screening or treatment of individuals that are directed by not-for-profit or Federal, State, or local government organizations can operate (at their option) under one certificate, for example, the WIC program.

Comment: One commenter expressed concern that the fee regulations as proposed did not consider the testing situations of public health agencies. These agencies traditionally provide services for underserved populations and for the prevention and control of communicable diseases. Even though the laboratory testing may be simple and the testing volume may be low, in order to be effective, those agencies must provide services that are convenient to the populations served. The application procedures and fee schedules proposed would be a tremendous burden to public health agencies.

Response: CLIA is specific that "No person may solicit or accept materials derived from the human body for laboratory examination or other procedure unless there is in effect for the laboratory a certificate issued by the Secretary * * * ." For a laboratory that is not at a fixed location, that is, a "laboratory" that moves from testing site to testing site such as a health screening fair or other temporary testing location, we would issue a certificate to the home base. If the laboratory has a certificate, other than a certificate of waiver, we would conduct routine inspections at selected testing sites or locations.

Comment: One commenter noted that the proposed rule states that the certificate application requirements are based on section 353(d)(1)(A) of the PHSA, which requires laboratories to describe "characteristics," "number and types," and "methodologies" of the tests proposed to be performed. Individual test names are not required by the statute. Therefore, the commenter recommended that the application not require specific names, but rather list groups of procedures, such groups being defined by their characteristics, types, and methodologies. Then, as long as a laboratory has included a group of procedures on its application, it may add any additional procedure within that group without notifying HHS or paying an additional fee.

Response: Except as exempt by § 493.3 (published elsewhere in this issue of the **Federal Register**), all laboratories must obtain a registration certificate or certificate of waiver. An

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inspection will not be required for issuance of a registration certificate. Once CLIA is fully implemented, we must know the "types" of tests or names of tests that a laboratory performs to determine whether a laboratory may be issued a certificate of waiver. Additionally, test names are needed to correlate with methodologies performed and to categorize the procedures or examinations by specialty or subspecialty of service for issuance of a regular certificate. CLIA requires that each laboratory have a certificate applicable to the specialty or subspecialty of service to cover the categories of examinations or procedures performed by the laboratory unless it is granted an exemption as a laboratory licensed by an approved State licensure program. The certificate will not include test names but instead specialties or subspecialties of services. As long as the laboratory has a valid certificate to cover the specialties or subspecialties of services performed, the laboratory may add or delete tests or examinations without revising the CLIA certificate. (Certificates of waiver will only reflect testing in the waived category.) As indicated in § 493.633, a laboratory with a certificate of waiver must notify HHS before performing tests not listed in the waiver test category, while a laboratory with a certificate must notify HHS or a laboratory with a certificate of accreditation must notify the accrediting organization within 6 months of any change in testing.

Comment: In order to minimize the reporting burden, one commenter recommended that laboratories be allowed to indicate on the application form that there are several methodologies that they could potentially use to perform a particular test without regard to the methodology most commonly used. The commenter suggested that a list of the methodologies most commonly performed could be attached to the application. In this regard, another commenter asked whether, if several alternative methods for performing a particular analysis or examination were listed on the application, the laboratory would be required to stock all the reagents and perform proficiency surveys using all methodologies listed. One commenter indicated that the use of pre-printed forms listing methodologies and tests could be restrictive and would rapidly become outdated.

Response: CLIA legislation and application procedures require laboratories to include as part of the application "the methodologies for laboratory examinations and other procedures employed." Therefore, the laboratory must include only those methodologies actually used for testing. Test reagents should be available to perform the methodologies listed. Laboratories will be required to perform proficiency testing surveys as required under CLIA standards regulation HSQ-176-F, which is published as a separate rule in this edition of the **Federal Register.** We recognize that pre-printed forms could rapidly become outdated, and we will consider this factor in designing the forms.

Comment: A number of commenters indicated support of the use of pre-printed application forms. One commenter suggested that pre-printed application forms be used to collect information on the education, training, and experience of each employee rather than requiring employee résumés. One commenter recommended that the form not require a detailed description of the qualifications of each laboratory employee but rather a printed statement that all personnel comply with CLIA requirements. The commenter said this statement could be signed and attested to by the individual representing the facility who signs the application form. Another commenter pointed out, however, that the use of pre-printed forms for the certification of technical personnel would be restrictive and would not allow for the continual updating of educational status.

Response: As stated above, we recognize that pre-printed forms could rapidly become outdated and will consider this factor in designing the forms. However, CLIA requires that we obtain information concerning "the qualifications (educational background, training and experience) of the personnel directing and supervising the laboratory and performing the laboratory examinations and other procedures * * *." We all strive to develop application forms that require the least burden possible to complete.

Comment: Several commenters expressed concern with respect to the requirement that a separate application be filed for each laboratory location. One commenter recommended that the institution be allowed to determine the number of applications for that institution based on who has control or jurisdiction over the testing site within the institution. The institution could elect to be "certified as a whole" (that is, one certificate) or have multiple sites with separate certificates. Another commenter recommended that there should only be one application and fee required if the same supervising personnel are working in multiple test sites within one corporation.

Response: As stated earlier, we will provide flexibility to a hospital located at one street address and under common direction to allow it to determine the number of certificates required. However, if the hospital conducts testing at separate locations, (that is, different street addresses) each location must be evaluated for determination of compliance with CLIA. Laboratories that do limited testing (that is, few types of tests) for screening or treatment of individuals that are directed by not-for-profit or Federal, State, or local government organizations can operate (at their option) under one certificate; for example, the WIC program.

Comment: One commenter requested clarification on whether separate waiver certificates would be required for one-time sites, such as health fairs.

Response: A separate certificate will be required for each permanent testing location, as discussed in § 493.614(b); however, health fairs that move to temporary sites to provide services will not be required to have a certificate or certificate of waiver at each temporary location. Once CLIA is fully implemented, if the temporary sites perform only waived tests, we will issue a certificate of waiver to the home base location. For laboratories not qualifying for a certificate of waiver, we will issue the certificate to the home base and evaluate compliance, on occasion, at one or more temporary locations.

Comment: One commenter indicated that there would be an increase in administrative costs for an agency to complete each application. In the event that the WIC program is covered by final CLIA regulations, the commenter recommended that special, simpler application forms be developed for use by WIC programs to reduce the time and costs involved and eliminate irrelevant paperwork.

Response: We will make every effort to simplify application forms for all laboratories, including WIC program laboratories, to ensure that only minimum effort consistent with statutory requirements is necessary to complete the forms.

Comment: One commenter indicated that the requirement for collecting annual test volumes as part of the application for certification was not relevant to proficiency testing since it should be the same whether one or multiple tests are performed. The commenter also recommended that the updating of a certificate should be as simple as possible.

Response: As stated earlier, CLIA application requirements specify that HHS collect information on "the number and types of laboratory examinations and other procedures performed." This information collection requirement is not related to proficiency testing. As previously indicated, we will make every effort to simplify the application forms, which will include the procedures for updating information.

Comment: One commenter recommended that the application be correlated with test complexity as proposed in a separate CLIA rule. The commenter suggested that we permit applicants to determine the level of testing based on testing performed and that, in all cases, the forms should be generic enough to not impede the use of new technology. The commenter also indicated that the term laboratory "location" should be changed to laboratory "practice" since this change would allow a reduction in paperwork and preserve the ability of mobile "screeners" to conduct their services.

Response: We will allow mobile laboratories to obtain a single certificate for each mobile testing facility (or van) that will reflect the home base address for each testing entity that furnishes services. A mobile laboratory is a permanent unit that is comprised of all equipment and supplies necessary to provide or perform services in the van or conveyance that travels to the patient(s) to furnish services. Laboratories that transport equipment and supplies to a patient's home, a shopping center, or between temporary locations in which the testing is performed at the temporary location will be issued a single certificate for the home base to cover testing at each temporary location. We have revised proposed § 493.614 to clarify that laboratories within a hospital can be covered by a single certificate to allow testing at a number of temporary locations.

Comment: One commenter indicated that since tests on the waived list are not subject to personnel requirements, entities applying for a certificate of waiver should not be required to report this information. Similarly, the applicants should not be required to disclose the methodologies used for waived tests, as these methodologies have already been waived as well. The commenter also stated that, since certificate of waiver laboratories are not subject to proficiency testing, they should not be required to furnish data on the total number of tests performed annually.

Response: The application requirements specified are required by law regardless of whether the laboratory is issued a regular certificate, certificate of waiver, or certificate of accreditation. Note that certificate of waiver laboratories are not required to report changes in supervisor.

Comment: One commenter recommended that HHS send, if time permits, application forms to a sample of laboratories to ensure that the forms solicit the necessary information in the most appropriate manner.

Response: The application forms will be based on the application requirements of the statute. We will use the experience gained from the questionnaire issued as part of the implementation process of this rule to develop the application forms to be used after CLIA is fully implemented.

Section 493.618 Additional Application Requirements

Comment: One commenter (a State Health Department) indicated that the proposed rule was unclear as to when onsite visits are required and what they will cost. The commenter indicated that § 493.618 does not state which laboratories will require onsite visits.

Response: Section 493.618 sets forth application requirements and is not the appropriate place to include the detailed requirements related to inspections. Inspection requirements were specified in the proposed rule HSQ–176–P published on May 21, 1990. However, as we explained in this preamble, all laboratories will be issued registration certificates or certificates of waiver initially. Laboratories will not be subject to routine inspections for compliance with health and safety standards under CLIA until those standards are established. However, laboratories that are currently approved to participate in the Medicare or Medicaid program or authorized to test specimens in interstate commerce remain subject to the current Federal standards for laboratories at 42 CFR part 493. In addition, all laboratories (including those issued registration certificates) are subject to inspections as the result of complaints or other problems related to noncompliance with CLIA statutory requirements.

Once the CLIA health and safety standards contained in HSQ–176–F are effective, all laboratories not issued a certificate of waiver will be subject to onsite inspections on a biennial basis. A laboratory issued a certificate of waiver will not be subject to these "routine" inspections; however, the Secretary has the authority to evaluate complaints and verify the tests being performed by the laboratory. Laboratories that qualify for a certificate of accreditation will be subject to routine inspections by the accreditation programs, as well as validation surveys on a random basis to verify accreditation program equivalency, and surveys to investigate complaints that allege regulatory noncompliance. Licensed laboratories located in a State whose licensure program is approved by HHS are exempt from CLIA (that is, State-exempt) but would be subject to Federal inspections on a random basis to verify that standards are being enforced in a manner comparable to those applied under CLIA.

Comment: One commenter indicated that the proposed rule requires all laboratories, except those issued a certificate of waiver, to agree to routine inspections and this contradicted the proposed rule published May 21, 1990 (HSQ–176–P). The commenter indicated that in HSQ–176–P, at 55 FR 20903, we proposed unannounced inspections of certificate of waiver laboratories even though these laboratories are exempt from routine inspections under 42 U.S.C. 263a(d)(2)(C) of CLIA. The commenter suggested that HHS take the position that certificate of waiver laboratories would not be subject to routine inspections, since this is consistent with the statute, and that we address the discrepancy between the two proposed rules.

Response: The language in both rules is correct. While certificate of waiver laboratories will not be subject to "routine" scheduled inspections (that is, every 2 years), the Secretary reserves the right to inspect a laboratory's operations if there is cause to question whether the laboratory is operating in a lawful and safe manner. In the preamble to the May 21, 1990 rule, we explained that "certificate of waiver laboratories, while exempted from routine inspections under section 353(d)(2)(C) of the PHS Act, are nevertheless subject to extraordinary inspections in certain instances through our enforcement authority contained in section 353(i) of the PHS Act." This section reserves the Secretary's right to make reasonable requests to conduct an unannounced inspection of a laboratory's operation if there is cause to question whether the laboratory is operating in a lawful and safe manner. While subsection (i) speaks to certificates, it is clear from sections 353 (b) and (c) of the PHSA that this term encompasses certificates of waiver as well. Such inspections would not be "routine." Since there is no conflict, no change has been made to the regulation.

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Section 493.622 Appeals Procedures ["Opportunity for hearing" in proposed rule]

Comment: Several commenters expressed concern that the proposed rule would prohibit laboratories seeking initial certification from conducting business if their certification is denied or limited, unless the denial is overturned on appeal. They indicated that this could create a substantial hardship and that laboratories should not be penalized for a possible HHS error or the need to supply additional information. One commenter indicated that we should include provision for a reconsidered determination while another suggested that a "show cause" hearing be held before such action so that the laboratory can either correct problems before such a hearing or contest the denial of the initial certification. This commenter also suggested that a cost-benefit analysis be developed to determine whether some type of hearing should be afforded a person or entity denied an initial certificate.

Response: Registration certificates or certificates of waiver will be issued to all laboratories that meet application procedures prescribed by law and regulations and that pay the appropriate fee. Any laboratory that fails to comply with the application procedures will be notified of the requirements not met and be given an opportunity to achieve compliance. For example, if a laboratory failed to supply information concerning test methodologies, we would contact the laboratory and provide an opportunity for the submission of this information. In addition to providing laboratories an opportunity for an appeal in part 493, the proposed rule concerning enforcement procedures for laboratories (HSQ–179–P) published in the **Federal Register** on April 2, 1991 provides reconsideration of actions that are initial determinations. Any laboratory dissatisfied with HHS's denial of its application for a CLIA certificate or denial of approval to receive Medicare payment for its services or with HHS's refusal to convert the laboratory's registration certificate to a CLIA certificate may request a reconsideration in accordance with § 493.622. Section 493.622, as proposed in HSQ–177–P, specified that, in the above circumstances, the laboratory is provided an opportunity for "a hearing" in accordance with procedures set forth in part 498. We are revising proposed § 493.622 by changing the section heading to "Appeals procedures" and, in paragraph (a), substituting the words "an appeal" for the words "a hearing." These changes clarify that the laboratory has access to the full appeals process provided to it by part 498.

Since reconsideration of initial determinations are authorized, we do not believe that a cost-benefit analysis is necessary.

Comment: One commenter indicated that, in order to avoid financial hardships, either Medicare payments should continue until a hearing decision is issued or the hearing should be scheduled within 2 weeks of the finding of noncompliance.

Response: We disagree with the comment. Laboratories that are not in compliance with Federal requirements cannot be approved or maintain their approval for participation in Medicare unless they correct deficiencies within prescribed timeframes. Payments under Medicare may not be made to laboratories that are not approved for participation. Historically, it has always been the case that providers and suppliers in the Medicare program have no entitlement to a prior hearing once the agency has determined that deficiencies exist that prompt termination or approval cancellation—a position long upheld by the courts. Moreover, continuation of Medicare payments until a hearing decision would be contrary to the directive of the statute (section 6141 of Pub. L. 101–239) which requires all laboratories that participate in Medicare to meet the CLIA requirements. The purpose of this provision is to encourage compliance with the CLIA requirements.

With respect to requiring specific timeframes for scheduling hearings, we are unable to establish such timeframes due to unpredictability of the workload that may be generated by CLIA as well as other hearing obligations that the Department routinely incurs. The proposed rule on enforcement procedures for laboratories (HSQ–179–P) published in the **Federal Register** on April 2, 1991 elaborates on the effect on noncompliance with the CLIA requirements with respect to Medicare payment.

Comment: Another commenter indicated that we should elaborate on the appeals method, addressing time parameters, basis of cases, and who will rule on the denials.

Response: These issues are addressed in detail in the proposed rule on enforcement procedures for laboratories (HSQ–179–P) published in the **Federal Register** on April 2, 1991 and the final rule published elsewhere in this edition of the **Federal Register**. HSQ–179–F sets forth the rules for sanctions that HHS may impose on laboratories that are found not to meet Federal requirements.

Section 493.626 Registration Certificate

Note: As stated earlier, we have substituted, in this final rule, the term "registration certificate(s)" for the term "provisional certificate(s)." We have made this substitution even when discussing a comment.

Comment: One commenter indicated that the proposed rule was unclear as to whether laboratories would have to apply and pay twice; once for the registration certificate and again for the certificate. Another commenter sought clarification concerning the requirement for registration certificates and whether all new laboratories would be issued a registration certificate. They also questioned whether fees would be prorated if, for example, a full certificate was issued before the expiration of the registration certificate.

Response: Separate payments are required for the issuance of a registration certificate or certificate of waiver and, unless a laboratory is State-exempt, for any subsequent issuance of a "regular" certificate, certificate of waiver, or certificate of accreditation. The issuance of the registration certificate will allow time for HHS or its designee to determine compliance with the CLIA standards or for the laboratory to become accredited by an approved accreditation program or for approval of the State licensure program to exempt the laboratory from CLIA requirements.

Laboratories will not be expected to apply for their certificates. Rather, laboratories will be billed for certificates after successful completion of their on site compliance determination inspections.

In addition, as indicated in § 493.633(a)(2), a registration certificate will be issued to a laboratory that has a certificate of waiver and wishes to perform any examination or procedure not listed in the waived test category. To clarify this issue, we have revised proposed § 493.626 by adding that, except for a registration certificate issued to cover initial testing areas after a certificate has been issued as indicated in § 493.633(a)(2), the registration certificate will not include specialties/subspecialties of service, but will authorize the entity to conduct laboratory testing until a determination of the appropriate level of compliance can be made. Before expiration of the registration certificate, HHS will notify the laboratory of the fee amount for issuing the certificate and, if applicable, the amount of the fee for determination of compliance. The fees will not be prorated since they are based on the Federal and State costs associated with the implementation and administration of CLIA and the cost involved in processing the applications and issuing certificates.

Comment: One commenter questioned the requirements in § 493.805 of the proposed rule to implement the CLIA health and safety requirements (HSQ–176–P) published May 21, 1990 that would require laboratories performing Level I or Level II tests to demonstrate satisfactory performance in one proficiency testing event of an approved proficiency testing program before issuance of a registration certificate. The commenter was concerned that there might not be any "approved" proficiency testing programs before the issuance of registration certificates.

Response: Laboratories are not required to achieve satisfactory performance in any proficiency testing event before issuance of a registration certificate. We proposed this requirement in HSQ–176–P as a mechanism to evaluate laboratory performance before authorizing "provisional" certification. HSQ–176 will have effective dates that ensure approval of proficiency testing programs before any laboratory would be penalized for non-participation. Moreover, the proposed requirements for HSQ–176 are being modified in the final rule published elsewhere in this edition of the **Federal Register**. However, Medicare, Medicaid, and interstate laboratories currently subject to the provisions of part 493 are subject to proficiency testing requirements at § 493.805.

Comment: One commenter expressed concern that proficiency testing might not be available to all laboratories for many reasons, including volume of customers to be serviced. The commenter indicated that HHS should provide for such situations by offering alternatives such as "in the event that the proficiency testing program is not able to administer the initial proficiency testing event required for provisional certification, the laboratory may be allowed to provide alternative evidence of satisfactory performance such as a manufacturer's proficiency testing program, or split sample testing."

Response: As indicated in the previous response, laboratories will not be required to participate in proficiency testing before issuance of a registration certificate. We understand proficiency testing program providers may have difficulty in accommodating the large number of applicant laboratories seeking enrollment. We will establish policies and procedures in HSQ–176–F to respond to this problem.

Section 493.631 Certificate of Waiver

Comment: Many commenters indicated that there should be no fee assessed for issuing a certificate of waiver, or that this fee should include only processing costs. One commenter also indicated that surveys for compliance would not be calculated into the waiver fees.

Response: Under CLIA, all certificate fees collected must be sufficient to cover the general costs of establishing the requirements to implement CLIA, including determining tests eligible for waiver. In addition to these general costs, the certificate of waiver fee includes the cost of issuing the certificate of waiver, the collection of the fees, and analysis of applications to determine if a laboratory should be issued a certificate of waiver. It also includes a share of the cost of random inspections to gather information for PHS evaluation of waiver test performance. In fact, the statute requires that we assess a "nominal fee" for the certificate of waiver. The fee we have set for a certificate of waiver is the lowest of any CLIA fees, and it is nominal.

Section 493.632 Certificate of Accreditation

Comment: One commenter noted that regulations concerning the programs acceptable for accreditation were not published, while other commenters recommended utilizing knowledge and experience of other inspecting agencies and focusing the HHS inspections on unlicensed unaccredited laboratories.

Response: As we indicated in the preamble of the proposed rule, a separate proposed rule contains the criteria for approving accreditation and State programs. That proposed rule (HSQ–181–P) was published August 20, 1990 (55 FR 33936) and sets forth the criteria we would use to evaluate and approve State programs and private non-profit organizations as accreditation programs. We are in the process of evaluating the comments received on that rule, and we will respond to them in the preamble of the final rule. However, based upon comments received on HSQ–181–P and upon further review of the statute, we are exempting from CLIA requirements laboratories licensed by and located in a State whose licensure program is approved by HHS. These State-exempt laboratories will not be required to have a certificate or pay fees. However, such laboratories are subject to random Federal inspections to validate that the State licensing program is applying standards at least equal to the CLIA standards. HHS will assess the State the costs of these inspections. We have revised proposed §§ 493.610, which concerns additional fees, and 493.645, which requires laboratory certification, to reflect this change.

Section 493.633 Applicability of the Certificate, Certificate of Waiver, and Certificate of Accreditation

Comment: Several commenters expressed concern about the proposed requirement that would prohibit a facility from performing a new test not included on the laboratory's certificate. Commenters indicated that requiring a laboratory to apply for and obtain a revised certificate before adding a test not listed on the certificate would have a negative impact on the laboratory's ability to furnish new test services in a timely manner. Commenters recommended that laboratories be permitted to notify us of the change and be permitted to perform the new test(s) on a provisional basis if the test(s) are within a previously certified specialty.

Response: Under this rule, registration certificates generally will not specify categories of testing performed. With respect to regular certificates, the certificate will not include test names but rather the specialties/subspecialties of services offered. Laboratories will not be required to obtain a revised certificate provided the test additions are covered in the categories of testing or specialties or subspecialties of service listed on the certificate. Changes in certificates will be necessary if there is a change in the categories of tests or specialties or subspecialties. A laboratory with a certificate must notify HHS within 6 months of any changes in tests or examinations performed. If the added testing is not in a specialty or subspecialty on its certificate, HHS may conduct (depending on the type and timing of the changes) a survey to determine compliance. A laboratory will be charged for survey costs only the cost incurred in evaluating the additional test. If compliance is determined, and upon payment of the revised certificate fee, a revised certificate will be issued that includes the additional specialties or subspecialties. A laboratory with a certificate of accreditation must notify the accreditation organization within 6 months of changes in its testing, and, when compliance is verified, a revised certificate of accreditation will be issued. We have revised proposed § 493.633, by adding a new paragraph (4), to include this requirement. A laboratory with a certificate of waiver must notify HHS before performing tests

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that are not included in the waiver test list. We will issue a registration certificate for the new services (that is, a restricted registration certificate) authorizing the laboratory to initiate the new testing until we can determine compliance with Federal requirements. The laboratory will be able to continue all other testing specified on its certificate of waiver. Proposed § 493.633 has been revised to reflect that a registration certificate will be issued to allow a laboratory with a certificate of waiver to initiate testing in an area not listed on its certificate.

Comment: One commenter indicated that the proposed rule does not specify a time period for reporting the addition of new test procedures and recommended that laboratories be allowed at least 6 months to report such additions. This would permit laboratories time to introduce new testing services while gathering data to determine whether the laboratory can conduct the testing in a cost-effective quality manner.

Response: Section 493.633 has been revised to reflect the statutory requirements of section 353(d) of the PHSA. As indicated previously, a laboratory with a certificate or certificate of accreditation must notify HHS or the accreditation organization (as applicable) within 6 months of any changes in its scope of practice as indicated in section 353(d)(1)(A). However, as required by section 353(d)(2)(B), a laboratory with a certificate of waiver must obtain prior approval if it wishes to add testing not listed in the waiver test category.

Comment: One commenter stated that §§ 493.633(a) (1) and (2) were incompatible unless the word "changes" in paragraph (2) means "deletion" and excluded "additions." The commenter indicated that § 493.633(a)(1), which discusses performing tests not on the certificate, appears to be based on section 353(d)(2)(B) of the PHSA, which is limited to laboratories holding certificates of waiver. Therefore, this part of the regulation should be limited to certificate of waiver laboratories.

Response: The commenter is correct. As previously discussed, the regulation at § 493.633 has been revised accordingly.

Comment: One commenter expressed concern that there is no provision in the proposed regulation for assigning newly developed tests to a specialty or subspecialty of service, making it impossible for laboratories to know which personnel, quality control, etc. standards are applicable.

Response: Once CLIA is fully implemented, we will resolve any questions concerning the categorization of tests into the appropriate specialty or subspecialty of services. HHS will evaluate new technologies and methodologies for test categorization and inform laboratories of the Federal requirements that are applicable to the testing or examinations performed.

Section 493.634 Notification of Changes

Comment: One commenter indicated that the 30-day requirement for notification of changes in location would be burdensome. This commenter's clinic sites are located within community centers, schools, etc., and often must relocate on short notice. The commenter further indicated that 30 days would not allow the clinic sites sufficient time to notify HHS of the change.

Response: The regulation did not require that the laboratory notify HHS or its designee "prior" to a change in site, only that notification occur within 30 days of the actual relocation. Therefore, we do not believe that this requirement imposes an unreasonable burden, and we have retained the proposed language in the final rule. We have, however, determined that the notification requirements for changes in laboratory director should apply to laboratories issued a registration certificate to ensure that we have accurate information for program administration. We have revised the regulation to reflect this change. We have also added language to this section to reflect the same consequences of failure to notify HHS of changes as noted in § 493.633(b) for noncompliance with any of the requirements of part 493, and to reference § 493.639, the regulation section concerning the fees imposed for revising certificates as a result of changes in laboratory status.

Section 493.638 Registration Certificate and Certificate Fees

Comment: Two commenters specifically addressed the $261 proposed certificate fee and argued that the amount is too high. Another indicated that these fees will ultimately get passed on to the consumer and that it is entirely possible that access to laboratory testing will be reduced when small laboratories reduce their test menus to avoid certain CLIA fees or close down completely.

Response: In response to commenters' concerns, we have developed new fee schedules for certificates ($100, $350, and $600). The amount of the fee will be based on whether a laboratory is considered small, medium, or large (based on the volume and scope of testing performed by the laboratory.) These individual fee amounts do not reflect the actual resources needed to issue a registration certificate or certificate to each size group. However, the estimated total amount of fees generated under this graduated fee approach, along with the fees for compliance determination, is the amount we estimate is needed to cover the costs of the CLIA program. The graduated fee amounts have been adopted in order to avoid any undue burden on small laboratories, and it is our best attempt to structure the fee amounts in a way that maintains parity among the laboratories.

Comment: Two commenters encouraged us to publish an annual statement of income and expenses applicable to the CLIA program in the **Federal Register**.

Response: As with other HHS programs, the CLIA certification program will be audited periodically by the General Accounting Office and the Department's Office of the Inspector General. The results of these audits, designed specifically to determine HHS's accuracy in applying the mandates and guidelines of the programs, will be available to the public.

Comment: Section 493.638 addresses fees for waivers, indicating that, for a certificate of waiver, the fee "includes the cost of issuing the certificate of waiver, collection of fees and the administrative costs associated with evaluating tests to determine if a certificate of waiver should be issued." A commenter suggested that the language be changed to read: "* * * and the administrative costs associated with the evaluation of applications to determine if a certificate of waiver should be issued."

Response: We are not adopting the suggestion. The costs associated with evaluating the application for issuance of a certificate of waiver are included in the costs of issuing the certificate of waiver. Additional costs associated with the evaluation of tests for inclusion on the list of waiver tests are also included in the fee for issuance of certificates of waiver, as are other administrative costs associated with the operation of the program (for example, the cost of the billing system). In addition, we have revised proposed § 493.643(e) (now redesignated as § 493.643(d)) by adding a new subparagraph (2) to address the costs associated with complaint investigations. We specify that, if it is necessary to conduct a complaint investigation, impose sanctions, or conduct a hearing, HHS assesses the involved laboratory a fee to cover the cost of these activities if the complaint is substantiated or the adverse action upheld. In the proposed rule, through an oversight, this was discussed only in § 493.645(h) with respect to laboratories issued a certificate of accreditation.

Section 493.639 Fee for Revised Certificate

Comment: One commenter believed that the administrative costs for the various regulatory services necessary to issue revised certificates, based on the actual cost of the resources and time involved, are too open-ended. The commenter suggested that an estimated fee for such services should be established and published.

Response: Costs for revising a certificate will be based on the administrative cost of processing the request for revision and issuing the revised certificate. A laboratory must inform us of any changes in the information on which the registration or other certificate is based.

Revisions in the registration certificate are required if changes occur in the laboratory's name or location. Revisions in regular certificates, certificates of accreditation, or certificates of waiver are necessary if the laboratory changes its name, location, or director, or if a laboratory with a "regular" certificate or certificate of accreditation adds services not included in the specialties or subspecialties listed on the certificate or deletes services that are included on its certificate. If a laboratory with a certificate of waiver adds tests that require issuance of a regular certificate, a registration certificate to cover the new testing will be required to enable the laboratory to conduct testing in the added services until a compliance determination can be made. Following a determination of compliance, a certificate will be issued and a fee for issuance of a certificate will be assessed.

We have reexamined our estimate of the time that would be necessary to issue a revised certificate and have determined that our original estimate was too long. We now estimate ½ hour (at $50 per hour) for Federal administration and ½ hour (at $50 per hour) for contractor administration. This results in a fee of $50 for a revised certificate.

We adjusted our time requirements downward to account for the fact that a nominal amount of time would be required to analyze and enter the revised application into the system and to issue a revised certificate. We believe that the analysis burden and direct data entry for a revised application is much less than for a regular application. In addition, the required contractor burden and the burden to the HHS data base to issue a revised certificate is much less than for a certificate. The initial certificate of registration cost of $100 to $600 includes significant costs incurred by HHS to administratively establish CLIA through development of regulations and required revisions; development of requests for contracts; development and maintenance of a complex data system; and development and updating of comprehensive manual and instructional guides. We have eliminated these large overhead administrative costs from the cost of issuing revised certificates.

If, for any of the certificates, a survey to determine compliance is necessary because of any of the changes, a laboratory must pay, in addition to the fee for issuing the revised certificate, the costs incurred to evaluate the changes.

Section § 493.643 Fee for Determination of Program Compliance

Comment: A commenter encouraged us to simplify the entire process by making random spot checks of physicians' offices without warning, with no fees, guidelines, or periodic evaluations.

Response: Section 353(g) of the PHSA requires compliance inspections, and section 353(c)(2) specifies that a certificate is valid for no more than 2 years. Therefore, we intend that each laboratory subject to the provisions of CLIA (other than those waived or State-exempt) receive at least a biennial inspection. We have an agreement with States to utilize and pay their survey agency staff to conduct these inspections on our behalf. CLIA legislation states that the costs incurred in implementing the laboratory certification program be borne by the laboratories themselves through user fees. This is true for all laboratories subject to CLIA regardless of type (and this includes physician office labs). Only if a laboratory is operating pursuant to a certificate of waiver will it not be subject to routine inspections.

Comment: A commenter contended that the system as proposed seems to focus more on the opportunity to assess and collect charges than to assure the laboratories' quality and cites that additional charges are to be imposed for follow-up visits, sanctions, and appeals. The commenter believed that charging for each sanction would appear to encourage the inspectors to find problems, while fees for appealing these findings could discourage the laboratories from using the appeals process.

Response: We disagree with the comment. The commenter's argument might be valid if State agencies were paid on the basis of numbers of problems cited or separate instances of sanctions to be applied to a deficient laboratory. However, the fees for determining compliance were developed in such a way that States are paid regardless of their findings of compliance or noncompliance, or instances of sanction actions. If upon reconsideration or appeal, the findings are not upheld, the laboratory is not responsible for these costs.

Comment: A commenter suggested that, because the CLIA implementation schedule is slipping, the effective dates for the fee collections will need to be revised.

Response: We decided to postpone collection of the fees until the CLIA standards regulation (HSQ–176–F) was published and, therefore, we are publishing both the fee and the standards regulations at the same time.

Comment: A State Health Department expressed concern that a State might have to absorb the costs associated with a hearing if a State takes a laboratory through a hearings process and the Administrative Law Judge (ALJ) rules in favor of the laboratory.

Response: We have taken into consideration the State agency's costs and time associated with participation in the hearings process. A laboratory that receives a favorable hearing decision will not pay any hearings costs. States will be fully paid for all reasonable costs associated with the enforcement of CLIA requirements.

Comment: A commenter expressed concern that laboratories should not have to face unwarranted fees which result from unnecessary inspections and investigations. The commenter suggested that the rule be clarified to ensure that laboratories are charged only for follow-up inspections when necessitated by the laboratory and not due to the failure of the inspector to allow adequate time and/or have adequate resources to complete the inspection on the initial visit; are charged for complaint investigations only when the complaint is shown to be valid; and charged for sanctions or hearings only when the laboratory is shown, after appeals, to have violated the requirements of CLIA.

Response: We agree that laboratories should not be burdened with inappropriate or unjustified fees. The fees are designed to determine a laboratory's compliance with program requirements. Follow-up inspections will occur only to determine whether a

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laboratory found to be in noncompliance has corrected the cited deficiencies. State surveyors who determine laboratory compliance with CLIA requirements are not paid by the numbers of problems cited nor the numbers of sanctions applied. We believe that we have clearly stated in this rule that the fees to be assessed for complaint investigations or sanction activities will be for those that are substantiated.

Comment: Several commenters stated that the costs proposed for certification and inspection appear exorbitant. Another added that the costs are detrimental to small laboratories and hospitals that are barely solvent. Administration of the proposed fee schedule, the commenter continued, would discourage laboratories from offering a broader spectrum of tests since they would be monetarily at risk for expanding their services.

Response: We disagree that the fees are exorbitant. We recognize that some laboratories may experience more financial difficulty than others in meeting the requirements of CLIA. However, CLIA legislation requires that all laboratories subject to its provisions be assessed fees for certification and laboratories not issued a certificate of waiver be charged a fee for inspection and that these fees must be sufficient to cover all costs involved. In developing the fees for certification and compliance determination, we considered average time estimated and average surveyor pay scales across the country. These estimates also consider laboratory size based on types of specialties and volume of tests. In addition, we have established a lower fee within Schedule A for low-volume laboratories conducting less than 2,000 tests per year. As we gain experience from administering the CLIA program, we intend to revise the fee schedules as necessary.

Comment: A commenter said that the classifications in the proposed rule appear incomplete and unclear and make it difficult for pediatricians to determine the scope of the testing procedures and their corresponding fee responsibilities. HHS is obligated, the commenter continued, to make these explicit and understandable to prevent needless errors in filing applications, delays in issuing certificates, and excessive denials. A question which followed asked, if strep tests are performed using immunochemistry procedures, would the testing be classified an immunology, chemistry, or microbiology?

Response: The specialties/subspecialties listed in the preamble correlate with current terminology used to classify tests performed in Medicare and interstate licensed laboratories. We do not classify methodologies, technologies, or instrumentation; rather, classification is based on the constituent analyzed, measured, or identified. Direct strep antigen detection procedures are categorized in the subspecialty of bacteriology because the *Streptococcus* organism is detected and identified.

Section 493.643 Fee for Determination of Program Compliance

Comment: In the preamble of the proposed rule, we specifically invited comments on the type of methodology, process, and schedule to be used in updating the estimated fees for compliance determination surveys. We received 11 comments concerning the grouping of the 10 schedules and the number of specialties within each schedule. A summary of the comments follows:

—Six commenters argued against the number of specialties and/or volume of tests per schedule. Two of these suggested that schedules A and B be combined, as well as schedules C and D.

—Two more suggest that the schedules, as proposed, will unfairly affect smaller laboratories.

—Two Women, Infants, and Children (WIC) program clinics said that the schedules, as proposed, will seriously jeopardize their budgets, especially in light of the simple screening procedures they offer.

—Another commenter suggested that the large majority of laboratories conduct fewer than 10,000 tests per year.

Response: The schedules that were listed in the proposed rule were compiled using the currently available data from State survey agencies and HHS regarding estimated time and costs to determine program compliance with CLIA requirements. We had originally planned to propose a very limited number of schedules to encompass small, medium, and large laboratories. However, we believe that a larger number of schedules, such as 10, results in lower increments in fee amounts from one schedule to the next than would be so with fewer schedules and will allow the smaller laboratories to pay the least amount necessary to cover the costs of implementing CLIA's requirements. In this final rule, we will recognize within Schedule A, those low-volume laboratories that conduct 2,000 or fewer tests per year. We have established a separate, reduced compliance determination fee for these entities. As we gain experience with the timeframes and costs involved in determining laboratory compliance with CLIA requirements, we will reanalyze the fee-setting methodologies and intend to seek input from the public and make adjustments as necessary in size and volume ratios.

Comment: In the preamble of the proposed rule, we specifically invited comments on the definition of a test and on the feasibility of collecting test information, particularly in the area of quantitative testing. Several commenters responded to this request and indicated that assessing a facility's work volume by counting each analyte tested would be burdensome. One commenter indicated that this definition inflates the actual workload of the laboratory since from a laboratory perspective a test panel or profile (which includes multiple analytes) is really a selection of tests that are generally performed in a group or in combination. Commenters suggested the following alternatives to the proposed definition of a test:

—Define a test as a current procedural terminology (CPT) codeable charge with the codes (range of codes) identified and routinely updated by HHS.

—Define a test as a single reportable patient result, thus excluding tests on quality control samples from the annual test volume.

—Use the number of specimens analyzed rather than the number of tests to determine laboratory volume.

—Determine laboratory volume based on the type of laboratory factored by the number of employees, rather than tests.

Response: We appreciate the suggestions offered by the commenters. However we cannot define a test as a CPT codeable charge because profiles are included on the CPT codes and this would not reflect the actual laboratory testing activity involved in conducting the testing and determining the test results. The same holds true for the suggestion of using the number of specimens; each specimen could have multiple tests and would not be reflective of the actual laboratory performance. We do not believe that the suggestion for using a factor of the number of employees is feasible since this would encourage laboratories to employ fewer personnel and could have adverse implications on the quality of the laboratory services provided.

We do agree that tests run on quality control samples should not be included when calculating the annual volume of laboratory tests and have modified proposed § 493.638, "Registration certificate and certificate fees," and § 493.643(d) (1) and (2) (now redesignated as § 493.643(c) (1) and (2)) to indicate that, when determining annual volume, tests performed for quality control, quality assurance and proficiency testing are to be excluded.

Section 493.645 Additional fee(s) for Accredited Laboratories (and State-exempt Laboratories)

Comment: A commenter, in discussing fees to be paid for complaint investigations, sanctions, or hearings, said that if we will assess fees and costs where the investigated laboratory is unsuccessful, the investigated laboratory should also be entitled to some of its costs should proposed adverse actions be found to be without foundation.

Response: We cannot accept this comment. The law provides no authority to pay costs of laboratories that are either successful or unsuccessful at an ALJ hearing.

Comment: Another commenter said that our assessment of fees against laboratories certified by other agencies is not appropriate since the laboratories have already incurred substantial costs in complying with accreditation programs standards. If HHS has concerns about the certification process of accreditation programs, it should collect fees from the accreditation programs. As an alternative, the commenter continues, HHS should not reinspect laboratories but acknowledge that inspections conducted by private nonprofit organizations if it appears that their standards are higher than HHS's.

Response: We are adopting this suggestion in part. CLIA does not provide authority for billing accreditation programs for the costs of monitoring their programs. CLIA mandates the assessment of fees from the individual laboratories. We are required by section 353(e)(2) of the PHSA to monitor the survey process of accrediting bodies and routinely scrutinize the standards and accreditation procedures of these entities to ensure that the standards applied are at least equal to the standards established by HHS. To accomplish this, a sample of accredited laboratories will be surveyed, with the costs shared by all accredited laboratories. The fee for a certificate of accreditation will include a proportionate share (based on our best estimate of the number of accredited laboratories) of the administrative costs associated with CLIA (including the cost of issuing the certificate) and a proportionate share of the cost of the monitoring surveys.

However, section 353(p) of PHSA indicates that if the Secretary determines equivalency of a State's licensure standards, the Secretary may exempt laboratories licensed in that State from the CLIA requirements, including the payment of fees. As previously discussed, we are exercising that authority and have revised the proposed regulation to reflect this change. While State-exempt laboratories are exempt from CLIA requirements, Federal inspections may be conducted at random to ensure that standards are being enforced in an appropriate manner. States will be billed for the random Federal inspections of their State-exempt laboratories and for their proprotionate share of the general overhead costs for the development and implementation of CLIA.

Comment: Referring to the additional fee an accredited laboratory will pay to cover the cost of evaluating individual laboratories in accreditation programs, a commenter said that these additional costs will be unnecessarily burdensome because they will also have to pay their own biennial inspection fees. Further, the commenter suggests that we should consider the possibility that many different accreditation programs may be approved and that we should conduct random sampling of each accreditation program, as opposed to a 5 percent sample of all accredited laboratories as proposed.

Response: As we have stated, CLIA legislation requires that the fees imposed on laboratories be sufficient to cover the costs of evaluating and monitoring accrediting bodies. The legislation also requires ongoing evaluation of accreditation programs and requires the assessment of fees to cover the costs of evaluating and monitoring accreditation programs. Regarding the sampling approach for evaluating accreditation programs, we agree that a 5 percent sample of laboratories accredited by each accrediting program that we have approved will provide more assurance of quality and accuracy than selecting 5 percent from the "total universe" of accredited laboratories. However, we have deleted the 5 percent provision that appeared in proposed § 493.645 since that provision reflects only an administrative goal, not a fixed obligation of the Department. We will administratively implement the commenter's suggestion to attain the 5 percent sample goal. In addition, although State-exempt laboratories have been exempted from CLIA requirements, such laboratories will be subject to Federal inspections. We intend to conduct inspections of a 5 percent sample of State-exempt laboratories to ensure that standards are being enforced in an appropriate manner. Costs of such inspections will be paid by the State licensure program. Section 493.645 has been revised to include State-exempt laboratories.

Comment: A commenter referred to apparent discrepancies between preamble and regulatory language involving the financial obligation of an accredited laboratory subject to a complaint investigation. The commenter would like to have us clarify that all costs (that is, for the complaint investigation, any sanctions, or hearings) would be dismissed if the complaint is found to be unsubstantiated.

Response: As stated earlier, through an oversight, the regulatory language only addressed the costs associated with complaint investigations in regard to laboratories issued a certificate of accreditation (§ 493.645(b)). We have corrected this by adding a new § 493.643(d)(2), which specifies that costs for unsubstantiated complaint investigations or sanctions/hearings activities would not be imposed on the laboratory. We have also revised proposed § 463.645 to specify that the State licensure program may be assessed the costs incurred for complaint investigations of State-exempt laboratories if the complaint is substantiated.

Section 493.646 Payment of Fees

As indicated earlier, in response to comments received on the proposed regulation, we have made revisions to the proposed fee amounts. Charts showing the bases for the revised fee amounts are included at the end of the comment and response section.

Comment: A commenter representing multiple clinics within a State indicated that costs to purchase equipment for hematocrit testing in order to be eligible for a certificate of waiver would be prohibitive.

Response: CLIA anticipates that the regulations will be enforced at each location where tests are performed. Section 353(b) of the PHSA specifically states that a laboratory must have in effect an HHS-issued certificate (that is, a certificate, registration certificate, certificate of accreditation, or certificate of waiver) that is applicable to the specialty or subspecialties of services being offered. We will require that a separate application be filed for each laboratory location. Consequently, we will not allow laboratories located at different street addresses to apply for a single certificate to cover all locations. However, we are providing some flexibility to a hospital that has multiple laboratory components that are at the same address and under common directorship to apply for a single certificate. In addition, laboratories that do limited testing (that is, few types of tests) for screening or treatment of individuals that are directed by not-for-profit or Federal, State, or local government organizations (for example, the WIC program) can operate (at their option) under one certificate.

Comment: In discussing fees for waivers, two commenters said that they could support a waiver fee of $100 (one of the two added that glucose, cholesterol, and hematocrits should be included as waived tests).

Response: We agree with the comment that the proposed waiver fee of $156 is too high. We have, in this final rule, therefore, revised the cost of issuing a certificate of waiver to $100. This reduction is based primarily on recalculations of the administrative effort required to issue a certificate of waiver and on estimates of the number of laboratories that may be able to qualify for waiver.

As previously mentioned, the classification of tests is addressed in the final CLIA rule, HSQ-176-F, appearing elsewhere in this **Federal Register**.

Comment: A commenter stated that the fees as proposed will hinder cost-effective testing in smaller sites and that they should be re-analyzed based on comments and subsequent analysis of an earlier rule dealing with the variety of laboratory levels and personnel requirements.

Response: We disagree that the fees will hinder cost-effective testing. The fees are designed to cover the costs we will incur to evaluate compliance of large and small testing operations and the cost associated with establishing standards under CLIA, as well as all contractor-related costs. The commenter's suggestion that the fees be re-analyzed is valid. We will review the fee schedules once the Federal health and safety requirements are established based on test complexity. We will also, on an actual basis, review the fee schedules in light of actual experience.

Comment: The above commenter also suggested that laboratories be allowed to submit a deposit of $25 with each initial application, with the balance due during the second year of the 2-year fee cycle. This would afford us quicker access to funding in order to begin implementing CLIA.

Response: We are not adopting this suggestion. Although the commenter is certainly correct about the gross amount such a proposal could provide, we believe that the accounting and reporting costs associated with tracking the remittances of all laboratories subject to CLIA would be extremely high. As stated earlier, we have postponed assessing fees until the final CLIA standards rule (HSQ-176-F) was published. Now that HSQ-176-F is published elsewhere in this **Federal Register**, we will begin to send out applications and bills to laboratories. The amount of the bill will be based on the information provided by the laboratory in response to the questionnaire mailed earlier and will be for the full amount (that is, $100, $350, or $600). This should provide sufficient funding in order to begin implementing CLIA.

Comment: One commenter suggested that we incorrectly assumed that most of physician office laboratories would fall within the waiver category and consequently require a minimum of Federal and State resources and time. The commenter continued that, if we based the fee schedules and other estimates of administrative costs on this, probably faulty assumption, insufficient funds will be collected to cover CLIA costs. Fees, then, will have to be substantially increased during the second year of CLIA implementation.

Response: We disagree with the comment. We estimated the resources and time necessary to conduct compliance determinations based on the volume and scope of laboratories services. Although these are only estimates, they are not arbitrary. They were developed after collaboration with State Health Departments and other Federal agencies. If we find that our estimates are, in fact, incorrect, we will revise the fee schedules accordingly and will publish them for public review in the **Federal Register**.

Comment: Regarding the assessment of fees for the issuance and renewal of certificates of waiver, a commenter suggested that, should these fees be assessed to nursing facilities and intermediate care facilities for the mentally retarded, they should be considered allowable costs under Medicare and Medicaid for payment rate purposes.

Response: We agree with the intent of the comment. User fees for laboratories within either a participating nursing facility or intermediate care facility for the mentally retarded are allowable costs that states should take into account as part of their facility payment rates.

Comment: A commenter indicated that there are currently regional differences considered in the Medicare program's payments to physicians, depending on where in the country they practice medicine. The commenter continued that CLIA should take into consideration the concept of regional fees to be based on the laboratory's size and payment potential.

Response: We are not adopting regional fees. The fees for compliance determination contained in this rule take into consideration individual State variances such as geographic locations, travel costs, and State civil service pay scales. Therefore, State differences have been considered with regard to high and low cost areas.

Comment: A commenter, in discussing the fees for certification and determining compliance, suggested that the application and the fees for certification could be considered on the sliding scale of criteria according to hospital size and laboratory services.

Response: We have adopted this approach in part. A laboratory should be considered a separate entity and not necessarily linked to the size or operation of a hospital (in which many laboratories may be located). In the preamble of the proposed rule, we have outlined CLIA's scope by listing those "entities that perform laboratory testing" in the various types of facilities. But throughout the preamble and, more importantly, throughout the legislation itself, laboratories are treated as separate entities to which CLIA's unique provisions apply. We have, however, considered individual laboratory "size" based on number of specialties or scope of services performed and test volume in order to establish an appropriate range of fees.

Comment: A commenter indicated that some of the fees as currently proposed seem to affect smaller laboratories unfairly, resulting ultimately in inequitably high per test costs. Further, the commenter contended that such high per test fees for small laboratories could adversely affect patient access and that some small laboratories might even be forced to close.

Response: We disagree with this comment. We have considered small laboratories by establishing varying rates depending on volume and laboratory size. The ten proposed schedules, including a new low-volume category within Schedule A, attempt to minimize the negative impact on smaller laboratories. We intend to seek input from the public and will adjust the fee schedules as better data becomes available.

Comment: Responding to our solicitation for comments on existing inspection experience with numbers and groupings of laboratories, a commenter offered that our proposed ten schedules could easily be reduced to five.

Response: We placed laboratories within the ten-schedule structure after conducting detailed analyses of information available on the amount of time necessary and the number of people required to determine laboratory compliance. We also believe that a ten-schedule structure is more beneficial since, by having the larger number of schedules, laboratories will more likely find themselves grouped more homogeneously. In addition, we have included another fee within Schedule A for low-volume laboratories that conduct 2,000 or fewer tests per year. As experience is gained in applying these fee schedules on all testing sites, we intend to seek input from the public and will revise them as appropriate.

Comment: Another commenter, responding to our request for comments on existing inspection experience and how it may relate to CLIA, objected strongly to the proposed fees and cites his State's $300 annual laboratory regulation program as being more realistic.

Response: We acknowledge that there may be significant differences in the amounts charged by an individual State's laboratory regulation program and the fee schedules proposed in this rule. These differences may be the result of a number of factors, including the extensive requirements contained in CLIA and the mandate that all costs incurred, including contractural and administrative costs, are to be borne by the laboratories. We have developed fees to cover all Federal, State, and contractor costs, as well as the costs for certificate issuance and for compliance determination, based on projections of costs to administer CLIA. These fees are subject to revision based on actual experience.

Section 493.649 Methodology for Determining Fee Amount

Comment: A commenter disagreed with our methodology for determining fee amounts, arguing that basing the fees on estimates of time needed to complete the survey and assessment of individual tests is cumbersome and subject to varied interpretation. Further, the commenter continued, time estimates will not allow a laboratory requesting certification to accurately project its costs.

Response: We disagree with the comment. We believe that basing survey costs on time estimates is an accurate approach to fee development. CLIA legislation includes the mandate that the costs for certification activities be borne by the laboratories. Since 1966, we have had in place an agreement through which we pay State agencies to determine program compliance through monitoring proficiency testing, evaluating personnel qualifications, and onsite surveys. Payment for these survey activities are negotiated with the States based on the number of people and the time estimated for the survey workload; in this case, on the time estimated to determine a laboratory's compliance with the various proficiency testing, personnel, recordkeeping, quality control, and quality assurance requirements of CLIA.

Comment: Another commenter addressing the methodology used to determine the fee amount expressed concern that we intend to use some of the CLIA revenues to fund studies and research not statutorily mandated by the legislation. The commenter believed that only mandated studies should be so funded.

Response: CLIA provides that fees assessed are to be sufficient to meet the costs incurred in administering the program. If studies and research are required to improve specific approaches to the development of laboratory regulations and survey and certification activities, regardless of whether they are specifically mentioned in CLIA, the costs of those studies become integral to the proper and efficient administration of CLIA and, as such, are to be borne by the laboratory community.

Basis for Fee Amounts

The fee schedules listed herein are designed to generate sufficient revenues to fully cover Federal costs for the development, administration, and implementation of CLIA, as required by law. They are based on the Department's best estimates regarding the number and testing volume of laboratories to be regulated, as well as estimates of associated Federal costs. As more definitive information becomes available as a result of the registration process, the fees for certificates of accreditation, inspection, and compliance will be reviewed and may require adjustment upward or downward.

The fees laboratories must pay for the issuance of a registration certificate or a certificate are as follows:

Small laboratory, that is, a laboratory categorized in this rule as Schedule A (including Low-Volume), Schedule B, or Schedule C	$100
Medium laboratory, that is, a laboratory categorized in this rule as Schedule D, Schedule E, Schedule F, or Schedule G	350
Large laboratory, that is, a laboratory categorized in this rule as Schedule H, Schedule I, or Schedule J	600

Note: The fee amount for a revised certificate of any type is $50.

A certificate of waiver or certificate of accreditation fee would be assessed as follows:

Functions or tasks for all laboratories	Hours needed	Hourly rate	User fee
Federal Administration	1	$50	$50
Contractor Administration	1	50	50
TOTAL			100

(The hourly rate of $50 for Federal Administration includes approximately $30 for salaries and fringe benefits, and approximately $20 for overhead costs, including the support of a nationwide satellite training network.)

The hours required for biennial inspections are a fixed national number by category; however, since the hourly rate varies by State, there will, in effect, be 53 separate fee schedules for biennial inspections. The average time and cost required to determine compliance during calendar year 1992 would be as follows:

	Hours	Average [1] hourly rate	Biennial user fee
Schedule A Low-volume Laboratories			$300
Schedule A Laboratories:			
[2] Biennial inspection	24	$35	$840
Followup visit or complaint investigation	15	35	525
Sanctions/Hearings	8	35	280
Schedule B Laboratories:			
[2] Biennial inspection	32	35	1,120
Followup visit or complaint investigation	17	35	595
Sanctions/Hearings	9	35	315
Schedule C Laboratories:			
[2] Biennial inspection	40	35	1,400
Followup visit or complaint investigation	19	35	665
Sanctions/Hearings	10	35	350
Schedule D Laboratories:			
[2] Biennial inspection	47	35	1,645
Followup visit or complaint investigation	21	35	735

	Hours	Average [1] hourly rate	Biennial user fee
Sanctions/Hearings	11	35	385
Schedule E Laboratories:			
[2] Biennial inspection	54	35	1,890
Followup visit or complaint investigation	24	35	840
Sanctions/Hearings	12	35	420
Schedule F Laboratories:			
[2] Biennial inspection	61	35	2,135
Followup visit or complaint investigation	26	35	910
Sanctions/Hearings	13	35	455
Schedule G Laboratories:			
[2] Biennial inspection	68	35	2,380
Followup visit or complaint investigation	28	35	980
Sanctions/Hearings	14	35	490
Schedule H Laboratories:			
[2] Biennial inspection	75	35	2,625
Followup visit or complaint investigation	30	35	1,050
Sanctions/Hearings	15	35	525
Schedule I Laboratories:			
[2] Biennial inspection	82	35	2,870
Followup visit or complaint investigation	32	35	1,120
Sanctions/Hearings	16	35	560
Schedule J Laboratories:			

[2] Biennial inspection—The sum of 82 hours plus 7 hours for each additional 500,000 tests or portion thereof multiplied by a $35 hourly rate.

Followup visit or complaint investigation—The sum of 32 plus 2 hours for each additional 500,000 tests or portion thereof multiplied by a $35 hourly rate.

Sanctions/Hearings—The sum of 16 hours plus 1 hour for each additional 500,000 tests or portion thereof multiplied by a $35 hourly rate.

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[1] Average hourly rates and user fees are shown since individual contracts are negotiated with 53 State survey agencies. The actual user fee for determining compliance would depend upon the State in which the laboratory is located. For the purpose of the unit cost budget methodology, the $35 is broken out by two components: actual surveyor time to conduct compliance evaluations, which is about $27 per hour, which includes but is not necessarily limited to preparation, travel, and report writing time; and an adjustment of $8 per hour to cover surveyor costs for holidays, vacation, sick leave, and attendance at training courses. Therefore, the cost of these other work-related activities has been included in the user fee methodology.

[2] While the hours for the biennial surveys are fixed, the hours necessary for followup visits, complaint investigations and sanction/hearings activities will be the actual number of hours involved. (We show averages in the chart above for illustrative purposes.) The fee to be assessed, therefore, will vary depending on the actual time spent and the State's hourly rate.

The $300 biennial inspection fee for Low-Volume laboratories is a fixed fee, regardless of the State's hourly rate. We anticipate relatively little followup, complaint investigations, etc., for this grouping of laboratories and do not intend to charge them separately for these activities. The costs for these activities will be subsumed as part of the $300 fee.

Includes evaluating qualifications of personnel; monitoring proficiency testing; conducting onsite surveys; developing deficiency statements; and evaluating laboratories' plans to correct deficiencies.

In addition to the certificate of accreditation fee, the fee that a laboratory issued a certificate of accreditation would pay [1] in calendar year 1992 to share the cost of the 5 percent random inspections discussed earlier would be:

Schedule A Laboratories	$42
Schedule B Laboratories	56
Schedule C Laboratories	70
Schedule D Laboratories	82
Schedule E Laboratories	95
Schedule F Laboratories	107
Schedule G Laboratories	119
Schedule H Laboratories	131
Schedule I Laboratories	144
Schedule J Laboratories	(1)

[1] Schedule I base fee plus $12 for each additional 500,000 tests or portion thereof.

Note: The above schedules and corresponding fees also apply to the 5 percent annual random inspection of State-exempt laboratories. State-exempt laboratories will not be billed for these amounts. Rather, their State must pay these fees.

The fee that a laboratory issued a certificate of accreditation would pay, if it is necessary to perform the following activities in the case of that particular laboratory during 1992, would be as follows. (In this final rule, we are likewise associating the following costs for State-exempt laboratories. These laboratories will not be billed the following amounts; rather, their respective State must pay all costs associated with these activities.)

Follow-up Visits or Complaint Investigations

Schedule A Laboratories	$525
Schedule B Laboratories	595
Schedule C Laboratories	665
Schedule D Laboratories	735
Schedule E Laboratories	840
Schedule F Laboratories	910
Schedule G Laboratories	980
Schedule H Laboratories	1,050
Schedule I Laboratories	1,120
Schedule J Laboratories	(1)

[1] Schedule I base fee plus $70 for each additional 500,000 tests or portion thereof.

Sanctions/Hearing

Schedule A Laboratories	$280
Schedule B Laboratories	315
Schedule C Laboratories	350
Schedule D Laboratories	385
Schedule E Laboratories	420
Schedule F Laboratories	455
Schedule G Laboratories	490
Schedule H Laboratories	525
Schedule I Laboratories	560
Schedule J Laboratories	(1)

[1] Schedule I base fee plus $35 for each additional 500,000 tests or portion thereof.

All laboratories subject to inspection are required to pay the amount representing the biennial inspection costs in the aforementioned schedules. If the laboratory requires additional survey time as a result of followup visit(s), certificate revisions, complaint investigation(s) that are substantiated, intermediate sanctions, appeals or hearings, an additional assessment, based on actual costs, will be made for such activities.

V. Summary of Changes in the Final Regulations

As stated in our response to comments, we have made changes to the proposed regulations published August 3, 1990. With the exception of the changes identified below, the final regulations reflect the proposals made in the August 3, 1990 proposed rule.

- We have retitled the "provisional" certificate as a "registration" certificate. We have made this change throughout the rule.
- We have revised proposed § 493.602, "Scope of subpart," to clarify that part 493, subpart F, applies to all laboratories "that test human specimens for health purposes." We have also added that it sets forth requirements related to State-exempt laboratories.
- We have changed "waiver test" or "certificate of waiver test" to "waived test" throughout this rule.
- We have revised proposed § 493.606, which concerns applicability, by replacing the proposed text with a cross reference to the applicability provisions of § 493.3, which is established in the standards regulation (HSQ–176–F) published elsewhere in this issue of the **Federal Register**.
- We have revised proposed § 493.610, which requires that laboratories have an appropriate certificate, to indicate that certificates of waiver will not be applicable to specialties or subspecialties of services. We are also revising this section to specify that a laboratory licensed by and located in a State whose licensure program is approved by HHS is exempt

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[1] Includes evaluating qualifications of personnel; monitoring proficiency testing; conducting onsite surveys; developing deficiency statements; and evaluating laboratories plans to correct deficiencies.

A laboratory will be billed the above amounts for its certificate of accreditation when its accreditation organization has been approved by HHS.

from CLIA requirements and does not require a certificate issued by HHS.

- We have revised proposed § 493.614, which covers application procedures, to remove the distinction between (1) laboratories not licensed under CLIA '67 and laboratories not Medicare/Medicaid approved and (2) all other laboratories. The process for obtaining applications will be the same for both groups. We have further revised § 493.614 to specify that laboratories in a hospital that are located at the same address and under common directorship have the option of applying for a single certificate or multiple certificates. We also clarify that a laboratory that is not at a fixed location must file a single application using the address of its designated primary site. However a separate certificate is required for each unit that serves as a mobile laboratory. The certificate(s) would reflect the address of the primary site. Additionally, not-for-profit or Federal, State, or local government laboratories that engage in limited public health testing (few types of tests) at different street addresses may operate, at their option, under one certificate. We also have made a change in the punctuation in proposed paragraph (c) to indicate that the certificate of waiver will not apply to specialties or subspecialties of services.

We have further revised proposed paragraph (c), which specified that an application for a certificate of any type must be signed by the owner, operator, or authorized representative of the laboratory, by deleting reference to the operator. In reviewing this provision, we have concluded that if the laboratory owner wishes to authorize the laboratory operator to submit the various forms, he or she may do so, but it would be inappropriate for this regulation to independently empower the operator regardless of the laboratory owner's wishes. We have revised proposed paragraph (d) to clarify that tests for quality control, quality assurance, and proficiency testing purposes are not included when counting the number of tests performed annually. We further revised proposed § 493.614 to refer to licensing under CLIA '67 in the past tense, rather than the present, since CLIA '67 has been superseded by the Clinical Laboratory Improvement Amendments of 1988.

- We have revised proposed § 493.618, "Additional application requirements," to remove, from paragraph (b), the reference to the July 1, 1991 effective date, since this date has now occurred. We have also specified that the laboratory must agree to permit inspections by HHS's designee, as well as by HHS. In paragraph (d), we have removed the word "operator", for the same reason we removed it from § 493.614(c).
- We have revised proposed § 493.622, "Opportunity for a hearing," and retitled it "Appeals procedures," to clarify that any laboratory that has its certification denied or limited cannot operate as a laboratory under the PHSA in the areas covered by the limitation or denial unless the denial or limitation is overturned. We have also revised this section to more accurately reflect the appeals process for laboratories.
- We have revised proposed § 493.626, "Provisional certificate," by retitling it as "Registration certificate" and adding, in paragraph (a), that the registration certificate generally will not include specialties/subspecialties of service, but will authorize the entity to conduct laboratory testing until a determination of the appropriate level of compliance can be made. We have also revised paragraph (a) to indicate that laboratories that were licensed under CLIA '67 will also initially receive registration certificates. We have also made a change (not discussed elsewhere) to proposed paragraph (b). Proposed paragraph (b) specified that, prior to expiration of the provisional (now "registration") certificate, HHS would notify the laboratory of the applicable requirements to obtain the appropriate certificate. It also stated that HHS would initiate revocation or limitation of a laboratory's provisional (now "registration") certificate "for failure to comply with the applicable requirements as set forth in the notification by HHS * * *." We have revised this section to more accurately reflect the appeals process applicable under CLIA.
- As a change not discussed elsewhere in this preamble, we have revised proposed §§ 493.630, 493.631, and 493.632, which concern the requirements for a certificate, certificate of waiver, and certificate of accreditation, respectively, to add that each type of certificate is valid for not more than 2 years. This addition is consistent with the term specified in section 353(c)(2) of the PHSA.
- We have revised proposed § 493.630, "Certificate," by removing paragraph (a) and redesignating paragraph (b) as § 493.630. We then revised it to remove the distinction between laboratories that were licensed under CLIA '67 and those that were not.
- We have revised proposed § 493.632, "Certificate of accreditation," be changing "accreditation program" to "accreditation organization" in order to be consistent with the terminology used in other rules.
- We have revised proposed § 493.633, which addresses the applicability of the certificate, certificate of waiver, and certificate of accreditation to specify that a certificate of waiver is applicable to tests listed in the waiver test category. We have added that, if a laboratory with a certificate of waiver wishes to add services not included in the waived test category, it must notify HHS or its designee before performing the testing and that HHS will issue a registration certificate to authorize the laboratory to initiate testing. We specify that the limited registration certificate for the new testing is valid for 2 years or until a compliance determination can be conducted, whichever is shorter. We have also revised § 493.633 to reflect the statutory requirement that laboratories possessing a certificate or certificate of accreditation must agree to notify HHS or its designee or the accreditation organization (as appropriate) within 6 months of any changes in testing or methodologies.

Paragraph (b) of § 493.633 has been revised to indicate that various sanctions may be imposed upon a laboratory for failure to comply with the notification requirements of § 493.633 and to more accurately reflect the appeals process available with regard to such sanctions.

- We have redesignated the text of proposed § 493.634, "Notification of changes," as paragraph (a) and revised it to require that all laboratories, including those with registration certificates, must give notice of a change in director and to add that only laboratories performing Level II (retitled high complexity) testing are required to give notice of a change in supervisor. We have added new paragraphs (b) and (c). Paragraph (b) specifies that various sanctions may be imposed upon a laboratory for failure to comply with the notification requirements of § 493.634 and sets forth the appeals process available in such cases. We also specify that, for laboratories participating in Medicare and Medicaid, payments are suspended for failure to comply with the notification requirements. Paragraph (c) specifies that the laboratory must pay a fee for a revised certificate.
- We have revised §§ 493.638(b), 493.643(c) (1) and (2), which concern fees, to specify that tests performed for quality control, quality assurance, and proficiency testing purposes are excluded from the laboratory's annual volume. We have also revised

§ 493.638(b) to clarify, through the use of cross-references, the costs that are included in a fee schedule amount. Further, in recognition of the fact that those laboratories surveyed first may have to pay a certificate fee sooner than 2 years after paying the fee for a registration certificate, we have revised the reference to fee assessment and payment on an biennial basis to specify that the fee is assessed and payable at least biennially. We have also added that the fee for the issuance of the appropriate certificate is based on whether the laboratory is considered small, medium, or large.

- We have revised proposed § 493.639, "Fee for revised certificate," by redesignating it as paragraph (b) and adding a new paragraph (a) to specify that, if after a laboratory is issued a registration certificate, it changes its name or location, it must pay for a revised certificate. We have revised the paragraph redesignated as paragraph (b) to add that, if a laboratory with a certificate, certificate of accreditation, or certificate of waiver changes its name, location or its director or deletes services specified on its certificate, it must pay for a revised certificate. We also add that, if a laboratory with a certificate of waiver wishes to perform tests not included in the waiver test category, it also must pay for a registration certificate to allow the new testing.

Additionally (and not discussed elsewhere), we have deleted the word "actual" from the sentence "The fee for issuing an appropriate revised certificate is based on the actual cost to issue the revised certificate to the laboratory." We believe "actual cost" may be misread to imply that an adjustment of some sort would be made in each instance to reconcile estimated costs with incurred costs. In this preamble, we have established a fee of $50 (reducing it from the proposed estimated cost of $261). This represents our estimate of the average actual cost to issue a revised certificate. We do not believe that the small amount of any adjustment would justify the administrative burden (and cost) of adjusting the fee for individual laboratories.

- We have revised the proposed § 493.643, "Fee for determination of program compliance," by incorporating paragraph (b) into paragraph (a) and redesignating proposed paragraph (c) as paragraph (b). In redesignated paragraph (b), we have clarified that the fee for determining program compliance includes necessary administrative costs. Also, for clarification, we have moved the sentence regarding additional expenses in the proposed rule to the end of the paragraph and added a sentence at the end that specifies that the additional fee is based on actual resources and time necessary to perform the various activities.

In the redesignated paragraph (c), "Classification of laboratories that require inspection for purpose of determining amount of fee," in order to accommodate the concerns of small testing entities, we have established a new category within Schedule A for those laboratories performing no more than 2,000 laboratory tests per year.

We have revised proposed § 493.643(e) (now redesignated as § 493.643(d)), which addresses additional fees that a laboratory must pay, to add that, if an additional fee is assessed in connection with upgrading a certificate, failure to pay the fee will result in revocation of the certificate. We have also removed reference to a certificate of accreditation from this paragraph. Because compliance determinations of accredited laboratories are made by the accreditation organization, a HHS fee for compliance determination does not apply to these laboratories. We are also adding that, if it is necessary to conduct a complaint investigation, impose sanctions, or conduct a hearing, HHS assesses the involved laboratory (other than a State-exempt laboratory) a fee to cover the cost of these activities and that failure to pay this fee will result in the revocation of the certificate. We specify that, if a complaint investigation results in a complaint being unsubstantiated or if an HHS adverse action is overturned, the laboratory is not assessed the fees that would have covered the cost of these activities.

- We have revised proposed § 493.645, "Additional fee(s) for accredited laboratories," by changing its title to "Fee(s) applicable to accredited laboratories/approved State licensure programs." We have also deleted the provision that would have set a 5 percent inspection sample of all accredited laboratories since that number reflects only an administrative goal and not the kind of fixed obligation that the proposed rule might have suggested. We have also made revisions to specify that the State is assessed for the costs incurred for the inspection of State-exempt laboratories and for investigations of complaints against the State's State-exempt laboratories if the complaint is substantiated, and the State's prorata share of general overhead to develop and implement CLIA.

- We have revised proposed § 493.646, "Payment of fees," by redesignating the text as paragraph (a) and adding that State-exempt laboratories are not notified of fee amounts. We have also revised paragraph (a) to specify that HHS will advise the laboratory where to send payment. We removed the reference to commercial banks because it is possible that not all laboratories subject to CLIA will make payment to commercial banks. We have added a new paragraph (b), which specifies that, in the case of a State with an HHS-approved licensure program, the State is billed for the costs of validation surveys and the costs of complaint investigation of a State-exempt laboratory if the complaint is substantiated.

- We have revised proposed § 493.649, "Methodology for determining fee amount," to clarify that the hourly rate includes both the costs to perform the required activities and necessary administration costs. We also have added that the fee for issuance of the registration certificate or certificate is based on the laboratory's scope and volume of testing.

In addition to the above changes that have been made in the regulation, as a change from the preamble of our proposed rule, we are establishing $50 (and not $261) as the fee for issuing a revised certificate of any type. Additionally, we are establishing, within Schedule A, a separate fee ($300) for low-volume laboratories that conduct 2,000 or fewer tests per year. We are also revising the cost of issuing certificates and registration certificates from $261 across-the-board to $100, $350, or $600, depending on whether the laboratory is, respectively, a small, medium, or large facility (as defined in this preamble).

VI. Regulatory Impact Statement

Executive Order (E.O.) 12291 requires us to prepare and publish a final regulatory impact analysis for any proposed regulation that meets one of the E.O. 12291 criteria for a "major rule"; that is, that will be likely to result in—

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In addition, we generally prepare a final regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), unless the Secretary certifies that a final regulation will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we consider all laboratories as small entities. Individuals and States are not included in the definition of small entity.

In addition, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a final rule will have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. For purposes of section 102(b) of the Act, we define a small rural hospital as a hospital that has fewer than 50 beds and is located outside a Metropolitan Statistical Area.

At the time we published the proposed rule (55 FR 31758, August 3, 1990), we indicated that these provisions constituted a major rule, and we provided a limited analysis. Since our analysis was not conclusive, we encouraged comments and submission of any applicable data concerning these provisions, particularly if there was a perception that they may result in significant increased costs. Although the overwhelming majority of the comments we received expressed concern over costs, specifically user fees, we received only general statements and no hard data. Further analysis of the requirements contained in this rule and of their impact on the public is incorporated in the Regulatory Impact Analysis for HSQ–176, the CLIA standards rule.

For the most part CLIA law requires that all laboratories be assessed fees for certification and inspection and that these fees should be sufficient to cover all costs involved. We fully expect to gain experience from administering the CLIA program and will reconsider our approach to establishing fee schedules, and we will revise schedules as necessary. We believe the majority of the costs alluded to by commenters are the result of a misunderstanding of the regulations or a result of the statute. Most of the costs mentioned by commenters are addressed in the comment and response section (section IV) of this final rule.

VII. Final Rule With Comment Period

In the proposed rule published on August 3, 1990, we proposed, in § 493.631, to issue a certificate of accreditation to laboratories licensed by a State whose licensure program had been approved by HHS. This final rule exempts such laboratories from the requirements of CLIA (§ 493.610) and requires the State to pay a fee for inspection of a sample number of these laboratories to ensure that standards are being enforced in an appropriate manner (§ 493.645(b)(1)). This final rule also requires the State to pay the cost of a complaint investigation of a State-exempt laboratory if the complaint is substantiated (§ 493.645(b)(2)). Further, this final rule also requires the State to pay its prorata share of general overhead to develop and implement CLIA (§ 493.645(b)(3)). As stated under "Comment period" in the DATES section of this preamble, we will accept comments on only the State fee provision that are received timely.

VIII. Collection of Information Requirements

Regulations at §§ 493.614, 493.618, 493.633(a), and 493.634 contain information collection requirements that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). A notice will be published in the **Federal Register** after approval is obtained. The information collection requirements concern information that must be provided on a laboratory's application for a registration certificate, certificate of waiver, certificate of accreditation, or certificate and subsequent notification of any changes in the information provided on the application. All laboratories would be required to provide the information.

Public reporting burden for this collection of information is estimated to be approximately 3 hours per application. Organizations and individuals desiring to submit comments on the information collection and recordkeeping requirements should direct them to the Office of Management and Budget, Office of Information and Regulatory Affairs, room 3002, New Executive Office Building, Washington, DC 20503, Attention: Allison Herron Eydt, HCFA Desk Officer.

List of Subjects in 42 CFR Part 493

Health facilities, Laboratories, Medicaid, Medicare, Reporting and recordkeeping requirements.

42 CFR part 493 is amended as follows:

PART 493—LABORATORY REQUIREMENTS

1. The authority citation for part 493 continues to read as follows:

Authority: Sec. 353 of the Public Health Service Act, secs. 1102, 1861(e), the sentence following 11861(s)(11), 1861(s)(12), 1861(s)(13), 1861(s)(14), 1861(s)(15), and 1861(s)(16) of the Social Security Act (42 U.S.C. 1302, 1395x(e), the sentence following 1395x(s)(11), 1395x(s)(12), 1395x(s)(13), 1395x(s)(14), 1395x(s)(15), and 1395x(s)(16)).

2. A new subpart F is added to part 493 to read as follows:

Subpart F—General Administration

Sec.
493.602 Scope of subpart.
493.606 Applicability of subpart.
493.610 Certificate requirements for laboratories.
493.614 Application procedures.
493.618 Additional application requirements.
493.622 Appeals procedures.
493.628 Registration certificate.
493.630 Certificate.
493.631 Certificate of waiver.
493.632 Certificate of accreditation.
493.633 Applicability of certificate, certificate of waiver, and certificate of accreditation.
493.634 Notification of changes.
493.638 Registration certificate and certificate fees.
493.639 Fee for revised certificate.
493.643 Fee for determination of program compliance.
493.645 Fee(s) applicable to accredited laboratories/approved State licensure programs.
493.646 Payment of fees.
493.649 Methodology for determining fee amount.

Subpart F—General Administration

§ 493.602 Scope of subpart.

This subpart sets forth requirements all laboratories that test human specimens for health purposes must meet in order to apply for and be issued a registration certificate, certificate of waiver, certificate of accreditation, or certificate under section 353 of the Public Health Service Act (42 U.S.C. 263a). It also sets forth the methodology for determining the amount of the fees for issuing registration certificates, certificates of waiver, certificates of accreditation, or certificates and for determining compliance with the applicable standards of the Public Health Service Act (the PHS Act) and the Federal validation of State-exempt laboratories.

§ 493.606 Applicability of subpart.

The rules of this subpart are applicable to those laboratories specified in § 493.3.

§ 493.610 Certificate requirements for laboratories.

(a) Except as specified in paragraph (b), no person may solicit or accept materials derived from the human body for laboratory examination or other procedure unless there is in effect for the laboratory a registration certificate or a certificate of waiver issued by HHS, or a certificate or a certificate of accreditation issued by HHS that is applicable to the specialty or subspecialties of services offered by the laboratory.

(b) A laboratory licensed by a State whose licensure program is approved by HHS is exempt from CLIA requirements (that is, State-exempt) and does not require a certificate issued by HHS.

§ 493.614 Application procedures.

(a) HHS or its designee will send an application to those laboratories it has identified as potentially being subject to the requirements of CLIA. Those laboratories that do not receive an application must contact HHS or its designee to receive application forms.

(b) A separate application must be filed for each laboratory location. However, laboratories within a hospital that are located at the same street address and under common direction have the option of applying for a single certificate or multiple certificates for the laboratory sites within the same physical location or street address. In addition, not-for-profit or Federal, State, or local government laboratories that engage in limited public health testing (that is, few types of tests) may operate under one certificate. A laboratory that is not at a fixed location, that is, a laboratory that moves from testing site to testing site (such as health screening fairs) or other temporary testing location must file a single application using the address of its designated primary site. A separate certificate, which reflects the address of the designated primary site, is required for each mobile unit providing laboratory testing.

(c) An application for the issuance of a registration certificate, a certificate of waiver, or a certificate or certificate of accreditation applicable to one or more laboratory test procedures or examinations included in the specialties or subspecialties listed in § 493.643(d)(3) must be made to HHS or its designee on a form or forms prescribed by HHS and must be signed by the owner or authorized representative of the laboratory.

(d) The application must include information that describes the characteristics of the laboratory operation and the examinations and other test procedures performed by the laboratory, including—

(1) The names of the test procedures and examinations performed and the total number of test procedures and examinations performed annually, excluding tests for quality control, quality assurance, and proficiency testing purposes;

(2) The methodologies for test procedures and examinations performed; and

(3) The qualifications (educational background, training, and experience) of the personnel directing and supervising the laboratory and performing the laboratory test procedures and examinations.

§ 493.618 Additional application requirements.

In submitting an application for a registration certificate, a certificate of waiver, certificate of accreditation, or a certificate, a laboratory must agree to the following:

(a) To make records available and submit reports to HHS as HHS may require.

(b) To permit inspections by HHS or its designee as specified in subpart Q of this part. (Certificate of waiver laboratories are not subject to routine inspections.)

(c) To treat proficiency testing samples in the same manner as it treats materials derived from the human body referred to it for laboratory examinations or other procedures in the ordinary course of business. (Certificate of waiver laboratories are not subject to proficiency testing requirements.)

(d) To provide HHS with satisfactory assurances, through an attestation statement, signed by the laboratory owner or authorized representative, that the laboratory will be operated in accordance with the requirements established by the Secretary under section 353 of the PHS Act.

§ 493.622 Appeals procedures.

(a) If HHS denies a laboratory's application for a registration certificate, certificate of waiver, certificate of accreditation, or certificate or limits the laboratory's certificate, HHS gives the laboratory a statement of the grounds on which the denial or limitation is based and an opportunity for an appeal, in accordance with the procedures set forth in part 498 of this chapter.

(b) If a laboratory that is seeking a registration certificate, certificate of waiver, certificate of accreditation, or certificate has its application denied or its certificate limited, it cannot operate as a laboratory under the PHS Act (or, in the case of a limitation, in the areas covered by the limitation) unless the denial or limitation is overturned at the conclusion of the administrative appeals process provided by part 498 of this chapter. (In addition, the laboratory is not eligible for payment under the Medicare or Medicaid programs or, in the case of a limitation, cannot receive Medicare or Medicaid payment for services in the limited areas.)

(c) Additional provisions relating to appeal rights are set forth in §§ 493.626(b), 493.633(b), and 493.634(b).

§ 493.626 Registration certificate.

(a) HHS or its designee initially issues a registration certificate or, if the laboratory meets the requirements, a certificate of waiver to each laboratory, provided that the laboratory meets the application requirements of §§ 493.614 and 493.618 and pays the applicable fee as specified in § 493.638. A registration certificate does not include specialties/subspecialties of service, except as noted in § 493.633, but authorizes the entity to conduct laboratory testing until a determination of the appropriate level of compliance can be made and the appropriate certificate issued. The registration certificate issued in accordance with § 493.633(a)(2) to a laboratory that has a certificate of waiver to allow the laboratory to add a service(s) not listed in the waived test category reflects only the added service(s) noted on the laboratory's application. A registration certificate issued under this section is valid for a period of not more than 2 years or until such time as an inspection to determine program compliance can be conducted or the laboratory demonstrates that it qualifies to receive a certificate of waiver or a certificate of accreditation, whichever is shorter. HHS reissues a registration certificate to any laboratory for which HHS or its designee has not had an opportunity to determine compliance.

(b) Prior to expiration of the registration certificate, HHS notifies the laboratory of the applicable requirements to obtain a certificate of accreditation or a certificate and the amounts of the fees for issuing these certificates and, if applicable, the amount of the fee for determination of compliance. HHS may suspend, revoke, or limit a laboratory's registration certificate for failure to comply with the applicable requirements and may deny the laboratory's application for the applicable certificate. HHS may also impose certain alternative sanctions. HHS provides the laboratory with a statement of the grounds on which the sanctions and denial are based, an opportunity to respond to the imposition of the sanctions, and an opportunity for appeal, in accordance with the procedures set forth in part 498 of this chapter. If the laboratory requests an appeal of a suspension or revocation, it may keep its registration certificate until a decision is made by an Administrative Law Judge (ALJ), unless HHS finds that conditions at the laboratory pose an imminent and serious risk to human health. In cases where the registration certificate would expire, a registration certificate is reissued to authorize testing until a decision is made by an ALJ, unless HHS finds that conditions at the laboratory pose an imminent and serious risk to human health. HHS may impose certain alternative sanctions prior to a hearing. (In addition, for laboratories receiving payment from the Medicare or Medicaid programs, such payments are suspended on the effective date specified in the notice to the laboratory of the denial of the application for the applicable certificate, even if there has been no appeal decision issued.)

(c) In the event of a non-compliance determination resulting in denial of a laboratory's application for a certificate of accreditation or certificate, HHS may suspend, revoke, or limit a laboratory's registration certificate. HHS may also impose certain alternative sanctions. HHS provides the laboratory with a statement of the grounds on which the sanctions and application denial are based and with an opportunity for an appeal, in accordance with the procedures set forth in part 498 of this chapter. If the laboratory requests an appeal of a suspension, revocation, or limitation, it may keep its registration certificate until a decision is made by an ALJ, unless HHS finds that conditions at the laboratory pose an imminent and serious risk to human health. In cases where the registration certificate would expire, a registration certificate is reissued to authorize testing until a decision is made by an ALJ, unless HHS finds that conditions at the laboratory pose an imminent and serious risk to human health. HHS may impose certain alternative sanctions prior to a hearing. (In addition, for laboratories receiving payment from the Medicare or Medicaid programs, such payments are suspended on the effective date specified in the notice to the laboratory of the denial of the application for the applicable certificate, even if there has been no appeals decision issued.)

§ 493.630 Certificate.

HHS or its designee issues a certificate to each laboratory, provided the laboratory has a registration certificate and meets the application requirements of §§ 493.614 and 493.618, pays the applicable fee as specified in § 493.638, and meets all other applicable requirements of this part. A certificate is valid for not more than 2 years.

§ 493.631 Certificate of waiver.

HHS or its designee issues a certificate of waiver to a laboratory if it performs only waived tests, provided the laboratory meets the application requirements of §§ 493.614 and 493.618, pays the applicable fee as specified in § 493.638, and meets all other applicable requirements of this part. A certificate of waiver is valid for not more than 2 years.

§ 493.632 Certificate of accreditation.

HHS or its designee issues a certificate to a laboratory accredited by an HHS-approved accreditation organization, provided the laboratory has a registration certificate and meets the application requirements of §§ 493.614 and 493.618, pays the applicable fee as specified in § 493.638, and meets all other applicable requirements of this part. A certificate of accreditation is valid for not more than 2 years.

§ 493.633 Applicability of certificate, certificate of waiver, and certificate of accreditation.

(a) The certificate of waiver issued is applicable to tests listed in the waived test category. The certificate or certificate of accreditation issued is applicable to those specialties and subspecialties of service offered by the laboratory in accordance with this part.

(1) A laboratory performing only waived tests may not perform any examination or procedure not listed in the waived test category until it has requested and HHS has issued to it a registration certificate that covers the additional examinations or procedures requested by the laboratory. The laboratory may continue to perform waived tests that are covered by the certificate of waiver already issued to the laboratory. The registration certificate is valid for 2 years or until a compliance determination can be conducted, whichever is shorter. After HHS or its designee determines compliance, HHS issues a certificate that includes the additional specialties or subspecialties for which compliance has been determined.

(2) A laboratory possessing a certificate must notify HHS or its designee within 6 months of any changes in methodologies for any test procedure or examination it performs and any additions or deletions of tests or examinations performed. If the laboratory adds testing in a specialty or subspeciality *not* listed on its certificate, HHS or its designee will determine compliance. After HHS or its designee determines compliance, a revised certificate is issued that includes the additional specialties or subspecialties for which compliance has been determined.

(3) A laboratory possessing a certificate of accreditation must notify its approved accreditation organization within 6 months of any changes in methodologies for any test procedure or examination it performs or any additions or deletions of tests or examinations performed so that appropriate actions can be taken by the accreditation organization and a revised certificate can be issued when appropriate.

(b) HHS may suspend, revoke, or limit a laboraoty's registration certificate and may impose certain alternative sanctions for failure to comply with the notice requirements of this section. HHS provides the laboratory with a statement of grounds on which the sanctions are based, an opportunity to respond to the imposition of the sanctions, and an opportunity for an appeal, in accordance with the procedures set forth in part 498 of this chapter. If the laboratory requests an appeal of a suspension, revocation, or limitation, it retains its certificate or a reissued certificate until a decision is made by an ALJ, unless HHS finds that conditions at the laboratory pose an imminent and serious risk to human health. HHS may impose certain alternative sanctions prior to a hearing. In addition, for laboratories receiving payment from the Medicare or Medicaid programs, such payments are suspended during the pendency of any hearing for failure to comply with the requirements of this part.

§ 493.634 Notification of changes.

(a) A laboratory must notify HHS or its designee within 30 days if changes occur in—

(1) Ownership;

(2) Name;

(3) Location;

(4) Director; or

(5) Supervisor (only applicable for a high complexity laboratory).

(b) HHS may suspend, revoke, or limit a laboratory's registration certificate, certificate of waiver, or certificate of accreditation or may impose certain alternative sanctions for failure to comply with the notice requirements of this section. In such an event, HHS provides the laboratory with a statement of grounds on which the sanction is based and an opportunity for an appeal, in accordance with the procedures set forth in part 498 of this chapter. If the laboratory requests an appeal of a suspension, revocation, or limitation, it retains its certificate or a reissued certificate until a decision is made by an ALJ, unless HHS finds that conditions at the laboratory pose an imminent and serious risk to human health. (In addition, for laboratories participating in Medicare or Medicaid, payments are suspended during the pendency of any hearing for failure to comply with the notice requirements.)

(c) If a revised certificate is necessary because of the changes identified in paragraph (a) of this section, the laboratory must pay the fee for a revised certificate as required in § 493.639

§ 493.638 Registration certificate and certificate fees.

(a) *Basic rule.* Laboratories must pay a fee for the issuance of a registration certificate, certificate of waiver, certificate of accreditation, or a certificate, as applicable. Laboratories must also pay a fee to reapply for a certificate of waiver, certificate of accreditation, or a certificate. The total of fees collected by HHS under the laboratory program must be sufficient to cover the general costs of administering the laboratory certification program under section 353 of the PHS Act. For registration certificates and certificates, this includes evaluating and monitoring proficiency testing programs and accreditation bodies and implementing, monitoring, and enforcing compliance with section 353 of the PHS Act and collection of fees and issuing registration certificates and certificates. For a certificate of waiver, this includes the cost of issuing the certificate of waiver, collection of fees and the administrative costs associated with evaluating tests to determine if a certificate of waiver should be issued. For a certificate of accreditation this includes the cost of issuing the certificate of accreditation, collection of fees and the administrative costs associated with evaluating programs of accrediting bodies and the costs to conduct sample validation surveys of accredited laboratories.

(b) *Fee amount.* The fee amount is set annually by HHS on a calendar year basis and is based on schedules, or ranges, of laboratory test volume (excluding tests performed for quality control, quality assurance, and proficiency testing purposes) and scope of specialties tested, with the amounts of the fees in each schedule a function of the costs for all aspects of general administration of CLIA as set forth in §§ 493.649 (b) and (c). This fee is assessed and payable at least biennially. The methodology used to determine the amount of the fee is found in § 493.649. The amount of the fee applicable to the issuance of the registration certificate or the issuance or renewal of the certificate of waiver, certificate of accreditation, or certificate is the amount in effect at the time the application is received. Upon receipt of an application for a registration certificate, certificate of waiver, certificate of accreditation, or certificate, HHS or its designee notifies the laboratory of the amount of the required fee. The amount of the fee is based on whether the laboratory is considered small, medium, or large (based on the volume and scope of testing performed by the laboratory).

§ 493.639 Fee for revised certificate.

(a) If, after a laboratory is issued a registration certificate, it changes its name or location, the laboratory must pay a fee to cover the cost of issuing a revised registration certificate. The fee for the revised registration certificate is based on the cost to issue the revised certificate to the laboratory.

(b) A laboratory must pay a fee to cover the cost of issuing a revised certificate in any of the circumstances specified in paragraphs (b) (1) and (2). The fee for issuing an appropriate revised certificate is based on the cost to issue the revised certificate to the laboratory. (An additional fee is also required under § 493.643(e) if it is necessary to determine compliance with additional requirements and, if a laboratory with a certificate of waiver wishes to perform tests not listed in the waived test category, it must, as set forth in § 493.626, pay an additional fee for a registration certificate to cover the new testing.)

(1) If after a certificate, certificate of accreditation, or certificate of waiver is issued, a laboratory changes its name, location, or its director;

(2) If after a certificate or certificate of waiver is issued, a laboratory deletes services or wishes to add services and requests that its certificate be upgraded or that its certificate of waiver be changed or eliminated.

§ 493.643 Fee for determination of program compliance.

(a) *Fee requirement.* In addition to the fee required under § 493.638, laboratories regulated subject to the requirements of this part must pay a fee to cover the cost of determining program compliance, unless it is issued a certificate of waiver or a certificate of accreditation.

(b) *Costs included in the fee.* Included in the fee for determining program compliance is the cost of evaluating qualifications of personnel; monitoring proficiency testing; conducting onsite inspections; documenting deficiencies; evaluating laboratories' plans to correct deficiencies; and necessary administrative costs. HHS sets the fee amounts annually on a calendar year basis. Laboratories are inspected biennially; therefore, fees are assessed and payable biennially. If additional expenses are incurred to conduct follow up visits to verify correction of deficiencies, to impose sanctions, and/or for surveyor preparation for and attendance at ALJ hearings, HHS assesses an additional fee to include these costs. The additional fee is based on the actual resources and time necessary to perform the activities.

(c) *Classification of laboratories that require inspection for purpose of determining amount of fee.* (1) There are ten classifications (schedules) of laboratories for the purpose of determining the fee amount a laboratory is assessed. Each laboratory is placed into one of the ten following schedules based on the laboratory's scope and volume of testing (excluding tests performed for quality control, quality assurance, and proficiency testing purposes).

(i) (A) *Schedule A Low Volume.* The laboratory performs not more than 2,000 laboratory tests annually.

(B) *Schedule A.* The laboratory performs tests in no more than 3 specialties of service with a total annual volume of more than 2,000 but not more than 10,000 laboratory tests.

(ii) *Schedule B.* The laboratory performs tests in at least 4 specialties of service with a total annual volume of not more than 10,000 laboratory tests.

(iii) *Schedule C.* The laboratory performs tests in no more 3 specialties of service with a total annual volume of more than 10,000 but not more than 25,000 laboratory tests.

(iv) *Schedule D.* The laboratory performs tests in at least 4 specialties with a total annual volume of more than 10,000 but not more than 25,000 laboratory tests.

(v) *Schedule E.* The laboratory performs more than 25,000 but not more than 50,000 laboratory tests annually.

(vi) *Schedule F.* The laboratory performs more than 50,000 but not more than 75,000 laboratory tests annually.

(vii) *Schedule G.* The laboratory performs more than 75,000 but not more than 100,000 laboratory tests annually.

(viii) *Schedule H.* The laboratory performs more than 100,000 but not more than 500,000 laboratory tests annually.

(ix) *Schedule I.* The laboratory performs more than 500,000 but not more than 1,000,000 laboratory tests annually.

(x) *Schedule J.* The laboratory performs more than 1,000,000 laboratory tests annually.

(2) For purposes of determining a laboratory's classification under this section, a test is a procedure or examination for a single analyte. (Tests performed for quality control, quality assurance, and proficiency testing are excluded from the laboratory's total annual volume). Each profile (that is, group of tests) is counted as the number of separate procedures or examinations; for example, a chemistry profile consisting of 18 tests is counted as 18 separate procedures or tests.

(3) For purposes of determining a laboratory's classification under this section, the specialties and subspecialties of service for inclusion are:

(i) The specialty of Microbiology, which includes one or more of the following subspecialties:

(A) Bacteriology.

(B) Mycobacteriology.

(C) Mycology.

(D) Parasitology.

(E) Virology.

(ii) The specialty of Serology, which includes one or more of the following subspecialties:

(A) Syphilis Serology.

(B) General immunology

(iii) The specialty of Chemistry, which includes one or more of the following subspecialties:

(A) Routine chemistry.

(B) Endocrinology.

(C) Toxicology.

(D) Urinalysis.

(iv) The specialty of Hematology.

(v) The specialty of Immunohematology, which includes one or more of the following subspecialties:

(A) ABO grouping and Rh typing.

(B) Unexpected antibody detection.

(C) Compatibility testing.

(D) Unexpected antibody identification.

(vi) The specialty of Pathology, which includes the following subspecialties:

(A) Cytology.

(B) Histopathology.

(C) Oral pathology.

(vii) The specialty of Radiobioassay.

(viii) The specialty of Histocompatibility.

(ix) The specialty of Cytogenetics.

(d) *Additional fees.* (1) If after a certificate or certificate of waiver is issued a laboratory adds services and requests that its certificate be upgraded, the laboratory must pay an additional fee if, in order to determine compliance with additional requirements, it is necessary to conduct an inspection, evaluate personnel, or monitor proficiency testing performance. The additional fee is based on the actual resources and time necessary to perform the activities. HHS revokes the laboratory's certificate for failure to pay the compliance determination fee.

(2) If it is necessary to conduct a complaint investigation, impose sanctions or conduct a hearing, HHS assesses the laboratory, other than a State-exempt laboratory, a fee to cover the cost of these activities. If a complaint investigation results in a complaint being unsubstantiated, or if an HHS adverse action is overturned at the conclusion of the administrative appeals process, the government's costs of these activities are not imposed upon the laboratory. Costs for these activities are based on the actual resources and time necessary to perform the activities and are not assessed until after the laboratory concedes the existence of deficiencies or an ALJ rules in favor of HHS. HHS revokes the laboratory's certificate for failure to pay the assessed costs.

§ 493.645 Fee(s) applicable to accredited laboratories/approved State licensure programs.

(a) *Accredited laboratories.* (1) In addition to the certificate fee, a laboratory that is issued a certificate of accreditation is also assessed a fee to cover the cost of evaluating individual laboratories to determine overall whether an accreditation organization's standards and inspection policies are equivalent to the Federal program. All accredited laboratories share in the cost of these inspections. These costs are the same as those that are incurred when inspecting nonaccredited laboratories.

(2) If, in the case of a laboratory that has been issued a certificate of accreditation, it is necessary to conduct a complaint investigation, impose sanctions, or conduct a hearing, HHS assesses that laboratory a fee to cover the cost of these activities. If a complaint investigation results in a complaint being unsubstantiated, or if an HHS adverse action is overturned at the conclusion of the administrative appeals process, the cost of these activities are not imposed upon the laboratory. Costs are based on the actual resources and time necessary to perform the activities and are not assessed until after the laboratory concedes the existence of deficiencies or an ALJ rules in favor of HHS. HHS revokes the laboratory's certificate for failure to pay the assessed costs.

(3) If, in the case of a laboratory subject to an inspection under paragraph (a), followup visits are necessary because of identified deficiencies, HHS assesses the laboratory a fee to cover the cost of these visits. The fee is based on the actual resources and time necessary to perform the followup visits. HHS revokes the laboratory's certificate of accreditation for failure to pay the assessed fee.

(b) *Approved State licensure programs.* State licensure programs approved by HHS are assessed a fee for the following:

(1) Costs of Federal inspections of laboratories in that State (that is, State-exempt laboratories) to verify that standards are being enforced in an appropriate manner.

(2) Costs incurred for investigations of complaints against the State's State-exempt laboratories if the complaint is substantiated.

(3) Costs of the State's prorata share of general overhead to develop and implement CLIA.

§ 493.646 Payment of fees.

(a) Except for State-exempt laboratories, all laboratories are notified in writing by HHS or its designee of the appropriate fee(s) and instructions for submitting the fee(s), including the due date for payment and where to make payment. Registration certificates, certificates of waiver, certificates of accreditation, or certificates are not issued until the applicable fees have been paid.

(b) For State-exempt laboratories, HHS estimates the cost of conducting validation surveys within the State for a 2-year period. HHS or its designee notifies the State by mail of the appropriate fees, including the due date for payment and the address of the United States Department of Treasury designated commercial bank to which payment must be made. In addition, if complaint investigations are conducted in laboratories within these States and are substantiated, HHS bills the State(s) the costs of the complaint investigations.

§ 493.649 Methodology for determining fee amount.

(a) *General rule.* The amount of the fee in each schedule for compliance determination surveys is based on the average hourly rate (which includes the costs to perform the required activities and necessary administration costs) multiplied by the average number of hours required, or if activities are performed by more than one of the entities listed in paragraph (b) of this section, the sum of the products of the applicable hourly rates multiplied by the average number of hours required by the entity to perform the activity. The fee for issuance of the registration certificate or certificate is based on the laboratory's scope and volume of testing.

(b) *Determining average hourly rates used in fee schedules.* Three different entities perform activities related to the issuance or reissuance of certificates of waiver, certificates of accreditation, or certificates and determining program compliance. HHS determines the average hourly rates for the activities of each of these entities.

(1) *State survey agencies.* The following costs are included in determining an average hourly rate for the activities performed by State survey agencies:

(i) The costs incurred by the State survey agencies in evaluating personnel qualifications and monitoring each laboratory's participation in an approved proficiency testing program. The cost of onsite inspections and monitoring activities is the hourly rate derived as a result of an annual budget negotiation process with each State. The hourly rate encompasses salary costs (as determined by each State's civil service pay scale) and fringe benefit costs to support the required number of State inspectors, management and direct support staff.

(ii) Travel costs necessary to comply with each State's administrative requirements and other direct costs such as equipment, printing, and supplies. These costs are established based on historical State requirements.

(iii) Indirect costs as negotiated by HHS.

(2) *Federal agencies.* The hourly rate for activities performed by Federal agencies is the most recent average hourly cost to HHS to staff and support a full time equivalent employee. Included in this cost are salary and fringe benefit costs, necessary administrative costs, such as printing, training, postage, express mail, supplies, equipment, computer system and building service charges associated with support services provided by organizational components such as a computer center, and any other oversight activities necessary to support the program.

(3) *HHS contractors.* The hourly rate for activities performed by HHS contractors is the average hourly rate established for contractor assistance based on an independent government cost estimate for the required workload. This rate includes the cost of contractor support to provide proficiency testing programs to laboratories that do not participate in an approved proficiency testing program, provide specialized assistance in the evaluation of laboratory performance in an approved proficiency testing program, perform assessments of cytology testing laboratories, conduct special studies, bill and collect fees, issue certificates, establish accounting, monitoring and reporting systems, and assist with necessary surveyor training.

(c) *Determining number of hours.* The average number of hours used to determine the overall fee in each schedule is HHS's estimate, based on historical experience, of the average time needed by each entity to perform the activities for which it is responsible.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program; No. 13.773, Medicare—Hospital Insurance; and No. 113.774, Medicare-Supplementary Medical Insurance)

Dated: December 1, 1991.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

Approved: January 23, 1992.

Louis W. Sullivan,

Secretary.

[FR Doc. 92–4052 Filed 2–20–92; 12:27 pm]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 493

[HSQ-179-F]

RIN 0938-AE60

Medicare Program; Medicare and Laboratory Certification Program; Enforcement Procedures for Laboratories

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: These regulations set forth the rules for sanctions that HCFA may impose on laboratories that are found not to meet Federal requirements. These include the principal sanctions of suspending, limiting, or revoking the laboratory's certificate issued under the Clinical Laboratory Improvement Amendments of 1988 (CLIA), and cancelling the laboratory's approval to receive Medicare payment for its services, and the alternative sanctions that may be imposed instead of or before the principal sanctions.

These amendments are necessary to conform HCFA regulations to changes made in the law by the Omnibus Budget Reconciliation Act of 1987 (OBRA '87) and the 1988 amendments to section 353 of the Public Health Service Act (PHS Act). The latter are commonly referred to as "CLIA 88".

The purpose of the amendments is to ensure that functioning laboratories are capable of providing accurate and reliable test results and that the health of individuals served by the laboratory and that of the general public is not adversely affected by laboratory operations and by testing procedures that do not meet the standards set forth in other subparts of part 493 of the HCFA regulations.

DATES: *Effective date:* These regulations are effective September 1, 1992.

ADDRESSES: *Copies:* To order copies of the **Federal Register** containing this document, send your request to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402–9325. Specify the date of the issue requested and stock number 069–001–00042–4. Enclose a check or money order payable to the Superintendent of Documents, or enclose your Visa or Master Card number and expiration date. Credit card orders can also be placed by calling the order desk at (202) 783–3238 or by faxing to (202) 275–6802. The cost for each copy (in paper or microfiche form) is $1.50. In addition, you may view and photocopy the **Federal Register** document at most libraries designated as U.S. Government Depository Libraries and at many other public and academic libraries throughout the country that receive the **Federal Register**. The order desk operator will be able to tell you the location of the U.S. Government Depository Library nearest to you.

FOR FURTHER INFORMATION CONTACT: Irene Gibson (410) 966–6768.

SUPPLEMENTARY INFORMATION:

I. Background

A. Changes in the Laws

Before enactment of the laws cited above under "Summary", there were two sets of regulations and two survey and enforcement systems applicable to laboratories. HCFA was responsible for the determination of whether a laboratory met the requirements to be approved to receive Medicare payment for its services. The Public Health Service was responsible for the Federal licensure of laboratories that engaged in interstate commerce.

The only sanctions available under these two systems, for a laboratory that did not meet the Federal requirements, was the denial or cancellation of the approval to receive Medicare payment, and the suspension, revocation or limitation of the license to engage in interstate commerce.

Section 4064(d) of OBRA '87 added to the Act a new section 1846 which directs the Secretary to develop and implement a range of intermediate sanctions to apply to laboratories that receive Medicare payments. These sanctions must include—

(1) Directed plans of correction;

(2) Civil money penalties;

(3) Payment for the costs of onsite monitoring by the agency responsible for conducting certification inspections; and

(4) Suspension of all or part of the payments to which the laboratory would otherwise be entitled for services furnished after the effective date of sanction. The Secretary is also required to develop and implement specific procedures with respect to how and when each of the sanctions is to be imposed, and the amount of any penalties. The procedures must be designed to minimize the time lapse between identification of the violations and imposition of the sanctions, and provide for incremental more severe penalties for repeated or uncorrected deficiencies.

The primary purpose of the "CLIA 88" amendments is to strengthen the Federal oversight of laboratories in order to ensure that test results are accurate and reliable.

The new law creates a national, unified enforcement mechanism that affects virtually every laboratory in the country, not just those that are involved in interstate commerce. Every laboratory subject to the statute's broad definition will not be subject to CLIA 88 requirements and, because enforcement comes under the jurisdiction of the Secretary, every laboratory will be subject to regulations promulgated by the Secretary, regardless of whether it participates in Medicare. Under CLIA 88 it is no longer necessary to have separate sets of Federal rules to implement the two statutes. Moreover, section 6141 of the Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101–239) revoked the exemption of low-volume physician office laboratories from the CLIA certification requirements, and requires all laboratories that participate in Medicare to meet the CLIA 88 requirements. Since it is now possible to have one consolidated set of Federal requirements under a single enforcement system, it will no longer be possible for a laboratory to be sanctioned under one law, while escaping sanction under the other. In order to continue to operate under CLIA 88 all laboratories subject to the law must be inspected under CLIA 88 to obtain a CLIA certificate, with the exception of laboratories that request and receive a certificate of waiver. These laboratories are not inspected unless: a complaint that warrants an inspection is received; HCFA has reason to believe the laboratory is being operated in a manner that constitutes a risk to human health; on a random sample basis; to determine whether the laboratory is performing tests not listed in § 493.15; or to collect information for the addition, deletion or continued inclusion of specific waivered tests.

CLIA 88 grants the Secretary new and more flexible enforcement authority, including the use of intermediate sanctions and civil action to enjoin a laboratory from continuing an activity that constitutes a significant hazard to the public health. The amended law also—

- Provides for incarceration and fines for any person convicted for intentionally violating any CLIA requirements;
- Provides for administrative and judicial review procedures available to a laboratory when an intermediate sanction is imposed or its CLIA certificate is suspended, revoked, or limited; and
- Requires the Secretary to publish annually a list of all the laboratories against which a sanction has been imposed or legal action has been taken.

To safeguard against errors in the names of laboratories or individuals cited in the annual laboratory registry publication, we will send to each HCFA regional office its portion of the laboratory registry for verification of information before publication. This procedure will prevent the serious injury to a provider's or individual's professional reputation and problems that could result from inaccurate reporting.

Under previous CLIA rules, licenses were issued annually to laboratories based on the specialties and subspecialties of tests for which the laboratory could demonstrate compliance with Federal quality standards. Under CLIA 88, CLIA certificates will be issued for a two-year period but may be suspended or limited prior to a hearing in cases of noncompliance which pose immediate jeopardy to patients or the general public. In such cases, CLIA certificates can be revoked following a hearing. In cases that do not pose immediate jeopardy, in lieu of suspension, limitation, or revocation of the CLIA certificate, HCFA may impose alternative sanctions after providing the laboratory an opportunity to respond to the sanction and request a hearing.

B. Consolidation of Previous Rules

On March 14, 1990, we published (at 55 FR 29538) a final rule with comment period to consolidate the previous Medicare and CLIA regulations discussed above and designate them under a new part 493-Laboratory Requirements. The requirements of part 493 were effective as of September 10, 1990 except for subpart H—Participation in Proficiency Testing, which was effective as of January 1, 1991. The requirements of part 493 will apply to virtually all laboratories and will be used to determine whether a laboratory may continue to operate and whether its services qualify for Medicare payment.

These rules amend the new Part 493 to add a Subpart R—Enforcement Procedures. The impact of these changes on the programs is discussed below.

II. Program Impact

A. Medicare and Medicaid

Under section 1846 of the Act, Medicare payment for laboratory services may continue for up to 1 year after condition level deficiencies (noncompliance with any of the conditions that a laboratory must meet in order to obtain a CLIA certificate) have been identified as long as one or more intermediate sanctions are being imposed. Because section 1846 permits HCFA to develop and implement alternative sanctions of graduated severity according to levels of severity of deficiencies, we have established three levels of noncompliance:

- Condition level deficiencies with immediate jeopardy.
- Condition level deficiencies without immediate jeopardy.
- Deficiencies below the condition level without immediate jeopardy.

Condition level deficiencies that pose immediate jeopardy to the health and safety of individuals served by the laboratory or that of the general public will result in very swift cancellation of Medicare approval if the jeopardy is not removed immediately.

On the other hand, condition level deficiencies that do not pose immediate jeopardy no longer need trigger immediate cancellation of Medicare approval. While cancellation of approval would always remain an option, other measures may be employed first, while corrections are being made, in an effort to encourage laboratories to achieve compliance in a timely manner. However, condition level deficiencies that remain uncorrected after a reasonable period of time will still lead to cancellation of approval of

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Medicare payment for the laboratory's services.

Section 1902(a)(9)(C) of the Act provides that payment for laboratory services may be made under the Medicaid State plan only if the services are furnished by a laboratory that meets CLIA requirements.

B. CLIA 88

The major program impacts of the CLIA 88 amendments—the extension of CLIA requirements to all laboratories that test human specimens for health purposes, and the opportunity to integrate the previously separate inspection and enforcement systems—have been discussed above under Background. Since the CLIA inspection and enforcement provisions are essentially the same as those set forth in the Medicare statute or in section 1846 of the Social Security Act, we believe that we should impose sanctions under CLIA based on the same levels of noncompliance as under the Medicare statute.

C. Unsuccessful Participation in Proficiency Testing

The CLIA 88 amendments require that laboratories issued a CLIA certificate must participate in an approved proficiency testing program. Laboratories which had been previously regulated under Medicare or CLIA are required to continue to participate in proficiency testing under CLIA 88. Previously unregulated laboratories will be required to begin proficiency testing in 1994. Subpart H of 42 CFR Part 493, included as part of another final CLIA regulation with comment period published elsewhere in this issue of the **Federal Register**, specifies that any laboratory which performs tests of moderate or high complexity, or both, must enroll in a proficiency testing program for each of the specialties, subspecialties, and analytes authorized by its CLIA certificate. Subpart H sets forth successful participation in proficiency testing as a condition level requirement. As stated in this regulation at § 493.1804(b)(2), HCFA may impose alternative or principal sanctions against any laboratory with condition level deficiencies. Therefore, laboratories which do not participate successfully in proficiency testing will be subject to the same sanctions that are applicable for noncompliance with any other CLIA condition. Additionally, if any laboratory fails to participate successfully in proficiency testing, HCFA may impose the training and technical assistance provisions set forth at § 493.1838 of the regulation.

D. Phased-in Imposition of Alternative Sanctions for Unsuccessful Participation in Proficiency Testing

In order to provide adequate opportunity for all laboratories to fully understand the PT system under CLIA prior to being sanctioned for unsuccessful participation in PT, we will phase in the enforcement of PT requirements. The authority for this phase-in is based on sections 1846 of the Social Security Act and 353(h) of the Public Health Service Act. These statutory sections provide the Secretary with the opportunity to develop and implement procedures with respect to when and how intermediate sanctions are to be imposed against laboratories. Under CLIA, previously regulated laboratories are subject to PT requirements as of the effective date of all CLIA requirements, published elsewhere in this issue of the **Federal Register**. Previously unregulated laboratories will not be required to meet PT requirements until January 1, 1994. In both cases, however, the first citation of unsuccessful PT participation will not result in the imposition of a sanction. Unsuccessful participation in subsequent PT events will result in the imposition of a sanction. This policy will afford the laboratory a longer period of time to correct its deficiencies than will otherwise be the case for subsequent PT events. We developed this approach in order to provide all laboratories additional time to understand the PT requirements with which they may be unfamiliar and with which they may be initially found to be noncompliant, as well as to enable laboratories to grasp fully the sanctions which may be imposed for unsuccessful PT participation. As always, however, the Secretary will take any action that may be necessary in cases of immediate jeopardy. This could include the imposition of sanctions for the first time occurrence of unsuccessful PT participation in those instances where the Secretary determines that such unsuccessful PT participation itself poses an immediate jeopardy situation or demonstrates the existence of an immediate jeopardy situation. Without such a policy, we would be required to enforce immediately the revised PT requirements published elsewhere in this issue of the **Federal Register** (and designated as HSQ-176-FC). We would also be required to impose sanctions for noncompliance with PT requirements with which the laboratory industry is unfamiliar.

E. Phased-in Imposition of Alternative Sanctions for Noncompliance With Other Conditions

For laboratories which were not previously regulated under CLIA or Medicare, HCFA will also phase in the imposition of intermediate sanctions for noncompliance with CLIA conditions other than PT. Under this system, which is intended to be separate from the phase-in of intermediate sanctions for the unsuccessful participation in PT as described above, intermediate sanctions will not be imposed during a laboratory's first inspection cycle against applicable CLIA requirements, if the laboratory's deficiencies do not pose immediate jeopardy. However, the laboratory will be required to correct its deficiencies in the areas specified by HCFA over a longer period of time than will otherwise be the case for noncompliance identified in all subsequent CLIA inspections. We developed this phase-in of alternative sanctions for newly regulated laboratories to provide additional time for them to understand the CLIA conditions with which they are found to be noncompliant upon their initial inspection.

The use of this phased-in system for the imposition of sanctions should mitigate the full impact of the misunderstanding that may be unavoidable—even with our planned educational activity, when dealing with a large number of small laboratory operations that have never previously been subject to any governmental onsite inspections. This will protect against disruption of services in laboratories that are attempting in good faith to comply with the new CLIA requirements. At the same time, it will provide for use of the statutory sanctions where an immediate jeopardy situation is identified.

For those laboratories that have been subject to regulation by the Federal government through CLIA '67, Medicare or Medicaid, we intend to have all CLIA and Medicare sanctions available after the effective date of these regulations. First, these laboratories have been accustomed to the inspection process and, notwithstanding the change in substantive Federal requirements that CLIA represents, the inspection process itself will remain largely unchanged. Thus, there is no need here, as there is for newly regulated laboratories, to allow time for currently regulated laboratories to familiarize themselves with the interplay of inspections, the need for the correction of deficiencies, and the possibility of sanctions should compliance not be achieved. Second, the Congress was clearly interested in having the enforcement provisions of CLIA become effective at the earliest possible date after CLIA was enacted. To enable laboratories that have been consistently subject to sanctions for noncompliant practices to evade enforcement, would not be consistent with this Congressional intent and would needlessly increase the potential for a reduction in reliable and accurate laboratory testing.

III. Notice of Proposed Rulemaking

On April 2, 1991, at 56 FR 13430, we published a proposed rule (identified as HSQ-179-P) setting forth the enforcement procedures for laboratories, and provided 60 days for public comment.

In this section of the preamble, we discuss the comments received in response to the April 2 proposed rule, our responses to those comments, and changes made in the proposed policies.

A. Definitions (section 493.1801)

Section 493.1801 defined the following terms: "CLIA certificate", "provisional certificate", "condition level requirement" and "condition level deficiency", "HCFA agent", "Immediate jeopardy", and "Lower level deficiency".

1. *Comment:* Several commenters recommended that the final regulation include definitions of "owner" and "operator" as referred to in § 493.1840 because without a definition accountability cannot be placed. In addition, one commenter wanted to know if owner or operator was limited to a person because that party believes "person" also means corporations, partnerships, etc. Other commenters wanted to know if stockholders of publicly held laboratories would be considered owners.

Response: We have added definitions of those two terms in § 493.2 of the final rule. In summary, we have stated that an operator means the individual or group of individuals who oversee the operation of a laboratory and who bear primary responsibility for the safety and reliability of laboratory testing, while an owner means an individual who owns an interest in the laboratory.

2. *Comment:* Several commenters want condition level deficiency and lower level deficiency to be more clearly delineated. They were also unclear about the relationship between "elements", "standards" and "conditions".

Response: A condition level deficiency is a deficiency with respect to any of the conditions that a laboratory must meet in order to obtain a CLIA certificate. A deficiency not at the condition level is a deficiency with respect to one or more of the standard level requirements that are below the condition level, and, therefore, are not identified as conditions. These requirements may appear in this part under the heading "standard" or under no heading, and are what is meant by "lower level" requirements. There is no official requirement category designated "element" in this part. We have expanded the definition of "condition-level deficiency" in the final rule.

3. *Comment:* Several commenters questioned what entities (other than State survey agencies) HCFA might use as agents.

Response: We have listed other entities which HCFA might use as its agents in the definition of HCFA agent at § 493.2.

4. We received single requests for definitions of each of the following terms:

a. *"Significant hazard to the public health"*. This means a deficiency that may cause harm to members of the community who are not necessarily patients served directly by the laboratory (for example, incorrect reporting of accurate test results with respect to communicable diseases). It is equivalent to "immediate jeopardy" for patients served by the laboratory and has been incorporated in the definition of the latter term.

b. *"Repeat deficiencies"*. (To explain the number of occurrences necessary for it to be considered a "repeat" deficiency.) We have revised the statements in § 493.1804(d)(1)(iii), § 493.1828(a)(2)(i)(B) and § 493.1834(d)(1)(ii) to make clear that reference is to the "same" deficiency found in three consecutive inspections.

c. *"Intentional violation"*. We have added a definition of this term in the final rule, which states that an intentional violation means knowing and willful noncompliance with any CLIA condition.

d. *"Cancellation of Medicare approval."* Cancellation of a laboratory's Medicare approval means that Medicare payment for the laboratory's services will not be made after the effective date of cancellation and the laboratory's Medicare participation has, therefore, been canceled.

e. *"Directed plan of correction"*. This is explained in § 493.1832.

f. *"Laboratory"*. This term is defined in § 493.2, which contains definitions applicable to all of part 493.

B. Imposition of Sanctions (Sections 493.1806—493.1842)

Commenters were concerned both with the effect of sanctions on laboratories, and with the procedures for imposing the sanctions.

1. *Comment:* 32 commenters were concerned that sanctions could lead to closure or to limitations of voluntary testing in many small laboratories such as those in physicians' offices.

Response: It is true that sanctions imposed upon small laboratories, including those in physicians' offices, may lead to closure or to limitations on the types of tests done. However, our objective under CLIA is to develop regulations that provide an appropriate balance between the concern for access to care and the need to protect the public from inaccurate and potentially dangerous test results.

2. *Comment:* 25 commenters indicated their concern that these regulations could limit access to or delay laboratory testing for patients.

Response: It is true that if a laboratory is unable to perform certain tests because it was found to be out of compliance with CLIA requirements, this could possibly limit access. Individuals who require those tests may have to wait longer for the results since those tests would have to be done elsewhere. It is generally in the patient's better interest to wait a little longer for test results which are accurate and reliable. Once the noncomplying laboratory has come into compliance and the alternative sanction or limitation of certificate is lifted, access to that laboratory will be restored.

3. *Comment:* Ten commenters were concerned that these regulations would create a great hardship on the elderly who, if their physicians' labs are sanctioned, would have to travel farther to have tests done and wait longer for results. The recommendation was that physicians' office laboratories (POLs) be exempted from CLIA requirements as a way to avoid this problem.

Response: We have no authority to exempt physicians' office laboratories from CLIA requirements. However, the plan for implementation of CLIA requirements includes a gradual phase-in both as to dates when certain conditions must be met, and the date when we will begin to impose sanctions for failure to comply with those conditions, if the failure to comply with those conditions does not pose immediate jeopardy.

4. *Comment:* Several commenters indicated their concern that sanctions would raise the cost of laboratory

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testing and medical care in general, and would create significant paperwork burdens.

Response: In the preamble to the proposed rule, under "V. Regulatory Impact Analysis," we explained that this rule could have some potential to have significant impact on some laboratories. However, we have since determined that this rule will not have a significant impact in the form of increased costs of laboratory testing and medical care. In fact, any substantial impact that results from the implementation of CLIA requirements will be due to the CLIA conditions set forth in the regulations published elsewhere in this edition of the **Federal Register** and designated as HSQ–176–FC. Any significant impact would be reflected in the form of the increased costs of upgrading laboratories to meet CLIA requirements, and not the costs associated with being sanctioned. Moreover, both the requirements a laboratory must meet to obtain any type of CLIA certificate, and the Secretary's obligation to impose enforcement sanctions are mandated by the law and must be implemented, regardless of the possibility that costs will rise. This rule does not impose a significant paperwork burden. It does contain some information collection requirements, and we have requested approval of these requirements.

5. *Comment:* Four commenters had concern regarding the impact of CLIA on the States. One commenter indicated that because of the additional work involved (monitoring, imposing sanctions, follow-up visits, notifying clients when laboratories are sanctioned and when the sanctions are rescinded), a "tremendous burden" will be added to the States' workload. This commenter would prefer to publish notices of sanctions and recission of sanctions in the local newspapers. Another commenter disagrees with the section on "Federalism" within the Regulatory Impact Analysis, which states that there will be "little of the former role for States in laboratory regulation remaining under CLIA 88". The same commenter feels the States will develop, in time, programs more stringent than those required by CLIA. The same commenter would prefer that States continue to have a substantial role in laboratory regulation, rather than defer to the proposed Federal program and diminish their roles in protecting the public health and the safety of their citizens. The third commenter would like a clearer understanding of States' roles in the enforcement process. The last commenter also stated that there will be little of the former role for States remaining under CLIA 88. He suggested that the Federal government has not been effective in preventing deaths in its own Health and Human Services/Public Health Services/IHS system and indicated that the States should not lightly allow HCFA to usurp their authority in this area.

Response: It is true that the role of the States will significantly change as a result of section 1846 of the Social Security Act, section 353 of the Public Health Service Act, and implementing regulations. We explained this in the Preamble to the proposed regulations under the section headed B. Executive Order 12612. In response to the recommendation that the States not defer to the proposed Federal program and diminish their roles, we will acknowledge in a separate regulation the States' right to apply for HCFA approval of their licensure programs so that laboratories licensed in those States would be exempt from CLIA requirements. The term "State-exempt" in the final rule refers to laboratories in States with licensure programs that have requirements equal to or more stringent than the Federal requirements and that have been approved by HCFA. As for its role in the enforcement process, the State will still be responsible for inspecting laboratories for compliance with CLIA requirements even if that State's licensure program is not approved by HCFA as a basis for exemption from CLIA requirements. The State will recommend enforcement action to HCFA and may notify laboratories of the types of adverse actions that HCFA may impose. There are many more specific functions in addition to these general ones.

6. *Comment:* Four commenters were of the opinion that the imposition of sanctions would be tantamount to interference with medical practice. One stated that CLIA 88 is a further Federal government encroachment into the field of medicine that will not improve care but will severely decrease access to care for patients. One physician wrote that the premise that the health of patients is being threatened by laboratories in physicians' offices is nonsense and that closing such laboratories will have a negative impact on overall health care. For example: if tests are sent to bigger laboratories, another step will be added to the diagnostic process which will delay obtaining of test result by both rural and urban physicians who frequently need laboratory results immediately. This commenter feels that automation and technology have advanced to the extent that smaller laboratories can perform many simple tests just as easily and more reasonably and efficiently than "big" laboratories. Another commenter stated that the intrusion of HCFA into physicians' office laboratories deteriorates the doctor/patient relationship and creates interference when quick results are necessary.

Response: We disagree with these commenters, although we understand that the new CLIA regulations may to some extent, interfere in the autonomy of physicians if their laboratories are not in compliance with Federal requirements. However, Congress has mandated that we regulate laboratory practices no matter how small the laboratory, and directed us to use various enforcement remedies when deficiencies are identified. If cancellation of Medicare approval and revocation of CLIA certificates become necessary, then disadvantages of delays caused by submission of specimens to other laboratories are offset by the advantages of accurate testing. Despite the technological advances that have enabled physician's office laboratories to perform tests easily, the possibility of errors still exists, and the consequences of errors could be dangerous, despite the simplicity of the tests.

7. *Comment:* Five commenters were of the opinion that the additional recordkeeping requirements mandated by CLIA would be burdensome and might not be provided in a timely manner, thereby distorting the integrity of the information. They all seem to agree that in order to meet the paperwork requirements, they will require additional funds from HCFA.

Response: The response to this comment is located in the Regulatory Impact Analysis of HSQ–176–FC, published elsewhere in this issue of the **Federal Register.**

8. *Comment:* 14 commenters expressed the opinion that CLIA in general should either be repealed or further reviewed by Congress.

Response: This comment is outside the purview of these regulations.

9. *Comment:* Five commenters were of the opinion that HCFA should conduct a study to determine whether the added costs of CLIA to laboratories will justify the promulgation of the regulations.

Response: We disagree with the commenters' suggestions that further studies should be conducted to determine whether the added costs of CLIA are justified. Many provisions of section 1846 of the Social Security Act and section 353 of the Public Health Service Act can only be implemented after regulations are promulgated.

Unless the laws are repealed, we have no choice but to issue regulations. Congress has not given the Secretary the authority or the responsibility to conduct a study to determine if the laws should remain in effect. However, the Centers for Disease Control will be conducting CLIA-mandated studies in 5 other areas, such as quality assurance and personnel standards.

10. *Comment:* Three commenters were of the opinion that the only way rural health clinics (RHCs) could comply with the CLIA provisions would be if the requirements were modified for RHCs. Otherwise, RHCs should be exempted from CLIA.

Response: The law provides no authority for us to exempt laboratories in RHCs from CLIA requirements.

11. *Comment:* Two commenters were concerned that sanctions would put small laboratories out of business. The first suggested that HCFA impose a single sanction for all condition level deficiencies that are interrelated rather than a separate sanction for each condition level deficiency. This commenter feels that multiple actions could force a laboratory to close without having the opportunity to come into compliance. The second commenter feels that sanctions should be eliminated.

Response: Under the law, HCFA is required to impose those sanctions that are most likely to bring laboratories into compliance in the shortest possible time. However, HCFA will not necessarily be imposing separate sanctions for separate deficiencies, unless the nature of the deficiencies is so different that a different enforcement remedy is warranted for each. Also, when civil money penalties are imposed, a fine can be imposed for each violation. This is specified at section 353(h) of the PHSA.

12. *Comment:* Some commenters were of the opinion that dental laboratories and laboratories in Women's, Infants and Children's Clinics should be exempted from CLIA requirements.

Response: Any laboratory that fits the definition set forth at section 353(a) of the Public Health Service Act is subject to CLIA requirements.

13. *Comment:* Four commenters were of the opinion that suspending Medicare payments might result in discrimination against Medicare beneficiaries by denying them access to specific laboratory services.

Response: There is nothing to preclude HCFA from using Medicare sanctions in conjunction with CLIA sanctions in any situation of noncompliance. In fact, in the case of immediate jeopardy deficiencies, alternative sanctions will be paired with a principal sanction. For example, with immediate jeopardy deficiencies, HCFA would suspend the CLIA certificate immediately, and simultaneously suspend all Medicare payments. This insures protection of all patients using the services of the laboratory not just Medicare patients.

14. *Comment:* 15 commenters expressed concern regarding the potential costs of onsite monitoring. Several felt they might be able to defray costs if they had some input into scheduling and prior notice of on-site monitoring in order to avoid creating costly scheduling situations in their laboratories. Others disagreed with the method of determining costs for on-site monitoring and felt a specific fee schedule based on an average figure instead of number of hours would be less costly to them. One commenter suggested that laboratories holding certificates of waiver should be exempt from paying for on-site monitoring because of limited resources, low-volume of tests performed, and minimal risk to the public. Others want detailed information regarding costs, including hourly rates, frequency, duration and timing of monitoring. Several felt that because HCFA was requiring the monitoring, HCFA should pay for it.

Response: There will be at least 15 days notice before the effective date of the sanction of on-site monitoring in situations that do not pose immediate jeopardy and 5 days notice when there is immediate jeopardy. A fee schedule based on average fees rather than actual hours would benefit only those laboratories that require an above average number of hours of monitoring. The fairest approach will be to charge each laboratory for the actual number of hours used. Laboratories holding certificates of waiver will not be required to pay monitoring fees, because we do not intend to subject them to alternative sanctions as provided at § 493.1806(c) of this final rule. Our response to the request for detailed information about hourly rates, frequency, timing and duration of monitoring, is, as stated above, that we believe the fairest approach to be determination on a case-by-case basis.

15. *Comment:* Two commenters questioned the process by which HCFA decides to impose onsite monitoring.

Response: The decision to impose onsite monitoring is one which, as in the case of other sanctions, will be made on a case-by-case basis. It will take into account the specifics of each situation which will dictate the type of sanction most likely to motivate correction of deficiencies.

16. *Comment:* Two commenters were of the opinion that a suspension of Medicare payments would not encourage compliance or would not be a significant penalty for laboratories having a low volume of Medicare patients.

Response: We realize that not every available sanction will be appropriate for every laboratory. For this reason, in § 493.1804(d)(2) we specify that in selecting a particular sanction, HCFA's primary aim is to ensure that a laboratory corrects its deficiencies. It is up to HCFA to decide if the sanction would be sufficient in any given case to motivate the laboratory to correct deficiencies. Since neither the Medicare nor CLIA statute dictates that any particular remedy be used in any case of noncompliance, we believe that we have complete discretion to make enforcement choices.

17. *Comment:* One commenter expressed support for this regulation indicating that closing poor or marginal laboratories would be a desired effect of this legislation.

Response: We appreciate the commenter's overall support for this rule and are fully committed to the development of regulations that will implement CLIA effectively. However, the closing of poor or marginal laboratories is a goal of last resort. Our objective is first to take whatever enforcement action is likely to motivate the laboratory to correct the deficiencies.

18. *Comment:* Five commenters indicated their support for the imposition of alternative sanctions.

Response: We appreciate the support we have received for this rule and are committed to the development of regulations that reflect the enforcement-related aspects of the CLIA provisions.

19. *Comment:* Four commenters were of the opinion that punitive measures do not encourage compliance, and one stated that an educational approach would be more productive over the long run.

Response: Section 1846 of the Social Security Act and section 353 of the Public Health Service Act contemplate that adverse actions be taken against laboratories that have failed to quickly come into compliance. However, it should be noted that alternative sanctions do offer laboratories the opportunity to come into compliance within a specified period of time instead of immediately having their CLIA certificates suspended, limited, or revoked, or their Medicare approval cancelled. In addition, in cases of adverse action taken in response to

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unsuccessful participation in proficiency testing, educational activities such as training and technical assistance may be used.

20. *Comment:* Eight commenters stated that HCFA cannot legally impose sanctions in the absence of published CLIA requirements.

Response: Another rule, identified as HSQ–176–FC and published elsewhere in this issue of the **Federal Register**, specifies the requirements for a CLIA certificate, and that rule is effective on the same day as these regulations. As noted in some of our other responses, the phase-in policy for effective dates of CLIA requirements will have a corresponding phase-in policy for enforcement procedures.

21. *Comment:* Six commenters disagreed with being sanctioned for noncompliance in proficiency testing.

Response: The law contemplates that we invoke sanctions for noncompliance in proficiency testing because successful performance of this testing is a requirement for obtaining a CLIA certificate. However, the law also provides that we may require additional training of personnel, technical assistance, or both in lieu of or in addition to sanctions or civil action for unsuccessful PT participation. In addition, during the phase-in of proficiency testing, as discussed in section D of program impact, some prior to the effective date of the applicable PT requirements.

22. *Comment:* Two commenters were concerned that available sanctions are subject to broad interpretation and may be applied inequitably.

Response: The regulations are rather specific as to appropriate sanctions in specific situations as a function of whether deficiencies are at the condition level, and if they are, whether the deficiencies pose an immediate jeopardy to the laboratory's patients or to the general public. HCFA has the discretionary authority to impose one or more principal or alternative sanctions, based on the severity and nature of deficiencies found during inspections of laboratories. If the deficiencies are determined to pose immediate jeopardy to the health and safety of individuals served by the laboratory or that of the general public, the sanctions imposed will, of necessity, be more severe than those used in situations which are less threatening, and will consist of at least one principal sanction. When there is not immediate jeopardy, alternative sanctions rather than principal sanctions would be imposed first, thus allowing the laboratory a longer period of time to come into compliance. If the laboratory fails to correct all condition level deficiencies within the specified timeframe, HCFA would impose principal sanctions.

The choice of alternative sanctions is based on the nature of the deficiencies. Therefore, regulatory guidelines that would cover every possible situation would be virtually impossible to develop. There would be no way to include in such guidelines every possible combination of deficiencies and therefore no way to develop policies on which alternative sanction(s) to impose in each case.

23. *Comment:* Thirteen commenters states that HCFA should develop a system for classifying the severity of deficiencies, and should delineate this system in these regulations. There were also requests from eight commenters for a formal link between deficiency type and sanction imposed, with many commenters expressing a lack of confidence in HCFA's "sole reliance" on the judgment of State surveyors when making a determination of compliance or noncompliance in a laboratory.

Response: In the future, HCFA may develop a system to classify the scope and severity of deficiencies with regard to CLIA requirements. However, one must remain cognizant of the fact that even if a scope and severity scale for deficiencies is developed, it would not lessen reliance on surveyor judgment in determining the existence of deficiencies or whether those deficiencies pose an immediate jeopardy. With regard to linking specific sanctions with certain deficiency types, we oppose the development of a formal link between each type of deficiency and the sanction imposed. Such a system would predetermine which sanction we must impose if a certain deficiency exists, and would be so rigid as to serve neither HCFA's nor a laboratory's best interests. Our position on the imposition of alternative sanctions is that we must maintain flexibility. We rely on the surveyor to assess the severity of each deficiency and to recommend to us whether each deficiency poses immediate jeopardy, to recommend whether an alternative sanction would be appropriate, and, if so, which one. Based on those recommendations, we will impose the alternative sanction that, in our judgment, would best encourage the laboratory to quickly correct its deficiencies.

The surveyors whom we employ to inspect laboratories are laboratory professionals. They are trained extensively by both HCFA and their respective States in proper inspection techniques under CLIA. They use their professional judgment and expertise in making recommendations. We expect that each surveyor will demonstrate sound judgment and make good decisions. However, there are "checks and balance" inherent in this system. The surveyors' recommendations are reviewed by the supervisory staff of the State agency or other HCFA agents, and are further reviewed by the HCFA regional office (RO). The RO makes the final determination of compliance or noncompliance and imposes the sanction(s) that would, in the opinion of the RO, most likely precipitate correction.

We reiterate, however, that State surveyors or other agents designated by HCFA to inspect laboratories are highly trained professionals. We do not believe that the differences in each surveyor's professional judgment would negatively affect a laboratory to the degree predicted by commenters, because one of the major objectives in the training of State health department personnel, State surveyors, and other HCFA agents is consistency in the application of all sanctions.

24. *Comment:* A large group of commenters expressed concern about the timeframe for responding to HCFA's written notice of sanction. They stated that the 15-day period of time between the notice of sanction and the actual imposition of the sanction is too short for a laboratory to obtain sufficient documentation in order to prepare a response. For this reason, they requested that the 15-day period be expanded to 30 days.

A few commenters stated that 5 days are insufficient to respond to the notice of, and/or correct, an immediate jeopardy situation.

A number of other commenters felt that HCFA should issue a statement to the laboratory, within a specified number of days after the receipt of the laboratory's response to the HCFA notice of sanction, in order to formally acknowledge the laboratory's response. One commenter stated that HCFA should include in its response a more "uniform" interpretation of the regulations to explain to the laboratory (i.e., a response in greater detail than what the State agency could provide) why the laboratory is out of compliance. A few other commenters requested that the notice contain additional sanction-specific information.

Response: We will not increase the 5-day and 15-day periods between notice of sanction and the actual imposition of sanction (or, in the case of civil money penalties, the effective date of accrual), because, regardless of whether there is immediate jeopardy or no immediate jeopardy, further delay in the imposition of sanctions would mean further risk to the health and safety of the patients the laboratory serves and, in some instances, risk to the health of the general public. Moreover, the laboratory is actually aware of the deficiencies that need to be corrected for more than 5 or 15 days. Specifically, the laboratory is notified of deficiencies at the exit conference and written notification of deficiencies is provided within 10 days of the inspection.

Some commenters were concerned that we should send a formal acknowledgement upon receipt of a laboratory's response to the HCFA notice of sanction. We will acknowledge receipt of the laboratory's evidence of compliance or a credible allegation of compliance in the written decision at the end of the correction period. We have made it clear at § 493.1810(c) that at the end of this period, we will either confirm the imposition of sanction on the proposed effective date, or discontinue the imposition of the sanction. In either case, we believe it is unnecessary for HCFA to provide a "more uniform" interpretation of the regulations, since the States have been trained in our interpretation and use it in carrying out their survey and certification duties on behalf of the Secretary.

25. *Comment:* A few commenters requested that we not "duplicate" existing inspection and enforcement mechanisms currently used in provider (such as nursing facilities) which perform laboratory testing.

Response: We acknowledge the commenters' concern that these regulations might cause a possible "overlap" of inspection and enforcement activities in providers such as nursing facilities, which are surveyed under the authority of the Nursing Home Reform provisions of OBRA '87. However, the inspection and enforcement mechanisms under CLIA will remain separate from those used for other areas of patient care in such facilities. Section 353(b) of the Public Health Service Act (as amended by CLIA 88) does require that every laboratory soliciting or accepting materials for examination or diagnostic procedures have a certificate issued by the Secretary which permits the laboratory to perform that type of testing. This CLIA certificate indicates that the laboratory has met the requirements imposed under CLIA. These CLIA requirements apply to every laboratory that does testing that meets the CLIA definition, whether the laboratory is a freestanding facility or a component of a provider or other supplier. In fact, the nursing home requirements at 42 CFR 483.75(j)(l)(i) specify that if the facility provides its own laboratory services, the services must meet the applicable laboratory requirements in part 493 of the regulations. Therefore, the nursing home survey process requires that inspection of the facility against the laboratory conditions at part 493 to determine if the nursing home meets the requirements at § 483.75(j).

The new CLIA conditions will supersede the pre-existing conditions for coverage for independent laboratories as well as the laboratory requirements previously contained in the conditions of participation or conditions for coverage for laboratory services in other suppliers and in providers such as nursing facilities. The implementation of these requirements has been promulgated under a separate rule, published elsewhere in this edition of the Federal Register and identified as HSQ–176–FC.

26. *Comment:* A large number of commenters requested that HCFA consider factors such as the size and test volume of a laboratory when determining which sanctions to impose, particularly when the sanctions being considered involve a monetary penalty.

Response: These regulations set forth laboratory sanctions that directly or indirectly involve the expenditure of money by, or the loss of payment to, the laboratory. We are aware that such sanctions might be more easily borne by a large laboratory than a small laboratory. We also know that a sanctioned laboratory in a provider or supplier such as a hospital or physician's office might have access to greater financial resources and thus remain operational for a longer period of time than a similarly-sized free-standing laboratory (provided that HCFA does not suspend, limit, or revoke its CLIA certificate). We realize too that any laboratory which performs a low volume of tests has fewer specialties and subspecialties of testing to offset sanctioned categories.

As stated previously, our approach to imposing sanctions is one of flexibility, and our choice of the sanction(s) which we impose is guided not only by the severity of the deficiencies, but by the nature of the deficiencies and the corrections that must be made. HCFA decides which sanctions to impose on the basis of the surveying agency's recommendations. The size and test volume of a laboratory are among the factors considered in the process of reaching a decision. For example, if we impose a sanction against a small laboratory, we would try not to impose a sanction for which the monetary component would be large enough to force that laboratory to close rather than correct its deficiencies. In fact, with civil money penalties, the process involves the flexibility for HCFA to set the monetary amounts at lower levels for less severe deficiencies. However, for other sanctions in which expenditures of money are involved, such as a directed plan of correction, a deficiency that is relatively less serious in terms of negative patient outcomes is a deficiency, nonetheless, and may require a significant amount of money to correct, regardless of the size of the laboratory. The choice of sanction(s) could, therefore, precipitate closure of the facility if the laboratory's financial resources were depleted during the correction period.

27. *Comment:* Several commenters requested that HCFA implement a gradual phase-in of sanctions in order to afford laboratories (especially those that were not previously regulated under CLIA) additional time to educate their staff on the CLIA 88 conditions prior to being subject to sanctioning.

Response: Both this regulation and HSQ–176–FC (the rule delineating the conditions that laboratories must meet to operate under CLIA), published today, are effective six months from today. This delay in effective dates will afford the laboratory community ample time to become familiar with these requirements prior to the commencement of inspections under CLIA. Additionally, prior to the inspection of any laboratory under these requirements, laboratories that have followed appropriate application procedures, including the payment of required fees, will have been issued an initial registration certification that permits the laboratory to operate. The certificate to be issued after the inspection can be withheld and the registration certificate revoked for noncompliance with conditions of participation. The timing of the first inspection, however, is dependent on workload and other administrative factors and may not occur until quite some time following the issuance of the registration certificate. The period of time that a laboratory is permitted to operate under its registration certificate represents additional time that a laboratory will have to become familiar with the CLIA requirements and ensure that it is operating in compliance with those requirements prior to any inspection.

We have described two separate systems which we developed for the phase-in (delay in the imposition of) alternative sanctions. Both are described under the Program Impact section (sections II D and E, respectively) of this preamble. The first specifies that for any laboratory with unsuccessful participation in proficiency testing, alternative sanctions will not be imposed at the time of the first citing of such unsuccessful participation in proficiency testing. At section II E, we have described a separate system for the phase-in of alternative sanctions against laboratories not previously regulated under CLIA or Medicare which have condition level deficiencies in areas other than PT. Our rationale for this policy is delineated below.

The requirements established under CLIA and published today will likely result in some changes in the operations of approved PT organizations and their testing procedures. We do not believe it would be equitable to hold previously regulated laboratories, that have routinely participated in PT programs, immediately accountable for changes made in the PT process. We do not believe that these laboratories should be penalized while proficiency testing providers are fine tuning their program to eliminate any operational problems that may exist since changes were implemented as a result of CLIA '88. With respect to previously unregulated laboratories, we estimate that as many as one half of these laboratories have never participated in PT testing programs. These laboratories will also need a phase-in period to become familiar with both the technical and operational aspects of initiating relationships with PT organizations and participating in their programs. With regard to laboratories which were not previously regulated under CLIA or Medicare, we believe that a phased-in system of enforcement for conditions other than PT is an equitable alternative to the immediate sanctioning of such laboratories when their noncompliance with CLIA condition level requirements does not constitute immediate jeopardy. Since many of the newly regulated laboratories have never before been subject to any onsite Federal inspections, we believe that our emphasis on working with laboratories to advise them in correcting deficiencies during the first inspection will be more effective in achieving our goal of laboratory quality then using punitive sanctions. These laboratories which have never been regulated at the Federal level require additional time to become familiar with CLIA and to understand the inspection process and the requirements of the regulations.

28. *Comment:* Two commenters stated that a single sanction should be imposed for all condition level deficiencies.

Response: We disagree. Both section 1846(b)(3) of the Social Security Act and section 353(h)(3) of the PHS Act give the Secretary the authority to develop procedures with respect to when and how the alternative sanctions are to be used. Therefore, whether single or multiple sanctions are imposed will depend upon the specific situation within a laboratory as determined by HCFA.

29. *Comment:* Two commenters thought that the activities of the State monitor should be more clearly delineated in the regulation.

Response: We accept this comment and have added clarifying language at § 493.1836(a)(1), which explains that the State monitor does not have managerial authority over the laboratory's personnel, and that its sole responsibility is to oversee whether corrections are made.

30. *Comment:* Ten commenters were of the opinion that suspension of Medicare payment is too harsh a remedy, may not be appropriate for situations that do not pose immediate jeopardy and should not be implemented until laboratories receive additional opportunities to correct the deficiencies.

Response: With regard to the perceived harshness of the sanction, we can state that all of the alternative sanctions are intended to constitute a means by which laboratories with deficiencies that do not pose immediate jeopardy can avoid immediate cancellation of Medicare approval or revocation of any type of CLIA certificate. The sanction is intended to be harsh enough to motivate correction, but less harsh than Medicare cancellation or CLIA certificate revocation.

31. *Comment:* Five commenters expressed the opinion that the regulations should contain assurances that a suspension of Medicare payments for laboratory services by a provider could not result in the suspension of payments for any non-laboratory services as well. Another two commenters expressed concern that in terms of hospital-based laboratories, it is unclear how payment can be suspended for specific services when diagnostic related group (DRG) payment is an all-inclusive fee.

Response: In the case of providers that are not subject to the prospective payment system (PPS), we will use an identifier code to distinguish laboratory services from other services and thus ensure continuation of Medicare payment for those other services. However, we could not suspend Medicare payments in exact amounts under the PPS system. We can, by approximation, suspend Medicare payment for laboratory services rendered to inpatients of hospitals operating under PPS. We can do this by reducing the total Medicare payment to the hospital by an amount equal to the most current average percent of diagnostic related group (DRG) payments that reflects the laboratory component of each DRG.

32. *Comment:* Five commenters offered the opinion that laboratories may have totally valid reasons for withholding information from HCFA and because of these reasons should not be penalized as specified at § 493.1840.

Response: The statute authorizes the Secretary to suspend, revoke, or limit a laboratory's certificate if the laboratory has failed to comply with reasonable requests of the Secretary for any information that the Secretary concludes is necessary to determine the laboratory's continued compliance with requirements and continued eligibility for a CLIA certificate. The statute explicitly authorizes the limitation or suspension of the certificate prior to hearing, as provided in § 493.1844(e)(2)(ii)(B) of this final rule, when a laboratory fails to provide information that we believe is necessary to enable us to undertake our statutory responsibilities. The laboratory could attempt to justify the withholding of information at the time of that hearing.

33. *Comment:* Four commenters voiced the opinion that if a laboratory's CLIA certificate has been revoked within the preceding two-year period, HCFA should initiate adverse action, not only against its owner or operator, but also against those directors involved in the operation of the laboratory.

Response: We have added a definition of "operator" which clarifies that directors of laboratories who are involved in their overall operation, are knowledgeable about the workings of the entire facility, and who bear primary responsibility for the safety and reliability of laboratory testing, are considered operators for the purpose of this regulation. It is our belief, consistent with the direction given by Congress in section 353(i)(3) of the PHS Act, that any laboratory director who meets the criteria as an operator should not be permitted to operate or own any laboratory within 2 years of operating a laboratory which has had its CLIA certificate revoked, as set forth at § 493.1840(a)(8) of these regulations.

34. *Comment:* Four commenters questioned that rationale of HCFA notifying the Office of the Inspector General (OIG) whenever HCFA initiates an adverse action to suspend, limit, or revoke a laboratory's CLIA certificate based on noncompliance with CLIA requirements by an owner or operator of a laboratory.

Response: We plan to inform the OIG of any adverse actions we impose against laboratories if we determine there has been a violation of any of the laws enforced by the OIG. For example, the violations listed at § 493.1840(a)(1), (a)(2), (a)(6), or (b) involve misrepresentation, fraud against the Medicare and Medicaid programs, or some other type of intentional violation of requirements for the Medicare, Medicaid, or CLIA program that may warrant action by the OIG.

35. *Comment:* Some commenters were opposed to the provision at § 493.1840(a)(8), specifying the use of principal sanctions against owners and operators of groups of legally related laboratories merely because one or some of these laboratories were out of compliance. This commenter stated that mere ownership of a laboratory which has been sanctioned in the past should not jeopardize the operations of some other distantly related laboratory and further requested that we clarify the definition of "owned and operated". Another commenter suggested that laboratories which were sanctioned by having their certificate revoked within the last two years should be allowed to have the sanction removed after only one year.

Response: It is the law itself which establishes the prohibition. It provides specifically that the owner or operator of a laboratory that has had its certificate revoked may not own or operate a laboratory for two years after the revocation of the CLIA certificate of the initially sanctioned laboratory. HCFA has no choice but to implement this provision, found at section 353(i)(3) of the Public Health Service Act. We therefore did not accept this comment. The final rule also defines the terms "owner" and "operator", and specifies the types of ownership relationships and operator positions that would prohibit ownership or operation of a laboratory for two years.

36. *Comment:* A few commenters had questions regarding the application of principal sanctions. One questioned whether there is a conflict between § 493.1816(b) and § 493.1820 because of the lack of specified timeframes for implementing and keeping alternative sanctions in effect. The same commenter also wants to know when § 493.1820 is used exclusively. Another commenter wants us to clarify that the cancellation and suspension sanctions referred to in the existing regulations are the same as those in the proposed rule which guarantee each laboratory the right to due process.

Response: The distinction between § 493.1816(b) and 493.1820 is that the latter deals with all deficiencies and the former applies to deficiencies not at the condition level. The maximum timeframes for the duration of alternative sanctions is specified as 12 months at § 493.1820(c) and the timeframe for implementation is specified at § 493.1810. The laboratories' right to due process is specified at § 493.1844.

37. *Comment:* Three commenters were of the opinion that suspension of payment or cancellation of Medicaid approval should be limited to condition-level noncompliance.

Response: The suggestion made by these commenters reflects what the policy is. Both alternative sanctions and principal sanctions are imposed only for condition-level deficiencies.

38. *Comment:* Two commenters requested that we add to the menu of available sanctions some less severe penalties such as probation, reprimand and supervision.

Response: The phased-in enforcement plan described in the response to comment 27, should serve the same purpose as the type of sanctions suggested by the commenters.

39. *Comment:* One commenter stated that if payments were suspended due to a specific condition-level deficiency, the rule would prohibit payment if that deficiency were corrected but other unrelated condition level deficiencies still exist. The commenter wants the language changed so that suspension of payment will end once the laboratory corrects the sanctioned deficiency even if unsanctioned deficiencies still exist. Another commenter cited § 493.1807(b)(2) which states that it appears that HCFA may impose one or more of several sanctions when condition-level deficiencies are found without necessarily using a suspension of payment sanction.

Response: With the exception of the suspension of Medicare payment for specific specialties or subspecialties, alternative sanctions are not deficiency-specific. Therefore, if a laboratory were to correct the noncompliance in the specialties or subspecialties for which a suspension of Medicare payment has been imposed, the suspension of payment would be lifted upon verification of correction of those specific deficiencies. However, if any condition-level noncompliance remains uncorrected, we will continue to impose some form of alternative sanctions, and will lift only those sanctions which we deem appropriate as we verify correction of each of a laboratory's condition-level deficiencies. For example, if a suspension of payment for all specialties and subspecialties had been imposed, it would continue in effect until all deficiencies are corrected.

40. *Comment:* One commenter questioned whether the corrective action specified in a directed plan of correction are administrative or technical in nature.

Response: It is difficult for us to know exactly what this commenter means by the terms "administrative" and "technical". However, these definitions are immaterial in the sense that under a directed plan of correction, every deficiency must be corrected, whatever its form

41. *Comment:* One commenter suggested that a directed plan of correction should be the preferred sanction used when the deficiency does not pose immediate jeopardy.

Response: As stated above, the decision as to which sanction to impose will be made on a case-by-case basis. It will be based on the specifics of each situation which, in HCFA's judgement, will dictate the type of sanction most likely to motivate correction of deficiencies.

42. *Comment:* One commenter stated that any rule linking Medicare status with CLIA must be promulgated pursuant to notice and comment procedures under the Medicare law rather than under CLIA.

Response: Section 6141 of the Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101–239) requires all laboratories that participate in Medicare to meet the CLIA 88 requirements. Therefore, we believe we are justified in consolidating regulatory provisions implementing the Medicare laboratory provisions of the Social Security Act and the CLIA provisions of the PHS Act.

43. *Comment:* One commenter asked if the wording in the rules might be made clearer regarding the criteria for selecting a particular sanction.

Response: We believe it is inadvisable to have a rigid system of specific sanctions for each deficiency. HCFA has flexible enforcement capabilities in order to treat each noncompliance situation on a case-by-case basis.

44. *Comment:* One commenter stated that failing to charge Medicare beneficiaries for services for which Medicare payment has been suspended is an inappropriate sanction and would

accomplish nothing because laboratories would then attempt to be reimbursed by beneficiaries' supplementary insurance plans, if applicable.

Response: We consider charging the Medicare beneficiary's private insurance carrier tantamount to charging the beneficiary, because that action would, in essence, be predicated on the assumption that the beneficiary is responsible for payment, although indirectly. We have clarified in the regulations at § 493.1826 and § 493.1828 that the laboratory must agree not to charge the beneficiary's private insurance carrier, in order to avoid immediate cancellation of Medicare approval.

C. Civil Money Penalties (Section 493.1834)

1. *Comment:* Many commenters believed that the civil monetary penalty range of $3,050–$10,000 for immediate jeopardy situations is too high.

Response: In immediate jeopardy situations, HCFA may impose from $3,050–$10,000 for each day of noncompliance, or for each violation. $10,000 is the maximum amount specified by section 1846 of the Act and section 353(h) of the PHS Act. $3,050 is the lowest amount judged by HCFA, based on a review of a variety of state civil money penalty systems available under various State licensure laws, to be effective in encouraging compliance in an immediate jeopardy situation. HCFA will assess each laboratory's noncompliance on an individual basis in order to determine the amount of the penalty. We believe that we are establishing a very flexible system by designating the highest ⅔ of the civil money penalty range for immediate jeopardy situations only. Since deficiencies that pose immediate jeopardy occur much less frequently than those that do not, relatively few laboratories will be subject to the higher fines. Moreover, the range of civil money penalties available for immediate jeopardy deficiencies is so broad that a laboratory with such deficiencies may not be fined at the maximum level. If some laboratories are fined at the maximum level, the amounts of the fines are justified by fact that their deficiencies could cause life-threatening situations.

HCFA's long-standing policy is to afford providers and suppliers an opportunity to correct deficiencies before taking adverse action. Before a civil money penalty is imposed, HCFA will give the laboratory written notice of its intent to impose the penalty. The penalty does not begin accruing until the laboratory is officially informed of its deficiencies and the 5-day or 15-day notice period ends. Moreover, the civil money penalty is not collectible until after the 60-day period for requesting a hearing (if the laboratory does not request a hearing) or, if the laboratory requests a hearing within the prescribed timeframe, until after the hearing decision that upholds the imposition of the penalty.

2. *Comment:* Many commenters were concerned that civil money penalties could financially decimate a laboratory.

Response: We recognize that some laboratories may experience more hardships and financial burdens associated with civil money penalties than others. However, HCFA is charged with carrying out the law by promulgating regulations that reflect what we believe to be the most effective means of implementing the statute. If deficiencies in a laboratory remain uncorrected for so long, for example, that the civil money penalties decimate that laboratory, we can only conclude that the protection of the safety of the patients had to supersede continued operation with such serious deficiencies.

3. *Comment:* Several commenters had questions regarding the factors HCFA considers in determining the civil money penalty amount. Many suggested that volume of laboratory tests should be considered in determining the amount of the civil money penalty.

Response: As specified at § 493.1834(d), in determining the amount of the penalty, HCFA takes into account the following factors:

a. The nature, scope, severity, and duration of the noncompliance.

b. Whether the same condition level deficiencies have been identified during three consecutive inspections.

c. The laboratory's overall compliance history including, but not limited to, any period of noncompliance that occurred between certifications of compliance.

d. The laboratory's intent or reason for noncompliance.

e. The accuracy and extent of laboratory records and their availability to HCFA, the State survey agency, or other HCFA agent.

We do not believe that we should take into consideration the volume of laboratory tests performed. The correlation between deficiencies and amounts of civil money penalties should be based on severity of noncompliance and the speed with which corrections need to be made, not the laboratory's workload. A relatively small laboratory may exhibit extremely serious deficiencies that require immediate correction for the sake of the patients serviced. We believe that a relatively high civil money penalty would be the best incentive for prompt correction.

4. *Comment:* Several commenters were concerned about the accrual of a civil money penalty until the laboratory's condition level compliance is verified and believe this provision places the laboratory at the mercy of the surveyor's schedule. The following is a summary of their comments and recommendations.

- Require verification of compliance within a specified time period such as 30 days, or within 2 days of the laboratory's request for reinspection.
- Provide that the accrual of the penalty amount ends on the date that the laboratory achieves compliance, or on the date it requests reinspection.
- Accept as establishing compliance a laboratory's good faith representation, or the submission of suitable documentation, or establish it through an inspection visit.

Response: We believe that timeframes for revisits by the survey agency constitute a subject for operating guidelines and should not be included in regulations. We also believe it is the survey agency's responsibility to verify a laboratory's compliance in a timely manner. However, the timeframes for resurveys could vary from State to State and within a State because of various factors, such as variations in geography and available personnel. Therefore, we have concluded that if the laboratory can produce credible evidence at the time of the resurvey, that compliance was achieved before the resurvey, the civil money penalty will stop accruing as of the date that the compliance was achieved. We have revised § 493.1834(f)(2) to so provide.

5. *Comment:* Several commenters were concerned about the start dates and due dates of civil money penalties and about HCFA's computation of the civil money penalty before a fair hearing. With regard to the latter point, one commenter stated that such a policy contradicts the statutory requirement that civil money penalties not be assessed before a hearing.

Response: The civil money penalty begins to accrue 5 days after notice of intent to impose the penalty (in immediate jeopardy situations) and 15 days after notice when there is no immediate jeopardy, because we believe that prompt sanctioning is necessary to ensure prompt correction of deficiencies. However, as specified in § 493.1834(g), HCFA does not actually impose the civil money penalty until the later of the following:

- The end of the 60-day period for requesting a hearing, if the laboratory does not request a hearing, or
- If the laboratory does request a hearing within the prescribed timeframe, after a hearing decision that upholds imposition of the penalty is issued.

6. *Comment:* Several commenters objected to the 35% reduction in civil money penalties if no hearing is requested.

Response: We did not accept this comment. The 35% reduction of the civil money penalty if a laboratory does not request a hearing was proposed to reflect a savings of costs that would otherwise be incurred by the Federal government if a hearing were conducted. It is at the sole discretion of the laboratory not to request a hearing and accept the 35% reduction. Such a policy does not restrict the laboratory's legal right to due process because the decision to waive the right to a hearing is strictly voluntary.

7. *Comment:* Two commenters are concerned about the provision that would permit HCFA to increase the civil money penalty if a laboratory, which alleges compliance, is found after a revisit to still be out of compliance. They believe HCFA should increase the civil money penalty only if the laboratory willfully or intentionally misrepresents that it has achieved compliance.

Response: The task of determining whether a laboratory intentionally or willfully misrepresented compliance would be a responsibility too burdensome for HCFA to undertake. The regulation provides that the amount of any civil money penalty, including any proposed increase or decrease to the initial amount, will be based on any change in the seriousness of the deficiencies.

8. *Comment:* One commenter believes the laboratory should be entitled to a hearing with respect to any increase in the civil money penalty amount.

Response: As we explained in a previous response, if a hearing is requested by the laboratory, the notice of the total penalty amount is not sent until the administrative law judge issues a decision adverse to the laboratory following the hearing. The administrative law judge will base his or her calculation of total penalty amount on the per day or per violation rate times the number of days of noncompliance or number of violations. The hearing will, therefore, be held after the revisit, if a revisit was conducted. Any increase in the per day or per violation rate will be proposed by HCFA between the revisit and the hearing. We have clarified this policy at § 493.1834(d)(4). However, as specified at § 493.1844(d)(4), the amount of a civil money penalty to impose per day or per violation is not an initial determination and therefore is not subject to appeal; rather, the imposition of an alternative sanction, (in this case a civil money penalty) is the action that is subject to appeal.

9. *Comment:* Three commenters expressed overall concern about the implementation of civil money penalties. One commenter recommended a cap be placed on the amount of daily fines assessed while an appeal is pending, to ensure that the total penalty is not disproportionately large. The second commenter believed the regulations should contain standards to be applied by HCFA in determining whether to impose a civil money penalty to assure fair and even imposition of a civil money penalty and such standards would be helpful in avoiding allegations of arbitrary and capricious actions. The third commenter suggested the regulation should be revised to make it clear that civil money penalties will be used only when a laboratory fails to take corrective action to eliminate condition-level deficiencies within a reasonable amount of time and urged HCFA to use civil money penalties sparingly.

Response: We appreciate the concerns of the commenters. There is already a statutory cap of $10,000 per day or per violation. However, the sooner the laboratory corrects its condition-level noncompliance, the sooner such civil money penalties will cease accruing while the hearing is pending. Thus, to a significant degree, the laboratory can control whatever liability it might have for a civil money penalty. In response to the suggestion that the regulation contain standards to determine whether or not to impose a civil money penalty, this decision is made on a case-by-case basis. HCFA will select the sanction(s) that are most likely to encourage the laboratory to meet CLIA requirements promptly. In response to the suggestion that civil money penalties be used only when a laboratory fails to take timely corrective action to eliminate condition-level deficiencies, such is the case with all alternative actions as specified at § 493.1810.

10. *Comment:* One commenter recommended that § 493.1834(1) provide for a specific rate of interest, such as 1 percent above the U.S. Treasury Bill rate.

Response: We have revised § 493.1834(i) to specify that the interest rate applicable to civil money penalties is the rate set forth in § 405.376(d) of the HCFA regulations, which states that the interest rate on such payments will be the prevailing rate(s) specified in bulletins issued under § 8020.20 of the Treasury Fiscal Requirements Manual.

D. Refund of Medicare Payments (Section 493.1830)

We proposed to establish an alternative sanction that would require a laboratory with deficiencies, in lieu of having its Medicare approval canceled, to promise to refund Medicare payments made during the time allowed for correction of deficiencies if the deficiencies were not corrected during that time period, and to not charge the beneficiary for any services for which the laboratory refunded the Medicare payment.

Comment: We received 17 comments regarding this provision. Eleven commenters felt that the sanction would be unduly harsh, since the laboratories would have performed the tests "in good faith." Five commenters suggested that payments only be refunded for areas of noncompliance, while five also questioned the necessity of including this sanction in this regulation at all, since the threat of suspension, limitation, or revocation of the CLIA certificate would presumably be sufficient incentive to a laboratory to correct its deficiencies. Four commenters were of the opinion that if a laboratory refunded Medicare payments to HCFA, HCFA should refund the money to that laboratory once compliance is achieved. Two commenters stated that there should be a limit to the total amount of Medicare payment that must be refunded. Other comments included concerns that this sanction would serve to effectively penalize laboratories that participate in Medicare. Some commenters stated simply that it would be undesirable from a fiduciary standpoint to not privately charge Medicare beneficiaries for tests if they are indeed performed.

Response: After further consideration of this proposed sanction, we decided to withdraw it. We considered, for instance, that access to laboratory testing might be reduced if many laboratories chose cancellation of their Medicare approval rather than refund Medicare payments. Accordingly, we have removed this sanction from the final rule.

E. Notification of Clients of Sanctioned Laboratories (Section 493.1832)

1. *Comment:* Many commenters were generally opposed to client notification. Eleven commenters felt that laboratory clients should only be notified of a

laboratory's sanctioning in cases of immediate jeopardy.

Response: The notification of clients of sanctioned laboratories may be necessary to provide these clients with the information required to make an informed decision regarding the retesting of specimens. HCFA will decide whether laboratory clients should be notified of any condition-level noncompliance in a laboratory, not only that which poses immediate jeopardy. Physicians, other providers and suppliers, and other clients who depend on a laboratory for accurate testing of specimens should be informed at HCFA's discretion when a specialty or subspecialty of tesing at that laboratory is not being properly performed. Informing laboratory clients of condition-level noncompliance would facilitate an informed decision regarding the need for retesting of patients. Further, section 353(n) of the PHS Act requires the Secretary to issue an annual report that identifies all laboratories that have been given a principal or intermediate sanction, convicted of a criminal violation, subject to a court injunction, or excluded from participation in Medicare or Medicaid.

2. *Comment:* A few commenters stated that laboratory clients should be notified only if a laboratory has had its CLIA certificate suspended and its Medicare approval cancelled.

Response: Waiting until a principal sanction is imposed could create an unnecessary risk. If the noncompliance identified in a laboratory does not pose immediate jeopardy to health and safety, Medicare approval may continue for up to 90 days, and its CLIA certificate may not be revoked until after a hearing (even though the laboratory may have alternative sanctions imposed during that time). If we were, in all cases of noncompliance, to notify laboratory clients only after these principal sanctions have been imposed, we would be waiting until all other attempts at corrective action had failed. Clients, therefore, would not have the opportunity to make timely informed decisions about retesting or the need to send specimens to other laboratories during a period of time in which the danger to the patients remained unchanged or even worsened.

3. *Comment:* Many commenters felt that the notification of a sanctioned laboratory's clients would be too burdensome for the laboratory, physicians and other clients, and the States.

Response: We recognize that the process of notification of a laboratory's clients means more work for the laboratory, which would have to provide the list of clients, if requested; the State, which will have the responsibility of notifying these clients, and clients who may find it necessary to notify patients about being retested. However, the risk to patients is significant if clients are not notified in cases where HCFA makes the decision that such notification should take place. Moreover, although we recognize an increased workload, we do question the extent of the work burden on laboratories since the names and addresses of their patients and other clients would already be compiled for billing purposes.

4. *Comment:* A few commenters voiced concern over the difficulty of notifying past patients of laboratory clients.

Response: We would expect that most providers and suppliers keep, for their own information and protection, historical records of patients for a specified number of years. However, we have not issued regulations regarding the notification of individuals who are patients of the laboratory's direct clients, and therefore indirect clients of the laboratory. We consider it beyond the purview of this regulation to regulate the actions of the physicians, providers and other suppliers who are users of a particular laboratory's services. Moreover, requirements for notifying such an extensive network of patients would be virtually impossible for HCFA to enforce. We, instead, leave such notification decisions to the health care facilities and professionals who referred their patients to a particular laboratory. In addition, as discussed previously under client notification issues, HCFA will publish a laboratory registry annually that will be accessible to the general public and will contain information that is useful in evaluating the performance of laboratories.

5. *Comment:* Several commenters were concerned that HCFA has no statutory authority to require the notification of clients of sanctioned laboratories.

Response: Section 1846(b)(1) of the Act requires the Secretary to develop "a range of intermediate sanctions" and section 1846(b)(3) of the Act and section 353(h)(3) of the PHS Act specify that the Secretary shall establish procedures with resect to when and how to carry out the imposition of those sanctions. We are using this discretionary statutory authority to notify clients of sanctioned laboratories as necessary to protect the health and safety of a laboratory's clients or the public health.

6. *Comment:* Five commenters expressed concern that the information contained in the client notification letter would be insufficient for a client to make an "informed decision" regarding how to notify and retest patients.

Response: A client will receive notice that a laboratory it uses for specimen testing has been sanctioned by HCFA. The client will be advised of the nature of the laboratory's noncompliance and, if the client requires additional information or clarification in order to make an informed decision regarding patient notification and retesting, or the use of another laboratory's services, it is the responsibility of that client to contact the State agency or the HCFA regional office to obtain this information or clarification.

7. *Comment:* Thirteen commenters were concerned that the notification of physician clients of sanctioned laboratories may increase physician's malpractice liability, and may irrevocably harm the reputations of both the laboratory and the physician.

Response: Physicians are responsible for the diagnostic procedures they order for their patients. It is therefore the responsibility of the physician to remain informed of diagnostic services that are substandard. Referring patient specimens, out of lack of information, to any diagnostic service (e.g., a laboratory) that does not comply with congressionally mandated Federal requirements for health and safety could create a much greater risk to a physician's malpractice liability and reputation than would the retesting or redirecting of patient specimens to another laboratory, based on the knowledge of noncompliance in the laboratory ordinarily used. Moreover, we cannot develop policies based on a concern for the reputation of the laboratories. If sanctioned laboratories correct their deficiencies, clients (if they were notified of the sanction) will be notified that the adverse actions have been rescinded. Any remaining negative impact on the reputation of a laboratory is the result of that facility's noncompliance, and not the result of HCFA's enforcement of health and safety requirements that are specified in the Federal law.

8. *Comment:* Several commenters were concerned that the 10 calendar days afforded to a sanctioned laboratory to submit its list of names of all of its clients to HCFA, the State, or other HCFA agent is too short.

Response: The 10 day timeframe is necessary to minimize the period between the identification of a laboratory's noncompliance and the notification of its clients of the sanctioning in order for the clients to make informed decisions regarding the health of their patients and the need for retesting.

9. *Comment:* Seven commenters expressed concern that the notification of patients by clients would unduly alarm the patients.

Response: The notification of patients by their physicians, providers, or other suppliers that the retesting of their specimens is necessary due to laboratory noncompliance may initially be unsettling to some partients. However, the client can phrase this notice in such a manner as to minimize patient fear. In the cases of specimens which require retesting, the client can explain that the retesting is in the best interest of the patients' health and safety.

10. *Comment:* Several commenters suggested that it would be easier and more cost-effective for HCFA to place a notice of laboratory sanctioning in a local newspaper than to individually notify each client.

Response: HCFA routinely places notices in local newspapers of the termination of provider agreements and supplier participation in the Medicare program.

The problem with relying solely on this method of notification for laboratory clients is that not every client of a particular laboratory will necessarily read the appropriate paper on the particular day a notice is published. Since many laboratories routinely test specimens outside of their locale, a notice placed in a local paper might not be useful. To make certain that every laboratory client is aware that a laboratory is sanctioned, we must, in cases deemed appropriate by HCFA, notify each client individually in addition to publishing a notice in the local newspaper.

11. *Comment:* One commenter questioned whether the client notification would include specific information, such as areas of specific failure in proficiency testing.

Response: We will include in the client notification the nature of the noncompliance which led to the sanction. We have clarified this at § 493.1832(b).

12. *Comment:* One commenter stated that the notification of laboratory clients should be transmitted through the Department of Health and Human Services or the appropriate HCFA regional office instead of through the State agency, since the Department of HCFA letterhead "carries more weight" than that of the State, and State agencies would not have sufficient resources to handle such a task.

Response: State agencies are agents of both the Department and HCFA, and therefore can appropriately be given full regulatory authority to notify clients of sanctioned laboratories. As part of the implementation of the CLIA inspection and certification program, States will receive from HCFA sufficient resources to handle their additional responsibilities under CLIA.

F. Correction of Deficiencies (Sections 493.1810–493.1838)

1. *Comment:* Fifteen commenters voiced concern with the procedures for revisits. Of these fifteen, seven had questions regarding the duration of alternative sanctions, stating that §§ 493.1810 through 493.1816 are confusing, and that it is unclear whether sanctions are lifted on the date correction has been made, or on the date of a revisit which serves to verify correction. Four commenters requested that we develop a mechanism by which to ensure that revisits are conducted within a minimum specified amount of time after a credible allegation of compliance is given by the laboratory to the State, so that sanctions may be removed as soon as possible if the survey agency agrees that compliance has been achieved. One commenter suggested that we schedule the revisit in the notice of sanction. Another commenter, concerned that a request for a revisit may be denied, stated that a laboratory should be able to "self-certify" correction of its deficiencies. Two commenters felt that sanctions should not continue to be imposed if the laboratory makes a credible allegation of compliance, but the revisit has not yet been conducted. Two commenters requested that the term "credible allegation of compliance" be defined, and that the requirement that the allegation be submitted before a revisit can be scheduled be included in the regulation, as well as the preamble.

Response: Upon receiving a credible allegation of compliance from a laboratory, the State survey agency or other HCFA agent will determine whether compliance can be certified on the strength of the evidence presented by the laboratory in the verbal or written credible allegation. If this is the case, the appropriate sanctions will be lifted according to the procedures outlined at § 493.1810(e) of these regulations. However, it is frequently necessary for the survey agency to schedule a revisit to the laboratory in order to verify that compliance has been achieved. Revisits are always scheduled upon the receipt of a credible allegation of compliance and are scheduled to take place as soon as possible, but the length of time between the credible allegation and the visit can vary. For this reason, we will inform the laboratory that if, during the revisit, it can be determined that compliance was achieved prior to the revisit, the sanctions will be lifted as of that earlier date. (We have clarified this policy at § 493.1820(b).) We would, however, not categorize this process as a laboratory's "self-certification" of compliance, because certifications of compliance can only be made by HCFA or HCFA agents. Because it is impossible to predict the date on which a laboratory will be capable of making a credible allegation of compliance, we cannot accept the suggestion that the date of the revisit be contained in the notice of sanction. Moreover, such a policy of including a prospective revisit date in the notice of sanction would imply that the revisit is automatic although it is not. It must follow a credible allegation of compliance submitted by the laboratory. We have added a definition of "Credible allegation of compliance" in § 493.2, and clarified the above described policy in § 493.1810. Specifically, a "credible allegation of compliance" means a statement or documentation by a representative of a laboratory with a positive history of correction of noncompliance or a history of compliance. The allegation must be realistic in terms of the likelihood that the laboratory has been able to accomplish the corrective action within the specified timeframe, and indicate that the noncompliance has been resolved.

2. *Comment:* Several commenters had concerns regarding the formulation and use of the plan of correction, stating that guidelines for the formulation of a plan of correction should be published in these regulations as an aid to small laboratories, and that HCFA instead of the survey agency should be the one to monitor correction of deficiencies.

Response: The State agency or other HCFA agent which has inspected the laboratory has the necessary background knowledge to assist the laboratory in the formulation of the plan of correction, and to monitor the corrections, as specified on that plan of correction.

3. *Comment:* Many commenters had various questions regarding the timeframe for correction of deficiencies. Some of these commenters requested more time to correct deficiencies than that set forth in this proposed rule. Others requested additional time in which to fully pay a civil money penalty.

Response: In order to minimize the period of time in which a laboratory continues to operate with deficiencies, albeit under sanction, § 1846 of the Act

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prohibits such laboratories from receiving Medicare payments for longer than one year from the date the noncompliance was initially identified. If one or more revisits confirm that a laboratory still has deficiencies one year from the date the noncompliance was initially identified, HCFA also notifies the laboratory no less than 15 days prior to taking such action, of its intent to suspend, limit, or revoke the laboratory's CLIA certificate, and of a laboratory's right to a hearing.

In response to the request for additional time to fully pay a civil money penalty, we have provided in the regulation at § 493.1834(h) for an extended payment schedule for laboratories that cannot pay the total amount of their civil money penalties by the due date. In no instance will the extended payment schedule exceed 12 months from the original due date. The details of this extended payment plan will be included in HCFA's operating guidelines.

4. *Comment:* One commenter questioned the absence of OMB approval of the plan of correction provision in these regulations under the Paperwork Reduction Act of 1980. Another commenter stated that our initial estimate of 5 hours needed to formulate a correction plan is unrealistic.

Response: The timeframe of 5 hours to complete a plan of correction is simply our initial estimate. When the Office of Management and Budget reviews the plan of correction requirements in order to refine the assessment of the time which would be needed to complete this document, and approves it along with other documents to implement the CLIA program, we will publish a notice in the Federal Register.

5. *Comment:* Two commenters think the contents of a plan or correction should be more explicitly explained, particularly when the plan concerns staffing requirements. For example, in a rural area, where recruitment of qualified people is difficult, is a plan of correction calling for simply an advertisement in the paper sufficient?

Response: This level of specificity is inappropriate for regulations. Moreover, broad policies relating to the appropriateness or inappropriateness of plan of correction items would be inconsistent with the approach of evaluating each laboratory's deficiency(ies) on a case-by-case basis.

G. Limitation of Certificates Based on the Test Level Rather Than the Specialty or Subspecialty Level

Comments: In response to our request for comments on the above noted alternative, we received numerous comments all in favor of applying the sanction at the test level.

Response: We appreciate the response to our request. As soon as we have the systems capability to impose limitations at the test level, we will initiate the policy and procedural changes necessary to do so. In the meantime, any laboratory found to be noncompliant in the testing of an individual analyte may, without sanction, voluntarily agree to cease testing of the analyte, according to the procedures at § 493.1832(b)(2). If the laboratory refuses to stop testing the analyte, HCFA may consider the continued testing an immediate jeopardy and impose a principal sanction as described at § 493.1812.

H. Appeal Rights (§ 493.1844)

1. *Comment:* Numerous commenters requested that the HCFA not impose any sanction until after a hearing.

Response: Consistent with both the Medicare and CLIA statutes, we believe that it is important to establish an enforcement process that minimizes the time between the identification of deficiencies and the taking of remedial action. The surest way we know to accomplish this objective is to provide prior notice of an impending sanction with the opportunity for a hearing after the sanction has been imposed. To provide hearings prior to the imposition of sanctions would enable deficient laboratory practices to remain in place for extended periods of time which we believe to be an unacceptable price for the public to pay.

Section 1846 of the Medicare statue specifically directs the Secretary to minimize the time between the identification of deficiencies and the imposition of sanctions, and CLIA clearly suggests the same course. Section 353(i), for example, is notably different from section 353(h). The former requires prior hearings in the case of most principal sanctions whereas the latter only speaks to an obligation to provide notice and a reasonable opportunity to respond. Only with respect to civil money penalties (under Section 1846 of the Act) and principal sanctions (under CLIA) in cases that do not pose immediate jeopardy, do the statutes require prior hearings, and these regulations reflect that mandate.

2. *Comment:* Many commenters requested that the list of initial determinations (§ 493.1844(c)) that are appealable be broadened.

Response: We have developed the regulatory list of initial determinations to be consistent with our treatment of other providers and suppliers under Medicare. We have provided for appeals wherever such opportunity is afforded other providers and suppliers. We have not granted appeal rights that would give laboratories rights broader or more numerous than are available to other Medicare providers and suppliers.

3. *Comment:* Several commenters requested that we develop an expedited hearing process for laboratories, stating that patient access to laboratory testing would be compromised if laboratories had to wait for more than 30 days for a hearing. One commenter stated that hearings should be expedited when a laboratory is determined to have an immediate and serious threat deficiency, in order to reclassify this determination to avoid closure of the laboratory.

Response: Hearings on HCFA determinations that affect a laboratory's status under CLIA or in the Medicare program are conducted by the Departmental Appeals Board. The burdens on the Board may be vastly increased by the CLIA enforcement provided for in this regulation. Moreover, many other factors, including the number of cases for other parties awaiting a hearing at any given time, determine how quickly each case is heard. The inclusion in these regulations of a provision for an expedited hearing process would therefore be impossible.

We realize that a laboratory's failure to make corrections very quickly in immediate jeopardy situations will trigger the suspension or limitation of the laboratory's CLIA certificate, thus causing full or partial closure of the facility. However, as noted above, the imposition of these sanctions before a hearing in immediate jeopardy situations is clearly authorized by section 353(i)(2) of the PHS Act. If laboratories are concerned with maintaining access to testing, they should focus all efforts on the expedited correction of their deficiencies, and not the receipt of an "expedited" hearing, by which we assume the commenters mean a hearing before the adverse action is taken. But conducting hearings within the 5 days before principal sanctions become effective in immediate jeopardy situations would be virtually impossible. When there are life-threatening deficiencies, action must be taken no later than this.

4. *Comment:* A few commenters expressed support for sanctioning a noncomplying laboratory before a hearing.

Response: We appreciate the support we have received for this rule and are committed to the development of regulations that reflect the enforcement-related aspects of the CLIA provisions and that will effectively implement the law.

5. *Comment:* Ten commenters requested that a pre-hearing/pre-sanction mechanism be implemented for the laboratory to informally review and respond to inspection findings and/or certifications of noncompliance. Several of these commenters also stated that HCFA needs to clarify what is meant by the "opportunity to respond" at § 493.1810(b).

Response: Under Medicare, laboratories have always had numerous opportunities to challenge surveyors' findings throughout the inspection process, including during the actual inspection, at the exit conference, after receipt of the official statement of deficiencies and notice of sanction, and through a dialogue with survey agency staff and HCFA regional office personnel. This informal review mechanism, which constitutes the "opportunity to respond" is now available to all laboratories under CLIA. However, the use of this process will not delay the implementation of any sanction unless the laboratory either corrects the deficiencies within the 5-day or 15-day notice period or presents credible evidence to convince HCFA that a deficiency did not exist and should not have been cited. We have delineated the steps which a laboratory must take in responding to the proposed imposition of sanctions (the opportunity to respond) at § 493.1810(b).

6. *Comment:* Two commenters requested that judicial review be available for prospective and sanctioned laboratories. One of these commenters requested that HCFA delay the imposition of any alternative sanction until after completion of civil action.

Response: The right to judicial review, as specified in § 493.1844(g)(3), reflects the provision of both the Social Security Act and the PHS Act. Neither statute grants the right to judicial review to prospective laboratories. Neither law grants the right to judicial review of the imposition of any alternative sanction except civil money penalty. In those cases in which judicial review is authorized by law, it is available only after an ALJ hearing. It cannot and should not delay imposition of sanctions. To permit a noncomplying laboratory to continue to operate until all appeals were exhausted would be dangerous to the health and safety of the individuals served by the laboratory. It would also be inconsistent with the requirement of section 1846(b) of the Act, which requires the Secretary to minimize the time between the identification of violations and the imposition of sanctions.

I. Laboratory Registry (§ 493.1850)

1. *Comment:* The comments summarized below were received from 8 commenters in response to our request for suggestions of additional information that could be included in the Registry to help physicians and the public evaluate the performance of laboratories.

- Explain the meaning of the various actions taken by HCFA and identify the timeframe and type of deficiency for which a laboratory was cited.
- Include the outcome of all appealed decisions.
- Describe the methodology used to collect and prepare information for the Registry, as well as its uses and limitations.
- Include the same level of detail as is provided in the directed plan or correction.
- Publish the Registry in a form that physicians and clients can purchase if they wish.
- Consult with the industry in drafting explanations.
- Make clear when violations are relatively minor and identify situations in which the patient's health was not at risk.
- Allow laboratories to include their own explanatory information in a format established by HCFA.

The commenters also expressed concern and raised questions as follows:

- How will the information be "made available"? Will physicians and the public be informed when the Registry is available, or will copies be sent to physicians and other individuals?
- Will the information remain in the Registry for more than one year or will each edition list only the information from the preceding year?
- One commenter was concerned that the proposed rule did not require that a laboratory be given notice that it will be included in the registry and an opportunity to correct any error there might be as to whether the laboratory should be included or as to what sanctions were imposed.
- One commenter was of the opinion that the Registry was a good idea and would provide information that would enable patients to make appropriate decisions about the continued use of a laboratory.

Response: We appreciate the commenters' recommendations. We will add to the Registry information on the effective date of sanction and the date of the laboratory's verified compliance. We will also publish a list of all appealed decisions and corrections of erroneous information included in the previous year's Registry.

We believe any greater specificity in regulations is not appropriate at this time. After we have gained more experience in collecting and disseminating this information we will consider collecting and disseminating additional data as long as they are not too burdensome to maintain. The registry will include appropriate explanatory information to aid in the interpretation of the data. However, we simply cannot allow each laboratory to compose its own explanatory material prior to publication because of the enormity of the task of obtaining the information and editing it to meet length and format requirements. However, as stated in § 493.1850(a)(4), included in the list of laboratories on which alternative sanctions have been imposed will be any evidence of corrective action taken by the laboratory.

In response to the commenter who is unclear about how long the information will remain in the registry, as stated in § 493.1850(b), the laboratory registry is compiled for the calendar year preceding the date the information is made available.

2. *Comment:* Several commenters believed the name of a laboratory should not be included in the laboratory registry until the result of an administrative appeal is final.

Response: We acknowledge that there is a significant amount of concern among the commenters with respect to publishing information about sanctioned laboratories possibly before a hearing decision has been rendered. Nevertheless, HCFA is concerned about the difficulty the Department of Health and Human Services has encountered in bringing enforcement actions in the past, and, in particular, is concerned about cases remaining in litigation for months or years while substantial violations remain uncorrected. If there are condition-level deficiencies, HCFA will impose a sanction or sanctions, and will do so prior to a hearing in most cases, to minimize the time lapse between identification of the violations and imposition of the sanctions. This timely action is required by section 1846(b)(3) of the Act and is achievable because, with the exception of civil money penalties and principal sanctions imposed in non-immediate and serious threat cases, hearings need not be held before the imposition of the sanction. Section 353(n) of the PHS Act requires the publication of a list of the laboratories against which sanctions have been imposed, and in many instances the law allows us to impose sanctions before a hearing.

3. *Comment:* Several commenters requested a mechanism for correction of mistakes in the laboratory registry (both prior to and subsequent to publication). One commenter suggested we share a draft of the laboratory registry with all laboratories to be included in the registry to ensure that the information is accurate and no mistakes have been made. Another commenter believes State hospital associations should have access to the data prior to its release.

Response: It would be impossible for us to meet our statutory deadlines for publication of the Registry were we to share proposed Registry entries with individual laboratories. This is particularly true because of the huge universe of laboratories subject to CLIA, and the consequent possibility that a large number of them will be sanctioned at the same time. To safeguard against erroneous inclusion of the names of laboratories or individuals in the annual registry, prior to publication the HCFA regional offices will review their portions of the registry for verification of information. We believe this procedure should virtually prevent inaccurate reporting. However, if erroneous information is published, this information will be corrected in the next registry.

4. *Comment:* Several commenters were entirely opposed to the laboratory registry. They believe the public will be misled and only marginally served. In addition, they believe that a laboratory's credibility, once lost though inclusion on the registry, can never be regained.

Response: The laboratory registry is required by section 353(n) of the PHS Act. Moreover, we believe that the laboratory registry will provide a worthwhile service to physicians and the general public.

5. *Comment:* Two commenters suggested that there should be a registry of CLIA certified laboratories instead of a registry of sanctioned laboratories.

Response: We appreciate this comment: However, we believe the objective of the laboratory registry is to provide physicians and the general public specific information that is useful in evaluating the performance of the laboratories. If anyone is interested in knowing which laboratories in the State are certified as meeting CLIA requirements, he or she should contact the appropriate State agency or HCFA regional office.

6. *Comment:* A few commenters were of the opinion that the Registry should not include laboratories with condition level deficiencies that do not pose immediate jeopardy. Another thought that laboratories subject to the "directed plan of correction" sanction or submission of a correction schedule should not be included because by the time the Registry is published, the corrections would have been completed. A few commenters recommended that only laboratories which did not correct deficiencies within 12 months be included in the Registry.

Response: Section 353(n) of the PHS Act requires the Secretary to publish a list of laboratories against which enforcement sanctions have been imposed. While a directed plan of correction is considered an alternative sanction, a correction schedule developed by the laboratory is not an alternative sanction, and when not paired with an alternative sanction, would not be subject to publication in the registry. The PHS Act does not authorize us to exclude from the Registry any laboratories that have been sanctioned.

7. *Comment:* Two commenters suggested that instructions accompany the laboratory registry with background material on the method that was used to prepare the registry as well as a guide that outlines the uses and limitations of the information. One of the commenters stated that the instructions should mention that the Federal government tends to measure a laboratory's overall performance capabilities, but does not reflect actual outcomes. They also believe the Registry should note that an adverse action taken due to a laboratory's failure to comply with Federal requirements does not necessarily mean that the quality of the laboratory's tests was poor.

Response: We have not yet established the administrative procedures by which the Registry will be compiled and disseminated. Nor have we developed a format for the Registry. While we believe that the Registry will be published with some general explanatory material, the extent of that information is unknown at this time. We can say at this time that, in the case of laboratories the Federal government tends to measure overall capabilities (i.e., the laboratory's capability to conduct accurate and reliable testing) rather than actual outcomes, which would be impossible to measure for many laboratories. This is contrary to recent trends in the survey and certification program for other facility types. In the case of laboratories, however, the assumption must be made that if process requirements under CLIA are followed, the outcome will be positive (i.e., accurate and reliable test results Regarding the rationale for the imposition of adverse actions, we cannot say that noncompliance with Federal requirements and resulting adverse action always necessarily means that the quality of laboratory testing was poor. In fact, poor quality of laboratory testing is the presumption when deficiencies in the testing process, quality assurance, quality control, and other conditions are found, remain uncorrected, and lead to adverse actions.

8. *Comment:* One commenter suggested that dentists be identified in the final rule as recipients of the Registry.

Response: The Registry will be available to anyone who is interested, as indicated by the term "general public". To list specific individuals might give the impression of limitations that do not exist.

9. *Comment:* One commenter suggested that if the Federal government is to publish the names of laboratories involved in false billing, fraud and kickbacks, it should publish similar information about physician and corporate users of the laboratory.

Response: Because section 353(n) focuses the Registry on sanctioned laboratories, we cannot follow the commenter's suggestion since it would entail adding to the Registry persons or entities that either are not laboratories or are not laboratories that have been subject to the sanctions provided by CLIA.

10. *Comment:* One commenter requested that the names of individuals who are identified as needing training or technical assistance as part of a laboratory's plan or correction, not be released in the Registry in order to avoid the risk of slander charges. The commenter also suggested that the names of laboratory instruments not be released lest the Registry become a source of information to competitors.

Response: Nothing in the law or regulations requires or prohibits the release of this information.

IV. Summary of Changes from the Proposed Rule

A. Definitions.

1. We have consolidated all definitions for this part at § 493.2.

2. Revised definitions: "Condition level requirement and condition-level deficiency", "HCFA agent", "Immediate jeopardy"

3. *Added definitions:* "Adverse action", "Credible allegation of compliance", "Intentional violation", "Operator", "Owner", "Principal sanction", "State-exempt laboratory", "Unsuccessful participation in proficiency testing".

B. Imposition of Sanctions

1. Clarify the basis for imposition of sanctions. (§ 493.1804(b))

2. Explain why HCFA does not impose alternative sanctions on laboratories with certificates of waiver (§§ 493.1804(c) and 493.1806(c))

3. Clarify the meaning of "repeat" deficiencies. (§§ 493.1804(d) and 493.1834(d)(1))

4. Make clear that HCFA may bring civil suit against any laboratory, including one that is State-exempt. (§§ 493.1806(d), 493.1812(c) and 493.1846)

5. Remove proposed alternative sanction to require refund of Medicare payments for services furnished while any other alternative sanction was in effect. (Removal of §§ 493.1807(b)(3), 493.1830, and 493.1842(a)(1)(iii))

6. Provide for—

Including in the notice of sanction a statement as to the rationale for the sanction; and

Giving the laboratory formal acknowledgement of any evidence or other information it submits in response to the notice of sanction. (§ 493.1810(c)(1))

7. Provide for earlier lifting of a sanction if the laboratory can show that it achieved compliance before the date of revisit. (paragraph (e) added to § 493.1810; § 493.1820(b))

8. Clarify that HCFA may later revoke a CLIA certificate that it has suspended or limited because the deficiencies posed immediate jeopardy. (§ 493.1812(b))

9. Clarify that HCFA may impose a principal sanction when deficiencies are at the condition level but do not pose immediately jeopardy. (§ 493.1814(a)(2))

10. Make clear that, in connection with suspension of all or part of Medicare payments, the laboratory's agreement must include not charging the beneficiary's private insurance carrier. (§§ 493.1826(a)(1)(ii) and 493.1828(a)(2)(ii))

11. Include information about the nature of the non-compliance in the notice to the clients of a sanctioned laboratory. (§ 493.1832(b)(2))

12. Specify limitations on authority of State monitor. (§ 493.1836(a)(1))

C. Civil Money Penalty

1. Clarify duration of penalty. (§ 493.1834(f)(2))

2. Clarify that, if the laboratory requests a hearing, the civil money penalty is imposed only if the hearing decision upholds the imposition. (§ 493.1834(g)(1)(ii))

3. Specify the basis for computing interest. (§ 493.1834(i)(1)(ii))

D. Appeals Procedures

1. Clarify definition of "prospective laboratory". (§ 493.1844(a))

2. Clarify grounds for suspending or limiting a CLIA certificate before a hearing or hearing decision. (§ 493.1844(e)(2)(ii)(B))

3. Clarify that, if an ALJ decision upholds a suspension imposed because of immediate jeopardy, the suspension becomes a revocation. (§ 493.1844(e)(4)(ii))

4. Clarify that, for prospective laboratories, request for reconsideration is the required first step in the appeals process. (§ 493.1844(f)(1))

5. Remove references to appeals procedures for determinations that affect participation in the Medicare program with respect to sanctions imposed by the OIG. (§§ 493.1844(b)(1)(ii) and (b)(5))

6. Provide that hearings for laboratories facing principal or alternative sanctions will be conducted by the Departmental Appeals Board. (§493.1844(a)(2))

E. Laboratory Registry

1. Clarify the information to be included for laboratories on which HCFA has imposed alternative sanction. (§ 493.1850(a)(4))

2. Specify that each registry will include correction of errors in the previous registry. (§ 493.1850(c))

F. Notification of Clients

1. Clarify that the notification of noncompliance to a laboratory's clients is discretionary with HCFA. (§ 493.1832(b)(2)(ii))

V. Regulatory Impact Analysis

A. Executive Order 12291 and Regulatory Flexibility Act

The Regulatory Impact Analysis contained in HSQ-176-FC, published elsewhere in this issue of the **Federal Register**, addresses the impact of the entire CLIA program. Regarding this regulation specifically, we see no reason why the enforcement procedures, as such, would have a significant effect on laboratories independent of the other effects of the CLIA reform. Presumably, some laboratories will fail to meet CLIA standards and will face sanctions. A few will be put out of business. But the cause of this will be the substantive standards themselves, not the details of the sanctions procedures. Indeed, the cost of implementing the enforcement procedures will likely involve only a few million dollars a year (in marked contrast to such other elements of CLIA as inspection procedures). Likewise, there do not appear to be enforcement options which would significantly affect the cost of the procedures.

B. Executive Order 12612

Under Executive Order 12612, "Federalism," we must prepare a Federalism Assessment for any action that may have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. The enforcement system to be imposed under CLIA 88, will have a substantial effect on the relationship between the Federal government and the States in the area of clinical laboratory regulation.

Until passage of this statute, the Federal government regulated about 13,000 clinical laboratories, mainly those engaged in interstate commerce or based in hospitals participating in Medicare. The much more numerous intrastate laboratories, including those located in physician's offices, were in many, though not all cases, regulated by the States. CLIA 88 does not preclude continued State regulation and licensure. It allows HCFA to accept results of inspections performed by State licensure agencies (as well as private non-profit organizations) in lieu of meeting CLIA requirements or as proof that the laboratory can be deemed to meet requirements for a CLIA certificate. (See our proposed rule: Clinical Laboratories Improvement Act Programs; Granting and Withdrawal of Deeming Authority to Private Nonprofit Accreditation Organizations and State Licensure Agencies, published August 20, 1990 at 55 FR 33936). However, a realistic appraisal suggests that except for those States electing to operate within a narrowly circumscribed Federal framework, and except for the essential function of personnel licensure which is left almost entirely to the States, there will be little of the former role for States in laboratory regulation remaining under CLIA 88.

Under the regulations referred to in the preceding paragraph:

- States may be relieved of the responsibility for licensure of their laboratories but may choose to exercise such responsibility and authority at their option; and
- States approved by HCFA for exemption of their laboratories from CLIA requirements may impose user fees on the laboratories they inspect.

The Assistant Secretary for Planning and Evaluation, the designated official under the Executive Order, certifies that this rule has been assessed in light of the principles, criteria, and requirements stated in the Executive Order.

VI. Paperwork Reduction Act

Sections 493.1810(b), 493.1816(a), 493.1820(d), and 493.1832(b) of this rule contain information collection requirements that are subject to OMB review under the Paperwork Reduction Act of 1980. These reporting and recordkeeping requirements are not effective until cleared by the Office of Management and Budget.

Public reporting burden for these requirements is estimated as follows:

- For preparation of written evidence against the imposition of sanctions—5 hours;
- For preparation of a plan of correction—5 hours;
- For preparation of a revised plan of correction—3 hours; and
- For completion of a list of laboratory clients—1 hour.

These estimates include time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

If you comment on this burden estimate or any other aspect of these collection of information requirements, including suggestions for reducing the burden, please send copies directly to Office of Financial Management, HCFA, P.O. Box 26684, Baltimore, Maryland 21207, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Allison Herron Eydt, HCFA Desk Officer. A notice will be published in the **Federal Register** when approval is obtained.

VII. List of Subjects in 42 CFR Part 493

Health facilities, Laboratories, Medicaid, Medicare, Reporting and recordkeeping requirements.

42 CFR chapter IV would be amended as set forth below.

A. The authority citation for part 493 continues to read as follows:

Authority: Sec. 353 of the Public Health Service Act, secs. 1102, 1861(e), the sentence following 11861(s)(11), 1861(s)(12), 1861(s)(13), 1861(s)(14), 1861(s)(15), and 1861(s)(16) of the Social Security Act (42 U.S.C. 1302, 1395–(e), the sentence following 1395x (s)(11), 1395x (s)(12), 1395x (s)(13), 1395x (s)(14), 1395x (s)(15), and 1395x (s)(16)).

B. In § 493.2 the introductory text is revised the following definitions are added in alphabetical order and the definitions for *State-exempt laboratory* is revised and placed in alphabetical order:

§ 493.2 Definitions.

As used in this part, unless the context indicates otherwise—

* * * * *

Adverse action means the imposition of a principal or alternative sanction by HCFA.

ALJ stands for Administrative Law Judge.

Alternative sanctions means sanctions that may be imposed in lieu of or in addition to principal sanctions. The term is synonymous with "intermediate sanctions" as used in section 1846 of the Act.

* * * * *

CLIA certificate means any of the following types of certificates issued by HCFA or its agent:

(1) *Certificate* means a certificate issued to a laboratory after an inspection that finds the laboratory to be in compliance with all condition-level requirements.

(2) *Certificate of accreditation* means a certificate issued on the basis of the laboratory's accreditation by an accreditation organization approved by HCFA, indicating that the laboratory is deemed to meet CLIA requirements.

(3) *Certificate of registration or registration certificate* means a certificate issued to an entity that is not qualified to receive a certificate of waiver, to enable the entity to conduct laboratory testing until the entity is determined to be in compliance through an inspection by HCFA, the State, or a HCFA agent, or is accredited by an approved accreditation organization.

(4) *Certificate of waiver* means a certificate issued to a laboratory to perform only waiver tests, that are described in § 493.15(b).

Condition level deficiency means noncompliance with one or more condition level requirements.

Condition level requirements means any of the requirements identified as "conditions" in subparts G through Q of this part.

Credible allegation of compliance means a statement or documentation that—

(1) Is made by a representative of a laboratory that has a history of having maintained a commitment to compliance and of taking corrective action when required;

(2) Is realistic in terms of its being possible to accomplish the required corrective action between the date of the exit conference and the date of the allegation; and

(3) Indicates that the problem has been resolved.

HCFA's agent means an entity with which HCFA arranges to inspect laboratories and assess laboratory activities against CLIA conditions, and which may be a State survey agency, a professional organization, a component of the Department, or any other group that HCFA approves for this purpose. The State survey agency may not be HCFA's agent in a State in which all laboratories are exempt from CLIA requirements because HCFA has approved the State's licensure program.

* * * * *

Immediate jeopardy means a situation in which immediate corrective action is necessary because the laboratory's noncompliance with one or more condition level requirements has already caused, is causing, or is likely to cause, at any time, serious injury or harm, or death, to individuals served by the laboratory or to the health or safety of the general public. This term is synonymous with imminent and serious risk to human health and significant hazard.

Intentional violation means knowing and willful noncompliance with any CLIA condition.

* * * * *

Operator means the individual or group of individuals who oversee all facets of the operation of a laboratory and who bear primary responsibility for the safety and reliability of the results of all specimen testing performed in that laboratory. The term includes—

(1) A director of the laboratory if he or she meets the stated criteria; and

(2) The members of the board of directors and the officers of a laboratory that is a small corporation under subchapter S of the Internal Revenue Code.

Owner means any person who owns any interest in a laboratory except for an interest in a laboratory whose stock and/or securities are publicly traded. (That is e.g., the purchase of shares of stock or securities on the New York Stock Exchange in a corporation owning a laboratory would not make a person an owner for the purpose of this regulation.)

Party means a laboratory affected by any of the enforcement procedures set forth in this subpart, or HCFA or the OIG, as appropriate.

* * * * *

Principal sanction means the suspension, limitation, or revocation of any type of CLIA certificate or the cancellation of the laboratory's approval to receive Medicare payment for its services.

Prospective laboratory means a laboratory that is operating under a registration certificate or is seeking any of the three other types of CLIA certificates.

* * * * *

State-exempt laboratory means a laboratory that does not require a CLIA certificate because it is licensed by a State whose licensure program has been approved by HCFA.

* * * * *

Unsuccessful participation in proficiency testing means any of the following:

(1) Unsatisfactory performance for the same analyte in two consecutive or two out of three testing events.

(2) Repeated unsatisfactory overall testing event scores for two consecutive or two out of three testing events for the same specialty or subspecialty.

(3) An unsatisfactory testing event score for those subspecialties not graded by analyte (that is, bacteriology, micobacteriology, virology, parasitology, mycology, blood compatibility, immunohematology, or syphilis serology) for the same subspecialty for two consecutive or two out of three testing events.

(4) Failure of a laboratory performing gynecologic cytology to meet the standard at § 493.855.

C. A new subpart R is added to part 493, to read as follows:

PART 493—LABORATORY REQUIREMENTS

Subpart R—Enforcement Procedures

Sec.

493.1800 Basis and scope.
493.1804 General considerations.
493.1806 Available sanctions: All laboratories.
493.1807 Additional sanctions: Laboratories that participate in Medicare.
493.1808 Adverse action on any type of CLIA certificate: Effect on Medicare approval.
493.1809 Limitation on Medicaid payment.
493.1810 Imposition and lifting of alternative sanctions.
493.1812 Action when deficiencies pose immediate jeopardy.
493.1814 Action when deficiencies are at the condition level but do not pose immediate jeopardy.
493.1816 Action when deficiencies are not at the condition level.
493.1820 Ensuring timely correction of deficiencies.
493.1826 Suspension of part of Medicare payments.
493.1828 Suspension of all Medicare payments.
493.1832 Directed plan of correction and directed portion of a plan of correction.
493.1834 Civil money penalty.
493.1836 State onsite monitoring.
493.1838 Training and technical assistance for unsuccessful participation in proficiency testing.

Sec.
493.1840 Suspension, limitation, or revocation of any type of CLIA certificate.
493.1842 Cancellation of Medicare approval.
493.1844 Appeals procedures.
493.1846 Civil action.
493.1850 Laboratory registry.

Subpart R—Enforcement Procedures

§ 493.1800 Basis and scope.

(a) *Statutory basis.* (1) Section 1846 of the Act—

(i) Provides for intermediate sanctions that may be imposed on laboratories that perform clinical diagnostic tests on human specimens when those laboratories are found to be out of compliance with one or more of the conditions for Medicare coverage of their services; and

(ii) Requires the Secretary to develop and implement a range of such sanctions, including four that are specified in the statute.

(2) The Clinical Laboratories Improvement Act of 1967 (section 353 of the Public Health Service Act) as amended by CLIA '88—

(i) Establishes requirements for all laboratories that perform clinical diagnostic tests on human specimens;

(ii) Requires a Federal certification scheme to be applied to all such laboratories; and

(iii) Grants the Secretary broad enforcement authority, including—

(A) Use of intermediate sanctions;

(B) Suspension, limitation, or revocation of the certificate of a laboratory that is out of compliance with one or more requirements for a certificate; and

(C) Civil suit to enjoin any laboratory activity that constitutes a significant hazard to the public health.

(3) Section 353 also—

(i) Provides for imprisonment or fine for any person convicted of intentional violation of CLIA requirements;

(ii) Specifies the administrative hearing and judicial review rights of a laboratory that is sanctioned under CLIA; and

(iii) Requires the Secretary to publish annually a list of all laboratories that have been sanctioned during the preceding year.

(b) *Scope and applicability.* This subpart sets forth—

(1) The policies and procedures that HCFA follows to enforce the requirements applicable to laboratories under CLIA and under section 1846 of the Act; and

(2) The appeal rights of laboratories on which HCFA imposes sanctions.

§ 493.1804 General considerations.

(a) *Purpose.* The enforcement mechanisms set forth in this subpart have the following purposes:

(1) To protect all individuals served by laboratories against substandard testing of specimens.

(2) To safeguard the general public against health and safety hazards that might result from laboratory activities.

(3) To motivate laboratories to comply with CLIA requirements so that they can provide accurate and reliable test results.

(b) *Basis for decision to impose sanctions.* (1) HCFA's decision to impose sanctions is based on one or more of the following:

(i) Deficiencies found by HCFA or its agents in the conduct of inspections to certify or validate compliance with Federal requirements, or through review of materials submitted by the laboratory (e.g., personnel qualifications).

(ii) Unsuccessful participation in proficiency testing.

(2) HCFA imposes one ore more of the alternative or principal sanctions specified in § 493.1806 and § 493.1807 when HCFA or HCFA's agent finds that a laboratory has condition-level deficiencies.

(c) *Imposition of alternative sanctions.* (1) HCFA may impose alternative sanctions in lieu of the principal sanctions, (HCFA does not impose alternative sanctions on laboratories that have certificates of waiver because those laboratories are not inspected for compliance with condition-level requirements.)

(2) HCFA may impose alternative sanctions other than a civil money penalty after the laboratory has had an opportunity to respond, but before the hearing specified in § 493.1844.

(d) *Choice of sanction: Factors considered.* HCFA bases its choice of sanction or sanctions on consideration of one or more factors that include, but are not limited to, the following, as assessed by the State or by HCFA, or its agents:

(1) Whether the deficiencies pose immediate jeopardy.

(2) The nature, incidence, severity, and duration of the deficiencies or noncompliance.

(3) Whether the same condition level deficiencies have been identified repeatedly.

(4) The accuracy and extent of laboratory records (e.g., of remedial action) in regard to the noncompliance, and their availability to the State, to other HCFA agents, and to HCFA.

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(5) The relationship of one deficiency or group of deficiencies to other deficiencies.

(6) The overall compliance history of the laboratory including but not limited to any period of noncompliance that occurred between certifications of compliance.

(7) The corrective and long-term compliance outcomes that HCFA hopes to achieve through application of the sanction.

(8) Whether the laboratory has made any progress toward improvement following a reasonable opportunity to correct deficiencies.

(9) Any recommendation by the State agency as to which sanction would be appropriate.

(e) *Number of alternative sanctions.* HCFA may impose a separate sanction for each condition level deficiency or a single sanction for all condition level deficiencies that are interrelated and subject to correction by a single course of action.

(f) *Appeal rights.* The appeal rights of laboratories dissatisfied with the imposition of a sanction are set forth in § 493.1844.

§ 493.1806 Available sanctions: All laboratories.

(a) *Applicability.* HCFA may impose one or more of the sanctions specified in this section on a laboratory that is out of compliance with one or more CLIA conditions.

(b) *Principal sanction.* HCFA may impose any of the three principal CLIA sanctions, which are suspension, limitation, or revocation of any type of CLIA certificate.

(c) *Alternative sanctions.* HCFA may impose one or more of the following alternative sanctions in lieu of or in addition to imposing a principal sanction, except on a laboratory that has a certificate of waiver.

(1) Directed plan of correction, as set forth at § 493.1832.

(2) State onsite monitoring as set forth at § 493.1836.

(3) Civil money penalty, as set forth at § 493.1834.

(d) *Civil suit.* HCFA may bring suit in the appropriate U.S. District Court to enjoin continuation of any activity of any laboratory (including a State-exempt laboratory that has been found with deficiencies during a validation survey), if HCFA has reason to believe that continuation of the activity would constitute a significant hazard to the public health.

(e) *Criminal sanctions.* Under section 353(1) of the PHS Act, an individual who is convicted of intentionally violating any CLIA requirement may be imprisoned or fined.

§ 493.1807 Additional sanctions: Laboratories that participate in Medicare.

The following additional sanctions are available for laboratories that are out of compliance with one or more CLIA conditions and that have approval to receive Medicare payment for their services.

(a) *Principal sanction.* Cancellation of the laboratory's approval to receive Medicare payment for its services.

(b) *Alternative sanctions.* (1) Suspension of payment for tests in one or more specific specialties or subspecialties, performed on or after the effective date of sanction.

(2) Suspension of payment for all tests in all specialties and subspecialties performed on or after the effective date of sanction.

§ 493.1808 Adverse action on any type of CLIA certificate: Effect on Medicare approval.

(a) *Suspension or revocation of any type of CLIA certificate.* When HCFA suspends or revokes any type of CLIA certificate, HCFA concurrently cancels the laboratory's approval to receive Medicare payment for its services.

(b) *Limitation of any type of CLIA certificate.* When HCFA limits any type of CLIA certificate, HCFA concurrently limits Medicare approval to only those specialties or subspecialties that are authorized by the laboratory's limited certificate.

§ 493.1809 Limitation on Medicaid payment.

As provided in section 1902(a)(9)(C) of the Act, payment for laboratory services may be made under the State plan only if those services are furnished by a laboratory that meets CLIA conditions.

§ 493.1810 Imposition and lifting of alternative sanctions.

(a) *Notice of noncompliance and of proposed sanction: Content.* If HCFA or its agency identifies condition level noncompliance in a laboratory, HCFA or its agent gives the laboratory written notice of the following:

(1) The condition level noncompliance that it has identified.

(2) The sanction or sanctions that HCFA or its agent proposes to impose against the laboratory.

(3) The rationale for the proposed sanction or sanctions.

(4) The projected effective date and duration of the proposed sanction or sanctions.

(5) The authority for the proposed sanction or sanctions.

(6) The time allowed (at least 10 days) for the laboratory to respond to the notice.

(b) *Opportunity to respond.* During the period specified in paragraph (a)(6) of this section, the laboratory may submit to HCFA or its agent written evidence or other information against the imposition of the proposed sanction or sanctions.

(c) *Notice of imposition of sanction*—(1) *Content.* HCFA gives the laboratory written notice that acknowledges any evidence or information received from the laboratory and specifies the following:

(i) The sanction or sanctions to be imposed against the laboratory.

(ii) The authority and rationale for the imposing sanction or sanctions.

(iii) The effective date and duration of sanction.

(2) *Timing.* (i) If HCFA or its agent determines that the deficiencies pose immediate jeopardy, HCFA provides notice at least 5 days before the effective date of sanction.

(ii) If HCFA or its agent determines that the deficiencies do not pose immediate jeopardy, HCFA provides notice at least 15 days before the effective date of the sanction.

(d) *Duration of alternative sanctions.* An alternative sanction continues until the earlier of the following occurs:

(1) The laboratory corrects all condition level deficiencies.

(2) HCFA's suspension, limitation, or revocation of the laboratory's CLIA certificate becomes effective.

(e) *Lifting of alternative sanctions*—(1) *General rule.* Alternative sanctions are not lifted until a laboratory's compliance with all condition level requirements is verified.

(2) *Credible allegation of compliance.* When a sanctioned laboratory submits a credible allegation of compliance, HCFA's agent determines whether—

(i) It can certify compliance on the basis of the evidence presented by the laboratory in its allegation; or

(ii) It must revisit to verify whether the laboratory has, in fact, achieved compliance.

(3) *Compliance achieved before the date of revisit.* If during a revisit, the laboratory presents credible evidence (as determined by HCFA or its agent) that it achieved compliance before the date of revisit, sanctions are lifted as of that earlier date.

§ 493.1812 Action when deficiencies pose immediate jeopardy.

If a laboratory's deficiencies pose immediate jeopardy, the following rules apply:

(a) HCFA requires the laboratory to take immediate action to remove the jeopardy and may impose one or more alternative sanctions to help bring the laboratory into compliance.

(b) If the findings of a revisit indicate that a laboratory has not eliminated the jeopardy, HCFA suspends or limits the laboratory's CLIA certificate no earlier than 5 days after the date of notice of suspension or limitation. HCFA may later revoke the certificate.

(c) In addition, if HCFA has reason to believe that the continuation of any activity by any laboratory (either the entire laboratory operation or any specialty or subspecialty of testing) would constitute a significant hazard to the public health, HCFA may bring suit and seek a temporary injunction or restraining order against continuation of that activity by the laboratory, regardless of the type of CLIA certificate the laboratory has and of whether it is State-exempt.

§ 493.1814 Action when deficiencies are at the condition level but do not pose immediate jeopardy.

If a laboratory has condition level deficiencies that do not pose immediate jeopardy, the following rules apply:

(a) *Initial action.* (1) HCFA may cancel the laboratory's approval to receive Medicare payment for its services.

(2) HCFA may suspend, limit, or revoke the laboratory's CLIA certificate.

(3) If HCFA does not impose a principal sanction under paragraph (a)(1) or (a)(2) of this section, it imposes one or more alternative sanctions. In the case of unsuccessful participation in proficiency testing, HCFA may impose the training and technical assistance requirement set forth at § 493.1838 in lieu of, or in addition to, one or more alternative sanctions.

(b) *Failure to correct condition level deficiencies.* If HCFA imposes alternative sanctions for condition level deficiencies that do not pose immediate jeopardy, and the laboratory does not correct the condition level deficiencies within 12 months after the last day of inspection, HCFA—

(1) Cancels the laboratory's approval to receive Medicare payment for its services, and discontinues the Medicare payment sanctions as of the day cancellation is effective.

(2) Following a revisit which indicates that the laboratory has not corrected its condition level deficiencies, notifies the laboratory that it proposes to suspend, limit, or revoke the certificate, as specified in § 493.1816(b), and the laboratory's right to hearing; and

(3) May impose (or continue, if already imposed) any alternative sanctions that do not pertain to Medicare payments. (Sanctions imposed under the authority of section 353 of the PHS Act may continue for more than 12 months from the last date of inspection, (while a hearing on the proposed suspension, limitation, or revocation of the certificate, registration certificate, or certificate of accreditation is pending.)

(c) *Action after hearing.* If a hearing decision upholds a proposed suspension, limitation, or revocation of a laboratory's CLIA certificate, HCFA discontinues any alternative sanctions as of the day it makes the suspension, limitation, or revocation effective.

§ 493.1816 Action when deficiencies are not at the condition level.

If a laboratory has deficiencies, that are not at the condition level, the following rules apply:

(a) *Initial action.* The laboratory must submit a plan of correction that is acceptable to HCFA in content and time frames.

(b) *Failure to correct deficiencies.* If, on revisit, it is found that the laboratory has not corrected the deficiencies within 12 months after the last day of inspection, the following rules apply:

(1) HCFA cancels the laboratory's approval to receive Medicare payment for its services.

(2) HCFA notifies the laboratory of its intent to suspend, limit, or revoke the laboratory's CLIA certificate and of the laboratory's right to a hearing.

§ 493.1820 Ensuring timely correction of deficiencies.

(a) *Timing of visits.* HCFA, the State survey agency or other HCFA agent may visit the laboratory at any time to evaluate progress, and at the end of the period to determine whether all corrections have been made.

(b) *Deficiencies corrected before a visit.* If during a visit, a laboratory produces credible evidence that it achieved compliance before the visit, the sanctions are lifted as of that earlier date.

(c) *Failure to correct deficiencies.* If during a visit it is found that the laboratory has not corrected its deficiencies, HCFA may propose to suspend, limit, or revoke the laboratory's CLIA certificate.

(d) *Additional time for correcting lower level deficiencies* not at the condition level. If at the end of the plan of correction period all condition level deficiencies have been corrected, and there are deficiencies, that are not at the condition level, HCFA may request a revised plan of correction. The revised plan may not extend beyond 12 months from the last day of the inspection that originally identified the cited deficiencies.

(e) *Persistence of deficiencies.* If at the end of the period covered by the plan of correction, the laboratory still has deficiencies, the rules of § 493.1814 and § 493.1816 apply.

§ 493.1826 Suspension of part of Medicare payments.

(a) *Application.* (1) HCFA may impose this sanction if a laboratory—

(i) Is found to have condition level deficiencies with respect to one or more specialties or subspecialties of tests; and

(ii) Chooses to agree (in return for not having its Medicare approval cancelled immediately) not to charge Medicare beneficiaries or their private insurance carriers for the services for which Medicare payment is suspended.

(2) HCFA suspends Medicare payment for those specialities or subspecialties of tests for which the laboratory is out of compliance with Federal requirements.

(b) *Procedures.* Before imposing this sanction, HCFA provides notice of sanction and opportunity to respond in accordance with § 493.1810.

(c) *Duration and effect of sanction.* This sanction continues until the laboratory corrects the condition level deficiencies or HCFA cancels the laboratory's approval to receive Medicare payment for its services, but in no event longer than 12 months.

(1) If the laboratory corrects all condition level deficiencies, HCFA resumes Medicare payment effective for all services furnished on or after the date the deficiencies are corrected.

§ 493.1828 Suspension of all Medicare payments.

(a) *Application.* (1) HCFA may suspend payment for all Medicare-approved laboratory services when the laboratory has condition level deficiencies.

(2) HCFA suspends payment for all Medicare covered laboratory services when the following conditions are met:

(i) Either—

(A) The laboratory has not corrected its condition level deficiencies included in the plan of correction within 3 months from the last date of inspection; or

(B) The laboratory has been found to have the same condition level deficiencies during three consecutive inspections; and

(ii) The laboratory has chosen (in return for not having its Medicare approval immediately cancelled), to not charge Medicare beneficiaries or their private insurance carriers for services for which Medicare payment is suspended.

(3) HCFA suspends payment for services furnished on and after the effective date of sanction.

(b) *Procedures.* Before imposing this sanction, HCFA provides notice of sanction and opportunity to respond in accordance with § 493.1810.

(c) *Duration and effect of sanction.* (1) Suspension of payment continues until all condition level deficiencies are corrected, but never beyond twelve months.

(2) If all the deficiencies are not corrected by the end of the 12 month period, HCFA cancels the laboratory's approval to receive Medicare payment for its services.

§ 493.1832 Directed plan of correction and directed portion of a plan of correction.

(a) *Application.* HCFA may impose a directed plan of correction as an alternative sanction for any laboratory that has condition level deficiencies. If HCFA does not impose a directed plan of correction as an alternative sanction for a laboratory that has condition level deficiencies, it at least imposes a directed portion of a plan of correction when it imposes any of the following alternative sanctions:

(1) State onsite monitoring.

(2) Civil money penalty.

(3) Suspension of all or part of Medicare payments.

(b) *Procedures*—(1) *Directed plan of correction.* When imposing this sanction, HCFA—

(i) Gives the laboratory prior notice of the sanction and opportunity to respond in accordance with § 493.1810;

(ii) Directs the laboratory to take specific corrective action within specific time frames in order to achieve compliance; and

(iii) May direct the laboratory to submit the names of laboratory clients for notification purposes, as specified in paragraph (b)(3) of this section.

(2) *Directed portion of a plan of correction.* HCFA may decide to notify clients of a sanctioned laboratory, because of the seriousness of the noncompliance (e.g., the existence of immediate jeopardy) or for other reasons. When imposing this sanction, HCFA takes the following steps—

(i) Directs the laboratory to submit to HCFA, the State survey agency, or other HCFA agent, within 10 calendar days after the notice of the alternative sanction, a list of names and addresses of all physicians, providers, suppliers, and other clients who have used some or all of the services of the laboratory since the last certification inspection or within any other timeframe specified by HCFA.

(ii) Within 30 calendar days of receipt of the information, may send to each laboratory client, via the State survey agency, a notice containing the name and address of the laboratory, the nature of the laboratory's noncompliance, and the kind and effective date of the alternative sanction.

(iii) Sends to each laboratory client, via the State survey agency, notice of the recission of an adverse action within 30 days of the rescission.

(3) *Notice of imposition of a principal sanction following the imposition of an alternative sanction.* If HCFA imposes a principal sanction following the imposition of an alternative sanction, and for which HCFA has already obtained a list of laboratory clients, HCFA may use that list to notify the clients of the imposition of the principal sanction.

(c) *Duration of a directed plan of correction.* If HCFA imposes a directed plan of correction, and on revisit it is found that the laboratory has not corrected the deficiencies within 12 months from the last day of inspection, the following rules apply:

(1) HCFA cancels the laboratory's approval for Medicare payment of its services, and notifies the laboratory of HCFA's intent to suspend, limit, or revoke the laboratory's CLIA certificate.

(2) The directed plan of correction continues in effect until the day suspension, limitation, or revocation of the laboratory's CLIA certificate.

§ 493.1834 Civil money penalty.

(a) *Statutory basis.* Sections 1846 of the Act and 353(h)(2)(B) of the PHS Act authorize the Secretary to impose civil money penalties on laboratories. Section 1846(b)(3) of the Act specifically provides that incrementally more severe fines may be imposed for repeated or uncorrected deficiencies.

(b) *Scope.* This section sets forth the procedures that HCFA follows to impose a civil money penalty in lieu of suspending, limiting, or revoking the certificate, registration certificate or certificate of accreditation of a laboratory that is found to have condition level deficiencies.

(c) *Basis for imposing a civil money penalty.* HCFA may impose a civil money penalty against any laboratory determined to have condition level deficiencies regardless of whether those deficiencies pose immediate jeopardy.

(d) *Amount of penalty*—(1) *Factors considered.* In determining the amount of the penalty, HCFA takes into account the following factors:

(i) The nature, scope, severity, and duration of the noncompliance.

(ii) Whether the same condition level deficiencies have been identified during three consecutive inspections.

(iii) The laboratory's overall compliance history including but not limited to any period of noncompliance that occurred between certifications of compliance.

(iv) The laboratory's intent or reason for noncompliance.

(v) The accuracy and extent of laboratory records and their availability to HCFA, the State survey agency, or other HCFA agent.

(2) *Range of penalty amount.*

(i) For a condition level deficiency that poses immediate jeopardy, the range is $3,050–$10,000 per day of noncompliance or per violation.

(ii) For a condition level deficiency that does not pose immediate jeopardy, the range is $50–$3,000 per day of noncompliance or per violation.

(3) *Decreased penalty amounts.* If the immediate jeopardy is removed, but the deficiency continues, HCFA shifts the penalty amount to the lower range.

(4) *Increased penalty amounts.* HCFA may, before the hearing, propose to increase the penalty amount for a laboratory that has deficiencies which, after imposition of a lower level penalty amount, become sufficiently serious to pose immediate jeopardy.

(e) *Procedures for imposition of civil money penalty*—(1) *Notice of intent.* (i) HCFA sends the laboratory written notice, of HCFA's intent to impose a civil money penalty.

(ii) The notice includes the following information:

(A) The statutory basis for the penalty.

(B) The proposed daily or per violation amount of the penalty.

(C) The factors (as described in paragraph (d)(1) of this section) that HCFA considered.

(D) The opportunity for responding to the notice in accordance with § 493.1810(c).

(E) A specific statement regarding the laboratory's appeal rights.

(2) *Appeal rights.* (i) The laboratory has 60 days from the date of receipt of the notice of intent to impose a civil money penalty to request a hearing in accordance with § 493.1844(g).

(ii) If the laboratory requests a hearing, all other pertinent provisions of § 493.1844 apply.

(iii) If the laboratory does not request a hearing, HCFA may reduce the proposed penalty amount by 35 percent.

(f) *Accrual and duration of penalty*—(1) *Accrual of penalty.* The civil money penalty begins accruing as follows:

(i) 5 days after notice of intent if there is immediate jeopardy.

(ii) 15 days after notice of intent if there is not immediate jeopardy.

(2) *Duration of penalty.* The civil money penalty continues to accrue until the earliest of the following occurs:

(i) The laboratory's compliance with condition level requirements is verified on the basis of the evidence presented by the laboratory in its credible allegation of compliance or at the time or revisit.

(ii) Based on credible evidence presented by the laboratory at the time of revisit, HCFA determines that compliance was achieved before the revisit. (In this situation, the money penalty stops accruing as of the date of compliance.)

(iii) HCFA suspends, limits, or revokes the laboratory's CLIA certificate, registration certificate, or certificate of accreditation.

(g) *Computation and notice of total penalty amount*— (1) *Computation.* HCFA computes the total penalty amount after the laboratory's compliance is verified or HCFA suspends, limits, or revokes the laboratory's CLIA certificate but in no event before—

(i) The 60 day period for requesting a hearing has expired without a request or the laboratory has explicitly waived its right to a hearing; or

(ii) Following a hearing requested by the laboratory, the ALJ issues a decision that upholds imposition of the penalty.

(2) *Notice of penalty amount and due date of penalty.* The notice includes the following information:

(i) Daily or per violation penalty amount.

(ii) Number of days or violations for which the penalty is imposed.

(iii) Total penalty amount.

(iv) Due date for payment of the penalty.

(h) *Due date for payment of penalty.* (1) Payment of a civil money penalty is due 15 days from the date of the notice specified in paragraph (g)(2) of this section.

(2) HCFA may approve a plan for a laboratory to pay a civil money penalty, plus interest, over a period of up to one year from the original due date.

(i) *Collection and settlement*—(1) *Collection of penalty amounts.* (i) The determined penalty amount may be deducted from any sums then or later owing by the United States to the laboratory subject to the penalty.

(ii) Interest accrues on the unpaid balance of the penalty, beginning on the due date. Interest is computed at the rate specified in § 405.376(d) of this chapter.

(2) *Settlement.* HCFA has authority to settle any case at any time before the ALJ issues a hearing decision.

§ 493.1836 State onsite monitoring.

(a) *Application.*

(1) HCFA may require continuous or intermittent monitoring of a plan of correction by the State survey agency to ensure that the laboratory makes the improvements necessary to bring it into compliance with the condition level requirements. (The State monitor does not have management authority, that is, cannot hire or fire staff, obligate funds, or otherwise dictate how the laboratory operates. The monitor's responsibility is to oversee whether corrections are made.)

(2) The laboratory must pay the costs of onsite monitoring by the State survey agency.

(i) The costs are computed by multiplying the number of hours of onsite monitoring in the laboratory by the hourly rate negotiated by HCFA and the State.

(ii) The hourly rate includes salary, fringe benefits, travel, and other direct and indirect costs approved by HCFA.

(b) *Procedures.* Before imposing this sanction, HCFA provides notice of sanction and opportunity to respond in accordance with § 493.1810.

(c) *Duration of sanction.* (1) If HCFA imposes onsite monitoring, the sanction continues until HCFA determines that the laboratory has the capability to ensure compliance with all condition level requirements.

(2) If the laboratory does not correct all deficiencies within 12 months, and a revisit indicates that deficiencies remain, HCFA cancels the laboratory's approval for Medicare payment for its services and notifies the laboratory of its intent to suspend, limit, or revoke the laboratory's certificate, registration certificate, or certificate of accreditation.

(3) If the laboratory still does not correct its deficiencies, the Medicare sanction continues until the suspension, limitation, or revocation of the laboratory's certificate, registration certificate, or certificate of accreditation is effective.

§ 493.1838 Training and technical assistance for unsuccessful participation in proficiency testing.

If a laboratory's participation in proficiency testing is unsuccessful, HCFA may require the laboratory to undertake training of its personnel, or to obtain necessary technical assistance, or both, in order to meet the requirements of the proficiency testing program. This requirement is separate from the principal and alternative sanctions set forth in §§ 493.1806 and 493.1807.

§ 493.1840 Suspension, limitation, or revocation of any type of CLIA certificate.

(a) *Adverse action based on actions of the laboratory's owner, operator or employees.* HCFA may initiate adverse action to suspend, limit or revoke any CLIA certificate if HCFA finds that a laboratory's owner or operator or one of its employees has—

(1) Been guilty of misrepresentation in obtaining a CLIA certificate;

(2) Performed, or represented the laboratory as entitled to perform, a laboratory examination or other procedure that is not within a category of laboratory examinations or other procedures authorized by its CLIA certificate;

(3) Failed to comply with the certificate requirements and performance standards;

(4) Failed to comply with reasonable requests by HCFA for any information or work on materials that HCFA concludes is necessary to determine the laboratory's continued eligibility for its CLIA certificate or continued compliance with performance standards set by HCFA;

(5) Refused a reasonable request by HCFA or its agent for permission to inspect the laboratory and its operation and pertinent records during the hours that the laboratory is in operation;

(6) Violated or aided and abetted in the violation of any provisions of CLIA and its implementing regulations;

(7) Failed to comply with an alternative sanction imposed under this subpart; or

(8) Within the preceding two-year period, owned or operated a laboratory that had its CLIA certificate revoked. (This provision applies only to the owner or operator, not to all of the laboratory's employees.)

(b) *Adverse action based on improper referrals in proficiency testing.* If HCFA determines that a laboratory has intentionally referred its proficiency testing samples to another laboratory for analysis, HCFA revokes the laboratory's CLIA certificate for at least one year, and may also impose a civil money penalty.

(c) *Adverse action based on exclusion from Medicare.* If the OIG excludes a laboratory from participation in Medicare, HCFA suspends the laboratory's CLIA certificate for the period during which the laboratory is excluded.

(d) *Procedures for suspension or limitation*—(1) *Basic rule.* Except as provided in paragraph (d)(2) of this section, HCFA does not suspend or limit a CLIA certificate until after an ALJ hearing decision (as provided in § 493.1844) that upholds suspension or limitation.

(2) *Exceptions.* HCFA may suspend or limit a CLIA certificate before the ALJ hearing in any of the following circumstances:

(i) The laboratory's deficiencies pose immediate jeopardy.

(ii) The laboratory has refused a reasonable request for information or work on materials.

(iii) The laboratory has refused permission for HCFA or a HCFA agent to inspect the laboratory or its operation.

(e) *Procedures for revocation.* (1) HCFA does not revoke any type of CLIA certificate until after an ALJ hearing that upholds revocation.

(2) HCFA may revoke a CLIA certificate after the hearing decision even if it had not previously suspended or limited that certificate.

(f) *Notice to the OIG.* HCFA notifies the OIG of any violations under paragraphs (a)(1), (a)(2), (a)(6), and (b) of this section within 30 days of the determination of the violation.

§ 493.1842 Cancellation of Medicare approval.

(a) *Basis for cancellation.* (1) HCFA always cancels a laboratory's approval to receive Medicare payment for its services if HCFA suspends or revokes the laboratory's CLIA certificate.

(2) HCFA may cancel the laboratory's approval under any of the following circumstances:

(i) The laboratory is out of compliance with a condition level requirement.

(ii) The laboratory fails to submit a plan of correction satisfactory to HCFA.

(iii) The laboratory fails to correct all its deficiencies within the time frames specified in the plan of correction.

(b) *Notice and opportunity to respond.* Before canceling a laboratory's approval to receive Medicare payment for its services, HCFA gives the laboratory—

(1) Written notice of the rationale for, effective date, and effect of, cancellation;

(2) Opportunity to submit written evidence or other information against cancellation of the laboratory's approval.

This sanction may be imposed before the hearing that may be requested by a laboratory, in accordance with the appeals procedures set forth in § 493.1844.

(c) *Effect of cancellation.* Cancellation of Medicare approval terminates any Medicare payment sanctions regardless of the time frames originally specified.

§ 493.1844 Appeals procedures.

(a) *General rules.* (1) The provisions of this section apply to all laboratories and prospective laboratories that are dissatisfied with any initial determination under paragraph (b) of this section.

(2) Hearings are conducted in accordance with procedures set forth in subpart D of part 498 of this chapter, except that the authority to conduct hearings and issue decisions may be exercised by ALJs assigned to, or detailed to, the Departmental Appeals Board.

(3) Any party dissatisfied with a hearing decision is entitled to request review of the decision as specified in subpart E of part 498 of this chapter, except that the authority to review the decision may be exercised by the Departmental Appeals Board.

(4) When more than one of the actions specified in paragraph (b) of this section are carried out concurrently, the laboratory has a right to only one hearing on all matters at issue.

(b) *Actions that are initial determinations.* The following actions are initial determinations and therefore are subject to appeal in accordance with this section:

(1) The suspension, limitation, or revocation of the laboratory's CLIA certificate by HCFA because of noncompliance with CLIA requirements.

(2) The denial of a CLIA certificate.

(3) The imposition of alternative sanctions under this subpart (but not the determination as to which alternative sanction or sanctions to impose).

(4) The denial or cancellation of the laboratory's approval to receive Medicare payment for its services.

(c) *Actions that are not initial determinations.* Actions that are not listed in paragraph (b) of this section are not initial determinations and therefore are not subject to appeal under this section. They include, but are not necessarily limited to, the following:

(1) The finding that a laboratory accredited by a HCFA-approved accreditation organization is no longer deemed to meet the conditions set forth in subparts G through O of this part. However, the suspension, limitation or revocation of a certificate of accreditation is an initial determination and is appealable.

(2) The finding that a laboratory determined to be in compliance with condition-level requirements but has deficiencies that are not at the condition level.

(3) The determination not to reinstate a suspended CLIA certificate because the reason for the suspension has not been removed or there is insufficient assurance that the reason will not recur.

(4) The determination as to which alternative sanction or sanctions to impose, including the amount of a civil money penalty to impose per day or per violation.

(5) The denial of approval for Medicare payment for the services of a laboratory that does not have in effect a valid CLIA certificate.

(6) The determination that a laboratory's deficiencies pose immediate jeopardy.

(7) The amount of the civil money penalty assessed per day or for each violation of Federal requirements.

(d) *Effect of pending appeals*—(1) *Alternative sanctions.* The effective date of an alternative sanction (other than a civil money penalty) is not delayed because the laboratory has appealed and the hearing or the hearing decision is pending.

(2) *Suspension, limitation, or revocation of a laboratory's CLIA certificate*—(i) *General rule.* Except as provided in paragraph (d)(2)(ii) of this section, suspension, limitation, or revocation of a CLIA certificate is not effective until after a hearing decision by an ALJ is issued.

(ii) *Exceptions.* (A) If HCFA determines that conditions at a laboratory pose immediate jeopardy, the effective date of the suspension or limitation of a CLIA certificate is not delayed because the laboratory has appealed and the hearing or the hearing decision is pending.

(B) HCFA may suspend or limit a laboratory's CLIA certificate before an ALJ hearing or hearing decision if the laboratory has refused a reasonable request for information (including but not limited to billing information), or for work on materials, or has refused permission for HCFA or a HCFA agent to inspect the laboratory or its operation.

(3) *Cancellation of Medicare approval.* The effective date of the cancellation of a laboratory's approval to receive Medicare payment for its services is not delayed because the laboratory has appealed and the hearing or hearing decision is pending.

(4) *Effect of ALJ decision.* (i) An ALJ decision is final unless, as provided in paragraph (a)(3) of this section, one of the parties requests review by the Departmental Appeals Board within 60

days, and the Board reviews the case and issues a revised decision.

(ii) If an ALJ decision upholds a suspension imposed because of immediate jeopardy, that suspension becomes a revocation.

(e) *Appeal rights for prospective laboratories*—(1) *Reconsideration.* Any prospective laboratory dissatisfied with a denial of a CLIA certificate, or of approval for Medicare payment for its services, may initiate the appeals process by requesting reconsideration in accordance with §§ 498.22 through 498.25 of this chapter.

(2) *Notice of reopening.* If HCFA reopens an initial or reconsidered determination, HCFA gives the prospective laboratory notice of the revised determination in accordance with § 498.32 of this chapter.

(3) *ALJ hearing.* Any prospective laboratory dissatisfied with a reconsidered determination under paragraph (e)(1) of this section or a revised reconsidered determination under § 498.30 of this chapter is entitled to a hearing before an ALJ, as specified in paragraph (a)(2) of this section.

(4) *Review of ALJ hearing decisions.* Any prospective laboratory that is dissatisfied with an ALJ's hearing decision or dismissal of a request for hearing may file a written request for review by the Departmental Appeals Board as provided in paragraph (a)(3) of this section.

(f) *Appeal rights of laboratories*—(1) *ALJ hearing.* Any laboratory dissatisfied with the suspension, limitation, or revocation of its CLIA certificate, with the imposition of an alternative sanction under this subpart, or with cancellation of the approval to receive Medicare payment for its services, is entitled to a hearing before an ALJ as specified in paragraph (a)(2) of this section and has 60 days from the notice of sanction to request a hearing.

(2) *Review of ALJ hearing decisions.* Any laboratory that is dissatisfied with an ALJ's hearing decision or dismissal of a request for hearing may file a written request for review by the Departmental Appeals Board, as provided in paragraph (a)(3) of this section.

(3) *Judicial review.* Any laboratory dissatisfied with the decision to impose a civil money penalty or to suspend, limit, or revoke its CLIA certificate may, within 60 days after the decision becomes final, file with the U.S. Court of Appeals of the circuit in which the laboratory has its principal place of business, a petition for judicial review.

(g) *Notice of adverse action.* (1) If HCFA suspends, limits, or revokes a laboratory's CLIA certificate or cancels the approval to receive Medicare payment for its services, HCFA gives notice to the laboratory, and may give notice to physicians, providers, suppliers, and other laboratory clients, according to the procedures set forth at § 493.1832. In addition, HCFA notifies the general public each time one of these principal sanctions is imposed.

(2) The notice to the laboratory—

(i) Sets forth the reasons for the adverse action, the effective date and effect of that action, and the appeal rights if any; and

(ii) When the certificate is limited, specifies the specialties or subspecialties of tests that the laboratory is no longer authorized to perform, and that are no longer covered under Medicare.

(3) The notice to other entities includes the same information except the information about the laboratory's appeal rights.

(h) *Effective date of adverse action.* (1) When the laboratory's deficiencies pose immediate jeopardy, the effective date of the adverse action is at least 5 days after the date of the notice.

(2) When HCFA determines that the laboratory's deficiencies do not pose immediate jeopardy, the effective date of the adverse action is at least 15 days after the date of the notice.

§ 493.1846 Civil action.

If HCFA has reason to believe that continuation of the activities of any laboratory, including a State-exempt laboratory, would constitute a significant hazard to the public health, HCFA may bring suit in a U.S. District Court to enjoin continuation of the specific activity that is causing the hazard or to enjoin the continued operation of the laboratory if HCFA deems it necessary. Upon proper showing, the court shall issue a temporary injunction or restraining order without bond against continuation of the activity.

§ 493.1850 Laboratory registry.

(a) Once a year HCFA makes available to physicians and to the general public specific information (including information provided to HCFA by the OIG) that is useful in evaluating the performance of laboratories, including the following:

(1) A list of laboratories that have been convicted, under Federal or State laws relating to fraud and abuse, false billing, or kickbacks.

(2) A list of laboratories that have had their CLIA certificates suspended, limited, or revoked, and the reason for the adverse actions.

(3) A list of persons who have been convicted of violating CLIA requirements, as specified in section 353(1) of the PHS Act, together with the circumstances of each case and the penalties imposed.

(4) A list of laboratories on which alternative sanctions have been imposed, showing—

(i) The effective date of the sanctions;

(ii) The reasons for imposing them;

(iii) Any corrective action taken by the laboratory; and

(iv) If the laboratory has achieved compliance, the verified date of compliance.

(5) A list of laboratories whose accreditation has been withdrawn or revoked and the reasons for the withdrawal or revocation.

(6) All appeals and hearing decisions.

(7) A list of laboratories against which HCFA has brought suit under § 493.1846 and the reasons for those actions.

(8) A list of laboratories that have been excluded from participation in Medicare or Medicaid and the reasons for the exclusion.

(b) The laboratory registry is compiled for the calendar year preceding the date the information is made available and includes appropriate explanatory information to aid in the interpretation of the data. It also contains corrections of any erroneous statements or information that appeared in the previous registry.

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Hospital Insurance)

Dated: December 31, 1991.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

Approved: January 23, 1992.

Louis W. Sullivan,

Secretary.

[FR Doc. 92-4050 Filed 2-20-92; 12:28 pm]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Specific List for Categorization of Laboratory Test Systems, Assays and Examinations by Complexity

AGENCY: Public Health Service, HHS.

ACTION: Notice with comment period.

SUMMARY: The Clinical Laboratory Improvement Amendments of 1988, Public Law 100–578, requires that the Secretary provide for the categorization of specific laboratory test systems, assays and examinations by level of complexity. 42 CFR 493.17, published elsewhere in this issue of the **Federal Register**, establishes criteria for such categorization.

It is the Department's intention to complete the categorization of all currently available clinical laboratory test systems, assays and examinations prior to the effective date of the amendments to 42 CFR Part 493 (September 1, 1992). This Notice announces the first of a series of lists containing specific clinical laboratory test systems, assays and examinations, categorized by complexity. Additional lists of test systems, assays and examinations will be published periodically. On or before September 1, 1992, a complete list of all laboratory test systems, assays and examinations, categorized by complexity, will be published in the form of a compilation of these Notices. Any clinical laboratory test system, assay or examination that is not on that final list will be considered high complexity, until categorized otherwise, as provided under 42 CFR 493.17. After publication of the compilation, applications will be taken to categorize (or recategorize) other laboratory test systems, assays and examinations following the procedures delineated in 42 CFR 493.17(d). Notices will be published periodically in the **Federal Register** to announce any additional test system, assay or examination that has been categorized (or re-categorized) during the preceding interval.

DATES: *Effective date:* This list is effective September 1, 1992.

Comment date: Written comments on this list of tests will be considered if they are received at the address indicated below, no later than 5 p.m. on March 30, 1992.

ADDRESSES: Comments on the content of this Notice—only—should be addressed to Public Health Service, Attention: CLIA **Federal Register** Notice, 1600 Clifton Rd. NE., (Mail Stop MLR5), Atlanta GA 30333.

Comments pertaining to *the criteria* for test categorization established by 42 CFR part 493 should be adressed to: Health Care Financing Administration, Attention HSQ–176–FC, P.O. Box 26676, Baltimore, MD 21207.

Due to staffing and resource limitations, we cannot accept facsimile (FAX) copies of comments. Nor can we accept comments by telephone.

FOR FURTHER INFORMATION CONTACT: Miley A. Robinson, (404) 639–3153.

SUPPLEMENTARY INFORMATION: As described in 42 CFR 493.17, seven criteria were used to classify laboratory test systems, assays or examinations as moderate or high complexity using a grading scheme for level of complexity that assigned scores of 1, 2 or 3 within each of the seven criteria. Test systems, assays or examinations receiving total scores 12 or under were categorized as moderate complexity, while those receiving total scores of 13 through 21 were categorized as high complexity. As provided under 42 CFR 493.17, the following laboratory test systems, assays and examinations have been categorized as moderate or high complexity as noted.

Dated: January 23, 1992.

James O. Mason,

Assistant Secretary for Health.

Specific List for Categorization of Laboratory Test Systems, Assays and Examinations by Complexity as Provided for in 42 CFR 493.17

Complexity: Moderate

Speciality/Subspeciality: Bacteriology

Analyte: Aerobic Organisms from Cervical/Urethral Specimen

Test Category: Isolation and presumptive Identification of aerobic bacteria from cervical/urethral specimens

Test System, Assay or Examination: All Test Systems, Assays or Examinations

Analyte: Aerobic Organisms from Throat

Test Category: Isolation and confirmatory Identification of aerobic bacteria from throat, urine, or cervical/urethral specimens

Test System, Assay or Examination: All Test Systems, Assays or Examinations

Analyte: All Organisms

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:

Vitek Systems VITEK
Vitek Systems VITEK AMS ANA Card
Vitek Systems VITEK Anaerobe ID Card
Vitek Systems VITEK/ANI Anaerobes
Vitek Systems VITEK/Bacillus Biochem. card
Vitek Systems VITEK/EPS Enteric path. card
Vitek Systems VITEK/GNI Gram neg ID card
Vitek Systems VITEK/GPI Gram pos ID card
Vitek Systems VITEK/NHI Neisser. & Haemop.
Vitek Systems VITEK/Urine ID 3 card

Test Category: Gram stain

Test System, Assay or Examination: All Test Systems, Assays or Examinations

Test Category: Identification of aerobes from throat, urine, cervical or urethral specimens (e.g. Biochem/Physiol)

Test System, Assay or Examination:

Adams Scientific B. Cat Confirm
Adams Scientific Identicult—AE
Adams Scientific Identicult—BL
Adams Scientific Identicult—Neisseria
Adams Scientific Mug-Indole Disc
Adams Scientific Rapid-Hippurate
Adams Scientific Stat-Urease
Analytab API 20 Streptococcus
Analytab API Laboratories Rapid E
Analytab API Laboratories Rapid NFT
Analytab API Laboratories Rapid Strep
Analytab API StaphTrac
Analytab API Staphase III
Analytab API ZYM Microorganism Differentation
Analytab Quad Ferm +
Baxter Coagulase Plasma
Baxter Haemophilus/Neisseria Identif—Panel
Baxter MicroScan Gram Neg Panels
Baxter MicroScan Gram Pos Panels
Becton Dickinson Cefinase Discs
Becton Dickinson Miniteck
Calbiochem Padac Differentiation Discs
Calbiochem-Behring Anti-Dnase B
Carr Microbiologicals Beta Lactamase Reagent Disc
Carr Microbiologicals CSM Chromogenic B–Lactamase Disc
Carr Microbiologicals Hipp Microtube
Carr Microbiologicals Onpx-Indol Microtube
Carr Microbiologicals PYR Broth
Carr Microbiologicals Pgua-Indol Microtube
Carr Microbiologicals Phos Microtubes
Carr Microbiologicals Pyrr Microtubes
Carr-Scarborough Rapid Glutamic Acid Decarboxy microtube

Diagnostic Products Corp. PathoDx PYR Kit

Difco Differentiation Discs ALA

Difco Differentiation Discs Hippurate

Difco Differentiation Discs Nitrate

Difco Differentiation Discs SPS

Difco Differentiation Discs Spectinomycin

Difco DrySlide Beta-Lactamase

Difco Dryslide Oxidase

Difco Spot Test 10% Na Desoxycholate

E–Y Laboratories Strep-A-Check PYR

E–Y Laboratories Swabzyme-Oxidase

Innovative Diagnostic Systems Beta Discs

Innovative Diagnostic Systems IDS Rapid SS/U System

Innovative Diagnostic Systems IDS Rapid STR system

Innovative Diagnostic Systems Modified IDS Rapid NH System

Innovative Diagnostic Systems Oxichrome Reagent

Innovative Diagnostic Systems Prophyrin Reagent

Innovative Diagnostic Systems Rap NF Plus System

Innovative Diagnostic Systems Rapid NF System

Kev Connecticut Diagnostics Visi-Strep

Meridian Indol Spot Test Kit

Micro Media Systems Bacterial ID Panels/Gram Neg/Gram Pos

Micro Media Systems M. Cat. Butyrate Disc

Micro-Bio-Logics KWIK–LAC

Micro-Bio-Logics Lyfo-KWIK OMI Kit

Micro-Bio-Logics Neisseria-KWIK Plus

Microbiological Specialties Beta-ase Tubes

Microbiological Specialties Enzyme-ase I Tubes

Microbiological Specialties Glactosidase Tubes

Microtech Medical Systems Quadratiter ID

Pasco Labs Gram Neg ID System

Pro-Lab Hippurate Test

Pro-Lab Neisseria/Branhamella Differential Test

Pro-Lab Rosco D'Ala Rapid Test

Pro-Lab Rosco Pyrr

Remel ALA Disc

Remel Beta Lysin Disc

Remel Beta-Lactam Disc

Remel Bile Disc

Remel CEPH Lactam Disc

Remel Catarrhalis Test Strip

Remel Coagulase Plasma

Remel Colistin Disc

Remel Haemophilus ID Test Kit

Remel Hemastaph

Remel Kanamycin Disc

Remel Legionella ID Disc

Remel Microdase

Remel Nitrate Swab-Rapid Test

Remel Novobiocin Disc

Remel PYR Disc

Remel PYR/Esculin Disc

Remel Prophyrin (ALA) Disc

Remel Pyridoxal Disc

Remel SPS Disc

Remel Urea-PDA Discs

Roche Enterotube II

Unipath Oxoid Bile Esculin Discs

Unipath Oxoid ONPG Discs

Unipath Oxoid Oxidase ID Sticks

Unipath Oxoid SPS Discs

Unipath Oxoid V Factor Discs

Unipath Oxoid X & V Factor Discs

Unipath Oxoid X Factor Discs

Vitek Rapid E System

Test Category: Manual procedures with limited steps and limited sample or reagent preparation

Test System, Assay or Examination:

Manual antimicrobial susceptibility test (KB Disc Diffus)

Test Category: Manual screening devices for bacteriuria with limited steps and with limited sample or reagent preparation

Test System, Assay or Examination:

Analytab Uriscreen

Miles Diagnostic Labs MicroStix-3 ID

Ventrex Uriscreen

Test Category: Primary culture inoculation

Test System, Assay or Examination: All Test Systems, Assays or Examinations

Test Category: Urine culture and colony count kits

Test System, Assay or Examination:

Culture Kits, Inc. Uri-Kit

Medical Technology Corp. Uricult

Analyte: Campylobacter

Test Category: Manual procedures with limited steps and limited sample or reagent preparation

Test System, Assay or Examination:

Becton Dickinson BBL Campyslide Test

Bio-Medical BIOCARD Campylobacter

Meridian Diagnostics Meritec-Campy (JCL)

Analyte: Chlamydia

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:

Vitek Systems Vidas Chlamydia (direct antigen)

Test Category: Manual procedures with limited steps and limited sample or reagent preparation

Test System, Assay or Examination:

Abbott TestPack Chlamydia (EIA) (direct antigen)

Analytab IDEIA (EIA) (direct antigen)

Kodak SureCell (EIA) (direct antigen)

Seradyn Vivid Chlamydia (direct antigen)

Unipath Clearview Rapid Assay (direct antigen)

Analyte: Clostridium difficile

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:

Vitek Systems Vidas C.difficile Toxin A Assay Kit

Test Category: Manual procedures with limited steps and limited sample or reagent preparation

Test System, Assay or Examination:

Becton Dickinson Culturette CDT (direct antigen)

Meridian Diagnostics Meritek (direct antigen)

Analyte: Escherichia coli

Test Category: Manual procedures with limited steps and limited sample or reagent preparation

Test System, Assay or Examination:

Bio-Medical ANI E. Coli 0157 Test (culture confirmation)

Pro-Lab Diagnostics E.Coli 0157 Latex test (culture confirm)

Unipath E. Coli 0157 Latex Kit (direct antigen)

Analyte: Haemophilus influenzae, type a, c-f

Test Category: Manual procedures with limited steps and limited sample or reagent preparation

Test System, Assay or Examination:

Karobio Phadebact Haemophilus (culture confirmation)

Analyte: Haemophilus influenzae, type b

Test Category: Manual procedures with limited steps and limited sample or reagent preparation

Test System, Assay or Examination:

Becton Dickinson Directigen Meningitis (direct antigen)

Becton Dickinson Directigen Meningitis Combo Kit (dir. Ag)

Karobio Phadebact CSF (direct antigen)

Karobio Phadebact Haemophilus (culture confirmation)

Vitek SLIDEX Meningite-Kit 5 (direct antigen)

Wampole Bactigen H. influenzae type b (direct antigen)

Wellcome Wellcogen Bacterial Antigen Kit (direct antigen)

Analyte: Helicobacter pylori

Test Category: Manual procedures with limited steps and limited sample or reagent preparation

Test System, Assay or Examination:

Scimedx Helicobacter pylori Test Kit (direct antigen)

Analyte: Legionella pneumophila

Test Category: Manual procedures with limited steps and limited sample or reagent preparation

Test System, Assay or Examination:

Bio-Medical BIOCARD Legionella
Analyte: Neisseria gonorrhoeae
Test Category: Isolation and presumptive Identification of aerobic bacteria from cervical/urethral specimens
Test System, Assay or Examination:
Culture Kits, Inc. Goni-Kit
Medical Technology Corp. Biocult GC Culture Paddles
Micro-Bio-Logics GONO-KWIK
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Gen-Probe Pace2 (direct antigen)
Karobio Phadebact Monoclonal Gonococcus (culture confirm)
Meridian Diagnostics Meritec-GC (culture confirmation)
New Horizons Gonogen (culture confirmation)
New Horizons Gonogen II (culture confirmation)
Analyte: Neisseria meningitidis (non-specific)
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Becton Dickinson Directigen (direct antigen)
Analyte: Neisseria meningitidis, group A
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Becton Dickinson Directigen Meningitis A&Y (direct antigen)
Karobio Phadebact CSF (direct antigen)
Vitek SLIDEX Meningite-Kit 5 (direct antigen)
Wampole Bactigen N. meningitidis (direct antigen)
Analyte: Neisseria meningitidis, group A and Y
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Becton Dickinson Directigen Meningitis Combo Kit (dir. Ag)
Analyte: Neisseria meningitidis, group B
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Karobio Phadebact CSF (direct antigen)
Wampole Bactigen N. meningitidis (direct antigen)
Analyte: Neisseria meningitidis, group B and E. coli K1
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Becton Dickinson Directigen Meningitis Combo Kit (dir. Ag)
Vitek SLIDEX Meningite-Kit 5 (direct antigen)
Wellcome Wellcogen Bacterial Ag Kit Grp B/E.coli K1(dir Ag)
Analyte: Neisseria meningitidis, group C
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Karobio Phadebact CSF (direct antigen)
Wampole Bactigen N. meningitidis (direct antigen)
Analyte: Neisseria meningitidis, group C and W135
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Becton Dickinson Directigen Meningitis Combo Kit (dir. Ag)
Analyte: Neisseria meningitidis, group G
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Vitek SLIDEX Meningite-Kit 5 (direct antigen)
Analyte: Neisseria meningitidis, group W135
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Karobio Phadebact CSF (direct antigen)
Wampole Bactigen N. meningitidis (direct antigen)
Wellcome Wellcogen Bacterial Ag Kit(Grp A,C,Y,W135)(dir Ag)
Analyte: Neisseria meningitidis, group Y
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Karobio Phadebact CSF (direct antigen)
Wampole Bactigen N. meningitidis (direct antigen)
Analyte: Salmonella
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Ampcor Dipstick Salmonella
Bio-Medical ANI Salmonella Test
Analyte: Staphylococcus
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Adams Scientific SeroStat II Staphylococcus
Advanced Medical Technologies Rapi-Staph
Analytab Staph-Ident
Baxter MicroScan StaphyLatex
Becton Dickinson BBL Staphyloslide
Bio-Medical ANI Staph aureus Test
Carr-Scarborough Accu-Staph
Difco Bacto Staph Latex Test
Immuno-Mycologics LA-Staph
Innovative Diagnostic Systems IDS Staphylochrome
Medical Diagnostics Technologies Staph Latex
NCS Staphslide
Regional Media Lab Hemastaph
Remel Lysostaphin Reagent Set
Vitek RAPIDEC Staph
Wellcome Staphaurex
Analyte: Streptococcus pneumoniae
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Becton Dickinson BBL Pneumoslide (culture confirmation)
Becton Dickinson Directigen Meningitis (direct antigen)
Becton Dickinson Directigen Meningitis Combo Kit (dir. Ag)
Karobio Phadebact CSF (direct antigen)
Karobio Phadebact Pneumococcus (culture confirmation)
Vitek SLIDEX Meningite-Kit 5 (direct antigen)
Wampole Bactigen S. pneumoniae (direct antigen)
Wellcome Wellcogen Bacterial Antigen Kit (direct antigen)
Analyte: Streptococcus, (non-specific)
Test Category: Isolation and confirmatory Identification of aerobic bacteria from throat, urine, or cervical/urethral specimens
Test System, Assay or Examination:
Culture Kits, Inc. Strep-Kit
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Bio-Medical ANI Strep Test
Analyte: Streptococcus, group A
Test Category: Isolation and confirmatory Identification of aerobic bacteria from throat, urine, or cervical/urethral specimens
Test System, Assay or Examination:
Medical Technology Corp. Respiracult—Strep
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Abbott TestPack Strep A (culture confirmation)
Abbott TestPack Strep A (direct antigen)
Adams Scientific SeroStat Streptococcus (culture confirm)
Antibodies Inc. Detect-A-Strep (culture confirmation)
Antibodies Inc. Detect-A-Strep (direct antigen)

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- Baxter MicroScan Cards (direct antigen)
- Baxter MicroScan Microstrep (culture confirmation)
- Becton Dickinson BBL Strep Grouping Test (culture conf)
- Becton Dickinson Culturette Group A Strep (direct antigen)
- Becton Dickinson Directigen 1–2–3 Group A Strep (dir Ag)
- Becton Dickinson Directigen Group A Strep (direct antigen)
- Becton Dickinson Q Test Strep (direct antigen)
- Binax Equate Strep A (culture confirmation)
- Binax Equate Strep A (direct antigen)
- Clay Adams Q Test StatStrep (direct antigen)
- Diagnostic Prod PathoDx Latex Agg. Strep Group (culture con)
- Diagnostic Products Corp. PathoDx Strep A (direct antigen)
- Hybritech Concise Strep A (direct antigen)
- Hybritech Tandem Icon Strep A (direct antigen)
- Karobio Phadebact Streptococcus (culture confirmation)
- Karobio Phadirect Strep A Test (direct antigen)
- Kodak SureCell (culture confirmation)
- Kodak SureCell (direct antigen)
- Leeco Diagnostics Preview Strep A (direct antigen)
- Marion Scientific Group A Strep ID (culture confirmation)
- Marion Scientific Group A Strep ID (direct antigen)
- Medical Technology Corp. Optitec Strep A (culture confirm)
- Medical Technology Corp. Optitec Strep A (direct antigen)
- Medical Technology Corp. Respiralex (culture confirmation)
- Medical Technology Corp. Respiralex (direct antigen)
- Medix Biotech Sure-Strep A (culture confirmation)
- Medix Biotech Sure-Strep A (direct antigen)
- Meridian Diagnostics Immunocard (direct antigen)
- Meridian Diagnostics Meritec-Strep (culture confirmation)
- New Horizons Smart (direct antigen)
- New Horizons Streptogen (culture confirmation)
- Pacific Biotech Cards O.S. Strep A (direct antigen)
- Pacific Biotech Cards Strep A (direct antigen)
- Unipath Clearview Strep A (direct antigen)
- Unipath Oxoid Streptococcal Grouping Kit (culture confirm)
- V-Tech Target Strep A (direct antigen)
- V-Tech V-Trend Strep A (culture confirmation)
- V-Tech V-Trend Strep A (direct antigen)
- Ventrex Ventrescreen Strep A (direct antigen)
- Wampole Bactigen Group A Strep (direct antigen)
- Wellcome Reveal Colour Strep A (culture confirmation)
- Wellcome Reveal Colour Strep A (direct antigen)
- Wellcome Streptex A (culture confirmation)

Analyte: Streptococcus, group B

Test Category: Manual procedures with limited steps and limited sample or reagent preparation

Test System, Assay or Examination:

- Adams Scientific SeroStat Streptococcus (culture confirm)
- Baxter MicroScan Microstrep (culture confirmation)
- Becton Dickinson BBL Strep Grouping (culture confirmation)
- Becton Dickinson Directigen Group B Strep (direct antigen)
- Becton Dickinson Directigen Meningitis Combo Kit (dir. Ag)
- Binax Equate Strep B (culture confirmation)
- Binax Equate Strep B (direct antigen)
- Diagnostic Prod PathoDx Latex Agg. Strep Group (culture con)
- Diagnostic Products Corp. PathoDx Strep B (direct antigen)
- Hybritech Tandem Icon Strep B (direct antigen)
- Karobio Phadebact Streptococcus (culture confirmation)
- Marion Scientific Group B Strep ID (culture confirmation)
- Marion Scientific Group B Strep ID (direct antigen)
- Meridian Diagnostics Meritec-Strep (culture confirmation)
- Unipath Oxoid Streptococcal Grouping Kit (culture confirm)
- Wampole Bactigen Group B Strep (direct antigen)
- Wampole Bactigen Group B Strep-CS (culture confirmation)
- Wampole Bactigen Group B Strep-CS (direct antigen)
- Wellcome Streptex B (culture confirmation)
- Wellcome Wellcogen Bacterial Antigen Kit (direct antigen)

Analyte: Streptococcus, group C

Test Category: Manual procedures with limited steps and limited sample or reagent preparation

Test System, Assay or Examination:

- Adams Scientific SeroStat Streptococcus (culture confirm)
- Baxter MicroScan Microstrep (culture. confirmation)
- Diagnostic Prod PathoDx Latex Agg. Strep Group (culture con)
- Karobio Phadebact Streptococcus (culture confirmation)
- Meridian Diagnostics Meritec-Strep (culture confirmation)
- Unipath Oxoid Streptococcal Grouping Kit (culture confirm)
- Wellcome Streptex C (culture confirmation)

Analyte: Streptococcus, group D

Test Category: Manual procedures with limited steps and limited sample or reagent preparation

Test System, Assay or Examination:

- Diagnostic Products Corp. PathoDx Strep D (direct antigen)
- Karobio Phadebact Streptococcus (culture confirmation)
- Unipath Oxoid Streptococcal Grouping Kit (culture confirm)
- Wellcome Streptex D (culture confirmation)

Analyte: Streptococcus, group F

Test Category: Manual procedures with limited steps and limited sample or reagent preparation

Test System, Assay or Examination:

- Adams Scientific SeroStat Streptococcus (culture confirm)
- Diagnostic Prod PathoDx Latex Agg. Strep Group (culture con)
- Karobio Phadebact Streptococcus (culture confirmation)
- Meridian Diagnostics Meritec-Strep (culture confirmation)
- Unipath Oxoid Streptococcal Grouping Kit (culture confirm)
- Wellcome Streptex F (culture confirmation)

Analyte: Streptococcus, group G

Test Category: Manual procedures with limited steps and limited sample or reagent preparation

Test System, Assay or Examination:

- Adams Scientific SeroStat Streptococcus (culture confirm)
- Baxter MicroScan Microstrep (culture confirmation)
- Diagnostic Prod PathoDx Latex Agg. Strep Group (culture con)
- Karobio Phadebact Streptococcus (culture confirmation)
- Meridian Diagnostics Meritec-Strep (culture confirmation)
- Unipath Oxoid Streptococcal Grouping Kit (culture confirm)
- Wellcome Streptex G (culture confirmation)

Speciality/Subspeciality: General Chemistry

Analyte: 5-Hydroxyindolacetic Acid, Urine (5–HIAA)

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:

- Abbott TDX
- Abbott TDX FLx

Analyte: ALT (SGPT)

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:

Abbott Spectrum
Abbott Spectrum EPX
Abbott Spectrum Series II
Abbott Spectrum Series II CCX
Abbott VP
Abbott Vision
American Monitor Diagnostics Excel
American Monitor Diagnostics ISP 1000
American Monitor Diagnostics ISP 2000
American Monitor Diagnostics Perspective
Ames Seralyzer III
Baxter Paramax
Baxter Paramax 720 ZX
Beckman Astra Ideal
Beckman Synchron AS–X
Beckman Synchron CX 4
Beckman Synchron CX 5
Beckman Synchron CX 7
Boehringer Mannheim Hitachi 704
Boehringer Mannheim Hitachi 705
Boehringer Mannheim Hitachi 717
Boehringer Mannheim Hitachi 736
Boehringer Mannheim Hitachi 737
Boehringer Mannheim Hitachi 747
Ciba Corning 550 Express
Ciba Corning 570 Alliance
Ciba Corning 580 Alliance
Coulter Optichem 120
Coulter Optichem 180
Dupont ACA
Dupont ACA IV
Dupont ACA V
Dupont Analyst
Dupont Dimension
Dupont Dimension AR
Electronucleonics Gem-Profiler
Electronucleonics Gemini
Electronucleonics Gemstar
Electronucleonics Gemstar II
Instrumentation Laboratories IL Monarch
Instrumentation Laboratories IL Monarch Plus
Kodak Ektachem 400
Kodak Ektachem 500
Kodak Ektachem 700
Kodak Ektachem 700 XR
Kodak Ektachem DT SC Module
Olympus AU 5000
Olympus Demand
Roche Cobas FARA
Roche Cobas FARA II
Roche Cobas Mira
Roche Cobas Mira S
Technicon AXON
Technicon Assist
Technicon Chem 1
Technicon DAX 24
Technicon DAX 48
Technicon DAX 72
Technicon DAX 96
Technicon RA 1000
Technicon RA 2000
Technicon RA 500
Technicon RA XT
Wako Diagnostics 20R
Wako Diagnostics 30R

Test Category: Whole blood measurements using teststrip meters (excluding glucose monitoring devices cleared by the FDA specifically for home use)

Test System, Assay or Examination:

Boehringer Mannheim Reflotron Plus
Roche Cobas Ready

Analyte: AST (SGOT)

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:

Abbott Spectrum
Abbott Spectrum EPX
Abbott Spectrum Series II
Abbott Spectrum Series II CCX
Abbott VP
Abbott Vision
American Monitor Diagnostics Excel
American Monitor Diagnostics ISP 1000
American Monitor Diagnostics ISP 2000
American Monitor Diagnostics Perspective
Ames Clinistat
Ames Seralyzer
Ames Seralyzer III
Baxter Paramax
Baxter Paramax 720 ZX
Beckman Astra Ideal
Beckman Synchron AS–X
Beckman Synchron CX 4
Beckman Synchron CX 5
Beckman Synchron CX 7
Boehringer Mannheim Hitachi 704
Boehringer Mannheim Hitachi 705
Boehringer Mannheim Hitachi 717
Boehringer Mannheim Hitachi 736
Boehringer Mannheim Hitachi 737
Boehringer Mannheim Hitachi 747
Ciba Corning 550 Express
Ciba Corning 570 Alliance
Ciba Corning 580 Alliance
Coulter Optichem 120
Coulter Optichem 180
Dupont ACA
Dupont ACA IV
Dupont ACA V
Dupont Analyst
Dupont Dimension
Dupont Dimension AR
Electronucleonics Gem-Profiler
Electronucleonics Gemini
Electronucleonics Gemstar
Electronucleonics Gemstar II
Instrumentation Laboratories IL Monarch
Instrumentation Laboratories IL Monarch Plus
Kodak Ektachem 400
Kodak Ektachem 500
Kodak Ektachem 700
Kodak Ektachem 700 XR
Kodak Ektachem DT SC Module
Olympus AU 5000
Olympus Demand
Roche Cobas FARA
Roche Cobas FARA II
Roche Cobas Mira
Roche Cobas Mira S
Technicon AXON
Technicon Assist
Technicon Chem 1
Technicon DAX 24
Technicon DAX 48
Technicon DAX 72
Technicon DAX 96
Technicon RA 1000
Technicon RA 2000
Technicon RA 500
Technicon RA XT
Wako Diagnostics 20R
Wako Diagnostics 30R

Test Category: Whole blood measurements using teststrip meters (excluding glucose monitoring devices cleared by the FDA specifically for home use)

Test System, Assay or Examination:

Boehringer Mannheim Reflotron Plus
Roche Cobas Ready

Analyte: Acid Phosphatase

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:

American Monitor Diagnostics Excel
American Monitor Diagnostics ISP 1000
American Monitor Diagnostics ISP 2000
Baxter Paramax
Baxter Paramax 720 ZX
Beckman Synchron CX 4
Beckman Synchron CX 5
Beckman Synchron CX 7
Boehringer Mannheim Hitachi 704
Boehringer Mannheim Hitachi 705
Boehringer Mannheim Hitachi 717
Boehringer Mannheim Hitachi 736
Boehringer Mannheim Hitachi 737
Boehringer Mannheim Hitachi 747
Dupont ACA
Dupont ACA IV
Dupont ACA V
Dupont Dimension
Dupont Dimension AR
Electronucleonics Gem-Profiler
Electronucleonics Gemini
Electronucleonics Gemstar
Electronucleonics Gemstar II
Instrumentation Laboratories IL Monarch
Instrumentation Laboratories IL Monarch Plus
Kodak Ektachem 400
Kodak Ektachem 500

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Kodak Ektachem 700 XR
Olympus AU 5000
Olympus Demand
Technicon Assist
Technicon Chem 1
Technicon RA 1000
Technicon RA 500

Analyte: Albumin
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott Spectrum
Abbott Spectrum EPX
Abbott Spectrum Series II
Abbott Spectrum Series II CCX
Abbott VP
Abbott Vision
American Monitor Diagnostics Excel
American Monitor Diagnostics ISP 1000
American Monitor Diagnostics ISP 2000
American Monitor Diagnostics Perspective
Baxter Paramax
Baxter Paramax 720 ZX
Beckman Array 360
Beckman Astra Ideal
Beckman Synchron AS–X
Beckman Synchron CX 4
Beckman Synchron CX 5
Beckman Synchron CX 7
Boehringer Mannheim Hitachi 704
Boehringer Mannheim Hitachi 705
Boehringer Mannheim Hitachi 717
Boehringer Mannheim Hitachi 736
Boehringer Mannheim Hitachi 737
Boehringer Mannheim Hitachi 747
Ciba Corning 550 Express
Ciba Corning 570 Alliance
Ciba Corning 580 Alliance
Coulter Optichem 120
Coulter Optichem 180
Dupont ACA
Dupont ACA IV
Dupont ACA V
Dupont Dimension
Dupont Dimension AR
Electronucleonics Gem-Profiler
Electronucleonics Gemini
Electronucleonics Gemstar
Electronucleonics Gemstar II
Instrumentation Laboratories IL Monarch
Instrumentation Laboratories IL Monarch Plus
Kodak Ektachem 400
Kodak Ektachem 500
Kodak Ektachem 700
Kodak Ektachem 700 XR
Olympus AU 5000
Olympus Demand
Roche Cobas FARA
Roche Cobas FARA II
Roche Cobas Mira
Roche Cobas Mira S
Technicon AXON
Technicon Assist
Technicon Chem 1
Technicon DAX 24
Technicon DAX 48
Technicon DAX 72
Technicon DAX 96
Technicon RA 1000
Technicon RA 2000
Technicon RA 500
Technicon RA XT
Wako Diagnostics 20R
Wako Diagnostics 30R

Analyte: Aldolase
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Boehringer Mannheim Hitachi 717

Analyte: Alkaline Phosphatase (ALP)
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott Spectrum
Abbott Spectrum EPX
Abbott Spectrum Series II
Abbott Spectrum Series II CCX
Abbott VP
Abbott Vision
American Monitor Diagnostics Excel
American Monitor Diagnostics ISP 1000
American Monitor Diagnostics ISP 2000
American Monitor Diagnostics Perspective
Baxter Paramax
Baxter Paramax 720 ZX
Beckman Astra Ideal
Beckman Synchron AS–X
Beckman Synchron CX 4
Beckman Synchron CX 5
Beckman Synchron CX 7
Boehringer Mannheim Hitachi 704
Boehringer Mannheim Hitachi 705
Boehringer Mannheim Hitachi 717
Boehringer Mannheim Hitachi 736
Boehringer Mannheim Hitachi 737
Boehringer Mannheim Hitachi 747
Ciba Corning 550 Express
Ciba Corning 570 Alliance
Ciba Corning 580 Alliance
Coulter Optichem 120
Coulter Optichem 180
Dupont ACA
Dupont ACA IV
Dupont ACA V
Dupont Analyst
Dupont Dimension
Dupont Dimension AR
Electronucleonics Gem-Profiler
Electronucleonics Gemini
Electronucleonics Gemstar
Electronucleonics Gemstar II
Instrumentation Laboratories IL Monarch
Instrumentation Laboratories IL Monarch Plus
Kodak Ektachem 400
Kodak Ektachem 500
Kodak Ektachem 700
Kodak Ektachem 700 XR
Kodak Ektachem DT SC Module
Olympus AU 5000
Olympus Demand
Roche Cobas FARA
Roche Cobas FARA II
Roche Cobas Mira
Roche Cobas Mira S
Technicon AXON
Technicon Assist
Technicon Chem 1
Technicon DAX 24
Technicon DAX 48
Technicon DAX 72
Technicon DAX 96
Technicon RA 1000
Technicon RA 2000
Technicon RA 500
Technicon RA XT
Wako Diagnostics 20R
Wako Diagnostics 30R

Analyte: Alpha-Hydroxybutyrate Dehydrogenase (HBDH)
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Boehringer Mannheim Hitachi 705
Ciba Corning 550 Express
Dupont ACA IV
Dupont ACA V

Analyte: Ammonia
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Baxter Paramax
Baxter Paramax 720 ZX
Boehringer Mannheim Hitachi 717
Dupont ACA
Dupont ACA IV
Dupont ACA V
Dupont Dimension
Instrumentation Laboratories IL Monarch Plus
Kodak Ektachem 500
Kodak Ektachem 700 XR
Kodak Ektachem DT 60

Analyte: Amylase
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott Spectrum EPX
Abbott Spectrum Series II
Abbott Spectrum Series II CCX
Abbott TDX
Abbott TDX FLx
Abbott VP
Abbott Vision
American Monitor Diagnostics Excel

American Monitor Diagnostics ISP 1000
American Monitor Diagnostics ISP 2000
American Monitor Diagnostics Perspective
Baxter Paramax
Baxter Paramax 720 ZX
Beckman Astra 8
Beckman Astra Ideal
Beckman Synchron AS–X
Beckman Synchron CX 4
Beckman Synchron CX 5
Beckman Synchron CX 7
Boehringer Mannheim Hitachi 704
Boehringer Mannheim Hitachi 705
Boehringer Mannheim Hitachi 717
Boehringer Mannheim Hitachi 736
Boehringer Mannheim Hitachi 737
Boehringer Mannheim Hitachi 747
Ciba Corning 550 Express
Ciba Corning 570 Alliance
Ciba Corning 580 Alliance
Coulter Optichem 120
Dupont ACA
Dupont ACA IV
Dupont ACA V
Dupont Analyst
Dupont Dimension
Dupont Dimension AR
Electronucleonics Gem-Profiler
Electronucleonics Gemini
Electronucleonics Gemstar
Electronucleonics Gemstar II
Instrumentation Laboratories IL Monarch
Instrumentation Laboratories IL Monarch Plus
Kodak Ektachem 400
Kodak Ektachem 500
Kodak Ektachem 700
Kodak Ektachem 700 XR
Kodak Ektachem DT 60
Olympus AU 5000
Olympus Demand
Roche Cobas FARA
Roche Cobas FARA II
Roche Cobas Mira
Roche Cobas Mira S
Technicon AXON
Technicon Assist
Technicon Chem 1
Technicon DAX 24
Technicon DAX 48
Technicon DAX 72
Technicon DAX 96
Technicon RA 1000
Technicon RA 2000
Technicon RA 500
Technicon RA XT
Wako Diagnostics 20R
Wako Diagnostics 30R

Test Category: Whole blood measurements using teststrip meters (excluding glucose monitoring devices cleared by the FDA specifically for home use)

Test System, Assay or Examination:

Boehringer Mannheim Reflotron Plus

Analyte: Bilirubin, Direct

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:

Abbott Spectrum
Abbott Spectrum EPX
Abbott Spectrum Series II
Abbott Spectrum Series II CCX
Abbott VP
American Monitor Diagnostics Excel
American Monitor Diagnostics ISP 1000
American Monitor Diagnostics ISP 2000
American Monitor Diagnostics Perspective
Baxter Paramax
Baxter Paramax 720 ZX
Beckman Astra Ideal
Beckman Synchron AS–X
Beckman Synchron CX 4
Beckman Synchron CX 5
Beckman Synchron CX 7
Boehringer Mannheim Hitachi 704
Boehringer Mannheim Hitachi 705
Boehringer Mannheim Hitachi 717
Boehringer Mannheim Hitachi 736
Boehringer Mannheim Hitachi 737
Boehringer Mannheim Hitachi 747
Ciba Corning 550 Express
Ciba Corning 570 Alliance
Ciba Corning 580 Alliance
Coulter Optichem 120
Coulter Optichem 180
Dupont ACA
Dupont ACA IV
Dupont ACA V
Dupont Dimension
Dupont Dimension AR
Electronucleonics Gem-Profiler
Electronucleonics Gemini
Electronucleonics Gemstar
Electronucleonics Gemstar II
Instrumentation Laboratories IL Monarch
Instrumentation Laboratories IL Monarch Plus
Kodak Ektachem 400
Kodak Ektachem 500
Kodak Ektachem 700
Kodak Ektachem 700 XR
Olympus AU 5000
Olympus Demand
Roche Cobas FARA
Roche Cobas FARA II
Roche Cobas Mira
Roche Cobas Mira S
Technicon AXON
Technicon Assist
Technicon Chem 1
Technicon DAX 24
Technicon DAX 48
Technicon DAX 72
Technicon DAX 96
Technicon RA 1000
Technicon RA 2000
Technicon RA 500
Technicon RA XT
Wako Diagnostics 20R
Wako Diagnostics 30R

Analyte: Bilirubin, Neonatal

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:

Advanced Instruments Bilirubin STAT Analyzer
Dupont ACA
Dupont ACA IV
Dupont ACA V

Analyte: Bilirubin, Total

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:

Abbott Spectrum
Abbott Spectrum EPX
Abbott Spectrum Series II
Abbott Spectrum Series II CCX
Abbott VP
Abbott Vision
American Monitor Diagnostics Excel
American Monitor Diagnostics ISP 1000
American Monitor Diagnostics ISP 2000
American Monitor Diagnostics Perspective
Ames Clinistat
Ames Seralyzer
Ames Seralyzer III
Baxter Paramax
Baxter Paramax 720 ZX
Beckman Astra Ideal
Beckman Synchron AS–X
Beckman Synchron CX 4
Beckman Synchron CX 5
Beckman Synchron CX 7
Boehringer Mannheim Hitachi 704
Boehringer Mannheim Hitachi 705
Boehringer Mannheim Hitachi 717
Boehringer Mannheim Hitachi 736
Boehringer Mannheim Hitachi 737
Boehringer Mannheim Hitachi 747
Ciba Corning 550 Express
Ciba Corning 570 Alliance
Ciba Corning 580 Alliance
Coulter Optichem 120
Coulter Optichem 180
Dupont ACA
Dupont ACA IV
Dupont ACA V
Dupont Analyst
Dupont Dimension
Dupont Dimension AR
Electronucleonics Gem-Profiler
Electronucleonics Gemini
Electronucleonics Gemstar
Electronucleonics Gemstar II
Instrumentation Laboratories IL Monarch
Instrumentation Laboratories IL Monarch Plus

Kodak Ektachem 400
Kodak Ektachem 500
Kodak Ektachem 700
Kodak Ektachem 700 XR
Kodak Ektachem DT 60
Olympus AU 5000
Olympus Demand
Roche Cobas FARA
Roche Cobas FARA II
Roche Cobas Mira
Roche Cobas Mira S
Technicon AXON
Technicon Assist
Technicon Chem 1
Technicon DAX 24
Technicon DAX 48
Technicon DAX 72
Technicon DAX 96
Technicon RA 1000
Technicon RA 2000
Technicon RA 500
Technicon RA XT
Wako Diagnostics 20R
Wako Diagnostics 30R

Test Category: Whole blood measurements using teststrip meters (excluding glucose monitoring devices cleared by the FDA specifically for home use)

Test System, Assay or Examination:
Boehringer Mannheim Reflotron Plus
Roche Cobas Ready

Analyte: Blood Gases

Test Category: Automated blood gas analyses that do not require operator intervention during the analytic process, such as instruments that have an automated process for calibration, sample intake and flushing of sample lines

Test System, Assay or Examination:
AVL 940
AVL 945
AVL 990
AVL 995
AVL 995 Hb
Ciba Corning 278
Ciba Corning 280
Ciba Corning 288
Instrumentation Laboratories BG Electrolytes
Instrumentation Laboratories IL 1301
Instrumentation Laboratories IL 1302
Instrumentation Laboratories IL 1303
Instrumentation Laboratories IL 1304
Instrumentation Laboratories IL 1306
Instrumentation Laboratories IL 1312
Instrumentation Laboratories IL 813
Mallinckrodt Gem 6 Plus
Mallinckrodt Gem Premier
Nova Stat Profile
Radiometer ABL 2
Radiometer ABL 3
Radiometer ABL 30
Radiometer ABL 300
Radiometer ABL 330
Radiometer ABL 4

Analyte: CK MB

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:
Abbott IMX
Baxter Paramax
Baxter Paramax 720 ZX
Baxter Stratus
Baxter Stratus II
Beckman Synchron CX 7
Boehringer Mannheim Hitachi 705
Boehringer Mannheim Hitachi 717
Boehringer Mannheim Hitachi 747
Ciba Corning ACS 180
Dupont ACA IV
Dupont ACA V
Dupont Dimension
Instrumentation Laboratories IL Monarch Plus
Kodak Ektachem 500
Kodak Ektachem 700 XR
Kodak Ektachem DT SC Module

Test Category: Manual procedures with limited steps and limited sample or reagent preparation

Test System, Assay or Examination:
Hybritech ICON QSR CKMB

Analyte: CO2

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:
AVL 986–S
Abbott VP
American Monitor Diagnostics Excel
American Monitor Diagnostics ISP 1000
American Monitor Diagnostics ISP 2000
American Monitor Diagnostics Perspective
Baxter Paramax
Baxter Paramax 720 ZX
Beckman Astra 4
Beckman Astra 8
Beckman Astra Ideal
Beckman E2A
Beckman E4A
Beckman Synchron AS–X
Beckman Synchron CX 3
Beckman Synchron CX 4
Beckman Synchron CX 5
Beckman Synchron CX 7
Beckman Synchron EL–ISE
Boehringer Mannheim Hitachi 704
Boehringer Mannheim Hitachi 705
Boehringer Mannheim Hitachi 717
Boehringer Mannheim Hitachi 736
Boehringer Mannheim Hitachi 737
Boehringer Mannheim Hitachi 747
Ciba Corning 550 Express
Ciba Corning 570 Alliance
Ciba Corning 580 Alliance
Ciba Corning 684 FAST 4
Coulter Optichem 120
Coulter Optichem 180
Dupont ACA
Dupont ACA IV
Dupont ACA V
Dupont Dimension
Dupont Dimension AR
Electronucleonics Gem-Profiler
Electronucleonics Gemini
Electronucleonics Gemstar
Electronucleonics Gemstar II
Instrumentation Laboratories IL Monarch
Instrumentation Laboratories IL Monarch Plus
Instrumentation Laboratories Phoenix
Kodak Ektachem 400
Kodak Ektachem 500
Kodak Ektachem 700
Kodak Ektachem 700 XR
Kodak Ektachem DTE Module
Olympus AU 5000
Olympus Demand
Roche Cobas FARA
Roche Cobas FARA II
Roche Cobas Mira
Roche Cobas Mira S
Technicon AXON
Technicon Assist
Technicon Chem 1
Technicon DAX 24
Technicon DAX 48
Technicon DAX 72
Technicon DAX 96
Technicon RA 1000
Technicon RA 2000
Technicon RA 500
Technicon RA XT
Wako Diagnostics 20R
Wako Diagnostics 30R

Analyte: Calcium, ionized

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:
AVL 984–S
AVL 987–S
Beckman LABLYTE 820
Beckman Synchron EL–ISE
Ciba Corning 634
Coulter FLEXLYTE 3
Coulter FLEXLYTE 6
Instrumentation Laboratories BGElectrolytes
Mallinckrodt Gem 6 Plus
Mallinckrodt Gem Premier
Radiometer ICA 1

Analyte: Calcium, total

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:
Abbott Spectrum
Abbott Spectrum EPX
Abbott Spectrum Series II
Abbott Spectrum Series II CCX
Abbott VP
Abbott Vision
American Monitor Diagnostics Excel
American Monitor Diagnostics ISP 1000

American Monitor Diagnostics ISP 2000
American Monitor Diagnostics Perspective
Baxter Paramax
Baxter Paramax 720 ZX
Beckman Astra 8
Beckman Astra Ideal
Beckman Synchron CX 3
Beckman Synchron CX 4
Beckman Synchron CX 5
Beckman Synchron CX 7
Boehringer Mannheim Hitachi 704
Boehringer Mannheim Hitachi 705
Boehringer Mannheim Hitachi 717
Boehringer Mannheim Hitachi 736
Boehringer Mannheim Hitachi 737
Boehringer Mannheim Hitachi 747
Ciba Corning 550 Express
Ciba Corning 570 Alliance
Ciba Corning 580 Alliance
Coulter Optichem 120
Coulter Optichem 180
Dupont ACA
Dupont ACA IV
Dupont ACA V
Dupont Analyst
Dupont Dimension
Dupont Dimension AR
Electronucleonics Gem-Profiler
Electronucleonics Gemini
Electronucleonics Gemstar
Electronucleonics Gemstar II
Instrumentation Laboratories IL Monarch
Instrumentation Laboratories IL Monarch Plus
Instrumentation Laboratories Phoenix
Kodak Ektachem 400
Kodak Ektachem 500
Kodak Ektachem 700
Kodak Ektachem 700 XR
Kodak Ektachem DT SC Module
Olympus AU 5000
Olympus Demand
Roche Cobas FARA
Roche Cobas FARA II
Roche Cobas Mira
Roche Cobas Mira S
Technicon AXON
Technicon Assist
Technicon Chem 1
Technicon DAX 24
Technicon DAX 48
Technicon DAX 72
Technicon DAX 96
Technicon RA 1000
Technicon RA 2000
Technicon RA 500
Technicon RA XT
Wako Diagnostics 20R
Wako Diagnostics 30R

Analyte: Carboxyhemoglobin

Test Category: Automated blood gas analyses that do not require operator intervention during the analytic process, such as instruments that have an automated process for calibration, sample intake and flushing of sample lines

Test System, Assay or Examination:
AVL 912
AVL 995 Hb

Analyte: Cerebrospinal Fluid Protein

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:
Dupont ACA IV
Dupont ACA V
Dupont Dimension
Instrumentation Laboratories IL Monarch Plus
Kodak Ektachem 400
Kodak Ektachem 700 XR

Analyte: Chloride

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:
AVL 983–S
AVL 986–S
Abbott Spectrum
Abbott Spectrum EPX
Abbott Spectrum Series II
Abbott Spectrum Series II CCX
Abbott VP
American Monitor Diagnostics Excel
American Monitor Diagnostics ISP 1000
American Monitor Diagnostics ISP 2000
American Monitor Diagnostics Perspective
Baxter Paramax
Baxter Paramax 720 ZX
Beckman Astra 8
Beckman Astra Ideal
Beckman E2A
Beckman E4A
Beckman LABLYTE 810
Beckman Synchron AS–X
Beckman Synchron CX 3
Beckman Synchron CX 4
Beckman Synchron CX 5
Beckman Synchron CX 7
Beckman Synchron EL–ISE
Boehringer Mannheim Hitachi 704
Boehringer Mannheim Hitachi 705
Boehringer Mannheim Hitachi 717
Boehringer Mannheim Hitachi 736
Boehringer Mannheim Hitachi 737
Boehringer Mannheim Hitachi 747
Ciba Corning 550 Express
Ciba Corning 570 Alliance
Ciba Corning 580 Alliance
Ciba Corning 644
Ciba Corning 664 FAST 4
Coulter FLEXLYTE 3
Coulter FLEXLYTE 6
Coulter Optichem 120
Coulter Optichem 180
Dupont ACA
Dupont ACA IV
Dupont ACA V
Dupont Dimension
Dupont Dimension AR
Electronucleonics Gem-Profiler
Electronucleonics Gemini
Electronucleonics Gemstar
Electronucleonics Gemstar II
Instrumentation Laboratories IL Monarch
Instrumentation Laboratories IL Monarch Plus
Instrumentation Laboratories Phoenix
Kodak Ektachem 400
Kodak Ektachem 500
Kodak Ektachem 700
Kodak Ektachem 700 XR
Kodak Ektachem DTE Module
Medica Easylite Plus Ion Selective Analyzer
Olympus AU 5000
Olympus Demand
Roche Cobas FARA
Roche Cobas FARA II
Roche Cobas Mira
Roche Cobas Mira S
Technicon AXON
Technicon Chem 1
Technicon DAX 24
Technicon DAX 48
Technicon DAX 72
Technicon DAX 96
Technicon RA 1000
Technicon RA 2000
Technicon RA 500
Technicon RA XT
Wako Diagnostics 20R
Wako Diagnostics 30R

Analyte: Cholesterol

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:
Abbott Spectrum
Abbott Spectrum EPX
Abbott Spectrum Series II
Abbott Spectrum Series II CCX
Abbott TDX
Abbott TDX FLx
Abbott VP
Abbott Vision
American Monitor Diagnostics Excel
American Monitor Diagnostics ISP 1000
American Monitor Diagnostics ISP 2000
American Monitor Diagnostics Perspective
Ames Clinistat
Ames Seralyzer
Ames Seralyzer III
Baxter Paramax
Baxter Paramax 720 ZX
Beckman Astra Ideal
Beckman Synchron AS–X
Beckman Synchron CX 4
Beckman Synchron CX 5
Beckman Synchron CX 7
Boehringer Mannheim Hitachi 704
Boehringer Mannheim Hitachi 705
Boehringer Mannheim Hitachi 717

Boehringer Mannheim Hitachi 736
Boehringer Mannheim Hitachi 737
Boehringer Mannheim Hitachi 747
Ciba Corning 550 Express
Ciba Corning 570 Alliance
Ciba Corning 580 Alliance
Coulter Optichem 120
Coulter Optichem 180
Dupont ACA
Dupont ACA IV
Dupont ACA V
Dupont Analyst
Dupont Dimension
Dupont Dimension AR
Electronucleonics Gem-Profiler
Electronucleonics Gemini
Electronucleonics Gemstar
Electronucleonics Gemstar II
Instrumentation Laboratories IL Monarch
Instrumentation Laboratories IL Monarch Plus
Kodak Ektachem 400
Kodak Ektachem 500
Kodak Ektachem 700
Kodak Ektachem 700 XR
Kodak Ektachem DT 60
Olympus AU 5000
Olympus Demand
Roche Cobas FARA
Roche Cobas FARA II
Roche Cobas Mira
Roche Cobas Mira S
Technicon AXON
Technicon Assist
Technicon Chem 1
Technicon DAX 24
Technicon DAX 48
Technicon DAX 72
Technicon DAX 96
Technicon RA 1000
Technicon RA 2000
Technicon RA 500
Technicon RA XT
Wako Diagnostics 20R
Wako Diagnostics 30R

Test Category: Whole blood measurements using teststrip meters (excluding glucose monitoring devices cleared by the FDA specifically for home use)

Test System, Assay or Examination:
Boehringer Mannheim Reflotron
Boehringer Mannheim Reflotron Plus
Roche Cobas Ready

Analyte: Cholinesterase

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:
American Monitor Diagnostics Excel
Boehringer Mannheim Hitachi 705
Boehringer Mannheim Hitachi 717
Boehringer Mannheim Hitachi 747
Ciba Corning 550 Express
Instrumentation Laboratories IL Monarch Plus

Analyte: Cortisol

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:
Abbott TDX
Abbott TDX FLx
Baxter Stratus
Baxter Stratus II
Boehringer Mannheim ES 300

Analyte: Cortisol, Urine

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:
Abbott TDX FLx

Analyte: Creatine Kinase (CK)

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:
Abbott Spectrum
Abbott Spectrum EPX
Abbott Spectrum Series II
Abbott Spectrum Series II CCX
Abbott VP
Abbott Vision
American Monitor Diagnostics Excel
American Monitor Diagnostics ISP 1000
American Monitor Diagnostics ISP 2000
American Monitor Diagnostics Perspective
Ames Clinistat
Ames Seralyzer III
Baxter Paramax
Baxter Paramax 720 ZX
Beckman Astra Ideal
Beckman Synchron AS–X
Beckman Synchron CX 4
Beckman Synchron CX 5
Beckman Synchron CX 7
Boehringer Mannheim Hitachi 704
Boehringer Mannheim Hitachi 705
Boehringer Mannheim Hitachi 717
Boehringer Mannheim Hitachi 736
Boehringer Mannheim Hitachi 737
Boehringer Mannheim Hitachi 747
Ciba Corning 550 Express
Ciba Corning 570 Alliance
Ciba Corning 580 Alliance
Coulter Optichem 120
Coulter Optichem 180
Dupont ACA
Dupont ACA IV
Dupont ACA V
Dupont Dimension
Dupont Dimension AR
Electronucleonics Gem-Profiler
Electronucleonics Gemini
Electronucleonics Gemstar
Electronucleonics Gemstar II
Instrumentation Laboratories IL Monarch
Instrumentation Laboratories IL Monarch Plus
Kodak Ektachem 400
Kodak Ektachem 500
Kodak Ektachem 700
Kodak Ektachem 700 XR
Kodak Ektachem DT SC Module
Olympus AU 5000
Olympus Demand
Roche Cobas FARA
Roche Cobas FARA II
Roche Cobas Mira
Roche Cobas Mira S
Technicon AXON
Technicon Assist
Technicon Chem 1
Technicon DAX 24
Technicon DAX 48
Technicon DAX 72
Technicon DAX 96
Technicon RA 1000
Technicon RA 2000
Technicon RA 500
Technicon RA XT
Wako Diagnostics 20R
Wako Diagnostics 30R

Test Category: Whole blood measurements using teststrip meters (excluding glucose monitoring devices cleared by the FDA specifically for home use)

Test System, Assay or Examination:
Boehringer Mannheim Reflotron Plus
Roche Cobas Ready

Analyte: Creatinine

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:
Abbott Spectrum
Abbott Spectrum EPX
Abbott Spectrum Series II
Abbott Spectrum Series II CCX
Abbott TDX
Abbott TDX FLx
Abbott VP
Abbott Vision
American Monitor Diagnostics Excel
American Monitor Diagnostics ISP 1000
American Monitor Diagnostics ISP 2000
American Monitor Diagnostics Perspective
Ames Clinistat
Ames Seralyzer
Ames Seralyzer III
Baxter Paramax
Baxter Paramax 720 ZX
Beckman Astra 4
Beckman Astra 8
Beckman Astra Ideal
Beckman Creatinine Analyzer (Original Model)
Beckman Creatinine Analyzer 2
Beckman Synchron AS–X
Beckman Synchron CX 3
Beckman Synchron CX 4
Beckman Synchron CX 5

Beckman Synchron CX 7
Boehringer Mannheim Hitachi 704
Boehringer Mannheim Hitachi 705
Boehringer Mannheim Hitachi 717
Boehringer Mannheim Hitachi 736
Boehringer Mannheim Hitachi 737
Boehringer Mannheim Hitachi 747
Ciba Corning 550 Express
Ciba Corning 570 Alliance
Ciba Corning 580 Alliance
Coulter Optichem 120
Coulter Optichem 180
Dupont ACA
Dupont ACA IV
Dupont ACA V
Dupont Analyst
Dupont Dimension
Dupont Dimension AR
Electronucleonics Gem-Profiler
Electronucleonics Gemini
Electronucleonics Gemstar
Electronucleonics Gemstar II
Instrumentation Laboratories IL Monarch
Instrumentation Laboratories IL Monarch Plus
Instrumentation Laboratories Phoenix
Kodak Ektachem 400
Kodak Ektachem 500
Kodak Ektachem 700
Kodak Ektachem 700 XR
Kodak Ektachem DT 60
Olympus AU 5000
Olympus Demand
Roche Cobas FARA
Roche Cobas FARA II
Roche Cobas Mira
Roche Cobas Mira S
Technicon AXON
Technicon Assist
Technicon Chem 1
Technicon DAX 24
Technicon DAX 48
Technicon DAX 72
Technicon DAX 96
Technicon RA 1000
Technicon RA 2000
Technicon RA 500
Technicon RA XT
Wako Diagnostics 20R
Wako Diagnostics 30R

Test Category: Whole blood measurements using teststrip meters (excluding glucose monitoring devices cleared by the FDA specifically for home use)

Test System, Assay or Examination:
Boehringer Mannheim Reflotron
Boehringer Mannheim Reflotron Plus
Roche Cobas Ready

Analyte: Estradiol

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:
Abbott IMX

Analyte: Estriol—Total

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:
Abbott TDX
Abbott TDX
Abbott TDX FLx

Analyte: Estriol—Unconjugated

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:
Abbott TDX
Abbott TDX FLx

Analyte: Ferritin

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:
Abbott IMX
Baxter Stratus
Baxter Stratus II
Becton-Dickinson Affinity
Boehringer Mannheim ES 300
Ciba Corning ACS 180

Analyte: Folate (Folic acid)

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:
Abbott IMX
Ciba Corning ACS 180

Analyte: Follicle Stimulating Hormone (FSH)

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:
Abbott IMX
Baxter Stratus
Baxter Stratus II
Becton-Dickinson Affinity
Boehringer Mannheim ES 300
Ciba Corning ACS 180
PB Diagnostics OPUS

Analyte: Gamma Glutamyl Transferase (GGT)

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:
Abbott Spectrum
Abbott Spectrum EPX
Abbott Spectrum Series II
Abbott Spectrum Series II CCX
Abbott VP
Abbott Vision
American Monitor Diagnostics Excel
American Monitor Diagnostics ISP 1000
American Monitor Diagnostics ISP 2000
American Monitor Diagnostics Perspective
Baxter Paramax
Baxter Paramax 720 ZX
Beckman Astra Ideal
Beckman Synchron AS-X
Beckman Synchron CX 4
Beckman Synchron CX 5
Beckman Synchron CX 7
Boehringer Mannheim Hitachi 704
Boehringer Mannheim Hitachi 705
Boehringer Mannheim Hitachi 717
Boehringer Mannheim Hitachi 736
Boehringer Mannheim Hitachi 737
Boehringer Mannheim Hitachi 747
Ciba Corning 550 Express
Ciba Corning 570 Alliance
Ciba Corning 580 Alliance
Coulter Optichem 120
Coulter Optichem 180
Dupont ACA
Dupont ACA IV
Dupont ACA V
Dupont Analyst
Dupont Dimension
Dupont Dimension AR
Electronucleonics Gem-Profiler
Electronucleonics Gemini
Electronucleonics Gemstar
Electronucleonics Gemstar II
Instrumentation Laboratories IL Monarch
Instrumentation Laboratories IL Monarch Plus
Kodak Ektachem 400
Kodak Ektachem 500
Kodak Ektachem 700
Kodak Ektachem 700 XR
Kodak Ektachem DT SC Module
Olympus AU 5000
Olympus Demand
Roche Cobas FARA
Roche Cobas FARA II
Roche Cobas Mira
Roche Cobas Mira S
Technicon AXON
Technicon Assist
Technicon Chem 1
Technicon DAX 24
Technicon DAX 48
Technicon DAX 72
Technicon DAX 96
Technicon RA 1000
Technicon RA 2000
Technicon RA 500
Technicon RA XT
Wako Diagnostics 20R
Wako Diagnostics 30R

Test Category: Whole blood measurements using teststrip meters (excluding glucose monitoring devices cleared by the FDA specifically for home use)

Test System, Assay or Examination:
Boehringer Mannheim Reflotron Plus

Analyte: Glucose

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:

Abbott Spectrum
Abbott Spectrum EPX
Abbott TDX
Abbott TDX FLx
Abbott VP
Abbott Vision
American Monitor Diagnostics Excel
American Monitor Diagnostics ISP 1000
American Monitor Diagnostics ISP 2000
American Monitor Diagnostics Perspective
Ames Clinistat
Ames Seralyzer
Ames Seralyzer III
Baxter Paramax
Baxter Paramax 720 ZX
Beckman Astra 4
Beckman Astra 8
Beckman Astra Ideal
Beckman Glucose Analyzer (Original Model)
Beckman Glucose Analyzer 2
Beckman Synchron AS–X
Beckman Synchron CX 3
Beckman Synchron CX 4
Beckman Synchron CX 5
Boehringer Mannheim Hitachi 704
Boehringer Mannheim Hitachi 705
Boehringer Mannheim Hitachi 717
Boehringer Mannheim Hitachi 736
Boehringer Mannheim Hitachi 737
Boehringer Mannheim Hitachi 747
Ciba Corning 550 Express
Ciba Corning 570 Alliance
Ciba Corning 580 Alliance
Coulter Optichem 120
Coulter Optichem 180
Dupont ACA
Dupont ACA IV
Dupont ACA V
Dupont Analyst
Dupont Dimension
Electronucleonics Gem-Profiler
Electronucleonics Gemini
Electronucleonics Gemstar
Electronucleonics Gemstar II
Instrumentation Laboratories IL Monarch
Instrumentation Laboratories IL Monarch Plus
Instrumentation Laboratories Phoenix
Kodak Ektachem 500
Kodak Ektachem 700
Kodak Ektachem 700 XR
Kodak Ektachem DT 60
Olympus AU 5000
Olympus Demand
Roche Cobas FARA
Roche Cobas FARA II
Roche Cobas Mira
Roche Cobas Mira S
Technicon AXON
Technicon Assist
Technicon Chem 1
Technicon DAX 24
Technicon DAX 48
Technicon DAX 72
Technicon DAX 96
Technicon RA 1000
Technicon RA 2000
Technicon RA 500
Technicon RA XT
Wako Diagnostics 20R
Wako Diagnostics 30R
Yellow Springs YSI Model 1500
Yellow Springs YSI Model 2300

Test Category: Whole blood measurements using teststrip meters (excluding glucose monitoring devices cleared by the FDA specifically for home use)

Test System, Assay or Examination:
Boehringer Mannheim Reflotron
Boehringer Mannheim Reflotron Plus
Roche Cobas Ready

Analyte: HCG, Serum, Qualitative

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:
Becton Dickinson Affinity

Test Category: Manual procedures with limited steps and limited sample or reagent preparation

Test System, Assay or Examination:
Abbott TestPack HCG-combo
Ampcor Quik-Dot Pregnancy Dipstick
Biomerica Nimbus
Hybritech Tandem ICON II
Sequoia Turner Clearview HCG

Analyte: HCG, Serum, Quantitative

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:
Abbott IMX
Baxter Stratus
Baxter Stratus II
Boehringer Mannheim ES 300
Ciba Corning ACS 180
PB Diagnostics OPUS

Analyte: HCG, Urine

Test Category: Manual procedures with limited steps and limited sample or reagent preparation

Test System, Assay or Examination:
Abbott TestPack HCG-combo
Abbott TestPack Plus
Ampcor Quik-Dot Pregnancy Dipstick
Biomerica Nimbus
Hybritech Concise HCG
Hybritech Tandem ICON II
Roche Pregnosis

Analyte: HDL Cholesterol

Test Category: Whole blood measurements using teststrip meters (excluding glucose monitoring devices cleared by the FDA specifically for home use)

Test System, Assay or Examination:
Boehringer Mannheim Reflotron Plus

Analyte: Insulin

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:
Abbott IMX
Boehringer Mannheim ES 300

Analyte: Iron

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:
Abbott TDX
Abbott TDX FLx
Abbott VP
American Monitor Diagnostics Excel
American Monitor Diagnostics ISP 1000
American Monitor Diagnostics ISP 2000
American Monitor Diagnostics Perspective
Baxter Paramax
Baxter Paramax 720 ZX
Beckman Synchron CX 4
Beckman Synchron CX 5
Beckman Synchron CX 7
Boehringer Mannheim Hitachi 704
Boehringer Mannheim Hitachi 705
Boehringer Mannheim Hitachi 717
Boehringer Mannheim Hitachi 736
Boehringer Mannheim Hitachi 737
Boehringer Mannheim Hitachi 747
Ciba Corning 550 Express
Coulter Optichem 120
Coulter Optichem 180
Dupont ACA
Dupont ACA IV
Dupont ACA V
Dupont Dimension
Dupont Dimension AR
Electronucleonics Gem-Profiler
Electronucleonics Gemini
Electronucleonics Gemstar
Electronucleonics Gemstar II
Instrumentation Laboratories IL Monarch
Instrumentation Laboratories IL Monarch Plus
Kodak Ektachem 400
Kodak Ektachem 500
Kodak Ektachem 700
Kodak Ektachem 700 XR
Olympus AU 5000
Olympus Demand
Roche Cobas FARA
Roche Cobas FARA II
Roche Cobas Mira
Roche Cobas Mira S
Technicon AXON
Technicon Assist
Technicon Chem 1
Technicon DAX 24
Technicon DAX 48
Technicon DAX 72
Technicon DAX 96
Technicon RA 1000
Technicon RA 2000
Technicon RA 500

Technicon RA XT
Wako Diagnostics 20R
Wako Diagnostics 30R

Analyte: Lactate Dehydrogenase (LDH)
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott Spectrum
Abbott Spectrum EPX
Abbott Spectrum Series II
Abbott Spectrum Series II CCX
Abbott TDX
Abbott TDX FLx
Abbott VP
Abbott Vision
American Monitor Diagnostics Excel
American Monitor Diagnostics ISP 1000
American Monitor Diagnostics ISP 2000
American Monitor Diagnostics Perspective
Ames Clinistat
Ames Seralyzer
Ames Seralyzer III
Baxter Paramax
Baxter Paramax 720 ZX
Beckman Astra Ideal
Beckman Synchron AS–X
Beckman Synchron CX 4
Beckman Synchron CX 5
Beckman Synchron CX 7
Boehringer Mannheim Hitachi 704
Boehringer Mannheim Hitachi 705
Boehringer Mannheim Hitachi 717
Boehringer Mannheim Hitachi 736
Boehringer Mannheim Hitachi 737
Boehringer Mannheim Hitachi 747
Ciba Corning 550 Express
Ciba Corning 570 Alliance
Ciba Corning 580 Alliance
Coulter Optichem 120
Coulter Optichem 180
Dupont ACA
Dupont ACA IV
Dupont ACA V
Dupont Dimension
Dupont Dimension AR
Electronucleonics Gem-Profiler
Electronucleonics Gemini
Electronucleonics Gemstar
Electronucleonics Gemstar II
Instrumentation Laboratories IL Monarch
Instrumentation Laboratories IL Monarch Plus
Kodak Ektachem 400
Kodak Ektachem 500
Kodak Ektachem 700
Kodak Ektachem 700 XR
Kodak Ektachem DT SC Module
Olympus AU 5000
Olympus Demand
Roche Cobas FARA
Roche Cobas FARA II
Roche Cobas Mira
Roche Cobas Mira S
Technicon AXON
Technicon Assist
Technicon Chem 1
Technicon DAX 24
Technicon DAX 48
Technicon DAX 72
Technicon DAX 96
Technicon RA 1000
Technicon RA 2000
Technicon RA 500
Technicon RA XT
Wako Diagnostics 20R
Wako Diagnostics 30R

Analyte: Lactate Dehydrogenase Heart Fraction (LDH–1)
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Boehringer Mannheim Hitachi 717

Analyte: Lactate Dehydrogenase Liver Fraction (LLDH)
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Dupont ACA IV
Dupont ACA V

Analyte: Lactic Acid (Lactate)
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott TDX
Abbott TDX FLx
Baxter Paramax
Baxter Paramax 720 ZX
Boehringer Mannheim Hitachi 705
Boehringer Mannheim Hitachi 717
Dupont ACA
Dupont ACA IV
Dupont ACA V
Dupont Dimension
Kodak Ektachem 700 XR
Yellow Springs YSI Model 1500 Sport
Yellow Springs YSI Model 2300
Yellow Springs YSI Model 2372

Analyte: Leucine Aminopeptidase (LAP)
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Boehringer Mannheim Hitachi 705
Instrumentation Laboratories IL Monarch Plus

Analyte: Lipase
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Boehringer Mannheim Hitachi 705
Boehringer Mannheim Hitachi 717
Dupont ACA
Dupont ACA IV
Dupont ACA V
Dupont Dimension
Instrumentation Laboratories IL Monarch Plus
Kodak Ektachem 500
Kodak Ektachem 500
Kodak Ektachem 700 XR

Analyte: Lithium
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
AVL 985–S
AVL 985–S1
Abbott TDX FLx
Amdev ISE Analyzer
Baxter Paramax
Baxter Paramax 720 ZX
Beckman LABLYTE 830
Beckman LABLYTE 830
Beckman Synchron EL–ISE
Ciba Corning 654
Coulter FLEXLYTE 3
Coulter FLEXLYTE 6
Dupont Na, K, Li Analyzer

Analyte: Luteinizing Hormone (LH)
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott IMX
Baxter Stratus
Baxter Stratus II
Becton Dickinson Affinity
Boehringer Mannheim ES 300
Ciba Corning ACS 180

Analyte: MHPG Urine
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott TDX
Abbott TDX FLx

Analyte: Magnesium
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott Spectrum
Abbott Spectrum EPX
Abbott Spectrum Series II
Abbott Spectrum Series II CCX
American Monitor Diagnostics Excel
American Monitor Diagnostics ISP 1000
American Monitor Diagnostics ISP 2000
American Monitor Diagnostics Perspective
Baxter Paramax
Baxter Paramax 720 ZX
Beckman Astra Ideal
Beckman Synchron CX 4
Beckman Synchron CX 5

Beckman Synchron CX 7
Boehringer Mannheim Hitachi 704
Boehringer Mannheim Hitachi 705
Boehringer Mannheim Hitachi 717
Boehringer Mannheim Hitachi 736
Boehringer Mannheim Hitachi 737
Boehringer Mannheim Hitachi 747
Ciba Corning 550 Express
Ciba Corning 570 Alliance
Ciba Corning 580 Alliance
Coulter Optichem 120
Coulter Optichem 180
Dupont ACA
Dupont ACA IV
Dupont ACA V
Dupont Dimension
Dupont Dimension AR
Electronucleonics Gem-Profiler
Electronucleonics Gemini
Electronucleonics Gemstar
Electronucleonics Gemstar II
Instrumentation Laboratories IL Monarch
Instrumentation Laboratories IL Monarch Plus
Kodak Ektachem 400
Kodak Ektachem 500
Kodak Ektachem 700
Kodak Ektachem 700 XR
Kodak Ektachem DT 60
Olympus AU 5000
Olympus Demand
Roche Cobas FARA
Roche Cobas FARA II
Roche Cobas Mira
Roche Cobas Mira S
Technicon AXON
Technicon Assist
Technicon Chem 1
Technicon DAX 24
Technicon DAX 48
Technicon DAX 72
Technicon DAX 96
Technicon RA 1000
Technicon RA 2000
Technicon RA 500
Technicon RA XT
Wako Diagnostics 20R
Wako Diagnostics 30R

Analyte: Osmolality, Serum
Test Category: Osmolality measurements
Test System, Assay or Examination:
Advanced Instruments Osmometer
Fiske 2400 Osmometer
Wescor Colloid Osmometer Model 4420
Wescor Vapor Pressure Osmometer

Analyte: Osmolality, Urine
Test Category: Osmolality measurements
Test System, Assay or Examination:
Advanced Instruments Osmometer
Fiske 2400 Osmometer
Wescor Colloid Osmometer Model 4420
Wescor Vapor Pressure Osmometer

Analyte: Phosphatidylglycerol (PG)—Amniotic Fluid
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Irvine Scientific Aminostat—FLM

Analyte: Phosphorus
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott Spectrum
Abbott Spectrum EPX
Abbott Spectrum Series II
Abbott Spectrum Series II CCX
Abbott VP
American Monitor Diagnostics Excel
American Monitor Diagnostics ISP 1000
American Monitor Diagnostics ISP 2000
American Monitor Diagnostics Perspective
Baxter Paramax
Baxter Paramax 720 ZX
Beckman Astra Ideal
Beckman Synchron AS–X
Beckman Synchron CX 4
Beckman Synchron CX 5
Beckman Synchron CX 7
Boehringer Mannheim Hitachi 704
Boehringer Mannheim Hitachi 705
Boehringer Mannheim Hitachi 717
Boehringer Mannheim Hitachi 736
Boehringer Mannheim Hitachi 737
Boehringer Mannheim Hitachi 747
Ciba Corning 550 Express
Ciba Corning 570 Alliance
Ciba Corning 580 Alliance
Coulter Optichem 120
Coulter Optichem 180
Dupont ACA
Dupont ACA IV
Dupont ACA V
Dupont Dimension
Dupont Dimension AR
Electronucleonics Gem-Profiler
Electronucleonics Gemini
Electronucleonics Gemstar
Electronucleonics Gemstar II
Instrumentation Laboratories IL Monarch
Instrumentation Laboratories IL Monarch Plus
Kodak Ektachem 400
Kodak Ektachem 500
Kodak Ektachem 700
Kodak Ektachem 700 XR
Kodak Ektachem DT 60
Olympus AU 5000
Olympus Demand
Roche Cobas FARA
Roche Cobas FARA II
Roche Cobas Mira
Roche Cobas Mira S
Technicon AXON
Technicon Assist
Technicon Chem 1
Technicon DAX 24
Technicon DAX 48
Technicon DAX 72
Technicon DAX 96
Technicon RA 1000
Technicon RA 2000
Technicon RA 500
Technicon RA XT
Wako Diagnostics 20R
Wako Diagnostics 30R

Analyte: Potassium
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
AVL 982–S
AVL 983–S
AVL 984–S
AVL 985–S
AVL 986–S
AVL 987–S
Abbott Spectrum
Abbott Spectrum EPX
Abbott Spectrum Series II
Abbott Spectrum Series II CCX
Abbott VP
Amdev ISE Analyzer
American Monitor Diagnostics Excel
American Monitor Diagnostics ISP 1000
American Monitor Diagnostics ISP 2000
American Monitor Diagnostics Perspective
Ames Clinistat
Ames Seralyzer
Ames Seralyzer III
Baker Ana-Lyte +1
Baker Ana-Lyte +2
Baxter Paramax
Baxter Paramax 720 ZX
Beckman Astra 8
Beckman Astra Ideal
Beckman E2A
Beckman E4A
Beckman LABLYTE 800
Beckman LABLYTE 810
Beckman LABLYTE 820
Beckman LABLYTE 830
Beckman Synchron AS–X
Beckman Synchron CX 3
Beckman Synchron CX 4
Beckman Synchron CX 5
Beckman Synchron CX 7
Beckman Synchron EL–ISE
Boehringer Mannheim Hitachi 704
Boehringer Mannheim Hitachi 705
Boehringer Mannheim Hitachi 717
Boehringer Mannheim Hitachi 736
Boehringer Mannheim Hitachi 737
Boehringer Mannheim Hitachi 747
Ciba Corning 570 Alliance
Ciba Corning 580 Alliance
Ciba Corning 614
Ciba Corning 644
Ciba Corning 654
Ciba Corning 664 FAST 4
Coulter FLEXLYTE 3

Coulter FLEXLYTE 6
Coulter Optichem 120
Coulter Optichem 180
Dupont Dimension
Dupont Dimension AR
Dupont Na, K, Li Analyzer
Electronucleonics Gem-Profiler
Electronucleonics Gemini
Electronucleonics Gemstar
Electronucleonics Gemstar II
Electronucleonics Starlyte II
Instrumentation Laboratories BGElectrolytes
Instrumentation Laboratories IL 501
Instrumentation Laboratories IL 502
Instrumentation Laboratories IL Monarch
Instrumentation Laboratories IL Monarch Plus
Instrumentation Laboratories Phoenix
Kodak Ektachem 400
Kodak Ektachem 500
Kodak Ektachem 700
Kodak Ektachem 700 XR
Kodak Ektachem DTE Module
Mallinckrodt Gem 6 Plus
Mallinckrodt Gem Premier
Medica Easylite Ion Selective Analyzer
Medica Easylite Plus Ion Selective Analyzer
Olympus AU 5000
Olympus Demand
Roche Cobas FARA
Roche Cobas FARA II
Roche Cobas Mira
Roche Cobas Mira S
Technicon AXON
Technicon Assist
Technicon Chem 1
Technicon DAX 24
Technicon DAX 48
Technicon DAX 72
Technicon DAX 96
Technicon RA 1000
Technicon RA 2000
Technicon RA 500
Technicon RA XT
Wako Diagnostics 20R
Wako Diagnostics 30R

Test Category: Whole blood measurements using teststrip meters (excluding glucose monitoring devices cleared by the FDA specifically for home use)

Test System, Assay or Examination:
Boehringer Mannheim Reflotron Plus

Analyte: Progesterone

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:
Abbott IMX
Boehringer Mannheim ES 300

Analyte: Prolactin

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:
Abbott IMX
Baxter Stratus
Baxter Stratus II
Becton Dickinson Affinity
Boehringer Mannheim ES 300
Ciba Corning ACS 180

Analyte: Prostatic Acid Phosphatase

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:
Abbott IMX
Instrumentation Laboratories IL Monarch Plus

Analyte: Protein, Total

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:
Abbott Spectrum
Abbott Spectrum EPX
Abbott Spectrum Series II
Abbott Spectrum Series II CCX
Abbott VP
Abbott Vision
American Monitor Diagnostics Excel
American Monitor Diagnostics ISP 1000
American Monitor Diagnostics ISP 2000
American Monitor Diagnostics Perspective
Baxter Paramax
Baxter Paramax 720 ZX
Beckman Synchron AS-X
Beckman Synchron CX 4
Beckman Synchron CX 5
Beckman Synchron CX 7
Boehringer Mannheim Hitachi 704
Boehringer Mannheim Hitachi 705
Boehringer Mannheim Hitachi 717
Boehringer Mannheim Hitachi 736
Boehringer Mannheim Hitachi 737
Boehringer Mannheim Hitachi 747
Ciba Corning 550 Express
Ciba Corning 570 Alliance
Ciba Corning 580 Alliance
Coulter Optichem 120
Coulter Optichem 180
Dupont ACA
Dupont ACA IV
Dupont ACA V
Dupont Analyst
Dupont Dimension
Dupont Dimension AR
Electronucleonics Gem-Profiler
Electronucleonics Gemini
Electronucleonics Gemstar
Electronucleonics Gemstar II
Instrumentation Laboratories IL Monarch
Instrumentation Laboratories IL Monarch Plus
Instrumentation Laboratories Phoenix
Kodak Ektachem 400
Kodak Ektachem 500
Kodak Ektachem 700
Kodak Ektachem 700 XR
Kodak Ektachem DT 60
Olympus AU 5000
Olympus Demand
Roche Cobas FARA
Roche Cobas FARA II
Roche Cobas Mira
Roche Cobas Mira S
Technicon AXON
Technicon Assist
Technicon Chem 1
Technicon DAX 24
Technicon DAX 48
Technicon DAX 72
Technicon DAX 96
Technicon RA 1000
Technicon RA 2000
Technicon RA 500
Technicon RA XT
Wako Diagnostics 20R
Wako Diagnostics 30R

Analyte: Pseudocholinesterase, Serum

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:
Dupont ACA
Dupont ACA IV
Dupont ACA V
Dupont Dimension

Analyte: Sodium

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:
AVL 982-S
AVL 983-S
AVL 984-S
AVL 985-S
AVL 986-S
AVL 987-S
Abbott Spectrum
Abbott Spectrum EPX
Abbott Spectrum Series II
Abbott Spectrum Series II CCX
Abbott VP
Amdev ISE Analyzer
American Monitor Diagnostics Excel
American Monitor Diagnostics ISP 1000
American Monitor Diagnostics ISP 2000
American Monitor Diagnostics Perspective
Baker Ana-Lyte +1
Baker Ana-Lyte +2
Baxter Paramax
Baxter Paramax 720 ZX
Beckman Astra 8
Beckman Astra Ideal
Beckman E2A
Beckman E4A
Beckman LABLYTE 800
Beckman LABLYTE 810
Beckman LABLYTE 820

Beckman LABLYTE 830
Beckman Synchron AS–X
Beckman Synchron CX 3
Beckman Synchron CX 4
Beckman Synchron CX 5
Beckman Synchron CX 7
Beckman Synchron EL–ISE
Boehringer Mannheim Hitachi 704
Boehringer Mannheim Hitachi 705
Boehringer Mannheim Hitachi 717
Boehringer Mannheim Hitachi 736
Boehringer Mannheim Hitachi 737
Boehringer Mannheim Hitachi 747
Ciba Corning 570 Alliance
Ciba Corning 580 Alliance
Ciba Corning 614
Ciba Corning 644
Ciba Corning 654
Ciba Corning 664 FAST 4
Coulter FLEXLYTE 3
Coulter FLEXLYTE 6
Coulter Optichem 120
Coulter Optichem 180
Dupont Dimension
Dupont Dimension AR
Dupont Na, K, Li Analyzer
Electronucleonics Gem-Profiler
Electronucleonics Gemini
Electronucleonics Gemstar
Electronucleonics Gemstar II
Electronucleonics Starlyte II
Instrumentation Laboratories BGElectrolytes
Instrumentation Laboratories IL 501
Instrumentation Laboratories IL 502
Instrumentation Laboratories IL Monarch
Instrumentation Laboratories IL Monarch Plus
Instrumentation Laboratories Phoenix
Kodak Ektachem 400
Kodak Ektachem 500
Kodak Ektachem 700
Kodak Ektachem 700 XR
Kodak Ektachem DTE Module
Mallinckrodt Gem 6 Plus
Mallinckrodt Gem Premier
Medica Easylite Ion Selective Analyzer
Medica Easylite Plus Ion Selective Analyzer
Olympus AU 5000
Olympus Demand
Roche Cobas FARA
Roche Cobas FARA II
Roche Cobas Mira
Roche Cobas Mira S
Technicon AXON
Technicon Assist
Technicon Chem 1
Technicon DAX 24
Technicon DAX 48
Technicon DAX 72
Technicon DAX 96
Technicon RA 1000
Technicon RA 2000
Technicon RA 500
Technicon RA XT
Wako Diagnostics 20R
Wako Diagnostics 30R

Analyte: Testosterone
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott IMX

Analyte: Thyroid Stimulating Hormone (TSH)
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Baxter Stratus
Ciba Corning ACS 180
PB Diagnostics OPUS

Analyte: Thyroid Stimulating Hormone—high sens. (TSH–HS)
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott IMX
Baxter Stratus
Becton Dickinson Affinity
Boehringer Mannheim ES 300

Analyte: Thyroxine (T4)
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott IMX
Abbott TDX
Abbott TDX FLx
Baxter Stratus
Baxter Stratus II
Becton Dickinson Affinity
Boehringer Mannheim ES 300
Boehringer Mannheim Hitachi 717
Boehringer Mannheim Hitachi 747
Ciba Corning ACS 180
Dupont ACA
Dupont ACA IV
Dupont ACA V
Dupont Dimension
Instrumentation Laboratories IL Monarch Plus
PB Diagnostics OPUS
Technicon Chem 1

Analyte: Thyroxine Binding Globulin (TBG)
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Boehringer Mannheim ES 300

Analyte: Thyroxine, Free (FT–4)
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott IMX
Baxter Stratus
Baxter Stratus II
Boehringer Mannheim ES 300
Ciba Corning ACS 180

Analyte: Triglyceride
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott Spectrum
Abbott Spectrum EPX
Abbott Spectrum Series II
Abbott Spectrum Series II CCX
Abbott TDX
Abbott TDX FLx
Abbott VP
Abbott Vision
American Monitor Diagnostics Excel
American Monitor Diagnostics ISP 1000
American Monitor Diagnostics ISP 2000
American Monitor Diagnostics Perspective
Ames Clinistat
Ames Seralyzer
Ames Seralyzer III
Baxter Paramax
Baxter Paramax 720 ZX
Beckman Astra Ideal
Beckman Synchron AS–X
Beckman Synchron CX 4
Beckman Synchron CX 5
Beckman Synchron CX 7
Boehringer Mannheim Hitachi 704
Boehringer Mannheim Hitachi 705
Boehringer Mannheim Hitachi 717
Boehringer Mannheim Hitachi 736
Boehringer Mannheim Hitachi 737
Boehringer Mannheim Hitachi 747
Ciba Corning 550 Express
Ciba Corning 570 Alliance
Ciba Corning 580 Alliance
Coulter Optichem 120
Coulter Optichem 180
Dupont ACA
Dupont ACA IV
Dupont ACA V
Dupont Analyst
Dupont Dimension
Dupont Dimension AR
Electronucleonics Gem-Profiler
Electronucleonics Gemini
Electronucleonics Gemstar
Electronucleonics Gemstar II
Instrumentation Laboratories IL Monarch
Instrumentation Laboratories IL Monarch Plus
Kodak Ektachem 400
Kodak Ektachem 500
Kodak Ektachem 700
Kodak Ektachem 700 XR
Kodak Ektachem DT 60
Olympus AU 5000
Olympus Demand
Roche Cobas FARA
Roche Cobas FARA II

Roche Cobas Mira
Roche Cobas Mira S
Technicon AXON
Technicon Assist
Technicon Chem 1
Technicon DAX 24
Technicon DAX 48
Technicon DAX 72
Technicon DAX 96
Technicon RA 1000
Technicon RA 2000
Technicon RA 500
Technicon RA XT
Wako Diagnostics 20R
Wako Diagnostics 30R

Test Category: Whole blood measurements using teststrip meters (excluding glucose monitoring devices cleared by the FDA specifically for home use)
Test System, Assay or Examination:
Boehringer Mannheim Reflotron Plus

Analyte: Triiodothyronine (T-3) Uptake
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott IMX
Abbott TDX
Baxter Stratus
Baxter Stratus II
Becton Dickinson Affinity
Boehringer Mannheim ES 300
Boehringer Mannheim Hitachi 717
Boehringer Mannheim Hitachi 747
Ciba Corning ACS 180
Dupont ACA IV
Dupont ACA V
Dupont Dimension
Instrumentation Laboratories IL Monarch Plus
Technicon Chem 1

Analyte: Triiodothyronine (T3)
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott IMX
Abbott TDX
Abbott TDX FLx
Baxter Stratus
Baxter Stratus II
Boehringer Mannheim ES 300
Ciba Corning ACS 180
PB Diagnostics OPUS

Analyte: Triiodothyronine, Free (FT-3)
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Ciba Corning ACS 180

Analyte: Urea (BUN)
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott Spectrum
Abbott Spectrum EPX
Abbott Spectrum Series II
Abbott Spectrum Series II CCX
Abbott TDX
Abbott TDX FLx
Abbott VP
Abbott Vision
American Monitor Diagnostics Excel
American Monitor Diagnostics ISP 1000
American Monitor Diagnostics ISP 2000
American Monitor Diagnostics Perspective
Ames Clinistat
Ames Seralyzer
Ames Seralyzer III
Baxter Paramax
Baxter Paramax 720 ZX
Beckman Astra 4
Beckman Astra 8
Beckman Astra Ideal
Beckman BUN Analyzer (Original Model)
Beckman BUN Analyzer 2
Beckman Synchron AS-X
Beckman Synchron CX 3
Beckman Synchron CX 4
Beckman Synchron CX 5
Beckman Synchron CX 7
Boehringer Mannheim Hitachi 704
Boehringer Mannheim Hitachi 705
Boehringer Mannheim Hitachi 717
Boehringer Mannheim Hitachi 736
Boehringer Mannheim Hitachi 737
Boehringer Mannheim Hitachi 747
Ciba Corning 550 Express
Ciba Corning 570 Alliance
Ciba Corning 580 Alliance
Coulter Optichem 120
Coulter Optichem 180
Dupont ACA
Dupont ACA IV
Dupont ACA V
Dupont Analyst
Dupont Dimension
Dupont Dimension AR
Electronucleonics Gem-Profiler
Electronucleonics Gemini
Electronucleonics Gemstar
Electronucleonics Gemstar II
Instrumentation Laboratories IL Monarch
Instrumentation Laboratories IL Monarch Plus
Instrumentation Laboratories Phoenix
Kodak Ektachem 400
Kodak Ektachem 500
Kodak Ektachem 700
Kodak Ektachem 700 XR
Kodak Ektachem DT 60
Olympus AU 5000
Olympus Demand
Roche Cobas FARA
Roche Cobas FARA II
Roche Cobas Mira
Roche Cobas Mira S
Technicon AXON
Technicon Assist
Technicon Chem 1
Technicon DAX 24
Technicon DAX 48
Technicon DAX 72
Technicon DAX 96
Technicon RA 1000
Technicon RA 2000
Technicon RA 500
Technicon RA XT
Wako Diagnostics 20R
Wako Diagnostics 30R

Test Category: Whole blood measurements using teststrip meters (excluding glucose monitoring devices cleared by the FDA specifically for home use)
Test System, Assay or Examination:
Boehringer Mannheim Reflotron
Boehringer Mannheim Reflotron Plus
Roche Cobas Ready

Analyte: Uric Acid
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott Spectrum
Abbott Spectrum EPX
Abbott Spectrum Series II
Abbott Spectrum Series II CCX
Abbott TDX
Abbott TDX FLx
Abbott VP
Abbott Vision
American Monitor Diagnostics Excel
American Monitor Diagnostics ISP 1000
American Monitor Diagnostics ISP 2000
American Monitor Diagnostics Perspective
Ames Clinistat
Ames Seralyzer
Ames Seralyzer III
Baxter Paramax
Baxter Paramax 720 ZX
Beckman Astra Ideal
Beckman Synchron AS-X
Beckman Synchron CX 4
Beckman Synchron CX 5
Beckman Synchron CX 7
Boehringer Mannheim Hitachi 704
Boehringer Mannheim Hitachi 705
Boehringer Mannheim Hitachi 717
Boehringer Mannheim Hitachi 736
Boehringer Mannheim Hitachi 737
Boehringer Mannheim Hitachi 747
Ciba Corning 550 Express
Ciba Corning 570 Alliance
Ciba Corning 580 Alliance
Coulter Optichem 120
Coulter Optichem 180
Dupont ACA
Dupont ACA IV
Dupont ACA V
Dupont Analyst

Dupont Dimension
Dupont Dimension AR
Electronucleonics Gem-Profiler
Electronucleonics Gemini
Electronucleonics Gemstar
Electronucleonics Gemstar II
Instrumentation Laboratories IL Monarch
Instrumentation Laboratories IL Monarch Plus
Kodak Ektachem 400
Kodak Ektachem 500
Kodak Ektachem 700
Kodak Ektachem 700 XR
Kodak Ektachem DT 60
Olympus AU 5000
Olympus Demand
Roche Cobas FARA
Roche Cobas FARA II
Roche Cobas Mira S
Technicon AXON
Technicon Assist
Technicon Chem 1
Technicon DAX 24
Technicon DAX 48
Technicon DAX 72
Technicon DAX 96
Technicon RA 1000
Technicon RA 2000
Technicon RA 500
Technicon RA XT
Wako Diagnostics 20R
Wako Diagnostics 30R

Test Category: Whole blood measurements using teststrip meters (excluding glucose monitoring devices cleared by the FDA specifically for home use)
Test System, Assay or Examination:
Boehringer Mannheim Reflotron
Boehringer Mannheim Reflotron Plus

Analyte: Vitamin B12
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott IMX
Abbott TDX FLx
Ciba Corning ACS 180

Analyte: Zinc Protoporphyrin
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
AVIV Hematofluorometer
Helena Protofluor

Analyte: pH
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
AVL 987-S
Beckman LABLYTE 820
Ciba Corning 634
Coulter FLEXLYTE 6

Speciality/Subspeciality: General Immunology

Analyte: Allergen specific IgE
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Quidel Allergen Screen
Quidel Food Allergen Screen

Analyte: Alpha-1-Acid Glycoprotein (orosomucoid)
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Beckman Array 360

Analyte: Alpha-1-Antitrypsin
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Beckman Array 360
Instrumentation Laboratories IL Monarch Plus

Analyte: Alpha-2-Macroglobulin
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Beckman Array 360

Analyte: Alpha-Fetoprotein—Tumor Marker
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott IMX

Analyte: Aminoglycosides
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott TDX

Analyte: Anti-DNA Antibodies
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
General Biometrics ImmunoDot Autoimmunity Screening Panel
Stanbio SLE Quicktest

Analyte: Anti-DNP antibodies
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Ampcor SLE Test
Diagnostic Technology ANA Check
Fisher Diagnostic SLE Latex Test Kit
Hycor Serascan SLE

Analyte: Anti-Nuclear Antibodies (ANA)
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
General Biometrics ImmunoDot Autoimmunity Screening Panel
Whittaker Bioproducts RheumaStrip

Analyte: Anti-RNP (Ribonucleoprotein)
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
General Biometrics ImmunoDot Autoimmunity Screening Panel

Analyte: Anti-SS-A/Ro
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
General Biometrics ImmunoDot Autoimmunity Screening Panel

Analyte: Anti-SS-B/La
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
General Biometrics ImmunoDot Autoimmunity Screening Panel

Analyte: Anti-Sm (Smith)
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
General Biometrics ImmunoDot Autoimmunity Screening Panel

Analyte: Anti-Streptolysin O (ASO)
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Ampcor Quik-Dot
Behring RapiTex
Biokit Rheumagen ASO
Diagnostic Technology ASO Check
Fisher Diagnostic LAtest ASO
Seradyn Color Slide
V-Tech V-Trend ASO Plus
Wampole Streptozyme

Analyte: Anti-Thyroglobulin Antibodies (ATA)
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
General Biometrics ImmunoDot Thyroid Autoimmunity Panel

Analyte: Anti-Thyroid Microsomal Antibodies (AMA)
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
General Biometrics ImmunoDot Thyroid Autoimmunity Panel

Analyte: Beta-2 microglobulin
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott IMX

Analyte: C-Reactive Protein (CRP)

Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott TDX
Abbott TDX FLx
Abbott Vision
Beckman Array 360
Beckman Synchron CX 7
Dupont ACA
Dupont ACA IV
Dupont ACA V
Dupont Dimension
Technicon Chem 1
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Ampcor Quik-Dot
Amtec CRP
Baxter ImmunoSCAN
Behring RapiTex
Biokit Rheumagen CRP
Diagnostic Technology CRP Check
Difco Bacto CRP Slide Test Set
Fisher Diagnostic LAtest CRP
Hycor Serascan CRP
Sclavo CRP Latex Test
Seradyn Color Slide
Stanbio CRP Quicktest
V-Tech Target CRP
Wampole Immunex CRP
Analyte: Carcinoembryonic Antigen (CEA)
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott IMX
Analyte: Ceruloplasmin
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Beckman Array 360
Analyte: Coccidioides Antibodies
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Immuno-Mycologics LA-Cocci Antibody System
Meridian Diagnostics Coccidiodes Latex Agglutination System
Analyte: Complement C3
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Beckman Array 360
Boehringer Mannheim Hitachi 717
Instrumentation Laboratories IL Monarch Plus
Technicon Chem 1
Analyte: Complement C4
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Beckman Array 360
Boehringer Mannheim Hitachi 717
Instrumentation Laboratories IL Monarch Plus
Technicon Chem 1
Analyte: Cytomegalovirus Antibodies (IgG/IgM)
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott IMX
PB Diagnostics OPUS
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Becton Dickinson CMV Scan
Disease Detection International SeroCard CMV IgG Test
General Biometrics ImmunoDot Preconception Screening Panel
Meridian Diagnostics Immunocard Test
V-Tech Target CMV
Analyte: Febrile Agglutinins
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Becton Dickinson BBL—Slide Test
Difco Bacto-Slide Test
Gamma Biologicals Slide Test
Analyte: Fungus Antibodies
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Immuno-Mycologics LA-Sporo Antibody System
Analyte: Haptoglobin
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Beckman Array 360
Instrumentation Laboratories IL Monarch Plus
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Behring RapiTex
Analyte: Helicobacter pylori Antibodies
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Quidel H. pylori Test
Analyte: Hepatitis A Antibody (HAVAb)
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott IMX
Analyte: Hepatitis B Core Antibody (Hb Core)
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott IMX
Analyte: Hepatitis B Surface Antigen (HBS Ag)
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott IMX
Analyte: Herpes simplex I and/or II Antibodies
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Disease Detection International SeroCard HSV IgG Test
General Biometrics ImmunoDot Preconception Screening Panel
Meridian Diagnostics Immunocard Test
Analyte: Histoplasma Antibodies
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Immuno-Mycologics LA-Histo Antibody System
Analyte: Immunoglobulins IgA
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott TDX
Abbott TDX FLx
Beckman Array 360
Boehringer Mannheim Hitachi 705
Boehringer Mannheim Hitachi 717
Dupont ACA
Dupont ACA IV
Dupont ACA V
Instrumentation Laboratories IL Monarch Plus
Technicon Chem 1
Analyte: Immunoglobulins IgE
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott IMX
Baxter Stratus
Baxter Stratus II
Boehringer Mannheim ES 300
Ciba Corning ACS 180

Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Quidel Total IgE Test
Analyte: Immunoglobulins IgG
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott TDX
Abbott TDX FLx
Beckman Array 360
Boehringer Mannheim Hitachi 705
Boehringer Mannheim Hitachi 717
Dupont ACA
Dupont ACA IV
Dupont ACA V
Instrumentation Laboratories IL Monarch Plus
Technicon Chem 1
Analyte: Immunoglobulins IgM
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott TDX
Abbott TDX FLx
Beckman Array 360
Boehringer Mannheim Hitachi 705
Boehringer Mannheim Hitachi 717
Dupont ACA
Dupont ACA IV
Dupont ACA V
Instrumentation Laboratories IL Monarch Plus
Technicon Chem 1
Analyte: Infectious Mononucleosis Antibodies (Mono)
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Ampcor Quik-Dot
Baxter ImmunoSCAN (Latex)
Baxter ImmunoSCAN RBC
Biokit Monogen
Diagnostic Technology Infectious Mononucleosis Check
General Biometrics ImmunoDot Infectious Mono Syndrome Panel
Gull Laboratories Mono-Lex Test
Hybritech Concise Mono Test
Hycor Serascan Infectious Mononucleosis Test
Leeco Diagnostics Preview Mono
Medical Technology Corp. Mono-Lisa
Medical Technology Corp. Optitec Mono
Organon NML Monosticon
Ortho Monolert
Ortho Monospot
Pacific Biotech Cards
Sclavo Infectious Mononucleosis Screening
Seradyn Color Slide II
Unipath Oxoid Infectious Mononucleosis Test
V-Tech Target Mono
V-Tech V-Trend Kit IM
Ventrex
Wampole Mono-Diff
Wampole Mono-Latex
Wampole Mono-Sure
Wampole Mono-Test
Analyte: Kappa Light Chains
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Beckman Array 360
Analyte: Lambda Light Chains
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Beckman Array 360
Analyte: Lyme Disease Antibodies (Borrelia burgdorferi Abs
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
General Biometrics ImmunoDot Lyme Disease Panel
Quidel Lyme Disease Test
Analyte: Mycoplasma pneumonia Antibodies
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Medical Diag Technologies Mycoplasma pneumonia IgG Ab Test
Meridian Diagnostics Meristar-MP
Analyte: Prealbumin
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Beckman Array 360
Analyte: Properdin Factor B
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Beckman Array 360
Analyte: Prostatic Specific Antigen (PSA)
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott IMX
Analyte: Rheumatoid Factor (RA)
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Beckman Array 360
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Ampcor Quik-Dot
Amtec RF
Baxter ImmunoSCAN (Latex)
Baxter ImmunoSCAN RBC
Becton Dickinson Macro-vue RF
Behring RapiTex
Biokit Rheumagen RF
Diagnostic Technology RA Check
Difco Bacto RF Test
Fisher Diagnostic LAtest RF
General Biometrics ImmunoDot Autoimmunity Screening Panel
Hycor Serascan RA test
Organon Rheumanosticon Dri-Dot
Sclavo Reuma Test
Seradyn Seratest RF Latex Test
Stanbio RA Factor Quicktest
Wampole Rheumatex
Wampole Rheumaton
Analyte: Rubella Antibodies, IgG/IgM
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott IMX
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Becton Dickinson Rubascan
Biokit Rubagen
Disease Detection International SeroCard Rubella IgG Test
General Biometrics ImmunoDot Preconception Screening Panel
General Biometrics ImmunoDot Quantitative Rubella
Meridian Diagnostics Immunocard Test
Murex SUDS Rubella
V-Tech Target Rubella
Wampole Virogen Rubella Micro Latex Test
Wampole Virogen Rubella Slide Test
Analyte: Toxoplasma gondii Antibodies (IgG/IgM)
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott IMX
PB Diagnostics OPUS
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Bio-Medical BIOCARD Toxo Ab
Disease Detection International SeroCard Toxoplasma IgG
General Biometrics ImmunoDot Preconception Screening Panel

Meridian Diagnostics Immunocard Test
Murex SUDS Toxo
Analyte: Transferrin
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott TDX
Abbott TDX FLx
Beckman Array 360
Boehringer Mannheim Hitachi 717
Instrumentation Laboratories IL Monarch Plus
Technicon Chem 1
Analyte: Treponema pallidum Antibodies
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Ampcor RPR
Ampcor TRUST RPR
Becton Dickinson Macro-vue RPR
Fisher Diagnostic Reagin Screen Test
New Horizons TRUST assay
Seradyn Color Slide
Analyte: Varicella-Zoster Virus Antibodies
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Becton Dickinson VZV Scan
Speciality/Subspeciality: Hematology
Analyte: Activated Partial Thromboplastin Time (APTT)
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
American Scientific Fibrometer
Becton Dickinson BBL Fibrometer
BioData Microsample Coagulation Analyzer
Ciba Corning Biotrack 512
General Diagnostics Coag-A-Mate
General Diagnostics Coag-A-Mate X2
General Diagnostics Coag-A-Mate XC
Helena Cascade 480
Helena Laboratories Dataclot
Instrumentation Laboratories IL ACL 100
Instrumentation Laboratories IL ACL 1000
Instrumentation Laboratories IL ACL 200
Instrumentation Laboratories IL ACL 2000
Instrumentation Laboratories IL ACL 300
Instrumentation Laboratories IL ACL 3000
Instrumentation Laboratories IL ACL 3000 Plus
Instrumentation Laboratories IL ACL 810
Medical Laboratories MLA Electra 1000 C
Medical Laboratories MLA Electra 700
Medical Laboratories MLA Electra 750
Medical Laboratories MLA Electra 800
Medical Laboratories MLA Electra 900
Medical Laboratories MLA Electra 900 C
Organon Teknika Coag-A-Mate Data-Mate
Organon Teknika Coag-A-Mate RA4
Organon Teknika Coag-A-Mate X-2
Organon Teknika Coag-A-Mate XC
Organon Teknika Coag-A-Mate XC Plus
Organon Teknika Coag-A-Mate XM
Ortho Koagulab 16S
Ortho Koagulab 32S
Ortho Koagulab 40-A
Sigma AccuStasis 1000
Sigma AccuStasis 2000
Sysmex CA-5000
Analyte: Antithrombin III (ATIII)
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Beckman Array 360
Dupont ACA
Dupont ACA IV
Dupont ACA V
Analyte: Fibrin Split Products (Fibrin Degradation)
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Dupont ACA IV
Dupont ACA V
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
American Diagnostics Dimertest
Analyte: Fibrinogen
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Becton Dickinson BBL Fibrometer
Dupont ACA IV
Dupont ACA V
General Diagnostics Coag-A-Mate X2
General Diagnostics Coag-A-Mate XC
Helena Cascade 480
Instrumentation Laboratories IL ACL 100
Instrumentation Laboratories IL ACL 200
Instrumentation Laboratories IL ACL 2000
Instrumentation Laboratories IL ACL 300
Instrumentation Laboratories IL ACL 3000
Instrumentation Laboratories IL ACL 3000 Plus
Instrumentation Laboratories IL ACL 810
Medical Laboratories MLA Electra 700
Medical Laboratories MLA Electra 750
Medical Laboratories MLA Electra 800
Organon Teknika Coag-A-Mate RA4
Organon Teknika Coag-A-Mate XC
Organon Teknika Coag-A-Mate XM
Ortho Koagulab 16S
Ortho Koagulab 32S
Ortho Koagulab 40-A
Analyte: Hematocrit
Test Category: Automated hematology procedures with differentials that do not require operator intervention during the analytic process and that do not require an analyst to interpret a histogram or scattergram
Test System, Assay or Examination:
Baker 9000
Coulter JS
Coulter JT
Coulter JT2
Coulter JT3
Coulter MAXM
Coulter S Plus IVW/DIF
Coulter S Plus VI/STKR
Coulter STKR
Coulter STKS
Coulter T540
Coulter T660
Coulter T890
Roche Cobas Argos
Roche Cobas Minos STX
Test Category: Automated hematology procedures without differentials that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Baker 8000
Becton Dickinson QBC AutoRead
Coulter 530
Coulter 560
Coulter 770
Coulter CBC4
Coulter CBC5
Coulter M430
Coulter S Plus
Coulter S Plus II
Coulter S Plus III
Coulter S Plus IV
Coulter S Plus Jr.
Coulter S Plus V
Coulter S550
Coulter S880
Coulter ST
Electronucleonics Cellstar
Ortho ELT 15
Ortho ELT 1500
Ortho ELT 8
Ortho ELT 8/DS
Ortho ELT 8/WS
Ortho ELT 800/WS
Roche Cobas Minos STE
Sequoia Turner 1600
Sequoia Turner 700

Sequoia Turner 900
Sysmex CC–130
Sysmex CC–150
Sysmex CC–180
Sysmex CC–700
Sysmex CC–720
Sysmex CC–780
Sysmex E–2500
Sysmex E–5000
Sysmex K–1000
Sysmex NE–8000

Analyte: Hemoglobin
Test Category: Automated hematology procedures with differentials that do not require operator intervention during the analytic process and that do not require an analyst to interpret a histogram or scattegram
Test System, Assay or Examination:
Baker 9000
Coulter JS
Coulter JT
Coulter JT2
Coulter JT3
Coulter MAXM
Coulter S Plus IVW/DIF
Coulter S Plus VI/STKR
Coulter STKR
Coulter STKS
Coulter T540
Coulter T660
Coulter T890
Roche Cobas Argos
Roche Cobas Minos STX

Test Category: Automated hematology procedures without differentials that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Baker 8000
Becton Dickinson QBC AutoRead
Coulter 530
Coulter 560
Coulter 770
Coulter CBC4
Coulter CBC5
Coulter M430
Coulter S Plus
Coulter S Plus II
Coulter S Plus III
Coulter S Plus IV
Coulter S Plus Jr.
Coulter S Plus V
Coulter S550
Coulter S880
Coulter ST
Electronucleonics Cellstar
Hemocue Hemoglobin System
Ortho ELT 15
Ortho ELT 1500
Ortho ELT 8
Ortho ELT 8/DS
Ortho ELT 8/WS
Ortho ELT 800/WS
Roche Cobas Minos STE
Sequoia Turner 1600
Sequoia Turner 700
Sequoia Turner 900
Sysmex CC–130
Sysmex CC–150
Sysmex CC–180
Sysmex CC–700
Sysmex CC–720
Sysmex CC–780
Sysmex E–2500
Sysmex E–5000
Sysmex K–1000
Sysmex NE–8000

Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott Vision
Ames Seralyzer
Ames Seralyzer III
Kodak Ektachem DT 60
LEO Diagnostics Hemocue

Test Category: Whole blood measurements using teststrip meters (excluding glucose monitoring devices cleared by the FDA specifically for home use)
Test System, Assay or Examination:
Boehringer Mannheim Reflotron Plus

Analyte: Heparin
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Dupont ACA IV
Dupont ACA V

Analyte: Plasminogen
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Dupont ACA IV
Dupont ACA V

Analyte: Platelet Count
Test Category: Automated hematology procedures with differentials that do not require operator intervention during the analytic process and that do not require an analyst to interpret a histogram or scattegram
Test System, Assay or Examination:
Baker 9000
Coulter JS
Coulter JT
Coulter JT2
Coulter JT3
Coulter MAXM
Coulter S Plus IVW/DIF
Coulter S Plus VI/STKR
Coulter STKR
Coulter STKS
Coulter T540
Coulter T660
Coulter T890
Roche Cobas Argos
Roche Cobas Minos STX

Test Category: Automated hematology procedures without differentials that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Baker 8000
Becton Dickinson QBC AutoRead
Coulter S Plus
Coulter S Plus II
Coulter S Plus III
Coulter S Plus IV
Coulter S Plus Jr.
Coulter S Plus V
Coulter S880
Coulter ST
Electronucleonics Cellstar
Ortho ELT 15
Ortho ELT 1500
Ortho ELT 8
Ortho ELT 8/DS
Ortho ELT 8/WS
Ortho ELT 800/WS
Roche Cobas Minos STE
Sequoia Turner 1600
Sysmex CC–130
Sysmex CC–150
Sysmex CC–180
Sysmex CC–700
Sysmex CC–720
Sysmex CC–780
Sysmex E–2500
Sysmex E–5000
Sysmex K–1000
Sysmex NE–8000

Analyte: Prothrombin Time (PT)
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott Vision
American Scientific Fibrometer
Becton Dickinson BBL Fibrometer
BioData Microsample Coagulation Analyzer
Ciba Corning Biotrack 512
General Diagnostics Coag-A-Mate
General Diagnostics Coag-A-Mate X2
General Diagnostics Coag-A-Mate XC
Helena Cascade 480
Helena Laboratories Dataclot
Instrumentation Laboratories IL ACL 100
Instrumentation Laboratories IL ACL 1000
Instrumentation Laboratories IL ACL 200
Instrumentation Laboratories IL ACL 2000
Instrumentation Laboratories IL ACL 300
Instrumentation Laboratories IL ACL 3000
Instrumentation Laboratories IL ACL 3000 Plus
Instrumentation Laboratories IL ACL 810
Medical Laboratories MLA Electra 1000 C
Medical Laboratories MLA Electra 700

Medical Laboratories MLA Electra 750
Medical Laboratories MLA Electra 800
Medical Laboratories MLA Electra 900
Medical Laboratories MLA Electra 900 C
Organon Teknika Coag-A-Mate Data-Mate
Organon Teknika Coag-A-Mate RA4
Organon Teknika Coag-A-Mate X-2
Organon Teknika Coag-A-Mate XC
Organon Teknika Coag-A-Mate XC Plus
Organon Teknika Coag-A-Mate XM
Ortho Koagulab 16S
Ortho Koagulab 32S
Ortho Koagulab 40-A
Sigma AccuStasis 1000
Sigma AccuStasis 2000
Sysmex CA-5000

Analyte: Red Blood Cell Count (Erythrocyte Count)

Test Category: Automated hematology procedures with differentials that do not require operator intervention during the analytic process and that do not require an analyst to interpret a histogram or scattegram

Test System, Assay or Examination:

Baker 9000
Coulter JS
Coulter JT
Coulter JT2
Coulter JT3
Coulter MAXM
Coulter S Plus IVW/DIF
Coulter S Plus VI/STKR
Coulter STKR
Coulter STKS
Coulter T540
Coulter T660
Coulter T890
Roche Cobas Argos
Roche Cobas Minos STX

Test Category: Automated hematology procedures without differentials that do not require operator intervention during the analytic process

Test System, Assay or Examination:

Baker 8000
Becton Dickinson QBC AutoRead
Coulter 530
Coulter 560
Coulter 770
Coulter CBC4
Coulter CBC5
Coulter M430
Coulter S Plus
Coulter S Plus II
Coulter S Plus III
Coulter S Plus IV
Coulter S Plus Jr.
Coulter S Plus V
Coulter S550
Coulter S880
Coulter ST
Electronucleonics Cellstar
Ortho ELT 15
Ortho ELT 1500
Ortho ELT 8
Ortho ELT 8/DS
Ortho ELT 8/WS
Ortho ELT 800/WS
Roche Cobas Minos STE
Sequoia Turner 1600
Sequoia Turner 700
Sequoia Turner 900
Sysmex CC-130
Sysmex CC-150
Sysmex CC-180
Sysmex CC-700
Sysmex CC-720
Sysmex CC-780
Sysmex E-2500
Sysmex E-5000
Sysmex K-1000
Sysmex NE-8000

Analyte: Thrombin Time

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:

Helena Cascade 480
Organon Teknika Coag-A-Mate RA4
Organon Teknika Coag-A-Mate XM

Analyte: White Blood Cell (WBC) Differential

Test Category: Automated hematology procedures with differentials that do not require operator intervention during the analytic process and that do not require an analyst to interpret a histogram or scattegram

Test System, Assay or Examination:

Baker 9000
Coulter JS
Coulter JT
Coulter JT2
Coulter JT3
Coulter MAXM
Coulter S Plus IVW/DIF
Coulter S Plus VI/STKR
Coulter STKR
Coulter STKS
Coulter T540
Coulter T660
Coulter T890
Roche Cobas Argos
Roche Cobas Minos STX

Test Category: Manual WBC differential; analyst not required to identify atypical cells

Test System, Assay or Examination: All Test Systems, Assays or Examinations

Analyte: White Blood Cell Count (Leukocyte Count)

Test Category: Automated hematology procedures with differentials that do not require operator intervention during the analytic process and that do not require an analyst to interpret a histogram or scattegram

Test System, Assay or Examination:

Baker 9000
Coulter JS
Coulter JT
Coulter JT2
Coulter JT3
Coulter MAXM
Coulter S Plus IVW/DIF
Coulter S Plus VI/STKR
Coulter STKR
Coulter STKS
Coulter T540
Coulter T660
Coulter T890
Roche Cobas Argos
Roche Cobas Minos STX

Test Category: Automated hematology procedures without differentials that do not require operator intervention during the analytic process

Test System, Assay or Examination:

Baker 8000
Becton Dickinson QBC AutoRead
Coulter 530
Coulter 560
Coulter 770
Coulter CBC4
Coulter CBC5
Coulter M430
Coulter S Plus
Coulter S Plus II
Coulter S Plus III
Coulter S Plus IV
Coulter S Plus Jr.
Coulter S Plus V
Coulter S550
Coulter S880
Coulter ST
Electronucleonics Cellstar
Ortho ELT 15
Ortho ELT 1500
Ortho ELT 8
Ortho ELT 8/DS
Ortho ELT 8/WS
Ortho ELT 800
Ortho ELT 800/WS
Roche Cobas Minos STE
Sequoia Turner 1600
Sequoia Turner 700
Sequoia Turner 900
Sysmex CC-130
Sysmex CC-150
Sysmex CC-180
Sysmex CC-700
Sysmex CC-720
Sysmex CC-780
Sysmex E-2500
Sysmex E-5000
Sysmex K-1000
Sysmex NE-8000

Speciality/Subspeciality: Immunohematology

Analyte: ABO group—RBC

Test Category: Manual procedures with limited steps and limited sample or reagent preparation

Test System, Assay or Examination:

Amtec Anti-A, Anti-B, Anti-A,B (slide, tube)
Amtec Anti-A1 Lectin (slide, tube)
Amtec CM-Tec Anti-A, Anti-B, Anti-

VOL
57
ISS
40
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28
992
UMI

A,B (microwell)
Amtec CM-Tec Anti-A, Anti-B, Anti-A,B (tube)
BCA Anti-A, Anti-B, Anti-A,B (microplate)
BCA Anti-A, Anti-B, Anti-A,B (slide, tube)
BCA Anti-A1 Lectin (slide, tube)
Dade Anti-A, Anti-B, Anti-A,B (microplate)
Dade Anti-A, Anti-B, Anti-A,B (slide, tube)
Dade Mono-Type Anti-A, Anti-B, Anti-A+B (microplate)
Dade Mono-Type Anti-A, Anti-B, Anti-A+B (slide, tube)
Gamma Anti-A, Anti-B, Anti-A,B (slide, tube)
Gamma Anti-A1 Lectin (slide, tube)
Gamma Omni-Series II Anti-A, Anti-B, Anti-A,B (microwell)
Gamma Omni-Series II Anti-A, Anti-B, Anti-A,B (tube)
Gamma's Gamma-clone Anti-A, Anti-B, Anti-A+B (microwell)
Gamma's Gamma-clone Anti-A, Anti-B, Anti-A+B (slide, tube)
Immucor Anti-A, Anti-B, Anti-A,B (microplate)
Immucor Anti-A, Anti-B, Anti-A,B (slide, tube)
Immucor Anti-A, Anti-B, Anti-A,B—murine (microplate)
Immucor Anti-A, Anti-B, Anti-A,B—murine (slide, tube)
Immucor Anti-A1 (slide, tube)
Ortho Anti-A1 Lectin (slide, tube)
Ortho BioClone Anti-A, Anti-B, Anti-A+B (microplate)
Ortho BioClone Anti-A, Anti-B, Anti-A+B (slide, tube)

Analyte: ABO group confirmation—Serum, Plasma
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Amtec Serum Grouping Cells
BCA Confirmcells and Versa Cells
Dade Reverse-Cyte (microplate)
Dade Reverse-Cyte (tube)
Gamma Reverse Group (microwell)
Gamma Reverse Group (tube)
Immucor Referencells
Ortho Affirmagen

Analyte: D(Rho) Type
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Amtec Anti-D (slide, rapid tube)
Amtec CM-Tec Anti-D (microwell)
Amtec CM-Tec Anti-D (slide, saline tube)
BCA Anti-D (saline tube)
BCA Anti-D (slide, rapid tube)
BCA UltraSera Anti-D (microplate)
BCA UltraSera Anti-D (slide, tube)
Dade Anti-D (microplate)
Dade Anti-D (slide, rapid tube)
Dade Chemically Modified Anti-D (microplate)
Dade Chemically Modified Anti-D (slide, tube)
Gamma Anti-D (saline tube)
Gamma Anti-D (slide, modified tube)
Gamma RST/Omni-Series II Anti-D (microwell)
Gamma RST/Omni-Series II Anti-D (slide, saline tube)
Gamma's Gamma-clone Anti-D (microwell)
Gamma's Gamma-clone Anti-D (slide, tube)
Immucor Anti-D (microplate)
Immucor Anti-D (saline tube)
Immucor Anti-D (slide, tube)
Immucor Anti-D Chem-D (microplate)
Immucor Anti-D Chem-D (slide, tube)
Ortho Anti-D (slide, modified tube)
Ortho BioClone Anti-D (microplate)
Ortho BioClone Anti-D (slide, rapid tube)

Analyte: Du (Weak D RBC antigen)
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Amtec Anti-D
Amtec CM-Tec Anti-D
BCA Anti-D
BCA UltraSera Anti-D
Dade Anti-D
Dade Chemically Modified Anti-D
Gamma Anti-D
Gamma RST/Omni-Series II Anti-D
Gamma's Gamma-clone Anti-D
Immucor Anti-D
Immucor Anti-D Chem-D
Ortho Anti-D
Ortho BioClone Anti-D

Analyte: RBC antigen type other than A or B
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Amtec Anti-H Lectin
Amtec Anti-N Lectin
Amtec Blood Grouping Reagents (microwell)
Amtec Blood Grouping Reagents (slide, tube)
Amtec Blood Grouping Reagents for Indirect Antiglobulin
BCA Anti-H Lectin
BCA Anti-N Lectin
BCA Blood Grouping Reagents (slide, tube)
BCA Blood Grouping Reagents for Indirect Antiglobulin Test
Dade Blood Grouping Reagents (slide, tube)
Dade Blood Grouping Reagent Chemically Modified (slide, tube)
Dade Blood Grouping Reagents for Indirect Antiglobulin Test
Dade Lectin-H
Gamma Anti-H Lectin
Gamma Anti-N Lectin
Gamma Blood Grouping Reagents (slide, tube)
Gamma Blood Grouping Reagents for Indirect Antiglobulin
Gamma RST-Series Blood Grouping Reagents (slide, tube)
Gamma's Gamma ID-series Blood Grouping Reagents
Gamma's Gamma-clone Blood Grouping Reagents (microwell)
Gamma's Gamma-clone Blood Grouping Reagents (tube)
Immucor Anti-N Lectin
Immucor Blood Grouping Reagents (microplate)
Immucor Blood Grouping Reagents (slide, tube)
Immucor Blood Grouping Reagents—Indirect Antiglobulin
Ortho BioClone Blood Grouping Reagents
Ortho Blood Grouping Reagents (slide, tube)
Ortho Blood Grouping Reagents for Indirect Antiglobulin Test

Analyte: Unexpected RBC antibody—detection—serum
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Amtec Screening Cells—SAL/ALB/LISS/PEG/IAT
BCA Bio-Cells—SAL/ALB/LISS/PEG/IAT
BCA Spectrogen—SAL/ALB/LISS/PEG/IAT
Dade Search-Cyte—SAL/ALB/LISS/PEG/IAT
Dade Search-Cyte Plus—SAL/ALB/LISS/PEG/IAT
Dade Search-Cyte TCS—SAL/ALB/LISS/PEG/IAT
Gamma Duet—SAL/ALB/LISS/PEG/IAT
Gamma Pool—SAL/ALB/LISS/PEG/IAT
Gamma Trio—SAL/ALB/LISS/PEG/IAT
Gamma r-set—SAL/ALB/LISS/PEG/IAT
Immucor Hemantigen—SAL/ALB/LISS/PEG/IAT
Immucor Panoscreen—SAL/ALB/LISS/PEG/IAT
Ortho Pooled Screening Cells—SAL/ALB/LISS/PEG/IAT
Ortho Selectogen—SAL/ALB/LISS/PEG/IAT
Ortho Surgiscreen—SAL/ALB/LISS/PEG/IAT

Speciality/Subspeciality: Mycobacteriology
Analyte: Acid-fast bacteria
Test Category: Direct acid fast smear

Test System, Assay or Examination: All Test Systems, Assays or Examinations
Speciality/Subspeciality: Mycology
Analyte: All fungi
Test Category: Primary culture inoculation
Test System, Assay or Examination: All Test Systems, Assays or Examinations
Analyte: Candida
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Becton Dickinson Directigen 1–2–3 Disseminated Candidiasis
Analyte: Cryptococcus
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Baxter MYCO-Immune Cryptococcal Ag Latex Agg (direct Ag)
Meridian Cryptococcal Antigen Latex Agg. System (dir Ag)
Meridian Diagnostics Premier Cryptococcal Antigen (dir Ag)
Analyte: Dermatophytes
Test Category: Tests using selective media for presence or absence of Dermatophytes
Test System, Assay or Examination:
Becton Dickinson BBL Dermatophyte Test Medium
Carr-Scarborough Dermatophyte Test Medium
Hardy Diagnostics Dermatophyte Test Medium
Incstar Dermatophyte Test Medium
Medical Technology Corp. Oricult DTM
Analyte: Fungal elements
Test Category: Microscopic evaluation of KOH preparations
Test System, Assay or Examination: All Test Systems, Assays or Examinations
Analyte: Yeast
Test Category: Automated mycology procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Vitek Systems VITEK Yeast Biochemical Card
Test Category: ID of C. albican (excluding semi-automated & semi-quant. procedures)
Test System, Assay or Examination:
Analytab API 20C Yeast Identification Kits
Analytab API Germ Tube
Analytab Yeast Ident
Baxter MicroScan Rapid Yeast Identification Panel
Carr-Scarborough C. albicans Disc Screening Kit
Culture Kits, Inc. CandiKit
Innovative Diagnostic Systems IDS Rapid SS/U System
Medical Wire Equip. MicroRing YT
Test Category: Isolation of yeast with identification limited to Candida albicans
Test System, Assay or Examination: All Test Systems, Assays or Examinations
Speciality/Subspeciality: Parasitology
Analyte: Enterobius vermicularis
Test Category: Microscopic evaluation of pinworm preparations
Test System, Assay or Examination: All Test Systems, Assays or Examinations
Analyte: Intestinal parasites
Test Category: Manual procedures with limited steps and limited sample or reagent preparation
Test System, Assay or Examination:
Alexon Biomedical ProSpect Giardia
Antibodies Inc. Giard EIA
Test Category: Microscopic evaluation of direct wet mount preparations
Test System, Assay or Examination: All Test Systems, Assays or Examinations
Analyte: Trichomonas
Test Category: Microscopic evaluation of direct wet mount preparations
Test System, Assay or Examination: All Test Systems, Assays or Examinations
Speciality/Subspeciality: Toxicology/TDM
Analyte: Acetaminophen
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott ADX
Abbott TDX
Abbott TDX-FLx
Dupont ACA
Dupont ACA IV
Dupont ACA V
Instrumentation Laboratories IL Monarch Plus
Analyte: Amikacin
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott TDX
Abbott TDX FLx
Baxter Stratus
Baxter Stratus II
Dupont ACA
Dupont ACA IV
Dupont ACA V
Instrumentation Laboratories IL Monarch Plus
Roche Cobas FARA
Roche Cobas FARA II
Roche Cobas Mira
Roche Cobas Mira S
Analyte: Amphetamines
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott ADX
Abbott TDX
Abbott TDX FLx
Dupont ACA IV
Dupont ACA V
Dupont Dimension
Instrumentation Laboratories IL Monarch Plus
Analyte: Barbiturates
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott ADX
Abbott TDX
Abbott TDX FLx
Dupont ACA IV
Dupont ACA V
Dupont Dimension
Instrumentation Laboratories IL Monarch Plus
Analyte: Benzodiazepines
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott ADX
Abbott TDX
Abbott TDX FLx
Dupont ACA IV
Dupont ACA V
Dupont Dimension
Instrumentation Laboratories IL Monarch Plus
Analyte: Cannabinoids
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott ADX
Abbott TDX
Abbott TDX FLx
Dupont ACA IV
Dupont ACA V
Dupont Dimension
Instrumentation Laboratories IL Monarch Plus
Analyte: Carbamazepine
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott TDX
Abbott TDX FLx
Ames Seralyzer III
Baxter Stratus
Baxter Stratus II
Beckman Array 360

Dupont ACA
Dupont ACA IV
Dupont ACA V
Dupont Dimension
Instrumentation Laboratories IL Monarch Plus
PB Diagnostics OPUS
Roche Cobas FARA
Roche Cobas FARA II
Roche Cobas Mira
Roche Cobas Mira S
Analyte: Carbamazepine, Free
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott TDX
Abbott TDX FLx
Analyte: Cocaine Metabolites
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott ADX
Abbott TDX
Abbott TDX FLx
Dupont ACA IV
Dupont ACA V
Dupont Dimension
Instrumentation Laboratories IL Monarch Plus
Analyte: Cyclosporine
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott TDX
Abbott TDX FLx
Dupont ACA
Dupont ACA IV
Dupont ACA V
Analyte: Digitoxin
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott TDX
Abbott TDX FLx
Baxter Stratus
Baxter Stratus II
Dupont ACA IV
Dupont ACA V
Analyte: Digoxin
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott TDX
Abbott TDX FLx
Ames Clinimate—TDA
Ames Seralyzer III
Baxter Stratus
Baxter Stratus II
Beckman Synchron CX 4
Beckman Synchron CX 5
Becton Dickinson Affinity
Boehringer Mannheim ES 300
Ciba Corning ACS 180
Dupont ACA
Dupont ACA IV
Dupont ACA V
Dupont Dimension
Instrumentation Laboratories IL Monarch Plus
PB Diagnostics OPUS
Technicon Chem 1
Analyte: Disopyramide
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott TDX
Abbott TDX FLx
Analyte: Drugs of Abuse in Urine
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abuscreen ONTRAK
Analyte: Ethanol (Alcohol)
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott ADX
Abbott TDX
Abbott TDX FLx
Baxter Paramax
Baxter Paramax 720 ZX
Boehringer Mannheim Hitachi 705
Boehringer Mannheim Hitachi 717
Dupont ACA
Dupont ACA IV
Dupont ACA V
Dupont Dimension
Instrumentation Laboratories IL Monarch Plus
Kodak Ektachem 700 XR
Analyte: Ethosuximide
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott TDX
Abbott TDX FLx
Dupont ACA
Dupont ACA IV
Dupont ACA V
Instrumentation Laboratories IL Monarch Plus
Analyte: Flecainide
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott TDX
Abbott TDX FLx
Analyte: Gentamicin
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott TDX
Abbott TDX FLx
Baxter Stratus
Baxter Stratus II
Beckman Array 360
Beckman Synchron CX 4
Beckman Synchron CX 5
Dupont ACA
Dupont ACA IV
Dupont ACA V
Dupont Dimension
Instrumentation Laboratories IL Monarch Plus
Roche Cobas FARA
Roche Cobas FARA II
Roche Cobas Mira
Roche Cobas Mira S
Technicon Chem 1
Analyte: Kanamycin
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott TDX
Abbott TDX FLx
Analyte: Lidocaine
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott TDX
Abbott TDX FLx
Baxter Stratus
Baxter Stratus II
Dupont ACA
Dupont ACA IV
Dupont ACA V
Instrumentation Laboratories IL Monarch Plus
Analyte: Methadone
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott ADX
Abbott TDX FLx
Instrumentation Laboratories IL Monarch Plus
Analyte: Methamphetamines
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott ADX
Abbott TDX
Abbott TDX FLx
Analyte: Methaqualone
Test Category: Automated procedures that do not require operator

intervention during the analytic process
Test System, Assay or Examination:
Instrumentation Laboratories IL Monarch Plus
Analyte: Methotrexate
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott TDX
Abbott TDX FLx
Dupont ACA
Dupont ACA IV
Dupont ACA V
Analyte: N-Acetylprocainamide (NAPA)
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott TDX
Abbott TDX FLx
Baxter Stratus
Baxter Stratus II
Dupont ACA
Dupont ACA IV
Dupont ACA V
Instrumentation Laboratories IL Monarch Plus
Roche Cobas FARA
Roche Cobas FARA II
Roche Cobas Mira
Roche Cobas Mira S
Analyte: Netilmycin
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott TDX
Abbott TDX FLx
Analyte: Opiates
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott ADX
Abbott TDX
Abbott TDX FLx
Dupont ACA IV
Dupont ACA V
Dupont Dimension
Instrumentation Laboratories IL Monarch Plus
Analyte: Phencyclidine
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott ADX
Abbott TDX
Abbott TDX FLx
Dupont ACA IV
Dupont ACA V
Dupont Dimension
Instrumentation Laboratories IL Monarch Plus
Analyte: Phenobarbital
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott TDX
Abbott TDX FLx
Ames Seralyzer
Ames Seralyzer III
Baxter Stratus
Baxter Stratus II
Beckman Array 360
Beckman Synchron CX 4
Beckman Synchron CX 5
Dupont ACA
Dupont ACA IV
Dupont ACA V
Dupont Dimension
Instrumentation Laboratories IL Monarch Plus
PB Diagnostics OPUS
Roche Cobas FARA
Roche Cobas FARA II
Roche Cobas Mira
Roche Cobas Mira S
Technicon Chem 1
Analyte: Phenytoin
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott TDX
Abbott TDX FLx
Ames Seralyzer
Ames Seralyzer III
Baxter Stratus
Baxter Stratus II
Beckman Array 360
Beckman Synchron CX 4
Beckman Synchron CX 5
Dupont ACA
Dupont ACA IV
Dupont ACA V
Dupont Dimension
Instrumentation Laboratories IL Monarch Plus
PB Diagnostics OPUS
Roche Cobas FARA
Roche Cobas FARA II
Roche Cobas Mira
Roche Cobas Mira S
Technicon Chem 1
Analyte: Phenytoin, Free
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott TDX
Abbott TDX FLx
Analyte: Primidone
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott TDX
Abbott TDX FLx
Baxter Stratus
Dupont ACA
Dupont ACA IV
Dupont ACA V
Instrumentation Laboratories IL Monarch Plus
Roche Cobas FARA
Roche Cobas FARA II
Roche Cobas Mira
Roche Cobas Mira S
Analyte: Procainamide
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott TDX
Abbott TDX FLx
Baxter Stratus
Baxter Stratus II
Dupont ACA
Dupont ACA IV
Dupont ACA V
Instrumentation Laboratories IL Monarch Plus
Roche Cobas FARA
Roche Cobas FARA II
Roche Cobas Mira
Roche Cobas Mira S
Analyte: Propoxyphene
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Instrumentation Laboratories IL Monarch Plus
Analyte: Quinidine
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott TDX
Abbott TDX FLx
Baxter Stratus
Baxter Stratus II
Beckman Array 360
Dupont ACA
Dupont ACA IV
Dupont ACA V
Dupont Dimension
Instrumentation Laboratories IL Monarch Plus
Roche Cobas FARA
Roche Cobas FARA II
Roche Cobas Mira
Roche Cobas Mira S
Analyte: Salicylates
Test Category: Automated procedures that do not require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott ADX

VOL
57
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Abbott TDX

Abbott TDX FLx

Baxter Paramax

Baxter Paramax 720 ZX

Boehringer Mannheim Hitachi 705

Boehringer Mannheim Hitachi 717

Dupont ACA

Dupont ACA IV

Dupont ACA V

Dupont Dimension

Instrumentation Laboratories IL Monarch Plus

Kodak Ektachem 500

Kodak Ektachem 700 XR

Analyte: Streptomycin

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:

Abbott TDX

Abbott TDX FLx

Analyte: Theophylline

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:

Abbott TDX

Abbott TDX FLx

Ames Clinimate—TDA

Ames Seralyzer

Ames Seralyzer III

Baxter Stratus

Baxter Stratus II

Beckman Array 360

Beckman Synchron CX 4

Beckman Synchron CX 5

Ciba Corning Biotrack 516

Dupont ACA

Dupont ACA IV

Dupont ACA V

Dupont Dimension

Instrumentation Laboratories IL Monarch Plus

Kodak Ektachem 500

Kodak Ektachem 700 XR

Kodak Ektachem DT SC Module

PB Diagnostics OPUS

Roche Cobas FARA

Roche Cobas FARA II

Roche Cobas Mira

Roche Cobas Mira S

Technicon Chem 1

Analyte: Tobramycin

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:

Abbott TDX

Abbott TDX FLx

Baxter Stratus

Baxter Stratus II

Beckman Array 360

Dupont ACA

Dupont ACA IV

Dupont ACA V

Dupont Dimension

Instrumentation Laboratories IL Monarch Plus

Roche Cobas FARA

Roche Cobas FARA II

Roche Cobas Mira

Roche Cobas Mira S

Technicon Chem 1

Analyte: Tricyclic Antidepressants

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:

Abbott ADX

Abbott TDX

Abbott TDX FLx

Dupont ACA IV

Dupont ACA V

Analyte: Valproic Acid

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:

Abbott TDX

Abbott TDX FLx

Dupont ACA

Dupont ACA IV

Dupont ACA V

Instrumentation Laboratories IL Monarch Plus

PB Diagnostics OPUS

Roche Cobas FARA

Roche Cobas FARA II

Roche Cobas Mira

Roche Cobas Mira S

Analyte: Valproic Acid, Free

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:

Abbott TDX

Abbott TDX FLx

Analyte: Vancomycin

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:

Abbott TDX

Abbott TDX FLx

Dupont ACA IV

Dupont ACA V

Dupont Dimension

Instrumentation Laboratories IL Monarch Plus

Speciality/Subspeciality: Urinalysis

Analyte: Qualitative Urine Dipstick/Tablet Analytes

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:

Ames Clinitek 100

Ames Clinitek 200 Plus

Behring Rapidmat II

Behring Rapidmat II T

Analyte: Specific Gravity

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:

Behring Rapidmat II Digital Refractometer

Analyte: Urinary Sediment Microscopic Elements

Test Category: Microscopic analysis of urinary sediment

Test System, Assay or Examination: All Test Systems, Assays or Examinations

Speciality/Subspeciality: Virology

Analyte: Adenovirus

Test Category: Manual procedures with limited steps and limited sample or reagent preparation

Test System, Assay or Examination:

Analytab Adenovirus Test Kit (EIA) (direct antigen)

Analytab Adenovirus Type 40 & 41 (EIA) (direct antigen)

Cambridge Biotech Adenoclone (EIA) (direct antigen)

Cambridge Biotech Adenoclone-type 40/41 (EIA) (dir Ag)

Analyte: Herpes simplex

Test Category: Manual procedures with limited steps and limited sample or reagent preparation

Test System, Assay or Examination:

Fairleigh Dickinson Lab ELISA for H. Simplex (dir Ag)

Kodak SureCell (direct antigen)

Wampole Virogen Herpes latex slide test (direct antigen)

Analyte: Respiratory syncitial virus

Test Category: Automated procedures that do not require operator intervention during the analytic process

Test System, Assay or Examination:

Vitek Systems Vidas RSV (direct antigen)

Test Category: Manual procedures with limited steps and limited sample or reagent preparation

Test System, Assay or Examination:

Abbott Test Pack RSV (EIA) (direct antigen)

Becton Dickinson Directigen RSV (EIA) (direct antigen)

Sanofi/Kallestad Pathfinder RSV (direct antigen)

Analyte: Respiratory viruses (Influenza A&B, parainfluenza

Test Category: Manual procedures with limited steps and limited sample or reagent preparation

Test System, Assay or Examination:

Becton Dickinson Directigen Flu A (direct antigen)

Analyte: Rotavirus

Test Category: Manual procedures with limited steps and limited sample or reagent preparation

Test System, Assay or Examination:

Abbott Rotazyme II Diagnostic Kit (direct antigen)
Analytab API Rotavirus Test Kit (direct antigen)
Bio-Medical ANI Biocard Rotovirus (direct antigen)
Cambridge Biotech Rotaclone (direct antigen)
Isolab RotaVirus EIA (direct antigen)
Medical Technology Corp Rotalex (direct antigen)
Meridian Diag. Meritec Rotavirus Latex (direct antigen)
Sanofi/Kallestad Pathfinder Rotavirus (direct antigen)
V-Tech Target Rotavirus (direct antigen)
Vitek SLIDEX Rota-kit 2 (direct antigen)
Wampole Virogen Rotatest (direct antigen)
Wellcome Rotavirus Latex Test (direct antigen)

Complexity: High

Speciality/Subspeciality: Bacteriology
Analyte: All Organisms
Test Category: Automated or semi-automated procedures that do require operator intervention during the analytic process

Test System, Assay or Examination:

Abbott MS-2/Advantage
Abbott Quantum II System
Analytab API UniScept System
Baxter AutoSCAN Walk/Away
Baxter MicroScan AutoSCAN 4
Baxter MicroScan Rapid Anaerobe ID Panel
Biolog GN Microplate/ES Microplate
Difco Pasco Tri Panel
Organon Autobac Series II
Radiometer Sensititre
Radiometer Sensititre Gram neg bacteria

Test Category: Identification of aerobes or anaerobes from specimens not in moderate complexity (e.g. Biochem/Physiol)

Test System, Assay or Examination:

Adams Scientific B. Cat Confirm
Adams Scientific Identicult—AE
Adams Scientific Identicult—BL
Adams Scientific Identicult—Neisseria
Adams Scientific Mug-Indole Disc
Adams Scientific Rapid-Hippurate
Adams Scientific Stat-Urease
American Biomedical Prod. B. Fragtex
Anaerobe Systems Bile Differential Disk
Anaerobe Systems Colistin 10 mcg. Differential Disk
Anaerobe Systems Kanamycin 1000 mcg Differential Disk
Anaerobe Systems Vancomycin 5 mcg Differential Disk
Analytab API 20 Streptococcus
Analytab API 20–A
Analytab API An-Ident
Analytab API Laboratories Rapid E
Analytab API Laboratories Rapid NFT
Analytab API Laboratories Rapid Strep
Analytab API StaphTrac
Analytab API Staphase III
Analytab API ZYM Microorganism Differentation
Analytab Quad Ferm +
Baxter Coagulase Plasma
Baxter Haemophilus/Neisseria Identif—Panel
Baxter MicroScan Gram Neg Panels
Baxter MicroScan Gram Pos Panels
Becton Dickinson Cefinase Discs
Becton Dickinson Miniteck
Calbiochem Padac Differentiation Discs
Calbiochem-Behring Anti-Dnase B
Carr Microbiologicals Beta Lactamase Reagent Disc
Carr Microbiologicals CSM Chromogenic B-Lactamase Disc
Carr Microbiologicals Hipp Microtube
Carr Microbiologicals Onpx-Indol Microtube
Carr Microbiologicals PYR Broth
Carr Microbiologicals PYR Discs
Carr Microbiologicals Pgua-Indol Microtube
Carr Microbiologicals Phos Microtubes
Carr Microbiologicals Pro Discs
Carr Microbiologicals Pyrr Microtubes
Carr-Scarborough ALN Differentiation Discs
Carr-Scarborough Acridine Orange Stain
Carr-Scarborough Rapid Glutamic Acid Decarboxy Microtube
Diagnostic Products Corp. PathoDx PYR Kit
Difco Differentiation Discs ALA
Difco Differentiation Discs Colistin 10 mcg
Difco Differentiation Discs Erythromycin 60 mcg
Difco Differentiation Discs Hippurate
Difco Differentiation Discs Kanamycin 1000 mcg
Difco Differentiation Discs Nitrate
Difco Differentiation Discs Penicillin G 2 units
Difco Differentiation Discs Rifampin 15 mcg
Difco Differentiation Discs SPS
Difco Differentiation Discs Spectinomycin
Difco Differentiation Discs Vancomycin 5 mcg
Difco DrySlide Beta-Lactamase
Difco Dryslide Oxidase
Difco Spot Test 10% Na Desoxycholate
Difco Spot Test Acridine Orange Stain
E–Y Laboratories Strep-A-Check PYR
E–Y Laboratories Swabzyme-Oxidase
Innovative Diagnostic Systems Beta Discs
Innovative Diagnostic Systems IDS Rapid SS/U System
Innovative Diagnostic Systems IDS Rapid STR System
Innovative Diagnostic Systems Modified IDS Rapid NH System
Innovative Diagnostic Systems Oxichrome Reagent
Innovative Diagnostic Systems Prophyrin Reagent
Innovative Diagnostic Systems Rap ANA II System
Innovative Diagnostic Systems Rap NF Plus System
Innovative Diagnostic Systems Rapid NF System
Kev Connecticut Diagnostics Visi-Strep
Meridian Indol Spot Test Kit
Micro Media Systems Bacterial ID Panels/Gram Neg/Gram Pos
Micro Media Systems M. Cat. Butyrate Disc
Micro-Bio-Logics KWIK–LAC
Micro-Bio-Logics Lyfo-KWIK OMI Kit
Micro-Bio-Logics Neisseria-KWIK Plus
Microbiological Specialties Beta-ase Tubes
Microbiological Specialties Enzymease I Tubes
Microbiological Specialties Glactosidase Tubes
Microtech Medical Systems Quadratiter ID
Pasco Labs Gram Neg ID System
Pro-Lab Hippurate Test
Pro-Lab Neisseria/Branhamella Differential Test
Pro-Lab Rosco D'Ala Rapid Test
Pro-Lab Rosco Pyrr
Remel ALA Disc
Remel Acridine Orange Stain
Remel Beta Lysin Disc
Remel Beta-Lactam Disc
Remel Bile Disc
Remel CEPH Lactam Disc
Remel Catarrhalis Test Strip
Remel Coagulase Plasma
Remel Colistin Disc
Remel Haemophilus ID Test Kit
Remel Hemastaph
Remel Kanamycin Disc
Remel Legionella ID Disc
Remel Microdase
Remel Nitrate Swab-Rapid Test
Remel Novobiocin Disc
Remel PYR Disc
Remel PYR/Esculin Disc
Remel Prophyrin (ALA) Disc
Remel Pyridoxal Disc
Remel SPS Disc
Remel Urea-PDA Discs

Roche Enterotube II
Unipath Oxoid Bile Esculin Discs
Unipath Oxoid ONPG Discs
Unipath Oxoid Oxidase ID Sticks
Unipath Oxoid SPS Discs
Unipath Oxoid V Factor Discs
Unipath Oxoid X & V Factor Discs
Unipath Oxoid X Factor Discs
Vitek Rapid E System
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Manual antimicrobial susceptibility testing (MIC)
Unipath Oxoid Diagnostic Reagent PET–RPLA
Unipath Oxoid Diagnostic Reagent TST–RPLA
Unipath Oxoid Diagnostic Reagent VET–RPLA
Analyte: Bacterial organisms
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Manual Nucleic Acid analysis
Test Category: Serogrouping or typing
Test System, Assay or Examination:
All Test Systems, Assays or Examinations
Analyte: Chlamydia
Test Category: Antigen or toxin test procedures or kits requiring microscopic evaluations
Test System, Assay or Examination:
Analytab IMAGEN
Baxter Bartels Chlamydiae Fluorescent Monoclonal Antibody
Baxter Bartels Chlamydiae Immunoperoxidase Test Kit
Cellabs Diagnostics Chlamydia-Cel TWAR IFA Test
Diagnostic Products Corp. Chlamydia-Check
Diagnostic Products Corp. PathoDx Chlamydia Trachomatis
Difco Chlamydia Direct Detection System
Incstar Chlamydia Direct Test System
Ortho Chlamydia (DFA)
Ortho Cultureset Chlamydia Identification Kit (FA)
Ortho Cultureset Chlamydia Identification Kit (PAP)
Sanofi/Kallestad Pathfinder (FA)
Scimedx Chlamydia Test Kit
Syva Microtrak Culture confirmation
Syva Microtrak Direct Specimen
Wellcome Chlamysel
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
ADI Diagnostics Visuwell Chlamydia (direct antigen)
Abbott Chlamydiazyme (EIA) (direct antigen)
Baxter Bartels Chlamydia (EIA) (direct antigen)
Ciba Corning Magic Lite Chlamydia (direct antigen)
Ortho Chlamydia Antigen ELISA Test (direct antigen)
Sanofi/Kallestad Pathfinder Chlamydia Microplate (dir. Ag)
Syva Microtrak Chlamydia EIA (direct antigen)
Analyte: Clostridium difficile
Test Category: Antigen or toxin test procedures or kits requiring microscopic evaluations
Test System, Assay or Examination:
Advanced Clinical Diag. CDT Toxi Test
Baxter C. difficile Toxin Assay Kit
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Baxter C. difficile Toxin A (EIA)
Cambridge Biotech Cytoclone A & B (EIA)
Analyte: Legionella
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Binax Equate Legionella Urinary Antigen Kit
Analyte: Legionella pneumophila
Test Category: Antigen or toxin test procedures or kits requiring microscopic evaluations
Test System, Assay or Examination:
Genetic Systems Legionella IFA Test Kit
Litton Legionella/DFA
Medical Diagnostics Technologies Legionella
Scimedx Legionella Test Kit/DFA
Zeus Legionella/DFA & IFA
Analyte: Neisseria gonorrhoeae
Test Category: Antigen or toxin test procedures or kits requiring microscopic evaluations
Test System, Assay or Examination:
Baxter Bartles N. gonorrhoeae Direct Fluorescent
Incstar N.gonorrhaeae Fluoro-Kit
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Abbott Gonozyme (direct antigen)
Analyte: Salmonella
Test Category: Serogrouping or typing
Test System, Assay or Examination:
Analytab API Serum Immsure Salmonella Test Kit
Wellcome Wellcolex Colour Salmonella Test
Analyte: Shigella
Test Category: Serogrouping or typing
Test System, Assay or Examination:
Wellcome Wellcolex Colour Shigella Test
Analyte: Streptococcus, group A
Test Category: Antigen or toxin test procedures or kits requiring microscopic evaluations
Test System, Assay or Examination:
Incstar Group A Streptococcus Fluoro-Kit (DFA test)
Zeus Group A Strep/DFA
Speciality/Subspeciality: General Chemistry
Analyte: ALT (SGPT)
Test Category: Automated or semi-automated procedures that do require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott Bichromatic ABA 100
Abbott Bichromatic ABA 200
American Monitor KDA
American Monitor Parallel
Technicon SMAC
Analyte: AST (SGOT)
Test Category: Automated or semi-automated procedures that do require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott Bichromatic ABA 100
Abbott Bichromatic ABA 200
American Monitor KDA
American Monitor Parallel
Technicon SMA 12/60
Technicon SMAC
Analyte: Albumin
Test Category: Automated or semi-automated procedures that do require operator intervention during the analytic process
Test System, Assay or Examination:
American Monitor KDA
American Monitor Parallel
Technicon SMA 12/60
Technicon SMAC
Analyte: Alkaline Phosphatase (ALP)
Test Category: Automated or semi-automated procedures that do require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott Bichromatic ABA 100
Abbott Bichromatic ABA 200
American Monitor KDA
American Monitor Parallel
Analyte: Alpha-Fetoprotein—Maternal Serum
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Abbott AFP EIA
Hybritech Tandem-E
Test Category: Radioimmunoassays
Test System, Assay or Examination:
Amersham Amerlex
Clinical Assays GammaDab
Analyte: Apolipoprotein B
Test Category: Gel based immunochemical procedures
Test System, Assay or Examination:

Behring M-partigen Kit
Analyte: Bilirubin, Direct
Test Category: Automated or semi-automated procedures that do require operator intervention during the analytic process
Test System, Assay or Examination:
American Monitor KDA
American Monitor Parallel
Technicon SMA 12/60
Technicon SMAC
Analyte: Bilirubin, Total
Test Category: Automated or semi-automated procedures that do require operator intervention during the analytic process
Test System, Assay or Examination:
American Monitor KDA
American Monitor Parallel
Technicon SMA 12/60
Technicon SMAC
Analyte: Blood Gases
Test Category: Automated or semi-auto blood gas analyses requiring operator intervention to calibrate instrument, equilibrate gas supplies, introduce sample into measuring chamber or flush sample line
Test System, Assay or Examination:
Ciba Corning 158
Ciba Corning 168
Ciba Corning 170
Ciba Corning 178
Analyte: Blood Lead
Test Category: Anodic stripping voltametry
Test System, Assay or Examination: All Test Systems, Assays or Examinations
Test Category: Atomic absorption
Test System, Assay or Examination: All Test Systems, Assays or Examinations
Analyte: CO2
Test Category: Automated or semi-automated procedures that do require operator intervention during the analytic process
Test System, Assay or Examination:
Technicon SMA 6/60
Technicon SMAC
Analyte: Calcium, total
Test Category: Automated or semi-automated procedures that do require operator intervention during the analytic process
Test System, Assay or Examination:
American Monitor KDA
American Monitor Parallel
Technicon SMA 12/60
Technicon SMAC
Analyte: Chloride
Test Category: Automated or semi-automated procedures that do require operator intervention during the analytic process
Test System, Assay or Examination:
Buchler Chloridometer
Technicon SMA 6/60
Technicon SMAC
Analyte: Chloride, Sweat (Cystic Fibrosis Sweat Test)
Test Category: Automated or semi-automated procedures that do require operator intervention during the analytic process
Test System, Assay or Examination:
Advanced Instruments Cystic Fibrosis Analyzer
Analyte: Cholesterol
Test Category: Automated or semi-automated procedures that do require operator intervention during the analytic process
Test System, Assay or Examination:
American Monitor KDA
American Monitor Parallel
Technicon SMA 12/60
Technicon SMAC
Analyte: Cortisol
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Amersham Amerlite
Test Category: Radioimmunoassays
Test System, Assay or Examination:
Amersham Amerlex
Becton Dickinson Corti-Cote
Bio-Rad Quantimune
Ciba Corning Magic (MGC)
Clinical Assays GammaCoat
Diagnostic Products Corp. Double Antibody
Micromedic Systems CONCEPT 4
Organon NML
Sanofi/Kallestad Quanticoat
Analyte: Creatine Kinase (CK)
Test Category: Automated or semi-automated procedures that do require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott Bichromatic ABA 100
Abbott Bichromatic ABA 200
American Monitor KDA
American Monitor Parallel
Technicon SMA 12/60
Technicon SMAC
Analyte: Creatinine
Test Category: Automated or semi-automated procedures that do require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott Bichromatic ABA 100
Abbott Bichromatic ABA 200
American Monitor KDA
American Monitor Parallel
Technicon SMA 12/60
Technicon SMA 6/60
Technicon SMAC
Analyte: Estradiol
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Amersham Amerlite
Analyte: Estriol-Total
Test Category: Radioimmunoassays
Test System, Assay or Examination:
Amersham Amerlex
Clinical Assays GammaDab
Diagnostic Products Corp. Coat-A-Count
Analyte: Estriol-unconjugated
Test Category: Radioimmunoassays
Test System, Assay or Examination:
Amersham Amerlex
Diagnostic Products Corp. Coat-A-Count
Analyte: Ferritin
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Amersham Amerlite
Hybritech Tandem-E
Test Category: Radioimmunoassays
Test System, Assay or Examination:
Amersham Amerlex
Becton Dickinson MAB
Becton Dickinson Monoclonal Solid Phase Coated Tube
Bio-Rad Quantimune
Diagnostic Products Corp. Coat-A-Count
Hybritech Tandem-R
Nichols Institute Allegro
Ramco IRMA
Analyte: Folate (Folic acid)
Test Category: Radioimmunoassays
Test System, Assay or Examination:
Becton Dickinson Simultrac
Becton Dickinson Simultrac S
Becton Dickinson Simultrac SNB
Bio-Rad Quantphase
Ciba Corning Magic (MGC)
Ciba Corning Magic Boil
Ciba Corning Magic/NB (no boil)
Clinical Assays No Boil
Clinical Assays Solid Phase
Diagnostic Products Corp. Charcoal Boil
Diagnostic Products Corp. Dualcount Charcoal
Diagnostic Products Corp. Dualcount No Boil
Diagnostic Products Corp. Dualcount Solid Phase Boil
Diagnostic Products Corp. Solid Phase/No Boil
Micromedic Combostat II
Analyte: Follicle Stimulating Hormone (FSH)
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Amersham Amerlite
Analyte: Gamma Glutamyl Transferase (GGT)
Test Category: Automated or semi-automated procedures that do require operator intervention during the analytic process

Test System, Assay or Examination:
American Monitor KDA
American Monitor Parallel
Technicon SMAC
Analyte: Glucose
Test Category: Automated or semi-automated procedures that do require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott Bichromatic ABA 100
Abbott Bichromatic ABA 200
American Monitor KDA
American Monitor Parallel
Technicon SMA 12/60
Technicon SMA 6/60
Technicon SMAC
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Sclavo
Seradyn
Stanbio
Analyte: Glycosylated Hemoglobin
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Binax Equate Glycohemoglobin
Analyte: HCG, Serum, Quantitative
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Abbott Beta-HCG 15/15
Amersham Amerlite
Diamedix Microassay Test Set
Hybritech Tandem-E
Test Category: Radioimmunoassays
Test System, Assay or Examination:
Amersham Amerlex-M
Becton Dickinson MAB
Becton Dickinson Solid Phase Coated Tube
Bio-Rad Cotube
Ciba Corning Magic (MGC)
Clinical Assays GammaDab
Diagnostic Products Corp. Coat-A-Count
Diagnostic Products Corp. Double Antibody
Hybritech Tandem-R
Nichols Institute Allegro
Organon NML
Serono HCG MAIA Clone
Analyte: HDL Cholesterol (post-precipitation VLDL & LDL)
Test Category: Automated or semi-automated procedures that do require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott Spectrum
Abbott Spectrum EPX
Abbott Spectrum Series II
Abbott Spectrum Series II CCX
Abbott TDX
Abbott TDX FLx
Abbott VP
Abbott Vision
American Monitor Diagnostics Excel
American Monitor Diagnostics ISP 1000
American Monitor Diagnostics ISP 2000
American Monitor KDA
American Monitor Parallel
Ames Clinistat
Ames Seralyzer III
Baxter Paramax
Baxter Paramax 720 ZX
Beckman Synchron CX 4
Beckman Synchron CX 5
Beckman Synchron CX 7
Boehringer Mannheim Hitachi 704
Boehringer Mannheim Hitachi 705
Boehringer Mannheim Hitachi 717
Boehringer Mannheim Hitachi 736
Boehringer Mannheim Hitachi 737
Boehringer Mannheim Hitachi 747
Ciba Corning 550 Express
Ciba Corning 570 Alliance
Ciba Corning 580 Alliance
Dupont ACA
Dupont ACA IV
Dupont ACA V
Dupont Analyst
Dupont Dimension
Dupont Dimension AR
Electronucleonics Gem-Profiler
Electronucleonics Gemini
Electronucleonics Gemstar
Electronucleonics Gemstar II
Instrumentation Laboratories IL Monarch
Instrumentation Laboratories IL Monarch Plus
Kodak Ektachem 400
Kodak Ektachem 500
Kodak Ektachem 700
Kodak Ektachem 700 XR
Kodak Ektachem DT 60
Olympus AU 5000
Olympus Demand
Roche Cobas FARA
Roche Cobas FARA II
Roche Cobas Mira
Roche Cobas Mira S
Technicon AXON
Technicon Assist
Technicon Chem 1
Technicon DAX 24
Technicon DAX 48
Technicon DAX 72
Technicon DAX 96
Technicon RA 1000
Technicon RA 2000
Technicon RA 500
Technicon RA XT
Analyte: Insulin
Test Category: Radioimmunoassays
Test System, Assay or Examination:
Ciba Corning Magic (MGC)
Diagnostic Products Corp. Coat-a-Count
Incstar Insulin
Pharmacia Insulin Test
Analyte: Iron
Test Category: Automated or semi-automated procedures that do require operator intervention during the analytic process
Test System, Assay or Examination:
American Monitor KDA
American Monitor Parallel
Technicon SMAC
Analyte: Iron Binding Capacity (post saturation/separation)
Test Category: Automated or semi-automated procedures that do require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott TDX
Abbott TDX FLx
Abbott VP
American Monitor Diagnostics Excel
American Monitor Diagnostics ISP 1000
American Monitor Diagnostics ISP 2000
American Monitor KDA
American Monitor Parallel
Baxter Paramax
Baxter Paramax 720 ZX
Beckman Synchron CX 4
Beckman Synchron CX 5
Beckman Synchron CX 7
Boehringer Mannheim Hitachi 704
Boehringer Mannheim Hitachi 705
Boehringer Mannheim Hitachi 717
Boehringer Mannheim Hitachi 736
Boehringer Mannheim Hitachi 737
Boehringer Mannheim Hitachi 747
Dupont ACA
Dupont ACA IV
Dupont ACA V
Dupont Dimension
Dupont Dimension AR
Electronucleonics Gem-Profiler
Electronucleonics Gemini
Electronucleonics Gemstar
Electronucleonics Gemstar II
Instrumentation Laboratories IL Monarch
Instrumentation Laboratories IL Monarch Plus
Kodak Ektachem 400
Kodak Ektachem 500
Kodak Ektachem 700
Kodak Ektachem 700 XR
Olympus AU 5000
Olympus Demand
Technicon Assist
Technicon Chem 1
Technicon RA 1000
Technicon RA 500
Analyte: Lactate Dehydrogenase (LDH)
Test Category: Automated or semi-automated procedures that do require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott Bichromatic ABA 100
Abbott Bichromatic ABA 200

American Monitor KDA
American Monitor Parallel
Technicon SMA 12/60
Technicon SMAC
Analyte: Lithium
Test Category: Atomic absorption
Test System, Assay or Examination:
Instrumentation Laboratories AA Spectro
Perkin Elmer
Test Category: Flame photometry
Test System, Assay or Examination:
Beckman Flame Photometer
Ciba Corning Flame Photometer
Instrumentation Laboratories IL Flame Photometer/Elect
Radiometer Flame Photometer
Analyte: Luteinizing Hormone (LH)
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Amersham Amerlite
NMS Pharmaceuticals COT Ovulation Test
Analyte: Magnesium
Test Category: Automated or semi-automated procedures that do require operator intervention during the analytic process
Test System, Assay or Examination:
American Monitor KDA
American Monitor Parallel
Analyte: Phosphorus
Test Category: Automated or semi-automated procedures that do require operator intervention during the analytic process
Test System, Assay or Examination:
American Monitor KDA
American Monitor Parallel
Technicon SMA 12/60
Technicon SMAC
Analyte: Potassium
Test Category: Automated or semi-automated procedures that do require operator intervention during the analytic process
Test System, Assay or Examination:
Technicon SMA 6/60
Technicon SMAC
Test Category: Flame photometry
Test System, Assay or Examination:
Beckman Flame Photometer
Instrumentation Laboratories IL Flame Photometer/Elect
Radiometer Flame Photometer
Analyte: Progesterone
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Amersham Amerlite
Analyte: Prolactin
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Amersham Amerlite
Hybritech Tandem-E
Analyte: Prostatic Acid Phosphatase
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Abbott PAP EIA
Hybritech Tandem-E
Test Category: Radioimmunoassays
Test System, Assay or Examination:
Clinical Assays GammaDab
Dupont RIANEN
Hybritech Tandem-R
Yang Laboratories RIA
Analyte: Protein, Total
Test Category: Automated or semi-automated procedures that do require operator intervention during the analytic process
Test System, Assay or Examination:
Technicon SMA 12/60
Technicon SMAC
Analyte: Retinol binding protein
Test Category: Gel based immunochemical procedures
Test System, Assay or Examination:
Behring LC-partigen Kit
Analyte: Sodium
Test Category: Automated or semi-automated procedures that do require operator intervention during the analytic process
Test System, Assay or Examination:
Technicon SMA 6/60
Technicon SMAC
Test Category: Flame photometry
Test System, Assay or Examination:
Beckman Flame Photometer
Instrumentation Laboratories IL Flame Photometer/Elect
Radiometer Flame Photometer
Analyte: Thyroid Stimulating Hormone (TSH)
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Amersham Amerlite
Ciba Corning Magic Lite
Diamedix Microassay Test Set
Hybritech Tandem-E
Test Category: Radioimmunoassays
Test System, Assay or Examination:
Abbott RIA Bead
Becton Dickinson MAB
Bio-Rad Cotube
Bio-Rad Echoclonal
Ciba Corning MAB (monoclonal)
Ciba Corning Magic (MGC)
Clinical Assays GammaDab
Diagnostic Products Corp. Coat-A-Count
Hybritech Tandem-R
Nichols Institute Allegro
Organon NML
Organon NML L.E.S.
Sanofi/Kallestad Quanticlone
Serono Maiaclone
Ventrex
Analyte: Thyroid Stimulating Hormone (TSH) (Neonatal)
Test Category: Radioimmunoassays
Test System, Assay or Examination:
Diagnostic Products Corp. Double Antibody
Analyte: Thyroid Stimulating Hormone—high sens. (TSH–HS)
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Hybritech Tandem-E
Test Category: Radioimmunoassays
Test System, Assay or Examination:
Clinical Assays GammaCoat
Hybritech Tandem-R
Analyte: Thyroxine (T4)
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Amersham Amerlite
Diamedix Microassay Test Set
Syva Emit
Test Category: Radioimmunoassays
Test System, Assay or Examination:
Becton Dickinson Monoclonal Solid Phase Coated Tube
Ciba Corning Magic (MGC)
Clinical Assays GammaCoat
Diagnostic Products Corp. Coat-a-Count
Micromedic Systems CONCEPT 4
Organon NML Tetra Tab
Organon NML Tetra Tube
Sanofi/Kallestad Quanticoat
Ventrex Coated Tube
Analyte: Thyroxine, Free (FT–4)
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Amersham Amerlite
Ciba Corning Magic Lite
Test Category: Radioimmunoassays
Test System, Assay or Examination:
Amersham Amerlex-M
Becton Dickinson MAB
Becton Dickinson Simultrac
Becton Dickinson Solid Phase Coated Tube
Ciba Corning Magic (MGC)
Clinical Assays Direct FT4
Clinical Assays Two Step
Diagnostic Products Corp. Coat-a-Count
Analyte: Triglyceride
Test Category: Automated or semi-automated procedures that do require operator intervention during the analytic process
Test System, Assay or Examination:
American Monitor KDA
American Monitor Parallel
Technicon SMA 12/60
Technicon SMAC
Analyte: Triiodothyronine (T–3) Uptake

Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Amersham Amerlite
Ciba Corning Magic Lite
Diamedix Microassay Test Set
Test Category: Radioimmunoassays
Test System, Assay or Examination:
Abbott Triobead 125
Becton Dickinson Solid Phase
Ciba Corning Magic (MGC) (25–35 normal range)
Ciba Corning Magic (MGC) (35–45 normal range)
Clinical Assays GammaCoat
Diagnostic Products Corp. Coat-a-Count
Microgenics
Micromedic Systems CONCEPT
Organon NML Tri Tab
Organon NML Tri Tube T3U
Sanofi/Kallestad Quanticoat
Analyte: Triiodothyronine (T3)
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Amersham Amerlite
Test Category: Radioimmunoassays
Test System, Assay or Examination:
Abbott RIA Bead
Amersham Amerlex-M
Becton Dickinson Solid Phase
Bio-Rad Quantimune II
Ciba Corning Magic (MGC)
Clinical Assays GammaCoat
Diagnostic Products Corp. Coat-A-Count
Diagnostic Products Corp. Double Antibody
Micromedic Systems CONCEPT 4
Organon NML
Sanofi/Kallestad Quanticoat
Analyte: Triiodothyronine, Free (FT-3)
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Amersham Amerlite
Test Category: Radioimmunoassays
Test System, Assay or Examination:
Amersham Amerlex-M
Diagnostic Products Corp. Coat-a-Count
Analyte: Urea (BUN)
Test Category: Automated or semi-automated procedures that do require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott Bichromatic ABA 100
Abbott Bichromatic ABA 200
American Monitor KDA
American Monitor Parallel
Technicon SMA 12/60
Technicon SMA 6/60
Technicon SMAC
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Seradyn
Analyte: Uric Acid
Test Category: Automated or semi-automated procedures that do require operator intervention during the analytic process
Test System, Assay or Examination:
American Monitor KDA
American Monitor Parallel
Technicon SMAC
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Seradyn
Analyte: Vitamin B12
Test Category: Radioimmunoassays
Test System, Assay or Examination:
Becton Dickinson Simultrac
Becton Dickinson Simultrac S
Becton Dickinson Simultrac SNB
Bio-Rad Quantphase
Ciba Corning Magic (MGC)
Ciba Corning Magic Boil
Ciba Corning Magic/NB (no boil)
Clinical Assays No-Boil
Clinical Assays Solid Phase
Diagnostic Products Corp. Charcoal Boil
Diagnostic Products Corp. Dualcount Charcoal
Diagnostic Products Corp. Dualcount No Boil
Diagnostic Products Corp. Dualcount Solid Phase Boil
Diagnostic Products Corp. Solid Phase/N Boil
Micromedic Combostat II
Speciality/Subspeciality: General Immunology
Analyte: Adenovirus Antibodies
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Virotech ELISA Antibody Test
Analyte: Albumin
Test Category: Gel based immunochemical procedures
Test System, Assay or Examination:
Behring LC-partigen Kit
Behring Nor-partigen Kit
Kallestad Endoplate RID
Kallestad Quantiplate RID
Analyte: Allergen specific IgE
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
3M Allergen Specific IgE FAST-Plus Test
3M IgE FASTSCREEN Assay
Alercheck Flipscreen II Visual Allergy Test
Alercheck Flipscreen quantitative Allergy Tests
Diagnostic Products Corp. AlaSTAT
MAST Allergy Systems (chemiluminescence)
Analyte: Allergen specific IgG
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination: 3M Allergen Specific IgG4 FAST Test
Analyte: Alpha-1-Acid Glycoprotein (orosomucoid)
Test Category: Gel based immunochemical procedures
Test System, Assay or Examination:
Behring Nor-partigen Kit
Hycor Accuplate
Kent Radial Immunodiffusion Test
Analyte: Alpha-1-Antitrypsin
Test Category: Gel based immunochemical procedures
Test System, Assay or Examination:
Behring Nor-partigen Kit
Helena Laboratories Quiplate System for RID
Hycor Accuplate
Kallestad Endoplate RID
Kallestad Quantiplate RID
Kent Radial Immunodiffusion Test
Analyte: Alpha-2-Macroglobulin
Test Category: Gel based immunochemical procedures
Test System, Assay or Examination:
Behring Nor-partigen Kit
Kent Radial Immunodiffusion Test
Analyte: Alpha-Fetoprotein—Tumor Marker
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Hybritech Tandem-E
Test Category: Radioimmunoassays
Test System, Assay or Examination:
Amersham Amerlex
Clinical Assays GammaDab
Analyte: Anti-Adrenal Antibodies
Test Category: Immunoassay methods requiring microscopic evaluations
Test System, Assay or Examination:
Scimedx Anti-adrenal Test System
Analyte: Anti-Brush Border Antibodies
Test Category: Immunoassay methods requiring microscopic evaluations
Test System, Assay or Examination:
Incstar Fluoro-Kit
Analyte: Anti-Canalicular Antibodies
Test Category: Immunoassay methods requiring microscopic evaluations
Test System, Assay or Examination:
Incstar Fluoro-Kit
Analyte: Anti-Cardiac Muscle Antibodies
Test Category: Immunoassay methods requiring microscopic evaluations
Test System, Assay or Examination:
Scimedx CMA Test System
Analyte: Anti-Cardiolipin Antibodies

Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
BioHyTech EIA Kit
Reaads Medical Products Anti-cardiolipin Semi-quant. Test
Sanofi/Kallestad Anti-cardiolipin Kit (EIA)
TheraTest Laboratories EL-ACA Test
Analyte: Anti-DNA Antibodies
Test Category: Immunoassay methods requiring microscopic evaluations
Test System, Assay or Examination:
Antibodies Inc. CrithiDNA Test Kit
Behring AFT System II
Incstar nDNA Fluoro-Kit
MarDx Anti-nDNA Antibody Test System
MeDiCa A-nDNA-A Test Kit
MeDiCa ANA/A-nDNA-A Test Kit
MeDiCa Multiple Antibody Test Kit
Sanofi/Kallestad Quantifluor Kit
Scimedx nDNA Test System
Virgo Anti-nDNA IFA Test
Zeus Anti-DNA Test System
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
BioHyTech EIA Kit
Diamedix Microassay Test Set
Hemagen DNA
Reaads Medical Products Anti-ds DNA Semi-quantitative Test
Sigma EIA
TheraTest Laboratories EL-ANA Profiles Test
Whittaker Bioproducts FIAX System
Whittaker Bioproducts RheumELISA kit
Whittaker Bioproducts dsDNA STAT
Analyte: Anti-DNP antibodies
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
BioHyTech EIA Kit
Diamedix Microassay Test Set
Sigma EIA
Analyte: Anti-Histone Antibodies
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
BioHyTech EIA Kit
Analyte: Anti-Jo-1
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Hemagen ENA
Analyte: Anti-Mitochondrial Antibodies (AMTA)
Test Category: Immunoassay methods requiring microscopic evaluations
Test System, Assay or Examination:
Behring AFT System I
Incstar Fluoro-Kit
MarDx Autoimmune IFA Screening Test System
MarDx Mitochondrial Antibodies Test System
MeDiCa AMA Test Kit
MeDiCa Multiple Antibody Test Kit
Sanofi/Kallestad Quantifluor Kit
Scimedx Auto Screen Test System
Scimedx MA Test System
Virgo AMA IFA Test
Zeus MA Test System
Analyte: Anti-Neutrophil Cytoplasm Antibodies
Test Category: Immunoassay methods requiring microscopic evaluations
Test System, Assay or Examination:
Scimedx Anti-Neutrophil Cytoplasm Antibody IFA Test System
Analyte: Anti-Nuclear Antibodies (ANA)
Test Category: Immunoassay methods requiring microscopic evaluations
Test System, Assay or Examination:
Amico ANA Test System
Antibodies Inc.
Behring AFT System I
Bion ANA Test Kit
Clinical Sciences
Hemagen
INOVA Diagnostics, Inc.
Immuno Concepts
Incstar ANA Colorimetric Kit
Incstar ANAFAST Kit
Incstar ANAFLUOR Kit
Incstar ANAZYME Kit
Incstar RL Fluoro-Kit ANA Fluorescent test
MarDx ANA Test System
MarDx Autoimmune IFA Screening Test System
MeDiCa ANA Test Kit
MeDiCa ANA/A-nDNA-A Test Kit
MeDiCa Multiple Antibody Test Kit
Ortho Fluoroset ANA
Quidel ANA IFA kit
Sanofi/Kallestad Quantifluor Kit
Scimedx ANA Test System
Scimedx Auto Screen Test System
Virgo ANA IFA Test
Zeus ANA Test
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
BioHyTech EIA Kit
Whittaker Bioproducts FIAX System
Analyte: Anti-Parietal Cell Antibodies
Test Category: Immunoassay methods requiring microscopic evaluations
Test System, Assay or Examination:
Incstar Fluoro-Kit
MarDx Autoimmune IFA Screening Test System
MarDx Parietal Cell Antibody Test System
MeDiCa APCA Test Kit
MeDiCa Multiple Antibody Test Kit
Sanofi/Kallestad Quantifluor Kit
Scimedx Auto Screen Test System
Scimedx PCA Test System
Analyte: Anti-RNP (Ribonucleoprotein)
Test Category: Gel based immunochemical procedures
Test System, Assay or Examination:
Behring ENA I Test
Scimedx ENA Detect I Test System
Scimedx ENA Detect II Test System
Scimedx ENA Detect III Test System
Zeus Poly-ENA Assay
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
BioHyTech EIA Kit
Diamedix Microassay Test Set
General Biometrics ImmunoWELL Sm/RNP Antibody Test
Hemagen ENA
Reaads Medical Products Anti-ENA (Sm/RNP complex) Qual Test
TheraTest Laboratories EL-ANA Profiles Test
Whittaker Bioproducts RheumELISA kit
Analyte: Anti-Reticulin Antibodies
Test Category: Immunoassay methods requiring microscopic evaluations
Test System, Assay or Examination:
Incstar Fluoro-Kit
Scimedx Auto Screen Test System
Analyte: Anti-Ribosomal Antibodies
Test Category: Immunoassay methods requiring microscopic evaluations
Test System, Assay or Examination:
Incstar Fluoro-Kit
Analyte: Anti-SS-A/Ro
Test Category: Gel based immunochemical procedures
Test System, Assay or Examination:
Behring ENA II Test
Scimedx ENA Detect III Test System
Zeus Poly-ENA Assay
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Diamedix Microassay Test Set
General Biometrics ImmunoWELL SS-A (Ro) Antibody Test
Hemagen ENA
TheraTest Laboratories EL-ANA Profiles Test
Whittaker Bioproducts RheumELISA kit
Analyte: Anti-SS-B/La
Test Category: Gel based immunochemical procedures
Test System, Assay or Examination:
Behring ENA II Test
Scimedx ENA Detect II Test System
Scimedx ENA Detect III Test System
Zeus Poly-ENA Assay
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Diamedix Microassay Test Set

General Biometrics ImmunoWELL SS-B (La) Antibody Test

Hemagen ENA

TheraTest Laboratories EL-ANA Profiles Test

Whittaker Bioproducts RheumELISA kit

Analyte: Anti-Scl-70

Test Category: Gel based immunochemical procedures

Test System, Assay or Examination:

Behring ENA III Test

Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process

Test System, Assay or Examination:

Diamedix Microassay Test Set

Hemagen ENA

Analyte: Anti-Skin Antibodies

Test Category: Immunoassay methods requiring microscopic evaluations

Test System, Assay or Examination:

MarDx Anti-Skin Antibody Test System

MeDiCa ASA Test Kit

Scimedx ASA Test System

Zeus Anti-Skin Antibody Test System

Analyte: Anti-Sm (Smith)

Test Category: Gel based immunochemical procedures

Test System, Assay or Examination:

Behring ENA I Test

Scimedx ENA Detect I Test System

Scimedx ENA Detect II Test System

Scimedx ENA Detect III Test System

Zeus Poly-ENA Assay

Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process

Test System, Assay or Examination:

BioHyTech EIA Kit

Diamedix Microassay Test Set

General Biometrics ImmunoWELL Sm Antibody Test

Hemagen ENA

Reaads Medical Products Anti-ENA (Sm/RNP complex) Qual Test

Reaads Medical Products Anti-SM Qualitative Test

TheraTest Laboratories EL-ANA Profiles Test

Whittaker Bioproducts RheumELISA kit

Analyte: Anti-Smooth Muscle Antibodies (ASMA)

Test Category: Immunoassay methods requiring microscopic evaluations

Test System, Assay or Examination:

Behring AFT System I

Incstar Fluoro-Kit

MarDx Autoimmune IFA Screening Test System

MarDx Smooth Muscle Antibody Test System

MeDiCa ASMA Test Kit

MeDiCa Multiple Antibody Test Kit

Sanofi/Kallestad Quantifluor Kit

Scimedx SMA Test System

Zeus SMA Test System

Analyte: Anti-Thyroglobulin Antibodies (ATA)

Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process

Test System, Assay or Examination:

Ames Sera-tek

General Biometrics Thyroglobulin Antibody Test

Test Category: Radioimmunoassays

Test System, Assay or Examination:

Kronus Kalibre-R Thyroglobulin Antibody RIA Kit

Analyte: Anti-Thyroid Antibodies

Test Category: Immunoassay methods requiring microscopic evaluations

Test System, Assay or Examination:

Incstar MT Fluoro-Kit

MarDx Anti-Thyroid Antibody Test System

MeDiCa ATA Test Kit

Sanofi/Kallestad Quantifluor Kit

Scimedx TA Test System

Zeus TA Test System

Analyte: Anti-Thyroid Microsomal Antibodies (AMA)

Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process

Test System, Assay or Examination:

Ames Sera-tek

General Biometrics Microsomal(Recombinant TPO) Ab Test

Test Category: Radioimmunoassays

Test System, Assay or Examination:

Kronus Kalibre TPO Antibody RIA Kit

Analyte: Bordetella pertussis Antibodies

Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process

Test System, Assay or Examination:

Labsystems Bordetella pertussis IgG EIA Kit

Analyte: C-Reactive Protein (CRP)

Test Category: Gel based immunochemical procedures

Test System, Assay or Examination:

Behring LC-partigen Kit

Hycor Accuplate

Kent Radial Immunodiffusion Test

Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process

Test System, Assay or Examination:

Whittaker Bioproducts FIAX System

Analyte: Candida albicans Antibodies

Test Category: Gel based immunochemical procedures

Test System, Assay or Examination:

Immuno-Mycologics ID-Candida Antibody System

Meridian Diagnostics Candida Immunodiffusion System

Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process

Test System, Assay or Examination:

Immuno-Mycologics Candi-Sphere EIA (CEIA)

Analyte: Carcinoembryonic Antigen (CEA)

Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process

Test System, Assay or Examination:

Abbott CEA-EIA Monoclonal

Abbott CEA-EIA One-Step

Hybritech Tandem-E

Test Category: Radioimmunoassays

Test System, Assay or Examination:

Abbott RIA Monoclonal

Hybritech Tandem-R

Analyte: Ceruloplasmin

Test Category: Gel based immunochemical procedures

Test System, Assay or Examination:

Behring Nor-partigen Kit

Kent Radial Immunodiffusion Test

Analyte: Chlamydia Trachomatis Antibodies

Test Category: Immunoassay methods requiring microscopic evaluations

Test System, Assay or Examination:

Amico Amizyme Chlamydia Trachomatis Antibody Test

Incstar Fluoro-Kit

Virgo Chlamydia trachomatis IFA Test

Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process

Test System, Assay or Examination:

Whittaker Bioproducts CHLAMYDELISA II

Whittaker Bioproducts CHLAMYDIA STAT

Analyte: Coccidioides Antibodies

Test Category: Gel based immunochemical procedures

Test System, Assay or Examination:

Immuno-Mycologics ID-Cocci Antibody System

Analyte: Complement C1 inhibitor

Test Category: Gel based immunochemical procedures

Test System, Assay or Examination:

Kent Radial Immunodiffusion Test

Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process

Test System, Assay or Examination:

Quidel C1–Inhibitor EIA

Analyte: Complement C1q

Test Category: Gel based immunochemical procedures

Test System, Assay or Examination:

Kent Radial Immunodiffusion Test

Analyte: Complement C2

Test Category: Gel based immunochemical procedures

Test System, Assay or Examination:

Kent Radial Immunodiffusion Test

Analyte: Complement C3

Test Category: Gel based immunochemical procedures
Test System, Assay or Examination:
Behring Nor-partigen Kit
Helena Laboratories Quiplate System for RID
Hycor Accuplate
Kallestad Endoplate RID
Kallestad Quantiplate RID
Kent Radial Immunodiffusion Test
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Whittaker Bioproducts FIAX System
Analyte: Complement C4
Test Category: Gel based immunochemical procedures
Test System, Assay or Examination:
Behring Nor-partigen Kit
Helena Laboratories Quiplate System for RID
Hycor Accuplate
Kallestad Endoplate RID
Kallestad Quantiplate RID
Kent Radial Immunodiffusion Test
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Whittaker Bioproducts FIAX System
Analyte: Complement C5
Test Category: Gel based immunochemical procedures
Test System, Assay or Examination:
Kent Radial Immunodiffusion Test
Analyte: Cytomegalovirus Antibodies (IgG/IgM)
Test Category: Immunoassay methods requiring microscopic evaluations
Test System, Assay or Examination:
Amico Amizyme CMV Ab Test
Bion CMV-G Antibody Test System
Gull Laboratories CMV IgM Test
Gull Laboratories CMV Test
Incstar Fluoro-Kit
Virgo Cytomegalovirus IFA Test
Zeus CMV Test System
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Abbott CMV Total AB EIA
Diamedix Microassay Test Set
Gull Laboratories CMV IgG ELISA
Gull Laboratories CMV IgM ELISA
Immucor Capture CMV
Incstar Clin-ELISA Test System
Labsystems CMV IgG EIA Kit
Labsystems CMV IgM EIA Kit
Sigma EIA
Virotech ELISA Antibody Test
Whittaker Bioproducts CMV CAP-M
Whittaker Bioproducts CMV STAT
Whittaker Bioproducts CMV STAT M
Whittaker Bioproducts CYTOMEGELISA II
Whittaker Bioproducts FIAX System
Zeus CMV IgG ELISA
Analyte: Entamebia histolytica Antibodies
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Sigma EIA
Analyte: Epstein-Barr virus Antibodies
Test Category: Immunoassay methods requiring microscopic evaluations
Test System, Assay or Examination:
Amico Amizyme EBV Ab Test
Bion EBV–G (VCA) Antibody Test System
Bion EBV–M (VCA) Antibody Test System
Diagnostic Technology EBNA Check
Diagnostic Technology EBV Check
Diagnostic Technology EBV/EA Check
Diagnostic Technology EBV/IgM Check
Granbio Inc. EBNA Anti-complement IFA
Granbio Inc. Epstein-Barr EA IgG IFA
Granbio Inc. Epstein-Barr VCA IgG IFA
Granbio Inc. Epstein-Barr VCA IgM IFA
Gull Laboratories EBV IgM Test
Gull Laboratories EBV Test
Gull Laboratories EBV–EA Test
Gull Laboratories EBV–NA Test
Organon Teknika EB–VCA IFA Kit II
Organon Teknika EBNA ACIF Kit
Organon Teknika EBV–EA IFA Kit
Organon Teknika EBV–M Kit
Virgo Epstein-Barr Virus—VCA Antibody IFA Test
Zeus EBV–EA Test System
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Granbio Inc. Epstein-Barr VCA IgG EIA
Granbio Inc. Epstein-Barr VCA IgM EIA
Gull Laboratories EBV IgG ELISA
Gull Laboratories EBV IgM ELISA
Incstar Clin-ELISA Test System
Ortho EBNA IgG Antibody ELISA
Ortho Epstein-Barr Virus VCA–IgG Antibody ELISA
Ortho Epstein-Barr Virus VCA–IgM Antibody ELISA
Whittaker Bioproducts EB VCA STAT
Whittaker Bioproducts EB VCA STAT M
Whittaker Bioproducts EBNA STAT
Whittaker Bioproducts FIAX System
Analyte: Febrile Agglutinins
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Becton Dickinson BBL—Tube Test
Difco Bacto-Tube Test
Gamma Biologicals Tube Test
Analyte: Fungus Antibodies
Test Category: Gel based immunochemical procedures
Test System, Assay or Examination:
Immuno-Mycologics ID–Fungal Antibody System
Meridian Diagnostics Fungal Immunodiffusion System
Analyte: HIV Antibody
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examinction:
Abbott HIVAB HIV–1 EIA
Cambridge Biotech Recombigen (env. & gag) HIV–1 EIA
Cellular Products Retro-Tek HIV–1 ELISA
Dupont HIV–1 ELISA
Electronucleonics HIV–1 IgG EIA
Genetic Systems HIV–1/HIV–2 EIA
Genetic Systems HIV–2 EIA
Genetic Systems LAV EIA
Organon Teknika Bioenzabead HIV
Organon Teknika Vironostilca HIV
Ortho Diagnostics HIV–1 ELISA
Syva Microtrak HIV–1 (env & gag) EIA
United Biomedical HIV–1 EIA
Test Category: Western blot
Test System, Assay or Examination:
Bio-Rad Novapathe HIV–1 Immunoblot
Cambridge Biotech HIV–1 WB
Organon Teknika Epiblot HIV
Analyte: HIV Antigen
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Abbott HIVAG–1
Analyte: HTLV Antibody
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Abbott HTLV–1 EIA
Cellular Products Retro-Tek HTLV–1 ELISA
Dupont HTLV–1 ELISA
Analyte: Haptoglobin
Test Category: Gel based immunochemical procedures
Test System, Assay or Examination:
Behring Nor-partigen Kit
Hycor Accuplate
Kallestad Endoplate RID
Kallestad Quantiplate RID
Kent Radial Immunodiffusion Test
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Whittaker Bioproducts FIAX System
Analyte: Helicobacter pylori Antibodies

Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Whittaker Bioproducts FIAX System
Whittaker Bioproducts PYLORI STAT
Analyte: Hemopexin
Test Category: Gel based immunochemical procedures
Test System, Assay or Examination:
Behring Nor-partigen Kit
Analyte: Hepatitis A Antibody (HAVAb)
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Abbott HAVAB EIA
Organon Teknika Hepanostika Anti-HAV Microelisa System
Test Category: Radioimmunoassays
Test System, Assay or Examination:
Abbott HAVAB
Sorin Biomedica AB–HAVK
Analyte: Hepatitis A Antibody—IgM
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
ADI Diagnostics Anti-HAV IgM EIA (Heprofile)
Abbott HAVAB–M EIA
Organon Teknika Hepanostika Anti-HAV IgM Microelisa System
Sorin Biomedica ETI–HA–IgMK
Test Category: Radioimmunoassays
Test System, Assay or Examination:
Abbott HAVAB–M RIA
Sorin Biomedica HA–IgMK (IRMA)
Analyte: Hepatitis B Core Antibody (Hb Core)
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Abbott CORZYME
Genetic Systems Anti-HBc EIA
Organon Teknika Hepanostika ANTICORE Microelisa System
Ortho HBc ELISA
Sorin Biomedica ETI–AB–COREK (EIA)
Test Category: Radioimmunoassays
Test System, Assay or Examination:
Abbott CORAB
Sorin Biomedica AB–COREK, AB–COREK J
Analyte: Hepatitis B Core Antibody—IgM
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Abbott CORZYME–M
Test Category: Radioimmunoassays
Test System, Assay or Examination:
Abbott CORAB–M
Sorin Biomedica CORE–IgMK (IRMA)
Analyte: Hepatitis B Surface Antibody
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Abbott AUSAB Quantitation Panel
Abbott AUSAB–EIA
Organon Teknika Microplate Anti-HBs EIA
Test Category: Radioimmunoassays
Test System, Assay or Examination:
Abbott AUSAB
Abbott AUSAB Quantitation Panel
Sorin Biomedica AB–AUK–3 (RIA)
Analyte: Hepatitis B Surface Antigen (HBS Ag)
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Abbott AUSCELL (RPHA)
Abbott AUSCELL Confirmatory Test (RPHA)
Abbott AUSZYME (EIA)
Abbott AUSZYME Confirmatory Test
Genetic Systems HBsAg Confirmatory Test
Genetic Systems HBsAg EIA
Organon NML ELISA HBsAg Confirmatory Test
Organon NML ELISA HBsAg Screening Test
Ortho Antibody to HBsAg ELISA Confirmatory Test
Ortho Antibody to HBsAg ELISA Test System II
Pharmacia Hepatitis B Surface Antigen Confirmatory Test
Pharmacia Hepatitis B Surface Antigen-AntiHBs ELISA
Test Category: Radioimmunoassays
Test System, Assay or Examination:
Abbott AUSRIA
Organon NML RIA HBsAg Confirmatory Test
Organon NML RIA HBsAg Screening Test
Sorin Biomedica AUK–3, AUK 3J (RIA)
Sorin Biomedica Confirmatory Test
Analyte: Hepatitis Be Antibody
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Abbott HBe (rDNA) EIA
Organon Teknika Hepanostika HBeAg/Anti-HBe Microelisa
Sorin Biomedica ETI–EBK (EIA)
Test Category: Radioimmunoassays
Test System, Assay or Examination:
Abbott HBe
Sorin Biomedica EBK (RIA)
Analyte: Hepatitis Be Antigen
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Abbott HBe (rDNA) EIA
Organon Teknika Hepanostika HBeAg/Anti-HBe Microelisa
Sorin Biomedica ETI–EBK (EIA)
Test Category: Radioimmunoassays
Test System, Assay or Examination:
Abbott HBe RIA
Sorin Biomedica EBK (RIA)
Analyte: Hepatitis C Virus Antibody
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Abbott HCV–EIA
Ortho HCV ELISA
Analyte: Hepatitis delta Antibody
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Abbott Anti-delta-EIA
Test Category: Radioimmunoassays
Test System, Assay or Examination:
Abbott Anti-delta
Analyte: Herpes simplex I and/or II Antibodies
Test Category: Immunoassay methods requiring microscopic evaluations
Test System, Assay or Examination:
Amico Amizyme HSV Ab Test
Bion HSV1–G or HSV2–G Test System
Diagnostic Technology HSV Check
Gull Laboratories HSV IgM Test
Gull Laboratories HSV Test
Incstar Fluoro-Kit
Ortho Herpes simplex virus Antibodies Fluoroset
Virgo Herpes Simplex Virus Type 1 Antibody IFA Test
Virgo Herpes Simplex Virus Type 2 Antibody IFA Test
Zeus HSV Antibody Test System
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Diamedix Microassay Test Set
Gull Laboratories HSV–1 IgG ELISA
Gull Laboratories HSV–1 IgM ELISA
Gull Laboratories HSV–2 IgG ELISA
Gull Laboratories HSV–2 IgM ELISA
Incstar Clin-ELISA Test System
Sigma EIA
Whittaker Bioproducts FIAX System
Whittaker Bioproducts HERPELISA II
Whittaker Bioproducts HERPES 1&2 STAT
Whittaker Bioproducts HERPES STAT
Zeus HSV–1 and HSV–2 ELISA
Analyte: Histoplasma Antibodies
Test Category: Gel based immunochemical procedures
Test System, Assay or Examination:
Immuno-Mycologics ID-Histo Antibody System
Analyte: Immune complexes (CIC)
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:

Diamedix Microassay Test Set
Quidel CIC-C1q EIA
Quidel CIC-Raji Cell Replacement EIA
Sigma EIA
Analyte: Immunoglobulins—monoclonal/polyclonal
Test Category: Electrophoresis
Test System, Assay or Examination:
Helena Laboratories Titan Gel ImmunoFix
Helena Laboratories Titan Gel Immunoelectrophoresis
Kallestad Immunoelectrophoresis System
Analyte: Immunoglobulins IgA
Test Category: Gel based immunochemical procedures
Test System, Assay or Examination:
Behring LC-partigen Kit
Behring Nor-partigen Kit
Helena Laboratories Quiplate System for RID
Hycor Accuplate
Kallestad Endoplate RID
Kallestad Quantiplate RID
Kent Radial Immunodiffusion Test
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Whittaker Bioproducts FIAX System
Analyte: Immunoglobulins IgD
Test Category: Gel based immunochemical procedures
Test System, Assay or Examination:
Helena Laboratories Quiplate System for RID
Hycor Accuplate
Kallestad Endoplate RID
Kallestad Quantiplate RID
Kent Radial Immunodiffusion Test
Analyte: Immunoglobulins IgE
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
3M Total IgE II FAST Test
Alercheck Flipscreen Total IgE
Diagnostic Products Corp. AlaSTAT Total IgE
Nichols Institute Allegro IgE
Whittaker Bioproducts FIAX System
Test Category: Radioimmunoassays
Test System, Assay or Examination:
Leeco Diagnostics IgE Quant
Analyte: Immunoglobulins IgG
Test Category: Gel based immunochemical procedures
Test System, Assay or Examination:
Behring LC-partigen Kit
Behring Nor-partigen Kit
Helena Laboratories Quiplate System for RID
Hycor Accuplate
Kallestad Endoplate RID
Kallestad Quantiplate RID
Kent Radial Immunodiffusion Test
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Whittaker Bioproducts FIAX System
Analyte: Immunoglobulins IgG subclasses
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Janssen Biochimica IgG subclasses ELISA Kit
Analyte: Immunoglobulins IgM
Test Category: Gel based immunochemical procedures
Test System, Assay or Examination:
Behring LC-partigen Kit
Behring Nor-partigen Kit
Helena Laboratories Quiplate System for RID
Hycor Accuplate
Kallestad Endoplate RID
Kallestad Quantiplate RID
Kent Radial Immunodiffusion Test
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Whittaker Bioproducts FIAX System
Analyte: Influenza A Antibodies
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Virotech ELISA Antibody Test
Analyte: Influenza B Antibodies
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Virotech ELISA Antibody Test
Analyte: Legionella Antibodies
Test Category: Immunoassay methods requiring microscopic evaluations
Test System, Assay or Examination:
MarDx Legionella IFA Test System
Organon Teknika Legionella IFA Kit I
Scimedx Lyme Detect Test System
Zeus Legionella IFA
Analyte: Lyme Disease Antibodies (Borrelia burgdorferi Abs
Test Category: Immunoassay methods requiring microscopic evaluations
Test System, Assay or Examination:
MarDx Lyme Disease IgG IFA Test System
MarDx Lyme Disease IgM IFA Test System
Scimedx Lyme Detect Test System
Zeus Lyme Disease Antibody Test System
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
3M IgG/IgM FASTLYME Test
Cambridge Biotech Human Lyme EIA
Diamedix Microassay Test Set
General Biometrics Borrelia (Lyme) Test
General Biometrics Recombinant P39 (Lyme) Test
Gull Laboratories Lyme IgM ELISA
MarDx Lyme Disease EIA (IgM & IgG)
MarDx Lyme Disease EIA IgG
MarDx Lyme Disease EIA IgM
Sigma EIA
Whittaker Bioproducts FIAX System
Whittaker Bioproducts LYME STAT
Whittaker Bioproducts LYME STAT M
Zeus Lyme ELISA
Zeus Lyme IgG ELISA
Zeus Lyme IgM ELISA
Analyte: Mumps Antibodies
Test Category: Immunoassay methods requiring microscopic evaluations
Test System, Assay or Examination:
Virgo Mumps Antibody IFA Test
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Whittaker Bioproducts FIAX System
Whittaker Bioproducts MUMPSTAT
Analyte: Mycoplasma pneumonia Antibodies
Test Category: Immunoassay methods requiring microscopic evaluations
Test System, Assay or Examination:
Zeus MP IgM Test System
Zeus MP Test System
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Incstar IgM–MP Reverse ELISA Kit
Incstar Mp Test IgM/IgG MA Reverse ELISA Kit
Seradyn Color Vue
Whittaker Bioproducts FIAX System
Whittaker Bioproducts MYCOPLASMA STAT
Whittaker Bioproducts MYCOPLASMELISA II
Analyte: Plasminogen
Test Category: Gel based immunochemical procedures
Test System, Assay or Examination:
Helena Laboratories Quiplate System for RID
Analyte: Prealbumin
Test Category: Gel based immunochemical procedures
Test System, Assay or Examination:
Behring M-partigen Kit
Kent Radial Immunodiffusion Test
Analyte: Properdin Factor B
Test Category: Gel based immunochemical procedures
Test System, Assay or Examination:
Kent Radial Immunodiffusion Test
Analyte: Prostatic Specific Antigen (PSA)

Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Hybritech Tandem-E
Analyte: Protein Fractions
Test Category: Electrophoresis
Test System, Assay or Examination:
Helena Laboratories Super Z Serum Protein Kit
Helena Laboratories Titan Gel High Resolution Protein Kit
Analyte: Respiratory syncitial virus Antibodies
Test Category: Immunoassay methods requiring microscopic evaluations
Test System, Assay or Examination:
Gull Laboratories RSV Test
Virgo RSV Antibody IFA Test
Analyte: Rheumatoid Factor (RA)
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Alercheck RF Assay
Diamedix Microassay Test Set
Hemagen RF
Sigma EIA
Whittaker Bioproducts FIAX System
Analyte: Rubella Antibodies, IgG/IgM
Test Category: Immunoassay methods requiring microscopic evaluations
Test System, Assay or Examination:
Virgo Rubella Antibody IFA Test
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Abbott Rubazyme
Abbott Rubazyme-M
Diamedix Microassay Test Set
Gull Laboratories Rubella IgG ELISA
Gull Laboratories Rubella IgM ELISA
Incstar Clin-ELISA Test System
Labsystems Rubella IgM EIA Kit
Sigma EIA
Whittaker Bioproducts FIAX System
Whittaker Bioproducts RUBECAP–M
Whittaker Bioproducts RUBELISA II
Whittaker Bioproducts RUBESTAT
Whittaker Bioproducts RUBESTAT M
Zeus Rubella IgG ELISA
Analyte: Rubeola Antibodies (measles)
Test Category: Immunoassay methods requiring microscopic evaluations
Test System, Assay or Examination:
Bion Measles-G Antibody Test System
Bion Measles-M Antibody Test System
Gull Laboratories Rubeola Test
Virgo Measles Antibody IFA Test
Zeus Measles Test System
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Diamedix Microassay Test Set
Gull Laboratories Rubeola IgG ELISA
Gull Laboratories Rubeola IgM ELISA
Incstar Clin-ELISA Test System
Virotech ELISA Antibody Test
Whittaker Bioproducts FIAX System
Whittaker Bioproducts MEASELESTAT
Whittaker Bioproducts MEASELESTAT M
Whittaker Bioproducts MEASELISA II
Analyte: Schistosoma Antibodies
Test Category: Immunoassay methods requiring microscopic evaluations
Test System, Assay or Examination:
Amico Amizyme Schistosoma species Ab Test System
Analyte: TSH Receptor Antibody
Test Category: Radioimmunoassays
Test System, Assay or Examination:
Kronus Kalibre-R TSH Receptor (TRAb) Kit
Analyte: Tetanus toxoid Antibodies
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Labsystems Tetanus Toxoid EIA Test Kit
Analyte: Toxoplasma gondii Antibodies (IgG/IgM)
Test Category: Immunoassay methods requiring microscopic evaluations
Test System, Assay or Examination:
Amico Amizyme Toxoplasma gondii Ab Test System
Diagnostic Technology Toxo/IgM Check
Gull Laboratories Toxo IgM Test
Gull Laboratories Toxo Test
Incstar Fluoro-Kit
Organon Teknika Toxo IFA Kit I
Virgo Toxoplasma gondii Antibody IFA Test
Zeus IFA Toxoplasma Test System
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Abbott Toxo-G EIA Kit
Abbott Toxo-M EIA Kit
Diamedix Microassay Test Set
Gull Laboratories Toxo IgG ELISA
Gull Laboratories Toxo IgM ELISA
Incstar Clin-ELISA Test System
Labsystems Toxoplasma gondii IgG EIA Kit
Sigma EIA
Whittaker Bioproducts FIAX System
Whittaker Bioproducts TOXOCAP–M
Whittaker Bioproducts TOXOELISA II
Whittaker Bioproducts TOXOSTAT
Whittaker Bioproducts TOXOSTAT M
Zeus TOXO ELISA IgG
Zeus TOXO IgM ELISA
Analyte: Transferrin
Test Category: Gel based immunochemical procedures
Test System, Assay or Examination:
Behring Nor-partigen Kit
Helena Laboratories Quiplate System for RID
Hycor Accuplate
Kallestad Endoplate RID
Kallestad Quantiplate RID
Kent Radial Immunodiffusion Test
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Whittaker Bioproducts FIAX System
Analyte: Treponema pallidum Antibodies
Test Category: Immunoassay methods requiring microscopic evaluations
Test System, Assay or Examination:
Incstar Fluoro-Kits (FTA-ABS)
MarDx FTA-ABS Test System
Scimedx FTA-ABS Test System
Virgo FTA-ABS IFA Test
Zeus FTA-ABS Test System
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
ADI Diagnostics Visuwell Reagin
Difco Bacto VDRL
Fisher Diagnostic VDRL
Analyte: Varicella-Zoster Virus Antibodies
Test Category: Immunoassay methods requiring microscopic evaluations
Test System, Assay or Examination:
Gull Laboratories VZV Test
Virgo Varicella-zoster Antibody IFA Test
Zeus VZ IgG IFA Test System
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Diamedix Microassay Test Set
Incstar Clin-ELISA Test System
Sigma EIA
Whittaker Bioproducts FIAX System
Whittaker Bioproducts VARICELISA II
Whittaker Bioproducts VARICELLA STAT
Speciality/Subspeciality: Hematology
Analyte: Activated Partial Thromboplastin Time (APTT)
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Manual coagulation assays
Analyte: Antithrombin III (ATIII)
Test Category: Gel based immunochemical procedures
Test System, Assay or Examination:
Behring Nor-partigen Kit
Helena Laboratories Quiplate System for RID
Kent Radial Immunodiffusion Test
Analyte: Fibrinogen
Test Category: Gel based immunochemical procedures
Test System, Assay or Examination:

Behring Nor-partigen Kit
Analyte: Hematocrit
Test Category: Automated or semi-automated procedures that do require operator intervention during the analytic process
Test System, Assay or Examination:
Technicon H 6000
Technicon H1
Analyte: Hemoglobin
Test Category: Automated or semi-automated procedures that do require operator intervention during the analytic process
Test System, Assay or Examination:
Technicon H 6000
Technicon H1
Analyte: Hemoglobin F
Test Category: Gel based immunochemical procedures
Test System, Assay or Examination:
Helena Laboratories Quiplate System for RID
Analyte: Platelet Count
Test Category: Automated or semi-automated procedures that do require operator intervention during the analytic process
Test System, Assay or Examination:
Technicon H 6000
Technicon H1
Test Category: Manual cell counts
Test System, Assay or Examination: All Test Systems, Assays or Examinations
Analyte: Pleural Fluid Microscopic Elements
Test Category: Manual cell counts
Test System, Assay or Examination: All Test Systems, Assays or Examinations
Analyte: Prothrombin Time (PT)
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Manual coagulation assays
Analyte: Red Blood Cell Count (Erythrocyte Count)
Test Category: Automated or semi-automated procedures that do require operator intervention during the analytic process
Test System, Assay or Examination:
Technicon H 6000
Technicon H1
Analyte: Reticulocyte Count
Test Category: Automated or semi-automated procedures that do require operator intervention during the analytic process
Test System, Assay or Examination:
Sysmex R1000
Test Category: Manual reticulocyte counts
Test System, Assay or Examination: All Test Systems, Assays or Examinations
Analyte: White Blood Cell (WBC) Differential
Test Category: Automated or semi-automated procedures that do require operator intervention during the analytic process
Test System, Assay or Examination:
Technicon H 6000
Technicon H1
Test Category: Manual white blood cell differential counts when the analyst is required to identify atypical cells
Test System, Assay or Examination:
All Test Systems, Assays or Examinations
Analyte: White Blood Cell Count (Leukocyte Count)
Test Category: Automated or semi-automated procedures that do require operator intervention during the analytic process
Test System, Assay or Examination:
Technicon H 6000
Technicon H1
Speciality/Subspeciality:
Immunohematology
Analyte: ABH secretor status—Saliva
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Amtec Anti-H Lectin—qualitative
BCA Anti-H Lectin—qualitative
BCA Anti-H Lectin—quantitative
Dade Lectin-H—qualitative
Dade Lectin-H—quantitative
Gamma Anti-H Lectin—qualitative
Gamma Anti-H Lectin—quantitative
Analyte: ABO group—RBC
Test Category: Automated or semi-automated procedures that do require operator intervention during the analytic process
Test System, Assay or Examination:
Gamma STS-M Automated Blood Grouping Instrument
Olympus PK1700 Automated Pretranfusion Blood Testing System
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Adsorption/Elution Procedures
Analyte: ABO group confirmation—Serum, Plasma
Test Category: Automated or semi-automated procedures that do require operator intervention during the analytic process
Test System, Assay or Examination:
Gamma STS-M Automated Blood Grouping Instrument
Olympus PK1700 Automated Pretranfusion Blood Testing System
Analyte: D(Rho) Type
Test Category: Automated or semi-automated procedures that do require operator intervention during the analytic process
Test System, Assay or Examination:
Gamma STS-M Automated Blood Grouping Instrument
Olympus PK1700 Automated Pretranfusion Blood Testing System
Analyte: Donor/Recipient Compatibility
Test Category: Compatibility testing including when performed to determine donor/recipient compatibility: recipient & donor ABO group/D(Rho) type/antigen typing, direct antiglobulin test, tests for unexpected antibody detection & identification, & crossmatch procedures
Test System, Assay or Examination: All Test Systems, Assays or Examinations
Analyte: Du (Weak D RBC antigen)
Test Category: Automated or semi-automated procedures that do require operator intervention during the analytic process
Test System, Assay or Examination:
Olympus PK1700 Automated Pretranfusion Blood Testing System
Analyte: Fetal RBCs—Maternal Blood (fetal-maternal bleed)
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Du procedures with microscopic exam for mixed field agglut.
Gamma Fetal Bleed Screening Test
Indicator Cell Rosette Test
Ortho FETALSCREEN
Analyte: Isohemagglutinins
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Dade Neutr-AB Reagent—screen
Dade Neutr-AB Reagent—titration
Titration procedures
Analyte: RBC antigen type other than A or B
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Adsorption/Elution Procedures
Gamma Arachis hypogea Lectin
Gamma Lectin System
Analyte: Unexpected RBC antibody—detection—serum
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
1 Stage Enzyme Procedures
2 Stage Enzyme Procedures
Amtec Ficin Treated Screening Cells 1,2,3
Dade Rap-I.D. Polycation Potentiator System
Direct Antiglobulin Test (tube)
Gamma Ficin-Duet System
Gamma Ficin-Pool
Immucor Capture-R Ready-Screen

Immucor Panoscreen I and II, Ficin-Treated
Analyte: Unexpected RBC antibody—identification
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination: All Test Systems, Assays or Examinations
Speciality/Subspeciality: Mycobacteriology
Analyte: Acid-fast bacteria
Test Category: Antimycobacterial susceptibility testing
Test System, Assay or Examination: All Test Systems, Assays or Examinations
Test Category: Concentration, smear & primary culture inoculation
Test System, Assay or Examination: All Test Systems, Assays or Examinations
Test Category: Identification of Mycobacteria
Test System, Assay or Examination:
Becton Dickinson Bactec NAP TB Differentiation Test
Test Category: Isolation and identification techniques
Test System, Assay or Examination: All Test Systems, Assays or Examinations
Analyte: Mycobacterium avium
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Manual Nucleic Acid analysis
Analyte: Mycobacterium avium complex
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Gen-Probe AccuProbe (w/culture)
Syngene Snap Culture ID Diagnostic Kit
Analyte: Mycobacterium avium specific
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Gen-Probe AccuProbe (w/culture)
Analyte: Mycobacterium gordonae
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Gen-Probe AccuProbe (w/culture)
Analyte: Mycobacterium intracellulare
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Manual Nucleic Acid analysis
Analyte: Mycobacterium intracellulare specific
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Gen-Probe AccuProbe (w/culture)
Analyte: Mycobacterium kansasii
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Gen-Probe AccuProbe (w/culture)
Analyte: Mycobacterium tuberculosis complex
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Gen-Probe AccuProbe (w/culture)
Manual Nucleic Acid analysis
Syngene Snap Culture ID Diagnostic Kit
Speciality/Subspeciality: Mycology
Analyte: All fungi
Test Category: Isolation and Identification of all fungi not specified in moderate complexity
Test System, Assay or Examination: All Test Systems, Assays or Examinations
Analyte: Blastomyces Dermatitidis
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Gen-Probe AccuProbe (w/culture)
Analyte: Coccidioides immitis
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Gen-Probe AccuProbe (w/culture)
Analyte: Cryptococcus
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Baxter MYCO–Immune Cryptococcal Ag Latex Agg (semi-quant)
Gen-Probe AccuProbe (w/culture)
Meridian Cryptococcal Antigen Latex Agg. (semi-quant)
Meridian Diagnostics Premier Cryptococcal Ag (semi-quant)
Analyte: Histoplasma capsulatum
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Gen-Probe AccuProbe (w/culture)
Analyte: Systemic fungi
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Immuno-Mycologics Exo-Antigen ID System
Analyte: Yeast
Test Category: Automated or semi-automated procedures that do require operator intervention during the analytic process
Test System, Assay or Examination:
Abbott Quantum II Yeast ID system
Test Category: Identification of Yeast not specified in moderate complexity
Test System, Assay or Examination:
Analytab API 20C Yeast Identification Kits
Analytab API Germ Tube
Analytab Yeast Ident
Baxter MicroScan Rapid Yeast Identification Panel
Carr-Scarborough C. albicans Disc Screening Kit
Innovative Diagnostic Systems IDS Rapid SS/U System
Medical Wire Equip. MicroRing YT
Speciality/Subspeciality: Other
Analyte: Eye Cornea Integrity
Test Category: Eye bank microscopy procedures
Test System, Assay or Examination:
Slit Lamp Biomicroscopy
Specular Microscopy
Speciality/Subspeciality: Parasitology
Analyte: Blood, tissue & intestinal parasites
Test Category: Concentration or differential stain techniques
Test System, Assay or Examination: All Test Systems, Assays or Examinations
Analyte: Intestinal parasites
Test Category: Antigen or toxin test procedures or kits requiring microscopic evaluations
Test System, Assay or Examination:
Genetic Systems Pneumocystis Carinii IFA Test Kit
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Trend Scientific Giardia lamblia Direct Detection System
Speciality/Subspeciality: Toxicology/TDM
Analyte: Acetaminophen
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Syva Emit
Analyte: Amikacin
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Ames TDA
Syva Emit
Analyte: Carbamazepine
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Ames TDA
Syva Emit
Analyte: Carbamazepine, Free

Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Syva Emit
Analyte: Digoxin
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Syva Emit
Test Category: Radioimmunoassays
Test System, Assay or Examination:
Abbott RIA Bead
Ciba Corning Magic (MGC)
Clinical Assays GammaCoat
Diagnostic Products Corp. Coat-a-Count
Sanofi/Kallestad Quanticoat
Ventrex Coated Tube
Analyte: Disopyramide
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Syva Emit
Analyte: Ethosuximide
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Ames TDA
Syva Emit
Analyte: Gentamicin
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Ames TDA
Syva Emit
Test Category: Radioimmunoassays
Test System, Assay or Examination:
Clinical Assays GammaDab
Diagnostic Products Corp. Coat-a-Count
Analyte: Lidocaine
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Syva Emit
Analyte: Methotrexate
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Syva Emit
Analyte: N-Acetylprocainamide (NAPA)
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Ames TDA
Syva Emit
Analyte: Phenobarbital
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Ames TDA
Syva Emit
Analyte: Phenytoin
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Ames TDA
Syva Emit
Test Category: Radioimmunoassays
Test System, Assay or Examination:
Clinical Assays GammaCoat
Analyte: Phenytoin, Free
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Syva Emit
Analyte: Primidone
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Ames TDA
Syva Emit
Analyte: Procainamide
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Ames TDA
Syva Emit
Analyte: Quinidine
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Ames TDA
Syva Emit
Analyte: Theophylline
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Ames TDA
Syva Emit
Test Category: Radioimmunoassays
Test System, Assay or Examination:
Clinical Assays GammaDab
Analyte: Tobramycin
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Ames TDA
Syva Emit
Analyte: Valporic Acid
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Ames TDA
Analyte: Valproic Acid
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Syva Emit
Speciality/Subspeciality: Virology
Analyte: Adenovirus
Test Category: Antigen or toxin test procedures or kits requiring microscopic evaluations
Test System, Assay or Examination:
Analytab Adenovirus Test Kit (IFA)
Cambridge Biotech Adenoclone (IFA)
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Analytab Adenovirus Test Kit (EIA) (culture confirmation)
Analytab Adenovirus Type 40 & 41 (EIA) (culture confirm)
Cambridge Biotech Adenoclone (EIA) (culture confirmation)
Analyte: All viruses
Test Category: Isolation and identification techniques
Test System, Assay or Examination: All Test Systems, Assays or Examinations
Analyte: Cytomegalovirus
Test Category: Antigen or toxin test procedures or kits requiring microscopic evaluations
Test System, Assay or Examination:
Baxter Bartels CMV Immediate Early Antigen IFA Test
Baxter Bartels Direct CMV Kit
Ortho CMV Identification Reagent
Syva Microtrak CMV Culture Identification Kit
Analyte: Herpes simplex
Test Category: Antigen or toxin test procedures or kits requiring microscopic evaluations
Test System, Assay or Examination:
Baxter Bartels HSV FA Monoclonal Antibody Kit
Baxter Bartels HSV FA Test for ID & Diff. HSV I & II
Diagnostic Products Corp. PathoDx Herpes Typing
Ortho Cultureset HSV Isolation and ID System
Ortho HSV 1 & 2 Dichromatic Typing Reagent
Sanofi/Kallestad Pathfinder H .simplex 1&2 D. Ant Det Sys
Syva Microtrak Syva HSV-1/HSV-2 Typing Test/Culture Confir
Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process
Test System, Assay or Examination:
Kodak SureCell (culture confirmation)
Wampole Virogen Herpes latex slide test (culture confirm)
Analyte: Respiratory syncitial virus
Test Category: Antigen or toxin test procedures or kits requiring microscopic evaluations
Test System, Assay or Examination:
Analytab Imagen RSV
Baxter Bartels RSV
Ortho RSV (IFA)

Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process

Test System, Assay or Examination:

Sanofi/Kallestad Pathfinder RSV (spectrophotometric)

Analyte: Respiratory viruses (Influenza A&B, parainfluenza)

Test Category: Antigen or toxin test procedures or kits requiring microscopic evaluations

Test System, Assay or Examination:

Analytab IMAGEN Influenza—Virus A&B

Baxter Bartels Viral Respiratory Kit

Analyte: Rotavirus

Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process

Test System, Assay or Examination:

Abbott Rotazyme II Diagnostic Kit (photometric)

Sanofi/Kallestad Pathfinder Rotavirus (spectrophotometric)

Analyte: Varicella-Zoster viruses

Test Category: Antigen or toxin test procedures or kits requiring microscopic evaluations

Test System, Assay or Examination:

Ortho Varicella-Zoster Virus Identification Reagent

Analyte: Viruses

Test Category: Manual procedures with multiple steps in sample/reagent preparation or analytic process

Test System, Assay or Examination:

Manual Nucleic Acid analysis

[FR Doc. 92-4051 Filed 2-20-92; 12:29 pm]

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federal register

Friday
February 28, 1992

Part IV

Department of the Interior

Bureau of Indian Affairs

Tribal-State Compacts Approval; Class III (Casion) Gambling: Omaha Tribe, NE; Notice

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

February 24, 1992.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved Tribal-State Compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority has approved a Tribal-State Compact between the Omaha Tribe of Nebraska and the State of Iowa executed on December 30, 1991.

DATES: This action is effective February 28, 1992.

ADDRESSES: Office of Tribal Services, Bureau of Indian Affairs, Department of the Interior, MS/MIB 4603, 1849 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Joyce Grisham, Bureau of Indian Affairs, Washington, DC 20240, (202) 208–7445.

Dated: February 24, 1992.

Eddie F. Brown,

Assistant Secretary—Indian Affairs.

[FR Doc. 92–4634 Filed 2–27–92; 8:45 am]

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federal register

Friday
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Part V

Department of Labor

Office of the Secretary

Use of Alternative Dispute Resolution and Negotiated Rulemaking Procedures by the Department of Labor; Notice

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DEPARTMENT OF LABOR

Office of the Secretary

Use of Alternative Dispute Resolution and Negotiated Rulemaking Procedures by the Department of Labor

AGENCY: Office of the Secretary.

ACTION: Notice of interim ADR policy.

SUMMARY: The Department has developed an interim policy to implement two important amendments to the Administrative Procedure Act and certain provisions of the Executive Order on Civil Justice Reform (E.O. 12778). The two amendments are the Administrative Dispute Resolution Act (ADR Act), Public Law 101–552, and the Negotiated Rulemaking Act, Public Law 101–648. Both of these acts authorize and encourage agencies to use arbitration, mediation, negotiated rulemaking, and other consensual methods of dispute resolution. E.O. 12778, among other things, requires agencies to consider ADR methods wherever appropriate in litigation. The Department is issuing this interim policy, in conjunction with a planned regional pilot test of ADR, recognizing that refinements likely will be needed based on the experience gained with these techniques.

Section 3(a) of the ADR Act requires the Department to adopt a formal policy as to how it intends to implement that statute in each of the following areas: (a) Formal and informal adjudications; (b) rulemakings; (c) enforcement actions; (d) issuing approvals and variances; (e) contract administration; (f) litigation brought against or by any part of the Department; and (g) other Departmental actions.

FOR FURTHER INFORMATION CONTACT: Roland Droitsch, Deputy Assistant Secretary for Policy, U.S. Department of Labor. Telephone 202–523–6197.

SUPPLEMENTARY INFORMATION: In response to a requirement of the Administrative Dispute Resolution Act, Public Law 101–552 (ADR Act), the Department of Labor is developing a general policy on the use of alternative dispute resolution techniques to encourage their use whenever the parties involved agree to them and it is practical to do so in light of the requirements of other statutes. Among the alternative dispute resolution techniques mentioned in the ADR Act is the use of negotiated rulemaking under appropriate circumstances, the criteria for which are set forth in more detail in companion legislation, the Negotiated Rulemaking Act, Public Law 101–648.

While notice and comment is not required for statements of policy or procedural rules, such a course has been recommended by the Administrative Conference of the United States for ADR policy statements. Implementing the ADR Act: Guidance for Agency Dispute Resolution Specialists, Office of the Chairman, Administrative Conference of the United States, Feb. 1992, pp. 19–22. Accordingly, the Department published a notice in the **Federal Register** on May 22, 1991 (56 FR 23599), inviting interested parties to submit comments on the Department's May 22 notice, and the comment period was subsequently extended (56 FR 28177, June 19, 1991) to August 23, 1991.

The **Federal Register** notices encouraged interested parties to provide specific comments that relate to activities of the Department; and, most particularly, to bring to the attention of the Department any prior experience with ADR or negotiated rulemaking activities of the Department, areas of the Department's operations which might readily benefit from the use of such techniques, areas in which such techniques should be limited or not used at all, or any other matters which they believed would be of interest to the Department as it developed its policy in these areas.

In enacting the ADR Act, the Congress expressed concern that traditional forms of dispute resolution proceedings used to resolve disputes between agencies and members of the public have become too formal and lengthy, and asserted that alternative procedures may, in at least some instances, be faster, less contentious, and more economical. However, ADR techniques are not appropriate in every situation. The statute itself provides (5 U.S.C. 582(b)):

An agency shall consider not using a dispute resolution proceeding if—

(1) A definitive or authoritative resolution of the matter is required for precedential value, and such a proceeding is not likely to be accepted generally as an authoritative precedent;

(2) The matter involves or may bear upon significant questions of Government policy that require additional procedures before a final resolution may be made, and such a proceeding would not likely serve to develop a recommended policy for the agency;

(3) Maintaining established policies is of special importance, so that variations among individual decisions are not increased and such a proceeding would not likely reach consistent results among individual decisions;

(4) The matter significantly affects persons or organizations who are not parties to the proceeding;

(5) A full record of the proceeding is important, and a dispute resolution proceeding cannot provide such a record; and

(6) The agency must maintain continuing jurisdiction over the matter with authority to alter the disposition of the matter in the light of the changed circumstances, and a dispute resolution proceeding would interfere with the agency's fulfilling that requirement.

Within the limitations set forth in the statute, the Department plans to intensively explore whether and where the use of ADR techniques will, in fact, result in fairer, faster, less contentious, or more economical resolutions of disputes, and to consider modifying any of its current procedures and rules, as necessary and if appropriate, to allow for greater use of ADR. Initial explorations will, however, be performed with due regard for limited agency familiarity with the full range of ADR techniques, and limited familiarity of the DOL community with respect to the use of such techniques in DOL programs, so as not to disrupt agency operations. The Department's first effort will be a pilot program for the Philadelphia region which will test the use of in-house mediators, trained by the Federal Mediation and Conciliation Service, to assist in the resolution of the full range of cases arising within that region in situations where traditional agency conciliation and settlement efforts do not appear to be effective.

On October 23, 1991, the President signed Executive Order 12778 on Civil Justice Reform. Among other provisions, the Executive Order requires Federal litigation counsel to consider the use of an ADR process if warranted in the context of the particular Federal court case, and if ADR will contribute to the prompt, fair, and efficient resolution of the claim. The approach the Department is taking does not limit ADR use to matters before litigation counsel for possible Federal court adjudication, but rather contemplates its consideration in the widest variety of disputes in which the Department may be involved and at the earliest possible time resolution is appropriate and feasible. This approach, and the decision by the Department to implement ADR use through a process of careful pilot testing, is fully consistent with the requirements of the Executive Order.

In enacting the Negotiated Rulemaking Act, the Congress indicated its concern that traditional notice and comment rulemaking procedures may discourage agreement among the potentially affected parties and the Federal government. The procedures explicitly authorized by the Act are designed to facilitate the search for potential agreement while the Department is still developing a proposed rule. While this may require the initial commitment of more resources than formal notice and comment rulemaking, the ultimate saving of resources can be very significant if the result is a more technically accurate, legally sound regulation which is likely to be acceptable to the regulated community and other affected interests and less likely to be challenged and delayed in litigation. Thus, while the Department recognizes the difficulties that interested parties may face in committing the resources required for such negotiations, particularly if the Federal government is engaged in multiple projects of this type in which some parties may have an interest, it believes that such efforts should be considered where feasible and will encourage its component agencies to begin experimenting with this approach in situations they identify as likely to produce positive results. A fully articulated negotiated rulemaking policy will be issued by the Department at a later date.

The Department developed this interim ADR policy in consultation with the Administrative Conference of the United States (ACUS) and the Federal Mediation and Conciliation Service (FMCS) as required by section 3(a) of the ADR Act.

The Department has designated its ADR Specialist, the Assistant Secretary for Policy, as required by section 3(b) of the ADR Act, to serve as liaison with ACUS and FMCS and as coordinator of the Department's ADR implementation. The Department has also established an ADR Steering Committee, consisting of the Assistant Secretary of Policy (as chair), the Solicitor of Labor, the Assistant Secretary for Administration and Management, the Inspector General, and the Director of the Department's Training Academy. Other established mechanisms will be used to implement negotiated rulemaking.

The Department has also undertaken an initial survey of all its agencies and programs to begin to identify the types of disputes encountered, the current procedures used to resolve such disputes, and any statutory, regulatory and procedural requirements that are "barriers" to the use of ADR. The Department's intention is to closely review such barriers and to seek to remove those—and only those—that do not serve other legislative, policy or practical purpose.

Implementation by DOL of ADR will at all times observe the requirements of the various program statutes and applicable regulations.

Analysis of Comments

Comments on the Department's May 22 and June 19 **Federal Register** notices were received from (listed alphabetically):

AFL–CIO, Washington, DC,
Associated General Contractors of America, Washington, DC,
Building and Construction Trades Department, AFL–CIO, Washington, DC
Butler Aviation, Irving, TX,
Endispute, Inc., Cambridge, MA,
Freund, Mr. David, Silver Spring, MD,
International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers, AFL–CIO, Washington, DC,
Joint Conference Board of the Construction Employers Association and the Chicago and Cook County Building and Construction Trades Council, Chicago, IL,
Judicial Services, Inc., Philadelphia, PA,
Pension Rights Center, Washington, DC,
South Plains Association of Governments, Lubbock, TX,
Standing Committee on Dispute Resolution, American Bar Association, Washington, DC,
State of New Mexico Department of Labor, Albuquerque, NM,
State of New York Department of Labor, Albany, NY,
State of Utah Industrial Commission, Salt Lake City, UT,
State of Wisconsin Department of Industry, Labor and Human Relations, Madison, WI.

The Utah Industrial Commission stated that it uses in-house mediators to resolve wage claim and discrimination cases where appropriate and is exploring ways to expand the use of ADR to reduce delays in their caseloads. The Commission cautioned that the Department must be careful in using negotiated rulemaking so as to ensure that such rulemakings include all interested parties.

The Department believes a regional pilot test using in-house medicators will be helpful in identifying the types of disputes in which ADR, and particularly this type of ADR, may be most effective. The Department agrees that negotiated rulemaking procedures should only be used in instances where all interested parties can be adequately represented.

The New York Department of Labor stated that it had used pre-hearing compliance conferences, administrative hearings, mediation, conciliation and other techniques which have successfully resolved disputes without formal adjudication. The comments also stressed the need to provide orientation and education to outside parties who will be invited to participate in resolving disputes through these techniques.

The Department has contracted with FMCS to assist in the design of the regional pilot. An important component of that effort will be to develop procedures for communicating information about the Department's ADR program to outside parties who will be invited to participate in resolving disputes through these techniques. While the pilot will focus initially on the technique of mediation, other ADR methods may be explored as the Department gains more experience in this area.

The Wisconsin Department of Industry, Labor and Human Relations commented that it had used ADR successfully in obtaining early resolution of complaints under the State's fair employment law. Wisconsin also commented that the States would welcome the prompt resolution of issues in conjunction with federal rulemaking, noting that State agencies can face serious difficulties as a result of long delays in the issuance of federal regulations.

The Department hopes that in appropriate cases, negotiated rulemaking can be used to reduce the long delays in the issuance of federal regulations caused by litigation.

The New Mexico Department of Labor commented that it successfully uses informal methods to resolve internal employee grievances and certain types of grievances of participants in programs they operate using funds supplied under the Job Training Partnership Act.

The Department notes that it too is already utilizing alternative dispute resolution methods to help resolve grievances by its own employees. Moreover, while the exact types of disputes arising under programs administered by New Mexico and other State and local governments may not be identical to those normally faced by the U.S. Department of Labor, their positive experience with informal dispute resolution techniques suggests that such approaches should be widely explored by the Department.

The South Plains Association of Governments, located in Lubbock, TX, operates a Dispute Resolution Center which processes judicial and non-judicial disputes. The association commented that many States and local

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jurisdictions have established public agency ADR facilities and programs which Federal agencies should consider as alternatives to in-house programs. It indicated that the State and local programs could provide a ready source of neutrals at minimal cost to the Federal Government.

The Department is very interested in identifying economical sources for neutrals. The availability of State and local resources, as well as resources that might be available from other Federal agencies, will be reviewed as the DOL agencies gain familiarity with basic ADR concepts.

The Associated General Contractors of America (AGC) stated its support for the objectives of the legislation. The association indicated the Department's policy could reduce the cost of resolving disputes with DOL's separate agencies and recommended experimenting with a pilot ADR program. The AGC stated the importance of ensuring that participation in ADR is entirely voluntary and that participants retain their rights to formal proceedings. It suggested that DOL might wish to develop a separate set of procedures and a separate roster of impartial experts for each enforcement agency. Also, the AGC recommended that DOL carefully consider who for the Department will decide which cases will be referred for ADR, indicating the need to avoid decisions by those who may have a professional or other conflict of interest in ADR. With respect to negotiated rulemaking, the AGC noted the importance of agency consultation with affected parties prior to proposing rules. However, it expressed concern that the negotiated rulemaking procedures themselves could present a new obstacle to such informal consultation. The association stated that DOL should use negotiated rulemaking procedures in those cases meeting the statutory conditions when less formal consultations fail to produce a consensus yet reveal that a consensus may be possible. Finally, the AGC recommended that DOL take steps to avoid enforcement disputes that arise as a result of ambiguities about regulatory requirements by establishing a national hot-line for each enforcement agency for requesting advance written opinions on specific situations.

The Department agrees with many of these comments, including the recommendation of a pilot and the policy that participation in ADR must be completely voluntary and must not affect any party's right to subsequent formal proceedings. The Department also agrees that negotiated rulemaking should enhance, rather than diminish, opportunities for interested parties to participate meaningfully in rulemakings consistent with the requirements of the Administrative Procedure Act. Finally, with respect to comments about ambiguous regulatory requirements, Executive Order 12778, in addition to its ADR provisions, imposes new requirements on agencies to draft regulations that establish clear, unambiguous standards for compliance by regulated parties.

The AFL–CIO commented that ADR should not be used in enforcement actions by the Department because, it maintained, negotiations for settlements undermine existing laws and their prescribed penalties. With respect to OSHA enforcement proceedings, the AFL–CIO stated, workers and their representatives have been allowed party status only to contest the date that OSHA mandates for violations to be abated and have not been permitted to participate in settlement agreements reached between the agency and companies. If the Department chooses to proceed with ADR in OSHA enforcement proceedings more vigorously, the AFL–CIO argued, it must take steps to assure that workers or their representatives are given notice of the proceeding and advised of their rights to be involved in the process.

The Department is sensitive to the full range of its obligations and missions, and is adopting a policy toward ADR which should avoid the types of concerns raised by the AFL–CIO, including certain limitations on the types of cases where ADR will be used. As a general matter, the use of ADR by the Department will neither constitute a new procedure nor a new approach to violations of the laws administered by the various agencies of the Department, including OSHA. In the case of the pilot project in Philadelphia, for example, the Department's participation in a structured mediation effort does not involve turning over any decision-making authority to the mediator; rather, any ADR techniques utilized by the Department will simply provide the Department's agencies with another resource to use in resolving a case through settlement. As with the informal settlement discussions and negotiations currently undertaken by agencies of the Department, agencies are always free to decline to enter into a settlement which they do not believe adequately satisfies the Department's obligations and mission. To the extent that parties or potential parties currently have rights to challenge the Department's actions in this regard, those rights will remain unchanged; the Department's participation in an ADR proceeding does not create nor require the creation of any new grant of party or other special status. (Only if binding arbitration were to be used does the Act, in section 591(b)(1), give nonparties a limited opportunity to challenge the outcome pursuant to 9 U.S.C. section 10(b).) The Department believes that all of its actions in OSHA cases must be taken with an eye toward furthering the occupational safety and health of all workers, including those immediately affected by the case being resolved.

Moreover, as a matter of resource considerations, all government enforcement agencies have to make judgments about which cases to bring to trial and which to settle. The Department hopes that the pilot project in the Philadelphia region will help ascertain those situations in which the use of ADR may strengthen its enforcement programs by satisfactorily resolving more cases in a fair manner and a quicker period of time with less expenditure of resources than current methods. To the extent the pilot suggests it can achieve this goal, ADR will be relied upon to complement the Department's enforcement strategy of vigorously pursuing willful and criminal violators of labor statutes. Where it turns out to be not valuable or counterproductive, ADR will not be used.

The AFL–CIO commented that negotiated rulemaking on its own is not a panacea to the lengthy and cumbersome rulemaking process. The AFL–CIO specifically expressed concern about the use of this technique in developing OSHA standards, noting that its prior participation in two negotiated OSHA rulemakings (benzene and methylene dianiline) and two EPA rulemakings (asbestos abatement in schools and farmworker protection) had produced mixed results. The AFL–CIO commented that the negotiated rulemaking process does allow for more open and direct exchange of views and positions than the traditional rulemaking process. However, it suggested a number of steps the Department should take if DOL decides to use this process. Specifically, it explained, DOL must be willing to commit the resources and time necessary to actively participate in developing the draft rule and the Department must promulgate the draft in the form negotiated. With respect to OSHA, the AFL–CIO stated the Department should rely on the advisory committee for input on whether the use negotiated rulemaking and for determining who should participate in the negotiations. It maintained DOL should use the existing advisory committee to develop safety and health standards rather than setting up an additional structure for negotiated rulemaking.

The Department agrees with the comments of the AFL-CIO (and the Teamsters, as noted below) that the existing advisory committees should be used where appropriate in developing safety and health standards. The Department notes, however, that ad hoc advisory committees are also a well recognized approach to obtain guidance on issues requiring special expertise or experience. The Department intends that its continued experimentation with negotiated rulemaking will be consistent with these established practices.

The Building and Construction Trades Department of the AFL-CIO requested an extension on the time for filing comments. In its reply, the Department indicated its desire to have the Building Trades' comments and expressed the hope that it could file them quickly in light of the time constraints under which DOL needed to develop its ADR policy.

The Teamsters Union recommended that negotiated rulemaking be used extensively as a means to produce regulations that are realistic and constructive. It commented that in the OSHA area, standards advisory committees are recognized in the Act and should be revitalized. With respect to ADR, the union stated that it favors less formal procedures and less litigation. It noted that in an OSHA case a company has only 15 days to appeal a citation, and, consequently, ADR is unlikely to avoid appeals. However, the union stated that ADR procedures may more effectively accommodate and protect OSHA whistleblowers than the current formal process. With respect to programs in the Office of Labor-Management Standards, the union commented that to what extent ADR, particularly arbitration, would be useful is questionable. However, it suggested that mediation or negotiation could prove useful in union officer election and removal cases, depending on the particular facts. Finally, the union stated that if ADR is presented as an attractive alternative, rather than a process in which the parties have no choice, it may be a success.

The Department thinks many of these comments may have merit. The regional pilot test of ADR is intended to provide a sound basis on which to make judgments about which disputes and which programs can benefit most from the use of ADR.

The Standing Committee on Dispute Resolution of the American Bar Association submitted comments supporting the Department's efforts and offering its assistance in implementing the legislation.

The Department appreciates the Committee's offer and will seek its assistance as it proceeds in its efforts to implement ADR.

The Joint Conference Board is a group of labor and management representatives that informally resolves trade union jurisdictional disputes in the Chicago area construction industry. The board stated that since established in 1913, it has successfully resolved work assignment disputes quickly and economically. This process, the board stated, ensures that projects stick close to schedule and budget by avoiding work stoppages due to jurisdictional disputes and promotes productivity, efficiency and improved labor relations. The board's comments strongly endorsed the concept of ADR and encouraged the Department to explore its use in resolving disputes.

Butler Aviation commented that it had experience using ADR to settle disputes with the Government and had found it to be useful and time saving. The comments indicated the company's full support for ADR.

Judicial Services, Inc., a mediation and arbitration service, and Mr. David Freund, a private mediator and arbitrator, filed comments strongly supporting the Department's experimentation with ADR. Mr. Freund commented that he had learned of ADR initiatives underway in a number of DOL offices, and indicated that coordination among these offices was important. He suggested that DOL establish a central location responsible for maintaining a list of qualified neutral volunteers who would be available as needed to serve as mediators or arbitrators.

The Department has established a Steering Committee to coordinate ADR initiatives underway in the Department. The Administrative Conference of the United States is developing a roster of neutrals pursuant to a provision of the ADR Act. The Department does not intend to develop its own roster of neutrals pending the results of the pilot program.

Endispute, Inc., a private ADR consulting company, commented on the Department's ongoing survey of internal and external disputes. The company stated that other public and private organizations had found such analysis to be essential in ADR planning. Their comments recommended that the survey be used to produce a catalog of the types of disputes that provide opportunities to test ADR, and specifically identified as likely ADR opportunities disputes involving vendor and contract agreements, internal management-employee relations, internal management disputes, and disputes arising with programs administered by DOL. In the case of program disputes, Endispute commented that a number of States, including Michigan, Connecticut and Wisconsin, have successfully used ADR to resolve workers' compensation claims and recommended that DOL consider ADR in federal employee compensation cases.

The Department agrees that the ongoing survey may produce significant information about potential areas for using ADR. For purposes of the regional pilot, however, the approach adopted is to provide as much flexibility as possible for experienced DOL field personnel to test ADR in a wide variety of disputes. Their experience will then be evaluated, along with the initial survey results, to develop recommendations for further implementation. At the same time, however, the Department has decided not to include in its regional pilot test of ADR those workers' compensation programs it administers, i.e., the Federal Employees' Compensation Program (FECA), the Black Lung Benefits Program (BL), and the Longshore and Harbor Workers' Compensation Program (LHWCA). Under FECA, the Department of Labor by law makes the final compensation decision; accordingly, we are a decisionmaker in this program, not a disputant. Moreover, FECA was deliberately designed as a nonadversarial system; thus, the employing agencies who might be considered to have a "dispute" with a claimant have no party status in the process. LHWCA and BL involve the use of an administrative hearing and review process to determine claims for compensation, pursuant to a detailed statutory structure. As intensive conciliation efforts are already made by the Department at each stage of the process, and because the disputes involved tend to be over the application of legal eligibility criteria to an agreed upon set of facts, the Department decided to narrow the broad scope of the pilot effort by placing these programs outside its reach.

Endispute also recommended that DOL take a careful look at areas in which the Department is already using ADR, such as conciliation efforts at resolving disputes in connection with Executive Order 11246. Endispute's comments suggested that the survey would prove useful in identifying

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organizational obstacles to ADR. For example, it commented that in areas where litigation has been the dominant mode for resolving disputes, ADR may be perceived as reducing the scope of litigators' authority. The company recommended that DOL consider using consensus-building processes, including the use of outside neutrals, to overcome such obstacles and build consensus around the use of ADR techniques. With respect to DOL's ADR policy, the company indicated that such a policy should highlight and promote mediation rather than arbitration for a number of reasons, including the fact that in mediation the parties remain fully in control of the final outcome. The ADR policy, the company commented, should avoid setting limits on the use of these techniques, such as a limitation on the amount of money in dispute. It recommended that the policy should include a pilot program in which DOL actively encourages the use of ADR in a limited group of cases and thereby gains data on the effectiveness of these techniques. Finally, the company commented that the ADR policy should be reviewed and evaluated on a regular basis and that this evaluation should include a methodology for comparing the costs of ADR with the costs of current procedures.

The Department agrees with most of these comments and believes the regional pilot will address many of these recommendations. The pilot is intended to develop internal consensus on the use of ADR and to build experience and confidence in these techniques. The pilot will not include the use of arbitration, but will focus on the technique of mediation. As indicated above, the pilot encourages field staff in a single region to explore the use of ADR in a wide variety of cases. Finally, the pilot will include a methodology for assessing the effectiveness of ADR and comparing its costs with those of traditional procedures.

The Pension Rights Center, a non-profit organization working in the area of pension plan issues, commented that the Department should implement an ADR program for resolving pension benefit claims disputes using the resources of the pension bar to serve as neutrals. Using a grant from the National Institute for Dispute Resolution, the Center has developed a plan for an ERISA Early Expert Evaluation program, a copy of which was included with its comments. This program would attempt to settle pension benefit disputes by providing the parties with a neutral expert's evaluation of the relative merits of their positions and the likely outcome of litigation. The Center's proposal was among the subjects covered in a September 12, 1991 public hearing of the Department's Advisory Council on Employee Welfare and Pension Benefit Plans' Enforcement Work Group.

The Department appreciates these comments. However, the regional pilot will focus only on disputes in which DOL agencies currently have program responsibility.

In summary, the Department agrees with the comments that the use of informal dispute resolution techniques may, at least in some cases, result in fairer, faster and more economical case resolutions. However, the Department wants to proceed cautiously and deliberately in implementing ADR to avoid any potential misuse. Specifically, the Department intends to test these techniques in various programs and types of disputes to identify where ADR has the greatest potential to produce satisfactory settlements more quickly and economically than traditional procedures and litigation. Once the most fruitful program areas and types of cases are identified, the Department intends to implement ADR on a broad scale in those areas.

Alternative Dispute Resolution (ADR) Interim Policy

The Department's interim ADR policy is predicated on the ADR statute which requires, among other things, the consideration of alternative dispute resolution methods as vehicles for avoiding protracted administrative procedures and litigation. In adopting its interim policy on ADR, the Department intends to explore the use of such techniques to the extent, and only to the extent, that they can improve and enhance the fairness, effectiveness and efficiency of its actions.

It is the Department's policy to implement or expand the use of ADR techniques wherever such informal dispute resolution methods have a likelihood of proving useful. To study the potential impact of ADR generally, the Department will initiate at least one pilot study of such techniques, as discussed below, in a regional office, to test the applicability and utility of ADR in disputes. In addition, the Department will continue to encourage its staff to avail itself of training in ADR techniques and negotiation skills. During the course of the regional pilot, the ADR Steering Committee will consider other invitations to participate in an ADR proceeding by another party, where requested by a court or other adjudicative authority, or where an agency otherwise believes that there is merit in initiating an alternative approach to resolving a particular dispute in which the Department is a party. With respect to rulemaking activity, the Department will continue to experiment with the use of negotiated rulemaking.

The Department intends to use the regional pilot to meet its initial responsibilities under Executive Order 12778, as well. The Executive Order requires Federal litigation counsel that conduct or otherwise participate in civil litigation on behalf of the United States in Federal court—which, in the case of Department of Labor programs, may include attorneys in the Office of the Solicitor, the Office of the Department's Inspector General, and Attorneys who represent the Department's positions but who do not work for the Department (e.g., the U.S. Attorneys)—to adhere to certain guidelines during the conduct of such litigation (with certain enumerated exceptions). Among these guidelines is to make reasonable attempts to resolve a dispute expeditiously and properly (or confirm that the referring agency has done so) before proceeding to trial in Federal court, including the use of ADR in appropriate cases.

The regional pilot test of ADR does not limit ADR use to matters before litigation counsel for possible Federal court adjudication, but rather contemplates its consideration in the widest variety of disputes in which the Department may be involved and at the earliest possible time resolution is appropriate and feasible, the pilot test will include cases of the type covered by the Executive Order. The Department believes the pilot will provide its litigation counsel with significant insight into where ADR processes may be appropriate in cases covered by the Executive Order. Those litigation counsel participating in the pilot test in Philadelphia with respect to cases covered by the Executive Order will do so in a fashion consistent with any other requirements of the Order. This interim policy on ADR shall be considered as part of the Department's internal guidance on implementation of the Order pursuant to section 4(b) of the Order.

The Department will not use ADR:

(1) Where statutes or regulations preclude the use of such techniques;

(2) Where the dispute is not suitable for ADR on consideration of the factors set forth in 5 U.S.C. 582(b);

(3) Where the responsible DOL program agency, in consultation with the Office of the Solicitor, believes a dispute involves a willful or criminal violation of law; or

(4) Where, for any reason, the responsible DOL program agency, in consultation with the Office of the Solicitor, believes it is necessary or preferable to proceed with traditional litigation in light of the facts of the case.

Regional Pilot Test of ADR

For the reasons indicated above, after consulting with the Administrative Conference of the United States (ACUS) and the Federal Mediation and Conciliation Service (FMCS), the Department has decided to conduct a pilot test of ADR in the Philadelphia Region. The Department believes that such a regional pilot test is the best possible means to determine the effectiveness of ADR in resolving disputes arising within its jurisdiction.

ACUS and FMCS will provide training for the regional staff in the background of ADR and in mediation skills, and will assist in developing plans for the pilot. Trained in-house mediators will be available to serve as neutrals in resolving disputes outside of their program area responsibilities. Each case handled through mediation will be carefully evaluated at its conclusion to determine whether ADR is helpful in the particular program and type of dispute involved.

The Department has made a deliberate decision not to limit the potential scope of the pilot by constraining in advance types of cases in which ADR may be utilized: e.g. type of program, type of case, seriousness of offense, or any other such criteria. Rather, experienced agency staff in the Philadelphia region are being trained to recognize the types of disputes which may be amenable to ADR processes, and encouraged to refer cases from their programs for consideration of possible ADR use. Thus, the Department hopes to evaluate ADR's utility as a supplement to informal dispute resolution efforts already undertaken by DOL agencies by selecting cases from a broad pool of disputes to which the Department is a party: Disputes over employer obligations to pay particular wages and restrict working hours, provide safe and healthful workplaces, meet planned benefit and affirmative active duties; disputes over the obligations of union officials to conduct their activities in accordance with Federal law; disputes with government contractors; and disputes among agency personnel. DOL agencies will, however, exercise caution to avoid the use of ADR in those cases for which the Department's interim policy precludes the use of ADR techniques. Moreover, the Department has decided not to include workers' compensation cases in the pilot for various reasons peculiar to the various workers' compensation programs operated by the Department.

The in-house mediators will not serve as decision-makers, but will serve to facilitate settlement negotiations between the parties. No DOL employee who serves as a mediator in a particular dispute may participate in any way in any subsequent further action or litigation over that dispute, absent the agreement of the parties or an order of a court. Specifically, the mediator will be required to recuse himself or herself from any meetings, discussions recommendations, or decisions about any subsequent action in the dispute.

An important consideration in ADR is to assure that the designated representatives of the parties will have full authority to settle the dispute without extensive supervisory review or concurrence. No DOL staff who represent the Department in such proceedings shall be subject to any adverse whatsoever, including any adverse performance evaluation, based solely or in part on the outcome of settlement negotiations entered into under this pilot test.

Outside parties in the Philadelphia Region who are involved in disputes with the Department (e.g., contract disputes, grant disputes, or enforcement actions) may be offered, solely at the DOL program agency's discretion, the opportunity to submit the dispute to mediation. In addition, such parties may request such an opportunity to try mediation.

If an outside party to a dispute wishes to try mediation but does not want to use a DOL employee as mediator, the DOL agency may offer, at its own discretion, the opportunity to submit the dispute to another mediator (public or private). In no event will the DOL agency agree to the use of such an outside mediator unless the costs are shred equally with the outside party.

The agreement to participate in mediation shall not constitute a waiver of any party's statutory or regulatory right to an administrative proceeding or court action. However, to the extent permitted by law, DOL agencies are authorized to enter into agreements to waive filing deadlines for appeals by an outside party, or to obtain the voluntary waiver by an outside party of any statute of limitations, for the duration of the mediation procedure.

After an adequate number of cases have been mediated, the pilot will be evaluated and decisions will be made about whether to modify how ADR is used, undertake new pilot projects, extend the use of the ADR in some form throughout the Department, or abandon it use.

Negotiated Rulemaking

It is the Department's policy to continue to experiment with the use of negotiated rulemaking wherever such a process has the potential to result in a rule which is more technically accurate, clear and specific, and less likely to be challenged in litigation by interested parties than a rule produced by traditional notice and comment procedures.

Proponents of the negotiated rulemaking process recognize that it takes a substantial initial investment of time and resources by the agency and by interested parties. Therefore, the Department will only use negotiated rulemaking for regulations where such time and resource investment (public and private) is expected to be prudent and efficient. An important factor in this determination will be an analysis by an independent convenor of whether representatives of all parties who are likely to assert an interest in the subject of the negotiation effort, including the appropriate representatives of the government, appear to have access to adequate resources to sustain the required level of participation in the negotiation effort.

To assist it in such analysis, the Department will make efforts to use conveners with special skills in negotiated rulemaking and mediators with special skills in the technical aspects of the particular rule that may be involved. The Department will rely on the expertise of the Administrative Conference of the United States and the experience of other agencies in assisting it to develop appropriate mechanisms in this regard.

A more articulated policy on the use of negotiated rulemaking will be issued at a later date.

Further Policy Development

The Department intends to closely evaluate the results of its pilot project and other ADR activities under this interim policy prior to nationwide implementation. Suggestions on the implementation of Department's interim ADR policy, particularly from those who participate in or are affected by activities undertaken pursuant to this interim policy, are welcome.

Suggestions on negotiated rulemaking should be directed to Marshall J. Breger, Solicitor of Labor, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Suggestions on the Philadelphia pilot project and other aspects of ADR should be directed to

Nancy Risque Rohrbach, Assistant Secretary for Policy, U.S. Department of Labor, at the same address.

Signed at Washington, DC, this 25th day of February 1992.

Lynn Martin,

Secretary of Labor.

[FR Doc. 92-4629 Filed 2-27-92; 8:45 am]

BILLING CODE 4510-23-M

federal register

Friday
February 28, 1992

Part VI

Department of Education

34 CFR Part 212

Elementary and Secondary Education:
Even Start Program; Proposed Rule

DEPARTMENT OF EDUCATION

34 CFR Part 212

RIN: 1810-AA64

Even Start

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the regulations governing the Even Start program. Even Start is authorized by part B, chapter 1, of title I of the Elementary and Secondary Education Act of 1965. The National Literacy Act of 1991 (Pub. L. 102–73) contains amendments to Even Start. These proposed regulations would amend current Even Start regulations to: (1) Reflect the statutory changes to Even Start contained in the National Literacy Act; (2) include provisions needed to govern the program when it becomes State-administered; and (3) make related changes to the migrant education component of the Even Start program.

DATES: Comments must be received on or before March 30, 1992.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Mary Jean LeTendre, Director, Compensatory Education Programs, U.S. Department of Education, 400 Maryland Avenue, SW., room 2043, Washington, DC 20202–6132. Telephone: (202) 401–1692. Deaf and hearing impaired individuals may call (202) 732–4538 for TDD services.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Patricia McKee, Chief, Discretionary Grants Branch, Compensatory Education Programs, U.S. Department of Education, 400 Maryland Avenue, SW., room 2043, Washington, DC 20202. Telephone: (202) 401–1692. Deaf and hearing impaired individuals may call (202) 732–4538 for TDD services. For questions about the Migrant Education Even Start program, contact Howard Essl, Chief, Policy and Planning Branch, Office of Migrant Education, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., room 2149, Washington, DC 20202–6135. Telephone: (202) 401–1611. Deaf and hearing impaired individuals may call (202) 732–4538 for TDD services.

SUPPLEMENTARY INFORMATION:

A. Background

The regulations governing the Even Start program (34 CFR part 212) were published in the **Federal Register** on March 23, 1989. Subpart F of those regulations, governing the Migrant Education Even Start program, was published in the **Federal Register** on May 25, 1989. These proposed amendments to the regulations reflect statutory changes to Even Start contained in the National Literacy Act of 1991 (Pub. L. 102–73). In accordance with the statutory changes, these regulations: (1) Make community-based organizations, in cooperation with local educational agencies, eligible to apply for grants (§§ 212.2 and 212.6); (2) expand eligibility for Even Start funds to include Indian tribes, tribal organizations, and the Nation's insular areas (territories) (§ 212.2); (3) expand the age of children eligible for Even Start to include those from birth through age 7 (§ 212.7); (4) provide that families that otherwise would be ineligible due to one or more participants having become ineligible under the statute may continue to participate until all family members become ineligible (§ 212.7); (5) revise the selection criteria for making discretionary grants to eligible entities (§ 212.21); (6) provide a method for applying the priorities contained in the amendments to the discretionary grant selection process (§ 212.21); (7) specify conditions for waiving the requirement relating to the source of the local contribution of funds (§ 212.25); (8) contain provisions regarding State administration of the program, which will begin in fiscal year (FY) 1992 (§§ 212.30–212.34); and (9) make conforming changes to regulations governing the Migrant Education Even Start program (§§ 212.50–212.58).

Even Start supports AMERICA 2000, the President's strategy to help America move toward achieving the six National Education Goals. Because it integrates early childhood education and adult education by involving parents who have limited basic education skills in the education of their young children, Even Start helps States and localities directly address two of the National Education Goals. Goal 1 calls for all children in America to start school ready to learn. An objective of Goal 1 is for every parent to be a child's first teacher, to devote time each day to helping his or her preschool child learn, and to have access to training and support. Even Start also contributes to achieving Goal 5—that every adult American will be literate and will possess the knowledge and skills necessary to compete in an global economy and exercise the rights and responsibilities of citizenship.

These proposed regulations are necessary to bring current regulations into conformity with legislative amendments, and to establish procedures that will govern the program when it becomes State-administered in FY 1992.

B. Issues

Priority Points

The proposed regulations would implement the new requirement in section 1057 of the statute that certain applicants be given priority when applying for grants. That provision requires that the review panel appointed by the Secretary or the State, as the case may be, give priority to the following applicants: (1) Those that demonstrate a high degree of need for Even Start services in the area to be served; and (2) those that demonstrate an ability to operate an effective program.

In the amendments to the Even Start law, the Congress also included the first factor (need) as one of the regular selection criteria. The second factor is similar to an existing selection criterion that judges an applicant's likelihood of success in meeting the Even Start goals. Therefore, in § 212.21 of the proposed regulations, the Secretary proposes to implement the priorities by assigning additional points to applicants as follows:

1. For the first factor, "need," the Secretary would assign 10 additional points to applicants that demonstrate a severity of need, by substantial objective documentation, using several of the need-related indicators contained in § 212.21(b).

2. For the second factor, "ability to operate," the proposed regulations would first add a new subelement to § 212.21(a), "Likelihood of Success in Meeting the Even Start Goals." The subelement would give five points for: (1) Objective evidence that the eligible entity has had past success in operating programs that served any or all of the Even Start target groups (adults, young children, or families); or (2) information supporting the applicability of a certain model to the local site, with descriptions of the model and its proposed implementation (§ 212.21(a)(1)(viii)). In cases where the applicant is a nonprofit organization, evidence of past success may be provided by its collaborating local educational agency (LEA).

The five points added to paragraph (a) of § 212.21 would be taken from paragraph (e), "Promise as a Model." The points for the subelements in paragraph (e) would be changed as follows: (1) Evaluation plan—from 8 to 5 points; (2) basis of project components—from 5 to 3 points; and (3) willingness to serve as a model—remains at 2 points.

For the priority points, the review panel would assign 10 additional points to applicants that receive 35 or more points out of the 40 points now possible under § 212.21(a) of the regulations, and, in addition, receive 5 points on the new subelement (§ 212.21(a)(1)(viii)) if based on evidence of past success in operating a program. An applicant providing information concerning implementation of a model, rather than evidence of past success, can receive up to five points on the new subelement, but would not qualify for the ten priority points.

State Requirements

Section 212.30 (a) and (b) of the proposed regulations would require that, in order for a State to receive funds for the first three fiscal years in which the program is State-administered, it must submit a State plan to the Secretary. State plans are needed to insure full understanding and implementation of Even Start statutory and administrative requirements that govern the program after it converts from Federal to State operation. State plans would provide a systematic means for communication between the Department and each State about those requirements and would help the Department provide appropriate technical assistance to all States. The Department discourages States from filing lengthy documents. A concise plan outlining the basis elements requested will suffice.

After the three-year period, it is expected that State plans would no longer be as necessary. Thereafter, as proposed in § 212.30(c), States would be required only to file appropriate assurances with the Department.

The proposed regulations require that States submit the reports and information as the Secretary may require (§ 212.33). The Secretary plans to develop a performance report form specific to Even Start that States will submit annually. The performance report would ask for information on various aspects of program operations, such as information about subgrant awards, services provided, numbers of children and adults served, information concerning the amount of funds spent on State administration and technical assistance, and outcomes achieved.

The proposed regulations also contain provisions that would govern State procedures for awarding subgrants. Section 1052(b) of the amended statute requires that States make subgrants of at least $75,000 each. Sections 212.31 and 212.32 of the proposed regulations would require that, in addition, subgrants be of sufficient size, scope, and quality to give reasonable promise of meeting the purposes of Even Start. The Secretary proposes this requirement to emphasize the fact that the statutory minimum should not also be used as a maximum, and that subgrant awards should be large enough to help ensure successful Even Start projects.

For continuation awards, to ensure a smooth transition and avoid overlapping Federal and State grants in FY 1992 when Even Start converts to a State program, the beginning date of an award made by a State should be the day after the expiration of the Federal grant. In the event that the Federal project grant ends before a State grant begins, a grantee may request an extension of the Federal grant period from the Department.

Applicability of General Chapter 1 Provisions

The Even Start program is contained in part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (chapter 1). Several of the provisions in parts E and F of chapter 1 will affect the States in their administration of the Even Start program. Others are inapplicable to Even Start. Those that do apply to Even Start, and are directed to the States rather than the Department, are identified in § 212.34 of the proposed regulations.

Section 1404 of the Act (Payments for State Administration) concerns payments to the States for performance of their duties under chapter 1. These funds may be used for administration of Even Start, if needed, in addition to the five percent of Even Start funds that the State is authorized to use under section 1052(b) of the Act.

Section 1432(b) of the Act (Availability of Appropriations), containing limitations on carryover of funds, does not apply to Even Start. This provision is interpreted to apply only to basic and concentration grants under the chapter 1 LEA program. Those grants are distributed to LEAs by formula. The carryover limits were designed to provide yearly consistency of expenditures among those LEAs that have an expectation of yearly funding. Because Even Start is a discretionary program with funds made available to eligible entities on a competitive basis, eligible entities receiving funds have no legitimate expectation of continuation of funding. Therefore, carryover limits do not apply.

The "Tydings" provision in section 412(b) of the General Education Provisions Act (Availability of Appropriations on Academic or School Year Basis) does, however, apply to Even Start when the program is State-administered, so that Even Start funds that States receive will remain available for obligation during the fiscal year succeeding the fiscal year for which they are appropriated. States may allow eligible entities to carry over unobligated funds from State grants for the remaining time available, and reduce the amount of future awards by the carryover amount.

Section 1436 of the Act (Application of General Education Provisions Act), providing that the General Education Provisions Act (GEPA) applies except for certain superseded or excepted provisions, applies to Even Start. Note that, even though section 436 of GEPA, governing LEA applications to the State, is mostly inapplicable, section 1056 of the Even Start statute specifically requires eligible entities to submit applications to States containing the detailed information listed in the statute.

Section 1451 of the Act (State Regulations), which requires, among other things, that a Committee of Practitioners review any proposed State rules governing the program, applies to Even Start as well. The proposed regulations in § 212.5(b)(10) adopt the regulation in 34 CFR 200.70 interpreting and implementing the provisions of section 1451. However, some provisions of 34 CFR 200.70 are not appropriate for Even Start and are excepted. Although some States may wish to use, for Even Start, the same Committee of Practitioners already in place for the basic LEA program, others may wish to develop a committee solely for Even Start. States are encouraged to consider, in addition to the committee members required by statute, persons knowledgeable about the various aspects of education that Even Start addresses: adult education, family literacy, and early childhood education.

Section 1453 (Assignment of Personnel) applies to the extent that Even Start personnel are paid entirely with Even Start funds and perform their duties in an elementary school setting, i.e., teach Even Start children in kindergarten through grade 12 in a public school. For this Even Start purpose, § 212.5(b)(10) of the proposed regulations adopts the regulation in 34 CFR 200.39 that interprets the statutory requirements.

Applicability of Certain of the Education Department General Administrative Regulations

Section 212.5 of the proposed regulations lists those sections of part 76 of the Education Department General Administrative Regulations (EDGAR) that do not apply to Even Start. In addition, the Department plans to amend part 76 to include Even Start as a program covered by 34 CFR 76.102 (Definition of "State plan" for Part 76), and 34 CFR 76.125 (What is the purpose of these regulations?) governing consolidated applications from insular areas.

The proposed regulations provide that Part 80 of the EDGAR will continue to apply to Even Start when the program is State-administered.

Allocation of Funds—Migratory Children, Indian Tribes and Organizations, and Territories

In fiscal years for which Congress appropriates $50 million or more, section 1053 of the statute, as amended, requires the Secretary first to reserve five percent of the Even Start appropriation for migratory children, the territories (Guam, American Samoa, the Virgin Islands, Northern Mariana Islands and Palau), and Indian tribes and tribal organizations, to be allocated according to their relative need. The amount reserved for programs for migratory children must be at least the amount reserved in the preceding fiscal year.

A review of data available on which to base relative need among the three groups has yielded only one data set on which common information is available: The number of school-aged children (ages 5–17) in each group. Reliable data on the number of children ages birth through seven (the group of children eligible to be served under the statute), are not available for all three groups. The Secretary assumes that the number of children in these groups ages birth through seven is likely to be proportional to the number of children ages 5–17. The Secretary recognizes that, as groups, children who are migratory, Indian, or residents of the territories all have substantial need for Even Start program services, and that use of child-count data alone to determine how the five percent set-aside should be apportioned among these groups is less than ideal. However, the Secretary proposes to use the 5–17 child count because it appears to be the best available proxy for "need," given the substantial difficulty in obtaining, for these groups, other reliable and comparable data for need-related indicators such as poverty, illiteracy, and unemployment.

In estimating the number of children ages 5–17 in each group, the Secretary will use the most recent data that are available. In determining the set-aside for each group, the Secretary plans to apply these child-count figures proportionately to the five percent set-aside and round to the nearest half percent. By doing so, for FY 1992, three percent of the Even Start appropriation would be reserved for programs for migratory children (the same as the statutorily required reservation when the program is federally administered); one and one-half percent would be reserved for programs for Indian tribes and tribal organizations; and one-half percent would be reserved for Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas, and Palau. When the underlying data yield different percentages or better measures of relative need become available, the Secretary will notify the public of the new allocation percentages.

Funds reserved for Indian tribes and tribal organizations would be competitively awarded. The Secretary would apply the regular Even Start selection criteria contained in the regulations that include "need" as one of the factors (§ 212.23(a)). Migrant Education Even Start funds would also be awarded competitively, with selection criteria modified as described in the following section. Funds reserved for the territories would be allocated to them in proportion to each territory's Chapter 1 basic grant (§ 212.23(b)). Territories could either submit a consolidated grant application or submit a State plan for the first three fiscal years of State administration.

Migrant Education Even Start Program

Proposed subpart F of the Even Start regulations would modify the existing regulations for the Migrant Education Even Start program to reflect both the new statutory requirements in the National Literacy Act of 1991 as they would apply to a program for migratory children and their parents, and technical changes that are needed in the subpart F regulations. For clarity, the following discussion focuses first on significant differences between regulations that would govern the regular Even Start program and those that would govern the Migrant Education Even Start program.

Under §§ 212.51 and 212.57(b), as proposed, the Secretary would continue to make grants on a competitive basis to State educational agencies (SEAs) (as has been the practice since the Even Start program began). SEAs may then make subgrants to eligible entities that include local operating agencies or institutions for Even Start projects that serve migratory children and parents. The principal change involves selection criteria.

First, § 212.55(a) would tailor the criterion contained in § 212.21(b), as proposed (Need for the project), to emphasize that a State's need for a Migrant Education Even Start project depends on the relative numbers or percentages of currently migratory children and parents who reside in the area to be served for the period of time the project would operate. As with the regular Even Start program, a high need for Migrant Education Even Start services could be shown by comparison with other areas of the State or the Nation as a whole. Defining need in this way would permit applications from those "receiving" States in which large numbers or high percentages of migratory children and parents reside for only a portion of the calendar year to be evaluated fairly alongside applications from the "sending" States in which currently migratory children and parents reside for most of the year.

Second, § 212.55(b) would alter the regular Even Start application's description of interagency planning, contained in § 212.21(c)(2) (Degree of cooperation and coordination), to reflect the overall requirements in § 212.50(b) that Migrant Education Even Start projects provide services on an interstate or intrastate basis.

Third, § 212.55(c), which identifies the number of points that may be awarded to applicants under each Migrant Education Even Start selection criterion, would assign values to several of the criteria that differ from those provided under the regular Even Start program. Rather than provide for priority points, as would § 212.21(b)(3) (Need for the project), § 212.55(c)(2) simply would assign up to 20 points for this criterion. In addition, in view of the particular importance of awarding Migrant Education Even Start grants to applicants whose projects show promise as a model, § 212.55(c) would continue to provide applicants up to 20 points, rather than the 10 points in § 212.21(e), for projects that are expected to meet this criterion. In order for the total number of points that may be awarded under the Migrant Education Even Start program to be 120, as under the regular Even Start program, § 212.55(c)(1) would reduce from 40 to 32 the number of points that may be awarded under the criterion, Likelihood of success in meeting the Even Start goals. Similarly,

§ 212.55(c)(4) would reduce from ten to eight the number of points that may be awarded for the criterion, Reasonableness of budget.

Proposed subpart F also would make several technical changes in existing regulations for the Migrant Education Even Start program. First, §§ 212.52 and 212.53(b) would adopt the new requirements proposed for the regular Even Start program in §§ 212.7 and 212.25 regarding expanded eligibility and waiver of the source of local contribution. Section 212.54(b) would change the maximum number of points that can be awarded under the Migrant Education Even Start selection criteria to 120. Under § 212.56(a)(2), like its counterpart in § 212.22(a)(1) of the proposed regulations in the regular Even Start program, the Secretary would ensure that, in awarding new grants, projects will build on existing community resources to create services that integrate the early childhood and adult education components into a unified program. In addition, §§ 212.57(a)(4) and 212.58 would clarify that the SEA may make subgrants to an eligible entity that includes, for purposes of Migrant Education Even Start, any agency that could receive Migrant Education Program funds under 34 CFR part 201.

Finally, in keeping with the requirement in section 1052(b)(3) of the Act that States use no more than five percent of their Even Start grants for the costs of administration and technical assistance when the program is State-administered, § 212.58(b) would apply this same limitation to SEAs that subgrant the operation of a Migrant Education Even Start program to an eligible entity.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities.

The small entities that would be affected by these proposed regulations are small LEAs and community-based organizations receiving Federal funds under this program. However, the regulations would not have a significant economic impact on the small entities affected because the regulations would not impose excessive regulatory burdens or require unnecessary Federal supervision. The regulations would impose minimal requirements to ensure the proper expenditure of program funds.

Paperwork Reduction Act of 1980

Sections 212.10, 212.11, 212.12, 212.13, 212.21, 212.22, 212.25, 212.30, 212.32, 212.33, 212.53, and 212.55 contain information collection requirements. As required by the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of these sections to the Office of Management and Budget for its review. (44 U.S.C. 3504(h))

States and territories are required, for three years, to submit a State plan under these regulations. The Department needs and uses the information to facilitate the Department's oversight of the program with regard to the States' compliance with the statute and regulations. Annual public reporting burden for this collection of information is estimated to average 15 hours per response for 57 respondents (who meet the definition of a State or territory for purposes of Even Start), including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

For purposes of the Migrant Education Even Start program, annual public reporting burden for this collection of information is estimated to average 17.33 hours per response for 60 respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. In addition, for Indian tribes that will submit applications for discretionary grants, the annual public reporting burden for this collection of information is estimated to average 20 hours per response for 30 respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, room 3002, New Executive Office Building, Washington, DC 20503, Attention: Daniel J. Chenok.

Intergovernmental Review

When this program is administered by the Secretary as a direct grant program, it is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The Migrant Education Even Start program is also subject to these requirements. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations. The Secretary is particularly interested in views concerning: (1) The proposed application of the statutory priorities to the selection process; (2) the proposed use of the child-count data, described in the preamble, to allocate funds among Indian tribes and tribal organizations, territories, and projects serving migratory children; (3) the proposed three-year requirement of a State plan; and (4) whether the territories should be permitted to make subgrants.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in room 2043, 400 Maryland Avenue, SW., Washington, DC, between the hours of 8:30 and 4 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comment on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

List of Subjects in 34 CFR Part 212

Adult education, Education, Education of disadvantaged children, Elementary and secondary education, Family, Family-centered education, Grant program—education, Indians—education, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Number 84.213, The Even Start program)

Dated: February 21, 1992.

Lamar Alexander,
Secretary of Education.

The Secretary proposes to amend chapter II, title 34 of the Code of Federal Regulations by revising part 212 to read as follows:

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PART 212—EVEN START

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212.57 What other provisions in this part apply?
212.58 May an SEA make a subgrant to an eligible entity?

Authority: 20 U.S.C. 2741–2749, 2831, unless otherwise noted.

Subpart A—General

§ 212.1 What is the Even Start program?

(a) The Even Start program grants funds for the Federal share of the cost of providing family-centered education projects to help parents become full partners in the education of their children, to assist children in reaching their full potential as learners, and to provide literacy training for their parents.

(b) The Secretary implements the Even Start program by assisting cooperative projects that build on existing community resources to create a new range of services, integrating early childhood education and adult education for parents.

(Authority: 20 U.S.C. 2741, 2744(a))

§ 212.2 Who is eligible for a grant?

(a) If the Secretary makes direct grants under section 1052(a) of the Act, the Secretary makes grants to—

(1) Eligible entities or consortia of eligible entities;

(2) Territories; and

(3) Indian tribes and tribal organizations.

(b) If the Secretary makes grants to States under section 1052(b) of the Act—

(1) The Secretary provides funds to—

(i) States through their respective State educational agencies (SEAs);

(ii) Territories; and

(iii) Indian tribes and tribal organizations; and

(2) States make subgrants to eligible entities.

(Authority: 20 U.S.C. 2742)

§ 212.3 What activities may the Secretary or States fund?

The Secretary or each SEA, as the case may be, funds family-centered education projects that comply with section 1054 of the Act, and that include all of the program elements required by section 1054(b) of the Act.

(Authority: 20 U.S.C. 2744)

§ 212.4 What is the duration of a project?

No project operated by an eligible entity may exceed four years.

(Authority: 20 U.S.C. 2747(d))

§ 212.5 What regulations apply?

The following regulations apply to the Even Start program:

(a) When the Secretary makes direct grants under section 1052(a) of the Act, the following parts of the Education Department General Administrative Regulations (EDGAR):

(1) 34 CFR part 74 (Administration of Grants to Institutions of Higher Education, Hospitals and Nonprofit Organizations) for grants to nonprofit organizations.

(2) 34 CFR part 75 (Direct Grant Programs) except for grants to territories.

(3) CFR part 76 (State-Administered Programs) for grants to territories.

(4) 34 CFR part 77 (Definitions that Apply to Department Regulations).

(5) 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(6) 34 CFR part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments) for grants to State and local governments (including territories), and Indian tribes and tribal organizations.

(7) 34 CFR part 81 (General Education Provisions Act—Enforcement).

(8) 34 CFR part 82 (New Restrictions on Lobbying).

(9) 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(10) 34 CFR part 86 (Drug-Free Schools and Campuses) for grants to institutions of higher education, SEAs, LEAs, and territories.

(b) When the Secretary makes grants under section 1052(b) of the Act, the following parts of EDGAR and sections of 34 CFR part 200 (for grants to States):

(1) 34 CFR part 75 (Direct Grant Programs) for grants to Indian tribes and tribal organizations, and to SEAs under subpart F of this part.

(2)(i) 34 CFR part 76 (State-Administered Programs) for grants to States and territories, except for the following sections:

(A) Section 76.301 (Local educational agency general application).

(B) Sections 76.560 through 76.563 (Indirect Cost Rates).

(C) Section 76.684 (Day care services).

(ii) In addition, after the first three consecutive fiscal years in which section 1052(b) of the Act applies, the following sections also do not apply:

(A) Sections 76.100 through 76.106 (State Plans and Applications);

(B) Sections 76.140 through 76.142 (Amendments);

(C) Section 76.201 (A State plan must meet all statutory and regulatory requirements); and

(D) Section 76.202 (Opportunity for a hearing before a State plan is disapproved).

(3) 34 CFR part 77 (Definitions that Apply to Department Regulations).

(4) 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities) for grants to States and territories.

(5) 34 CFR part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(6) 34 CFR part 81 (General Education Provisions Act—Enforcement).

(7) Part 82 (New Restrictions on Lobbying).

(8) Part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(9) 34 CFR part 86 (Drug Free Schools and Campuses).

(10) The following sections of 34 CFR part 200 for grants to States:

(i) Section 200.39 (How may personnel be assigned non-chapter 1 duties?), with the term "chapter 1" interpreted as "Even Start."

(ii) Section 200.70 (Does a State have authority to issue State regulations for the chapter 1 LEA program?), with the term "chapter 1" interpreted as "Even Start," and "this part" interpreted as "part 212," except for the following:

(A) Section 200.70(c)(1).

(B) Section 200.70(e)(3)(i)(E) and (e)(3)(iii). .

(iii) Section 200.73 through 200.75 (Complaint Procedures of the SEA), with the term "chapter 1 LEA program" interpreted as "Even Start."

§ 212.6 What definitions apply?

(a) *Definitions in the Act.* The following terms used in this part are defined in section 1471 of the Act: Community-based organization, Elementary school, Equipment, Local educational agency, Parent, Secretary, State educational agency.

(b) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1: Applicant, Application, Award, Department, Facilities, Fiscal year, Grant, Grant period, Grantee, Nonprofit, Project.

(c) *Other definitions.* The following definitions also apply to this part:

Act means the Elementary and Secondary Education Act of 1965, as amended.

Eligible entity means—(i) An LEA applying in collaboration with a community-based organization, public agency, institution of higher education, or other nonprofit organization; or

(ii) A community-based organization or other nonprofit organization of demonstrated quality applying in collaboration with an LEA.

Indian tribe means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) (43 U.S.C. 1601 *et seq.*) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

State means any of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

Territory means Guam, America Samoa, the Virgin Islands, the Commonwealth of the Northern Marina Islands, and Palau (until the compact of Free Association with Palau takes effect pursuant to section 101(a) of Pub. L. 99-658).

Tribal organization means the recognized governing body of any Indian tribe, and any legally established organization of Indians that is controlled, sanctioned, or chartered by the governing body or is democratically elected by the adult members of the Indian community to be served by the organization and that includes the maximum participation of Indians in all phases of its activities.

(Authority: 20 U.S.C. 2742(d), 2743, 2831(a))

§ 212.7 Who are eligible participants in an Even Start project?

(a) Except as provided in paragraph (b) of this section, eligible participants are—

(1) A parent of a child described in paragraph (a)(2) of this section, if the parent is eligible for participation in an adult education program under the Adult Education Act, 20 U.S.C. 1201a(1) and (2); and

(2) A child, from birth to age 7, inclusive, of any eligible parent, who resides in an elementary school attendance area designated for participation in programs under part A of chapter 1 of title I of the Act.

(b)(1) A family that has been participating in an Even Start program and would become ineligible for participation as a result of one or more family members becoming ineligible may continue to participate in the program until all family members become ineligible.

(2) In the situation described in paragraph (b)(1) of this section, any family member who would be ineligible under paragraph (a) of this section may continue to participate in appropriate family literacy activities, provided that projects may not provide these family members special activities different from those already provided for other Even Start participants.

(Authority: 20 U.S.C. 2745)

Subpart B—How Does an Applicant Apply for a Grant?

§ 212.10 To whom does an eligible entity submit an application?

An eligible entity shall submit an application to the Secretary under section 1052(a) of the Act, in the form required by the Secretary, or to the SEA under section 1052(b) of the Act, in the form required by the SEA, as the case may be.

(Authority: 20 U.S.C. 2746(a))

§ 212.11 What requirements apply to eligible entities for submitting an application to the Secretary for a new grant?

Before submitting an application to the Secretary for a new grant under section 1052(a) of the Act, an eligible entity shall—

(a) Give reasonable notice of the general public's opportunity to testify or otherwise comment at an open meeting regarding the subject matter of the application;

(b) Hold the open meeting; and

(c) Consider comments obtained at the meeting in developing the final application.

(Authority: 20 U.S.C. 3386)

§ 212.12 How does an Indian tribe or tribal organization apply for assistance?

An Indian tribe or tribal organization shall submit an application to the Secretary in the form required by the Secretary.

(Authority: 20 U.S.C. 2743(a))

§ 212.13 How does a territory apply for assistance?

A territory shall—

(a) For the first three consecutive fiscal years in which section 1052(b) of the Act applies, submit a State plan to the Secretary in accordance with 34 CFR part 76 and subpart D of this part; or

(b) Submit a consolidated grant application to the Secretary in accordance with the provisions in 34 CFR part 76.

(**Authority:** 20 U.S.C. 2743(a), 48 U.S.C. 1469(a))

Subpart C—How Does the Secretary Make a Grant? New Grants

§ 212.20 How does the Secretary evaluate an application from an eligible entity for a new grant?

(a) *Review Panel.* (1) The Secretary appoints a panel to review applications in accordance with section 1057 of the Act.

(2)(i) The panel evaluates an application for a new grant on the basis of the criteria in § 212.21.

(ii) The panel gives up to 120 points for these criteria.

(iii) The maximum possible score for each complete criterion in § 212.21 is indicated in parentheses.

(3) The panel indicates whether the applicant has adequately demonstrated its ability to provide the additional funding required by section 1054(c) of the Act.

(b) *Additional factors.* The Secretary then applies the additional considerations in § 212.22 to make grants.

(**Authority:** 20 U.S.C. 2747)

§ 212.21 What selection criteria are used in making new grants to eligible entities?

The following criteria are used to evaluate an application for a new grant to an eligible entity:

(a) *Likelihood of success in meeting the Even Start goals* (40 total points plus possible 10 priority points). (1) The Secretary reviews each application to determine the extent to which the proposed project will provide a family-centered education program that includes activities to promote literacy of participating parents, train parents to support the educational growth of their children, and prepare children for success in regular school programs. In applying this criterion the Secretary determines the extent to which the project described in the application—

(i) Contains clear, attainable, measurable objectives against which the progress and success of the project will be measured (5 points);

(ii) Includes appropriate activities, services, and timelines to achieve those objectives (5 points);

(iii) Designates responsibilities to specific personnel who are qualified to administer and implement the project and to provide special training necessary to prepare staff for the program (5 points);

(iv) Includes an effective plan to ensure proper and efficient administration of the project (5 points);

(v) Is based on sound research in the areas of early childhood education, adult literacy, and parenting education (5 points);

(vi) Contains instructional and developmental activities appropriate to the level of the participants to be served (5 points);

(vii) Provides for continuity of services to maintain progress by, for example, providing continuous services through the summer months (5 points); and

(viii) Provides—

(A) Objective evidence, including quantitative data on the educational and related outcomes of the program, that the applicant, or its collaborating LEA, has had past success in operating a literacy program, an adult education program, an early childhood education program, or a parenting education program; or

(B) A description of the specific family literacy model that the applicant proposes to implement (including quantitative data on the model's effectiveness), information supporting the applicability of the model to the local site, and a detailed description of how the model will be implemented in the proposed project (5 points).

(2) The Secretary gives 10 additional points to applicants that—

(i) Receive at least 35 out of 40 points under paragraph (a) of this section; and

(ii) Receive 5 points under paragraph (a)(1)(viii) of this section, based on paragraph (a)(1)(viii)(A) of this section (0 or 10 points).

(**Authority:** 20 U.S.C. 2744(b)(7), 2747, 2831(a))

(b) *Need for the project* (10 points plus possible 10 priority points). (1) The Secretary reviews each application to determine the extent to which the applicant demonstrates that the area to be served has a high percentage or large number of children and parents in need of Even Start services.

(2) For purposes of paragraph (b)(1) of this section, need for Even Start services must be shown by demonstrating the following:

(i) High levels of poverty, illiteracy, unemployment, limited English proficiency, or other need-related indicators. High levels of need may be shown by comparison with other areas of the State or the United States.

(ii) The unavailability of comprehensive family literacy services for the target population that could be provided by other programs. If similar programs serve the same population, applicants may provide evidence of waiting lists or other indicators that local demand exceeds the ability of those programs to meet the needs.

(3) The Secretary gives 10 additional points to applicants providing substantial objective documentation of need in more than one of the indicators listed in paragraph (b)(2)(i) of this section (0 or 10 points).

(c) *Degree of cooperation and coordination* (30 total points). The Secretary reviews each application to determine the extent to which cooperation and coordination will take place in all phases of the proposed project among a variety of relevant service providers, including those funded under the programs listed in section 1054(b)(7) of the Act. The Secretary considers the extent to which—

(1) The applicant has made a survey of all relevant providers and is fully aware of similar and related services, including State and locally funded programs, being provided to eligible children and adults (5 points);

(2) The applicant has, in planning the project, engaged various providers in discussions that have resulted in firm agreements for specific cooperative activities (10 points);

(3) The plan of operation includes specific provision for additional cooperative efforts with other service providers, including State and locally funded providers, throughout the duration of the project (5 points); and

(4) Services offered by the applicant will build upon, but not duplicate, those being provided to project participants by the applicant or other service providers (10 points).

(d) *Reasonableness of budget* (10 points). The Secretary reviews each application to determine the extent to which the budget submitted for the entire cost of the proposed project appears reasonable, given the scope of the project. The Secretary considers the extent to which—

(1) Costs are reasonable in relation to expected outcomes;

(2) The applicant will make use of currently available resources such as facilities and equipment; and

(3) The budget provides sufficient information to support the requested amount of funds.

(e) *Promise as a model* (10 total points). The Secretary reviews each application to determine the extent to which the proposed project shows promise in providing a model that may be transferred to other eligible entities

The Secretary considers the extent to which—

(1) The preliminary evaluation plan described in the application—

(i) Measures the progress and success of the project in achieving its clearly stated and attainable objectives;

(ii) Utilizes concrete and quantifiable means of measurement; and

(iii) Includes, if possible, comparisons with appropriate control groups (5 points);

(2) The general components of the project are readily understandable and usable by other entities, and are based on research or models that have proven to be adaptable to various circumstances (3 points); and

(3) The applicant shows a willingness to serve as a model and to disseminate detailed information about the project to the Department and to other eligible entities (2 points).

(Authority: 20 U.S.C. 2744(b)(7), 2747, 2831(a))

§ 212.22 What additional factors does the Secretary consider in making new grants to eligible entities?

(a) The Secretary, in approving grants to eligible entities, ensures that—

(1) Each project builds on existing community resources in a cooperative effort to create a new range of services integrating early childhood education and adult education for parents into a unified program; and

(2)(i) Grants are made to eligible entities that are representative of urban and rural regions of the United States.

(ii) Grant funds are distributed equitably among the States and among urban and rural areas of the United States.

(b)(1) For purposes of this section, urban eligible entities are those within Metropolitan Areas (MAs), as most recently designated by the United States Department of Commerce, Bureau of Census, and rural eligible entities are those outside the boundaries of MAs.

(2) If an eligible entity includes areas both within and outside of an MA, the applicant shall designate the category in which the majority of expected participants reside.

(c) To the extent that acceptable applications are received from the various States, the Secretary does not give grants to eligible entities in one State in amounts that, in total, exceed the amount that the State would be allocated under section 1053(b) of the Act if the appropriation for the Even Start program equals $50 million.

(Authority: 20 U.S.C. 2741, 2747(a)(1)(F), (c), (d)(2))

§ 212.23 How does the Secretary make a grant to Indian tribes and tribal organizations, and to territories?

(a)(1) The Secretary provides funds to Indian tribes and tribal organizations by making grants based on applications submitted under § 212.12.

(2) The Secretary applies the following sections of this part in making new grants to Indian tribes and tribal organizations:

(i) Section 212.20, with the exception of § 212.20(a)(2).

(ii) Section 212.21.

(iii) Section 212.22(a)(1).

(b)(1) The Secretary provides funds to the territories by making grants based on applications submitted under § 212.13, according to the relative need of each territory.

(2) The relative need of each territory is considered to be in proportion to the amount of funds received by the territory under part A of chapter 1 of title I of the Act.

(Authority: 20 U.S.C. 2743(a))

§ 212.24 What is the portion of an Even Start grant that eligible entities are required to contribute?

(a) An Even Start grant to an eligible entity is comprised of a Federal portion of funds and a portion contributed by the eligible entity.

(b) The eligible entity's portion of an Even Start grant is—

(1) In the first year of the project's funding, at least 10 percent of the total cost of the project;

(2) In the second year of the project's funding, at least 20 percent of the total cost of the project;

(3) In the third year of the project's funding, at least 30 percent of the total cost of the project.

(4) In the fourth year and any subsequent year of the project's funding, at least 40 percent of the total cost of the project.

(c) The eligible entity's portion may be obtained from any source other than funds made available for programs under Chapter 1 of Title I of the Act, and may be provided in cash or in kind, fairly evaluated.

(Authority: 20 U.S.C. 2744)

§ 212.25 When may the Secretary waive the requirement concerning the source of the local contribution of funds?

The Secretary may waive in whole or in part the requirement that the local share of the cost of the project be obtained from sources other than funds under chapter 1 of title I of the Act if—

(a) An eligible entity demonstrates that, due to its own financial situation and the lack of any other sources of funding—

(1) It otherwise would not be able to conduct an Even Start project; or

(2) It otherwise would not be able to continue its project at the level previously maintained, if it is a grantee applying for a continuation grant;

(b) The demonstration required by paragraph (a) of this section is supported by detailed financial data and is accompanied by a signed statement from a responsible official that all possible sources of funding, including cooperating entities, have been explored;

(c) The applicant designates the specific funds under chapter 1 of the title I of the Act that it intends to use for its local share; and

(d) The applicant negotiates an agreement with the Secretary with respect to the amount of the local contribution to which the waiver would be applicable.

(Authority: 20 U.S.C. 2744(c))

§ 212.26 How does the Secretary make continuation awards if there are insufficient appropriations to fund all requests fully?

(a) If funds are insufficient for the Secretary to fund all continuation requests in the amounts at which each request would otherwise be funded ("approvable grant" amounts), the Secretary reduces the approvable grant amounts for continuation requests on a pro rata basis.

(b) The Secretary does not reduce funding for a project for any fiscal year more than 25 percent below its approvable grant amount, subject to paragraph (c) of this section

(c) If funds are insufficient to fund all continuation awards at 75 percent of their approvable grant amounts, the Secretary—

(1) Ranks all continuation requests based on the criteria in § 212.21, taking into account information collected throughout the project period, including yearly progress reports, the application submitted in the first year, and revisions to that application; and

(2) Funds continuation requests, based on that rank ordering, at 75 percent of approvable grant amounts until funds are exhausted.

(d) If the ranking procedure in paragraph (c) of this section does not result in the distribution of awards consistent with the requirements of § 212.22(a), the Secretary adjusts the selection process so as to meet those requirements.

(Authority: 20 U.S.C. 2831(a))

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§ 212.27 What actions may the Secretary take if a grantee does not make sufficient progress toward meeting its project objectives?

If the Secretary finds, after the first, second, or third year of a project, that the grantee has not made sufficient progress toward meeting its project objectives, the Secretary may—

(a) Approve revisions to the project, proposed by the grantee, if those revisions would enable the grantee to meet its project objectives; or

(b) After affording the grantee notice and an opportunity for a hearing, refuse to make a continuation award to the grantee for that project.

(Authority: 20 U.S.C. 2747(d)(1))

Subpart D—State Administration

§ 212.30 How does a State apply for Even Start funds?

(a) In order to receive assistance for the first fiscal year in which section 1052(b) of the Act applies, a State must provide to the Secretary a State plan, that must include the following:

(1) The certifications required by 34 CFR 76.104.

(2) A description of the selection criteria to be used in making subgrants to eligible entities if the State does not adopt the selection criteria in § 212.21.

(3) A description of how the SEA will coordinate Even Start activities with appropriate offices at the State level, including the following:

(i) Those dealing with adult education and early childhood education.

(ii) Those administering the Federal programs listed in section 1054(b)(7) of the Act.

(iii) Other appropriate Statewide organizations, such as Statewide literacy councils.

(4) A description of how the State will ensure, through such means as monitoring, that grantees will meet the requirements of sections 1054–1057 of the Act.

(5) An assurance that the State will meet the requirements in section 435(b) (2) and (5) of the General Education Provisions Act (GEPA) relating to fiscal control and fund accounting procedures.

(6) An assurance that the State will comply with all applicable Federal laws in implementing the program.

(b) In order to receive assistance for the second and third consecutive fiscal years in which section 1052(b) of the Act applies, a State shall submit to the Secretary an update or amendment to the plan submitted under paragraph (a) of this section, if there have been any changes to information submitted in that plan.

(c) In order to receive assistance for the fourth and following fiscal years in which section 1052(b) of the Act applies, a State shall submit to the Secretary assurances that it—

(1) Will coordinate Even Start activities with appropriate offices at the State level, including the following:

(i) Those dealing with adult education and early childhood education.

(ii) Those administering the Federal programs listed in section 1054(b)(7) of the Act.

(iii) Other appropriate Statewide organizations, such as Statewide literacy councils.

(2) Will ensure that its LEAs comply with all the applicable statutory and regulatory requirements.

(3) Will meet the requirements in section 435(b) (2) and (5) of GEPA relating to fiscal control and fund accounting procedures.

(4) Will comply with all applicable Federal laws in implementing the program.

(Authority: 20 U.S.C. 2747(d), 2831(a))

§ 212.31 What requirements must a State meet in making subgrants?

(a) Projects supported by subgrants must—

(1) Be funded at no less than $75,000;

(2) Be of sufficient size, scope, and quality to give reasonable promise of meeting the purposes of Even Start; and

(3) Make maximum use of the resources available at the local level.

(b) Before making subgrants, a State must—

(1) Determine the effectiveness and financial needs of the currently funded projects within the State;

(2) Consider a current grantee to have an acceptable continuation application if—

(i) The grantee shows that it is making sufficient progress toward meeting the objectives of the project; and

(ii) The grantee meets applicable State requirements for continuation awards; and

(3) Determine, for each current grantee with an acceptable continuation application, an award amount that will ensure the project's continuity of services for the next fiscal year, provided that sufficient funds exist for the State to continue all projects.

(c)(1) A State may permit a grantee to retain funds from State grants that are unobligated by the grantee in one project year, in which case the SEA shall deduct from the subsequent year's continuation award an amount equal to the unobligated funds.

(2) After making continuation awards, the SEA shall use any remaining funds to make grants to new applicants, subject to paragraph (a) of this section.

(d) A State shall ensure a representative distribution of assistance between urban and rural areas of the State.

(Authority: 20 U.S.C. 2742(b), 2747(c)(2), (d)(2), 2831(a))

§ 212.32 What selection criteria does a State use in making new subgrants?

In making new subgrants under section 1052(b) of the Act, a State may—

(a) Apply the criteria contained in § 212.21; or

(b) Apply its own criteria, provided the criteria are consistent with section 1057 of the Act.

(Authority: 20 U.S.C. 2747)

§ 212.33 What reporting requirements apply to States?

In any fiscal year in which section 1052(b) of the Act applies, States shall annually report such information about program operations as may be required by the Secretary.

(Authority: 20 U.S.C. 1232f(a), 2852)

§ 212.34 Which of the general Chapter 1 provisions apply to States in their administration of Even Start?

The following sections of parts E and F of chapter 1 of title I of the Act apply to States in their administration of Even Start:

(a) Section 1404 of the Act (Payments for State Administration).

(b) Section 1433 of the Act (Withholding of Payments).

(c) Section 1434 of the Act (Judicial Review).

(d) Section 1438 of the Act (Application of General Education Provisions Act).

(e) Section 1451 of the Act (State Regulations).

(f) Section 1452 of the Act (Records and Information).

(g) Section 1453 of the Act (Assignment of Personnel), to the extent the Even Start personnel are paid entirely with Even Start funds and perform their duties in an elementary school setting.

(h) Section 1454 of the Act (Prohibition Regarding State Aid).

(i) Section 1471 of the Act (Definitions).

(Authority: 20 U.S.C. 2824, 2833, 2834, 2838, 2851–2854, 2891)

Subpart E—Transition Provisions

§ 212.40 How are grants made when responsibility for making grants to applicants transfers between the Department and the SEAs?

When the responsibility for administering the Even Start program transfers from the Department to the SEAs, or vice versa—

(a) The Secretary applies—

(1) 34 CFR 75.253 with the exception of 34 CFR 75.253 (a)(2);

(2) Section 212.27; and

(3) Section 212.26, if necessary;

(b) A State applies §§ 212.31 and 212.32; and

(c) The Federal share limitations contained in section 1054(c) of the Act are determined from the original year of the project grant award.

(Authority: 20 U.S.C. 2747(d), 2831(a))

Subpart F—Migrant Education Even Start

§ 212.50 What is the Migrant Education Even Start program?

(a) The Migrant Education Even Start program supports grants to eligible SEAs for the cost of providing family-centered education projects to help parents of currently migratory children (as defined in 34 CFR 201.3) become full partners in the education of their children, to assist currently migratory children in reaching their full potential as learners, and to provide literacy training for their parents.

(b) The Secretary makes grants for family centered education projects that provide services on an intrastate or interstate basis, and that include all of the program elements required by section 1054(b) of the Act.

(Authority: 20 U.S.C. 2741, 2743, 2831)

§ 212.51 Who is eligible for a grant?

An SEA or a consortium of SEAs that applies under section 1053(a) of the Act is eligible to receive a grant under the Migrant Education Even Start program.

(Authority: 20 U.S.C. 2743, 2831)

§ 212.52 Who may be served?

(a) Except as provided in paragraph (b) of this section, eligible participants under this subpart are—

(1) A parent of a child described in paragraph (b) of this section, if the parent is eligible for participation in an adult basic education program under the Adult Education Act, 20 U.S.C. 1201(a)(1) and (2); and

(2)(i) As a first priority, a currently migratory child, as defined in 34 CFR 201.3, from birth to age 7, inclusive; and

(ii) As a second priority and, if space is available, a formerly migratory child, as defined in 34 CFR 201.3, from birth to age 7, inclusive.

(b)(1) A family that would become ineligible for participation as a result of one or more family members becoming ineligible may continue to participate in the program until all family members become ineligible.

(2) In the situation described in paragraph (b)(1) of this section, to the extent possible, any family member who would be ineligible under paragraph (a) of this section may continue to be involved in appropriate family literacy activities, provided that projects may not provide these family members special activities different from those already provided for other Migrant Education Even Start participants.

(Authority: 20 U.S.C. 2743, 2745, 2831)

§ 212.53 What applications does the Secretary consider?

(a) The Secretary considers an application that—

(1) Meets the purposes of the Migrant Education Even Start program as provided in § 212.50; and

(2) Adequately demonstrates the applicant's ability to provide the additional funding required by section 1054(c) of the Act.

(b) As provided in § 212.25, the Secretary may waive the requirement in section 1054(c) of the Act concerning the source of the local contribution of funds.

(Authority: 20 U.S.C. 2743, 2744)

§ 212.54 How does the Secretary evaluate an application for a new grant?

(a) The Secretary uses the criteria in § 212.55 to evaluate an application.

(b) The Secretary awards up to 120 possible points for these criteria.

(c) The maximum number of points for each criterion is indicated in § 212.55(c).

(Authority: 20 U.S.C. 2743, 2747)

§ 212.55 What selection criteria does the Secretary use in making new grants?

The Secretary uses the criteria in § 212.21 in evaluating an application, except that—

(a) The criteria in § 212.21(b) (1) and (2) (regarding *Need for the project*) do not apply. Instead, for purposes of this subpart, the Secretary uses the criterion in paragraphs (a) (1) and (2) of this section to evaluate the need for the project.

(1) The Secretary reviews each application to determine the extent to which the applicant demonstrates that, during the period in which the project would operate in a particular location, the areas to be served have high percentages or large numbers of currently migratory children and their parents in need of Migrant Education Even Start services.

(2) For purposes of paragraph (a)(1) of this section—

(i) Need for Migrant Education Even Start services must be shown by demonstrating high levels of poverty, illiteracy, unemployment, limited English proficiency, or other need-related indicators; and

(ii) High levels of need during the period in which the project would operate in a particular location may be shown by comparison with other areas of the State or of the United States.

(b)(1) The criterion in § 212.21(c)(2) (regarding the *Degree of cooperation and coordination*) does not apply.

(2) Instead, for purposes of this subpart, the Secretary considers, as a criterion, the extent to which the applicant has, in planning the interstate or intrastate project, engaged various providers in all locations in which the project would operate, in discussions that have resulted in firm agreements for specific cooperative activities.

(c) The maximum number of points that an applicant may receive for each selection criterion is:

(1) *Likelihood of success in meeting the Even Start goals*—32 points plus a possible 10 priority points. The Secretary awards up to four points for each criterion contained in § 212.21(a)(1)(i) through (a)(1)(viii).

(2) *Need for the project*—20 points.

(3) *Degree of cooperation and coordination*—30 points. The Secretary distributes these points as follows: § 212.21(c)(1)—5 points, § 212.55(b)—10 points, § 212.21(c)(3)—5 points, and § 212.21(c)(4)—10 points.

(4) *Reasonableness of budget*—8 points.

(5) *Promise as a model*—20 points. The Secretary distributes these points as follows: § 212.21(e)(1)—(9 points), § 212.21(e)(2)—(9 points), and § 212.21(e)(3)—(2 points).

(Authority: 20 U.S.C. 2743, 2831)

§ 212.56 What additional factors does the Secretary consider in making new grants?

(a) In addition to applying the criteria in §§ 212.21 and 212.55, the Secretary ensures that—

(1) Grants are made to projects that ensure coordination and cooperation between States (or areas of a State) in which participating children and parents reside during the year;

(2) Each project will build on existing community resources in a cooperative effort to create a new range of services integrating early childhood education and adult education for parents into a unified program; and

(3) To the extent possible, grants are distributed equitably among the States in the three migrant streams, as defined in paragraph (c) of this section.

(b) In order to meet the requirements of paragraph (a)(3) of this section, the Secretary—

(1) Separates applications into three groups representing the three migrant streams; and

(2) Awards grants to applicants in each stream that are ranked the highest as a result of the process in § 212.54, provided that there is one or more acceptable applications from an SEA or consortium of SEAs in that stream.

(c) For the purposes of this section, the States comprising each stream are the following:

EASTERN STREAM—

Alabama
Connecticut
Delaware
Florida
Georgia
Kentucky
Maine
Maryland
Massachusetts
Mississippi
New Hampshire
New Jersey
New York
North Carolina
Pennsylvania
Puerto Rico
Rhode Island
South Carolina
Tennessee
Vermont
Virginia
West Virginia
District of Columbia

CENTRAL STREAM—

Arkansas
Illinois
Indiana
Iowa
Kansas
Louisiana
Michigan
Minnesota
Missouri
Nebraska
North Dakota
Ohio
Oklahoma
South Dakota
Texas
Wisconsin

WESTERN STREAM—

Alaska
Arizona
California
Colorado
Idaho
Montana
Nevada
New Mexico
Oregon
Utah
Washington
Wyoming
Mariana Islands

(Authority: 20 U.S.C. 2743, 2831)

§ 212.57 What other provisions in this part apply?

(a) In addition to the provisions in this subpart, the following provisions in this part apply to the Migrant Education Even Start program:

(1) Section 212.3.

(2) Section 212.4.

(3) Section 212.5, except for § 212.5(b)(10). In the place of § 212.5(b)(10), paragraphs (a)(3) (i) through (iii) of this section apply.

(i) The following sections of 34 CFR part 201 apply to the Migrant Education Even Start program:

(A) Section 201.46 (State rulemaking and other SEA responsibilities.), except for § 201.46(e)(3)(i)(E).

(B) Section 201.47 (Complaint procedures for an SEA.).

(C) Section 201.49 (Persons to be assigned non-Chapter 1 duties.).

(ii) In §§ 201.46, 201.47, and 201.49, "chapter 1" or "chapter 1—Migrant Education Program" are interpreted as "Migrant Education Even Start."

(iii) Paragraphs (a)(3) (i) and (ii) of this section also apply when the Secretary makes direct grants under section 1052(a) of the Act.

(4) Section 212.6, except for the definition of *Eligible entity* in § 212.6(c). For the purposes of the Migrant Education Even Start program, except as noted in paragraph (b) and (c) of this section, *Eligible entity* means—

(i) An LEA or other operating agency as defined in 34 CFR 201.3 applying in collaboration with a community-based organization, public agency, institutions of higher education, or other nonprofit organization; or

(ii) A community-based organization or other nonprofit organization of demonstrated quality applying in collaboration with an LEA or other operating agency as defined in 34 CFR 201.3.

(5) Section 212.23.

(6) Section 212.24.

(7) Section 212.25.

(8) Section 212.26, except that for the purposes of the Migrant Education Even Start program, the appropriate cross-references in § 212.26 (c) and (d) to §§ 212.21 and 212.22(a) are to §§ 212.55 and 212.56, respectively.

(9) Section 212.27.

(b) For the purposes of the Migrant Education Even Start program, in §§ 212.21, 212.24(a) and 212.25 an "eligible entity" means an SEA.

(c) For the purposes of the Migrant Education Even Start program, in § 212.24 (b) and (c) an "eligible entity" means an SEA or eligible entity.

(Authority: 20 U.S.C. 2743)

§ 212.58 May an SEA make a subgrant to an eligible entity?

(a) Notwithstanding the prohibition of subgrants in 34 CFR 75.708(a), an SEA that receives a grant under the Migrant Education Even Start program may make a subgrant of funds to one or more eligible entities, as defined in § 212.57(a)(4), provided that program funds are used as the SEA's approved project application specifies.

(b) An SEA that makes a subgrant of funds to one or more eligible entities may use not more than 5 percent of its Migrant Education Even Start grant for the costs of administration and technical assistance.

(Authority: 20 U.S.C. 2743, 2831)

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Title 3—

The President

Proclamation 6406 of February 26, 1992

American Red Cross Month, 1992

By the President of the United States of America

A Proclamation

Since its founding in 1881, the American Red Cross has earned the respect and trust of millions of people around the world—many of whom have benefitted directly from its outstanding humanitarian programs. This month, we salute and thank the more than 1,000,000 volunteers and 23,000 staff members who conduct the life-saving work of today's Red Cross.

In addition to offering valuable health and safety information to the public, the American Red Cross has long brought vital aid and services to victims of natural disasters and other emergencies, to persons in need of blood, and to members of the Armed Forces. The past year was extraordinarily eventful by any standard, and we owe a special debt to the members of the Red Cross, who rose to the challenges it presented.

One of the most significant events of 1991, of course, was the war in the Persian Gulf, and members of the American Red Cross were there. At the outset of Operation Desert Storm, the Red Cross shipped 10,000 pints of blood to the Gulf. As our troops fought to liberate Kuwait and repel Iraqi aggression, Red Cross workers provided them with an important link to their families, relaying emergency messages from home. In the United States, Red Cross staff and volunteers helped to counsel spouses, established support groups, and provided emergency loans and grants to ease the burden of separation on military families.

In keeping with its commitment to serving people in need without regard to race, creed, or national origin, the Red Cross remained in the region to assist refugees and other persons affected by the war. In Kuwait a 50-member medical team recruited by the Red Cross delivered emergency care for hundreds of patients in a war-ravaged hospital. Team members also operated a camp on the Iraq-Kuwait border providing refuge and medical care for tens of thousands of men, women, and children driven or fleeing from their homes.

Despite the demands of its overseas operations in 1991, the American Red Cross continued to maintain a high level of activity at home. During a year that saw an unprecedented series of tornadoes, floods, and other natural disasters, thousands of Red Cross workers operated shelters, served meals, and provided financial assistance to individuals and families in need. On average, the Red Cross helps victims of about 55,000 disasters—from house fires to hurricanes—each year.

During the past year, the Red Cross continued its health and safety programs, training thousands of Americans in first aid, cardiopulmonary resuscitation (CPR), and water safety. Red Cross workers also continued to collect, process, and distribute more than half of our Nation's blood supply—some 6,000,000 units—thereby ensuring countless Americans of life-saving transfusions.

Because so many people place their trust in the American Red Cross, the Red Cross is working to ensure that it will always meet the highest standards of performance and accountability. For example, it has launched a far-reaching modernization of its blood services programs to produce a state-of-the-art operation to meet the challenge of 21st century medicine. This month, as we recognize the outstanding contributions of Red Cross volunteers and staff, we also thank them for their commitment to even greater accomplishments in the future.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America and Honorary Chairman of the American National Red Cross, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim the month of March 1992 as American Red Cross Month. I urge all Americans to continue their generous support of the work of the American Red Cross and its local chapters.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth day of February, in the year of our Lord nineteen hundred and ninety-two, and of the Independence of the United States of America the two hundred and sixteenth.

Bush

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H.R. 2927/P.L. 102-247

Omnibus Insular Areas Act of 1992. (Feb. 24, 1992; 106 Stat. 33; 7 pages) Price: $1.00

Last List February 21, 1992

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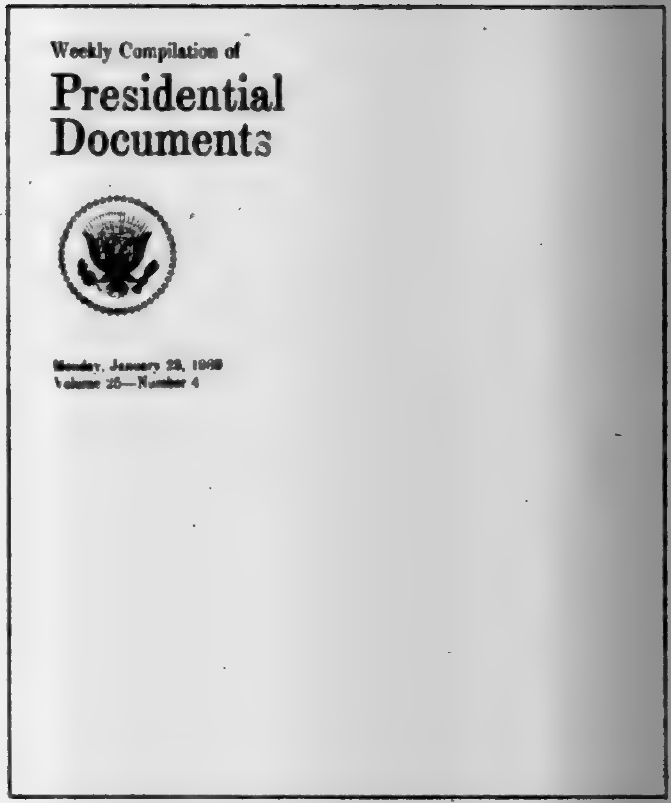

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Presidential Documents

Monday, January 23, 1989
Volume 25—Number 4

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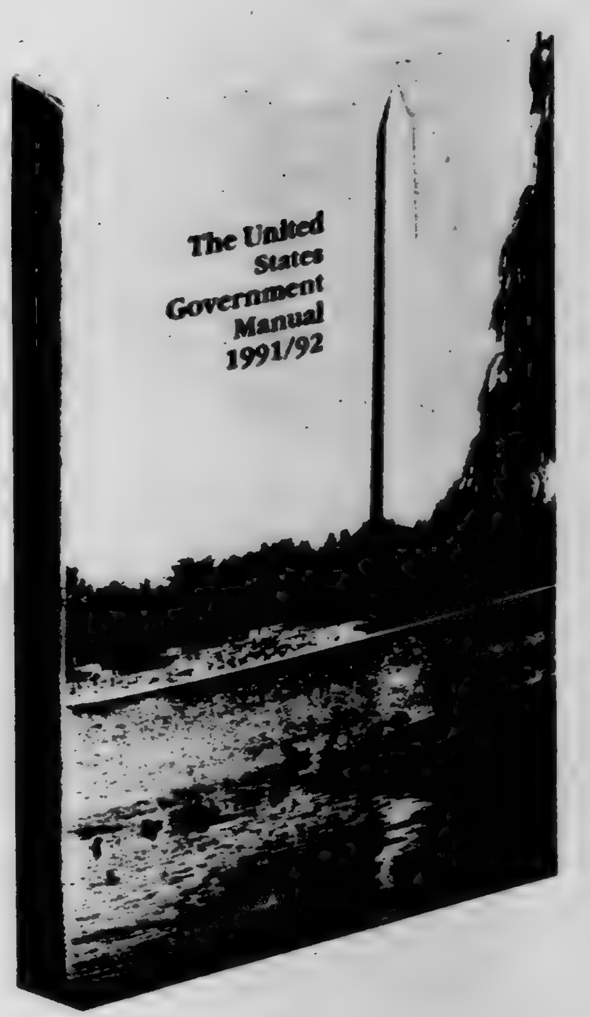

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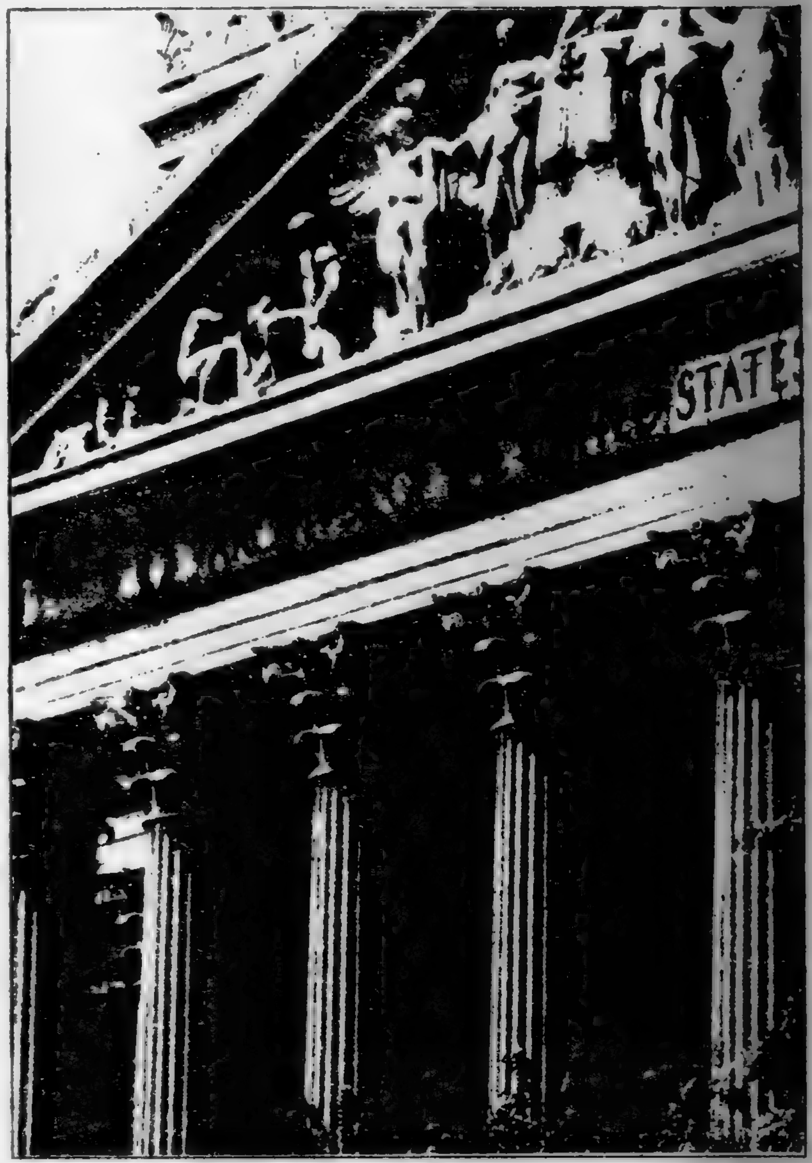

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Federal Register
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Monday, March 2, 1992

Presidential Documents

Title 3—

The President

Presidential Determination No. 92–15 of February 18, 1992

Determination To Permit Export-Import Bank Financing for Exports to the Government of South Africa or Its Agencies

Memorandum for the Secretary of State

Pursuant to the authority vested in me by section 2(b)(9) of the Export-Import Bank Act of 1945, as amended (12 U.S.C. 635(b)(9)) (the "Act"), I hereby:

1) determine that significant progress toward the elimination of apartheid has been made in South Africa;

2) authorize and direct you to transmit to the Congress a statement describing and explaining this determination.

You are further authorized and directed to publish this memorandum in the **Federal Register**.

THE WHITE HOUSE,
Washington, February 18, 1992.

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Presidential Documents

Presidential Determination No. 92–16 of February 18, 1992

Foreign Assistance for Angola

Memorandum for the Secretary of State

Pursuant to the authority vested in me by section 614(a)(1) of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2364(a)(1), I hereby:

(1) determine that it is important to the security interests of the United States to furnish assistance described in paragraphs (2) and (3) below notwithstanding section 512 of the Foreign Operations, Export Financing, and Related Programs Appropriation Act, 1991 (Public Law 101–513); section 512 as applied to fiscal year 1992 pursuant to the Joint Resolution making continuing appropriations for fiscal year 1992, and for other purposes (Public Law 102–145); other acts making appropriations for foreign operations, export financing, and related programs for fiscal year 1992; and any other provision of law within the scope of section 614(a)(1);

(2) authorize the furnishing of up to $1.5 million of Economic Support Funds made available for fiscal year 1991 for support for democratization in Angola; and

(3) authorize the furnishing of up to $13 million from funds made available for the Development Fund for Africa for fiscal year 1992 for support for democratization in Angola and to address other pressing needs in Angola in the period until elections are completed.

You are hereby directed to transmit this determination to the Congress and to publish it in the **Federal Register**.

THE WHITE HOUSE,
Washington, February 18, 1992.

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Rules and Regulations

Federal Register
Vol. 57, No. 41
Monday, March 2, 1992

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 430

RIN 3206-AE81

Performance Management System

AGENCY: Office of Personnel Management.

ACTION: Final rulemaking.

SUMMARY: The Office of Personnel Management (OPM) is issuing a final regulation designed to enhance effective performance management for General Schedule and Prevailing Rate employees. The regulation reflects OPM's continuing interest in providing flexibility to agencies and will permit agencies to implement personnel policies that are appropriate for their particular performance contexts and consistent with good management practices.

In issuing this regulation, OPM emphasizes that (a) there is no requirement that agencies use the regulation to change the number of summary rating levels now in their performance management system plans and (b) agencies considering a change in the number of summary rating levels should carefully assess all implications of such a change before doing so, especially the relationship of a change to the administration of any ongoing or anticipated RIF activity.

EFFECTIVE DATE: April 1, 1992.

FOR FURTHER INFORMATION CONTACT: Margaret M. Higgins (202) 606–2720 or FTS 266–2720.

SUPPLEMENTARY INFORMATION: On September 25, 1991, at 56 FR 48444, OPM published a proposed regulation with a 30-day comment period that eliminates the requirement for five summary rating levels for General Schedule (GS) and Prevailing Rate (WG) employees. Instead, it allows for at least three, and not more than five, summary rating levels. The rating levels must include "Fully Successful" and "Outstanding" levels, or equivalent terms, and an "Unacceptable" level.

OPM is undertaking a comprehensive review of both the Performance Management System and the Performance Management and Recognition System (PMRS). Along with other sources of ideas and recommendations, this review is giving serious consideration to the recommendations in the reports of two statutory committees, the Pay-for-Performance Labor-Management Committee and the PMRS Review Committee, and to the report of the National Academy of Sciences, *Pay for Performance: Evaluating Performance Appraisal and Merit Pay.* This particular regulation change is being made at this time because it is consistent with recommendations in those reports that the Federal Government's performance management systems allow for more flexibility at the agency level. In addition, several agencies have expressed a specific intent to use this flexibility if provided.

This final regulation would not change the rules governing additional service credit for performance in determining an employee's retention standing for reduction-in-force (RIF) purposes. OPM will assess the plans and experiences of agencies that decide pursuant to this regulation to reduce the number of summary rating levels they use from five to four or three. Based on that assessment, OPM will provide any necessary guidance related to the granting of additional service credit based on performance.

During the comment period, which ended October 25, 1991, OPM received 55 comments: 18 from Federal agencies and departments or their components, 5 from unions or employee groups, and 32 from individual employees. All the Federal agencies and departments responding favored the proposed flexibility. Three employee groups favored the proposed flexibility and two opposed it. Three individuals favored and 14 opposed. Fifteen of the 32 individual responses expressed concern about the performance appraisal system and RIF in general and did not address the proposed change to the regulations. Following are the identification of the major issues raised, a summary of comments, and a discussion of OPM rationale for any changes being made.

1. Performance Rating Credit for RIF Retention

Summary of Comments: Several responses (six agencies, one employee group, and four individuals) expressed concern about the effect different numbers of summary rating levels would have in determining RIF retention.

Discussion: Agencies identify the competitive areas, or boundaries, within which employees compete for retention under RIF procedures. OPM expects that employees within a competitive level, where initial RIF competition occurs and where performance has its greatest impact, will have ratings of record based on the same number of summary rating levels.

There may be some advantage or disadvantage for an individual employee who has transferred from another organization that uses a different number of summary rating levels. Also, some advantage or disadvantage could occur during the second round of RIF competition if the agency uses a master retention register that mixes all PMRS and non-PMRS employees in the same subgroup.

If agencies are anticipating a RIF, they must remember the relationship between their performance appraisal and RIF programs and address these issues when establishing their RIF procedures. In addition, any agency facing serious downsizing actions should consider carefully the advisability of changing its performance appraisal program at such a sensitive and critical time.

Change: No change.

2. Disparate Treatment Between Supervisors and Non-Supervisors

Summary of Comments: Some responses (three individuals and one employee group) indicated a belief that the new flexibility singles out non-managerial employees for adverse treatment during a RIF since they may be under three-level systems while managerial/supervisory, i.e., PMRS, employees will remain under five-level systems. Several agencies (6) appear to be aware of this perception and commented that, while they favor the additional flexibility, they would not implement it until they could make similar changes to the PMRS and Senior Executive Service (SES) systems.

Discussion: These regulations are not intended to disadvantage any specific group of employees during a RIF. Managerial/supervisory (PMRS) employees and non-managerial (GS/WG) employees do not compete with each other for retention during the first round of a RIF. OPM regulations specify that separate competitive levels must be established for each of these employee groups (5 CFR 351.403(b)(5)). The regulations also specify that GS and WG employees cannot be in the same competitive level (5 CFR 351.403(b)(3)).

OPM can make these regulatory changes with respect to GS/WG employees because there are no statutory requirements for these groups of employees regarding summary rating levels. Since five summary rating levels are specified in law for PMRS and a different three are specified in law for SES (i.e., Unsatisfactory, Minimally Satisfactory, and Fully Successful), OPM cannot make similar changes to these systems at this time. As OPM reviews all programs related to pay-for-performance in the Federal Government, opportunities for additional agency flexibility will be studied. In the meantime, use of different numbers of summary rating levels for different employee groups is optional, and agencies can choose to maintain five summary rating levels for all employees if they feel that consistency between systems is of primary importance in their agency.

Change: No change.

3. Desirable Number of Summary Rating Levels

Summary of Comments: All 18 Federal agencies responding favored the change to flexibility. Support for keeping the five-level system was expressed in responses from 13 individuals and 2 employee groups, and 3 specifically mentioned the desirability of being able to differentiate performance more precisely. On the other hand, three individuals and three employee groups favored the use of a three-level system, with one group making strong arguments that making finer distinctions in their organizational context was meaningless. Other individual responses (15) did not address the issue of the number of rating levels, but expressed other concerns that reflected the belief that accurate distinctions of performance are not being made under the current system.

Discussion: This regulation provides each agency with limited flexibility to choose the number of rating levels it will use. Agencies may continue to use five summary rating levels where this degree of distinguishing among performance levels is feasible and desirable. Should an agency choose to change to a three-level rating system, performance ranges for the new levels will have to be defined and performance that would previously have been rated at one of the two rating levels that no longer exist in the new system (Minimally Acceptable and Exceeds Fully Successful) will have to be rated at one of the newly defined levels. The use of three rating levels envisions newly defined performance ranges with a middle level (Fully Successful or equivalent) that encompasses a very broad range of expected performance and the other two levels (Outstanding or equivalent and Unacceptable) that represent narrower ranges of exceptional performance.

Change: No change.

4. Relationship Between Performance Appraisal and RIF

Summary of Comments: Almost half (15 out of 32) of the individual responses did not address the number of summary rating levels. Rather, this group of comments reflected a strong rejection of the idea of granting additional years of service credit for RIF purposes based on the performance rating. Most of the comments identify this practice as a "tie breaker" and suggest that seniority be used in its place. These comments also tended to disapprove of the performance rating process itself and some recommended that performance ratings be dropped altogether.

Discussion: Performance ratings have played some kind of role in RIF retention since 1912. The current RIF regulations are based on the Veterans' Preference Act of 1944. This law (§ 3502 of title 5, United States Code) provides that the RIF regulations must state four factors to be used in releasing employees: (1) tenure of employment (i.e., type of appointment); (2) veteran preference; (3) length of service (i.e., seniority); and (4) performance ratings.

An averaging process is used to determine the additional years of service credit granted based on performance that then are combined with years of service to determine the employee's total length of service. This figure, together with the tenure group and veteran preference determination, determines the employee's position on the retention register, and employees are released from the bottom of the register first. The credit based on performance does not serve as a "tie breaker" for employees with equal years of service, but is one of four factors that, taken in combination, determine the employee's retention standing.

Change: No change.

5. Designating Performance Levels

Summary of Comments: One agency commented that there should be no Outstanding level required, but rather just a level of performance that exceeds the Fully Successful level. Another agency suggested that agencies be given full flexibility to determine performance levels other than Fully Successful. An office within OPM commented that Central Personnel Data File (CPDF) reporting requirements for the various performance levels should be cross-referenced for agency convenience.

Discussion: Should an agency adopt a three-level summary rating system, the top and bottom ratings are expected to represent ranges of exceptional performance and should be so defined. By including the provision for the use of equivalent terms, it is OPM's intent to permit agencies to name performance levels as they choose with the exception of the Unacceptable level, which is defined in law (5 U.S.C. 4301(3)).

To minimize any confusion between numeric and alphabetic references to the various performance levels, we have adopted the suggestion that CPDF reporting code requirements be cross-referenced.

Change: Section 430.204(i) has been revised.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities, because the change will affect only Federal employees and agencies.

List of Subjects in 5 CFR Part 430

Awards, Decorations, Government employees, Medals.

U.S. Office of Personnel Management.
Constance Berry Newman,
Director.

Accordingly, the Office of Personnel Management amends title 5, Code of Federal Regulations, as follows:

PART 430—PERFORMANCE MANAGEMENT

1. The authority citation for part 430 continues to read as follows:

Authority: 5 U.S.C. chapters 43, 45, 53, and 54.

2. In § 430.204, paragraph (h) is revised, paragraphs (i) through (k) are redesignated as (j) through (l)

respectively, and a new paragraph (i) is added to read as follows:

§ 430.204 Agency performance appraisal systems.

* * * * *

(h) Each appraisal system shall provide for at least three and not more than five summary rating levels. The rating levels must include an "Unacceptable" level, a "Fully Successful" level, and an "Outstanding" level. Agencies may identify terms as equivalent to "Fully Successful" and "Outstanding" in their Performance Management Plans. Agencies also may use a rating level between "Fully Successful" and "Unacceptable" and a rating level between "Fully Successful" and "Outstanding."

(i) To provide for consistency of performance rating designations in referencing other related regulations, agencies will use the following levels: level 1 for "Unacceptable," level 3 for "Fully Successful" or its equivalent, and level 5 for "Outstanding" or its equivalent. A rating level between "Unacceptable" and "Fully Successful" will be designated level 2 and a rating level between "Fully Successful" and "Outstanding" will be designated level 4. Agencies should use the rating-of-record codes given in FPM Supplement 292–1, Personnel Data Standards, to report rating-of-record data to the CPDF.

* * * * *

[FR Doc. 92–4545 Filed 2–28–92; 8:45 am]

BILLING CODE 6325-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–4110–1]

Indiana: Schedule of Compliance for Modification of Indiana's Hazardous Waste Management Program

AGENCY: Environmental Protection Agency, Region V.

ACTION: Notice of Indiana's compliance schedule to adopt program modifications.

SUMMARY: On September 22, 1986, the U.S. EPA promulgated amendments to the deadlines for State program modifications, and published requirements for States to be placed on a compliance schedule to adopt necessary program modifications, if they cannot meet the prescribed rule adoption deadlines. The U.S. EPA is today publishing a compliance schedule for Indiana to modify its authorized hazardous waste management program in accordance with § 271.21(g) to adopt Federal program modifications.

EFFECTIVE DATE: March 2, 1992.

FOR FURTHER INFORMATION CONTACT: George Woods, Indiana Regulatory Specialist, U.S. Environmental Protection Agency Region V, Waste Management Division, Office of RCRA, Program Management Branch, Regulatory Development Section, HRM–7J, 77 West Jackson Blvd. Chicago, Illinois 60604, (312) 886–6134, (FTS 886–6134).

SUPPLEMENTARY INFORMATION:

A. Background

Final authorization for a State to implement the Federal hazardous waste program within that State is granted by the U.S. EPA if the Agency finds that the State program: (1) Is "equivalent" to the Federal program, (2) is "consistent" with the Federal program and other State programs, and (3) provides for adequate enforcement (section 3006(b), 42 U.S.C. 6226(b)). The U.S. EPA regulations for final authorization appear at 40 CFR 271.1–271.25. In order to retain authorization, a State must revise its program to adopt new Federal requirements by the cluster deadlines and procedures specified in 40 CFR 271.21. See 51 FR 33712, September 22, 1986, for a complete discussion of these procedures and deadlines.

B. Indiana

Indiana initially received final authorization for its base RCRA program effective January 31, 1986, (51 FR 3953–3954, January 31, 1986). Indiana received authorization for revisions to its program effective December 31, 1986, (51 FR 39752–39754, October 31, 1986); January 19, 1988, (53 FR 128–129, January 5, 1988); September 11, 1989, (54 FR 29557–29559, July 13, 1989); September 23, 1991, (56 FR 33717–33719, July 23, 1991, and 56 FR 33866–33873, July 24, 1991); September 27, 1991, (56 FR 35831–35833, July 29, 1991); and September 30, 1991, (56 FR 36010–36012, July 30, 1991).

On January 16, 1992, Indiana submitted a request under the provisions of 40 CFR 271.21(g)(1)(V) for an extension of time in order to complete the necessary program revisions. Today's compliance schedule provides for Indiana to obtain program revisions for the following Federal program requirements found in the Code of Federal Regulations at title 40, parts 260 through 270 as of July 1, 1990:

- All Hazardous and Solid Waste Amendments (HSWA) of 1984 (Public Law 98–616, November 8, 1984) Cluster II provisions promulgated between July 8, 1987, and June 29, 1990.
- All non-HSWA Cluster VI provisions promulgated between January 4, 1989, and June 6, 1990.

The deadline under 40 CFR 271.21 for Indiana to adopt these Federal regulations was July 1, 1991. However the State's rulemaking has been delayed due to changes in its rulemaking procedures.

The State has agreed to obtain the needed program revisions according to the following schedule:

(1) Regulations approved by Indiana Governor by February 1992;

(2) Regulations filed with Indiana Secretary of State by February 1992;

(3) Regulations become effective by March 1992; and

(4) Regulations promulgated in Indiana Register by April 1992.

Accordingly, Indiana will be on a schedule of compliance until March 31, 1992, to adopt the required amendments of the subject rules package. Indiana's application to the U.S. EPA requesting authorization of the above-mentioned program revisions is expected to be submitted by March 1, 1992.

Authority: This notice is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the RCRA of 1976, as amended, 42 U.S.C. 6912(a), 6926 and 6974(B).

Dated: February 12, 1992.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 92–4775 Filed 2–28–92; 8:45 am]

BILLING CODE 6560-50-M

JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

45 CFR Chapter XXIV

Fellowship Program Requirements

AGENCY: James Madison Memorial Fellowship Foundation.

ACTION: Final rule.

SUMMARY: The following are the regulations governing the annual competition for James Madison Memorial Fellowships. They implement the James Madison Memorial Fellowship Act of 1986. The rules govern the qualifications, nominations, and applications of candidates for fellowships; the selection of fellows by the Foundation; the graduate programs fellows must pursue; the conditions attached to awards; and related requirements and expectations regarding fellowships.

EFFECTIVE DATE: March 9, 1992.

ADDRESSES: James Madison Memorial Fellowship Foundation, 2000 K Street NW., suite 303, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: James M. Banner, Jr., (202) 653-8700.

SUPPLEMENTARY INFORMATION: This rule reproduces the text of the proposed rule published in the Federal Register on September 11, 1991 (56 FR 46263), with the exception of minor changes in §§ 2400.52 and 2400.54. Specifically, in § 2400.52 the change clarifies the stipend payments for room, board, and books of Senior Fellows enrolled in a less than full-time graduate program. In § 2400.54, the change indicates that stipends will be paid to fellows rather than the institutions in which they are enrolled; furthermore, the requirement that fellows provide itemized receipts for books, room, and board, has been eliminated to minimize administrative burdens on the fellows and the Foundation. Two comments to the proposed rule were received. Since one comment proposed alterations in the proposed rule contrary to the provisions of the James Madison Memorial Fellowship Act, it could not be implemented in this final rule.

Under the James Madison Memorial Fellowship Act, the James Madison Memorial Fellowship Foundation could not begin to award fellowships unless and until $10 million were raised to support its fellowship programs or Congress provided legislative relief from this requirement. On November 26, 1991, Congress approved this legislative relief (Pub. L. 102-221), and the President signed the legislation on December 11, 1991. Therefore, this final rule is issued.

The James Madison Memorial Fellowship Act authorizes fellowship support for graduate study by teachers of American history and social studies and by college seniors or recent college graduates who wish to become teachers of the same subject. However, in order not to exclude from consideration for James Madison Fellowships those teachers or would-be teachers whose current or future secondary school instruction, while concerning the usual subjects covered by courses in American history and social studies, may be carried on in courses entitled "government" or similar names, this rule goes beyond the Act to apply to those teachers and would-be teachers who do or will offer secondary school instruction in American government.

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, does not apply to this rule because it will not have a significant economic impact on a substantial number of small businesses. Consequently, an Initial Regulatory Flexibility Analysis need not be performed. Section 610 of the Act provides for periodic review of rules which have or will have a significant economic impact upon a substantial number of small businesses. In accordance with this provision, comments from small entities concerning these rules will be considered. Such comments must be submitted separately and cite 5 U.S.C. 601 et seq. in correspondence.

Sections 2400.14, 2400.21, 2400.53–54, and 2400.61–63 contain information collection requirements. As required by the Paperwork Reduction Act of 1980, the James Madison Memorial Fellowship Foundation has submitted a copy of forms required under these sections to the Office of Management and Budget for its review (40 U.S.C. 3540(h)). Organizations and individuals desiring to submit comments on these information collection requirements should direct them to the Office of Information and Regulatory Affairs, room 3002, New Executive Office Building, Washington, DC 20503; Attention: Daniel J. Chenok. The annual public reporting burden for this collection of information is estimated to average 2 hours per response for an anticipated 1500 applicants.

List of Subjects in 45 CFR Part 2400

Education, Fellowships.

Dated: February 25, 1992.

Paul A. Yost, Jr.,

President.

For the reasons set forth in the preamble and under authority of 20 U.S.C. 4501 et seq., title 45 of the Code of Federal Regulations is amended to add a new chapter XXIV, consisting of part 2400 to read as follows:

CHAPTER XXIV—JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

PART 2400—FELLOWSHIP PROGRAM REQUIREMENTS

Subpart A—General.

Sec.
2400.1 Purposes.
2400.2 Annual competition.
2400.3 Eligibility.
2400.4 Definitions.

Subpart B—Nominations and Applications

2400.10 Nominations by schools and school districts.
2400.11 Number of nominees per school and school district.
2400.12 Nominations by colleges.
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2400.14 Nomination and application coordinators.
2400.15 Direct applications.

Subpart C—Application Process

2400.20 Preparation of applications.
2400.21 Contents of applications.
2400.22 Application deadline.

Subpart D—Selection of Fellows

2400.30 Selection criteria.
2400.31 Selection process.

Subpart E—Graduate Study

2400.40 Institutions of graduate study.
2400.41 Degree programs.
2400.42 Approval of programs.
2400.43 Required courses of graduate study.
2400.44 Special Consideration: Junior fellows' course of study.

Subpart F—Fellowship Stipends

2400.50 Amount of stipends.
2400.51 Duration of stipends.
2400.52 Use of stipends.
2400.53 Certification for stipends.
2400.54 Payment of stipends.
2400.55 Termination of stipends.
2400.56 Repayment of stipends.

Subpart G—Special Conditions

2400.60 Other awards.
2400.61 Renewal of awards.
2400.62 Postponement of awards.
2400.63 Evidence of master's degree.

Authority: 20 U.S.C. 4501 et seq.

Subpart A—General

§ 2400.1 Purposes.

(a) The purposes of the James Madison Memorial Fellowship Program are to:

(1) Provide incentives for master's degree level graduate study of the history, principles, and development of the United States Constitution by outstanding in-service high school teachers of American history, American government, and social studies and by outstanding college graduates who plan to become teachers of the same subjects; and thereby to

(2) Strengthen teaching in the nation's secondary schools about the framing and subsequent history of the United States Constitution.

(b) The Foundation may from time to time undertake other closely related activities to fulfill these goals.

§ 2400.2 Annual competition.

To achieve its principal purposes, the Foundation holds an annual competition to select high school teachers and college graduates to be James Madison Fellows.

§ 2400.3 Eligibility.

Individuals eligible to be nominated for, apply for, and hold a James Madison Fellowship are United States citizens, United States nationals, or permanent residents of the Northern Mariana Islands who are:

(a) Full-time high school teachers of American history, American government, or social studies who:

(1) Have at least three years of prior classroom experience as secondary school teachers;

(2) Are under contract, or can provide evidence of being under prospective contract, to teach full time as high school teachers of American history, American government, or social studies;

(3) Have demonstrated records of willingness to devote themselves to civic responsibilities and to professional and collegial activities within their schools and school districts;

(4) Are highly recommended by their department heads, school principals, school district superintendents, or other supervisors;

(5) Qualify for admission with graduate standing at accredited institutions of higher education of their choice that offer master's degree programs allowing at least 12 hours or their equivalent of study of the origins, principles, and development of the Constitution of the United States and of its comparison with the constitutions of other forms of government;

(6) Are able to complete their proposed courses of graduate study within five years of part-time study during summers or in evening or weekend programs;

(7) Agree to attend, at the Foundation's expense, a four-week institute on the United States Constitution, if one is convened by the Foundation, normally during the summer following the commencement of their fellowships; and

(8) Sign agreements that, upon completing the education for which the fellowship is awarded, they will teach full time in secondary schools for a period of not less than one year for each full year of study for which assistance was received, preferably in the state listed as their legal residence at the time of their fellowship award.

(b) Those who aspire to become full-time secondary school teachers of American history, American government, or social studies who:

(1) Are matriculated college seniors pursuing their baccalaureate degrees full time or recipients of baccalaureate degrees no more than three years prior to the commencement of a fellowship who rank or ranked in the upper third of their graduating class or hold or held equivalent academic standing at those institutions that do not maintain or announce academic rankings;

(2) Plan to begin graduate study on a full-time basis;

(3) Have demonstrated records of willingness to devote themselves to civic responsibilities;

(4) Are highly recommended by faculty members, deans, or other persons familiar with their potential for graduate study of American history and government and their serious intention to enter the teaching profession as instructors of American history, American government, or social studies;

(5) Qualify for admission with graduate standing at accredited institutions of higher education of their choice that offer master's degree programs that allow at least 12 hours or their equivalent of study of the origins, principles, and development of the Constitution of the United States and of its comparison with the constitutions and history of others forms of government;

(6) Are able to complete their proposed courses of graduate study within two years of full-time study;

(7) Agree to attend, at the Foundation's expense, a four-week institute on the United States Constitution, if one is convened by the Foundation, normally during the summer following the commencement of their fellowships; and

(8) Sign an agreement that, upon completing the education for which the fellowship is awarded, they will teach full time in secondary schools for a period of not less than one year for each full year of study for which assistance was received, preferably in the state listed as their legal residence at the time of their fellowship award.

§ 2400.4 Definitions.

As used in this part:

Academic year means the period of time in which a full-time student would normally complete two semesters, two trimesters, three quarters, or their equivalent of study.

Act means the James Madison Memorial Fellowship Act.

Fee means a typical and usual non-refundable charge by an institution of higher education for a service, privilege, or use of property which is required for a fellow's enrollment and registration.

Fellow means a recipient of a fellowship from the Foundation.

Fellowship means an award, called a James Madison Fellowship, made to a person by the Foundation for graduate study.

Foundation means the James Madison Memorial Fellowship Foundation.

Full-time student means a student who is carrying a sufficient number of credit hours or their equivalent to secure the degree toward which the student is working, in no more time than the length of time normally taken at the institution of higher education attended by the student.

Graduate study means the courses of study beyond the baccalaureate level which lead to a master's degree.

High school means grades 9 through 12.

Institution of higher education has the meaning given in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

Junior fellowship means a James Madison Fellowship granted either to a college senior or to a college graduate who has received a baccalaureate degree no more than three years prior to the commencement of a fellowship and who seeks to become a secondary school teacher of American history, American government, or social studies for full-time graduate study toward a master's degree whose course of study emphasizes the framing, principles, history, and interpretation of the United States Constitution.

Master's degree means the first pre-doctoral graduate degree offered by an institution of higher education beyond the baccalaureate degree, for which a baccalaureate degree is a prerequisite.

Matriculated means formally enrolled in a master's degree program in an institution of higher education.

Resident means a person who has legal residence in the state, recognized under state law. If a question arises concerning a fellow's state of residence, the Foundation determines, for the purposes of this program, of which state the person is a resident, taking into account the fellow's place of registration to vote, parent's place of residence, and eligibility for in-state tuition rates at public institutions of higher education.

Satisfactory progress means a junior fellow's completion of the number of courses normally expected of full-time master's degree candidates at the institution of higher education that the fellow attends, and a senior fellow's completion each year of the number of courses toward a master's degree agreed upon each year by the Foundation as constituting that fellow's part-time course of study.

Secondary school has the same meaning given that term by section 1201(d) of the Higher Education Act of 1965 (20 U.S.C. 1141(d)).

Senior means a student at the academic level recognized by the institution of higher education as being in the last year of study before receiving the baccalaureate degree.

Senior fellowship means a James Madison Fellowship granted to a high school teacher of American history, American government, or social studies for part-time graduate study toward a master's degree whose course of study emphasizes the framing, principles, history, and interpretation of the United States Constitution.

State means each of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, and, considered as a single entity, Guam, the United States Virgin Islands, American Samoa, the Trust Territories of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

Stipend means the amount paid to a fellow or to the educational institution that the fellow attends to cover the costs of graduate study under a fellowship.

Term means the period—semester, trimester, or quarter—used by an institution of higher education to divide its academic year.

Subpart B—Nominations and Applications

§ 2400.10 Nominations by schools and school districts.

All school districts and secondary schools in which teachers are currently employed may nominate high school teachers of American history, American government, or social studies as candidates for fellowships.

§ 2400.11 Number of nominees per school and school district.

Each independent and parochial school may nominate one high school teacher, and each school district may nominate up to three high school teachers for each annual competition.

§ 2400.12 Nominations by colleges.

All four-year colleges may nominate seniors and graduates who have received their baccalaureate degrees no more than three years prior to the commencement of fellowships as candidates for fellowships.

§ 2400.13 Number of nominees per college.

(a) Each college may nominate up to three seniors or graduates who have received their baccalaureate degrees no more than three years prior to the commencement of fellowships for each annual competition. Nominees may have legal residence in any state.

(b) If a college separately lists more than one component in the current edition of Educational Directory: Colleges and Universities, published by the United States Department of Education, each component may nominate up to three students. However, a component that is organized solely for administrative purposes and has no students may not nominate a student.

§ 2400.14 Nomination and application coordinators.

(a) Each school, school district, and college that chooses to nominate a candidate or candidates for fellowships must provide the Foundation with the name, business address, and business telephone number or a member of its faculty or staff who will administer and coordinate the nomination process at that institution.

(b) Nomination and application coordinators, with the assistance of written materials provided by the Foundation, publicize the fellowship competitions, establish systems for determining nominees, solicit recommendations of potential nominees, determine the willingness of potential nominees to apply for fellowships, forward the names and addresses of nominees to the Foundation by a stated deadline, and counsel nominees in preparing fellowship applications.

§ 2400.15 Direct applications.

High school teachers of American history, American government, and social studies, college seniors, and those college graduates who have received their baccalaureate degrees no more than three years prior to the commencement of fellowships may apply directly to the Foundation for fellowships. Direct applications are administered and evaluated on the same basis as applications from nominees.

Subpart C—Application Process

§ 2400.20 Preparation of applications.

Applications, on forms mailed directly by the Foundation to nominees and those who wish to make direct application, must be completed by all fellowship candidates in order that they be considered for an award.

§ 2400.21 Contents of applications.

Applications must include for—

(a) Senior fellowships:

(1) Supporting information which affirms an applicant's wish to be considered for a fellowship; provides information about his or her background, interests, goals, and the school in which he or she teaches; and includes a statement about the applicant's educational plans and specifies how those plans will enhance his or her career as a secondary school teacher of American history, American government, or social studies;

(2) An essay of up to 600 words that explains the importance of the study of the Constitution to:

(i) Young students,

(ii) The applicant's career aspirations and his or her contribution to public service, and

(iii) Citizenship generally in a constitutional republic;

(3) The applicant's proposed course of graduate study, including the courses to be taken and the prospective subject or his or her master's thesis, where applicable, that leads to a master's degree; the specific degree sought; and evidence of his or her graduate school application;

(4) Three evaluations, one from an immediate supervisor, that attest to the applicant's strengths and abilities as a high school teacher; and

(5) A certified college transcript

(b) Junior fellowships:

(1) Supporting information which affirms an applicant's wish to be considered for a fellowship; provides information about the applicant's background, interests, goals, and the college which he or she attends or attended; and includes a statement about the applicant's educational plans and specifies how those plans will lead to a career as a secondary school teacher of American history, American government, or social studies;

(2) An essay of up to 600 words that explains the importance of the study of the Constitution to:

(i) Young students,

(ii) The applicant's career aspirations and his or her contribution to public service, and

(iii) Citizenship generally in a constitutional republic;

(3) Applicant's proposed course of graduate study, including the courses to be taken and the prospective subject of his or her master's thesis, where applicable, that leads to a master's degree; the specific degree sought; and evidence of his or her graduate school application;

(4) Three evaluations that attest to the applicant's academic achievements and to his or her potential to become an outstanding secondary school teacher; and

(5) A certified college transcript and certification of the applicant's class standing from those institutions that maintain or announce academic rankings.

§ 2400.22 Application deadline.

Applicants must submit complete applications postmarked by January 15th of each year preceding the start of the academic year for which they are applying. Applications not submitted by this date, with all required supporting documents, will not be considered.

Subpart D—Selection of Fellows

§ 2400.30 Selection criteria.

Applicants will be evaluated, on the basis of materials in their applications, as follows:

(a) Demonstrated commitment to teaching American history, American government, or social studies at the secondary school level;

(b) Demonstrated intention to pursue a program of graduate study that emphasizes the Constitution and to offer classroom instruction in that subject;

(c) Demonstrated record of willingness to devote themselves to civic responsibility;

(d) Outstanding performance or potential of performance as classroom teachers;

(e) Academic achievements and demonstrated capacity for graduate study; and

(f) Proposed courses of graduate study, especially the nature and extent of their subject matter components, and their relationship to the enhancement of applicants' teaching and professional activities.

§ 2400.31 Selection process.

(a) An independent review committee appointed by the Foundation will evaluate all valid applications and recommend to the Foundation the most outstanding applicants from each state for James Madison Fellowships.

(b) From among candidates recommended for fellowships by the review committee, the Foundation will name James Madison Fellows. The selection procedure will assure that at least one James Madison Fellow, junior or senior, is selected from each state in which there are at least two resident applicants who meet the selection criteria in § 2400.30.

(c) The Foundation may name, from among those recommended by the review committee, an alternate or alternates for each fellowship. An alternate will receive a fellowship if the person named as a James Madison Fellow declines the award or is not able to commence study at the start of the following academic year.

(d) Funds permitting, the Foundation may also select, from among those recommended by the review committee, fellows at large.

Subpart E—Graduate Study

§ 2400.40 Institutions of graduate study.

Fellowship recipients may attend any accredited institution of higher education in the United States with a master's degree program offering courses or training that emphasize the origins, principles, and development of the Constitution of the United States and its comparison with the constitutions and history of other forms of government.

§ 2400.41 Degree programs.

(a) Fellows may pursue a master's degree in history, political science, or government, the degree of Master of Arts in Teaching, or a related master's degree that permits a concentration in American history, American government, or social studies.

(b) A master's degree pursued under a James Madison Fellowship may entail either one or two years or their equivalent of study, according to the requirements of each institution at which a Fellow is enrolled.

§ 2400.42 Approval of programs.

The Foundation must approve each fellow's program of graduate study. To be approved, the program must

(a) On a part-time or full-time basis lead to a master's degree in history, political science, or government, the degree of Master of Arts in Teaching, or a related master's degree that permits a concentration in American history, American government, or social studies;

(b) Include courses, graduate seminars, or opportunities for independent study in topics directly related to the framing and history of the Constitution of the United States;

(c) Be pursued at an institution that assures a willingness to accept up to 6 semester hours of accredited transfer credits from another graduate institution for a fellow's successful completion of a summer institute that may be offered by the Foundation. For the Foundation's purposes, these 6 semester hours may be included in the required minimum of 12 semester hours or their equivalent of study of the United States Constitution; and

(d) Be pursued at an institution that encourages the fellow to enhance his or her capacities as a teacher of American history, American government, or social studies and to continue his or her career as a secondary school teacher.

§ 2400.43 Required courses of graduate study.

(a) To be acceptable to the Foundation, those courses related to the Constitution referred to in § 2400.42 must amount to at least 12 semester hours or their equivalent of study of topics directly related to the United States Constitution. More than 12 hours or their equivalent of such study is strongly encouraged.

(b) The courses that fulfil the required minimum of 12 semester hours or their equivalent of study of the United States Constitution must cover one or more of the following subject areas:

(1) The history of colonial America leading up to the framing of the Constitution;

(2) The Constitution itself, its framing, the history and principles upon which it is based, its ratification, the Federalist Papers, Anti-Federalist writings, and the Bill of Rights;

(3) The historical development of political theory, constitutional law, and civil liberties as related to the Constitution;

(4) Interpretations of the Constitution by the Supreme Court and other branches of the federal government;

(5) Debates about the Constitution in other forums and about the effects of constitutional norms and decisions upon American society and culture; and

(6) Any other subject clearly related to the framing, history, and principles of the Constitution.

(c) If a master's degree program in which a Fellow is enrolled offers the option of a master's thesis in place of a course or courses, the Fellow will be strongly urged to write a thesis. In all programs in which a master's degree thesis is required or elected as an option, a Fellow must write the thesis in a subject concerning the framing, principles, or history of the United States Constitution.

§ 2400.44 Special Consideration: Junior fellows' course of study.

Applicants for junior fellowships who seek or hold baccalaureate degrees in education are strongly encouraged to pursue master's degrees in history, political science, or government. Those applicants who hold undergraduate degrees in history, political science, government, or any other subjects may take some teaching methods and related courses. The Foundation will review each proposed course of study for an appropriate balance of subject matter and other courses based on the fellow's goals and background.

Subpart F—Fellowship Stipends

§ 2400.50 Amount of stipends.

Junior and senior fellowships carry a stipend of up to a maximum of $24,000 prorated over the period of fellow's graduate study.

§ 2400.51 Duration of stipends.

Stipends for junior fellowships may be payable over a period not to exceed two years of full-time graduate study, and those for senior fellowships may be payable over a period of not more than five years of part-time graduate study.

§ 2400.52 Use of stipends.

Stipends shall be used only to offset the costs of tuition, fees, books, and room and board associated with graduate study under a fellowship, although in no case shall the stipend for a fellowship exceed $12,000 annually. The costs allowed for a fellow's room and board will be the amount the fellow's institution reports to the Foundation as the average cost of room and board at the student's institution. Stipends for room, board, and books will be prorated for fellows enrolled in programs less than full time.

§ 2400.53 Certification for stipends.

In order to receive a fellowship stipend, a fellow must submit in writing acceptance of the terms of the fellowship, evidence of admission to an approved graduate program, and a certified statement of estimated expenses for tuition, fees, books, and room and board. Junior fellows must also provide evidence of receipt of their baccalaureate degrees.

§ 2400.54 Payment of stipends.

Payment for tuition, fees, books, and room and board will be remitted in care of the fellow at the beginning of each term of enrollment.

§ 2400.55 Termination of stipends.

The Foundation may suspend or terminate the payment of a stipend if a fellow fails to meet the criteria set forth in § 2400.42–2400.44 and § 2400.61, except as provided for in § 2400.62. Before it suspends or terminates a fellowship under these circumstances, the Foundation will give notice to the fellow, as well as the opportunity to be heard with respect to the grounds for suspension or termination.

§ 2400.56 Repayment of stipends.

(a) If a former fellow fails to teach American history, American government, or social studies on a full-time basis in a secondary school for at least one year for each school year for which assistance was provided under a fellowship, the former fellow shall repay all of the fellowship assistance received plus interest at the rate of 6% annum and, if applicable, reasonable collection fees, as prescribed in section 807 of the Act (20 U.S.C. 4506(b)).

(b) If a fellow resigns a fellowship, all fellowship funds which have not been spent or which the student may recover must be returned to the Foundation.

Subpart G—Special Conditions

§ 2400.60 Other awards.

Fellows may accept grants from other foundations, institutions, corporations, or government agencies to support their graduate study, including stipends to replace any income foregone for study. However, the stipend paid by the Foundation for allowable costs indicated in § 2400.52 will be reduced to the extent the costs are paid from other sources.

§ 2400.61 Renewal of awards.

(a) It is the intent of the Foundation to renew junior fellowship awards annually for a period not to exceed two years, and senior fellowships for a period not to exceed five years, or until a master's degree is received, whichever comes first.

(b) Fellowship renewal will be subject to an annual review by the Foundation and certification by an authorized official of the institution at which a fellow is registered that:

(1) The fellow is not engaged in gainful employment, other than full-time teaching in the case of senior fellows, that interferes with the fellow's studies; and

(2) The fellow is making satisfactory progress toward the degree and is in good academic standing according to the standards of each institution.

(c) As a condition of renewal of awards, each fellow must submit an annual report to the Foundation by July 1st. That report must indicate courses taken and grades achieved; courses planned for the coming year; changes in academic or professional plans or situations; any awards, recognitions, or special achievements in the fellow's academic study or school employment; and such other information as may related to the fellowship and its holder. Fellows must also submit a final report to the Foundation following completion of their fellowships.

§ 2400.62 Postponement of awards.

Upon application to the Foundation, a fellow may seek postponement of his or her fellowship because of ill health or other mitigating circumstances, such as military duty, temporary disability, necessary care of an immediate family member, or unemployment as a teacher. Substantiation of the reasons for postponement will be required.

§ 2400.63 Evidence of master's degree.

At the conclusion of the fellowship term, each fellow must provide evidence that he or she has secured an approved master's degree as set forth in the fellow's original plan of study.

Dated: February 25, 1992.

Paul A. Yost, Jr.,

President, James Madison Memorial Fellowship Foundation.

[FR Doc. 92–4701 Filed 2–28–92; 8:45 am]

BILLING CODE 6820-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 10

Licensing of Maritime Personnel

CFR Correction

In title 46 of the Code of Federal Regulations, parts 1 to 40, revised as of October 1, 1991, on page 128, in the second column § 10.504 was inadvertently omitted and should precede § 10.505. Section 10.504 should read as follows:

§ 10.504 Application of deck service for limited engineer licenses.

Service gained in the deck department on vessels of appropriate tonnage may substitute for up to 25 percent or 6 months, whichever is less, of the service requirement for a license as chief engineer (limited), assistant engineer (limited), or designated duty engineer.

BILLING CODE 1505-01-D

Proposed Rules

Federal Register
Vol. 57, No. 41
Monday, March 2, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

Office of General Counsel

10 CFR Chapters I, II, III and X

[Docket No. GC-NOI-92-101]

Existing Regulations and Programs; Regulatory Review

AGENCY: Department of Energy.

ACTION: Notice of inquiry and public hearing.

SUMMARY: The Department of Energy (DOE) has issued this notice of inquiry (NOI) in order to request public comment on existing regulations and programs that DOE has identified as meriting consideration for revision or elimination in compliance with the President's January 28, 1992, Memorandum for Certain Department and Agency Heads on the subject of "Reducing the Burden of Government Regulations." The President's Memorandum requires review of existing regulations and programs against certain specific standards with the objectives of identifying and removing unnecessary burdens on the private sector and of fostering economic growth. DOE invites members of the public to comment on both the regulations and programs of DOE specifically identified below and any other regulations and programs which they think should be considered for revision or elimination consistent with the President's Memorandum. To be of maximum use, comments recommending revision of an existing regulation or program should contain specific suggestions for substitute provisions or methods. A purpose of this NOI is to comply with the direction in the President's Memorandum to obtain public input to the review process. This NOI does not begin any rulemaking. Any revisions or changes to existing regulations and programs which may hereafter be undertaken will be implemented through appropriate administrative actions which may include issuance of notices of proposed rulemaking.

DATES: Written comments (10 copies) will be considered if received at the address provided below no later than March 25, 1992. A public hearing is scheduled to be held in Washington, DC. on March 23, 1992. Requests to speak at the hearing must be received no later than March 20, 1992.

ADDRESSES: Any written comment (10 copies) and the envelope in which it is enclosed should be marked "Notice of Inquiry and Regulatory Review, Docket No. GC–NOI–92–101" and must identify the program division to which the comment is directed. Both the written comment and any request to speak at the public hearing, must be submitted to: U.S. Department of Energy, Office of General Counsel, GC–41, Notice of Inquiry and Public Hearing, Docket No. GC–NOI–92–101, 1000 Independence Avenue, SW., room 6B–256, Washington, DC 20585 (202) 586–9507. FAX comments will not be accepted. The public hearing will begin at 9:30 a.m. in the DOE Auditorium at the U.S. Department of Energy, 1000 Independence Avenue, SW., room GE–086, Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Neal J. Strauss, Office of General Counsel, GC–41, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9507.

SUPPLEMENTARY INFORMATION:

Background

On January 28, 1992, the President issued a Memorandum for Certain Department and Agency Heads (Memorandum) which set aside the following 90 days for, among other things, a review of existing regulations and programs with the objectives of reducing the burden of regulation and promoting economic growth to the extent that the law allows. The Memorandum directs that each regulation and program be reviewed, with opportunity for public input, for compliance with the following standards:

(a) The expected benefits to society of any regulation should clearly outweigh the expected costs it imposes on society.

(b) Regulations should be fashioned to maximize net benefits to society.

(c) To the maximum extent possible, regulatory agencies should set performance standards instead of prescriptive command-and-control requirements, thereby allowing the regulated community to achieve regulatory goals at the lowest possible cost.

(d) Regulations should incorporate market mechanisms to the maximum extent possible.

(e) Regulations should provide clarity and certainty to the regulated community and should be designed to avoid needless litigation.

The Memorandum further directs that, to the maximum extent permitted by law, and as soon as possible, the agency should propose repeal or modifications in existing regulations to bring them into conformity with the foregoing standards.

Discussion

DOE has identified the following existing regulations in 10 CFR chapter II by program division as possible candidates for elimination or revision in light of these standards:

Conservation and Renewable Energy

Eliminate

10 CFR part 417—Wind Energy Technology Application Program
10 CFR part 456—Energy Conservation Service Program
10 CFR part 490—Emergency Building Temperature Restrictions

Revise

10 CFR 435.101—Building Energy Performance Standards (prescriptive minimum requirements)

Defense Programs

Revise

10 CFR part 810—Assistance to Foreign Atomic Energy Activities

General Counsel

Revise

10 CFR part 781—DOE patent licensing regulations

Economic Regulatory Administration

Eliminate

10 CFR 1001.1 (Requiring ERA to separate natural gas regulatory functions from petroleum price and allocation enforcement functions.)
10 CFR 205.191 (Procedures for discretionary notices of probable violation.)
10 CFR 205.199D (Procedures for interim remedial orders)

- 10 CFR 205.199E (Notices of proposed disallowance, proposed orders of disallowance and orders of disallowance.)
- 10 CFR part 205, subpart C (Other proceedings, e.g., petitions for multiple allocation fractions.)

Fossil Energy

Eliminate

- 10 CFR part 207—Collection of information
- 10 CFR part 220—Strategic petroleum reserve crude oil allocation
- 10 CFR part 300—Coal loan guarantee program
- 10 CFR part 303—Administrative procedures and sanctions
- 10 CFR part 305—Coal utilization
- 10 CFR part 320—University coal research laboratories program
- 10 CFR part 595—Certification of use of natural gas to displace fuel oil

DOE invites the public to comment on the possible candidates for elimination or revision which are identified above. DOE encourages the public to make specific suggestions for substitute provisions where revision is recommended. Comments which make such specific recommendations will enable DOE to more fully consider the merits of the ideas and language for the recommendations in question.

DOE also invites members of the public to identify other DOE regulations (see 10 CFR chapter II) or programs they believe to be inconsistent with the standards set forth above. DOE has not listed any provisions regarding internal management of DOE facilities and personnel which may indirectly affect the public.

Opportunity for Public Comment

Written Comments

Interested persons are invited to respond to this notice by submitting data, views, or arguments. Comments should be submitted to the Office of General Counsel at the address set forth above. The written comments submitted should be identified with the designation, "Notice of Inquiry for Regulatory Review" and the name of the program division to which it should be directed, e.g., Conservation and Renewable Energy. Ten (10) copies of the comments should be submitted.

All comments received on or before the date specified in the beginning of this NOI will be considered DOE. Comments received after that date will be considered to the extent that time allows.

Any person submitting information which that person believes to be confidential and which may be exempt by law from public disclosure should submit one complete copy marked confidential, as well as ten (10) copies from which the confidential information has been deleted. DOE reserves the right to determine the confidential status of the information or data and treat it according to its determination under 10 CFR Part 1004.

Hearing Procedures

One public hearing will be held pursuant to this notice at the time, date and place indicated above in the Dates and Addresses sections of this NOI. Any person who has an interest in making an oral presentation should make a written request to speak. Such a request should be sent to the Office of General Counsel at the address given in the Addresses section of this NOI and must be received by 4:30 p.m., eastern standard time, on the date specified in the Dates section. The person making the request should provide a daytime phone number where the person may be reached. Those persons requesting an opportunity to make an oral presentation should bring ten (10) copies of their statement to the hearing.

DOE reserves the right to select the persons to be heard at the hearing, to schedule the respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation is limited to five (5) minutes. A DOE official will preside at the hearing which will be legislative in nature. The hearing will not be conducted like an evidentiary, trial-type proceeding. Although there will be no cross examination, the presiding official may ask questions.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

Issued in Washington, DC, on February 25, 1992.

John J. Easton, Jr.,

General Counsel.

[FR Doc. 92-4798 Filed 2-28-92; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91-CE-89-AD]

Airworthiness Directives; Piper Models PA-46-310P and PA-46-350P Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD) that would be applicable to Piper Models PA-46-310P (Malibu) and PA-46-350P (Mirage) airplanes. The proposed action would require inspection of the elevator trim cable guide tube to determine if it has been severed, and, if severed, installation of an elevator trim cable guide sleeve. Investigation of the trim system on one of the affected airplanes revealed a lockup of the trim tab system because the elevator trim cable guide tube was severed and the mismatched halves had jammed the trim cable turnbuckles. The actions specified by the proposed AD are intended to prevent sudden pitch changes related to a jammed trim tab, which could result in loss of control of the airplane.

DATES: Comments must be received on or before May 4, 1992.

ADDRESSES: Service information that is related to this AD may be obtained from the Piper Aircraft Corporation, Customer Services, 2926 Piper Drive, Vero Beach, Florida 32960. This information also may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91-CE-89-AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Robert L. Miller, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, suite 210C, Atlanta, Georgia 30349; Telephone (404) 991-3020; Facsimile (404) 991-3606.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 91–CE–89–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91–CE–89–AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

Recently, the pilot of a Piper Model PA–46–310P airplane reported a lockup of the elevator trim tab. Investigation of the trim tab system revealed that the elevator trim cable guide tube was severed and the mismatched halves of the tube had jammed the trim cable turnbuckles. The tube had been severed in order to gain access to the trim cable turnbuckles while rigging the elevator trim cables after field maintenance of the trim tab system. Access to the turnbuckle was not defined in the original maintenance and production procedures. The manufacturer (Piper) has since revised these procedures, which specify instructions for gaining access.

In addition, Piper has issued Service Bulletin No. 953, dated October 29, 1991, which references Elevator Trim Cable Tube Splice Kit, Part Number 766–272. This kit consists of an external sleeve that needs to be installed on severed elevator trim cable guide tubes and instructions for this installation on Piper Models PA–46–310P (Malibu) and PA–46–350P (Mirage) airplanes. After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that AD action should be taken in order to continue to assure the airworthiness of the affected airplanes.

Since the condition described is likely to exist or develop in other Piper Model PA–46–310P and PA–46–350P airplanes of the same type design, an airworthiness directive is being proposed that specifies actions that would prevent sudden pitch change related to a jammed trim tab, which could result in loss of control of the airplane. The proposed action would require an inspection to determine if the elevator trim cable guide tube has been severed, and, if severed, installation of an external sleeve in accordance with the instructions in Elevator Trim Cable Guide Tube Splice Kit, Piper Part Number 766–272. This kit is referenced in Piper Service Bulletin No. 953, dated October 29, 1991.

It is estimated that 403 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 1.5 hours per airplane to accomplish the proposed action, and that the average labor rate is approximately $55 an hour. Parts cost approximately $25 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $43,322.50.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR Part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

Piper Aircraft Corporation: Docket No. 91–CE–89–AD.

Applicability: The following model airplanes, certificated in any category:

Models	Serial No.
PA–46–310P	46–8408001 through 46–8608067 and 4608001 through 4608140.
PA–46–350P	4622001 through 4622117.

Compliance: Required within the next 100 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent sudden pitch change related to a jammed trim tab, which could result in loss of control of the airplane, accomplish the following:

(a) Visually inspect the elevator trim cable guide tube for severance. Severance is defined as any cut, break, or division of the elevator trim cable guide tube (generally performed to gain access to the trim cable turnbuckles).

(b) If severance is found, prior to further flight, splice the elevator trim cable guide tube and install an external sleeve in accordance with the instructions in Elevator Trim Cable Guide Tube Splice Kit, Piper Part Number 766–272.

Note: Revised maintenance procedures on gaining access to the trim cable turnbuckles may be obtained from the manufacturer at the address specified in paragraph (e) of this AD.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, suite 210C, Atlanta, Georgia 30349. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta Aircraft Certification Office.

(e) All persons affected by this directive may obtain copies of the documents referred to herein upon request to the Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960; or may examine these documents at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on February 21, 1992.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-4743 Filed 2-28-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 91-CE-101-AD]

Airworthiness Directives; Piper Aircraft Corporation Models PA-46-310P and PA-46-350P Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD) that would be applicable to Piper Aircraft Corporation (Piper) Models PA-46-310P (Malibu) and PA-46-350P (Mirage) airplanes. The proposed action would require the replacement of certain empennage countersunk rivets with universal head rivets of a larger diameter. General maintenance inspections of the empennage of the affected airplanes revealed loose rivets working into the skin. Undetected loose rivets could eventually lead to a weakened airplane structure. The actions specified by this AD are intended to prevent structural deterioration because of loose empennage rivets.

DATES: Comments must be received on or before May 4, 1992.

ADDRESSES: Service information that is applicable to this AD may be obtained from the Piper Aircraft Corporation, Customer Services, 2926 Piper Drive, Vero Beach, Florida 32960. This information also may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Dockets No. 91-CE-101-AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Perry, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, suite 210C, Atlanta, Georgia 30349; Telephone (404) 991-2910; Facsimile (404) 991-3606.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 91-CE-101-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91-CE-101-AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64016.

Discussion

General maintenance inspections of the empennage of several Piper Aircraft Corporation (Piper) Models PA-46-310P (Malibu) and PA-46-350P (Mirage) airplanes revealed loose empennage rivets. Three of these airplanes had rivets that were working into the skin on the empennage, which if not detected could eventually lead to a weakened airplane structure. Hours time-in-service (TIS) of the subject airplanes varied from 107 hours TIS to 1,477 hours TIS.

The manufacturer (Piper) has issued Service Bulletin (SB) No. 944, dated October 5, 1990, which specifies instructions for the replacement of specific empennage countersunk rivets with universal head rivets of a larger diameter on Piper Models PA-46-310P and PA-46-350P airplanes. After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that AD action should be taken to prevent structural deterioration because of loose empennage rivets.

Since the condition described is likely to exist or develop in other Piper Models PA-46-310P and PA-46-350P airplanes of the same type design, the proposed AD would require the replacement of certain empennage countersunk rivets with universal head rivets of a larger diameter. The proposed actions would be done in accordance with the INSTRUCTIONS in Piper SB No. 944, dated October 5, 1990.

The FAA estimates that 512 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 4 hours per airplane to accomplish the proposed action, and that the average labor rate is approximately $55 an hour. Parts cost approximately $5 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $115,200.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

Piper Aircraft Corporation: Docket No. 91-CE-101-AD.

Applicability: Model PA-46-310P airplanes (serial numbers (S/N) 46-8408001 through 46-8608067 and S/N 4608001 through 4608140) and Model PA-46-350P airplanes (S/N 4622001 through 4622109), certificated in any category.

Compliance: Required within the next 100 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent structural deterioration because of loose empennage rivets, accomplish the following:

(a) Replace the empennage countersunk rivets indicated in Piper Service Bulletin (SB) No. 944, dated October 5, 1990, with universal head rivets of a larger diameter in accordance with the INSTRUCTIONS in Piper Service Bulletin No. 944.

(b) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta Aircraft Certification Office.

(d) All persons affected by this directive may obtain copies of the documents referred to herein upon request to the Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960; or may examine these documents at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on February 21, 1992.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-4744 Filed 2-28-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 91-CE-98-AD]

Airworthiness Directives; Piper Aircraft Corporation Models PA-46-310P and PA-46-350P Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD) that would be applicable to Piper Aircraft Corporation (Piper) Models PA-46-310P (Malibu) and PA-46-350P (Mirage) airplanes. The proposed action would require disconnecting the low vacuum annunciation switch, fabricating and installing a placard that labels the low vacuum light as inoperative, installing vacuum gauge markings, and incorporating changes to the limitations section of the Airplane Flight Manual. One of the affected airplanes experienced an in-flight vacuum system failure, which went undetected because the low vacuum detector failed to sense a low vacuum. Low vacuum can result in degraded operation of the air-driven attitude gyros and their associated autopilot and flight direction functions, and can reduce the efficiency of the pneumatic de-icing equipment. The actions specified by the proposed AD are intended to prevent failure of the air-driven attitude gyro and autopilot systems caused by an undetected low vacuum.

DATES: Comments must be received on or before May 4, 1992.

ADDRESSES: Service information that is applicable to this AD may be obtained from the Piper Aircraft Corporation, Customer Services, 2926 Piper Drive, Vero Beach, Florida 32960. This information also may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91-CE-98-AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Robert L. Miller, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, suite 210C, Atlanta, Georgia 30349; Telephone (404) 991-3020; Facsimile (404) 991-3606.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 91-CE-98-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91-CE-98-AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The FAA has received a report of an in-flight vacuum system failure on a Piper Model PA-46-310P airplane. The low vacuum detector did not sense a low vacuum. A vacuum gauge is the primary display of the vacuum system condition and the "Vacuum Low" annunciator light located on the instrument panel is a supplemental warning of excessively low vacuum. Low vacuum may result in degraded operation of the air-driven gyros and their associated autopilot and flight direction functions, and the pneumatic de-icing equipment. A degraded attitude gyro/autopilot function can result in a hazard to the airplane. Although the pilot observed a vacuum gauge reading in this instance, he did not acknowledge a vacuum system failure because the low vacuum annunciator light did not function and a minimum vacuum level marking was not provided on the gauge. The autopilot reacted to excessive attitude gyro precessions and provided unwanted pitch commands to the airplane, resulting in oscillations until the pilot disconnected the autopilot. If these oscillation would become excessive, then severe structural damage could occur.

It is possible for the vacuum to fall below normal and go undetected if the pilot is not monitoring the vacuum gauge and the "Vacuum Low" light fails to annunciate. As a result, the manufacturer (Piper Aircraft Corporation) has issued Piper Service Bulletin (SB) No. 947A, dated October 29, 1991, which specifies procedures for disconnecting the low vacuum annunciation switch, fabricating and installing a placard that labels the low vacuum light as inoperative, and installing vacuum gauge markings.

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that AD action should be taken to prevent failure of the air-driven attitude gyro and autopilot systems caused by an undetected low vacuum.

Since the condition described is likely to exist or develop in other Piper Models PA–46–310P and PA–46–350P airplanes of the same type design, the proposed AD would require disconnecting the low vacuum annunciation switch, fabricating and installing a placard that labels the low vacuum light as inoperative, installing vacuum gauge markings, and incorporating changes to the Airplane Flight Manual. The proposed disconnection, fabrication and installations would be accomplished in accordance with Piper SB No. 947A, dated October 29, 1991.

The FAA is particularly interested in comments from the public concerning the provisions of Piper SB No. 947A that relate to disconnecting the low vacuum warning annunciator light.

The FAA estimates that 403 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 2 workhours per airplane to accomplish the proposed action, and that the average labor rate is approximately $55 an hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $44,330.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

Piper Aircraft Corporation: Docket No. 91–CE–98–AD.

Applicability: Model PA–46–310P airplanes (serial numbers (S/N) 46–8408001 through 46–8608067 and S/N 4608001 through 4608140) and Model PA–46–350P airplanes (S/N 4622001 through 4622118), certificated in any category.

Compliance: Required within the next 100 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent failure of the air-driven attitude gyro and autopilot systems caused by an undetected low vacuum, accomplish the following:

(a) Disconnect the low vacuum annunciation switch in accordance with paragraphs 1 through 4 of the INSTRUCTIONS in Part I of Piper Service Bulletin No. 947A, dated October 29, 1991.

(b) Fabricate a placard with the following words: VACUUM LOW LIGHT INOP, and install this placard to the instrument panel in clear view of the pilot in accordance with paragraphs 5 and 6 of the INSTRUCTIONS in Part I of Piper Service Bulletin No. 947A, dated October 29, 1991.

(c) Install vacuum gauge markings in accordance with the INSTRUCTIONS in Part II of Piper Service Bulletin No. 947A, dated October 29, 1991.

(d) Incorporate whichever of the following reports that is applicable into the limitations section of the Airplane Flight Manual, and operate the airplane accordingly:

Model	Report
PA–46–310P	VB–1200, page 2–4, Issued: January 11, 1984, Revised: October 14, 1991
PA–46–310P	VB–1300, page 2–4, Issued: July 1, 1986, Revised: October 14, 1991
PA–46–350P	VB–1332, page 2–4, Issued: June 15, 1988, Revised: October 14, 1991

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to location where the requirements of this AD can be accomplished.

(f) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, suite 210C, Atlanta, Georgia 30349. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta Aircraft Certification Office.

(g) All persons affected by this directive may obtain copies of the documents referred to herein upon request to the Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960; or may examine these documents at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on February 21, 1992.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–4745 Filed 2–28–92; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 92–CE–07–AD]

Airworthiness Directives; Bendix/King KAP 150/KFC 150 Flight Control Systems Installed on Piper Models PA–46–310P and PA–46–350P Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD) that would be applicable to Bendix/King KAP 150/KFC 150 Flight Control Systems installed on Piper Models PA-46-310P (Mirage) and PA-46-350P (Malibu) airplanes. The proposed action would require the installation of a pitch servo cover kit. The Federal Aviation Administration (FAA) has received two reports where corrosion was found on the electronic circuit board of the affected flight control systems. The actions specified by the proposed AD are intended to prevent moisture from entering the electronic circuit board through the pitch servo, which could possibly lead to undesired movement of the elevator.

DATES: Comments must be received on or before May 4, 1992.

ADDRESSES: Service information that is applicable to this AD may be obtained from Bendix/King, Product Support Department, 400 N. Rogers Road, Olathe, Kansas 66062-0212. This information also may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92-CE-07-AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Dale Vassalli, Aerospace Engineer, Systems and Equipment Branch, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4132; Facsimile (316) 946-4407.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 92-CE-07-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92-CE-07-AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The FAA has received two reports where corrosion was found on the electronic circuit board of Bendix/King KAP 150/KFC 150 Flight Control Systems installed on Piper Models PA-46-310P (Mirage) and PA-46-350P (Malibu) airplanes. This condition, if not detected and corrected, could possibly lead to an undesired movement of the elevator and loss of control of the airplane.

The manufacturer, Bendix/King, has issued Installation Bulletin (IB) No. 312, dated March 19, 1990, which specifies procedures for the installation of pitch and yaw servo cover kits, part number (P/N) 050-03007-0000 and P/N 050-03006-0000, respectively. After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that AD action should be taken to prevent moisture from entering the electronic circuit board through the pitch servo, which could possibly lead to undesired movement of the elevator.

Since the condition described is likely to exist or develop in other Bendix/King KAP 150/KFC 150 Flight Control Systems installed on Piper Models PA-46-310P (Mirage) and PA-46-350P (Malibu) airplanes of the same type design, the proposed AD would require the installation of a pitch servo cover kit, P/N 050-3007-0000. The proposed action would be accomplished in accordance with the instructions in Bendix/King IB No. 312, dated March 19, 1990. The FAA has determined that AD action should not be taken for the yaw servo cover installation specified in the referenced service information because failure of the yaw servo would not result in an unsafe condition.

The compliance time for this proposed AD is presented in calendar time instead of hours time-in-service. The FAA has determined that a calendar time for compliance is the most desirable method because the unsafe condition described by the proposed AD is caused by corrosion. Corrosion can occur on airplanes regardless of whether the airplane is in service. In addition, the utilization rate of the affected airplanes varies throughout the fleet. For example, one operator may utilize the airplane 50 hours TIS in one week, while another operator may not operate the airplane 50 hours TIS in one month. Therefore, to ensure that corrosion is detected and corrected on all airplanes within a reasonable period of time without inadvertently grounding any airplanes, a compliance schedule based upon calendar time instead of hours time-in-service is proposed.

The FAA estimates that 233 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 3 hours per airplane to accomplish the proposed action, and that the average labor rate is approximately $55 an hour. Parts cost approximately $260 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $99,025. Bendix/King reports that it has sold 297 kits. Based on this information, the FAA estimates that as many as 50 percent of the affected airplanes have been modified, which greatly reduces the cost impact of this action.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules

Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

Bendix/King: Docket No. 92–CE–07–AD.

Applicability: KAP 150/KFC 150 Flight Control Systems installed on Piper Models PA–46–310P and PA–46–350P airplanes, certificated in any category.

Compliance: Required within the next 90 calendar days after the effective date of this AD, unless already accomplished.

To prevent moisture from entering the electronic circuit board through the pitch servo, which could possibly lead to undesired movement of the elevator, accomplish the following:

(a) Install a pitch servo cover kit, part number 050–03007–0000, in accordance with the instructions in Bendix/King Installation Bulletin No. 312, dated March 19, 1990.

Note: Installation of the yaw servo cover kit, part number 050–03006–0000, that is referenced in Bendix/King Installation Bulletin No. 312 is not required by this AD action.

(b) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas 67209. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita Aircraft Certification Office.

(d) All persons affected by this directive may obtain copies of the document referred to herein upon request to Bendix/King, Product Support Department, 400 N. Rogers Road, Olathe, Kansas 66062–0212; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on February 21, 1992.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–4746 Filed 2–28–92; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 91–NM–143–AD]

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: This notice revises an earlier proposed airworthiness directive (AD), applicable to certain Boeing Model 767 series airplanes, which would have required inspection of the hydraulic pressure tube to the power drive unit for the inboard leading edge slats and the adjacent pneumatic duct, and replacement, if the clearance was less than allowable limits or chafing was evident. That proposal was prompted by reports of leaks in the hydraulic pressure tube, caused by chafing between the hydraulic tube and pneumatic duct. This action revises the proposed rule by adding a requirement that the hydraulic return tube be replaced, if a new hydraulic pressure tube is installed. The actions specified by this proposed AD are intended to prevent temporary impairment of the crew's vision, caused by hydraulic fluid in the environmental control system.

DATES: Comments must be received by April 3, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 91–NM–143–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth W. Frey, Seattle Aircraft Certification Office, Systems and Equipment Branch, ANM–130S; telephone (206) 227–2673; fax (206) 227–1181. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 91–NM–143–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 91–NM–143–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations to add an airworthiness directive (AD), applicable to certain Boeing Model 767 series airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on August 14, 1991 (56 FR 40279). That NPRM would have required inspection of the hydraulic pressure tube to the power drive unit for the inboard leading edge slats and the adjacent pneumatic duct, and replacement, if the clearance was less than allowable limits or chafing was evident, in accordance with the specified service bulletin. That NPRM was prompted by two reports of leaks in the hydraulic pressure tube caused by chafing between the hydraulic tube and pneumatic duct. That condition, if not corrected, could result in temporary impairment of the crew's vision caused by hydraulic fluid in the environmental control system.

Since the issuance of the proposal, the FAA has reviewed and approved Revision 1 of Boeing Alert Service Bulletin 767-29A0064, dated October 24, 1991. This revised service bulletin adds procedures for replacing the hydraulic return tube with a new design tube, if the hydraulic pressure tube is replaced. If the hydraulic pressure tube is replaced, but the hydraulic return tube is not replaced, the tubes will touch and begin to chafe. The FAA has determined that, in order to adequately address the unsafe condition identified as chafing of the hydraulic pressure tube against the pneumatic duct, the proposed rule must be revised to add a requirement to replace the hydraulic return tube with a new design tube, if the hydraulic pressure tube is, or previously has been, replaced due to chafing of the hydraulic pressure tube against the pneumatic duct. Additionally, the proposed rule must be revised to cite Revision 1 of the service bulletin as the appropriate source for service information.

Since these changes expand the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional time for public comment.

There are approximately 342 Boeing Model 767 series airplanes of the affected design in the worldwide fleet. It is estimated that 129 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $28,380.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 91-NM-143-AD.

Applicability: Model 767 series airplanes, as listed in Boeing Alert Service Bulletin 767-29A0064, Revision 1, dated October 24, 1991, certificated in any category.

Compliance: Required within the next 3,000 flight hours after the effective date of this AD, unless accomplished previously.

To prevent hydraulic fluid from entering the cabin, accomplish the following:

(a) Inspect the inboard leading edge slat power drive unit hydraulic pressure tube for clearance from the adjacent pneumatic duct and for signs of chafing, in accordance with Boeing Alert Service Bulletin, Revision 1, dated October 24, 1991:

(1) If the clearance is more than 0.25 inch and there are no signs of chafing, no further action is necessary.

(2) If the clearance is 0.25 inch or less, or if signs of chafing are found on the hydraulic tube, prior to further flight, replace both the hydraulic pressure tube and the hydraulic return tube, in accordance with the service bulletin.

(3) If chafing is found on the pneumatic duct, prior to further flight, repair the pneumatic duct in accordance with the service bulletin.

(b) For airplanes on which the hydraulic pressure tube has been replaced in accordance with Boeing Service Bulletin 767-29A0064 (original issue), dated June 13, 1991: Within 4,000 flight hours after the effective date of this AD, replace the hydraulic return tube in accordance with Paragraph III.D. of Boeing Service Bulletin 767-29A0064, Revision 1, dated October 24, 1991.

(c) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on February 18, 1992.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-4733 Filed 2-28-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 91-NM-250-AD]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 747 series airplanes. This proposal would require inspection of the flexible conduit, wiring, and support brackets between the fuselage and the forward and aft cargo door, and replacement or repair, if necessary. This proposal is prompted by a report of an uncommanded electrical opening of an aft cargo door that occurred during maintenance procedures conducted on a Model 747-200 series airplane. The actions specified by the proposed AD are intended to prevent the inadvertent actuation of the respective cargo door power drive units that open and close the doors, and possible injury to maintenance or cargo handling personnel.

DATES: Comments must be received by April 20, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 91-NM-258-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Huber, Seattle Aircraft Certification Office, Systems & Equipment Branch, ANM-130S, FAA, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2791; fax (206) 227-1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 91-NM-258-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 91-NM-258-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

Discussion

One operator of a Boeing Model 747-200 series airplane reported an uncommanded electrical opening of the aft cargo door that occurred during maintenance procedures. As the airplane was being prepared for flight, investigation of the circuit breaker panel revealed that the aft cargo door circuit breaker had tripped. The aft cargo door was cranked open manually, the circuit breaker was reset, and no faults occurred. The cargo door was then closed electrically and cycled twice without incident.

Subsequent to this incident, the aft cargo door control and indication wire bundle was disconnected at the junction box, located on the upper portion of the interior of the door, and the individual wires were checked for continuity. During the continuity checks, electrical fluctuations were experienced as the wire bundle was manipulated. When the wire bundle was reconnected to the junction box, the door began to open with no activation of the electrical door-open switches. Door operation ceased only when the aft cargo door circuit breaker was pulled. Examination of the portion of the wire bundle contained in a flexible copper conduit spanning the door hinge area revealed several wires with insulation breaches and damage. The insulation breaches were caused by wires rubbing against portions of the flexible conduit innercore that had separated and left jagged edges. The damaged wires were electrically isolated and door operation returned to normal. The master latch lock switch, which removes power from the door when the door is locked, was checked and found to be functioning properly.

The uncommanded operation of the aft cargo door that occurred in the incident described above was determined to be a result of electrical shorting of the aft cargo door control wires contained within the flexible conduit. This condition, if not corrected, could result in the inadvertent actuation of the cargo door power drive units that open and close the doors, and possible injury to cargo handling or maintenance personnel. This condition could not cause the door to open during flight, however.

There have been no reported incidents of the forward cargo door opening inadvertently due to electrical shorting of wires housed within the flexible conduit. However, since the forward cargo door uses a similar flexible conduit as is installed in the aft cargo door, the potential problem also may exist with regard to the forward cargo door.

The FAA has reviewed and approved Boeing Service Bulletin 747-52-2224, Revision 1, dated March 7, 1991 (for Model 747-100, -200, and -300 series airplanes); and Boeing Service Bulletin 747-52-2225, Revision 1, dated March 7, 1991 (for Model 747-400 series airplanes), as amended by Boeing Service Letter M-7240-91-3164, dated October 2, 1991. These service bulletins describe procedures for modification of the door warning systems on the forward and aft lower lobe and main deck side cargo doors; and include procedures for a post-modification functional test of the systems.

The FAA has also reviewed and approved the following Boeing Installation Drawings that describe the proper installation of the wire bundle and the corresponding flexible conduit within the cargo door warning systems:

a. Drawing 288U4210, Revision C, dated November 29, 1990;
b. Drawing 65B70620, Revision B, dated January 16, 1989;
c. Drawing 288U4630, Revision E, dated November 9, 1990; and
d. Drawing 65B70621, Revision E, dated September 24, 1990.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require inspection of the electrical conduit, wiring, and support brackets between the fuselage and the forward and aft cargo door, and replacement or repair, if necessary. Functional testing of the cargo door would also be required. The actions would be required to be accomplished in accordance with the service bulletins and drawings described previously.

There are approximately 859 Model 747 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 206 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. If the aft and forward cargo door flexible conduits require replacement, additional parts would cost approximately $123 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $70,658.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 91–NM–258–AD.

Applicability: Model 747 airplanes; equipped with a fuselage-to-cargo door flexible metallic electrical conduit that was installed either in production or in accordance with Boeing Service Bulletin 747–52–2170, dated October 7, 1983; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent inadvertent actuation of the cargo power drive units that open and close the doors, and possible injury to maintenance or cargo handling personnel, accomplish the following:

(a) For the aft cargo door: Within 120 days after the effective date of this AD, accomplish the following:

(1) Inspect the installation of wire bundle W574 and the corresponding flexible conduit to verify their correct installation in accordance with Boeing Installation Drawing 288U4630, Revision E, dated November 9, 1990; and Boeing Installation Drawing 65B70621, Revision E, dated September 24, 1990. On the flexible conduit, mark the position of the clamp placement (for later reinstallation purposes). If the installation is not installed in accordance with the applicable drawing, prior to further flight, replace the flexible conduit with a new flexible conduit of the same part number.

(2) Using the following inspection method, inspect the flexible conduit for the presence of cracking in the convoluted inner core; and inspect the wire bundle in the area normally covered by the conduit for the presence of damaged insulation.

(i) Disconnect and remove connectors DM711A and DM711B from wire bundle W574 and cap them for protection.

(ii) Remove the clamps supporting flexible conduit 162–748–10. (Retain the mounting hardware for re-installation.)

(iii) From the seal passage to connection M711, remove the clamps supporting wire bundle W574 and rigid conduit 69B70139. Remove the wire bundle ties between the lower end of flexible conduit 162–748–10 and connectors DM711A and DM711B. (Retain the mounting hardware for reinstallation.)

(iv) Gently slide the flexible and rigid conduits off the wire bundle.

(v) Visually inspect the complete wire bundle, and the internal and external surfaces of the flexible conduit for damage.

(vi) If damage is found in the wire bundle, prior to further flight, repair or replace it in accordance with normal maintenance procedures. If damage is found in the flexible conduit, prior to further flight, replace the conduit with a new conduit of the same part number. (Conduit damage is not repairable.)

(vii) Install flexible conduit 162–748–10 on wire bundle W574.

Note: The conduit end without drain holes goes on the wire bundle first.

The drain holes should be on the connector end.

(viii) Install rigid conduit 69B70139.

(ix) Install connectors for DM711A and DM711B.

(x) Reposition flexible conduit 162–748–10 in accordance with Boeing Installation Drawing 65B70621, Revision E, dated September 24, 1990. When reinstalling the flexible conduit, place the clamps in the same positions as marked in accordance with subparagraph (a)(1) of this AD.

(xi) Connect connectors DM711A and DM711B to connection M711.

(3) Following the completion of the inspection required by paragraphs (a)(1) and (a)(2) of this AD, perform a functional test of the cargo door, in accordance with Boeing Service Bulletin 747–52–2224, Revision 1, dated March 7, 1991 (for Model 747–100, –200, and –300 series airplanes); or Boeing Service Bulletin 747–52–2225, Revision 1, dated March 7, 1991 (for Model 747–400 series airplanes), as amended by Boeing Service Letter M–7240–91–3164, dated October 2, 1991; as applicable.

(4) Visually inspect the conduit support bracket and attached standoff pin on the upper arm of the forward lift actuator mechanism for damage. If damage is detected, prior to further flight, install a new bracket in accordance with Boeing Installation Drawing 65B70621, Revision E, dated September 24, 1990.

(b) For the forward cargo door: Within 270 days after the effective date of this AD, accomplish the following:

(1) inspect the installation of wire bundle W572 and the corresponding flexible conduit to verify their correct installation in accordance with Boeing Installation Drawing 288U4210, Revision C, dated November 29, 1990; and Boeing Installation Drawing 65B70620, Revision B, dated January 16, 1989. On the flexible conduit, mark the position of the clamp placement (for later reinstallation purposes). If the installation is not installed in accordance with the applicable drawing, prior to further flight, replace the flexible conduit with a new flexible conduit of the same part number.

(2) Using the following inspection method, inspect the flexible conduit for the presence of cracking in the convoluted inner core; and inspect the wire bundle in the area normally covered by the conduit for the presence of damaged insulation.

(i) Disconnect and remove connectors DM0709A and DM0709B from wire bundle W572 and cap them for protection.

(ii) Remove the clamps supporting flexible conduit 162–749–10. (Retain the mounting hardware for re-installation.)

(iii) From the seal passage to connection M0709, remove the clamps supporting wire bundle W572 and rigid conduit 69B70137. Remove the wire bundle ties between the lower end of flexible conduit 162–749–10 and connectors DM0709A and DM0709B. (Retain the mounting hardware for reinstallation.)

(iv) Gently slide flexible and rigid conduits off the wire bundle.

(v) Visually inspect the complete wire bundle, and the internal and external surfaces of the flexible conduit for damage.

(vi) If damage is found in the wire bundle, prior to further flight, repair or replace it in accordance with normal maintenance procedures. If damage is found in the flexible conduit, prior to further flight, replace the conduit with a new conduit of the same part number. (Conduit damage is not repairable.)

(vii) Install flexible conduit 162–749–10 on wire bundle W572.

Note: The conduit end without drain holes goes on the wire bundle first.

The drain holes should be on the connector end.

(viii) Install rigid conduit 69B70137.

(ix) Install connectors for DM0709A and DM0709B.

(x) Reposition flexible conduit 162–749–10 in accordance with Boeing Installation Drawing 65B70620, Revision B, dated January 16, 1989. When reinstalling the flexible conduit, place the clamps in the same positions as marked in accordance with paragraph (b)(1) of this AD.

(xi) Connect connectors DM0709A and DM0709B to connection M0709.

(3) Following the completion of the inspection required by paragraphs (b)(1) and (b)(2) of this AD perform a functional test of the cargo door, in accordance with Boeing Service Bulletin 747–52–2224, Revision 1,

dated March 7, 1991 (for Model 747–100, –200, and –300 series airplanes); or Boeing Service Bulletin 747–52–2225, Revision 1, dated March 7, 1991 (for Model 747–400 series airplanes), as amended by Boeing Service Letter M–7240–91–3164, dated October 2, 1991; as applicable.

(c) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on February 18, 1992.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–4734 Filed 2–28–92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 91–NM–270–AD]

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 767 series airplanes. This proposal would require inspection of the main landing gear forward trunnion support fitting fuse pins and replacement of any incorrect fuse pins found. This proposal is prompted by reports indicating that incorrect fuse pins were installed on one airplane during a landing gear change and others were installed during production. The actions specified by the proposed AD are intended to prevent structural damage to the wing rear spar and fuel leakage in the event of a main landing gear breakaway, or the failure to withstand ultimate landing loads on high gross weight models.

DATES: Comments must be received by April 20, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 91–NM–270–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Satish K. Pahuja, Seattle Aircraft Certification Office, Airframe Branch, ANM–120S; telephone (206) 227–2781; fax (206) 227–1181. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following is made: "Comments to Docket Number 91–NM–270–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 91–NM–270–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

Discussion

One operator of Boeing Model 767 airplanes reported finding incorrect main landing gear (MLG) forward trunnion support fitting fuse pins on one airplane during a land gear change. The pins were installed during a previous landing gear replacement in accordance with the Boeing Model 767 Illustrated Parts Catalogue (IPC). Review of the IPC revealed a discrepancy in the applicability legend of the MLG trunnion support fitting fuse pins. The IPC listed fuse pins having part numbers 112T1078–1 and 112T1078–2 as being applicable for installation on any Model 767 airplane; however, these pins should be installed only on airplanes having 388,000 pounds and 409,000 pounds maximum taxi gross weight, respectively. The FAA also received a report that incorrect fuse pins were installed on airplanes in production. The outside diameter of all fuse pins is the same but the inside diameter determines the fuse pin strength and varies with usage. The FAA has determined that the use of over-strength fuse pins could result in structural damage to the wing rear spar and fuel leakage in the event of a MLG breakaway. High gross weight airplanes may not be able to withstand ultimate landing loads with under-strength fuse pins installed.

The FAA has reviewed and approved Boeing Alert Service Bulletin 767–57A0038, Revision 1, dated November 21, 1991, which describes procedures for the inspection of the fuse pins, and replacement of the incorrect fuse pins.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require a one-time inspection of the MLG forward trunnion support fitting fuse pins, and replacement of the incorrect fuse pins found. These actions would be required to be accomplished in accordance with the service bulletin described previously. Additionally, operators are required to submit to the FAA a report of any discrepancies found as a result of the inspection.

There are approximately 398 Model 767 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 135 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 21 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $155,925.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket No. 91–NM–270–AD.

Applicability: Model 767 series airplanes, listed in Boeing Alert Service Bulletin 767–57A0038, Revision 1, dated November 21, 1991, certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To prevent damage to the wing rear spar and prevent fuel leakage in the event of main landing gear (MLG) breakaway, accomplish the following:

(a) Within the next 30 days after the effective date of this AD, inspect the MLG forward trunnion support fitting fuse pins to determine if the correct part-numbered pins are installed, in accordance with Boeing Alert Service Bulletin 767–57A0038, Revision 1, dated November 21, 1991

(1) If incorrect fuse pins are installed, prior to further flight, replace the fuse pins in accordance with Boeing Alert Service Bulletin 767–57A0038, Revision 1, dated November 21, 1991.

(2) If correct fuse pins are found, no further action is required.

(b) Within 10 days after completion of the inspection required by paragraph (a) of this AD, submit a report of findings of discrepancies to the Manager, Seattle Manufacturing Inspection District Office, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; fax (202) 227–1187. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provision of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(c) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

Issued in Renton, Washington, on February 18, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–4735 Filed 2–28–92; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 890

[Docket No. 91N–0232]

Physical Medicine Devices; Revocation of the Classification of Mechanical Automobile Hand and Foot Driving Control

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the physical medicine devices regulations by removing the mechanical automobile hand and foot driving control classification regulation. FDA proposes to remove the classification for mechanical automobile hand and foot driving control devices because the agency no longer believes that these products are medical devices. Also, any safety concerns about these products are more appropriately addressed by the National Highway Traffic Safety Administration (NHTSA).

DATES: Comments by May 1, 1992.

ADDRESSES: Written comments may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joseph M. Sheehan, Center for Devices and Radiological Health (HFZ–84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4874.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 23, 1983 (48 FR 53032 at 53048), FDA published a final rule classifying the mechanical automobile hand and foot driving control as a class II medical device. This device is intended to enable persons who have limited use of their arms or legs to drive an automobile. The device allows hand operation of the gas, brake, and clutch pedals or foot operation of the steering and gear shift. Recently, more sophisticated versions of the controls have been developed. These driving controls incorporate a joy stick, a microprocessor, and servo controls. Applications to FDA for approval to market these controls that FDA no longer believes are medical devices have raised questions about vehicle safety that would be more appropriately addressed by NHTSA.

In response to a letter from FDA, NHTSA stated in a letter dated February 19, 1991, that the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1392) authorizes NHTSA: (1) To set performance requirements for motor vehicle equipment, (2) to investigate allegations that motor vehicle equipment, such as mechanical hand and foot driving controls, contain defects related to motor vehicle safety, and (3) to take appropriate action. Persons who have additional questions concerning issues related to NHTSA may contact Mary Versailles at 202–366–2992.

Environmental Impact

The agency has determined under 21 CFR 25.24 (a)(8) and (a)(10) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Economic Impact

FDA has carefully examined the economic impact of this proposed rule and has determined that the proposed rule will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (Pub. L. 96-395). FDA's issuance of a final rule based on this proposal will have the effect of relieving manufacturers of this equipment from the requirement of complying with FDA's medical device regulations. Therefore, this rule will relieve an existing burden on the industry. If this proposed rule is finalized, manufacturers of this equipment will not be required to comply with FDA's medical device regulations, therefore this rule will relieve an existing burden on the industry. In accordance with section 3(g)(1) of Executive Order 12291, the impact of this proposed rule has been analyzed, and it has been determined that the proposed rule is not a major rule as defined in section 1(b) of the Executive Order.

Interested persons may, on or before May 1, 1992, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 890

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 890 be amended as follows:

PART 890—PHYSICAL MEDICINE DEVICES

1. The authority citation for 21 CFR part 890 continues to read as follows:

Authority: Secs. 501, 510, 513, 515, 520, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351, 360, 360c, 360e, 360j, 371).

§ 890.3450 [Removed]

2. Section 890.3450 *Mechanical automobile hand and foot driving control* is removed.

Dated: January 15, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-4600 Filed 2-28-92; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[CO-152-84]

RIN 1545-AH09

Definition of Affiliated Group

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations that provide rules under section 1504(a) setting forth circumstances under which warrants, options, obligations convertible into stock, and other similar interests will be treated as exercised for purposes of determining whether a corporation is a member of an affiliated group. For purposes of these proposed regulations, unless the context otherwise provides, warrants, options, convertible obligations, and similar interests are all referred to as options. This section applies to all provisions under the Internal Revenue Code and Income Tax Regulations to which affiliation within the meaning of section 1504 (with or without exceptions) is relevant, unless otherwise provided in regulations or specified by the Internal Revenue Service in the Internal Revenue Bulletin. These regulations will ensure that the affiliation rules under section 1504(a) are not circumvented through the use of options.

DATES: Written comments, requests to appear and outlines of oral comments to be submitted at the public hearing must be received by March 31, 1992. A public hearing is scheduled for April 14, 1992, at 10 a.m.

ADDRESSES: Send comments to: Commissioner of Internal Revenue, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R (CC:CO-152-84), room 5228, Washington, DC 20044. The hearing will be held in room 2615, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Kenneth E. Cohen, 202-566-3422 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Introduction

This document proposes to add new regulations §§ 1.1504-0 and 1.1504-4 to 26 CFR part 1.

Overview

The proposed regulations provide guidance regarding circumstances under which options will be treated as exercised for purposes of determining whether the 80 percent voting power and value tests for affiliation under section 1504(a) are satisfied. In general, options will be disregarded in determining whether a corporation is a member of an affiliated group. An option, however, will be treated as exercised for purposes of determining affiliation when a reasonable certainty exists, on a specified measurement date (generally the issuance, modification, or transfer date), that the option will be exercised and the issuance or transfer of the option in lieu of the underlying stock would result (but for these regulations) in the elimination of a substantial amount of federal income tax liability. In each case, the determination of whether an option is reasonably certain to be exercised or whether a substantial amount of federal income tax liability would be eliminated is based on all the facts and circumstances. Options which do not have an abuse potential, such as publicly traded options, employee stock options, and options granted in connection with a bona fide loan agreement are generally excepted from these regulations. Safe harbors are provided for other options, which based on their terms, do not evidence an abuse potential.

Background

Section 1504 of the Internal Revenue Code, the "Code", defines the term "affiliated group". Under section 1504, an affiliated group consists of one or more chains of includible corporations connected through stock ownership with a common parent corporation which is also an includible corporation, but only if the common parent owns directly stock possessing at least 80 percent of the total voting power and value of at least one of the other includible corporations and at least 80 percent of the total voting power and value of each of the includible corporations (except the common parent) is owned directly by one or more of the other includible corporations.

The Tax Reform Act of 1984 amended the definition of affiliated group to require that the 80 percent test be applied to the value of the stock of each includible corporation as well as its voting power. Congress enacted this amendment in response to certain disproportionate capital structures created by taxpayers that allowed two or more corporations to file consolidated returns in circumstances where a substantial portion of the equity of a consolidated subsidiary was owned by taxpayers that were not members of the consolidated group. To prevent similar tax abuses through the use of options, Congress also enacted section 1504(a)(5) (A) and (B) which authorizes the promulgation of regulations under which options are treated as stock or as exercised. These proposed regulations implement section 1504(a)(5) (A) and (B) and provide guidance for determining when options are treated as exercised for purposes of determining whether corporations are affiliated.

These proposed regulations do not treat options as exercised for any other purpose. For example, if a call option that is treated as exercised under these regulations is ultimately exercised, the holding period of the stock acquired by the exercise of the option does not include any period of time prior to the actual exercise of the option.

The dividends received deduction under section 243 is another instance in which the proposed regulations treat options as exercised for purposes of affiliation but not for other purposes. For example, assume P owns all the stock of S, but U, an unrelated party, holds an option that gives it the right to acquire 90 percent of the S stock, and the option is treated as exercised under these regulations. Under these facts, dividends S pays to P are not eligible for the 100 percent dividends received deduction under section 243(a)(3), because P and S are not considered to be affiliated for purposes of section 243(a)(3). However, P is entitled to an 80 percent dividends received deduction under section 243(c), and not just a 70 percent dividends received deduction, because P owns at least 20 percent of the vote and value of S. These proposed regulations do not treat P as owning only 10 percent of the S stock for purposes of section 243(c), because the availability of an 80 percent dividends received deduction under section 243(c) is not determined by reference to affiliation.

Although the proposed regulations do not treat options as exercised for any other purpose, no inference is intended that options will not be treated as stock or as exercised under other provisions of the Code or regulations, or other principles of law.

These proposed regulations do not specifically require that a tax abuse motive exist for an option to be treated as exercised. The tests and safe harbors of the proposed regulations, however, seek to ensure that the regulations apply only to abusive situations.

Options which ordinarily do not have an abuse potential, *i.e.*, publicly traded options, stock purchase agreements, employee stock options, security agreements, and options issued pursuant to a bona fide loan agreement, are generally excepted from the regulations. Safe harbors are also provided that exclude other options which, based on their terms, do not have an abuse potential.

The proposed regulations treat an option as exercised if the following factors are present: (i) The issuance or transfer of the option rather than the underlying stock would result (but for these regulations) in the elimination of a substantial amount of federal income tax liability, and (ii) a reasonable certainty exists on a measurement date (generally the issuance, modification, or transfer date) that the option will be exercised.

General Rules

In general, options are disregarded in determining whether a corporation is a member of an affiliated group. In certain circumstances, however, options are treated as exercised in making this determination.

The proposed regulations provide rules under section 1504(a) setting forth circumstances under which warrants, options, obligations convertible into stock, and other similar interests are treated as exercised for purposes of determining whether a corporation is a member of an affiliated group.

The proposed regulations generally provide that the term option includes a call option, warrant, convertible obligation, put option, or any other instrument that provides for the right to issue or transfer stock. Any other instrument or right, other than stock itself, pursuant to which the holder may share in the growth of the issuing corporation (*e.g.*, a cash settlement option or an option on an option), is also treated as an option. Provided they are not used as a device to avoid the regulations, the following are not treated as options for purposes of these regulations: An option on stock described in section 1504(a)(4) (certain preferred stock), an option (including a convertible obligation) which is publicly traded (as defined in § 1.1504–4(d)(2)(ii)), a purchase agreement, as escrow, pledge, or security agreement, an option provided to employees, directors, or independent contractors as compensation, and an option granted in connection with a bona fide loan, pledge, or other security agreement.

This section applies to all provisions under the Code and regulations to which affiliation, within the meaning of section 1504 (with or without exceptions), is relevant, unless otherwise provided in these or other regulations or specified by the Internal Revenue Service by published revenue ruling or procedure. For example, § 1.1504–4(a)(2) provides that these regulations do not apply to sections 382(l)(5) or 864 or the regulations thereunder.

Ordinarily, if an option is treated as exercised under these regulations, it is treated as exercised only for purposes of determining the value of the stock of a corporation owned and not the amount of the voting power owned. Thus, if S, a corporation, has only one class of stock outstanding, all of which is owned by P, another corporation, P generally is treated as the owner of all the voting power of S, regardless of the existence of any options. The existence of options on S stock may, however, affect the value of the S stock which P is determined to own. Accordingly, in general, options treated as exercised only break affiliation. However, where the person who would acquire the stock upon exercise of the option, can, prior to exercise of the option, because of the existence of an arrangement (either within the option agreement or in a related agreement), direct the vote of stock of the corporation, the proposed regulations treat the option as exercised for voting power as well. Thus, options treated as exercised may create affiliation, but only if the option holder already owns at least 80 percent of the voting power of that corporation or has indirect voting power constituting at least 80 percent of the voting power of the subsidiary.

The determination of whether an option is treated as exercised is made only on specified measurement dates, as defined in § 1.1504–4(c)(4). The proposed regulations define measurement date generally as a date on which an option is issued or transferred, or on which a modification takes place in the terms of an existing option or the underlying stock. For this purpose, a modification of the terms of an option does not include insignificant changes (*i.e.*, changes that do not increase the likelihood that the option will be exercised) or changes pursuant to the terms of an option that are intended solely to prevent dilution of the interests of the option holder. For example, if the stock of a corporation is split two-for-one, and the terms of an option to acquire that stock include an anti-dilution provision that automatically entitles the holder to acquire twice as many shares of the stock, this change is not a modification for purposes of these regulations and, accordingly, no new measurement date is created. A date on which the capital or asset structure of a corporation changes is a measurement date if a principal purpose of the transaction resulting in the change is to increase the likelihood that the option will be exercised. Generally, a date on which an option is transferred (i) between members of an affiliated group, or (ii) between persons none of which are related to any member of the affiliated group of which the issuing corporation is a member, is not a measurement date.

These proposed regulations treat an option as exercised only if, on a measurement date, (i) it could reasonably be anticipated that, but for these regulations, the issuance of transfer of the option, in lieu of the underlying stock, will result in the elimination of a substantial amount of federal income tax liability, and (ii) it is reasonably certain that the option will be exercised.

Elimination of a Substantial Amount of Federal Income Tax Liability

The proposed regulations do not define the term "elimination of a substantial amount of federal income tax liability," but provide examples of what constitutes elimination of federal income tax liability. An elimination of tax liability includes both an actual elimination of tax liability (*e.g.*, the use of a net operating loss that would otherwise expire unused) and the deferral of tax liability. Thus, if because of the sale of an option in lieu of a sale of the underlying stock, an affiliated group will reduce its tax liability in one year but will suffer a corresponding increase in its tax liability in a later year, the value of the deferral constitutes an elimination of federal income tax liability.

In determining whether there has been an elimination of federal income tax liability, the tax liabilities of all involved parties (or related parties) are considered. For example, assume that P, S, and T file consolidated returns. P has $1 million in net operating loss carryovers that expire after the current year. Neither P nor T is expected to have any taxable income or loss in the current year. S is expected to generate approximately $750,000 in taxable income in the current year. P sells an option to FC, a foreign corporation, to acquire all the S stock. FC is reasonably certain to exercise the option at the end of the year. Regardless of whether P and S are treated as affiliated for the current year, the P group will have no tax liability. If S is not a member of the P group, the P group will report no taxable income and S will report $750,000 of taxable income on its separate return. On the other hand, if S remains a member of the P group, the tax liability with respect to $750,000 of income will be eliminated because S's taxable income will be offset in the P consolidated return, rather than being taxable in S's separate return. Accordingly, if the option is not treated as exercised, the sale of the option, in lieu of the sale of the S stock, to FC, would result in an elimination of federal income tax liability.

An elimination of federal income tax liability does not exist when the sale of an option eliminates tax liability for one party while another party has a corresponding increase in tax liability. For example, assume P and S file consolidated returns. P is expected to have substantial income in the future and S is expected to have losses in the future. P sells an option to X, which is also expected to have substantial income in the future, to acquire all the S stock. If the option is disregarded, P will eliminate its tax liability by using S's current losses to offset its income. If P had sold the S stock to X in lieu of the option, X and S could file consolidated returns and X would eliminate its tax liability by using S's current losses to offset its income. Accordingly, the sale of the option does not result in the elimination of tax liability and therefore the option is disregarded in determining the affiliation status of P and S.

However, if X had expiring net operating loss carryovers, the sale of the option would result in the elimination of tax liability. If the option were not treated as exercised, the sale of the option would enable P to use S's current losses to offset its income and X would use its expiring losses to offset its income. If the S stock were sold, S's current losses would not be available to offset P's income, but would instead offset X's income and X's carryovers would expire unused.

The proposed regulations set forth a facts and circumstances test for what constitutes a substantial amount of federal income tax liability. Among the factors that are taken into account in determining if there has been an elimination of a substantial amount of federal income tax liability is the absolute amount of the elimination, the relative amount of the elimination (as compared to the group's tax liability without the elimination), and the timing of the elimination. For example, an elimination of $10,000 in current tax liability may be substantial for one affiliated group, but not for a group with a much greater tax liability. In addition, mere deferral of tax liability may constitute a substantial elimination of federal income tax liability. Present value concepts will be used to make this determination. Thus, an elimination of $250,000 in tax liability in year 1 and an addition to tax liability of $250,000 in year 5 may constitute a substantial elimination of federal income tax liability, after taking into account present value concepts.

Reasonable Certainty of Exercise

An option is considered reasonably certain to be exercised only if a strong probability exists that the option will be exercised. The determination of whether an option is reasonably certain to be exercised depends on all the facts and circumstances on a measurement date. For example, the fact that the fair market value of the underlying stock is greater than the exercise price of an option on a measurement date may cause the option to be treated as reasonably certain to be exercised. However, an option issued at the start-up of a venture, the exercise of which depends on the outcome of true business risks, such as the ultimate success of the venture, generally will be treated as not reasonably certain to be exercised.

The proposed regulations provide objective "safe harbors" which treat qualifying options as not being reasonably certain to be exercised. The first safe harbor applies to an option to acquire stock that must be exercised, if at all, within 24 months of a measurement date and that has an exercise price which is equal to or greater than 90 percent (or, in the case of an option to sell stock, equal to or less than 110 percent) of the fair market value of the underlying stock on the measurement date. A second safe harbor applies to an option to acquire stock if the terms of the option provide that the exercise price of the option is equal to or greater than (or, in the case of an option to sell stock, equal to or less than) the fair market value of the underlying stock on the exercise date. The safe harbors do not apply, however if (i) the option provides the option holder with rights ordinarily afforded to stockholders (*e.g.*, dividend rights or voting rights), (ii) the option is one in a series of options owned by the same or related persons (unless all the options in the series satisfy a safe harbor), or (iii) there was an intention, on a measurement date, to alter the value of a corporation, after the measurement date, by any means, for a principal purpose of increasing the likelihood that the option will be exercised.

For example, if P sold to X an option to acquire S stock, the exercise price of the option was $125 per share, the fair market value of the stock was $100 per share when the option was sold, and the option was exercisable in 24 months, the option generally would satisfy the safe harbor and therefore would not be treated as reasonably certain to be exercised. However, if it was intended that, after the sale of the option, P would contribute cash to S to increase the likelihood that the option will be exercised, the safe harbor will not apply.

The safe harbors do not apply to any option that in form satisfies the terms of a safe harbor, but that in substance does not. Thus, for example, the safe harbors do not apply if another agreement (whether express or implied) exists, and, as a result, the terms of the option, as modified by such agreement, do not satisfy the safe harbors.

Options which do not satisfy the safe harbors, or for which a safe harbor does not exist, may still be disregarded under the facts and circumstances test. Notwithstanding that an option is disregarded on one measurement date under either the safe harbors or the facts and circumstances test, the option may be treated as exercised on a subsequent measurement date if the safe harbors and facts and circumstances test are no longer satisfied. No special safe harbor has been provided for convertible obligations. The Service invites comments regarding a safe harbor for convertible obligations which would be consistent with the safe harbors provided for other options.

Effective Date

These proposed regulations are proposed to apply, generally, to options with a measurement date on or after February 28, 1992. These regulations do not apply to options issued prior to February 28, 1992 which have a measurement date on or after February 28, 1992, if the measurement date for the option occurs solely because of a modification in the terms of the option pursuant to the terms of the option as it existed on February 28, 1992.

No inference is intended that options with no measurement date on or after February 28, 1992 are to be disregarded for purposes of determining affiliation. In this regard, the Service may apply substance over form principles in determining whether options will be treated as stock or as exercised in appropriate circumstances. *See, e.g.*, Rev. Rul. 82-150, 1982-2 C.B. 110, (corporation that acquires, for a purchase price of $70,000x, an option, with an exercise price of $30,000x, to acquire stock worth $100,000x treated as the actual owner of the stock) and Rev. Rul. 83-98, 1983-2 C.B. 40 (adjustable rate convertible notes worth $600 at maturity that are convertible into stock currently worth $1000 are treated as stock because of the high probability of conversion into stock).

Simplification Measures

The Service welcomes comments and suggestions on ways to reduce the complexity of the proposed regulations, consistent with the legislative intent of section 1504(a)(5). The Service especially encourages comments concerning the safe harbors, as well as suggestions for additional safe harbors and *de minimis* rules, which both substantially further the intent of Congress and significantly reduce the administrative burden on taxpayers and the Service.

Special Analyses

It has been determined that these proposed rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. A Regulatory Flexibility Analysis is therefore not required under the Regulatory Flexibility Act (5 U.S.C. chapter 6). Pursuant to section 7805(f) of the Internal Revenue Code, these proposed regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted, consideration will be given to any written comments that are submitted (preferably a signed original and eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying in their entirety.

Written comments, requests to appear, and outlines of oral comments to be presented at a public hearing scheduled for April 14, 1992, at 10 a.m. must be received by March 13, 1992. See notice of hearing published elsewhere in this issue of the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Kenneth E. Cohen of the Office of Assistant Chief Counsel (Corporate), Internal Revenue Service. However, other personnel from the Service and the Treasury Department participated in their development.

List of Subjects in 26 CFR 1.1504-0 through 1.1504-4

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. The authority citation for part 1 is amended by adding the following citation:

Authority: Sec. 7805, 68A Stat. 917; 26 U.S.C. 7805; 26 U.S.C. 6038 and 26 U.S.C. 6038A * * * Section 1.1504-4 also issued under 26 U.S.C. 1504(a)(5). * * *

Par. 2. Section 1.1504-0 is added to read as follows:

§ 1.1504-0 Outline of provisions.

In order to facilitate the use of §§ 1.504-1 through 1.1504-4, this section lists the captions contained in §§ 1.1504-1 through 1.1504-4.

§ 1.1504-1 Definitions.
§ 1.1504-2 [Reserved].
§ 1.1504-3 [Reserved].
§ 1.1504-4 Treatment of warrants, options, convertible obligations, and other similar interests.
(a) Introduction.
(1) General rule.
(2) Exception.
(b) Options not treated as stock or as exercised.
(1) General rule.
(2) Options treated as exercised.
(i) In general.
(ii) Effect of treating option as exercised.
(iii) Valuation.
(3) Example.
(c) Definitions.
(1) Issuing corporation.
(2) Related or sequential option.
(3) Related persons.
(4) Measurement date.
(i) General rule.
(ii) Issuances, transfers, or modifications not treated as measurement dates.
(iii) Transactions increasing likelihood of exercise.
(iv) Measurement date for related or sequential options.
(v) Example.
(5) In-the-money.
(d) Options.
(1) Instruments treated as options.
(2) Instruments generally not treated as options.
(i) Options on section 1504(a)(4) stock.
(ii) Publicly traded options.
(iii) Stock purchase agreements.
(iv) Escrow, pledge, or other security agreements.
(v) Stock appreciation rights, warrants, stock options, phantom stock, and similar arrangements.
(vi) Options granted in connection with a loan.
(vii) Other enumerated instruments.
(e) Elimination of federal income tax liability.
(f) Substantial amount of federal income tax liability.
(g) Reasonable certainty of exercise.
(1) Generally.
(i) Purchase price.
(ii) In-the money option.

(iii) Not in-the-money option.
(iv) Exercise price.
(v) Time of exercise.
(vi) Related or sequential options.
(vii) Stockholder rights.
(viii) Restrictive covenants.
(ix) Intention to alter value.
(x) Contingencies.
(2) Safe harbors.
(i) Options to acquire stock.
(ii) Options to sell stock.
(iii) Options exercisable at fair market value.
(iv) Exceptions.
(v) Failure to satisfy safe harbor.
(h) Examples.
(i) Effective date.

Par. 3. New §§ 1.1504–2 and 1.1504–3 are added and reserved and a new § 1.1504–4 is added to read as follows:

§ 1.1504–2 [Reserved].

§ 1.1504–3 [Reserved].

§ 1.1504–4 Treatment of warrants, options, convertible obligations, and other similar interests.

(a) *Introduction*—(1) *General rule.* This section provides regulations under section 1504(a)(5) (A) and (B) regarding the circumstances in which warrants, options, obligations convertible into stock, and other similar interests are treated as exercised for purposes of determining whether a corporation is a member of an affiliated group. Except as otherwise provided in this section or another section of the Income Tax Regulations or specified by the Internal Revenue Service by published revenue ruling or procedure, this section applies to all provisions under the Internal Revenue Code and the regulations to which affiliation within the meaning of section 1504 (with or without the exceptions thereto) is relevant.

(2) *Exception.* This section does not apply to sections 382 (l)(5) or 864 or to the regulations thereunder.

(b) *Options not treated as stock or as exercised*—(1) *General rule.* Except as provided in paragraph (b)(2) of this section, an option is not considered either as stock or as exercised. Thus, options are disregarded in determining whether a corporation is a member of an affiliated group unless they are described in paragraph (b)(2) of this section.

(2) *Options treated as exercised*—(i) *In general.* Solely for purposes of determining whether a corporation is a member of an affiliated group, an option is treated as exercised if, on a measurement date with respect to such option—

(A) It could reasonably be anticipated that, if not for this section, the issuance or transfer of the option in lieu of the issuance or transfer of the underlying stock will result in the elimination of a substantial amount of federal income tax liability (as described in paragraph (e) and (f) of this section); and

(B) It is reasonably certain that the option will be exercised (as described in paragraph (g) of this section).

(ii) *Effect of treating option as exercised.* If an option is treated as exercised, it—

(A) Is treated as exercised for purposes of determining the relative percentages of the value of stock owned by the holder and other parties; and

(B) It is treated as exercised for purposes of determining the relative percentages of the voting power of stock owned by the option holder and other parties only if, under all the facts and circumstances, the person who would acquire the stock upon exercise of the option, or a related person, can, prior to exercise of the option, because of the existence of an arrangement (either within the option agreement or in a related agreement), direct the vote of stock of the corporation.

(iii) *Valuation.* For purposes of section 1504(a)(2)(B) and this section, in determining the percentage of the value of stock owned, all shares of stock within a single class are considered to have the same value. Thus, control premiums and minority and blockage discounts within a single class are not to be taken into account.

(3) *Example.* The provisions of paragraph (b)(2) of this section may be illustrated by the following example:

Example. (i) Corporation P owns all 100 shares of the common stock of Corporation S, the only class of S stock outstanding. Each share of S stock has a fair market value of $10 and has one vote. On June 30, 1992, P issues to Corporation X an option to acquire 80 shares of the S stock from P. There is no voting agreement within the meaning of paragraph (b)(2)(ii)(B) of this section.

(ii) If, under the provisions of this section, the option is treated as exercised, then, solely for purposes of determining affiliation, P is treated as owning only 20 percent of the value of the outstanding S stock and X is treated as owning the remaining 80 percent of the value of the S stock. P is still treated as owning all of the voting power of S. Accordingly, because P is treated as owning less than 80 percent of the value of the outstanding S stock, P and S are no longer affiliated. However, because X is not treated as owning money of the voting power of S, X and S are also not affiliated.

(c) *Definitions.* For purposes of this section) (1) *Issuing corporation. Issuing corporation* means the corporation whose stock is subject to an option.

(2) *Related or sequential option. Related or sequential option* means an option that is one of a series of options issued to the same or related persons. For purposes of this section, any options issued to the same person or related persons within a two year period are presumed to be part of a series of options. This presumption may be rebutted if the facts and circumstances clearly establish that the options are not part of a series of options. Any options issued to the same person or related persons more than 2 years apart are presumed not to be part of a series of options. This presumption may be rebutted if the facts and circumstances clearly establish that the options are part of a series of options.

(3) *Related persons.* Persons are related if they are related within the meaning of section 267(b) or 707(b)(1), substituting "10 percent" for "50 percent" wherever it appears.

(4) *Measurement date*—(i) *General rule. Measurement date* means a date on which an option is issued or transferred or on which the terms of an existing option or the underlying stock are modified.

(ii) *Issuances, transfers, or modifications not treated as measurement dates.* Except where used as a device to avoid the application of section 1504 and this section, a measurement date does not include a date on which—

(A) An option is issued or transferred by gift, at death, or between spouses or former spouses under section 1041;

(B) An option is issued or transferred—(*1*) Between members of an affiliated group (determined with the exceptions in section 1504(b) and without the application of this section), or

(*2*) Between persons none of which is related to any member of the affiliated group (determined without the exceptions in section 1504(b) and without the application of this section), if any, of which the issuing corporation is a member;

(C) An adjustment occurs in the terms or pursuant to the terms of an option or the underlying stock that is insignificant (*i.e.*, a change that does not increase the likelihood that the option will be exercised); or

(D) A change occurs in the exercise price of an option or in the number of shares which may be issued or transferred pursuant to the option as determined by a bona fide, reasonable, adjustment formula which has the effect of preventing dilution of the interests of the holders of the options.

(iii) *Transactions increasing likelihood of exercise.* A measurement date also includes any date on which—

(A) the capital structure of the issuing corporation is changed, or

(B) The fair market value of the stock of the issuing corporation is altered through a transfer of assets to or from the issuing corporation (other than regular, ordinary dividends) or by any other means.

if the change or alteration referred to in paragraph (c)(4)(iii) (A) or (B) of this section is made for a principal purpose of increasing the likelihood that an option will be exercised.

(iv) *Measurement date for related or sequential options.* In the case of related or sequential options, a measurement date for any of the options constitutes a measurement date for all of the outstanding related or sequential options issued on or prior to the measurement date.

(v) *Example.* The provisions of paragraph (c)(4)(iv) of this section may be illustrated by the following example.

Example. (i) Corporation P owns all 80 shares of the common stock of Corporation S, the only class of S stock outstanding. On January 1, 1992, S issues a warrant, exercisable within 3 years, to U, an unrelated corporation, to acquire 10 newly issued shares of S common stock. On July 1, 1992, S issues a second warrant to U to acquire 10 additional newly issued shares of S common stock. On January 1, 1993, S issues a third warrant to T, a wholly owned subsidiary of U, to acquire 10 newly issued shares of S common stock. Assume that the facts and circumstances do not clearly establish that the options are not part of a series of options.

(ii) January 1, 1992, July 1, 1992, and January 1, 1993, constitute measurement dates for the first warrant, the second warrant, and the third warrant, respectively, because the warrants were issued on those dates.

(iii) Because the first and second warrants were issued within two years of each other, and both warrants were issued to U, the warrants constitute related or sequential options. Accordingly, July 1, 1992, constitutes a measurement date for the first warrant as well as for the second warrant.

(iv) Because the first, second, and third warrants were all issued within two years of each other, and were all issued to the same or related persons, the warrants constitute related or sequential options. Accordingly, January 1, 1993, constitutes a measurement date for the first and second warrants, as well as for the third warrant.

(5) *In-the-money. In-the-money* means the exercise price of the option is less than (or in the case of an option to sell stock, greater than) the fair market value of the underlying stock.

(d) *Options*—(1) *Instruments treated as options.* For purposes of this section, except to the extent otherwise provided in this paragraph (d), the following are treated as options:

(i) A call option, warrant, convertible obligation, put option, or any other instrument that provides for the right to issue or transfer stock; and

(ii) Any other instrument or right (except for stock itself) pursuant to which the holder may share in the growth of the issuing corporation (*e.g.*, a cash settlement option or an option on an option).

(2) *Instruments generally not treated as options.* For purposes of this section, provided they are not used as a device to avoid the application of section 1504 and this section, the following will not be treated as options:

(i) *Options on section 1504(a)(4) stock.* Options on stock described in section 1504(a)(4);

(ii) *Publicly traded options.* Options traded on (or subject to the rules of) a qualified board or exchange as defined in section 1256(g)(7), or on any other exchange, board of trade, or market specified by the Internal Revenue Service in the Internal Revenue Bulletin;

(iii) *Stock purchase agreements.* Stock purchase agreements in which the parties' obligations to complete the transaction are subject only to reasonable closing conditions;

(iv) *Escrow, pledge, or other security agreements.* Agreements for holding stock in escrow or under a pledge or other security agreement that are part of a typical commercial transaction and that are subject to customary commercial conditions;

(v) *Stock appreciation rights, warrants, stock options, phantom stock, and similar arrangements.* Stock appreciation rights, warrants, stock options, phantom stock, or other similar arrangements provided to employees, directors, or independent contractors as compensation (which is not excessive by reference to services performed) and which—

(A) Are nontransferable within the meaning of § 1.83–3(d), and

(B) Do not have a readily ascertainable fair market value as defined in § 1.83–7(b) on the measurement date.

If the stock appreciation rights, warrants, stock options, phantom stock, or other similar arrangements become transferable, this paragraph (d)(2)(v) ceases to apply;

(vi) *Options granted in connection with a loan.* Options granted in connection with a loan if the lender is actively and regularly engaged in the business of lending and are issued in connection with a loan that is commercially reasonable; and

(vii) *Other enumerated instruments.* Any other instruments specified by the Internal Revenue Service in the Internal Revenue Bulletin.

(e) *Elimination of federal income tax liability.* For purposes of this section, the elimination of federal income tax liability includes the elimination or deferral of federal income tax liability. In determining whether there is an elimination of federal income tax liability, the tax consequences to all involved parties are considered. Examples of elimination of federal income tax liability include the use of a loss or deduction that would not otherwise be utilized, the acceleration of a loss or deduction to a year earlier than the year in which the loss or deduction would otherwise be utilized, the deferral of gain or income to a year later than the year in which the gain or income would otherwise be reported, and the acceleration of gain or income to a year earlier than the year in which the gain or income would otherwise be reported, if such gain or income would otherwise be reported, if such gain or income is offset by a net operating loss or net capital loss that would otherwise expire unused. The elimination of federal income tax liability does not include the deferral of gain with respect to the stock subject to the option that would be recognized if such stock were sold on a measurement date.

(f) *Substantial amount of federal income tax liability.* The determination of what constitutes a substantial amount of federal income tax liability is based on all the facts and circumstances, including the absolute amount of the elimination, the amount of the elimination relative to overall tax liability, and the timing of items of income and deductions, taking into account present value concepts.

(g) *Reasonable certainty of exercise*—(1) *Generally.* The determination of whether, as of a measurement date, an option is reasonably certain to be exercised is based on all the facts and circumstances, including:

(i) *Purchase price.* The purchase price of the option in absolute terms and in relation to the fair market value of the stock or the exercise price of the option;

(ii) *In-the-money option.* Whether and to what extent the option is in-the-money on the measuremnt date;

(iii) *Not in-the-money option.* If the option is not in-the-money on the measurement date, the amount or percentage by which the exercise price of the option is greater than (or in the case of an option to sell stock, is less than) the fair market value of the underlying stock;

(iv) *Exercise price.* Whether the exercise price of the option is fixed or fluctuates depending on the earnings, value, or other indication of economic performance of the issuing corporation;

(v) *Time of exercise.* The time at which, or the period of time during which, the option can be exercised;

(vi) *Related or sequential options.* Whether the option is one in a series of related or sequential options;

(vii) *Stockholder rights.* The existence of an arrangement (either within the option agreement or in a related agreement) that, directly or indirectly, affords managerial or economic rights in the issuing corporation that ordinarily would be afforded to owners of the issuing corporation's stock (*e.g.*, voting rights, dividend rights, or rights to proceeds on liquidation) to—

(A) The person who would acquire the stock upon exercise of the option; or

(B) A person related to such person;

(viii) *Restrictive covenants.* The existence of restrictive covenants or similar arrangements (either within the option agreement or in a related agreement) that, directly or indirectly, prevent or limit the ability of the issuing corporation to undertake certain activities while the option is outstanding (*e.g.*, covenants limiting the payment of dividends or borrowing funds);

(ix) *Intention to alter value.* Whether it was intended that through a change in the capital structure of the issuing corporation or a transfer of assets to or from the issuing corporation (other than regular, ordinary dividends) or by any other means, the fair market value of the stock of the issuing corporation would be altered for a principal purpose of increasing the likelihood that the option would be exercised; and

(x) *Contingencies.* Any contingency (other than the mere passage of time) to which the exercise of the option is subject (*e.g.*, a public offering of the issuing corporation's stock or reaching a certain level of earnings).

(2) *Safe harbors*—(i) *Options to acquire stock.* Except as provided in paragraph (g)(2)(iv) of this section, an option to acquire stock will not be considered reasonably certain, as of a measurement date, to be exercised if—

(A) The option must be exercised no more than 24 months after the measurement date and the exercise price is equal to or greater than 90 percent of the fair market value of the underlying stock on the measurement date; or

(B) The terms of the option provided that the exercise price of the option is equal to or greater than the fair market value of the underlying stock on the exercise date.

(ii) *Options to sell stock.* Except as provided in paragraph (g)(2)(iv) of this section, an option to sell stock will not be considered reasonably certain, as of a measurement date, to be exercised if—

(A) The option must be exercised no more than 24 months after the measurement date and the exercise price is equal to or less than 110 percent of the fair market value of the underlying stock on the measurement date; or

(B) The terms of the option provide that the exercise price of the option is equal to or less than the fair market value of the underlying stock on the exercise date.

(iii) *Options exercisable at fair market value.* For purposes of paragraphs (g)(2)(i)(B) and (g)(2)(ii)(B) of this section, an option whose exercise price is determined by a formula will be considered to have an exercise price equal to the fair market value of the underlying stock on the exercise date if the formula is agreed upon by the parties when the option is issued in a bona fide attempt to arrive at fair market value on the exercise date and is to be applied based upon the facts in existence on the exercise date.

(iv) *Exceptions.* The safe harbors of this paragraph (g)(2) will not apply if—

(A) An arrangement exists that provides the holder with stockholder rights described in paragraph (g)(1)(vii) of this section (except for rights arising upon a default under the option or a related agreement);

(B) It is intended that through a change in the capital structure of the issuing corporation or a transfer of assets to or from the issuing corporation (other than regular, ordinary dividends) or by any other means, the fair market value of the stock of the issuing corporation would be altered for a principal purpose of increasing the likelihood that the option would be exercised; or

(C) The option is one in a series of related or sequential options, unless all such options satisfy paragraph (g)(2) (i) or (ii) of this section.

(v) *Failure to satisfy safe harbor.* Failure of an option to satisfy one of the safe harbors of this paragraph (g)(2) does not affect the determination of whether an option is treated as reasonably certain to be exercised.

(h) *Examples.* The provisions of this section may be illustrated by the following examples. These examples assume that the measurement dates set forth in the examples are the only measurement dates that have taken place or will take place.

Example 1. (i) P is the common parent of consolidated group, consisting of P, S, and T. P owns all 100 shares of S's only Class of stock, which is voting common stock. P also owns all the stock of T. On June 30, 1992, when the fair market value of the S stock is $40 per share, P sells to U, an unrelated corporation, an option to acquire 40 shares of the S stock that P owns at an exercise price of $30 per share, exercisable at any time within 3 years after the granting of the option. S has had substantial losses for 5 consecutive years while P and T have had substantial income during the same period. Because P, S, and T have been filing consolidated returns, P and T have been able to use all S's losses to offset their income. It is anticipated that P, S, and T will continue their earnings histories for several more years. On July 31, 1992, S declares and pays a dividend of $1 per share to P.

(ii) If, P, S, and T continue to file consolidated returns after June 30, 1992, it could reasonably be anticipated that the P group would eliminate a substantial amount of federal income tax liability by using S's future losses in its consolidated returns. Furthermore, based on the difference between the exercise price of the option and the fair market value of the S stock, it is reasonably certain, on June 30, 1992, a measurement date, that the option will be exercised. Therefore, the option held by U is treated as exercised. As a result, for purposes of determining whether P and S are affiliated, P is treated as owning only 60 percent of the value of outstanding shares of S stock and U is treated as owning the remaining 40 percent. P is still treated as owning 100 percent of the voting power. Because members of the P group are no longer treated as owning stock possessing 80 percent of the total value of the S stock as of June 30, 1992, S is no longer a member of the P group. Additionally, P is not entitled to a 100 percent dividends received deduction under section 243(a)(3) because P and S are also treated as not affiliated for purposes of section 243. P is only entitled to an 80 percent dividends received deduction under section 243(c).

Example 2. (i) The facts are the same as in *Example 1* except that the option gives U the right to acquire all 100 shares of the S stock, and U is the common parent of a consolidated group. The U group has had substantial income for 5 consecutive years and it is anticipated that the U group will continue its earnings history for several more years.

(ii) If P sold the S stock, in lieu of the option, to U, S would become a member of the U group. Because the U group files consolidated returns, if P sold the S stock to U, U would be able to use S's future losses to offset future income of other members of the U group. When viewing the transaction for the effect on all parties, the sale of the option, in lieu of the underlying S stock, does not result in the elimination of federal income tax liability because S's losses would be used to offset the income of members of either the P or U group. Accordingly, the option is disregarded and S remains a member of the P group.

Example 3. (i) P is the common parent of a consolidated group, consisting of P and S. P owns 90 of the 100 outstanding shares of S's only class of stock, which is voting common stock, and U, an unrelated corporation, owns the remaining 10 shares. On August 31, 1992, when the fair market value of the S stock is $100 per share, P sells a call option to U which entitles U to purchase 20 shares of S stock from P, at any time before August 31, 1993, at an exercise price of $115 per share. the call option does not provide U with any voting rights, dividend rights, or any other managerial or economic rights ordinarily afforded to owners of the S stock. There is no intention on August 31, 1992, to alter the value of S to increase the likelihood of the exercise of the call option.

(ii) Because the exercise price of the call option is equal to or greater than 90 percent of the fair market value of the S stock on August 31, 1992, a measurement date, the option must be exercised, if at all, within 24 months of the measurement date, and none of the items described in paragraph (g)(2)(iv) of this section which preclude application of the safe harbor are present, the safe harbor of paragraph (g)(2)(i) of this section applies and the call option is treated as if it is not reasonably certain to be exercised. Therefore, regardless of whether the continued affiliation of P and S would result in the elimination of a substantial amount of federal income tax liability, the call option is disregarded in determining whether S remains a member of the P group.

Example 4. (i) The facts are the same as in *Example 3* except that the call option gives U the right to vote similar to that of a shareholder.

(ii) Under paragraph (g)(2)(iv) of this section, the safe harbor of paragraph (g)(2)(i) of this section does not apply because the call option entitles U to voting rights equivalent to that of a shareholder. Accordingly, all of the facts and circumstances surrounding the sale of the call option must be taken into consideration in determining whether it is reasonably certain that the call option will be exercised.

Example 5. (i) In 1992, two unrelated corporations, X and Y, decide to engage jointly in a new business venture. To accomplish this purpose, X organizes a new corporation, S, on September 30, 1992. X acquires 100 shares of the voting common stock of S, which are the only shares of S stock outstanding. Y acquires a debenture of S which is convertible, on September 30, 1995, into 100 shares of S common stock. If the conversion right is not exercised, X will have the right, on September 30, 1995, to put 50 shares of its S stock to Y in exchange for 50 percent of the debenture held by Y. The likelihood of the success of the venture is uncertain. It is anticipated that S will generate substantial losses in its early years of operation. X expects to have substantial taxable income during the three years following the organization of S.

(ii) Under the terms of this arrangement, it is reasonably certain, on September 30, 1992, a measurement date, that on September 30, 1995, either through Y's exercise of its conversion right or X's right to put S stock to Y, that Y will own 50 percent of the S stock. Additionally, it could reasonably be anticipated, on September 30, 1992, a measurement date, that the affiliation of X and S would result in the elimination of a substantial amount of federal income tax liability. Accordingly, for purposes of determining whether X and S are affiliated, X is treated as owning only 50 percent of the value of the S stock as of September 30, 1992, a measurement date, and S is not a member of the X affiliated group.

Example 6. (i) The facts are the same as in *Example 5* except that rather than acquiring 100 percent of the S stock and the right to put S stock to Y, X acquires only 80 percent of the S stock, while S, rather than acquiring a convertible debenture, acquires 20 percent of the S stock, and an option to acquire an additional 30 percent of the S stock. The terms of the option are such that the option will only be exercised if the new business venture succeeds.

(ii) In contrast to *Example 5*, because of the true business risks involved in the start-up of S and whether the business venture will ultimately succeed, along with the fact that X does not have an option to put S stock to Y, it is not reasonably certain on September 30, 1992, a measurement date, that the option will be exercised and that X will only own 50 percent of the S stock on September 30, 1995. Accordingly, the option will be disregarded in determining whether S is a member of the X group.

(i) *Effective date.* This section applies, generally, to options with a measurement date on or after February 28, 1992. This section does not apply to options issued prior to February 28, 1992 which have a measurement date on or after February 28, 1992 if the measurement date for the option occurs solely because of a modification in the terms of the option pursuant to the terms of the option as it existed on February 28, 1992.

Fred T. Goldberg, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 92-4378 Filed 2-28-92; 8:45 am]

BILLING CODE 4830-01-M

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26 CFR Part 1

[CO-152-84]

RIN 1545-AH09

Definition of Affiliated Group; Hearing

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed Income Tax Regulations that provide rules under section 1504(a) setting forth circumstances under which warrants, options, obligations convertible into stock, and other similar interests will be treated as exercised for purposes of determining whether a corporation is a member of an affiliated group.

DATES: The public hearing will be held on Tuesday, April 14, 1992, beginning at 10 a.m. Requests to speak and outlines of oral comments must be received by Tuesday, March 24, 1992.

ADDRESSES: The public hearing will be held in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Requests to speak and outlines of oral comments should be submitted to the Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R (CO-152-84), room 5228, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Bob Boyer of the Regulations Unit, Assistant Chief Counsel (Corporate), 202-377-9231, (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is regulations proposing to add new regulations §§ 1.1504-0 and 1.1504-4 to 26 CFR part 1 under section 1504(a)(5) (A) and (B) of the Internal Revenue Code. The proposed regulations provide guidance regarding circumstances under which options will be treated as exercised for purposes of determining whether the 80 percent voting power and value tests for affiliation under section 1504(a) are satisfied. These regulations appear in the proposed rules section of this issue of the **Federal Register**.

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than Tuesday, March 24, 1992, an outline of the oral comments/testimony to be presented at the hearing and the time they wish to devote to each subject.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by the questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the persons testifying. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 92-4379 Filed 2-28-92; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD7 92-008]

Special Local Regulations: St. Johns River, Intracoastal Waterway—Pablo Creek, FL

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rule making.

SUMMARY: The Coast Guard is considering a proposal to adopt special local regulations for the Greater Jacksonville Kingfish Tournament. The event will be held on the St. Johns River and on Pablo Creek, Florida, annually the second or third week in July on Thursday, Friday and Saturday. The regulations are needed to provide for the safety of life on navigable waters during the event.

DATES: Comments must be received on or before April 1, 1992.

ADDRESSES: Comments should be mailed to Commander, U.S. Coast Guard Group, 4200 Ocean Street, Mayport, FL 32267–0385. The comments and other material referenced in this notice will be available for inspection and copying at this same address. Normal office hours are between 7 a.m. and 3 p.m., Monday through Friday, except holidays. Comments may also be hand delivered to this address.

FOR FURTHER INFORMATION CONTACT: CDR D.P. Rudolph, (904) 247–7318.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data or arguments. Persons submitting comments should include their names and addresses, identify this notice (CCGD7 91–008) and the specific section of the proposal to which their comments apply, and give reasons for each comment.

The regulations may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentation will aid the rulemaking process.

Drafting Information

The drafters of this notice are QM1 Culver, Marine Event Petty Officer, Coast Guard Group Mayport and LT Jacqueline M. Losego, Project Attorney, Seventh Coast Guard District Legal Office.

Discussion of Proposed Regulations:

The Greater Jacksonville Kingfish Tournament is held annually with approximately one thousand vessels participating. A check-out/check-in station will be established in the vicinity of St. Johns River Lighted Buoy 11 (LLNR 6720) position 30–24–05.61 N, 081–25–06.07 W. Participating vessels shall not check-out earlier than 6:30 a.m. EDT, and the fishing day will end at 4 p.m. EDT. In the past, the Coast Guard has established temporary special local regulations in order to provide for the safety of life on the navigable waters during the effective times. Due to the size and nature of this event, the Coast Guard now feels that a permanent description of this event and the establishment of permanent regulations in the Code of Federal Regulations (CFR) would better serve the boating public by creating a permanent reference. Notice of the specific dates and times for this event will be published annually in the Seventh Coast Guard District Local Notice to Mariners. This regulation is issued pursuant to 33 U.S.C. 1233, 49 CFR 1.46 and 33 CFR 100.35.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. We conclude this, because the regulated area encompasses approximately an 8 and ¾ mile stretch of water on St. Johns River and Pablo Creek, from St. Johns River Lighted Buoy 7 (LLNR 6665) position 30–23–56 N, 081–23–04 W, west to Mile Point Lighted Buoy 24 (LLNR 6805) position 30–22–58 N, 081–27–21 W, then south on Pablo Creek to the Atlantic Beach Bridge, Jacksonville, Florida, and will impede the natural flow of traffic for only four hours each day. This event is not expected to affect commercial activities on the St. Johns River or Pablo Creek.

Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this proposal consistent with Section 2.B.2.08 of Commandant Instruction M16475.1B and Commandant Instruction 16751.3A, and this proposal has been determined to be categorically excluded. Specifically, the Coast Guard has consulted with the U.S. Fish and Wildlife Service regarding the environmental impact of this event, and it was determined that the event does not threaten protected species.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend part 100 of Title 33, Code of Federal Regulations, as follows:

PART 100—[AMENDED]

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Section 100.35–07008 is added to read as follows:

§ 100.35–07008 Annual Greater Jacksonville Kingfish Tournament.

(a) *Regulated Area:* A regulated area is established for the waters of the St. Johns River lying between an eastern boundary formed by St. Johns River Lighted Buoy 7 (LLNR 6665) position 30–23–56 N, 081–23–04 W, and Lighted Buoy 8 (LLNR 6670) position 30–24–03 N, 081–23–01 W, and a western boundary formed by Mile Point Lighted Buoy 24 (LLNR 6805) position 30–22–58 N, 081–27–21 W, and Pablo Creek Daybeacon 2 (LLNR 32605) position 30–22–52 N, 081–27–31 W, with the northern and southern boundaries formed by the banks of the St. Johns River. Then, from the eastern boundary on the St. Johns River, the regulated area continues south on the waters of Pablo Creek to the Atlantic Beach Bridge, Jacksonville, Florida.

(b) *Special Local Regulations:* A No Wake Zone is established on the waters of the St. Johns River lying between the eastern boundary formed by St. Johns River Lighted Buoy 7 (LLNR 6665) position 30–23–56 N, 081–23–04 W, and Lighted Buoy 8 (LLNR 6670) position 30–24–03–N, 081–23–01 W, and the western boundary formed by Mile Point Lighted Buoy 24 (LLNR 6805) position 30–22–58 N, 081–27–21 W, and Pablo Creek Daybeacon 2 (LLNR 32605) position 30–22–52 N, 081–27–31 W, with the northern and southern boundaries formed by the banks of the St. Johns River. A Minimum Wake Zone is established from the boundary formed by Mile Point Lighted Buoy 24 (LLNR 6805) position 30–22–58 N, 081–27–21 W, and Pablo Creek Daybeacon 2 (LLNR 32605) position 30–22–52 N, 081–27–31 W, south on Pablo Creek to the Atlantic Boulevard Bridge.

(c) *Effective Dates:* The Commander, Coast Guard Group Mayport will publish the effective times and dates during which these regulations will be in effect in the Seventh Coast District Local Notice to Mariners and the **Federal Register.**

Dated: February 3, 1992.

Robert E. Kramek,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 92–4369 Filed 2–28–92; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 750 and 761

[OPPTS–66011; FRL 3886–9]

RIN 2070–AB20

Polychlorinated Biphenyls; Manufacturing, Processing, and Distribution in Commerce Exemptions and Use Authorization

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Section 6(e) of the Toxic Substances Control Act (TSCA) bans the manufacture, processing, distribution in commerce, and the use of PCBs unless the PCBs are totally enclosed. Section 6(e) gives EPA authority, however, to authorize these PCB activities if the Administrator finds that they will not present an unreasonable risk of injury to human health or the environment. This proposed rule addresses six individual petitions under TSCA section 6(e)(3)(B) for exemption from the prohibition against the manufacture, processing and distribution in commerce of polychlorinated biphenyls (PCBs). This proposed rule identifies two petitions which EPA proposes to deny, three petitions which EPA proposes to grant, and one which has been withdrawn by the petitioner. EPA proposes one use authorization under TSCA section 6(e)(2)(B). In addition, EPA is amending the Interim Procedural Rules to require the submission of a certified letter at least 6 months prior to the expiration date of the exemption for any PCB activity that EPA has approved and for which the petitioner wishes EPA approval to continue. EPA hereby invites comments on these proposed actions.

DATES: Comments on this proposed rule must be submitted by April 16, 1992. If requested, an informal hearing, will be held in Washington, DC. For the exact time and location of the hearing, telephone EPA's Environmental Assistance Division listed under "FOR FURTHER INFORMATION CONTACT." Request to participate in the informal hearing must be received by April 16, 1992.

ADDRESSES: Three copies of comments identified with the docket number OPPTS–66011 must be submitted to: TSCA Public Docket Office (TS–793), Office of Pollution Prevention and Toxics, rm. NE–G004, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. A public record has been established and is available in the TSCA Public Docket Office at the above address from 8 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS–799), Office of Pollution Prevention and Toxics, rm. E–543B, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554–1404, TDD: (202) 554–0551, FAX: (202) 554–5603 (document requests only).

SUPPLEMENTARY INFORMATION: Section 6(e) of the Toxic Substances Control Act (TSCA) bans the manufacture, processing, distribution in commerce, and the use of PCBs unless the PCBs are totally enclosed. Section 6(e) gives EPA authority, however, to authorize these PCB activities if the Administrator finds that they will not present an unreasonable risk of injury to human health or the environment. TSCA provides that EPA may set terms and conditions including recordkeeping and reporting requirements for granting an exemption.

I. Background

A. Statutory Authority

Section 6(e) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2605(e), generally prohibits the manufacture of PCBs after January 1, 1979, the processing and distribution in commerce of PCBs after July 1, 1979, and the use of PCBs after October 11, 1977, unless otherwise authorized. While, section 6(e)(2)(A) of TSCA bans the use of PCBs in any manner other than a totally enclosed manner, section 6(e)(2)(B) provides that the Administrator may by rule authorize the use of PCBs if such use will not present an unreasonable risk of injury to health or the environment. Section 6(e)(3)(A) of TSCA prohibits the manufacture, processing, and distribution in commerce of PCBs in a manner other than totally enclosed. Section 6(e)(3)(B) provides that any person may petition the Administrator for an exemption from the prohibition on the manufacture, processing, and distribution in commerce of PCBs. The Administrator may by rule grant an exemption if the Administrator finds that "(i) an unreasonable risk of injury to health or the environment would not result, and (ii) good faith efforts have been made to develop a chemical substance which does not present an unreasonable risk of injury to health or the environment and which may be substituted for such polychlorinated biphenyl." The Administrator may set terms and conditions for an exemption and may grant an exemption for not more than 1 year.

EPA's Interim Procedural Rules for Manufacturing, Processing and Distribution in Commerce Exemptions describe the required content of processing and distribution in commerce exemption petitions and the procedures EPA follows in rulemaking on exemption petitions. Those rules were published in the **Federal Register** of May 31, 1979 (44 FR 31514) and are codified at 40 CFR 750.10 through 750.41. EPA's Procedural Rule for rulemaking under section 6 of TSCA, which governs use authorizations for PCBs, is found at 40 CFR 750.1 through 750.9.

In this document, EPA is proposing to amend the Interim Procedural Rules for exemptions to address requests to continue the exempted activity beyond the 1–year period allowed for exemptions. For a petitioner who has been granted an exemption in this rule or in any rule hence and who wishes to renew that exemption petition, a certified letter must be submitted to the Agency stating that an extension is desired and that the specific type(s) of PCB activities, the PCB amounts, the PCB handling procedures and all other activities specified in the original exemption request have not been changed.

To provide the EPA with sufficient time to include the renewal submission into the next PCB exemption rulemaking, a certified letter must be submitted to the EPA at least 6 months prior to the anniversary of the expiration date of the originally granted exemption.

If the extension submission is not received at least 6 months prior to the expiration date, or if there are any changes from the original petition which result in an increase in the amounts of PCBs or a change in the manner in which they are handled, EPA will consider the submission to be a petition for a new exemption. The original exemption activities must cease at the 1-year expiration date. Although this amendment does not affect exemption petitions granted by EPA prior to the publication of this proposed rule, any petitioner for an exemption who wishes to alter the activities as previously approved by the Agency in granting the exemption must refrain from any of the activities requested for by the change (i.e., the new petition) until EPA makes a determination by rulemaking. EPA will review the revised petition during the next rulemaking process and determine whether to grant or deny the new exemption.

B. History of this Rulemaking

EPA has received for consideration six new exemption petitions under TSCA section 6(e)(3)(B) which are the subject of this proposed rule. One petition requests approval to distribute in commerce for export small quantities of PCBs for the purpose of research and development. One petition requests approval to process and distribute in commerce for export small quantities of PCBs for the purpose of research and development. One petition requests to import from Canada, PCBs in oil and soil for laboratory analysis, and to export these samples following their analysis. One petition requested to import capacitors and voltage transformers, which were inadvertently shipped into Canada, back into the United States for the purpose of disposal. This petition has been withdrawn. One petition requests an exemption to distribute in commerce for export PCB-Contaminated Transformers for salvage to the Far East. The final petition requests approval to process and distribute in commerce analytical reference samples derived from actual waste materials.

II. Unreasonable Risk Finding

Section 6(e)(3)(B)(i) of TSCA requires a petitioner to demonstrate that granting an exemption would not result in an unreasonable risk of injury to health or the environment.

To determine whether a risk is unreasonable, EPA balances the probability that harm will occur to health or the environment against the benefits to society from granting or denying each petition. Specifically, EPA considers the following factors:

A. Effects of PCBs on Human Health and the Environment

In deciding whether to grant an exemption, EPA considers the magnitude of exposure and the effects of PCBs on humans and the environment.

1. *Health effects.* EPA has determined that PCBs are toxic and persistent. PCBs can enter the body through the lungs, gastrointestinal tract, and skin, can circulate throughout the body, and can be stored in the fatty tissue.

2. *Environmental effects.* Certain PCB congeners are among the most stable chemicals known, which decompose very slowly once they are released in the environment. PCBs are absorbed and stored in the fatty tissue of higher organisms as they bioaccumulate up the food chain through invertebrates, fish, and mammals. This ultimately results in human exposure through consumption of PCB-containing food sources.

3. *Risks.* Toxicity and exposure are the two basic components of risk. Based on animal data, EPA concluded that in addition to chloracne, PCBs may cause developmental toxicity, reproductive effects, and oncogenicity in humans. EPA also concluded that PCBs present a hazard to the environment.

A lengthy discussion of these factors is provided in the preamble to the August 24, 1988 proposed exemption rule (53 FR 32327) (Docket number OPTS 66008F).

B. Benefits and Costs

The benefits to society of granting an exemption vary, depending on the activity for which the exemption is requested. The reasonably ascertainable costs of denying an exemption vary, depending on the individual petitioner. EPA has taken benefits and costs into consideration when evaluating each exemption petition.

III. Good Faith Efforts Finding

Section 6(e)(3)(B)(ii) of TSCA requires petitioners to demonstrate a good faith effort to develop a chemical substance which does not present an unreasonable risk of injury to health or the environment and which may be substituted for PCBs. EPA considers several factors in determining whether a petitioner has demonstrated good faith efforts. For each petition, EPA considers the kind of exemption the petitioner is requesting and whether the petitioner expended time and effort to develop or search for a substitute. In each case, the burden is on the petitioner to show specifically what it did to substitute non-PCB material for PCBs or to show why it was not feasible to substitute non-PCBs for PCBs. To satisfy this finding for requests for an exemption to import PCBs, a petitioner must show why such activity must occur in the United States and what steps will be taken to eliminate the need to import PCBs in the future.

IV. Explanation of Class Exemption for Research and Development

Distinct from its authority to exempt PCBs from the ban on manufacturing, processing, and distribution in commerce, EPA may also authorize the use of PCBs. EPA authorized, indefinitely, the use of PCBs in small quantities for research and development in the Use Authorization Rule, 40 CFR 761.30(j), published in the **Federal Register** of July 10, 1984 (Docket OPTS 66008B). "Small quantities for research and development" is defined at 40 CFR 761.3 as "any quantity of PCBs (1) that is originally packaged in one or more hermetically sealed containers of a volume of no more than five (5.0) milliliters, and (2) that is used only for purposes of scientific experimentation or analysis, or chemical research on, or analysis of PCBs, but not for research or analysis for the development of a PCB product." The distribution in commerce of PCBs in small quantities for use in research and development is allowed via a class exemption in the PCB Exemptions Rule, 40 CFR 761.80(g), published in the **Federal Register** of August 8, 1986 (51 FR 28556) (Docket number OPTS 66008E). This rule eliminated the need for each person who distributes in commerce PCBs to file an individual exemption petition. EPA placed the following terms and conditions on the class exemption: (a) That all processors and distributors maintain records of their PCB activities for a period of 5 years; and (b) that any person or company that expects to distribute in commerce 100 grams (0.22 lb.) or more PCBs for research and development in 1 year must report to EPA and identify the sites of PCB activities and the quantities of PCBs to be distributed in commerce.

In granting a class exemption, EPA retains the authority to terminate the class exemption, or to exclude any distributor from the class exemption, upon determining the activities allowed in the class exemption will pose an unreasonable risk of injury to health or the environment. Any changes in the disposition of the class exemption, or the status of individuals within the class exemption, will be published in a notice of proposed rulemaking and the petitioners will be allowed to continue activities until a final rule is promulgated.

V. Disposition of Pending Exemption Petitions

A. Import

EPA received one exemption petition to import PCBs.

General Motors Corp (GMC). On August 31, 1987, GMC requested an exemption to import PCBs in indoor constant voltage transformers into the United States from Canada, solely for the purposes of disposal.

Decision on petition. On February 14, 1991, GMC withdrew this petition. As such, EPA takes no action on the submitted GMC exemption petition.

B. Import and Export

EPA received one exemption petition to import and export PCBs.

National Chem Lab. On December 3, 1987, EPA received a petition from National Chem Lab to import small test samples of oil and soil from Canadian Electric Utilities and to export these samples following their analysis.

a. *Current petition.* The sample sizes would be less than 6 milliliters per sample of oil and less than 4 ounces of soil. These samples would then be analyzed for PCB content. These small laboratory test samples would be exported back to the utility that submitted them following their analysis. National Chem Lab estimates that 5.072 ounces by volume of 0.283 pounds by weight would be used per year. These figures were based on a sample submittal rate of 10,000 per year with 15 percent of the submitted samples containing PCB concentrations over 50 ppm.

The residue that evolves from distillation of the solvent used in the extraction process would be included in a common Department of Transportation (DOT) approved container and sent to an incinerator for disposal as required by the PCB disposal rules of 40 CFR 761.60. The extremely small amounts of PCBs that would be retained by National Chem Lab in testing for a contamination level would be disposed of in the United States as required in the PCB disposal rules.

The economic consequences of denial would cost National Chem Lab an estimated income of $150,000 per year and result in a staffing level of three fewer employees. National Chem Lab also maintains that this petition for exemption would enable it to expand its facilities and generate jobs in an area of Eastern Washington which badly needs jobs in non-agricultural enterprises.

b. *Decision on petition.* EPA has determined to deny this exemption petition. EPA has determined that the import (manufacture) of PCBs into the United States and the distribution in commerce of PCBs present an unreasonable risk of injury to human health and the environment (See 40 CFR 761.20 and 44 FR 31514, 31537, May 31, 1979). EPA has also stated that "[i]t is the clear intent of TSCA to minimize the addition of PCBs to the environment of the United States." Id. In 1980, EPA closed the border to encourage foreign countries to develop their own capacity for properly handling and disposing of hazardous waste. (See 45 FR 29115, May 1, 1980, filed at Docket number OPTS 66008). Also, National Chem Lab has failed to provide evidence that both Canadian and provincial border regulations will accept the PCBs returned to Canada after the PCB analysis. Further, EPA has determined that the petitioner has not met the good faith efforts criterion. Although no non-PCB substitutes for PCB analytical standards currently exist, the petitioner has not demonstrated or provided any convincing rationale as to why there is a necessity for the PCBs to be imported into the United States, solely for the purpose of analysis. According to the Canadian Association for Environmental Analytical Laboratories there are analytical laboratories within Canada for conducting PCB analysis. EPA does not want to encourage the expansion of PCB products or PCB services for companies when there are feasible alternatives already in place. Implied in the petitioner's exemption is a request to export the samples after analysis. Since EPA is proposing to deny the request to import, it is not addressing the request to export the samples back to their site of generation after analysis.

C. Export

EPA received two petitions relating to PCBs involved in research and development. Both petitioners are also requesting to export the PCBs and, therefore, the petitions are discussed in this section.

1. *NSI Technology Services Corp (NSIT).* On November 16, 1987, NSIT (formerly known as Northrop Services, Inc.) submitted an exemption petition to export small quantities of PCBs for research and development to the International Monitoring Community for use in the identification and quantification of environmental contaminants. The annual export amount is estimated to be less than 500 grams of PCBs. On February 12, 1991, NSIT amended its petition and notified EPA that the company name had been changed to ManTech Environmental Technology, Inc. and Subsidiary (ManTech).

a. *Current petition.* ManTech obtains PCBs for environmental monitoring purposes and prepares analytical reference standards which are provided for a charge to laboratories engaged in monitoring activities.

The PCB standards would be available in solution (1.5 ml each) or in neat, essentially pure form in 50 to 100 mg aliquots. PCBs in the form of Aroclor mixtures as well as individual isomers, would be distributed in sealed 2-mL ampuls in accordance with requirements of the class exemption requirements. The total amount of PCBs to be exported in 1 year would not exceed 500 grams.

The standards would be packaged in sealed, glass primary ampules, labeled and placed in heat-seal bags with appropriate labelling. The neat standards would then be wrapped individually in several layers of absorbent packaging material, placed in a secondary heat-seal bag, and then in a standard corrugated cardboard container which would be filled with cushioning material and sealed with reinforced paper tape.

Solution standards would be placed in the first heat-seal bag, then placed in form-fitting styrofoam containers which are wrapped in cellucrepe material and placed in a secondary heat-seal bag. They would then be inserted into a padded mailer and sealed with fiberglass tape. Both of these packaging protocols conform to the requirements of DOT's regulation governing the packaging of small quantities of hazardous materials.

According to the letter submitted by ManTech on February 21, 1991, there is a charge for the standards which would accrue an estimated amount of $60,000 per year in sales from the foreign distribution of the analytical samples.

ManTech also maintains that it makes an effort to support and encourage good quality assurance practices to several thousand laboratories in 93 foreign countries.

b. *Decision on petition.* EPA has determined to grant the ManTech petition. EPA believes that the export of PCBs in small quantities for research and development does not pose an unreasonable risk of injury to human health or the environment due to the quantity, viscosity, marking and packaging of the PCBs, as well as, the careful handling of the PCBs by trained personnel. Since there are no substitutes for PCB analytical samples, the good faith efforts finding has been met.

ManTech is prohibited from exporting PCBs in excess of the amounts and quantities specified in its petition and will be required to petition EPA to increase the quantity or change the manner of handling PCBs under the ManTech exemption. EPA will consider any such change as a new exemption petition and address the request by rulemaking. If ManTech wishes to continue its export activities beyond the 1-year timeframe, according to the EPA approved exemption, a certified letter, pursuant to the amendment for the Interim Procedural Rules addressed in this rule, must be submitted to EPA at least 6 months prior to the expiration of the exemption.

2. *Restek Corporation.* On June 8, 1990, Restek requested an exemption to process and distribute in commerce for export small quantities of PCBs for research and development to calibrate analytical instruments.

a. *Current petition.* Restek seeks to process and distribute small quantities (less than 100 grams/year) of PCBs for research and development under 40 CFR 761.80. The PCBs would be purchased from companies already exempted by EPA, then diluted to a concentration of 1000 μg/mL in solvent. The only processing would be to prepare gravimetric standards of the PCBs. The concentration of these standards would be verified by gas chromatography. Once verified, these solutions will be packaged in a flame sealed, amber, glass ampul in volumes of 1 milliliter. The sealed ampuls would be overwrapped in a plastic tube with adequate cushioning to prevent damage during shipment. These solutions would be shipped via common carrier domestically and exported to foreign customers. Restek would comply with all relevant DOT and overseas shipping regulations.

All processing and distribution would be performed at/from the Restek Corp. facility at 110 Benner Circle, Bellefonte, PA. The estimated amount of PCBs to be processed and distributed in commerce, both domestic and foreign, would not exceed 100 grams per year. Restek maintains that the small amounts of laboratory waste generated during the production procedures would be collected and disposed of in accordance with all Federal, State, and local regulations and the total amount of waste to be less than 1 gram per year. Restek maintains that all PCBs would be handled by qualified organic chemists.

There are no substitutes available which can be used to calibrate analytical instrumentation for PCBs. Restek estimates that the cost of denial of this petition could cause a loss of business amounting to $280,000 per year.

b. *Decision on petition.* EPA has determined to grant the Restek petition. EPA believes that the export of PCBs in small quantities for research and development does not pose an unreasonable risk of injury to human health or the environment due to the quantity, viscosity, marking, and packaging of the PCBs, as well as, the careful handling of the PCBs by trained personnel. Further, since no PCB substitutes exist for analytical standards of PCBs, the good faith efforts criterion has been met.

Restek is prohibited from exporting PCBs in excess of the amounts and quantities specified in their exemption petition and will be required to petition EPA to increase the quantity or change the manner of handling PCBs under the Restek exemption. EPA will consider any such change as a new exemption petition and address the request by rulemaking. If Restek wishes to continue its export activities beyond the 1-year timeframe, according to the EPA approved exemption, a certified letter, pursuant to the amendment for the Interim Procedural Rules addressed in this rule, must be submitted at least 6 months prior to the expiration of the exemption.

3. *Joseph Simon Sons.* On April 9, 1987, Joseph Simon Sons, Inc. requested an exemption to distribute in commerce and export for disposal PCB-Contaminated Transformers that have been drained of all free-flowing liquids.

a. *Current petition.* The drained electrical transformers would be packaged in shipping containers at locations in the states of Utah, California, and Washington and then shipped to the Far East for salvage. To ensure that all electrical transformers being exported had contained fluid with a PCB concentration of less than 500 ppm, Joseph Simon Son would require its customers to provide analytical reports showing the serial number of each unit and the PCB concentration. The estimated pounds of drained electrical transformers to be processed from each of the states identified would be 1 million pounds.

b. *Decision on petition.* EPA proposes to deny the request for an exemption. EPA has determined, due to the large amounts of PCBs and the availability of an alternative option, namely reclassifying the transformers to non-PCB status, that this petition fails the unreasonable risk and good faith efforts criteria as required in TSCA section 6(e)(3)(B). EPA has found that the manufacturing, processing and distribution in commerce of PCBs and PCB Items for export in concentrations of 50 ppm or greater present an unreasonable risk of injury to health and the environment within the United States (40 CFR 761.20).

This petition requests to export a large amount, 3 million pounds, of drained PCB-Contaminated electric equipment to the Far East for salvage. EPA does not allow export of PCB-Contaminated equipment for disposal to countries that have failed to develop safe methods of PCB disposal and salvaging, and in cases where EPA has limited ability to ensure that such activities, including reuse of the salvaged material, do not present an unreasonable risk of injury to health and the environment in the United States.

The Agency has previously recognized that PCB contamination is a global problem, and that use and other activities connected with PCBs outside the United States can lead to additional PCB contamination of this country. EPA concluded in 1979 that the distribution in commerce of certain PCBs for export constitutes an unreasonable risk of injury to health and the environment in the United States (44 FR 31514, 31537, May 31, 1979) and maintains that the activities proposed by petitioner will present an unreasonable risk.

Further, in determining whether good faith efforts have been taken to develop a substitute for PCBs, EPA considers whether alternatives are available to the person requesting an exemption. In this case, there is a safer alternative available to petitioners, namely that the transformer be reclassified to non-PCB status through a drain, flush, and refill process according to 40 CFR 761.30(a)(2)(v). Such non-PCB transformers could then be exported for any purpose according to 40 CFR 761.20(b)(2). Because a readily available substitute for PCB-Contaminated equipment exists, namely decontaminated equipment, the good faith efforts criterion has not been met.

D. Processing and Distribution in Commerce

EPA received one petition requesting to process and/or distribute PCBs in commerce.

R.T. Corporation (RT Corp.). On March 31, 1989, RT Corp. requested an exemption to process and distribute in commerce analytical reference samples derived from actual waste materials. If RT Corp. obtains such an exemption, use of such samples is banned unless authorized by rule. EPA proposes such a use authorization in Unit VI. of this preamble.

a. *Current petition.* RT Corp. blends samples of pure PCBs in various matrices duplicating real world laboratory situations. These samples provide EPA, contract labs, and other facilities with interlaboratory comparability and access to real world references. RT Corp. maintains that these procedures would be done under controlled conditions by trained and experienced personnel using practices that are designed to minimize human and environmental exposure to hazardous substances. An estimated annual amount of approximately .5 pound of PCB samples would be distributed in commerce to environmental analytical laboratories in small quantities for in-house Quality Assurance/Quality Control programs by Federal, State and municipal governments, and other clients wanting to ensure the accuracy of their analytical results.

These reference samples, which average 50 grams in weight, would be blended to homogeneity, packaged into 10 to 50 gram aliquots, and then marketed exclusively to laboratories. The total estimated annual amount of PCB-Contaminated material at <500 ppm concentration levels to be allowed under the exemption would be between 500 to 1,000 pounds. This equates to approximately .5 pound of pure PCBs. The values of the analytes of interest are determined by a round robin analysis by as many laboratories as necessary to attain a 95 percent level of confidence.

RT Corp. maintains that these samples would be shipped in accordance with all DOT shipping requirements and that they would be packaged in hermetically sealed containers bearing the PCB warning label. Once the PCBs are distributed in commerce, the risk of exposure to humans and the environment would be minimized by the small quantities of PCBs used in most applications, by the matrix containing the PCBs, and by the careful handling procedures typical of laboratory work.

b. Decision on petition. EPA has determined to grant the RT Corp. petition. EPA believes that, due to the small quantities of PCBs for analysis in these reference samples as well as the careful handling of the PCBs by trained personnel, there is no unreasonable risk presented by granting this exemption petition request. The good faith efforts criterion has been met because there are no substitutes for the "real world" waste samples of PCB material associated with this activity. RT Corp. must comply with all TSCA, Federal, State, and local laws governing the handling of these samples. In addition, once the use of the samples is complete, all of the disposal requirements contained in 40 CFR part 761 apply.

RT Corp. is prohibited from distributing in commerce PCBs in excess of the amounts and quantities specified in this petition and would be required to petition EPA to increase the quantity or change the manner of handling PCBs under the RT Corp. exemption. EPA would consider any such change a new exemption petition and address the request by rulemaking. If RT Corp. wishes to continue its process and distribution activities beyond the 1-year timeframe, according to the EPA approved exemption, a certified letter, pursuant to the amendment for the Interim Procedural Rules addressed in this rule, must be submitted at least 6 months prior to the expiration of the exemption.

VI. Use Authorization for Analytical Reference Samples Derived From Waste Materials

EPA proposes to grant a use authorization for analytical reference samples derived from waste materials when the samples have been processed and distributed in commerce pursuant to an exemption granted under TSCA section 6(e)(3)(B). As discussed above, EPA has already granted an authorization for the use of PCBs in small quantities for research and development (40 CFR 761.30(j)). Also discussed above are the reasons EPA is proposing to grant an exemption for analytical reference samples derived from waste materials. These samples do not fit the definition for the use authorization granted under 40 CFR 761.30(j), and therefore, use of these samples requires an authorization.

EPA has determined to authorize the use of PCB analytical reference samples derived from waste materials when the samples have been processed and distributed in commerce pursuant to an exemption granted under TSCA section 6(e)(3)(B). EPA has determined that the use of such samples will not present an unreasonable risk of injury to health or the environment because such samples will be handled by laboratories that have established procedures for handling hazardous materials. Further, EPA has determined that the use of such samples will further efforts to implement, comply with, and enforce the requirements for PCBs under TSCA. Once the use of such samples is over, persons who have used the samples are subject to any Federal, State, and local law governing the disposal of the PCBs, including the rules found in 40 CFR part 761.

VII. Informal Hearing

If requested, an informal hearing will be held in Washington, DC. All requests to participate in the hearing must include an outline of the topic(s) to be addressed, the amount of time requested for the opening statement, and a non-binding list of participants. The informal hearing is meant to provide an opportunity for interested persons to present additional information or to discuss new issues, not to repeat information already presented in written comments.

VIII. Other Regulatory Requirements

A. Executive Order 12291

Under Executive Order 12291, issued February 17, 1982, EPA must judge whether a rule is a "major rule" and, therefore, subject to the requirement that a Regulatory Impact Analysis be prepared. EPA has determined that this proposed rule would not be a "major rule" as that term is defined in section 1(b) of the Executive Order because the annual effect of the rule on the economy will be considerably less than $100 million; it will not cause any noticeable increase in costs or prices for any sector of the economy or for any geographic region; and it will not result in any significant adverse effects on competition, employment, investment, productivity, or innovation, or on the ability of U.S. enterprises to compete with foreign enterprises in domestic or foreign markets. This rule would allow the manufacture, processing and distribution in commerce, and export of PCBs that would otherwise be prohibited by section 6(e)(3)(A) of TSCA for the petitioners who met the requirements of section 6(e)(3)(B) of TSCA and the Interim Procedural Rules for PCB Exemptions.

This rule was submitted to the Office of Management and Budget (OMB) for review prior to publication, as required by the Executive Order.

B. Regulatory Flexibility Act

Section 603 of the Regulatory Flexibility Act (the Act), 5 U.S.C. 603, requires EPA to prepare and make available for comment an initial regulatory flexibility analysis in connection with rulemaking. The initial regulatory flexibility analysis must describe the impact of the rule on small business entities. Section 605(b) of the Act, however, provides that section 603 of the Act "shall not apply to any proposed or final rule if the Agency . . . certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities."

EPA has tried to estimate the cost of this proposed rule on the small businesses whose petitions EPA has denied. For purposes of this regulatory flexibility analysis, EPA considers a small business to be one whose annual sales revenues were less than $40 million. This cutoff is in accordance with EPA's definition of a small business for purposes of reporting under section 8(a) of TSCA, which was published in the **Federal Register** of November 16, 1984 (49 FR 45430).

In accordance with section 605(b) of the Act, EPA certifies that this proposed rule, if promulgated, would not have a significant economic impact on a substantial number of small business entities. In addition, EPA is sending a copy of this proposed rule to the Chief Counsel for Advocacy of the Small Business Administration.

EPA further notes that section 606 of the Act states that the requirements of section 603 do not alter in any manner standards otherwise applicable by law to Agency action. Current law, section 6(e)(3)(A) of TSCA and EPA's PCB Ban Rule, 40 CFR part 761, prohibits the manufacture, processing, and distribution in commerce of PCBs. This rule, under section 6(e)(3)(B) of TSCA, would exempt persons from these prohibitions where petitioners have demonstrated that granting an exemption would not result in an unreasonable risk of injury to health or the environment and that they have made good faith efforts to develop substitutes for PCBs. Both small and large businesses must meet the same statutory standard. Thus, even if EPA believed that it was an economically desirable policy to grant an exemption petition for a small business, it could do so only if the small business met the requirements set forth in TSCA. This rule would not add to the burden placed on small businesses, it would only relieve the burden placed on business through granting an exemption.

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq., authorizes the Director of OMB to review certain information collection requests by Federal Agencies. Under OMB Control Number 2070-0021, OMB has approved a general information collection request submitted by EPA for purposes of collecting information for rulemakings on PCB exemption petitions, and for any recordkeeping or reporting conditions to PCB exemption petitions granted by EPA.

Public reporting burden for this collection of information is estimated to average 5 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Attention EPA Desk Officer, Office of Management and Budget, Washington, DC 20503.

IX. Official Rulemaking Record

For the convenience of the public and EPA, all of the information originally submitted and filed in dockets number OPTS-66001, 66002, 66008-66008K (manufacturing, processing, and distribution in commerce exemptions) is being consolidated into this docket number OPPTS-66011. This proposed rule is a continuation of that docket under OPTS-66008K.

Public comments, the transcript of the informal hearing, if conducted, and submissions made at the informal hearing or in connection with it, will not be listed because these documents are exempt from **Federal Register** listing under TSCA section 19(a)(3). A full list of these materials are cited in the Index to the Rulemaking Record for Polychlorinated Biphenyls, Manufacturing, Processing, and Distribution in Commerce; Exemptions, Docket Number OPPTS 66011 at A2-File (February 20, 1992), and will be available in the TSCA Public Docket Office. The location of the TSCA Public Docket Office is listed under the "ADDRESSES" section of this rule.

List of Subjects in 40 CFR Parts 750 and 761

Environmental protection, Hazardous substances, Labeling, Polychlorinated biphenyls, Reporting and recordkeeping requirements.

Dated: February 20, 1992.

Mark A. Greenwood,

Director, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR chapter I, subchapter E is proposed to be amended as follows:

1. In part 750:

PART 750—[AMENDED]

a. The authority citation for part 750 continues to read as follows:

Authority: 15 U.S.C. 2605.

b. In § 750.11 by removing paragraph (b), by redesignating paragraphs (c) and (d) paragraphs (b) and (c), respectively, and by adding new paragraphs (d) and (e) to read as follows:

§ 750.11 Filing of petitions for exemption.

* * * * *

(d) *Further information.* EPA reserves the right to request further information as to each petition prior to or after publication of the notice of proposed rulemaking required by § 750.13.

(e) *Renewal requests.* (1) As of [the effective date of this final rule] any petitioner who has been granted an exemption, under section 6(e)(3)(B) of TSCA, in this rule or in any subsequent rule and who seeks to extend that exemption, must submit a certified letter to EPA requesting that the exemption be granted for the following year. This letter must verify that the type of activities, the procedures for handling the PCBs, or any other aspect of the exemption have not changed and that the amount of PCBs handled has not increased from the original exemption petition request. This letter must be sent to EPA at least 6 months prior to the anniversary of the expiration of the original exemption. If a petitioner fails to make a timely submission under these rules, the exemption will expire 1 year from the effective date of granting the exemption.

(2) Any petitioner who has been granted an exemption in a prior rule, in this current rule, or in a subsequent exemption rule, and who has increased the amount of PCBs handled or who has deviated in any manner from their original petition will be required to submit a new exemption petition to EPA. The activities granted by the original exemption must not exceed the limits originally approved by EPA until the new submission is addressed by rulemaking.

§§ 750.13 and 750.14 [Amended]

c. In § § 750.13 and 750.14 change the reference "§ 750.11(d)" to read "§ 750.11(c)".

d. Section 750.31 is amended by removing paragraph (b), by redesignating paragraphs (c), (d) and (e) as paragraphs (b), (c) and (d), respectively, and by adding a new paragraph (e) to read as follows:

§ 750.31 Filing of petitions for exemption.

* * * * *

(e) *Renewal requests.* (1) As of [insert the effective date of this final rule] any petitioner who has been granted an exemption, under section 6(e)(3)(B) of TSCA, in this rule or in any subsequent rule and who seeks to extend that exemption, must submit a certified letter to EPA requesting that the exemption be granted for the following year. This letter must verify that the type of activities, the procedures for handling the PCBs, or any other aspect of the exemption have not changed and that the amount of PCBs handled has not increased from the original exemption petition request. This letter must be sent to EPA at least 6 months prior to the anniversary of the expiration of the original exemption. If a petitioner fails to make a timely submission under these rules, the exemption will expire 1 year from the effective date of granting the exemption.

(2) Any petitioner who has been granted an exemption in a prior rule, in this current rule, or in a subsequent exemption rule, and who has increased the amount of PCBs handled or who has deviated in any manner from their original petition will be required to submit a new exemption petition and will not be subject to extension through submission of a certified letter. The activities granted by the original exemption must not exceed the limits originally approved by EPA until the new submission is addressed by rulemaking.

§§ 750.33 and 750.34 [Amended]

e. In §§ 750.33(a) and 750.34(a)(1) change "§ 750.31(d)" to read "§ 750.31(c)."

2. In part 761:

PART 761—[AMENDED]

a. The authority citation for part 761 continues to read as follows:

Authority: 15 U.S.C. 2605, 2607, 2611, 2614 and 2616.

b. In § 761.30 by adding paragraph (p) to read as follows:

§ 761.30 Authorizations.

* * * * *

(p) *Analytical reference samples.* PCBs in analytical reference samples derived from waste materials may be used only when the samples originated from a person who has been granted an exemption to process and distribute in commerce such samples under TSCA section 6(e)(3)(B). Once the use of such samples is completed, disposal of such samples is governed by all applicable Federal, State, and local laws, including the rules contained in this part.

* * * * *

c. In § 761.80 by adding paragraphs (c)(2) and (m)(7) and by revising paragraphs (h) and (n) to read as follows:

§ 761.80 Manufacturing, processing and distribution in commerce exemptions.

* * * * *

(c) * * *

(2) ManTech, Research Triangle Park, NC 27709.

* * * * *

(h) The Administrator grants the following petitioner(s) an exemption for 1 year to process and distribute in commerce PCBs for analytical reference samples derived from actual waste materials:

(1) R.T. Corporation, Laramie, WY 82070.

(2) [Reserved]

* * * * *

(m) * * *

(7) Restek Corporation, Bellefonte, PA. 16823

(n) The 1-year exemption granted to petitioners in paragraphs (a) through (f), and (m)(1) through (m)(6) of this section shall be renewed automatically as long as there is no increase in the amount of PCBs to be processed and distributed, imported (manufactured), or exported, nor any change in the manner of processing and distributing, importing (manufacturing), or exporting of PCBs. If, however, there is such a change, a new exemption petition must be submitted to EPA and it will be addressed in the next exemption rulemaking. In such a case, the activities granted under the original exemption may continue only until the anniversary of the effective date of the original final exemption rule granting the petition. The 1-year exemption granted to petitioners in paragraphs (c)(2), (h) and (m)(7) of this section shall be extended only if a certified letter is submitted to EPA by the petitioner according to § 750.30(e) of this chapter and until EPA acts on the information by rulemaking. The petitioner will be allowed to continue the activities for which it requests the exemption, but is prohibited from exceeding the amounts or modifying the PCB process as described in the initial petition. If a petitioner submits a certified letter requesting to renew the exemption for another year and if there is any increase in the amount of PCBs to be processed and distributed, imported (manufactured), or exported, or if there is any change in the manner of processing and distributing, importing (manufacturing), or exporting of PCBs, the certified letter shall be accompanied by a new exemption petition which will be addressed in the next exemption rulemaking. In such a case, the activities granted under the original exemption may continue only until the anniversary date of the original exemption petition being granted. Also, if the certified letter to extend the activities is not submitted in a timely fashion according to § 750.11(e) or § 750.31(e) of this chapter, as appropriate, all exempted activities shall cease on the expiration date and the letter will be considered a new petition which will be addressed during the next exemption rulemaking.

* * * * *

[FR Doc. 92-4780 Filed 2-28-92; 8:45 am]

BILLING CODE 6560-50-F

NATIONAL SCIENCE FOUNDATION

45 CFR Part 641

Environmental Assessment Procedures for Proposed National Science Foundation Actions in Antarctica

AGENCY: National Science Foundation.

ACTION: Proposed rule.

SUMMARY: The National Science Foundation (NSF) proposes to issue regulations that provide procedures for implementing (i) Executive Order 12114, Environmental Effects Abroad of Major Federal Actions, 44 FR 1957 (Executive Order) as it applies to NSF's activities in Antarctica, and (ii) the environmental assessment requirements of the Protocol on Environmental Protection to the Antarctic Treaty and its related annexes, adopted by the fourth session of the Eleventh Special Antarctic Treaty Consultative Meeting (SCM XI) on October 4, 1991, and signed by the United States on that date. The procedures require environmental assessment of proposed U.S. Antarctic Program (USAP) actions so that responsible agency officials may consider the potential environmental effects of those proposed actions.

DATES: Comments must be received on or before April 1, 1992.

ADDRESSES: Interested persons may submit written comments to Lawrence Rudolph, Deputy General Counsel, Office of the General Counsel, National Science Foundation, 1800 G Street, NW., room 501, Washington, DC 20550, or hand deliver comments to the same address between the hours of 9 a.m. and 5 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Lawrence Rudolph, Deputy General Counsel, or Miriam Leder, Assistant General Counsel, (202) 357–9435; or Dr. Sidney Draggan, Environmental Officer, Division of Polar Programs, (202) 357–7766, National Science Foundation, at the above address.

SUPPLEMENTARY INFORMATION: The United States first established year-round research stations in Antarctica in 1957–1958. At that time, NSF was given responsibility for the U.S. Antarctic research program, and was later given overall management responsibility for the USAP. Currently, NSF manages the research program, plans logistics and operations support for the USAP, and oversees implementation of this support by a civilian contractor and by other government agencies (i.e., the Naval Support Force Antarctica and the U.S. Coast Guard).

NSF's primary statutory function is to support scientific research, and Antarctica's relatively pristine environment provides an unmatched natural laboratory for much of this research. NSF is committed to the environmental protection of Antarctica, and environmental assessment constitutes a vital component of its antarctic environmental management and protection activities.

On July 10, 1990, NSF published a proposed rule in the **Federal Register** entitled "Procedures for Implementing Executive Order 12114, Environmental Effects Abroad of Major Federal Actions." That proposed rule set forth procedures for environmental assessments of USAP activities, and NSF received comments on that rule from several agencies, organizations and individuals.

Before the proposed rule was issued as a final regulation, the Antarctic Treaty Parties met several times to discuss and eventually adopt the Protocol on Environmental Protection to the Antarctic Treaty and its related annexes. Annex I of the Protocol contains specific procedures for environmental assessment of antarctic activities. NSF's proposed assessment procedures have now been substantially revised to implement the environmental assessment provisions of the Protocol to the extent they apply to USAP activities, and to take into account the comments received on its earlier proposed rule. To the extent any commenters on the earlier proposed rule do not feel that their comments are adequately addressed in these proposed assessment procedures, such commenters are invited to resubmit their comments so that they may be considered by NSF prior to the issuance of final assessment procedures.

As required by the Executive Order, NSF consulted with the Department of State and the Council on Environmental Quality prior to preparing this notice.

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation, and that this regulation will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 45 CFR Part 641

Antarctica, Environmental assessment.

Pursuant to the authority granted by the Executive Order, NSF is proposing to add a new part 641 to title 45 of the Code of Federal Regulations, as set forth below:

Dated: February 24, 1992.

Walter E. Massey,

Director.

PART 641—ENVIRONMENTAL ASSESSMENT PROCEDURES FOR PROPOSED NATIONAL SCIENCE FOUNDATION ACTIONS IN ANTARCTICA

Sec.

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Authority: E.O. 12114, 44 FR 1957, 3 CFR 1979 Comp., p. 356.

§ 641.10 Purpose.

These procedures are designed to elicit and evaluate information that will inform the National Science Foundation (NSF) of the potential environmental consequences of proposed U.S. Antarctic Program (USAP) actions, so that relevant environmental considerations are taken into account by decisionmakers before reaching final decisions on whether or how to proceed with proposed actions. These procedures are consistent with and implement the requirements of:

(1) Executive Order 12114 as it relates to NSF's antarctic activities, and

(2) The environmental assessment provisions of the Protocol on Environmental Protection to the Antarctic Treaty.

§ 641.11 Policy.

It is the policy of NSF to use all practicable means, consistent with its authority and available resources, to ensure that potential environmental effects of actions undertaken by NSF in Antarctica are appropriately identified and considered during the decisionmaking process, and that appropriate environmental safeguards are adopted so as to limit, mitigate or prevent adverse impacts on the antarctic environment.

§ 641.12 Applicability.

The requirements set forth in this part apply to all proposed projects, programs and actions authorized or approved by NSF that may have at least a minor or transitory impact on the antarctic environment.

§ 641.13 Right of action.

The procedures set forth in this part establish internal procedures to be followed by NSF in considering the potential environmental effects of actions taken in Antarctica. Nothing in this part shall be construed to create a cause of action.

§ 641.14 Definitions.

As used in these procedures, the term:

(a) *Action* means a project, program or other activity, including the adoption of an official policy or formal plan, that is undertaken, authorized, adopted or approved by NSF, the decommissioning of a physical plant or facility, and any change in the scope or intensity of a project, program or action.

(b) *Antarctica* means the area south of 60 degrees south latitude.

(c) *Antarctic environment* means the natural and physical environment of Antarctica and its dependent and associated ecosystems, but excludes social, economic and other environments.

(d) *Antarctic Treaty Consultative Meeting* means a meeting of the Parties to the Antarctic Treaty, held pursuant to Article IX(1) of the Treaty.

(e) *Comprehensive Environmental Evaluation* or *CEE* means a study of the reasonably foreseeable potential effects of a proposed action on the antarctic environment, prepared in accordance with the provisions of § 641.18. A Comprehensive Environmental Evaluation shall constitute an environmental impact statement for purposes of the Executive Order.

(f) *Environmental Action Memorandum* means a document briefly describing a proposed action and its potential impacts, if any, on the antarctic environment.

(g) *Environmental document* means an initial environmental evaluation or a comprehensive environmental evaluation.

(h) *Environmental review* means the environmental review required by the provisions of this part, and includes preliminary environmental review and preparation of an environmental document, if necessary.

(i) *Executive Order* means Executive Order 12114, Environmental Effects Abroad of Major Federal Actions, 44 FR 1957.

(j) *Initial Environmental Evaluation* or *IEE* means a study of the reasonably foreseeable potential effects of a proposed action on the antarctic environment, prepared in accordance with the provisions of § 641.17.

(k) *Preliminary environmental review* means the environmental review described in § 641.15(a).

(l) *Protocol* means the Protocol on Environmental Protection to the Antarctic Treaty, adopted on October 4, 1991, in Madrid, at the fourth session of the Eleventh Special Antarctic Treaty Consultative Meeting and signed by the United States on that date, and all annexes thereto.

(m) *Responsible official* means the Assistant Director for Geosciences of NSF, or any NSF employee(s) designated by the Assistant Director to be principally responsible for the preparation of environmental action memoranda or environmental documents under this part.

(n) *Treaty* means the Antarctic Treaty signed in Washington, DC, on December 1, 1959, T.I.A.S No. 4780.

§ 641.15 Preliminary environmental review.

(a) The responsible official shall be notified of all actions proposed by all components of the USAP early in the general planning process, so that environmental review may be integrated into the planning and decisionmaking processes. The responsible official shall conduct a preliminary environmental review of each action, including consideration of the potential direct and reasonably foreseeable indirect effects of a proposed action on the antarctic environment.

(b) If, on the basis of the preliminary environmental review, the responsible official determines that an action will have less than a minor or transitory impact on the antarctic environment, he will prepare an Environmental Action Memorandum briefly summarizing the environmental issues considered and conclusions drawn from the review. No further environmental review shall be necessary.

§ 641.16 Preparation of environmental documents, generally.

(a) *Preparation of an environmental document.* If the responsible official determines, either initially or on the basis of a preliminary environmental review, that a proposed action may have at least a minor or transitory impact on the antarctic environment, he will prepare an environmental document in accordance with the provisions of this Part. In making this determination, the responsible official should consider whether and the degree to which the proposed action:

(1) Has the potential to adversely affect public health and safety through the environment;

(2) May have environmental effects that are likely to be highly controversial;

(3) Has highly uncertain environmental effects, or involves unique or unknown environmental risks; or

(4) Together with other actions, the effects of any one of which is individually insignificant, may have at least minor or transitory cumulative environmental effects.

(b) *Prior asessments.* Notwithstanding the provisions of § 641.16(a), if an environmental document (including a generic or programmatic CEE) or its equivalent has been prepared for a particular type of action, and that document adequately addresses the environmental effects of a proposed action of that type, a new environmental document need not be prepared. Instead, the responsible official shall prepare an Environmental Action Memorandum for the proposed action, cross-referencing the previously prepared environmental document.

(c) *Exclusions.* NSF has determined that the following actions will have less than a minor or transitory impact on the Antarctic environment, and are not subject to the procedures set forth in this Part, except to the extent provided herein:

(1) Scientific research activities involving:

(i) Low volume collection of biological or geologic specimens;

(ii) Small-scale detonation of explosives;

(iii) Use of weather/research balloons, research rockets, and automatic weather stations that are to be retrieved; and

(iv) Use of radioisotopes.

(2) Interior remodelling and renovation of existing facilities.

Notwithstanding the foregoing, if information developed during the planning of any of the actions described in this § 641.16(c) indicates the possibility that the action may have at least minor or transitory impact on the Antarctic environment, the environmental effects of the action shall be reviewed to determine the need for the preparation of an environmental document.

(d) *Coordination with other committees, offices and federal agencies.* The responsible official shall notify NSF's Committee on Environmental Matters and the Office of the General Counsel when he intends to prepare an environmental document, and will coordinate preparation of the document with those entities. Responsibility for preparation of the environmental document rests primarily with the responsible official, but he should consult with and encourage the participation of other knowledgeable individuals within NSF, and, where appropriate, with other individuals, government agencies and entities with relevant knowledge and expertise.

(e) *Type of environmental document.* The type of environmental document required under this Part depends on the nature of the proposed action under consideration. An IEE must be prepared for proposed actions which the responsible official concludes may have at least a minor transitory impact on the Antarctic environment and for which a CEE is not prepared. A CEE must be prepared if an IEE indicates, or if it is otherwise determined, that a proposed action is likely to have more than a minor or transitory impact on the antarctic environment.

(f) *Obligation of funds.* Because of logistic constraints, it may not be possible to complete the environmental review of a proposed action before funds must be committed and/or disbursed. In such cases, funds for the proposed action may be committed and/or disbursed, provided:

(1) the appropriate environmental review is completed before implementation of the proposed action in Antarctica, and

(2) implementation plans for the proposed action will be modified or canceled in light of the completed environmental review, if appropriate.

§ 641.17 Initial environmental evaluation.

(a) *Contents.* An IEE shall contain sufficient detail to assess whether a proposed action may have more than a minor or transitory impact on the antarctic environment, and shall include the following information:

(1) A description of the proposed action, including its purpose, location, duration and intensity; and

(2) Consideration of alternatives to the proposed action and any impacts that the proposed action may have on the antarctic environment, including cumulative impacts in light of existing and known planned actions and existing information on such actions.

(b) *Further environmental review.* If an IEE indicates that a proposed action is likely to have no more than a minor or transitory impact on the antarctic environment, no further environmental review of the action is necessary provided that appropriate procedures, which may include monitoring, are put in place to assess and verify the impact of the action.

(c) *Availability to public.* An annual list of IEEs and a description of any decisions taken in consequence thereof shall be provided to the Department of State for circulation to all Parties to the Protocol and to organizations or committees established pursuant to the Protocol or the Treaty, as required. The list and copies of final IEEs also shall be available to the public upon request.

§ 641.18 Comprehensive environmental evaluation.

(a) *Scoping.* If it is determined that a CEE will be prepared, the responsible official shall commence the process of identifying significant issues relating to the proposed action and determining the scope of the issues to be addressed in the CEE. Persons and government agencies having expertise relevant to the environmental aspects of the proposed action shall also participate in this process.

(b) *Contents of CEE.* A CEE shall be a concise and analytical document, prepared in accordance with the range of relevant issues identified in the scoping process. It shall contain sufficient information to permit informed consideration of the reasonably foreseeable potential environmental effects of a proposed action and the reasonable alternatives to that proposed action. Such information shall include the following:

(1) A description of the proposed action including its purpose, location, duration and intensity;

(2) A description of the initial baseline environmental state with which predicted changes are to be compared, and a prediction of the future environmental state in the absence of the proposed action;

(3) A description of the methods and data used to forecast the potential impacts of the proposed action;

(4) An estimate of the nature, extent, duration and intensity of the likely direct potential impacts of the proposed action;

(5) A consideration of the potential indirect or second order impacts from the proposed action;

(6) A consideration of potential cumulative impacts of the proposed action in light of existing activities and other known planned actions and available information on those actions;

(7) A description of all reasonable alternatives to the proposed action, including the alternative of not proceeding, and the potential consequences of those alternatives, in sufficient detail to allow a clear basis for choice among the alternatives and the proposed action;

(8) Identification of measures, including monitoring, that could be employed to minimize, mitigate or prevent potential impacts of the proposed action, detect unforeseen impacts, provide early warning of any adverse effects, and carry out prompt and effective response to accidents;

(9) Identification of unavoidable potential impacts of the proposed action.

(10) Consideration of the potential effects of the proposed action on the conduct of scientific research and on other existing uses and values;

(11) Identification of gaps in knowledge and uncertainties encountered in compiling the information required by this § 641.18(b);

(12) A non-technical summary of the information included in the CEE; and

(13) The name and address of the person and/or organization which prepared the CEE, and the address to which comments thereon should be directed.

(c) *Circulation of draft CEE.* A draft or each CEE shall be provided to the Department of State for circulation to all Parties to the Protocol and to organizations or committees established pursuant to the Protocol or Treaty, as required, and shall be made publicly available. Notice of such public availability shall be published in the **Federal Register**. All such parties shall have a period of not less than ninety (90) days within which to review and comment upon the draft CEE.

(d) *Final CEE.* A final CEE shall address, and shall include or summarize, comments received on the draft CEE. The final CEE, notice of any decisions related thereto, and any evaluation of the significance of the predicted impacts in relation to the advantages of the proposed action shall be provided to the Department of State for circulation to all parties to the Protocol, and shall be available to the public upon request, at least sixty (60) days prior to the commencement of the proposed activity in Antarctica.

(e) *Implementation of Proposed Action.* No action for which a final CEE is required shall proceed in Antarctica until after the earlier of.

(1) The first Antarctic Treaty Consultative Meeting taking place at lease one hundred and twenty days after circulation of the draft CEE, or

(2) Fifteen months following the circulation of the draft CEE.

§ 641.19 Modification of environmental documents.

The responsible official should revise or supplement an environmental document if there is a substantial change in a proposed action which may have more than a minor or transitory effect on the antarctic environment, or if there are significant new circumstances or information which may have bearing on the proposed action.

§ 641.20 Notification of availability of environmental documents and other information.

Environmental Action Memoranda, environmental documents and final data obtained under § 641.21 shall be made available to the public upon request. However, notice of such availability need not be given, except as specifically provided in this part.

§ 641.21 Monitoring.

Scientific, analytic and/or reporting procedures shall be put in place, including appropriate monitoring of key environmental indicators, to assess and verify the potential environmental impacts of actions which are the subject of a CEE. All proposed actions for which an environmental document has been prepared should include procedures to provide a regular and verifiable record of the actual impacts of those actions, in order, *inter alia*, to

(1) Enable assessments to be made of the extent to which such impacts are consistent with the Protocol; and

(2) Provide information useful for minimizing or mitigating those impacts, and, where appropriate, information on the need for suspension, cancellation or modification of the action.

§ 641.22 Cases of emergency.

This part shall not apply to actions taken in cases of emergency relating to the safety of human life or of ships, aircraft or equipment and facilities of high value, or the protection of the environment. Notice of any such actions which would otherwise have required the preparation of a CEE shall be provided immediately to the Department of State for circulation to all Parties to the Protocol and to committees and organizations established pursuant to the Treaty or Protocol, as required. A description of the emergency action undertaken shall also be provided to the Department of State for appropriate circulation within ninety days of the action.

[FR Doc. 92-4748 Filed 2-28-92; 8:45 am]

BILLING CODE 7555-01-M

Notices

Federal Register
Vol. 57, No. 41
Monday, March 2, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of Advocacy and Enterprise

The Citizens' Advisory Committee on Equal Opportunity; Meeting

AGENCY: Office of Advocacy and Enterprise, USDA.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the proposed schedule and agenda of a meeting of the Citizens' Advisory Committee on Equal Opportunity. The meeting will be open to the public. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. No. 92-463).

DATES: March 9 and 10, 1992, 9 a.m.–4:30 p.m. on the 9th and 9 a.m.–1 p.m. on the 10th.

ADDRESSES: The meeting location is at the U.S. Department of Agriculture, Williamsburg Room, 104–W, Administration Building, Washington, DC 20250. Send written statements to Steven Chang or Crystal Day, Office of Advocacy and Enterprise, U.S. Department of Agriculture, 14th and Independence Avenue, SW., room 1322–S, South Building, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Steven Chang, (202) 720–7381 or Crystal Day, (202) 720–7117.

SUPPLEMENTARY INFORMATION: The committee will receive briefings on the reorganization of the Department's Office of Equal Opportunity and of the Office of Personnel and on the Department's Succession Planning and Recruitment Plan. The committee will also elect officers for fiscal year 1992 and discuss their fiscal year 1992 agenda.

Jo Ann C. Jenkins,

Director, Office of Advocacy and Enterprise.

[FR Doc. 92–4767 Filed 2–28–92; 8:45 am]

BILLING CODE 3410-96-M

Federal Grain Inspection Service

Designation of the Quincy, Inc., (IL) Agency

AGENCY: Federal Grain Inspection Service (FGIS).

ACTION: Notice.

SUMMARY: FGIS announces the designation of Quincy Grain Inspection & Weighing Service, Inc. (Quincy, Inc.), to provide official grain inspection services under the United States Grain Standards Act, as amended (Act).

EFFECTIVE DATE: April 1, 1992.

ADDRESSES: Homer E. Dunn, Chief, Review Branch, Compliance Division, FGIS, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090-6454.

FOR FURTHER INFORMATION CONTACT: Homer E. Dunn, telephone 202-720-8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the October 1, 1991, **Federal Register** (56 FR 49740), FGIS announced that the designation of Anthony L. Marquardt dba Quincy Grain Inspection & Weighing Service terminates on March 31, 1992, and asked persons interested in providing official services within the Quincy geographic area to submit an application for designation. Applications were to be postmarked by October 31, 1991.

Anthony L. Marquardt, proposing to incorporate as Quincy Grain Inspection & Weighing Service, Inc. (Quincy, Inc.), and John H. Oliver, Inc., dba Keokuk Grain Inspection Service, the only applicants, each applied for the entire available geographic area. FGIS named and requested comments on the applicants for the Quincy area designation in the December 23, 1991, **Federal Register** (56 FR 66428). Comments were to be postmarked by January 28, 1992. FGIS received no comments by the deadline.

FGIS evaluated all available information regarding the designation criteria in section 7(f)(1)(A) of the Act; and according to section 7(f)(1)(B), determined that Quincy, Inc., is better able than any other applicant to provide official grain inspection in the geographic area for which they applied.

Effective April 1, 1992, and terminating March 31, 1995, Quincy, Inc., is designated to provide official grain inspection in the geographic area specified in the October **Federal Register**.

Interested persons may obtain official services by contacting Quincy, Inc., at 217-222-7592.

Authority: Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: February 14, 1992.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 92-4430 Filed 2-28-92; 8:45 am]

BILLING CODE 3410-EN-F

Request for Applications From Persons Interested in Designation To Provide Official Services in the Geographic Areas Presently Assigned to the Fremont (NE) and Titus (IN) Agencies

AGENCY: Federal Grain Inspection Service (FGIS).

ACTION: Notice.

SUMMARY: The United States Grain Standards Act, as amended (Act), provides that official agency designations shall end not later than triennially and may be renewed. The designations of Fremont Grain Inspection Department, Inc. (Fremont), and Titus Grain Inspection, Inc. (Titus), will end August 31, 1992, according to the Act, and FGIS is asking persons interested in providing official services in the specified geographic areas to submit an application for designation.

DATES: Applications must be postmarked on or before April 1, 1992.

ADDRESSES: Applications must be submitted to Homer E. Dunn, Chief, Review Branch, Compliance Division, FGIS, USDA, room 1647 South Building, P.O. Box 96454, Washington, DC 20090-6454. All applications will be made available for public inspection at this address located at 1400 Independence Avenue, SW., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Homer E. Dunn, telephone 202-720-8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and

Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act authorizes FGIS' Administrator to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services.

FGIS designated Fremont located at 603 East Dodge Street, Fremont, NE 68205, and Titus located at 1111 East 800 North, West Lafayette, IN 47906, to officially inspect grain under the Act on September 1, 1989.

Section 7(g)(1) of the Act provides that designations of official agencies shall end not later than triennially and may be renewed according to the criteria and procedures prescribed in section 7(f) of the Act. The designations of Fremont and Titus end on August 31, 1992.

The geographic area presently assigned to Fremont, in the States of Iowa and Nebraska, pursuant to section 7(f)(2) of the Act, which will be assigned to the applicant selected for designation is as follows:

In Iowa:

Carroll (west of U.S. Route 71); Clay (west of U.S. Route 71); Crawford; Dickinson (west of U. S. Route 71); Harrison (east of State Route 183); O'Brien (north of B24 and east of U.S. Route 59); Osceola (east of U.S. Route 59); and Shelby Counties.

In Nebraska:

Bounded on the North by U.S. Route 20 east to the Pierce County line; the eastern Pierce County line; the northern Wayne, Cuming, and Burt County lines east to the Missouri River;

Bounded on the East by the Missouri River south-southeast to State Route 91; State Route 91 west to the Dodge County line; the eastern and southern Dodge County lines west to U.S. Route 77; U.S. Route 77 south to the Saunders County line;

Bounded on the South by the southern Saunders, Butler, and Polk County lines; and

Bounded on the West by the western Polk County line north to the Platte River; the Platte River northeast to the western Platte County line; the western and northern Platte County lines east to U.S. Route 81; U.S. Route 81 north to U.S. Route 20.

The following locations, outside of the above contiguous geographic area, are part of this geographic area assignment: Juergens Produce and Seed, and Farmers Grain and Lumber Company, both in Carroll, Carroll County, Iowa (located inside Central Iowa Grain Inspection Service, Inc.'s, area); and Farmers Cooperative, and Krumel Grain and Storage, both in Wahoo, Saunders County, Nebraska (located inside Omaha Grain Inspection Service, Inc.'s, area).

Exceptions to Fremont's assigned geographic area are the following locations inside Fremont's area which have been and will continue to be serviced by the following official agencies:

1. Hastings Grain Inspection, Inc.: Farmers Cooperative Grain Company, and Wagner Mills, Inc., both in Columbus, Platte County, Nebraska;

2. Omaha Grain Inspection Service, Inc.: Farmers Coop Business Assn., Rising City, Butler County, Nebraska; and Farmers Coop Business Assn., Shelby, Polk County, Nebraska.

The geographic area presently assigned to Titus, in the State of Indiana, pursuant to section 7(f)(2) of the Act, which will be assigned to the applicant selected for designation is as follows:

Bounded on the North by the northern Pulaski County line;

Bounded on the East by the eastern and southern Pulaski County lines; the eastern White County line; the eastern Carroll County line south to State Route 25; State Route 25 southwest to Tippecanoe County; the eastern Tippecanoe County line;

Bounded on the South by the southern Tippecanoe County line; the eastern and southern Fountain County lines west to U.S. Route 41; and

Bounded on the West by U.S. Route 41 north to the northern Benton County line; the northern Benton County line east to State Route 55; State Route 55 north to U.S. Route 24; U.S. Route 24 east to the White County line; the western White and Pulaski County lines.

The following locations, outside of the above contiguous geographic area, are part of this geographic area assignment: Boswell Grain Company, Boswell, Benton County; Dunn Grain, Dunn, Benton County; York Richland Grain Elevator, Inc., Earl Park, Benton County; Raub Grain Company, Raub, Benton County (located inside Champaign-Danville Grain Inspection Departments, Inc.'s, area); and The Andersons, Delphi, Carroll County; Buckeye Feed and Supply Company, Leiters Ford, Fulton County; andCargill, Inc., Linden, Montgomery County (located inside Frankfort Grain Inspection, Inc.'s, area).

Exceptions to Titus' assigned geographic area are the following locations inside Titus' area which have been and will continue to be serviced by the following official agency: Schneider Inspection Service, Inc.: Central Soya, and Farmers Grain, both in Winamac, Pulaski County.

Interested persons, including Fremont and Titus, are hereby given the opportunity to apply for designation to provide official services in the geographic areas specified above under the provisions of section 7(f) of the Act and § 800.196(d) of the regulations issued thereunder. Designation in the specified geographic areas is for the period beginning September 1, 1992, and ending August 31, 1995. Persons wishing to apply for designation should contact the Compliance Division at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated.

Authority: Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: February 14, 1992.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 92-4431 Filed 2-28-92; 8:45 am]

BILLING CODE 3410-EN-F

Request for Comments on the Applicants for Designation in the Geographic Areas Currently Assigned to the Enid (OK) and Erie (OH) Agencies

AGENCY: Federal Grain Inspection Service (FGIS).

ACTION: Notice.

SUMMARY: FGIS requests interested persons to submit comments on the applicants for designation to provide official services in the geographic areas currently assigned to Enid Grain Inspection Company, Inc. (Enid), and Dennis L. Boltenhouse dba Erie Grain Inspection Service (Erie).

DATES: Comments must be postmarked on or before April 16, 1992.

ADDRESSES: Comments must be submitted in writing to Homer E. Dunn, Chief, Review Branch, Compliance Division, FGIS, USDA, room 1647 South Building, P.O. Box 96454, Washington, DC 20090-6454. SprintMail users may respond to [A:ATTMAIL,O:USDA,ID:A36HDUNN]. ATTMAIL and FTS2000MAIL users may respond to !A36HDUNN. Telecopier users may send responses to the automatic telecopier machine at 202-720-1015, attention: Homer E. Dunn. All comments received will be made available for public inspection at the above address located at 1400 Independence Avenue, SW., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Homer E. Dunn, telephone 202-720-8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the January 2, 1992, **Federal Register** (57 FR 37), FGIS asked persons interested in providing official grain inspection in the Enid and Erie geographic areas to submit an application for designation. Applications were to be postmarked by February 3, 1992. Enid, and Dennis L. Boltenhouse, proposing to incorporate as Erie Grain Inspection Service, Inc. (Erie, Inc.), were the only applicants. Enid applied for the entire geographic area currently assigned to them. Erie, Inc., applied for the entire Erie geographic area.

FGIS is publishing this notice to provide interested persons the opportunity to present comments concerning the applicants for designation. Commenters are encouraged to submit reasons and pertinent data for support or objection to the designation of these applicants. All comments must be submitted to the Compliance Division at the above address.

Comments and other available information will be considered in making a final decision. FGIS will publish notice of the final decision in the **Federal Register**, and FGIS will send the applicants written notification of the decision.

Authority: Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: February 14, 1992.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 92–4432 Filed 2–28–92; 8:45 am]

BILLING CODE 3410-EN-F

Forest Service

Crown Jewel Mine, Okanogan National Forest, Okanogan County, WA

AGENCY: Forest Service, USDA; Department of Ecology, Washington State.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: Notice is hereby given that the USDA, Forest Service and the Washington State Department of Ecology will prepare an environmental impact statement (EIS) for a proposal to develop a producing mine for precious mineral extraction on Buckhorn Mountain. The Crown Jewel Mine project area is located approximately 21 miles east of Oroville, in T. 40 N., R. 30 E., WM, portions of sections 23, 24, 25 and T. 40 N., R. 31 E., portions of sections 19, 30. The proposed project is a mining operation consisting of an open pit mine, two waste rock dumps, one topsoil storage area, and numerous buildings for milling and office operations. The purpose of the EIS will be to develop and evaluate a range of alternatives for mining and related construction of roads and milling facilities. The alternatives will include a no action alternative, involving no mining or road construction, and additional alternatives to respond to issues generated during the public involvement (scoping) process. The proposed project will be in compliance with the direction in the December 1989 Okanogan National Forest Land and Resources Management Plan (Forest Plan) which provides the overall guidance for management of the area and the proposed projects for the next ten years. The agencies invite written comments on the scope of this project. In addition, the agencies give notice of this analysis so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATES: Comments concerning the scope and implementation of this proposal must be received by March 27, 1992.

ADDRESSES: Submit written comments and suggestions concerning the scope of the analysis to Elaine Zieroth, Project Coordinator, Tonasket Ranger District, P.O. Box 466, Tonasket, Washington 98855.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed action and environmental impact statement to Elaine Zieroth, Project Coordinator, Tonasket Ranger District, P.O. Box 466, Tonasket, Washington, 98855 (Phone: (509) 486–2186).

SUPPLEMENTARY INFORMATION: The Forest Service and Department of Ecology proposed Crown Jewel Mine Project ("PROJECT") would consist of one open pit mine, two waste rock dumps, one topsoil storage area, and numerous buildings for milling and office operations. Approximately 600 acres will be disturbed by the project out of an approximate 1150 acres of analysis area. Approximately 65 percent of the analysis area is on National Forest System (NFS) land, 25 percent is on Bureau of Land Management land (BLM), and 10 percent is on private land. The two waste rock dumps will be designed to contain approximately 105 million tons of rock and will disturb approximately 289 acres of land. The open pit mine will disturb approximately 90 acres. The project has an estimated life of 8 to 10 years and ore production will total approximately 8 to 10 million tons. The ore will be processed on site by conventional milling operations to recover precious metals. During construction, an estimated 200 and 250 temporary workers will be employed. Approximately 130 employees will work at the project during operations. The project will require approximately 600 acre feet of water per year. Power will be supplied by the Public Utility District of Okanogan County and will require approximately 8 megawatts per year. Drilling will be performed with track or truck-mounted blast hole drills. It is anticipated that ammonium nitrate/fuel oil will be the primary blasting agent. The mill facilities will be located adjacent to the mine and will process the ore using a modified conventional circuit which will be tailored to the specific characteristics of the Crown Jewel ore. The primary crushing circuit will be constructed adjacent to the pit and the griniding will take place in ball mills. All grinding activities occur inside of the mill building. Environmental analyses and measures will include reclamation, employee environmental education, spill prevention/emergency response planning, water quality monitoring of both surface and ground water, erosion and sediment control, air quality, wildlife protection and public safety. The slurry or tailings, which is comprised of dilute cyanide solution and solids, is proposed to be detoxified in the mill facility and piped to an engineer-designed disposal facility.

A number of issues have been identified to date. The major issues concern water quality and quantity, wildlife habitat, increased traffic, radioactivity, the use of toxic material for mineral extraction, potential spills, effects on the visual quality of the area, and potential Wild and Scenic Rivers.

This EIS will tier to the final EIS for the Forest Plan. The Forest Plan provides forest-wide standards and guidelines, management area standards and guidelines, and desired future conditions for the various lands on the Forest. This direction is provided for management practices that will be utilized during the implementation of the Forest Plan.

The Crown Jewel Mine Analysis Area contains about 1150 acres. The Analysis Area is allocated to the following Management Areas (MA):

—Approximately 17 percent of the NFS land is in MA 14 which is designed to provide wildlife diversity including deer winter range while producing merchantable wood fiber.

—Approximately 83 percent NFS land is in MA 25 which is designed to provide intensive timber and range management opportunities. This project will be in consistent with the Forest Plan although some alternatives may incorporate a Forest plan amendment.

The analysis will evaluate a range of alternatives. Alternatives to be evaluated range from no-action, with no mining or road construction to alternatives that fully develop the mineral and milling facilities.

Public participation will be especially important at several points during the analysis. The participating agencies will be seeking information, comments, and assistance from Federal, State, local agencies, Native American Tribes, and other individuals or organizations who may be interested in or affected by the proposed project. This input will be used in preparation of the Draft EIS. The scoping process includes:

1. Identifying potential issues.
2. Identifying major issues to be analyzed in depth.
3. Identifying issues which have been covered by a relevant previous environmental analysis.
4. Exploring additional alternatives based on themes which will be derived from issues recognized during scoping activities.
5. Identifying potential environmental effects of this project and alternatives (i.e., direct, indirect, and cumulative effects and connected actions).
6. Determining potential cooperating agencies and task assignments.
7. Notifying interested members of the public of opportunities to participate through meetings, personal contacts, or written comment. Keeping the public informed through the media and/or written material (e.g. newsletters, correspondence, etc.).

The Forest Service and the Washington State Department of Ecology will be joint lead agencies, in accordance with 40 CFR 1501.5(b), and are responsible for the preparation of the EIS. The USDI, Bureau of Land Management, and the Washington State Department of Natural Resources will be cooperating agencies in accordance with 40 CFR 1501.6.

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by December, 1992. At that time, copies of the draft EIS will be distributed to interested and affected agencies, organizations, and members of the public for their review and comment. EPA will publish a notice of availability of the draft EIS in the **Federal Register**. The comment period on the draft EIS will be 45 days from the date the EPA publishes the notice of availability in the **Federal Register**. It is very important that those interested in the management of the Okanogan National Forest participate at that time.

To assist the participating agencies in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible and may address the adequacy of the statement or the merit of the alternatives discussed (see Council on Environmental Quality regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3).

The participating agencies believe it is important to give reviewers notice of this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of a draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after the completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d. 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the participating agencies at a time when it can meaningfully be considered and responded to in the final EIS.

The final EIS is scheduled to be completed by March, 1993. In the final EIS, the participating agencies are required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making a decision regarding the proposal. Sam Gehr, Forest Supervisor, Okanogan National Forest, is the responsible official, and will make the decision regarding this proposal. As the responsible official he will document the decision and reasons for the decision in the Record of Decision.

That decision will be subject to Forest Service appeal regulations (36 CFR 217).

Dated: February 20, 1992

Don Lyon,

Acting Forest Supervisor.

[FR Doc. 92-4707 Filed 2-28-92; 8:45 am]

BILLING CODE 3410-11-M

Bohemia Mountain Timber Sale; Stikine Area, Tongass National Forest, Petersburg, Alaska; Intent To Prepare a Supplemental Environmental Impact Statement

On January 22, 1990 (55 FR 2123), a Notice of Intent to prepare an Environmental Impact Statement (EIS) for the proposed Bohemia Mountain Timber Sale was published in the **Federal Register**. A Record of Decision (ROD) was signed on September 30, 1991, to implement Alternative 5 of the Final Environmental Impact Statement for the Bohemia Mountain Timber Sale. The ROD was appealed and a Notice of Withdrawal of the Record of Decision was signed by Laura Nelson, Acting Forest Supervisor, on December 20, 1991.

This Notice of Intent (NOI) revises the previous NOI published in the **Federal Register** on January 22, 1990, to include a reanalysis of existing alternatives and issues. The Tongass Land Management Plan Revision Draft EIS evaluated rivers on the Tongass National Forest and found 112 revers tentatively eligible for further consideration as potential additions to the National Wild and Scenic River System. Duncan Salt Chuck Creek was determined to be eligible. The suitability phase of analysis for Duncan Salt Chuck Creek will occur in the Forest Plan Revision so it is considered within the context of all rivers on the Tongass National Forest.

The decisions required to be made are: 1) How and where should timber sales be scheduled in the immediate future to best address the issues and concerns identified as a result of ongoing scoping, and 2) Where and how should resource constraints suggested by the Tongass Land Management Plan (TLMP) land allocation be site specifically identified?

During the analysis the ID Team will explore opportunities to schedule volume ranging from 10 MMBF to 50 MMBF for harvest during the first entry.

Scoping has occurred throughout the planning process. Federal, State, and local agencies; potential contractors; and other individuals or organizations who may be interested in, or affected by the decision are invited to participate in the scoping process.

The comment period on the Draft Supplemental EIS will be 45 days from the date on which notice of availability of the Draft Supplemental EIS is published in the **Federal Register**. It is very important that those interested in these proposed activities participate at that time. To be most helpful, comments on the Draft Supplemental EIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed.

In addition, Federal court decisions have established that reviewers of Draft EISs must structure their participation so that it is meaningful and alerts an agency to the reviewer's position and contentions. Environmental objections that could have been raised at the Draft stage may be waived if not raised until after completion of the Final EIS. The reason for this is so substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the Final EIS.

This reanalysis will take approximately six additional months to complete. The Draft Supplemental EIS should be available for public review by April 1, 1992. The Final Supplemental EIS is scheduled for completing in July 1992.

Abigail R. Kimbell, Forest Supervisor, Stikine Area, Tongass National Forest, is the responsible official.

Written comments and suggestions concerning the analysis and Supplemental Environmental Impact Statement should be sent to Tammy Malone, ID team Leader, Supervisor's Office, Stikine Area, Tongass National Forest, P.O. Box 309, Petersburg, Alaska, 99833, phone (907) 772–3841.

Dated: February 8, 1992.

Abigail R. Kimbell,

Forest Supervisor.

[FR Doc. 92–4740 Filed 2–28–92; 8:45 am]

BILLING CODE 3410-11-M

Oil and Gas Leasing, Umatilla and Malheur National Forests

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare environmental impact statement.

In the matter of Umatilla National Forest, Asotin, Columbia, Garfield, and Walla Walla Counties, WA; Baker, Grant, Morrow, Umatilla, Union, Wallowa, and Wheeler Counties, OR; Malheur National Forest, Grant, Harney, Baker, and Malheur Counties, OR.

SUMMARY: The USDA Forest Service will prepare an environmental impact statement (EIS) on a proposal to identify Umatilla and Malheur National Forest lands that would be available for oil and gas leasing. An interest in these lands has been expressed by the oil and gas industry. Under the Federal Onshore Oil and Gas Leasing Reform Act of 1987 and 36 CFR Part 228 regulations, the Forest Service authorizes the Bureau of Land Management (BLM) to offer National Forest System lands for oil and gas leasing. The decision to authorize leasing will be made in a two-part analysis process. The first part identifies the lands that are administratively available for leasing and under which stipulation, if any. The second part authorizes the BLM to offer leases for specific lands. Both the administratively available decision, and the leasing decision for specific lands, are being made through this document. The BLM may offer the specific lands for lease subject to the Forest Service ensuring that correct stipulations will be attached to leases issued by BLM. Except where stipulations prohibits all surface use, operations and development may be allowed on the leased lands.

Such activity is subject to the operator obtaining an approved Surface Use Plan of Operations from the Forest Service in accordance with 36 CFR subpart E, 228.106 and 228.107.

DATES: Comments concerning the scope of the analysis should be received in writing by March 31, 1992.

ADDRESSES: Send written comments to Umatilla National Forest 2517 SW. Hailey Ave., Pendleton, OR 97801.

FOR FURTHER INFORMATION CONTACT: Russell Betts, Recreation, Lands and Minerals Program Manager, phone (503) 276–3811.

SUPPLEMENTARY INFORMATION: The Umatilla and Malheur National Forests propose to identify lands under their jurisdiction that are available for oil and gas leasing. The decisions reached through this analysis will meet Forest Plan standards and guidelines and may result in an amendment to the Umatilla and Malheur National Forest Land and Resource Management Plans. The Regional Forester will then notify the BLM as to which lands are available for leasing.

The EIS will address the environmental effects of leasing in the various management areas defined in the Umatilla and Malheur National Forest Land and Resources Management Plans that were approved in June and May, 1990, respectively. The scope of the EIS will be confined to those issues of oil and gas leasing and will not address the land allocations that were made in the Forest Plans. Classified wildernesses are legally excluded from leasing.

Each Management Area will be map identified and placed in one of the following categories: (1) Lands which are legally unavailable for leasing; (2) Lands which are administratively unavailable for leasing; (3) Lands which are open to oil gas leasing subject to the terms and conditions of the standard oil and gas lease form; and (4) Lands which are open to oil and gas leasing but subject to stipulations that would prohibit surface use on areas larger than 40 acres or that would delay surface activities for more than 60 days.

Separate maps will be provided to show where the various stipulations would apply. Narratives will state why stipulations are considered necessary and how they contribute toward achieving multiple use goals in a cost-effective manner.

Riparian area disturbance, visual impacts, and social and economic impacts have been identified as preliminary issues. This list of issues will be verified, expanded, or modified based on public scoping for this proposal.

This EIS will be based on the type and amount of post-leasing activity that is reasonably foreseeable within the next 10 years. Under an interagency agreement between the Forest Service and the BLM, the BLM has assessed the potential for oil and gas occurrence and established a reasonably foreseeable development scenario for the Umatilla and Malheur National Forests. The BLM estimates that one to three exploratory wells will be drilled during the next ten years. Each exploratory well would require two to six acres for a well pad and an average of one-quarter mile of access road. The estimated success rate for these wells would be no more that 10 percent. No field development is expected to occur in the next 10 years.

Public participation will be especially important at several points during the analysis. No public scoping meetings are planned but through a letter the Forest Service will be seeking information from Federal, State, and local agencies, tribes, and other individuals or organizations who may be interested in or affected by the proposed action. This information will be used in preparation of the draft EIS. The scoping process includes:

1. Identifying potential issues;
2. Identifying issues to be analyzed in depth;
3. Eliminating insignificant issues or those which have been covered by the Forest Land and Resource Management Plans Final EIS;

4. Developing alternatives;

5. Identifying potential environmental effects of the alternatives (i.e. direct, indirect and cumulative effects and connected actions); and

6. Determining potential cooperating agencies and task assignments.

The following alternatives have been identified: (1) No action alternative (closed to leasing); (2) Open to development and subject only to the terms and conditions of the standard lease form; and (3) Open to development but subject to lease stipulations to protect other resources. Additional alternatives may be developed during the scoping or analysis processes.

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and available for public review by January, 1993. At that time, copies of the draft EIS will be distributed to interested and affected agencies, organizations, and members of the public for their review and comment. EPA will publish a notice of availability of the draft EIS in the **Federal Register**. The comment period on the draft EIS will be 45 days from the date the EPA publishes the notice of availability in the **Federal Register**. The USDA Forest Service is the lead agency for this proposal and the USDI Bureau of Land Management is the cooperating agency.

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft EIS. Comments may also address the adequacy of the draft EIS or merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

The final EIS is scheduled to be completed by July, 1993. In the final EIS, the Forest Service is required to respond to comments and responses received during the review period. Jeff D. Blackwood and Mark A. Boche, Forest Supervisors, Umatilla and Malheur National Forests, respectively, are the responsible officials. As the responsible officials, they will document the decisions and reasons for the decisions in the Records of Decision. The decisions will be subject to Forest Service appeal regulations (36 CFR part 217).

Dated: February 4, 1992.

Lyle E. Jensen,

Planning Staff, Umatilla National Forest.

Dated: February 13, 1992.

Mark A. Boche,

Forest Supervisor, Malheur National Forest.

[FR Doc. 92–4708 Filed 2–28–92; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Export Administration.

Title: Antifriction Bearing Industry.

Form Number: Ref. #76; Defense Production Act of 1950, Section 705.

OMB Approval Number: N/A.

Type of Request: New Collection.

Burden: 788 reporting/recordkeeping hours.

Number of Respondents: 113.

Avg Hours Per Response: Ranges between 4 and 12 hours depending on size of firm.

Needs and Uses: Information will be collected from Antifriction bearing firms in the defense subcontractor base to assess Defense procurement policy and related economic analysis. The purpose of the collection is to evaluate the Defense Federal Acquisition Regulation requiring domestic manufacture of defense procured bearings.

Affected Public: Businesses or other for-profit institutions; small businesses or organizations.

Frequency: One-time only.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Gary Waxman, (202) 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 377–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Gary Waxman, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: February 26, 1992.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 92–4791 Filed 2–28–92; 8:45 am]

BILLING CODE 3510-CW

Bureau of the Census

[Docket No. 920249–2049]

Annual Retail Trade Survey

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of determination.

SUMMARY: In accordance with title 13, United States Code, sections 182, 224, and 225, I have determined the Census Bureau needs the 1991 annual retail trade data to provide a sound statistical basis for the formation of policy by various government agencies. These data also serve a variety of public and business needs. This annual survey is a continuation of similar surveys that we have conducted each year since 1951 (except 1954). It provides, on a comparable classification basis, annual sales, purchases of merchandise, accounts receivable balances, and year end inventories for 1990 and 1991. These data are not available publicly on a timely basis from nongovernmental or other governmental sources.

FOR FURTHER INFORMATION CONTACT: Ronald Piencykoski or Dorothy Engleking on (301) 763–5294.

SUPPLEMENTARY INFORMATION: The Census Bureau is authorized to take surveys necessary to furnish current data on the subjects covered by the major censuses authorized by title 13, United States Code. This survey will provide continuing and timely national statistical data on retail trade for the period between Economic Censuses.

The next Economic Census will be conducted for 1992. The data collected in this survey will be within the general scope and nature of those inquiries covered in the Economic Census.

The Census Bureau will require a selected sample of firms operating retail establishments in the United States (with sales size determining the probability of selection) to report in the 1991 Annual Retail Trade Survey. We will furnish report forms to the firms covered by this survey and will require their submissions within 30 days after receipt.

This survey has been submitted to the Office of Management and Budget, in accordance with the Paperwork Reduction Act, Public Law 96–511, as amended, and was cleared under OMB Control No. 0607–0013. We will provide copies of the form upon written request to the Director, Bureau of the Census, Washington, DC 20233.

CONCLUSION: Based upon the foregoing, I have directed that an annual survey be conducted for the purpose of collecting these data.

Dated: February 24, 1992.

Bryant Benton,

Acting Director, Bureau of the Census.

[FR Doc. 92–4674 Filed 2–28–92; 8:45 am]

BILLING CODE 3510-07-M

Economic Development Administration

Petitions by Producing Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: To give firms an opportunity to comment.

Petitions have been accepted for filing on the dates indicated from the firms listed below.

Firm name	Address	Date petition accepted	Product
Abco Tool & Die, Inc.	11 Thornton Drive, Hyannis, MA 02601.	01/21/92	Custom plastic molds made from steel used by plastic companies.
Beall Manufacturing.	P.O. Box 70, East Alton, IL 62024.	02/03/92	Sweeps and points, cultivating equipment parts and lock and track washers.
Seymour Frank General Woodworking, Inc.	135 Essex Avenue East, Avenel, NJ 07001.	02/04/92	High pressure laminated office furniture.
Phoenix Products, Inc.	207 North Broadway/Box 109, Berea, KY 40403.	02/06/92	Kayaks.
Delaware Diamond Knives, Inc.	3825 Lancaster Pike, Wilmington, DE 19805.	02/07/92	Diamond ultramicrotomy knives.
F.P. Rosback Company	125 Hawthorne Avenue, St. Joseph, MI 49085.	02/07/92	Book binding machinery.
Karnik and Ayda Bargrian D/B/A/ Western Sewing.	4551 San Fernando Road, #104, Glendale, CA 91204.	02/07/92	Women's dresses, shirts, skirts and shorts.
Basil-Walker Tool Company, Inc.	623 Young Street, Tonawanda, NY 14150.	02/12/92	Injection type molds for rubber or plastic and molds, nesoi, for metal.
Barkliff Corporation.	180 Madison Avenue, New York, NY 10016.	02/12/92	Adult running shorts, women's gowns, panties tops and bottoms.
Hyman Brickle & Son, Inc.	235 Singleton Street, Woonsocket, RI 028955.	02/12/92	Blended wool fibers and blended wool blankets.
Moot Wood Turnings, Inc.	Mill Street, Box 300, Northfield, VT 05664.	02/12/92	Baseball bats, furniture products, household products, gavels, billy clubs, and wood toys.
Exolon-Esk Company.	1000 East Niagara Street, Box 590, Tonawanda, NY 14151–0590.	02/14/92	Aluminum oxide, silicon carbide, and fused magnesium.
Ling Electronics, Inc.	4890 E. La Palma Avenue, Box 6177C, Anaheim, CA 92806.	02/14/92	Vibration test equipment.

The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Trade Adjustment Assistance Division, room 4015A, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted in 11.313, Trade Adjustment Assistance.

Dated: February 25, 1992.

Steven R. Brennen,

Acting Deputy Assistant Secretary for Program Operations.

[FR Doc. 92–4750 Filed 2–28–92; 8:45 am]

BILLING CODE 3510-24-M

Foreign-Trade Zones Board

[Order No. 562 (FTZ Docket 39-91)]

Temporary Extension of Authority Foreign-Trade Subzone 23B CPS (Formerly Greater Buffalo Press) Ink Plant Chautauqua Co., NY

Pursuant to the authority granted in the Foreign-Trade Zones (FTZ) Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Resolution and Order:

Whereas, in 1986, the Foreign-Trade Zones Board (the Board) granted authority to the County of Erie, New York, to establish Foreign-Trade Subzone 23B at the ink manufacturing facilities of CPS division of Greater Buffalo Press, Inc. (GBP), Chautauqua County, New York, for a period of 5 years, subject to extension, and subject to restrictions requiring the election of privileged foreign status (19 CFR 146.41) on pigments used in the production of ink sold to domestic printing plants not affiliated with GBP and on ink produced in excess of 21 million pounds annually (Board Order 332, 56 FR 18466, 5/20/86);

Whereas, the ink manufacturing facilities of GBP were sold and are now owned and operated by CPS Corporation, a subsidiary of INX International, Inc.;

Whereas, on July 2, 1991, the County of Erie made application to the Board for an indefinite extension of authority for Subzone 23B;

Whereas, the Board has commenced a review and temporarily extended authority for the subzone to February 25, 1992 (56 FR 42309, 8/27/91), pending completion of the review;

Whereas, the review of the request for an indefinite extension is still underway and will not be completed by the February 25, 1992, expiration date; and,

Whereas, the FTZ Staff has recommended that a further extension of authority would be in the public interest pending completion of the review;

Now, Therefore, The Board hereby orders:

That subzone status for SZ 23B is further extended temporarily to December 31, 1992, subject to all of the other conditions in Board Order 332, pending completion of the review of the application (FTZ Docket 39-91) for an indefinite time extension.

Signed at Washington, DC, this 25th day of February 1992, pursuant to Order of the Board.

Alan M. Dunn,

Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

Attest: John J. Da Ponte, Executive Secretary.

[FR Doc. 92-4792 Filed 2-28-92; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-602-039]

Canned Bartlett Pears From Australia; Intent To Revoke Antidumping Finding

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of intent to revoke antidumping finding.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the antidumping finding on canned bartlett pears from Australia. Interested parties who object to this revocation must submit their comments in writing no later than March 31, 1992

EFFECTIVE DATE: March 2, 1992.

FOR FURTHER INFORMATION CONTACT: David Levy or Melissa Skinner, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-4851.

SUPPLEMENTARY INFORMATION:

Background

On March 23, 1973, the Department of Treasury published an antidumping finding on canned bartlett pears from Australia (38 FR 7566). The Department has not received a request to conduct an administrative review of this finding for the most recent four consecutive annual anniversary months.

The Department may revoke an antidumping duty order or finding if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by § 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this antidumping finding.

Opportunity to Object

No later than March 31, 1992, interested parties, as defined in § 353.2(k) of the Department's regulations, may object to the Department's notice of opportunity to request administrative review, or object to the Department's intent to revoke this antidumping finding.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B-099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties do not request an administrative review by March 31, 1992, in accordance with the Department's notice of opportunity to request administrative review, or object to the Department's intent to revoke by March 31, 1992, we shall conclude that the finding is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 353.25(d).

Dated: February 25, 1992.

Roland L. McDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 92-4793 Filed 2-28-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-570-002]

Chloropicrin From the People's Republic of China; Intent To Revoke Antidumping Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of intent to revoke antidumping duty order.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the antidumping duty order on chloropicrin from the People's Republic of China. Interested parties who object to this revocation must submit their comments in writing no later than March 31, 1992.

EFFECTIVE DATE: March 2, 1992.

FOR FURTHER INFORMATION CONTACT: Michael Rill or Richard Rimlinger Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-4733

SUPPLEMENTARY INFORMATION:

Background

On March 22, 1984, the Department of Commerce ("the Department") published an antidumping duty order on chloropicrin from the People's Republic of China (49 FR 10691). The Department has not received a request to conduct an administrative review of this order for the most recent four consecutive annual anniversary months.

The Department may revoke an antidumping duty order or finding if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by § 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this antidumping duty order.

Opportunity to Object

No later than March 31, 1992, interested parties, as defined in § 353.2(k) of the Department's regulations, may object to the Department's intent to revoke this antidumping duty order.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B–099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties do not request an administrative review by March 31, 1992, in accordance with the Department's notice of opportunity to request administrative review, or object to the Department's intent to revoke by March 31, 1992, we shall conclude that the antidumping duty order is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 353.25(d).

Dated: February 25, 1992.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 92–4794 Filed 2–28–92; 8:45 am]

BILLING CODE 3510-DS-M

Brookhaven National Laboratory, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 91–073R. *Applicant:* Brookhaven National Laboratory, Upton, NY 11973. *Instrument:* Photoelectron Spectrometer. *Manufacturer:* VSW, United Kingdom. *Intended Use:* See notice at 56 FR 25412, June 4, 1991. *Reasons:* The foreign instrument provides an angular resolved analyzer which can rotate horizontally and vertically around the sample specimen with an angular resolution of 2°. *Advice Submitted By:* National Institute of Standards and Technology, January 29, 1992.

Docket Number: 91–140. *Applicant:* Laser Medical Research Foundation, Columbus, OH 43215. *Instrument:* Laser. *Manufacturer:* Scientific Research and Manufacturing Corporation, CIS. *Intended Use:* See notice at 56 FR 51880, October 16, 1991. *Reasons:* The foreign instrument provides: (1) An electron beam pumped laser, (2) output of 5.0 W cw at 630 nm, (3) a raster scan resolution of 1000 × 1000 pixels and (4) a scan rate of 60 to 100 frames per second. *Advice Submitted By:* National Institutes of Health, January 14, 1992.

Docket Number: 91–175. *Applicant:* Oregon State University, Corvallis, OR 97331–5503. *Instrument:* Deep Ocean Particle Sampler. *Manufacturer:* Challenger Oceanic Systems and Services, United Kingdom. *Intended Use:* See notice at 57 FR 399, January 6, 1992. *Reasons:* The foreign instrument provides programmable in situ filtration and capture of particles in water columns with a flow rate to 1200 liters of water per hour to a depth of more than 5000m. *Advice Received From:* The National Ocean Service, February 4, 1992.

Docket Number: 91–178. *Applicant:* Research Foundation, State University of New York, Stony Brook, NY 11794. *Instrument:* Tandem Fabry-Perot Interferometer. *Manufacturer:* J.R. Sandercock, Switzerland. *Intended Use:* See notice at 57 FR 400, January 6, 1992. *Reasons:* The foreign instrument provides a 3-pass dynamically isolated tandem system with contrast in the range 10^9 to 10^{11} and optimal dynamic range with minimal drift. *Advice Received From:* National Institute of Standards and Technology, February 3, 1992.

The National Institute of Standards and Technology, National Institutes of Health and National Ocean Service advise that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 92–4795 Filed 2–28–92; 8:45 am]

BILLING CODE 3510-DS-M

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897; 15 CFR 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used. are being manufactured in the United States.

Comments must comply with Subsections 301.5(a)(3) and (4) of the regulations and be filed within 30 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC.

Docket Number: 92–012. *Applicant:* Howard Hughes Medical Institute, Center for Neural Science, New York University, 4 Washington Place, room 809, New York, NY 10003. *Instrument:* Special Purpose Manipulator, Model MK2. *Manufacturer:* A.J. Neuro-Institute. United Kingdom. *Intended Use:* The instrument will be used in research which concerns the function and development of the visual system, especially the visual areas of the primate cerebral cortex. The main experimental tools are electrophysiological recording and quantitative analysis of the visually-evoked activity of single neurons. *Application Received by Commissioner of Customs:* February 3, 1992.

Docket Number: 92–013. *Applicant.* University of California, Los Alamos National Laboratory, P.O. Box 990, Los Alamos, NM 87545. *Instrument:* Automatic Bubble Reader System, Model BDR-Series II. *Manufacturer:* Bubble Technology, Inc., Canada. *Intended Use:* The instrument will be used for the study of neutron exposure to personnel from $^{238}PuO_2$ fuel. Operators who are exposed to neutron radiation will wear bubble dosimeters while performing their job duties. Their neutron dose will be ascertained by using the reader system to analyze the dosimeters. *Application Received by*

Commissioner of Customs: February 3, 1992.

Docket Number: 92–014. *Applicant:* SUNY, State College of Optometry, 100 East 24th Street, New York, NY 10010. *Instrument:* Infra-red Autorefractor, Model R 1. *Manufacturer:* Canon, Japan. *Intended Use:* The instrument will be used to investigate changes in the interaction of accommodation and vergency during the development of presbyopia. The investigations will involve six experiments designed to examine the age-related changes in the near-visual system. In addition to the research, the instrument will be used for a number of clinical and teaching purposes including: (a) The laboratory program as part of the optometric theory course involving comparative assessment of autorefractors, (b) vision training labs and related patients clinics, (c) physiological optics teaching laboratories and (d) ocular disease clinics to assess the accommodative response associated with pathological conditions. *Application Received by Commissioner of Customs:* February 4, 1992.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 92–4796 Filed 2–28–92; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Caribbean Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Caribbean Fishery Management Council (Council's) Scientific and Statistical Committee (SSC) and its Advisory Panel (AP) will hold public meetings on March 10-11, 1992. Both meetings on March 10 will be held from 10 a.m. until 5 p.m., and on March 11 from 9 a.m. until 12 noon.

The SSC will convene at the Council's headquarters (address below), and the AP at the Colegio de Ingenieros y Agrimensores, Nin and Skerret Streets, Hato Rey, P.R. The meetings will be conducted in English.

For more information contact Miguel A. Rolon, Executive Director, Caribbean Fishery Management Council, Banco de Ponce Building, Suite 1108, Hato Rey, Puerto Rico 00918–2577; telephone: (809) 766–5926.

Dated: February 26, 1992.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92–4758 Filed 2–28–92; 8:45 am]

BILLING CODE 3510-22-M

Western Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council's Scientific and Statistical Committee (SSC) will hold its 51st meeting on March 11–13, 1992, at two different locations. On March 11 and 12, the SSC will meet at the Hawaii Maritime Center, Pacific room, Pier 7, Honolulu, Harbor, Honolulu, HI. The meeting will begin at 1:30 p.m., on March 11, and be reconvened at 9 a.m. on March 12. On March 13, the SSC will reconvene at 9 a.m. at the Hawaii Department of Land and Natural Resources, Kalanimoku Building Boardroom, 1151 Punchbowl Street, Honolulu, HI. The SSC will address the following items.

Crustaceans Fishery Management Plan: Discussion of recommendations regarding alteration of management strategy; including opening Layson Island to fishing; individual quotas, species quotas. Recommendations will be forwarded to the Council when it meets the following week.

Bottomfish Fishery Management Plan: Status reports on Federal permits.

Pelagics Fishery Management Plan: Discussion of longline moratorium and 3 year data plan; allowing vessels fishing exclusively outside the EEZ to land fish in Hawaii; longline area closures, including possible modification of area closures; and request for moratorium/limited entry when it meets the following week.

Program Planning: Discussion of mandatory reporting of catch and effort by all user groups catching Pelagic Management Unit Species. Recommendations will be forwarded to the Council when it meets the following week.

Fishery Rights of Indigenous People: Discussion of indigenous rights amendment to Pelagics Fishery Management Plan.

For more information contact Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, suite 1405, Honolulu, HI 96813; telephone: (808) 523–1368; fax: (808) 526–0824.

Dated: February 25, 1992.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92–4759 Filed 2–28–92; 8:45 am]

BILLING CODE 3510-22-M

Western Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council's (Council's) Pelagics Advisory Panel (Hawaii Members only) will meet on March 11, 1992, at the McCoy Pavilion, Ala Moana Park, 1201 Ala Moana Boulevard, Honolulu, HI. The meeting will begin at 9 a.m.

The agenda is as follows: (1) Discussion of longline moratorium and 3 year data plan; (2) allowing vessels fishing exclusively outside the EEZ to land fish in Hawaii; (3) longline area closures, including possible modification of area closures; and (4) request for moratorium/limited entry program in tuna handline fishery. Recommendations will be forwarded to the Council when it meets the following week.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, suite 1405, Honolulu, HI 96813; telephone: (808) 523–1368.

Dated: February 25, 1992.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92–4760 Filed 2–28–92; 8:45 am]

BILLING CODE 3510-22-M

Travel and Tourism Administration

Travel and Tourism Advisory Board Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. (App. 1976) notice is hereby given that the Travel and Tourism Advisory Board of the U.S. Department of Commerce will meet on March 26, 1992, at 9 a.m. at the Department of Commerce, room 5855, in Washington, DC.

Established March 19, 1982, the Travel and Tourism Advisory Board consists of 15 members, representing the major segments of the travel and tourism industry and state tourism interests, and includes one member of a travel labor organization, a consumer advocate, an academician and a financial expert.

Members advise the Secretary of Commerce on matters pertinent to the Department's responsibilities to accomplish the purpose of the National Tourism Policy Act (Pub. L. 97-63), and provide guidance to the Assistant Secretary for Tourism Marketing in the preparation of annual marketing plans.

Agenda items are as follows:

I. Call to Order
II. Roll Call.
III. Visitor Processing
IV. Visa Waiver.
V. Congressional Issues
VI. SIC Codes and Alternate Measurement Systems
VII. Miscellaneous
VIII. Adjournment.

A very limited number of seats will be available to observers from the public and the press. To assure adequate seating, individuals intending to attend should notify the Committee Control Officer in advance. The public will be permitted to file written statements with the Committee before or after the meeting. To the extent time is available, the presentation of oral statements is allowed.

Karen M. Cardran, Committee Control Officer, United States Travel and Tourism Administration, room 1860, U.S. Department of Commerce, Washington, DC 20230 (telephone: 202-377-1904) will respond to public requests for information about the meeting.

John G. Keller, Jr.,

Under Secretary of Commerce for Travel and Tourism.

[FR Doc. 92-4797 Filed 2-28-92; 8:45 am]

BILLING CODE 3510-11-M

DEPARTMENT OF DEFENSE

Office of the Secretary

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

SUMMARY: The DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Wednesday, 11 March 1992.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, Inc., 2011 Crystal Drive, One Crystal Park, suite 307, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Becky Terry, AGED Secretariat, 2011 Crystal Drive, One Crystal Park, suite 307, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Acquisition, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The AGED meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The agenda for this meeting will include programs on Radiation Hardened Devices, Microwave Tubes, Displays and Lasers. The review will include details of classified defense programs throughout.

In accordance with section 10(d) of Public Law No. 92-463, as amended, (5 U.S.C. App. II 10(d) (1988)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly, this meeting will be closed to the public.

Dated: February 26, 1992.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92-4753 Filed 2-28-92; 8:45 am]

BILLING CODE 3810-01-M

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

SUMMARY: Working Group A (Microwave Devices) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0800, Thursday, 12 March 1992.

ADDRESSES: The meeting will be held at the Palisades Institute for Research Services, Inc., 2011 Crystal Drive, One Crystal Park, suite 307, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Walter Gelnovatch, AGED Secretariat, 2011 Crystal Drive, suite 307, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Acquisition, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave devices, electronic warfare devices, millimeter wave devices, and passive devices. The review will include details of classified defense programs throughout.

In accordance with section 10(d) of Public Law 92-463, as amended, (5 U.S.C. App. II 10(d) (1988)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly, this meeting will be closed to the public.

Dated: February 26, 1992.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92-4751 Filed 2-28-92; 8:45 am]

BILLING CODE 3810-01-M

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

SUMMARY: Working Group C (Mainly Opto-Electronics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 1000, Thursday, 12 March 1992 and 0900, Friday, 13 March 1992.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, Inc., 2011 Crystal Drive, One Crystal Park, suite 307, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Gerald Weiss, AGED Secretariat, 2011 Crystal Drive, suite 307, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Acquisition, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This opto-electronic device area includes such programs as imaging device, infrared detectors and lasers. The review will include details of classified defense programs throughout.

In accordance with section 10(d) of Public Law No. 92-463, as amended, (5

U.S.C. App. II 10(d) (1988)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly, this meeting will be closed to the public.

Dated: February 26, 1992.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–4752 Filed 2–28–92; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Availability of Implementation Plan; Nuclear Weapons Complex Reconfiguration Programmatic Environmental Impact Statement

AGENCY: Department of Energy.

ACTION: Notice of availability, implementation plan for the nuclear weapons complex reconfiguration programmatic environmental impact statement.

SUMMARY: Department of Energy (DOE) announces the availability of the Implementation Plan for the Nuclear Weapons Complex Reconfiguration Programmatic Environmental Impact Statement (PEIS). The Implementation Plan provides guidance for the preparation of the PEIS and records the issues identified as a result of the scoping process for the PEIS. It provides information regarding the alternatives and issues to be analyzed in the PEIS.

ADDRESSES AND FURTHER INFORMATION: A copy of the Implementation Plan or its Executive Summary may be obtained upon request to: Weapons Complex Reconfiguration Office, DP–40, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, Attn: Implementation Plan, (202) 586–2700.

Request for further information on the DOE nuclear weapons complex reconfiguration program may be directed to the same office.

The addresses of the DOE public reading rooms established for this project are provided below.

SUPPLEMENTARY INFORMATION: On February 11, 1991, DOE published a Notice of Intent (NOI) to prepare a PEIS on reconfiguring the nuclear weapons complex (56 FR 5590). The PEIS is being prepared pursuant to the National Environmental Policy Act (NEPA), as amended (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality (CEQ) regulations implementing NEPA (40 CFR parts 1500–1508), and DOE Guidelines for compliance with NEPA (52 FR 47662), as amended (54 FR 12474 and 55 FR 37174).

On November 1, 1991, the Secretary of Energy announced his decision to incorporate the environmental impact analysis for the DOE New Production Reactor (NPR) capacity proposal into the Reconfiguration PEIS and include NPR siting and technology decisions in the Reconfiguration Record of Decision. DOE invited the public to comment on incorporating the tritium capacity analysis into the Reconfiguration PEIS on November 29, 1991 (56 FR 60985). The Implementation Plan takes these comments into account.

On January 27, 1992, DOE provided public notice of its plans to prepare an environmental assessment (EA) on its proposal to consolidate certain nonnuclear facilities in the weapons complex (57 FR 3046). This analysis was originally envisioned as being a part of the Reconfiguration PEIS. The Implementation Plan discusses this proposal and the relationship between the proposed EA and the Reconfiguration PEIS.

The Implementation Plan also takes into account recent Presidential initiatives, announced on September 27, 1991, and January 28, 1992, to downsize the Nation's nuclear weapons arsenal. The alternatives analyzed in the PEIS and the EA will be based on a weapons complex production capability size for the reduced stockpile anticipated in the next century.

The Implementation Plan describes a range of alternatives to address siting and technology issues related to plutonium functions, tritium supply, uranium functions, assembly and disassembly functions, and research, development and testing functions performed by the nuclear weapons complex. The PEIS will analyze nuclear weapons complex functions currently conducted at the following sites:

- Idaho National Engineering Laboratory (Idaho Falls, Idaho).
- Lawrence Livermore National Laboratory (Livermore, California).
- Los Alamos National Laboratory (Los Alamos, New Mexico).
- Nevada Test Site (Las Vegas, Nevada).
- Pantex Plant (Amarillo, Texas).
- Rocky Flats Plant (Denver, Colorado).
- Sandia National Laboratories (Albuquerque, New Mexico).
- Savannah River Site (Aiken, South Carolina).
- Y–12 Plant (Oak Ridge, Tennessee).

In addition, the PEIS will analyze whether certain weapons complex functions should be located at the Hanford Site (Richland, Washington). The Implementation Plan may be revised, as necessary, during preparation of the PEIS.

Copies of the Implementation Plan have been placed in the fourteen public reading rooms established for the Reconfiguration PEIS. The location of these rooms are as follows.

DOE Public Reading Rooms

California

U.S. Department of Energy, San Francisco Field Office, 1333 Broadway, Oakland, California 94612, (415) 273–4428

Colorado

U.S. Department of Energy, Rocky Flats Public Reading Room, Front Range Community College Library, 3645 West 112th Avenue, Westminster, Colorado 80030, (303) 469–4435

Florida

U.S. Department of Energy, Public Reading Room, Largo Public Library, 351 East Bay Drive, Largo, Florida 34640, (813) 587–6715

Idaho

U.S. Department of Energy, Idaho Field Office, Public Reading Room, 1776 Science Center Drive, P.O. Box 1625, Idaho Falls, Idaho 83402, (208) 526–1191

Illinois

U.S. Department of Energy, Chicago Field Office, 9800 South Cass Avenue, Argonne, Illinois 60439, (708) 972–2010

Missouri

U.S. Department of Energy, Public Reading Room, Red Bridge Branch, Mid-Continent Public Library, 11140 Locust Street, Kansas City, Missouri 64137, (816) 942–1780

New Mexico

U.S. Department of Energy, Albuquerque Field Office, Pennsylvania and H Streets, P.O. Box 5400, Kirkland Air Force Base, New Mexico 87115, (505) 845–5163

Nevada

U.S. Department of Energy, Nevada Field Office, 2753 South Highland Drive, Las Vegas, Nevada 89193, (702) 295–1274

Ohio

Miamisburg Library, 35 South Fifth Street, Miamisburg, Ohio 45342, Attn: Department of Energy Public Reading Room, (513) 866–1071

South Carolina

U.S. Department of Energy Reading Room, University of South Carolina, Aiken Campus, Writing Center, 171 University Parkway, Aiken, South Carolina 29801, (803) 648–6851, Extension 3262

Tennessee

U.S. Department of Energy, Oak Ridge Field Office, Freedom of Information Officer, 200 Administration Road, room G–209, P.O. Box 2001, Oak Ridge, Tennessee 37831, (615) 576–9344 or 576–1216

Texas

U.S. Department of Energy Reading Room, Lynn Library—Learning Center, Amarillo College, 2201 South Washington Street, Amarillo, Texas 79109, (806) 371–5400

Washington

U.S. Department of Energy, Richland Field Office, 825 Jadwin Avenue, room 157, P.O. Box 1970, Mail Stop Al–65, Richland, Washington 99352, (509) 376–8583

Washington, D.C.

U.S. Department of Energy, Freedom of Information Reading Room, room 1E–190, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 586–6020

For information on the availability of specific documents and hours of operation, please contact the reading rooms at the telephone numbers provided.

Issued in Washington, DC this 26th day of February 1992.

Richard A. Claytor,

Assistant Secretary for Defense Programs.

[FR Doc. 92–4799 Filed 2–28–92; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. JD92–03816T Texas-49]

State of Texas; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

February 24, 1992.

Take notice that on February 18, 1992, the Railroad Commission of Texas (Texas) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Wilcox Meek Sand Formation in Fort Bend County, Texas, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978 (NGPA). The area of application includes portions of the following surveys:

Survey	Abstract	Section
Gail Borden Jr	A–12	4
German Emigration	A–176	6
Barry West	A–345	5
Andrew Moore	A–293	3
Jermiah S. O'Connor	A–66	6
Shelby, Frazier & McCormick.	A–65	6

The notice of determination also contains Texas' findings that the referenced portions of the Wilcox Meek Sand Formation meet the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 92–4692 Filed 2–28–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. JD92–03817T Texas-9 Addition 11]

State of Texas; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

February 24, 1992.

Take notice that on February 18, 1992, the Railroad Commission of Texas (Texas) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Upper Travis Peak Formation in Smith and Cherokee Counties, Texas, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978 (NGPA). The area of application consists of 5,953 acres described as follows:

Survey	Abstract	County	Acres
J.M. Procella	A–17	Smith	2111
J.M. Porcella	A–43	Cherokee	2882
Charles Summerville.	A–939	Smith	480
Wm M. Smith	A–938	Smith	480

The notice of determination also contains Texas' findings that the referenced portions of the Upper Travis Peak Formation meet the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 92–4693 Filed 2–28–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. JD92–03818T Texas-10 Addition 13]

State of Texas; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

February 24, 1992.

Take notice that on February 18, 1992, the Railroad Commission of Texas (Texas) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that portions of the Edwards Limestone Formation underlying Colorado County, Texas, qualify as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978 (NGPA). The designated area includes approximately 105,593 acres in Colorado County, Texas and consists of the surveys listed in the attached appendix.

The notice of determination also contains Texas' findings that the referenced portions of the Edwards Limestone Formation meet the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

Appendix

Edwards Limestone Formation in Colorado County, Texas

Survey and Abstract Numbers

Eli Clapp	A–149
Micah Andrews	A–68

Survey and Abstract Numbers—Continued

Basil G. Ijams	A-350
Reddins Andrews	A-52
Amos D. Kenion	A-387
R.M. Johnson	A-384
M.H. Phelps	A-454
Asa Townsend	A-557
Wm. Bell	A-103
W. Stapleton	A-509
Alfred Kelso	A-368
Jos. Garwood	A-220
Henry Austin	A-4
Freeman Pettus	A-37
Jos. Duty	A-20
Chas. Fordham	A-24
Barnard Snider	A-505
Wm. R. Hunt	A-29
Peyton R. Splane	A-41
J. Tumlinson	A-46
Jas. Cummins	A-13
Wm. Stagner	A-511
J.L. Gilder	A-226
N. Kelly	A-374
Wm. Staines	A-512
A. Hunt	A-336
Wm. R. Turner	A-554
Abel Beason	A-74
C. Geiseike	A-227
W. Rolson	A-483
John Cronican	A-142
Jas. Cronican	A-139
Wm. Freils	A-209
S.J. Redgate	A-478
J. Rawlings	A-476
B.M. Dougherty	A-177
E. Jones	A-359
E. Jones	A-360
Colin DeBland	A-178
J. Lynch	A-389
Thomas Matthews	A-413
H.H. Oates	A-439
Erasmus Jones	A-353
P. Piper	A-446
Peter Piper	A-447
F.A. Zimmercheidt	A-629
Casper Simon	A-502
Edw. Ruhman	A-479
Robt. H. Tobin	A-551
Chas. Fritsche	A-199
Peter Piper	A-460
Wm. Freils	A-208
T.P. Anderson	A-54
L. Mackerly	A-414
R.M. Wright	A-595
Ransom Weed	A-598
Jno. Hall	A-265
Spires Dooley	A-181
G.O. Bright	A-444
John Weigl	A-596
J. Nelson	A-431
James Nelson	A-434
James Tylee	A-550
Bernard Sherer	A-498
B.H. Beimer	A-75
W. Hunt	A-263
S. Dooley	A-182
Jas. Tumlinson	A-47
Freeman Pettus	A-38
Jesse Burnham	A-23

[FR Doc. 92-4694 Filed 2-28-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-115-000]

El Paso Natural Gas Co; Tariff Filing

February 24, 1992.

Take notice that on February 14, 1992, El Paso Natural Gas Company ("El Paso"), tendered for filing, pursuant to part 154 of the Federal Energy Regulatory Commission's ("Commission") Regulations Under the Natural Gas Act and in accordance with sections 21 and 22, Take-or-Pay Buyout and Buydown Cost Recovery, of El Paso's Second Revised Volume No. 1 and First Revised Volume No. 1-A FERC Gas Tariffs, respectively, certain tariff sheets to become effective April 1, 1992 and May 1, 1992, as indicated therein.

El Paso states that the filing reflects that no additions have been made to the amount presently being amortized under El Paso's Take-or-Pay Cost Recovery mechanism as set forth in El Paso's filing made October 31, 1991 at Docket No. RP92-18-000. El Paso states that it is proposing certain adjustments to the Monthly Direct Charge and Throughput Surcharge, as more fully discussed below. First, the tendered tariff sheets reflects El Paso's proposal to extend the amortization period of the Throughput Surcharge through March 31, 1996 for all costs remaining to be amortized under El Paso's Take-or Pay cost recovery mechanism as of March 31, 1992. No change is proposed in the amortization period for the Monthly Direct Charge. Second, the tendered tariff sheets reflect the true-up of the take-or-pay buyout and buydown costs overcollected through the Throughput Surcharge for the period September 1, 1991 through December 31, 1991. Third, adjustments are being made to El Paso's Monthly Direct Charge and Throughput Surcharge for interest calculated on the unrecovered balance of El Paso's buyout and buydown costs. As a result, the Throughput Surcharge has been changed from a Maximum Rate of $0.2341 per dth to $0.0355 per dth. Fourth, effective May 1, 1992, certain tariff sheets reflect a revised Monthly Direct Charge due to the full amortization of certain amounts paid by El Paso, as a downstream pipeline, to Valero Interstate Transmission Company ("Valero"), as an upstream pipeline supplier.

Regarding the tendered tariff sheets, El Paso respectfully requested that such tendered tariff sheets be accepted by the Commission and permitted to become effective April 1, 1992, which is not more than sixty (60) days nor less then thirty (30) days after the date of filing. El Paso is making this filing with the Commission's notice requirements and almost a month before the minimum requirement; therefore, El Paso respectfully requested that the Commission act on such filing and issue an order earlier than or at least two (2) weeks before the proposed April 1, 1992 effective date (on or before March 18, 1992). Such action will give El Paso's customers the necessary time to make decisions for the April, 1992 business month.

Regarding the tendered tariff sheets containing the Monthly Direct Charge after the complete amortization of the Valero amounts, El Paso respectfully requested that, pursuant to § 154.51 of the Commission's Regulations, waiver of the notice requirements of § 154.22 of the Commission's Regulations be granted so as to permit such tendered primary tariff sheets to become effective May 1, 1992.

Further, El Paso respectfully requested waiver of all applicable Commission Rules and Regulations, to the extent necessary, to permit the tendered tariff sheets to be accepted and made effective on the dates indicated therein.

Copies of the filing were served upon all interstate pipeline system transportation and sales customers of El Paso and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before March 2, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 92-4609 Filed 2-28-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP85-1-013 and RP92-86-002]

Mojave Pipeline Co.; Tariff Filing

February 24, 1992.

Take notice that Mojave Pipeline Company (Mojave), on February 19, 1992, tendered for filing Third Substitute Original Tariff Sheet No. 11 to its FERC

Gas Tariff Original Volume No. 1, in compliance with part 154 of the Commission's regulations and the Commission's orders of January 30, 1992, in Docket Nos. CP89–1–008 and February 5, 1992, in Docket No. RP92–86–000, as revised in an errata issued by the Commission on February 14, 1992.

Mojave states that Third Substitute Original Sheet No. 11 contains revised rates for firm and interruptible transportation as authorized by the Commission in its errata issued on February 14, 1992. Mojave has requested a waiver of § 154.22 of the Commission's regulations, which require the tariff sheets be filed no less than 30 days before they are to become effective. Mojave proposes that the tariff sheet become effective February 1, 1992, which is the date that Mojave's tariff was made effective.

Mojave states that copies of the filing were served upon all of Mojave's jurisdictional transportation customers.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedures, 18 CFR 385.211. All such protests should be filed on or before March 2, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92–4690 Filed 2–28–92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ91-3-16-004]

National Fuel Gas Supply Corp.; Proposed Changes to FERC Gas Tariff

February 24, 1992.

Take notice that on February 14, 1992, National Fuel Gas Supply Corporation ("National") submitted for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheet, to become effective August 1, 1991:

(A) Second Substitute Tenth Revised Sheet No. 5

National states that the purpose of this filing is to replace Sub Tenth Revised Sheet No. 5 as directed in the Commission's February 6 Letter Order. Item (A) reflects (1) a $0.27 per Dth increase in the demand component of Rate Schedules CD and RQ; (2) a 1.77 cents per Dth increase in the demand adjustment component of Rate Schedules CD and RQ; (3) a 5.15 cents per Dth increase in the commodity component of Rate Schedule CD and RQ; and (4) a 6.04 cent Dth increase in the commodity component of Rate Schedules SI, I–1, and GSS, as compared to National's July Quarterly PGA, in Docket No. TQ91–3–16–000, approved by the Commission's June 21 Order. The effective rates are identical to those in Sub Tenth Revised Sheet No. 5.

National states that copies of this filing were served on its jurisdictional customers and on the Regulatory Commissions of the States of New York, Ohio, Pennsylvania, Delaware, Massachusetts and New Jersey.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rule of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before March 2, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92–4686 Filed 2–28–92; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2438—New York]

New York State Electric & Gas Corp.; Soliciting Applications

February 24, 1992.

On December 19, 1988, New York State Electric & Gas Corporation, the existing licensee for the Seneca Falls and Waterloo Stations Hydroelectric Project No. 2438, filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Public Law 99–495. The original license for Project No. 2438 was issued effective March 1, 1965, and expires December 31, 1993.

The project is located on the Seneca River in Seneca County, New York. The principal project works consist of: (a) The Seneca Falls Development comprising (1) a powerhouse, located on a concrete gravity-type dam owned by the State of New York, containing four 2,650-horsepower turbines, each connected to a 2,000-kilowatt generator; (2) step-up transformers; (3) a short 34.5-kilovolt transmission line to the Seneca Falls switchyard; and (4) appurtenant electrical and mechanical facilities; and (b) The Waterloo Development comprising: (1) a concrete gravity-type dam; (2) a canal; (3) a powerhouse containing four 740-horsepower turbines, each connected to a 480-kilowatt generator; (4) step-up transformers; (5) a short 34.5-kilovolt transmission line to the Waterloo switchyard; and (6) appurtenant electrical and mechanical facilities.

Pursuant to section 15(c)(1) of the Act, the deadline for filing an application for new license and any competing license applications was December 31, 1991. No applications for license for this project were filed. Therefore, pursuant to section 16.25 of the Commission's regulations, the Commission is soliciting applications from potential applicants other than the existing licensee.

Pursuant to section 15(b)(2) of the Act the licensee is required to make available certain information described in § 16.7 of the Commission's regulations. Such information is available from the licensee at Kent Building, Chenango Street, Binghamton, New York 13902.

A potential applicant that files a notice of intent within 90 days from the date of issuance of this notice: (1) May apply for a license under part I of the Act and part 4 (except § 4.38) of the Commission's regulations within 18 months of the date on which it files its notice; and (2) must comply with the requirements of §§ 16.8 and 16.10 of the Commission's regulations.

Lois D. Cashell,

Secretary.

[FR Doc. 92–4684 Filed 2–28–92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-88-002]

Pacific Gas Transmission Co.; Change in FERC Gas Tariff

February 24, 1992.

Take notice that on February 20, 1992, Pacific Gas Transmission Company (PGT) tendered for filing and acceptance Second Revised Sheet No. 12 to be a part of its FERC Gas Tariff, Second Revised Volume No. 1.

PGT states that the purpose of the filing is to revise the tariff sheet in compliance with the Commission's "Order Accepting and Rejecting Tariff Sheets Subject to Conditions", issued on February 7, 1992.

PGT has requested an effective date of February 1, 1992 for the tendered tariff sheet.

PGT states that a copy of the filing is being served on PGT's jurisdictional customers, affected state regulatory commissions and all parties on the official service list as compiled by the Commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before March 2, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-4687 Filed 2-28-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA91-1-41-003 RP88-227-030]

Paiute Pipeline Co.; Compliance Filing

February 24, 1992.

Take notice that on February 20, 1992, Paiute Pipeline Company (Paiute) submitted a compliance filing to the Commission with respect to Paiute's clearance of its Account No. 191 balance following the implementation of full conversions by its sales customers to firm transportation service under a settlement approved by the Commission in Docket Nos. RP88-227, et al. (Settlement). Paiute states that its filing is being submitted in compliance with an order issued by the Commission in Docket Nos. TA91-1-41-002 and RP88-227-028 on January 21, 1992, as well as the Commission's orders approving the Settlement.

Paiute states that its compliance filing is the second filing that Paiute has submitted concerning the clearance of its Account No. 191 balance following the termination of Paiute's sales service. On September 16, 1991, Paiute submitted a filing in Docket No. RP88-227-028 which addressed the treatment of Paiute's Account No. 191 balance as of July 31, 1991. In that filing, Paiute reported that it made a distribution on July 31, 1991 to its four former sales customers of an estimated credit balance of $271,548, and also noted that it anticipated that it would be paying or receiving additional amounts attributable to its Account No. 191.

Paiute states that the Commission's January 21, 1992 order addressed Paiute's September 16, 1991 compliance filing in Docket No. RP88-227-028 as well as a compliance filing submitted by Paiute on November 30, 1990 in Paiute's annual PGA proceeding in Docket No. TA91-1-41. Paiute further states that the Commission in such order directed Paiute to respond to certain matters discussed in the order and to file a revised report concerning its closeout of its Account No. 191.

Paiute indicates that in its instant compliance filing it has included responses to the specific matters raised by the Commission in its January 21, 1992 order. Paiute also states that it has reflected in its filing additional amounts attributable to its preconversion sales service that have been billed or refunded to Paiute since its September 16, 1991 filing in Docket No. RP88-227-028, as well as certain corrections and adjustments to its purchased gas cost accounts that Paiute has recorded or discovered in reviewing such accounts since that prior filing. Paiute states that the entries, adjustments, and corrections to its Account No. 191 reflected in its filing result in an additional credit balance of $566,161 over that reflected in Paiute's September 16, 1991 filing, as of February 29, 1992. Paiute states that it intends to make a distribution of this amount to its four former sales customers on February 29, 1992, using the allocation procedure prescribed in the Settlement.

Paiute requests that the Commission approve Paiute's distribution of its Account No. 191 balance as proposed in its filing, including approval of the level of the balance that Paiute will distribute on February 29, 1992. Paiute also renews its request that the Commission approve Paiute's July 31, 1991 distribution of Account No. 191 amounts as discussed in its September 16, 1991 filing in Docket No. RP88-227-028.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedures, 18 CFR 385.211. All such protests should be filed on or before March 2, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-4685 Filed 2-28-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-227-029]

Paiute Pipeline Co.; Report of Refunds

February 24, 1992.

Take notice that Paiute Pipeline Company (Paiute) on February 12, 1992, tendered for filing with the Federal Energy Regulatory Commission (Commission) an amended Report of Refunds, made in accordance with the provisions of Article III of the Stipulation and Agreement filed in these proceedings and approved by Commission Orders of September 20, 1990 and March 26, 1991.

Paiute states that on July 15, 1991, it refunded to its jurisdictional customers a total of $18,962,676, consisting of principal of $16,504,216 through May 31, 1991, and interest of $2,458,460 calculated through July 14, 1991. This report revises and supersedes the refund report filed by Paiute on August 15, 1991 in Docket No. RP88-227-027. Paiute states in the amended report that the amount of principal refunded was correct in the August 15, 1991, report but that based upon revised calculations it paid an additional $16,135 in interest and reallocated the refunds to the various customers.

Paiute states that a copy of the amended refund report was provided to Paiute's jurisdictional customers, all interested state commissions and all parties to Docket No. RP88-227.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before March 2, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-4688 Filed 2-28-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-116-000]

Transcontinental Gas Pipe Line Corp.; Tariff Filing

February 24, 1992.

Take notice that on February 19, 1992 Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing First Revised Sheet No. 23 to its FERC Gas Tariff, Third Revised Volume No. 1, which tariff sheet is attached thereto. The proposed effective date of the enclosed tariff sheet is April 1, 1992.

On June 19, 1991, the Federal Energy Regulatory Commission (Commission) issued its "Order Approving Settlements As Modified And Issuing Certificates" in Docket Nos. CP88-391-004 *et al.* (June 19 Order), which approved with certain modifications Transco's June 22, 1990 Settlement filed in Docket Nos. RP87-7-000 *et al.* (Rate Settlement) and Transco's September 17, 1990 Settlement filed in Docket Nos. CP88-391 *et al.* (GIC Settlement). Pursuant to Article III of the GIC Settlement, during Phase II (April 1, 1991 through March 31, 1994), there shall be generally applicable fixed monthly Firm Service Fees. Specifically, during the period from April 1, 1992 through March 31, 1993, the monthly Firm Service Fee shall be $6.20 per Mcf of daily sales entitlement. Such Firm Service Fee is set forth in Exhibit A, section 3(b) of the FS Service Agreement. The purpose of this filing is to set forth in Transco's Volume No. 1 Tariff the Firm Service Fee under Rate Schedule FS of $6.20 commencing April 1, 1992.

Transco states that copies of the instant filing are being mailed to customers, State Commissions and other interested parties. In accordance with provisions of § 154.16 of the Commission's Regulations, copies of this filing are available for public inspection, during regular business hours, in a convenient form and place at Transco's main offices at 2800 Post Oak Boulevard in Houston, Texas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules of Regulations. All such motions or protests should be filed on or before March 2, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,
Secretary.

[FR Doc. 92-4691 Filed 2-28-92; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. 91-87-NG]

Orchard Gas Corp.; Order Granting Amendment to Long-Term Authorization to Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of an granting amendment to long-term authorization to import natural gas.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Orchard Gas Corporation authorization to import up to 25,000 Mcf per day of Canadian natural gas for an eighteen and one-half year term beginning on November 1, 1992.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, February 24, 1992.

Charles F. Vacek,
Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-4801 Filed 2-28-92; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the procedures for the disbursement of $375,000, plus accrued interest, obtained by the DOE under the terms of a consent order entered into with Otis Ainsworth (Case No. LEF-0039). The OHA has determined that the funds will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986).

DATES AND ADDRESSES: Applications for Refund from the crude oil funds should be clearly labeled "Applications for Crude Oil Refund" and should be mailed to Subpart V Crude Oil Overcharge Refunds, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. Applications for Refund must be filed in duplicate no later than June 30, 1992. Any party who has previously filed an Application for Refund in crude oil proceedings should not file another Application for Refund from the present crude oil funds. The previously filed crude oil application will be deemed filed in all crude oil proceedings as the procedures are finalized.

FOR FURTHER INFORMATION CONTACT: Thomas L. Wieker, Deputy Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-2390.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy (DOE), 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision and Order sets forth the procedures that the DOE has formulated to distribute $375,000 that has been remitted by Otis Ainsworth to the DOE. The DOE is currently holding the funds in an interest bearing account pending distribution.

The DOE will distribute these funds in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986). Under the Modified Policy, crude oil overcharge monies are divided among the states, federal government, and injured purchasers of refined products. Under the plan, refunds to the states would be in proportion to each state's consumption of petroleum products during the period of price controls. Refunds to eligible purchasers would be based on the number of gallons of petroleum products which they purchased and the extent to which they can demonstrate injury.

Applications for Refund must be postmarked no later than June 30, 1992. As we stated in the Decision, any party who has previously submitted a refund application in the crude oil refund proceedings should not file another Application for Refund in the crude oil proceedings. That previous application will be deemed filed in all crude oil proceedings as the procedures are finalized.

Dated: February 25, 1992.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order

Implementation of Special Refund Procedures

Name of Firm: Otis Ainsworth.
Date of Filing: October 31, 1991.
Case Number: LEF-0039.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special refund procedures. 10 CFR 205.281. These procedures are used to refund monies to those injured by actual or alleged violations of the DOE price regulations.

On October 31, 1991, the ERA filed a Petition for the Implementation of Special Refund Procedures for crude oil overcharge funds obtained from Otis Ainsworth (Ainsworth). On June 17, 1985, the OHA issued a Remedial Order against Ainsworth for violations of the crude oil producer price regulations during the period from November 1973 through December 1977. Otis Ainsworth, 13 DOE ¶ 83,018 (1985). Ainsworth subsequently filed an appeal with the Federal Energy Regulatory Commission (FERC). On February 26, 1987, FERC reduced in part and affirmed the Remedial Order and ordered Ainsworth to make restitution in the amount of $440,639.00. The United States filed suit on January 31, 1990 in the United States District Court for the Southern District of Mississippi to enforce the Remedial Order. In September 1990, the Chancery Court for the Second Judicial District of Jones County, Mississippi (Chancery Court) appointed Alva Sue Dickey Ainsworth as the Conservator for the Estate of Otis Ainsworth. The United States and the Conservator reached a compromise and settlement which was approved by the Chancery Court on June 13, 1991. On July 1, 1991, the United States executed a General and Absolute Release in settlement of the matters set forth in the Remedial Order in consideration for $375,000 remitted on that day by the Conservator. This Decision and Order establishes the OHA's procedures for distributing those funds.

The general guidelines which the OHA may use to formulate and implement a plan to distribute refunds are set forth in 10 C.F.R. Part 205, Subpart V. The Subpart V process may be used in situations where the DOE cannot ready identify the persons who may have been injured as a result of actual or alleged violations of the regulations or ascertain the amount of the refund each person should receive. For a more detailed discussion of subpart V and the authority of the OHA to fashion procedures to distribute refunds, see *Office of Enforcement,* 9 DOE ¶ 82,508 (1981), and *Office of Enforcement,* 8 DOE ¶ 82,597 (1981). We have considered the ERA's request to implement Subpart V procedures with respect to the monies received from Ainsworth and have determined that such procedures are appropriate.

I. Background

On July 28, 1986, the DOE issued a Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986) (the MSRP). The MSRP, issued as a result of a court-approved Settlement Agreement in *In re: The Department of Energy Stripper Well Exemption Litigation,* M.D.L. No. 378 (D. Kan. 1986) (the Stripper Well Agreement), provides that crude oil overcharge funds will be divided among the states, the federal government, and injured purchasers of refined petroleum products. Under the MSRP, up to twenty percent of these crude oil overcharge funds will be reserved to satisfy valid claims by injured purchasers of petroleum products. Eighty percent of the funds, and any monies remaining after all valid claims are paid, are to be disbursed equally to the states and federal government for indirect restitution.

Shortly after the issuance of the MSRP, the OHA issued an Order that announced its intention to apply the Modified Policy in all subpart V proceedings involving alleged crude oil violations. Order Implementing the MSRP, 51 FR 29689 (August 20, 1986). In that Order, the OHA solicited comments concerning the appropriate procedures to follow in processing refund applications in crude oil refund proceedings. On April 6, 1987, the OHA issued a Notice analyzing the numerous comments and setting forth generalized procedures to assist claimants that file refund applications for crude oil monies under the subpart V regulations. 52 FR 11737 (April 10, 1987) (the April Notice).

The OHA has applied these procedures in numerous cases since the April Notice, i.e., New York Petroleum, Inc., 18 DOE ¶ 85,435 (1988) (NYP); Shell Oil Co., 17 DOE ¶ 85,204 (1988) (Shell); Ernest A. Allerkamp, 17 DOE ¶ 85,079 (1988) (Allerkamp), and the procedures have been approved by the United States District Court for the District of Kansas as well as the Temporary Emergency Court of Appeals (TECA). In the case In re: The Department of Energy Stripper Well Exemption Litigation, various states filed a Motion with the Kansas District Court, claiming that the OHA violated the Stripper Well Agreement by employing presumptions of injury for end-users and by improperly calculating the refund amount to be used in those proceedings. In re: The Department of Energy Stripper Well Exemption Litigation, 671 F. Supp. 1318 (D. Kan. 1987), *aff'd,* 857 F.2d 1481 (Temp. Emer. Ct. App. 1988). On August 17, 1987, Judge Theis issued an Opinion and Order denying the states' Motion in its entirety. The court concluded that the Stripper Well Agreement "does not bar (the) OHA from permitting claimants to employ reasonable presumptions in affirmatively demonstrating injury entitling them to a refund." *Id.* at 1323. The court also ruled that, as specified in the April Notice, the OHA could calculate refunds based on a portion of the M.D.L. 378 overcharges. *Id.* at 1323–24.

II. The Proposed Decision and Order

On November 7, 1991, the OHA issued a Proposed Decision and Order (PDO) establishing tentative procedures to distribute the alleged crude oil violation amount obtained from Ainsworth. 56 FR 57887 (November 14, 1991). The OHA tentatively concluded that the funds should be distributed in accordance with the MSRP and the April Notice. Pursuant to the MSRP, the OHA proposed to reserve initially twenty percent of the crude oil violation funds for direct restitution to applicants who claim that they were injured by the alleged crude oil violations. The remaining eighty percent of the funds would be distributed to the states and federal government for indirect restitution. After all valid claims have been paid, any remaining funds in the claim reserve would also be divided between the states and federal government. The federal government's share ultimately would be deposited into the general fund of the Treasury of the United States.

In the PDO, the OHA proposed to require applicants for refund to document their purchase volumes of petroleum products during the period of price controls and to prove that they were injured by the alleged crude oil overcharges. The PDO stated that end-users of petroleum products whose businesses are unrelated to the petroleum industry are presumed to have absorbed the crude oil overcharges, and need not submit any further proof of injury to receive a refund. The OHA also proposed to calculate refunds on the basis of a volumetric refund amount, as described in the April Notice. The PDO provided a period of 30 days from the date of publication in the **Federal Register** in which comments could be filed regarding the tentative distribution process. More than 30 days have elapsed and the OHA has received no comments concerning the proposed procedures for the distribution of the Ainsworth settlement funds Consequently, the procedures will be adopted as proposed.

III. The Refund Procedures

A. Refund Claims

The OHA has concluded that the $375,000 remitted by Ainsworth, plus the interest that has accrued on that amount, should be distributed in accordance with the crude oil refund procedures discussed above. We have decided to reserve the full twenty percent of the alleged crude oil violations amount, or $75,000, plus interest, for direct refunds to claimants, in order to insure that sufficient funds will be available for refunds to injured parties.

The process which the OHA will use to evaluate claims based on alleged crude oil violations will be modeled after the process the OHA has used in subpart V proceedings to evaluate claims based upon alleged overcharges involving refined products. E.g., Mountain Fuel Supply Co., 14 DOE ¶ 85,475 (1986) (Mountain Fuel). As in non-crude oil cases, applicants will be required to document their purchase volumes of covered products and prove that they were injured as a result of the alleged violations. Generally, a covered product is any product that was covered by the Emergency Petroleum Allocation Act of 1973, 15 U.S.C. 751–760, and was primarily produced from crude oil at a crude oil refinery. E.g., Anchor Continental, Inc., 22 DOE ¶ ——, Case No. RF272–62992 (January 3, 1992). Following subpart V precedent, reasonable estimates of purchase volumes of covered products may be submitted. E.g., Greater Richmond Transit Co., 15 DOE ¶ 85,028 at 88,050 (1986). Generally, it is not necessary for applicants to identify their suppliers of petroleum products in order to receive a refund. Applicants who were end-users or ultimate consumers of petroleum products, whose businesses are unrelated to the petroleum industry, and who were not subject to the DOE price regulations are presumed to have been injured by any alleged crude oil overcharges. In order to receive a refund, end-users need not submit any further evidence of injury beyond the volume of covered petroleum products purchased during the period of price controls. E.g., A. Tarricone, Inc., 15 DOE ¶ 85,495 at 88,893–96 (1987). However, the end-user presumption of injury can be rebutted by evidence which establishes that the specific end-user in question was not injured by the crude oil overcharges. E.g., Berry Holding Co., 16 DOE ¶ 85,405 at 88,797 (1987). If an interested party submits evidence that is sufficient to cast serious doubt on the end-user presumption, the applicant will be required to produce further evidence of injury E.g., NYP, 18 DOE at 88,701–03. The United States District Court for the District of Kansas recently upheld the OHA's position that generalized evidence does not suffice to rebut the end-user presumption. If an interested party wishes to rebut the end-user presumption it must present evidence relevant to the specific factual situation of the applicant. In re: The Department of Energy Stripper Well Exemption Litigation, 746 F. Supp. 1446 (D. Kan. 1990).

Reseller and retailer claimants must submit detailed evidence of injury, and may not rely on the presumptions of injury utilized in refund cases involving refined petroleum products. They can, however, use econometric evidence of the type employed in the OHA Report to the District Court in the Stripper Well Litigation, 6 Fed. Energy Guidelines ¶ 90,507. Applicants who executed and submitted a valid waiver pursuant to one of the escrows established in the Stripper Well Agreement have waived their rights to apply for crude oil refunds under subpart V. Mid-America Dairyman, Inc. v. Herrington, 878 F. 2d 1448 (Temp. Emer. Ct. App. 1989); accord, Boise Cascade Corp., 18 DOE ¶ 85,970 (1989).

Refunds to eligible claimants who purchased refined petroleum products will be calculated on the basis of a volumetric refund amount derived by dividing the alleged crude oil violation amounts involved in this determination ($375,000) by the total consumption of petroleum products in the United States during the period of price controls (2,020,997,335,000 gallons). Mountain Fuel, 14 DOE at 88,868 n.4. This yields a volumetric refund amount of $0.000000185 per gallon.

As we stated in previous Decisions, a crude oil refund applicant will be required to submit only one Application for Refund from the crude oil overcharge funds. E.g., Allerkamp, 17 DOE at 88,176. Any party that has previously submitted a refund application in the crude oil refund proceedings need not file another application. That previously filed application will be deemed to be filed in all crude oil proceedings as the procedures are finalized. The DOE has established June 30, 1992 as the current deadline for filing an Application for Refund from the crude oil funds. Quintana Energy Corp., 21 DOE ¶ 85,032 (1991). It is the policy of the DOE to pay all crude oil refund claims at the rate of $.0008 per gallon. However, while we anticipate that applicants that filed their claims within the original June 30, 1988 deadline will receive a supplemental refund payment, we will decide in the future whether claimants that filed later applications should receive additional refunds. E.g., Seneca Oil Co., 21 DOE ¶ 85,327 (1991). Notice of any additional amounts available in the future will be published in the **Federal Register**.

To apply for a refund, a claimant should submit an Application for Refund. Although an applicant need not use any special application form to apply for a crude oil refund, a suggested form has been prepared by the OHA and may be obtained by sending a written request to: Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

Each crude oil Application for Refund should contain the type of information specified by the OHA in past decisions. See Texaco Inc., 19 DOE ¶ 85,200 at 88,374, corrected, 19 DOE ¶ 85,236 (1989); Hood Goldsberry, 18 DOE ¶ 85,902 at 89,477–78 (1989); Wickett Refining Co., 18 DOE ¶ 85,659 at 89,081–82 (1989).

B. Payments to the States and Federal Government

Under the terms of the MSRP, the remaining eighty percent of the alleged crude oil violation amounts subject to this Decision, or $300,000, plus interest, should be disbursed in equal shares to the states and federal government for indirect restitution. Accordingly, we will direct the DOE's Office of the Controller to segregate the $300,000, plus interest, available for disbursement to the states and federal government and transfer one-half of that amount, or $150,000, plus interest, into an interest-bearing subaccount for the states, and one-half, or $150,000, plus interest, to an interest bearing subaccount for the federal government. At an appropriate time in the future, we will issue a Decision and Order directing the DOE's Office of the Controller to make the appropriate disbursements to the individual states. Refunds to the states will be in proportion to the consumption of petroleum products in each state during the period of price controls. The share or ratio of the funds which each state will receive is contained in Exhibit H of the Stripper Well Agreement. When disbursed, these funds will be subject to the same limitations and reporting requirements as all other crude oil monies received by the states under the Stripper Well Agreement.

It is Therefore Ordered That:

(1) Applications for Refund from the alleged crude oil overcharge funds remitted by Otis Ainsworth may now be filed.

(2) All Applications submitted pursuant to paragraph (1) above must be filed in duplicate and postmarked no later than June 30, 1992.

(3) The Director of Special Accounts and Payroll, Office of Departmental Accounting and Financial Systems Development, Office of the Controller, Department of Energy, shall take all steps necessary to transfer $375,000 (plus interest) from the Otis Ainsworth subaccount, Account Number 420C00254W, pursuant to Paragraphs (4), (5), and (6) of this decision.

(4) The Director of Special Accounts and Payroll shall transfer $150,000 (plus interest) of the funds obtained pursuant to paragraph (3) above, into the subaccount denominated "Crude Tracking-States," Number 999DOE003W.

(5) The Director of Special Accounts and Payroll shall transfer $150,000 (plus interest) of the funds obtained pursuant to paragraph (3) above, into the subaccount denominated "Crude Tracking-Federal," Number 999DOE002W.

(6) The Director of Special Accounts and Payroll shall transfer $75,000 (plus interest) of the funds obtained pursuant to paragraph (3) above, into the subaccount denominated "Crude Tracking-Claimants 4," Number 999DOE010Z.

Dated: February 25, 1992.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 92-4802 Filed 2-28-92; 8:45 am]

BILLING CODE 6450-01-M

Office of Nuclear Energy

Sales of Stable Isotopes

AGENCY: Department of Energy, Office of Nuclear Energy, Isotope Production and Distribution Program.

ACTION: Proposed response to withdrawal petition of Isotec, Inc.

SUMMARY: The Department of Energy (DOE) is proposing to deny the Withdrawal Petition (the Petition) of Isotec, Inc. (the Petitioner), a U.S.-based market supplier of stable isotopes, which has requested that DOE discontinue its production and distribution of enriched stable isotopes and the life science isotopes of Carbon, Nitrogen, and Oxygen (the Products) in commercial markets and to other Federal agencies. Notice of receipt of the Petition and Request for Public Comments on the request was published at 56 FR 46609, September 13, 1991 (the September 13, 1991 Notice). The proposed response is set out in the **SUPPLEMENTARY INFORMATION** section, below.

At the Petitioner's request, DOE is using the withdrawal guidelines provided in the Atomic Energy Commission (AEC) Statement of Policies and Procedures for the Transfer of Commercial Radioisotope Production and Distribution to Private Industry, March 2, 1965 (the Policy Statement) (**Federal Register**), March 9, 1965) in proposing the denial of the Petition.

The record in the proceeding consists of the Petition, as supplemented, and its appendices; relevant background materials from DOE's files, and the public comments submitted during the comment period. Comments received after the comment period closed (October 28, 1991) or from sources other than through the Notice and included in the record for information purposes are identified as such. The proposed decision is not based upon these comments.

DATES AND COMMENTS: DOE will accept comments on the proposed response until April 1, 1992. The proposed response will become final April 16, 1992, if the agency deems no further action to be required as the result of information brought to its attention during the comment period.

ADDRESSES: Comments are to be submitted to Donald E. Erb, Director, Isotope Production and Distribution Program (NE-48), A-430, 19901 Germantown Road, Germantown, Maryland 20874, telephone (301) 903-5161.

The public record is available in DOE's Freedom of Information Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, between 9 a.m. and 4 p.m., Monday-Friday (except for Federal holidays).

SUPPLEMENTARY INFORMATION:

I. Introduction.
II. Background.
III. Current Market Conditions and Future Prospects.
IV. Statutory Authority and Policy: The Role of the United States Government in Atomic Energy Markets.
V. Findings and Proposed Decision.
VI. Additional Opportunity for Public Comment.

I. Introduction

By date of July 27, 1990 and Supplement of February 25, 1991, the Petitioner requested that DOE withdraw from all distribution of stable isotopes (the Products) to commercial users and other Federal agencies. For purposes of the Petition, the term "stable isotopes" includes the isotopes listed in appendix A to the February 25, 1991 supplemental filing to the Petition (the Supplement), with the exception of sales of raw material Helium-3 in bulk form, and gas isotope mixing in competition with private sector suppliers.

The Petitioner bases its request upon these premises:

(1) The Products are reasonably available form private-sector suppliers in effectively competitive markets;

(2) DOE distribution is without statutory basis, is unnecessary, and places the agency in competition with private-sector suppliers; and

(3) Given these circumstances, the Atomic Energy Act of 1954, as amended, and the non-competition policies of the United States Government and DOE dictate DOE's withdrawal from markets for the Products.

The Petition is summarized in the September 13, 1991 Notice.

II. Background

In the Policy Statement, the Atomic Energy Commission declared its intention to refrain from competition with private sources capable of producing and processing radioisotopes, when the materials were reasonably available commercially. The criteria provided in the withdrawal guidelines for making this determination include: The presence of a market in which there are (1) effective competition; (2) assurance that private producers will not discontinue their businesses under circumstances in which the government could not resume supply in time to prevent public interest from being adversely affected; and (3) prices that are reasonable and consistent with the encouragement of research in and development and use of atomic energy.

The background materials in the record reflect a history of informal requests by the Petitioner that DOE withdraw from various stable isotope markets in accordance with the noncompetition policy for radioisotopes.

For example, in 1983 the Petitioner asked DOE to withdraw from production and distribution of various isotopes of Nitrogen and Oxygen and enter into an agreement with it to permit it to store and process DOE's Helium-3 trailer gas at its (Petitioner's) facilities. At the time of request, the Petitioner was in the early stages of developing or assembling its Nitrogen-production facilities; its Oxygen product was not produced domestically and there were no other commercial U.S. Oxygen producers; and the offer for the Helium-3 trailer gas was below the established price for the material, inconsistent with DOE's Full Cost Recovery Program, and, if accepted by DOE, could have provided the Petitioner with an unfair advantage in the market. In part, the request was denied because of the Petitioner's "past performance history, i.e., the fact that Carbon-12, 13 distillation has not yet commenced at ISOTEC, although ISOTEC requested that DOE cease production and distribution of these isotopes as of the end of CY 1982." Letter of November 15, 1983, Director, Energy Technologies Division, Albuquerque Operations Office, DOE, to Isotec, Incorporated.

By 1985 and in response to repeated requests from the Petitioner, DOE had withdrawn from the commercial sale of 34 isotopes, including isotopes of Neon, Argon, Krypton, Xenon, Helium, and Carbon. Letter of August 29, 1985 from Acting Associate Director for Health and Environmental Research, Office of Energy Research, DOE, to Attorney for Isotec, Inc.

By early 1988, there were warnings of problems in some markets: After DOE withdrew from Carbon-13 distribution, the Petitioner was the only source of the isotope, prices had risen, and the demand for the Product was believed to be close to Petitioner's supply capacity. A second firm was making an effort to enter the market. Letter of President, Cambridge Isotope Laboratories, to Manager, Isotope Sales & Production, Monsanto Research Corporation, February 3, 1988.

Also in 1988, DOE's Inspector General concluded a detailed audit investigation of isotope operations at DOE's Oak Ridge National Laboratory and the Mound Plant and reported problems resulting from DOE's attempts to implement the non-competition policy. Report on Isotope Production and Related Sales at the Oak Ridge National Laboratory and the Mound Plant, DOE/IG–0251, February 16, 1988 (IG Report). The Helium-3 market was specifically reviewed in the audit. The investigators found that, in 1978, a private company, unidentified in the IG Report, had begun purchasing Helium-3 at an advantage from DOE for resale to domestic customers at substantial markups and, in 1979, had asked DOE to withdraw from processing and distributing purified Helium-3. At the time, the only other significant source of Helium-3 was the U.S.S.R. nuclear weapons programs, which was not actively marketing in the United States. The company was not a producer of the isotope, which is a byproduct of nuclear weapons production; further, the investigators reported that the company was unable to remove impurities from Helium-3 until some 2 years after it made the withdrawal request. Although there was not a competitive market, DOE withdrew from distribution of Helium-3 in 1981, contrary to the AEC policy. IG Report, pp. 11–12. The investigators also concluded that, because DOE also stopped distribution to other Federal agencies, the U.S. Navy had to purchase its needs from the company, which was the sole domestic distributor, at prices substantially in excess of what DOE had charged Government customers. IG Report, p. 13.

The Petitioner asserts that, until September 1990, it was unaware of the IG Report, which it challenges for, among other reasons, assuming that DOE should be involved in the sale of commercial isotopes. Letter of November 27, 1990 from Isotec Counsel to the Secretary of Energy. In February 1990, however, the IG Report, which was (and is) a publicly-available document, had caused other parties to question DOE on whether it had not created "another domestic monopoly in the sale and distribution of a stable isotope * * * for (Petitioner) when DOE ceased production of Carbon-13 at Los Alamos in 1985." Letter of Honorable Edward J. Markey, Member of Congress, to Admiral James D. Watkins, Secretary of Energy, February 2, 1990. DOE then acknowledged that a review of the availability, origin, and users of isotopes suggested that its past withdrawal policy had not enhanced the availability of isotopes from competitive domestic suppliers and that interpretations and applications of the policy had, in some instances, aided in the establishment and maintenance of monopolies utilizing production and separation technology of U.S. origin. Letter of May 2, 1990 from James D. Watkins, Admiral, U.S. Navy (Retired), to Honorable Edward J. Markey, Member of Congress.

In May 1990, Spectra Gases, Inc. indicated that it would need to purchase supplies of noble gas products from the Mound Plant, its only domestic alternative supplier, if it were to continue to compete with the petitioner as a supplier of isotope mixtures because of the "exorbitant price increases imposed by the sole private domestic producer." It cited rises in Petitioner's prices for 99.95%-enriched Neon-20 and 99.9%-enriched Neon-22 of 136% and 97%, respectively, over the one-year period following acquisition of the Petitioner (in June 1989) by Nippon Sanso. Letter of May 24, 1990 from Purchasing Manager, Spectra Gases, Inc. to Mound Isotope Sales Office.

In 1989, DOE idled its Isotopes of Carbon, Oxygen, and Nitrogen production facility at the Los Alamos National Laboratory (the ICON facility) because of the curtailment of primary mission need. By 1990, DOE heard about the consequences that reduced supplies of these isotopes could have on research and use, particularly in nuclear medicine: Sharp rises in demand for isotopes, such as Carbon-13, and increases in the length of time required to obtain delivery. These obstacles could not only adversely impact research and clinical studies, but could stifle future commercial and market potentials for applications using these isotopes. Letters of Kenneth Kwong, Ph.D., Massachusetts General Hospital-Harvard Medical School, July 9, 1991; Randall B. Lauffer, Ph.D., Massachusetts General Hospital-Harvard Medical School, July 2, 1990; and Peter D. Klein, Ph.D., Department of Pediatrics, Baylor College of Medicine, January 2, 1990 (attachment to Klein letter dated March 12, 1991). In July 1990, the Petitioner filed its request that DOE withdraw from commercial distribution of the Products, which include certain of these isotopes used in nuclear medicine and biological studies. Supplement to the Petition, appendix A.

During 1991, complaints were brought to DOE's attention concerning stable isotope market dislocations: Prices for several of the Products critical to research and clinical applications were rising and unavailability of timely supplies was impacting use. Oxygen-18 water for use in Position Emission Tomography (PET), ordered by a regional medical center from the Petitioner in December 1990 for February 1991 delivery, was not delivered as promised and the earliest date given by Petitioner for delivery of new orders was December 1991. Cambridge Isotope Laboratories' delivery dates were even farther in the future. Letter of Syncor International Corporation, March 5, 1991. Such shortages were reported to have seriously impacted human nutrition studies and one source attributed the situation to the Petitioner, "who was well aware of the magnitude of demand three years ago, and chose to postpone the necessary expansion in capacity." Letter of Peter D. Klein, Ph.D., Department of Pediatrics, Baylor College of Medicine, March 12, 1991. New facilities were finding it difficult to obtain necessary supplies and the dramatic price increases were cited as causing researchers difficulty in applying for grants. Correspondents reported that some research projects had to be delayed or canceled as a result. Letters of T.P. Stein, Ph.D., University of Medicine and Dentistry of New Jersey School of Osteopathic Medicine, March 21, 1991; Reed W. Hoyt, Ph.D., Research Physiologist, U.S. Army Research Institute of Environmental Medicine, March 21, 1991; James P. DeLany, Ph.D., Director of the Stable Isotope Laboratory, Pennington Biomedical Research Center, Louisiana State University, April 11, 1991; Dale A. Schoeller, University of Chicago Clinical Nutrition Research Unit to Dr. Darla Danford, Director, Division Nutrition Research Coordination, April 17, 1991; J.M. McGehee, Executive Director, Institute for Clinical PET, April 22, 1991 and attached responses to survey published by ICP; Steven S. Zigler, Ph.D., Methodist Medical Center of Illinois, June 5, 1991; and Michael I. Goran, Ph.D., University of Vermont, College of Medicine, July 18, 1991.

III. Current Market Conditions and Future Prospects

The Petition is based, in part, upon the Petitioner's assertion that the production, processing, and distribution capability of the private sector is sufficient to satisfy user demands for the Products and that it and other suppliers located in the United States, Europe, and Japan are dedicated to continuing to supply the Products to the market at prices that are competitive, reasonable, and consistent with the encouragement of research and development and use. Consequently, in the September 13, 1991 Notice, DOE invited researchers, users, and other interested parties to provide it with information and views that would enable it to determine the validity of this assertion, in view of the feedback previously received concerning market dislocations. Information was sought in particular on Product availability from private-sector sources, prices, delivery schedules, and other factors that could impact research and development and use of the Products. The comments received portrayed the following situation:

A. Private Sector Capability To Meet Market Demands at Prices Conducive to Research and Development and Use

An initial overview of the markets for the Products indicates that the number of private-sector suppliers, worldwide, is limited and, domestically, is extremely small. Comments of Robert W. Atcher, Nuclear Medicine Research-Chemistry Division, Argonne National Laboratory, October 22, 1991 (Atcher/Argonne); Alfred P. Wolf, Director, Cyclotron-PET Program, Department of Chemistry, Brookhaven National Laboratory, September 20, 1991 (Wolf/Brookhaven); Robert E. Connick, Professor of Chemistry, University of California-Berkeley, October 22, 1991 (Connick/UC-Berkeley); Paul Ortiz de Montellano, Professor of Pharmaceutical Chemistry and Pharmacology, School of Pharmacy, University of California-San Francisco, October 17, 1991 (Ortiz/UC-San Francisco); Daniel P. Costa, Ph.D., Associate Professor of Biology, University of California—Santa Cruz, October 26, 1991 (Costa/UC-Santa Cruz); Robert N. Beck, Professor of Radiology, the Franklin McLean Memorial Research Institute, University of Chicago, October 25, 1991 (Beck/Univ. Chicago); J. Thomas Brenna, Assistant Professor, Division of Nutritional Sciences, Mass Spectrometry Laboratory, Cornell University, October 24, 1991 (Brenna/Cornell); James J. Carni, Project Leader, CR-Bioproducts Laboratory, the Dow Chemical Company, October 25, 1991 (Carni/Dow); George Palko, Vice President, Manufacturing, GE/Reuter-Stokes, Inc., October 25, 1991 (Palko/Reuter-Stokes); Eric Oldfield, Professor of Chemistry, University of Illinois at Urbana-Champaign, October 10, 1991 (Oldfield/Univ. Ill.); Carl H. Poppe, Division Leader, Nuclear Chemistry Division, *et al.*, Lawrence Livermore National Laboratory, October 18, 1991 (Poppe/LLNL); George A Bray, M.D., Executive Director and Professor, Pennington Biomedical Research Center, Louisiana State University, October 16, 1991 (Bray/LA. State); James P. DeLany, Ph.D., Director, Stable Isotope Laboratory, Pennington Biomedical Research Center, Louisiana State University, October 24, 1991 (DeLany/LA. State); Nelson D. Goldberg, Ph.D., Professor of Biochemistry, University of Minnesota Medical School, October 10, 1991 (Goldberg/Univ. MN); Wynn A. Volkert, Ph.D., Professor of Radiology & Biochemistry, Department of Radiology, School of Medicine University of Missouri-Columbia, October 23 ,1991 (Volkert/Univ. MO.); and Gopal Subramanian, Ph.D., President, Radiopharmaceutical Science Council of the Society of Nuclear Medicine and Professor of Radiology, Division of Nuclear Medicine, College of Medicine, State University of New York, Syracuse, October 25, 1991 (Subramanian/Soc. Nuc. Med.).

The situation regarding producers is less clear, although the comments suggest that, worldwide, they are fewer in number than the suppliers. Some commenters raised the issues of whether, in fact, there are any domestic producers of certain stable isotopes, *e.g.* those of the noble gases, and whether and to what extent domestic suppliers dependent for their materials upon foreign producers or domestic users have, by necessity, been forced to rely upon foreign sources in the past. Comments of Dale A. Schoeller, Ph.D., Associate Director, Clinical Nutrition Research Unit, University of Chicago, October 25, 1991 (Schoeller/Univ. Chicago); David W. Boykin, Professor and Chair of Chemistry, Georgia State University, October 10, 1991 (Boykin/Georgia State); Jeremy R. Knowles, Professor of Chemistry and Biochemistry, Harvard University, October 21, 1991 (Knowles/Harvard); Jerry B. Wilhelmy, Fellow, Los Alamos National Laboratory, October 18, 1991 (Wilhelmy/Los Alamos); Elmer O. Schlemper, Professor and Chair of Chemistry, College of Arts and Science, University of Missouri-Columbia, October 22, 1991 (Schlemper/Univ. MO.); Gary J. Ehrhardt, Ph.D., Senior Research Scientist, Radioisotope Applications, Research Reactor Facility, University of Missouri-Columbia, October 24, 1991 (Ehrhardt/Univ. MO.); Dr. Silvia S. Jurisson, Assistant Professor of Chemistry, College of Arts and Science, University of Missouri-Columbia, undated (Jurisson/Univ. MO.); Volkert/Univ. MO.; George W. Kabalka, Ph.D., Professor of Chemistry, Director of Basic Research, University of Tennessee Biomedical Imaging Center, October 24, 1991 (Kabalka/Univ. Tenn.); Laurence H. Hurley, Ph.D., Professor of Drug Design, College of Pharmacy, University of Texas, Austin, October 25, 1991 (Hurley/Univ. Tex.); and W.W. Cleland, Professor of Biochemistry and Chemical Science, Institute for Enzyme Research, University of Wisconsin-Madison, October 16, 1991 (Cleland/Univ. Wisc.)

As an example of limited supplies and production, one commenter cited two domestic producers of stable life science isotopes that, together, are experiencing difficulties in meeting the demands for certain of the Products on schedules that meet the users' needs. Comment of

Schoeller/Univ. Chicago. The life science isotope markets currently experiencing serious supply shortages include those for isotopes of Oxygen, which are important in nuclear medicine, scientific research and clinical applications. Researchers and other users reported shortages and backorders, sometimes of a year or longer, that caused or are threatening to cause delays in scheduled research, together with significant rises in price. Foreign suppliers are said to have been unreliable or unable to furnish isotopes at the higher levels of enrichment required by some users. Comments of Schoeller/Univ. Chicago; Costa/UC-Santa Cruz; Knowles/Harvard; Oldfield/Univ. Ill.; Albert S. Mildvan, M.D., Professor of Biological Chemistry and Chemistry, the Johns Hopkins University School of Medicine, October 9, 1991 (Mildvan/Johns Hopkins); Delany/LA. State; John W. Kozarich, Professor of Chemistry and Biochemistry, University of Maryland, October 21, 1991 (Kozarich/Univ. MD.); Debra Dunaway-Mariano, Professor of Chemistry and Biochemistry, University of Maryland, October 21, 1991 (Dunaway-Mariano/Univ. MD.); Cleland/Univ. Wisc.

In certain Product markets, and especially where little competition was reported, prices were said also to be high, and sometimes considerably higher than prices charged by DOE. For example, commenters have been quoted or charged such prices by the Petitioner for some stable isotope Products to be used as cyclotron target material for the accelerator production of Fluorine-18 used in PET and in agricultural research and other biomedical studies. These commenters viewed these prices as detrimental or potentially detrimental to or prohibitive of research. Comments of Philip G. Williams, Staff Scientist, National Tritium Labeling Facility, Lawrence Berkeley Laboratory, October 24, 1991 (Williams/LBL); Atcher/Argonne; J.F. Power, Research Leader, U.S.D.A. Agricultural Research Service, Northern Plains Areas Soil and Water Conservation Research Unit, University of Nebraska, Lincoln, October 10, 1991 (Power/U.S.D.A.); DeLany/LA. State.

Previous shortages in Carbon-13 supplies may have been alleviated by the entry of a second supplier into the market (DOE does not produce Carbon-13 at this time), only to be replaced by uncertainty of supply and high costs of Oxygen-17 and Oxygen-18. Comments of Cleland/Univ. Wisc.; Brenna/Cornell. Fluctuations in the availability of enriched Oxygen-18 water, with attendant price instabilities, were cited as but one unsettling example from the history of stable isotope production in the United States, a situation to which DOE is asserted to have contributed through its withdrawal activities. Comment of Wolf/Brookhaven. Another commenter described the private sector as not having been a reliable source for enriched stable isotope materials in the past. Comment of Hurley/Univ. Tex.

Slowness in delivery of isotopes, such as Oxygen-17 and Oxygen-18, was cited as delaying research projects, and intervals of up to a year or longer between date of order and anticipated date of delivery were reported to have been quoted by suppliers, including the Petitioner, to users or potential users. Comments of Atcher/Argonne; Costa/UC-Santa Cruz; Schoeller/Univ. Chicago; Beck/Univ. Chicago; Boykin/Georgia State; Oldfield/Univ. Ill.; Bray/LA. State; Goldberg/Univ. MN.; Graham A.J. Worthy, Assistant Professor of Marine Mammalogy, Texas A&M University at Galveston, October 28, 1991 (Worthy/Tex. A&M). Suppliers, including the Petitioner, are reported to have been unable to provide certain Products upon request and/or to have admitted to inquirers that they did not have certain Products available and could not predict with certainty when they would have supplies available. Comments of Mildvan/Johns Hopkins; DeLany/LA. State; Beck/Univ. Chicago; Brenna/Cornell; Bray/LA State; Worthy/Tex. A&M.

One commenter mentions that the prices the Petitioner quoted him for Oxygen-18 labeled water were "very competitive", but only if delivery could be made in time to serve his needs, a factor that he understood from colleagues could be an issue. In fact, the Petitioner had informed him of schedules of availability for certain enrichments extending into late 1992 and 1993 and of its 7–8 page waiting list for the material. Comment of Brenna/Cornell. Another commenter recalled colleagues' statements to the effect that they had been unable to place a confirmed order with the Petitioner for certain of the stable enriched metal isotopes advertised in the Petitioner's catalog as being available. Comment of Richard W. Hoff, Section Leader, Nuclear Chemistry Division, Lawrence Livermore National Laboratory, October 21, 1991 (Hoff/LLNL).

The commenters reporting delays or potential delays in or cancellation of ongoing, planned, or potential research projects or applications due to insufficient supplies of the stable Oxygen isotopes or erratic delivery schedules since DOE's idling of the ICON facility include: Connick/US-Berkeley (DOE-Basic Energy Research-funded experiments); Ken Nagy, Professor and Co-Chair, Department of Biology, University of California, Los Angeles (doubly-labeled Oxygen-18 water studies), October 17, 1991 (Nagy/UCLA); Ortiz/US-San Francisco (experiments critical to research on approaches to anti-HIV agents and antifungal drugs); Costa/US-Santa Cruz (NIH-funded research on free-ranging energetics of bottlenose dolphins); Schoeller/Univ. Chicago (NIH-funded research); Beck/Univ. Chicago (list attached of on-going and planned research and training initiatives dependent upon the University of Chicago, Radiology Department's ability to continue Fluorine-18 production on a predictable schedule); Brenna/Cornell (nutritional science studies); Mildvan/Johns Hopkins (biomedical research); Williams/LBL (collaborative project involving the manufacture of tritiated Oxygen-17 water with high abundances of the Hydrogen and Oxygen isotopes); Robert G. Griffin, Professor of Chemistry and Associate Director, Francis Bitter National Magnet Laboratory, Massachusetts Institute of Technology (high-temperature superconductor studies), October 21, 1991 (Griffin/MIT); Goldberg/Univ. MN. (NIH-funded work). Two of the commenters told of applying for NIH funding of mutual nutritional research. During the grant application process, long delivery schedules coupled with continually rising prices for Oxygen-18 labeled water made the project underfunded by the time the grant was awarded and necessitated a request to NIH for additional funds. Comments of Bray/LA. State; DeLany/LA. State.

Several of the commenters viewed the supply shortages, high prices, and confusion in the Oxygen isotope market as heightened by, if not the direct result of, DOE's withdrawal from production and distribution. Comments of Cleland/Univ. Wisc.; Wolf/Brookhaven; Connick/UC-Berkeley; Knowles/Harvard; Mildvan/Johns Hopkins; DeLany/LA. State; Kozarich/Univ. MD.; Dunaway-Mariano/Univ. MD.; Goldberg/Univ. MN.; Atcher/Soc. Nuc. Med. The most dramatic rise in prices for several of the Products was reported to have occurred after DOE ceased operation of the ICON Facility. For example, one commenter indicated that the Petitioner's prices for Oxygen-18 water rose from $70 a gram in July 1989 to $89.50/gram in July 1990, and that, by September 1991 (the date of the comment), the material was available only from a distributor other than the

Petitioner, in strictly limited quantities, and at higher prices, *e.g.*, a single 25/gram batch at a price approaching $180/gram. The Petitioner advised the commenter that a shipment could not be expected until May or June of 1992, with a 25/gram limitation and a price approaching $130/gram. The commenter knew that some individuals were getting water from Russia, but that that supply, too, was limited. Comment of Wolf/Brookhaven. Other instances were cited to illustrate that U.S. research efforts have suffered in the past due to DOE's relinquishment of its role as supplier. Comments of Subramanian/Soc. Nuc. Med.; Atcher/Argonne.

Some of the commenters discussed their experiences with the quality of the Petitioner's stable isotopes, including some of the Products, and sometimes compared their quality with similar isotopes produced by DOE. One user reported purchasing Oxygen-18 water of excellent quality from DOE until DOE discontinued distribution, and, afterward, purchasing from the Petitioner a lower-quality material that had to be redistilled each time it was received. Comment of Goldberg/Univ. MN. In another case, the percentage of enrichment of certain stable isotopes sold by the Petitioner seemed to the user to be lower than those supplied by DOE, prompting the commenter to question whether DOE wanted nuclear medicine researchers to use inferior products in their work. Comment of Subramanian/Soc.Nuc.Med. Still another comment on quality of materials was provided by researchers who use enriched stable isotopes to produce radioactive isotopes for preparation of therapeutic radiopharmaceuticals used in the treatment of cancer, arthritis, and other diseases. Several of the radiopharmaceuticals are currently in human clinical trials sponsored by U.S. companies. In one case, an enriched stable isotope of an unspecified element was purchased from the Petitioner and compared to the similar material obtained from DOE. Petitioner's material was found to be unsuitable for the intended use due to its production of much higher levels of long-lived radionuclidic impurities. Thus, one of the researchers stated, the Petitioner's mateial did not have the purity of its DOE counterpart, regardless of the claimed specifications. A second researcher added "(I)n this case at least (and who knows how many others) * * * (the Petitioner) was unable to match the quality of the DOE material." Comments of Ehrhardt/Univ. MO.; Alan R. Ketring, Group Leader, Radioisotope Applications Group, University of Missouri Research Reactor Facility, October 24, 1991 (Ketring/Univ. MO.). Another commenter reported a somewhat similar experience with an enriched stable isotope purchased from the Petitioner for use in clinical studies, although the isotope, Samarium–152, is not the subject of the Petition. Comment of Volkert/Univ. Mo. Other commenters reported that they are very concerned about the purity of a certain (unspecified) isotope that they are using, if produced by the Petitioner, or that the technical specifications of the Petitioner's enriched isotopes were often below those provided by DOE. Comments of Frank Spillers, Director of Discovery Development, Texas Operations, Dow U.S.A., October 24, 1991 (Spillers/DOW); Atcher/Argonne. Finally, a commenter added that, for some materials, the enrichment factors available from the Petitioner did not match those available from DOE, and that his organization had also experienced difficulties with the purity and identity of some of the Petitioner's enriched stable materials. He concluded that the Petitioner had yet to establish a track record of product purity and consistency similar to that of DOE's facilities. Comments of Carni/DOW.

B. Dependability of Market Supplies

Continuity of private-sector production and/or distribution has been problematic for researchers and isotope users in certain instances and is a primary concern in some Product markets, *e.g.*, specific stable isotopes used in nuclear medicine and life science studies. As previously indicated, shortages in supplies of different isotopes have occurred at different times and for different reasons, and a number of the commenters view the continuing, uninterrupted availability of stable isotopes necessary for research and application as potentially threatened, if DOE withdraws from the markets. The reasons mentioned as causes for concerns about potential future supply interruptions include: (1) The inability of or a lack of interest on the part of private industry to timely meet researchers' needs, such as requirements for small or especially large volumes of materials or special formulations at reasonable prices (Comments of Power/U.S.D.A.; Y.Y. Chu, Staff Scientist, *et al.*, commenting as individuals, Brookhaven National Laboratory, undated letter (Chu et al./Brookhaven); Amos L. Hopkins, Ph.D., Department of Anatomy, Case Western Reserve University, October 25, 1991 (Hopkins/Case Western); Poppe/LLNL; Brian Fry, Associate Scientist, Marine Biological Laboratory, Woods Hole, Massachusetts, October 17, 1991 (Fry/Woods Hole); Subraminian/Soc. Nuc. Med.; Ivor L. Preiss, Professor of Chemistry, Nuclear Engineering, and Engineering Physics, Rensselaer Polytechnic Institute, October 21, 1991 (Preiss/Rensselaer); Alfred G. Redfield, Professor of Biochemistry and Physics, Brandeis University, October 10, 1991 (Redfield/Brandeis); (2) Dependence on foreign production (Comments of Spillers/DOW; Baumstark/Georgia State; DeLany/LA. State; Wilhelmy/Los Alamos; Ketring/Univ. MO.; Jurisson/Univ. MO.; Ehrhardt/Univ. MO.); (3) The inability of private-sector suppliers to respond to varying needs and increasing numbers of users in the research community or to new applications (Comments of Bray/LA. State;Volkert/Univ. MO.; Joseph R. Peterson, Professor of Chemistry, University of Tennessee, Knoxville, October 22, 1991 (Peterson/Univ. Tenn.); Kabalka/Univ. Tenn.); and (4) A lack, or potential for lack of effective competition in the markets after a DOE withdrawal (Comments of Atcher/Argonne; Costa/UC-Santa Cruz; Palko/Reuters-Stokes; Oldfield/Univ. Ill.; Subramanian/Soc. Nuc. Med.); Mitsuo Niki, Senior Vice President, Niki Glass Company, Ltd., October 25, 1991 (Niki Glass); Kenneth Kwong, Phd.D., MGH–NMR Center, Massachusetts General Hospital-Harvard Medical School, undated letter (Kwong/Mass. Gen-Harvard); Worthy/Tex. A&M.

Some commenters noted the differences between the Petitioner's assertions of its ability and its actual ability to meet or provide supplies in response to market demands. Comments of Costa/UC-Santa Cruz; Atcher/Argonne; Knowles/Harvard; Mildvan/Johns Hopkins; Schoeller, Univ. Chicago; Brenna/Cornell; Hoff/LLNL (colleagues have reported being unable to place a confirmed order with Petitioner for certain enriched stable metal isotopes advertised in Petitioner's catalog as available); DeLany/LA. State. A commenter suggested that it might be useful for DOE to seek a written contractual commitment from the Petitioner as to what quantities, prices, deliveries, and enrichments of stable isotopes its proposes to have available, noting the case with which a commercial supplier can promise anything, justifying its current lack of production on unfair competition. Comment of Oldfield/Univ. Ill. Concerns regarding the potential for future supply shortages were heightened where the commenter thought that a domestic or foreign source might intend to be able to manipulate certain Product markets for profit or other reasons in a manner that would put U.S. research and use as a disadvantage. The Petitioner's status as a wholly-owned subsidiary of a Japanese company also was sometimes referred to in this connection. (The Petitioner is a wholly-owned subsidiary of Matheson Gas Products, Inc., which is a wholly-owned subsidiary of Nippon Sanso KK, a Japanese company. Supplement to the Petition, p.5.) Comments of David B. Curtis, Santa Fe, New Mexico, October 28, 1991; Chu *et al.*/Brookhaven; Hopkins/Case Western; Spillers/DOW; Carni/DOW; Poppe/LLNL; Kwong/Mass. Gen.-Harvard; Subaramanian, Soc. Nuc. Med.; Niki Glass; Worthy/Tex. A&M.

Concerns were expressed also about the potentially adverse effect a DOE withdrawal from the markets for the Products would have on other stable isotope markets or on DOE production and distribution of the Products to DOE facilities. For example, one commenter is concerned that the Petition might be interpreted broadly to include other stable isotopes marketed by the Petitioner, *e.g.* those referred to in the Petitioner's catalog as "metal stable isotopes", a concern based upon the fact that only the United States (DOE) and the Soviet Union are producers. Thus, a DOE withdrawal from production would leave only an undependable source to meet market demands. Comment of Steven W. Yates, Professor, Department of Chemistry, University of Kentucky and Vice Chairman, Division of Nuclear Chemistry and Technology, American Chemical Society, October 18, 1991 (Yates/Am. Chem. Soc.). Another commenter felt that granting the Petition might be construed as a precedent for extension by Petitioner or another firm into a larger portion of the isotope production and distribution market, in the absence of effective competition and with abdication of the U.S. government's responsibility for producing and distributing the types of isotopes required for research and application by *bona fide* scientists and medical practitioners. Comment of Peterson/Univ. Tenn. Still other commenters believed that granting the Petition would severely impact DOE's capabilities for product development and researching of new applications using the enriched stable isotopes of the noble gases and that curtailment of DOE production capability could force DOE facilities to turn to the commercial market for supplies, an alternative source that the commenters' limited experience suggested could not meet the demand readily or at prices comparable to those charged by DOE. Poppe/LLNL. Another commenter felt that DOE's withdrawal as a supplier of enriched stable isotopes would inject into a fragile, but important market an uncertainty and instability concerning quantity and quality of supplies that could jeopardize many current and future research programs unnecessarily. Comment of Slayton A. Evans, Jr., Professor of Chemisty, University of North Carolina at Chapel Hill, October 22, 1991 (Evans/NC-Chapel Hill).

IV. Statutory Authority and Policy: The Role of the United States Government in Atomic Energy Markets

The Atomic Energy Act (the Act) establishes the United States Government as the initially-exclusive domestic developer and user of, and practitioner, in atomic energy. The Act encouraged the Government, acting through the Atomic Energy Commission (AEC), to undertake activities that could lead to the potential development of future commercial, civilian markets for atomic energy products and services, but it did not establish a time by which markets were to be developed, procedures or criteria for withdrawal decisions, or a definition of the extent to which there should be withdrawals. Decisions concerning the atomic energy markets were left, instead, to the expertise and discretion of the AEC and its successor agencies, the Energy Research and Development Administration (ERDA) and, later, DOE, with the caveat that their activities should conform to the U.S. policy of strengthening free competition in private enterprise.

In discharging its mission of developing atomic energy so as to make the maximum contribution to the general welfare, DOE used its authorities under sections 31–33 of the Atomic Energy Act to conduct or sponsor research and pioneer conception, construction or formulation, and use of equipment and materials that gave rise to commercial enterprises based upon the use of radioactive and stable isotopes. The multi-billion dollar (annual) U.S. nuclear medicine industry is an example of a development built upon DOE's isotope innovations and continuing to derive benefits from ongoing research conducted by or for DOE or sponsored by DOE or other Federal agencies, frequently using DOE facilities or materials. Stable isotopes were developed, along with radioisotopes, for use, initially, in DOE's own research and applications and then for supply to private users to whom atomic-energy-based technologies for peaceful uses had been transferred. Today stable isotopes continue to be used frequently as target material in the production of radioisotopes. For example, Oxygen-18 enriched water is used in the production of Fluorine-18, a radionuclide that is especially important in contemporary nuclear medicine research and applications.

DOE's authority for the production and distribution of stable isotopes is Section 161m of the Atomic Energy Act, which authorizes it to:

> (E)nter into agreements with persons licensed under Section 103, 104, 53a.(4), or 63a.(4) * * * (1) to provide for the processing, fabricating, separating, or refining in facilities owned by the Commission of source, byproduct, or other material or special nuclear material owned by or made available to such licensees and which is utilized or produced in the conduct of the licensed activity, and (2) to sell, lease, or otherwise make available to such licensees such quantities of source or byproduct material, and other material not defined as special nuclear material pursuant to this Act, as may be necessary for the conduct of the licensed activity.

Section 103 is the authority for licensing of utilization or production facilities used for industrial or commercial purposes; section 104 is the authority for issuing licenses to persons for utilization facilities to be used in medical therapy and in research and development in areas within DOE's jurisdiction. Section 53a.(4) is the authority for licensing the domestic distribution of special nuclear material for other uses determined to be appropriate to carry out the purposes of the Atomic Energy Act; section 63a.(4) is the authority for licensing the domestic distribution of source material for other approved uses as an aid to science and industry. These authorities permit DOE to provide stable isotopes and related services to a wide variety of holders of licenses for the civilian possession, handling, and use of atomic energy for research and development and medical, commercial, and industrial applications.

The historical AEC/ERDA/DOE approach to the isotope markets can be summarized as a series of withdrawals and reentries designed to address the agencies' contemporary assessments of the strength of private sector suppliers in meeting demands in the manner required to encourage further industrial and research developments. Although subsequently almost unused, the AEC Policy Statement was formulated in 1965 in an effort to provide a framework within which withdrawal and reentry decisions could be made with respect to radioisotope markets within a formal procedural framework. No similar process was established for stable isotope markets. However, withdrawals and reentries have taken place on a case-by-case basis, conditioned upon the continued ability of the private sector to meet market demands at reasonable prices and on reasonable schedules. Petition, Exhibits 1 and 2.

V. Findings and Proposed Denial of Petition

After consideration of the record and within the context of the Act's comprehensive strategy for the development of atomic energy and the AEC/ERDA/DOE tradition of responding to market conditions in a manner that strengthens free competition, DOE rejects the Petitioner's contention that DOE must withdraw from stable isotope markets, when such markets are occupied by a single private sector supplier or a limited number of such suppliers and without regard to market dislocations that have developed, or may be developing, due to the inability or lack of incentive or initiative of such suppliers to meet demands. At this time, the ability of users to obtain stable-isotopic materials for continued nuclear medicine research and development and life-science and environmental studies, including for the transfer of technology to practical or clinical application, is of particular concern to DOE in connection with the Petition.

The Petitioner contends that stable isotopes, other than "surplus" products, cannot be produced by DOE and sold on commercial markets and that, even where surplus isotopes are involved, sales must be in bulk, as opposed to sales in small, retail quantities. First, in responding to these issues, DOE's statutory mission to foster and encourage the development and use of atomic energy products for peaceful purposes belies the Petitioner's contention that the agency is confined to sales of only surplus products. Quite simply put, the Act's provisions for disposition of surplus materials cannot be read in a way that limits the Agency's vital role in encouraging and supporting the maximum scientific and industrial progress in atomic energy uses involving isotopes. The Act, in this respect, makes no distinction in Sections 31–33 and 161m between bulk sales and sales in small quantities or at retail. Consequently, DOE has the discretion to determine which methods of sale will best serve to enable it to carry out its mission under the Act in any particular case.

Second, although the Petitioner gives no weight to Congressional enactments establishing the Revolving Fund which provides the financial support for DOE's isotope production and distribution activities, DOE finds it significant that various House Reports accompanying the annual Energy and Water Development Appropriations characterize the program as providing—

> (R)adioactive and stable isotope products and associated services to a wide and varied domestic and international market. These materials and services are produced, processed and provided through the utilization of DOE facilities and scientific capabilities which exist to satisfy other DOE research and production missions. Ultimate applications of isotope products include medical research and health care, industrial research and manufacturing, agriculture, food preservation, education, and national defense. Prices for the products are established to recover program costs while revenues realized from the sales are retained by the program as an offset to costs and investments in processes, improvements, unique equipment, and isotope research. H.R. Rep. No. 536, 101st Cong., 2nd Sess. 105–105 (1990).

Further,

> In keeping with government policies and practices, prices are set for products offered under this program in a manner that will not discourage the use of the products nor the development of domestic sources of supply independent of DOE. H.R. Rep. No. 75, 102d Cong., 1st Sess. 101 (1991)

This is not a description of an activity that disposes merely of inconveniently-produced surplus materials resulting from other atomic-energy operations. Rather, it describes an activity that takes advantage of DOE's multi-purpose capabilities to produce materials used for or in association with atomic energy and, specifically, which sells isotopes in quantities that meet specific demands. By doing so, DOE has played and plays the vital role ascribed to it in the Report. The Revolving Fund legislation reflects DOE's mission as authorized by the Act with respect to isotope production and distribution and reaffirms the intent of Congress that this mission should continue to be the responsibility of DOE.

In view of DOE's statutory responsibility for encouraging and promoting research in, and development and use of atomic energy for peaceful purposes, the evidence in the record as a whole indicates that, should DOE withdraw from distribution of stable isotopes to commercial markets and other Federal agencies as requested by the Petitioner, important research, medical, and industrial uses involving atomic energy may be adversely impacted through the limitation, or further limitation, of timely and cost-effective availability of essential stable and radioactive isotopes and by the interjection of additional uncertainties into research and production schedules and instabilities into markets. On the basis of specific evidence of record, described and discussed in detail above, DOE finds that:

- Overall effective competition, in the meaning used in the Act and the AEC Policy Statement, has not been achieved and continued on a long-term basis in the markets for one or more of the Products;
- One or more of the Products are not, or at times have not been reasonably available from active commercial sources, including the Petitioner, in quantities or, in some instances, qualities necessary for intended uses; and
- Prices for one or more commercially-produced Products are not or, from time to time, have not been, or, in the future, may not be consistent with the encouragement of research and development, practical application, and use.

The comments note the past and current inability and question the future ability of the Petitioner and any other active producers/distributors of the Products to meet future demands over time, at prices and on schedules conducive to the encouragement and continued conduct of interests and enterprises that depend upon the use of stable isotopes and the radioactive isotopes produced from them. The suggestions are based upon incidents from past history and current conditions of unavailability of certain of the Products. Based on past experience, DOE believes that its removal from the actual or potential production and distribution of the Products could aggravate market instability, rather than stimulate competition and assure adequate and reasonable future supplies.

Therefore, having considered the Petitioner's request and the materials timely received into the public record, DOE has concluded that the evidence available does not permit it to make the Policy Statement findings required to support the granting of the Petition. Further, DOE has concluded that it should conduct and support the production and distribution of stable isotopes, including the Products, and provide associated services as it deems necessary, when there is evidence that private industry is unable, unwilling, or, for whatever reasons, is not carrying out such work adequately or where DOE determines that its direct effort is necessary in the interest of fostering and promoting the Federal civilian atomic energy program. Such operations will require that DOE maintain considerable flexibility in decisionmaking with respect to planning, modifying, and redirecting facilities and personnel in isotope-production and service activities and be able to bring its discretion and expertise to bear in effectively and efficiently responding to the needs of the domestic and international research, medical, commercial, and industrial communities that rely upon a steady and ample supply of stable isotopes, including the Products and radioisotopes derived from them, for their work. The need for flexibility today is especially great, not only due to rapidly-increasing demands for certain isotopes and radioisotopes, but because a reconfiguration of the national weapons complex hosting many of the facilities with isotope production capability is in progress.

Therefore, for all of the reasons above, DOE proposes to deny the Petition.

VI. Opportunity for Public Comment

DOE will accept post-publication comments until April 1, 1992. The proposed denial of the Petition will become final April 16, 1992, if the agency takes no further action in response to comments.

Notice will be given of any further action deemed to be warranted. The record will continue to be available in DOE's Freedom of Information Reading Room until the close of the post-publication comment period.

Dated at Washington, DC, this 14th day of February, 1992.

William H. Young,

Assistant Secretary for Nuclear Energy.

[FR Doc. 92-4800 Filed 2-28-92; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[WH-FLR-4110-5]

State and Local Assistance; Grants for State Water Pollution Control Revolving Funds (Title VI) Under the Clean Water Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of allotment.

SUMMARY: This notice sets forth the State allotments of fiscal year (FY) 1992 funding for the State Revolving Fund capitalization grants program under the Clean Water Act (CWA). On October 28, 1991 in Public Law No. 102-139 Congress appropriated $1,948,500,000 in funding for the State Revolving Fund capitalization grants program (Title VI). The 1992 Dire Emergency Supplemental Appropriation Act, Public Law No. 102-229, authorized up to one-half of one percentum of Title VI funds under the Clean Water Act to be reserved for making grants to Indian Tribes and Alaska Native Villages for wastewater treatment facilities. The State funds are allotted in accordance with the table in section 205(c)(3) of the Act, as amended by Public Law No. 100-4.

Through promulgation of this notice the requirements of the Act are fulfilled and the public is notified of the amounts made available to the States to capitalize the State water pollution control revolving funds. It also provides notice that one-half of one percentum or $9,743,000 is reserved for grants to Indian Tribes and Alaska Native Villages, and that grants from this reservation will be made to fund projects on the 1990 Indian Project Priority List.

FOR FURTHER INFORMATION CONTACT: Mr. Leonard B. Fitch, Program Management Branch, Municipal Support Division, Office of Wastewater Enforcement and Compliance (202) 260-5858.

SUPPLEMENTARY INFORMATION: Public Law No. 102-139 appropriated $1,948,500,000 for State Revolving Fund capitalization grants under Title VI of the CWA for fiscal year 1992. Section 604(a) of the Act requires that funds appropriated for Title VI for fiscal years 1987 to 1990 be allotted in accordance with the table in section 205(c)(3) of the Act. Congress has given the Agency no instruction regarding the allotment of FY 1992 funds. In the absence of Congressional action, the Agency will allot the fiscal year 1992 funds in accordance with the table in section 205(c)(3) except as described below.

Indian Tribes Adjustment

The 1992 Dire Emergency Supplemental Appropriation Act, Public Law No. 102-229, authorized the Administrator to reserve up to one half of one percentum of fiscal year 1992 Title VI funds for making grants to Indian Tribes and Alaska Native Villages for construction of wastewater treatment facilities. The Administrator has elected to reserve these funds to be administered under the Indian Set-Aside Program authorized by section 518(c) of the Clean Water Act. These funds will be allotted to the Indian Tribes and Alaska Native Villages based on the 1990 Indian Set-Aside Project Priority List published in the **Federal Register** December 21, 1990. Projects were ranked on this National Priority List based on water quality and public health criteria.

Trust Territory Adjustment

In Public Law No. 99-658, Congress approved a Compact of Free Association for the Trust Territories' members. Two entities, the Federated States of Micronesia and the Republic of the Marshall Islands have implemented Compacts and are no longer eligible for grants under Title VI. At the effective date of this allotment the Republic of Palau has yet to implement a Compact of Free Association, and, under Public Law No. 99-239, section 105(h)(2), remains eligible for Title VI grants. Funds that otherwise would have been allotted to the Federated States of Micronesia and the Republic of the Marshall Islands are redistributed to the States and Territories by proportionally increasing their respective shares of the appropriation as shown in the column titled "Allotment Formula After Trust Territory Adjustments." The actual allotments resulting from the adjusted allotment shares are shown in the column titled "FY 1992 State Allotment." The table at the end of this notice lists the amount of funding made available to each State. These funds have been issued by the EPA Comptroller and are available for obligation until September 30, 1993. Grants from the allotments may be awarded as of the date that the funds were issued to the Regional Administrators by the Comptroller of EPA.

Dated: February 24, 1992.

William K. Reilly,

Administrator.

State	Allotment formula	Allotment formula after trust terr. adjustments	FY 1992 state allotment
Alabama	0.011309	0.011320	$21,945,800
Alaska	0.006053	0.006059	11,746,200
Arizona	0.006831	0.006837	13,256,000
Arkansas	0.006616	0.006622	12,838,700
California	0.072333	0.072400	140,366,400
Colorado	0.008090	0.008098	15,699,100
Connecticut	0.012390	0.012402	24,043,500

State	Allotment formula	Allotment formula after trust terr. adjustments	FY 1992 state allotment
Delaware	0.004965	0.004970	9,634,900
Dist. of Columbia	0.004965	0.004970	9,634,900
Florida	0.034139	0.034171	66,248,700
Georgia	0.017100	0.017116	33,183,500
Hawaii	0.007833	0.007840	15,200,400
Idaho	0.004965	0.004970	9,634,900
Illinois	0.045741	0.045783	88,763,100
Indiana	0.024374	0.024397	47,299,200
Iowa	0.013688	0.013701	26,562,400
Kansas	0.009129	0.009137	17,715,400
Kentucky	0.012872	0.012884	24,978,900
Louisiana	0.011118	0.011128	21,575,100
Maine	0.007829	0.007836	15,192,600
Maryland	0.024461	0.024484	47,468,000
Massachusetts	0.034338	0.034370	66,634,900
Michigan	0.043487	0.043527	84,389,100
Minnesota	0.018589	0.018606	36,073,000
Mississippi	0.009112	0.009120	17,682,400
Missouri	0.028037	0.028063	54,407,400
Montana	0.004965	0.004970	9,634,900
Nebraska	0.005173	0.005178	10,038,500
Nevada	0.004965	0.004970	9,634,900
New Hampshire	0.010107	0.010116	19,613,200
New Jersey	0.041329	0.041367	80,201,300
New Mexico	0.004965	0.004970	9,634,900
New York	0.111632	0.111736	216,628,000
North Carolina	0.018253	0.018270	35,421,000
North Dakota	0.004965	0.004970	9,634,900
Ohio	0.056936	0.056989	110,487,600
Oklahoma	0.008171	0.008179	15,856,300
Oregon	0.011425	0.011436	22,170,900
Pennsylvania	0.040062	0.040099	77,742,600
Rhode Island	0.006791	0.006797	13,178,300
South Carolina	0.010361	0.010371	20,106,100
South Dakota	0.004965	0.004970	9,634,900
Tennessee	0.014692	0.014706	28,510,700
Texas	0.046225	0.046269	89,704,200
Utah	0.005329	0.005334	10,341,200
Vermont	0.004965	0.004970	9,634,900
Virginia	0.020698	0.020717	40,165,700
Washington	0.017588	0.017604	34,130,500
West Virginia	0.015766	0.015781	30,594,800
Wisconsin	0.027342	0.027367	53,058,700
Wyoming	0.004965	0.004970	9,634,900
American Samoa	0.000906	0.000909	1,762,000
Guam	0.000657	0.000658	1,274,900
Northern Marianas	0.000422	0.000422	818,900
Puerto Rico	0.013191	0.013203	25,597,900
Pacific Trust Terr.	0.001295	0.000367	712,200
Virgin Islands	0.000527	0.000527	1,022,700
Subtotal	1.000000	1.000000	1,938,757,000
Indian Set-aside			9,743,000
Total			1,948,500,000

[FR Doc. 92-4774 Filed 2-28-92; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4110-7]

Office of Administrative Law Judges; Temporary Closing of Office of the Hearing Clerk

Notice is hereby given that U.S. Environmental Protection Agency's Office of the Hearing Clerk, 401 M Street, SW., Washington, DC will be temporarily closed to the general public for inspection and reproduction of documents from March 2, 1992 until March 16, 1992. The Hearing Clerk will receive filings as usual. The office is undergoing renovations and we apologize for any inconvenience. For further information please contact Bessie L. Hammiel, (202) 260-4865.

Dated: February 24, 1992.

Henry B. Frazier III,

Chief Administrative Law Judge.

[FR Doc. 92-4776 Filed 2-28-92; 8:45 am]

BILLING CODE 6560-50-M

[OPPTS-62116; FRL-4048-6]

Accredited Training Programs Under The Asbestos Hazard Emergency Response Act (AHERA); National Directory of AHERA Accredited Courses (NDAAC)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: Effective February 28, 1992, the EPA is announcing the availability of a new edition of its National Directory of AHERA Accredited Courses (NDAAC). This publication, updated quarterly, provides information to the public about training providers and courses approved for accreditation purposes pursuant to the Asbestos Hazard Emergency Response Act (AHERA). As a nationwide listing of approved asbestos training programs and courses, the NDAAC has replaced the similar listing which was formerly published quarterly by EPA in the **Federal Register**. The February 28, 1992, national directory, which supersedes the version released on November 28, 1991, may be ordered through the NDAAC Clearinghouse along with a variety of related reports.

ADDRESSES: Parties interested in receiving a brochure which describes the national directory and provides ordering information should contact: NDAAC Clearinghouse, c/o ATLIS Federal Services, 6011 Executive Blvd., Rockville, MD 20852, Telephone: (301) 984–1929.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS–799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–543B, 401 M St., SW, Washington, DC 20460, (202) 554–1404, TDD: (202) 554–0551.

SUPPLEMENTARY INFORMATION: Pursuant to AHERA, contractors who inspect or prepare management plans, or design or conduct response actions with respect to friable asbestos-containing materials in schools, are required to obtain accreditation by completing prescribed training requirements. EPA therefore maintains a current national listing of AHERA-accredited courses and approved training providers so that this information will be readily available to assist the public in accessing these training programs and obtaining the necessary accreditation. The information is also maintained so that the Agency and approved state accreditation and licensing programs will have a reliable means of identifying and verifying the approval status of training courses and organizations.

Previously, EPA had published this listing in the **Federal Register** on a quarterly basis. The last **Federal Register** listing required by law was published on August 30, 1991 (56 FR 43064). EPA recognized the need to continue publication of this document even though the legislative mandate had expired. The NDAAC fulfills the public need for this information while at the same time, it reduces EPA cost and improves the service's capabilities.

Dated: February 20, 1992.

Mark A. Greenwood,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 92–4781 Filed 2–28–92; 8:45 am]

BILLING CODE 6560–50–F

[OPPTS–59303; FRL 4051–3]

Certain Chemical; Test Market Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substance Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt are discussed in EPA's final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice, issued under section 5(h)(6) of TSCA, announces receipt of one application for exemption, provides a summary, and requests comments on the appropriateness of granting these exemptions.

DATES:

Written comments by:

T 92–3 March 13, 1992.

ADDRESSES: Written comments, identified by the document control number "(OPPTS–59303)" and the specific TME number should be sent to: Document Processing Center (TS–790), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., rm. L–100, Washington, DC 20460, (202) 260–3532.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS–799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, rm. EB–545, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer of the TME received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office NE–G004 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

T 92–3

Close of Review Period. March 27, 1992.

Manufacturer. Confidential.

Chemical. (S) Lubricating oils, used, residues.

Use/Production. (S) Asphalt extender. Prod. range: Confidential.

Toxicity Data. Mutagenicity: negative.

Dated: February 20, 1992.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 92–4788 Filed 2–28–92 8:45 am]

BILLING CODE 6560–50–F

[OPPTS–59933; FRL 4050–8]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of 7 such PMN(s) and provides a summary of each.

DATES: Close of review periods:

Y 92–96, February 19, 1992.

Y 92–97, February 23, 1992.

Y 92–98, 92–99, 92–100, February 25, 1992.

Y 92–101, February 26, 1992.

Y 92–102, March 3, 1992.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS–799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC, 20460, (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office, NE–G004 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

Y 92-96

Manufacturer. Graphics Technology International Inc.

Chemical. (S) 4,4'-Sulfonyldiphenol; resorcinol diglycidyl ether; resorcinol.

Use/Production. (S) Vesicular diazo microfilm. Prod. range: 23,550–118,000.

Y 92-97

Manufacturer. Confidential.

Chemical. (G) Polyester of hexanediol, trimethyl propane and mixed aliphatic acids.

Use/Production. (G) Coatings. Prod. range: Confidential.

Y 92-98

Manufacturer. C.J. Osborn Div. of Suvar Corporation.

Chemical. (G) Tall oil fatty acid based alkyd.

Use/Production. (S) Pigmented coatings. Prod. range: Confidential.

Y 92-99

Manufacturer. Henkel Corporation.

Chemical. (S) Azelaic acid, adipic acid, and phthalic anhydride, polymer with propane glycol-hydrogenated coco fatty acid ester.

Use/Production. (S) Plasticizer for polyvinyl chloride resin. Prod. range: 1,000,000–2,000,000 kg/yr.

Y 92-100

Importer. MTC America, Inc..

Chemical. (G) Styrene copolymer.

Use/Import. (S) Thermoplastic polymer compound. Import range: Confidential.

Y 92-101

Importer. The P. D. George Company.

Chemical. (G) Ester of styrene/alkyl alcohol copolymer.

Use/Import. (S) Binder in metal coatings. Import range: Confidential.

Y 92-102

Manufacturer. Confidential.

Chemical. (G) Polyamide.

Use/Production. (G) Printing ink resin. Prod. range: Confidential.

Dated: February 20, 1992.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 92-4789 Filed 2-28-92; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

Travel Reimbursement Program (October 1, 1991–December 31, 1991)

Summary Report

Total Number of Sponsored Events	9
Total Number of Sponsoring Organizations	9
Total Number of Different Commissioners/Employees Attending	7
Total Amount of Reimbursement Expected:	
Transportation	$3,300.50
Subsistence	1,687.86
Other Expenses	328.62
Total	5,316.98

Individual Event Report

Sponsoring Organization: Minnesota Broadcasters Association, 3517 Raleigh Avenue, P.O. Box 16030, St. Louis Park, MN 55416
Date of the Event: October 10–11, 1991
Description of the Event: MBA Convention, Austin, Minnesota
Commissioners Attending: (1) Commissioner James H. Quello
Other Employees Attending: None
Amount of Reimbursement:

Transportation	$312.00
Subsistence	177.88
Other Expenses	111.61
Total	601.49

Sponsoring Organization: American Mobile TeleCommunications Association, 1835 K Street, NW., Suite 203, Washington, DC 20006
Date of the Event: October 14–15, 1991
Description of the Event: SMR/Private Carrier Management Conference, Chicago, Illinois
Commissioners Attending: None
Other Employees Attending: Ralph A. Haller, Chief, Private Radio Bureau
Amount of Reimbursement:

Transportation	$366.00
Subsistence	143.73
Other Expenses	36.00
Total	545.73

Sponsoring Organization: West Virginia Cable Television Association, 1 Bridge Place, 10 Hale Street, Charleston, WV 25301
Date of the Event: October 16, 1991
Description of the Event: WVCTA Fall Show, White Sulphur Springs, West Virginia
Commissioners Attending: None
Other Employees Attending: Robert Corn-Revere, Legal Adviser, Com. Quello
Amount of Reimbursement:

Transportation	$262.00
Subsistence	90.55
Other Expenses	26.50
Total	379.05

Sponsoring Organization: Forest Industries Telecommunications, 871 Country Club Road, Suite A, Eugene, Oregon 97401
Date of the Event: October 24–26, 1991
Description of the Event: FIT's 1991 Annual Board of Directors and Membership Meeting, Eugene, Oregon
Commissioners Attending: None
Other Employees Attending: Ralph A. Haller, Chief, Private Radio Bureau
Amount of Reimbursement:

Transportation	$384.00
Subsistence	240.50
Other Expenses	34.50
Total	659.00

Sponsoring Organization: EPM Communications, Incorporated, 488 East 18th Street, Brooklyn, NY 11226
Date of the Event: October 27–29, 1991
Description of the Event: 3rd Annual EPM Entertainment Marketing Conference, Los Angeles, California
Commissioners Attending: Commissioner James H. Quello
Other Employees Attending: None
Amount of Reimbursement:

Transportation	$00.00
Subsistence	180.00
Other Expenses	00.00
Total	180.00

Sponsoring Organization: Competitive Telecommunications Association, 120 Maryland Avenue, NE., Washington, DC 20002
Date of the Event: October 13–16, 1991
Description of the Event: Comptel's Fall Business Conference, Orlando, Florida
Commissioners Attending: Commissioner Ervin S. Duggan
Other Employees Attending: None
Amount of Reimbursement:

Transportation	$00.00
Subsistence	126.00
Other Expenses	00.00
Total	126.00

Sponsoring Organization: United States Telephone Association, 900 19th Street, NW., Suite 800, Washington, DC 20006

Date of the Event: November 3–6, 1991

Description of the Event: USTA's 94th Annual Convention, Honolulu, Hawaii

Commissioners Attending: None

Other Employees Attending: Linda Townsend Solheim, Chief, Office of Legislative Affairs

Amount of Reimbursement:

Transportation	$754.00
Subsistence	168.00
Other Expenses	73.16
Total	995.16

Sponsoring Organization: Global Telecommunications, 28th Floor, Center Point, 103 New Oxford Street, London WCIA IDD

Date of the Event: December 3–4, 1991

Description of the Event: Annual Conference, Berlin, Germany

Commissioners Attending: None

Other Employees Attending: Kenneth Robinson, Advisor, Chairman Sikes

Amount of Reimbursement:

Transportation	$836.50
Subsistence	195.20
Other Expenses	11.85
Total	1,043.55

Sponsoring Organization: TeleStrategies, Incorporated, 1355 Beverly Road, Suite 100, McLean, Virginia 22101

Date of the Event: December 12–13, 1991

Description of the Event: TeleStrategies "Cordless '91—West" Program, San Francisco, California

Commissioners Attending: None

Other Employees Attending: Thomas Stanley, Chief, Office of Engineering and Technology

Amount of Reimbursement:

Transportation	$386.00
Subsistence	366.00
Other Expenses	35.00
Total	787.00

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92–4803 Filed 2–28–92; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Caribbean Shipowners Association; Agreements Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–010979–019.

Title: Caribbean Shipowners Association.

Parties: Tropical Shipping & Construction Co., Ltd., Trailer Marine Transport Corporation, Puerto Rico Maritime Shipping Authority ("PRMSA"), Seaboard Marine, Ltd., West Indies Shipping Corporation (WISCO), Tecmarine Lines, Inc., Bernuth Lines, Ltd., Interline Connection, Inc., Kirk Line, Inc.

Synopsis: The proposed amendment would delete Trinidad and Tobago from the scope of the Agreement.

Dated: February 25, 1992.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 92–4705 Filed 2–28–92; 8:45 am]

BILLING CODE 6730-01-M

Cleveland Stevedore Co./Ceres Terminals, Inc.; Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission pursuant to section 15 of the Shipping Act, 1916, and section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 560.6 and/or 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 224–200623.

Title: Cleveland Stevedore Company/Ceres Terminals, Inc.

Parties: Cleveland Stevedore Company Ceres Terminals, Inc.

Filing Party: Christopher C. Morton, Vice President Operations, Cleveland Stevedore Company, 775 Erieside Avenue, Cleveland, Ohio 44114–1094.

Synopsis: This Agreement, filed February 20, 1991, establishes an organization known as the Port of Cleveland Terminal Association. The association's purpose is to allow the parties to consult with one another and to establish port terminal rates and charges and rules and regulations.

Dated: February 25, 1992.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 92–4704 Filed 2–28–92; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review; Delay in Implementation of Proposed Supplemental Report

SUMMARY: On December 10, 1991, the Board of Governors of the Federal Reserve System published for comment the proposed addition of a supplement to the quarterly Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002; OMB No. 7100–0032). The report is collected and processed by the Federal Reserve on behalf of all three federal bank regulatory agencies. The new supplement (FFIEC 002S; OMB No. 7100–0032) would collect information on assets and liabilities of a non-U.S. branch that is managed or controlled by a U.S. branch or agency of a foreign bank. The original comment period, which was scheduled to expire on January 10, 1992, was extended through January 31, 1992. The FFIEC 002S was proposed to be implemented as of March 31, 1992. In order to enable the public to prepare properly for the implementation of the proposed supplement, the Secretary of the Board, acting pursuant to delegated authority, has decided to extend the proposed implementation date for this supplement to June 30, 1992. The final Federal Reserve System action and reporting requirements will be issued shortly.

FOR FURTHER INFORMATION CONTACT: Martha C. Bethea, Deputy Associate Director, Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202–452–3181).

By order of the Secretary of the Board, acting pursuant to delegated authority for the Baord of Governors of the Federal Reserve System, February 25, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92–4706 Filed 2–28–92; 8:45 am]

BILLING CODE 6210–01–M

GENERAL ACCOUNTING OFFICE

Federal Accounting Standards Advisory Board; Meeting

AGENCY: General Accounting Office.

ACTION: Notice.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a two-day meeting of the Federal Accounting Standards Advisory Board will be held on Wednesday, March 18, 1992 and Thursday, March 19, 1992, from 9 a.m. to 4 p.m. in room 121 of the National Building Museum, 401 F St., NW., Washington, DC.

The agenda for the meeting will consist of a review of the minutes of the February 20 meeting, a review of an exposure draft on Accounting for Direct Loans and Loan Guarantees, a review of an exposure draft on Uses and Objectives of Federal Accounting, a brief discussion on unfunded liabilities, and a review of an exposure draft on Accounting for Tangible Property Other Than Long Term Fixed Assets of the Federal Government. We advise that other items may be added to the agenda; interested parties should contact the Staff Director for more specific information and to confirm the date of the meeting.

Any interested person may attend the meeting as an observer. Board discussions and reviews are open to the public.

FOR FURTHER INFORMATION CONTACT: Ronald S. Young, Staff Director, 401 F St., NW., room 302, Washington, DC 20001, or call (202) 504–3336.

Authority: Federal Advisory Committee Act. Public Law 92–463, section 10(a)(2), 86 Stat. 770, 774 (1972) (current version at 5 U.S.C. app. section 10(a)(2) (1988); 41 CFR 101–6.1015 (1990).

Dated: February 25, 1992.

Jimmie D. Brown,

Deputy Staff Director.

[FR Doc. 92–4675 Filed 2–28–92; 8:45 am]

BILLING CODE 1610–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Personnel Administration, Departmental Appeals Board; Statement of Organization, Functions and Delegations of Authority

I hereby delegate to the Chair, Departmental Appeals Board authority to establish the Quality Control Review Panel, within the organization of the Departmental Appeals Board, to review and issue decisions on difference cases (other than those individual cases that I choose to review) under section 408(b) of the Social Security Act, as added by section 8004 of the Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101–239), and in accordance with regulations of the Department of Health and Human Services implementing that law.

This delegation of authority is effective immediately. In addition, I hereby affirm and ratify any actions taken by you or any Departmental Appeals Board employee which, in effect, involved the exercise of this authority prior to the effective date of this delegation.

Dated: February 19, 1992.

Louis W. Sullivan,

Secretary.

[FR Doc. 92–4551 Filed 2–28–92; 8:45 am]

BILLING CODE 4150–04–M

Assistant Secretary for Personnel Administration; Statement of Organization, Functions, and Delegation of Authority

Part A (Office of the Secretary) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Service (DHHS) is amended to reflect a realignment of functions in the Office of the Assistant Secretary for Personnel Administration. Make the following changes to Chapter AH as last amended at 56 FR 41690 (August 22, 1991): A. Chapter AHH paragraph C. "The Office of Personnel Service," delete in its entirety and replace with the following:

C. *The Office of Personnel Services:* Directs and manages the personnel operations and services which are performed centrally at the Department level and those which are performed at the Operating Divsion level for the Office of the Secretary and for the Administration for Children and Families. Formulates and oversees the implementation of Department-wide policies, regulations and procedures concerning the Committee Management program, the Senior Executive Service program, and Schedule C and other executive personnel activities. Administers the Departmental drug testing and employee assistance program. Responsible for the functional management and training and development in the Department. Manages the HHS personnel and information security programs. Serves as HHS liaison to central management agencies for all programs and activities within the Office's functional jurisdiction. Provides the full range of operations personnel services for Headquarters staff of the Office of the Secretary and the Administration for Children and Families as well as for field positions in the Office of the Inspector General.

1. *Personnel Security and Drug Testing Program Division:* Responsible for establishing and maintaining a Department-wide personnel security program in accordance with the provisions of Executive Order (E.O.) 10450, Security Requirements for Government Employment, and U.S. Office of Personnel Management Federal Personnel Manual. Responsible for establishing and maintaining a Department-wide information security program in accordance with the provisions of E.O. 12356, National Security Information, and General Services Administration Information Security Oversight Office Directive Number 1, National Security Information formulates and oversees the implementation of Department-wide policies, regulations, and procedures governing the establishment and maintenance of an effective program to ensure that the employment and retention in employment of any Department officer or employee is clearly consistent with the efficiency of the service and the interests of the national security. Initiates requests to and receives completed reports of personnel security investigation from the U.S. OPM; reviews and evaluates the results of reports of investigation for any unfavorable information that could have

an adverse impact on the efficiency of the service and/or risks to the national security; authorizes employees to occupy certain sensitive positions based upon established guidelines; grants access to classified (national security) information based upon an identifiable need; maintains records relating to personnel suitability and security matters, levels of position sensitivity and access to classified information, and personnel security forms furnished by employees, and maintains liaison with HHS personnel security officials and officials in other Federal agencies on matters relating to the Department's personnel security program. Formulates and oversees the implementation of Department-wide policies, regulations, and procedures relating to the control and safeguarding of classified information, establishment of an effective security education program; conduct of security evaluations to ascertain the effectiveness of the Department's program, and maintains liaison with certain Department officials and other Federal agencies on matters relating to the overall classified information security program. Responsible for coordinating and overseeing the operation of the Department-wide Drug-Free Workplace Program. Formulates policies and procedures for the Department-wide drug testing program and oversees the implementation of the testing program. Schedules and receives results of drug test, coordinates follow up actions based upon positive drug tests, maintains records relating to the drug testing program, and maintains liaison with Department drug program coordinators and other officials, and with officials from other Federal agencies on matters relating to the overall Drug-Free Workplace Program.

2. *Executive Resources Management Division:* Formulates and oversees the implementation of Department-wide policies, regulations, and procedures governing the establishment, management, continuation or termination of all HHS Federal advisory committees and the appointment of members thereto; provides expert technical advise and assistance to OPDIV, STAFFDIV and agency Committee Management Officers and insures compliance with laws, regulations procedures governing committee management and serves as liaison with other Federal agencies, the Congress or other outside organizations on advisory committee matters. Formulates and oversees the implementation of Department-wide policies, regulations and procedures concerning all aspects of Senior Executive Service, and SES equivalent recruitment, staff, position establishment, compensation, award, performance management and other related personnel areas. As necessary, also provides service on these same areas as well as provides policy formulation and procedures development specifically in support of SES and SES equivalent needs in the Office of the Secretary and the Administration for Children and Families. Oversees and facilitates implementation of HHS-wide policies, regulations and procedures relating to Schedule C and other executive personnel activity. For all areas agencies (OPM, GAO). Provides technical advice and assistance on policy, legal and regulatory matters. Is the focal point for data, reports, and analyses relating to SES, SES equivalent and Schedule C and other executive personnel, such as those in Executive Level positions.

3. *Organization and Employee Development Division:* Responsible for the functional management of training and development in the Department, including policy development, guidance, and technical assistance and evaluation of all aspects of career, employee, supervisory, management, executive, and organization development. Administers Department-wide training and development programs, including the Secretary's Executive Leadership Forum, the Women's Management Training Initiative, Department level training for members of the SES, and the SES Candidate Development Program. Provides consulting services to HHS managers to promote organization development and quality improvement efforts and manages initiatives designed to improve quality of products and services. Responsible for the functional management of the Department's Employee Assistance Program (EAP). Provides leadership and direction to OPDIV and regional staffs in the development and maintenance of EAP, and develops Department-wide policies and procedures for EAP operation. Serves as HHS liaison to central management agencies on training and development and EAP programs and activities.

4. *Personnel Operations Division:* Provides secondary personnel policy as necessary for the Office of the Secretary and the Administration for Children and Families. Also provides to managers in the Office of the Secretary and the Administration for Children and Families advice and assistance in their personnel management activities including workforce planning, recruitment, selection, position management, and labor management relations. Provides a variety of services to employees in those organizations, including provision of employee assistance services, and career, retirement and benefits counseling. Provides personnel administrative services for the Office of the Secretary and the Administration for Children and Families, as well as for staff of the Office of the Inspector General in the field. Personnel administrative services include the exercise of appointing authority, position classification, awards authorization, and personnel action processing and recordkeeping. Provides training management for the Office of the Secretary. Operates the Mary E. Switzer Training Center, offering common needs training to employees based in Southwest Washington, DC.

Dated: Feburary 21, 1992.

Louis W. Sullivan,

Secretary.

[FR Doc. 92–4676 Filed 2–28–92; 8:45 am]

BILLING CODE 4190-04-M

Alcohol, Drug Abuse, and Mental Health Administration

National Institute of Mental Health; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of an advisory committee of the National Institute of Mental Health for March 1992.

The initial review group will be performing review of applications for Federal assistance; therefore, a portion of these meetings will be closed to the public as determined by the Administrator, ADAMHA, in accordance with 5 U.S.C. 552b(c)(6) and 5 U.S.C. app. 2 10(d).

This notice is being published less than 15 days prior to the meeting due to the difficulty of coordinating conflicting schedules of the members.

Summaries of the meeting and rosters of committee members may be obtained from: Ms. Joanna L. Kieffer, NIMH Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration, Parklawn Building, Room 9–105, 5600 Fishers Lane, Rockville, MD 20857 (Telephone: 301–443–4333).

Substantive program information may be obtained from the contact whose name, room number, and telephone number is listed below.

Committee Name: Clinical Subcommittee, Mental Health Special Projects Review Committee

Meeting Date: March 6, 1992.

Place: Dumont Plaza Hotel, 150 East 34th Street, New York, NY 10016.

Open: March 6, 8:30 a.m.–9 a.m.

Closed: Otherwise.

For Further Information Contact: Frances Smith, Room 9C–02 Parklawn Building, Telephone (301) 443–4986.

Dated: February 25, 1992.

Peggy W. Cockrill,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 92–4749 Filed 2–28–92; 8:45 am]

BILLING CODE 4160-20-M

Centers for Disease Control

[Announcement Number 204]

State and Community-Based Childhood Lead Poisoning Prevention Program; Availability of Funds for Fiscal Year 1992

Introduction

The Centers for Disease Control (CDC) announces the availability of grant funds in Fiscal Year 1992 for the initiation and expansion of State and community-based childhood lead poisoning prevention programs that (1) screen large numbers of infants and young children and identify those with lead poisoning, (2) identify possible sources of lead exposure, (3) monitor medical and environmental management of lead poisoned children, (4) provide information on childhood lead poisoning, its prevention and management, to the public, health professionals, and policy- and decision-makers, and (5) encourage community action programs directed to the goal of eliminating childhood lead poisoning.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life.

This announcement is related to the priority area of Environmental Health. (For ordering a copy of Healthy People 2000, see Where to Obtain Additional Information section.)

Authority

This program is authorized under sections 301(a) [42 U.S.C. 241(a)] and 317A [42 U.S.C. 247b–1] of the Public Health Service Act, as amended. Program regulations are set forth in title 42, Code of Federal Regulations, part 51B.

Eligible Applicants

Eligible applicants are state health departments or other state health agencies or departments deemed most appropriate by the state to lead and coordinate the state's childhood lead poisoning prevention program, and agencies of units of local government that serve jurisdictional populations greater than 500,000. This eligibility includes health departments or other official organizational authority (agency or instrumentality) of the District of Columbia, The Commonwealth of Puerto Rico, and any territory or possession of the United States. Also eligible are federally recognized Indian Tribal governments.

If a state agency applying for grant funds is other than the official state health department, written concurrence by the state health department must be provided.

Note: Eligible applicants may enter into contracts, including consortia agreements, as necessary to meet the requirements of the program and strengthen the overall application.

Availability of Funds

Approximately $15,000,000 will be available to fund approximately 15 new childhood lead poisoning prevention programs and provide support for currently funded programs. It is expected that the average new award will be $400,000 for the first year, with a range of $200,000 to $600,000. The new awards are expected to begin on or about July 1, 1992. Awards generally are made for 12-month budget periods within project periods not to exceed 5 years. Funding estimates may vary and are subject to change. Continuation awards will be for the recommended project period indicated in the original award and will be based on satisfactory progress and the availability of funds.

These grants are intended to develop, expand, or improve prevention programs in communities with demonstrated high-risk populations. Consideration will be given to others with a demonstrated childhood lead poisoning problem to support innovative strategies as part of a comprehensive plan to eliminate childhood lead poisoning as a public health problem. Grant awards cannot supplant existing funding for childhood lead poisoning prevention programs or activities. Grand funds should increase the level of expenditures from state, local, and other funding sources for childhood lead poisoning prevention. Awards will be made with the expectation that program activities will continue when grant funds are terminated at the end of the project period.

At the request of the applicant, Federal personnel may be assigned to a project in lieu of a portion of the financial assistance.

Note: Grant funds may not be expended for medical care and treatment or for environmental remediation of lead sources. However, the applicant must provide an acceptable plan to ensure that these program activities are appropriately carried out.

Purpose

State and community health agencies and organizations are the principal delivery points for childhood lead screening and related medical and environmental management activities; however, limited resources have made it difficult for agencies to develop and maintain programs for the elimination of this totally preventable disease. This grant program will provide financial assistance and support to state and community-based agencies and organizations so that they may do the following:

1. Establish, expand, or improve screening services in communities with large numbers of children at high risk for lead poisoning. Emphasis should be on intensive community screening to reach children not currently served by existing health care services. Efforts should be integrated with, where available in the community, maternal and child health programs; State Medicaid programs, such as the Early Periodic Screening, Diagnosis, and Treatment (EPSDT) programs; community and migrant health centers; and community-based organizations providing health and social services in or near public housing units, as authorized under section 340A of the PHS Act.
2. Intensify case management efforts to ensure that children with lead poisoning receive appropriate and timely follow-up services.
3. Establish, expand, or improve environmental investigations so that sources of lead exposure are rapidly identified and abated.
4. Develop infrastructure so that the provisions of the CDC Lead Statement, "Preventing Lead Poisoning in Young Children" (October 1991) can be implemented.
5. Develop an efficient information management system compatible with CDC data guidelines to monitor and evaluate program progress.
6. Improve the actions of other agencies and organizations to facilitate the rapid abatement of identified lead hazards in high risk communities.
7. Enhance knowledge and skills of program staff through training and other methods.

8. Based upon program findings, provide information on childhood lead poisoning to the public, policy-makers, the academic community, and other interested parties.

In summary, the purpose of this grant program is to provide impetus for development, operation, and institutionalization of state and community-based programs. Grant-supported programs are expected to serve as catalysts and models for the development of non-grant-supported programs and activities in other states and communities. Further, grant-supported programs should create community awareness of the problem (e.g., among community and business leaders, medical community, parents, educators, and property owners). It is expected that state health agencies will play a significant role in the development of community-based childhood lead poisoning prevenation programs including assuring coordination and integration with maternal and child health programs: State Medicaid EPSDT programs; community and migrant health centers; and community-based organizations providing health and social services in or near public housing units, where available in the community.

Program Requirements

The following are essential requirements for Childhood Lead Poisoning Prevention Projects:

1. A full-time director/coordinator with authority and responsibility to carry out the requirements of the program.
2. Ability to provide qualified staff, other resources, and knowledge to implement the provisions of the program.
3. A plan to develop or improve capacity to collect and analyze data and ensure: (a) Reporting to the appropriate health agency all children with elevated blood lead levels identified by private and public laboratories: (b) ensuring appropriate follow-up of such children; (c) routine analyses of data on children with elevated blood lead levels.
4. A plan for the evaluation of all major program activities and services.
5. Demonstrated experience in conducting and evaluating public health programs.
6. Ability to translate program findings to state and local public health officials, policy and decision-makers, and to others seeking to strengthen program efforts.
7. Information that describes why communities were selected for screening activities, including information on housing conditions, income, other socioeconomic factors, and previous surveys or screening activities for childhood lead poisoning prevention.
8. A comprehensive education and outreach plan directed specifically to health professionals and paraprofessionals and the public. In addition, the plan should also address education and outreach activities directed to policy and decision-makers, parents, educators, property owners, community and business leaders, housing authorities and housing and rehabilitation workers, and special interest groups.
9. Effective, well-defined working relationships within and outside the public health agency at national, state, and community levels (e.g., housing authorities; environmental agencies; maternal and child health programs; State Medicaid EPSDT programs; community and migrant health centers; community-based organizations providing health and social services in or near public housing units; state epidemiology programs; state and local housing rehabilitation offices; schools of public health and medical schools; and environmental interest groups) to appropriately address the needs and requirements of programs (e.g., data management systems to facilitate the follow-up and tabulation of children reported with elevated blood lead levels, training to ensure the safety of abatement workers) in the implementation of proposed activities. This includes the establishment of networks with other state and local agencies with expertise in childhood lead poisoning prevention programming.
10. A plan to ensure continuation of the childhood lead poisoning prevention program beyond expiration of grant support.
11. For awards to state agencies, there must be a demonstrated commitment to provide technical, analytical, and program assistance to local agencies interested in developing or strengthening childhood lead poisoning prevention programs.

Evaluation Criteria

The review of applications will be conducted by a CDC-convened objective review committee. The major factors to be considered in the evaluation of responsive applications are:

1. *Evidence of the Childhood Lead Poisoning Problem* (30%)

The applicant's ability to identify populations and communities at high risk, as defined by data from previous screening efforts, environmental data, and/or demographc data.

2. *Understanding the Problem* (10%)

The applicant's understanding of the requirements, objectives, and complexities of and interactions required for a successful program.

3. *Program Personnel* (15%)

The extent to which the proposal has described (a) the qualifications and commitment of the applicant, (b) detailed allocations of time and effort of staff devoted to the project, (c) information on how the applicant will develop, implement and administer the program, and (d) the qualifications of the support staff.

4. *Technical Approach* (20%)

The overall balance of the program design measured in terms of intensive screening, medical management, lead hazard abatement, and education and outreach activities. There should be a balance between the number of children screened and found with elevated blood lead levels and the program's ability to assure the provision of appropriate and timely case management services. The adequacy of the program design includes the extent to which the evaluation plan can be used to effectively measure progress towards the stated objectives.

5. *Collaboration* (15%)

The applicant should demonstrate the ability to collaborate with political subdivisions of states in developing childhood lead poisoning prevention programs and collaboration with other program-related entities, such as maternal and child health programs; State Medicaid EPSDT programs; community and migrant health centers; and community-based organizations providing health and social services in or near public housing units, where available in the community. Evidence of collaborative relationships include jointly developed plans for providing services and written commitments of support for other program-related entities that describe the collaborative activities.

6. *Plans To Become Self-Sustaining* (10%)

An explanation of how program services will be continued after termination of federal grant funds, which includes identifying other sources of support during the project period. By the end of the second budget year, grantees must have concrete plans to ensure institutionalization of the program after termination of grant support.

7. *Budget Justification and Adequacy of Facilities* (NOT SCORED)

The budget will be evaluated for the extent to which it is reasonable, clearly justified, and consistent with the intended use of grant funds. The adequacy of existing and proposed facilities to support program activities also will be evaluated.

Other Requirements

Data collection initiated under this grant program has been approved by the Office of Management and Budget under number 0920–0282, "Childhood Lead Poisoning Program Quarterly Reports," expiration date September 1992.

Executive Order 12372 Review

The intergovernmental review requirements of Executive Order 12372, as implemented by DHHS regulations in 45 CFR part 100, are applicable to this program. Executive Order 12372 sets up a system for state and local government review of proposed Federal assistance applications. Applicants (other than federally-recognized Indian tribal governments) should contact their state Single Point of Contact (SPOC) as early as possible to alert the SPOC to the prospective applications and receive any necessary instructions on the state process. For proposed projects serving more than one state, the applicant is advised to contact the SPOC of each affected state. A current list of SPOCs is included in the application kit. The due date for state process recommendations is 60 days after the application deadline date for new and competing continuation awards. The granting agency does not guarantee to "accommodate or explain" for state process recommendations it receives after that date.

Catolog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.197.

Application Submission and Deadline

Applicants should follow the guidance provided in PHS form 5161–1 (REVISED 3/89) in preparing grant applications. The original and two copies must be submitted on or before April 3, 1992 to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, Atlanta, Georgia 30305.

A one-page, single-spaced, typed abstract must be submitted with the application. The heading should include the title of grant program, project title, organization, name and address, project director and telephone number.

1. *Deadline*

Applications shall be considered as meeting the deadline if they are either:

A. Received on or before the deadline date, or

B. Sent on or before the deadline date and received in time for submission for the review process. Applicants must request a legibly dated U.S. Postal Service Postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.

2. *Late Applications*

Applications which do not meet the criteria in 1.A. or 1.B. above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where to Obtain Additional Information

A complete program description, information on application procedures and an application package may be obtained from Lisa Tamaroff, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, Mailstop E–14, Atlanta, Georgia 30305, (404) 842–6796 or FTS 236–6796.

Please refer to Announcement Number 204 when requesting information and submitting an application.

Technical assistance may be obtained from David L. Forney, Chief, Program Services Section, Lead Poisoning Prevention Branch, Division of Environmental Hazards and Health Effects, National Center for Environmental Health and Injury Control, Centers for Disease Control, 1600 Clifton Road, NE., Mailstop F–28, Atlanta, Georgia 30333, (404) 488–4880 or FTS 236–4880.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone (202) 783–3238).

Dated: February 24, 1992.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 92–4711 Filed 2–28–92; 8:45 am]

BILLING CODE 4163-18-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Housing

[Docket No. N-92-3400]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Housing, HUD

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35). It is also requested that OMB complete its review within seven days.

This Notice lists the following information: (1) The title of the information collection proposal; (2) the Office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new, an extension, or reinstatement; and (9) the telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: February 24, 1992.

Arthur Hill,

Assistant Secretary for Housing.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Collecting Information under Service Coordinators in Section 202 and 202/8 Housing.

Office: Housing.

Description of the Need for the Information and its Proposed Use: This reporting requirements will enable HUD to evaluate and review on an on-going basis the section 202 and 202/8 projects approved to hire Service Coordinators. This information will assist the department in its monitoring responsibilities to assure adherence and compliance to statutory and regulatory requirement of the program.

Form Number: None.

Respondents: Individuals or households and non-profit institutions.

Frequency of Submission: Monthly, on occasion, annually and recordkeeping.

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Reporting burden:							
Application to HUD	800		1=800		2		1,600
Annual reports	450		1=450		1		450

Recordkeeping Requirements:

	Number of recordkeepers	×	Annual hours recordkeeper	×	Total recordkeeping hours
Client/Appli files	450		5.86		2,637
Total estimated burden					4,687

Status: Revision.

Contact: Jerold Nachison, HUD (202) 708–3291, Jennifer Main, OMB (202) 395–6880.

Dated: February 24, 1992.

Supporting Statement for: Service Coordinators in Sections 202 and 202/8 Housing Title VIII—Section 808 National Affordable Housing Act

1. Justification

Background

(a) *Program description.* Title VIII—Section 808 of the National Affordable Housing Act (Pub. L. 101—625) (NAHA), authorized HUD to allow service coordinators as an eligible expense in section 202 and 202/8 projects in which a majority of the resident are frail. Any project for the elderly and disabled which had a majority of frail residents could apply to their HUD field office and receive permission to either utilize residual receipts or use funds under the existing Section 8 contract to fund the hiring of a service coordinator.

The Department of Veterans Affairs, Housing and Urban Development and Independent Agencies Appropriations Act of 1992, (Pub. L. 102–139) removed the majority of frail residents restriction from the NAHA and appropriated $16,250,000 for the funding of service coordinators in Section 202 and 202/8 projects.

A Service Coordinator is a social services staff position which is hired by the project administrator/management company and is responsible for assuring that the residents of the project are linked to the supportive services they need to continue independent living in that project. Sections 202 and 202/8 projects can immediately move to request approval to bring such staff on board. This policy recognizes the aging-in-place phenomenon that is taking place among the residents of HUD housing. The initial populations have become significantly older, and recent data shows that between 1985–88, 83 percent of new admissions to section 202 and 202/8 projects were over 66 and 70 percent were over 70 years of age.

We have also learned that project managers in projects for the elderly, generally, do not have the training and skills necessary to deal both with an increasingly frail population and the non-elderly disabled who need support services. Also, housing managers, generally, do not have the time available to function as "social services" staff on a regular ongoing basis. The Service Coordinator is the person who works with the tenants in need of support, refers them for assessment, links them with service providers in the community and monitors the provision of services. He/she is the missing and necessary link to improving the quality of life for the frail and the non-elderly residents of housing for the elderly, and is part of and a key support to the management team of a project. He/she works closely with management to ensure that the tenant (and the family) are assisted in getting the service necessary to continue residence in the project, or, if necessary, to assist with the decision to move to a higher level of care. The Service Coordinator does not provide support services directly or do other administrative duties normally associated with project management.

Authority

- Section 808 of the Cranston-Gonzales National Affordable Housing Act (42 U.S.C. 8011) allows service coordinators as an eligible project expense in section 202 and 202/8 projects.
- The Departments of Veterans Affairs, Housing and Urban Development and Independent Agencies Appropriations Act of 1992, Pub. L. 102–139, enacted on October 28, 1991, provides $16,250,000 in Section 8 funds for Service Coordinators for section 202 and 202/8 projects, as a separate item in the HUD budget.
- The Departments of Veterans Affairs, Housing and Urban Development and Independent Agencies Appropriations Act of 1992, Pub. L. 102–139, enacted on October 28, 1991, removed the majority of frail residents restriction from the NAHA.

- HUD Notice H–91–42, issued May 21, 1991 described the process under which a section 202 and 202/8 project could apply and receive permission to hire a service coordinator. HUD issued Program Notice, H–92–6, "Service Coordinators in Section 202/8 Housing" on January 22, 1991, canceling HUD Notice H–91–42 because of the statutory changes to the program.
- HUD currently has in Departmental clearance a Program Notice providing general HUD policy and background information regarding Service Coordinators. This Notice also transmits the FY 1992 allocation of funds to HUD Regional Offices, and the requirements for field office and regional review and processing of submitted applications by projects.

2. Need for Information

The following collection of information is basic to the operation of the Service Coordinator's activities, to meet the statutory requirements, and for the essentials of program and management controls to prevent fraud, waste and mismanagement. The controls must be maintained as long as Service Coordinators are funded under this section, or until such time as Congress otherwise disposes of this job.

The following requirements are instituted specifically for the hiring of Service Coordinators in sections 202 and 202/8 projects.

(a) *Owner's application to HUD.* Each applicant must submit an application for the hiring of a Service Coordinator in section 202 and 202/8 projects for the elderly and disabled under which eligible projects will be selected in HUD Headquarters by lottery. Additionally, projects may apply to utilize excess residual receipts which they are holding, without participating in the national lottery. Applications for Service Coordinators shall contain a brief description of the need, the annual salary, fringe benefits and other costs proposed, functional position description, certifications and other information in accordance with HUD's requirements.

(b) *Annual report.* The annual project report is a brief narrative providing data and covering activities completed by the Service Coordinator for that year. This information will be used by the Loan Servicer to validate the function and to identify problems which need attention from the field office, primarily in coordination with other agencies. From time to time HUD Headquarters may request HUD field offices to prepare summations from this data for policy purposes or use in a possible study of the service coordination function in operation. The report will provide participant information, and other requested data in the annual report to HUD.

(c) *Project recordkeeping—client files.* Applications approved to provide a Service Coordinator as part of its operating budget must agree to keep files on the clients serviced by the Service Coordinator.

These files must be kept in a secured location and accessible only to the Service Coordinator and project management to the extent necessary. The project must maintain confidentiality of information related to any individual, per the Privacy Act of 1974. Generally, the files contain an intake form, information on referrals to community agencies, case management, monitoring and follow-up plans, adult abuse of any type, notes of meetings with client/family members and disposition/termination of case.

3. Use of Improved Information Technology

None—As HUD gains experience with this program, and we determine which information needs can be standardized, we may go to automated reporting, or delete the annual report requirement.

4. Duplication

No other forms or reports will be used for the purposes specified above.

5. Availability of Similar Information

Similar information is not available from any other source.

6. Small Organizations

Projects wanting to receive approval for a Service Coordinator will submit the application to gain the approval. As a part of the application, the project certifies willingness to keep project files and submit the annual report.

7. Consequence of Less Frequent Data Collection

Having the projects mail in a brief report annually is the smallest requirement we could impose for monitoring necessary to start-up a new effort.

8. Special Circumstances Related to 5 CFR 1320.6

There are no special circumstances required by this collection.

9. No Outside Consultation is Required

10. Assurance of Confidentiality

Each project is required to maintain the files in a secured location and maintain confidentiality of information related to any individual, per the Privacy Act of 1974.

11. Sensitive Questions

The information contained in the application to HUD for approval of a Service Coordinator and the annual report from the project to the field office are non-sensitive.

12. Estimate of the Cost to the Federal Government

The bulk of the work consists of reviewing and approving the initial request by field office staff. Headquarters will conduct the national lottery with a pool of eligible applicants. The review of individual clients is completed by the Service Coordinator, and files are not normally reviewed by HUD staff. Field Office staff may, on occasion, sample these files on site reviews. The annual report from the projects will be reviewed by field office staff and may be utilized in an on-site review. Also, if problems are cited, the field office may become involved in problem resolution.

Total Estimated Federal Review Time by Hours

	Reports	FO profess.	FO clerical	Elderly (HQ) hsg. profess	Elderly clerical
Application [4] to HUD [1]	800	1,600	200	176	0
Client application [5] Files [2]	22,500	394	0	0	0
Annual [6] Report [3]	450	58.50	0	0	0
Total	23,750	2,052.50	200	176	0

[1] We expect to review approximately 800 applications in FY 1992.

[2] There will not be any HUD field reviews of Service Coordinators, hence no file reviews, prior to FY 1993.

[3] Annual reports will not be submitted by projects before FY 1993.

[4] We expect there will be lots of telephone contact between the field offices and Headquarters regarding approval of Service Coordinators during FY 1992.

[5] See Note 2.

[6] See Note 3.

Total professional time 2,052.50+178=2,230.50 @ $33/hour×2,230.50=$73,606.50.

Total clerical time @ $15/hr 200 = $3,000.

Estimate of Costs to Respondents

Cost to respondents is estimated at $20/hr and includes overhead.

800 applications @ 2 hours preparation each=800×2=1,600×$20.=$32,000

450 annual reports @ 1 hour each=450×$20.=$9,000

22,500 files established @ .17 hrs each=3,825×$20=$76,500

13. Tabulation of Reporting Burden

Information collected	No. of respondents 17.1	×	No. of responses per 17.2	=	Total annual responses 17.3	×	Hours per response 17.4	=	Total hours 17.5
Owner Application to HUD	800		1		800		2		1,600
Annual Reports	450		1		450		1		450

Recordkeeping Requirements

	Number of recordkeepers	Annual hours per recordkeeper	Total rcd'kpng hours
Client/Appli files	450	5.86	2,637
Total Estimated Burden			4,687

14. Adjustments have been made in the total burden for the Service Coordinators in section 202 and 202/8 Housing. The total number of respondents increased from 600 to 800. However, due to the decrease in the number of recordkeepers the burden hours are decreased from 5,200 to 4,687, with a program adjustment of 513.

15. N/A

Note to Reader: he following excerpt from HUD's DRAFT funding notice sets out the application requirements to which this collection of information pertains. This is not the funding notice. The funding notice will be published in its entirety, separately, at the time that the Department is prepared to begin the competition for the Service Coordinator Program.

The purpose of this excerpt is to provide readers with a listing of the several information collections involved in the application process for this upcoming funding notice, to assist them in commenting on these information collections.

B. Application Requirements

All applications must contain at least the following information; necessary forms are available from the HUD field office:

1. A transmittal letter signed by the chairperson of the Board of Directors of the borrower/owner. The letter must include a statement that the request is to use: (1) Excess residual receipts; and/or (2) section 8 funds available under the Act (the project may propose combining them if the amount of excess residual receipts available is insufficient to cover the proposed of the service coordinator over its up-to-five-year term. The letter must state the specific amount requested and stating how much is from residual receipts and how much is from funds under the Act for each year of the funding request. The letter must also state the time period of the term of the HAP contract amendment and/or residual receipts approval requested. The term shall be five years or the remaining length of the existing Section 8 contract, whichever is less; renewal, if appropriate, may be requested at the completion of the term of the HAP contract amendment or residual receipts approval.

2. An SF-424, Request for Federal Assistance (this is ONLY submitted by applicants which are requesting funds available under the Act).

3. A brief explanation of the need. At a minimum, the request must:

a. State the estimated number of residents of the project(s) who are frail, near-frail, or "at-risk", as defined in Paragraph VII of Notice H-92-____; and,

b. Provide anecdotal or other evidence for the stated need.

4. The annual salary proposed for the service coordinator, plus fringe benefits and administrative costs (which may include additional office equipment, supplies, car allowance, copying, etc.) for the first year, the amounts needed for years two-five *AND* the total amount requested for the five year term. The estimates for years two-through-five (or less, if the remaining term of the section 8 contract is less), may be based on an annual inflation factor of up to five percent. Any one-time first-year start-up costs should be subtracted from year one before calculating the year two-through-five estimate.)

Evidence must be submitted to document comparability of the salary with other similar positons in the local jurisdiction.

5. Functional position description(s) for the service coordinator (and aides, if utilized). These must cover the duties stated in Paragraph VI of Notice H-92-____, and also state the relationship between the service coordinator (and aides, if any), and the project manager/administrator and other members of the management team.

6. For projects proposing to share a service coordinator (which may include one or more aides), the proposal must provide an explanation of how the arrangement would work, where ultimate responsibility lies for the hiring (and firing) of the coordinator and aides, and a copy of the proposed agreement between/among the borrowers/owners to cover space sharing, location and security of records, payment of salary(ies) and expenses, and the allocation of days and hours between/among the housing projects.

7. Certifications for:

a. 25 percent or more of the residents of the project(s) are frail;

b. Sufficient office space

(1) Existing offices

There is sufficient office space available for the coordinator, and aides, if appropriate), including space for confidential meetings and a location to secure files; OR

(2)Community Space

In cases where management proposes to utilize current community or non-commercial space for the service coordinator, the request must clearly state that it meets the stipulations of item 7.b.1, above, and indicate that the normal activities of the residents of the project will not be adversely affected by the use of the space.

c. The borrower/owner agrees to collect routinely and make available to HUD the information requested under paragraphs XIII.A and B of Notice HUD-92-____. The material in paragraph XIII.B must be submitted annually by mail to the field office, as a condition for continued approval of a service coordinator position.

d. Drug-free Workplace, in accordance with the Drug-free Workplace Act of 1988 and HUD's implementing regulations at 24 CFR part 24, subpart F.

e. Lobbying Certification Form (to be submitted if application is for $100,000 or more).

f. Prohibition Against Lobbying, Form SF-LLL, if appropriate, for applicants requesting $100,000 or more, pursuant to section 319 of Public Law 101-121, which prohibits recipients of Federal contracts, grants and loans from using appropriated funds for lobbying the Executive or Legislative branches of the Federal government. (The law provides substantial penalties for failure to file the required certification or disclosure.)

g. Willingness to comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and the implementing regulations at 24 CFR Part 1; the Fair Housing Act (42 U.S.C. 3600-3619) and the implementing regulations at 24 CFR parts 100, 109, and 110; section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and the implementing regulations at 24 CFR part 8; the Age Discrimination Act of 1975 (42 U.S.C. 101-6107) and the implementing regulations at 24 CFR part 146; section 3 of the Housing and Urban development Act of 1968 (12 U.S.C. 1701u) and the implementing regulations at 24 CFR part 135; Executive Order 11246 (as amended) and the implementing regulations at 41 CFR Chapter 60; the regulations implementing Executive Order 11063 (Equal Opportunity in Housing) at 24 CFR part 107; and affirmative fair housing marketing requirements of 24 CFR part 108, subpart M.

C. Submission of Applications

1. Submission to the Appropriate HUD Field Office

All applicants shall submit an original and one copy (a FAX copy of the application is NOT acceptable) of the application to the Field Office which services the project by the close of business on or before [insert date—45 days subsequent to the date of NOFA publication].

Applications received in the HUD field office after the date and time stated herein will not be accepted, and will be returned to the sender.

Each application package must be identified on the envelope or wrapper as follows: Director of Housing Management, Application for Service Coordinator, Due [insert date 60 days from date of publication of this NOFA].

Determination whether an application is received on time is solely the responsibility of the HUD field office of the jurisdiction in which lies the project(s) covered by the application.

[FR Doc. 92-4680 Filed 2-28-92; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT-020-02-4212-02]

Montana; Closure and Limited Opening of Land

AGENCY: Bureau of Land Management, Miles City District Office, Interior.

ACTION: Temporary closure; notice of limited opening of public land in Yellowstone County.

SUMMARY: Use of recently acquired land west of the town of Pompeys Pillar, Yellowstone County, is closed to the public until May 15, 1992. Access to these lands, commonly known as the Pompeys Pillar National Landmark and comprising 367 acres more or less, is limited to authorized personnel, or other persons specifically authorized by the Miles City District Manager or the Billings Area Manager of the Bureau of Land Management. This closure is necessary to protect persons from or to remove safety hazards currently existing on the site and to prevent undue degradation and damage to the site prior to its opening to public visitation. The land is not open to the public land laws, mineral leasing laws or mining laws. The site is open to authorized personnel for the following reasons: Historical and cultural inventory and preservation, general environmental studies, agricultural use, livestock grazing and maintenance. Maintenance includes but is not limited to the following: Roads, trails, buildings, signs, fences, tree felling and weed control. Designated roads and trails will be opened for activities necessary to prepare the land for public visitation and use.

After May 15, 1992, designated areas will be open to public visitation and dispersed recreation under the authority of the Federal Land Policy and Management Act of 1976.

DATES: The closure goes into effect March 2, 1992 and shall remain in effect until May 15, 1992, or until revoked or modified by the authorized officer. The land is open to specified agricultural use and livestock grazing March 2, 1992.

FOR FURTHER INFORMATION CONTACT: Billy G. McIlvain, Area Manager, Billings Resource Area, 810 E. Main, Billings, Montana 59105, (406) 657-6262.

SUPPLEMENTARY INFORMATION: Authority for the closure is title 43, Code of Federal Regulations, § 8364.11 (43 CFR 8364.1). Any person who fails to comply with the closing order is subject to arrest and fine of up to $1,000 or imprisonment not to exceed 12 months or both. The closure applies to all members of the public except persons authorized by the Bureau of Land Management. The closure and opening affects the following described public land:

Principal Meridian, Montana

T. 3 N., R. 30 E.,
  Sec. 21: Lots 2, 3, 4 and 16, W½SW¼, SE¼SW¼;
  Sec. 22: Lots 9, 13 and 25;
  Sec. 28: That part of the NW¼NW¼ lying north of the north boundary line of the US Highway 10 right-of-way and that part of the NE¼NW¼ more particularly described in a metes and bounds description on file in the above named office: and Tracts 1 and 2 of COS 1166; according to the official plat on file and of record in the office of Clerk and Recorder of said county, under Document No. 863682.

Excepting Therefrom all that part lying within the ordinary high water line of the Yellowstone River.

Arnold E. Dougan,

Acting Associate District Manager.

[FR Doc. 92-4741 Filed 2-28-92; 8:45 am]

BILLING CODE 4310-DN

Minerals Management Service

Outer Continental Shelf Advisory Board Gulf of Mexico Regional Technical Working Group; Meeting

AGENCY: Minerals Management Service.

ACTION: Notice of Gulf of Mexico Regional Technical Working Group (RTWG) Meeting.

SUMMARY: Notice of this meeting is issued in accordance with the Federal Advisory Committee Act (Pub. L. No. 92-463). The Gulf of Mexico RTWG meeting will be held March 24-25, 1992, at the Minerals Management Service (MMS) Gulf of Mexico OCS Regional Office, 1201 Elmwood Park Boulevard, Jefferson, Louisiana.

The business portion of the meeting will be held in conjunction with the Environmental Studies meeting. Agenda items are as follows:

- Roundtable Discussion.
- Assessment of Federal Sand Resources for Coastal Restoration and Replenishment.
- Pipelines Near the Flower Garden Banks.

- Flower Garden Banks National Marine Sanctury.

The afternoon of March 24 and morning of March 25, 1992, will be devoted to the Environmental Studies meeting.

FOR FURTHER INFORMATION: This meeting is open to the public. Individuals wishing to make oral presentations to the committee concerning agenda items should contact Ms. Ann Hanks of the Gulf of Mexico OCS Regional Office at (504) 736–2589 by March 11, 1992. Written statements should be submitted by the same date to the Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico RTWG is one of six such Committees that advises the Director of the Minerals Management Service on technical matters of regional concern regarding offshore prelease and postlease sale activities. The RTWG membership consists of respresentatives from Federal Agencies, the coastal States of Alabama, Florida, Louisiana, Mississippi, and Texas, the petroleum industry, the environmental community, and other private interests.

Dated: February 7,1992.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 92–4742 Filed 2–28–92; 8:45 am]

BILLING CODE 4310-MR-M

Alaska Outer Continental Shelf; Public Scoping Meetings Regarding the Environmental Impact Statement for Proposed Oil and Gas Lease Sale 149, Cook Inlet

The February 7, 1992 (57 FR 4800) **Federal Register** contained Call for Information and Nominations and Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) for proposed Oil and Gas Lease Sale 149, Cook Inlet.

The NOI for the proposed sale announced the scoping process that will be followed for the preparation of each EIS. The scoping process will involve Federal, State, and local governments and other interested parties aiding Minerals Management Service in determining the significant issues and alternatives to be analyzed in the EIS. This will be done through scoping meetings.

The area included in this sale is described in the **Federal Register** notice mentioned above. It is hoped that the information received at the scoping meetings will aid in identifying specific proposals and alternatives.

Scoping meetings will be held as follows:

March 16, 1992, Borough Assembly Chambers, 7 to 9 p.m., Kodiak, Alaska
March 17, 1992, Community Hall, 1 to 3 p.m., Port Lions, Alaska
March 17, 1992, City Council Chamber, 7 to 9 p.m., Larsen Bay, Alaska
March 19, 1992, Community Hall, 4 to 6 p.m., Chignik, Alaska
March 23, 1992, City Council Chambers, 5 to 7 p.m., Homer, Alaska
March 24, 1992, Community Hall, 1 to 3 p.m., English Bay, Alaska
March 24, 1992, City's Multi-Purpose Room, 7 to 9 p.m., Seldovia, Alaska
March 25, 1992, Council Chambers, 1 to 3 p.m., Port Graham, Alaska
March 26, 1992, Borough Assembly Chamber, 6 to 8 p.m., Soldotna, Alaska
March 27, 1992, 6th Floor Conference Room, 949 East 36th Avenue, 1 to 3 p.m., Anchorage, Alaska

Additional information concerning these meetings can be obtained from: Mr. Paul Dubsky, Minerals Management Service, Leasing and Environment Office, 949 E. 36th Avenue, Anchorage, Alaska 99508–4302, Telephone: (907) 271–6655.

Alan D. Powers,

Regional Director.

[FR Doc. 92–4709 Filed 2–28–92; 8:45 am]

BILLING CODE 4310-MR-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decrees Pursuant to the Comprehensive Envirgonmental Response, Compensation, and Liability, Act; BASF Corp., et al.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on February 14, 1992, a proposed Consent Decree in *United States* v. *BASF Corp., et al.,* Civil Action No. *92–CV–40071–FL,* was lodged with the United States District Court for the Eastern District of Michigan. The proposed Consent Decree concerns the hazardous waste site known as the Rasmussen Dump Site, located on Spicer Road, Green Oak Township, Livingston County, Michigan. The Consent Decree sets forth a settlement between the United States and ten Settling Defendants, under which the Settling Defendants will perform the remedial design and remedial action at the site, reimburse the United States for its unreimbursed past costs, and pay federal oversight costs.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *BASF Corp., et al.,* D.J. Ref. 90–11–3–281A.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Eastern District of Michigan, 204 Federal Building, 600 Church Street, Flint, Michigan 48502; at the Region V Office of the Environmental Portection Agency, 230 South Dearborn Street, Chicago, Illinois 60604; and the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building, NW., Washington, DC 20004 (202–347–2072).

Copies of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004. In requesting a copy, please include a check in the amount of *$51.75* (25 cents per page for reproduction costs) payable to the Consent Decree Library.

Barry M. Hartman,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 92–4668 Filed 2–28–92; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree; Gateway Petroleum Co.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on February *21,* 1992, a proposed Consent Decree in *United States* v. *Gateway Petroleum Co. Inc.,* Civil No. 88–3548, was lodged with the United States District Court for the Southern District of Illinois. The proposed consent Decree settles the United States' claims that the defendant had violated provisions of the Resource Conservation and Recovery Act.

Under the terms of the Consent Decree, settling defendant will pay $20,000 in civil penalties, implement a sampling program and implement a phased closure of the Gateway Petroleum Co. facility.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Gateway Petroleum Co. Inc.*, D.OJ. Ref. 90–7–1–472.

The proposed Consent Decree may be examined at the Region V Office of the Environmental Protection Agency, 230 South Dearborn Street, Chicago, IL 60604. Copies of the Consent Decree may be examined at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building, NW., Washington, DC 20044, (202 347–2072). A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building, NW., Box 1097, Washington, DC 20044. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $9.50 (25 cents per page reproduction cost) made payable to Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environmental and Natural Resources Division.

[FR Doc. 92–4669 Filed 2–28–92; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree in Clean Water Act Enforcement Action; Great Lakes Carbon Corp.

In accordance with the Departmental Policy, 28 CFR 50.7, notice is hereby given that a consent decree in *United States* v. *Great Lakes Carbon Corp.*, Civil Action No. 90–0780, was lodged with the United States District Court for the Eastern District of Texas on February 13, 1992. This consent Decree concerns a Complaint filed by the United States against Great Lakes Carbon Corporation (Great Lakes), Port Arthur, Texas, pursuant to section 309 of the Clean Water Act, 33 U.S.C. 1319, for Great Lakes' violations of the effluent limits established in its National Pollutant Discharge Elimination System (NPDES) permit and its violation of the Clean Water Act. The Complaint seeks injunctive relief requiring Great Lakes to comply with the terms and conditions of its NPDES permit and to comply with the Clean Water Act.

The proposed Consent Decree requires that Great Lakes implement a compliance plan designed to achieve and maintain compliance with its NPDES permit and the Clean Water Act. The proposed Consent Decree also requires Great Lakes to pay a civil penalty of $327,000 for its past violations of the requirements of its permit and of the Clean Water Act, and to pay stipulated penalties for violations of the terms of the proposed Consent Decree.

The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this notice. Please address comments to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044 and refer to *United States* v. *Great Lakes Carbon Corp.*, 90–5–1–1–3557.

Copies of the proposed Decree may be examined at the Office of the United States Attorney, Eastern District of Texas, 700 North Street, Beaumont, Texas 77701–1899, and at the Region VI Office of the Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202–2733. Copies of the proposed Consent Decree may also be examined at the Environmental Enforcement Section Document Center, 601 Pennsylvania Ave, NW., Box 1097, Washington, DC 20004, (202) 347–7829. A copy of the proposed Consent Decree may be obtained in person or by mail from the Document Center. When requesting a copy of the Consent Decree, please enclose a check in the amount of $3.75 payable to the "Consent Decree Library."

John C. Cruden,

Chief, Environmental Enforcement Section Environment and Natural Resources Division.

[FR Doc. 92–4672 Filed 2–28–92; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act; Hercules Inc.

In accordance with Departmental policy, 28 CFR 50.7 notice is hereby given that on February 6, 1992, a proposed Partial Consent Decree in *United States* v. *Hercules Incorporated*, Civil Action No. 292–027 was lodged with the United States District Court for the Southern District of Georgia, Brunswick Division. This is an action brought pursuant to sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"), 42 U.S.C. 9606, 9607. Pursuant to the proposed decree, the settling defendants will finance and perform the Interim Remedial Design and Remedial Action ("RD/RA") at the Hercules 009 Landfill Site ("Site"), and reimburse the United States for future oversight costs and future response activities. The interim remedial action is part of an overall remedy; subsequent actions are planned to fully address conditions at the Site.

The Site was an industrial landfill from the 1920's to 1980. It encompasses 16.5 acres of land and is located three miles outside of the City of Brunswick, Georgia. The only potentially responsible party, Hercules Incorporated, has agreed to assume the responsibility for the Interim RD/RA.

The objective of this interim remedial action is to prevent the human consumption of contaminated groundwater. The remedy selected is the provision of an alternate supply of drinking water to the affected area residents. Private wells immediately down-gradient of the landfill will be replaced by the municipal water system The action will begin immediately. The settlement covers 100% of costs associated with the implementation of the RD/RA, including operation and maintenance of the Site and EPA's oversight costs.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Washington, DC 20530. Comments should refer to *United States* v. *Hercules Incorporated*, D.O.J. Ref. 90–11–3–811.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Southern District of Georgia, 125 Bull Street, room 237, P.O. 8999, Savannah, Georgia 31412, and at the Environmental Enforcement Section Document Center, 601 Pennsylvania Ave. Building, NW., Washington, DC 20004 (202–347–2072). A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, P.O. Box 1097, Washington, DC 20004. In requesting a copy by mail, please enclose a check in the amount of $12.00 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Barry M. Hartman,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 92–4666 Filed 2–28–92; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act; City of Jacksonville, FL

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on February 6, 1992, a proposed Consent Decree in *United States* v. *City of Jacksonville, Fla., et al.*, Civil Action No. 92-133-Civ-J-16, was lodged with the United States District Court for the Middle District of Florida. The Complaint, brought pursuant to Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"), 42 U.S.C. 9606 and 9607, seeks injunctive relief to abate an imminent and substantial endangerment to the public health or welfare or the environment, and recovery of response costs incurred or to be incurred by the United States in connection with the Picketville Road Landfill Superfund Site, Jacksonville, Florida (the "Site"). The Site is situated approximately five miles northwest of downtown Jacksonville, in Duval County, Florida, and occupies approximately 52.5 acres. The Site began operation in the early 1940's and was used until the 1960's primarily as a borrow pit for road construction projects. During its use as a borrow pit, fill material, particularly sand, was removed from the Site leaving large and deep below-grade excavations.

In the early 1980's, EPA, the City and the Florida Department of Environmental Regulation conducted investigations at the Site which detected numerous organic and inorganic contaminants in the ground water, the waters and sediments of Little Sixmile Creek, the surface soils of the landfill area, and the leachate discharge to Little Sixmile Creek. As a result of these investigations the Site was placed on the National Priorities List in 1982.

Pursuant to the proposed Consent Decree, the settling defendants will implement the remedial action set forth in EPA's Record of Decision ("ROD"), which was signed on September 28, 1990. The remedy selected in the ROD includes: Construction of a proper clay landfill cover with a passive gas collection layer; extension of the City water main to designated areas downgradient of the Site; plugging and abandonment of designated potable water supply wells downgradient of the Site; continuous ground water mointoring; restoration of Little Sixmile Creek to remove wastes which have washed, migrated, or been deposited into the creek; and performance of an ecological study of Little Sixmile Creek to determine impact of the Site on the creek. In the event that the ecological study reveals contamination which may impair the ecological community, additional remedial actions for the creek may be necessary. In addition, the proposed Consent Decree requires that the settling defendant reimburse the Hazardous Substances Superfund in the amount of $400,595.26 for costs incurred by EPA at the Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Washington, DC 20044. Comments should refer to *United States* v. *City of Jacksonville, Fla., et al.*, D.O.J. Ref. 90-11-3-275.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Middle District of Florida, Jacksonville, Florida, at the Region IV Office of the United States Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia, and at the Environmental Enforcement Section Document Center, 601 Pennsylvania Ave Building, NW., Washington, DC 20004 (202-347-2072). A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20044. In requesting a copy by mail, please enclose a check in the amount of $15.25 (25 cents per page reproduction cost) payable to Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 92-4671 Filed 2-28-92; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); Wheeling Disposal Service Co., Inc., et al.

In accordance with Section 122 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9622, and Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on February 12, 1992, a proposed Consent Decree in *United States* v. *Wheeling Disposal Service Co., Inc., et al.*, Civil Action No. 92-0132-CV-W-1, was lodged with the United States District Court for the Western District of Missouri. The proposed Consent Decree resolves the liability of the Settling Defendants under Sections 106 and 107 of CERCLA at the Wheeling Disposal Service Company Landfill Superfund Site ("Site") located near Amazonia, Missouri. Under the terms of the Consent Decree, the Settling Defendants have agreed to conduct a remedial action at the Site, to reimburse EPA for past costs of $450,000, and to reimburse the United States for all oversight and future costs incurred at the Site.

To implement the remedial action at the Site, the Settling Defendants are required to: (1) Upgrade the existing cap over the disposal units; (2) provide long-term monitoring of ground and surface water; (3) implement site maintenance activities; (4) place deed restrictions to prevent farming on certain areas on-site; (4) install security measures such as warning signs and/or fences; and (5) close certain on-site wells. These response actions are intended to minimize the possibility of future human contact with hazardous substances. The proposed Consent Decree also provides contingencies for future collection and treatment of contaminated surface water and/or ground water by the Settling Defendants.

The Department of Justice will receive, for thirty (30) days from the date of publication of this notice, written comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044, and should refer to *United States* v. *Wheeling Disposal Service Co., Inc., et al.*, D.J. Ref. No. 90-11-2-459A.

The proposed Consent Decree may be examined at the office of the United States Attorney, Western District of Missouri, 549 U.S. Courthouse, 811 Grand Ave., Kansas City, Missouri 64106, the Region VII Office of the Environmental Protection Agency, 726 Minnesota Avenue, Kansas City, Kansas 66106, and at the Environmental Enforcement Section Document Center, 601 Pennsylvania Ave., NW., Box 1097, Washington, DC 20004, 202-347-2072. A copy of the proposed Consent Decree can be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of $25.50 (25 cents per page reproduction charge) payable to the Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section.

[FR Doc. 92-4670 Filed 2-28-92; 8:45 am]

BILLING CODE 4410-10-M

Lodging of Consent Decree Pursuant to Clean Air Act; Williams Pipe Line Co.; et al.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on February 18, 1992, two proposed consent decrees in *United States* v. *Williams Pipe Line Company, et al.*, Civil Action No. 89-1393-T, were lodged with the United States District Court for the District of Kansas. The proposed consent decrees concern a complaint filed by the United States on July 25, 1989, which alleged violations of the Clean Air Act, 42 U.S.C. 7401 *et seq.*, and its implementing regulations codified at 40 CFR part 61, subpart M, at the Augusta Refinery which is located in Augusta, Kansas.

The complaint alleged that defendants Williams Pipe Line Company, (WPL) and CYLX Engineering and Construction Company, (CYLX) failed to adequately wet friable asbestos material while being stripped or removed as well as failing to adequately wet friable asbestos material which had been removed or stripped from the facility while awaiting collection and disposal in accordance with the NESHAP workplace standards. The complaint also alleged that defendant WPL failed to give proper notice of its intent to remove friable asbestos from the facility in violation of the NESHAP notice provision. The complaint sought injunctive relief to require compliance with the asbestos NESHAP standards and civil penalties for past violations.

The Consent Decrees require defendants WPL and CYLX to pay $50,000 and $10,000, respectively, in settlement of the United States' claims for civil penalties against them. In addition, the decrees require each defendant to develop and implement an Asbestos Control Program and to successfully complete an EPA approved Employee Asbestos Training Program.

The Department of Justice will receive for a period of thirty (30) days from the date of the publication comments relating to the proposed consent decrees. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, United States Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Williams Pipe Line Company, et al.*, Ref. No. 90-5-2-1-1288.

The proposed consent decrees may be examined at the following locations: (a) Office of the United States Attorney for the District of Kansas, 306 U.S. Courthouse, 401 North Market Street, Wichita, Kansas 67202; (b) the Region VII Office of Regional Counsel, 726 Minnesota Avenue, Kansas City, Kansas 66101; and (c) the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building, NW., Box 1097, Washington, DC 20004, (202) 347-2072. A copy of the proposed consent decrees may be obtained in person or by mail from the Document Center. In requesting a copy of the CYLX and WPL decrees, please enclose a check for copying costs in the amount of $4.25 and $3.75, respectively (25 cents per page reproduction costs), payable to the Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section.

[FR Doc. 92-4667 Filed 2-28-92; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Media Art Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Media Arts Advisory Panel (Arts on Television Section) to the National Council on the Arts will be held on March 25, 1992 from 9:15 a.m.-6:30 p.m. and March 26 from 9 a.m.-5:30 p.m. in room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

Portions of this meeting will be open to the public on March 25 from 9:15 a.m.-9:45 a.m. and March 26 from 4 p.m.-5:30 p.m. The topics will be introductory remarks and policy discussion.

The remaining portions of this meeting on March 25 from 9:45 a.m.-6:30 p.m. and March 26 from 9 a.m.-4 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9) (B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 92-4738 Filed 2-28-92; 8:45 am]

BILLING CODE 7537-01-M

President's Committee on the Arts and the Humanities; Meeting

Thursday, March 19, 1992 at 9 o'clock in the morning has been designated by the President's Committee on the Arts and the Humanities for Meeting XXVI. This meeting will take place at 1100 Pennsylvania Avenue, NW, suite 527, Washington, DC.

The Committee, charged with exploring ways to increase private support for the arts and the humanities, will address issues related to the development of data and information, advocacy, and recognition of artists, scholars and their benefactors.

Please call 202-682-5409 or 212-512-5957 if you expect to attend, as space is limited.

Yvonne M. Sabine,

Director, Council & Panel Operations, National Endowment for the Arts.

[FR Doc. 92-4739 Filed 2-28-92; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-213]

Connecticut Yankee Atomic Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 149 to Facility Operating License No. DPR-61 issued to

Connecticut Yankee Atomic Power Company, which revised the Technical Specifications for operation of the Haddam Neck Plant located in Middlesex County, Connecticut. The amendment is effective as of the date of issuance.

The amendment modified the Technical Specifications to remove two footnotes from the Technical Specifications defining the auxiliary feedwater system (AFW) operability and provide new limiting condition of operation, Action statement, set points and surveillance requirements for the new automatic AFW initiation system.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on September 30, 1991 (56 FR 49492). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of this amendment will not have a significant effect on the quality of the human environment.

For further deatils with respect to the action see (1) the application for amendment dated August 30, 1991, as supplemental December 2 and 24, 1991, and February 4, 21, and 24, 1992, (2) Amendment No. 149 to License No. DPR–61, (3) the Commission's related Safety Evaluation, and (4) the Commission's related Environmental Assessment.

All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555 and at the local public document room located at the Russell Library, 123 Broad Street, Middletown, Connecticut 06457. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Document Control Desk.

Dated at Rockville, Maryland, this 24th day of February 1992.

For the Nuclear Regulatory Commission.

Alan B. Wang,

Project Manager, Project Directorate I–4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 92–4756 Filed 21–28–921; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–416]

Entergy Operations, Inc. (Grand Gulf Nuclear Station, Unit No. 1); Exemption

I

Entergy Operations, Inc. (the licensee), is the holder of Facility Operating License No. NPF–29 (the license), which autrhorizes operation of the Grand Gulf Nuclear Station. The license provides, among other things, that it is subject to all rules, regulations and Orders of the Nuclear Regulatory Commission (the Commission) new and hereafter in effect.

The facility consists of a boiling water reactor located at the licensee's site in Claiborne County, Mississippi.

II

By letter dated June 25, 1991, the licensee applied for an amendment to Operating License No. NPF–29 to change certain provisions of the Technical Specifications (TS). In its letter, the licensee also requested an exemption from the Commission's regulations. The exemption is from a requirement in appendix J to 10 CFR part 50 that certain surveillance tests be conducted during the same refueling outage.

The specific requirement is contained in Section III.D.1(a) of appendix J to 10 CFR part 50, and states in part that "* * * a set of three Type A tests shall be performed, at approximately equal intervals, during each 10-year service period. The third test of each set shall be conducted when the plant is shut down for the 10-year plant inservice inspections." The Type A tests are defined in Section II.F of appendix J as those "* * * tests intended to measure the primary reactor containment overall integrated leakage rate * * * at periodic intervals * * *." The 10-year inservice inspection is that series of inspections performed every 10 years in accordance with Section XI of the ASME Bolder and Pressure Vessel Code and Addenda as required by 10 CFR 50.55a. The time required to perform the integrated leak rate tests (ILRTs) necessitates that they be performed during refueling outages. The interval between ILRTs should be 40 months for three tests to be performed during each 10-year period. Since refueling outages do not necessarily coincide with a 40-month interval, a permissible variation of 10 months is typically authorized in the TS issued with an operating license to allow flexibility in scheduling the IRLTs.

The second of the set of three ILRTs for the Grand Gulf plant was successfully conducted in April 1989 during Refueling Outage 3 (RF03). The Grand Gulf TS require that the next ILRT be conducted between October 1991 and June 1993. It can thus be conducted during Refueling Outage 5, which will probably start in April 1992.

Because of the time it takes, the 10-year ISI required by 10 CFR 50.55a must also be conducted during a refueling outage. The next ISI will be performed during the Refueling Outage 7 (RF07) starting in June 1995. If the requested exemption is not granted, Section III.D.1(a) of Appendix J would require an additional ILRT in April 1992, about 36 months after the previous ILRT. This schedule would conform with the interval set forth in the TS, but the test would not fall during the 10-year ISI.

Additionally, this schedule would necessitate another test during RF07. In these circumstances, to require compliance with the 40±10-month test interval would not be consistent with either the intent or the underlying purpose of the rule, which calls for three Type A tests to be performed at approximately equal intervals during each 10-year service period.

In its exemption request dated June 25, 1991, the licensee cites from Appendix J that "the purpose of the tests is to assure that * * * leakage through the primary reactor containment and systems and components penetrating primary containment shall not exceed allowable leakage rate values as specified in the technical specifications * * *." The licensee asserts, and the NRC staff agrees, that the Type A test conducted in April 1989 met the underlying purpose of the rule in demonstrating the required overall leak-tightness of the primary containment. Accordingly, another Type A test in the forthcoming refueling outage is not necessary to meet the intent of the rule. Another ILRT in the forthcoming refueling outage would not add significantly to the assurance that the overall leakage rate of the primary containment and its penetrations remain within the value specified in the Grand Gulf TS and certainly would go beyond the intent of the rule that requires these tests to be conducted at approximately equal intervals.

On this basis, we find that the licensee has demonstrated that the

"Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule * * * (10 CFR 50.12(a)(2)(ii).

The Type A test and the 10-year ISI are independent of each other and provide assurances of different plant characteristics. The Type A tests assure the required leak-tightness to demonstrate compliance with the guidelines of 10 CFR part 100. The 10-year ISI provides assurance of the structural integrity of the structures, systems, and components in compliance with 10 CFR 50.55a. Accordingly, there is no safety-related reason for coupling them in the same refueling outage.

On this basis, the NRC staff finds the licensee to have demonstrated, as required by 10 CFR 50.12(a)(2), that special-circumstances are present. Furthermore, the staff finds that the uncoupling of the Type A test from the 10-year ISI will not present an undue risk to the public health and safety.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest, and hereby grants an exemption with respect to one of the requirements of 10 CFR part 50, appendix J, Sections III.D.1(1):

> Grand Gulf Nuclear Station Technical Specifications may be revised to require that the IRLTs be performed solely according to the 40±10-month frequency, not in conjunction with the 10-year inservice inspection. This Exemption does not alter the existing requirement that three ILRTs be performed during each 10-year service period.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this Exemption will have no significant impact on the quality of the human environment (57 FR 6046).

This exemption is effective upon issuance.

Dated at Rockville, Maryland this 20th day of February, 1992.

For the Nuclear Regulatory Commission.

Martin J. Virgilio,

Acting Director, Division of Reactor Projects—III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 92-4755 Filed 2-28-92; 8:45 a.m.]

BILLING CODE 7590-01-M

[Docket No. 50-364]

Southern Nuclear Operating Co., Inc.; Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards; Consideration Determination, and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-8 issued to Southern Nuclear Operating Company, Inc. (the licensee), for operation of the Joseph M. Farley Nuclear Plant, (Farley) Unit 2, located in Houston County, Alabama.

The proposed amendment would modify the Technical Specifications (TS), on an interim basis, to allow the implementation of interim plugging criteria for tube support plate elevations. The amendment would also modify the TS to reduce the total allowable primary-to-secondary operational leakage from any one steam generator from 500 gallons per day to 150 gallons per day. The total allowable primary-to-secondary operational leakage through all steam generators will be reduced from one gallon per minute (1,440 gallons per day) to 450 gallons per day.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) crate the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

> 1. Operation of Farley Unit 2 in accordance with the proposed license amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.
>
> Testing of model boiler specimens for free standing tubes at room temperature conditions show burst pressures as high as 5000 psi for indications of outer diameter stress corrosion cracking with voltage measurements as high as 30 volts. Burst testing performed on pulled tubes with up to 10 volt indications show burst pressures in excess of 5900 psi at room temperature. Correcting for the effects of temperature on material properties and minimum strength levels (as the burst testing was done at room temperature), tube burst capability significantly exceeds the (USNRC Regulatory Guide) R.G. 1.121 criterion requiring the maintenance of a margin of three times normal operating pressure differential on tube burst if through-wall cracks are present. Based on the existing data base, this criterion is satisfied with bobbin coil indications with signal amplitudes less than 6.2 volts, regardless of the indicated depth measurement. This structural limit is based on a lower 95% confidence level limit of the data. The 1.0 threshold volt criteria provides an extremely conservative margin of safety to the structural limit considering expected growth rates of (outer diameter stress corrosion cracking) ODSCC at Farley. Alternate crack morphologies can correspond to 6.2 volts so that a unique crack length is not defined by a burst pressure to voltage correlation. However, relative to expected leakage during normal operating conditions, no field leakage has been reported from tubes with indications with a voltage level of under 7.7 volts (as compared to the 1.0 volt proposed interim tube plugging limit).
>
> Relative to the expected leakage during accident condition loading, the accidents that are affected by primary-to-secondary leakage and steam release to the environment are Loss of External Electrical Load and/or Turbine Trip, Loss of All AC Power to Station Auxiliaries, Major Secondary System Pipe Failure, Steam Generator Tube Rupture, Reactor Coolant Pump Locked Rotor, and Rupture of a Control Rod Drive Mechanism Housing. Of these, the Major Secondary System Pipe Failure is the most limiting for Farley Unit 2 in considering the potential for off-site doses. The offsite dose analyses for the other events which model primary-to-secondary leakage and steam release from the secondary side to the environment assume that the secondary side remains intact. The steam generator tubes are not subjected to a sustained increase in differential pressure, as is the case following a steam line break (SLB) event. This increase in differential pressure is responsible for the postulated increase in leakage and associated offsite doses following a steam line break event. Upon implementation of the interim plugging criteria, it must be verified that the expected distribution of cracking indications at the tube support plate intersections are such that primary-to-secondary leakage would result in site boundary dose within the current licensing basis for Unit 2, 1 gallon per minute during a steam line break event. Data indicate that a threshold voltage of 2.8 volts would result in through-wall cracks long enough to leak at SLB conditions. Application of the proposed plugging criteria requires that the current distribution of a number of indications versus voltage be obtained during the Unit 2 Eighth Refueling Outage. The current voltage is then combined with the rate of change in voltage measurements to establish an end of cycle

voltage distribution and, thus, leak rate during SLB pressure differential. If it is found that the potential SLB leakage for degraded intersections planned to be left in service excess 1 gallon per minute, then additional tubes will be plugged or repaired to reduce SLB leakage potential to 1 gallon per minute or less.

2. The proposed license amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Implementation of the proposed interim tube support plate elevation steam generator tube plugging criteria does not introduce any significant changes to the plant design basis. Use of the criteria does not provide a mechanism which could result in an accident outside of the region of the tube support plate elevations. Neither a single or multiple tube rupture event would be expected in a steam generator in which the plugging criteria has been applied (during all plant conditions). The bobbin probe signal amplitude plugging criteria is established such that operational leakage or excessive leakage during a postulated steam line break condition is not anticipated.

(Southern Nuclear Operating Company, Inc.) SNC will implement a maximum leakage rate limit of 150 (gallons per day) gpd per steam generator to help preclude the potential for excessive leakage during all plant conditions upon application of the plugging criteria. The R.G. 1.121 criterion for establishing operational leakage rage limits that require plant shutdown are based upon leak-before-break considerations to detect a free span crack before potential tube rupture. The 150 gpd limit should provide for leakage detection and plant shutdown in the event of the occurrence of an unexpected single crack resulting in leakage that is associated with the longest permissible crack length. R.G. 1.121 acceptance criteria for establishing operating leakage limits are based on leak-before-break considerations such that plant shutdown is initiated if the leakage associated with the longest permissible crack is exceeded. The longest permissible crack is the length that provides a factor of safety of three against bursting a normal operating pressure differential. A voltage amplitude of 6.2 volts for typical OD SCC corresponds to meeting this tube burst requirement at the lower 95% uncertainty limit on the burst correlation. Alternate crack morphologies can correspond to 6.2 volts so that a unique crack length is not defined by the burst pressure versus voltage correlation. Consequently, typical burst pressure versus through-wall crack length correlations are used below to define the "longest permissible crack" for evaluating operating leakage limits.

The single through-wall crack lengths that result in tube burst at three times normal operating pressure differential and SLB conditions are about 0.42 inch and 0.84 inch, respectively. Normal leakage for these crack lengths would range from 0.11 gallons per minute to 4.5 gallons per minute, respectively, while lower 95% confidence level leak rates would range from about 0.02 gallons per minute to 0.6 gallons per minute, respectively.

An operating leak rate of 150 gpd will be implemented in application of the tube plugging limit. This leakage limit provides for detection of 0.4 inch long cracks at nominal leak rates and 0.6 inch long cracks at the lower 95% confidence level leak rates. Thus, the 150 gpd limit provides for plant shutdown prior to reaching critical crack lengths for SLB conditions at leak rates less than a lower 95% confidence level and for three times normal operating pressure differential at less than nominal leak rates.

3. The proposed license amendment does not involve a significant reduction in margin of safety.

The use of the interim tube support plate elevation plugging criteria at Farley Unit 2 is demonstrated to maintain steam generator tube integrity commensurate with the requirements of R.G. 1.121. R.G. 1.121 describes a method acceptable to the NRC staff for meeting GDCs 14, 15, 31, and 32 by reducing the probability of the consequences of steam generator tube rupture. This is accomplished by determining the limiting conditions of degradation of steam generator tubing, as established by inservice inspection, for which tubes with unacceptable cracking should be removed from service. Upon implementation of the criteria, even under the worst case conditions, the occurrence of OD SCC at the tube support plate elevations is not expected to lead to a steam generator tube rupture event during normal or faulted plant conditions. The most limiting effect would be a possible increase in leakage during a steam line break event. Excessive leakage during a steam line break event, however, is precluded by verifying that, once the criteria is applied, the expected end of cycle distribution of crack indications at the tube support plate elevations would result in minimal, and acceptable primary to secondary leakage during all plant conditions and, hence, help to demonstrate radiological conditions are less than a small fraction of the 10 CFR (part) 100 guideline.

In addressing the combined effects of (loss-of-coolant accident) LOCA + (safe shutdown earthquake) SSE on the steam generator component (as required by GDC 2), it has been determined that tube collapse may occur in the steam generators at some plants. This is the case as the tube support plates may become deformed as a result of lateral loads at the wedge supports at the periphery of the plate due to either the LOCA rarefaction wave and/or SSE loadings. Then, the resulting pressure differential on the deformed tubes may cause some of the tubes to collapse.

There are two issues associated with steam generator tube collapse. First, the collapse of steam generator tubing reduces the [reactor coolant system] RCS flow area through the tubes. The reduction in flow area increases the resistance to flow of steam from the core during a LOCA which, in turn, may potentially increase Peak Clad Temperature (PCT). Second, there is a potential [that partial] through-wall cracks in tubes could progress to through-wall cracks during tube deformation or collapse.

Consequently, a detailed leak-before-break analysis was performed and it was concluded that the leak-before-break methodology (as permitted by GDC 4) is applicable to the Farley Unit (2) reactor coolant system primary loops and, thus, the probability of breaks in the primary loop piping is sufficiently low that they need not be considered in the structural design basis of the plant. Excluding breaks in the RCS primary loops, the LOCA loads from the large branch line breaks were analyzed at Farley Unit 2 and were found to be of insufficient magnitude to result in steam generator tube collapse or significant deformation.

Regardless of whether or not leak-before-break is applied to the primary loop piping at Farley Unit 2, any flow area reduction is expected to be minimal (much less than 1%) and PCT margin is available to account for this potential effect. Based on recent analyses results, no tubes near wedge locations are expected to collapse or deform to the degree that secondary to primary in-leakage would be increased over current expected levels. For all other steam generator tubes, the possibility of secondary-to-primary leakage in the event of a LOCA + SSE event is not significant. In actuality, the amount of secondary-to-primary leakage in the event of a LOCA + SSE is expected to be less than that currently allowed, i.e., 500 gpd per steam generator. Furthermore, secondary-to-primary in-leakage would be less than primary-to-secondary leakage for the same pressure differential since the cracks would tend to tighten under a secondary-to-primary pressure differential. Also, the presence of the tube support plate is expected to reduce the amount of in-leakage.

Addressing the R.R. 1.83 considerations, implementation of the tube plugging criteria is supplemented by 100% inspection requirements at the tube support plate elevations having OD SCC indications, reduced operating leak rate limits, eddy current inspection guidelines to provide consistency in voltage normalization, and rotating pancake coil inspection requirements for the larger indications left in service to characterize the principal degradation mechanism as OD SCC.

As noted previously, implementation of the tube support plate elevation plugging criteria will decrease the number of tubes which must be taken out of service with tube plugs or repaired. The installation of steam generator tube plugs would reduce the RCS flow margin, thus implementation of the interim plugging criteria will maintain the margin of flow that would otherwise be reduced in the event of increased tube plugging.

Based on the above, it is concluded that the proposed change does not result in a significant reduction in margin with respect to plant safety as defined in the Final Safety Analysis Report or any basis of the plant Technical Specifications.

The NRC staff has reviewed the licensee's analysis. In addition, with respect to the third standard, the NRC staff has considered the potential for a reduction in the margin to burst for tubes using the proposed criteria and finds that the margin to burst is comparable to that provided by the existing Technical Specification requirements. Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within thirty (30) days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications, Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By April 1, 1992, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at Houston-Love Memorial Library, 212 W. Burdeshaw Street, P.O. Box 1369, Dothan, Alabama. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board Panel, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board Panel will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to

Elinor G. Adensam: Petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington DC 20555, and to James H. Miller, III, Esq., Balch and Bingham, P.O. Box 306, 1710 Sixth Avenue North, Birmingham, Alabama 35201, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board Panel that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated February 20, 1992, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555 and at the local public document room located at Houston-Love Memorial Library, 212 W. Burdeshaw Street, P.O. Box 1369, Dothan, Alabama 36302.

Dated at Rockville, Maryland, this 26th day of February 1992.

For the Nuclear Regulatory Commission.

Stephen T. Hoffman,

Project Directorate II–I, Division of Reactor Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 92–4877 Filed 2–27–92; 11:42 am]

BILLING CODE 7590-01-M

PENSION BENEFIT GUARANTY CORPORATION

Exemption From Bond/Escrow Requirement Relating to Sale of Assets by an Employer Who Contributes to a Multiemployer Plan; Ryan-Walsh, Inc.

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of exemption.

SUMMARY: The Pension Benefit Guaranty Corporation has granted a request from Ryan-Walsh, Inc. for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974, as amended. A notice of the request for exemption from the requirement was published on November 14, 1991 (56 FR 57910). The effect of this notice is to advise the public of the decision on the exemption request.

ADDRESSES: The request for an exemption and the PBGC response to the request are available for public inspection at the PBGC Communications and Public Affairs Department, suite 7100, at the above address, between the hours of 9 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Jeffrey S. Hops, Attorney, Office of General Counsel; (22521), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006; telephone 202–778–8824 (202–956–5059 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

Background

Section 4204 of the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980, ("ERISA" or "the Act"), provides that a bona fide arm's-length sale of assets of a contributing employer to an unrelated party will not be considered a withdrawal if three conditions are met. These conditions, enumerated in section 4204(a)(1)(A)–(C), are that—

(A) The purchaser has an obligation to contribute to the plan with respect to the operations for substantially the same number of contribution base units for which the seller was obligated to contribute;

(B) The purchaser obtains a bond or places an amount in escrow, for a period of five plan years after the sale, in an amount equal to the greater of the seller's average required annual contribution to the plan for the three plan years preceding the year in which the sale occurred or the seller's required annual contribution for the plan year preceding the year in which the sale occurred (the amount of the bond or escrow is doubled if the plan is in reorganization in the year in which the sale occurred); and

(C) The contract of sale provides that if the purchaser withdraws from the plan within the first five plan years beginning after the sale and fails to pay any of its liability to the plan, the seller shall be secondarily liable for the liability it (the seller) would have had but for section 4204.

The bond or escrow described above would be paid to the plan if the purchaser withdraws from the plan or fails to make any required contributions to the plan within the first five plan years beginning after the sale.

Additionally, section 4204(b)(1) provides that if a sale of assets is covered by section 4204, the purchaser assumes by operation of law the contribution record of the seller for the plan year in which the sale occurred and the preceding four plan years.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B) when warranted. The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions. Senate Committee on Labor and Human Resources, 96th Cong., 2nd Sess., S.1076, The Multiemployer Pension Plan Amendments Act of 1980: Summary and Analysis of Considerations 16 (Comm. Print, April 1980); 128 Cong. Rec. S10117 (July 29, 1980). The granting of an exemption or variance from the bond/escrow requirement does not constitute a finding by the PBGC that a particular transaction satisfies the other requirements of section 4204(a)(1). Such questions are to be decided by the plan sponsor in the first instance, and any disputes are to be resolved in arbitration. 29 U.S.C., Sections 1382, 1399, 1401.

Under the PBGC's regulation on variances for sales of assets (29 CFR part 2643), a request for a variance or waiver of the bond/escrow requirement under any of the tests established in the regulation (§§ 2643.12–2643.14) is to be made to the plan in question. The PBGC will consider waiver requests only when the request is not based on satisfaction of one of the four regulatory tests or when the parties assert that the financial information necessary to show satisfaction of one of the regulatory tests is privileged or confidential financial information with the meaning of section 552(b)(4) of the Freedom of Information Act.

Under § 2643.3 of the regulation, the PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it—

(1) Would more effectively or equitably carry out the purposes of Title IV of the Act; and

(2) Would not significantly increase the risk of financial loss to the plan.

Section 4204(c) of ERISA and §2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance or exemption in the **Federal Register** and provide interested parties with an opportunity to comment on the proposed variance or exemption.

The Decision

On November 14, 1991 (56 FR 57910), the PBGC published a request for Ryan-Walsh, Inc. ("the Buyer") for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) as it applies to the purchase of the assets of the Wilmington Shipping Co. ("the Seller") relating to the Seller's stevedoring operations at Wilmington and Morehead City, North Carolina. The sale of assets became effective on July 1, 1991. No comments were received in response to the notice.

Employees at the purchased facility are covered by a multiemployer pension plan, the Employers-I.L.A.-North Carolina Ports Area Pension Plan ("the Plan"). The Seller has agreed to be secondarily liable for any withdrawal liability should the Buyer withdraw from the fund within five years of the sale. The Buyer has subcontracted with the Seller to have the Seller perform the stevedoring work at the purchased operations, with the Seller being responsible for, among other things, making contributions to the Plan. The subcontract further provides that the Buyer is ultimately responsible for ensuring that the requisite contributions for the purchased operations are made to the Plan. The seller's potential withdrawal liability is estimated to be $1,869,961. The amount of the bond/escrow that would be required of the Buyer under section 4204(a)(1)(B) is $892,292 (the annual contribution the Seller made to the Fund for the plan year preceding the plan year in which the sale of assets occurred).

According to its consolidated financial statements as of December 31, 1990, the Buyer meets the requirements of both the net income test and the net tangible assets test described in 29 CFR 2643.14(a) (1) and (2). These financial statements indicate that the Buyer's consolidated net income for the 3 years preceding the sale exceeds 150 percent of the amount of the bond/escrow required under section 4204(a)(1)(B), and that its consolidated net tangible assets exceed the estimated withdrawal liability of the Seller. The Buyer has indicated that these statements are confidential within the meaning of 5 U.S.C., 552 (b)(4).

Based on the facts of this case and the representations and statements made in connection with the request for an exemption, the PBGC has determined that an exemption from the bond/escrow requirement is warranted, in that it would more effectively carry out the purposes of title IV of ERISA and would not significantly increase the risk of financial loss to the plan. Therefore, the PBGC hereby grants the request for an exemption for the bond/escrow requirement. The granting of an exemption or variance from the bond/escrow requirement of section 4204(a)(1)(B) does not constitute a finding by the PBGC that the transaction satisfies the other requirements of section 4204(a)(1). The determination of whether the transaction satisfies such other requirements is a determination to be made by the plan sponsor.

Issued at Washington, DC, on this 18th day of February, 1992.

James B. Lockhart III,

Executive Director.

[FR Doc. 92–4757 Filed 2–28–92; 8:45 am]

BILLING CODE 7709-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–30394; File No. SR–Amex-90–06]

Self-Regulatory Organizations; American Stock Exchange, Inc.

February 21, 1992

In the matter of Order Approving Proposed Rule Change, Including Amendment No. 1, and Filing and Order Granting Accelerated Approval to Amendment No. 2 to the Proposed Rule Change, Relating to Listing Guidelines for Certain Unit Investment Trusts and the Listing of Unit Investment Trusts sponsored by SuperShare Services Corp.

I. Introduction

On May 14, 1990, the American Stock Exchange, Inc. ("Amex" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] a proposed rule change to amend section 118 of the Amex Company Guide to provide listing guidelines for certain investment trusts and to list securities issued by unit investment trusts sponsored by SuperShare Services Corporation ("SSC"), a majority owned subsidiary of Leland O'Brien Rubinstein Associates Incorporated, called SuperUnits.[3]

The proposed rule change was published for comment in Securities Exchange Act Release No. 28095 (June 6, 1990), 55 FR 24016 (June 13, 1990). No comments were received on the proposed rule change.[4]

II. Description of Proposal

A. Listing Requirements for Unit Investment Trusts.

The Exchange proposes to amend section 118 of the Amex Company Guide by adding a new part B to provide for the listing of a unit investment trust that issues securities based on a portfolio of stocks included in a broad-based stock market index and/or a portfolio of money market instruments or other debt securities.[5] Under proposed section 118B, these unit investment trusts may operate on an open or closed end basis and may permit investors to separate their securities into distinct trading components. These distinct trading components may represent interests in the income, capital appreciation potential, or other economic characteristics of the securities deposited in the unit investment trust.

Under the proposal, a unit investment trust's eligibility for listing its securities will be subject to the following requirements. First, if a unit investment trust is a closed end trust, or if it is an open end trust conditioned upon achieving a minimum dollar amount of participation, the trust must have total assets of at least $60,000,000 at the time of formation and have a minimum public distribution of 1,000,000 shares or units held beneficially or of record by 400 round lot holders of shares or units, or of separate components of the shares or units. Second, the stated term of a unit investment trust may not be less than two years.[6] Third, any person or entity serving as trustee is subject to the requirements of paragraphs (a), (c) and (d) of section 811 of the Amex Company Guide.[7] Fourth, if a security issued by a unit investment trust is divided into separate components, any voting rights afforded the security are to be divided between the component securities as specified in the trust's prospectus. Fifth, a unit investment trust applying for listing must sign a listing agreement with the Amex.

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[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b-4 (1990).

[3] See discussion, at "Listing of Unit Investment Trust Sponsored by SSC," *infra*, describing the SuperUnits proposed to be traded on the Amex.

[4] The proposal was amended on August 27, 1990, to clarify that the stock index on which unit investment trust securities may be based must be a broad-based stock market index that is of the type the Commission has previously reviewed and approved for index products, to provide procedures governing trading halts and the entering of discretionary orders in unit investment trust securities, and to modify the original customer sutiability standard proposed for these securities. This amendment was noticed in Securities Exchange Act Release No. 28410 (September 6, 1990), 55 FR 37783 (September 13, 1990). No comments were received on the amendment. The proposal was amended again on November 9, 1990, to permit the trading of unit investment trust securities on the Amex until 4:15 p.m.

[5] In a letter from James F. Duffy, Senior Vice President and General Counsel, Legal & Regulatory Policy Division, Amex, to Howard L. Kramer, Assistant Director, Office of Self Regulatory Oversight, Division of Market Regulation, SEC, dated August 23, 1990, the Amex stated that for the purpose of section 118B, broad based indexes would include those indexes that have been reviewed by the Commission in connection with domestic trading of index-based derivative instruments, such as index options, futures and warrants and treated as broad-based indexes. The Amex further stated that prior to listing a trust based on an index that the Commission had not previously reviewed the Exchange would file a proposed rule change pursuant to Rule 19b-4 under the Act.

Under the proposal, the Exchange will consider the suspension of trading in or removal from listing of the securities of a unit investment trust if further dealings in such securities appears unwarranted due to the occurrence of any of the following circumstances: The trust has more than 60 days remaining until termination and there are less than 50 record and/or beneficial holders of shares, units or trading components thereof for 20 or more consecutive trading days; there has been a failure on the part of the trust and/or trustee to comply with the Amex's listing policies or agreements; or such other event occurs or condition exists that, in the Amex's opinion, make further dealings on the Exchange inadvisable.

B. Listing of Unit Investment Trust Sponsored by Supershare Services Corporation

The Amex will consider listing securities issued by a unit investment trust on a case-by-case basis. Currently, the Amex proposes to list the securities of an open end unit investment trust sponsored by SSC.[8] This unit investment trust will be named "SuperTrust" and initially will consist of two separate trusts, the Index Trust and the U.S. Treasury Money Market Trust ("Money Market Trust"). For an initial investment of at least $10,000, an investor may purchase shares of either the Index Series or the U.S. Treasury Money Market Series of the Capital Market Fund, Inc. ("Fund"), which is an open-end management investment company organized as a series fund under the Investment Company Act of 1940. Fund shares will not be exchange-traded. Throughout the life of the SuperTrust, holders of shares of the Index Series of the Fund will be able to tender shares with a minimum net asset value of $5,000 for deposit into the Index Trust and receive, in exchange, Index Trust SuperUnit Securities ("Index Trust SuperUnits"). Similarly, holders of shares of the U.S. Treasury Money Market Series of the Fund will be able to tender shares with a minimum net asset value of $5,000 for deposit into the Money Market Trust and receive, in exchange, U.S. Treasury Money Market Trust SuperUnit securities ("Money Market Trust SuperUnits").[9] Index Trust and Money Market Trust SuperUnits are redeemable units of beneficial interest investing in the Index Series and U.S. Treasury Money Market Series of the Fund, respectively.[10] Both the Index Trust and the Money Market Trust will operate on an open-end basis with no maximum number of holders.

Upon payment of a separation fee, holders may separate their SuperUnits into four distinct securities call SuperShares.[11] Index Trust SuperUnits can be separated, for a fee, into an Appreciation SuperShare and a Priority SuperShare. The Appreciation SuperShare represents an interest in the potential capital appreciation of the Index Trust SuperUnit by providing the holder with the right to receive at termination of the Index Trust any portion of the net asset value of the SuperUnit that exceeds a specified amount.[12] The Priority SuperShare gives the holder the right to receive all dividends paid on the Index SuperUnit and on termination the net asset value of the Index Trust SuperUnit, less an amount equal to what the Appreication SuperShare is entitled. On termination, payments will be made in shares of the Index Series of the Fund.[13]

The Money Market Trust SuperUnit can be separated, for a fee, into a Protection SuperShare and an Income and Residual SuperShare. The Protection SuperShare is designed to permit its holder to hedge against the possibility that the value of the Standard & Poor's 500 Composite Stock Price Index will be less than a specified amount at the termination of the Money Market Trust. If the Index Trust SuperUnit at the termination of the Money Market Trust is less than a specified amount, the holder will receive an amount equal to the deficiency, with a cap at a certain level.[14] The Income and Residual SuperShare represents the right to receive at termination the net asset value of the SuperUnit less an amount equal to what the Protection SuperShare is entitled.[15] On termination, payments will be made in shares of the U.S. Treasury Money Market Series of the Fund[16]

SuperUnits may be redeemed for an in-kind distribution of Fund shares.[17]

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[6] A unit investment trust, however, may be terminated before two years under certain circumstances, as specified in the trust prospectus.

[7] Section 811(a) requires that the trustee be a trust company or a banking institution having substantial surplus and the experience and facilities for handling corporate trust business. Section 811(a) permits an individual to act as a trustee if a qualified trust company or banking institution is appointed as co-trustee. Section 811(c) prohibits from acting as a trustee any officer or director of the issuing company, any trust company, banking institution, or other organization in which an officer of the issuing company is an executive officer; or any organization controlled by, or under common control with, or which itself controls, the issuing company. Finally, section 811(d) prohibits any change from being made in the trustee of a listed issue without prior notice to and approval of the Amex.

[8] The Amex is proposing to list only the SuperUnit securities issued by the Trust although Amex proposed listing guidelines would be broad enough to include the listing of components such as SuperShares. The SuperUnit securities can be separated into SuperShare securities. Concurrently with the approval of the Amex proposal, the Commission has approved a proposal by the Chicago Board Options Exchange, Inc. to list the SuperShare securities. See, Securities Exchange Act Release No. 30393.

[9] The commencement of the exchange offer to Fund shares for SuperUnits is conditioned upon an aggregate of two billion dollars in subscriptions for the Index Trust and the Money Market Trust SuperUnits and the satisfaction of the Amex and the CBOE listing standards. SSC represents that if these conditions are not met, all subscriptions will be cancelled and no Fund shares, SuperUnits or SuperShares will be issued.

[10] The exchange offer will continue until the SuperTrust termination date and may be terminated or suspended only under the limited circumstances described in the 5th Amended and Restated Application pursuant to section 6(c) of the 1940 Act ("Application"), namely, Trust delisting from the Amex, termination based on a Commission order, or when the net asset value of the Index Trust SupêrUnits exceeds the Termination Date Amount for such units.

[11] The voting rights of a SuperUnit will be divided equally between the two SuperShare that together comprise the SuperUnit.

[12] The Appreciation SuperShare has characteristics that are similar to a call option (or warrant). As noted above, the holder is entitled to the amount the Index SuperUnit exceeds a pre-stated specified amount. This amount is similar to a stricke price. If the market outperforms the "strike price," as with any call index option, the owner is entitled to the difference.

[13] SSC has reserved the right to make the payments in cash or in a combination of Fund shares and cash.

[14] The Protection SuperShare has characteristics that are similar to a put option (or warrant) spread. As noted above, the holder is entitled to receive the amount the value of the Index SuperUnit is less than a preestablished specified amount, with a cap at a certain level. The specified amount and cap level are analogous to strike prices.

[15] The income and Residual SuperShare is an extremely complex component of the Money Market SuperUnit. Investors should be informed that the returns on the Income and Residual SuperShare are linked to the value of the S&P 500 Index although they are components of the Money Market SuperUnit. Accordingly, Amex members recommending transactions in SuperUnits or SuperShares should be careful to give a clear and concise description of the Income and Residual SuperShare.

[16] See note 13 *supra*.

[17] SSC has reserved the right to redeem in cash or in a combination of cash and Fund shares.

SuperShares cannot be redeemed separately, but complementary SuperShares may be recombined into SuperShares and then redeemed into Fund shares. As noted above, the Amex only intends to trade the SuperUnits while the CBOE has proposed and received approval to trade the SuperShares.[18]

C. Trading of Unit Investment Trust Securities

The Amex proposal includes rules to govern the trading of unit investment trust securities ("UIT securities"). First, the Amex proposal provides procedures to govern the application of trading halts. Specifically, the Amex has stated that prior to the commencement of trading in UIT securities, the Amex will issue a circular to its members informing them of Exchange policy regarding trading halts in such securities. According to the Amex, the circular will make clear that, in addition to other factors that may be relevant, the Exchange may consider factors such as those set forth in Exchange Rule 918C(b) in exercising its discretion to halt or suspend trading. These factors would include whether trading has been halted or suspended in primary market(s) for any combination of underlying stocks accounting for 20% or more of the applicable current index group value; or whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.[19]

Second, the Amex proposal includes rules governing the entering of discretionary orders in UIT securities. Currently, Exchange rules prohibit an Exchange member from exercising discretion in a customer's account unless the account has been approved as a discretionary account by the person delegated such responsibility under Rule 320(c)(1) or, in the case of an options account, by a Senior Registered Options Principal.[20] The proposal would add, for listed UIT securities that are separable into distinct trading components, an additional requirement that discretionary orders in such securities must be aproved and initialled on the day entered by a person delegated such responsibility under Exchange Rule 320(c)(i) or, in accounts approved for options trading, by a Senior Registered Options Principal or Registered Options Principal.

Third, the proposal adds a new Commentary .03 to Exchange Rule 1 which provides that transactions in UIT securities may be effected on the Amex until 4:15 p.m. on each business day. This trading time corresponds with the close of trading for index options and the trading hours proposed by the CBOE for SuperShares.

Fourth, the Amex proposal sets forth the customer suitability standards applicable to UIT securities. As an initial matter, proposed Commentary .04 would require that customers be provided with an explanation of any special characteristics and risks attendant to trading the securities of a unit investment trust listed under proposed section 118B. The Amex has stated that the Exchange will circulate to its membership information describing any such characteristics and risks before trading commences in UIT securities. Proposed Commentary .04 to Exchange Rule 411 provides that before an Exchange member, member organization, or registered employee of a member organization recommends a transaction in the component securities, resulting from the subdivision or separation of the securities issued by a unit investment trust, or in the units which may be separated into the component securities, a determination must be made that the transaction is not unsuitable for the customer. The proposed commentary further provides that the person making the recommendation should have a reasonable basis for believing at the time of making the recommendation that the customer has such knowledge and experience in financial matters that he may reasonably be expected to be capable of evaluating the risks and the special characteristics of the recommended transaction and is financially able to bear the risks of any of the constituent securities. This means that a customer must be able to bear the risks of the constituent securities even if the recommended transaction is limited to the purchase of the whole unit, such as a SuperUnit, and does not specifically recommend separating the unit into its component parts, such as SuperShares.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5). Specifically, the Commission believes that providing for the exchange trading of securities issued by unit investment trusts based on a portfolio of stocks in a broad-based stock market index or a portfolio of money market instruments will offer a new and innovative means of participating in the securities markets. In particular, the Commission believes that the trading of SuperUnits and SuperShares will accord investors flexibility in shaping their investment needs by providing (1) the means to trade open-end mutual funds on the secondary market, and (2) a mechanism to separate a stock or money market investment into component pieces.[21] For example, investors of SuperUnits will have similar risks as holders of money market and mutual fund holders but will have the added benefit of being able to dispose of their investment in the secondary market in addition to still being able to redeem their shares.

Moreover, the ability of investors to split an Index or Money Market SuperUnit into SuperShares representing the respective income and appreciation portion of the SuperUnit should provide investors with flexibility to meet their investment needs. For example, an investor interested in maintaining low risk could hold on to the income portion and sell the appreciation portion in the secondary market. Investors who can bear the risks of the Appreciation and Protection SuperShares also will have the ability to obtain differential rates of return on a capital outlay if the S&P 500 Index moves in a favorable direction above or below a specified amount.[22]

While SuperUnits (representing a whole UIT interest) are analogous to open-end index and money market funds, SuperShares (representing the components of a SuperUnit) are hybrid derivative securities having certain option-like characteristics and risks. Accordingly, the Commission has reviewed carefully the Amex's proposal to ensure that the rules for trading UIT securities and their component parts, including SuperUnits, maintain and meet the Act's Requirements for adequate investor protection.[23]

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[18] See note 8 *supra*.

[19] In addition, under Exchange Rule 117, trading in SuperUnit securities would be halted for one hour if the Dow Jones Industrial Average ("Average") is calculated at a value of 250 or more points below its closing value on the previous trading day ("Closing Value"), and for two hours if, on the same day, the Average is subsequently calculated at a value of 400 or more points below its closing value.

[20] See Amex Rules 421 and 924.

[21] Pursuant to section 6(b)(5) of the Act the Commission must predicate approval of exchange trading for new products upon a finding that the introduction of the product is in the public interest. Such a finding would be difficult with respect to a product that served no investment, hedging or other economic function, because any benefits that might be derived by market participants would likely be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns.

[22] For example, investors could use the Protection SuperShare to hedge against the possibility that the value of the S&P 500 Index will be less than a specific amount. Of course, if the S&P 500 Index moves in the wrong direction, the Protection and Appreciation SuperShares will expire worthless and the investors will have lost their entire investment.

Because UIT securities (including SuperUnits) can be divided into component parts, some of which may involve a level of risk that is greater than the level of risk involved with traditional mutual fund securities, the Commission has several specific concerns regarding the trading of these securities. In particular, these UIT securities raise customer suitability, disclosure, and secondary market trading issues that must be addressed adequately. In this regard, as discussed in detail below, the Amex has proposed safeguards that are designed to meet these investor protection concerns.

First, the Amex has addressed customer suitability concerns by proposing to add Commentary .04 to Exchange Rule 411. As noted above, Commentary .04 would require a broker recommending a purchase of a unit investment trust security product (i.e., securities issued by a unit investment trust and any distinct trading components of those securities) to determine that all aspects of the product, including its component parts, are not unsuitable for the customer and that the customer has such knowledge and experience in financial matters that he may reasonably be expected to be capable of evaluating the risks and special characteristics of the recommended transaction. The Rule also requires that the recommending broker determine that the customer has the financial ability to bear the risk of the component parts, even if the recommendation is limited to purchasing a whole UIT interest rather than any of the component securities. This suitability standard is almost identical to the one that is applied and recommended for options products.[24]

As applied to the "SuperTrust" product (i.e., SuperUnits and SuperShares), the Commission believes that the use of an options-like suitability standard to a recommendation to establish a position (either long or short) in a SuperUnit or a SuperShare will provide protection that the recommendation only will be made to those investors who can evaluate and bear the risks of the component securities. The Commission believes that applying this suitability standard to the entire product is necessary because a purchase of a SuperUnit always involves the potential to separate the SuperUnit later into component securities.[25]

Second, the Commission has reviewed the appropriate account approval standards. For example, in order to trade options an investor's account must be approved for options trading.[26] The Amex has not proposed to require or recommend that UIT securities, including SuperShares, be sold only to options approved accounts. The Commission finds this acceptable because (1) the SuperUnits and SuperShares have some aspects that are more akin to equity than to options; and (2) the Amex has developed other adequate customer protection rules applicable to transactions in these products. For example, the Amex has proposed to require that discretionary transactions in UIT securities be approved by a Senior Registered Options Principal, a Registered Options Principal, or a Person delegated such responsibility under Amex Rule 320(c)(i).[27] By requiring review of all discretionary transactions in UIT securities on the day the transaction is executed, in addition to special supervisory controls to open a discretionary account, the proposal will ensure that discretionary transactions are appropriate for the account and that the account suitability standards are being met. Moreover, as noted above, the Amex has proposed special, heightened suitability standards for these products.

In summary, the Commission believes that the options-like suitability standard applicable to the "SuperTrust" product and the special supervisory rules for discretionary transactions will provide adequate protection to investors. Accordingly, the Commission does not believe it is necessary to limit the sale of the "SuperTrust" product, which has characteristics of debt, equity and options, to only those investors that meet the account eligibility requirements for options trading. The Commission emphasizes, however, that recommendations for SuperShares should be limited to investors who would qualify for options trading if they were to seek qualification.

Third, the Amex has addressed customer disclosure concerns by requiring, under proposed Commentary .04, that Amex members provide customers with an explanation of any special characteristics and risks attendant to trading UIT securities. With respect to the "SuperTrust" product, section 5(b)(2) of the Securities Act of 1933 and section 24(d) of the Investment Company Act of 1940 require that SuperUnit secruities intended for sale or delivery after sale be accompanied by a statutory prospectus. Accordingly, the Commission believes that investors in UIT securities, in general, and in SuperUnit securities, in particular, will be provided with adequate disclosure.

Fourth, the Amex has addressed any market impact concerns in its proposal. Specifically, the Amex proposal only permits the listing of UIT securities on a portfolio of stocks if the stock market index on which it is based is a broad-based index that the Commission has reviewed and approved in another context. Accordingly, because the index on which a UIT interest would be based already would be the subject of derivative instruments, the Commission believes it is less likely that the listing and trading of UIT securities would adversely impact U.S securities markets.[28] Moreover, in the case of the

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[23] In reviewing the Amex proposal, the Commission recognized that the Amex is initially proposing to trade only the SuperUnits. Because SuperUnits continually are separable into SuperShares, and the Amex's proposed listing guidelines for UIT securities are broad enough to permit the trading of component securities, the Commission believes it is appropriate to ensure that Amex rules adequately protect investors trading in SuperUnits and SuperShares.

[24] See eg. Amex Rule 923.

[25] In a letter from James F. Duffy, Senior Vice President and General Counsel, Legal & Regulatory Policy Division, Amex, to Howard L. Kramer, Assistant Director, Division of Market Regulation, SEC, dated August 23, 1990, the Amex stated that it understood that the options-like suitability standard was being applied to the SuperUnits because of their separability into component securities (i.e., SuperShares). The Amex stated that it did not believe that a heightened suitability standard would apply to UIT securities that were not separable into component securities. While the Commission does not believe that a heightened suitability standard necessarily should be applied to non-separable UIT securities, it is impossible to predetermine the appropriate suitability standard for every potential new product. Thus, in the event Amex decides to list a non-separable UIT security, to fulfill its regulatory responsibilities under the Act, it would have to determine the appropriate suitability standard necessary for the protection of investors.

[26] These rules require member firms, among other things, to make certain inquiries about a customer's financial situation and investment objectives and verify, and maintain records containing, this background and financial information.

[27] As discussed in "Trading of UIT Securities," *supra*, Amex rules require discretionary orders in options-approved accounts to be approved by a Senior Registered Options Principal or a Registered Options Principal and discretionary orders in other accounts to be approved as provided in Amex Rule 320(c)(i).

[28] The Amex, of course, could submit proposals pursuant to section 19(b) to trade UIT interests based on other types of indexes. This will provide the Commission an opportunity to determine if a particular index raises potential manipulation or orther trading abuse concerns. See Securities Exchange Act Release No. 26152 (October 3, 1988) 53 FR 39832 (October 12, 1988) (order approving listing and trading rules for index warrants). The Commission believes this approach is appropriate and consistent with its policy on the trading of other types of index products.

"SuperTrust" product, the Commission notes that a variety of derivative instruments currently trading, including index options and index futures contracts, are based on the S&P 500 Index. The "SuperTrust" product does not contain features that make it likely to impact by itself the U.S securities markets.

Finally, the Commission finds that the Amex has designed adequate rules and procedures to govern the trading of UIT securities, including SuperShares. Specifically, the Commission believes that the Amex's rules governing the trading of UIT securities provides adequate safeguards to prevent manipulative acts and practices and to protect investors and the public interest. The Commission also finds that permitting the trading of UIT interest until 4:15 p.m. New York Time, which corresponds to the close of trading for stock index options, is appropriate.

The Commission finds good cause for approving amendment no. 2 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission finds that the trading hours provided for in this amendment are identical to the trading hours proposed to be applied to the trading of UIT securities on the CBOE.[29] The Commission notes that no comments were received in connection with this proposal. Accordingly, the Commission believes it is consistent with section 6(b)(5) of the Act to approve this portion of the Amex's proposal on an accelerated basis.

Interested persons are invited to submit written data, views and arguments concerning amendment no. 2 to the proposed rule change. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchanges Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by March 23, 1992.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[30] that the proposed rule change (SR-Amex-90-06) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[31]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-4763 Filed 2-28-92; 8:45 am]

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[Release No. 34-30401; File No. SR-BSE-92-01]

Self-Regulatory Organizations; Filing and Order Granting Temporary Accelerated Approval of Proposed Rule Change by Boston Stock Exchange, Inc. Relating to Specialist Performance Evaluation Program

February 24, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 14 U.S.C. 78s(b)(1), notice is hereby given that on February 5, 1992, the Boston Stock Exchange, Inc. ("BSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons, and this order grants accelerated approval of the BSE's proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The BSE proposes to extend for an additional one year period the operation of the Exchange's Specialist Performance Evaluation Program ("SPEP").[1]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Purpose

The BSE orginially filed its SPEP pilot program with the Commission on September 28, 1984.[2] Because the commission still is reviewing whether to grant permanent approval to the Exchange's proposal, the BSE is submitting this filing to request that the current pilot program be extended for a one-year period in order to enable the Exchange to maintain the program, pending permanent approval by the Commission.

Statutory Basis

The basis under the Act for the proposed rule change is section 6(b)(5),[3] in that the questionnaire results weigh heavily in stock allocation decisions and as a result specialists are encouraged to improve their market quality and administrative duties, thereby promoting just and equitable principles of trade and aiding in the perfection of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received.

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[29] This proposal was noticed in Securities Exchange Act Release No. 28132 (June 19, 1990), 55 FR 26038 (June 28, 1990)

[30] 15 U.S.C. 78s(b)(2) (1988).

[31] 17 CFR 200.30-3(a)(12) (1991).

[1] On February 28, 1991, the Commission granted accelerated approval to the BSE's proposal to renew the SPEP pilot program for a one-year period, ending on February 28, 1992 see Securities Exchange Act Release No. 28919 (February 28, 1991), 56 FR 9990 (March 8, 1991). Prior to February 28, 1991, the Commission last approved the Exchange's SPEP pilot on January 30, 1990 for a one-year period (see Securities Exchange Act Release No. 27656 (January 30, 1990), 55 FR 4298 (February 7, 1990)).

[2] See Securities Exchange Act Release No. [illegible] (March 10, 1986), 51 FR 8928 (March 14, 1986) (approving File No. SR-BSE-84-04).

[3] 15 U.S.C. 78f(b)(5) (1988).

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the BSE. All submissions should refer to File No. SR–BSE–92–01 and should be sumbitted by March 23, 1992.

IV. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Commission believes that specialist units play a crucial role in providing stability, liquidity and continuity to the trading of stocks in an auction market system. Thus, it is critical to an efficient marketplace that the Exchange conduct effective oversight of specialist performance. Essential to this oversight is the Exchange's SPEP.

The Exchange's SPEP consists of a Specialist Performance Evaluation Questionnaire ("questionnaire") which is administered every four months and is completed by floor brokers, specialists acting as floor brokers in their non-specialty stocks and certain other qualifying clerks. The questionnaire currently contains 12 questions, 8 of which are weighted. Each respondent is requested to grade a specialist's performance in the area addressed by each question. Further, the Exchange uses a nine point grading scale to rate specialist performance.

Specialist units whose performance falls below certain threshold levels of acceptable performance are subject to performance improvement actions. These actions are triggered in the event a specialist unit receives (1) an overall average grade below 4.5 on the questionnaire, or (2) an average grade below 4.5 for one question for two of three consecutive evaluation periods. Specialists units coming under one of these two categories are requested to meet informally with a Performance Improvement Subcommittee ("Subcommittee"). In this meeting, the Subcommittee discusses the unit's poor performance and possible measures to improve the specialist's performance during the subsequent evaluation period. The meeting is voluntary and a specialist unit may elect not to attend.

A mandatory meeting with the Market Performance Committee ("MPC") is required in the event a specialist receives an overall grade below 4.5 on the questionnaire for two of three successive evaluation periods, or if the unit receives a grade of 4.5 on one question in one out of two evaluation periods subsequent to meeting the conditions for an informal review by the Subcommittee.

The MPC may impose the following sanctions upon a unit following a mandatory hearing: (1) Withdraw Exchange approval of a member's registration as a specialist in one or more stocks, (2) reduce the percentage of stocks that may be protected by a specialist when new specialist books are allocated (all specialists are obligated to reserve 10% of their specialty stocks for acquisition by new specialists developing a book), or (3) suspend the specialist's trading account. BSE Rules also permit the MPC to impose any other performance improvement actions it deems appropriate to improve a unit's performance.[4]

On February 26, 1991 and again on March 8, 1991, the Exchange filed reports with the Commission describing its experience with the SPEP pilot program for the four quarters in 1990.[5] According to the BSE's reports, no specialist units were subject to a performance improvement action during this time period. The Exchange's reports state that there was one specialist who received an average grade below 4.5 for one question in the last review period ending December, 1990, but no action was taken against this specialist because the SPEP provides that, in order to invoke a meeting with the Subcommittee, an average grade below 4.5 for one question must occur in two out of three successive review periods. At the time of the reports, this specialist had received the low average grade in only one review period. In addition, no specialist unit received an overall average grade below 4.5 on the questionnaire.

The Commission finds that the BSE's proposed rule change to extend the SPEP pilot program for an additional year is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6 of the Act [6] and the rules and regulations thereunder. In this regard, the Commission believes that the extension of the pilot furthers the protection of investors and the public interest because it allows for the continued evaluation of specialist performance while the Commission considers the Exchange's request for permanent approval of the SPEP.[7]

Further, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Commission believes that it is necessary to extend the pilot program's operation while the Commission considers the Exchange's proposal to approve the pilot program on a permanent basis so that the program can continue on an uninterrupted basis. The Commission believes, therefore, that accelerated effectiveness of the extension of the pilot program for an additional one-year term is appropriate. The Commission also notes that the substance of the proposal was published in the **Federal Register** previously and no comments on the proposal were received by the Commission.[8]

It is Therefore Ordered, Pursuant to section 19(b)(2) of the Act [9] that the proposed rule change be, and hereby is, approved for a one year period ending on February 26, 1993.

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[4] See Securities Exchange Act Release No. 26162, (October 6, 1988), 53 FR 40301 (October 14, 1988) (approving File No. SR–BSE–87–6) for a more detailed description of the BSE's specialist performance evaluation program.

[5] See letters from Karen A. Aluise, Regulatory Review Specialist, BSE, to Mary Revell, Branch Chief, Division of Market Regulation, SEC, dated February 22, 1991 and March 5, 1991. Although the two reports discuss the results of the SPEP for the four quarters in 1990, the most recently filed report provides a fuller review of the SPEP's results.

[6] 15 U.S.C. 78f (1988).

[7] The Commission reiterates the request stated in Securities Exchange Act Release No. 26162, *supra* note 4, that the BSE submit objective measures of market making performance to the Commission as soon as possible pursuant to section 19(b) of the Act. The Commission also requests that the BSE submit a report to the Commission describing its experience with the pilot by March 30, 1992. The report should detail, for the four quarters in 1991, questionnaire results for all specialist units, as well as any actions taken by the Subcommittee or MPC in response to the scores. Any modifications to the current questionnaire also should be submitted to the Commission as a proposed rule change pursuant to section 19(b) of the Act.

[8] See Securities Exchange Act Release No. 22993 (March 10, 1986), 51 FR 8928 (March 14, 1986).

[9] 15 U.S.C. 78s(b)(2) (1988).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-4698 Filed 2-28-92; 8:45 am]

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[Release No. 34-30393; File No. SR-CBOE-90-13]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.

February 21, 1992.

In the matter of Order Approving Proposed Rule Change, Including Amendments No. 1 and 2, and Filing and Order Granting Accelerated Approval to Amendments No. 3, 4, 5, 6, and 7 to the Proposed Rule Change, Relating to Listing Guidelines for Certain Unit Investment Trusts and the Listing of Unit Investment Trusts Sponsored by SuperShare Services Corporation

I. Introduction

On May 25, 1990, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and rule 19b-4 thereunder,[2] a proposed rule change to provide for the listing and trading of securities issued by certain unit investment trusts, including the securities issued by unit investment trusts sponsored by SuperShare Services Corporation ("SSC"), a majority owned subsidiary of Leland O'Brien Rubinstein Associates Incorporated ("LOR").[3]

The proposed rule change was published for comment in Securities Exchange Act Release No. 28132 (June 19, 1990), 55 FR 26038 (June 26, 1990). No comments were received on the proposed rule change.[4]

II. Description of Proposal

A. Listing Requirements for Unit Investment Trusts

The Exchange is proposing to adopt rules that establish listing criteria for unit investment trust securities ("UIT Interests") based upon a portfolio of stocks included in a broad-based stock market index, and/or a portfolio of money market instruments or other debt securities.[5] Under the CBOE proposal, these unit investment trusts may operate on an open or closed end basis.[6]

Under the proposal, a unit investment trust must have total assets of at least $60,000,000 at the time of formation and have a minimum public distribution of 1,000,000 shares, units, or other trading components held by 400 holders (beneficial and/or record holders). In addition, the stated term of a unit investment trust may not be less than two years.[7] As regards to the trustee of a unit investment trust on which a UIT interest is based, such trustee must be a trust company or banking institution having substantial capital and surplus.[8] Fourth, any right to vote which is conferred by a security issued by a unit investment trust may be divided between the separate components of the units and must be "passed through" to the beneficial holders of the UIT interests.

Under the proposal, the Exchange will consider the suspension of trading in or removal from listing of the securities of a unit investment trust if further dealings in such securities appear unwarranted due to any of the following circumstances: the trust has more than 60 days remaining until termination and there are less than 50 record and/or beneficial holders of shares, units or trading components thereof for 20 or more consecutive trading days; there has been a failure on the part of the trust and/or sponsor to comply with the CBOE's listing policies or agreements; or such other event occurs or condition exists that, in the CBOE's opinion, makes further dealings on the Exchange inadvisable.[9]

B. Listing of Unit Investment Trust Sponsored by Supershare Services Corporation

The CBOE will consider listing UIT interests on a case-by case basis. Currently, the CBOE proposes to list the component securities of an open end unit investment trust sponsored by SSC, a majority owned subsidiary of Leland O'Brien Rubinstein Associates Incorporated. [10] This unit investment trust will be named "SuperTrust" and initially will consist of two separate trusts, the Index Trust and the U.S. Treasury Money Market Trust ("Money Market Trust"). For an initial investment of at least $10,000, an investor may purchase shares of either the Index Series or the U.S. Treasury Money Market Series of the Capital Market Fund, Inc. ("Fund"), which is an open-end management investment company organized as a series fund under the Investment Company Act of 1940. Fund shares will not be exchange-traded. Throughout the life of the SuperTrust, holders of shares of the Index Series of the fund will be able to tender shares with a minimum net asset value of $5,000 for deposit into the Index Trust and receive, in exchange, Index Trust SuperUnit securities ("Index Trust SuperUnits"). Similarly, holders of shares of the U.S. Treasury Money Market Series of the Fund will be able to tender shares with a minimum net asset value of $5,000 for deposit into the Money Market Trust and receive, in exchange, U.S. Treasury Money Market Trust SuperUnit securities ("Money Market Trust SuperUnits").[11] Index Trust and Money Market Trust SuperUnits are redeemable units of beneficial interest investing in the Index Series and U.S. Treasury Money Market Series of the Fund, respectively.[12] Both the Index Trust and the Money Market Trust will operate on an open-end basis with no maximum number of holders.

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[10] 17 CFR 200.30-3(a)(12) (1991).

[1] 15 U.S.C. 78s(b)(1) 1988.

[2] 17 CFR 240.19b-4 (1991).

[3] The CBOE proposes to trade SuperShare securities that will be issued by SSC. *See* discussion, at "Listing of Unit Investment Trust Sponsored by SSC," *infra*, for a detailed description of SuperUnit and SuperShare securities that are based on the Standard & Poor's 500 Composite Stock Price Index (S&P 500 Index) and U.S. Treasury money market instruments.

[4] The proposal was amended on July 30, 1990 and August 21, 1990 to clarify, among other things, that the stock market index on which unit investment trust securities may be based must be a broad-based stock market index that is of the type the Commission previously has reviewed and approved for index products and to amend the customer suitability standard. The amendments to the rule filing were published for comment in Securities Exchange Act Release No. 29382 (August 28, 1990) 55 FR 36369 (September 5, 1990). No comments were received on the amendments. The proposal also was amended on October 12, 1990, and October 23, 1990 to reduce the unit of trading from 100 to 10 SuperShares and to preserve current Exchange requirements that securities that are convertible, into securities in which the member makes a market, be treated as non-market-maker positions for margin purposes, respectively. The proposal was amended again on August 21, 1991 to increase the margin requirements applicable to SuperShares, in addition to permitting covered writing of S&P 500 options using SuperUnits and SuperShares. The proposal was amended again on December 18, 1991 to require that CBOE members provide a prospectus to an investor in connection with each transaction in SuperShares. Finally, an amendment was submitted on February 7, 1992 to correct certain typographical errors made in the proposal.

[5] The index would have to be one that the Commission previously had approved for trading a derivative contract.

[6] UIT interests are defined in the proposed CBOE rules as any share, unit, or other interest in or relating to a unit investment trust, including the component resulting from the subdivision or separation of such an interest.

[7] A unit investment trust, however, may be terminated before two years under certain circumstances, as specified in the trust's governing documents.

[8] The amount of capital and surplus will be identified in an undertaking from the trustee to the Exchange. In addition, a trustee of a unit investment trust may not have an executive officer who is also an officer of the issuing sponsor, and the trustee and issuer may not be under common control. A change in the trustee also may not be made without prior notice to and approval of the Exchange.

[9] Any decision to suspend trading in or remove from listing the securities of a unit investment trust will be made pursuant to Exchange rules.

[10] The CBOE is proposing to list the SuperShare securities that result from te separaton of the SuperUnit securities issued by the Trust. Concurrently with approval of the CBOE proposal, the Commission has approved a proposal by the American Stock Exchange, Inc. ("Amex") to list the SuperUnit securities. *See*, Securities Exchange Act Release No. 30394.

Upon payment of a separation fee, holders may separate their SuperUnits into four distinct securities called SuperShares.[13] Index Trust SuperUnits can be separated into an Appreciation SuperShare and a Priority SuperShare. The Appreciation SuperShare represents an interest in the potential capital appreciation of the Index Trust SuperUnit by providing the holder with the right to receive at termination of the Index Trust any portion of the net asset value of the SuperUnit that exceeds a specified amount.[14] The Priority SuperShare gives the holder the right to receive all dividends paid on the Index SuperUnit and on termination the net asset value of the Index Trust SuperUnit, less an amount equal to what the Appreciation SuperShare is entitled. On termination, payments ordinarily will be made in shares of the Index Series of the Fund.

The Money Market Trust SuperUnit can be separated into a Protection Supershare and an Income and Residual Supershare. The Protection Supershare is designed to permit its holder to hedge against the possiblity that the value of the S&P 500 Index will be less than a specified amount at the termination of the Money Market Trust. If the Index Trust SuperUnit at the termination of the Money Market Trust is less than a specified amount, the holder will receive an amount equal to the deficiency, with a cap at a certain level.[15] The Income and Residual SuperShare represents the right to receive at termination the net asset value of the SuperUnit less an amount equal to what the Protection SuperShare is entitled.[16] On termination, payments ordinarily will be made in shares of the U.S. Treasury Money Market Series of the Fund.[17]

SuperUnits may be redeemed at any time for an in-kind distribution of Fund shares.[18] SuperShares cannot be redeemed separately, but complementary SuperShares may be recombined into SuperUnits and then redeemed into Fund shares.

C. Trading Rules for UIT Interests

The CBOE proposal includes rules to govern the trading of UIT interests.[19] First, the CBOE proposal amends current Exchange rules governing the application of trading halts. Specifically, the CBOE proposal would amend Exchange Rule 6.3 authorize Floor Officials, when determining whether to halt trading in UIT interests based on a stock index ("index UIT interests"), to consider whether trading in index options has been halted pursuant to the provisions of Exchange Rule 24.7.[20] The proposal also amends Exchange Rule 6.3A to specify that trading in index UIT interests will be halted whenever trading in index options is halted under the rule's provisions. Under Rule 6.3A trading in index options is halted whenever the trading of all stock on the New York Stock Exchange ("NYSE") has been halted or suspended as a result of the activation of circuit breakers on the NYSE.[21]

Second, the CBOE is proposing to apply its current multiple market-maker system of trading to the trading of UIT interests. In addition, the CBOE proposes to amend current Exchange rules relating to market maker trading of UIT Interests. Specifically, the current proposal would amend Exhange rules that require a market maker to obtain a single Letter of Guarantee from a clearing member, and instead would permit a market maker to obtain separate Letters of Guarantee to cover the specific securities to be traded by the market maker, including UIT interests. Permitting a market maker to obtain separate Letters of Guarantee will make it easier for market makers to acquire Letters of Guarantee for new products, while providing clearing firms with discretion in determining for which products they will issue these letters.

The current proposal also amends existing Exhange Rule 8.8 which generally prohibits a member from acting in both a principal and agency capacity on the same business day with respect to any of the securities traded at a given station on the floor of the Exchange. Interpretation and Policy .02 to Rule 8.8 would be amended to add UIT interests to the list of index related products (such as index options, market baskets, index participations, and index warrants) based on the Standard & Poor's 100 Composite Stock Price Index ("S&P 500 Index") or that Standard & Poor's 500 Composite Stock Price Index ("S&P 500 Index") that would be deemed to be related to each other, so that a member could not act as a market maker and as a floor broker in any of the foregoing securities on the same business day.

Third, the proposal adds to the CBOE Rules a new chapter XXX that contains rules that are applicable to the trading of UIT interests. These rules originally were proposed by the CBOE to govern the trading of stocks, warrants, and other securities instruments and contracts.[22] The current proposal applies these rules to the trading of UIT interests. Under the proposal, however, UIT interests also will be subject to the rules in chapters I through XIX to the same extent as those rules apply to option contracts unless the rules are replaced by the rules in new chapter XXX, or the context otherwise requires.

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[11] The commencement of the exchange offer of Fund shares for SuperUnits is conditioned upon an aggregate of two billion dollars in subscriptions for the Index Trust and the Money Market Trust SuperUnits and the satisfication of the Amex and the CBOE listing standards. SSC represents that if these conditions are not met, all subscriptions will be cancelled and no Fund shares, SuperUnits or SuperShares will be issued.

[12] The exchange offer will continue until the SuperTrust termination date and may be terminated or suspended only under the limited circumstances described in the 5th Amended and Restated Application pursuant to section 6(c) of the 1940 Act ("Application"), namely, Trust delisting from the Amex, termination based on a Commission order, or when the net asset value of the Index Trust SuperUnits exceeds the Termination Date Amount for such units.

[13] The voting rights of a SuperUnit will be divided equally between the SuperShares that together comprise the SuperUnit.

[14] The Appreciation SuperShare has characteristics that are similar to a call option (or warrant). As noted above, the holder is entitled to the amount the Index SuperUnit exceeds a pre-stated specified amount. This amount is similar to a strike price. If the market outperforms the "strike price," as with any call index option, the owner is entitled to the difference.

[15] The Protection SuperShare has characteristics that are similar to a put option (or warrant) spread. As noted above, the holder is entitled to recieve the amount the value of the Index SuperUnit is less than a pre-established specified amount, with a cap at a certain level. The specified amount and cap level are analogous to strike prices.

[16] The Income and Residual SuperShare is an extremely complex component of the Money Market SuperUnit. Investors shoud be informed that the returns on the Income and Residual SuperShare are linked to the value of the S&P 500 Index although they are components of the Money Market SuperUnit. Accordingly, CBOE members recommending transactions in SuperUnits or SuperShares should be careful to give a clear and concise description of the Income and Residual SuperShare.

[17] *See* note 14 *supra.*

[18] SSC has reserved the right to redeem in cash or in a combination of cash and Fund shares.

[19] The majority of these rules originally were filed with the Commission to govern the trading on the Exchange of stocks, warrants, and other securities instruments and contracts, on either a listed or an unlisted basis. *See* File No. SR–CBOE–90–08. The Commission approved this proposal on October 19, 1990. *See* Securities Exchange Act Release No. 28556 (October 19, 1990), 55 FR 43233 (October 26, 1990). This order approves the application of these rules to the trading of UIT interests.

[20] CBOE Rule 24.7 states that trading in index options can be halted when, among other things, trading has been halted or suspended in underlying stocks that have a weighted value representing 20% or more of the index value, the current calculation of the index derived from the current market prices of the stocks is not available, or other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Rule 24.7 further requires that trading in a class of stock index options be halted when it has been determined that the trading of futures on the same or a closely realted stock index has been halted due to a decline of 30 S&P 500 Index points from the closing value of the previous trading day.

[21] NYSE rules currently provide for a one hour trading halt if the Dow Jones Industrial Average ("DJIA") declines 250 points from the previous day's closing value and a two hour trading halt if the DJIA declines 400 points from the previous day's closing value.

Specifically, the proposed rules in new chapter XXX establish the hours of trading for UIT interests to be the same as the hours provided in CBOE Rule 24.6 for index options. These hours currently are 8:30 a.m. Chicago time until 3:15 p.m. Chicago time. Further, these proposed rules govern the making of bids and offers on UIT interests, the priority and precedence of bids and offers on UIT interests, the trading by market makers of UIT interests, and the inputting of quotations on the Exchange quotation system. These proposed rules also specifically provide that the unit of trading for SuperShares will be ten SuperShares.

In addition, the current proposal sets forth non-market maker margin requirements specifically for the SuperShares that are proposed to be traded. The minimum initial margin requirement for any long position in the Appreciation, Protection, and Income and Residual SuperShares would be 100% of the current market value. The minimum initial margin requirement for any long position in the Priority SuperShare would be 50% of the current market value since this position is equivalent to having a covered write and thus should be accorded equivalent margin treatment. For any SuperShares sold short, the minimum initial margin requirement would be 50% of the current market value plus 100% of the sale proceeds. The proposed rule further provides that the minimum amount of maintenance margin shall be 25% of the current market value of all SuperShares held long in the non-market maker's account, plus $2.50 per SuperShare or 100% of the current market value, whichever amount is greater, of each SuperShare held short in the account having a current market value of less than $5, plus $5 per SuperShare or 30% of the current market value, whichever amount is greater, of each SuperShare held short in the account having a current market value of $5 or more.

The proposal also provides that margin is not required to be deposited for a call options contract on a S&P 500 market index carried in a short position as long as there is deposited in the same account a long position, having an aggregate market value at least equal to the underlying value of the S&P 500 contracts needing to be covered, in one of the following: (1) The Index SuperUnit; (2) a combination of the Priority and the Appreciation SuperShares; or (3) the underlying open end index mutual fund, specifically designated by the Exchange. To receive this margin treatment for S&P 500 options, the proposal requires that the total aggregate market value of the underlying position in SuperUnits, SuperShares, or Fund shares be at least equal to the aggregate current value of the S&P option being covered. Further, it the non-market maker is covering an S&P 500 option with the Appreciation and Priority SuperShares, the non-market maker is required to maintain an equal number of Appreciation and Priority SuperShares. In its filing, the CBOE states that SuperUnits and SuperShares are appropriate cover for S&P 500 options contracts and that their value will more than cover any margin call on an S&P 500 options position.

For the purpose of market maker margins, the proposal permits Fund shares and SuperUnits to be used as offset positions for SuperShares. The proposal also permits market makers to enter into offset transactions as defined under § 220.12(a) of Regulation T of the Board of Governors of the Federal Reserve System for UIT interests, including SuperShares. These requirements are similar to the requirements for options market makers.

Further, the proposal contains rules, to be included in New chapter XXX, that govern a CBOE member's conduct in transacting business with the public. Specifically, proposed Rule 30.50 governs the opening and the supervision of customer accounts by a member organization. Proposed Interpretation and Policy .04 to proposed Rule 30.50 provides that discretionary transactions in UIT interests are subject to the provisions of CBOE Rule 9.10, which governs a member organization's exercise of discretionary authority with respect to options transactions in a customer's account. That Rule would require the approval by a Senior Registered Options Principal for the member organization to have discretionary authority to trade UIT interests for any customer account. Rule 9.10 further requires that all discretionary orders in UIT Interests be initialed by a Registered Options Principal on the day the transaction is executed.

Finally, the current proposal sets forth the customer suitability standards applicable to UIT interests. First, Interpretation and Policy .03 to proposed Rule 30.50 requires that customers be provided with an explanation of any special characteristics and risks attendant to trading UIT interests. The CBOE has stated that the Exchange will circulate to its membership information describing any such characteristics and risks about trading commences in a UIT interest.

Second, CBOE rules would provide that before an Exchange member organization or an officer, partner, or employee of the member organization recommends a transaction in the component securities resulting from the subdivision or separation of any UIT interest or in units that may be divided into the component securities, a determination must be made that the component securities or units are not unsuitable for the customer. The rule proposal further provides that the person making the recommendation should have a reasonable basis for believing at the time of making the recommendation that the customer has such knowledge and experience in financial matters that he may reasonably be expected to be capable of evaluating the risks and the special characteristics of the recommended transaction and is financially able to bear the risks of the recommended transaction and consitutent securities. This would mean that a customer must be able to bear the risks of the constituent securities even if the recommended transaction is limited to the purchase of the whole unit, such as a SuperUnit, and did not specifically recommend separating the unit into its components, such as SuperShares.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5). Specifically, the Commission believes that providing for the exchange trading of securities issued by unit investment trusts based on a portfolio of stocks in a broad-based stock market index or a portfolio of money market instruments will offer a new and innovative means of participating in the securities markets. In particular, the Commission believes that the trading of SuperUnits and SuperShares will give investors flexibility in shaping their investment needs by providing (1) the means to trade open-end mutual funds on the secondary market, and (2) a mechanism to separate a stock or money market investment into component pieces.[23] For example, investors of SuperUnits will have similar risks as holders of money market and mutual fund holders but will have the added benefit of being able to dispose of their investment in the secondary market in addition to still being able to redeem their shares.

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[22] *See* note 18 *supra*.

Moreover, the ability of investors to further split an Index or Money Market SuperUnit into SuperShares representing the respective income and appreication portion of the SuperUnit should provide investors flexibility to meet their investment needs. For example, an investor interested in maintaining low risk could hold on to the Priority SuperShare and sell the Appreciation SuperShare in the secondary market. Investors who can bear the risks of the Appreciation and Protection SuperShares also will have the ability to obtain differential rates of return on a capital outlay if the S&P 500 Index moves in a favorable direction above or below a specified amount.[24]

While SuperUnits (representing a whole UIT interest) are analogous to open-end index and money market funds, SuperShares (representing the components of a SuperUnit) are hybrid derivative securitites having certian option-like characteristics and risks. Accordingly, the Commission has reviewed carefully the CBOE's proposal to ensure that the rules for trading UIT interests and their component parts including SuperShares maintain, and meet the Act's requirements for, adequate investor protection.

The Commission has several specific conerns regarding the trading of UIT interests and, in particular SuperShares, that involve customer suitability, disclosure, and secondary market trading. In this regard, as discussed in detail below, the CBOE has proposed safeguards that are designed to meet these investor protection concerns.

First, the CBOE has addressed customer suitability concerns by proposing to add Interpretation and Policy .03 to proposed Rule 30.50. Interpretation and Policy .03 would require a broker recommending a purchase of a UIT interest product (*i.e.*, securities issued by a unit investment trust and any distinct trading components of those securities) to determine that all aspects of the product, including its component parts, are not unsuitable for the customer and that the customer has the financial ability to bear the risk of the product, including its component parts, even if the recommendation is limited to purchasing a whole UIT interest rather than any of the component parts. This suitability standard is substantially identical to the one that is applied to recommendations in options products.

As applied to the "SuperTrust" product (*i.e.*, SuperUnits and SuperShares), the Commission believes that the use of an options-like suitability standard to a recommendation to purchase or sell either a SuperUnit or a SuperShare will provide protection that the recommendation only will be made to those investors who can evaluate and bear the risks of the product as a whole including its component parts. The Commission believes that applying this suitability standard to the entire product is necessary because a purchase of a SuperUnit always involves the potential to separate the SuperUnit later into component securities.

Second, the Commission has reviewed the appropriate account approval standards. For example, in order to trade options an investor's account must be approved for options trading.[25] The CBOE has not proposed to require or recommend that UIT interests, including SuperShares, be sold only to options approved accounts. The Commission finds this acceptable because (1) the SuperUnits and SuperShares have some aspects that are more akin to equity secruties than to options; and (2) the CBOE has developed other adequate customer protection rules applicable to transactions in these products. For example, the CBOE has proposed to apply CBOE Rule 9.10 to discretionary accounts for trading in UIT interests. By requiring review of all discretionary transactions in UIT interests on the day the transaction is executed, in addition to special supervisory controls to open a discretionary account, the rule will ensure that discretionary transactions are appropriate for the account and that the acocunt suitability standards are being met. Moreover, as noted above, the CBOE has proposed special, heightened suitability standards for these products. In summary the Commission believes that the options-like suitability standard applicable to the "SuperTrust" product and the special spervisory rules for discretionary transactions will provide adequate protection to investors. Accordingly, the Commission does not believe that it is necessary to limit the sale of the "SuperTrust" product, which has characteristics of debt, equity and options, to only those investors that meet the account eleigibilty requirements for options trading.

Third, The CBOE has addressed customer disclosure concerns by requiring, under proposed Interpretation and Policy .03 to Exchange Rule 30.50, that CBOE members provide customers with an explanation of any special characteristics and risks attendant to trading UIT interests. Further, the CBOE will require, under proposed Interpretation and Policy .05 to Exchange Rule 30.50, that all investors in Supershares be provided a prospectus, describing the SuperTrust and securities issued by the Trust. Interpretation and Policy .05 states that unless the member organization has a system in place which will verify that they previously delivered a prospectus to each investor, it will require a prospectus to be delivered in conjunction with each transaction in Supershares. Accordingly, the Commission believes that investors in UIT interests, in general, and in "SuperTrust" securities, in particular, will be provided with adequate disclosure.

Fourth, the CBOE has addressed any market impact concerns in its proposal. Specifically, the CBOE listing requirements only permit the listing of UIT interests based on a portfolio of stocks if the stock market index on which it is based is a broad-based index that the Commission has reviewed and approved in another context. Accordingly, because the index on which a UIT interest would be based already would be the subject of derivative instruments, the Commission believes it is less likely that the listing and trading of UIT interests would adversely affect U.S. securities markets.[26] Moreover, in the case of the "SuperTrust" product, the Commission notes that a variety of derivative instruments currently trading, including index options and index futures contracts, are based on the S&P 500 Index. Moreover, in many respects, the UIT interests are not as leveraged as standardized options or futures. Therefore, the UIT interests represent only an additional product based on broad U.S. stock indexes, and should not otherwise pose a special market impact concern.

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[23] Pursuant to section 6(b)(5) of the Act the Commission must predicate approval of exchange trading for new products upon a finding that the introduction of the product is in the public interest. Such a finding would be difficult with respect to a product that served no hedging or other economic function, because any benefits that might be derived by market participants would likely be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns.

[24] For example, investors could use the Protection SuperShare to hedge against the possibility that the value of the S&P 500 Index will be less than a specific amount. Of course, if the S&P 500 Index moves in the wrong direction, the Protection and Appreciation SuperShares will expire worthless and the investors will have lost their entire investment. Moreover, the appreication value of the Protection Supershare is capped, similar to a capped put option or a put spread.

[25] These rules require member firms, among other things, to make certain inquiries about a customer's financial situation and investment objectives and verify, and maintain records containing, this background and financial information.

Finally, the Commission finds that the CBOE has designed adequate rules and procedures to govern the trading of UIT interests, including SuperShares. Specifically, the Commission believes that the CBOE's rules governing the trading of UIT interests provides adequate safeguards to prevent manipulative acts and practices and to protect investors and the public interest. The Commission also believes that these rules do not unduly restrict the marketplace, and should permit market-makers to create orderly and liquid markets in UIT interests.

The Commission finds good cause for approving amendment nos. 3 and 4 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission finds that the modifications to the proposal effected by these amendments are de minimis. First, amendment no. 3 reduces the trading unit of SuperShares from 100 to 10 units to standardize the trading of SuperShares with the trading of SuperUnits on the Amex. The Commission believes that the proposed trading unit size for SuperShares is appropriate.

Second, amendment no. 4 deletes a provision in the proposal that would have afforded market makers good faith margin treatment for securities convertible into those in which the member makes a market. Therefore, amendment no. 4 to the proposal merely reestablishes the application of existing CBOE margin rules which require market makers in SuperShares to margin their positions in SuperUnits as non-market maker positions. Accordingly, the Commission believes it is consistent with section 6(b)(5) of the Act to approve amendment nos. 3 and 4 to the CBOE's proposal on an accelerated basis.

Further, the Commission finds good cause for approving amendment no. 5 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission finds that the modifications to the proposal effected by this amendment are consistent with the treatment of other similar products and do not raise new issues. For example, amendment no. 5 increases the margin requirements for long positions in the Appreciation, Protection, and Income and Residual SuperShares from 50% to 100% of their current market value.[27] The amendment also permits customers to received covered write margin treatment for S&P 500 options offset by the Index SuperUnit, a combination of the Priority and Appreciation SuperShare, or the underlying open end index mutual fund.

The Commission finds that these provisions are similar to Exchange margin requirements applicable to long options contracts. The Commission believes that because the Appreciation, Protection, and Income and Residual SuperShares have characteristics that are similar to options contracts, it is appropriate for the margin requirements applicable to these SuperShares to be similar to the margin requirements applicable to options contracts. The margin for short sales of SuperShares is identical to that for short sales of stock. This is reasonable given that the process and risks of shorting SuperShares resembles short sales of stock more so than writing options. The Commission also believes that permitting customers to offset S&P 500 options with the proper components of the SuperShares product is appropriate since any offset transactions would operate as a covered write and therefore would cover any margin obligation on an S&P 500 options position. Accordingly, the Commission believes it is consistent with section 6(b)(5) of the Act to approve amendment no. 5 to the CBOE's proposal on an accelerated basis since its provisions merely apply standard options margin treatment to SuperShares.

Finally, the Commission finds good cause for approving amendment nos. 6 and 7 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission finds that amendment no. 6 merely codifies the Exchange's interpretation of requirements set forth in proposed Interpretation and Policy .03 to Exchange Rule 30.50, and contains no new requirements.[28] The provisions of proposed Interpretation and Policy .03 were published for comment on June 19, 1990.[29] The Commission further finds that amendment no. 7 merely corrects certain typographical errors made in the proposal. Accordingly, the Commission believes it is consistent with section 6(b)(5) of the Act to approve amendment nos. 6 and 7 to the CBOE's proposal on an accelerated basis.

Interested persons are invited to submit written data, views and arguments concerning amendment nos. 3, 4, 5, and 6 to the proposed rule change. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by March 23, 1992.

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[30] that the proposed rule change (SR–CBOE–90–13) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[31]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–4761 Filed 2–28–92; 8:45 am]

BILLING CODE 8010-01-M

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[26] The CBOE, of course, still could submit proposals pursuant to section 19(b) to trade UIT interests based on other types of indexes. This will provide the Commission an opportunity to determine if a particular index raises potential manipulation or other trading abuse concerns. *See* Securities Exchange Act Release No. 26152 (October 3, 1988) 53 FR 39832 (October 12, 1988) (order approving listing and trading rules for index warrants). The Commission believes this approach is appropriate and consistent with the its policy on the trading of other types of index products.

[27] The Commission received no comments on the original proposal that would have imposed less margin requirements.

[28] Letter from Robert P. Ackermann, Vice President, Legal Services, CBOE, to Sharon Lawson, Special Counsel, Division of Market Regulation, SEC, dated October 11, 1990.

[29] See *supra* note 4 and accompanying text.

[30] 15 U.S.C. 78s(b)(2) (1988).

[31] 17 CFR 200.30–3(a)(12) (1990).

[Release No. 34-30405; File No. SR-MSTC-92-02]

Self-Regulatory Organizations; Midwest Securities Trust Company; Filing and Immediate Effectiveness of a Proposed Rule Change Which Clarifies Certain Uses of the Participants Fund

February 25, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on February 5, 1992, Midwest Securities Trust Company ("MSTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

MSTC proposes to amend Article VI, rule 2, section 6 of its Rules to clarify the use of MSTC's Participants Fund in situations where a loss occurs due to the fault of MSTC.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, MSTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. MSTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change clarifies the use of MSTC's Participants Fund in situations where a loss occurs due to MSTC's fault. While the existing rules could be interpreted to permit the use of the Participants Fund to satisfy any loss suffered by MSTC, including a loss due to the fault of MSTC (*e.g.*, a loss resulting from the failure of MSTC to follow its own rules), this clearly is not MSTC's policy or the intent of the rules regarding the uses of a clearing fund.

MSTC currently has indemnification rules which apply to Participants under certain circumstances where MSTC is without fault.[2] Interpreting MSTC's Participants Fund rules as covering losses which result from MSTC's fault would be inconsistent with the policies intended by these existing indemnification rules. MSTC, therefore, believes that it is in the best interest of MSTC and its Participants to clarify immediately the rules regarding the use of the Participants Fund.

MSTC believes that the proposed rule change is consistent with section 17A(b)(3) of the Act in that it provides for the prompt, accurate, and efficient clearance and settlement of securities transactions and assures the safeguarding of securities and funds which are in the custody or control of MSTC or for which MSTC is responsible.

(B) Self-Regulatory Organization's Statement on Burden on Competition

MSTC does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of rule 19b-4 thereunder because the proposed rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Room at the address above. Copies of such filing will also be available for inspection and copying at the principal office of MSTC. All submissions should refer to the file Number SR-MSTC-92-02 and should be submitted by March 23, 1992.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[3]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-4762 Filed 2-28-92; 8:45 am]

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[1] 15 U.S.C. 78s(b)(1).

[2] *E.g.*, MSTC Rules, Article I, Rule 3, Section 2(b).

[3] 17 CFR 200.30-3(a)(12).

[Release No. 34-30400; File No. SR-Phlx-91-44]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Amending Exchange Rule 950, Section 3, Relating to the Composition and Appointment of Arbitration Panels

February 24, 1992.

On December 4, 1991, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] a proposed rule change to amend Phlx Rule 950, section 3, regarding the composition and appointment of arbitration panels.[3]

The proposed rule change was published for comment in Securities Exchange Act Release No. 30115 (December 20, 1991), 56 FR 67349 (December 30, 1991).[4] No comments were received on the proposal.

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[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b-4 (1991).

[3] The text of the proposed rule change was attached to the rule filing as Exhibit B and is available at the Phlx as well as at the Commission.

[4] This notice was incorrectly cited as Securities Exchange Act Release No. 30110 in the Federal Register.

Phlx Rule 950 generally governs Exchange arbitration proceedings and enumerates the procedures to be followed for all arbitrations, both member as well as public customer controversies.[5] Presently, section 3 of Rule 950 delineates the composition and appointment of arbitration panels for member controversies.[6] Specifically, an arbitration panel appointed to hear a member controversy must consist of a minimum of five persons where the amount in controversy does not exceed $100,000 and a minimum of seven persons where the amount in controversy exceeds $100,000. The panel members are selected by the Director of Arbitration [7] from a pool of 25 persons who comprise the Arbitration Committee, which is comprised of 15 persons associated with on-floor member or participant organizations and 10 persons associated with off-floor member or participant organizations.

The Exchange proposes to amend Phlx Rule 95, section 3, to establish procedures to be followed in the event of the absence of a panel member from an arbitration hearing. Specifically, the Phlx proposes to allow a pre-hearing conference or hearing on the merits to proceed despite the absence of no more than two panel members.[8] In addition, the Exchange proposes to add a new supplementary material provision, Commentary .01, to section 3 of Phlx Rule 950. The proposed commentary would require the Exchange to use its best efforts to secure the attendance of the entire appointed arbitration panel at scheduled proceedings. Accordingly, the Exchange stated that it would not schedule any hearing unless each and every arbitration panel member, at lest initially, agrees to attend the hearing on that assigned date and time.

The Exchange believes that this amendment will alleviate difficulties presently experienced in the administration of the member arbitration program. The Exchange notes that on several occasions panel members who agreed to serve failed to attend a hearing or cancelled an appearance with little advance notice. Under the current rule, the arbitration matter could not proceed without the entire panel present.

The Exchange further believes that the administration and resolution of filed disputes would be aided considerably by the implementation of the proposed amendment to Phlx Rule 950, section 3. The Exchange believes that allowing a member arbitration to proceed when one or two panel members absent will result in a member arbitration proceeding according to schedule. Accordingly, the Exchanges believes that the proposed amendment will enable the arbitration program to be operated pursuant to its original intent of providing a fair, equitable and speedy resolution for all claims submitted.[9] Absent the amendment, the Exchange believes the program will be subject to frequent delays in hearings with concomitant backlogs increasing in its docket.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission believes the proposal is consistent with the section 6(b)(5) [10] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The Commission recognizes that despite Exchange efforts to confirm scheduled arbitration hearings with each panel member, absences of panel members nevertheless occur. The Commission also notes that the proposed rule change requires the Exchange to use its best efforts to secure the attendance of the entire panel at each proceeding. The Commission believes that allowing an arbitration to proceed as scheduled, as long as no more than two panel members are absent, should ensure that the resolution of arbitration matters is not delayed due to rescheduling. Preventing such delays should, in turn protect the public interest in exchange resolutions.

Additionally, eliminating scheduling delays should improve the speed and efficiency of arbitration, while maintaining its traditional qualities as an equitable forum for dispute resolution. Because the proposed rule change should aid in the efficient and just resolution of disputes between members, the Commission concludes that it is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade consistent with section 6(b)(5).

It is Therefore Ordered, Pursuant to section 19(b)(2) of the Act,[11] that the proposed rule change (SR–Phlx–91–44) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–4695 Filed 2–28–92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC–18565; 812–7814]

Shearson Lehman Brothers Income Trust, et al.; Application

February 24, 1992.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Shearson Lehman Brothers Income Trust (formerly Shearson Lehman Brothers Intermediate Term Trust) (the "Trust"), and Shearson Lehman Brothers, Inc. ("Shearson Lehman Brothers").

RELEVANT ACT SECTIONS: Exemption requested pursuant to section 6(c) from the provisions of sections 2(a)(32), 2(a)(35), 22(c), and 22(d) of the Act and rule 22c–1 thereunder.

SUMMARY OF APPLICATION: Applicants seek a conditional order that would permit them to impose a contingent deferred sales charge ("CDSC") on redemptions of shares of the Trust, and to permit the Trust under certain circumstances to waive or apply credits against the CDDC.

FILING DATE: The application was filed on October 29, 1991, and amended on February 6, 1992. By letter dated February 21, 1992, applicant's counsel stated that an additional amendment, the substance of which is incorporated herein, will be filed during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 20, 1992, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

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[5] Member controversies include disputes between employees or registered representatives of a member firm and the member firm itself, as well as disputes between member firms, but do not involve public customers. See Phlx Rule 950, sections 6(a) and 9(a).

[6] Public customer arbitrations are conducted pursuant to Phlx Rule 950, sections 9 and 15, which, in part, describe the raquired composition of public customer arbitration panels.

[7] See Phlx Rule 950, section 2.

[8] Thus, in this situation, member controversies would be heard by panels of three and five Arbitration Committee members, depending on the amount in controversy.

[9] See *e.g.*, Securities Exchange Act Release No. 29352 (June 20, 1991), 56 FR 29611 (approving File No. SR–Phlx–90–03 amending Phlx Rule 950 in its entirety to conform with the Uniform Code of Arbitration).

[10] 15 U.S.C. 78f(b)(5) (1988).

[11] 15 U.S.C. 78s(b)(2) (1988).

[12] 17 CFR 200.30–30–3(a)(12) (1991).

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, Two World Trade Center, New York, New York 10048.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 272–3026, or Nancy M. Rappa, Branch Chief, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Trust is an open-end management investment company that was organized as a business trust under the laws of the Commonwealth of Massachusetts on October 17,1991. The trust's boards of trustees is authorized to create separate series of an unlimited number of shares. To date, the board of trustees has created four such series: Shearson Lehman Brothers Limited Maturity Treasury Fund, Shearson Lehman Brothers Limited Maturity Municipals Fund, Shearson Lehman Brothers Intermediate Maturity California Municipals fund, and Shearson Lehman Brothers Intermediate Maturity New York Municipals Fund (the "Funds").

2. Shares of each Fund are distributed by Shearson Lehman Brothers, and affiliates of Shearson Lehman Brothers serve the Funds in various capacities.

3. The Trust offers shares subject to a maximum sales charge upon purchase of 1.25% (the "Upfront Charge") that is reduced on purchases of $50,000 or more and proposes to assess a 1% CDSC on certain redemptions of shares made within one year of their purchase.

4. The CDSC would be imposed on that portion of a redemption by a shareholder of any Fund that causes the current value of shares of the Fund held by the shareholder to fall below the total dollar amount of payments for the purchase of shares of the Fund (less any applicable Upfront Charge) made by the shareholder during the preceding year. All purchase payments (less any applicable Upfront Charge) for shares of a Fund made by a shareholder during a particular Shearson Lehman Brothers statement month will be aggregated and deemed to have been made on the last day of the current Shearson Lehman statement month for purposes of determining the amount of time that has elapsed since the purchase payments were made.

5. No CDSC would be imposed to the extent that the net asset value of the shares of the Fund redeemed by a shareholder does not exceed (a) the current net asset value of shares of the Fund purchased more than one year prior to the redemption ("Old Shares Value"), plus (b) the current net asset value of shares purchased through reinvestment of dividends or capital gains distribution ("Reinvestment Shares Value"), plus (c) increases in the net asset value of the shares above purchase payments (less any applicable Upfront Charge) made during the preceding year ("Appreciation Value").

6. In effecting a particular redemption request of shares made by a shareholder, the Trust would first redeem an amount that represents Appreciation Value. The Trust next would redeem an amount that represents Reinvestment Shares Value, and then an amount that represents Old Shares Value. The amount by which a redemption exceeds the total of Appreciation Value, Reinvestment Shares Value, and Old Shares Value would be subject to the CDSC.

7. In no event would the maximum amount of the CDSC assessed upon the redemption of shares plus the amount of any Upfront Charge paid with respect to the shares exceed the maximum sales charge that could have been imposed at the time the shares were purchased under Article III, section 26(d) of the Rules of Fair Practice adopted by the National Association of Securities Dealers, of which Shearson Lehman Brothers is a member.

8. The CDSC would be waived with respect to: (a) Automatic cash withdrawals by a shareholder in amounts equal to or less than 2% per month of the value of the shareholder's shares at the time that the shareholder's participation in the withdrawal plan commences; (b) redemptions of shares in connection with: (i) Lump-sum or other distributions from a qualified corporate or self-employed retirement plan following retirement, termination of employment, death, disability or following attainment of age 59½ of a plan participant, (ii) the hardship of a plan participant to the extent permitted under the Internal Revenue Code of 1986 (the "Code"), (iii) a loan made by a qualified corporate or self-employed retirement plan to a participating employee, (iv) distributions and withdrawals from retirement plans or individual retirement accounts ("IRAs") or custodial accounts under section 403(b)(7) of the Code following attainment of age 59½; and (v) a tax-free return of an excess contribution to an IRA; (c) redemptions of shares acquired as a result of an exchange into any Fund from any fund in the Shearson Lehman Brothers group of funds whose shares are sold subject to a sales charge upon purchase (the "Exchange Group of Funds"); (d) involuntary redemptions; (e) redemptions by (i) employees of American Express and its subsidiaries, including Shearson Lehman Brothers, IRAs for those employees, employee benefit plans for those employees, and the spouses and minor children of those employees when orders on their behalf are placed by the employees, (ii) accounts managed by investment advisory subsidiaries of American Express registered under the Investment Advisers Act of 1940, and (iii) directors, trustees or general partners of any investment company for which Shearson Lehman Brothers serves as distributor; and (f) redemptions made in connection with the combination of any Fund with any other investment company by merger, acquisition of assets, or otherwise. In accordance with rule 11a–3 under the Act, the Trust will not impose a CDSC on exchanges between any Fund and any other Fund or between the Fund and any fund in the Exchange Group of Funds.

9. No CDSC will be imposed on any shares purchased prior to the effective date of any order.

10. A shareholder who has redeemed shares of a Fund and who reinvests all or part of the redemption proceeds in shares of any other Fund within 180 days of the redemption will receive a proportionate credit (in the form of additional shares of the Fund into which the reinvestment is being made) for the CDSC imposed on the prior redemption. A shareholder who has redeemed shares of a Fund and who reinvests all or part of the redemption proceeds within 30 days of the redemption of shares of any fund in the Exchange Group of Funds will receive a proportionate credit (in the form of additional shares of the fund into which the reinvestment is being made) for any CDSC imposed on the prior redemption. In each case, the amount of the credit would be funded by Shearson Lehman Brothers out of a "house" account into which Shearson Lehman Brothers would maintain, on an ongoing basis, a portion of the proceeds

from CDSC's assessed to shareholders. The account will at all times be maintained in an amount sufficient to provide all credits to which shareholders are entitled.

11. Applicants request that any order cover any additional series of shares that the Trust may offer in the future on substantially the same basis as the Trust offers the shares of its existing series and any investment company registered under the Act, for which Shearson Lehman Brothers acts as distributor, that offers shares on substantially the same basis as the Trust offers shares of its existing series.

Applicants' Legal Analysis

1. Section 2(a)(32) of the Act defines a "redeemable security" as "any security, other than short-term paper, under the terms of which the holder, upon its presentation to the issuer * * * is entitled (whether absolutely or only out of surplus) to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof." Applicants note that the effect of the CDSC is merely to defer the deduction of a portion of a sales charge and to make it contingent upon an event that may or may not occur. The CDSC in no way restricts any of the shareholders of a Fund from receiving on redemption the shareholder's proportionate share of the Fund's current net assets.

2. Section 2(a)(35) of the Act defines the term "sales load" as the difference between the price of a security to the public and that portion of the proceeds from the sale of the security that is received and invested or held for investment by the issuer. Applicants note that the CDSC is functionally a sales charge because it is paid to Shearson Lehman Brothers to reimburse Shearson Lehman Brothers for expenses related to offering shares for sale to the public. Applicants assert, however, that the contingent nature of the CDSC in fact makes it potentially more advantageous to each of the Trust's shareholders. Applicants state that the deferral of the CDSC, and its contingency upon the occurrence of an uncertain event, does not change the nature of the CDSC, which is in every other respect a sales charge.

3. Applicants submit that the Trust's implementing the CDSC will be completely consistent with section 22(c) and rule 22c-1, which require a registered investment company issuing redeemable securities to redeem those securities at a price based on the current net asset value of the securities that is next computed after receipt of the tender of the securities for redemption. When a redemption of shares is effected, the price of the shares on redemption will be based on the current net asset value of the shares; the CDSC will merely be deducted at the time of redemption in arriving at the shareholder's redemption proceeds.

4. Section 22(d) of the Act prohibits an investment company registered under the Act from selling its redeemable securities other than at a current public offering price described in the company's prospectus. Rule 22d-1 under the Act exempts a registered investment company from the provisions of section 22(d) to the extent necessary to permit the sale of those securities to particular classes of investors or in various kinds of transactions at prices that reflect scheduled variations in, or elimination of, the sales load. Applicants note, however, that the Commission has suggested that the relief afforded by amended rule 22d-1 is not available with respect to CDSC's such as the one applicants are proposing. Thus, applicants are seeking an exemption to permit the Trust to provide for waivers from or credits against the CDSC in the situations described in this notice. Applicants believe that the exemption they are seeking from section 22(d) is consistent with the policies underlying the section.

Applicants' Condition

Applicants agree that the following condition may be imposed in any order of the Commission granting the requested relief:

Applicants will comply with the provisions of proposed rule 6c-10 under the Act, as currently proposed and as it may be reproposed, adopted or amended.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-4696 Filed 2-28-92; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-92-5]

Petitions for Exemption; Summary of Petitions Received, Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participant in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before March 17, 1992.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC-10), Petition Docket No. 26722, 800 Independence Avenue SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-10), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3132.

FOR FURTHER INFORMATION CONTACT: Mr. C. Nick Spithas, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-9704.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC on February 25, 1992.

Denise D. Castaldo,

Manager, Program Management Staff.

Petitions for Exemption

Docket No.: 26722.

Petitioner: Burlington Air Express, Inc.

Sections of the FAR Affected: 14 CFR 91.801 through 91.875.

Description of Relief Sought: To permit the Stage 2 phase-out schedule to be applied to Burlington's fleet.

[FR Doc. 92-4736 Filed 2-28-92; 8:45 am]

BILLING CODE 4910-13-M

[Summary Notice No. PE-92-6]

Petitions for Exemption; Summary of Petitions Received, Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before March 23, 1992.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC-10), Petition Docket No. ______, 800 Independence Avenue SW., Washington, DC 20591.

The petition any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-10), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3132.

FOR FURTHER INFORMATION CONTACT: Mr. C. Nick Spithas, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-9704.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, February 25, 1992.

Denise D. Castaldo,

Manager, Program Management Staff.

Petitions for Exemption

Docket No.: 26120.

Petitioner: U.S. Department of the Interior.

Sections of the FAR Affected: 14 CFR 45.29.

Description of Relief Sought: To extend Exemption No. 5196, which allows the U.S. Department of the Interior to operate its Maule M-6-235 aircraft displaying 3-inch high nationality and registration marks (N-numbers) in place of the 12-inch high N-numbers required by the regulation.

Docket No.: 26703.

Petitioner: Soloy Dual Pac, Inc.

Sections of the FAR Affected: 14 CFR 21.19.

Description of Relief Sought: To allow Soloy Dual Pac, Inc., to obtain a Supplemental Type Certificate instead of obtaining a new Type Certificate, to install single powerplant, single propeller dual engine in the De Havilland DHC3 Otter aircraft airframe.

Docket No.: 26754.

Petitioner: Skydive City, Inc.

Sections of the FAR Affected: 14 CFR 105.43(d).

Description of Relief Sought: To allow non-student, foreign skydivers to use parachute equipment approved or accepted in their native countries while using Skydive City, Inc.'s facilities in the United States.

Docket No.: 25789.

Petitioner: Martin Aviation, L.P.

Sections of the FAR Affected: 14 CFR 43.3(g).

Description of Relief Sought: To extend Exemption No. 5202, which allows pilots employed by Martin Aviation, L.P. to perform the preventive maintenance functions of removing and replacing passenger seats on aircraft it operates under part 135 of the FAR.

Dispositions of Petitions

Docket No.: 20369.

Petitioner: World Jet Corporation, d/b/a/ Executive Jet New York.

Sections of the FAR Affected: 14 CFR 135.89(b)(3).

Description of Relief Sought/ Disposition: To allow World Jet Corporation dba Executive Jet New York to fly its aircraft below flight level 410 without at least one pilot at the controls wearing a secured and sealed oxygen mask. Denial, February 5, 1992, Exemption No. 5403.

Docket No.: 21168.

Petitioner: Executive Air Fleet, Inc.

Sections of the FAR Affected: 14 CFR 135.297(a).

Description of Relief Sought/ Disposition: To extend Exemption No. 3203, as amended, that provides relief from § 135.297(a) of the Federal Aviation Regulations to the extent that the petitioner may use pilots-in-command who have completed an instrument proficiency check within the preceding 12 calendar months if they have satisfactorily completed either an instrument proficiency check or training to proficiency in an approved simulator within the preceding 6 months. Grant, February 12, 1992, Exemption No. 3203F.

Docket No.: 25296.

Petitioner: Simmons Airlines, Inc.

Sections of the FAR Affected: 14 CFR 121.371(a) and 121.378.

Description of Relief Sought/ Disposition: To extend Exemption No. 5161 which allows Simmons Airlines, Inc. (SIMA) to use certain foreign original equipment manufacturers (OEM), and the OEM's designated repair and overhaul facilities that do not hold appropriate U.S. foreign repair station certificates, to perform maintenance, preventive maintenance, and alteration outside the U.S. on components and parts used on SIMA's foreign manufactured aircraft. Grant, February 18, 1992, Exemption No. 5161A.

Docket No.: 25403.

Petitioner: CCAir, Inc.

Sections of the FAR Affected: 14 CFR 121.371(a) and 121.378.

Description of Relief Sought/ Disposition: To extend Exemption No. 4926 which allows CCAir, Inc. to use certain foreign original equipment manufacturers (OEM), and the OEM's designated repair and overhaul facilities that do not hold appropriate U.S. foreign repair station certificates, to perform maintenance, preventive maintenance, and alterations outside the U.S. on components and parts used on CCAir's foreign manufactured aircraft. Grant, February 12, 1992, Exemption No. 4926B.

Docket No.: 25483.

Petitioner: Air Transport Association of America.

Sections of the FAR Affected: 14 CFR Part 43, Appendix B, (d), 45.11(a) and (d), and 91.173(d) redesignated 91.417(d).

Description of Relief Sought/ Disposition: To extend Exemption No. 4902, as amended, which allows for all aircraft operating in commuter air carrier operations (as defined in part 135 and SFAR 38-4), under an FAA-approved continuous airworthiness maintenance program, to be operated without complying with the requirements pertaining to the location of aircraft identification plates and carriage of FAA Form 337, as evidence of installation approved for fuel tank installations in the passenger or baggage compartment. Grant, February 12, 1992, Exemption No. 4902B.

Docket No.: 25743.
Petitioner: Mr. Sherwood F. Myers.
Sections of the FAR Affected: 14 CFR 121.383(c).
Description of Relief Sought/ Disposition: To exempt Mr. Sherwood F. Myers from the Age 60 Rule so that he may serve beyond age 60 in the capacity of a pilot during the enroute cruise portion of flight, pursuant to the duties and limitations of 14 CFR § 121.543(b) of the Federal Aviation Regulations (FAR), entitled "Flight Crewmember at Controls." Denial, February 6, 1992, Exemption No. 5402.

Docket No.: 26154.
Petitioner: City of Los Angeles Fire Department.
Sections of the FAR Affected: 14 CFR 45.29(b)(3).
Description of Relief Sought/ Disposition: To reconsider Denial of Exemption No. 5220 which was issued to City of Los Angeles Fire Department (LAFD) on July 30, 1990. In Denial of Exemption No. 5220, the FAA found that LAFD's request for an exemption from § 45.29(b)(3) of the FAR, to the extent necessary to permit operation of LAFD helicopters displaying 3-inch high marks required by the FAR, was not in the public interest. Denial, February 6, 1992, Exemption No. 5404.

Docket No.: 26394.
Petitioner: Mr. George L. Cummins, II.
Sections of the FAR Affected: 14 CFR 65.91(c)(2).
Description of Relief Sought/ Disposition: To allow Mr. George L. Cummins, II to obtain an inspection authorization (IA) without having been actively engaged, for at least the two-year period before the date the petitioner applies, in maintaining aircraft certificated and maintained under the requirements of the FAR. Petition Vacated January 3, 1992.

Docket No.: 26456.
Petitioner: Mesa Airlines, Inc.
Sections of the FAR Affected: 14 CFR 135.181(a)(2).
Description of Relief Sought/ Disposition: To allow Mesa Airlines, Inc. to establish alternate maximum en route weight requirement (drift-down) procedures for use under instrument flight rules or visual flight rules over-the-top for Beechcraft 1900C and Embraer 120 Brasilia aircraft on specified routes. Denial, January 8, 1992, Exemption No. 5409.

Docket No.: 26667.
Petitioner: FlightSafety International.
Sections of the FAR Affected: 14 CFR 121.411(a)(2), (3) and (b)(2), 121.413(b), (c) and (d), and Part 121, Appendix H.
Description of Relief Sought/ Disposition: To permit FlightSafety International (FSI), without holding an air carrier operating certificate, to train the pilots and flight engineers of Part 121 Certificate holders that contract with FSI in initial, transition, upgrade, differences, and recurrent training in approved simulators and in airplanes without FSI's instructor pilots meeting all the applicable training requirements of Subpart N and the employment requirements of Appendix H of Part 121. Partial Grant, February 19, 1992, Exemption No. 5408.

Docket No.: 26780.
Petitioner: Air Transport Association of America.
Sections of the FAR Affected: 14 CFR 121.337.
Description of Relief Sought/ Disposition: To extend from February 18, 1992 until February 18, 1993 the date by which member airlines of the ATA and other similarly situated all cargo carriers must install Portable Protective Breathing Equipment (PPBE) in Class A, B, and E cargo compartments of aircraft operated by those airlines. Grant, February 18, 1992, Exemption No. 5407.

[FR Doc. 92–4737 Filed 2–28–92; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512–0007.
Form Number: ATF F 3310.6.
Type of Review: Extension.
Title: Interstate Firearms Shipment Report of Theft/Loss.
Description: This form is part of a voluntary program in which the Common Carrier and/or shipper report losses or thefts of firearms from interstate shipments. The form is completed by the carrier/shopper to notify ATF of the loss or theft. ATF uses this information to ensure that the firearms are entered into the National Crime Information Center (NCIC), to initiate investigations and to perfect criminal cases.
Respondents: Businesses or other for-profit.
Estimated Number of Respondents: 750.
Estimated Burden Hours Per Respondent: 20 Minutes.
Frequency of response: On occasion.
Estimated Total Reporting Burden: 250 hours.

OMB Number: 1512–0371.
Form Number: ATF REC 5400/1.
Type of Review: Extension.
Title: Inventories: Licensed Explosives Importers, Manufacturers, Dealers and Permittees.
Description: These records show the explosive material inventories of those persons engaged in the various activities within the explosives industry and are used by the government as initial figures from which an audit trail can be developed during the course of a compliance inspection or criminal investigation.
Respondents: Business or other for-profit.
Estimated Number of Recordkeepers: 15,754.
Estimated Burden Per Recordkeeper: 2 hours.
Frequency of response: On occasion.
Estimated Total Reporting Burden: 31,508 hours.

OMB Number: 1512–0392.
Form Number: ATF REC 5190/1.
Type of Review: Extension.
Title: Records of Things of Value to Retailers Under the Federal Alcohol Administration Act.
Description: These records (bills of sale, invoices) are used to show compliance with provisions of the Federal Alcohol Administration Act which prevents wholesalers, producers, or importers from giving things of value to retail liquor dealers. These records are commercial invoices showing the furniture of goods to retailers.
Respondents: Individuals or households, Businesses of other for-profit, Small businesses or organizations.
Estimated Number of Recordkeepers: 12,665.

Estimated Burden Hours Per Recordkeeper: 1 hour.

Estimated Total Reporting Burden: 1 hour.

Clearance Officer: Robert N. Hogarth (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, room 3200, 650 Massachusetts Avenue NW., Washington, DC 20226.

OMB Reviewer: Milo Sunderhauf (202) 395–6880 Office of Management and Budget room 3001, New Executive Office Building Washington, DC 20503

Lois K. Holland,

Department Reports Management Officer.

[FR Doc. 92–4697 Filed 2–28–92; 8:45 am]

BILLING CODE 4810-31-M

Public Information Collection Requirements Submitted to OMB for Review

February 25, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–01458.

Form Number: IRS Form 2758.

Type of Review: Extension.

Title: Application for Extension of Time of File Certain Excise, Income, Information, and other Returns.

Description: Internal Revenue Code (IRC) 6081 permits the Secretary to grant a reasonable extension of time for filing any return, declaration, statement, or other document. This form is used by U.S. partnerships, fiduciaries, and certain organizations, to request an extension of time to file their returns. The information is used to determine whether the extension should be granted.

Respondents: Businesses or other for-profit, Non-profit institutions, Small businesses or organizations.

Estimated Number of Respondents/Recordkeepers: 300,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping.................... 3 hours, 21 minutes.
Learning about the law or the form.................... 6 minutes.
Copying, assembling, and sending the form to IRS.................... 10 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 1,080,000 hours.

OMB Number: 1545–0199.

Form Number: IRS Form 5306–SEP.

Type of Review: Revision.

Title: Application for Approval of Prototype Simplified Employee Pension-SEP.

Description: This form is issued by banks, credit unions, insurance companies, and trade or professional associations to apply for approval of a Simplified Employee Pension Plan to be used by more than one employer. The data collected is used to determine if the prototype plan submitted is an approved plan.

Respondents: Businesses or other for-profit.

Estimated Number of Respondents/Recordkeepers: 650.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping.................... 8 hours, 37 minutes.
Learning about the law or the form...1 hour, 4 minutes.
Preparing the form..............2 hours, 11 minutes.
Copying, assembling, and sending the form to the IRS.................... 16 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/Reporting Burden: 7,878 hours.

Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 92–4699 Filed 2–28–92; 8:45 am]

BILLING CODE 4830-01-M

Public Information Collection Requirements Submitted to OMB for Review

February 25, 1992.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New.

Form Number: IRS Forms 9405, 9414, 9415, 9419 and 9420.

Type of Review: New collection.

Title: Tax Forms Inventory Report.

Description: These forms are designed to collect information from banks, post offices, and libraries that distribute Federal tax forms. The forms ask entities to provide information detailing the quantities and types of tax forms left at the end of the filing season. The data collected will be combined with shipment data on an account-by-account basis for the purpose of establishing form distribution guidelines for the following tax year.

Respondents: Businesses or other for-profit, Non-profit institutions.

Estimated Number of Respondents: 42,934.

Estimated Burden Hours Per Respondents:

Form No.	Response time (minutes)
9405	20
9414	20
9415	7
9419	7
9420	7

Frequency of Response: Annually.

Estimated Total Reporting Burden: 9,860 hours.

Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 92–4700 Filed 2–28–92; 8:45 am]

BILLING CODE 4830-01-M

Office of the Secretary

[Department Circular—Public Debt Series—No. 9–92]

Treasury Notes of February 28, 1997, Series J–1997

Washington, February 20, 1992.

1. Invitation for Tenders

1.1. The Secrétary of the Treasury, under the authority of chapter 31 of title 31, United States Code, invites tenders for approximately $9,750,000,000 of United States securities, designated Treasury Notes of February 28, 1997, Series J–1997 (CUSIP No. 912827 E5 7), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated March 2, 1992, and will accrue interest from that date, payable on a semiannual basis on August 31, 1992, and each subsequent 6 months on the last calendar day of February and August through the date that the principal becomes payable. They will mature February 28, 1997, and will not be subject to call for redemption prior to mataurity. In the event any payment date is a Saturaday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes will be issued only in book-entry form in a minimum amount of $1,000 and in multiples of that amount. They will not be issued in registered definitive or in bearer form.

2.3. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the Treasury Direct Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2–86 (31 CFR part 357), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239–1500, Wednesday, February 26, 1992, prior to 12 noon, eastern standard time, for noncompetitive tenders and prior to 1 p.m., eastern standard time, for competitive tenders. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, February 25, 1992, and received no later than Monday, March 2, 1992.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. A bidder, whether bidding directly or submitting bids through a depository institution or government securities broker/dealer, may not bid both competitively and noncompetively for its own account in the auction.

3.3. Competitive bids must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. A single bidder, as defined in Treasury's single bidder guidelines contained in Attachment A to this circular, may submit bids for more than one yield. However, at any one yield, the Treasury will not recognize any amount tendered by a single bidder in excess of $3,412,500,000, which is 35 percent of the public offering amount of $9,750,000,000. A competitive bid by a single bidder at any one yield in excess of $3, 412,500,000 will be reduced to that amount.

3.4. Noncompetitive tenders do not specify a yield. A single bidder should not submit a noncompetitive tender for more than $5,000,000. A noncompetitive bid by a single bidder in excess of $5,000,000 will be reduced to that amount. A bidder may not submit a noncompetitive bid if the bidder holds a position, in the notes being auctioned, in "when issued" trading, or in futures or forward contracts. A noncompetitive bidder may not enter into any agreement to purchase or sell or otherwise dispose of the security being auctioned, nor may it commit to sell the security prior to the designated closing time for receipt of competitive bids.

3.5. The following institutions may submit tenders for accounts of customers: Depository institutions, as described in section 19(b)(1)(A), excluding those institutions described in subparagraph (vii), of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)); and government securities broker/dealers that are registered with the Securities and Exchange Commission or noticed as government securities broker/dealers pursuant to section 15C(a)(1) of the Securities Exchange Act of 1934. Others are permitted to submit tenders only for their own account. For competitive bids, an institution submitting a bid for customers must submit with the institution's tender a customer list that includes, for each customer, the name of the customer and the amount bid at each yield. Customer bids may not be aggregated by yield on the customer list. For noncompetitive bids, the customer list must provide, for each customer, the name of the customer and the amount bid. All competitive and noncompetitive bids submitted on behalf of trust estates must provide, for each trust estate, the name or title of the trustee(s), a reference to the document creating the trust with the date of execution, and the employer identification number of the trust.

3.6. A competitive single bidder must report its net long position if the total of all its bids for the security being offered and its position in the security equals or exceeds $2 billion, with the position to be determined as of one half-hour prior to the closing time for the receipt of competitive tenders. A net long position includes positions, in the security being auctioned, in "when issued" trading, and in futures and forward contracts. Bidders who meet this reporting requirement and are customers of a depository institution or a government securities broker/dealer must report their positions through the institution submitting the bid on their behalf.

3.7. Tenders from bidders who are making payment by charge to a funds account at a Federal Reserve Bank and tenders from bidders who have an approved autocharge agreement on file at a Federal Reserve Bank will be received without deposit. In addition, tenders from States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks will be received without deposit. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.8. Immediately after the deadline for receipt of competitive tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.000. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.9. No single bidder will be awarded securities in an amount exceeding 35 percent of the public offering. The maximum amount which may be awarded in this auction is $3,412,500,000. The determination of the maximum award to a single bidder will take into account the bidder's net long position, if the bidder has been obliged to report its position per the requirements outlined in Section 3.6.

3.10. Notice of awards will be provided by a Federal Reserve Bank or Branch or the Bureau of the Public Debt to bidders who have submitted accepted competitive bids, whether for their own account or for the account of customers. Those submitting noncompetitive bids will be notified only if the bid is not accepted in full, or when the price at the average yield is over par. No later than 12 noon local time Thursday, February 27, 1992, the appropriate Federal Reserve Bank will notify each depository institution that has entered into an autocharge agreement with a bidder as to the amount to be charged to the institution's funds account at the Federal Reserve Bank on the issue date. Any customer that is awarded $500 million or more of securities must furnish, no later than 10 a.m. local time Thursday, February 27, 1992, written confirmation of its bid to the Federal Reserve Bank or Branch where the bid was submitted. A depository institution or government securities broker/dealer submitting a bid for a customer is responsible for notifying its customer of this requirement if the customer is awarded $500 million or more as a result of bids submitted by the depository institution or the broker/dealer.

4. Reservations.

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made timely at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted will be made by a charge to a funds account or pursuant to an approved autocharge agreement, as provided in section 3.7. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.7. must be made or completed on or before Monday, March 2, 1992. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury notes or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the other of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, February 27, 1992. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in Treasury Direct are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the Note being purchased. In any such case, the tender form used to place the Notes allotted in Treasury Direct must be completed to show all the information required thereon, or the Treasury Direct account number previoiusly obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Bank are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

6.4. Attachment A is incorporated as part of this circular.

Marcus W. Page,
Acting Fiscal Assistant Secretary.

Attachment A

Treasury's Single Bidder Guidelines for Noncompetitive Bidding in All Treasury Security Auctions

The investor categories listed below define what constitutes a single noncompetitive bidder.

(1) *Bank Holding Companies and Subsidiaries—*

A bank holding company (includes the company and/or one or more of its subsidiaries, whether or not organized as separate entities under applicable law).

(2) *Banks and Branches—*

A parent bank (includes the parent and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(3) *Thrift Institutions and Branches—*

A thrift institution, such as a savings and loan association, credit union, savings bank, or other similar entity (includes the principal or parent office and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(4) *Corporations and Subsidiaries*—

A corporation (includes the corporation and/or one or more of its majority—owned subsidiaries, i.e., any subsidiary more than 50 percent of whose stock is owned by the parent corporation or by any other of its majority-owned subsidiaries).

(5) *Families*—

A married person (includes his or her spouse, and any unmarried adult children, having a common address and/or household).

Note: A minor child, as defined by the law of domicile, is not permitted to submit tenders individually, or jointly with an adult bidder. (A minor's parent acting as natural guardian is not recognized as a separate bidder.)

(6) *Partnerships*—

Each partnership (includes a partnership or individual partner(s), acting together or separately, who own the majority or controlling interest in other partnerships, corporations, or associations).

(7) *Guardians, Custodians, or other Fiduciaries*—

A guardian, custodian, or similar fiduciary, identified by (a) the name or title of the fiduciary, (b) reference to the document, court order, or other authority under which the fiduciary is acting, and (c) the taxpayer identifying number assigned to the estate.

(8) *Trusts*—

A trust estate, which is identified by (a) the name or title of the trustee, (b) a reference to the document creating the trust, e.g., a trust indenture, with date of execution, or a will, and (c) the IRS employer identification number (not social security account number).

(9) *Political Subdivisions*—

(a) A state government (any of the 50 states and the District of Columbia).

(b) A unit of local government (any county, city, municipality, or township, or other unit of general government, as defined by the Bureau of the Census for statistical purposes, and includes any trust, investment, or other funds thereof).

(c) A commonwealth, territory, or possession.

(10) *Mutual Funds*—

A mutual fund (includes all funds that comprise it, whether or not separately administered).

(11) *Money Market Funds*—

A money market fund (includes all funds that have a common management).

(12) *Investment Agents/Money Managers*—

An individual, firm, or association that undertakes to service, invest, and/or manage funds for others.

(13) *Pension Funds*—

A pension fund (includes all funds that comprise it, whether or not separately administered).

Notes: The definitions do not reflect all bidder situations. "Single bidder" is not necessarily synonymous with "single entity".

Questions concerning the guidelines should be directed to the Office of Financing, Bureau of the Public Debt, Washington, DC 20239 (telephone 202/219–3350).

[FR Doc. 92–4817 Filed 2–26–92; 4:34 pm]

BILLING CODE 4810–40–M

[Department Circular—Public Debt Series—No. 8–92]

Treasury Notes of February 28, 1994, Series W–1994

Washington, February 20, 1992.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $14,250,000,000 of United States securities, designated Treasury Notes of February 28, 1994, Series W–1994 (CUSIP No. 912827 E4 0), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated March 2, 1992, and will accrue interest from that date, payable on a semiannual basis on August 31, 1992, and each subsequent 6 months on February 28 and August 31 through the date that the principal becomes payable. They will mature February 28, 1994, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes will be issued only in book-entry form in a minimum amount of $5,000 and in multiples of that amount. They will not be issued in registered definitive or in bearer form.

2.3. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the Treasury Direct Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2–86 (31 CFR part 357), apply to the Notes offered in this circular.

3. Sale Procedure

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239–1500, Tuesday, February 25, 1992, prior to 12 noon, Eastern Standard time, for noncompetitive tenders and prior to 1 p.m., eastern standard time, for competitive tenders. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, February 24, 1992, and received no later than Monday, March 2, 1992.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of that amount. A bidder, whether bidding directly or submitting bids through a depository institution or government securities broker/dealer, may not bid both competitively and noncompetitively for its own account in the auction.

3.3. Competitive bids must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. A single bidder, as defined in Treasury's single bidder guidelines contained in Attachment A to this circular, may submit bids for more than one yield. However, at any one yield, the Treasury will not recognize any amount tendered by a single bidder in excess of $4,987,500,000, which is 35 percent of the public offering amount of $14,250,000,000. A competitive bid by a single bidder at any one yield in excess of $4,987,500,000 will be reduced to that amount.

3.4. Noncompetitive tenders do not specify a yield. A single bidder should not submit a noncompetitive tender for more than $5,000,000. A noncompetitive bid by a single bidder in excess of $5,000,000 will be reduced to that amount. A bidder may not submit a noncompetitive bid if the bidder holds a position, in the notes being auctioned, in "when issued" trading, or in futures or forward contracts. A noncompetitive bidder may not enter into any agreement to purchase or sell or otherwise dispose of the security being auctioned, nor may it commit to sell the security prior to the designated closing time for receipt of competitive bids.

3.5. The following institutions may submit tenders for accounts of customers: depository institutions, as described in section 19(b)(1)(A), excluding those institutions described in subparagraph (vii), of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)); and government securities broker/dealer that are registered with the Securities and Exchange Commission or noticed as government securities broker/dealers pursuant to section 15C(a)(1) of the Securities Exchange Act of 1934. Others are permitted to submit tenders only for their own account. For competitive bids, an institution submitting a bid for customers must submit with the institution's tender a customer list that includes, for each customer, the name of the customer and the amount bid at each yield. Customer bids may not be aggregated by yield on the customer list. For noncompetitive bids, the customer list must provide, for each customer, the name of the customer and the amount bid. All competitive and noncompetitive bids submitted on behalf of trust estates must provide, for each trust estate, the name or title of the trustee(s), a reference to the document creating the trust with the date of execution, and the employer identification number of the trust.

3.6. A competitive single bidder must report its net long position if the total of all its bids for the security being offered and its position in the security equals or exceeds $2 billion, with the position to be determined as of one half-hour prior to the closing time for the receipt of competitive tenders. A net long position includes positions, in the security being auctioned, in "when issued" trading, and in futures and forward contracts. Bidders who meet this reporting requirement and are customers of a depository institution or a government securities broker/dealer must report their positions through the institution submitting the bid on their behalf.

3.7. Tenders from bidders who are making payment by charge to a funds account at a Federal Reserve Bank and tenders from bidders who have an approved autocharge agreement on file at a Federal Reserve Bank will be received without deposit. In addition, tenders from States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks will be received without deposit. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.8. Immediately after the deadline for receipt of competitive tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.750. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.9. No single bidder will be awarded securities in an amount exceeding 35 percent of the public offering. The maximum amount which may be awarded in this auction is $4,987,500,000. The determination of the maximum award to a single bidder will take into account the bidder's net long position, if the bidder has been obliged to report its position per the requirements outlined in Section 3.6.

3.10. Notice of awards will be provided by a Federal Reserve Bank or Branch or the Bureau of the Public Debt to bidders who have submitted accepted competitive bids, whether for their own account or for the account of customers. Those submitting non-competitive bids will be notified only if the bid is not accepted in full, or when the price at the average yield is over par. No later than 12 noon local time Wednesday, February 26, 1992, the appropriate Federal Reserve Bank will notify each depository institution that has entered into an autocharge agreement with a bidder as to the amount to be charged to the institution's funds account at the Federal Reserve Bank on the issue date. Any customer that is awarded $500 million or more of securities must furnish, no later than 10 a.m. local time Wednesday, February 26, 1992, written confirmation of its bid to the Federal Reserve Bank or Branch where the bid was submitted. A depository institution or government securities broker/dealer submitting a bid for a customer is responsible for notifying its customer of this requirement if the customer is awarded $500 million or more as a result of bids submitted by the depository institution or the broker/dealer.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made timely at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted will be made by a charge to a funds account or pursuant to an approved autocharge agreement, as provided in section 3.7. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.7. must be made or completed on or before Monday, March 2, 1992. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury;

in Treasury notes or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, February 27, 1992. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in Treasury Direct are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the Note being purchased. In any such case, the tender form used to place the Notes allotted in Treasury Direct must be completed to show all the information required thereon, or the Treasury Direct account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payments for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

6.4. Attachment A is incorporated as part of this circular.

Marcus W. Page,

Acting Fiscal Assistant Secretary.

Attachment A—Treasury's Single Bidder Guidelines For Noncompetitive Bidding In All Treasury Security Auctions

The investor categories listed below define what constitutes a single noncompetitive bidder.

(1) *Bank Holding Companies and Subsidiaries—*

A bank holding company (includes the company and/or one or more of its subsidiaries, whether or not organized as separate entities under applicable law).

(2) *Banks and Branches—*

A parent bank (includes the parent and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(3) *Thrift Institutions and Branches—*

A thrift institution, such as a savings and loan association, credit union, savings bank, or other similar entity (includes the principal or parent office and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(4) *Corporations and Subsidiaries—*

A corporation (includes the corporation and/or one or more of its majority-owned subsidiaries, i.e., any subsidiary more than 50 percent of whose stock is owned by the parent corporation or by any other of its majority-owned subsidiaries).

(5) *Families—*

A married person (includes his or her spouse, and any unmarried adult children, having a common address and/or household).

Note: A minor child, as defined by the law of domicile, is *not* permitted to submit tenders individually, or jointly with an adult bidder. (A minor's parent acting as natural guardian is *not* recognized as a separate bidder.)

(6) *Partnerships—*

Each partnership (includes a partnership or individual partner(s), acting together or separately, who own the majority or controlling interest in other partnerships, corporations, or associations).

(7) *Guardians, Custodians, or other Fiduciaries—*

A guardian, custodian, or similar fiduciary, identified by (a) the name or title of the fiduciary, (b) reference to the document, court order, or other authority under which the fiduciary is acting, and (c) the taxpayer identifying number assigned to the estate.

(8) *Trusts—*

A trust estate, which is identified by (a) the name or title of the trustee, (b) a reference to the document creating the trust, e.g., a trust indenture, with date of execution, or a will, and (c) the IRS employer identification number (not social security account number).

(9) *Political Subdivisions—*

(a) A state government (any of the 50 states and the District of Columbia).

(b) A unit of local government (any county, city, municipality, or township, or other unit of general government, as defined by the Bureau of the Census for statistical purposes, and includes any trust, investment, or other funds thereof).

(c) A commonwealth, territory, or possession.

(10) *Mutual Funds—*

A mutual fund (includes all funds that comprise it, whether or not separately administered).

(11) *Money Market Funds—*

A money market fund (includes all funds that have a common management).

(12) *Investment Agents/Money Managers—*

An individual, firm, or association that undertakes to service, invest, and/or manage funds for others.

(13) *Pension Funds—*

A pension fund (includes all funds that comprise it, whether or not separately administered).

Notes: The definitions do not reflect all bidder situations. "Single bidder" is not necessarily synonymous with "single entity".

Questions concerning the guidelines should be directed to the Office of Financing, Bureau of the Public Debt, Washington, DC 20239 (telephone 202/219-3350).

[FR Doc. 92-4818 Filed 2-26-92; 4:34 pm]

BILLING CODE 4810-40-M

DEPARTMENT OF VETERANS AFFAIRS

Medical Research Service Merit Review Boards; Meetings

The Department of Veterans Affairs gives notice under the Federal Advisory Committee Act, 5 U.S.C. App., of the meetings of the following Federal Advisory Committees.

Merit review board for—	Date	Time	Location
Oncology	March 19, 1992	8 a.m. to 5 p.m.	Holiday Inn Crown Plaza [1]
Do	March 20, 1992	do	
Neurobiology	March 23, 1992	do	Holiday Inn Crown Plaza
Do	March 24, 1992	do	
Do	March 25, 1992	do	
Nephrology	March 24, 1992	do	Holiday Inn Crown Plaza
Cardiovascular Studies	March 26, 1992	do	Holiday Inn Crown Plaza
Do	March 27, 1992	do	
Surgery	March 29, 1992	do	Holiday Inn Crown Plaza
Immunology	March 30, 1992	do	Holiday Inn Crown Plaza

Merit review board for—	Date	Time	Location
Do	March 31, 1992	do	
Hematology	April 6, 1992	do	Holiday Inn Crown Plaza
Endocrinology	April 9, 1992	do	Holiday Inn Crown Plaza
Do	April 10, 1991	do	
Alcoholism and Drug Dependence	April 10, 1992	do	Holiday Inn Crown Plaza
Respiration	April 13, 1992	do	Holiday Inn Crown Plaza
Mental Health and Behavioral Studies	April 16, 1992	do	Holiday Inn Crown Plaza
	April 17, 1992	do	
Infectious Diseases	April 21, 1992	do	Holiday Inn Crown Plaza [1]
Do	April 22, 1992	do	
Gastroenterology	April 23, 1992	do	Holiday Inn Crown Plaza [1]
Do	April 24, 1992	do	
Basic Sciences	April 24, 1992	do	Holiday Inn Crown Plaza [1]
Do	April 25, 1992	do	

[1] Holiday Inn Crown Plaza, 775 12th Street NW., Washington, DC 20005.

These meetings will be for the purpose of evaluating the scientific merit of research conducted in each specialty by Department of Veterans Affairs (VA) investigators working in VA Medical Centers and Clinics.

These meetings will be open to the public up to the seating capacity of the rooms at the start of each meeting to discuss the general status of the program. All of the Merit Review Board meetings will be closed to the public after approximately one-half hour from the start, for the review, discussion and evaluation of initial and renewal projects.

The closed portion of the meeting involves: discussion, examination, reference to, and oral review of site visits, staff and consultant critiques of research protocols and similar documents. During this portion of the meeting, discussion and recommendations will deal with qualifications of personnel conducting the studies, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, as well as research information, the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action regarding such research projects. As provided by subsection 10(d) of Public Law 92–463, as amended by Public Law 94–409, closing portions of these meetings is in accordance with 5 U.S.C., 552b(c)(6) and (9)(B). Because of the limited seating capacity of the rooms, those who plan to attend should contact Dr. LeRoy Frey, Chief, Program Review Division, Medical Research Service, Department of Veterans Affairs, Washington, DC, (202) 523–5942 at least five days prior to each meeting. Minutes of the meetings and rosters of the members of the Boards may be obtained from this source.

Dated: February 18, 1992.

By Direction of the Secretary

Diane H. Landis,

Committee Management Officer.

[FR Doc. 92–4710 Filed 2–28–92; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 41
Monday, March 2, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, March 3, 1992.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED: Voluntary Standards/International Affairs Activities.

The staff will brief the Commission on voluntary standards and international affairs activities carried out by staff during the first quarter of fiscal year 1992.

For a Recorded Message Containing the Latest Agenda Information, Call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 (301) 504–0800.

Dated: February 26, 1992.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 92–4907 Filed 2–27–92; 2:05 pm]

BILLING CODE 6355-01-M

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: February 25, 1992, 57 FR 6548.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: February 26, 1992, 10:00 a.m.

CHANGE IN THE MEETING: The following Docket Number has been added to Item CAG–3 on the Agenda schedule for February 26, 1992:

Item No., Docket No., and Company

CAG–3—RP91–80–000, *et al.*, Algonquin Gas Transmission Company

Lois D. Cashell,

Secretary.

[FR Doc. 92–4824 Filed 2–27–92; 9:20 am]

BILLING CODE 6717-02-M

FEDERAL TRADE COMMISSION

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 57 F.R., Friday, January 31, 1992, Page No. 3826.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2:00 p.m., Wednesday, March 4, 1992.

CHANGES IN THE AGENDA: The Federal Trade Commission has changed the date of its previously scheduled Oral Argument in Schering Corp., Docket No. 9232, from Wednesday, March 4, 1992, at 2:00 p.m., to Thursday, April 16, 1992, at 2:00 p.m.

Donald S. Clark,

Secretary.

[FR Doc. 92–4829 Filed 2–27–92; 9:21 am]

BILLING CODE 6750-01-M

LEGAL SERVICES CORPORATION BOARD OF DIRECTORS

Meeting

TIME AND DATE: A meeting of the Board of Directors will be held on March 9, 1992. The meeting will commence at 10:00 a.m.

PLACE: The Washington Marriott Hotel, 1221 22nd Street NW., The DuPont Ballroom, Washington, DC 20037, (202) 872–1500.

STATUS OF MEETINGS: *Open*, except that a portion of the meeting may be closed if a majority of the Board of Directors votes to hold an executive session. At the closed session, pursuant to receipt of the aforementioned vote, the Board of Directors will consider and vote on approval of the draft minutes of executive sessions of prior meetings of the Board. In addition, the Board of Directors will hear and consider the report of the General Counsel on litigation to which the Corporation is or may become a party. The Board of Directors will also receive and consider a report on current investigations from the Inspector General. The closing will be authorized by the relevant sections of the Government in the Sunshine Act [5 U.S.C. Sections 552b(c)(7) and (10)], the corresponding regulation of the Legal Services Corporation [45 C.F.R. Sections 1622.5(f) and (h)].[3] The closing has been certified by the Corporation's General Counsel as authorized by the above-cited provisions of law. A copy of the General Counsel's certification is posted for public inspection at the Corporation's headquarters, located at 400 Virginia Avenue SW., Washington, DC 20024, in its three reception areas, and is otherwise available upon request.

MATTERS TO BE CONSIDERED:

OPEN SESSION:

1. Approval of Agenda.
2. Approval of Minutes of February 17, 1992 Meeting.
3. Chairman's and Members' Reports.
4. President's Report.
5. Inspector General's Report.

CLOSED SESSION: [4]

6. Approval of Minutes of Executive Sessions Held on November 18, 1991, December 10, 1991, January 13, 1992 and February 17, 1992.
7. Consideration of Report by Inspector General on Current Investigations and Other Matters.
8. Consideration of the General Counsel's Report on Pending Litigation to which the Corporation is a Party.

OPEN SESSION:

—(Resumed)

9. Consideration of Build-Out Costs of Furniture and Equipment Related to Pending Relocation of Corporation Headquarters Offices.
10. Consideration of Operations and Regulations Committee Report.
11. Consideration of Audit and Appropriations Committee Reports.
    a. Consideration of Management Request to Modify Management and Administration Budget Within and Between Line Items.
12. Consideration of Office of the Inspector General Oversight Committee Report.
13. Consideration of Provision for the Delivery of Legal Services Committee Report.
14. Consideration of Special Reauthorization Committee Report.
15. Consideration of Board Meeting Schedule for the Balance of 1992.
16. Consideration of Other Business.

CONTACT PERSON FOR INFORMATION: Patricia D. Batie, Executive Office, (202) 863–1839.

Dated Issued: February 27, 1992.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 92–4905 Filed 2–27–92; 8:45 am]

BILLING CODE 7050-01-M

SECURITIES AND EXCHANGE COMMISSION

Agency Meetings

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[3] As to the Board's consideration and approval of the draft minutes of executive sessions held on November 18, 1991, December 10, 1991, January 13, 1992 and February 17, 1992, the closing is authorized as noted in the **Federal Register** notice corresponding to each of these Board meetings.

[4] It is anticipated that the executive session will conclude at approximately 1:00 p.m. The open session will reconvene immediately thereafter.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of March 3, 1992.

A closed meeting will be held on Tuesday, March 3, 1992, at 2:30 p.m. An open meeting will be held on Thursday, March 5, 1992, at 10:00 a.m., in Room 1C30.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 20.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Schapiro, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Tuesday, March 3, 1992, at 2:30 p.m., will be:

Institution of injunctive actions.
Settlement of injunctive actions.
Settlement of administrative proceedings of an enforcement nature.
Institution of administrative proceedings of an enforcement nature.
Formal order of investigation.

The subject matter of the open meeting scheduled for Thursday, March 5, 1992, at 10:00 a.m., will be:

Consideration of a proposed rule change by the American Stock Exchange, Inc. ("AMEX") to create a new marketplace—the Emerging Company Marketplace or ECM—designed to list less financially mature companies which are too small to meet the Amex's regular listing criteria. The ECM would consist of a new "junior" tier of listed securities that would not meet the Amex's current listing standards, but would otherwise be subject to many of its regulatory requirements (*e.g.*, last sale reporting, trading and specialist allocation rules, and surveillance procedures). For further information, please contact Liz Pucciarelli Hensley at (202) 272–2406.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Walter Stahr at (202) 272–2000.

Dated: February 27, 1992.

Jonathan G. Katz,
Secretary.

[FR Doc. 92–4878 Filed 2–27–92; 11:56 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [57 FR 6647 February 26, 1992].

STATUS: Closed meeting.

PLACE: 450 Fifth Street, N.W., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Thursday, February 20, 1992.

CHANGE IN THE MEETING: Cancellation.

A closed meeting scheduled for Thursday, February 27, 1992, at 10:00 a.m., has been canceled.

Commissioner Schapiro, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Kaye Williams at (202) 272–2400.

Dated: February 26, 1992.

Jonathan G. Katz,
Secretary.

[FR Doc. 92–4879 Filed 2–27–92; 11:56 am]

BILLING CODE 8010–01–M

Corrections

Federal Register
Vol. 57, No. 41
Monday, March 2, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 4

Exemption for Commodity Pool Operators and Commodity Trading Advisors for Offerings to Qualified Eligible Participants

Correction

In proposed rule document 92-1911, beginning on page 3148, in the issue of Tuesday, January 28, 1992, make the following corrections:

1. On page 3149, in the 1st column, in the 20th line, insert "as" after "well".
2. On page 3150, in the first column, in the third paragraph, in the sixth line, "Part 5" should read "Part 4".
3. On page 3154, in the first column, in the first paragraph, in the seventh line from the bottom, "Rule 4.22(c)" should read "Rule 4.22".
4. On page 3155, in the 3d column, under *B. Paperwork Reduction Act*, in the 17th line, "House" shoule read "Hours".

§ 4.7 [Corrected]

5. On page 3156, in the first column, in § 4.7(a)(2), in the fourth line, "or" should read "of"; and in the last line, replace the semicolon with a colon.
6. On the same page, in the second column, in § 4.7(a)(2)(xi), in the fourth line, "nor" should read "not".
7. On page 3157, in the 3d column, in § 4.7(c), in the 9th line, after "(ii)", insert "hereunder will be exempt as provided in paragraph (c)(1)(i) or (ii)", and, in the 11th line, "for" should read "of".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 106

[Docket No. 87N-0402]

Infant Formula Record and Record Retention Requirements

Correction

In rule document 91-30716, beginning on page 66566, in the issue of Tuesday, December 24, 1991, make the following correction:

§ 106.100 [Corrected]

On page 66572, in the third column, in § 106.100(k)(6), in the fourth line, "manufactured" was misspelled.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 92N-0071]

Quad Pharmaceuticals, Inc.; Withdrawal of Approval of 97 Abbreviated New Drug Applications

Correction

In notice document 92-4011 beginning on page 6228 in the issue of Friday, February 21, 1992, make the following corrections:

1. On page 6228, in the second column of the table, in the fourth line, "Lincomycin" was misspelled.
2. On the same page, in the same column of the table, in the 32d and 33d lines, "mg/mL." should read "mg/vial.".
3. On page 6229, in the first full paragraph, in the last line, "1922" should read "1992".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 91E-0492]

Determination of Regulatory Review Period for Purposes of Patent Extension; Accupril®; Correction

Correction

In notice document 92-4080 appearing on page 6229 in the issue of Friday, February 21, 1992, in the first column, under **SUMMARY**, in the seventh line, "Accupril®" was misspelled.

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA-060-343-7122-10-D063; CACA 28709]

Amendment to Withdrawal Application and Opportunity for Public Meeting; CA

Correction

In notice document 92-3300, beginning on page 5167, in the issue of Wednesday, February 12, 1992, make the following corrections:

1. On page 5167, in the second column, under **DATES:**, in the third line, "1991." should read "1992."
2. On page 5168, in the 1st column, in the 26th line, "Secs. 34 to 35," should read "Secs. 34 and 35,".

BILLING CODE 1505-01-D

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Part II

Department of Housing and Urban Development

Office of the Assistant Secretary for Community Planning and Development

Funding Availability for the HUD-Administered Small Cities Community Development Block Grant (CDBG) Program—Fiscal Year 1992; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-92-3368; FR-3157-N-01]

Funding Availability for the HUD-Administered Small Cities Community Development Block Grant (CDBG) Program—Fiscal Year 1992

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of Funding Availability (NOFA) for Fiscal Year (FY) 1992.

SUMMARY: This Notice of Funding Availability (NOFA) announces the availability of funding for the HUD-administered Small Cities Program in New York State under the Community Development Block Grant (CDBG) Program for Fiscal Year 1992. The NOFA contains information concerning the deadline for filing grant applications; eligibility of applicants; available amounts; selection criteria; and the application process, including how to apply for funding, and how selections will be made.

DATES: Application is due by Friday, May 8, 1992. Application kits may be obtained from, and must be submitted to either HUD's New York Regional Office or Buffalo Field Office. Applications may be mailed, provided that they are postmarked no later than midnight, May 8, 1992. If an application is physically delivered to either the New York Regional Office or the Buffalo Field Office, the application must be delivered by the close of business for that office. Applicants should contact the New York Regional Office or the Buffalo Field Office regarding the time that the office closes. Application kits will be made available by a date that affords applicants at least 30 days to respond to this NOFA. Please see section II of this NOFA for further information on obtaining and submitting applications.

The above-stated application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is not received on, or postmarked by May 8, 1992. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems.

FOR FURTHER INFORMATION CONTACT: Stanley Gimont, State and Small Cities Division, Office of Community Planning and Development, Department of Housing and Urban Development, Room 7184, 451 Seventh Street SW., Washington, DC 20410. Telephone (202) 708-1322. The TDD number is (202) 708-2565. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements related to this CDBG program have been approved by the Office of Management and Budget (OMB) and assigned approval number 2506-0020.

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I. Purpose and Substantive Description

A. Authority and Background

1. Authority

Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301-5320); 24 CFR part 570, subpart F.

2. Background

Title I of the Housing and Community Development Act of 1974, as amended (the HCD Act), authorizes the

Community Development Block Grant (CDBG) Program. Section 106 of Title I permits the States to elect to assume the administrative responsibility for the CDBG Program for nonentitled areas within their jurisdiction. Section 106 provides that HUD will administer the CDBG Program for nonentitled areas within a State which does not elect to assume the administrative responsibility for the program. This NOFA supplements subpart F of 24 CFR part 570, which sets out the requirements applicable to the CDBG Program in nonentitled areas.

In accordance with 24 CFR 570.420(e) and (h)(3), and with the requirements of section 102 of the Housing and Urban Development Reform Act of 1989 (Reform Act), HUD is issuing this NOFA for New York State's Small Cities Program for Fiscal Year (FY) 1992 to announce the allocation of funds for Single Purpose and Comprehensive grants, and to establish the deadline for filing grant applications. The NOFA also explains in detail how HUD will apply the regulatory threshold requirements for funding eligibility; and the selection criteria for rating and scoring applications for Comprehensive grants and for scoring projects in applications for Single Purpose grants. The NOFA includes a description of statutory amendments which apply to the program even though conforming regulations have not yet been adopted. Other informational aspects of the Small Cities Program will be provided in the application kit, which will be made available to applicants by HUD's New York Regional Office and Buffalo Field Office.

3. Statutory Changes

The National Affordable Housing Act (NAHA) (Pub. L. 101-625, approved November 28, 1990) amended title I of the Housing and Community Development Act of 1974 (HCD Act). The amendments made by NAHA are applicable, as described below, to the funds made available under this NOFA.

a. Principal Benefit Certification. NAHA amended section 104(b)(3) of the HCD Act to increase the principal benefit certification from 60 to 70 percent. Applicants must certify that 70 percent of the funds of the CDBG grant shall be for activities which principally benefit low- and moderate-income persons. The principal benefit statement in the certification accompanying the application reflects the 70 percent requirement.

b. Eligible Activities—(1) *Economic Development—section 105(a)(17).* NAHA amended section 105(a)(17) of the HCD Act with respect to the provision of assistance to for-profit entities. Recipients now may provide assistance to private for-profit entities when such assistance is appropriate to carry out economic development projects that shall minimize, to the extent practicable, displacement of existing businesses and jobs in neighborhoods. The economic development assistance must be for activities that:

(a) Create or retain jobs for low- and moderate-income persons;

(b) Prevent or eliminate slums and blight;

(c) Meet urgent needs;

(d) Create or retain businesses owned by community residents;

(e) Assist businesses that provide goods or services needed by, and affordable to, low- and moderate-income residents, or provide technical assistance to promote any of the activities in (a) through (e) above.

Activities which meet the national objective requirements under 24 CFR 570.208(a)(4), (b) or (c), also would meet the new statutory provisions of the first three categories above. For activities to be qualified under 24 CFR 570.208(a)(2) as benefiting an area containing sufficient percentage of low- and moderate-income residents (pending promulgation of revised rules) applicants also would have to determine that the assisted activity either qualifies as creating or retaining businesses owned by community residents or that the business assisted, provided goods or services that are needed by, and affordable to, low- and moderate-income residents of the area to be served. The amendment to section 105(a)(17) has eliminated the term "necessary" from the "necessary or appropriate" determination required prior to the provision of CDBG assistance to a for-profit entity. At this point, HUD does not believe that the deletion of the term "necessary" materially alters the type of determination required to be made. Accordingly, the analysis described at 24 CFR 570.203(b), and in the supplemental guidance provided by memorandum, would continue to be applicable.

A second change in section 105(a)(17) requires that in the event CDBG assistance to a for-profit entity involves displacement of existing businesses and jobs in neighborhoods, then, to the extent practicable, such displacement shall be minimized. Pending implementation regulations, grantees must determine whether assistance to a for-profit entity will result in the displacement of existing businesses and jobs in neighborhoods, and if so, grantees must document what steps were taken to minimize such displacement.

(2) *Homeownership Assistance—section 105(a)(20).* NAHA added to Title I a new activity (direct assistance to persons of low- and moderate-income to facilitate and expand homeownership) under section 105(a)(20). Assistance provided under this provision shall not be considered as a public service activity for purposes of the 15 percent cap on the use of CDBG funds for public services.

Under this provision, CDBG funds may be used to: subsidize interest rates and mortgage principal amounts for low- and moderate-income homebuyers; finance the acquisition of housing that is occupied by low- and moderate-income homebuyers; acquire guarantees for mortgage financing obtained by low- and moderate-income homebuyers from private lenders (except that assistance under Title I of the HCD Act may not be used by recipients or subrecipients to directly guarantee such mortgage financing); provide up to 50 percent of the downpayment required from low- and moderate-income buyers; and pay any reasonable closing costs associated with the purchase of a home incurred by a low- and moderate-income homebuyer.

(3) *Public Service Cap.* NAHA amended section 105(a)(8) of the HCD Act by placing the 15 percent cap for public services on each State's total nonentitlement CDBG allocation plus 15 percent of program income anticipated to be received in the fiscal year. Previously, the 15 percent cap for public services was applied to each recipient's grant.

As a result of this provision, HUD may award a grant to a recipient for public service activities with 100 percent of the funds spent for public service activities. However, any application requesting funds for public service activities must be ratable under one of the existing Single Purpose or the Comprehensive grant categories. HUD will apply the 15 percent statewide cap to public service activities by funding public service activities in the highest rated applications until the cap is reached.

c. Prohibition of Discrimination on Basis of Religion. NAHA amended section 109(a) of the HCD Act to prohibit discrimination on the basis of religion or religious affiliation. No person shall be excluded from participation in, denied the benefit of, or be subjected to discrimination under any program or activity funded in whole or in part with

CDBG funds on the basis of his or her religion or religious affiliation.

d. Certification on Protecting Individuals Engaged in Nonviolent Civil rights Demonstration. NAHA added section 104(1) to the HCD Act, which provides that no CDBG funds may be obligated or expended to any unit of general local government that: fails to adopt and enforce a policy of prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations; or fails to adopt and enforce a policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location, which is the subject of such non-violent civil rights demonstration within its jurisdiction. The new certification has been revised consistent with section 104(l).

e. Exemption from Davis-Bacon Requirements For Volunteers. NAHA amended section 110 of the HCD Act to exempt volunteers from Davis-Bacon requirements. This amendment applies to any person serving as a volunteer that does not receive compensation for such services, or is paid expenses, reasonable benefits, or a nominal fee for such services, and is not otherwise employed at any time in the construction work for the project. This amendment applies to any volunteer services provided before, on, or after the date of enactment, except that it may not be construed to require the repayment of any wages paid before the date of enactment for services provided before that date. HUD will provide further instructions on this provision at a later date.

f. Comprehensive Housing Affordability Strategies (CHAS). Section 105 of NAHA established the requirement that HUD will provide assistance directly to a jurisdiction only if—

—The jurisdiction submits to HUD a comprehensive housing affordability strategy (CHAS);
—The jurisdiction submits annual updates of the CHAS; and
—The CHAS, and any annual update of the CHAS, is approved by HUD.

This is not an amendment to Title I of the HCD Act but is applicable to all jurisdictions which are direct recipients of affected HUD assistance. In the context of the HUD-Administered Small Cities Program, any jurisdiction which plans to undertake a housing activity in Fiscal Year 1992 as part of either a Single Purpose or a Comprehensive grant must prepare and submit a CHAS in order to be eligible to apply for such assistance and must have an approved CHAS to order to receive such assistance. Further, any Small Cities application seeking assistance for housing activities must contain a certification that it is consistent with the applicant jurisdiction's CHAS, which may have been previously submitted or which is submitted concurrent with the application.

On February 4, 1991, HUD published in the **Federal Register** am interim, rule implementing the CHAS requirement of section 105. The interim rule, codified at 24 CFR part 91, permits units of general local government participating in the HUD-Administered Small Cities Program to prepare an abbreviated CHAS to fulfill the requirement. On December 16, 1991 (56 FR 65271), HUD published in the **Federal Register** a notice concerning the preparation of an abbreviated CHAS. An abbreviated CHAS need only address the specific needs of the segment of the population/market which is eligible to be served by the assistance sought. A copy of this notice (issued as notice CPD 91-36, dated December 18, 1991) will be included as part of the application kit to guide applicants in the preparation of an abbreviated CHAS. Applicants should refer, as necessary, to the interim rule and other HUD issuances for further guidance on the preparation of an abbreviated CHAS.

Jurisdictions planning to apply for housing assistance through the HUD-Administered Small Cities Program are advised to begin preparation of an abbreviated CHAS at the earliest possible time in order to have sufficient time to fulfill the citizen participation requirements associated with the CHAS. If possible, jurisdictions should endeavor to submit their abbreviated CHAS in advance of the Small Cities application due date. The latest time at which an abbreviated CHAS will be accepted by HUD for the HUD-Administered Small Cities Program in New York will be the application due date for the Small Cities application (i.e. the CHAS must accompany the application). Questions regarding the CHAS should be directed to the appropriate HUD field office.

An application for Small Cities CDBG funds with respect to which HUD approval of a submitted CHAS is pending will either be put on hold until the strategy is approved or will be disapproved.

4. HUD Reform Act Requirements: Documentation and Public Access Requirements; Applicant/Recipient Disclosures

On March 14, 1991 (56 FR 11032), HUD published a final rule to implement section 102 of the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act). The final rule is codified at 24 CFR part 12. Section 102 contains a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. (See also Section II.D. of this NOFA.) On January 16, 1992, HUD published at (57 FR 1942) additional information that gave the public (including applicants for, and recipients of, HUD assistance) further information on the implementation of section 102. The documentation, public access, and applicant and recipient disclosure requirements of section 102 are applicable to assistance awarded under this NOFA as follows:

a. HUD Responsibiliities.—

(1) Documentation and Public Access. HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its quarterly **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14(a) and 12.16(b), and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these requirements).

(2) Disclosures. HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be make available along with the applicant disclosure reports, but in no case for a period generally less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. (See 24 CFR subpart C, and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these disclosure requirements.)

b. Units of General Local Government Responsibilities. Units of general local government awarded assistance under this NOFA are subject to the provisions of either paragraph b(1), or paragraphs (b)(2) and (b)(3). For units of local government awarded assistance under this NOFA which in turn make the assistance available on a Non-Competitive Basis for a specific project or activity to a subrecipient, paragraph b(1) applies. For units of local government awarded assistance under this NOFA, which in turn make the assistance available on a Competitive Basis for a specific project or activity to a subrecipient, paragraphs b(2) and (3) apply.

(1) Disclosures. The units of general local government receiving assistance under this NOFA must make all applicant disclosure reports available to the public for three years. Required update reports must be made available along with the applicant disclosure reports, but in no case for a period less than three years. Each unit of general local government may use HUD Form 2880 to collect the disclosures, or may develop its own form. (See 24 CFR subpart C, and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942) for further information on these disclosure requirements.)

(2) Documentation and Public Access. The recipient unit of general local government must ensure that documentation and other information regarding each application submitted to the recipient by a subrecipient applicant are adequate to indicate the basis upon which assistance was provided or denied. The unit of general local government must make this material, including any letters of support, available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Unit of general local government recipients must also notify the public of the subrecipients of the assistance. Each recipient will develop documentation, public access, and notification procedures for its programs. (See 24 CFR 12.14(b) and 12.16(c), and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942) for further information for more information on these documentation and public access requirements.)

(3) Disclosures. Units of general local government receiving assistance under this NOFA must make all applicant disclosure reports available to the public for five years. Required update reports must be made available along with the applicant disclosure reports, but in no case for a period less than three years. Each unit of general local government may use HUD Form 2880 to collect the disclosures, or may develop its own form. (See 24 CFR subpart C, and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942) for further information on these disclosure requirements.)

B. Allocation Amounts

1. Total Available Funding and Allocation

The nonentitlement CDBG funds for New York State for FY 1992 total $41,199,000 and will be allocated as follows:

a. Buffalo Field Office. $35,911,000 is allocated for distribution to eligible units of general local government within the jurisdiction of HUD's Buffalo Field Office. Maximum grant amounts for units of general local governments under the jurisdiction of the Buffalo Field Office will be $400,000 for Single Purpose grant applications and $600,000 for Comprehensive grant applications, except that counties may apply for up to $600,000 in Single Purpose funds. The maximum amount for Single Purpose grant applications made jointly by units of general local government will be $600,000.

b. New York Regional Office. $5,288,000 is allocated for distribution to eligible units of general local government within the jurisdiction of HUD's New York Regional Office. Maximum grant amounts for communities under the jurisdiction of the New York Regional Office will be $400,000 for Single Purpose grants and $600,000 for Comprehensive grants, except that counties may apply for up to $600,000 in a Single Purpose funds. The maximum amount for Single Purpose grant applications made jointly by units of general local government will be $600,000.

2. Distribution of Funds Between Single Purpose and Comprehensive Grants

Generally, 85 percent of the funds allocated separately to the New York and Buffalo offices shall be for Single Purpose grants with the remaining 15 percent to be reserved for Comprehensive grants. However, in order to assure a competitive distribution of funds, each HUD office has the option to revise the division of funds between Single Purpose and Comprehensive grants to as low as 75 percent for Single Purpose and up to 25 percent for Comprehensive grants.

C. Eligibility

1. Eligible Applicants

Eligible applicants are units of general local government in New York State, excluding: metropolitan cities, urban counties; units of government which are participating in urban counties or metropolitan cities even if only part of the participating unit of government is located in the urban county or metropolitan city; and Indian tribes eligible for assistance under section 106 of the HCD Act. Applications may be submitted individually or jointly.

2. Previous grantees

Eligible applicants, which previously have been awarded Small Cities Program CDBG grants, are also subject to an evaluation of capacity and performance. Numerical thresholds have been established to assist HUD in evaluating a grantee's progress in implementing its program activities. (These standards apply to all CDBG Program grants received by the community.) Applicants generally will be determined to have performed adequately in the area(s) where the thresholds are met. Where a threshold has not been met, HUD will evaluate the documentation of any mitigating factors, particularly with respect to actions taken by the applicant to accelerate the implementation of its program activities.

3. Eligible Activities and National Objectives

Eligible activities under the Small Cities CDBG Program are those identified in subpart C of 24 CFR part 570. Each activity must meet one of the national objectives (i.e. benefit to low- and moderate-income persons, elimination of slums or blighting conditions, or meeting imminent threats to the health and safety of the community), and each grant must meet the requirements for compliance with the primary objective of principally benefitting low- and moderate-income persons, as required under the provisions of § 570.200(a) (2) and (3) and § 570.208, which supersede § 570.420(h)(2). As described in Section I.A.3.a. of this NOFA, the principal benefit requirement was increased by NAHA from 60 to 70 percent. The method of calculating the use of these funds for compliance with the 70 percent overall benefit requirement is set forth in § 570.200(a)(3) (i) through (v).

4. Environmental Review Requirement

The HUD environmental review procedures contained in 24 CFR part 58 apply to this program. Under part 58, grantees assume all of the responsibilities for environmental review, decisionmaking and action pursuant to the National Environmental Policy Act of 1969 and the other provisions of law specified by the

Secretary in 24 CFR part 58 that would apply to the Secretary were he to undertake such projects as Federal projects.

D. Types of Grants

1. Comprehensive Grants

a. General. Comprehensive grants are available to fund projects which meet the following criteria:

(1) Address a substantial portion of the identified community development needs within a defined area or areas;

(2) Involve two or more activities related to each other that will be carried out in a coordinated manner;

(3) Have a beneficial impact within a reasonable period of time.

HUD may make an exception to the requirement that all activities must be carried out in a defined area or areas if the applicant can demonstrate that the comprehensive strategy is a reasonable means of addressing identified needs.

If an application for a Comprehensive grant does not meet the requirements of the Comprehensive Grant Program, HUD will rate the proposal as a Single Purpose grant.

b. Funding Requirements. The total amount of funds requested for a Comprehensive grant must be within the established ceilings. Grant ceilings for each of the administering offices are indicated in Section I.B.1 of this NOFA. Grant funds requested must be sufficient, either by themselves or in combination with funds from other sources, to complete the project within a reasonable amount of time. If other sources of funds are to be used with respect to a project, the source of those funds must be identified and the level of commitment indicated.

2. Single Purpose Grants

a. General. Single Purpose grants are designed to address and resolve a specific community development need. A Single Purpose grant may consist of more than one project. A project may consist of one activity or a set of activities. Each project must address community development needs in one of the following problem areas:

—Housing

—Public Facilities

—Economic Development.

Each project will be rated against all other projects addressing the same problem area, according to the criteria outlined below. It should be noted that each project within an application, will be given a separate impact rating, if each one is clearly designated by the applicant as a separate and distinct project (i.e. separate Needs Description, Community Development Activities, Impact Description and Program Schedule forms have been filled out, indicating project names). In some cases, it may be to the applicant's advantage to designate separate projects for activities that can "stand on their own" in terms of meeting the described need, especially where a particular project would tend to weaken the impact rating of the other activities, if they were rated as a whole, as has been the case with some economic development and housing projects. If, however, the projects tend to meet impact criteria to the same extent, or the weaker element is only a small portion of the overall project, there is no discernable benefit in designating separate projects.

b. Funding Requirements. The total amount of funds requested for a Single Purpose grant must be within the established ceilings. Grant ceilings are discussed in Section I.B.1. of this NOFA. Grand funds requested must be sufficient, either by themselves or in conjunction with funds from other sources, to complete the project within a reasonable period of time. If other sources of funds are to be used with respect to a project, the source of those funds must be identified and the level of commitment indicated.

c. Projects with Multiple Activities. If a project consists of more than one activity, the activity that directly addresses the need must represent at least a majority of the funds requested. Other activities must be incidental to, and in support of the principal activity.

d. Applications with Multiple Projects. If an application contains more than one project, each project will be rated separately for program impact. Applicants should note that regardless of the number of projects, the total grant amount cannot exceed the appropriate grant ceilings identified in Section I.B.1. of this NOFA.

3. Final Selection

The total points received by a project for all of the selection factors are added, and the project is ranked against all other projects from all applications, regardless of the problem areas in which the projects were rated. The highest ranked projects will be funded to the extent funds are available. Applicants will receive a single grant in the amount of the project or projects applied for which were ranked high enough to be funded. In the case of ties at the funding line, HUD will use the following criteria in order to break ties:

—The project receiving the highest program impact rating will be funded;

—If tied projects have the same program impact rating, the project having the highest combined score on the needs factors will be funded; and

—If tied projects have the same program impact ratings and equal needs factor scores, the project having the highest score on the percent of persons in poverty needs factor will be funded.

As soon as possible after the rating and ranking process has been completed, HUD will notify all applicants regarding their rating scores and funding status. Thereafter, applicants may contact HUD to discuss scores or any aspects of the selection process.

E. Selection Criteria/Ranking Factors.

1. General

Complete applications received from eligible applicants by the application due date are rated and scored by HUD. Regardless of the type of grant sought (Single Purpose or Comprehensive), applications are rated and scored against four factors. These four factors are discussed in more detail in subsection 3 of this Section E. Previous grantees of Small Cities Program CDBG grants, also undergo a performance evaluation. The criteria for determining adequacy of performance is discussed in subsection 2 of this Section E.

2. Performance Evaluation

As noted in Section C of this NOFA, previous grantees of Small Cities Program CDBG grants are subject to an evaluation of performance and capacity to undertake the proposed program.

For purposes of making performance evaluations, HUD will use any information available as of the application due date. Performance also will be evaluated using information which may be available already to HUD, including previously submitted performance reports, site visit reports, audits, monitoring reports and annual in-house reviews. Grantees may be requested to submit additional information, if generally available facts raise a question as to capacity to undertake the proposed program. No grants will be made to an applicant that does not have the capacity to undertake the proposed program. A performance determination will be made by evaluation of the following areas:

a. Community Development Activities. The following thresholds for performance in expending CDBG funds have been established for FY 1992 and pertain to all Single Purpose and Comprehensive Grants:

FY 1986 and earlier—Grants must be closed out

FY 1987—Grant funds 100% expended

FY 1988—Grant funds 95% expended
FY 1989—Grant funds 60% expended
FY 1990—Grant funds 30% expended
FY 1991—Recipients must be on target with respect to the latest Small Cities Program Schedule received by HUD.

Note: These standards will be used as benchmarks in judging program performance, but will not be the sole basis for determining whether the applicant is ineligible for a grant due to a lack of capacity to carry out the proposed project or program. Any applicant which fails to meet the percentages specified above, may wish to provide updated data to HUD, either in conjunction with the application submission or under separate cover, but in no case will data received by HUD after the application due date be accepted.

b. Compliance with Applicable Laws and Regulations. An applicant will be considered to have performed inadequately if the applicant:

(1) Has not substantially complied or attempted to comply with the laws, regulations, and Executive Orders applicable to the CDBG Program, or has a civil rights suit brought by the Justice Department pending against it, or has not resolved a charge of discrimination against it issued by the Secretary under section 810(g) of the Fair Housing Act, as implemented by 24 CFR 103.400;

(2) Has not resolved or attempted to resolve findings made as a result of HUD monitoring; or

(3) Has not resolved or attempted to resolve audit findings.

An applicant will be ineligible for a grant where the inadequate performance in compliance with applicable laws and regulations evidences a lack of capacity to carry out the proposed project or program. An application also will not be accepted from a unit of general local government which has an outstanding audit finding or monetary obligation for any HUD program. Additionally, applications will not be accepted from any entity which proposes an activity in a unit of general local government that has an outstanding audit finding or monetary obligation for any HUD program. The HUD Regional Administrator may provide waivers to this prohibition, but in no instance will a waiver be provided where funds are due HUD, unless a satisfactory arrangement for repayment of the debt has been made.

3. Four Factor Rating

As noted in subsections 1 and 3 of this Section E, all applications are rated and scored against four factors. These four factors are:

Need based on absolute number of persons in poverty;
Need based on the percent of persons in poverty;
Program Impact; and
Outstanding performance in fair housing and equal opportunity.

A maximum of 615 points is possible under this system with the maximum points for each factor being:

	Points
Need—absolute number of persons in poverty	75
Need—percent of persons in poverty	75
Program Impact	400
Outstanding performance—FHEO:	
Provision of assisted housing	20
Fair Housing Programs	20
Minority contracting	15
Equal opportunity employment	10
Total	615

Each of the four factors is outlined below. All points for each factor are rounded to the nearest whole number. Applicants should note that there is a distinct difference in the methods used to evaluate Program Impact for Single Purpose grants versus Program Impact for Comprehensive grants. These differences are more fully discussed below.

a. Need—Absolute number of persons in poverty. HUD uses census data to determine the absolute number of persons in poverty residing within the applicant unit of general local government. Comprehensive and Single Purpose grant applicants are grouped and rated separately for this factor. Applicants which are county governments are rated separately from all other applicants. Applicants in each group are compared in terms of the number of persons whose incomes are below the poverty level. Individual scores are obtained by dividing each applicant's absolute number of persons in poverty by the greatest number of persons in poverty of any applicant and multiplying by 75.

b. Need—Percent of persons in poverty. HUD uses decennial census data to determine the percent of persons in poverty residing within the applicant unit of general local government. Comprehensive and Single Purpose grant applicants are grouped and rated separately for this factor. Applicants in each group are compared in terms of the percentage of their population below the poverty level. Individual scores are obtained by dividing each applicant's percentage of persons in poverty by the highest percentage of persons in poverty of any applicant and multiplying by 75.

c. Program Impact—General. In evaluating program impact, HUD will consider:

—Extent and seriousness of the identified needs;
—Results to be achieved;
—Number of beneficiaries, given the type of program;
—Nature of the benefit;
—Additional actions that may be necessary to fully resolve the need;
—Previous coordinated actions taken by the applicant to address the need;
—Environmental considerations;
—Whether displacement will be involved and what steps will be taken to minimize displacement and to mitigate its adverse effects or related hardships; and
—Where appropriate, housing site selection standards.

Assessments are done on a comparative basis and, as a result, it is important that each applicant present information in a detailed and uniform manner.

In addressing Program Impact criteria, applicants should adhere to the following general guidelines for quantification. Where appropriate, absolute and percentage figures should be used to describe the extent of community development needs and the impact of the proposed program. This includes, but is not limited to, appropriate units of measure (e.g. numbers of housing units or structures, linear feet of pipe, pounds per square inch, etc.), and costs per unit of measure. These quantification guidelines apply to the description of need, the nature of proposed activities and the extent to which the proposed program will address the identified need.

Appropriate documentation should be provided to support the degree of need described in the application. Basically, the sources for all statements and conclusions relating to community needs should be included in the application or incorporated by reference. Examples of appropriate documentation include planning studies, letters from public agencies, newspaper articles, photographs and survey data.

Generally, the most effective documentation is that which specifically addresses the subject matter and has a high degree of credibility. Applicants which intend to conduct surveys to obtain data are advised to contact the appropriate HUD office prior to conducting the survey for a determination as to whether the survey methodology is statistically acceptable.

There are a number of program design factors related to feasibility which can alter significantly the award of impact points. Accordingly, it is imperative that applicants provide adequate documentation in addressing these factors. Common feasibility issues include site control, availability of other funding sources, validity of cost estimates, and status of financial commitments as well as evidence of the status of regulatory agency review and approval.

Past productivity and administrative performance of prior grantees will be taken into consideration when reviewing the overall feasibility of the program. Overall program design, administration and guidelines are other feasibility issues that should be articulated and presented in the application, since they are critical in assessing the effectiveness and impact of the proposed program.

(1) *Program Impact—Single Purpose Grants.* Each project will be rated against other projects addressing the same problem area, so that, for example, housing projects only will be compared with other housing projects, according to the criteria outlined below. It should be noted that each project within an application will be given a separate impact rating, if each one is clearly designated by the applicant as a separate and distinct project (i.e. separate Needs Descriptions, Community Development Activities, and Impact Description and Program Schedule forms have been filled out, indicating separate project names).

In some cases, it may be to the applicant's advantage to designate separate projects for activities that can "stand on their own" in terms of meeting the described need, especially where a particular project would tend to weaken the impact rating of the other activities, if they were all related as a whole, as has been the case with some economic development projects. If, however, the projects tend to meet the impact criteria to the same extent, or the weaker element is only a small portion of the overall program, there is no discernable benefit in designating separate projects.

Applicants should bear in mind that the impact of the proposed project will be judged by persons who may not be familiar with the particular community. Accordingly, individual projects will be rated according to how well the application demonstrates in specific, measurable terms, the extent to which the impact criteria are met. General statements of need and impact alone will not be sufficient to obtain a favorable rating.

(a) *Program Impact—Single Purpose—Housing.* There are two distinct types of Single Purpose Housing projects: Housing Rehabilitation and Direct Homeownership Assistance. Separate rating criteria are provided for each type of project.

(i) *Housing Rehabilitation.*

Needs. Each application should provide information on the total number of units in the project area, the number that is substandard, and the number of substandard units occupied by low and moderate income households. The purpose of this information is to establish the relative severity of housing conditions within the designated project area compared to other housing rehabilitation applications. The application also should describe the date and methodology of any surveys used to obtain the information, including an explicit and detailed definition of "substandard".

Surveys of Housing Conditions. Surveys of housing conditions serve several purposes in evaluating applications for housing rehabilitation activities. These include establishing the seriousness of need for such assistance in the project area, providing a basis for estimating overall budgetary needs, and providing an indication of the marketability of the project.

Project Design and Feasibility. The application should describe the project in sufficient detail to allow the reviewer to assess its feasibility and its probable impact on the conditions described. It also should describe project requirements in such a way that regulatory and policy concerns will be addressed.

In reviewing applications from grantees with prior housing rehabilitation projects, reasonableness of cost-per-unit, stated in the application, will be compared against the grantee's actual past performance. All applications should provide documentation to justify the cost-per-unit estimates, particularly grantees where past performance does not support the estimates in the applications.

It should be noted that HUD encourages communities to design projects supplementing CDBG rehabilitation funds with private funds wherever feasible and appropriate, especially in the case of rental units and housing not occupied by lower income persons. In such cases, the CDBG subsidy should be as low as possible, while retaining sufficient incentive to attract local participants. On the other hand, projects designed for low income homeowners should not require private contributions at a level that puts the project out of reach of potential participants.

Where the creation of new units is proposed, either through new construction or conversion, the application should document the need for additional units based on vacancy rates, waiting lists, and other pertinent information. The proposed project clearly must support, or result in, additional units for low and moderate income persons. The units may result from the rehabilitation of currently vacant structures, conversion of non-residential structure for residential use, or new construction projects for which the proposed project will provide non-construction assistance.

Where the proposed project involves the use of Federally assisted housing, the applicant must identify and document the current commitment status of the Federal assistance. Lack of a firm financial commitment for assistance may adversely affect project impact. Applicants should address issues of site control and marketability, in addition to addressing feasibility from the standpoint of market financing.

The impact of the proposed project will be based on the degree of need, the number of units to be created, overall feasibility and the nature and cost of the proposed activities.

For projects consisting of more than one activity, the activity that directly addresses the need must represent at least the majority of funds requested. Other activities must be incidental to and in support of the principal activity. For example, public improvements included in a rehabilitation project that addresses housing need must: Be a relatively small amount in terms of funds requested; clearly be in support of the housing objective; and demonstrate a positive and direct link to the national objective.

For incidental activities claiming benefit to low and moderate income persons, the application must document that at least 51 percent of the residents of the service area meet the low/moderate income requirement. Funds should not be requested for activities that are not incidental to, and in support of the principal activity.

Scoring. Individual projects often vary in the extent to which they meet the criteria outlined above. Accordingly, it is difficult to define precisely those combinations of characteristics which constitute, for example, "maximum" versus "substantial" impact. Not all projects receiving a particular rating will match all the criteria point-by-point, in the same manner. The objective for non-target area projects, in as much as they are sparsely populated, only should be to assist low and moderate income persons. Accordingly, the following standard will be used for rating housing rehabilitation projects:

Maximum (400 Points)

1. Severe need is shown in the project area, in terms of the proportion of units that are substandard and the extent of disrepair in the units.

2. Project would bring all, or almost all, of the units in the project area up to standard.

3. There are no feasibility questions, such as availability of other resources, marketability, or appropriateness of project design, which would hinder the timely completion of the project as proposed.

4. Benefits a large number of persons when compared to other housing projects.

Substantial (300 Points)

1. Serious need is shown.

2. Project would bring most of the units in the area up to standard.

3. There are no major feasibility questions.

4. Benefits a substantial number of persons.

Moderate (200 Points)

1. Serious need is shown, but is not as well documented as in other applications.

2. Project would bring units up to standard, but not to the same extent as other applications.

3. There may be some minor feasibility questions.

4. Benefits a significant number of persons.

Minimal (100 Points)

1. Some need is evident, but it is not serious compared to other applications, or is not well documented.

2. Project may bring most units up to standard, but not to same extent as in other applications.

3. There are serious feasibility questions.

4. Benefits a small number of persons.

Insignificant (0 Points)

1. Very little need has been demonstrated.

2. Project would not rehabilitate most units.

3. There are serious feasibility questions.

4. Benefits a very small number of persons.

(ii) *Direct Homeownership Assistance.* Homeownership activities are defined as activities which would promote homeownership within the applicant jurisdiction, focusing particularly on aiding low and moderate income persons in becoming homeowners. This is the second year in which direct homeownership activities are eligible activities under the Small Cities Program. While declining to identify any particular type of proposed project as superior, HUD is identifying several criteria which must be addressed within the project design, in order for the application to receive the maximum project impact.

Applications must include a well developed description of homeownership needs in the applicant jurisdiction, focusing particularly on the needs of low and moderate income persons. The description also should include, if applicable, any alternative approaches which have been considered in meeting homeownership needs. Project feasibility must be addressed as part of the application.

The application must demonstrate that the proposed project would make effective use of all available funds. This would include any local, State or other Federal funds which would be utilized by the proposed project. If other such funds are included as part of the proposed project, the applicant must demonstrate that such funds are committed and truly available for the project.

Any efforts which would affirmatively further fair housing, by promoting homeownership among minorities as well as homeownership throughout the community, must be outlined in the application.

The application must explain how the project would benefit low and moderate income homebuyers, particularly focusing on first-time and minority homebuyers. The application also should address any homeownership counselling services which would be provided to persons selected to participate in the proposed project.

Finally, the application should describe how the project would utilize public/private partnerships to promote homeownership, particularly in the sense that private sector financing would be accessible, as necessary, to project participants to compliment available public sector funds, including CDBG money.

HUD will review each application which meets the threshold against the following criteria:

Maximum (400 Points)

1. Project design is appropriate to demonstrated homeownership need and alternative approaches to meeting the need are shown to have been considered. Additionally, there are no feasibility questions regarding the implementation and execution of the proposed project according to the schedule.

2. The application documents serious homeownership needs in the community and the proposed project would make effective use of available funds.

3. The proposed project would affirmatively further fair housing by including initiatives to reach out to potential minority homeowners and by promoting homeownership opportunities throughout the community.

4. The proposed project would target first-time homebuyers.

5. The proposed project would provide homeownership counseling to project participants.

6. The proposed project would compliment other Federal, State or local programs which promote homeownership.

7. The proposed project would utilize public/private partnerships in attempting to promote homeownership, particularly in regard to participation by local financial institutions.

Substantial (300 Points)

1. Project design demonstrates a workable approach to homeownership assistance needs, and there are no major feasibility questions regarding implementation of the proposed project.

2. Substantial homeownership needs are documented by the application, and the proposed project would make effective use of available funds.

3. The proposed project would affirmatively further fair housing by promoting homeownership opportunities throughout the community.

4. The proposed project would encourage homeownership among first-time homebuyers.

5. The proposed project would encourage local financial institutions to lend to assisted homebuyers.

Moderate (200 Points)

1. The proposed project has potential to meet homeownership needs in the community, and there are minor feasibility questions regarding implementation.

2. Homeownership needs in the community are documented, but not as well as in other applications.

3. The proposed project would include efforts to affirmatively further fair housing through homeownership.

4. The proposed project would educate and inform citizens of homeownership assistance available through the project.

5. The proposed project would not include private sector involvement.

Minimal (100 Points)

1. There are serious feasibility questions regarding the implementation and execution of the proposed project.

2. The proposed project would have little impact upon homeownership needs in the community.

3. The proposed project would contribute minimally to fair housing in the community.

4. The proposed project would marginally aid first-time homebuyers versus all homebuyers.

Insignificant (0 Points)

1. The proposed project has major feasibility questions which would inhibit its implementation and execution.

2. The proposed project does not address identified homeownership needs in the community.

3. The proposed project would not actively affirmatively further fair housing.

4. The proposed project would be of little benefit to first time homebuyers.

(b) *Program Impact—Single Purpose—Public Facilities Affecting Public Health and Safety.* In the case of public facility projects, documentation of the problem by outside, third-party sources is of primary importance. In the case of water and sewer projects, documentation from public agencies is particularly helpful, especially where such agencies have pinpointed the exact cause of the problem and have recommended courses of action which would eliminate the problem. Such supporting documentation should be as up-to-date as possible: the older the supporting material, the more doubt arises that the need is current and immediate. Applicants also should be sure to indicate how the project would address public health and safety needs and conditions. Quantification also is essential in describing needs. Documentation from those affected should be included in the support quantification.

In order to show that the project is likely to impact upon the problem, the following items should be covered:

(1) Total project costs. Total project costs should be documented by qualified third party estimates, and be as recent as possible.

(2) Source of other funds. To the extent that CDBG funds will not cover all costs, the source of other funds should be identified and committed. If local funds are to be used, the applicant should show both the willingness and the ability to provided the funds).

(3) How the project will solve the problem. The applicant should demonstrate that the project will completely solve the problem and, if applicable, the applicant should address whether the proposal would be satisfactory to other State/local agencies which have jurisdiction over the problem.

(4) Cost effectiveness of the proposal. The applicant should address whether the proposal is the most cost effective and efficient among the possible alternatives considered.

(5) Reasonableness of service area. The applicant should address whether the service area claimed for the project is reasonable, in view of the nature of the proposed project, and if not, the applicant should address what effect a more realistic appraisal would have on overall benefit to low and moderate income persons.

(6) Project impact on public health and safety; and

(7) Other applicable feasibility issues have been addressed.

Individual projects often vary in the extent to which they meet the criteria outlined above. Therefore, it is difficult to define precisely those combinations of characteristics which constitute, for example, "maximum" versus "substantial" impact. Not all applications receiving a particular rating will match point-for-point all the criteria in the same way. The following standards will be applied:

Maximum (400 Points)

1. Need is serious, current and requires prompt attention.

2. Program would resolve the problem completely, either through funds requested or with the support of other resources already committed.

3. No other obstacles to timely and effective implementation of the program exist.

4. Benefits a large number of persons when compared to other public facility projects.

5. Demonstrates that applicant has considered and, as appropriate, will use alternative cost effective methods or material in the execution of the project.

6. Public health and safety concerns are fully resolved by the project.

Substantial (300 Points)

1. Serious need is shown.

2. Program would resolve the problem completely.

3. There are no major feasibility questions.

4. Benefits a substantial number of persons.

5. Evidence that efforts have been made to minimize project costs through use of alternative methods and materials, as appropriate.

6. Public health and safety concerns are substantially resolved by the project.

Moderate (200 Points)

1. Serious need is shown, but is not as serious or well documented as other applications.

2. Program may not meet the need as completely as in some other applications.

3. There may be some questions relative to feasibility.

4. Benefits a significant number of persons.

5. Evidence that efforts have been made to minimize project costs.

6. Public health and safety concerns are partially met by the project.

Minimal (100 Points)

1. Some need is evident, but is not serious.

2. Only a portion of the need would be met or the problem would not be resolved completely.

3. There are serious feasibility questions.

4. Benefits only a small number of persons.

5. Little evidence that efforts have been made to minimize costs.

6. Public health and safety concerns are minimally addressed by the project.

Insignificant (0 Points)

1. No clear need has been demonstrated.

2. Program is not appropriate to meeting described needs, or there is serious doubt that there would be much impact on needs.

3. There are major feasibility questions.

4. Benefits a very small number of people.

5. No evidence that efforts have been made to minimize project costs.

6. Public health and safety needs are not addressed by the project.

(c) *Program Impact—Single Purpose—Economic Development Projects.* Economic Development Projects are defined as those activities which directly address the employment needs of low and moderate income persons in the applicant jurisdiction. While most often provided in the form of direct loans or infrastructure improvements, economic development assistance also may include equity investments and interest subsidy grants. It is important to note that whatever the form of the assistance, it must be demonstrated clearly in the application that the proposed scope of activities cannot be undertaken without the provision of CDBG assistance.

As discussed earlier in this section of the NOFA, each individual Single Purpose project will receive a separate impact rating. Applicants whose proposed economic development program will include multiple proposals should determine the most appropriate form of submission. This determination will require a choice as to either the incorporation of all proposals into a single project or the submission of separate projects for each proposal (each transaction will be considered a separate project). The single project format presents an "all or nothing" situation. In determining the appropriate submission format, applicants should consider the ability of a transaction to rate well on its own, based on the magnitude of employment impact, size of the financial transaction and the other factors discussed in this section.

The submission of proposals as separate projects must be clearly designated by the applicant with individual Needs Descriptions, Community Development Activities, Impact Descriptions and Program Schedule forms, including an appropriate name for each project on HUD Form 4124.1.

In addition to the standard submission requirements, Small Cities applicants must submit information that demonstrates that CDBG funds are needed for the proposed project or activity, and that the CDBG Program's national objectives are met. HUD will evaluate this material as part of its Eligibility Review prior to considering an application for funding in the FY 1992 competition. The following is a discussion of some of the factors HUD will consider in assessing projects in these two key areas:

(i) *The Appropriate Determination.* HUD requires that economic development activities undertaken with CDBG funds be appropriate to carry out an economic development project. This means that the scope of the proposed activity cannot be accomplished without the use of CDBG funding, and that the amount and form (e.g., rate, term, etc.) of the CDBG assistance is reasonable and prudent. Where CDBG assistance will be provided directly to a for-profit development entity, such entity must demonstrate the financial necessity of the amount and form of the CDBG funding. Further, applicants should attempt to demonstrate that each economic development project has a reasonable likelihood of economic success.

Applicants must document in writing the financial analysis of the project's need for assistance, as well as public benefit factors that were considered in making its determination that assistance is appropriate. For the public benefit portion, the type of factors to consider include: the number and type of jobs to be made available, in relation to the needs of low- and moderate-income and other persons who are likely to be employed or retained for employment; and increases to the tax base including property, sales and income taxes or increases in needed services which result from the activity. This list is not exclusive, but, in any case, the applicant is expected to provide clear documentation on how the decision was reached.

The written documentation of the financial analysis of the project's need should use the following steps:

1. Determine Project Type

There are two basic types of projects: Real Estate Projects and User Projects. Determining the project type is important since each is evaluated differently.

a. In a Real Estate Project, the private developer buys/builds/renovates a piece of real property with the goal of selling or leasing that property to another party for a profit.

b. In a User Project, the entity seeking the assistance is also the owner/lessee and the occupant/user of the property. Typically User Projects involve the construction of, or an addition to, an industrial or commercial facility, or the procurement of equipment.

c. There also may be hybrid projects. An example is the manufacturing company which creates a subsidiary or independent entity to build and own a facility which the manufacturing company leases. In such situations the analysis must discover which entity/transaction is in need of CDBG assistance.

2. Project Costs

Evaluate the proposed project costs (the uses of funds to complete the project). Cross-check costs with appropriate industry standards. The goal is to conclude that all costs are reasonable. Cross-checking should include hard and soft costs, particularly developer's fees.

3. Verify and Maximize Private Sources of Funding (the sources of funds necessary to complete the project)

Both private debt and equity must be verified. Verification means ascertaining that: the source of funds is committed; that the terms and conditions of the committed funds are known; and the source has the capacity to delivery. All private sources should be maximized for the given project. No CDBG funds should substitute for available private funds.

4. Determine Reason for the Need for CDBG Assistance to Complete the Project

There are three general, justifiable reasons for CDBG assistance to both Real Estate and User Projects.

a. *Financing Gap.* The amount that the private sector can raise is only a portion of the debt and equity funds necessary to complete the project. Therefore, a gap between sources and uses exists, and CDBG fills the gap.

b. *Rate of Return (ROR).* The private sector can raise sufficient debt and equity to complete the project, but the returns to the developer/user are inadequate to motivate an "economic person" to proceed with the project—that is, project risks outweigh rewards.

c. *Location.* For either a Real Estate or User Project in its most simplified version, the private sector entity is deciding between Site A and Site B for its project. The CDBG grantor wants the project at Site A, but the private entity argues that the project will cost less at Site B and that a subsidy will be required to equalize its costs to induce it to locate at Site A. The reasons for the cost differential are varied and must be evaluated on a case by case basis. Most common reasons are: on-site costs (e.g., soil conditions), prices of land (downtown versus suburban), distance to markets, and special off-site costs (e.g., road, sewers, etc.). The objective here is to quantify the cost differential to the extent possible between Site A and B so that the financial needs of the business may be judged in relationship to the public benefit and avoid an undue enrichment of the business.

5. Size the CDBG Assistance

Based on the type and extent of the need as detailed in Step 4, determine the minimum amount of CDBG funds necessary to stimulate the private investment. This analysis generally will require a 2 to 5 year pro forma for the proposed project depending on the complexity of the project and when its financing is expected to stabilize. Ideally, the private sector applicant for CDBG funds will submit one pro forma with 100 percent private financing and a second pro forma with CDBG funding.

6. Price the CDBG Loan

If the CDBG subsidy is to be a loan to a private entity, the debt service payments should balance the maximum return to the public lender with the economic health of the project. Returns to the developer in excess of industry averages should be avoided, but too high an interest rate for the CDBG assistance may weaken the project. The most direct pricing procedure is to work backwards from the pro forma's cash flow dollars available to service the CDBG loan (after project expenses, private loan debt service, and an appropriate return to the private entity) to an interest rate and term that equates to the available cash flow.

When CDBG assistance is required by the applicant to provide necessary support activities for an economic development project (e.g., infrastructure improvements), the applicant must document the unavailability of other funding sources, including municipal bonding and other Federal and State programs. Applicants also must demonstrate the reasonable likelihood of the project's success, from both a financial and employment standpoint. An analysis of market data which indicates an inordinate risk in the undertaking of the project will affect the overall rating of program impact.

(ii) *Meeting National Objectives: Employment and the Low/Moderate Income Test.* As previously stated in this NOFA, all CDBG-assisted activities must address one of the three broad national objectives. Since economic development projects usually result in new employment or the retention of existing jobs, these activities most likely would be categorized as principally benefitting low and moderate income persons. Therefore, the extent to which the proposed project will directly address employment opportunities for low and moderate income persons in the applicant jurisdiction will be a primary factor in HUD's assessment of the proposed program.

Projects that provide for economic development assistance will be considered to benefit low and moderate income persons where the criteria of 24 CFR 570.208(a)(4) is met. HUD will consider an activity to qualify under this provision where the activity involves jobs at least 51 percent of which are either: actually taken or retained by such persons; or can be considered to be available to them because:

—Special skills that only can be acquired with substantial training or work experience, or education beyond high school, are not a prerequisite to fill such jobs, or the business nevertheless agrees to hire unqualified persons and provide them training; and

—The local government or the assisted business take actions that would ensure that low and moderate income persons receive first consideration of filling such jobs.

When making judgments concerning whether an individual qualifies as a low and moderate income person, both the family size and income of the entire family must be considered. This consideration is necessary because a low and moderate income person is defined as a member of a low and moderate income family.

First consideration means that a business gives objective consideration to the employment of low and moderate income persons. Such objective consideration normally will involve an interview. In order for the business to demonstrate that it considered a low and moderate income person, the business must either agree to: obtain and keep on file, for verification, the necessary information about the person to determine low and moderate income status; or agree to consider referrals from certain sources. The referrals may be from the locality or a State, County or local employment agency that agrees to refer individuals who they determine to be a low and moderate income person based on HUD's income levels and considering both family income and size. Such entities making referrals must maintain the documentation they use for verification. HUD also will categorically accept as low and moderate income persons those referred from Job Training Partnership Act (JTPA) program (except for the Dislocated Worker Program, title III) because of the known income restrictions of that program.

HUD also will accept a written certification by a person of his or her family income and size to establish low and moderate income status. The certification may simply state that the person's family income is below that required to be low and moderate income in that area. The forms for such certification must include a statement that the information is subject to verification.

The first consideration approach has been developed by HUD with the expectation that, in most instances where it is applied, the outcome will be that over 51 percent of persons hired will be low and moderate income. Accordingly, grantees electing to use this approach will be expected to follow some basic principles. For example, merely considering 51 low and moderate income persons for 100 created jobs is normally not sufficient, because most jobs are not offered to, or taken by, the first person interviewed. The hiring practices of the business should be analyzed. If it appears that the normal practice is that only one of three persons interviewed are hired, then a comparable number of low and moderate income persons should be given first consideration for the jobs. The distance from residence and availability of transportation to the employment site also should be considered in determining whether a particular low and moderate income person can seriously be considered an applicant for the job. The business must be required to consider a sufficient number of low and moderate income job applicants in order to meet the intent of this requirement.

The application must contain adequate documentation to fully explain and support the process to be used to ensure that project(s) comply with the low and moderate income employment requirements. The documentation must be sufficient to show that the process has been developed and that program participants have agreed to adhere to that process.

Retained jobs are limited to the total of those jobs known to be held by low and moderate income persons at the time the assistance is provided, together with any other jobs that reasonably can be expected to become available through turnover to low and moderate income persons in a period of two years thereafter, using the same standards for newly created jobs.

Clearly, retaining a job that already is held by a low or moderate income person would qualify that job as benefitting a low and moderate income person. In determining whether the person already occupying a retained job is low or moderate income, it is the person's family income at the time the CDBG assistance is provided that is determinative. However, it is recognized that a business currently may be employing less than a majority of low and moderate income persons, or may be unable to ascertain the family size and total family income of some or all of its employees. Additionally, it is possible that a business might be unwilling to try to acquire such information. Accordingly, this accounts for why the standard for retained jobs gives credit for jobs based on jobs which will be made available to such persons over the next two years.

Accordingly, if an assisted business is able to demonstrate that at least 51 percent of the jobs it is retaining are held at the time the CDBG assistance is provided by low and moderate income persons, the activity would qualify as meeting the first national objective. Where the business does not know or cannot determine the income status of some or all of its employees' families at the time CDBG assistance was provided, or if a majority of the jobs currently are not held by low and moderate income persons, it still can qualify, if it can show that at least 51 percent of the retained jobs will be made available to low and moderate income persons over the two year period following receipt of the CDBG assistance. These two approaches can be used in combination, as well. Therefore, the total of those jobs known to be held by low and moderate income persons, together with jobs not known to be held by low and moderate income persons and that can reasonably be expected to become available through turnover to low and moderate income persons in a period of two years after the assistance is provided may be counted, provided low and moderate income persons are given first consideration as described previously for such turn-over jobs.

An example may be helpful to demonstrate how this would work. Assume that funding results in the retention of 100 jobs, of which 40 are known to be currently held by low and moderate income persons. Assume also that based on analysis of the business' past experience, an additional 15 of the retained jobs currently not held by low and moderate income persons are expected to turn over within the next two years, and the business agrees to ensure that special skills or education will not be a prerequisite, and that first consideration will be given to low and moderate income persons in the hiring for the 15 jobs expected to turn over. Under these circumstances, 55 percent of the total number of jobs would qualify as involving the employment of low and moderate income persons, i.e., 40 jobs "held by" and an additional 15 "made available".

To the extent feasible, the material listed below should be submitted for Economic Development projects. The material should be submitted for each proposed activity (e.g. each loan will be considered a separate activity), whether the proposed activity is presented as a separate project or as part of a project involving multiple activities. Since Economic Development projects are rated against each other, the more completely these submission requirements are met, the greater the potential exists for enhancing the impact score of the project.

1. A letter from each appropriate developmental entity which includes at least the following information:

a. A detailed physical description of the project with a schedule of events and maps or drawings as appropriate.

b. The estimated costs for the project, including any working capital requirements.

c. A discussion of all financing sources, including the necessity and terms of the CDBG assistance and the proposed lien structure. The amount, source and nature of any equity investment(s) must also be provided as well as a commitment to invest the equity.

d. A discussion of employment impact which includes a schedule of newly created positions. The schedule should identify the number, salary and skill level of each permanent position to be created. The applicant must also demonstrate and document how persons from low and moderate households will be accorded first consideration for employment opportunities.

e. A discussion of all appropriate feasibility issues including, but not limited to: site control, zoning, public approvals and permits, corporate authorizations, infrastructure, environment and relocation.

f. An analysis and summary of market and other data which supports the anticipated success of the project.

2. A development budget showing all costs for the project, including professional fees and working capital.

3. Documentation to support project costs. Documentation generally should be from a third party source and be consistent with the following guidelines:

a. Acquisition costs should be supported by an appraisal.

b. Construction/renovation costs should be certified by an architect, engineer or contractor. Use of Federal Prevailing Wage Rates should be cited where applicable.

c. Machinery and equipment costs should be supported by vendor quotes.

d. Soft costs (e.g., legal, accounting, title insurance) need be substantiated only where such costs are anticipated to be abnormally high.

4. Letters from all financing sources discussing, at a minimum the amount and terms of the proposed financing, and the current status of the application for funding.

5. Historical financial data of the development entity, preferably for the last three years. This information may be submitted under separate cover with confidentiality requested. It is recognized that historical financial data may be unavailable or inappropriate for some projects (e.g., start-up companies and real estate transactions).

6. A two-to-five year cash flow pro forma with accompanying notes citing basic assumptions.

7. The applicant's assessment of the project's consistency with the CDBG program eligibility necessary/appropriate) standards and with the national objectives requirements.

(iii) *Review Criteria*. In evaluating and rating economic development projects, HUD will analyze the following factors:

1. Employment

The extent to which the proposed project will directly address employment opportunities for low and moderate income persons in the applicant's jurisdiction will be a primary factor in HUD's assessment of program impact. Applicants are reminded that for an activity to be consistent with the statutory objective of low/moderate income benefit, as a result of the creation or retention of jobs, at least 51 percent of created or retained employment opportunities must be held by, or made available to, persons from low and moderate income families. Applicants must fully document and describe employment benefits. In addition, applicants should address the following issues:

a. All employment data should be expressed in terms of full-time equivalents (FTEs). Only permanent jobs may be counted, but applicants should take into account such factors as seasonal and part-time employment.

b. The amount of CDBG assistance required to produce each full-time equivalent job will affect the impact assessment *by* HUD. Lower CDBG costs per job are preferable to higher CDBG costs per job. Such assessments of impact will be done on a comparative basis among all projects submitted, rather than by comparison to a given standard.

c. The use of CDBG funds to assist in the transfer of operations between communities will generally be considered as having *no* employment impact. Exceptions to this rule may include, among other things, an expansion in addition to the transfer or the demonstrated infeasibility of continuing operations at the current site. If the applicant proposes to assist in a transfer of operations based on an exception to the general rule, HUD should be contacted early in the planning process to discuss the viability of such a proposal. Failure to do so could result in the application receiving 0 impact points.

2. Feasibility

A high impact will not be given to projects which are likely to encounter feasibility issues which would hinder the timely completion of the project. Such issues include, but are not limited to: site control, zoning, public approvals and permits, infrastructure, environment, and relocation. Applicants should address these and any other applicable issues and provide documentation where appropriate.

Applicants also must demonstrate the reasonable likelihood of the project's success, from both a financial and employment standpoint. An analysis or market data, which indicates an inordinate risk in the undertaking of the project, will affect the overall rating of program impact.

3. Leverage

Leverage is defined as the amount of private debt and equity to be invested as a direct result of the CDBG-funded activity. While HUD does not prescribe a minimum standard for leverage, projects must conform to the requirements of the Appropriate Determination discussed above. Projects which fully conform with those requirements by providing the maximum feasible level of private investment will be considered as having appropriate leverage.

4. Taxes

While not a primary factor in the evaluation of impact, projects which will augment the applicant's tax base may have a positive effect on the rating of program impact. It is recognized, however, that good projects do not always result in increased tax revenues due to their nature.

5. Repayment

Where CDBG repayments are to be made in some manner to the applicant, the proposed use of those repayments for economic development purposes will be considered.

(iv) *Scoring*. Individual projects often vary in the extent to which they meet the criteria outlined above. It is, therefore, difficult to precisely define those combinations of characteristics which constitute, for example, "maximum" versus "substantial" impact. Not all applications receiving a "maximum" rating will match all the criteria, point by point, in the same manner. The following standards will be applied:

Maximum (400 Points)

1. The analysis of market and other risk data provides reasonable assurance that the project will be successful.

2. The project will have a direct and positive impact on employment opportunities for persons from low and moderate income households, and the extent of that impact compares favorably with that of other applicants.

3. All appropriate feasibility issues have been addressed (including the submission of firm private financing commitments) and there is reasonable assurance that the project will be completed in a timely manner.

4. The Public Benefits (e.g., loan repayments, increases to the tax base including property, sales and income taxes to the area, other development likely to be stimulated by the activity) to be derived from the project are considerable relative to other proposals.

5. The infusion of CDBG funds will leverage a substantial investment of private and other dollars.

Substantial (300 Points)

The criteria for Maximum (400 Points) is met with either of the following exceptions:

1. While the project will have a direct and positive impact on employment opportunities for persons from low and moderate income households, the extent of that impact is less than that demonstrated by applicants receiving the maximum rating.

2. While there are no *major* feasibility problems, there are feasibility issues which have not been fully addressed and/or may have a negative effect on timely implementation of the project. However, overall success of the project appears achievable.

In addition:

3. The Public Benefits derived from this project will be greater than that received by the majority of applicants.

4. CDBG funds will leverage more private and/or other public dollars than the majority of projects in the competition.

Moderate (200 Points)

The project presents at least one of the following deficiencies which would affect the appropriateness of CDBG funding:

1. An analysis of the project indicates that the likelihood of the availability of other required financing is questionable.

2. There is a major feasibility issue which is likely to affect completion of the project.

3. The analysis of market and other risk data indicates a likelihood that the project will not create a significant employment impact.

4. The number of employment positions to be created is significantly low and/or the CDBG cost per employment position is significantly high in relation to other applications.

In addition:

5. There will be some Public Benefits resulting from this project.

6. CDBG dollars will leverage a moderate amount of private and/or other public funds relative to other projects.

Minimal (100 Points)

The project presents at least one of the following serious deficiencies which would affect the appropriateness of CDBG funding:

1. An analysis of the project indicates that other required financing is unlikely to be available.

2. There will be few, if any, Public Benefits resulting from this project.

3. CDBG dollars will leverage little private and/or other public investment in the project.

Insignificant (0 Points)

The activity presents at least one of the following serious deficiencies which indicates the inappropriateness of CDBG funding:

1. It is clear that the activity cannot be accomplished based on any combination of the following factors:

(1) Major feasibility issues.

(2) Inordinate risk.

(3) Unavailability of required financing.

2. The activity will not have a direct impact on employment opportunities for persons from low and moderate income households.

3. The completion of the project will result in no Public Benefits or will be detrimental to the community.

4. No other investment will be triggered by the use of CDBG funds for this activity.

(2) *Program Impact—Comprehensive Program Grants.* Comprehensive programs must address a substantial portion of the identificable community development needs of a defined area(s). The extent to which activities are coordinated will be a major consideration in the evaluation of program impact. In defining an appropriate area for comprehensive treatment, applicants should consider the severity of condition within the area and the resources to be provided. The impact is greatest where community development needs will be substantially addressed over a reasonable period of time. Exceptions to the requirement that activities be concentrated within a defined area or areas may be made if the applicant can demonstrate that the proposed program represents a reasonable means of addressing the identified needs.

HUD will assess the impact of the program for each of the four program design criteria selected, based on the factors described below. Applicants must describe fully the extent to which the program will address each criterion selected. HUD will compare all programs which address a particular criterion. The best proposal for that criterion will be the standard by which all others will be judged, although that proposal will not necessarily be awarded a significant impact.

Assignment of Program Impact points for a Comprehensive Grant application is a two-step process. First, the potential of the proposed program of activities to achieve the results intended by each selected criterion when considered in relation to other communities selecting the same criterion is assessed. A numerical value is assigned, based on the following:

The results would have insignificant impact—0 Points
The results would have minimal impact—2 Points
The results would have a moderate impact—4 Points
The results would have a maximum impact—8 Points

After each of the four criteria selected by an applicant is rated and a value assigned, the values are summed. A minimum of 12 points will be required at this stage in order for the application to be eligible for further consideration. A score of less than 12 points indicates that the proposed activities would have insufficient impact to warrant funding.

Following this process, the actual points for impact are determined by dividing each applicant's Program Impact Score by the highest Program Impact Score achieved by any applicant and multiplying the result by 400.

Listed below are the ten design criteria and the standards which HUD has developed to evaluate each criterion. The applicant must select and address four of the criteria. In addition to these standards, the Submission Requirements and Review Criteria for Economic Development Projects under the Single Purpose Program, apply in determining the eligibility and rating for economic development proposals that are a part of a Comprehensive Program. It is particularly important that applicants fully address the economic development criteria should Criteria 5 and 6 be selected.

(a) *Criterion 1—Supports Comprehensive Neighborhood Conservation, Stabilization, Revitalization, New Housing Construction or Promotes Homeownership.* The applicant must describe the degree to which the identified needs of a defined area or areas will be addressed in a coordinated manner. In defining an area or areas, applicants should examine carefully the extent of needs and the resources available to address those needs. Where an area has not been defined, the applicant should describe fully the appropriateness of implementing activities on a community-wide basis.

In evaluating the impact of the proposed program, HUD will examine the following factors:

—Nature and severity of neighborhood needs.

—Extent to which needs will be addressed.
—Amount of funds required to implement neighborhood activities.
—Extent to which activities are coordinated to address housing, public facility and economic development needs. Program impact will be the greatest where a substantial portion of the needs within a defined area will be met.

The strongest consideration for housing rehabilitation programs is given to those applicants which have designed their housing programs by taking into account both structural conditions and appropriate financing mechanisms. The proposed program should be structured in a way to be marketable, given income and structural characteristics of the neighborhood area. The physical needs of residential or mixed use properties must be well stated and documented in terms of substandardness. Applicants will be expected to maximize the leveraging of private funds, encourage and participation of local financial institutions, and develop realistic program guidelines. Private funds available from financial lending sources should be established. If leveraging is infeasible, the applicant must fully document that fact. The most effective housing programs will be those which will address a substantial portion of the identified needs, while maximizing the impact of Federal funds.

For those programs that will support the construction of new residential units, project feasibility will be critical. While the extent of need and number of units to be created will be a primary consideration in evaluating the impact, issues of site control, marketability and assurance of private financing must be addressed, and must be documented.

Homeownership activities will be reviewed in terms of: how effectively the program would meet homeownership needs identified in the community; and the extent to which they would make effective use of available funds.

Public service activities also may be considered in conjunction with other activities under this criterion. Again, any such activities would need to meet demonstrated needs within the community.

The impact of public improvement activities will be assessed primarily on the documented severity of the need and the extent to which the proposed program will address that need. Those needs which directly affect the public safety and welfare will be considered the most severe.

Economic development activities also will be evaluated by the extent to which they will alleviate the identified problems. However, the assessed impact for these activities is often diminished due to feasibility concerns. In addition to quantifying the extent of the anticipated improvements, applicants must demonstrate that the proposed activities can be carried out—that is, documentation with respect to private participation in such activities must be thorough. Letters of only general interest, by either property owners or other private sector participants, do not necessarily ensure their participation in the program. Some degree of assurance of participation should be presented.

Review Criteria and Submission requirements for Housing described under the Single Purpose Program apply in evaluating and rating housing proposals that are a part of a Comprehensive Program.

(b) *Criterion 2—Provides Housing Choice within the Community either Outside Areas with Concentrations of Minorities and Low and Moderate Income Persons or in a Neighborhood which is Experiencing Revitalization and Substantial Displacement as a Result of Private Reinvestment, by Enabling Low and Moderate Income Persons to Remain in their Neighborhood.* If a proposed program provides housing choice within the community outside areas with concentrations of minorities and low and moderate income persons, the application must document that there are existing areas which do, in fact, contain concentrations of low and moderate income families and minorities. The proposed program, if implemented, must result in additional housing assistance being provided in areas of non-concentration. Communities with no minorities or minority concentrations may receive impact points where opportunities are provided outside areas of low and moderate income concentration. The degree of impact will be based upon the severity of needs, the number of unions to be provided, and the nature and cost of the activities.

In a neighborhood which is experiencing revitalization and substantial displacement as a result of private reinvestment, by enabling low and moderate income persons to remain in their neighborhood, the applicant must provide a detailed description of the revitalization efforts within the neighborhood, the amount of displacement of low and moderate income persons, and the manner in which the implementation of the proposed program will enable displaces to remain in the neighborhood. The degree of needs, nature and cost of activities, and percentage of needs to be addressed will be evaluated to determine program impact.

(c) *Criterion 3—Supports the Expansion of Housing for Low and Moderate Income Persons by Providing Additional Housing Units Not Previously Available.* The proposed program clearly must support, or result in, additional units for low and moderate income persons. The units may result from the rehabilitation of currently vacant structures, conversion of non-residential structures to residential use, or new construction projects for which the proposed program will provide non-construction or construction assistance. Where the proposed project involves the use of Federally assisted housing, the applicant must identify and document the current commitment status of the Federal assistance. Lack of a firm financial commitment for assistance may adversely affect program impact. Applicants should address the areas of site control and marketability, in addition to addressing feasibility from the standpoint of project financing. Consideration will not be given to proposed programs which will rehabilitate occupied units or displace current occupants. The impact of the proposed programs will be based upon the degree of needs, the number of units to be created, and the nature and costs of the proposed activities.

(d) *Criterion 4—Addresses a Serious Deficiency in a Community's Public Facilities.* Consideration will be given to the extent of deficiencies, and their relative seriousness, of the identified need. The following factors will be considered:

—Documentation of the seriousness of deficiencies. Appropriate documentation should be provided to substantiate the degree of seriousness. Those deficiencies which directly affect the public safety and welfare will be considered most severe.
—The nature and cost of the proposed activities in relation to the percentage of need to be addressed.
—The extent to which the proposed program will address a variety of deficiencies in public facilities within a defined area.
—Coordination with other activities within the defined area.
—The degree to which the application addresses such feasibility issues as, including but not limited to, the validity of cost estimates by qualified sources, the availability of other funds, site control, and environmental constraints.
—The number of persons to benefit.

(e) *Criterion 5—Expands or Retains Employment Opportunities.* Consideration will be given to proposed programs that will result in the creation of new jobs or retention of existing employment opportunities. The following factors will be considered:

—The number of jobs to be created or retained in relation to the identified needs. Documentation should be provided to substantiate the number and type (permanent or seasonal, full or part-time) of job claimed. Letters from local development agencies or expected participants which express more than general interest would be appropriate. While spin-off development will be recognized, impact will be greater where direct employment opportunities are proposed. With respect to job retention, evidence should be provided to demonstrate that without the proposed program, existing jobs would be lost. The applicant also must address the potential impact of job loss on the community.

—The extent to which CDBG funds are used to leverage private commitments. If leveraging is proposed, applicants should analyze the actual amount of additional funds required to make the project financially feasible. In designing a program to assist existing business expansion or retention, or to encourage new business development, applicants must address whether CDBG funds will be used for infrastructure, land assemblage or other financial incentives. These factors may be important considerations for a firm deciding where to locate and whether to expand or reduce the scope of its operation. CDBG funds may be more effectively used as a loan rather than a grant. In this regard, the CDBG funds would generate additional program resources through loan repayments to the community. It is considered especially advantageous if a revolving loan fund is established and repayments continue to be used to expand or retain employment opportunities.

—The relationship of the activity to other projects being implemented within the defined area.

—The number of persons to benefit.

—Particular attention will be given to the extent to which the Review Criteria and Submission Requirements for Economic Development Projects are addressed (see Single Purpose Program Criteria).

(f) *Criterion 6—Attracts or Retains Businesses which Provide Essential Services.* Consideration will be given to proposed programs which will address the attraction or retention of businesses commonly associated with neighborhood needs (corner grocery stores, dry cleaners, pharmacies, etc.). The applicant must describe clearly the nature and anticipated impact of activities. Documentation in the form of letters from existing or new potential businesses offering a commitment to the program should be included. (Letters of only general interest by property owners do not necessarily ensure their participation in the program, or their willingness to secure debt if private lending is proposed). The following factors will be considered:

—The impact of the proposed program in relation to the identifiable neighborhood needs. The extent of area stability must be documented. In describing the needs of a business district or neighborhood commercial area, such factors as overall structural conditions, business turnovers, and vacancy rates over a period of time should be clearly presented. The formulation of a commercial revitalization program must be based on a thorough assessment of local needs and a realistic program design. An important consideration is whether the proposed program is designed to be marketable given income characteristics, local business condition, etc. The condition of supporting public facilities and improvements and their influence on the business environment must be established. If public improvements are proposed in connection with economic expansion or retention, applicants must address the extent to which the lack of these improvements impact on business.

—Attraction/retention must be fully documented by the applicant. With respect to business retention, evidence should be provided to demonstrate clearly and objectively that without the proposed CDBG Program, existing retail/commercial businesses would curtail their operations. The applicant also must document and address the potential impact of the business loss on the community and/or target area. HUD would accept as examples of clear and objective evidence a notice issued by the business to affected employees, a public announcement by the business, or financial records provided by the business that clearly indicate the need for closing or moving all or portions of the business out of the area.

—The amount of private funds to be leveraged. If leveraging is proposed, applicants should analyze the actual amount of private or public funds needed to make the project financially feasible. In this regard, the establishment of a revolving loan fund, in which repayments would continue to be used to attract or retain businesses providing essential services, would be considered a positive factor.

—The relationship of the activity to a comprehensive approach to meeting the overall needs of the neighborhood area.

(g) *Criterion 7—Removes Slums and Blighting Conditions.* Consideration will be given to proposed programs which will have a direct impact on the removal of slums and blighting conditions. Appropriate areas may include, but are not limited to deteriorated residential and/or commercial structures, inappropriate land uses, or blighting conditions such as repeated flooding and drainage problems, serious deficiencies in public facilities. Applicants should be aware that slum and blight activities can be carried out under the national objective of benefit to low and moderate income persons. If an applicant elects to qualify the activity on this basis, the degree of low and moderate income benefit must be demonstrated by the applicant.

Where residential or commercial rehabilitation activities are proposed as preventing or eliminating blighting conditions, the application must clearly document the number, type, and condition of deteriorating or deteriorated buildings in the designated target area. Detailed conditions of the physical condition of buildings or structures would be appropriate to establish the extent of substandard and blighting conditions. For rehabilitation of residential structures to be designed as eliminating blight and addressing an area's deterioration, the buildings must be considered substandard under local definition.

When an area is determined to be blighted, there must be a substantial number of deteriorated or dilapidated buildings, or the public improvements throughout the area must be in a state of deterioration. CDBG funds are not intended to be used to treat areas that would be widely regarded as attractive, rather than blighted. Additionally, the proposed CDBG program or project must be designed to eliminate or address a substantial portion of the identified blighting conditions or physical decay. CDBG assistance for facilities or structures, which are in good repair and show no real signs of deterioration, would not score well under this criterion. For instance, minor facade improvements to a commercial building alone would not indicate that a building is in poor condition. However, assistance to a commercial area which consists of deteriorating businesses, storefronts in serious need of rehabilitation, a high vacancy factor, and public improvements, such as parking areas and parking access improvements which are in need of physical upgrading, would have a direct impact on eliminating blighting conditions. Public improvements that are so deteriorated that they constitute a genuine threat to the continued viability of an area by discouraging private investment necessary to maintain properties may also be considered a blighting influence. The following factors will be considered:

—Extent and documented seriousness of conditions/needs. References to engineering studies, surveys or letters from appropriate local agencies should be included.

—Impact of the proposed program in relation to providing long-term permanent solutions to alleviate the identified need. Short-term or superficial improvements will not be considered to have a significant impact.

—Coordination with other projects and activities which will address needs within the defined area.

—Nature of any proposed re-use: degree of commitment for re-use.

(h) *Criterion 8—Resolves a Serious Threat to Health or Safety.* The applicant must describe the condition which poses a threat to public health and safety. A serious threat refers to a situation which demands immediate attention. This may be a condition that has just occurred or a condition which, though long standing, has intensified to become an immediate danger.

Applicants should be aware that imminent threat/urgent need activities can be carried out under the national objective of benefit to low and moderate income persons. If an applicant elects to qualify the activity on this basis, the degree of low and moderate income benefit must be demonstrated by the applicant. Consideration will be given to the following:

—The extent to which a serious threat to health or safety is documented, or of recent origin, or which recently became urgent. Documentation should include the identification of the existing conditions to be appropriate agencies.

—The extent to which the serious threat will be resolved.

—The submission of documentation which demonstrates that other financial resources are insufficient or unavailable to resolve such needs.

—The degree to which the application addresses issues such as the validity of cost estimates by qualified sources; the availability of other funds; site control and environmental conditions; or other public body approvals.

—The number of persons to benefit, as well as the number of individuals actually threatened.

Note: This criterion is generally more restrictive than Criterion 4. The existing condition must pose a serious and immediate threat to the health or welfare of the target population.

(i) *Criterion 9—Supports Other Federal or State Programs Being Undertaken in the Community or Deals with the Adverse Impact of Another Recent Federal or State Action. The Other Federal or State Program or Action Must Be of Substantial Size or Impact in the Community in Relation to the Proposed Program.* The application must contain a complete description of the Federal or State Program(s) (excluding other CDBG Programs) which currently are underway, or a complete description of the adverse impact of a recent Federal or State action. A Federal or State program or action not yet initiated, only will be considered where the application documents the certainty and approximate date of the commencement of such program or action.

The proposed CDBG Program must demonstrate clearly the magnitude of the effect of the Federal or State Program or action on the community. The degree to which the proposed CDBG Program will support the Federal or State program, and/or to the extent to which the adverse impact of Federal or State action will be mitigated, also must be demonstrated.

In addition to the above, the nature and costs of the proposed activities will be considered in determining the degree of impact.

(j) *Criterion 10—Supports Energy Production or Conservation.* This criterion will be judged, and points will be awarded, based upon the community's ability to demonstrate that the proposed program will support energy production or conservation. Applicants are urged to develop innovative approaches toward addressing energy needs with Small Cities CDBG funds. Energy considerations can be a factor in most activities proposed by smaller communities. Attention should focus on new methods of producing energy or conserving energy where possible. In developing and evaluating proposals, there are a number of energy aspects to consider. The following factors will be considered:

—Cost efficiency—Relationship of dollar amount to benefits to be derived. The applicant must document estimates of energy costs which are to be saved as a result of the proposed program. The proposed program should make maximum use of non-CDBG resources as well as CDBG funds. Appropriate documentation must be provided to ensure that the proposal is economically feasible.

—The extent to which the proposed program will support other programs currently aimed at addressing energy production or conservation needs of the community. From a management standpoint, proposed projects should be consistent with needs or objectives of any plan for energy management or conservation. Applicants should pursue the availability of other resources from Federal or State energy related programs. The degree of commitment of other resources should be established. State energy offices, private as well as municipally-owned utility companies, and home heating oil companies may be appropriate entities to be involved in the development and planning of proposals.

—The application should address whether the project is based on appropriate technology, materials and methods to maximize energy conservation. Engineering reports or studies would be appropriate evidence to support the overall feasibility of the project. The conservation of existing facilities, where appropriate, rather than proposing new construction may be more economical.

—While housing rehabilitation programs which include weatherization/winterization components will be considered, they generally will not be presumed as addressing a severe need unless unique conditions are specifically identified and cost savings are properly documented.

d. *Fair Housing and Equal Opportunity Evaluation.* Documentation for the 65 points for these items is the responsibility of the applicant. Claims of outstanding performance must be based upon actual accomplishments. Clear, precise documentation will be required. Maps must have a census tract or enumeration district base, and they must be in accordance with the 1980 Census data. Only population data from the 1980 Census will be acceptable for purposes of this section.

Please note that a "minority" is a person belonging to, or culturally identified as, a member of any one of the following racial/ethnic categories: Black, Hispanic, Asian or Pacific Islander, and American Indian or Alaskan. For purposes of this section, women are not considered minorities.

Counties claiming points under this criteria must be county wide statistics (excluding entitlement communities). In the case of joint applications, points will be awarded based on the performance of the lead agency only.

The following factors will be used to judge outstanding performance in these areas. Please note that the criteria are the same for Comprehensive and Single Purpose applicants, and that points for outstanding performance may be claimed under each criteria:

(1) *Housing Achievements* (40 points total).

(a) 20 Points—Provision of Assisted Housing—Providing assisted housing for low and moderate income families, located in a manner which provides housing choice in areas outside of minority, or low and moderate income concentrations.

Points will be awarded where both of the following criteria are met: (i) More than one-third of the housing assistance provided by the applicant in the last five (5) years (excluding Section 8 existing and housing assistance provided in place) has been in Census Tracts (CT) or Enumeration Districts (ED) having a percentage of minority population which is less than the minority population in the community as a whole; and

(ii) With regard to the Section 8 Existing Program, a community must show the location (CT or ED) of its currently occupied family units by race/ethnicity. Points will be awarded if more than one-half of the minority assisted families occupy units in areas which have a lower percentage of minority population than that of the community as a whole.

A community with no minorities must show the extent to which its assisted housing is located in outside areas of concentration of low and moderate income persons. In order to receive points under this criteria, applicants should follow the process outlined in (a) and (b) above, substituting low and moderate income persons and families for minority persons and families. Applicants addressing the first criterion, must use a map indicating the location of all assisted housing and a narrative which indicates the number of units and the type of assisted housing. The map also must show the general location of low and moderate income households and minority households, giving the numbers and percentages for both.

In order to qualify as housing assistance provided, the units being claimed must be part of a project located outside minority or lower income concentrated areas which has, at a minimum, received a firm commitment from the funding agency.

(iii) Points also may be awarded for efforts which enable low and moderate income persons to remain in their neighborhood when such neighborhoods are experiencing revitalization and substantial displacement as a result of private reinvestment. Applicants requesting points under this criterion would not need to meet the requirements of (a) and (b) in order to receive points. Points will be awarded where more than one half of the families displaced were able to remain in their original neighborhood through the assistance of the applicant. Applicants must show that:

—The neighborhood experienced revitalization;
—The amount of displacement was substantial;
—Displacement was caused by private reinvestment;
—Low and moderate income persons were permitted to remain in the neighborhood as a result of action taken by the applicant.

If the community is inhabited predominantly by persons who are members of minority and/or low-income groups, points will be awarded where there is a balanced distribution of assisted housing throughout the community.

(b) 20 Points—Implementation of a HUD-approved New Horizons Fair Housing Assistance Project or a Fair Housing Strategy that is equivalent in scope to a New Horizons Project.

The applicant must demonstrate that it is implementing a HUD-approved New Horizons Fair Housing Assistance Project or demonstrate participation in a HUD-approved county/State/regional New Horizons Project; or that the applicant is implementing a fair housing strategy that is equivalent in scope to a New Horizons Project. If the applicant is implementing a New Horizons Project, it must include:

—The date it was approved (by HUD); and
—Those actions taken to implement the plan.

If the applicant is implementing an equivalent fair housing strategy, it must include:

—The strategy being implemented;
—Those actions taken to implement the strategy.

Please note that a fair housing strategy must include the four elements of a New Horizons Project in order to be considered equivalent in scope:

—Local compliance activities;
—Educational programs to enhance the clarity and understanding of the community's fair housing policy. For communities with few or no minorities, this should include publication in the surrounding communities of the applicant's policy of fair housing for minorities and the disabled;
—Assistance to minority families; and
—Special programs (e.g. utilization of Community Housing Resource Board (CHRB) Programs, efforts to encourage local realtors to enter into voluntary agreements to encourage equal access to financial institutions, etc.).

The fair housing strategy must include goals for each of the above elements. The date of adoption or development of the strategy should be indicated, as well as the date proposed activities will be or have been implemented.

(2) *Entrepreneurial Efforts and Local Equal Employment.* Applicants may request points for both of these subfactors and must use the format sheets included in the application.

(a) *Minority Contracting.* Outstanding performance points will be given to those applicants who have demonstrated that they have utilized minority businesses to the following degree. The applicant must demonstrate that at least five percent of all its contracts, based on dollar value, have been awarded within the past two years to minority owned and controlled businesses (businesses that are at least 50 percent owned by minorities) provided that the minority population is five percent or less. If the minority population exceeds five percent, then the applicant must have a corresponding percentage of its contracts awarded to minority businesses; however, 20 percent of the total dollar value of its contracts will be sufficient for award of points for any applicant. The applicable percentage of minority population is the percentage of minorities in the applicant's jurisdiction, or is the county percentage, whichever is higher.

The applicant must provide the information as outlined in the suggested format, showing the name, address, telephone number, contract date and contract amount for each contract or subcontract with a minority business. This information is to be provided in addition to information required on the

HUD Form 4124.4, and should be for the two-year period ending March 1, 1992.

(b) *Equal Opportunity Employment.* In order to be considered for points, if claimed, the applicant must document that its percentage of minority, permanent full-time employees is greater than the percentage of minorities within the county or the community, whichever is higher. Applicants with no full-time employees may claim points based on part-time employment provided that they document that the only permanent employment is on a part-time basis.

II. Application and Funding Award Process

A. Obtaining Applications

Application kits (previously known to applicants as the "Review Process Statement) may be obtained from either HUD's New York Regional Office or Buffalo Field Office. Applicants in New York, in the counties of Sullivan, Ulster, Putnam, and in non-participating jurisdictions in the urban counties of Dutchess, Orange, Rockland, Westchester, Nassau, and Suffolk should submit applications to the New York Regional Office. All other nonentitled communities in New York State should submit their Applications to the Buffalo Field Office. The appropriate addresses for HUD's New York and Buffalo offices are:

Department of Housing and Urban Development, Office of Community Planning and Development, Attention: Small Cities Coordinator, 26 Federal Plaza, New York, NY 10278–0068, Telephone (212) 264–6500; or

Department of Housing and Urban Development, Community Planning and Development Division, Attention: Small Cities Coordinator, 465 Main Street, Lafayette Court, Buffalo, NY 14203, Telephone (716) 846–5768.

B. Submitting Applications

A final application must be submitted to HUD no later than Friday, May 8, 1992. A final application includes an original and two photocopies. In accordance with HUD's regulation at 24 CFR 570.443(a)(1), final applications may be mailed, and if they are received after the deadline, must be postmarked no later than midnight, May 8, 1992. If an application is physically delivered to either the New York Regional Office or the Buffalo Field Office, the application must be delivered by the close of business for that office. Applicants should contact the New York Regional Office or the Buffalo Field Office regarding the time that the office closes. Applications must be submitted to the appropriate HUD office at the address listed above in Section A.

The above-stated application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is not received on, or postmarked by May 8, 1992. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems.

C. The Application

An application for the Small Cities Program CDBG Grants is made by the submission of:

(1) A completed HUD Form 4124, including HUD Forms 4124.1 through 4124.6 and all appropriate supporting material;

(2) A completed Standard Form 424; and

(3) A signed copy of certifications required under the CDBG Program, including, but not limited to the Drug-Free Workplace Certification, and the Certification Regarding Lobbying, pursuant to section 319 of the Department of Interior Appropriations Act of 1989, generally prohibiting use of appropriated funds; and, if applicable,

(4) CHAS; and

(5) Form HUD–2880, Applicant/Recipient Disclosure/Update Report, as required under subpart C of 24 CFR part 12, Accountability in the Provision of HUD Assistance.

D. Funding Award Process

In accordance with section 102 of the Reform Act and HUD's regulation at 24 CFR 12.16, HUD will notify the public by notice published in the Federal Register of all award decisions made by HUD under this competition. In accordance with the requirements of section 102 of the Reform Act and HUD's regulations at 24 CFR part 12, HUD also will ensure that documentation and other information regarding each application submitted under this notice of funding availability is sufficient to indicate the basis upon which assistance was provided or denied. Additionally, in accordance with § 12.14(b) of these regulations, HUD will make this material available for public inspection for a period of five years, beginning not less than 30 calendar days after the date on which assistance is provided.

III. Notice of Informational Meetings

HUD will conduct several informational meetings around the State to discuss the Small Cities Program and will conduct application workshops in conjunction with these meetings.

Buffalo, NY—Monday March 9, 1992. Buffalo HUD Office, Lafayette Court, 6th Floor Conference Room, 465 Main Street, Buffalo, NY, 10 a.m. to 1 p.m.

Colonie, NY—Wednesday, March 11, 1992, Memorial Town Hall, Loundon Road, Route 9, Court Room, Newtonville, NY, 10 a.m. to 1 p.m.

Syracuse, NY—Thursday, March 12, 1992, Onondaga County Public Library, The Galleries of Syracuse, Curtin Auditorium, 447 South Salina Street, Syracuse, NY, 10 a.m. to 1 p.m.

Goshen, NY—Thursday, March 12, 1992, Orange County Government Center, County Legislative Chamber, 255–275 Main Street, Goshen, NY, 10 a.m. to 1 p.m.

Please contact either the New York Regional Office or Buffalo Field Office for further information regarding these meetings. Application kits will be available at these meetings, as well from the HUD offices previously identified in Section II of this NOFA. In order to be considered for funding, complete applications (an original and two photocopies of the entire application) must be physically received by the appropriate HUD office on May 8, 1992, or, if mailed, postmarked no later than midnight, May 8, 1992. Applications must be delivered or mailed to the appropriate HUD office at the address indicated in Section II.

IV. Checklist of Application Submission Requirements

The following checklist is intended to aid applicants in determining whether their application is complete:

Application Completeness Checklist

Applicant: ____________________
Comprehensive Grant ________________
Single Purpose Grant ________________
Amount Requested $ ________________

1. Is amount of funds requested within established maximum?

2. Part I—Needs Description (HUD Form 4124.1)

(a) Single Purpose Grants

i.—Program Area.

——Housing
——Target Area
——Non-target Area
——Public Facilities
——Economic Development (If an "appropriate" analysis is required but is not included, the application cannot be rated.)

ii.—Is description of community development needs included in application?

(b) Comprehensive Grants

i—Have four design criteria been selected and discussed in application?

ii—Is description of community development needs included in application?

3. Part II—Community Development Activities (HUD Form 4124.2)

(a) Has national objective been identified for each activity?

(b) Will 70 percent of grant funds primarily benefit low and moderate income persons? (If not, the application cannot be rated.)

4. Part III—Impact Description (HUD Form 4124.3)

5. Part IV—Outstanding Performance (HUD Form 4124.4)

6. Part V—Program Schedule (HUD Form 4124.5)

7. Part VI—Maps

(a) Location of proposed activities. (Applicants must show the boundaries of the defined area or areas.)

(b) Location of areas with minorities by census tract. (If there are no minority areas, state so on the map.)

(c) Housing conditions if project involves housing rehabilitation. (Number and location of each standard and substandard unit should be clearly identified.)

8. (a) Is Standard Form 424 complete?

Yes No

(b) Is original signature on at least one copy?

Yes No

9. Is Certification signed with original signature?

Yes No

10. If housing activities have been proposed as part of application, has the Comprehensive Housing Affordability Strategy (CHAS) been prepared and submitted to HUD (or included with this application)?

11. Form HUD-2880, Application/Recipient Disclosure/Update Report, as required under subpart C of 24 CFR part 12.

V. Corrections to Deficient Applications

Under no circumstances will HUD accept from the applicant unsolicited information regarding the application after the application deadline has passed.

HUD may advise applicants of technical deficiencies in applications and permit them to be corrected. A technical deficiency would be an error or oversight which, if corrected, would not alter, in either a positive or negative fashion, the review and rating of the application. Examples of curable technical deficiencies would be a failure to submit the proper certifications or failure to submit an application containing an original signature by an authorized official. Situations not considered curable would be, for example, a failure to submit program impact descriptions.

HUD will notify applicants in writing of any curable technical deficiencies in applications. Applicants will have 14 calendar days from the date of HUD's correspondence to reply and correct the deficiency. If the deficiency is not corrected within this time period, HUD will reject the application as incomplete.

VI. Other Matters

Prohibition Against Lobbying Activities. The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients, and subrecipients of assistance exceeding $100,000 must certify that no Federal funds have been or will be spent on lobbying activities in connection with the assistance.

Prohibition Against Lobbying of HUD Personnel. Section 13 of the Department of Housing and Urban Development Act (42 U.S.C. 3537b) contains two provisions dealing with efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence the award of assistance or the taking of a management action by the Department *and* those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance.

Section 13 was implemented by final rule published in the **Federal Register** on May 17, 1991 (56 FR 29912). If readers are involved in any efforts to influence the Department in these ways, they are urged to read the final rule, particularly the examples contained in Appendix A of the rule.

Any questions concerning the rule should be directed to Arnold J. Haiman, Director, Office of Ethics, room 2158, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410-3000. Telephone: (202) 708-3815 or 708-1112 (TDD). (These are not toll-free numbers.) Forms necessary for compliance with the rule may be obtained from the local HUD office.

Prohibition Against Advance Information on Funding Decisions. Section 103 of the Reform Act proscribes the communication of certain information by HUD employees to persons not authorized to receive that information during the selection process for the award of assistance that entails a competition for its distribution. HUD's regulations implementing section 103 are codified at 24 CFR part 4 (see 56 FR 22088, May 13, 1991). In accordance with the requirements of section 103, HUD employees involved in the review of applications and in the making of funding decisions under a competitive funding process are restrained by 24 CFR part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted by 24 CFR part 4. Applicants who have questions should contact the HUD Office of Ethics (202) 708-3815. (This is not a toll-free number.)

Environmental Impact. A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, implementing section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection and copying between 7:30 am and 5:30 pm weekdays at the Office of the Rules Docket Clerk, 451 Seventh Street, SW, Room 10276, Washington, DC 20410.

Federalism. The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that this NOFA will not have substantial, direct effects on States, on their political subdivisions, or on their relationship with the Federal Government, or on the distribution of power and responsibilities between them and other levels of government. While the NOFA will provide financial assistance to the Small Cities Program of New York State, none of its provisions will have an effect on the relationship between the Federal Government and New York State, or the New York State's political subdivisions.

Family

The General Counsel, as the Designated Official for Executive Order 12606, *The Family*, has determined that the policies announced in this NOFA would not have the potential for significant impact on family formation, maintenance and general well-being within the meaning of the Order. No significant change in existing HUD policies and programs will result from issuance of this NOFA, as those policies and programs relate to family concerns.

Authority: Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301–5320); 24 CFR part 570, subpart F.

Dated: February 21, 1992.

Anna Kondratas,

Assistant Secretary for Community Planning and Development.

[FR Doc. 92–4663 Filed 2–28–92 8:45 am]

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March 2, 1992

Part III

Department of Housing and Urban Development

Office of the Assistant Secretary for Community Planning and Development

Funding Availability for Technical Assistance for Economic Development in the Community of West Dallas; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–92–3388, FR–3189–N–01]

Funding Availability for Technical Assistance for Economic Development in the Community of West Dallas

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of Funding Availability (NOFA) for technical assistance for economic development in the West Dallas community located in the City of Dallas, Texas.

SUMMARY: This NOFA announces the availability of $475,000 in technical assistance funds to promote the type of economic development activities in the West Dallas community located within the City of Dallas, Texas, described in the report submitted by Sextant Consultants to the Court in the case entitled *Debra Walker* v. *HUD*, No. CA–3–85–1210–R (N.D. Texas) (the "Walker case"). In that case, the plaintiffs claimed that the Dallas Housing Authority (DHA), HUD, and the City of Dallas had engaged in deliberate segregation by race of public housing projects in the Dallas metropolitan area. Although HUD had not been found liable for any such acts, in 1987 HUD and DHA entered into a Consent Decree that provided that the West Dallas project would be reduced in size from approximately 3,500 units to approximately 1,000 units. When Secretary Kemp arrived at HUD, he became committed to permitting 2,000 units to remain as part of an overall revitalization of the West Dallas area. He therefore obtained the services of Sextant Consultants to prepare a plan for such revitalization of the West Dallas area and, in 1990, obtained the Court's permission to submit a plan for the development of the West Dallas community. In the Spring of 1991, HUD submitted the Sextant plan to the Court for approval. The Plan must be approved by the Court before it can be implemented. However, even if the Plan is not approved by the Court, HUD will provide funding for technical assistance requested under this NOFA because the Department believes the assistance would be beneficial toward the revitalization of the West Dallas area.

The West Dallas community is located in the City of Dallas, and has the following boundaries: From the Trinity River on the north and east, to I–30 on the south side, to Loop 12 on the west.

A cooperative agreement will be awarded to the applicant who can design and support the best overall program for achieving the tasks outlined in this NOFA. The NOFA contains information concerning eligibility; available amounts; the application process, including a checklist of steps and exhibits involved in the application process; and the criteria under which selections will be made.

DATES: The actual application due date will be specified in the application kit. In no event, however, will the application be due before April 16, 1992. Furthermore, applicants will have at least 45 days to prepare to submit their proposals. The 45-day response period will begin to run from the first date upon which application kits are made available.

FOR A COPY OF THE APPLICATION KIT, CONTACT: Processing and Control Branch, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW., room 7253, Washington, DC 20410; (202) 708–1000; (TDD) 708–2565. Requests for application kits must be in writing, but may be requested by FAX to (202) 708–3363. (These are not toll-free numbers.) The request for the Application Kit should include (1) the Reference Number FR–3189 and (2) a contact person's name, address, and telephone number.

FOR FURTHER INFORMATION CONTACT: David Sowell, Office of Economic Development, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; (202) 708–3484; (TDD) (202) 708–2565. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this notice have been approved by the Office of Management and Budget (OMB) under section 3540(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)), and assigned OMB control number 2535–0084.

I. Purpose and Substantive Description

A. Authority

This competition is authorized under title I, section 107(b)(5) of the Housing and Community Development Act of 1974, as amended. Program requirements (including eligible activities) are contained in 24 CFR 570.400 and 570.402. Please note that any proposed economic development projects must meet the eligibility requirements established in these regulations.

B. Allocation and Form of Award

For this competition, HUD is making available $475,000 in Community Development Block Grant Technical Assistance program funds for a cooperative agreement with an eligible applicant. HUD anticipates funding only one application. The award is subject to the requirements of 24 CFR 570.400 and 24 CFR 570.402.

C. Background

In 1985, representatives of low-income black families, including families participating in DHA's public housing, filed the Walker case. With regard to the public housing program, they claimed that DHA and HUD had engaged in a systematic pattern of discrimination on the basis of race in the past that resulted in segregation in the public housing program. The discrimination was alleged to have taken the form of deliberate segregation on the basis of race of public housing projects, including the West Dallas project, and DHA's providing its black projects with fewer amenities and services than those projects whose tenants were white.

In order to alleviate the segregative conditions, the Court approved in 1987 a Consent Decree, in which HUD and DHA agreed, among other things, to undertake a series of specific actions to remedy specific housing, community development, and economic development conditions at the West Dallas development.[1] The Court did not make any findings with respect to HUD's conduct. The Court subsequently made a finding that there was a "long, unbroken history of deliberate segregation and discrimination in public housing by DHA *and* by the City of Dallas." *Walker* v. *HUD*, 734 F. Supp. 1289, 1290 (N.D. Tex. 1989) (emphasis in original).

When Secretary Kemp arrived at HUD, he became committed to permitting 2,000 units to remain at the West Dallas project as part of an overall revitalization of the West Dallas area. In 1990, the Urban Land Institute completed a study on the revitalization of the West Dallas area. Shortly thereafter, the City agreed in a Consent Decree with the plaintiffs that the Court should allow HUD to submit to the Court for approval a plan to retain 2,000 units at West Dallas. HUD then hired Sextant Consultants to study the best ways to address the findings of the Court and to bring about a revitalized and viable West Dallas neighborhood. The plan was submitted to the Court.

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[1] The District Court ruled on December 14, 1991 that it would vacate the 1987 Consent Decree.

In August, 1991, the City of Dallas conditionally endorsed the study done by Sextant Consultants and entitled the "Lakewest Revitalization Plan" (the Plan).[2] The Plan calls for, among other things, providing improved housing, increased economic opportunities for low-income residents, including job training to enable residents to learn job skills, obtain good jobs, complete their educations, and participate in the economic life of the community. One of the goals of the Plan is to provide employment and entrepreneurial opportunities for residents so that they may move from economic dependency to economic self-sufficiency. HUD believes this is a desirable goal and will accept and review applications for and award the technical assistance funding specified in this NOFA, whether or not the Plan is ultimately approved by the Court for implementation. Chapter 5 of the Plan will be included in the Application Kit. Complete copies of the Plan will be available at HUD's Fort Worth Regional Office.

1. Objectives

The purpose of this technical assistance competition is to solicit applications that will accomplish the following tasks:

(a) Prepare preliminary feasibility analyses and plans for up to 10 business development sites in the shopping center at the intersection of Hampton and Singleton and elsewhere in the West Dallas community, as discussed in Section 5 of the Plan for the West Dallas area. A preliminary project feasibility analysis and plan should include:

(1) A development plan for the size and type of businesses appropriate for the targeted site(s), emphasizing resident participation to the greatest extent feasible;

(2) Initial cost estimates, requirements and funding commitments for the site(s) and related security activities that should be undertaken to assure project viability;

(3) An estimate of infrastructure and parking requirements;

(4) A market analysis that establishes projected sales or rental prices for the business properties;

(5) Identification of a target market of business owners and sponsors, giving priority to resident-owned businesses where feasible;

(6) An estimate of the terms and amount of private financing that may be available for the project;

(7) A description and estimate of the additional public subsidies or private contributions required and committed to carry-out the proposed economic development project; and

(8) Projected site development start date.

The work shall result in the development of a preliminary project plan for each site for GTR review and approval.

(b) Develop and implement a Final Project Development Plan for each site. The work shall include assistance in soliciting and securing one or more private builder(s)/developer(s); processing public approvals, conducting project marketing aimed at potential business owners and operators and the financial community to obtain financing for site and business development; preparing and processing private and public funding submissions; preparing leasing agreements and negotiating lease agreements for new and existing businesses; and providing other administrative assistance needed to forge the creation and enhancement of businesses at each targeted business development site.

(c) Develop business development programs to ensure and maximize the use of resident- and minority-owned enterprises based in West Dallas in undertaking of the economic development projects resulting from this NOFA.

In meeting the requirements of this Task, the applicant will be expected to develop programs and activities aimed at resolving significant problems or issues that have prevented minority businesses from competing for procurement opportunities made available by HUD-funded public housing, CDBG and other Title I program funds, particularly in the West Dallas community; provide training and technical assistance services for creating and nurturing a variety of resident- and minority-owned businesses, particularly small and micro-businesses in the West Dallas community, to enable them to compete more effectively for local CDBG and Dallas Housing Authority contracts; work with City and Housing Authority officials to reform procurement procedures and practices to issue smaller procurements, permitting newly formed, small and micro-businesses to compete for procurements made available with HUD program funds; assist in developing and maintaining a pre-qualified list of minority contractors; develop effective communications to inform minority business of HUD funded procurement opportunities; and secure industry financial cooperation for the financing of minority business enterprises in West Dallas. The goal of this Task is to identify, refer, or assist a minimum of 200 minority firms or individual entrepreneurs for participation in construction or other programs carried out under the City of Dallas's CDBG and Title I programs, and public and assisted housing programs implemented in support of its CDBG program.

(d) Work with Private Industry Councils and other existing organizations, such as DHA and local educational institutions, to develop and implement specialized training programs for West Dallas residents. These training programs should be aimed at meeting the employment needs of businesses located and/or targeted to locate in the West Dallas community and securing industry cooperation in the hiring and counseling of residents for job opportunities made available in the West Dallas community.

(e) Establish as a result of the work under the cooperative agreement (including work with local officials, community based organizations, and residents of the West Dallas community) an organizational structure to foster a climate of economic growth and development in the West Dallas community that will continue beyond the life of this award. In addition to promoting development of the ten or more sites addressed under the required feasibility analyses and plans, it is the intent of the Department that the activities conducted under this cooperative agreement will be used as a springboard for action to identify and revitalize at a minimum an additional 20 sites for retail/commercial development in the West Dallas community.

2. Eligible Applicants

Eligible applicants are:

(a) The City of Dallas, Dallas Housing Authority, and other local government entities that have direct responsibility for economic and community development programs within the City of Dallas and/or the Dallas metropolitan area.

(b) Local non-profit organizations, fully chartered and operating under appropriate federal or state laws, that have as their principal purpose the development and implementation of economic and community development programs targeted to low-moderate income people or neighborhoods.

(c) Community-based organizations or educational institutions, including

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[2] Although the Fifth Circuit vacated the City Consent Decree on September 5, 1991, the District Court ruled on December 14, 1991 that it would reinstate the City Consent Decree.

Resident Management Corporations, qualified to provide the required technical assistance.

(d) Areawide Planning Organizations operating within the Dallas metropolitan area.

3. Program Requirements

This program is funded under the technical assistance program of section 107 of title I of the Housing and Community Development Act of 1974, as amended. Therefore, to be eligible for award of the cooperative agreement, each applicant must establish a CDBG nexus between the technical assistance to be provided and the proposed economic development activities to be assisted under this NOFA. Technical assistance funds must be used for the provision of skills and knowledge to improve effectiveness in planning, developing and administering CDBG assisted activities. Technical assistance activities funded under this NOFA must be directed at economic development activities in the West Dallas community which are being, or are planned to be, funded in whole or in part with the City of Dallas's CDBG program funds.

Not later than 15 days after the deadline date for submission of applications, each applicant must:

(1) Provide proof of nexus that shall consist of a statement from the director of the CDBG agency in the City of Dallas that: (a) Identifies the type of economic development project(s) to be assisted under this grant program; (b) describes how the technical assistance will assist the community in improving the development and implementation of the proposed economic development project(s); and (c) provides an estimate of the amount of CDBG funds currently committed, or planned to be committed, to the proposed economic development activities for project implementation within the proposed grant period; and

(2) Provide proof that the applicant's organization, or an operational branch of the applicant's organization, is located in the West Dallas community or certify that, upon receipt of an award, the applicant will locate the organization or an operational branch of the organization in the West Dallas community.

4. Eligible Activities

Technical assistance activities to be conducted under this award are outlined in this NOFA. Applicants are requested to provide a more detailed Statement of Work which identifies the specific sub-tasks to be conducted to carry-out the outlined Tasks. Eligible technical assistance activities are specified in 24 CFR 570.402. Technical assistance activities eligible for funding are to provide skills and knowledge to facilitate the planning, development and administration of CDBG and Title I assisted economic development activities. For example:

- Identifying sources of capital and securing start-up and operating financing for the construction or rehabilitation of the economic development site(s) or businesses locating to the site(s);
- Training and technical assistance to businesses and individual entrepreneurs, including builder/developers and resident- and minority-owned businesses, throughout the entire development cycle and business start-up period;
- Conducting market tests or studies to determine under served business opportunities and project feasibility;
- Identifying financial intermediaries committed to economic development in low-moderate income areas and securing development capital for the candidates;
- Analyzing rules and requirements of the City of Dallas, that are disincentives to creation of economic development activities in the West Dallas community and reforming the rules and regulations to overcome obstacles;
- Coordinating economic development activities for the West Dallas community with State, local and federal agencies;
- Developing financial statement and proformas and negotiating financing and leasing terms on behalf of West Dallas builder/developers, resident-owned businesses, and minority entrepreneurs.

5. Administrative Requirements

A successful applicant will be required to adhere to four administrative requirements in performing work under this award. These requirements are:

(a) Submission of quarterly progress reports detailing progress made in fulfilling the program of tasks and sub-tasks contained in the approved project management plan;

(b) Distribution of a TA Evaluation Questionnaire to all persons, organizations or agencies receiving technical assistance services under this award;

(c) Preparation of a final report in a format suitable for information transfer, exchange and dissemination to other CDBG communities interested in economically revitalizing portions of their communities. The final report should detail the case study of the West Dallas community and provide insights and recommendations for others who may wish to develop similar programs in their communities; and

(d) Maintenance of an accounting system which is adequate to track costs under the appropriate cost principles (OMB Circular A-110 for non-profits, Part 85 for state and local governments, and the Federal Acquisition Regulation for for-profit entities).

Specific instructions regarding these administrative requirements are contained in the application kit. The form for the quarterly reports, who is expected to prepare them, the time allotted, and the method of transmitting the reports to HUD must be agreed before the cooperative agreement is executed.

II. Factors for Award

A. Ranking Factors

HUD will use the following criteria to rank applications received in response to this NOFA. The factors and maximum number of points for each factor are provided below. The total number of points is 100. HUD does not intend to use any "Policy Factors" described in 24 CFR 570.402(f)(1) in the ranking process for this competition.

1. (*20 points*) The probable effectiveness of the application in meeting the needs of the West Dallas community and accomplishing program objectives. In rating this factor HUD will consider:

(a) (10 of the 20 points) The extent to which the applicant's proposed work plan for accomplishing the tasks outlined in this NOFA provides a clear step-by-step breakdown of the major tasks and sub-tasks to be undertaken in assisting the West Dallas community.

(b) (10 of the 20 points) The extent to which the applicant demonstrates an understanding of the problems of the West Dallas community in the rationale provided for each activity to be undertaken.

2. (*47 points*) The soundness and cost-effectiveness of the proposed approach. In rating this factor HUD will consider the extent to which the applicant can demonstrate the feasibility of accomplishing each of the proposed tasks and sub-tasks proposed to be undertaken. Feasibility and cost effectiveness will be evaluated in terms of:

(a) (10 of 47 points) The past experience of the applicant in economic development financing, packaging and bringing projects of this type to fruition.

(b) (5 of 47 points) The extent to which the applicant has established working relationships with a variety of private and public financing sources located within, and licensed to do business in the City of Dallas.

(c) (5 of the 47 points) The extent to which the applicant has established working relationships with a variety of local groups and organizations (e.g., resident management entities, Chamber of Commerce, business groups and organizations, etc.) which operate in West Dallas in particular as well as the City of Dallas.

(d) (5 of 47 points) The past experience of the applicant in providing training and assistance to resident-owned businesses and minority entrepreneurs.

(e) (5 of 47 points) The past experience of the applicant in working with Private Industry Councils, local trade unions and other business organizations to provide job training and placement opportunities for low income persons.

(f) (5 of 47 points) The past experience of the applicant in overcoming administrative, regulatory or other barriers that have prohibited economic development within low-income areas.

(g) (12 of 47 points) The extent to which the applicant can demonstrate local support for project implementation as evidenced by:

(1) (4 points) A commitment, which may be in the form of cash or in-kind services, from members of a public-private partnership or other organizational structure proposed for this project.

(2) (4 points) The extent of the role of local public and private entities (other than financial commitments), especially West Dallas based entities, in project development and implementation.

(3) (4 points) The extent that Resident Management Corporations and Resident Councils from West Dallas evidence support for the applicant's proposals.

3. *(28 points)* The capacity of the applicant to carry out the proposed activities in a timely and effective fashion. In rating this factor, HUD will consider:

(a) (5 of the 28 points) The extent to which the applicant's organization and designated staff have a past history of working in a partnership arrangement with local public and private sector participants to develop and implement economic development projects in low income areas, particularly the Dallas metropolitan area.

(b) (5 of the 28 points) The extent to which the applicant's organization and staff have demonstrated experience in market analysis and development finance packaging, for low income area projects.

(c) (4 of the 28 points) The extent to which the applicant is familiar with the City of Dallas' Community Development Block Grant funded economic development programs and can apply them to accomplishing the proposed economic development program for the West Dallas community.

(d) (4 of the 28 points) The extent to which the applicant's organization and staff have demonstrated experience in coordinating resources and activities sponsored by a variety of government private sector agencies and organizations for economic development purposes.

(e) (5 of the 28 points) The extent to which the applicant's organization and staff have demonstrated successful experience in developing and operating self-help and self-sufficiency programs for residents of low-income neighborhoods.

(f) (5 of the 28 points) The extent to which the applicant demonstrates that it has realistic plans to include use of small, disadvantaged, or minority firms and individuals to conduct the work under the contract.

4. *(5 points)* The extent to which the results may be transferable or applicable to other CDBG or Title I participants. In judging this factor HUD will consider:

(a) (2 points) The extent to which the proposed technical assistance appears likely to increase the capacity of CDBG recipients within the City of Dallas, and particularly the West Dallas community, package economic development projects which benefit low-income residents.

(b) (3 points) The extent to which the proposed technical assistance will stimulate the growth and development of resident-owned and minority business enterprises in the West Dallas community.

B. Ranking Process

Applications for funding under this NOFA will be evaluated competitively and awarded points based upon the ranking factors specified in this NOFA. Subject to the following provisions, the highest ranking application will be funded.

If two or more applications have the same number of points, the application with the most points for the rating factor 1 shall be selected. If there is still a tie, the application with the most points for rating factor 3 shall be selected.

If the highest ranked applicant is a local non-profit organization, community based organization, or educational institution, HUD will notify the applicant that to qualify for selection it must submit a letter of designation within 30 days from the Chief Executive Officer of the City of Dallas certifying that "the City of Dallas is designating the *(name of applicant organization)* as a technical assistance provider to assist in carrying out the activities necessary for implementation of economic development activities in the West Dallas community." If HUD does not receive the letter by the due date, the applicant will be disqualified and the next ranked applicant will be selected under the ranking process.

III. Application Submission Process

A. Obtaining Applications

For an application kit, (Request For Cooperative Agreement Application (RFCAA)), contact the office identified in the section entitled "For a Copy of the Application Kit***" at the beginning of this NOFA.

B. Submitting Applications and Deadline Date

Applications for funding under this NOFA must be received in the place designated for receipt by the deadline date and time specified in the application kit. An application must be received at the specified address on or before the submission deadline in the application kit or it will not be given funding consideration.

C. Checklist of Application Submission Requirements

1. Application Content

Applicants must complete and submit applications in accordance with instructions contained in the application kit (RFCAA). The following is a checklist of the application content that will be specified in the RFCAA.

(a) Standard Form 424 (Request For Federal Assistance) signed by the Chief Executive Officer of the entity or organization submitting the application for technical assistance funds.

(b) Budget by Task.

(c) A description of the specific tasks and sub-tasks to be undertaken, the site or sites where the activities are to take place within the West Dallas community, the proposed program participants, and rationale for the approach taken by the applicant.

(d) A Management Plan listing each major task and sub-task, a timetable for conducting each major task and sub-task which includes major milestones for completing the proposed work activities and intervals for GTR review and comment on all reports and product deliverables. The management plan should also identify staff assigned to complete each major task and sub-task.

(e) A narrative description of how the applicant meets the factors for award contained in Section II of this NOFA. The application kit will contain specific instructions for how each factor for award should be addressed.

(f) If other funds or in-kind services are to be committed, a letter from the Chief Executive of the locality, corporation or other public or private entity providing the funds or services certifying as to the type, amount, source and timing of the matching funds or in-kind services.

(g) Letters of cooperation and commitment from any public or private organizations who will be receiving services or actively participating in this award but who may not be providing a cash or in-kind service match for program activities.

(h) Form 2880, Applicant Disclosures.

2. Certifications

Each application must contain an original and three copies of the certifications identified below. Each certification must be signed by the Chief Executive Officer of the applicant organization unless otherwise noted.

(a) Drug-free Workplace Certification.

(b) Certification regarding Lobbying pursuant to section 319 of the Department of Interior Appropriations Act of 1989, generally prohibiting use of appropriated funds for lobbying.

(c) Certification prohibiting excessive force against nonviolent civil rights demonstrators, pursuant to title IX, section 906 of the National Affordable Housing Act of 1990. (Applies only to applicants which are units of general local government).

(d) All assurances contained in the Application Kit.

D. Corrections to Deficit Applications

After the submission deadline, HUD will screen each application to determine whether or not it is complete. If an application lacks certain technical items or contains a technical error, such as an incorrect signatory, HUD will notify the applicant in writing that it has 14 calendar days from the date of written notification to cure the technical deficiency. If the applicant fails to submit the missing material within the 14-day cure period, HUD will disqualify the application.

The 14-day cure period applies only to non-substantive deficiencies or errors. Any deficiency capable of cure will involve only those items not necessary for HUD to assess the merits of an application against the factors specified in this NOFA.

IV. Other Matters

A. Paperwork Reduction Act

The information collection requirements contained in this notice have been approved by the Office of Management and Budget (OMB) under section 3540(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)), and assigned OMB control number 2535–0084.

B. Documentation and Public Access Requirements; Applicant/Recipient Disclosures: Section 102, HUD Reform Act

Documentation and public access requirements. HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its quarterly **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14(a) and 12.16(b), and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these documentation and public access requirements.)

Disclosures. HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period generally less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. (See 24 CFR subpart C, and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these disclosure requirements.)

C. Prohibition Against Lobbying Activities

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of the Interior and Related Agencies Appropriations Act for Fiscal year 1990 (31 U.S.C. 1352) and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the executive or legislative branches of the Federal government in connection with a specific contract, grant or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients, and subrecipients of assistance exceeding $100,000 must certify that no Federal funds have or will be spent on lobbying activities in connection with the assistance.

D. Prohibition Against Lobbying of HUD Personnel

Section 112 of the Housing and Urban Development Reform Act of 1989 (Reform Act) added a new section 13 to the Department of Housing and Urban Development Act (42 U.S.C. 3531). Section 13 contains two provisions concerning efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence the award of assistance or the taking of a management action by the Department *and* those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance. Section 13 was implemented by final rule published in the **Federal Register** on May 17, 1991 (56 FR 29912). Appendix A of the rule contains examples of activities covered by the rule. Any questions concerning the rule should be directed to the Office of Ethics, room 2158, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; (202) 708–3815 or (TDD) (202) 708–1112. (These are not toll-free numbers.) Forms necessary for compliance with the rule may be obtained from the local HUD office.

E. Prohibition Against Advance Information on Funding Decisions

Section 103 of the Reform Act proscribes the communication of certain information by HUD employees to persons not authorized to receive that information during the selection process for the award of assistance. HUD's regulations implementing section 103 are codified at 24 CFR part 4 (see 56 FR 22088, May 13, 1991). In accordance with the requirements of section 103, HUD employees involved in the review of applications and in the making of funding decisions are restrained by 24 CFR part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving and applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted by 24 CFR part 4. Applicants who have questions should contact the HUD Office of Ethics, (202) 708–3815. (This is not a toll-free number.)

F. Environmental Impact

In accordance with 40 CFR 1508.4 of the regulations of the Council on Environmental Quality and 24 CFR 50.20(b) of the HUD regulations, the policies and procedures in this document relate only to the provision of technical assistance and, therefore, are categorically excluded from the requirements of the National Environmental Policy Act.

G. Federalism Executive Order

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies and procedures contained in this NOFA will not have substantial direct effects on states or their political subdivisions, or the distribution of power and responsibilities among the various levels of government. Specifically, the NOFA solicits participation in an effort to provide technical assistance to promote economic development in the West Dallas community of the City of Dallas, Texas, as described in the Plan submitted to the Court in the Walker case, described elsewhere in this NOFA. The NOFA does not impinge upon the relationships between the Federal Government, and state and local governments.

H. Family Executive Order

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this document may have potential for significant beneficial impact on the formation, maintenance, and general well-being of the family. The technical assistance to be provided by the funding is expected to help low-income families in the West Dallas community. Since the impact upon the family is considered beneficial, through increased economic opportunities and self-sufficiency, no further review under this Order is necessary.

I. Catalog of Federal Domestic Assistance

The catalog of Federal Domestic Assistance number is 14.227.

Dated: February 21, 1992.

Anna Kondratas,

Assistant Secretary for Community Planning and Development.

[FR Doc. 92–4681 Filed 2–28–92; 8:45 am]

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Part IV

Department of Labor

Mine Safety and Health Administration

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30 CFR Part 77

Safety Standards for Refuse Piles and Waste Impoundment Dams at Surface Coal Mines and Surface Work Areas of Underground Coal Mines; Final Rule

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 77

RIN 1219–AA43

Safety Standards for Refuse Piles and Waste Impoundment Dams at Surface Coal Mines and Surface Work Areas of Underground Coal Mines

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: This final rule revises the Mine Safety and Health Administration's (MSHA) safety standards that address refuse piles and impoundment structures used at coal mines to dispose of refuse or to contain water, sediment, or slurry. These revisions address reports and certifications for refuse piles and impoundment structures, frequency of inspections of impoundments, and the method of abandoning impoundments and impounding structures. The final rule affects surface coal mines and surface areas of underground coal mines. The final rule reduces the information collection burden imposed on mine operators or other affected parties by revising reporting and recordkeeping requirements. The final rule preserves the effectiveness of the existing requirements and does not lessen the protection afforded to miners.

EFFECTIVE DATE: May 1, 1992.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, MSHA, (703) 235–1910.

SUPPLEMENTARY INFORMATION:

I. Background

On June 15, 1990, MSHA published a proposed rule in the **Federal Register** (55 FR 24526) to revise reporting and recordkeeping requirements for impoundment structures and refuse piles. The proposal also addressed the frequency of inspections for impoundments, and the method of abandoning impoundments and impounding structures. The public comment period for this proposal was scheduled to close on September 21, 1990, but in response to a request from the mining community, the comment period was extended until October 19, 1990 (55 FR 39300). MSHA held a public hearing on December 13, 1990, in Pittsburgh, Pennsylvania (55 FR 48806). A transcript of the hearing was made available for public inspection. Following the hearing, MSHA allowed commenters to submit supplementary statements and data until the record closed on January 18, 1991. MSHA received written and oral statements on the proposed rule from both labor and industry. The Agency developed this final rule after a full evaluation of the entire rulemaking record.

II. Discussion of Final Rule

Impoundments are structures that are used to impound water, sediment, slurry, or any combination of these materials. Refuse piles are deposits of coal mine waste that are removed during mining operations or separated from mined coal and deposited on the surface. The failure of impoundment structures can flood and devastate downstream communities. To avoid or minimize these disasters, MSHA's existing safety standards in 30 CFR 77.214 through 77.217 address the construction and maintenance of impoundments and refuse piles.

The revisions in the final rule clarify existing paperwork requirements or provide alternative procedures for inspecting and abandoning impoundments. The final rule reduces reporting and recordkeeping burdens on the mining industry by reducing the frequency of recordkeeping and reporting requirements in appropriate instances. Reports are replaced by certifications except when actual or potential hazards conditions exist. The final rule preserves the effectiveness of the existing requirements and does not lessen the protection afforded to miners.

III. Section-by-Section Discussion

Section 77.215–2 Refuse piles; reporting requirements

Existing § 77.215–2 requires mine operators to submit certain information concerning refuse piles to MSHA's District Manager. Paragraphs (b)(4) through (b)(8) require the operator to report the following information: a topographic map; whether or not the refuse pile is burning; a description of measures taken to prevent water from being impounded or contained within the refuse pile; a diagram with cross sections of the refuse pile; and any other information pertaining to the stability of the refuse pile which may be required by the District Manager. Paragraph (c) requires this information to be reported every twelfth month once a refuse pile has been declared a hazard. There is no provision for cessation of such reports if the hazardous conditions are eliminated. Under the existing standard, the annual reporting requirement ceases only when the site is abandoned according to an approved plan.

The final rule, like the proposal, clarifies and revises § 77.215–2(c). It continues to require reports on refuse piles to be submitted to MSHA's District Manager every twelfth month once a refuse pile has been declared a hazard, but only if the refuse pile continues to present a hazard. The revision allows MSHA's District Manager to determine if a site should no longer be considered hazardous.

Several commenters were in agreement with the standard as proposed. However, one commenter stated that if a site had been considered hazardous and is still active, it is susceptible to change and could easily become hazardous and that the reporting requirement should remain in effect until the site is abandoned. This commenter objected to the District Manager determining when a site is no longer considered hazardous, stating the District Manager does not possess the expertise to make this determination and should not be given such authority.

In response to this commenter, MSHA emphasizes that all refuse piles remain active until they are properly abandoned, and while they are active they are inspected by MSHA at regular intervals. If any hazard recurs or a new hazard is found, the reporting requirements would again apply. In addition, District Managers, with the help of other MSHA personnel, regularly determine if hazardous conditions exist at coal mines. Specifically, the existing standard recognizes that the District Manager has the expertise to identify if a refuse pile can present a hazard and the authority to declare that the hazard no longer exists.

This revision will not lessen the protection afforded miners since a report will continue to be required as long as the refuse pile presents a hazard.

Section 77.215–3 Refuse piles; certification

Existing § 77.215–3(a) requires certification by a registered engineer that a hazard associated with a refuse pile has been addressed. The certification is required within 180 days following written notice by the District Manager that a refuse pile can present a hazard. The final rule, like the proposal, revises § 77.215–3(a) to allow operators to certify that a refuse pile that has been identified as hazardous is being constructed in accordance with current prudent engineering practices. The existing standard does not recognize the possibility that elimination of a hazard could take more than 180 days. The wording of the final rule recognizes that in some cases it may take more than 180 days to eliminate the hazard on a refuse pile.

As proposed, MSHA is also revising § 77.215-3(b) to require a certification every twelfth month once a refuse pile has been declared a hazard only for as long as the refuse pile presents a hazard. The existing standard does not provide a mechanism to terminate the certification requirements after the hazard has been eliminated unless the site is abandoned through an approved plan, a process that could take many years.

Several commenters agreed with the standard as proposed, while one commenter suggested retaining the existing recordkeeping requirement. This revision will not reduce the protection provided miners since the reporting requirement will remain in effect as long as the refuse pile can present a hazard. The final rule will allow the reporting requirement to be terminated when the hazard is eliminated.

Section 77.216-3 Water, sediment, or slurry impoundments and impounding structures; inspection requirements; correction of hazards; program requirements

Under existing § 77.216-3(a), impoundments and impounding structures must be inspected at intervals not exceeding 7 days for appearances of structural weakness and other hazardous conditions. All instruments must also be monitored at intervals not exceeding 7 days. As proposed, MSHA is revising existing § 77.216-3(a) to allow for inspection frequencies other than the 7 days. Under the final rule, the District Manager may approve alternative inspection frequencies based on the hazard potential of the impoundment as well as its demonstrated performance history. The final rule also includes a requirement for immediate inspection after a specified rain event approved by the District Manager.

This revision allows the District Manager some flexibility to vary the frequency of required inspections and minimizes recordkeeping requirements for impoundments that have a demonstrated record of safety and present low hazard potential. Unless the District Manager approves an alternative inspection frequency, the required inspection period for impounding structures remains every 7 days. However, when the District Manager allows an alternative inspection frequency, the final rule provides an equally safe, if not safer, alternative because a specified rain event will trigger an immediate inspection regardless of when the previous inspection occurred.

Reasons for extending the time between inspections would include both a low hazard potential for the structure and a demonstrated history of performance. The potential for extension of inspection time periods will encourage operators to install instrumentation with the knowledge that once the structure has a demonstrated record of safe performance, less frequent inspections and instrument readings would be possible. Under the existing rule, operators sometimes avoided installing instrumentation since all instrumentation is required to be monitored every 7 days.

The revised standard would also reduce the number of unnecessary inspections as well as the need for miners to travel in remote areas when it has been demonstrated that the structure has very little hazard potential. Before the impoundment standards were originally promulgated on September 9, 1975 (40 FR 41776), MSHA did not require engineering plans for impoundments at coal mines. However, since 1975 all impoundments at coal mines have been required to be constructed in accordance with engineering plans approved by MSHA. There has been general compliance with this requirement. This successful use of engineering controls makes it less important to rely so heavily on frequent inspections and gives the Agency more information with which to determine when less frequent inspection is warranted.

One commenter agreed with the proposal stating that it recognizes that each impoundment has a different level of safety that is based on design, construction, and location. Several other commenters stated that the proposed language provides a needed flexibility in determining the appropriate inspection intervals and recordkeeping requirements for impoundments. Further, these commenters stated that the only relief from the current inspection requirements has been the petition for modification procedure, which can be a time consuming and burdensome process.

Another commenter expressed concern that the condition of some impoundments can change rapidly with adverse weather conditions. In such situations, a 7 day inspection would be too infrequent. This commenter recommended that more frequent inspections be required in times of adverse weather conditions, such as rainy weather.

In response to these commenters, the final rule requires immediate inspection after a specified rain event approved by the District Manager. Such a rain event may differ for each impoundment depending on factors such as design, size, type of construction and hazard potential of the impoundment. It will also vary depending on geographical location of the impoundment and regional weather patterns. The Agency intends that the event be defined as a specific amount of rainfall over a period of time. This change will ensure a greater degree of protection to persons, while at the same time providing greater flexibility to allow longer inspection intervals for impoundments that have proven stable and are functioning as designed. It should also be noted that if a potentially hazardous condition develops at an impoundment, existing § 77.216-3(b)(4) requires the operator to examine the structure and monitor the instrumentation at least once every 8 hours, or more often, as required by an authorized representative. This provision remains unchanged.

Section 77.216-4 Water, sediment, or slurry impoundments and impounding structures; reporting requirements; certification

Under existing § 77.216-4, mine operators must submit an annual report to the District Manager describing any changes to the impoundment. The report must be certified by a registered engineer that all work was done according to an approved plan. Under the final rule, if an impoundment or impounding structure has not undergone any changes in the previous year, the mine operator only submits a certification by a registered professional engineer that there have been no changes. The final rule requires reports if the engineer's examination reveals indications of structural weakness, hazardous conditions, or other changes to the structure. This provision reduces the reporting requirements for operators whose impoundments have not changed during the reporting period. This revision would continue to provide for submission of records that allow for comparison of changing conditions and the identification of potentially unsafe situations.

One commenter expressed concern over MSHA's burden hour estimate regarding the average time required to prepare a report, suggesting that the potential time saving that could be realized is much greater than estimated. Another commenter stated and MSHA agrees that the revision would result in a more useful record and would enhance the ability of the operators to focus on potentially unsafe situations.

One commenter opposed the proposed revision, stating that water impoundments pose a great risk to the communities in many areas. Another commenter stated that MSHA should require a yearly inspection by an engineer or a professional specialist to ensure the safety of the structure. In response to these commenters, paragraph (a)(7) requires a registered professional engineer to certify that the impoundment has undergone no changes in the previous year. This revision does not reduce the protection provided by the existing standard. Although it eliminates a reporting requirement when there are no changes to report, it maintains the requirement whenever a change occurs to the impounding structure. Paragraph (b) also requires that a report be submitted at least every 5 years for impoundments that have not been changed. This provision was not proposed but has been incorporated into the final rule. In addition, the certification provision does not affect the requirements for regular inspections under § 77.216–3.

Another commenter requested clarification of the statement "changes in the impoundment during the reporting period." This commenter questioned whether the term "changes" refers to normal sediment deposition or modification of the structure. The Agency intends that natural sediment deposition, in itself, does not constitute a reportable change unless it occurs to the extent that it affects the design performance of the structure and appurtenances. For purposes of clarification, reportable changes would include modifications to the structure during the reporting period and changes that affect the stability or operation of the impoundment.

Section 77.216–5 Water, sediment or slurry impoundments and impounding structures; abandonment

Under existing § 77.216–5, in order to abandon an impoundment, the operator must preclude the possibility of future impoundment of water. This provision prevents several functional and recreational uses for impounding structures such as water storage, flood control, farming, or maintenance of recreational lakes or ponds for fishing, boating, or swimming. As proposed, the final rule revises § 77.216–5 to allow operators to obtain MSHA approval of an impoundment abandonment plan that does not preclude the future impoundment of water. Under the revised standard, the abandonment plan still requires District Manager approval.

MSHA will allow approval of an abandonment plan without provisions to preclude the future impoundment of water only when certain requirements are met. Under paragraph (b), these requirements include certification by a registered engineer knowledgeable in dam design that the structure conforms to the design drawings and has no apparent defects, certification from the owner or prospective owner that there is a willingness and ability to assume the responsibility to operate and maintain the structure, and a requirement that the owner obtain a permit or approval for the structure from the appropriate State or Federal regulatory authority. For purposes of clarification, the term "knowledgeable," which describes the level of expertise required of the certifying engineer, has been changed from the term "familiar" in the proposed rule.

Further, since promulgation of the existing standards in 1975, other agencies have become involved in the regulation of impounding structures associated with mining. The Surface Mining Control and Reclamation Act of 1977 established the Office of Surface Mining (OSM) in the Department of Interior. OSM has promulgated extensive surface regulations that include the control of fresh water, waste, and sediment structures. The OSM regulations also reference MSHA standards for impoundments under §§ 77.216 through 77.216–3.

OSM's regulations on impoundments (30 CFR 816.49) permit the operator to have a permanent impoundment. The requirements for permanent impoundments are part of OSM's "Post-Mining Land Use Plan." As part of this plan, the operator's permit is based on the following criteria:

1. The impoundment must be adequate for its intended purpose.
2. Final grading must provide adequate safety.
3. The spillway must be designed as the regulatory authority may require.

MSHA's final rule includes a provision that would require the current or prospective owner to obtain a permit for post-mining use of impoundments from the State or Federal regulatory authority. For purposes of clarification the term "Federal" has been added to the standard to recognize that in some States a Federal agency may issue the necessary permit.

The term "prospective owner" has also been added to this section in order to address the situation where the operator may wish to leave the impoundment in place at the request of a third party who may have an interest in the continued existence of the structure. If the plan for the structure is to transfer it to a third party, the Agency needs assurance of the willingness and ability of the third party to operate and maintain the structure. The Agency intends that the responsible party be capable of operating as well as maintaining the structure, therefore the term operation has been added to the final rule. Under the safeguards provided in the final rule, the Agency believes that the flexibility to allow for post-mining uses of some impounding structures is warranted, does not reduce safety, and has a beneficial societal impact.

Several commenters agreed with the proposed standard. They stated that allowing impounding structures to remain after abandonment will provide a valuable public service in that many of these impoundments can be used for water storage, flood control, wildlife habitat, and recreation. However, one commenter disagreed with the proposed standard, stating that most water impoundments retain the water that has been used in the coal cleansing process because the water is laden with toxic chemicals which would pose a hazard to people and could not possibly sustain any form of life.

A review of the approximately 750 impounding structures inspected by MSHA at coal mines indicates that about 50 percent of these structures were designed for sediment storage or as fresh water reservoirs. In addition, MSHA finds that some benefits can be attained when impounding structures associated with coal mining are left in place. Such structures can continue to perform sediment control and other beneficial functions after the slurry input has stopped and the quality of water improves. However, MSHA anticipates that impounding structures constructed of coal mine waste or designed to impound coal mine waste will generally not receive permits to be left in place. The reason for this is that 30 CFR 816.84(b)(1), an OSM regulation, does not currently allow such structures to be permanently left in place.

MSHA anticipates that this revision will primarily apply to small, low hazard, earthen structures that do not have the potential for loss of life or substantial property damage. Through the flexibility provided in the final rule, impoundments that do not present a hazard to miners or to the public could be left intact where they will serve future societal uses.

IV. Executive Order 12291 and the Regulatory Flexibility Act

This rule will not result in major cost increases nor have an incremental effect of $100 million or more on the economy. Therefore, this rule does not fall within the criteria of a major rule and Executive Order 12291 does not require a Regulatory Impact Analysis to be prepared. MSHA estimates that compliance with this final rule will result in a cost reduction of $1,919,000.

The Regulatory Flexibility Act requires that agencies evaluate and include, whenever possible, compliance alternatives that minimize adverse impacts on small businesses. MSHA has determined that this final rule will not have a significant impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required.

V. Paperwork Reduction Act

The final rule revises the existing rule and reduces the recordkeeping and reporting burden by about 64,000 hours, from 175,000 hours to 111,000 hours. Specifically, the revisions to §§ 77.215–2 and 77.215–3, which provide a mechanism to terminate the annual reporting requirement after the hazard has been eliminated, will decrease the total number of reports to be completed from 50 to 25, reducing the burden from 100 to 50 hours and resulting in a cost reduction of $1,500. It is estimated that the revision to § 77.216–3, which allows flexibility to reduce the frequency of inspections (thereby, the recordkeeping requirements) for impoundments that have a demonstrated record of safety, will decrease the total burden from about 94,000 to 31,000 hours and result in a cost reduction of $1,890,000. Finally, the revision to § 77.216–4, which requires a report only when there are indications of structural changes or hazardous conditions, will decrease the total number of reports to be completed from 750 to 300, reducing the burden from 1,500 to 600 hours and resulting in a cost reduction of $27,000.

VI. List of Subjects in 30 CFR Part 77

Mine safety and health, Refuse piles, impoundments and impounding structures.

Dated: February 24, 1992.

William J. Tattersall,

Assistant Secretary for Mine Safety and Health.

Accordingly, subchapter O, chapter I, title 30 of the Code of Federal Regulations is amended as follows:

PART 77—MANDATORY SAFETY STANDARDS—SURFACE COAL MINES AND SURFACE WORK AREAS OF UNDERGROUND COAL MINES

1. The authority citation to 30 CFR part 77 continues to read as follows:

Authority: 30 U.S.C. 811, 957 and 961.

2. Section 77.215–2 is amended by revising paragraph (c) to read as follows:

§ 77.215–2 Refuse piles; reporting requirements.

* * * * *

(c) The information required by paragraphs (b)(4) through (b)(8) of this section shall be reported every twelfth month from the date of original submission for those refuse piles which the District Manager has determined can present a hazard until the District Manager notifies the operator that the hazard has been eliminated.

3. Section 77.215–3 is amended by revising paragraphs (a) and (b) to read as follows:

§ 77.215–3 Refuse piles; certification.

(a) Within 180 days following written notification by the District Manager that a refuse pile can present a hazard, the person owning, operating, or controlling the refuse pile shall submit to the District Manager a certification by a registered engineer that the refuse pile is being constructed or has been modified in accordance with current, prudent engineering practices to minimize the probability of impounding water and failure of such magnitude as to endanger the lives of miners.

(b) After the initial certification required by this section and until the District Manager notifies the operator that the hazard has been eliminated, certification shall be submitted every twelfth month from the date of the initial certification.

* * * * *

4. Section 77.216–3 is amended by revising paragraph (a) to read as follows:

§ 77.216–3 Water, sediment, or slurry impoundments and impounding structures; inspection requirements; correction of hazards; program requirements.

(a) All water, sediment, or slurry impoundments that meet the requirements of § 77.216(a) shall be examined as follows:

(1) At intervals not exceeding 7 days, or as otherwise approved by the District Manager, for appearances of structural weakness and other hazardous conditions.

(2) All instruments shall be monitored at intervals not exceeding 7 days, or as otherwise approved by the District Manager.

(3) Longer inspection or monitoring intervals approved under this paragraph (a) shall be justified by the operator based on the hazard potential and performance of the impounding structure, and shall include a requirement for inspection immediately after a specified rain event approved by the District Manager.

(4) All inspections required by this paragraph (a) shall be performed by a qualified person designated by the person owning, operating, or controlling the impounding structure.

* * * * *

5. Section 77.216–4 is revised to read as follows:

§ 77.216–4 Water, sediment or slurry impoundments and impounding structures; reporting requirements; certification.

(a) Except as provided in paragraph (b) of this section, every twelfth month following the date of the initial plan approval, the person owning, operating, or controlling a water, sediment, or slurry impoundment and impounding structure that has not been abandoned in accordance with an approved plan shall submit to the District Manager a report containing the following information:

(1) Changes in the geometry of the impounding structure for the reporting period.

(2) Location and type of installed instruments and the maximum and minimum recorded readings of each instrument for the reporting period.

(3) The minimum, maximum, and present depth and elevation of the impounded water, sediment, or slurry for the reporting period.

(4) Storage capacity of the impounding structure.

(5) The volume of the impounded water, sediment, or slurry at the end of the reporting period.

(6) Any other change which may have affected the stability or operation of the impounding structure that has occurred during the reporting period.

(7) A certification by a registered professional engineer that all construction, operation, and maintenance was in accordance with the approved plan.

(b) A report is not required under this section when the operator provides the District Manager with a certification by a registered professional engineer that there have been no changes under paragraphs (a)(1) through (a)(6) of this section to the impoundment or impounding structure. However, a report containing the information set out in paragraph (a) of this section shall be submitted to the District Manager at least every 5 years.

6. Section 77.216–5 is revised to read as follows:

§ 77.216–5 Water, sediment or slurry impoundments and impounding structures; abandonment.

(a) Prior to abandonment of any water, sediment, or slurry impoundment and impounding structure which meets the requirements of 30 CFR 77.216(a), the person owning, operating, or controlling such an impoundment and impounding structure shall submit to and obtain approval from the District Manager, a plan for abandonment based on current, prudent engineering practices. This plan shall provide for major slope stability, include a schedule for the plan's implementation and, except as provided in paragraph (b) of this section, contain provisions to preclude the probability of future impoundment of water, sediment, or slurry.

(b) An abandonment plan does not have to contain a provision to preclude the future impoundment of water if the plan is approved by the District Manager and documentation is included in the abandonment plan to ensure that the following requirements are met:

(1) A registered professional engineer, knowledgeable in the principles of dam design and in the design and construction of the structure, shall certify that it substantially conforms to the approved design plan and specifications and that there are no apparent defects.

(2) The current owner or prospective owner shall certify a willingness and ability to assume responsibility for operation and maintenance of the structure.

(3) A permit or approval for the continued existence of the impoundment or impounding structure shall be obtained from the Federal or State agency responsible for dam safety.

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March 2, 1992

Part V

Department of Transportation

Research and Special Programs Administration

49 CFR Part 110

Hazardous Materials: Public Sector Training and Planning Grants; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 110

[Docket No. HM-209, Notice No. 92-3]

RIN 2137-AC09

Interagency Hazardous Materials; Public Sector Training and Planning Grants

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Research and Special Programs Administration (RSPA) is proposing a rule to implement a reimbursable grant program to enhance existing State and local hazardous materials emergency preparedness and response programs. This reimbursable grant program is required by section 117A (49 App. U.S.C. 1815) of the Hazardous Materials Transportation Act (HMTA), as amended by the Hazardous Materials Transportation Uniform Safety Act of 1990 (HMTUSA). Section 117A authorizes the Department to provide assistance to States for emergency response planning and to States and Indian tribes for emergency response training. The purpose of the grant program is to: Increase State, local, and Indian tribal effectiveness in safely and efficiently handling hazardous materials accidents and incidents; enhance implementation of the Emergency Planning and Community Right To Know Act of 1986 (EPCRA); and encourage a comprehensive approach to emergency planning and training by incorporating the unique challenges of response to transportation situations. The proposed rule provides the application requirements specific to this grant program.

Where practicable, the Department proposes to rely on its general grant provisions contained in 49 CFR part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments."

DATES: Comments are due on or before May 1, 1992.

ADDRESSES: Address comments to Dockets Unit (DHM-30), Hazardous Materials Safety, RSPA, Department of Transportation, Washington, DC 20590-0001. Comments should identify the docket and notice number; five copies, if possible, should be submitted. Receipt of comments will not be confirmed unless a self-addressed stamped postcard is provided. Public dockets may be reviewed on normal business days between 8:30 a.m. and 5 p.m. in the Dockets Unit, room 8421, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590-0001. Copies of the "Hazardous Materials Transportation Uniform Safety Act of 1990" (HMTUSA), Public Law 101-615, may be obtained from the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9371, (202) 275-2091.

FOR FURTHER INFORMATION CONTACT: Susan Bullard or Charles Rogoff, Office of Hazardous Materials Initiatives and Training, Research and Special Programs Administration (RSPA), Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001, Telephone: 202-366-4900.

SUPPLEMENTARY INFORMATION: This proposed regulation sets forth the application procedures for the planning and training grant program established by section 117A of the HMTA. The proposed regulation augments the requirements contained in 49 CFR part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments."

I. Background

The HMTUSA amended HMTA (49 App. U.S.C. 1801 *et seq.*) to assign new responsibilities to the Department of Transportation (DOT) and strengthen interagency coordination and technical assistance with respect to hazardous materials emergency planning and training. Within DOT, RSPA has been delegated the responsibility for overseeing the program authorized in section 117A of the HMTA.

Section 117A, "Public Sector Training and Planning," creates a program for RSPA and other Federal agencies to: Provide financial and technical assistance, national direction, and guidance to enhance State and local hazardous materials emergency planning and training; and enhance overall implementation of EPCRA. The program developed under the leadership of RSPA will increase the emphasis on transportation in ongoing efforts—improving the capability of communities to plan for and respond to the full range of potential risks they face.

The reimbursable grant program is supported by fees collected pursuant to section 117A(h) of HMTA. Section 106 of HMTA establishes a registration program of shippers and carriers of certain hazardous materials. On October 10, 1991, RSPA proposed in the **Federal Register** (56 FR 51294) to assess and collect from all persons who are required to be registered an annual fee to fund this reimbursable grant program.

Implementing guidance which addresses such issues as allocation criteria, measures against which grant applications will be evaluated, explanation of certifications required, and relationship of the grant program to the national curriculum is in development. This guidance will be included in an application package which will be provided to applicants following publication of the final rule.

A. Overview of the Reimbursable Grant Program

Section 117A of HMTA authorizes financial assistance to States for emergency response planning and to States and Indian tribes for training public sector employees to respond safely and efficiently to accidents and incidents involving hazardous materials, including those involving transportation. The goal of the program is to provide assistance to planners, trainers, and responders at the local level.

As proposed in § 110.30, a planning or training grant application from a State or Tribe must be accompanied by a letter from the Governor or tribal authority designating an entity to receive Federal funds and provide the required written certifications.

In support of the intent and ongoing implementation of EPCRA, RSPA is proposing to accept applications from and award grants to the State or Tribal Emergency Response Commission or an established agency which is an active participant in the Emergency Response Commission. The designated entity should have substantive knowledge of the status of planning and training under EPCRA, familiarity with State and local emergency preparedness and response capabilities and training needs, understanding of the intent and mandate of HMTUSA, and proven capability to administer a Federal grant program. In addition, the designated entity would be asked to certify that appropriate disciplines are represented in the ongoing emergency planning and training process (e.g., senior state fire official, environmental and emergency management, and transportation representatives). A statement that all members of the State or Tribal Emergency Response Commission have been given the opportunity to review the application would also be required.

1. The Planning Grant Program

Under Section 117A(a)(1) of HMTA, planning grants may be made to reimburse States for: (1) Developing, improving, and implementing emergency plans under the Emergency Planning and Community Right-To-Know Act of 1986 (EPCRA); (2) determining the flow patterns of hazardous materials within a State and between a State and another State; and (3) determining the need for regional hazardous materials emergency response teams. Section 117A of HMTA builds upon and enhances the existing framework established under EPCRA.

To qualify for a planning grant, a State must: (1) Certify that it is complying with sections 301 and 303 of EPCRA; (2) certify that it will maintain a two fiscal year average of its own aggregate level of expenditures for developing, improving, and implementing emergency plans under EPCRA; and (3) agree to make at least 75 percent of the Federal funds provided available to local emergency planning committees (LEPCs) established pursuant to section 301(c) of the Emergency Planning and Community Right-To-Know Act.

Section 117A of HMTA does not authorize RSPA to provide planning grants to Indian tribes.

2. The Training Grant Program

Under Section 117A(b)(1), training grants may be made to reimburse States and Indian tribes for training public sector employees to respond safely and efficiently to accidents and incidents involving hazardous materials, including those involving transportation.

To qualify for a training grant, a State must: (1) Certify that it is complying with sections 301 and 303 of the EPCRA; (2) certify that it will maintain a two fiscal year average of its own aggregate level of expenditures for training public sector employees to respond to accidents and incidents involving hazardous materials; (3) agree to make at least 75 percent of the Federal funds provided available for the purpose of training such employees either employed or used by political subdivisions; and, (4) agree to use courses consistent with the National Curriculum developed under Section 117A(g).

To qualify for a training grant, an Indian tribe must certify that it will maintain a two fiscal year average of its own aggregate level of expenditures for training public sector employees to respond to accidents and incidents involving hazardous materials.

The HMTA defines Indian tribes by reference to the Indian Self-Determination and Education Act (25 U.S.C. 4506). The Secretary of Interior has issued regulations (25 CFR 272.2) defining "Federally-recognized" Indian tribes under that law. RSPA is proposing in this regulation to accept applications for training grants from federally-recognized Indian tribes.

B. Relationship to the Emergency Planning and Community Right-To-Know Act of 1986 (EPCRA)

Section 117A enhances and strengthens ongoing efforts and relationships established under the Emergency Planning and Community Right-To-Know Act.

EPCRA: (1) Establishes authorities for emergency planning and preparedness, emergency notification, community right-to-know, and toxic chemical release reporting; and, (2) calls for the creation of an infrastructure including State emergency response commissions (SERCs), emergency planning districts and local emergency planning committees (LEPCs). These State and local emergency preparedness and response entities are traditionally relied upon to: (1) Provide a forum for coordinating information; (2) assist in understanding and communicating the associated risks of hazardous materials to the public; and (3) support State-wide and local emergency response planning efforts.

Section 117A(a)(1) of HMTA gives RSPA the opportunity to provide financial assistance to States for emergency response planning called for under EPCRA. States, in turn, are required to make at least 75 percent of the Federal funds provided available to local emergency planning committees. Section 117A(b)(3) requires that 75 percent of the Federal funds for training assistance benefit public sector employees.

A State may not receive a planning or training grant unless it certifies that it is complying with sections 301 and 303 of the EPCRA. After consulting with EPA and FEMA and taking into consideration the dynamic nature of this program, RSPA is proposing to accept self-certification of a State's progress and current status in achieving compliance.

Therefore, RSPA is proposing with respect to section 301 that an applicant certify that a SERC has been established, emergency planning districts have been designated and LEPCs have been appointed by the SERC. The applicant must describe the status of the LEPCs' emergency response plans and their compliance with EPCRA section 303. Section 117A of HMTA does not require Indian tribes to make these assurances.

C. Financial Issues

1. Pass-Through of Planning Funds to Local Emergency Planning Committees (LEPCs)

Section 117A(a)(3) of HMTA requires States to "make available not less than 75 percent of the funds granted to * * * local emergency planning committees established pursuant to section 301(c) of EPCRA by the State emergency response commission." RSPA proposes to require the States to make available 75% of the LEPCs.

2. Funding Political Subdivisions in the Training Grant Program

Section 117A(b)(3) of HMTA requires a State to "make available at least 75 percent of the funds granted * * * for the purpose of training public sector employees employed or used by the political subdivisions." HMTA does not require Indian tribes to make this assurance. Funding could be passed through to a local political subdivision. If a State elects to conduct such training itself, assurances must be provided that the training will in fact benefit public sector employees at the local level.

3. Maintenance of Effort Requirements

In order to qualify for a grant, States and Indian tribes must certify that the aggregate expenditure of funds, exclusive of Federal funds, used to support emergency response planning and training, will be maintained at a level which does not fall below the average level for the last two fiscal years.

4. Non-Federal Cost-Share Requirements

States and Indian tribes must contribute a matching share to any grant awarded. The cost-share requirement for both planning and training is set by section 117A(d) of HMTA at 20 percent. RSPA is proposing to require that States and Indian tribes satisfy the cost-sharing requirement with cash. RSPA is also considering whether to accept in-kind contributions. Comments are specifically requested on whether to accept in-kind contributions to meet the matching requirements and on types of in-kind contributions that would meet the requirements.

D. Use of Federal Funds by Recipients

Funds may be used to carry out specific activities identified in section 117A of HMTA. For planning grants, those activities are: (1) Developing, improving, and implementing emergency plans, including determination of flow patterns of hazardous materials within a State and between States; and (2) determining the need for regional hazardous materials emergency response teams. For training grants, 75 percent of the funds must be used to benefit public sector employees to respond to incidents or accidents involving hazardous materials. Activities conducted could include training efforts designed for public officials who are not responders, but who perform activities associated with emergency response plans developed under EPCRA. Operational equipment to be used in response is excluded from consideration for funding under this grant program. RSPA welcomes comments on the activities that are eligible for funding proposed in § 110.40 of the rule.

E. Allocation of Federal Funds

The funding level for the planning portion of the grant program is set by section 117A(i) of HMTA at $5 million and for the training portion at $7.8 million per Federal fiscal year for 1993 through 1998. These funds are "no-year money" which means that RSPA does not have to make grant awards in the same year that funds become available. Therefore, there is no need to set a single deadline for the submission of grant packages. RSPA is proposing as guidance to accept grant applications on a semi-annual basis (January 1 and July 1) or the first business day thereafter.

Section 117A(b)(7) of HMTA specifies criteria RSPA is to consider for allocating training funds, which are based on need. There is no comparable provision in the law for allocating planning funds. RSPA proposes to use these criteria to the extent practicable in allocating planning funds.

RSPA is proposing to consider several factors in distributing grant funds. Some of the factors under consideration include the number of hazardous materials facilities, types and amounts of hazardous materials transported, population at risk, frequency and number of incidents recorded in past years, high mileage transportation corridors, whether the State or tribe assesses and collects fees on the transportation of hazardous materials and whether such assessments or fees are used solely to carry out purposes related to the transportation of hazardous materials, and other factors that are deemed appropriate. RSPA plans to acquire this information from other Federal agencies, industry and States.

RSPA seeks comments on the factors that it should consider in allocating grant funds.

F. Application assistance

RSPA intends to receive and review applications, and make grant awards from its Washington, DC offices. Preapplication support, including assistance from other implementing Federal agencies, will be made available as soon as the rule is made final and details will be provided at that time.

II. Role of Other Federal Agencies in the Implementation of Section 117A of HMTA

Section 117A of HMTA permits the Secretary, DOT, to seek guidance from and consult with the following Federal agencies: Environmental Protection Agency (EPA); Department of Energy (DOE); Occupational Safety and Health Administration (OSHA); the Federal Emergency Management Agency (FEMA); the Nuclear Regulatory Commission (NRC); and the National Institute of Environmental Health Sciences (NIEHS). RSPA is proposing to use representatives from these agencies and other agencies in an advisory role in reviewing and approving planning and training grant applications to: (1) Identify related training and planning programs; (2) resolve implementation and policy issues that overlap between agencies; (3) maximize the benefit of limited resources; and, (4) minimize the duplication of effort.

FEMA, in coordination with DOT, EPA, DOE, and NIEHS, will monitor public sector emergency response training and planning for accidents and incidents involving hazardous materials. Based upon the results of the monitoring, these same agencies will provide technical assistance to States, political subdivisions and Indian tribes.

This group will also assist RSPA in developing and periodically updating a curriculum called for under section 117A(g) of HMTA. Known as the National Curriculum, the guidelines and courses of study identified will provide the basis for the training grants and enable public sector employees to comply with applicable OSHA and EPA regulations related to emergency response training, as well as those non-governmental standards for training issued by the National Fire Protection Association (NFPA).

III. The Proposed Grant Mechanism and Administrative Requirements

A. General Information

The Office of Management and Budget (OMB) revised OMB Circular A–102 by establishing a government-wide "common rule" which prescribes administrative requirements for Federal assistance to States, Indian tribes, and local governments. DOT implemented the common rule through 49 CFR part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments." RSPA is required to use the administrative requirements in all sections of 49 CFR part 18, unless there is a legislative or OMB-approved exception.

Consequently, applicants and recipients for section 117A planning and training grants must comply with 49 CFR part 18, as well as other DOT regulations that are incorporated by reference in 49 CFR part 18 pertaining to grants. These other regulations include: 49 CFR part 20, "Restrictions on Lobbying;" 49 CFR part 21, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation;" 49 CFR part 23, "Participation by Minority Business Enterprise in Department of Transportation Programs;" 49 CFR part 27, "Nondiscrimination on the Basis of Handicap Programs and Activities Receiving or Benefitting from Federal Financial Assistance;" 49 CFR part 29, "Governmentwide Debarment and Suspension (Non-Procurement) and Governmentwide Requirements for Drug-Free Workplace (Grants);" and 49 CFR part 90, "Audits of State and Local Governments."

Copies of the laws and regulations referenced in the proposed rule are generally available through Depository Libraries and are on file in RSPA's Dockets Unit.

B. Grant Application

Because assistance provided under this section is intended to support a six-year comprehensive planning and training program, the funds and spending authority are no-year. Therefore, RSPA is encouraging submission of applications for multi-year projects from States and Indian tribes. Alternatively, an applicant may elect to apply for a grant on an annual basis for a specific project.

RSPA seeks to create a performance-based program that builds on and supports the accomplishment of long-term goals and objectives. Under the multi-year approach, activities approved in a scope of work would be funded according to the schedule for activities authorized in the grant. The recipient would be required to provide a performance report at the completion of one phase of activity—before proceeding with the next set of activities.

C. Financial Administration

Planning and training are two parts of a comprehensive national grant program; applicants are encouraged to request funds to conduct one or both in a single application package. RSPA may award funds for both in one grant document. Since both components are funded separately by a special registration fee program, RSPA believes it has a fiduciary responsibility to obligate and account for planning and training funds separately. Therefore, RSPA is proposing separate cost accounting requirements for the grant program in § 110.70. RSPA does not believe such a proposal would impose a burden on any recipient.

D. Grants Administration

1. Procurement

The grant program as proposed does not appear to pose contracting or procurement dilemmas for the States. RSPA is proposing in § 110.80 that recipients rely on their own procurement methods unless they conflict with Federal laws and standards as defined in 49 CFR part 18.

2. Reporting

Section 110.90 proposes to require performance reports at the completion of projects for which reimbursement is being requested. Performance reports are particularly important to RSPA when a recipient has a multi-year project and may request amendments to add funds until a project is completed. RSPA is proposing that recipients report on planning and training separately consistent with the proposal to require separate cost accounting.

3. Financial status reports

RSPA is proposing that recipients supply quarterly financial status reports. A recipient may be permitted to carry unexpended obligations from one year to the next. However, the dollar amount of future grant awards or amendments may be reduced by the amount of carryover funds available. This proposal is intended to maximize the amount of money RSPA has available for the planning and training grant program as a whole. RSPA may reallocate resources if carryover spending authority is not used.

4. Exceptions to the Rule

Applicants and/or recipients may petition RSPA to waive non-statutory requirements that are not applicable to their circumstances as prescribed in § 110.120. Deviations should not be commonplace, however, and commenters are asked to advise RSPA of potential hardships during the proposed rulemaking process to help improve the rule where necessary.

IV. Rulemaking Analyses and Notices

Executive Order 12291 and DOT Regulatory Policies and Procedures

This proposed regulation has been evaluated in accordance with existing regulatory policies and is considered non-major under Executive Order 12291. The proposed regulation is not considered to be significant under DOT's Regulatory Policies and Procedures ("the Procedures") (44 FR 11034; February 26, 1979). In accordance with the Procedures, RSPA has determined that preparation of a Regulatory Evaluation is not necessary because the costs of the proposed regulation are expected to be minimal.

B. Regulatory Flexibility Act

RSPA certifies that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This proposal would have a positive economic impact on a number of small entities, including small units of government. The HMTA planning and training grant program represents a small but statutorily mandated gain to States and localities.

By mandating that at least 75 percent of Federal funds provided for planning be passed through the LEPCs and that at least 75 percent of Federal funds provided for training be used to support public sector employees, the grant program will provide financial assistance to cities, counties, and other political subdivisions.

C. Executive Order 12612

The proposed rule has been reviewed in accordance with Executive Order 12612 ("Federalism"). The HMTA specifies that States may apply for grants if they meet certain statutory criteria. The rule as proposed will implement the statutory requirements at a minimum level. The Federal-State relationship will be enhanced as a result of the grant funding provided. Thus, in accordance with Executive Order 12612, preparation of a Federalism Assessment is not warranted.

D. Paperwork Reduction Act

The information to be collected as part of this rulemaking document is being submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). The information requirements for this proposed rule are the same as those set forth for most Federal grant programs and are consistent with OMB Circular A-102. Comments on the collection of information should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for the Department of Transportation. All comments must reference the title for this notice.

E. Regulation Identification Number (RIN)

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

F. National Environmental Policy Act

RSPA has evaluated this proposed regulation in accordance with its procedures for ensuring full consideration of the environmental impacts of DOT actions as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), other environmental statutes, executive orders, and DOT Order 5610.1c. This proposed regulation meets the criteria that establish it is a non-major action for environmental purposes.

List of Subjects in 49 CFR Part 110

Disaster assistance, Education, Emergency preparedness, Grant programs—Environmental protection, Grant programs—Indians, Hazardous materials transportation, Hazardous substances, Indians, Reporting and recordkeeping requirements.

In 49 CFR, part 110 is proposed to be added, to read as follows:

PART 110—HAZARDOUS MATERIALS PUBLIC SECTOR TRAINING AND PLANNING GRANTS

Sec.
110.1 Purpose.
110.5 Scope.
110.10 Eligibility.
110.20 Definitions.
110.30 Grant application.
110.40 Activities eligible for funding.
110.50 Disbursement of Federal funds.
110.60 Cost sharing for planning and training.
110.70 Financial administration.
110.80 Procurement.
110.90 Grant monitoring, reports, and records retention.
110.100 Enforcement.
110.110 After grant requirements.

Sec.
110.120 Deviation from this part.
110.130 Disputes.

Authority: 49 App. U.S.C. 1815; 49 CFR part 1.

§ 110.1 Purpose.

This part sets forth procedures for reimbursable grants for public sector planning and training in support of the emergency planning and training efforts of States, Indian tribes, and local communities to deal with hazardous materials emergencies, including those involving transportation. These grants will enhance the implementation of the Emergency Planning and Community Right to Know Act of 1986 (42 U.S.C. 11001).

§ 110.5 Scope.

(a) This part applies to States and Indian tribes and contains the program requirements for public sector training and planning grants to support hazardous materials emergency planning and training efforts.

(b) The requirements of this part augment the requirements contained in 49 CFR part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," which apply to grants issued under this part.

(c) Copies of standard forms and OMB circulars referenced in this part are available from the Research and Special Programs Administration Dockets Unit (DHM-30), Hazardous Materials Safety, RSPA, U.S. Department of Transportation, Washington, DC 20590-0001. The Dockets Unit is located in Room 8421 of the NASSIF Building, 400 Seventh Street, SW.

§ 110.10 Eligibility.

This part applies to States and Indian tribes. States may apply for planning and training grants. Federally-recognized Indian tribes may apply only for training grants.

§ 110.20 Definitions.

Unless defined in this part, all terms defined in section 103 of the Hazardous Materials Transportation Act (HMTA) (49 App. U.S.C. 1802) are used in their statutory meaning and all terms defined in 49 CFR part 18 and OMB Circular A-102, with respect to administrative requirements for grants, are used as defined therein. Other terms used in this part are defined as follows:

Allowable costs means those costs that are: Eligible, reasonable, necessary, and allocable to the project permitted by the appropriate Federal cost principles, and approved in the grant.

Cost analysis means the review and evaluation of costs to determine reasonableness, allocability, and allowability.

Funding period means the period of time when Federal funds are available in a grant.

Indian country means Indian country as defined in 18 U.S.C. 1151. That section defines Indian country as all land within the limits of any reservation under the jurisdiction of the U.S. government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation; all independent Indian communities within U.S. borders whether within the original or subsequently acquired territory thereof; all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

Indian tribe means those tribes "Federally-recognized" by the Secretary of the Interior under 25 CFR 272.2.

Local Emergency Planning Committee (LEPC) means a committee appointed by the State Emergency Response Commission under section 301(c) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11001(c)), that includes at a minimum, representatives from each of the following groups or organizations: Elected State and local officials; law enforcement, firefighting, civil defense, first aid, health, local environmental, hospital, and transportation personnel; broadcast and print media; community groups; and owners and operators of facilities subject to the emergency planning requirements.

National curriculum means the curriculum required to be developed under section 117A of HMTA and necessary to train public sector emergency response and preparedness teams, enabling them to comply with performance standards as stated in section 117A(g)(4).

Political subdivision means a county, municipality, city, town, township, local public authority (including any public and Indian housing agency under the United States Housing Act of 1937 (42 U.S.C. 1401 et seq.)), school district, special district, intrastate district, council of governments (whether or not incorporated as a nonprofit corporation under State law), any other regional or interstate government entity, or any agency or instrumentality of a local government.

Project means the activities and tasks identified in a grant.

Project manager means the State or Indian tribal official designated in a grant as the program contact with the Federal government.

Project officer means the Federal official designated in a grant as the program contact with the recipient. Project officers are responsible for monitoring the project.

Project period means the length of time specified in a grant for completion of all work associated with that project.

State Emergency Response Commission (SERC) means the State Emergency Response Commission appointed by the Governor of each State and Territory under the Emergency Planning and Community Right-to-Know Act of 1986.

Statement of Work means that portion of a grant that describes the purpose and scope of activities and tasks to be carried out as part of the proposed project.

§ 110.30 Grant application.

(a) *General.* An applicant for a planning or training grant shall use only the standard application forms approved by the Office of Management and Budget (OMB) (SF-424 and SF 424A) under the Paperwork Reduction Act of 1980 (44 U.S.C. 3502). Applicants are required to submit an original and two copies of the application package. Amendment applications must include an original and two copies of the affected pages; previously submitted pages with information that is still current do not have to be resubmitted. The application must include the following:

(1) Application for Federal Assistance for non-construction programs (SF-424) and Budget sheets (SF-424A). A single application may be used for both planning and training if the budgets for each are entered separately on all budget sheets.

(2) For States, a letter from the Governor designating the State agency that is authorized to apply for a grant and to provide the written certifications required to receive a grant.

(3) For Indian tribes, a letter from the tribal government, governing body, or tribal council to the effect that the applicant is authorized to apply for a grant and to provide the written certifications required to receive a grant.

(4) A written statement explaining whether the State or tribe assesses and collects fees on the transportation of hazardous materials and whether such assessments or fees are used solely to carry out purposes related to the transportation of hazardous materials.

(5) A statement designating a project manager and providing the name, position, address and phone number of that individual who will be responsible

for coordinating the funded activities with other agencies/organizations.

(6) A project narrative statement of the goals and objectives of the proposed project, project design and long range plans. The proposed grant project and funding periods may be one or more years.

(7) A statement of work in support of the proposed project, that describes and sets priorities for the activities and tasks to be conducted, the costs associated with each activity, the number and types of deliverables and products to be completed, and a schedule for implementation.

(8) A description of supplies and equipment needed to implement the statement of work, a justification, and a copy of the cost analysis performed for these needs to determine reasonableness, allocability, and allowability to the proposed project.

(9) *Drug-Free Workplace Certification.* The applicant must certify as specified in appendix C of 49 CFR part 29 that it will comply with the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, title V, subtitle D; 51 U.S.C. 701 *et seq.*).

(10) *Anti-Lobbying Certification.* The applicant must certify as specified in appendix A of 49 CFR part 20 that no Federal funds will be expended to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress (Section 319 of Pub. L. 101-121, 31 U.S.C. 1352).

(11) *Debarment and Suspension Certification.* The applicant must certify as specified in subpart G of 49 CFR part 29 that it will not make an award or permit any award to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs.

(b) *Planning.* In addition to the requirements specified in paragraph (a) of this section, eligible State applicants must include the following in their application package:

(1) A written certification indicating that the State is complying with sections 301 and 303 of the Emergency Planning and Community Right-to-Know Act of 1986, including a brief explanation of how compliance has been achieved.

(2) A written statement specifying the aggregate expenditure of funds of the State, exclusive of Federal funds, for each of its last two fiscal years for developing, improving, and implementing emergency plans under the Emergency Planning and Community Right-to-Know Act of 1986, including an explanation specifying the sources of these funds. A written certification that the State's aggregate expenditures of funds for this purpose, exclusive of Federal funds, will not fall below the average level of its expenditures for its last two fiscal years. The applicant may not claim any of these expenditures for cost-sharing.

(3) A written statement agreeing to make at least 75 percent of the Federal funds awarded available to LEPCs and an explanation of how the applicant intends to make such funds available to them for developing, improving, or implementing emergency plans.

(4) Designation of a project manager to serve as contact for coordinating planning funds under this program.

(5) A project narrative statement of the goals and objectives of each proposed project, including the following—

(i) A background statement describing the applicant's long-term goals and objectives with respect to:

(A) The current abilities and authorities of the applicant's program for preparedness planning;

(B) The need to sustain or increase program capability;

(C) Current degree of participation in or intention to assess the need for a regional hazardous materials emergency response team; and

(D) The impact that the grant will have on the program.

(ii) A discussion of whether the applicant's program currently knows, or intends to assess transportation flow patterns of hazardous materials within the State and between that State and another State.

(iii) A schedule for implementing the proposed grant activities.

(iv) A statement describing the ways in which planning will be monitored by the recipient.

(v) A statement indicating that all members of the State Emergency Response Commission were provided the opportunity to review the grant application.

(c) *Training.* In addition to the requirements specified in paragraph (a) of this section, eligible State and Tribal applicants must include the following in their application package:

(1) For a State applicant, a written certification explaining how the State is complying with sections 301 and 303 of the Emergency Planning and Community Right-to-Know Act.

(2) A written statement specifying the aggregate expenditure of funds of the State or Indian tribe, exclusive of Federal funds, for each of its last two fiscal years for training public sector employees to respond to accidents and incidents involving hazardous materials, including an explanation specifying the sources of these funds. A written certification that the applicant's aggregate expenditure of funds for this purpose, exclusive of federal funds, will not fall below the average level of its expenditures for its last two fiscal years. The applicant may not claim any of these expenditures for cost-sharing purposes.

(3) For a State applicant, a written statement agreeing to make at least 75 percent of the Federal funds awarded available for the purpose of training public sector employees employed or used by political subdivisions. A State applicant may elect to pass all or some portion of the 75 percent on to political subdivisions for this purpose. The applicant must include a specific explanation of how it intends to accomplish either one or both of these goals.

(4) Designation of a primary point of contact for coordinating training funded under this program (e.g., fire training director, fire colleges, training centers, etc.). Identification of a single repository for copies of course materials delivered under the grant as specified in § 110.90.

(5) A project narrative statement of the long-range goals and objectives of each proposed project, including the following:

(i) A background statement describing:

(A) The current training program(s);

(B) Training audience including numbers and levels of training and accreditation program for each level or criteria required to advance to the next level;

(C) Estimated total number to be trained under this grant program;

(D) The ways in which training grants will support the decentralized delivery of training to meet the needs of individualized geographic and resource needs and time considerations of local responders. Where necessary, a statement describing how the grant program will accommodate the different training needs for rural versus urban environments; and

(E) The impact that the grant and the National Curriculum will have on the program.

(ii) A statement describing how the National Curriculum will be used or modified to train public sector employees at the local level to respond to accidents and incidents involving hazardous materials.

(iii) A statement describing the ways in which training will be monitored by the recipient, including but not limited to random examinations, inspections, and audits of training.

(iv) A schedule for implementing the proposed training grant activities.

(v) A statement indicating that all members of the State or Tribal Emergency Response Commission were provided the opportunity to review the grant application.

§ 110.40 Activities eligible for funding.

(a) *Planning.* Eligible State applicants may receive funding for the following activities:

(1) Development, improvement, and implementation of emergency plans required under the Emergency Planning and Community Right-to-Know Act of 1986, as well as exercises which test the emergency plan. Enhancement of emergency plans to include response procedures for emergencies involving transportation of hazardous materials, including radioactive materials.

(2) An assessment to determine flow patterns of hazardous materials within a State, between a State and another State or Indian country, and development and maintenance of a system to keep such information current.

(3) An assessment of the need for regional hazardous materials emergency response teams.

(4) An assessment of local response capabilities to determine the distribution of Federal funds under the grant.

(5) Development of information materials to educate the public about the transportation of hazardous materials, including radioactive materials.

(6) Conduct of emergency response drills and exercises associated with emergency preparedness plans.

(7) Technical staff to support the planning effort. Staff funded under planning grants cannot be diverted to support other requirements of the Emergency Planning and Community Right-to-Know Act.

(8) Additional activities RSPA deems appropriate to implement the scope of work for the proposed project plan and approved in the grant.

(b) *Training.* Eligible State and Indian tribe applicants may receive funding for the following activities:

(1) An assessment to determine the number of public sector employees employed or used by a political subdivision who need training and to select courses consistent with the National Curriculum.

(2) Delivery of comprehensive preparedness and response training to public sector employees. Design and delivery of such training to meet specialized needs. Travel assistance for trainees, such as tuition, travel expenses to and from a training facility, and room and board while at the training facility, and for the trainers, if appropriate.

(3) Emergency response drills and exercises associated with training, a course of study, and emergency preparedness plans.

(4) Expenses associated with training by a person (including a department, agency, or instrumentality of a State or political subdivision thereof or an Indian tribe) and activities necessary to monitor such training including, but not limited to, random examinations, inspections, and audits of training.

(5) Staff to manage the training effort resulting in increased benefits, proficiency, and rapid deployment of local and regional responders.

(6) Additional activities RSPA deems appropriate to implement the scope of work for the proposed project and approved in the grant.

§ 110.50 Disbursement of Federal funds.

(a) The applicant may not be reimbursed for the costs of activities to be conducted under a grant prior to the award of such grant.

(b) Reimbursement may not be made for a project plan until approved in the grant award.

(c) If a recipient seeks additional funds, the amendment request will be evaluated on a needs and performance basis against the availability of funds to determine whether the amendment request is appropriate. An existing grant does not commit future Federal funding.

§ 110.60 Cost sharing for planning and training.

The recipient must provide 20 percent of the direct and indirect costs of all activities covered under the grant award with non-Federal funds. Funds used for matching purposes under any other Federal grant or cooperative agreement may not be used for matching purposes. The funds expended by a recipient to qualify for the grant may not be used for cost-sharing purposes.

§ 110.70 Financial administration.

(a) A State must expend and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the State, as well as its subgrantees and cost-type contractors, must be sufficient to—

(1) Permit the preparation of reports required by 49 CFR part 18 and this part, including the tracing of funds provided for planning to a level of expenditure adequate to establish that at least 75 percent of the funds provided were made available to LEPCs for developing, improving, and implementing emergency plans; and the tracing of funds provided for training to a level of expenditure adequate to establish that at least 75 percent of the funds provided were made available for the purposes of training public sector employees employed or used by political subdivisions.

(2) Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

(b) The financial management systems of Indian tribes and any subgrantees shall meet the standards of 49 CFR 18.20, including the ability to trace funds provided for training to a level of expenditure adequate to establish that at least 75 percent of the funds provided were made available for the purposes of training public sector employees employed or used by political subdivisions.

(c) To be allowable, costs must be eligible, reasonable, necessary, and allocable to the approved project in accordance with OMB Circular A-87 and included in the grant award before Federal funds may be used by the grantee. Costs incurred prior to the award of any grant are not allowable. Recipients are responsible for obtaining audits in accordance with the Single Audit Act of 1984 (31 U.S.C. 7501), 49 CFR part 90, and OMB Circular A-128. Audits shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial and compliance audits. RSPA may audit a recipient at any time.

§ 110.80 Procurement.

Recipients shall use procurement procedures and practices which reflect applicable State laws and regulations and Federal requirements as specified in 49 CFR part 18. RSPA may review a recipient's procurement procedures and practices of LEPCs, political subdivisions, subgrantees and contractors, as appropriate.

§ 110.90 Grant monitoring, reports, and records retention.

(a) *Grant monitoring.* Recipients are responsible for managing the day-to-day operations of grant, subgrant and contract-supported activities. Recipients must monitor performance of supported activities to assure compliance with applicable Federal requirements and achievement of performance goals. Monitoring must cover each program, function, activity, or task covered by the grant. Monitoring and reporting requirements for planning and training are contained in this part; general grant reporting requirements are specified in 49 CFR 18.40.

(b) *Reports.* (1) The recipient shall submit a performance report at the completion of a project for which reimbursement is being requested or with a request to amend the grant. The final performance report is due 90 days after the expiration or termination of the grant.

(2) Recipients shall submit an original and two copies of all performance reports. Performance reports for planning and training must contain brief information on the following: a comparison of actual accomplishments to the objectives established for the performance period and the reasons for slippage.

(3) Recipients shall report developments or events that occur between the required performance reporting dates which have significant impact upon the planning and training activity such as—

(i) Problems, delays, or adverse conditions which will impair the ability to meet the objective of the grant; and

(ii) Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more beneficial results than originally planned.

(4) Financial reporting, except as provided in § 110.70 and 49 CFR 18.41, shall be supplied quarterly using Standard Form 270, Financial Status Report, to report the status of funds. Each recipient shall report separately on planning and training.

(c) *Records retention.* In accordance with 49 CFR 18.42, all financial and programmatic records, supporting documents, statistical records, training materials, and other documents generated under a grant shall be maintained by the recipient for three years from the date the recipient submits its last expenditure report. The recipient shall designate a repository and single-point of contact for planning and for training or both for these purposes. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 3-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular 3-year period, whichever is later.

§ 110.100 Enforcement.

If a recipient fails to comply with any term of an award (whether stated in a Federal statute or regulation, an assurance, in a State plan or application, a notice of award, or elsewhere) an enforcement action may be taken as specified in 49 CFR 18.43. The recipient may appeal any such actions as specified in 49 CFR part 18. Costs incurred by the recipient during a suspension or after termination of an award are not allowable unless RSPA authorizes it in writing. Grant awards may be terminated in whole or in part with the consent of the recipient at an agreed upon effective date, or by the recipient upon written notification.

§ 110.110 After grant requirements.

The awarding agency will close out the award when it determines that all applicable administrative actions and all required work of the grant is complete in accordance with subpart D of 49 CFR part 18. The recipient must submit all financial, performance, and other reports required as a condition of the grant, within 90 days after the expiration or termination of the grant. This time frame may be extended by RSPA for cause.

§ 110.120 Deviation from this part.

Applicants or recipients may request a deviation from the non-statutory provisions of this part. RSPA will respond to such requests in writing. If appropriate, the decision will be included in the grant award.

§ 110.130 Disputes.

Disagreements should be resolved at the lowest level possible, beginning with the project manager and the project officer. If an agreement cannot be reached, the Administrator, RSPA, will serve as the dispute resolution official, whose decision will be final.

Issued in Washington, DC on February 26, 1992, under authority delegated in 49 CFR part 106, appendix A.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

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Part VI

Environmental Protection Agency

Ethylene Bisdithiocarbamates (EBDCs); Notice of Intent to Cancel and Conclusion of Special Review

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30000/18D; FRL 4045-8]

Ethylene bisdithiocarbamates (EBDCs); Notice of Intent to Cancel; Conclusion of Special Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final determination; Notice of Intent to Cancel; Notice of Intent to deny applications for registration.

SUMMARY: This Notice concludes the Special Review and risk/benefit analysis of the EBDCs and announces EPA's intent to cancel registrations and to deny applications for registration for all pesticide products containing EBDCs as an active ingredient unless the registrations/applications comply with the terms and conditions of registration set forth in this Notice. This action is based on the Agency's determination that use of the EBDCs without such modified terms and conditions will result in unreasonable adverse effects to humans or the environment. In summary, EPA is announcing its intent to cancel any EBDC product registration bearing one or more of the following food uses of EBDCs: apricots, carrots, celery, collards, mustard greens, nectarines, peaches, rhubarb, spinach, succulent beans, and turnips. In addition, EPA is announcing its intent to cancel EBDC products registered for other uses unless certain label modifications are made.

DATES: Requests for a hearing by a registrant, applicant, or other adversely affected party must be received on or before April 1, 1992 or, for a registrant or applicant, within 30 days from the receipt of this Notice, whichever occurs later.

ADDRESSES: Requests for a hearing must be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Additional information supporting this action is available for public inspection at the EBDC docket (docket number "OPP-30000/18D") from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays in the: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, room 1128, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: By mail: Kathleen Martin, Special Review Branch, Special Review and Reregistration Division (H7508W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office Location and Telephone Number: 3rd Floor, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA 22202. Telephone: (703) 308-8024.

SUPPLEMENTARY INFORMATION: This Notice announces EPA's intent to cancel all registrations and deny applications for registration of pesticide products containing ethylene bisdithiocarbamates (EBDCs) as the active ingredient (a.i.) unless the registrants amend their registrations to comply with the terms and conditions set forth in this Notice. This Notice concludes EPA's administrative Special Review of the risks and benefits of the EBDCs which was initiated in a **Federal Register** notice of July 17, 1987 (52 FR 27172). A Notice of Preliminary Determination (PD 2/3) concerning the EBDCs was published in the **Federal Register** on December 20, 1989 (54 FR 52158), and supporting documents including the Technical Support Document for the PD 2/3 were made available to any requesting party at that time. EPA has evaluated the issues raised in the preliminary documents listed above in the light of comments and additional data received during the Special Review process. In summary, EPA is requiring that registrants amend their registrations to delete certain food uses from their labels. For certain retained uses, EPA is requiring that use patterns be amended. The Agency is also requiring that labels be amended to require protective clothing for industrial and agricultural workers. Furthermore, a label hazard warning statement is being required on homegarden-use labels as well as clothing and hygiene language.

This Notice is organized into nine units. Unit I is an introduction providing background information on the EBDCs, EPA actions prior to this Notice, and the legal basis for these actions. Summarized in Unit II is the toxicological data base for the EBDCs. Units III and IV present EPA's assessment of dietary and occupational/homegardener exposure to the EBDCs and their respective risks. Summarized in Unit V is the final benefits assessment on the EBDCs. Comments received from interested parties on specific risk and benefit issues are presented with EPA's response in the appropriate units (II through V). Unit VI includes the comments of the Scientific Advisory Panel and the Secretary of Agriculture on the regulatory actions previously proposed by EPA in its preliminary determination concerning the EBDCs issued December 20, 1989, and EPA's response to those comments. Additionally, the Agency presented certain scientific issues regarding the EBDCs to the SAP in September 1991. The SAP's comments and the Agency's response are included. Described in Unit VII is EPA's risk/benefit assessment and final determination regarding the EBDCs and the actions required by this Notice. Unit VIII provides the procedures for implementing the actions required by this Notice, as well as the procedures for requesting a hearing. Unit IX lists references used in concluding this Special Review of the EBDCs.

I. Introduction

The ethylene bisdithiocarbamates (the EBDCs) are a group of fungicides consisting of mancozeb, maneb, metiram, and nabam. All registrations for a fifth EBDC, zineb, have been cancelled, and therefore, zineb was not considered in this Final Determination. These pesticides are intended for use to protect a wide variety of fruit and vegetable crops against fungal pathogens. The EBDCs also have several non-food agricultural uses including ornamental plants, turf, and soil treatment. Industrially, certain EBDC products are registered for use as antimicrobials in water cooling systems (towers and airwashers), oil well drilling rigs, and in pulp, paper, and sugar mills.

The technical materials are produced by Atochem North America (maneb); BASF Corporation (metiram); Rohm and Haas Company (nabam and mancozeb); and E.I. DuPont de Nemours Company Inc. (mancozeb). These producers/registrants of EBDCs formed the EBDC/ETU Task Force to generate data to support the continued registration of selected uses of the EBDCs.

In the United States, usage of the EBDCs is estimated at about 8 to 12 million pounds of active ingredient (a.i.) per year. The predominant use is on apples, cucurbits (i.e., cucumbers, melons, and squash), lettuce, onions, potatoes, small grains, sweet corn, and tomatoes. The pesticide products containing EBDCs are most commonly formulated as wettable powders, flowables, dry flowables, dusts, and emulsifiable concentrates.

In December 1989, EPA proposed to cancel 45 of the 55 registered food uses of the EBDCs. At the same time, the Agency also encouraged the regulated community and especially grower groups to become more involved in the Special Review process by providing information to the Agency on the benefits of EBDCs, risk reduction measures, and actual use practices.

A number of grower organizations responded to EPA's call for data by providing significant benefits and risk reduction information. Most of the provided benefits information was incorporated into the EBDC benefits assessment. Because of the growers' involvement in the Special Review for the EBDCs, the Agency was able to identify certain benefits that may have otherwise been overlooked. For example, EPA was not aware of the limitations posed by the alternative fungicide registered for use on papaya.

EPA appreciates the growers' efforts to supply residue data under a short time-frame. Most of the residue data submitted by the grower groups were used by the Agency as supplemental information in the exposure assessment, except for the International Apple Institute (IAI) and Hawaiian Papaya Growers data which were used as primary sources of data. Even though submitted residue data were generally not used as the primary source in estimating residues due to their limitations, they were still valuable to the Agency. Food and Drug Administration monitoring data were important in corroborating market basket data. Further, certain grower groups submitted handling and use practice information (e.g., washing and processing studies) that the Agency was able to use in estimating reduction of residues upon processing.

Grower groups that provided information include: the American Dehydrated Onion and Garlic Association, EAK AG INC., California Tomato Growers Association, Florida Farm Bureau Federation, Florida Fresh Fruit and Vegetable Association, Florida Tomato Industry Association, Hawaii Banana Industry Association, Hawaii Papaya Industry Association, International Apple Institute, International Banana Association, Michigan Farm Bureau, Midwest Food Processors Association (MWFPA), National Cotton Council, National Food Processors Association, National Potato Council, New England Fruit Growers' Council on the Environment, Northeastern Apple Growers, Northeast Fruit Growers, Northwest Food Processors Association, Pioneer Hi-Bred International, South Bay Growers, and Southern Frozen Foods, as well as numerous individual growers (Refs. 1 through 6).

The specific benefits and residue data provided by grower groups are detailed in the relevant sections of Units III (Dietary Exposure and Risk) and Unit V (Summary of Benefits Assessment).

A. Regulatory History

1. *Rebuttable Presumption Against Registration.* In 1977, the Agency initiated a Rebuttable Presumption Against Registration (RPAR) and Continued Registration of Pesticide Products Containing EBDCs. This action initiated what is now called the Special Review process. The need for a Special Review of the EBDCs was based on evidence suggesting that the EBDCs and ethylenethiourea (ETU), a common contaminant, metabolite, and degradation product of these pesticides, posed three potential risks to humans and/or the environment: carcinogenicity, developmental toxicity, and acute toxicity to aquatic organisms. Three additional areas of concern were identified as thyroid toxicity, mutagenicity, and skin sensitization.

In 1982, the Agency concluded this Special Review by issuing a Final Determination (PD 4) which required risk reduction measures to prevent unreasonable adverse effects pending development of additional data needed to better assess the risks. The Agency concluded that the potential risk of acute toxicity to aquatic organisms could be reduced through the addition of a label statement warning users of hazards to fish and that potential risks of developmental and thyroid effects to applicators could be adequately reduced by requiring protective clothing. Potentially high dietary exposure resulting from consumption of EBDC-treated home-grown produce was addressed by a label statement highlighting preharvest intervals on labels of home-use products. The Agency also concluded that there were insufficient exposure data to reach any regulatory conclusions regarding the potential risk of carcinogenic effects to humans. Additional data were required to be submitted to address mutagenic effects. The skin sensitization effect was determined not to meet the criteria for an RPAR.

All registrations of products containing zineb (a fifth EBDC) were voluntarily cancelled in 1991. Amobam (a sixth EBDC) was voluntarily cancelled several years ago.

2. *Initiation of Special Review (PD 1).* On July 17, 1987, EPA issued a second Notice of Initiation of Special Review (52 FR 27172) of the EBDC pesticides because of concerns over carcinogenic, developmental, and thyroid effects caused by ETU. The Agency had determined that the registrations containing the EBDC pesticides met or exceeded the risk criteria in 40 CFR 154.7(a)(2) and 154.7(a)(6) relating to carcinogenicity to humans from dietary exposure and a risk to mixer/loader/applicators for carcinogenic, developmental, and thyroid effects. Specifically, EPA determined that exposure to the EBDCs resulted in an increased incidence of thyroid follicular cell adenomas and adenocarcinomas in rats, and liver tumors in two strains of mice. The Notice invited comments from the registrants as well as from the public.

In March 1989, Rohm and Haas, the sole registrant of nabam, requested voluntary cancellation of all agricultural uses. The uses of nabam in sugar mill grinding, crusher, and diffuser systems were retained.

The Agency issued a Data Call-In (DCI) for the EBDCs under FIFRA section 3(c)(2)(B) on March 10, 1989, (Ref. 7) to obtain data to better estimate the risks and benefits involved in the use of these pesticides. The data required by the Notice included residue monitoring data, tank-mix stability data, dermal exposure data, dermal absorption data, reentry data, and benefits data.

On September 6, 1989, the 4 technical registrants of mancozeb, maneb, and metiram (Rohm and Haas, DuPont, Atochem, and BASF) requested that the Agency amend their registrations to delete 42 of the 55 registered food uses and to restrict formulation of their technical products only into products labeled for the retained uses. These amendments were approved on December 4, 1989 (54 FR 50020). The 13 uses to remain on affected EBDC labels were: almonds, asparagus, bananas, caprifigs, cranberries, grapes, onions, peanuts, potatoes, sugar beets, sweet corn, tomatoes, and wheat. Specific crops permitted on labels for the individual EBDCs were: maneb (almonds, bananas, potatoes, sugar beets, sweet corn); mancozeb (asparagus, bananas, cranberries, figs, grapes, onions, peanuts, potatoes, sugar beets, sweet corn, tomatoes, wheat); and metiram (potatoes).

3. *Notice of Preliminary Determination (PD 2/3).* EPA issued a Notice of Preliminary Determination on December 20, 1989 (54 FR 52158), announcing its proposed decision to cancel the 42 uses deleted by the technical registrants on the basis of unacceptable risk and a lack of support by the registrants. The registrants' deletion of 42 of 55 food uses from their registrations decreased the estimated carcinogenic dietary risk of EBDCs from 3×10^{-4} to 2×10^{-5}. The estimated cumulative benefit of EBDC use on the 13 remaining crops was $14 to $27 million. EPA considered the estimated

dietary risk following the registrants' action and concluded that the aggregate long-term risk was still unreasonable. Therefore, EPA proposed to cancel the use of mancozeb, maneb, and metiram on 3 additional crops (bananas, potatoes, and tomatoes) and retain only the use of mancozeb and maneb on 10 of the 13 crops (almonds, asparagus, caprifigs, cranberries, grapes, onions, peanuts, sugar beets, sweet corn, and wheat). The estimated carcinogenic dietary risk resulting from the 10 retained crops was 3×10^{-6} and estimated benefits were $13 to $26 million.

In the PD 2/3, the Agency proposed a label language requirement that agricultural workers applying EBDC pesticides wear coveralls over a long-sleeved shirt and long pants, chemical-resistant gloves, shoes, socks, and goggles or a face shield. Additionally, the proposed label would require agricultural workers to wear a chemical-resistant apron during mixing and loading. For agricultural workers applying EBDCs in completely enclosed cabs with positive pressure filtration, or aerially with an enclosed cockpit, a long-sleeved shirt and long pants were proposed to be allowed to be worn in place of the protective clothing described above. Chemical-resistant gloves were to be available in the cab or cockpit and worn upon exiting. During aerial application, human flaggers were to be prohibited unless in totally enclosed vehicles. With incorporation of the above-mentioned protective clothing requirements, developmental and thyroid Margins-of-Exposure (MOEs) for workers using EBDC products on most agricultural sites increased to greater than 100 except for the use of maneb on grapes and ornamentals. EPA proposed to cancel these two maneb uses after determining that the estimated risks of continued use exceeded the estimated benefits.

The Agency also proposed a label language requirement establishing an interim reentry interval of 24–hours for all EBDC products used on agricultural sites because of concern about EBDC and ETU exposure to workers reentering treated fields for the purposes of hand harvesting, pruning, and weeding.

For homeowners, the Agency proposed a label language requirement that homeowners applying EBDC pesticides wear a long-sleeved shirt, long pants, and rubber gloves. The Agency did not believe that additional protective clothing requirements for homeowners beyond that proposed would be an effective means of reducing risks because the Agency believes that homeowners will not go to the expense of purchasing or wearing protective clothing. Therefore, EPA proposed to cancel the use of maneb on turf by homeowners where MOEs remained under 100 even with a long-sleeved shirt, long pants, and gloves and estimated risks of continued use outweighed the estimated benefits. In addition, the Agency proposed to cancel homeowner use of mancozeb on fruit trees and turf, and homeowner use of maneb on vegetables, ornamentals, fruit trees, and turf because of concerns about cancer risks which exceeded 10^{-6} for homeowners applying EBDCs.

Finally, the Agency proposed a label language requirement that all industrial workers applying EBDC pesticides wear coveralls over a long-sleeved shirt and long pants, chemical-resistant gloves, shoes, socks, and goggles or a face shield. However, even assuming incorporation of these protective clothing requirements, the MOEs for thyroid effects for nabam used in paper mills and sugar mills remained below 100. Therefore, after determining that the risks outweighed the benefits of use, the Agency proposed cancellation of the use of nabam in paper mills and sugar mills.

4. *Conclusion of Special Review (PD 4).* EPA's assessment and final decision regarding the risks and benefits associated with products containing the EBDCs are set forth in this document. The Agency has received additional data and comments in response to the EPA's EBDC Preliminary Determination.

Based on information received in response to the PD 2/3, the Agency has determined that the dietary risks exceed the benefits for the following food uses of EBDCs: apricots, carrots, celery, collards, mustard greens, nectarines, peaches, rhubarb, spinach, succulent beans, and turnips. Accordingly, EPA is announcing its intent to cancel all mancozeb, maneb, and metiram products registered for one or more of those 11 uses. Additionally, EPA intends to cancel products registered for certain other agricultural uses unless their registrations and labels are amended to reflect the changes in use patterns specified herein. For workers, protective clothing measures are required to avoid cancellation. Also, a 24–hour interim reentry interval will be established. The Agency also intends to cancel all mancozeb products registered for use on homegarden fruit trees and turf. Clothing and hygiene language will be required on homegarden-use labels and registrations. A more detailed discussion is included in the appropriate Units of this document along with EPA's responses to comments received.

B. Legal Background

Before a pesticide product may be lawfully sold or distributed in either intrastate or interstate commerce, the product must be registered by the Agency [FIFRA sections 3(a) and 12(a)(1)]. A registration is a license allowing a pesticide product to be sold and distributed for specified uses in accordance with specified use instructions, precautions, and other terms and conditions.

To obtain a registration for a pesticide under FIFRA, an applicant must demonstrate that the pesticide satisfies the statutory standard for registration. The standard requires, among other things, that the pesticide perform its intended function without causing "unreasonable adverse effects on the environment," (FIFRA section 3(c)(5)). The term "unreasonable adverse effects on the environment" is defined in FIFRA section 2(bb) as "any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide." This standard requires a finding that the benefits of the use of the pesticide exceed the risks of use when the pesticide is used in compliance with the terms and conditions of registration or in accordance with commonly recognized practices.

The burden of proving that a pesticide satisfies the statutory standard is on the proponents of registration and continues as long as the registration remains in effect. Under FIFRA section 6, the Administrator may issue a Notice of Intent to Cancel the registration of a pesticide product whenever it appears to the Administrator that the pesticide product causes unreasonable adverse effects on the environment. The Agency created the Special Review process to facilitate the identification of pesticide uses which may not satisfy the statutory requirements for registration and to provide an informal procedure to gather and evaluate information about the risks and benefits of these uses.

A Special Review may be initiated if a pesticide meets or exceeds the risk criteria set out in the regulations at 40 CFR part 154. The Agency announces that a Special Review is initiated by issuing a notice in the **Federal Register**. Registrants and other interested persons are invited to review the data upon which the Special Review is based and to submit data and information to rebut the Agency's conclusions by showing that the Agency's initial determination was in error, or by showing that use of the pesticide is not likely to result in any significant risk to human health or the environment. In addition to submitting rebuttal evidence, commenters may submit relevant information to aid in the determination of whether or not the economic, social, and environmental benefits of the use of the pesticide outweigh the risks of use. After reviewing the comments received and other relevant material obtained during the Special Review process, the Agency makes a decision on the future status of registrations of the pesticide.

The Special Review process may be concluded in various ways depending upon the outcome of the Agency's risk/benefit assessment. If the Agency concludes that all of its risk concerns have been adequately rebutted, the pesticide registration will be maintained unchanged. If, however, all risk concerns are not rebutted, the Agency will proceed to a full risk/benefit assessment. In determining whether or not the use of a pesticide poses risks which are greater than its benefits, the Agency considers possible changes to the terms and conditions of registration which can reduce risks, and the impacts of such modifications on the benefits of use. If the Agency determines that such changes reduce risks to the level where the benefits outweigh the risks, it may require that such changes be made in the terms and conditions of the registration. Alternatively, the Agency may determine that no changes in the terms and conditions of a registration will adequately assure that use of the pesticide will not pose any unreasonable adverse effects. If the Agency makes such a determination, it may seek cancellation, and if necessary, suspension. In either case, the Agency must issue a Notice of Intent to Cancel the registrations. If the Notice requires changes in the terms and conditions of registration, cancellation may be avoided by making the specified changes set forth in the Notice, if possible. Adversely affected persons, including registrants and applicants for registration, may also request a hearing on the cancellation of a specified registration and use, and if they do so in a legally effective manner, that registration and use will be continued pending a decision at the close of an administrative hearing.

II. Summary of Toxicological Concerns and Agency Evaluation of Comments and Additional Data

The Special Review of the EBDCs was initiated in 1987 because of carcinogenic, developmental, and thyroid effects caused by ethylenethiourea (ETU). Summarized in this Unit are the Agency's review of studies for these effects including discussions of new information and public comments that have been received since the Notice of Preliminary Determination (PD 2/3) was issued in December 1989.

A. Carcinogenicity

1. *Hazard identification.* In the PD 2/3, the Agency relied on data from four studies in its carcinogenic risk assessment of ETU. In one study (Ref. 6), marked increases in liver tumors (hepatomas) were observed in mice fed 646 parts per million (ppm) of ETU daily for 80 weeks. The thyroids in this study were not examined. Another study (Ref. 6) showed that rats fed two different doses of ETU (175 or 350 ppm) daily for 18 months developed thyroid carcinomas at both dose levels. No thyroid tumors developed in controls. In a third study (Ref. 8), thyroid effects were observed in rats fed ETU at doses of 5, 25, 125, 250, or 500 ppm for nearly 2 years. A dose-related increase in thyroid follicular cell carcinomas and adenocarcinomas was observed at 250 and 500 ppm; thyroid follicular cell adenomas at 250 ppm; and thyroid follicular cell hyperplasia at 5, 25, 125, and 250 ppm.

At the time the PD 2/3 was issued, the National Toxicology Program (NTP) made available to the Agency a fourth study (Ref. 8) that included data from ETU carcinogenicity studies conducted with rats and mice. The NTP studies were of an unusually complex design when compared with the usual NTP carcinogenicity bioassay where the dosing of animals is started only after weaning. In the ETU bioassay, some groups of animals were exposed to ETU in utero and fed ETU after weaning throughout their lifetime. In the mouse study, for example, the doses for the parent animals were 0, 33, 110, and 330 ppm, and the lifetime doses for the test animals after weaning were 0, 100, 330, and 1,000 ppm. However, because the data for animals exposed in utero were still under review, the Agency limited its analysis in the PD 2/3 dose response assessment to those animal groups which were exposed in the standard fashion (i.e., were not exposed in utero or through milk but were put on the ETU-containing diets only after weaning).

In the NTP mouse study using the standard treatment groups, animals were fed doses of 0, 333, or 1,000 ppm ETU in the diet for up to 2 years. In the female mice treated at the low dose, 30 percent of the animals exhibited liver adenomas only, while an additional 58 percent showed liver carcinomas for a combined total of 88 percent showing adenomas or carcinomas. At the high dose, only 2 percent exhibited adenomas while 96 percent were diagnosed with carcinomas. This contrasts sharply with a total of only 8 percent of the females in the control group exhibiting either adenomas (4 percent) or carcinomas (4 percent).

The thyroid gland in female mice showed dose-related increases in follicular cell hyperplasia when compared to controls (4 percent, 26 percent, and 94 percent, respectively). Male mice showed follicular cell hyperplasia only at the high dose tested (0 percent, 0 percent, and 88 percent, respectively). Female mice showed statistically-significant increases in follicular cell multiple adenomas and carcinomas at the high dose only. No thyroid carcinomas or adenomas were observed in controls. In males, follicular cell adenomas and carcinomas appeared to a greater extent in the high dose group total (62 percent) than in controls (2 percent) or the low dose group (2 percent).

In the NTP bioassay conducted on rats, the thyroid gland was the principal target organ for ETU. Animals were fed ETU in their diet at levels of 0, 83, or 250 ppm for up to 2 years. Hyperplasia ranged between 0 and 9 percent for control groups, whereas hyperplasia in all treated groups was between 18 and 64 percent. Follicular cell adenocarcinomas occurred in 58 percent of the high dose group of males compared to 2 percent in controls. In females, it was 16 percent for adenocarcinomas at the high dose compared with 4 percent for controls.

The potency factor (Q_1^*) used in the PD 2/3, 0.6 $(mg/kg/day)^{-1}$, was based on female mouse liver tumors observed in the NTP study on ETU. Although NTP data on the rat thyroid were also available to the Agency to estimate a revised Q_1^*, the mouse data were chosen because they provided a slightly more conservative Q_1^* than that estimated for the male rat thyroid. Also, there was no developed plausible mechanistic information to suggest a mode of action for liver tumors in the mouse as there was for thyroid tumors in the rat (See Unit II.A.4. for further discussion).

2. *Potency factor (Q_1^*) issues—a. EBDC/ETU Task Force analysis.* In December 1990 and April 1991, the EBDC/ETU Task Force submitted to EPA an analysis of the female mouse liver data from the NTP study (OPP 30000/53: D–12412A and D–12639A). This analysis had been conducted by

three independent statisticians. Their analysis argued that the preliminary cancer potency factor (Q_1^*) of 0.6 (mg/kg/day)$^{-1}$ should be reduced. The approach used in reaching this conclusion differed from the Agency's in three ways:

(1) Actual body weight and food consumption data from the NTP study were used by the Task Force (instead of standard conversion values derived empirically) in converting the estimated potency per ppm in food to an estimated potency per mg/kg/day, thereby reducing the potency factor by about 20 percent.

(2) Female mouse tumor response data for pre-weaning dose groups receiving the same post-weaning dose were combined or pooled by the Task Force (i.e., liver tumor responses were summed/pooled), because there were no statistically-significant differences between mice exposed in utero and the standard dose groups. However, as a result of the inclusion of the low 33/100 ppm dose group (i.e., pre-weaning dose/post-weaning dose) from the in utero exposure group as a data point, the high dose group (1,000 ppm) was omitted by the Task Force from the linearized multistage model used to calculate the Q_1^*. This was done because the Task Force suggested it allowed for a better definition of the shape of the dose-response curve in the lower dose region, which is of primary interest for quantitative risk assessment purposes. This reduces the Q_1^* estimate by about 4.5 fold.

(3) An interspecies scaling factor was based upon the ratio of human to animal body weights raised to the ¼ power rather than the ⅓ power currently used by the Agency. This recommendation was motivated by the work of Travis and White (1988) and O'Flaherty (1989) as well as by indications that certain Federal Government agencies are considering changing from ⅓ power to ¼ power. This reduces the Q_1^* by a factor of about two.

The consequence of some or all of these changes would make the preliminary Q_1^* used in the PD 2/3, based on female mouse liver tumors, lower than the Q_1^* based upon the male rat thyroid tumors.

b. *HED Peer Review* . On May 29, 1991, the Agency's Office of Pesticide Program's, Health Effects Division Carcinogenicity Peer Review Committee met to discuss these Q_1^* issues (Ref. 9). The Committee concluded the following:

(1) The Q_1^* value should be estimated with the initial inclusion of all four dose groups (i.e., 0, 100, 330, 1,000 ppm).

(2) The experimental dose of 33/100 ppm for the female mouse liver should be included as a data point in estimating the Q_1^*. Also, the liver tumor response in female mice receiving their first exposure as adults after 8 weeks of age should be combined (pooled) with those female mice receiving their initial exposure in utero which then continued uninterrupted throughout the remainder of their life-span.

(3) The interspecies scaling factor based upon the ratio of human to animal body weights raised to the ⅓ power should be employed. This is consistent with Agency policy.

(4) The best fit of the data to the linearized multistage model (with the possible elimination of the high dose) to obtain the best estimate of risk at the low dose should determine the Q_1^*.

(5) Actual body weight and food consumption data should be used.

c. *Inclusion of the low dose.* The most significant deliberation within the HED Peer Review Committee focused on the inclusion of the 33/100 ppm low dose group and the exclusion of the 1,000 ppm dose group for the purpose of dose response assessment. The inclusion of the 33/100 ppm dose was accepted by the Peer Review Committee; however, there were strong arguments for excluding the 33/100 ppm dose from the Q_1^* determination. The arguments for including the data point were based primarily on biological considerations, thereby allowing the lowest dose treatment group to provide a better estimate and extrapolation to the events occurring at low dose exposures. The arguments for not including this data point were based primarily on statistical incongruities of the experimental design (small sample size and the absence of any corresponding control group). Due to strong arguments against including this data point, the Agency requested comments from the FIFRA Scientific Advisory Panel (SAP) relative to the Peer Review Committee's recommendations for appropriate use of this dose group for risk characterization. Specifically, the second gathering of the SAP (convened on September 18, 1991) was asked to provide, to the extent possible, the scientific arguments for either inclusion or exclusion of the low dose data point in the dose-response assessment.

In an October 2, 1991 report, the SAP stated that adequate data should always be included unless there is a strong reason to exclude them. The Panel felt strongly that the data from the 33/100 ppm group should be included in the analyses. The SAP's argument for inclusion was that the Agency's standard dose-response formula (e.g., linearized multistage model) is probably not statistically appropriate for use in calculating the Q_1^* if all data except the control show over 90 percent rates of cancer incidence. The Panel also believed that, in this case, there is a strong reason for the Agency's standard approach to exclude the highest dose group because its inclusion is associated with gross distortion of estimates of the probable effects at lower doses when used in the linearized multistage model. The Panel's complete response can be found in Unit VI of this Notice.

d. *Q_1^* for the final determination.* As a result of the HED Peer Review Committee decisions and the recommendations of the SAP, the revised Q_1^* for the Final Determination of the EBDCs/ETU reflects inclusion of the low dose group and is estimated to be 0.11 (mg/kg/day)$^{-1}$ (Ref. 10).

3. *Mutagenicity.* ETU and the EBDCs have been tested for mutagenicity in several assay systems (Ref. 8). It is well recognized that a correlation exists between genotoxic agents and carcinogenicity; many, but not all, mutagenic agents contribute to or induce tumor formation. Although the results of available studies were both positive and negative, the body of evidence suggests that ETU and the EBDCs are capable of inducing a variety of genotoxic endpoints. These include responses in gene mutation assays, structural chromosomal assays, and other genotoxic effects. ETU does not appear to be a highly potent genotoxic agent; however, the positive mutagenicity findings generally support the carcinogenic observations of ETU in both rats and mice.

4. *Non-genotoxic tumor formation (Threshold Concept).* There is experimental evidence that thyroid tumors in rats can only occur as a result of exceeding a threshold (i.e., tumors appear only when hormone concentrations exceed a specific level, identified as the threshold, for an extended period of time). To fully understand the threshold concept, it is necessary to provide a brief explanation of the physiological relationship between the pituitary gland and thyroid gland. Decreased levels of thyroid hormones threaten the physiological equilibrium which causes the anterior pituitary gland to secrete thyroid stimulating hormone (TSH). In turn, the TSH causes thyroid hormone levels to rise back to normal levels. The anterior pituitary then decreases production of TSH which causes a subsequent decrease in the production of thyroid hormone. If there is a disruption of this feedback mechanism resulting in decreased thyroid hormone levels that cannot be counterbalanced by increased

TSH production, the result is the continuous but futile stimulation of the thyroid by TSH. This constant stimulation by TSH over an extended period of time changes the morphology of the thyroid gland and, at some critical point, results in tumor formation (i.e., follicular cell neoplasia). This would result in a mechanism for tumor formation involving a threshold. It is unclear, though, how the "weak" genotoxicity of ETU may play a role in this process.

Iodide peroxidase is an enzyme that is essential in the production of thyroid hormones. ETU is structurally related to several chemicals that inhibit the production of iodide peroxidase and has been demonstrated to inhibit iodide peroxidase *in vitro*. ETU would be expected to have the same effect on the thyroid gland *in vivo*. Thus, ETU may interfere with the biosynthesis of thyroid hormones by inhibiting iodide peroxidase which results in the positive feedback to the pituitary (described above) for as long as ETU is sufficiently available to maintain decreased thyroid hormone levels. It has been argued, therefore, that unless dose levels of ETU are at high enough levels to sufficiently inhibit iodide peroxidase for an extended period of time, causing the appropriate hormone levels to exceed a specific concentration (i.e., the threshold), ETU should not cause thyroid tumors. In other words, the dose of ETU below the threshold will be too low to cause this exaggerated positive feedback.

EPA presented the threshold concept to the Agency's FIFRA Scientific Advisory Panel on May 15, 1990. In general, the Panel believes that there is a reasonable basis to postulate a mode and mechanism of action for the thyroid tumor effects but was unable to provide a plausible explanation for the formation of liver tumors as a result of elevated levels of TSH or decreased circulating levels of thyroid hormones. The Panel's complete response can be found in Unit VI of this document.

5. *Weight-of-evidence for carcinogenicity.* EPA classified ETU as a Group B_2 Carcinogen by using a weight-of-the-evidence approach and following the classification scheme set forth in EPA's Carcinogenic Risk Assessment Guidelines (51 FR 33992). In general terms, a B_2 classification means that the weight-of-evidence from laboratory animal data is sufficient to consider the compound a probable human carcinogen. Evidence is sufficient if there is an increased incidence of tumors: (a) In multiple species or strains of test animals; or (b) in multiple experiments, for example, with different dose levels or routes of administration; or (c) to an unusual degree in a single experiment with regard to high incidence, unusual site or type of tumor, or early age at onset.

ETU's B2 classification is based on evidence that:

(1) ETU induced an increased incidence of thyroid follicular cell adenomas and adenocarcinomas in mice and 2 strains of rats (3 separate studies) and an increased incidence of liver adenomas and carcinomas in 3 strains of mice.

(2) ETU induced thyroid tumors in rats after 1 year or less of treatment.

(3) ETU induced a high incidence of both thyroid tumors in rats and hepatomas in mice to an unusual degree in a single experiment.

(4) ETU is structurally similar to several other thyroid inhibitors (e.g., thiouracil and thiourea) that have been found to induce liver and/or thyroid tumors in rodents.

(5) Results of the available mutagenicity studies on ETU also provide supportive evidence of the carcinogenic effect.

B. Developmental Effects

The no-observable-adverse-effect level (NOAEL) for developmental toxicity resulting from exposure to ETU is equal to or less than 5.0 mg/kg/day based on a rat study (Ref. 8). Although a no-observable-effect level (NOEL) was not established in the rat study, the Agency believes the NOAEL is close to the NOEL and could be used for the purpose of estimating Margins-of-Exposure (MOEs). ETU was shown to be developmentally toxic at dose levels lower than those that produced no apparent maternal toxicity. At 5.0 mg/kg/day, which was the lowest dose tested, developmental toxicity was observed in the form of delayed ossification or hardening of the parietal bone (in the skull). Delayed ossification was clearly dose-related and at higher rates than in controls and appears to be a sensitive indicator of exposure to ETU. ETU has also been detected in term fetuses at concentrations comparable to those found in maternal tissues following oral treatment and it could therefore not be determined whether or not the malformations arose as a result of direct action on the fetus or indirectly by altering maternal thyroid or other functions. The results of the NTP study conducted on rats and mice indicated that ETU affected thyroid function in both species. However, a mouse study showed no developmental toxicity at very high doses (800 mg/kg/day by gavage). Therefore, simple inhibition of the thyroid gland may not necessarily be the mechanism by which developmental effects are manifested in rats. Preliminary evidence in the literature indicates developmental effects in rabbits.

C. Thyroid Effects

ETU has been shown to cause thyroid effects from subchronic exposures. A 90-day study on rats revealed a NOEL of 5 ppm (0.25 mg/kg/day) (Ref. 8). Thyroid toxicity seen at levels above 5 ppm consisted of thyroid hyperplasia, decreased uptake of radioactive iodine by the thyroid, and decreased serum levels of triiodothyronine (T3) and tetraiodothyronine (T4). This 90-day rat study also indicated a lowest-effect level (LEL) of 25 ppm (1.25 mg/kg/day). A 3,000-fold uncertainty factor was applied to the LEL to derive the reference dose which is 0.00008 mg/kg/body weight/day. The uncertainty factor of 3,000 accounts for inter/intraspecies extrapolation (x 100), the lack of a NOEL (x 10), and data gaps (x 3).

D. Other Effects

Although ecological effects are not a subject of this Special Review, the Agency is concerned about these effects as well as the potential for the EBDCs to contaminate groundwater.

1. *Ecological effects.* In the PD 2/3, EPA stated that additional data would be needed to more fully assess the potential of EBDCs to cause reproductive effects in birds and chronic and acute toxicity in aquatic organisms. The Agency has reviewed the data that were submitted after publication of the Registration Standards for mancozeb, maneb, metiram, and nabam. Summaries of new findings for each chemical are as follows (Ref. 11):

(a) Repeated applications of mancozeb on apples and potatoes may pose a reproductive risk to birds.

(b) Repeated applications of maneb on apples and cranberries may pose a reproductive risk to birds. Freshwater fish are at approximately five times greater acute risk than originally thought based on new data; freshwater fish may also be at chronic risk from repeat applications; estuarine invertebrates are the most sensitive of all aquatic species.

(c) For nabam industrial uses, estuarine invertebrates are more at risk than previously noted.

(d) Repeated applications of metiram on apples may pose reproductive risk to birds.

The following data requirements remain outstanding: aquatic toxicity and avian reproduction studies for mancozeb (currently in review), maneb (due 7/92 and 11/92), and metiram (due 4/92 and 12/92). Additional environmental fate data are also required to fully address the ecological concerns. However, the limited environmental fate data base indicates that the EBDCs rapidly degrade to ETU. This rapid degradation mitigates potential concern for the parent EBDC. Further testing requirements for ETU may be required depending on the results of the review of environmental fate studies required by the Registration Standards.

2. *Groundwater.* The Agency required retrospective groundwater monitoring studies for each of the EBDC parent compounds in 1988 through Data Call-In Notices and Registration Standards. These Data Call-In Notices were issued in response to environmental fate data submitted by EBDC registrants in response to the 1984 Data Call-In Notice which indicated that ETU has the potential to leach to groundwater. The registrant for metiram submitted a protocol for the small-scale retrospective groundwater monitoring study in 1990. This protocol was rejected by the Agency because it was too general and lacked detailed information such as the criteria and procedures for the selection of the test sites, well locations, analytical methods and limits of detections for the parent compound and ETU, and quality assurance/control programs. As of this date, no groundwater monitoring for ETU or the EBDC compounds has begun.

The National Pesticide Survey (NPS), started by EPA in 1985, was the first study to analyze for pesticides and nitrates in drinking water wells on a national level. The survey reported a detection of ETU in one well (16 ppb at a 4.5 ppb limit of detection) out of 739 rural domestic wells. ETU was not detected in any of the 556 community water systems tested. Statistically, 0.1 percent of rural domestic wells (or 6,470 rural domestic wells in the United States) would be expected to be contaminated with ETU. To date, the Agency has not established a Maximum Contaminant Level (MCL) or a Health Advisory (HA) for ETU.

E. Comments and Response

A number of comments were received in response to the PD 2/3 regarding the toxicity of the EBDC pesticides (Ref 12). A summary of those comments and the Agency's responses follow.

1. *Comment.* One commenter states that there are currently no valid studies which evaluate the effects of EBDCs on humans. While animal studies provide a basis for assuming cancer response in humans, there are significant differences to question the validity of those test results. In particular, the breakdown product of EBDCs, ethylenethiourea (ETU), does not produce the same result on thyroid function in man as it does in a rat. The test results show ETU to be a problem only at doses higher than EPA's estimate of human exposure. The commenter states that it is unreasonable and unfair to extrapolate these doses to assume a significant health risk to humans.

Response. The Agency also is not aware of any valid human epidemiological studies that evaluate the effects of any of the EBDCs or ETU. However, there are grounds to believe that the EBDCs and/or ETU may cause the same cancerous and non-cancerous effects in humans as it does in other mammals by one or more mechanisms. First, EBDCs or ETU may directly act upon the DNA molecule causing a mutation with the subsequent event of carcinogenicity. This cause and effect relationship can be independent of the dose level administered. Second, ETU may also cause an imbalance in thyroid hormone levels which ultimately changes the thyroid gland morphology (follicular cell neoplasia).

2. *Comment.* Another commenter contends that the EBDCs may not be human carcinogens, based upon the article written by Ames and Gold (Science Vol. 249, 31 August 1990) which states that chemicals tested at the maximum tolerated dose (MTD) induce cell division which then plays a dominant role in carcinogenesis. Thus, Ames and Gold conclude that at the MTD a rodent carcinogen provides no information about low-dose risk to man.

Response. The EBDCs and ETU have been tested in cancer bioassays at lower doses than the MTD in more than one species and several experiments with positive results. In the case of EBDCs/ETU, neither the specific mechanism nor the sequence of events which allow for the manifestation of carcinogenesis are known. As stated in the **Federal Register** (50 FR 10372), EPA's policy is that "in the absence of adequate data on humans, it is reasonable to regard chemicals that are carcinogenic in laboratory animals as if they were also carcinogenic to humans***as a general principle."

3. *Comment.* A commenter has called for positive proof that this family of fungicides and/or its metabolite, ETU, cause cancer in humans.

Response. The Agency is not aware of any valid human epidemiological studies that evaluate effects from ETU or any of the EBDCs. However, the Agency has data on some of the chemicals that show that under certain test conditions carcinogenic effects are manifested. Because EBDCs and ETU have been shown to cause cancer in other mammals, it is reasonable to assume that these chemicals have the potential to cause similar effects in humans. As noted in the previous response, it is EPA policy to utilize animal data to identify potential carcinogenic risks to humans. The Agency does not believe it would be appropriate public policy to ignore such data and wait for positive evidence of human harm before taking any action. The degree of confidence in a chemical's ability or potential to cause cancer in humans, in the absence of human studies, is based primarily upon animal studies and how well the conduct of these studies follow established scientific principles and guidelines. This is the basis for the weight-of-evidence approach that enables the Agency to take the position that these chemicals are probable human carcinogens in the absence of valid human epidemiological studies.

4. *Comment.* A commenter stated that the risk assessment does not include the risk from nitrosated ETU, which may form in the human stomach and has been demonstrated to induce potent genotoxic effects.

Response. The acidity of the rodent stomach is comparable to the acidity of the human stomach, with other gastric constituents being generally comparable. Because of this similarity, one can reasonably assume that whatever chemical reaction occurs in the rodent stomach might also occur in the human stomach. Assuming the nitrosation of the ETU occurs in the rat stomach and results in a tumorigenic effect, this would have already been considered in the determination and selection of the data used to calculate a Q_1^* and subsequent risk analysis.

5. *Comment.* A commenter submitted a research publication which presented data on the mechanism of thyroid peroxidase inhibition by ETU.

Response. The published article presents *in vitro* experimental evidence on a mechanism of action for the inhibition of thyroid peroxidase by ETU and puts forth the argument that the findings provide a biochemical basis for the existence of a no-observable-effect level (NOEL), thereby establishing a threshold level for thyroid carcinogenesis. Even if one assumed that a NOEL existed, it does not necessarily follow that the establishment of a NOEL automatically precludes a genotoxic mechanism for thyroid carcinogenicity. Extensive mutagenicity tests conducted on the

EBDCs/ETU have been interpreted as either weakly positive, equivocal, or negative. Although the article is supportive of a threshold phenomenon, data have not been submitted to the Agency that directly address the carcinogenicity issue of the thyroid by ETU *in vivo*.

6. *Comment.* One commenter indicated that studies have shown cancer and birth defects occurring in rats exposed to massive doses of EBDCs but not occurring in mice, rabbits, and hamsters exposed to the same doses.

Response. ETU, the common metabolite of all the EBDCs, has been shown to produce thyroid tumors in rats and mice and liver tumors in mice. The Agency is not aware of carcinogenicity studies being conducted on rabbits. The studies conducted on hamsters were not scientifically acceptable.

ETU is a teratogen in rats and hamsters although in hamsters at much higher doses than in rats. It does not appear to be teratogenic in mice. Preliminary evidence in the literature indicates developmental effects in rabbits.

Nabam has been shown to produce developmental effects in rabbits at very low dose levels and there is some suggestive, but currently incomplete data, that it also produces developmental defects in rats.

The fact that a chemical can produce a similar type of effect between species or sexes without regard to dose is not biologically unusual. The type and site of the response can be explained by the chemical agent's pharmacokinetics and pharmacodynamics between species. One may assume that a particular response observed in one species has the potential of appearing in one or more additional species in the same or related form if the pharmacokinetics and pharmacodynamics of the agent is altered and the sensitivities between species differ.

III. Dietary Exposure and Risk

A. Dietary Exposure

In the EBDC Preliminary Determination (PD 2/3), the Agency estimated the chronic dietary risk using field trial residue data that reflected use of EBDCs at maximum application rates, minimum preharvest intervals, and at least the typical number of applications. Also considered were commercial processing data for mancozeb, maneb, and metiram in addition to washing, cooking, and other processing studies that were available at that time. For all 55 crops, the total cancer risk from dietary exposure to EBDC-treated crops was estimated to be 3×10^{-4}.

In the PD 2/3, EPA stated its belief that if more representative data were available (i.e., studies that would allow the Agency to estimate average residue levels closer to the dinner plate rather than the farm gate), the dietary risk estimates could be significantly lower and that the Agency might conclude that the risks could possibly be outweighed by the benefits for more crops than the 10 proposed to be retained. On March 10, 1989, the Agency required the EBDC registrants to generate market basket data for representative crops which could then be translated to other similar crops (Ref. 7). Generally, residue data from a particular crop may be translated to other crops within the same crop group (Ref. 19).

The EBDC/ETU Task Force sampled, at randomly selected grocery stores across the United States, various food forms (e.g., raw, canned, frozen, juice) of 12 representative crops: almonds, apples, bananas, broccoli, cucumbers, dry beans, grapes, head lettuce, onions, potatoes, sweet corn, and tomatoes. Also, meat and milk were sampled. The EBDC/ETU Task Force chose not to sample five of the representative crops (carrots, leaf lettuce, peaches, spinach, and succulent beans). Carrots would have been translatable to sugar beets and turnip roots; leaf lettuce to celery, endive, fennel, and rhubarb; peaches to apricots and nectarines; and spinach to collards, kale, mustard greens, and turnip greens. The field trial residue data cited in the PD 2/3 are used in this Final Determination as the basis for residue estimates for these commodities for which market basket data are unavailable.

In September 1990, the EBDC/ETU Task Force submitted market basket data for 8 of the 12 crops: broccoli, cucumbers, dry beans, head lettuce, onions, potatoes, sweet corn, tomatoes, meat, and milk (Ref. 13). In total, 5,784 samples had been taken and analyzed for EBDC and ETU and only 1 sample was reported to have EBDC or ETU residues greater than 1 ppm; most EBDC tolerances are 7 ppm. The average residue levels in samples taken at the grocery stores were significantly lower than the average residue levels previously reported in field trials (i.e., at the farm gate) (Refs. 14 through 18).

For the Final Determination residue estimates, broccoli market basket data were translated to brussels sprouts, cabbage, cauliflower, and kohlrabi; cucumber data were translated to cantaloupe, casaba melons, crenshaw melons, honeydew melons, pumpkin, squash, and watermelon; dry bean market basket data were translated to cotton and peanuts; sweet corn data to barley, field corn, oats, rye, and wheat; and tomatoes were translated to eggplant and peppers.

Market basket data had also been generated for four other sites: almonds, apples, bananas, and grapes. However, due to problems encountered with the Craven Laboratories testing, those data were not used in the dietary exposure estimates. As an alternative, the EBDC/ETU Task Force generated limited monitoring data for bananas (Ref. 20), grape juice (Ref. 21), and wine (Ref. 22); also, some additional residue field trial data were provided for fresh grapes (Ref. 23). For apples, the Task Force submitted residue field trial data developed in cooperation with the International Apple Institute (IAI) in support of a new, more restrictive use pattern (Refs. 1 through 3). For almonds, the Task Force agreed that the Agency should use the PD 2/3 field trial data. Existing field trial data were also used for cranberry and papaya, which were to be supported by the market basket data for grapes and apples, respectively. The available apple residue data were translated to crabapple/quince and pears. The grape juice data were translated to cranberry juice.

Other data considered in refining the PD 2/3 residue estimates for the PD 4 include updated percent-crop treated information, which were obtained in part from the National Agricultural Pesticide Impact Assessment Program (NAPIAP) report (Ref. 24), processing data, and residue information provided by the following studies: FDA and state monitoring data; Florida Special Processing Study (celery, lettuce, pepper, and tomatoes); Hawaii Banana Study; the Hawaiian Papaya Growers' papaya transportation and storage study; Head Lettuce monitoring (wrapped and unwrapped); International Apple Institute apple study; leafy green studies; Midwest Food Processors' residue/processing study; the National Food Processors Association database of member's monitoring results; New England Fruit Growers' residue study in apples from typical uses; and the Northwest Food Processors Association potato data (Refs. 4, 5, and 25 through 32).

B. Carcinogenic Risk

Using the revised residue estimates (which incorporated commercial processing factors, washing and peeling factors, cooking factors, etc.), updated percent-crop treated information, and the revised upper-bound cancer potency factor (Q_1^*), EPA now estimates that the upper-bound lifetime carcinogenic risk for the United States population from dietary exposure to EBDCs from all 56 crops is 1.8×10^{-5} compared to the PD 2/3 estimate of 3×10^{-4} (Refs. 33 through 35); it appears that there are 56 uses of EBDCs because dry and succulent beans were listed as 1 site in the PD 2/3 and now they are listed as 2 sites. These risk estimates were derived using the Dietary Risk Evaluation System (DRES), the Agency's computerized data base containing food consumption patterns. The DRES can provide dietary exposure and risk estimates for the U.S. population and 22 subgroups of the U.S. population. Two of the most highly exposed subpopulations include non-nursing infants less than 1 year old and children age 1 to 6 years. Estimated carcinogenic risks to infants and children are discussed in Unit VII.A.

Listed in the following Table 1 are the PD 2/3 and PD 4 carcinogenic risk estimates to the overall U.S. population for each of the 56 commodities. The estimates of carcinogenic risk cited in this Notice are upper-bound estimates at the 95 percent confidence level, meaning that there is a 95 percent probability that the true risks do not exceed the estimates, and may be lower. The Agency's Guidelines point out that the use of upper-bound risk estimates is generally appropriate, but that the lower bound of risk may be as low as zero. The Guidelines state: "An established procedure does not yet exist for making 'most likely' or 'best' estimates of risk within the range of uncertainty defined by the upper and lower limit estimates." Thus, upper bound estimates are a prudent approach to risk estimation which may overstate risks, but it is designed to avoid understating them.

TABLE 1.—SUMMARY OF UPPER-BOUND LIFETIME CARCINOGENIC RISK, PERCENT RFD OCCUPIED, AND BENEFITS ESTIMATES.

Crop	PD 2/3 Risk Estimates	PD 4 Risk Estimates	PD 4 Percent RfD Range Occupied	PD 4 Benefits Range	Cost-Effectiveness
Uses to be Retained					
Almonds	7.3×10^{-9}	1.3×10^{-9} (FT)[5]	<1	Not Identified	Not Identified
Apples	1.0×10^{-4}	3.3×10^{-7} (FT)	3	$16,700,000–$51,800,000	$19,100,000–$59,200,000
Asparagus	2.4×10^{-9}	3.1×10^{-9} (FT)	<1	Not Identified	Not Identified
Bananas	1.2×10^{-6}	6.6×10^{-9} (MN)	1	$2,000,000–$5,000,000	$8,700,000–$21,600,000
Barley	3.3×10^{-7}	2.2×10^{-10} (MT)	<1	$330,000–$1,900,000	$420,000,000–$2,400,000,000
Dry Beans[1]	2.5×10^{-6}	1.3×10^{-8} (M)	<1	$500,000–$1,600,000	$28,000,000–$69,600,000
Beans, Lima[2]	2.4×10^{-8}			$500,000	Not Available
Broccoli	1.3×10^{-5}	2.4×10^{-8} (M)	<1	Negligible	Not Available
Brussels Sprouts	3.8×10^{-7}	3.3×10^{-9} (MT)	<1	Negligible	Not Available
Cabbage	1.2×10^{-6}	5.3×10^{-9} (MT)	1	Negligible	Not Available
Cantaloupes[3]	3.4×10^{-7}	8.7×10^{-9} (MT)	<1	$980,000–$4,900,000	$24,300,000
Casaba melons	5.7×10^{-9}	See Cantaloupes		See Cantaloupes	See Cantaloupes
Cauliflower	2.7×10^{-7}	1.1×10^{-8} (MT)	<1	Negligible	Not Available
Corn, field	7.2×10^{-8}	1.3×10^{-9} (MT)	<1	$1,000,000–$1,500,000	$215,400,000–$323,000,000
Corn, sweet and pop	2.7×10^{-7}	2.9×10^{-8} (M)	<1	$2,100,000–$8,600,000	$21,200,000–$86,600,000
Cotton	6.4×10^{-8}	2.2×10^{-10} (MT)	<1	$27,200,000	$34,600,000,000
Crabapples/Quince	6.1×10^{-7}	4.4×10^{-10} (FT)	<1	Not Identified	Not Identified
Cranberries	5.2×10^{-7}	4.9×10^{-9} (FT)	<1	$70,000	$49,000,000
Crenshaw melons	1.0×10^{-10}	See Cantaloupes		See Cantaloupes	See Cantaloupes
Cucumbers	9.2×10^{-7}	3.4×10^{-9} (M)	<1	$1,400,000–$6,100,000	$12,400,000–$54,000,000
Eggplant	2.5×10^{-9}	2.1×10^{-9} (MT)	<1	Not Identified	Not Identified
Endive	3.2×10^{-8}	3.1×10^{-8} (FT)	<1	Not Identified	Not Identified
Fennel	9.6×10^{-10}	4.4×10^{-10} (FT)	<1	Not Identified	Not Identified
Figs:					
Caprifigs	Non-Food Use	Non-Food Use		Non-Food Use	Non-Food Use
Kadota[4]	1.5×10^{-9}	$<1.0 \times 10^{-10}$	<1	Not Identified	Not Identified
Grapes	9.0×10^{-7}	7.2×10^{-8} (MN)	1	$1,800,000–$17,500,000	$72,000,000–$700,000,000
Honeydews	1.4×10^{-7}	See Cantaloupes		See Cantaloupes	See Cantaloupes
Kale	7.1×10^{-7}	1.0×10^{-7} (FT)	1	$2,100,000–$5,040,000	$5,880,000–$14,100,000
Kohlrabi	1.3×10^{-8}	1.1×10^{-10} (MT)	<1	Not Identified	Not Identified
Lettuce:	3.0×10^{-6}				
Head		2.4×10^{-8} (M)	<1	$34,800,000–$177,500,000.	$406,000,000–$2,071,000,000
Leaf		1.4×10^{-7} (FT)	2	$5,200,000–$26,500,000	$10,400,000–$53,000,000
Oats	5.8×10^{-9}	3.3×10^{-10} (M)	<1	$3,800,000–$25,000,000	$3,200,000,000–$21,200,000,000
Onions	4.7×10^{-7}	2.6×10^{-8} (M)	<1	$4,200,000–$5,500,000	$50,300,000–$65,800,000
Papayas	1.8×10^{-7}	2.5×10^{-8} (FT)	<1	$240,000–$7,860,000	$1,300,000–$44,000,000
Peanuts	1.6×10^{-8}	1.9×10^{-9} (MT)	<1	$9,100,000	-$2,500,000,000
Pears	1.5×10^{-6}	1.7×10^{-8} (FT)	<1	$300,000	$5,600,000
Pecans	4.0×10^{-10}	$<1.0 \times 10^{-10}$ (FT)	<1	Not Identified	Not Identified
Peppers	3.4×10^{-6}	9.2×10^{-9} (MT)	<1	$80,000,000–$85,000,000	$2,400,000,000–$2,600,000,000
Pineapples	$<1.0 \times 10^{-10}$	Seed-Piece Treatment		Not Identified	Not Identified
Potatoes	1.7×10^{-6}	2.1×10^{-7} (M)	2	$40,400,000	$55,500,000
Pumpkins	1.1×10^{-8}	4.4×10^{-10} (MT)	<1	$139,000–$706,000	$144,100,000–$732,100,000
Rye	3.5×10^{-9}	$<1.0 \times 10^{-10}$ (MT)	<1	$10,000–$60,000	$28,000,000–$168,000,000
Squash	3.4×10^{-7}	2.2×10^{-8} (MT)	<1	$271,000–$810,000	$4,400,000–$13,100,000
Sugar beets	3.7×10^{-7}	3.9×10^{-8} (FT)	<1	Not Identified	Not Identified
Tomatoes	1.6×10^{-5}	2.7×10^{-7} (M)	3	$32,300,000–$45,000,000	$129,200,000–$180,000,000
Watermelons	1.9×10^{-6}	1.1×10^{-9} (MT)	<1	See Cantaloupes	See Cantaloupes

TABLE 1.—SUMMARY OF UPPER-BOUND LIFETIME CARCINOGENIC RISK, PERCENT RFD OCCUPIED, AND BENEFITS ESTIMATES.—Continued

Crop	PD 2/3 Risk Estimates	PD 4 Risk Estimates	PD 4 Percent RfD Range Occupied	PD 4 Benefits Range	Cost-Effectiveness
Wheat	1.1×10^{-7}	1.9×10^{-9} (MT)	<1	$1,863,000–$10,000,000	$245,100,000–$1,500,000,000
Meat (red)	1.8×10^{-7}	1.9×10^{-9} (M)	<1		
Milk (national)	5.6×10^{-7}	2.0×10^{-8} (M)	<1		
Subtotal		1.6×10^{-6}	approx . 47	$268,000,000–$564,950,000.	
Uses to be Cancelled					
Apricots	6.7×10^{-6}	4.7×10^{-7} (FT)	5	Not Identified	Not Identified
Celery	1.8×10^{-5}	8.7×10^{-7} (F)	10	$1,300,000–$3,400,000	$790,000–$1,800,000
Carrots	1.9×10^{-4}	3.9×10^{-7} (FT)	4	$1,200,000	$871,000
Collards	1.3×10^{-5}	1.9×10^{-6} (FT)	14	$5,700,000–$13,680,000	$1,200,000–$2,900,000
Mustard greens	1.7×10^{-5}	2.1×10^{-6} (FT)	24	$4,050,000–$9,720,000	$540,000–$1,300,000
Nectarines	1.0×10^{-6}	7.7×10^{-8} (FT)	1	$10,000	$36,000
Peaches	4.2×10^{-5}	2.6×10^{-6} (FT)	30	$10,000	$1,000
Rhubarb	6.5×10^{-7}	2.8×10^{-7} (FT)	3	Not Identified	Not Identified
Spinach	1.5×10^{-5}	2.1×10^{-6} (FT)	24	$5,060,000–$27,500,000	$667,000–$3,670,000
Succulent Beans[1]		3.7×10^{-6} (FT)	42	$1,300,000–$1,400,000	$99,000–$106,000
Turnips	1.7×10^{-6}	2.1×10^{-6} (FT)	24	$3,150,000–$7,560,000	$420,000–$1,000,000
Total	3.0×10^{-4}	1.8×10^{-5}	approx . 228	$290,300,000–$629,400,000.	

[1] PD 2/3 Risk Estimate includes both dry and succulent beans.

[2] Lima beans are a subset of dry beans and succulent beans (i.e., there are both dry lima beans and succulent lima beans). In the PD 4, a risk estimate for lima beans was Not identified. Rather, beans were classified as dry or succulent.

[3] PD 4 risk and percent-RfD estimates include cantaloupes, casaba, crenshaw, and honeydew; the benefits estimate and cost-effectiveness coefficients include cantaloupe, casaba, crenshaw, honeydew, and watermelons.

[4] In September 1989, the EBDC technical registrants voluntarily cancelled the fig food-use (i.e., kadota figs), leaving caprifigs as a registered use. In the PD 2/3, kadota figs were inadvertently omitted from the dietary risk analysis.

[5] Key: The type of data used in estimating dietary exposure are indicated in parentheses. FT = field trial data; M = market basket data; MT = market basket data translated; and MN = limited monitoring data. See Unit III for a more detailed description of the data.

The type of data used in estimating exposure are indicated in parentheses. "FT" means that the residue estimate is based on field trial data which result from use of the EBDC at maximum application rates, minimum preharvest intervals, and at least the typical number of applications that are typically applied as long as they are within the number of applications allowed on the label. "M" means that the residue estimate is derived from the market basket data which were generated by the EBDC/ETU Task Force. "MT" indicates that the residue estimate was translated from the market basket data. Finally, "MN" means that the residue data were derived from the limited monitoring data which were submitted to the Agency in lieu of banana and grape market basket data.

C. Developmental Toxicity

In the PD 2/3, developmental risk from dietary exposure to ETU was estimated by comparison of maximum exposure estimates for each EBDC to the developmental no-observable-adverse-effect level (NOAEL) (see Unit II). The estimated average margins-of-exposure (MOE) ranged from 770 for maneb to 4,985 for mancozeb; these are considered adequate. For this Final Determination, the dietary exposure estimates decreased; thus, the MOEs would increase. Therefore, the developmental toxicity risk analysis was not repeated.

D. Thyroid Effects

Thyroid effects are assessed using the ETU reference dose (RfD) which was derived from a 90-day rat study; see Unit II.C. for a description of this study. The ETU RfD is compared to the anticipated residues (which are obtained through DRES) to estimate the percent of RfD occupied (i.e., % RfD) for each of the 56 crops.

EPA estimated the percent RfD occupied for the overall U.S. population, the infants subgroup, and the children subgroup. The percent RfD occupied estimates for the infants and children subgroups are discussed in Unit VII.A. The percent RfD occupied estimates for the overall U.S. population are listed in Table 1 in Unit III.B. of this Notice.

E. Comments and Response: General (Refs. 6 and 36)

1. *Comment.* One commenter questioned the Agency's proposal to cancel EBDC use on potatoes while retaining use on grapes and onions. The commenter stated that it appears inconsistent to cancel a root crop like potatoes where there is no direct spraying of the edible portion (and no translocation of the EBDCs into the plant or tubers) and to retain grapes, where there is direct spraying of the fruit. Further, the commenter believes that potatoes, like onions, are unlikely to contain significant EBDC/ETU residues due to the underground development of edible portions and likely washing, peeling, and time in storage.

Response. The proposed cancellation of potatoes was based on a risk/benefit balancing that demonstrated a relatively high estimated risk for potatoes compared to relatively low estimated benefits. When estimating risks from each individual commodity, EPA is concerned with the risk due to ETU, the common degradate of the EBDCs which is carcinogenic. ETU (unlike EBDCs) is transported through the crop and can be measured in all plant parts including potato tubers. There is also the potential for EBDC transfer to the potato tubers from the soil during harvest. The EBDC/ETU residue estimates incorporate available washing, peeling, and other processing information. Finally, even though the ETU residue estimate may be relatively small, the resultant risk estimate for a commodity such as potatoes can be significant because the consumption estimate is relatively high.

2. *Comment.* Several commenters stated that unrealistic assumptions were used by EPA in the exposure estimates and that dietary exposure should be reassessed using realistic estimates of both EBDCs and ETU. Examples of what the commenters suggested were unrealistic assumptions include: using residue data from produce sampled at the farm gate to estimate residues in consumed produce; and for non-detectable residues, assuming that all EBDC-treated crops contain residues equal to the limit of detection. The commenters suggested that more realistic estimates would be based on produce for sale in the marketplace, not on produce as it is taken directly from the plant in the field. The commenter further stated that better data are needed to estimate ETU residues and points out that EPA admits that the current data overstate the dietary risk to consumers.

Response. The Agency acknowledged in the PD 2/3 that the field trial data (reflecting residue levels at the farm gate) were likely to overstate the residue levels in produce as consumed. However, these field trial data (which were corrected for washing, peeling, cooking, and other processing factors) were the best data available at the time of the PD 2/3 for dietary exposure assessment. Because the Agency expected that the available data would overstate the residues in food as consumed, EPA required the EBDC registrants to provide market basket data (i.e., data on foods collected in grocery stores). For this Final Determination, the Agency estimated dietary exposure from the market basket data that were submitted including additional processing factors, as appropriate.

EPA did not assume that all crops treated with EBDCs contain residues equal to the limit-of-detection. For the PD 2/3, the Agency assumed that all non-detectable residue levels were present at one-fourth the limit-of-quantitation (LOQ). EPA believed that this was a reasonable assumption because environmental data, which include pesticide residues, are usually distributed log-normally. A log-normal distribution is one in which the logarithms of the residue estimates are distributed according to the familiar bell-shaped curve. The average of a log-normal distribution is about one-fourth the maximum value. In the PD 4, EPA assumed that non-detectable residues were present at one-half the LOQ. The Agency changed its assumption because one-half of the LOQ, which is based on the assumption that residues are normally distributed, is more commonly used throughout the scientific community and within EPA for other chemicals. Also, one-half LOQ is a more conservative assumption.

Finally, ETU residues are not the only concern with the EBDC fungicides. While it is true that the Agency needed better data to estimate ETU residues, the Agency also needed better data to estimate EBDC residues because EBDC residues can convert to ETU during cooking or other processing and in the body. Dietary risks due to consumption of ETU residues are added to the risks due to the conversion of EBDCs to ETU. Thus, better data on the amount of both EBDCs and ETU were needed. The EBDC/ETU market basket study was required for this purpose.

3. *Comment.* One commenter noted that market basket surveys do not provide any indication of whether, when, or at what rate EBDCs were applied or when the crop was harvested; thus, the required market basket study cannot indicate if reduced rates of applications or extended preharvest intervals might eliminate the current residue problem.

Response. The Agency agrees with the commenter. Market basket data do not provide information on the use patterns used during the survey period nor do market basket data shed light on residues resulting from other alternative use patterns. However, market basket data do provide residues from actual (typical) treatment of the surveyed items. For the PD 4, the Agency estimated the typical use pattern used during the year the market basket survey was conducted through NAPIAP data, contacts with agricultural specialists, and comments submitted to the Agency in response to the PD 2/3.

4. *Comment.* One commenter stated that relying on market basket surveys for estimating dietary exposure is not protective of human health unless tolerance levels are lowered. Further, without an accurate residue monitoring system, the commenter stated that the Agency must assume that residues are at tolerance levels because this is the legally enforceable level. Even if the residue levels later found exceeded the assumed market basket survey level, the Agency would have no legal mechanism to protect the public health. Thus, if the Agency prefers to regulate at some market basket level, then the tolerance level should be lowered accordingly.

Response. EPA disagrees with the commenter. Tolerances are set at the maximum level of pesticide likely to be found on foods treated at the maximum use pattern on the label. Residues are not likely to be found routinely at this level for several reasons. First, average residues from use at the maximum rate and minimum preharvest intervals are not likely to be at the tolerance level because the tolerance level should be set at an upper limit of the residues being found in field trials. Second, not all crops are treated with the maximum use pattern on the label or harvested at the minimum preharvest interval; some are not treated at all. Third, degradation or removal of the residue may occur during storage, commercial processing, or as a result of consumer practices, such as washing, peeling, and cooking. In addition, a consumer is not likely to consume food items always containing tolerance level residues. Over a lifetime, the residue levels actually consumed should approach the average level of residues found in the United States. Nonetheless, the Agency will be lowering tolerances, where appropriate, as a result of the data received in response to the PD 2/3. Finally, FDA will continue to monitor foods for pesticide residues and take appropriate action for residues exceeding tolerances. If average residues from FDA monitoring increase significantly such that there is likely to be a health hazard, the Agency will take appropriate action.

5. *Comment.* One commenter stated that the Agency should rely on the basic data base previously provided by the primary registrants to support all crops voluntarily cancelled by the technical registrants and that the voluntary cancellation of a few uses for a pesticide active ingredient should not invalidate the total data base.

Response. The Agency agrees with the commenter. Voluntary cancellations by the technical registrants do not invalidate previously submitted data. However, the previously submitted data, while they may be the best available data and may have been used in the dietary exposure assessment, may not meet the requirements for new or continued registration or for the purpose of ensuring that tolerances are established at the correct level. Thus, additional data may be required.

6. *Comment.* One commenter stated that the method for handling residue levels in apples below the LOQ requires refinement. Currently, the Agency uses one-half the LOQ as a residue estimate when residues appear non-detectable. The commenter believes most residues in apples are much below one-half the LOQ and that using that value overestimates the residue level. An appropriate residue level to be used for nondetectable residues would be zero because even very small residue levels

may have significant impacts on the risk assessment and EBDCs are non-systemic.

Response. EPA disagrees that zero would be an appropriate residue level for apples where such residues are non-detectable. First, a non-detectable residue is not necessarily zero as it is analytically impossible to measure zero due to the limits of the analytical methodology and instrumentation used to measure EBDCs and ETU. So, to be protective of human health, EPA must assume that residues are present at some level below the LOQ. For the PD 4, EPA assumed that non-detectable residues are present at one-half the LOQ. The choice of this level is discussed in Unit III.E.2. Secondly, even though EBDCs are relatively nonsystemic, residues may still be present at harvest.

7. *Comment.* One commenter pointed out that a number of key crops (i.e., carrots, leaf lettuce, peaches, spinach, and succulent beans) which should have been included in the market basket survey to more accurately determine dietary exposure were not included in the survey. Not only do these crops represent important registration needs, but data from these crops would be translated to other crops including celery, collards, endive, fennel, kale, lima beans, mustard greens, rhubarb, snap beans, and turnips to support continued registration.

Response. Even though carrots, leaf lettuce, peaches, spinach, and succulent beans were specified in the March 10, 1989 EBDC Data Call-In, the technical registrants chose not to include these crops in the required market basket survey for these commodities. Further, no other person or group chose to submit such data either. The default data to be used in the absence of the required market basket survey data are the same field trial data that were used for the dietary exposure analysis in the PD 2/3. In the absence of the required market basket survey data and other data which could have been provided by interested parties, the existing field trial data are the best available data for the dietary exposure analysis for these crops.

8. *Comments received on risk reduction measures and methods.* A number of commenters stated that crops are often washed before being sent to market and some suggested mandating a more thorough washing procedure to reduce EBDC residues and risk, rather than banning the use of EBDCs.

Response. EPA has adjusted the residue estimates for washing prior to consumption. Commercial processing studies include the effects of washing. Studies have indicated that 78 percent of consumers wash their produce prior to consumption (Ref. 29). The Agency, on numerous occasions, has recommended thorough washing of fruit and vegetables to help remove pesticide residues. Because the label might not be seen by the persons responsible for washing, the Agency does not believe that a label requirement to require washing after harvest would be appropriate.

9. *Comment.* Several commenters suggested that preharvest intervals be lengthened, application rates reduced, and that the use of Integrated Pest Management (IPM) be mandated. Further, a commenter suggested that labels be changed so that no detectable residues result in potatoes and other vegetables.

Response. Longer preharvest intervals and reduced application rates are likely to reduce residue levels to some degree; however, such measures might reduce the efficacy of the EBDC fungicides in some cases. Without crop residue data demonstrating the amount of residue reduction and the effect on the efficacy of the fungicide, the Agency cannot fully evaluate these options and estimate potential residue reduction. Further, without residue data, the Agency cannot predict what label changes would be required to result in non-detectable residues. Where it had information on which to base such considerations, the Agency did consider potential altered use patterns as options short of cancellation, along with a requirement that data be submitted to better quantify the amount of risk reduction that could be attained and its effect on plant disease control. Further, for many crops, the technical registrants have proposed use patterns that would result in lower residues. For a number of crops, altered use patterns are being required to reduce dietary risk.

10. *Comment.* A food company suggests postponing cancellation and delaying revocation of tolerances for the southern leafy greens (i.e., collards, kale, mustard greens, and turnip greens) so current uses may be continued under FIFRA section 24(c). These actions are needed so research work currently under way to find substitute methods to control disease can be completed without severe economic consequences during the transition. The company suggests that 3 years should be sufficient to allow for development of alternative control measures.

Response. The Agency believes that it is inappropriate to postpone cancellation of the leafy greens and to delay tolerance revocations to allow use for research purposes because of the estimated dietary risks that would be associated with consumption of EBDC-treated leafy greens. Further, under FIFRA section 24(c), such registrations may not be issued for uses where the registration has been cancelled. Any existing 24(c) registrations for leafy greens would be cancelled along with the other EBDC registrations for such commodities. For research purposes, an experimental use permit may be sought under FIFRA section 5. Also, petitions may be filed with the Agency under 40 CFR 164.130, subpart D if prerequisite requirements are met.

11. *Comment.* One commenter expects levels of maneb residues to be present following the use of Bravo® C/M, which contains chlorothalonil and maneb, to be much lower than would be expected from maneb used alone on all crops for which Bravo® C/M is registered. No residue data were provided to show actual residues of maneb or ETU from the use of Bravo® C/M.

Response. The commenter did not provide data to determine the maneb and ETU residue levels in produce treated with Bravo® C/M. The Agency believes that when maneb is applied at lower rates, lower residue levels will likely result, but the Agency is unable to extrapolate to the levels expected from the use of Bravo® C/M without data.

F. Crop-Specific Comments and Response

1. *Comment on apples.* Several commenters stated that they had participated in a residue study organized by the New England Fruit Growers Council for the Environment, with sampling and analysis being done by the Connecticut Agricultural Experiment Station. Residues in apples were many times below tolerance and the investigators did not find a strong linear correlation between preharvest interval and residue level. The commenters noted that the results are consistent with those of the market basket survey being conducted by the EBDC registrants.

Response. EPA has reviewed the study provided by the New England Fruit Growers Council; the Agency's detailed comments are available. The results of the New England study were found to be consistent with the IAI study (which was used in lieu of the market basket data) reflecting EBDC applications at reduced rates and increased preharvest intervals. The relationship between the preharvest interval and residue level (at the same application rate) was logarithmic as opposed to linear.

2. *Comment on risk reduction for apples.* Many commenters discussed risk reduction measures for apples and possible mechanisms to achieve lower residues. A number of northeastern apple growers stated that EBDCs are needed most early in the season (up to petal fall). The commenters stated that the period from green tip until petal fall is the most critical (usually from early May to mid-June), although the users would prefer to have EBDCs to use through second cover. Harvest is usually in September and October. Further, commenters have indicated that early season use (up to petal fall) should not result in residues at harvest because the residues should degrade by harvest.

Specific suggestions to reduce residues include: Use EBDCs on apples in an IPM program; reduce the tolerance to 3 ppm; require a longer interval between applications; reduce the label rate for summer sprays; lengthen the preharvest interval from 30 days to 60 days or limit use to before July 1; allow less EBDCs to be applied per year and limit the total number of applications per year; and/or require washing of treated apples after harvest.

Commenters noted that many states recommend one-half the label rate as part of an IPM program; thus, lower rates are already in practice and can be assumed to be efficacious. Regional data indicate that EBDCs are regularly used at rates that are at least one-third less than the maximum label rates. The 1989 use survey by IAI showed a large distribution of preharvest intervals in excess of 70 days more than the minimum preharvest interval given on the EBDC labels.

Apples are washed and usually peeled during the processing operation. One commenter referred to a study demonstrating reductions in residues from washing before commercial processing. Other commenters stated that EBDC residues are on the surface only and do not enter the tissue of the apple. They weather, degrade, are washed off, or are removed by peeling. Several commenters stated that EBDCs work well at one-half the normal rate in combination with benomyl or one of the sterol inhibitors.

Response. The EBDC/ETU registrants and IAI have cooperated in investigating a new use pattern for apples using lower application rates and extended preharvest intervals. The IAI data showed low levels of EBDCs and ETU from treatment through bloom; data through second cover were also provided. Washing of apples was considered in the Agency's dietary exposure estimates for the PD 2/3 and was also considered in the PD 4 exposure estimates. Washing and peeling during commercial processing is incorporated into commercial processing factors which were used in both the PD 2/3 and PD 4.

3. *Comments on bananas.* One commenter stated that his organization has quality assurance programs to monitor EBDC levels on unpeeled bananas. Analyses are received on a quarterly basis and the results to date are well below the 4 ppm tolerance. The portion of the banana that is eaten is also tested and no detectable residues have been found. The International Banana Association (IBA) states that banana companies using independent laboratories normally monitor their products to ensure that pesticides residues are negligible or well within tolerances. They point out that bananas are peeled before consumption and that EBDC residues remain on the peel. Fruit with a ruptured peel is removed during prepack quality inspection. Residue tests conducted by IBA member companies have consistently demonstrated the near absence of EBDC derived residues in the edible portion of bananas. The IBA member data were not included in the comment.

The Hawaii Department of Agriculture provided growing information and a summary of residue data for Hawaiian grown bananas. The commenter suggests the following risk reduction measures: establish a 48-hour preharvest interval for bananas; prohibit post-harvest applications of EBDCs; and require that bananas treated with EBDCs be washed after harvest.

Response. A limited monitoring study of imported bananas was done by the EBDC/ETU Task Force (Ref. 20). Banana pulp (the edible portion) was analyzed for EBDC and ETU. Residue levels were reported to be non-detectable in all but one sample. The data from this limited monitoring study were used for the dietary exposure analysis for the PD 4.

Data on Hawaiian bananas are not used for the dietary exposure analysis because Hawaiian bananas represent a very small portion of the bananas available for consumption in the United States. However, the Hawaiian data are important for the continued United States registration of EBDCs on bananas and will be utilized in reassessing the tolerance for bananas.

4. *Comments on carrots.* One commenter suggested the use of EBDCs with IPM programs. Suggested label changes for carrots include: (a) Use lowest rates at the beginning of the spray program, later in season use higher rates to maintain control; and (b) Extend preharvest interval to 21 days.

Another commenter stated that most residues on carrots would be on the above-ground crown of the carrot root. An extended preharvest interval would give time for residues to decline before harvest. Carrots grown for processing are crowned in the field, and only the below ground roots are harvested. At the processing plant the carrots are washed several times, peeled, and washed again before final processing. An extended preharvest interval would also reduce residues in processed carrots.

Response. The residue level of EBDCs, and non-systemic pesticides in general, is most strongly influenced by the application rates used closest to harvest. Thus, using lower rates early in the season and higher rates late in the season would not be expected to reduce residue levels significantly. Residue decline data would be needed to support a longer preharvest interval. In addition, extending the preharvest interval in one growing region may not be acceptable in terms of efficacious disease control in other carrot growing regions.

5. *Comments on hybrid corn production.* A hybrid seed corn producer stated that the risk to consumers from seed corn treated with EBDC fungicides would be negligible. The acreage of seed corn actually treated annually with fungicides is quite small.

Response. In addition to hybrid seed corn production, the Agency must also consider the use on field corn not grown for seed. The EBDC use on field corn is quite small. This was factored into the dietary risk assessment by multiplying the residue and consumption estimates by percent of crop treated.

6. *Comment on cotton.* A cotton grower was unaware of any data that have shown an adverse dietary effect from the use of EBDCs on cotton. The label specifies that EBDCs should not be applied after cotton bolls open; thus, none of the pesticide comes in direct contact with the seed from which cottonseed oil is extracted. EBDCs are applied at 1.6 pounds of active ingredient per acre (lb. a.i./A), 3 applications at 12 to 15 day intervals, after rust spores infect the cotton plants and before boll opening.

Response. Residue levels reported in cottonseed are low, reflecting the early season use. The estimated risk from the use of EBDCs on cotton includes that low level residue and consumption of cottonseed oil and the percent of crop treated.

7. *Comment on crops grown in Georgia.* One commenter is concerned about leafy greens, peppers, and other crops grown in Georgia. The University

of Georgia Department of Horticulture points out that broccoli, cabbage, cauliflower, collards, kale, mustard, and turnips are all in the genus Brassica of the botanical family Cruciferae. The commenter requests that the Agency translate market basket survey data from broccoli to other Brassica vegetables.

Another commenter states that using field trial data and ignoring normal processing methods overstates residue levels on leafy greens. EBDCs are easily diluted by water, with an ordinary rainfall capable of removing the major portion of the residue. Thorough washings are part of canning or freezing processing methods. FDA studies have shown that 69 percent of all produce sampled contained no detectable EBDC residues, and 98 to 99 percent of residues detected were well below established tolerance levels. No one is expected to eat leafy greens in the field. Therefore, testing for residues should give full consideration to the product after it has been handled, not in the unrealistic setting of sample collection in the field.

Response. During the development of the market-basket data requirement, the Agency considered the fact that broccoli, cabbage, cauliflower, collards, kale, mustard, and turnips are all in the same genus and botanical family. EPA is concerned that the exposed surface area for collards, kale, mustard, and turnips would be more likely to lead to higher residues than the exposed surface area of broccoli, cabbage, and cauliflower. Several registrants have noted (in their comments on the current crop grouping scheme) that this occurs. Thus, the Agency believed that it was necessary to collect market basket data for a higher surface area crop (i.e., spinach). Spinach was chosen based on its grouping in 40 CFR 180.34(e). Washing factors (reflecting reduction of residues on washing) and processing factors (cooking or canning) were used in the dietary exposure assessment for the PD 2/3 and are used in the PD 4.

The statistics on the FDA monitoring data quoted by the commenter apply to all chemical/crop combinations monitored and not specifically to EBDCs and ETU on leafy greens. In fact, FDA has found numerous over tolerance residues of EBDCs on a number of leafy greens including mustard greens, spinach, and turnip greens over the past 12 years. Additional leafy green monitoring samples had detectable residues, but not exceeding the tolerance.

8. *Comments on green peppers.* One commenter suggested that the tolerance for green peppers be reduced from 7 ppm to a lower number consistent with actual residues found in the market basket survey. The commenter also suggested instituting a 2–day preharvest interval and requiring washing of peppers prior to packing.

Another commenter stated that there are no alternatives for eggplant and peppers. Increasing the preharvest intervals from 5 days to 14, 21, or even 28 days was suggested.

Response. Tolerances are set at the maximum level likely to be found as a result of the most extreme use pattern on the label and cannot be set at a level found in the market basket survey because tolerance exceeding residues could regularly occur. Residue decline data would be needed to fully evaluate the suggested changes in preharvest intervals. Some decline data are available, but were not used because pepper residue estimates were based on the market basket survey data rather than being extrapolated from field trial data.

The Agency does not believe that a label requirement requiring washing after harvest would be appropriate because it would be difficult to enforce. EPA has recommended thorough washing of fruits and vegetables to remove pesticide residues. Nonetheless, EPA believes that most crops are washed prior to consumption and the residue estimates (except for crops such as onions and bananas which are peeled rather than washed) have been adjusted by including a washing factor where appropriate. Finally, the Agency recognizes that there are no registered, efficacious alternatives to EBDCs for eggplants and green peppers.

9. *Comments on greens.* Several commenters questioned the source of average residue estimates for collards, kale, mustard greens, spinach, and turnip tops found in Table II-7a of the Technical Support Document (Ref. 8). The average residue levels indicated were 3 to 5 times higher than the current tolerance levels. The commenters had not seen these residue levels reported elsewhere, nor experienced those high levels in their own testing programs. The results of the commenters testing programs were not submitted.

Response. The source of the residue estimates used in PD 2/3 was data from field trials conducted by the registrants as a requirement of continued registration. The average residues in those field studies exceeded the current tolerances. This was not surprising as FDA has found (in their surveillance monitoring program) tolerance-exceeding EBDC residues on several leafy greens numerous times in the past 12 years. Tolerance-exceeding residues of EBDCs have been reported in the open literature. Studies submitted by commenters also showed over tolerance residues. The residue estimates in the PD 2/3 were corrected for the effects of washing.

10. *Comments on greens.* A greens grower in the Southeast states that there are no efficacious alternatives to EBDCs for greens (i.e., collards, kale, mustard greens, and turnip greens). One commenter indicated that even though the label recommends 1.2 to 1.6 lb. a.i./A, the standard practice in the Southeast is 1.0 lb. a.i./A; however, another commenter in the Southeast submitted a study that indicated that the rate of 1.6 lb. a.i./A was required for efficacy. Further, one commenter stated that all greens are thoroughly washed before being cooked; washing reduces residues to negligible levels. Finally, using lower rates and spraying less frequently than labelled saves money.

Response. The Agency realizes that there are no registered, efficacious alternative fungicides for leafy greens. Data were not submitted to the Agency at the 1.0 lb. a.i./A rate, only at the 1.6 lb. a.i./A rate and a 0.8 lb. a.i./A rate. An evaluation of preharvest interval on disease control was also included. The data indicated that the preharvest interval should not exceed 10 days. In addition, the 0.8 lb. a.i./A rate may not be effective for disease control, especially for fall cuttings. However, no data were available for the Agency to assess the efficacy of the 1.0 lb. a.i./A rate.

11. *Comments on onions.* The American Dehydrated Onion and Garlic Association submitted actual use information for dry bulb onions used for dehydration. They noted that EPA assumed applications at 2.4 lb. a.i./A, 6 to 10 applications per season, and a preharvest interval of 7 days. Their members used 2.4 lb. a.i./A, 1 to 3 applications per season, with a preharvest interval of 30 to 45 days. If Ridomil® MZ–58 (metalaxyl + mancozeb) were used, the rate used was only 1.0 lb. a.i./A. The Ridomil® label allows only four applications per year. Ridomil® MZ58 is most often used.

This commenter also submitted information on planting, growing, and harvesting practices for dry bulb onions destined for dehydration. One commenter stated that 60 to 70 percent of the dry bulb onions grown in California are grown under contract for drying.

The National Onion Association noted that the market basket survey results do not reflect further residue reductions that occur in typical consumer food preparation practices. They state that EBDCs are not systemic and do not penetrate into the vegetable or fruit. Any remaining residue after harvest can be washed, rinsed, or peeled off. The outside peel of an onion is never eaten.

Several commenters stated that there was possibly a naturally occurring component of dry bulb onions (carbon disulfide) that might be interfering with the EBDC analysis in the market basket survey. Data were submitted for apparent EBDC residues in untreated onions. The apparent EBDC in untreated onions ranged from 0.05 to 0.36 ppm. The commenters requested that the Agency subtract the average residue found on untreated dry bulb onions from the result found in the market basket survey.

Response. Dietary exposure estimates for onions are now based on the EBDC/ETU market basket survey with corrections for washing, peeling, and cooking. The market basket survey results have been corrected for the apparent carbon disulfide interference in the EBDC analysis. The market basket survey results reflect the typical use pattern.

12. *Comments on papayas.* Several commenters stated that the actual risk to papaya consumers is much less than that estimated by EPA because of conservative application practices currently employed or proposed to be employed by the papaya industry and the reduction of any remaining EBDC residues during commercial handling, storage, transportation, and consumer handling. Under the Hawaiian Fruits and Vegetable Act, fresh commodities exported to the continental United States must be treated with an approved quarantine treatment prior to shipment. In Hawaii, two quarantine treatment systems (double hot water dip and vapor heat treatments) are used commercially. A study examining reduction of residues during commercial handling, storage and transportation has been submitted (Ref. 4).

The commenters stated that mancozeb and maneb are not applied at maximum label rates. Only the minimum number of applications that result in economic benefit are used. Further, papayas are harvested later than the minimum time allowed on the label. They also stated that EBDC and ETU residues at harvest are substantially lower than those shown in field trial data developed to support tolerances.

Information was provided about the growing of papayas and specific information about EBDC treatments. Fruit are sprayed frequently beginning at fruit set which is about 6 to 10 weeks after planting. The fruit and flower column must be sprayed every 14 days for routine prevention. A given fruit generally does not receive more than 13 biweekly mancozeb or maneb sprays by the time of harvest. Another commenter stated that papayas are sprayed frequently beginning at fruit set (6 to 10 months after planting), every 14 days during dry conditions, and every 7 days during rainy conditions.

The commenters offer the following suggestions for risk reductions: Reduce the papaya tolerance from 10 to 5 ppm; increase the application interval from 7 to 14 days; impose a 2-day preharvest interval; require washing of fruit prior to packing (this is already required by the Hawaiian Fruits and Vegetables Act); and prohibit feeding of treated fruit to livestock.

Response. The papaya growers' data have been considered in the Agency's dietary exposure analysis (Ref. 4). The papaya tolerance cannot be reduced under the current use pattern because tolerance-exceeding residues have been reported in field studies reflecting treatment at the maximum use pattern. The maximum rate is being reduced to keep residues within tolerances. The available residue data are for application intervals of about 14 days. A minimum interval of 14 days is being required. A 2-day preharvest interval would not reduce risk because the residue levels reported in field studies were highest 2 days after harvest. Thus, the minimum preharvest interval will remain at zero days. Papayas are not considered a major animal feed, so a label restriction against feeding treated fruit to livestock is not considered necessary. The Agency does not believe that a label requirement requiring growers to wash papayas after harvest is appropriate because it would be difficult to enforce. Nonetheless, EPA believes that most crops are washed prior to consumption and thus the residue estimates have been adjusted by including a washing factor.

13. *Comments on pears.* The mancozeb label allows 24 to 30 lb. product/acre/year but only 12 to 18 lb. product/acre/year is reportedly used in California based on the required California pesticide use reporting. Mancozeb is first applied to pears after bloom through the small red pear stage (April to May); harvest is the last week in July. Therefore, a minimum of 30 to 45 days pass between the last application and the first harvest; thus, the preharvest interval could be extended. Also, EBDCs work well in IPM programs. In the Northeast, mancozeb is needed on pears through petal fall. One commenter stated that early sprays will leave limited residues at harvest.

Response. New field trial data reflecting a modified use pattern (i.e., longer preharvest interval) have been submitted for apples. These data have been translated to pears for the dietary risk assessment and result in a lower risk than was previously estimated. No data were submitted to show the change in residues from the California use pattern on pears. Pears are grown in California; Oregon/Washington; and New York/Michigan. Information was not provided for Oregon/Washington or New York/Michigan.

14. *Comments on potatoes.* Several commenters suggested the use of IPM on potatoes and stated that fewer treatments of EBDCs are used with IPM programs. For potatoes in Wisconsin, one to three fewer treatments are needed.

Suggested label changes for potatoes include: (a) Use lowest application rates at the beginning of the spray program and higher rates later in the growing season to maintain efficacious disease control; (b) Kill the vines 14 days before harvest to reduce a source of fungal inoculum; and (c) Extend the preharvest interval to 14 days as most growers already observe a 14–day preharvest interval. The 0-day preharvest interval invites contamination of tubers with fungicide residues. Chlorothalonil could be used with a 7–day preharvest interval.

The Maine Department of Agriculture Food, and Rural Resources states that seed potatoes in Maine are grown on one/third of Maine acreage. Dietary exposure to EBDC residues on seed potatoes is negligible because virtually all seed potatoes are used for purposes other than consumption. They request that EPA exclude seed potato acreage when estimating risk for EBDCs. They also suggest adding a preharvest interval for potatoes.

Response. The residue level is most strongly influenced by the application rates used closest to harvest. Thus, using lower rates early in the season would not be expected to reduce residue levels significantly. Nonetheless, EPA is requiring changes in the potato use pattern, including extending the preharvest interval, to reduce the dietary risk. The dietary exposure estimate for potatoes in the PD 4 is based on the market basket data for potatoes; therefore, residue levels in seed potatoes were not considered. The Agency acknowledges that a potato vinekill program is helpful to reduce fungal infection.

15. *Comments on tomatoes.* A Federal marketing order requires all Florida tomatoes to be washed prior to entering primary channels-of-trade and inspected by the Federal-State Inspection Service. The commenter states that after picking (90 percent of Florida tomatoes are picked at the mature green stage), tomatoes are placed in ripening rooms for 3 to 5 days and then transported to market. When the tomatoes are transported, they are still not ripe and require several more days at room temperature to fully ripen prior to consumption. Any residues not washed off in the packing process have this additional time to decompose.

Tomato growers in the Southeast stated that farmers stop the application of EBDCs once harvesting begins in order to adhere to the present 5-day preharvest interval. Tomatoes are washed before packing so that actual residue levels are quite low.

The Florida Fruit and Vegetable Association and the Florida Department of Agriculture and Consumer Services submitted a study on degradation of EBDCs in the channels-of-trade. The California tomato growers provided use information for tomatoes.

Response. The Florida degradation study of EBDCs in the channels-of-trade was not used in the PD 4 for tomatoes because the EBDC/ETU market basket survey collected tomatoes in grocery stores, and thus already reflected the reductions measured in the Florida Study. The California use information and the Florida degradation study both corroborate the results of the market basket survey on fresh tomatoes.

G. Other Studies Submitted: Comment and Response

1. *Comment from the Florida Fruit and Vegetable Association.* Florida growers were surveyed on actual use rates, number of applications, and preharvest intervals for a number of crops including cabbage, cucumbers, eggplants, green beans, Irish potatoes, peppers, squash, sweet corn, tomatoes, and watermelons. Descriptions of handling of the commodity after harvest, any processing done, packaging used, and length of time from harvest to sale were also discussed in the comment.

The acreage treated varied from year to year, but the basic rate used per acre, the number of applications, and the preharvest interval remained constant from year to year. Users generally applied less than the label rate and used the label rate only to maintain efficacy. Preharvest intervals are observed and often longer intervals are used, but Florida users do not support longer preharvest intervals on the label unless it is necessary for the continued registration of EBDCs.

Post-harvest practices that would reduce residue levels include: use of directed sprays, water bath to handle product (prevents bruising prior to packing), overhead irrigation prior to harvest to rinse off excess EBDCs, and switching to an alternative fungicide prior to harvest. Most growers use a wash system or hydrocool process with a majority of the vegetable products. Some products are packed in the field, but those that go through a packing house will receive two to three water baths. The only processing done is removing some of the outer leaves and water baths. A post-harvest handling study (i.e., degradation in the channels-of-trade) was also submitted.

Most vegetable products go to market on the day of harvest, and reach the consumer in 3 to 7 days. Fresh vegetables are perishable and must be handled and moved quickly to maintain fresh quality.

Response. Washing is considered in the Agency's dietary exposure analysis. The Florida post-harvest handling study was used to determine EBDC processing factors for carrots and celery. Factors for lettuce and tomatoes could be determined from this study but were not needed because head lettuce and tomatoes were included in the market basket survey. The actual use pattern and post-harvest handling are reflected in the residues of crops included in the market basket survey. The actual use pattern cannot be considered for green beans because of lack of residue decline data; no market basket survey data or field trial data were submitted for green beans reflecting alternative use patterns.

2. *Comment from the Iowa Fruit and Vegetable Growers.* A use survey of Iowa apple, squash, and tomato growers was submitted. Most growers surveyed support longer preharvest intervals to reduce residue levels but not so long as to effectively ban use. Farm practices used to reduce residue levels are spraying the minimum amount of pesticide, using IPM, and washing tomatoes many times before processing. Some growers wash or hydrocool their crop after harvest, and some use mechanical brushes. The length of time from harvest to sale was reported to be 3 days to 6 months for apples, 1 day to 2 weeks for cucurbits, and 1 day to 1 week for tomatoes.

Response. The increase in preharvest interval would be difficult to evaluate without residue decline data. Data are available for a different use pattern for apples and were considered in support of risk reduction measures.

IV. Occupational/Homegardener Exposure and Risk

Part of EPA's basis for initiating a Special Review of the EBDCs was concern that agricultural workers, industrial workers, and homegardeners may be at risk for carcinogenic, developmental, and thyroid effects from exposure to EBDCs and ETU through mixing, loading, and applying EBDC pesticide products to food and non-food crops and conducting field labor in treated areas.

The majority of agricultural uses of the EBDCs (e.g., farming, commercial greenhouse applications, and commercial turf applications) are preharvest. The EBDCs are also used as a seed-piece treatment for potatoes. Because of the many different crops to which EBDC products can be applied, and certain similarities among them, the Agency selected six crops which it believes represent exposure associated with all other crops and types of application. They are apples, grapes, onions, potatoes, sweet corn, and tomatoes. Application methods for EBDCs include ground boom and airblast. EBDCs are also applied to commercial ornamental trees, plants, and shrubs by tractor-mounted power hand-held spray guns.

Homegarden uses of EBDCs include those around the home such as garden, lawn, or tree/shrub applications. Exposure estimates were developed for homegarden application of EBDCs to vegetables, ornamentals, fruit trees, and turf using compressed air hand-held sprayers or hose-end sprayers. Homegarden uses were referred to as homeowner uses in the Preliminary Determination (PD 2/3). The terminology has been updated in the Final Determination (PD 4) for clarity, as homegarden is what the Agency intended in the PD 2/3.

For nabam's industrial uses (i.e., water cooling systems, oil drilling, and paper and sugar mills), there are two types of loading systems: open pour loading and closed loading. Only the water cooling systems (towers) and oil well drilling fluids use an open pour loading system in addition to closed loading systems. The use of nabam in paper and sugar mills employ only closed loading systems.

A. Preliminary Determination

In the PD 2/3, the Agency estimated EBDC exposures using surrogate data bases (i.e., data collected during the use of another pesticide). Mixer/loader and applicator exposures are always dependent on the physical parameters of application rather than the chemical properties of the pesticide active ingredient. Therefore, mixer/loader and applicator exposure to a pesticide may be estimated using surrogate data.

The initial agricultural worker, industrial worker, and homegardener cancer risks estimated for the EBDC PD 2/3 ranged from 10^{-3} to 10^{-7} (Ref. 8). Occupational risks were estimated assuming that applicators (also potato seed-piece planters and flaggers) wear long-sleeved shirts and long pants, and that mixer/loaders (also the filler and cutter for the treatment of potato seed-pieces) wear long-sleeved shirts, long pants, and chemical-resistant gloves. Protective clothing and equipment specified in the Registration Standards for mancozeb, maneb, metiram, and nabam consists of coveralls, shoes, socks, goggles or a face shield, and chemical-resistant gloves. Also, the use of a chemical-resistant apron during mixing and loading was specified in the Registration Standards. These specifications were factored into the Agency's preliminary analysis. For the PD 2/3 exposure estimates, it was assumed that the use of coveralls by the mixer/loader would reduce exposure by 40 percent (the use of chemical-resistant gloves was already reflected in the original mixer/loader exposure estimates), and that the use of coveralls and chemical-resistant gloves by the applicator would reduce exposure by 65 percent. Most of the occupational carcinogenic risks, which were estimated assuming the use of the coveralls and chemical-resistant gloves, were 10^{-4} or less. Relabelling to require the use of the protective clothing and equipment specified in the Registration Standards was proposed in the PD 2/3. Homegardener exposure estimates were not adjusted for any protective clothing assumptions. Most of the homegardener risks were estimated to be 10^{-6} or less. The occupational and homegardener cancer risks of concern in the PD 2/3 are shown in Table 2 in Unit IV.B. of this Notice.

Using the same protective clothing assumptions listed above, margins-of-exposure (MOEs) were estimated for agricultural workers, industrial workers, and homegardeners who may be exposed to EBDC pesticide products. Developmental MOEs were estimated using daily exposure estimates for acute effects. Thyroid MOEs were estimated using seasonal exposure estimates. The subchronic no-observable-effect level (NOEL) and the chronic lowest-observable-effect level (LOEL) for the thyroid effects MOE calculation is 0.25 mg/kg/day (Ref. 8). The NOEL for the developmental effects MOE calculation is 5 mg/kg/day (Ref. 8). Most MOEs reported in the PD 2/3 were greater than 100. The MOEs of concern in the PD 2/3 are shown in Table 2 in Unit IV.B. of this Notice.

The risk estimates are for a 70-year lifetime and assume 40 years of exposure through application. These assumptions are also used for homegardeners applying EBDCs.

B. Final Determination on Occupational and Homegardener Exposure and Risks

As part of the Special Review process, EPA has reevaluated the exposure estimates used in estimating the risks from occupational and homegardener exposure to EBDCs. Since the publication of the EBDC PD 2/3 and the receipt of additional data required in the March 10, 1989 Data Call-In (DCI), several factors affecting occupational and homegardener exposure/risk have changed and have been used in this exposure analysis.

1. *Changes in assumptions* —a. *Usage assessments.* Revised usage assessments were prepared for EBDC use on commercial ornamentals and in cooling towers to provide a more precise assessment of occupational exposure during a 90-day use period for subchronic health effects.

The use rates used to estimate occupational exposure estimates, with the exception of homegardener uses, commercial ornamental uses, and industrial uses, are required in this Final Determination as new maximum label rates and are detailed in Unit VII.B. of this Notice (Ref. 37).

b. *Potency factor.* The estimated cancer potency, or Q_1^*, for ETU has been revised since the PD 2/3 was issued. The revised Q_1^* is 0.11 (mg/kg/day)$^{-1}$ and is discussed in Unit II of this Notice (Refs. 10 and 37).

c. *Dermal absorption factors.* Adequate data were available at the time the PD 2/3 was issued to determine the rate of dermal absorption for mancozeb (10 percent), metiram (6 percent), and nabam (9 percent). Due to a lack of adequate data, the dermal absorption rate for maneb was based on an ETU dermal absorption study (30 percent). New data required in the March 10, 1989 DCI have been submitted and reviewed. Based on these new data, the dermal absorption rate for maneb has changed from 30 percent in the PD 2/3 to 1 percent for the PD 4 (Refs. 37 and 38).

d. *Metabolic conversion factors.* Following dermal absorption, EBDCs are metabolically converted to ETU in the body. Metabolism studies used for the PD 2/3 analysis indicated that 20 percent of the absorbed EBDC is metabolically converted to ETU. These studies were reevaluated subsequent to the PD 2/3 and the metabolic conversion of EBDC to ETU was found to be 7.5 percent (Ref. 37).

e. *Conversion of EBDC to ETU in the spray tank.* In the PD 2/3, mixer/loader and applicator direct exposure to ETU in the EBDC formulation and spray solution were estimated using a limited data set. The March 10, 1989 DCI required that EBDC registrants submit tank-mix stability data for representative end-use products of all formulation types to better estimate the conversion of EBDC to ETU while in the spray tank. These data have been reviewed and accepted by the Agency. As a result of these new data, the conversion factors (i.e., the percent of EBDC converted to ETU) for maneb and metiram have changed. All conversion factors decreased with the exception of mancozeb for mixer/loaders and applicators (factors remained unchanged) and maneb for mixer/loaders (factors increased from 0.1 percent to 0.2 percent of EBDC converted) (Ref. 37).

f. *Industrial uses.* The Agency believed that the risk estimates based on agricultural exposure data may possibly overestimate exposure for nabam's industrial uses. The March 10, 1989 DCI required exposure data on oil well drilling and paper and sugar mills. The Chemical Manufacturers' Association (CMA) submitted an antimicrobial study with dermal and inhalation unit exposure estimates for these uses. The Agency has reestimated the industrial use exposure estimates based on these data. The nabam industrial exposure values derived from the CMA study reflected the range of protective clothing used in an industrial setting. Therefore, it was not necessary for the Agency to adjust the exposure values for the use of protective clothing (Ref. 37).

EPA has reevaluated the risk from occupational and homegardener exposure to EBDCs as a result of these changes. The new risk estimates are based on new required maximum label rates and assume the use of the protective clothing required by this Final Determination (except for homegardeners). The risks of concern are shown in the following Table 2:

TABLE 2.—PD 2/3 RISKS OF CONCERN COMPARED TO THE PD 4 ESTIMATES

EBDC/USE	PD 2/3 Cancer Risk	PD 4 PD Cancer Risk	PD 2/3 MOE	PD 4 MOE
Maneb/Commercial ornamentals	1×10^{-3}	1×10^{-5}	6 (Thyroid)	2,630 (Thyroid)
Maneb/Homegarden vegetables	2×10^{-5}	2×10^{-7}		
Maneb/Homegarden ornamentals	1×10^{-4}	1×10^{-7}		
Maneb/Homegarden Turf	4×10^{-4}	4×10^{-6}	60 (Develop)	400(Develop)
Maneb/Homegarden Fruit Trees	2×10^{-4}	2×10^{-6}		
Mancozeb/Homegarden Turf	7×10^{-5}	1×10^{-5}		
Mancozeb/Homegarden Fruit Trees	4×10^{-5}	6×10^{-6}		
Nabam/Paper and Sugar Mills			75 (Thyroid)	2,510
Maneb/Commercial Grapes			20 (Thyroid)	5,590 (Thyroid)

C. Comments and Response (Refs. 39 and 40).

Review of the public comments regarding occupational and homegardener exposure revealed six recurring exposure reduction suggestions: stricter protective clothing requirements on EBDC labels, reduced application rates and frequencies, increases in the reentry and preharvest intervals, changes in formulation and packaging, use of engineering controls, and restricting EBDC use.

1. *Stricter protective clothing and equipment requirements on EBDC labels.* Thirteen comments were received which stated that stricter protective clothing and equipment requirements should be required on EBDC labels. Chemical goggles, rubber gloves, coveralls, rubber boots, and suitable NIOSH approved respirators (or equivalent) were among the clothing and equipment recommended.

Commenters noted that the Agency should consider that protective clothing is not always made available, hazard training is often lacking, and the discomfort of protective clothing in hot weather may preclude use in the field. Also, commenters noted that homegardeners will probably not follow label precautions.

Response. In the December 20, 1989 **Federal Register** notice and corresponding Technical Support Document, the mixer/loader and applicator exposure estimates were reduced by 40 percent and 65 percent, respectively, to account for the protective clothing specified in the Registration Standard. Mixer/loader exposure estimates were reduced by 40 percent to account for the addition of coveralls over long-sleeved shirts and long pants (use of chemical-resistant gloves was already reflected in the original mixer/loader exposure estimates). Applicator exposure estimates were reduced by 65 percent to account for the addition of coveralls over long-sleeved shirts and long pants, and chemical-resistant gloves. Certain types of protective clothing and equipment such as goggles, face shields, chemical-resistant aprons, respirators, and rubber boots would only be used by workers handling concentrated pesticide products (i.e., mixer/loaders).

The Agency agrees that these protective clothing and equipment for mixers, loaders, and applicators may create problems due to availability, usage training, and comfort.

The use of protective clothing and equipment by harvesters and other workers reentering areas treated with EBDCs would also be expected to reduce exposure. The extent of this protection varies from crop to crop. Availability, training, and comfort are, once again, concerns that may affect the proper use of the protective equipment. These issues will be considered when the required dislodgeable foliar residue and worker reentry studies have been evaluated.

2. *Reduced application rates and frequencies.* A total of 20 comments were received on this issue. Several commenters indicated that farmers typically apply EBDCs to some crops at less than maximum rates or frequencies. In many cases, farmers were able to control diseases using fewer applications and lower rates than those indicated on EBDC labels. In addition, a user survey indicated that about one-fourth of the recommended EBDC applications are used. One commenter stated that the use of disease prediction software reduces the number of sprays per season.

Response. The occupational exposure and risk estimates reported in the PD 2/3 and the corresponding Technical Support Document were estimated using typical application rates and frequencies. Label maximum rates and frequencies were not used unless these values coincided with the typical values. Some of the typical values used are less than the reduced rates recommended in the public comments.

3. *Increase in the preharvest and reentry intervals.* Nineteen comments were received which recommended lengthened preharvest intervals for EBDCs. Several commenters recommended requiring reentry standards for specific crops. Also, a user survey indicated that longer preharvest intervals would be acceptable to Iowa vegetable growers.

Response. Lengthened preharvest intervals would be expected to reduce potential exposure to harvesters. However, preharvest intervals neither restrict nor prohibit reentry into treated fields to do nonharvesting tasks. This issue will be addressed through other label requirements (if determined necessary) when the reentry data are evaluated.

Increasing the reentry interval would be expected to reduce worker reentry exposure to EBDCs. However, at this time, insufficient dislodgeable foliar residue data have been evaluated to determine the effect of the lengthened reentry intervals recommended in the public comments. This issue will be considered further when the residue and reentry data are evaluated.

4. *Changes in formulation and packaging.* Four comments were received concerning changes in formulation and packaging. One commenter recommended a reduction in the percentage of active ingredient in the formulation. Another recommended packaging EBDCs in water soluble packets. Also, a commenter noted that a formulation such as wettable dispersable granules was recommended to reduce dermal and inhalation exposure to handlers.

Response. Dustless EBDC formulations and packaging EBDCs in water soluble packets would be expected to reduce occupational exposure. However, insufficient data exist to quantitatively evaluate the effect of this mitigating option.

5. *Engineering controls.* One comment was received which stated that applicators should use enclosed cabs with positive pressure filtration systems.

Response. The Agency agrees that the use of enclosed cab tractors with positive pressure filtration systems would reduce exposure to EBDC applicators.

6. *Restricted use.* Two recommendations were made to make EBDCs restricted use pesticides.

Response. Making EBDCs restricted use pesticides would have no quantitative effect on estimated risk because the exposure assessment is based on pesticide use by experienced handlers.

7. *Miscellaneous comments—Comment.* (1) The Nabam Task Force has submitted to the Agency their assessment using the Chemical Manufacturers' Association's (CMA) antimicrobial study (OPP 30000/53: D-11599). The Task Force concluded that the CMA biocide exposure study fills the gap in exposure data for industrial applicators of nabam. The study was carried out using current protocols and monitored applicators carrying out application tasks typical of nabam uses. The Task Force believes that the resulting exposure data are thus much more relevant to the assessment of nabam risks than are the agricultural exposure data on which EPA previously relied. The daily exposure of nabam applicators was estimated by the Task Force to be much lower than the exposures EPA estimated in the Technical Support Document. The MOEs for thyroid effects associated with these new exposures range from 3,600 for paper mill applicators to 29,000 for cooling tower applicators. All these MOEs are well above those EPA considered acceptable. Especially in view of the small number of applicators who apply nabam, the Task Force argued that the overall risk of nabam use to workers is extremely small.

Response. The Agency found the CMA study to be useful in assessing exposures to nabam from industrial uses. However, the Nabam Task Force assessment of the CMA data was unacceptable for several reasons. First, the Task Force presented dermal exposure data from the hands instead of whole-body data. Inhalation and body exposures were also monitored in the CMA study. Even though the exposure to the hands is generally higher than exposure to other body parts, the Agency believes that all the monitoring data collected in the CMA study should be used. The total exposure estimates determined in the CMA study are representative of actual use conditions and reflect the protection afforded by protective clothing actually worn by the workers in the field. Second, the Task Force rejected certain replicates because the workers did not wear protective gloves. The Agency believes that the replicates represent typical practices in the "real world" regardless of their deviation from product labels. The inclusion of those replicates would make the database more representative of actual exposure conditions. Therefore, the Agency has used the CMA data in a manner that is more consistent with Subdivision U of the Pesticide Assessment Guidelines and reestimated the nabam exposures for the two uses addressed in the Task Force's assessment.

Comment. (2) The California Rural Legal Assistance Foundation asked if the Agency received an explanation for the observed difference in residues between sites monitored for mancozeb residues in Rohm and Haas's grape dislodgeable foliar residue study.

Response. The Agency has reviewed Rohm and Haas's explanation for the difference between the day zero mancozeb residues found in Fresno and Madera and those found in Monterey and Napa. The maximum label rate for application of the product used in the study to grapes is 3.2 lb. a.i./acre. However, sites in Monterey and Napa received applications at rates of 6.7 and 4.5 lbs a.i./acre, respectively. Therefore, data collected at these two sites are inappropriate for the reentry exposure assessment.

V. Summary of Benefits Assessment and Agency Evaluation of Comments and Additional Data Received

A. Synopsis of Benefits Assessment

1. *Overview of comments received.* EPA received over 200 comments on the Preliminary Determination (PD 2/3) benefits assessment. The majority of comments supported the continued use of EBDC products but did not contain scientific data supporting the usefulness of the EBDCs to control plant diseases. The Agency was also able to obtain and examine useful data for many sites. A variety of sources were used to determine the usefulness of such comments, including the 1991 National Agricultural Pesticide Impact Assessment Program (NAPIAP) Fungicide Benefits Assessment (Ref. 24), published comparative performance data, communications with agricultural specialists familiar with the diseases and the crop in question, in-house expertise, proprietary sources, books, and professional journals. EPA considered the information provided by agricultural specialists reliable based upon the Agency's understanding of the epidemiology of the disease and agricultural practices for the crop in question. The estimates are provided as but one opinion because the Agency cannot document the basis for these opinions. Generally, estimates based on information from NAPIAP are secondary sources of information. Such estimates are more fully described in the benefits site analyses which are available in the EBDC public docket. These estimates are expressed in ranges where possible. These estimates may be subject to uncertainty, particularly where data from studies were not available.

In some instances the information provided in the comments did not result in significant quantitative changes between the preliminary and final benefits assessment. One example is peppers. Comments in response to the PD 2/3 on peppers addressed the importance of the use of EBDCs in combination with copper for control of bacterial spot. For the PD 2/3, the Agency was not aware of this use of EBDCs because control of bacterial spot is not claimed on the pesticide's label. Further investigation led the Agency to revise its estimates which resulted in only a minor increase in the estimated average benefits of EBDCs on peppers. The Agency did adjust its benefits assessment taking this information into account. The average total impact increased from $73.5 million to $82.5 million.

In other cases, such as with oats, comments and efficacy data which the Agency obtained made a significant difference in the final analysis. Commenters stated that oat varieties previously resistant to crown rust are displaying an increasing incidence of crown rust due to a new race of the fungus. Crown rust is a fungal disease not listed as a disease mancozeb controls on small grains; however, EBDCs are efficacious against a related rust disease, leaf rust, on small grains. Due to the similarity of the two diseases, the Agency assumes that mancozeb is likely to control crown rust as well. Sulfur, the only registered alternative fungicide to EBDCs on oats, is not effective for control of crown rust. This new information has resulted in an increase in the EBDC benefits assessment for oats ranging from $0.1 to $0.5 million in the PD 2/3 to $3.8 million to $25 million in the PD 4.

2. *Total benefits.* In the PD 2/3, the Agency estimated that cancellation of

all EBDC registrations for all food crops would result in a direct first-year loss to growers (i.e., direct producer impacts) of approximately $46 to $75 million. Beyond the grower impacts, the Agency estimated total losses to society (i.e., efficiency impacts) to be $90 to $305 million. The estimated total losses to society (i.e., efficiency impacts) are the net impacts of losses and gains of the EBDCs to producers (users and non-users), distributors, and others in the marketing chain, as well as the final consumers. The estimated impact of cancellation of non-food uses and industrial sites was expected to not exceed $1 million.

The Agency has revised its site-by-site and aggregate benefits estimates for all 56 sites based on the public comments received, the NAPIAP report, and additional research. EPA now estimates total first-year EBDC impacts in the range of $290 to $630 million. Of this total, direct producer impacts constitute approximately $140 to $262 million. The remaining impacts are consumer and efficiency impacts. No specific comments were received regarding non-food uses; therefore, the $1 million estimate for non-food uses as reported in the PD 2/3 remains unchanged.

While the total benefits (i.e., economic impacts) may appear significant, the high estimate of $630 million represents less than 1 percent of the total 1989 United States farm value of production. Based on average retail values, the overall impact on consumers would be proportionally less than the farm level impacts. The Agency has estimated a nationwide total benefits range but understands the potential for severe regional impacts. For example, leafy green growers in the southeastern region of the United States are likely to face economic impacts far more severe than leafy green growers in other areas. In addition, potato growers in the Northeast, Florida, and Wisconsin may face significant secondary impacts in the cultivation of crops not treated with EBDCs because of rotational restrictions on use of the major alternative, chlorothalonil.

The total benefits estimate is projected for only the first year following the loss of EBDCs. This estimate assumes no acreage or import/export adjustments during this first year. In addition, the availability of alternatives and (for the most part) efficacy of alternatives is assumed constant for the first year. These assumptions may result in an overstatement of benefits if growers were able to make gradual adjustments in response to the unavailability of the EBDCs.

3. *EBDC usage*. In the PD 2/3, the Agency estimated total average annual EBDC usage over the 1986 to 1988 period in the range of 12 to 16 million pounds active ingredient. The largest individual usage sites, by volume, included apples, cucurbits, onions, potatoes, small grains, sweet corn, and tomatoes. Important use sites in terms of percent of crop treated included apples, cucurbits, leafy greens, lettuce, onions, peppers, potatoes, and spinach. The Agency has revised its total annual EBDC usage estimate based on additional information received in response to the PD 2/3. Total average annual usage for a "typical" current year (prior to 1990) is now estimated at approximately 8 to 12 million pounds active ingredient.

The broad spectrum of activity of EBDCs and their relatively low cost have made them widely used fungicides. EBDCs also have a multi-site mode of action (i.e., affecting 2 or more enzyme systems) and are used in some cases to slow or prevent the development of fungal resistance, which is more likely to occur with fungicides that have more limited modes of action. For example, EBDCs are used in combination with metalaxyl on potatoes for control of late blight. EBDCs applied with metalaxyl reduce the development of late blight isolates resistant to metalaxyl.

EBDCs are also found to have a synergistic effect with copper, increasing the ability of copper to control bacterial diseases compared to copper applied alone. This is important in the control of bacterial speck on tomatoes and bacterial spot on peppers and tomatoes.

EBDCs may play an important role in Integrated Pest Management (IPM) practices. University scientists have developed disease forecasting systems to determine environmental conditions favorable for disease development. These forecasting systems have led to the more judicious applications of EBDCs during disease outbreaks. Examples are potato late blight control programs and apple scab control programs. The successful use of EBDCs on apple IPM programs is discussed in Unit V.B.

EBDCs are registered for use on many minor vegetable and fruit crops for which there are limited available field trial data, production cost figures, usage data, and other information typically used by the Agency to quantify benefits. Nonetheless, the Agency believes the continued use of EBDCs on many of these minor crops does provide benefits to users and society. For example, even though the benefits cannot be quantified for almonds, apricots, asparagus, caprifig, crabapple, fennel, pecans, pineapple, quince, rhubarb, and sugar beets, inhibiting fungal resistance to other fungicides is one benefit demonstrated by EBDCs. For other crops such as eggplant and endive, there are no viable alternatives. Yield losses are likely for eggplant and endive where the only alternatives are copper fungicides which are phytotoxic.

4. *Alternative fungicides*. The Agency considered chlorothalonil to be the most widely used alternative fungicide to replace EBDCs for fungal disease control. Several comments in response to the PD 2/3 indicated that crop rotations would be restricted with the use of chlorothalonil, a restriction not present with EBDCs. The chlorothalonil label states that fields treated with chlorothalonil cannot be rotated with crops not listed on the chlorothalonil label for 12 months after treatment. The Agency is aware that dry bean, potato, seed corn, tomato, and other growers practice a variety of crop rotations depending on agronomic reasons such as plant disease control. The quantification of these benefits was difficult as was the quantification of other EBDC benefits such as the fungicide's use in pest resistance management. However, when possible, EPA provided quantitative estimates of such benefits as well as considering the qualitative benefits in the final assessment.

B. Site-Specific Summaries

The following paragraphs are summaries for sites where there was a significant change in the estimated impacts. These revisions are based on rebuttals to the original analyses and other new information that became available to EPA subsequent to publication of the PD 2/3. Sites summarized below include: apples, leafy greens (i.e., collards, kale, mustard greens, and turnip greens), papaya, potatoes, and tomatoes. The complete assessments for all 56 sites is available (Ref. 32).

1. *Apples*. Mancozeb, maneb, and metiram are registered to control several important fungal diseases on apples. The registered alternatives to EBDC fungicides include benomyl, captan, copper fungicides, dodine, fenarimol, thiophanate-methyl (TM), triadimefon, and triforine. However, none of these fungicides are considered to be a universal substitute for the EBDC fungicides. Fungal resistance to benomyl and TM has developed, reducing the

ability of these two systemic fungicides to control apple diseases in orchards.

The Agency received comments in response to the EBDC PD 2/3 supporting the continued EBDCs use on apples from a variety of sources including the EBDC/ETU Task Force, apple growers, university scientists, and the International Apple Institute (IAI). Many of the comments addressed the ability of captan, which is incompatible with mineral oil, to replace EBDCs. Mineral oil is applied at the same time EBDC fungicide applications are made for control of apple scab.

Mineral oil is used to decrease early season mite populations. This early mite population control reduces the total number of miticide applications needed during the course of the apple growing season. One of the major alternatives to EBDCs, captan, cannot be used with mineral oil because this combination is phytotoxic to apple foliage. Thus, if the use of EBDCs are cancelled on apples and is replaced by captan, the Agency believes that this would result in an increase of 1 to 2 additional miticide applications in lieu of mineral oil during the growing season and would have a negative impact on apple IPM programs.

Commenters also expressed concern that without the use of EBDCs, additional chemical applications would be needed on apples. The commenters indicated that EBDCs are the most efficacious fungicides for control of summer diseases. The Agency estimated that additional captan applications used in combination with benomyl would be necessary to achieve comparable efficacy for summer disease control. Assuming that information gathered from NAPIAP, other comments, and university scientists familiar with apple pathology is correct, up to 3 additional captan applications may be required depending upon the apple growing region. In the Northeast, mancozeb provides a supplemental nutrient source of zinc. Apple soils in this area are deficient in zinc, a necessary micronutrient for apple production. The Agency estimates that 1 to 2 additional zinc applications would be necessary in this region in the absence of EBDCs.

In the PD 2/3, the Agency estimated approximately 48 percent of all United States apples were treated with EBDCs. The cancellation of EBDCs was estimated to result in a net producer loss of $0.3 million to $10.3 million. Consumer impacts were not quantified.

Revised usage estimates indicate that approximately 48 to 50 percent of the total United States apple acreage is treated with EBDC chemicals in a typical year. Based on comments and data, the Agency estimates as it did in the PD 2/3, that aggregate EBDC user production could decline by about 9 percent. The Agency now estimates total EBDC first-year benefits at approximately $51.8 million. Growers are expected to face both price adjustments and increased production costs. Consumers are estimated to pay about 2.5 to 3.5 percent more for apples.

2. *Leafy greens (collards, kale, mustard greens, and turnip greens).* Maneb has been used for control of fungal leaf spot diseases on leafy greens with a Special Local Needs registration for the use of the fungicide in Georgia. Leafy greens do not appear on the current Federal maneb label. Historically, maneb has been used to treat 90 percent of the leafy green crops.

In the PD 2/3, the Agency estimated a complete crop loss on the second cut of the leafy greens without the use of EBDCs. In response to the PD 2/3, data were submitted on the efficacy of maneb for control of fungal leaf spot on turnip greens. Based on these data, the Agency estimates that, without the use of EBDCs, approximately 50 percent of the fall second cutting would be unacceptable, according to USDA grading standards for processing, due to fungal leaf spot. EPA also assessed the effect of EBDCs on the spring leafy green crop and observed no significant differences between EBDC and untreated controls in terms of fungal leaf spot control. However, leafy green producers prefer to grow the fall leafy green crop due to climatic conditions which reportedly produce a more succulent crop. Thus, the Agency estimated from these data that growers would incur a 25 percent yield loss (50 percent decrease in yield on the fall second cutting) if the use of EBDCs is cancelled for leafy greens. The Agency estimates that yield losses could be higher if a third cutting were attempted. Assuming information on this site as presented in the 1991 NAPIAP report is correct, yield losses could be as high as originally stated in the PD 2/3 (i.e., 50 percent) if environmental conditions favor disease.

EBDC benefits were not quantified for the PD 2/3 due to the lack of data available to the Agency. Current first-year producer benefits are estimated as follows: collards ($5.7 to $13.7 million), kale ($2.1 to $5.0 million), mustard greens ($4.1 to $9.7 million), and turnip greens ($3.2 to $7.6 million). Consumer and community impacts may occur, although no quantitative measure could be obtained.

3. *Papayas.* Mancozeb is used on papayas to control anthracnose and Phytophthora fruit rot. Hawaii encompasses 95 percent of the United States papaya production; 100 percent of the papaya acreage in the state is reported to be susceptible to Phytophthora fruit rot. Information supplied to the Agency since the PD 2/3 indicates that 100 percent of all papaya acreage in Hawaii is treated with mancozeb to control this disease. The Agency does not have EBDC usage data for Florida.

EBDCs reportedly provide benefits not realized with chlorothalonil. Quarantine regulations require Hawaiian papaya shipped to the mainland United States to be treated to prevent the transmission of fruit flies. Information submitted in response to the EBDC PD 2/3 indicates a phytotoxic response when chlorothalonil-treated papaya fruit are later treated by either of the usual quarantine methods, which are double hot water and vapor and dry heat. The data indicated that chlorothalonil-treated fruit followed by a double hot water dip resulted in an average of 85.8 percent of the fruit being scalded (browning of papaya fruit) on at least 10 percent of the surface area. Similar results are to be expected with the vapor and dry heat method. This scalding of the fruit results in the fruit being unmarketable. Therefore, the Agency does not consider chlorothalonil to be a viable alternative to EBDCs for control of fungal diseases on papaya in Hawaii.

Florida papaya fruit are not subject to the same quarantine restrictions as the Hawaiian fruit. Hence, the heat treatments discussed above do not have to be used. Thus, Florida growers can use chlorothalonil without having a concern for scalded fruit. Commenters submitted data comparing chlorothalonil and EBDCs for control of Phytophthora fruit rot. Based on the information submitted, the Agency estimates a 6 percent decrease in yields in the absence of EBDCs for Florida papaya growers applying chlorothalonil. No decrease in efficacy is anticipated with replacing EBDCs with chlorothalonil for control of anthracnose.

For the PD 2/3, data were not available to accurately quantify the benefits of EBDCs on papayas. Based on the comments received, the Agency estimates the benefits of EBDCs for papaya could be as high as $8 million representing about 54 percent of the estimated total 1989 value of United States papaya production. Consumer impacts have not been quantified but are expected to be significant in terms of the current retail market value. The possibility of a rapid production transfer from Hawaii to Florida has not been determined.

4. *Potatoes*. Mancozeb, maneb, and metiram are used to control early blight and late blight as well as fungi identified in potato seed-piece decay. EBDC foliar applications are made to an estimated 56 percent of the total United States potato acreage. Alternative fungicides registered for use on potatoes include: anilazine, chlorothalonil, copper compounds, formaldehyde, metalaxyl, streptomycin, TM, thiabendazole, and triphenyltin hydroxide (TPTH). However, there is no one alternative fungicide registered to control all the potato diseases for which EBDCs are registered.

The Agency has information which suggests that applications of TPTH at label rate result in a phytotoxic response to potatoes. Applications of TPTH at a reduced rate and a reduced rate of mancozeb together have been efficacious for control of early blight without burning potato foliage. If EBDCs are cancelled on potatoes, growers would resist using TPTH due to phytotoxic concerns with the fungicide. Early blight resistance to another registered alternative fungicide, iprodione, has limited the usefulness of iprodione in the future.

In the PD 2/3, the Agency concluded that for foliar diseases, the EBDCs and chlorothalonil are more efficacious than their registered alternatives and that chlorothalonil combined with metalaxyl is somewhat more effective than EBDCs. The Agency received several comments disagreeing with the Agency's conclusion that chlorothalonil is more efficacious than mancozeb. Based on a review of comparative performance studies used for the PD 2/3 analysis and data submitted as comments on the PD 2/3, the Agency believes that although applications of chlorothalonil may result in less early or late blight, there are no significant yield differences realized between treatments of chlorothalonil and mancozeb.

Commenters also addressed crop rotation restrictions with chlorothalonil. Potato growers in the western United States mainly use EBDCs to control early blight. In the absence of EBDCs, the Agency assumed that western growers would switch to anilazine because of the crop rotation restrictions following the application of chlorothalonil. The increased costs of anilazine were incorporated into the revised assessment. Data submitted indicate that anilazine used to control early blight provides yields similar to the yields achieved with EBDCs.

Data indicate that late blight is a disease that can cause significant yield losses in New England. Yield losses occur to a lesser extent in Florida, New York, Pennsylvania, and Wisconsin due to the differences in climatic conditions. Based on the NAPIAP report and data published in Fungicide and Nematicide Tests (Ref. 41), the Agency estimates that yield losses can average 50 percent on untreated potato plants and can reach 100 percent under heavy disease pressure. Without the use of EBDCs, growers would need to use the chlorothalonil/metalaxyl combination for late blight control rather than the EBDC/metalaxyl combination. This would force growers to rotate potatoes with crops on the chlorothalonil label to legally use the chlorothalonil/metalaxyl fungicide. Potato producers switching to the chlorothalonil/metalaxyl alternative would be subject to rotational restrictions.

For the PD 2/3, the Agency estimated total annual EBDC benefits on potatoes at approximately $0.4 million. Based on data and comments received, the Agency's estimated impact was revised to approximately $40 million which represents approximately 2 percent of the total 1988 value of United States potato production. The Agency's estimate is based on the assumption that alternatives are equally efficacious. The estimate represents aggregate production cost impacts using alternative controls for both seed-piece and foliar needs. The Agency anticipates negligible impacts to producer gross revenues and to consumers.

Rotational restrictions are not included in the benefit estimate presented above. As discussed above, the Agency is aware of rotational restrictions with use of the chlorothalonil/metalaxyl alternative which may result in additional impacts to growers. Based on information submitted by commenters, the Agency estimates that total secondary rotational impacts may be as high as $52 million in the northeastern potato growing regions. Assuming this information is correct, this would be in addition to any potential impacts in Florida and Wisconsin. The Agency believes some secondary impacts may occur but does not have sufficient economic data to support or refute the assumptions used for this estimate.

5. *Tomatoes*. EBDCs are used on tomatoes to control anthracnose, early blight, late blight, gray leaf spot, gray leaf mold, and septoria leaf spot. The Agency estimates that 30 to 40 percent of the United States tomato acreage is treated with EBDCs. Registered alternatives to EBDCs include anilazine, benomyl, captan (plant bed only), chlorothalonil, various copper compounds, dichlone, dicloran, ferbam, and metalaxyl. In the absence of EBDCs, the Agency estimated that tomato growers would switch to chlorothalonil for disease control.

Many of the comments to the PD 2/3 focused on applications of copper and EBDCs tank-mixed together to control bacterial spot and bacterial speck. For the PD 2/3 analysis, the Agency did not consider the use of EBDCs for control of bacterial diseases on tomatoes because EBDC labels did not list bacterial diseases as pests controlled. Thus, the Agency was not aware of a common grower practice of mixing copper and EBDCs for bacterial disease control on tomatoes. The Agency acknowledges that bacterial diseases are important and that the data available indicate that EBDCs increase the efficacy of copper for controlling these diseases on tomatoes.

Historically, copper has been used to control bacterial diseases on tomatoes. However, the development of bacterial isolates resistant to copper has reduced the efficacy of copper. Copper-resistant bacterial spot isolates have been reported in many tomato growing regions. Bacterial spot isolates previously resistant to copper become susceptible to the copper/maneb combination. Scientists speculate that this increase in efficacy is due to a synergistic reaction occurring between the two pesticides when they are tank mixed.

Studies have indicated that growers can substitute maneb and copper with chlorothalonil and copper and achieve equal efficacy when only bacterial spot isolates susceptible to copper are present. However, unlike maneb, there are no data available indicating a synergistic reaction occurring between a tank-mix of chlorothalonil and copper. Due to this lack of synergy, the combination of chlorothalonil and copper may not be effective in situations when copper insensitive isolates are present. Data submitted in response to the PD 2/3 indicated that affected tomato growers could incur yield losses as high as 20 percent if bacterial spot is not controlled. No estimate of the lower bound yield loss was available.

EBDCs and copper are also applied to control bacterial speck, specifically in the Northern tomato growing region. Bacterial speck is of concern early in fruit development with the disease usually being of little concern when the fruit is ready for harvest. Data submitted in response to the PD 2/3 indicated that tomato fruit had significantly less bacterial speck infection when treated with EBDC/copper combinations compared with chlorothalonil/copper combinations. Under heavy disease pressure, the Agency estimates that growers can expect a 5 to 10 percent yield loss.

Commenters responding to the PD 2/3 also questioned the ability of chlorothalonil to act as a replacement for EBDCs on tomatoes in California. The commenters submitted data disagreeing with the Agency's PD 2/3 estimate of an increase in efficacy with chlorothalonil compared to EBDCs for control of black mold. The commenters also stated that crop rotation restrictions with chlorothalonil limit the use of the fungicide in California.

Based on the data submitted, the Agency agrees with the commenter that chlorothalonil is as efficacious as EBDCs for control of black mold. The Agency is aware, from comments to the PD 2/3, that California tomato growers rotate tomatoes with crops not included on the chlorothalonil label. This will be of potential concern to California tomato growers who use EBDCs to control black mold and late blight if they choose to rotate to crops not on the chlorothalonil label. These growers could switch to anilazine without changing their rotations and without any decrease in efficacy. The increased cost of anilazine was incorporated into the revised benefits assessment.

The benefits for tomatoes have increased from the PD 2/3 estimate of $0.1 million to the current estimate of $32 million to $45 million. This increase is due to: (a) A revised percent-crop treated estimate; (b) Updated yield loss projections; and (c) Revised cost estimates on the likely alternative fungicides. The current benefits represent approximately 3 percent of the total 1989 value of the United States tomato production.

C. Response and Comments: General

1. *Comment.* The American Farm Bureau submitted comments supporting the continued use of EBDCs. The commenter stated that the Agency understated the benefits of EBDCs and highlighted several issues concerning the Agency benefits analysis including: (a) The Agency should recognize economic data submitted in response to the PD 2/3; (b) EPA failed to consider the efficacy of alternative fungicides; (c) EPA did not consider the label constraints of alternative fungicides; (d) The Agency did not consider the affect of selected alternative fungicides on crop safety (e.g., phytotoxicity); and (e) EPA did not consider the total available supply of alternative fungicides.

Response. The Agency has considered the comparative efficacy of alternative fungicides to EBDCs and possible label restrictions. One example is crop rotation restrictions with chlorothalonil. The chlorothalonil label states that crops not listed on the fungicide's label cannot be rotated with chlorothalonil-treated crops for 12 months. This information is reflected in the Agency's benefits analysis. The Agency has assessed the viability of alternative fungicides to EBDCs, the availability of the fungicide, and possible phytotoxic responses to the crop when the alternative fungicide was applied. One example is copper. Copper is registered to control many of the same diseases as EBDCs. The Agency was aware that applications of copper can injure foliage of several crops such as lettuce and spinach. Also, the Agency considered the present and future availability of alternative fungicides to EBDCs as part of the Agency's benefits analysis.

2. *Comment.* The EBDC/ETU Task Force submitted comments highlighting the benefits of EBDC fungicides for control of plant diseases. Their comments included information and data on the benefits of EBDCs for 10 crops: apples, bananas, cucurbits, grapes, onions, peanuts, potatoes, small grains, sweet corn, and tomatoes. The EBDC/ETU Task Force also submitted data on fungicide resistance including information on fungal resistance to EBDCs and alternative fungicides.

Response. Information and data provided by the EBDC/ETU Task Force were used as part of the Agency's benefits assessment. Detailed responses to the Task Force's comments on apples, grapes, peanuts, potatoes, small grains, sweet corn, and tomatoes are discussed in Unit V.D. of this document.

3. *Comment.* The Florida Farm Bureau Federation submitted comments supporting the continued use of EBDCs on certain agricultural crops. A survey of pesticide usage by the Florida Farm Bureau Federation members was included in their comments. Other information was included on their analysis of the projected impact of cancellation of EBDC fungicides on fruit, small grain, and vegetable production in Florida.

Response. The Agency appreciates pesticide user groups conducting surveys on pesticide usage by its membership. The information included in the Florida Farm Bureau Federation survey was useful, along with other information, for the Agency in terms of assessing pesticide usage, alternative fungicides, and diseases the fungicides control. The data highlighting the possible impact of the loss of EBDCs to crop production were incorporated in the final benefits analysis.

4. *Comment.* GRC Economics, on behalf of Atochem North America, submitted comments (which included information based on results from the NAPIAP report), supporting the continued use of EBDCs. The commenter also stated that crop rotation restrictions on the chlorothalonil label limit the usefulness of the fungicide as a substitute to EBDCs for potatoes and tomatoes.

Response. EPA used the NAPIAP report and other information to assess the possible impact of the cancellation of EBDCS on agricultural crops. Estimates provided in the NAPIAP report were considered in the Agency's final benefits assessment. The Agency recognizes that crop rotation restrictions are present with applications of chlorothalonil and that the chlorothalonil label states that fields treated with chlorothalonil cannot be rotated with crops not listed on the chlorothalonil label. This type of limitation does not appear on EBDC labels. This potential limitation is reflected in the Agency's final benefits assessment.

5. *Comment.* Hogan and Hartson, on behalf of the Rohm Haas Company, submitted comments supporting the continued use of EBDCs on agricultural crops. Hogan and Hartson commented on several issues of the EBDC PD 2/3 benefits analysis including: (a) The need for apple growers to apply additional captan applications to compensate for the absence of EBDCs; (b) The incompatibility of captan and mineral oil on apple foliage; and (c) Crop rotation restrictions for the use of chlorothalonil, propiconazole, and triadimefon on potatoes and small grains, respectively.

Response. The Agency realizes that if this information is correct and growers replace EBDCs with captan, additional pesticide applications may be needed. The Agency estimates up to three additional captan applications might be needed to achieve comparable disease control to EBDCs. One to two additional captan applications may be required in the mid-Atlantic apple growing region and two to three additional captan applications in the Northeast. Due to the incompatibility of captan and mineral oil, the Agency estimates growers would need to replace the use of mineral oil with one to two additional miticide applications per growing season. Crop rotation restrictions are present on the chlorothalonil, propiconazole, and triadimefon labels. The fungicide labels restrict crop rotations to crops that are listed on the particular fungicide's label for a specific period of time. In the case of chlorothalonil, the fungicide label states that fields treated with chlorothalonil cannot be rotated with crops not listed on the chlorothalonil label for 12 months. The Agency is aware that growers practice a variety of crop rotations depending on agronomic factors.

6. *Comment.* The National Food Processors Association (NFPA) submitted comments in support of the continued use of EBDCs on agricultural crops. Their comments were based on a study conducted by NFPA and depicts the 1989 usage of EBDCs, the availability of alternatives to EBDCs, and the benefits of the fungicide. NFPA directed their comments toward the importance of EBDCs on apples, broccoli, carrots, grapes, pears, peppers, potatoes, spinach, sweet corn, and tomatoes.

Response. The Agency appreciates the increased user group involvement. The information from comments and responses to the surveys by NFPA were examined by the Agency in its final benefits analysis.

D. Crop-Specific Comments and Response

1. *Comment on the importance of EBDCs to apple cultivation.* Growers submitted comments stating the importance of mancozeb on apples. Specifically, 2 growers mentioned that mancozeb is used as a supplemental source of zinc in addition to its disease control properties

Response. For the PD 2/3 analysis on apples, the Agency was not aware of mancozeb's role as a source of zinc fertilizer. EPA has further examined this issue and now estimates northeastern apple growers would apply one to two additional zinc micro-nutrient applications if EBDCs were cancelled. The additional expenses for northeastern apple growers was factored into the final benefits analysis.

2. *Comment supporting the continued use of EBDCs on apples.* The EBDC/ETU Task Force, as well as apple growers, submitted comments supporting the continued use of EBDCs on apples. The Task Force stated that captan is not as efficacious as EBDCs for control of summer diseases (i.e., bitter rot, fly speck, and sooty blotch). They indicated that if EBDCs were not available to apple growers, three additional captan applications would be needed to compensate for captan's lack of efficacy compared to the EBDCs. The Task Force also commented on the compatibility of EBDCs and mineral oil. Mineral oil is used to reduce early season mite populations. However, applications of captan and mineral oil have resulted in a phytotoxic response to apple foliage. They remarked that an increase in miticide applications would be necessary if EBDCs are cancelled on apples.

Response. The Agency acknowledges that in the absence of EBDCs, an increase in the number of captan applications may be necessary, especially for control of summer diseases. The Agency estimates that one to three additional captan applications may be necessary to compensate for the cancellation of EBDCs depending on the apple growing region. This information was incorporated in the Agency's analysis. The Agency agrees that captan applied in combination with mineral oil is phytotoxic to apple foliage. If EBDCs are cancelled on apples, this would be detrimental to apple IPM programs. The Agency estimates that one to two additional miticide applications may be needed in the absence of EBDCs.

3. *Comment on EBDC usage for apples.* Fungicide usage information on Michigan apples was submitted as a joint report by the Michigan State University Cooperative Extension Service, Michigan Processing Apple Growers, and the Michigan Farm Bureau. The IAI also submitted fungicide usage information on apples in addition to data supporting the continued use of EBDCs on the crop. The commenters stated that: (a) EBDCs are the most effective fungicide for control of bitter rot, fly speck, and sooty blotch; (b) Reduced rates of EBDCs are applied to apples and have been found to be efficacious; (c) Quality impacts were not quantified in the PD 2/3; (d) EBDCs are important in terms of fungicidal resistance management; (e) EBDC use varies by geographic region; and (f) The cost of the registered alternatives will change if EBDCs are cancelled.

Response. The Agency appreciates the information from both surveys. This information helped EPA to have a better understanding of chemical usage on apples. Both surveys were examined by the Agency in its final benefits assessment.

In response to the first point, EPA believes that applications of benomyl in combination with captan are as efficacious as EBDCs for control of summer diseases. However, additional captan applications would be needed to achieve this efficacy. The Agency estimates that one to three additional captan applications may be needed in the absence of EBDCs depending on the apple growing region.

With respect to the second point, EPA agrees that apple growers may find EBDC fungicides applied at a reduced rate to be effective. However, under heavy disease pressure, the Agency estimates that the full label rate may be needed for efficacious disease control. This will vary depending on the specific disease being targeted and the geographic location. For the purpose of estimating the cost of fungicide applications, the Agency assumed that the maximum application rate is used.

The Agency considered regional diversity and corresponding usage and economic impacts for the PD 2/3 and for this Final Determination. The Agency has examined its analysis to further reflect this diversity. Information on regional impacts are incorporated into the analysis.

Along with their estimated annual short-term benefits, the EBDCs may also have some long-term benefits for apple production. The Agency believes that without the use of EBDCs on apples, it may be possible that there could be a permanent economic decline to selected apple growers in limited areas. Consumer impacts are likely to be minor to negligible as adjustments are made in production and trade patterns.

With respect to quality impacts, EPA in the PD 2/3 qualitatively evaluated a decrease in apple quality and concluded that any anticipated quality impact would be minor, falling within the benefit range identified. This assumption is carried into the current estimates.

Fourthly, the Agency is aware that EBDCs have often been relied upon to slow or prevent the development of fungicide resistance on apples. One example is EBDC use in combination with benomyl or ergosterol biosynthesis inhibitor fungicides.

Regarding geographic variation, EPA considered regional usage of EBDCs in both the PD 2/3 and in this Final Determination. For the PD 4, the Agency reviewed the IAI survey in examining regional variation in fungicide usage. The IAI survey is generally consistent with the NAPIAP data. The primary difference is that the IAI survey identifies higher usage in the Southeast than that used by the Agency (i.e., 97 percent vs. 86 percent).

Finally, EPA is aware that Agency action can increase the costs of alternative controls and crop production. These factors have been taken into account. The revised cost analysis now indicates a net cost increase to growers with the use of alternatives.

4. *Comment supporting the continued use of EBDCs on bananas.* The International Banana Association submitted comments supporting the continued use of EBDCs on bananas. They stated that black sigatoka is a

devastating disease to banana growers and must be controlled for the banana industry to survive; it is the greatest single plant disease threat to food production in the tropics and to the worldwide banana industry. Further, the commenter stated that because of intrinsic differences in their climatic and cultural practices, Hawaiian producers cannot be considered representative of the South and Central American growers who supply the large majority of bananas to the United States market. In its own analysis, the Association has determined that the loss of one or both of the EBDC fungicides will lead to increased dependence on systemic fungicides, foster development of resistance to available fungicides, and place both the world banana industry and local tropical agriculture at a grave risk.

Response. The Agency recognizes that increased dependence on systemic chemicals and increased pest resistance to available fungicides may to occur over time. However, no specific yield loss estimates are available to allow the Agency to quantitatively address the impacts.

5. *Comment on the benefits and use of EBDCs on bananas.* A commenter stated that in the PD 2/3, the Agency underestimated the benefits and overestimated the usage of EBDCs on bananas in Hawaii. The commenter indicated that grower yield impacts of $2.1 to $4.1 million could result from yield and fruit quality losses caused by the black leaf streak disease in Hawaii if the EBDC fungicides were cancelled.

Response. Additional information available to the Agency since the PD 2/3 indicates 100 percent of all banana acreage in Hawaii is treated with EBDCs. Data were not submitted to support the yield impact in the absence of EBDCs. The Agency has no data to support or refute the estimated yield impacts to growers.

6. *Comment on carrots.* One Wisconsin commenter supported the continued use of EBDCs on carrots and proposed amending the mancozeb label to extend the preharvest interval of EBDCs on carrots from 7 to 21 days. The commenter suggested that this would result in reducing residues without compromising efficacy. Other suggested amendments to the label included supporting the use of IPM programs already adopted by carrot growers in his State. One example of an IPM program was the use of weather monitoring programs to more accurately depict increases in disease development and more judicious fungicide applications.

Response. The Agency appreciated the material provided. This type of information assists the Agency in evaluating possible label changes for mancozeb intended to reduce the risk of the fungicide while maintaining disease control. The provided data support the proposed label changes for Wisconsin; however, the changes may not be applicable to other carrot growing regions.

7. *Comment on broccoli, brussels sprouts, cabbage, and cauliflower.* GRC Economics, on behalf of Atochem North America, commented that crop rotation restrictions on the chlorothalonil label limit the usefulness of the fungicide on cole crops.

Response. The Agency is aware of the crop rotation restrictions associated with the use of chlorothalonil. However, the commenter did not supply data that would allow the Agency to determine the impact of this restriction on cole crop production.

8. *Comment on cotton.* The National Cotton Council of America and the Trans-Pecos Cotton Association, among others, submitted comments supporting the continued use of EBDCs on cotton. The commenters said that EBDCs are needed to control cotton rust in the southwestern United States cotton growing region. Arizona and the National Cotton Council indicated that yield losses have been reported to be as high as 50 to 75 percent if cotton rust is not controlled.

Response. No data were submitted by commenters to support these yield loss estimates. The estimates provided to the Agency are considered to be opinion, as opposed to actual data.

9. *Comment on the importance of EBDCs to cucurbit cultivation.* One commenter stated that EBDCs are critical to watermelon producers because plant breeders have not developed watermelon varieties resistant to fungal plant pathogens. Research has demonstrated that without the use of EBDCs, losses due to some foliar pathogens can exceed 75 percent. Estimates indicated that during the previous 5 years, about 70 percent of the watermelon acreage was treated with one or more EBDC compounds, or combinations of an EBDC compound with other fungicides.

Response. The Agency recognized the importance of fungicides in cucurbit production in the PD 2/3. Estimated impacts to the cucurbit markets due to loss of EBDCs were based on the relatively higher cost of chlorothalonil. These impacts ranged from an estimated $3.8 million to $8.6 million annually. No yield impacts were anticipated based on available comparative product performance data. USDA estimates for yield losses were up to 10 percent for melons, but there is no information to support the yield loss estimate of 75 percent for watermelon if the EBDCs were no longer available. However, Agency scientists believe that this yield loss estimate is probable if there are no controls for the foliar problems on watermelons; however, in actual practice, alternative control will be employed and any yield loss minimized.

10. *Comment on alternative fungicides for cucurbits.* One commenter stated that if the EBDCs were not available for use on cucurbits, chlorothalonil would be the major alternative to control foliar fungal diseases. Such an action would result in an impact for growers who switch to chlorothalonil and also experience viral diseases on cucurbit acreage. Mineral oil, which is compatible with EBDCs, is used to control the insects that spread the virus. Combinations of chlorothalonil and mineral oil applications result in phytotoxicity.

Response. The Agency has no data to quantify yield losses due to aphid-borne viruses on cucurbits. The commenter knew of no way to quantify losses from viral diseases because such studies have never been done. The Agency has considered the projected increase in the cost of production, taking into account the production cost changes for insecticides compatible with chlorothalonil to control aphid-feeding, as recommended in IPM programs, especially in Florida.

11. *Comment on dry beans.* The Agency received comments from North Dakota State University and Colorado State University in response to the EBDC PD 2/3 indicating that chlorothalonil had rotational restrictions that would make it an inappropriate alternative for control of rust on dry beans.

Response. The 2 registered alternative fungicides that are available to control rust on dry beans are chlorothalonil and sulfur. Chlorothalonil provides effective control; however, it has rotational restrictions on the label stating that a crop that does not appear on the label cannot be planted in a chlorothalonil-treated field for up to a year after the last chlorothalonil application. The only other alternative is sulfur which is not effective against rust.

A majority of the dry bean producing states are in climatic zones that are not favorable to disease development. However, there are 2 main bean-producing regions that may be affected by rust. The largest is the bi-state area of Minnesota and North Dakota. The second is Colorado and surrounding areas consisting of northwestern

Kansas, southwestern Nebraska, northeastern New Mexico, northwestern Texas, and southeastern Wyoming. In both regions rust is an intermittent problem, depending on environmental conditions.

Minnesota and North Dakota produce 580,000 acres of dry beans. In a given year, approximately 1 to 20 percent of this acreage is treated with fungicides. Eighty percent of the bean crop in the treated areas is rotated with small grains. The remainder is rotated to either potatoes under irrigation or occasionally to sugar beets.

In the Colorado area there are approximately 150,000 acres that are affected by foliar pathogens; 60 percent of this area is treated with fungicides. Of the treated area approximately 50 percent is rotated with sugar beets, sunflowers, small grains, or miscellaneous vegetables that do not appear on the chlorothalonil label. The other 50 percent is rotated with corn.

If rotational restrictions are followed and different acreage is treated each year, and if this information is correct, 80 percent of the fungicide-treated bean acreage in Minnesota and North Dakota and 50 percent of the treated acreage in the Colorado region could be affected by these restrictions at some point in time.

12. *Comment on grapes.* The EBDC/ETU Task Force submitted information and documentation supporting the continued use of EBDCs on grapes. The Task Force highlighted several issues that they considered important for the use of EBDCs on grapes including: (a) The Agency incorrectly stated that EBDCs are not registered for control of eutypa dieback and are efficacious against both phomopsis cane and leaf spot and eutypa dieback; (b) EBDCs are the only efficacious material for control of black rot and downy mildew, specifically in the eastern United States; (c) Mancozeb is used to control angular leaf scorch in New York; and (d) There have been reports of captan-treated grapes not being accepted by grape processors.

Response. Deadarm is listed on the mancozeb label as one of the diseases the fungicide controls. However, scientists now classify deadarm as 2 distinct diseases: (1) eutypa dieback and (2) phomopsis cane and leaf spot. The Agency maintains that mancozeb is only efficacious against one of the 2 diseases once grouped together as deadarm—phomopsis cane and leaf spot.

The Agency maintains that black rot can be controlled effectively with either myclobutanil or triadimefon if EBDCs are cancelled on grapes.

Downy mildew could be controlled by either captan or copper fungicides in the absence of EBDCs. However, assuming the information available to the Agency is correct, copper fungicides are phytotoxic to hybrid grapes, possibly resulting in a 20 percent yield loss on approximately 10 percent of the hybrid grape acreage.

Angular leaf scorch is a new fungal disease not listed on the mancozeb label. Mancozeb is used to control the fungus reported to occur on approximately 5 to 10 percent of the grape acreage in New York.

The Agency is aware of this new disease in New York, but it does not have data to determine the economic loss if EBDCs were no longer available to control angular leaf scorch. The Agency is also aware that there have been reports of grape processors refusing to accept grapes treated with captan and has included this information in the final benefits analysis for EBDCs on grapes.

13. *Comment on lettuce.* EAK AG, Inc. (on behalf of the Grower-Shipper Vegetable Association of Central California and the Western Growers Association) and other commenters submitted information and documentation supporting the continued use of EBDCs on lettuce. The material included data on the comparative efficacy of registered fungicides on lettuce, production information, usage information, and proposed label changes.

Response. The information provided by the commenters was considered in the final benefits assessment for the use of EBDCs on lettuce.

14. *Comments on leafy greens.* Comments were received from leafy greens growers, food processors, and university extension scientists supporting the continued use of maneb on leafy greens. One processor submitted as comments to the Agency a paper to be published in the journal "Plant Disease" studying the effectiveness of maneb to control leafspot on turnip leafy greens.

Response. The Agency is aware of the importance of maneb for control of foliar diseases on leafy greens. Data submitted by Southern Frozen Foods indicating the effectiveness of EBDCs for control of leafspot on turnip greens helped the Agency to estimate yield losses on that crop in the absence of EBDCs. The Agency encourages the public to submit scientific, statistically sound studies for comparative performance purposes. Data provided by other commenters were used in estimating yields and crop values.

15. *Comments on onions.* Growers from New York state submitted comments supporting the continued use of EBDCs on onions. One commenter stated that EBDC fungicides are applied and used according to Cornell University Cooperative Extension Service recommendations. The fungicides are alternated weekly so that pesticide resistance is minimized. EBDC fungicides are relatively inexpensive when compared to alternative materials, and are a major component in overall disease management programs. Another grower commented that EBDCs provide outstanding control of onion diseases; therefore, growers can use fewer sprays.

The American Dehydrated Onion and Garlic Association also submitted comments supporting the continued use of EBDCs on onions. In the PD 2/3, EPA assumed that metalaxyl would replace 33 percent of the EBDC-treated acres if the EBDCs were no longer available and iprodione would replace another 33 percent. The commenter states that metalaxyl use will be less than 33 percent and iprodione use greater than 33 percent.

Response. The relative expense of the EBDC fungicides, and their role in overall disease management in onions, are addressed in the PD 2/3 and in this Final Determination.

In the PD 2/3 the Agency concluded that in the event of a cancellation, one-third of the onion acres currently treated with EBDCs would be treated with chlorothalonil, one-third would be treated with chlorothalonil plus metalaxyl, and one-third would be treated with iprodione. While the above assumption of each of the 3 alternative scenarios replacing one-third of EBDC treatments may not be precise, the Agency has no data to support other assumptions.

16. *Comment on papayas.* The Hawaiian Papaya Industry Association submitted information and data indicating that chlorothalonil is less efficacious than mancozeb for control of phytophthora fruit rot of papaya. The commenters stated that applications of chlorothalonil result in a 6 percent yield loss (a decrease of 2,085 pounds of papaya per acre) compared to applications of mancozeb.

Also, the commenter indicated that quarantine regulations require Hawaiian papaya fruit to be treated to reduce the introduction of fruit flies into the continental United States. Previously, papaya fruit were treated with a double hot water dip. This year, the industry began a vapor and dry heat treatment to increase pulp temperatures beyond those obtained with the double hot water treatment. In one study submitted by the commenters, chlorothalonil-treated papaya fruit followed by applications of the double hot water treatment bath resulted in approximately 85.8 percent of the fruit scalded (i.e., browning of papaya fruit) on at least 10 percent of the surface area. Similar results are expected with the vapor/dry heat method.

Response. The Agency agrees that chlorothalonil appears to be less efficacious than mancozeb for control of phytophthora fruit rot on papayas. This information was included in the benefits assessment described in this document.

The Agency acknowledges that scalding of chlorothalonil-treated fruit followed by either a vapor/dry heat or double hot water treatment is of serious concern for Hawaiian papaya growers. Because of this, the Agency does not currently consider chlorothalonil as a viable alternative for Hawaiian papaya growers. This information was included in the current benefits analysis.

17. *Comments on pears.* Comments were received from pear growers and university extension agents supporting the continued use of EBDCs on pears. The commenters stated that EBDCs are effective in controlling pear scab and fabrea leaf spot on pears.

Response. The Agency is aware that mancozeb is an effective fungicide for control of fabrea leaf spot and pear scab. The Agency believes that in the absence of EBDCs, pear growers could use ziram without a decrease in efficacy.

18. *Comments on peppers.* Comments were received from pepper growers, State agricultural agencies, and other interested parties supporting the continued use of EBDCs on peppers. The commenters stressed the importance of EBDCs used in combination with copper for control of bacterial spot. They stated that copper compounds are the only registered pesticide to control bacterial spot but are not effective alone against the disease due to the development of bacterial spot resistance to copper compounds.

Response. The Agency acknowledges that EBDCs enhance the ability of copper compounds to control bacterial spot. Copper compounds, the only registered pesticide for control of bacterial spot, does not appear to be efficacious by itself to control the disease. This information was considered in the final benefits analysis for the use of EBDCs on peppers.

19. *Comments on peanuts.* The EBDC/ETU Task Force submitted information and documentation supporting the continued use of EBDCs on peanuts. The Task Force presented 3 issues: (a) Chlorothalonil, the registered alternative to EBDCs on peanuts, promotes an increase in Sclerotinia blight infection; (b) Crop rotation restrictions with chlorothalonil need to be considered. The chlorothalonil label states that fields treated with chlorothalonil cannot be rotated to crops that are not on the label for 12 months after a chlorothalonil application; and (c) EBDCs provide a supplemental source of manganese for North Carolina and Virginia peanut growers. The Task Force indicated that North Carolina and Virginia peanut soils are commonly deficient in manganese. Growers in these areas commonly apply mancozeb for disease control and as a source of supplemental manganese. If EBDCs are unavailable on peanuts, the EBDC/ETU Task Force stated that growers would apply 1 to 2 applications of chelated manganese per growing season.

Response. From a review of the data included in the Task Force's comments, the Agency agrees that applications of chlorothalonil could promote an increase in the incidence of Sclerotinia blight infection compared to untreated fields. The Agency estimates that 1 to 2 additional iprodione or pentachloronitrobenzene applications would be needed (to control an increase in Sclerotinia blight infection).

The Agency is aware that peanut growers in the North Carolina/Virginia peanut growing region and the southeastern peanut growing region commonly rotate their crop. However, the Agency was not provided with information as to the affected acreage or the affected practices in these areas and therefore cannot estimate the impact.

The Agency recognizes that some growers in North Carolina and Virginia rely on mancozeb as a manganese source and estimates that 1 to 2 additional chelated manganese micronutrient applications might be necessary in these 2 States if EBDCs were not available on peanuts.

20. *Comments on the importance of EBDCs and TPTH to potato cultivation.* The Agency received comments from potato growers and university extension plant pathologists discussing the importance of mancozeb used in combination with TPTH, a registered fungicide for control of early and late blight on potatoes. The commenters stated that TPTH is phytotoxic to the crop at the label rate. Growers commonly tank-mix a reduced rate of TPTH with mancozeb to avoid phytotoxicity and still have efficacious control of potato diseases. The commenters contend that without the use of mancozeb, TPTH could not be used effectively.

Response. The Agency acknowledges that TPTH phytotoxicity on potatoes is of serious concern, especially in the New England and the North Central potato growing regions. TPTH applied at a reduced rate in combination with mancozeb is efficacious against both early and late blight without a resulting phytotoxic response. If the use of EBDCs is cancelled on potatoes, and if the information is correct, growers in these regions will not be able to use TPTH effectively. This information was included in the benefits assessment for the use of EBDCs on potatoes.

21. *Comments on the importance of EBDCs in controlling late blight on potatoes.* Several commenters discussed the importance of EBDCs for control of late blight and stated that Ridomil® MZ58, a fungicide containing mancozeb and metalaxyl, is used to control the fungus on potatoes. The commenters stated that if EBDCs are cancelled, Ridomil® MZ58 would not be available for disease control. Another metalaxyl product, Ridomil®/Bravo® 81W is also available for late blight control. Ridomil®/Bravo® 81W contains chlorothalonil and metalaxyl as its 2 active ingredients. The commenters indicated that due to crop rotation restrictions with chlorothalonil, growers that intend to rotate crops not listed on the chlorothalonil label would not be able to use Ridomil®/Bravo® MZ58.

Response. The Agency agrees that late blight is a serious disease on potatoes, especially in New England, and to a lesser extent, in Florida, New York, Pennsylvania, and Wisconsin. Without the use of EBDCs, growers would switch to chlorothalonil and metalaxyl for control of late blight. However, crop rotations with potatoes would be limited to crops listed on the chlorothalonil label. If growers have a history of late blight, then growers would have to alter their crop rotation practices to allow the use of Ridomil®/Bravo® 81W on their fields.

22. *Comments on chlorothalonil as an alternative fungicide for potatoes.* Commenters disagreed with the Agency's conclusion that chlorothalonil statistically is more effective than mancozeb in controlling early and late blight on potatoes. The commenters stated that although research has shown chlorothalonil is more efficacious than mancozeb, specifically for early blight control, the differences are not statistically significant.

Other commenters including the EBDC/ETU Task Force, the National Potato Council, and State extension agents disputed the viability of chlorothalonil as an alternative to EBDCs on potatoes. These commenters all stated that crops treated with chlorothalonil cannot be rotated with crops that are not on the chlorothalonil label within 1 year after the last application. The commenters stated that the restrictions will interfere with crop rotations practiced by U.S. potato growers.

Response. In the PD 2/3, the Agency concluded that if EBDCs are cancelled on potatoes, growers would switch to chlorothalonil. At that time, Agency scientists concluded that chlorothalonil-treated acreage would have higher yields than those treated with mancozeb. However, after reviewing comparative performance literature on the 2 fungicides used for the PD 2/3 and new data submitted as comments to the PD 2/3, the Agency agrees that there are no significant differences between the fungicides for control of early blight. The Agency considered this information in its PD 4 benefits analysis.

The Agency is aware that chlorothalonil has crop rotation restrictions. However, according to data submitted by commenters, growers can use anilazine (an alternative fungicide that does not have these restrictions), without a decrease in efficacy for control of early blight. Anilazine's higher cost has been factored into the Agency's analysis.

Fungal resistance to metalaxyl has limited the use of the fungicide for control of late blight, a potentially devastating disease to potato producers. Due to the limited mode of action of metalaxyl, plant pathogenic fungi have developed resistance to the fungicide. This has prompted the registrant of metalaxyl to package the fungicide with protectant fungicides having a broader mode of action (e.g., chlorothalonil or EBDCs). The use of metalaxyl and a protectant fungicide results in a decrease in the development of fungi resistant to metalaxyl. Without EBDCs, growers whose crop rotations limit their use of chlorothalonil would not be able to apply metalaxyl. This would leave the growers without an efficacious fungicide for control of late blight. The Agency has considered this situation in the final benefits analysis.

23. *Comment on resistance to alternative fungicides for potatoes.* A North Dakota State University researcher stated that there have been reports of fungal resistance to thiabendazole and TM by the silver scarf fungus, a fungus associated with potato seed-piece decay.

Response. The Agency agrees that, if this information is correct, silver scarf resistance to thiabendazole and TM may threaten the usefulness of these fungicides in the future. However, even if EBDCs are not available, captan could be used effectively to prevent potato seed-piece decay.

24. *Comment on small grains.* The EBDC/ETU Task Force submitted information and documentation supporting the continued use of EBDCs on small grains. The Task Force stated that crown rust infection on oats has been increasing in North Dakota and Wisconsin. The commenters argued that without the use of EBDCs, there would be no efficacious fungicides to control the disease on oats. The Task Force also noted that triadimefon, a likely alternative to EBDCs on small grains, has crop rotation restrictions.

Response. The Agency acknowledges that without the use of EBDCs, oat growers would have no efficacious fungicide for control of crown rust and could have yield losses as high as 20 percent, if the information presented is correct. The Agency is also aware of crop rotation restrictions with triadimefon. This information was included in the benefits analysis of EBDCs on small grains.

25. *Comments on spinach.* Commenters in support of the use of EBDCs on spinach stated their opinion that: (a) Maneb provides excellent control of spinach downy mildew at a per acre cost of only $14.50 compared to a per acre application cost of $83.31 for fosetyl-aluminum; (b) Spinach yields were reduced by 23 to 30 percent without applications of maneb; and (c) Fosetyl-aluminum has proven to be inconsistent in combating downy mildew.

Response. The Agency agrees that maneb is less expensive and more effective than fosetyl-aluminum for control of downy mildew on spinach. Fosetyl-aluminum is not registered for use on spinach but has been used on spinach under FIFRA section 18. This information was included in the final benefits analysis for spinach. On the basis of data and other information, the Agency has also revised its benefits assessment for spinach and now estimates that yield losses of up to 40 percent for the winter crop in certain areas are likely if viable alternatives are not available and if the disease situation is severe. Further, the Agency believes that an aggregate yield loss is likely without effective controls.

26. *Comment on sweet corn.* The EBDC/ETU Task Force submitted comments supporting the continued use of EBDCs on sweet corn. Comments were provided concerning the economics of fungicide costs for fresh market sweet corn for EBDCs and alternatives and resulting impacts on production.

Response. The Agency has taken into account new cost information. The economics assessment for sweet corn has been revised to reflect new chemical cost and revenue figures.

27. *Comment on the importance of EBDCs in controlling late blight on tomatoes.* The California Tomato Board and the Processed Tomato Foundation submitted information and documentation discussing the importance of mancozeb used in combination with metalaxyl for control of late blight on tomatoes in California. Due to reports of fungal resistance to the systemic fungicide metalaxyl, the fungicide is sold as a package mixture containing metalaxyl in combination with a protectant fungicide (chlorothalonil or mancozeb) to reduce the development of fungal resistance to metalaxyl. Without the continued registration of mancozeb on tomatoes, the commenters expressed concern that the registrants for metalaxyl may discontinue supporting the use of metalaxyl on tomatoes.

Response. The Agency agrees that in the absence of EBDCs for tomatoes, the continued use of metalaxyl may be limited. Metalaxyl is only marketed with mancozeb or chlorothalonil. Thus, the use of metalaxyl would be limited as a result of the chlorothalonil plant back restriction. The combination of metalaxyl and EBDCs provides a level of control of late blight on tomatoes that cannot be achieved in the long term by either chemical alone. However, growers may also choose anilazine. Thus, growers in California could use metalaxyl as a package mix with chlorothalonil or anilazine alone for control of late blight without a decrease in efficacy. Crop rotation restrictions are not listed on the anilazine label. However, crop rotation restrictions with chlorothalonil may limit the metalaxyl/chlorothalonil combination for tomato growers.

28. *Comment on the importance of EBDCs in controlling bacterial diseases on tomatoes.* Comments relating to the EBDC PD 2/3 were received from the EBDC/ETU Task Force, tomato growers, user groups, university researchers, and other interested parties discussing the role of EBDCs for the control of bacterial diseases on tomatoes. The commenters stated that the Agency failed to include in its analysis consideration of the use of EBDCs and copper to control bacterial spot. Growers commonly tank-mix copper and EBDCs and claim it is the only efficacious material for bacterial disease control.

Response. For the PD 2/3 analysis, the Agency did not consider the use of EBDCs for control of bacterial diseases on tomatoes. EBDC labels do not list bacterial diseases as one of the pests the pesticide controls. Thus, the Agency was not aware of a common grower practice of mixing copper and maneb for bacterial disease control on tomatoes. The Agency agrees that applications of EBDCs and copper are efficacious against bacterial diseases and even against populations of bacteria resistant to copper. However, studies have shown that there is no significant difference between applications of chlorothalonil/copper and EBDC/copper for control of copper sensitive bacterial spot. In situations where insensitive isolates are present, chlorothalonil may not be effective. The Agency has data indicating that this could result in yield losses as high as 20 percent to affected tomato growers. This information was considered in the final benefits assessment for the use of EBDCs on tomatoes.

29. *Comment on chlorothalonil as an alternative fungicide for tomatoes.* The Processed Tomato Foundation submitted comments discussing the use of chlorothalonil as an alternative fungicide for California tomato growers. The Processed Tomato Foundation included information and data disagreeing with the Agency's conclusion that chlorothalonil is more efficacious than EBDCs for control of black mold. They concluded that there are no differences in efficacy between the 2 fungicides. The grower group also stated that chlorothalonil is unsuitable for California tomato growers due to crop rotation restrictions on the chlorothalonil label. Fields treated with chlorothalonil cannot be rotated with crops not listed on the chlorothalonil label.

Response. From a review of the data submitted by the Processed Tomato Foundation, the Agency agrees that there is no difference in efficacy between chlorothalonil and EBDCs for control of black mold. This new information was included in the final benefits assessment.

The Agency is aware that crop rotation restrictions on the chlorothalonil label may interfere with crop rotations practiced by California tomato growers. However, data were not submitted by the commenters for the Agency to determine what typical crop rotations are commonly practiced on the affected acres. Without these data, the Agency cannot determine what the economic impact of crop rotation restrictions will be to California tomato growers. If growers choose to rotate their tomato fields with crops not listed on the chlorothalonil label, California growers could switch to anilazine without a decrease in efficacy or similar rotational considerations. However, producers would incur an increased cost due to the higher price of anilazine.

30. *Comment on tomato usage surveys.* Pesticide usage surveys on tomatoes were submitted by The California Tomato Growers Association.

Response. The Agency appreciates the information from the California Tomato Growers Association survey. This information helped the Agency to have a better understanding of chemical usage on tomatoes and was considered in the final benefits analysis for tomatoes.

E. Summary

The estimated total benefits for this Final Determination compared to the benefits estimated in the Preliminary Determination are summarized in the following Table 3:

TABLE 3.—ESTIMATED TOTAL BENEFITS OF EBDCs FOR PD 2/3 AND PD 4.

Food crop	Estimated PD 2/3 benefits[1]	Estimated PD 4 benefits[2]	Reason for changes in benefits
Apples	$0.3 -$10.3 million total impacts.	Estimate a $16.7 to $51.8 million loss to society. This represents about 0.5% of U.S. value of production..	(1) Additional captan applications on eastern apple acreage for control of apple diseases. (2) Additional miticide applications on eastern apple acreage due to incompatibility of mineral oil and captan. (3) Additional zinc sprays on northeast apple acreage.
Almonds	Not enough data to quantify; potential impacts expected..	Not enough data to quantify; potential impacts expected..	
Apricot	Not enough data to quantify; minimal impact expected..	Not enough data to quantify; potential impacts expected..	
Asparagus	Not enough data to quantify; potential impacts expected..	Not enough data to quantify; potential impacts expected..	
Bananas	$0.3 million total impacts.	Estimate a $2 to $5 million total producer impact. This represents about 42% of Hawaii and Puerto Rico value of production..	Lack of efficacious registered alternative fungicides for Hawaiian or Puerto Rican banana growers.
Barley	$0.3 to $2.1 million total impacts.	Estimate $0.33 to $1.9 millon impact. This represents about 0.04 to 0.2% of U.S. value of production..	
Beans, dry	Not separated from succulent beans.	Estimate $0.5 to $1.6 million impact. This represents about 0.3% of U.S. value of production..	Crop rotation restrictions with chlorothalonil.
Beans, lima	$0.7 million total impacts.	Estimate $0.5 million impact.	(1) The price of chlorothalonil has decreased. (2) Crop rotation restrictions with chlorothalonil.
Beans, succulent	$1.9 to $2.1 million total impacts.	Estimate $1.3 to $1.4 million impact. This represents about 0.9% of U.S. value of production..	The price of chlorothalonil has decreased.
Broccoli	No impact expected.	No impact expected.	
Brussels sprouts	No impact expected.	No impact expected.	
Cabbage	No impact expected.	No impact expected.	

TABLE 3.—ESTIMATED TOTAL BENEFITS OF EBDCs FOR PD 2/3 AND PD 4.—Continued

Food crop	Estimated PD 2/3 benefits[1]	Estimated PD 4 benefits[2]	Reason for changes in benefits
Caprifigs	Not enough data to quantify; potential impacts expected..	Not enough data to quantify; potential impacts expected..	
Carrots	$0.13 million total impacts.	Estimate $1.2 million total impacts. This represents less than 1% of the U.S. value of production..	(1) Revised percent-crop treated data due to better usage information. (2) More accurate estimates for fungicide application rates and frequencies on a statewide basis.
Cauliflower	No impact expected.	No impact expected.	
Celery	$1.3 to $3.4 million efficiency impacts.	Estimate $1.3 to $3.4 million total impact to society. This represents about 1.3% of U.S. value of production..	
Collards	Not enough data to quantify; potential impacts expected..	Estimate $5.7 to $13.7 million total impacts to producers for collards (total greens crop value in the primary state (GA) is $48 million) ..	Lack of viable fungicide to control leafspot diseases.
Corn, field (seed)	Not enough data to quantify.	Estimate $1 to $1.5 million total impact to society. This represents less than 2% of the U.S. value of production..	Crop rotation restrictions with chlorothalonil.
Corn, sweet	$2.1 to $2.5 million total impacts.	Estimate $2.1 to $8.6 million total impact. This represents about 1.8% of the U.S. value of production..	(1) Revised percent-crop treated information due to better usage information. (2) More accurate estimates for fungicide application rates and frequencies on a statewide basis.
Cotton	Not enough data to quantify; no impacts expected..	Estimate $27.2 million producer impact. This represents about 0.7% of U.S. value of production..	Lack of viable fungicide to control cotton rust in southwestern cotton growing region.
Crabapple and quince	Not enough data to quantify; no impacts expected..	Not enough data to quantify; potential impacts expected..	
Cranberry	$0.1 million producer impacts.	Estimate $70,000 producer impacts. This represents about 0.05% of U.S. value of production..	
Cucumbers	$4.0 to $4.9 million producer impacts.	Estimate $1.4 to $6.1 million producer impact. This represents about 1 to 4% of the U.S. value of production. Impacts for the western U.S. could not be quantified..	(1) Revised percent-crop treated data due to better usage information. (2) More accurate estimates for fungicide application rates and frequencies on a statewide basis.
Eggplant	Not enough data to quantify; potential impacts expected..	Not enough data to quantify; potential impacts expected..	
Endive	Not enough data to quantify; potential impacts expected..	Not enough data to quantify; potential impacts expected..	
Fennel	Not enough data to quantify; no impacts expected..	Not enough data to quantify; potential impacts expected..	
Grapes	$1 to $3 million total impacts.	Estimate $1.8 to $17.5 million impact to society. This represents 0.1 to 1.2% of U.S. value of production..	(1) Reports of grape processors refusing to accept captan-treated fruit. (2) New grape disease reported in New York controlled by EBDCs.
Kale	Not enough data to quantify; impacts expected..	Estimate $2.1 to $5.0 million total impacts to producers for kale..	Lack of viable, registered fungicide to control leafspot diseases.
Kohlrabi	Not enough data to quantify; impacts expected..	Not enough data to quantify; impacts are likely..	
Lettuce	$40 to $204 million efficiency impacts.	Estimate $40 to $204 million impacts. This represents about 4.0 to 20% of U.S. value of production..	
Melons (cantaloupe, casaba, crenshaw, honeydew, and watermelon).	$0.3 million total impacts for cantaloupe, casaba, crenshaw, and honeydew. $0.8 million producer impacts for watermelon..	$0.98 to $4.9 million producer impacts for cantaloupe, casaba melon, crenshaw melon, honeydew, and watermelon combined. This represents less than 1% of U.S. value of production. Impacts for the western U.S. could not be quantified..	Revised percent-crop treated information due to better usage information.
Mustard greens.	Not enough data to quantify; impacts expected..	Estimate $4.1 to $9.7 million total impacts to producers for mustard greens, and turnip greens combined..	Lack of viable fungicide to control leafspot diseases.
Nectarines	Negligible rise in impacts.	Estimate $10,000 impact.	
Oats	$0.1 to $0.5 million producer impacts for oats rye..	Estimate $3.8 to $25 million impact. The $25 million represents about 4.5% of the U.S. value of production..	Previously resistant oat varieties now susceptible to crown rust.

TABLE 3.—ESTIMATED TOTAL BENEFITS OF EBDCs FOR PD 2/3 AND PD 4.—Continued

Food crop	Estimated PD 2/3 benefits[1]	Estimated PD 4 benefits[2]	Reason for changes in benefits
Onions	$6.5 million producer impacts.	Estimate $4.2 to $5.5 million impact. This represents about 1% of the U.S. value of production..	(1) Revised percent-crop treated data due to better usage information. (2) More accurate estimates for fungicide application rates and frequencies on a statewide basis.
Papaya	Not enough data to quantify; no impacts expected..	Estimate $0.24 to $7.9 million producer impacts. This represents about 54% of the U.S. value of production..	Scalding (browning of papaya fruit) occurs when chlorothalonil-treated fruit are treated for export from Hawaii.
Peaches	<$15,000 total impacts.	Estimate $10,000 impact.	
Pears	Not enough data to quantify; minimal impacts expected..	Estimate $300,000 impact. This represents less than 1% of the U.S. value of production..	Increase in cost and number of applications of the alternative fungicide ziram.
Peanuts	$2.4 million total impacts.	Estimate $9.1 million producer impacts. This represent about 6% of the U.S. value of production..	(1) Additional fungicide applications are needed to control Sclerotinia blight due to applications of chlorothalonil. (2) Additional manganese applications are needed in North Carolina and Virginia.
Pecan	Not enough data to quantify; minimal impacts expected..	Not enough data to quantify; potential impacts expected..	
Peppers	$49 to $98 million efficiency impacts.	Estimate $80 to $85 million total impact. This represents 33 to 35% of the 1989 U.S. value of production..	(1) Lack of alternatives for control of bacterial spot. (2) More accurate estimates for fungicide application rates and frequencies.
Pineapple	Not enough data to quantify; potential impacts expected..	Not enough data to quantify; potential impacts expected..	
Potatoes	$0.4 million producer impacts.	Estimate $40.4 million total impact. Impacts from chlorothalonil crop rotation restrictions not included in this estimate. The total impact estimate represents about 2% of the U.S. value of production..	(1) Equal efficacy of chlorothalonil and EBDCs. (2) Crop rotation restrictions with chlorothalonil. (3) Use of anilazine as an alternative fungicide to both chlorothalonil or EBDCs for the control of early blight.
Pumpkins	$77,000 total impacts.	Estimate $139,000 to $706,000 impact to eastern pumpkin production. Impacts for the western U.S. could not be quantified (total crop value undetermined) ..	(1) Revised percent-crop treated information due to better usage information. (2) More accurate estimates for fungicide application rates and frequencies on a statewide basis
Rhubarb	Not enough data to quantify; no impacts expected..	Not enough data to quantify; potential impacts expected..	
Rye	$0.1 to $0.5 million total impacts for oats rye combined..	Estimate $10,000 to $60,000 impact. This represents about 0.03 to 0.2% of the U.S. value of production..	
Spinach	$19 to $27.5 million total impacts.	Estimate $5 to $27.5 million producer impact. This represents about 50% of the U.S. value of production..	More accurate estimates for fungicide application rates and usage.
Squash	$3.4 to $4.8 million total impacts.	Estimate $271,000 to $810,000 total impacts to eastern squash production. This figure represents less than 1% of the U.S. value of production. Impacts for the western U.S. could not be quantified..	(1) The price of chlorothalonil has decreased. (2) More accurate estimates for application rates and frequencies. (3) Refined projections for the areas of impacts.
Sugar beet	Not enough data to quantify; potential impacts expected..	Not enough data to quantify; potential impacts expected..	
Tomatoes	$0.1 million total impacts.	Estimate $32 to $45 million impacts. This represents about 3% of the U.S. value of production..	(1) Crop rotation restrictions for the use of chlorothalonil on California tomato acreage. (2) Possible lack of control of bacterial leaf spot. (3) Decrease in efficacy for control of bacterial speck. (4) Equal efficacy between anilazine, chlorothalonil, and EBDCs for control of black mold.
Turnip greens	Not enough data to quantify; impacts expected..	Estimate $3.2 to $7.6 million total impacts to society for turnip greens..	Lack viable fungicide to control leafspot diseases.

TABLE 3.—ESTIMATED TOTAL BENEFITS OF EBDCs FOR PD 2/3 AND PD 4.—Continued

Food crop	Estimated PD 2/3 benefits[1]	Estimated PD 4 benefits[2]	Reason for changes in benefits
Wheat	$1.6 to $11.7 million total impacts.	Estimate $1.7 to $10 million impact. This represents about 0.03 to 0.1% of U.S. value production..	
Commercial Ornamentals	Impacts expected.	Estimate $315,000 impact.	
Turfgrass	$14,000 total impact.	Estimate $10,000 impact.	

[1] Total Benefits = producer revenue impacts + producer cost impacts + consumer impacts.

[2] If only producer impacts are given, then the Agency was not able to adequately quantify consumer impact estimates for the given site. Potential consumer impacts may occur.

VI. Comments of the Scientific Advisory Panel, Secretary of Agriculture and Other Parties

As required under sections 6 and 25 of FIFRA, the Agency provided its Preliminary Notice of Determination and Technical Support Document to the Scientific Advisory Panel and the Secretary of Agriculture, respectively, for their comments, which are presented below.

A. Comments of the Scientific Advisory Panel -May 15, 1990

EPA presented its preliminary determination on the EBDCs at a public meeting of the Scientific Advisory Panel held in Arlington, Virginia on May 15, 1990. The Panel issued its response in a written report of May 31, 1990. The Panel's report is reproduced below in its entirety:

Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) Scientific Advisory Panel --A Set of Scientific Issues Being Considered by the Agency in Connection with the Special Review of Ethylene Bisdithiocarbamate (EBDC) Pesticides Including Ethylene Thiourea (ETU) as a Category B_2 Carcinogen.

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel (SAP) reviewed a set of scientific issues considered by the Environmental Protection Agency (EPA) in connection with the Special Review of Ethylene Bisdithiocarbamate (EBDC) pesticides including Ethylene Thiourea (ETU) as a Category B_2 Carcinogen. The review was conducted in an open meeting held in Arlington, Virginia, on May 15, 1990. Panel members present for the review were Dr. James Tiedje, Dr. Robert Anthony, Dr. Edward Bresnick, Dr. Mont Juchau, Dr. Peter Magee, and Dr. John Wilson. In addition, Dr. Charles Capen of Ohio State University and Dr. Ernest McConnell of Raleigh, NC served as Special Government Employees, and Dr. Richard Griesemer of the National Institute of Environmental Health Sciences served as an Agency representative on the Panel.

Public notice of the meeting was published in the **Federal Register** on April 13, 1990 (55 FR 13951).

Oral Statements were received from (1) the EBDC/ETU Task Force comprised of: Dr. Robert H. Larkin (E.I. DuPont de Nemours & Company), Dr. Kenny S. Crump (Clement Associates, Inc.), Dr. W. Gary Flamm (Science Regulatory Services International), and Drs. Harvey E. Scribner and Ping Kwong (Peter) Chan (Rohm and Haas Co.); (2) Derl I. Derr (International Apple Institute); (3) Dr. John Simons (JMS Flower Farms, Inc.); (4) Ron Walker (National Potato Council); and (5) Dr. James Wilson (American Industrial Health Council).

In consideration of all matters brought out during the meeting and careful review of all documents presented by the Agency, the Panel unanimously submits the following report.

Report of Panel Recommendations

General Comments

1The Panel wishes to acknowledge and commend the Agency for the fine manner in which the content of the reports was assembled and for the clear organization of its presentations.

Issue No. 1. Does the Panel agree with the Agency's intent to use the results of the EBDC/ETU Market Basket Survey as a primary basis for its dietary risk assessment in the EBDC PD 4; and with the Agency's intent to use the dietary exposure assessment described in the PD 2/3 for those crops for which market basket data or other appropriate data are not submitted?

Panel response. The Panel supports the Agency's intent to use the results of the EBDC/ETU Market Basket Survey as a primary basis for its dietary risk assessment in the EBDC PD 4. The Panel also supports the intent to use the dietary exposure assessment described in the PD 2/3 for those crops for which market basket data or other appropriate data are not submitted. The Panel reminds the Agency, however, that market basket survey data for this purpose can only be interpreted if the chemical use pattern on each crop surveyed has not changed, or if it has changed, it can be estimated. Both the EPA and the registrants involved appear to support these intents; no serious objections have been raised to date. However, the Panel encourages further refinement of the methodology described, particularly as such refinements would relate to considerations in selection of products for testing, more reliable estimates for processing losses, and other losses that occur between the market basket and the dinner table.

Issue No. 2. Does the Panel agree with the Agency's intent to use the average residue levels, rather than 95th percentile or maximum residues from the EBDC/ETU Market Basket Survey in its carcinogenic dietary risk assessment for the EBDC PD 4?

Panel response. It is the Agency's intent to use average residue levels as a general rule, the Panel believes that the use of dietary residue levels for dietary risk assessment calculations should be comparable to the health effect which is of concern. The use of average residue levels may be appropriate for chemicals whose effect is the result of repeated or chronic exposures (i.e., chronic nephritis, organ weight changes, cancer, etc.). Conversely, for chemicals which elicit significant acute effects (i.e., cholinesterase inhibition, developmental effects, etc.), use of 95th percentile or higher estimates of residue levels may be warranted.

The Panel is concerned that groundwater exposure information seems to be lagging significantly behind the dietary exposure and yet it's not clear that exposure in drinking water should be substantially less than from diet since leaching of this compound is known.

In view of the high toxicity of EBDC compounds to aquatic organisms, and the potential effects on reproduction in birds, the Panel urges the Agency to thoroughly investigate the potential ecological effects of EBDC compounds and ETU in aquatic and terrestrial systems, including their environmental fate, acute and chronic effects, if any, on aquatic and terrestrial organisms, and the potential for secondary poisoning in predatory or scavenging animals.

Issue No. 3. Based upon the Agency's Cancer Assessment Guidelines of 1986, does the Panel agree with the weight of evidence evaluation and carcinogenic classification of ETU for this data set?

Panel response. The Panel agrees with the classification of the EBDC's (and ETU) as a Class B_2 carcinogen. This conclusion is based upon (a) the appearance of both adenomas and carcinomas in two species, the mouse (2 strains) and the rat, (b) the appearance of tumors in two different tissues (not in the same animal), i.e., in liver of the mouse and in the thyroid of the rat, and (c) the increasing incidence of carcinomas, both in the liver and thyroid of the mouse and rat, respectively, in a dose dependent manner. The Panel believes that the Agency's approach to calculating the Q_1^* using the high dose-mouse liver tumor data is appropriate, i.e., discarding these results to better fit a model would be inappropriate. However, the Panel recommends that Q_1^* calculations be conducted with data obtained from the different tumor model systems where available and the values be compared. Specifically, a Q_1^* should be calculated using

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the thyroid tumor data in the rat as well as the liver tumor results in the mouse.

The Agency should make use of all available relevant data in its risk extrapolations to humans. The relevance of high dose mouse liver data compared to low dose level risk extrapolations must be carefully evaluated in the perinatal paradigm recently submitted to the Agency by the National Toxicology Program (NTP).

The Panel has evaluated the information on the potential genotoxicity of the EBDC's and ETU. The Panel concluded that the evidence for genotoxicity was equivocal both in prokaryotic and eukaryotic test systems:

Issue No. 4. Do the current EPA Cancer Risk Assessment Guidelines adequately provide for classification of chemical carcinogens such as ETU? If not, does the Panel have any specific comments which would assist the Agency in categorizing the carcinogenic effects of ETU?

Panel response. Current EPA Cancer Risk Assessment Guidelines (51 FR 33992–34054, September 24, 1986) provide for the use of all relevant supportive information in the evaluation of the overall weight of evidence, including physiological, biochemical, and toxicological observations. While the "guidelines" recommend the use of other "relevant supportive information" in the carcinogenic classification of a particular chemical, the Agency is encouraged to better use all available evidence in its final determination. For example, the guidelines make several references to hormonal function in interpreting the carcinogenic event(s):

Toxicologic effects other than carcinogenicity (e.g., suppression of the immune system, endocrine disturbances, organ damage) that are relevant to the evaluation of carcinogenicity should be summarized. (pg. 33994) The carcinogenic effects of agents may be influenced by non-physiological responses (such as extensive organ damage, radical disruption of hormonal function, ...) induced in the model systems. (pg. 33995)

Interpretation of animal studies is aided by the review of target organ toxicity and other effects (e.g., changes in the immune and endocrine systems) that may be noted in prechronic or other toxicologic studies. (pg. 33995)

Such evidence, where available, should be incorporated to the fullest extent possible in the Agency's weight-of-the-evidence evaluation and carcinogenic classification. A more thoughtful use of such data by the Agency, as broadly interpreted in the guidelines, would permit a more flexible approach to carcinogenic classifications.

Although the cancer risk assessment guidelines accommodate the consideration of hormonal effects in the etiology of certain cancer responses, the incorporation of such approaches in the Agency's cancer risk assessment of EBDC/ETU should be scrutinized carefully and weighed against the present method(s) of risk extrapolation.

Issue No. 5. Considering the available biological evidence on ETU, does the Panel believe the evidence is indicative of a threshold response or a non-threshold response for thyroid tumors? Does the Panel have any specific comments regarding the mechanisms for the carcinogenic effects observed in the rodent bioassay for ETU with regard to threshold versus non-threshold phenomena for the thyroid?

Panel response. Ethylene Thiourea is a potent goitrogenic compound that at high doses causes profound disruption in thyroid hormone economy and marked elevations in serum thyroid stimulating hormone (TSH). When administered over the lifetime to a highly sensitive species, such as the laboratory rat, the sustained stimulation appears to promote an increased incidence of thyroid follicular cell tumors by a secondary (indirect) mechanism that the evidence suggests is mediated by TSH. A similar increased incidence of thyroid tumors also has been reported in laboratory rats following physiologic perturbations (iodine deficiency or partial thyroidectomy) in the complete absence of xenobiotics. With some other chemicals that induce thyroid tumors by a disruption of endocrine function the proliferative response of follicular cells is abrogated by the exogenous administration of thyroid hormone (usually thyroxine). Doses of the chemical that fail to disrupt thyroid hormone economy and increase TSH are not associated with the development of thyroid tumors under the conditions of the studies. The promoting effects of ETU could be investigated further using an initiation-promotion model such as the one developed by Hiasa, et al. (Carcinogenesis 3:1187, 1982). Studies could also be designed to demonstrate a threshold effect of the chemical and to learn whether exogenous thyroxine will block the development of thyroid tumors.

The correlation between the development of thyroid tumors in rats and liver tumors in the mouse is uncertain. It is the Panel's determination that there are insufficient data to suggest a threshold response in the mouse following administration of ETU.

Issue No. 6. Does the Panel have any specific comments regarding thyroid/pituitary mechanisms where there is experimental animal evidence that multiple organs are involved in the manifestation of tumors, specifically thyroid and liver neoplasia, particularly at doses where there is clear evidence of a radical disruption of hormonal function?

Panel response. The Panel believes that the EBDCs and/or ETU significantly inhibited thyroid peroxidase, decreasing the production of tetraiodothyronine (T_4) and triiodothyronine (T_3). The thyroid hormones (primarily T_3) would ordinarily inhibit, by a negative feedback mechanism, anterior pituitary elaboration of thyrotropin (TSH), which is responsible for the stimulation of thyroid cells to produce more thyroid hormone. In the absence of normal blood levels of thyroid hormones as a result of inhibition of the peroxidase, TSH levels remain elevated and compensatory thyroid follicular cell hypertrophy and hyperplasia result. The Panel believes that a clonal expansion of an initiated cell(s), under the influence of a sustained elevation in TSH, subsequently gives rise to the increased incidence of follicular cell adenomas and carcinomas in the thyroid. However, the Panel was unable to formulate a plausible explanation for the formation of liver tumors as a result of elevated levels of TSH or decreased circulating levels of thyroid hormones.

Issue No. 7. Are the rat and/or mouse appropriate animal models for studying thyroid inhibiting chemical agents with regard to thyroid neoplasia and their predictability for man? How can such laboratory animals be maximized to evaluate the effects of thyroid inhibiting compounds and their relation to a similar response in humans?

Panel response. Because of their small size and short life spans, rats, mice and other rodents are virtually the only species that are used for carcinogenicity bioassay. If a chemical is found to induce thyroid tumors it may prove to have antithyroid activity with simulation of TSH production. In such cases, further studies with the compound in other species may prove valuable in elucidating mechanisms and in investigating extrapolation to man. ETU is such a chemical. The mouse, rat and rabbit demonstrate changes of interest in certain organs (thyroid, liver, pituitary). The chemical in question exerts a pharmacologic action in animals, which is similar to analogs (PTU) in man. Epidemiologic studies from man are valuable but delay action on ETU regulation. Thus, studies to demonstrate disruption in thyroid hormone economy; comparative sensitivity to inhibition of thyroperoxidase, for example, between rat, dog, monkey (by ETU), would be extremely valuable in extrapolations to humans.

Although the paradigm tested by NTP involving perinatal exposures failed to provide convincing evidence of increased sensitivity in either rats or mice, such paradigms warrant further evaluation as they may provide additional compound-related effects in developing infants. Therefore, the data generated should be carefully examined by the Agency.

The surface area *vs.* body weight normalization for scaling of effect and dose data from animal to man was addressed from both perspectives. The Panel considers the Agency's conversions based on surface area to body weight relationships as defensible, because they reflect differences in metabolic rates per unit weight in large versus small mammals and excretion rates of chemicals. Plasma concentrations of ETU and metabolites offer a solution to this problem as it aids assessment of chemical residence time and exposure of organs at risk. While half life data is useful for comparison of exposure, clearance is a more fundamental indicator of ETU exposure. Each species, including man, may have metabolic route and rate differences which affect both the site and extent of toxicity. Much more pharmacokinetic data are needed to facilitate interspecies comparisons.

The information provided to the Panel elicits concern for effects in addition to the carcinogenic effects observed. For example, an increase in TSH and decrease in thyroid hormone was seen as well as possible thyroid effects on neural and osseous structures. In humans, relative hypothyroidism occurring shortly after birth during periods of rapid brain development has severe effects on brain growth and function in the young child. Other pituitary hormones (e.g., growth hormone) and hormones such as ACH (adrenocortical hormone) should be measured after administration of ETU as they may exert permissive action on the observed ETU toxicity or offer additional sites of toxicity. At a minimum they will aid investigation of mechanism of effect. For example, EBDC pesticides such as maneb and mancozeb contain zinc and/or manganese. Chronic manganese toxicity in humans but not rodents is characterized by Parkinson's-type symptoms due to irreversible destruction of those brain tissues that normally contain neuromelanin. Whether manganese is biologically available from the metabolism of such EBDCs is unknown.

For The Chairman:

Certified as an accurate report of Findings:

Robert B. Jaeger
Designated Federal Official
FIFRA Scientific Advisory Panel
Date: May 31, 1990

Agency Response: The Agency's response to the toxicological issues raised by the SAP comments has already been noted in Unit II of this Notice. In brief, the Agency has determined that ETU is a Class B_2 carcinogen based upon data showing the occurrence of adenomas and carcinomas in both mice and rats, the occurrence of tumors in the liver of the mouse and thyroid of the rat, and the increased incidence of carcinomas in the liver and thyroid of the mouse and rat, respectively, in a dose dependent manner.

A detailed description of the Agency's rationale for selecting the mouse for the purpose of calculating risk can be found in Unit II of this document.

The Agency's approach to calculating the Q_1^*, as proposed in the Health Effects Division Peer Review document dated September 26, 1991 (Ref. 9), was also reaffirmed as a result of the second SAP hearing held on September 18, 1991.

The Panel also expressed concern about groundwater contamination and potential ecological effects of EBDC compounds and ETU. Data have been required as a part of the Registration Standards which will address these concerns.

B. Public Comments to the SAP

The Rohm and Haas Company has submitted written responses to comments made by members of the Science Advisory Panel (SAP) during the May 15, 1990 SAP meeting on the EBDC's and ETU. The SAP suggested that the anti-thyroid effects of ETU and possible effects on neural and osseous structures might pose a potential hazard on early brain development in humans. Rohm and Haas believes that this concern is unfounded based on available data. Data show that the rat is the most sensitive species in terms of anti-thyroid effects and that the half-life of circulating thyroid hormones in rats is shorter than in humans. In Rohm and Haas' view, this provides a mechanistic base to support that humans are less sensitive to anti-thyroid effects.

Also, anti-thyroid effects and the possible secondary effects on neural and osseous structures occurred only when high doses of ETU were given to animals. Therefore, Rohm and Haas concludes that low dietary exposure to children resulting from ETU does not pose a hazard.

Response. The Agency is in general agreement with regard to Rohm and Haas' statements that (1) the (male) rat is the most sensitive species, (2) the half-life of circulating thyroid hormone in rats is shorter than in humans, and (3) that this provides a mechanistic base to support the argument that humans are less sensitive to anti-thyroid effects than rats.

In the PD 2/3, developmental risk from dietary exposure to ETU from consumption of food treated with EBDC pesticides was estimated by comparing the average exposure estimates of each EBDC chemical (mg/kg body wt./day) to the NOEL from a rat teratology study. The comparison between exposure and the NOEL is expressed as a Margin-of-Exposure (MOE). An acute dietary exposure analysis with anticipated ETU residues from each EBDC chemical was used to estimate the distribution of single-day exposure for certain population subgroups, which in this case are females of child bearing age. The analysis assumes that ETU levels occur uniformly within each food commodity at the anticipated residue levels. Margins-of-exposure for consumers of foods treated with EBDCs and presumed to contain ETU residues ranged from 770 for maneb to 5,000 for mancozeb.

With regard to the neuro-behavioral effects tested for in the NTP rat study which included both *in utero* and *non-in utero* exposure, data reveal that the Margin-of-Safey (MOS) ranges from 330 for non-nursing infants to 7,894 for the general population for the lowest dose tested of 0.45 mg/kg/day. Analysis of the data indicated no apparent neurobehavioral effects for the parameters tested at any dose level at the end of 9 months or 2 years. The Agency has based its reference dose (RfD) on a 2-year chronic feeding rat study conducted by Graham (1975). The RfD is based on the lowest dose tested which was the lowest effect level. The effect observed at the lowest dose tested of 5.0 ppm (0.25 mg/kg/day) was thyroid hyperplasia. The range of doses in the NTP chronic study was from 9 to 90 ppm (0.45 to 4.5 mg/kg/day) for perinatal administration and from 25 to 250 ppm (1.24 to 12.5 mg/kg/day) for adult exposure. The thyroid gland was clearly affected at all doses tested without an adverse effect on neurobehavior.

The registrant appears to imply that high doses of ETU result in anti-thyroid effects with secondary effects upon neural and osseous structures. It should be pointed out that the available data for rats and mice indicate that secondary effects on neural and osseous structures do not necessarily result from inhibition of the thyroid gland since thyroid inhibition in mice does not result in developmental effects. Additionally, in the rat, doses as low as 5.0 ppm have been shown to result in thyroid inhibition in the most sensitive species, thereby challenging the phrase that anti-thyroid effects occurred only when high doses of ETU were given to animals.

The SAP raised a concern about potential adverse neurotoxic effects due to manganese derived from EBDC residues. Rohm and Haas claims that no potential adverse health effects exist from manganese added to the human diet as a result of the use of EBDC fungicides.

The Agency has estimated manganese dietary exposure from maneb and mancozeb as a percent of the daily diet. The daily diet generally contains 2 to 5 mg of manganese, which is an amount sufficient to meet human requirements. In order to maintain a positive manganese balance, daily dietary intakes of 0.2 to 0.3 mg manganese per kilogram body weight have been recommended for children. The combined total manganese exposure from both mancozeb and maneb to the daily dietary intake for manganese was estimated for adults (0.00221 mg/kg/day), children 1 to 6 years of age (0.0062 mg/kg/day), and non-nursing infants (0.0050 mg/kg/day). These values represent 0.89, 0.50, and 0.60 percent of the recommended daily intake, respectively. The exposure estimates were based on the same exposure data for mancozeb and maneb that were used in estimating the dietary risk for carcinogenicity from ETU for these two fungicides in the PD 2/3. Therefore, the Agency agrees with the registrant that no potential adverse health effect exists from manganese added to the human diet as a result of the use of EBDC fungicides mancozeb and maneb.

C. Comments of the Scientific Advisory Panel -September 18, 1991

Due to deliberation within the HED Peer Review Committee, the Agency requested comments from the Panel relative to the inclusion of the 33/100 ppm (low) dose group for risk characterization. EPA presented this issue on the EBDCs at a public meeting of the Scientific Advisory Panel held in Arlington, Virginia on September 18, 1991. The Panel issued its response in a written report of October 2, 1991. The Panel's report is reproduced below in its entirety:

Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) Scientific Advisory Panel --A Set of Scientific Issues Being Considered by the Agency in Connection with a Dose-Response Analysis for Ethylene Thiourea (ETU).

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel (SAP) has completed review of a set of scientific issues regarding the Environmental Protection Agency Peer Review Committee's review of a dose-response risk assessment for the carcinogenic effects of Ethylene Thiourea (ETU) in rats and mice. The review was conducted in an open meeting held in Arlington, Virginia, on September 18, 1991. Panel members present for the review were Dr. Edward Bresnick (Chairman), Dr. Mont Juchau and Dr. Peter Magee (Dr. Curtis Travis was recused for the proceedings). In addition, Dr. Edmund Crouch of Cambridge Environmental, Inc., Dr. Richard Griesemer and Dr. Christopher Portier of the National Institute of Environmental Health Sciences, served as Agency representatives; and Dr. Dale Hattis of Clark University, and Dr. Ernest McConnell of Raleigh, NC served as Special Government Employees on the Panel.

Public notice of the meeting was published in two **Federal Registers** on Friday, August 23, 1991 (56 FR 41843) and Friday, September 13, 1991 (56 FR 46616).

Oral presentations were made by the EBDC/ETU Task Force: Mr. Edward Ruckert, Dr. Gary Flamm, Dr. Thomas Starr, Dr. Robert Sielken, Jr., and Dr. Kenny Crump.

Written comments were received from the EBDC/ETU Task Force members: Atochem North America, Inc., BASF Corporation, E.I. du Pont de Nemours and Company, and Rohm and Haas Company.

Note: Prior to the Panel's discussion and deliberations on ETU, an announcement was made that the ETU Task Force had expressed concern over a possible conflict of interest regarding Dr. Travis. Although discussion between the Designated Federal Official (DFO, FIFRA SAP) and the EPA Office of General Counsel (OGC Ethics Office), prior to the afternoon discussion of ETU, failed to substantiate the alleged conflict of interest, Dr. Travis informed both the DFO and the Chairman of the FIFRA SAP that he recused himself from all proceedings on ETU before the Panel, both public and private discussions of the issues. This does not reflect any real conflict of interest regarding the matter before the Panel, but rather the belief by Dr. Travis that (1) there were several other experts on the Panel who were equally capable of discussing the issues on ETU, (2) at such late notice, it gave the "appearance" of a problem, (3) when there is no benefit to be gained there should be no risks taken, and (4) the matter deserved more detailed written response by OGC to verify there is no conflict of interest, and to prevent unnecessarily impugning the reputation and scientific integrity of the FIFRA SAP.

In consideration of all matters brought out during the meeting and careful review of all documents presented by the Agency, the Panel unanimously submits the following report.

Report of Panel Recommendations

The Agency requested comments from the Panel relative to the Peer Review Committee's recommendations for appropriate use of the 33/100 ppm dose group for risk characterization considering that:

- this group represents several design flaws,
- necessitates the exclusion of the highest dose group (1000 ppm) because of the lack of (linearized multistage) model fit,
- but provides some valid and significant biological data at a lower exposure level and thus may be more relevant for low dose extrapolation than data points with high exposure and nearly saturated tumor response. Specifically, the Panel was asked to provide, to the extent possible, the scientific arguments for either inclusion or exclusion of the low dose data point in the dose response assessment.

Panel response. The Panel is of the opinion that adequate data should always be included unless there is strong reason to exclude them. In this case, there is a strong reason for the Agency's standard approach which results in the exclusion of the highest dose group since its inclusion was associated with gross distortion of estimates of the probable effects at lower doses when used in the Agency's standard dose-response formula (e.g., linearized multistage model).

The Panel felt strongly that the data from the 33/100 ppm group should be included in the analyses. The arguments for inclusion are:

1. The usual form of the linearized multistage model is probably not statistically appropriate for use in calculating the Q_1^* if all data except the control show over 90 percent rates of cancer.

2. Whole life exposure (the diagonal in the factorial experimental design) is probably most-appropriate for utilization for public health purposes.

The principal argument against using the low dose point is potential litter bias, and this appears to have been relatively well addressed in the analyses presented to the Panel.

The Panel noted that the available data would not likely enable the robust detection of an interactive effect between the effects of pre-weaning and post-weaning exposure for the liver cancer endpoint if such an effect were to have been present. Despite the fact that not enough information exists to statistically evaluate the potential for a protective effect of the prenatal exposure, such an effect is not seen in the high dose groups. There is also supporting evidence for this view since no consistent patterns of interaction were observed in other tissues.

The Panel was informed during the meeting that some pharmacokinetic data exist for ETU. The Panel suggested that the analysis could be improved by using (and if necessary gathering) pharmacokinetic data which would allow expression of the results in terms of the internal dose of ETU [e.g., area under a curve (AUC) of concentration *vs.* time following comparable oral exposures, if possible based on experiments in subchronically dosed animals]. Pharmacodynamic data (e.g., the dynamics of thyroid hormone changes and cell proliferation responses in the thyroid and liver) may also aid in producing an improved estimation of low dose risks.

For The Chairman:

Certified as an accurate report of Findings:

Robert B. Jaeger
Designated Federal Official
FIFRA Scientific Advisory Panel
Date: October 2, 1991

Agency Response. After further analysis and consideration of the data sets, the Agency still believes that the 0.11 Q_1^* estimate should be used in the risk assessment because:

(1) The method of estimating the 0.11 Q_1^* is consistent with the recommendation of HED's Peer Review Committee as well as Agency policy.

(2) Even though the full data set of the diagonal yields a slightly greater Q_1^* than the pooled data set, the increased dose does not appear to be biologically or numerically meaningful. To illustrate this point, a sensitivity analysis of the doses in the diagonal data set was performed. It was found that, among other things, theoretically decreasing the number of animals manifesting tumors by only one animal in the high dose group resulted in an unacceptable fit of the data to the linearized multistage model. This would then lead to the high dose (i.e., 1000 ppm) being dropped from the estimations resulting in a statistically acceptable fit of the remaining doses to the model and a Q_1^* of 0.11.

D. Comments of the Secretary of Agriculture

The comments of the U.S. Department of Agriculture in response to the Notice of Preliminary Determination, Draft Notice of Intent to Cancel and the Technical Support Document, dated March 20, 1990, are printed in full below:

Mr. Douglas D. Campt
Office of Pesticide Programs
U.S. Environmental Protection Agency
401 M Street, SW.
Washington, DC 20460

Dear Mr. Campt:

This is the Department of Agriculture's

preliminary response to the draft notice of intent to cancel pesticide products containing the ethylene bisdithiocarbamates (EBDCs). The integrated management approach that has always been used in disease control efforts requires the availability of a variety of pest control chemicals. With this in mind, the USDA is coordinating an assessment of the use of fungicides in agricultural production. We will be furnishing you two separate reports on the major fungicides in the near future. You should receive our draft biological assessment within the next several weeks. EPA staff have been present at all the meetings of the team and have had full access to preliminary data. You will also receive, within the next 3 months, a report entitled "Implications of the Use of Fungicides in Agriculture." This is an overview report and will discuss among other things potential for fungal induced hazards and the potential impact on the diet from an inadequate food supply.

In our opinion, there is no compelling evidence of chronic toxicity in humans resulting from use of EBDC fungicides. The available residue data indicate a high percent of samples contain no EBDC or ETU residues. There are no substantiated data indicating EBDC residues present environmental problems. We are particularly concerned about the loss of many minor uses, some of which the registrants have voluntarily withdrawn. If necessary, various measures can be taken, such as lowering tolerances or increasing the pre-harvest interval. In view of these considerations, the Department urges the Agency to reevaluate the benefits that result from the many uses of these valuable fungicides.

The Department applauds the EPA decision to wait for the market basket survey results before making a final decision, which we understand will not be made until 1991. Available information on residues from the Food and Drug Administration as well as State agencies gives every indication that residue levels are much lower than those estimated by the Agency. Since a great deal of data currently exist on these fungicides, we strongly recommend that the Agency utilize the scientifically valid figures rather than base a position on estimated values that appear substantially greater than those actually measured. In view of the importance of the EBDCs in agricultural production, a reassessment of residue levels seems appropriate. The USDA would be pleased to cooperate with EPA in arranging a panel of experts from State, Federal, and academic institutions that would determine in the most scientific manner possible what residue levels are appropriate in this risk assessment.

We are concerned that the resistance factor was neither adequately addressed nor was sufficient consideration given to the ramifications of the loss of the EBDCs. A copy of our report on "Fungicide Resistance in the United States" was furnished to the Agency through Dr. E. N. Pelletier in June 1989. Another copy is attached for your use. A variety of fungicides with different modes of action are essential for the control of plant diseases. The multisite mode of action makes EBDCs extremely valuable in pest management programs. The development of new fungicides has moved towards compounds that are more specific in their modes of action. A consequence of high specificity has been the development of fungal resistance to these compounds; and thus, the older protectant fungicides (such as the EBDCs) must be used as companions to reduce the chance of fungal resistance problems. Without the use of EBDCs, overall resistance losses might initially be less than 50 percent; however, losses by individual producers could approach 100 percent. In addition, failure to control new races of pathogens will accelerate disease control problems in subsequent growing seasons and impact more producers.

The EBDC fungicides play a major role in the production of fruits and vegetables. A recent report by the National Academy of Sciences recommended that Americans include several servings of fruits and vegetables in their daily diet. A number of government agencies have made similar recommendations. Loss of the EBDCs would have a significant impact on the availability of this produce. Varieties, their cost and longevity (storage and shipping), would be severely impacted. In addition, failure to control fungal diseases can lead to food contaminated with hazardous fungal products and plant defense chemicals.

In determining the impacts of cancelling the EBDCs, the Agency fails to consider regional impacts. In humid areas of the country, disease pressures on production are generally greater and more control measures are required. The Department feels that agriculture should be maintained throughout the United States and not confined, due to regulatory restrictions on pest control materials, to segments of the country. In addition, the increased costs of alternatives to the EBDCs will have many ramifications ranging from reductions in the farmers' profits to increased costs to the consumers.

The number of crops that will be affected by the proposed regulatory action is lengthy. We would like to make several points in relation to some of these.

- Downey mildew is often a serious disease in California lettuce production. Maneb, or maneb in combination with metalaxyl (to avoid buildup of resistance to metalaxyl), has been used to effectively control the disease.
- In the absence of host plant resistance to disease, maneb is critical in spinach production. The only other registered materials are phytotoxic.
- EBDCs are primary fungicides in the production of tomatoes in California and Florida. In addition to controlling fungal diseases, an EBDC fungicide in combination with a copper fungicide is the only available control of bacterial diseases on tomatoes as well as peppers in Florida.
- EBDCs are important in control of both early and late blights in potatoes. Consideration must be given to the low profit margins in potato production since alternatives, if available, would probably negate profits.
- A number of key crops which should be included in the market basket survey to determine more accurately dietary exposure are not. These are spinach, leaf lettuce, carrots, succulent beans, and peaches. Not only do these crops represent important registration needs, but data from these crops would be extrapolated to other crops including snapbeans, lima beans, turnips, celery, endive, fennel, rhubarb, collards, kale, and mustard greens to support continued registration.
- Mancozeb and metiram have been applied extensively in apple disease management programs at 40 to 50 percent below label rates in many mid-Atlantic orchards. Their use in combination with newer, specific fungicides is extremely effective in preventing the development of disease resistance.
- EBDCs have played an important role in the production of marketable mushrooms. The loss of zineb leaves mushrooms without a registered EBDC fungicide and lowers the possibility of meeting the blemish-free quality of standard.

We hope these comments are useful to you in your deliberations, and hope that you will make every effort to be sensitive to the needs of agriculture and the American consumer.

Sincerely,
Charles L. Smith
Coordinator, Pesticides and Pesticide Assessment

Response. EPA has considered the benefits information provided by the USDA. This information is referred to throughout Unit V of this Notice which summarizes EPA's benefits assessment and evaluation of comments and additional data received in response to the PD 2/3.

E. SAP and USDA waiver of further review

Recently, for the reasons discussed below, the Agency requested that the SAP and USDA waive further review of this Notice of Intent to Cancel. When the Agency proposed its action in December, 1989, the SAP and USDA were each sent a Draft Notice of Intent to Cancel 45 of 55 food uses of the EBDC fungicides as well as other uses.

In its Final Determination, the Agency is requiring that certain modifications be made to registrations of the 10 crop uses which the Agency originally proposed to retain. These changes are consistent with those requested by the ETU Task Force or data currently available to support the particular use. The changes include setting the maximum number of applications per season, modifying preharvest intervals, modifying application intervals, and/or reducing application rates. The Agency believes that these changes will not affect the efficacy of EBDC fungicides on these uses.

The SAP has waived any further review. USDA recommended minor changes which the Agency adopted for this Final Determination. The following is the full text of the USDA response:

Mr. Douglas D. Campt
Director
Office of Pesticide Programs (H7501C)
U.S. Environmental Protection Agency
401 M Street, SW
Washington, DC 20460

Dear Mr. Campt:

This is in response to your request that the U.S. Department of Agriculture (USDA) waive further review beyond the minor modifications made to registrations proposed to be retained in the draft Notice of Intent to Cancel (NOIC) 45 of the 55 food uses of the EBDC fungicides that the Department received in December 1989. We have reviewed the modifications and believe these changes that include setting maximum number of applications per season, modifying preharvest intervals, modifying application intervals, and/or reducing application rates will not impact the use of these chemicals in current disease management practices. The Department is pleased that the Agency has taken into consideration the regional differences in disease pressure when modifying the registrations.

Thus, in view of our agreement with modifications to the specified registrations and our response to the December 1989 NOIC, USDA waives further review of the NOIC. We would like to reiterate the statements made in our previous response (March 20, 1990) that there is no compelling evidence of chronic toxicity in humans resulting from use of EBDC fungicides, that EBDCs are extremely valuable in pest management programs designed to avoid resistance problems, and that EBDCs play a major role in the production of fruits and vegetables.

In your final determination, we hope you will make every effort to be sensitive to the needs of agriculture and the American consumer.

Sincerely,
Nancy N. Ragsdale
Director
National Agricultural Pesticide Impact Assessment Program

VII. Risk/Benefit Assessment and Initiation of Final Determination Actions

A. Conclusions of the Risk/Benefit Assessment

Based on the information summarized and presented in this Notice, EPA has determined that the uses of the EBDCs as currently registered pose unreasonable dietary and worker risks.

1. *Dietary risks.* EPA has determined that the estimated dietary risks to the overall U.S. population from consumption of EBDC-treated crops exceed the estimated benefits of continued registration. Accordingly, EPA is announcing its intent to cancel all mancozeb, maneb, and metiram products registered for 1 or more of the following 11 uses: apricots, carrots, celery, collards, mustard greens, nectarines, peaches, rhubarb, spinach, succulent beans, and turnips. Additionally, EPA is announcing its intent to cancel all remaining mancozeb, maneb, and metiram registrations unless the changes to registration to reduce dietary risks required herein are made.

In the Preliminary Determination, the Agency proposed to cancel 45 of the 55 food uses of mancozeb, maneb, and metiram. This action was proposed because the estimated total upper-bound carcinogenic risk resulting from dietary exposure to EBDCs for all 55 food uses (3×10^{-4}) was not outweighed by the benefits ($46 to $75 million in first-year losses to growers (i.e., producer impacts) and $90 to $305 million in losses to society (i.e., efficiency impacts)). The proposed cancellation would have allowed uses with an estimated dietary risk of 3×10^{-6} to continue.

Today, EPA is announcing its intent to cancel EBDC products with 1 or more of the 11 uses listed above. With respect to EBDC products bearing 1 or more of the 45 sites for which the Agency is requiring modifications to lower risk, the Agency is announcing its intent to cancel those products if the required changes are not made.[1] The current estimate of lifetime dietary risk to the overall U.S. population from all 56 sites is 1.8×10^{-5}. The 56 uses represent an estimated $290 to $630 million in benefits. The 11 cancellations and modified registrations involved in this action will reduce estimated lifetime dietary risk to 1.6×10^{-6}. These risks are outweighed by the benefits associated with the 45 remaining uses after considering the required modifications. The estimated individual dietary risks for each of the 56 commodities are discussed in Unit III of this Notice and are listed in Table 1 in Unit III.B. The estimated benefits of EBDCs on individual food commodities are detailed in Unit V of this Notice and are summarized in Table 1 in Unit III.B. of this Notice.

The estimated dietary risks resulting from consumption of EBDC and ETU residues on individual commodities treated with EBDC fungicides ranges from 10^{-10} to 10^{-6}. Although many of the estimated individual risks posed by certain food uses are minimal, EPA believes that the estimated cumulative risk of 10^{-5} from all 56 food uses is unacceptable, even in light of estimated benefits that, in total, range from $290 to $630 million.

In developing the Final Determination, EPA considered the estimated benefits resulting from the EBDC use on each individual commodity and compared those estimated benefits to the estimated risk posed from dietary exposure to the EBDC and ETU residues on that commodity. The availability and toxicity of alternative fungicides was also considered, along with potential risk reduction measures for continued use of the EBDCs. Cost-effectiveness, where applicable, was used as a tool to assist in quantitatively comparing the estimated dietary risks to the estimated benefits.

Alternative fungicides. For each of the 56 food uses, EPA estimated the relative risk (compared to the estimated risk of the EBDCs) and the efficacy of the alternative fungicides. For a number of sites being cancelled (e.g., collards, mustard greens, and spinach), there is no viable alternative fungicide. For sites being cancelled where there are alternative fungicides (i.e., apricots, carrots, celery, nectarines, peaches, rhubarb, and succulent beans), the Agency believes that chlorothalonil is the most likely alternative to EBDCs for control of fungal disease. EPA estimates that switching from EBDCs to chlorothalonil for these sites will reduce risk.

One of the weaknesses in EPA's analysis in comparing the estimated risk of the EBDCs to its alternatives is the differences among the data bases. The two alternatives most likely to be used if the EBDCs were not available are captan (an alternative for apples and grapes) and chlorothalonil. To estimate dietary exposures from captan and chlorothalonil, the Agency relied primarily on Food and Drug Administration (FDA) monitoring data. Dietary exposure estimates for the EBDCs were based on market basket data and field trial data. Exposure estimates based on monitoring data would be expected to be lower than those based on field trial data but higher than those based on market basket data.

Despite this weakness, EPA believes that the conclusions reached in its analysis of the alternatives to the EBDCs and the incremental risks resulting from various shifts in use are valid. Further, EPA believes that cancellation of the EBDCs for apricots, carrots, celery, collards, mustard greens, nectarines, peaches, rhubarb, spinach, succulent beans, and turnips will not result in higher dietary risk due to the shift in fungicide usage to chlorothalonil.

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[1] Because all 55 uses remain on 1 or more registered end-use products (in spite of the technical registrants' September 6, 1989 action to voluntarily delete 42 of the 55 uses from their registrations), EPA has considered all 55 food uses in this Final Determination. Also, it now appears that there are 56 uses of EBDCs (i.e., 11 uses being cancelled and 45 being retained). In the EBDC PD 2/3, dry and succulent beans were listed as 1 site and in the PD 4 they are listed as 2 sites.

Risk reduction measures. Recognizing the overall importance of the EBDCs as an agricultural fungicide in both the economic benefits it appears to provide and the importance of its role in delaying or preventing resistance of fungal organisms to other pesticides, EPA examined ways of reducing risks to the point where the estimated cumulative benefits of EBDCs outweighed its estimated cumulative risks. Generally, potential risk reduction measures include increasing the preharvest interval, decreasing the number of applications, and/or decreasing the application rate. In the PD 2/3, EPA urged commenters to consider such risk reduction measures and to suggest and support potential modifications in use patterns, along with residue data demonstrating the resulting residue levels of EBDCs and ETU and the efficacy of the altered use pattern. The Agency received such information for only a few sites. The International Apple Institute (IAI) provided field trial data for an alternative use pattern on apples that would require a longer preharvest interval and lower application rate than the currently registered use pattern to significantly reduce the estimated dietary risk for EBDCs and ETU on apples. The Hawaiian Papaya Industry Association growers also submitted data on an altered use pattern. Leafy green growers and food processors submitted preprints of studies to be published on residue and efficacy data for an altered use pattern. Other commenters provided their opinion on risk reduction measures, such as extending the preharvest interval and reducing application rates, for other sites. However, data were generally not submitted to support these measures.

Cost-effectiveness. Cost-Effectiveness (C-E) is a tool used to compare the estimated loss of benefits to society which are associated with the loss of an EBDC use (cost) on a particular site to the estimated reduction in carcinogenic dietary risk of that site (effectiveness). The C-E coefficient is an estimate of the societal cost per cancer case avoided.

EPA estimated C-E coefficients for those sites where estimated benefits were quantified; these estimates are listed in Table 1 in Unit III.B. of this Notice. As discussed in Unit V, the PD 4 estimated benefits include both producer and consumer impacts. The C-E coefficients were then used as a guide to rank the relative importance of the 56 sites. C-E was only used as a guide, and one tool of many, in developing the Final Determination as the Agency recognized the limitations of C-E in the EBDC analysis. First, all 56 sites were not included in the ranking because cost-effectiveness was unavailable for certain sites. Second, where C-E was available, the coefficients for many of the estimates did not incorporate estimated consumer impacts because they were not quantifiable due to a lack of information.

Nonetheless, EPA considered C-E coefficients to be a valuable tool in determining the relative importance of the 56 sites. Even though estimated consumer impacts were not always incorporated (as in the case of potatoes), most of the sites being retained had very high C-E coefficients. A high C-E coefficient indicates that it would be expensive to reduce dietary risk associated with the use of EBDCs on a particular site relative to risk reduction for other sites. A low C-E coefficient indicates that it would be a relatively inexpensive to reduce dietary risks associated with the use of EBDC on a particular site.

For the 11 sites being cancelled (i.e., those for which modifications cannot be made), even if estimated consumer impacts had been fully quantified and the C-E estimate were higher, EPA would have still arrived at the same Final Determination. Generally, the 11 sites being cancelled pose high estimated dietary risks, especially for the infant and children population subgroups.

a. *Protectiveness to infants and children.* Infants and children may be more highly exposed to EBDC and ETU residues than the overall U.S. population due to the high consumption of foods such as apples and bananas relative to body weight. EPA believes that today's Final Determination is protective of infants and children. For thyroid effects, the Agency has estimated the percent of reference dose utilized (i.e., percent RfD) for the infants and children subgroups. For the sites proposed to be retained with modifications, the sum of the individual percent RfD estimates is less than 100 percent for each of the infants and children subgroups. For carcinogenic risk, EPA has estimated the 1–year dietary risk for the infants and the children subgroups. For the sites proposed to be retained with modifications, the sum of the individual 1–year carcinogenic risk estimates is 6.4 x 10^{-8} for the infants subgroup and 4.6 x 10^{-8} for the children subgroup (Ref. 33). Assuming that a given individual would be exposed to EBDCs and ETU at the infant and child level of exposure for their entire life, the estimated cumulative risk for the sites being retained would be 4 x 10^{-6} and 3 x 10^{-6}, respectively. These risk estimates are in the same order of magnitude as the risk for the overall U.S. population (i.e., 1.6 x 10^{-6}). The Agency believes that this apparent higher risk to infants and children is not a significant increase. Additionally, the Agency believes that the estimated cumulative dietary risks to infants (4 x 10^{-6}) would be an overstatement of potential lifetime risk because people are not exposed to EBDC and ETU residues at the infant and child level for a lifetime.

The Agency has commissioned the National Academy of Sciences (NAS) to examine current Agency practices and policies to ascertain that children are adequately protected from pesticide residues in their diet. NAS is gathering data on actual pesticide residues in food and is using a computer model to analyze children's exposure to these compounds in their diet. Also, the Academy is examining current methods used by EPA for setting safety factors and determining acceptable levels of exposure to carcinogens for infants and children. NAS is expected to complete its report in the spring of 1992.

b. *Stability of the dietary risk estimates.* In developing this Final Determination, the Agency was concerned that the estimated lifetime dietary risk not increase over time.

To assure that this estimated cumulative dietary risk will not increase significantly, EPA is requiring that use patterns be amended to specify all variables in the use pattern (i.e., the application rate, maximum number of applications, application interval, and preharvest interval). In the past, the number of applications, application intervals, and preharvest intervals were not specified for all EBDC use sites.

Further, EPA believes that, where appropriate, use patterns no higher than those used during the year that the market basket survey was conducted should be required on product labels; most of the PD 4 dietary residue estimates were based, in part, on market basket data.

For the market basket survey, "typical" use patterns were assumed. "Typical" use patterns were delineated by examining past use patterns and by considering information provided by commenters. Requiring that labels be amended to reflect such use patterns will generally allow the use of the amount of pesticide actually needed by growers to efficaciously control disease. However, the Agency recognizes that certain growers may need higher rates. There are mechanisms to enable the

Agency to consider requests for such needs. Among other things, appropriate residue data would need to be provided before the Agency could make a risk/benefit determination prior to action on the request.

Finally, reinstatement of certain EBDC uses should result in increases in the percent of crop treated; however, the Agency does not believe these increases will exceed the estimates used for the Final Determination. EPA considers the historic usage of the EBDC fungicides to be well-established. Only a significant event such as cancellation of a major alternative would likely increase the market share of EBDCs in the overall fungicide market.

The required use patterns for each of the food uses being retained are detailed in Unit VII.B.

c. *Sites eligible for amended labels as a result of the Special Review*. In September 1989, the EBDC technical registrants amended their labels to delete 42 of the 55 registered food uses of mancozeb, maneb, and metiram. Those sites which were registered on any mancozeb, maneb, or metiram label at the time of the Task Force's 1989 action and which are not being cancelled by today's action, and which meet the requirements of this Notice, are eligible for continued registration under this Notice. The sites which are now eligible for continued registration on amended mancozeb, maneb, and metiram labels as a result of the outcome of this Special Review are listed in the following Table 4. Elsewhere in this Notice are requirements applicable to the 45 uses that may remain pursuant to this Notice, if required modifications are made.

TABLE 4.—SUMMARY OF THE SITES ELIGIBLE FOR RESTORATION ON AMENDED LABELS AS A RESULT OF THE SPECIAL REVIEW.

Food Crop	Eligible for Restoration?		
	Maneb	Mancozeb	Metiram
Almonds	YES	NO	NO
Apples	YES	YES	YES
Asparagus	NO[3]	YES	NO
Banana	YES	YES	NO
Barley	NO	YES	NO
Broccoli	YES	NO	NO
Brussels Sprouts	YES	NO	NO
Cabbage:			
Cabbage	YES	NO	NO
Chinese Cabbage	YES	NO	NO
Cantaloupe	YES	YES	NO
Casaba Melons	YES	YES	NO
Cauliflower	YES	NO	NO
Corn:			
Sweet and Pop	YES	YES	NO
Field	NO	YES	NO
Cotton	NO	YES	NO
Crabapple/Quince	NO	YES	NO
Cranberries	YES	YES	NO
Crenshaw Melons	YES	YES	NO
Cucumbers	YES	YES	NO
Dry Beans	YES	NO	NO
Eggplant	YES	NO	NO
Endive	YES	NO	NO
Fennel	NO	YES	NO
Figs:			
Caprifigs[1]	NO	YES	NO
Kadota	YES	NO	NO
Grapes	YES	YES	NO
Honeydew	YES	YES	NO
Kale	YES	NO	NO
Kohlrabi	YES	NO	NO
Lettuce:			
Head	YES	NO	NO
Leaf	YES	NO	NO
Oats	NO	YES	NO
Onion:			
Dry bulb	YES	YES	NO
Green	YES	NO	NO
Papaya	YES	YES	NO
Peanuts	NO[3]	YES	NO
Pears	NO	YES	NO
Pecans	NO	NO	NO
Peppers	YES	NO	NO
Pineapples[2]	NO	YES	NO
Potatoes	YES	YES	YES
Pumpkins	YES	NO[3]	NO
Rye	NO	YES	NO
Sugar Beets	YES	YES	NO
Squash:			
Summer	YES	YES	NO
Winter	YES	NO	NO
Tomatoes	YES	YES	NO
Watermelon	YES	YES	NO
Wheat	NO	YES	NO

[1] Caprifigs is a non-food use.

[2] The use of EBDCs on pineapple is for Seedpiece treatment only.

[3] There are no tolerances for these products. The affected registrants have agreed to delete these uses from product labels.

Just prior to the completion of this Final Determination, the Agency became aware of a few end-use registrants with EBDC products that have some uses for which there are no tolerances. The Agency has contacted these registrants to request that they delete the uses with no tolerances. The affected registrants have agreed to make the appropriate deletions when they submit label amendments to meet the requirements described elsewhere in this document. Should these deletions not occur, the Agency will undertake appropriate regulatory actions.

The Agency through this Notice proposes to cancel products bearing 1 or more of 11 uses for which modifications cannot be made. Further, the Agency proposes to cancel products bearing other specified uses unless required modifications are made. To register other uses not eligible for continued registration under today's Notice, interested registrants must seek new registration and meet registration requirements including certain data requirements. For further information, contact Susan Lewis, Product Manager Number 21, Registration Division (H7505C), Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

2. *Industrial worker, agricultural worker, and homegardener risks*. Industrial uses of EBDCs include those for water cooling systems and oil drilling. Agricultural uses are those other than industrial or homegarden, which include but are not limited to: farming, commercial greenhouse applications, and commercial turf applications. Homegarden uses of EBDCs include those in and around the home such as garden, lawn, or tree/shrub applications.

a. *Industrial uses*. In the PD 2/3, the Agency proposed cancellation of nabam use in paper mills and sugar mills based on inadequate (i.e., below 100) margins of exposure (MOEs) for thyroid effects due to occupational exposure. Also, EPA proposed a label language requirement that all industrial workers applying EBDC pesticides wear coveralls over long-sleeved shirt and long pants, chemical-resistant gloves, shoes, socks, and goggles or a face shield. Additionally, during mixing and loading, a chemical-resistant apron was to be worn.

EPA has reevaluated industrial occupational exposure to nabam (see Unit IV.B.), in light of new exposure data, and now estimates that all MOEs for thyroid effects are greater than 100; carcinogenic risks and developmental effects are not of concern. Thus, no industrial uses will be cancelled, unless required label modifications are not made. The Agency is requiring that labels be amended to require the use of protective clothing. See Unit VII.B. for a detailed description of the required label amendments.

b. *Agricultural uses*. In the PD 2/3, among other things, EPA proposed to cancel maneb use on grapes and commercial ornamentals because the estimated occupational risks from exposure while handling EBDC pesticides exceeded the benefits. Also, the Agency proposed a label language requirement that agricultural workers applying EBDCs wear the protective clothing described in paragraph VII.B. and that a 24-hour interim reentry interval be established.

EPA has reevaluated agricultural occupational exposure and risk to

EBDCs (see Unit IV.B.) and has concluded that the benefits exceed the risks, assuming certain modifications are made to registrations and labels. The Agency is requiring that labels be amended to require the use of protective clothing and to establish an interim reentry interval of 24 hours. See Unit VII.B. for a detailed discussion of the required label amendments.

c. *Homegarden uses*. In the PD 2/3, the Agency proposed to cancel the homegarden use of mancozeb on fruit trees and turf and homegarden use of maneb on vegetables, ornamentals, fruit trees, and turf because the long-term estimated risks exceeded the estimated benefits. Also, EPA proposed label language requirements that homeowners applying EBDC pesticides wear a long-sleeved shirt and long pants and rubber gloves; that gloves must be washed thoroughly with soap and water before removing; that clothes must be changed immediately after using the EBDC product and laundered separately from other laundry items before reuse; and that homeowners must shower immediately after use.

The Agency has reevaluated the risks to homegardeners from applying EBDCs and now estimates that for all uses except mancozeb on fruit trees and turf, the benefits exceed the risks, assuming that the required modifications are made. EPA has determined that the risks associated with the homegarden uses of mancozeb on fruit trees and turf exceed the benefits. Thus, the homegarden use of mancozeb on fruit trees and turf is proposed to be cancelled. No other homegarden uses will be cancelled unless the required modifications are not made. EPA is requiring that product labels bear certain clothing and hygiene language. See Unit VII.B. for a detailed discussion of the required label amendments.

B. Modifications to Terms and Conditions of Registrations

Based on the information summarized in Unit VII.A. of this Notice and discussed elsewhere in this Notice, the Agency has determined that the use of the EBDCs as currently registered poses unreasonable adverse effects to human health or the environment, and that certain modifications to the terms and conditions of registration are required to bring these products into compliance with the statutory standard for registration. Therefore, to avoid cancellation, registrations of subject EBDC products must be modified within the timeframe described in Unit VIII (Procedural Matters) to include the terms and conditions specified below. For each use site, other than those for which modifications are not possible to lower risk, EPA has specified the maximum application rate, the maximum number of applications per season, the application interval, and the minimum preharvest interval which will be allowed on product labels. For all sites except barley, oats, rye, and wheat, EPA may allow registrants to substitute a maximum seasonal use (i.e., lb. a.i./acre per season) for the maximum number of applications per season. The maximum seasonal use can be no greater than the maximum application rate multiplied by the maximum number of applications, which are specified below. Such a request for maximum seasonal use must be approved by the Agency and must be consistent with available residue data.

To avoid cancellation, all mancozeb, maneb, and metiram labels and product registrations bearing agricultural uses must be amended to include the following label statement: "If this product is used on a crop, no other product containing a different EBDC active ingredient may be used on the same crop during the same growing season."

1. *Almonds*. Maneb is registered for use on almonds. The Agency intends to cancel all maneb products registered for use on almonds unless the registrations and labelling are amended as follows: Maximum application rate– 6.4 lb. a.i./A; maximum number of applications per season–4; application interval–7 to 10 days; and minimum preharvest interval–5 weeks after petal fall.

2. *Apples*. Mancozeb, maneb, and metiram are registered for use on apples. The Agency intends to cancel all mancozeb, maneb, and metiram products registered for use on apples unless the registrations and labelling are amended as follows: All mancozeb, maneb, and metiram products registered for use on apples must state that the product may be used with either the pre-bloom use pattern or the extended application use pattern. Further, labels must state that the two treatment schedules (i.e., pre-bloom and extended) must not be combined or integrated. The pre-bloom use pattern must be at least as restrictive as the following: Maximum application rate–4.8 lb ai/A; maximum number of applications per season–4; application interval–7 to 10 days; and minimum preharvest interval–bloom. The extended application use pattern must be at least as restrictive as the following: Maximum application rate–2.4 lb. a.i./A; maximum number of applications per season–7; application interval–7 to 10 days; and minimum preharvest interval–77 days. These use patterns are consistent with the International Apple Institute data which were submitted in lieu of the required market basket survey data. Additionally, to avoid cancellation, all mancozeb, maneb, and metiram labels must include the following label statement: "It is recommended that this product be used in an Integrated Pest Management Program."

3. *Asparagus*. Mancozeb is registered for use on asparagus ferns after harvest of spears. The Agency intends to cancel all mancozeb products registered for use on asparagus unless the registrations and labelling are amended as follows: Maximum application rate–1.6 lb. a.i./A; maximum number of applications per season–4; application interval–10 days; and minimum preharvest interval–180 days for all states except California and Arizona; minimum preharvest interval in California and Arizona–120 days. This use pattern is consistent with residue data submitted in support of asparagus.

4. *Bananas*. Mancozeb and maneb are registered for use on bananas. The Agency intends to cancel all mancozeb and maneb products registered for use on bananas unless the registrations and labelling are amended as follows: Maximum application rate–2.4 lb. a.i./A; maximum number of applications per season–10; application interval–14 to 21 days; and minimum preharvest interval–0 days. This use pattern is consistent with the typical use during the market basket survey period.

5. *Barley*. Mancozeb is registered for use on barley. The Agency intends to cancel all mancozeb products registered for use on barley unless the registrations and labelling are amended as follows: Maximum application rate–1.6 lb. a.i./A; maximum number of applications per season–3; application interval–7 to 10 days; and minimum preharvest interval–28 days. This use pattern is consistent with the typical use during the market basket survey period and residue data submitted in support of sweet corn, which are translatable to barley.

6. *Broccoli*. Maneb is registered for use on broccoli. The Agency intends to cancel all maneb products registered for use on broccoli unless the registrations and labelling are amended as follows: Maximum application rate– 1.6 lb. a.i./A; maximum number of applications per season–6; application interval–7 to 10 days; and minimum preharvest interval–7 days. This use pattern is consistent with the typical use during the market basket survey period and residue data submitted in support of broccoli.

7. *Brussels sprouts*. Maneb is registered for use on brussels sprouts. The Agency intends to cancel all maneb

products registered for use on brussels sprouts unless the registrations and labelling are amended as follows: Maximum application rate–1.6 lb. a.i./A: maximum number of applications per season–6; application interval–7 to 10 days; and minimum preharvest interval–7 days. This use pattern is consistent with the typical use during the market basket survey period and residue data submitted in support of broccoli, which are translatable to brussels sprouts.

8. *Cabbage*. Maneb is registered for use on cabbage. The Agency intends to cancel all maneb products registered for use on cabbage (including chinese cabbage, tight-headed varieties only) unless the registrations and labelling are amended as follows: Maximum application rate–1.6 lb. a.i./A; maximum number of applications per season–6; application interval–7 to 10 days; and minimum preharvest interval–7 days. This use pattern is consistent with the typical use during the market basket survey period and residue data submitted in support of broccoli, which are translatable to cabbage.

The Agency intends to cancel all maneb products registered for use on all other varieties of cabbage (which would include loose-headed varieties of chinese cabbage) in California and Hawaii unless the registrations and labelling are amended as follows: Maximum application rate–1.2 lb. a.i./A; maximum number of applications per season–6; application interval–7 days; and minimum preharvest interval–7 days in California and 10 days in Hawaii. This use pattern is consistent with the two existing uses, which are in California and Hawaii.

9. *Cauliflower*. Maneb is registered for use on cauliflower. The Agency intends to cancel all maneb products registered for use on cauliflower unless the registrations and labelling are amended as follows: Maximum application rate–1.6 lb. a.i./A; maximum number of applications per season–6; application interval–7 to 10 days; and minimum preharvest interval–7 days. This use pattern is consistent with the typical use during the market basket survey period and residue data submitted in support of broccoli, which are translatable to cauliflower.

10. *Corn, field*. Mancozeb is registered for use on field corn. The Agency intends to cancel all mancozeb products registered for use on field corn unless the registrations and labelling are amended as follows: Maximum application rate–1.2 lb. a.i./A; maximum number of applications per season–10; and minimum preharvest interval–40 days. This use pattern is consistent with the typical use during the market basket survey period and residue data submitted in support of corn.

11. *Corn, sweet and pop*. Mancozeb and maneb are registered for use on sweet corn and popcorn. The Agency intends to cancel all maneb products registered for use on sweet corn and popcorn east of the Mississippi River and Arkansas and Louisiana unless the registrations and labelling are amended as follows: Maximum application rate–1.2 lb. a.i./A; maximum number of applications per season–15; application interval–3 to 10 days; and minimum preharvest interval–7 days. The Agency intends to cancel all maneb products registered for use on sweet corn and popcorn west of the Mississippi River (except Arkansas and Louisiana) unless the registrations and labelling are amended as follows: Maximum application rate–1.2 lb. a.i./A; maximum number of applications per season–5; application interval–3 to 10 days; and minimum preharvest interval–7 days. The Agency intends to cancel all mancozeb products registered for use on sweet and popcorn east of the Mississippi River and Arkansas and Louisiana unless the registrations and labelling are amended as follows: Maximum application rate–1.2 lb. a.i./A: maximum number of applications per season–15; application interval–4 to 7 days; and minimum preharvest interval–7 days. The Agency intends to cancel all mancozeb products registered for use on sweet and popcorn west of the Mississippi River (except Arkansas and Louisiana) unless the registrations and labelling are amended as follows: Maximum application rate–1.2 lb. a.i./A; maximum number of applications per season–5; application interval–4 to 7 days; and minimum preharvest interval–7 days. These use patterns are consistent with the typical use during the market basket survey period and/or residue data submitted in support of corn.

12. *Cotton*. Mancozeb is registered for use on cotton in the Southwestern United States. The Agency intends to cancel all mancozeb products registered for use on cotton unless the registrations and labelling are amended as follows: Maximum application rate–1.6 lb. a.i./A; maximum number of applications per season–4; and minimum preharvest interval–mancozeb may not be applied after the bolls open. The label must specify a numerical minimum preharvest interval consistent with boll opening and the supporting residue data. This use pattern is consistent with the typical use during the market basket survey period and residue data submitted in support of dry beans, which are translatable to cotton.

13. *Crabapples/quince*. Mancozeb is registered for use on crabapples and quince. The Agency intends to cancel all mancozeb products registered for use on crabapples and/or quince unless the registrations and labelling are amended as follows: All mancozeb products registered for use on crabapples/quince must state that the product may be used with either the pre-bloom use pattern or the extended application use pattern. Further, the label must state that the 2 treatment schedules (i.e., pre-bloom and extended) must not be combined or integrated. The pre-bloom use pattern must be at least as restrictive as the following: Maximum application rate–4.8 lb. a.i./A; maximum number of applications per season–4; application interval–7 to 10 days; and minimum preharvest interval-bloom. The extended application use pattern must be at least as restrictive as the following: Maximum application rate–2.4 lb. a.i./A; maximum number of applications per season–7; application interval–7 to 10 days; and minimum preharvest interval–77 days. These use patterns are consistent with the International Apple Institute data which were submitted in lieu of the required market basket survey data and are translatable to crabapples/quince. Additionally, to avoid cancellation, all mancozeb products registered for use on crabapples/quince must include the following label statement: "It is recommended that this product be used in an Integrated Pest Management Program."

14. *Cranberries*. Mancozeb and maneb are registered for use on cranberries. The Agency intends to cancel all mancozeb and maneb products registered for use on cranberries unless the registrations and labelling are amended as follows: Maximum application rate-4.8 lb. a.i./A; maximum number of applications per season–3; application interval–7 to 10 days; and minimum preharvest interval–30 days. This use pattern is consistent with residue data submitted in support of cranberries.

15. *Cucumbers*. Mancozeb and maneb are registered for use on cucumbers. The Agency intends to cancel all maneb products registered for use on cucumbers unless the registrations and labelling are amended as follows: Maximum application rate–1.6 lb. a.i./A: maximum number of applications per season–6; application interval–7 to 10 days; and minimum preharvest interval–5 days. The Agency intends to cancel all mancozeb products registered for use on cucumbers unless the registrations and labelling are amended as follows:

Maximum application rate–2.4 lb. a.i./A; maximum number of applications per season–8; application interval–7 to 10 days; and minimum preharvest interval–5 days. These use patterns are consistent with the typical use during the market basket survey period and residue data submitted in support of cucumbers.

16. *Dry beans*. Maneb is registered for use on dry beans. The Agency intends to cancel all maneb products registered for use on dry beans unless the registrations and labelling are amended as follows: Maximum application rate–1.6 lb. a.i./A; maximum number of applications per season–6; application interval–5 to 7 days; and minimum preharvest interval–30 days. This use pattern is consistent with the typical use during the market basket survey period and residue data submitted in support of dry beans.

17. *Eggplant*. Maneb is registered for use on eggplant. The Agency intends to cancel all maneb products registered for use on eggplant unless the registrations and labelling are amended as follows: Maximum application rate –1.6 lb. a.i./A; maximum number of applications per season–7; application interval–7 to 10 days; and minimum preharvest interval–5 days. This use pattern is consistent with the typical use during the market basket survey period and residue data submitted in support of tomatoes, which are translatable to eggplant.

18. *Endive*. Maneb is registered for use on endive. The Agency intends to cancel all maneb products registered for use on endive unless the registrations and labelling are amended as follows: Maximum application rate –1.6 lb. a.i./A; maximum number of applications per season–6, except in California which must be no more than 4; application interval–7 to 10 days; and minimum preharvest interval–10 days, except in California which must be at least 14 days. This use pattern is consistent with the typical use during the market basket survey period, residue data submitted in support of lettuce (which is translatable to endive), and information provided by commenters.

19. *Fennel*. Mancozeb is registered for use on fennel. The Agency intends to cancel all mancozeb products registered for use on fennel unless the registrations and labelling are amended as follows: Maximum application rate–1.6 lb. a.i./A; maximum number of applications per season–8; application interval–7 to 10 days; and minimum preharvest interval–14 days. This use pattern is consistent with the typical use during the market basket survey period and residue data submitted in support of celery, which are translatable to fennel.

20. *Grapes*. Mancozeb and maneb are registered for use on grapes. The Agency intends to cancel all mancozeb products registered for grapes east of the Rocky Mountains unless the registrations and labelling are amended as follows: Maximum application rate–3.2 lb. a.i./A; maximum number of applications per season–6; application interval–7 to 10 days; and minimum preharvest interval–66 days. The Agency intends to cancel all mancozeb products registered for grapes west of the Rocky Mountains unless the registrations and labelling are amended as follows: Maximum application rate –2.0 lb. a.i./A; maximum number of applications per season–3; application interval–7 to 10 days; and minimum preharvest interval–66 days, except in California where no treatment may occur after bloom. The Agency intends to cancel all maneb products registered for use on grapes east of the Rocky Mountains unless the registrations and labelling are amended as follows: Maximum application rate–3.2 lb. a.i./A; maximum number of applications per season–6; application interval–7 to 10 days; and minimum preharvest interval–66 days. The Agency intends to cancel all maneb products registered for use on grapes west of the Rocky Mountains unless the registrations and labelling are amended as follows: Maximum application rate–2.0 lb. a.i./A; maximum number of applications per season–3; application interval–7 to 10 days; and minimum preharvest interval–66 days, except in California where no treatment may occur after bloom. These use patterns are consistent with residue data submitted in support of grapes, or typical use during the market basket survey.

21. *Kadota figs*. Maneb is registered for use on kadota figs. The Agency intends to cancel all maneb products registered for use on kadota figs unless the registrations and labelling are amended as follows: Maximum application rate–0.6 lb. a.i./100 gallons not to exceed 2.4 lb a.i./A; maximum number of applications per season–1; and minimum preharvest interval–10 days. This use pattern is consistent with available field trial residue data.

22. *Kale*. Maneb is registered for use on kale. The Agency intends to cancel all maneb products registered for use on kale unless the registrations and labelling are amended as follows: Maximum application rate–1.6 lb. a.i./A; maximum number of applications per season–2 per cutting; application interval–7 to 10 days; and minimum preharvest interval–10 days. This use pattern is consistent with the typical use during the market basket survey period and is based on data submitted by commenters to the EBDC PD 2/3.

23. *Kohlrabi*. Maneb is registered for use on kohlrabi. The Agency intends to cancel all maneb products registered for use on kohlrabi unless the registrations and labelling are amended as follows: Maximum application rate–1.6 lb. a.i./A; maximum number of applications per season–6; application interval–7 to 10 days; and minimum preharvest interval–7 days. This use pattern is consistent with the typical use and residue data submitted in support of broccoli, which are translatable to kohlrabi.

24. *Lettuce, head*. Maneb is registered for use on head lettuce. The Agency intends to cancel all maneb products registered for use on head lettuce unless the registrations and labelling are amended as follows: Maximum application rate–1.6 lb. a.i./A; maximum number of applications per season–6, except in California which must be no more than 4; application interval–7 to 10 days; and minimum preharvest interval–10 days, except in California which must be at least 14 days. This use pattern is consistent with the typical use during the market basket survey period, residue data submitted in support of lettuce, and information provided by commenters.

25. *Lettuce, leaf*. Maneb is registered for use on leaf lettuce. The Agency intends to cancel all maneb products registered for use on leaf lettuce unless the registrations and labelling are amended as follows: Maximum application rate–1.6 lb. a.i./A; maximum number of applications per season–6, except in California which must be no more than 4; application interval–7 to 10 days; and minimum preharvest interval–10 days, except in California which must be at least 14 days. This use pattern is consistent with the typical use during the market basket survey period and residue data submitted in support of lettuce.

26. *Melons (cantaloupe, casaba, crenshaw, honeydew, and watermelon)*. Mancozeb and maneb are registered for use on melons. The Agency intends to cancel all mancozeb products registered for use on melons unless the registrations and labelling are amended as follows: Maximum application rate–2.4 lb. a.i./A; maximum number of applications per season–8; application interval–7 to 10 days; and minimum preharvest interval–5 days. These use patterns are consistent with the typical use during the market basket survey period and residue data submitted in support of cucumbers, which are translatable to melons. The Agency intends to cancel all maneb products

registered for use on melons unless the registrations and labelling are amended as follows: Maximum application rate–1.6 lb. a.i./A; maximum number of applications per season–8; application interval–7 to 10 days; and minimum preharvest interval–5 days.

27. *Oats.* Mancozeb is registered for use on oats. The Agency intends to cancel all mancozeb products registered for use on oats unless the registrations and labelling are amended as follows: Maximum application rate–1.6 lb. a.i./A; maximum number of applications per season–3; application interval–7 to 10 days; and minimum preharvest interval–26 days. This use pattern is consistent with the typical use during the market basket survey period and residue data submitted in support of sweet corn, which are translatable to oats.

28. *Onions (dry bulb and green).* Maneb is registered for use on dry bulb and green onions. Mancozeb is registered for use on dry bulb onions. The Agency intends to cancel all mancozeb and maneb products registered for use on dry onions unless the registrations and labelling are amended as follows: Maximum application rate–2.4 lb. a.i./A; maximum number of applications per season–10; application interval–7 days; and minimum preharvest interval–7 days. This use pattern is consistent with the typical use during the market basket survey period and residue data submitted in support of onions. Also, the Agency intends to cancel all mancozeb and maneb products registered for use on onions unless the registrations and labelling are amended to include the following statement: "Do not apply to exposed bulbs." The Agency intends to cancel all maneb products registered for use on green onions unless the registrations and labelling are amended as follows: Maximum application rate–2.4 lb. a.i./A; maximum number of applications per season–7; application interval–7 days; and minimum preharvest interval–7 days.

29. *Papayas.* Mancozeb and maneb are registered for use on papayas. The Agency intends to cancel all mancozeb and maneb products registered for use on papayas unless the registrations and labelling are amended as follows: Maximum application rate–2.0 lb. a.i./A; maximum number of applications per season–14; application interval–14 to 21 days; and minimum preharvest interval–0 days. This use pattern is consistent with the typical use during the market basket survey period and residue data submitted in support of papayas.

30. *Peanuts.* Mancozeb is registered for use on peanuts. The Agency intends to cancel all mancozeb products registered for use on peanuts unless the registrations and labelling are amended as follows: Maximum application rate–1.6 lb. a.i./A; maximum number of applications per season–8; application interval–7 to 14 days; and minimum preharvest interval–14 days. This use pattern is consistent with the typical use during the market basket survey period and residue data submitted in support of dry beans, which are translatable to peanuts.

31. *Pears.* Mancozeb is registered for use on pears. The Agency intends to cancel all mancozeb products registered for use on pears unless the registrations and labelling are amended as follows: All mancozeb products registered for use on pears must state that the product may be used with either the pre-bloom use pattern or the extended application use pattern. Further, the label must state that the two treatment schedules (i.e., pre-bloom and extended) must not be combined or integrated. The pre-bloom use pattern must be at least as restrictive as the following: Maximum application rate–4.8 lb. a.i./A; maximum number of applications per season–4; application interval–7 to 10 days; and minimum preharvest interval-bloom. The extended application use pattern must be at least as restrictive as the following: Maximum application rate–2.4 lb. a.i./A; maximum number of applications per season–7; application interval–7 to 10 days; and minimum preharvest interval–77 days. These use patterns are consistent with the International Apple Institute data on apples which were submitted in lieu of the required market basket survey data, and are translatable to pears. Additionally, to avoid cancellation, all mancozeb products registered for pears must include the following label statement: "It is recommended that this product be used in an Integrated Pest Management Program."

32. *Pecans.* No EBDC products are currently registered for use on pecans. EPA will allow metiram to be registered for use on pecans provided all applicable data requirements and other requirements of registration are met. As an additional condition of registration, any metiram product registered for use on pecans must be at least as restrictive as the following use pattern: Maximum application rate–6.4 lb. a.i./A; maximum number of applications per season–6; application interval–7 to 10 days; and minimum preharvest interval–5 weeks after petal fall.

33. *Peppers.* Maneb is registered for use on peppers. The Agency intends to cancel all maneb products registered for use on peppers grown west of the Mississippi River unless the registrations and labelling are amended such that the label must specify the following as applicable West of the Mississippi River: Maximum application rate–1.6 lb. a.i./A; maximum number of applications per season–6; application interval–7 to 10 days; and minimum preharvest interval–7 days. The Agency intends to cancel all maneb products registered for use on peppers grown east of the Mississippi River unless the registrations and labelling are amended such that the label must specify the following as applicable east of the Mississippi River: Maximum application rate–2.4 lb. a.i./A; maximum number of applications per season–6; application interval–7 to 10 days; and minimum preharvest interval–7 days. These use patterns are consistent with the typical use during the market basket survey period and residue data submitted in support of tomatoes, which are translatable to peppers.

34. *Potatoes.* Mancozeb, maneb, and metiram are registered for use on potatoes. The Agency intends to cancel all mancozeb, maneb, or metiram products registered for use on potatoes unless the registrations and labelling are amended as follows: Maximum application rate–1.6 lb. a.i./A; maximum number of applications per season–7; application interval–5 to 10 days; and minimum preharvest interval–3 days in Connecticut, Florida, Maine, Massachusetts, New Hampshire, New York, Pennsylvania, Vermont, and Wisconsin and at least 14 days elsewhere. Also, in order to avoid cancellation, all mancozeb, maneb, and metiram labels must include the following label statement: "It is recommended that this product be used within an Integrated Pest Management Program. Also, vine-kill should occur 14 days before harvest." This use pattern is consistent with the typical use during the market basket survey period and residue data submitted in support of potatoes. The label statement is consistent with public comments received on the EBDC PD 2/3.

35. *Pumpkins.* Maneb is registered for use on pumpkins. The Agency intends to cancel all maneb products registered for use on pumpkins unless the registrations and labelling are amended as follows: Maximum application rate–1.6 lb. a.i./A; maximum number of applications per season–8; application interval–7 to 10 days; and minimum preharvest interval–5 days. These use patterns are consistent with the typical use during the market basket survey period and residue data submitted in support of cucumbers, which are translatable to pumpkins.

36. *Rye.* Mancozeb is registered for use on rye. The Agency intends to cancel all mancozeb products registered for use on rye unless the registrations and labelling are amended as follows: Maximum application rate–1.6 lb. a.i./A; maximum number of applications per season–3; application interval–7 to 10 days; and minimum preharvest interval–26 days. This use pattern is consistent with the typical use during the market basket survey period and residue data submitted in support of sweet corn, which are translatable to rye.

37. *Squash.* Maneb is registered for both summer and winter squash while mancozeb only is registered for summer squash. The Agency intends to cancel all maneb products registered for use on summer or winter squash unless the registrations and labelling are amended as follows: Maximum application rate–1.6 lb. a.i./A; maximum number of applications per season–8; application interval–7 to 10 days; and minimum preharvest interval–5 days. The Agency intends to cancel all mancozeb products registered for use on summer squash unless the registrations and labelling are amended as follows: Maximum application rate–2.4 lb. a.i./A; maximum number of applications per season–8; application interval–7 to 10 days; and minimum preharvest interval–5 days. These use patterns are consistent with the typical use during the market basket survey period and residue data submitted in support of cucumbers, which are translatable to squash.

38. *Sugar beets.* Mancozeb and maneb are registered for use on sugar beets. The Agency intends to cancel all mancozeb and maneb products registered for use on sugar beets unless the registrations and labelling are amended as follows: Maximum application rate–1.6 lb. a.i./A; maximum number of applications per season–7; application interval–7 to 10 days; and minimum preharvest interval–14 days. This use pattern is consistent with the typical use during the market basket survey period and residue data submitted in support of sugar beets.

39. *Tomatoes.* Mancozeb and maneb are registered for use on tomatoes. The Agency intends to cancel all mancozeb and maneb products registered for use on tomatoes grown west of the Mississippi River unless the registrations and labelling are amended such that the label must specify the following as applicable west of the Mississippi River: Maximum application rate–1.6 lb. a.i./A; maximum number of applications per season–4; application interval–7 to 10 days; and minimum preharvest interval–5 days. The Agency intends to cancel all mancozeb and maneb products registered for use on tomatoes grown east of the Mississippi River unless the registrations and labelling are amended such that the label must specify the following as applicable east of the Mississippi River: Maximum application rate–2.4 lb. a.i./A; maximum number of applications per season–7; application interval–7 to 10 days; and minimum preharvest interval–5 days. These use patterns are consistent with the typical use during the market basket survey period and residue data submitted in support of tomatoes.

40. *Wheat.* Mancozeb is registered for use on wheat. The Agency intends to cancel all mancozeb products registered for use on wheat unless the registrations and labelling are amended as follows: Maximum application rate–1.6 lb. a.i./A; maximum number of applications per season–3; application interval–7 to 10 days; and minimum preharvest interval–26 days. This use pattern is consistent with the typical use during the market basket survey period and residue data submitted in support of sweet corn, which are translatable to wheat.

41. *Apricots, carrots, celery, collards, mustard greens, nectarines, peaches, rhubarb, spinach, succulent beans, and turnips.* In order to avoid cancellation, any product registration and label bearing uses for apricots, celery, carrots, collards, mustard greens, nectarines, peaches, rhubarb, spinach, succulent beans, or turnips must be amended within the time specified in Unit VIII to delete each of these uses.

42. *Homegarden uses of mancozeb on fruit trees and turf.* In order to avoid cancellation, all mancozeb product registrations and labels bearing homegarden uses for fruit trees or turf must be amended to delete each of these two uses.

43. *Worker requirements for agricultural uses.* In order to avoid cancellation, all mancozeb, maneb, and metiram product registrations and labels bearing uses for agricultural uses must be amended to include the following protective clothing language: "All agricultural workers/handlers (i.e., mixers, loaders, and applicators) applying EBDCs must wear coveralls over long-sleeved shirt and long pants, shoes, socks, and chemical-resistant gloves. During mixing and loading, a chemical-resistant apron and goggles or a face shield must also be worn. For agricultural workers, where completely enclosed cabs with positive pressure filtration or an enclosed cockpit for aerial application are used, a long-sleeved shirt and long pants may be worn in place of the protective clothing described above. Chemical-resistant gloves must be available in the cab or cockpit and worn upon exiting. The gloves must be kept in an enclosed container in the cab or cockpit to prevent contamination of the inside of the cab or cockpit. During aerial application, human flaggers are prohibited unless in totally enclosed vehicles." Additionally, all mancozeb, maneb, and metiram product registrations and labels bearing agricultural uses must be amended to establish an interim reentry interval of 24 hours. This interim reentry interval will remain in effect until the Agency completes its evaluation of the reentry data. When the review is complete, the Agency will reestablish reentry intervals, if appropriate. No nabam labels bear any agricultural uses.

44. *Worker requirements for industrial uses.* In order to avoid cancellation, all nabam product registrations and labels bearing any industrial uses must be amended to include the following protective clothing language: "All industrial workers (i.e., mixers, loaders, and applicators) applying EBDCs must wear coveralls over a long-sleeved shirt and long pants, shoes, socks, and chemical-resistant gloves. During mixing and loading, a chemical-resistant apron and goggles or a face shield must also be worn." No mancozeb, maneb, or metiram labels can bear any industrial uses.

45. *Homegardener use requirements.* In order to avoid cancellation, all mancozeb (except those for fruit trees and turf), maneb, and metiram product registrations and labels bearing homegarden uses must be amended to bear the following clothing and hygiene language: "Homegardeners applying this product must wear a long-sleeved shirt, long pants, and chemical-resistant gloves. The gloves must be washed thoroughly with soap and water before removing. Clothes must be changed immediately after using this EBDC product and must be laundered separately from other laundry items before reuse."

C. Tolerance Reductions/Revocations

In May 1990, EPA proposed to reduce and revoke the tolerances for the 42 uses deleted by the technical registrants in September 1990 and for the 3 additional uses that the Agency proposed to cancel (55 FR 20416).

In view of the actions required by this Notice, EPA will continue its efforts to revoke mancozeb, maneb, and/or metiram tolerances for apricots, carrots, celery, collards, mustard greens, nectarines, peaches, rhubarb, spinach, succulent beans, and turnips. The Agency expects to issue a Final Rule revoking the tolerances for these 11 commodities within 3 months of today's Notice and will allow for legally-treated commodities to clear the channels-of-trade.

For a number of sites, additional residue data may be needed to assess tolerances. EPA expects to issue within the next 6 months a Data Call-In (DCI) Notice under FIFRA section 3(c)(2)(B) to require any data that are determined to be needed for tolerance assessment purposes. Sites where it appears now that additional data may be required for use in assessing tolerances include: apples, kale, and pears. Where adequate data are available, the Agency will seek to adjust tolerances, where necessary, for the remaining 45 sites.

D. Existing Stocks and Disposal Provisions

1. *Non-conforming stocks.* Under the authority of FIFRA section 6, EPA may establish certain limitations on the sale, distribution, and use of existing stocks of EBDC pesticide products subject to any final cancellation Notice. EPA defines the term "existing stocks" to mean any quantity of EBDC pesticide product in the United States, on the date of cancellation which is being held for shipment or release or has been shipped or released into commerce.

EPA has determined that continued sale and distribution by the registrants of existing stocks of EBDC pesticides that do not comply with the provisions of this Notice may continue for 6 months following the date of cancellation. Existing stocks which are not sold or distributed by the registrants within that time period or are not properly relabelled in accordance with this Notice must be disposed of in accordance with applicable Federal, State, and local requirements. Sale and use by persons other than the registrants may continue for 3 years after the date of cancellation.

2. *Requirements for relabelling of existing stocks.* For the 1992 use season, the Agency will permit relabelling to occur by persons other than the registrants provided that those persons are acting under the supervision of the registrant. Supervision by the registrant does not have to be direct on-site supervision at the site where the relabelling is occurring. However, in cases where relabelling is performed, it must be performed by someone acting under the supervision of the registrant. The registrant will remain responsible and liable for the proper relabelling of the product. Additionally, for the purposes of this relabelling program, any such person acting on behalf of the registrant will be considered for the purposes of FIFRA to be an agent of the registrant of the product being relabelled. The relabelling may also be conducted at facilities that are not EPA registered establishments under FIFRA section 7, provided that the registrants comply with the reporting requirements in the following paragraph. After December 31, 1992, relabelling may only occur by the registrant or persons under contract to the registrant for the production of that pesticide and such relabelling must comply with FIFRA section 7.

Registrants must submit to EPA a report by June 30, 1992 concerning any relabelling of its product undertaken by any person under the terms of the above paragraph. A report must also be submitted to EPA by December 31, 1992 if any additional relabelling of EBDC product occurred since the June 30 report. These reports must identify the person or company that performed the relabelling; the registration number(s) of the product that was relabelled; the address of the facility where the relabelling took place; the date(s) on which the relabelling took place; and, for each registration number, the quantity of product relabelled. These reports must be filed with the Director of the Compliance Division; Office of Compliance Monitoring (EN-342); Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Failure to comply with the above relabelling or reporting requirements will be considered, among other things, a violation of FIFRA sections 12(a)(2)(K) and 12(a)(2)(N).

VIII. Procedural Matters

This Notice announces EPA's intent to cancel all registrations for products containing EBDCs which do not comply with the modified terms and conditions of registration set forth in this Notice. This action is being taken pursuant to authority granted by section 6(b) of FIFRA. Under FIFRA sections 6(b)(1) and 3(c)(6), applicants, registrants, and certain other adversely affected parties may request a hearing on the cancellation or denial actions that this Notice initiates. Any hearing concerning cancellation or denial of registration for any pesticide product containing the EBDCs will be held in accordance with FIFRA section 6(d). Alternatively, registrants/applicants may apply to amend the product registrations/applications to remove the uses proposed to be cancelled and make the other changes required by this Notice within 30 days of publication of this Notice or receipt of this Notice, whichever occurs later. Unless a hearing or amended registration is properly requested with regard to a particular registration or application, the registration will be cancelled or the application denied. This Unit of the Notice explains how such persons may request a hearing or amend their registrations in accordance with the procedures specified in this Notice, and the consequences of requesting or failing to request a hearing or submit an amended registration or application.

A. Procedures for Requesting a Hearing

To contest the regulatory action initiated by this Notice, registrants, or any applicant for registration whose application for registration is affected by this Notice (including intrastate applicants who have previously marketed such products pursuant to 40 CFR 162.17), must request a hearing within 30 days of receipt of this Notice, or within 30 days from the date of publication of this Notice in the **Federal Register**, whichever occurs later. Any other persons adversely affected by the cancellation action described in this Notice, or any interested persons with the concurrence of an applicant whose application for registration has been denied, must request a hearing within 30 days of publication of this Notice in the **Federal Register**.

All registrants, applicants, and other adversely affected persons who request a hearing must file the request in accordance with the procedures established by FIFRA and EPA's Rules of Practice Governing Hearings (40 CFR Part 164). These procedures require that all requests must identify the specific registration(s) by Registration Number(s) and the specific use(s) for which a hearing is requested and must be received by the Hearing Clerk within the applicable 30-day period. Failure to comply with these requirements will result in denial of the request for a hearing. Requests for a hearing should also be accompanied by objections that are specific for each use of the pesticide product for which a hearing is requested.Requests for a hearing must be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

1. *Consequences of filing a timely and effective hearing request.* If a hearing on any action initiated by this Notice is requested in a timely and effective manner, the hearing will be governed by EPA's Rules of Practice Governing Hearings under FIFRA section 6 (40 CFR part 164). All hearings will be held in Washington, DC. In the event of a timely

and effective request for a hearing, each cancellation action concerning the specific use or uses of the specific registered product which is the subject of the hearing request will not become effective except pursuant to an order of the Administrator at the conclusion of the hearing.

The hearing will be limited to the specific registrations or applications for which the hearing is requested.

2. *Consequences of failure to file in a timely and effective manner.* If a hearing concerning the cancellation or denial of registration of a specific EBDC product subject to this Notice is not requested in a timely and effective manner by the end of the applicable 30-day period, registration of that product will be cancelled or the denial will be effective.

B. Amendment of Registration or Application

Registrants of EBDC products who are affected by this Notice of Intent to Cancel (NOIC) may avoid cancellation of their registrations without requesting a hearing by filing an application for an amended registration to amend product labelling to comply with the labelling requirements described in Unit VII of this NOIC. Applications containing the label modifications required by this Notice must include 3 copies of the revised label. The approved label must be affixed to all end-use products released for shipment 6 months after publication of this Notice. All applications for amendment must be filed within 30 days of the date of **Federal Register** publication of this Notice or within 30 days of receipt of this Notice, whichever occurs later. Similarly applicants for a registration that is subject to this NOIC must file an amended application for registration within the applicable 30-day period to avoid denial of the application. The failure to file an amendment on time or the timely filing of an inadequate amendment will result in automatic cancellation pursuant to FIFRA section 6(b) or denial under section 3(c)(6).

Registrants whose registrations become cancelled but who wish to use the existing stocks provisions provided above must submit revised labelling, including proposed time limitations on use, for EPA acceptance prior to the sale and distribution of such existing stocks. All applications must be addressed to: Susan Lewis, Product Manager Number 21, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

C. Separation of Functions

EPA's rules of practice forbid anyone who may take part in deciding this case, at any stage of the proceeding, from discussing the merits of the proceeding ex parte with any party or with any person who has been connected with the preparation or presentation of the proceeding as an advocate or in any investigative or expert capacity, or with any of his/her representatives (40 CFR 164.7).

Accordingly, the following EPA offices, and the staffs thereof, are designated as the judicial staff of EPA to perform the judicial function of EPA in any administrative hearing on this Notice of Intent to Cancel: the Office of Administrative Law Judge, the Office of the Judicial Officer, the Deputy Administrator and the members of the staff in the immediate office of the Deputy Administrator, and the Administrator and the members of the staff in the immediate office of the Administrator. None of the persons designated as the judicial staff may have any ex parte communications on the merits of any of the issues involved in this proceeding with the trial staff or any other interested person not employed by EPA without fully complying with the applicable regulations.

D. Public Docket

Pursuant to 40 CFR 154.15, the Agency has established a public docket (OPP–30000/18D) for the EBDC Special Review. This public docket includes:

(1) this Notice; (2) any other notices pertinent to the EBDC Special Review; (3) non-CBI documents and copies of written comments or other materials submitted to the Agency in response to this Notice or any other Notice, and any other documents regarding the EBDC pesticides submitted at any time during the Special Review process by any person outside the government; (4) a transcript of any public meeting held by the Agency for the purpose of gathering information on the EBDCs; (5) memoranda describing each meeting held during the Special Review process between Agency personnel and any person outside government pertaining to the EBDCs; and (6) a current index of materials in the public docket.

IX. References

(1) Clifford, M.A. (1991). Memorandum to Kathleen Martin (USEPA). Apple Residue Field Trial Study. February 21, 1991.

(2) Hummel, S.V. (1991). Memorandum to Kathleen Martin (USEPA). EBDCs -Response to Special Review Data Call-In Notice of November 7, 1990. EBDC and ETU Residues in Apples from Field Trials Using Proposed New Use Pattern. May 23, 1991.

(3) Hummel, S.V. (1992). Memorandum to Kathleen Martin (USEPA). EBDCs -Response to Special Review Data Call-In Notice of November 7, 1990. EBDC and ETU Residues in Apples from Field Trials Using Second Proposed New Use Pattern. January 8, 1992.

(4) Hummel, S.V. (1991) Memorandum to Kathleen Martin (USEPA). Mancozeb Residues in Papayas; Commercial Handling Study Hawaii Papaya Industry Association. May 23, 1991.

(5) Hummel, S.V. (1990) Memorandum to Kathleen Martin (USEPA). EBDC/ETU Use Survey and Monitoring, 1989 Midwest Food Processors Association, Inc. November 28, 1990.

(6) Hummel, S.V. (1991). Memorandum to Kathleen Martin (USEPA). EBDCs -Response to PD 2/3 Comments. June 12, 1991.

(7) U.S. Environmental Protection Agency (USEPA). (1989) Data Call-In for the EBDCs. March 10, 1989.

(8) U.S. Environmental Protection Agency (USEPA). (1989) EBDC Technical Support Document.

(9)Kocialski, A. (1991). Memorandum to Kathleen Martin (USEPA). Third Peer Review of Ethylene Thiourea. Selecting the Q_1^* for Ethylenethiourea (ETU). September 26, 1991.

(10) Kocialski, A. (1991). Memorandum to Kathleen Martin (USEPA). Ethylenethiourea Cancer Potency Factor (Q_1^*) Calculations Based on Female Mouse Liver Tumors Using Both Pooled Data and the Diagonal Data Set from the National Toxicology Program Study (NTP–TR–No.388).

(11) Noles, J. (1991). Memorandum to Kathleen Martin (USEPA). Addendum to the June 1, 1990 Summary of Data Submitted After Publication of the Registration Standards for Mancozeb, Maneb, Metiram and Nabam.

(12) Kocialski, A. (1991). Memorandum to Kathleen Martin (USEPA). EBDC/Responses to Toxicology Comments on Position Document 2/3.

(13) ETU Task Force. (1990). EBDC/ETU National Food Survey Fourth Quarter and Final Report. October 1, 1990. USEPA MRID No. 416436–01.

(14) Clifford, M.A. (1991). Memorandum to Kathleen Martin (USEPA). The Statistical Issues of the EBDC/ETU Market Basket Survey. January 14, 1991.

(15) Clifford, M.A. (1991). Memorandum to Kathleen Martin (USEPA). Review of EBDC/ETU Market Basket Data, Statistical Issues. April 22, 1991.

(16) Clifford, M.A. (1991). Memorandum to Kathleen Martin (USEPA). The Results from the EBDC/ETU Market Basket Survey and Final Review of the Statistical Issues Concerning the Survey. April 22, 1991.

(17) Hummel, S.V. (1991). Memorandum to Kathleen Martin (USEPA). EBDCs -Dietary Exposure Estimates for EBDCs and ETU Based on the EBDC/ETU Market Basket Survey. February 28, 1991.

(18) Hummel, S.V. (1990). Memorandum to Kathleen Martin (USEPA). EBDC/ETU Monitoring Study Fourth Quarter and Final Report. December 4, 1990.

(19) Hummel, S.V. (1989). Memorandum to Kathleen Martin (USEPA). EBDC Monitoring Study Translation of Data. December 11, 1989.

(20) Hummel, S.V. (1991). Memorandum to Kathleen Martin (USEPA). EBDCs -Response to Special Review Data Call-In Notice of November 7, 1990. EBDC and Residues in Bananas Collected at Ports of Entry into the US. May 20, 1991.

(21) Hummel, S.V. (1991). Memorandum to Kathleen Martin (USEPA). EBDCs -Response to Special Review Data Call-In Notice of November 7, 1990. EBDC and ETU Residues in Grape Juice Collected in Areas Likely to Have Been Treated with EBDCs. May 20, 1990.

(22) Hummel, S.V. (1991). Memorandum to Kathleen Martin (USEPA). EBDCs -Response to Special Review Data Call-In Notice of November 7, 1990. EBDC and ETU Residues in Grape Wine Collected in Areas Likely to Have Been Treated with EBDCs.

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(24) U.S. Department of Agriculture (1991). National Agricultural Pesticide Impact Assessment Program (NAPIAP) Fungicide Benefits Assessment.

(25) Hummel, S.V. (1990). Memorandum to Kathleen Martin (USEPA). Mancozeb and ETU on Tomatoes -Washing Study. October 25, 1990.

(26) Hummel, S.V. (1991) Memorandum to Kathleen Martin (USEPA). EBDCs -FDA and State Monitoring Data. October 24, 1991.

(27) Hummel, S.V. (1991) Memorandum to Kathleen Martin (USEPA). EBDC Degradation Studies on Selected Florida Vegetables. May 24, 1991.

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(29) Hummel, S.V. (1991). Memorandum to Kathleen Martin (USEPA). EBDCs -Dietary Exposure Estimates for EBDCs and ETU based on the EBDC/ETU Market Basket Survey. August 7, 1991.

(30) Hummel, S.V. (1991). Memorandum to Kathleen Martin (USEPA). EBDCs -Dietary Exposure Estimates for EBDCs and ETU based on the EBDC/ETU Market Basket Survey. February 28, 1991.

(31) Hummel, S.V. (1991) Memorandum to Kathleen Martin (USEPA). EBDC/ETU Use Survey and Monitoring, 1989 Michigan Farm Bureau, Michigan Deptartment of Agriculture. June 3, 1991.

(32) Jennings, A.L. (1991) Revised Site Analyses for the Benefits of EBDCs for the PD 4. Biological and Economic Analysis Division, OPP, USEPA, November 1991.

(33) Griffin, R. (1991). Memorandum to Kathleen Martin (USEPA). EBDC/ETU Special Review. DRES Dietary Exposure/Risk Estimates. October 11, 1991.

(34) Griffin, R. (1991). Memorandum to Kathleen Martin (USEPA). EBDC/ETU. Preliminary Carcinogenic Risk Estimates Based (In Part) on Market Basket Survey Data. March 1, 1991.

(35) Griffin, R. (1992). Memorandum to Kathleen Martin (USEPA). EBDC/ETU Special Review. DRES Dietary Exposure/Risk Estimate Revisions for Apples and Pears. January 10, 1992.

(36) Griffin, R. (1991). Memorandum to Kathleen Martin (USEPA). Response to EBDC/ETU Public Comment. June 20, 1991.

(37) Knott, S.M. (1991). Memorandum to Kathleen Martin (USEPA). Updated Occupational and Residential Exposure Assessment for the EBDC Final Determination. December 10, 1991.

(38) Zendzian, R. (1991). Memorandum to Kathleen Martin (USEPA). EBDCs -Dermal Absorption of ETU. February 16, 1991.

(39) Knott, S.M. (1991). Memorandum to Kathleen Martin (USEPA). Update on the EBDC Occupational and Residential Exposure Assessment, Comments, and Tank-Mix Stability Study Settlement Agreement. August 21, 1991.

(40) Knott, S.M. (1991). Memorandum to Kathleen Martin (USEPA). Review of Rebuttal Comments on the Preliminary Determination to Cancel Certain EBDC Registrations. May 16, 1991.

(41) The American Pyhtopathological Society. Fungicide and Nematicide Tests. St. Paul, Minnesota.

All but the published references concerning this Final Determination on the EBDCs are available for inspection from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays, in the Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, room 1128, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Dated: February 13, 1992.

Linda J. Fisher,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 92–4772 Filed 2–28–92; 8:45 am]

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Federal Register
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Monday, March 2, 1992

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CFR PARTS AFFECTED DURING MARCH

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List February 28, 1992

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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3 (1990 Compilation and Parts 100 and 101)	(869–013–00002–1)	14.00	[1] Jan. 1, 1991
4	(869–013–00003–0)	15.00	Jan. 1, 1991
5 Parts:			
1–699	(869–013–00004–8)	17.00	Jan. 1, 1991
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1200–End, 6 (6 Reserved)	(869–013–00006–4)	18.00	Jan. 1, 1991
7 Parts:			
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27–45	(869–013–00008–1)	12.00	Jan. 1, 1991
46–51	(869–013–00009–9)	17.00	Jan. 1, 1991
52	(869–013–00010–2)	24.00	Jan. 1, 1991
53–209	(869–013–00011–1)	18.00	Jan. 1, 1991
210–299	(869–013–00012–9)	24.00	Jan. 1, 1991
300–399	(869–013–00013–7)	12.00	Jan. 1, 1991
*400–699	(869–017–00014–1)	15.00	Jan. 1, 1992
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Jan. 1, 1987 to Dec. 31, 1990. The CFR volume issued January 1, 1987, should be retained.

[5] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1991. The CFR volume issued April 1, 1990, should be retained.

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March 5	March 20	April 6	April 20	May 4	June 3
March 6	March 23	April 6	April 20	May 5	June 4
March 9	March 24	April 8	April 23	May 8	June 8
March 10	March 25	April 9	April 24	May 11	June 8
March 11	March 26	April 10	April 27	May 11	June 9
March 12	March 27	April 13	April 27	May 11	June 10
March 13	March 30	April 13	April 27	May 12	June 11
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March 17	April 1	April 16	May 1	May 18	June 15
March 18	April 2	April 17	May 4	May 18	June 16
March 19	April 3	April 20	May 4	May 18	June 17
March 20	April 6	April 20	May 4	May 19	June 18
March 23	April 7	April 22	May 7	May 22	June 22
March 24	April 8	April 23	May 8	May 26	June 22
March 25	April 9	April 24	May 11	May 26	June 23
March 26	April 10	April 27	May 11	May 26	June 24
March 27	April 13	April 27	May 11	May 26	June 25
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102d Congress, 2nd Session, 1992

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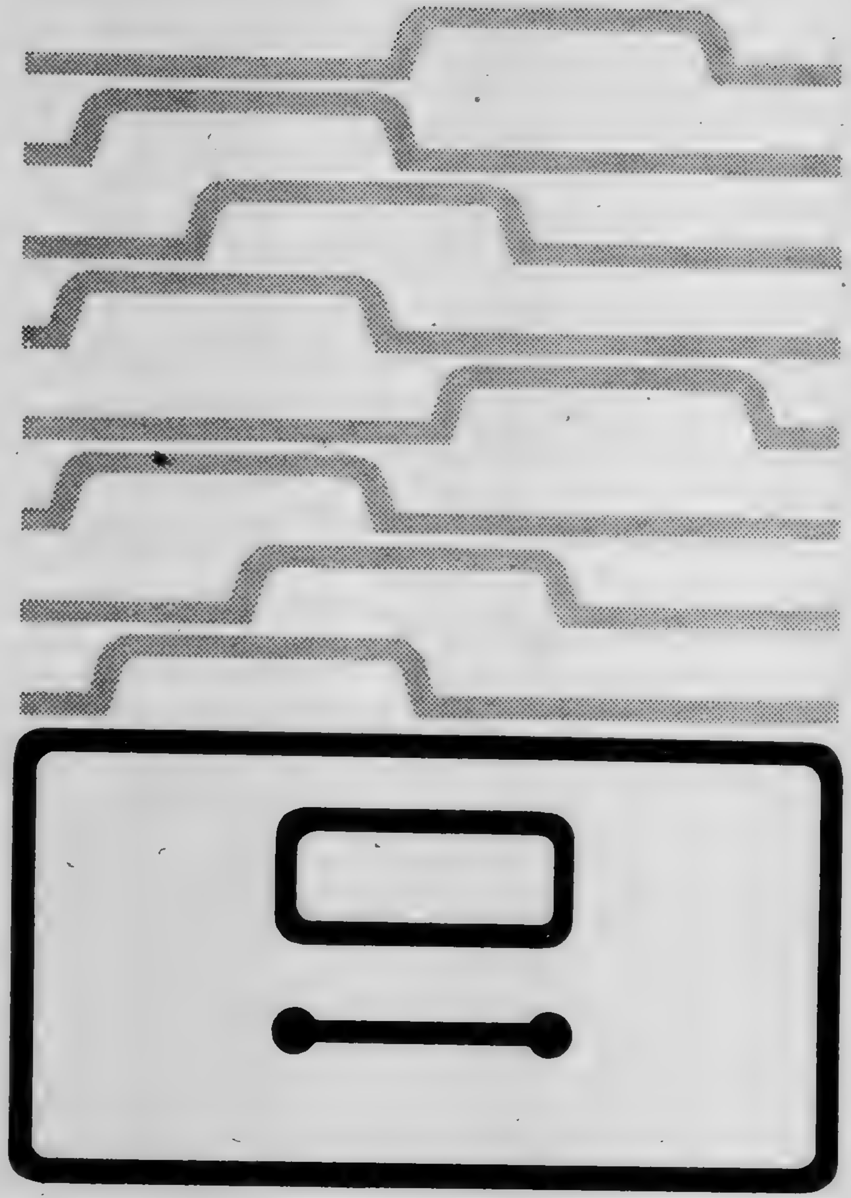

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in the Code of Federal Regulations (CFR)

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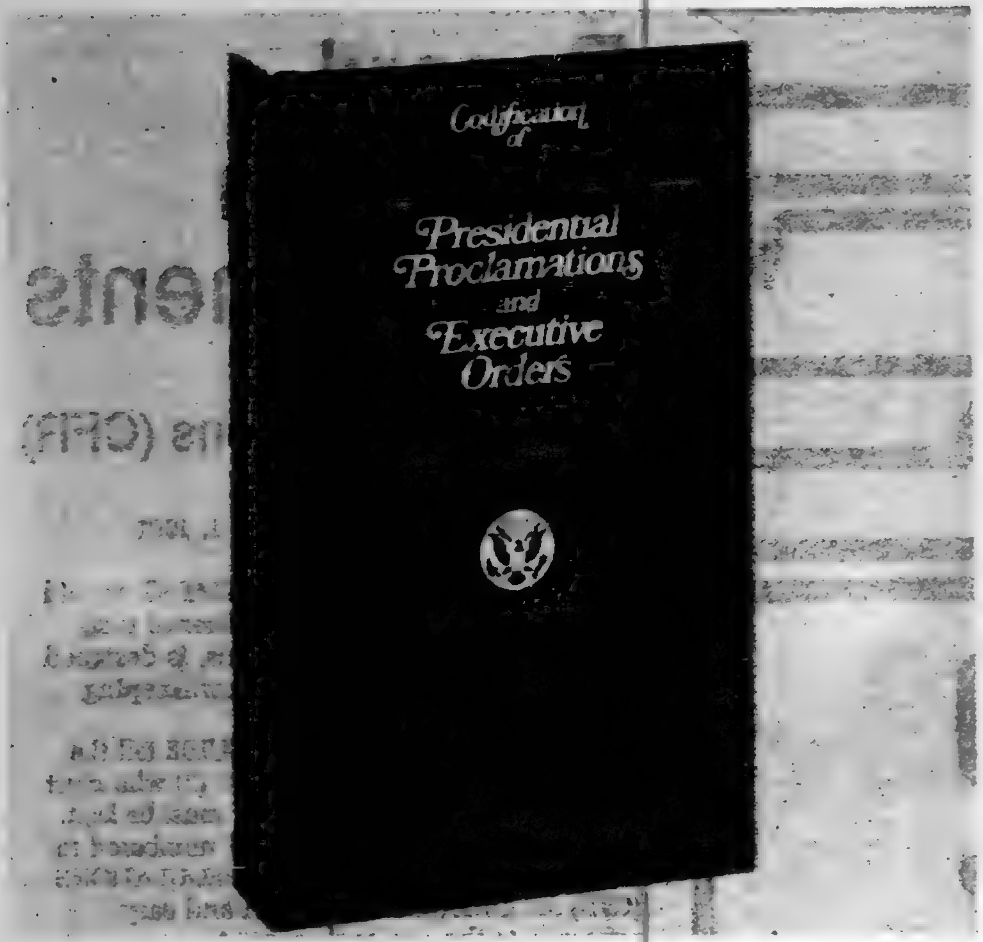

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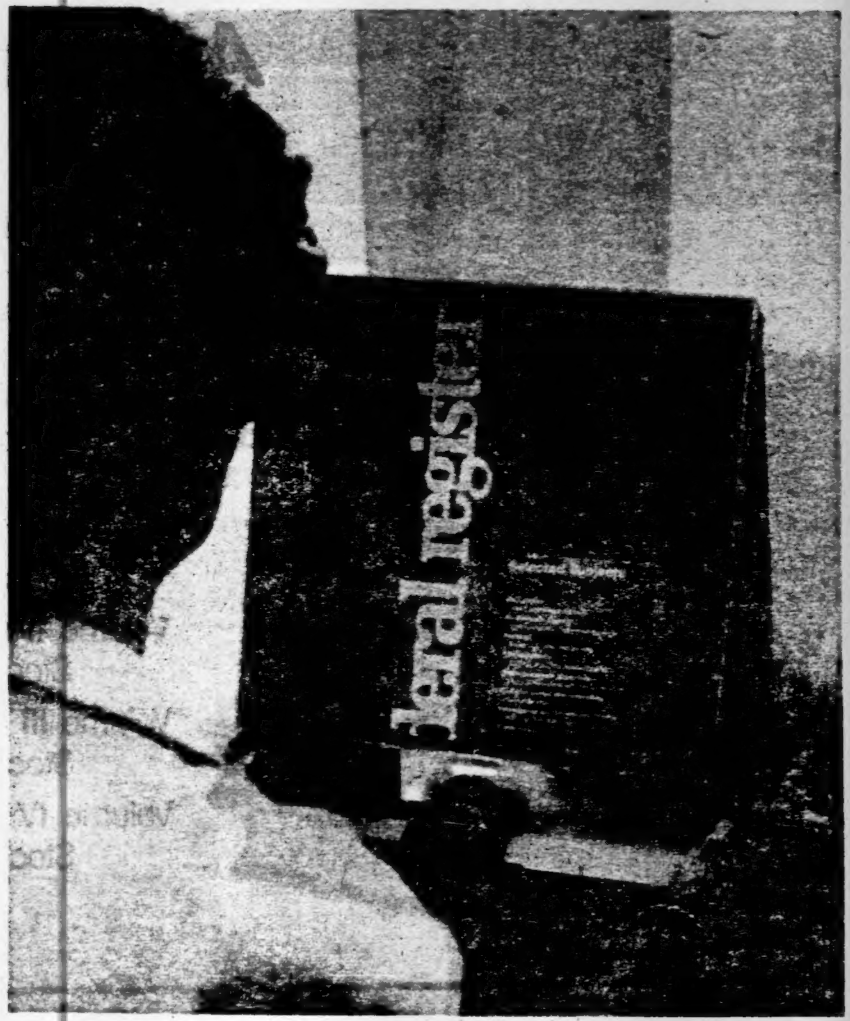

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